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Renovation of Gov's Mansion - Report

HOUSE COMMITTEE ON STATE AFFAIRS
13TH ALASKA LEGISLATURE

RENOVATION OF THE GOVERNOR'S MANSION

FIRST REPORT ***

REPRESENTATIVE MITCH ABOOD
CHAIRMAN

Introduction

Few projects in the State of Alaska have suffered the criticism which has plagued the recent renovation of the Governor's Mansion in Juneau. None would argue the need to bring the mechanical, electrical and fire sprinkler systems in the aging woodframed house into line with the Twentieth Century. It is incredible to think that there was no insulation in either the walls or the roof until 1983. For many years, the Department of Transportation & Public Facilities had studied the Mansion's needs but were forced to stay on the sidelines until such time as a governor would let them in.

The green light came in February of 1983, with the formation of the Governor's House Restoration Advisory Committee. DOT/PF presented their priority list which was gathered from extensive preliminary design work done by both the department and by independent consultants over a period of years. It is fair to say that the renovation's one, brief shining moment was when the Committee had some control over the formation of the plans for the restoration. They wanted to see the house restored in the best way possible, at a reasonable cost to the State. Theirs was a thoughtful plan, not a fast-track approach. They cared about the quality of the work to be done; not who could do it the fastest.

Somewhere along the line, those plans were forgotten.

DOT/PF received its marching orders in April and the word was out that it would be a quick step. The Governor wanted the renovations done as soon as possible. A barrage of memoranda soon surfaced within DOT/PF offering a variety of ways to expedite the process. Departmental policies & procedures for the awarding of contracts were the first casualties in the race to renovate. DOT/PF kept the initial contract amount within legal guidelines, which afforded them more flexibility, along with the opportunity to amend them upward later. If it wasn't sole source contract, it was informal bid; if it wasn't informal bid, it wasn't advertised long enough for many people to respond to it. One thing was for sure - the Attorney General's Office may have said that it was legal; but it certainly wasn't fair.

The Office of the Governor did its part in the renovation effort by offering three contracts, all of them sole source, thereby effectively eliminating other qualified renovationists in the State from offering proposals for what had to be one of the most important renovation projects in recent Alaskan history.

Then came the financial problems. As a result of underestimations, cost overruns, time & material's contracts and a lethal dose of bad planning, the once manageable Mansion project turned into a budgetary nightmare. It didn't help any that the Office of the Governor kept adding to the project scope of work, boosting the costs even higher. The pressure was on.

But what about the working people in the department; those who were on the receiving end of the pressure? They saw their departmental rules bend, break and be discarded. DOT/PF is a massive department, with an equally large morale problem. The Mansion renovation project only added to it, and some very fine people have left, or are leaving as a result of it. The State cannot afford to lose good people anymore. It never should have lost them in the first place.

This investigation came about largely because a lot of working people were being hurt in the crossfire of Mansion politics; both state employees and private citizens. In this particular situation, the legislature is the last and only recourse to ensure that a project such as the recent renovation of the Governor's Mansion, doesn't happen again.

It is not our intent to single out any one individual, or to further berate a department which already suffers from serious morale problems. We hope that the presentation of these problems will be a first step in finding their solutions; and we extend our vote of confidence and our support to the new commissioner in this difficult task.

Backgound

Work on the Mansion renovation began in May of 1983. The project was orginally expected to be completed by September 30, 1983, but as a result of a series of additions to the project scope of work, the time frame was understandably lengthened. For a discussion of the specific alterations in the scope of work, please refer to the Legislative Audit Report, December 29, 1983, pages 11 & 12.

The first complaint arising from contracting procedures used in the awarding of contracts for the Mansion project occurred in July 1983, when the State Ombudsman, Mr. Jack Chenoweth, investigated a complaint which alleged that the execution of the sole source contract to Mr. Jerry Wood, for project management and coordination of the Mansion renovation, was improper. In a memorandum to Jonathan Scribner, then acting deputy commissioner, DOT/PF Southeast Region, dated August 4, 1983, the Ombudsman found that the Jerry Wood contract was improperly entered into, and that the complaint which was received by his office was justified.

The findings of the Ombudsman set off an exchange of memoranda between DOT/PF, which denied any impropriety, though ultimately conceding that the contract could be perceived as a conflict of interest; and the Ombudsman, who remained firm in his position. By the time that Mr. Chenoweth concluded his investigation on December 9, 1983, the Attorney General's Office had entered the dispute by issuing an opinion on November 16th which found no conflict of interest in the award of the Wood contract.

On January 10, 1984, the Attorney General's Office offered an interpretation of AS 36.98.010, which authorizes the state to enter into professional services contracts without going through the competitive bidding process when "the total amount of the contract does not exceed $25,000." The memorandum stated that:

> "...the value of a rental car must be included in determining whether the $25,000 limit of AS 36.98.010 is reached."

The memorandum continued:

> " It is my understanding that in Mr. Wood's contract relating to the Governor's Mansion, it was originally contemplated that the value of a leased car would not be included in determining total value of of the contract. After the issue was raised, however, DOT/PF personnel were specifically directed to insure that Mr. Wood's contract did not exceed the sum of $25,000 including the value of the rental vehicle. [This is a reference to an August 9th DOT/PF memo, instructing the Department to 'take appropriate action to insure that the Wood contract not exceed $25,000 including extended services and vehicle rental.'] This instruction, it seems to me, served to correct the orginal misunderstanding. As a result, there was no violation of AS 36.98.010."

The contract was later amended up to a total of $35,000, which included the car rental in the contract price. Mr. Wood ultimately received a total of $34,814.25 for his work on the Mansion project. The cost of the rental car was $3,784.25.

Public concern over the growth of the Mansion renovation project began in October 1983, largely as a result of statewide press reports charging that the cost of the renovation had doubled from $ 1 million in July 1983 to $2 million in October, four months later. That would not be the final figure; since the renovation was in full swing at the time the $2 million price tag was made public.

Along with public concern over the skyrocketing renovation costs came more complaints from businesses about the procedures used by DOT/PF and the Office of the Governor in the awarding of contracts for the project.

Out of eight contracts awarded by DOT/PF for the Mansion renovation, two were sole source contracts; four contracts were let by informal bid. The remaining two contracts were awarded to Harbor Plumbing and Heating of Juneau, who was the sole bidder on the contract for plumbing and electrical work; and Coogan/Capital Construction, J.V. of Juneau, who was the only firm that received their contract for architectural renovation work as a result of a prequalification bid which consisted of five firms responding to the bid.
The Office of the Governor awarded all three of their contracts by sole source to Snowgoose Productions of Juneau, for coordination of the renovation project and the purchase of furniture and decor items for the Mansion.

This lead to the following chronology of events:

° October 18, 1983 - Representative Mitch Abood and Senator Pappy Moss request the Legislative Budget & Audit Committee to investigate the sources of funding & the contracting procedures used in the Mansion project.

° October 24, 1983 - The Budget & Audit Committee orders an audit to be performed.

° October 28, 1983 - DOT/PF requests an internal audit and review of departmental procedures in the awarding of contracts for the project.

° November 2, 1983 - DOT/PF completes their review of the following contracts:

Harbor Plumbing & Heating
Plumbing, Heating, Electrical Renovation
(Construction Contract)
Contract Amount: $ 1,075,000

Coogan Construction Company
Capital Construction Company (Joint Venture)
Architectural Renovation
(Construction Contract)
Contract Amount: $ 670,000

Vern Akin & Associates
Mechanical/Electrical Design
(Sole Source Professional Services Contract)
Contract Amount: $ 60,000

° December 29, 1983 - Division of Legislative Audit releases a Special Report on the Department of Transportation & Public Facilities & the Office of the Governor, on the Governor's Mansion Renovation Project.

The audit addresses the following concerns:

1. The sources of funding used to finance the project;

2. Contracting procedures used to hire individual contractors;

3. Cost overruns and expansion of the project beyond its original scope.

Legislative Audit estimates the renovation cost at $2.4 million.

° February 14, 1984 - The House Committee on State Affairs begins its investigation of the Mansion renovation and hires Mr. Fred H. Fletcher, a former accounting supervisor at DOT/PF as consultant to the committee. The length of Mr. Fletcher's contract is one month. The contract amount is $4,000. Mr. Fletcher is to compile financial information and documents pertaining to the renovation project and to trace the sources of funding.

We have provided a copy of the Ombudsman's report, the internal audit which was conducted by the Department of Transportation & Public Facilities and the Legislative Audit special report on the Mansion renovation for your review. Instead of simply retracing information already presented in these reports, we will refer to specific portions of this material in order to make a point or to compare it with new information obtained as a result of this investigation.

Creative Financing & 'Statutory Discretion'

Funding Sources for the Mansion Renovation Project

> Sec. 35.10.130. Construction within appropriations and limits imposed by the legislature. Each public work shall be constructed in a completed manner within the appropriation and limits imposed by the legislature. (§ 1 art V title III ch 152 SLA 1957)

Perhaps the easiest way to begin to explain the complicated funding scheme for the renovation project is to draw an analogy to the Parable of the Loaves and the Fishes, which tells how a multitude of people were miraculously fed from a very small quantity of food -- food which was never depleted.

In the beginning, the Mansion renovation project found itself faced with a reasonable, though apparently limited source of funding. The funds were adequate to perform both the major structural work and the cosmetic renovation as originally planned in April 1983, as shown by the cost estimates provided by DOT/PF, Vern Akin & Associates (engineering design), Chase, Inc. and Phyllice Bradner, Snowgoose Productions. However, this was not to be the case for very long.

For a variety of reasons, some of them understandable, many of them irresponsible, the cost of the renovation project soared. DOT/PF was soon faced with a situation for which it was largely unprepared and certainly underfunded. In a perfect bureaucratic world, one way to solve a problem of this kind would be to request additional funds for the project from the legislature through a supplemental appropriation. This was not to be scenario for the renovation of the Governor's Mansion. From the start, the number one priority, consistent throughout the entire life of this project, was expendiency.

Unlike his predecessor, this Governor was amenable to the renovation; so long as it was done quickly. The departments listened and understood. The end result would be a project which would cost the State of Alaska an enormous amount of money.

But for every action there is a reaction, and the monetary aftershocks caused by the ever-growing Mansion project soon began to be felt within other funding sources. Because the Mansion needed more money, other projects would ultimately receive less or nothing at all. Legislative intent gave way to "statutory discretion"; and like the Parable of the Loaves and the Fishes, the bread would never run out.

We have attempted to list all of the known funding sources for the renovation project, knowing full well that only in a perfect bureaucratic world would we be certain that we had them all.

DOT/PF and Dept. of Administration Funding Sources:

Three of the original capital project funding sources for the renovation were combined into one DOT/PF project number H79164, under the name: Governor's Mansion Fire Sprinklers. Each of these three funding sources also has what is known as a collocation code, in order to distinguish which expenditures are to be charged to which source.

1) Project No. H79164
Collocation code: 24-88-3-647

DOT/PF Appropriation
Total Amount of appropriation: $500,000
Amount Targeted for Mansion Renovation: $500,000
Purpose of Appropriation: Remodeling and repairs of the Governor's Mansion.
Amount Spent as of 3/31/84: $ 43,935.22
Chapter 107/SLA 83, Page 79, Line 16

2) Project No. H79164
Collocation code: 24-88-3-581

DOT/PF Appropriation
Total Amount of Appropriation: $71,000
Amount Targeted for Mansion Renovation: $71,000
Purpose of Appropriation: This was a capital appropriation for the Governor's Mansion Fire Sprinkler System.
Amount Spent as of 3/31/84:
Chapter 120/SLA 80, Page 93, Line 20

3) Project No. H79164
Collocation code: 24-80-6-636

DOT/PF Appropriation
Total Amount of Appropriation: $5.2 million
Amount Within the Appropriation Originally Targeted for the Mansion: $185,000

Name of Appropriation: Energy, Life Safety, and Architectural Barrier Improvements
Purpose of Appropriation: To upgrade State facilities to meet energy, life safety, and handicapped access standards.

The $185,000 allocation for the Governor's Mansion Sprinkler System was one of 37 allocations for projects located in different regions of the State which were listed for funding through the $5.2 million appropriation. All of these projects come under collocation code 24-80-6-636.

Beginning in April 1983, DOT/PF began to take monies out of specific projects which the Department had intended to fund with this appropriation, and add them to the growing cache of funds comprising the Governor's Mansion Sprinkler System. The following projects had their funding reduced because of the Mansion Project:

April, 1983 - $400,000 was taken from project number H79364 (Fairbanks Electrical Retrofit), Fairbanks Court House and parking garage.

May, 1983 - $200,000 was taken from project number H79361 (Interior Buildings Retrofit), maintenance shops.

- $204,000 was taken from project number H79362 (Interior Shops Energy Retrofit), maintenance shops.

- $196,000 was taken from project number H79364 (Fairbanks Electrical Retrofit), Fairbanks Court House and parking garage.

September 1983 - $50,000 was taken from project number X30175 (Fire & Life Safety, Southeast Region)

- Another $150,000 was taken from project number H79363 (Fairbanks Peger Road Energy Retrofit), DOT/PF building complex on Peger Road, Fairbanks.

As a result of the pooling of funds from these projects, the Governor's Mansion Fire Sprinkler System account which began as a $185,000 allocation in December 1981, ballooned to $1,385,000 by September 1983.

What effect did the over-expenditure on the Mansion Sprinkler System have on the remaining projects which were still to be funded through collocation code 24-80-6-636?

The balance of funds needed to complete all of the following projects is $526,152.77. However, due to the over-expenditure on the Governor's Mansion Fire Sprinkler System, there is only $142,379.34 left within this collocation code; which means that there is a shortfall of $ -383,773.43 in funding these projects alone.

Among these 36 projects which come under the Fire, Life Safety & Handicapped Access appropriation, the following projects have barely, or have not yet even commenced work as a result of the over-expenditure:

- Eagle River Life Safety System, # H60096
  Authorized Funding: $ 70,000
  Expenditure: $ 1,103.10
  Needed to Complete Project: $ 68,896.90

- Juneau Subport Fire Code MOD, # H79[illegible]
  Authorized Funding: $34,665
  Needed to Complete: $ 34,665 (work has not begun on this project)

- Fairbanks Airport Sand Storage, # H79357
  Authorized Funding: $ 52,542.06
  To Complete: $ 52,542.06 (work has not begun on this project)

- Nome Heavy Equipment Shop Re-Roof, # X20004
  Authorized Funding: $ 100,000
  To Complete: $100,000 (work has not begun on this project)

- Ernestine Shop Roof Insulation, # X20005
  Authorized Funding: $12,000
  To Complete: $12,000 (work has not begun on this project)

- Thompson Pass Shop Building Insulation, # X20006
  Authorized Funding: $7,300
  To Complete: $7,300 (work has not begun on this project)

- Interior Shops Retrofits M & O, X20236
  Authorized Funding: $ 177,910.66
  To Complete: $118,883.47

- Healy Shop Oil Heat Conversion, X20237
  Authorized Funding: $125,000
  To Complete: $ 117,732.34

- Interior Buildings Energy Retrofit, # H79361
  Authorized Funding: $ 9,133
  To Complete: $ 9,133 (work has not begun on this project)

° Nome Office Retrofits M & O #x40123
Authorized funding: $5,000
Balance: $5,000 (work has not begun on this project)

° Valdez Office Retrofits M & O, # X50078
Authorized Funding: $5,000
Balance: $5,000 (work has not begun on this project)

In March 1984, an effort was made to correct the over-expenditure in this code by transferring costs to three other collocation codes. As of 4/19/84, only one of these transfers, in the amount of $26,921.69 appears on the transaction register.

4) Project No. R30033
$305,000
Collo code: 24-88-3-835
Dept. of Administration Appropriation,
Transferred to DOT/PF
Amount Spent as of 3/31/84: $136,583.32

As the Office of the Governor added more and more items to the project scope of work on the Mansion, the costs began to skyrocket. On October 6, 1983 The Department of Administration transferred $305,000 by a reimbursable services agreement (RSA) to the Department of Transportation & Public Facilities for the Governor's Mansion Renovation project.

The money came from Chapter 25, SLA 82, Page 4, Line 18, which appropriated $ 7.0 million for Building Renovation, Replacement, and Surplus. This appropriation was intended to be used for providing housing for State employees, especially in rural areas. Twenty-six items were meant to be funded under the appropriation, but as a result of transferring $305,000 to the Governor's Mansion five projects were cancelled. They are:

1)	Deer Mountain Hatchery	$100,000
2)	Livengood Septic System	$ 60,000
3)	Nelchina Septic System	$ 30,000
4)	McGrath Septic System	$ 40,000
5)	Slana Exterior	$ 75,000

On October 7, 1983, $117,000 was transferred from DOT/PF to the Office of the Governor by an adjustment voucher (AV), for the purchase of furniture, rugs and other decor items by Snowgoose Productions.

This expenditure appears as a one-line item on the transaction register, Curiously enough, the activity code chosen to describe the transaction is DOT/PF activity code 636, which is defined as:

Paint

Used by materials lab personnel when performing test series 900. Supplies are included.

In March 1984, DOT/PF transferred another $19,583.32 to the Office of the Governor through two adjustment vouchers (AVs), for communication equipment for the Mansion. As of 4/19/84, all of the expenditures made by DOT/PF out of this funding source have gone to the Office of the Governor. No monies have gone directly into the renovation project itself.

5) Project X30173
Collo code: 24-88-3-505
$91,000
DOT/PF Appropriation

Purpose of Appropriation: Southeast Region Heating & Ventilation (Maintenance & Operations).

In March 1984, $12,814.73 was transferred out of the over-expended collo code 24-80-6-636 and charged to this project, thus reducing the amount left in this appropriation. The balance left as of 3/31/84 is $3,577.57.

6) DOT/PF Facilities Payroll
Project No. H79164
Collo code: 25-87-3-779
Amount Spent as of 4/8/84: $67,459.87

This is an operating budget account used to charge DOT/PF personal services to project number H79164. Whereas all vendor and contractor payments are charged to the first three capital budget accounts for project H79164, all DOT/PF employee time, with the exception of Maintenance & Operations is charged under this account.

7) Overhead Account N73774
Collo code: 25-87-3-779
Amount Spent as of 3/31/84: $40,472.64

On November 7, 1983, DOT/PF set up an overhead account which took $40,472.64 in personal services costs out of project H79164 and transferred them instead to the Southeast Region Design & Construction operating account N73774.

8) Account N73774
Collo code: 25-87-3-779
Amount Spent as of 3/31/84: $17,480.21

With the cost of the Mansion renovation continuing to escalate and in order to assure the availability of Capital Improvement Project funding, a decision was made by the Department of Transportation & Public Facilities to charge personal services costs related to the Mansion renovation to Project Account N73774.

Account Number N73774 is an Operating Budget account restricted for use by CIP (capital improvement project) personnel for payroll-related charges. Out of approximately 1,000 activity codes used by the Department to define the purpose of specific expenditures, the financial management system will reject all but four activity codes charged to N73774. They are:

689 General Administration

All costs related to administration, not specifically detailed elsewhere, by supervisors, foremen, and district and headquarters personnel.

690 Annual Leave

691 Sick Leave

692 Holiday Leave

By October 15, 1983 supervisory personnel from DOT/PF began to charge their work on the Mansion to N73774. The Design Manager for Mansion Renovation Project H79164, charged 360 manhours from October 15, 1983 to February 1984 to N73774 instead of to his own Project H79164. Since the activity codes which he used were incompatible with the N73774 account, the charges were rejected by the DOT/PF Financial Management System and were relegated to the limbo of the error register, where they were found and corrected in March 1984.

9) Project No. T93030
DOT/PF Maintenance & Operations (M&O)
Southeast Region
Collo code: 25-86-3-214

This is an operating Account. During 1983, in the months prior to Maintenance & Operations' work on the Mansion renovation (January through October), monthly costs for personal services averaged about $5,525 per month.

When the contractors left the Mansion site on November 4th and M & O assumed the responsibility for the completion of the project, the cost for personal services for the peak months of November, December and January totalled $114,093.61. This averages out to $38,031.20 per month, during the height of M & O's work in completing items left by the contractors. Considerable charges were also made in February, $11,623.55 and March, $10,113.80.

In addition to charges for personal services, expenditures were registered for materials: ($11,392.86 for the period 11/83 - 1/84 ; $2,041.97 in February and $1,070.34 in March).

Equipment charges for the period 11/83 - 1/84 came to $3,981.86; and $337.39 was expended in the week of March 8th, 1984.

We will take an in-depth look at the involvement of Maintenance & Operations' personnel in the Mansion renovation project later in this report. For now we will simply state that the true extent of the cost of M & O was never revealed to the Legislative Audit Division and these charges continue to be grossly undereported by DOT/PF.

10) Facility CIP Direct
DOT/PF
Collocation code: 24-87-035

This is a clearing account. Expenditures charged to this account will eventually go to a project by way of an adjustment voucher (AV). This is accomplished by transferring expenditures out of this collo code into one of the DOT/PF capital project collo codes for H79164, the Mansion project.

A total of $13,002.16 in expenditures for the Governor's Mansion were in this clearing account at one time. These charges have since been transferred to other codes.

The Office of the Governor

Funding Sources

The Office of the Governor used three funding sources for expenditures for three contract payments for Phyllice Bradner, renovation coordinator, and for the purchase of furniture, decor items and communications equipment for the Mansion.

1) Mansion Renovation (RSA)
(reimbursable services agreement)
collo code: 01-91-1-125

First, the Department of Administration transferred $305,000 to DOT/PF; then DOT/PF transferred $117,000 to the Office of the Governor for the purchase of furniture and decor items for the Mansion. DOT/PF transferred another $19,583.32 to the Office of the Governor for communications equipment.

2) Executive Office
Office of the Governor
Governor's Mansion Operating Account
collo code: 01-91-1-139

Expenditures charges to this code include a $4,998.67 contract payment to Phyllice Bradner, Snowgoose Productions, for her first contract as Coordinator of the Restoration Advisory Committee; and additional charges for Mansion items.

3) Office of the Governor
Contingency Fund
collo code: 01-91-1-810

This includes the second contract for the cost-estimate study of the renovation by Phyllice Bradner, Snowgoose Productions. Amount: $13,985.07

Third contract for supervision and coordination of the Mansion renovation to Phyllice Bradner. Amount: $45,000.

Payment of $105,000 for furniture; decor items; other expenses and profit to Phyllice Bradner.

The Involvement of DOT/PF Maintenance & Operations Personnel in the Mansion Renovation

On November 4, 1983, Coogan/Capital Construction (architectural renovation work) and Harbor Plumbing & Heating (plumbing, heating & electrical renovation), the prime contractors on the Mansion renovation, were notified by DOT/PF to stop all construction activity and to remove all tools and materials from the Governor's Mansion (Documents #1 & #2)

Harbor was instructed to continue the electrical contractor's work on the fire/intrusion alarm system or other electrical to electronic systems. Their contract was not closed at this time in order to complete their finish work on the heating system and its controls.

The Coogan Construction contract also was not closed at this time because of the carpet installation which still needed to be completed in the first floor conservatory. Coogan was told that both the carpet work and the conservatory work must be completed by November 9, 1983. (Document #2)

The Role of Maintenance & Operations (M&O)

Before discussing the role of M&O on the Mansion project, it is important to understand what the actual departmental responsibilities of M&O are. The written definition given to this Committee by the DOT/PF states their duties as:

> "'Maintenance' is the process of keeping a building's structure (foundation, walls, floors, roof, windows, and interior finished surfaces), mechanical and electrical plant (heating, ventilating, and air-conditioning equipment and fixtures) and grounds in a condition approaching their original state at the completion of construction." [emphasis added].
>
> "'Operations' is an inclusive term covering the furnishing of necessary services, including cleaning (custodial) service, water supply, sewage disposal, trash removal, electricity and heat, to support an environment conducive to transaction of business, or to support another function for which the facility is intended."

Beginning in the first week of November, M&O personnel began to play a crucial role in the renovation project. When the contractors left the site on November 4th, state employees from Maintenance & Operations were faced with completing numerous items on a detailed 'punchlist' from DOT/PF Design & Construction, which listed the remaining work to be done on a room-by-room basis, along with a breakdown of the manhours expected for completion. (Document #3, October 27, 1983, 9 pages).

An example of the work which was left to be completed by M&O was the first floor conservatory. In the stop work memo of November 4th, Coogan Construction was told that the conservatory work must be finished by November 9th. The following work still remained to be completed in that room on the October 27th punchlist:

Conservatory

A. Install wet bar	6 manhours/plumber
B. Install heat fintube	4 manhours/plumber - fintube to arrive
C. Install light fixtures	2 manhours/electrician
D. Install fintube casework	40 manhours/carpenter - fintube 16 manhours/carpenter to arrive
E. Install new doorlocks	4 manhours/carpenter
F. Install floor & wall grill	2 manhours/carpenter - grills to arrive

(Note: fintube is used in the baseboard radiators for hot water heating.)

These same conservatory items also appear on a November 2nd punchlist, naming Coogan Construction for the responsibility for their completion. (Document # 4, 7 pages).

The same items appear again on the November 17th punchlist, but by this time, the responsibility for completion has shifted away from Coogan Construction and onto Maintenance & Operations. (Document # 5, 8 pages).

In a memorandum dated November 16, 1983, which is one of a series of daily progress updates to Governor Sheffield from Jonathan Scribner, Deputy Commissioner, DOT/PF Southeast Region, (Document #6, 9 pgs).

Mr. Scribner states that:

> "The activities have been identified by on-site Design & Construction, and the estimated completion duties assigned by on-site Design & Construction and Maintenance & Operations personnel."

and that:

> "Work hours have been extended to 10 hours per day, Monday through Friday, and 8 hours per day on Saturday to meet the completion dates shown."
>
> "The summary will be updated daily and transmitted to you for review."

By December 2, 1983 (Document #7, 3 pages), Mr. Scribner assured the Governor that the Mansion renovation work was substantially completed, "with the remaining activities impeded by material deliveries." He went on to say that:

> "The work identified as remaining will be completed on an ongoing basis by Southeast Region Maintenance & Operations as material deliveries permit."

In a December 7th memorandum to Jonathan Scribner, David Waldron, Director of Maintenance & Operations, Southeast Region, provides a breakdown of M&O time and costs associated with the Mansion renovation. (Document #8, 7 pages).

He stated that:

> "For the period November 1 through December 5, 1983, M&O personal services costs for the Governor's Mansion renovation project total $27,683.22. This figure includes time spent on completing specific items on the various building D&C (Design & Construction) punchlists given us."

"Other personal services charged to the Governor's Mansion during the period October 24 through December 5, 1983 total $22,193.11. This encompasses work considered as normal maintenance (window washing, moving furniture, cleanup, and other work not directly connected with the completion of the construction project.)"

"We do not have a final cost for materials purchased by M&O for the Mansion since October 24, but the total should not exceed $3,500.00."

Attached to this memorandum was a breakdown of hours worked by Maintenance & Operations employees for the above mentioned weeks, separating "construction" costs from "maintenance" charges. The auditors from Legislative Budget & Audit used Waldron's figures in their Special Report on the Governor's Mansion renovation project.

Legislative Budget & Audit Findings

The auditors believed that all costs associated with the Mansion renovation should be charged to DOT/PF Project Number H79164 and recorded in the accounting records accordingly, and that no other Project Number(s) should have been used to reflect renovation expenditures. The auditor's also found that the costs incurred by Maintenance & Operations were due to the Mansion renovation and were not a result of general maintenance; and that DOT/PF should not have charged these expenses to T93030, but to H79164. (Document #9)

The audit report listed the costs incurred for personal services by Maintenance & Operations on the Mansion renovation as $27,683 (the figure used in Dave Waldron's memo dated December 7, 1983. In addition, the audit report estimated another $7,382 for Maintenance & Operations' personal services as a final cost for the completion of the project, since the final figures were not available at the writing of the audit.

The audit report added the costs for Maintenance & Operations to their $2,4 million figure for the cost of the Mansion renovation.

DOT/PF Response to the LB & A Audit Report Findings on M & O

In his January 25, 1984 response to the auditor's findings (Document # 10), Jonathan Scribner, Deputy Commissioner DOT/PF stated the following:

"We (DOT/PF) strongly disagree with the suggestion to transfer Maintenance & Operations costs to the project. These costs were incurred at the very end of the job. [emphasis added]. As you know our Maintenance & Operations staff has had a continuing responsibility for upkeep on the Governor's Mansion for as long as anyone can recall. The Maintenance & Operations work was closely in line with this responsibility."

Committee Findings

In compiling data for this report, we used the raw figures taken from DOT/PF timesheets and transaction registers showing all expenditures for the Governor's Mansion (Project No's. H79164 & T93030). In order to provide a fair assessment of routine maintenance and operations for the Governor's Mansion before the renovation, we will also provide a breakdown of the 10-month period M & O costs beginning on January 1, 1983.

It is our belief that the actual cost of Maintenance & Operations' involvement on the Mansion renovation was grossly understated by the Department of Transportation & Public Facilities, and that work on the Mansion continued well beyond the December completion date stated by DOT/PF.

Why did DOT/PF pull the prime contractors and subcontractors off the Mansion renovation project on November 4th? This is a most important question, since the escalation of Maintenance & Operations' role in the Mansion renovation was dependant upon the decision to do so. We know from the various punchlists that necessary materials such as carpeting, grills and plumbing materials had not yet arrived on the Mansion site.

We also know from the stop work memoranda to Coogan Construction and Harbor Plumbing (Documents 1 & 2), that although the department was ordering them off the job on November 4th, their work was not sufficiently complete at that time to allow DOT/PF to close their respective contracts.

Whether or not this was an arbitrary decision based in part on bad press generated by the mounting costs of the renovation and the subsequent investigation by Legislative Budget & Audit, we cannot say. However, we can illustrate in detail the effects of that decision on Maintenance & Operations.

Explanation of Charts

The following charts were prepared from a computer run of all transactions for the Governor's Mansion, January 1981 to Present (3/31/84) from the Department of Transportation & Public Facilities.

Chart Number 1 - Funding Sources for the Mansion Renovation

It might be helpful at this time to provide the Committee with an explanation of the project numbers which are used to distinguish the Mansion renovation project from the building number used by M&O to identify the Mansion.

The only project number which should have been used by DOT/PF in their charges for contracts, state employee work, materials and equipment relating to the Mansion renovation is H79164, the project name for the Governor's Mansion Fire Sprinkler System.

For purposes of routine maintenance & operations, all State of Alaska buildings are assigned a "T" number by M&O to identify a particular building for the collection of non-federal aid project costs for building maintenance and repairs. For example: the project number used by M&O to identify the Capitol Building is T93023; the State Office Building in Juneau is T93024.

The "T" project number for the Governor's Mansion is T93030. All M&O employee time, as well as materials and equipment used by Maintenance & Operations within the departmental operation of normal building maintenance and repair relating to the Mansion should be charged to T93030.

Chart Number 2 - Project No. H79164 for Personal Services

This chart shows the monthly breakdown of DOT/PF Capital Improvement Project personnel costs incurred as a result of the Governor's Mansion Renovation, Project Number H79164. There are no Maintenance & Operations' employees on this chart.

As can be seen, charges for personal services begin to rise in May 1983, which was the onset of the present renovation project; and drop off in October and November. This is in line with the major contract work which took place in the Mansion in the months between June and October of 1983.

Chart Number 3 - Project No. H79164 - Hours Worked

Monthly breakdown by hours worked by DOT/PF Capital Improvement personnel.

Chart Number 4 - Project No. T93030: Maintenance & Operations' Costs for Personal Services

Chart Number 4 illustrates M & O employee costs for personal services relating to maintenance and operations of the Governor's Mansion from January 1983 to March 1984.

Keeping in mind the exodus of the contractor's on November 4th, 1983, we are able to see in graphic detail, the extent of the involvement of M & O in the Mansion renovation. It is also interesting to note the amount of activity which took place after the early December completion date given by DOT/PF.

(Since charges to a project take approximately one month to appear on a transaction register, we do not have a register for the month of April 1984.)

The breakdown of Maintenance & Operations' costs for personal services based on the monthly charges to T93030 are:

Pre-Renovation 1983	January	$ 6,679.14
	February	$ 7,162.13
	March	$ 4,640.49
	April	$ 11,398.25
	TOTAL	$ 29,880.01
During Renovation (Contractor's on Site)	May	$ 3,963.32
	June	$ 5,828.91
	July	$ 3,502.47
	August	$ 3,958.91
	September	$ 3,693.39
	October	$ 4,423.40
	TOTAL	$ 25,370.40
Contractor's Leave Work Site	November	$ 67,593.09
	December	$ 31,960.78
	January '84	$ 14,539.14
	February'84	$ 11,623.55
	March '84	$ 10,113.80
	TOTAL	$135,830.96

Chart Number 5 - Project No. T93030 - Hours Worked

Chart Number 6 - Maintenance & Operations: Expenditures for Materials

The cost of materials purchased by M & O employees for the Governor's Mansion from the period January 1, 1983 to March 31, 1984.

Chart Number 7 - Maintenance & Operations: Equipment Charges

Chart Number 7 is a breakdown of equipment charged to the Governor's Mansion by Maintenance & Operations for the period January 1981 to March 8, 1984. Equipment is charged to a project by vehicle number, mileage, rental rate and number of hours used on the job. Individual vehicle numbers which appear on the transaction register for November 1984 to March 8, 1984 are:

V23769 '79 Ford, 3/4 ton truck.
V23770 '79 Ford, 3/4 ton truck
V24488 '80 Dodge, 1/2 ton truck
V24950 '80 Dodge, 3/4 ton truck
V25094 '81 Chevy, 1/2 ton truck
V25411 '81 Dodge, 3/4 ton truck
V26528 '83 IHC, 1/2 ton, 4x2 truck boom
V25095 '81 Chevy, 1/2 ton truck

BREAKDOWN BY ACTIVITY CODES

Activity Codes are three digit numbers which are written on timesheets and on transaction registers to answer the question: What is an employee doing? All expenditures which appear on a transaction register or project cost summary are defined by activity codes. These codes are intended to define the charges to a project as finitely as possible.

The following charts illustrate expenditures by activity code for Maintenance & Operation personal services, materials and equipment for the period November 1983 to March 31, 1984 for the Governor's Mansion:

Chart No. 8 : Activity Code 561 - Dollars

Activity code 561 is defined as:

General Maintenance and Repair

All costs from routine building repairs - roofs, doors, windows, foundation, floors, ceilings and painting inside and out.

Chart No. 9 : Activity Code 561 - Hours Worked

Note: There 37.5 hours in a week.

Chart No. 10 : Activity Code 563 - Dollars

Electrical

All costs from electrical repairs including wiring, compressors, fans, blowers, generators, etc.

Chart No. 11 : Activity Code 563 - Hours Worked

Chart No. 12 : Activity Code 564 - Dollars

Heating & Ventilation

All repairs to heating systems, boilers, ventilators, furnaces, etc.

Chart No. 13 : Activity Code 564 - Hours Worked

Chart No. 14 : Activity Code 565 - Dollars

Plumbing

All costs to repair plumbing, including the water supply, sewage, septic tanks, etc. [These costs do not include $1,080,000 paid to Harbor Plumbing & Heating on contract, or the $20,000 incentive bonus paid to them].

Chart No. 15 : Activity Code 565 - Hours Worked

Chart No. 16 : Activity Code 566 - Dollars

Painting

All painting of buildings inside and out.

Chart No. 17: Activity Code 566 - Hours Worked

Chart No. 18 : Activity Code 570 - Dollars

Miscellaneous M & O

All costs from maintenance, repair and minor construction activity on buildings or facilities which do not fit activity codes 561-565.

Chart No. 19 Activity Code 570 - Hours Worked

Chart No. 20 : Activity Code 579 - Dollars

Chart No. 21 : Activity Code 579 - Hours Worked

Although considerable personal services charges are made to activity code 579 there is no description of this code in the latest updated activity code listing of July 1983. (Attachment 'A')

November 1983	$2,813.37
December 1983	$6,330.13
January 1984	$1,834.80
February 1984	$1,605.45
March 1984	$1,314.94
TOTAL for #579	$13,898.69

We asked the Department of Transportation & Public Facilities to provide the Committee with the definition of activity code 579, along with the xeroxed page as it appears on the listing. In response to our enquiry, we received a memorandum (Document 11) defining the code as:

LANDSCAPING

> All costs associated with grounds maintenance at State buildings and facilities on lawns, plantings, trees and shrubs.

We were not supplied with a xerox of the page on which this definition appeared, and could find no evidence that the definition existed apart from the memo we received. We also could find no evidence that the activity code listing had been updated since July 1983, but were aware of 14 activities which had been updated on November 8, 1983. (Document 13) Activity code 579 was not among those updated. The only evidence we could find of activity code 579, was from the DOT/PF Financial Management System Project Titles File dated July 7, 1981 (Document 14) which listed the title for activity code 579 as:

VEGETATION

It is interesting to note that these expenditures were first charged to a code which had no description; and when it was finally given one, we are led to believe that thousands of dollars were spent on vegetation in the middle of winter.

DISCREPANCIES BETWEEN DOT/PF COSTS FOR M & O AND COMMITTEE FINDINGS

Before explaning the differences between what DOT/PF told Legislative Budget & Audit and what this Committee investigation has found, it would be helpful to review several of the documents mentioned earlier in this report.

Document No. 7, the memorandum from Dave Walron, Maintenance & Operations to Jonathan Scribner dated December 7, 1983, stated that personal services costs for the Mansion renovation totaled $27,683.22 for the period November 1 through December 5, 1983. In addition, charges for work considered as normal maintenance on the Mansion by M & O personnel for the period October 24 through December 5, 1983 were said to total $22,193.11.

These figures in no way resemble the charges which we have taken directly from the transaction registers. Personal services costs for the month of November 1983 alone totalled $67,593.69 on the register.

On February 28, 1984, we asked Mr. Waldron to provide the Committee with information pertaining to several questions on the Mansion Renovation project. In his response (Document No.15) to our question on Maintenance & Operations' involvement on the Mansion he stated that:

" During the period October 24 through December 5, 1983, approximately 57% of the work performed at the Mansion by M & O personnel was associated with the renovation, and the remainder was maintenance. All direct costs for both categories of work were charged to project number T93030. From December 5, 1983 to date, approximately 15% of the work at the Mansion was attributable to cleanup of remaining punch list items."

Mr. Waldron went on to confirm that Maintenance & Operations personnel performed the work on the October 27th punchlist.

" Work performed to date by Southeastern Region M & O personnel is itemized on the October 27, 1983 punch list, (Document No.) together with various minor mechanical items that were identified on a subsequent inspection. All remaining work is identified on the enclosed list dated February 29, 1984. Most items should be complete by March 9, 1984."

In Document No.10, Mr. Scribner disagreed with the auditors who believed that M & O costs were directly related to the renovation and maintained that these services were in line with M & O's general responsibility for Mansion upkeep.

And yet, in Document No. 6, dated November 16, 1983, Mr. Scribner contradicts nimself by telling the Governor that:

"Work hours have been extended to 10 hours per day, Monday through Friday, and 8 hours per day on Saturday..."

These hours were extended due to the completion of remaining items on the punchlists which were not finished by the contractors before November 4th, when DOT/PF ordered them off the project.

****

By December 12, 1983, another element was added to Maintenance & Operations role in the renovation, through a memorandum of understanding from Don Dieckmeyer, Director, S.E. Region Design & Construction to Jonathan Scribner (Document No.16) :

" On November 21, 1983, you and I discussed that henceforth all charges (including those incurred by the prime contractors) should be diverted to Maintenance & Operation accounts.

I communicated this information to Tom Metlicka (Project Manager) and we agreed that upon receipt of future prime contractor billings the invoices will be coded to comply with the time and account parameters.

I see no need at this time to change prime contractor interface relationships or invoicing procedures to accomodate charges that can be addressed internally.

By copy of this memo to T. Metlicka and R. Stewart it is reiterated that all prime contractor charges subsequent to November 20, 1983 are to be diverted to Maintenance & Operations."

In a memorandum from Tom Metlicka to Mr. Dieckmeyer dated December 16, 1983 (Document No.17), a list of all State Maintenance personnel is provided "as per the requirements of Alaska Statute, Chapter 15 (Construction Procedures), Section 35.15.010, Paragraph (a) ..."

The Statute which is mentioned in the memorandum reads:

" Sec. 35.15.010. Construction by Department. (a) Except as provided in AS 36.98 and AS 44.33.300, it shall be the general policy of the department to require the construction of all public works under bid contract. However, when the estimated cost of a construction project is less than $100,000, or when it appears to be in the best interests of the state, the department may perform the work, notwithstanding any other provisions of law. A complete record shall be kept by the commissioner or the commissioner's designee of all transactions entered into under this section including names of employees involved in the transactions."

A memorandum from Tom Metlicka to Don Dieckmeyer dated January 6, 1984 (Document No.18), provides a funding breakdown of Project No. H79164 as of January 6, 1984. The memorandum states in part:

" The status breakdown of December 14, 1983 indicated a balance of $63,388.00. In reviewing the report an error of $20,000.00 was discovered in the Harbor Plumbing column. This would only leave $43,388.00 for the "Balance of Funding."

" After reviewing the latest Pay Estimates for Coogan/ Capitol and Harbor Plumbing and discussions with both firms it is apparent that an additional $38,557.00 will be required to finalize the project."

" If our office transfers all labor cost incurred since Maintenance & Operations takeover per your memo dated December 12, 1983, I estimate approximately $10,000.00 would be added to the $4,721.00 shown on the January report attached."

On February 14, 1984 a memorandum from Tom Metlicka to Dave Waldron, Director of Maintenance & Operations, S.E. Region lists: (Document No. 19)

> " all the cost(s) incurred subsequent to the November 20, 1983 date mentioned in Don Dieckmeyer's memo dated December 12, 1983."

These are the pay estimates for Coogan/Capitol Construction and Harbor Plumbing and Heating. Mr. Metlicka goes on to say:

> " Please take the necessary steps to transfer funding, in the Amount of $26,921.69, to collocation code number 24-88-3-835 - R30033."

Project Number R30033 is the $350,000 which was transferred by RSA from the Dept. of Administration to the Governor's Mansion Renovation project. DOT/PF subsequently transferred $117,000 of these funds to the Office of the Governor for the acquisition of furniture, rugs and other decor items for the Mansion per Snow Goose Productions.

On February 2, 1984, a memorandum from Tom Metlicka to Thomas Freeman, Group Construction Chief, Construction Section DOT/PF, again attaches the December 12th memo from Don Dieckmeyer to Jon Scribner which mentions that: (Document No. 20)

> " ...charges after November 20, 1983 be diverted to Maintenance & Operations."

He goes on to request that these charges be broken out of the invoices and transferred to M & O.

Another financial status for the Governor's Mansion Renovation project number H79164 was written by Mr. Metlicka on February 14, 1984 (Document No.21). Both Coogan/Capitol Construction and Harbor Plumbing's contract amounts have been reduced from the January 6th financial status report, while an estimate of $6,000 has been included for artwork. The balance of funds for this report is $52,069.00.

On February 11, 1984, a report of the inspection of the mechanical work for the Governor's Mansion, Project No. H79164 was submitted to the Department of Transportation & Public Facilities (Document No.22). The four-page report stated that:

> " An inspection of the mechanical work was made by Gregory Penn of Vernon Akin and Associates on January 17 and 18, 1984, and by Vernon Akin on February 9 and 19, 1984. The following work was not completed or was incorrect:"

The report lists 51 items which were either incomplete or incorrect. Among them are:

15024 The thermal overload heaters are too large for EF-1, EF-2, and the unit heater in the garage. The thermal overload heaters for the two motors on the air compressor are too small. Because of lack of the nameplate data specified as required under section 15031, the size of the thermal overload heaters were not checked for the humidifier, EF-3, EF-4, EF-5, ceiling toilet exhaust fan in Bath 10.

15031 Valve directory not received or approved, so valve tagging could not be checked. No operating or maintenance data received. Binders not received. Mounting frame not installed for valve directory. No O & M manual holder installed. The nameplate data must be received so that the equipment can be checked.

15036 Much refuse left above the ceilings of the closets between the kitchen and the main hall Rm. 32.

15251 Insulation is not run continuous through the wall above the ceiling of the kitchen from the closet adjacent.

15817 Face grille on the fan is not secured at one corner. It appears that the unit is not the one specified.

15901 The automatic control drawings were not approved. It appears that the modifications marked on the drawings were not accomplished. Revised drawings required.

Summary of Findings

The research and review of information and documents given to this Committee shows:

1. The cost of the Mansion renovation to be $2.7 million.

2. The DOT/PF decision to remove the contractors from the work site on November 4, 1983, added considerably to the cost of the project.

3. The participation by DOT/PF personnel from Maintenance & Operations is much more extensive than the Department would indicate.

4. When the contractors left their work at the Mansion, a steady stream of M & O employees and equipment spent several months of considerable regular and overtime hours working at the Mansion. The DOT/PF activity and object codes which describe the work of these employees would lead a reasonable person to believe that this was the same work for which the contractors were paid.

5. That DOT/PF subsequently paid a total of $35,000 in incentive bonuses to Harbor Plumbing and Coogan Construction, the same contractors who were told to leave the Mansion site on November 4, 1983.

CHARTS AND DOCUMENTS

DOCUMENT NO. 1

November 2, 1983

RE: Governor's Mansion
Renovations
Project No. H-79164
220E

Harbor Plumbing & Heating
P. O. Box 2117
Juneau, Alaska 99803

Attn: James White

Gentlemen:

As of 5:00 P.M. November 4, 1983 your construction activity in the Governor's Mansion (State project number H-79164) must stop and tools and materials be removed from the premises. The only exception shall be the electrical contractors work on the fire/intrusion alarm system or other electrical or electronic systems as directed by myself.

Your contract will not be closed at this time because finish work will be required to complete the heating system and its controls. The time frame for this work will be coordinated with the Governor thru this office and your direction will again come from me.

If you have any questions concerning this action, please contact me at 364-4314.

Very truly yours,

W. I. DeBoff, P. E.
Buildings Chief

WID:ma

DOCUMENT NO. 2

November 2, 1983

RE: Governor's Mansion
Renovations
Project No. H-79164
220E

Coogan Construction
P. O. Box 209
Juneau, Alaska 99802

Attn: Wayne Coogan

Gentlemen:

As of 5:00 P.M. November 4, 1983 your construction activity in the Governor's Mansion State project number H-79164 must stop and tools and materials removed from the premises. The only exceptions shall be the carpet installation work and the work that must be accomplished in the room called the Conservatory. The carpet work and the conservatory work must be completed by November 9, 1983.

Your contract will not be closed at this time because finish work may be required to complete the project. The time frame for this work will be coordinated with the Governor thru this office and your direction to perform additional work will again come from me.

If you have any question concerning this action, please contact me at 364-4314.

Very truly yours,

W. I. DeDoff, P. E.
Buildings Chief

WID:ma

GOVERNOR'S MANSION RENOVATIONS
ITEMS TO BE COMPLETED

October 27, 1983

BASEMENT

ITEM		MANHOURS	COMMENTS
I	Sauna		
	A. Finish Cedar installation -	16 C/MH	
	B. Install seats & floor grating-	8 C/MH	
	C. Complete trim work -	8 C/MH	
	D. Install suana heater -	12 E/MH	
	E. Paint & stain -	16 PA/MH	
II	Sauna Restroom		
	A. Complete plastering & taping -	8 PLA/MH	
	B. Paint walls, floor & ceiling -	8 PA/MH	
	C. Complete trim work -	4 C/MH	
III	Ventilation Unit Area		
	A. Install sheetrock & plaster local areas -	16 PLA/MH	
	B. Paint & clean up floor & paint -	16 PL/MH	
	C. Complete electrical work -	12 E/MH	
	D. Complete plumbing -	24 PL/MH	
IV	Garage		
	A. Complete fire taping -	16 PLA/MH 16 PA/MH	
	B. Complete electrical finish work -	4 E/MH	
	C. Clean-up -	4 C/MH	
V	Boiler Room		
	A. Clean-up -	8 L/MH	
	B. Paint wall & ceiling -	16 PA/MH	
	C. Complete electrical work -	8 E/MH	
VI	Hallway to Bath		
	A. Install trim -	16 C/MH	
	B. Install light fixtures & electrical trim -	2 E/MH	
	C. Paint walls & ceiling -	16 PA/MH	

BASEMENT (Cont'd)

ITEM		MANHOURS	COMMENTS
VII	Basement Bath		
	A. Install trim on windows & doors -	8	C/MH
	B. Complete fixture installation -	2	PL/MH
	C. Install light fixtures & trim out electrical -	4	E/MH
	D. Paint walls & ceiling -	16	PA/MH
VIII	Maids Room		
	A. Texture walls -	4	PA/MH
	B. Install convector	8	PL/MH
	C. Install trim on doors, windows & closets -	64	C/MH
	D. Install light fixtures & outlet trim -	3	E/MH
	E. Install carpet -	8	CL/MH
	F. Paint walls & ceiling -	16	PA/MH
IX	Hallway		
	A. Install wainscot -	48	C/MH
	B. Texture walls -	8	PA/MH
	C. Paint walls & ceiling -	48	PA/MH
	D. Install convector -	8	PL/MH
	E. Install light fixtrues & trim out electrical -	8	E/MH
	F. Repair floor & install carpet -	8 16	C/MH CL/MH
	G. Install handrail on stairs -	32	C/MH
	H. Reinstall door to laundry area -	24	C/MH
	I. Install door on closet under stairs -	32	C/MH
X	Laundry		
	A. Complete plumbing -	8	PL/MH
	B. Complete electrical -	16	E/MH
	C. Install floor vinyl -	16	CL/MH
	D. Install ceiling grill -	1	C/MH
	E. Install windows & louvers in partition to wall to hallway -	24	C/MH
	F. Paint walls & ceiling -	24	PA/MH

BASEMENT (Cont'd)

ITEM		MANHOURS	COMMENTS
XI	Store Room		
	A. Complete fire taping -	8	PA/MH
	B. Paint walls & ceiling -	16	PA/MH
	C. Install door, lock & hardware-	6	C/MH
	D. Install flow arrows on pipe -	1	PL/MH
	E. Complete electrical -	8	E/MH
	F. Complete clean-up -	4	L/MH
XIII	Recreation Room		
	A. Install wallpaper -	64	PA/MH
	B. Install crown molding & picture rail -	32	C/MH
	C. Install locks & trim doors -	16	C/MH
	D. Install trim at tub -	16	C/MH
	E. Paint ceiling trim & fireplace -	48	PA/MH
	F. Clean-up wine closet -	4	L/MH
	G. Install wall grill -	1	C/MH
	H. Install wet bar -	8	PL/MH
	I. Install light fixtures & electrical trim -	8	E/MH

LEDGEND WITH TOTAL MAN HOURS PER TRADE FOR BASEMENT

C - Carpenter	= 368
E - Electrician	= 85
PA - Painter	= 324
PL - Plumber	= 81
CL - Carpet Layer	= 40
L - Labor	= 16
TS - Tile Setter	= 0
SM - Sheetmetal Man	= 0
PLA - Plaster	= 40
MH - Manhours	= 0

ITEMS TO BE COMPLETED

October 27, 1983

FIRST FLOOR

ITEM		MANHOURS	COMMENTS
I	Front Entry		
	A. Install wainscot, clothing poles & trim in closet -	32 C/MH	
	B. Install light fixtures -	4 E/MH	
	C. Install convector -	12 PL/MH	
	D. Complete Staining of fireplace hearth -	3 PA/MH	
	E. Install & complete door bell, security alarm, ket switch & intercom -	8 E/MH	
II	Ballroom		
	A. Install wood floor grill -	2 C/MH	Brass frames to arrive 11/1/83
	B. Complete painting of fireplace -	16 PA/MH	
	C. Complete window seat -	8 C/MH	Brass grills to arrive 11/7/83
	D. Install light fixtures -	4 E/MH	
	E. Touch-up painting -	2 PA/MH	
III	Library		
	A. Finish fireplace marbele face woodwork and stain hearth -	4 M/MH, 2 PA/MH 12 C/MH,	
	B. Touch-up book cases and trim -	28 PA/MH	
	C. Install cabinet hardware -	4 C/MH	
	D. Install light fixtures -	3 E/MH	
	E. Relocate Stereo Speakers -	16 C/MH, 16 E/MH	
IV	Conservatory		
	A. Install wet bar -	6 PL/MH	
	B. Install heat fintube -	4 PL/MH	Fintube to arrive
	C. Install light fixtures -	2 E/MH	
	D. Install fintube casework -	40 C/MH, 16 PA/MH	Fintube to arrive
	E. Install new doorlocks -	4 C/MH	
	F. Install floor & wall grill -	2 C/MH	Grills to arrive 11/7/83

FIRST FLOOR (Cont'd)

ITEM		MANHOURS	COMMENTS
V	Dining Room		
	A. Touch-up paint -	8 PA/MH.	
	B. Install grill work -	3 C/MH	Grills to arrive 11/7/83
	C. Complete painting of pantry door -	4 PA/MH	
	D. Install light fixtures -	2 E/MH	
VI	Serving Pantry		
	A. Complete trim of china cabinets -	12 C/MH	
	B. Paint doors and windows -	12 PA/MH	
	C. Install base board -	4 C/MH	
	D. Repair plaster wall -	8 PA/MH	
	E. Install light fixtures -	2 E/MH	
VII	Scullery		
	A. Install grill -	1 C/MH	Grill to arrive 11/7/83
	B. Finish electrical connections -	2 E/MH	
	C. Install light fixtures -	1 E/MH	
VIII	Downstairs Office		
	A. Install plumbing fixtures -	4 PA/MH	Toilet hardware being brassed. Due to arrive
	B. ~~Build~~ & install medicine cabinet -	12 C/MH	
	C. Install toilet tissue holder, towel bar, etc. -	4 C/MH	
	D. Install light fixtures -	4 E/MH	
	E. Install door plates -	4 C/MH	Plates to arrive 11/1/83
	F. Replace chrome door hinges -	4 C/MH	Waiting for arrival from Canada
IX	Stairwell Area		
	A. Install wallpaper -	32 PA/MH	
	B. Paint ceiling and stairway -	16 PA/MH	
	C. Install convector -	8 PL/MH	Due to arrive
	D. Install light fixtures & switches -	6 E/MH	
	E. Paint basement door -	4 PA/MH	
	F. Install and paint closet door & base molding -	12 C/MH	

FIRST FLOOR (c'd)

ITEM		MANHOURS	COMMENTS
G.	Install carpet -	24 CL/MH, 8 L/MH	

LEDGEND WITH TOTAL MANHOURS PER TRADE FOR FIRST FLOOR

C - Carpenter	=	176
E - Electrician	=	50
PA - Painter	=	159
PL - Plumber	=	30
CL - Carpet Layer	=	24
L - Labor	=	8
TS - Tile Setter	=	0
SM - Sheetmetal man	=	0
PLA - Plaster	=	0
MH - Manhours	=	0

GOVERNOR'S MANSION RENOVATIONS
ITEMS TO BE COMPLETED

October 27, 1983

SECOND FLOOR

ITEM		MANHOURS	COMMENTS
I	Main Stairway and Entry Hall		
	A. Install carpet runner -	32 CL/MH	Carpet to arrive 11/3/83
	B. Touch-up railing stain -	8 PA/MH	
	C. Install wall grill -	3 C/MH	Grills to arrive 11/7/83
	D. Install light fixtures -	4 E/MH	
II	Managers Office		
	A. Install bathroom fixtures -	4 PL/MH	
	B. Build & install medicine cabinet, tissue holder, etc. -	32 C/MH, 4 PA/MH	
	C. Install light fixtures -	2 E/MH	
	D. Install floor & wall grills -	3 C/MH	Grills to arrive 11/7/83
	E. Complete smoke alarm panel & electrical trim out -	6 E/MH	
III	Historical Bedroom		
	A. Install light fixtures -	5 E/MH	
	B. Install bathroom lavatory -	4 PL/MH	
	C. Finish tile wainscot -	8 TS/MH	
	D. Install tissue holder, towel bars, etc. -	4 C/MH	
	E. Install door locks & trim out -	8 C/MH	
IV	Governor's Study and Kitchenette		
	A. Install tile on kitchenette counter top -	12 TS/MH	
	B. Install kitchenette sink -	4 PL/MH	
	C. Install appliances -	1 PL/MH	
	D. Install light fixtures -	8 E/MH	
	E. Finish wainscot cap in bathroom -	2 C/MH	
	F. Install hardware & grills on kitchenette -	6 C/MH	
	G. Install door hardware -	6 C/MH	
	H. Stain fireplace hearth -	3 PA/MH	

SECOND FLOOR (Cont'd)

ITEM		MANHOURS	COMMENTS
V	Master Bedroom		
	A. Touch-up paint -	4 PA/MH	
	B. Install carpet -	16 CL/MH	Carpet to arrive 11/3/83
	C. Install light fixtures -	3 E/MH	
	D. Complete staining of fireplace hearth -	3 PA/MH	
	E. Install locks, hardware & grills -	8 C/MH	Grills to arrive 11/7/83
VI	Master Bath		
	A. Install plumbing fixtrues -	8 SM/MH, 8 PL/MH	Fixture sent out to be modified. Due to arrive
	B. Install tissue holder, towel bars, etc. -	4 C/MH	Awaiting delivery from Snowgoose
	C. Install shower door hardware & glass -	4 C/MH	
	D. Install light fixtures -	4 E/MH	
	E. Grout and cap marble wainscot -	4 TS/MH, 6 C/MH	
VII	Guest Bedroom		
	A. Install carpet -	16 CL/MH	Carpet to arrive 11/3/83
	B. Install light fixtures & finish out electrical -	2 E/MH	
	C. ~~Make~~ & install medicine cabinet, tissue holder, towel bars, etc. -	24 C/MH, 8 PA/MH	
	D. Install grill -	2 C/MH	Grill to arrive 11/7/83
	E. Complete plumbing hook-up -	8 PL/MH	Fixture sent out to be modified. Due to arrive
VIII	Second Floor Stairwell & Closet		
	A. Install wallpaper -	32 PA/MH	
	B. Install carpet -	16 CL/MH, 8 L/MH	
	C. Install door chime & finish electrical -	10 E/MH	
	D. Install electrical panel cover -	½ E/MH	Cover due to arrive

SECOND FLOOR (Cont'd)

ITEM	MANHOURS	COMMENTS:
E. Finish out closet -	2 C/MH	

LEDGEND WITH TOTAL MANHOURS PER TRADE FOR SECOND FLOOR

C - Carpenter	=	114 Hrs.
E - Electrician	=	44½
PA - Painter	=	62
PL - Plumber	=	29
CL - Carpet Layer	=	80
L - Labor	=	8
TS - Tile Setter	=	24
SM - Sheetmetal Man	=	8
PLA - Plaster	=	0
MH - Manhours	=	

Document #4

As of 11-2-83

ELECTRICAL	SECOND FLOOR COOGAN	PLUMBER
~~oor Livingroom Chandelier~~ ~~lights~~	11-2 ~~Hang Mirror~~ 11-1 ~~Fan grill bath~~ 10-31 ~~2 doors hardware~~ Pack Plates	Bath Tub
econd Floor Balcony Area ELECTRICAL delier~~s~~ ~~hotel~~	COOGAN 2 wall grill 11-1 ~~Stair rail touch-up~~	
aster Bedroom Closet ELECTRICAL ~~fixtures~~	COOGAN 11-1 ~~Paint 4 shelves~~ 11-1 ~~Door Hardware~~	
aster Bedroom ELECTRICAL ~~fixtures~~ ~~andelier~~	COOGAN Grill	

ster Path

ELECTRICAL	COOGAN	PLUMBER
~~ing fixtures~~ ~~-fixtures~~	11-1 ~~fan grill~~ ~~Marble Greeting~~ 10-31 ~~and top molding~~ Paint wall Jacuzzi plate towel Racks 11-1 ~~Grab Bars~~	Sink faucet
n ELECTRICAL	COOGAN	PLUMBER
~~1 light fixture~~ ~~ing)~~ ~~light and switch~~ ~~fixture (Kitchen)~~ ~~ight (Kitchen-not here)~~	Wall grill 11-1 ~~Closet door hardware~~ Grill in Kitchen Door cabinet hardware Tile on counter top 11-2 ~~Fan grill~~ Replace toilet seat Paper holder	Sink Connection
useum Bedroom ELECTRICAL	COOGAN	PLUMBER
~~g fixture Chandelier~~ ~~light fixture~~ ~~ceiling fixture and~~ de lights	Wall grill 10-31 ~~2 doors hardware~~ Fan grill (Bath) 10-31 ~~Wall door hardware~~ Row of tile and wood molding towel bars - toilet roller etc.	

SECOND FLOOR CONTINUED

mic's Office

ELECTRICAL

~~Chandelier~~
~~closet light~~
2 side lights

COOGAN

10-31 ~~2 doors s/s hardware~~
3 wall grills
10-31 ~~Mirror on door~~
11-2 ~~Hang bath mirror~~
1 wall grill-bath

PLUMBER

FIRST FLOOR

	Date Completed			Date Completed
Floor Entry Closet ELECTRICAL ; Fixture levice		COOGAN Holding Hat rack Coat Pole Finish Waincoat Base shoe Plinth	PLUMBER Heating device	
Office LECTRICAL 1 ceiling fixture here) cover side lights		COOGAN Shelf & closet pole 3 doors hardware plus 1 door hinge towel racks Bath wall grill Window hardware	PLUMBER install toilet waiting on brass	
ion Hall LECTRICAL ace side light ing light delier ors (sensor etc)		COOGAN 1 wall grill Closet door stop (or bumper on hinge) Clean fireplace		

FIRST FLOOR CONTINUED

ELECTRICAL ilers	COOGAN Fireplace Gold Paint 11-2 ~~Some white paint around~~ seal ~~and~~ Dentales 1 wall grill. Window seat grill Patio door hardware	PLUMBER
ECTRICAL llow A B C D (Skip E) ssing grills under window seat e trical connection in base cabinet left side	COOGAN	PLUMBER
atory ECTRICAL (light fixture	COOGAN Bar 1 wall grill 1 floor grill Base painting trim Shutters (window) Finish tube shutters	PLUMBER Finish ~~tile~~ tube

	FIRST FLOOR CONTINUED	
Room ELECTRICAL ndelier	COOGAN 11-2 ~~Base shoe [illegible] kitchen~~ By 11-2 ~~Paint wall seat area~~ 11-2 ~~Kitchen door paint~~ Touch couple of nicks Grills (window wall seat) 1 wall grill	PLUMBER
ng Pantry ELECTRICAL ling fixtures	COOGAN 11-2 ~~Repair and paint wall~~ 11-2 ~~Paint doors and window~~ Touch up base cover	PLUMBER
ery ELECTRICAL fixture	COOGAN Install grill Kitchen Cabinets ~~Door between kitchen and scullery~~ REMOVED PER CONNIE & KAREN'S DIRECTION	PLUMBER

SPECIAL CONCERNS

'ity Floors -- carpet on hand
eaper -- (206) 622-6322

2nd Floor

carpet for Master Bedroom, center field ~~[illegible]~~ -- they have - Closet Carpet, Same as Back Stairs

carpet for Living Room ~~[illegible]~~ Center field For L.R. Used as Border Carpet for M.B.
Closet Carpet, Same as Back Stairs

/FILBERT/

- Den -- Same as back stairs and basement
- office -- Same as back stairs and basement
- Museum Bedroom -- Same as back stairs and basement

Main Stairway

with borders (Crystal)

First Floor

- Formal Office -- Same as above
Main Hall Fireplace -- Field Stone - Same as above

Document #5

GOVERNOR'S MANSION RENOVATION
ITEMS TO BE COMPLETED

November 17, 1983

SECOND FLOOR

ACTIVITY	MAN HOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
I Main Stairway and Entry Hall				
A. Install wall grill -	3 C/HH	11/18/83	H&O	
B. Install light fixture -	4 E/HH	11/16/83	Cochran Electric	
C. Install baseshoe -	½ C/HH	11/15/83	H&O	
II Managers Office				
A. Install tissue holder, towel bar -	4 C/HH	11/22/83	Renovators Supply	11/21/83
B. Install wall grill -	1 C/HH	11/16/83	H&O	
III Historical Bedroom				
A. Install wall grill -	1 C/HH	11/18/83	H&O	
B. Install tissue holder, towel bar, etc. -	4 C/HH	11/22/83	Renovators Supply	11/21/83
IV Governor's Study and Kitchenette				
A. Install grills on kitchenette -	3 C/HH	11/18/83	H&O	
C. Install new toilet seat -	1 PL/HH	11/16/83	H&O	11/16/83
V Master Bedroom				
A. Install grill -	2 C/HH	11/18/83	H&O	
B. Install magnetic catches on mirror -	1 C/HH	11/17/83	H&O	

SECOND FLOOR (Cont'd)

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
VI Guest Bedroom				
A. Install tissue holder, towel bars, etc. -	2 C/HR	11/22/83	Renovators Supply	11/21/83
B. Install grill -	2 C/HR	11/ 8/83	H&O	
VII Second Floor Stairwell & Closet				
A. Install wall paper -	32 PA/HR	11/ 3/83	Warner	
B. Install Carpet -	16 CL/HR	11/15/83	Coogan	
C. Install electrical panel cover -	½ E/HR	11/28/83	Cochran Electric or H&O	11/28/83
D. Finish out closet -	2 C/HR	11/18/83	H&O	
E. Install closet light fixture -	1/E/HR	11/16/83	Cochran Electric	

LEDGED WITH TOTAL MANHOURS PER TRADE FOR SECOND FLOOR

C - Carpenter
E - Electrician
P - Painter
PL - Plumber
CL - Carpet Layer
L - Laborer
TS - Tile Setter
SM - Sheetrock Man
PLA - Plaster
MH - Manhours

GOVERNOR'S MANSION RENOVATION
ITEMS TO BE COMPLETED

November 17, 1983

FIRST FLOOR

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
I Front Entry				
A. Install clothing poles in closet -	4 C/HH		H. Machinery & H&O	
C. Install convector -	12 PI./HH	12/22/83	Harbor Plumbing & H&O	12/15/83
D. Install door bell -	2 E/HH	11/16/83	Cochran Electric	
E. Install wall grill -	1 C/HH	11 18/83	H&O	
II Ballroom				
A. Complete window seat -	8 C/HH	11/18/83	H&O	
B. Touch-up painting -	2 PA/HH	11/18/83	H&O	
III Library				
A. Finish fireplace marble face -	4 PA/HH	11/18/83	H&O	
B. Install cabinet hardware -	4 C/HH	11/18/83	H&O	
C. Install light fixture -	2 E/HH		H&O	On order Phyllice Bradner
IV Conservatory				
A. Install wet bar -	6 PI./HH	11/18/83	H&O	
B. Install fixtube casework -	20 C/HH	11/18/83	H&O	
	16 PI/HH	11/21/83	H&O	
C. Install new doorlocks -	4 C/HH	11/18/83	H&O	
D. Install wall grill -	2 C/HH	11/18/83	H&O	
V Dining Room				
A. Provide access cover on portico deck -	½ L/HH	11/18/83	H&O & Rhine Stone	

FIRST FLOOR (Cont'd)

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
VI Scullery				
A. Install grill -	1 C/HH	11/18/83	H&O	
B. Finish electrical connectors -	2 E/HH	11/16/83	Cochran Electric	
C. Install light fixtures -	1 E/HH	11/23/83	Cochran Electric	11/22/83
VII Downstairs Office				
A. Install plumbing fixtures -	4 PA/HH	11/13/83	Barbor Plumbing & H&O	11/17/83
B. Install mirror -	2 C/HH		Phyllice Bradner & H&O	Phyllice to purchase while on trip
D. Install towel bars -	4 C/HH	11/18/83	H&O	
E. Replace chrome door hinges -	4 C/HH	11/18/83	H&O	
VIII Stairwell Area				
A. Install wall paper -	32 PA/HH	11/18/83	Warner	
B. Paint rail -	16 PA/HH	11/16/83	H&O	
C. Install convector -	8 PL/HH	12/22/83	Barbor Plumbing & H&O	12/15/83
D. Install light fixtures and switches -	6 E/HH	11/18/83	H&O	
E. Paint basement door -	4 PA/HH	11/18/83	H&O	
F. Install and paint closet door and base molding -	12 C/HH	11/18/83	H&O	
G. Install carpet -	24 CL/HH,	11/19/83		

LEDGEND WITH TOTAL MANHOURS PER TRADE FOR FIRST FLOOR

C - Carpenter
E - Electrician
PA - Painter
PL - Plumber
CL - Carpet Layer
L - Labor
TS - Tile Setter
SH - Sheetmetal Man
PLA - Plaster
HH - Hanhours

GOVERNOR'S MANSION RENOVATION
ITEMS TO BE COMPLETED

November 17, 1983

BASEMENT

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
I Sauna				
A. Finish cedar installation -	16 C/HH	12/1/83	H&O	
B. Install seats and floor grating -	8 C/HH	12/1/83	H&O	
C. Complete trim work -	8 C/HH	12/1/83	H&O	
D. Install sauna heater -	12 P/HH	12/1/83	H&O	
E. Paint and stain -	16 PA/HH	12/1/83	H&O	
II Sauna Restroom				
A. Complete plastering and taping -	8 PLA/HH	11/25/83	H&O	
B. Paint walls, floor and ceiling -	8 PA/HH	11/28/83	H&O	
C. Complete trim work -	8 C/HH	11/26/83	H&O	
D. Complete electrical work -	4 E/HH	11/30/83	H&O	
III Ventilation Duct Area				
A. Install sheetrock and plaster local areas -	16 PLA/HH	11/25/83	H&O	
B. Paint room and clean up floor and paint	16 PA/HH	11/29/83	H&O	
C. Complete electrical work -	12 E/HH	11/30/83	H&O	
IV Garage				
A. Complete fire taping -	16 PLA/HH	11/25/83	H&O	
B. Complete electrical finish work -	4 E/HH	11/30/83	H&O	
C. Clean up -	16 L/HH	11/26/83	H&O	
D. Paint floor -	16 PA/HH	11/28/83	H&O	

BASEMENT (Cont'd)

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
V Boiler Room				
B. Complete electrical work -	8 E/HH	11/30/83	H&O	
VI Hallway to Bath				
A. Install trim -	16 C/HH	11/23/83	H&O	
B. Install light fixtures and electrical trim -	2 E/HH	11/30/83	H&O	
C. Paint walls and ceiling -	16 PA/HH	12/1/83	H&O	
VII Basement Bath				
A. Install trim on windows and doors -	16 C/HH	11/24/83	H&O	
B. Complete fixture installation -	8 PL/HH	11/30/83	H&O	
C. Install light fixtures and trim out electrical -	4 E/HH	11/30/83	H&O	
D. Paint walls and ceiling -	16 PA/HH	11/28/83	H&O	
E. Remove, repair and replace door -	8 C/HH	11/28/83	H&O	
VIII Maids Room				
A. Texture walls -	4 PA/HH	11/21/83	H&O	
B. Install convector -	8 PL/HH	12/22/83	Harbor Plumbing & H&O	12/15/83
C. Install trim on doors, windows and closets -	64 C/HH	11/28/83	H&O	
D. Install light fixtures and outlet trim -	3 E/HH	12/1/83	H&O	
E. Install carpet -	8 CL/HH	12/1/83	Coogan	
F. Paint walls and ceiling -	16 PA/HH	11/25/83	H&O	

BASEMENT (Cont'd)

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
IX Hallway				
A. Install wainscot -	64 C/FH	11/28/83	H&O	
B. Texture walls -	8 PA/HH	11/19/83	H&O	
C. Paint walls and ceiling -	48 PA/HH	11/21/83	H&O	
D. Install convector -	8 PL/HH	11/22/83	Harbor Plumbing & H&O	12/15/83
E. Install light fixtures and trim out electrical -	8 E/HH	11/22/83	H&O	
F. Repair floor and install carpet -	8 CI/HH	12/1/83	Coogan	
G. Install handrail on stairs -	32 C/HH	11/25/83	H&O	
H. Install new F/R door -	24 C/HH			
I. Install door on closet under stairs -	32 C/HH	11/25/83	H&O	
X Laundry				
C. Install window and louvers in partition to wall to hallway -	24 C/FH	11/24/83	H&O	
XI Store Room				
A. Complete fire taping -	8 PA/CH	11/25/83	H&O	
B. Paint walls and ceiling -	16 PA/HH	11/28/83	H&O	
C. Install door, lock and hardware -	6 C/HH	11/28/83	H&O	
D. Complete electrical -	8 E/CH	12/1/83	H&O	
E. Complete clean up -	4 L/CH	11/19/83	H&O	
XIII Recreation Room				
A. Install wall paper -	64 PA/HH	11/24/83	Varnes	
B. Install crown molding and picture rail -	32 C/HH	11/25/83	H&O	
C. Install locks and trim doors -	16 C/HH	11/23/83	H&O	

BASEMENT (Cont'd)

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
D. Install trim at tub -	16 C/HH	11/23/83	H&O	
F. Paint ceiling trim and fireplace -	48 PA/HH	11/25/83	H&O	
F. Clean up wine closet -	4 C/HH	11/23/83	H&O	
G. Install wall grill -	1 C/HH	11/25/83	H&O	
H. Install wet bar -	8 PL/HH	11/25/83	H&O	
I Install light fixtures and electrical trim -	8 E/HH	11/26/83	H&O	

LEGEND WITH TOTAL MANHOURS PER TRADE FOR BASEMENT

C - Carpenter
E - Electrical
PA - Painter
PL - Plumber
CL - Carpet Layer
L - Labor
TS - Tile Setter
SM - Sheetmetal Man
PLA - Plaster
MH - Manhours

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: Bill Sheffield, Governor
Office of the Governor

DATE: November 16, 1983
FILE NO:
TELEPHONE NO: 364-4360
SUBJECT: Governor's Mansion Renovation Completion of Remaining

FROM: Jonathan W. Scribner
Deputy Commissioner
Southeast Region

The attached summary details all activities which remain to be completed at the mansion.

The activities have been identified by on-site Design & Construction, and the estimated completion duties assigned by on-site Design & Construction and Maintenance and Operations personnel.

Work hours have been extended to 10 hours per day, Monday through Friday, and 8 hours per day on Saturday to meet the completion dates shown.

The summary will be updated daily and transmitted to you for review.

JWS:cbb:ke

cc: Daniel A. Casey, Commissioner, DOT&PF w/attachments

P.S. - I have assigned Howard Caruth as man-in-charge eff. 11/16
- We are to be out of 1st + 2nd floor by Friday night!

cc Don Dieckmeyer
Dave Waldron

GOVERNOR'S MANSION RENOVATION
ITEMS TO BE COMPLETED

November 16, 1983

ACTIVITY	MAN HOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
I Main Stairway and Entry Hall				
A. Install wall grill -	3 C/HH	11/18/83	HSO	
B. Install light fixture -	4 E/HH	11/16/83	Cochran Electric	
C. Install baseshoe -	½ C/HH	11/15/83	HSO	
II Managers Office				
A. Install tissue holder, towel bar -	4 C/HH	11/22/83	Renovators Supply	11/21/83
B. Install wall grill -	1 C/HH	11/18/83	HSO	
III Historical Bedroom				
A. Install wall grill -	1 C/HH	11/18/83	HSO	
B. Install tissue holder, towel bar, etc. -	4 C/HH	11/22/83	Renovators Supply	11/21/83
~~Install baseboard base~~	~~1 C/HH~~	~~11/15/83~~	~~HSO~~	
IV Governor's Study and Kitchenette				
A. Install grills on kitchenette -	3 C/HH	11/18/83	HSO	
~~B. Install paper holder, shower~~	~~1 C/HH~~	~~11/16/83~~	~~HSO~~	~~11/16/83~~
C. Install new toilet seat -	1 PL/HH	11/16/83	HSO	11/16/83
V Master Bedroom				
A. Install grill -	2 C/HH	11/18/83	HSO	

2nd FLOOR (Cont'd)

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
VI. Second Bedroom				
A. Install tissue holder, towel bars, etc. -	2 C/HH	11/22/83	Renovators Supply	11/21/83
B. Install grill -	2 C/HH	11/18/83	HSO	
VII. Second Floor Stairwell & Closet				
A. Install wall paper -	32 PA/HH	11/18/83	Garner	
B. Install Carpet -	16 CL/HH	11/19/83	Coogan	
C. Install electrical panel cover -	½ E/HH	11/28/83	Cochran Electric or HSO	11/28/83
D. Refish out closet -	2 C/HH	11/18/83	HSO	
E. Install closet light fixture -	1.7/HH	11/16/83	Cochran Electric	

INDICED WITH TOTAL MANHOURS PER TRADE FOR SECOND FLOOR

C - Carpenter
E - Electrician
PA - Painter
PL - Plumber
CL - Carpet Layer
L - Labor
TS - Tile Setter
SM - Sheetmetal Man
PLA - Plaster
MH - Manhours

GOVERNOR'S MANSION RENOVATION
ITEMS TO BE COMPLETED

December 16, 1983

FIRST FLOOR

ACTIVITY	MACHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
I Front Entry				
A. Install clothing poles in closet -	4 C/EI		H. Machinery & H&O	
~~B. Install light fixture -~~	~~4 E/EI~~	~~11/15/83~~	~~Cochran Electric~~	
C. Install convector -	12 PI/HH	12/22/83	Harbor Plumbing & H&O	12/15/83
D. Install door bell -	2 E/HH	11/16/83	Cochran Electric	
E. Install wall grill -	1 C/EH	11 18/83	H&O	
II Ballroom				
A. Complete window seat -	8 C/HH	11/18/83	H&C	
B. Touch-up painting -	2 PA/HH	11/18/83	H&O	
III Library				
A. Finish fireplace marble face -	4 PA/HH	11/18/83	H&O	
B. Install cabinet hardware -	4 C/HH	11/18/83	H&O	
~~C. Install light fixture -~~	~~2 E/EI~~	~~11/15/83~~	~~Cochran Electric~~	
IV Conservatory				
A Install wet bar -	6 C/EH	11/18/83	H&O	
B. Install fixtube casework -	20 C/HH	11/18/83	H&O	
	16 PA/HH	11/21/83	H&O	
C. Install new doorlocks -	4 C/EH	11/18/83	H&O	
D. Install wall grill -	2 C/EH	11/18/83	H&O	
V Dining Room				

FIRST FLOOR (Cont'd)

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
VI Scullery				
A. Install grill -	1 C/MH	11/18/83	M&O	
B. Finish electrical connectors -	2 E/MH	11/16/83	Cochran Electric	
C. Install light fixtures -	1 E/MH	11/23/83	Cochran Electric	11/22/83
VII Downstairs Office				
A. Install plumbing fixtures -	4 PA/MH	11/18/83	Harbor Plumbing & M&O	11/17/83
B. Install mirror -	2 C/MH		Phyllice Bradner & M&O	Phyllice to purchase while on trip
C. Install towel bars -	4 C/MH	11/18/83	M&O	
~~D. Install [illegible]~~	~~[illegible] C/MH~~	~~11/18/83~~	~~M&O~~	
E. Replace chrome door hinges -	4 C/MH	11/18/83	M&O	
VIII Stairwell Area				
A. Install wall paper -	3[illegible] PA/MH	11/18/83	Warner	
B. Paint [illegible]	16 PA/MH	11/16/83	M&O	
C. Install connector -	8 PA/MH	12/22/83	Harbor Plumbing & M&O	12/15/83
D. Install light fixtures and switches -	6 E/MH	11/18/83	M&O	
E. Paint basement door -	4 PA/MH	11/18/83	M&O	
F. Install and paint closet door and base molding -	12 C/MH	11/18/83	M&O	
G. Install carpet -	24 CL/MH.	11/19/83		

LEGEND WITH TOTAL MANHOURS PER TRADE FOR FIRST FLOOR

C - Carpenter
E - Electrician
PA - Painter
PL - Plumber
CL - Carpet Layer
L - Laborer
TS - Tile Setter
SM - Sheet Metal Man
PLA - Plaster

COVERNOR'S MANSION RENOVATION
ITEMS TO BE COMPLETED

November 16, 1983

[illegible]

[illegible]	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
I [illegible]				
A. Finish coda installation -	16 C/MH	12/1/83	M&O	
B. Install seats and floor grating -	8 C/MH	12/1/83	M&O	
C. Complete trim work -	6 C/MH	12/1/83	M&O	
D. Install sauna heater -	12 E/MH	12/1/83	M&O	
E. Paint and stain -	16 PA/MH	12/1/83	M&O	
II [illegible] Restroom				
A. Complete plastering and taping -	8 PLA/MH	11/25/83	M&O	
B. Paint walls, floor and ceiling -	8 PA/MH	11/28/83	M&O	
C. Complete trim work -	8 C/MH	11/26/83	M&O	
D. Complete electrical work -	4 E/MH	11/30/83	M&O	
III Ventilation Unit Area				
A. Install electrical and plaster local areas -	16 PLA/MH	11/25/83	M&O	
B. Paint room and clean up floor and paint	16 PE/MH	11/29/83	M&O	
C. Complete electrical work -	12 E/MH	11/30/83	M&O	
IV [illegible]				
A. Complete fire taping -	16 PLA/MH	11/25/83	M&O	
B. Complete electrical finish work -	4 E/MH	11/30/83	M&O	
C. Clean up -	16 E/MH	11/26/83	M&O	
D. Paint floor -	16 PA/MH	11/28/83	M&O	

BASEMENT (Cont'd)

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
V Boiler Room				
~~[illegible]~~	~~[illegible]~~	~~[illegible]~~	~~[illegible]~~	
F. Complete electrical work -	8 E/MH	11/30/83	M&O	
VI Railway to Bath				
A. Install trim -	16 C/MH	11/23/83	M&O	
B. Install light fixtures and electrical trim -	2 E/MH	11/30/83	M&O	
C. Paint walls and ceiling -	16 PA/MH	12/1/83	M&O	
VII Basement Bath				
A. Install trim on windows and doors -	16 C/MH	11/24/83	M&O	
B. Complete fixture installation -	8 FL/MH	11/30/83	M&O	
C. Install light fixtures and trim out electrical -	4 E/MH	11/30/83	M&O	
D. Paint walls and ceiling -	16 PA/MH	11/28/83	M&O	
E. Remove, repair and replace door -	8 C/MH	11/28/83	M&O	
VIII Hardy Room				
A. Texture walls -	4 PA/MH	11/21/83	M&O	
B. Install convector -	8 FL/MH	12/22/83	Harbor Plumbing & M&O	12/15/83
C. Install trim on doors, windows and closets -	64 C/MH	11/28/83	M&O	
D. Install light fixtures and outlet trim -	3 E/MH	12/1/83	M&O	
E. Install carpet -	8 CL/MH	12/1/83	Coogan	
F. Paint walls and ceiling -	16 PA/MH	11/25/83	M&O	

BASEMENT (Cont'd)

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
[illegible] Hallway				
A. Install wainscot -	64 C/MH	11/28/83	M&O	
B. Texture walls -	8 PA/MH	11/19/83	M&O	
C. Paint walls and ceiling -	48 PA/MH	11/21/83	M&O	
D. Install connector -	8 PL/MH	12/22/83	Harbor Plumbing & M&O	12/15/83
E. Install light fixtures and trim out electrical -	8 E/MH	11/22/83	M&O	
F. Repair floor and install carpet -	6 CL/MH	12/1/83	Coogan	
G. Install handrail on stairs -	32 C/MH	11/25/83	M&O	
H. Install new P/H door -	24 C/MH			
I. Install door on closet under stairs -	32 C/MH	11/25/83	M&O	
[illegible] Laundry				
~~A. Complete electrical -~~	~~[illegible]~~	~~11/[illegible]/83~~	~~M&O~~	
~~B. Install [illegible] -~~	~~[illegible]~~	~~[illegible]~~	~~M&O~~	
C. Install windows and louvers in partition to wall to Laundry -	24 C/MH	11/24/83	M&O	
[illegible] Store Room				
A. Complete fire taping -	6 PA/MH	11/25/83	M&O	
B. Paint walls and ceiling -	16 PA/MH	11/28/83	M&O	
C. Install door, lock and hardware -	6 C/MH	11/28/83	M&O	
D. Complete electrical -	8 E/MH	12/1/83	M&O	
E. Complete clean up -	4 L/MH	11/19/83	M&O	
VIII Recreation Room				
A. Install wall paper -	64 PA/MH	11/24/83	Warner	
B. Install crown molding and picture rail -	32 C/MH	11/25/83	M&O	
C. Install locks and trim doors -	16 C/MH	11/23/83	M&O	

BASEMENT (Cont'd)

ACTIVITY	MANHOURS	ESTIMATED COMP. DATE	RESPONSIBILITY	MATERIAL E.T.A.
D. Install trim at tub -	16 C/MH	11/23/83	M&O	
E. Paint ceiling trim and fireplace -	58 PL/MH	11/25/83	M&O	
F. Clean up wine closet -	4 L/MH	11/23/83	M&O	
G. Install wall grill -	1 C/MH	11/25/83	M&O	
H. Install wet bar -	8 PL/MH	11/25/83	M&O	
I. Install light fixtures and electrical trim -	8 E/MH	11/26/83	M&O	

LEGEND WITH TOTAL MANHOURS PER TRADE FOR BASEMENT

C - Carpenter
E - Electrical
PA - Painter
PL - Plumber
CL - Carpet Layer
L - Labor
TS - Tile Setter
SM - Sheetmetal Man
PLA - Plaster
MH - Manhours

Document #7

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: Bill Sheffield, Governor
Office of the Governor

DATE: December 2, 1983

FILE NO: 4032

TELEPHONE NO: 364-4360

FROM: Jonathan W. Scribner
Deputy Commissioner
Southeast Region

SUBJECT: Governor's Mansion Renovation - Final Summary of Remaining Work

The attached summary of remaining work represents the final summary to be published daily.

At this time, all mansion renovation work is substantially completed, with the remaining activities impeded by material deliveries.

The work identified as remaining will be completed on an ongoing basis by Southeast Region Maintenance & Operations as material deliveries permit.

If you have any questions regarding this matter please advise.

JWS:DDD:lm

cc: Wally DeRoff, Chief, Buildings, S.E. Region Design & Construction, DOT&PF
D. D. Dieckmeyer, Director, S.E. Region Design & Construction, DOT&PF
Glen Glenzer, Acting Commissioner, DOT&PF
Dave Waldron, Director, Maintenance & Operations, DOT&PF

RECEIVED
SOUTHEAST REGION DESIGN & CONST.
DEC 05 1983
DIRECTOR'S OFFICE

GOVERNOR'S MANSION RENOVATION
ITEMS TO BE COMPLETED

December 2, 1983

	MAN HOURS	ESTIMATED COMP. DATE	LABOR RESPONSIBILITY	MATERIAL RESPONSIBILITY	MATERIAL E.T.A.
ffice					
all tissue holder -	4 C/HH	12/10/83	M&O	Renovators Supply	12/15/83
l Bedroom					
all tissue holder -	4 C/HH	12/10/83	M&O	Renovators Supply	12/15/83
room					
all tissue holder -	2 C/HH	12/10/83	M&O	Renovators Supply	12/15/83
er Stairwell & Closet					
all electrical					
nel cover -	½ E/HH	12/3/83	M&O	Cocran Electric	12/2/83
y					
all convector -	12 FL/HH	12/22/83	M&O	Harbor Plumbing	12/15/83
all wall grill -	1 C/HH	11/22/83	M&O		
lace chrome hinges on					
loset doors -	1 C/HH	11/19/83	M&O		
tory					
lace chrome door hinges -	1½ C/HH	11/26/83	M&O		
re floor grill -	½ C/HH		M&O		
sh electrical connectors -	2 E/HH	12/8/83	M&O	Cochran Electric	12/5/83
s Office					

	MAN HOURS	ESTIMATED COMP. DATE	LABOR RESPONSIBILITY	MATERIAL RESPONSIBILITY	MATERIAL E.T.A.
ion Unit Area					
t room and clean up					
oor paint -	16 PA/MH	11/29/83	M&O		
o Bath					
Bath					
n					
all convector -	8 PL/MH	12/22/83		Harbor Plumbing & M&O	12/15/83
all light fixtures and					
tlet trim -	3 E/MH	12/3/83		M&O	
all carpet -	8 CL/MH	12/3/83	Coogan	Coogan	
all wallpaper	4PA/MH	12/6/83	Warner		
all convector -	8 PL/MH	12/22/83	M&O	Harbor Plumbing	12/15/83
ir floor and install					
rpet -	6 CL/MH	12/1/83	M&O		
t shelving and floor -	5 PA/MH	11/28/83	M&O		
m					
all door, lock and hard-					
are -	6 C/MH	11/28/83	M&O		
on Room					

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Document #8

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: Jonathan W. Scribner
Deputy Commissioner
Southeastern Region

DATE: December 7, 1983

FILE NO: M3-030

TELEPHONE NO: 789-3483

FROM: David L. Waldron, Director
Maintenance and Operations
Southeastern Region

SUBJECT: Juneau-Governor's Mansion Renovation

For the period November 1 through December 5, 1983, M&O personal services costs for the Governor's Mansion renovation project total $27,683.22. This figure includes time spent on completing specific items on the various Building D&C punchlists given us.

Other personal services charged to the Governor's Mansion during the period October 24 through December 5, 1983 total $22,193.11. This encompasses work considered as normal maintenance (window washing, moving furniture, cleanup, and other work not directly connected with completion of the construction project).

We do not yet have a final cost for materials purchased by M&O for the Mansion since October 24, but the total should not exceed $3,500.00.

DLW:cmt

Governor's Mansion "CONSTRUCTION"

CONSTRUCTION

PAY PERIOD ENDING:		HOURS WORKED 10-31	11-08	11-15	11-23	11-30	12-08	TOTAL HOURS	RATE	TOTAL COST
T. WILLIAMS 519-50-2028	ST				45.0	25.5	11.5	82.0	17.66	1,448.12
ELECTRICIAN WG II	OT				14.5	6.5		21.0	25.74	540.54
52A	DT									
P. VANDOR 549-24-3900	ST			30.0	45.0	30.0	22.5	127.5	25.42	3,241.05
CARPENTER - WG IV (II) LEAD	OT				21.5	18.0	2.5	42.0	38.13	1,601.46
52B	DT					8.0		8.0	50.85	406.80
S. REA 543-64-1902	ST			22.5	45.0	30.0	15.0	112.5	15.68	1,764.00
PAINTER WG II	OT			2.0	21.5	22.0	4.0	49.5	22.77	1,127.12
54A (C)	DT					11.0		11.0	29.86	328.46
H. ZOBRIST 346-16-8250	ST			22.5	45.0	30.0	15.0	112.5	15.68	1,764.00
PAINTER WG IV	OT				22.0	18.0	2.0	42.0	22.77	956.34
54A (C)	DT				4.0	9.0		13.0	29.86	388.18
D. ETHERIDGE 574-22-4102	ST				30.0	22.0		52.0	22.69	1,179.88
MAINT. WORKER II WG IV	OT				8.0	1.5		9.5	34.04	323.38
54C	DT									
T. BUCHANAN 541-54-0584	ST				33.5	30.0	7.5	71.0	15.68	1,113.28
CARPENTER WG IV	OT				5.0	21.5	2.5	29.0	22.77	660.33
54A (C)	DT					8.0		8.0	29.86	238.88
T. PATTEN 471-62-1380	ST				45.0	7.5		52.5	15.68	823.20
CARPENTER WG IV	OT				20.5	10.5		31.0	22.77	705.87
54A (C)	DT					8.0		8.0	29.86	238.88
D. BAHRT 574-18-9675	ST				45.0	7.5		52.5	15.68	823.20
CARPENTER WG IV	OT				20.5	10.5		31.0	22.77	705.87
54A (C)	DT					8.0		8.0	29.86	238.88

Governor's Mansion "CONSTRUCTION"

CONSTRUCTION

PAY PERIOD ENDING:			HOURS WORKED 10-31	11-08	11-15	11-23	11-30	12-08	TOTAL HOURS	RATE	TOTAL COST
G. SHAW	432-02-7140	ST				20.5	30.0	47.0 ~~22.5~~	73.0	22.43	1,637.39
PAINTER WG IV		OT				7.5	22.5	~~6.0~~	36.0	33.64	1,211.04
54B		DT					12.0	9.5	12.0	44.85	538.20
C. FLEEK	574-18-2593	ST			5.5				5.5	21.16	116.38
MAINT. WORKER I WG V		OT			.5				.5	31.94	15.97
55B		DT									
M. MIELKE	574-60-4244	ST					30.0	14.0	44.0	14.98	659.12
LABORER WG VIII		OT					6.5	2.5	9.0	22.47	202.23
58A		DT									
E. CARROLL	558-11-3912	ST				45.0	30.0	22.5	97.5	14.98	1,460.55
LABORER WG VIII		OT				6.5	10.5	2.5	19.5	22.47	438.17
58A		DT									
R. BEAR	522-50-4938	ST		22.5			30.0		52.5	14.98	786.45
LABORER WG VIII		OT									
58A		DT									
										TOTAL	$27,683.22

$ 24,665.65

$ 3,017.57

Governor's Mansion "MAINTENANCE"

PAY PERIOD ENDING:		HOURS WORKED 10-31	11-08	11-15	11-23	11-30	12-08	TOTAL HOURS	RATE	TOTAL COST
D. HAMMONDS 548-40-5694	ST	6.5	17.5	6.0	10.0			40.0	27.55	1,102.00
BLDG. MAINT. FOREMAN WG I	OT									
51E	DT									
R. WALKER 574-18-2139	ST				8.0	4.5		12.5	27.55	344.38
BLDG. MAINT. FOREMAN WG I	OT									
51E	DT									
E. KRAUSS 079-26-7136	ST	22.0	28.5			7.5		58.0	25.95	1,505.10
MAINT. MECHANIC WG II	OT									
52D	DT									
F. BOYNTON 574-12-0909	ST		7.5					7.5	25.95	194.63
MAINT. MECHANIC WG II	OT									
52D	DT									
P. VANDOR 549-24-3900	ST	35.5						35.5	25.42	902.41
CARPENTER WG IV (II) LEAD	OT									
52B	DT									
N. MASON 574-20-7085	ST	19.5	41.0	30.0	30.0	30.0	22.5	173.0	22.69	3,925.37
MAINT. WORKER II WG IV	OT				9.0	21.0	4.5	34.5	34.04	1,174.38
54C	DT					6.0		6.0	45.38	272.28
M. VIERTHALER 574-14-0553	ST	5.0	26.0					31.0	22.43	695.33
CARPENTER WG IV	OT				8.0			8.0	33.64	269.12
54B	DT				7.5			7.5	44.85	336.38
P. PREVATT 574-52-5785	ST	28.5	13.0	2.0 7.5				49.0	22.69	1,111.81
MAINT. WORKER II WG IV	OT									
54C	DT									

Governor's Mansion "MAINTENANCE"

PAY PERIOD ENDING:		HOURS WORKED 10-31	11-08	11-15	11-23	11-30	12-08	TOTAL HOURS	RATE	TOTAL COST
J. WILLIAMS 574-20-7748	ST	20.0	31.5			7.5		59.0	21.42	1,263.78
BLDG. MAINT. FOREMAN WG I	OT									
55C	DT									
N. BUSBY 574-26-6146	ST				10.5	30.0	22.5	63.0	21.29	1,341.27
BLDG. MAINT. FOREMAN WG I	OT				1.0	18.5	4.0	23.5	31.94	750.59
55B	DT									
J. LEITCH 264-31-2845	ST	12.5	22.5			26.0		61.0	19.91	1,214.51
GROUNDSMAN SUPER. WG VI	OT									
56B	DT									
M. LAUER 519-50-4731	ST					15.0	7.5	22.5	14.98	337.05
LABORER WG VIII	OT					3.5	2.5	6.0	22.47	134.82
58A	DT									
M. MIELKE 574-60-4244	ST		15.0	30.0	45.0			90.0	14.98	1,348.20
LABORER WG VIII	OT				15.0			15.0	22.47	337.05
58A	DT									
R. BEAR 522-50-4938	ST			30.0	45.0		22.5	97.5	14.98	1,460.55
LABORER WG VIII	OT				5.0	18.5	2.5	26.0	22.47	584.22
58A	DT					8.0		8.0	29.96	239.68
J. PEQUERO 063-50-4127	ST				22.5	7.5		30.0	14.98	449.40
LABORER WDG VIII	OT				5.0			5.0	22.47	112.35
58A	DT									
E. CARROLL 558-11-3912	ST		22.5	30.0				52.5	14.98	786.45
LABORER WG VIII	OT									
58A	DT									

TOTAL $22,193.11

Governor's Mansion "MAINTENANCE"

PAY PERIOD ENDING:		HOURS WORKED 10-31	11-08	11-15	11-23	11-30	12-08	TOTAL HOURS	RATE	TOTAL COST
D. HAMMONDS 548-40-3694	ST	6.5	17.5	6.0	10.0			40.0	27.55	1,102.00
BLDG. MAINT. FOREMAN WG I	OT									
51E	DT									
R. WALKER 574-18-2139	ST				8.0	4.5		12.5	27.55	344.38
BLDG. MAINT. FOREMAN WG I	OT									
51E	DT									
E. KRAUSS 079-26-7136	ST	22.0	28.5			7.5		58.0	25.95	1,505.10
MAINT. MECHANIC WG II	OT									
52D	DT									
F. BOYNTON 574-12-0909	ST		7.5					7.5	25.95	194.63
MAINT. MECHANIC WG II	OT									
52D	DT									
P. VANDOR 549-24-3900	ST	35.5						35.5	25.42	902.41
CARPENTER WG IV (II) LEAD	OT									
52B	DT									
N. MASON 574-20-7085	ST	19.5	41.0	30.0	30.0	30.0	22.5	173.0	22.69	3,925.37
MAINT. WORKER II WG IV	OT				9.0	21.0	4.5	34.5	34.04	1,174.38
54C	DT					6.0		6.0	45.38	272.28
M. VIERTHALER 574-14-0553	ST	5.0	26.0					31.0	22.43	695.33
CARPENTER WG IV	OT				8.0			8.0	33.64	269.12
54B	DT				7.5			7.5	44.85	336.38
P. PREVATT 574-52-5785	ST	28.5	13.0	2.0 7.5				49.0	22.69	1,111.81
MAINT. WORKER II WG IV	OT									
54C	DT									

Governor's Mansion "MAINTENANCE"

PAY PERIOD ENDING:		HOURS WORKED 10-31	11-08	11-15	11-23	11-30	12-08	TOTAL HOURS	RATE	TOTAL COST
J. WILLIAMS 574-20-7748	ST	20.0	31.5			7.5		59.0	21.42	1,263.78
BLDG. MAINT. FOREMAN WG I	OT									
55C	DT									
N. BUSBY 574-26-6146	ST				10.5	30.0	22.5	63.0	21.29	1,341.27
BLDG. MAINT. FOREMAN WG I	OT				1.0	18.5	4.0	23.5	31.94	750.59
55B	DT									
J. LEITCH 264-31-2845	ST	12.5	22.5			26.0		61.0	19.91	1,214.51
GROUNDSMAN SUPER. WG VI	OT									
56B	DT									
M. LAUER 519-50-4731	ST					15.0	7.5	22.5	14.98	337.05
LABORER WG VIII	OT					3.5	2.5	6.0	22.47	134.82
58A	DT									
M. MIELKE 574-60-4244	ST		15.0	30.0	45.0			90.0	14.98	1,348.20
LABORER WG VIII	OT				15.0			15.0	22.47	337.05
58A	DT									
R. BEAR 522-50-4938	ST			30.0	45.0		22.5	97.5	14.98	1,460.55
LABORER WG VIII	OT				5.0	18.5	2.5	26.0	22.47	584.22
58A	DT					8.0		8.0	29.96	239.68
J. PEQUERO 063-50-4127	ST				22.5	7.5		30.0	14.98	449.40
LABORER WDG VIII	OT				5.0			5.0	22.47	112.35
58A	DT									
E. CARROLL 558-11-3912	ST		22.5	30.0				52.5	14.98	786.45
LABORER WG VIII	OT									
58A	DT									

TOTAL $22,193.11

DOCUMENT NO. 9

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

January 26, 1984

Members of the
Legislative Budget and Audit Committee:

We have reviewed the Department of Transportation and Public Facilities, and the Office of the Governor responses to our preliminary report on the Governor's Mansion Renovation Project. Our comments on the submitted responses are listed below:

Department of Transportation and Public Facilities

Findings and Auditor's Comments

B.2. We reiterate our statement in the report "In our opinion, the original contract amount exceeded $25,000, and therefore should have been advertised in accordance with AS 36.98". In addition, the amount paid on this contract and its amendment totaled $34,814.

E. Costs related to the Governor's Mansion Renovation should all be charged to the project and recorded in the accounting records accordingly. If sufficient funds are not available, it is not appropriate to record these costs in overhead or operating accounts. Rather, to cover these overexpenditures, the Department should request additional funds through either a revised program or a supplemental appropriation.

In addition, the Maintenance and Operations costs incurred at the end of the job were due to the mansion renovation and not general maintenance. As such, these appropriately should be charged to the project.

Gerald L. Wilkerson

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

From: the Audit Report on the mansion Renovation.

You are correct to note the lack of established procedures for prequalification of contractors. The department has never before been involved in major renovation of historic buildings, so it was never anticipated that such procedures would ever be needed. Given this fact we developed a process to ensure a top quality professional and long lasting renovation. Rather than starting from scratch, however, we used our existing professional services procedures, to the extent applicable, to ensure a workable and fair process. We can now see ways to improve the process for future jobs of this nature. But, regardless of short comings which may appear in hindsight, no contractors were prevented or restricted from participating and we were never in a position of being committed to award the work to an unqualified contractor. Our experience on this project will be most helpful in developing a procedure for these types of historic/renovation projects in the future. We have requested our Standards & Technical Services Division to develop such procedures.

C. We feel the audit comments on the scope changes accurately describe the situation as we understand it.

D. See B.2. for response to these items.

E. No funds were transferred between appropriations on this project. Hence, it is factually incorrect to cite AS 37.07.080(e) when referring to which appropriation expenditures were charged.

We consider our FY 84 Operating Budget to be a proper appropriation to charge certain Design & Construction personnel costs working on the Governor's Mansion particularly when so much of this time was consumed in responding to the extraordinary number of inquiries and investigations on this project. However, to respond to your concern we have directed that these personnel costs in question be charged to the Governor's Mansion project to the extent funding allows.

We strongly disagree with the suggestion to transfer Maintenance & Operations costs to the project. These costs were incurred at the very end of the job. As you know our Maintenance & Operations staff has had a continuing responsibility for up keep on the Governor's Mansion for as long as anyone can recall. The Maintenance & Operations work was closely in line with this responsibility.

F. No comment. Not applicable to DOT&PF involvement.

G. No comment.

H. No comment. Not applicable to DOT&PF involvement.

Taken from the response of Jon Scribner, Deputy Commissioner, DOT/P to the auditor's findings.

DOCUMENT NO. 11

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

STANDARDS AND STATEWIDE PROGRAMS

March 21, 1984

The Honorable Mitch Abood
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Abood:

You requested the meaning of the Financial Management System activity code 579, which is not explained in the Financial Management Operations Manual (FMOM).

This code description was added since the last update of the manual. It is defined as:

LANDSCAPING

All costs associated with grounds maintenance at State buildings and facilities on lawns, plantings, trees and shrubs.

Doug Golbach, Assistant Director, Department of Transportation and Public Facilities Division of Financial Management (465-3911) or Dick Hamilton, Maintenance Manager, Southeast Maintenance and Operations (789-6221) may be contacted if you desire further information.

Sincerely,

Daniel A. Malick
Acting Deputy Commissioner
Statewide Programs

DG/cls

cc: Doug Golbach, Assistant Director, Administrative Policy & Fiscal Management
Dick Hamilton, Maintenance Manager, Southeast Maintenance and Operations

25-T47LH

ACT	APP	DESCRIPTION	OP	PROJECTS
577	5,6,8,11, 14	Custodial - Station Work Routine work performed in assigned area.		J,M,R,T,X
578	5,6	Snow Removal at Buildings and Facilities All costs for removal of snow at buildings, garages, yards & grounds.	OHD 1,3-4	M,R,T
579	6,5		OHD 1,3-4	M,R,T
583	8	Preventative Maintenance - Carpentry and General All carpentry or general maintenance of a prevertative nature in or around airport buildings.	OHD 1,3-4	J,M,R,T
584	8	Maintenance Training	OHD 1-4	J,M,R,T
586	2	Instrument Servicing and Repair All costs including labor and parts involved in servicing or repairing optical instruments. This includes the cost of pickup and delivery.	1-4	L,M,R
594	5,6	Security All costs for providing physical security at State facilities, including guard and patrol services.	OHD 1-4	M,R,T,X
601	2,5,6,14	Manufacturing, Stockpiling, Etc. Manufacturing or stockpiling of an item such as aggregate.	OHD 1-5	M,P,R
609	10,11		1-5	M,N,R
620	5,6,7,8	Special Services/Legislative Intent Special services not chargeable to routes/ airports as a result of Legislative intent. (Example: Atka to Adak Air Service.)	OHD 1-5	M,N,R
621	8		1-4	M,N,P,R
629	2	Outside Agency Testing All materials testing performed for outside agencies. Code is used on lab cost accounting reports with "R" numbers.	OHD 1,3,	M,N,P,R
630	2	Cement Used by materials lab personnel when performing test series 600. Supplies required for tests should be coded to this activity.	OHD 1,3,6	M,N,P,R

DOCUMENT NO. 13

MEMORANDUM

State of Alaska

TO: Jim Slocum, Budget Analyst
Div. Admin Policy & Fiscal Mgmt
Standards & Statewide Programs
DOT/PF

DATE: November 8, 1983

FILE NO: 130000

THRU: Diane Corcoran, Acct'g Supervisor TELEPHONE NO: 465-3911 X32

FROM: Joe Reeves, Acct'g Technician
Div. Admin Policy & Fiscal Mgmt
DOT/PF

SUBJECT: TITLES FILE UPDATES

Upon reviewing the FMS report TBR8600 "TITLES FILE", I have discovered that there are fourteen(14) activities that need updating in the file. These activities are being used everyday by users and accumulate costs that are important in the cost review reports used by management analysts throughout the department. Failure to have these activities on file means that the reports created will not have true costs factors on them and will not give analysts a real picture of their responsible areas inception to-date costs. Please instruct your staff to add the activities as follows;

TYPE	ACTIVITY	DESCRIPTION
ADD	ACTIV002	HAND PATCHING
ADD	ACTIV058	ICE CONTROL
ADD	ACTIV110	CIP MARINE TRANS
CHANGE	ACTIV210	PLANNING CONSULTANTS
ADD	ACTIV297	CIP PROPERTY DESIGN
ADD	ACTIV299	TRANSFER PE
ADD	ACTIV399	TRANSFER R/W
ADD	ACTIV499	TRANSFER CONSRUCTION
ADD	ACTIV558	COSTS NOT WET RENT
ADD	ACTIV650	DATA CONTROL
CHANGE	ACTIV670	PBA BATCHING
ADD	ACTIV871	ADMINISTRATION M&O
ADD	ACTIV899	FUND TRANSFER
ADD	ACTIV995	SYSTEMS CONTROL

If there are questions or problems with the above requests, please contact me. I have some reports which will be utilizing some of the activities above to be produced, but they must be on the Titles File.

FMS PROJECT TITLES FILE AND OTHER PROJECT DATA

DOCUMENT NO. 14

TITLE KEY	TITLE	
ACTIV570	M & O -BUILDINGS	HOURS
ACTIV571	LAMP CHANGE	HOURS
CTIV572	CUSTODIAL	
ACTIV573	ELECTRICITY	NO JOBS
ACTIV574	OTHER UTILITIES	NO JOBS
ACTIV575	SPECIAL IMPROVEMENTS	NO JOBS
ACTIV576	MOBILIZATION	NO JOBS
ACTIV577	CLEAN UP AND SERVICE	HOURS
ACTIV578	GRADING & SNOW REMVL	HOURS
ACTIV579	VEGETATION	HOURS
ACTIV580	ELECTRICAL	HOURS
ACTIV581	PLUMBING	HOURS
ACTIV582	WELDING & SHEET METAL	HOURS
ACTIV583	CARPENTRY-GENERAL	HOURS
ACTIV584	SHIFT ORIENTATION	
ACTIV585	LAMP CHANGE	HOURS
ACTIV586	INSTRUMENT REPAIR	N/A
ACTIV587	INSTRUMENT SERVICING	N/A
ACTIV596	SECURITY	N/A
ACTIV600	GENERAL OPERATION	N/A
ACTIV601	MANUFACTURING STOCKP	NO UNITS
ACTIV602	STOCKPILE SALT/SAND	
ACTIV604	PLEN PROJ SCHEDULING	NO PROJ
ACTIV605	RESEARCH & DEVELOP	NO SYSTEMS
ACTIV606	LCC ANALYSIS	NO REQUEST
ACTIV607	DATA BASE	HOURS
ACTIV608	FRST COST ESTIMATING	NO PROJ
ACTIV609	CONVERSION	NO PROJ
ACTIV61C	SPECIAL CONSULTANTS	
ACTIV61D	DISPUTES & CLAIMS	
ACTIV61J	OFFICE EXPENSE	
ACTIV61P	PAYROLL	
ACTIV61T	TRAVEL	
ACTIV61X	OTHER	
ACTIV615	PHOTO LAB PRINTING	EACH
ACTIV618	BINDING	ORDER
ACTIV619	SET UP	ORDER
ACTIV621	PURCHASING	HOURS
ACTIV622	DELIVERY & PICKUP	
ACTIV625	INVENTORY COUNTING	
ACTIV626	OFFICE SERVICES	
ACTIV627	FORMS CONTROL	
ACTIV628	TELETYPE & SWITCHBD	
ACTIV629	OUTSIDE TESTING	N/A
ACTIV630	TESTING CEMENT	SAMPLE
ACTIV631	CONCRETE & MATERIALS	SAMPLE
ACTIV632	ASPHALT & MATERIALS	SAMPLE
ACTIV633	STRUCTURAL STEEL	SAMPLE
ACTIV634	TESTING AGGREGATE	SAMPLE
ACTIV635	TESTING SOILS	SAMPLE
ACTIV636	TESTING PAINTS	SAMPLE
ACTIV637	TESTING NEW PRODUCTS	SAMPLE
ACTIV638	CHEMICAL ANALYSIS	SAMPLE

CHART # 1

THE MANSION MONEY SHUFFLE

$ 5.2 million
$185,000 originally intended for Mansion
Project No. 1179164 Collocation code: 24-00-6-616

The Mansion was one of 37 projects listed by DOT/PF for funding from the $5.2 million. The budget documents show that $185,000 was originally intended for the Mansion.

Purpose of Appropriation: Upgrade State facilities to meet energy, life safety, and handicapped access standards. Chapter 87/SLA 81, p.101, l.22

As renovation costs began to escalate, monies were taken out of 6 projects and added to the $185,000 so that by Sept. 1983, the Mansion account had ballooned to $1,385,000. By Feb. 1984, DOT/PF had overspent that $1,385,000 by another $620,570.60 for a total expenditure of $2,005,570.60. In March 1984, an effort was made to correct the over-expenditure in this code by transferring expenditures to 3 other allocation codes. As of 9/19/84, only one of these transfers, in the amount of $36,921.00, appears on the transaction register.

In an effort to avoid further confusion, we have shown the full $2,005,570.60 as the expenditure in this code for the Mansion. We will also show on the chart how and where this money was transferred.

DEPT. OF ADMINISTRATION
transfer of funds to
DOT/PF

$185,000
Project No. M30033 Collocation code: 24-00-3-035

Transferred to DOT/PF from Administration from a $7.9 million appropriation for: Building Renovation, Replacement & Repair. Chapter 25/SLA 82, p.8, l.10

The following projects were cancelled by the Dept. of Administration as a result of transferring monies to DOT/PF:

Deer Mountain Hatchery
Elvendorf Septic System
Haleiwa Septic System
McGrath Septic System
Stana Exterior

Project No. M30173
Collocation Code 24-00-3-505
$91,000

Purpose of Appropriation: Southeast Region Heating & Ventilation (HVAC)
There was no specific allocation for the Mansion in this appropriation.

In March 1984, $12,610.33 was transferred out of colla code 24-00-6-616 and charged to this project number, reducing the amount left in this appropriation, and leaving a balance of $3,377.57 as of 3/31/85.

$500,000
Project No. 1179164 Collocation code: 24-00-3-607

Purpose of Appropriation: Remodeling and repairs of the Governor's Mansion. Entire amount was intended for Mansion. Chapter 107/SLA 83, page 79, line 16

$71,000
Project No. 1179164 Collocation code: 24-00-3-581

Purpose of Appropriation: Governor's Mansion Fire Sprinklers. Chapter 130/SLA 80, p.93, l.30

Payment withheld from Coggin Construction pending receipt of invoice backup.

$31,876

$2,005,570.60

$63,935.33

$40,393.87

$17,000.21

$13,002.15

$17,658.87

$40,972.64

DOT/PF Facilities Payroll
Project No. 1179164
Colla code: 25-07-3-779

All expenditures for personal services charged to 1179164

Overhead Account # 1173776
Colla code: 25-07-3-779

DOT/PF set up an overhead account on 11/27/83 which transferred $60,972.64 in personal services charges out of 1179164 and into M33776 so the costs would not be reflected in the renovation project number.

Account M33776
Colla code: 25-07-3-779

This is an Operating Budget account restricted for use by CIP (capital improvement project) personnel for payroll-related charges. As of 3/31 $17,000.21 in personal services were charged to this account instead of 1179164.

known cost: $2.7 million

unknown: +?

Maintenance & Operations (M&O)

Project No. 791010
Operating Budget Account

As a result of the DOT/PF decision to pull the contractors off the Mansion site, expenditures for M&O personnel, materials & equipment soared from a 10-month historical average of $5,250 per month prior to exodus of the contractors, to $23,188.19 per month from the period 11/83 when the contractors left, to 3/84.

In computing a total expenditure for work which came as a result of the renovation and not routine maintenance, we have added 10% to the monthly historical average ($5,775) for maintenance and used this a guideline for figuring personal service charges relating to renovation work. All of the November costs were charged to renovation.

Expenditures to the 791010 account for the period 11/83 - 3/84:
Personal Services $110,810.96
Materials, $11,696.85 ($10 x historical average; all of November)
Equipment: $ 9,[illegible].88
Total: $131,86[illegible].69

Note: In March 1984, $10,106.96 was transferred out of colla code 24-00-6-616 and charged to the expenditures for materials for this project number. This amount is not reflected in the materials expenditures listed above.

Mansion Renovation RSA
(reimbursable services agreement)
colla code: 01-91-1-125

First, the Dept. of Administration transferred $101,000 to DOT/PF; then DOT/PF transferred $101,000 for furniture & decor items to the Office of the Gov. DOT/PF transferred another $10,581.33 for communications equipment.

Office of the Governor
Contingency Fund
Colla code: 01-91-1-010

Second contract for cost estimate study of renovation to Phyllis Bradner, Snowgoose Productions.
Amount: $13,085.87

Third contract for supervision & coordination of Mansion renovation to Phyllis Bradner.
Amount: $45,000.

Payment of $105,000 for furniture; decor items; other expenses & paid to Phyllis Bradner, Snowgoose Productions.
Amount: $105,000

Executive Office
Office of the Governor
Governor's Mansion Operating Account
Colla code: 01-01-1-130

Expenditures include a $4,998.69 contract payment to Phyllis Bradner, Snowgoose Productions, for her 1st contract as Coordinator of the Restoration Advisory Committee; and charges related to Mansion renovation.

Facility CIP (Direct)

Colla code: 24-87-1-035

This is a clearing account. Expenditures totalling $13,002.15 that were charged to this account eventually went the project by an adjustment voucher (AV).

$13,876.33

$129,656.38

$10,106.96

$12,382.69

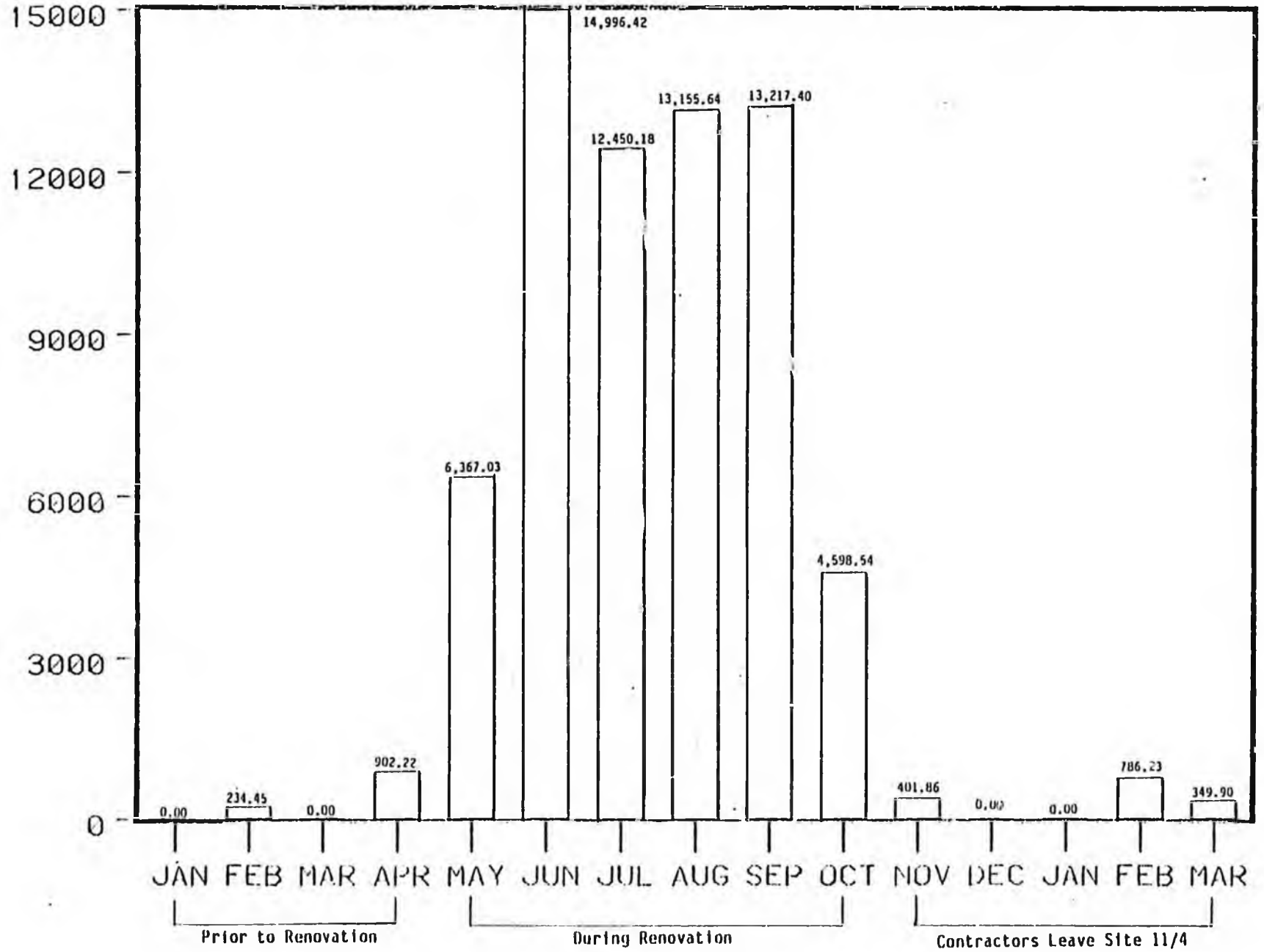
Prior Payments including 1981 Sprinkler Study

OFFICE OF THE GOVERNOR

11612 PRINTED ON RECYCLED PAPER

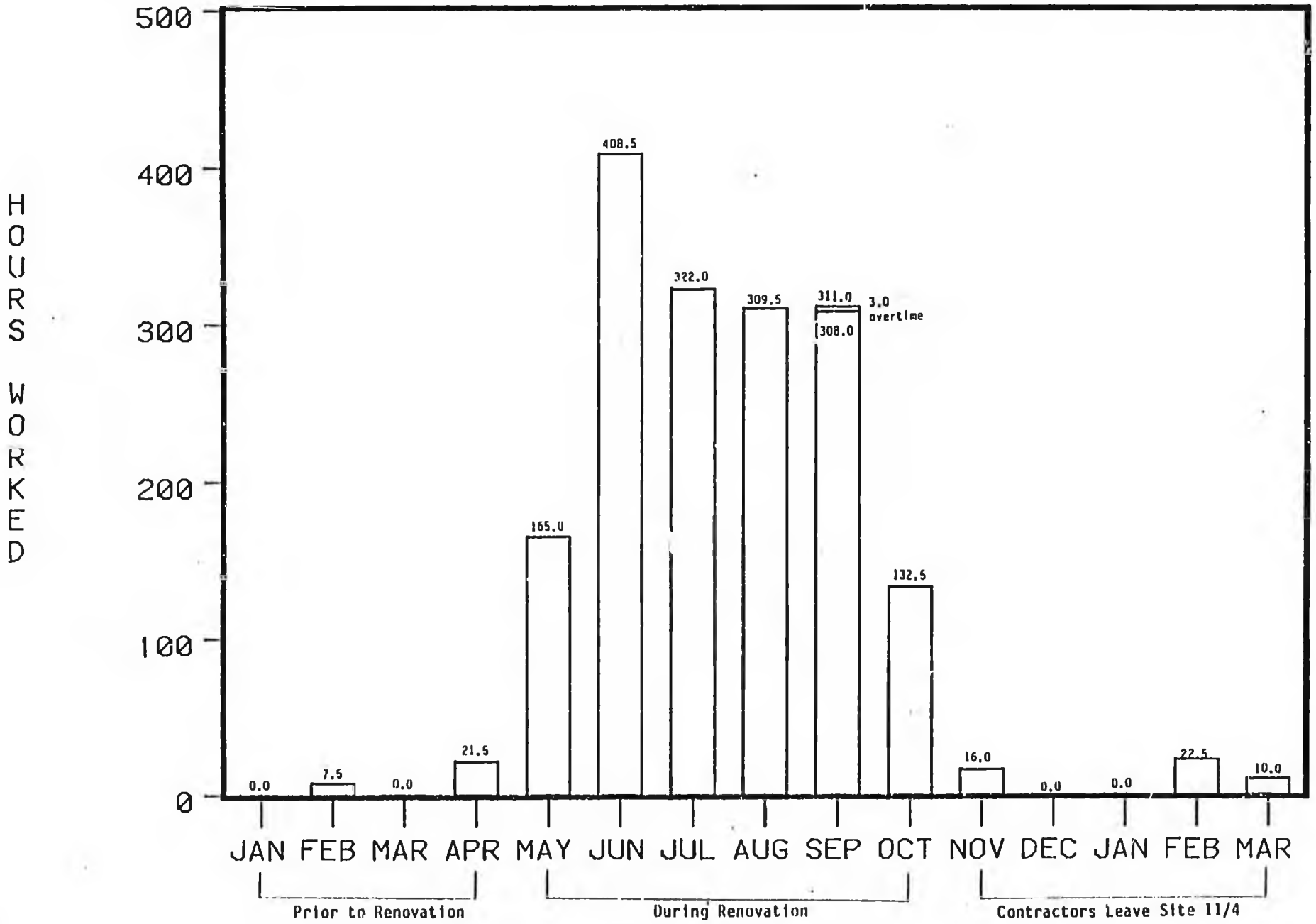
PROJECT NO. H79164

DOT/PF CIP PERSONNEL (PERSONAL SERVICES)

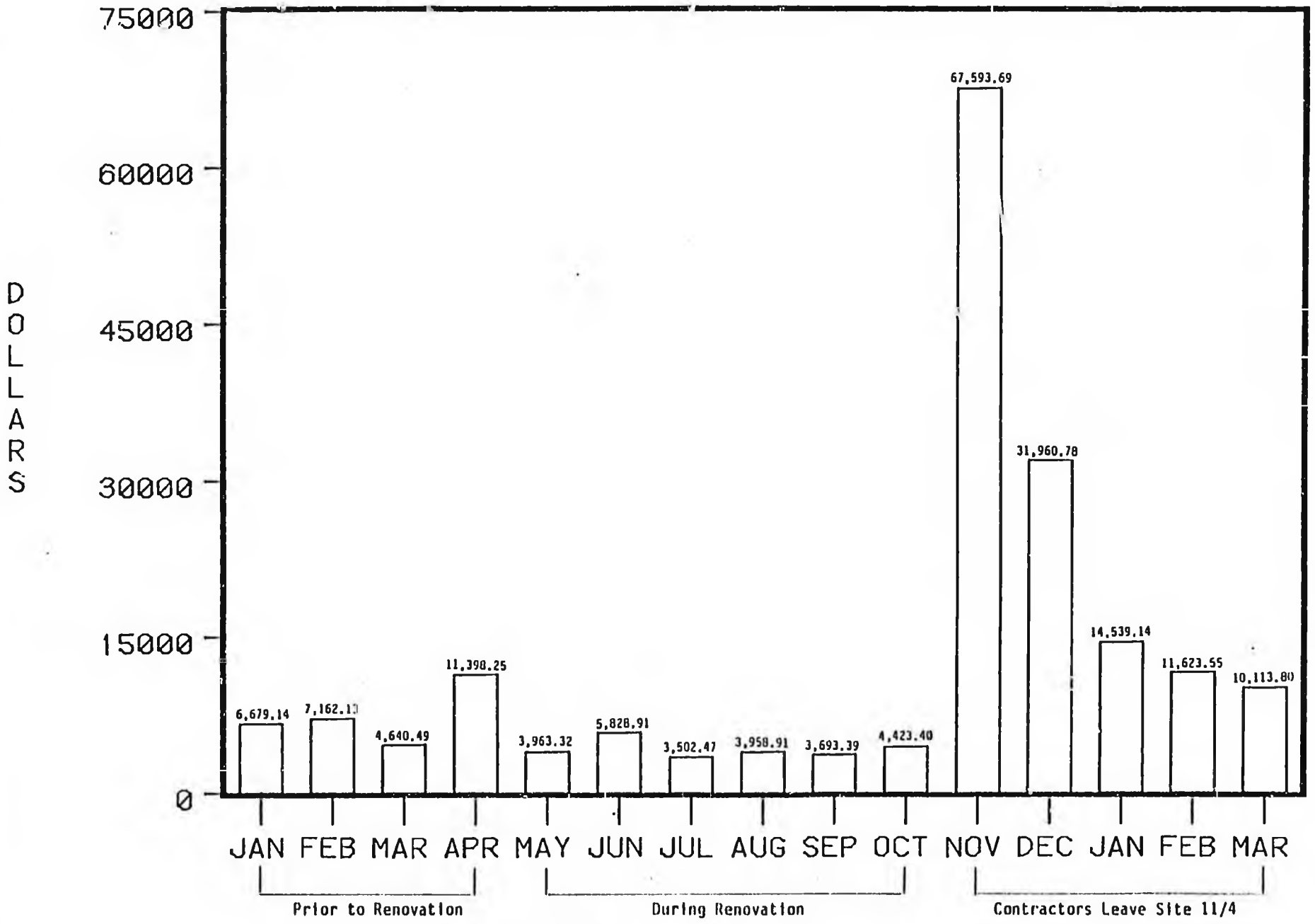


PROJECT NO. H79164

DOT/PF CIP PERSONNEL (PERSONAL SERVICES)

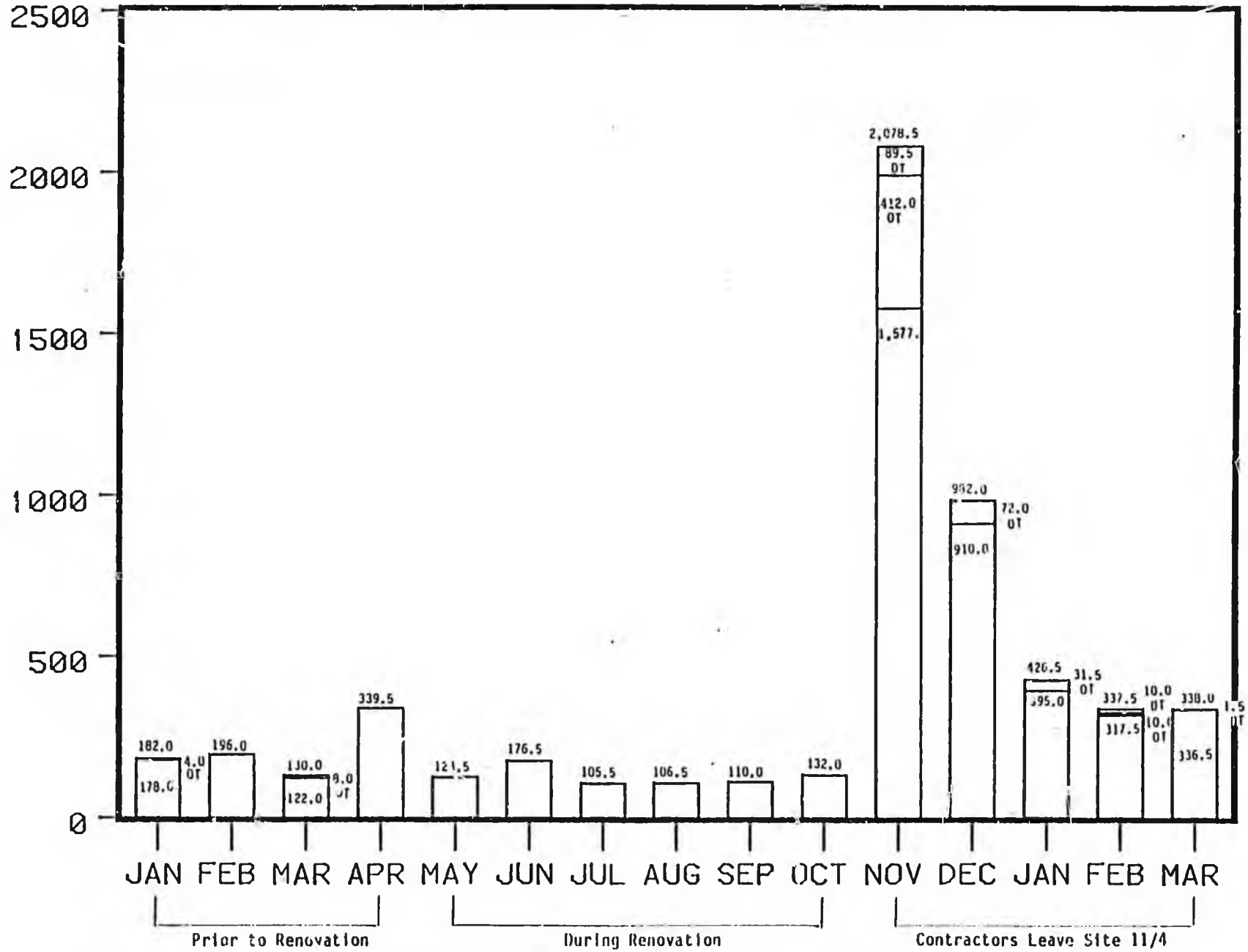


GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS
PERSONAL SERVICES (STATE EMPLOYEES)

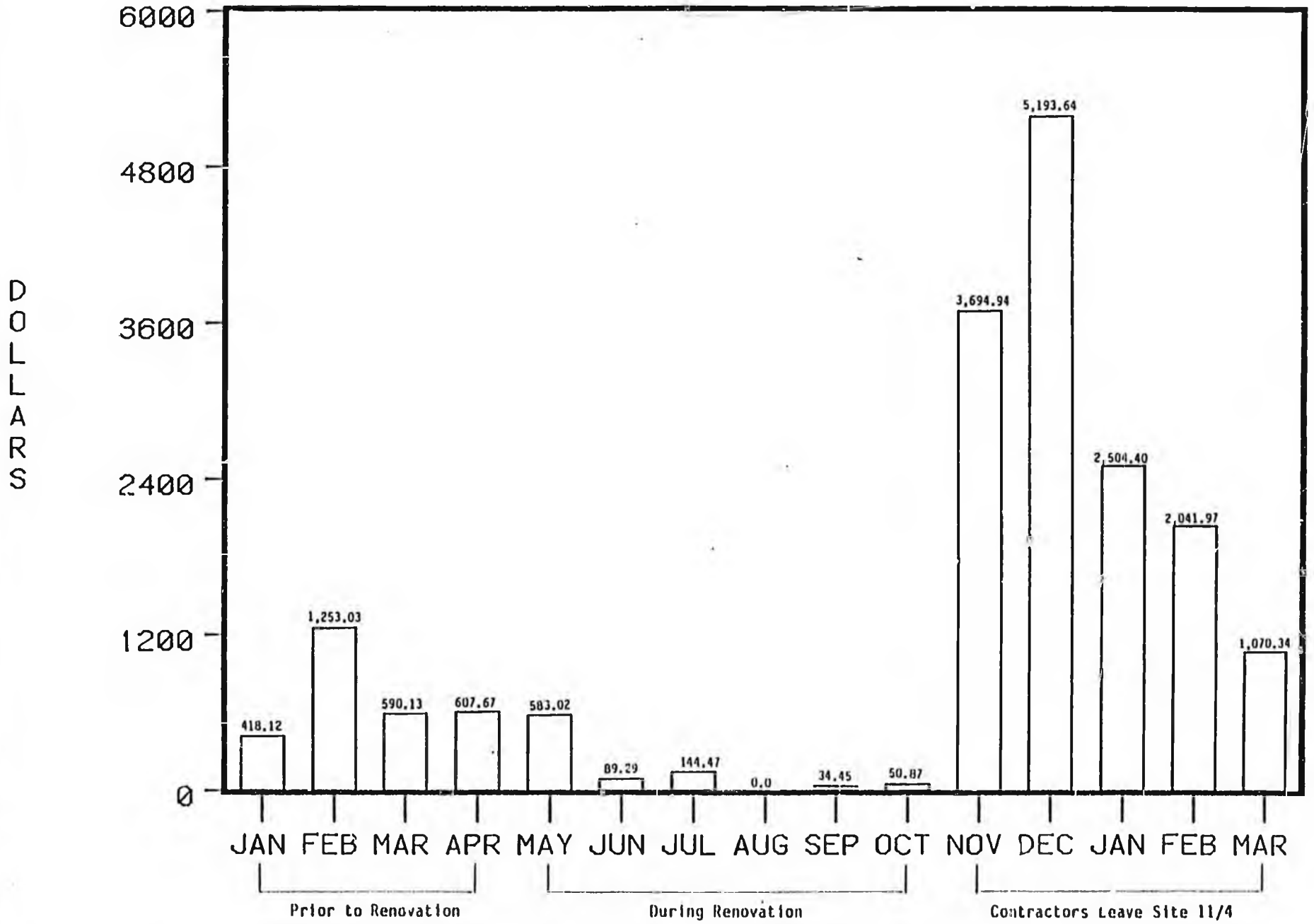


GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS

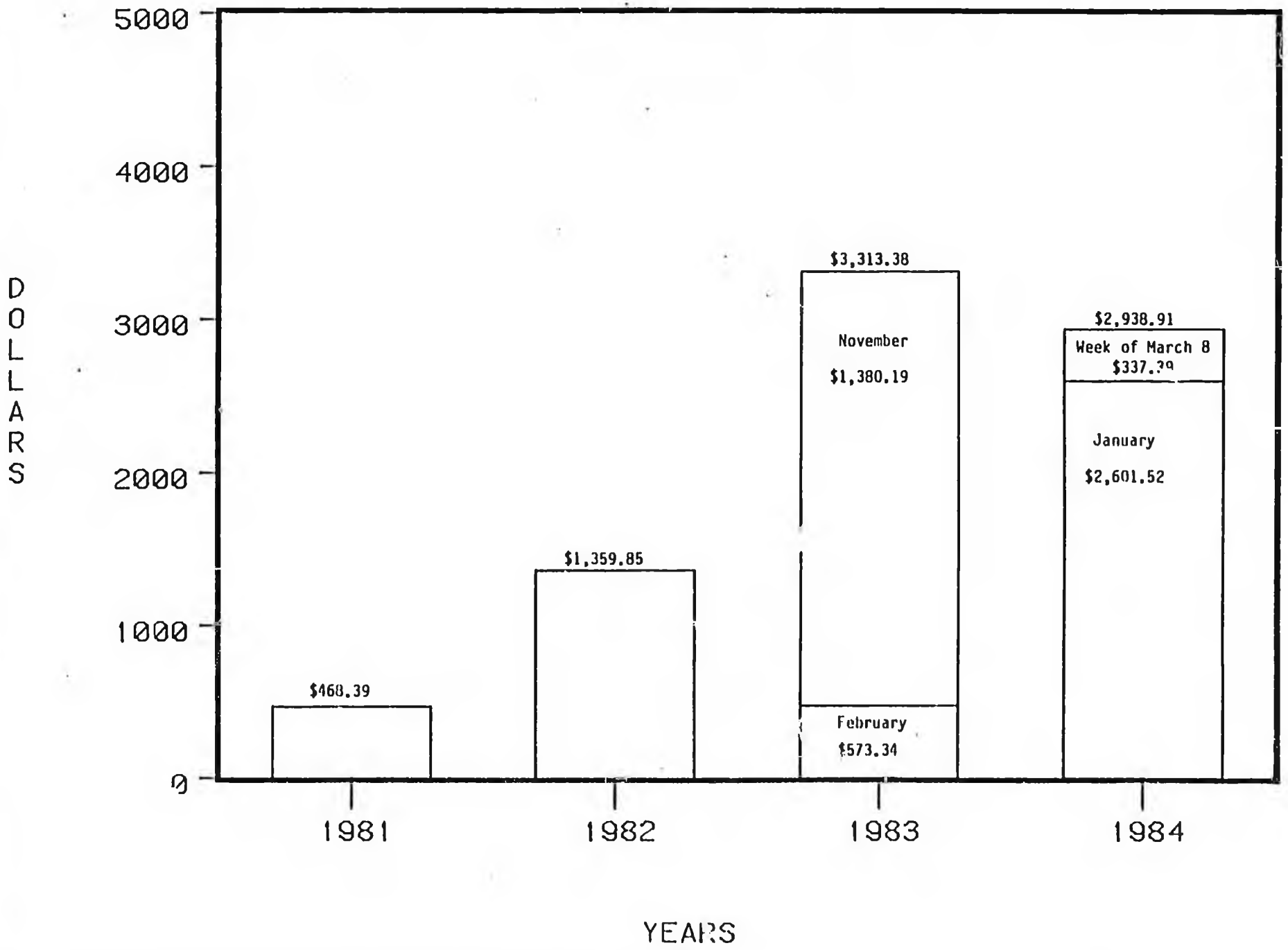
PERSONAL SERVICES (STATE EMPLOYEES)



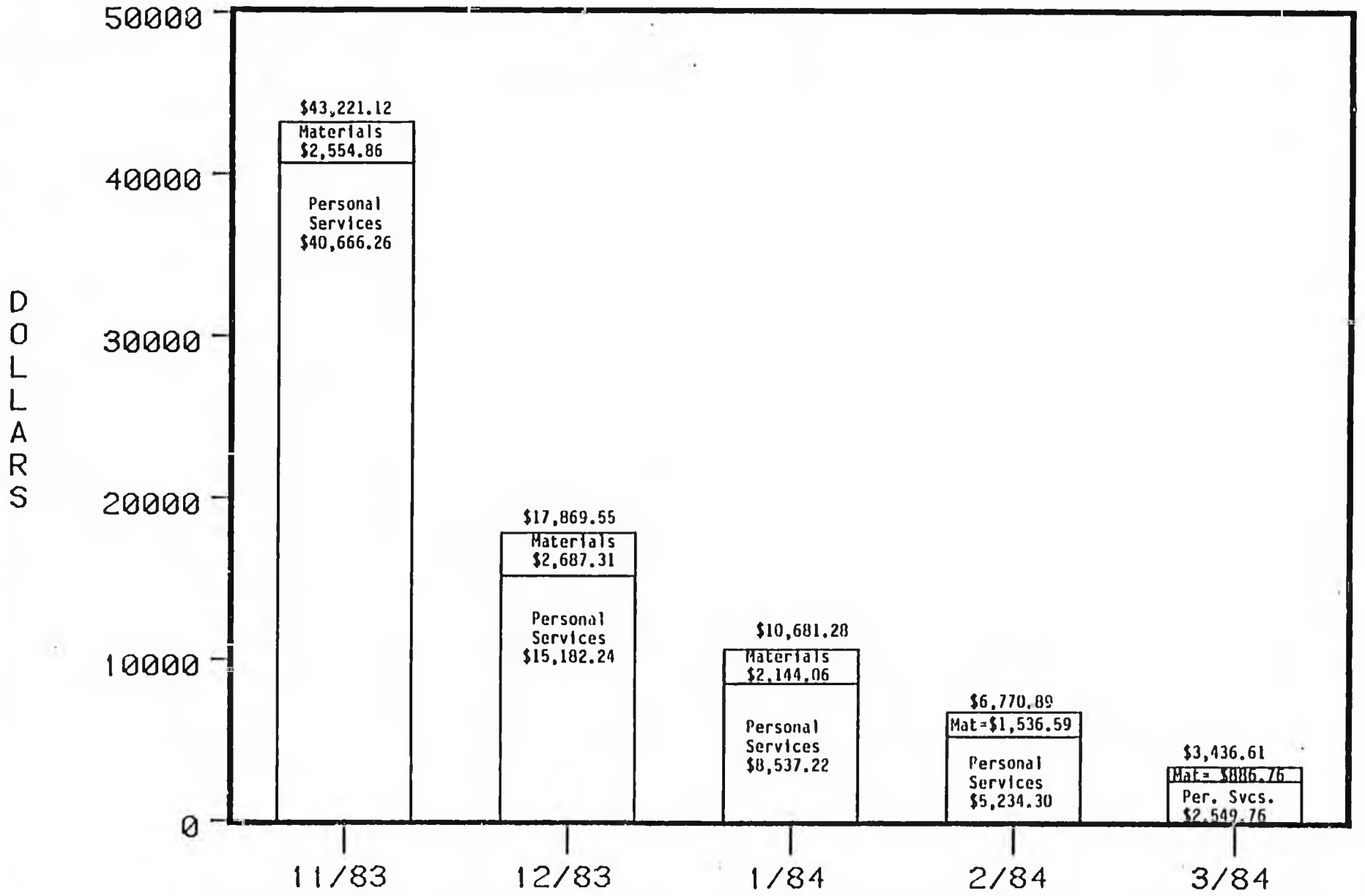
GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS MATERIALS



GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS EQUIPMENT USE CHARGE



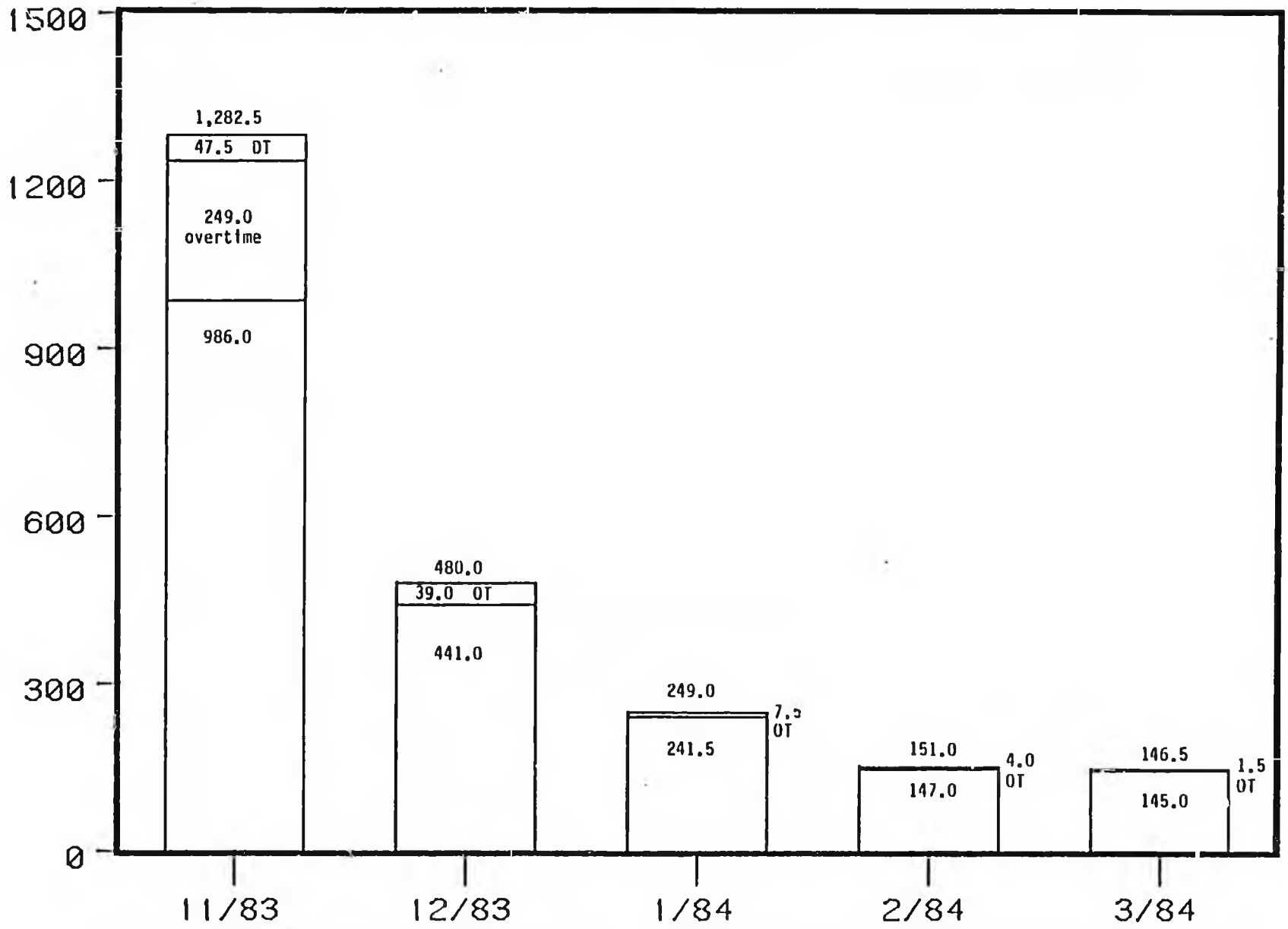
GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS
ACTIVITY CODE 561: GENERAL MAINTENANCE & REPAIR



All costs from routine building repairs--roofs, doors, windows, foundation, floors, ceilings and painting inside and out.

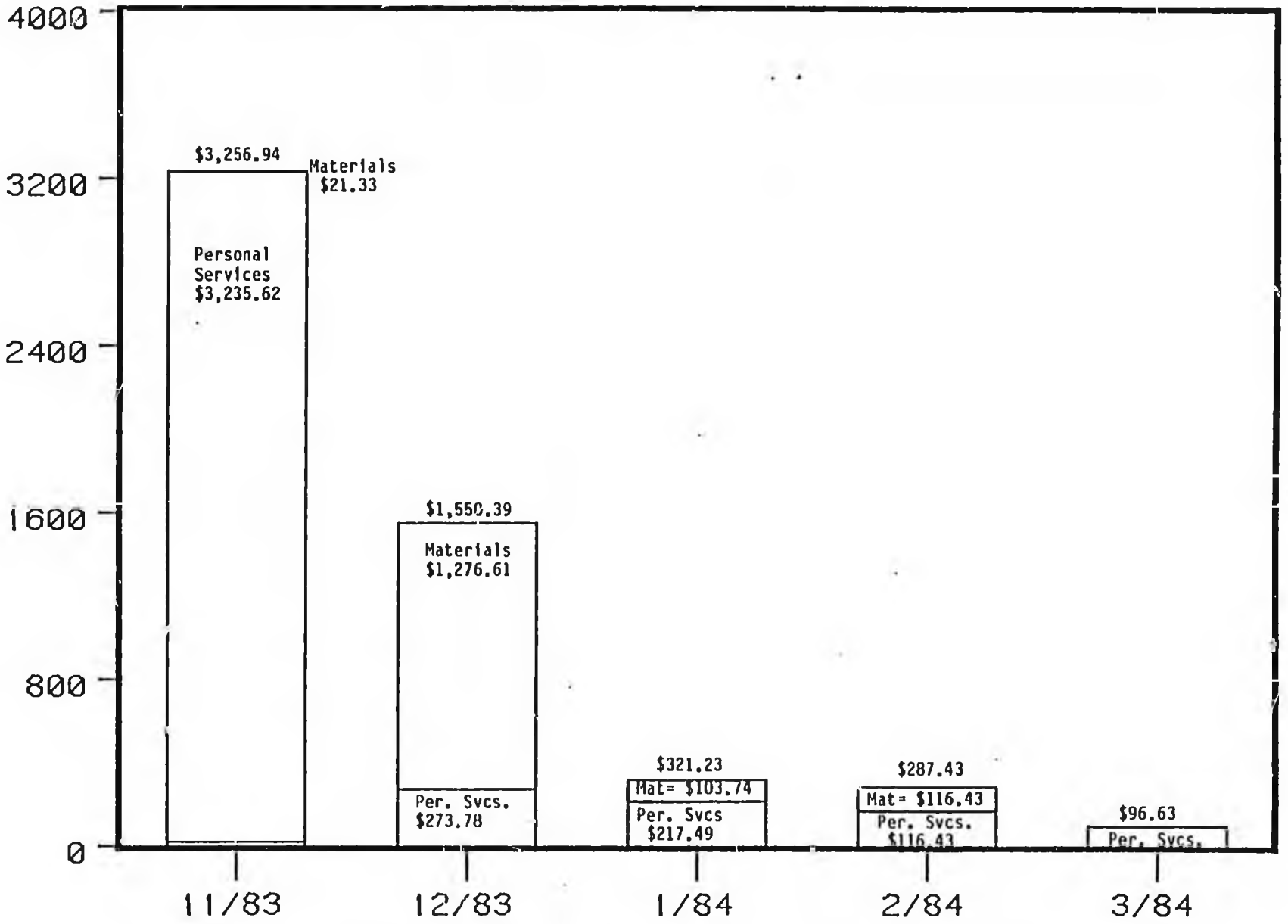
GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS

ACTIVITY CODE 561: GENERAL MAINTENANCE & REPAIRS



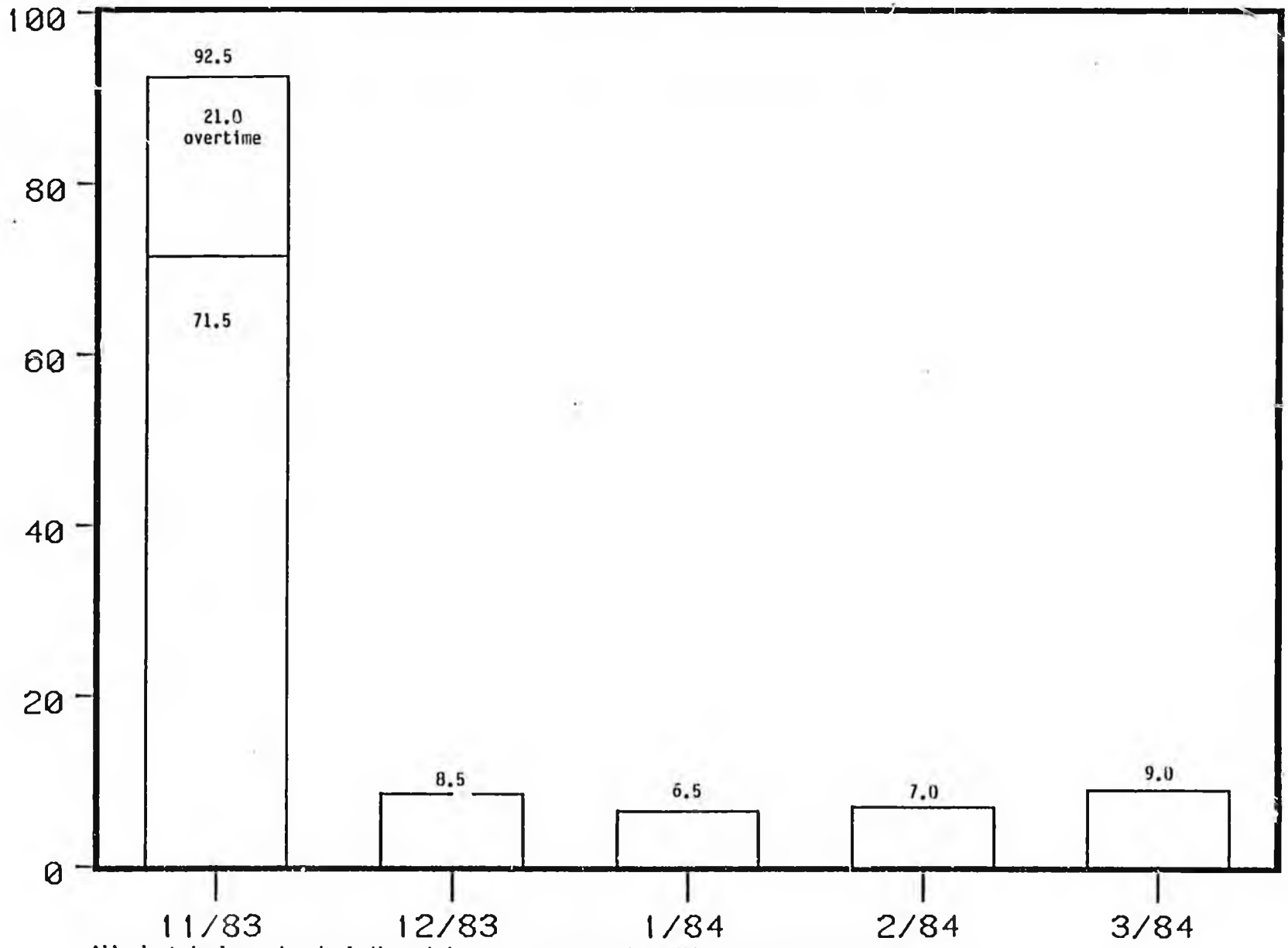
All costs from routine building repairs--roofs, doors, windows, foundation, floors, ceilings and painting inside and out.

GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS
ACTIVITY CODE 563: ELECTRICAL



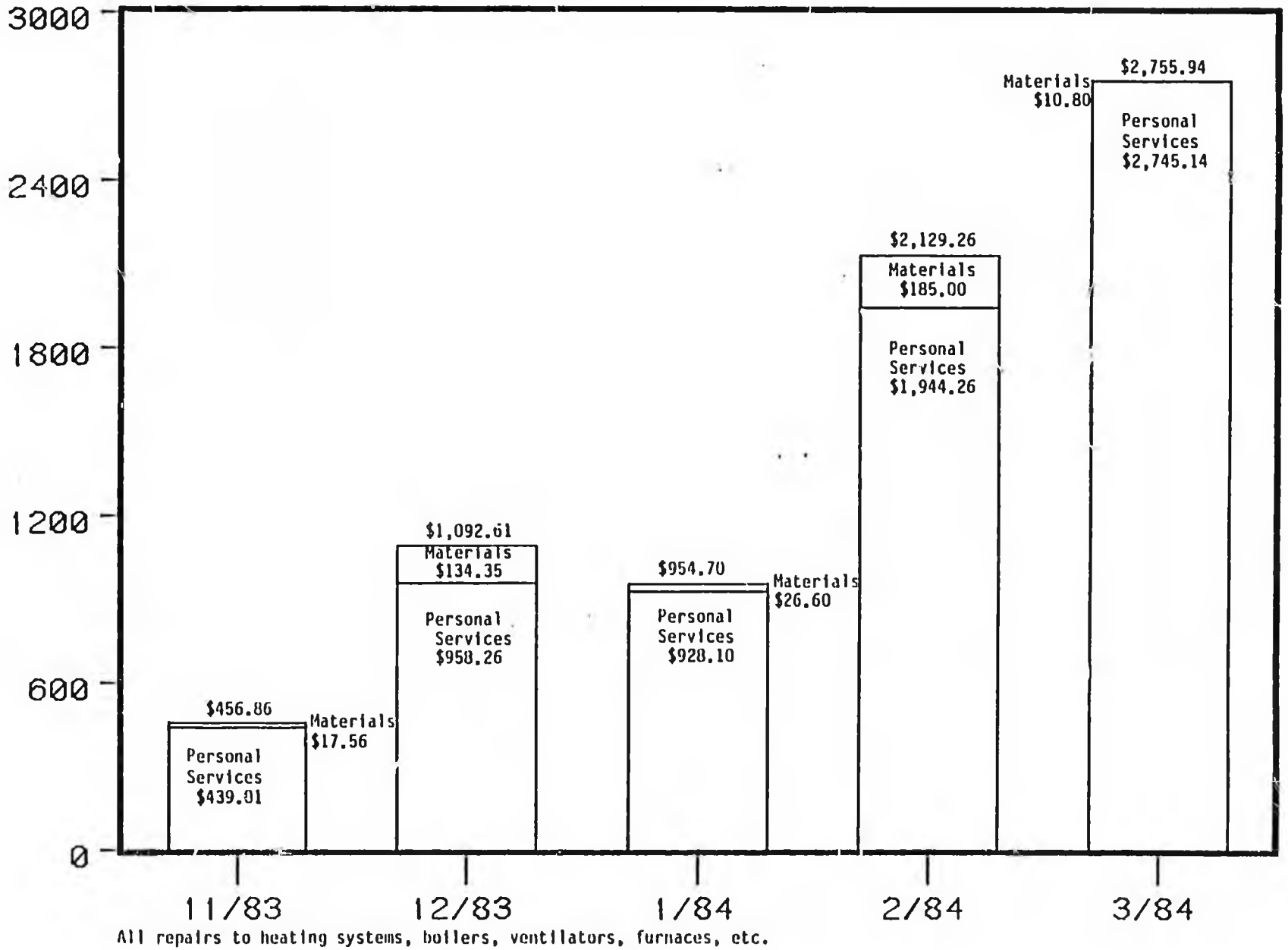
All costs from electrical repairs including wiring, compressors, fans, blowers, generators, etc.

GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS
ACTIVITY CODE 563: ELECTRICAL

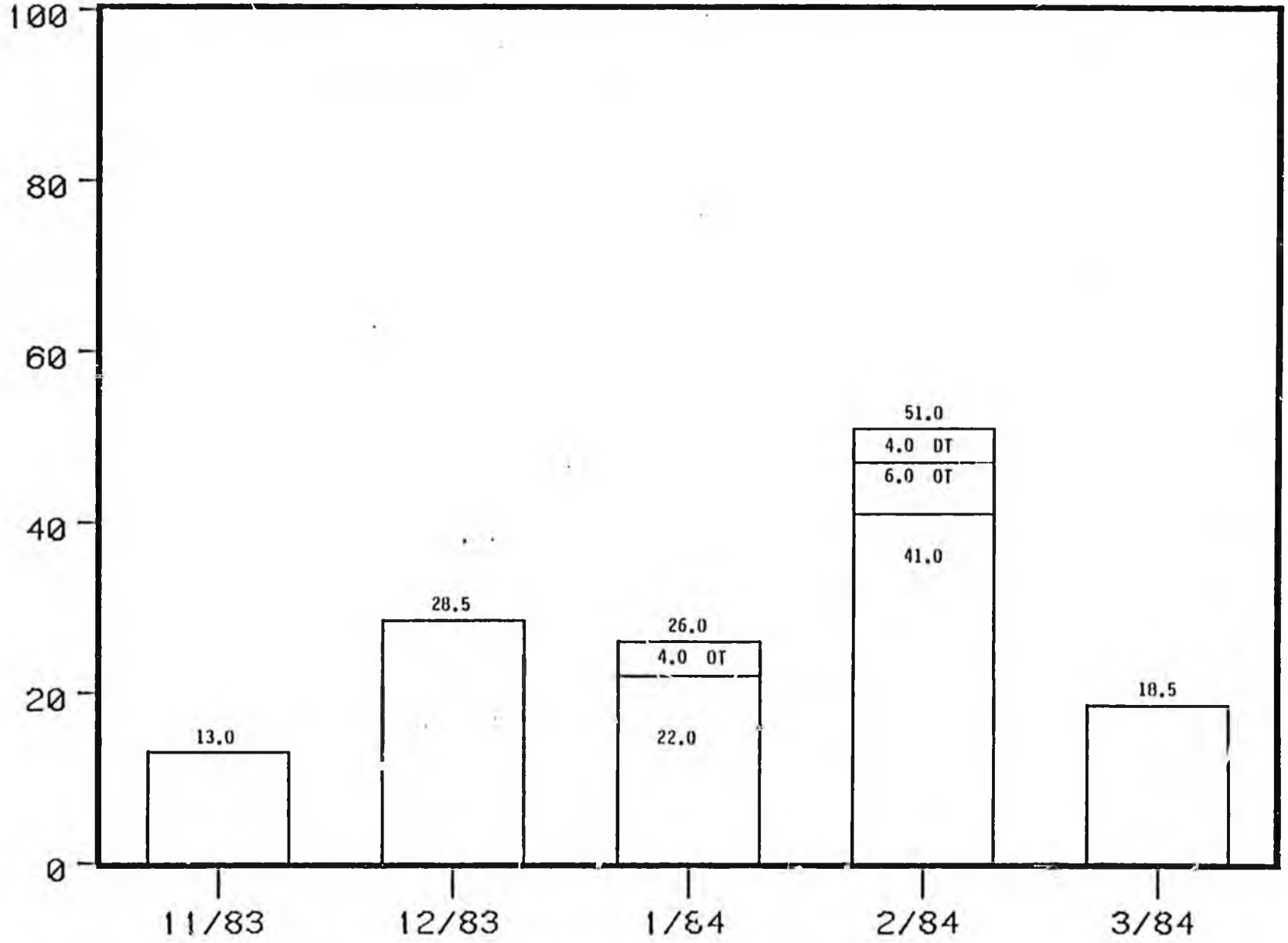


All electrical repairs including wiring, compressors, fans, blowers, generators, etc.

GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS
ACTIVITY CODE 564: HEATING & VENTILATION

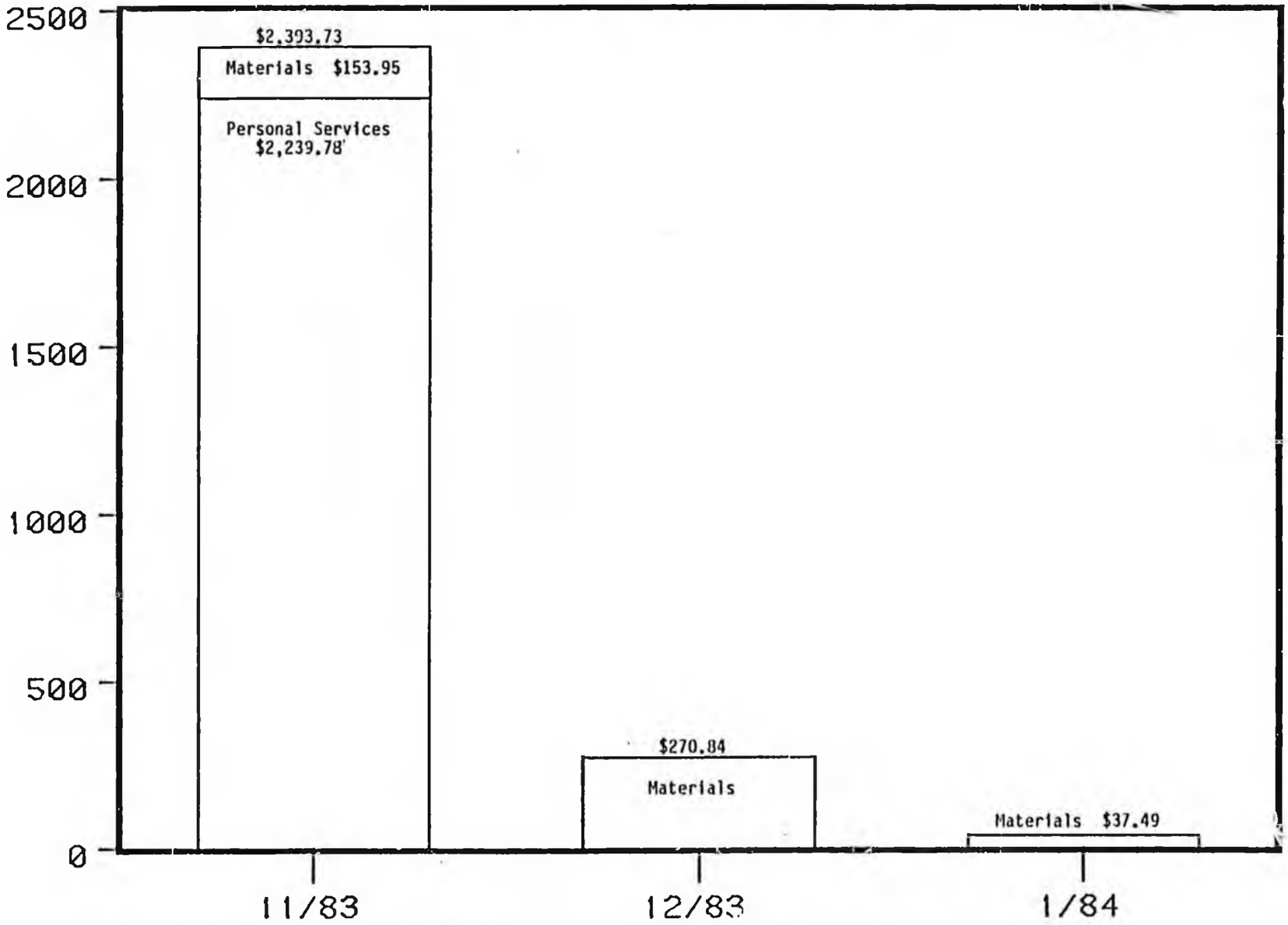


GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS
ACTIVITY CODE 564: HEATING AND VENTILATION



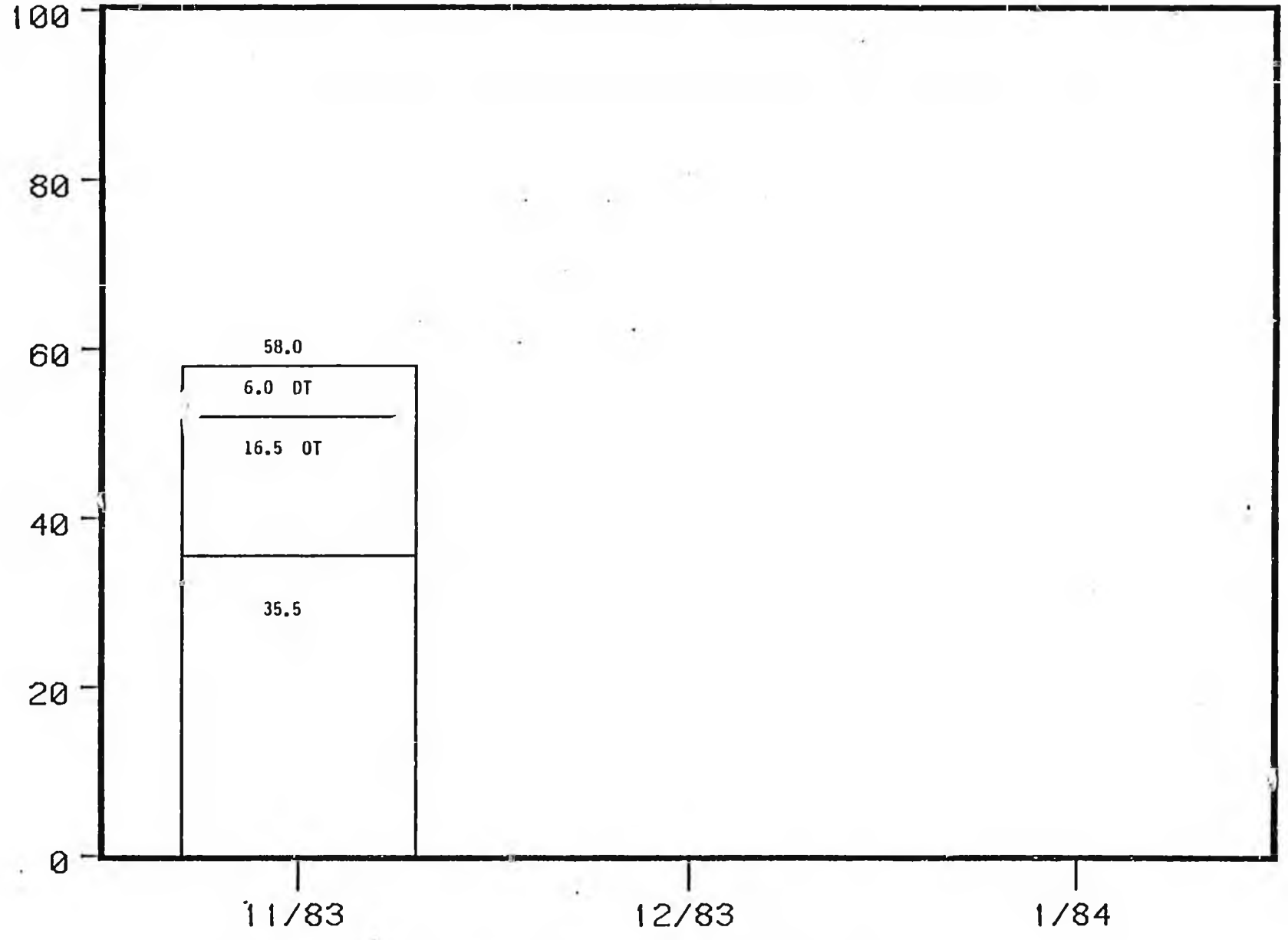
All repairs to heating systems, boilers, ventilators, furnaces, etc.

GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS
ACTIVITY CODE 565: PLUMBING



All costs to repair plumbing, including the water supply, sewage, septic tanks, etc.

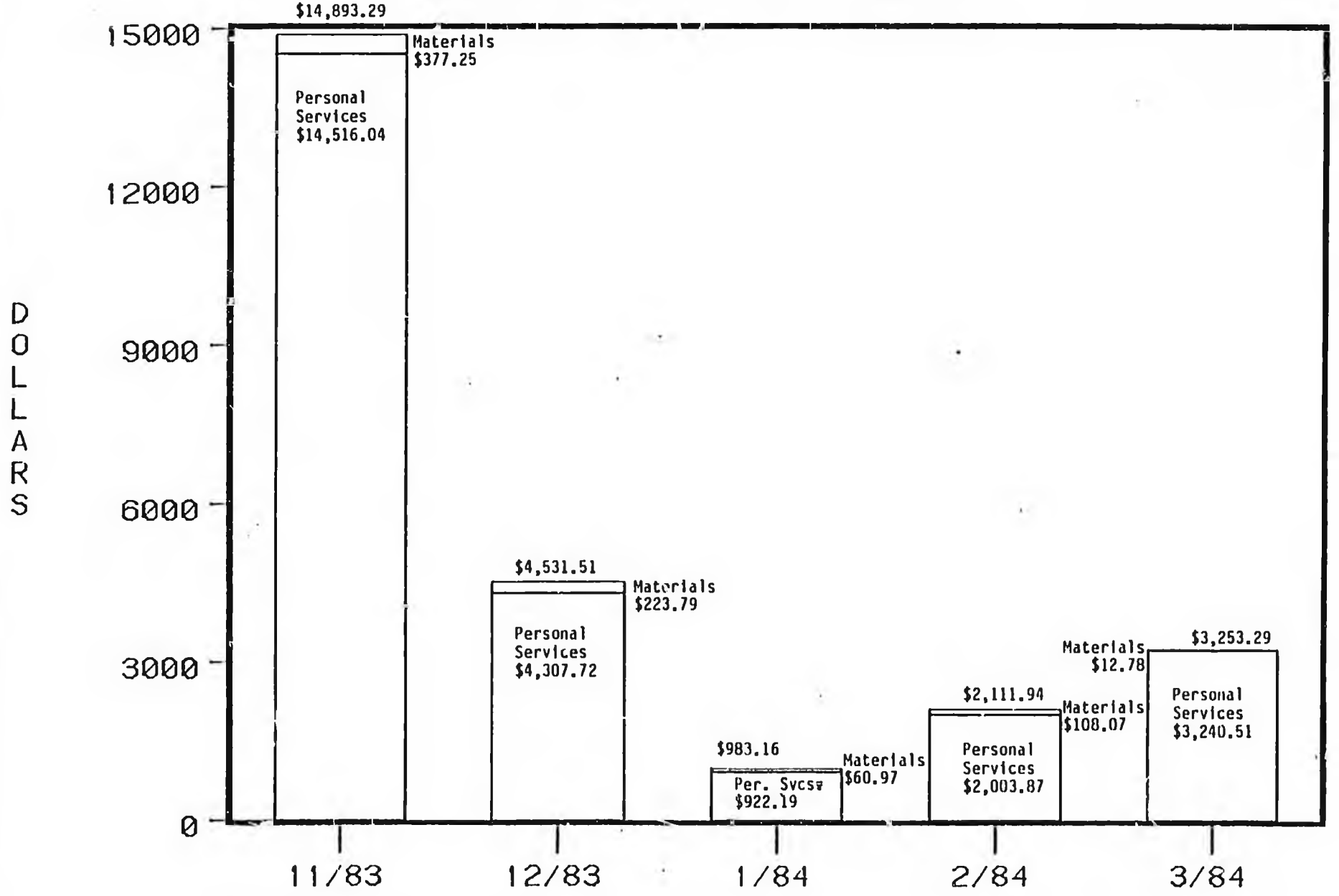
GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS
ACTIVITY CODE 565: PLUMBING



Hours to repair plumbing, including the water supply, sewage, septic tanks, etc.

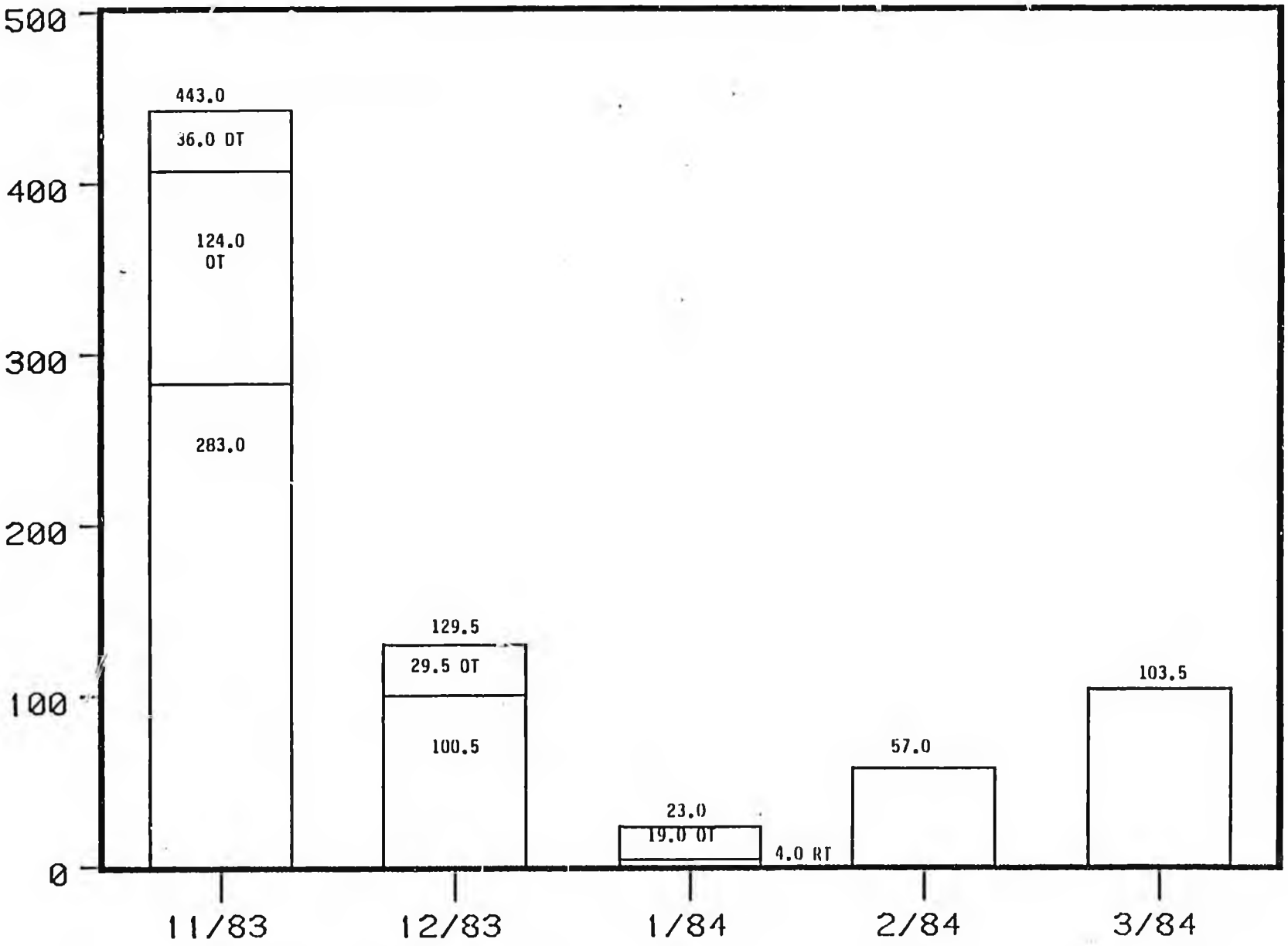
GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS

ACTIVITY CODE 566: PAINTING



All painting of buildings inside and out.

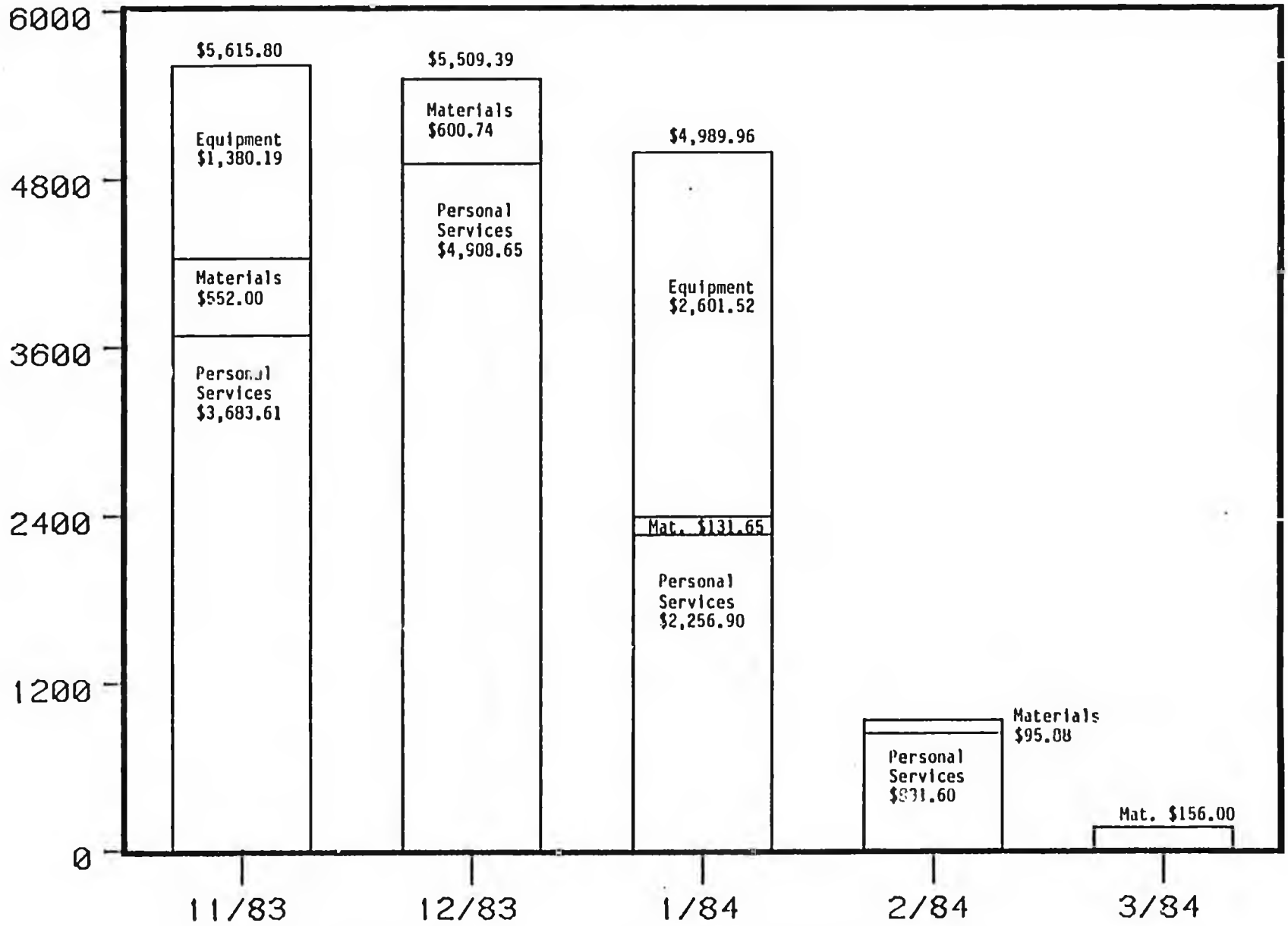
GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS
ACTIVITY CODE 566: PAINTING



All painting of buildings inside and out

GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS

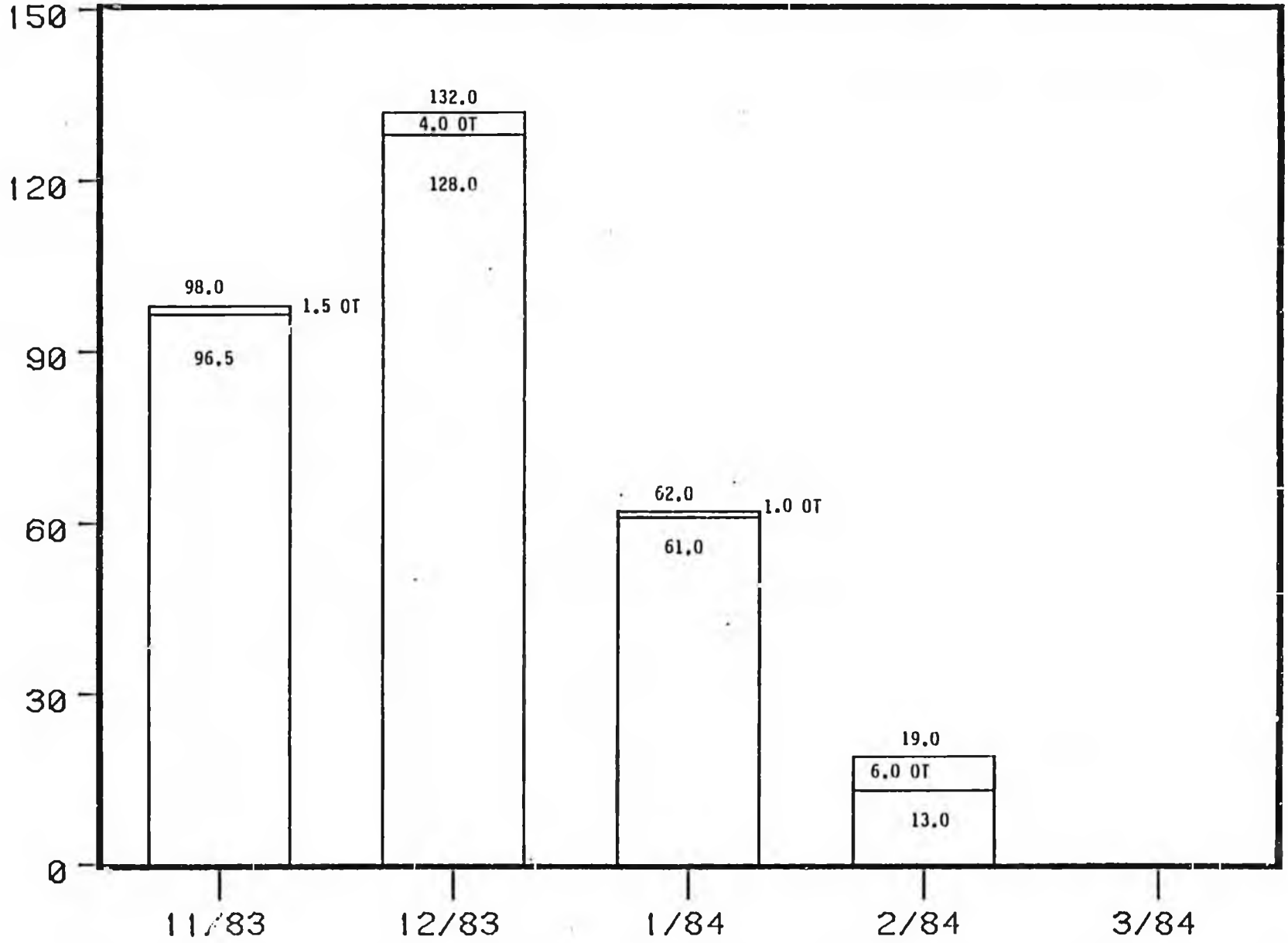
ACTIVITY CODE 570: MISC. M & O



All costs from maintenance, repair and minor construction activity on buildings or facilities which do not fit activity codes 561-565.

GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS

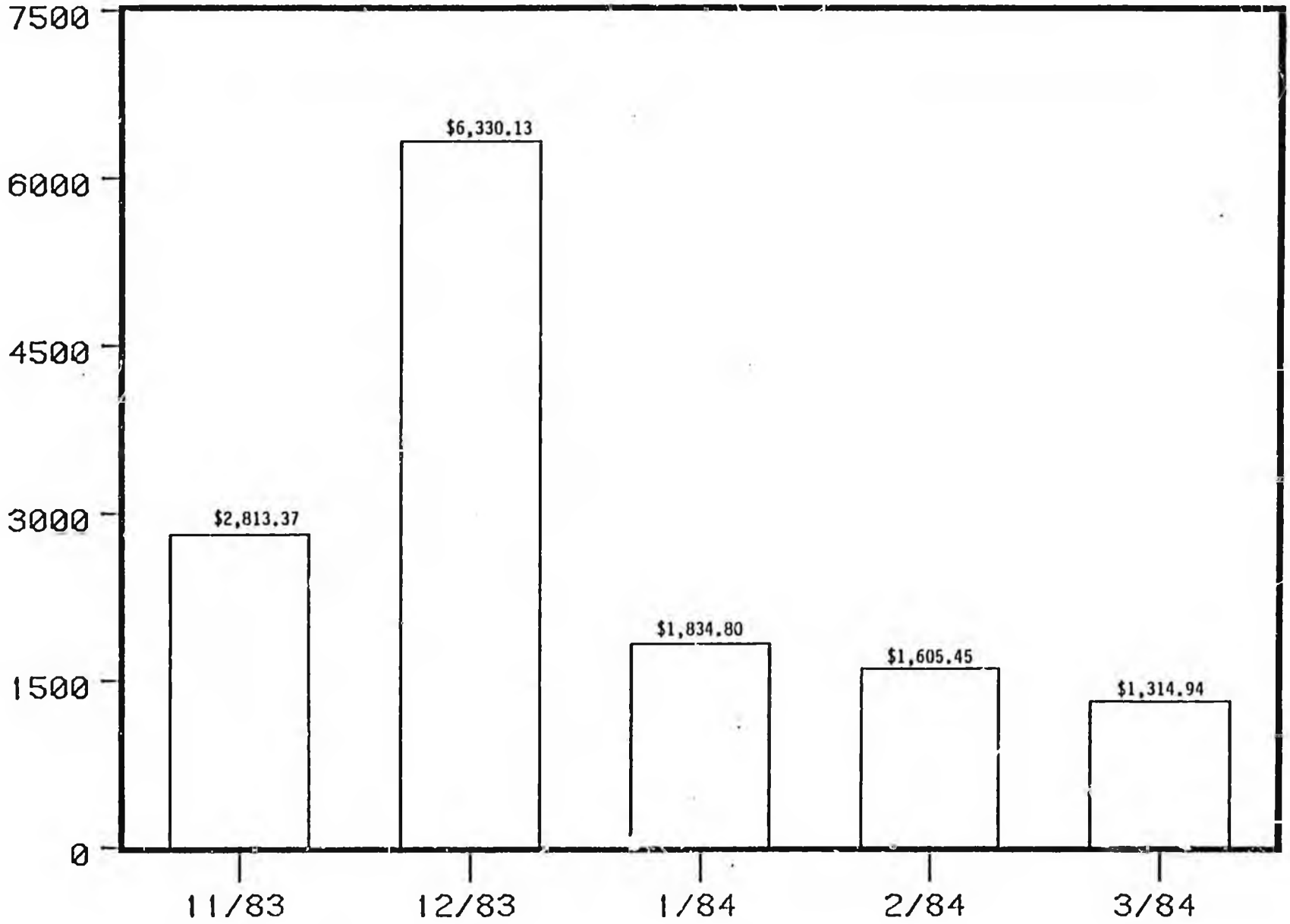
ACTIVITY CODE 570: MISC. M & O



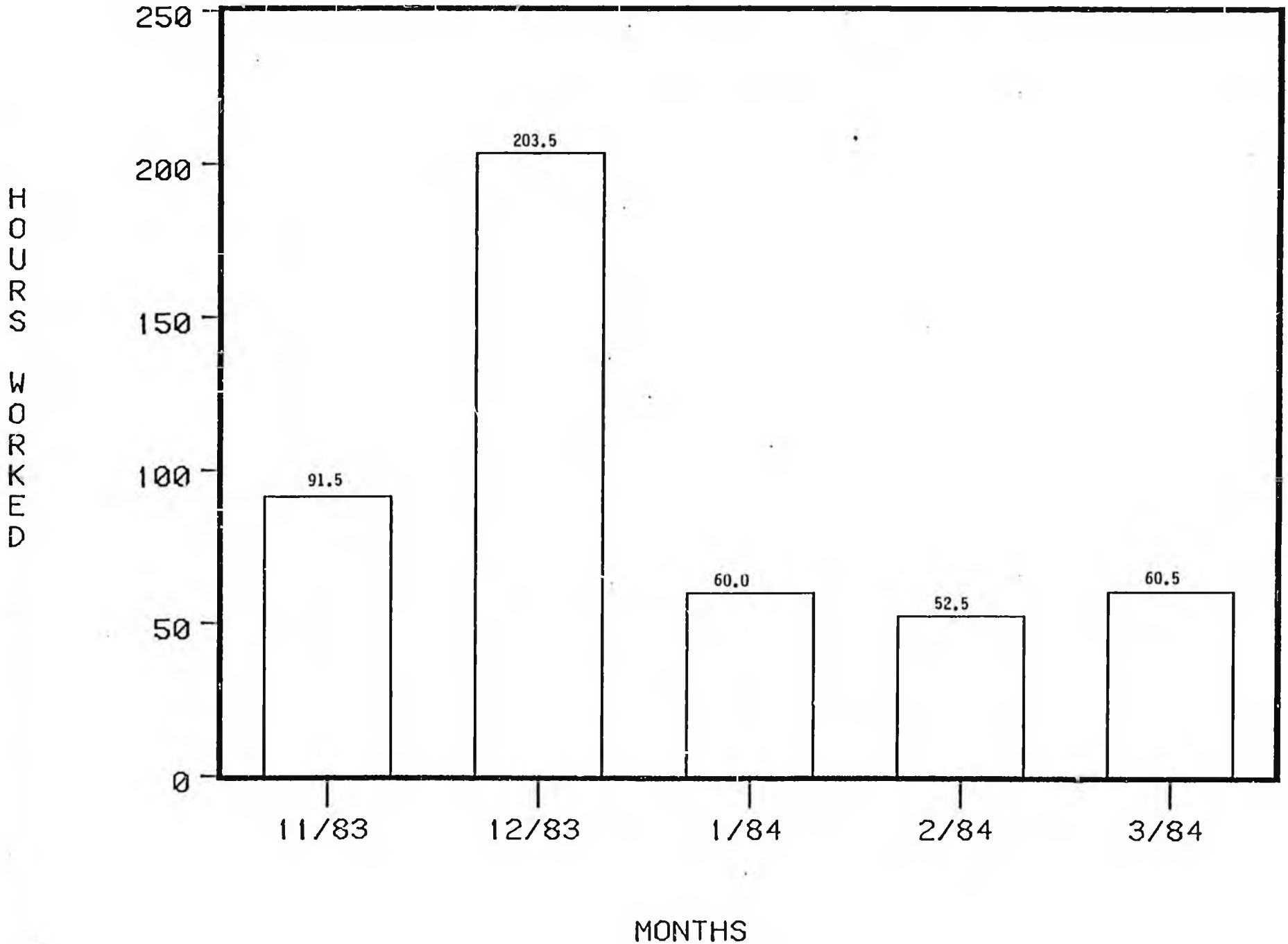
Maintenance, repair and minor construction activity on buildings or facilities which do not fit activity codes 561-565

MONTHS

GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS
ACTIVITY CODE 579: VEGETATION (PERSONAL SERVICES)



GOVERNOR'S MANSION: MAINTENANCE AND OPERATIONS
ACTIVITY CODE 579: VEGETATION



DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

PHONE:

February 29, 1984

Re: Governor's Mansion
Renovation (M3-030)

The Honorable Mitch Abood, Chairman
House Committee on State Affairs
Alaska State Legislature - Representative
Pouch V
Juneau, Alaska 99811

Dear Representative Abood:

The following information is provided in response to your February 28, 1984 inquiry about the Governor's Mansion Renovation project.

1. Names and Social Security numbers of all Department of Transportation and Public Facilities, Southeastern Region Maintenance and Operations personnel who have worked at the Mansion since January, 1981 are provided on the enclosed sheet.

2. During the period October 24 through December 5, 1983, approximately 57% of the work performed at the Mansion by M&O personnel was associated with the renovation, and the remainder was maintenance. All direct costs for both categories of work were charged to project number T93030. From December 5, 1983 to date, approximately 15% of the work at the Mansion was attributable to cleanup of remaining renovation punch list items.

3. Work performed to date by Southeastern Region M&O personnel is itemized on the October 27, 1983 punch list (copy enclosed), together with various minor mechanical items that were identified on a subsequent inspection. All remaining work is identified on the enclosed list dated February 29, 1984. Most items should be complete by March 9, 1984.

4. A copy of the latest "punch list", dated February 29, 1984, is enclosed.

5. In 1980, we inspected various areas at the Mansion to determine if any deterioration of structural members existed. As part of the survey, eight cross-sections of the timber sill were examined by drilling out small core samples. No evidence of dry rot was found in the structural members, nor was any further dry rot discovered during the course of the renovation. As might be expected in a building its age, some areas of trim, sash and other non-structural exterior carpentry were deteriorated, and replacement or repair of these is an ongoing project.

25A-T2LH

No problems have been noted in the new hardwood floor work.

6. In response to your question regarding project number R30049 at the Capitol Building, we have not performed any work using M&O personnel, nor has any M&O time been charged to this project.

Please contact me if you should have further questions.

Very truly yours,

David L. Waldron, Director
Maintenance and Operations
Southeastern Region

Enclosures

PUNCH LIST ITEMS FOR THE
GOVERNOR'S MANSION - FEBRUARY 29, 1984

Replace two damaged thermometers in the Boiler Room piping.

Install a protecting half sleeve on the support for a cold water pipe adjacent to Stair Hall.

Purchase and install a remote readout for water meter to allow readings to be taken from outside.

Secure nameplate on a pump in the Boiler Room.

Complete minor insulation items in Garage and above Kitchen ceiling.

Replace the swing spout on the Laundry tray with a hose end type.

Cut the lift rod to length and install a nut to hold it in place on the Lavatory off the Laundry.

Change the cover on a thermostat in Chamber "C", Third Floor Bedroom.

Provide a speed control for the Laundry exhaust fan.

Replace the Honeywell thermostat in Room 57 with a Johnson unit for uniformity.

Pipe drain for feedwater treatment unit to the floor drain.

Calibrate HVAC Controls, followed by final air balance of the system by the mechanical engineer.

Modify 15 room thermostats to permit external adjustment.

Repair concrete on Front Porch.

Install radio transmitter for the fire alarm.

Seal around conduits and pipes that penetrate the Boiler Room wall.

DOT&PF, SOUTHEASTERN REGION, MAINTENANCE & OPERATIONS

Personnel who have worked in the Governor's Mansion since January, 198

D. BAHRT	574-18-9675
R. BEAR	522-50-4938
F. BOYNTON	574-12-0909
T. BUCHANAN	541-54-0584
N. BUSBY	574-26-6146
E. CARROLL	558-11-3912
G. CHAPMAN	574-22-6815
G. CROW	574-22-0426
D. ETHERIDGE	574-22-4102
C. FLEEK	574-18-2593
D. HAMMONDS	548-70-5694
E. KRAUSS	079-26-7136
M. LAUER	519-50-4731
J. LEITCH	264-31-2845
N. MASON	574-20-7085
M. MIELKE	574-60-4244
T. PATTEN	471-62-1380
J. PEQUERD	063-50-4127
P. PREVATT	574-52-5785
S. REA	543-64-1902
G. SHAW	432-02-7140
P. VANDOR	549-24-3900
M. VIERTHALER	574-14-0553
R. WALKER	574-18-2139
J. WILLIAMS	574-20-7748
T. WILLIAMS	519-50-2028
H. ZOBRIST	346-16-8250

DOCUMENT NUMBER 16

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: Jonathan W. Scribner
Deputy Commissioner
Southeast Region

DATE: December 12, 1983

FILE NO: SEDC-001

TELEPHONE NO: 364-1347

FROM: T. D. Dieckmeyer, Director
S.E. Region Design & Construction

SUBJECT: Govenor's Mansion Renovation
Charges to M&O

Reference: Memo; Waldron to Scribner; dated December 7, 1983, same subject (copy attached)

On November 21, 1983, you and I discussed that henceforth all charges (including those incurred by the prime contractors) should be diverted to Maintenance & Operation accounts.

I communicated this infomration to Tom Metlicka and we agreed that upon receipt of future prime contractor billings the invoices will be coded to comply with the time and account parameters.

I see no need at this time to change prime contractor interface relationships or invoicing procedures to accommodate charges that can be addressed internally.

By copy of this memo to T. Metlicka and R. Stewart it is reiterated that all prime contractor charges subsequent to November 20, 1983 are to be diverted to Maintenance & Operations.

TDD:ka

cc: T. Metlicka
R. Stewart
W. DeBoff

RECEIVED
DEC

DOCUMENT NUMBER 17

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: D. D. Dieckmeyer
Director
S. E. Region Design& Construction
DOT&PF

DATE: December 16, 1983

FILE NO: 220E

TELEPHONE NO: 364-4314

FROM: Tom Letlicka
Design Manager
Building Design & Construction
DOT&PF

SUBJECT: Governor's Mansion
Renovation
Project No. H-79164

As per the requirements of Alaska Statute, Chapter 15 (Construction Procedures), Section 35.15.010, Paragraph (a), attached please find a list of all State Maintnenance Personnel who have worked on the Governor's Mansion. The attached list includes names, hours worked and direct cost paid to each employee.

Thma

Attachment

DOCUMENT NO. 18

State of Alaska
Department of Transportation & Public Facilities

[illegible] Bleckmeyer
Director
[illegible] Region Design & Construction
[illegible]

DATE January 6, 1984

FILE NO 220[illegible]

TELEPHONE NO 364-4314

Tom Metlicka
Design Manager
Buildings Design & Construction
DOT&PF

SUBJECT Financial Status Report, Governor's Mansion Renovations Project No. H-79164

Attached for your review please find the funding breakdown as of January 6, 1984.

The update of the Status Report was prepared by this office so that final Change Orders can be written for Harbor Plumbing and Coogan/Capitol Construction.

The status breakdown of December 14, 1983 indicated a balance of $63,388.00. In reviewing the report an error of $20,000.00 was discovered in the Harbor Plumbing column. This would only leave $43,388.00 for the "Balance of Funding".

After reviewing the latest Pay Estimates for Coogan/Capitol and Harbor Plumbing and discussions with both firms it is apparent that an additional $38,557.00 will be required to finalize the project.

If our office transfers all labor cost incurred since Maintenance and Operations takeover per your memo dated December 12, 1983, I estimate approximately $10,000.00 would be added to the $4,721.00 shown on the January report attached.

All overpayments payed the contractors as per the "Attorney General's Opinion" for labor burden have been deducted from the contractors and are included in this report.

I do not anticipate any changes in this report in the future.

TM:ma

Attachment

cc: W. I. DeBoff

RECEIVED
JAN - 9 1984

For M: as discussed -
Request Coogan & Harbor to submit final invoices by 1/31/84.
Request Coogan & Harbor to summarize materials still on order and associated costs. Review for current needs.
[illegible] labor subsequent to Dec 12, 1983 [illegible]
Update this FINANCIAL STATUS (including artwork)

cc ACTION
cc FYI
cc FYI
cc FYI
cc FYI

RECEIVED
JAN 6 1984
SOUTHEASTERN DIRECTOR D&C

GOVERNOR'S MANSION

FINANCIAL STATUS

as of 1/6/84

AUTHORIZED FUNDING $2,144,000	PAID	COMMITTED as of 12/14/83	TOTAL PAID AND COMMITTED
EXECUTION CONTRACTS			
HARBOR PLUMBING (includes $20,000 bonus)	$1,101,526	$30,000	$1,131,526
RHINESTONE PLASTERING	0	6,000	6,000
AUGUST CORPORATION	82,390	0	82,390
COOGAN CONSTRUCTION (includes $15,000 bonus)	705,217	30,000	735,217
MINCH, RITTER & FORREST #1	10,098		10,098
MINCH, RITTER & FORREST #2	16,300	7,904	24,204
VERN AKIN	40,083	19,917	60,000
LARRY BREEDING	10,200		10,200
SUBTOTAL CONTRACTS	1,965,814	93,821	2,059,635
VENDORS			
TELEPHONE SYSTEM		10,000	10,000
DOUGLAS TRUCKING	11,447		11,447
MATERIALS FOR MAINTENANCE & OPERATIONS			
SUBTOTAL VENDORS	11,447	10,000	21,447
PROJECT MANAGEMENT			
J.O. WOOD (CONSULTANT)	34,814		34,814
IN-HOUSE LABOR	17,808		17,808
IN-HOUSE EXPENSES	2,715		2,715
IN-HOUSE OVERHEAD ASSESSMENT	2,860		2,860
SUBTOTAL PROJECT MANAGEMENT	58,197		58,197
GRAND TOTAL	$2,035,458	$103,921	$2,139,279
BALANCE OF FUNDING			$ 4,721

DOCUMENT NO. 19

[illegible]

State of Alaska
Department of Transportation & Public Facilities

[illegible]
[illegible]
[illegible]

DATE [illegible]

FILE NO. [illegible]

TELEPHONE NO. 264-4314

[illegible] Tom [illegible]
Design Manager
Building Design & Construction
DOT&PF

SUBJECT Governor's Mansion
Renovations
Project No. H-79164

Transmitted with this memo are all cost incurred subsequent to the November 20, 1983 date mentioned in the Don Dieckmeyer's, memo dated December 12, 1983 attached.

Costs with appropriate back-up are grouped by pay estimate for each contractor. The costs are:

Coogan/Capitol Construction	
Estimate No. 13 -	$ 5,099.02
Estimate No. 14 -	$ 3,025.84
Estimate No. 15 -	$ 5,98[illegible]
SUBTOTAL	$14,10[illegible]
Harbor Plumbing & Heating	
Final Estimate -	$12,814.73
SUBTOTAL	$12,814.73
TOTAL for Coogan & Harbor -	$26,921.69

Please take the necessary steps to transfer funding, in the Amount of $26,921.69, to collocation code number 24-88-3-835-H30033.

If you have any questions please contact me.

TM:ma

Attachments: P.E. #13, 14 & 15
Final P.E.
D. D. Dieckmeyer's memo of 12/12/83

cc: W. I. DeBoff
Tom Freeman
D. D. Dieckmeyer

DOCUMENT NO 20

STATE MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

DATE [illegible]

FILE NO [illegible]

TELEPHONE NO [illegible]

SUBJECT Governor's Mansion
Renovation Charges
to M&O
Project No. H-79164

TO: [illegible]
[illegible]
[illegible]

FROM: Tom Petlicka
Design Manager
Building Design & Construction
DOT&PF

Attached please find a memo from Don Diechmeyer to Joe Scribner that charges after November 20, 1983 be diverted to Maintenance and Operations.

Please instruct Nello Long to break these charges out of the invoices and transfer to M&O.

If I can be of help please contact me.

TM:ma

Attachment

DOCUMENT NO. 21

State of Alaska
Department of Transportation & Public Facilities

DATE February 14, 1984

FILE NO 2207

TELEPHONE NO 344-0514

SUBJECT Governor's Mansion
Renovation
Project No H-79164

[illegible]
Bridge Designer
Buildings Design & Construction
DOT&PF

Attached is the financial statement for the subject project for February 14, 1984.

The figure shown for Harbor Plumbing is their final billing. The Construction Section has requested additional back-up for material billings from Coogan Construction, actual cost for Coogan may be less.

An estimate of $6,000.00 has been included for Artwork.

Balance of funds per this report is $52,069.00.

Tim

cc: D. D. Heckmeyer
W. I. DeDeff
Tom Freeman

GOVERNOR'S MANSION

FINANCIAL STATUS

AS OF 2/14/84

AUTHORIZED FUNDING $2,144,000	PAID	COMMITTED AS OF 2/14/84	TOTAL PAID AND COMMITTED
EXECUTION CONTRACTS			
HARBOR PLUMBING (INCLUDES $20,000 BONUS)	$1,104,365		$1,104,365
RHINESTONE PLASTERING	0	$ 6,000	6,000
AUGUST CORPORATION	82,390	0	82,390
COOGAN CONSTRUCTION (INCLUDES $15,000 BONUS)	672,098	35,000	707,098
ANNETTE J. CLARK (PAINT ANALYSIS)	1,932		1,932
MINCH, RITTER & FORREST #1	10,098		10,098
MINCH, RITTER & FORREST #2	24,000	204	24,204
VERN AKIN	51,000	9,000	60,000
LARRY BREEDING	10,200		10,200
ART WORK (ESTIMATE)		6,000	6,000
SUBTOTAL CONTRACTS	1,956,083	56,204	2,012,287
VENDORS			
TELEPHONE SYSTEM	10,000		10,000
DOUGLAS TRUCKING	11,447		11,447
SUBTOTAL VENDORS	21,447		21,447
PROJECT MANAGEMENT			
J.D. WOOD (CONSULTANT)	34,814		34,814
IN-HOUSE LABOR	17,808		17,808
IN-HOUSE EXPENSES	2,715		2,715
IN-HOUSE OVERHEAD ASSESSMENT	2,860		2,860
SUBTOTAL PROJECT MANAGEMENT	58,197		58,197
GRAND TOTAL	$2,035,727	$ 56,204	$2,091,931
BALANCE OF FUNDING			$ 52,069

REPORT OF INSPECTION
MECHANICAL WORK
GOVERNOR'S MANSION RENOVATIONS
JUNEAU, ALASKA
FEBRUARY 11, 1984
H-79164

An inspection of the mechanical work was made by Gregory Penn of Vernon Akin and Associates on January 17 and 18, 1984, and by Vernon Akin on February 9 and 19, 1984. The following work was not completed or was incorrect:

No.	Reference	Comment
1.	15011 & 15019	As-built drawings not received.
2.	15012	Much of the data specified under the various pieces of equipment was not received for approval. Some of the equipment could not be checked as the approval data was not received, such as vibration isolators. This data must be submitted. Data required is listed under the comments for the various pieces of equipment.
3.	15023	The grease fittings on the motors on the temperature control compressor are not the relief type.
4.	15024	The thermal overload heaters are too large for EF-1, EF-2, and the unit heater in the garage. The thermal overload heaters for the two motors on the air compressor are too small. Because of lack of the nameplate data specified as required under section 15031, the size of the thermal overload heaters were not checked for the humidifier, EF-3, EF-5, EF-4, ceiling toilet exhaust fan in Bath 10.
5.	15029	Pumps are not labelled with nameplates. Valve directory was not received and approved before the valve tags were installed. Equipment not labelled.
6.	15030	Piping not identified in the garage and in accessible ceiling spaces.
7.	15031	Valve directory not received or approved, so valve tagging could not be checked. No operating and maintenance data received. Binders not received. Mounting frame not installed for valve directory. No O & M manual holder installed. The nameplate data must be received so that the equipment can be checked.
8.	15033	Adjustment of the systems not done.

9.	15034	Filters in the ventilating unit are to be replaced prior to adjustment of the air system.
10.	15036	Much refuse left above the ceilings of the closets between the kitchen and the main hall Rm. 32.
11.	15022 MR-3	Access door in the ceiling of the closet in Rm. 17 not installed for access to the automatic air vents. This door must be installed.
12.	15066	Protecting half-sleeve not installed on the cold water pipe above the closet adjacent to Stair Hall 40.
13.	15079	The mercury has separated on the thermometer at the tempering valve.
14.	15079	The thermometer on the heating supply out of the boiler is not readable. Straighten the bulb and secure the thermometer in a position that is readable. Also adjust all thermometers in the boiler room so they will be accessible for easy reading.
15.	15081	The remote ARB unit is not installed on the water meter. Data not received on the water meter.
16.	15078	Nameplate on pump P-1 is loose. Secure it to the casing.
17.	15251	Piping insulation is incomplete at the unit heater in the garage at the automatic radiator valve.
18.	15251	Insulation is not run continuous through the wall above the ceiling of the kitchen from the closet adjacent.
19.	15412	Certificate of disinfection not received.
20.	15415	Approval data not received on the sauna heater.
21.	15451	Swing spout on the supply fitting for the laundry tray does not have a hose end.
22.	15451	Indirect drain and P-trap for the laundry tray is plastic instead of the chrome plated brass specified.
23.	15457	The direct lift waste fitting for the lavatory in Bath 12 is not connected. The outlet plug is not made for a direct lift waste fitting. Secure the lift rod.

24.	15606	Combustion adjustment data not received.
25.	15606	Resubmittal was required on the oil burner, and was not made.
26.	15607	Data not received on the feedwater treatment unit.
27.	15702	Piping is leaking at the cast iron radiator in Bath 55.
28.	15705	Remove the dampers in the finned pipe in Chamber C, Room 81. Heat is controlled by a room thermostat.
29.	15705	Approval data was not received on the finned pipe.
30.	15706	Approval data was not received on the convectors.
31.	15708	Approval data received on the unit heater was incomplete. No data received on the vibration isolators for the unit heater. This data is required so the vibration isolators can be checked.
32.	15709 DC-3	No approval data received on the cabinet unit heater.
33.	15802	Infinite speed switch not installed on EF-2 in laundry room.
34.	15806	Data not received on the vibration isolators for the ventilating unit. This data is required.
35.	15817	No motor starter installed for the ceiling toilet exhaust fan in Bath 10. No approval data received.
36.	15817	Face grille on the fan is not secured at one corner. It appears that the unit is not the one specified.
37.	15901	Compressors do not alternate. Primary compressor is to alternate each time, with secondary compressor to operate if required.
38.	15901	The vibration isolators on the compressor unit were to be orange color. The springs installed are brown.
39.	15901	The room thermostats on all thermostats except the remote unit type are to have exposed adjustment. The T-4002-5012 kit is required for external adjustment.
40.	15901	The supply air temperature capillary bulb and the averaging

40. (Cont.)		bulb thermostat capillary are installed immediately downstream of the humidifier. The vapor condenses on the capillaries and drips out of the duct. Relocate these two units to a location either upstream of the humidifier or further downstream.
41.	15901	No thermostat installed in Wet Bar 58 to control the radiation.
42.	15901	The room thermostat in Chamber C, Rm. 81, is graduated in Celcius instead of Fahrenheit.
43.	15901	The room thermostat in Rm. 57 is a Honeywell unit instead of Johnson.
44.	15901	The mixing dampers on the ventilating unit do not go to the full recirculating position when the unit is operating in the HAND position.
45.	15901	The automatic control drawings were not approved. It appears that the modifications marked on the drawings were not accomplished. Revised drawings required.
46.	15901	The Ventilation Air switch on the control panel in the kitchen is not operating. Also the direction of rotation is contradictory according to the markings.
47.	15901	The mixed air temperature control for the ventilating unit is not calibrated with the thermometer. Calibrate and set as specified.
48.	15901	The duct low limit control for the ventilating unit is not set correctly.
49.	15901	The radiation water reset control is not calibrated.
50.	M-4	The drain on the feedwater treatment unit is not piped to the floor drain.
51.	MR-1	The cabinet unit heater in Vestibule 30 is not installed.

HOUSE COMMITTEE ON STATE AFFAIRS
13TH ALASKA LEGISLATURE

RENOVATION OF THE GOVERNOR'S MANSION

SECOND REPORT ***

MAY 11, 1984

REPRESENTATIVE MITCH ABOOD
CHAIRMAN

Background

Much has been written about the procedures used by DOT/PF and the Office of the Governor in awarding contracts for the Mansion renovation project. The Ombudsman concerned himself with the sole source contract awarded to Mr. Jerry Wood, for construction management; the internal audit conducted by the Department of Transportation & Public Facilities concentrated on the Wood contract as well as the sole source contract awarded to Vern Akin & Associates for mechanical & electrical design, and the time & materials contracts which were awarded to the two prime contractors, Harbor Plumbing & Heating and Coogan/Capital Construction; the Legislative Audit report reviewed all of the contracts awarded for the Mansion project, including the three sole source contracts written by the Office of the Governor.

Although these reports stand independently of one another, their findings and recommendations are strikingly similar, and point to a condition best characterized as benign neglect in following departmental procedures and statutory requirements in the awarding of contracts for the renovation of the Governor's Mansion. These reports have been included as a supplement for your review.

One of the major reasons for this report to the Committee on State Affairs is to show what happens when procedures fall apart. In doing so, we will examine the contract and the consequences of Queen City Industries' participation in the renovation project. We have intentionally chosen what should have been a reasonably simple contract as our example.

Bidding Process

Queen City Industries of Seattle was chosen as a subcontractor to Coogan/Capital Construction to provide the hardwood flooring and ceramic tile work for the Governor's Mansion. (For further background information on the selection of Queen City, see Documents 1 - 7).

In letters dated July 21, 1983, two Alaskan firms, Mr. Elmer Gowdy, Wood Construction Company of Juneau and Russ's Construction Company of Kenai were notified of an invitation to bid on the project from Coogan Construction. Governor Sheffield was familiar with the quality of work performed by these individuals and had specifically requested that they be considered for the hardwood floor work. The written response to the invitation to bid was to be received by Coogan no later than July 27th, six days later. (Documents 8 & 9). Although we requested a copy of the Queen City invitation to bid, neither DOT/PF nor Coogan Construction could provide us with one.

Contracts

On August 12, 1983, DOT/PF offered "no objection to Queen City performing the work" on the Mansion project (Document No.10), and a Notice of Award was subsequently sent to Queen City by Coogan Construction on August 19th. (Document No.11) Queen City was to be paid on a cost plus percentage basis. The labor portion of the contract provided for 7.99% above reimbursable costs for overhead, and 11.99% above reimbursable costs for profit. Acceptable reimbursable costs as stated by Coogan "included labor, benefits, labor burden, travel, subsistance, lodging, equipment rental, freight, courier service and any other direct costs approved by the owner."

Attached to the Notice of Award were an Associated General Contractors Subcontract for tile and wood flooring and a Material Contract, both with Coogan Construction. (Document 12 & 13). The subcontract was dated July 20, 1983.

Question: Why was the Queen City subcontract dated one day before the invitiation to bids were sent to the Alaskan businesses? Did the Alaskan firms ever have a fair opportunity to bid on the Mansion contract or was the decision to hire Queen City made prior to the issuance of the invitations to bid?

The material contract with Queen City was dated July 29, 1983. Under the terms of this contract, Coogan Construction was obligated to pay Queen City $44,808.00 for materials for the hardwood floors and the ceramic tile. We could find no evidence of any supporting bid documents either from DOT/PF or Coogan Construction to substantiate the $44,808.00 figure. In addition, the material contract was unsigned as of May 9, 1984.

Question: If DOT/PF received a copy of this contract along with the notice of award and the subcontract, did they realize that it was unsigned, or had they only received page one of this two-page contract?

Question: Coogan Construction received a time & materials contract from DOT/PF for architectural renovation work on the Governor's Mansion, and yet the material contract which Coogan issued to Queen City was a fixed fee contract. In a situation of this kind, wouldn't DOT/PF have a greater responsibility to oversee the execution of this contract?

The terms of payment in the material contract were as follows:

"Net 30 days from receipt of invoice, or initial acceptance of material by owners representative, whichever occurs last."

The $44,808.00 sum for materials would eventually play an important part in the saga of Queen City and the State of Alaska and will be discussed later in this report.

Extension of Contract

In an memorandum from Phyllice Bradner to Tom Freeman, DOT/PF, dated August 31, 1983, a suggestion was made to extend the Coogan/ Capital Construction contract to include carpet work. (Document No.13) Ms. Bradner states that she has:

"...been in contact with Queen City, the people who are supplying our other flooring needs, and they have been very accomodating in locating information about the unusual carpeting which I have requested. If it is okay with your department I would like to proceed under the assumption that we can do business with Queen City as I have found them to be very cooperative and reputable."

We could find no evidence of any DOT/PF document authorizing the extension of the Coogan contract to include carpeting, but Coogan Construction provided us with a Queen City memorandum dated October 10, 1983, reiterating a telephone order for carpet initiated by Coogan Construction. (Document No. 14). The amount of money for the carpet and labor was stated as not to exceed $15,000.00.

Breakdown of Costs

There was no breakdown as to the actual square yards of carpet for which the State was to pay Queen City.

Question: Wouldn't it be reasonable to assume that Queen City should provide Coogan Construction with a breakdown for both labor and the actual square yards of carpet to be used in the Mansion and for which the State was being asked to pay?

An internal DOT/PF memorandum dated October 28, 1983 written to the Director of Design & Construction, provides the first breakdown for the carpeting contract. (Document No.15). It states:

" The construction contractor on the architectural renovation for the governor's mansion has quoted the following costs for carpet installation:

Carpet (State is committed to pay this cost):	$12,500.00
Labor (5 days) Subsistance) - Airfare)	3,084.00
TOTAL AMOUNT:	$15,584.00

Estimated quantity of carpet: 300 yards
Cost of carpet & installation: $15,584.00 for 300 yards = $51.95 per yard
Cost of carpet installation: $3,084.00 for 300 yards = $10.28 per yard"

Question: Where did these figures come from?

The major topic of concern involving Queen City invoices was to be the resurrection of the $44,808.00 figure quoted in their July 29th unsigned material contract which appeared in an invoice for ceramic tile and hardwood floor materials dated September 20, 1983. (Document No. 16). The invoice, in its entirety read:

" Section #9.300 Tile
Section #9.550 Wood Floor

Per contract as quoted $44,808.00"

The invoice may have been the essence of simplicity, but it neglected to mention what the State of Alaska was paying for. In addition, the invoice gave no evidence of which materials were delivered to the site. Coogan Construction relayed the generic invoice to DOT/PF, and DOT/PF paid it in full.

Question: "Why?"

On October 4, 1983, Queen City submitted a list of change orders for walnut and oak millwork and ceramic tile thru September 30th, in the amount of $ 13,721,00. (Document No.17). Although the change order mentioned the types of material provided for the Mansion, it did not mention how much of this material was purchased and/or used. DOT/PF paid the invoice in full.

Largely due to the fine efforts of Mr. Nello Long, Project Inspector, DOT/PF, the payment of Queen Cities' unsubstantiated invoices came to a screeching halt. On January 6, 1984, Mr. Long notified Coogan

Construction that the department required further information on the $44,808.00 invoice before it could process two Queen City pay estimates. (Document No. 18).

> " To state the problem we are concerned about, we need a breakdown on that contract. How much for the different items of material supplied and also (a) labor cost breakdown. Why are we billed for G. Cooper's airfare, car rental and food? Was he requested by us to come up, etc.?"

Queen City provided Coogan Construction with a response to Mr. Long's request for a materials breakdown on January 27, 1984. (Document No.19) The memorandum reads in part:

> " Enclosed is the breakdown on the material bid portion of the Governor's Mansion contract. We find the request for bid breakdown very unusual. We expect this information will facilitate the State's payment of our invoice plus interest owing from the due date to present."

Attached to the memorandum was a list of rooms by name and room number, along with a lump sum for each room under the heading 'Wood, Tile & Flooring Contract.' Still no breakdown of the materials which were used in these rooms or for the actual square footage of repair in each room.

For their time involved in "breaking out the bid," Queen City billed Coogan Construction another $643.00.

Not to be undaunted, Mr. Long sent another letter to Coogan Construction on February 2, 1984 requesting more information from Queen City: (Document No. 20).

> " They (Queen City) listed the rooms and their prices for material for each room. We requested and still need invoices for the material they sent. We need the square footage amounts for the different items of material they sent, as well as prices per square foot. Also needed are the amounts and prices for the related materials such as floor finishing material, bedding, underlayment, mastic, grout, etc."

Queen City responded to Coogan Construction on March 23, 1984: (Document No. 21).

" Gentlemen:

Pursuant to your request enclosed is the approximate breakdown on the above project."

Queen City still did not provide the square footage or price of material per square foot; and then bills Coogan Construction another $259.00 for Queen Cities time in preparing the breakdown. When comparing the two "breakdowns" submitted by Queen City it is interesting to note that the individual costs listed for several of the rooms differ, sometimes considerably, and yet the final figure of $44,808.00 never waivers.

At our request, Mr. Long prepared an estimate of the monies which have been paid to Queen City, as well as those sums which the department is withholding. (Document No. 22). They are:

Labor Portion (56 calendar days)	$ 56,916.72
Material Portion	61,925.47
TOTAL paid to Queen City	118,842.19
Queen City Invoices Not Paid by DOT/PF:	
Pay estimate # 13 (labor billing)	8,635.63
Pay estimate # 15 (carpet invoice Document No.23)	14,301.90
Total Monies Withheld:	22,937.53

Question: In the case of the incomplete breakdowns which were submitted by Queen City, how much should the State have paid for these materials?

In an attempt to answer this question, we have prepared a chart which lists the costs charged by Queen City and compares them to a breakdown submitted to us by Mr. Elmer Gowdy and Mr. Nello Long. (Chart No. 1). For a detailed explanation of Mr. Gowdy's breakdown, please refer to Documents 24 & 25. For an explanation of Mr. Long's figures, please refer to Document No. 26. Although Mr. Long admits that he is being generous in his pricing, he estimates the total cost of hardwood floor, ceramic tile and related materials to be $10,315.40 less than the $44,808.00 quoted by Queen City.

Question: Is the $56,916.72 charge for labor (4 employees plus one supervisor), a reasonable one considering the length of time spent on the Mansion project. (approximately 56 days)?

Another serious concern is the quality of the hardwood floor work which was performed by Queen City. By the time Queen City laid the hardwood floor, many of the walls in the Governor's Mansion were still exposed and there had not been any heat in the building for quite some time. In his May 1, 1984 letter to the Committee Mr. Gowdy speaks to the floor work: (Document No. 24).

" A recent inspection of the project showed many cracks opening in the new first floor in room 35 (conservatory). This could probably be attributed to improper handling and/or storing of the wood prior to installation or indifference to environmental considerations like low heat, no heat or high humidity."

" The end product in room 50 must have been a dissapointment to the owner inasmuch as the parquet repair seemed to be structurally acceptable, but the material used to fill the nail holes in the top mailed pieces was not colored to match the wood. The nail holes had been filled with material much lighter in color than the wood, resulting in hundreds of little light colored spots."

" The 1x4 existing fir floors which were refinished in Chamber "A" and "E" shows material in the large cracks to be breaking up and falling out in chunks. On a tour of the Mansion with Phyllice Bradner and again with Jerry Wood, I suggested that the fir flooring be carefully removed and relaid to eliminate the exceedingly large cracks to preclude this problem from happening. Mr. Hanson from Queen City convinced Mr. Winders that this would be impractical and hence a less than acceptable product is the result."

An on-site inspection of the Mansion floor work on May 7, 1984, by this office and Mr. Gowdy showed evidence of shrinkage, drying and cracking in the work performed by Queen City in the following rooms:

Master Bedroom
Second Floor Study
Conservatory

It is also not unreasonable to assume that other newly laid floor work may meet the same fate as the wood continues to dry out.

In regards to the carpeting work performed by Queen City, Mr. Tom Metlicka, Project Manager, DOT/PF provided the following information at our request:

1. Carpeting for main stairs, closets and third to second floor rear stairwell installed by Queen City.

2. Carpets for historical bedroom and Governor's bedroom and living room, second floor installed by DOT/PF Maintenance & Operations.

3. Carpeting for second to basement rear stairway installed by Coogan.

4. Basement carpet installed by DOT/PF Maintenance & Operations.

Based irregularities occuring in other aspects of the Queen City contract, questions concerning the carpeting arise as to the amount and quality of materials used, and materials and labor costs.

Summary

The summary for this report contains some questions and some observations which are based solely on the documentation provided to us
in response to our requests.

1) Were Alaskan businesses precluded from participating in the bid process for the hardwood flooring and ceramic tile subcontract for the Mansion project?

2) The information provided by Queen City to substantiate their invoice of $44,808.00 for hardwood flooring and ceramic tile is not adequate to document the materials used on the project. DOT/PF should not have paid this invoice.

3) When DOT/PF twice requested a detailed breakdown for the materials, Queen City treated these requests as change orders by requesting the State to pay for the time to break out the costs. The costs were never adequately justified.

4) The unit costs for the carpet were never adequately justified by Queen City.

5) Why did Queen City lay the hardwood flooring when there was no heat in the building, knowing that the proper environmental conditions must be adhered to in order for the wood to be properly placed?

6) Was this work done properly, and has the State accepted this work?

7) Who is responsible for the repair to the three rooms which now show evidence of cracking?

8) Is the $56,916.72 charge for labor appropriate for their work on a project which lasted approximately 56 days?

July 21 '83

Re Governors house restoration Phase two
architectural specification Sec 09000

Mr Wayne Coogan
Coogan Construction Co.
4950 Glacier Hiway

Dear Sir:

To clarify our position with regard to the wood floor covering as described in above captioned specs we submit as follows

The painters union local 1140 seems to quite flexible in all matters except initiation cost of $614.75 per person. or $1,844.25 for this job.

If we were to participate in this restoration we could either purchase our installation & finishing equipment or a rental arrangement worked out. Mr Darrell House of local 1140 sees no conflict with this, ordinarily, as an employee is not expected to furnish power tools of this nature.

The equipment that I use on floor finishing work is the finest available

The equipment is in good repair and all grinding surfaces & cutting edges are fit & adjustable to accurate tolerances capable of ~~producing~~ achieving workmanship consistent with the exceptional quality demanded for this job.

As for my personal qualifications I submit entered apprentice ship* program in 1937 in Mpls. Mn. issued Journey man book before WW II have contracted in hard wood & related activities since 1951. I can reference many installations. refinish jobs as well as restorations in this area where I have operated since 1953 (A.D.)

A typical restoration comes to mind very similar to the governors house. The Gross house on gold belt in Juneau. Built in 1914 oak floors of comparable quality severely damaged by flooding when hot water heating system thawed after freezing & breaking most of the radiators. water flowed though unoccupied house for days before water was contained. Restoration performed for Harley Clough - 1973 This repair could be inspected for comparison with restoration projects completed by other people any where by contacting

* Hardwood flooring

Elmer Gowdy phone 364-3270 to arrange for an inspection appointment. Below is a list of equipment available & rental schedule, to be operated by our people only. If someone was scheduled to use any machine the purchase price of $12,000 would apply. We dont rent "out" this equipment

			Rental daily
7-M-12	Ser C7775	12" drum sander	60.00 ✓
7-89	Super 8	8" " "	50.00
7M-15	15" Ridgid	disk "	75.00 ✓
Super 7	7" edger	3800 RPM	25.00
7W 7-31	7" "	american	20.00 ✓
600-A	10 gal SS Vac w/attachments		20.00 ✓
Rockwell	3100 Impact Nailer w/mallet		25.00 ✓
Power Nailer	" " "		20.00 ✓
Rockwell worm Drive Saw			15.00 ✓
"	12000 RPM orbital Sander		10.00 ✓
Oliver	6" jointer		40.00
"	12 table Saw		50.00
Makita	10" chop saw		20.00 ✓

those items ✓ are required for jos.

cc: Dot buildings

Gov. sheffield

[signature]

DOCUMENT # 2
(page 1 of 1)

COPY

Coogan Construction Co.

P. O. BOX 209 · JUNEAU, ALASKA 99802-0209 · (907) 586-3010

August 5, 1983

Mr. Elmer Gowdy
P.O. Box 125
Douglas, Alaska 99824

Job: CC83-5

RE: Governor's Mansion Remodel

Dear Elmer,

Per the request of Queen City Industries I am asking that you go to work for that firm as a floor installer (on their payroll).

Please reply at your earliest convenience.

Sincerely,

Wayne D. Coogan
Project Manager

WC/lc

COORDINATION MEETING

AUGUST 5, 1983

DOCUMENT # 3
(page 1 of 2)

Attendees: Wayne Coogan
Joe Winders
Larry White
Harry Culliton
Phyllice Bradner
Jerry Wood
Tom Metlicka

The following subjects were discussed:

1. Phyllice asked Larry White to identify the availability of polished gold or brass trim for the first floor office bath. He will do so. We discussed the need to compare the costs identified against the budgeted values identified by Phyllice.

2. Phyllice stated that the electrical fixtures have been identified and that she will have them delivered to the Mansion within the next week.

3. We discussed the need for the two lead men, Larry White and Joe Winders, to interface their activities and that they must not direct each others employees or subcontractors without prior agreement by subject.

4. Wayne Coogan stated that Coast Craft was prepared to proceed with the delivery of the first portion of their work on August 22, 1983.

5. We discussed our desire to carefully remove the trim in the library and salvage as much as possible for use elsewhere in the building.

6. We discussed the flooring and cabinet materials with regard to their conditioning. We agreed that we require expert information with definitive information. Coogan/Capitol has been directed to work closely with the installer to identify specific needs and to address their needs for storage, heat, ventilation, etc. We generally concur that the material will require at least one week under "required" conditions prior to installation.

7. Phyllice asked Tom Metlicka to check on any requirements for Humidification.

8. Tom Metlicka asked Wayne Coogan to pass on the submittal documentation to Phyllice for the tile materials. Phyllice will work closely with Wayne to identify the desired tile and expedite delivery to site.

9. We declared position on the window repair and installation. The existing windows are to be reconditioned as directed by the Department of Transportation and Public Facilities to include replacement of broken glass, new weight cords and puddy work. The storm windows are to be fabricated and installed on the exterior side of the existing windows and all storm windows shall have weather stripping installed. The leaded windows will not have storm windows.

10. We discussed the need to identify and purchase the carpets required. Phyllice stated that she would be working working this subject next week with priority on those carpets in the public areas first and service areas second. The carpets for the service areas will only require one week for delivery per Phyllice's experience for the carpet required.

Coogan Construction Co.
P. O. BOX 209 · JUNEAU, ALASKA 99802-0209 · (907) 586-3010

RECEIVED
AUG - 9 1983
BUILDINGS D...

August 5, 1983

State of Alaska, D.O.T. & P.F.
Division Building Design and Construction
P. O. Box 1467
Juneau, Alaska 99802

Job: CC83-5

Attention: Mr. Tom Freeman

RE: Governor's Mansion Rehabilitation, H79164

Dear Tom:

As suggested, our firm requested proposals from Elmer Gowdy (Woods Construction) and Russ's Construction Company for the flooring and ceramics on the referenced project. These two organizations seemed to be well qualified for the work involved (at least the hardwood floors). However, we have chosen to deal with a large Seattle firm known as Queen City Industries for all flooring and ceramics on this project.

Our decision to employ Queen City Industries was based on their following advantages:

- They are extremely active in public construction contracts in Alaska.
- They are a large firm, with the financial capacity, work force and experience required to expedite a project with difficult scheduling requirements.
- They are a union shop, which will prevent possible conflicts with other trades employed by our firm.
- Their track record provides the level of confidence necessary to give this option the least degree of risk.

As previously mentioned, it is our judgement that local people who are qualified to perform the flooring work would present an unacceptable degree of risk as subcontractors on a job of this nature. However, in an effort to involve these people in the work, we will offer them employment as journeyman mechanics.

As previously discussed, the most reasonable course of action is to employ Queen City Industries for this project. However, it will be necessary for the State to reimburse Queen City for travel and subsistance since they are not a local firm. Our judgement is that this should be a reasonable cost since every attempt will be made to hire local mechanics (not formen). Please remember that if Queen City is permitted to control the installation of their material, quality control will obviously be much more effective.

Queen City can not agree to a labor contract unless they are paid for travel and subsistance. In the event other arrangements for labor must be made, we need your decision on this matter as soon as possible.

Looking forward to your early reply.

Sincerely,

Wayne D. Coogan
Project Manager

WC/lc

Enclosure

DOCUMENT # 5
(page 1 of 2)

Box 126
Douglas, AK 99824
Phone: (907) 364-3270

August 17, 1983

RECEIVED
AUG 18 1983
BUILDINGS DESIGN & CONSTRUCTION

Mr. Wayne Coogan
P.O. Box 209
Juneau, Alaska 99802

RE: Governor's Mansion Remodel - Your Job #CC83-5

Dear Wayne:

Thank you for your letter dated August 5 regarding employment opportunities at the Governor's Mansion renovation project.

In response to your request that I work as an installer for Queen City Industries, the Seattle Contractor whom you have arbitrarily chosen to do the repairing and restoration work at the Governor's Mansion project, please clarify our relative position.

In an informal meeting with Jerry Woods and Tom Metlicka at their DOT office on July 22, it was rationalized that due to my skill and long experience in hardwood flooring, I would be the logical choice to perform the installation and provide the sensitivity for restoration so necessary to a project of this nature. Subsequently I would assume the responsibility for the performance of the work as specified and immediately order the wood products that would be required to complete the job.

Kelly Goodwin showed an inventory of 830 square feet of 5/16 x 2 oak for second floor repair at $1.89/square foot with about 600 feet required. Hardwood Flooring Distributors showed an adequate supply quarter sawn white oak at $1.59 and 3-5-7 plank at $2.50/square foot, FOB Seattle.

However, when I called your office on July 26 you informed me that no one had authority to assign work covered in your contract and the only way that I could work on the project would be to join the union at a cost of $641.75. I would work for union scale and be carried on your payroll and all job decisions and determinations would originate in your office.

Regardless of your personal edict that I join the union, please be advised that DOT does not require union affiliation; only that union scale plus benefits be paid for any given skill. Now that Queen City Industries has definitely been selected to do the hardwood work as well as the ceramic tile and carpeting, please advise if all the people they bring up to Alaska will be expected to meet the same requirements that you demanded from me. Has Queen City a $10,000 surety deposit with the

union to assure payment of benefits and contributions payable by the employer as required by the union?

At what future date do you plan to start work on this job? It was my thought that July 25 was a reasonable date to do some of the obvious preliminary work and so far there is no evidence of any floor work having been started.

A prompt reply to the above questions will be appreciated so that I will be able to make a final decision.

Sincerely,

E Gowdy

Elmer Gowdy
Flooring Division Manager
Woods Construction Company

cc: Governor Bill Sheffield
Steve Woods
Tom Metlicka
Jerry Woods
Queen City Industries
Phyllice Bradner

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: The File

DATE: August 18, 1983

FILE NO: 220E

TELEPHONE NO: 364-4314

FROM: Tom Metlicka
Design Manager
Building Design & Construction
DOT/PF

SUBJECT: Governor's Mansion
Renovations
Project No. H-79164

The following describes our understanding of the events that have occurred concerning the flooring work in the Governor's Mansion.

During a conversation between Jerry Wood and Governor Sheffield on July 12, 1983, the Governor asked if Elmer Goudy had been contracted to do the wood floor finishing work and he expressed his intense interest in the end product of that work. Jerry explained that we had just identified the prime contractor (Coogan/Capitol) and that he did not know if Elmer would be working with them, but he would find out.

Shortly after that Jerry was informed by Phyllice Bradner that the Governor was very interested in having Elmer, or the man from Kenai that had done the floors in the Governor's home in Anchorage, do the Mansion floors.

We began working with Coogan/Capitol to see if Elmer could join them. At this point Elmer had made no known effort to obtain this work thru the normal means of joining or offering to join the contractors bidding for the project. He had been advised to do this several times.

Coogan/Capitol had previously arranged to have Paul's Flooring, a Juneau business , do all the flooring work (wood, tile and carpet). We have been told that at some time in the past few years Paul and Elmer had a falling out. However, at our request Coogan/Capitol tried to develop a working relationship between Paul and Elmer. This failed and ended with Paul withdrawing from the entire project.

After that Coogan/Capitol made several efforts with Elmer trying to develop some way for Elmer to do all of the work. However, Elmer is simply not in a position to provide all of the material and expertise for all of the work (wood, tile and carpet). In addition, in our judgement Elmer is not in a position to provide the manpower required to do the wood floors alone. He has stated to Jerry that he intends to do all of the work himself, with some aid from his son. We are convinced that we will require two men, on a full time basis, at the minimum in order to complete this work in a reasonable period of time.

During all of the negotiations with Elmer he was aware of the Governor's preference for him. As a direct result he has been very difficult to deal with. The attitude perceived is that Elmer Goudy will do the hardwood floors regardless of the time or cost considerations and inspite of any previous agreements. Also, Elmer has come to the Douglas DOT/PF office on numerous occasions. In our opinion his purpose has been to bypass, and have himself thrusted upon, the contractor (Coogan/Capitol).

This situation is further complicated by Elmer's resistance to join the appropriate union. The contractor is a member of the Associated General Contractors (AGC) and as such is obligated to hire union employees and deal with union firms. To work for Coogan/Capitol or one of their subcontractors Elmer would have to join the union.

In the mean time Coogan/Capitol has identified a firm that is well qualified to provide both the appropriate manpower and materials to complete this project within an acceptable time frame and at a reasonable cost. Queen City Industries is a well developed flooring firm that has the capability of providing everything that we require. However, they are a Seattle based firm. As such they require per diem and travel expenses for those folks they would send to our project. In our judgement, this additional expense item could be compensated by a similar reduction in cost resulting from the use of their well developed organization. Compared to all locally available sources this is judged to be a favorable situation that meets both our budget and schedule considerations as well as the quality requirements we all prefer. In addition, Queen City Industries has offered to employ Elmer Goudy to work with their man on the project.

The general policy for subcontractor selection is to leave the selection to the general or prime contractor. Our approval or disapproval is then declared. We have approved Queen City Industries as a qualified subcontractor. That approval is documented by the attached memorandums.

TM:JW:ma

cc: Jonathan W. Scribner
Charles S. Matlock
W. I. DeBoff
Jerry Wood

Coogan Construction Co.
P. O. BOX 209 · JUNEAU, ALASKA 99802 0209 · (907) 586-3010

August 22, 1983

State of Alaska, DOT & PF
Div. of Bldg. Design & Construction
PO Box 1467
Juneau, AK 99802

Attn: Mr. Tom Freeman

Re: Governor's Mansion Architectural Renovations, H-79164

Dear Tom:

In previous dicussions with Mr. Tom Metlicka it was mentioned that I should write this letter explaining how and why we subcontracted the flooring and ceramics on the referenced project.

When we bid this project, we had previously established a team of subcontractors for whom the overhead and profit figures were specifically formulated. All these subcontractors agreed to the percentages bid by our firm (as a team) during prebid conferences. Our firm and its team of subcontractors developed their bid based on their past and ongoing relationships with each other. In other words, the bid was calculated unusually low for a team we knew would work smooth together. This is the standard procedure in the industry for bidding cost-plus work since the only risk variable is the amount of effort necessary for management and administration.

Subsequently, during a preconstruction meeting, the name of Elmer Gowdy was suggested by owners representatives as a potential hardwood floor installer. In an effort to be cooperative I indicated we would try to involve Mr. Gowdy in the project. Unfortunately, Mr. Paul Heppler, our preselected flooring/ceramics subcontractor, was present at this meeting.

Shortly thereafter, Paul Heppler terminated his involvement in the project. Paul evidently felt unwelcome because he believed the owners wanted Elmer Gowdy, not Paul's Floor Service, doing the hardwood floors. Needless to say, we were very disappointed in this development since we had planned on working with Paul Heppler--not to mention the loss of good will we suffered with him.

As time went on, we were not formally contacted by Mr. Gowdy. However, we heard mention that he was communicating directly with the owners concerning this job. We considered Mr. Gowdy's actions highly irregular at that time, but nevertheless, we invited Elmer to submit his qualifications for performing the labor portion of the hardwood floors. Since Mr. Gowdy is not a licensed business entity, we had to communicate to him through an organization known as Woods Construction Co., a firm we are totally unfamiliar with. We considered this action also highly irregular and somewhat risky. Since time was not on our side during this course of events, I contacted Queen City Industies, a large and long established Seattle hardwood floor and seramics specialist we had worked with in the the past. I directed Queen City furnish the entire material package for the project. I felt this action was essential to maintain the schedule (keeping in mind the loss of our original subcontractor cost us ten days).

In our judgement, neither Woods Constuction Co. or Elmer Gowdy submitted evidence of past experience with public construction work even remotely comparable to that of Queen City Industries. Due to this fact, we deemed these people a much higher rish as subcontractors than Queen City. Additionally, due to their inexperien in public work, we determined the additional administrative assistance that we would have to provide them was not figured in our original bid.

Queen City, however, has agreed to employ Elmer as a mechanic on the project since we all agree that is what his abilities are best suited for. However, it should be mentioned that some of Mr. Gowdy's unusual business procedures may try our patience.

We will continue our cooperation in trying to involve Elmer in this project, but even such things as writing this letter were never anticipated by us. We hope that from this time on, Mr. Gowdy, the the owners, and ourselves will be equally cooperative and that the judgements of the parties with the ultimate responsibility for those judgements will be respected by all parties involved.

Sincerely,

W. D. Coogan
Project Manager

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

BUILDING DESIGN AND CONSTRUCTION

DOCUMENT # 8
(page 1 of 1)

P.O. BOX 1467
JUNEAU, ALASKA 99802
PHONE: (907) 364-4314

August 12, 1983

RE: Governor's Mansion
Renovation
Project NO. H-79164
220E

Queen City Industries
File 1-5

Coogan Construction Co.
P. O. Box 209
Juneau, Alaska 99802

Attn: Wayne Coogan

Gentlemen:

This is to acknowledge receipt of your letter of August 5, 1983, relative to having Queen City Industries perform the ceramics and hardwood flooring on the subject project.

This is to inform you that this office has no objection to Queen City performing the work.

Please submit the required subcontract documents for Queen City for review and approval.

Very truly yours,

Thomas W. Freeman
Building Construction Chief

TWF:ma

cc: MRF
Jerry Wood
Tom Metlicka
Phyllice Bradner
Mike Nizich
Nello Long

724LH

Coogan Construction Co.
P. O. BOX 209 · JUNEAU, ALASKA 99802-0209 · (907) 586-3010

DOCUMENT # 9
(page 1 of 1)

July 21, 1983

Woods Construction
9018 Gee Street
Juneau, Alaska 99801

RE: Governor's Mansion Remodel, Juneau, Alaska
Project # H

INVITATION TO BID

Gentlemen:

We request that your firm submit a proposal letter to our office for performing hardwood flooring work on the referenced project. Your subcontract, if your firm is chosen between three select bidders, will be on a cost plus percentage basis. Costs will include material, travel, subsistance, labor and labor burden as necessary. Please quote your required percentage of overhead and profit on the mentioned costs. General Contractor may elect to purchase materials in order to expidite delivery.

Selection of the successful subcontractors for this project shall be determined on the following criteria:

1.) Track record of subcontractor. Please submit resume of your past projects.

2.) Financial capacity. Please furnish names and addresses of your bank, insurance and bonding agents and three creditors, (trade references).

3.) Letters of reference from three owners or general contractors for whom your firm has installed hardwood floors.

4.) Amount of overhead and profit quoted as a percentage of cost. Please indicate this percentage.

Please reply in writing no later than July 27, 1983. Thank you for your interest.

Sincerely,

W. D. Coogan
Project Manager

WC/lc

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

BUILDING DESIGN AND CONSTRUCTION

BILL SHEFFIELD, GOVERNOR

P.O. BOX 1467
JUNEAU, ALASKA 99802
PHONE: (907) 364-4314

August 12, 1983

RE: Governor's Mansion
Renovation
Project NO. H-79164
220E

Queen City Industries
File 1-5

Coogan Construction Co.
P. O. Box 209
Juneau, Alaska 99802

Attn: Wayne Coogan

Gentlemen:

This is to acknowledge receipt of your letter of August 5, 1983, relative to having Queen City Industries perform the ceramics and hardwood floo ing on the subject project.

This is to inform you that this office has no objection to Queen City performing the work.

Please submit the required subcontract documents for Queen City for review and approval.

Very truly yours,

Thomas W. Freeman

Thomas W. Freeman
Building Construction Chief

TWF:ma

cc: MRF
Jerry Wood
Tom Metlicka
Phyllice Bradner
Mike Nizich
Nello Long

Coogan Construction Co.
P. O. BOX 209 - JUNEAU, ALASKA 99802-0209 - (907) 586-3010

FILE

August 19, 1983

Queen City Industries
Attention: Mr. Bob Hanson
1001 Mercer Street
P. O. Box 9885
Seattle, WA. 98109

Job: CC83-5

RE: Governor's Mansion Architectural Renovations, H79164

NOTICE OF AWARD

COPY

Dear Bob,

I would like to thank you for your assistance in helping us coordinate the flooring and ceramics for the referenced project. We also congratulate your firm on behalf of the owner for your excellent performance in expediting material thus far.

As previously discussed, we have agreed that Queen City will install the flooring and ceramics for this project on a cost plus percentage basis. Your labor contract shall provide 7.99% (above reimbursable costs) for overhead, and 11.99% (above reimbursable costs plus overhead) for profit.

As previously mentioned in our telephone conversations, reimbursable costs acceptable to the owner are those allowed in the Main Contract including: labor, benefits, labor burden, travel, subsistance, lodging, equipment rental, freight, courier service and any other direct costs approved by the owner.

This letter shall constitute immediate notice to proceed with work as necessary.

Please read carefully all General Requirements regarding laws and regulations, certified payrolls and certificates of insurance. The latter requiring that you submit certified payrolls to the appropriate agencies and an insurance certificate to this office.

SUB-CONTRACTORS

SUBCONTRACT NO.	FOR INTERNAL USE ONLY: document #12			
CC83-5/2	VENDOR	CODE	ACCTG.	RET. %
PLEASE REFERENCE THIS SUBCONTRACT NO. ON ALL INVOICING AND CORRESPONDENCE.	☐ LIEN ☐ INS.	☐ CONTR. ☐ BOND	☐ C. P/R ☐ MP	P.M. APP.

SEATTLE CHAPTER
ASSOCIATED GENERAL CONTRACTORS
SUBCONTRACT

THIS AGREEMENT made and entered into by and between Coogan Construction Company
P. O. Box 209, Juneau, Alaska 99802
hereinafter called the CONTRACTOR, and Queen City Industries, 1001 Mercer Street
Seattle, Washington 98109
hereinafter called the SUBCONTRACTOR, WITNESSETH:

The CONTRACTOR, for the full, complete and faithful performance of this SUBCONTRACT, agrees to pay the SUBCONTRACTOR: Cost, Plus a percentage as described on contractors 8-19-83 "Notice of Award" addressed to subcontractor.

(a) Lump Sum in the sum of N/A Dollars ($_____), or

(b) Unit Prices as set forth below which on the basis of estimated quantities will involve a gross contract price of approximately N/A Dollars ($_____).

In consideration therefor, the SUBCONTRACTOR agrees as follows:

1. To furnish and perform all work as described in Paragraph 3 hereof, for the construction of
Governor's Mansion Architectural Renovations Phase II
Project No. # H-79164

for State of Alaska, Dept. of Transp. and Public Facilities
hereinafter called OWNER, in accordance with the Contract dated the 20th day of July 19 83, between the OWNER and the CONTRACTOR, and the general and special conditions of said Contract, and in accordance with the drawings and specifications and addenda for said construction by
Linn A. Forrest Architects, 800 Glacier Avenue, Juneau, AK. 99801
(ENGINEER'S & ARCHITECT'S NAME)
ENGINEERS or ARCHITECTS, all of which documents in their ENTIRETY are hereinafter referred to as the MAIN CONTRACT and which have been made and remain available to the SUBCONTRACTOR.

2. To be bound by all laws, government regulations, and orders, and all provisions of the MAIN CONTRACT which provisions are incorporated by reference and to be bound by the provisions printed on the reverse side hereof.

3. To provide all supervision, materials, labor, supplies and equipment for:

. SECTION 09300 - TILE, in its entirety.
SECTION 09550 - WOOD FLOORING, in its entirety.
CONTRACTOR'S "Notice of Award" dated 8-19-83 addressed to SUBCONTRACTOR shall be incorporated into this subcontract by reference and shall be binding upon the firms involved

IN WITNESS WHEREOF the CONTRACTOR and SUBCONTRACTOR have executed this agreement, effective the 19th day of August 1983.

August 19, 1983
Date

by _____
Authorized Signature

Witness

AA 1475
CONTRACTOR'S Registration Number

Date

by _____
Authorized Signature, SUBCONTRACTOR

Witness

2043
SUBCONTRACTOR'S Registration Number

MATERIAL CONTRACT

AA - 1475
Contractor's Registration Number

L 537004
Contractor's Washington Resale Number

Job Name Governors Mansion - Alaska

Contractor's Job No. CC 83 - 5

Supplier's Job No. _____

THIS AGREEMENT, issued this 29 day of July, 19 83,

by and between Queen City Industries, Inc., 1001 Mercer Street, Seattle, WA 98109
(seller's name and address)

hereinafter called the Seller, and Coogan Construction Company
(contractor)

hereinafter called the Contractor,

WITNESSETH:

Section 1. The Seller agrees to furnish all material set forth in "Section 2" hereof necessary in the construction of Governors Mansion Renovation for State of Alaska
(name of project) (owner)
hereinafter called the Owner, at Juneau, Alaska
(location of project)
in accordance with the plans and specifications together with Addendas No. N / A,
and Alternates No. N / A, prepared by Minch - Ritter - Forrest,
(architect or engineer)
all of which shall be considered part of this Agreement by reference thereto. The Seller agrees that the material supplied will be in accordance with the plans and specifications and will be subject to inspection and acceptance by the supervising authority to determine conformance thereto.

Section 2. It is agreed that the materials to be furnished by the Seller are as follows:
Including but not limited to the following: Ceramics, hardwood, back-up materials, waterproofing, finishes, and wonder board @ walls behind tile.

Section 9.300 and Section 9.550;;Tile and wood flooring. Both of these sections in their intirety.

Section 3. All material furnished under this Agreement is to be furnished F.O.B. Seattle Dock
Delivery schedule shall be As Soon As Possible!!! To be coordinated in forthcoming correspondence.
If this space is not filled in, the schedule shall be mutually agreed upon within two weeks after acceptance of this contract. Contractor shall inspect all materials at time of delivery and note on a Bill of Lading any apparent defects. Satisfactory performance shall be contingent upon timely written approval of both parties of the following material samples, shop drawings, and credit submittals: As required by sections 01.300 and those sections mentioned above in "section 2" of this material contract.

Six (6) copies of material submittals are required.

Section 4. The contractor agrees to pay the Seller for the material as follows: $44,108.00
Forty four thousand, eight hundred and 00/100 dollars,

subject to additions and deductions agreed to in writing by Contractor and Seller for changes as may result from operations of Contractor's contract with Owner. Terms of payment are as follows: Net 30 days from receipt of invoice, or initial acceptance of material by owners representative, whichever occurs last.

No payment on account shall operate as an approval and acceptance of materials furnished, or any part thereof.

Section 5. 2 copies of invoices shall be mailed to [redacted] All invoices received after the payment cut-off date of the 5th and 25th of every month will go into the next month's account.

Section 6. In the event of any breach of contract, lien, claim or other liability asserted against the Contractor by a third party arising out of the Seller's performance hereunder, the Contractor shall have the right to retain out of any payments due or to become due to the Seller in amount sufficient to protect the Contractor from damage resulting therefrom, until the situation has been eliminated or adjusted by the Seller.

Section 7. Seller warrants the material to be in accordance with the plans and specifications, except as noted in Section 2., and to be free from defects at time of delivery. THE PRECEDING WARRANTY IS IN LIEU OF AND SELLER HEREBY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR ANY PARTICULAR PURPOSE.

Section 8. Consideration of extension of time shall be contingent upon written request for such extension by the Seller within three working days of Seller's good faith determination that there will be a delay.

Section 9. In the event the Seller fails to comply with the provisions herein and fails to commence corrective measures immediately, or to notify Contractor for the delay in such corrective measures after written request by the Contractor, the Contractor may, without prejudice to any other right or remedy, after written notice, furnish or secure elsewhere the necessary materials to remedy the breach, and the necessary cost of which will be at the expense of the Seller.

Section 10. Only material listed in Section 2. will be furnished. No separate installation items or materials will be furnished unless shown on plans and specifications or noted herein.

Section 11. The Seller shall obtain and pay, except as provided otherwise in the specifications, for all patent rights, permits, licenses, tests and official inspections necessary to his performance under this agreement, and shall comply with all laws, ordinances, taxes and regulations bearing on the production of his material and the furnishing thereof.

Section 12. The Seller shall indemnify the Contractor against and save him harmless from any and all claims, suits or liability for injuries to property, injuries to persons, including death, and from any other claims, suits or liability on account of any negligent act or omission of the Seller, or any of his officers, agents, employees or servants. The Contractor shall indemnify the Seller against and save him harmless from any and all claims, suits or liability for injuries to property, injuries to persons, including death, and from any other claims, suits or liability on account of any negligent act or ommission of the Contractor, or any of his officers, agents, employees or servants. In any action to enforce this section, including trial and appellate proceedings, reasonable attorneys' fees shall be awarded to the prevailing party.

Section 13. The Seller shall not assign or contract a substantial portion of any special fabrication necessary for this contract without prior written consent of the Contractor. If the Seller assigns the proceeds of the contract, he shall give written notification thereof to the Contractor.

Section 14. In any case of litigation between parties concerning this Material Contract, including trial and appellate proceedings, reasonable attorneys' fees shall be awarded to the prevailing party; and venue any choice of law shall be that of the State of Washington.

_____	_____
Date	Contractor
	_____
	By
_____	_____
Date	Seller
	_____
	By

RECEIVED
AUG 31 1983

Snow Goose Productions

Phyllice Bradner • 623 Basin Road • Juneau, Alaska 99801 • (907) 586-5897

August 31, 1983

MEMO TO: Tom Freeman
Department of Transportation/PF

FROM: Phyllice Bradner

RE: Carpet Selection

Tom:

I am currently in the process of making carpet selections in the mansion and would just like to clarify the procedure for expediting that order.

I spoke to Tom Metlicka last week and we both agreed that the quickest and least complicated process would be to extend the Coogan/Capital contract to include carpet work.

Among the carpet needs will be some specialty carpet with borders sewn on for the main staircase, master bedroom, and Chamber D. These are the sort of items that will quite likely be available through very limited sources. We will also need a more standard sort of carpet for the back stair hall and basement area. In order to simplify matters I intend to choose that carpet from among the stock items offered by the company that supplies the specialty carpet.

I have been in contact with Queen City, the people who are supplying our other flooring needs, and they have been very accomodating in locating information about the unusual carpeting I have requested. If it is okay with your department I would like to proceed under the assumption that we can do business with Queen City as I have found them to be very co-operative and reputable.

Thank you, your prompt decision in this matter will speed the job along.

Respectfully,

Phyllice Bradner

cc: Tom Metlicka

Queen City INDUSTRIES, INC.
YOUR CUE TO QUALITY

(206) 622-6222

1001 MERCER ST. • P.O. BOX 9885
SEATTLE, WASHINGTON 98109

STATE CONTR. REG. NO.
223-01 QU-EE-NC 1374 N09

- HARDWOODS
- FLOOR COVERINGS
- SYNTHETICS
- CERAMICS
- TENNIS COURTS
- TRACKS

TO: GOGAN CONST
JUNEAU ALASKA

ATTN: JOE

PROPOSAL FOR:
CARPET FOR GOV. MANSION.

Date 10/7/83

GENTLEMEN:

IT IS A PLEASURE TO SUBMIT OUR QUOTATION TO FURNISH MATERIALS AND OR LABOR AS FOLLOWS:

PURSUANT TO OUR CONVERSATIONS WE ARE PROCEEDING WITH THE ORDER DEFINED AS FOLLOWS:

PROVIDE CARPET AND ~~LABOR~~ IN THE FOLLOWING AREAS.

FIELDSTONE BY WELLCO COLOR SANDSTONE AND 40 OZ HAIR JUTE PAD. — #14 HALL "B", #15 STAIR HALL, #16 HALL #17 MAIDS ROOM, #40 STAIR HALL, STAIRS AND #63 STAIR HALL (NONE IN CLOSETS) [EXTRA ATTIC STOCK AS POSSIBLE]

"FLORAL PERSIAN" BY ALEX SMITH WITH "GRAMERCY PARK BY COLONNADE COLOR FILBERT WITH PAD — AREA RUG WITH A 1 FOOT (APPROX) BORDER INSET FOR #54 CHAMBER "C" USEING THIN AREA RUG PAD

GRAMERCY PARK BY COLONNADE COLOR FILBERT — INSET AREA RUG, OWNERS RUG WILL BE ON AREA RUG PAD ON TOP.

ROYAL CRYSTAL BY C.I. QUARTZ W/ STD BORDER OF 6 3/4" — MAIN STAIR CRPT 48" WIDE (APPROX) DOES NOT INCLUDE THE FIRST 2 STAIRS AND LANDING

ALSO TO PROVIDE AREA RUG PAD FOR OWNER SUPPLIED CARPETS, APPROX COST .30 - 35¢ PER SQ FT.

TOTAL NOT TO EXCEED $15,000.00
WEIGHT APPROX. 2400#
FOB, SEATTLE DOCK, NO SUBSURFACE PREP.
LABOR FIGURED ON NORMAL WORKING HOURS

THIS QUOTE DOES NOT INCLUDE WASHINGTON STATE SALES TAX

THIS PROPOSAL IS SUBJECT TO ACCEPTANCE WITHIN N/A DAYS AND TO CONDITIONS ON THE REVERSE SIDE HEREOF.

QUEEN CITY INDUSTRIES, INC.
BY Eileen M. Cooper

VERBAL
JOE E. 10/10/83
ACCEPTED DATE

BY

OCI 1015-3

TERMS AND CONDITIONS

GENERAL CONDITIONS

1. The proposal is only for such work as is specifically outlined and [illegible]

2. SALES TAX, if applicable, is not included in the quotation.

3. TERMS are CASH ON COMPLETION unless otherwise arranged in writing and [illegible] approval of credit. Overdue accounts will be charged 1½% per month for service charge.

4. We assume no liability for delay or cancellation from causes beyond our control such as acts of God, labor disturbances, car shortage, war and acts of the Government, transportation delays and accidents beyond our control.

5. Claims for shortages must be claimed by the purchaser within five days.

6. Back Charges. No claims for labor performed or for materials furnished by others as a part of this contract will be allowed except upon written order of the seller. The seller will not assume any charge for use of telephone, general cleaning, office expense, lighting, power, watchman or temporary structures pro rata charges of any other description.

7. Structural Work. Unless otherwise noted on the face of this proposal, complete erection of framing and other materials for the reception of the seller's material is to be done by others. It is essential that such work be done in exact accordance with working details and specifications under which seller's quotation is made. Any changes requiring additional work or material by the seller will be charged to the purchaser. It should specifically be noted that our quotations are based on the premise that the sub surfaces are ready to receive our materials.

8. The builder and/or owner shall maintain a temperature of 70° F. for 48 hours before and after and during the progress of the installation of the floor covering. Sufficient lighting and power shall be furnished to the floor contractor.

9. If the job has been estimated from plans and the interior dimensions of any room or rooms shall be found to be larger than on the plans, the builder and/or owner agrees to pay for the additional area at the current market price. The sizes of each room are to be the basis of comparison and no consideration will be given to the exterior dimensions of the building.

10. Any work necessary to repair sub surfaces and sub floors, cut door jambs, casings, repair or prepare counters may be charged as an extra.

11. The purchaser shall provide seller a safe storage space convenient to the site of the work and use of construction facilities such as hoists and elevators without charge to the seller.

12. Notification to Proceed. The purchaser shall notify seller seven (7) days prior to installation date and shall provide sufficient work ahead so that the seller's work can be carried on without undue interruption.

13. Purchaser's Contract Form. If purchaser should accept seller's quotation yet use his own contract form, it is agreed that the true copy of seller's quotation and these terms and conditions shall be incorporated therein and made a part of this agreement.

14. Regular Working Hours. Our proposal is based on the premise that the work can be performed in regular working hours unless otherwise noted on the face of this proposal.

15. Delays. The seller will not take responsibility for any delays occasioned by labor trouble, transportation, fire, accidents or any other cause beyond the seller's control. If completion of our contract is delayed for thirty (80) days or more, through no fault of ours, the purchaser will take delivery of the balance of the materials contracted for and payment for all labor and material furnished shall be due forthwith.

16. It is the intention of the floor contractor to furnish materials as shown on the face of the proposal, however if by error the wrong materials are delivered to the contractor and/or owner must accept the delivered material if floor contractor is not advised of error within 24 hours after delivery of material.

17. We assume no responsibility for manufacturing defects where such material is sold to us as conforming to size and grade figured for the material on face of the proposal.

WOOD FLOOR CONDITIONS:

1. We assume no responsibility for imperfections in sub floors and we do not guarantee against cupping, buckling, shrinking or for defects which show up in material which are within the scope of the grading rules which are applied for the industry.

2. The contractor and/or owner is to turn the job over to the floor contractor broom-clean and furnish sufficient electric power to operate floor equipment, such as sanders, edgers and polishers.

3. Wood floors shall be finished with a natural finish unless otherwise stated on the face of proposal and should color be desired, the contractor and/or owner shall pay extra for the specific color.

4. Eighty-five percent (85%) of the contract price will be due and payable when floors are laid and the balance upon the completion of the finishing of the job.

5. Inasmuch as the sellers cannot control the humidity, heat or moisture condition on the job, we hereby want it understood that we cannot be responsible for the movement of a wood floor or any other condition which may result from moisture and/or heat conditions.

RESILIENT FLOOR, WALL COVERING, & CARPET CONDITIONS:

1. We assume no responsibility for imperfections in sub floors and we do not guarantee against cupping, buckling, shrinking or for defects which show up in material which are within the scope of the grading rules which are applied for the industry.

2. Any imperfections in sub floor which are remedied by the floor contractor shall be considered as an extra unless otherwise agreed to on the face of this proposal.

3. The contractor and/or owner is to turn the job over to the floor contractor broom-clean and furnish sufficient electric power to operate floor equipment, such as sanders, edgers and polishers.

4. If material or pattern group other than specified or agreed upon is selected, the price shall be considered as an extra.

5. On jobs where the seller makes the installation, he agrees to clean up his own debris, [illegible] on the face of the proposal, subsequent cleaning and waxing is not to be considered a part of the work included in this agreement.

6. Inasmuch as the seller cannot control heat, moisture, and humidity conditions on the job, we hereby want it understood that we cannot be responsible for the movement, cracking, spreading and other defects of a floor, as the result of these conditions.

CERAMIC TILE CONDITIONS:

1. We assume no responsibility for defects caused by structural and/or subsurface deficiencies, or defects caused by extremely high and/or low temperatures.

2. Any imperfections to sub surfaces which are remedied by the floor contractor shall be considered as an extra for which a reasonable amount may be charged to contractor and/or owner unless otherwise agreed upon on face of proposal.

3. The contractor and/or owner is to turn the job over to the floor contractor broom-clean and furnish sufficient electric power to operate floor equipment, such as [illegible]

4. If material or pattern group other than specified or agreed upon is selected, the price shall be considered as an extra.

5. [illegible] on the face of the proposal, subsequent cleaning and waxing is not to be considered a part of the work included in this agreement.

6. Inasmuch as the seller cannot control heat, moisture, and humidity conditions on the job, we hereby want it understood that we cannot be responsible for the movement, cracking, spreading and other defects of a floor, as the result of these conditions.

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: D. D. Dieckmeyer, Director
Design and Construction
Southeast Region
DOT/PF

DATE: October 28, 1983

FILE NO:

TELEPHONE NO: 364-4366

FROM: W.I. DeBoff
Chief, Buildings
Design & Construction
DOT/PF

SUBJECT: Governor's Mansion
H-79164

The construction contractor on the architecture renovations for the governor's mansion has quoted the following costs for carpet installation:

Carpet (State is committed to pay this cost:	$12,500.00
Labor (5 days)	
Subsistance) -	$ 3,084.00
Airfair)	
TOTAL AMOUNT:	$15,584.00

Estimated quantity of carpet: 300 yards
Cost of carpet and installation: $15,584.00 for 300 yards = $51.95 per yard
Cost of carpet installation: $ 3,084.00 for 300 yards = $10.28 per yard

WD/sch

Seattle's Flooring Center

Queen City INDUSTRIES, INC.

(206) 622-6222
STATE CONTR. REG. NO. 223-01 QU-EE-NC 137[illegible]N09
1001 MERCER ST. • P.O. BOX 9885 • SEATTLE, WA 98109

ALL CLAIMS FOR SHORTAGES MUST BE MADE AT TIME OF DELIVERY
1½% MONTHLY SERVICE CHARGE ON OVERDUE ACCOUNTS

*1-907-586-3010

SOLD TO	SHIPPED TO
Coogan Construction Co. P O Box 209 Juneau, AK 99802	Governor's Mansion Material contract

Attention: W.D.Coogan,Proj.Mgr. Job #1944 & 19661

CUST. ORDER NUMBER	RESALE NUMBER	SHIPPED VIA	INVOICE DATE	SALESMAN	TERMS
			9/20/83		Net

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	Section #9.300 Tile Section #9.550 Wood floor		
	Per contract as quoted	$44,808.00	$44,808

40645

OCI 1017-4

Queen City INDUSTRIES, INC.
"YOUR CUE TO QUALITY"
STATE CONTR. REG. NO. 223-01 QU-EE-NC 1374 NO8
1001 MERCER STREET • (206) 622-6222
P.O. BOX 9885
SEATTLE, WASHINGTON 98109

October 4, 1983

Coogan Construction Co.
P O Box 209
Juneau, AK 99802

Re: Governor's Mansion - Change Orders thru Sept. 30, 1983

Gentlemen:

WOOD

Description of Change

Hardwood change order for walnut and oak millwork.

CERAMIC TILE

Room #	Name	Description of Change
12	Bath: Floor	(Bid- (Wood per dwg. A-1 (Actual- (Ceramic tile w/design
	Shower Walls	(Bid-1"x1" sw. ungl. ct w/2" borders. (Actual-3x6 glazed "crown" tiles with (feature strip.
19	Rec/Jac	Bid-Field tile Bianco Antico plain 8"x8" Design Musa Ciclamino border w/(4) Almeria 219. Actual- Field tile Incepa bright white 6"x6" border dbl. band of M.S. Giraf'a. Need to modify substrate to accept the (2) different thickness of tile.
	Rear Vest.	- No flooring in basic bid. Actual- Quarry tile to match Vest. #30.
38	Scullery	Bid- 2x2 one color no design floor & walls. Actual- Two color offset on floor & walls.
52	Bath	Bid- 1" sq. tile wainscot 36" high. Chg. to- 3x6 or 4x8 glossy white w/Maderia domed relief molding & white 1/4 rd. Actual- 3x6 gl. wt. tile w/black feature strip & M.S. ogee cap molding.

CERAMIC TILE con't.

Room #	Name	Description of Change
55	Bath Floor	(Bid floor- Border design 1" Sq. Corallin & Sandalwood. (Actual- 1" Sq. beige w/1x2 molted Coralin.
	Wainscot	(Bid- Field St. Florient rose, border Zeta marble. (Actual - Chg border to 4" of Botticino and 2" of Rosso Vecona. (Marble & border on all floor walls - 4' high
55	Whirlpool	Bid- 1" Sq. CT on floor & walls (sndwd border) Actual- 1" Sq. floor w/beige border. Walls have 3x6 glossy white tile in brick pattern.
	Threshold	Bid- Marble stock threshold. Actual- 1-3/4" x6" w/bevel special milled threshold.
61	Bath	Bid- 4¼ x 4¼ white tile w/wood cap Actual- 3"x6" Glossy white w/feature strip & M.S. OG (if possible) for cap.
	Shower	Bid- 1" Sq. tiles on walls w/black border. Actual- 3x6 Glossy White w/feature strip.
65	Bath	Bid- Std. 1" White hex field,1" sq. border white & black. Actual- 1" Hex field w/1" blue border and design.
		Bid- Cleavage Membrane per std. tile specifications to Actual- Bithuthane a special self-healing membrane.
		Raise wainscot to 42" in Room #52.
		Provide (3) white porcelain recessed soap and towel holders.
		Cut special beige border tiles out of a (3) color random pattern (18 sf needed our of 54 sf).
		Preparation of material for air freight shipment from Seattle to Juneau.
		Freight bills not shipped collect.

Glenn Cooper's time needed to facilitate change orders beyond basic material contract including but not limited to the following:

To investigate a variety of ceramic tile manufacturers in regards to alternate products and their availability. Provide the designer with these alterantes and samples to choose from. Investigate potential installation problems and methods for a solution. Change material takeoff to include changes. Order materials to facilitate installation in a timely manner. Personally expedite material from Seattle dock to Juneau.

Total to date ----------$13,721.00
Thru Sept. 30, 1983

Sincerely,

QUEEN CITY INDUSTRIES, INC.

Harvey W. Gifford, Gen. Mgr.

HWG:pjv

document #18

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORT[illegible] [illegible]BLIC FACILITIES

P.O. BOX 1467
JUNEAU, ALASKA 99802

[illegible]THEAST REGION

January 6, 1984

RE: Governor's Mansion
Architectural Renovations
Project No. H-79164
220E

File 19-2

Coogan/Capitol Construction Co., J.V.
P. O. Box 209
Juneau, Alaska 99802

Gentlemen:

Tom Metlicka has talked to you by phone regarding the Queen City Contract. We need the information that he requested before we can process Pay Estimate Nos. 13 and 14.

To state the problem we are concerned about, we need a break down on that contract. How much for the different items of material supplied and also labor cost break down. Why are we billed for G. Copper's airfare, car rental and food? Was he requested by us to come up. etc.?

Please supply this information as soon as possible.

Very truly yours,

Nello Long

Nello Long
Project Inspector

NL:ma

cc: Tom Metlicka

[illegible]

Sent via Teleconference on 1-9-84
Joe Lean & Wayne from Queen City

25A-T27LH

Queen City INDUSTRIES, INC.
STATE CONTR. REG. NO. 223-01 QU-EE-NC 1374 NCS
1001 MERCER STREET • (206) 622-6222
P.O. BOX 9885
SEATTLE, WASHINGTON 98109

January 27, 1984

Coogan Construction
4950 Glacier Highway
Juneau, AK 99802

Attention: Wayne Coogan

Re: Governor's Mansion

Gentlemen:

Enclosed is the breakdown on the material bid portion of the Governor's Mansion contract. We find the request for bid breakdown very unusual. We expect this information will facilitate the State's payment of our invoice plus interest owing from the due date to present.

Also enclosed is an invoice for the time involved in breaking out the bid. I estimate it took in excess of one man day each for Bob and Glenn to provide this information. Their combined billing time per hour is $78.00. The invoice also includes the DHL charge for shipment of this information.

Lastly enclosed are copies of all the other itemized billing on the Governor's Mansion.

Hopefully, Wayne, this will put the State to rest. We are most anxious to receive payment. If I can be of any further help please feel free to contact me.

Sincerely,

QUEEN CITY INDUSTRIES, INC.

Jolene Huntington, Comptroller

JH:pjv
Enc.

Governor's Mansion Wood, Tile & Flooring Contract

Room No.	Material per Room	
19	Recreation Room	$6107.00
30	Entry vestibule & Closet	93.00
31	Foyer	110.00
32	Main Hall	372.00
33	Ballroom	471.00
34	Library	1489.00
35	Conservatory	1420.00
36	Dining Room	1032.00
37	Serving/Pantry	900.00
42	Office	146.00
50	2nd Floor Hall	563.00
	Chamber "D"	980.00
54	Master Bedroom "C"	1840.00
57	Study	2980.00
60	Chamber "A"	458.00
64	Chamber "E"	147.00
12	Bath - Shower floor & Side walls	1000.00
19	Rec. Room - Enclosure Top Surface & Back Wall Panel	5600.00
30	Vestibule - Floor	1400.00
38	Scullery - Floor & Walls	4550.00
52	Bath - Floor & Wainscot	2000.00
55	Bath - Floor & Wainscot	7300.00
	Shower - Floor & Steps & Walls	
58	Kitchenette/Bath - Floor in each room	900.00
61	Bath - Floor & Wainscot & Shower	2350.00
65	Bath - Floor	600.00
		$ 44,208.00

Queen City Industries, Inc.
1001 Mercer St. • P.O. Box 9885 • Seattle, Wash. 98109

ALL CLAIMS FOR SHORTAGES MUST BE MADE AT TIME OF DELIVERY
1% MONTHLY SERVICE CHARGE ON OVERDUE ACCOUNTS.

SHIPPED TO

SOLD TO
Coogan Construction
4950 Glacier Highway
Juneau, AK 99802

Governor's Mansion

CUSTOMER NUMBER	RESALE NUMBER	SHIPPED VIA	INVOICE DATE	SALESMAN	TERMS
			1/27/84	Bob Hansen & Glenn Cooper	net

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	Time involved in breaking out the bid	$ 624.00	
	DHL charge	19.00	
		$643.00	$643.00

No. 40920

( ) BILL SHEFFIELD, GOVERNOR

document #20

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

SOUTHEAST REGION

P.O. BOX 1467
JUNEAU, ALASKA 99802
(907)364-4222

February 2, 1984

Re: Project No. H79164
Governor's Mansion
Queen City Information
File 19-2

Coogan/Capitol Const. Co., J.V.
P. O. Box 209
Juneau, AK 99802

Gentlemen:

Thank you for supplying us with information from Queen City regarding the material they furnished for the Governor's Mansion project. We need more information, however.

They listed the rooms and their prices for material for each room. We requested and still need invoices for the material they sent. We need the square footage amounts for the different items of material they sent, as well as prices per square foot. Also needed are the amounts and prices for the related materials such as floor finishing material, bedding, underlayment, mastic, grout, etc.

Please supply this information as soon as you can because we would like to close this project out, and I am sure you would also.

Sincerely,

Barry L. Bergdoll, P.E.
Construction Chief

Nello Long
Nello Long
Project Inspector

NL:hn

cc: Jon Scribner, Deputy Commissioner
D. D. Dieckmeyer, Director
Tom Metlicka, Design
Mike Nizich, Governor's Office

FEB - 2 1984
BUSINESS



Queen City INDUSTRIES, INC.
STATE CONTR. REG. NO. 223-01 QU-EE-NC 1374 N09
1001 MERCER STREET • (206) 622-6222
P.O. BOX 9885
SEATTLE, WASHINGTON 98109

March 23, 1984

Coogan Construction Co.
P O Box 209
Juneau, AK 99802

Re: Governor's Mansion

Gentlemen:

Pursuant to your request enclosed is the approximate breakdown on the above project.

Sincerely yours,

QUEEN CITY INDUSTRIES, INC.

Harvey W. Gifford, Gen. Mgr.

HWG:pjy
Enc.

RECEIVED
MAR 2 5 1984
COOGAN CONSTRUCTION CO

Governors Mansion / Juneau, Alaska
Coogan Const.

Hardwood Floors / Materials Only. Bob H. 3/19/84

Rm. No.	Description	Flooring	Matching Repair	Sand Paper	Finish	Total
19	Recreation Rm.	X	—	X	X	6056
30	Entry Vestibule & Closet	X	—	X	X	752
31	Foyer	—	X	X	X	110
32	Main Hall	—	—	X	X	372
33	Ball Room	—	—	X	X	471
34	Library	—	—	X	X	259
35	Conservatory	X	—	X	X	1404
36	Dining Room	—	—	X	X	351
37	Serving Pantry	X	—	X	X	880
42	Office	—	—	X	X	146
50	2nd. Floor Hall	—	X	X	X	1740
57	Chamber "D"	X	—	X	X	1076
54	Chamber "C"	X	—	X	X	1920
57	Study	X	—	X	X	3136
60	Chamber "A"	—	—	X	X	258
64	Chamber "E" (Office)	—	—	X	X	147
						19108

ITEM ANALYSIS SHEET

SHEET NO. _____ PROJECT Gov. Mansion LOCATION Juneau, Alaska

ITEM NO. Materials TYPE OF WORK Wood Floors ESTIMATOR Bob H. DATE 3/19/84

COST ITEM NO.	DESCRIPTION	QUANTITY	UNIT	SMALL TOOLS SUPPLIES & EXPENDABLE MATERIAL U.P.	SMALL TOOLS SUPPLIES & EXPENDABLE MATERIAL TOTAL	PERMANENT MATERIAL IN PROJECT U.P.	PERMANENT MATERIAL IN PROJECT TOTAL	DIRECT LABOR U.P.	DIRECT LABOR TOTAL	SUB CONTRACTS U.P.	SUB CONTRACTS TOTAL	TOTAL DIRECT COST U.P.	TOTAL DIRECT COST TOTAL
1	#19 Recreation Room – Leveling Mat. Sleepers & Oak Plank – Sanding & Finishing Materials						$6056.00						
2	#30 Entry Vestibule Closet – Sand Paper & Finish, Oak.						752.00						
3	#31 Foyer – Matching Patching Material, Sand Paper & Finish.						110.00						
4	#32 Main Hall – Sand Paper & Finish.						372.00						
5	#33 Ball Room – Sand Paper & Finish						471.00						
6	#34 Library – Sand Paper & Finish.						289.00						
7	#35 Conservatory – Flooring, Sand Paper & Finish.						1404.00						
8	#36 Dining Room – Sand Paper & Finish						351.00						
9	#37 Serving, Pantry – Flooring, Sand Paper & Finish.						5880.00						
10	#42 Office – Sand Paper & Finish.						146.00						
11	#50 2nd Floor Hall – Matching Oak (Patching) Sand Paper & Finish						1740.–						
12	#51 Chamber "D" – Oak, Sand Paper & Finish						1076.–						
13	#54 Chamber "C" Oak, Sand Paper & Finish.						1920.00						
14	#57 Study, Flooring, Sand Paper & Finish.						3136.00						
15	#60 Chamber "A" Sand Paper & Finish.						280.00						
16	#64 Chamber "B" [illegible] Sand Paper & Finish						[illegible]						

document #21
(page 3 of 7)

GOVERNORS MANSION / JUNEAU ALASKA
LOCKLIN COST - CERAMIC TILE MATERIAL ONLY

n = 12 BATH COST $1000

A.- SHOWER FLOOR, UNGLAZED 1" WHITE HEX TILES. IN MORTAR BED & GROUTED

B. SHOWER WALLS UNGL 1" WHITE SQ TILED GLASS MESH BOARD BACK, CEMENT & GROUT

n = 19 REC ROOM COST $5000

A- TUB SURFACE KERA CERAMIC MOSAIC TILE 6"x6" GLASS MESH BACKING CEMENT MORTAR & GROUT

B BACK WALL 6"x6" GLAZED TILE WITH FIELD & BORDER SAME INSTALLATION AS ABOVE

n = 30 VESTIBULE COST $1400

A - 6" SQ. UNGL QUARRY TILE

REPAIR MORTAR BED ..... CEMENT MORTAR & GROUT

n = 38 SCULLERY COST $4550

A- FLOOR UNGL CERAMIC MOSAIC TILE 2" SQ. ONE COLOR NO DESIGN. CEMENT MORTAR & GROUT.

B - WALLS UNGL C.M.T 2" SQ, ONE COLOR NO DESIGN GLASS MESH BACKING, MORTAR & GROUT

rm # 52 BATH COST #2000

A- FLOOR UNGL HEX TILES 1", MORTAR & GROUT

B - WAINSCOT 36" HIGH UNGL. 1" SQ TILES MORTAR & GROUT

rm # 55 MASTER BATH COST #7300

A- FLOOR - UNGL WHITE HEX AND 1" SQ TILES, (PER PATTERN ON PLANS). TYPICAL INSTALLATION

B- WALLS MARBLE TILES (SEE DETAILS ON PLANS,)

MASTER BATH SHOWER

A- FLOOR UNGL 1" SQ TILES, TYP. INSTALLATION SLOPE TO DRAIN

B STEPS & WALLS 1" SQ TILES (SEE PLANS FOR DETAILS) TYP INSTALLATION.

rm # 58 KITCHENETTE / BATH COST #900

A - FLOORS UNGL 1" HEX TILES. (SEE PLANS FOR DETAILS.) TYP INSTALLATION.

rm # 61 BATH COST #2350

A- FLOOR UNGL 1" HEX TILES (SEE PATTERN ON PLANS) TYP INSTALLATION.

B - WAINSCOT GLAZED WALL TILE 4 1/4 x 4 1/4

C - SHOWER. MORTAR MIX & GROUT.

A- FLOOR 1" HEX TILES, TYP. INSTALLATION

B WALLS 1" SQ TILES, TYP. INSTALLATION

50m ± 65 BATH COST #600

A - FLOOR UNGL WHITE HEX TILES WITH PATTERN (SEE DRAWINGS)

NOTE:
GENERAL SPECIFICATIONS CALL FOR CLEAVAGE MEMBRANE WHICH REQUIRED.

TOTAL COST #25,700 ⁰⁰

Seattle's Flooring Center

Queen City INDUSTRIES, INC.

(206) 622-6222

1001 MERCER ST. • P.O. BOX 9085 • SEATTLE, WASH. 98109

ALL CLAIMS FOR SHORTAGES MUST BE MADE AT TIME OF DELIVERY
1% MONTHLY SERVICE CHARGE ON OVERDUE ACCOUNTS.

1-907-586-3010

SHIPPED TO

SOLD TO
Coogan Construction Co.
P O Box 209
Juneau, AK 99802

ST. ORDER NUMBER	RESALE NUMBER	SHIPPED VIA	INVOICE DATE	SALESMAN	TERMS
			3/23/84	Gifford	

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	Preparing costbreakdown, etc.	240.00	
	Federal Express	19.00	
		$259.00	$259.00

No. 40999

Amount paid to Cooper Lee Quesnel City
Pay Estimate #2 8-4-83 for jail materials
See Consult by Advice Estimating Pd $1,273.42

Pay Estimate #6 [illegible]/83
Materials Contract Pd. [illegible]

Pay Estimate #8 10/19/83
Labor Pd 32,179.67
Pay Estimate #3
Materials — Change order Pd. 13,721.02

Pay Estimate #10
Labor Pd. [illegible]

Pay Estimate #13 [illegible] Pd. 3,[illegible].47
Pay Estimate [illegible]

Pay Estimate #13 [illegible]/83 Not paid
Labor [illegible] (Retained) 2,635.63

Pay Estimate #15
Labor [illegible] not paid. 1,304.31
Jail materials not paid. [illegible]

According to my figures the withholding from Quesnel City. [illegible]37.53

Paid to Queen City Estimates #2 thru #14 total	118,842.19
Cut of that - for labor.	56,916.72
For material	61925.47
Have not paid. From estimate #13 held out	8,635.63
Estimate #15 at 10% holding.	14,301.90
We are holding at total of	22,931.53

Seattle's Flooring Center

document #23

Queen City INDUSTRIES, INC.

(206) 622-6222

STATE CONTR REG NO 223-01 QU-EE NC 1374 N09
1001 MERCER ST. • P.O. BOX 9885 • SEATTLE, WA 98109

ALL CLAIMS FOR SHORTAGES MUST BE MADE AT TIME OF DELIVERY
1½% MONTHLY SERVICE CHARGE ON OVERDUE ACCOUNTS

*1-907-586-3010

SOLD TO
Coogan Construction Co.
P O Box 209
Juneau, AK 99802

SHIPPED TO
Governor's Mansion

Job # 9364

CUST. ORDER NUMBER	RESALE NUMBER	SHIPPED VIA	INVOICE DATE	SALESMAN	TERMS
			12/20/83	Harvey W. Gifford	net

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	Item Basic contract		
120 SY	"Fieldstone" - Sandston &)		
27 SY	Border for area rugs (Gramacy PK))		
25 SY	Floral Persian Area Rug)		
24 SY	Field Stair Carpet (Royal Chrystal))	12,962.00	
78 LF	Border for stair carpet)		
	Additions & Credits to Basic		
DD 120 SY	40 oz. hair jute pad	+ 480.00	
DD 1980 SF	4 rolls of area rug pad 54"x60' per contract @.35 SF	+ 693.00	
REDIT	(Freight credit for extra shipment of carpet pad)	- 89.10	
DD 40 SY	Full carpet in "D" chamber	+ 200.00	
EDUCT 8 SY	Change carpet in chamber closet to Fieldstone, delete ptn. of Gram. Pk	- 100.00	
DD	Widen main stair carpet	+ 100.00	
DD	Closets per Phylis, basement, 1st & 2nd floor	+ 550.00	
REDIT	Subsistence not used	- 150.00	
REDIT	Labor - carpet installed by others	- 344.00	
	Total	$ 14,301.90	$14,301.9

OCI 1017-4

40854

FILE COPY

May 1, 1984

Representative Mitch Abood
Chairman
House State Affairs
Pouch V
Juneau, Alaska 99811

Dear Representative Abood:

The following compiled figures represent actual invoice amounts for materials needed to repair and replace flooring items required to complete scheduled work in the Governor's Mansion renovation which was recently performed by Coogan Construction Company and their subcontractor Queen City Industries of Seattle.

No freight charges are included. Queen Cities material quotes were FOB Seattle dock. Only ceramic tile known costs were cited in this evaluation, namely plain white and 6" quarry tile used in vestibule floor with the white tile being used around built-in tub in room 19.

In my opinion, the tile in rooms 38 and 55 seem to be overpriced, but no color schedule for this material was available so cross referencing was impossible.

It is interesting to note that Coogan Construction had contracturely agreed to obligate the state to pay Queen City $44,808 for materials to be used on the Governor's Mansion project 23 days prior to issuing Queen City a subcontract for doing the work. Also, that this amount became the actual submitted billing after all the change orders and surprises that occurred as the project evolved.

A recent inspection of the project showed many cracks opening in the new first floor in room 35. This could probably be attributed to improper handling and/or storing the wood prior to installation or indifference to environmental considerations like low heat, no heat or high humidity.

The end product in room 50 must have been a disappointment to the owners inasmuch as the parquet repair seemed to be structurally acceptable, but the material used to fill the nail holes in the top mailed pieces was not colored to match the wood. The nail holes had been filled with material much lighter in color than the wood resulting in hundreds of little light colored spots.

The specifications required that some amount of each kind of material used be left for future repairs. An inspection of flooring stored at the Department of Transportation's building on Willoughby Avenue near the school showed about 300 feet of 5/16" x 2" square edge but only a few scraps of 3, 4, and 5. The 5/16 flooring was apparently very old inasmuch as I have not seen strip flooring bundled

in a like manner since WW II. Age, however, is no measure of quality as long as no apparent oxidation by exposure to sunlight has occured.

The material costs used to project the cost items per room are as follows: 5/16" oak @ $1.89 per sq. ft.; 3-4-5 oak plank @ $2.45; glitza floor finish @ $24.50 a gallon; machine rental per day @ $124; finishing materials @ $.33 per sq. ft.

I called Queen City at 8:01 am April 20th on ½" quarry tile prices and they quoted $2.97 a square foot retail, but looking at room #30, it seems like the charges billed to the Mansion job was more like $13.00 a square foot. There should be some explanation for discrepancies of this magnitude.

The 1x4 existing fir floors which were refinished in chamber "A" and "E" shows material in the large cracks to be breaking up and falling out in chunks. On a tour of the mansion with Phyllice Bradner and again with Jerry Woods, I suggested that the fir flooring be carefully removed and relaid to eliminate the exceedingly large cracks to preclude this problem from happening. Mr. Hanson from Queen City convinced Mr. Winders that this would be impractical and hence a less than acceptable product is the result.

If an evaluation in greater depth would be helpful to determine more specifically if required procedures have been satisfied, I would be available to assist in any manner within my capabilities.

Respectfully submitted,

Elmer E. Gowdy
Box 125
Douglas, Alaska 99824

ROOM NO.	ACTUAL COST OF MATERIALS TO REPAIR AND REPLACE FLOORS IN ROOMS AS SHOWN GOWDY		Q.C.F. BILLING PER ROOM
19	Wood floors and tub surrounding only. No millwork should be included in Oct. 4 billing.	$1,668	$6,107
30	Onl base shoe molding	12.00	93.00
30*	98 foot maximum 6x6 quarry tile, gout and mostic	330.00	1,400
31	An acceptable figure		
32	Not unreasonable		
34	Minor repair at door to room #35 and at radiator	282.00	1,489
35	135 sq.ft. 1x4 fir @ $1.50 FBM plus finish material	242.00	1,420
36	Not to include millwork for window seats, included in separate Oct. 4 billing	278.00	1,032
42	Not to far out of line		146.00
50	A reasonable figure		563.00
51	Wood, finish material, machine rent	456.00	980.00
5½	250 sq.ft. total 160 sq. ft. new	385.00	1,840
60	Refinish 151 - $30.00 for repair material	181.00	458.00
54	Not unreasonable		147.00
19	Recreation room ceramic tile to surface and back wall panel plain white basic feature tile on back wall panel priced from similar decorative items sold by American Olean Tile Co. epoxy, tile, trim shapes and feature tile gout	318.00	5,600

* Called Queen City Flooring regarding retail price ½ quarry tile FOB, & their showroom quoted $2.97 sq.ft. 8:01 am YST 4/20/84

Room 57 was inadvertantly omitted. Please refer to May 2 submitted.

May 2, 1984

FILE COPY

Representative Mitch Abood
Chairman
House State Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Abood:

The following is in further reference to my May 1 letter regarding Queen City Floori[illegible] the Governor's Mansion renovation project:

Line item Queen[illegible]nc. Hardwood floors, tile and carpet. Materials only.	$68,650
Hardwood floors and tile as shown in cost per room schedule 1/27/84 in lieu of original invoice, $44,808	(44,808)
	$23,842

Since no invoices were submitted and wood and tile items are included in $44,808 items this must be the cost of carpeting. There was only 50 square yards of carpet required for back hall and stairs and about 30 yards or less for maids room. Carpet used in these areas are basic low budget types. 90 yards of this quality goods should have cost no more than $[illegible],000 with pad and fastening systems adding $300 or $350 more. It would be prudent to require Queen City Flooring to submit carpet roll cost with product description and sample to match enclosed sample. All three of the "cost per room" analysis charts defy all logic. These again are materials only FOB Seattle dock. Take room 19 as an example.

Cost per schedule submitted by Jolene Huntington January 27, 1984

Room 19, recreation room	$6,107
Hardfloors/materials only (Bob H) 3/19/84 #1	$6,056
Item analysis sheet " " " " #1	$6,056

Actual Cost
600 sq.ft. 3", 4", 5", select oak plank
(decorative plugs as specified were not installed)

@ $2.45	$1,470
3 gallons glitza	78
3 machines used, rental cost	124
abrasives	20
applicator covers	6
	$1,698

Millwork, stair tread, wood trim, etc. is listed under Oct. 4 billing and no doubt is included in misc. cost of $13,721.

Room 30 from "item analysis" sheet initialed Bob H., wood floors.	$752.00
No wood floors in this room!!!	
Jolene Huntington schedule	93.00
Actual cost - only wood item that could possibly be construed as applicable is base shoe molding at less than $12.00. An additional charge for room 30 is shown January 27, cost per room schedule.	$1,400
Actual - about 98 sq. ft. 6x6 quarry tile @ $300	294
Grant hydrament, additional misc. - $36	36
	$330.00
Room 57 - Study	$3,136
Bob H. - Item analysis sheet	2,980
Jolene H. 1/27/84 Cost for room schedule	3,136

Actual Cost

300 ft. 2"x5/16" SE oak @ $1.89	$567.00
1½ gallon Glitza	39.00
machine rental	124.00
abrasives, applicator, etc.	26.00
	$756.00!!!!!

For room 35 they show a cost of $1,420 on one chart and $1,420 on another. Actual costs as follows:

136 FBM ft. 1x4 fir @ FBM	$194.00
finish, materials, machine use, etc.	48.00
	$242.00

Please refer to cost comparison schedule dated May 1 for further discrepancies.

It would seem to have been much simpler for Queen City to have submitted actual invoices showing unit costs and number of units delivered rather than try to substantiate the highly overpriced "costs per room" schedule which they will ultimately embarrassingly find increasingly difficult to defend.

I offered to do all floorwork other than tile and carpet for $36,400.00. It was DOT's opinion that a sole source contract was impossible and they (Woods and Metlika) were certain that Queen City would do it for much less.

Elmer Gowdy

DOT/PF

This list was completed and submitted on May 3, 1954 by Nello Long

Illinois Mansion project # 479164

This is an estimate to the best of my ability of the Hardwood flooring and ceramic tile materials used on the renovation work on this project.

I believe I have been generous in figuring the sq. ft. areas. I believe I have been generous with the prices per sq. ft. & etc.

The hardwood flooring and related materials comes to a total of $12874.60

The ceramic tile, special tile, and related materials comes to a total of $21318.00

Total of materials in my estimation = $34492.60

Nello Long

First Floor.

1- Dining Rm #36 (Oak floor.)
20'x24' room = 480 sq.ft.
Estimated replacement. 20% 96 sq.ft.

2- Conservatory Rm. #35 (Fir flooring used.)
10'x18' room = 180 sq.ft.
Complete replacement. 180 sq.ft

3- Main Hall Rm #32
20'x28' Rm. = 560 sq ft. (Oak flooring)
Estimate 15% replacement. 100 sq.ft.

4- Office Rm #42
13'x15' room. 195 sq.ft (Oak flooring)
Estimate 15% replacement. 36 sq.ft.

5- Vestibule Rm #30 and closet.
7'x9' Rm = 63 sq.ft. - Vestibule closet. (Oak not used) 63 sq.ft
6'x7' Rm. 42 sq ft Vestibule area. (Oak used.) 42 sq.ft

6- Foyer Rm #31
6'x14 = 84 sq ft. + (Oak flooring) 100 sq.ft

1- Serving Pantry Rm. # 37 (Oak floor)
11'X12' Rm. = 132 sq ft. Complete Replacement. 132 sq ft

1- Ball Rm # 33 (Oak flooring)
20 X 32 Rm. 640 sq ft. Estimate 15% replacement. 96 sq. ft.

1- Library Rm. # 34 (Oak flooring)
20'X22' Rm. = 440 sq ft. Estimate 15% Replacement.
66 sq ft

2nd floor.

1- Chamber C Rm. # 54 (Oak flooring used)
5'X20' area = 100 sq ft.
100 sq ft

- Chamber D Rm. # 51 (Oak flooring used)
1.5' X 52' area = 78 sq. ft.
5'X22' area = 110 sq ft. 188 sq ft.

2- Main Hall Rm # 50 (Oak flooring)
20'X30' Rm. 600 sq ft. Estimate 25% Replacement.
150 sq ft

3- Boys Study Rm # 57 (Oak flooring)
18X20 Rm. = 360 sq. ft. Complete coverage. 360 sq. ft

14 - Office Rm. # 64 (Fir Flooring)
14'X14' Rm. = 196 sq ft. & estimate 20% replacement.
40 sq ft.

15 - Chamber A Rm # 60 (Fir Flooring)
18'X20' Rm) = 360 sq ft. & estimate 20% replacement.
72 sq ft

(Basement)
16 - Recreation Rm. # 19 (Oak flooring)
30'X30' Rm. = 600 sq ft. 600 sq ft
3'X16' area on Hot tub wall. 48 sq ft

Sub Total
20% for waste 2469 sq ft
Total 493.80
at $3.30 pr. sq. ft. in Juneau. X 2962.80 sq ft
Total cost of flooring $9777.24

A explanation of pricing

Total flooring	2449 sq ft.
20% for waste - walls & etc.	493 sq ft
Total sq ft.	2962.80 sq ft
$3.30 per sq ft. in Juneau.	$9774.60
Peggs for Recreation floor	$100.00
Sand paper & related material	$500.00
Floor filler - sealer and finish	$2500.00
	$12874.60

First Floor Davenport Mansion

1- Scullery Rm #38 (Ceramic Tile)
8'x12' Rm. = 96 sq ft.
9'x40' wall area = 360 sq ft. 456 sq. ft.

(First floor)

2- Bath Rm #41 (Ceramic Tile)
5'x11' Rm. = 55 sq ft.
3.5' x 32' wall area (wainscot) = 112 sq. ft. 167 sq. ft.

(First Floor)

2- Vestibule #30 (6"x6" tile)
3'x5' area = 15 sq. ft. 15 sq ft.

(Basement)

- Bath Rm. + shower Rm #12 Ceramic Tile
9'x16' wall area in shower = 144 sq. ft.
4x4 floor area in shower = 16 sq ft.
Rest rm area 5'x10' = 50 sq ft.
walls wainscot 3.5'x30' = 105 sq ft. = 315 sq ft

(Basement)

- Recreation Rm #19 Ceramic tile
Hot tub deck.
walls and ceiling = 110 sq ft of coverage. 110 sq. ft.

2nd floor.

- Bath Rm. #61 (Ceramic tile)
8x10 Rm. = 80 sq ft on floor.
3.5'x36 wainscot on walls. = 125 sq. ft.
4x4 shower rm with 8.5' walls = 144 sq ft. 349 sq. ft.

Bath Rm. #58 (Ceramic tile)
8x13' floor area = 104 ✓
2x10 Counter top area with 4" splash. = 25 sq ft. 129 sq ft.

- Office Bath Rm. #65 (Ceramic tile floor)
4'x10' Rm. 40 sq ft. 40 sq ft

- Chamber D Bath #52 (Ceramic tile)
9x10' Rm = 90 sq ft
wainscot 3.5'x38' = 133 sq ft 223 sq ft

- Master bath to Chamber C #55 (Ceramic tile)
6'x14' floor area = 84 sq ft. 84 sq ft
4'x40' wall (wainscot) (Marble tile) 160 sq ft. * 160 sq ft
Jacuzzie & shower area.
6'x6' floor and tub deck area. 36 sq. ft. 36 sq ft.
walls 24'x8.5' area = 204 sq ft. 204 sq ft.

An explanation of pricing Ceramic tile and special tile. I have checked with Ron Abel and Pedillice Bradner for an estimate. I'm using high cost here in Juneau.

For regular tile 2128 sq ft + 20% for breakage and etc = 2553.60 at $5.00 pr. sq. ft. = $12768.00

Marble tile for Lou's bath
160 sq. ft. at $10.00 sq. ft. $1600.00

Special tile on back wall of Hot tub area.
20 pcs. at $12.50 pr. piece. = $250.00

Glass mesh base material for tile
2000 sq ft at $2.50 pr sq. ft. = 5000.00

Bedding Grouting and water proof material
I believe $1000.00 is a generous price 1000.00

Special copper mould accent strips + etc 1000.00

total $21618.00

OMBUDSMAN COMPLAINT

J83-0683

Ombudsman

John B. Chenoweth

State of Alaska

Reply to:

☐ 840 K Street, Room 203
Anchorage, Alaska 99501
(907) 276-4011

☑ Pouch WO
Juneau, Alaska 99811
(907) 465-4970

☐ P.O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

August 4, 1983

Jon W. Scribner, Acting Deputy Commissioner
Southeast Region
Department of Transportation and Public Facilities
Post Office Box 1467
Juneau, Alaska 99802

RE: Ombudsman Complaint J83-0683

Dear Mr. Scribner:

Extensive renovations planned for the Governor's Mansion culminated in the issuance of several contracts for repair and construction for that building, and in the issuance of at least one professional services contract related to the renovation effort. The latter contract, formally identified as Agreement Number 83SB269, is an agreement for project management and coordination services for the renovation project. The contract, in a face amount of $25,000.00, was entered into between the Southeast Design and Construction Division's Building Section and Jerry D. Wood, P.E., and executed on July 7, 1983. Your signature appears on behalf of the state.

The complaint alleges that the execution of the contract was improper.

The "summary of services" provision of the executed agreement relates that the contractor is to

> [p]rovide "on-site" Project Management for the Governor's Mansion Renovations, Phase I and Phase II. Consultant shall also provide const. mgmt. using computerized scheduling and manpower scheduling techniques. Consultant shall provide written and/or oral reports to the State Project Manager, Mr. Tom Metlicka, as required for efficient project construction.

An appendix more specifically describes the contractor's "basic services":

> Project Manager services shall consist of:
>
> a. Physically inspecting the Governor's Mansion to become familiar with the extent of the planned renovations.

b. Becoming familiar with the contracted private firms who are conducting the planning, providing the Bid Documents, and providing the construction services necessary to complete the renovations.

c. Providing expertise to insure effective and harmonious cooperation between the Division of Buildings, private firms, the Governor, and the Governor's staff.

d. Using computerized scheduling, and up-to-date scheduling techniques to insure that all renovation activities are conducted in an efficient and safe manner.

e. Providing management reports, as necessary, oral and/or written, to the State Project Manager, Mr. Tom Metlicka, on a timely basis to facilitate a smooth transition of all phases of the work.

The extent of the state's maximum financial obligation under the contract totals exactly $25,000. The contractor is to be paid "2,110/wk. for 10 weeks; from 7/7/83 to 9/15/83", allowing a total of $21,100 for "all fees[,] expenses[,] travel and per diem", with, in addition, an option in the department to retain the consultant for his services, with a rate of $300 per day for a maximum of 13 days beyond the mid-September contract performance date. (The $2,110/wk. rate -- at 60 hours per week, an effective rate of $35.16 per hour -- places the contractor's compensation generally at the level of compensation comparable to that paid other contractors for similar services.)

The maximum financial obligation established in the contract does not constitute the full extent of the state's obligations under the agreement. Elsewhere in the agreement the state obligates itself to furnish the contractor with a vehicle "with which to travel from his place of residence to the Governor's Mansion, and to use as otherwise necessary in conducting his duties."

I

The background applicable to the issuance of this contract appears to be as follows:

Planning for renovation to the mansion goes back some months. Early in his term, the governor appointed a "Mansion Renovation Committee" to oversee renovation and repairs in the residence. In so doing, the governor apparently acknowledged that the needed repairs would inconvenience him, but expressed concern that the time in which his occupancy and use of the building would be disrupted be held to a minimum.

As late as mid-May, 1983, officials of the department's Southeast Region expected to complete the bulk of the work within the residence on

a "lump sum" bid basis, with time and material contracts reserved for contingency and specialty work. The period of disruption anticipated under this approach was noted, on May 13, to be between June 1 and September 1. On May 25, department personnel concerned with the project proposed to shift gears to a "time and materials" basis. In a May 25 memo to you, Buildings Chief Wally DeBoff explained:

> In the second phase of the bidding process, this office planned to issue bidding documents to all prequalified bidders and request bids for the work. The lowest bidder would then be awarded the contract.
>
> Contractor prequalification was considered necessary on this project because of the sensitivity of renovating the Governor's Mansion. . . . Prequalification would assure us that the contractor and his subcontractors would be highly skilled in their trades, would be well established in the [City and] Borough [of Juneau], and would have reputable work experience records.
>
> Only one contractor responded to the prequalification advertisement. The bidding documents are not suitably developed for bidding purposes and will not be ready for a minimum of two weeks.
>
> Since we have one contractor who is qualified and has expressed an interest in doing the work, we propose to award a time and materials contract. Although this proposal is a change in direction, it will still permit the earliest possible start of work with a contractor selected by formal advertising. In addition, the construction plans which are not suitably developed to permit bidding, are complete enough to permit ordering of materials and commencement of work on a time and materials basis.
>
> . . . [I]f our proposal for a time and materials contract is not satisfactory, and competitive bids are mandatory, we will have to extend the advertising period and solicit other contractors and await the completion of construction plans (probably mid-June). We could then anticipate a July starting date with a much later completion date.
>
> Please advise of the direction we should proceed.

The instructions given to Mr. DeBoff were, apparently, to proceed as he had outlined.

Within 48 hours, you contacted Mr. Wood to confirm that his assistance as a one-time consultant on this project would be available to you:

> Thank you for agreeing to come to Juneau on June 13 to review construction management techniques and procedures with Commissioner Dan Casey, my staff and me. [Deputy Commissioner] Fred Seeger has recommended you highly as one who might be able to give us some good advice.
>
> We look forward to learning of ways we might better manage and facilitate certain types of construction work. . . .
>
> . . .
>
> I would propose we begin with a tour of the project site and review the project scope in the morning. Then we could discuss your impressions on how the work might be managed based on your experience. Finally, we could have a wrap-up with Commissioner Casey, and you could be on your way back north on an evening flight.
>
> . . . .

At the time Mr. Wood arrived in Juneau, you provided Commissioner Casey with a copy of the gentleman's resume, noting at the top:

> cc Commissioner Casey:
>
> Per your request & FYI

Mr. Wood's review of the project was, I would guess, mutually satisfactory and, ultimately, mutually profitable. Not more than 24 hours after his visit, you wrote to Commissioner Casey:

> 6/14/83
>
> Would appreciate your calling Frank Turpin re availability of Jerry Wood. It is agreeable that Jerry come to work w/ us next week (or 2 at most!) to help w/ Gov Mansion. We will put him on a prof svc contract at $20.0 k. He will be available to work w/ us thru September; then he's off to other things. . . . .

The commissioner moved quickly to accommodate the request, responding to you:

> John Scribner,
>
> I've spoken with Frank Turpin, Pres. of Alyeska on this. He says no problem. He['ll] pass word along. Go ahead @ your end with Jerry ASAP. Thanks. /s/

By June 23, plans for a professional services contract with Mr. Wood were in progress. On that date, you presented a memorandum of justification (to which reference is made later in this letter) and, in a separate document, advised Commissioner Casey:

> In order to reduce construction time to a minimum, we have to date proceeded with time and materials contracts with two contractors who will also have several subcontractors. The most critical elements in completing the work quickly, efficiently and correctly will be for the State to provide a high level of construction management.
>
> This will prevent interference and overlaps in work by the various crews and will insure that all work, including materials delivery[,] will follow a detailed critical path schedule.
>
> In the usual type of contract (lump sum), we are not directly involved in scheduling of the work since this is a basic requirement of the contractor. Consequently, we doubt that our in-house buildings [sic] people are experienced in construction management to the degree needed on this project. Therefore, we propose to retain a consultant who has proven experience and competence in this type of work to supervise this project.
>
> Our existing consultant selection procedures, Policy and Procedure 28-8000, paragraph 6.5A states in part ". . .Project Manager should develop a short list based on at least three informal proposals obtained from prequalified contractors and then obtain negotiation authority." Additionally, this section refers to a limit of $20,000 in agreement cost although later legislation and administrative code addresses contracts of over $25,000. We assume that P&P28-8000 should be changed to be consistent with law and regulations.
>
> Because of the tight time frame as well as the sensitivity of renovating this designated historical structure, we request that you approve waiving the requirement for proposals from three or more professional services contractors, and approve an original agreement cost not to exceed $25,000.

Approved_____ Date_____

Daniel A. Casey
Commissioner

[Emphasis added.]

I have been unable to determine that Commissioner Casey signed the requested waiver.

On June 28, you confirmed with Mr. Wood award of his contract:

> We are pleased to offer you a professional services contract for specialized construction management services on the Governor's Mansion code upgrade, renovation and restoration project.
>
> The work under this contract will begin July 6, 1983 and is expected to be complete about September 15, 1983.
>
> The contract is being sent to you separately for signature and includes rates negotiated with you.
>
> . . . .

II

The contract recites that it is entered into under AS 35.05.040, a provision that, in part, authorizes the Department of Transportation and Public Facilities to "procure directly materials, labor and contractual services for planning, designing and constructing public facilities of the state." State statutes require departments to enter into agreements in accordance with competitive bid procedures, with exception made in certain specified circumstances by AS 37.05.230(1)(C). Professional services are exempt. AS 37.05.230(1)(C)(vi). Specific procedures relating to contracts for professional services are set out in AS 36.98.

Contract approval authority for professional services contracts to be entered into by the Department of Transportation and Public Facilities is assigned to that department rather than the Department of Administration. AS 36.98.080(1). In addition to the applicable statutory requirements, the department has adopted regulations (17 AAC 07.010 - 7 AAC 07.900) and Policy and Procedure entries (P&P 28-8000 and P&P 28-8001) for the selection and use of contractors for professional services. The regulations provide, at 17 AAC 07.010, that they apply to "contracts for professional services let by the Department of Transportation and Public Facilities in accordance with AS 36.98 <u>where the contract amount exceeds $25,000.</u>"

Since the regulations are nominally inapplicable, I have relied principally for the Policy and Procedure entries for guidance in this investigation. Either of two provisions is applicable. Paragraph 6.5(B) of P&P 28-8000 provides:

> If Agreement cost estimate exceeds $20,000, but does not exceed $100,000, the Project Manager shall establish a Selection Committee which shall: prepare a Request for Proposal; solicit Proposals (and price quotations if services are non-exempt) from all Contractors prequalified for the required services;

> score proposals; prepare a Committee Evaluation Report; and obtain Negotiation Authority.

In an accompanying memo, you have re-interpreted the "$20,000" to be one that should be regarded as consistent with the general statute, AS 36.-98.010(1), effectively setting the limit as "$25,000". You suggest that solicitation of proposals should not thereby be required. Assuming you are correct -- and I do not believe your re-interpretation is supportable -- Paragraph 6.5(A) of P&P 28-8000 would apply:

> If Agreement cost estimate exceeds $2,500 but does not exceed [$25,000], [the] Project Manager should develop a short list based on at least three informal proposals obtained from prequalified Contractors and then obtain Negotiation Authority.

Either of these provisions appears mandatory. I find no authorization for waiver.

The department has apparently processed this contract consistently with its general regulations covering professional services contracting and the issuance of sole source contracts thereunder (17 AAC 07.070). The award of a proposed professional services contract under a sole source waiver requires review and approval by a commissioner. AS 36.98.040(c); 17 AAC 07.070(1).

Apparently believing that the proposed professional services agreement between the state and Mr. Wood required the commissioner's review and formal approval, Commissioner Casey gave his approval to the agreement. In a June 23 memorandum, belatedly signed by Commissioner Casey and Labor Commissioner Robison, you provided a justification based largely on time constraints and Mr. Wood's singular talents:

> As you know we are in the process of considering contracting with Mr. Jerry Wood to help us manage construction of the Governor's Mansion renovation and code upgrade project.
>
> We have set a very ambitious completion schedule for this project, which if it is to be met, will require an unusually large degree of scheduling and manpower utilization/assignment effort.
>
> While our staff is quite capable of handling this project under more normal contracting methods and procedures, they are lacking in capability to use computerized scheduling and manpower assignment techniques needed to complete this project in the tight time frame desired.
>
> In looking for ways to meet this time frame we have interviewed Mr. Jerry Wood and are satisfied that he has special skills in scheduling and experience in project management which could help us expedite the

> work. He is also a registered professional engineer in Alaska. Although we have not solicited proposals from Alaskan firms we feel it would be unlikely that any could provide the specialized expertise required and be available immediately as is the case in this instance.
>
> . . . .
>
> In view of the limited time to solicit other proposals we are proposing to contract with Mr. Wood immediately to help us manage the construction work. The contract would be signed for less than $25,000, thus there is no need for competitive selection under AS 36.98. He would report directly to our Buildings Design and Construction Staff, but would work full time out of the Governor's Mansion at the project. Occasionally, he may need to use State facilities and services to support his effort, but this is expected to be minimal. This contract would be for professional services and Mr. Wood would represent the State's interests as the "owner" rather than the construction contractor. The duration of the project is expected to be less than three months so it is not feasible to select and hire an employee for the work.
>
> The purpose of this memorandum is to document the rationale for hiring Mr. Wood and to establish his relationship to the project. [Emphasis added.]

Sole source or single source professional services contracts are authorized. By AS 36.98.030(d),

> The provisions of [AS 36.98.030, relating to solicitation of proposals for professional services contracts] do not apply if
>
> (1) the contracting agency demonstrates that there is a single source of the expertise or knowledge required or that one person or firm can clearly perform the required tasks more satisfactorily because of the person's or firm's prior work; however, this exemption applies only if the head of the state agency has submitted a written request to the commissioner that details the reasons for the exemption and the commissioner or deputy commissioner has authorized in writing the state agency to enter contract negotiations with the single source; [or]
>
> (2) the commissioner makes a written determination that public necessity will not permit delay incident to the procedures otherwise required by this chapter; . . . . [Emphasis added.]

The regulation adopted and followed by the department is substantially similar:

> The requirements of 17 AAC 07.030, pertaining to the solicitation of services, do not apply if the commissioner authorizes a limited solicitation before negotiations begin and
>
> (1) there is a single source of the expertise or knowledge required or a particular person or firm can clearly perform the required tasks more satisfactorily because of the person's or firm's prior work; however, this exception applies only when the commissioner has approved a written request that details the reasons for the exemption and authorizes negotiations with the single source; [or]
>
> (2) the commissioner makes a written determination that public necessity will not permit the delay incident to the procedures otherwise required by this chapter; . . . . [Emphasis added.]

Assuming, for purposes of this discussion, that justification under AS 36.98.030(d) and 17 AAC 07.070 was required in this instance, the statute places the burden on the requesting agency, in this case your division, to demonstrate the unique and unusual conditions that necessitate selection of the selected contractor. Moreover, the demonstration must be based on the proposed contractor's prior record of work.

Mr. Wood's record of work, at least insofar as it is written, is summarized in his resume. His credentials are impressive. In his most recent endeavors, between May, 1982, and the date of his consultancy contract with your division, and, before that, between April, 1980 and November, 1981, Mr. Wood served the Alyeska Pipeline Service Company as a Project Supervisor or Site Representative/Field Engineer, chiefly responsible for coordination, supervision, and "orchestration" of project construction efforts involving shop facilities, permanent housing facilities, and permanent offices at various pipeline-related pump stations. Earlier work, including a year-long association with the Everett, Washington-based SeeWood Corporation, provided opportunity to be involved in architectural and structural design in a variety of fields.

Impressive as Mr. Wood's credentials may be, your June 23rd memorandum is hardly sufficient to discharge the burden imposed by AS 36.98.030(d). You stress in the memorandum reliance on "computerized scheduling and manpower assignment techniques" because of a tight time frame for completion of the project renovations. You suggest that in-house staff capacity to match these stringent assignments and scheduling requirements is "lacking", and indicate that, because of the short-term nature of the project, "it is not feasible to select and hire an employee for the work." You turned to Mr. Wood, you recite, because you "are satisfied that he has special skills in scheduling and

experience in project management which would help us expedite the work," though you do not specifically enumerate those skills as displayed by the gentleman's work history. You do not compare Mr. Wood's experience to any other contractor or firm, eliminating the need to treat with any others with a brief dismissal: "[W]e feel it would be unlikely that any could provide the specialized expertise required and be available immediately as is the case in this instance." (Whether Mr. Wood was "immediately available" is open to question for, elsewhere in the memo, you note that he is "presently working full-time in Alaska." and, indeed, you had earlier enlisted the commissioner's aid in obtaining Mr. Wood's services from Alyeska.)

Critics acknowledge that sole source contracts lend themselves to abuse. Paragraph 8106 of the Division of General Services and Supply's May, 1983, professional services contracts memorandum enunciates a general state policy with respect to them:

> It is the policy of the State that, whenever possible, professional services should be provided by State or University of Alaska personnel. If the State or University does not have qualified personnel to perform your required services, or you have determined that qualified personnel are not available, you may request authority to seek the required professional services from a contractor. [Emphasis added.]

In a recent report, issued under the name "Choosing and Using Contractors," publication of which preceded the statutory provisions enacted as AS 36.98, the consultants presented this criticism with respect to sole source agreements:

> In a few situations, public agencies may elect not to use a competitive selection process. The sole (or single) source approach . . . selecting a firm without going through a competitive selection process . . . should be used only in cases when the contracting agency is certain of the services needed and can demonstrate that the firm selected is uniquely qualified to undertake that project. Contracting agencies who use sole source procurements must be extremely cautious in ensuring that the consultant is the most qualified and cost-efficient for the task. This approach [i.e. use of sole source contracts] is considered appropriate when the contract fee is below a set amount . . ., only one source is available, public necessity requires that the work be performed immediately, or competitive proposals or bids are in violation of the ethical rules under which the professional service is practiced (e.g., engineers, doctors, and attorneys). It may also be used to respond to unsolicited proposals which originate with the consultant.

Sole source contracting practices are exceptional only in the sense that their use avoids the requirements generally relating to formal or informal solicitation and evaluation of competing proposals. Sole source procedures do not eliminate the need to comply with other general safeguards and requirements of law. Reliance on a sole source contract request approved by the commissioner of your department does not appear to eliminate, for example, the need to obtain and act in accordance with the provisions of your department's policy manual which relate to completing and securing the signature of a proper "Authority to Negotiate" or "ATN" before executing the sole source contract. I find no authority for waiver of obtaining an ATN, and have discovered no record of a signed ATN in any files relating to the award of this contract, and assume from this that no action to obtain an ATN was taken.

III

Beyond the compensation payable to Mr. Wood under the contract entered into with him is the obligation on the part of the department to provide its contractor with a vehicle "with which to travel from his place of residence to the Governor's Mansion, and to use as otherwise necessary in conducting his duties." A vehicle has been provided. On July 6, before the date of execution of the agreement under which the department obligates itself to provide the vehicle, Mr. Metlicka arranged use of an automobile under a rental agreement with the state's contractor, National Car Rental (Juneau Airport office), under state TR 336690, for Mr. Wood. The contract indicates that the car is under a monthly rental, at a monthly rental rate of approximately $920.00, exclusive of any expenditures related to insurance coverage. (When I made inquiry of the State Equipment Fleet as to whether a vehicle had been requested, I was advised by an employee of that division that, at the request of the Governor's Office, arrangements had earlier been made to put an excess Department of Public Safety vehicle at the service of the Mansion for Mr. Wood's use, but that, after preparation of the vehicle, the request was withdrawn.)

The state's lease of the vehicle for Mr. Wood's exclusive use presents an additional problem. As earlier noted, the maximum allowable under this professional services contract is $25,000, a sum that in my opinion was contrived in order to remove the contract from the requirement that the division otherwise adhere to the provisions of AS 36.98. Yet, even from before the date of execution of the contract, the state has in fact incurred liability under this contract not only as to the stated maximum amount for the contractor's professional services, but also as to the additional charges incurred under state TR 336690 for the vehicle rental, a minimum of $920 for at least this first month of the vehicle's use.

Inclusion of the charges for the vehicle, for which the division obligated itself under paragraph B.3.1 of the July 7 agreement, within the ambit of the division's potential liability under this contract is sufficient, in my judgment, to regard this contract as one for which the total amount of contract services will, in fact, exceed $25,000. Actual expenditures under the contract may not exceed $25,000, of course,

depending on whether the division exercises the option of retaining the contractor's services for as many as 13 additional days after mid-September.

Candidly, it matters little whether or not that option is ultimately exercised or whether the division ultimately expends more or less than $25,000. For our purposes, it probably shouldn't matter. The $25,000 exemption for professional services contracts was intended to provide the state's agencies opportunity for quick access to professional services contractors' services for matters that could not be accomplished in-house. As an exception to standard professional services contracts, the exception should be reasonably, albeit narrowly, construed. Its application and efficacy as an exception ultimately depends, in the first instance, on the issuing agency's estimate of just how much it reasonably expects to obligate to pay under the specific terms of the agreement. If that reasonable expectation comes in at $25,000 or less, the legislature has exempted the agency from satisfying the usual contracting process applicable to professional services contracts under AS 36.98. If, as in this instance, one can look at the terms of the contract and reasonably calculate that the incurred liability will exceed $25,000, the agency cannot take advantage of the exception.

FINDING:

The combination of actual obligations imposed on the division under the contract in question and the division's opportunity to secure additional services from its contractor for a period of additional days is sufficient to define, in my mind, a probable expenditure of more than $25,000 by the division in satisfaction of the liabilities incurred by the department that are directly attributable to this contract. If, relying on the exemption of AS 36.98.010(1), you sought to qualify this contract under the exemption, I cannot conclude that you have properly done so.

Whether we determine that the contract does or does not exceed $25,000, I suggest that, in order to maintain a degree of control of agency professional service contract management, it appears that the provisions of the department's regulations and policy and procedure entries should apply in full force to Department of Transportation and Public Facilities professional services contracts. Justification of sole source contracts appears to be required. The justification provided for this contract is insufficient. Moreover, the record in this matter does not show prior approval of the procurement method by department officials, nor does it evidence a completed ATN for the contract in question executed by your department.

Under either analysis, the contract was, in my view, improperly entered into, and the complaint is, in my opinion, justified.

*

Because they were brought to my attention in the course of investigation, several additional factors bear brief mention.

First, the statutory regime for professional services contractors authorizes an agency to refer to the state's professional services contractors' register. AS 36.98.020(a); AS 36.98.030(c); 17 AAC 07.020; 17 AAC 07.030(1) and (2). You selected Mr. Wood without making that contact or following those procedures. Moreover, quick research discloses that Mal Linthwaite, an employee of the regional office, made a belated attempt to add Mr. Wood's name to the register on June 14 and that Mr. Wood has not qualified himself on the professional services register in the standard or usual fashion of submitting the requisite prequalification submittal documentation. Mr. Wood's name is listed under the heading of "Construction Management" (code 021) with a notation that is indicative that his name was added per Mr. Linthwaite's intervention and specific instruction. I question both your failure to use the professional services contract register and, surely more important, the effort to misuse the department's professional services contract register in so flagrant a manner.

In your June 23 memo, you stated that you expected Mr. Wood's dependence on state facilities and support services to be minimal. In fact, his dependence commenced immediately upon the gentleman's filing of his application for a business license, which occurred on the date of execution of the agreement. Your memorandum notes that "Mr. Wood is presently a resident of Everett, Washington, but he has spent about seven years of the last nine working in Alaska, about five of which were as a full time resident in Anchorage, and he is presently working full time in Alaska." Presumably, Mr. Wood sees his business contact with the state as short-term, perhaps related to only this one project, and does not seem to be interested in maintaining ties to the state after completion of his work under this agreement: on his business license application, he lists the Southeast Regional Office's mailing address as his "business location" address, and the Southeast Regional Office's telephone number as the "daytime phone number of the owner or contact".

On this point, I should note that, in the course of investigation, those with whom I spoke indicated that the state was providing its contractor with office space in the Governor's Mansion and with necessary clerical assistance. You allude to the possibility of these support services being provided in your June 23 memo. The provision of these support services by the state to its contractor may be sufficient to disallow treatment of the agreement as a "professional services contract" under AS 36.98 and require that it be examined and treated as a "personal services" contract. See in this regard paragraph 8130 of the state Administrative Manual:

> The State cannot enter into a contract with a State employee. If a person is an independent contractor, a contract must be negotiated and the person paid through the general disbursement system; therefore it is necessary to ensure an employer/employee relationship does not exist.
>
> An employer/employee relationship may exist if the following conditions apply:

> 1. The person is subject to the control of the State -- not only as to what shall be done but when, where, and how it shall be done. It is not necessary that the State actually direct or control the manner in which services are performed; it is sufficient that the State has the right to do so.
>
> . . .
>
> 3. The State furnishes the tools, equipment, and a place to work for the individual performing the services.
>
> . . . .

Next, I am advised that the handling of workers' compensation insurance coverage under this agreement is not in compliance with department practice, as indicated in Paragraph 8.3(F)(2) of Policy and Procedure Number 28-8001. No letter signed by the contractor appears as a matter or record. Waiver by contract addendum or by signature of the commissioner and of the commissioner of labor is not authorized.

Then, a question was raised regarding compliance of the contractor with the provisions of AS 36.10.010, a so-called general "local hire" provision. I understand that the applicability of this provision to professional services agreements initiated by the department is to be placed under active review with an attorney assigned to the department, and therefore I am declining to initiate action with respect to it at this time.

Finally, apart from or in addition to the explanation provided above, the complaint suggests that this contract ought not to have been entered into, citing at least two additional reasons: (1) the description of the principal services which served to justify the contract -- "using computerized scheduling, and up-to-date scheduling techniques to insure that all renovation activities are conducted in an efficient and safe manner" -- is not sufficient to warrant issuance of a sole source contract under the criteria set out in AS 36.98.030(d)(1); and (2) the contractor cannot clearly demonstrate on the basis of past job experience that he can "clearly perform the required tasks more satisfactorily" than can the division's own Building's section. While my research has touched on these matters and found some substance to each, I have opted to treat with the investigation to this point on the narrowest grounds presented.

Several of those with whom I spoke in this matter are of the view that the selection of the contractor was improper because of the contractor's business relationship to a department Deputy Commissioner. Before his retention under contract, Mr. Wood distributed business cards to department personnel in which there was express evidence of an earlier business partnership between Mr. Wood and the department's Deputy Commissioner, Fred J. Seeger, under the name "SeeWood Corp.", bearing an Everett, Washington, address. The "Corporations Section"

office of the Secretary of State for the State of Washington advised me on July 26 and 27 that the corporation is registered in good stead through March 31, 1984. On the public record readily available to me from Washington state, Deputy Commissioner Seeger now appears alone as a principal in that business, with no evidence from Washington officials that Mr. Wood continues to participate as a party to a current business relationship. (The disclosure form filed by Deputy Commissioner Seeger with the state's Public Offices Commission confirms Mr. Seeger's participation as an owner and officer in that corporation).

A December 3, 1982, Opinion of the Attorney General addresses the subject of "Conflict of Interest." In the absence of significant statutory provisions, the opinion details the Department of Law's reasons for examination of, and willingness to apply, common law definitions of conflict of interest to guide the behavior of state officials. The opinion concludes:

> The common law of conflict of interests aims not only to prevent officials from actually taking unfair advantage of their office. It also aims to eliminate the potential for abuse and the appearance to the public that officials are subject to temptation. For these reasons, the courts have dealt sternly with officials in conflict situations, and they will continue to do so. . . . .

Earlier in the opinion, in a section headed "Legislator Conflicts" but surely relating language of applicability to all state officers and employees, the Attorney General quotes favorably from a 1959 law review note to indicate the potential breadth of the common law prohibitions:

> The first question does not concern classic self-dealing, the letting of contracts by an official to himself or his relatives, associates or company. It is a different problem described in the following terms:
>
> > There is a great possibility that an official who has no immediate administrative connection with the contract may be sufficiently motivated by his personal interest to exert whatever influence his position allows to pressure the public official who in fact has a direct responsibility concerning the contract to favor that personal interest. In this way, an official without a personal interest in the contract acquires a conflicting interest in the sense that he must choose between appeasing the pressuring official and properly discharging his duties in the matter.

> Experience indicates the harm that may flow from [this situation]. Contracts may be awarded that are over-priced or unnecessary, or the performance rendered under the contract may be inferior, all because of official favoritism, compromise or intentional oversight. Even if the abuse is nothing more than partiality in awarding a contract, it may import an aspect of unfairness into public administration, engendering popular disrespect for government.
>
> Note, Conflict of Interests of Government Personnel: An Appraisal of the Philadelphia Situation, 107 U. Pa. L. Rev. 985, 987-988 (1959).
>
> . . . .

I suggest to you that, irrespective of whether the award of the contract in question is regarded as the result of a conflict of the kind described in the law school note, strict adherence to agency contract requirements would preclude (or at least substantially reduce) the potential that such activities would constitute a conflict and would certainly guard against claims of an 'appearance" of a conflict.

RECOMMENDATIONS:

I appreciate that substantial work has been completed under the contract in question, and, for that reason, am reluctant to recommend termination of the agreement. Though your division has apparently not relied on Mr. Wood's skills to provide computerized management of the project, I am advised by those who have been directly involved with the project that Mr. Woods' efforts in support of the renovation have not been insignificant. Charles Matlock, acting for you in your recent absence from Juneau as I had this matter under examination, testified in support of the contract, claiming that Mr. Wood had skills that were useful for this "sensitive" and "difficult" project, leaving those in the Southeast Regional Office who are principally responsible for the timely completion of this project confident that the renovation work is being well-handled. Mr. Matlock suggests that, without the active participation of Mr. Wood, the tasks would not have been handled as smoothly and efficiently. (Indeed, Mr. Matlock was so firm in defense of this contract arrangement that he shared with me the observation that, while he believed the decision to retain Mr. Wood's services to have been yours, he was of the view that you would not have opted to contract with him without assurance from him [Matlock] that Mr. Wood had the requisite credentials, experience, and skills for the job.)

Nevertheless, and despite the time constraints for completion of Mansion renovations now in place (in response to the promise of performance allegedly made by Commissioner Casey to Governor Sheffield), for the reasons set out above, I am of the view that the contract was not properly entered into and am persuaded that the contract should now be invalidated. Paragraph A11.2 of the contract authorizes termination

by the state, and I would very much like to recommend that the paragraph be invoked to set aside the agreement. My understanding of the work performed suggests that, as between the division's own Project Manager and the division's on-site inspector, regular attention is being given to the project. Moreover, it appears that one of the principal reasons for which Mr. Wood's services were retained -- his ability to use his special skills in computer-based management of resources necessary for the renovation project -- are not, in fact, being utilized. It is difficult to see that termination of the agreement would preclude timely completion of those phases of the project for which Mr. Wood's supervisory services were engaged.

To maintain the integrity and propriety of the professional services contracting authority granted to the department, and to blunt the criticism of the department citing conflict of interest, I recommend cancellation of the agreement.

Secondly, the statute (AS 36.98.020(a)) and applicable departmental regulations (17 AAC 07.020(a)) providing for the establishment and maintenance of a professional services contractors' register generally prescribe the procedures for addition of a contractor's name to the register. No prequalification form was submitted by Mr. Wood. I am recommending that his name be removed from the register until he is properly qualified.

Next, as earlier noted, I am advised that Mr. Wood's name was included on the register at the direction of Mr. Linthwaite. This manner of qualifying the contractor is irregular. I ask that you verify to your own satisfaction that Mr. Linthwaite improperly directed the addition of Mr. Wood's name to the register and, if your findings conform to mine, that you formally reprimand Mr. Linthwaite (and any others who may be responsible for the decision to qualify Mr. Wood's name without examination of his credentials in accordance with 17 AAC 07.020(a)).

Finally, I would ask for some expression from you that the affairs of the Southeast region will be conducted so as to avoid or reduce future claims of improper contracting by the Department of Transportation and Public Facilities. May I have your assurance that, hereafter, issuance of professional services contracts will conform strictly to applicable law. Especially would I like to establish as a matter of record that the Southeast Region does not regularly award its professional services contracts with so shallow a regard for the department's own professional services contracting procedures, and will not in the future.

My first recommendation is not intended to be critical in any way of Mr. Wood or of his performance under the contract. Moreover, there is no evidence that he was a party to the improper addition of his name to the register.

A regulation of the ombudsman's office, 21 AAC 05.080, asks an agency officer or employee to indicate within 30 days whether he will

accept and implement the finding and recommendations of the ombudsman or reject them. In accordance with the regulation, may I hear from you at your earliest convenience concerning my suggested disposition of this matter before the expiration of the deadline.

You should know that, because I am concerned about the allegations of continued abuse by the department in its professional services contracting, I may pursue other aspects of this investigation apart from the issues raised by the award of this contract.

Sincerely,

John B. Chenoweth
Ombudsman

JBC:jdt

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

SOUTHEAST REGION

P.O. BOX 1467
JUNEAU, ALASKA 99802
PHONE:
364-4360

RECEIVED

AUG 9 1983

JUNEAU
OFFICE OF OMBUDSMAN

August 9, 1983

Jack Chenoweth, Ombudsman
Pouch WO
Juneau, Alaska 99811

Dear Mr. Chenoweth:

I have carefully reviewed your report to me on complaint J83-0683 and find that I cannot agree with your conclusions or recommendations.

The matter of contracting with Mr. Jerry D. Wood to help our staff manage the Governor's Mansion Renovation project is a management decision that involves only four basic questions:

1. Is the contract covered by AS 36.98?

2. Was the selection done according to Department of Transportation and Public Facilities P&P 28-8000 which is applicable to this contract?

3. Does Mr. Wood's place of residence affect whether the Department can contract with him?

4. Was there a conflict of interest between Jerry Wood and Fred Seeger?

If the answer to each of these questions is "No" there should be no question about the propriety of this contract.

1. Your review should have clearly revealed our concern and respect for AS 36.98. It is mentioned several times in the correspondence and is clearly spelled out in the contract that the total amount of the contract may not exceed $25,000. In fact, our estimates were always much less than the $25,000 limit, which is one reason why we were able to consider this contract procedure. The option to keep Mr. Wood on for an additional period should we choose was specifically added to the contract to provide additional flexibility and still stay within the $25,000 statutory limit. Even as written, the Department is not obligated to spend the full $25,000. You have somehow twisted these facts by suggesting that we deliberately subverted the law and planned to exceed this limit from the beginning by providing Mr. Wood with transportation and not including it in the total contract value.

I cannot disagree enough with your supposition, but, regardless, you may be assured that his contract will not exceed $25,000 with transportation and any other extra "benefit" we can conceive included in the total. See enclosure #1 which further clarifies that the statutory limit will be adhered to.

In conclusion of this point, the total amount of this contract falls below the minimum amount of concern to the Legislature. Hence AS 36.98, by specific exclusion of the Legislature, is not applicable. Even the Legislature recognized that for small contracts such as this one it is not prudent to set rigid procedures on selection, etc.

2. My staff and I extensively discussed the applicability of Department of Transportation and Public Facilities P&P 28-8000. We all agreed that the only way to bring this, or any other, contractor on in the short time available was to waive certain of the time consuming requirements of the P&P. Waivers are specifically provided for in the P&P for just this type of unusual and exceptional situation. It is also consistent with AS 36.98 which doesn't apply to this contract. This waiver was requested on June 23 and signed the next day by Commissioner Casey. (See enclosure #2.) Hence, on this point also, I take exception that applicable procedures were not followed.

3. Notwithstanding the two previous questions, the matter of residency also was of great concern. I am very much aware of AS 36.10.010, about which there has been considerable discussion and not much concrete direction for years. See enclosure #3 which is our current guidance from the Attorney General's office and you'll sense our frustration.

   I did not stop here, however. In order to air the question and get further guidance, I prepared another memo June 23 (enclosure #4) which provided the background of our proposal and discussed in some detail the residency issue. Commissioner Casey discussed the issue personally with Commissioner Robison and both concurred that residency was not an issue of concern for this contract. (Note concurring signatures at the bottom of enclosure #4.)

4. This Governor's Mansion Renovation project is exceptionally sensitive because it involves high public visibility. Everyone is interested in it and many would seize the opportunity to find fault with this particular project and be critical to embarrass the Governor or other public officials. It also is exceptional because of the short time allowed for completion. In addition to being a public facility, and an historic building, it is the home of Alaska's Governor and he must suffer great inconvenience while the work is being done. Finally, the public perception that Department of Transportation and Public Facilities does not efficiently administer projects still persists within top levels of this new administration. For these reasons, Commissioner Casey, Charles Matlock and I, as managers, have been concerned about this project getting the best possible attention and also about using procedures above reproach. When it became apparent

our normal lump sum contract procedures would change in favor of time and materials contracts, the desire for additional help became even stronger. In the course of securing this help the matter was discussed with Fred Seeger who, incidentally, has no direct or indirect responsibility for this project whatsoever. Fred suggested Jerry Wood as one who might be able to help. Having no other immediate suggestions, I arranged for Jerry to come to Juneau for one day to view the project and share the benefit of his experiences with our people. Jerry came at his own expense except travel and per diem. During his visit, it was apparent that Jerry could work well with our staff and was imminently capable of helping to facilitate this project. In the close out conference with Commissioner Casey and myself the possibility of a longer term relationship was first discussed. Afterword, I checked with Charles Matlock and our buildings staff. Charles saw, as I did, substantial benefits to this arrangement. Other staff were less enthusiastic initially (a natural reaction), but felt they could work well together. In addition to his strong project management capabilities, Jerry would provide a buffer for our staff during the project. We could learn from him how to better administer these types of contracts and in turn Jerry could share his views on the capabilities of our staff with top management. Throughout this process Fred Seeger never exerted any kind of direct or indirect pressure to hire Jerry Wood. In fact, I had made it clear to Charles Matlock that if he had problems with this proposal I would not authorize it. Hence, the tedious process of effecting this contract came about. It is hard to imagine any impropriety or conflict of interest, real or perceived, that this process might suggest.

As to the many other issues you raised, it appears they either don't apply to this case or are so insignificant as to merit no further discussion. If you see it differently I am available and willing to pursue it in greater detail.

I welcome your detailed review of our use of consultant contract administration procedures. While I am sure you will not find everything perfectly in order, you should be assured that we are seriously concerned with the law, regulations and procedures and always make every effort to comply fully, especially with the substantive provisions.

I am perhaps the single person who has a comprehensive knowledge of the sequence of this matter from its beginning and can offer perspectives not available otherwise. Accordingly, most of your concerns could probably have been satisfactorily addressed had I been given the opportunity to discuss them with you ahead of time as you are required to do in your authorizing legislation.

Jack, the need for this contract was perceived to supplement our staff, to maintain a continuous work flow and provide a cohesive work force to get the job done correctly and on time. Up to the present time, the decision has proven to be quite beneficial to the State, to say the least.

Sincerely,

Jonathan W. Scribner

Jonathan W. Scribner
Acting Deputy Commissioner
Southeast Region

JWS/lrc

Enclosures

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: W. I. DeBoff, P. E.
Buildings Chief
Building Design & Construction
DOT/PF

DATE: August 9, 1983

FILE NO:

TELEPHONE NO.

FROM: Charles S. Matlock
Acting Director
S. E. Region Design & Construction
DOT/PF

SUBJECT: Consultant Contract
Governor's Mansion
Project No. H-79164

Please take the appropriate action to insure that the Consultant Contract for Jerry Reed does not exceed the contract amount of $25,000.00, including catered services and vehicle rental.

CSM:JM:ma

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: Daniel A. Casey, Commissioner
Department of Transportation
and Public Facilities

DATE: June 23, 1983

FILE NO:

TELEPHONE NO: 364-4347

FROM: Jonathan W. Scribner 6/27/83
Acting Deputy Commissioner
Southeast Region

SUBJECT: Governor's Mansion
Construction Management

In order to reduce construction time to a minimum, we have to date proceeded with time and materials contracts with two contractors who will also have several subcontractors. The most critical elements in completing the work quickly, efficiently and correctly will be for the State to provide a high level of construction management.

This will prevent interference and overlaps in work by the various crews and will insure that all work, including materials delivery will follow a detailed critical path schedule.

In the usual type of contract, (lump sum) we are not directly involved in scheduling of the work since this is normally a basic requirement of the contractor. Consequently, we doubt that our in-house buildings people are experienced in construction management to the degree needed on this project. Therefore, we propose to retain a consultant who has proven experience and competence in this type of work to supervise this project.

Our existing consultant selection procedures, Policy & Prodcedure 28-8000, paragraph 6.5A statas in part "...Project Manager should develop a short list based on at least three informal proposals obtained from prequalified contractors and then obtain negotiation authority." Additionally, this section refers to a limit of $20,000 in agreement cost although later legislation and administrative code addresses contracts of over $25,000. We assume that P&P 28-8000 should be changed to be consistent with law and regulations.

Because of the tight time frame as well as the sensitivity of renovating this designated historical structure, we request that you approve waiving the requirement for proposals from three or more professional services contractors, and approve an original agreement cost not to exceed $25,000.

Approved _____ Date 6/27/83
Daniel A. Casey, Commissioner

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: Daniel A. Casey
Commissioner,
Department of Transportation
and Public Facilities

DATE: June 23, 1983

TELEPHONE NO: 561-4300

FROM: Jonathan W. Scribner
Acting Deputy Commissioner
Southeast Region
Department of Transportation
and Public Facilities

SUBJECT: Professional Services Contract for Governor's Mansion Project

RECEIVED
JUN 28 1983
Dept. of Trans. & Pub. Fac.
Gen. Comm./S.E. Region

As you know we are in the process of considering contracting with Mr. Jerry Wood to help us manage construction on the Governor's Mansion renovation and code upgrade project.

We have set a very ambitious completion schedule for this project, which if it is to be met, will require an unusually large degree of scheduling and manpower utilization/assignment effort.

While our staff is quite capable of handling this project under more normal contracting methods and procedures, they are lacking in capability to use computerized scheduling and manpower assignment techniques needed to complete this project in the tight time frame desired.

In looking for ways to meet this time frame we have interviewed Mr. Jerry Wood and are satisfied that he has special skills in scheduling and experience in project management which could help us expedite the work. He is also a registered professional engineer in Alaska. Although we have not solicited proposals from Alaskan firms we feel it would be unlikely that any could provide the specialized expertise required and be available immediately as is the case in this instance.

Mr. Wood is presently a resident of Everett Washington, but he has spent about seven years of the last nine working in Alaska, about five of which were as a full time resident in Anchorage and he is presently working full time in Alaska.

In view of the limited time to solicit other proposals we are proposing to contract with Mr. Wood immediately to help us manage the construction work. The contract would be signed for less than $25,000, thus there is no need for competitive selection under AS 36.98. He would report directly to our Buildings Design and Construction Staff, but would work full time out of the Governor's Mansion at the project. Occasionally, he may need to use State facilities and services to support his effort, but this is expected to be minimal. This contract would be for professional services and Mr. Wood would represent the State's interests as the "owner" rather than the construction contractor. The duration of the project is expected to be less than three months so it is not feasible to select and hire an employee for the work.

The purpose of this memorandum is to document the rationale for hiring Mr. Wood and to establish his relationship in the project.

JWS/sh

CONCUR

Commissioner, Department

MEMORANDUM State of Alaska

ENCLOSURE #4

TO: Edwin B. Thompson, A.I.A.
Chief, Technicial Services
Design and Construction
Central Region

DATE: September 14, 1981

FILE NO:

TELEPHONE NO:

FROM: Donald W. McClintock
Assistant Attorney General
Department of Law - Anchorage
Transportation Section

SUBJECT: File No. 220H
Anchorage State Office
Building
Project No. H60090;
AS. 36.10, Employment
Preference

PS This guidance will no doubt be changing soon

By memorandum of August 24, 1981, you requested our opinion on the following question:

Will AS 36.10.010, Employment Preference, be binding to the winning development team in the performance of their contract with the State?

RECEIVED
SEP 22 '81

AS 36.10.010 provides as follows:

EMPLOYMENT PREFERENCE.

In the performance of contracts let by the state or political subdivision of the state for construction, repair, preliminary surveys, engineering studies, consulting, maintenance work, or any other retention of services necessary to complete any given project, 95 percent residents shall be employed where they are available and qualified. If 10 or fewer persons are employed under the contract, then 90 percent residents shall be employed where they are available and qualified. In all cases of public works projects, a preference shall be given to residents.

Ray S - what are your thoughts on this policy question.
RSA

cc Staff

Design & Const. Central Region	Copy	Action
Director		
Deputy Director		
Chief Aviation DSC		
Chief Bldgs & Hwy DSC		
Chief Highways DSC		
Chief Right of Ways		
Chief Tech Services		
Review Engr.		
Admin Officer		

AS 36.10.010 has not been litigated or tested for constitutionality. However, the Supreme Court's decision in Hicklin vs. Orbeck, 437 U.S. 518 (1978) raises a substantial question that AS 36.10.010 cannot survive constitutional scrutiny. One particular defect of the statute is that the flat percentage requirements do not necessarily bear a substantial relationship to the particular evil of local unemployment that presumably AS 36.10.010 was enacted to prevent.

The Commissioner of the Alaska Department of Labor is charged with the enforcement of AS 36.10 pursuant to AS 36.10.075 and .090. It is our recommendation that any policy decision to enforce the employment preference statute be left with the Department of Labor.

In conclusion, it is our opinion that DOT/PF should not attempt to bind the winning developer team by contract to the requirements of AS 36.10.010. This memorandum of advise is not intended to be a firm opinion regarding constitutional issues, but is intended to be of guidance to you in your contract process.

DWM/mjr

cc: David LeBlond

MEMORANDUM State of Alaska

TO: The Honorable Helen D. Beirne
Commissioner, Department of Health and Social Services

DATE: July 28, 1981
FILE NO:
TELEPHONE NO:
SUBJECT: Opinion as to Legal Requirements for Palmer Correctional Center Addition

FROM: Wilson L. Condon
Attorney General

Daniel W. Hickey
Chief Prosecutor

By: Michael J. Stark MJS
Assistant Attorney General

JUL 1981
RECEIVED
Office of the Commissioner

AUG 07 1981
CENTRAL REGION
DIVISION OF GENERAL
DESIGN AND CONSTRUCTION
ANCHORAGE, AK

You have asked us to comment on certain questions raised regarding requirements relating to out of state bidders for a contract to construct an addition to the Palmer Correctional Facility. Specifically you have asked our opinion as to the application of:

(1) AS 08.18.011 to out of state contractors;

(2) AS 08.48.281 to out of state architects and engineers; and

(3) AS 36.10.010 to out of state construction and design work.

Each of these questions will be answered in turn.

A. AS 08.18.011

AS 08.18.011 makes it unlawful for a person to submit a bid or work as a contractor in Alaska until he has been issued a certificate of registration by the Department of Commerce and Economic Development. While the registration process is relatively simple, you should be aware that there are also bonding and insurance requirements that must be met before a certificate of registration will issue. See AS 08.18.071--08.18.115 and 12 AAC 21.010 et. seq.

B. AS 08.48.281

AS 08.48.281 prohibits the practice of architecture, engineering or land surveying in the State of Alaska by any person who is not registered with the Board of Registration for Architects, Engineers, and Land Surveyors.

We have been informed by the Director of the Division of Occupational Licensing and the President of the Board that registration may be achieved by being licensed in another state and either associating with a state licensed individual who places his stamp on any design work, passing a course on arctic and earthquake conditions given by the Board, or by writing a treastise on these subjects. The requirement for knowledge in the permafrost area is the only one for engineers while architects must also be qualified in the area of earthquakes. Clearly the easiest of these choices is associating with an engineer or architect who is already registered in the state and is willing to place his registration stamp on the design plans.

C. AS 36.10.010

AS 36.10.010 provides that in contracts let by the state for construction, engineering studies, etc., 95 percent residents shall be employed where they are available and qualified; and where 10 or fewer persons are employed under the contract then the figure shall be 90 percent.

As you are aware, in 1978 the United States Supreme Court struck down the Alaska Hire Act as it pertained to employment on the Alaska pipeline. Hicklin v. Orbeck, 437 U.S. 518, 57 L.Ed.2d 397, 98 S.Ct. 2482 (1978). As a result of that decision a substantial question exists as to the constitutionality of AS 36.10.010. Because a court has not yet ruled on this question, the Department of Law is not in a position to state that the law is unenforceable. However, based on the Hickland decision, AS 36.10.010 is being narrowly interpreted.

Thus, the Department of Labor has been advised that the statute does not apply to work which is conducted outside the state.

After the bid is awarded for the Palmer addition project, if the company awarded the bid is located outside the state, then you should immediately inquire whether the portion of the construction work which will take place in Alaska (i.e., actual assembly of the facility on site) can be accomplished by available and qualified Alaska residents. If the response is affirmative then no conflict with AS 36.10.010 exists. If, however, the response is in the negative, then under the statute as long as qualified Alaskans are available to work, AS 36.10.010 would require their employment. If this latter situation arises, the Department of Law is available to advise you on the implementation of applicable laws.

One last point is worthy of mention. AS 36.05.010 requires that prevailing wages be paid employees who work on public works projects whether they be Alaskan residents or are brought in from outside the state.

If you have any questions regarding our response to your questions, please contact us at your convenience.

MJS:dm

Ombudsman

John B. Chenoweth

State of Alaska

Reply to:

☐ 3201 C Street, Suite 606
Anchorage, Alaska 99503
(307) 276-4011

☒ Pouch WO
Juneau, Alaska 99811
(907) 465-4970

☐ P.O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

November 9, 1983

Jonathan W. Scribner, Deputy Commissioner
Department of Transportation and Public Facilities
Post Office Box 1467
Juneau, Alaska 99802-2500

RE: Ombudsman Complaint J83-0883

Dear Mr. Scribner:

While I appreciate the promptness and thoroughness of your response to my August 4 letter, I was less than satisfied in your response to the recommendations.

In the intervening months, the Legislative Budget and Audit Committee has directed a comprehensive review of the Governor's Mansion project. That decision suggests to me that the committee is interested in the particulars of liabilities incurred and expenditures approved in conjunction with the improvements to the Mansion and is not now interested in the related questions of departmental contracting policy and practices as I am.

We disagree, as we've discussed, as to several issues presented in this complaint. I have reviewed your August 9 response in light of my own analysis, and, in candor, I am not persuaded that the earlier finding should be amended.

You suggest, first, that the contract is not covered by AS 36.98, and that I am guilty of "[twisting] these facts" to support my conclusion that the department entered into the agreement by deliberately subverting the law. May I respectfully suggest that the only twisting and subversion that were done occurred in your shop, in your effort, by a stroke of the pen, to alter the limit on professional services set out in the Policy and Procedure provision from $20,000 to $25,000. I continue to maintain that the original document exposed the state under the agreement to a potential liability of $25,000 plus the cost of automobile rental, and that the handling of the contract was therefore improper under applicable law.

You next suggest that the provisions of P&P 28-8000 may be waived. Jon, under the P&P section as it was written at the time this contract was entered into, there was simply no provision for waiver of the kind you have suggested to cover this situation. The only authority for

waiver involves reference to the "sole source" statutes, and it is there provided that the commissioner may authorize a limited solicitation of services prior to negotiations. That was not done.

Third, while the residency issue may have been of concern to you, for purposes of this investigation it was not. In my August 4 letter, I related that I had declined to initiate examination of the matter.

Finally, I agree that the evidence does not support a finding of an actual "conflict of interest" in the matter of the Seeger - Wood relationship. I made no such finding, for I was not formally asked to examine the matter. In my August letter, I discussed the business relationship between the two gentlemen at some length (1) to try to set out that relationship and to put to rest the charge, emanating from within your own department, of conflict and (2) to alert you to the Department of Law's December, 1982, position relating to conflicts and, more particularly, the "appearances" of conflict of interest.

On the central allegation of this complaint -- that the contract was entered into improperly -- I stand by the earlier finding of "justified."

*

May I next speak to the four recommendations I offered, commencing at page 16 of my August 4 letter?

As to the first, of course, the department did not see fit to cancel the contract with Mr. Wood in response to the rationale I presented, and, for our purposes, the matter is moot. As to the last, your August 9 statement that "you should be assured that we are seriously concerned with the law, regulations and procedures and always make every effort to comply fully, especially with substantive provisions," will have to stand for itself. I do note that P&P 28-8000 has since been reissued.

Two recommendations remain.

On November 3, I received a phone call from Mal Linthwaite. Mr. Linthwaite took issue with the substance of the third of my four recommendations, offered at page 17 of the letter, which read:

> [T]he statute (AS 36.98.020(a)) and applicable department regulations (17 AAC 07.020(a)) providing for the establishment of a professional services contractors' register generally prescribe the procedures for addition of a contractor's name to the register. No prequalification form was submitted by Mr. Wood. I am recommending that his name be removed from the register until he is properly qualified.
>
> Next, as earlier noted, I am advised that Mr. Wood's name was included on the register at the

> direction of Mr. Linthwaite. This manner of qualifying the contractor is irregular. I ask that you verify to your own satisfaction that Mr. Linthwaite improperly directed the addition of Mr. Wood's name to the register and, if your findings conform to mine, that you formally reprimand Mr. Linthwaite (and any others who may be responsible for the decision to qualify Mr. Wood's name without examination of his credentials in accordance with 17 AAC 07.020(a)).

The regulation to which I make reference provides:

> (a) The department will maintain a professional services contractors' register. A person or firm wishing to perform professional services for the department may be placed on the register by completing a prequalification form (Form 25A 272) which may be obtained from the department's contracts administration office. [Emphasis added.]

The effective date of the provision is August 11, 1982.

When he first called me, Mr. Linthwaite acknowledged that he had contacted the contracts administration office and directed inclusion of Mr. Wood's name to the professional services contractors' register. He asserts that he did so because he had been advised in a conversation with personnel of that office some weeks previously that this was a proper way to register a person interested in obtaining a professional services contract.

Mr. Linthwaite and I met on November 7. At the time he handed me a copy of his memorandum to the file (copy attached) which recounts his recollection of his contacts with the contract administration personnel and his understanding of the inclusion of Jerry Wood's name on the Professional Services Contracting register.

Between Mr. Linthwaite's original contact and his delivery of the file memorandum, on November 3 I collectively interviewed the current personnel of the department's contracts administration office, Derwin F. Halvorson and Coralie Sparks. I did not take their sworn statements. It was Ms. Sparks recollection that, over a period of weeks prior to the inclusion of Mr. Wood's name on the professional services contractors' register, she and Mr. Halvorson had been contacted by telephone at least four times from Southeast regional office personnel with respect to professional services contract register requirements. Each time she was contacted, Ms. Sparks said, the questions became more specific about the registration requirements and the inclusion of interested parties. Ms. Sparks reported that she advised the callers, including Mr. Linthwaite, that, when the contracts administration office receives calls from a person or firm inquiring about registration, the name of the person or firm is added to an "alpha" register in "open status."

The "alpha" register, Mr. Halvorson and Ms. Sparks explained, is a device to keep track of parties indicating or expressing interest. A party that provides a name and address is, in turn, mailed a copy of the prequalification form, 25A 272, properly titled the "Prequalification Submittal". It is not until that form or "Submittal" is completed and returned to the contracts administration office that there is sufficient information available to personnel in that office to place the person or firm making application into a category and discipline. Ms. Sparks indicated that the "alpha" register is an intraoffice reference that does not serve as the basis of providing professional services registration certifications to personnel of other divisions, and cannot be validly construed as "the register" intended by the statute and regulation. Ms. Sparks stressed that she has repeatedly advised that inclusion on the register cannot be only by request of department employees. In her explanation to me, she was certain that there should be no confusion on these points.

Mr. Halvorson acknowledged at least two telephone contacts in mid-June from Mr. Linthwaite. In the first, Mr. Linthwaite specifically directed inclusion of Mr. Wood's name on the professional services contract register. Mr. Linthwaite specified that Mr. Wood's name was to be included in the discipline of "Civil Engineer" and in category "021", that is, as I understand, "contract management." In his second, coming apparently 24 hours later, Mr. Linthwaite specifically requested the professional services contracts register that displayed that discipline and category. His second request, Mr. Halvorsen implied, was made with the expectation that Mr. Wood's name would appear on the list.

On November 3 I had the opportunity to review the current register. Inspection revealed that there has been no new information provided in support of Mr. Wood's inclusion on the register. No Prequalification Submission form has ever been completed. Mr. Wood's name is still maintained on the register, in contraversion of the requirements of your department's own regulation. I reiterate the second recommendation of my August 4 letter: the gentleman's name should be removed.

As to Mr. Linthwaite's objection: In our telephone conversation, Mr. Linthwaite acknowledged his directing the inclusion of Mr. Wood's name. The source of the directive has been verified by Ms. Sparks and Mr. Halvorson. I see no genuine dispute as to the fact that it was Mr. Linthwaite who directed the addition of Jerry Wood's name to the register.

The unsworn statements of Ms. Sparks and Mr. Halvorson suggest that Mr. Linthwaite was quite specific in his orders. He directed Mr. Halvorson to include Mr. Wood's name on the list of one category and discipline, and it appears that this was done.

When he provided me the copy of the file memorandum in our meeting of November 7, Mr. Linthwaite noted that the professional services contract register now serves a purpose different from the department's prequalification list that he had used in years past. I noted that the change in purpose came as the result of the change of statute (Ch. 144,

SLA 1982) and by the department's addition of regulations to implement the statute.

I respectfully suggest that Mr. Linthwaite's directive violated the procedures set out in 17 AAC 07.020(a). Whether Mr. Linthwaite acted with actual knowledge that, in directing the inclusion of Jerry Wood's name to the register without submission of the required form, his action did not comply with the requirement of the applicable regulation, whether he was erroneously advised in this matter, or whether there was a legitimate misunderstanding on the part of Mr. Linthwaite are, to my mind, factors bearing on imposition or mitigation of discipline of Mr. Linthwaite's actions. I reiterate the third of my recommendations: Verify to your own satisfaction that Mr. Linthwaite improperly directed the addition of Mr. Wood's name to the register and, if your findings conform to mine, formally reprimand Mr. Linthwaite and any others who may be responsible for the decision to qualify Mr. Wood's name without examination of his credentials in accordance with the applicable regulation.

Incidentally, I do not regard the matters of violation of departmental regulation and the statute on which it was based as "insignificant," and I am confident that the legislature does not share that evaluation and would not readily accept your categorization.

In closing, as an observation that may be of some benefit to you in the management of this region, there seems to be continuing degree of confusion concerning applicable contracting authorities. As an example, when I advised Mr. Linthwaite that P&P 28-8000 had been reissued over the signature of Deputy Commissioner Fred Seeger on October 20, he was not aware of the issuance of the amended provision. At least within the Southeast Region, you may want to make it a point to keep the division directors and senior staff apprised of these important procedural changes relating to professional services contracting.

In our last phone conversation, November 3, you reiterated your invitation to meet with me on matters in which we are in disagreement. If there remain matters that you believe can be resolved, may I suggest a meeting in the week of November 14, at your convenience? Otherwise, may I receive a formal reply from you in response to my request for reconsideration of the two recommendations set out above by November 28.

Sincerely,

John B. Chenoweth
Ombudsman

JBC:jdt
Enclosure

MEMORANDUM

RECEIVED
NOV 8 1983
JUNEAU
OFFICE OF OMBUDSMAN

State of Alaska
Department of Transportation & Public Facilities

TO: File

DATE: November 4, 1983

FILE NO:

TELEPHONE NO:

FROM: M. A. Linthwaite
Chief, Technical Services
Southeast Design and Construction

SUBJECT: Contact with the Ombudsman

Yesterday, for the first time, I read a copy of the Ombudsman's Report on his investigation on the Governor's Mansion Renovation dated August 4, 1983. Shortly after reading the report I called the Ombudsman, Jack Chenoweth, to require on what information he based his recommendation concerning me.

I explained that a few weeks prior to any mention of Jerry Woods, I had called Coralie Sparks, at Charles Matlock's request, to obtain some packets which we could mail to consultants who called in, rather than have them call back to her. She explained that they wanted to be aware of anyone who received a packet and the only way they could control them was to mail them out themselves.

She further explained that her office would gladly take the name and address from us, and mail a packet out to a consultant, and add the consultant's name to the register, pending receipt of the completed packet.

When Jerry Wood's name was first mentioned to me, Mr. Matlock asked how Woods could get on the register. I told him what Coralie said, and after we reviewed his resume, we decided that he could probably get on the register under the Construction Management (CM) section. I then called the Contracts Administration office to have a packet sent to him and have his name added to the register.

It was a few days later when Wood's name came up in regards to a contract for construction management on the Governor's Mansion. At that time, Jay Davis received a printout of the CM register and Jerry Wood's name was there, with a notation that I had requested he be listed there. I told Jay at the time that I didn't see anything wrong with that, as I only followed the procedure outlined by Contracts Administration.

The Ombudsman advised me that he would investigate further to determine, if in fact, his recommendations were correct. He stated that he would get back to me within 10 days.

I only wish I could have seen the Report at an earlier date, so I could have had this matter cleared up more timely.

MAL/jw

c: John B. Chenoweth, Ombudsman, State of Alaska
Donald D. Dieckmeyer, Director, Southeast Design and Construction,
Department of Transportation and Public Facilities

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX 1467
JUNEAU, ALASKA 99802

SOUTHEAST REGION

November 14, 1983

Re: Ombudsman Complaint
J83-0683

Mr. Jack Chenoweth, Ombudsman
Office of the Ombudsman
Pouch WO
Juneau, Alaska 99811

Dear Mr. Chenoweth:

I have now received your second letter on Jerry Wood's contract without the opportunity for discussion. It is most frustrating to read of the complaints, your interviews with others and your analysis without the courtesy of personal discussion.

Nevertheless, the following response to your continuing concerns is again offered:

I suppose as long as you are convinced that Jerry Wood's contract had the "potential" to exceed $25,000 we can never agree on its propriety. No where in the development of this contract was it anticipated the contract would exceed $25,000. The record contains several references to this effect which, inexplicably, have received no consideration by you. All of our cost estimates to do the work were well below $25,000 and we did not fabricate unrealistic estimates to subvert AS 36 or 17 AAC. 07, as you conclude. AS 36.98 and 17 AAC. 07 simply were not applicable because they apply only to contracts exceeding $25,000. That is why P & P 28-8000, albeit dated, was the only document applicable for this selection process.

P & P 28-8000 provides different procedures for each of three levels of agreements: > $2,500 but $\leq$ $20,000; > $20,000 but $\leq$ $100,000; and > $100,000. A departmental review was done earlier which, among other things, recommended the $20,000 limit be raised to $25,000 to be consistent with AS 36.98 and 17 AAC. 07. The P & P was finally changed officially on October 20, 1983.

Neither the procedures for contracts < $20,000 nor for contracts > $20,000 could be met given the urgency to proceed. In such cases paragraph 5.2 provides: "When determined by the Commissioner of the Department of Transportation and Public Facilities to be in the best interest of the State, this procedure (P & P 28-8000) may be waived."

25A-T27LH

Given the need for this contract; there was no question that a waiver of the entire procedure would have been granted by the Commissioner had it been requested. In retrospect this may have been cleaner, but we wanted to preserve as much of the procedure as we could reasonably expect to accomplish and still enable the job to get done. That is why a "limited" waiver was requested of the Commissioner in accordance with P & P 28-8000.

With the waiver approved, we proceeded to develop and execute the contract. The construction was to be complete September 2, 1983; hence it appeared reasonable that Jerry Wood's work, including any outstanding paperwork, etc., could be completed by September 15, 1983. These costs amounted to a firm fixed price of $21,100. Since we were still well below the $25,000 trigger for AS 36.98/17 AAC. 07 we decided to add an option to keep Jerry Wood on at the rate of $300/day for a maximum of 13 days just in case we ran into unanticipated problems in completing the construction and Jerry Wood's services were still needed. In addition, the "Maximum Amount" possible for payment under the contract was $25,000 to very clearly distinguish this contract from falling under AS 36.98 and 17 AAC. 07.

Not until you raised the question, was there even a hint that nonmonetary services provided in the contract might be construed as falling within the "total amount of the contract" contained in AS 36.98. No where in AS 36.98 can I find a definition of "total amount of the contract" in AS 36.98 to support your position. I would suggest that "total amount of the contract" refers to the actual dollars the State is obligated to pay a contractor and that the cost of other services like car rental would not be included because these costs would be incurred whether or not a contractor was involved.

Regardless, it seemed pointless to argue, so instructions were issued immediately to ensure that the "total amount of the contract" including such things as car rental would not exceed $25,000.

On the question of residency, further research has revealed that AS 36.10.010 applies only to employees. Jerry Wood was a proprietor or employer, not an employee. There is no issue here.

The conflict of interest question is still unresolved, apparently. My understanding is that common law conflicts of interest, actual or apparent, exist primarily when there is a potential for gain from an actual business relationship. The Department of Law, in its proposal to the last legislative session to clarify this issue suggested that to avoid any "appearance" of conflict of interest there should be no business relationship for at least six months. In this case there was a clean break in the business relationship between Jerry Wood and Fred Seeger of well over two years, long before either of them had any idea they would be working with the State of Alaska.

I agree that anytime there is a "perception" or "appearance" of impropriety there is cause for concern. But if we based all our decisions on certain people's "perception" of a problem, one can readily imagine government coming to a virtual standstill.

It is regretable that a copy of the gentlemen's business card from their previous relationship received such wide circulation, but it hardly seems appropriate or responsible to use that as a basis for suggesting the contract be terminated.

Regarding your two remaining recommendations:

1. Removal of Jerry Wood's name from the department's register was requested November 14, 1983. No action was taken previously because the register played no part in the hiring of Jerry Wood, since the contract was not over $25,000.

2. No action was taken to reprimand Mr. Linthwaite previously because the contract was not over $25,000 and a register was not required. Also departmental procedures for prequalification were virtually useless.

   Obviously, you have gone to considerable effort subsequent to your first analysis on this issue which suggests further examination is appropriate. I also accept this recommendation and will report to you on the actions taken when my review is complete.

Sincerely,

Jonathan W. Scribner

Jonathan W. Scribner
Deputy Commissioner

sh

MEMORANDUM State of Alaska

TO: Jonathan W. Scribner
Deputy Commissioner
Southeast Region
Department of Transportation
and Public Facilities

DATE: November 16, 1983

FILE NO: 366-124-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

By: Diane T. Colvin
Assistant Attorney General
Department of Law

SUBJECT: Review of department's project management contract for conflict of interest

You asked us to review the contract award made to Jerry D. Wood by the Department of Transportation and Public Facilities. Mr. Wood was hired in conjunction with renovation of the Governor's mansion to provide project management services. On August 4 the Ombudsman issued an opinion in response to a complaint received on the project services contract. One of the Ombudsman's findings was that the contract involved a conflict of interest, because of Mr. Wood's business relationship with Fred Seeger, Deputy Commissioner, Department of Transportation and Public Facilities. You have asked us to review the conflict of interest issue.

According to your response of August 9 to the Ombudsman, Mr. Seeger suggested Jerry Wood for the management services project initially. After that recommendation was made, you claim that Mr. Seeger had no further involvement in the award of the contract to Mr. Wood. You have also informed us that although Mr. Seeger and Mr. Wood did have a prior business relationship, that relationship was severed at least two years ago.

As you may know, the applicable standard for conflict of interest is the common law. This is a strict standard, prohibiting not only actual conflicts of interest but also requiring avoidance of even the appearance of impropriety. See 1982 Op. Att'y Gen. No. 15 (Dec. 3).

Based on the facts you provided, we find no conflict of interest in the award of the Wood contract because Mr. Seeger did not and could not benefit as a private person from the contract. The issue arose because of the previous business relation between the two individuals. However, if as you state, the relationship was severed two years ago, the potential for conflict is tenuous. Even under the common law, the amount of time involved here between the business association and the award of the contract diminishes the possibility of a conflict.

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OFFICE OF OMBUDSMAN

The conflict issue is, unfortunately, enhanced in this case because the Wood contract was awarded on a sole source basis. While there may have been justification for sole source in this particular instance, it would have been preferable, had time and circumstances allowed, to solicit proposals in order to avoid raising the issue of conflict of interest.

If you have further questions, please contact us.

DTC:eja

Ombudsman

John B. Chenoweth

State of Alaska

Reply to:

☐ 3201 C Street, Suite 606
Anchorage, Alaska 99503
(907) 276-4011

☑ Pouch WO
Juneau, Alaska 99811
(907) 465-4970

☐ P.O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

December 9, 1983

Jon Scribner, Deputy Commissioner
Southeast Region
Department of Transportation
Post Office Box 1467
Juneau, Alaska 99802

RE: Ombudsman Complaint J83-0683

Dear Mr. Scribner:

I have had an opportunity to review your November 14 reply. I'm appreciative of your action and proposed action with respect to the specific recommendations resubmitted for your consideration.

There is no disagreement between us in the matter of the perception that Mr. Wood's contract constituted an actual conflict of interest, and I don't know that there ever was. Assistant Attorney General Colvin's conclusion in her November 16 opinion supports your point. Ms. Colvin adds a caution, advising that, in order to avoid raising the conflict of interest issue, "it would have been preferable, had time and circumstances allowed, to solicit proposals . . . ." It is the appearance of irregularity to the public, I respectfully suggest, with which she is, and I had been, concerned.

Though not part of the complaint from my perspective, you and I have given attention to the issue of compliance with the "Alaska hire" provision, AS 36.10.010. In your November 14 letter, you assert that ". . . further research has revealed that AS 36.10.010 applies only to employees [and that] Jerry Wood was a proprietor or employer, not an employee." I am advised that the last, most comprehensive opinion on the subject of the application of the "Alaska hire" provision was issued on September 12. I am enclosing a copy and, while the opinion is a technical discussion not directly relevant to the Department of Transportation and Public Facilities, I direct your attention to the discussion at pages 5 - 8 of consultants' and related contracts. The Alaska Department of Labor is drafting regulations to interpret the provisions of AS 36.10.010. Randy Carr, a statewide supervisor for the Department's Division of Labor Standards and Safety, this week advised me that the draft of the proposed regulations does exempt or exclude from the provisions of AS 36.10.010(b) certain professional services and consultant's services provided under contract by a professional services contractor under agreement with a state agency.

I am addressing this matter to emphasize that, if I understand Mr. Carr correctly, the Department of Labor's proposed regulations will distinguish between kinds or types of contractors, and not merely on the basis of the employer-employee relationship. Those proposed regulations are due to go to public hearing. Because they may bear upon the kinds of contracts entered into by the division directors and others employed in your department's Southeast Region, you may want to review these regulations as they become available.

Finally, between us there remains a difference of opinion as to the matter of the cost or value of the original contract between the department and Mr. Wood.

Assuming, as you have suggested I should, that the contract, before its amendment, was one that did not exceed $25,000, Commissioner Casey's June 27 signature of a waiver may fulfill the requirements of the statute (AS 36.98.030(d)). While I would like to offer a supportive conclusion, my review of the record leads me to conclude, again, that it is far from clear that the commissioner's signature of the waiver complied with either the letter or the spirit of the companion regulation, 17 AAC 07.030, as I discussed at pages 9 - 11 of my August 4 letter.

I was heartened by our discussion and the content of your November 16 response to the criticisms and comments provided in the Internal Review conducted by Bob Janes. From the perspective of this office, I appreciate the attention you have given the matter. Please know, too, that members of the staff with whom I spoke have also given the matter their good cooperation.

I propose to advise the complainant of the attention given to this complaint and conclude the investigation.

Sincerely,

John B. Chenoweth
Ombudsman

JBC:pjc
Enclosure

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX 1467
JUNEAU, ALASKA 99802

SOUTHEAST REGION

(907) 364-4360

RECEIVED
JAN 16 1984
JUNEAU
OFFICE OF OMBUDSMAN

January 12, 1984

Re: Governor's Mansion
Project

Mr. Jack Chenoweth
Office of the Ombudsman
Pouch WO
Juneau, Alaska 99811

Dear Mr. Chenoweth:

Thank you for your December 9, 1983 letter on the Governor's Mansion project. I feel good, after finally having an opportunity to discuss your concerns, that we seem to have reached a mutually satisfying understanding on all issues except whether Jerry Wood's contract was subject to AS 36.98.

I would first like to report to you on your November 9 recommendation as promised in my November 14, 1983 letter:

1. Jerry Wood's name was removed from the register.

2. After reviewing how Mr. Wood's name came to be placed on the Professional Services register, I have determined not to reprimand Mr. Linthwaite. The enclosed memorandum from D. D. Dieckmeyer summarizes the basis for my determination. I have shared this information with Ron Lind, Director Administrative Policy & Fiscal Management. The Contracts Administration Section reports to Mr. Lind. He agrees with my determination and the information has been provided to him for any action he may deem appropriate.

Finally, your firm position that AS 36.98 was applicable to the Jerry Wood contract without acknowledgement or consideration of the procedures used or the intent continues to concern me deeply because it falsely portrays a flagrant disregard for State law So, I asked the Attorney General's Office to review this matter. I would like to share with you the enclosed response which supports the propriety of our actions.

Sincerely,

Jon Scribner

Jonathan W. Scribner
Deputy Commissioner

Enclosures

JWS/sh

25A-T27LH

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: Jonathan W. Scribner
Deputy Commissioner
Southeast Region

Confidential

DATE: December 14, 1983

FILE NO: SEC-010

TELEPHONE NO: 364-2347

FROM: D. D. Dieckmeyer, Director
S.E. Region Design & Construction

SUBJECT: Professional Services Contractors Register

Reference: Letter J. B. Chenoweth to J. W. Scribner, dated November 3, 1983; Re: Ombudsman Complaint J83-0683

I have reviewed the above referenced letter with regard to the recommendation that M. A. Lintnwaite be reprimanded for directing activities in violation of statutes and regulations that relate to tne Department's Professional Services Contractors Register.

AS 36.98.020(a) and 17 AAC 07.020(a) require that a professional services contractors register be establisned and maintained by the Department. Regulations further define the requirements that must be met in order for a contractor to be placed on the register.

At issue is the claim that Mr. Lintnwaite directed the addition of a contractor to the register without requiring the contractor to net the regulation requirements.

I submit the following:

1) Responsibility for the maintenance of the Department's Professional Services Contractors Register is assigned to the Contract Administration Section within the Standards & Statewide Programs group. Employees of the Contract Administration Section are solely responsible for maintaining the integrity of the register.

2) Employees within the Contracts Administration Section acknowledged that they knew the exact requirements that must be met in order for a contractor to be placed on the register.

3) Employees within the Contracts Administration Section contend that they repeatedly advised that inclusion on the register cannot be only by request of department employees, and they were certain that there was no confusion on the point.

4) Employees of the Contract Administration Section are not accountable to anyone in the Southeastern Region, nor are they responsible for receiving direction from anyone in the Southeastern Region.

Mr. Lintnwaite is an employee of the Southeastern Region and, therefore, has no authority to direct the activities of employees within the Contracts Administration Section.

5) Employees within the Contract Administration Section placed the contractor on the register in violation of statute and regulation requirements.

Based on the above, I am unable to conclude that Mr. Linthwaite was responsible for the addition of the contractor to the register. I do not feel that I have sufficient justification to reprimand Mr. Linthwaite as recommended by Mr. Chenoweth.

DDD:ka

cc Glen Stanley
cc Jean Chenoweth
cc Don Dieckmeyer

MEMORANDUM State of Alaska

TO Jonathan W. Scribner
Deputy Commissioner
Southeast Region
Department of Transportation
and Public Facilities

DATE: January 10, 1984

FILE NO:

TELEPHONE NO: 465-3603

FROM Norman C. Gorsuch
Attorney General

SUBJECT: Interpretation of AS 36.98

By:
Jack McGee
Assistant Attorney General
Transportation Section-Juneau

The question you raised in your memo of January 3, 1984 can be re-phrased as follows:

> Must the value of a rental car be included in determing whether the $25,000 limit for professional services contracts set out in AS 36.98 is satisfied?

AS 36.98.010 authorizes the state to enter into professional service contracts without going through the competitive bidding process when "the total amount of the contract does not exceed $25,000." The use of the word "total" here indicates that the value of all renumeration received by a contractor must be included when one is calculating the "total amount" of the contract. It follows, therefore, that the value of a rental car must be included in determining whether the $25,000 limit of AS 36.98.010 is reached.

It is my understanding that in Mr. Wood's contract relating to the Governor's Mansion, it was originally contemplated that the value of a leased car would not be included in determining total value of the contract. After the issue was raised, however, DOT/PF personnel were specifically directed to insure that Mr. Wood's contract did not exceed the sum of $25,000 including the value of vehicle rental. See appendix #1. This instruction, it seems to me, served to correct the original misunderstanding. As a result, there was no violation of AS 36.-98.010.

JM:ebc

02-001A (Rev. 10/79)

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

[illegible] T. [illegible]Boff, P. E.
[illegible]ildings Chief
[illegible]ilding Design & Construction
[illegible]T/PF

DATE August 9, 1983

FILE NO.

TELEPHONE NO

Charles S. Matlock
Acting Director
S. [illegible] Region Design & Construction
[illegible]/PF

SUBJECT Consultant Contract
Governor's Mansion
Project No. H-79164

Please take the appropriate action to insure that the Consultant Contract for Jerry Wood does not exceed the contract amount of $25,000.00 including extended services and vehicle rental.

CSM:JWK:ma

A SPECIAL REPORT ON THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES AND THE OFFICE OF THE GOVERNOR GOVERNOR'S MANSION RENOVATION PROJECT

December 29, 1983

Commissioner (Acting), Department of Transportation and Public Facilities	H. Glenzer, Jr.
Deputy Commissioners, Department of Transportation and Public Facilities:	
Standards and Statewide Programs (Acting)	Daniel Malick
Southeast Region	Jon Scribner
Central Region	David Haugen
Northern Region (Acting)	William McMullen
Office of the Governor	
Governor	Bill Sheffield
Lieutenant Governor	Stephen McAlpine

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

January 3, 1984

Members of the
Legislative Budget and Audit Committee:

In accordance with a Legislative Budget and Audit Committee special request and Title 24 of the Alaska Statutes, the attached report is submitted for your review.

A SPECIAL REPORT ON THE
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES, AND THE
OFFICE OF THE GOVERNOR, GOVERNOR'S MANSION
RENOVATION PROJECT

December 29, 1983

Gerald L. Wilkerson

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

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PURPOSE OF THE REPORT

In accordance with a Legislative Budget and Audit Committee request and Title 24 of the Alaska Statutes, this special report has been prepared to document the activities surrounding the renovation of the Governor's mansion. The review was of the Department of Transportation and Public Facilities and the Office of the Governor and addresses specific areas of concern:

1. The sources of funding used to finance the project;

2. Contracting procedures used to hire individual contractors;

3. Cost overruns and expansion of the project beyond its original scope.

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HISTORICAL BACKGROUND

The construction of the Governor's Mansion in Juneau in 1912 was under the direction of William N. Collier, U.S. construction engineer. The structure was authorized by Congress in the Public Builders Act of 1910, which appropriated $40,000 to cover both building and furnishing. The architecture of the building was designed by a well-known architect of the time, James Knox Taylor, and is described as a liberal interpretation of New England Colonial.

The mansion, measuring 58 x 60 feet overall, has two and a half stories with a full basement. The original $40,000 was insufficient to furnish the entire building, but the lower floor and some of the bedrooms were furnished in 1912. The third floor was left virtually unfinished though the original detailed drawings show that half of this top floor was to serve as a territorial museum (which it never did).

The single most extensive renovation of the exterior of the house was done with Federal funds ($14,100) in 1936. Renovations to the mansion, which had been badly run down, were started in June 1936, under contract to the J.B. Warrack Company.

The entire exterior of the building was plastered over the original clapboard finish, and painted white giving the building the appearance that it has today. The short porch that covered only the entry steps was extended to cover the driveway. The peaked roofs of the dormers were flattened and the three small windows above the small entry porch were consolidated into one large window. The three windows on the third floor were consolidated into two to be in balance with the roof angle. Outside shutters were provided for all flush windows. The garage was also dug into the basement in 1936.

The most dramatic change made in the 1936 renovation was the extension of the original portico which covered the central third of the porch. The short portico was extended to cover the entire length of the house supported by six pillars rather than the original four. No major renovations to the exterior have been done since 1936.

Interior renovations done in 1936 included redesigned bathrooms with new plumbing and other minor cosmetic changes.

Minor changes took place between 1936 and 1967. A kitchenette was installed sometime during the Egan administration in the late fifties and early sixties.

The single most significant interior renovation prior to 1983 was executed in 1967-1968 by Arthur Morgan Designers of Seattle, Washington. The renovation, done under the Hickel administration, included gutting the third floor and remodeling it. The ceiling on this floor was lowered and two suites and one bedroom were constructed. A sauna was installed in the basement also. Although the lower two floors remained structurally unchanged, major cosmetic changes were made. The entire color scheme of the mansion was changed to greens and golds, wall-to-wall carpeting was installed in many rooms, and contemporary furniture was purchased.

On November 7, 1976, the mansion was placed on the National Register of Historic Places.

The 1983 renovation of the mansion is the most extensive in the history of the building. The first and second floors and the basement were renovated to restore the interior appearance to the 1912 era.

General changes included removing all of the wall-to-wall carpeting and replacing it with large oriental rugs. Hardwood floors were refinished and repaired throughout the mansion. All of the seven fireplace mantles and all the walls were stripped and repainted. Some antique furniture was purchased and bathroom fixtures were replaced by old style fixtures, (bear claw tubs, pedestal sinks, brass and porcelain handles, etc.).

Several structural changes were made during the 1983 renovation. The kitchenette on the second floor was removed to allow for the large entry hall per the original blueprints. A door was installed between the Governor's study and the master bedroom. The bathroom adjacent to the Governor's study was converted into a kitchenette with toilet facilities. Mahogany shelving from floor to ceiling was installed along all of the walls of the library on the first floor, and a new mahogany mantle was built. A new hardwood floor was placed in the entry way and the conservatory. The pantry was changed to the dishwashing area and a new refrigerator and dishwasher installed. The dishwashing area was changed to the pantry and custom cabinets installed. A hot tub (purchased by Governor Sheffield) was installed in the basement, and the mantle from the library was installed around the fireplace in the recreation room in the basement. Also, a wall was built to block off the laundry room in the basement. The 1983 renovation included installing new electrical and plumbing systems on the first and second floors as well as the basement, and a new fire detection and intrusion system.

FINDINGS AND AUDITOR'S COMMENTS

A. What were the sources of funding used to finance the Governor's Mansion Renovation project?

DOTPF transferred a total of $1,455,000 to the Governor's mansion project from appropriations that were originally intended for other purposes. The following is a list of the source of funds used for the mansion project:

1. Ch 120, SLA 80 appropriated $71,000 to DOTPF for the Governor's Mansion Fire Sprinkler System.

2. Ch 82, SLA 81 appropriated $5,200,000 to DOTPF for Energy, Safety, and Architectural Barrier Changes. Of this total appropriation, $1,385,000 was used to fund the mansion project. However, only $235,000 was specifically intended for the mansion. The residual amount, $1,150,000, had originally been intended to be used to correct deficiencies noted in energy audits performed on Interior Region buildings. The specific projects are:

   a) $596,000, project number H79364 (Fairbanks Electrical Retrofit), Fairbanks Court House and parking garage.

   b) $200,000, project number H79361 (Interior Buildings Retrofit), State office buildings.

   c) $204,000, project number H79362 (Interior Shops Energy Retrofit), maintenance shops.

   d) $150,000, project number H79363 (Fairbanks Peger Road Energy Retrofit), DOTPF building complex on Peger Road, Fairbanks.

3. Ch 107, SLA 83 appropriated $500,000 to DOTPF for the Governor's Mansion. Intent per DOTPF's budget documents was for remodeling/repairs to the Governor's mansion.

4. An RSA between the Department of Administration (DOA) and DOTPF transferred $305,000 from DOA to DOTPF for the Governor's Mansion Renovation project. The source of funds of the amount transferred was Ch 25, SLA 82, which appropriated $7,000,000 for Building Renovation, Replacement, and Surplus. The intent per budget documents was for this appropriation to be used for providing housing to State employees, particularly in remote rural locations. The following projects were eliminated as a result of the RSA:

a. Deer Mountain Hatchery ($100,000)
b. Livengood Septic System ($60,000)
c. Nelchina Septic System ($30,000)
d. McGrath Septic System ($70,000)
e. Slana Exterior ($75,000)

DOTPF subsequently transferred $117,000 to the Office of the Governor for the acquisition of furniture, rugs, and other decor items.

5. Ch 101, SLA 82 appropriated $13,121,400 to the Office of the Governor for Executive Operations, and $169,000 was used for the Governor's Mansion Renovation project.

In summary, DOTPF funded $2,144,000 and the Office of the Governor funded $286,000 for the renovation of the Governor's mansion, which totals to $2,430,000. Of this amount, $1,455,000 ($1,150,000 of Ch 82, SLA 81 and $305,000 from RSA) or 60% of the total funding was budgeted for other purposes.

B. Were individual contractors on the Governor's Mansion Renovation project hired in accordance with State contracting procedures?

The purpose of the various statutes, regulations, and P&Ps regarding competitive bidding and advertising for State contracts is probably best summarized by an Attorney General's opinion note to AS 35.15.050:

> "The purpose of this section and the Fiscal Procedures Act (AS 37.05) is not only to protect the state and the public purse from uneconomic contracts let because of failure to request competitive bids and because of possible favoritism, but also to insure that contractors are insured a certain amount of 'fair play' in dealing with the state government and in competing with one another for state contracts."

When the competition has been limited through sole source contracts, restricted advertising, etc., this sense of "fair play" is missing. It also opens up the State to possible litigation and gives the appearance of favoritism.

Department of Transportation and Public Facilities (DOTPF)

DOTPF did not follow established procedures or the intent of statutes and regulations when awarding

several contracts for construction and professional services on the Governor's Mansion Renovation project:

1. Vernon Akin & Associates was awarded a sole source contract for engineering design and construction services in the amount of $60,000. This project was not advertised as required by AS 36.98, or DOTPF P&P 28-8000. AS 36.98.030 does allow DOTPF to contract on a sole source basis if they can demonstrate that there is a single person or firm that can clearly perform the required tasks more satisfactorily because of the person's or firm's prior work. Although DOTPF stated that this was the basis for the sole source contract, it was not clearly demonstrated by any written evidence in the files.

2. Jerry D. Wood, P.E., was awarded a sole source contract of $25,000 to provide on-site management for the Governor's Mansion Renovation project. In addition, the contract provided Mr. Wood with a car during the duration of his contract. The contract was later amended up to a total of $35,000, which included the car rental in the contract price.

   In our opinion, the original contract amount exceeded $25,000 and therefore should have been advertised in accordance with AS 36.98. There were over 100 firms on DOTPF's prequalification register for these types of services. DOTPF's not allowing these and other contractors the opportunity to compete for this contract clearly violates the spirit and intent of the law. Several other items noted were:

   a) Mr. Wood had been a business associate with Fred Seeger in a corporation known as SeeWood (this is discussed further in "D" of this section of the report). Fred Seeger was Deputy Commissioner of DOTPF until he resigned in early December, 1983.

   b) Mr. Wood was added to the DOTPF professional services contractor register without all of the proper forms being submitted and reviewed.

   c) Mr. Wood obtained a business license the same day his contract was signed, July 7, 1983.

   d) Mr. Wood's business address was DOTPF's Southeast Regional office.

e) Three out of the four construction contracts for this project had been awarded and work started (with one contract completed) by the time Mr. Wood's contract began. His contract terminated October 18, 1983. Both before his contract began and after it was terminated, the project was managed by DOTPF employees (project was not complete until mid-December).

3. The August Corporation was awarded a contract of $90,000 for roof repair and attic insulation. DOTPF did not advertise this contract as required by DOTPF P&P 70-7001. In addition, AS 35.15.030 requires that at a minimum, informal bids shall be requested from as many contractors as can be requested conveniently. Five local firms were contacted, with two responding.

4. The Rhine Stone and Plastering Company was awarded a contract of $14,000 for concrete and masonry services. This contract was not advertised. However, two local firms were contacted for informal bids.

5. Harbor Plumbing & Heating was awarded a contract of $600,000 (subsequently amended to $1,000,000 with costs to date of $1,081,000 and estimated to exceed $1,130,000) for plumbing, heating, and electrical renovation. This contract was not advertised as required by DOTPF P&P 70-7001. P&P 70-7001 states "projects shall be advertised in three consecutive weekday issues in newspapers in Anchorage, Fairbanks and Juneau, local papers where available, the Tundra Times and the All Alaska Weekly. Large projects should also be advertised in the northwest regional construction trade papers." However, DOTPF only advertised in the Juneau Empire, limiting the response to only those firms located in the City and Borough of Juneau, and provided a cost estimate indicating the project would cost only $250,000 to $500,000.

   In addition, this contract was not dated, did not contain a project completion date, but did provide a bonus of $25,000 if the contractor completed the project on time.

6. Coogan Construction Company and Capitol Construction Company, a Joint Venture, was awarded a $300,000 contract (subsequently amended to $400,000 with costs to date of $676,000 and estimated to exceed $735,000) for architectural renovation work. This project was not advertised in accordance with P&P 70-7001 which requires a

minimum advertising period of 21 days. DOTPF did not submit advertising orders to newspapers, etc., until June 27, 1983, but they required that completed "Expression of Interest Questionnaires" be returned to DOTPF by 2:00 PM, July 8, 1983, a period of eleven days maximum.

In addition, DOTPF prequalified the contractors and stipulated that only the top three would be allowed to bid on the project. This further restricted the competition (two bids were not opened).

The purpose of prequalification is to assure that only contractors who meet certain qualification criteria are allowed to bid on a project. However, DOTPF does not have established procedures or standards for prequalifying construction contractors. In this particular case, allowing only the top three prequalified contractors to bid could not only have resulted in excluding some qualified contractors, but it also could have resulted in DOTPF having to award the bid to an unqualified contractor if one of the top three was really not qualified to perform the contract but submitted the low bid. DOTPF, if it wishes to use prequalification, should establish procedures and standards so that all qualified and interested contractors will be allowed to bid on projects where prequalification is used.

The Office of the Governor

Title 36, Chapter 98 of the Alaska Statutes governs professional services contracts. Under these statutes and the related regulations, 02 AAC 17, the Department of Administration has established procedures for professional services contracts in the State Administrative Manual (SAM) sections 8102 through 8193. Section 8120 specifies required procurement procedures for contracts depending on their dollar value: $5,000 or less, informal solicitation of interest; over $5,000 up to $25,000, formal or informal solicitation of interest; over $25,000, formal solicitation as well as advertise in a newspaper in general circulation in Alaska. Section 8120 also states that all costs for the life of the contract including any anticipated successive phases or follow-up work are to be included in determining the dollar value of the contract.

However, the Office of the Governor awarded three sole source contracts (stated face value $64,000) worth over

$280,000 to Phyllice Bradner, dba Snow Goose Productions, that were not advertised nor were informal or formal proposals solicited:

1. A $5,000 contract was awarded February 7, 1983 for Ms. Bradner to act as coordinator for the Restoration Advisory Committee on the Governor's Mansion Renovation project. This contract had not been advertised. Also, informal proposals had not been solicited as required by the SAM, Section 8120.

2. A $14,000 contract was awarded March 24, 1983 for Ms. Bradner to provide a cost estimate study of the Governor's Mansion Renovation project and to continue as the coordinator for the Restoration Advisory Committee. This contract was awarded without securing competitive proposals because the Office of the Governor requested and the Department of Administration granted the authority to negotiate this contract on a sole source basis. However, we question the reason used to justify the sole source (to facilitate continuity in the project and to maintain consistency of style), especially since the initial contract was awarded without advertising or soliciting proposals from several firms. We believe a request for a sole source contract because of wanting to continue a relationship should come under much closer scrutiny.

3. A $45,000 contract was awarded May 19, 1983, for Ms. Bradner to act as project coordinator for the Governor's Mansion Rehabilitation project. Her services included the selecting and purchasing of all decor items (furniture, antiques, draperies, etc.), selling these items to the Office of the Governor (plus a handling charge for wholesale items), and overseeing the placement and arrangement of these items in the mansion. Again, as in the previous contract, the authority to negotiate a sole source contract was requested from and granted by the Department of Administration, eliminating the competitive process.

   In addition, the contract did not restrict the amount of the items the contractor could purchase. As a result, the Office of the Governor could have been liable for all items purchased even though the amount may have exceeded that intended for purchases ($222,000 was encumbered for decor items). We believe because of the nonstandard nature of the scope of services and degree of latitude being allowed the contractor that this

contract should have been reviewed by the Department of Law.

C. Why was the original scope of the project expanded and what changes resulted from the scope expansion?

The original scope of the Governor's Mansion Renovation project was defined by the Governor's House Restoration Advisory Committee which was formed to oversee the project. The initial concern expressed by DOTPF to the Restoration Advisory Committee was for maintenance of the mansion which highlighted the need for a fire suppression (sprinkler) and alarm system. Subsequently, DOTPF personnel suggested that new electrical and plumbing systems be included in the scope of work being defined by the Restoration Advisory Committee, due to major plumbing problems and electrical deficiencies, and because it would be most economical and practical to install the systems while the walls are opened up to install the sprinkler system.

In April, 1983, the Restoration Advisory Committee defined the original scope of work, Phase I, to consist of installing a new hot water heating system, new electrical wiring and distribution system, new sprinkler and smoke detection systems, and related cutting and patching. The preliminary cost estimate was $600,000. In May, 1983, Phase II of the renovation, which was for interior finishes, cabinetry, and wainscoting, was added to the original scope of work per the wishes of the Office of the Governor. The estimated cost of the additional work was $300,000.

Phase II scope of work was again expanded per the wishes of the Office of the Governor in July, 1983 to include tile work for the scullery, cabinetry in the pantry, cast iron radiator wood enclosures and carpeting. The scope increase was estimated at a cost of $235,000.

In September, the scope of Phase I was expanded to include additional electrical wiring work, television distribution, telephone system, fire alarm and intrusion systems. The estimated cost of the expanded scope was $175,000. The scope of Phase I was expanded again in September to include heat distribution in the basement area, new dishwasher and refrigerator, and installation of antique plumbing and electrical fixtures. The cost of the additional work was estimated to be $75,000. Phase II work was also expanded in September to include additional painting, wall papering, kitchen pantry, mill work, and door hardware. The estimated cost for the scope expansion was $75,000. The scope

was expanded in these cases because of additional work required due to unknown conditions.

The amount of $283,000 was identified for consultant contracts roof repairs, new telephone system, attic insulation, and furnishing storage. The total cost estimate was increased by $401,000 due to low estimates and overtime pay to expedite project completion. The total cost estimate for the construction phase of the project was $2,144,000, with an additional $286,000 cost estimate for overseeing the project and for decor items, bringing the total to $2,430,000.

D. What was the relationship between Fred Seeger (DOTPF Deputy Commissioner until December, 1983) and the project coordinator Jerry Wood?

The following items were noted relating to this question:

1. Fred Seeger and Jerry Wood had been associates in a business known as SeeWood Corporation.

2. Mr. Wood gave to DOTPF personnel (in June, 1983) a SeeWood Corporation business card that contained both Mr. Wood's and Mr. Seeger's name on the face, indicating a current business relationship.

3. Mr. Wood was first mentioned as a potential contractor by Mr. Seeger.

4. Mr. Wood was awarded a sole source contract.

5. Mr. Wood was added to the DOTPF professional services contractor register without all of the proper forms being submitted and reviewed.

6. Mr. Wood obtained a business license the same day his contract was signed, July 7, 1983.

7. Mr. Wood's business address was DOTPF's Southeast Regional Office.

8. Three out of the four construction contracts for this project had been awarded and work started (with one contract completed) by the time Mr. Wood's contract began. His contract terminated October 18, 1983. Both before his contract began and after it was terminated, the project was managed by DOTPF employees (project was not complete until mid-December).

All of the above give the appearance of a conflict of interest. It should be noted, however, that the State

of Washington corporation records have not listed Jerry Wood as an owner or officer of SeeWood Corporation since 1981.

E. Expenditures and contract administration.

DOTPF

DOTPF transferred Governor's Mansion Renovation project expenditures of $40,000 to an overhead account. The project expenditures transferred consisted of personal services expenditures for DOTPF employees who worked on the mansion project. In addition, November and December expenditures for DOTPF Maintenance and Operations employees working on the Governor's Mansion Renovation were not charged to the project.

Alaska Statute section 37.07.080(e) prohibits transfers between appropriations except as provided in an act making the transfers between appropriations.

Personal services expenditures related to the project should be included as a part of the total project costs and should not have been transferred to another account.

The Office of the Governor

The Office of the Governor in administering and making payments under two of the Snow Goose Productions contracts:

1. paid for expenses of the contractor that were not provided for by the contract. The contract stated that in full consideration of her services she would be paid $40 per hour with no reference made to expenses (the second contract with her provided for expenses as well as $40 per hour).

2. paid $10,000 in advance of receiving the services.

3. paid a percentage handling charge for retail items, shipping, and services while the contract only allowed this handling charge on items purchased at wholesale by the contractor.

4. paid for items without invoices as required by the contract. In addition, they had not verified that the items had been received.

5. did not assure that competitive quotations were obtained where possible on items or services purchased.

The above problems resulted in some overpayments and two double payments totalling over $3,600. While the Office of the Governor has adjusted subsequent billings for most of these overpayments (after it was brought to their attention), it indicates they need to improve their controls over contracts and contract payments.

F. Could Federal Funds have been used to finance the Governor's Mansion renovation?

Since the Governor's mansion is on the National Register of Historic Places, the question was raised whether Federal Funds were available for this project. The National Park Service of the U.S. Department of the Interior does provide project grants under its Historic Preservation Grants-in-Aid Program to states operating historic preservation programs. These grants, which are to be matched equally with State funds, can be used to help finance state surveys and plans for historic preservation, research, preservation for public benefit of National Register listed properties, and other costs necessary to accomplish the purposes of this program.

To obtain further information on this program, we contacted the Alaska Regional office of the National Park Service and were informed that in recent years, the total funding available under this program has been substantially reduced for all states. In addition, Federal funds provided to Alaska have been restricted to performing surveys and planning activities.

G. What department of the State of Alaska should be responsible for the Governor's Mansion?

There is a question of whether DOTPF or the Department of Natural Resources (DNR) should be responsible for the Governor's Mansion. In general, DOTPF is responsible for the construction (which includes major repairs) of public works, as well as the maintenance of State-owned buildings.

However, AS 41.35, Alaska Historic Preservation Act, provides that State-owned historic properties are under the control of DNR. To clarify this issue, we have requested an opinion from the Department of Law.

H. What happened to the furniture that was in the mansion before the renovation?

Part of the furniture that was in the mansion before the renovation was placed back in the mansion after the reconstruction phase. Some of these items were reupholstered and/or refinished.

Other furniture and decor items have been placed in storage, for example the Austrian Bentwood chairs that had been in the ballroom. Some of these items in storage will be auctioned at a later date.

The rest of the furniture was auctioned to the public on October 29, 1983 (the State received approximately $7,200 for the sale of these items). However, the Department of Administration, Division of General Services and Supply (GSS), did not inform other State agencies of this excess furniture (to determine if they could use some of the items) as required by the State Property Accounting Manual. GSS had been specifically instructed by the Office of the Governor to hold all these excess items for auction to the public.

In addition, three items on the list to be auctioned (two decoupage wall plaques and a set of draperies) were never received by GSS, and are currently missing.

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APPENDIX A

GOVERNOR'S MANSION RENOVATION PROJECT
SCHEDULE OF CONTRACTS AND COSTS
(Note 1)

CONTRACTOR / Subcontractor	Contract Description	Contract Amount / Amendments *	Effective Date / Price Method	Bid Method	Costs: Materials	Labor: Straight	Labor: Overtime	Other Expenses	Profit O/H	Total Costs
Department of Transportation and Public Facilities										
LINN A. FORREST ARCHITECTS, A.I.A.	Fire and intrusion detection system design.	$ 16,500 18,000	9/3/81 Fixed	Informal Solicitation 3 Firms	$ -0-	$ 10,098	-0-	$ -0-	$ -0-	$ 10,098
(Note 1)	Architectural services for Phase II, construction services.	6,204 *	6/17/83 Fixed	Informal Solicitation 3 Firms	-0-	16,300	-0-	7,904	-0-	24,204
Total FORREST		40,704			-0-	26,398	-0-	7,904	-0-	34,302
LARRY BREEDLOVE	Basic fire sprinkler design	12,000	9/29/81 Fixed	Informal Solicitation 3 Firms	-0-	10,200	-0-	-0-	-0-	10,200
VERNON AKIN & ASSOCIATES (Note 1)	Design services for heating and sprinkler system	60,000	4/18/83 Fixed	Sole Source	-0-	40,083	-0-	19,917	-0-	60,000
AUGUST CORPORATION	Repair and replace roof, insulate attic	90,000	5/12/83 Cost Plus	Informal Solicitation 3 Firms	22,604	46,964	1,585	490	10,747	82,390
RHINE STONE & PLASTERING (Note 1)	Resurface south deck, clean rock work and replace	14,000 (8,000)* 6,000	6/9/83 Fixed	Informal Solicitation 2 Firms	-0-	-0-	-0-	6,000	-0-	6,000
HARBOR PLUMBING & HEATING (Note 1)	Plumbing, heating and electrical	600,000 300,000 * 100,000 * 131,576 *	6/20/83 Cost Plus	Bid (1 bidder)	102,777	184,278	-0-	69,412	59,089	415,556
August Corporation	Cutting, patching carpentry, and clean-up renovation				25,454	82,470	37,502	-0-	36,424	181,850

APPENDIX A

GOVERNOR'S MANSION RENOVATION PROJECT
SCHEDULE OF CONTRACTS AND COSTS
(Note 1)
(Continued)

CONTRACTOR Subcontractor	Contract Description	Contract Amount Amendments *	Effective Date Price Method	Bid Method	Costs Materials	Labor Straight	Labor Overtime	Other Expenses	Profit O/H	Total Costs
Cochran Electric	Electrical, telephone cable, smoke/ intrusion system				47,010	196,004	31,640	-0-	-0-	274,654
R.L. Lawler, Inc.	Pipe insulation				7,846	21,477	14,494	-0-	1,208	45,025
Harri Plumbing	Install sprinkler system				23,986	20,137	10,127	-0-	7,034	61,284
Rhine Stone & Plastering	Plaster walls and ceilings				14,922	34,497	9,923	-0-	6,102	65,444
Associated Gravel	Pave driveway to garage				1,281	-0-	945	-0-	-0-	2,226
Reliable Sheet Metal	Sheetmetal work for ventilation system				2,558	19,173	-0-	-0-	-0-	21,731
Johnson Controls	Heating/pneumatic system design and installation				27,478	17,691	3,906	-0-	998	50,073
C. Klassen Concrete	Patch garage, basement, and bathroom floors				-0-	774	200	-0-	-0-	974
Foskin Construction	Install new water main				7,232	4,762	715	-0-	-0-	12,709
Total HARBOR PLUMBING		1,131,576			260,544	581,263	109,452	69,412	110,855	1,131,576
JERRY LUND, P.E.	Provide on-site project management using computerized scheduling	25,000 10,000 * $ 35,000	7/7/83 Fixed (Plus Car)	Sole Source	-0-	31,030	-0-	3,784	-0-	34,814

APPENDIX A

GOVERNOR'S MANSION RENOVATION PROJECT
SCHEDULE OF CONTRACTS AND COSTS
(Note 1)
(Continued)

CONTRACTOR / Subcontractor	Contract Description	Contract Amount / Amendments *	Effective Date / Price Method	Bid Method	Costs: Materials	Labor: Straight	Labor: Overtime	Other Expenses	Profit O/H	Total Costs
COOGAN CONSTRUCTION/ CAPITOL CONSTRUCTION, Joint Venture (Note 1)	Architectural renovation work	300,000 100,000 * 335,217 *	7/19/83 Cost Plus	Prequalification Bid (5 responses, 3 bids opened)	16,842	115,333	67,354	82,274	75,499	357,302
Renoir Painting	Painting, stripping and detail work				15,648	90,069	48,191	-0-	26,799	180,907
F & C Enterprises	Alaska representative for Coastcraft, Inc.				489	967	-0-	-0-	103	1,559
Queen City, Inc. (Note 2)	Hardwood floors, tile, and carpet				68,650	23,287	13,654	-0-	9,839	115,430
JD Glass & Door	Storm windows, glass work and glazing				317	1,494	-0-	-0-	-0-	1,811
Coastcraft, Inc.	Mill work, cabinets, woodwork				78,208	-0-	-0-	-0-	-0-	78,208
Total COOGAN/CAPITOL		735,217			180,354	231,150	129,199	82,274	112,240	735,217
Total DOTPF Contracts		2,110,447			463,502	967,088	240,236	189,781	233,842	2,094,449
DOTPF Direct Expenditures										
Personal Services:										
Buildings Design and Construction (Note 3)					-0-	61,484	-0-	-0-	-0-	61,484
Maintenance and Operations (Note 1 & 3)					-0-	27,683	-0-	-0-	-0-	27,683
Other					-0-	-0-	-0-	17,449	-0-	17,449
Total DOTPF		2,110,447			463,502	1,056,253	240,236	207,230	233,842	2,201,065

APPENDIX A

GOVERNOR'S MANSION RENOVATION PROJECT
SCHEDULE OF CONTRACTS AND COSTS
(Note 1)
(Continued)

CONTRACTOR / Subcontractor	Contract Description	Contract Amount / Amendments *	Effective Date / Price Method	Bid Method	Costs: Materials	Labor: Straight	Labor: Overtime	Other Expenses	Profit O/H	Total Costs
Office of the Governor										
SNOW GOOSE PRODUCTIONS	Restoration Advisory Committee Coordinator	$ 5,000	1/8/83	Sole Source	-0-	4,160	-0-	839	-0-	4,999
SNOW GOOSE PRODUCTIONS	Provide Cost estimate study & continue as coordinator	14,000	3/24/83	Sole Source	-0-	4,360	-0-	9,625	-0-	13,985
SNOW GOOSE PRODUCTIONS	To be Renovation Project Coordinator, interior decorator, & purchase furniture & other decor items.	45,000	5/19/83 Fixed	Sole Source	-0-	-0-	-0-	45,000	-0-	45,000
	To sell to the State decor items purchased.	222,000	Cost Plus		132,273	-0-	-0-	68,750	12,132	213,155
Total Office of the Governor		286,000			132,273	8,520	-0-	124,214	12,132	277,139
Total Governor's Mansion Renovation		$2,396,447			$595,775	$1,064,775	$240,216	$131,444	$245,974	$2,478,204

APPENDIX A
GOVERNOR'S MANSION RENOVATION PROJECT
NOTES TO SCHEDULE OF CONTRACTS AND COSTS

Note 1 - Estimated Costs

We have included estimated costs (per DOTPF and the Office of the Governor) because the final cost figures were not yet available. We have also provided adjustments to contract amounts to match anticipated costs where necessary. The breakdown of these estimates are as follows:

	Contract	Materials	Labor Straight	Other	Profit O/H	Total
DOTPF						
Linn A. Forrest, Architects	$ 6,204	$ -0-	$ -0-	$ 7,904	$-0-	$ 7,904
Vernon Akin & Associates	-0-	-0-	-0-	19,917	-0-	19,917
Rhine Stone & Plastering	(8,000)	-0-	-0-	6,000	-0-	6,000
Harbor Plumbing & Heating	131,526	-0-	-0-	50,390	-0-	50,390
Coogan/Capitol J.V	335,217	-0-	-0-	58,675	-0-	58,675
Total DOTPF Contracts	464,947	-0-	-0-	142,886	-0-	142,886
DOTPF Direct Exp. Pers. Svcs. M & O	-0-	-0-	7,382	-0-	-0-	7,382
Total DOTPF	464,947	-0-	7,382	142,886	-0-	150,268
Office of the Governor						
Snow Goose Productions	222,000	4,528	-0-	8,364	296	13,188
Total Estimates	$686,947	$4,528	$7,382	$151,250	$296	$163,456

Since these figures are only best estimates of anticipated costs, the final actual cost of the renovation may vary from the schedule.

Note 2 - Queen City, Inc.

The costs for this sub-contract include approximately $8,800 for subsistence, lodging, and related expenses.

Note 3 - DOTPF Direct - Personal Services

The Buildings and Construction personal services charges include approximately $40,000 that had been transferred to an overhead account. The Maintenance and Operations charges of $27,683 are from an operating project account (see E.1. of the Findings and Auditor's Comments section of this report).

Note 4 - Snow Goose Productions

The $222,000 included in the contract amount column was the amount that had been encumbered for the purchasing of decor items. However, no amount had been specified in the face value of the contract (see F of the Findings and Auditor's Comments section of this report).

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BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

RECEIVED
JAN 3 1984
LEGISLATIVE AUDIT

January 24, 1984

Mr. Gerald L. Wilkerson, C.P.A.
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

Dear Mr. Wilkerson:

The Office of the Governor has reviewed the audit of the Governor's Mansion renovation project, entitled "A Special Report on the Department of Transportation and Public Facilities and the Office of the Governor Governor's Mansion Renovation Project."

We have the following comments regarding the report:

Section B:

In the discussion of contracting procedures under the subsection "Office of the Governor," the auditor neglects to mention that both the statutes and related regulations regarding professional services contracting also provide procedures for sole source contracting (AS 36.98.030(d)(1) and State Administrative Manual, Section 8122). Although the auditor acknowledges that the Office of the Governor obtained approval from the Department of Administration to negotiate the sole source contracts, there is no indication that procedures were followed as required by law.

Section E:

Item two - Advance or mobilization payments are a common practice in State contracting, and are acceptable to the Department of Administration in most cases. The Department of Administration has stated that agencies have the authority to determine when such payments are necessary for mobilization costs for a contract.

Item three - All questionable handling charges were deducted from payments prior to the completion of the contract. Payment was subsequently made only on those charges which the contractor was able to substantiate were wholesale charges or where she had been given a professional discount.

Item four - Payment was made by this office upon receipt from the contractor of her invoice, detailing each purchase and any applicable handling charges as required by the contract. These invoices were submitted with backup for each purchase consisting of invoices, statements, purchase orders, and/or cancelled checks.

Errors pointed out by the auditor were discovered prior to the completion of the contract. Adjustments were made prior to the completion of both the contract and the audit. No close-out audit had yet been done by this office, because the contract was still in progress, a fact the auditor fails to mention. Since adjustments were made prior to the completion of the contract, and the State, in fact, lost no money, charges of overpayments totaling over $3,600.00 are premature.

Sincerely,

Laura J. Herman

Laura J. Herman
Executive Assistant
for Administration

cc: Bill Sheffield
Governor

John Shively
Chief of Staff

Michael A. Nizich
Director, Division of
Administrative Services

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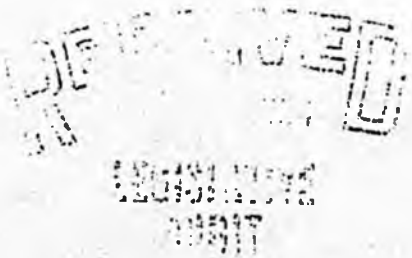
BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX 1467
JUNEAU, ALASKA 99802
(907) 364-4360

SOUTHEAST REGION



January 25, 1984

Re: Governor's Mansion Project

The Honorable Robert H. Bettisworth
Alaska State House
Pouch V
Juneau, Alaska 99811

Dear Representative Bettisworth:

This is in response to the Special Report on the Governor's Mansion Project, December 29, 1983. Our response addresses only those areas involving DOT&PF actions.

Historical Background

- We believe this fairly represents the background on this project as we understand it.

Findings and Auditor's Comments

A. The sources of funds for this project are accurately described. But, we very much disagree that the appropriation "transfers" were "originally intended for other purposes".

Chapter 82 SLA 81 appropriated $5,200,000 to DOT&PF for energy, safety and architectural barrier changes.

Attached to the budget documentation for this appropriation was a list of projects totaling over $20,000,000. The budget documents state: "This list exceeds the funding available and will necessarily have to be reduced to identify the highest priority projects ... In addition, the following specific projects are (emphasis added) to be funded from the total amount available ...

Southeast Electrical Systems Maintenance	69.3
Valdez Time Clock Heat System	17.6
Southeast Life Safety Improvements	220.0
Governor's Mansion Sprinkler System	185.0 "

The budget documents also direct that the limited funds should be used to perform a comprehensive upgrade program for all aspects of high priority facilities in order to minimize project administration costs by reducing the number of small projects; reduce contractor mobilization costs; and resolve design interrelationships among different upgrade requirements.

The four projects listed (H79361 Interior Buildings Retrofit, H79362 Interior Shops Energy Retrofit, H79363 Fairbanks Peger Road Energy Retrofit & H79364 Fairbanks Electrical Retrofit) were the result of an internal allocation of funds within this appropriation. As implied, they were not specifically included in the original budget documents by either name or cost.

Since the Governor's Mansion project is one of the four projects specifically mentioned in the budget documents, and because the funds were clearly used for the purposes intended, the department was clearly within its authority. In fact, to have limited this project to only the fire sprinkler system after it was determined that other life safety and energy code problems existed would have clearly violated legislatively approved directions to comprehensively upgrade high priority facilities.

The funds appropriated to the Department of Administration were likewise reduced from the original request. Therefore, they, too, were required to exercise statutory discretion to choose projects consistent with legislative purposes.

B. We disagree that the intent of statutes and regulation was not followed when awarding various contracts for the project. We agree that certain established procedures were not followed, but note that several procedures could not be applied to this unique project.

1. Vernon Akin & Associates:

According to AS 36.98.030 a sole source contract is permitted if a waiver is granted. This waiver was signed by the Commissioner according to statutory requirements. The audit report suggests that the waiver did not contain sufficient written evidence to justify the waiver. However, no criteria exist for such a waiver. The waiver was therefore based on our understanding of the statutory requirements. Vernon Akins & Associates had just concluded a subcontract with another contractor on the mansion and he was by far the most knowledgeable engineer in Alaska with many years of prior experience on the mansion. There was no question among the staff familiar with this project that this firm could clearly perform the required tasks more satisfactorily than any other firm because of their prior work on the mansion. This is the

"test" required by statute and, hence, the reason the waiver was requested and approved.

2. The audit report fails entirely to note that Jerry Wood was selected according to procedures for contracts not exceeding $25,000, so that AS 36.98 did not apply. During one of the many investigations on this project it was pointed out that the rental cost of a vehicle should be included in the "total amount of the contract." We disagree, but immediately issued instructions to ensure that the "total amount of the contract" including car rental would not exceed $25,000 to avoid any potential for inadvertently stepping over the line on AS 36.98. This was possible because the fixed fee amount of the contract was only $21,100. This confirmed our stated intent not to exceed $25,000 and clearly assured that AS 36.98 did not apply. Please note the enclosed Attorney General's Opinion confirming the propriety of our action on this point. A review of the preliminary cost estimates for this contract, including contingencies, show the cost was always anticipated to be well below $25,000. This is confirmed by the fixed fee amount in the contract of $21,100. Accordingly, we take strong exception to the audit statement that the "contract clearly violates the spirit and intent of the law". We very carefully followed the spirit and intent of applicable law and suggest the audit comment is inappropriate.

a). As a matter of fact the business and financial relationship between Jerry Wood and Fred Seeger was severed over two years before this contract was signed. This is more than 1 1/2 years beyond which the Attorney General's office proposed last year in analogous legislation as constituting a conflict of interest violation. Also, Fred Seeger was organizationally in no way responsible for this work, nor did he have any authority over it.

We agree that anytime there is a "perception" or "appearance" of impropriety there is cause for concern. But if we based all our decisions on certain people's "perception" of a problem, one can readily imagine government coming to a virtual standstill.

It is regretable that a copy of the gentlemen's business card from their previous relationship received such wide circulation, but it hardly seems appropriate or responsible to use that as a basis for suggesting the contract may not be appropriate or that a conflict of interest existed.

b). It is irrelevant that Mr. Wood was placed on the register improperly. Because the original contract amount was not over $25,000, a register was not required; hence, it was not used for selection.

c). Applicable law requires a contractor to have a business license before he begins work in the State. This was done.

d). There are no statutory or procedural requirements on where a contractor states the location of his business. Mr. Wood stated his business mailing address as 1815 114th S.E., Everett, Washington 98205. He inadvertently stated the location of his business as our office, since he was working out of our office and the Governor's Mansion during the entire time he was on the project. It was an error to list our office as his business location, but his business mailing address was correctly noted.

e). This item is essentially correct. The project was "substantially complete" on December 2, 1983. But we fail to see the significance of this statement. If it is intended to suggest there was no need for Jerry Wood on this project we would take strong exception.

Late in the project development we determined a cost-reimbursable contract would be much more cost effective than the normal lump sum approach about which our staff is most familiar. Mr. Wood first came to the project as an advisor at our request and at his own expense (we paid travel and per diem only) because of our increasing concerns about the project. As a result it was evident that he had strong project management capabilities for fast-track cost-reimbursable contracts and, importantly, that we could learn from him how to better administer these type contracts. Another advantage was he could serve as a buffer for our staff and share their capabilities with new management in the Department who perceived in-house staff may not be able to efficiently administer projects.

Therefore, Jerry Wood was hired to supplement our own staff's capabilities and to give this project the best attention possible. He left the job near the end as soon as his functions could be assumed by staff with minor impact on the job.

3. We agree that Policy & Procedure 70-7001 was not followed. Each of the responsible individuals has been notified officially that it is unacceptable to ignore or take lightly substantive requirements in procedures.

In partial mitigation, we have reviewed the process used and are satisfied that statutory requirements for obtaining informal bids were met and that a documented process was used to ensure competition. Although the process was documented, the required waiver to support the lack of formal advertising was not obtained.

4. Same as 3. above.

5. For project control on a cost-reimbursable contract, we believe it is essential for the contractor's management to be immediately available to expedite the acquisition of materials and promptly respond to problems on the job. Several highly qualified contractors are headquartered locally to ensure good competition. In order to provide the level of on-site management necessary, key contractor management personnel not in Juneau would need to relocate during the project at a decided extra cost compared with local contractors. This was confirmed on the bids opened for the decorative contract. Since this was a cost-reimbursable contract, as opposed to the more conventional "lump sum" approach normally used by the State, contractor innovation and other project cost saving techniques were not compromised. In other words, only the time and materials mark ups for overhead and profit are competitive in a cost-reimbursable contract.

   The Department's Policy & Procedure on advertising is not applicable to the competitive contractor selection system used for this fast-track, cost-reimbursable contract.

   In retrospect, regardless of the mitigating factors, we agree that statewide advertising of the project would have precluded the audit comment. We have requested our Standards & Technical Services Division to develop procedures for these types of contracts.

   Meanwhile, we have instructed all personnel to advertise statewide should we encounter this type of project in the future.

   We would like to underline that the statutory requirements to advertise this project were in fact met.

   The undated contract is immaterial since work could not start until the Notice to Proceed was issued. Also, the payment and performance bonds were signed, dated and attached as part of the contract giving evidence of the effective date. A completion date is not appropriate because that responsibility rests with the State in a cost-reimbursable contract.

   The bonus was offered to induce the contractor to accelerate his work schedule. This was particularly important in this cost-reimbursable contract to ensure successful completion of the job.

6. While the advertising period for this project was less than specified in P & P 70-7001 it also should be noted that this P & P is designed primarily for lump sum contracts. It is not appropriate for the cost-reimbursable contracts used for this project. A contractor can prepare a prequalification package and time and materials bid in markedly less time than for a typical lump sum project. The adequacy of preparation time is evidenced by the number of bidders (five, which is average for this size job) and by the absence of any complaints from contractors.

You are correct to note the lack of established procedures for prequalification of contractors. The department has never before been involved in major renovation of historic buildings, so it was never anticipated that such procedures would ever be needed. Given this fact we developed a process to ensure a top quality professional and long lasting renovation. Rather than starting from scratch, however, we used our existing professional services procedures, to the extent applicable, to ensure a workable and fair process. We can now see ways to improve the process for future jobs of this nature. But, regardless of short comings which may appear in hindsight, no contractors were prevented or restricted from participating and we were never in a position of being committed to award the work to an unqualified contractor. Our experience on this project will be most helpful in developing a procedure for these types of historic/renovation projects in the future. We have requested our Standards & Technical Services Division to develop such procedures.

C. We feel the audit comments on the scope changes accurately describe the situation as we understand it.

D. See B.2. for response to these items.

E. No funds were transferred between appropriations on this project. Hence, it is factually incorrect to cite AS 37.07.080(e) when referring to which appropriation expenditures were charged.

We consider our FY 84 Operating Budget to be a proper appropriation to charge certain Design & Construction personnel costs working on the Governor's Mansion particularly when so much of this time was consumed in responding to the extraordinary number of inquiries and investigations on this project. However, to respond to your concern we have directed that these personnel costs in question be charged to the Governor's Mansion project to the extent funding allows.

We strongly disagree with the suggestion to transfer Maintenance & Operations costs to the project. These costs were incurred at the very end of the job. As you know our Maintenance & Operations staff has had a continuing responsibility for up keep on the Governor's Mansion for as long as anyone can recall. The Maintenance & Operations work was closely in line with this responsibility.

F. No comment. Not applicable to DOT&PF involvement.

G. No comment.

H. No comment. Not applicable to DOT&PF involvement.

Appendix A:

The original Jerry Wood contract was for a fixed fee of $21,100 to perform the work anticipated. Up to an additional $3,900 at the rate of $300/day was entirely at the discretion of the State. The car rental was later charged against this $3,900 to ensure the total original contract amount did not exceed $25,000. The Appendix should be changed to indicate these facts.

We trust this response is satisfactory.

Sincerely,

Jonathan W. Scribner
Deputy Commissioner

JWS/sh

Enclosure

cc: H. Glen Glenzer, Jr.
Acting Commissioner

MEMORANDUM

State of Alaska

TO: Jonathan W. Scribner
Deputy Commissioner
Southeast Region
Department of Transportation
and Public Facilities

DATE: January 10, 1984

FILE NO:

TELEPHONE NO: 465-3603

SUBJECT: Interpretation of AS 36.98

FROM: Norman C. Gorsuch
Attorney General

By:
Jack McGee
Assistant Attorney General
Transportation Section-Juneau

The question you raised in your memo of January 3, 1984 can be re-phrased as follows:

> Must the value of a rental car be included in determing whether the $25,000 limit for professional services contracts set out in AS 36.98 is satisfied?

AS 36.98.010 authorizes the state to enter into professional service contracts without going through the competitive bidding process when "the total amount of the contract does not exceed $25,000." The use of the word "total" here indicates that the value of all renumeration received by a contractor must be included when one is calculating the "total amount" of the contract. It follows, therefore, that the value of a rental car must be included in determining whether the $25,000 limit of AS 36.98.010 is reached.

It is my understanding that in Mr. Wood's contract relating to the Governor's Mansion, it was originally contemplated that the value of a leased car would not be included in determining total value of the contract. After the issue was raised, however, DOT/PF personnel were specifically directed to insure that Mr. Wood's contract did not exceed the sum of $25,000 including the value of vehicle rental. See appendix #1. This instruction, it seems to me, served to correct the original misunderstanding. As a result, there was no violation of AS 36.-98.010.

JM:ebc

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

[illegible] I. [illegible]Boff, P. E.
[illegible] Chief
[illegible] Design & Construction
[illegible]/PF

DATE August 9, 1983

FILE NO

TELEPHONE NO

Charles S. Matlock
Acting Director
[illegible] Region Design & Construction
[illegible]/PF

SUBJECT Consultant Contract
Governor's Mansion
Project No. H-79164

Please take the appropriate action to insure that the Consultant Contract for Jerry Wood does not exceed the contract amount of $25,000.00, including extended services and vehicle rental.

CSM:JWH:ma

Appendix #1

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

January 26, 1984

Members of the
Legislative Budget and Audit Committee:

We have reviewed the Department of Transportation and Public Facilities, and the Office of the Governor responses to our preliminary report on the Governor's Mansion Renovation Project. Our comments on the submitted responses are listed below:

Department of Transportation and Public Facilities

Findings and Auditor's Comments

B.2. We reiterate our statement in the report "in our opinion, the original contract amount exceeded $25,000, and therefore should have been advertised in accordance with AS 36.98". In addition, the amount paid on this contract and its amendment totaled $34,814.

E. Costs related to the Governor's Mansion Renovation should all be charged to the project and recorded in the accounting records accordingly. If sufficient funds are not available, it is not appropriate to record these costs in overhead or operating accounts. Rather, to cover these overexpenditures, the Department should request additional funds through either a revised program or a supplemental appropriation.

In addition, the Maintenance and Operations costs incurred at the end of the job were due to the mansion renovation and not general maintenance. As such, these appropriately should be charged to the project.

Gerald L. Wilkerson

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

MEMORANDUM State of Alaska

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

DATE: January 26, 1984

FILE NO: 366-353-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

By: James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

SUBJECT: Governor's mansion audit

RECEIVED
JAN 26 1984
LEGISLATIVE AUDIT

In connection with your audit of the renovation of the governor's mansion, you have asked for our advice and interpretation of various statutes. In answering your questions, we have first set out your question, followed by our response.

1. In light of ... [AS 41.98.170 and AS 41.35.040], what should the Department of Natural Resources (DNR) involvement have been with respect to the Governor's Mansion renovation project (the Governor's Mansion is on the National Register of Historic Places)? Should DNR have been the State Agency that budgeted for the mansion renovation? If DNR should have been more involved in the project such as receiving the appropriation and planning for the renovation what are the remedies that could/should occur?

We believe that the provisions of AS 41.35 do not apply to the governor's mansion renovation project. The mansion has never been designated a historic site as provided in AS 41.35.-030. The mansion remains the official residence of the governor and has been consistently managed by the Department of Transportation and Public Facilities (DOTPF) as an operating facility of the state. In any case, the placement of the mansion on the National Register of Historic Places does not constitute a designation under AS 41.35.030. The Department of Natural Resources (DNR) is not responsible for administering the financing of the renovation of the mansion. That responsibility rests with DOTPF.

2. If the original amount of a contract is $25,000, and is later amended up to a total of $35,000 (as is the case with the Jerry Wood, P.E. contract with DOTPF), should this contract be required to comply with AS 36.98 provisions? Or is it exempt because the original contract was $25,000?

AS 36.98 applies only to professional service contracts which exceed $25,000. AS 36.98.010. The consequences of exceeding this amount through amendment of the original contract are

...ied in AS 36.98 or the implementing regulations. A ...sion of the state administrative manual in effect be... enactment of AS 36.98 provided that "If an amendment to ... has the effect of placing the agreement, as amended, ... category of those requiring [Department of] Adminis... approval, such approval must be obtained." Administra... Manual, § 8114 (rev. Nov. 1980). Under that rule, the ... to the Wood contract should have been justified as a ...urce procurement in the same manner as provided in AS 36.-...(c)(1). The operative effect of the state administrative ... is in doubt after the enactment of AS 36.98. Deputy Com... Scribner correctly noted this deficiency in his letter ...tember 28, 1983, in which he set out his determinations ...ing the amendment. It is relevant to note that under 17 ...070 only the commissioner of transportation and public ...ities can waive the public solicitation requirements imposed ... 36.98. However, Scribner alone approved the amendments. ...lieve that DOTPF and DOA must amend 17 AAC 07 and 2 AAC 15 ...vide for the approval and processing of amendments which ...se the total contract price so that the $25,000 threshold ...ceeded. Under existing law and departmental practices, ... acted reasonably when it amended the Wood contract.

A regulation which prescribes procedures for the amend... of professional services contracts is necessary to avoid ...sion of the purposes of AS 36.98. Without some limitation of ... power to amend, the $25,000 threshold imposed by AS 36.98.010 ... meaningless. Until these limitations are adopted by regula... we believe that amendments which, if added to the original contract amount, cause the contract amount to exceed $25,000, the amendment must be justified in the same manner as an original contract covered by all of the provisions of AS 36.98.

The treatment of the expense attributable to the contractor's rental car is determined by the intent of the parties to the contract. If the rental is considered to be compensation for services performed, the value of the rent must be considered part of the contract amount. However, if the vehicle is considered to be a tool provided by the contracting agency with the specific intent to reduce the cost of performance, the rental cost should not be considered a part of the contract amount. DOTPF accounted for the rental car as if it were compensation for the contractor.

3. DOTPF advertised one of its [construction] contracts only three days (over a five day period) and restricted respondents to firms located in the City and Borough of Juneau. Was this a violation of the Statute? If

this violated the statutes and/or DOTPF P & P's, what are the remedies?

The advertising requirement for DOTPF construction contracts (financed entirely by state appropriation) are imposed by AS 37.05.230(2). AS 35.15.040(b). That subsection provides:

> (2) if the amount of the contractual services, purchase, or sale is estimated to exceed $5,000, sealed bids shall be solicited, when practicable, by publication in a newspaper calculated to reach prospective bidders and by posting notices in public places within the area where the work is to be performed or material furnished and in addition the department may also designate a trade journal for publication; the department shall also solicit bids by sending notices by mail to all active prospective bidders known to it and all bids shall be sealed when received, and shall be opened in public at the hour stated in the notice; the department may limit the solicitation of bids or negotiate directly if it finds that it is in the best interests of the state;

AS 37.05.230(2)(emphasis added). The statute does not set out with specificity the manner in which publication of a request for bids is made. These details are apparently covered by "policies" set out in an internal DOTPF publication. We believe it is not appropriate to provide for contract procedures which apply to the public in policy manuals. This topic should be set out in administrative regulations. The adoption of regulations to prescribe agency conduct is required if the subject matter covered "affects the public or is used by the agency in dealing with the public." AS 44.62.640(2). DOTPF must review the departmental policy and procedures manual to determine if any subjects covered there must be adopted as administrative regulations under the procedures specified in AS 44.62.180 - 44.62.290.

Generally, the failure to comply with competitive bid provisions established by law makes the resulting public contract void. However, for the contracts questioned by this audit, the minimum requirements prescribed by law (AS 37.05.230(2)) were complied with. Internal policies were waived by implication. Generally, the failure to follow internal policies and procedures does not void a contract. We believe that no violation of the competitive bid laws occurred.

4. The Office of the Governor has a contract with Phyllice Bradner dba Snow Goose Productions .... Is this a legal contract since it does not contain the amount of the contract on the first page?

Should the stated amount of the contract include the amount of furniture purchases and mark-up (total encumbered for this contract is $267,000 including services and purchases)? Could the Governor be held personally liable if the contract is deemed invalid?

Since there appears to be no control on the amount she can purchase and bill the State for, would the State (and/or the Governor) be liable for all purchases she makes for the mansion?

Is the scope of Services (Article II, Appendix B:) such that it is non-standard and should have been reviewed by the Department of Law?

What remedies are available if this contract or parts of it are deemed invalid?

It appears that the Office of the Governor used a standard form contract which did not contain provisions for setting out the contract amount on page 1. However, the updated professional services contract forms with all of the features required by AS 36.98 were not provided to agencies until after June 1, 1983. Pending adoption of the updated contract forms, DOA informally required the hand insertion of the contract amount on page 1. This informal policy was followed for the Snow Goose contract. Consideration of this issue does not stop with the requirement that the amount be stated, but what amount should be attributed to this contract. The Office of the Governor considers the contract amount to be $45,000. You have asked if the contract amount should include the approximately $267,000 worth of antique furnishings purchased by the contractor. We believe the contract amount for the professional services contract should have been an amount in excess of $45,000. The services of this contractor were obtained to assist the state in purchasing antiques. However, the contractor not only served as a consultant but, she was also compensated as if she were a supplier of the antiques. The contractor was permitted to mark-up the cost of an item for "handling" and was reimbursed for freight. The contract provided not only for the procurement of professional services but also for the purchase of goods. The cost of these charges should have been included in the contract amount of the professional services contract. Under the contract, as written, the

contractor received a set percentage of the purchase price for handling. This form of compensation should be avoided because the contractor has no incentive to seek bargains for the state. Alternatively, the purchase of the antiques could have been treated as a separate contract with Snow Goose. It is a close question whether the services necessary to locate, purchase and provide for the delivery of antiques comes within the definition of the term "professional services" set out in AS 36.98.080(2). It is probable that a noncompetitive supply contract could have been awarded to purchase antiques because of their unique, one of a kind nature. Presumably, for these items, a certification can be made that no competition exists. See AS 37.05.230(1)(i).

We believe the contract did not contain terms which varied the provision of the standard form contract. AS 36.98.-045. However, because of the delegation provisions, the contract should have been reviewed by the Department of Law before award. This review would have been desirable but not mandated by law. DOA should have obtained this review before awarding the contract to Snow Goose. Snow Goose was delegated by contract the power to act as a state purchasing officer with little control over the exercise of the contractor's discretion. While we believe this contract is valid, in the future a state agency can avoid criticism for a similar delegation if it makes a delegation only to the extent necessary to obtain a sufficient number of price quotes. The agency should then review the quotes with the assistance of the professional and make the purchase.

5. Was it a conflict of interest for a DOTPF official to be involved in the decision to make the Wood contract?

We issued an opinion on this subject in which we concluded that there was not a conflict of interest resulting from this contract. 1983 Inf. Op. Att'y Gen. (Nov 16; 366-124-84). A copy of that opinion is attached.

JLB/pjg

Enc.

MEMORANDUM State of Alaska

TO: Jonathan W. Scribner
Deputy Commissioner
Southeast Region
Department of Transportation
and Public Facilities

DATE: November 16, 1983

FILE NO: 366-124-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

By: Diane T. Colvin
Assistant Attorney General
Department of Law

SUBJECT: Review of department's project management contract for conflict of interest

You asked us to review the contract award made to Jerry D. Wood by the Department of Transportation and Public Facilities. Mr. Wood was hired in conjunction with renovation of the Governor's mansion to provide project management services. On August 4 the Ombudsman issued an opinion in response to a complaint received on the project services contract. One of the Ombudsman's findings was that the contract involved a conflict of interest, because of Mr. Wood's business relationship with Fred Seeger, Deputy Commissioner, Department of Transportation and Public Facilities. You have asked us to review the conflict of interest issue.

According to your response of August 9 to the Ombudsman, Mr. Seeger suggested Jerry Wood for the management services project initially. After that recommendation was made, you claim that Mr. Seeger had no further involvement in the award of the contract to Mr. Wood. You have also informed us that although Mr. Seeger and Mr. Wood did have a prior business relationship, that relationship was severed at least two years ago.

As you may know, the applicable standard for conflict of interest is the common law. This is a strict standard, prohibiting not only actual conflicts of interest but also requiring avoidance of even the appearance of impropriety. See 1982 Op. Att'y Gen. No. 15 (Dec. 3).

Based on the facts you provided, we find no conflict of interest in the award of the Wood contract because Mr. Seeger did not and could not benefit as a private person from the contract. The issue arose because of the previous business relation between the two individuals. However, if as you state, the relationship was severed two years ago, the potential for conflict is tenuous. Even under the common law, the amount of time involved here between the business association and the award of the contract diminishes the possibility of a conflict.

INTERNAL AUDIT
DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
GOVERNOR'S MANSION

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: Jon Scribner
Deputy Commissioner
Southeastern Region
Department of Transportation
& Public Facilities

DATE November 2, 1983

FILE NO:

TELEPHONE NO. 465-3900

FROM: Fred J. Seeger
Deputy Commissioner
Standards & Statewide Programs
Department of Transportation
& Public Facilities

SUBJECT: Special Audit 83-S-10
Governor's Mansion

Attached for your information and response is a special audit conducted on the Governor's mansion project. Please address comment on the specific contracts addressed and also on the other comments and recommendations listed within report.

Please respond within seven working days as this is a high priority.

Attachment

cc: Daniel A. Casey, Commissioner
Department of Transportation & Public Facilities

RWJ:smm

CONFIDENTIAL

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: Fred J. Seeger
Deputy Commissioner
Standards & Statewide Programs
Department of Transportation
& Public Facilities

DATE: November ?, 1983

FILE NO: 010-1390

TELEPHONE NO: 465-2080

FROM: Robert W. Janes, CPA
Chief, Internal Review
Department of Transportation
& Public Facilities

SUBJECT: Special Request 83-S-10
Review of Contracts
Governor's Mansion

Per our conversation and your request on October 28, 1983, I have reviewed the project files both in the Buildings Section in Douglas and the contract files in the Contracts Section at the Glacier Avenue building. I wish to express my appreciation to the staffs of both offices for their assistance in this review. They were very straight forward and made themselves available with necessary documents on short notice. The scope of the review was to examine how contracts were awarded on the Governor's mansion and was limited to three contracts. Rationale for their selection is at Appendix A. The main effort in the review concentrated on three contracts as listed below:

Firm	Contract Amount
Harbor Plumbing and Heating Plumbing, Heating, Electrical Renovation (Construction Contract)	$1,075,000
Coogan Construction Company Capital Construction Company (Joint Venture) Architectural Renovation (Construction Contract)	$ 670,000
Vern Akin & Associates Mechanical/Electrical Design (Professional Services Contract)	$ 60,000

The statutes and policies that apply to the award of these contracts are as follows and copies are attached for your information and reference at Appendix B.

Title 35.15.010 - Public Works - Construction Procedures
35.15.030 - Public Works - Construction Procedures
35.25.020 - Public Works - General Provisions
35.27 - Art Works in Public Buildings
36.98 - Professional Service Contracts
37.05.230 - Public Finance - Bids
Regional Policy and Procedure Memorandum on Advertising from Scribner to Directors dated 9/23/82
Policy & Procedure (P&P) 10-0013 Legal Advertisements - Invitation to Bid

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I will address each contract individually and make other comments but because of the limited amount of time we have spent on this review the areas addressed should be considered preliminary, as other information may become available with further research. The following areas on the mansion contracts may concern those outside the Department and expose the Department to criticism.

Harbor Plumbing Contract

The contract was advertised in the Empire three times. One firm responded. A time and materials contract was let to the one responding firm, Harbor Plumbing.

Because of the size of the contract and the need to solicit interest from the widest possible area, the department is exposed to the allegation that the contract should have been advertised in more than the Empire and in newspapers of statewide solicitation not restricted to City & Borough of Juneau. This would insure the State would have received bids from all interested firms. The Department may limit solicitation of bids or negotiate directly as per AS 37.05.230 "Competitive Bids", but it must find that this is in the best interests of the State. I did not find where this was sufficiently documented to restrict advertising and bids from only Juneau firms. The newspaper ad stated that work could total $500,000, but the current contract is for $1,075,000. Other firms might have been interested if it was known that the contract would be over a million dollars. Other information, as required in Policy & Procedures 10-0013, Advertisement for Bids, is not included in the ad. Principle items of work and project details are only briefly addressed in the ad. There is no reference to project completion dates or notice for certification on hire of minority subcontractors as listed in the P&P format at Appendix C. There is also a question as to whether the contract was for management and coordination or for plumbing, heating and electrical work. The ad states "to provide management and coordination to provide work to renovate the Governor's Mansion plumbing, heating and electrical systems" Appendix C. The standard for advertising professional service contracts, which generally are much smaller dollar contracts, found in AS 36.98.030(a) requires advertising in at least one newspaper of general statewide circulation and one of local circulation which raises the question as to whether the contract was adequately advertised.

Coogan/Capital Construction Joint Venture

A project for Governor's Mansion Architectural Renovations was advertised. Five firms responded with questionnaires and bids. Three firms were prequalified and the lowest bid of these three firms was accepted. The two other bids were rejected. This procedure was spelled out in letter to concerned firms.

Because of the importance placed on the solicitation for bids on contracts of this nature in the statutes, the intent is to obtain the largest number of responses to insure the State receives the best possible price and there is open competition. There is also a question as to whether the advertisement contained all items required in Policy and Procedures

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Appendix C as the advertisement used for this contract did not mention project completion dates, principle items of work, or certification on minority subcontractors.

Prequalification is available to the Department under an Attorney General's opinion note to AS 35.15.050 but a "system" must be established. In this instance a method was established for only this contract. The Department has no system of prequalifying contractors for construction contracts that applies to all jobs or even time and materials jobs. In this case a method similar to that of professional services contracts was used which had the effect of restricting competition as two bids were not opened.

Vern Akin Contract - Mechanical and Electrical Design

This is a professional services contract for which normal selection procedures were waived by the Commissioner. The waiver contains justification that the Governor has expressed concern as to time required and, to expedite work, a waiver was requested. The mansion has not had any major renovation for many years so using the time constraints as a justification for a waiver appears inappropriate. Also, in the AS 36.98.030, an exemption to advertising for proposals for professional services may be made if the agency demonstrates sole source or there is a determination of public necessity. The definition of public necessity in AS 36.98.080(3) is that "an urgent public need that could not have been anticipated... or... emergency situations where work is necessary to protect life or property. Since neither of these criteria appear to be met, a waiver may have been inappropriate.

Other Comments

1. Review of the contract files suggest that because of the time constraints placed on this project, and the lack of a well-defined scope of work cost overruns were incurred. Two of the contracts contained a total of $35,000 in bonuses for performance by a specific date. The performance dates were not met but, because there was no fault of the contractor, the State will be forced to pay the bonuses anyway. Also, the current cost breakdown for the Harbor Plumbing contract contains $150,000 for extended work hours due to time constraints (necessity for overtime). Perhaps the Department personnel should have determined the magnitude of the problem earlier on in the project so that potential cost overruns would have been known by top management.

2. Some documents available in files in Douglas were not contained in master files in the Contracts Section. All pertinent documents on selection, advertising, award and amendments should be in the master file as required by Department P&P 10-0012.

3. There may be potential problems with union contracts as the Department may have been able to have some of the work performed by State Local 71 employees.

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4. Also, we could find no contract as required by AS 35.27.20 for artwork up to 1% of construction cost. (See Appendix E for procedures and statute.)

5. In early May, when the Governor's mansion refurbishing project was first conceived, the Southeastern Region Buildings Division defined some readily-apparent improvements. They were for roof repair, attic insulation, and cleaning and refurbishing exterior stonework and the south-side deck. Local contractors were called, invited to a walk-through on or about 5/5/83, and quotations solicited for cost-plus work. On 5/9/83 a contract was signed with the August Corporation for the roof and attic work and on 5/23/83 another was signed with Rhine Stone and Plastering Company. This course of events did not follow the procedures defined in "Advertising Procedures for State-funded projects under $100,000", issued by Jon Scribner to Regional Design Directors on 9/23/82 where advertising was to be made even for informal solicitation, Appendix B.

6. In a bid by Harbor Plumbing dated 5/24/83, also for cost-plus, the two contractors noted in 5. above were cited as proposed subcontractors. Harbor's bid was accepted. As a result, for trades contracted for and already on-the-job the State paid Harbor's additional markup (Journeymen Carpenter per hour for the August contract is $35.20/hour and $42.06 in the Harbor contract as an example, Appendix D). Five percent markup was also added to subcontractor bills as allowable prime contractor markup. Because of this the state may have been charged excessive profit and overhead and it is conceivable that the State may have paid twice for the same work.

7. Several Equal Employment Opportunity (EEO) forms are required to be part of the contract and also to be submitted during the term of the contract (see Appendix F). Some of the contracts examined in the Contracts Section master file did not contain all documents and some were not completely filled. Examples would be form 25A330A (State EEO Goals and Timetable) missing from Coogan/Capital contract file and incomplete forms 25A321 (Female and Minority Business Contact Reports) for both Coogan/Capital and Harbor Plumbing contracts. Also, I was unable to determine if form CC-257 U.S. Department of Labor, on monthly employment utilization has been submitted as required.

Recommendations

1. An Attorney General's opinion should be solicited to clarify intent of the statutes concerning advertisements, bid requirements, and contractor prequalification on Public Works Construction contracts.

2. Departmental procedures should be evaluated and clarified to cover this type of situation and insure that all requirements are documented. Standardized forms should be developed to document such items as informal solicitations with follow-up in writing, telephone conversations with contractors, and administrative procedures for construction contracts. Also, a uniform procedure for handling time and materials contracts should be set up.

CONFIDENTIAL

3. All documents which support a contract should be filed in one location, preferably the Contracts Section master files in Juneau, so that all information is available in one place. At any rate, a standardized system should be established where all supporting documents are filed in one location.

CONFIDENTIAL

APPENDIX A

Harbor Plumbing and Heating $1,075,000

Selected because bids should have been obtained as contract is over $100,000 as specified in AS 35.15.030 incentive bonus $20,000 additional.

Coogan/Capital Construction Joint Venture $670,000

Selected because bids should have been obtained as contract is over $100,000 as specified in AS 35.15.030 incentive bonus $15,000 additional.

August Corporation $90,000

Not examined because contract is under $100,000.

Rhine Stone and Plastering $6,000

Not examined because contract is under $100,000.

Vern Akin and Associates $60,000

Examined because it is a professional services contract originally over $25,000 and subject to AS 36.98.

Linn Forrest Architects $35,000

Originally not over $25,000 and was not examined.

Jerry D. Wood $35,000

Originally exactly $25,000 and has had an Ombudsmen examination and was not examined.

Larry Breeding $10,200

Not examined as contract is under $25,000.

Douglas Trucking $10,000

Not examined because of total dollars.

Note: Dollar figures came from copy of memorandum from Don Dieckmeyer, Director of Southeastern Region Design and Construction to Mitchell Abood, Representative, Alaska State Legislature.

October 24, 1983

RE: Governor's Mansion
Renovations
Project No. E-79164

Mitchell Abood, Representative
Alaska Legislative Council
Pouch V
Juneau, Alaska 99811

Dear Mr. Abood:

The following is a list of both Construction and Professional Services Contractors and contract amounts for the Governor's Mansion Renovation project:

1. Rhine Stone and Plastering - $6,000.00. (Portico Deck Resurfacing)

2. August Corporation - $90,000.00. (Roof Repair, Attic Insulation, Phase I Work Preparation)

3. Harbor Plumbing & Heating - $1,075,000.00. (Plumbing, Heating, Electrical, Sprinklers, Fire Alarms, Intrusion Detection, Phone System, etc.)

4. Coogan/Capitol Construction, J.V. - $670,000.00. (Painting, Patching, Millwork, Tile Work, Carpeting, etc.)

5. Vernon Akin and Associates - $60,000.00. (Mechanical and Electrical Design)

6. Linn Forrest Architects, A.I.A. - $35,000.00. (Previous Contract $10,097.99, Existing Contract $18,000.00 for Renovation Design Work, $6,000.00 for Amendment for Addition Design Services)

7. Jerry D. Wood - $35,000.00. (Construction Management, Professional Service)

8. Larry Breeding - $10,200.00. (Preliminary Sprinkler Design Work)

Other associated costs for the project are as follows:

1. Douglas Trucking - $10,000.00. (Storage of Mansion Furnishings, estimate)

2. State Administration Cost - $75,000.00. (Inspection, Design Manager, Advertising, etc.)

3. Incentive Bonus - $35,000.00. ($20,000.00 Bonus for Harbor Plumbing and Heating, $15,000.00 Bonus for Coogan/Capitol Construction) payment under

TOTAL	$2,101,200.00
TOTAL Available as per attached Project Development Authorization	$2,144,000.00
Balance for Unknown Costs	$ 42,800.00

Copies of all Contracts and Project Development Authorizations are included for your review.

This information is sumitted pursuant to a request this date by Ms. E. Bales of your staff.

Please contact me if I can provide clarification and/or further information.

Sincerely,

Don Diechmeyer
Director
S. E. Region Design & Construction
DOT&PF

DD:TH:ma

Attachment

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

The File

DATE: September 13, 1983

FILE NO: 220E

TELEPHONE NO: 364-4314

SUBJECT: Governor's Mansion Renovations Project No. H-79164

Tom Metlicka
Design Manager
Buildings Design & Construction
DOT/PF

It has been determined that the existing budget for Phase I of the Governor's Mansion Renovations cannot be met. The following describes the events involved in this situation and identifies the increased costs relative to the original budget.

The Phase I, mechanical and electrical, work was estimated and then designed by Vernon Akin and Associates. This is a well developed organization that has an excellent reputation for providing work that is accurate and of high quality. We have worked with Vernon on a number of problems concerning this project and as a result have developed a high personal confidence regarding his work. Vernon's estimates for this work was approximately $600,000.00 and that value was used by the us as the budget amount for this portion of the renovation.

During the week of July 20, 1983, we requested an estimate from the Phase I contractor, Harbor Plumbing and Heating, for the cost of their work. This was required to confirm the original estimate and to force their attention toward coordination of their work. On July 29, 1983, they provided an estimate of $592,132.00. This compared well with the $600,000.00 budget and thus further developed our confidence in this phase of the renovation.

Beginning with the billing on August 13, 1983, the billings began to rise in value significantly. We noticed the increase but still felt confident. On August 27, 1983, we received a current billing total of nearly $600,000.00 (the total budget). We requested a new estimate of the total cost and on September 1, 1983, Harbor provided an estimate of $966,000.00. They indicated that $200,000.00 of the $366,000.00 difference was due to our incorrect interpretation of their July 29, 1983 estimate. They contend that their first estimate was $592,132.00 plus the $200,000.00 that they had billed the State to that date. Therefore, their July 29, 1983 estimate was actually $792,132.00 total. This was not our understanding of the situation.

We discussed this new estimate with Vernon Akin. By comparing the latest Harbor estimate with Vernon's original estimate we found that there were two discrepancies regarding the electrical work. The original estimate for the general electrical work was $75,000.00. Vernon stated that the normal ratio for mechanical to electrical costs for work of this nature is approximately 2 to 1. He had not reviewed his estimate for this ratio and now agrees that the value for this work should have been at least $150,000.00. Also, the scope of the original electrical did not include the cost of the telephone, television and fire alarm systems. This work was added to the scope of the

project by us after Vernon's estimate and no addition was made to budget. We estimate the cost of this additional work to be $85,000.00.

The following itemizes the elements involved in the increases costs and lists an estimate of their additional cost.

	ITEM	ADDITIONAL COST
1.	The original estimated cost of the electrical work was not correct.	$ 75,000
2.	The original electrical scope did not include the television, telephone and fire alarm systems.	$ 85,000
3.	The original estimate did not include the costs for extended work hours.	$150,000
4.	Standard contingency (10%)	$ 90,000
	TOTAL	$400,000

These items accurately define the budget discrepancy. We have spent as much time as possible with the workman on this project and are convinced, by personnel observation, that their productivity has met or exceeded industry standards.

TM:JW:ma

cc: Jonathan W. Scribner
Charles S. Matlock
W. I. DeHoff
Jerry Wood

constructed or renovated by the state unless a certificate that the facility complies with adopted facility procurement has been issued. (§ 1 ch 216 SLA 1975)

Sec. 35.10.200. Definitions. In AS 35.10.160 — 35.10.200,

(1) "life cycle costs" means analytic techniques which provide data to describe the first cost of procurement of public facilities and the maintenance cost, operation cost and occupancy cost of the facilities;

(2) "policies" includes but is not limited to budget accounting and cost planning techniques, facility design techniques, and contractual techniques for the procurement of labor, materials and contractual services;

(3) Repealed by § 35 ch 168 SLA 1978. (§ 1 ch 216 SLA 1975; am § 35 ch 168 SLA 1978)

Effect of amendment. — The 1978 amendment deleted paragraph (3), which read "'public facilities' does not include highways or vessels of the marine highway system."

Chapter 15. Construction Procedures.

Section		Section	
10.	Construction by department	80.	Local control of state public works projects
20.	Request for public bids	90.	Use of appropriated funds
30.	Advertisement, bids, contracts, and informal bids	100.	Responsibility of department
40.	Procedures for the award of contracts	110.	Title to site and completion of project
50.	Award of contracts	120.	Definitions
60.	[Obsolete]		

Sec. 35.15.010. Construction by department. (a) Except as provided in AS 44.33.300, it shall be the general policy of the department to require the construction of all public works under bid contract. However, when the estimated cost of a construction project is less than $100,000, or when it appears to be in the best interests of the state, the department may perform the work, notwithstanding any other provisions of law. A complete record shall be kept by the commissioner or his designee of all transactions entered into under this section including names of employees involved in the transactions.

(b) Construction or professional services in connection with the construction of a public work performed by the department under (a) of this section which have an estimated cost exceeding $5,000 may not be performed by the department unless the commissioner determines, in writing, that the cost to the state will be less than that incurred as a result of a formally advertised or negotiated contract. The determination of the commissioner shall be supported by findings of fact which shall set out enough facts and circumstances to clearly justify the determination. The determinations and findings shall be maintained as a permanent record of the department.

(c) In this section, "professional services" means architectural, engineering, or land surveying services. (§ 1 art III title IV ch 152 SLA 1957; am § 5 ch 277 SLA 1976; am § 1 ch 143 SLA 1977; am § 4 ch 104 SLA 1978)

Cross reference. — For provisions requiring consistency with local government plans and ordinances before commencing construction of a public project, see AS 35.30.010 et seq.

Effect of amendments. — The 1976 amendment, in present subsection (a), added "Except as provided in AS 44.33.300" to the beginning of the first sentence.

The 1977 amendment, in present subsection (a), substituted "$100,000" for "$20,000" in the second sentence and added the third sentence.

The 1978 amendment added subsections (b) and (c).

Am. Jur. 2d and C.J.S. references. — 64 and 65 Am. Jur. 2d, Public Works and Contracts, §§ 105, 119, 211, 229.

72 C.J.S. Supplement, Public Contracts, § 1 et seq.

Sec. 35.15.020. Request for public bids. The department may request bids and award contracts for construction work. The department may require the contractor to furnish equipment, labor, materials, and supplies for the project, or it may elect to furnish the materials and supplies. If the department elects to provide materials and supplies for a project, it shall make the election at the time it adopts the construction program. The department shall request bids for the total of the materials and supplies for a project according to the class, type, and nature of the materials and supplies, and may award a contract upon the basis it considers efficient and economical, whether upon the basis of delivery to the construction project directly or to a central storehouse or storehouses maintained by the department. Those materials and supplies so purchased by the department may be delivered to the project site without expense to the contractor, or it may sell them to the contractor at cost and make the materials and supplies a part of the construction cost. (§ 3 art III title IV ch 152 SLA 1957)

ALR references. — Right of public authorities to reject all bids for public work or contract, 31 ALR2d 469.

Revocation, prior to execution of formal written contract, of vote or decision of public body awarding contract to bidder, 3 ALR3d 864.

Sec. 35.15.030. Advertisement, bids, contracts, and informal bids. When the estimated cost of any construction under this chapter exceeds $100,000, the department shall, except as provided in AS 35.15.010 and in AS 44.33.300, proceed to advertise, request bids, and award the contract in the manner provided in §§ 40 and 50 of this chapter. When any proposed construction contract is for a sum less than $100,000, it is discretionary with the department whether the contract is advertised and awarded in accordance with AS 35.15.040 and 35.15.050. In all events the department shall request informal bids from as many contractors as can be requested conveniently. A complete

record shall be kept by the commissioner or his designee of all transactions entered into under this section including names of employees involved in the transactions. (§ 4 art III title IV ch 152 SLA 1957; am § 31 ch 71 SLA 1972; am § 6 ch 277 SLA 1976; am § 2 ch 143 SLA 1977)

Effect of amendments. — The 1976 amendment inserted "and in AS 44.33.300" in the first sentence.

The 1977 amendment substituted "under this chapter exceeds $100,000" for "exceeds $20,000" in the first sentence, substituted "$100,000" for "$20,000" in the second sentence, and added the fourth sentence.

Legislative history report. — For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 899.

Am. Jur. 2d, ALR and C.J.S. references. — 64 Am. Jur. 2d, Public Works and Contracts, §§ 30-59.

Determination of amount involved in contract within statutory provision requiring public contracts involving sums exceeding specified amount to be let to lowest bidder, 53 ALR2d 498.

72 C.J.S. Supplement, Public Contracts, §§ 7-14, 17.

Sec. 35.15.040. Procedures for the award of contracts. (a) If federal funds are used, the award of the contract shall comply with federal law and the rules and regulations promulgated under it and with state law to the extent it is consistent with federal law.

(b) In all other cases, the award of the contract shall comply with this title, and AS 37.05, and the rules and regulations promulgated under them and which are consistent with this title. (§ 5 art III title IV ch 152 SLA 1957)

ALR references. — Validity of governmental requirement of oath of allegiance or loyalty, 16 ALR2d 302.

Construction and operation of "equal opportunities clause" requiring pledge against racial discrimination in hiring under construction contract, 44 ALR3d 1283.

Sec. 35.15.050. Award of contracts. The department shall award the contract to the lowest responsible bidder, or it may reject all bids. If no satisfactory bid is received, the department may readvertise the project. The department shall make the award in compliance with applicable federal law and the regulations promulgated under it, with this title, and in compliance with AS 37.05, and the rules and regulations promulgated under it, where they are not in conflict with this title and federal law. (§ 6 art III title IV ch 152 SLA 1957)

The purpose of this section and the Fiscal Procedures Act (AS 37.05) is not only to protect the state and the public purse from uneconomic contracts let because of failure to request competitive bids and because of possible favoritism, but also to insure that contractors are insured a certain amount of "fair play" in dealing with the state government and in competing with one another for state contracts. 1959 Op. Atty. Gen., No. 27.

The department has authority to require contractors to set up a system of prequalification of contractors as a prerequisite for bidding on state construction projects. 1959 Op. Atty. Gen., No. 27.

And under such system to require contractors to furnish periodic and financial statement. — 1959 Op. Atty. Gen., No. 27.

recording district. Upon vacating, title reverts to the persons, heirs, successors, or assigns in whom it was vested at the time of the taking. The department may transfer land considered no longer necessary for public works purposes to the Department of Natural Resources for disposal. The proceeds of disposal by the Department of Natural Resources shall be credited to the funds from which the purchase was originally made. (§ 4 art IV title IV ch 152 SLA 1957)

Chapter 25. General Provisions.

Section
10. Purpose and intent
20. Definitions

Sec. 35.25.010. Purpose and intent. The purpose of AS 35.05, 35.10, 35.15, and 35.20 is to establish a public works department capable of carrying out a public works planning and construction program which will provide public buildings necessary to efficient government, and boat harbors, jetties, dikes and breakwaters necessary to the economy of Alaska communities, all of which is to the advantage and benefit of the general welfare of the public. (§ 2 art I title I ch 152 SLA 1957; am § 32 ch 71 SLA 1972)

Sec. 35.25.020. Definitions. In this title, unless the context otherwise requires,

(1) "construction" or any derivative of the term "construction" means construction, reconstruction, alteration, improvement or major repair;

(2) "department" means the Department of Transportation and Public Facilities;

(3) "excess lands" means lands acquired for the state in excess of land required for a public work, when the remaining portion of a parcel of land acquired is left in a shape or condition as to be of little or no value to its owner, or to give rise to claims or litigation concerning severance or other damage;

(4) "maintenance" means the preservation of each type of facility as nearly as possible in its original condition as constructed, or as improved;

(5) "public building" means a building owned or controlled and held by the state for government or public use;

(6) "public works" means all fixed works constructed or maintained by the Department of Transportation and Public Facilities or any of its divisions, and includes but is not limited to work on a public building, boat harbor, jetty, dike, breakwater, or airport. (§ 3 art I title I ch 152 SLA 1957; am §§ 1, 2 ch 122 SLA 1960; am § 1 ch 96 SLA 1962; am Executive Order No. 39, § 11 (1977))

(1) review the register of professional services contractors maintained by the commissioner under AS 36.98.020; and

(2) provide a request for proposals for the proposed professional services contract to each prospective contractor who, after review of the register of professional services contractors under (1) of this subsection, the agency finds is qualified for consideration for the contract.

(c) A request for proposals must be extended to a sufficient number of prospective providers of the required services to assure that public interest in competition is adequately served. Proposals from at least six persons or firms with the required expertise shall be solicited for contracts equal to or greater than $100,000. Proposals from at least three persons or firms with the required expertise shall be solicited for contracts of less than $100,000 if the expertise required is available. If the expertise required is not available to enable an agency to solicit the number of proposals otherwise required under this subsection, the agency shall solicit proposals

(1) from each person or firm listed on the professional services contractors register maintained under AS 36.98.020 who appears to possess the required expertise;

(2) from each person or firm responding to the public notice given under (a) of this section who appears to possess the required expertise.

(d) The provisions of this section do not apply if

(1) the contracting agency demonstrates that there is a single source of the expertise or knowledge required or that one person or firm can clearly perform the required tasks more satisfactorily because of the person's or firm's prior work; however, this exemption applies only if the head of the state agency has submitted a written request to the commissioner that details the reasons for the exemption and the commissioner or deputy commissioner has authorized in writing the state agency to enter contract negotiations with the single source;

(2) the commissioner makes a written determination that public necessity will not permit delay incident to the procedures otherwise required by this chapter; or

(3) the service is to be provided by another state agency, a federal agency, or a political subdivision of the state.

(e) A request for proposals must contain a description of the work to be performed under the contract and the terms under which the work is to be performed. A request for proposals must contain that information necessary for a prospective contractor to submit a response or contain references to any information that cannot reasonably be included with the request. The request for proposals must provide a description of the factors that will be considered by the state agency when it evaluates the proposals received.

(f) Nothing in this section limits the authority of an agency to use additional means that it may consider appropriate to notify prospective

(2) "professional services" means professional, technical, or consultant's services that are predominantly intellectual in character and that

(A) include analysis, evaluation, prediction, planning, or recommendation; and

(B) result in the production of a report or the completion of a task;

(3) "public necessity" means an urgent public need that could not have been anticipated or foreseen; the term also includes emergency situations when work is necessary to protect life or property;

(4) "request for proposals" means a written solicitation for contract proposals by prospective contractors that sets out the nature of the services to be performed or product to be secured with sufficient information for a qualified prospective contractor to prepare a contract proposal for consideration and evaluation by the state agency;

(5) "state agency" means a department, institution, board, commission, division, authority, or other administrative unit of the executive branch of state government, and the University of Alaska. (§ 5 ch 144 SLA 1982)

Sec. 37.05.220. Purchasing agent. The Department of Administration is the purchasing agent for the state. The department shall

(1) purchase, rent, or otherwise provide for the furnishing of supplies, materials, equipment, or contractual services for all state agencies;

(2) have power to authorize an agency to purchase directly certain specified supplies, materials, equipment, or contractual services under conditions and procedures prescribed in § 230 of this chapter;

(3) prescribe the manner in which supplies, materials, and equipment shall be purchased, delivered, stored, and distributed;

(4) prescribe the time, manner, authentication, and form of making requisitions for supplies, materials, equipment, and contractual services;

(5) fix standards of quality and quantity and develop standard specifications after consultation with the several state agencies, and approve or determine final specifications;

(6) have power to transfer to or between agencies or to sell or trade in supplies, materials, and equipment of agencies which are surplus, obsolete, or unused; and the department shall make proper adjustments in the accounts of the agencies concerned;

(7) prescribe the manner of inspecting deliveries of supplies, materials, and equipment and of making tests of samples submitted with bids and samples of deliveries to determine compliance with specifications;

(8) prescribe standard forms for bids and contracts for construction, purchases of supplies, and other purposes, which bids and contracts may contain provisions which the department considers necessary; but all contracts for construction shall require the filing of an acceptable performance bond and a penalty provision for failure to perform the contract according to its terms;

(9) provide for other matters which may be necessary to carry out the provisions of this chapter and the rules and regulations adopted under it. (§ 1 art IV ch 82 SLA 1955; am §§ 6, 7 ch 186 SLA 1957; am § 1 ch 55 SLA 1960)

Am. Jur. and C.J.S. references. — 42 Am. Jur., Public Funds, § 1 et seq.
81 C.J.S. States §§ 168 to 176.

Sec. 37.05.230. Competitive bids. In the manner provided in this chapter and rules and regulations established under it

(1) a contract for construction and repairs, or a purchase of and contract for supplies, materials, equipment, and contractual services must be based on competitive bids; an award shall be made to the lowest responsible bidder after advertising for bids, except that (A) Repealed by § 2 ch 92 SLA 1967; (B) a bid shall be awarded to an Alaska bidder if his bid is not more than five per cent higher than the lowest nonresident bidder's; and (C) competitive bids need not be required (

for contractual services where no competition exists; (ii) for sales involving fair trade items; (iii) when, in the judgment of the purchasing agent, food, clothing, or medical supplies, or materials for use in laboratory and experimental studies may be purchased otherwise to the best advantage of the state; (iv) where rates are fixed by law or ordinance; (v) for items traded in on like items; or (vi) for professional services;

(2) if the amount of the contractual services, purchase, or sale is estimated to exceed $2,500 sealed bids shall be solicited, when practicable, by publication in a newspaper calculated to reach prospective bidders and by posting notices in public places within the area where the work is to be performed or material furnished and in addition the department may also designate a trade journal for publication; the department shall also solicit bids by sending notices by mail to all active prospective bidders known to it and all bids shall be sealed when received, and shall be opened in public at the hour stated in the notice; the department may negotiate directly if it finds that it is in the best interests of the state;

(3) a contractual service, purchase or sale where the known requirements are estimated to be less than $2,500 may be made either upon competitive bids in accordance with (2) of this section or in the open market, in the discretion of the department; but, so far as practicable, shall be based on at least three competitive bids and recorded as provided in § 240 of this chapter; small purchases of less than $300 in the discretion of the department may be made on the open market, and may be by cash payment from petty cash accounts set aside for that purpose; the department shall determine the amount of the petty cash accounts needed by each state agency, and inspect the petty cash accounts at least once each year to determine that the total plus amounts of receipts for unreplenished disbursements is equal to the fixed sum of cash set aside; shortages in petty cash accounts are a personal liability of the responsible head of the agency to whom the account is set aside; the department shall make all necessary rules and regulations governing use and replenishment of petty cash funds;

(4) the provisions of this section relative to competitive bids do not apply to contracts for the operation of transportation systems for students to and from the schools within the state, as are authorized under AS 14.10.070; and these contracts may be awarded by bid or negotiation and, at the discretion of the Board of Education, may be awarded for periods of three years or less;

(5) an "Alaska bidder," for the purpose of bid awards under (1) (B) of this section, is a person who

(A) holds a current Alaska business license,

(B) submits a bid for goods or services under the name as appearing on his current Alaska business license,

(C) has maintained a place of business within the state for a period of six months immediately preceding the date of his bid.

(6) the competitive bid requirements of this section do not apply to air taxi services used by state employees when no formal contract is executed; the department affected shall pay the air taxi operator the tariff rates as published by him with the Air Transportation Commission for the type of aircraft required; the tariffs need not be uniform throughout the state and may reflect the diverse conditions of various areas of the state; the air taxi service used in each case shall be selected by the state employee who is to fly in the aircraft, or if more than one state employee is flying in the aircraft by the employee in charge; in all cases the air taxi operator shall have complied with AS 02.05.010 — 02.05.260 and other prequalifying regulations established by the department.

(7) the provisions of this section relative to an "Alaska bidder" do not apply to contracts estimated to exceed $5,000, of either the Department of Transportation and Public Facilities, which are authorized under AS 35.15, or the Department of Highways, which are authorized under AS 19.10.

(8) the provisions of this section relative to competitive bids do not apply to the purchase of products or services manufactured or provided by a sheltered workshop. (§ 3 art IV ch 82 SLA 1955; am §§ 8 — 10, 23 ch 186 SLA 1957; am § 1 ch 77 SLA 1959; am § 1 ch 158 SLA 1962; am § 1 ch 82 SLA 1964; am §§ 1, 2 ch 92 SLA 1967; am § 1 ch 61 SLA 1970; am § 1 ch 92 SLA 1975; am §§ 1, 2 ch 194 SLA 1975)

Cross reference. — As to preference of producers or dealers in Alaska in making purchases or awarding contracts for supplies, see AS 36.20.010.

Effect of amendments. — The first 1975 amendment added paragraph (8).

The second 1975 amendment substituted "$2,500" for "$1,000" near the beginning of paragraphs (2) and (3) and substituted "$300" for "$100" near the middle of paragraph (3).

Editor's note. — AS 14.10.070, referred to in paragraph (4), was repealed by § 59, ch. 98, SLA 1966.

Pursuant to Executive Order No. 39 (1977), the reference to the Department of Transportation and Public Facilities has been substituted for a reference to the Department of Public Works in paragraph (7).

Legislative committee reports. — For report on 1962 amendment, see 1962 House Journal, pages 591, 592. For report on ch. 194, SLA 1975 (SB 279 am), see 1975 House Journal, p. 1541.

The purpose of this chapter was not only to protect the state and the public purse from uneconomic contracts let because of failure to request competitive bids and because of possible favoritism, but was also to insure that contractors would be insured a certain amount of "fair play" in dealing with the state government and in competing with one another for state contracts. 1959 Op. Att'y Gen., No. 27.

Preparation of regulations as prerequisite for bidding. — For an opinion of the attorney general as to the preparation of regulations to be submitted to the secretary of state pertaining to the prequalification of contractors as a prerequisite for bidding on construction projects, see 1959 Op. Att'y Gen., No. 27.

And filing thereof. — For an opinion of the attorney general as to filing regulations pertaining to the prequalification of contractors as a prerequisite for bidding on construction projects, see 1959 Op. Att'y Gen., No. 27.

Publication of regulations concerning bidding and letting of contracts. — See same catchline in note to AS 37.05.020.

Bids required for exclusive lease or franchise. — The state cannot grant an

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

Regional Design & Construction Directors

DATE September 23, 1982

FILE NO

TELEPHONE NO 465-3905

Jon Scribner, Acting Deputy Commissioner Design & Construction DOT/PF

SUBJECT Advertising Procedures for State Funded Projects under $100,000.

9/23/82

As discussed at the September 15, 1982 Director's Meeting, there is a need for an abbreviated advertising procedure in certain instances on smaller State funded projects. The need for an informal bid process was also discussed.

The procedures outlined below have been developed to address these needs and are effective immediately. They will be incorporated into P & P 70-7001 as soon as possible.

A. Reduced advertising requirements for State-funded projects under $100,000.

1. Normal procedures will be adhered to except that in an emergency or if the public interest can be clearly shown in writing, the following will be used with prior approval of the Deputy Commissioner:

   a. Inform Claims & Bids and jointly set bid opening date.

   b. Advertise in local paper.

   c. Call potential contractors as appropriate.

   d. Bid opening by Deputy Commissioner, unless prior authorization from Deputy Commissioner.

   e. Claims & Bids to inform Region immediately of bid results.

   f. Region to assure funding availability and concur in ITA.

   g. Claims & Bids to immediately send ITA via phone, telegram and/or telecopy and follow-up with formal letter.

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
POLICY AND PROCEDURES

P & P No.	Page
70-7001	1 OF 4
Effective Date: January 14, 1983	

SUBJECT: Final P. S. & E. & Advertising Procedures

Supersedes P & P No.	Dated
70-7001	May 14 1982

APPROVED BY: [signature]

DIVISION	SECTION	CHAPTER TITLE
Standards & Technical Services	Specifications	Policy

PURPOSE: To establish a procedure for preparing final plans and specifications and advertising projects.

POLICY: It is the policy of the Department to prepare and advertise for bidding all construction plans and specifications in a uniform manner consistent with Federal and State Statutes and regulations.

DISTRIBUTION: All Manual holders and all Regional Directors and Section Supervisors in the Design and Construction unit. This Policy and Procedure applies only to the Design and Construction unit.

PROCEDURES:

A. Requirements for final P.S. & E. approval.

No project shall be approved for final P.S. & E. or receive authority to advertise until:

1. All rights-of-way, construction easements, material sources, railroad agreements and royalty agreements are acquired or executed;

2. all utility agreements and reimbursable service agreements are executed, except 100% state funded projects may be advertised prior to the execution of utility agreements if a firm estimate of the utility relocation costs is available;

3. all required Federal (Bureau of Land Management, Forest Service, Fish and Wildlife Service, Park Service) permits, approval and/or agreements are executed. (Corps of Engineers and Coast Guard permits should also be obtained prior to advertising, however, when their approval is imminent, a project may proceed provided these approvals are obtained prior to award);

4. all required State of Alaska (Department of Fish and Game, Department of Environmental Conservation, Department of Natural Resources, Division of Parks and/or Division of Forest, Land and Water Management, and Department of Public Safety, Division of Fire Prevention) permits, approvals and/or agreements are executed; and

5. written certification that all approvals and clearances have been obtained and all rights-of-way certified. (See Attachment A for suggested format.)

B. Final P. S. & E. Assemblies

Final P. S. & E. Assemblies shall consist of:

1. Final Plans, signed and sealed (Except design/build projects);

2. Contract document assembly;

3. Final estimate, complete with any required back-up (Final engineering estimates on Federal-aid highway projects shall be coded in accordance with instructions shown in FHWA Order 4500.2, Attachment B);

4. Documentation as to the disposition of any written comments or recommendations made by reviewers;

5. A statement as to the status or disposition of all required permits, clearances and agreements; and

6. A letter requesting advertising approval (See Attachment A).

C. Advertising

1. The minimum advertising period for projects shall be twenty-one (21) days except as noted in paragraph F and G. Major projects should be advertised for longer periods, commensurate with the size and complexity of the project.

2. Projects shall be advertised in three consecutive weekday issues in newspapers in Anchorage, Fairbanks and Juneau, local papers where available, the Tundra Times and the All Alaska Weekly. Large projects should also be advertised in the northwest regional construction trade papers.

3. Advertising shall comply with the format example in P & P 10-0013, May 23, 1979.

4. Prior to advertising, regions shall coordinate with the Chief of Claims and Bidding to jointly set the bid opening to prevent the overloading of any particular bid opening.

D. Addenda

1. If modifications are required to those bidding documents which must be submitted at bid opening (proposal, bid schedule and form 25A326), the modified bidding documents shall be mailed out as replacement documents.

2. Addenda and notices which require mailing shall be mailed a minimum of thirteen (13) days prior to the scheduled bid opening date.

3. Telegraphic addenda shall be sent a minimum of forty-eight (48) hours prior to the scheduled hour of bid openings.

4. Attachments to addenda shall be identified by addendum number and attachment number in the top right hand corner of each page.

E. Informal Bids (Optional at the discretion of the Regional D & C Director, for State-funded projects with an estimated cost of less than $20,000).

1. Region calls as many potential bidders as convenient including appropriate MBE firms, and invites them to submit a bid.

2. Bids are opened by the Regional Director of D & C or his designee.

3. Region issues the bid tabs, letter of intent (copies sent to Claims & Bidding).

4. Region issues letter of award signed by the Regional Director of D & C and conforms contract. The original is sent to Claims and Bidding who will forward it to Contracts Administration in the Support Service Division, along with a list of all employees involved in the transaction as required by AS 35.15.030.

5. No bonding will be required.

F. Written exceptions to the provisions of this procedure may be granted by the approving authority.

1. For the purposes of this document "approving authority" is that authority delegated by P & P 10-0017 for "Authority to Advertise."

2. Exceptions to the requirements of Section A-1, A-2, A-3, A-4 and C-1 require the prior approval of the Federal Highway Administration for Federal-aid highway projects.

3. If an emergency exists or if a public interest finding can clearly be shown in writing, the reduced advertising requirements listed in paragraph G may be followed with prior approval of the Deputy Commissioner for Design & Construction. These reduced requirements apply only to State funded projects estimated to cost less than $100,000.

G. Reduced advertising requirements for State-funded projects under $100,000 (as allowed by Section F-3).

1. Region informs Claims & Bidding and jointly sets bid opening date. Advertising period to be commensurate with urgency of project.

2. Region advertises in local paper.

3. Region calls as many potential bidders as convenient including appropriate MBE firms, and invites them to submit a bid.

4. Bids opened by Deputy Commissioner of D & C, unless delegated to another official.

5. Claims and Bidding informs Region immediately of bid results.

6. Region assures funding availability and concurs in Intent to Award.

7. Claims and Bidding immediately sends Intent to Award via phone, telegram and/or telecopy and follows up with formal letter.

8. Contractor forwards completed forms directly to Claims & Bidding (via courier, if necessary). Forms available to the contractor from Regions.

9. Claims & Bidding assures documents are in order, immediately has Deputy Commissioner execute contract and advises Region and contractor by phone or other appropriate means.

10. Region conforms the contract and sends the original to Claims and Bidding, who will forward it to Contracts Administration in the Support Services Division. A list of all employees involved in the transaction must accompany the original, as required by AS 35.10.030.

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
POLICY AND PROCEDURES

P & P No.	Page
10-0013	1 OF 2
Effective Date: May 23, 1979	

SUBJECT

LEGAL ADVERTISEMENTS - INVITATION TO BID

Supersedes P & P No.	Dated
DPW 1003-15	7-20-72

APPROVED BY: [signature]

DIVISION	SECTION	CHAPTER TITLE
Commissioner	Commissioner's Office	Policy

Purpose:

To prescribe a format for uniform publications of advertisements to bid.

Policy:

It shall be the policy of this department to use a standard signature format in requesting invitations to bid on projects.

Distribution:

INTERNAL REVIEW OCT 31 1983

To all Policy and Procedures Manual holders.

Procedure:

Preparation of an Invitation to Bid shall be prepared on Form 02-901 and conform to the sample provided on page 2. In referring to the sample the items that are underlined will change from job to job, but the other items should be uniform throughout the department and provide for a standard signature for all divisions.

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
POLICY AND PROCEDURES

P & P No.	Page
10-0013	2 OF 2
Effective Date: May 23, 1979	
Supersedes P & P No. DPW 1003-15	Dated 7-20-72
Approved By: [signature]	

SUBJECT: LEGAL ADVERTISEMENTS - INVITATION TO BID

DIVISION	SECTION	CHAPTER TITLE
Commissioner	Commissioner's Office	Policy

ADVERTISING ORDER

NOTICE TO PUBLISHER

INVOICE MUST BE IN TRIPLICATE SHOWING ADVERTISING ORDER NO. WITH AFFIDAVIT OF PUBLICATION (PART 3 OF THIS FORM) WITH ATTACHED COPY OF ADVERTISEMENT MUST BE SUBMITTED WITH INVOICE.

1. PUBLISHER

DEPT NO	A O NO
AO- 25	B61032

PUBLISHER: ANCHORAGE DAILY TIMES
P.O. BOX 40
ANCHORAGE, ALASKA 99501

VENDOR NO.

DATE OF A.O. March 7, 1979
Legal Classified AD

DATES ADVERTISEMENT REQUIRED:
3-13, 3-14, 3-15, 1979

THE MATERIAL BETWEEN THE DOUBLE LINES MUST BE PRINTED IN ITS ENTIRETY ON THE DATES SHOWN

SEND: Department of Transportation/Public Facilit
Road Design Section
P.O. Box 1467
Juneau, Alaska 99802

BILLING ADDRESS:
DOT/PF
Finance Section
P.O. Box 1467
Juneau, AK 99802

ADVERTISEMENT

STATE OF ALASKA

INVITATION FOR BIDS
STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
DIVISION OF HIGHWAY DESIGN AND CONSTRUCTION

Sealed bids to a single party for furnishing all labor, materials and equipment, and performing all work on Project [illegible] - Valley Road Division Headquarters Remodel, will be received until 1:30 p.m. prevailing time, [illegible], in the Division Director's Office, Division of Highway Design and Construction, Second Floor Building, Anchorage, Alaska.

This project will consist of the construction of [illegible] including a [illegible] [illegible] [illegible]

ADVERTISING ORDER

NOTICE TO PUBLISHER

INVOICE MUST BE IN TRIPLICATE SHOWING ADVERTISING ORDER NO., CERTIFIED AFFIDAVIT OF PUBLICATION (PART 2 OF THIS FORM) WITH ATTACHED COPY OF ADVERTISEMENT MUST BE SUBMITTED WITH INVOICE.

S. DEPARTMENT

DEPT. NO.	A.O. NO.
AO- 25	H79164

JUNEAU EMPIRE
235 Second Street
Juneau, Alaska 99801

VENDOR NO.

DATE OF A.O.
June 27, 1983

DATES ADVERTISEMENT REQUIRED:
6/27, 28 and 29, or next three consecutive week days.

LEGAL CLASSIFIED A

THE MATERIAL BETWEEN THE DOUBLE LINES MUST BE PRINTED IN ITS ENTIRETY ON THE DATES SHOWN.

Department of Transportation
SE Region, Technical Services
P.O. Box 1467
Juneau, Alaska 99802

BILLING ADDRESS:
DOT/PF
Accounts Payable
P.O. Box 3-1000
Juneau, Alaska 99802

ADVERTISEMENT

STATE OF ALASKA

SEE ATTACHMENT

25 D7

Same sent to the following:

Anchorage Daily News
Daily Journal of Commerce (Portla
Daily Journal of Commerce (Seattl
Daily Sitka Sentinel
Fairbanks Daily News-Miner
Ketchikan Daily News

proof of advertising on projects — Note one week advert. time ... every receive bills?

TO BE COMPLETED BY ORDERING DEPARTMENT

DEPT.	DIV. & PROG.	FUNCTION	SUB FUNCTION	OBJECT RECEIPT	HWY. FUNCT.	PROJECT LEDGER	PER CENT OR ITEM NO.
24	07	3	020	325	435	H79164	

PAGE NO. OF

REQUISITIONED BY

DIVISIONAL APPROVAL

DATE ENTERED

CERTIFY THAT THE UN... RED BALANCE IN THE APP... ATION CITED HEREON IS SUFFICIENT TO COVER THIS PURCHASE AND THAT THIS PURCHASE IS AUTHORIZED HEREUNDER.

CERTIFYING OFFICER

VOUCHER NUMBER

CONTRACTOR SELECTION

The State of Alaska, Department of Transportation and Public Facilities is soliciting "Expression of Interest Questionnaires" from interested General Contractors for architectural renovation work located in the Governor's Mansion in Juneau, Alaska.

Work will consist of fine cabinet work, custom tile work, hard wood floor reconstruction and refinishing, painting, papering and trim work, etc. The Governor's Mansion is listed on the State Historical Record and the Contractor will be required to work under strict restrictions.

Expression of Interest Questionnaires can be obtained from:

Tom Metlicka, Design Manager (Chairman)
State of Alaska
Department of Transportation and Public Facilities
Building Section
P. O. Box 1467
Juneau, Alaska 99802 or phone (907) 364-4314

LND will be available June 28, 1983

Completed "Expression of Interest Questionnaires" must be returned to Tom Metlicka at the above address by 2:00 p.m., July 8, 1983, to be used by committee for rating.

It is anticipated that the top ranking contractors will be invited to submit a bid for a time and materials contract with the State of Alaska to perform the work.

The highest emphasis will be placed on the proposed contractors previous experience in renovation work and ability to work under very tight job completion restraints.

Public Notice

STATE OF ALASKA

The State of Alaska, Department of Transportation and Public Facilities is soliciting interest for Mechanical/Plumbing Contractors, located in Juneau, to provide management and coordination to provide work to renovate the Governor's Mansion plumbing, heating and electrical systems.

Interested Contractors will be required to fill out a Pre-Qualification Questionnaire prior to bidding. The Pre-Qualification Questionnaire's will be evaluated and rated by a committee with the top three (3) competency in actual bidding.

Pre-Qualification Questionnaire and Project Outline Specifications can obtained from: Department of Transportation & Public Facilities, S.E. Region, Building Service, P.O. Box 1467, Juneau, Alaska 99802 Attn: Tom Mellick, Phone: 364-2314.

The deadline for Pre-Qualification Questionnaires to be returned to the above address will be 2:00 P.M., May 22, 1981.

This project is limited to firms located in the City & Borough of Juneau.

Engineer's estimate is within $250,000.00-$500,000.00.

Publish: May 3, 6, 8, 1981

3004E

Appendix D

ALTERATIONS. The following changes were made in this contract before it was signed by the parties hereto:

Time + Materials + Profit

1.	Journeyman Carpenter	$35.20 m/h
2.	Roofer	35.35 m/h
3.	General Labor	34.47 m/h
4.	Materials	+ 5%
5.	Profit	@ 15%
6.	$90,000 maximum	
7.	Payment by submission of Invoice	
8.	Project will commence immediately upon Purchase Order or Notice to Proceed.	

In witness whereof, the parties hereto have executed this contract as of the date entered on the first page hereof.

STATE OF ALASKA

By _____

Director, SE Region

(Official title)

Design & Construction

CONTRACTOR

Bob Swanson dba August Corporation

(Name of Contractor)

By _____

(Signature)

Owner & President

(Title)

INSTRUCTIONS

1. This form shall be used, as required by State regulations, for contracts for the construction, alteration, or repair of public buildings or works.

2. The full name and business address of the Contractor must be inserted in the space provided on the face of the form. The Contractor shall sign in the space provided above with his usual signature and typewrite or print name under all signatures to the contract and bonds.

3. An officer of a corporation, a member of a partnership, or an agent signing for the Contractor shall place his signature and title after the word "By" under the name of the Contractor. A contract executed by an attorney or agent on behalf of the Contractor shall be accompanied by two authenticated copies of his power of

HARBOR PLUMBING & HEATING

P. O. BOX 2117 - 10½ MILE GLACIER HWY. - JUNEAU, AK 99803 - (907) 789-7222

May 24, 1983

Alaska Dept. of Transportation & Public Facilities

RE: Governor's Mansion Remodel

Project # H-79164

Following are the proposed wages and charge out times that will be applicable to any work performed by the various trades involved inthe proposed project.

Plumbers; Supt. $58.50 per hr.

Journeyman $50.00 hr

Foreman $54.50 per hr

Apprentice-$35.00 hr.

Sheetmetal : Foreman-$58.54 hr.

Journeyman-$53.21 hr

Electrician; Foreman-$54.00 hr

Journeyman-$50.00 hr

Apprentice-$40.00 hr

Sprinkler: Foreman-$60.00 hr.

Journeyman-$58.25 hr.

Painter;-$43.93 hr

Laborer;-$39.64 hr.

Linoleum Installer;-$41.98 hr.

Insulators: Foreman-$68.64 hr.

Journeyman-$64.81 hr.

Control Fitter-$56.91 hr.

Plasterer: Foreman-$55.00 hr.

Journeyman-$53.00 hr.

Hod Carrier-$50.00 hr

Carpenter. Foreman-$46.23 hr.

Journeyman-$42.06 hr

Installer-$41.98 hr.

Roofer;-$41.57 hr.

Any and all wage increases incurred during the duration of the job will be added to the quoted prices. All overtime will be billed according to established contracts.

Harbor Plumbing & Heating will add 5% to all subcontractor bills as an allowable contractor mark up.

Effect of amendment. — The 1977 amendment substituted "Department of Transportation and Public Facilities" for "Department of Public Works" in paragraphs (2) and (6).

Chapter 27. Art Works in Public Buildings and Facilities.

Section

10. Purpose
20. Art requirements for public buildings and facilities
30. Definitions

Sec. 35.27.010. Purpose. The state recognizes its responsibility to foster culture and the arts and the necessity for the viable development of its artists and craftsmen. The legislature declares it to be a state policy that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for state buildings and other public facilities. (§ 1 ch 54 SLA 1975)

Legislative history report. — For report on ch. 54, SLA 1975 (CSHB 133 (Finance)), see 1975 Senate Journal, p. 939.

Sec. 35.27.020. Art requirements for public buildings and facilities.

(a) A building or facility constructed after June 30, 1975, or remodeled or renovated after June 30, 1975, shall include works of art, including but not limited to sculptures, paintings, murals or objects relating to Native art.

(b) The department, before preparing plans and specifications for buildings and facilities, shall consult with the Alaska State Council on the Arts regarding the desirability of inclusion of works of art.

(c) At least one percent or, in the case of a rural school facility, at least one-half of one percent of the construction cost of a building or facility approved for construction by the legislature after September 1, 1977, will be reserved for the following purposes: the design, construction, mounting and administration of works of art in a school, office building, court building, vessel of the marine highway system, or other building or facility which is subject to substantial public use.

(d) A building or facility with an estimated construction cost of less than $250,000 is exempt from the requirements of this chapter unless inclusion of works of art in the design and construction of the building or facility is specifically authorized by the department.

(e) The artist who executes these works of art shall be selected by the architect for the department with the approval of the department, after consultation with the Alaska State Council on the Arts and the principal user of the public buildings or facilities.

(f) The artist who executes these works of art in the public schools shall be selected by the superintendent of a school district in which a public school is to be built with the approval of the school board. Should the department find in the best interest of the state that the selection of the artist who executes these works of art by the superintendent may result in a cost overrun to the state or delay of construction, the department shall make the selection of the artist in consultation with the superintendent.

(g) The architect, superintendent, department, and the Alaska State Council on the Arts shall encourage the use of state cultural resources in these art works and the selection of Alaska resident artists for the commission of these art works. (§ 1 ch 54 SLA 1975; am §§ 1, 2 ch 96 SLA 1977; am §§ 1 — 4 ch 176 SLA 1980)

Cross reference. — For the responsibilities of the Alaska State Council on the Arts in the management of the Art in Public Places Fund, see AS 44.27.060.

Effect of amendments. — The 1977 amendment substituted "or, in the case of a rural school facility, at least one-half of one percent of the construction cost" for "of the overall construction cost" in subsection (c) and added subsections (f) and (g).

The 1980 amendment rewrote subsections (a) and (d), substituted "buildings" for "public works" in subsection (b), and in subsection (c), substituted "September 1, 1977" for "the enactment date of this chapter," "a school, office building, court building, vessel of the marine highway system, or other" for "the public," deleted "public" preceding "facility" near the end of the subsection, and added "which is subject to substantial public use" at the end of the subsection.

Sec. 35.27.030. Definitions. In this chapter

(1) "department" means the Department of Transportation and Public Facilities;

(2) "building" or "facility" means a permanent improvement constructed by the department; the term

(A) includes, but is not limited to,

(i) schools, office buildings, and court buildings;

(ii) other buildings which the commissioner determines are designed for substantial public use;

(iii) boats and vessels of the marine highway system;

(iv) transportation facilities which accommodate traveling passengers;

(B) excludes other transportation facilities

(3) "construction cost" is that cost expended for the actual construction of the facility, exclusive of the costs of land acquisition, site investigation, design services, administrative costs, equipment purchases and any other costs not specifically incurred within the construction contract or contracts awarded for the construction of the facility.

(4) "commissioner" means the commissioner of transportation and public facilities. (§ 1 ch 54 SLA 1975; am §§ 3, 4 ch 96 SLA 1977; am Executive Order No. 39, § 11 (1977); am §§ 5, 6 ch 176 SLA 1980)

SECTION 13 - ARTWORK FOR PUBLIC BUILDINGS AND FACILITIES

NOTE: The following section is based on DOT/PF Policy and Procedure #28-8002 entitled "Procurement of Artwork for Public Buildings and Facilities". Copies of this Policy and Procedure are available upon request.

13.0 PURPOSE

13.0.1 To promulgate standard departmental procedures for the selection of Artists and Artwork for public buildings and facilities.

13.2 POLICY

13.2.1 To select Artists and Artwork for public buildings and facilities in an objective manner resulting in the acquisition of Artwork consistent with A.S. 35.27, and 44.27.

13.3 DISTRIBUTION

13.3.1 All holders of the Policy and Procedures Manual and the Alaska State Council on the Arts (ASCA).

13.4 DEFINITIONS

13.4.1 Artwork - All original forms of visual art objects created by an Artist which may include paintings, drawings, ceramics, fiberwork, sculpture, graphics (not signage), murals, photographs, metalwork, mixed media work, limited edition original prints (not reproductions) and Native crafts objects.

13.4.2 Artist - A practitioner in the visual arts, generally recognized by critics and peers. A project Architect or member of the Architect's firm will not be considered an eligible artist.

13.4.3 Agreement - A legal document that prescribes legal, regulatory and administrative provisions affecting the rights and obligations of the parties and the work or services (eg Artwork) to be provided.

13.4.4 Architect - The project designer engaged by DOT/PF.

13.4.5 Project Manager - DOT/PF representative and Artist's primary point of contact with DOT/PF.

13.4.6 Client Agency - The Department, Division, School District, Municipality, etc., that generated the project for which funds are designated for Artwork.

13.4.7 Construction Cost - The cost of building or facility construction approved by the State legislature, exclusive of the cost of land acquisition, site investigation, design services, administration, equipment and any other costs not specifically incurred within

the construction contract. Participatory construction funding by a Federal Agency of by the Division of Risk Management is not included in such cost as used within this procedure.

13.4.8 Public Buildings and Facilities - Schools, office buildings, court buildings, and other facilities designed for substantial public use and vessels of the State ferry system.

13.5 DIAGRAM OF PROCEDURE

13.5.1 Page 6 contains a summary diagram of this procedure. Each activity is identified by two numbers (eg 19-20) which are referenced in the procedural discussion herein.

13.6 PROCEDURE

13.6.1 (Activity 1-2) Following each legislative session, DOT/PF (Planning and Programming) provides ASCA with an informal summary of capital projects which identifies proposed buildings and facilities for which Artwork may be required.

13.6.2 (Activity 2-3) DOT/PF (Design and Construction Regions) assigns a Project Manager for each building and facility, who will concurrently initiate this procedure for procurement of Artwork and the selection procedure (P & P 28-8000) for architectural services.

13.6.3 (Activity 3-4) Project Manager and the designated Client's representative for the project decide if a percentage (amount) for public Artwork is required in accordance with A35.17.020 and 44.27.060. The amount for public Artwork shall be at least one percent of the construction cost.

A. If a project consists of new construction or remodel/renovation of existing building or facility, the amount for public Artwork is required. However, remodel/renovation does not include maintenance, repair, code upgrade, heating renovation, etc.

B. If the estimated construction cost is $250,000 or less or if the building or facility is not for substantial public use, the amount for public Artwork shall be deposited in the Art in Public Places Fund after final acceptance of the facility (paragraph 6.14).

C. If the estimated construction cost is greater than $250,000, the amount for public Artwork shall be expended only for the actual costs of design (which may include engineering for the Artwork itself, exclusive of the architectural engineering design of the facility or site where the Artwork will be displayed), production and mounting of Artwork and direct administrative costs of Artists. Administrative costs of DOT/PF, ASCA and the Architect related to Artwork, costs related to a dedication or "unveiling" of Artwork, and

the Client Agency's maintenance and recurring operational utility costs shall not be charged to the amount for public Artwork.

13.6.4 (Activity 4-5) Project Manager establishes in writing an Artwork Selection Committee consisting of the Project Manager (Chairperson) and a designated Individual fro ASCA, the Client and the Architect. If the amount for public Artwork exceeds $50,000 for a building or facility, the Commissioner may appoint one additional member and the five designated persons may elect to add one community representative to the Committee. Project Manager must notify the Commissioner if Artwork will exceed $50,000 to determine if such additional committee members will be designated. These individuals may receive assistance from facility users, community representatives, public art panel members or the ASCA Visual Arts Council; however, the Artwork Selection Committee shall consist only of the designated (4-6) individuals.

13.6.5 (Activity 5-6) Architect (or Committee if an Architect is not engaged) develops Artwork criteria (architectural and engineering constraints) during schematic and design development phases, in coordination with the Committee, and includes provisions in the Construction Documents to intergrate selected Artwork.

A. The Architect's agreement with DOT/PF may require the above services only or it may include additional provisions for the Architect to manage Artwork procurement by directly entering into contracts with Artists approved by the Committee; the latter is preferred.

B. The Architect's compensation should be a negotiated fixed fee or fixed hourly rates for the Architect's direct labor plus any allowable reimbursable expenses plus the Architect's direct cost of any approved subcontracts with Artists. If an amount equal to 110% of the amount for public Artwork plus an estimated amount for associated reimbursable expenses is established in the Architect's Agreement, an Amendment to the Architect's Agreement (reference paragraph 6.10) may not be necessary after Artwork is selected.

13.6.6 (Activity 10-11) Option for purchase of existing Artwork. Committee may, without or after soliciting and evaluation Artists' proposals, select existing Artwork for the project. In such cases, the Project Manager shall arrange for procurement, delivery and installation. Purchase shall not be made prior to award of a construction contract for the facility.

13.6.7 (Activity 6-7) If existing Artwork is not selected, Project Manager prepares an advertisement for Artist's proposals incorporating the Architect's criteria and the desires of the Committee. ASCA distributes the advertisement, receives all Artist's proposals, eliminates inappropriate submittals to the Selection Committee. Each advertisement must include the following:

A. Instructions for submittal (format, content, time, date, place) and an explanation of the selection process to be used (eg Design Construction - paragraph 6.8A)

B. Identification of the project, generally desired form of Artwork, architectural and engineering constraints, anticipated engineering support (eg structural analysis of a sculpture) which the Artist may be required to obtain and insurance coverages which will be required.

C. Any information and/or assistance to be furnished by others and by whom.

D. Maximum amount of funding for Artwork with a statement that actual price to be paid the Artist(s) shall be negotiated.

E. Information for obtaining a copy of the Agreement to be used.

13.6.8 (Activities 8-13 & 9-12) Following review and evaluation of Artist's proposals, the Committee may select existing Artworks (paragraph 6.6), select Artist(s) or elect to conduct a Design Competition among several designated Artists based on their conceptual design submitted with proposals.

A. If a Design Competitions if to be held, the Architect or the Project Manger shall contract with each designated Artist in accordance with paragraph 6.10 and shall include a provision addressing the Design Competition and stating that the Agreement given a Notice to Proceed for production of the Artwork contingent upon the results of the Design Competition. The Selection Committee shall establish requirements and procedures for the Design Competition.

B. Alaska resident Artists shall be selected where they are available and qualified, in accordance with AS.35.020(g) and 36.10.010.

13.6.9 (Activity 13-14) Project Manager shall obtain Negotiation Authority for the selected Artist(s) in accordance with Delegation of Authority P & P 10-0017. Approval for Negotiations (AFN), DOT/PF Form 25A251, shall be used.

13.6.10 (Activities 14-15 & 16-17) If existing Artwork is not selected, the Architect or Project Manager shall contract with designated Artist(s). Architect-Artist Agreements must contain provisions required by the Selection Committee and must contain provisions required by the Selection Committee and must be approved by the Project Manager prior to execution. DOT/PF - Artist Agreements must be executed using DOT/PF standard forms consisting of the Basic Agreement (Form 25A261), Appendix A - General Conditions for Artwork (Form 24A263), Appendix B - Statement of Services for Artwork (From 25A264), Appendix C - Basis of Compensation for Artwork (Form 25A265) and Appendix D - Catalogue Worksheet (Form 25A266).

13.6.11 (Activity 17-18) Project Manager shall withhold Notice to Proceed to the Architect of the Artist(s) for Artwork production until a construction contract for the building or facility is awarded and shall attempt to insure that Artwork design is completed and approved by the Committee prior to bidding for the construction contract.

13.6.12 (Activity 18-19) Following receipt of Notice to Proceed, Artist(s) will produce, deliver and install Artwork in accordance with Agreement(s). The Architect or Project Manager shall coordinate delivery/installation with construction progress of the building or facility.

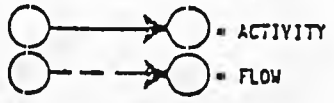
13.6.13 (Activity 19-20) Committee or its designated representative shall view the completed Artwork(s) installed within the building or facility and provide written approval and acceptance to the Project Manager. The Artist(s) may then receive final payment contingent upon receipt by the Project Manger of the documentation required for the public Artwork program in accordance with the Artwork Agreement(s). Client Agency owns Artwork after installation and final acceptance of the building or facility.

13.6.14 (Activity 20-21) Upon final acceptance of the building or facility, the unused amount for public Artwork shall be placed in the Art in Public Places Fund (amount not to exceed one percent of the sum of the original construction contract plus construction contingency, unless construction change orders changed the original program of the major activities for which the building or facility was constructed in which case the amount shall equal one percent of the construction contract plus the applicable change orders.)

13.7 IMPLEMENTATION

13.7.1 Regional Directors are responsible for coordinating with ASCA and establishing any supplementary procedures necessary to augment this Department procedure as applicable to each region's functions.

SUMMARY DIAGRAM OF PROCEDURE
(Figures in parentheses refer to paragraphs of procedure)



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

STATE EEO GOALS AND TIMETABLES

The following goals and timetables for minority and female utilization shall be included in all State and State-assisted construction contracts and subcontracts in excess of $10,000.

A. ALASKA GOALS AND TIMETABLES FOR WOMEN*

Timetable	Goals in percent**
From April 1, 1980 until further notice	6.9%

B. ALASKA GOALS AND TIMETABLES FOR MINORITY UTILIZATION

Timetable	Economic Area (EA)***	Goals in percent**
Until further notice	Anchorage SMSA Area	8.7%
	Statewide, except Anchorage SMSA Area	15.1%

* The goals and timetables for women listed above apply to Alaska as well as nationwide.

** The Director, from time to time, shall issue goals and timetables for minority and female utilization which shall be based on appropriate work force, demographic or other relevant data and which shall cover construction projects, or construction contracts performed in specific geographic areas. The goals shall be applicable to each construction trade in a covered contractor's or subcontractor's total work force.

*** Refer to the Standard Metropolitan Statistical Areas (SMSA) and Economic Areas (EA), Office of Management and Budget, 1975.

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (DOT/PF)
FEMALE AND MINORITY BUSINESS ENTERPRISE (F/MBE) CONTACT REPORT

Successful contractor/consultant shall complete a copy of this form to document FBE and/or MBE contact(s) for each subcontract. Use additional sheets as necessary. See definitions at the bottom of page 2.

PROJECT #: _____ PROJECT NAME: _____

FUNDING SOURCE (if any federal funds involved, consider as federal):

1. [ ] State funded (only minority businesses recognized by a directory listing are valid contacts).
2. [ ] Federally funded (only certified minority or female firms as listed in the current DOT/PF Directory of Certified Female and Minority Business Enterprise Firms are valid).

LIST ITEMS INCLUDED IN THIS SUBCONTRACT:

Bid Item Number (if applicable)	Description of Work	Price quoted by Successful Sub (construction only)

IDENTIFY THE SUCCESSFUL SUBCONTRACTOR: _____
Name of Firm

_____ MBE [ ] FBE [ ] non F/MBE [ ]
Address Status

CONTACTS. Indicate all efforts made to comply with requirements (contact categories are listed in descending order of preference).

1. PERSONAL CONTACTS. Include all valid MBE or FBE firms with whom you had "in person" or phone contacts:

_____ _____ _____
Name of Firm Address Phone No.

_____ _____ Phone [ ] Office Visit [ ]
Person Contacted, Title Date of Contact Type of Contact

This firm is a: MBE [ ] FBE [ ] FMBE [ ] Directory Source _____

Results of Contact:

1. Firm selected [ ]
2. Bid/Proposal received: (a) Not low bid [ ] (b) Unacceptable [ ]; List items bid on below.
3. Firm not interested in submitting bid/proposal [ ] (explain below)

_____

_____

Name of Firm _____ Address _____ Phone No. _____

Person Contacted, Title _____ Date of Contact _____ Type of Contact Phone [ ] Office Visit [ ]

This firm is a: MBE [ ] FBE [ ] FMBE [ ] Directory Source _____

Results of Contact:

1. Firm selected [ ]
2. Bid/Proposal received: (a) Not low bid [ ] (b) Unacceptable [ ]; List items bid on below.
3. Firm not interested in submitting bid/proposal [ ] (explain below)

_____

_____

2. DIRECT MAIL CONTACT.

[ ] Attach a copy of certified letter and a list of all firms to whom it was mailed. This list shall include the name and address of firms as well as type and content of response.

3. ADVERTISEMENT. (Advertisement is only acceptable if no firms can be found through directories or MBE assistance centers.)

[ ] F/MBE interest was solicited by advertisement. The advertisement and responses to it are attached

4. COMMENTS: _____

_____

I CERTIFY THAT ALL F/MBE CONTACT DOCUMENTATION AND ALL SOLICITATION RESULTS ARE AVAILABLE FOR INSPECTION UPON REQUEST.

Signature of Authorized Company Representative _____ Date _____ Phone Number _____

Company Name _____ Address _____

I HAVE REVIEWED THIS FORM AND FIND THE INFORMATION SUBMITTED TO BE APPROPRIATE.

DOT/PF Reviewer _____ Date _____

Form 25A321
(4/83)

Employment Standards Administration, OFCCP — UTILIZATION REPORT

This report is required by Executive Order 11246, Sec. 203. Failure to report can result in contracts being cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts of federally assisted construction contracts.

2. EMPLOYERS I.D. NO.

MINORITY: _____ FEMALE: _____

FROM: _____ TO: _____

NAME AND LOCATION OF CONTRACTOR

FEDERAL FUNDING AGENCY

5. CONSTRUCTION TRADE	Classifications	6. WORK HOURS OF EMPLOYMENT (Federal & Non-Federal) 6a. TOTAL ALL EMPLOYEES BY TRADE M / F	6b. BLACK (Not of Hispanic Origin) M / F	6c. HISPANIC M / F	6d. ASIAN OR PACIFIC ISLANDERS M / F	6e. AMERICAN INDIAN OR ALASKAN NATIVE M / F	7. MINORITY PERCENTAGE	8. FEMALE PERCENTAGE	9. TOTAL NUMBER OF EMPLOYEES M / F	10. TOTAL NUMBER OF MINORITY EMPLOYEES M / F
	Journey worker									
	APPRENTICE									
	TRAINEE									
	SUB-TOTAL									
	Journey worker									
	APPRENTICE									
	TRAINEE									
	SUB-TOTAL									
	Journey worker									
	APPRENTICE									
	TRAINEE									
	SUB-TOTAL									
	Journey worker									
	APPRENTICE									
	TRAINEE									
	SUB-TOTAL									
	Journey worker									
	APPRENTICE									
	TRAINEE									
	SUB-TOTAL									
TOTAL JOURNEY WORKERS										
TOTAL APPRENTICES										
TOTAL TRAINEES										
GRAND TOTAL										

11. COMPANY OFFICIAL'S SIGNATURE AND TITLE

12. TELEPHONE NUMBER (Include area code)

13. DATE SIGNED

PAGE _____ OF _____

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: Robert W. Janes, CPA
Chief, Internal Review
Department of Transportation
& Public Facilities

DATE: November

FILE NO:

TELEPHONE NO: 364-4360

FROM: Jonathan W. Scribner 11/16/83
Deputy Commissioner
Southeast Region

SUBJECT: Audit Report
83-S-10

I concur with a number of the procedural points which were raised in the Department's internal audit review of the renovation work of the Governor's Mansion. I also concur that a department-wide review of DOT&PF's contracting procedures should be undertaken in conjunction with the Department of Law to clarify our regulations and to remove any inconsistencies which may exist.

In any review of the contraction work performed at the Governor's mansion, I think that it is important to keep in mind that the Department's basic objective was to ensure that a professional and long-lasting renovation of this unique historic structure was accomplished. The Governor's mansion was constructed in 1912. It was in a run-down condition with substandard heating and electrical systems. There were no fire and life safety systems. These deficiencies had been repeatedly pointed out by the State Fire Marshal. Numerous attempts by the Department to schedule extensive renovation work on the facility had been denied since previous occupants did not wish to undergo the large scale disruption that the obviously-needed construction work would create for their family life.

Your audit was performed: my staff and I have completed our review, and my response follows:

Audit Comment #1 - Pg. 2 (Harbor Plumbing Contract)

"...the contract should have been advertised in more than the Empire and in newspapers of statewide solicitation not restricted to City and Borough of Juneau."

Response

For project control of a cost reimbursable contract, I believe it is essential that the contractor's management be immediately available to expedite the acquisition of materials and promptly respond to problems on the job. Several highly qualified contractors are headquartered locally to ensure good competition. In order to provide the level of on-site management necessary, key contractor management personnel not in Juneau would need to relocate during the project at a decided extra cost compared with local contractors. Since this was a cost reimbursable contract, as opposed to the more conventional "lump sum" approach normally used by the State, contractor innovation and other project cost saving techniques were not compromised.

The Department's Policy & Procedure on advertising is not applicable to the competitive contractor selection system used for this fast-track, cost reimbursable contract.

In retrospect, regardless of the mitigating factors, I agree that statewide advertising of the project would have precluded the audit comment. Further consideration needs to be given to developing procedures for these types of contracts.

Meanwhile, I have instructed all personnel to advertise statewide should we encounter this type of project in the future.

I would like to underline that the statutory requirements to advertise this project were in fact met.

Audit Comment #2 - Pg. 2 (Harbor Plumbing Contract)

"The newspaper advertisement stated that work would total $500,000, but the current contract is for $1,075,000."

Response

It is true that the estimate in the advertisement was $500,000. We were unaware until well into the project that the costs for this contract would exceed this estimate. We did not give adequate weight to the high probability of additional expenses which can occur in the renovation of an old structure.

Audit Comment #3 Pg. 2 (Harbor Plumbing Contract)

"Other information, as required in Policy and Procedure 10-0013, Advertisement for Bids, is not included in the ad."

Response

Policy & Procedure 10-0013 does not apply to this advertisement. The advertisement for this project solicited contractor interest and stated how prospective bidders would be prequalified. It also stated how sealed bids would be accepted from the prequalified contractors. Policy & Procedure 10-0013 pertains to the solicitation of bids only, which was not the case in this system.

Audit Comment #4 Pg. 2 (Harbor Plumbing Contract)

"There is also a question as to whether the contract was for management and coordination or for plumbing, heating and electrical work."

Response

This question arises somewhat out of context. The advertisement clearly states that the Department "... is soliciting interest for Mechanical/

Plumbing Contractors ..." (emphasis added).. It would appear clear we were not soliciting interest from non contractors or consultants, for example. Further, no consultants or non contractors responded to the advertisement and no contractors raised any questions to alert us to a possible problem.

Nevertheless, I agree that the wording could have been more clear. The addition of one word would have avoided the question, i.e. :

"... to provide management and coordination and to provide work to renovate the Governor's Mansion plumbing, heating and electrical systems."

Audit Comment #5 Pg. 2 (Coogan/Capitol Contract)

"There is also a question as to whether the advertisement contained all the items required in Policy and Procedures."

Response

Policy & Procedure 10-0013 does not apply to this advertisement. The advertisement for this project solicited contractor interest and stated how prospective bidders would be prequalified. It also stated how sealed bids would be accepted from the prequalified contractors. Policy & Procedure 10-0013 pertains to the solicitation of bids only, which was not the case in this system.

Audit Comment #6 Pg. 3 (Coogan/Capitol Contract) -

"The Department has no system of prequalifying contractors for construction contracts...". "...a method similar to that of professional services contracts was used which had the effect of restricting competition..."

Response

The renovation of a historic building makes it difficult to develop the project scope by ordinary means.

In the absence of a specific procedure which would minimize the substantial risk to the State inherent in this special project and still preserve the statutory requirements for competition and bidding, an alternate system was developed. It was a prequalification system specifically authorized under AS 35.15.050; and which further determined the responsibility of bidders in accordance with AS 37.05.240(a).

Given the lack of time to develop an entirely new system, we used applicable portions of the system used to select professional services. In addition, this system was modified to ensure the statutory requirements for competition were met.

Finally, it was discussed with the Attorney General's Office to ensure that it met appropriate requirements for competition.

Audit Comment #7 Pg. 3 (Vernon Akin Contract)

"...using the time constraints as a justification for a waiver appears inappropriate."

Response

A waiver of selection requirements was based on the following factors:

- The building was constructed in 1912. It was in a run down condition with inadequate heating and electrical systems. There were no fire and life safety systems and it had drawn the attention of the State Fire Marshall on several occasions.

- Repeated attempts by the Department to schedule extensive renovation work to the facility had been diverted because the previous occupants did not want their families and lives disrupted by the obviously needed construction work.

- The present Governor was willing to have the Mansion renovated to correct the deficiencies. It was essential that the work be done in time for the traditional open houses and other public events beginning late fall. The only way to have achieved this schedule was to begin design immediately.

- Vern Akin and Associates had a prior working knowledge of the Mansion. He had also been a subconsultant to "Snow Goose Productions" who had performed an architectural, mechanical and electrical survey on the mansion one month prior to the request for waiver. Mr. Akin was the only engineer in the State that could start design work immediately without resurveying the entire building. By the time the magnitude of the work was fully realized there was only marginally enough time to complete the work within the scheduled time frame.

Audit Comment #8 Pg. 3 (Other Comments)

"...lack of a well defined scope...." "...bonuses for performance by a specific date."

Response

In my opinion it was impossible to define the scope because of the need first to perform exploratory work within the structure of the building itself. No amount of planning or design would have resulted in a defined scope. Bonuses were offered to induce the contractor to accelerate his work schedule.

Audit Comment #9 Pg. 3 (Other Comments)

"...$150,000 for extended work hours..." "...personnel should have determined the magnitude of the problem earlier..."

Response

I agre the magnitude of the extended work hours problem probably should have been identified earlier. However, as noted in Tom Metlicka's September 13, 1983 memorandum, the oversight was due to an error in estimating the cost of the work which carried through from the beginning of the project. As soon as the error was known I took corrective action to ensure funds were available to complete the job.

Audit Comment #10 Pg. 3, (2) (Other Comments)

"Some documents available in the files in Douglas were not contained in master files in the Contracts Section. All pertinent documents on selection, advertising, award, and amendments should be in the master file as required by the Department P & P 10-0012."

Response

Documents missing from the Contracts Administration Section files were available in the project files. We have coordinated with the Contracts Section and they now have all documents required. In addition, I have reminded appropriate staff of the requirements of P & P 10-0012, and requested them to adhere to it strictly in order to avoid similar questions in the future.

Audit Comment #11 Pg. 3 (3) (Other Comments)

"...Potential problems with union contracts...Department may have been able to have some of the work performed by State Local 71 employees."

Response

Department employees were not used for the larger contracts because the value of the work exceeded $100,000 and therefore would have conflicted with AS 35.15.010 & AS 35.15.030. These statutes clearly require this type of work to be contracted unless there is an emergency or it is found to be in the best interest of the State. Neither special condition could be met for these contracts.

Audit Comment #12 Pg. 4 (4) (Other Comments)

"...we could find no contract as required by AS 35.27.20 for artwork..."

Response

According to P & P 28-8002 on Procurement of Artwork for Public Buildings and Facilities the artwork requirement does not apply for maintenance, repair, code upgrade, heating renovation, etc. It also does not apply unless the building is for "substantial public use".

Hence, only those portions of the historical renovation and interior decorating construction work apply which don't fall under the exclusions noted above.

Assuming the portions of the Governor's Mansion which might be judged to have "substantial public use" are the ballroom, library, conservatory, dining room, entry way and second floor mezzanine the required artwork contracts should not need to exceed about $4000.

Coordination with the Arts Council has been ongoing to establish artwork requirements. This effort is being coordinated with completion of the work on this project.

Audit Comment #13 Pg. 4 (5) Other Comments)

"This course of events did not follow the procedures defined in Advertising Procedures for state-funded projects under $100,000."

Response

I concur that applicable advertising procedures were not followed for this contract. Hence, I intend to officially notify each of the individuals responsible so there can be no misunderstanding that it is unacceptable to ignore or take lightly substantive requirements in procedures.

In partial mitigation, I have reviewed the process used and am personnally satisfied that statutory requirements for obtaining informal bids were met and that a documented process was used to ensure competition. Although the process was documented, the required waiver to support the lack of formal advertising appears to be missing.

Audit Comment #14 - (Other Comments)

"In a bid from Harbor Plumbing..., the two contractors noted in 5 above were cited as proposed subcontractors. Harbor's bid was accepted." "...the State may have been charged excessive profit and overhead and it is conceivable that the State may have paid twice for the same work."

Response

In the case of the August Corporation Contract, the work for insulation and roof repairs was clearly separate from the work under the Harbor

Contract and it was substantially complete by the time the Harbor Contract was awarded.

The Rhine Contract was for work on the outside porch and also was clearly discrete from the work under the Harbor Contract.

In addition, our concurrent Review section conducted an on-site review of the subject project during the construction status and is is our Review Engineer's opinion that although this type of contract was very difficult to administer on the project level, both the project Inspector and Project Manager did a more that adequate job to ensure no double payments were made under the contracts.

Audit Comment #15A Pg. 4, (7) (Other Comments)

"Some of the contracts examined in the Contracts Section master file did not contain all (EEO) documents and some were not completely filled out."

Response

A review of the original signed copy of the contracts covered by this report showed that all required EEO forms were included. It appears that all documents which are to be transmitted to the Contract Administration Section were not sent. Copies of these documents have been transmitted to the Contracts Administration Section and their files should now be up to date. Also I acknowledge that some of the forms were not completely filled out. Our contracts personnel have been instructed to ensure all forms are properly completed on future contracts.

Audit Comment #15B Pg. 4 (7) (Other Comments)

"I was unable to determine if form CC-257, U.S. Department of Labor, on monthly employment utilization has been submitted as required."

Response

Partway through the project, it was discovered that these reports were not being completed. The project files are now up-to-date with completed reports and copies have been sent to the Contracts Administration Section.

Audit Comment #16 Pg. 4 (1) (Recommendations)

"An Attorney General's opinion should be solicited to clarify intent of statutes concerning advertisements, bid requirements and contractor prequalification..."

Response

A request for an opinion from the Attorney General's Office will be prepared and sent shortly.

Audit Comment #17 Pg. 4 (2) (Recommendations)

"Departmental procedures should be evaluated and clarified to cover this type of situation and insure that all requirements are documented. Standardized forms should be developed to document such items as informal solicitations with follow-up in writing, telephone conversations with contractors, and administrative procedures for construction contracts. Also, a uniform procedure for handling time and materials contracts should be set up."

Response

We will request Standards and Technical Services Division to review existing Policy and Procedures and documentation requirements for time critical and cost reimbursable contracts and develop appropriate revisions.

Audit Comment #18 Pg. 5 (3) (Recommendations)

"All documents which support a contract should be filed in one location, preferably the Contracts Section near master files in Juneau, so that all information is available in one place. At any rate, a standardized system should be established where all supporting document are filed in one location."

Response

Existing Policy and Procedure clearly requires all documents to be in the Contracts Section master files in Juneau. Discrepancies noted in the Audit Report and action taken have been addressed in the responses above.

LEGISLATIVE AUDIT REPORT

A SPECIAL REPORT ON THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES AND THE OFFICE OF THE GOVERNOR GOVERNOR'S MANSION RENOVATION PROJECT

December 29, 1983

Commissioner (Acting), Department of Transportation and Public Facilities	H. Glenzer, Jr.
Deputy Commissioners, Department of Transportation and Public Facilities:	
Standards and Statewide Programs (Acting)	Daniel Malick
Southeast Region	Jon Scribner
Central Region	David Haugen
Northern Region (Acting)	William McMullen
Office of the Governor	
Governor	Bill Sheffield
Lieutenant Governor	Stephen McAlpine

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

January 3, 1984

Members of the
Legislative Budget and Audit Committee:

In accordance with a Legislative Budget and Audit Committee special request and Title 24 of the Alaska Statutes, the attached report is submitted for your review.

A SPECIAL REPORT ON THE
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES, AND THE
OFFICE OF THE GOVERNOR, GOVERNOR'S MANSION
RENOVATION PROJECT

December 29, 1983

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

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PURPOSE OF THE REPORT

In accordance with a Legislative Budget and Audit Committee request and Title 24 of the Alaska Statutes, this special report has been prepared to document the activities surrounding the renovation of the Governor's mansion. The review was of the Department of Transportation and Public Facilities and the Office of the Governor and addresses specific areas of concern:

1. The sources of funding used to finance the project;

2. Contracting procedures used to hire individual contractors;

3. Cost overruns and expansion of the project beyond its original scope.

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HISTORICAL BACKGROUND

The construction of the Governor's Mansion in Juneau in 1912 was under the direction of William N. Collier, U.S. construction engineer. The structure was authorized by Congress in the Public Builders Act of 1910, which appropriated $40,000 to cover both building and furnishing. The architecture of the building was designed by a well-known architect of the time, James Knox Taylor, and is described as a liberal interpretation of New England Colonial.

The mansion, measuring 58 x 60 feet overall, has two and a half stories with a full basement. The original $40,000 was insufficient to furnish the entire building, but the lower floor and some of the bedrooms were furnished in 1912. The third floor was left virtually unfinished though the original detailed drawings show that half of this top floor was to serve as a territorial museum (which it never did).

The single most extensive renovation of the exterior of the house was done with Federal funds ($14,100) in 1936. Renovations to the mansion, which had been badly run down, were started in June 1936, under contract to the J.B. Warrack Company.

The entire exterior of the building was plastered over the original clapboard finish and painted white giving the building the appearance that it has today. The short porch that covered only the entry steps was extended to cover the driveway. The peaked roofs of the dormers were flattened and the three small windows above the small entry porch were consolidated into one large window. The three windows on the third floor were consolidated into two to be in balance with the roof angle. Outside shutters were provided for all flush windows. The garage was also dug into the basement in 1936.

The most dramatic change made in the 1936 renovation was the extension of the original portico which covered the central third of the porch. The short portico was extended to cover the entire length of the house supported by six pillars rather than the original four. No major renovations to the exterior have been done since 1936.

Interior renovations done in 1936 included redesigned bathrooms with new plumbing and other minor cosmetic changes.

Minor changes took place between 1936 and 1967. A kitchenette was installed sometime during the Egan administration in the late fifties and early sixties.

The single most significant interior renovation prior to 1983 was executed in 1967-1968 by Arthur Morgan Designers of Seattle, Washington. The renovation, done under the Hickel administration, included gutting the third floor and remodeling it. The ceiling on this floor was lowered and two suites and one bedroom were constructed. A sauna was installed in the basement also. Although the lower two floors remained structurally unchanged, major cosmetic changes were made. The entire color scheme of the mansion was changed to greens and golds, wall-to-wall carpeting was installed in many rooms, and contemporary furniture was purchased.

On November 7, 1976, the mansion was placed on the National Register of Historic Places.

The 1983 renovation of the mansion is the most extensive in the history of the building. The first and second floors and the basement were renovated to restore the interior appearance to the 1912 era.

General changes included removing all of the wall-to-wall carpeting and replacing it with large oriental rugs. Hardwood floors were refinished and repaired throughout the mansion. All of the seven fireplace mantles and all the walls were stripped and repainted. Some antique furniture was purchased and bathroom fixtures were replaced by old style fixtures, (bear claw tubs, pedestal sinks, brass and porcelain handles, etc.).

Several structural changes were made during the 1983 renovation. The kitchenette on the second floor was removed to allow for the large entry hall per the original blueprints. A door was installed between the Governor's study and the master bedroom. The bathroom adjacent to the Governor's study was converted into a kitchenette with toilet facilities. Mahogany shelving from floor to ceiling was installed along all of the walls of the library on the first floor, and a new mahogany mantle was built. A new hardwood floor was placed in the entry way and the conservatory. The pantry was changed to the dishwashing area and a new refrigerator and dishwasher installed. The dishwashing area was changed to the pantry and custom cabinets installed. A hot tub (purchased by Governor Sheffield) was installed in the basement, and the mantle from the library was installed around the fireplace in the recreation room in the basement. Also, a wall was built to block off the laundry room in the basement. The 1983 renovation included installing new electrical and plumbing systems on the first and second floors as well as the basement, and a new fire detection and intrusion system.

FINDINGS AND AUDITOR'S COMMENTS

A. What were the sources of funding used to finance the Governor's Mansion Renovation project?

DOTPF transferred a total of $1,455,000 to the Governor's mansion project from appropriations that were originally intended for other purposes. The following is a list of the source of funds used for the mansion project:

1. Ch 120, SLA 80 appropriated $71,000 to DOTPF for the Governor's Mansion Fire Sprinkler System.

2. Ch 82, SLA 81 appropriated $5,200,000 to DOTPF for Energy, Safety, and Architectural Barrier Changes. Of this total appropriation, $1,385,000 was used to fund the mansion project. However, only $235,000 was specifically intended for the mansion. The residual amount, $1,150,000, had originally been intended to be used to correct deficiencies noted in energy audits performed on Interior Region buildings. The specific projects are:

   a) $596,000, project number H79364 (Fairbanks Electrical Retrofit), Fairbanks Court House and parking garage.

   b) $200,000, project number H79361 (Interior Buildings Retrofit), State office buildings.

   c) $204,000, project number H79362 (Interior Shops Energy Retrofit), maintenance shops.

   d) $150,000, project number H79363 (Fairbanks Peger Road Energy Retrofit), DOTPF building complex on Peger Road, Fairbanks.

3. Ch 107, SLA 83 appropriated $500,000 to DOTPF for the Governor's Mansion. Intent per DOTPF's budget documents was for remodeling/repairs to the Governor's mansion.

4. An RSA between the Department of Administration (DOA) and DOTPF transferred $305,000 from DOA to DOTPF for the Governor's Mansion Renovation project. The source of funds of the amount transferred was Ch 25, SLA 82, which appropriated $7,000,000 for Building Renovation, Replacement, and Surplus. The intent per budget documents was for this appropriation to be used for providing housing to State employees, particularly in remote rural locations. The following projects were eliminated as a result of the RSA:

a. Deer Mountain Hatchery ($100,000)
b. Livengood Septic System ($60,000)
c. Nelchina Septic System ($30,000)
d. McGrath Septic System ($70,000)
e. Slana Exterior ($75,000)

DOTPF subsequently transferred $117,000 to the Office of the Governor for the acquisition of furniture, rugs, and other decor items.

5. Ch 101, SLA 82 appropriated $13,121,400 to the Office of the Governor for Executive Operations, and $169,000 was used for the Governor's Mansion Renovation project.

In summary, DOTPF funded $2,144,000 and the Office of the Governor funded $286,000 for the renovation of the Governor's mansion, which totals to $2,430,000. Of this amount, $1,455,000 ($1,150,000 of Ch 82, SLA 81 and $305,000 from RSA) or 60% of the total funding was budgeted for other purposes.

B. Were individual contractors on the Governor's Mansion Renovation project hired in accordance with State contracting procedures?

The purpose of the various statutes, regulations, and P&Ps regarding competitive bidding and advertising for State contracts is probably best summarized by an Attorney General's opinion note to AS 35.15.050:

> "The purpose of this section and the Fiscal Procedures Act (AS 37.05) is not only to protect the state and the public purse from uneconomic contracts let because of failure to request competitive bids and because of possible favoritism, but also to insure that contractors are insured a certain amount of 'fair play' in dealing with the state government and in competing with one another for state contracts."

When the competition has been limited through sole source contracts, restricted advertising, etc., this sense of "fair play" is missing. It also opens up the State to possible litigation and gives the appearance of favoritism.

Department of Transportation and Public Facilities (DOTPF)

DOTPF did not follow established procedures or the intent of statutes and regulations when awarding

several contracts for construction and professional services on the Governor's Mansion Renovation project:

1. Vernon Akin & Associates was awarded a sole source contract for engineering design and construction services in the amount of $60,000. This project was not advertised as required by AS 36.98, or DOTPF P&P 28-8000. AS 36.98.030 does allow DOTPF to contract on a sole source basis if they can demonstrate that there is a single person or firm that can clearly perform the required tasks more satisfactorily because of the person's or firm's prior work. Although DOTPF stated that this was the basis for the sole source contract, it was not clearly demonstrated by any written evidence in the files.

2. Jerry D. Wood, P.E., was awarded a sole source contract of $25,000 to provide on-site management for the Governor's Mansion Renovation project. In addition, the contract provided Mr. Wood with a car during the duration of his contract. The contract was later amended up to a total of $35,000, which included the car rental in the contract price.

   In our opinion, the original contract amount exceeded $25,000 and therefore should have been advertised in accordance with AS 36.98. There were over 100 firms on DOTPF's prequalification register for these types of services. DOTPF's not allowing these and other contractors the opportunity to compete for this contract clearly violates the spirit and intent of the law. Several other items noted were:

   a) Mr. Wood had been a business associate with Fred Seeger in a corporation known as SeeWood (this is discussed further in "D" of this section of the report). Fred Seeger was Deputy Commissioner of DOTPF until he resigned in early December, 1983.

   b) Mr. Wood was added to the DOTPF professional services contractor register without all of the proper forms being submitted and reviewed.

   c) Mr. Wood obtained a business license the same day his contract was signed, July 7, 1983.

   d) Mr. Wood's business address was DOTPF's Southeast Regional office.

e) Three out of the four construction contracts for this project had been awarded and work started (with one contract completed) by the time Mr. Wood's contract began. His contract terminated October 18, 1983. Both before his contract began and after it was terminated, the project was managed by DOTPF employees (project was not complete until mid-December).

3. The August Corporation was awarded a contract of $90,000 for roof repair and attic insulation. DOTPF did not advertise this contract as required by DOTPF P&P 70-7001. In addition, AS 35.15.030 requires that at a minimum, informal bids shall be requested from as many contractors as can be requested conveniently. Five local firms were contacted, with two responding.

4. The Rhine Stone and Plastering Company was awarded a contract of $14,000 for concrete and masonry services. This contract was not advertised. However, two local firms were contacted for informal bids.

5. Harbor Plumbing & Heating was awarded a contract of $600,000 (subsequently amended to $1,000,000 with costs to date of $1,081,000 and estimated to exceed $1,130,000) for plumbing, heating, and electrical renovation. This contract was not advertised as required by DOTPF P&P 70-7001. P&P 70-7001 states "projects shall be advertised in three consecutive weekday issues in newspapers in Anchorage, Fairbanks and Juneau, local papers where available, the Tundra Times and the All Alaska Weekly. Large projects should also be advertised in the northwest regional construction trade papers." However, DOTPF only advertised in the Juneau Empire, limiting the response to only those firms located in the City and Borough of Juneau, and provided a cost estimate indicating the project would cost only $250,000 to $500,000.

   In addition, this contract was not dated, did not contain a project completion date, but did provide a bonus of $25,000 if the contractor completed the project on time.

6. Coogan Construction Company and Capitol Construction Company, a Joint Venture, was awarded a $300,000 contract (subsequently amended to $400,000 with costs to date of $676,000 and estimated to exceed $735,000) for architectural renovation work. This project was not advertised in accordance with P&P 70-7001 which requires a

minimum advertising period of 21 days. DOTPF did not submit advertising orders to newspapers, etc., until June 27, 1983, but they required that completed "Expression of Interest Questionnaires" be returned to DOTPF by 2:00 PM, July 8, 1983, a period of eleven days maximum.

In addition, DOTPF prequalified the contractors and stipulated that only the top three would be allowed to bid on the project. This further restricted the competition (two bids were not opened).

The purpose of prequalification is to assure that only contractors who meet certain qualification criteria are allowed to bid on a project. However, DOTPF does not have established procedures or standards for prequalifying construction contractors. In this particular case, allowing only the top three prequalified contractors to bid could not only have resulted in excluding some qualified contractors, but it also could have resulted in DOTPF having to award the bid to an unqualified contractor if one of the top three was really not qualified to perform the contract but submitted the low bid. DOTPF, if it wishes to use prequalification, should establish procedures and standards so that all qualified and interested contractors will be allowed to bid on projects where prequalification is used.

The Office of the Governor

Title 36, Chapter 98 of the Alaska Statutes governs professional services contracts. Under these statutes and the related regulations, 02 AAC 17, the Department of Administration has established procedures for professional services contracts in the State Administrative Manual (SAM) sections 8102 through 8193. Section 8120 specifies required procurement procedures for contracts depending on their dollar value: $5,000 or less, informal solicitation of interest; over $5,000 up to $25,000, formal or informal solicitation of interest; over $25,000, formal solicitation as well as advertise in a newspaper in general circulation in Alaska. Section 8120 also states that all costs for the life of the contract including any anticipated successive phases or follow-up work are to be included in determining the dollar value of the contract.

However, the Office of the Governor awarded three sole source contracts (stated face value $64,000) worth over

$280,000 to Phyllice Bradner, dba Snow Goose Productions, that were not advertised nor were informal or formal proposals solicited:

1. A $5,000 contract was awarded February 7, 1983 for Ms. Bradner to act as coordinator for the Restoration Advisory Committee on the Governor's Mansion Renovation project. This contract had not been advertised. Also, informal proposals had not been solicited as required by the SAM, Section 8120.

2. A $14,000 contract was awarded March 24, 1983 for Ms. Bradner to provide a cost estimate study of the Governor's Mansion Renovation project and to continue as the coordinator for the Restoration Advisory Committee. This contract was awarded without securing competitive proposals because the Office of the Governor requested and the Department of Administration granted the authority to negotiate this contract on a sole source basis. However, we question the reason used to justify the sole source (to facilitate continuity in the project and to maintain consistency of style), especially since the initial contract was awarded without advertising or soliciting proposals from several firms. We believe a request for a sole source contract because of wanting to continue a relationship should come under much closer scrutiny.

3. A $45,000 contract was awarded May 19, 1983, for Ms. Bradner to act as project coordinator for the Governor's Mansion Rehabilitation project. Her services included the selecting and purchasing of all decor items (furniture, antiques, draperies, etc.), selling these items to the Office of the Governor (plus a handling charge for wholesale items), and overseeing the placement and arrangement of these items in the mansion. Again, as in the previous contract, the authority to negotiate a sole source contract was requested from and granted by the Department of Administration, eliminating the competitive process.

   In addition, the contract did not restrict the amount of the items the contractor could purchase. As a result, the Office of the Governor could have been liable for all items purchased even though the amount may have exceeded that intended for purchases ($222,000 was encumbered for decor items). We believe because of the nonstandard nature of the scope of services and degree of latitude being allowed the contractor that this

contract should have been reviewed by the Department of Law.

C. Why was the original scope of the project expanded and what changes resulted from the scope expansion?

The original scope of the Governor's Mansion Renovation project was defined by the Governor's House Restoration Advisory Committee which was formed to oversee the project. The initial concern expressed by DOTPF to the Restoration Advisory Committee was for maintenance of the mansion which highlighted the need for a fire suppression (sprinkler) and alarm system. Subsequently, DOTPF personnel suggested that new electrical and plumbing systems be included in the scope of work being defined by the Restoration Advisory Committee, due to major plumbing problems and electrical deficiencies, and because it would be most economical and practical to install the systems while the walls are opened up to install the sprinkler system.

In April, 1983, the Restoration Advisory Committee defined the original scope of work, Phase I, to consist of installing a new hot water heating system, new electrical wiring and distribution system, new sprinkler and smoke detection systems, and related cutting and patching. The preliminary cost estimate was $600,000. In May, 1983, Phase II of the renovation, which was for interior finishes, cabinetry, and wainscoting, was added to the original scope of work per the wishes of the Office of the Governor. The estimated cost of the additional work was $300,000.

Phase II scope of work was again expanded per the wishes of the Office of the Governor in July, 1983 to include tile work for the scullery, cabinetry in the pantry, cast iron radiator wood enclosures and carpeting. The scope increase was estimated at a cost of $235,000.

In September, the scope of Phase I was expanded to include additional electrical wiring work, television distribution, telephone system, fire alarm and intrusion systems. The estimated cost of the expanded scope was $175,000. The scope of Phase I was expanded again in September to include heat distribution in the basement area, new dishwasher and refrigerator, and installation of antique plumbing and electrical fixtures. The cost of the additional work was estimated to be $75,000. Phase II work was also expanded in September to include additional painting, wall papering, kitchen pantry, mill work, and door hardware. The estimated cost for the scope expansion was $75,000. The scope

was expanded in these cases because of additional work required due to unknown conditions.

The amount of $283,000 was identified for consultant contracts, roof repairs, new telephone system, attic insulation, and furnishing storage. The total cost estimate was increased by $401,000 due to low estimates and overtime pay to expedite project completion. The total cost estimate for the construction phase of the project was $2,144,000, with an additional $286,000 cost estimate for overseeing the project and for decor items, bringing the total to $2,430,000.

D. What was the relationship between Fred Seeger (DOTPF Deputy Commissioner until December, 1983) and the project coordinator Jerry Wood?

The following items were noted relating to this question:

1. Fred Seeger and Jerry Wood had been associates in a business known as SeeWood Corporation.

2. Mr. Wood gave to DOTPF personnel (in June, 1983) a SeeWood Corporation business card that contained both Mr. Wood's and Mr. Seeger's name on the face, indicating a current business relationship.

3. Mr. Wood was first mentioned as a potential contractor by Mr. Seeger.

4. Mr. Wood was awarded a sole source contract.

5. Mr. Wood was added to the DOTPF professional services contractor register without all of the proper forms being submitted and reviewed.

6. Mr. Wood obtained a business license the same day his contract was signed, July 7, 1983.

7. Mr. Wood's business address was DOTPF's Southeast Regional Office.

8. Three out of the four construction contracts for this project had been awarded and work started (with one contract completed) by the time Mr. Wood's contract began. His contract terminated October 18, 1983. Both before his contract began and after it was terminated, the project was managed by DOTPF employees (project was not complete until mid-December).

All of the above give the appearance of a conflict of interest. It should be noted, however, that the State

of Washington corporation records have not listed Jerry Wood as an owner or officer of SeeWood Corporation since 1981.

E. Expenditures and contract administration.

DOTPF

DOTPF transferred Governor's Mansion Renovation project expenditures of $40,000 to an overhead account. The project expenditures transferred consisted of personal services expenditures for DOTPF employees who worked on the mansion project. In addition, November and December expenditures for DOTPF Maintenance and Operations employees working on the Governor's Mansion Renovation were not charged to the project.

Alaska Statute section 37.07.080(e) prohibits transfers between appropriations except as provided in an act making the transfers between appropriations.

Personal services expenditures related to the project should be included as a part of the total project costs and should not have been transferred to another account.

The Office of the Governor

The Office of the Governor in administering and making payments under two of the Snow Goose Productions contracts:

1. paid for expenses of the contractor that were not provided for by the contract. The contract stated that in full consideration of her services she would be paid $40 per hour with no reference made to expenses (the second contract with her provided for expenses as well as $40 per hour).

2. paid $10,000 in advance of receiving the services.

3. paid a percentage handling charge for retail items, shipping, and services while the contract only allowed this handling charge on items purchased at wholesale by the contractor.

4. paid for items without invoices as required by the contract. In addition, they had not verified that the items had been received.

5. did not assure that competitive quotations were obtained where possible on items or services purchased.

The above problems resulted in some overpayments and two double payments totalling over $3,600. While the Office of the Governor has adjusted subsequent billings for most of these overpayments (after it was brought to their attention), it indicates they need to improve their controls over contracts and contract payments.

F. Could Federal Funds have been used to finance the Governor's Mansion renovation?

Since the Governor's mansion is on the National Register of Historic Places, the question was raised whether Federal Funds were available for this project. The National Park Service of the U.S. Department of the Interior does provide project grants under its Historic Preservation Grants-in-Aid Program to states operating historic preservation programs. These grants, which are to be matched equally with State funds, can be used to help finance state surveys and plans for historic preservation, research, preservation for public benefit of National Register listed properties, and other costs necessary to accomplish the purposes of this program.

To obtain further information on this program, we contacted the Alaska Regional office of the National Park Service and were informed that in recent years, the total funding available under this program has been substantially reduced for all states. In addition, Federal funds provided to Alaska have been restricted to performing surveys and planning activities.

G. What department of the State of Alaska should be responsible for the Governor's Mansion?

There is a question of whether DOTPF or the Department of Natural Resources (DNR) should be responsible for the Governor's Mansion. In general, DOTPF is responsible for the construction (which includes major repairs) of public works, as well as the maintenance of State-owned buildings.

However, AS 41.35, Alaska Historic Preservation Act, provides that State-owned historic properties are under the control of DNR. To clarify this issue, we have requested an opinion from the Department of Law.

H. What happened to the furniture that was in the mansion before the renovation?

Part of the furniture that was in the mansion before the renovation was placed back in the mansion after the reconstruction phase. Some of these items were reupholstered and/or refinished.

Other furniture and decor items have been placed in storage, for example the Austrian Bentwood chairs that had been in the ballroom. Some of these items in storage will be auctioned at a later date.

The rest of the furniture was auctioned to the public on October 29, 1983 (the State received approximately $7,200 for the sale of these items). However, the Department of Administration, Division of General Services and Supply (GSS), did not inform other State agencies of this excess furniture (to determine if they could use some of the items) as required by the State Property Accounting Manual. GSS had been specifically instructed by the Office of the Governor to hold all these excess items for auction to the public.

In addition, three items on the list to be auctioned (two decoupage wall plaques and a set of draperies) were never received by GSS, and are currently missing.

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APPENDIX A

GOVERNOR'S MANSION RENOVATION PROJECT
SCHEDULE OF CONTRACTS AND COSTS
(Note 1)

CONTRACTOR Subcontractor	Contract Description	Contract Amount Amendments *	Effective Date Price Method	Bid Method	Costs Materials	Labor Straight	Labor Overtime	Other Expenses	Profit O/H	Total Costs
Department of Transportation and Public Facilities										
LINN A. FORREST ARCHITECTS, A.I.A.	Fire and intrusion detection system design.	$ 16,500 18,000	9/3/81 Fixed	Informal Solicitation 3 Firms	$ -0-	$ 10,098	-0-	$ -0-	$ -0-	$ 10,098
(Note 1)	Architectural services for Phase II, construction services.	6,204 *	6/17/83 Fixed	Informal Solicitation 3 Firms	-0-	16,300	-0-	7,904	-0-	24,204
Total FORREST		40,704			-0-	26,398	-0-	7,904	-0-	34,302
LARRY BREEDING	Basic fire sprinkler design	12,000	9/29/81 Fixed	Informal Solicitation 3 Firms	-0-	10,200	-0-	-0-	-0-	10,200
VERNON AKIN & ASSOCIATES (Note 1)	Design services for heating and sprinkler system	60,000	4/18/83 Fixed	Sole Source	-0-	40,083	-0-	19,917	-0-	60,000
AUGUST CORPORATION	Repair and replace roof, insulate attic	90,000	5/12/83 Cost Plus	Informal Solicitation 3 Firms	22,604	46,964	1,585	490	10,747	82,390
RHINE STONE & PLASTERING (Note 1)	Resurface south deck, clean rock work and replace	14,000 (8,000)* 6,000	6/9/83 Fixed	Informal Solicitation 2 Firms	-0-	-0-	-0-	6,000	-0-	6,000
HARBOR PLUMBING & HEATING (Note 1)	Plumbing, heating and electrical	600,000 300,000 * 100,000 * 131,576 *	6/20/83 Cost Plus	Bid (1 bidder)	102,777	184,278	-0-	69,412	59,089	415,556
August Corporation	Cutting, patching carpentry, and clean-up renovation				25,454	82,470	37,502	-0-	36,424	181,850

APPENDIX A

COVERNOR'S MANSION RENOVATION PROJECT
SCHEDULE OF CONTRACTS AND COSTS
(Note 1)
(Continued)

CONTRACTOR / Subcontractor	Contract Description	Contract Amount / Amendments *	Effective Date / Price Method	Bid Method	Costs: Materials	Labor: Straight	Labor: Overtime	Other Expenses	Profit O/H	Total Costs
Cochran Electric	Electrical, telephone cable, smoke/ intrusion system				47,010	196,004	31,640	-0-	-0-	274,654
M.L. Lawler, Inc.	Pipe insulation				7,846	21,477	14,494	-0-	1,208	45,025
Harri Plumbing	Install sprinkler system				23,986	20,137	10,127	-0-	7,034	61,284
Rhine Stone & Plastering	Plaster walls and ceilings				14,922	34,497	9,923	-0-	6,102	65,444
Associated Gravel	Pave driveway to garage				1,281	-0-	945	-0-	-0-	2,226
Reliable Sheet Metal	Sheetmetal work for ventilation system				2,558	19,173	-0-	-0-	-0-	21,731
Johnson Controls	Heating/pneumatic system design and installation				27,478	17,691	3,906	-0-	998	50,073
C. Klassen Concrete	Patch garage, basement, and bathroom floors				-0-	774	200	-0-	-0-	974
Foskin Construction	Install new water main				7,232	4,762	715	-0-	-0-	12,709
Total HARBOR PLUMBING		1,131,526			260,544	581,263	109,452	69,412	110,855	1,131,526
JERRY IMMI, P.E.	Provide on-site project management using computerized scheduling	25,000 10,000 * $ 35,000	7/7/83 Fixed (Plus Car)	Sole Source	-0-	31,030	-0-	3,784	-0-	34,814

APPENDIX A

GOVERNOR'S MANSION RENOVATION PROJECT
SCHEDULE OF CONTRACTS AND COSTS
(Note 1)
(Continued)

CONTRACTOR / Subcontractor	Contract Description	Contract Amount / Amendments *	Effective Date / Notice to Proceed / Method	Bid Method	Costs: Materials	Labor: Straight	Labor: Overtime	Other Expenses	Profit O/H	Total Costs
COOGAN CONSTRUCTION/ CAPITOL CONSTRUCTION, Joint Venture (Note 1)	Architectural renovation work	300,000 100,000 * 335,217 *	7/19/83 Cost Plus	Prequalification Bid (5 responses, 3 bids opened)	16,842	115,333	67,354	82,274	75,499	357,302
Renoir Painting	Painting, stripping and detail work				15,848	90,069	48,191	-0-	26,799	180,907
F & C Enterprises	Alaska representative for Coastcraft, Inc.				489	967	-0-	-0-	103	1,559
Queen City, Inc. (Note 2)	Hardwood floors, tile, and carpet				68,650	23,287	13,654	-0-	9,839	115,430
JD Glass & Door	Storm windows, glass work and glazing				317	1,494	-0-	-0-	-0-	1,811
Coastcraft, Inc.	Mill work, cabinets, woodwork				78,208	-0-	-0-	-0-	-0-	78,208
Total COOGAN/CAPITOL		735,217			180,354	231,150	129,199	82,274	112,240	735,217
Total DOTPF Contracts		2,110,447			463,502	967,088	240,236	189,781	233,842	2,094,449
DOTPF Direct Expenditures										
Personal Services:										
Buildings Design and Construction (Note 3)					-0-	61,484	-0-	-0-	-0-	61,484
Maintenance and Operations (Note 1 & 3)					-0-	27,683	-0-	-0-	-0-	27,683
Other					-0-	-0-	-0-	17,449	-0-	17,449
Total DOTPF		2,110,447			463,502	1,056,255	240,236	207,230	233,842	2,201,065

APPENDIX A

GOVERNOR'S MANSION RENOVATION PROJECT
SCHEDULE OF CONTRACTS AND COSTS
(Note 1)
(Continued)

CONTRACTOR / Subcontractor	Contract Description	Contract Amount / Amendments *	Effective Date / Price Method	Bid Method	Costs: Materials	Labor: Straight	Labor: Overtime	Other Expenses	Profit O/H	Total Costs
Office of the Governor										
SNOW GOOSE PRODUCTIONS	Restoration Advisory Committee Coordinator	$ 5,000	2/8/83	Sole Source	-0-	4,160	-0-	839	-0-	4,999
SNOW GOOSE PRODUCTIONS	Provide Cost estimate study & continue as coordinator	14,000	3/24/83	Sole Source	-0-	4,360	-0-	9,625	-0-	13,985
SNOW GOOSE PRODUCTIONS	To be Renovation Project Coordinator, interior decorator, & purchase furniture & other decor items.	45,000	5/19/83 Fixed	Sole Source	-0-	-0-	-0-	45,000	-0-	45,000
	To sell to the State decor items purchased.	222,000	Cost Plus		132,273	-0-	-0-	68,750	12,132	213,155
Total Office of the Governor		286.000			132,273	8,520	-0-	124,214	12,132	277,139
Total Governor's Mansion Renovation		$2,396,447			$595,275	$1,064,775	$240,236	$131,444	$245,974	$2,478,204

APPENDIX A
GOVERNOR'S MANSION RENOVATION PROJECT
NOTES TO SCHEDULE OF CONTRACTS AND COSTS

Note 1 - Estimated Costs

We have included estimated costs (per DOTPF and the Office of the Governor) because the final cost figures were not yet available. We have also provided adjustments to contract amounts to match anticipated costs where necessary. The breakdown of these estimates are as follows:

	Contract	Materials	Labor Straight	Other	Profit O/H	Total
DOTPF						
Linn A. Forrest, Architects	$ 6,204	$ -0-	$ -0-	$ 7,904	$-0-	$ 7,904
Vernon Akin & Associates	-0-	-0-	-0-	19,917	-0-	19,917
Rhine Stone & Plastering	(8,000)	-0-	-0-	6,000	-0-	6,000
Harbor Plumbing & Heating	131,526	-0-	-0-	50,390	-0-	50,390
Coogan/Capitol J.V	335,217	-0-	-0-	58,675	-0-	58,675
Total DOTPF Contracts	464,947	-0-	-0-	142,886	-0-	142,886
DOTPF Direct Exp. Pers. Svcs. M & O	-0-	-0-	7,382	-0-	-0-	7,382
Total DOTPF	464,947	-0-	7,382	142,886	-0-	150,268
Office of the Governor						
Snow Goose Productions	222,000	4,528	-0-	8,364	296	13,188
Total Estimates	$686,947	$4,528	$7,382	$151,250	$296	$163,456

Since these figures are only best estimates of anticipated costs, the final actual cost of the renovation may vary from the schedule.

Note 2 - Queen City, Inc.

The costs for this sub-contract include approximately $8,[illegible]00 for subsistence, lodging, and related expenses.

Note 3 - DOTPF Direct - Personal Services

The Buildings and Construction personal services charges include approximately $40,000 that had been transferred to an overhead account. The Maintenance and Operations charges of $27,683 are from an operating project account (see E.1. of the Findings and Auditor's Comments section of this report).

Note 4 - Snow Goose Productions

The $222,000 included in the contract amount column was the amount that had been encumbered for the purchasing of decor items. However, no amount had been specified in the face value of the contract (see B of the Findings and Auditor's Comments section of this report).

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BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

RECEIVED
JAN 3 1984
LEGISLATIVE
AUDIT

January 24, 1984

Mr. Gerald L. Wilkerson, C.P.A.
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

Dear Mr. Wilkerson:

The Office of the Governor has reviewed the audit of the Governor's Mansion renovation project, entitled "A Special Report on the Department of Transportation and Public Facilities and the Office of the Governor Governor's Mansion Renovation Project."

We have the following comments regarding the report:

Section B:

In the discussion of contracting procedures under the subsection "Office of the Governor," the auditor neglects to mention that both the statutes and related regulations regarding professional services contracting also provide procedures for sole source contracting (AS 36.98.030(d)(1) and State Administrative Manual, Section 8122). Although the auditor acknowledges that the Office of the Governor obtained approval from the Department of Administration to negotiate the sole source contracts, there is no indication that procedures were followed as required by law.

Section E:

Item two - Advance or mobilization payments are a common practice in State contracting, and are acceptable to the Department of Administration in most cases. The Department of Administration has stated that agencies have the authority to determine when such payments are necessary for mobilization costs for a contract.

Item three - All questionable handling charges were deducted from payments prior to the completion of the contract. Payment was subsequently made only on those charges which the contractor was able to substantiate were wholesale charges or where she had been given a professional discount.

Item four - Payment was made by this office upon receipt from the contractor of her invoice, detailing each purchase and any applicable handling charges as required by the contract. These invoices were submitted with backup for each purchase consisting of invoices, statements, purchase orders, and/or cancelled checks.

Errors pointed out by the auditor were discovered prior to the completion of the contract. Adjustments were made prior to the completion of both the contract and the audit. No close-out audit had yet been done by this office, because the contract was still in progress, a fact the auditor fails to mention. Since adjustments were made prior to the completion of the contract, and the State, in fact, lost no money, charges of overpayments totaling over $3,600.00 are premature.

Sincerely,

Laura J. Herman

Laura J. Herman
Executive Assistant
for Administration

cc: Bill Sheffield
Governor

John Shively
Chief of Staff

Michael A. Nizich
Director, Division of
Administrative Services

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BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX 1467
JUNEAU, ALASKA 99802
(907) 364-4360

SOUTHEAST REGION



January 25, 1984

Re: Governor's Mansion
Project

The Honorable Robert H. Bettisworth
Alaska State House
Pouch V
Juneau, Alaska 99811

Dear Representative Bettisworth:

This is in response to the Special Report on the Governor's Mansion Project, December 29, 1983. Our response addresses only those areas involving DOT&PF actions.

Historical Background

- We believe this fairly represents the background on this project as we understand it.

Findings and Auditor's Comments

A. The sources of funds for this project are accurately described. But, we very much disagree that the appropriation "transfers" were "originally intended for other purposes".

Chapter 82 SLA 81 appropriated $5,200,000 to DOT&PF for energy, safety and architectural barrier changes.

Attached to the budget documentation for this appropriation was a list of projects totaling over $20,000,000. The budget documents state: "This list exceeds the funding available and will necessarily have to be reduced to identify the highest priority projects ... In addition, the following specific projects are (emphasis added) to be funded from the total amount available ...

Southeast Electrical Systems Maintenance	69.3
Valdez Time Clock Heat System	17.6
Southeast Life Safety Improvements	220.0
Governor's Mansion Sprinkler System	185.0 "

The budget documents also direct that the limited funds should be used to perform a comprehensive upgrade program for all aspects of high priority facilities in order to minimize project administration costs by reducing the number of small projects; reduce contractor mobilization costs; and resolve design interrelationships among different upgrade requirements.

The four projects listed (H79361 Interior Buildings Retrofit, H79362 Interior Shops Energy Retrofit, H79363 Fairbanks Peger Road Energy Retrofit & H79364 Fairbanks Electrical Retrofit) were the result of an internal allocation of funds within this appropriation. As implied, they were not specifically included in the original budget documents by either name or cost.

Since the Governor's Mansion project is one of the four projects specifically mentioned in the budget documents, and because the funds were clearly used for the purposes intended, the department was clearly within its authority. In fact, to have limited this project to only the fire sprinkler system after it was determined that other life safety and energy code problems existed would have clearly violated legislatively approved directions to comprehensively upgrade high priority facilities.

The funds appropriated to the Department of Administration were likewise reduced from the original request. Therefore, they, too, were required to exercise statutory discretion to choose projects consistent with legislative purposes.

B. We disagree that the intent of statutes and regulation was not followed when awarding various contracts for the project. We agree that certain established procedures were not followed, but note that several procedures could not be applied to this unique project.

1. Vernon Akin & Associates:

According to AS 36.98.030 a sole source contract is permitted if a waiver is granted. This waiver was signed by the Commissioner according to statutory requirements. The audit report suggests that the waiver did not contain sufficient written evidence to justify the waiver. However, no criteria exist for such a waiver. The waiver was therefore based on our understanding of the statutory requirements. Vernon Akins & Associates had just concluded a subcontract with another contractor on the mansion and he was by far the most knowledgeable engineer in Alaska with many years of prior experience on the mansion. There was no question among the staff familiar with this project that this firm could clearly perform the required tasks more satisfactorily than any other firm because of their prior work on the mansion. This is the

"test" required by statute and, hence, the reason the waiver was requested and approved.

2. The audit report fails entirely to note that Jerry Wood was selected according to procedures for contracts not exceeding $25,000, so that AS 36.98 did not apply. During one of the many investigations on this project it was pointed out that the rental cost of a vehicle should be included in the "total amount of the contract." We disagree, but immediately issued instructions to ensure that the "total amount of the contract" including car rental would not exceed $25,000 to avoid any potential for inadvertently stepping over the line on AS 36.98. This was possible because the fixed fee amount of the contract was only $21,100. This confirmed our stated intent not to exceed $25,000 and clearly assured that AS 36.98 did not apply. Please note the enclosed Attorney General's Opinion confirming the propriety of our action on this point. A review of the preliminary cost estimates for this contract, including contingencies, show the cost was always anticipated to be well below $25,000. This is confirmed by the fixed fee amount in the contract of $21,100. Accordingly, we take strong exception to the audit statement that the "contract clearly violates the spirit and intent of the law". We very carefully followed the spirit and intent of applicable law and suggest the audit comment is inappropriate.

a). As a matter of fact the business and financial relationship between Jerry Wood and Fred Seeger was severed over two years before this contract was signed. This is more than 1 1/2 years beyond which the Attorney General's office proposed last year in analogous legislation as constituting a conflict of interest violation. Also, Fred Seeger was organizationally in no way responsible for this work, nor did he have any authority over it.

We agree that anytime there is a "perception" or "appearance" of impropriety there is cause for concern. But if we based all our decisions on certain people's "perception" of a problem, one can readily imagine government coming to a virtual standstill.

It is regretable that a copy of the gentlemen's business card from their previous relationship received such wide circulation, but it hardly seems appropriate or responsible to use that as a basis for suggesting the contract may not be appropriate or that a conflict of interest existed.

b). It is irrelevant that Mr. Wood was placed on the register improperly. Because the original contract amount was not over $25,000, a register was not required; hence, it was not used for selection.

c). Applicable law requires a contractor to have a business license before he begins work in the State. This was done.

d). There are no statutory or procedural requirements on where a contractor states the location of his business. Mr. Wood stated his business mailing address as 1815 114th S.E., Everett, Washington 98205. He inadvertently stated the location of his business as our office, since he was working out of our office and the Governor's Mansion during the entire time he was on the project. It was an error to list our office as his business location, but his business mailing address was correctly noted.

e). This item is essentially correct. The project was "substantially complete" on December 2, 1983. But we fail to see the significance of this statement. If it is intended to suggest there was no need for Jerry Wood on this project we would take strong exception.

Late in the project development we determined a cost-reimbursable contract would be much more cost effective than the normal lump sum approach about which our staff is most familiar. Mr. Wood first came to the project as an advisor at our request and at his own expense (we paid travel and per diem only) because of our increasing concerns about the project. As a result it was evident that he had strong project management capabilities for fast-track cost-reimbursable contracts and, importantly, that we could learn from him how to better administer these type contracts. Another advantage was he could serve as a buffer for our staff and share their capabilities with new management in the Department who perceived in-house staff may not be able to efficiently administer projects.

Therefore, Jerry Wood was hired to supplement our own staff's capabilities and to give this project the best attention possible. He left the job near the end as soon as his functions could be assumed by staff with minor impact on the job.

3. We agree that Policy & Procedure 70-7001 was not followed. Each of the responsible individuals has been notified officially that it is unacceptable to ignore or take lightly substantive requirements in procedures.

In partial mitigation, we have reviewed the process used and are satisfied that statutory requirements for obtaining informal bids were met and that a documented process was used to ensure competition. Although the process was documented, the required waiver to support the lack of formal advertising was not obtained.

4. Same as 3. above.

5. For project control on a cost-reimbursable contract, we believe it is essential for the contractor's management to be immediately available to expedite the acquisition of materials and promptly respond to problems on the job. Several highly qualified contractors are headquartered locally to ensure good competition. In order to provide the level of on-site management necessary, key contractor management personnel not in Juneau would need to relocate during the project at a decided extra cost compared with local contractors. This was confirmed on the bids opened for the decorative contract. Since this was a cost-reimbursable contract, as opposed to the more conventional "lump sum" approach normally used by the State, contractor innovation and other project cost saving techniques were not compromised. In other words, only the time and materials mark ups for overhead and profit are competitive in a cost-reimbursable contract.

   The Department's Policy & Procedure on advertising is not applicable to the competitive contractor selection system used for this fast-track, cost-reimbursable contract.

   In retrospect, regardless of the mitigating factors, we agree that statewide advertising of the project would have precluded the audit comment. We have requested our Standards & Technical Services Division to develop procedures for these types of contracts.

   Meanwhile, we have instructed all personnel to advertise statewide should we encounter this type of project in the future.

   We would like to underline that the statutory requirements to advertise this project were in fact met.

   The undated contract is immaterial since work could not start until the Notice to Proceed was issued. Also, the payment and performance bonds were signed, dated and attached as part of the contract giving evidence of the effective date. A completion date is not appropriate because that responsibility rests with the State in a cost-reimbursable contract.

   The bonus was offered to induce the contractor to accelerate his work schedule. This was particularly important in this cost-reimbursable contract to ensure successful completion of the job.

6. While the advertising period for this project was less than specified in P & P 70-7001 it also should be noted that this P & P is designed primarily for lump sum contracts. It is not appropriate for the cost-reimbursable contracts used for this project. A contractor can prepare a prequalification package and time and materials bid in markedly less time than for a typical lump sum project. The adequacy of preparation time is evidenced by the number of bidders (five, which is average for this size job) and by the absence of any complaints from contractors.

You are correct to note the lack of established procedures for prequalification of contractors. The department has never before been involved in major renovation of historic buildings, so it was never anticipated that such procedures would ever be needed. Given this fact we developed a process to ensure a top quality professional and long lasting renovation Rather than starting from scratch, however, we used our existing professional services procedures, to the extent applicable, to ensure a workable and fair process. We can now see ways to improve the process for future jobs of this nature. But, regardless of short comings which may appear in hindsight, no contractors were prevented or restricted from participating and we were never in a position of being committed to award the work to an unqualified contractor. Our experience on this project will be most helpful in developing a procedure for these types of historic/renovation projects in the future. We have requested our Standards & Technical Services Division to develop such procedures.

C. We feel the audit comments on the scope changes accurately describe the situation as we understand it.

D. See B.2. for response to these items.

E. No funds were transferred between appropriations on this project. Hence, it is factually incorrect to cite AS 37.07.080(e) when referring to which appropriation expenditures were charged.

We consider our FY 84 Operating Budget to be a proper appropriation to charge certain Design & Construction personnel costs working on the Governor's Mansion particularly when so much of this time was consumed in responding to the extraordinary number of inquiries and investigations on this project. However, to respond to your concern we have directed that these personnel costs in question be charged to the Governor's Mansion project to the extent funding allows.

We strongly disagree with the suggestion to transfer Maintenance & Operations costs to the project. These costs were incurred at the very end of the job. As you know our Maintenance & Operations staff has had a continuing responsibility for up keep on the Governor's Mansion for as long as anyone can recall. The Maintenance & Operations work was closely in line with this responsibility.

F. No comment. Not applicable to DOT&PF involvement.

G. No comment.

H. No comment. Not applicable to DOT&PF involvement.

Appendix A:

The original Jerry Wood contract was for a fixed fee of $21,100 to perform the work anticipated. Up to an additional $3,900 at the rate of $300/day was entirely at the discretion of the State. The car rental was later charged against this $3,900 to ensure the total original contract amount did not exceed $25,000. The Appendix should be changed to indicate these facts.

We trust this response is satisfactory.

Sincerely,

Jonathan W. Scribner
Deputy Commissioner

JWS/sh

Enclosure

cc: H. Glen Glenzer, Jr.
Acting Commissioner

MEMORANDUM State of Alaska

cc Glen Stenzer
cc Jack Chenoweth
cc Don Dieckmeyer

TO: Jonathan W. Scribner
Deputy Commissioner
Southeast Region
Department of Transportation
and Public Facilities

DATE: January 10, 1984

FILE NO:

TELEPHONE NO: 465-3693

Gov Mansion

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Interpretation of AS 36.98

By:
Jack McGee
Assistant Attorney General
Transportation Section-Juneau

The question you raised in your memo of January 3, 1984 can be re-phrased as follows:

> Must the value of a rental car be included in determing whether the $25,000 limit for professional services contracts set out in AS 36.98 is satisfied?

AS 36.98.010 authorizes the state to enter into professional service contracts without going through the competitive bidding process when "the total amount of the contract does not exceed $25,000." The use of the word "total" here indicates that the value of all renumeration received by a contractor must be included when one is calculating the "total amount" of the contract. It follows, therefore, that the value of a rental car must be included in determining whether the $25,000 limit of AS 36.98.010 is reached.

It is my understanding that in Mr. Wood's contract relating to the Governor's Mansion, it was originally contemplated that the value of a leased car would not be included in determining total value of the contract. After the issue was raised, however, DOT/PF personnel were specifically directed to insure that Mr. Wood's contract did not exceed the sum of $25,000 including the value of vehicle rental. See appendix #1. This instruction, it seems to me, served to correct the original misunderstanding. As a result, there was no violation of AS 36.-98.010.

JM:ebc

02-001A (Rev. 10/79)

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

[illegible] J. [illegible]Boff, P. E.
[illegible] Chief
[illegible] Design & Construction
[illegible]/PF

DATE August 9, 1983

FILE NO

TELEPHONE NO

Charles S. Matlock
Acting Director
[illegible] Region Design & Construction
[illegible]

SUBJECT Consultant Contract
Governor's Mansion
Project No. H-79164

Please take the appropriate action to insure that the Consultant Contract for Jerry Weed does not exceed the contract amount of $25,000.00, including extended services and vehicle rental.

CSM:JWH:ma

Appendix #1

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

January 26, 1984

Members of the
Legislative Budget and Audit Committee:

We have reviewed the Department of Transportation and Public Facilities, and the Office of the Governor responses to our preliminary report on the Governor's Mansion Renovation Project. Our comments on the submitted responses are listed below:

Department of Transportation and Public Facilities

Findings and Auditor's Comments

B.2. We reiterate our statement in the report "in our opinion, the original contract amount exceeded $25,000, and therefore should have been advertised in accordance with AS 36.98". In addition, the amount paid on this contract and its amendment totaled $34,814.

E. Costs related to the Governor's Mansion Renovation should all be charged to the project and recorded in the accounting records accordingly. If sufficient funds are not available, it is not appropriate to record these costs in overhead or operating accounts. Rather, to cover these overexpenditures, the Department should request additional funds through either a revised program or a supplemental appropriation.

In addition, the Maintenance and Operations costs incurred at the end of the job were due to the mansion renovation and not general maintenance. As such, these appropriately should be charged to the project.

Gerald L. Wilkerson

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

MEMORANDUM State of Alaska

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

DATE: January 26, 1984

FILE NO: 366-353-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

By: James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

SUBJECT: Governor's mansion audit

RECEIVED
JAN 26 1984
LEGISLATIVE AUDIT

In connection with your audit of the renovation of the governor's mansion, you have asked for our advice and interpretation of various statutes. In answering your questions, we have first set out your question, followed by our response.

1. In light of ... [AS 41.98.170 and AS 41.35.040], what should the Department of Natural Resources (DNR) involvement have been with respect to the Governor's Mansion renovation project (the Governor's Mansion is on the National Register of Historic Places)? Should DNR have been the State Agency that budgeted for the mansion renovation? If DNR should have been more involved in the project such as receiving the appropriation and planning for the renovation what are the remedies that could/should occur?

We believe that the provisions of AS 41.35 do not apply to the governor's mansion renovation project. The mansion has never been designated a historic site as provided in AS 41.35.-030. The mansion remains the official residence of the governor and has been consistently managed by the Department of Transportation and Public Facilities (DOTPF) as an operating facility of the state. In any case, the placement of the mansion on the National Register of Historic Places does not constitute a designation under AS 41.35.030. The Department of Natural Resources (DNR) is not responsible for administering the financing of the renovation of the mansion. That responsibility rests with DOTPF.

2. If the original amount of a contract is $25,000, and is later amended up to a total of $35,000 (as is the case with the Jerry Wood, P.E. contract with DOTPF), should this contract be required to comply with AS 36.98 provisions? Or is it exempt because the original contract was $25,000?

AS 36.98 applies only to professional service contracts which exceed $25,000. AS 36.98.010. The consequences of exceeding this amount through amendment of the original contract are

not specified in AS 36.98 or the implementing regulations. A former version of the state administrative manual in effect before the enactment of AS 36.98 provided that "If an amendment to a contract has the effect of placing the agreement, as amended, within the category of those requiring [Department of] Administration approval, such approval must be obtained." Administrative Manual, § 8114 (rev. Nov. 1980). Under that rule, the amendment to the Wood contract should have been justified as a sole source procurement in the same manner as provided in AS 36.-98.030(d)(1). The operative effect of the state administrative manual is in doubt after the enactment of AS 36.98. Deputy Commissioner Scribner correctly noted this deficiency in his letter of September 28, 1983, in which he set out his determinations concerning the amendment. It is relevant to note that under 17 AAC 07.070 only the commissioner of transportation and public facilities can waive the public solicitation requirements imposed by AS 36.98. However, Scribner alone approved the amendments. We believe that DOTPF and DOA must amend 17 AAC 07 and 2 AAC 15 to provide for the approval and processing of amendments which increase the total contract price so that the $25,000 threshold is exceeded. Under existing law and departmental practices, DOTPF acted reasonably when it amended the Wood contract.

A regulation which prescribes procedures for the amendment of professional services contracts is necessary to avoid evasion of the purposes of AS 36.98. Without some limitation of the power to amend, the $25,000 threshold imposed by AS 36.98.010 is meaningless. Until these limitations are adopted by regulation, we believe that amendments which, if added to the original contract amount, cause the contract amount to exceed $25,000, the amendment must be justified in the same manner as an original contract covered by all of the provisions of AS 36.98.

The treatment of the expense attributable to the contractor's rental car is determined by the intent of the parties to the contract. If the rental is considered to be compensation for services performed, the value of the rent must be considered part of the contract amount. However, if the vehicle is considered to be a tool provided by the contracting agency with the specific intent to reduce the cost of performance, the rental cost should not be considered a part of the contract amount. DOTPF accounted for the rental car as if it were compensation for the contractor.

3. DOTPF advertised one of its [construction] contracts only three days (over a five day period) and restricted respondents to firms located in the City and Borough of Juneau. Was this a violation of the Statute? If

this violated the statutes and/or DOTPF P & P's, what are the remedies?

The advertising requirement for DOTPF construction contracts (financed entirely by state appropriation) are imposed by AS 37.05.230(2). AS 35.15.040(b). That subsection provides:

> (2) if the amount of the contractual services, purchase, or sale is estimated to exceed $5,000, sealed bids shall be solicited, when practicable, by publication in a newspaper calculated to reach prospective bidders and by posting notices in public places within the area where the work is to be performed or material furnished and in addition the department may also designate a trade journal for publication; the department shall also solicit bids by sending notices by mail to all active prospective bidders known to it and all bids shall be sealed when received, and shall be opened in public at the hour stated in the notice; the department may limit the solicitation of bids or negotiate directly if it finds that it is in the best interests of the state;

AS 37.05.230(2)(emphasis added). The statute does not set out with specificity the manner in which publication of a request for bids is made. These details are apparently covered by "policies" set out in an internal DOTPF publication. We believe it is not appropriate to provide for contract procedures which apply to the public in policy manuals. This topic should be set out in administrative regulations. The adoption of regulations to prescribe agency conduct is required if the subject matter covered "affects the public or is used by the agency in dealing with the public." AS 44.62.640(2). DOTPF must review the departmental policy and procedures manual to determine if any subjects covered there must be adopted as administrative regulations under the procedures specified in AS 44.62.180 - 44.62.290.

Generally, the failure to comply with competitive bid provisions established by law makes the resulting public contract void. However, for the contracts questioned by this audit, the minimum requirements prescribed by law (AS 37.05.230(2)) were complied with. Internal policies were waived by implication. Generally, the failure to follow internal policies and procedures does not void a contract. We believe that no violation of the competitive bid laws occurred.

4. The Office of the Governor has a contract with Phyllice Bradner dba Snow Goose Productions .... Is this a legal contract since it does not contain the amount of the contract on the first page?

Should the stated amount of the contract include the amount of furniture purchases and mark-up (total encumbered for this contract is $267,000 including services and purchases)? Could the Governor be held personally liable if the contract is deemed invalid?

Since there appears to be no control on the amount she can purchase and bill the State for, would the State (and/or the Governor) be liable for all purchases she makes for the mansion?

Is the scope of Services (Article II, Appendix B:) such that it is non-standard and should have been reviewed by the Department of Law?

What remedies are available if this contract or parts of it are deemed invalid?

It appears that the Office of the Governor used a standard form contract which did not contain provisions for setting out the contract amount on page 1. However, the updated professional services contract forms with all of the features required by AS 36.98 were not provided to agencies until after June 1, 1983. Pending adoption of the updated contract forms, DOA informally required the hand insertion of the contract amount on page 1. This informal policy was followed for the Snow Goose contract. Consideration of this issue does not stop with the requirement that the amount be stated, but what amount should be attributed to this contract. The Office of the Governor considers the contract amount to be $45,000. You have asked if the contract amount should include the approximately $267,000 worth of antique furnishings purchased by the contractor. We believe the contract amount for the professional services contract should have been an amount in excess of $45,000. The services of this contractor were obtained to assist the state in purchasing antiques. However, the contractor not only served as a consultant but, she was also compensated as if she were a supplier of the antiques. The contractor was permitted to mark-up the cost of an item for "handling" and was reimbursed for freight. The contract provided not only for the procurement of professional services but also for the purchase of goods. The cost of these charges should have been included in the contract amount of the professional services contract. Under the contract, as written, the

contractor received a set percentage of the purchase price for handling. This form of compensation should be avoided because the contractor has no incentive to seek bargains for the state. Alternatively, the purchase of the antiques could have been treated as a separate contract with Snow Goose. It is a close question whether the services necessary to locate, purchase and provide for the delivery of antiques comes within the definition of the term "professional services" set out in AS 36.98.080(2). It is probable that a noncompetitive supply contract could have been awarded to purchase antiques because of their unique, one of a kind nature. Presumably, for these items, a certification can be made that no competition exists. See AS 37.05.230(1)(i).

We believe the contract did not contain terms which varied the provision of the standard form contract. AS 36.98.-045. However, because of the delegation provisions, the contract should have been reviewed by the Department of Law before award. This review would have been desirable but not mandated by law. DOA should have obtained this review before awarding the contract to Snow Goose. Snow Goose was delegated by contract the power to act as a state purchasing officer with little control over the exercise of the contractor's discretion. While we believe this contract is valid, in the future a state agency can avoid criticism for a similar delegation if it makes a delegation only to the extent necessary to obtain a sufficient number of price quotes. The agency should then review the quotes with the assistance of the professional and make the purchase.

5. Was it a conflict of interest for a DOTPF official to be involved in the decision to make the Wood contract?

We issued an opinion on this subject in which we concluded that there was not a conflict of interest resulting from this contract. 1983 Inf. Op. Att'y Gen. (Nov 16; 366-124-84). A copy of that opinion is attached.

JLB/pjg

Enc.

MEMORANDUM State of Alaska

TO: Jonathan W. Scribner
Deputy Commissioner
Southeast Region
Department of Transportation
and Public Facilities

DATE: November 16, 1983

FILE NO: 366-124-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

By: Diane T. Colvin
Assistant Attorney General
Department of Law

SUBJECT: Review of department's project management contract for conflict of interest

You asked us to review the contract award made to Jerry D. Wood by the Department of Transportation and Public Facilities. Mr. Wood was hired in conjunction with renovation of the Governor's mansion to provide project management services. On August 4 the Ombudsman issued an opinion in response to a complaint received on the project services contract. One of the Ombudsman's findings was that the contract involved a conflict of interest, because of Mr. Wood's business relationship with Fred Seeger, Deputy Commissioner, Department of Transport tion and Public Facilities. You have asked us to review the conflict of interest issue.

According to your response of August 9 to the Ombudsman, Mr. Seeger suggested Jerry Wood for the management services project initially. After that recommendation was made, you claim that Mr. Seeger had no further involvement in the award of the contract to Mr. Wood. You have also informed us that although Mr. Seeger and Mr. Wood did have a prior business relationship, that relationship was severed at least two years ago.

As you may know, the applicable standard for conflict of interest is the common law. This is a strict standard, prohibiting not only actual conflicts of interest but also requiring avoidance of even the appearance of impropriety. See 1982 Op. Att'y Gen. No. 15 (Dec. 3).

Based on the facts you provided, we find no conflict of interest in the award of the Wood contract because Mr. Seeger did not and could not benefit as a private person from the contract. The issue arose because of the previous business relation between the two individuals. However, if as you state, the relationship was severed two years ago, the potential for conflict is tenuous. Even under the common law, the amount of time involved here between the business association and the award of the contract diminishes the possibility of a conflict.

The conflict issue is, unfortunately, enhanced in this case because the Wood contract was awarded on a sole source basis. While there may have been justification for sole source in this particular instance, it would have been preferable, had time and circumstances allowed, to solicit proposals in order to avoid raising the issue of conflict of interest.

If you have further questions, please contact us.

DTC:eja

Resi-
dency
#1

FISCAL NOTE Revision Date , 1983

I. REQUEST

Bill/Resolution No: HB 323
Title: Residency & Residency Requiremts
Sponsor: House State Affairs
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Revenue
Program Category Affected: Coll. & Mgt.
BRU, Program of Subprogram(s) Affected: Administration & Support

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
	OPERATING						
100	PERSONAL SERVICES	-	-	-	-	-	-
200	TRAVEL	-	1.0	-	-	-	-
300	CONTRACTUAL	-	-	-	-	-	-
400	COMMODITIES	-	3.0	1.3	1.4	1.5	-
500	EQUIPMENT	-	2.0	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
	TOTAL OPERATING	-0-	6.0	1.3	1.4	1.5	-
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	6.0	1.3	1.4	1.5	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
Sport Fish Fund	-0-	(18.2)	(38.5)	(40.8)	(43.4)	-
Game Fund		(14.1)	(30.0)	(31.8)	(33.6)	

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-
	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Cecilia A. Wagener Phone: 465-2376
Division: Public Services Date: 4/13/83

Approved by Commissioner: Robert D. Heath Date: 4/14/83
Department: Revenue

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

IV. ANALYSIS (HB 323)

Three thousand is needed to initially design and print applications and the permanent I.D. card and to order enough laminating jackets for the fiscal year. Each subsequent fiscal year, we will have the cost of additional laminating jackets. The equipment cost is for three laminating machines; one for the Public Services Counter in Anchorage, one for Fairbanks, and one for Juneau. The travel expenditure is for the Records & Licensing Supervisor to go to Anchorage and Fairbanks and instruct the counter employees.

According to data received from the Department of Labor and the Committee for Older Alaskans, the percentage rate of senior citizens in our state is fairly stable from year to year.

Using FY 82 as the base, it is estimated that there will be a six percent increase in resident sales every year. It is also estimated that three percent of the resident sales are sold to residents sixty years or older.

We are recommending that this bill be amended to include an effective date of January 1, 1984, because license changes traditionally take place at the beginning of a calendar year. If implemented in the middle of the year, some licensees who could be eligible would have already purchased their license. Middle of the year implementation would also require special printing and mailing costs. Time is also needed to properly inform the public of the new law so that all who are eligible can apply.

Assuming that the bill goes into effect 1/1/84, there will be no effect in FY 83. There will be losses to both the Sport Fish and Game Funds in each subsequent fiscal year. FY 84 has a much smaller loss because only half of the fiscal year will be effected.

Introduced: 4/5/83
Referred: State Affairs
and Judiciary

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

HOUSE BILL NO. 323

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

* Section 1. AS 01.10 is amended by adding a new section to read:

Sec. 01.10.055. RESIDENCY. (a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make a home in the state.

(b) A person demonstrates the intent required under (a) of this section

(1) by maintaining a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and

(2) by providing other proof of intent as may be required by law or regulation, that may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

(c) A person who establishes residency in the state remains a resident during an absence from the state unless during the absence the person establishes or claims residency in another state, territory or country, or performs other acts or is absent under circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state.

* Sec. 2. AS 08.04.110 is repealed and reenacted to read:

Sec. 08.04.110. PERSONAL REQUIREMENTS. An applicant for the

certified public accountant certificate shall be at least 19 years of age and of good moral character.

* Sec. 3. AS 08.08.207(a) is amended to read:

(a) Every person who desires subsequently to qualify as a general applicant for admission to the Alaska Bar without having been graduated from an approved law school shall register as a law clerk as provided by this section. The person [MUST BE A BONA FIDE RESIDENT OF THE STATE AND] shall present satisfactory proof that the person has been granted a bachelor's degree (other than bachelor of laws) by a college or university offering the degree on the basis of a four-year course of study and has successfully completed the first year of studies at a law school.

* Sec. 4. AS 08.88.171 is amended to read:

Sec. 08.88.171. ENTITLEMENT TO LICENSE. (a) A person is entitled to a real estate broker license [IF THE PERSON IS A RESIDENT OF THE STATE,] if the person passes the real estate brokers examination, if the person applies for a license within six months after the person has taken the real estate brokers examination, if the person has had at least 24 months of active and continuous experience as a licensed real estate salesman, if the person is not under indictment for, or seven years have elapsed since the person has completed a sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and if the person is an owner of a real estate business or employed as a real estate broker by a corporation or a partnership, and if that corporation or partnership does not have an existing licensed broker. Unless the broker fails to pay the biennial renewal fee or unless the broker's license is suspended or revoked under AS 08.88.071(a)(3), the real estate broker's license continues in effect so long as the broker

is an owner of a real estate business, or the broker is employed as a real estate broker by a corporation or a partnership. If the broker stops being an owner of a real estate business, or stops being employed as a real estate broker by a corporation or partnership, the broker's license is suspended from the time the broker stops until

(1) the broker again becomes an owner of a real estate business or is again employed as a real estate broker by a corporation or a partnership; or

(2) the broker is employed by a licensed real estate broker as an associate real estate broker, in which case the real estate broker license is returned to the commission, and the commission issues the broker an associate real estate broker license.

(b) A person is entitled to an associate real estate broker license [IF THE PERSON IS A RESIDENT OF THE STATE,] if the person passes the real estate brokers examination, if the person applies for a license within six months after the person has taken the examination, if the person has had at least 24 months of active and continuous experience as a licensed real estate salesman, if the person is not under indictment for, or five years have elapsed since the person has completed a sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and if the person is employed by a licensed real estate broker as an associate real estate broker. Unless the associate broker fails to pay the biennial renewal fee or unless the associate broker's license is suspended or revoked under AS 08 88.-071(a)(3), the associate real estate broker's license continues in effect so long as the associate broker is employed by a licensed real estate broker as an associate broker. If the associate broker stops being employed by a licensed real estate broker, the associate

broker's license is suspended from the time the associate broker stops until

(1) the associate broker again is employed by a real estate broker as an associate broker; or

(2) the associate broker becomes an owner of a real estate business, in which case the associate broker's associate real estate broker license is returned to the commission, and the commission issues the associate broker a real estate broker license.

(c) A person is entitled to a real estate salesman license [IF THE PERSON IS A RESIDENT OF THE STATE,] if the person passes the real estate salesman examination, if the person applies for a license within six months after the person has taken the examination, if the person is at least 19 years old, if the person is not under indictment for forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, or, if convicted of such an offense, the person has completed the sentence imposed upon conviction, and if the person is employed by a real estate broker. Unless the salesman fails to pay the biennial renewal fee or unless the real estate salesman's license is suspended or revoked under AS 08.88.-071(a)(3), a real estate salesman's license continues in effect so long as the salesman is employed as a salesman by a licensed real estate broker. If the salesman stops being employed as a real estate salesman, the real estate salesman's license is suspended from the time the salesman stops until the salesman [HE] again is employed as a salesman by a licensed real estate broker.

(d) A licensee shall promptly inform the commission of a change in business association that affects the status of the licensee's license under this section.

* Sec. 5. AS 09.55.130 is amended to read:

Sec. 09.55.130. RESIDENCE REQUIREMENTS FOR ACTION TO DECLARE MARRIAGE VOID. When a marriage has been solemnized [IN THE STATE] and the plaintiff is a resident of the state, an action to declare the marriage void may be brought at any time. [IF THE MARRIAGE HAS NOT BEEN SOLEMNIZED IN THE STATE, THE ACTION MAY BE MAINTAINED ONLY WHEN THE PLAINTIFF HAS BEEN A RESIDENT FOR AT LEAST ONE YEAR BEFORE THE COMMENCEMENT OF AN ACTION.]

* Sec. 6. AS 16.05.400(b) is amended to read:

(b) A sport fishing, hunting or trapping license is not required of a resident who is 60 years of age or more and has been a resident for one year [30 CONSECUTIVE YEARS] or more. The commissioner of revenue shall issue a permanent identification card without charge to persons who qualify by age and residence and who complete the forms required by the commissioner for implementation of this subsection. A person who is issued a permanent identification card under this subsection shall have it in [HIS] possession while sport fishing, hunting or trapping.

* Sec. 7. AS 16.35.130 is amended to read:

Sec. 16.35.130. BOUNTY NOT TO BE PAID. No bounty may be paid under AS 16.35.050 - 16.35.120 to a person who does not maintain [FOR THE IMMEDIATELY PRECEDING YEAR HAS NOT MAINTAINED] a permanent place of abode inside the game management unit or part of the game management unit in which the animal was taken and a bounty is paid, or to a person who does not maintain [HAS NOT CONTINUALLY MAINTAINED HIS] legal residence in the state, or to a salaried employee of a federal or state agency which is engaged in fish or game protection, management, research activity, or to any person whose bounty claim results from a trophy hunt as publicly declared by the Department of Fish and Game.

* Sec. 8. AS 18.56.101(1)(B) is amended to read:

(B) who, not being a bona fide resident of the territory or state at the time of entry into the service, has been a resident of the territory or state for at least one year at the time of the loan application [AND HAS BEEN A RESIDENT OF THE TERRITORY OR STATE FOR AT LEAST FIVE YEARS]; and

* Sec. 9. AS 21.27.090(a)(2) is amended to read:

(2) if for a resident agent's or broker's license: be a bona fide resident [FOR A PERIOD OF NOT LESS THAN ONE YEAR OF CONTINUOUS RESIDENCY, IMMEDIATELY] before issuance of license, and actually residing in Alaska; or if a corporation, be other than an insurer and maintain a lawfully established place of business in this state, except as provided in AS 21.27.270;

* Sec. 10. AS 26.15.130(a) is amended to read:

(a) Qualifications for loans under AS 26.15.010 - 26.15.160 are:

(1) persons who served in the armed forces of the United States for 90 days or more, or whose service was for less than 90 days because of injury or disability incurred in the line of duty, between April 6, 1917, and November 11, 1918, and beginning September 16, 1940, to November 7, 1975, or in a combat zone during any period of armed conflict, who were separated from the armed forces with a discharge other than dishonorable, and

(A) who, at the time of induction into the service, were residents of the territory <u>or state</u>, who had been residents for not less than one year immediately before their induction, and who returned to the territory or state after discharge as residents with the intention of remaining in the territory or state; or

(B) who, not being bona fide residents of the

territory or state before their entry into the service, have been residents of the territory or state for one [FIVE] or more years;

(2) persons who were dependent on a member of the armed forces or a veteran of World War II at the time of the member's or veteran's death, if

(A) the member or veteran was a resident of the territory or state for one year before induction into the service; and

(B) the member or veteran [HE] served in the armed forces for at least 90 days between September 16, 1940, and July 25, 1947, but no benefits for loans accrue to dependents of an enlistee or re-enlistee for time served after November 1, 1945, regardless of whether the enlistment or reenlistment was before or after November 1, 1945; and

(C) the member or veteran [HE] died before the official date of the termination of that war; and

(D) the member's or veteran's [HIS] discharge was not dishonorable;

(3) persons who have served in the Alaska Army National Guard or the Alaska Air National Guard or the Alaska Naval Militia for not less than six years and who have not received a discharge other than honorable.

* Sec. 11. AS 38.08.030(a)(2) is amended to read:

(2) submit proof acceptable to the commissioner that the applicant [HE] is a resident of the state at the time of application, and that the applicant [HE] has been a resident of the state for not less than one year [THREE YEARS] immediately preceding the date the [HIS] application was submitted [, OR THAT HE HAS BEEN A RESIDENT FOR 20 YEARS CUMULATIVELY];

* Sec. 12. AS 44.81.210(a)(20) is amended to read:

check on 2 bills We may delete Sec 12

(20) make loans to individual commercial fishermen for limited entry permits; a loan under this paragraph may be made only to an individual commercial fisherman who has been a state resident for a continuous period of two [FIVE] years immediately preceding the date of application for the loan and who has had a ~~crewmember~~ or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for any one of the past five years, and who has actively participated in the fishery during that period; loans made under this paragraph are subject to the provisions of AS 44.81.230;

* Sec. 13. The following laws are repealed: AS 08.54.110(2), 08.54.140(2), 08.54.142(a)(1); AS 14.43.130; AS 18.55.470(4); AS 21.27.220(1); AS 29.63.065(d)(1); AS 38.05.058; AS 38.08.040(b); AS 39.25.155(g); AS 43.26.095(b)(3).

* Sec. 14. This Act takes effect immediately in accordance with AS 01.10.070(c).

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

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RECEIVED
FEB 28 1983

February 24, 1983

FEB 24 1983

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

Dear Speaker Hayes:

In your letter of February 10, 1983, you requested that I provide you an update on our analysis of [redacted]ts in the following areas: longevity bonus program and the settlement reached in Vest v. Schafer; the pioneers home program; requirements for registered guides; the student loan program and the case of Andress v. Baxter challenging the program; and the State land disposal programs in the case of Gilman v. Martin challenging various aspects of these programs.

PIONEER'S HOME PROGRAM

On November 26, 1982, this office issued a comprehensive opinion on the Pioneer's Home. Basically, the opinion concluded that although there were numerous, serious and potentially fatal attacks that could be mounted against the program, this office could defend the Pioneer's Home program if it was challenged. A copy of this opinion is attached to this letter.

STUDENT LOAN PROGRAM - ANDRESS V. BAXTER

The constitutionality of the two-year residence requirement for the student loan program was challenged in Andress v. Baxter. The briefing in the case is complete and we are waiting for the Federal District Court to set a date for oral argument. We are defending the two-year residency requirement and believe that it is a constitutional provision. We cannot, of course, guarantee that the court will agree with our position. A copy of our brief before the Federal District Court is attached.

STATE LAND DISPOSAL PROGRAM - GILMAN V. MARTIN

In Gilman v. Martin, a challenge was mounted against the Kenai Land Disposal program that contained features similar to the state land disposal program; namely, a one-year residency requirement for qualification, and discounts that increased based

on length of residency. The Alaska Supreme Court requested the state to file an amicus brief concerning those provisions. The state filed such a brief, defending the programs as being constitutional. A copy of that brief is attached. We also asked the court for an expedited decision, and the court granted our motion. We are waiting the Supreme Court's decision.

Since both the student loan program and the state land disposal program are in active litigation, I am constrained from giving a full and frank evaluation of the potential chances of success or failure in a written public document. I would, however, be pleased to give you or your staff a more detailed oral briefing of our views of these two cases if such a briefing would be helpful.

REQUIREMENTS FOR REGISTERED GUIDES

The Alaska Supreme Court has recently made it clear that residence requirements for occupational licensing are invalid under the privileges and immunities clause of the U.S. Constitution. Noll v. Alaska Bar Association, P2d (AK 1982). We therefore anticipate that the governor will soon introduce legislation deleting all these residence requirements including those for guides. However, the bill will leave local experience requirements unchanged.

LONGEVITY BONUS PROGRAM - VEST V. SCHAFER

The longevity bonus program presently requires that a person have resided in the state 25 years commencing prior to statehood in order to be eligible for the program. The constitutionality of that requirement was challenged in Vest v. Schafer and a settlement agreement was signed last August by our office, the plaintiff, and the Legislative Council. That agreement provides that the Council shall use its best efforts to secure legislation which treats equally all bona fide Alaska of the age of 65 or older. "Bona fide residents" are defined in the agreement as those who have resided in the state for one year. The settlement also states that any benefits enacted this session shall be retroactive to July 1, 1982 for the plaintiff and others in the class. If legislation which meets these criteria is passed, the suit will be dismissed. Again, since the program is the subject of litigation, a more thorough evaluation would be

inappropriate herein. I would be happy to meet with you or your staff to give a more detailed oral evaluation. A copy of the settlement agreement is attached.

Sincerely,

Norman C. Gorsuch
Attorney General

Enclosure

RM/NCG/rm

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

November 26, 1982

RECEIVED
FEB 28 1983

Gerald L. Wilkerson
Legislative Auditor
Division of Legislative Audit
Legislative Affairs Agency
Pouch W
Juneau, Alaska 99811

The Honorable Carole J. Burger
Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99811

Re: Pioneers' Homes; Our files:
366-188-83 and J99-101-80

Dear Mr. Wilkerson and Ms. Burger:

I. INTRODUCTION

The Division of Legislative Audit has posed to this department two interpretation questions concerning the statutes establishing the Alaska Pioneers' Homes program. The Department of Administration has sought the assistance of this department with administrative regulations that raise fundamental questions as to the validity of the program.

The Alaska Pioneers' Homes program is one of the oldest Alaska institutions. It was established by the First Territorial Legislature in 1913 and has continued uninterrupted for nearly 70 years. Its operation was continuously approved by Congress until 1959, when Alaska became a state and congressional review of

territorial actions was no longer necessary (Organic Act, §§ 9, 20). Originally geared to prospectors, the program has always had as its goal the housing and care of persons who have lived in Alaska a significant period of time.

Relatively recent United States Supreme Court opinions have placed that fundamental element of the program in severe jeopardy -- the Court has ruled that discriminations between persons based on length of residency are often unconstitutional. The opinions of the Court leave only a few narrow arguments available to save the program.

II. SUMMARY

In a September 20, 1982, letter, the Division of Legislative Audit posed two questions regarding the legislative intent behind AS 47.25.030, one of the statutes governing the Pioneers' Homes program. AS 47.25.030 provides, in relevant part:

> A citizen of the United States over 65 years of age who is a resident of the state and has been a resident for not less than 15 years continuously immediately preceding his application, but who is not destitute, may on application be admitted to the home upon his agreement to pay to the state a sum for each day as the Department of Administration considers sufficient to compensate the state for the cost of care and support of the person at the home.

The division wished to know the intent behind the "sufficient to compensate the state" language and whether the legislature wanted destitute persons (those eligible for admission to the Homes

under AS 47.25.020) to have priority in admission over those able to pay.

In addition, the Department of Administration has requested our assistance in drafting and reviewing proposed regulations for the Pioneers' Homes. These regulations include implementation of the statutory standards for admission set forth in AS 47.25.020, AS 47.25.030 and AS 47.25.035. Briefly, these standards are that persons of any age who are "destitute and in need of the aid or benefit of the home because of physical disability or other cause" and have continuously resided in the state for 15 years may be admitted to the home without payment. Non-destitute persons over the age of 65 who have continuously resided in the state for 15 years may also be admitted upon payment of a certain sum to the state which is "sufficient to compensate" the state for their care. The 15-year continuous residency requirement may be forgiven if the applicant has otherwise resided in the state for 30 years.

Under AS 44.62.060(b), this department must review each regulation and make a written statement concerning a regulation's "legality, constitutionality, and consistency with other regulations." AS 44.62.060(b)(1). The lieutenant governor may not accept regulations for filing unless there is such a statement from this office approving the regulations. This opinion sets out our constitutional analysis of those regulations.

The courts analyze residency requirements under different standards of review, depending on whether the right or benefit denied is a "fundamental political right" or "a basic necessity of life." Memorial Hospital v. Maricopa County, 415 U.S. 20 (1974); Hawaii Boating Association v. Water Transportation Facilities, 651 F.2d 661 (9th Cir. 1981); Williams v. Zobel, 619 P.2d 448, 453 (Alaska 1980), rev'd on other grounds; Zobel v. Williams, __ U.S. __, 72 L.Ed 2d 672 (1982). If access to the Pioneers' Homes is considered to be access to a "basic necessity of life," then the state must show that a distinction based on length of residence is "absolutely necessary to promote a compelling state interest" -- a test that is rarely met. Williams v. Zobel, 619 P.2d at 453. The Pioneers' Homes residency requirement would not survive this analysis.

On the other hand, if the Pioneers' Homes program does not involve access to a "basic necessity of life," then a much less strict standard of review is used, and arguments can be advanced for the constitutionality of the program.

We believe that the Pioneers' Homes program arguably does not involve access to a "basic necessity of life" so as to invoke the strict standard of review. Consequently, there are defenses of the constitutionality of the entire program.

Finally, it is our opinion that the destitute and disabled have priority in admission to the Pioneers' Homes and

the statutory requirement that non-destitutes pay an amount "sufficient to compensate the state" was not intended to mandate the recovery of all costs of a person's care.

Our conclusion that the Pioneers' Homes program can possibly be sustained does not mean that we believe a court would, if faced with the question, necessarily rule that it is constitutional. In other words, while there are legitimate arguments to defend it, we cannot guarantee their success in court. Indeed, there are numerous serious and potential fatal attacks that could be mounted against the entire program. But, since the program has continued uninterrrupted for approximately 70 years, we believe that it is appropriate for the courts rather than this department to make the final judgment rejecting all serious arguments in support and, if it is the proper conclusion, stopping the program. In the absence of that court ruling, therefore, we believe it is appropriate to continue the program and finish the proposed regulation project.

III. ANALYSIS

History

Before addressing these questions, a brief overview of the history of the Pioneers' Homes program is helpful. The Pioneers' Homes program has been an important institution in Alaska for almost 70 years.

In 1913 the first territorial legislature in Alaska accepted the offer of the United States government to turn over

some Marine barracks buildings in Sitka for use as a home for indigent ailing persons who wished to stay in Alaska. Chapter 80, SLA 1913, set up a three-member, unpaid board of trustees to manage and control "a home for indigent prospectors and others who have spent their years in Alaska and become dependent." The home was declared open to "[e]very worthy pioneer, or other person, who shall have been a resident of the Territory of Alaska for five years preceding his application for admission and who shall need the aid or benefit of said Home in consequence of physical disability or other cause within the scope of the regulations of the board." 1/ The legislature appropriated $10,000 for the operation of the Sitka home. 2/

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1. Although nothing in the 1913 act specifically limited eligibility to men, this apparently was the intent, as evidenced by § 6, ch. 64, SLA 1915 (setting up the allowance program discussed later in this memorandum): "Women who are otherwise qualified to apply for relief under this Act, may make application hereunder, and if entitled thereto shall receive the allowance herein provided for, notwithstanding the fact that as women they might not be eligible to be received in the Alaska Pioneers' Home."

2. Also in 1913, the legislature established the Board of Aged Prospectors Home Commission, to "investigate as to the climatic and other conditions of the several hot springs in Interior Alaska, the adaptability of same for use as a home for aged prospectors, the title price and possible methods of securing same, and to secure options on property adjoining any such springs as may be determined upon as desirable for such purpose." Ch. 78, SLA 1913. Apparently nothing became of this investigation, since this legislation was repealed in 1923. Ch. 7, SLA 1923. A Pioneers' Home was finally opened in Fairbanks in 1967.

The home opened on September 2, 1913, with 5 residents, and quickly expanded to 51 residents by February, 1915. According to the initial report of the board, operations were successful. A copy of that report is enclosed with this opinion.

In 1915 the legislature enacted an alternative program for Alaska's impoverished older residents. Chapter 64, SLA 1915 established a predecessor program to the current longevity bonuses (AS 47.45): any "pioneer" 65 or older, who had resided in Alaska for ten consecutive years since 1905 and who was "entitled to the benefits of the Alaska Pioneers' Homes" could, in lieu of applying for admission to the Homes, apply to the Homes' board of trustees for a monthly allowance not to exceed $12.50, to be paid out of the "revenues" of the Homes "in excess of suitable provisions for inmates of said Homes and those likely to be admitted thereto," and set according to the applicant's needs. The board could in its discretion deny the application if it found the applicant's case not "worthy." In 1917 the age requirement for women was lowered to 60, and the ceiling on allowances for them raised to $25 a month. Chapter 49, SLA 1917. Chapter 17, SLA 1919 increased the residency requirement to 15 years immediately preceding the application, and specifically excluded from eligibility "Natives or other Indians," who were defined as not being

"pioneers." 3/ In 1923 the ceiling on allowances was raised again, to $25 a month for men and $45 for women, and the requirement that allowances be paid out of "revenues of the Home" was replaced by a provision that allowances were to be paid out of money appropriated by the legislature for them. 4/

The 1929 legislature repealed the earlier acts on both Pioneers' Homes and allowances and enacted one omnibus piece of legislation, chapter 65, SLA 1929, "to revise and codify the laws relative to the care and support of the destitute and the needy." With respect to the Homes, chapter 65 essentially reenacted the 1913 legislation, with one significant change. Under section three, a five-year resident "in need of the aid or benefit of said Home in consequence of physical disability or other cause"

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3. In 1925, however, the legislature amended the act to exclude only "any Indian or Eskimo resident of the Territory who is provided for by the Department of the Interior out of the funds of the Treasury of the United States or . . . any ward of the Government of the United States." Ch. 65, SLA 1925. This change, though, was apparently not a substantial one; evidently it still excluded most Natives. The 1925 legislature saw a heated debate over the exclusion of Natives, with one representative threatening to tie up the whole program if the exclusion were not lifted.

4. It is unclear whether the allowance program before 1923 was actually dependent on whether the Home generated revenue, i.e., spent less than the sum appropriated for it. For, from 1915 on, an appropriation was made specifically for allowances. The initial appropriation, § 7, ch. 64, SLA 1915, referred to "revenue of said Home." But some subsequent appropriations lacked this reference. For instance, the 1919-20 budget, ch. 36, SLA 1919, contained separate appropriations for the Home and for the allowance program.

was not entitled to admission unless destitute. As a corollary, section five authorized, but did not require, the board to admit non-destitute ten-year residents over age sixty-five 5/ "upon his agreement to pay to the Territory such sum per day as the Board may deem sufficient to compensate the Territory for the cost of care and support of such person at the Home." 6/ With respect to the pioneers' allowances, section nine lengthened the residency requirement so as to cover only those who had resided in Alaska continuously since January 1, 1906, and section eleven raised the maximum allowance for men from $25 to $35. (Women remained at $45.)

In 1935 the January 1, 1906 requirement of the allowance program was changed to a simple 25-year residency requirement. Ch. 47, SLA 1935. However, the entire program was abolished in 1947 (ch. 73, SLA 1947) probably because a general old age assistance program, with far less strenuous residency requirements, had been enacted in 1937. Chapter 2, L. Ex. Sess. 1937.

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5. Although the Pioneers' Homes are generally thought of as senior citizens' homes, there is no age limitation for destitute residents admitted under AS 47.25.020, only for non-destitute residents admitted under § 30.

6. The 1929 legislation also provided that the members of the board of trustees other than the governor receive salaries.

Several changes have also been made to the statutory structure of the Pioneers' Homes program. In 1946 the provisions relating to the board of trustees were overhauled, and a new section defining the rights and duties of the superintendent of the home was added. Chapter 29, SLA 1946. In 1955 the legislature added the provision, now found at AS 47.25.020(b), that persons entitled to admission (i.e., destitute persons) could be required to pay to the home all income in excess of a certain sum (then $15, now $35). Chapter 158, SLA 1955. The same chapter also authorized the board to pay an allowance (then $5 per month, now $35 under AS 47.25.020(c)) to totally indigent residents. In 1961 the Alaska residency requirement for admission was raised to the present 15 years, chapter 89, SLA 1961, up from 5 years for persons entitled to admission (AS 47.25.020) and 10 for persons eligible for admission on payment (AS 47.25.030). In addition to these statutory changes, a significant physical change took place: the construction of a new Pioneers' Home in Sitka in 1934, built by the WPA on the site of the old Home. 7/

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7. During construction of the new home the residents were housed, for a year or two, at facilities at Goddard Hot Springs in southeast Alaska.

Since 1961 there have only been minor changes in the statutes governing the Pioneers' Homes program. 8/ The program itself, however, has grown tremendously; its budget for the 1983 fiscal year is nearly $19 million. In addition to the Sitka Home, there are now Homes in Fairbanks (dedicated in 1967), Palmer (1971), Anchorage (1977), and Ketchikan (1981), and planning is underway for a Home in Juneau. The five existing Homes, plus a small senior center in Kotzebue run under contract with the program, are capable of housing 635 people.

Although the Pioneers' Homes are capable of housing 635 people, only 519 people are currently in residence making the actual cost per year per resident approximately $36,600. 9/

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8. Chapter 71, SLA 1963, authorized the establishment of branch Homes besides the one in Sitka. Chapter 63, SLA 1965, changed the dollar figures in AS 47.25.020(b) and (c), discussed above. Executive Order 30, issued in 1968, transferred responsibility for the Homes to the Department of Administration. Chapter 118, SLA 1968, repealed the prohibition on Indians and Eskimos, which had already been rendered ineffective by other provisions of law. Chapter 7, SLA 1971, raised the dollar figures in AS 47.25.020(b) and (c) to their current levels. And Chapter 89, SLA 1978, enacted AS 47.25.035, providing an exception to the continuous 15-year residency requirement for persons with 30 years total residency.

9. Many of the rooms in the Pioneers' Home in Sitka were designed for double occupancy but for privacy reasons are used by only one person. Due to the growing waiting list, these rooms will return to double occupancy as needed. Other current vacancies in the Homes are due to the remodeling of the Anchorage Pioneers' Home as well as to the fact that a limited number of beds in the nursing portions of the Homes must be kept vacant to allow for emergency use by current residents.

This figure and the total Pioneers' Homes program budget of nearly $19 million for fiscal year 1983 may be compared with the state's public assistance programs which include Aid to Families with Dependent Children, Adult Public Assistance (former separate programs for the blind, disabled, and aged), and General Relief. These programs require a total of approximately $34 million in state general funds matched with $21 million from the federal government. Under the AFDC program, over 13,500 people may receive assistance in any one month. A family of four with no income may be eligible for a maximum of $15,857 per year in assistance which would be allotted as follows:

$ 7,608	AFDC payments
3,264	Food stamps
425	Energy benefit
4,560	Medicaid benefit if needed
$15,857	

The recipients of AFDC assistance or other categorical aid must meet a variety of eligibility requirements depending upon the type of aid sought. All must, however, fall below specific income levels to qualify for help.

Of the 519 persons presently participating in the Pioneers' Homes program, 515 were admitted under the non-destitute, over 65 and paying clause (AS 47.25.030), while only four were admitted under AS 47.25.020 because they were destitute and disabled. Thus, the program now is for practical purposes no longer a home for the needy -- at least as the

statutes make that distinction. Instead, the program is more of a retirement home for non-destitute "pioneers."

Furthermore, even for the destitute and disabled, the Pioneers' Homes program is essentially duplicative of existing programs. Alaska has chosen to participate in the medical assistance program of subchapter XIX of the federal social security program, 42 U.S.C. § 1396, et seq. See AS 47.07.010. That program provides federal money to the state to assist with medical costs of the needy, contingent upon the state's meeting a lengthy list of conditions set out in 42 U.S.C. § 1396a. Disabled persons entitled to admission to the Pioneers' Homes are also covered by subchapter XIX. See 42 U.S.C. § 1396a(a)(10) (state plan shall provide certain medical services to all individuals receiving aid or assistance under a state plan approved under subchapter XVI of Social Security Act; subchapter XVI relates to supplemental security income for the aged, blind, and disabled). Even if § 1396a(a)(10) does not require states to pay for nursing home costs of the disabled -- see subparagraph (A) and 42 U.S.C. § 1396d(a) -- Alaska has chosen to provide this care. AS 47.07.030; 7 AAC 43.005(b)(2) and (3).

The eligibility standards under the Alaska program are found in Title 7, Part 3 of the Alaska Administrative Code (Health and Social Services -- Family and Children Services). 7 AAC 40.170(a) adopts the federal definition of disability in

42 U.S.C. § 1382c(a)(3). That definition basically provides that a person is disabled only if his physical or mental impairment precludes him from engaging in any kind of "substantial gainful work." Disabled persons eligible for medical assistance are those eligible for (but not necessarily receiving) Adult Public Assistance (APA) payments, plus a few others. 7 AAC 43.020(a). APA eligibility is defined in 7 AAC 40: a person may not have resources in excess of $1,500 for an individual or $2,250 for a married couple (7 AAC 40.270), subject to numerous resource exclusions (7 AAC 40.280--290), and may not have income in excess of certain amounts, depending on the person's status and living arrangements. These amounts, based on state rather than federal law, will be listed in the soon-to-be-promulgated 7 AAC 40.310.

These standards for medical assistance differ slightly from both those currently utilized by the Pioneers' Homes in making decisions under AS 47.25.020 and those in the Homes' proposed regulations, 2 AAC 30. Under present policies, as set forth in the current Policy and Procedures Manual of the Pioneers' Homes (the section on admissions policies became effective in February 1981), income limits for destitutes are the same as for the Adult Public Assistance (aged, blind, and disabled) program, and resource limits may be tougher. (The policy manual sets a ceiling of $35,000 on the value of an applicant's property, while

under 7 AAC 40.280(a)(1) the applicant's home seems to be excluded from counted resources regardless of the home's value.) The policy manual's definition of disability, though, seems laxer than the definition in 42 U.S.C. § 1382c(a)(3) cited above: according to the manual a person is eligible under AS 47.25.020 if he or she "has a physical infirmity, disability or impairment that prohibits activity, or other disability which makes it necessary for them [sic] to receive assistance from others in coping with the problems of daily living." The proposed regulation on income and resources, 2 AAC 30.030(a), seems to use the current resources guidelines, but the Aged, Blind and Disabled income limits (to be issued in 7 AAC 40.310) uses federal Office of Management and Budget poverty guidelines. The proposed regulation on need under AS 47.25.020 and 2 AAC 30.040 approximates current policy on what constitutes a disability.

Constitutionality of Residency Requirements

Addressing the most fundamental matter first, the question is whether the 15-year, continuous residence (or 30 years of total residence) requirement is constitutional. As the former and present statutes and the program's history show, there are two separate purposes of the program.

First, the Homes are to provide care to the destitute disabled of any age. Second, the Homes also are to be retirement

Homes for non-destitute persons over 65 years old who could pay for their support.

A state may not deny access to welfare benefits or "basic necessities of life" like housing and care for the needy on the basis of length of residence unless the state can show that such a classification is absolutely necessary to promote a compelling state interest. Williams v. Zobel, 619 P.2d 448, 453 (Alaska 1980); Shapiro v. Thompson, 394 U.S. 618 (1969). This "strict scrutiny" test is rarely met. The Ninth Circuit Court of Appeals recently explained the standard and its application in the following manner.

> The right to travel is a fundamental right, and it has been recognized that durational residency requirements - because they disadvantage a class of persons who may have recently exercised the right to travel - may, in certain circumstances, unduly infringe upon this right. In Shapiro v. Thompson, 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600 (1969), the Court held unconstitutional a one-year durational residency requirement for welfare assistance. The Court stated, however:
>
> > "We imply no view of the validity of waiting-period or residence requirements determining eligibility to vote, eligibility for tuition-free education, to obtain a license to practice a profession, to hunt or fish, and so forth. Such requirements may promote compelling state interests on the one hand, or, on the other, may not be penalties upon the exercise of the constitutional right of interstate travel." [Id. at 638, n.21]

> The Court held, in Dunn v. Blumstein, 405 U.S. 330 (1972), and Memorial Hospital v. Maricopa County, [415 U.S. 250 (1974)], that durational residency requirements which involved deprivations of the right to vote and free nonemergency medical care triggered strict scrutiny. In Maricopa County, however, the Court noted that "The amount of impact required to give rise to the compelling-state-interest test [has] not been made clear." [Id. at 256-7] (Footnote omitted). In Fisher v. Reiser, 610 F.2d 629 (CA9 1979) cert. denied, [447 U.S. 930 (1980)], we noted the importance of the "nature of the benefit denied." Id. at 635. In fact, Judge Hufstedler, dissenting in Fisher, after reviewing the right to travel cases, commented that "The Court [has] indicated that the 'penalty' required to invoke strict scrutiny involves a genuinely significant deprivation, such as a denial of the basic 'necessities' (as in Shapiro), or the denial of a 'fundamental political right' (as in Dunn)." Id. at 639 (footnote omitted) (emphasis added). Judge Hufstedler also noted that "Deprivations which are only uncomfortable are not enough, such as conditioning lower tuition at state institutions of higher education upon a one-year residency requirement." Id. at 639, n.5.

Hawaii Boating Association v. Water Transportation Facilities, 651 F.2d 661 (9th Cir. 1981).

Denial of access by the destitute to public housing and life-care aid have usually been found to be "significant deprivations" or denials of "basic necessities of life." Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974); Cole v. Housing Authority of City of Newport, 435 F.2d 807 (1st Cir. 1970); Strong v. Collatus, 593 F.2d 420 (1st Cir. 1979); King v. New Rochelle Municipal Housing Authority, 442 F.2d 646 (2d Cir.

1971) cert. denied 404 U.S. 863 (1971). An argument can be made, however, that these rulings were conditioned on the non-existence of essentially similar public services. For example, in Cole the right denied was access to public housing. The court expressly premised its ruling that a compelling state interest had to be shown on the non-existence of an adequate alternative:

> Normally, persons eligible for public housing have only to sign up and wait six months for a vacancy. Plaintiffs were required to wait two years before they could be placed on the six-month waiting list. During that time, they were forced to live in substandard housing. Using "penalty" in what appears to be the right context, i.e., not in the sense of a criminal or civil sanction, plaintiffs and other in their class can truly be said to suffer "disadvantage, loss, or hardship due to some action."
>
> As a result of penalizing the right to travel, the Authority can successfuly defend its residency requirement only by demonstrating that the requirement furthers a compelling state interest.

435 F.2d at 811 (citations omitted; emphasis added). See also King v. New Rochelle Municipal Housing Authority, supra, 442 F.2d at 647; Strong v. Collatus, 593 F.2d at 422; Memorial Hospital v. Maricopa County, 415 U.S. at 261 ("The denial of medical care is all the more cruel in this context, falling as it does on indigents who are often without the means to obtain alternative treatment.").

Here, however, there are adequate and substantially similar alternatives. As described earlier, disabled persons

denied access to the Pioneers' Home are entitled to subchapter XIX medical assistance, which, with a few differences, offers substantially similar aid.

The differences that do exist between the Pioneers' Homes program and the state's subchapter XIX medical assistance program are arguably not constitutionally significant. In other words, in no case will a person who would be eligible for the Pioneers' Homes under AS 47.25.020 but for lack of 15 years residence be deprived of necessary medical care. It might be that a 15-year resident would be considered disabled and admitted to a Home under the proposed definition of disability, while a similarly situated shorter-term resident would not be admitted to a nursing home under AS 47.07. But that would be because the state believed that that person was not really so disabled as to require the services of a nursing home; that person would still receive necessary medical care, either under subchapter XIX or, if the person did not qualify under that program, under the state's General Relief Medical program (7 AAC 47.180-- 260). Consequently, an argument can be made that these statutes do not deny access to a "basic necessity of life," and should not be reviewed under the compelling-state-interest test.

Furthermore, to the extent that the program offers care and housing to the non-needy, an even stronger argument can be made for a less intensive standard of review. Here the purpose

is to provide retirement housing and care to the non-needy, with some reimbursement of the costs of providing that service. Denial of this service to persons who are not destitute would presumably not rise to the level of a denial of access to a basic necessity of life. The United States Supreme Court has linked the economic standard of the class allegedly discriminated against to the determination of "access to a basic necessity of life":

> Whatever the ultimate parameter of the Shapiro penalty analysis, it is at least clear that medical care is as much "a basic necessity of life" to an indigent as welfare assistance. And, governmental privileges or benefits necessary to basic sustenance have often been viewed as being of greater constitutional significance than less essential forms of governmental entitlements.

Memorial Hospital, 415 U.S. at 259 (citation omitted; emphasis added). Denial of access to the Pioneers' Homes to persons who do not otherwise need the service is, using the Ninth Circuit's terminology in the Hawaii Boating case, even more arguably an "uncomfortable deprivation" rather than a "genuinely significant deprivation."

If the purpose and effect of the Homes do not trigger strict scrutiny of the program, then the program's distinction between categories of people must survive the Alaska Constitution's "intensified scrutiny" test, and the Federal Constitution's "rational basis" test. The inquiry proceeds in

three parts: (1) identifying the purpose for the distinction; (2) determining whether that purpose is a legitimate state purpose; and (3) testing the "fit" between the purpose and the distinction itself to see if the distinction accomplishes the claimed purpose.

The Alaska and federal tests differ primarily in the required closeness of the fit between the distinction made and the purpose behind the distinction. Under the Alaska approach the court

> will balance the nature and extent of the infringement (on the right to interstate travel) caused by the classification against the state's purpose in enacting the statute and the fairness and substantiality of the relationship between that purpose and the classification.

Williams v. Zobel, 619 P.2d at 453.

On the other hand, the federal standard is extremely forgiving, and in fact has been characterized by the Alaska Supreme Court as "virtual abdication" of the court's responsibility. Isakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976). The test is termed the "rational basis" test, and was explained by the United States Supreme Court in Dandridge v. Williams, 397 U.S. 471, 485 (1970):

> In the area of economics and social welfare, a state does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some 'reasonable basis,' it does not offend the Constitution simply because the classification 'is not made with

mathematical nicety or because in practice it results in some inequality.' Lindsley v. Natural Carbonic Gas Co., 220 U.S. 61, 78. 'The problems of government are practical ones and may justify, if they do not require, rough accommodations -- illogical, it may be, and unscientific.' Metropolis Theatre Co. v. City of Chicago, 228 U.S. 61, 69-70. 'A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it.' McGowan v. Maryland, 366 U.S. 420, 426. 10/

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10. The choice of the level of scrutiny usually determines the outcome of the analysis. Zobel II, 619 P.2d at 452. This is particularly evident in durational residency cases. For a period of time there was substantial confusion concerning whether strict scrutiny was always required in durational residency cases or was limited to only those instances where significant deprivations resulted from failure to meet the residency requirement. E.g., Memorial Hospital v. Maricopa County, 415 U.S. at 257; Cole v. Housing Authority of City of Newport, 435 F.2d 807 (1st Cir. 1970). As a result, various courts have ruled differently on almost identical issues. E.g., compare Larsen v. Gallogly, 361 F.Supp. 305 (D. R.I. 1973) (two-year residency requirement for divorce subject to strict scrutiny; held unconstitutional) with Mendez v. Heller, 380 F.Supp. 985 (E.D. N.Y. 1974) aff'd on other grounds, 530 F.2d 457 (2d Cir. 1976) (two-year requirement for divorce subject to rational basis test; held constitutional); Bolanewski v. Raich, 330 F.Supp 724 (D.C. Mich. 1971) (three-year residency requirement for mayor subject to scrict scrutiny; held unconstitutional) with Walker v. Yucht, 352 F.Supp. 85 (D.C. Del. 1972) (three-year residency requirement for candidates for General Assembly subject to rational basis test; held constitutional); State v. Wylie, 516 P.2d 142 (Alaska 1973) (one-year residency requirement for state employment subject to strict scrutiny; held unconstitutional) with Ostendorf v. Turner, 411 So.2d 330 (Fla. App. 1982) (five-year residency requirement for homestead exemption subject to rational basis; held constitutional). It is extremely rare for a durational residency requirement to be overturned under the rational basis test, and usually will only occur in exceptional cases. E.g., Antonio v. Kirkpatrick, 579 F.2d 1147 (8th Cir. 1978) (ten-year residency requirement in order to run for state auditor); Massey v. Appollonio, 387 F.Supp. 373, 376-377 (D. Me. 1974) (three-year residency requirement in order to be licensed as a lobsterman).

The first issue, then, is to determine the purposes of the 15- and 30-year residency requirements of AS 47.25.020, .030 and .035. Like the purposes ascribed by the legislature to the longevity bonus program in AS 47.45.170, the following purposes here appear to be paramount:

(1) to reward long-term residents for their past contributions to the state and their persevering through past economic hardship;

(2) to prevent present suffering and hardship to such persons that would be caused by their having to retire outside the state, including loss of contact with family; and

(3) to retain in Alaska those persons' personal knowledge of Alaska's past history, so that it is accessible to present and future generations.

The next and most difficult issue is to determine the legitimacy of these three purposes. All three appear to be legitimate under the Alaska Constitution. Under the Federal Constitution, the "reward for past contributions" purpose is clearly illegitimate; the other two purposes, however, are arguably legitimate. A description of the permanent fund dividend cases is essential to an explanation of the present state of the law.

In a series of cases -- Williams v. Zobel, 619 P.2d 422 (Alaska 1980) (Zobel I); Williams v. Zobel, 619 P.2d 448 (Alaska 1980) (Zobel II); and Zobel v. Williams, ___ U.S. ___, 72 L.Ed.

2d 672 (1982) (Zobel III, reversing Zobel II) -- the Alaska Supreme Court and the United States Supreme Court ruled upon various residency distinctions relating to tax relief (Zobel I) and distribution of permanent fund dividends (Zobel II and Zobel III). In Zobel III, the United States Supreme Court overturned the then existing permanent fund dividend distribution plan.

In Zobel II, the Alaska Supreme Court found that rewarding past contributions is "a permissible purpose, albeit not a particularly compelling one." 619 P.2d at 460. Further, the court held that using length of residence as a measure of past contributions did satisfy the Alaska Constitution:

> Although we recognize that the length of residency may be an imperfect measure of past contributions, we have concluded that the state may recognize these contributions. The fit between means and ends need not be perfect. We think the relationship is fair and substantial. There clearly is a correlation between one's length of residency and the extent to which that individual has been able to make contributions to the community. We are not convinced that any workable alternative method of measuring past contributions is clearly preferable. Although the existence of a preferable alternative would not automatically render the relationship unfair or insubstantial, the absence of any preferable workable alternative is a strong indication that the classification chosen by the legislature is acceptable. We think the relationship is as fair and substantial as the Alaska Constitution requires in this context.

Id. at 461.

The second purpose of the Pioneers' Home program -- using length of residence as a measure of the present suffering that would be caused if the retiree would otherwise move out of the state, was not mentioned by the majority, but was expressly endorsed by Justices Dimond and Matthews in their dissent in Zobel II:

> [A]dmission to pioneer homes, AS 47.25.020-.030 . . . require[s] lengthy residency periods. [The program is] apparently designed to help those individuals who would like to retire in the state but cannot do so because of the high cost of living. The state might well want to limit these benefits to those that would suffer the most hardship by being forced to leave, and it seems reasonable to suppose that a long period of residency would be some indicia of close ties to Alaska and the disruption that leaving might cause.

619 P.2d at 469 n.2. Therefore, at least two Justices would apparently uphold this program on the above rationale alone.

Finally, there is the third purpose of present access to the historical knowledge contained by these persons. Although probably not a compelling reason, it is a legitimate purpose and one that is directly tied to length of residence.

Therefore, a valid defense can be advanced that the Pioneers' Homes program meets the Alaska Constitution's equal protection test. The Alaska Supreme Court has expressly upheld the "past contribution" rationale and its "fit" with the residency requirement, while the "present hardship" reason was expressly

approved by the two Justices as sufficient to withstand constitutional scrutiny.

The question then becomes whether the revised program is defensible under the Federal analysis. In summary, although the "past contribution" purpose is an improper purpose under the Federal Constitution, the strength of the remaining two purposes does not have to be very great to withstand the minimal scrutiny of the federal "rational basis" test. Almost any legitimate purpose is defensible. so the real inquiry is whether the two remaining purposes are legitimate in light of the residency criteria. Although the United States Supreme Court has indicated serious concern with the use of residency as a measure of any trait beside bona fide residence and qualification for office, there remains room for argument that other purposes are legitimate and that residency is not an arbitrary means to be used to further those purposes.

Despite its notoriety in Alaska, the United States Supreme Court opinion in Zobel III actually stands for only two propositions. First, making an award of benefits based on residency accumulated prior to the date of enactment of the benefits program is not rationally related to the purpose of granting

believes that such valid independent interests are few and far between:

> To be sure, allegiance and attachment may be rationally measured by length of residence - length of residence may, for example, be used to test the bona fides of citizenship - and allegiance and attachment may bear some rational relationship to a very limited number of State purposes. But those instances in which length of residence could provide a legitimate basis for distinguishing one citizen from another are rare.

Id., Brennan concurrence at 684 (citations omitted).

Although the instances where length of residence has an independent utility as a device to further a legitimate state interest may be rare, they may not be as rare as Justice Brennan implies. Justice Brennan indicated his belief that there were only two categories that would admit of an independent interest: testing bona fide residence and qualifying for public office. Id. But there may well be other legitimate instances that Justice Brennan did not think of, such as Justices Dimond and Matthews' view that length of residence might be a reasonable tool to measure the present hardship that would be caused by disrupting ties to the state. Zobel II, 619 P.2d at 469 n.13.

Thus, Zobel III does not preclude the state from arguing either (1) that the "present hardship" and "link with the past" purposes are legitimate, or (2) that length of residence is a legitimate tool to distinguish between those residents who meet

those purposes and those who do not. Consequently, given the "virtual abdication" of scrutiny under the federal test (Isakson v. Rickey, 550 P.2d at 363), a good faith defense can be mustered to uphold the constitutionality of the Pioneers' Homes program.

This is not to say, however, that there are not serious and possibly fatal arguments against the entire program. Besides the strong implication in the Zobel cases that residency can only be used as a discriminatory tool in extremely rare cases, there are other serious constitutional problems that the courts could find to be fatal.

One problem is that the courts could view the provision of housing and medical care as the provision of a "basic necessity of life" in all instances, and not just when there are no existing alternatives or where the purpose of the program is to aid indigents. Another problem is that the Alaska Supreme Court might view the Zobel III rejection of the "past contribution" purpose as a persuasive analysis to be applied under the Alaska constitution. That, in addition to an analysis that the "penalty" on interstate migration is much greater than that under the permanent fund dividend program, could shift the balance under the state's intensified scrutiny test against the lengthy residency requirement.

A third potential problem is that even if the courts recognize the legitimacy of the purposes and the potential

appropriateness of a residency requirement, either they could view this specific instance as an inappropriate means for using a residency test, or they could find that 15 continuous years or 30 years overall is an unreasonably long period to use to achieve these goals.

We do believe, however, that there is enough of a defense for the program that it is appropriate for the courts, rather than this office, to make the ultimate determination. Given the present state of confusion in the case law, the state's strong interest in this program, and the long-standing and uninterrupted 70-year history of the Pioneers' Homes program , a judicial resolution is appropriate.

Response to Division of Legislative Audit

With regard to Division of Legislative Audit's preference question, we believe that the statutory language clearly commands that destitute and disabled applicants be given preference over those able to pay, in the event that space limitations preclude acceptance of all otherwise eligible applicants. This conclusion follows from the language of AS 47.25.020(a) -- that worthy persons "destitute and in need of the aid or benefit of the Home" are entitled to admission -- and of § 030 -- that persons not destitute may on application be admitted. Since admission is automatic for the first group and discretionary for

the second, the first group must be given preference.

With regard to the "pay-for-care" provision, there is in our opinion no clear answer. The 1929 legislature may have intended through its statute -- permitting the board of trustees to admit non-destitute residents on their agreement to pay "such sum per day as the Board may deem sufficient to compensate the Territory for the cost of care and support of such person at the Home" -- to extract from paying residents the full cost. The language suggests this, though it is not unequivocal; "compensate" could be read as meaning "partially compensate" rather than fully compensate.

Although there is no record of specific legislative or administrative intent in subsequent years, it has consistently been the administrative practice not to require full payment of costs. Legislative Audit has noted that by 1967 non-destitute residents were assessed only 66% of the full costs, which figure has decreased to 21% in 1976 and to 11% in 1982. In addition, the legislature has consistently appropriated the money to make up the difference. Therefore, there has been a consistent and long-standing administrative (and even legislative) interpretation that the statute does not require the payment of the full cost of support. See generally 2A Sands, Sutherland Statutory Construction, ¶49.03-49.05, at 233-238 (4th ed. 1973).

And there is no discernable legislative intent, either originally or currently, which would inhibit the administrative ability to continue to interpret the statute to allow the payment of less than the full cost of support.

We would note, however, that there does not seem to be any formal or informal record to support either the present level of support ($225 a month for residential care and $275 a month for skilled nursing care), or any mechanism for reviewing the level of support at intervals to adjust for increased costs of service. Although an administrative agency does have reasonably broad discretion in making judgments such as these, if challenged there must be some evidence that the judgment was not arbitrary, capricious, or irrational. Kingery v. Chapple, 504 P.2d 831, 834-835 (Alaska 1972); Kelly v. Zamarello, 486 P.2d 906, 911 (Alaska 1970). Therefore we would recommend that the agency review the costs and leave some record of the reasons for settling on a particular number or proportion of total cost. This determination should be reviewed at reasonable times in the future so that original judgments will not become irrational because of markedly changed circumstances.

IV. CONCLUSION

Therefore, it is our opinion that

(1) the Pioneers' Homes program durational residency requirements are defensible;

(2) destitute and disabled applicants receive priority over paying applicants; and

(3) paying residents do not need to pay the full cost of support.

Finally, we believe that some administrative review of the level of payment should be undertaken. Since the present set of proposed regulations can now proceed, it might be appropriate to include procedures for that review in those regulations.

Sincerely,

Wilson L. Condon
Attorney General

WLC:mr

Enclosure

891-679-683

ALASKA PIONEERS' HOME.

To the Senate and the House of Representatives:

Chapter 80, Session Laws, 1913, providing for the acceptance and use of the United States Marine buildings at Sitka as a home for indigent prospectors and others who have spent their years in Alaska and become dependent, constitutes the Governor of Alaska a member of the Board of Trustees, provided for in the law, and directs him to appoint two citizens to act with him as members of the Board. In accordance therewith, on June 19, 1913, W. P. Mills and Sergius George Kostrometinoff, of Sitka, were appointed members of the Board, and a formal organization was effected on July 4, following. W. P. Mills was designated Treasurer and Sergius G. Kostrometinoff Secretary of the Board, and Arthur G. Shoup was appointed Superintendent, to serve without compensation.

A report giving in detail the history of the Home and its operation since its establishment, together with the cost of maintenance, receipts and disbursements, and the other information, prepared by the Superintendent, is submitted herewith and made a part of this report. The Board has endeavored to discharge its duties in a manner commensurate with the trust with which it is charged, and it is a pleasure to acknowledge the hearty sympathy which has been expressed in many ways by the people of Alaska generaly for the success and welfare of this Territorial institution. At one time it was feared by the Board that the appropriation made for the maintenance of the Home would be exhausted before another appropriation could be made by the Legislature. Happily, such fear proved groundless, and the Home was enabled to continue through appropriations received from the Federal indigent funds from the judges of the four judicial divisions for the support of inmates from their respective divisions.

Much painstaking work has been required to place the Home in its present condition; many handicaps had to be overcome in overhauling the buildings, furnishing them and getting them ready for occupancy. The Home was ready for the admission of inmates on September 2, 1913, and was opened with five members. There are now fifty-one, the number having steadily increased since that time; ten have died, three have been adjudged insane and com-

mitted to Morningside Sanitarium, and six have been discharged at their own request. The physical condition of a number of the inmates has resulted in making the institution a hospital as well as a home, and a hospital equipment as well as the employment of a trained nurse willl be necessary hereafter. It will be also necessary to provide for the employment of a superintendent under salary, who should be a man of executive ability and fitted in every way for the management of an institution of this kind, which calls for kindliness, patience coupled with firmness, and good judgment in all circumstances.

The Board estimates that provision should be made by the Legislature for the maintenance of eighty-five inmates of the Home, on an average, for the next two years, or until May 1, 1917, and that the sum of $50,000 will be required for the support of the institution for that period; and in addition to the above amount the sum of $6,000 will be required for the purpose of erecting and equipping a new building in order to afford the necessary accommodations that will be needed with the increase of inmates; also $2,000 for repairs and painting the present buildings.

Your attention is respectfully directed to the recommendations contained in the exhaustive report of the Superintendent, which are generaly endorsed by this Board, for such action as you may deem proper in the premises.

The Board of Trustees feel that they can not close this report without rendering due acknowledgment of the invaluable services of Honorable Arthur G. Shoup, a member of your honorable body, in the establishment and conduct of the Home. The success achieved in its management has been due largely to his unselfish efforts in its behalf without other compensation than the knowledge that he was assisting in making the declining days brighter, happier and easier for men who have spent their years in Alaska as trail-blazers and pioneers in a new land.

Respectfully submitted,

J. F. A. STRONG,
Chairman.

W. P. MILLS,
Treasurer.

S. G. KOSTROMETINOFF,
Secretary.

Sitka, Alaska, February 27, 1915.

REPORT TO THE BOARD OF TRUSTEES

By the

SUPERINTENDENT OF

THE ALASKA PIONEERS' HOME.

To the Board of Trustees,
Alaska Pioneers' Home:

Gentlemen:

I have the honor to submit herewith a detailed report of the operations of the Alaska Pioneers' Home at Sitka, Alaska, since its establishment on July 4, 1913, to the close of December 31, 1914, together with tabulated statements concerning the inmates received and cared for, and financial reports for the said period.

HISTORY AND PURPOSE.

Inasmuch as this will comprise a part of the first official report of the Trustees, and as it may be of some future interest, I shall undertake to state briefly the history of, and reasons for the establishment of this institution.

By order of the Secretary of the Navy, on March 17, 1912, the United States marine guard at Sitka, Alaska, was withdrawn, leaving the barracks and other buildings of the station abandoned. Without referring to a somewhat voluminous previous correspondence, I quote the following letter, which fully indicates the manner in which the use of these buildings was acquired by the Territory:

Department of the Interior,
Washington, April 23, 1913.

The Honorable,
The Secretary of the Navy.

Sir:

By Department letter of January 22, 1913, your attention was invited to the fact that this Department had received letters from Honorable James Wickersham, Delegate from Alaska, dated January 16, 1913, and from Hon. Arthur G. Shoup, of the Alaska Legislature, dated December 16, 1912, requesting that the abandoned buildings of the Marine Barracks at Sitka be devoted to use as a home for indigent prospectors and old men who have spent their years in Alaska and have met with misfortune; and you

were requested to advise this Department as to whether the buildings mentioned were under your jurisdiction and control, and if so as to whether they might be used for the purpose suggested.

Under date of March 10, 1913, you replied:

"The Department is willing to allow the use of these buildings as suggested by Mr. Shoup, and requests that you designate a representative at Sitka to whom the custodian may transfer them. They will be turned over with the understanding that the buildings are to be kept in as g. d condition as they are at present."

n response I have to advise you that the Governor of the Territory of Alaska, at Juneau, Alaska, is hereby designated as the representative to whom the custodian may transfer the buildings in question for the purpose stated.

It is requested that your representative in Alaska be advised of this action at the earliest practicable date. I have this day advised Delegate Wickersham, Mr. Shoup and Governor Clark of my action in the premises.

Respectfully,

(Signed) FRANKLIN K. LANE.

Agreeably to the foregoing letter, on May 3, 1913, Governor Clark designated Mr. Arthur G. Shoup, of Sitka, Alaska, to act as his representative in the matter of receiving these buildings from the Navy Department, with instructions to take them into his immediate charge, and on May 9, 1913, the following buildings and grounds were formally transferred to the representative of the Governor, namely:

1 Marine Barracks,
1 large coal house,
1 small coal house,
1 officers' quarters,
1 canteen building,
1 engine house,
1 store house.
U. S. Government grounds and water front belong to the above.

On December 23, 1914, the building formerly used as a residence by the Governors of Alaska, and afterwards used as a Naval Hospital, was receipted for to the representative of the Navy Department by the writer as the representative of the Governor of Alaska and the Department of the Interior. This building is about seventy years old and in a state of very poor repair. However, it is thought that with some repairs it can be used to advantage by the Alaska Pioneers' Home, and is of further value because of the excellent garden plot adjoining it. Many Alaskans feel that because of its unusual historical significance this building should be repaired and preserved by the Territory.

Under the act of the First Alaska Legislature, approved April 30, 1913, the Hon. J. F. A. Strong, as Governor of Alaska, appointed Mr. W. P. Mills, of Sitka, Alaska, Treasurer of the Board of Trustees of the Alaska Pioneers' Home, and Rev. S. G. Kostrometinoff, of Sitka, Alaska, Secretary of said Board, with the Governor as ex-officio President. On July 4, 1913, this Board met at Sitka and arranged for the use of the Marine Barracks buildings as a home for indigent prospectors and others who have spent their years in Alaska and became dependent. The Board of Trustees at this meeting appointed A. G. Shoup Superintendent, with instructions to purchase necessary furniture, make necessary repairs to the buildings, hire necessary help, make rules and regulations for the government of inmates, and to organize and operate the institution as a home for dependent men who have assisted in the exploration and development of Alaska.

The buildings at this time had been entirely unoccupied for fifteen months, and were becoming considerably dilapidated. The plumbing had frozen during the winter and a great many of the water pipes were burst, and had to be replaced. The lawns had been used as a playground by the children from the Indian village, and many of the windows were broken. The heating plant also required a number of expensive repairs. There was absolutely no furniture of any kind, excepting a kitchen range, and it was necessary to order needed furniture, dishes, cooking utensils, and other supplies. These we were able to buy at wholesale prices through the courtesy of the W. P. Mills mercantile company, which extended to the Home the benefit of its credit and buying facilities, resulting in a very material saving of funds. All of the furniture and permanent supplies purchased for the institution since its opening have been furnished by the W. P. Mills Company at actual cost.

OCCUPANCY.

The first inmates to arrive at the Home were Samuel Dutton and David Spencer, on July 28, 1914, but as the buildings were not then ready for occupancy, arrangements were made with the management of the Sitka Hot Springs, at Sanitarium, Alaska, for their temporary care. On August 10th John A. Hammill arrived from Nome, and he was also sent to Sanitarium. Frank Sears, of Circle, arrived at Sitka on August 29th, and he was cared for in a hospital at Sitka until the Home was opened. On September 2, 1914, we moved into the present quarters with five inmates. This number was increased to thirteen before the end of September. As will be seen by reference to tabulated statements herewith, the number of inmates constantly increased, as rapidly as it was possible to provide accommodations within the limits of available funds.

While it was known that many of the old-timers who had been on the frontier of Alaska were greatly battered by time and hardship, it was not anticipated that the need of a home in which they could spend their declining years was as great as the establishment of this institution has shown it to be. Owing to limited room, as well as very restricted funds, it has been necessary to refuse admission to many worthy Alaskans whom the Territory ought to provide for, and, from such investigation as it was possible to make, only the most urgent cases have been admitted.

The Legislature estblished the Home for Alaska pioneers, with the idea of providing a haven for old or disabled men who had spent their years in exploring, prospecting and developing Alaska, and had become unable to earn a living. It was thought that most of these men would still be able to do some work in connection with the operation of the institution, but experience has proved that practically all of the men who have been admitted are entirely unable to do anything at all. Many of them are altogether helpless and require constant personal attendance. This has unavoidably increased operating expenses beyond expectations, and even then the care we have been able to give the most invalid cases has been far from satisfactory. Moreover, it is inevitable that these men, who are far advanced in years and worn by severest hardships, should decline in strength after their arrival here, and I cannot too earnestly urge the provision of

more adequate hospital facilities. Another thing which has somewhat added to our troubles is that some communities, with a mistaken idea of the situation, have sent men here who were far advanced in sickness. Their condition was usually aggravated by the ordeals of travel. These men have in most cases lived but a short time after their arrival at Sitka. However, some of the apparently hopeless cases have greatly improved or recovered. A detailed statement of the physical condition of the inmates will be found in the accompanying report of the attendant physician.

RECOMMENDATIONS FOR IMPROVEMENTS.

So far as it is possible to estimate, the number of inmates in the Home will be increased in the next year to seventy-five or one hundred, and if that is so it will be necessary to increase the building space. As it is at present, we are compelled to quarter cripples, who are unable to climb stairs, in the ward with the bed-ridden invalids. That naturaly works a hardship on both the sick men and the cripples, and there should be some dormitory space on the ground floor. The dining room is small and necessitates two sittings at table with the present number of inmates. There is much need also of an assembly and recreation room. With nothing to do, life naturally becomes more or less monotonous to these old men who have led active lives. A recreation and assembly room in which entertainments could be held is highly desirable. I would recommend, therefore, that a two-story building, about forty-six feet by sixty-six feet in size, be erected at the southeast end of the "Barracks" building. This would nearly double the sleeping quarters, and provide a new dining room and assembly room. The present dining room could then be used as a ward for semi-invalid cases. Such a building should be constructed for about six thousand dollars.

The need for a trained nurse is keenly felt, and it is hoped there will be sufficient funds to keep a competent nurse in attendance next year.

The heating plant is situated in a separate building. This plant was designed by the Navy Department for the double purpose of heating the building and operating an electric light plant. It consists of one 80 H. P. tubular marine boiler eighteen feet long and four feet wide, with two doors to the fire box; one switchboard panel; one elec-

tric generator, form "C", speed 450; one marine engine; form "D", speed 450, size 6 1-4 by 5; four traps in four-foot condensing; one receiver for returns from buildings, and one Dean steam pump, six-inch stroke. There are forty-four radiators in the buildings, and the boiler consumes about 1,200 pounds of bituminous coal per twenty-four hours. A material saving in expense could be made by installing a more economical heating plant.

CEMETERY.

A plot of about one-half acre of ground was selected in the military cemetery at Sitka as a burial place for deceased inmates of the Alaska Pioneers' Home. A small portion of this has been cleared, and it is hoped that the funds will permit all of it to be put in first class shape next year. The estimated cost for clearing, grading and seeding this plot is about five hundred dollars. There should also be funds available with which to purchase permanent markings for the graves.

The men who have died in the institution here usually left a few personal belongings of nominal value. Some, however, have left a little money. Wherever there has been enough money to pay the funeral expenses it has been applied to that purpose, but the superintendent has in his possession several small amounts left by deceased inmates. This he is holding until it is decided what disposition should be made of such money. There should be a simple and uniform method of disposing of such moneys without probate procedure, either by reversion to the Home or payment to heirs. Whenever it has been possible to locate heirs such personal effects as might be valued have been sent to them.

CHARACTER OF INMATES.

Almost all of the men who have come to the Alaska Pioneers' Home are of the highest type of American trail-blazer. They are men who have lived alone in the silent places, and are of a naturally adventurous disposition. In fact, it is this very quality that has kept them upon the Alaska frontier, and it is to such men that the Territory must credit much of its development.

Some friends of the Institution have suggested that more rigid discipline should be enforced upon these old men in this Home. To me, however, it seems that to annoy these men with unnecessary restrictions would be an unkindness

that is not called for. The Alaska Pioneers' Home was established as a place where these men might spend their declining years in comfort, and is intended as a partial reward for their pathfinding services. To avoid restraint was one of the factors which made them independent prospectors and frontiersmen. And, as a matter of fact, the best way, in my opinion, to insure good conduct and avoid friction among such men is to allow them to follow their own inclinations as much as possible. They, like all of their kind, are big-hearted and generous to a fault, and are the last men in the world to impose upon the rights of others or to allow others to impose upon them. Of course, there have been some occasional cases of admitting men who never were of any use and they have given some trouble; but for such cases there is the simple remdy of summary dismissal from th Home. Instances of intoxication here have been exceptional. Owing to the weakened physical resistence of these men, if for no other reason, intoxication cannot be permitted among them under any circumstances, and that is one thing against which a positive rule has been established. The most effective factor in discouraging heavy drinking by an inmate of the Alaska Pioneers' Home is the bad standing he thereby establishes for himself among his comrades.

Much of the success of the Alaska Pioneers' Home so far, which has been under rather adverse conditions, is largely due to the hearty moral support tendered by the people of Alaska, and I wish particularly to thank those who have assisted with generous presents at each Christmas time, and in donating books for a libarary. For the support given, and confidence reposed by the Board of Trustees, I am deeply grateful.

Respectfully,

ARTHUR G. SHOUP,
Superintendent Alaska Pioneers' Home.

STATE OF ALASKA
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

August 31, 1982

The Honorable Randy E. Phillips
P. O. Box 142
Eagle River, AK 99577

Re: Andress v. Baxter
(Student Loan Lawsuit)

Dear Representative Phillips:

On August 3, 1982, a University of California Davis law student named Judith Andress filed a complaint in Anchorage District Court challenging the two year residency requirement for the student loan program. That challenge was brought under 42 U.S.C. 1983, a federal statute which allows personal suits against state officials for violations of an individual's civil rights. Ms. Andress alleged that her civil right to equal protection was being violated by enforcement of the two year requirement. Ms. Andress also asked for damages, both compensatory and punitive, against the commission members. Since the state of Alaska cannot be sued in federal court, the only persons liable under this action would be the commission members individually and Kerry Romesburg as Executive Director of the commission. Ms. Andress agreed to drop the damage claims in exchange for the interim issuance of a student loan to her. Ms. Andress also agreed to a court order requiring her to pay back the student loan immediately if and when she lost her suit. In addition, Ms. Andress agreed to an expedited briefing schedule whereby the issue would be briefed and argued before the federal court by early October.

On its own motion, the federal court judge, Judge Fitzgerald, requested briefs from the parties on whether or not the court should abstain from hearing the issue. The issue here was whether or not the court should delay ruling on the federal claims brought by Ms. Andress pending a resolution of state constitutional questions by the Alaska Supreme Court. After briefing and oral argument on that motion last week, the court decided not to abstain and to hear the issue. The major difference between the state constitutional equal protection test

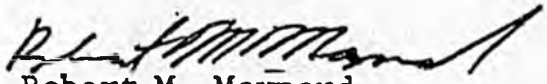
and the federal constitutional equal protection test is that the Alaska courts apply a more stingent standard of review in determining whether or not a person's equal protection right has been violated. Thus, theoretically at least, the state has a better chance of prevailing under the federal test than under the state test.

Opening briefs of the parties are due September 9, with reply briefs to be filed by September 16. Oral argument will be requested for the first part of October, and a decision should occur shortly thereafter. The deposition of Kerry Romesburg has already been taken, and no further discovery or other similar court procedures are contemplated.

If you have any questions, please do not hesitate to call.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Robert M. Maynard
Assistant Attorney General

RMM:lw

STATE OF ALASKA
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

October 6, 1982

Representative Randy Phillips
P.O. Box 142
Eagle River, AK 99577

Re: Andress v. Baxter

Dear Representative Phillips:

This letter contains a brief update requested by the Legislative Council concerning Andress v. Baxter, the lawsuit challenging the two-year durational residency requirement for eligibility for student loans. The briefing in this case is complete, and copies of the briefs are enclosed for your information. Oral argument before Judge Fitzgerald of the U.S. District Court has been requested for as soon as possible in early October, and a decision is expected shortly thereafter. As our brief describes in more detail, the state is defending the two-year requirement as a rational means for determining whether or not student applicants are bona fide residents.

If you have any questions, please do not hesitate to call.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: Robert M. Maynard
Robert M. Maynard
Assistant Attorney General

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 14, 1983

The Honorable Mitchell Abood
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Andress v. Baxter - student loan case

Dear Representative Abood:

This letter is to confirm my advice to your committee that the Department of Law could defend the present requirement of the student loan program that a student must have lived in Alaska for two years at the time of application in order to establish the bona fides of residency. The primary reasons for the ability to defend a two-year requirement in this particular instance include the known and recognized mobility of the student population, the attractiveness of this loan program, and the portability of the loans. Enclosed are the briefs of the state in this matter along with the deposition and affidavits of Dr. Kerry Romesberg which sets forth in more detail the exact basis for our arguments to the court.

On the other hand, I wish to repeat my caution that there are substantial arguments that the two-year requirement is not constitutional. While we believe the Department of Law can defend the requirement, we do not mean to imply that the odds of succeeding in that defense are even 50 percent. Although we believe that the correct legal position that the court should take is that two-years is justifiable under the federal constitution, you should be aware that no court has ever upheld a residency requirement of greater than one-year under circumstances similar to these. On the other hand, no court has ever struck down a two-year requirement under these circumstances. Briefly, we are in uncharted constitutional waters, and there is substantial reason to believe that a court could find the two-year requirement is unconstitutional.

Since the matter is in litigation, I do not believe that it is in the state's interest to give a public assessment of all the strengths and deficiencies of our legal position. Therefore, I did not intend my testimony to either raise hopes that we would win the suit, nor, on the other hand, to exaggerate fears

that we would lose. My testimony is intended to be completely neutral on that question.

If you have any questions, please do not hesitate to call.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Robert M. Maynard
Assistant Attorney General

RMM:mr

Enclosure

11:45 - 12:45
upper floor
front lot

Communication Technology and Policy Seminar

Orientation Materials

and

Program Description

An International Visitor Program

Sponsored by: The United States Information Agency (USIA)

and

The United States Telecommunications Training Institute (USTTI)

Administered by: The Academy for Educational Development, Inc.

Spring 1983

THE PROJECT SPONSORS

The United States Information Agency

The United States Information Agency (USIA) is part of the executive branch of the United States Government. Its mission is determined by the premise that it is in the national interest to encourage the sharing of ideas and cultural activities among the people of the United States and the people of other nations.

Under the authority of the Fulbright-Hayes Act of 1961, USIA annually invites some 1700 distinguished foreign leaders and specialists from many fields to visit the United States. This activity, called the International Visitor Program, works to strengthen and improve mutual understanding through direct, people-to-people contacts between citizens of other nations and people of the United States.

The United States Telecommunications Training Institute

The U.S. Telecommunications Training Institute (USTTI) has been established as an unprecedented joint venture between major American telecommunications firms and the U.S. Government to share American telecommunications advances with developing nations. Private sector firms are providing training, equipment and funding for the Institute. The federal government has served as a catalyst in bringing the corporations into the program and in establishing the course curriculum in discussions with representatives of developing nations.

THE PROJECT ADMINISTRATOR

The Academy for Educational Development

The Academy for Educational Development, founded in 1961, is an independent, non-profit institution active in many areas of education and communications around the world. Today the Academy embraces five Divisions, including the International Division established in 1965. Programs in the International Division include Telecommunication, Information Management, Sector Programs (health, education, agriculture, and international training) and visitor exchanges. The Academy has worked in over 80 countries, has over 90 professional employees and maintains offices in New York, Washington, Bolivia, The Gambia, Honduras, Indonesia, Kenya, Peru, Saudi Arabia, Sri Lanka, Botswana, Swaziland, and Tunisia.

Key activities of the Telecommunication program include the

Applications Management of the Rural Satellite Program funded by the United States Agency for International Development, consulting services to the U.S. Telecommunications Training Institute, and a series of studies.

During the last five years, the Academy's International Division has administered a number of specialized group projects for International Visitors sponsored by the United States Information Agency, the Agency for International Development, and the National Telecommunications and Information Administration. Recent visitor exchange programs have brought communication experts, journalists, educators, and filmmakers to the United States for travelling seminars and discussions with American counterparts.

ESCORTS

The group will be accompanied throughout the trip in the United States by three escorts and one Seminar Leader. The escorts' principal tasks are to interpret the United States for participants in a broad sense and to handle administrative matters. The Seminar Leader's main task is to assist participants in interpreting the various technical telecommunications components of the trip and to answer questions about them.

The Seminar Leader: Dr. Jay Miller. Dr. Miller, who holds a doctorate in Mass Communications, is presently Telecommunications Applications Specialist for the Academy's AID-funded inter-island project in the West Indies. He has been a consultant to Columbia University, Rutgers University, the University of the South Pacific, and various state governments in satellite communications and media based educational programs. Dr. Miller has held a Fulbright Senior Research Fellowship a is the author of various articles on public service applications of satellite communications.

The Escorts: Miss Paula Doherty. Miss Doherty is a program associate at the Academy and has worked closely on the development of this particular project. She is a graduate of Brown University and has had extensive experience in international visitor programs.

Dr. Maurice Raiford. Dr. Raiford received his doctorate in Physics from Duke University in 1969. He has been a professor and consultant on solar energy as well as advisor to several foreign governments on energy matters. Since 1973, Dr. Raiford has been a frequent escort officer on international visitor programs of the U.S. Information Agency.

Ms. Marilynn Williams. Ms. Williams received her M.A. from the Fletcher School of Law and Diplomacy in Massachusetts. She worked with a Wall Street commodities firm for one year and, since 1974, has held various positions in the international visitor field, including that of escort on group programs.

COMMUNICATION TECHNOLOGY AND POLICY

Participants attending the Alaska portion, April 10 - 18, 1983:

Country:	Participants name and title:
BAHAMAS	Mr. Michael Patrick Thompson Director of Engineering Broadcasting Corp of the Bahamas
BAHRAIN	Mr. Mohammed Abdullah Al-Sherroqi Manager, Media and Public Relations Dept Ministry of Information
CAMEROON	Mr. William Tallah Deputy Director of Telecommunications Government of Cameroon
CYPRUS	Mr. Roghiros Michaelides Telecommunications Officer Ministry of Communications and Works
GAMBIA	Mr. Bakary Kebba N'Jie Director of Telecommunications Government of Gambia
HUNGARY	Mr. Peter Istenes Senior Official and Technical Advisor Hungarian Post, Telephone and Telegraph
IRELAND	Mr. Thomas F. Quinn Executive Secretary Radio Telefis Eireann (RTE)
ISRAEL	Professor Dror Sadeh Director of Physics and Astronomy Tel Aviv University
IVORY COAST	Mr. Ory Djete Director of Studies, Plans & Programs Ministry of Post & Telecommunications
JORDAN	Mr. Fares Hikmat Lubbadeh Head, Master Switching Section and Contat Engineer with European Broadcast Union Jordan Television
KUWAIT	Mr. Harid Habib Al-Kattan Controller, Minor Stations International Telecommunications Department Ministry of Communications
MALAWI	Mr. Jasper Antoine Mbakeani Postmaster General Government of Malawi

NIGERIA	Mr. Ezekiel Babafemi Fashiyiku Chief Engineer, Space Communications Div Telecommunications Branch Ministry of Communications
PEOPLE's REPUBLIC OF CHINA	Mr. Hua Yuan Chief Engineer Shanghai Postal and Telecommunications Admin
SUDAN	Mr. Awad Babiker Abdel Gadir Director of Planning Sudan Telecommunications Public Corp.
UNITED KINGDOM	Mr. Paul Hodgson Head of French Language Services British Broadcasting Corporation
VENEZUELA	Ms. Maria Elena Rodriguez Chief, Office of International Affairs General Sector for Communications Ministry of Transport and Communications
YEMEN	Mr. Mohammed Abdullah Al-Kassous Deputy General Manager Yemen Telecommunication Corporation
ZIMBABWE	Mr. Reward Kangai Section Manager, Earth Station Systems Ministry of Information, Posts and Telecom

SEMINAR LEADER

Dr. Jay Miller

SEMINAR ESCORTS:

Miss Paula Doherty
Dr. Maurice Raiford
Ms. Marilynn Williams

Module Two

Dates: Monday, April 11 to Sunday, April 17

Hotel: Captain Cook Hotel
5th and K Avenue
Anchorage, Alaska
(907) 276-6000

Program Overview:

The program in Alaska will begin on Monday with a welcoming address by ALASCOM officials, a film illustrating the history of Alaskan telecommunications, and a presentation on the existing telecommunications network in Alaska. Following lunch in the corporate cafeteria, afternoon discussions will focus on the Alaskan television network and the social and cultural impact of telecommunications in rural areas. Native leaders introducing discussion topics will include Mr. Willie Hensley, an Inupiat Eskimo and Board Chairman of United Bank Alaska.

Tuesday will be devoted to an all-day visit to a satellite earth station some distance from Anchorage. Participants will have an in-depth tour of the facility and meetings with technical personnel before returning to town in the late afternoon.

On Wednesday, the group will have visits and discussions at the ALASCOM Toll Center, the Legislative Affairs Agency of the Legislative Teleconferencing Network, and the University of Alaska Learn Alaska network. Activities on Thursday will revolve around an all-day trip to Kotzebue to observe the operations of rural satellite TV programming and the emergency medical telephone system operations. Meetings and discussions at these facilities will focus on technology applications and equipment.

Friday will be left open for specialized meetings and individual appointments, to be arranged by the program staff. ALASCOM engineers and experts will be available to discuss various topics such as microwave systems, fiber optics, etc., with small groups or individuals. In the evening, participants are invited to an ALASCOM-hosted dinner.

On Saturday, participants will have the opportunity to see some of the scenic attractions in the Anchorage area. They will be accompanied by local citizens and representatives of the Anchorage Chamber of Commerce who have offered their hospitality for these sightseeing activities.

INFORMATION FOR PARTICIPANTS ATTENDING THE ALASKA PORTION OF THE PROJECT

Alaska is, at once, the northernmost, westernmost, and easternmost state of the United States. It is the largest state, with a land area greater than 500,000 square miles extending north-south over 1500 miles and east-west over 2500 miles. It has the lowest population density of any state, averaging only .7 persons per square mile, but almost half the population lives in the vicinity of Anchorage, where your project will be based during the Alaska stay. Most of the remaining citizens of the State live in the ten larger communities of over 3000, or scattered throughout 150 villages with populations from 25-30. Many villages are over 150 miles from their closest neighbor, and most are not connected by roads.

The Communication Technology and Policy project is the first time in the 30 year history of USIA's International Visitor Program that a group of participants has spent a full week studying the State and its communications system. We will make every effort to provide you with written and video materials in San Francisco that will give you some idea of the geography and conditions of life in the State.

As you know, your stay in Alaska will include visits to small communities outside of Anchorage. ALASCOM, your local host during this week, will provide you with boots and parkas needed for the extremely cold weather. For this to be arranged, it is absolutely necessary for you to provide your American Embassy contact with your foot and jacket sizes in American standard sizes. If you do not know this, please do the following:

Place your foot flat on a piece of paper and; using a pencil held straight up and down, draw the outline of your foot.

Your embassy contact will then be able to judge the size and advise us here, and also can give us an approximation for your jacket size.

In addition, please bring the following with you for the cold weather: three pairs of warm socks, one woolen hat (if you have one, otherwise it will be provided), and one small suitcase for the overnight you will spend in an outlying community.

Wednesday April 13, 1983

8:30 a.m.	Pick up at the Hotel Captain Cook Fifth avenue entrance.
9:00 a.m.	Tour of the Toll center facility.
	Ken Sprain and Leonard Jablonski will conduct the tour in two separate groups. Areas to be covered will be the T.V. Operating Room; SP-1 digital switch; TOPS and TSD Operator positions, Fiber Optic tie in with ATU; Network Services; and the overall functions of the Toll Center as it relates to the communications services offered by Alascom.
12:00 noon	Lunch at the Tiki Cove
1:15 p.m.	Charity Kadow to conduct a tour of the Legislative Affairs Agency. Participants will be able to view a teleconference network in actual operation with the Alaska State Legislature in the state capitol in Juneau.
3:00 p.m.	Chuck Hickman along with Lori Hyde will conduct the tour of the "Learn Alaska Network" at the University of Alaska Instructional Television Center.
	Questions and Answers.
5:00 p.m.	Return to the Hotel Captain Cook.
	Participants are on their own leisure time.

DRAFT B

Norman C. Gorsuch
Attorney General

December 10, 1982

Ronald W. Lorensen
Deputy Attorney General

Robert M. Maynard
Assistant Attorney General
Oil and Gas-Juneau

Legislation to cure problems in residency

Of the numerous residency requirements that are probably or almost certainly unconstitutional, most of them can only be justified as an attempt to determine whether or not a person is a "bona fide" resident. Therefore, a general bona fide resident statute should be drawn up. If a durational requirement is to be used, it would be safest to use a period of no longer than one year as the outside limit. Otherwise, additional criteria such as voter's registration, drivers license, or similar indicia of residency could be used in this general provision.

The following list includes all residency requirements which we have previously said were more likely than not to be unconstitutional. Many of these requirements can be defended, although probably unsuccessfully. Therefore, they are prime candidates for legislative change.

LICENSES

The present statutes concerning occupational licenses contain many residency requirements. After Noll v. Alaska Bar

Association __ P.2d __, Op. no. 2546 (Alaska Supreme Court, August 13, 1982), it is clear that any residency requirement for licensure would almost certainly be struck down as unconstitutional. Therefore, the following requirements in the statutes and regulations should be eliminated with no new legislation concerning residency substituted in their place: public accountant (12 AAC 04.170); attorneys (Bar Rule 5(1)(a)); morticians (AS 08.42.110); guides (AS 08.54.100, AS 08.54.110, AS 08.54.120, AS 08.54.140, AS 08.54.142) (although the requirements of hunting experience are defensible); real estate brokers and salesmen (AS 08.88.171); and insurance solicitor (AS 21.27.220).

In eliminating these residency requirements, it may be possible in some instances to retain a residency requirement (or a bona fide residency requirement) as a means of distinguishing between the fees to be paid in order to be licensed. Those fees could only be justified, however, if they are directly related to the increased costs of monitoring the activities of out-of-state or nonresident licensees.

PUBLIC RIGHTS AND BENEFITS

General

Low-cost housing preference (AS 18.55.330, 470(4)); vocational substitution program (AS 39.25.115(g)). These two programs require a one-year durational residency requirement in order to qualify for the preference or the program. Instead, a bona fide residency requirement should be substituted.

To the extent that these programs can be seen to be similar to "welfare" or "basic necessities of life," even a one-year residency requirement would be challengable. Consequently, these two programs should have a bona fide residency test that does not have a durational residency element, but rather depends on other indicia of residency [such as election registration, short-term residency (i.e., 30 days), etc.].

Industrial incentive tax credits (AS 43.26.095(b)(3)); bounties for certain animals (AS 16.35.130). These two programs give preference to one-year residents or, concerning the bounties, one year's residence in the game unit. Both these programs are for all practical purposes not operating, and probably should be eliminated anyway. If they are decided to be continued

the requirements should be eliminated (although our chart of September shows the industrial incentive tax credit to be "probably" unconstitutional, it is not exactly clear to me what the basis of this unconstitutionality is).

LOAN AND GRANT PROGRAMS

The following loan programs contain five-year residency requirements which should be changed to a bona fide residency requirement: fisherman's mortgage program (AS 16.10.680(a)); commercial fishing loan (AS 16.10.310(a)); limited entry permit loans (AS 44.81.220(a)(20)); Alaska Housing Finance Corp. veterans preference (AS 18.56.101); veterans loans (AS 26.15.130(1)). Fishing loans may possibly be defensible with a residency requirement of up to two years because of special problems that would occur because of the transient nature of fisherman.

The Alaska student loan and the Alaska educational grant program have two-year residency requirements imposed by AS 14.40.765(b) and the application forms. This issue is presently being litigated in Andress v. Baxter, and probably should not be changed until that case is decided. Backup legislation should, however, be drafted for rapid action in case the court rules adversely during the upcoming legislative session. The

point preference system for loan applicants in AS 14.40.767, however, is unconstitutional and should be eliminated. This point system has never been utilized by the commission in any event.

LAND DISPOSAL PROGRAMS

Both the one-year residency requirement to qualify for the program and the 5% per year discount for each year of residency up to ten years (AS 38.05.057(b)(2) and .058) have both been challenged in Gilman v. Martin, a case before the Alaska Supreme Court. The court will almost certainly rule on these issues prior to or during the upcoming legislative session. Backup legislation for at least the 5% per year discount portion of the program should be drafted.

The homesite entry program requires three years residency in order to apply and gives an absolute priority to the longest resident. AS 38.08.030(a)(2), 040(b). These should be replaced with simple bona fide residency requirements.

SPECIAL OLD AGE PROGRAMS

The longevity bonus program (AS 47.45.010(a)); the pioneers' home program (AS 47.25.020(a), 035); and the senior

citizen exemption from fishing license requirement (AS 16.05.400) all require lengthy residency requirements as conditions for qualification. Although preference for senior citizens is not unconstitutional, attaching a lengthy residency requirement raises severe constitutional problems. The longevity bonus program has already been settled and requires immediate attention by the legislature. Although we are have ruled that the pioneers' home program is defensible, attention may be directed towards this program (although it is difficult to see how the program could be restructured without the residency requirements). The senior citizens exemption for the fishing license requirement could simply become a senior citizen program with the bona fide residency requirement.

RMM:mr

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2543

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

The enclosed chart on durational residency, orginally prepared by former Attorney General Wilson Condon and Assistant Attorney General Bob Maynard, in 1982, has been used extensively in the preparation and drafting of "An Act relating to residency and residency requirements; and providing for an effective date." The Committee, staff and consultants would like to extend their appreciation to the invaluable research done by Mr. Condon and Mr. Maynard.

To help clarify the statutory changes contained in the House State Affairs residency bill, we have included these changes as they apply to the programs appearing on Mr. Condon's chart. They are:

1) The left-hand margins reflect the section numbers found in the residency bill.

2) material enclosed by brackets and asterisks (** **), indicate effect of the residency bill on the various programs listed.

After an exhaustive review we have come up with the attached eight page table and accompanying appendix setting forth the durational residence requirements imposed by Alaska State law. The table is organized into three main parts, I PUBLIC OFFICE HOLDING, II LICENSES, and III PUBLIC RIGHTS AND BENEFITS. The five columns in the table speak for themselves. With respect to the column "Constitutional Problem" some explanation is required. If "No" appears under Constitutional Problem, it is the opinion of the Department of Law that the durational residence requirement is constitutionally sound. Where the word "Maybe" appears in that column, it is the opinion of the Department of Law that that durational residence requirement is also constitutionally sound; however, we believe that it is possible someone might initiate litigation challenging the requirement. Where the term "Probably" appears in the Constitutional Problem column, we believe there is more than a remote possibility a court might find this durational residence requirement unconstitutional. Where "Yes" appears in the Constitutional Problem column, we believe it is highly likely that a court would find the durational residence requirement unconstitutional.

Because of the Alaska Supreme Court's recent ruling in the case of Noll v. Alaska Bar Association, ___ P.2d ___, Op. No. 2546 (August 13, 1982), we have also included all residence requirements, whether durational or not, which apply to eligibility for entrance into regulated occupations in Alaska. After the Noll decision it would appear that any residence requirement for entrance into a regulated occupation in Alaska will be held unconstitutional except in the most unusual circumstances.

*** NO CHANGES ON THIS PAGE ****

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING, IF APPLICABLE
A. General				
1. Governor	7 Years	Ak. Const. art. III, § 2	No	--
2. Lieutenant Governor	7 Years	Ak. Const. art. III, §§ 2 & 7	No	--
3. Board of Education Member	3 Years	AS 14.07.075	No	--
4. Legislator	3 Years	Ak. Const. art. II, § 2 AS 24.05.030	No	--
5. Supreme Court Justice	5 Years	AS 22.05.070	No	--
6. Court of Appeals Judge	5 Years	AS 22.07.040	No	--
7. Superior Court Judge	5 Years	AS 22.10.090	No	--
8. District Court Judge	5 Years	AS 22.15.160(a)	No	--
9. Magistrate	6 Months	AS 22.15.160(b)	No	--
10. Ombudsman	3 Years	AS 24.55.030	No	--
11. Borough Mayor	Up to 3 Years	AS 29.23.130(b)	No	--
12. Borough Assembly	Up to 3 Years	AS 29.23.050	No	--
13. City Mayor	Up to 3 Years	AS 29.23.250(a)	No	--
14. City Council	Up to 3 Years	AS 29.23.200(b)	No	--
15. Municipal Charter Commission	3 Years	AS 29.13.010	No	--

**** NO CHANGES ON THIS PAGE **DURATIONAL

TITLE	RESIDENCE REQUIREMENT	AUTHORITY	PROBLEM	PENDING, IF APPLICABLE
B. Boards and Commissions other than Occupational Licensing Boards. Boards, which are a part of or affiliated with state government.	There are 98 Boards and Commissions, other than Occupational Licensing. There is a durational residence requirement for membership on seven of those boards and commissions. */			
1. Rural Affairs Commission	5 Years	AS 44.19.102	Maybe **/	None
2. Board of Fisheries	1 Year	AS 16.05.221 AS 16.05.940	No	--
3. Board of Game	1 Year	AS 16.05.221 AS 16.05.940	No	--
4. Judicial Qualifications Commission	10 years practice in Alaska	Ak. Const. art. IV, § 10 AS 22.30.010	Maybe **/	--
5. Municipal Bond Bank Authority	30 days (qualified voter)	AS 44.85.030	No	--
6. Personnel Board	30 days (qualified voter)	AS 39.25.060	No	--
7. Alaska Power Authority	30 days (qualified voter)	AS 44.83.020	No	--

*/ This list includes only boards and commissions which have express durational residency requirements. Many boards have ex officio members who must meet residency requirements for those offices or positions. These boards include:

(1) Alcohol Beverage Control Board (certain licensees); (2) Capital Site Planning Commission (borough mayors); (3) Coastal Policy Council (mayors, assembly and council members); (4) Code Revision Commission (members of legislature); (5) Citizens Advisory Commission on Federal Management Areas in Alaska (governor and other public officers); (6) Commission on Conference of the Law of the Sea (members of legislature); (7) Rural Development Council (members of legislature); (8) Teacher's Retirement Board (resident who is receiving retirement benefits); (9) Tourism Advisory Board (members of legislature); and (10) Governor's Commission on the Administration of Justice (judicial officers, legislators and municipal officials)

**/ It is difficult to imagine someone complaining about any possible constitutional problems here.

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING, IF APPLICABLE
Occupational Licenses. The State of Alaska requires occupational licenses in 28 separate occupational areas. Residence requirements are imposed for the receipt of these licenses in seven of these occupational areas. For reasons set forth in Appendix A, we believe any residence requirement, even of zero durational length, will in most cases be unconstitutional.				
1. Public Accountant (**delete residency requirement**)	1 Year (rebuttable)	AS 08.04.280 12 AAC 04.170	Yes	None
2. Attorney (** no change **) Law Clerk (**delete residency requirement **)	Residence	Bar Rule 5(1)(a)	Yes	Declared unconstitutional in Noll v. Alaska Bar Ass'n 8/13/82
3. Collection Agencies (** no change **)	1 Year, but non-resident may receive license on same basis as resident, except fee for branch offices is higher	AS 08.24.110 AS 08.24.370	No	- -
4. Morticians (** no change **)	1 Year in-state apprenticeship	AS 08.42.110	Yes	None
5. Guides				
Master Guide (** no change needed; comes in through registered guide reference **)	Residence plus hunted 10 years	AS 08.54.100	Yes	None
Registered Guide (** deleted **)	Resident	AS 08.54.110(2)	Yes	None
Class A Assistant Guide (** no change **)	20 years experience in guide district in which he is to be employed although not a specific residence requirement.	AS 08.54.120	Yes	None
Assistant Guide (** deleted **)	Resident	AS 08.54.140 (2)	Yes	None
Transporter (** deleted **)	Resident	AS 0854.142 (a)(1)	Yes	None

	TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING, IF APPLICABLE
	Occupational Licenses (Cont.)				
	6. Junk Dealer & Metal Scrapper (**no change**)	No resident requirement, but defines "resident" as present for one year.	AS 08.60.030	No	--
Sec. 4	7. Real Estate Brokers and Salesmen (** delete residency requirement. **)	Resident	AS 08.88.171	Yes	None
Sec. 9	8. Insurance Brokers, Agents and Solicitors (**delete residency requirement. No fee change -- keep differential **)				
	Resident Insurance Salesmen or Broker (non residents can be licensed but may pay a higher fee)	1 year	AS 21.27.090(a)(2) res. AS 21.06.250 fees (no change)	No	-- --
Sec. 13	Insurance Solicitor ** deleted ** (residency requirement)	1 year	AS 21.27.220(1)	Yes	None
	B. Other Licenses				
	1. Alcoholic Beverage License (**no change**)	1 year	AS 04.11.390	Maybe	None
	2. Resident Fish and Game License (resident license costs less than non-resident license) (** no change **)	12 consecutive months	AS 16.05.940	Maybe	None
	III. PUBLIC RIGHTS AND BENEFITS				
	A. General				
	1. Voting (** no change **)	30 days	AS 15.05.510	No	--
Sec. 5	2. Annullment of Marriage (** delete 1 yr. retain 30 days **)	1 Year	AS 09.55.130	Maybe	None

	TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING, IF APPLICABLE
	General (Cont.)				
Sec. 13	3. Low-Cost Housing Preference (** delete 1 yr. retain 30 days **)	1 Year	AS 18.55.330 AS 18.55.470(4) ** deleted	Probably	None
Sec. 13	4. Vocational Substitution Program (** " " *)	1 Year	AS 39.25.155(g)	Probably	None
Sec. 13	5. Industrial Incentive Tax Credits (* " " *)	Depends on % of 1-year residents	AS 43.26.095(b)(3)	Probably	Program is for all practical purposes no longer operating.
Sec. 8	6. Bounties for Certain Animals (* " " *)	1 year abode in Unit plus "continually maintained residence in the state . . . "	AS 16.35.130	Yes	The program is a dead letter because it has not been funded for several years.
	B. Loan and Grant Programs. Approximately 41 loan programs are provided for under Alaska Statutes. 35 of these are currently active programs. Of these 35, seven have some sort of durational residency feature. The dormant programs are inactive because of lack of funding. The state has one grant program requiring a period of residency for eligibility.				
	1. Fisherman's Note and Mortgage Program NOTE: this was repealed in 1982.	5 Years	AS 16.10.680(a)	Yes	AG opinion pending
	2. Commercial Fishing Loan See HB 15 which deleted 5 yrs. & used 2 years.	5 Years	AS 16.10.310(a)	Yes	AG opinion pending
Sec. 12	3. Limited Entry Permit Loans (CFAB) (** delete 5 yrs., insert 2 years **)	5 Years	AS 44.81.210(a)(20)	Yes	Program inactive pending Court determination of legality of limited entry program in State v. Ostrosky.
	4. Agriculture and Fishing Loan (CFAB) (** no change **)	1 Year	Board Policy	Maybe	None
Sec. 8	5. Alaska Housing Finance Corp. One Percent Veterans' Housing Loan Rate Reduction (** delete 5 yrs., insert 2 years. **)	5 Years	AS 18.56.101(β)	Yes	AG opinion 7/14/82 instructed agency not to enforce.
Sec. 10	6. Veterans Loans (** delete 5 yrs., insert 2 years. **)	5 Years	AS 26.15.130(1)(a)	Yes	Inactive because not currently funded.

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING, IF APPLICABLE
and Grant Programs (Cont.)				
7. Mining Business Loans (** no change **)	Residency and 5 Years Mining Experience in State.	AS 27.09.020	Maybe	None
8. Memorial Scholarship Loan Fund (** no change **)	No durational requirement to apply. 1/5 loan forgiven for each year employed in specialized field in Alaska.	AS 14.40.825(e)	No	- - -
9. Student Loan Program				
(a) eligibility to apply (** no change **)	1 Years	AS 14.40.765(b)	Probably	Issue pending in Andress v. Baxter
(b) 1/10 forgiven for each year of residency after education up to 50% of loan.	- - (** no change **)	AS 14.40.763(1)	Maybe	May be covered by Gilman v. Martin which is now pending in Alaska Supreme Court
(c) Point Preference System for loan applicants (**repealed **)	1 Point; 2-5 Years 2 Points; 5-10 Years 3 Points; 10+ Years	renumber to 14.43.130 AS 14.40.767	Yes	Point system has not previously been utilized as Legislature has always funded all applicants.
10. Alaska Educational Incentive Grant (** no change **)	2 Years	Application form	Probably	Issue will be decided by result in Andress v. Baxter
Land Disposal Programs				
1. Land Disposal by Lottery (** no change **)	1 Year	AS 38.05.057(b)(2)	Maybe	Should be decided by Gilman v. Martin.
2. Land Purchase Price Discount Program (** repealed **)	5% per year discount for each year of residency up to 10 years	AS 38.05.058	Probably	Should be decided by Gilman v. Martin.

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING IF APPLICABLE
d Disposal Programs (Cont.)				
3. Homesite Entry Program (** delete 3 yrs. and 20 yrs. require 1 year. **)	3 years (or 20 years of earlier residency) to apply	AS 38.08.030(a)(2)	Yes	AG opinion pending
	Priority given longest resident	AS 38.08.040(b) Sec. 13 **repealed **		
4. Remote Parcel Leasing Program (** no change **)	1 Year	AS 38.08.077(i)(2)	Maybe	Should be decided by Gilman v. Martin.
Special Old Age Programs				
1. Longevity Bonus Program (** no change in this bill **)	25 years and presence in State at or before statehood.	AS 47.45.010(a)	Yes	Issue Pending in Vest v. Schafer
2. Pioneers' Home Program (** no change in this bill **)	15 years immediately before application; or 30 years cumulative	AS 47.25.020(a) AS 47.25.035	Yes.	None
3. Senior Citizen Special Assessment Exemption (** delete 1 yr and retain 30 days. **)	12 months	AS 29.63.065(d)(1)	Maybe	None
4. Senior Citizen Exemption from Fishing License Requirement (** delete 30 years and insert 1 year **)	30 years total residence	AS 16.05.400	Yes	None

Appendix A

The federal constitution's Privileges and Immunities Clause seeks to prevent discrimination against nonresidents, to further the concept of federalism, and to create a national economic unit. Shely v. Alaska Bar Ass'n, 620 P.2d 640, 642 (Alaska 1980) ("Sheley"). Although the Clause does not preclude some disparity of treatment between residents and nonresidents, it does protect activities which are "fundamental rights": i.e., "basic and essential activities, interference with which would frustrate the purposes of the formation of the Union." Baldwin v. Fish & Game Comm'n, 436 U.S. 371, 388 (1978).

One such "fundamental right" is the right to engage in "common callings" and to pursue "ordinary livelihoods." Toomer v. Witsell, 334 U.S. 385, 403 (1948). This includes "professional occupations. Sheley, 620 P.2d at 643.

In order to discriminate against nonresidents when a fundamental right is involved, there must be: (1) some showing that nonresidents are "a peculiar source of the evil" which the residence requirement is meant to remedy; and (2) the discrimination against nonresidents must "bear a substantial relationship to the particular 'evil' they are said to present." Hicklin v. Orbeck, 437 U.S. 518, 526-527 (1978). For example, there cannot be less restrictive means to combat the problems attempted to be solved by the residency requirement. Sheley, 620 P.2d at 645.

A good example is the recent Alaska Supreme Court case Noll v. Alaska Bar Ass'n, ___ P.2d ___, Op. No. 2546 (August 13, 1982). In Noll, a nonresident challenged the constitutionality of Alaska Bar Rule 5(1)(a), which required that an applicant for admission to the state bar be domiciled in Alaska when he or she was actually admitted. The bar association argued that the residency requirement was needed:

(1) to assure the competency of the members of the bar;

(2) to assure familiarity with local practice and local issues;

(3) to facilitate service of process and communication with other attorneys; and

(4) to assure that members of the state bar are readily amenable to discipline and fee arbitration and are available for service on the committees that administer those procedures.

The Alaska Supreme Court rejected each and every reason offered. Although recognizing the legitimacy of those goals, the court either found these goals were not "substantial" enough to justify the discrimination, could be attained by other nondiscriminatory means, or were not furthered by the discrimination. As can be seen, this constitutional test is difficult to meet. Consequently, all residency requirements for occupational licensing are called into substantial doubt.

	TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING IF APPLICABLE
	Land Disposal Programs (Cont.)				
Sec. 11	3. Homesite Entry Program (** delete 3 yrs. and 20 yrs. require 1 year. **)	3 years (or 20 years earlier residency) to apply	AS 38.08.030(a)(2)	Yes	AG opinion pending
		Priority given longest resident	AS 38.08.040(b) Sec. 13 **repealed **		
	4. Remote Parcel Leasing Program (** no change **)	1 Year	AS 38.08.077(i)(2)	Maybe	Should be decided by Gilman v. Martin.
	D. Special Old Age Programs				
	1. Longevity Bonus Program (** no change in this bill **)	25 years and presence in State at or before statehood.	AS 47.45.010(a)	Yes.	Issue Pending in Vest v. Schafer
	2. Pioneers' Home Program (** no change in this bill **)	15 years immediately before application; or 30 years cumulative	AS 47.25.020(a) AS 47.25.035	Yes.	None
Sec. 13	3. Senior Citizen Special Assessment Exemption (** delete 1 yr and retain 30 days. **)	12 months	AS 29.63.065(d)(1)	Maybe	None
Sec. 6	4. Senior Citizen Exemption from Fishing License Requirement (** delete 30 years and insert 1 year **)	30 years total residence	AS 16.05.400	Yes	None

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/6 , 1983

I. REQUEST

Bill/Resolution No.: HB 323
Title: Act Re: Residency
Sponsor: House State Affairs Committee
Requestor: House State Affairs Committee

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Postsecondary Comm.
BRU, Program of Subprogram(s) Affected: Student Loan Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING						
CAPITAL	N.A.	-0-	-0-	-0-	-0-	-0-
REVENUE	N.A.	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kerry D. Romesburg Phone: 465-2854
Division: Commission on Postsecondary Education Date: 4/6/83

Approved by Commissioner: Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

JON K. TILLINGHAST REPORT DATED MARCH 8, 1983.

ALTERNATIVES SUBMITTED:

Admin. 1. Expand the Alaska Longevity Bonus Program to include all elderly Alaskans with one-year's residency.

Admin. 2. Phase out the Alaska Longevity Bonus Program by gradually reducing benefits.

Admin. 3. Phase out the Alaska Longevity Bonus Program by gradually reducing benefits, while contemporaneously raising the eligibility limits for general state assistance.

Admin. 4. Providing a minimal base payment under the Alaska Longevity Bonus Program based solely on one-years residency, with supplemental payments made on the basis of need.

Admin. 5. Phase out the Alaska Longevity Bonus Program by increasing the age eligibility each year.

J.T. 6. Create an annuity plan, with the annuity corpus consisting of Permanent Fund Distributions. This option would necessitate a transition program for those persons 40 years and older.

J.T. 7. Fund the Alaska Longevity Bonus Program through a "Pay as you go" social security system, funded by approximately 25% of the existing permanent fund distribution distributions.

J.T. 8. Replacing the Alaska Longevity Bonus Program with a comprehensive health insurance program for elderly Alaskans.

J.T. 9. Condition eligibility for a longevity bonus upon a demonstration of hardship which would be suffered by being unable to continue Alaska residency .

J.T. 10. Open the Alaska Longevity Bonus Program to all one-year residents, and terminate the program--giving Fy84 recipients a grandfather right to continued bonuses.

RESIDENCE: HOW TO DETERMINE WHEN TO USE, WHAT DURATION IS ACCEPTABLE.

~~ZOBI~~ #1...GENERAL STATEMENTS FROM RECENT COURTCASES:

INCOME DISTRIBUTED TO THE CITIZENS OF THE STATE BASED ON DURATION OF RESIDENCE VIOLATES THE EQUAL PROTECTION CLAUSE IN THE 14TH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA, WHERE NO VALID PUBLIC INTERESTS ARE RATIONALLY SERVED BY SUCH DISTINCTION MADE BETWEEN CITIZENS ON THE BASIS OF ESTABLISHED RESIDENCIES...

REWARDING CITIZENS FOR PAST CONTRIBUTIONS IS NOT A LEGITIMATE STATE PURPOSE.

CITIZENS OF ONE STATE SHALL ENJOY THE SAME PRIVILEGES WHICH CITIZENS OF ANOTHER STATE ENJOY.

IMPOSITION OF A THRESHOLD WAITING PERIOD MAY BE VALID. LIKEWISE TESTS OF BONA FIDE RESIDENCY MAY BE ACCEPTABLE.

DURATIONAL RESIDENCE REQUIREMENTS MAY FIX A MINIMUM PERIOD OF RESIDENCY TO BE ELIGIBLE FOR BENEFITS AVAILABLE ON A EQUAL BASIS TO ALL OTHER RESIDENTS.

A ONE YEAR RESIDENCE IS PROBABLY ACCEPTABLE IF IT IS USED AS A TEST OF BONA FIDE RESIDENCE..

A REWARD FOR PAST CONTRIBUTIONS SUCH AS TAXES, OR OTHER CONTRIBUTIONS SUCH AS SUFFERANCE OF HARDSHIPS, REAL OR INTANGIBLE HAS BEEN DEEMED BY THE COURTS AS NOT A LEGITIMATE STATE PURPOSE. THE EQUAL PROTECTION CLAUSE IN THE CONSTITUTION PROHIBITS IT.

Freedom TO TRAVEL BETWEEN STATES AND TO RECIEVE ALL BENEFITS OF CITIZENSHIP MUST BE PRESERVED.

A STATE MAY ENHANCE THE ADVANTAGES OF INDUSTRY, ECONOMY AND RESOURSES. MAY MAKE ITS RESIDENTS LIFE BETTER AND ITS LIFESTYLE MORE ATTRACTIVE, BY OFFERING DIRECT BENEFITS IN THE FORM OF PUBLIC SERVICES, LOWER TAXES, OR GENEROUS SPENDING, BETTER MAINTENANCE OF ROADS, PARKS, PUBLIC STANDARDS; BUT IT MUST SHARE ALL SUCH BENEFITS WITH ALL BONA FIDE CITIZENS ON AN EQUAL BASIS.

THE CONSTITUTION DOES NOT ALLOW DIFFERING DEGREES OF CITIZENSHIP OR RESIDENCY.. CITIZENSHIP IS EQUATED TO RESIDENCY.

DistinCTIONS BETWEEN CITIZENS OF A STATE MUST BE SUPPORTED BY A VALID STATE INTEREST AND MUST NOT BE DISCRIMINATORY..

LENGTH OF RESIDENCY TO RUN FOR PUBLIC OFFICE IS SUPPORTED, BUT THATS PROBABLY ONE OF THE RARE EXCEPTIONS... NORMALLY THE COURTS HAVE ACCEPTED ONE YEAR AS AN OBJECTIVE TEST OF WHAT CONSTITUTES BONA FIDES OF RESIDENCE...

MORE THAN ONE YEAR MUST BE SUPPORTABLE AND WILL NORMALLY BE MORE SUSCEPTABLE TO CHALLANGE ON THE EQUAL PROTECTION CLAUSE...

NO LAW CAN IMPOSE AN INFERIOR STATUS ON A NEW CITIZEN BY DENIAL OF BENEFITS, PRIVILEGES, OR IMMUNITIES ENJOYED BY ANOTHER ON A BASIS OF DURATION OF RESIDENCE...

THE COURTS HAVE BEEN SENSATIVE TO THE IDEA OF REWARDING CITIZENS FOR PAST HARDSHIPS, BUT NOT WHEN THE REWARD IS GIVEN DISSIMILARLY TO PERSONS ON THE BASIS OF VARYING LENGTHS OF RESIDENCE.

IN THE CASE OF THE LOTTERY PROGRAM, ALL ONE WINS, BY HAVING THE TIME IN STATE, IS A RIGHT TO COMPETE FOR LAND SOLD AT FAIR MARKET VALUE..

ONE YEAR TEST IS TO ASSURE THAT A PERSON ISNT JUST HERE SEASONALLY, OR A SHOPPER FOR FREE BENEFITS.. THE RIGHT TO BENEFITS SHOULD BE ABLE TO ASSURE TO THE STATE THAT THE PERSON NOT ONLY RECIEVES EQUALLY, BUT PARTICIPATES EQUALLY....

LOAN DISCOUNTS FOR LAND SERVES AS AN INDUCEMENT FOR PEOPLE TO SETTLE AND REMAIN ON THE LAND.. IT SERVES A PUBLIC PURPOSE IF IT STABILIZES THE POPULATION..

STUDENT LOAN LOW INTEREST RATES MAKE IT AFFORDABLE, ACCESS TO THE :MONEY INCOURAGES ONE TO GO TO SCHOOL. IS PUBLIC EDUCAION IS A VIABLE GOAL OR PUBLIC PURPOSE TO SEEK..

loanDISCOUNTS SIMILIARLY ENCOURAGE PERSONS WHO HAVE EDUCATION TO COME BACK HOME AND TO USE THAT EDUCAION..

THE CONSTITUTION PLACES THE NEWEST NATURALIZED CITIZEN ON EQUAL FOOTING WITH THE BORN CITIZEN WHO TRACES HIS LINAGE BACK FOUR CENTURIES.

NO DURATIONAL RESIDENCE CAN BE USED FOR THE USE OF POLITICAL PURPOSE OR BASIC NECESSITIES OF LIFE...

THE COURTS HAVE HELD THE ONE YEAR TEST VALID IN DIVORCE AND RESIDENT OR LOWER TUITION...

DURATIONAL RESIDENCE REQUIREMENT (CONT'D)

TITLE	DURATION	AUTHORITY
SPECIAL OLD AGE PROGRAMS		
1. LONGEVITY BONUS (ALB)	25yrs, with res. est. pre statehood	AS 38.08.030(a)(2)
2. PIONEERS' HOMES	15 yrs immed. before application, or 30 yrs cumulative	AS 47.25.020(a) AS 47.25.035
F		
3. SR CIT. SPEC. ASSESSMENT EXEMPTION	12 mo.	AS 29.63.065(d)(1)
4. FISHING LIC. EXEMPTION	30 yr. total res.	AS 16.05.400
LOAN AND GRANT PROGRAMS		
1, FISHERMAN NOTE AND MORTGAGE	5 yr	AS 16.10.680(a)
2. COMMERCIAL FISHING LOAN	5 yr	AS 16.10.310(a)
3. LIMITED ENTRY PERMIT LOAN	5 yr	AS 44.81.220(a)(20)
4. AGRIC. & FISHING (CFAB)	1 yr	POLICY REQUIREMENT
5. AHFC VETS 1% rate reduc.	1 yr	AS 18.56.101
6. VETERANS LOANS	5 yr	AS 26.15.130(1)
7. MINING BUSINESS LOANS	Residency and 5yr mining experience in Alaska	AS 27.09.020
G 8. MEMORIAL SCHOLARSHIP	No dur. resid. rqd. one fifth of loan forgiven for each yr emp. in spec. field.	AS 14.40.825(e)
STUDENT LOAN PROGRAM		
9. ELIGIBILITY TO APPLY	2 yrs	AS 14.40.765(b)
FORGIVNESS (1/10 OFF FOR EACH YR OF RESID. AFTER COMPLETING EDUC. MAX. 50 PERCENT FORGIVEN....		AS 14.40.763(i)
PREFERANCE (SYSTEM OF GIVING PRIORITY OF AWARDING)	1Point-2-5yr res. 2Point-5-10 years 3Point-10 plus yr.	AS 14.40.767
10. AK EDUC. INCENTIVE GRANT	2 yrs	APPLIC. FORM
11. CHILD CARE EXPENSE REFUND	30 days	FORM DR600
12. POLITICAL CAMP. CONTRIB. CR.	30 days	FORM DR600

DURATIONAL RESIDENCE REQUIREMENT

STATEMENT: The following list constitutes a complete listing of all DURATIONAL RESIDENCE REQUIREMENTS set by state law.

	TITLE	DURATION	AUTHORITY
PUBLIC OFFICERS			
1.	GOVERNOR	7yr	AK CONST.art. 111,ss 2
2.	LT GOVERNOR	7yr	AK CONST.art. 111,ss 2&7
3.	LEGISLATOR	3yr	AK CONST.art. 11,ss2
4.	SUP. COURT JUSTICE	5yr	AS 22.05.070
5.	COURT OF APPEALS JUDGE	5yr	AS 22.07.040
6.	SUP. COURT JUDGE	5yr	AS 22.10.090
7.	DIST. COURT JUDGE	5yr	AS 22.15.160(a)
8.	MAGISTRATE	6mo	AS 22.15.160(b)
9.	OMBUDSMAN	3yr	AS 24.55.030
10.	BOROUGH MAYOR	to 3yr	AS 29.23.130(b)
11.	BOROUGH ASSEMBLYMAN	to 3yr	AS 29.23.050
12.	CITY MAYOR	to 3yr	AS 29.23.250(a)
13.	CITY COUNCIL	to 3yr	AS 29.23.200(b)
14.	MUNI CHARTER COMM.	3yr	AS 29.13.010
15.	BOARD OF ED MEMBER	3yr	AS 14.07.075
BOARDS AND COMMISSIONS			
GENERAL:			
1.	RURAL AFF. COMM.	5yr	AS 44.19.102
2.	BOARD OF FISHERIES	1yr	AS 16.05.221 AS 16.05.940
3.	BOARD OF GAME	1yr	AS 16.05.221 AS 16.05.940
4.	JUDICIAL QUAL. COMM.	10yr practice in Alaska	AK CONST. ART.1V ss 10
5.	MUNI BOND BANK AUTH	30 days	AS 44.85.030
6.	PERSONNEL BOARD	30 days	AS 39.25.060
7.	ALASKA POWER AUTH.	30 days	AS 44.83.020
OCCUPATIONAL:			
1.	PUBLIC ACCOUNTING BD	1 yr	AS 08.04.020
2.	BD OF CHIROPRACTIC EXAM.	2 yr	AS 08.20.020
3.	BD OF DENTAL EXAMINERS	5 yr	AS 08.36.010
4.	BD OF REGIS. FOR ARCHIT., ENGINEERS, AND LAND SURVEYORS	3 yr	AS 08.48.031
5.	GUIDE LIC.&CONTROL BD.	10 yr	AS 08.54.010
6.	BD OF PHARMACY	3 yr pract. in Alaska	AS 08.80.010
7.	BD OF OPTOMETRY EXAM.	3 yr	AS 08.72.040
8.	BD OF VET. EXAMINERS	5yr practice in Alaska	AS 08.98.010

A

B

DURATIONAL RESIDENCE REQUIREMENT (CONT.)

	TITLE	DURATION	AUTHORITY
LICENSES			
OCCUPATIONAL:			
1,	PUBLIC ACCOUNTANT	1yr	AS 08.04.280
2.	ATTORNEY	Residence	Bar Rule 5(1)(a)
3.	COLLECTION AGENCIES	1yr	AS 08.24.110
4.	MORTICIANS	1yr in state appren.	AS 08.42.110
5.	GUIDES.....		
	Master	Residence plus 10 hunt exp.	AS 08.54.100
	Registered	Resident	AS 08.54.110
C	Class A Asst.	20 yr exp. in dist.	AS 08.54.120
	Assistant	Resident	AS 08.54.140
	Transporter	Resident	AS 08.54.142
6.	JUNK DEALER, ETC.	Resident defined but not required	AS 08.60.030
7.	REAL EST. BROKERS AND SALESMEN	Resident	AS 08.88.171
8.	INSUR. BROKERS, AGENTS & SOLICITORS	1 yr	AS 21.27.090 AS 21.06.250 AS 21.27.220
OTHER LICENSES			
1.	ALCOHOLIC BEVERAGE LIC.	1 yr	AS 04.11.390
2.	RES. FISH AND GAME LIC.	12 consec. mo.	AS 16.05.940
PUBLIC RIGHTS AND BENEFITS			
GENERAL:			
1.	VOTING	30 days	AS 15.05.010 AK CONST.art.V sec. 1.
2.	ANNULMENT OF MARRAIGE	1 yr	AS 09.55.130
D 3.	LO COST HOUSING PREF.	1 yr	AS 18.55.330 AS 18.55.470(4)
4.	VOCATIONAL SUB. PROG.	1 yr	AS 39.25.155(g)
5.	INDUST. INCENT. TAX CRED.	% of one yr res.	AS 43.26.095(b)(3)
6.	BOUNTIES FOR CERT. ANIM.	1yr abode in game unit, plus cont. maintained res. in Alaska	AS 16.35.130
LAND DISPOSAL PROGRAMS			
1.	BY LOTTERY	1yr	AS 38.05.057(b)(2)
2.	PRICE DISCOUNT PROG.	5% disc.per year of residence	AS 38.05.058
E 3.	HOMESITE ENTRY PROG.	3yr or 20yr earlier Prior. to longest res.	AS 38.08.030(a)(2) AS 38.08.040(b)
4.	REMOTE PARCEL LEASING	1 yr	AS 38.08.077(i)(2)

HOUSE STATE AFFAIRS COMMITTEE

A STUDY OF ALASKA STATUTES WHERE DURATIONAL RESIDENCY REQUIREMENTS ARE USED

FINAL REPORT

BY

WILLIAM R. HUDSON
March 22, 1983

HOUSE STATE AFFAIRS COMMITTEE

MEMBERSHIP

HONORABLE MITCH ABOOD
HONORABLE MIKE MILLER
HONORABLE ANTHONY VASKA
HONORABLE JOHN COWDERY
HONORABLE WALT FURNACE
HONORABLE RONALD L. LARSON

ACKNOWLEDGEMENTS

I WISH TO EXPRESS MY APPRECIATION FOR THE COOPERATION AND SUPPORT OF THE CHAIRMANS EXCELLENT STAFF IN THE CONDUCT AND PREPARATION OF THIS STUDY.

I WISH FURTHER TO THANK FORMER ATTORNEY GENERAL AVRUM GROSS AND ATTORNEY RON ZOBEL FOR OFFERING FREELY THEIR COUNCEL ON WAYS TO FASHION LAWS IN ALASKA THAT WILL MEET THE TEST OF OUR U.S. CONSTITUTION AND MINIMIZE THE CHANCES OF COSTLY LITIGATION AND DISRUPTION OF PROGRAMS AFFECTING THE CITIZENS OF THIS STATE.

METHODOLOGY AND PRESENTATION

The performance requirements stipulated in this contract were necessarily broad in nature and general in tone. The extent of application and even more important the scope of the problems simply were not known.

The employment of a Non-Attorney to conduct this search was in the words of the Chairman, "to produce a plain language action plan that can be understood by the common man" . We were benefited in this mission by a list of all Statuatory referances wherein some use of Durational Residence was employed. That list was prepared by the Dept. of Law, and served as an invaluable tool.

Chairman Abood wanted the early exploratory phase of this study open to his personal involvement. Almost Daily discussions were held for the first 10 days and priorities were established to maximize the limited time availiable and the sheer volume of material to review.

The question of Constitutionality that pervaded this broad study required professional councel from attorneys with experience and knowledge in that complex arena. The Chairman felt that we should go direct to the attorneys with the most direct and recent experience in this field of expertise.. Ron Zobel and former Attorney General Avrum Gross and his assistant Susan Burke. All three Attorneys gave freely and constructively their opinions and guidance in how they felt we should approach this matter. It was very unusual, but invaluable to obtain the perspectives of three persons who only recently had argued both sides of a major case before the U.S. Supreme Court and more so since that decision centered largly around the use of Durational Residence as a requirement for disbursement of millions of dollars to the Alaska public. Surely their input would be relevant . It was!!!!

Input from the general public was seen as a necessity, and given the timeline, we chose to develop a printed set of Questionaires and limit the mailing to select persons and groups who had a vested interest in major programs under study due to the residence question. Those questionaires should be returning over the next few weeks and will serve the Committee as they deliberate this study.

With the aid of Attorney Susan Burke, we hope to present a full picture of what the problem is, what needs fixing, what should be left alone and hopefully will leave a guide for future Lawmakers to use in determining how to employ the use of DURATIONAL RESIDENCE as a requirement in a manner that should minimize litigation and comply with the U.S. Constitution.

INTRODUCTION

The use of durational residence as a requirement in Alaska Statutes have been found in 53 separate authorities. Durational residence exists in Statutes pertaining to HOLDING PUBLIC OFFICE, NUMEROUS LOAN PROGRAMS, SOME REGULATORY AND ADVISORY BOARDS AND COMMISSIONS, FOR SOME OCCUPATIONAL LICENSES, TO VOTE IN ALASKA, TO OBTAIN A RESIDENT FISHING AND HUNTING LICENSE, TO SELL ALCOHOLIC BEVERAGES, TO OBTAIN AND GAIN PREFERANCE FOR LOW COST HOUSING, TO PARTICIPATE IN LAND LOTTERIES, TO RECIEVE PARTIAL FORGIVENESS OF DEBT OWED THE STATE FOR LOANS ON LAND PURCHASED AND STUDENT AID GIVEN, TO OBTAIN RESIDENCE IN ONE OF THE FIVE PIONEERS' HOMES AND TO RECIEVE THE LONGEVITY BONUS AND FINALLY THE DIVIDEND FROM THE PERMANENT FUND EARNINGS.

Length of residence used throughout the Statutes vary from 30 days to 30 years. Benefits authorized by these laws represent millions of dollars and affect the lives of thousands of Alaskas' citizens. For this reason alone, it is right to give them careful scrutiny.

When the notorious ZOBEL v WILLIAMS U.S. Supreme Court decision came down last June 14, 1982, many doubts surfaced over the fate of other state Statutes that used durational residence as a prime requirement.

The House State Affairs Committee has been given the task to review all such Statutes and to recommend changes that are needed to reduce or minimize the states potential liability in these residence based matters.

Chairman Abood has contracted for the services of this consultant to assist the Committee determine what Statutes use durational residence, to develop a methodology to use as a measure of each statute against the U.S. Constitution and to recommend action required to bring the laws in conformance with the Constitution of the United States of America.

Attorney Susan Burke has been hired under separate contract to prepare a draft bill on Bona Fide Residence. The work of attorney Burke is to be coordinated with this consultant and should compliment my findings.

The report that follows will attemp to satisfy the above obligations.

EXECUTIVE SUMMARY

A. TASK: The task of this report was to determine the extent of use in Alaska Statutes and Executive policy of DURATIONAL RESIDENCE as a requirement.

To search all availiable pertinent court documents and legal briefs that centered around length of residence requirements to develop CRITERIA that could be applied to existing and future Statutes to make them Constitutional, or as nearly so as possible.

To report the findings to the Chairman, House State Affairs Committee in a "Plain Language Format" and to recommend action deemed necessary by this study.

B. PENDING LITIGATION: We need be aware that three directly related law suits are now in the courts and involve the State as defendants or have other indirect affect. All three cases involve DURATIONAL RESIDENCE REQUIREMENTS and are mentioned here to alert the Committee that they may wish to abstain from comment or action pending the outcome in the courts...

LITIGATION

ANDRESS v BAXTER: Alaska District Court No. A82-307civil

Judith Andress challanges the two year durational requirement in the application for Student Loans (AS 14.40.765(b) and the selection criteria for applicants that provides Priority to applicants based on the number of continuous years residency in Alaska. (AS 14.40.767(a)(2)
Status - Pending

GILMAN v MARTIN: Alaska Supreme Court No. 5937

The State has submitted a Supplemental Brief of Amicus Curiae and the outcome will be seen as a ruling on parallel land distribution plans operated by the State. The suit involves a challange to a Kenai Borough land disposal program. It would affect the State land lottery program (AS38.05.058) the one year residence provision to qualify for the lottery (AS 38.05.057) and the discount of 5% in price for every year of residency up to 50%.(AS 38.05.058)
Status -Pends. Results expected any time now!!!

VEST v SCHAFER: Superior Court No. 1JU-82-1103 civil

This suit challanged the 25 year, pre-statehood

residence requirement in the Alaska Longevity Bonus program.

Status - Court action consummated in a settlement agreement that Stayed all actions and proceedings through and including the date of ADJOURNMENT of the first regular session of the 13th ALASKA LEGISLATURE or JUNE 30th, 1983 whichever comes first.

In this agreement the court ordered the Leglative Council to use its best efforts to secure enactment of legislation that would in effect open the program to all bona fide residents of one year during this session.

C. CONSTITUTIONAL TEST (MEASUREMENTS): The development of standards or measurement tests that could logically be applied to present and future Statutes where a DURATIONAL RESIDENCE REQUIREMENT is to be used, has been the most difficult task of this study.

The question "What is a resident" has obviously never been established before at least in Alaska. Durations of residency run from 30 days to 30 years, and I could find little relationship to the Purpose of the Statute in many cases..

As a Layman (Non-Attorney) I have sought the councel of several attorneys, including Legislative Legal Councel and have been informed repeatedly that it is impossible to set forth a defination of what constitutes a BONA FIDE RESIDENT that would satisfy the many complex applications found in the Statutes, and would bear up under test of the Constitution of the the United States of America.

One look at the U.S. Constitution, specifically the XIVth Amendment that is most used in determining acceptance or rejection of a residence requirement may tell us what the authors intended but not what a RESIDENT is. To determine this we have to go to a library of Court documents for the interpretations handed down over the years by the High court Justices.

I concur with the Attorney General in that we must make some effort at establishing the Bona Fides of residency. To accomplish this, I have recommend- and the Chairman has concurred that Juneau Attorney Susan Burke be hired to prepare a Draft Bill on Bona Fides of Residence and present same to the Legislature for their consideration.

Because of the complexity of developing any uniform standards, I have penned by findings and reasoning in separate form, attached as Appendix B.

D. RECOMMENDED ACTIONS: Mr. Chairman, I am recommending you consider the following actions: All references are related to the master list included in this report.

That list was prepared by someone (its unsigned) in the office of the Attorney General and has been used extensively throughout this study. The comments of that Office will be useful and for this reason, I have included the origional list provided as an Attachment.

DURATIONAL RESIDENCE REQUIREMENTS

ACTIONS...

1. PUBLIC OFFICERS (A)
   FINDINGS: That substantial reason exists to justify the use of longer terms of residence in determining qualifications to hold major Public Office.
   RECOMMENDATIONS: Take no action. the Statutes and Constitutional references are likely in compliance with the U.S. Constitution..

2. BOARDS AND COMMISSIONS (B)
   FINDINGS: That the durations currently used are inconsistant with the Purpose stated in several of these Statutes, and serve no valid public interest. Further that any duration beyond one year could be challanged and may be found invalid.
   RECOMMENDATIONS: That you consider repealing the existing durational residence requirements in all of these laws and substitute the Bona Fide residence required to be prepared by Attorney Susan Burke.

   That the Statutes be amended to require Bona Fide residence and a reasonable number of years experience in the two laws relating to the Board of Registration for Architects, Engineers and Land Surveyors and the Guides Licensing and Control Board. Some exceptional experience appears useful and defensible.

3. OCCUPATIONAL LICENSES (C)
   FINDINGS: That the courts have alreaay struck down the use of any duration of residence as a requirement (NOLL v BAR ASSOCIATION) for the attorneys license; and only simple residence is permitted. A thorough review of the records indicate little tolerance by the courts for the use of any length of residence that might bar the employment of ones occupational skill between the several states..
   RECOMMENDATIONS: That Statutory authority listed in 1 thru

   8 be amended to repeal the present residence requirements and substitute " Simple Residence".

Susan Burke should be able to define " Simple Residence" to use in this case and others I will recommend.

For OTHER LICENSES listed under this catagory, such as the ALCOHOLIC BEVERAGE LICENSE AND THE RESIDENT FISH AND GAME LICENSE I recommend you repeal the present durational residence requirements and substitute as follows: For the Alcohol License-- replace with simple residence. There appears to be no reason for duration in the state except to serve as a Bar to the license. For the Resident Fish and Game license, I recommend you substitute Bona Fide Residence.

4. PUBLIC RIGHTS AND BENEFITS (D)
   FINDINGS: That the 30 day requirement to vote in Alaska is probably constitutional and should stand.

   That the one year requirement for the other 5 programs appear excessive, especially the LOW COST HOUSING PREFERANCE which the courts would likely construe as a "BASIC NECESSITY OF LIFE" wherein no durational residence has been permitted in the courts.

   RECOMMENDATIONS: That no change is necessary for AS 15.05.010. Unless you want to substitute simple residence, and require 30 days to handle the registration process.

   That the other laws be modified to simple residence.
   That the Legislature consider repealing AS 43.26.095(b)(3) and AS 16.35.130 (INDUSTRIAL INCENTIVE TAX CREDIT AND BOUNTIES FOR CERTAIN ANIMALS) neither of these programs have been active for years.

5. LAND DISPOSAL PROGRAMS (E)
   FINDINGS: The State is currently before the courts alongside the Kenai Peninsula Boro on this matter and probably should make no changes pending settlement.
   RECOMMENDATIONS: That your committee take no action until the court decision is in hand.

6. SPECIAL OLD AGE PROGRAMS (F)
   FINDINGS: The greatest problem with durational residence before the Legislature rests with the twin Pioneers' programs: the ALASKA LONGEVITY BONUS PROGRAM AND THE PIONEERS' HOME PROGRAM.

   The settlement reached last August 25, 1982 is

a mandate for the Legislature to take corrective action or the Courts will. Clearly with regards to the ALB the 25 year durational residence with the requirement that it commence before Statehood is lost. A one year duration of residence appears to be an acceptable replacement.

With regards to the PIONEERS' HOME PROGRAM, I concur with the opinion rendered by former Attorney General Wilson Condon that the program is probably defensible with its unique 15 year residency requirement. It is not established as a welfare home and it does not deny anyone needing such care from recieving it thru other programs offered by the state.

Fifteen years is reasonable to use as a measure of attachment to the state by citizens who must be 65 years old and the average age of which is 82 years old. The Homes are just that Homes for elderly Alaskans who would likely be forced to leave their state were it not for the Pioneers' Home. Certainly a measure of attchment and Allegiance for these catagory folks would not be met with a simple one or two year requirement. The last 15 years before one has to face this go or no go decision is a bona fide measure.

I have found that the SPECIAL ASSESSMENT AND FISHING LICENSE EXEMPTIONS ARE probably not well founded and would not stand up under a test.

RECOMMENDATIONS: That you call for the repeal of the 25 year ,Pre-Statehood eligibility requirements and substitute the Bona Fide residence requirement in Susan Burkes Bill draft.

That the Legislature consider carefully the future of this important program. I believe there may be other FUNDING SCENARIOS beyond those 10 listed in Jon Tillinghasts report to the Senate Judiciary Committee. I have ideas that may aid in finding a good long term solution. Though it falls outside the terms of my contract, I would be pleased to work with whatever body is designated to handle this problem and opportunity.

I recommend no immediate changes to the PIONEERS' HOME program. Rather we need to develop a fall back plan in case it suffers from some action by the courts similiar to the ALB.

That the ASSESSMENT AND FISHING LICENSE exemptions be determined by Bona Fide Residence requirements being developed by Susan Clark.

7. LOAN AND GRANT PROGRAMS (G)

FINDINGS: That there is a great deal of inconsistancy in the established requirements for residency in these 41 programs. That many programs require no residency, that one even states that it is open to Nonresidents and that I was not able to find documentation to affirm the justification for many of these varying durations of residence.

That the STUDENT LOAN PROGRAM is pending in ANDRESS v BAXTER and should be left alone until the courts are done with the case. However I will present a separate paper on these issues as relate to the forgivness clause and application of the low interest provisions. This will be outside of this report.

That THE FISHING LOAN PROGRAMS now probably require excessive, non-defensible durations of residence, but that the one year Bona Fide residence requirement may not provide adequate measure of these MIGRATORY applicants. I tend to agree with the Director of Legislative Legal Council, that a more rational duration would be two years.

That programs listed in No. 4,5,6,7,8 and 10 will likely be best served to use the Bona Fide Residence Requirement. That residence requirements for REFUND OF POLITICAL CONTRIBUTION AND CHILD CARE EXPENSES most likely fall in SIMPLE RESIDENCE requirement, since they fall under the catagory of POLITICAL RIGHTS AND BASIC NECESSITIES OF LIFE, and the courts do not support durational residency in these matters..

RECOMMENDATIONS: 1. That no action be taken on the Student Loan programs until the courts conclude.

2. That you consider repealing the present 5 year residence requirements in the Fisheries Loan programs and substitute a 2 year residence requirement.

3. That you consider applying a Bona Fide requirement for all other loan programs as a normal course of action, except where the program relates to "Basic Necessities" or"Political Rights".

CLOSING STATEMENT

In closing Mr. Chairman, permit me to say that I am prepared to work with Ms Burke, your staff or any other body you wish me to in preparing the Legislation you wish to present. I am availiable for hearings or other meetings you desire me to attend.

I have gathered volumes of court record, statistical information and other corrospondence which I will tender to you with this report.. I have enjoyed working with you and believe you will do future Legislators a favor by guiding them in these matters, by way of this report.

Respectfully Submitted

William R. Hudson

RESIDENCY QUESTIONNAIRE

GENERAL DISCUSSION:

Last year the United States Supreme Court heard arguments on the controversial Permanent Fund dividend distribution plan proposed by the Governor and the Legislature of Alaska (Zobel II & III).

That Court found the proposed legislation to be unconstitutional on several key grounds. First, the dividend plan violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, in that it would have distributed unequal dividends to citizens based soley on the number of years each citizen had resided in Alaska.

Secondly, the Supreme Court decision clearly stated that any reward or benefit that was based upon a citizen's contribution to his/her state made in past years, would be in conflict with the U.S. Constitution; regardless of whether that contribution was tangible or intangible.

Taking it one step further, the Court also ruled that no law is acceptable which acts as a bar to free travel between the States or that denies any citizen full access to every privilege or benefit afforded to another citizen.

Finally, the Court did allow that a State may extend certain benefits to its bona fide citizens when a reasonable public purpose for the benefit exists and is so stated in the law.

HOW THE SUPREME COURT DECISION ON THE PERMANENT FUND DIVIDEND AFFECTS OTHER ALASKAN PROGRAMS

Soon after the nationwide publicity and notoriety of the Supreme Court decision regarding residency requirements, attention was focused on numerous other Alaska statutes that contained durational residency requirements. There are currently 53 programs containing some kind of provision based on residency The most critical of these programs deals with key loan plans such as the Student Loan Program and Fisherman's loans as well as the twin pioneer's programs: the Alaska Longevity Bonus and the Pioneer's Home Program.

FACTORS TO CONSIDER

Every public program administered in Alaska is based on statutes established through the legislative process. Every statute should consider the following factors:

Does the program serve a valid public purpose?
Does it meet the test of law and does it conform to the constitutions of the United States and Alaska?
What are the long-term costs and other potential liabilities?

Some proof of residency is appropriate; however, it is generally-repeat-generally conceeded that one (1) year of residency constitutes a valid intent to remain in the state and to be a citizen of it.

Some state benefits or requirements may justify more than one year's residency, but it must be clearly proven that the public purpose is served by a residency requirement exceeding one year. Some benefits or privileges such as for driver's licenses, voting, etc. cannot be justified for even one year.

With this brief information in mind, will you now review the attached questionnaire and give us your ideas and answers. Please don't worry about using a handwritten response. As long as I can read it, all will be well. Use additional paper as you may require. Thank you for your comments.

ALASKA LONGEVITY BONUS

Currently, over 9,000 older Alaskans receive a $250 monthly bonus check, if they have continuously resided in the State for 25 years or more, are 65 years of age or older, and have established their first residency in the State on or before January 3, 1959 (Statehood).

A class-action suit filed by attorneys for Mr. Rodney Vest in the First Superior Court of Alaska charged that these requirements violated the constitutional rights of Mr. Vest and other older Alaskans. By mutual agreement, the court action has been suspended until the Alaska State Legislature can act during this current legislative session to correct this residency problem.

The Longevity Bonus Program in 1983 will cost the State of Alaska approximately $28 million dollars. If the 25-year pre-statehood provision is dropped, the program would add about 4,000 more older Alaskans to the current roles. That would in turn swell the yearly cost of the program from $28 million to almost $40 million.

Clearly, in light of the U.S. Supreme Court's decision regarding residency and the permanent fund dividend distribution program, the State of Alaska will have to drop its 25-year residency requirement. When this happens, the program will cost almost $12 million more to operate. Several serious questions need to be addressed.

QUESTIONS

1. Should we continue the longevity bonus program for all persons over the age of 65 who have lived in Alaska at least one year?

   Yes _____ No _____

2. Shall we attempt to phase out the program ?

   Yes _____ No _____

3. Should we establish a limit on the amount of money to be appropriated by the Legislature, and set the monthly bonus amount on total funds available, divided by the number of applicants?

   Yes _____ No _____

4. Would you support a new funding source? For example; if we were to use the permanent fund dividend monies as a funding source to establish a major new trust fund for the longevity bonus program. If it were properly invested, where the earnings (interest) could then be distributed to any citizen 65 years of age or older in whatever amounts were permitted by these earnings?

Yes _____ No _____

Comments: _____

_____

5. Other ideas or comments? _____

_____

_____

ALASKA PIONEER'S HOMES

Over 600 Alaskans can be housed in the five Pioneer's homes now currently operating in Alaska. A sixth home, to be built in Juneau, will add another 50 beds or more.

Current requirements call for an applicant to have resided in Alaska for 15 or more consecutive years. The Pioneer home program does not require a resident to be destitute, and it has no needs test.

Monthly costs for residents in the homes are $225 per month and $275 per month, depending on the level of care required. Costs to the state to provide the care have been stated as approximately $1,800 per month. Annual costs to the State now exceed $20 million dollars.

It is possible that the program as it is now administered, including the 15 year residency requirement may be all right , and left alone. We are leaning toward that position at this time. However, we should think about a fall back position, should the program be adversely affected or found to be at fault with the law.

QUESTIONS

1. Would you support the Pioneer's Home program if the one-year residency requirement is used?

   Yes _____ No _____

2. What priorities should be used, if the costs of the program were to increase dramatically because of the lower requirements?

   a. Only on physical need? Yes _____ No _____.

   b. Only serve the most needy? Yes _____ No _____.

   c. Serve all, regardless of needs; first come, first served?

   Yes _____ No _____

3. Should the low monthly costs to residents of the home continue as they are now?

   a. Yes _____ No _____

   or should we:

   b. Charge more? Yes _____ No _____

   c. Charge less? Yes _____ No _____

4. Any other ideas? _____

   _____

   _____

Thank you for your cooperation.

WE ASK YOU TO PLEASE RETURN THIS QUESTIONNAIRE TO US BEFORE

APRIL 2, 1983.

Send to: House State Affairs Committee
Pouch V
Juneau, Alaska 99811

STUDENT LOANS

A challenge to the student loan program which is currently under litigation (Andress v. Baxter); is the two (2) year durational residence required to be eligible for a loan of either $6,000 (undergraduates) or $7,000 (graduates) maximum each school year.

The student loan program was established in 1971 and since that time has issued over 35,000 loans with a current average per student/year of over $4,000. These loans carry a 5 per cent interest rate, to be repaid in 10 years, with one five-year extension available.

Added to this, is a significant forgiveness clause that can reduce an applicant's debt by up to 50 percent if he or she returns to Alaska or resides in our state for up to five years after graduation.

QUESTIONS

1. Do you support the Alaska Student Loan Program as it exists now?

   Yes _____ No _____

2. Do you believe it is good public policy to forgive or eliminate up to 1/2 of the total amount of the loan in return for having these students back in Alaska?

   Yes _____ No _____

3. Do you believe the five (5) percent interest rate on these loans is:

   Okay _____,

   Low _____

   High _____

   It should be _____ percent.

4. Since the two-year residency requirement is now being challenged in the courts, what should we do?

   a. Keep it as it is until the Courts act? Yes_____ No _____.

   b. Reduce the residency requirement to one year? Yes_____ No_____.

   c. Other alternative?_____

   _____

5. Please tell us what methods of control and administration you believe is needed and proper in administering these loans.

_____

_____

_____

Thank you for your cooperation.

WE ASK YOU TO PLEASE RETURN THIS QUESTIONNAIRE TO US BEFORE

APRIL 1, 1983.

Send to: House State Affairs Committee
Pouch V
Juneau, Alaska 99811

LAND DISPOSAL

Many Alaskans have always favored a liberal land distribution plan, and seem to favor some requirements and restrictions that are based on the length of residency.

The current Alaska land distribution plan has not yet been challenged in the courts, but it is indirectly under fire, since it is closely related to the Kenai land disposal plan, which is now under litigation.

QUESTIONS

1. Do you favor continuation of the distribution of public lands to Alaska citizens?

   Yes _____ No _____.

2. How would you like to see the land distributed? _____

   _____

   _____

3. Should the present discount plan be continued?

   Yes _____ No _____.

4. Since there may not be enough suitable land for everyone, what priorities do you favor?

   _____

   _____

   _____

Thank you for your cooperation.

WE ASK YOU TO PLEASE RETURN THIS QUESTIONNAIRE TO US BEFORE APRIL 2, 1983.

Send to: House State Affairs Committee
Pouch V
Juneau, Alaska 99811

FISHERMAN'S LOANS

Several low-interest loan plans now exist that were designed to foster the growth and development of our fisheries. Most of these loans have stipulated a five-year residency requirement.

QUESTIONS

1. Do you support loan plans as an incentive to develop a particular industry, such as fishing, mining, tourism, etc.?

   Yes _____ No _____

2. If the five-year residency is declared unconstitutional, what time period do you believe is a proper length of residency, given the migratory lifestyle of commercial fisherman?

   _____ Number of years

3. Please tell us what methods of control and administration you believe are needed and proper in administering these various fisheries loans?

   _____

   _____

   _____

Thank you for your cooperation.

WE ASK YOU TO PLEASE RETURN THIS QUESTIONNAIRE TO US BEFORE APRIL 2,1983.

Send to: House State Affairs Committee
Pouch V
Juneau, Alaska 99811

HOUSE STATE AFFAIRS COMMITTEE

A STUDY OF ALASKA STATUTES WHERE DURATIONAL RESIDENCY REQUIREMENTS ARE USED

FINAL REPORT

DRAFT

BY

WILLIAM R. HUDSON
March 22, 1983

HOUSE STATE AFFAIRS COMMITTEE

MEMBERSHIP

HONORABLE MITCH ABOOD
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I WISH FURTHER TO THANK FORMER ATTORNEY GENERAL AVRUM GROSS AND ATTORNEY RON ZOBEL FOR OFFERING FREELY THEIR COUNCEL ON WAYS TO FASHION LAWS IN ALASKA THAT WILL MEET THE TEST OF OUR U.S. CONSTITUTION AND MINIMIZE THE CHANCES OF COSTLY LITIGATION AND DISRUPTION OF PROGRAMS AFFECTING THE CITIZENS OF THIS STATE.

METHODOLOGY AND PRESENTATION

The performance requirements stipulated in this contract were necessarily broad in nature and general in tone. The extent of application and even more important the scope of the problems simply were not known.

The employment of a Non-Attorney to conduct this search was in the words of the Chairman, "to produce a plain language action plan that can be understood by the common man" . We were benefited in this mission by a list of all Statuatory referances wherein some use of Durational Residence was employed. That list was prepared by the Dept. of Law, and served as an invaluable tool.

Chairman Abood wanted the early exploratory phase of this study open to his personal involvement. Almost Daily discussions were held for the first 10 days and priorities were established to maximize the limited time availiable and the sheer volume of material to review.

The question of Constitutionality that pervaded this broad study required professional councel from attorneys with experience and knowledge in that complex arena. The Chairman felt that we should go direct to the attorneys with the most direct and recent experience in this field of expertise.. Ron Zobel and former Attorney General Avrum Gross and his assistant Susan Burke. All three Attorneys gave freely and constructively their opinions and guidance in how they felt we should approach this matter. It was very unusual, but invaluable to obtain the perspectives of three persons who only recently had argued both sides of a major case before the U.S. Supreme Court and more so since that decision centered largly around the use of Durational Residence as a requirement for disbursement of millions of dollars to the Alaska public. Surely their input would be relevant . It was!!!!

Input from the general public was seen as a necessity, and given the timeline, we chose to develop a printed set of Questionaires and limit the mailing to select persons and groups who had a vested interest in major programs under study due to the residence question. Those questionaires should be returning over the next few weeks and will serve the Committee as they deliberate this study.

With the aid of Attorney Susan Burke, we hope to present a full picture of what the problem is, what needs fixing, what should be left alone and hopefully will leave a guide for future Lawmakers to use in determining how to employ the use of DURATIONAL RESIDENCE as a requirement in a manner that should minimize litigation and comply with the U.S. Constitution.

INTRODUCTION

The use of durational residence as a requirement in Alaska Statutes have been found in 53 separate authorities. Durational residence exists in Statutes pertaining to HOLDING PUBLIC OFFICE, NUMEROUS LOAN PROGRAMS, SOME REGULATORY AND ADVISORY BOARDS AND COMMISSIONS, FOR SOME OCCUPATIONAL LICENSES, TO VOTE IN ALASKA, TO OBTAIN A RESIDENT FISHING AND HUNTING LICENSE, TO SELL ALCOHOLIC BEVERAGES, TO OBTAIN AND GAIN PREFERANCE FOR LOW COST HOUSING, TO PARTICIPATE IN LAND LOTTERIES, TO RECIEVE PARTIAL FORGIVENESS OF DEBT OWED THE STATE FOR LOANS ON LAND PURCHASED AND STUDENT AID GIVEN, TO OBTAIN RESIDENCE IN ONE OF THE FIVE PIONEERS' HOMES AND TO RECIEVE THE LONGEVITY BONUS AND, FINALLY THE DIVIDEND FROM THE PERMANENT FUND EARNINGS.

Length of residence used throughout the Statutes vary from 30 days to 30 years. Benefits authorized by these laws represent millions of dollars and affect the lives of thousands of Alaskas' citizens. For this reason alone, it is right to give them careful scrutiny.

When the notorious ZOBEL v WILLIAMS U.S. Supreme Court decision came down last June 14, 1982, many doubts surfaced over the fate of other state Statutes that used durational residence as a prime requirement.

The House State Affairs Committee has been given the task to review all such Statutes and to recommend changes that are needed to reduce or minimize the states potential liability in these residence based matters.

Chairman Abood has contracted for the services of this consultant to assist the Committee determine what Statutes use durational residence, to develop a methodology to use as a measure of each statute against the U.S. Constitution and to recommend action required to bring the laws in conformance with the Constitution of the United States of America.

Attorney Susan Burke has been hired under separate contract to prepare a draft bill on Bona Fide Residence. The work of attorney Burke is to be coordinated with this consultant and should compliment my findings.

The report that follows will attemp to satisfy the above obligations.

EXECUTIVE SUMMARY

A. TASK: The task of this report was to determine the extent of use in Alaska Statutes and Executive policy of DURATIONAL RESIDENCE as a requirement.

To search all availiable pertinent court documents and legal briefs that centered around length of residence requirements to develop CRITERIA that could be applied to existing and future Statutes to make them Constitutional, or as nearly so as possible.

To report the findings to the Chairman, House State Affairs Committee in a "Plain Language Format" and to recommend action deemed necessary by this study.

B. PENDING LITIGATION: We need be aware that three directly related law suits are now in the courts and involve the State as defendants or have other indirect affect. All three cases involve DURATIONAL RESIDENCE REQUIREMENTS and are mentioned here to alert the Committee that they may wish to abstain from comment or action pending the outcome in the courts...

LITIGATION

ANDRESS v BAXTER: Alaska District Court No. A82-307civil

Judith Andress challanges the two year durational requirement in the application for Student Loans (AS 14.40.765(b) and the selection criteria for applicants that provides Priority to applicants based on the number of continuous years residency in Alaska. (AS 14.40.767(a)(2)
Status - Pending

GILMAN v MARTIN: Alaska Supreme Court No. 5937

The State has submitted a Supplemental Brief of Amicus Curiae and the outcome will be seen as a ruling on parallel land distribution plans operated by the State. The suit involves a challange to a Kenai Borough land disposal program. It would affect the State land lottery program (AS38.05.058) the one year residence provision to qualify for the lottery (AS 38.05.057) and the discount of 5% in price for every year of residency up to 50%.(AS 38.05.058)
Status -Pends. Results expected any time now!!!

VEST v SCHAFER: Superior Court No. 1JU-82-1103 civil

This suit challanged the 25 year, pre-statehood

residence requirement in the Alaska Longevity Bonus program.

Status - Court action consummated in a settlement agreement that Stayed all actions and proceedings through and including the date of ADJOURNMENT of the first regular session of the 13th ALASKA LEGISLATURE or JUNE 30th, 1983 whichever comes first.

In this agreement the court ordered the Leglative Council to use its best efforts to secure enactment of legislation that would in effect open the program to all bona fide residents of one year during this session.

C. CONSTITUTIONAL TEST (MEASUREMENTS): The development of standards or measurement tests that could logically be applied to present and future Statutes where a DURATIONAL RESIDENCE REQUIREMENT is to be used, has been the most difficult task of this study.

The question "What is a resident" has obviously never been established before at least in Alaska. Durations of residency run from 30 days to 30 years, and I could find little relationship to the Purpose of the Statute in many cases..

As a Layman (Non-Attorney) I have sought the councel of several attorneys, including Legislative Legal Councel and have been informed repeatedly that it is impossible to set forth a defination of what constitutes a BONA FIDE RESIDENT that would satisfy the many complex applications found in the Statutes, and would bear up under test of the Constitution of the the United States of America.

One look at the U.S. Constitution, specifically the XIVth Amendment that is most used in determining acceptance or rejection of a residence requirement may tell us what the authors intended but not what a RESIDENT is. To determine this we have to go to a library of Court documents for the interpretations handed down over the years by the High court Justices.

I concur with the Attorney General in that we must make some effort at establishing the Bona Fides of residency. To accomplish this, I have recommend- and the Chairman has concurred that Juneau Attorney Susan Burke be hired to prepare a Draft Bill on Bona Fides of Residence and present same to the Legislature for their consideration.

Because of the complexity of developing any uniform standards, I have penned by findings and reasoning in separate form, attached as Appendix B.

D. RECOMMENDED ACTIONS: Mr. Chairman, I am recommending you consider the following actions: All references are related to the master list included in this report.

That list was prepared by someone (its unsigned) in the office of the Attorney General and has been used extensively throughout this study. The comments of that Office will be useful and for this reason, I have included the origional list provided as an Attachment.

DURATIONAL RESIDENCE REQUIREMENTS

ACTIONS...

1. PUBLIC OFFICERS (A)
   FINDINGS: That substantial reason exists to justify the use of longer terms of residence in determining qualifications to hold major Public Office.
   RECOMMENDATIONS: Take no action. the Statutes and Constitutional references are likely in compliance with the U.S. Constitution..

2. BOARDS AND COMMISSIONS (B)
   FINDINGS: That the durations currently used are inconsistant with the Purpose stated in several of these Statutes, and serve no valid public interest. Further that any duration beyond one year could be challanged and may be found invalid.
   RECOMMENDATIONS: That you consider repealing the existing durational residence requirements in all of these laws and substitute the Bona Fide residence required to be prepared by Attorney Susan Burke.

   That the Statutes be amended to require Bona Fide residence and a reasonable number of years experience in the two laws relating to the Board of Registration for Architects, Engineers and Land Surveyors and the Guides Licensing and Control Board. Some exceptional experience appears useful and defensible.

3. OCCUPATIONAL LICENSES (C)
   FINDINGS: That the courts have already struck down the use of any duration of residence as a requirement (NOLL v BAR ASSOCIATION) for the attorneys license; and only simple residence is permitted. A thorough review of the records indicate little tolerance by the courts for the use of any length of residence that might bar the employment of ones occupational skill between the several states..
   RECOMMENDATIONS: That Statutory authority listed in 1 thru 8 be amended to repeal the present residence requirements and substitute " Simple Residence".

Susan Burke should be able to define " Simple Residence" to use in this case and others I will recommend.

For OTHER LICENSES listed under this catagory, such as the ALCOHOLIC BEVERAGE LICENSE AND THE RESIDENT FISH AND GAME LICENSE I recommend you repeal the present durational residence requirements and substitute as follows: For the Alcohol License-- replace with simple residence. There appears to be no reason for duration in the state except to serve as a Bar to the license. For the Resident Fish and Game license, I recommend you substitute Bona Fide Residence.

4. PUBLIC RIGHTS AND BENEFITS (D)
FINDINGS: That the 30 day requirement to vote in Alaska is probably constitutional and should stand.

That the one year requirement for the other 5 programs appear excessive, especially the LOW COST HOUSING PREFERANCE which the courts would likely construe as a "BASIC NECESSITY OF LIFE" wherein no durational residence has been permitted in the courts.

RECOMMENDATIONS: That no change is necessary for AS 15.05.010. Unless you want to substitute simple residence, and require 30 days to handle the registration process.

That the other laws be modified to simple residence.
That the Legislature consider repealing AS 43.26.095(b)(3) and AS 16.35.130 (INDUSTRIAL INCENTIVE TAX CREDIT AND BOUNTIES FOR CERTAIN ANIMALS) neither of these programs have been active for years.

5. LAND DISPOSAL PROGRAMS (E)
FINDINGS: The State is currently before the courts alongside the Kenai Peninsula Boro on this matter and probably should make no changes pending settlement.
RECOMMENDATIONS: That your committee take no action until the court decision is in hand.

6. SPECIAL OLD AGE PROGRAMS (F)
FINDINGS: The greatest problem with durational residence before the Legislature rests with the twin Pioneers' programs: the ALASKA LONGEVITY BONUS PROGRAM AND THE PIONEERS' HOME PROGRAM.

The settlement reached last August 25, 1982 is

a mandate for the Legislature to take corrective action or the Courts will. Clearly with regards to the ALB the 25 year durational residence with the requirement that it commence before Statehood is lost. A one year duration of residence appears to be an acceptable replacement.

With regards to the PIONEERS' HOME PROGRAM, I concur with the opinion rendered by former Attorney General Wilson Condon that the program is probably defensible with its unique 15 year residency requirement. It is not established as a welfare home and it does not deny anyone needing such care from recieving it thru other programs offered by the state.

Fifteen years is reasonable to use as a measure of attachment to the state by citizens who must be 65 years old and the average age of which is 82 years old. The Homes are just that Homes for elderly Alaskans who would likely be forced to leave their state were it not for the Pioneers' Home. Certainly a measure of attchment and Allegiance for these catagory folks would not be met with a simple one or two year requirement. The last 15 years before one has to face this go or no go decision is a bona fide measure.

I have found that the SPECIAL ASSESSMENT AND FISHING LICENSE EXEMPTIONS ARE probably not well founded and would not stand up under a test.

RECOMMENDATIONS: That you call for the repeal of the 25 year ,Pre-Statehood eligibility requirements and substitute the Bona Fide residence requirement in Susan Burkes Bill draft.

That the Legislature consider carefully the future of this important program. I believe there may be other FUNDING SCENARIOS beyond those 10 listed in Jon Tillinghasts report to the Senate Judiciary Committee. I have ideas that may aid in finding a good long term solution. Though it falls outside the terms of my contract, I would be pleased to work with whatever body is designated to handle this problem and opportunity.

I recommend no immediate changes to the PIONEERS' HOME program. Rather we need to develop a fall back plan in case it suffers from some action by the courts similiar to the ALB.

That the ASSESSMENT AND FISHING LICENSE exemptions be determined by Bona Fide Residence requirements being developed by Susan Clark.

7. LOAN AND GRANT PROGRAMS (G)

FINDINGS: That there is a great deal of inconsistancy in the established requirements for residency in these 41 programs. That many programs require no residency, that one even states that it is open to Nonresidents and that I was not able to find documentation to affirm the justification for many of these varying durations of residence.

That the STUDENT LOAN PROGRAM is pending in ANDRESS v BAXTER and should be left alone until the courts are done with the case. However I will present a separate paper on these issues as relate to the forgivness clause and application of the low interest provisions. This will be outside of this report.

That THE FISHING LOAN PROGRAMS now probably require excessive, non-defensible durations of residence, but that the one year Bona Fide residence requirement may not provide adequate measure of these MIGRATORY applicants. I tend to agree with the Director of Legislative Legal Council, that a more rational duration would be two years.

That programs listed in No. 4,5,6,7,8 and 10 will likely be best served to use the Bona Fide Residence Requirement. That residence requirements for REFUND OF POLITICAL CONTRIBUTION AND CHILD CARE EXPENSES most likely fall in SIMPLE RESIDENCE requirement, since they fall under the catagory of POLITICAL RIGHTS AND BASIC NECESSITIES OF LIFE, and the courts do not support durational residency in these matters..

RECOMMENDATIONS: 1. That no action be taken on the Student Loan programs until the courts conclude.

2. That you consider repealing the present 5 year residence requirements in the Fisheries Loan programs and substitute a 2 year residence requirement.

3. That you consider applying a Bona Fide requirement for all other loan programs as a normal course of action, except where the program relates to "Basic Necessities" or"Political Rights".

CLOSING STATEMENT

In closing Mr. Chairman, permit me to say that I am prepared to work with Ms Burke, your staff or any other body you wish me to in preparing the Legislation you wish to present. I am availiable for hearings or other meetings you desire me to attend.

I have gathered volumes of court record, statistical information and other corrospondence which I will tender to you with this report.. I have enjoyed working with you and believe you will do future Legislators a favor by guiding them in these matters, by way of this report.

Respectfully Submitted

William R. Hudson

DURATIONAL RESIDENCE REQUIREMENT

STATEMENT: The following list constitutes a complete listing of all DURATIONAL RESIDENCE REQUIREMENTS set by state law.

	TITLE	DURATION	AUTHORITY
PUBLIC OFFICERS			
1.	GOVERNOR	7yr	AK CONST.art. 111,ss 2
2.	LT GOVERNOR	7yr	AK CONST.art. 111,ss 2&7
3.	LEGISLATOR	3yr	AK CONST.art. 11,ss2
4.	SUP. COURT JUSTICE	5yr	AS 22.05.070
5.	COURT OF APPEALS JUDGE	5yr	AS 22.07.040
6.	SUP. COURT JUDGE	5yr	AS 22.10.090
7.	DIST. COURT JUDGE	5yr	AS 22.15.160(a)
8.	MAGISTRATE	6mo	AS 22.15.160(b)
9.	OMBUDSMAN	3yr	AS 24.55.030
10.	BOROUGH MAYOR	to 3yr	AS 29.23.130(b)
11.	BOROUGH ASSEMBLYMAN	to 3yr	AS 29.23.050
12.	CITY MAYOR	to 3yr	AS 29.23.250(a)
13.	CITY COUNCIL	to 3yr	AS 29.23.200(b)
14.	MUNI CHARTER COMM.	3yr	AS 29.13.010
15.	BOARD OF ED MEMBER	3yr	AS 14.07.075
BOARDS AND COMMISSIONS			
GENERAL:			
1.	RURAL AFF. COMM.	5yr	AS 44.19.102
2.	BOARD OF FISHERIES	1yr	AS 16.05.221 AS 16.05.940
3.	BOARD OF GAME	1yr	AS 16.05.221 AS 16.05.940
4.	JUDICIAL QUAL. COMM.	10yr practice in Alaska	AK CONST. ART.1V ss 10
5.	MUNI BOND BANK AUTH	30 days	AS 44.85.030
6.	PERSONNEL BOARD	30 days	AS 39.25.060
7.	ALASKA POWER AUTH.	30 days	AS 44.83.020
OCCUPATIONAL:			
1.	PUBLIC ACCOUNTING BD	1 yr	AS 08.04.020
2.	BD OF CHIROPRACTIC EXAM.	2 yr	AS 08.20.020
3.	BD OF DENTAL EXAMINERS	5 yr	AS 08.36.010
4.	BD OF REGIS. FOR ARCHIT., ENGINEERS, AND LAND SURVEYORS	3 yr	AS 08.48.031
5.	GUIDE LIC.&CONTROL BD.	10 yr	AS 08.54.010
6.	BD OF PHARMACY	3 yr pract. in Alaska	AS 08.80.010
7.	BD OF OPTOMETRY EXAM.	3 yr	AS 08.72.040
8.	BD OF VET. EXAMINERS	5yr practice in Alaska	AS 08.98.010

DURATIONAL RESIDENCE REQUIREMENT (CONT.)

LICENSES	TITLE	DURATION	AUTHORITY
OCCUPATIONAL:			
1,	PUBLIC ACCOUNTANT	1yr	AS 08.04.280
2.	ATTORNEY	Residence	Bar Rule 5(1)(a)
3.	COLLECTION AGENCIES	1yr	AS 08.24.110
4.	MORTICIANS	1yr in state appren.	AS 08.42.110
5.	GUIDES.....		
	Master	Residence plus 10 hunt exp.	AS 08.54.100
	Registered	Resident	AS 08.54.110
	Class A Asst.	20 yr exp. in dist.	AS 08.54.120
	Assistant	Resident	AS 08.54.140
	Transporter	Resident	AS 08.54.142
6.	JUNK DEALER, ETC.	Resident defined but not required	AS 08.60.030
7.	REAL EST. BROKERS AND SALESMEN	Resident	AS 08.88.171
8.	INSUR. BROKERS, AGENTS & SOLICITORS	1 yr	AS 21.27.090 AS 21.06.250 AS 21.27.220
OTHER LICENSES			
1.	ALCOHOLIC BEVERAGE LIC.	1 yr	AS 04.11.390
2.	RES. FISH AND GAME LIC.	12 consec. mo.	AS 16.05.940
PUBLIC RIGHTS AND BENEFITS			
GENERAL:			
1.	VOTING	30 days	AS 15.05.010 AK CONST.art.V sec. 1.
2.	ANNULMENT OF MARRAIGE	1 yr	AS 09.55.130
3.	LO COST HOUSING PREF.	1 yr	AS 18.55.330 AS 18.55.470(4)
4.	VOCATIONAL SUB. PROG.	1 yr	AS 39.25.155(g)
5.	INDUST. INCENT. TAX CRED.	% of one yr res.	AS 43.26.095(b)(3)
6.	BOUNTIES FOR CERT. ANIM.	1yr abode in game unit, plus cont. maintained res. in Alaska	AS 16.35.130
LAND DISPOSAL PROGRAMS			
1.	BY LOTTERY	1yr	AS 38.05.057(b)(2)
2.	PRICE DISCOUNT PROG.	5% disc.per year of residence	AS 38.05.058
3.	HOMESITE ENTRY PROG.	3yr or 20yr earlier Prior. to longest res.	AS 38.08.030(a)(2) AS 38.08.040(b)
4.	REMOTE PARCEL LEASING	1 yr	AS 38.08.077(i)(2)

DURATIONAL RESIDENCE REQUIREMENT (CONT'D)

TITLE	DURATION	AUTHORITY
SPECIAL OLD AGE PROGRAMS		
1. LONGEVITY BONUS (ALB)	25yrs, with res. est. pre statehood	AS 38.08.030(a)(2)
2. PIONEERS' HOMES	15 yrs immed. before application, or 30 yrs cumulative	AS 47.25.020(a) AS 47.25.035
F		
3. SR CIT. SPEC. ASSESSMENT EXEMPTION	12 mo.	AS 29.63.065(d)(1)
4. FISHING LIC. EXEMPTION	30 yr. total res.	AS 16.05.400
LOAN AND GRANT PROGRAMS		
1. FISHERMAN NOTE AND MORTGAGE	5 yr	AS 16.10.680(a)
2. COMMERCIAL FISHING LOAN	5 yr	AS 16.10.310(a)
3. LIMITED ENTRY PERMIT LOAN	5 yr	AS 44.81.220(a)(20)
4. AGRIC. & FISHING (CFAB)	1 yr	POLICY REQUIREMENT
5. AHFC VETS 1% rate reduc.	1 yr	AS 18.56.101
6. VETERANS LOANS	5 yr	AS 26.15.130(1)
7. MINING BUSINESS LOANS	Residency and 5yr mining experience in Alaska	AS 27.09.020
G 8. MEMORIAL SCHOLARSHIP	No dur. resid. rqd. one fifth of loan forgiven for each yr emp. in spec. field.	AS 14.40.825(e)
STUDENT LOAN PROGRAM		
9. ELIGIBILITY TO APPLY	2 yrs	AS 14.40.765(b)
FORGIVNESS (1/10 OFF FOR EACH YR OF RESID. AFTER COMPLETING EDUC. MAX. 50 PERCENT FORGIVEN....		AS 14.40.763(i)
PREFERANCE (SYSTEM OF GIVING PRIORITY OF AWARDING)	1Point-2-5yr res. 2Point-5-10 years 3Point-10 plus yr.	AS 14.40.767
10. AK EDUC. INCENTIVE GRANT	2 yrs	APPLIC. FORM
11. CHILD CARE EXPENSE REFUND	30 days	FORM DR600
12. POLITICAL CAMP. CONTRIB. CR.	30 days	FORM DR600

JON K. TILLINGHAST REPORT DATED MARCH 8, 1983.

ALTERNATIVES SUBMITTED:

Admin. 1. Expand the Alaska Longevity Bonus Program to include all elderly Alaskans with one-year's residency.

Admin. 2. Phase out the Alaska Longevity Bonus Program by gradually reducing benefits.

Admin. 3. Phase out the Alaska Longevity Bonus Program by gradually reducing benefits, while contemporaneously raising the eligibility limits for general state assistance.

Admin. 4. Providing a minimal base payment under the Alaska Longevity Bonus Program based solely on one-years residency, with supplemental payments made on the basis of need.

Admin. 5. Phase out the Alaska Longevity Bonus Program by increasing the age eligibility each year.

J.T. 6. Create an annuity plan, with the annuity corpus consisting of Permanent Fund Distributions. This option would necessitate a transition program for those persons 40 years and older.

J.T. 7. Fund the Alaska Longevity Bonus Program through a "Pay as you go" social security system, funded by approximately 25% of the existing permanent fund distribution distributions.

J.T. 8. Replacing the Alaska Longevity Bonus Program with a comprehensive health insurance program for elderly Alaskans.

J.T. 9. Condition eligibility for a longevity bonus upon a demonstration of hardship which would be suffered by being unable to continue Alaska residency .

J.T. 10. Open the Alaska Longevity Bonus Program to all one-year residents, and terminate the program--giving Fy84 recipients a grandfather right to continued bonuses.

distributes income derived from its natural resources to the adult citizens of the state in varying amounts, based on the length of each citizen's residency, does not involve the kind of discrimination which the privileges and immunities clause of the United States Constitution Art IV, § 2, cl 1) was designed to prevent, that clause being designed to insure to a citizen of one state who ventures into another state the same privileges which the citizens of the second state enjoy.

Constitutional Law § 316 — equal protection — unequal distribution of benefits — scrutiny

3. When a state distributes benefits unequally, the distinctions it makes are subject to scrutiny under the equal protection clause of the Fourteenth Amendment; generally, a law will survive that scrutiny if the distinction it makes rationally furthers a legitimate state purpose, but some particularly invidious distinctions are subject to more rigorous scrutiny.

Constitutional Law § 326 — equal protection — right to travel — residency requirements

4a, 4b. The right to travel protects persons against the erection of actual barriers to interstate movement and, when applied to residency requirements, protects new residents of a state from being disadvantaged because of their recent migration or from otherwise being treated differently from longer-term residents; in reality, right to travel analysis refers to little more than a particular application of equal protection analysis.

Statutes § 38.5 — invalidation of portion of statute — effect on validity of whole statute

5. Invalidation of a portion of a statute does not necessarily render the whole invalid unless it is evident that the legislature would not have enacted the legislation without the invalid portion; the United States Supreme Court need not speculate as to the intent of a state legislature where the legislation expressly provides that invalidation of any portion of the statute renders the whole invalid.

SYLLABUS BY REPORTER OF DECISIONS

After Alaska amended its Constitution to establish a Permanent Fund into which the State must deposit at least 25% of its mineral income each year, the state legislature in 1980 enacted a dividend program to distribute annually a portion of the Fund's earnings directly to the State's adult residents. Under the plan, each adult resident receives one dividend unit for each year of residency subsequent to 1959, the first year of Alaska's statehood. Appellants, residents of Alaska since 1978, brought an action in an Alaska state court challenging the statutory dividend distribution plan as violative of, inter alia, their right to equal protection guarantees. The trial court granted summary judgment in appellant's favor, but the Alaska Supreme Court reversed and upheld the statute.

Held: The Alaska dividend distribution plan violates the guarantees of the Equal Protection Clause of the Fourteenth Amendment.

(a) Rather than imposing any threshold waiting period for entitlement to dividend benefits or establishing a test of bona fides of state residence, the dividend statute creates fixed, permanent distinctions between an ever-increasing number of classes of concededly bona fide residents based on how long they have lived in the State. Sosna v. Iowa, 419 US 393, 42 L Ed 2d 532, 95 S Ct 553; Memorial Hospital v Maricopa County, 415 US 250, 39 L Ed 2d 306, 94 S Ct 1076; Dunn v Blumstein, 405 US 330, 31 L Ed 2d 274, 92 S Ct 995; and Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322, distinguished. When a state distributes benefits unequally, the distinctions it makes are subject to scrutiny under the Equal Protection Clause, and generally a law will survive that scrutiny if the distinctions rationally further a legitimate state purpose.

(b) Alaska has shown no valid state interests that are rationally served by the distinctions it makes between citizens who established residence before 1959 and those who have become residents since then. Neither the State's claimed interest in creating a financial incentive for individuals to establish and maintain residence in Alaska nor its claimed interest in assuring prudent management of the Permanent Fund is rationally related to such distinctions. And the State's interest in rewarding citizens for past contributions is not a legitimate state purpose. Alaska's reasoning could open the door to state apportionment of other rights, benefits, and services according to length of residency, and would permit the states to divide citizens into expanding numbers of permanent classes. Such a result would be clearly impermissible.

619 P2d 448, reversed and remanded.

Burger, C. J., delivered the opinion of the Court, in which Brennan, White, Marshall, Blackmun, Powell, and Stevens, JJ., joined. Brennan, J., filed a concurring opinion, in which Marshall, Blackmun, and Powell, JJ., joined. O'Connor, J., filed an opinion concurring in the judgment. Rehnquist, J., filed a dissenting opinion.

APPEARANCES OF COUNSEL

Mark A. Sandberg argued the cause for appellants.

Avrum M. Gross argued the cause for appellees.

OPINION OF THE COURT

Chief Justice Burger delivered the opinion of the Court.

[1a] The question presented on this appeal is whether a statutory scheme by which a State distributes income derived from its natural resources to the adult citizens of the State in varying amounts, based on the length of each citizen's residence, violates the equal protection rights of newer state citizens. The Alaska Supreme Court sustained the constitutionality of the statute. Williams v Zobel, 619 P2d 448 (Alaska 1980). We noted probable jurisdiction and stayed the distribution of dividend funds, 450 US 908 (1981), 67 L Ed 2d 331, 101 S Ct 1344. We reverse.

I

The 1967 discovery of large oil reserves on state-owned land in the Prudhoe Bay area of Alaska resulted in a windfall to the State. The State, which had a total budget of $124 million in 1969, before the oil revenues began to flow into the state coffers, received $3.7 billion in petroleum revenues during the 1981 fiscal year.[1] This income will continue, and most likely grow for some years in the future. Recognizing that its mineral reserves, although large, are finite and that the resulting income will not continue in perpetuity, the State took steps to assure that its current good fortune will bring long range benefits. To accomplish this Alaska in 1976 adopted a constitutional amendment establishing the

1. Alaska Department of Revenue, Revenue Sources FY 1981–1983 (1981). (Includes General Fund unrestricted petroleum revenues of $3.7 billion and petroleum revenues directly deposited in the Permanent Fund in the amount of $400 million. An additional $900 million was transferred from the General Fund to the Permanent Fund in the 1981 fiscal year.) The 1980 census reports that Alaska's adult population is 270,705, per capita 1981 oil revenues amount to $13,632 for each adult resident. Petroleum revenues now amount to 89% of the State's total government revenue. Ibid

RONALD M. ZOBEL and PATRICIA L. ZOBEL, Appellants,

v

THOMAS WILLIAMS, Commissioner of Revenue, and ALASKA

— US —, 72 L Ed 2d 672, 102 S Ct —

[No. 80-1146]

Argued October 7, 1981. Decided June 14, 1982.

Decision: Alaska statute distributing income derived from state's natural resources to state's citizens in varying amounts based on length of each citizen's residency, held to violate equal protection clause.

SUMMARY

Alaska adopted a constitutional amendment establishing a fund into which the state must deposit at least 25 percent of its mineral income each year. The Alaska legislature enacted a dividend program to distribute annually a portion of the fund's earnings directly to the state's adult residents. Under the plan, each citizen 18 years of age or older would receive one dividend unit for each year of residency subsequent to 1959, the first year of statehood. Plaintiffs, residents of Alaska since 1978, brought suit challenging the dividend distribution plan. The Superior Court for Alaska's Third Judicial District granted summary judgment in favor of the plaintiffs, holding that the plan violated the rights of interstate travel and equal protection. The Supreme Court of Alaska reversed and upheld the statute (619 P2d 448).

On appeal, the United States Supreme Court reversed and remanded. In an opinion by BURGER, Ch. J., joined by BRENNAN, WHITE, MARSHALL, BLACKMUN, POWELL, and STEVENS, JJ., it was held that the Alaska dividend distribution plan violated the equal protection clause of the Fourteenth Amendment, since the state had shown no valid state interests which were rationally served by the distinction it made between citizens who established residency before 1959 and those who have become residents since then.

BRENNAN, J., joined by MARSHALL, BLACKMUN, and POWELL, JJ., concurred, expressing the view that the right to travel—or, more precisely, the federal interest in free interstate migration—was affected by the Alaska dividend-distribution law, and that this threat to free interstate migration provided an independent rationale for holding that law unconstitutional.

O'CONNOR, J., concurred in the judgment, expressing the view that the Alaska law should be measured against the principles implementing the privileges and immunities clause, and that this analysis supplies a needed foundation for many of the "right to travel" claims discussed in the court's prior opinions.

REHNQUIST, J., dissented, expressing the view that the Alaska distribution scheme was rationally based, and that the Fourteenth Amendment gives the federal courts no power to impose upon the states their view of what constitutes wise economic or social policy.

HEADNOTES

Classified to U.S. Supreme Court Digest, Lawyers' Edition

Constitutional Law § 326 — equal protection — benefits based on length of residency

1a-1c. A state statute by which a state distributes income derived from its natural resources to the adult citizens of the state in varying amounts, based on the length of each citizen's residency, violates the equal protection clause of the Fourteenth Amendment, where the state has shown no valid state interests which are rationally served by the distinction it makes between citizens who established residency before a certain year and those who have become residents since then, and where the only apparent justification for the retrospective aspect of the program, favoring established residents over new residents, is constitutionally unacceptable, the state's objective to reward citizens for past contributions not being a legitimate state purpose. (Rehnquist, J., dissented from this holding.)

Constitutional Law § 349 — privileges and immunities — benefits based on length of residency

2a, 2b. A state statute by which a state

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16A Am Jur 2d, Constitutional Law § 773
USCS, Constitution, 14th Amendment
US L Ed Digest, Constitutional Law § 326
L Ed Index to Annos, Domicil or Residence; Equal Protection of the Laws; Travel
ALR Quick Index, Equal Protection of Law: Travel
Federal Quick Index, Domicil and Residence; Equal Protection of the Laws; Travel

ANNOTATION REFERENCE

Federal constitutional right of interstate travel. 27 L Ed 2d 862.

Permanent Fund into which the State must deposit at least 25% of its mineral income each year. Alaska Const, Art IX, § 15. The amendment prohibits the legislature from appropriating any of the principal of the fund but permits use of the fund's earnings for general governmental purposes.

In 1980, the legislature enacted a dividend program to distribute annually a portion of the Fund's earnings directly to the State's adult residents. Under the plan, each citizen 18 years of age or older receives one dividend unit for each year of residency subsequent to 1959, the first year of statehood. The statute fixed the value of each dividend unit at $50 for the 1979 fiscal year; a one-year resident thus would receive one unit, or $50, while a resident of Alaska since it became a State in 1959 would receive 21 units, or $1,050. The value of a dividend unit will vary each year depending on the income of the Permanent Fund and the amount of that income the State allocates for other purposes. The State now estimates that the 1985 fiscal year dividend will be nearly four times as large as that for 1979.

Appellants, residents of Alaska since 1978, brought this suit in 1980 challenging the dividend distribution plan as violative of their right to equal protection guarantees and their constitutional right to migrate to Alaska, to establish residency there and thereafter to enjoy the full rights of Alaska citizenship on the same terms as all other citizens of the State. The Superior Court for Alaska's Third Judicial District granted summary judgment in appellants' favor, holding that the plan violated the rights of interstate travel and equal protection. A divided Alaska Supreme Court reversed and upheld the statute.[2]

II

[1b] The Alaska dividend distribution law is quite unlike the durational residency requirements we examined in Sosna v Iowa, 419 US 393, 42 L Ed 2d 532, 95 S Ct 553 (1975); Memorial Hospital v Maricopa County, 415 US 250, 39 L Ed 2d 306, 94 S Ct 1076 (1974); Dunn v Blumstein, 405 US 330, 31 L Ed 2d 274 92 S Ct 995 (1972); and Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322 (1969). Those cases involved laws which required new residents to reside in the State a fixed minimum period to be eligible for certain benefits available on an equal basis to all other residents.[3] The asserted purpose of the durational residency requirements was to assure that only persons who had established bona fide residence received rights and benefits provided for residents.

The Alaska statute does not impose any threshold waiting period on those seeking dividend benefits; persons with less than a full year of residency are entitled to share in the distribution. Alaska Stat § 43.23.010.[4] Nor does the statute purport to establish a test of the bona fides of state residence. Instead, the dividend statute creates fixed, permanent distinctions between an ever increasing number of perpetual classes of concededly bona fide residents, based on how long they have been in the State.

[2a] Appellants established residence in Alaska two years before the dividend law was passed. The distinction they complain of is not one which the State makes between those who arrived in Alaska after the enactment of the dividend distribution law and those who were residents prior to its enactment. Appellants instead challenge the distinctions made within the class of persons who were residents when the dividend scheme was enacted in 1980. The distinctions appellants attack include the preference given to persons who were residents when Alaska became a State in 1959 over all those who have arrived since then, as well as the distinctions made between all bona fide residents who settled in Alaska at different times during the 1959 to 1980 period.[5]

[3, 4a] When a State distributes benefits unequally, the distinctions it makes are subject to scrutiny under the Equal Protection Clause of the Fourteenth Amendment.[6] Generally,

2. The infusion of Permanent Fund earnings into state general revenues also led the Alaska legislature to enact a statute giving residents a one-third exemption from state income taxes for each year of residence; this operated to exempt entirely anyone with three or more years of residency. The Alaska Supreme Court, again by a 3-2 vote, held that this statute violated the State Constitution's equal protection clause. Williams v Zobel, 619 P2d 422 (Alas 1980). Chief Justice Rabinowitz, the only justice in the majority in both cases, found that the tax exemption statute, but not the dividend distribution plan, could "be perceived as a penalty imposed on a person who chooses to exercise his or her right to move into Alaska." 619 P2d, at 468.

3. In the durational residency cases, we examined state laws which imposed waiting periods on access to divorce courts, Sosna v Iowa, supra; eligibility for free nonemergency medical care, Memorial Hospital v Maricopa County, supra; voting rights, Dunn v Blumstein, supra; and welfare assistance, Shapiro v Thompson, supra.

4. Section 43.23.010(b) provides:

"For each year, an individual is eligible to receive payment of the permanent fund dividends for which he is entitled under this section if he

(1) is at least 18 years of age; and

(2) is a state resident during all or part of the year for which the permanent fund dividend is paid.

The remainder of § 43.23.010 establishes the number of dividend units residents are entitled to receive and the method of payment. Section 43.23.010(d) provides that a resident entitled to benefits under subsection (b) who was a resident for less than a full year is entitled to a dividend prorated on the basis of the number of months of state residence.

5. The Alaska statute does not simply make distinctions between native born Alaskans and those who migrate to Alaska from other states; it does not discriminate only against those who have recently exercised the right to travel, as did the statute involved in Shapiro v Thompson, supra. The Alaska statute also discriminates among long-time residents and even native born residents. For example, a person born in Alaska in 1962 would have received $100 less than someone who was born in the State in 1960. Of course the native Alaskan born in 1962 would also receive $100 less than the person who moved to the State in 1960.

[2b] The statute does not involve the kind of discrimination which the Privileges and Immunities Clause of Art. IV was designed to prevent. That Clause "was designed to insure to a citizen of State A who ventures into State B the same privileges which the citizens of State B enjoy." Toomer v Witsell, 334 US 385, 395, 92 L Ed 1460, 68 S Ct 1156 (1948). The Clause is thus not applicable to this case.

6. [4b] The Alaska courts considered whether the dividend distribution law violated appellants' constitutional right to travel. The right to travel and to move from one state to another has long been accepted, yet both the nature and the source of that right has remained obscure. See Jones v Helms, 452 US 412, ——— and nn 12 and 13, 69 L Ed 2d 118, 101 S Ct 2434 (1981), Shapiro v Thompson, supra, 394 US, at 629-631, 22 L Ed 2d 600, 89 S Ct 1322; United States v Guest, 383 US 745, 757-759, 16 L Ed 2d 239, 86 S Ct 1170 (1966). See also Z. Chafee, Three Human Rights in the Constitution 188-193

law will survive that scrutiny if he distinction it makes rationally urthers a legitimate state purpose. ome particularly invidious distinc- ons are subject to more rigorous crutiny. Appellants claim that the istinctions made by the Alaska law hould be subjected to the higher evel of scrutiny applied to the dura- onal residency requirements in hapiro v Thompson, supra and Me- orial Hospital v Maricopa County, upra. The State, on the other hand, serts that the law need only meet he minimum rationality test. In ny event, if the statutory scheme annot pass even the minimal test roposed by the State, we need not ecide whether any enhanced scru ny is called for.

A

The State advanced and the laska Supreme Court accepted hree purposes justifying the distinc- tions made by the dividend program: (a) creation of a financial incentive for individuals to establish and maintain residence in Alaska; (b) encouragement of prudent manage- ment of the Permanent Fund; and (c) apportionment of benefits in rec- ognition of undefined "contributions of various kinds, both tangible and intangible, which residents have made during their years of resi- dency," 619 P2d, at 458.[7]

As the Alaska Supreme Court ap- parently realized, the first two state objectives—creating a financial in- centive for individuals to establish and maintain Alaska residence, and assuring prudent management of the Permanent Fund and the State's natural and mineral resources—are not rationally related to the distinc- tions Alaska seeks to make between newer residents and those who have been in the State since 1959.[8] As- suming arguendo that granting in- creased dividend benefits for each year of continued Alaska residence might give some residents an incen- tive to stay in the state in order to reap increased dividend benefits in the future, the State's interest is not in any way served by granting greater dividends to persons for their residency during the 21 years prior to the enactment.[9]

Nor does the State's purpose of furthering the prudent management of the Permanent Fund and the state's resources support retrospec- tive application of its plan to the date of statehood. On this score the state's contention is straightforward:

> "[A]s population increases, each individual share in the income stream is diluted. The income must be divided equally among increasingly large numbers of peo- ple. If residents believed that twenty years from now they would be required to share permanent fund income on a per capita basis with the large population that Alaska will no doubt have by then, the temptation would be great to urge the legislature to provide immediately for the high- est possible return on the invest- ments of the permanent fund prin- cipal, which would require invest- ments in riskier ventures."

Williams v Zobel, supra, 619 P2d, at 462. The State similarly argues that equal per capita distribution would encourage rapacious development of natural resources. Ibid. Even if we assume that the state interest is served by increasing the dividend for each year of residency beginning with the date of enactment, is it rationally served by granting greater dividends in varying amounts to those who resided in Alaska during the 21 years prior to enactment? We think not

The last of the State's objectives— to reward citizens for past contribu- tions—alone was relied upon by the Alaska Supreme Court to support the retrospective application of the law to 1959. However, that objective is not a legitimate state purpose. A similar "past contributions" argu- ment was made and rejected in Sha- piro v Thompson, supra, 394 US, at 632–633, 22 L Ed 2d 600, 89 S Ct 1322:

> "Appellants argue further that the challenged classification may be sustained as an attempt to distin- guish between new and old resi- dents on the basis of the contribu- tions they have made to the com- munity through the payment of taxes. . . . Appellant's reasoning would permit the State to appor- tion all benefits and services ac- cording to the past tax [or intangi- ble] contributions of its citizens. *The Equal Protection Clause pro- hibits such an apportionment of state services.*" (Emphasis added.)

Similarly, in Vlandis v Kline, 412 US 441, 37 L Ed 2d 63, 93 S Ct 2230

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956). In addition to protecting persons against the erection of actual barriers to in- terstate movement, the right to travel, when applied to residency requirements, protects new residents of a state from being disadvan- taged because of their recent migration or from otherwise being treated differently from longer-term residents. In reality, right to travel analysis refers to little more than a particular application of equal protection analysis. Right to travel cases have examined, in equal protection terms, state distinctions between newcomers and longer-term resi- dents. See Memorial Hospital v Maricopa County, supra; Dunn v Blumstein, supra; Sha- piro v Thompson, supra. This case also im- plicates distinctions between residents based on when they arrived in the State and is there- fore also subject to equal protection analysis.

7. These purposes were enumerated in the first section of the act creating the dividend distribution plan, 21 Alaska Sess Laws § 1(b):

"(b) The purposes of this Act are

(1) to provide a mechanism for equitable distribution to the people of Alaska of at least a portion of the state's energy wealth derived from the development and production of the natural resources belonging to them as Alas- kans;

(2) to encourage persons to maintain their residence in Alaska and to reduce population turnover in the state; and

(3) to encourage increased awareness and involvement by the residents of the state in the management and expenditure of the Alaska permanent fund (art IX, sec 15, state constitution)."

Thus we need not speculate as to the objec- tives of the legislature.

8. In response to the argument that the objectives of stabilizing population and en- couraging prudent management of the Perma- nent Fund and of the State's natural re- sources did not justify the application of the dividend program to the years 1959 to 1980, the Alaska Supreme Court maintained that the retrospective aspect of the program was justified by the objective of rewarding state citizens for past contributions. 619 P2d, at 461–462 n 37. See also dissenting opinion of Justice Dimond, 619 P2d, 469–471.

9. In fact, newcomers seem more likely to become dissatisfied and to leave the State than well-established residents; it would thus seem that the State would give a larger, rather than a smaller, dividend to new resi- dents if it wanted to discourage emigration. The separation of residents into classes hardly seems a likely way to persuade new Alaskans that the State welcomes them and wants them to stay.

Of course, the State's objective of reducing population turnover cannot be interpreted as an attempt to inhibit migration into the State without encountering insurmountable consti- tutional difficulties. See Shapiro v Thompson, supra, 394 US, at 629, 22 L Ed 2d 600, 89 S Ct 1322.

973), we noted that "apportion-nent] of tuition rates on the basis f old and new residency . . . would ive rise to grave problems under ie Equal Protection Clause of the ourteenth Amendment." 412 US, at 49–450 and n 6, 37 L Ed 2d 63, 93 S t 2230.[10]

If the States can make the amount f a cash dividend depend on length f residence, what would preclude arying university tuition on a slid-g scale based on years of residence -r even limiting access to finite ubhc facilities, eligibility for stu-ent loans, for civil service jobs, or or government contracts by length f domicile? Could States impose dif-erent taxes based on length of resi-ence? Alaska's reasoning could pen the door to state apportion-nent of other rights, benefits and ervices according to length of resi-ency.[11] It would permit the states to ivide citizens into expanding num-ers of permanent classes.[12] Such a result would be clearly impermissible.[13]

B

[5] We need not consider whether the State could enact the dividend program prospectively only. Invalidation of a portion of a statute does not necessarily render the whole invalid unless it is evident that the legislature would not have enacted the legislation without the invalid portion. Buckley v Valeo, 424 US 1, 108, 46 L Ed 2d 659, 96 S Ct 612 (1976); United States v Jackson, 390 US 570, 585, 20 L Ed 2d 138, 88 S Ct 1209 (1968); Champlin Rfg. Co. v Commission, 286 US 210, 234, 76 L Ed 1062, 52 S Ct 559 (1932). Here, we need not speculate as to the intent of the Alaska legislature; the legislation expressly provides that invalidation of any portion of the statute renders the whole invalid:

"Sec 4. If any provision enacted in sec 2 of this Act [which included the dividend distribution plan in its entirety] is held to be invalid by the final judgment, decision or order of a court of competent jurisdiction, then that provision is nonseverable, and all provisions enacted in sec 2 of this Act are invalid and of no force or effect."

1980 Alaska Sess Laws Chap 21, § 4. However, it is of course for the Alaska courts to pass on the severability clause of the statute.

III

[1c] The only apparent justification for the retrospective aspect of the program, "favoring established residents over new residents," is constitutionally unacceptable. Vlandis v Kline, supra, 412 US, at 450, 37 L Ed 2d 63, 93 S Ct 2230. In our view Alaska has shown no valid state interests which are rationally served by the distinction it makes between citizens who established residence before 1959 and those who have become residents since then.

We hold that the Alaska dividend distribution plan violates the guarantees of the Equal Protection Clause of the Fourteenth Amendment. Accordingly, the judgment of the Alaska Supreme Court is reversed and the case is remanded for further proceedings not inconsistent with this opinion.

Reversed and Remanded.

SEPARATE OPINIONS

Justice Brennan, with whom Justice Marshall, Justice Blackmun, and Justice Powell join, concurring.

I join the opinion of the Court, and agree with its conclusion that the retrospective aspects of Alaska's dividend-distribution law are not rationally related to a legitimate state purpose. I write separately only to emphasize that the pervasive discrimination embodied in the Alaska distribution scheme gives rise to constitutional concerns of somewhat larger proportions than may be evident on a cursory reading of the Court's opinion. In my view, these concerns might well preclude even the prospective operation of Alaska's scheme.

I

I agree with Justice O'Connor that these more fundamental defects in the Alaska dividend-distribution law are, in part, reflected in what has come to be called the "right to travel."[1] That right—or, more precisely, the federal interest in free interstate migration—is clearly, though indirectly, affected by the

10. Even if the objective of rewarding past ntributions were valid, it would be ironic to pply that rationale here. As Representative andulph noted during debate in the state gislature on the dividend statute:

The pipeline is the entity that has allowed s all this latitude to do all the things we're nsidering doing, not only today but throughut the session. And without . . . newcomers, e couldn't have built that pipeline . . . . Without their skill, without their money, the ipeline wouldn't be there. So I get a little bit ired of—and I've got a bunch and awful lot f people who have been here five or six or even or ten years, whatever we knock off as ewcomers, get a little bit tired of being bastized and penalized and discriminated gainst for having not been born here or not en here 30 or 40 or 50 years."

11. Apportionment would thus be prohibted only when it involves "fundamental ights" and services deemed to involve "basic ecessities of life." See Memorial Hospital v aricopa County, supra, 415 US, at 259, 39 L d 2d 306, 94 S Ct 1076.

12. "Such a power in the States could produce nothing but discord and mutual irritation, and they very clearly do not possess it." The Passenger Cases, 7 How 283, 492, 12 L Ed 702 (1849) (Chief Justice Taney, dissenting).

13. Starns v Malkerson, 326 F Supp 234 (D Minn 1970), affirmed, 401 US 965, 28 L Ed 2d 527, 91 S Ct 1231 (1971) cannot be read as a contrary decision of this Court. First, summary affirmance by this Court is not to be read as an adoption of the reasoning supporting the judgment under review. Fusari v Steinberg, 419 US 379, 391, 42 L Ed 2d 521, 95 S Ct 533 (1975) (concurring opinion). See also Colorado Springs Amusement Ltd. v Rizzo, 428 US 913, 920-921, 49 L Ed 2d 1222, 96 S Ct 3226 (1976) (Brennan, J., dissenting); Edelman v Jordan, 415 US 651, 671, 39 L Ed 2d 662, 94 S Ct 1347 (1974). Moreover, as we pointed out in Vlandis v Kline, supra, at 452-453, n 9, 37 L Ed 2d 63, 93 S Ct 2230, we considered the Minnesota one-year residency requirement examined in Starns a test of bona fide residence, not a return on prior contributions to the commonweal.

1. What is notably at stake in this case, and what clearly must be taken into account in determining the constitutionality of this legislative scheme, is the *national* interest in a fluid system of interstate movement. It may be that national interests are not always easily translated into individual rights, but where the "right to travel" is involved, our cases leave no doubt that it will trigger intensified equal protection scrutiny. See, e.g., Memorial Hospital v Maricopa County, 415 US 250, 39 L Ed 2d 306, 94 S Ct 1076 (1974); Dunn v Blumstein, 405 US 330, 31 L Ed 2d 274, 92 S Ct 995 (1972); Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322 (1969). As the Court notes, the "right to travel" is implicated not only by "actual barriers to interstate movement," but by "state distinctions between newcomers and longer-term residents." Ante, at —, n 6, 72 L Ed 2d 677-678.

Alaska dividend-distribution law, and this threat to free interstate migration provides an independent rationale for holding that law unconstitutional. At the outset, however, I note that the frequent attempts to assign the right to travel some textual source in the Constitution seem to me to have proven both inconclusive and unnecessary. Justice O'Connor plausibly argues, post, at ——— ———, 72 L Ed 2d 689-690, that the right predates the Constitution and was carried forward in the Privileges and Immunities Clause of Article IV. But equally plausible, I think, is the argument that the right resides in the Commerce Clause, see Edwards v California, 314 US 160, 173, 86 L Ed 119, 62 S Ct 164 (1941), or in the Privileges and Immunities Clause of the Fourteenth Amendment, see id., at 177-178, 86 L Ed 119, 62 S Ct 164 (Douglas, J., concurring). In any event, in light of the unquestioned historic recognition of the principle of free interstate migration, and of its role in the development of the Nation, we need not feel impelled to "ascribe the source of this right to travel interstate to a particular constitutional provision." Shapiro v Thompson, 394 US 618, 630, 22 L Ed 2d 600, 89 S Ct 1322 (1969). It suffices that:

> "The constitutional right to travel from one State to another . . . occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized.
>
> ". . . [T]he right finds no explicit mention in the Constitution. The reason, it has been suggested, is that a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created. In any event, freedom to travel throughout the United States has long been recognized as a basic right under the Constitution." Id. at 630-631, 22 L Ed 2d 600, 89 S Ct 1322, quoting United States v Guest, 383 US 745, 757-758, 16 L Ed 2d 239, 86 S Ct 1170 (1966).

As is clear from our cases, the right to travel achieves its most forceful expression in the context of equal protection analysis. But if, finding no citable passage in the Constitution to assign as its source, some might be led to question the independent vitality of the principle of free interstate migration, I find its unmistakable essence in that document that transformed a loose confederation of States into one Nation. A scheme of the sort adopted by Alaska is inconsistent with the Federal structure even in its prospective operation.

A State clearly may undertake to enhance the advantages of industry, economy, and resources that make it a desirable place in which to live. In addition, a State may make residence within its boundaries more attractive by offering direct benefits to its citizens in the form of public services, lower taxes than other States offer, or direct distributions of its munificence. Through these means, one State may attract citizens of other States to join the numbers of its citizenry. That is a healthy form of rivalry: It inheres in the very idea of maintaining the States as independent sovereigns within a larger framework, and it is fully—indeed, necessarily—consistent with the Framers' further idea of joining these independent sovereigns into a single Nation. But a State cannot *compound* its offer of direct benefits in the inventive manner exemplified by the Alaska distribution scheme: For if each State were free to reward its citizens incrementally for their years of residence, so that a citizen leaving one State would thereby forfeit his accrued seniority, only to have to begin building such seniority again in his new State of residence, then the mobility so essential to the economic progress of our Nation, and so commonly accepted as a fundamental aspect of our social order, would not long survive.

II

The Court today reaffirms the important principle that, at least with respect to a durational-residency discrimination, a State's desire "to reward citizens for past contributions" is "clearly not a legitimate state purpose." Ante, at ——— ———, 72 L Ed 2d 679. I do not think it "odd," post, at —, 72 L Ed 2d 685, that the Court disclaims reliance on the "right to travel" as the source of this limitation on state power. In my view, the acknowledged illegitimacy of that state purpose has a different heritage—it reflects not the structure of the Federal Union but the idea of constitutionally protected equality. See Shapiro v Thompson, 394 US, at 632-633, 22 L Ed 2d 600, 89 S Ct 1322 ("The Equal Protection Clause prohibits such an apportionment of state services."); Vlandis v Kline, 412 US 441, 450, n 6, 37 L Ed 2d 63, 93 S Ct 2230 (1973). The Constitution places the recently naturalized immigrant from a foreign land on an equal footing with those citizens of a State who are able to trace their lineage back for many generations within the State's borders. The eighteen year old native resident of a State is as much a citizen as the fifty-five year old native resident. But the Alaska plan discriminates against the recently naturalized citizen, in favor of the Alaska citizen of longer duration; it discriminates against the eighteen year old native resident, in favor of all residents of longer duration. If the Alaska plan were limited to discriminations such as these, and did not purport to apply to migrants from sister States, interstate travel would not be noticeably burdened—yet those discriminations would surely be constitutionally suspect.

The Fourteenth Amendment guarantees the equal protection of the law to anyone who may be within the territorial jurisdiction of a State. That Amendment does not suggest by its terms that equal treatment might be denied a person depending upon how long that person *has been* within the jurisdiction of the State. The Fourteenth Amendment does, however, expressly recognize one elementary basis for distinguishing between persons who may be within a State's jurisdiction at any particular time—by setting forth the requirements for state citizenship. But it is significant that the Citizenship Clause of the Fourteenth Amendment expressly equates citizenship only with simple residence.[2] That

2. "[A] citizen of the United States can, of his own volition, become a citizen of any State of the Union by a bona fide residence therein, with the same rights as other citizens of that State." Slaughter-House Cases, 16 Wall 36, 80, 21 L Ed 394 (1873). See id., at 112-113, 21 L Ed 394 (Bradley, J., dissenting) ("A citizen of the United States has a perfect constitutional right to go to and reside in any State

Clause does not provide for, and does not allow for, degrees of citizenship based on length of residence.[3] And the Equal Protection Clause would not tolerate such distinctions. In short, as much as the right to travel, equality of citizenship is of the essence in our republic. As the Court notes, States may not "divide citizens into expanding numbers of permanent classes." Ante, at —, 72 L Ed 2d 680.

It is, of course, elementary that the Constitution does not bar the States from making reasoned distinctions between citizens: Insofar as those distinctions are rationally related to the legitimate ends of the State they present no constitutional difficulty, as our equal protection jurisprudence attests. But we have never suggested that duration of residence vel non provides a valid justification for discrimination. To the contrary, discrimination on the basis of residence must be supported by a valid state interest independent of the discrimination itself. To be sure, allegiance and attachment may be rationally measured by length of residence—length of residence may, for example, be used to test the bona fides of citizenship—and allegiance and attachment may bear some rational relationship to a very limited number of legitimate state purposes. Cf. Chimento v Stark, 353 F Supp 1211 (D NH), affirmed, 414 US 802, 38 L Ed 2d 39, 94 S Ct 125 (1973) (seven year citizenship requirement to run for governor); U. S. Const, art I, § 2, cl 2, § 3, cl 3; art II, § 1, cl 4. But those instances in which length of residence could provide a legitimate basis for distinguishing one citizen from another are rare.

Permissible discriminations between persons must bear a rational relationship to their *relevant* characteristics. While some imprecision is unavoidable in the process of legislative classification, the ideal of equal protection requires attention to individual merit, to individual need. In almost all instances, the business of the State is not with the past, but with the present: to remedy continuing injustices, to fill current needs, to build on the present in order to better the future. The past actions of individuals may be relevant in assessing their present needs; past actions may also be relevant in predicting current ability and future performance. In addition, to a limited extent, recognition and reward of past public service has independent utility for the State, for such recognition may encourage other people to engage in comparably meritorious service. But even the idea of rewarding past public service offers scarce support for the "past contribution" justification for durational residence classifications since length of residence has only the most tenuous relation to the *actual* service of individuals to the State.

Thus, the past contribution rationale proves much too little to provide a rational predicate for discrimination on the basis of length of residence. But it also proves far too much, for "it would permit the State to apportion all benefits and services according to the past . . . contributions of its citizens." Shapiro v Thompson, 394 US, at 632-633, 22 L Ed 2d 600, 89 S Ct 1322. In effect, then, the past-contribution rationale is so far-reaching in its potential application, and the relationship between residence and contribution to the State so vague and insupportable, that it amounts to little more than a restatement of the criterion for discrimination that it purports to justify. But while duration of residence has minimal utility as a measure of things that are, in fact, constitutionally relevant, resort to duration of residence as the basis for a distribution of state largesse does closely track the constitutionally untenable position that the longer one's residence, the worthier one is of the State's favor. In my view, it is difficult to escape from the recognition that underlying any scheme of classification on the basis of duration of residence, we shall almost invariably find the unstated premise that "some citizens are more equal than others." We rejected that premise and, I believe, implicitly rejected most forms of discrimination based upon length of residence, when we adopted the Equal Protection Clause.

Justice O'Connor, concurring in the judgment.

The Court strikes Alaska's distribution scheme, purporting to rely solely upon the Equal Protection Clause of the Fourteenth Amendment. The phrase "right to travel" appears only fleetingly in the Court's analysis, dismissed with an observation that "right to travel analysis refers to little more than a particular application of equal protection analysis." Ante, at —, n 6, 72 L Ed 2d 677-678. The Court's reluctance to rely explicitly on a right to travel is odd, because its holding depends on the assumption that Alaska's desire "to reward citizens for past contributions . . . is not a legitimate state purpose." Ante, at —, 72 L Ed 2d 679. Nothing in the Equal Protection Clause itself, however, declares this objective illegitimate. Instead, as a full reading of Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322 (1969), and Vlandis v Kline, 412 US 441, 37 L Ed 2d 63, 93 S Ct 2230 (1973), reveals, the Court has rejected this objective only when its implementation would abridge an interest in interstate travel or migration.

I respectfully suggest, therefore, that the Court misdirects its criticism when it labels Alaska's objective illegitimate. A desire to compensate citizens for their prior contributions is neither inherently invidious nor irrational. Under some circumstances, the objective may be wholly reasonable.[1] Even a generalized de-

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he chooses, and to claim citizenship therein, and an equality of rights with every other citizen.")

3. The American aversion to aristocracy developed long before the Fourteenth Amendment and is, of course, reflected elsewhere in the Constitution. See art I, § 9, cl 8 ("No Title of Nobility shall be granted by the United States."). See also Virginia Bill of Rights (1776), Rutland, The Birth of the Bill of Rights, App A ("no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of publick services").

1. A State, for example, might choose to divide its largesse among all persons who previously have contributed their time to volunteer community organizations. If the State graded its dividends according to the number of years devoted to prior community service, it could be said that the State intended "to reward citizens for past contributions." Alternatively, a State might enact a tax credit for citizens who contribute to the State's ecology by building alternative fuel sources or establishing recycling plants. If the State made this credit retroactive, to benefit those citizens who launched these improvements before they became fashionable, the State once again would be rewarding past contributions. The Court's opinion would dismiss these objectives as wholly illegitimate. I would recognize them as valid goals and inquire only whether they

sire to reward citizens for past endurance, particularly in a State where years of hardship only recently have produced prosperity, is not innately improper. The difficulty is that plans enacted to further this objective necessarily treat new residents of a State less favorably than the longer-term residents who have past contributions to "reward." This inequality, as the Court repeatedly has recognized, conflicts with the constitutional purpose of maintaining a Union rather than a mere "league of States." See Paul v Virginia, 8 Wall 168, 180, 19 L Ed 357 (1869). The Court's task, therefore, should be (1) to articulate this constitutional principle, explaining its textual sources, and (2) to test the strength of Alaska's objective against the constitutional imperative. By choosing instead to declare Alaska's purpose wholly illegitimate, the Court establishes an uncertain jurisprudence. What makes Alaska's purpose illegitimate? Is the purpose illegitimate under all circumstances? What other state interests are wholly illegitimate? Will an "illegitimate" purpose survive review if it becomes "important" or "compelling"?[2] These ambiguities in the Court's analysis prompt me to develop my own approach to Alaska's scheme.

Alaska's distribution plan distinguishes between long-term residents and recent arrivals. Stripped to its essentials, the plan denies non-Alaskans settling in the State the same privileges afforded longer-term residents. The Privileges and Immunities Clause of Article IV, which guarantees "[t]he Citizens of each State . . . all Privileges and Immunities of Citizens in the several States," addresses just this type of discrimination.[3] Accordingly, I would measure Alaska's scheme against the principles implementing the Privileges and Immunities Clause. In addition to resolving the particular problems raised by Alaska's scheme, this analysis supplies a needed foundation for many of the "right to travel" claims discussed in the Court's prior opinions.

implementation infringed any constitutionally protected interest.

2. The Court's conclusion that Alaska's scheme lacks a rational basis masks a puzzling aspect of its analysis. By refusing to extend any legitimacy to Alaska's objective, the Court implies that a program designed to reward prior contributions will never survive equal protection scrutiny. For example, the programs described in n 1, supra, could not survive the Court's analysis even if the State demonstrated a compelling interest in rewarding volunteer activity or promoting conservation measures. The Court's opinion, although purporting to apply a deferential standard of review, actually insures that any governmental program depending upon a "past contributions" rationale will violate the Equal Protection Clause.

3. While the Clause refers to "Citizens," this Court has found that "the terms 'citizen' and 'resident' are 'essentially interchangeable' . . . for purposes of analysis of most cases under the Privileges and Immunities Clause." Hicklin v Orbeck, 437 US 518, 524, n 8, 57 L Ed 2d 397, 98 S Ct 2482 (1978) quoting Austin v New Hampshire, 420 US 656, 662, n 8, 43 L Ed 2d 530, 95 S Ct 1191 (1975). This opinion, therefore, will refer to "nonresidents" of Alaska, as well as to "noncitizens" of that State.

It is settled that the Privileges and Immunities Clause does not protect corporations. See Paul v Virginia, 8 Wall 168, 19 L Ed 357 (1869). The word "Citizens" suggests that the Clause also excludes aliens. See, e.g., Id., at 177, 19 L Ed 357 (dictum); L. Tribe, American Constitutional Law § 6-33, at 411, n 18 (1978). Any prohibition of discrimination aimed at aliens or corporations must derive from other constitutional provisions.

I

Our opinions teach that Article IV's Privileges and Immunities Clause "was designed to insure to a citizen of State A who ventures into State B the same privileges which the citizens of State B enjoy." Toomer v Witsell, 334 US 385, 395, 92 L Ed 1460, 68 S Ct 1156 (1948). The Clause protects a nonresident who enters a State to work, Hicklin v Orbeck, 437 US 518, 57 L Ed 2d 397, 98 S Ct 2482 (1978), to hunt commercial game. Toomer, supra, or to procure medical services, Doe v. Bolton, 410 US 179, 35 L Ed 2d 201, 93 S Ct 739 (1973).[4] A fortiori, the Privileges and Immunities Clause should protect the "citizen of State A who ventures into State B" to settle there and establish a home.

In this case, Alaska forces nonresidents settling in the State to accept a status inferior to that of old-timers. In its first year of operation, the distribution scheme would have given $1050 to an Alaskan who had lived in the State since statehood. A resident of ten years would have received $500, while a [illegible]ar resident would have received only $50. In effect, therefore, the State told its citizens: "Your status depends upon the date on which you established residence here. Those of you who migrated to the State cannot share its bounty on the same basis as those who were here before you." Surely this scheme imposes one of the "disabilities of alienage" prohibited by Article IV's Privileges and Immunities Clause. See Paul v Virginia, 8 Wall 168, 180, 19 L Ed 357 (1869).

It could be argued that Alaska's scheme does not trigger the Privileges and Immunities Clause because it discriminates among classes of residents, rather than between residents and nonresidents. This argument, however, misinterprets the force of Alaska's distribution system. Alaska's scheme classifies citizens on the basis of their former residential status, imposing a relative burden on those who migrated to the State after 1959. Residents who arrived in Alaska after that date have a less valuable citizenship right than do the oldtimers who preceded them. Citizens who arrive in the State tomorrow will receive an even smaller claim on Alaska's resources. The fact that this discrimination unfolds after the nonresident establishes residency does not insulate Alaska's scheme from scrutiny under the Privileges and Immunities Clause. Each group of citizens who migrated to Alaska in the past, or chooses to move there in the future, lives in the State on less favorable terms than those who arrived earlier. The circumstance that some of the disfavored citizens already live in Alaska does not negate the fact that "the citizen of State A who ventures into [Alaska]" to establish a home [illegible]

4. See generally Ward v Maryland, 12 Wall 418, 430, 20 L Ed 449 (1871) (The Clause "plainly and unmistakably secures and protects the right of a citizen of one state to pass into any other state of the Union for the purpose of engaging in lawful commerce, trade or business, without molestation, to acquire personal property [and] to take and hold real estate . . .").

nder a continuous disability.[5]

If the Privileges and Immunities lause applies to Alaska's distribu- on system, then our prior opinions escribe the proper standard of re- iew. In Baldwin v Fish & Game ommission, 436 US 371, 56 L Ed 2d 54, 98 S Ct 1852 (1978), we held hat States must treat residents and onresidents "without unnecessary istinctions" when the nonresident eks to "engage in an essential ac- ivity or exercise a basic right." Id., t 387, 56 L Ed 2d 354, 98 S Ct 1852. On the other hand, if the nonresi- ent engages in conduct that is not fundamental" because it does not bea[r] upon the vitality of the Na- ion as a single entity," the Privi- eges and Immunities Clause affords o protection. Id., at 387, 383, 56 L Ed 2d 354, 98 S Ct 1852.

Once the Court ascertains that liscrimination burdens an "essential ctivity," it will test the constitu- ionality of the discrimination under two-part test. First, there must be 'something to indicate that non-citi- zens constitute a peculiar source of the evil at which the statute is aimed." Hicklin v Orbeck, 437 US 518, 525-526, 57 L Ed 2d 397, 98 S Ct 2482 (1978) (quoting Toomer v Witsell, 334 US 385, 398, 92 L Ed 1460, 68 S Ct 1156 (1948)). Second, the Court must find a "substantial relationship" between the evil and the discrimination practiced against the noncitizens. Id., at 527, 57 L Ed 2d 397, 98 S Ct 2482.

Certainly the right infringed in this case is "fundamental." Alaska's statute burdens those nonresidents who choose to settle in the State.[6] It is difficult to imagine a right more essential to the Nation as a whole than the right to establish residence in a new State. Just as our federal system permits the States to expe i- ment with different social and eco- nomic programs, New State Ice Co. v Liebmann, 285 US 262, 311, 76 L Ed 747, 52 S Ct 371 (1932) (Brandeis, J., dissenting), it allows the individual to settle in the State offering those programs best tailored to his or her tastes.[7] Alaska's encumbrance on the

5. See Note, A Constitutional Analysis of State Bar Residency Requirements under the Interstate Privileges and Immunities Clause of Article IV, 92 Harv L Rev 1461, 1464-1465, n 17 (1979) (labeling contrary argument "tech- nical").

As the Court points out, ante, at ———, n 6, 72 L Ed 2d 677, Alaska's plan differ- entiates even among native Alaskans, by ty- ing their benefits to date of birth. If the scheme merely distributed benefits on the basis of age, without reference to the date beneficiaries established residence in Alaska, I doubt it would violate the Privileges and Immunities Clause. Under those circum- stances, a 25-year-old Texan establishing resi- dence in Alaska would acquire the same privi- leges of citizenship held by a 25-year-old na- tive Alaskan. The scheme would not treat the citizen who moves to the State differently from citizens who already reside there. The Court does not explain whether it would find such an age-based scheme objectionable.

6. The "burden" imposed on nonresidents is relative to the benefits enjoyed by residents. It is immaterial, for purposes of the Privileges and Immunities Clause, that the nonresident may enjoy a benefit in the new State that he lacked completely in his former State. The Clause addresses only differences in treat- ment; it does not judge the quality of treat- ment a State affords citizens and noncitizens.

7. See also Baldwin v G.A.F. Seelig, Inc., 294 US 511, 523, 79 L Ed 1032, 55 S Ct 497 (1935) (the Constitution "was framed upon the theory that the peoples of the several states must sink or swim together, and that in the long run prosperity and salvation are in un- ion and not division"); Paul v Virginia, 8 Wall 168, 180, 19 L Ed 357 (1869) ("Indeed, without some provision of the kind removing from the citizens of each State the disabilities of alien- age in the other States, and giving them

right of nonresidents to settle in that State, therefore, must satisfy the dual standard identified in Hicklin.

Alaska has not shown that its new residents are the "peculiar source" of any evil addressed by its disburse- ment scheme. The State does not argue that recent arrivals constitute a particular source of its population turnover problem. Indeed, the State urges that it has a special interest in persuading young adults, who have grown to maturity in the State, to remain there. Brief for Appellees 35, n 24. Nor is there any evidence that new residents, rather than old, will foolishly deplete the State's mineral and financial resources. Finally, al- though Alaska argues that its scheme compensates residents for their prior tangible and intangible contributions to the State, nonresi- dents are hardly a peculiar source of the "evil" of partaking in current largesse without having made prior contributions. A multitude of native Alaskans—including children and paupers—may have failed to contrib- ute to the State in the past. Yet the State does not dock paupers for their prior failures to contribute, and it awards every person over the age of 18 dividends equal to the number of years that person has lived in the State.

Even if new residents were the peculiar source of these evils, Alaska has not chosen a cure that bears a "substantial relationship" to the malady. As the dissenting judges be- low observed, Alaska's scheme gives the largest dividends to residents who have lived longest in the State. The dividends awarded to new resi- dents may be too small to encourage them to stay in Alaska. The size of these dividends appears to give new residents only a weak interest in prudent management of the State's resources. As a reward for prior con- tributions, finally, Alaska's scheme is quite ill-suited. While the phrase "substantial relationship" does not require mathematical precision, it demands at least some recognition of the fact that persons who have mi- grated to Alaska may have contrib- uted significantly more to the State, both before and after their arrival, than have some natives.

For these reasons, I conclude that Alaska's disbursement scheme vio- lates Article IV's Privileges and Im- munities Clause. I thus reach the same destination as the Court, but along a course that more precisely identifies the evils of the challenged statute.

II

The analysis outlined above might apply to many cases in which a liti- gant asserts a right to travel or migrate interstate.[8] To historians,

equality of privilege with citizens of those States, the Republic would have constituted little more than a league of States; it would not have constituted the Union which now exists"); Edwards v California, 314 US 160, 173, 86 L Ed 119, 62 S Ct 164 (1941) (Constitu- tion prohibits "attempts on the part of any single State to isolate itself from difficulties common to all of them by restraining the transportation of persons and property across its borders").

8. Any durational residency requirement, for example, treats nonresidents who have exercised their right to reside in a State differ- ently from longer-term residents. This is not to say, however, that all such requirements would fail scrutiny under the Privileges and Immunities Clause. The durational residency requirement upheld in Sosna v Iowa, 419 US 393, 42 L Ed 2d 532, 95 S Ct 553 (1975) (one year to obtain divorce), for example, would

is would come as no surprise. Arti- IV's Privileges and Immunities ause has enjoyed a long associa- n with the rights to travel and igrate interstate.

The Clause derives from Article of the Articles of Confederation. ne latter expressly recognized a ght of "free ingress and regress to id from any other State," in addi- on to guaranteeing "the free inhab- ants of each of these states . . . the rivileges and immunities of free tizens in the several states."[9] hile the Framers of our Constitu- on omitted the reference to "free ngress and regress," they retained he general guaranty of "privileges nd immunities." Charles Pinckney, who drafted the current version of Article IV, told the Convention that this Article was "formed exactly upon the principles of the 4th article of the present Confederation." 3 M. Farrand, Records of the Federal Convention 112 (1934). Commentators, therefore, have assumed that the Framers omitted the express guaranty merely because it was redundant, not because they wished to excise the right from the Constitution.[10]

Early opinions by the Justices of this Court also traced a right to travel or migrate interstate to Article IV's Privileges and Immunities Clause. In Corfield v Coryell, 6 F Cas 546, 552 (No. 3,230) (CC ED Pa 1823), for example, Justice Washington explained that the Clause protects the "right of a citizen of one state to pass through, or to reside in any other state." Similarly, in Paul v Virginia, 8 Wall 168, 180, 19 L Ed 357 (1869), the Court found that one of the "undoubt[ed]" effects of the Clause was to give "the citizens of each State . . . the right of free ingress into other States, and egress from them. . . ." See also Ward v Maryland, 12 Wall 418, 430, 20 L Ed 449 (1871). Finally, in United States v Wheeler, 254 US 281, 297–298, 65 L Ed 270, 41 S Ct 133 (1920), the Court found that the Clause fused two distinct concepts: (1) "the right of citizens of the States to reside peacefully in, and to have free ingress into and egress from" their own States, and (2) the right to exercise the same privileges in other States.

History, therefore, supports assessment of Alaska's scheme, as well as other infringements of the right to travel, under the Privileges and Immunities Clause. This Clause may not address every conceivable type of discrimination that the Court previously has denominated a burden on interstate travel. I believe, however, that application of the Privileges and Immunities Clause to controversies involving the "right to travel" would at least begin the task of reuniting this elusive right with the constitutional principles it embodies. Because I believe that Alaska's distribution scheme violates the Privileges and Immunities Clause of Article IV, I concur in the Court's judgment insofar as it reverses the judgment of the Alaska Supreme Court.

Justice Rehnquist, dissenting.

Alaska's dividend distribution scheme represents one State's effort to apportion unique economic benefits among its citizens. Although the wealth received from the oil deposits of Prudhoe Bay may be quite unlike the economic resources enjoyed by most States, Alaska's distribution of that wealth is in substance no different from any other State's allocation of economic benefits. The distribution scheme being in the nature of economic regulation, I am at a loss to see the rationality behind the Court's invalidation of it as a denial of equal protection. This Court has long held that state economic regulations are presumptively valid, and violate the Fourteenth Amendment only in the rarest of circumstances:

> "When local economic regulation is challenged solely as violating the Equal Protection Clause, this Court consistently defers to legislative determinations as to the desirability of particular statutory discriminations. See, e.g., Lehnhausen v Lake Shore Auto Parts Co. 410 US 356 [35 L Ed 2d 351, 93 S Ct 1001] (1973). Unless a classification trammels fundamental personal rights or is drawn upon inherently suspect distinctions such as race, religion, or alienage, our decisions presume the constitutionality of the statutory discriminations and require only that the classification challenged be rationally related to a legitimate state interest. States are accorded wide latitude in the regulation of their local economies under their police powers, and rational distinctions may be made with substantially less than mathematical exactitude." New Orleans v Dukes, 427 US 297, 303, 49 L Ed 2d 511, 96 S Ct 2513 (1976). See

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ave survived under the analysis outlined bove. In Sosna the State showed that nonresidents were a peculiar source of the evil addressed by its durational residency requirement. Those persons could misrepresent their attachment to Iowa and obtain divorces that would be susceptible to collateral attack in other States. Iowa adopted a reasonable response to this problem by requiring nonresidents to demonstrate their bona fide residency for one year before obtaining a divorce. I am confident that the analysis developed in Hicklin v Orbeck, supra, will adequately identify other legitimate durational residency requirements.

9. Even before adoption of the Articles, a few of the colonies explicitly protected freedom of movement. The Rhode Island Charter gave members of that colony the right "to pass and repasse ,with freedome, into and through the rest of the English Collonies, upon their lawfol and civill occasions." Z. Chafee, Three Human Rights in the Constitution of 1787, p 177 (1956) (hereinafter Chafee). The Massachusetts Body of Liberties provided: "Every man of or within this Jurisdiction shall have free libertie, not with standing any Civill power, to remove both himselfe and his familie at their pleasure out of the same, provided there be no legall impediment to the contrarie." Id., at 178. Massachusetts showed some of the same liberality to foreigners entering the colony:

"If any people of other Nations professing the true Christian Religion shall flee to us from the Tiranny or oppression of their persecutors, or from famyne, warres, or the like necessary and compulsarie cause, They shall be entertayned and succoured among us, according to that power and prudence god shall give us." Ibid.

These attitudes contrasted with the more restrictive views prevailing in seventeenth century Europe. See generally id., at 163–171.

10. See, e.g., Chafee, supra, at 185; Note, The Right to Travel and Exclusionary Zoning, 26 Hastings LJ 849, 858–859 (1975); Comment, The Right to Travel: In Search of a Constitutional Source, 55 Neb L Rev 117, 119–120, n 14 (1976); Comment, A Strict Scrutiny of the Right to Travel, 22 UCLA L Rev 1129, 1130, n 7 (1975).

See also Austin v New Hampshire, 420 US 656, 661, 43 L Ed 2d 530, 95 S Ct 1191 (1975) (Article IV of the Articles of Confederation was "carried over into the comity article of the Constitution in briefer form but with no change of substance or intent, unless it was to strengthen the force of the Clause in fashioning a single nation"); United States v Wheeler, 254 US 281, 294, 65 L Ed 2d 270, 41 S Ct 133 (1920) ("the text of Article IV, § 2, of the Constitution, makes manifest that it was drawn with reference to the corresponding clause of the Articles of Confederation and was intended to perpetuate its limitations; and . . . that view has been so conclusively settled as to leave no room for controversy").

also Minnesota v Clover Leaf Creamery Co. 449 US 456, 66 L Ed 2d 659, 101 S Ct 715 (1981); United States Railroad Retirement Board v Fritz, 449 US 166, 66 L Ed 2d 368, 101 S Ct 453 (1980); Hughes v Alexandria Scrap Corp. 426 US 794, 49 L Ed 2d 220, 96 S Ct 2488 (1976).

Despite the highly deferential approach which we invariably have taken toward state economic regulations, the Court today finds the retroactive aspect of the Alaska distribution scheme violative of the Fourteenth Amendment. The Court concludes that the State's first two justifications are not rationally related to the retroactive portion of the distribution scheme, and that the third justification—the reward of citizens for their past contributions—is not a legitimate state objective. But the illegitimacy of a State's recognizing the past contributions of its citizens has been established by the Court only in certain cases considering an infringement of the right to travel,[1] and the majority itself rightly declines to apply the strict scrutiny analysis of those right-to-travel cases. See ante, at — and n 6, 72 L Ed 2d 677–678. The distribution scheme at issue in this case impedes no person's right to travel to and settle in Alaska; if anything, the prospect of receiving annual cash dividends would encourage immigration to Alaska. The State's third justification cannot, therefore, be dismissed simply by quoting language about its legitimacy from right-to-travel cases which have no relevance to the question before us.

So understood, this case clearly passes equal protection muster. There can be no doubt that the state legislature acted rationally when it concluded that dividends retroactive to the year of statehood would "recognize the 'contributions of various kinds, both tangible and intangible,' which residents have made during their years of state residency." Williams v Zobel, 619 P2d 448, 458 (Alas 1980). Nor can there be any doubt that Alaska, perhaps more than any other State in the Union, has good reason for recognizing such contributions.[2] Because the distribution scheme is thus rationally based, I dissent from its invalidation under the guise of equal protection analysis.[3] In striking down the Alaskan scheme, the Court seems momentarily to have forgotten "the principle that the Fourteenth Amendment gives the federal courts no power to impose upon the States their view of what constitutes wise economic or social policy." Dandridge v Williams, 397 US 471, 486, 25 L Ed 2d 491, 90 S Ct 1153 (1970).

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1. The Court relies upon Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322 (1969), and Vlandis v Kline, 412 US 441, 37 L Ed 2d 63, 93 S Ct 2230 (1973), in holding that Alaska may not justify its dividend distribution scheme by a desire to reward its citizens for their past contributions. In Shapiro, however, the Court found that the classification at issue "touche[d] on the fundamental right of interstate movement" and therefore could be justified only if it promoted a *"compelling* state interest." 394 US, at 638, 22 L Ed 2d 600, 89 S Ct 1322 (emphasis in original). Similarly, Vlandis concerned the right to move to and establish residency in Connecticut, and noted only in dicta that rewarding citizens for their past contributions was an impermissible state objective. See 412 US, at 449–450, n 6, 37 L Ed 2d 63, 93 S Ct 2230.

Although I have expressed my disagreement with this holding even in the right-to-travel cases, see Memorial Hospital v Maricopa County, 415 US 250, 286–287, 39 L Ed 2d 306, 94 S Ct 1076 (1974) (Rehnquist, J., dissenting); Vlandis v Kline, 412 US, at 468–469, 37 L Ed 2d 63, 93 S Ct 2230 (same), there is no need to rely upon that dissenting position here. The majority does not analyze this as a right-to-travel case. Compare ante, at — and n 6, 72 L Ed 2d 677–678, with Memorial Hospital v Maricopa County, 415 US, at 261–262, 39 L Ed 2d 306, 94 S Ct 1076, and Shapiro v Thompson, 394 US, at 634, 638, 22 L Ed 2d 600, 89 S Ct 1322.

2. As the Alaska Supreme Court noted, those who have lived in Alaska from the year of its statehood have borne unusual expenses and hardships:

"'A government such as the one embodied in the Alaska constitution, . . . with its complete range of governmental services, was expensive for a State with limited sources of taxation. Alaska could only boast a couple of pulp mills. . . . The State's business enterprises were small and catered mostly to local needs. In addition, Alaska's population was modest and hardly amounted to more than that of a medium-sized city in the continental United States.

Accordingly, revenues were small. Yet, the demands were great. The State government had to provide all the governmental services and social overhead required by modern American society. For instance, it would have been relatively simple to build a few roads, furnish normal police protection, and establish the customary school facilities. But nothing was normal in Alaska; it was and remains a land of superlatives. Subarctic engineering is relatively new, but the State would have to face the problem of permafrost conditions that frequently cause the roadtop to buckle and heave. Police protection would have to be provided for an area one-fifth the size of the forty-eight United States but with very few roads available. Flying would become a way of life for law enforcement officials as well as other Alaskans—an expensive way of life. "Bush schools" scattered along the Aleutian chain, through the Yukon Valley, and on the Seaward Peninsula and the Islands of southeastern Alaska were expensive to maintain. It was not until the discovery of oil on a large scale that the picture changed.'" Williams v Zobel, 619 P2d 448, 462, n 37 (1980) (quoting C.-M. Naske, An Interpretive History of Alaskan Statehood 169–170 (1973)).

3. I also disagree with the suggestion of Justice O'Connor that the Alaska distribution scheme contravenes the Privileges and Immunities Clause of Art IV of the Constitution. That Clause assures that *nonresidents* of a State shall enjoy the same privileges and immunities as residents enjoy: "It was designed to insure to a citizen of State A who ventures into State B the same privileges which the citizens of State B enjoy." Toomer v Witsell, 334 US 385, 395, 92 L Ed 1460, 68 S Ct 1156 (1948). We long ago held that the Clause has no application to a citizen of the State whose laws are complained of. "The constitutional provision there alluded to did not create those rights, which it called privileges and immunities of citizens of the States. It threw around them in that clause no security for the citizen of the State in which they were claimed or exercised. Nor did it profess to control the power of the State governments over the rights of its own citizens." The Slaughter-House Cases, 16 Wall 36, 77, 21 L Ed 394 (1873).

STATEMENT ON STUDENT LOAN AVAILABILITY

An Alaskan college student wishing to borrow funds for collegiate attendance has four options, in most cases. These four loan types include: Alaska State Student Loans, Guaranteed Student Loans, National Direct Student Loans, and special institutional loans.

Institutional Loans are available at most schools and are usually for short-term only and for very small amounts. Loans are obtained at the school.

National Direct Student Loans are available at most accredited schools. These are loans from the federal government; carry 5% interest; are for $1,500 or $2,000 for undergraduate and graduate loans, respectively; are need-based; are available through the school financial aid office; and have no residency requirement.

Guaranteed Student Loans are available to Alaskans through: Alaska Municipal Employees Federal Credit Union, Alaska USA Federal Credit Union, Matanuska Valley Federal Credit Union, National Bank of Alaska, and directly from United Student Aid Funds. These loans are for $2,500 and $5,000; carry 9% interest; are need-based for interest subsidy; and have no residency requirement. (Referenced in Baxter Opening Brief, page 4).

Alaska State Student Loans are available directly from the State of Alaska. These loans are for $6,000 and $7,000 for undergraduate and graduate loans, respectively; carry 5% interest; have no needs test; and require a two-year residency.

Any student wishing to borrow funds for collegiate attendance (except those already at borrowing maximums or already in default on a previous loan) is eligible to obtain a loan to attend school. If they are two-year residents, they are eligible for the Alaska State Loan Program or the federal Guaranteed Student Loan Program, as well as potentially eligible for other programs. If they are less than two-year residents, they are eligible for the federal Guaranteed Student Loan Program, as well as potentially eligible for other programs.

DATED at Juneau, Alaska this 13th day of September, 1982.

Kerry Dean Romesburg

SUBSCRIBED AND SWORN to before me this 13th day of September, 1982.

Robin L. Stephens
Notary Public in and for the
State of Alaska
My commission expires: 1/24/84

Resi-
dency
#2

Wilson L. Condon
Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811
(907) 465-3600

Attorney for Defendants

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JUDITH ANDRESS, Plaintiff, v. FRED J. BAXTER, MILDRED BANFIELD, THELMA BUCHHOLDT, LEE DEMMERT, THELMA LANGDON, MARY ELIZABETH LOMEN, JOHN MALONE, JOHN SHIVELY, TERRY STIMSON, DONNIS THOMPSON, BLANCHE WALTERS, WALTER WARD, KERRY ROMESBERG AND THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION, Defendants.	No. A82-307 Civ.

MOTION FOR SUMMARY JUDGMENT

Defendants Fred J. Baxter et al., move this court for entry of a summary judgment in their favor under the provisions of Rule 56 of the Federal Rules of Civil Procedure.

This motion is based on the pleadings, deposition, the accompanying memorandum in support, and on the attached Affidavit of Kerry Romesburg. These materials establish that there is no

genuine issue as to any material fact and that defendants are entitled to judgment in their favor as a matter of law.

DATED this 8th day of September, 1982.

WILSON L. CONDON
ATTORNEY GENERAL

By: Robert M. Maynard
Robert M. Maynard
Assistant Attorney General

Wilson L. Condon
Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811
(907) 465-3600

Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
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JUDITH ANDRESS, Plaintiff, v. FRED J. BAXTER, MILDRED BANFIELD, THELMA BUCHHOLDT, LEE DEMMERT, THELMA LANGDON, MARY ELIZABETH LOMEN, JOHN MALONE, JOHN SHIVELY, TERRY STIMSON, DONNIS THOMPSON, BLANCHE WALTERS, WALTER WARD, KERRY ROMESBERG AND THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION, Defendants.	No. A82-307 Civ.

DEFENDANTS' MEMORANDUM IN SUPPORT OF SUMMARY JUDGMENT

I. INTRODUCTION AND SUMMARY

The question before this court is whether Alaska's student loan program, which is by far the most generous program in the nation, can require two years residency as a condition of application in order "to make virtually certain that students who are not, in fact, bona fide residents of the State, cannot take

advantage of in-state rates." Vlandis v. Kline, 412 U.S. 441, 454 (1973) ("Vlandis") (emphasis added).

Judith Andress contends that the two-year requirement violates the Federal Constitution's Due Process Clause, Equal Protection Clause, Privileges and Immunities Clause, and the Citizenship Clause. Of these challenges, only the equal protection question merits any detailed response.

Denial of a student loan is not the denial of either a fundamental political right (such as voting), or a basic necessity of life (such as welfare or access to medical treatment). Consequently, the equal protection standard to be used is the rational basis test. Hawaii Boating Ass'n v. Water Transportation Facilities, 651 F.2d 661 (9th Cir. 1981) ("Hawaii Boating").

The courts have upheld one-year residency requirements for reduced tuition rates at state schools where all students actually remain in the state to attend school. E.g., Starns v. Malkerson, 326 F.Supp. 234 (D. Minn. 1970), aff'd mem. 401 U.S. 985 (1971). It is not irrational to require two years of residency where the state is paying out cash and where the recipients may then take the money to attend out-of-state schools for up to eight years.

The rationality of the requirement is further enhanced by the incentive created by the Alaska loan program to come to Alaska solely to take advantage of this state benefit. Unlike loan programs in the rest of the nation, an Alaskan resident does not have to pass a needs test, nor is there a family income

limitation for recipients of loans for waiver of interest while in school. Alaska's loans are available on the same terms to all regardless of either need or family income. In addition, other states' loan programs lend only $2,500 per year to undergraduates, and $5,000 to graduates. Alaska lends $6,000 and $7,000, respectively. The maximum total allowed in other states is $12,500 for undergraduates and $25,000 for graduates (including any undergraduate loans); Alaska's totals are $30,000 for undergraduates, $35,000 for graduates, and $53,000 combined. The interest rate in other states is 9%; Alaska's is 5%. Affidavit of Dr. Romesburg. (Attached as Appendix I.)

Given the tremendous disparity between other states and Alaska, it is not irrational to require two years as a test for the bona fides of a student's residence. The state is lending large amounts of money at extremely preferential rates. It wishes that money to go to persons who presently intend to make Alaska their home after completing their education. It is reasonable to require a two-year residency requirement when money is being lent to students who previously resided out-of-state, where those students will be receiving up to $53,000 of state money, and when those students can spend that money while attending school out-of-state for up to the next eight years. The state can rationally and constitutionally require a student to meet a two-year residency test in order to show that student's bona fides and to assure the state that this money is going to persons

who intend to return upon completion of their education and make Alaska their home.

II. DESCRIPTION OF THE PROGRAM

AS 14.40.751--14.40.806 sets forth the conditions for the Alaska student loan program. Undergraduates may receive up to $6,000 per year (AS 14.40.759), while graduates may receive up to $7,000 per year (AS 14.40.763). Undergraduate students may receive loans for five years (or $30,000); graduate students may receive loans for five years (or $35,000); and total undergraduate and graduate loans may be received for eight years ($53,000). AS 14.40.763(d). The loan is to be repaid at an interest rate of 5% per year for up to ten years. AS 14.40.763(f) and (g). There is no needs test or family income limit.

As the Affidavit of Dr. Kerry Romesburg shows, the Alaska program is the most liberal program in the nation. All other states use the Federal Guaranteed Student Loan (GSL), which requires that students meet a needs test and have family incomes of less than $30,000 per year for waiver of interest while in school. The GSL lends only $2,500 per year to undergraduates, and a total of only $12,500. Graduate students under the GSL can receive $5,000 per year for a total of $25,000, but that total includes undergraduate loans. GSL's are to be paid back at an interest rate of 9% per year.

Only four other states have loan programs in addition to the GSL: Alabama, Georgia, Kansas, and Oregon. All of those

programs, however, are at least as restrictive as the GSL. Alabama provides loans for medical and dental study at a 7% interest rate and has no residency restriction. Georgia provides 9% loans for up to $1,500 per year for study in "critical fields" of study. Kansas provides "loans of last resort" to students. If a student can not qualify for a GSL, loans of up to $1,500 for a first-time freshman, $2,500 for other undergraduates, and $5,000 for graduate students are made available at 9% interest. Oregon provides loans for medical and dental study at 9% interest. The loans are for up to $2,500 per year. Affidavit of Dr. Romesburg.

In order to qualify for an Alaskan loan, an applicant must: (1) be either a full-time college student, a high school student, or scheduled to graduate from a high school within the next six months; and (2) be a resident of the state for two years at the time of application. AS 14.40.765. AS 14.40.765(b) further provides that:

> For purposes of this subsection, a person qualifies as a resident of the state if at the time he applies for the loan the person
>
> (1) has been present in the state for at least two years unless his absence from the state during any part of the two years was due to military service; or
>
> (2) is a person who is dependent on a parent or guardian for his care, and the parent or guardian has been present in the state for at least two years.

It is this two-year requirement which is challenged by Judith Andress as violating the Federal Constitution under the Equal Protection, Privileges and Immunities, Due Process, and

Citizenship Clauses. Since the only serious question arises under the Equal Protection Clause, that issue will be discussed first.

III. ARGUMENT

A. SUMMARY JUDGMENT IS APPROPRIATE.

Rule 56 of the Federal Rules of Civil Procedures provides that summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Although defendants deny a number of Ms. Andress' allegations, even if all of Ms. Andress' factual allegations are correct, defendants are entitled to judgment as matter of law.

The only disputed fact which requires some explanation is Ms. Andress' allegation that her "application is disadvantaged by the priority given applications based on the applicant's length of residency in Alaska as required by AS 14.40.767(a)(2)." That statute provides for the award of points in order to allocate priority among late applications, with some points going for length of residency in Alaska. The Alaska Commission on Postsecondary Education has never applied that statute and will not be applying that statute with this year's applications. Affidavit of Kerry Romesburg. Instead, as Dr. Romesburg's affidavit points out, if because of limited funds priorities were to be

awarded, the awards will go to applications on a first come, first served basis. This course of action has been taken with the advice of the Department of Law. Therefore, the only question before this court is whether or not the two-year durational residency requirement contained in AS 14.40.765(b) is constitutional. For that issue, there are no material issues of fact in dispute, and summary judgment is appropriate.

B. THE TWO-YEAR RESIDENCY REQUIREMENT DOES NOT VIOLATE THE EQUAL PROTECTION CLAUSE.

There is no question "length of residence may . . . be used to test the bona fides of citizenship." Zobel v. Williams, __ U.S. __, 50 U.S.L.W. 4613, 4617 (concurring opinion of Justice Brennan). In addition, the state has a legitimate interest in assuring that state money and its preferential interest rates are actually received by students who intend to make Alaska their home. The United States Supreme Court's pronouncements on resident tuition are equally applicable to student loans:

> The State can establish such reasonable criteria for in-state status as to make virtually certain that students who are not, in fact, bona fide residents of the State, but who have come there solely for educational purposes, cannot take advantage of the in-state rates.

Vlandis v. Kline, 412 U.S. 441, 453-454 (1973) ("Vlandis").

Similarly, the issue here is whether a two-year requirement is a reasonable way to make "virtually certain" that an applicant has a present intent to return to the state after completing his or her education. The first inquiry in the equal

protection analysis is whether the requirement is to be analyzed under strict scrutiny or the rational basis test.

. . . The rational basis standard applies since neither a fundamental political right or access to a basic necessity of life is involved. Hawaii Boating Ass'n v. Water Transportation Facilities, 651 F.2d 661 (9th Cir. 1981); Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974). Strict scrutiny is involved only when genuinely significant deprivations are involved:

> Deprivations which are only uncomfortable are not enough, such as conditioning lower tuitions at state institutions of higher education upon a one-year residency requirement.

Hawaii Boating Ass'n at 665, quoting from Fisher v. Reiser, 610 F.2d 629, 639, n.5 (9th Cir. 1979), cert. denied, 447 U.S. 930 (1980) (Judge Hufstedler dissent). Like student tuition, denial of the right to a state funded student loan is at best an "uncomfortable deprivation." Therefore, the two-year residency requirement need only be rationally related to its purpose of assuring that student loans go only to bona fide residents.

The rational basis test was explained by the United Supreme Court in Dandridge v. Williams, 397 U.S. 471, 485 (1970):

> In the area of economics and social welfare, a state does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some 'reasonable basis,' it does not offend the Constitution simply because the classification 'is not made with mathematical nicety or because in practice it results in some inequality.' Lindsley v. Natural Carbonic Gas Co., 220 U.S. 61, 78. 'The problems of government are practical ones and may justify, if they do not require, rough accommodations -- illogical, it may be,

> and unscientific.' Metropolis Theatre Co. v. City of Chicago, 228 U.S. 61, 69-70. 'A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it.' McGowan v. Maryland, 366 U.S. 420, 426.

That rational basis exists here. First, it should be noted that the choice of the level of scrutiny usually determines the outcome of the analysis. This is particularly evident in durational residency cases. For a period of time there was substantial confusion concerning whether strict scrutiny was always required in durational residency cases or was limited to only those instances where significant deprivations resulted from failure to meet the residency requirements. E.g., Memorial Hospital v. Maricopa County, supra, 415 U.S. at 257; Cole v. Housing Authority of City of Newport, 435 F.2d 807 (1st Cir. 1970); Fisher v. Reiser, supra. As a result, various courts ruled differently on almost identical issues. E.g., compare Larsen v. Gallogly, 361 F.Supp. 305 (D. Rhode Is. 1973) (two-year residency requirement for divorce subject to strict scrutiny; held unconstitutional) with Mendez v. Heller, 380 F.Supp. 985 (E.D. N.Y. 1974) aff'd on other grounds, 530 F.2d 457 (2d Cir. 1976) (two-year requirement for divorce subject to rational basis test; held constitutional); Bolanewski v. Raich, 330 F. Supp. 724 (D.C. Mich. 1971) (three-year residency requirement for mayor subject to strict scrutiny; held unconstitutional) with Walker v. Yucht, 352 F.Supp. 85 (D.C. Del. 1972) (three-year residency requirement for candidates for General Assembly subject to rational basis test; held constitutional); State v. Wylie, 516 P.2d 142 (Ak.

1973) (one-year residency requirement for state employment subject to strict scrutiny; held unconstitutional) with Ostendorf v. Turner, 411 So.2d 330 (D.C. App. 1982) (five-year residency requirement for homestead exemption subject to rational basis; held constitutional). It is extremely rare for a durational residency requirement to be overturned under the rational basis test, and usually will only occur in outrageous cases. E.g., Antonio v. Kirkpatrick, 579 F.2d 1147 (8th Cir. 1978) (ten-year residency requirement in order to run for state auditor); Massey v. Appollonio, 387 F.Supp. 373, 376-377 (D. Me. 1974) (three-year residency requirement in order to be licensed as a lobsterman). 1/

Establishing bona fide residence, or domicile, occurs when a person both (1) is physically present within the state; and (2) intends to remain and make a home. E.g., State v. Adams, 522 P.2d 1125 (Alaska 1974); Restatement (Second) of Conflict of Laws, §§ 15, 16, 18 (1971). Applying these principles, however, is often extremely difficult -- particularly the determination of intent:

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1. The Alaska Supreme Court, for one, until recently held that durational residency requirements always required a compelling state interest. See, Williams v. Zobel, 619 P.2d 449, 451-452 (1980). The Alaska Supreme Court now analyzes durational residency requirements under its intensified scrutiny test, which is an intermediate balancing approach between strict scrutiny and the rational basis test. Id. This "intensified scrutiny" test was set forth in State v. Erickson, 574 P.2d 1 (Alaska 1978). In a May 5, 1981 informal opinion to Representative Don Clocksin, Assistant Attorney General Bruce Botelho stated that he believed that the Alaska Supreme Court would overturn the two-year residency requirement, primarily applying the Erickson balancing test. Upon closer review, this office now believes that the two-year requirement would meet even the stricter Erickson test.

> [I]t is known jurisprudential fact that these requisites are deceptively simple, and are much more easily stated than applied. In particular, whether an individual possesses the necessary intent is often a very difficult question to answer.

Stottlemyer v. Stottlemyer, 329 A.2d 892, 899 (Pa. 1974).

Moreover, as the United States Supreme Court has expressly recognized, there are particular problems in determining the bona fides of college students "since those students are characteristically transient." Memorial Hospital, supra, 415 U.S. at 260, n.15; Vlandis v. Kline, supra, 412 U.S. at 452. Thus even during the period of uncertainty as to whether strict scrutiny always applied to durational residency cases, it was recognized that one-year residency requirements for in-state tuition were constitutional. E.g., Coleman v. Housing Authority of City of Newport, supra, 435 F.2d at 810, n.9. (D. Me. 1974).

Consequently, it is evident that a one-year residency requirement for student loans would easily pass constitutional muster under the rational basis test. The state can condition the grant of preferential rates for tuition on a one-year residency requirement. Vlandis v. Kline, supra; Hooban v. Boling, 503 F.2d 648 (6th Cir. 1974); Sturgis v. State of Washington, 368 F.Supp. 38 (D.C. Wash. 1973), aff'd mem., 414 U.S. 1057 (1973); Starns v. Malkerson, 326 F.Supp. 234 (D. Minn. 1970), aff'd mem., 401 U.S. 985 (1971). Kirk v. Board of Regents of the University of California, 279 Cal App. 2d 430, 78 Cal. Rptr. 260 (Cal App. 1967) app. dismissed, 396 U.S. 554 (1970); Padgar v. Indiana University, 381 N.E.2d 1274 (Ind. App. 1978). The actual transfer

of cash to a student is at least on par to the tuition cases, if not a more compelling reason in and of itself for the application of a more stringent requirement. In any event, the issue before this court could also be cast as whether it is irrational for the State of Alaska to require two years of residence instead of one year in order to be eligible for a student loan.

The two-year requirement is reasonable. It is not irrational or outrageous. The Alaska student loan program does not require that the student remain in-state to attend school (unlike the resident tuition cases). The student can spend up to $53,000 in state loan funds for up to eight years attending school in California, Washington, Arizona, or any other state in the Union. Given the judicially recognized "special problems" involved in determining the bona fide residence of college students even when the students will be physically located in the state for their years of school (Memorial Hospital, supra, 415 U.S. at 260, n.15; Vlandis 412 U.S. at 452), even greater problems attend such a determination when an out-of-state student comes in, gets money, and then leaves the state for a substantial period of time. Thus, even if the Alaska loan program were the same as all other states' programs a two-year residence requirement would not be irrational.

In addition, however, the Alaska program is far and away the most attractive education loan program in the United States. All other states use the Federal Guaranteed Student Loan Program (GSL), which is substantially inferior and much more

restrictive than the Alaska program. As pointed out earlier, the GSL is limited to $2,500 per year for undergraduate, and $5,000 per year for graduates. Alaska lends $6,000 and $7,000 respectively. The maximum total allowed under GSL is $12,500 for undergraduates and $25,000 for graduates (including undergraduate loans). Alaska's respective totals are $30,000 and $35,000; in addition, combined graduate and undergraduate loans could total up to $53,000 for eight years of study. The interest rate for GSL's are 9%; Alaska's are 5%. Further, in order for a student who has a family income of $30,000 or more to receive a fully subsidized GSL loan, that student must demonstrate substantial financial need based upon a standardized needs test. Alaska's loans are open to all irrespective of need or income. Affidavit of Dr. Romesburg.

In short, it is not irrational to believe that a two-year residency requirement, rather than a one-year requirement, is a "reasonable criteri[on] for in-state status as to make virtually certain that students who are not, in fact, bona fide residents of the state ..... cannot take advantage" of the enormous benefits of Alaska's loan program. Vlandis v. Kline, supra, 412 U.S. at 455 (emphasis added). The two-year residence requirement meets the rational basis test, and does not violate equal protection.

C. THE TWO-YEAR RESIDENCY REQUIREMENT DOES NOT VIOLATE THE DUE PROCESS CLAUSE, THE CITIZENSHIP CLAUSE, OR THE PRIVILEGES AND IMMUNITIES CLAUSE.

Ms. Andress also challenges the two-year residency requirement under the Due Process Clause, the Privileges Immunities Clause, and the Citizenship Clause. These assertions are without merit.

Vlandis settled the due process issue by holding that only "a permanent irrebuttable presumption of non-residence . . . is violative of the Due Process Clause." Vlandis, 214 U.S. at 453. In Vlandis the Court overturned a scheme where if a student was not a resident by a certain date (the date of admission to school), that student could never achieve resident status thereafter. The Court contrasted that scheme with plans that allowed the rebuttal of that presumption after a period of residence:

> Minnesota's one-year durational residency requirement, however, differed in an important respect from the permanent irrebutable presumption of issue in the present case. Under [Minnesota's requirement], a student who applied to the University from out of State could rebut the presumption of non-residency, after having lived in the State for one year, by presenting sufficient other evidence to show bona fide domicile within Minnesota.

Vlandis, 492 U.S. at 453, n.9. In other words, durational residency requirements, since they can be rebutted by a period of residence, do not violate the Due Process Clause.

Ms. Andress' challenges under the Privileges and Immunities Clause and the Citizenship Clause are also without support. Because Ms. Andress claims to be a bona fide Alaska

resident, the Privileges and Immunities Clause is inapplicable. Hawaii Boating, 651 F.2d at 666. Nor does the state see how Ms. Andress' claim falls within the accepted ambit of the Citizenship Clause. E.g., Slaughter-House Cases, 83 U.S. 36 (1873).

Instead, it appears that Ms. Andress is attempting to argue a violation of a fundamental right to interstate travel based upon these clauses, an approach recently argued by Justice O'Connor in her concurrence in Zobel v. Williams, supra, 50 U.S.L.W. at 4616-4620. Whatever the future of that analysis, it is clear that eight out of the nine justices presently reject that approach. Id., at 4615, n.4, 4616-4617 (J. Brennan concurring), 4621, n.3 (J. Rehnquist, dissent). Ms. Andress' arguments on these points will have to await another day -- they are not meritorious under the present state of the law.

IV. CONCLUSION

For the reasons stated in the brief, defendants respectfully request this court to grant their motion for summary judgment.

DATED this 8th day of September, 1982.

WILSON L. CONDON
ATTORNEY GENERAL

By: Robert M. Maynard
Robert M. Maynard
Assistant Attorney General

Wilson L. Condon
Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811
(907) 465-3600

Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JUDITH ANDRESS, Plaintiff, v. FRED J. BAXTER, MILDRED BANFIELD, THELMA BUCHHOLDT, LEE DEMMERT, THELMA LANGDON, MARY ELIZABETH LOMEN, JOHN MALONE, JOHN SHIVELY, TERRY STIMSON, DONNIS THOMPSON, BLANCHE WALTERS, WALTER WARD, KERRY ROMESBERG AND THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION, Defendants.	)	No. A82-307 Civ.

AFFIDAVIT OF MAILING

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

MARGARET RAMOS, being first duly sworn upon her oath, deposes and says:

That she is employed as a legal secretary with the Attorney General's Office, Pouch K, Juneau, 99811, and that on

the 8th day of September, 1982 she mailed the 1) Motion for Summary Judgment, 2) Defendants' Memorandum in Support of Summary Judgment, and 3) Affidavit of Kerry Romesburg by DHL Courier Express Service to the following:

Ronald G. Zobel
Hellen and Partnow
425 "G" St., Suite 710
Anchorage, Alaska 99501

DATED this 8th day of September, 1982.

Margaret Ramos

Subscribed and sworn to me this 8th day of September, 1982.

Paula Stark
Notary Public, State of Alaska
My commission expires 9/8/82

Wilson Condon
Attorney General
State of Alaska
Pouch K
Juneau, AK 99811

(907) 465-3600
Attorney for Defendants

RECEIVED
FEB 28 1983

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

JUDITH ANDRESS, Plaintiff, vs. FRED J. BAXTER, MILDRED BANFIELD, THELMA BUCHHOLDT, LEE DEMMERT, THELMA LANGDON, MARY ELIZABETH LOMEN, JOHN MALONE, JOHN SHIVELY, TERRY STIMSON, DONNIS THOMPSON, BLANCHE WALTERS, WALTER WARD, KERRY ROMESBURG AND THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION, Defendants.	No. A82-307 Civil

DEFENDANTS' REPLY BRIEF

INTRODUCTION

Ms. Andress' opening brief makes a number of errors. This reply brief will only concentrate on the five most important general errors made by Ms. Andress. The first general error made

by Ms. Andress is her attempt to characterize the issue before this court as one concerning the validity of a two-year residency requirement in the abstract. Rather, the issue before this court is whether a two-year residency requirement is rational for the specific purpose of applying for the Alaska Student Loan Program. Ms. Andress ignores the problem of student mobility, the attractiveness of this particular loan program, and the ability of a student to take this cash subsidy anywhere in the world to go to school. These known, established facts are directly relevant to rationality of the residency requirement; they are ignored by Ms. Andress.

Second, Ms. Andress either states or implies that all durational residency requirements are subject to an intensive equal protection review. This is incorrect. Unless a significant deprivation, like access to medical treatment, welfare, or voting is involved, the normal "rational basis" test is used. Hawaii Boating Ass'n v. Water Transportation Facilities, 651 F.2d 661 (9th Cir. 1981). Under at least this minimal review, the two-year standard is rational.

Third, under the impression that the two year requirement was imposed in 1981, Ms. Andress relies extensively on statements made in the twelfth legislature 1981 session for the purposes underlying the two year requirement. Ms. Andress is wrong. The two-year requirement has been in existence since 1971. The 1981 session only added a clarification to the term "resident" to clarify the meaning of physical presence; the two-year residency requirement came much earlier. The 1981 floor statements are

only relevant to that clarification, and not to the rationality of using a length of two years.

Fourth, Ms. Andress states or implies that by moving to Alaska she has become disqualified from receiving any other significant financial aid. As a result, she argues, there is the spectre of some "absolute deprivation" of an education. This theme underlies most of her arguments. Again, Ms. Andress is incorrect. By moving to Alaska Ms. Andress has lost nothing. Alaska residents of less than two years are still eligible for the Federal Guaranteed Student Loan (GSL), as well as other federal and institutional loans. See Second Affidavit of Kerry Romesburg (attached). The GSL, as pointed out in our opening brief, is the only local loan program available to students in 45 states, including California (Ms. Andress' previous residence). The GSL is also available in Alaska in addition to Alaska's own student loan program. Ms. Andress and all less than two-year residents are qualified for the Alaska GSL program. Ms. Andress has lost nothing by moving to Alaska. Furthermore, if the Alaska Student Loan Program did not have a stringent test for bona-fide residents, then loan shoppers, too, would lose nothing by temporarily moving to Alaska. This, again, underscores the need for an effective and stringent "bona fide" residency test for Alaska's Student Loan Program.

Finally, Ms. Andress mischaracterizes the residency requirement as intending to deter or inhibit interstate migration. The state has the right to grant its subsidies only to bona fide residents: those persons physically present in the

state who intend to make Alaska their home. Even a totally accurate test of that intent would have the same effect of preventing "loan shoppers" from coming to Alaska solely to get student loans. This is the effect of all valid tests of bona fide residency: to prevent some state benefits from going to those who do not intend to be citizens of that state. As a result, the intent of all bona fide residency requirements could also be characterized as intending to prevent those who do not intend to make that state their home from coming to that state solely to take advantage of a state benefit. Ms. Andress' restatement of the intent to determine bona fide residency as a deterrence to "loan shoppers" does not render the requirement an unlawful interference with interstate migration.

Alaska wants students to come to Alaska; it wants to give money to persons who, upon completion of their education intend to make Alaska their home. Alaska does not want to give money to persons who do not intend to make Alaska their home. Those goals are legitimate, and the two-year residency requirement is, for the Alaska Student Loan Program, a rational test to determine the bona fides of residency.

ARGUMENT

A. The Two Year Requirement Must Be Viewed In Relation to this Particular Program

The question before this Court is whether a two-year residency requirement is an irrational tool to use in determining

the bona fide's of a student's Alaskan citizenshi, for the purpose of qualifying for Alaska's Student Loan Program. Defendants agree that some bona fide residents, like Ms. Andress, will be denied a student loan because of this requirement. Defendants wish that there was a magic test to determine intent to remain in Alaska; a test that could exactly sort those applicants who do and do not intend to make Alaska their home.

Unfortunately, that magic test does not exist. Just as unfortunately, it is known that without an effective bona fide residency test, students would come to this state and apply for loans with no intention of returning after their education is completed. As Dr. Romesburg stated during his deposition:

> [D]on't forget, the loans are totally portable. These loans can be used anywhere, and in fact, not in the nation, anywhere in the world as long as its an approved institution. And students are very mobile as a class of people. I am sure you are aware of that. Certainly I am, and certainly anyone involved in financial aid is, or higher education today, is aware of the mobility of the modern student. They will travel between states if they can find a better opportunity for loans or aid. In fact, in the west, they shop--they shop quite blatantly between states under different areas of support.

Dandridge v. Williams, 397 U.S. 471, 485 (1970) (Citations omitted).

Given both the known mobility of students and the incentive for students who do not intend to remain to come to Alaska for a student loan, the two-year requirement is rational. The people affected by the requirement are those who previously resided outside the state. These recent arrivals are applying for up to $53,000 of state funds. They may take that money back out of state for up to eight more years. It is surely reasonable to require some substantial residence test as an element in checking the bona fides of these new arrivals. The question is whether two years is irrational for this student loan program. We urge this Court to hold that it is a rational requirement; that even though it has an unfortunate effect on some individuals, like Ms. Andress, it is not an irrational method of assuring that Alaska student loan money goes to those persons who intend to make Alaska their home.

B. Ms. Andress Misstates the Standard of Review.

Ms. Andress also mischaracterizes the applicable standard of review by implying or stating that some intensified review is or should be applied in this case. Recent case law establishes that the normal "rational basis" equal protection test applies.

As was mentioned in our opening brief, until Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974), there was substantial confusion concerning whether strict scrutiny was always required in durational residency cases, or was limited to only those instances where significant deprivations (like denial of

Romesburg Deposition at 16.

Because of the magnitude of the subsidy, the state wished to make "virtually certain that students who are not, in fact, bona fide residents of the state, cannot take advantage" of this generous program. Vlandis v. Kline, 412 U S. 441, 454 (1973). And, like the residency requirement for in-state student tuition, a durational residency requirement is a traditional tool for sorting student residents from those who do not intend to make Alaska their home. Because of the mobility of students, the ability to take the loan out of state, and the magnitude of the state benefit (up to $53,000 over eight years), a stricter test for determining residency than that in use for qualifying for in-state student tuition was believed by the Legislature to be necessary. Unlike the subsidy given for instate tuition, not only was the amount of the subsidy given much greater, and not only was the award given in cash, but also the student did not have to remain in state in order to receive the benefit.

The period chosen was two years. It is recognized that some number of bona fide residents, like Ms. Andress, may be denied student loans as a result of this requirement. But,

> "[a] state does not violate the Equal Protection Clause because the classifications made by its laws are imperfect . . . "or because in practice it results in some inequality." "The problems of government are practical ones and may justify, if they do not require, rough accommodations."

welfare, medical treatment, or voting) resulted from failure to meet the residency requirements. E.g., Memorial Hospital, supra, 415 U.S. at 257, Cole v. Housing Authority of City of Newport, 435 F.2d 807, 810, n.9 (First Circuit 1970); Williams v. Zobel, 619 P.2d 448 (1980). As a result, for a period of time many courts assumed that strict scrutiny always applied regardless of the right infringed or the deprivation involved.

It was not until Memorial Hospital that the present test evolved -- a two tier test which depended upon the nature of the deprivation caused by the denial of "bona fide" resident status. As a result, the rational basis test applies to most durational residency requirements. Hawaii Boating Ass'n v. Water Transportation Facilities, 651 F.2d 661 (9th Cir 1981) ("Hawaii Boating").

Ms. Andress fails to recognize this period of confusion. Consequently, Ms. Andress misstates the applicable test when she asserts that a state must always have "an especially weighty interest in an objective proof of bona fide residency" [Plaintiff's Memorandum at 14], that "[a]ny durational residency requirement brought to a court for constitutional scrutiny will carry a heavy burden" [Id. at 10], or otherwise implies that all durational residency requirements require the application of some intensified test.

Also, as a result, Ms. Andress is able to make such statements as "No court has upheld a two-year durational residency requirement in these circumstances [referring to the statutes at issue in this case]." Id. at 15. That is true. It is also true

that no court applying the rational basis test has struck down a two-year durational residency requirement in these circumstances. Since the test was clarified eight years ago, there simply have not been any cases directly on point one way or the other.

Again, this is not to say that the two-year requirement is valid for all programs, or that the two-year requirement would be valid under strict scrutiny. But that is not the test nor the question before this court. The test is the rational basis test, and the question is whether or not this particular program can rationally require a two-year residency requirement for its applicants.

Because of the apparent confusion on Ms. Andress' part, the Ninth Circuit Court of Appeal's most recent statement on the applicable test bears some extended quotation:

> The right to travel is a fundamental right, and it has been recognized that durational residency requirements - because they disadvantage a class of persons who have recently exercised the right to travel - may, in certain circumstances, unduly infringe upon this right. In Shapiro v. Thompson, 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600 (1969), the Court held unconstitutional a one-year durational residency requirement for welfare assistance. The Court stated, however:
>
> > "We imply no view of the validity of waiting-period or residence requirements determining eligibility to vote,

eligibility for tuition-free education, to obtain a license to practice a profession, to hunt or fish, and so forth. Such requirements may promote compelling state interests on the one hand, or, on the other, may not be penalties upon the exercise of the constitutional right of interstate travel." [Id. at 638, n. 21]. The Court held, in Dunn v. Blumstein, 405 U.S. 330, (1972), and Memorial Hospital v. Maricopa County, [415 U.S. 250 (1974)], that durational residency requirements which involved deprivations of the right to vote and free nonemergency medical care triggered strict scrutiny. In Maricopa County, however, the Court noted that "The amount of impact required to give rise to the compelling-state-interest test [has] not been made clear." [Id. at 256-7] (Footnote omitted). In Fisher v. Reiser, 610 F.2d 629 (CA9 1979) cert. denied, [447 U.S. 930 (1980)], we noted the importance of the "nature of the benefit denied." Id. at 635. In fact, Judge Hufstedler, dissenting in Fisher, after reviewing the right to travel cases, commented that "The Court [has] indicated that the 'penalty' required to invoke strict scrutiny involves a genuinely significant deprivation, such as a denial of the basic 'necessities' (as in

Shapiro), or the denial of a 'fundamental political right' (as in Dunn)." Id. at 639 (footnote omitted) (emphasis added). Judge Hufstedler also noted that "Deprivations which are only uncomfortable are not enough; such as conditioning lower tuition at state institutions of higher education upon a one-year residency requirement." Id. at 639, n. 5.

The district judge found that strict scrutiny was not applicable because the durational residency requirement for preferential rates for mooring privileges in recreational boat harbors was not a significant penalty on the right to travel. To use Judge Hufstedler's terminology, this "deprivation" was merely "uncomfortable." The district judge found that this case was more like the college tuition cases, which stand for the proposition that "conditioning lower tuition at state institutions of higher education upon a one-year residency requirement" does not impose a "penalty" on the right to travel justifying invoking strict scrutiny. We agree with the district judge that the "deprivation" involved in this case - the failure to provide a berth in a recreational boat harbor at the same rate as a resident - does not operate as a significant "penalty" on the right to travel.

Hawaii Boating Ass'n at 664-665 (emphasis in original).

Like in-state tuition, and unlike the right to vote, denial of a student loan is not a significant enough deprivation to trigger intensified review. Consequently, the rational basis test is the appropriate test.

C. The Two-Year Residency Requirement Has Been In Existence Since 1971.

Ms. Andress relies extensively on quotes from the Senate and House floor during the 1981 session in attempting to establish the purpose behind the two year length. Ms. Andress claims that those debates are relevant because she believes that

> In 1981 the Twelfth Legislature amended the Alaska Student Loan Program to include the two year durational residency requirement . . .

Plaintiffs-Memorandum at 7.

Ms. Andress is wrong. The two-year requirement has been in effect since 1971. § 1, Ch 98 SLA 1971 established the loan program, provided that an applicant must be "a resident of Alaska" and, in the original AS 14.40.773, defined "resident" as meaning

> a person domiciled in Alaska who has resided in Alaska for at least two years before making an application for a student loan.

What the Twelfth Legislature did do was move the two year requirement from the definitional section (AS 14.40.773) to the qualification section itself (AS 14.40.751). § 10, Ch 89 SLA

1981. But the 1981 Legislature did not impose the two year length. Therefore, the statements of the 1981 Legislature are not relevant to the issue of the purpose or the intent of picking two years as the required length of residence rather than some other test or some other period of time.

The Twelfth Legislature did add a clarification to the two year requirement by providing for types of actual physical presence as the means for determining whether somebody had been a resident for two years. § 10 Ch 89 SLA 1981. The reason for this clarification was that the legislature had received evidence that persons who did not intend to make Alaska their home had come up for summer jobs two years in a row, applied for student loans, and had then taken the money out of state for school. Dr. Romesburg explained this statutory clarification and the reasons for the action in his deposition:

A. The Statute that was changed, again, it was -- I think it was two years ago that the change went through, says that the person has to be physically present for two years before filing.

Q. The applicant can have all of these other indicators of residency --

A. Right.

Q. -- uniformly.

A. That's correct.

Q. They have not been present for two years, they're disqualified.

A. That's correct, unless they are a minor and their parents have been physically present for two years. There are some things like that. But even if they've been outside to school -- and I'm giving you what the Statute says now -- if you've been outside to school you have to have been physically present for two years before you went to school. If you're in the military, you have to have been physically present for two years before you entered the military. This was an attempt by the legislature to tighten down what they meant by physically present, and I'll even go beyond that to tell you who they were aiming at. They weren't aiming at the general person here. They were aiming at a group of people that were purportedly obtaining student loans that were, in fact, not residents, and those were individuals that would come to Alaska, work in the summer, go outside to school during the fall, to a school that didn't have a tuitional differential so they didn't have to declare themselves as a resident or non-resident at the particular

institution, come back, work a second summer, go out again to school and then they said, "I am a resident. I've put in, in fact, maybe six months, two summers, but I have been there -- I 've been in school the rest of the time. I've only been outside the state except for educational purposes. I qualify under the loan program," and we were giving them loans.

The senate got very upset about this when they were informed. And they were informed, you could go back and check the senate records. Some students appeared and testified, students from the University of Alaska testified that this was happening and they got upset and said, "We don't want you giving those people those loans, and we want to tighten this thing down," and that's when they put two years.

Romesburg Deposition at 13-15.

Therefore, the Twelfth Legislature did not impose the two-year durational residency requirement. Instead, that legislature only clarified the definition of residence to take care of a problem that was brought to their attention. That problem

reemphasized the rationality of the original purpose of the program -- to assure that Alaska student loans went to students who intended to make Alaska their home. Simply stating that two years residence was required had not been enough; a further definition of residence to include certain types of physical presence was required in addition. The legislature, both in 1971 and 1981, was not reacting to a hypothetical fear - they were taking a course of action based on real and present problems. Their solutions were rational.

D. Ms. Andress Has the Same Loan Programs Available to Her as are Available to Students in 45 Other States.

Ms. Andress bases many of her arguments on the assumption that the Alaskan Student Loan Program is the sole source of funds for persons who are physically present in Alaska from one day to two years. For example, she states that

> If the plaintiff is to get any governmental assistance from the State of Alaska to get a legal education, it is going to have to be through the Alaska Graduate Student Loan Program. (Romesburg Deposition at 9-11). The plaintiff's bona-fide Alaska residency prevents her from getting any financial assistance from any other state and makes it necessary for her to pay-out-of-state tuition in California.

Plaintiff's Memorandum at 3. It is on that assumption that Ms. Andress asserts, for example, that

defendant Romesburg makes it very clear that the denial of assistance from the State of Alaska through the Alaska Student Loan Program is an absolute denial of any State assistance for a wide range of graduate education. The plaintiff and all others like her are going to have to get assistance from the State of Alaska or not get a graduate education at all.

Plaintiff's Memorandum at 6 (emphasis added). This "absolute denial" argument underlies many of Ms. Andress' arguments. E.g., Id. at 39.

Ms. Andress is, again, incorrect. Although Ms. Andress is not qualified for the Alaska Student Loan Program, she is qualified for the Alaska version of the Federal Guaranteed Student Loan (GSL) Program. Second Affidavit of Kerry Romesburg. The funding and terms available under this program were described in our opening brief at page 4 and in the (First) Affidavit of Kerry Romesburg.

Although it is technically true that Ms. Andress is not qualified for any other state-funded programs, there are only four other non-GSL state programs in the nation. These are the more restrictive programs in Alabama, Georgia, Kansas and Oregon. (First) Affidavit of Kerry Romesburg at 5. All other states participate in the Graduate Student Loan Program, and, unlike Alaska, do not offer any independently funded state loans.

In particular, Ms. Andress is no worse off than if she had remained in California, since California is not one of the

four states with a separate state-funded student loan program. In addition, Ms. Andress, like all other students nationwide, is eligible for National Direct Student Loans (a federally administered loan program, loaning up to $2,500 at five percent interest) or the much smaller institutional loans (available at specific colleges). Second Affidavit of Kerry Romesburg.

Therefore, except for students in four other states, Ms. Andress is eligible for the exact same loan programs as are available to any other student in the nation. Remaining equal to almost all other students can hardly be termed "an absolute denial of a graduate education." Plaintiff's Memorandum at 39.

Instead, Ms. Andress is simply being prevented from receiving an additional benefit: the benefit of the much more generous Alaska Student Loan program. She has lost nothing by moving to Alaska.

Further, this again emphasizes the rationality of the fear of "loan shoppers"--those who temporarily come to Alaska solely to receive a student loan and do not have the present intent of making Alaska their home. If there was not a stringent residency test, then the "loan shoppers" would also remain eligible for those federal loans by coming to Alaska. They, too, would have nothing to lose. It is necessary to have some substantial and effective test for determining which of the recently arrived students have the present intent to remain in Alaska. The two-year residence requirement is rationally related to that purpose.

E. The Purpose of the Two Year Residency Requirement is not to Deter In-State Migration.

Finally, Ms. Andress consistently mischaracterizes the residency requirement as a deterent to interstate migration. She repeatedly states that the "intent is to prevent people from coming to Alaska." Plaintiff's Memorandum at 19. Ms. Andress is mistaken. The purpose of the program is not to prevent students who intend to remain in Alaska from coming to Alaska. Rather, it is to prevent persons who do not intend to remain and make Alaska their home from receiving student loans. The only effect hoped for is to deter "loan shoppers" - persons who do not intend to make Alaska their home, and who are not bona fide residents - from receiving student loan money.

The requirement is not intended to prevent those wishing to make Alaska their home from coming to Alaska. In fact, as explained above, newly arrived students will remain eligible for some loans as are available in most of the rest of the nation (the GSLs). Thus it is doubtful that the two year requirement for the Alaska Student Loan Program will deter any student wishing to make Alaska his or her home from coming to the state.

Ms. Andress misstates the record when she makes statements like the following:

> The concern in this record is not whether a person is a bona fide resident, because defendant Romesburg admits that there are many bona fide residents who would otherwise be qualified. The concern in this record is with

stopping migration and Romesburg's testimony shows that is exactly the effect that the statute has.

Id. at 23.

First, the purpose of any test of bona fide residence is to prevent people who do not intend to remain in the state from receiving a state benefit. Even if there were an exact test, one which could unerringly classify bona fide residents from transients, even that test would still deter those person who do not intend to make Alaska their home from traveling here solely to take advantage of the state benefit. This result would not render a totally accurate test unconstitutional. It does not render this residency requirement unconstitutional, either.

It is the intent of these statutes, shown in the record, to only sort out those persons who want to take the money and run. For example, the following exchange occurred during the deposition, beginning with a question from Ms. Andress' attorney, Mr. Zobel:

> Q. So this two year durational residency requirement is enforced to deter people from coming to the state, claiming Alaska residency, taking up residence here and applying for a loan.
>
> A. I would disagree. I would disagree with some of the terms you used, if I can.
>
> Q. Sure.

A. I think it's -- the two year durational residency now, the physical presence residency, the senate and the house went along with it, the legislature passed a couple years ago, was to deter people from coming to Alaska for the sole purpose of obtaining a student loan. The way you posed it, you said, coming up here, establishing residency and so on. If residency means two years residency, then I'd have to disagree. What the purpose of that was to make sure that people didn't come up here just to get a student loan and then take that loan -- don't forget, the loans are totally portable. These loans can be used anywhere, and in fact, not in the nation; anywhere in the world as long as it's an approved institution. And students are very mobile as a class of people. I'm sure you're aware of that. Certainly I am, and certainly anyone involved in financial aid is, or higher education today, is aware of the mobility of the modern student. They will travel between states if they can find a better opportunity for loans or aid. In fact, in the west, they shop --

they shop quite blatantly between states under different areas of support.

Q. So you want to deter those people from coming to Alaska to participate in the program?

A. I think the true -- the true wording that should be used, and I guess you could -- if you want to interpret this as deterring, I guess that's up to you, but the purpose was, to insure that the loans were used by the people that were truly eligible; that were truly Alaska residents and were residents and not just for loan purposes, but were residents of Alaska, and the loans were directed to help those residents. Remember those two reasons they had the program; access and an educated populace. It's to help the residents in Alaska, not an Oregonian or a Washingtonian that happens to come up here and put in a couple of months in the summer or maybe one year or a short period of time, take the money and go south and maybe never return.

So I'm not sure -- in fact, I would say that the program is not used in a way to

> deter anyone from coming here. I don't think that's the intent at all.. It's to -- that residency isn't a deterrent. it's more, I think, an encouragement for those people that are truly Alaskans and. it's just a test to make sure that in fact, they are Alaskan and qualify...And by "Alaskans." I mean truly a resident of Alaska, not just someone here to qualify for a loan and leave. I don't know if we're saying the same thing in different ways or not.

Romesburg Deposition at 15-17.

Therefore, the loan program cannot be characterized as an intent to prevent in-state migration. Again, it's purpose is solely to assure that only bona fide residents receive a generous state subsidy.

Second, simply because the test is inexact, and will deny benefits to some bona fide residents, does not mean that its purpose must be something other than a test for bona fide residency. As stated earlier, it is unfortunate that there is no magic test to exactly sort those who have the requisite intent from those who do not. In addition, the state is not required to employ massive armies of bureaucrats to perform individualized intent tests on all applicants for all programs. Absent such a test or requirement, there will always be, for any test, many bona fide residents who will be included within the assumed class

of non-bona fide residents. But the existence of that inherent inexactness does not mean that the purpose of the program is something other than to assure that only bona fide residents will receive student loan money.

We have stipulated that Ms. Andress is a bona fide resident. But because she is denied a student loan does not mean that the purpose is to deter persons who wish to reside in Alaska for making Alaska their home. This point was clearly made at Dr. Romesburg's deposition. In fact, the following exchange presents the heart of this whole dispute:

Q. You've stated that you have no reason to believe that my client came to Alaska for the purpose, the sole purpose of participating in the loan program.

A. Correct.

Q. Is it designed to make persons such as my client, who is a -- You've said, am I not correct, that she is a bona fide resident?

A. I said, I have no reason to believe she's not.

Q. Okay.

And you said you have no reason to believe that she came to Alaska solely for the purpose of participating in the graduate student loan program?

A. Correct.

Q. Is the durational residency requirement designed to deter persons such as my client from coming to Alaska?

A. No.

Q. But it will deny her a loan.

A. Yes.

Q. And for what reason? What -- what purpose does the classification, the requirement serve in that instance?

A. If you're asking, is your client a victim of a two year residency requirement, when for all purposes she might otherwise be eligible, the answer would be yes, she is a victim of that residency requirement. When you impose any kind of a requirement -- I'm not a legislature -- legislator -- when you impose any kind of a requirement on a class of people you're going to treat all those people within the class as if they're the same, and I think quite often the outcome can be unfortunate. In her case it may be unfortunate. But if the legislature says we have to pick -- somehow -- again, let's go back to the beginning. We have a very mobile class of people, students, very mobile. Look at the age of them. Look at the income.

it's a mobile group of people. We know they shop. We know they shop in the Northwest, I know they do. I can give you testimony from other states that students shop. They shop loan programs; they shop WICHI support; they shop tuitions; they'll move around. But we're saying, in this state what the legislature's been saying for years is, "We are willing to support our students. We want to support them to pursue their educational goals and we want to have an educated populace." The State of Washington, the State Oregon, Idaho, don't support their students at the level we do. They don't. They don't have the same kind of program, and they seem to be unwilling to, or maybe unable to, but the point is, they don't. So the Alaska Legislature says, "We want to do this for our people."

Now we have to make sure, though, that they are, indeed, our people. We don't want to create a loan program and given -- and by all means, when you're talking five percent you're talking about a

subsidized program. We don't want to have a five percent program for Washington students, residents of Oregon, we want it for Alaskans. And we think two years is reasonable. That's what the legislature has said through statute to us.

Romesburg Deposition at 43-45.

The legislature was correct. The two year requirement is reasonable test for determining the bona fides of residency for applicants for the Alaska Student Loan Program. It should be upheld.

DATED this 15th day of September, 1982.

WILSON L. CONDON
ATTORNEY GENERAL

By: Robert M. Maynard
Robert M. Maynard
Assistant Attorney General

Ron Zobel, Esq.
HELLEN & PARTNOW, P.C.
Attorneys for Plaintiff
425 G Street, Suite 710
Anchorage, AK 99501

(907) 276-2713

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

JUDITH ANDRESS, Plaintiff, vs. FRED J. BAXTER, MILDRED BANFIELD, THELMA BUCHHOLDT, LEE DEMMERT, THELMA LANGDON, MARY ELIZABETH LOMEN, JOHN MALONE, JOHN SHIVELY, TERRY STIMSON, DONNIS THOMPSON, BLANCHE WALTERS, WALTER WARD, KERRY ROMESBURG AND THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION, Defendants.	No. A82-307 Civil

OPPOSITION TO DEFENDANTS
MOTION FOR SUMMARY JUGMENT

The plaintiff has covered most of the issues raised by the defendants in their motion for summary judgment in plaintiff's memorandum in support of plaintiff's motion for summary judgment and therefore will not repeat those arguments.

The defendants have attached to their memorandum in support of defendants' motion for summary judgment an affidavit of Kerry Romesburg which only reinforces the arguments made by plaintiff in support of her motion for summary judgment. On pages five through eight of that affidavit, the defendant Romesburg states that Alaska has the most generous student loan program and that in view of reduced student loan opportunities in

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ANCHORAGE, ALASKA 99501
(907) 276-2713

attractive may migrate to Alaska and take up residency in the state because of the student loan program. Romesburg goes on in his affidavit on pages eight through eleven to describe the effect of reducing the durational residency requirement imposed for this program. Defendants are presenting the argument that the generosity of the program justifies an overly restrictive durational residency requirement to inhibit migration to this state that may be caused by the attractiveness of the program. Such an argument is not a defense of the statute but a reason for the statute to be struck down. The State of Alaska is not permitted to set up generous programs and then create legal walls between this state and the rest of the United States that are allegedly necessary to stop migration caused by the attractiveness of those programs. Solving the "problems" caused by free movement cannot justify a classification based on recent travel. As the Supreme Court said in Edwards v. California:

> [T]he State asserts that the huge influx of migrants into California in recent years has resulted in problems of health, morals, and especially finance, the proportions which are staggering. . . .But this does not mean that there are no boundaries to the permissible area of state legislative actitivites. There are. And none is more certain than the prohibition against attempts on the part of any single state to isolate itself from difficulties common to all of them by restraining the transportion of persons and property across its borders. It is frequently the case that a state may gain a momentary respite from the pressure of events by the simple expedient of shutting its gates to the outside world but in the

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(907) 276-2713

framed under the dominion of a political philosophy less parochial in range. It was framed on the theory that the peoples of the several States must sink or swim together, and that in the long run prosperity and salvation are in union and not division."

314 U.S. 173-74. The argument put forth by the defendants is proof that the statute promotes an illegitimate purpose.

Defendant Romesburg's affidavit on pages eight through eleven demonstrates that the durational residency requirement has an actual deterrent effect on migration. Once an actual deterrent effect is admitted by the defendants, it is not necessary to decide whether the denial of the benefit involved is a "penalty" on interstate migration. Penalty analysis focuses on the denial of the benefit to create a presumption or the lack of a presumption that interstate migration is effected. None of the cases that dealt with the problems of durational residency requirements in terms of "penalty" analysis were presented with actual proof of deterrence of interstate migration. The low level scrutiny advocated by the defendants is not justified when there is an admitted impact upon interstate migration. Defendants are admitting that this statute burdens migration and therefore greater scrutiny is demanded.

On page three of defendants' memorandum it is stated that, "Given the tremendous disparity between other states and Alaska, it is not irrational to require two years as a test for the bona fides of a student's residence." The defendants do not explain what the disparity between programs in this state and other states has to do with proof of whether a person is in fact a resident of this state. Factors which determine whether a person is a bona fide resident of this state do not change

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programs offered in higher education. Those factors are constant, and a greater or lesser disparity between states of the Union and programs offered would not change those factors. Comparisons between Alaska's programs and the programs available in other state are not relevant in determining whether the classification burdens the right of interstate migration. Strong v. Collatos, 593 F.2d 420, 422 (1st Cir. 1979); Barnes v. Board of Trustees, 369 F.Supp. 1327, 1337 (W.D. Mich. 1973) (three-judge court).

The defendants' citation to Vlandis v. Kline, 441 U.S. at 453-454 for the proposition that a state can establish such "reasonable criteria for in-state status" so as to make "virtually certain" that non-residents do not receive the benefits of the student loan program should not lead the court to the conclusion that a two year durational residency requirement is therefore permissible. The example of a reasonable residency requirement which is given immediately after this statement is one which focuses legitimately upon the factors that determine domicile and not upon a durational period. 444 U.S. at 454. The emphasis given by the defendants to the "virtually certain" language ignores the gross underinclusiveness of a definition of residency which makes large numbers of bona fide residents into non-residents. It could be argued that a 10 year or even a 20 year durational residency requirement would make it "virtually certain" that no aid was given to a non-resident. Such a definition of residency would, however, be struck down because of its underinclusiveness and the unreasonable length of the waiting period. A two year period of time is not a short period of time and is unreasonable in its relationship to the fact of bona fide residence.

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The first, and most obvious alternative to the defendants' insistence upon a two year durational residency requirement is a one year durational residency requirement. A one year requirement would identify true "transients" as well as a two year period but would not have the effect of defining many bona fide residents, including the plaintiff, as non-residents. The state could also use the two year period as a rebuttable presumption that would put the burden upon the applicant, but would yet give that applicant the opportunity to show factors clearly bearing upon the issue of domicile. The Supreme Court has recently noted in Elkins v. Moreno, 435 U.S. 647, (1978), that Vlandis applies to "those situations in which a State 'purport[s] to be concerned with [domicile, but] at the same time den[ies] to one seeking to meet its test of [domicile] the opportunity to show factors clearly bearing on that issue." 435 U.S. at 660, quoting Weinberger v. Salfi, 422 U.S. at 771. The State of Alaska in this case purports to be concerned with domicile and the plaintiff should be able to prove her domicile by showing that she is a bona fide resident despite the durational period.

The defendants have completely ignored plaintiff's other arguments because it is only to their advantage to ignore the substantive limits for the way in which durational residency requirements can be used. Those substantive limits are provided by the Citizenship Clause[1/] and the Privileges and Immunities

---

1/ Cf: Toll v. Moreno, 102 S.Ct. 2977 (1982) (State University could not deny in-state status to non-immigrant aliens because of supremacy clause) It is more than interesting that aliens must be granted in-state tuition because of the protection given them by the federal immigration laws. A U.S. citizen cannot be said to have a lesser right to "enter and abide" in a state of the Union unless it is going to be argued that the federal immigration laws provide more protection to an alien than the Citizenship Clause provides to a citizen of the United

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(907) 276-2713

Clause of both the Fourteeth Amendment and Article IV. The statement by the defendants that nine Justices of the Supreme Court have rejected Justice O'Connor's analysis of Privileges and Immunities found in her concurrence in Zobel v. Williams is incorrect. Only Justice Rehnquist rejects Justice O'Connor's arguments. The appellants in Zobel v. Williams had made no Privileges and Immunities Article IV claim, it was not briefed, and it was not argued. It is therefore quite understandable that seven of the eight Justices who voted to strike down the Alaska Permanent Fund Dividend law did not find it necessary to base their decision on the Privileges and Immunities Article IV claim. That does not mean that it is invalid or that it has been rejected by the Court.

The defendants defense of the two year durational residency requirement is insubstantial and should be rejected. The plaintiff's motion for summary judgment should be granted.

Dated this 16th day of September, 1982, at Anchorage, Alaska.

Ron Zobel
Attorney for Plaintiff

I HEREBY CERTIFY that a copy of the foregoing was mailed to the following on 16th September, 1982:

Wilson Condon, Attorney General
c/o Robert Maynard, Assistant Attorney General
Pouch K
Juneau, AK 99811

HELLEN & PARTNOW
A Professional Corporation
LAWYERS
425 G STREET SUITE 710
ANCHORAGE, ALASKA 99501
(907) 276-2713

Wilson Condon
Attorney General
State of Alaska
Pouch K
Juneau, AK 99811
(907) 465-3600

Attorney for Defendants

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

JUDITH ANDRESS, Plaintiff, vs. FRED J. BAXTER, MILDRED BANFIELD, THELMA BUCHHOLDT, LEE DEMMERT, THELMA LANGDON, MARY ELIZABETH LOMEN, JOHN MALONE, JOHN SHIVELY, TERRY STIMSON, DONNIS THOMPSON, BLANCHE WALTERS, WALTER WARD, KERRY ROMESBURG AND THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION, Defendants.	No. A82-307 Civil

AFFIDAVIT OF KERRY ROMESBURG

Kerry Dean Romesburg, being duly sworn, states as follows:

I. Qualifications

I am executive director of the Alaska Commission on Postsecondary Education, Pouch FP, 400 Willoughby Avenue, Juneau, Alaska 99811. As executive director I serve as the chief administrative official for the Alaska commission charged with: administration of the state Division of Student Financial Aid, coordination and planning of the State's postsecondary educational resources including facility and program expansion, review and recommendation of the annual budget requests of public higher education in all institutions, authorization and licensure of institutions to operate in the state, administration of the state's participation in the Western Interstate Commission for Higher Education, administration of the state's veteran's educational program approval, administration of a number of federally-funded programs, and general advisement and counsel to the executive branch and legislature on higher educational matters. The commission has a staff of 59 and an operating budget of 55.3 million dollars (including student loan funds). I received my B.A. from Arizona State University in June of 1967 in Mathematics and Education, I received my M.A. from Arizona State University in June 1968 in Mathematics and Education, and my Ph.D. in Education from Arizona State University in June of 1972. Prior

to being executive director of the Alaska Commission, I was executive director of the Arizona Commission on Postsecondary Education in 1974 to 1975. I am a member of the American Association for Higher Education, the American Association of Professors of Higher Education, the Association for Institutional Research, the National Education Association Higher Education, and the State Higher Education Executive Officers.

I am presently chairman of the Western Interstate Commission on Higher Education, and am a member of the National Advisory Council for United Student Aids Funds. Through my job and my professional associations, I am intimately familiar with both the Alaska Student Loan Program and student loan programs nationwide.

II. Introduction

The Alaska Student Loan Program was established by the Alaska State Legislature in 1971. Prior to that, a loan program did exist, but it was substantially different from the current program, which is based upon the 1971 program. Since 1971, the State of Alaska has awarded nearly 35,000 loans totaling over $94 million to Alaska borrowers. During the 1981-82 school and loan year 9,898 loans were made, totaling over $40 million. Of these loans, 45.0 percent were for attendance in Alaska and 55.0 percent were for out-of-state.

III. Terms of Loans

Alaskans can borrow up to $6,000 per year for undergraduate or vocational study and up to $7,000 per year for graduate study at any approved postsecondary education institution (including foreign institutions). The loans carry a 5% interest rate, and the borrower has ten years to repay the debt. While a borrower is in school, during the first year after ceasing full-time study (grace year), and during approved deferment periods, the borrower makes no payments and interest is paid by the state on behalf of the borrower. These periods of deferment do not count toward the ten-year repayment cycle. Additionally, if a person encounters difficulty making the regular monthly installments, the repayment period may be extended for up to five more years, for a total of fifteen.

In order to qualify for a loan, an applicant must have been a resident of Alaska (which requires physical presence) for at least two years, and must attend an approved institution.

Although AS 14.40.765(b) sets forth a point system based in part on length of residence, that system has never been used because enough money has been available in the past to fund all students. That point system will not be used either this year or in the future, even if there are insufficient monies to fund all students. Instead, in part on advice from the Department of Law, the Commission will award loans, if necessary, on a first-come first-served basis.

IV. Other States' Programs

During July 1982 each state was surveyed as to the type of student loan program available in that state. It was found that all states participated in the Federal Guaranteed Student Loan Program (GSL), and only the states of Alaska, Alabama, Georgia, Kansas, and Oregon had other student loans available at the state level. Nearly all individual institutions have short-term emergency loans available for students in attendance.

Of those states having programs in addition to the GSL, only Alaska's is non-restrictive by student need and field of study. Alabama provides loans for medical and dental study at a 7% interest rate and has no residency restriction. Georgia provides 9% loans for up to $1,500 per year for study in "critical fields" of study. Residency is one year. Kansas provides "loans of last resort" to students. If a student can not qualify for a GSL, loans of up to $1,500 for a first-time freshman, $2,500 for other undergraduates, and $5,000 for graduate students are made available at 9% interest. No residency restriction exists. Oregon provides for loans for medical and dental study at 9% interest. The loans are for up to $2,500 per year and residency required is one year.

Comparing the GSL programs in each of the states becomes difficult, since individual lenders (usually banks) can set individual restrictions on loans. For instance, some lenders require that a borrower be a regular bank customer, others

require a specific grade point average, and some require varying lengths of residency. Since these are private lenders, with only a state and federal guarantee, the terms can be quite restrictive or quite generous depending upon the attitude of the lender.

A comparison of the Alaska program and the general terms of the GSL is provided below. It can be seen that in all ways other than residency and part-time attendance, the Alaska program is more generous to the borrower than the GSL program.

	Terms/Conditions	GSL	Alaska Student Loan
1.	Amount of Loan, per year		
	Undergraduate	$2,500	$6,000
	Graduate	$5,000	$7,000
2.	Total indebtedness		
	Undergraduate	$12,500	$30,000
	Graduate	$25,000 including undergraduate loans	$35,000 but, for a combined total of no more than 8 years of loans undergraduate and graduate
3.	Needs test required	Yes	No
4.	Income cap	$30,000	None
	(a) Effect	loss of interest waiver while in school	N.A.
5.	Interest rate	9%	5%
6.	Institutional restrictions	Accredited	Accredited or approved by Commission

7.	Residency required	Varies, usually 1 year	2 years
8.	Partial Cancellation	None	Up to 50%
9.	Loans to part-time students	Yes, Half-time students, or more	No, must be full-time
10.	Scholastic restrictions	Varies, usually "C" average - undergraduate "B" graduate	"C" average - undergraduate "B" average - graduate

V. Other Factors Affecting Loans

The federal program is becoming more restrictive under the current administration. Proposals are to lower the income cap to $16,000, to charge interest while in school and in deferment, to raise interest to commercial rates, and to eliminate loans to graduate students. This trend toward a more restrictive federal program is creating a new clientele for Alaska loans. Increasingly, prospective students from other states are moving to Alaska to establish residency and borrow under the Alaska Student Loan Program. For many, this is the only way of obtaining access to desired postsecondary education and training.

Additionally, other federal programs such as Basic (Pell) Grants, Supplement Grants (SEOG), Incentive Grants (SSIG or SEIG), and College Work Study have all been targeted for reduction or elimination. This means students must increasingly turn to loans as the only form of financial aid available. When

this is coupled with the federal loan restrictions and fund reductions, Alaska's loan program becomes even more attractive.

VI. Alaska Student Loan Volumes

The Alaska Student Loan Program has experienced dramatic growth the past few years, and this growth is expected to continue. Table 1 below reflects that growth.

TABLE 1
ALASKA STUDENT LOAN ACTIVITY
1979-80 through 1988-89*

Year	Awards	Amount
1979-80	3,918	$ 9,373,949
1980-81	6,460	$ 15,957,717
1981-82	9,898	$ 40,559,499
1982-83	15,000	$ 59,000,000
1983-84	17,500	$ 80,500,000
1984-85	19,000	$ 97,500,000
1985-86	21,000	$121,800,000
1986-87	23,100	$136,290,000
1987-88	25,600	$151,040,000
1988-89	28,500	$168.150,000

* 1982-83 through 1988-89 are projected.

These totals are based upon projections including current and projected Alaska population, secondary school attendance rates, and in-migration.

VII. Effect of Changing Residency

Should the two-year residency be reduced, the number of

eligible applicants would increase. Certainly, the more the reduction the larger the pool. There are two factors at work: one, those persons already living in Alaska, but having been here for less than two years would be added to the potential borrowing pool; and two, as the residency is reduced, the desirability of moving temporarily into the state for the sole purpose of obtaining a student loan is increased.

Estimates of the increased applicants are listed in Table 2. These estimates are based upon an increased in-migration during the 1983-84 year and a leveling from then on.

The effects are quite far-reaching, but the inescapable conclusion is that the program will not be fully funded. Even in the first year of such a residency change, the program will be from six to nine million dollars underfunded. This translates to from 1,500 to 2,200 people who do not receive loans. In future years the number of persons turned away could reach 6,000, 7,000, or more.

If a needs test is employed, the true Alaskan resident will be at a decided disadvantage because of the inflated salaries of the state. This is the problem already encountered with federal programs. Alaskans can not qualify for many programs because of family income, even though the cost-of-living in Alaska is so much higher than other areas of the nation. If an Alaskan resident who has lived and worked in the state for a

number of years, or whose parents have lived or worked in the state for a number of years, is compared on a needs test with an Oregon or Washington resident who has come to the state for only six months or a year, possibly not even worked, the Alaskan must lose. The short-term "resident" would have a distinct advantage with a needs test.

If first-come first-served is used as a criterion, the individual moving to Alaska for the sole purpose of obtaining a loan would probably be wise enough to meet all application dates. Hence, first-come first-served would only result in everyone filing early except that person whose career is suddenly ended and new skills are unexpectedly needed. Again, this would most likely be the long-term resident and the individual that may need assistance most.

In general, opening the loan program to the short-term resident will result in a large number of persons coming to Alaska for the sole purpose of obtaining loans to finance their education. Those persons for whom this program was designed and has operated and served over the last eleven years will be squeezed out by residents of other states, states unwilling to commit resources to education of their citizens in the manner of Alaska.

TABLE 2
PROJECTED ALASKA STUDENT LOAN RESIDENCY EFFECTS
1982-83 through 1988-89

Two-Year Residency

Loan Year	Awards	Amount
1982-83	15,000	$ 59,000,000
1983-84	17,500	$ 80,500,000
1984-85	19,000	$ 97,850,000
1985-86	21,000	$121,850,000
1986-87	23,100	$136,290,000
1987-88	25,600	$151,040,000
1988-89	28,500	$168,150,000

One-Year Residency

Loan Year	Additional* Awards	Additional* Amount	Total Program
1982-83	1,560	$ 6,396,000	$ 65,396,000
1983-84	2,783	$12,801,800	$ 93,301,800
1984-85	2,926	$15,068,900	$112,918,900
1985-86	3,759	$21,802,200	$143,602,200
1986-87	4,712	$27,800,800	$164,090,800
1987-88	5,862	$34,585,800	$185,625,800
1988-89	7,239	$42,710,100	$210,860,100

Six-Month Residency

Loan Year	Additional* Awards	Additional* Amount	Total Program
1982-83	2,496	$10,233,600	$ 69,233,600
1983-84	4,453	$20,482,880	$100,982,880
1984-85	4,828	$24,864,200	$122,714,200
1985-86	6,202	$35,971,600	$157,771,600
1986-87	7,539	$44,480,100	$180,770,100
1987-88	9,379	$55,336,100	$206,376,100
1988-89	11,582	$66,333,800	$236,483,800

* Additional over two-year residency.

DATED at Juneau, Alaska, this 1st day of September, 1982.

Kerry Dean Romesburg

SUBSCRIBED AND SWORN to before me this 1st day of September, 1982.

Notary Public, State of Alaska
My commission expires: 7/21/85

FINAL REPORT
TO THE
HOUSE COMMITTEE ON STATE AFFAIRS:

ALASKA STATUTES CONTAINING
DURATIONAL RESIDENCE REQUIREMENTS

By

William R. Hudson

March 28, 1983

HOUSE COMMITTEE ON STATE AFFAIRS

Honorable Mitch Abood, Chairman
Honorable Mike Miller
Honorable Anthony Vaska
Honorable John Cowdery
Honorable Walt Furnace
Honorable Ronald L. Larson
Honorable Dick Schultz

ACKNOWLEDGEMENTS

I wish to express my appreciation for the cooperation and support of the chairman's excellent staff in the conduct and preparation of this study.

I wish further to thank former Attorney General Avrum Gross and Attorney Ron Zobel for offering freely their counsel on ways to fashion laws in Alaska that will meet the test of the U.S. Constitution and minimize the chances of costly litigation and disruption of programs affecting the citizens of the State of Alaska.

I would also like to express my gratitude to the Legislative Information Offices for participating in this program, and to their teleconference personnel for tallying the questionnaire returns at the first residency teleconference on March 2', 1983.

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INTRODUCTION

The U.S. Supreme Court's Zobel decision and the subsequent court challenges to the Alaska Longevity Bonus Program placed a serious burden on the legislature to find solutions to all programs where residence requirements are or may be constitutionally unacceptable.

By far the most significant of these programs is the unique Alaska Longevity Bonus Program, followed by the Pioneers' Home Program. Changes to these programs could have, literally, life and death impacts on many of the almost 10,000 older Alaskans involved in them.

Solutions to these problems must be more than constitutional; they must consider the additional cost factors to the state, the potential of increased migration to Alaska, and the often overlooked question of program administration and manageability.

I have assembled and reviewed all of the existing written materials and statutes concerning programs which contain residence requirements. Included in this research was a study of past, pending, and current litigation. At the direction of the Chairman of the House State Affairs Committee, I consulted with former Attorney General Avrum Gross and his partner Susan Burke, as well as with Attorney Ron Zobel. These attorneys gave freely of their time and expertise and their input was an important tool in obtaining the needed perspective to recommend guidelines for Committee action. They spoke constructively on their feelings of how we should approach and resolve this complex issue. To my knowledge, this was the first time that these attorneys, who only recently argued opposing sides before the U.S. Supreme Court regarding the original Permanent Fund dividend distribution plan, were asked on behalf of our state to assist in correcting the problems brought about by that Supreme Court decision.

Input from the general public was seen as a necessity. Due to the time constraints under which we were working, we thought it best to prepare a set of questionnaires and distribute them to groups and individuals having a vested interest in the major programs affected by the residence question. Accordingly, questionnaires on the state's special old age programs, student loan program, land disposal program, and fisherman's loan programs were mailed on March 15, 1983 to 180 groups and individuals in Alaska. In addition to our targeted mailing,

we also made these questionnaires available to the Legislative Information Offices across the state. They tallied returns from persons who filled out questionnaires while attending the first residency teleconference on March 21, 1983.

I will compile the results of these questionnaires and present them to the Committee at a later date. A copy of each questionnaire is included in this report (Appendix III). The distribution list is on file in the Chairman's office.

In addition to my position as consultant to the Committee, Attorney Susan Burke has recently been retained under separate contract to prepare draft legislation which will define bona fide residence. I feel that it is my responsibility, after the completion of Attorney Burke's draft, to report on the potential administrative problems and cost-effectiveness of implementing a bona fide residence statute as it applies to the specific programs which will be impacted by a change in the number of years of residence currently required. This report will also be submitted to the Committee.

DURATIONAL RESIDENCE REQUIREMENTS

"Durational" residence occurs as a requirement in over 53 Alaska statutes and authorities. This requirement affects, among others, holding a public office; participation in numerous loan programs; membership on some regulatory and advisory boards and commissions; obtaining some occupational licenses; the right to vote in Alaska; obtaining a resident hunting and fishing license; selling alcoholic beverages; obtaining and gaining preference for low-cost housing; participation in land lotteries; receipt of partial forgiveness of debt owed the state for loans on land purchased and student aid given; obtaining residence in one of the five Pioneers' Homes and receiving the Longevity Bonus; and, finally, receiving a dividend from the earnings of the Permanent Fund.

The length of residence required in these statutes varies from 30 days to 30 years. Benefits that citizens of Alaska are authorized to receive by these laws represent millions of dollars and affect the lives of thousands of people.

The complete list of durational residence requirements set by state law as of March 1983 is provided in the following pages.

Durational Residence Requirements in Alaska State Law

TITLE	DURATION	AUTHORITY
PUBLIC OFFICE		
GOVERNOR	7 years	AK Constitution, Art. III, § 2
LIEUTENANT GOVERNOR	7 years	AK Constitution, Art. III, §§ 2, 7
LEGISLATOR	3 years	AK Constitution, Art. II, § 2
SUPREME COURT JUSTICE	5 years	AS 22.05.070
COURT OF APPEALS JUDGE	5 years	AS 22.07.040
SUPERIOR COURT JUDGE	5 years	AS 22.10.090
DISTRICT COURT JUDGE	5 years	AS 22.15.160(a)
MAGISTRATE	6 months	AS 22.15.160(b)
OMBUDSMAN	3 years	AS 24.55.030
BOROUGH MAYOR	to 3 years	AS 29.23.130(b)
BOROUGH ASSEMBLYMAN	to 3 years	AS 29.23.050
CITY MAYOR	to 3 years	AS 29.23.250(a)
CITY COUNCIL	to 3 years	AS 29.23.200(b)
MUNICIPAL CHARTER COMMISSION	3 years	AS 29.13.010
BOARD OF EDUCATION MEMBER	3 years	AS 14.07.075
BOARDS AND COMMISSIONS		
GENERAL:		
RURAL AFFAIRS COMMISSION	5 years	AS 44.19.102
FISHERIES BOARD	1 year	AS 16.05.221
GAME BOARD	1 year	AS 16.05.940
COMMISSION ON JUDICIAL QUALIFICATIONS	10 years practice in Alaska	AK Constitution, Art. IV, § 10
MUNICIPAL BOND BANK BOARD	30 days	AS 44.85.030
PERSONNEL BOARD	30 days	AS 39.25.060
ALASKA POWER AUTHORITY	30 days	AS 44.83.020

Durational Residence Requirements in Alaska State Law (Continued)

TITLE	DURATION	AUTHORITY
OCCUPATIONAL:		
PUBLIC ACCOUNTANCY BOARD	1 year	AS 08.04.020
CHIROPRACTIC EXAMINERS BOARD	2 years	AS 08.20.020
DENTAL EXAMINERS BOARD	5 years	AS 08.36.010
ARCHITECTS, ENGINEERS, AND LAND SURVEYORS REGISTRATION BOARD	3 years	AS 08.48.031
GUIDE LICENSING AND CONTROL BOARD	10 years	AS 08.54.010
PHARMACY BOARD	3 years practice in Alaska	AS 08.80.010
OPTOMETRY EXAMINERS BOARD	3 years	AS 08.72.040
VETERINARY EXAMINERS BOARD	5 years practice in Alaska	AS 08.98.010
LICENSES		
OCCUPATIONAL LICENSES:		
PUBLIC ACCOUNTANT	1 year	AS 08.04.280
ATTORNEY	Residence	Bar Rule 5(1)(a)
COLLECTION AGENCY	1 year	AS 08.24.110
MORTICIAN	1 year in-state apprenticeship	AS 08.42.110
GUIDES		
MASTER GUIDE	Residence plus 10 years hunting experience	AS 08.54.100
REGISTERED GUIDE	Resident	AS 08.54.110
CLASS A ASSISTANT	20 yr experience in district	AS 08.54.120
ASSISTANT	Resident	AS 08.54.140
TRANSPORTER	Resident	AS 08.54.142
JUNK DEALER, ETC.	Resident defined but not required	AS 08.60.030
REAL ESTATE BROKER, AGENT, & SALESMAN	Resident	AS 08.88.171
INSURANCE BROKER, AGENT, & SOLICITOR	1 year	AS 21.27.050 AS 21.06.250 AS 21.27.220
OTHER LICENSES:		
ALCOHOLIC BEVERAGE LICENSE	1 year	AS 04.11.390
RESIDENT FISH AND GAME LICENSE	12 consecutive months	AS 16.05.940

Durational Residence Requirements in Alaska State Law (Continued)

TITLE	DURATION	AUTHORITY
PUBLIC RIGHTS AND BENEFITS		
VOTING	30 days	AS 15.05.010 AK Constitution, Art. V, § 1
ANNULMENT OF MARRIAGE	1 year	AS 09.55.130
LOW-COST HOUSING PREFERENCE	1 year	AS 18.55.330 AS 18.55.470(4)
VOCATIONAL SUBSTITUTION PROGRAM	1 year	AS 39.25.155(g)
INDUSTRIAL INCENTIVE TAX CREDIT	Percent of one year residence	AS 43.26.095(b)(3)
BOUNTIES FOR CERTAIN ANIMALS	1 year abode in game unit, plus continuous residence in Alaska	AS 16.35.130
LAND DISPOSAL PROGRAMS		
LOTTERY PROGRAM	1 year	AS 38.05.057(b)(2)
PRICE DISCOUNT PROGRAM	5% discount per yr of residence	AS 38.05.058
HOMESITE ENTRY PROGRAM	3 yr immediately prior to entry, or 20 yr cumulative residence	AS 38.08.030(a)(2)
HOMESITE ENTRY PRIORITY CLAUSE	Priority to longest residence	AS 38.08.040(b)
REMOTE PARCEL LEASING PROGRAM	1 year	AS 38.08.077(i)(2)
SPECIAL OLD AGE PROGRAMS		
ALASKA LONGEVITY BONUS PROGRAM	25 years, with residence established before statehood	AS 38.08.030(a)(2)
PIONEERS' HOME PROGRAM	15 yr immediately before application, or 30 yr cumulative	AS 47.25.020(a) AS 47.25.035
SENIOR CITIZEN SPECIAL ASSESSMENT EXEMPTION	12 months	AS 29.63.065(d)(1)
FISHING LICENSE EXEMPTION	30 years total residence	AS 16.05.400
LOAN AND GRANT PROGRAMS		
FISHERMAN NOTE AND MORTGAGE	5 years	AS 16.10.680(a)
COMMERCIAL FISHING LOAN	5 years	AS 16.10.310(a)
LIMITED ENTRY PERMIT LOAN	5 years	AS 44.81.220(a)(20)
AGRICULTURE AND FISHING (CFAB)	1 year	Policy Requirement
AHFC VETERANS 1% RATE REDUCTION	1 year	AS 18.56.101

Durational Residence Requirements in Alaska State Law (Continued)

TITLE	DURATION	AUTHORITY
MINING BUSINESS LOAN	Residency and 5 years mining experience in Alaska	AS 27.09.020
MEMORIAL SCHOLARSHIP	No durational residence required, 1/5 of loan forgiven for each year employed in special field	AS 14.40.825(e)
STUDENT LOAN PROGRAM		
ELIGIBILITY TO APPLY	2 years	AS 14.40.765(b)
FORGIVENESS	10% off for each yr of residence after completing education; maximum 50% forgiven	AS 14.40.763(i)
PREFERENCE (SYSTEM OF AWARDING PRIORITY)	1 point, 2-5 yr residence 2 points, 5-10 yr residence 3 points, 10 plus yr	AS 14.40.767(a)(2)
ALASKA EDUCATIONAL INCENTIVE GRANT	2 years	Application Form
OTHERS		
CHILD CARE EXPENSE REFUND	30 days	Form DR600
POLITICAL CAMPAIGN CONTRIBUTION CREDIT	30 days	Form DR600

CURRENT LITIGATION

The Committee should be aware of three law suits currently in the courts that either involve the State of Alaska directly as a defendant or indirectly through other challenges, and could affect existing state programs. All three cases involve durational residence requirements and are mentioned here to alert the Committee so that they may wish to abstain from public comment or action on these matters pending their outcome in the courts.

Andress v. Baxter
Alaska District Court No. A82-307 civil

Judith Andress has challenged the two-year durational residence requirement for student loan eligibility (AS 14.40.765(b)) and the selection criteria that award priority to applicants based on the number of continuous years of residence in Alaska (AS 14.40.767(a)(2)).

Status: Pending in the court.

Vest v. Schaefer
Superior Court No. 1JU-82-1103 civil

This suit challenges the 25-year pre-statehood residence requirement contained in the Alaska Longevity Bonus Program (AS 38.08.030(a)(2)).

Status: Court action resulted in a settlement agreement that stayed all actions and proceedings through and including the date of adjournment of the first regular session of the 13th Alaska Legislature or until June 30, 1983, whichever comes first. In this agreement the court ordered the Legislative Council to use its best efforts to secure the enactment of legislation that would, in effect, open the program to all bona fide one-year residents during this legislative session.

Gilman v. Martin
Alaska Supreme Court No. 5937

This suit involves a challenge to the Kenai Peninsula Borough's land disposal program. Its resolution could affect the state's land lottery program, the one-year residency provision to qualify for the lottery (AS 38.05.057(b)(2)), and the discount of 5 percent for every year of residence for up to 50 percent of the total price (AS 38.05.058).

Alaska has filed an amicus curiae brief defending the Kenai Peninsula Borough's program as being constitutional. The outcome of this will be seen as a ruling on similar land distribution plans operated by the state.

Status: A ruling is expected at any time.

THE CONSTITUTIONAL TEST

The most difficult task of this study has been the development of standards or tests that could logically be applied to present and future statutes where a durational residence requirement is to be used.

The question, "What is a resident?" has never been satisfactorily answered in Alaska. Although durational residence requirements run from 30 days to 30 years, in many cases I could find no relationship between the purpose of the statute and the duration specified.

Analysis of the 53 statutes requiring some use of residence or durational residence demanded that I first determine what tests or standards should be used. The treatise which follows is the result of my efforts, and became my guide for measuring those statutory references against the requirements imposed by the U.S. Constitution. I could find no other tests that I could use to conduct this review.

Obviously there is no master that will apply in each and every case. Were that to be so, the state would not be in litigation over the student loan and longevity bonus programs at this time. Most of the laws enacted involve a great deal of judgement on the part of their authors. I hope my analysis of the subject will help future lawmakers in that process.

This treatise should also be a good guide for others who must deal with legislation that hinges on some form of residence as a requirement. I have attempted to establish some basic guidelines for the average person, who is not an attorney or student of our Constitution, to use in setting policy or enacting legislation that uses residence or durational residence as one of the requirements.

I have been told that no definition or statement on this matter will guarantee satisfaction with our U.S. Constitution; and I totally agree! This treatise is only a layman's guide, and not a legal instrument, but I trust it will stimulate further investigation and prove useful to anyone who must approach this very complex subject.

The Constitution of the United States of America

The U.S. Constitution serves as our master authority on the uses of residency as a requirement in state law. It is right for us to begin with this document.

What follows are quotations that apply to this subject matter:

> Article 6, Clause 2: The Constitution and the laws made in pursuance thereof, and all treaties made or shall be made, by the United States, shall be the supreme law of the land.
>
> Article 6, Clause 2: All officers, legislative, executive, and judicial, of the United States, and of the several States, shall be bound by an oath to support the Constitution.
>
> Article 9: Powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.
>
> Article 6, Clause 2: Judges in every State shall be bound by the Constitution.
>
> Amendment XIV, Section 1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State in which they reside.
>
> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.
>
> Nor shall any State deprive any person of life, liberty, or property without due process of law.
>
> Nor deny to any person within its jurisdiction the equal protection of the law.
>
> Article 4, Section 2: The citizens of each State shall be entitled to all the privileges and immunities of the citizens of the several States.

Article 1, Section 2: Members of the House of Representatives shall be 25 years of age, seven years a citizen of the United States and an inhabitant of the State which chosen.

Article 1, Section 3: Senators shall be 30 years of age, nine years a citizen of the United States and an inhabitant of the State which chosen.

Article 2, Section 1: Neither shall any person be eligible to the office of President who shall not have attained the age of 35 and been 14 years a resident within the United States.

Article 1, Section 10: States shall not grant any title of nobility.

Article 1, Section 7 [summarized]: The right to vote shall not be denied on account of race, color, or previous servitude.

Articles 15, 19, and 24 [summarized]: States shall not deny a person the right to vote.

The authorities above clearly lay out the intentions of the Constitution as it applies to equal treatment of all citizens of our nation. The use of residence as a requirement to receive a benefit, reward, or other privilege will normally be measured against one or more of the above authorities.

Pertinent Court Cases

Since the U.S. Constitution can only provide us the basic intentions of its authors, and would leave a great deal to individual interpretation of its meaning, we must go to the rulings and findings of our courts for specific applications and explanation of the document's true meaning.

Court cases that refer to residence or durational residence include the following:

Dunn v. Blumstein, 405 U.S. 330 (1972).

Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974).

Moore v. State, 553 P.2d 8 (Alaska 1979).

Plumley v. Hale, 594 P.2d 497 (Alaska 1979).

Rose v. Commercial Fisheries Entry Commission, __ P.2d __, Op. No. 2515 (Alaska, June 11, 1982).

Shapiro v. Thompson, 394 U.S. 618 (1969).

Sosna v. Iowa, 419 U.S. 393 (1975).

Starns v. Malkerson, 326 F.Supp. 234 (Minn. 1970).

State v. Adams, 522 P.2d 1125 (Alaska 1974).

State v. Erickson, 574 P.2d 1 (Alaska 1978).

State v. Van Dort, 502 P.2d 453.

Vlandis v. Kline, 412 U.S. 441 (1973).

Warwick v. State ex rel chance, 540 P.2d 384 (Alaska 1976).

Williams v. Zobel, 619 P.2d 422 (Alaska 1980) (Zobel I).

Williams v. Zobel, 619 P.2d 448 (Alaska 1980) (Zobel II).

Zobel v. Williams, __ U.S. __, Op. No. 80-1146 (June 14, 1982) (Zobel III).

The findings of our courts are construed to have the full force of law. Lawmakers fashioning new laws, therefore, must comply with these court rulings if the statutes are to be considered constitutional. I have only the common terms in my references, and the interpretation is general in context.

Sosna v. Iowa: The judges granted the use of a one-year durational residence requirement to obtain a divorce.

Starns v. Malkerson: Granted the use of a one-year durational residence requirement to be eligible to obtain a less expensive tuition as a resident. The court found that a state could charge higher fees for nonresidents attending a college in that state.

Shapiro v. Thompson,
Vlandis v. Kline,
Memorial Hospital v. Maricopa County: All three of these cases established clearly that states could not require duration of residence as a requirement in fundamental political rights or when basic necessities of life are involved. These two areas are considered sacred by the courts and only in the rarest of cases will they permit any durational requirement to apply.

Vlandis v. Kline: In this case, as well as others, it was held that length of residence could be used as an objective test or reasonable and legitimate tool for determining the genuineness or bona fides of residence, when used for the administration of a program or for other compelling public interests.

The test is to determine if a state's interests outweigh the interests of the individual. As stated previously, in cases where the law relates to fundamental political rights or basic necessities the courts have applied strict scrutiny and normally will not let durational residence stand.

Zobel I, II, III: These court cases are perhaps the most widely known in Alaska because of the wide press coverage and notoriety they were afforded. Following are relevant opinions or other statements that bear on the use of durational residence as a requirement in law:

Justice Brennan said that the length of residence may be a valid test of the bona fides of residence or citizenship.

Justice Diamond in Zobel II provided some insight into the legitimacy of using length of residence as a fair measurement of hardships that might be caused by disrupting one's ties to the state and for instilling allegiance and attachments to the state.

The Supreme Court in Zobel III found that income distributed to the citizens of the state based on duration of residence, where the amount of reward was to be disbursed in set but different amounts solely on the basis of how long a person had resided in the state, was a violation of the Equal Protection Clause of the Constitution, where no compelling public interests were shown for those distinctions.

They found that rewarding citizens for prior contributions, real or intangible, was a violation of the Constitution; that citizens of one state shall enjoy the same privileges which citizens of another state enjoy; that freedom to travel between states and to receive benefits of citizenship must be preserved; that the Constitution does not allow differing degrees of citizenship or residence on the basis of length of residence; and that the business of a state is not with the past, but with the present.

A statement was made that sets the tone of the courts quite well: "The Constitution places the newest naturalized citizen from a foreign shore on equal footing as a citizen born here in America."

Noll v. Alaska Bar Association: This relatively recent Alaska Supreme Court decision found the use of any duration of residence in obtaining a license as an attorney to be unconstitutional. Further, in Ward v. Maryland, we found that "The Constitution secures and protects the right of a citizen of one state to pass into any other State of the Union for the purpose of engaging in lawful commerce, trade, or business; and to acquire personal property and hold real estate without molestation."

From the above statements we begin to see the mind of those entrusted with the interpretation of our Constitution. Though we may prefer to restrict our resources unto ourselves or occasionally bar someone from outside our state from receiving benefits or from participating in our market with his or her skills, surely we can see that, given challenge, the courts will require we show overriding public interests to be evident.

We are all citizens of the one great union. We can be different, we can compete for excellence and a better way of life; but we cannot discriminate one citizen from another.

Questions

What is residence?

Residence is a term often used in law to apply to persons who have established residence or domicile in a state and who have intentions to remain in that state on a permanent or long term basis.

When a person claims residence in one state he or she forfeits the right to claim residence in another state.

Residence requires that one be a citizen of the United States in normal application as used in the laws to distribute benefits or to hold public office, etc. It implies some degree of attachment and allegiance to the state one claims for his or her residence.

How can residence be used in state law?

First, residence is usually only one criterion or requirement used to determine eligibility for reward or benefit. It will be found as follows:

To seek and hold public office and membership on boards, etc.
To establish qualifications for citizens to receive in-state tuition.
To protect public and human resources.
To encourage new residents to settle in Alaska.
To share a part of the state's wealth.
To encourage the development of our industries or resources.
To qualify for housing, medical care, welfare, or other needs.
To encourage its citizens to seek an education.
To settle lands and distribute state lands to private ownership.
To assure protection for the public from quacks.
To measure by time in the state one's knowledge.
To disburse monies to the elderly.
To qualify for entry into one of our unique Pioneers' Homes.
Finally, to promote any other compelling public interest.

What is bona fide residence?

Bona fide residence is residence made in good faith. It is a very personal commitment that is difficult to attach a length of time to. It can occur the instant a person sets foot on Alaska soil, or it may occur months or years after one arrives.

Can we establish a duration that we can use?

Simple residence has been generally accepted to be 30 days or more. For voting and access to the basic necessities of life, no duration is normally permitted by the courts.

The probable duration that most courts will accept is no longer than one year, and that for cases where political rights or basic necessities are not involved. One year has held up for in-state student tuition and for divorces.

Are there acceptable durations beyond the one year mentioned above?

Some believe we can use varying durations so long as they are realistic requirements due to any compelling state interest. In Alaska the uses have generally been established without documented reasons and so far the courts have not upheld any duration beyond one year.

The state is holding to a view that two years of residence is necessary to test the bona fides of residence of persons securing student loans, and more for persons securing the fishing loans made available by the state. The justification is that these two groups of residents are more migratory than the average citizen of our state and, therefore, it takes two years to make an objective test of their intent to remain.

What are subjective and objective tests as applied to bona fides of residence?

A subjective test would simply be to ask the person if he or she is a citizen, and to look to other signs of attachment as well. Among these other signs are: registered to vote in Alaska; purchased or leased a home; enrolled his children in our schools; seeking public office; joining a church, clubs, or other societies; and licensing one's automobile.

An objective test would be to substitute a duration of residence as a measure of one's bona fides in lieu of asking directly. Where a state is administering programs to thousands of its citizens, it is unreasonable to try to contact each one individually, so the courts have permitted an objective test to be used.

What other requirements may be used to assure proper program administration?

First, it is well to say here that every state has a right to restrict some of its more costly benefits to its own bona fide citizens or residents. No state is expected to foot the bill for citizens from all over the USA. Each state is sovereign unto itself yet a part of the greater union of the United States of America.

Other requirements include professional qualifications, age, income level, handicap, experience in the field, local familiarity, creditability, veteran status, education, and, of course, always to be a U.S. Citizen.

FINDINGS AND RECOMMENDATIONS

Public Office

Findings: Substantial reasons exist to justify using terms of residence longer than one year in determining the qualifications for holding major public offices. Both the statutes and constitutional references are likely to be held in compliance with the U.S. Constitution.

Recommendation: Take no action at present.

Boards and Commissions

Findings: Substantial reasons exist to justify using terms of residence longer than one year in determining the qualifications for membership on the numerous state regulatory and advisory boards and commissions. Both the statutes and constitutional references are likely to be held in compliance with the U.S. Constitution.

Recommendation: Take no action at present.

Licenses

Findings: The courts have already ruled against the use of any duration of residence as a requirement for an attorney's license (Noll v. Bar Association). A thorough review of the records indicated little tolerance by the courts for the use of any specific length of residence that might bar the employment of an individual's occupational skill between different states.

The only occupational license not requiring residence is that for morticians; rather, it requires in-state apprenticeship for a duration of one year. In my review of the various cases on record, I concluded that the apprenticeship period probably was defensible.

Recommendations: Amend the statutes dealing with the occupations listed below, repealing the various residence requirements and making no substitutions:

Public Accountant (AS 08.04.280).
Attorney (Bar Rule 5(1)(a)).
Collection Agency (AS 08.24.110).
Master Guide (AS 08.54.100).
Registered Guide (AS 08.54.110).
Class A Assistant Guide (AS 08.54.120).
Assistant Guide (AS 08.54.140).
Transporter (AS 08.54.142).
Junk Dealer (AS 08.60.030).
Real Estate Broker and Salesman (AS 08.88.171).
Insurance Broker, Agent, and Solicitor (AS 21.27.090, AS 21.06.250, AS 21.27.220).

The in-state apprenticeship requirement for a Mortician License (AS 08.42.110) should be left in the law.

I recommend no change in the durational residence requirements for an Alcoholic Beverage License (AS 04.11.390) or a Resident Fish and Game License (AS 16.05.940).

Public Rights and Benefits

Findings: The 30-day requirement to vote in Alaska is constitutional.

The one-year residence requirement for annulling a marriage and participating in the low-cost housing and vocational substitution programs appears excessive. This is especially so for the Low-Cost Housing Preference Program which the courts would likely construe as a "basic necessity of life" wherein no durational residence requirement has ever been permitted by the courts. The one-year residence requirement for being able to claim an industrial incentive tax credit and bounties on animals are likewise excessive, but the point may be academic because neither of these programs have been active in years.

Recommendations: No change is necessary in the residence requirement for Voting (AS 15.05.010), unless the Committee chooses to substitute simple residence and require 30 days in which to handle the registration process.

The one-year residence requirement for Annulment of Marriage (AS 09.55.130), the Low-Cost Housing Preference Program (AS 18.55.330, .470(4)), and the Vocational Substitution Program (AS 39.25.155(g)) should be modified to simple residence.

In addition, the legislature should consider the repeal of the Industrial Incentive Tax Credit (AS 43.26.095(b)(3)) and Bounties for Certain Animals (AS 16.35.130).

Land Disposal Programs

Findings: Alaska is awaiting the court ruling on the Kenai Peninsula Borough's land disposal program, which may affect the state's land lottery and price discount programs.

The requirement of three years of residence immediately prior to participation in the Homesite Entry Program, or 20 years of earlier residence, clearly is not defensible. The Priority Clause, giving priority to persons having the longest residence, is also not defensible and most likely unconstitutional.

The one-year residence requirement for participating in the Remote Parcel Leasing Program appears to be constitutional.

Recommendations: No action should be taken on the residence requirements for Land Disposal by Lottery (AS 38.05.057(b)(2)) or the Price Discount Program (AS 38.05.058), pending the decision of the court in the Kenai case.

The durational residence requirement in the Homesite Entry Program (AS 38.08.030(a)(2)) should be amended to repeal the existing requirements and you should substitute residence of one year's duration. I recommend repeal of the priority clause (AS 38.08.040(b)).

The residence requirement for the Remote Parcel Leasing Program (AS 38.08.077(i)(2)) should be left alone.

Special Old Age Programs

Findings: The greatest problem concerning durational residence before the legislature this session is how to handle the very sensitive Alaska Longevity Bonus Program. The Vest v. Schaefer settlement reached last fall clearly mandates a change in how the program has been handled thus far. The questions surrounding this program involve much more than the requirements for durational residence. Policies on funding, extent of application, life of the program, and other matters require that this statute be given exclusive treatment as an issue and

not be lumped into the Omnibus Bill (Attachment 1) that we are proposing for the other statutory changes.

I would be pleased to work with the House on this matter, as I believe this issue will involve some hard administrative questions and not simply residence requirements.

I concur with former Attorney General Wilson Condon's assessment of the Pioneers' Home Program. The 15-year residence requirement is defensible and related to compelling public interest. The exceptional time is necessary to measure the exceptional attachments a resident must have to receive a room in the homes. A lesser duration would not apply in my judgement.

I believe that the one year of residence required to be eligible for the Senior Citizen Special Assessment Exemption is too close to the "basic necessity" question and would not hold up under challenge.

Similarly, I believe the 30-year residence requirement for exemption from fishing license requirements is too severe and probably unconstitutional.

Recommendations: I strongly recommend that the Alaska Longevity Bonus Program (AS 38.08.030(a)(2)) be set aside and dealt with as a single issue; with full participation from the public, both houses of the legislature, and the administration. The organizational and structural changes that are tied to whatever residence solution is found are totally intertwined.

I recommend no changes in the Pioneers' Home Program residence requirement statutes (AS 47.25.020(a), .035).

The Senior Citizen Special Assessment Exemption residence requirement (AS 29.63.065(d)(1)) should be amended to simple residence.

The 30-year residence requirement for obtaining a free license to fish (AS 16.05.400) should be amended to one year of residence.

Loan and Grant Programs

Findings: The various residence requirements in the state loan and grant programs are inconsistent and not well founded.

The fisherman's loan programs now require five-year durational residence and I can find nothing to support that length of time. A standard one-year period, however, may not serve as a bona fide test for fishermen due to their unusually migratory lifestyle. I agree with current efforts to set a two-year period as an objective test of bona fide residence and believe it will stand up under challenge.

The difference in the durational residence requirements for a veteran's loan (five years) and AHFC's 1% rate reduction to veterans (one year) is not well justified.

The Mining Business Loan and Memorial Scholarship Loan Fund do not stipulate durations of residence and I believe are satisfactory as written.

The two-year residence requirement for student loans and the point preference system based on number of years of residence are being litigated. The point preference system is clearly flawed.

Recommendations: I recommend changing the fishing loan program requirements (AS 16.10.680(a), .310(a); AS 44.81.220(a)(20)) from five years to two years.

The residence statute in the Veterans Loan Program (AS 26.15.130(1)) should be amended to replace the five-year requirement with a standard one-year requirement.

No changes should be made in the residence requirements for the Mining Business Loan (AS 27.09.020) or Memorial Scholarship Loan (AS 14.40.825(e)) programs.

The Student Loan Program residence requirement (AS 14.40.765(b)) should be left alone, pending court settlement. The point preference system (AS 14.40.767(a)(2)) should be done away with, and I recommend outright repeal.

The Educational Incentive Grant falls in the same category as the Student Loan Program and action should await the court decisions.

CLOSING STATEMENT

In closing, Mr. Chairman, permit me to say that I am prepared to work with Susan Burke, your staff, or anyone else to help prepare legislation needed to effect these statutory changes. I remain available at your call for hearings or other meetings you may require.

I am in the process of compiling the responses to our four questionnaires and will present a synopsis of the public input near the April 2, 1983 deadline for return specified in those forms.

I received only one set of the references used in this report, and since they are quite lengthy I will attach copies only to your report. Should any of the Committee members desire a copy, we will need to secure them from the Department of Law or make copies.

One of the requirements in my contract was to look at all the changes that would be necessary in present statutes and provide you with an overview of what additional costs and problems were evidenced in making these changes. At this time I see no significant costs or management problems should the Legislature agree with the actions we have recommended. I am certain that the final solution to fix the Longevity Bonus Program will involve major administrative and management considerations. Since this is the one program you have chosen to set aside to deal with by itself, I am prepared to work with whatever committee is given this responsibility. In many ways, that program is more in line with my background than the performance rendered thus far. I do have several germane ideas on alternative funding, and management of the program.

I have enjoyed working with you on this project, Mr. Chairman, and believe this effort will aid future legislators in their deliberation on residence-based matters.

Respectfully Submitted

William R. Hudson

March 28, 1983

APPENDIX I

TEN ALASKA LONGEVITY BONUS OPTIONS

Appendix I

TEN ALASKA LONGEVITY BONUS OPTIONS

From Jon K. Tillinghast Report Dated March 8, 1983

Alternatives submitted by the Administration and Jon Tillinghast to the Senate Judiciary Committee:

1) Expand the Alaska Longevity Bonus Program to include all elderly Alaskans with one year of residency. (Admin.)

2) Phase out the Alaska Longevity Bonus Program by gradually reducing the benefits. (Admin.)

3) Phase out the Alaska Longevity Bonus Program by gradually reducing benefits, while contemporaneously raising the eligibility limits for general state assistance. (Admin.)

4) Provide a minimal base payment under the Alaska Longevity Bonus Program based solely on one year of residency, with supplemental payments made on the basis of need. (Admin.)

5) Phase out the Alaska Longevity Bonus Program by increasing the age for eligibility each year. (Admin.)

6) Create an annuity plan, with the annuity corpus consisting of Permanent Fund distributions. This option would necessitate a transition program for persons 40 years and older. (J. T.)

7) Fund the Alaska Longevity Bonus Program through a "pay as you go" social security system, using approximately 25% of the existing Permanent Fund distribution. (J. T.)

8) Replace the Longevity Bonus Program with a comprehensive health insurance program for elderly Alaskans. (J. T.)

9) Condition eligibility for a longevity bonus upon a demonstration of hardship which would be suffered by being unable to continue Alaska residency. (J. T.)

10) Open the Alaska Longevity Bonus Program to all one-year residents, and terminate the program -- giving FY84 recipients a grandfather right to continued bonuses. (J. T.)

APPENDIX II

HUDSON CONTRACT

Contract Between

State of Alaska
Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811

and

William R. Hudson
3379 Meander Way
Juneau, Alaska 99801
phone 789-7376

CONTRACT AMOUNT $7,500.00

The parties to this agreement are the Legislative Affairs Agency on behalf of Representative Mitch Abood, Chairman, House Committee on State Affairs, hereinafter referred to as the "Agency," and William R. Hudson, hereinafter referred to as the "Consultant."

THE PURPOSE OF THIS AGREEMENT is to provide the Contractor with a thorough analysis of the numerous residency requirements that are now deemed to be, or suspected to be, unconstitutional with regards to State programs, along with proposed alternatives to make all such programs constitutional.

IT IS THEREFORE MUTUALLY AGREED THAT:

Clause I - Statement of Work

(a) The Consultant shall assemble all existing written materials on these numerous programs where residency requirements now exist, and display same in a format that can be easily understood and identified by specific topic.

The above display will be amplified to reflect current and projected costs; persons affected; policy affected; a statement of manageability and pertinent commentary on each.

(b) The Consultant shall seek input from representative individuals and groups that represent persons affected by the various laws or regulations surrounding these "residency required" programs.

(c) The Consultant shall present, in written form, a Final Report that shall reflect the existing program criteria and, where possible, changes to each program to make them constitutional, cost effective, manageable, and to the extent possible, preservative of original legislative intent.

(d) The Consultant will make himself available throughout the period of this contract for discussion, amplification of subject, alternatives proposed or other instructions, research, etc. requested by the Chairman of the House Committee on State Affairs on matters that pertain to subject programs.

(e) The Chairman of the House Committee on State Affairs shall provide the Consultant all reasonable and necessary administrative support such as secretarial, copy service, telephone use, and public documents that are required in this report.

(f) The Consultant will provide office space and supplies for the conduct of this contract.

(g) The Consultant shall assist the Chairman of the House Committee on State Affairs in the preparation of new legislation to affect the changes needed to make programs constitutional.

Clause II - Period and Dates of Performance

(a) The work under this contract shall be performed from March 1, 1983 to March 31, 1983.

(b) Unless extended by written agreement, this contract expires on March 31, 1983.

Clause III - Project Director

The Project Director shall be Representative Mitch Abood, Chairman of House Committee on State Affairs, acting on behalf of the Committee.

Clause IV - Compensation and Method of Payment

(a) For the work specified in this contract, the Consultant shall be paid a flat fee of $7,500.00, with 20% of the fee paid in advance, and the balance upon completion of the contract requirements as specified by the Chairman of the House Committee on State Affairs.

Clause V - Office Space, Equipment, Clerical Support

(a) Office space, equipment and clerical support of the Consultant that will be necessary to carry out his obligations under this contract shall be supplied as specified in Clause I of this contract.

Clause VI - Records, Documents, Audit

(a) The Consultant shall maintain accurate records as may be required by the Chairman of the House Committee on State Affairs. The records are subject to inspection by the Agency or by the Chairman of the House Committee on State Affairs at all reasonable times. All documents, reports and writings generated as a consequence of work done under this contract shall become the property of the State of Alaska and, on completion of the work or at the termination of this contract, shall be delivered to the (Agency/Chairman of the House Committee on State Affairs) for disposition under Rule 23 of the Uniform Rules of the Alaska State Legislature.

Clause VII - Disputes

(a) Any dispute arising about the terms or conditions of this contract shall be reduced to writing and delivered to the consultant. Every effort to dispose of any such disagreement by informal, reasonable means shall be undertaken.

(b) A dispute concerning a question of fact arising under this contract which is not disposed of by agreement between the Agency and the Consultant shall be decided by the Chairman of the House Committee on State Affairs; the decision shall be reduced to writing and delivered to the consultant at the address specified in Clause VIII, Paragraph (a) of this contract. The decision of the Chairman of the House Committee on State Affairs is final and conclusive.

Clause VIII - Termination

(a) This contract may be terminated by the Chairman of the House Committee on State Affairs at any time, upon delivery of written notice to the Consultant delivered to William Hudson, 3379 Meander Way, Juneau, Alaska 99801.

(b) If this contract is terminated, the Consultant shall be compensated for services provided under the terms of this contract to the date of termination if the Consultant provides the Agency and Chairman of the House Committee on State Affairs with a written report containing a description of any research or analyses performed, a statement of the result or conclusions formed based upon the research or analyses and a copy of all data acquired by the Consultant or his agents in conjunction with this contract.

Clause IX - Venue

(a) In the event that the parties to this contract find it necessary to litigate the terms of the contract, venue shall be the Superior Court of the State of Alaska, First Judicial District, at Juneau and the contract shall be interpreted according to the laws of Alaska.

Clause X - Assignment, Transfer and Subcontracting

(a) No assignment, transfer, or subcontracting of this contract may be made unless all parties agree in writing.

Clause XI - Reports

(a) The Consultant shall provide progress reports, either in writing or verbally, as requested by the Chairman of the House Committee on State Affairs and is reasonable within the short time frame of this contract.

Clause XII - Modifications and Previous Agreements

(a) This contract contains the entire agreement between the parties. A statement, promise, or inducement made by a party or an agent of a party is not valid or binding unless the statement promise, or inducement is contained in this written contract. This conract may not be enlarged, modified, or altered except upon written agreement signed by all parties to the contract.

Clause XIII - Certification

(a) Execution of this contract by the Executive Director of the Legislative Affairs Agency, or his designee, hereby constitutes a certification that funds have been appropriated and encumbered for the amount of this contract.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates noted.

CONSULTANT

W.R. Hudson 3/1/83

WILLIAM R. HUDSON Date
Ak Bus Lic No. 034043
SSN # 518-30-5617

PROJECT DIRECTOR

Rep Mitch Abood 3/2/83

REPRESENTATIVE MITCH ABOOD Date
CHAIRMAN, HOUSE COMMITTEE ON
STATE AFFAIRS

ALASKA STATE HOUSE OF REPRESENTATIVES

Joe L Hayes 3/1/83

REPRESENTATIVE JOE HAYES Date
SPEAKER OF THE HOUSE

LEGISLATIVE AFFAIRS AGENCY

M.R. Charney 3/4/83

MR. R. CHARNEY Date
EXECUTIVE DIRECTOR

Billy G Berrier 3/3/83

BILLY G. BERRIER Date
AGENCY LEGAL COUNSEL

APPENDIX III

RESIDENCE QUESTIONNAIRES

RESIDENCY QUESTIONNAIRE

GENERAL DISCUSSION:

Last year the United States Supreme Court heard arguments on the controversial Permanent Fund dividend distribution plan proposed by the Governor and the Legislature of Alaska (Zobel II & III).

That Court found the proposed legislation to be unconstitutional on several key grounds. First, the dividend plan violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, in that it would have distributed unequal dividends to citizens based soley on the number of years each citizen had resided in Alaska.

Secondly, the Supreme Court decision clearly stated that any reward or benefit that was based upon a citizen's contribution to his/her state made in past years, would be in conflict with the U.S. Constitution; regardless of whether that contribution was tangible or intangible.

Taking it one step further, the Court also ruled that no law is acceptable which acts as a bar to free travel between the States or that denies any citizen full access to every privilege or benefit afforded to another citizen.

Finally, the Court did allow that a State may extend certain benefits to its bona fide citizens when a reasonable public purpose for the benefit exists and is so stated in the law.

HOW THE SUPREME COURT DECISION ON THE PERMANENT FUND DIVIDEND AFFECTS OTHER ALASKAN PROGRAMS

Soon after the nationwide publicity and notoriety of the Supreme Court decision regarding residency requirements, attention was focused on numerous other Alaska statutes that contained durational residency requirements. There are currently 53 programs containing some kind of provision based on residency The most critical of these programs deals with key loan plans such as the Student Loan Program and Fisherman's loans as well as the twin pioneer's programs: the Alaska Longevity Bonus and the Pioneer's Home Program.

FACTORS TO CONSIDER

Every public program administered in Alaska is based on statutes established through the legislative process. Every statute should consider the following factors:

Does the program serve a valid public purpose?
Does it meet the test of law and does it conform to the constitutions of the United States and Alaska?
What are the long-term costs and other potential liabilities?

Some proof of residency is appropriate; however, it is generally-repeat-generally conceeded that one (1) year of residency constitutes a valid intent to remain in the state and to be a citizen of it.

Some state benefits or requirements may justify more than one year's residency, but it must be clearly proven that the public purpose is served by a residency requirement exceeding one year. Some benefits or privileges such as for driver's licenses, voting, etc. cannot be justified for even one year.

With this brief information in mind, will you now review the attached questionnaire and give us your ideas and answers. Please don't worry about using a handwritten response. As long as I can read it, all will be well. Use additional paper as you may require. Thank you for your comments.

ALASKA LONGEVITY BONUS

Currently, over 9,000 older Alaskans receive a $250 monthly bonus check, if they have continuously resided in the State for 25 years or more, are 65 years of age or older, and have established their first residency in the State on or before January 3, 1959 (Statehood).

A class-action suit filed by attorneys for Mr. Rodney Vest in the First Superior Court of Alaska charged that these requirements violated the constitutional rights of Mr. Vest and other older Alaskans. By mutual agreement, the court action has been suspended until the Alaska State Legislature can act during this current legislative session to correct this residency problem.

The Longevity Bonus Program in 1983 will cost the State of Alaska approximately $28 million dollars. If the 25-year pre-statehood provision is dropped, the program would add about 4,000 more older Alaskans to the current roles. That would in turn swell the yearly cost of the program from $28 million to almost $40 million.

Clearly, in light of the U.S. Supreme Court's decision regarding residency and the permanent fund dividend distribution program, the State of Alaska will have to drop its 25-year residency requirement. When this happens, the program will cost almost $12 million more to operate. Several serious questions need to be addressed.

QUESTIONS

1. Should we continue the longevity bonus program for all persons over the age of 65 who have lived in Alaska at least one year?

   Yes _____ No _____

2. Shall we attempt to phase out the program ?

   Yes _____ No _____

3. Should we establish a limit on the amount of money to be appropriated by the Legislature, and set the monthly bonus amount on total funds available, divided by the number of applicants?

   Yes _____ No _____

4. Would you support a new funding source? For example; if we were to use the permanent fund dividend monies as a funding source to establish a major new trust fund for the longevity bonus program. If it were properly invested, where the earnings (interest) could then be distributed to any citizen 65 years of age or older in whatever amounts were permitted by these earnings?

Yes _____ No _____

Comments: _____

_____

5. Other ideas or comments? _____

_____

_____

ALASKA PIONEER'S HOMES

Over 600 Alaskans can be housed in the five Pioneer's homes now currently operating in Alaska. A sixth home, to be built in Juneau, will add another 50 beds or more.

Current requirements call for an applicant to have resided in Alaska for 15 or more consecutive years. The Pioneer home program does not require a resident to be destitute, and it has no needs test.

Monthly costs for residents in the homes are $225 per month and $275 per month, depending on the level of care required. Costs to the state to provide the care have been stated as approximately $1,800 per month. Annual costs to the State now exceed $20 million dollars.

It is possible that the program as it is now administered, including the 15 year residency requirement may be all right , and left alone. We are leaning toward that position at this time. However, we should think about a fall back position, should the program be adversely affected or found to be at fault with the law.

QUESTIONS

1. Would you support the Pioneer's Home program if the one-year residency requirement is used?

   Yes _____ No _____

2. What priorities should be used, if the costs of the program were to increase dramatically because of the lower requirements?

   a. Only on physical need? Yes _____ No _____.

   b. Only serve the most needy? Yes _____ No _____.

   c. Serve all, regardless of needs; first come, first served?

   Yes _____ No _____

3. Should the low monthly costs to residents of the home continue as they are now?

   a. Yes _____ No _____

   or should we:

   b. Charge more? Yes _____ No _____

   c. Charge less? Yes _____ No _____

4. Any other ideas? _____

   _____

   _____

Thank you for your cooperation.

WE ASK YOU TO PLEASE RETURN THIS QUESTIONNAIRE TO US BEFORE

APRIL 2, 1983.

Send to: House State Affairs Committee
Pouch V
Juneau, Alaska 99811

STUDENT LOANS

A challenge to the student loan program which is currently under litigation (Andress v. Baxter); is the two (2) year durational residence required to be eligible for a loan of either $6,000 (undergraduates) or $7,000 (graduates) maximum each school year.

The student loan program was established in 1971 and since that time has issued over 35,000 loans with a current average per student/year of over $4,000. These loans carry a 5 per cent interest rate, to be repaid in 10 years, with one five-year extension available.

Added to this, is a significant forgiveness clause that can reduce an applicant's debt by up to 50 percent if he or she returns to Alaska or resides in our state for up to five years after graduation.

QUESTIONS

1. Do you support the Alaska Student Loan Program as it exists now?

   Yes _____ No _____

2. Do you believe it is good public policy to forgive or eliminate up to 1/2 of the total amount of the loan in return for having these students back in Alaska?

   Yes _____ No _____

3. Do you believe the five (5) percent interest rate on these loans is:

   Okay _____,

   Low _____

   High _____

   It should be _____ percent.

4. Since the two-year residency requirement is now being challenged in the courts, what should we do?

   a. Keep it as it is until the Courts act? Yes_____ No _____.

   b. Reduce the residency requirement to one year? Yes_____ No_____.

   c. Other alternative?_____

   _____

5. Please tell us what methods of control and administration you believe is needed and proper in administering these loans.

_____

_____

_____

Thank you for your cooperation.

WE ASK YOU TO PLEASE RETURN THIS QUESTIONNAIRE TO US BEFORE

APRIL 1, 1983.

Send to: House State Affairs Committee
Pouch V
Juneau, Alaska 99811

LAND DISPOSAL

Many Alaskans have always favored a liberal land distribution plan, and seem to favor some requirements and restrictions that are based on the length of residency.

The current Alaska land distribution plan has not yet been challenged in the courts, but it is indirectly under fire, since it is closely related to the Kenai land disposal plan, which is now under litigation.

QUESTIONS

1. Do you favor continuation of the distribution of public lands to Alaska citizens?

   Yes _____ No _____.

2. How would you like to see the land distributed? _____

   _____

   _____

3. Should the present discount plan be continued?

   Yes _____ No _____.

4. Since there may not be enough suitable land for everyone, what priorities do you favor?

   _____

   _____

   _____

Thank you for your cooperation.

WE ASK YOU TO PLEASE RETURN THIS QUESTIONNAIRE TO US BEFORE APRIL 2, 1983.

Send to: House State Affairs Committee
Pouch V
Juneau, Alaska 99811

FISHERMAN'S LOANS

Several low-interest loan plans now exist that were designed to foster the growth and development of our fisheries. Most of these loans have stipulated a five-year residency requirement.

QUESTIONS

1. Do you support loan plans as an incentive to develop a particular industry, such as fishing, mining, tourism, etc.?

   Yes _____ No _____

2. If the five-year residency is declared unconstitutional, what time period do you believe is a proper length of residency, given the migratory lifestyle of commercial fisherman?

   _____ Number of years

3. Please tell us what methods of control and administration you believe are needed and proper in administering these various fisheries loans?

   _____

   _____

   _____

Thank you for your cooperation.

WE ASK YOU TO PLEASE RETURN THIS QUESTIONNAIRE TO US BEFORE APRIL 2, 1983.

Send to: House State Affairs Committee
Pouch V
Juneau, Alaska 99811

ATTACHMENT 1

Attorney Burke's Report and Omnibus Bill

LAW OFFICES
GROSS & BURKE
A PROFESSIONAL CORPORATION
424 NORTH FRANKLIN STREET
JUNEAU, ALASKA 99801

AVRUM M. GROSS
SUSAN A. BURKE

(907) 586-2777

March 22, 1983

MEMORANDUM

TO: Honorable Mitch Abood
Chairman, House State Affairs Committee

FROM: Susan A. Burke SAB

RE: Residency Requirements

You have asked me to review the Alaska statutes that presently impose residency requirements and to recommend to the Committee the amendment or repeal of those residency requirements that more than likely would be held unconstitutional if challenged in court. You have also asked me to draft a statute defining "bona fide" residence. That draft is attached, along with comments.

In reviewing the residency requirements imposed under current law, I was primarily concerned with two questions -- first, whether it is constitutionally permissible to impose any kind of residency requirement having the effect of excluding nonresidents, and second where the statute imposes a durational residency requirement longer than 30 days, whether the period of residency specified is within

constitutional limits.[1] The statutes which contain residency provisions fall into several broad subject matter categories. Attached is a chart prepared by the Department of Law which lists all of the statutes containing residency requirements, with the statutes organized according to subject matter. The chart also includes an assessment of the constitutional problems, if any, presented by each statute. Rather than duplicate this work, I have used this chart as the basis for my review. The review will discuss the statutes listed in each subject matter category in the chart prepared by the Department of Law.

I. Residency Requirements for Eligibility to Hold Public Office

The durational residency requirements established for public office holding range from six months in the case of magistrates (AS 22.15.160(b)) to 10 years for members of the Judicial Qualifications Commission (Alaska Const. art IV, sec. 10; AS 22.30.010). Durational residency requirements for public

---

1/ In general, a person is entitled to claim residency in Alaska if the person is physically present in the state with the intent to remain here indefinitely and make a home here. With rare exceptions, a durational residency requirement will be valid only if it used as a way of testing whether the person actually has the necessary "residential" intent. For some programs, like welfare or medical care, and for fundamental rights such as voting, the state may impose only the shortest durational period necessary to make residency determinations. This period has been held to be no more than 30 days for voting and welfare. For other programs, as discussed below, a longer period of residency is permissible to require.

office holding have been challenged both in Alaska and elsewhere.[1a/] These durational residency requirements have almost universally been upheld (even fairly lengthy ones), on the theory that they are a legitimate way to measure whether a person has sufficient knowledge of local problems and concerns to be qualified for public office and to insure that the voters have had a sufficient period of time in which to become familiar with the candidate. This same rationale would apply with equal force to durational residency requirements imposed for eligibility to serve on certain boards and commissions. While some questions

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1a/ Gilbert v. State, 526 P.2d 1131 (Alaska 1974); Chimento v. Start, 414 U.S. 802 (1973).

might be raised as to the reasonableness of the length of residency required in a particular instance, it is probable that none would be struck down if challenged. I do not recommend that any amendments be made to these statutes.

II. Residency Requirements for Occupantional Licensing

With only a few exceptions, I agree with the conclusions contained in the Department of Law's survey as to the serious constitutional problems presented by the statutes which require persons to be residents in order to be licensed to engage in certain professions. The recent Alaska Supreme Court decision in Noll v. Alaska Bar Association, 649 P.2d 241 (Alaska 1982), makes it almost certain that these requirements would be struck down if challenged. Close review of the statutes, however, suggests that in some instances, the residency requirements may have been prompted by perfectly legitimate concerns -- such as the difficulty or added expense of disciplining nonresident practitioners. Further, it appears that in some instances residency requirements may have been imposed as a "quick" way of insuring that persons who practiced certain professions in the state had some degree of "local" knowledge. After Noll, it seems likely that even though these are legitimate problems, they may not be solved by simply barring nonresidents from licensure. By the same token, there may be ways of dealing with these problems that do not raise constitutional questions. For instance, in the case of disciplining nonresidents, a higher fee could be charged to nonresidents to

offset additional costs that may be associated with disciplining nonresidents. "Local knowledge" concerns could be addressed through additional testing procedures. In any event, despite the serious constitutional problems with these statutes, it may be undesirable simply to repeal the residency requirements without providing solutions to whatever problems may be posed by granting licenses to nonresidents. The Committee might want to consider repealing the residency requirements, but having a delayed effective date until perhaps June 30 of 1984. Persons who wish to recommend alternative ways of addressing the kinds of concerns I have suggested would then have time to bring their recommendations to the legislature next year before the repeal of the residency requirements took effect.

III. Public Rights and Benefits

A. General

I agree with the Department of Law's conclusion that a one year durational residency requirement for annulment of marriage may be unconstitutional, though I would rate this as "probably" rather than "maybe" unconstitutional. The Alaska Supreme Court in 1974 struck down a one year durational requirement for obtaining a divorce. State v. Adams, 522 P.2d 1125 (Alaska 1974). The state's interests in requiring one year residence to obtain an annulment of a marriage are more than likely identical to those advanced in support of the one year requirement for divorce. The court did not find

those interests sufficiently important to justify a one year requirement for divorce. Although the Alaska Supreme Court seems to be moving toward a much less restrictive view of durational residency requirements,[2/] it is unlikely that it would overrule its earlier decision in Adams, if the annulment statute were challenged. I would recommend that this statute be amended to require that a person simply be a resident.

I also agree with the Department's assessment of the other statutes listed in the "General" category, which impose one year durational requirements, and recommend that these statutes be amended to require that a person simply be a resident.

B. Loan and Grant Programs

The statutes governing the various loan programs impose durational residency requirements ranging from one to five years. I agree that the five year requirements are almost

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2/ In State v. Adams, 522 P.2d 1125, 1131 (Alaska 1974), the Alaska Supreme Court stated:

> . . . all such [durational residency] requirements are prima facie invalid and will be countenanced only when they serve a compelling state interest.

However, in Williams v. Zobel, 619 P.2d 448 (Alaska 1980) (permanent fund dividends), the court retreated from its earlier view in Adams, and indicated that unless the requirement affected fundamental rights (such as voting) or basic necessities of life (like welfare or medical care), the court would henceforth use a "balancing" approach to durational residency statutes. The importance of the state's interests will be weighed against the importance of the benefit denied or delayed by the durational requirement.

certainly unconstitutional.[3] The question is whether a durational requirement beyond 30 days would be constitutional, and if so, what is the maximum length that could be imposed within constitutional limits. Apart from public office holding, the United States Supreme Court has upheld durational residency requirements of up to one year in two cases -- eligibility for preferential resident tuition at state universities, and as a prerequisite to filing for divorce.[4] These cases were decided under the United States Constitution, and the Alaska Supreme Court may, and has, interpreted the Alaska Constitution in similar cases as imposing stricter requirements.[5] As noted above, the Alaska Supreme Court has until recently maintained the view that any durational residency requirement will be struck down unless the state can demonstrate that the requirement is necessary to further a compelling state interest. This is an extremely difficult burden to meet, and except in very rare instances it is an impossible burden. Because it appears that the Alaska court

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3/ A different question is presented by the five year local mining experience requirement for mining loans under AS 27.09.020. This may be a permissible requirement, particularly if it is demonstrated that it does not operate as a practical matter to exclude persons who are currently residents, but who gained their Alaska mining experience as nonresidents.

4/ Vlandis v. Kline, 412 U.S. 441 (1973) (university tuition); Sosna v. Iowa, 419 U.S. 393 (1975) (divorce).

5/ For example, the Alaska court struck down a one-year residency requirement for divorce under the Alaska constitution, State v. Adams, 522 P.2d 1125 (Alaska 1974). One year later the U.S. Supreme Court upheld an identical requirement in Iowa's statute. Sosna v. Iowa, supra, note 4.

is moving toward a less restrictive approach toward durational residency, our court would probably uphold durational residency requirements of reasonable length for loan programs.

Under this less restrictive approach, the Alaska Court would balance the state's interests in imposing a durational residency requirement for a state loan against the importance of the challenger's interest in obtaining a loan before the requirement had been met. In the case of the loan programs, the state's interest is in assuring that state funds are not used to benefit nonresidents. Since resident status depends in large part on a person's state of mind, it is extremely difficult to know with certainty whether a recent arrival in fact has the requisite "residential" intent, and it is extremely difficult to disprove a false claim of residency. Further, it is costly to require the state to make individualized determinations of residency. There are in most instances alternative sources of loan funds through commercial lenders, and it is likely that our court would find that the state's interest in assuring that its benefits are not granted to persons who are not bona fide Alaska residents outweigh the slight inconvenience that a newly arrived resident might suffer by having to wait for some period of time in order to qualify for a state loan.

A more difficult question is what period of residency would be permissible. The state is currently in litigation in the Federal District Court in Alaska, defending the two

year durational residency requirement under the student loan program. The state has argued that the two year requirement is reasonable in light of the transience of student populations, the generous loan amounts under the Alaska program and the fact that there is no requirement that the loan funds be used at an Alaska institution. The plaintiff in that case has conceded that a one year requirement would be reasonable. Assuming the Alaska Supreme Court continues in its present trend in durational residency cases, a one year durational residency requirement for the loan programs would more than likely be upheld.[6/] A two year requirement might be upheld, but it carries a much higher risk of being struck down than would a one year requirement. The Committee may want to defer proposing any amendments to the two year residency requirement for student loans until the pending litigation is resolved. The Committee may also want to defer action on the other loan programs until after the Alaska Supreme Court renders its decision on the one year residency requirement for participation in the Kenai land disposal lottery (Gilman v. Martin). That decision may provide some indication as to how our court would rule on a one year residency requirement for state loans.

6/ The one loan program for which a one year residency requirement would most likely not be upheld is the AHFC program for home mortgages -- at least as long as there continues to be a requirement that the loans will be made only for owner-occupied dwellings. As has been noted earlier in this memorandum, with rare exceptions, durational residency requirements may be used only as a way of measuring whether a person has the intent to remain in the state and make his or her home there. Purchasing a dwelling under a loan program requiring owner occupancy as a condition of the loan is such a strong indication that a person's claimed residential intent actually exists, that a court would most likely find that there was no valid state purpose in imposing an additional one year residency requirement.

I would, however, recommend that the sliding scale preference for accepting student loan applications that is based on years of residency be repealed, even though it has apparently never been applied. This provision is so similar to the dividend plan struck down in Zobel v. Williams that it is virtually certain to be struck down on the same constitutional grounds. On the other hand, the provisions of AS 14.40.763(j), providing for graduated forgiveness of portions of student loans based on continued residence in Alaska after graduation seem to be based on an entirely different rationale. Those provisions are not based on past residency, but seek to affect future behavior. Providing graduated loan forgiveness seems closely tied to the purpose of encouraging students to return to or remain in Alaska after they have received their educations. I believe that that provision would most likely be upheld if it were to be challenged, and that there is no need to repeal it because of constitutional vulnerability.

C. Land Disposal Programs

As mentioned above, the Alaska Supreme Court now has under consideration a case in which the Kenai land disposal program has been challenged. (Gilman v. Martin.) The Kenai ordinances governing its program are almost identical to the state's land lottery provisions in AS 38.05.057 and AS 38.05.058. Thus, the decision in Gilman will almost

certainly answer any constitutional questions that might be raised concerning the state's program. I agree with the assessment of the constitutional problems with these statutes contained in the Department of Law's chart. I believe that a one year residency requirement to participate in either the land lottery or the homesite entry program would probably be upheld. I have serious doubts about the constitutionality of the provision under which discounts of the purchase price are granted based on years of residency in the state. The committee may, however, wish to defer proposing amendments to this provision until after the decision in Gilman is rendered, since the residency based discounts are also at issue in that case.

D. Special Old Age Programs

I also agree with the assessment made by the Department of Law as to the durational residency requirements contained in the programs providing benefits or preferences to older residents of the state. With respect to the one year residency requirement for the senior citizen special assessment exemption under AS 29.63.065(d)(1), I have doubts about whether that requirement would be upheld, for the same reasons I outlined concerning a one year residency requirement for AHFC loans in footnote 6, above. A one year requirement for the senior citizen exemption from the fishing license requirement would probably be upheld; a 30 year requirement is clearly unconstitutional.

I also agree that the residency requirements for the longevity bonus are almost certainly unconstitutional. There are arguments that could be made in defense of the Pioneers' Home residency provisions, but it is far from certain that those requirements would be upheld. (The arguments in support of the Pioneers' Home residency requirements are contained in the November 26, 1982 opinion by Wilson Condon, a copy of which is among the Committee's files.) However, any recommendation as to how the residency requirements for these two programs might be amended to meet constitutional requirements necessarily has tremendous fiscal implications. The residency questions in these two programs are so intertwined with the structure and operation of the programs, that they cannot be dealt with separately, but can be addressed only as part of a total structural and operational review of those programs. That kind of review is, as I understand it, beyond the scope of the work that the Committee has asked me to perform.

SAB:yw

DRAFT
3/22/83
Susan A. Burke

A BILL

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA

* Section 1. AS 01.10 is amended by adding a new section to read:

Sec. 01.10.055. RESIDENCY. (a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make his or her home in the state.

(b) A person demonstrates the intent required under (a) of this section

(1) by maintaining his or her principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and

(2) by providing other proof of intent as may be required by law or regulation; including but not limited to proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

(c) A person who establishes residency in the state remains a resident during a period of absence from the state unless during the absence the person establishes or claims residency in another state, territory or country, or performs other acts or is absent under circumstances that are inconsistent with the intent [redacted] to remain a resident of this state.

[*Sec. 2 and following sections would contain amendments and repeals of specific residency provisions.]

RESIDENCY LEGISLATION

Comments to 3/22/83 Draft

This draft is intended to provide first a basic definition of residency. This definition is contained in section 1. The remaining sections of the draft would contain amendments to or repeals of the particular statutes containing residency provisions. These amendments will be prepared by the Legislative Affairs Agency.

The residency definition in section 1 of the draft is intended to be a very general definition. The basic definition is contained in subsection (a), and represents the constitutionally approved definition of the requirements for establishing residency, which largely depend on a person's state of mind. It is thus possible for a person to become a resident of Alaska the moment he or she first arrives. When the person wishes to apply for a state benefit, privilege or license, the only permissible inquiry the state may make is whether the person actually has the intent required to be a resident.

Subsection (b) addresses the question of how a person demonstrates that "residential intent." At a minimum a person must have resided in the state for 30 days. There are some state programs for which it is permissible to require a longer period of residence as proof of intent, and subsection (b) provides that particular statutes may impose longer durational periods. Subsection (b) also contemplates that some statutes or regulations will include specific proof requirements such as those contained in the permanent fund dividend statutes.

In other instances, such as driver's license applications, requiring elaborate proof would only bog down the bureaucracy.

Subsection (c) is intended to clarify the question of when a person loses Alaska residency by an absence from the state. As with subsection (b), it is contemplated that a more detailed listing of "allowable" absences would, where appropriate or necessary, be included in the statute governing a particular program or in regulations adopted to administer the program.

As with any draft, I would anticipate that it will need refinement as others review it and suggest possible "loopholes" that I may have overlooked in preparing the draft.

ATTACHMENT 2

Department of Law's List with Commentary

DRAFT

Norman C. Gorsuch
Attorney General

Ronald W. Lorensen
Deputy Attorney General

Robert M. Maynard
Assistant Attorney General
Oil and Gas-Juneau

December 10, 1982

Legislation to cure problems in residency

Of the numerous residency requirements that are probably or almost certainly unconstitutional, most of them can only be justified as an attempt to determine whether or not a person is a "bona fide" resident. Therefore, a general bona fide resident statute should be drawn up. If a durational requirement is to be used, it would be safest to use a period of no longer than one year as the outside limit. Otherwise, additional criteria such as voter's registration, drivers license, or similar indicia of residency could be used in this general provision.

The following list includes all residency requirements which we have previously said were more likely than not to be unconstitutional. Many of these requirements can be defended, although probably unsuccessfully. Therefore, they are prime candidates for legislative change.

LICENSES

The present statutes concerning occupational licenses contain many residency requirements. After Noll v. Alaska Bar

Association __ P.2d __, Op. no. 2546 (Alaska Supreme Court, August 13, 1982), it is clear that any residency requirement for licensure would almost certainly be struck down as unconstitutional. Therefore, the following requirements in the statutes and regulations should be eliminated with no new legislation concerning residency substituted in their place: public accountant (12 AAC 04.170); attorneys (Bar Rule 5(1)(a)); morticians (AS 08.42.110); guides (AS 08.54.100, AS 08.54.110, AS 08.54.120, AS 08.54.140, AS 08.54.142) (although the requirements of hunting experience are defensible); real estate brokers and salesmen (AS 08.88.171); and insurance solicitor (AS 21.27.220).

In eliminating these residency requirements, it may be possible in some instances to retain a residency requirement (or a bona fide residency requirement) as a means of distinguishing between the fees to be paid in order to be licensed. Those fees could only be justified, however, if they are directly related to the increased costs of monitoring the activities of out-of-state or nonresident licensees.

PUBLIC RIGHTS AND BENEFITS

General

Low-cost housing preference (AS 18.55.330, 470(4)); vocational substitution program (AS 39.25.115(g)). These two programs require a one-year durational residency requirement in order to qualify for the preference or the program. Instead, a bona fide residency requirement should be substituted.

To the extent that these programs can be seen to be similar to "welfare" or "basic necessities of life," even a one-year residency requirement would be challengable. Consequently, these two programs should have a bona fide residency test that does not have a durational residency element, but rather depends on other indicia of residency [such as election registration, short-term residency (i.e., 30 days), etc.].

Industrial incentive tax credits (AS 43.26.095(b)(3)); bounties for certain animals (AS 16.35.130). These two programs give preference to one-year residents or, concerning the bounties, one year's residence in the game unit. Both these programs are for all practical purposes not operating, and probably should be eliminated anyway. If they are decided to be continued

the requirements should be eliminated (although our chart of September shows the industrial incentive tax credit to be "probably" unconstitutional, it is not exactly clear to me what the basis of this unconstitutionality is).

LOAN AND GRANT PROGRAMS

The following loan programs contain five-year residency requirements which should be changed to a bona fide residency requirement: fisherman's mortgage program (AS 16.10.680(a)); commercial fishing loan (AS 16.10.310(a)); limited entry permit loans (AS 44.81.220(a)(20)); Alaska Housing Finance Corp. veterans preference (AS 18.56.101); veterans loans (AS 26.15.130(1)). Fishing loans may possibly be defensible with a residency requirement of up to two years because of special problems that would occur because of the transient nature of fisherman.

The Alaska student loan and the Alaska educational grant program have two-year residency requirements imposed by AS 14.40.765(b) and the application forms. This issue is presently being litigated in Andress v. Baxter, and probably should not be changed until that case is decided. Backup legislation should, however, be drafted for rapid action in case the court rules adversely during the upcoming legislative session. The

point preference system for loan applicants in AS 14.40.767, however, is unconstitutional and should be eliminated. This point system has never been utilized by the commission in any event.

LAND DISPOSAL PROGRAMS

Both the one-year residency requirement to qualify for the program and the 5% per year discount for each year of residency up to ten years (AS 38.05.057(b)(2) and .058) have both been challenged in Gilman v. Martin, a case before the Alaska Supreme Court. The court will almost certainly rule on these issues prior to or during the upcoming legislative session. Backup legislation for at least the 5% per year discount portion of the program should be drafted.

The homesite entry program requires three years residency in order to apply and gives an absolute priority to the longest resident. AS 38.08.030(a)(2), 040(b). These should be replaced with simple bona fide residency requirements.

SPECIAL OLD AGE PROGRAMS

The longevity bonus program (AS 47.45.010(a)); the pioneers' home program (AS 47.25.020(a), 035); and the senior

citizen exemption from fishing license requirement (AS 16.05.400) all require lengthy residency requirements as conditions for qualification. Although preference for senior citizens is not unconstitutional, attaching a lengthy residency requirement raises severe constitutional problems. The longevity bonus program has already been settled and requires immediate attention by the legislature. Although we are have ruled that the pioneers' home program is defensible, attention may be directed towards this program (although it is difficult to see how the program could be restructured without the residency requirements). The senior citizens exemption for the fishing license requirement could simply become a senior citizen program with the bona fide residency requirement.

RMM:mr

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 24, 1983

RECEIVED
FEB 28 1983

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

FEB 24 1983

Dear Speaker Hayes:

In your letter of February 10, 1983, you requested that I provide you an update on our analysis of [redacted]ts in the following areas: longevity bonus program and the settlement reached in Vest v. Schafer; the pioneers home program; requirements for registered guides; the student loan program and the case of Andress v. Baxter challenging the program; and the State land disposal programs in the case of Gilman v. Martin challenging various aspects of these programs.

PIONEER'S HOME PROGRAM

On November 26, 1982, this office issued a comprehensive opinion on the Pioneer's Home. Basically, the opinion concluded that although there were numerous, serious and potentially fatal attacks that could be mounted against the program, this office could defend the Pioneer's Home program if it was challenged. A copy of this opinion is attached to this letter.

STUDENT LOAN PROGRAM - ANDRESS V. BAXTER

The constitutionality of the two-year residence requirement for the student loan program was challenged in Andress v. Baxter. The briefing in the case is complete and we are waiting for the Federal District Court to set a date for oral argument. We are defending the two-year residency requirement and believe that it is a constitutional provision. We cannot, of course, guarantee that the court will agree with our position. A copy of our brief before the Federal District Court is attached.

STATE LAND DISPOSAL PROGRAM - GILMAN V. MARTIN

In Gilman v. Martin, a challenge was mounted against the Kenai Land Disposal program that contained features similar to the state land disposal program; namely, a one-year residency requirement for qualification, and discounts that increased based

on length of residency. The Alaska Supreme Court requested the state to file an amicus brief concerning those provisions. The state filed such a brief, defending the programs as being constitutional. A copy of that brief is attached. We also asked the court for an expedited decision, and the court granted our motion. We are waiting the Supreme Court's decision.

Since both the student loan program and the state land disposal program are in active litigation, I am constrained from giving a full and frank evaluation of the potential chances of success or failure in a written public document. I would, however, be pleased to give you or your staff a more detailed oral briefing of our views of these two cases if such a briefing would be helpful.

REQUIREMENTS FOR REGISTERED GUIDES

The Alaska Supreme Court has recently made it clear that residence requirements for occupational licensing are invalid under the privileges and immunities clause of the U.S. Constitution. Noll v. Alaska Bar Association, P2d (AK 1982). We therefore anticipate that the governor will soon introduce legislation deleting all these residence requirements including those for guides. However, the bill will leave local experience requirements unchanged.

LONGEVITY BONUS PROGRAM - VEST V. SCHAFER

The longevity bonus program presently requires that a person have resided in the state 25 years commencing prior to statehood in order to be eligible for the program. The constitutionality of that requirement was challenged in Vest v. Schafer and a settlement agreement was signed last August by our office, the plaintiff, and the Legislative Council. That agreement provides that the Council shall use its best efforts to secure legislation which treats equally all bona fide Alaska of the age of 65 or older. "Bona fide residents" are defined in the agreement as those who have resided in the state for one year. The settlement also states that any benefits enacted this session shall be retroactive to July 1, 1982 for the plaintiff and others in the class. If legislation which meets these criteria is passed, the suit will be dismissed. Again, since the program is the subject of litigation, a more thorough evaluation would be

inappropriate herein. I would be happy to meet with you or your staff to give a more detailed oral evaluation. A copy of the settlement agreement is attached.

Sincerely,

Norman C. Gorsuch
Attorney General

Enclosure

RM/NCG/rm

DURATIONAL RESIDENCE IN ALASKA

After an exhaustive review we have come up with the attached eight page table and accompanying appendix setting forth the durational residence requirements imposed by Alaska State law. The table is organized into three main parts, I PUBLIC OFFICE HOLDING, II LICENSES, and III PUBLIC RIGHTS AND BENEFITS. The five columns in the table speak for themselves. With respect to the column "Constitutional Problem" some explanation is required. If "No" appears under Constitutional Problem, it is the opinion of the Department of Law that the durational residence requirement is constitutionally sound. Where the word "Maybe" appears in that column, it is the opinion of the Department of Law that that durational residence requirement is also constitutionally sound; however, we believe that it is possible someone might initiate litigation challenging the requirement. Where the term "Probably" appears in the Constitutional Problem column, we believe there is more than a remote possibility a court might find this durational residence requirement unconstitutional. Where "Yes" appears in the Constitutional Problem column, we believe it is highly likely that a court would find the durational residence requirement unconstitutional.

Because of the Alaska Supreme Court's recent ruling in the case of Noll v. Alaska Bar Association, ___ P.2d ___, Op. No. 2546 (August 13, 1982), we have also included all residence requirements, whether durational or not, which apply to eligibility for entrance into regulated occupations in Alaska. After the Noll decision it would appear that any residence requirement for entrance into a regulated occupation in Alaska will be held unconstitutional except in the most unusual circumstances. 1

I PUBLIC OFFICE HOLDING

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING, IF APPLICABLE
A. General				
1. Governor	7 Years	Ak. Const. art. III, § 2	No	--
2. Lieutenant Governor	7 Years	Ak. Const. art. III, §§ 2 & 7	No	--
3. Board of Education Member	3 Years	AS 14.07.075	No	--
4. Legislator	3 Years	Ak. Const. art. II, § 2 AS 24.05.030	No	--
5. Supreme Court Justice	5 Years	AS 22.05.070	No	--
6. Court of Appeals Judge	5 Years	AS 22.07.040	No	--
7. Superior Court Judge	5 Years	AS 22.10.090	No	--
8. District Court Judge	5 Years	AS 22.15.160(a)	No	--
9. Magistrate	6 Months	AS 22.15.160(b)	No	--
10. Ombudsman	3 Years	AS 24.55.030	No	--
11. Borough Mayor	Up to 3 Years	AS 29.23.130(b)	No	--
12. Borough Assembly	Up to 3 Years	AS 29.23.050	No	--
13. City Mayor	Up to 3 Years	AS 29.23.250(a)	No	--
14. City Council	Up to 3 Years	AS 29.23.200(b)	No	--
15. Municipal Charter Commission	3 Years	AS 29.13.010	No	--

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING, IF APPLICABLE
B. Boards and Commissions other than Occupational Licensing Boards. There are 98 Boards and Commissions, other than Occupational Licensing Boards, which are a part of or affiliated with state government. There is a durational residence requirement for membership on seven of those boards and commissions. */				
1. Rural Affairs Commission	5 Years	AS 44.19.102	Maybe **/	None
2. Board of Fisheries	1 Year	AS 16.05.221 AS 16.05.940	No	--
3. Board of Game	1 Year	AS 16.05.221 AS 16.05.940	No	--
4. Judicial Qualifications Commission	10 years practice in Alaska	Ak. Const. art. IV, § 10 AS 22.30.010	Maybe **/	--
5. Municipal Bond Bank Authority	30 days (qualified voter)	AS 44.85 030	No	--
6. Personnel Board	30 days (qualified voter)	AS 39.25.060	No	--
7. Alaska Power Authority	30 days (qualified voter)	AS 44.83.020	No	--

*/ This list includes only boards and commissions which have express durational residency requirements. Many boards have ex officio members who must meet residency requirements for those offices or positions. These boards include:

(1) Alcohol Beverage Control Board (certain licensees); (2) Capital Site Planning Commission (borough mayors); (3) Coastal Policy Council (mayors, assembly and council members); (4) Code Revision Commission (members of legislature); (5) Citizens Advisory Commission on Federal Management Areas in Alaska (governor and other public officers); (6) Commission on Conference of the Law of the Sea (members of legislature); (7) Rural Development Council (members of legislature); (8) Teacher's Retirement Board (resident who is receiving retirement benefits); (9) Tourism Advisory Board (members of legislature); and (10) Governor's Commission on the Administration of Justice (judicial officers, legislators and municipal officials)

**/ It is difficult to imagine someone complaining about any possible constitutional problems here.

II. LICENSES

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN [illegible] PENDING, IF APPLICABLE
A. Occupational Licenses. The State of Alaska requires occupational licenses in [illegible] cupational areas. Residence requirements are imposed for the receipt of these licenses in seven of these occupational ar[illegible] sons set forth in Appendix A, we believe any residence requirement, even of zero durational length, will in most cases be [illegible] nal.				
1. Public Accountant	1 Year (rebuttable)	AS 08.04.280 12 AAC 04.170	Yes	None
2. Attorney	Residence	Bar Rule 5(1)(a)	Yes	Declared unconstitutional in Noll v. Alaska Bar Ass'n 8/13/82
3. Collection Agencies	1 Year, but non-resident may receive license on same basis as resident, except fee for branch offices is higher	AS 08.24.110 AS 08.24.370	No	- -
4. Morticians	1 Year in-state apprenticeship	AS 08.42.110	Yes	None
5. Guides				
Master Guide	Residence plus hunted 10 years	AS 08.54.100	Yes	None
Registered Guide	Resident	AS 08.54.1[illegible]	Yes	None
Class A Assistant Guide	20 years experience in guide district in which he is to be employed although not a specific residence requirement.	AS 08.54.120	Yes	None
Assistant Guide	Resident	AS 08.54.140	Yes	None
Transporter	Resident	AS 0854.14[illegible]	Yes	None

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING, IF APPLICABLE
Occupational Licenses (Cont.)				
6. Junk Dealer & Metal Scrapper	No resident requirement, but defines "resident" as present for one year.	AS 08.60.030	No	--
7. Real Estate Brokers and Salesmen	Resident	AS 08.88.171	Yes	None
8. Insurance Brokers, Agents and Solicitors				
Resident Insurance Salesmen or Broker (non residents can be licensed but may pay a higher fee)	1 year	AS 21.27.090 AS 21.06.250	No	-- --
Insurance Solicitor	1 year	AS 21.27.220	Yes	None
B. Other Licenses				
1. Alcoholic Beverage License	1 year	AS 04.11.390	Maybe	None
2. Resident Fish and Game License (resident license costs less than non-resident license)	12 consecutive months	AS 16.05.940	Maybe	None
III. PUBLIC RIGHTS AND BENEFITS				
A. General				
1. Voting	30 days	AS 15.05.~~510~~ .010 ?	No	--
2. Annullment of Marriage	1 Year	AS 09.55.130	Maybe	None

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING, IF APPLICABLE
C. Occupational Licensing Boards. There are 23 Occupational Licensing Boards in Alaska. There is a durational residence requirement for membership on eight of those Boards. They are listed below. Of the other 15, eight have no residence requirement whatsoever and seven require simple residence.				
1. Public Accounting Board	1 Year	AS 08.04.020	No	--
2. Board of Chiropractic Examiners	2 Years	AS 08.20.020	No	--
3. Board of Dental Examiners	5 Years	AS 08.36.010	Maybe */	None
4. State Board of Registration for Architects, Engineers, and Land Surveyors	3 Years	AS 08.48.031	No	--
5. Guide Licensing and Control Board	10 Years	AS 08.54.010	Maybe */	None
6. Board of Pharmacy	3 Years in-state practice although not a specific residence requirement	AS 08.80.010	No	--
7. Board of Examiners in Optometry	3 Years	AS 08.72.040	No	--
8. Board of Veterinary Examiners	5 Years in-state practice although not a specific residence requirement	AS 08.98.010	Maybe */	None

*/ It is difficult to imagine someone complaining about any constitutional problem here, however.

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING, IF APPLICABLE
General (Cont.)				
3. Low-Cost Housing Preference	1 Year	AS 18.55.330 AS 18.55.470(4)	Probably	None
4. Vocational Substitution Program	1 Year	AS 39.25.155(g)	Probably	None
5. Industrial Incentive Tax Credits	Depends on % of 1-year residents	AS 43.26.095(b)(3)	Probably	Program is for all practical purposes no longer operating.
6. Bounties for Certain Animals	1 year abode in Unit plus "continually maintained residence in the state . . ."	AS 16.35.130	Yes	The program is a dead letter because it has not been funded for several years.

B. Loan and Grant Programs. Approximately 41 loan programs are provided for under Alaska Statutes. 35 of these are currently active programs. Of these 35, seven have some sort of durational residency feature. The dormant programs are inactive because of lack of funding. The state has one grant program requiring a period of residency for eligibility.

1. Fisherman's Note and Mortgage Program	5 Years	AS 16.10.680(a)	Yes	AG opinion pending
2. Commercial Fishing Loan	5 Years	AS 16.10.310(a)	Yes	AG opinion pending
3. Limited Entry Permit Loans (CFAB)	5 Years	AS 44.81.220(a)(20)	Yes	Program inactive pending Court determination of legality of limited entry program in State v. Ostrosky.
4. Agriculture and Fishing Loan (CFAB)	1 Year	Board Policy	Maybe	None
5. Alaska Housing Finance Corp. One Percent Veterans' Housing Loan Rate Reduction	5 Years	AS 18.56.101	Yes	AG opinion 7/14/82 instructed agency not to enforce.
6. Veterans Loans	5 Years	AS 25.15.130(1)	Yes	Inactive because not currently funded.

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING, IF APPLICABLE
Loan and Grant Programs (Cont.)				
7. Mining Business Loans	Residency and 5 Years Mining Experience in State.	AS 27.09.020	Maybe	None
8. Memorial Scholarship Loan Fund	No durational requirement to apply. 1/5 loan forgiven for each year employed in specialized field in Alaska.	AS 14.40.825(c)	No	- - -
9. Student Loan Program				
(a) eligibility to apply	2 Years	AS 14.40.765(b)	Probably	Issue pending in Andress v. Baxter
(b) 1/10 forgiven for each year of residency after education up to 50% of loan.	- -	AS 14.40.763(i)	Maybe	May be covered by Gilman v. Martin which is now pending in Alaska Supreme Court
(c) Point Preference System for loan applicants	1 Point; 2-5 Years 2 Points; 5-10 Years 3 Points; 10+ Years	AS 14.40.767	Yes	Point system has not previously been utilized as Legislature has always funded all applicants.
10. Alaska Educational Incentive Grant	2 Years	Application form	Probably	Issue will be decided by result in Andress v. Baxter
C. Land Disposal Programs				
1. Land Disposal by Lottery	1 Year	AS 38.05.057(b)(2)	Maybe	Should be decided by Gilman v. Martin.
2. Land Purchase Price Discount Program	5% per year discount for each year of residency	AS 38.05.058	Probably	Should be decided by Gilman v. Martin.

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM	ACTION TAKEN OR PENDING IF APPLICABLE
Land Disposal Programs (Cont.)				
3. Homesite Entry Program	3 years (or 20 years of earlier residency) to apply	AS 38.08.030(a)(2)	Yes	AG opinion pending
	Priority given longest resident	AS 38.08.040(b)		
4. Remote Parcel Leasing Program	1 Year	AS 38.08.077(i)(2)	Maybe	Should be decided by Gilman v. Martin.
D. Special Old Age Programs				
1. Longevity Bonus Program	25 years and presence in State at or before statehood.	AS 47.45.010(a)	Yes	Issue Pending in Vest v. Schafer
2. Pioneers' Home Program	15 years immediately before application; or 30 years cumulative	AS 47.25.020(a) AS 47.25.035	Yes	None
3. Senior Citizen Special Assessment Exemption	12 months	AS 29.63.065(d)(1)	Maybe	None
4. Senior Citizen Exemption from Fishing License Requirement	30 years total residence	AS 16.05.400	Yes	None

Appendix A

The federal constitution's Privileges and Immunities Clause seeks to prevent discrimination against nonresidents, to further the concept of federalism, and to create a national economic unit. Shelv v. Alaska Bar Ass'n, 620 P.2d 640, 642 (Alaska 1980) ("Shelev"). Although the Clause does not preclude some disparity of treatment between residents and nonresidents, it does protect activities which are "fundamental rights": i.e., "basic and essential activities, interference with which would frustrate the purposes of the formation of the Union." Baldwin v. Fish & Game Comm'n, 436 U.S. 371, 388 (1978).

One such "fundamental right" is the right to engage in "common callings" and to pursue "ordinary livelihoods." Toomer v. Witsell, 334 U.S. 385, 403 (1948). This includes "professional occupations" Shelev, 620 P.2d at 643.

In order to discriminate against nonresidents when a fundamental right is involved, there must be: (1) some showing that nonresidents are "a peculiar source of the evil" which the residence requirement is meant to remedy; and (2) the discrimination against nonresidents must "bear a substantial relationship to the particular 'evil' they are said to present." Hicklin v. Orbeck, 437 U.S. 518, 526-527 (1978). For example, there cannot be less restrictive means to combat the problems attempted to be solved by the residency requirement. Shelev, 620 P.2d at 645.

A good example is the recent Alaska Supreme Court case Noll v. Alaska Bar Ass'n, ___ P.2d ___, Op. No. 2546 (August 13, 1982). In Noll, a nonresident challenged the constitutionality of Alaska Bar Rule 5(1)(a), which required that an applicant for admission to the state bar be domiciled in Alaska when he or she was actually admitted. The bar association argued that the residency requirement was needed:

(1) to assure the competency of the members of the bar;

(2) to assure familiarity with local practice and local issues;

(3) to facilitate service of process and communication with other attorneys; and

(4) to assure that members of the state bar are readily amenable to discipline and fee arbitration and are available for service on the committees that administer those procedures.

The Alaska Supreme Court rejected each and every reason offered. Although recognizing the legitimacy of those goals, the court either found these goals were not "substantial" enough to justify the discrimination, could be attained by other nondiscriminatory means, or were not furthered by the discrimination. As can be seen, this constitutional test is difficult to meet. Consequently, all residency requirements for occupational licensing are called into substantial doubt.

ATTACHMENT 3

U.S. Supreme Court Report on Zobel III

RONALD M. ZOBEL and PATRICIA L. ZOBEL, Appellants,

v

THOMAS WILLIAMS, Commissioner of Revenue, and ALASKA

— US —, 72 L Ed 2d 672, 102 S Ct —

[No. 80-1146]

Argued October 7, 1981. Decided June 14, 1982.

Decision: Alaska statute distributing income derived from state's natural resources to state's citizens in varying amounts based on length of each citizen's residency, held to violate equal protection clause.

SUMMARY

Alaska adopted a constitutional amendment establishing a fund into which the state must deposit at least 25 percent of its mineral income each year. The Alaska legislature enacted a dividend program to distribute annually a portion of the fund's earnings directly to the state's adult residents. Under the plan, each citizen 18 years of age or older would receive one dividend unit for each year of residency subsequent to 1959, the first year of statehood. Plaintiffs, residents of Alaska since 1978, brought suit challenging the dividend distribution plan. The Superior Court for Alaska's Third Judicial District granted summary judgment in favor of the plaintiffs, holding that the plan violated the rights of interstate travel and equal protection. The Supreme Court of Alaska reversed and upheld the statute (619 P2d 448).

On appeal, the United States Supreme Court reversed and remanded. In an opinion by BURGER, Ch. J., joined by BRENNAN, WHITE, MARSHALL, BLACKMUN, POWELL, and STEVENS, JJ., it was held that the Alaska dividend distribution plan violated the equal protection clause of the Fourteenth Amendment, since the state had shown no valid state interests which were rationally served by the distinction it made between citizens who established residency before 1959 and those who have become residents since then.

BRENNAN, J., joined by MARSHALL, BLACKMUN, and POWELL, JJ., concurred, expressing the view that the right to travel—or, more precisely, the federal interest in free interstate migration—was affected by the Alaska dividend-distribution law, and that this threat to free interstate migration provided an independent rationale for holding that law unconstitutional.

O'CONNOR, J., concurred in the judgment, expressing the view that the Alaska law should be measured against the principles implementing the privileges and immunities clause, and that this analysis supplies a needed foundation for many of the "right to travel" claims discussed in the court's prior opinions.

REHNQUIST, J., dissented, expressing the view that the Alaska distribution scheme was rationally based, and that the Fourteenth Amendment gives the federal courts no power to impose upon the states their view of what constitutes wise economic or social policy.

HEADNOTES

Classified to U.S. Supreme Court Digest, Lawyers' Edition

Constitutional Law § 326 — equal protection — benefits based on length of residency

1a-1c. A state statute by which a state distributes income derived from its natural resources to the adult citizens of the state in varying amounts, based on the length of each citizen's residency, violates the equal protection clause of the Fourteenth Amendment, where the state has shown no valid state interests which are rationally served by the distinction it makes between citizens who established residency before a certain year and those who have become residents since then, and where the only apparent justification for the retrospective aspect of the program, favoring established residents over new residents, is constitutionally unacceptable, the state's objective to reward citizens for past contributions not being a legitimate state purpose. (Rehnquist, J., dissented from this holding.)

Constitutional Law § 349 — privileges and immunities — benefits based on length of residency

2a, 2b. A state statute by which a state

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16A Am Jur 2d, Constitutional Law § 773
USCS, Constitution, 14th Amendment
US L Ed Digest, Constitutional Law § 326
L Ed Index to Annos, Domicil or Residence; Equal Protection of the Laws; Travel
ALR Quick Index, Equal Protection of Law; Travel
Federal Quick Index, Domicil and Residence; Equal Protection of the Laws; Travel

ANNOTATION REFERENCE

Federal constitutional right of interstate travel. 27 L Ed 2d 967

distributes income derived from its natural resources to the adult citizens of the state in varying amounts, based on the length of each citizen's residency, does not involve the kind of discrimination which the privileges and immunities clause of the United States Constitution (Art IV, § 2, cl 1) was designed to prevent, that clause being designed to insure to a citizen of one state who ventures into another state the some privileges which the citizens of the second state enjoy.

Constitutional Law § 316 — equal protection — unequal distribution of benefits — scrutiny

3. When a state distributes benefits unequally, the distinctions it makes are subject to scrutiny under the equal protection clause of the Fourteenth Amendment; generally, a law will survive that scrutiny if the distinction it makes rationally furthers a legitimate state purpose, but some particularly invidious distinctions are subject to more rigorous scrutiny.

Constitutional Law § 326 — equal protection — right to travel — residency requirements

4a, 4b. The right to travel protects persons against the erection of actual barriers to interstate movement and, when applied to residency requirements, protects new residents of a state from being disadvantaged because of their recent migration or from otherwise being treated differently from longer-term residents; in reality, right to travel analysis refers to little more than a particular application of equal protection analysis.

Statutes § 38.5 — invalidation of portion of statute — effect on validity of whole statute

5. Invalidation of a portion of a statute does not necessarily render the whole invalid unless it is evident that the legislature would not have enacted the legislation without the invalid portion; the United States Supreme Court need not speculate as to the intent of a state legislature where the legislation expressly provides that invalidation of any portion of the statute renders the whole invalid.

SYLLABUS BY REPORTER OF DECISIONS

After Alaska amended its Constitution to establish a Permanent Fund into which the State must deposit at least 25% of its mineral income each year, the state legislature in 1980 enacted a dividend program to distribute annually a portion of the Fund's earnings directly to the State's adult residents. Under the plan, each adult resident receives one dividend unit for each year of residency subsequent to 1959, the first year of Alaska's statehood. Appellants, residents of Alaska since 1978, brought an action in an Alaska state court challenging the statutory dividend distribution plan as violative of, inter alia, their right to equal protection guarantees. The trial court granted summary judgment in appellant's favor, but the Alaska Supreme Court reversed and upheld the statute.

Held: The Alaska dividend distribution plan violates the guarantees of the Equal Protection Clause of the Fourteenth Amendment.

(a) Rather than imposing any threshold waiting period for entitlement to dividend benefits or establishing a test of bona fides of state residence, the dividend statute creates fixed, permanent distinctions between an ever-increasing number of classes of concededly bona fide residents based on how long they have lived in the State. Sosna v. Iowa, 419 US 393, 42 L Ed 2d 532, 95 S Ct 553; Memorial Hospital v Maricopa County, 415 US 250, 39 L Ed 2d 306, 94 S Ct 1076; Dunn v Blumstein, 405 US 330, 31 L Ed 2d 274, 92 S Ct 995; and Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322, distinguished. When a state distributes benefits unequally, the distinctions it makes are subject to scrutiny under the Equal Protection Clause, and generally a law will survive that scrutiny if the distinctions rationally further a legitimate state purpose.

(b) Alaska has shown no valid state interests that are rationally served by the distinctions it makes between citizens who established residence before 1959 and those who have become residents since then. Neither the State's claimed interest in creating a financial incentive for individuals to establish and maintain residence in Alaska nor its claimed interest in assuring prudent management of the Permanent Fund is rationally related to such distinctions. And the State's interest in rewarding citizens for past contributions is not a legitimate state purpose. Alaska's reasoning could open the door to state apportionment of other rights, benefits, and services according to length of residency, and would permit the states to divide citizens into expanding numbers of permanent classes. Such a result would be clearly impermissible.

619 P2d 448, reversed and remanded.

Burger, C. J., delivered the opinion of the Court, in which Brennan, White, Marshall, Blackmun, Powell, and Stevens, JJ., joined. Brennan, J., filed a concurring opinion, in which Marshall, Blackmun, and Powell, JJ., joined. O'Connor, J., filed an opinion concurring in the judgment. Rehnquist, J., filed a dissenting opinion.

APPEARANCES OF COUNSEL

Mark A. Sandberg argued the cause for appellants.

Avrum M. Gross argued the cause for appellees.

OPINION OF THE COURT

Chief Justice Burger delivered the opinion of the Court.

[1a] The question presented on this appeal is whether a statutory scheme by which a State distributes income derived from its natural resources to the adult citizens of the State in varying amounts, based on the length of each citizen's residence, violates the equal protection rights of newer state citizens. The Alaska Supreme Court sustained the constitutionality of the statute. Williams v Zobel, 619 P2d 448 (Alaska 1980). We noted probable jurisdiction and stayed the distribution of dividend funds, 450 US 908 (1981), 67 L Ed 2d 331, 101 S Ct 1344. We reverse.

I

The 1967 discovery of large oil reserves on state-owned land in the Prudhoe Bay area of Alaska resulted in a windfall to the State. The State, which had a total budget of $121 million in 1969, before the oil revenues began to flow into the state coffers, received $3.7 billion in petroleum revenues during the 1981 fiscal year.[1] This income will continue, and most likely grow for some years in the future. Recognizing that its mineral reserves, although large, are finite and that the resulting income will not continue in perpetuity, the State took steps to assure that its current good fortune will bring long-range benefits. To accomplish this, Alaska in 1976 adopted a constitutional amendment establishing the

1. Alaska Department of Revenue, Revenue Sources FY 1981-1983 (1981). Includes General Fund unrestricted petroleum revenues of $3.3 billion and petroleum revenues directly deposited in the Permanent Fund in the amount of $400 million. An additional $900 million was transferred from the General Fund to the Permanent Fund in the 1981 fiscal year.) The 1980 census reports that Alaska's adult population is 270,276, so that its 1981 oil revenues amount to $13,652 for each adult resident. Petroleum revenues also amount to 89% of the State's total revenue. Ibid.

Permanent Fund into which the State must deposit at least 25% of its mineral income each year. Alaska Const, Art IX, § 15. The amendment prohibits the legislature from appropriating any of the principal of the fund but permits use of the fund's earnings for general governmental purposes.

In 1980, the legislature enacted a dividend program to distribute annually a portion of the Fund's earnings directly to the State's adult residents. Under the plan, each citizen 18 years of age or older receives one dividend unit for each year of residency subsequent to 1959, the first year of statehood. The statute fixed the value of each dividend unit at $50 for the 1979 fiscal year; a one-year resident thus would receive one unit, or $50, while a resident of Alaska since it became a State in 1959 would receive 21 units, or $1,050. The value of a dividend unit will vary each year depending on the income of the Permanent Fund and the amount of that income the State allocates for other purposes. The State now estimates that the 1985 fiscal year dividend will be nearly four times as large as that for 1979.

Appellants, residents of Alaska since 1978, brought this suit in 1980 challenging the dividend distribution plan as violative of their right to equal protection guarantees and their constitutional right to migrate to Alaska, to establish residency there and thereafter to enjoy the full rights of Alaska citizenship on the same terms as all other citizens of the State. The Superior Court for Alaska's Third Judicial District granted summary judgment in appellants' favor, holding that the plan violated the rights of interstate travel and equal protection. A divided Alaska Supreme Court reversed and upheld the statute.[2]

II

[1b] The Alaska dividend distribution law is quite unlike the durational residency requirements we examined in Sosna v Iowa, 419 US 393, 42 L Ed 2d 532, 95 S Ct 553 (1975); Memorial Hospital v Maricopa County, 415 US 250, 39 L Ed 2d 306, 94 S Ct 1076 (1974); Dunn v Blumstein, 405 US 330, 31 L Ed 2d 274 92 S Ct 995 (1972); and Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322 (1969). Those cases involved laws which required new residents to reside in the State a fixed minimum period to be eligible for certain benefits available on an equal basis to all other residents.[3] The asserted purpose of the durational residency requirements was to assure that only persons who had established bona fide residence received rights and benefits provided for residents.

The Alaska statute does not impose any threshold waiting period on those seeking dividend benefits; persons with less than a full year of residency are entitled to share in the distribution. Alaska Stat § 43.23.010.[4] Nor does the statute purport to establish a test of the bona fides of state residence. Instead, the dividend statute creates fixed, permanent distinctions between an ever increasing number of perpetual classes of concededly bona fide residents, based on how long they have been in the State.

[2a] Appellants established residence in Alaska two years before the dividend law was passed. The distinction they complain of is not one which the State makes between those who arrived in Alaska after the enactment of the dividend distribution law and those who were residents prior to its enactment. Appellants instead challenge the distinctions made within the class of persons who were residents when the dividend scheme was enacted in 1980. The distinctions appellants attack include the preference given to persons who were residents when Alaska became a State in 1959 over all those who have arrived since then, as well as the distinctions made between all bona fide residents who settled in Alaska at different times during the 1959 to 1980 period.[5]

[3, 4a] When a State distributes benefits unequally, the distinctions it makes are subject to scrutiny under the Equal Protection Clause of the Fourteenth Amendment.[6] Generally,

2. The infusion of Permanent Fund earnings into state general revenues also led the Alaska legislature to enact a statute giving residents a one-third exemption from state income taxes for each year of residence; this operated to exempt entirely anyone with three or more years of residency. The Alaska Supreme Court again by a 3-2 vote, held that this statute violated the State Constitution's equal protection clause. Williams v Zobel, 619 P2d 422 (Alas 1980). Chief Justice Rabinowitz, the only justice in the majority in both cases, found that the tax exemption statute, but not the dividend distribution plan, could "be perceived as a penalty imposed on a person who chooses to exercise his or her right to move into Alaska." 619 P2d, at 458.

3. In the durational residency cases, we examined state laws which imposed waiting periods on access to divorce courts, Sosna v Iowa, supra; eligibility for free nonemergency medical care, Memorial Hospital v Maricopa County, supra; voting rights, Dunn v Blumstein, supra; and welfare assistance, Shapiro v Thompson, supra.

4. Section 43.23.010(b) provides:

"For each year, an individual is eligible to receive payment of the permanent fund dividends for which he is entitled under this section if he

(1) is at least 18 years of age; and

(2) is a state resident during all or part of the year for which the permanent fund dividend is paid.

The remainder of § 43.23.010 establishes the number of dividend units residents are entitled to receive and the method of payment. Section 43.23.010(c) provides that a resident entitled to benefits under subsection (b) who was a resident for less than a full year is entitled to a dividend prorated on the basis of the number of months of state residence.

5. The Alaska statute does not simply make distinctions between native born Alaskans and those who migrate to Alaska from other states; it does not discriminate only against those who have recently exercised the right to travel, as did the statute involved in Shapiro v Thompson, supra. The Alaska statute also discriminates among long-time residents and even native born residents. For example, a person born in Alaska in 1962 would have received $100 less than someone who was born in the State in 1960. Of course the native Alaskan born in 1962 would also receive $100 less than the person who moved to the State in 1960.

[2b] The statute does not involve the kind of discrimination which the Privileges and Immunities Clause of Art IV was designed to prevent. That Clause "was designed to insure to a citizen of State A who ventures into State B the same privileges which the citizens of State B enjoy." Toomer v Witsell, 334 US 385, 395, 92 L Ed 1460, 68 S Ct 1156 (1948). The Clause is thus not applicable to this case.

6. [4b] The Alaska courts considered whether the dividend distribution law violated appellants' constitutional right to travel. The right to travel and to move from one state to another has long been accepted, yet both the nature and the source of that right has remained obscure. See Jones v Helms, 452 US 412, ——, —— and nn 12 and 13, 69 L Ed 2d 118, 101 S Ct 2434 (1981). Shapiro v Thompson, supra, 394 US, at 629-631, 22 L Ed 2d 600, 89 S Ct 1322; United States v Guest, 383 US 745, 757-759, 16 L Ed 2d 239, 86 S Ct 1170 (1966). See also Z. Chafee, Three Human Rights in the Constitution of 1787 111

973), we noted that "apportionment] of tuition rates on the basis f old and new residency . . . would ive rise to grave problems under ie Equal Protection Clause of the ourteenth Amendment." 412 US, at 49–450 and n 6, 37 L Ed 2d 63, 93 S t 2230.[10]

If the States can make the amount a cash dividend depend on length residence, what would preclude rying university tuition on a slid- g scale based on years of residence or even limiting access to finite ublic facilities, eligibility for stu- nt loans, for civil service jobs, or r government contracts by length domicile? Could States impose dif- rent taxes based on length of resi- ence?" Alaska's reasoning could pen the door to state apportion- ent of other rights, benefits and rvices according to length of resi- ency.[11] It would permit the states to vide citizens into expanding num- rs of permanent classes.[12] Such a result would be clearly impermissible.[13]

B

[5] We need not consider whether the State could enact the dividend program prospectively only. Invalidation of a portion of a statute does not necessarily render the whole invalid unless it is evident that the legislature would not have enacted the legislation without the invalid portion. Buckley v Valeo, 424 US 1, 108, 46 L Ed 2d 659, 96 S Ct 612 (1976); United States v Jackson, 390 US 570, 585, 20 L Ed 2d 138, 88 S Ct 1209 (1968); Champlin Rfg. Co. v Commission, 286 US 210, 234, 76 L Ed 1062, 52 S Ct 559 (1932). Here, we need not speculate as to the intent of the Alaska legislature; the legislation expressly provides that invalidation of any portion of the statute renders the whole invalid:

"Sec 4. If any provision enacted in sec 2 of this Act [which included the dividend distribution plan in its entirety] is held to be invalid by the final judgment, decision or order of a court of competent jurisdiction, then that provision is nonseverable, and all provisions enacted in sec 2 of this Act are invalid and of no force or effect."

1980 Alaska Sess Laws Chap 21, § 4. However, it is of course for the Alaska courts to pass on the severability clause of the statute.

III

[1c] The only apparent justification for the retrospective aspect of the program, "favoring established residents over new residents," is constitutionally unacceptable. Vlandis v Kline, supra, 412 US, at 450, 37 L Ed 2d 63, 93 S Ct 2230. In our view Alaska has shown no valid state interests which are rationally served by the distinction it makes between citizens who established residence before 1959 and those who have become residents since then.

We hold that the Alaska dividend distribution plan violates the guarantees of the Equal Protection Clause of the Fourteenth Amendment. Accordingly, the judgment of the Alaska Supreme Court is reversed and the case is remanded for further proceedings not inconsistent with this opinion.

Reversed and Remanded.

SEPARATE OPINIONS

Justice Brennan, with whom Justice Marshall, Justice Blackmun, and Justice Powell join, concurring.

I join the opinion of the Court, and agree with its conclusion that the retrospective aspects of Alaska's dividend-distribution law are not rationally related to a legitimate state purpose. I write separately only to emphasize that the pervasive discrimination embodied in the Alaska distribution scheme gives rise to constitutional concerns of somewhat larger proportions than may be evident on a cursory reading of the Court's opinion. In my view, these concerns might well preclude even the prospective operation of Alaska's scheme.

I

I agree with Justice O'Connor that these more fundamental defects in the Alaska dividend-distribution law are, in part, reflected in what has come to be called the "right to travel."[1] That right—or, more precisely, the federal interest in free interstate migration—is clearly, though indirectly, affected by the

10. Even if the objective of rewarding past ntributions were valid, it would be ironic to ply that rationale here. As Representative ndolph noted during debate in the state gislature on the dividend statute.

he pipeline is the entity that has allowed all this latitude to do all the things we're nsidering doing, not only today but throughout the session. And without . . . newcomers, couldn't have built that pipeline . . . . ithout their skill, without their money, the peline wouldn't be there. So I get a little bit ed of—and I've got a bunch and awful lot people who have been here five or six or ven or ten years, whatever we knock off as wcomers, get a little bit tired of being astized and penalized and discriminated nust for having not been born here or not en here 30 or 40 or 50 years."

11. Apportionment would thus be prohibited only when it involves "fundamental rights" and services deemed to involve "basic necessities of life." See Memorial Hospital v Maricopa County, supra, 415 US, at 259, 39 L Ed 2d 306, 94 S Ct 1076.

12. "Such a power in the States could produce nothing but discord and mutual irritation, and they very clearly do not possess it." The Passenger Cases, 7 How 283, 492, 12 L Ed 702 (1849) (Chief Justice Taney, dissenting).

13. Starns v Malkerson, 326 F Supp 234 (D Minn 1970), affirmed, 401 US 985, 28 L Ed 2d 537, 91 S Ct 1231 (1971) cannot be read as a contrary decision of this Court. First, summary affirmance by this Court is not to be read as an adoption of the reasoning supporting the judgment under review. Fusari v Steinberg, 419 US 379, 391, 42 L Ed 2d 521, 95 S Ct 533 (1975) (concurring opinion). See also Colorado Springs Amusement Ltd. v Rizzo, 423 US 913, 920–921, 49 L Ed 2d 1222, 96 S Ct 3228 (1976) (Brennan, J., dissenting); Edelman v Jordan, 415 US 651, 671, 39 L Ed 2d 662, 94 S Ct 1347 (1974). Moreover, as we pointed out in Vlandis v Kline, supra, at 452–453, n 9, 37 L Ed 2d 63, 93 S Ct 2230, we considered the Minnesota one-year residency requirement examined in Starns a test of bona fide residence, not a return on prior contributions to the commonweal.

1. What is notably at stake in this case, and what clearly must be taken into account in determining the constitutionality of this legislative scheme, is the *national* interest in a fluid system of interstate movement. It may be that national interests are not always easily translated into individual rights, but where the "right to travel" is involved, our cases leave no doubt that it will trigger intensified equal protection scrutiny. See, e.g., Memorial Hospital v Maricopa County, 415 US 250, 39 L Ed 2d 306, 94 S Ct 1076 (1974); Dunn v Blumstein, 405 US 330, 31 L Ed 2d 274, 92 S Ct 995 (1972); Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322 (1969). As the Court notes, the "right to travel" is implicated not only by "actual barriers to interstate movement," but by "state distinctions between newcomers and longer-term residents." Ante, at [illegible] n 6, 72 L Ed 2d 677, 678.

law will survive that scrutiny if he distinction it makes rationally urthers a legitimate state purpose. ome particularly invidious distinc- ons are subject to more rigorous crutiny. Appellants claim that the istinctions made by the Alaska law hould be subjected to the higher vel of scrutiny applied to the dura- onal residency requirements in hapiro v Thompson, supra and Me- orial Hospital v Maricopa County, upra. The State, on the other hand, serts that the law need only meet he minimum rationality test. In ny event, if the statutory scheme annot pass even the minimal test roposed by the State, we need not ecide whether any enhanced scru- ny is called for.

A

The State advanced and the laska Supreme Court accepted ree purposes justifying the distinc- tions made by the dividend program: (a) creation of a financial incentive for individuals to establish and maintain residence in Alaska; (b) encouragement of prudent manage- ment of the Permanent Fund; and (c) apportionment of benefits in rec- ognition of undefined "contributions of various kinds, both tangible and intangible, which residents have made during their years of resi- dency," 619 P2d, at 458.[7]

As the Alaska Supreme Court apparently realized, the first two state objectives—creating a financial incentive for individuals to establish and maintain Alaska residence, and assuring prudent management of the Permanent Fund and the State's natural and mineral resources—are not rationally related to the distinctions Alaska seeks to make between newer residents and those who have been in the State since 1959.[8] Assuming arguendo that granting increased dividend benefits for each year of continued Alaska residence might give some residents an incentive to stay in the state in order to reap increased dividend benefits in the future, the State's interest is not in any way served by granting greater dividends to persons for their residency during the 21 years prior to the enactment.[9]

Nor does the State's purpose of furthering the prudent management of the Permanent Fund and the state's resources support retrospective application of its plan to the date of statehood. On this score the state's contention is straightforward:

> "[A]s population increases, each individual share in the income stream is diluted. The income must be divided equally among increasingly large numbers of people. If residents believed that twenty years from now they would be required to share permanent fund income on a per capita basis with the large population that Alaska will no doubt have by then, the temptation would be great to urge the legislature to provide immediately for the highest possible return on the investments of the permanent fund principal, which would require investments in riskier ventures."

Williams v Zobel, supra, 619 P2d, at 462. The State similarly argues that equal per capita distribution would encourage rapacious development of natural resources. Ibid. Even if we assume that the state interest is served by increasing the dividend for each year of residency beginning with the date of enactment, is it rationally served by granting greater dividends in varying amounts to those who resided in Alaska during the 21 years prior to enactment? We think not.

The last of the State's objectives—to reward citizens for past contributions—alone was relied upon by the Alaska Supreme Court to support the retrospective application of the law to 1959. However, that objective is not a legitimate state purpose. A similar "past contributions" argument was made and rejected in Shapiro v Thompson, supra, 394 US, at 632-633, 22 L Ed 2d 600, 89 S Ct 1322:

> "Appellants argue further that the challenged classification may be sustained as an attempt to distinguish between new and old residents on the basis of the contributions they have made to the community through the payment of taxes. . . . Appellant's reasoning would permit the State to apportion all benefits and services according to the past tax [or intangible] contributions of its citizens. *The Equal Protection Clause prohibits such an apportionment of state services.*" (Emphasis added.)

Similarly, in Vlandis v Kline, 412 US 441, 37 L Ed 2d 63, 93 S Ct 2230

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956). In addition to protecting persons ainst the erection of actual barriers to in- state movement, the right to travel, when plied to residency requirements, protects w residents of a state from being disadvan- ed because of their recent migration or em otherwise being treated differently from nger-term residents. In reality, right to avel analysis refers to little more than a rticular application of equal protection alysis. Right to travel cases have examined, equal protection t os, state distinctions tween newcomers and longer-term resi- nts. See Memorial Hospital v Maricopa unty, supra; Dunn v Blumstein, supra; Sha- ro v Thompson, supra. This case also in- olves distinctions between residents based on hen they arrived in the State and is there- re also subject to equal protection analysis.

7. These purposes were enumerated in the st section of the act creating the dividend tribution plan, 21 Alaska Sess Laws § 1(b):
"(b) The purposes of this Act are
(1) to provide a mechanism for equitable stribution to the people of Alaska of at least portion of the State's energy wealth derived from the development and production of the natural resources belonging to them as Alaskans;
(2) to encourage persons to maintain their residence in Alaska and to reduce population turnover in the state; and
(3) to encourage increased awareness and involvement by the residents of the state in the management and expenditure of the Alaska permanent fund (art IX, sec 15, state constitution)."
Thus we need not speculate as to the objectives of the legislature.

8. In response to the argument that the objectives of stabilizing population and encouraging prudent management of the Permanent Fund and of the State's natural resources did not justify the application of the dividend program to the years 1959 to 1980, the Alaska Supreme Court maintained that the retrospective aspect of the program was justified by the objective of rewarding state citizens for past contributions. 619 P2d, at 461-462 n 37. See also dissenting opinion of Justice Dimond, 619 P2d, 469-471.

9. In fact, newcomers seem more likely to become dissatisfied and to leave the State than well-established residents, it would thus seem that the State would give a larger, rather than a smaller, dividend to new residents if it wanted to discourage emigration. The separation of residents into classes hardly seems a likely way to persuade new Alaskans that the State welcomes them and wants them to stay.

Of course, the State's objective of reducing population turnover cannot be interpreted as an attempt to inhibit migration into the State without encountering insurmountable constitutional difficulties. See Shapiro v Thompson, supra, 394 US, at 629, 22 L Ed 2d 600, 89 S Ct 1322.

Alaska dividend-distribution law, and this threat to free interstate migration provides an independent rationale for holding that law unconstitutional. At the outset, however, I note that the frequent attempts to assign the right to travel some textual source in the Constitution seem to me to have proven both inconclusive and unnecessary. Justice O'Connor plausibly argues, post, at ———, 72 L Ed 2d 699-690, that the right predates the Constitution and was carried forward in the Privileges and Immunities Clause of Article IV. But equally plausible, I think, is the argument that the right resides in the Commerce Clause, see Edwards v California, 314 US 160, 173, 86 L Ed 119, 62 S Ct 164 (1941), or in the Privileges and Immunities Clause of the Fourteenth Amendment, see id., at 177-178, 86 L Ed 119, 62 S Ct 164 (Douglas, J., concurring). In any event, in light of the unquestioned historic recognition of the principle of free interstate migration, and of its role in the development of the Nation, we need not feel impelled to "ascribe the source of this right to travel interstate to a particular constitutional provision." Shapiro v Thompson, 394 US 618, 630, 22 L Ed 2d 600, 89 S Ct 1322 (1969). It suffices that:

"The constitutional right to travel from one State to another . . . occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized.

". . . [T]he right finds no explicit mention in the Constitution. The reason, it has been suggested, is that a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created. In any event, freedom to travel throughout the United States has long been recognized as a basic right under the Constitution." Id. at 630-631, 22 L Ed 2d 600, 89 S Ct 1322, quoting United States v Guest, 383 US 745, 757-758, 16 L Ed 2d 239, 86 S Ct 1170 (1966).

As is clear from our cases, the right to travel achieves its most forceful expression in the context of equal protection analysis. But if, finding no citable passage in the Constitution to assign as its source, some might be led to question the independent vitality of the principle of free interstate migration, I find its unmistakable essence in that document that transformed a loose confederation of States into one Nation. A scheme of the sort adopted by Alaska is inconsistent with the Federal structure even in its prospective operation.

A State clearly may undertake to enhance the advantages of industry, economy, and resources that make it a desirable place in which to live. In addition, a State may make residence within its boundaries more attractive by offering direct benefits to its citizens in the form of public services, lower taxes than other States offer, or direct distributions of its munificence. Through these means, one State may attract citizens of other States to join the numbers of its citizenry. That is a healthy form of rivalry. It inheres in the very idea of maintaining the States as independent sovereigns within a larger framework, and it is fully—indeed, necessarily—consistent with the Framers' further idea of joining these independent sovereigns into a single Nation. But a State cannot *compound* its offer of direct benefits in the inventive manner exemplified by the Alaska distribution scheme: For if each State were free to reward its citizens incrementally for their years of residence, so that a citizen leaving one State would thereby forfeit his accrued seniority, only to have to begin building such seniority again in his new State of residence, then the mobility so essential to the economic progress of our Nation, and so commonly accepted as a fundamental aspect of our social order, would not long survive.

II

The Court today reaffirms the important principle that, at least with respect to a durational-residency discrimination, a State's desire "to reward citizens for past contributions" is "clearly not a legitimate state purpose." Ante, at ———, 72 L Ed 2d 679. I do not think it "odd," post, at —, 72 L Ed 2d 695, that the Court disclaims reliance on the "right to travel" as the source of this limitation on state power. In my view, the acknowledged illegitimacy of that state purpose has a different heritage—it reflects not the structure of the Federal Union but the idea of constitutionally protected equality. See Shapiro v Thompson, 394 US, at 632-633, 22 L Ed 2d 600, 89 S Ct 1322 ("The Equal Protection Clause prohibits such an apportionment of state services."); Vlandis v Kline, 412 US 441, 450, n 6, 37 L Ed 2d 63, 93 S Ct 2230 (1973). The Constitution places the recently naturalized immigrant from a foreign land on an equal footing with those citizens of a State who are able to trace their lineage back for many generations within the State's borders. The eighteen year old native resident of a State is as much a citizen as the fifty-five year old native resident. But the Alaska plan discriminates against the recently naturalized citizen, in favor of the Alaska citizen of longer duration; it discriminates against the eighteen year old native resident, in favor of all residents of longer duration. If the Alaska plan were limited to discriminations such as these, and did not purport to apply to migrants from sister States, interstate travel would not be noticeably burdened—yet those discriminations would surely be constitutionally suspect.

The Fourteenth Amendment guarantees the equal protection of the law to anyone who may be within the territorial jurisdiction of a State. That Amendment has not expressed by its terms that equal treatment might be denied a person depending upon how long that person *has been* within the jurisdiction of the State. The Fourteenth Amendment does, however, expressly recognize one elementary basis for distinguishing between persons who may be within a State's jurisdiction at any particular time—by setting forth the requirements for state citizenship. But it is significant that the Citizenship Clause of the Fourteenth Amendment expressly equates citizenship only with simple residence.[2] That

[2] "[A] citizen of the United States can, of his own volition, become a citizen of any State of the Union by a bona fide residence therein, with the same rights as other citizens of that State." Slaughter-House Cases, 16 Wall 36, 80, 21 L Ed 394 (1873). See id., at 112-113, 21 L Ed 394 (Bradley, J., dissenting) ("A citizen of the United States has a perfect constitutional right to go to and to abide in any State

Clause does not provide for, and does not allow for, degrees of citizenship based on length of residence.[2] And the Equal Protection Clause would not tolerate such distinctions. In short, as much as the right to travel, equality of citizenship is of the essence in our republic. As the Court notes, States may not "divide citizens into expanding numbers of permanent classes." Ante, at —, 72 L Ed 2d 680.

It is, of course, elementary that the Constitution does not bar the States from making reasoned distinctions between citizens: Insofar as those distinctions are rationally related to the legitimate ends of the State, they present no constitutional difficulty, as our equal protection jurisprudence attests. But we have never suggested that duration of residence vel non provides a valid justification for discrimination. To the contrary, discrimination on the basis of residence must be supported by a valid state interest independent of the discrimination itself. To be sure, allegiance and attachment may be rationally measured by length of residence—length of residence may, for example, be used to test the bona fides of citizenship—and allegiance and attachment may bear some rational relationship to a very limited number of legitimate state purposes. Cf. Chimento v Stark, 353 F Supp 1211 (D NH), affirmed, 414 US 802, 38 L Ed 2d 39, 94 S Ct 125 (1973) (seven year citizenship requirement to run for governor); U. S. Const, art I, § 2, cl 2, § 3, cl 3; art II, § 1, cl 4. But those instances in which length of residence could provide a legitimate basis for distinguishing one citizen from another are rare.

Permissible discriminations between persons must bear a rational relationship to their *relevant* characteristics. While some imprecision is unavoidable in the process of legislative classification, the ideal of equal protection requires attention to individual merit, to individual need. In almost all instances, the business of the State is not with the past, but with the present: to remedy continuing injustices, to fill current needs, to build on the present in order to better the future. The past actions of individuals may be relevant in assessing their present needs; past actions may also be relevant in predicting current ability and future performance. In addition, to a limited extent, recognition and reward of past public service has independent utility for the State, for such recognition may encourage other people to engage in comparably meritorious service. But even the idea of rewarding past public service offers scarce support for the "past contribution" justification for durational residence classifications since length of residence has only the most tenuous relation to the *actual* service of individuals to the State.

Thus, the past contribution rationale proves much too little to provide a rational predicate for discrimination on the basis of length of residence. But it also proves far too much, for "it would permit the State to apportion all benefits and services according to the past . . . contributions of its citizens." Shapiro v Thompson, 394 US, at 632 633, 22 L Ed 2d 600, 89 S Ct 1322. In effect, then, the past-contribution rationale is so far-reaching in its potential application, and the relationship between residence and contribution to the State so vague and insupportable, that it amounts to little more than a restatement of the criterion for discrimination that it purports to justify. But while duration of residence has minimal utility as a measure of things that are, in fact, constitutionally relevant, resort to duration of residence as the basis for a distribution of state largesse does closely track the constitutionally untenable position that the longer one's residence, the worthier one is of the State's favor. In my view, it is difficult to escape from the recognition that underlying any scheme of classification on the basis of duration of residence, we shall almost invariably find the unstated premise that "some citizens are more equal than others." We rejected that premise and, I believe, implicitly rejected most forms of discrimination based upon length of residence, when we adopted the Equal Protection Clause.

Justice O'Connor, concurring in the judgment.

The Court strikes Alaska's distribution scheme, purporting to rely solely upon the Equal Protection Clause of the Fourteenth Amendment. The phrase "right to travel" appears only fleetingly in the Court's analysis, dismissed with an observation that "right to travel analysis refers to little more than a particular application of equal protection analysis." Ante, at —, n 6, 72 L Ed 2d 677-678. The Court's reluctance to rely explicitly on a right to travel is odd, because its holding depends on the assumption that Alaska's desire "to reward citizens for past contributions . . . is not a legitimate state purpose." Ante, at —, 72 L Ed 2d 679. Nothing in the Equal Protection Clause itself, however, declares this objective illegitimate. Instead, as a full reading of Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322 (1969), and Vlandis v Kline, 412 US 441, 37 L Ed 2d 63, 93 S Ct 2230 (1973), reveals, the Court has rejected this objective only when its implementation would abridge an interest in interstate travel or migration.

I respectfully suggest, therefore, that the Court misdirects its criticism when it labels Alaska's objective illegitimate. A desire to compensate citizens for their prior contributions is neither inherently invidious nor irrational. Under some circumstances, the objective may be wholly reasonable.[1] Even a generalized de-

he chooses, and to claim citizenship therein, and an equality of rights with every other citizen.")

3. The American aversion to aristocracy developed long before the Fourteenth Amendment and is, of course, reflected elsewhere in the Constitution. See art I, § 9, cl 8 ("No title of Nobility shall be granted by the United States."). See also Virginia Bill of Rights (1776), Rutland, The Birth of the Bill of Rights, App A ("No man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of publick services").

1. A State, for example, might choose to divide its largesse among all persons who previously have contributed their time to volunteer community organizations. If the State graded its dividends according to the number of years devoted to prior community service, it could be said that the State intended "to reward citizens for past contributions." Alternatively, a State might enact a tax credit for citizens who contribute to the State's ecology by building alternative fuel sources or establishing recycling plants. If the State made this credit retroactive, to benefit those citizens who launched these improvements before they became fashionable, the State once again would be rewarding past contributions. The Court's opinion would dismiss these objectives as wholly illegitimate. I would recognize them as valid goals and examine only whether the

sire to reward citizens for past endurance, particularly in a State where years of hardship only recently have produced prosperity, is not innately improper. The difficulty is that plans enacted to further this objective necessarily treat new residents of a State less favorably than the longer-term residents who have past contributions to "reward." This inequality, as the Court repeatedly has recognized, conflicts with the constitutional purpose of maintaining a Union rather than a mere "league of States." See Paul v Virginia, 8 Wall 168, 180, 19 L Ed 357 (1869). The Court's task, therefore, should be (1) to articulate this constitutional principle, explaining its textual sources, and (2) to test the strength of Alaska's objective against the constitutional imperative. By choosing instead to declare Alaska's purpose wholly illegitimate, the Court establishes an uncertain jurisprudence. What makes Alaska's purpose illegitimate? Is the purpose illegitimate under all circumstances? What other state interests are wholly illegitimate? Will an "illegitimate" purpose survive review if it becomes "important" or "compelling"?[2] These ambiguities in the Court's analysis prompt me to develop my own approach to Alaska's scheme.

Alaska's distribution plan distinguishes between long-term residents and recent arrivals. Stripped to its essentials, the plan denies non-Alaskans settling in the State the same privileges afforded longer-term residents. The Privileges and Immunities Clause of Article IV, which guarantees "[t]he Citizens of each State . . . all Privileges and Immunities of Citizens in the several States," addresses just this type of discrimination.[3] Accordingly, I would measure Alaska's scheme against the principles implementing the Privileges and Immunities Clause. In addition to resolving the particular problems raised by Alaska's scheme, this analysis supplies a needed foundation for many of the "right to travel" claims discussed in the Court's prior opinions.

implementation infringed any constitutionally protected interest.

2. The Court's conclusion that Alaska's scheme lacks a rational basis marks a puzzling aspect of its analysis. By refusing to extend any legitimacy to Alaska's objective, the Court implies that a program designed to reward prior contributions will never survive equal protection scrutiny. For example, the programs described in n 1, supra, could not survive the Court's analysis even if the State demonstrated a compelling interest in rewarding volunteer activity or promoting conservation measures. The Court's opinion, although purporting to apply a deferential standard of review, actually secures that any governmental program depending upon a "past contributions" rationale will violate the Equal Protection Clause.

3. While the Clause refers to "Citizens," this Court has found that "the terms 'citizen' and 'resident' are 'essentially interchangeable' . . . for purposes of analysis of most cases under the Privileges and Immunities Clause." Hicklin v Orbeck, 437 US 518, 524, n 8, 57 L Ed 2d 397, 98 S Ct 2482 (1978) quoting Austin v New Hampshire, 420 US 656, 662, n 8, 43 L Ed 2d 530, 95 S Ct 1191 (1975). This opinion, therefore, will refer to "nonresidents" of Alaska, as well as to "noncitizens" of that State.

It is settled that the Privileges and Immunities Clause does not protect corporations. See Paul v Virginia, 8 Wall 168, 19 L Ed 357 (1869). The word "Citizens" suggests that the Clause also excludes aliens. See, e.g., Id., at 177, 19 L Ed 357 (dictum); L. Tribe, American Constitutional Law § 6-34, at 411, n 10 (1978). Any prohibition of discrimination aimed at aliens or corporations must derive from other constitutional provisions.

I

Our opinions teach that Article IV's Privileges and Immunities Clause "was designed to insure to a citizen of State A who ventures into State B the same privileges which the citizens of State B enjoy." Toomer v Witsell, 334 US 385, 395, 92 L Ed 1460, 68 S Ct 1156 (1948). The Clause protects a nonresident who enters a State to work, Hicklin v Orbeck, 437 US 518, 57 L Ed 2d 397, 98 S Ct 2482 (1978), to hunt commercial game, Toomer, supra, or to procure medical services, Doe v. Bolton, 410 US 179, 35 L Ed 2d 201, 93 S Ct 739 (1973).[4] A fortiori, the Privileges and Immunities Clause should protect the "citizen of State A who ventures into State B" to settle there and establish a home.

In this case, Alaska forces nonresidents settling in the State to accept a status inferior to that of old-timers. In its first year of operation, the distribution scheme would have given $1050 to an Alaskan who had lived in the State since statehood. A resident of ten years would have received $500, while a one-year resident would have received only $50. In effect, therefore, the State told its citizens: "Your status depends upon the date on which you established residence here. Those of you who migrated to the State cannot share its bounty on the same basis as those who were here before you." Surely this scheme imposes one of the "disabilities of alienage" prohibited by Article IV's Privileges and Immunities Clause. See Paul v Virginia, 8 Wall 168, 180, 19 L Ed 357 (1869).

It could be argued that Alaska's scheme does not trigger the Privileges and Immunities Clause because it discriminates among classes of residents, rather than between residents and nonresidents. This argument, however, misinterprets the force of Alaska's distribution system. Alaska's scheme classifies citizens on the basis of their former residential status, imposing a relative burden on those who migrated to the State after 1959. Residents who arrived in Alaska after that date have a less valuable citizenship right than do the oldtimers who preceded them. Citizens who arrive in the State tomorrow will receive an even smaller claim on Alaska's resources. The fact that this discrimination unfolds after the nonresident establishes residency does not insulate Alaska's scheme from scrutiny under the Privileges and Immunities Clause. Each group of citizens who migrated to Alaska in the past, or chooses to move there in the future, lives in the State on less favorable terms than those who arrived earlier. The circumstance that some of the disfavored citizens already live in Alaska does not negate the fact that "The citizen of State A who ventures into [Alaska]" to establish a home labors

4. See generally Ward v Maryland, 12 Wall 418, 430, 20 L Ed 449 (1870) ("The Clause" plainly and unmistakably secures and protects the right of a citizen of one state to pass into any other state of the Union for the purpose of engaging in lawful commerce, trade or business, without molestation; to acquire personal property; and to take and hold real estate.").

der a continuous disability.[5]

If the Privileges and Immunities clause applies to Alaska's distribution system, then our prior opinions describe the proper standard of review. In Baldwin v Fish & Game Commission, 436 US 371, 56 L Ed 2d 354, 98 S Ct 1852 (1978), we held that States must treat residents and nonresidents "without unnecessary distinctions" when the nonresident seeks to "engage in an essential activity or exercise a basic right." Id., at 387, 56 L Ed 2d 354, 98 S Ct 1852. On the other hand, if the nonresident engages in conduct that is not "fundamental" because it does not bea[r] upon the vitality of the Nation as a single entity," the Privileges and Immunities Clause affords no protection. Id., at 387, 388, 56 L Ed 2d 354, 98 S Ct 1852.

Once the Court ascertains that discrimination burdens an "essential activity," it will test the constitutionality of the discrimination under a two-part test. First, there must be "something to indicate that noncitizens constitute a peculiar source of the evil at which the statute is aimed." Hicklin v Orbeck, 437 US 518, 525-526, 57 L Ed 2d 397, 98 S Ct 2482 (1978) (quoting Toomer v Witsell, 334 US 385, 398, 92 L Ed 1460, 68 S Ct 1156 (1948)). Second, the Court must find a "substantial relationship" between the evil and the discrimination practiced against the noncitizens. Id., at 527, 57 L Ed 2d 397, 98 S Ct 2482.

Certainly the right infringed in this case is "fundamental." Alaska's statute burdens those nonresidents who choose to settle in the State.[6] It is difficult to imagine a right more essential to the Nation as a whole than the right to establish residence in a new State. Just as our federal system permits the States to experiment with different social and economic programs, New State Ice Co. v Liebmann, 285 US 262, 311, 76 L Ed 747, 52 S Ct 371 (1932) (Brandeis, J., dissenting), it allows the individual to settle in the State offering those programs best tailored to his or her tastes.[7] Alaska's encumbrance on the right of nonresidents to settle in that State, therefore, must satisfy the dual standard identified in Hicklin.

Alaska has not shown that its new residents are the "peculiar source" of any evil addressed by its disbursement scheme. The State does not argue that recent arrivals constitute a particular source of its population turnover problem. Indeed, the State urges that it has a special interest in persuading young adults, who have grown to maturity in the State, to remain there. Brief for Appellees 35, n 24. Nor is there any evidence that new residents, rather than old, will foolishly deplete the State's mineral and financial resources. Finally, although Alaska argues that its scheme compensates residents for their prior tangible and intangible contributions to the State, nonresidents are hardly a peculiar source of the "evil" of partaking in current largesse without having made prior contributions. A multitude of native Alaskans—including children and paupers—may have failed to contribute to the State in the past. Yet the State does not dock paupers for their prior failures to contribute, and it awards every person over the age of 18 dividends equal to the number of years that person has lived in the State.

Even if new residents were the peculiar source of these evils, Alaska has not chosen a cure that bears a "substantial relationship" to the malady. As the dissenting judges below observed, Alaska's scheme gives the largest dividends to residents who have lived longest in the State. The dividends awarded to new residents may be too small to encourage them to stay in Alaska. The size of these dividends appears to give new residents only a weak interest in prudent management of the State's resources. As a reward for prior contributions, finally, Alaska's scheme is quite ill-suited. While the phrase "substantial relationship" does not require mathematical precision, it demands at least some recognition of the fact that persons who have migrated to Alaska may have contributed significantly more to the State, both before and after their arrival, than have some natives.

For these reasons, I conclude that Alaska's disbursement scheme violates Article IV's Privileges and Immunities Clause. I thus reach the same destination as the Court, but along a course that more precisely identifies the evils of the challenged statute.

II

The analysis outlined above might apply to many cases in which a litigant asserts a right to travel or migrate interstate.[8] To historians

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5. See Note, A Constitutional Analysis of State Bar Residency Requirements under the Interstate Privileges and Immunities Clause of Article IV, 92 Harv L Rev 1461, 1464-1465, n 17 (1979) (labeling contrary argument "technical").

As the Court points out, ante, at ———, n 5, 72 L Ed 2d 677, Alaska's plan differentiates even among native Alaskans, by tying their benefits to date of birth. If the scheme merely distributed benefits on the basis of age, without reference to the date beneficiaries established residence in Alaska, I doubt it would violate the Privileges and Immunities Clause. Under these circumstances, a 25-year-old Texan establishing residence in Alaska would acquire the same privileges of citizenship held by a 25-year-old native Alaskan. The scheme would not treat the citizen who moves to the State differently from citizens who already reside there. The Court does not explain whether it would find such an age-based scheme objectionable.

6. The "burden" imposed on nonresidents is relative to the benefits enjoyed by residents. It is immaterial, for purposes of the Privileges and Immunities Clause, that the nonresident may enjoy a benefit in the new State that he lacked completely in his former State. The Clause addresses only differences in treatment; it does not judge the quality of treatment a State affords citizens and noncitizens.

7. See also Baldwin v G.A.F. Seelig, Inc., 294 US 511, 523, 79 L Ed 1032, 55 S Ct 497 (1935) (the Constitution "was framed upon the theory that the peoples of the several states must sink or swim together, and that in the long run prosperity and salvation are in union and not division"); Paul v Virginia, 8 Wall 168, 180, 19 L Ed 357 (1869) ("Indeed, without some provision of the kind removing from the citizens of each State the disabilities of alienage in the other States, and giving them equality of privilege with citizens of those States, the Republic would have constituted little more than a league of States; it would not have constituted the Union which now exists"); Edwards v California, 314 US 160, 173, 86 L Ed 119, 62 S Ct 164 (1941) ("constitution prohibits "attempts on the part of any single State to isolate itself from difficulties common to all of them by restraining the transportation of persons and property across its borders").

8. Any durational residency requirement, for example, treats nonresidents who have exercised their right to travel to a State differently from longer term residents. This is not to say, however, that all such requirements would fail scrutiny under the Privileges and Immunities Clause. The durational residency requirement upheld in Sosna v Iowa, 419 US 393, 42 L Ed 2d 532, 95 S Ct 553 (1975) (one year to obtain divorce for example) would

ily would come as no surprise. Article IV's Privileges and Immunities Clause has enjoyed a long association with the rights to travel and migrate interstate.

The Clause derives from Article V of the Articles of Confederation. The latter expressly recognized a right of "free ingress and regress to and from any other State," in addition to guaranteeing "the free inhabitants of each of these states . . . the privileges and immunities of free citizens in the several states."[9] While the Framers of our Constitution omitted the reference to "free ingress and regress," they retained the general guaranty of "privileges and immunities." Charles Pinckney, who drafted the current version of Article IV, told the Convention that this Article was "formed exactly upon the principles of the 4th article of the present Confederation." 3 M. Farrand, Records of the Federal Convention 112 (1934). Commentators, therefore, have assumed that the Framers omitted the express guaranty merely because it was redundant, not because they wished to excise the right from the Constitution.[10]

Early opinions by the Justices of this Court also traced a right to travel or migrate interstate to Article IV's Privileges and Immunities Clause. In Corfield v Coryell, 6 F Cas 546, 552 (No. 3,230) (CC ED Pa 1823), for example, Justice Washington explained that the Clause protects the "right of a citizen of one state to pass through, or to reside in any other state." Similarly, in Paul v Virginia, 8 Wall 168, 180, 19 L Ed 357 (1869), the Court found that one of the "undoubt[ed]" effects of the Clause was to give "the citizens of each State . . . the right of free ingress into other States, and egress from them. . . ." See also Ward v Maryland, 12 Wall 418, 430, 20 L Ed 449 (1871). Finally, in United States v Wheeler, 254 US 281, 297–298, 65 L Ed 270, 41 S Ct 133 (1920), the Court found that the Clause fused two distinct concepts: (1) "the right of citizens of the States to reside peacefully in, and to have free ingress into and egress from" their own States, and (2) the right to exercise the same privileges in other States.

History, therefore, supports assessment of Alaska's scheme, as well as other infringements of the right to travel, under the Privileges and Immunities Clause. This Clause may not address every conceivable type of discrimination that the Court previously has denominated a burden on interstate travel. I believe, however, that application of the Privileges and Immunities Clause to controversies involving the "right to travel" would at least begin the task of reuniting this elusive right with the constitutional principles it embodies. Because I believe that Alaska's distribution scheme violates the Privileges and Immunities Clause of Article IV, I concur in the Court's judgment insofar as it reverses the judgment of the Alaska Supreme Court.

Justice Rehnquist, dissenting.

Alaska's dividend distribution scheme represents one State's effort to apportion unique economic benefits among its citizens. Although the wealth received from the oil deposits of Prudhoe Bay may be quite unlike the economic resources enjoyed by most States, Alaska's distribution of that wealth is in substance no different from any other State's allocation of economic benefits. The distribution scheme being in the nature of economic regulation, I am at a loss to see the rationality behind the Court's invalidation of it as a denial of equal protection. This Court has long held that state economic regulations are presumptively valid, and violate the Fourteenth Amendment only in the rarest of circumstances.

"When local economic regulation is challenged solely as violating the Equal Protection Clause, this Court consistently defers to legislative determinations as to the desirability of particular statutory discriminations. See, e.g., Lehnhausen v Lake Shore Auto Parts Co. 410 US 356 [35 L Ed 2d 351, 93 S Ct 1001] (1973). Unless a classification trammels fundamental personal rights or is drawn upon inherently suspect distinctions such as race, religion, or alienage, our decisions presume the constitutionality of the statutory discriminations and require only that the classification challenged be rationally related to a legitimate state interest. States are accorded wide latitude in the regulation of their local economies under their police powers, and rational distinctions may be made with substantially less than mathematical exactitude." New Orleans v Dukes, 427 US 297, 303, 49 L Ed 2d 511, 96 S Ct 2513 (1976).

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have survived under the analysis outlined above. In Sosna the State showed that nonresidents were a peculiar source of the evil addressed by its durational residency requirement. Those persons could misrepresent their attachment to Iowa and obtain divorces that would be susceptible to collateral attack in other States. Iowa adopted a reasonable response to this problem by requiring nonresidents to demonstrate their bona fide residency for one year before obtaining a divorce. I am confident that the analysis developed in Hicklin v Orbeck, supra, will adequately identify other legitimate durational residency requirements.

9. Even before adoption of the Articles, a few of the colonies explicitly protected freedom of movement. The Rhode Island Charter gave members of that colony the right "to pass and repasse with freedome, into and through the rest of the English Collonies, upon their lawfol and civill occasions." 7 Charters and Organic Laws of the United States, p 3217 (1909) (hereinafter Charters). The Massachusetts Body of Liberties provided: "Every man of or within this Jurisdiction shall have free libertie, notwithstanding any civill power, to remove both himselfe and his familie at their pleasure out of the same, provided there be no legall impediment to the contrarie." Id., at 178. Massachusetts showed some of the same liberality to foreigners entering the colony:

"Every people of other Nations professing the true Christian Religion shall flee to us from the Tiranny or oppression of their persecutors, or from famyne, warres, or the like necessary and compulsarie cause, They shall be entertayned and succoured among us, according to that power and prudence god shall give us." Ibid.

These attitudes contrasted with the more restrictive views prevailing in seventeenth century Europe. See generally id., at 163–171.

10. See, e.g., Chafee, supra, at 185; Note, The Right to Travel and Exclusionary Zoning, 26 Hastings LJ 849, 858–859 (1975); Comment, The Right to Travel: In Search of a Constitutional Source, 55 Neb L Rev 117, 119–120, n 14 (1975); Comment, A Strict Scrutiny of the Right to Travel, 22 UCLA L Rev 1120, 1130, n 7 (1975).

See also Austin v New Hampshire, 420 US 656, 661, 43 L Ed 2d 530, 95 S Ct 1191 (1975) (Article IV of the Articles of Confederation was "carried over into the comity article of the Constitution in briefer form but with no change of substance or intent, unless it was to strengthen the force of the Clause in fashioning a single nation"); United States v Wheeler, 254 US 281, 294, 65 L Ed 2d 270, 41 S Ct 133 (1920) ("The text of Article IV, § 2, of the Constitution, makes manifest that it was drawn with reference to the corresponding clause of the Articles of Confederation and was intended to perpetuate its limitations; and . . . that view has been so concisely embodied as to leave no room for controversy").

also Minnesota v Clover Leaf Creme y Co. 449 US 456, 66 L Ed 2d 659, 101 S Ct 715 (1981); United States Railroad Retirement Board v Fritz, 449 US 166, 66 L Ed 2d 368, 101 S Ct 453 (1980); Hughes v Alexandria Scrap Corp. 426 US 794, 49 L Ed 2d 220, 96 S Ct 2488 (1976).

Despite the highly deferential approach which we invariably have taken toward state economic regulations, the Court today finds the retroactive aspect of the Alaska distribution scheme violative of the Fourteenth Amendment. The Court concludes that the State's first two justifications are not rationally related to the retroactive portion of the distribution scheme, and that the third justification—the reward of citizens for their past contributions—is not a legitimate state objective But the illegitimacy of a State's recognizing the past contributions of its citizens has been established by the Court only in certain cases considering an infringement of the right to travel,[1] and the majority itself rightly declines to apply the strict scrutiny analysis of those right-to-travel cases. See ante, at -- and n 6, 72 L Ed 2d 677-678. The distribution scheme at issue in this case impedes no person's right to travel to and settle in Alaska; if anything, the prospect of receiving annual cash dividends would encourage immigration to Alaska. The State's third justification cannot, therefore, be dismissed simply by quoting language about its legitimacy from right-to-travel cases which have no relevance to the question before us.

So understood, this case clearly passes equal protection muster. There can be no doubt that the state legislature acted rationally when it concluded that dividends retroactive to the year of statehood would "recognize the 'contributions of various kinds, both tangible and intangible,' which residents have made during their years of state residency." Williams v Zobel, 619 P2d 448, 458 (Alas 1980). Nor can there be any doubt that Alaska, perhaps more than any other State in the Union, has good reason for recognizing such contributions.[2] Because the distribution scheme is thus rationally based, I dissent from its invalidation under the guise of equal protection analysis.[3] In striking down the Alaskan scheme, the Court seems momentarily to have forgotten "the principle that the Fourteenth Amendment gives the federal courts no power to impose upon the States their view of what constitutes wise economic or social policy." Dandridge v Williams, 397 US 471, 486, 25 L Ed 2d 491, 90 S Ct 1153 (1970).

1. The Court relies upon Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322 (1969), and Vlandis v Kline, 412 US 441, 37 L Ed 2d 63, 93 S Ct 2230 (1973), in holding that Alaska may not justify its dividend distribution scheme by a desire to reward its citizens for their past contributions. In Shapiro, however, the Court found that the classification at issue "touche[d] on the fundamental right of interstate movement" and therefore could be justified only if it promoted a *"compelling* state interest." 394 US, at 638, 22 L Ed 2d 600, 89 S Ct 1322 (emphasis in original). Similarly, Vlandis concerned the right to move to and establish residency in Connecticut, and noted only in dicta that rewarding citizens for their past contributions was an impermissible state objective. See 412 US, at 449-450, n 6, 37 L Ed 2d 63, 93 S Ct 2230.

Although I have expressed my disagreement with this holding even in the right-to-travel cases, see Memorial Hospital v Maricopa County, 415 US 250, 286-287, 39 L Ed 2d 306, 94 S Ct 1076 (1974) (Rehnquist, J., dissenting); Vlandis v Kline, 412 US, at 468-469, 37 L Ed 2d 63, 93 S Ct 2230 (same), there is no need to rely upon that dissenting position here. The majority does not analyze this as a right-to-travel case. Compare ante, at — and n 6, 72 L Ed 2d 677-678, with Memorial Hospital v Maricopa County, 415 US, at 261-262, 39 L Ed 2d 306, 94 S Ct 1076, and Shapiro v Thompson, 394 US, at 634, 636, 22 L Ed 2d 600, 89 S Ct 1322.

2. As the Alaska Supreme Court noted, those who have lived in Alaska from the year of its statehood have borne unusual expenses and hardships:

"'A government such as the one embodied in the Alaska constitution, . . . with its complete range of governmental services, was extensive for a State with limited sources of taxation. Alaska could only boast a couple of pulp mills . . . The State's business enterprises were small and catered mostly to local needs. In addition, Alaska's population was modest and hardly amounted to more than that of a medium-sized city in the continental United States.

Accordingly, revenues were small. Yet, the demands were great. The State government had to provide all the governmental services and social overhead required by modern American society. For instance, it would have been relatively simple to build a few roads, furnish normal police protection, and establish the customary school facilities. But nothing was normal in Alaska; it was and remains a land of superlatives. Subarctic engineering is relatively new, but the State would have to face the problem of permafrost conditions that frequently cause the roadtop to buckle and heave. Police protection would have to be provided for an area one-fifth the size of the forty-eight United States but with very few roads available. Flying would become a way of life for law enforcement officials as well as other Alaskans—an expensive way of life. "Bush schools" scattered along the Aleutian chain, through the Yukon Valley, and on the Seward Peninsula and the islands of southeastern Alaska were expensive to maintain. It was not until the discovery of oil on a large scale that the picture changed.'" Williams v Zobel, 619 P2d 448, 462, n 37 (1980) (quoting C.M. Naske, An Interpretive History of Alaskan Statehood 169-170 (1973)).

3. I also disagree with the suggestion of Justice O'Connor that the Alaska distribution scheme contravenes the Privileges and Immunities Clause of Art IV of the Constitution. That Clause assures that *nonresidents* of a State shall enjoy the same privileges and immunities as residents enjoy: "It was designed to insure to a citizen of State A who ventures into State B the same privileges which the citizens of State B enjoy." Toomer v Witsell, 334 US 385, 396, 92 L Ed 1460, 68 S Ct 1156 (1948). We long ago held that the Clause has no application to a citizen of the State whose laws are complained of. "The constitutional provision there alluded to did not create those rights, which it called privileges and immunities of citizens of the State. It threw around them no safeguard; it only secured to the citizen of the State such rights as the laws or constitution of the State conferred or created. Nor did it profess to control the power of the State governments over the rights of its own citizens." The Slaughter-House Cases, 16 Wall 36, 77, 21 L Ed 394 (1873).

ATTACHMENT 4

Will Condon on Pioneers' Home Issue

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

November 26, 1982

Gerald L. Wilkerson
Legislative Auditor
Division of Legislative Audit
Legislative Affairs Agency
Pouch W
Juneau, Alaska 99811

RECEIVED
FEB 28 1983

The Honorable Carole J. Burger
Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99811

Re: Pioneers' Homes; Our files:
366-138-83 and J99-101-80

Dear Mr. Wilkerson and Ms. Burger:

I. INTRODUCTION

The Division of Legislative Audit has posed to this department two interpretation questions concerning the statutes establishing the Alaska Pioneers' Homes program. The Department of Administration has sought the assistance of this department with administrative regulations that raise fundamental questions as to the validity of the program.

The Alaska Pioneers' Homes program is one of the oldest Alaska institutions. It was established by the First Territorial Legislature in 1913 and has continued uninterrupted for nearly 70 years. Its operation was continuously approved by Congress until 1959, when Alaska became a state and congressional review of

territorial actions was no longer necessary (Organic Act, §§ 9, 20). Originally geared to prospectors, the program has always had as its goal the housing and care of persons who have lived in Alaska a significant period of time.

Relatively recent United States Supreme Court opinions have placed that fundamental element of the program in severe jeopardy -- the Court has ruled that discriminations between persons based on length of residency are often unconstitutional. The opinions of the Court leave only a few narrow arguments available to save the program.

II. SUMMARY

In a September 20, 1982, letter, the Division of Legislative Audit posed two questions regarding the legislative intent behind AS 47.25.030, one of the statutes governing the Pioneers' Homes program. AS 47.25.030 provides, in relevant part:

> A citizen of the United States over 65 years of age who is a resident of the state and has been a resident for not less than 15 years continuously immediately preceding his application, but who is not destitute, may on application be admitted to the home upon his agreement to pay to the state a sum for each day as the Department of Administration considers sufficient to compensate the state for the cost of care and support of the person at the home.

The division wished to know the intent behind the "sufficient to compensate the state" language and whether the legislature wanted destitute persons (those eligible for admission to the Homes

under AS 47.25.020) to have priority in admission over those able to pay.

In addition, the Department of Administration has requested our assistance in drafting and reviewing proposed regulations for the Pioneers' Homes. These regulations include implementation of the statutory standards for admission set forth in AS 47.25.020, AS 47.25.030 and AS 47.25.035. Briefly, these standards are that persons of any age who are "destitute and in need of the aid or benefit of the home because of physical disability or other cause" and have continuously resided in the state for 15 years may be admitted to the home without payment. Non-destitute persons over the age of 65 who have continuously resided in the state for 15 years may also be admitted upon payment of a certain sum to the state which is "sufficient to compensate" the state for their care. The 15-year continuous residency requirement may be forgiven if the applicant has otherwise resided in the state for 30 years.

Under AS 44.62.060(b), this department must review each regulation and make a written statement concerning a regulation's "legality, constitutionality, and consistency with other regulations." AS 44.62.060(b)(1). The lieutenant governor may not accept regulations for filing unless there is such a statement from this office approving the regulations. This opinion sets out our constitutional analysis of these regulations.

The courts analyze residency requirements under different standards of review, depending on whether the right or benefit denied is a "fundamental political right" or "a basic necessity of life." Memorial Hospital v. Maricopa County, 415 U.S. 20 (1974); Hawaii Boating Association v. Water Transportation Facilities, 651 F.2d 661 (9th Cir. 1981); Williams v. Zobel, 619 P.2d 448, 453 (Alaska 1980), rev'd on other grounds; Zobel v. Williams, __ U.S. __, 72 L.Ed 2d 672 (1982). If access to the Pioneers' Homes is considered to be access to a "basic necessity of life," then the state must show that a distinction based on length of residence is "absolutely necessary to promote a compelling state interest" -- a test that is rarely met. Williams v. Zobel, 619 P.2d at 453. The Pioneers' Homes residency requirement would not survive this analysis.

On the other hand, if the Pioneers' Homes program does not involve access to a "basic necessity of life," then a much less strict standard of review is used, and arguments can be advanced for the constitutionality of the program.

We believe that the Pioneers' Homes program arguably does not involve access to a "basic necessity of life" so as to invoke the strict standard of review. Consequently, there are defenses or the constitutionality of the entire program.

Finally, it is our opinion that the destitute and disabled have priority in admission to the Pioneers' Homes and

the statutory requirement that non-destitutes pay an amount "sufficient to compensate the state" was not intended to mandate the recovery of all costs of a person's care.

Our conclusion that the Pioneers' Homes program can possibly be sustained does not mean that we believe a court would, if faced with the question, necessarily rule that it is constitutional. In other words, while there are legitimate arguments to defend it, we cannot guarantee their success in court. Indeed, there are numerous serious and potential fatal attacks that could be mounted against the entire program. But, since the program has continued uninterrrupted for approximately 70 years, we believe that it is appropriate for the courts rather than this department to make the final judgment rejecting all serious arguments in support and, if it is the proper conclusion, stopping the program. In the absence of that court ruling, therefore, we believe it is appropriate to continue the program and finish the proposed regulation project.

III. ANALYSIS

History

Before addressing these questions, a brief overview of the history of the Pioneers' Homes program is helpful. The Pioneers' Homes program has been an important institution in Alaska for almost 70 years.

In 1913 the first territorial legislature in Alaska accepted the offer of the United States government to turn over

some Marine barracks buildings in Sitka for use as a home for indigent ailing persons who wished to stay in Alaska. Chapter 80, SLA 1913, set up a three-member, unpaid board of trustees to manage and control "a home for indigent prospectors and others who have spent their years in Alaska and become dependent." The home was declared open to "[e]very worthy pioneer, or other person, who shall have been a resident of the Territory of Alaska for five years preceding his application for admission and who shall need the aid or benefit of said Home in consequence of physical disability or other cause within the scope of the regulations of the board." 1/ The legislature appropriated $10,000 for the operation of the Sitka home. 2/

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1. Although nothing in the 1913 act specifically limited eligibility to men, this apparently was the intent, as evidenced by § 6, ch. 64, SLA 1915 (setting up the allowance program discussed later in this memorandum): "Women who are otherwise qualified to apply for relief under this Act, may make application hereunder, and if entitled thereto shall receive the allowance herein provided for, notwithstanding the fact that as women they might not be eligible to be received in the Alaska Pioneers' Home."

2. Also in 1913, the legislature established the Board of Aged Prospectors Home Commission, to "investigate as to the climatic and other conditions of the several hot springs in Interior Alaska, the adaptability of same for use as a home for aged prospectors, the title price and possible methods of securing same, and to secure options on property adjoining any such springs as may be determined upon as desirable for such purpose." Ch. 78, SLA 1913. Apparently nothing became of this investigation, since this legislation was repealed in 1923. Ch. 7, SLA 1923. A Pioneers' Home was finally opened in Fairbanks in 1967.

The home opened on September 2, 1913, with 5 residents, and quickly expanded to 51 residents by February, 1915. According to the initial report of the board, operations were successful. A copy of that report is enclosed with this opinion.

In 1915 the legislature enacted an alternative program for Alaska's impoverished older residents. Chapter 64, SLA 1915 established a predecessor program to the current longevity bonuses (AS 47.45): any "pioneer" 65 or older, who had resided in Alaska for ten consecutive years since 1905 and who was "entitled to the benefits of the Alaska Pioneers' Homes" could, in lieu of applying for admission to the Homes, apply to the Homes' board of trustees for a monthly allowance not to exceed $12.50, to be paid out of the "revenues" of the Homes "in excess of suitable provisions for inmates of said Homes and those likely to be admitted thereto," and set according to the applicant's needs. The board could in its discretion deny the application if it found the applicant's case not "worthy." In 1917 the age requirement for women was lowered to 60, and the ceiling on allowances for them raised to $25 a month. Chapter 49, SLA 1917. Chapter 17, SLA 1919 increased the residency requirement to 15 years immediately preceding the application, and specifically excluded from eligibility "Natives or other Indians," who were defined as not being

"pioneers." 3/ In 1923 the ceiling on allowances was raised again, to $25 a month for men and $45 for women, and the requirement that allowances be paid out of "revenues of the Home" was replaced by a provision that allowances were to be paid out of money appropriated by the legislature for them. 4/

The 1929 legislature repealed the earlier acts on both Pioneers' Homes and allowances and enacted one omnibus piece of legislation, chapter 65, SLA 1929, "to revise and codify the laws relative to the care and support of the destitute and the needy." With respect to the Homes, chapter 65 essentially reenacted the 1913 legislation, with one significant change. Under section three, a five-year resident "in need of the aid or benefit of said Home in consequence of physical disability or other cause"

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3. In 1925, however, the legislature amended the act to exclude only "any Indian or Eskimo resident of the Territory who is provided for by the Department of the Interior out of the funds of the Treasury of the United States or . . . any ward of the Government of the United States." Ch. 65, SLA 1925. This change, though, was apparently not a substantial one; evidently it still excluded most Natives. The 1925 legislature saw a heated debate over the exclusion of Natives, with one representative threatening to tie up the whole program if the exclusion were not lifted.

4. It is unclear whether the allowance program before 1923 was actually dependent on whether the Home generated revenue, i.e., spent less than the sum appropriated for it. For, from 1915 on, an appropriation was made specifically for allowances. The initial appropriation, § 7, ch. 64, SLA 1915, referred to "revenue of said Home." But some subsequent appropriations lacked this reference. For instance, the 1919-20 budget, ch. 36, SLA 1919, contained separate appropriations for the Home and for the allowance program.

was not entitled to admission unless destitute. As a corollary, section five authorized, but did not require, the board to admit non-destitute ten-year residents over age sixty-five 5/ "upon his agreement to pay to the Territory such sum per day as the Board may deem sufficient to compensate the Territory for the cost of care and support of such person at the Home." 6/ With respect to the pioneers' allowances, section nine lengthened the residency requirement so as to cover only those who had resided in Alaska continuously since January 1, 1906, and section eleven raised the maximum allowance for men from $25 to $35. (Women remained at $45.)

In 1935 the January 1, 1906 requirement of the allowance program was changed to a simple 25-year residency requirement. Ch. 47, SLA 1935. However, the entire program was abolished in 1947 (ch. 73, SLA 1947) probably because a general old age assistance program, with far less strenuous residency requirements had been enacted in 1937. Chapter 2, L. Ex. Sess. 1937.

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5. Although the Pioneers' Homes are generally thought of as senior citizens' homes, there is no age limitation for destitute residents admitted under AS 47.25.020, only for non-destitute residents admitted under § 30.

6. The 1929 legislation also provided that the members of the board of trustees other than the governor receive salaries.

Several changes have also been made to the statutory structure of the Pioneers' Homes program. In 1946 the provisions relating to the board of trustees were overhauled, and a new section defining the rights and duties of the superintendent of the home was added. Chapter 29, SLA 1946. In 1955 the legislature added the provision, now found at AS 47.25.020(b), that persons entitled to admission (i.e., destitute persons) could be required to pay to the home all income in excess of a certain sum (then $15, now $35). Chapter 158, SLA 1955. The same chapter also authorized the board to pay an allowance (then $5 per month, now $35 under AS 47.25.020(c)) to totally indigent residents. In 1961 the Alaska residency requirement for admission was raised to the present 15 years, chapter 89, SLA 1961, up from 5 years for persons entitled to admission (AS 47.25.020) and 10 for persons eligible for admission on payment (AS 47.25.030). In addition to these statutory changes, a significant physical change took place: the construction of a new Pioneers' Home in Sitka in 1934, built by the WPA on the site of the old Home. 7/

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7. During construction of the new home the residents were housed for a year or two, at facilities at Goddard Hot Springs in southeast Alaska.

Since 1961 there have only been minor changes in the statutes governing the Pioneers' Homes program. 8/ The program itself, however, has grown tremendously; its budget for the 1983 fiscal year is nearly $19 million. In addition to the Sitka Home, there are now Homes in Fairbanks (dedicated in 1967), Palmer (1971), Anchorage (1977), and Ketchikan (1981), and planning is underway for a Home in Juneau. The five existing Homes, plus a small senior center in Kotzebue run under contract with the program, are capable of housing 635 people.

Although the Pioneers' Homes are capable of housing 635 people, only 519 people are currently in residence making the actual cost per year per resident approximately $36,600. 9/

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8. Chapter 71, SLA 1963, authorized the establishment of branch Homes besides the one in Sitka. Chapter 63, SLA 1965, changed the dollar figures in AS 47.25.020(b) and (c), discussed above. Executive Order 30, issued in 1968, transferred responsibility for the Homes to the Department of Administration. Chapter 118, SLA 1968, repealed the prohibition on Indians and Eskimos, which had already been rendered ineffective by other provisions of law. Chapter 7, SLA 1971, raised the dollar figures in AS 47.25.020(b) and (c) to their current levels. And Chapter 89, SLA 1978, enacted AS 47.25.035, providing an exception to the continuous 15-year residency requirement for persons with 30 years total residency.

9. Many of the rooms in the Pioneers' Home in Sitka were designed for double occupancy but for privacy reasons are used by only one person. Due to the growing waiting list, these rooms will return to double occupancy as needed. Other current vacancies in the Homes are due to the remodeling of the Anchorage Pioneers' Home as well as to the fact that a limited number of beds in the nursing portions of the Homes must be kept vacant to allow for emergency use by current residents.

This figure and the total Pioneers' Homes program budget of nearly $19 million for fiscal year 1983 may be compared with the state's public assistance programs which include Aid to Families with Dependent Children, Adult Public Assistance (former separate programs for the blind, disabled, and aged), and General Relief. These programs require a total of approximately $34 million in state general funds matched with $21 million from the federal government. Under the AFDC program, over 13,500 people may receive assistance in any one month. A family of four with no income may be eligible for a maximum of $15,857 per year in assistance which would be allotted as follows:

$ 7,608	AFDC payments
3,264	Food stamps
425	Energy benefit
4,560	Medicaid benefit if needed
$15,857	

The recipients of AFDC assistance or other categorical aid must meet a variety of eligibility requirements depending upon the type of aid sought. All must, however, fall below specific income levels to qualify for help.

Of the 519 persons presently participating in the Pioneers' Homes program, 515 were admitted under the non-destitute, over 65 and paying clause (AS 47.25.030), while only four were admitted under AS 47.25.020 because they were destitute and disabled. Thus, the program now is for practical purposes no longer a home for the needy -- at least as the

statutes make that distinction. Instead, the program is more of a retirement home for non-destitute "pioneers."

Furthermore, even for the destitute and disabled, the ioneers' Homes program is essentially duplicative of existing programs. Alaska has chosen to participate in the medical assistance program of subchapter XIX of the federal social security program, 42 U.S.C. § 1396, et seq. See AS 47.07.010. That program provides federal money to the state to assist with medical costs of the needy, contingent upon the state's meeting a lengthy list of conditions set out in 42 U.S.C. § 1396a. Disabled persons entitled to admission to the Pioneers' Homes are also covered by subchapter XIX. See 42 U.S.C. § 1396a(a)(10) (state plan shall provide certain medical services to all individuals receiving aid or assistance under a state plan approved under subchapter XVI of Social Security Act; subchapter XVI relates to supplemental security income for the aged, blind, and disabled). Even if § 1396a(a)(10) does not require states to pay for nursing home costs of the disabled -- see subparagraph (A) and 42 U.S.C. § 1396d(a) -- Alaska has chosen to provide this care. AS 47.07.030; 7 AAC 43.005(b)(2) and (3).

The eligibility standards under the Alaska program are found in Title 7, Part 3 of the Alaska Administrative Code (Health and Social Services -- Family and Children Services). 7 AAC 40.170(a) adopts the federal definition of disability in

42 U.S.C. § 1382c(a)(3). That definition basically provides that a person is disabled only if his physical or mental impairment precludes him from engaging in any kind of "substantial gainful work." Disabled persons eligible for medical assistance are those eligible for (but not necessarily receiving) Adult Public Assistance (APA) payments, plus a few others. 7 AAC 43.020(a). APA eligibility is defined in 7 AAC 40: a person may not have resources in excess of $1,500 for an individual or $2,250 for a married couple (7 AAC 40.270), subject to numerous resource exclusions (7 AAC 40.280--290), and may not have income in excess of certain amounts, depending on the person's status and living arrangements. These amounts, based on state rather than federal law, will be listed in the soon-to-be-promulgated 7 AAC 40.310.

These standards for medical assistance differ slightly from both those currently utilized by the Pioneers' Homes in making decisions under AS 47.25.020 and those in the Homes' proposed regulations, 2 AAC 30. Under present policies, as set forth in the current Policy and Procedures Manual of the Pioneers' Homes (the section on admissions policies became effective in February 1981), income limits for destitutes are the same as for the Adult Public Assistance (aged, blind, and disabled) program, and resource limits may be tougher. The policy manual sets a ceiling of $35,000 on the value of an applicant's property, while

under 7 AAC 40.280(a)(1) the applicant's home seems to be excluded from counted resources regardless of the home's value.) The policy manual's definition of disability, though, seems laxer than the definition in 42 U.S.C. § 1382c(a)(3) cited above: according to the manual a person is eligible under AS 47.25.070 if he or she "has a physical infirmity, disability or impairment that prohibits activity, or other disability which makes it necessary for them [sic] to receive assistance from others in coping with the problems of daily living." The proposed regulation on income and resources, 2 AAC 30.030(a), seems to use the current resources guidelines, but the Aged, Blind and Disabled income limits (to be issued in 7 AAC 40.310) uses federal Office of Management and Budget poverty guidelines. The proposed regulation on need under AS 47.25.020 and 2 AAC 30.040 approximates current policy on what constitutes a disability.

Constitutionality of Residency Requirements

Addressing the most fundamental matter first, the question is whether the 15-year, continuous residence (or 30 years of total residence) requirement is constitutional. As the former and present statutes and the program's history show, there are two separate purposes of the program.

First, the Homes are to provide care to the destitute disabled of any age. Second, the Homes also are to be retirement

Homes for non-destitute persons over 65 years old who could pay for their support.

A state may not deny access to welfare benefits or "basic necessities of life" like housing and care for the needy on the basis of length of residence unless the state can show that such a classification is absolutely necessary to promote a compelling state interest. Williams v. Zobel, 619 P.2d 448, 453 (Alaska 1980); Shapiro v. Thompson, 394 U.S. 618 (1969). This "strict scrutiny" test is rarely met. The Ninth Circuit Court of Appeals recently explained the standard and its application in the following manner.

> The right to travel is a fundamental right, and it has been recognized that durational residency requirements - because they disadvantage a class of persons who may have recently exercised the right to travel - may, in certain circumstances, unduly infringe upon this right. In Shapiro v. Thompson, 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600 (1969), the Court held unconstitutional a one-year durational residency requirement for welfare assistance. The Court stated, however:
>
> > "We imply no view of the validity of waiting-period or residence requirements determining eligibility to vote, eligibility for tuition-free education, to obtain a license to practice a profession, to hunt or fish, and so forth. Such requirements may promote compelling state interests on the one hand, or, on the other, may not be penalties upon the exercise of the constitutional right of interstate travel." [Id. at 638, n.21]

> The Court held, in Dunn v. Blumstein, 405 U.S. 330 (1972), and Memorial Hospital v. Maricopa County, [415 U.S. 250 (1974)], that durational residency requirements which involved deprivations of the right to vote and free nonemergency medical care triggered strict scrutiny. In Maricopa County, however, the Court noted that "The amount of impact required to give rise to the compelling-state-interest test [has] not been made clear." [Id. at 256-7] (Footnote omitted). In Fisher v. Reiser, 610 F.2d 629 (CA9 1979) cert. denied, [447 U.S. 930 (1980)], we noted the importance of the "nature of the benefit denied." Id. at 635. In fact, Judge Hufstedler, dissenting in Fisher, after reviewing the right to travel cases, commented that "The Court [has] indicated that the 'penalty' required to invoke strict scrutiny involves a genuinely significant deprivation, such as a denial of the basic 'necessities' (as in Shapiro), or the denial of a 'fundamental political right' (as in Dunn)." Id. at 639 (footnote omitted) (emphasis added). Judge Hufstedler also noted that "Deprivations which are only uncomfortable are not enough, such as conditioning lower tuition at state institutions of higher education upon a one-year residency requirement." Id. at 639, n.5.

Hawaii Boating Association v. Water Transportation Facilities, 651 F.2d 661 (9th Cir. 1981).

Denial of access by the destitute to public housing and life-care aid have usually been found to be "significant deprivations" or denials of "basic necessities of life." Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974); Cole v. Housing Authority of City of Newport, 435 F.2d 807 (1st Cir. 1970); Strong v. Collatus, 593 F.2d 420 (1st Cir. 1979); King v. New Rochelle Municipal Housing Authority, 442 F.2d 646 (2d Cir.

1971) cert. denied 404 U.S. 863 (1971). An argument can be made, however, that these rulings were conditioned on the non-existence of essentially similar public services. For example, in Cole the right denied was access to public housing. The court expressly premised its ruling that a compelling state interest had to be shown on the non-existence of an adequate alternative:

> Normally, persons eligible for public housing have only to sign up and wait six months for a vacancy. Plaintiffs were required to wait two years before they could be placed on the six-month waiting list. During that time, they were forced to live in substandard housing. Using "penalty" in what appears to be the right context, i.e., not in the sense of a criminal or civil sanction, plaintiffs and other in their class can truly be said to suffer "disadvantage, loss, or hardship due to some action."
>
> As a result of penalizing the right to travel, the Authority can successfuly defend its residency requirement only by demonstrating that the requirement furthers a compelling state interest.

435 F.2d at 811 (citations omitted; emphasis added). See also King v. New Rochelle Municipal Housing Authority, supra, 442 F.2d at 647; Strong v. Collatus, 593 F.2d at 422; Memorial Hospital v. Maricopa County, 415 U.S. at 261 ("The denial of medical care is all the more cruel in this context, falling as it does on indigents who are often without the means to obtain alternative treatment.").

Here, however, there are adequate and substantially similar alternatives. As described earlier, disabled persons

denied access to the Pioneers' Home are entitled to subchapter XIX medical assistance, which, with a few differences, offers substantially similar aid.

The differences that do exist between the Pioneers' Homes program and the state's subchapter XIX medical assistance program are arguably not constitutionally significant. In other words, in no case will a person who would be eligible for the Pioneers' Homes under AS 47.25.020 but for lack of 15 years residence be deprived of necessary medical care. It might be that a 15-year resident would be considered disabled and admitted to a Home under the proposed definition of disability, while a similarly situated shorter-term resident would not be admitted to a nursing home under AS 47.07. But that would be because the state believed that that person was not really so disabled as to require the services of a nursing home; that person would still receive necessary medical care, either under subchapter XIX or, if the person did not qualify under that program, under the state's General Relief Medical program (7 AAC 47.180-- 260). Consequently, an argument can be made that these statutes do not deny access to a "basic necessity of life," and should not be reviewed under the compelling-state-interest test.

Furthermore, to the extent that the program offers care and housing to the non-needy, an even stronger argument can be made for a less intensive standard of review. Here the purpose

is to provide retirement housing and care to the non-needy, with some reimbursement of the costs of providing that service. Denial of this service to persons who are not destitute would presumably not rise to the level of a denial of access to a basic necessity of life. The United States Supreme Court has linked the economic standard of the class allegedly discriminated against to the determination of "access to a basic necessity of life":

> Whatever the ultimate parameter of the Shapiro penalty analysis, it is at least clear that medical care is as much "a basic necessity of life" to an indigent as welfare assistance. And, governmental privileges or benefits necessary to basic sustenance have often been viewed as being of greater constitutional significance than less essential forms of governmental entitlements.

Memorial Hospital, 415 U.S. at 259 (citation omitted; emphasis added). Denial of access to the Pioneers' Homes to persons who do not otherwise need the service is, using the Ninth Circuit's terminology in the Hawaii Boating case, even more arguably an "uncomfortable deprivation" rather than a "genuinely significant deprivation."

If the purpose and effect of the Homes do not trigger strict scrutiny of the program, then the program's distinction between categories of people must survive the Alaska Constitution's "intensified scrutiny" test, and the Federal Constitution's "rational basis" test. The inquiry proceeds in

three parts: (1) identifying the purpose for the distinction; (2) determining whether that purpose is a legitimate state purpose; and (3) testing the "fit" between the purpose and the distinction itself to see if the distinction accomplishes the claimed purpose.

The Alaska and federal tests differ primarily in the required closeness of the fit between the distinction made and the purpose behind the distinction. Under the Alaska approach the court

> will balance the nature and extent of the infringement (on the right to interstate travel) caused by the classification against the state's purpose in enacting the statute and the fairness and substantiality of the relationship between that purpose and the classification.

Williams v. Zobel, 619 P.2d at 453.

On the other hand, the federal standard is extremely forgiving, and in fact has been characterized by the Alaska Supreme Court as "virtual abdication" of the court's responsibility. Isakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976). The test is termed the "rational basis" test, and was explained by the United States Supreme Court in Dandridge v. Williams, 397 U.S. 471, 485 (1970):

> In the area of economics and social welfare, a state does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some 'reasonable basis,' it does not offend the Constitution simply because the classification 'is not made with

> mathematical nicety or because in practice it results in some inequality.' Lindsley v. Natural Carbonic Gas Co., 220 U.S. 61, 78. 'The problems of government are practical ones and may justify, if they do not require, rough accommodations -- illogical, it may be, and unscientific.' Metropolis Theatre Co. v. City of Chicago, 228 U.S. 61, 69-70. 'A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it.' McGowan v. Maryland, 366 U.S. 420, 426. 10/

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10. The choice of the level of scrutiny usually determines the outcome of the analysis. Zobel II, 619 P.2d at 452. This is particularly evident in durational residency cases. For a period of time there was substantial confusion concerning whether strict scrutiny was always required in durational residency cases or was limited to only those instances where significant deprivations resulted from failure to meet the residency requirement. E.g., Memorial Hospital v. Maricopa County, 415 U.S. at 257; Cole v. Housing Authority of City of Newport, 435 F.2d 807 (1st Cir. 1970). As a result, various courts have ruled differently on almost identical issues. E.g., compare Larsen v. Gallogly, 361 F.Supp. 305 (D. R.I. 1973) (two-year residency requirement for divorce subject to strict scrutiny; held unconstitutional) with Mendez v. Heller, 380 F.Supp. 985 (E.D. N.Y. 1974) aff'd on other grounds, 530 F.2d 457 (2d Cir. 1976) (two-year requirement for divorce subject to rational basis test; held constitutional); Bolanewski v. Raich, 330 F.Supp 724 (D.C. Mich. 1971) (three-year residency requirement for mayor subject to scrict scrutiny; held unconstitutional) with Walker v. Yucht, 352 F.Supp. 85 (D.C. Del. 1972) (three-year residency requirement for candidates for General Assembly subject to rational basis test; held constitutional); State v. Wylie, 516 P.2d 142 (Alaska 1973) (one-year residency requirement for state employment subject to strict scrutiny; held unconstitutional) with Ostendorf v. Turner, 411 So.2d 330 (Fla. App. 1982) (five-year residency requirement for homestead exemption subject to rational basis; held constitutional). It is extremely rare for a durational residency requirement to be overturned under the rational basis test, and usually will only occur in exceptional cases. E.g., Antonio v. Kirkpatrick, 579 F.2d 1147 (8th Cir. 1978) (ten-year residency requirement in order to run for state auditor); Massey v. Appollonio, 387 F.Supp. 373, 376-377 (D. Me. 1974) (three-year residency requirement in order to be licensed as a lobsterman).

The first issue, then, is to determine the purposes of the 15- and 30-year residency requirements of AS 47.25.020, .030 and .035. Like the purposes ascribed by the legislature to the longevity bonus program in AS 47.45.170, the following purposes here appear to be paramount:

(1) to reward long-term residents for their past contributions to the state and their persevering through past economic hardship;

(2) to prevent present suffering and hardship to such persons that would be caused by their having to retire outside the state, including loss of contact with family; and

(3) to retain in Alaska those persons' personal knowledge of Alaska's past history, so that it is accessible to present and future generations.

The next and most difficult issue is to determine the legitimacy of these three purposes. All three appear to be legitimate under the Alaska Constitution. Under the Federal Constitution, the "reward for past contributions" purpose is clearly illegitimate; the other two purposes, however, are arguably legitimate. A description of the permanent fund dividend cases is essential to an explanation of the present state of the law.

In a series of cases -- Williams v. Zobel, 619 P.2d 422 (Alaska 1980) (Zobel I); Williams v. Zobel, 619 P.2d 448 (Alaska 1980) (Zobel II); and Zobel v. Williams, ___ U.S. ___, 72 L.Ed.

2d 672 (1982) (Zobel III, reversing Zobel II) -- the Alaska Supreme Court and the United States Supreme Court ruled upon various residency distinctions relating to tax relief (Zobel I) and distribution of permanent fund dividends (Zobel II and Zobel III). In Zobel III, the United States Supreme Court overturned the then existing permanent fund dividend distribution plan.

In Zobel II, the Alaska Supreme Court found that rewarding past contributions is "a permissible purpose, albeit not a particularly compelling one." 619 P.2d at 460. Further, the court held that using length of residence as a measure of past contributions did satisfy the Alaska Constitution:

> Although we recognize that the length of residency may be an imperfect measure of past contributions, we have concluded that the state may recognize these contributions. The fit between means and ends need not be perfect. We think the relationship is fair and substantial. There clearly is a correlation between one's length of residency and the extent to which that individual has been able to make contributions to the community. We are not convinced that any workable alternative method of measuring past contributions is clearly preferable. Although the existence of a preferable alternative would not automatically render the relationship unfair or insubstantial, the absence of any preferable workable alternative is a strong indication that the classification chosen by the legislature is acceptable. We think the relationship is as fair and substantial as the Alaska Constitution requires in this context.

Id. at 461.

The second purpose of the Pioneers' Home program -- using length of residence as a measure of the present suffering that would be caused if the retiree would otherwise move out of the state, was not mentioned by the majority, but was expressly endorsed by Justices Dimond and Matthews in their dissent in Zobel II:

> [A]dmission to pioneer homes, AS 47.25.020-.030 . . . require[s] lengthy residency periods. . . . [The program is] apparently designed to help those individuals who would like to retire in the state but cannot do so because of the high cost of living. The state might well want to limit these benefits to those that would suffer the most hardship by being forced to leave, and it seems reasonable to suppose that a long period of residency would be some indicia of close ties to Alaska and the disruption that leaving might cause.

619 P.2d at 469 n.2. Therefore, at least two Justices would apparently uphold this program on the above rationale alone.

Finally, there is the third purpose of present access to the historical knowledge contained by these persons. Although probably not a compelling reason, it is a legitimate purpose and one that is directly tied to length of residence.

Therefore, a valid defense can be advanced that the Pioneers' Homes program meets the Alaska Constitution's equal protection test. The Alaska Supreme Court has expressly upheld the "past contribution" rationale and its "fit" with the residency requirement, while the "present hardship" reason was expressly

approved by the two Justices as sufficient to withstand constitutional scrutiny.

The question then becomes whether the revised program is defensible under the Federal analysis. In summary, although the "past contribution" purpose is an improper purpose under the Federal Constitution, the strength of the remaining two purposes does not have to be very great to withstand the minimal scrutiny of the federal "rational basis" test. Almost any legitimate purpose is defensible, so the real inquiry is whether the two remaining purposes are legitimate in light of the residency criteria. Although the United States Supreme Court has indicated serious concern with the use of residency as a measure of any trait beside bona fide residence and qualification for office,[2] there remains room for argument that other purposes are legitimate and that residency is not an arbitrary means to be used to further those purposes.

Despite its notoriety in Alaska, the United States Supreme Court opinion in Zobel III actually stands for only two propositions. First, making an award of benefits based on residency accumulated prior to the date of enactment of the benefits program is not rationally related to the purpose of granting

believes that such valid independent interests are few and far between:

> To be sure, allegiance and attachment may be rationally measured by length of residence - length of residence may, for example, be used to test the bona fides of citizenship - and allegiance and attachment may bear some rational relationship to a very limited number of State purposes. But those instances in which length of residence could provide a legitimate basis for distinguishing one citizen from another are rare.

Id., Brennan concurrence at 684 (citations omitted).

Although the instances where length of residence has an independent utility as a device to further a legitimate state interest may be rare, they may not be as rare as Justice Brennan implies. Justice Brennan indicated his belief that there were only two categories that would admit of an independent interest: testing bona fide residence and qualifying for public office. Id. But there may well be other legitimate instances that Justice Brennan did not think of, such as Justices Dimond and Matthews' view that length of residence might be a reasonable tool to measure the present hardship that would be caused by disrupting ties to the state. Zobel II, 619 P.2d at 469 n.13.

Thus, Zobel III does not preclude the state from arguing either (1) that the "present hardship" and "link with the past" purposes are legitimate, or (2) that length of residence is a legitimate tool to distinguish between those residents who meet

those purposes and those who do not. Consequently, given the "virtual abdication" of scrutiny under the federal test (Isakson v. Rickey, 550 P.2d at 363), a good faith defense can be mustered to uphold the constitutionality of the Pioneers' Homes program.

This is not to say, however, that there are not serious and possibly fatal arguments against the entire program. Besides the strong implication in the Zobel cases that residency can only be used as a discriminatory tool in extremely rare cases, there are other serious constitutional problems that the courts could find to be fatal.

One problem is that the courts could view the provision of housing and medical care as the provision of a "basic necessity of life" in all instances, and not just when there are no existing alternatives or where the purpose of the program is to aid indigents. Another problem is that the Alaska Supreme Court might view the Zobel III rejection of the "past contribution" purpose as a persuasive analysis to be applied under the Alaska constitution. That, in addition to an analysis that the "penalty" on interstate migration is much greater than that under the permanent fund dividend program, could shift the balance under the state's intensified scrutiny test against the lengthy residency requirement.

A third potential problem is that even if the courts recognize the legitimacy of the purposes and the potential

appropriateness of a residency requirement, either they could view this specific instance as an inappropriate means for using a residency test, or they could find that 15 continuous years or 30 years overall is an unreasonably long period to use to achieve these goals.

We do believe, however, that there is enough of a defense for the program that it is appropriate for the courts, rather than this office, to make the ultimate determination. Given the present state of confusion in the case law, the state's strong interest in this program, and the long-standing and uninterrupted 70-year history of the Pioneers' Homes program, a judicial resolution is appropriate.

Response to Division of Legislative Audit

With regard to Division of Legislative Audit's preference question, we believe that the statutory language clearly commands that destitute and disabled applicants be given preference over those able to pay, in the event that space limitations preclude acceptance of all otherwise eligible applicants. This conclusion follows from the language of AS 47.25.020(a) -- that worthy persons "destitute and in need of the aid or benefit of the Home" are entitled to admission -- and of § 030 -- that persons not destitute may on application be admitted. Since admission is automatic for the first group and discretionary for

the second, the first group must be given preference.

With regard to the "pay-for-care" provision, there is in our opinion no clear answer. The 1929 legislature may have intended through its statute -- permitting the board of trustees to admit non-destitute residents on their agreement to pay "such sum per day as the Board may deem sufficient to compensate the Territory for the cost of care and support of such person at the Home" -- to extract from paying residents the full cost. The language suggests this. though it is not unequivocal; "compensate" could be read as meaning "partially compensate" rather than fully compensate.

Although there is no record of specific legislative or administrative intent in subsequent years, it has consistently been the administrative practice not to require full payment of costs. Legislative Audit has noted that by 1967 non-destitute residents were assessed only 66% of the full costs, which figure has decreased to 21% in 1976 and to 11% in 1982. In addition, the legislature has consistently appropriated the money to make up the difference. Therefore, there has been a consistent and long-standing administrative (and even legislative) interpretation that the statute does not require the payment of the full cost of support. See generally 2A Sands, Sutherland Statutory Construction, ¶49.03-49.05, at 233-238 (4th ed. 1973).

And there is no discernable legislative intent, either originally or currently, which would inhibit the administrative ability to continue to interpret the statute to allow the payment of less than the full cost of support.

We would note, however, that there does not seem to be any formal or informal record to support either the present level of support ($225 a month for residential care and $275 a month for skilled nursing care), or any mechanism for reviewing the level of support at intervals to adjust for increased costs of service. Although an administrative agency does have reasonably broad discretion in making judgments such as these, if challenged there must be some evidence that the judgment was not arbitrary, capricious, or irrational. Kingery v. Chapple, 504 P.2d 831, 834-835 (Alaska 1972); Kelly v. Zamarello, 486 P.2d 906, 911 (Alaska 1970). Therefore we would recommend that the agency review the costs and leave some record of the reasons for settling on a particular number or proportion of total cost. This determination should be reviewed at reasonable times in the future so that original judgments will not become irrational because of markedly changed circumstances.

IV. CONCLUSION

Therefore, it is our opinion that

(1) the Pioneers' Homes program durational residency requirements are defensible;

(2) destitute and disabled applicants receive priority over paying applicants; and

(3) paying residents do not need to pay the full cost of support.

Finally, we believe that some administrative review of the level of payment should be undertaken. Since the present set of proposed regulations can now proceed, it might be appropriate to include procedures for that review in those regulations.

Sincerely,

Wilson L. Condon
Attorney General

WLC:mr

Enclosure

891-679-603

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ALASKA PIONEERS' HOME.

To the Senate and the House of Representatives:

Chapter 80, Session Laws, 1913, providing for the acceptance and use of the United States Marine buildings at Sitka as a home for indigent prospectors and others who have spent their years in Alaska and become dependent, constitutes the Governor of Alaska a member of the Board of Trustees, provided for in the law, and directs him to appoint two citizens to act with him as members of the Board. In accordance therewith, on June 19, 1913, W. P. Mills and Sergius George Kostrometinoff, of Sitka, were appointed members of the Board, and a formal organization was effected on July 4, following. W. P. Mills was designated Treasurer and Sergius G. Kostrometinoff Secretary of the Board, and Arthur G. Shoup was appointed Superintendent, to serve without compensation.

A report giving in detail the history of the Home and its operation since its establishment, together with the cost of maintenance, receipts and disbursements, and the other information, prepared by the Superintendent, is submitted herewith and made a part of this report. The Board has endeavored to discharge its duties in a manner commensurate with the trust with which it is charged, and it is a pleasure to acknowledge the hearty sympathy which has been expressed in many ways by the people of Alaska generaly for the success and welfare of this Territorial institution. At one time it was feared by the Board that the appropriation made for the maintenance of the Home would be exhausted before another appropriation could be made by the Legislature. Happily, such fear proved groundless, and the Home was enabled to continue through appropriations received from the Federal indigent funds from the judges of the four judicial divisions for the support of inmates from their respective divisions.

Much painstaking work has been required to place the Home in its present condition: many handicaps had to be overcome in overhauling the buildings, furnishing them and getting them ready for occupancy. The Home was ready for the admission of inmates on September 2, 1913, and was opened with five members. There are now fifty-one, the number having steadily increased since that time; ten have died, three have been adjudged insane and com-

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mitted to Morningside Sanitarium, and six have been discharged at their own request. The physical condition of a number of the inmates has resulted in making the institution a hospital as well as a home, and a hospital equipment as well as the employment of a trained nurse willl be necessary hereafter. It will be also necessary to provide for the employment of a superintendent under salary, who should be a man of executive ability and fitted in every way for the management of an institution of this kind, which calls for kindliness, patience coupled with firmness, and good judgment in all circumstances.

The Board estimates that provision should be made by the Legislature for the maintenance of eighty-five inmates of the Home, on an average, for the next two years, or until May 1, 1917, and that the sum of $50,000 will be required for the support of the institution for that period; and in addition to the above amount the sum of $6,000 will be required for the purpose of erecting and equipping a new building in order to afford the necessary accommodations that will be needed with the increase of inmates; also $2,000 for repairs and painting the present buildings.

Your attention is respectfully directed to the recommendations contained in the exhaustive report of the Superintendent, which are generaly endorsed by this Board, for such action as you may deem proper in the premises.

The Board of Trustees feel that they can not close this report without rendering due acknowledgment of the invaluable services of Honorable Arthur G. Shoup, a member of your honorable body, in the establishment and conduct of the Home. The success achieved in its management has been due largely to his unselfish efforts in its behalf without other compensation than the knowledge that he was assisting in making the declining days brighter, happier and easier for men who have spent their years in Alaska as trail-blazers and pioneers in a new land.

Respectfully submitted,

J. F. A. STRONG,
Chairman.

W. P. MILLS,
Treasurer.

S. G. KOSTROMETINOFF,
Secretary.

Sitka, Alaska, February 27, 1916.

REPORT TO THE BOARD OF TRUSTEES

By the

SUPERINTENDENT OF

THE ALASKA PIONEERS' HOME.

To the Board of Trustees,
Alaska Pioneers' Home:

Gentlemen:

I have the honor to submit herewith a detailed report of the operations of the Alaska Pioneers' Home at Sitka, Alaska, since its establishment on July 4, 1913, to the close of December 31, 1914, together with tabulated statements concerning the inmates received and cared for, and financial reports for the said period.

HISTORY AND PURPOSE.

Inasmuch as this will comprise a part of the first official report of the Trustees, and as it may be of some future interest, I shall undertake to state briefly the history of, and reasons for the establishment of this institution.

By order of the Secretary of the Navy, on March 17, 1912, the United States marine guard at Sitka, Alaska, was withdrawn, leaving the barracks and other buildings of the station abandoned. Without referring to a somewhat voluminous previous correspondence, I quote the following letter, which fully indicates the manner in which the use of these buildings was acquired by the Territory:

Department of the Interior,
Washington, April 23, 1913.

The Honorable,
The Secretary of the Navy.

Sir:

By Department letter of January 22, 1913, your attention was invited to the fact that this Department had received letters from Honorable James Wickersham, Delegate from Alaska, dated January 16, 1913, and from Hon. Arthur G. Shoup, of the Alaska Legislature, dated December 16, 1912, requesting that the abandoned buildings of the Marine Barracks at Sitka be devoted to use as a home for indigent prospectors and old men who have spent their years in Alaska and have met with misfortune; and you

were requested to advise this Department as to whether the buildings mentioned were under your jurisdiction and control, and if so as to whether they might be used for the purpose suggested.

Under date of March 10, 1913, you replied:

"The Department is willing to allow the use of these buildings as suggested by Mr. Shoup, and requests that you designate a representative at Sitka to whom the custodian may transfer them. They will be turned over with the understanding that the buildings are to be kept in as good condition as they are at present."

In response I have to advise you that the Governor of the Territory of Alaska, at Juneau, Alaska, is hereby designated as the representative to whom the custodian may transfer the buildings in question for the purpose stated.

It is requested that your representative in Alaska be advised of this action at the earliest practicable date. I have this day advised Delegate Wickersham, Mr. Shoup and Governor Clark of my action in the premises.

Respectfully,

(Signed) FRANKLIN K. LANE.

Agreeably to the foregoing letter, on May 3, 1913, Governor Clark designated Mr. Arthur G. Shoup, of Sitka, Alaska, to act as his representative in the matter of receiving these buildings from the Navy Department, with instructions to take them into his immediate charge, and on May 9, 1913, the following buildings and grounds were formally transferred to the representative of the Governor, namely:

1 Marine Barracks,
1 large coal house,
1 small coal house,
1 officers' quarters,
1 canteen building,
1 engine house,
1 store house.
U. S. Government grounds and water front belong to the above.

On December 23, 1914, the building formerly used as a residence by the Governors of Alaska, and afterwards used as a Naval Hospital, was receipted for to the representative of the Navy Department by the writer as the representative of the Governor of Alaska and the Department of the Interior. This building is about seventy years old and in a state of very poor repair. However, it is thought that with some repairs it can be used to advantage by the Alaska Pioneers' Home, and is of further value because of the excellent garden plot adjoining it. Many Alaskans feel that because of its unusual historical significance this building should be repaired and preserved by the Territory.

Under the act of the First Alaska Legislature, approved April 30, 1913, the Hon. J. F. A. Strong, as Governor of Alaska, appointed Mr. W. P. Mills, of Sitka, Alaska, Treasurer of the Board of Trustees of the Alaska Pioneers' Home, and Rev. S. G. Kostrometinoff, of Sitka, Alaska, Secretary of said Board, with the Governor as ex-officio President. On July 4, 1913, this Board met at Sitka and arranged for the use of the Marine Barracks buildings as a home for indigent prospectors and others who have spent their years in Alaska and became dependent. The Board of Trustees at this meeting appointed A. G. Shoup Superintendent, with instructions to purchase necessary furniture, make necessary repairs to the buildings, hire necessary help, make rules and regulations for the government of inmates, and to organize and operate the institution as a home for dependent men who have assisted in the exploration and development of Alaska.

The buildings at this time had been entirely unoccupied for fifteen months, and were becoming considerably dilapidated. The plumbing had frozen during the winter and a great many of the water pipes were burst, and had to be replaced. The lawns had been used as a playground by the children from the Indian village, and many of the windows were broken. The heating plant also required a number of expensive repairs. There was absolutely no furniture of any kind, excepting a kitchen range, and it was necessary to order needed furniture, dishes, cooking utensils, and other supplies. These we were able to buy at wholesale prices through the courtesy of the W. P. Mills mercantile company, which extended to the Home the benefit of its credit and buying facilities, resulting in a very material saving of funds. All of the furniture and permanent supplies purchased for the institution since its opening have been furnished by the W. P. Mills Company at actual cost.

OCCUPANCY.

The first inmates to arrive at the Home were Samuel Dutton and David Spencer, on July 28, 1914, but as the buildings were not then ready for occupancy, arrangements were made with the management of the Sitka Hot Springs, at Sanitarium, Alaska, for their temporary care. On August 10th John A. Hammill arrived from Nome, and he was also sent to Sanitarium. Frank Sears, of Circle, arrived at Sitka on August 29th, and he was cared for in a hospital at Sitka until the Home was opened. On September 2, 1914, we moved into the present quarters with five inmates. This number was increased to thirteen before the end of September. As will be seen by reference to tabulated statements herewith, the number of inmates constantly increased, as rapidly as it was possible to provide accommodations within the limits of available funds.

While it was known that many of the old-timers who had been on the frontier of Alaska were greatly battered by time and hardship, it was not anticipated that the need of a home in which they could spend their declining years was as great as the establishment of this institution has shown it to be. Owing to limited room, as well as very restricted funds, it has been necessary to refuse admission to many worthy Alaskans whom the Territory ought to provide for, and, from such investigation as it was possible to make, only the most urgent cases have been admitted.

The Legislature estblished the Home for Alaska pioneers, with the idea of providing a haven for old or disabled men who had spent their years in exploring, prospecting and developing Alaska, and had become unable to earn a living. It was thought that most of these men would still be able to do some work in connection with the operation of the institution, but experience has proved that practically all of the men who have been admitted are entirely unable to do anything at all. Many of them are altogether helpless and require constant personal attendance. This has unavoidably increased operating expenses beyond expectations, and even then the care we have been able to give the most invalid cases has been far from satisfactory. Moreover, it is inevitable that these men, who are far advanced in years and worn by severest hardships, should decline in strength after their arrival here, and I cannot too earnestly urge the provision of

more adequate hospital facilities. Another thing which has somewhat added to our troubles is that some communities, with a mistaken idea of the situation, have sent men here who were far advanced in sickness. Their condition was usually aggravated by the ordeals of travel. These men have in most cases lived but a short time after their arrival at Sitka. However, some of the apparently hopeless cases have greatly improved or recovered. A detailed statement of the physical condition of the inmates will be found in the accompanying report of the attendant physician.

RECOMMENDATIONS FOR IMPROVEMENTS.

So far as it is possible to estimate, the number of inmates in the Home will be increased in the next year to seventy-five or one hundred, and if that is so it will be necessary to increase the building space. As it is at present, we are compelled to quarter cripples, who are unable to climb stairs, in the ward with the bed-ridden invalids. That naturaly works a hardship on both the sick men and the cripples, and there should be some dormitory space on the ground floor. The dining room is small and necessitates two sittings at table with the present number of inmates. There is much need also of an assembly and recreation room. With nothing to do, life naturally becomes more or less monotonous to these old men who have led active lives. A recreation and assembly room in which entertainments could be held is highly desirable. I would recommend, therefore, that a two-story building, about forty-six feet by sixty-six feet in size, be erected at the southeast end of the "Barracks" building. This would nearly double the sleeping quarters, and provide a new dining room and assembly room. The present dining room could then be used as a ward for semi-invalid cases. Such a building should be constructed for about six thousand dollars.

The need for a trained nurse is keenly felt, and it is hoped there will be sufficient funds to keep a competent nurse in attendance next year.

The heating plant is situated in a separate building. This plant was designed by the Navy Department for the double purpose of heating the building and operating an electric light plant. It consists of one 80 H. P. tubular marine boiler eighteen feet long and four feet wide, with two doors to the fire box; one switchboard panel; one elec-

tric generator, form "C", speed 450; one marine engine; form "D", speed 450, size 6 1-4 by 6; four traps in four-foot condensing; one receiver for returns from buildings, and one Dean steam pump, six-inch stroke. There are forty-four radiators in the buildings, and the boiler consumes about 1,200 pounds of bituminous coal per twenty-four hours. A material saving in expense could be made by installing a more economical heating plant.

CEMETERY.

A plot of about one-half acre of ground was selected in the military cemetery at Sitka as a burial place for deceased inmates of the Alaska Pioneers' Home. A small portion of this has been cleared, and it is hoped that the funds will permit all of it to be put in first class shape next year. The estimated cost for clearing, grading and seeding this plot is about five hundred dollars. There should also be funds available with which to purchase permanent markings for the graves.

The men who have died in the institution have usually left a few personal belongings of nominal value. Some, however, have left a little money. Wherever there has been enough money to pay the funeral expenses it has been applied to that purpose, but the superintendent has in his possession several small amounts left by deceased inmates. This he is holding until it is decided what disposition should be made of such money. There should be a simple and uniform method of disposing of such moneys without probate procedure, either by reversion to the Home or payment to heirs. Whenever it has been possible to locate heirs such personal effects as might be valued have been sent to them.

CHARACTER OF INMATES.

Almost all of the men who have come to the Alaska Pioneers' Home are of the highest type of American trail-blazer. They are men who have lived alone in the silent places, and are of a naturally adventurous disposition. In fact, it is this very quality that has kept them upon the Alaska frontier, and it is to such men that the Territory must credit much of its development.

Some friends of the Institution have suggested that more rigid discipline should be enforced upon these old men in this Home. To me, however, it seems that to annoy these men with unnecessary restrictions would be an unkindness

that is not called for. The Alaska Pioneers' Home was established as a place where these men might spend their declining years in comfort, and is intended as a partial reward for their pathfinding services. To avoid restraint was one of the factors which made them independent prospectors and frontiersmen. And, as a matter of fact, the best way, in my opinion, to insure good conduct and avoid friction among such men is to allow them to follow their own inclinations as much as possible. They, like all of their kind, are big-hearted and generous to a fault, and are the last men in the world to impose upon the rights of others or to allow others to impose upon them. Of course, there have been some occasional cases of admitting men who never were of any use and they have given some trouble; but for such cases there is the simple remdy of summary dismissal from th Home. Instances of intoxication here have been exceptional. Owing to the weakened physical resistence of these men, if for no other reason, intoxication cannot be permitted among them under any circumstances, and that is one thing against which a positive rule has been established. The most effective factor in discouraging heavy drinking by an inmate of the Alaska Pioneers' Home is the bad standing he thereby establishes for himself among his comrades.

Much of the success of the Alaska Pioneers' Home so far, which has been under rather adverse conditions, is largely due to the hearty moral support tendered by the people of Alaska, and I wish particularly to thank those who have assisted with generous presents at each Christmas time, and in donating books for a libarary. For the support given, and confidence reposed by the Board of Trustees, I am deeply grateful.

Respectfully,

ARTHUR G. SHOUP,
Superintendent Alaska Pioneers' Home.

ATTACHMENT 5

Andress v. Baxter

Wilson L. Condon
Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811
(907) 465-3600

Attorney for Defendants

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JUDITH ANDRESS, Plaintiff, v. FRED J. BAXTER, MILDRED BANFIELD, THELMA BUCHHOLDT, LEE DEMMERT, THELMA LANGDON, MARY ELIZABETH LOMEN, JOHN MALONE, JOHN SHIVELY, TERRY STIMSON, DONNIS THOMPSON, BLANCHE WALTERS, WALTER WARD, KERRY ROMESBERG AND THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION, Defendants.	No. A82-307 Civ.

MOTION FOR SUMMARY JUDGMENT

Defendants Fred J. Baxter et al., move this court for entry of a summary judgment in their favor under the provisions of Rule 56 of the Federal Rules of Civil Procedure.

This motion is based on the pleadings, deposition, the accompanying memorandum in support, and on the attached Affidavit of Kerry Romesburg. These materials establish that there is no

genuine issue as to any material fact and that defendants are entitled to judgment in their favor as a matter of law.

DATED this 8th day of September, 1982.

WILSON L. CONDON
ATTORNEY GENERAL

By: Robert M. Maynard
Robert M. Maynard
Assistant Attorney General

Wilson L. Condon
Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811
(907) 465-3600

Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
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JUDITH ANDRESS, Plaintiff, v. FRED J. BAXTER, MILDRED BANFIELD, THELMA BUCHHOLDT, LEE DEMMERT, THELMA LANGDON, MARY ELIZABETH LOMEN, JOHN MALONE, JOHN SHIVELY, TERRY STIMSON, DONNIS THOMPSON, BLANCHE WALTERS, WALTER WARD, KERRY ROMESBERG AND THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION, Defendants.	)	No. A82-307 Civ.

DEFENDANTS' MEMORANDUM IN SUPPORT OF SUMMARY JUDGMENT

I. INTRODUCTION AND SUMMARY

The question before this court is whether Alaska's student loan program, which is by far the most generous program in the nation, can require two years residency as a condition of application in order "to make virtually certain that students who are not, in fact, bona fide residents of the State, cannot take

advantage of in-state rates." Vlandis v. Kline, 412 U.S. 441, 454 (1973) ("Vlandis") (emphasis added).

Judith Andress contends that the two-year requirement violates the Federal Constitution's Due Process Clause, Equal Protection Clause, Privileges and Immunities Clause, and the Citizenship Clause. Of these challenges, only the equal protection question merits any detailed response.

Denial of a student loan is not the denial of either a fundamental political right (such as voting), or a basic necessity of life (such as welfare or access to medical treatment). Consequently, the equal protection standard to be used is the rational basis test. Hawaii Boating Ass'n v. Water Transportation Facilities, 651 F.2d 661 (9th Cir. 1981) ("Hawaii Boating").

The courts have upheld one-year residency requirements for reduced tuition rates at state schools where all students actually remain in the state to attend school. E.g., Starns v. Malkerson, 326 F.Supp. 234 (D. Minn. 1970), aff'd mem. 401 U.S. 985 (1971). It is not irrational to require two years of residency where the state is paying out cash and where the recipients may then take the money to attend out-of-state schools for up to eight years.

The rationality of the requirement is further enhanced by the incentive created by the Alaska loan program to come to Alaska solely to take advantage of this state benefit. Unlike loan programs in the rest of the nation, an Alaskan resident does not have to pass a needs test, nor is there a family income

limitation for recipients of loans for waiver of interest while in school. Alaska's loans are available on the same terms to all regardless of either need or family income. In addition, other states' loan programs lend only $2,500 per year to undergraduates, and $5,000 to graduates. Alaska lends $6,000 and $7,000, respectively. The maximum total allowed in other states is $12,500 for undergraduates and $25,000 for graduates (including any undergraduate loans); Alaska's totals are $30,000 for undergraduates, $35,000 for graduates, and $53,000 combined. The interest rate in other states is 9%; Alaska's is 5%. Affidavit of Dr. Romesburg. (Attached as Appendix I.)

Given the tremendous disparity between other states and Alaska, it is not irrational to require two years as a test for the bona fides of a student's residence. The state is lending large amounts of money at extremely preferential rates. It wishes that money to go to persons who presently intend to make Alaska their home after completing their education. It is reasonable to require a two-year residency requirement when money is being lent to students who previously resided out-of-state, where those students will be receiving up to $53,000 of state money, and when those students can spend that money while attending school out-of-state for up to the next eight years. The state can rationally and constitutionally require a student to meet a two-year residency test in order to show that student's bona fides and to assure the state that this money is going to persons

who intend to return upon completion of their education and make Alaska their home.

II. DESCRIPTION OF THE PROGRAM

AS 14.40.751--14.40.806 sets forth the conditions for the Alaska student loan program. Undergraduates may receive up to $6,000 per year (AS 14.40.759), while graduates may receive up to $7,000 per year (AS 14.40.763). Undergraduate students may receive loans for five years (or $30,000); graduate students may receive loans for five years (or $35,000); and total undergraduate and graduate loans may be received for eight years ($53,000). AS 14.40.763(d). The loan is to be repaid at an interest rate of 5% per year for up to ten years. AS 14.40.763(f) and (g). There is no needs test or family income limit.

As the Affidavit of Dr. Kerry Romesburg shows, the Alaska program is the most liberal program in the nation. All other states use the Federal Guaranteed Student Loan (GSL), which requires that students meet a needs test and have family incomes of less than $30,000 per year for waiver of interest while in school. The GSL lends only $2,500 per year to undergraduates, and a total of only $12,500. Graduate students under the GSL can receive $5,000 per year for a total of $25,000, but that total includes undergraduate loans. GSL's are to be paid back at an interest rate of 9% per year.

Only four other states have loan programs in addition to the GSL: Alabama, Georgia, Kansas, and Oregon. All of those

programs, however, are at least as restrictive as the GSL. Alabama provides loans for medical and dental study at a 7% interest rate and has no residency restriction. Georgia provides 9% loans for up to $1,500 per year for study in "critical fields" of study. Kansas provides "loans of last resort" to students. If a student can not qualify for a GSL, loans of up to $1,500 for a first-time freshman, $2,500 for other undergraduates, and $5,000 for graduate students are made available at 9% interest. Oregon provides loans for medical and dental study at 9% interest. The loans are for up to $2,500 per year. Affidavit of Dr. Romesburg.

In order to qualify for an Alaskan loan, an applicant must: (1) be either a full-time college student, a high school student, or scheduled to graduate from a high school within the next six months; and (2) be a resident of the state for two years at the time of application. AS 14.40.765. AS 14.40.765(b) further provides that:

> For purposes of this subsection, a person qualifies as a resident of the state if at the time he applies for the loan the person
>
> (1) has been present in the state for at least two years unless his absence from the state during any part of the two years was due to military service; or
>
> (2) is a person who is dependent on a parent or guardian for his care, and the parent or guardian has been present in the state for at least two years.

It is this two-year requirement which is challenged by Judith Andress as violating the Federal Constitution under the Equal Protection, Privileges and Immunities, Due Process, and

Citizenship Clauses. Since the only serious question arises under the Equal Protection Clause, that issue will be discussed first.

III. ARGUMENT

A. SUMMARY JUDGMENT IS APPROPRIATE.

Rule 56 of the Federal Rules of Civil Procedures provides that summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Although defendants deny a number of Ms. Andress' allegations, even if all of Ms. Andress' factual allegations are correct, defendants are entitled to judgment as matter of law.

The only disputed fact which requires some explanation is Ms. Andress' allegation that her "application is disadvantaged by the priority given applications based on the applicant's length of residency in Alaska as required by AS 14.40.767(a)(2)." That statute provides for the award of points in order to allocate priority among late applications, with some points going for length of residency in Alaska. The Alaska Commission on Postsecondary Education has never applied that statute and will not be applying that statute with this year's applications. Affidavit of Kerry Romesburg. Instead, as Dr. Romesburg's affidavit points out, if because of limited funds priorities were to be

awarded, the awards will go to applications on a first come, first served basis. This course of action has been taken with the advice of the Department of Law. Therefore, the only question before this court is whether or not the two-year durational residency requirement contained in AS 14.40.765(b) is constitutional. For that issue, there are no material issues of fact in dispute, and summary judgment is appropriate.

B. THE TWO-YEAR RESIDENCY REQUIREMENT DOES NOT VIOLATE THE EQUAL PROTECTION CLAUSE.

There is no question "length of residence may . . . be used to test the bona fides of citizenship." Zobel v. Williams, __ U.S. __, 50 U.S.L.W. 4613, 4617 (concurring opinion of Justice Brennan). In addition, the state has a legitimate interest in assuring that state money and its preferential interest rates are actually received by students who intend to make Alaska their home. The United States Supreme Court's pronouncements on resident tuition are equally applicable to student loans:

> The State can establish such reasonable criteria for in-state status as to make virtually certain that students who are not, in fact, bona fide residents of the State, but who have come there solely for educational purposes, cannot take advantage of the in-state rates.

Vlandis v. Kline, 412 U.S. 441, 453-454 (1973) ("Vlandis").

Similarly, the issue here is whether a two-year requirement is a reasonable way to make "virtually certain" that an applicant has a present intent to return to the state after completing his or her education. The first inquiry in the equal

protection analysis is whether the requirement is to be analyzed under strict scrutiny or the rational basis test.

. . . The rational basis standard applies since neither a fundamental political right or access to a basic necessity of life is involved. Hawaii Boating Ass'n v. Water Transportation Facilities, 651 F.2d 661 (9th Cir. 1981); Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974). Strict scrutiny is involved only when genuinely significant deprivations are involved:

> Deprivations which are only uncomfortable are not enough, such as conditioning lower tuitions at state institutions of higher education upon a one-year residency requirement.

Hawaii Boating Ass'n at 665, quoting from Fisher v. Reiser, 610 F.2d 629, 639, n.5 (9th Cir. 1979), cert. denied, 447 U.S. 930 (1980) (Judge Hufstedler dissent). Like student tuition, denial of the right to a state funded student loan is at best an "uncomfortable deprivation." Therefore, the two-year residency requirement need only be rationally related to its purpose of assuring that student loans go only to bona fide residents.

The rational basis test was explained by the United Supreme Court in Dandridge v. Williams, 397 U.S. 471, 485 (1970):

> In the area of economics and social welfare, a state does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some 'reasonable basis,' it does not offend the Constitution simply because the classification 'is not made with mathematical nicety or because in practice it results in some inequality.' Lindsley v. Natural Carbonic Gas Co., 220 U.S. 61, 78. 'The problems of government are practical ones and may justify, if they do not require, rough accommodations -- illogical, it may be,

> and unscientific.' Metropolis Theatre Co. v. City of Chicago, 228 U.S. 61, 69-70. 'A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it.' McGowan v. Maryland, 366 U.S. 420, 426.

That rational basis exists here. First, it should be noted that the choice of the level of scrutiny usually determines the outcome of the analysis. This is particularly evident in durational residency cases. For a period of time there was substantial confusion concerning whether strict scrutiny was always required in durational residency cases or was limited to only those instances where significant deprivations resulted from failure to meet the residency requirements. E.g., Memorial Hospital v. Maricopa County, supra, 415 U.S. at 257; Cole v. Housing Authority of City of Newport, 435 F.2d 807 (1st Cir. 1970); Fisher v. Reiser, supra. As a result, various courts ruled differently on almost identical issues. E.g., compare Larsen v. Gallogly, 361 F.Supp. 305 (D. Rhode Is. 1973) (two-year residency requirement for divorce subject to strict scrutiny; held unconstitutional) with Mendez v. Heller, 380 F.Supp. 985 (E.D. N.Y. 1974) aff'd on other grounds, 530 F.2d 457 (2d Cir. 1976) (two-year requirement for divorce subject to rational basis test; held constitutional); Bolanewski v. Raich, 330 F. Supp. 724 (D.C. Mich. 1971) (three-year residency requirement for mayor subject to strict scrutiny; held unconstitutional) with Walker v. Yucht, 352 F.Supp. 85 (D.C. Del. 1972) (three-year residency requirement for candidates for General Assembly subject to rational basis test; held constitutional); State v. Wylie, 516 P.2d 142 (Ak.

1973) (one-year residency requirement for state employment subject to strict scrutiny; held unconstitutional) with Ostendorf v. Turner, 411 So.2d 330 (D.C. App. 1982) (five-year residency requirement for homestead exemption subject to rational basis; held constitutional). It is extremely rare for a durational residency requirement to be overturned under the rational basis test, and usually will only occur in outrageous cases. E.g., Antonio v. Kirkpatrick, 579 F.2d 1147 (8th Cir. 1978) (ten-year residency requirement in order to run for state auditor); Massey v. Appollonio, 387 F.Supp. 373, 376-377 (D. Me. 1974) (three-year residency requirement in order to be licensed as a lobsterman). 1/

Establishing bona fide residence, or domicile, occurs when a person both (1) is physically present within the state; and (2) intends to remain and make a home. E.g., State v. Adams, 522 P.2d 1125 (Alaska 1974); Restatement (Second) of Conflict of Laws, §§ 15, 16, 18 (1971). Applying these principles, however, is often extremely difficult -- particularly the determination of intent:

---

1. The Alaska Supreme Court, for one, until recently held that durational residency requirements always required a compelling state interest. See, Williams v. Zobel, 619 P.2d 449, 451-452 (1980). The Alaska Supreme Court now analyzes durational residency requirements under its intensified scrutiny test, which is an intermediate balancing approach between strict scrutiny and the rational basis test. Id. This "intensified scrutiny" test was set forth in State v. Erickson, 574 P.2d 1 (Alaska 1978). In a May 5, 1981 informal opinion to Representative Don Clocksin, Assistant Attorney General Bruce Botelho stated that he believed that the Alaska Supreme Court would overturn the two-year residency requirement, primarily applying the Erickson balancing test. Upon closer review, this office now believes that the two-year requirement would meet even the stricter Erickson test.

> [I]t is known jurisprudential fact that these requisites are deceptively simple, and are much more easily stated than applied. In particular, whether an individual possesses the necessary intent is often a very difficult question to answer.

Stottlemyer v. Stottlemyer, 329 A.2d 892, 899 (Pa. 1974).

Moreover, as the United States Supreme Court has expressly recognized, there are particular problems in determining the bona fides of college students "since those students are characteristically transient." Memorial Hospital, supra, 415 U.S. at 260, n.15; Vlandis v. Kline, supra, 412 U.S. at 452. Thus even during the period of uncertainty as to whether strict scrutiny always applied to durational residency cases, it was recognized that one-year residency requirements for in-state tuition were constitutional. E.g., Coleman v. Housing Authority of City of Newport, supra, 435 F.2d at 810, n.9. (D. Me. 1974).

Consequently, it is evident that a one-year residency requirement for student loans would easily pass constitutional muster under the rational basis test. The state can condition the grant of preferential rates for tuition on a one-year residency requirement. Vlandis v. Kline, supra; Hooban v. Boling, 503 F.2d 648 (6th Cir. 1974); Sturgis v. State of Washington, 368 F.Supp. 38 (D.C. Wash. 1973), aff'd mem., 414 U.S. 1057 (1973); Starns v. Malkerson, 326 F.Supp. 234 (D. Minn. 1970), aff'd mem., 401 U.S. 985 (1971). Kirk v. Board of Regents of the University of California, 279 Cal App. 2d 430, 78 Cal. Rptr. 260 (Cal App. 1967) app. dismissed, 396 U.S. 554 (1970); Padgar v. Indiana University, 381 N.E.2d 1274 (Ind. App. 1978). The actual transfer

of cash to a student is at least on par to the tuition cases, if not a more compelling reason in and of itself for the application of a more stringent requirement. In any event, the issue before this court could also be cast as whether it is irrational for the State of Alaska to require two years of residence instead of one year in order to be eligible for a student loan.

The two-year requirement is reasonable. It is not irrational or outrageous. The Alaska student loan program does not require that the student remain in-state to attend school (unlike the resident tuition cases). The student can spend up to $53,000 in state loan funds for up to eight years attending school in California, Washington, Arizona, or any other state in the Union. Given the judicially recognized "special problems" involved in determining the bona fide residence of college students even when the students will be physically located in the state for their years of school (Memorial Hospital, supra, 415 U.S. at 260, n.15; Vlandis 412 U.S. at 452), even greater problems attend such a determination when an out-of-state student comes in, gets money, and then leaves the state for a substantial period of time. Thus, even if the Alaska loan program were the same as all other states' programs a two-year residence requirement would not be irrational.

In addition, however, the Alaska program is far and away the most attractive education loan program in the United States. All other states use the Federal Guaranteed Student Loan Program (GSL), which is substantially inferior and much more

restrictive than the Alaska program. As pointed out earlier, the GSL is limited to $2,500 per year for undergraduate, and $5,000 per year for graduates. ...Alaska lends $6,000 and $7,000 respectively. The maximum total allowed under GSL is $12,500 for undergraduates and $25,000 for graduates (including undergraduate loans). Alaska's respective totals are $30,000 and $35,000; in addition, combined graduate and undergraduate loans could total up to $53,000 for eight years of study. The interest rate for GSL's are 9%; Alaska's are 5%. Further, in order for a student who has a family income of $30,000 or more to receive a fully subsidized GSL loan, that student must demonstrate substantial financial need based upon a standardized needs test. Alaska's loans are open to all irrespective of need or income. Affidavit of Dr. Romesburg.

In short, it is not irrational to believe that a two-year residency requirement, rather than a one-year requirement, is a "reasonable criteri[on] for in-state status as to make virtually certain that students who are not, in fact, bona fide residents of the state .... cannot take advantage" of the enormous benefits of Alaska's loan program. Vlandis v. Kline, supra, 412 U.S. at 455 (emphasis added). The two-year residence requirement meets the rational basis test, and does not violate equal protection.

C. THE TWO-YEAR RESIDENCY REQUIREMENT DOES NOT VIOLATE THE DUE PROCESS CLAUSE, THE CITIZENSHIP CLAUSE, OR THE PRIVILEGES AND IMMUNITIES CLAUSE.

Ms. Andress also challenges the two-year residency requirement under the Due Process Clause, the Privileges Immunities Clause, and the Citizenship Clause. These assertions are without merit.

Vlandis settled the due process issue by holding that only "a permanent irrebuttable presumption of non-residence . . . is violative of the Due Process Clause." Vlandis, 214 U.S. at 453. In Vlandis the Court overturned a scheme where if a student was not a resident by a certain date (the date of admission to school), that student could never achieve resident status thereafter. The Court contrasted that scheme with plans that allowed the rebuttal of that presumption after a period of residence:

> Minnesota's one-year durational residency requirement, however, differed in an important respect from the permanent irrebutable presumption of issue in the present case. Under [Minnesota's requirement], a student who applied to the University from out of State could rebut the presumption of non-residency, after having lived in the State for one year, by presenting sufficient other evidence to show bona fide domicile within Minnesota.

Vlandis, 492 U.S. at 453, n.9. In other words, durational residency requirements, since they can be rebutted by a period of residence, do not violate the Due Process Clause.

Ms. Andress' challenges under the Privileges and Immunities Clause and the Citizenship Clause are also without support. Because Ms. Andress claims to be a bona fide Alaska

resident, the Privileges and Immunities Clause is inapplicable. Hawaii Boating, 651 F.2d at 666. Nor does the state see how Ms. Andress' claim falls within the accepted ambit of the Citizenship Clause. E.g., Slaughter-House Cases, 83 U.S. 36 (1873).

Instead, it appears that Ms. Andress is attempting to argue a violation of a fundamental right to interstate travel based upon these clauses, an approach recently argued by Justice O'Connor in her concurrence in Zobel v. Williams, supra, 50 U.S.L.W. at 4616-4620. Whatever the future of that analysis, it is clear that eight out of the nine justices presently reject that approach. Id., at 4615, n.4, 4616-4617 (J. Brennan concurring), 4621, n.3 (J. Rehnquist, dissent). Ms. Andress' arguments on these points will have to await another day -- they are not meritorious under the present state of the law.

IV. CONCLUSION

For the reasons stated in the brief, defendants respectfully request this court to grant their motion for summary judgment.

DATED this 8th day of September, 1982.

WILSON L. CONDON
ATTORNEY GENERAL

By: Robert M. Maynard
Robert M. Maynard
Assistant Attorney General

Wilson L. Condon
Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811
(907) 465-3600

Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JUDITH ANDRESS, Plaintiff, v. FRED J. BAXTER, MILDRED BANFIELD, THELMA BUCHHOLDT, LEE DEMMERT, THELMA LANGDON, MARY ELIZABETH LOMEN, JOHN MALONE, JOHN SHIVELY, TERRY STIMSON, DONNIS THOMPSON, BLANCHE WALTERS, WALTER WARD, KERRY ROMESBERG AND THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION, Defendants.	)	No. A82-307 Civ.

AFFIDAVIT OF MAILING

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

MARGARET RAMOS, being first duly sworn upon her oath, deposes and says:

That she is employed as a legal secretary with the Attorney General's Office, Pouch K, Juneau, 99811, and that on

the 8th day of September, 1982 she mailed the 1) Motion for Summary Judgment, 2) Defendants' Memorandum in Support of Summary Judgment, and 3) Affidavit of Kerry Romesburg by DHL Courier Express Service to tne following:

Ronald G. Zobel
Hellen and Partnow
425 "G" St., Suite 710
Anchorage, Alaska 99501

DATED this 8th day of September, 1982.

Margaret Ramos

Subscribed and sworn to me this 8th day of September, 1982.

Notary Public, State of Alaska
My commission expires 9/9/83

ATTACHMENT 6

Vest v. Schaefer

RECEIVED
FEB 28 1983

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

RODNEY G. VEST,

Plaintiff,

vs.

MARIAN SCHAFER and STATE OF ALASKA,

Defendants.

(C)

No. 1JU-82-1103 Civil

ORDER

On August 16, 1982, the parties to the above action filed a proposed Agreement and Order of Settlement. Based on that agreement[1] of the parties,

IT IS HEREBY ORDERED that all actions and proceedings in the above-captioned case, other than the certification of the plaintiff class, the approval by the Superior Court for the settlement agreement to be submitted to the plaintiff class, and any further approval by the court necessary to consummate the settlement agreement after the certification of plaintiff class, are stayed through and including the date of adjournment of the first regular session of the 13th Alaska Legislature or June 30, 1983, whichever event occurs first in time.

IT IS FURTHER ORDERED that procedures for class certification shall be submitted to the court for review no later than September 10, 1982, and the parties will request the court to render its order with respect to the notice procedures for the said class no later than September 24, 1982. Notice to the class shall be transmitted, along with the proposed settlement agreement and the conditions necessary to affectuate the settlement, on or before October 11, 1982. The State of Alaska will undertake reasonable efforts to assist the plaintiff to locate

1. This order embodies some but not all of the elements the parties included in their proposed order.

those persons sixty-five years or older as of July 1, 1982, who have been bona fide Alaska residents in Alaska for one year immediately prior to that date. In the event the settlement agreement is not consummated for whatever reason, but the plaintiff class has been certified by the court as set forth above, the plaintiff shall not be precluded from seeking an enlargement of the class and a certification thereof so as to include other persons having a shorter residential duration within the state than specified in the agreement and may also seek a greater retroactive recovery than that specified in the agreement.

IT IS FURTHER ORDERED that the Alaska Legislative Council shall utilize its best efforts to secure the enactment during the first regular session of the 13th Alaska Legislature of the legislation described in the above agreement, subject to the conditions specified in the agreement.

This court specifically expresses no opinion as to whether a one-year residency requirement is reasonable, necessary and appropriate in order to demonstrate bona fide Alaskan residency; more particularly, this court has not been requested to and does not determine whether a period of residency less than one year may be constitutionally mandated or whether a period of residency greater than one year may be constitutionally permissible in order for persons of the age of sixty-five or over to receive longevity bonus payments. The court merely acknowledges the right of the parties to agree that this matter shall be stayed for a period of time and to agree that the Alaska Legislative Council shall utilize its best efforts to secure the enactment of legislation that treats equally all persons of the age of sixty-five or older who have been residents of the State of Alaska for one year or longer with respect to their residential qualifications to receive any longevity bonus payments or

substitute benefits from July 1, 1982, and thereafter for as long as the legislature may determine to continue such a program. Accordingly, nothing in this order should be construed to infringe upon the freedom of the legislature independently to determine whether and, if so, how the Longevity Bonus Program (AS 47.45.010 et. seq.) should be amended.

DONE at Juneau, Alaska, this 24th day of August, 1982.

Walter L. Carpeneti
Superior Court Judge

CERTIFICATION

This is to certify that on the above date I provided a copy of the above Order to:

Mark Sandberg, Esq.
Wilson L. Condon, Esq.
William G. Ruddy, Esq.

Secretary to the Judge

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT

CONFIDENTIAL

RODNEY G. VEST,

Plaintiff,

v.

MARIAN SCHAFER and STATE OF ALASKA,

Defendants.

Case No. 1JU-82-1103 Civ.

AGREEMENT AND ORDER OF SETTLEMENT

WHEREAS, in 1972 the Alaska Legislature enacted the Alaska Longevity Bonus Program (AS 47.45.010 et. seq.) which currently provides, inter alia, for the payment of $250 for each month of continued residency by bona fide Alaska residents over the age of 65 who were domiciled in Alaska on or before January 3, 1959 and who have maintained a continuous domicile in Alaska for 25 years;

WHEREAS, the purpose of the Alaska Longevity Bonus Program is among other things, to reward elderly Alaskans for their past contributions to the state and territory, and for past hardships suffered during territorial and early statehood days. AS 47.45.170;

WHEREAS, since 1972, the State of Alaska in good faith has administered the Longevity Bonus Program in the belief that

the rewarding of prior residency was a constitutionally permissible purpose;

WHEREAS, in upholding the State's prior Permanent Fund Dividend distribution program, the Alaska Supreme Court ruled that "reward[ing] those Alaska residents who have chosen to stay" is a constitutionally permissible purpose. Williams v. Zobel, 619 P.2d 448, 460 (Alaska 1980);

WHEREAS, Justices Dimond and Matthews, in dissenting in Williams v. Zobel, believed that the Longevity Bonus Program would withstand constitutional scrutiny (619 P.2d at 469, n.13);

WHEREAS, on June 14, 1982, the United States Supreme Court, in invalidating Alaska's prior Permanent Fund Distribution Program, ruled that a statutory purpose of rewarding prior residency was constitutionally impermissible. Zobel v. Williams, ____ U.S. _____, 80-1146;

WHEREAS, because of the U.S. Supreme Court's decision in Zobel v. Williams, it appears the Longevity Program may not be deemed constitutional;

WHEREAS, a serious and good faith disagreement has developed and the Alaska Legislative Council questions whether the appropriate remedy is to expand the class of recipiants of monthly longevity bonuses, or alternatively, to invalidate the entire program and cease payment of monthly bonuses to any person;

WHEREAS, this uncertainty regarding the appropriate remedy derives from § 2, Ch. 205, SLA 1972, which provides, with respect to the Longevity Bonus Program:

> If any provision of this Act, or the application of a provision of this Act to any person or circumstances is held invalid, this entire act shall be considered invalid.

very important

WHEREAS, unless and until the question of appropriate remedy is resolved by this court, or a settlement of this controversy is achieved, it is reasonable and prudent that the State of Alaska continue to administer the Longevity Bonus Program in the manner provided by statute;

WHEREAS, on July 6, 1982, Plaintiff Rodney Vest filed the above-captioned action, seeking as relief his inclusion in the Longevity Bonus Program of "any . . . bona fide Alaska resident who is 65 years or older....". Complaint, Prayer for Relief, para. 3;

WHEREAS, ON July 23, 1982, Plaintiff Vest filed an amended complaint seeking to have this case certified as a class action under Alaska Rule of Civil Procedure 23 on behalf of all bona fide Alaskans of the age of 65 or older, and further seeking as alternative relief the invalidation of the Longevity Bonus Program, or the payment of retroactive bonuses "in amount equal to what they would have been entitled to obtain under the program had the unconstitutional criteria never been in place or

enforced." First Amended Complaint, Prayer for Relief, paras. 4-6.

WHEREAS, there are currently 9,124 recipients of monthly longevity bonuses, and many of these recipients are of modest means, and depend upon the monthly bonus for sustenance, and the termination of the longevity bonus payments to these individuals could cause great and irreparable harm;

WHEREAS, because of the uncertainty with respect to the appropriate remedy, the parties are desirous of settling this litigation in a manner which affords meaningful relief to Plaintiff Vest and others similarly situated, but which also ensures the continuation of monthly bonus payments to existing recipients;

WHEREAS, the parties are further desirous of achieving a settlement which will finalize and constitute a full and final accord of the rights and liabilities of the parties hereto;

WHEREAS, there may be as many as 4,000 persons who are similarly situated with Plaintiff Vest -- to wit, bona fide Alaskans of the age of 65 or over -- who are not currently receiving longevity bonus payments because of the residency requirements of the statute;

WHEREAS, the parties agree that, because of the nature of the rights of recipients involved in this litigation, a one-year residency requirement is reasonable, necessary and appropriate in order to demonstrate bona fide Alaskan residency;

WHEREAS, a full and final settlement of the parties' rights and liabilities hereto cannot be achieved until all persons similarly situated with Plaintiff Vest are certified as a class under Alaska Rule of Civil Procedure 23(c);

WHEREAS, the settlement envisioned by the parties includes the retroactive payment of longevity bonuses to plaintiff class commencing and including July 1, 1982;

WHEREAS, the payment of such retroactive bonuses to an expanded class of recipients would require the appropriation of sums above the amount currently appropriated for the longevity bonus program for fiscal year 1982-83. Moreover, and because of the Alaska Legislative Council's view of the non-severability clause, quoted above (effecting the expansion of the class of longevity bonus recipients), such payments may require the enactment of curative legislation;

WHEREAS, it is therefore necessary, in order to effectuate this settlement, for appropriate legislation to be enacted;

WHEREAS, the Alaska Legislature is a coordinate branch of government of the State of Alaska, and is represented in this action by the Attorney General;

WHEREAS, notwithstanding the above, the Attorney General cannot in any manner bind or compel the Alaska Legislature in the exercise of its legislative powers;

WHEREAS, on July 16, 1982, the Alaska Legislative Council moved to participate in the above-captioned action as amicus curiae, it is agreed that the Alaska Legislative Council may participate in all negotiations of any settlement, the filing of briefs and may participate in oral arguments; however, the Alaska Legislative Council agrees that it will not be involved in discovery proceedings in the event the case is ultimately litigated and will not become otherwise involved in accordance with the terms of this settlement agreement;

WHEREAS, and while the Alaska Legislative Council cannot bind the Alaska Legislature in the exercise of its legislative powers, the Alaska Legislative Council can and is willing to commit its best efforts to the enactment of appropriate legislation during the first regular session of the 13th Alaska Legislature;

WHEREAS, and subject to (1) the certification of plaintiff class, (2) the Superior Court's approval of a settlement proposal herein, and (3) the commitment of the Alaska Legislative Council to use its best efforts in the enactment of appropriate legislation, plaintiff class is agreed that such action will provide full and adequate consideration for the promise and agreement of plaintiff class not to seek relief in any form with respect to the Longevity Bonus Program through and including the adjournment of the first regular session of the

13th Alaska Legislature or June 30, 1983, whichever ever event comes first in time;

WHEREAS, nothing herein is to be construed as an admission by the State of Alaska as to the unconstitutionality of the Longevity Bonus Program;

WHEREAS, except with respect to the good faith of the State and its agents, nothing herein is to be construed as an admission by either party in the event the settlement agreed to here is not consummated;

NOW THEREFORE THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. All actions and proceedings in the above-captioned case, other than:

(a) the certification of plaintiffs class

(b) the approval by the Superior Court for the State of Alaska, First Judicial District of this proposed settlement agreement, and

(c) any further approval by the court necessary to consummate the settlement agreement after the certification of plaintiffs class,

are stayed through and including the date of adjournment of the first regular session of the 13th Alaska Legislature or June 30th, 1983, whichever event occurs first in time. Procedures for class certification shall be submitted to the Court for review no later than September 10, 1982, and the parties will request the

Court to render its order with respect to the notice procedures forthe said class no later than September 24th, 1982. Notice to the class shall be transmitted, along with the proposed settlement and the conditions necessary to affectuate the settlement, on or before October 11th, 1982. The State of Alaska will undertake reasonable efforts to assist Plaintiff to locate those persons 65 years or older as of July 1, 1982, who have been bona fide Alaska residents in the state of Alaska for one year immediately prior to that date. In the event this settlement agreement is not consummated for whatever reason, but the class certification has been certified by the court as set forth above, the Plaintiff shall not be precluded from seeking an enlargement of the class and a certification thereof so as to include other persons having a shorter residential duration within the State and may also seek a greater retroactive recovery.

2. The Alaska Legislative Council shall utilize its best efforts to secure the enactment, during the first regular session of the 13th Alaska Legislature, of the following legislation;

(a) Legislation which treats equally all bona fide Alaska residents of the age of 65 or older with respect to their residential qualifications to receive any "longevity bonus payments" or any substitute benefits from July 1, 1982 and thereafter for as long as the legislature may determine to continue such a program. Bona fide Alaska residents are those

who continuously resided in the state for one year immediately prior to the date of eligibility; and

(b) Any appropriation which might be required to fund the legislation described in paragraph (a), including the retroactive payment of bonuses.

3. If the Alaska Legislature passes legislation described in 2(a)-(b) above at any time during the first regular session of the 13th Alaska Legislature and the Governor signs the said legislation or otherwise allows 2(a)-(b) to become law so that 2(a)-(b) will be effective no later than Ninety days after enacted, the above action shall be dismissed with prejudice, subject only to the determination of attorney fees by the Court.

4. If the above-captioned action is dismissed under paragraph 3 above, all claims or rights of any class member (except those class members who exercise their right to opt out under Rule 23 of the Alaska Rules of Civil Procedure), with respect to the Longevity Bonus Program, shall be merged into the judgment of dismissal and extinguished;

5. If the Legislation described in 2(a)-(b) above is not enacted during the first regular session of the 13th Alaska Legislature or in any event no later than June 30, 1988, then this agreement shall be null and void, except that the Plaintiff and the class certified, together with any additional members, if there is an enlargement of the class, may prosecute this case as

if this agreement had not been entered into, it being the intent of the parties that certification of the plaintiff class, or the enlargement thereof, shall not be affected if this agreement becomes null and void;

6. The obligation of the Alaska Legislative Council under 2 herein is contingent upon certification of plaintiff class under Alaska Rule of Civil Procedure 23(c), which class shall include each and every individual of the age of 65 or older who, as of July 1, 1982, had continuously resided one year immediately preceding that date within the State of Alaska, and in the event that a class is certified which is less inclusive than as above described, the State of Alaska has reserved the right to waive the protections of this paragraph in whole or in part. Nothing in this paragraph is intended to modify or affect the certification of the class or the right of the Plaintiff to enlarge the class if this agreement becomes null and void.

DATED this __ day of _____, 1982.

DATED: August 9, 1982 Wilson L. Condon by [illegible]
Attorney for Defendants
Marian Schaefer and
State of Alaska

WILSON L. CONDON
ATTORNEY GENERAL

DATED: August 6, 1982 Henry J. Camarot
Attorney for Plaintiff

Henry J. Camarot
Camarot, Sandberg & Hunter

DATED: 8/16/82

Attorney for Alaska
Legislative Council
Amicus Curiae

FOR William Ruddy
Robertson, Monagle,
Eastaugh & Bradley

O R D E R

IT IS SO ORDERED.

DATED: _____

Hon. Walter Carpeneti
Superior Court Judge

ATTACHMENT 7

Tillinghast Report

THE LONGEVITY BONUS PROGRAM:
OPTIONS UNDER THE VEST SETTLEMENT

JON K. TILLINGHAST

Birch, Horton, Bittner, Pestinger & Anderson

March 8, 1983

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I. INTRODUCTION

On June 14, 1982, the United States Supreme Court ruled that the cumulative residency requirements of Alaska's permanent fund dividend distribution program violated the Equal Protection Clause of the United States Constitution.[1] Shortly thereafter, Alaska's Longevity Bonus ("ALB") Program was challenged on equal protection grounds.[2] On August 9, 1982, the Department of Law, with the approval of the Alaska Legislative Council, entered into a stipulation in the Vest case which stayed all proceedings pending adjournment of this legislative session, in order to afford the legislature an opportunity to address the constitutional problems with the existing program.

The purpose of this report is to analyze some 10 options available to the legislature in amending the Alaska Longevity Bonus Program. This report is a first step in a process which must be completed by the end of this session. As subparts (C) and (D) of this section discuss, the likely consequence of failing to enact remedial legislation this session is that the ALB program will be judicially terminated.

A. Description Of The Longevity Bonus Program

Predecessors of the existing ALB program can be traced to 1915. In that year, the Territorial Legislature authorized a monthly allowance of $12.50 for needy elderly Alaskans of 10 years

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[1]Zobel v. Williams, 72 L. Ed. 2nd 672 (1982)

[2]Vest v. Shafer, 1 JU-82-1103 Civ. (1st Jud. Dist., 1982)

residency who chose not to enter the newly-created Pioneers' Homes.[3] The current program was enacted in 1972[4] as a result of legislation introduced by Senators Butrovich and Ray.[5] Quite unlike the "need-based" focus of its predecessors, the 1972 legislation was to:

> "... provide all law-abiding Alaskans capable of managing their own affairs who have maintained a domicile in the state for at least 25 years and have reached a retirement age of 65, an incentive to continue uninterrupted residency in the state. Under no circumstances shall this chapter be considered a form, type, or manner, of public relief. The bonuses made under this chapter are not predicated on need even though they may appear to provide supplemental income to some qualified persons who would otherwise be forced to become responsibilities of the state. The Legislature further finds and states that this legislation recognizes the economic hardships suffered by many elderly Alaskans, Alaskans who through their tenacity and perseverance molded Alaska as we know it through skillful application of their talents. These pioneers are the same Alaskans who, in the prime of their life, were in effect treated as second class citizens by the federal government and who paid much of their hard earned income to a government in which they did not have the right to participate through the power of the ballot. The legislature also is aware of the fact that many of these pioneers have been forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationship with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans the benefit of their wisdom and experience. This legislation hopefully will provide our pioneers with the economic means to remain in and continue to serve their state and to enjoy the opportunity of aiding

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[3]Chapter 64, SLA 1915.

[4]Chapter 205, SLA 1972; AS 47.45.010 et. seq.

[5]SB 211, 7th Leg., 2nd Sess.

the new Alaskan in making the state truly "The Great Land." §1, Ch. 205, SLA 1972.

The ALB program, then, has several purposes:

1. providing an incentive for a particular class of senior citizens to remain in the state;

2. compensating for the hardships faced by retirement in Alaska;

3. rewarding the past contributions of Alaska's elderly;

4. co[illegible]ting for past hardships suffered by Alaska's [illegible]neers; and

5. retaining the wisdom and experience of Alaska's pioneers.

Originally, the bonus was $100 per month. Over the years, the amount has gradually increased to its current $250 per month.[6] A person is eligible for a bonus if he or she:

1. is 65 years of age or older;
2. was "domiciled in the territory" on or before January 3, 1959; and
3. has been continuously domiciled in the state for 25 years.[7]

Additionally, if a person is absent from the state for more than 30 days, he will not receive another bonus until he returns. AS 47.45.030. If the person is absent for a continuous period in excess of 180 days, he is ineligible for a bonus for the next 12 calendar months following his return. Id.

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[6]Chapter 13, SLA 1961

[7]AS 47.45.010

Exceptions are made if the absence "is beyond the control of the recipient." Id.

The longevity bonus is taxable under the Internal Revenue Code. However, it is almost universally excluded in calculating income eligibility for state and federal assistance programs.[8]

B. The Individuals Covered By The Alaska Longevity Bonus Program.

There are currently some 9,425 Alaskans receiving some $28.4 million in longevity bonus payments. Sketching an accurate portrait of the state's ALB recipients is difficult, because the ALB application form requires little personal information. In 1976, the Alaska Department of Health and Social Services conducted a random survey of ALB recipients,[9] and, in conjunction with the Vest

---

[8]Under 42 U.S.C. §1382(a)(b)(2)(B), which governs eligibility for federal Supplemental Security Income, and by reference also controls other federal programs such as Medicaid and energy assistance, the following is excluded from the definition of income:

> "monthly (or other periodic) payments received by any individual under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence is such state by such individual."

[9]"Alaska Longevity Bonus Impact Survey," Alaska Department of Health and Social Services (1976) (hereinafter "ALB Survey)

settlement, the Department of Law conducted a non-random survey of some 1,896 participants.

From those surveys, it is apparent that a large percentage of ALB recipients are Alaska Natives living in rural areas of the state.[10] Moreover, and in large part because of the ineligibility of many rural residents for social security, the longevity bonus is often the primary source of income for rural residents. For example, 41% of the elderly in Southwest Alaska, and 66% in Northwest Alaska, rely on the longevity bonus as their primary source of income.[11]

Available evidence suggests that a large percentage of ALB recipients have incomes only marginally above the current state welfare assistance level of $546 per month. The Department of Law's 1982 survey -- which was skewed toward the more needy recipients of the ALB -- found that 81.4% of the 1,896 recipients sampled had monthly incomes of $750 or less. The 1976 ALB survey found that half of the ALB recipients had a monthly income, "including that of their spouse," of under $500 per month.[12] Another

---

[10]In 1976, 41% of the ALB recipients lived in rural areas of the state and 24.1% were Alaska Natives. ALB Survey at 14-15.

[11]"An Assessment of the Status and Needs of Alaska's Elderly," Department of Sociology, College of Arts & Sciences, University of Alaska (1981) (hereinafter "Assessment.")

[12]ALB Survey, op. cit. n. 9 at 18-19.

44% had incomes of less than $1,000 per month. A 1981 University of Alaska survey indicated that roughly half of Alaska's elderly had monthly incomes of less than $800.00.[13]

The 1976 ALB survey suggests that, in light of the high percentage of bonus recipients in the 65-70 age group, the bonus has had a material effect in allowing older citizens to remain in the state after retirement.[14] The report also indicates that the ALB program has allowed a significant percentage of the elderly to remain off various public assistance programs -- including food stamps and state Old Age Assistance.[15]

One significant characteristic of Alaska's elderly in general warrants note -- one that will become quite significant in our analysis of alternatives. Only 10% of Alaska's elderly have resided in the state for 10 years or less.[16]

C. The Effects of Zobel And Vest On The ALB Program.

In reviewing the 1972 legislation creating the Longevity Bonus Program, the Department of Law concluded that "... the classification predicated upon being domiciled in the territory on or before January 3, 1959, bears little, if any, rational relationship to any legitimate legislative purpose which this bill is conceivably designed to serve and thus is in

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[13]Assessment, op. cit. n. 11 at 31.

[14]ALB Survey, op. cit. n. 9 at 12.

[15]Id. at 10, 18.

[16]Assessment, op. cit. n. 11 at 12.

all probability unconstitutional."[17]

Nonetheless, the ALB program remained unchallenged until 1982, following the U.S. Supreme Court's decision in Zobel v. Williams (hereafter "Zobel III").[18]

The law in issue in Zobel III (AS 43.23.010 et. seq.) provided for the distribution of a permanent fund dividend of $50.00 for each year of accumulated Alaska residency. The Court ruled, 8-1, that the cumulative residency requirement of the program was not rationally related to the goals of the statute -- a ruling which is discussed in more detail in section II(A), post.

The permanent dividend fund distribution program, in part, was intended to reward Alaskans for prior contributions to the state, a goal which: (1) three justices believed was constitutionally impermissible;[19] and (2) five justices believed was a permissible goal, but was not rationally furthered by a scheme

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[17]Memorandum, Havelock to Egan, Re: FCCS HCS CSSB 211 at 17 (June 29, 1972).

[18]In Williams v. Zobel, 619 P.2d 422 (Alaska 1980) ("Zobel I"), the Alaska Supreme Court invalidated the state's graduated personal income tax repeal. In Williams v. Zobel, 619 P.2d 448 (Alaska 1980) ("Zobel II"), the court upheld the cumulative residency requirement of Alaska's permanent fund dividend distribution plan -- a ruling reversed by the U.S. Supreme Court in Zobel III.

[19]Opinion of the Court, 72 L. Ed. 2nd at 679.

which awarded dividends solely on the basis of residency.[20]

Beyond the ruling of the case, the various opinions -- particularly those of the concurring justices -- are rich in forboding language suggesting that any durational residency requirement may receive "intensified scrutiny" by the Court, and will be justified only in "rare" circumstances.[21]

As is more fully discussed in Part II(A), post, the impact of the Zobel decision upon the ALB program was apparent. Two major goals of the existing ALB program are to reward elderly Alaskans for their prior contributions, and to compensate for past hardships and suffering -- ends which are implemented by a durational residency requirement more severe than that at issue in Zobel. A challenge to the ALB program was not long in coming. On July 6, 1982, one Rodney G. Vest challenged the ALB program in Superior Court in Juneau.[22] Mr. Vest is an elderly Alaskan whose residency in the state commenced three months after statehood. His complaint sought declaratory and injunctive relief striking the durational and statehood residency requirements of the act.

The State's response was colored by §2 of the legislation, which provided, inter alia, that:

---

[20]See Brennan conc., 72 L. Ed.2nd at 684: O'Connor conc., 72 L. Ed. 2nd at 685.

[21]Brennan conc., 72 L. Ed. 2nd at 681, 684.

[22]See n. 2, ante.

> "if any provision of this act, or the application of a provision of this act to any person or circumstance is held invalid, this entire act shall be considered invalid."

As the Department of Law explained in reviewing the 1972 law:

> "It is clear that the intent of the Legislature expressed in Section 2 of the bill is to forestall the possibility that a partial declaration of unconstitutionality would result in broadening the coverage of the bill to included additional clauses. This would be the case, for example, if either the 25 year waiting period requirement or the January 3, 1959 cutoff date were declared invalid, and the bill was expressly or impliedly severable."[23]

Thus, invalidation of the Longevity Bonus Program would result not in expanding the number of ALB recipients, but rather in the abrupt termination of the entire program.

Facing that grim probability, the State, with the approval of the Alaska Legislative Council, entered into an agreement with Vest, a copy of which is attached as Appendix A. The essence of the agreement is as follows:

> 1. Proceedings in the Vest case are stayed through the conclusion of this legislative session. Because that case has been subsequently certified as a class action,[24] existing ALB recipients are not in jeopardy at least through adjournment of this session;
>
> 2. The Alaska Legislative Council promised to use its "best efforts" to secure the enactment of legislation which treated equally "all persons 65 years or older as of July 1, 1982, who have been bona fide Alaska residents for at least one year prior to that date";

---

[23] op. cit. n. 17 at 5.

[24] Order Certifying Class and Directing Notice to Class Members, Oct. 1, 1982.

3. If legislation of this sort were enacted this session, the suit would be dismissed; and

4. Recognizing that the Council could not bind the legislature, if legislation is not enacted, Mr.. Vest may pursue his case, with the probable result that the program will be terminated.

There are three aspects of the settlement which warrant note. First, obviously, are the severe time constraints under which the legislature is operating. Second, there is the settlement's intentionally broad litmus test of acceptable legislation. All the legislature need do is treat all elderly, one-year Alaskan residents "equally." The standard could be met by any number of options, including repeal of the program. Third, there is the inescapable financial impact of the settlement itself. In order to treat all elderly Alaskans who were one-year residents as of July 1, 1982 equally, it will be necessary to fund retroactive longevity bonus payments under the existing program to the some 3,800 elderly Alaskans who would have qualified. The necessary retroactive appropriation is approximately $11.4 million.

Of course, the legislature itself is not "bound" to pass any particular kind of legislation, or any legislation or appropriation at all. While a "best efforts" clause is enforceable, that obligation runs only to the Alaska Legislative Council, which has already demonstrated both good faith and diligence in attempting to meet the obligations of the order and settlement.

D. Scope And Intent Of This Report.

The purpose of this report is not to recommend particular amendments to the Alaska Longevity Bonus Program. As Section II, post makes plain, any "recommendation" is a function of the goals which the legislature seeks to achieve through this exercise.

Rather, the goal of this report is to assemble a comprehensive list of alternatives proposed by various interested parties, and to analyze the alternatives in light of:

1. constitutional constraints;
2. fiscal impacts;
3. practicability; and
4. the effect of any changes on the elderly's eligibility for other programs.[25]

In developing a list of alternatives, this report has included five options examined by the Sheffield Administration, and five alternatives developed by the authors of this report. The information presented with respect to each option is intended to be sufficient for a threshold determination of feasibility. The report attempts to anticipate the major problems and issues surrounding each option; however, it is not intended to exhaust the details of every proposal.

Rather, the report should be used as a basis for the Senate Judiciary Committee's preliminary indication of

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[25]See Section II.(C) post.

preference. We are recommending that the committee choose two or three primary options. We will then prepare implementing legislation and a detailed analysis of the primary options. Under this approach, the committee will not be required, at this early point, to make an "all or nothing" choice. It will also afford the committee flexibility in the event that, for some presently unforeseeable reason, one option becomes impracticable.

Draft implementing legislation and a detailed analysis of the committee's choices can be transmitted within two to three weeks, depending on the options chosen.

E. Alternatives Included In This Report.

The options included in this report, which are analyzed in turn in Section III, are:

1. expand the Alaska Longevity Bonus Program to include all elderly Alaskans with one-year's residency;

2. phase out the Alaska Longevity Bonus Program by gradually reducing benefits;

3. phase out the Alaska Longevity Bonus Program by gradually reducing benefits, while contemporaneously raising the eligibility limits for general state assistance;

4. providing a minimal base payment under the Alaska Longevity Bonus Program based solely on one-year's residency, with supplemental payments made on the basis of need;

5. phase out the Alaska Longevity Bonus Program by increasing the age eligibility each year;

6. create an annuity plan, with the annuity corpus consisting of permanent fund distributions. This option would necessitate a transition program for those persons 40 years and older;

7. fund the Alaska Longevity Bonus Program through a "pay as you go" social security system, funded by approximately 25% of the existing permanent fund dividend distributions;

8. replacing the Alaska Longevity Bonus Program with a comprehensive health insurance program for elderly Alaskans;

9. condition eligibility for a longevity bonus upon a demonstration of hardship which would be suffered by being unable to continue Alaska residency; and

10. open the Alaska Longevity Bonus Program to all one-year residents, and terminate the program -- giving FY 1984 recipients a grandfather right to continued bonuses.

II. CONSTRAINTS ON THE CHOICE OF OPTIONS

There are four basic considerations in choosing a package of amendments to the Alaska Longevity Bonus Program. The purpose of this section is to provide an overview of the constraints and policy choices which should play a role in this committee's decision.

A. Constitutional Constraints.

The obvious and primary constraint on any set of amendments to the Alaska Longevity Bonus Program lies in the equal protection clauses of the United States (Amendment 14) and Alaska (Art. 1, §1) constitutions. The existing Alaska Longevity Bonus Program discriminates between Alaska residents based on their duration of residency; moreover, all of the alternatives considered by this report involve some durational residency requirement.

Under both the federal and Alaska constitutions, a durational residency requirement which conditions or denies either a "fundamental right" or a "basic necessity of life" is valid only if the discrimination is necessary to further a compelling state interest. Zobel II, 619 P.2d at 448; Memorial Hospital v. Maricopa County, 415 U.S. 250, 259 (1974). "Fundamental rights" involve such things as voting,[26] while "basic necessities of life" include basic medical care[27] and welfare.[28]

The so called "right to travel" -- which any durational residency requirement arguable affects -- is not a fundamental right automatically triggering the compelling state interest test. Zobel II, 619 P.2d at 425-426, Zobel III, 72 L.Ed. 2nd at 677-678.[29]

We are confident in concluding that longevity bonus is not a "basic necessity of life." The program is not welfare -- it is not based on need. Basic indigent assistance -- including both income supplements and Medicaid -- are available to the

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[26]Dunn v. Blumstein, 405 U.S. 330 (1972).

[27]Memorial Hospital v. Maricopa County, 415 U.S. 450 (1974).

[28]Shapiro v. Thompson, 394 U.S. 618 (1969).

[29]One of the oddities of Justice Brennan's concurrence in Zobel III was his view that the "right to travel" is a "fundamental" right (id. at 682) -- although impairment of that right by a durational residency requirement should be tested under the deferential "rationally related" standard (see text, post) or at worst "intensified ... scrutiny." Id. at 681.

needy in this state.[30] The longevity bonus program seems more akin to the permanent fund dividend, which the Alaska Supreme Court held in Zobel II was not a "basic necessity of life." 619 P.2d at 445. As the Court of Appeals for the Ninth Circuit has observed:

> "Deprivations which are only uncomfortable are not enough, such as conditioning lower tuition at state institutions of higher education upon a one-year residency requirement." Fisher v. Reiser, 610 F.2d 629, 639 n. 5 (1979), cert. denied 447 US 930.

Under the federal constitution, then, any durational residency requirement imposed by amendments to the ALB program need only be "rationally related" to a legitimate governmental purpose. Zobel III, 72 L.Ed. 2nd at 678. As this section will discuss, however, that standard is occasionally more deferential in its terms than in its application.

Conversely, under the Alaska Constitution, a durational residency requirement will withstand scrutiny only if it is "fairly and substantially related" to a legitimate governmental purpose. Zobel I, 619 P.2d at 427. The more the balance tips in favor of the individual, the more necessary the discrimination must be in order to further the law's purpose. Id.

From these standards, the following ground rules can be extracted from applicable case law:

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[30] See Memorial Hospital v. Maricopa County, 415 U.S. at 261

1. Unquestionably, the "length of residence may be used to test the bona fides of citizenship." Zobel III, 72 L.Ed. 2d at 684 (Brennan conc.). In other words, the state may, by a durational residency requirement, "make virtually certain (that the recipients of the program are) bona fide residents of the state ..." Vlandis v. Kline, 412 U.S. 441, 453-454 (1973).

As a general rule, attorneys have assumed that in cases not involving the "compelling state interest" standard, a one-year durational residency requirement is permissible as a presumption of domiciliary. See, Starns v. Malkerson, F. Supp. 326, 234 (Minn. 1970), affd. mem. 401 U.S. 985 (1971). Moreover, the State of Alaska has taken the position that in cases involving either particularly attractive benefits, or particularly transient populations, a durational residency requirement in excess of one year is constitutionally permissible. See Motion For Summary Judgment, September 8, 1982, Andress v. Baxter, et al., No. A82-307 Civil, U.S. District Court, (D. Alaska 1982).

For the purposes of the Longevity Bonus Program, there are three reasons why it makes little sense to attempt a multi-year durational residency requirement as a presumption of domicilary. First, the attempt would lack substantial

precedential support. Second, it would be contrary to the August 9, 1982 settlement in the Vest case. Finally, and as noted previously, a durational residency requirement would not begin to exclude significant numbers of elderly Alaskans unless it was in excess of 10 years.

2. Durational residency requirements may be permissible for reasons other than presuming domiciliary, although at least four justices of the United States Supreme Court believe that those situations are "rare." Zobel III, 72 L.Ed. 2nd at 684.[31]

At the outset, a state cannot use a lengthly durational residency requirement to reward long time residents for their prior contributions to the state. To a majority of the court, while the purpose itself is permissible, a durational residency requirement is irrationally tailored to that goal -- a point bluntly made by Justice O'Connor in her concurrence:

> "A multitude of native Alaskans -- including children and paupers -- may have failed to contribute to the state in the past. Yet the state does not dock paupers for their prior failures to contribute, and it awards every person over the age of 18 dividends equal to the number of years that person has lived in the state." 72 L.Ed.2d at 689.

The flip side of rewarding a person for prior contributions is compensating a person for prior hardships. That, as noted previously, is a second major goal of the

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[31]One "rare" example cited by the four concurring justices was qualification of public office. Id.

existing ALB program. If it is irrational to assume that all long time residents "contributed" to the state, it may be equally irrational to assume that all long time residents suffered substantial past hardship.

There is one universal hardship which equates with territorial residency -- the lack of franchise. It is conceivable that a Longevity Bonus Program intended to compensate for that lack of representation would be constitutionally permissible. However, that rationale would only justify the January 3, 1959 residency requirement -- not the 25-year continuous residency provision of the act.

A much closer question is posed by the program's goal of allowing elderly Alaskans to remain in the state who would suffer particularly severe hardship if they were financially required to relocate. Justices Dimond and Matthews of the Alaska Supreme Court believe this may be a constitutionally permissible goal substantially furthered by a durational residency requirement:

> "... a state Longevity Bonus ... require(s) lengthy residency. Both those programs, however, are apparently designed to help those individuals who would like to retire in the state but cannot afford to do so because of the high cost of living. The state might well want to limit the benefits to those that would suffer the most hardship by being forced to leave, and it seems reasonable to suppose that a long period of residency would be some indicia of close ties to Alaska and the disruption that leaving might cause." Zobel II, 619 P.2d at 469 n. 13 (Dimond dissenting).

The Department of Law, in fact, has concluded that the Pioneers' Home may be constitutionally defensible as a reasonable means of accomplishing precisely this goal.[32] Indeed, one option considered in this report would award longevity bonuses on the basis of hardship caused by relocation -- which in turn would be measured in part by length of residence. By making length of residency "some indicia" (619 P.2d at 469) of the hardship of relocation, the option would avoid the indictment of overbreadth which was fatal to the permanent dividend fund distribution program in Zobel III.

Finally, as to the ALB program's goal of providing an incentive for a specific subclass of Alaska's elderly to remain in the state, the courts in all likelihood would view that purpose as merely discrimination for its own sake. See Zobel III, 72 L.Ed. 2nd at 678-679. Presuming that only long-time residents have the requisite "wisdom and experience" to warrant subsidization is hardly likely to impress the U.S. Supreme Court.

B. Varying Goals of Several Longevity Bonus Options.

There is a substantial difference of opinion as to what an amended ALB program should accomplish. As noted previously, the legislature may wish to retain one of the major goals of the existing program -- allowing those elderly with the closest ties to Alaska to continue to live here.

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[32] 1982 Op. Atty. Gen. ____(November 26, 1982) at 25.

Alternatively, the fiscal consequences of the various alternatives may be the primary consideration. As previously discussed, if legislation in conformity with the Vest settlement is enacted, an additional $11 million must be appropriated as retroactive bonus payments to July 1, 1982. Several of the options which propose to phase out the program, or which propose a conversion to permanent fund earnings, are partially or primarily directed at this end.

The primary goal of the legislation may also be to protect those currently most dependent upon the bonus. The current Old Age Assistance income level is $546.00 per month and there are approximately 2,300 elderly Alaskans receiving state assistance. Since the longevity bonus is not included in the calculation of income for state assistance, the practical consequence of a phase out or termination of the program would be to materially reduce the available income of the poorest elderly Alaskans. Moreover, as noted in Section I(B), ante, there are a large number of elderly Alaskans who are currently only marginally above the existing state poverty level.

There are two options particularly sensitive to this goal -- the phase out of the ALB program in conjunction with a correlative rise in state assistance levels, and the option of compensating those who would suffer the most hardship by relocation.

With respect to this goal, however, it should be stressed that the existing ALB program has been purposefully sturctured so as to not be a "welfare program." Precisely for this reason, the program is administered by the Department of Administration, rather than the Department of Health and Social Services, and any conversion to a "need-based" program will undoubtedly offend the dignity of many elderly Alaskans.

Finally, there is the possible goal of providing a long term, stable bonus program which frees the general fund from increasing commitments. The annuity and state social security options are primarily directed at this goal.

C. Consequential Effects of Any Amendment To The Longevity Bonus Program.

Any change to the Longevity Bonus Program may have two consequences which must be considered: (1) the continued eligibility of ALB recipients for other state or federal assistance programs; and (2) tax consequences on participants.

As noted in Section I(A), ante, under federal law the ALB is excluded from the definition of "income" for many federal assistance purposes.[33] As long as any amendments to the ALB program continue to base eligibility "solely on attainment of age 65 and duration of residency," and remain sufficiently similar to the existing program so as to be fairly called "a program established prior to July 1, 1973," the exemption would be retained.

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[33]See n. 8, ante.

Obviously, any material changes in eligibility requirements or structure of the program raise the risk that the new benefit will be included as "income," and many elderly Alaskans will be terminated from the applicable federal program. The Department of Health and Social Services has estimated the impacts from a loss of the longevity bonus exclusion. Those estimates appear at Appendix B of this report.

Anticipating the same problem with permanent fund dividends, the legislature, in the 1982 Special Session, provided that the state would substitute lost benefits for a period of four months.[34] Obviously, and to the extent possible, any amendments to the ALB program should either be tailored to the existing exception, or fall within another separate statutory income exclusion such as a "need based" payment.[35]

The tax consequences of amendments to the existing ALB program become particularly important with respect to this report's annuity option -- which is treated in detail in Section III (F), post. At the outset, it is sufficient to note that:

1. The existing longevity bonus program is taxed under the Internal Revenue Code;

2. Any ALB program which is based on need, or could be characterized as a "social benefit program for the promotion of the general welfare," would in all likelihood not be taxed by the IRS; and[36]

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[34]AS 43.23.075.

[35]See 42 U.S.C. §1382(a)(b)(6).

[36]See IRS Revenue Rulings, 63-136, 1963-2 C.B. 19; 68-38, 1968-1 C.B. 446; 72-340, 1972-2 C.B. 31; 78-170, 1978-1 C.B. 24.

3. On February 27, 1981, the Internal Revenue Service ruled that dividends distributed under the state's prior permanent dividend fund legislation -- the statute invalidated in Zobel III -- were taxable under the Internal Revenue Code.[37] While the IRS has yet to rule on the existing dividend program, it is likely that taxation of the permanent fund dividend could be deferred if it is used to fund the annuity or social security options discussed in this report.

III. DISCUSSION OF ALTERNATIVES

A. Expanding The Class Of Alaska Longevity Bonus Recipients To Include All Elderly With One-year's Residency.

There are currently some 9,425 Alaskans who receive bonuses totally $28.28 million. This proposal would require additional appropriations for (1) bonuses for an additional 3,803 people; and (2) additional clerical support in the Department of Administration. The additional costs would total $12 million in FY 1984, increasing to $13.7 million in FY 1988.[38]

These appropriations are in addition to the $11.4 million retroactive award required under the Vest settlement.

The advantages of this option are two-fold. First, it is one of the constitutionally "safest" options. Second, since eligibility would remain dependent on "duration of residence" -- albeit only one-year -- in all likelihood it would fall within the existing ALB exclusion to federal assistance programs.

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[37]IRS Index Nos. 0061.40-00; 0451.20.00; 0102.00-00.

[38]Department of Administration draft fiscal note, January 11, 1983.

Additionally, while theoretically any "one-year" elderly Alaskan could take advantage of this program, the demographics of Alaska's elderly (see Section 1(B), ante) are such that the primary beneficiaries of this option would be those who have lived in the state from 10 to 25 years. Whether such a program would encourage in-migration is problematical.

In addition to obvious fiscal disadvantages, this alternative would dilute the dignity and recognition attendant the current bonus to the point of non-recognition.

B. Phase Out The Existing Longevity Bonus Program.

One of the options analyzed by the Sheffield administration would phase out the ALB Program by reducing benefits by $50.00 each year beginning with FY 1984. By paying $200.00 a month to 13,228 recipients rather than $250.00 to 9,425, the net increase to the program in FY 1984 would be $2.1 million. In fiscal year 1985, however, when the bonus is reduced to $150.00, there will be a net decrease of $8.7 million in program costs.

This option has been unfavorably viewed by the administration, and apparently was prepared only as a point of comparison. Despite its fiscal benefits, the proposal protects no one. The poorest of Alaska's elderly would suffer the most. Since, as discussed previously, Alaska longevity bonuses are not counted in existing state and federal assistance income limits, the needly elderly person in Alaska receives, currently, a

subsidized monthly income of $546 for Old Age Assistance, plus $250 from the ALB program. This option would thus materially reduce state assistance levels.

C. Phase Out The Existing Longevity Bonus Program With A Contemporaneous Increase In State Assistance Levels.

The apparent "preferred" option of many with the Sheffield administration is to gradually increase state Old Age Assistance levels while at the same time gradually decreasing the amount of the longevity bonus. The program would function in the following manner:

CHART 1.

YEAR	OLD AGE ASSISTANCE LEVEL	ALASKA LONGEVITY BONUS
FY 1983	$546	$250
FY 1984	$596	$200
FY 1985	$646	$150
FY 1986	$696	$100
FY 1987	$746	$ 50
FY 1988	$796	$ 0

In analyzing the fiscal impacts of this alternative, assumptions must be made about how many elderly Alaskans will become eligible for Old Age Assistance as the OAA income level increases, and how many of the newly eligible will be inclined to seek assistance as their longevity bonus gradually diminishes.

Regardless of which assumptions are used, the impacts upon the longevity bonus program, are, of course, identical to the "phase out" option. Those impacts would be as follows:

CHART 2.

ADDITIONAL COST (SAVINGS) TO THE ALB PROGRAM (in millions)

FY 1984	2.1
FY 1985	(8.7)
FY 1986	(19.2)
FY 1987	(30.9)
FY 1988	(44.1)

The fiscal impact upon the Department of Health and Social Services' OAA program is far more difficult to determine. The Department of Administration has used two alternative assumptions -- (1) that of the 13,228 elderly in Alaska, 5% will become eligible and apply for public assistance as the income level is increased to $796 in FY 1988; or (2) that 25% of the elderly will become eligible and apply for assistance during that period.

We believe that the 25% possibility may be closer to the truth. Approximately 30% of Alaska's elderly have monthly incomes marginally above existing assistance levels -- from $500-$800 per month.[39] If those figures are accurate, as many as 3,968 will become eligible for public assistance -- in addition to the 2,300 currently on the OAA program.

The second variable involves the size of the benefits which the new clientele will receive. The Department of Health and Social Services has assumed that each new recepient will receive the mean benefit currently given or projected for

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[39]Assessment, op. cit. n. 11 at 31.

existing receipients -- $295 in FY 1984.

In computing the fiscal impacts for this option, we have used the following three assumptions:

(1) Of the 3,968 elderly whom current data suggest could be eligible for the increased OAA program, 2500 will in fact apply. This figure arbitrarily discounts both those who will decline to apply for psychological reasons, and those who will not apply because the minimal benefits to them are simply not worth the bother;

(2) Because we have discounted those who will receive minimal benefits, we have retained the "mean benefit" assumption employed by the Department of Health and Social Services; and

(3) The new recipients will be evenly distributed over each of the five years -- so that in each year an additional 500 recipients will be added to the OAA program.

Additionally, persons who become eligible for Old Age Assistance will also become eligible for Medicaid. The State's Medicaid budget for FY 1983 is $65 million dollars. 48% of that figure -- or $31.2 million -- is paid by the State. Some 23% of that budget -- or $7.17 million dollars -- is attributable to those currently on Old Age Assistance. If the OAA population doubles over the next five years -- as our assumptions presume that it will -- there will be an additional cost of $7.17 million (not adjusted for inflation) to this option, chargeable in equal portions to each of the next five fiscal years.

With these assumptions, the following chart illustrates the possible net fiscal impact of this option:

CHART 3

Year	# Add. on OAA	Mean Benefit	--------IN MILLIONS-------- Added Medicaid Costs	Added ALB Costs (Savings)	Net
FY 1984	500	$295.02	1.4	2.1	5.27
FY 1985	1000	345.02	2.8	(8.7)	(1.76)
FY 1986	1500	395.02	4.2	(19.2)	(5.90)
FY 1987	2000	445.02	5.6	(30.9)	(14.60)
FY 1988	2500	495.02	7.0	(44.1)	(29.30)

Thus, even with fairly liberal assumptions regarding the number of additional OAA clients and Medicaid costs, this option will begin saving money in FY 1985.

Moreover, for those elderly in the $500 - 800 per month income range who pay some federal taxes, the option would have advantages, since increased need based assistance, unlike the longevity bonus, should not be taxed under the Internal Revenue Code.

One obvious disadvantage of this option is that it transforms the longevity bonus program into a welfare scheme. Persons who currently receive $796 or less per month -- including the bonus -- will indeed be "held harmless" under the option, but only at the expense of applying for assistance to the Department of Health and Social Services.

Moreover, those current elderly bonus recipients whose monthly incomes (excluding the bonus) exceed $796 per month will receive no protection under this option.

Finally, because welfare payments are generally viewed by the courts as involving "basic necessities of life" (see §II(A), ante), the durational residency requirement for increased old age assistance must be dropped from one year to 30 days.[40] The minimum national old age assistance level under the federal Supplemental Security Income system -- which OAA supplements -- is $284.30/mo. A person with $600 a month income in a "minimum benefit" state is presumably ineligible for old age assistance (including Medicaid) in that state, but could become eligible under the Alaska system upon 30 days residency. While the mere prospect of an additional $196 per month (in FY 1988) is unlikely to induce people to retire in Alaska, the concommitant provision of Medicaid services -- including full nursing home coverage -- may have that effect. If a person can obtain free nursing home coverage -- valued at between $40 - $60,000 per year -- simply by spending the month of August in Anchorage, the State may face a rather remarkable in-migration problem indeed.

D. Retaining A Modest Longevity Bonus, While Providing A "Need Based" Supplement.

This option is largely a variant of option C, and has been discussed by the Sheffield Administration as a means of

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[40] Shapiro v. Thompson, 394 U.S. 618 (1969).

retaining some longevity bonus payment which could not be considered "welfare."

Under this option, the longevity bonus, as with Option C, would be gradually reduced to, say, $100.00 per month. As the fiscal information for alternatives B and C suggest, this alternative would result in a savings to the longevity bonus program of $19.2 million by FY 1986.

To compensate for the loss of $150.00/mo. to the needy, either State OAA limits could be increased by $150, or a separate "need based bonus supplement" could be established by the Department of Administration.

The advantage of the latter option is that although based on "need," applicants will not be dealing with the Department of Health and Social Services, and may view the supplement less as a form of welfare. Additionally, since the supplement will be provided under a program other than State OAA, its recipients would not be entitled to Medicaid (including nursing home coverage) unless they are otherwise eligible for OAA under existing limits.

Additionally, the "need" is not necessarily limited to financial need. As this report's discussion of Option I indicates, longevity bonuses may be apportioned according to the hardship which the elderly would face by being forced to retire outside Alaska.

The disadvantage of a separate "need based" program in the Department of Administration is, of course, the necessary creation of a parallel bureaucracy in state government.

The fiscal costs of this option have not been developed by the administration or this report because of the variables involved -- the size of the remaining "basic" longevity bonus, and the question of administration. Costs of administration aside, the net savings to the State should be substantially similar to the FY 1986 figures for Option C -- in which the declining longevity bonus payment would be $100.00 per month. The projected net savings of $5.9 million would certainly exceed the costs of even a parallel bureaucracy within the Department of Administration.

E. Gradual Increase In The Age Of Eligibility.

Another option explored by the Administration would reduce the durational residency requirement for a bonus to one year, but raise the eligibility age each fiscal year. For FY 1984, the age would be raised to 66; to 67 in FY 1985; and so on.

This option would have a substantial fiscal impact until fiscal year 1988, at which time mortality would have reduced the class of beneficiaries below existing levels. For FY 1984, the option would cost an additional $9.5 million dollars beyond existing funding levels, according to the Department of Administration.

This option has been quite unfavorably received. It has been facetiously but not unfairly referred to as the "newcomer's bonus program." A recent migrant born prior to June 30, 1918 would receive a longevity bonus for life, while a long-time Alaskan born subsequent to that date would receive nothing.

F. Self-Sustaining Annuities.

The prior five options were developed by members of the administration, although the administration has not formally "sponsored" any particular approach. Moreover, several of the options -- particularly the "graduated age" and "phase out" options -- were developed more as comparative conversation pieces than as actual proposals.

The following five options -- commencing with the self-sustaining annuity -- were prepared by the authors of this report.

Under the self-sustaining annuity option, individuals would no longer receive a permanent fund dividend under AS 43.23. Rather, those dividends would form the corpus of a self-sustaining annuity account from which the individual would receive an annuity commencing at the age of 65.

According to Department of Revenue projections, the permanent fund dividend payment for FY 1984 will be $365.00, rising gradually throughout the remainder of this century to $952 in the year 2000.

Given this level of contribution to the corpus, a self-sustaining annuity account will produce an annuity roughly equivalent to the existing longevity bonus (with a 3 percent annual cost of living adjustment) for those who are currently 40 years or younger, and who will be residents of Alaska each of the next 20 years. For various age groups, the annuity entitlements at age 65 as a percentage of the "target" annuity ($3000/yr. plus 3% per annum) would be roughly as follows:

Current age	Annuity as a % of target annuity
25	358%
35	161%
40	100%
45	66
55	21

Obviously, some transition measure is necessary for those who are simply incapable of accruing a sufficient corpus by the age of 65 to be entitled to the "target annuity". The general fund, simply put, will be required to make up the difference, although, over time, that "differential" will decrease as annuity accounts assume some significance.

Many of the options explored in this report could suffice as a 20-25 year shrinking general fund obligation. One option particularly tailored to the annuity approach would be to allow those who are at or near the age of 65 to continue to receive their permanent fund dividends in cash, with the PFD being subtracted from the longevity bonus amount. For those in

the 40-60 year age group, the general fund would simply fund the difference between their annuity and the "target" figure.

Under this "transitional measure", the general fund "residual" payment would be based on the amount necessary to supplement the annuity corpus assuming that an individual received a permanent fund dividend every year. There would seem, in this regard, no obligation on the part of the state to give a larger general fund supplement to someone with two PFD credits than to someone with 15.

Thus, in fiscal year 1994, when current 55-year olds first receive their annuity, they would receive a state supplemental of 79 percent of the target annuity -- regardless of the actual PFD credit any individual has accrued.

The remaining question, obviously, is what to do about the person who is currently 65. If that individual's supplement is the same in 1994 as a new annuitant -- 79% -- he will in fact receive less than the new annuitant since he will have only his permanent dividend, rather than a 21% annuity, to make up the difference. Conversely, if the grandfathered PFD recipient received a full target annuity in 1994, he would be at a substantial advantage over the new annuitant. The reason is this: while the new annuitant has earned a substantial portion of his target annuity by foregoing his cash dividend each year, the "grandfathered" recipient has both enjoyed the dividend, and its earning power, over that same period of time.

The question is largely one of equity for the legislature. Either approach is defensible. While the latter scenario would seem to discriminate in favor of the existing elderly, the Alaska Supreme Court has recognized the legitimacy of creating preferential grandfather rights for those who have come to depend upon an existing state program.[41]

In either case, the difficulty with this "transition" option is that the longevity bonus program continues to be a substantial drain on the general fund for 20-25 years to come. Under the transition option described above, the FY 1984 budget for the ALB program would be increased by $6 million dollars over existing funding levels.[42]

Through Aetna Insurance Co., we investigated the alternative of simply purchasing a lifetime annuity for all those currently 65 or older. Unfortunately, the cost of a lifetime annuity for all Alaskans 65 or older would be prohibitive -- in the neighborhood of $300 to $400 million.

Finally, the Legislature should consider using the administration's options C and/or D as a transition measure. The short term fiscal impacts of those options are superior to those of a simple general fund supplement.

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[41] Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d at 1259-61.

[42] Assuming that the ALB of the "grandfathered class" is reduced by the $365 permanent fund dividend, each of 13,228 persons will receive a payment of $2,635 this year -- totaling $34 million dollars.

For all of the short term problems of an annuity program, the long term advantages should receive equal time. First, in a period of 20-25 years, the general fund will no longer be encumbered with the longevity bonus program. Second, the eventual size of one's annuity payments would be a function of the number of permanent fund dividend contributions that have been credited to the annuitant's account. We seriously doubt that a successful durational residency claim could be made to this aspect of the program. An annuitant with three years contributions could no more claim that he is due an annuity based on 20 years contribution than could a 1996 resident claim not merely the $787 cash dividend available that year, but rather some $6,000 which his predecessors had amassed by being residents of Alaska since 1984.[43]

We believe that there is a strong case for distributing annuities only to persons who are residents of Alaska at the

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[43]Because future annuities are a direct function of actual past payments to the program, the program does not "reward" presumed contributions but simply returns actual investments. cf. Zobel I, 619 P.2d at 435 (Rabinowitz conc.) Nor is the option akin to a situation where prior tax contributors are excused from funding the present needs of government, as with the tax repeal scheme at issue in Zobel I. At any point in time, each Alaskan is treated quite equally -- being entitled to an annuity credit if he or she resided in the state for six months during the pertinent year.

time. Partially for reasons discussed below, no individual will have a "vested right" to an annuity in the future. A purpose of the annuity program will be to alleviate the particular financial hardships caused by retirement in Alaska -- a purpose which we believe is constitutional. This goal would be served only by confining actual annuity payments to Alaska residents. Second, and particularly if the program is properly viewed as conferring an economic benefit not upon the crediting of an annuity account, but rather upon annuity distribution, the state certainly possesses the right to prefer its own residents in the disposition of its resources.[44]

There are, of course, other issues surrounding the annuity option. Many Alaskans will undoubtedly wish to retain the existing cash benefits of the permanent fund distribution. Alaskans will not be, however, totally without recompense. An annuity account for younger Alaskans in particular -- at least for those planning to stay in the state -- will one day lead to substantial benefits.

Of course, the prospect of a lucrative retirement account is a product of the legislature's continued willingness and ability to devote 25% of permanent fund earnings to the

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[44] Reeves, Inc. v. State, 65 L.Ed. 2nd 244, (1980); see also White v. Massachusetts Council of Construction Employees, ___ U.S.___, No. 81-1003 (U.S.S.Ct., Feb. 28, 1983)(distinguishing Hicklin v. Orbeck, 437 U.S. 518 (1978).

annuity program. Unquestionably, at some point in time, a material percentage of the permanent fund's earnings will be necessary for general government expenses. The point at which that will require access to more than 75% of the fund's earnings is problematical.

The tax consequences of an annuity program warrant detailed discussion. As noted previously, the Internal Revenue Service may well rule that permanent fund cash distributions are taxable. Conversely, if credits to an annuity account equal to the permanent fund dividend are not tax exempt, the real economic value and perce ved political worth of an annuity option is substantially lessened.

The annuity program envisioned by this report is not employer/employee related, and therefore would not qualify as an exempt plan under the Internal Revenue Code.[45] Nor was serious consideration given to qualifying this annuity option as an Individual Retirement Account -- because (1) the state is not a qualified financial institution to administer such an account; (2) the required terms of an IRA were not compatible with the option considered; and (3) any "state required" IRA -- even if possible -- would severly impinge on the tax planning flexibility of individual Alaskans.[46]

Nonetheless, it is our opinion that the annuity option <u>should</u> result in the deferral of both the permanent fund

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[45]cf. 26 U.S.C. §401-404

[46]<u>See</u> 26 U.S.C. §408.

dividend contributions and accrued interest under the Internal Revenue Code. The courts and the IRS have generally ruled that contributions to an unqualified "annuity," "retirement" or "deferred compensation" plan are nonetheless tax deferred if the individual is not in "constructive receipt" of the annuity contributions, and the contributions do not represent a present "economic benefit."[47]

Combining the standards of that doctrine with the attributes of the proposed annuity program, the program should be taxed deferred for the following reasons:

1. If the State were to purchase individual annuities with each permanent fund dividend, with each resident being the beneficiary, the resident would have a vested and secured interest in the contribution, and would thus have received a current "economic benefit." If, however, the State were to merely give the annuitant an unsecured promise of payment, purchasing an annuity account with itself as the beneficiary in order to provide a funding source for that promise, there would be no "current economic benefit" and taxation would be deferred.[48] This is one customary means by which employers obtain tax deferral of an unqualified plan;

2. A person is in "constructive receipt" of an annuity contribution if he has current access to the

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[47]U.S. v. Goldsmith, 586 F.2d 810 (Ct.Cl. 1978).

[48]Id.

contributions without substantial terms and limitations.[49] Under this report's option, under no circumstances would an annuitant be entitled to withdraw anything until annuities are actually distributed;

3. To underscore the contingent nature of the annuity -- such that the IRS could not reasonably conclude that it represents a "current economic benefit" -- the annuity will only be received if the person is an Alaska resident at the time of the pertinent distribution.

Our only hesitancy in this regard is the February 27, 1981 ruling of the IRS that even if an individual chooses to defer receipt of his permanent fund dividend, it is taxable in the year that it could have been received. The ruling, however, "may not be used or cited as precedent," and, even if of precedential value, is distinguishable from this situation. The ruling is consistent with the proposition that the individual cannot have unfettered discretion in choosing the year in which income will be taxed. While an individual does have unbridled choice in determining when to take a permanent fund dividend, he will have no choice as to the time of receipt of his annuities. Moreover, where a person would have an absolute right to a deferred dividend, he will have no right to annuity distribution unless he is an Alaska resident at the time.

For tax reasons, then, the annuity option must be carefully structured. The former permanent fund dividend must

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[49] Id.

be used by the State to purchase an annuity for its own account, with itself as the beneficiary. The annuity income received by the State will then be used as the funding source for the annuity payments -- although technically and necessarily the annuity income could be used for any fiscal purpose.

A far closer question arises with respect to the effect of this option on other public assistance programs. Generally, annuity income is included in the calculation of income for various assistance programs.[50] If, however, this option can be characterized as a continuation of the longevity bonus program, then the existing longevity bonus income exclusion[51] may persist. If -- consistent with tax considerations -- the only "annuity" is the one purchased by the State as a funding source, then the existing longevity bonus program can be retained in both name and substance, with the amount of the bonus still dependent upon residency history. After all, under the option, (1) a person must be a six month resident in order to obtain a single PFD, and must be eligible for the annuity at the time of distribution;[52] (2) the amount of annuity is dependent upon the number of PFD's credited to the individual's account; and (3) the "grandfathered" class of existing elderly would presumably be required to meet a one-year durational residency requirement.

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[50] See, 42 U.S.C. §1382(a)(a)(2)(B).

[51] See 42 U.S.C. §1382(a)(b)(2)(B).

[52] See n. 8, ante.

The above, of course, is an argument -- it is not necessarily the law, which in final measure will be largely determined by the federal officials involved. The exposure to existing assistance programs -- at least for those not within the grandfathered transition class -- must be considered a risk of this option.

Even if, however, annuity distributions are considered "income" to various assistance programs, the corpus of the annuity account will not be. A person may be disqualified from a federal assistance program not only if his income exceeds a certain level, but as well if he has alternative available resources which he can upon from at any time. However, in this instance, a true "annuity corpus" does not exist -- since the only annuity runs for the benefit of the State. Moreover, even if federal officials were to view the "corpus" as belonging to the individual, it cannot be withdrawn prior to actual distribution.

G. State Social Security System.

In large part because of the need for a lengthy transition period with a self-sustaining annuity plan, this report also considered the possibility of a state social security system funded by a portion of the permanent fund dividends distributed under AS 43.23.

Under this system, a sufficient portion of each resident's permanent fund dividend would be withheld each year

to fund a retirement program designed to pay each Alaska resident of 65 years or older with one-year's residency $250 per month, with a moderate cost of living adjustment each year.

In assessing the feasibility of this option, the most important variable was the projected growth in Alaska's elderly population. The difficulties facing the federal social security system are due in part to an increasingly large percentage of elderly in the population.

For fiscal year 1983, the Alaska Department of Labor projects that there will be some 13,672 elderly in Alaska -- approximately 3% of Alaska's population.[53] The Department has projected that that population, as a percentage of all Alaskans, will remain relatively static through the year 2000, when, out of a population of 831,000 people, there will be 25,158 elderly.[54]

We believe that those projections are overly conservative, and do not take into account the significant nationwide trend of increased elderly population. Nor do those projections include the retirement years of the post World War II "baby boom" generation -- which will begin about the year 2010.

Accordingly, in projecting the long term impact of this option on permanent dividend distribution, we have used the

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[53]Alaska Population Overview, Alaska Department of Labor, 1981

[54]Id.

national growth patterns projected by the federal Social Security ministration, which are as follows:

YEAR	% OF ELDERLY POPULATION
1950	8.1
2000	13.1
2025	19.5
2050	21.8

Using those assumptions, Travelers' Insurance Co., on our behalf, calculated the percentage of permanent fund dividends which would be required to fund a "pay as you go" system.

For fiscal year 1983, the calculations are relatively straight-forward. Given an aggregate distribution of some $169 million in permanent fund dividends this year, approximately 25% would be needed to fund a "pay as you go system."

However, even assuming a 3% cost of living adjustment in the payment each year, the percentage needed to fund the program decreases. This is because permanent fund earnings will increase at a rate substantially higher than inflation. From the year 1983 to 2000, the average funding required would be 15 to 19 percent of the distributions, while, in the years 2000 to 2025 (and assuming continued growth in permanent fund earnings) the funding amount would be 10-12 percent.

Thus, if the withholding remains static at 25% over the course of several years, the resultant excess would begin to build a savings account of substantial magnitude, which at some

point in the future would make the program partially, or perhaps totally self-sustaining.

One obvious advantage of this option is that it frees the general fund from ALB obligations immediately. Conversely, by materially reducing the annual permanent fund dividend, it obviously raises some political difficulties.

Additionally, the social security option could likewise be tied to contribution history -- although not in the precise manner of the annuity option. The federal social security system currently fully covers any individual who had "not less than one quarter of coverage ... for each calender elapsing after 1950 ... except that in no case shall an individual be a fully insured individual unless he has at least 6 quarters of coverage."[55] Because, in the future, some portion of the benefits will be paid by the "savings account" resulting from the static 25% contribution, we believe that a similar contribution history requirement could be established in the legislation.

Even more so than the annuity option, there would be no "current economic benefit" from the program. By reducing the permanent fund distribution by 25%, and funding a retirement program from which the individual may or may not ultimately benefit, we believe it extremely unlikely that the IRS would conclude that the reduced sum is in some manner taxable.

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[55] 42 U.S.C. §414(a)(1)

Morever, we believe there is a substantial likelihood that the existing ALB exemption in federal law could be retained. Indeed, stripped to its essense this option does little more than alter the funding source of the ALB program.

The primary risk of the program is all the more apparent in light of the current difficulties with the federal social security system. While option F would be funded by a currently purchased annuity, younger Alaskans would be contributing to this option on the mere hope that the requisite amount of permanent fund earnings would remain available for the program well into the 21st century. The "savings account" created by the static 25% withholding is intended to alleviate that problem; however, regardless of the rate of growth of that account, there is plainly some risk in this option.[56]

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[56]For example, under our population projections, there will be 30,747 elderly in Alaska in the year 2000. The permanent fund distributions for that year under AS 43.23 are estimated by the Department of Revenue to be $792 million, of which, under our static 25% withholding, $198 million would be placed in the social security fund. In that year, with a 3% COLA, the maximum monthly bonus will be approximately $390. Even if every elderly Alaskan is eligible for full benefits under the law's contribution requirements, the maximum payments would be $120 million -- with a savings account deposit being made in that year alone of $70 million. Of course, many of these elderly may not be fully eligible, and some who are eligible may not be residing in Alaska during that year.

Finally, there is some advantage to the existing elderly in this system over the annuity option. The existing elderly would have a net loss of only 25% of their permanent fund dividend, rather than the entirety of the benefit under the annuity approach.

H. Health Insurance For The Elderly.

The state of health insurance for the elderly, and indeed for all Alaskans, has already been the subject of considerable study,[57] and legislative activity.[58] Because of the obvious critical importance of adequate health care coverage for Alaska's elderly, the option of providing comprehensive health insurance for Alaska's older citizens in lieu of the longevity bonus was included in this report as an option.

While the Department of Law report found that health expenses were a major use of the longevity bonus for only 5.5% of its sample, the 1976 longevity bonus study found that 29% of the bonus recipients used at least a portion of the ALB for medical care, while 11% used a portion of the bonus for "insurance of all kinds."[59]

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[57]Alaska Comprehensive Health Care Financing Study, Batelle Human Affair Research Center (1981)

[58]HB 641, 12th Leg. 1st Sess. (1981)

[59]ALB Survey, op. cit. n. 9 at 22

In fact, almost all of Alaska's elderly receive some kind of public or private health coverage assistance -- either through Medicare, Medicaid, public and private retirement programs, Veteran's benefits or the Indian Health Service/Public Health Service.

When assessing the health insurance option, the two obvious questions are: (1) how severe are the gaps in existing coverage; and (2) how much would it cost to fill those gaps?

The major source of health insurance coverage for the elderly in Alaska is obviously Medicare -- a federal insurance plan which provides hospitalization for those eligible for social security[60] and medical insurance for an additional fee of $12.20 per month.

Both the hospital and medical insurance contain substantial deductibles, i.e. the first $304 of the hospital bill -- and co-payment requirements (20% in the case of medical insurance.)

Nursing home coverage under Medicare is severely limited -- confined to post-hospital care in a "skilled nursing facility" for short periods of time.

It is difficult to determine how many resident Alaskan elderly are on Medicare -- available statistics are bloated by Medicare claims submitted by tourists. There are some 9,323

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[60]42 U.S.C.§§ 426,1395(c). A person ineligible for Social Security may obtain Medicare hospitalization insurance for $113 per month

retired persons in Alaska receiving social security -- and hence eligible for Medicare.[61].

The largest group of elderly Alaskans ineligible for Medicare are rural residents, primarily Natives, who do not have a sufficient wage earning history to qualify for social security. All Alaska Indians, Aleuts and Eskimos are eligible for IHS -- which provides a broad range of services depending upon available facilities. IHS is, however, primarily a direct provider of facilities -- it does not make cash payments for services such a custodial care in a nursing home. Moreover, it is currently facing severe cutbacks in areas such as reimbursement for health-related travel expenses[62].

The most comprehensive health coverage in Alaska is, of course, Medicaid. To be eligible for Medicaid, one must meet the State public assistance income limitations. As noted previously, there are currently some 2300 elderly Alaska citizens on Medicaid. Medicaid does cover virtually unlimited nursing home residency.

The most glaring deficiency in Alaska health care for the elderly is the lack of coverage for institutionalization in custodial environments such as nursing homes. Nursing home

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[61]Interview, Ms. P. Eubanks, Field Rep. Social Security Admin. (Feb. 24, 1983)

[62]Interview, Ms. P. Roberts IHS, (Feb. 23, 1983)

rates in Alaska run from $90 to $172 per day[63]. The costs are simply prohibitive for anyone not on Medicaid -- indeed, of the 467 elderly Alaskans currently residing in State nursing homes (other than the Pioneers Homes), all but 31 are there under Medicaid, or Alaska's General Relief Medical Assistance.

Conversely, nursing home rates in Washington, for example, have been estimated by the Department of Health & Social Services to vary from $50-$60 per day. It is not known how many elderly Alaskans are institutionalized in lower forty-eight custodial care facilities; however, it is apparent that unless one is eligible for Pioneer Home placement, a nursing home can be afforded if, at all, only by relocating to the lower forty-eight.

Three private organizations were asked to estimate the premium amount required to supplement Medicare and other coverage for Alaska's elderly to provide health insurance equivalent to the existing Public Employees' Retirement System's retiree coverage, and to include comprehensive nursing home coverage. Neither Travelers Insurance, nor Aetna Insurance felt capable of providing an estimate.

However, insurance consultants frequently used by the state for matters such as the public employees Supplemental Benefits System estimated that to provide supplemental coverage

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63Alaska Nursing Home Census, Alaska Department of Health & Social Service, 12/31/82

for Medicare, insurance could be provided at a premium of approximately $70 per individual per month. This would include comprehensive nursing home coverage.

Medicare is currently a primary insurer -- that is, the State could provide for Supplemental coverage without endangering basic Medicare eligibility. Moreover, and in all likelihood, supplemental State coverage could properly provide otherwise uninsured Alaska Natives with those costs not covered by the Indian Health Service.

The major difficulty is Medicaid. Medicaid eligibility is very much contingent upon the unavailability of "resources".[64] Currently, the State only pays 48% of a Medicaid's patient bills. If a State health insurance policy was considered a "resource" the State could find itself footing the entirety of a Medicaid patient's bill.

Of course, the State would hardly need to "supplement" any Medicaid coverage -- Medicaid coverage itself being essentially inclusive. The statute, could simply exempt Medicaid recipients from the coverage of the policy. The issue posed by such an enactment is whether the State would be frustrating the Congressional goals behind Medicaid -- which is to provide a health coverage means or last resort -- thereby running afoul of the Supremecy Clause.[65].

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[64]42 U.S.C. §1382(a)(1)(B)

[65]Florida Lime & Avocado Growers v. Paul, 373 U.S. 132 (1963)

Assuming that the State could continue to merely supplement Medicare, IHS facilities and existing private and retiree coverages, and that the consultants' figures are accurate, there remain two difficulties with the health insurance option. First, it is of no benefit to Alaska's needy elderly -- who will merely continue with Medicaid coverage at the price of their longevity bonus.

Secondly, there is the potentially severe problem of in-migration. If a year's residency in Alaska[66] were all that were required for free and unlimited nursing home coverage, the potential of in-migration may be severe. There are two potentially justifable components of the program which could mitigate this potential:

1. If a purpose of the health insurance option is to allow Alaska residents to continue to reside in the state even if nursing home coverage is required, nursing home coverage could be limited to Alaska institutions, just as many states

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[66]It is possible, although we believe unlikely, that a court would rule that supplemental health insurance coverage would constitute a "basis necessity of life" -- dropping the maximum possible durational residency requirement to 30 days. The program would be supplemental to a host of existing assistance insurance programs, and would not be based on need. See Memorial Hospital v. Maricopa County, 415 U.S. at 261.

limit resident tuition discounts to in-state universities.[67] The difficulty, obviously, is that existing Alaskan nursing home capacity is limited. Whether unlimited nursing home coverage for all Alaskans would result in the expansion of existing facilities is debatable;

2. For the reasons cited with respect to the annuity and social security options, eligibility for health insurance coverage might properly be based upon contribution history if (a) a portion of the individual's permanent fund dividend is used to help fund the insurance program; and (b) the funding is in excess of current needs, in order to amass the same type of "savings account" envisioned with respect to the social security option.

I. LONGEVITY BONUS PREMISED ON INDIVIDUALIZED RELOCATION HARDSHIP.

As noted in Section II(A), ante, there is some judicial support for the view that it is permissible for Alaska to establish a program intended to benefit those who would suffer the most hardship by financially-coerced relocation from the state, and to measure that hardship in part by duration of residence.

This option relies upon that support, and involves three steps:

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[67]Starns v. Malkerson, 326 F.Supp. 234 (D. Minn. 1970), affa mem. 401 U.S. 985 (1971)

1. cataloging those criteria which would differentiate those Alaska elderly who would suffer relatively more hardship by being forced to retire outside the state, and who need financial assistance in order to remain in-state;

2. translation of those subjective criteria to a point system similar to that used by the Alaska Commercial Fisheries Entry Commission; and[68]

3. structuring of that point system such that (a) administrative costs are minimized; and (b) successful applicants are confined to a pool roughly equivalent in number to existing bonus recipients.

Indeed, the structure of this option is similar to the Alaska Limited Entry Act -- which translates certain very subjective criteria -- such as "economic dependence on the fishery" -- into an objective point system. It does so, of course, at a bureaucratic price -- approximately $2.5 million a year for a pool of applicants originally roughly equivalent to those which this option would affect. It also does so at other costs, which will be discussed below.

It is not difficult to catalog the criteria which would set our "relocation hardship" pool aside. Duration and continuity of residence would be one criteria, as would, perhaps:

1. income;

2. location of family;

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[68]See AS 16.43

3. location of property; and

4. ethnic, religious, and cultural ties.

Although income and duration of residency would play a role in determing eligibility, no one factor alone would be dispositive.

It would not be difficult to translate these factors into a point system; nor would it be particularly difficult to structure that point system to limit the class of successful applicants. The proposal, however, does suffer fror the following disadvantages:

1. Since most Alaskan elderly have lived here more than 10 years most Alaska elderly will suffer some demonsterable hardship from relocating elsewhere -- although a certain percentage obviously do not require a longevity bonus to remain;

2. The alternative also involves the establishment and funding of a new bureacracy -- an intrisically unworthwhile undertaking, but one which nonetheless would cost far less than simply opening the class to all elderly Alaskans;

3. Perhaps the most obvious disadvantage is the burden that it would place upon elderly Alaskans themselves. There would presumably be a lengthy application form, together with evidentiary requirements, and in some cases, adjudicatory hearings. The Limited Entry Commission is currently involved in some 120 judicial appeals -- a number which is either at or below historic levels. According to the Commission's FY1984

budget presentation, there is a current backload of some 325 administrative adjudications.

Attorneys will be required -- regardless of what efforts are undertaken to make the process simple and informal. The difficulties facing the elderly applicant are thus rather apparent.

J. GRANDFATHERING

This report closes with one of the simpler alternatives -- opening the class of longevity bonus recipients to all elderly Alaskans with one year's residency, and terminating the program for the future. Persons eligible, or becoming eligible this year will be "grandfathered" and will receive a longevity bonus for life. The fiscal impacts of this alternative are, for FY1984, identical to option A, and will obviously decline in the future due to mortality and relocation.

The obvious advantage of this program is that it protects those currently on the longevity bonus program. Equally, it deprives those approaching the age of 65 with any expectation of receiving a bonus.

We believe that this option is constitutionally permissible. The Alaska Supreme Court shares the general view of the constitutionality of grandfathering laws -- as long as the grandfathered class itself is constitutionally defined.[69] Plainly, the state legislatures

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[69]Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d at 1259-61.

have the right to terminate social programs while protecting those who have come to rely on their benefits.

4. CONCLUSION

As noted at the outset, the purpose of this report is merely to provide a threshhold feasibility review of various options for amending the longevity bonus program. Through discussions with administration officials, legislative staff members, consultants and private industry, we have attempted to highlight the major issues surrounding each alternative, and provide at least rough information on each question raised. If, after the Judiciary Committee has identified two or three relatively attractive options, the effort expended over the past three weeks on 10 proposals can be condensed into the pursuit of three, proposed legislation and a more intricate analysis of the preferred options can be promptly transmitted.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT

CONFIDENTIAL

RODNEY G. VEST,

Plaintiff,

v.

MARIAN SCHAFER and STATE OF ALASKA,

Defendants.

Case No. 1JU-82-1103 Civ.

AGREEMENT AND ORDER OF SETTLEMENT

WHEREAS, in 1972 the Alaska Legislature enacted the Alaska Longevity Bonus Program (AS 47.45.010 et. seq.) which currently provides, inter alia, for the payment of $250 for each month of continued residency by bona fide Alaska residents over the age of 65 who were domiciled in Alaska on or before January 3, 1959 and who have maintained a continuous domicile in Alaska for 25 years;

WHEREAS, the purpose of the Alaska Longevity Bonus Program is among other things, to reward elderly Alaskans for their past contributions to the state and territory, and for past hardships suffered during territorial and early statehood days. AS 47.45.170;

WHEREAS, since 1972, the State of Alaska in good faith has administered the Longevity Bonus Program in the belief that

the rewarding of prior residency was a constitutionally permissible purpose;

WHEREAS, in upholding the State's prior Permanent Fund Dividend distribution program, the Alaska Supreme Court ruled that "reward[ing] those Alaska residents who have chosen to stay" is a constitutionally permissible purpose. Williams v. Zobel, 619 P.2d 448, 460 (Alaska 1980);

WHEREAS, Justices Dimond and Matthews, in dissenting in Williams v. Zobel, believed that the Longevity Bonus Program would withstand constitutional scrutiny (619 P.2d at 469, n.13);

WHEREAS, on June 14, 1982, the United States Supreme Court, in invalidating Alaska's prior Permanent Fund Distribution Program, ruled that a statutory purpose of rewarding prior residency was constitutionally impermissible. Zobel v. Williams, ____ U.S. _____, 80-1146;

WHEREAS, because of the U.S. Supreme Court's decision in Zobel v. Williams, it appears the Longevity Program may not be deemed constitutional;

WHEREAS, a serious and good faith disagreement has developed and the Alaska Legislative Council questions whether the appropriate remedy is to expand the class of recipiants of monthly longevity bonuses, or alternatively, to invalidate the entire program and cease payment of monthly bonuses to any person;

WHEREAS, this uncertainty regarding the appropriate remedy derives from § 2, Ch. 205, SLA 1972, which provides, with respect to the Longevity Bonus Program:

> If any provision of this Act, or the application of a provision of this Act to any person or circumstances is held invalid, this entire act shall be considered invalid.

WHEREAS, unless and until the question of appropriate remedy is resolved by this court, or a settlement of this controversy is achieved, it is reasonable and prudent that the State of Alaska continue to administer the Longevity Bonus Program in the manner provided by statute;

WHEREAS, on July 6, 1982, Plaintiff Rodney Vest filed the above-captioned action, seeking as relief his inclusion in the Longevity Bonus Program of "any . . . bona fide Alaska resident who is 65 years or older....". Complaint, Prayer for Relief, para. 2;

WHEREAS, ON July 23, 1982, Plaintiff Vest filed an amended complaint seeking to have this case certified as a class action under Alaska Rule of Civil Procedure 23 on behalf of all bona fide Alaskans of the age of 65 or older, and further seeking as alternative relief the invalidation of the Longevity Bonus Program, or the payment of retroactive bonuses "in amount equal to what they would have been entitled to obtain under the program had the unconstitutional criteria never been in place or

enforced." First Amended Complaint, Prayer for Relief, paras. 4-6.

WHEREAS, there are currently 9,124 recipients of monthly longevity bonuses, and many of these recipients are of modest means, and depend upon the monthly bonus for sustenance, and the termination of the longevity bonus payments to these individuals could cause great and irreparable harm;

WHEREAS, because of the uncertainty with respect to the appropriate remedy, the parties are desirous of settling this litigation in a manner which affords meaningful relief to Plaintiff Vest and others similarly situated, but which also ensures the continuation of monthly bonus payments to existing recipients;

WHEREAS, the parties are further desirous of achieving a settlement which will finalize and constitute a full and final accord of the rights and liabilities of the parties hereto;

WHEREAS, there may be as many as 4,000 persons who are similarly situated with Plaintiff Vest -- to wit, bona fide Alaskans of the age of 65 or over -- who are not currently receiving longevity bonus payments because of the residency requirements of the statute;

WHEREAS, the parties agree that, because of the nature of the rights of recipients involved in this litigation, a one-year residency requirement is reasonable, necessary and appropriate in order to demonstrate bona fide Alaskan residency;

WHEREAS, a full and final settlement of the parties' rights and liabilities hereto cannot be achieved until all persons similarly situated with Plaintiff Vest are certified as a class under Alaska Rule of Civil Procedure 23(c);

WHEREAS, the settlement envisioned by the parties includes the retroactive payment of longevity bonuses to plaintiff class commencing and including July 1, 1982;

WHEREAS, the payment of such retroactive bonuses to an expanded class of recipients would require the appropriation of sums above the amount currently appropriated for the longevity bonus program for fiscal year 1982-83. Moreover, and because of the Alaska Legislative Council's view of the non-severability clause, quoted above (effecting the expansion of the class of longevity bonus recipients), such payments may require the enactment of curative legislation;

WHEREAS, it is therefore necessary, in order to effectuate this settlement, for appropriate legislation to be enacted;

WHEREAS, the Alaska Legislature is a coordinate branch of government of the State of Alaska, and is represented in this action by the Attorney General;

WHEREAS, notwithstanding the above, the Attorney General cannot in any manner bind or compel the Alaska Legislature in the exercise of its legislative powers;

WHEREAS, on July 16, 1982, the Alaska Legislative Council moved to participate in the above-captioned action as amicus curiae, it is agreed that the Alaska Legislative Council may participate in all negotiations of any settlement, the filing of briefs and may participate in oral arguments; however, the Alaska Legislative Council agrees that it will not be involved in discovery proceedings in the event the case is ultimately litigated and will not become otherwise involved in accordance with the terms of this settlement agreement;

WHEREAS, and while the Alaska Legislative Council cannot bind the Alaska Legislature in the exercise of its legislative powers, the Alaska Legislative Council can and is willing to commit its best efforts to the enactment of appropriate legislation during the first regular session of the 13th Alaska Legislature;

WHEREAS, and subject to (1) the certification of plaintiff class, (2) the Superior Court's approval of a settlement proposal herein, and (3) the commitment of the Alaska Legislative Council to use its best efforts in the enactment of appropriate legislation, plaintiff class is agreed that such action will provide full and adequate consideration for the promise and agreement of plaintiff class not to seek relief in any form with respect to the Longevity Bonus Program through and including the adjournment of the first regular session of the

13th Alaska Legislature or June 30, 1983, whichever ever event comes first in time;

WHEREAS, nothing herein is to be construed as an admission by the State of Alaska as to the unconstitutionality of the Longevity Bonus Program;

WHEREAS, except with respect to the good faith of the State and its agents, nothing herein is to be construed as an admission by either party in the event the settlement agreed to here is not consummated;

NOW THEREFORE THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. All actions and proceedings in the above-captioned case, other than:

(a) the certification of plaintiffs class

(b) the approval by the Superior Court for the State of Alaska, First Judicial District of this proposed settlement agreement, and

(c) any further approval by the court necessary to consummate the settlement agreement after the certification of plaintiffs class,

are stayed through and including the date of adjournment of the first regular session of the 13th Alaska Legislature or June 30th, 1983, whichever event occurs first in time. Procedures for class certification shall be submitted to the Court for review no later than September 10, 1982, and the parties will request the

Court to render its order with respect to the notice procedures forthe said class no later than September 24th, 1982. Notice to the class shall be transmitted, along with the proposed settlement and the conditions necessary to affectuate the settlement, on or before October 11th, 1982. The State of Alaska will undertake reasonable efforts to assist Plaintiff to locate those persons 65 years or older as of July 1, 1982, who have been bona fide Alaska residents in the state of Alaska for one year immediately prior to that date. In the event this settlement agreement is not consummated for whatever reason, but the class certification has been certified by the court as set forth above, the Plaintiff shall not be precluded from seeking an enlargement of the class and a certification thereof so as to include other persons having a shorter residential duration within the State and may also seek a greater retroactive recovery.

2. The Alaska Legislative Council shall utilize its best efforts to secure the enactment, during the first regular session of the 13th Alaska Legislature, of the following legislation;

(a) Legislation which treats equally all bona fide Alaska residents of the age of 65 or older with respect to their residential qualifications to receive any "longevity bonus payments" or any substitute benefits from July 1, 1982 and thereafter for as long as the legislature may determine to continue such a program. Bona fide Alaska residents are those

who continuously resided in the state for one year immediately prior to the date of eligibility; and

(b) Any appropriation which might be required to fund the legislation described in paragraph (a), including the retroactive payment of bonuses.

3. If the Alaska Legislature passes legislation described in 2(a)-(b) above at any time during the first regular session of the 13th Alaska Legislature and the Governor signs the said legislation or otherwise allows 2(a)-(b) to become law so that 2(a)-(b) will be effective no later than Ninety days after enacted, the above action shall be dismissed with prejudice, subject only to the determination of attorney fees by the Court.

4. If the above-captioned action is dismissed under paragraph 3 above, all claims or rights of any class member (except those class members who exercise their right to opt out under Rule 23 of the Alaska Rules of Civil Procedure), with respect to the Longevity Bonus Program, shall be merged into the judgment of dismissal and extinguished;

5. If the Legislation described in 2(a)-(b) above is not enacted during the first regular session of the 13th Alaska Legislature or in any event no later than June 30, 1983, then this agreement shall be null and void, except that the Plaintiff and the class certified, together with any additional members, if there is an enlargement of the class, may prosecute this case as

if this agreement had not been entered into, it being the intent of the parties that certification of the plaintiff class, or the enlargement thereof, shall not be affected if this agreement becomes null and void;

6. The obligation of the Alaska Legislative Council under 2 herein is contingent upon certification of plaintiff class under Alaska Rule of Civil Procedure 23(c), which class shall include each and every individual of the age of 65 or older who, as of July 1, 1982, had continuously resided one year immediately preceding that date within the State of Alaska, and in the event that a class is certified which is less inclusive than as above described, the State of Alaska has reserved the right to waive the protections of this paragraph in whole or in part. Nothing in this paragraph is intended to modify or affect the certification of the class or the right of the Plaintiff to enlarge the class if this agreement becomes null and void.

DATED this __ day of _____, 1982.

DATED: August 9, 1982 Wilson L. Condon by JHS
Attorney for Defendants
Marian Schaefer and
State of Alaska

WILSON L. CONDON
ATTORNEY GENERAL

DATED: August 6, 1982 Henry J. Camarot
Attorney for Plaintiff

Henry J. Camarot
Camarot, Sandberg & Hunter

DATED: 8/16/82

Attorney for Alaska
Legislative Council
Amicus Curiae

FOR William Ruddy
Robertson, Monagle,
Eastaugh & Bradley

O R D E R

IT IS SO ORDERED.

DATED: _____

Hon. Walter Carpeneti
Superior Court Judge

PROGRAM NAME	PROGRAM DESCRIPTION	TYPE OF BENEFITS	(Number of Persons) 1	2	3	4	ALB EXCLUDED	NUMBER OF ELDERLY ALASKANS	MEAN BENEFIT	NUMBER OF ELDERLY AT RISK
Medicaid - Nursing Home	Provides payments on behalf of needy persons in nursing homes for cost of care 48% federal 52% state funds	Vendor Payments	852.90	n/a	n/a	n/a	Yes	up to $450/mo.	$3600	275* es app. 120 included 500 at risk SSI
Medicaid - Regular	Provides payment for necessary medical care on behalf of recipients of Old Age Assistance federal, 52% state funds, 48%	Vendor Payment	546	802 (net)	n/a	n/a	Yes	app. 2300 eligible, of whom app. 943 use benefits each month	$1027/ useage	app. 1200* *includes 500 at risk in SSI program

PROGRAM NAME	PROGRAM DESCRIPTION	TYPE OF BENEFITS	(Number of Persons) 1	2	3	4	ALB EXCLUDED	ELDERLY ALASKANS	MEAN BENEFIT	NUMBER OF ELDERLY AT RISK
Old Age Assistance	Payments to needy	Monthly Cash	546	802	n/a	n/a	Yes	app 2300	246.70/mo.	app 1200* *includes 500 at risk in SSI
Food Stamp Program	A federally funded program designed to promote the health of the nation's population by raising the levels of nutrition among low-income households	Food coupons that are used in place of money	490	650	810	970 This is net monthly income	No	1700	$32 per person (random sampling of 10-elderly cases.)	-0-
Supplemental Security Income(SSI)	Federally funded & administered program providing assistance to needy persons who are aged or disabled 100% federal funds	Monthly Cash	284.30	426.40	n/a	n/a (net)	Yes	app 900	app $228 mo.	500
Energy Assistance	Grants to low-income households to offset energy costs	Vendor home energy credit	$851	$1113	$1375	$1637 (net)	Yes	app. 1400	$475	300-400
General Relief (Medical)	100% state-funded, provides medical assistance on behalf of needy persons. For elderly, primarily provides drugs for Medicaid eligible persons on OAA and SSI	Vendor Payment	$300 or same as SSI and/or OAA (net)	$400			Yes, for elderly	2750 eligibles app. 30% of whom use benefits	$50/mo. useage	app. 1475

ATTACHMENT 8

Gilman v. Martin

RECEIVED
FEB 28 1983

IN THE SUPREME COURT OF THE STATE OF ALASKA

DON GILMAN, et al.,	)	
	)	
Appellants,	)	
	)	
v.	)	
	)	
HARRY V. MARTIN, et al.,	)	
	)	
Appellees.	)	Supreme Court No. 5937
	)	

SUPPLEMENTAL BRIEF OF AMICUS CURIAE STATE OF ALASKA

WILSON L. CONDON
ATTORNEY GENERAL

By: Robert M. Maynard
Assistant Attorney General
Department of Law
Pouch K, Capitol Building
Juneau, Alaska 99811
(907) 465-3600

Filed in the Supreme Court
of the State of Alaska
This 23rd day of July, 1982
ROBERT D. BACON
CLERK OF THE SUPREME COURT

By: _____
Deputy Clerk

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I. INTRODUCTION AND SUMMARY

In a series of cases -- Williams v. Zobel, 619 P.2d 422 (Alaska 1980) (Zobel I); Williams v. Zobel, 619 P 2d 448 (Alaska 1980) (Zobel II); and Zobel v. Williams, ___ U.S. ___, Op. No. 80-1146 (June 14, 1982) (Zobel III) -- this court and the United States Supreme Court ruled upon various residency distinctions relating to tax relief (Zobel I) and distribution of permanent fund dividends. Zobel II and Zobel III. These cases culminated in Zobel III, in which the United States Supreme Court overturned the then existing permanent fund dividend distribution plan.

After Zobel III, this court invited the State of Alaska to submit an amicus brief on the effect of Zobel III on the residency provisions of Kenai's land disposal program in light of the state's land disposal lottery program (AS 38.05.058). The state's program requires one-year residency in order to qualify for the lottery (AS 38.05.057). In addition, it grants a discount of 5% toward the purchase price for every year of residency up to a maximum discount of 50% (10 years) (AS 38.05.058).

The residency provisions of the Kenai land disposal program are almost identical to the provisions of the state program. As a result, a ruling on the Kenai program will be seen as a ruling on the state program. Consequently, the state will present its arguments in support of the state disposal program so that this court may make distinctions between the programs, if they exist, or treat the programs similarly if no distinctions exist. The state understands this to be the court's desire by

its express reference to AS 38.05.058 in its order inviting the state to appear as amicus curiae. In any event, the state urges the court to expressly consider AS 38.05.058 in its ruling on the Kenai land disposal program.

The position of the state is that both the one-year residence requirement and the residence provisions of the discount program are constitutional under Zobel III. As to the one-year residence requirement, Zobel III did not change the law regarding using length of residence as a test of bona fide citizenship. Consequently, that requirement is to be analyzed under preexisting law. Under that analysis the one-year requirement is constitutional.

The discount program is also constitutional under Zobel III. Zobel III, including the concurring opinion of Justice Brennan, would allow using length of residence as a basis for distinguishing among bona fide residents as long as the distinction is related to a valid state interest apart from simply rewarding longer term residents. E.g., Zobel III, Brennan concurrence at 5. 1/ The constitutionality of distinctions between residents, however, appears to be limited by the implication in Zobel III that even if there is a valid state interest, the Court

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1. All cites to Zobel III refer to the Court's slip opinion. The majority opinion by Chief Justice Burger is referred to as the "Burger opinion," the concurring opinions of Justices Brennan and O'Connor are referred to as the "Brennan concurrence" and "O'Connor concurrence," and the dissent by Justice Rehnquist is referred to as the "Rehnquist dissent."

will probably reject any distinctions which create an unlimited ever-expanding number of permanent classes (i.e., where a 60-year resident always wins over a 59-year resident, or a 10-year resident over a 9-year resident, etc.). As Justice Dimond noted in his dissent in Zobel II, it must be "at least likely that new residents would achieve equality." Zobel II at 468. Under the discount plan, a valid state interest is furthered and the number of classes of residents created is limited.

The Court's holding in Zobel III only established two propositions of law: (1) rewards for past contributions cannot be based on length of residence; and (2) recognizing residency accumulated prior to the date of enactment of a statute is not rationally related to the purpose of creating incentives to stay in the future. Those holdings potentially apply only to awarding discounts based on residency accumulated prior to 1978 (the date of enactment of the discount program, 1978 SLA, ch. 181, § 6). Otherwise, the discount program is unaffected by the holding in Zobel III.

A more difficult problem is the effect of the vigorous dicta in Zobel III that all programs which create unlimited and ever-expanding classes of residents are unconstitutional. Whether that dicta is the law of the land, however, need not be resolved. Even though the reasoning of that dicta would have overturned the dividend plan in its entirety, the court was unwilling to memorialize the dicta in a holding.

Therefore, the Zobel III dicta represents the water's edge of constitutional restraints on residency requirements. Since the residency discount is substantially less expansive in its distinctions between residents, there is no call for expanding the rationale of the Zobel III dicta further to encompass this program. Rather, the program should be analyzed solely under the modified rational basis equal protection test expressed in State v. Erickson, 574 P.2d 1 (Alaska 1978). Zobel II shows that the residency discount passes muster under that test.

Finally, the state urges this court to apply any adverse ruling prospectively only so as to: (1) not upset any ongoing property transactions (Moore v. State, 553 P.2d 8 (Alaska 1976); and (2) treat all participants in the program equally.

The state urges the court to look closely at the question of residency. There are numerous residency-based programs that will likely be affected by the analysis that will be developed in this case. Zobel III actually stands for a limited number of narrow propositions; it is of little help in assessing the constitutionality of a wide range of programs. Each program has a different purpose; consequently, a means of analysis that is broader than Zobel III must be developed. Length of residency measures different attributes and furthers different purposes in, for example, the student loan program (AS 14.40.763) and the Pioneers Home program (AS 47.25). Both of these are different from the land discount plan (AS 38.05.058). A broad rejection of all length of residence plans is clearly unwarranted.

Conversely, a case-by-case rejection or approval tends to throw doubt upon many perhaps legitimate programs.

A clarification of the law in this area is sorely needed. Zobel III added more confusion than it resolved. Because of that existing confusion, we urge the court to give an expedited consideration of the issues raised.

II. ARGUMENT

A. ZOBEL III STANDS FOR ONLY A FEW NARROW PROPOSITIONS

Despite its local notoriety, the United States Supreme Court opinion in Zobel III actually stands for only two propositions. First, making an award of benefits based on residency accumulated prior to the date of enactment is not rationally related to the purpose of granting incentives to continued residence. Second, a statute may not award benefits or rights based on past contributions measured solely by length of residence. 2/

---

2. Although the majority opinion by Chief Justice Burger could be read to deny all awards based on past contributions, the concurrences of five of the justices would restrict its application to contributions measured by length of residence alone.

> The court today reaffirms the important principle that, at least with respect to a durational residency discrimination, a state's desire "to reward citizens for past contributions" is "clearly not a legitimate state purpose."

Zobel III, Brennan concurrence at 4 (emphasis added). See also Id., Brennan concurrence at 8-9 and O'Connor concurrence at 1, n.1.

Beyond these two holdings, the impact of Zobel III is in its strong implication that the United States Supreme Court will not tolerate a certain kind of discrimination between bona fide residents. This discrimination is the creation of "fixed, permanent distinctions between an ever-increasing number of permanent classes of concededly bona fide residents, based on how long they lived in the state." Zobel III, Burger opinion at 4. See also Id., Burger opinion at 9 (stating that it would be "clearly impermissible" to "divide citizens into expanding numbers of permanent classes"). Although the Court's opinion avoided ruling on the constitutionality of the "prospective" portion of the dividend distribution plan, the concurring opinions of Justices O'Connor and especially Brennan leave little doubt that that plan would not have passed constitutional muster.

The Court's opinion in Zobel III restated the three purposes advanced in justification of the distinctions among residents made by the dividend plan. Those purposes were stated as

> (1) the creation of a financial incentive for individuals to establish and maintain residence in Alaska; (2) the encouragement of prudent management of the Permanent Fund; and (3) the apportionment of benefits in recognition of "undefined 'contributions of various kinds, both tangible and intangible, which residents have made during their years of residency.'"

Id., Burger opinion at 6.

The Court concluded that the distinctions among residents made under the plan did not satisfy the rational basis

test. Under the plan, residents were to receive greater benefits for greater durations of residency. The plan was also to be applied retroactively so that residency before enactment of the plan would also be counted toward increased benefits. The Court's opinion focused on the retrospective aspect of the plan. The Court failed to see any rational relationship between this retrospective aspect of the plan and the first two purposes noted above. In that regard, the Court stated:

> Assuming arguendo that granting increased dividend benefits of each year of continued residence might give some residents an incentive to stay in the State in order to reap increased dividend benefits in the future, the State's interest is not in any way served by granting greater dividends to persons for their residency during the 21 years prior to the enactment.
>
> Nor does the State's purpose of furthering the prudent management of the Permanent Fund and the State's resources support retrospective application of its plan to the date of statehood.

Id., Burger opinion at 7.

The Court relied upon Shapiro v. Thompson, 394 U.S. 618 (1969) to hold that the third objective -- to apportion benefits in recognition of past contributions to the state -- was not a legitimate state purpose. Thus, the Court concluded that the distinctions were invalid under the equal protection clause at least insofar as they were applied retroactively to provide greater benefits based on length of residence before enactment of the dividend plan.

In a concurring opinion written by Justice Brennan for himself and three other members of the Court, it was emphasized that

> The Court today reaffirms the important principle that, at least with respect to durational-residency discrimination, a State's desire "to reward citizens for past contributions" is "clearly not a legitimate state purpose."

Id., Brennan concurrence at 4, quoting from the Burger opinion at 7-8. Beyond that, Justice Brennan's opinion indicates that at least four of the Justices considered the constitutional concerns raised by the dividend plan to be such as "might well preclude even the prospective operation of Alaska's scheme." Id., Brennan concurrence at 1.

Zobel III, however, neither disturbed the case law on using length of residence as a means of establishing the bona fides of citizenship, nor ruled that all discriminations between bona fide residents based on length of residency were unconstitutional per se. Even Justice Brennan, whose opinion is the harshest of the attacks on the distribution plan, stated that "length of residence may . . . be used to test the bona fides of citizenship." Id., Brennan concurrence at 6. Concerning distinctions between bona fide citizens, Justice Brennan would only automatically overturn residency discrimination having no independent valid state interest:

> It is, of course, elementary that the Constitution does not bar the States from making reasoned distinctions between citizens. Insofar as those distinctions are rationally related to the legitimate ends of the State

> they present no constitutional difficulty, as our equal protection jurisprudence attests. But we have never suggested that duration of residence vel non provides a valid justification for discrimination. To the contrary, discrimination on the basis of residence must be supported by a valid state interest independent of the discrimination itself.

Id., Brennan concurrence at 5.

It is noteworthy that the Court as a whole declined to take an additional step and invalidate the prospective component of the unlimited and ever-expanding dividend distribution plan. Although five justices signed on to the concurring opinions of Justices Brennan and O'Connor, and even though under the reasoning of the concurring opinions the entire program would have been expressly overturned, the Court refused to make that holding. Zobel III, therefore, also stands for the proposition that the residency provisions of the dividend plan represent "the water's edge"; i.e., that distinctions such as those made by the dividend program mark the boundary into per se unconstitutional territory. Distinctions between residents that are not unlimited and "ever-expanding" are not automatically invalid, and must be analyzed on a case-by-case basis.

This case brings before the court plans which are supported by legitimate state interests and which are not as pervasive as the permanent fund plan in their distinctions between residents. The question before this court is whether these plans are so extreme as to cross the boundary marked by the dicta in the Zobel III.

B. THE ONE-YEAR RESIDENCE REQUIREMENT IS A VALID TEST FOR ESTABLISHING THE BONA FIDES OF ALASKA RESIDENCE

Prior to reaching the specifics of the discount program, it is appropriate to discuss that part of the land disposal program which was not affected by the Zobel III decision: the requirement of one-year residence as a precondition to qualification. This is simply a length of residence requirement to test the bona fides of citizenship. It is an objective requirement which is constitutional since neither a fundamental political right or access to a basic necessity of life is involved.

In order to be eligible to participate in the land lottery itself, the only check on the bona fides of residency is the one-year residence requirement. AS 38.05.057(b). However, in order to qualify for the discount to the purchase price, additional criteria are added, namely that the person:

(1) has a place of residence in the state;

(2) be registered to vote in the state;

(3) has not claimed residence elsewhere for the previous year; and

(4) has otherwise acted in a manner to show that his intent is to remain in Alaska. AS 38.05.058(b)(2) - (5). If the person is able to meet these requirements, he is entitled to participate in the discount program.

The one-year residence requirement appears in both the statute authorizing the lottery [AS 38.05.057] and the statute authorizing the discount [AS 38.05.058]. Since the qualification for the discount applies only to those eligible to participate in

the lottery in the first place, the one-year residence requirement for the discount program is actually redundant of the one-year requirement to get into the lottery itself. Therefore, the issue is whether the state, as its only test, can require a one-year residence requirement in order to assure that only bona fide residents participate in the state land disposal lottery. 3/

There is little question that "length of residence may . . . be used to test the bona fides of citizenship." Zobel III, Brennan concurrence at 6. Here the purpose is not to create distinctions between citizens, or bona fide residents, but to determine whether a particular person should be considered a resident at all.

---

3. What follows is an analysis grounded in equal protection. Theoretically, there is a distinction between discriminations between bona fide residents, which are analyzed under equal protection, and between residents and nonresidents, which are tested under privileges and immunities analysis. Unfortunately, an objective test using length of residency to determine whether a person has the requisite "intent" to be a bona fide resident falls in between. To the extent it denies benefits to those who have the subjective intent but do not meet the residence requirement, it is a distinction between bona fide residents to be analyzed under equal protection. To the extent that it withholds benefits from nonresidents, the requirement is to be analyzed under privileges and immunities. In addition, the existing vagaries of the right to travel analysis is at the core of the problem. The confusion on this score is manifest in the United States Supreme Court opinions in Zobel III. Since, however, "a state has more authority to draw distinctions between residents and non-residents than between long- and short-term residents" (Zobel II at 451, n.7), if the one-year residence requirement passes muster under equal protection analysis of the right to travel, it should suffice for privileges and immunities purposes.

Unfortunately, the terms "resident" and "residence" are often used loosely, even in court opinions. Bona fide residency, or domicile, involves two separate elements: (1) physical presence; and (2) intent to remain. See, e.g., State v. Adams, 522 P.2d 1125 (Alaska 1974). "Residence" or "being a resident" in the sense of owning a home or otherwise living at a particular location, meets only the first criterion.

Determining intent, however, is a more difficult problem. There are two means by which intent can be measured. First, a "subjective" or individualized inquiry could be made. This would entail looking at indicators of the individual's state of mind such as voter registration, drivers' licenses, affidavits or sworn statements, or other such indicators of subjective intent. Second, an objective measurement, traditionally length of residence, could also be used.

> Domicile is established by an actual physical presence in the state coupled with a coincident intent to make the state one's permanent place of abode. Domicile cannot be established by mere physical presence in the state for a fixed period without the intent to permanently reside there, but the strong presumption of domicile which arises from physical presence is usually difficult to rebut. Thus, as a practical matter, domicile may be established either through a "subjective test" -- examination of the proponent's state of mind -- or through an "objective" test -- e.g., a durational residency requirement.
>
> The subjective test is, of course, dependent to a large extent upon conduct traditionally indicative of domicilliary intent, e.g., local voter registration.

State v. Adams, 522 P.2d 1125, 1126-27 (Alaska 1974) (emphasis added).

The obvious advantage to an objective residency test is that it is more easily administered than 400,000 individualized determinations. Id. Therefore, unless the state's interest in a generally administered objective test of bona fide residency is outweighed by a more important individual interest, it is a reasonable and legitimate tool. Vlandis v. Kline, 412 U.S. 441, 452-[illegible]9, Starns v. Malkerson, 326 F.Supp. 234 (Minn. 1970), aff'd, 401 U.S. 985 (1971). But if the individual interest involved requires that the state program be analyzed with strict scrutiny, then the state cannot generally use the objective test of length of residency to determine bona fide residency. Instead, a subjective or individualized test must be used. Dunn v. Blumstein, 405 U.S. 330 (1972); Shapiro v. Thompson, 394 U.S. 618 (1969); Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974); State v. Adams, 522 P.2d 1125, 1126-27 (Alaska 1974). 4/ Where strict scrutiny applies, a state can use length of residence as a qualification only when and to the extent that it is necessary for the administration of the program, or is otherwise "necessary to promote a compelling governmental interest." Shapiro v. Thompson, supra at 634; Dunn v. Blumstein, supra;

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4. The Adams position that all infringement on the right to travel requires a compelling state interest has been abandoned (Zobel II at 450-451). Therefore, all infringements on the right to travel do not require strict scrutiny and the subjective residence requirement necessary under strict scrutiny.

State v. Van Dort, 502 P.2d 453 (Alaska 1972). Furthermore, the only time a "compelling state interest" must be advanced is when either a fundamental political right or a basic necessity of life is being withheld. Zobel I at 426-427; Zobel III, Burger opinion at 9, n.11; Memorial Hospital v. Maricopa County, 415 U.S. 250, 259 (1974).

Unlike the right to vote, welfare benefits, or access to medical care, qualification for participation in a state land lottery does not involve a fundamental political right or a basic necessity of life. Therefore, strict scrunity is not appropriate. Instead, the residency qualification is to be tested under the modified rational basis standard set forth in State v. Erickson, 574 P.2d 1 (Alaska 1978).

> We will no longer regard all durational residency requirements as automatically triggering strict scrutiny and requiring a showing that such a classification is absolutely necessary to promote a compelling state interest. Instead, we will balance the nature and extent of the infringement on this right [the right to travel] caused by the classification against the state's purpose in enacting the statute and the fairness and substantiality of the relationship between that purpose and the classification.

Zobel II at 453. 5/

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5. There is some indication that this court may be moving away from the Erickson test in favor of the old rational basis test. E.g., Rose v. Commercial Fisheries Entry Commission, __ P.2d __, Op. No. 2515 (Alaska, June 11, 1982) at 31, n.6 (Rabinowitz, J., dissenting). If so, then both the one-year residence requirement and the discount program would be subject to even less strict review. Since, however, both pass muster even under the Erickson test, they would meet a revived rational basis analysis as well.

There is little question that the state has "the right to impose . . . , as one element in demonstrating bona fide residence, a reasonable durational residency requirement." Zobel III, Brennan concurrence at 6. The question, then, is whether the 12-month requirement is reasonable in light of the Erickson test.

First, a comparison with other constitutional residency requirements indicates its reasonableness. A one-year requirement for resident tuition has been held constitutional by the United States Supreme Court (Starns v. Malkerson, 326 F.Supp. 234 (D. Minn. 1970), aff'd, 401 U.S. 985 (Vlandis v. Kline, 412 U.S. 441 (1973)) as has a one-year requirement for divorce (Sosna v. Iowa, 419 U.S. 393 (1975). 6/ The state's interest in assuring that persons buying state land are actually bona fide residents is surely equal to its interest in student tuition or divorce.

In applying the elements of the Erickson test, first, the right to travel is only slightly impacted by the requirement, if at all. The privilege gained is the right to enter a lottery for the right to purchase property. If that person wins, he or she can buy the property at market value. It is extremely doubtful that the withholding of this benefit to participate in the

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6. This court overturned a one-year requirement for divorce in State v. Adams, supra, however, the basis for that ruling was expressly abandoned in Zobel II. Zobel II at 450-451.

lottery for a period of one year could be any penalty or infringement on the right to travel. Zobel II at 458.

Even if there is some marginal infringement, the state's interest in permanently disposing of one of its most valuable resources to bona fide residents is surely great. And, a one-year residence requirement is reasonable as a sorting device. For example, given the seasonal nature of much of the employment in Alaska, a one-year requirement assures that a person is not merely temporarily here for seasonal employment. Overall, a one-year requirement is a substantial enough but not overlengthy period so that it could reasonably be said that a person intended to make Alaska his or her home.

C. THE DISCOUNT PROGRAM IS CONSTITUTIONAL.

1. The Program is Valid Under the Standards Set Forth in Zobel II and Erickson.

A more substantial equal protection problem is raised by the residency discount. Without Zobel III the only question would be whether the program meets the Erickson test. Zobel II, supra, at 452-453. As will be shown first, the discount plan would be constitutional under that test. The final question is whether Zobel III would change that result.

Since no fundamental political right or access to a basic necessity of life is involved, the discount program is to

be measured under the Erickson balancing test. 7/ Zobel I at 426-427, Zobel II at 452-453. The first inquiry is to "the nature and extent of the infringement on [the right to interstate travel] caused by the classification." Zobel II at 453.

The infringement is de minimus. The discount program awards increasing benefits in the form of discounts of up to 50% from the appraised market price. Applying the analysis of this court in Zobel II, this grant of differing discounts cannot be characterized as a penalty or infringement on the right to travel.

> The new resident does, in fact, receive financial gain for exercising his or her right to move into Alaska; and whatever "penalty" may accrue from the fact that the gain is not as large as that realized by a long-term resident we regard as de minimus.

Zobel II at 458. In fact, the infringement here is much less in this case than that of the permanent fund dividend. Unlike the dividend, the discount is not automatically available. The longer term resident must win a parcel of land in a lottery; a lottery in which all bona fide residents compete equally. Therefore, the discount program does not automatically confer greater benefits on longer term residents -- the longer term resident may never get the opportunity to exercise his or her discount, while the shorter term resident may enjoy whatever discount he or she has accrued immediately. This precondition of having to win a

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7. Assuming that the Erickson balancing test is still applicable. See supra, n.5.

Zobel II at 458. 8/ The legitimacy and importance of this purpose was endorsed by this court in Zobel II. Id. at 459-460, n.33 at 459, and 461.

There is a fair and substantial relationship between increased discounts toward the purchase price of state land based on length of residency and the purpose of stabilizing the population and encouraging residents to stay in Alaska. As this court concluded in Zobel II

> The second of the listed purposes [population stability and encouraging residents to stay] is clearly related to the classification system. A significant financial incentive is created to encourage persons to maintain residency in Alaska; and the stabilization of long-term residents clearly reduces population turnover. . . . As above, we do not regard this system as imposing a "penalty" on new residents. Thus we hold this purpose to be permissible and the relationship clear . . . .

Id. at 461.

This conclusion is directly applicable to the discount program. The prospect of increasing discounts surely encourages people to stay in the state. Further, applying that discount to the purchase of a piece of property in Alaska greatly enhances a person's ties to the state. This system is at least as

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8. The discount program is either an incentive program or a reward program, or both. To the extent that the program is a reward for past contributions, that justification cannot be used as a basis for its constitutionality. Consequently, this court should analyze the discount program only as an incentive to induce the future action of maintaining residence.

stabilizing and encouraging of continued residence as the receipt of cash dividends. Coupled with the de minimus infringement on the right to travel, the discount program is constitutional under Zobel II and Erickson.

2. Zobel III Does Not Alter the Results of the Erickson Analysis.

As explained previously, the dicta in Zobel III represents the water's edge for any per se constitutional restraints on residency requirements. Plans which do not create unlimited and ever-expanding classes of residents, or otherwise fall outside of the Zobel III dicta, must be analyzed on a case-by-case basis in light of preexisting equal protection analysis.

As for the Zobel III decision itself, it would potentially only affect a small portion of the discount program. As was mentioned previously, Zobel III held that for the permanent fund dividend program, recognizing residency prior to the date of enactment was not rationally related to the purpose of encouraging people to remain in the future. Under this holding, it would only be residency accumulated prior to 1978 (the date of enactment of the discount program) which would be called into question.

In this case, however, the recognition of residency accumulated prior to 1978 is only an incidental effect. See Zobel II at 467, n.37. The program had to start somewhere, and, unlike the dividend program, the award of increased discounts to longer term residents does not directly lessen the portion of the

"pie" to be given newer residents. The value of the newer residents' discount would remain the same whether or not the older resident began with a larger discount at start-up. Second, invalidating residency accumulated prior to 1978 does not further the legitimate purposes of the program; namely, creating an incentive to stay. The legislature assumed a 10-year or longer resident needs no further increased discount as an incentive. Treating a 10-year resident in 1982 as a four-year resident will not reawaken that incentive. Thus, unlike the permanent fund dividend plan, to apply the Zobel III holding to the discount program would serve no real purpose.

As for the Zobel III dicta, the land discount program makes for more limited distinctions between residents than did the dividend distribution plan. Even under the prospective operation of the dividend program, a 50-year resident would be preferred over a 49-year resident, who in turn was preferred over a 48-year resident, and so on. This unlimited and ever-expanding discrimination was viewed as much too pervasive by the Court in Zobel III. But the discount plan does not distinguish between the 50-year resident over the 49-year resident, over the 48-year resident, etc. All are equal after 10 years. Instead, it is only during the first 10 years of residency that distinctions are made. These distinctions are rational and are drawn as part of a program to induce persons to stay a significant period of time. During that time a person may establish such roots that it is unlikely he or she will leave. In addition, the person can use

the discount in purchasing property and further establish roots in the state. Zobel III would not prevent this purpose or plan.

The United States Supreme Court did not rule on the question of awards based on residency accumulated after the date of enactment. The Court held that "[I]n our view Alaska has shown no valid state interests which are rationally served by the distinction it makes between citizens who established residence before 1959 [sic] and those who have become residents since then." Zobel III, Burger opinion at 10 (emphasis added).

The Court was seriously divided in its views of the prospective operation of the dividend plan. There were not five votes to overturn the plan in its entirety. The dividend plan represented the extreme which triggered severe expressions of concern, but not outright rejection. As a result, the Court stated that: "We need not consider whether the State could enact the dividend prospectively only." Id. Therefore, Zobel III does not directly impact the continued operation of the discount program.

On the other hand, there is language in the concurring opinions of Justices Brennan and O'Connor which would lead to the conclusion that even the prospective operation of the dividend plan would have been unconstitutional. Justice Brennan wrote:

> I write separately only to emphasize that the pervasive discrimination embodied in the Alaska distribution scheme gives rise to constitutional concerns of somewhat larger proportions than may be evident on a cursory reading of the Court's opinion. In my view, these concerns might well preclude even the prospective operation of Alaska's scheme.

Id., Brennan concurrence at 1. Later, Justice Brennan simply states that "[a] scheme of the sort adopted by Alaska is inconsistent with the Federal structure even in its prospective operation." Id. at 3.

Justice O'Connor would have applied privileges and immunities analysis and, under her approach, would have stricken both the retroactive and prospective applications of the program. Justice O'Connor believed that distinguishing between residents, or between residents and nonresidents, infringes a fundamental right for purposes of the Privileges and Immunities Clause:

> Certainly the right infringed is "fundamental." Alaska's statute burdens those nonresidents who choose to settle in the state. It is difficult to imagine a right more essential to the nation as a whole than the right to establish residence in a new state."

Id., O'Connor concurrence at 6.

Justice O'Connor's approach would not distinguish between residency accumulated before the date of enactment and after the date of enactment. Thus, five justices, the three joining with Justice Brennan's concurring opinion plus Justice O'Connor, would likely rule that the prospective application of the dividend plan was unconstitutional. Consequently, it is instructive to see if the apparent reasons for their dissatisfaction would necessarily attach to the discount program.

In this analysis, Justice Brennan's concurrence is central. His opinion is the harshest attack on the dividend plan and Justice O'Connor's analysis is expressly not favored by the

other eight members of the Court. Id., Burger opinion at 7, n.3; Brennan concurrence at 2; Rehnquist dissent at 4, n.3. 9/

The core of Justice Brennan's concern was the extreme nature of the plan. He was alarmed by the all-inclusive and "pervasive discrimination embodied in the Alaska distribution scheme." Id. As he explained later, the notion of a society permanently divided solely on the basis of the assumption that past residence means greater worth is an anathema to our national ideals. At one point Justice Brennan explained the specific aspect of the dividend plan he found offensive:

> The Constitution places the recently naturalized immigrant from a foreign land on an equal footing with those citizens of a State who are able to trace their lineage back for many generations within the state's borders. The eighteen-year-old native resident of a state is as much a citizen as the fifty-five-year old native resident. But the Alaska plan discriminates against the recently naturalized Alaska citizen, in favor of the Alaska citizen of longer duration: or discriminates against the eighteen-year old native resident, in favor of all residents of longer duration. If the Alaska plan were limited to discriminations such as these, and did not purport to apply to migrants from sister states, interstate travel would not

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9. Besides the disagreement on Justice O'Connor's views on the right to travel and its sole location in the Privileges and Immunities Clause, it is unlikely that the Court would accede to her view that all distinctions between residents and nonresidents who have a place of abode in the state impinges on a fundamental right. This would lead to more limitations on the right of a state to draw distinctions between nonresidents and residents than between residents themselves. This result is not consistent with prior case law. See Zobel II at 451, n.7.

> be noticably burdened - yet those discriminations would surely be constitutionally suspect.

Id., Brennan concurrence at 4 (emphasis added).

This pervasive and unlimited aspect also troubled Chief Justice Burger. He wrote

> "Alaska's reasoning [that past contributions should be rewarded] . . . . would permit the states to divide citizens into expanding numbers of permanent classes. Such a result would be clearly impermissible."

Id., Burger opinion at 9. Justice Dimond, in his dissent in Zobel II, touched on this concern when he distinguished Sosna v. Iowa, supra, and other durational residency requirements from the dividend plan by explaining "[i]n Sosna it was at least likely that new residents could achieve equality." Zobel II at 468.

Thus it was the unlimited and pervasive discrimination that disturbed the Court -- where a longer term resident would always be preferred over a shorter term resident, whether it was 50 years of residency over 49, or 10 years over 9 years. Unlike other durational residency requirements, where equal treatment was achieved at some point, equality could never be achieved under the dividend plan. Like a race on a treadmill with a width of one person, the second to enter could never catch up. Although not specifically expressed, a majority of the Court clearly viewed such an unlimited plan as inherently so indiscriminate as to be presumed to reward residency solely for its own sake.

The Court would have recognized distinctions based on residency, but those distinctions had to be drawn for a purpose

other than simply rewarding long-term residents. Whatever that independent reason may be, a majority of the Court could not view that reason as justifying an unlimited preference that would be unending. They apparently believed that the state simply could never rationally make a distinction between a 50-year resident over a 49-year resident over a 48-year resident, and so on down to the brand new resident. They viewed such distinctions as so inherently arbitrary that the real purpose must be the belief that length of residence is a badge of worth. As Justice Brennan concluded:

> In my view, it is difficult to escape from the recognition that underlying any scheme of classification on the basis of duration of residence, we shall almost invariably find the unstated premise that some citizens are more equal than others. We rejected that premise and, I, believe, implicitly rejected most forms of discrimination based on length of residence, when we adopted the Equal Protection Clause.

Id., Brennan concurrence at 7.

But even Justice Brennan would allow distinctions based on length of residence so long as simply rewarding residence was not the underlying purpose.

> [T]he Constitution does not bar the states from making reasoned distinctions between citizens. Insofar as those distinctions are rationally related to the legitimate ends of the State they present no constitutional difficulty, as our equal protection jurisprudence attests. But we have never suggested that duration of residence vel non provides a valid justification for discrimination. To the contrary, discrimination on the basis of residence must be supported by a valid state interest independent of the discrimination itself.

Id., Brennan concurrence at 5 (emphasis added). Justice Brennan believes that such valid independent interests are few and far between:

> To be sure, allegiance and attachment may be rationally measured by length of residence - length of residence may, for example, be used to test the bona fides of citizenship - and allegiance and attachment may bear some rational relationship to a very limited number of State purposes. But those instances in which length of residence could provide a legitimate basis for distinguishing one citizen from another are rare.

Id., Brennan concurrence at 5-6 (citations omitted).

Although we agree that the instances where length of residence has an independent utility as a device to further a legitimate state interest may be rare, the state does not believe that they are as rare as Justice Brennan implies. Justice Brennan implied that there were only two categories that would admit of an independent interest: testing bona fide residence and qualifying for public office. Id. We believe that there are other legitimate instances. For example, as Justice Dimond noted in his dissent in Zobel II, length of residence might be a reasonable tool to measure the present hardship that would be caused by disrupting ties to the state. Zobel II at 469, n.13.

Whatever other instances may or may not exist, it is surely legitimate to use length of residence as a tool for instilling allegiance and attachment. For example, AS 14.40.763 and AS 14.40.825 provide for forgiveness of student loans based on years of residence after completing school, with a forgiveness of up to 50% (6 years). This use of graduated length of

residence is clearly permissible. The purpose of the loan program is to provide the state's residents with education -- it is in the state's interest to have an educated citizenry. Consequently, it is in the state's interest to have those to whom it loans money return to the state with the benefits of that education. The best means to induce persons either to stay or to return after their education is to give an incentive to return and stay. The best way to apportion that incentive is to relate the benefit to future residence in the state. Such a program does not create a preferred class of citizens, reward past contributions, or otherwise partake of the characteristics that the Court found objectionable in Zobel III. But such a program does make distinctions between residents based upon the length of their residence.

The same rationale applies to the discount program. It is not a "reward" for past contributions or for simply being in the state longer. It is not intended to create a preferred class of citizens. Instead it is an incentive -- an incentive to establish roots in Alaska.

After 10 years the legislature assumed that no further discount or incentive is needed; it assumed that a person's roots are established and will not be significantly influenced by the prospect of even greater discounts. Thus it does not continue to grant incentives for residency solely because of the length of residence. The statute treats everyone equally for purposes of the effect of the incentive after that 10 years. It does not

reflect a legislative belief that comparatively longer residency in and of itself justifies preferential treatment. It is only longer residency during those years when the incentive has a reasonable chance of influencing future behavior which is preferred.

The resident land discount program therefore furthers an independent and valid interest; as such, it would survive even Justice Brennan's analysis. What better way is there to encourage people to stay than to give increasing discounts based on length of residence during the first years of residence in the state? After a period of time, perhaps, it would be irrational to believe that the increasing discount will further that person's allegiance and attachment. A 40-year resident is unlikely to require a greater benefit than that given a 25-year resident -- their likelihood of staying or leaving will be dependent on other factors than the existence of sufficient roots in the state.

But that is not true for brand new residents, or those who have been here for comparatively few years. The prospect of substantially increasing discounts during those years could make the difference between staying in Alaska and leaving. A one-year resident might stay an extra year to take advantage of the discount, as might a two-year resident. During that extra time other roots will be established, and the state's goals of stabilizing the population and creating incentives to stay is furthered.

The legislature decided that after 10 years there was no need to continue to increase the discount. The state believes that this is a reasonable time under the Erickson analysis, particularly given the de minimus infringement on interstate travel on the other side of the scale.

The underlying rationale expressed in the various opinions in Zobel III is relatively straightforward. It is hard to argue with the view that length of residence in and of itself cannot entitle a citizen to preferential treatment. Nor do we necessarily disagree that an unlimited and ever-expanding preference measured solely by comparative residency leads to the conclusion that it is, in reality, simply a preference for longer term residents. After a certain period of residence, comparative residency will probably not be a valid indicator of relevant distinctions between people separated by a few years.

But Zobel III stands only for those propositions. It does not prohibit distinctions based on length of residence, nor does it prohibit a limited number of classes distinguished by length of residence. To the extent that using length of residence fairly and substantially furthers an independent, valid state interest it is constitutional. The land discount, given its limited scope and its fair and substantial relationship to the valid state interests in stabilizing the population and encouraging state residence, is constitutional under Erickson, Zobel II, and Zobel III.

D. IF THE COURT FINDS THE LAND DISPOSAL PROGRAM TO BE UNCONSTITUTIONAL, IT SHOULD APPLY ITS RULING PROSPECTIVELY ONLY

If this court rules that a portion, or all, of the land discount program is unconstitutional, substantial, inequitable and unnecessary hardship will occur unless this court makes its ruling prospective.

In Warwick v. State ex rel. Chance, 540 P.2d 384, 393 (Alaska 1976), this court stated:

> A state supreme court has unfettered discretion to apply a particular ruling either purely prospectively, purely retroactively, or partially retroactively, limited only "by the jurisprudential philosophy of the judges . . . , their conceptions of law, its origin and nature." The decision is not a matter of law, but a determination based on weighing the merits and demerits of each case.

(Citations omitted.) This court also summarized the guidelines for when it will apply a ruling prospectively in Plumley v. Hale, 594 P.2d 497, 503 (Alaska 1979):

> In accord with the United States Supreme Court precedent [Chevron Oil Co. v. Huson, 404 U.S. 97, 106-107 (1971)], we have previously identified four conditions indicating the propriety of non-retroactive treatment in civil cases: 1) the holding is one of first impression, or overrules prior law, and was not foreshadowed in earlier decisions; 2) there has been justifiable reliance on an alternative interpretation of the law; 3) undue hardship would result from retroactive application; and 4) the purpose and intended effect of the holding is best accomplished by prospective application.

A ruling of unconstitutionality in this case was not foreshadowed. In fact, the reasoning in Zobel II would have lead to upholding the discount program in its entirety. The partial

reversal in Zobel III was not foreshadowed and has only confused the constitutional analysis of residence requirements. In large measure this court's ruling on this case will be one of first impression.

Second, there has been justifiable reliance on an alternative interpretation of the law. Here the "alternative interpretation" is the plain reading of AS 38.05.057 and AS 38.05.058. It is surely justifiable for citizens and administrators to depend on a statute which was unchallenged for a number of years.

There are two types of equitable hardship that should be avoided by a prospective only application of an adverse ruling. First, persons who have entered and won land in the lottery should not have their title impaired or the land transfer impeded by a ruling that the program was flawed. Not unwinding settled property transactions was found to be sufficient reason to apply a ruling propectively only in Moore v. State, 553 P.2d 6 (Alaska 1976), and that reasoning applies with equal force here. Consequently, lotteries held prior to the issuance of this court's opinion should be allowed to proceed to completion of formal transfer of title under the original terms of the program.

Second, there is an equitable hardship in applying a ruling that residency accumulated prior to the date of enactment cannot be counted. Many persons have already received their land at the stated discount -- it would be unfair to those who either were not lucky enough to win a parcel, waited to apply for a

different piece of property, or waited in order to receive a larger discount. In fact, it would be residents who were already here in 1978 who acted in the manner hoped for by the legislature and remained an extra year or two to take advantage of an increased discount who could be harmed the most. They may find that, instead, their discount has been slashed by elimination of residency acquired prior to 1978.

The intended effect of a holding of unconstitutionality would not be advanced by striking the pre-enactment portion of the discount. Here the application of that ruling would not increase the benefit to the newer citizens: their discount would be exactly the same. And, since the underlying sale is by lottery, their access to land is equal to that of every other resident. The only effect of applying that rule to the discount program would be to make the purchase of land more difficult for some citizens. This is contrary to the main policy of the entire program, namely, that "[p]rivate land use rights are integral to the material well-being of the people of Alaska and our society." AS 38.04.005(d).

Nor, as was mentioned previously, is the legitimate purpose of the program furthered by not recognizing residency accumulated prior to the date of enactment. The legislature assumed that persons with more than 10 years residence did not need any additional discount as an incentive to stay. That lack of incentive will not be recreated by "assuming" for purposes of the program that a 10-year resident in 1982 is only a four-year

resident. It is an assumed state of mind that is measured by the residence requirement. Artificially assuming that a four-year resident has the state of mind of a 10-year resident does not further the legitimate purposes of the legislation. The program had to start somewhere, and it is otherwise appropriate to recognize the real period of residence of program participants than it is to assume that they all arrived in 1978.

Therefore, this court's ruling was not clearly foreshadowed, there was justifiable reliance on the existing law, the equitable considerations favor allowing the program to continue or, at the very least, not undoing existing transactions, and the intended effect of this court's holding would not be furthered by applying the rule to this program. Consequently, the state urges the court to apply its ruling prospectively only.

III. CONCLUSION

For the reasons stated in this brief, the state urges this court to uphold Kenai's land disposal program and, by express implication, to approve the analogous state program in AS 38.05.057 and AS 38.05.058.

DATED this 23rd day of July, 1982.

WILSON L. CONDON
ATTORNEY GENERAL

By: Robert M. Maynard
Robert M. Maynard
Assistant Attorney General

ATTACHMENT 9

Ron Zobel Letter

HELLÉN & PARTNOW
A PROFESSIONAL CORPORATION
LAWYERS
425 G STREET, SUITE 710
ANCHORAGE, ALASKA 99501

THEODORA ACCINELLI
ADRIENNE P. FEDOR
OLOF K. HELLÉN
IVAN LAWNER
PETER C. PARTNOW
RON ZOBEL

TELEPHONE
(907) 276-2713

March 15, 1983

William Hudson
c/o Representative Mitch Abood
State House of Representatives
Pouch V (MS 3100)
Juneau, AK 99811

Dear Mr. Hudson:

I have been giving some thought to our recent conversation concerning durational residency requirements and would like to clarify two points that we were discussing.

We generally agreed that there was benefit in having a uniform durational period as proof of bona fide residency. Generally, I agree that a one year durational residency requirement could be imposed for special state benefits not based on need, such as subsidized state loans or lower tuition at the university. However, such a uniform statute may be somewhat difficult to write. The seminal cases in this area dealt with one year durational residency requirements for eligibility for welfare (Shapiro v. Thompson, 394 U.S. 618 (1969)) and eligibility for voting (Dunn v. Blumstein, 405 U.S. 330 (1972)). A one-year uniform waiting period for proof of bona fide residency could not be made to apply to voting or basic necessities of life or it would be quickly subject to court challenge. I think that a one year waiting period is, in most instances, reasonable, but in the case of voting, welfare benefits, medical care, or even housing, there is much case law striking down one year waiting periods. Those cases may make the establishment of a uniform one year requirement less feasible than I indicated when I talked to you on the phone, because it would necessarily have to contain a number of exceptions in order to avoid a court challenge.

I have been doing additional thinking about the proposal I made to you that those persons who had qualified for an Alaska student loan but who had not returned to the state might be charged a higher or market rate of interest. I certainly think that a statute could be structured which would have the effect of telling persons who applied for an Alaska student loan that if their education was to be used out of state they are going to have to bear the market rate for the loan which they receive. If the rebate provision in the present law is permissible, and I believe it is, applying the same prinicple to the rate of interest paid for the loan would not seem to present any insurmountable legal problems. Certainly, the State of Alaska

has no obligation to subsidize the loans of non-residents, but so as to avoid any attack on such a provision as a penalty on the right to travel interstate, I would structure the provision so that everyone who took an Alaska Student Loan would pay the market rate of interest, but add a provision that would reduce that rate of interest to 5%, or whatever level was chosen, if the person subsequently was employed in the State of Alaska. That would make the loans much less attractive to persons who have no intentions of ever returning to this state to make use of their education here. If a person knew that he was going to take his loan, go to another state, get an education and never come back, the interest rate on a $7,000.00 loan would have to be a major consideration. This provision would discourage those persons who have no intention of remaining residents of the state from applying for a loan, but would not discriminate against persons of rather short residency (one to two years) who need a loan to further their education and do intend to make a contribution to the state with it.

Also, if this "rebate" interest rate was reduced upon gaining employment in the state, it would not be based upon residency at all. For example, the upper-middle class person who studied Chinese literature just for the fun of it would not get a subsidized loan. I would question whether the State has any real need to provide such a subsidized loan in the first place. The point I am making is that if the loan is reduced from the market rate to a subsidized rate and that rate is tied to employment in the state, the State would achieve the dual purpose of targeting persons who have no intent to ever use their education in the state and likewise achieve the purpose of only subsidizing loans which have some direct relationship to bettering the economy of the state. Such a provision would be more defensible in the courts and likewise would seem to make more economic sense than giving a subsidized loan to a person who has lived in the state for ten years and who has no intention of ever returning to the state and denying a loan to a resident of a year and a half who has a real commitment to make his or her future here. I hope these clarifying comments are of some help to you.

Yours truly,

Ron Zabel

RZ:ap

Sec. 08.04.110. PERSONAL REQUIREMENTS.

An applicant for the certified public accountant certificate shall be

(1) Repealed by sec. 3 ch 127 SLA 1974.

(2) a resident of this state;

(3) at least 19 years of age; and

(4) of good moral character.

Sec. 08.08.207. LAW CLERKS.

(a) Every person who desires subsequently to qualify as a general applicant for admission to the Alaska Bar without having been graduated from an approved law school shall register as a law clerk as provided by this section. The person must be a bona fide resident of the state and shall present satisfactory proof that the person has been granted a bachelor's degree (other than bachelor of laws) by a college or university offering the degree on the basis of a four-year course of study and has successfully completed the first year of studies at a law school.

(b) The applicant shall obtain regular and full-time employment as a law clerk in the office of a judge of a court of record or an attorney or firm of attorneys licensed to practice law in Alaska and engaged in the general practice of law. The person by whom the applicant is employed, or, if the applicant is employed by a firm, the person under whose direction the applicant is to study, must have been admitted to practice law in this state for at least five years at the time the application for registration

is filed, and be otherwise eligible to act as tutor. Before the commencement of the study of law under this section, the applicant shall file with the university an application to register as a law clerk. The application shall be made on a form to be provided by the university and shall require answers to interrogatories the university may determine from time to time to be relevant to a consideration of the application. Proof of a fact stated in the application may be required by the university. If the applicant fails or refuses to furnish any information or proof or answer any interrogatory required by the application, or independently by the university, in a manner satisfactory to the university, the application may be denied.

(c) Accompanying the application there must be submitted a statement under oath of the person by whom the applicant is employed as a law clerk, or, if the applicant is employed by a firm, of the person under whose direction the applicant is to study, certifying to the fact of the employment and that that person will act as tutor for the applicant and will faithfully instruct the applicant in the branches of the law prescribed by the courts of study adopted by the university. No person is eligible to act as tutor while disciplinary proceedings (following the service of a formal complaint) are pending against the person, or if the person has ever been censured, reprimanded, suspended or disbarred. If a registered law clerk finds it necessary to change tutors during the period of study, a new application for registration as a law clerk is required and such credit given for study under a prior tutor as the university may determine.

(d) A law clerk whose registration has been approved by the university must pursue a course of study for three calendar years of at least 44 weeks each year, with a minimum each week of 35 hours of study (it being understood that the time actually spent in the performance of the duties of law clerk is to be considered as time spent in the study of law). The tutor must give personal direction regularly and frequently to the clerk, must examine the law clerk at least once a month on the work done in the previous month, and must certify monthly as to compliance with the requirements of this subsection and (e) and (g) of this section.

(e) The examinations shall be written and not oral, and shall be answered by the clerk without research or assistance during the examination. The monthly certificate of compliance submitted by the tutor shall be accompanied by the originals of all written examinations and answers given during the period reported. If the certificates, together with the required attachments, are not filed timely with the university, no credit may be given for any period of the default.

(f) If a registered law clerk does not furnish evidence of completion of law studies within a period of six years after registration, the university may cancel the registration.

(g) The course of study to be pursued by a registered law clerk shall cover subjects, text books, case books, and other material the university may from time to time require.

(h) A registered law clerk who has attended either an approved or a nonapproved law school may, in the discretion of the university, receive credit for work done and obtain advanced

standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

(i) As used in this section

(1) "law school" means a law school accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or a school in Alaska offering a course of study which the university approves as the equivalent to a year's study in a law school under this section;

(2) "university" means the University of Alaska.

Sec. 08.54.100. QUALIFICATIONS FOR A MASTER GUIDE LICENSE.

A person is entitled to be licensed as a master guide if the person

(1) has legally hunted in the state for a part of each of 10 years during which time a substantial source of the person's income was from guiding or related activities directly contributing to the person's experience and competency as a guide;

(2) meets all the requirements of a registered guide and has been actively engaged in licensed guiding activities in the state for at least five years preceding application;

(3) has not been convicted of a violation of federal or state sport fishing, game or guiding laws or regulations within the preceding five years;

(4) has consistently performed in a superior manner as evidenced by required reports submitted to the board and by inquiries made by the board to at least two of the guide's clients of record; and

(5) meets additional qualifications which the board may require.

Sec. 08.54.110. QUALIFICATIONS FOR REGISTERED GUIDE LICENSE.

A person is entitled to be licensed as a registered guide if the person

(1) is 21 years of age or more;

(2) is a resident of the state and maintains a permanent place of abode in the state;

(3) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of trophies, first aid and photography;

(4) is familiar with the terrain and transportation problems in the district for which the license is requested;

(5) has passed the qualification examination prepared and administered by the board;

(6) has demonstrated to the board sufficient standards of competence and ethical conduct and has not been convicted of a crime involving moral turpitude;

(7) has legally hunted in the state for all or part of each of five years in a manner directly contributing to the person's experience and competency as a guide;

(8) has been licensed as and performed the services of an assistant guide in the state for a part of each of three years;

(9) submits a written recommendation to the board from a registered guide for whom the applicant has worked;

(10) is capable of performing the physical duties associated with guiding activities;

(11) has been favorably recommended in writing by two hunters that the person has guided or assisted in guiding during each year of the person's three years as an assistant guide, whose recommendations have been solicited by the board from a list provided by the applicant;

(12) meets additional qualifications which the board may require.

Sec. 08.54.120. QUALIFICATIONS FOR A CLASS-A ASSISTANT GUIDE LICENSE.

A person is entitled to be licensed as a class-A assistant guide if the person

(1) has been employed for at least one season as a licensed assistant guide;

(2) has had at least 20 years experience in the guide district in which the person is to be employed; for the purposes of this paragraph physical presence at some time of the year during each of the 20 years constitutes adequate evidence of experience, and military service outside the state for no more than six years shall be accepted as part of the required 20 years experience;

(3) has been recommended in writing as qualified by a registered or master guide to the board.

Sec. 08.54.140. QUALIFICATIONS FOR ASSISTANT GUIDE LICENSE.

A person is entitled to be licensed as an assistant guide if the person

(1) is 19 years of age or more;

(2) is a resident of the state;

(3) is favorably recommended to the board, in writing, by a registered guide;

(4) meets additional qualifications which the board may require;

(5) is in sound physical condition.

Sec. 08.54.142. QUALIFICATION FOR TRANSPORTER LICENSE.

(a) A person may not engage in the activity of transporting unless the person is licensed as a transporter under this chapter. A person may be licensed as a transporter if the person

(1) is a resident of the state;

(2) is familiar with the terrain and transportation problems in the district or districts for which the license is requested;

(3) obtains a business license to do business as a transporter under AS 43.70.030.

(b) A person may not engage in the activity of transporting by air without an air commerce certificate as required by AS 02.05.040.

Sec. 08.88.171. ENTITLEMENT TO LICENSE.

(a) A person is entitled to a real estate broker license if the person is a resident of the state, if the person passes the real estate brokers examination, if the person applies for a license within six months after the person has taken the real estate brokers examination, if the person has had at least 24 months of active and continuous experience as a licensed real estate salesman, if the person is not under indictment for, or seven years have elapsed since the person has completed a sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and if the person is an owner of a real estate business or employed as a real estate broker by a corporation or a partnership, and if that corporation or partnership does not

have an existing licensed broker. Unless the broker fails to pay the biennial renewal fee or unless the broker's license is suspended or revoked under AS 08.88.071(a)(3), the real estate broker's license continues in effect so long as the broker is an owner of a real estate business, or the broker is employed as a real estate broker by a corporation or a partnership. If the broker stops being an owner of a real estate business, or stops being employed as a real estate broker by a corporation or partnership, the broker's license is suspended from the time the broker stops until

(1) the broker again becomes an owner of a real estate business or is again employed as a real estate broker by a corporation or a partnership; or

(2) the broker is employed by a licensed real estate broker as an associate real estate broker, in which case the real estate broker license is returned to the commission, and the commission issues the broker an associate real estate broker license.

(b) A person is entitled to an associate real estate broker license if the person is a resident of the state, if the person passes the real estate brokers examination, if the person applies for a license within six months after the person has taken the examination, if the person has had at least 24 months of active and continuous experience as a licensed real estate salesman, if the person is not under indictment for, or five years have elapsed since the person has completed a sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and if the person is employed by a licensed real estate broker as an associate real estate broker. Unless the associate broker fails

to pay the biennial renewal fee or unless the associate broker's license is suspended or revoked under AS 08.88.071(a)(3), the associate real estate broker's license continues in effect so long as the associate broker is employed by a licensed real estate broker as an associate broker. If the associate broker stops being employed by a licensed real estate broker, the associate broker's license is suspended from the time the associate broker stops until

(1) the associate broker again is employed by a real estate broker as an associate broker; or

(2) the associate broker becomes an owner of a real estate business, in which case the associate broker's associate real estate broker license is returned to the commission, and the commission issues the associate broker a real estate broker license.

(c) A person is entitled to a real estate salesman license if the person is a resident of the state, if the person passes the real estate salesman examination, if the person applies for a license within six months after the person has taken the examination, if the person is at least 19 years old, if the person is not under indictment for forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, or, if convicted of such an offense, the person has completed the sentence imposed upon conviction, and if the person is employed by a real estate broker. Unless the salesman fails to pay the biennial renewal fee or unless the real estate salesman's license is suspended or revoked under AS 08.88.071(a)(3), a real estate salesman's license continues in effect so long as the salesman is employed as a salesman by a

licensed real estate broker. If the salesman stops being employed as a real estate salesman, the real estate salesman's license is suspended from the time the salesman stops until he again is employed as a salesman by a licensed real estate broker.

(d) A licensee shall promptly inform the commission of a change in business association that affects the status of the licensee's license under this section.

Sec. 09.55.130. RESIDENCE REQUIREMENTS FOR ACTION TO DECLARE MARRIAGE VOID.

When a marriage has been solemnized in the state and the plaintiff is a resident of the state, an action to declare the marriage void may be brought at any time. If the marriage has not been solemnized in the state, the action may be maintained only when the plaintiff has been a resident for at least one year before the commencement of an action.

Sec. 16.05.400. PERSONS EXEMPT FROM LICENSE REQUIREMENT.

(a) A license is not required of a resident or nonresident person under the age of 16 years for sport fishing nor shall a license be required of any resident under the age of 16 for hunting or trapping.

(b) A sport fishing, hunting or trapping license is not required of a resident who is 60 years of age or more and has been a resident for 30 consecutive years or more. The commissioner of revenue shall issue a permanent identification card without charge to persons who qualify by age and residence and who complete the forms required by the commissioner for implementation of this subsection. A person who is issued a permanent identification card under this subsection shall have it in his possession while sport fishing, hunting or trapping.

Sec. 16.05.940. DEFINITIONS.

In AS 16.05.010 - 16.05.950

(1) "a board" means either the Board of Fisheries or the Board of Game;

(2) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

(3) "commercial fishing" means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or possession of fish, shellfish or other fish resources;

(4) "commissioner" means the commissioner of fish and game unless specifically provided otherwise;

(5) "department" means the Department of Fish and Game unless specifically provided otherwise;

(6) "fish" means any species of aquatic finfish, invertebrates and amphibians, in any stage of their life cycle, found in or introduced into the state;

(7) "fish or game farming" means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and "captivity" means having the fish or game under positive control, as in a pen, pond, or an area of land or water which is completely enclosed by a generally escape-proof barrier;

(8) "fur dealing" means engaging in the business of buying, selling, or trading in animals skins. The term does not apply to a hunter or trapper selling the animal skins he has legally taken, or to a person, other than a fur dealer, purchasing animal skins for his own use;

(9) "game" means any species of bird and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of AS 16.05.010 - 16.05.950;

(10) Repealed by sec. 2 ch 32 SLA 1968;

(11) "hunting" means the taking of game under AS 16.05.010 - 16.05.950 and the rules and regulations promulgated under it;

(12) "nonresident" means a person who is not a resident;

(13) "operator" means the individual by law made responsible for the operation of the vessel;

(14) "resident" means a person who for 12 consecutive months has maintained a permanent place of abode in the state and who has continually maintained his voting residence in the state; and in the case of a partnership, association, joint stock company, trust, or corporation, "resident" means one that has its main office or headquarters in the state; however, a member of the military service who has been stationed in the state for the preceding 12 consecutive months is a resident for the purposes of AS 16.05.010 - 16.05.950, and the dependent of a resident member of the military service, who has been living in the state for the preceding year is a resident for the purposes of AS 16.05.010 - 16.05.950, and a person who is an alien but who for one year has maintained a permanent place of abode in the state is a resident for the purposes of AS 16.05.010 16.05.950;

(15) "seizure" means the actual or constructive taking or possession of real or personal property subject to seizure under AS 16.05.010 - 16.05.950 by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(16) "sport fishing" means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(17) "subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fisheries resources for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(18) "take" means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(19) "taxidermy" means tanning, mounting, processing, or other treatment or preparation of fish or game, or any part of fish or game, as a trophy, for monetary gain, including the receiving of the fish or game or parts of fish or game for such purposes;

(20) "trapping" means the taking of mammals declared by regulation to be fur bearers;

(21) "vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but for the purposes of AS 16.05.010 - 16.05.950 does not include aircraft;

(22) "visitor" means a nonresident or alien temporarily sojourning in the state as a visitor or tourist;

(23) "aquatic plant" means any species of plant, excluding the rushes, sedges and true grasses, growing in a marine aquatic or intertidal habitat;

(24) "fish derby" means a contest in which prizes are awarded for catching fish;

(25) "fishing derby association" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under AS 16.05.010 -

16.05.950, but does not include an organization formed or operated for gaming or gambling purposes.

(26) "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis;

(27) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature;

(28) "domestic mammals" include musk oxen, bison and reindeer, if they are lawfully owned.

(29) "nonresident alien" means a person who is not a citizen of the United States and whose permanent place of abode is not in the United States.

Sec. 16.10.310. POWERS OF THE DEPARTMENT.

(a) The department may

(1) make loans to

(A) individual commercial fishermen who have been state residents for a continuous period of five years immediately preceding the date of application for a loan under AS 16.10.300 - 16.10.370 and have had a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for any one of the past five years, and who actively participated in the fishery during that period, for the purchase of entry permits;

(B) an individual who has been a state resident for a continuous period of five years immediately preceding the date of application for a loan under AS 16.10.300 - 16.10.370, who (i) because of lack of training or lack of employment opportunities in the area of residence does not have occupational opportunities available other than commercial fishing; or (ii) is economically dependent on commercial fishing for a livelihood and commercial fishing has been a traditional way of life for the individual in Alaska, for the repair, restoration or upgrading of existing vessels and gear, for the purchase of entry permits and gear, and for the construction and purchase of vessels;

(C) corporations, partnerships, or joint ventures, 100 percent of which are owned by individual commercial fishermen who have been state residences for a continuous period of five years immediately preceding the date of application for a loan under AS 16.10.310(a)(1)(B) and have had a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for any one of the past five years, and who actively participated in the fishery during that period, for the repair, restoration or upgrading of existing vessels and gear, for the purchase of gear, and for the construction and purchase of vessels;

(2) designate agents and delegate its powers to them as necessary;

(3) adopt regulations necessary to carry out its functions;

(4) establish amortization plans for repayment of loans, which may include extensions for poor fishing seasons or for adverse market conditions for Alaskan products;

(5) enter into agreements with private lending institutions, other state agencies, or agencies of the federal government, to carry out the purposes of AS 16.10.300 - 16.10.370;

(6) enter into agreements with other agencies or organizations to create an outreach program to make loans under AS 16.10.300 - 16.10.370 in rural areas of the state.

(b) The department shall consult with the Department of Fish and Game on regulations and procedures established under this chapter.

Sec. 16.10.680.

Eligibility for loans.

(a) The commissioner may purchase a mortgage or note under AS 16.10.660(b) if it secures a loan to an individual who meets one of the requirements of (b) of this section and who

(1) has been a resident of Alaska for at least five years;

(2) does not qualify for a loan for the purposes described in AS 16.10.670 under a state loan program;

(3) has not previously participated in the loan program established in AS 16.10.650 - 16.10.720 or in any other state loan program for the purposes described in AS 16.10.670; and

(4) meets the guidelines established by the commissioner to determine whether the applicant is reasonably likely to succeed as a commercial fisherman and be able to repay the loan.

(b) In addition to the requirements of (a)(1) (4) of this section, the commissioner may purchase a mortgage or note under AS 16.10.660(b) only if it secures a loan to an individual who demonstrates under guidelines established by the commissioner that

(1) because of his lack of training or the lack of employment opportunities in the area in which he resides, he does not have occupational opportunities available to him other than commercial fishing; or

(2) he is economically dependent on commercial fishing for a livelihood and commercial fishing has been a traditional way of life for him in Alaska.

(c) The commissioner may not refuse to purchase a mortgage or note from a private financial institution under AS 16.10.660(b) solely because the applicant for the loan does not have a credit history.

(d) In determining whether the applicant is reasonably likely to be able to repay the loan under (a)(4) of this section, the private financial institution shall consider the applicant's income from commercial fishing and from other sources.

Sec. 16.35.130. BOUNTY NOT TO BE PAID.

No bounty may be paid under secs. 50 - 120 of this chapter to a person who for the immediately preceding year has not maintained a permanent place of abode inside the game management unit or part of the game management unit in which the animal was taken and a bounty is paid, or to a person who has not continually maintained his legal residence in the state, or to a salaried employee of a federal or state agency which is engaged in fish or game protection, management, research activity, or to any person whose bounty claim results from a trophy hunt as publicly declared by the Department of Fish and Game.

Sec. 18.55.330.

Preference to veterans.

units in a housing project for rent or sale to veterans. The offer shall be by publication of reasonable notice in a newspaper circulated in the area in which the housing project is located. The authority shall set aside these units for rental or sale to veterans for at least 30 days following first publication of the notice before making them available to other residents. If, after an additional 30 days a unit remains unassigned, the authority may rent or sell it to any person in the state, provided that residents have first preference.

Sec. 18.55.470.

Definitions.

In AS 18.55.300 - 18.55.470

(1) "authority" means the Alaska State Housing Authority;

(2) "moderate cost" means a cost determined by the authority which is below the level at which private enterprise is currently building a needed volume of reasonably safe and sanitary dwellings for sale in the locality involved;

(3) "moderate rental" means a rental rate determined by the authority which is below the level at which the dwellings are currently being offered for rent by private persons in the locality involved;

(4) "resident" means a person who has lived in the state continuously for any one year;

(5) "veteran" means a person honorably separated from the military service of the United States who has at any time resided continuously for at least a year in the state and who served in the armed forces of the United States for at least 90 days or whose service was for less than 90 days because of injury or disability incurred in the line of duty, between (A) September 16, 1940 and July 25, 1947; (B) June 25, 1950 and January 31, 1955; or (C) August 4, 1964, and a date six months after the termination of hostilities involving forces of the United States in Viet Nam; "veteran" also includes the spouse or widow or widower of a veteran.

Eligibility for veterans' interest rates.

The following persons are eligible veterans for the purposes of AS 18.56.098(g) and (h):

(1) a person who served in the armed forces of the United States for 90 days or more, or whose service was for less than 90 days because of injury or disability incurred in the line of duty, after April 6, 1917,

(A) who at the time of induction into the service was a resident of the territory or state, who had been a resident for not less than one year immediately before his induction, and who returned to the territory or state within one year after discharge as a resident with the intention of remaining in the territory or state; or

(B) who, not being a bona fide resident of the territory or state at the time of entry into the service, has been a resident of the territory or state for at least one year at the time of the loan application and has been a resident of the territory or state for at least five years; and

(C) whose discharge was under honorable conditions;

(2) the widow or widower of a member of the armed forces or an eligible veteran if

(A) the member or veteran was a resident of the territory or state for one year before induction into the service;

(B) the member or veteran served in the armed forces for at least 90 days after April 6, 1917; and

(C) his discharge was under honorable conditions;

(3) a person who has served in the Alaska Army National Guard, the Alaska Air National Guard, or the Alaska Naval Militia or who has served in a reserve unit of the United States armed forces in Alaska if the reserve unit required, as a minimum, one weekend each month of duty and 15 consecutive days of active duty training each year for not less than five years and whose discharge was under honorable conditions.

Sec. 21.06.250. FEES AND LICENSES.

(a) The director shall collect required fees in advance. The fees are as follows:

(1) certificate of authority

(A) for filing an application for certificate of authority, articles of incorporation and other charter documents, bylaws, financial statement, examination report, power of attorney to the director, and all other documents and filings required in connection with such application, and for issuance of an original certificate of authority, if issued domestic insurers ..... $100 foreign insurers 100

(B) annual continuation of certificate of authority ..... $ 65

(C) reinstatement of certificates of authority ..... $ 65

(D) amending certificate of authority ..... $ 10

(2) filing amendments of articles of incorporation, domestic and foreign insurers .... $ 10

(3) filing bylaws or amendments thereto, where required ..... $ 10

(4) filing annual statement of insurer, other than as part of application for original certificate of authority .... $ 10

(5) general agent or agent license, property, casualty, surety, title insurance agents, and including disability insurance without additional license or fee when written by property, casualty, or surety insurer otherwise represented by the general agent or agent

(A) application for original license, and including issuance of license, if issued,

(i) individual ..... $ 35

(ii) firm or corporation 75

(B) annual renewal or continuation of license

(i) individual ..... $ 35

(ii) firm or corporation 75

(C) appointment of agent or general agent, each insurer ..... $ 5

(D) annual renewal of appointment of general agent or agent, each insurer .... $ 5

(E) temporary license ..... $ 35

(6) nonresident general agent or agent's license

(A) individual ..... $ 75

(B) firm or corporation $150

(C) annual renewal or continuation of license ..... $ 75

(7) broker license

(A) application for original license and including issuance of license if issued - resident

(i) all line broker $100

(ii) property-casualty broker 75

(iii) life-disability broker 75

(B) annual renewal or continuation of license resident

(i) all line broker $100

(ii) property-casualty broker 75

(iii) life-disability broker 75

(C) application for original license and including issuance of license, if issued - nonresident

(i) all line broker $250

(ii) property-casualty broker 150

(iii) life-disability broker 150

(D) annual renewal or continuation of license nonresident

(i) all line broker $250

(ii) property-casualty broker 150

(iii) life-disability broker 150

(8) solicitor license

(A) application for original license, including issuance of license if issued ..... $ 15

(B) annual continuation of license ..... $ 15

(9) general agent or agent license, life, disability insurance and annuities

(A) application for original license, including issuance of license, if issued,

(i) individual ..... $ 35

(ii) firm or corporation 75

(B) annual renewal or continuation of license,

(i) individual ..... $ 35

(ii) firm or corporation 75

(C) appointment of general agent or agent, each insurer $ 5

(D) annual renewal of appointment of general agent or agent, each insurer ..... $ 5

(10) examination for license as general agent, agent, broker, solicitor or adjuster, each examination ..... $ 10

(11) surplus line broker license

(A) application for original license and for issuance of license, if issued - resident $100

(B) application for original license and for issuance of license if issued - nonresident $300

(C) annual renewal or continuation of license resident $100

(D) annual renewal or continuation of license nonresident $300

(12) adjuster license

(A) application for original license and for issuance of license if issued - resident .....$ 35

(B) annual renewal or continuation of license resident .....$ 35

(C) application for original license and for issuance of license, if issued - nonresident .....$ 75

(D) annual renewal or continuation of license nonresident .....$ 75

(13) insurance vending machine license, each machine, each year ..... $ 35

(14) for issuing any other certificate required or permissible under law ..... $ 5

(15) for accepting service of process ..... $ 5

(16) for copy of insurance code, actual printing cost plus postage;

(17) for copy of insurance report, actual printing cost plus postage;

(18) for any printed material furnished by the director not mentioned above, the director may charge the actual cost of printing plus handling and postage;

(19) for limited license (travel insurance agent) ..... $ 25

(20) Repealed by sec. 6 ch 113 SLA 1974, effective January 1, 1975.

(21) rating bureaus (for a three-year license) $100

(b) The director shall promptly deposit with the commissioner of revenue to the credit of the general fund of this state all fees received by him under this section.

Sec. 21.27.090. AGENT AND BROKER QUALIFICATIONS.

(a) To qualify for an agent or broker license an applicant must comply with this title and

(1) be 19 years of age or over, if an individual;

(2) if for a resident agent's or broker's license: be a bona fide resident for a period of not less than one year of continuous residency, immediately before issuance of license, and actually residing in Alaska; or if a corporation, be other than an insurer and maintain a lawfully established place of business in this state, except as provided in AS 21.27.270;

(3) be empowered to be an agent or broker, as the case may be, under its members' agreement, if a firm, or by its articles of incorporation, if a corporation;

(4) successfully pass any examination required under AS 21.27.060;

(5) be a trustworthy person;

(6) not intend to use or use the license for the purpose principally of writing controlled business, as defined in AS 21.27.030;

(7) if for an agent license, be appointed as its agent by one or more authorized insurers, subject to issuance of the license;

(8) if for broker license, have had experience either as an agent, solicitor, adjuster, general agent, broker, or as an employee of insurers or representatives of insurers, or special education or training of sufficient duration and extent reasonably to satisfy the director that he possesses the competence necessary to fulfill the responsibilities of broker.

(b) If the director finds that the applicant is qualified and that the license fee has been paid, he shall issue the license. Otherwise, the director shall refuse to issue the license.

Sec. 21.27.220. SOLICITOR'S QUALIFICATIONS.

A person is entitled to be licensed as a solicitor if he

(1) is a bona fide resident of Alaska and has been a continuous resident for at least one year immediately before issuance of a license;

(3) intends to and does make the soliciting and handling of insurance business under his license his principal gainful occupation;

(4) is to represent and be employed by but one licensed agent or broker;

(5) has passed any examination required under this chapter;

(6) is otherwise qualified under this title.

Sec. 26.15.130. ELIGIBILITY FOR LOANS.

(a) Qualifications for loans under AS 26.15.010 26.15.160 are:

(1) persons who served in the armed forces of the United States for 90 days or more, or whose service was for less than 90 days because of injury or disability incurred in the line of duty, between April 6, 1917, and November 11, 1918, and beginning September 16, 1940, to November 7, 1975, or in a combat zone during any period of armed conflict, who were separated from the armed forces with a discharge other than dishonorable, and

(A) who, at the time of induction into the service, were residents of the territory, who had been residents for not less than one year immediately before their induction, and who returned to the territory or state after discharge as residents with the intention of remaining in the territory or state; or

(B) who, not being bona fide residents of the territory before their entry into the service, have been residents of the territory or state for five or more years;

(2) persons who were dependent on a member of the armed forces or a veteran of World War II at the time of the member's or veteran's death, if

(A) the member or veteran was a resident of the territory for one year before induction into the service; and

(B) he served in the armed forces for at least 90 days between September 16, 1940, and July 25, 1947, but no benefits for loans accrue to dependents of an enlistee or re-enlistee for time served after November 1, 1945, regardless of whether the

enlistment or reenlistment was before or after November 1, 1945; and

(C) he died before the official date of the termination of that war; and

(D) his discharge was not dishonorable;

(3) persons who have served in the Alaska Army National Guard or the Alaska Air National Guard or the Alaska Naval Militia for not less than six years and who have not received a discharge other than honorable.

(b) Dependents shall be unmarried and the deceased member of the armed forces or deceased veteran shall have been their chief means of support and they shall be either a widow, widower, minor son, minor daughter, or mother, father, sister or brother incapable of self-support. Dependents shall be residents of the territory or state at the time of making application and intend to reside in the territory or state permanently. The rights of minor children may be exercised only if they have no surviving parent and have an appointed guardian who may apply on their behalf to secure a loan for their care, support, education or other purposes mentioned in AS 26.15.040 or to receive the bonus for those purposes.

Sec. 29.63.065. EXEMPTION.

(a) The real property owned and occupied by a resident 65 years of age or over, or the spouse, widow, widower, or minor heir of the original applicant, on which is located only his permanent abode which is a single-family residence, is exempt from (1)

special sewer assessments levied by a home rule or general law municipality after September 2, 1975 and (2) special water assessments levied by a home rule or general law municipality after September 2, 1975. Only one exemption may be granted with respect to the same property, and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption. No real property may be exempted under this subsection which the municipality determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the municipality is appealable under AS 44.62.560 44.62.570.

(b) No exemption may be granted under this section except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors and in accordance with the following requirements:

(1) the claimant must file the initial application during the period of time between the date the assessment roll is certified and the time of payment fixed by the assembly or council. Within one year of the date the assessment roll is certified the assembly or council for good cause shown may waive the claimant's failure to make timely initial application for the exemption and authorize the assessor to accept the application as if timely filed;

(2) a claimant receiving the exemption must file with the department by March 15 of each subsequent year a separate application proving eligibility as of January 1 in order to retain the exemption. Within the same year the department for

good cause shown may waive the claimant's failure to make timely application and approve the application as if timely filed;

(3) if an application is filed within the required time under this subsection and is approved by the assembly or council, the exemption shall be allowed in accordance with the provisions of this section. If a waiver under this subsection is granted and the application for exemption approved, the amount of any assessment, penalty or interest which the claimant may have already paid on the assessment shall be refunded to him. The municipality may at any time require proof in the form considered necessary of the right and amount of an exemption claimed under this section.

(c) The state shall reimburse a home rule or general law municipality for the sewer and water assessment revenues which it would receive but for the operation of this section. Reimbursement under this subsection is a lien in favor of the state against the property exempted to the extent of the assessment against the property exempted. Upon recordation in the recording office of the district in which the property exempted is located the lien is prior and superior to other liens against the property except for general taxes or other special assessments and may be enforced by lien foreclosure. The lien becomes immediately due and payable

(1) upon sale or other transfer of the property except to a spouse, widow, widower, or minor heir; however, if the property is transferred to a minor heir the lien becomes due and payable on the date the minor heir reaches the age of 25 years; or

(2) when property exempted under (a)(1) or (2) of this section receives more than one sewer connection or more than one water connection; or

(3) when the claimant fails to prove eligibility under (b)(2) of this section.

(d) In this section

(1) "resident" means a person who for 12 consecutive months has maintained his permanent place of abode in the state;

(2) "real property" includes, but is not limited to, mobile homes, whether classified as real or personal property for municipal tax purposes.

(3) "minor heir" means a person who, at the time of transfer of the property, has not attained the age of 19 years or who, if he has not attained the age of 22 years, is a full-time student at an educational institution or a member of the armed forces of the United States.

Sec. 38.08.030. APPLICATIONS FOR HOMESITE ENTRY; FEES.

(a) To qualify for a homesite entry permit, an applicant shall

(1) at the time of application have attained the age of 18;

(2) submit proof acceptable to the commissioner that he is a resident of the state at the time of application, and that he has been a resident of the state for not less than three years immediately preceding the date his application was submitted, or that he has been a resident for 20 years cumulatively;

(3) agree to comply with the requirements for obtaining a patent to land set out under AS 38.08.060.

(b) Fees for filing an application may not exceed $10.

Sec. 39.25.155. VOCATIONAL SUBSTITUTION PROGRAM.

(a) It is the purpose of this section to establish a liberal system under which Alaskan residents not employed by the state who do not meet the minimum educational or experience criteria for state employment may demonstrate their abilities and achieve temporary or permanent state employee status. This program is intended for use primarily in remote or underemployed areas where the opportunity to gain required hiring qualifications does not exist, but where there is a local need for employees with certain vocational skills. The provisions of this section apply notwithstanding the provisions of AS 39.25.150(3).

(b) The director of personnel shall establish vocational standards as alternatives for educational or experience levels now required for nonprofessional occupational areas under the state personnel system and incorporate these alternatives into the state classification plan.

(c) Applicants shall be placed on eligible lists for the vocational classification indicated in their applications submitted to the division of personnel in the order of their relative ranking based on an assessment of their technical ability, place of residence and without written examination. Aptitude or occupational tests may be given if a position requires a specific ability.

(d) The director of personnel shall establish rates of pay for the selected vocational substitution classifications in relation to the beginning entry classification pay rates. However, vocational substitution personnel may not be classified lower than one pay range below the range to which the classified position is allocated.

(e) The director of personnel shall embody a concept combined of technical ability, place of residence, local hire and area unemployment in the personnel rules to accomplish the intent of this section.

(f) Applicants selected under this section are subject to the provisions of AS 39.25.160.

(g) In this section "resident" means a person who has been domiciled in Alaska for at least one year immediately before filing his application.

(a) Notwithstanding any other provisions in this chapter, extracting industries shall meet the following provisions of this section as a condition of qualifying for a tax credit set out in this chapter.

(1) A person seeking tax credit status under this chapter shall set up and maintain an on-the-job training program approved by the Department of Labor aimed at qualifying Alaska residents presently lacking in the requisite technical skills of the activity carried on. This training program shall be geared so that Alaska residents comprise 50 per cent of the employees at the end of the first year of tax credit. Alaska residents shall comprise 60 per cent of the employees at the end of the second year of tax credit and 70 per cent at the end of the third year of tax credit.

(2) The department shall set up procedures to be followed by the person seeking tax credit status under this section and shall certify to the Department of Commerce and Economic Development those persons qualifying for this status. In no case may the Department of Commerce and Economic Development grant tax credit status to a person coming under the provisions of this section without first receiving certification from the department nor continue this status after revocation of certification by the department.

(3) The department shall hold formal hearings for those persons to whom it denies certification. The purpose of these hearings is to hear evidence on the reasons for a person failing to qualify under this section. In order to obtain a reversal of the

denial, the person denied certifcation must show by convincing evidence that he is unable to comply with this section because

(A) the specific activity engaged in requires a greater percentage of trained personnel than the guidelines for resident hiring permits and these trained personnel are not available within the state in great enough number to make out-of-state recruiting unnecessary; or

(B) even though the person applying for tax credit status has set up an on-the-job training program approved by the department, he has been unable to meet the resident guideline requirements due to the inability of the local labor market to supply enough trainable personnel.

(4) A person certified for tax credits status who subsequently fails to comply with the training and hiring practices set out in this section, upon a finding by the department of this failure, forfeits this status. However, if the person seeking tax credit status, within a reasonable time during the first year of exemption, has made application to the department for a hearing to show cause why he will be unable to comply with the training and hiring provisions of this section and the department determines that the failure is excusable under this section the department shall permit a maximum of six months to comply with the training and hiring practices before withdrawing certification and causing the credit to lapse. Extensions of time for compliance shall be added on to the overall time requirements in the second and third years so that a person need not comply with the higher percentages until the expiration of his extension plus the year allowed in this section.

(5) A person having certification revoked under (4) of this section may apply to the department for a hearing to show cause for recertification within six months of the revocation.

(b) In this section

(1) "department" means the Department of Labor;

(2) "extracting industry" means an industry which processes, severs, harvests or extracts a natural resource of the state as a primary activity of the industry;

(3) "resident," at the end of the first year of tax credit, means a person who has been domiciled in Alaska for at least one year immediately before the granting of the tax credit to the business; "resident," at the end of the second and third year of tax credit, means a person who has been domiciled in Alaska for at least one year either immediately before the granting of the tax credit to the business or after the granting of the tax credit to the business.

(c) A person holding a tax credit granted before the effective date of this section is not subject to the provisions of this section.

Sec. 44.81.210. POWERS OF THE BANK.

(a) The bank may

(1) make variable rate or fixed rate loans to individuals who are residents and who are engaged in commercial agriculture or fishing, including harvesters, processors, suppliers and marketers. or to corporations, partnerships or joint ventures

commercial agriculture or fishing, the majority interest of which is beneficially owned by residents of the state and a majority of the owners of which are residents of the state, if the recipient of the loan is a member of the bank; however, the bank may make a loan under this paragraph to a corporation, partnership, or joint venture for the purchase of a new or existing fishing vessel or for the repair or renovation of an existing fishing vessel, the primary purpose of which is to commercially harvest fishery resources, only if the corporation, partnership, or joint venture is wholly owned and controlled by residents of the state and if the recipient of the loan is a member of the bank.

(2) make and alter bylaws necessary or desirable to carry out its corporate functions;

(3) establish amortization plans for repayment of loans, which may include extensions for poor fishing or farming seasons, or for adverse market conditions for Alaskan products;

(4) enter into agreements with regional institutions of the federal farm credit system, private lending institutions, and other state agencies or agencies of the federal government, to carry out the purposes of AS 44.81.010 - 44.81.350;

(5) adopt, alter, and use a corporate seal;

(6) sue and be sued in the name of the bank;

(7) issue bonds to carry out any of its corporate purposes and powers;

(8) sell, lease as lessor or lessee, exchange, donate, convey or encumber in any manner by mortgage or by creation of any other

security interest, real or personal property owned by it, or in which it has an interest, when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(9) incur secondary liability by guaranty or endorsement of the obligations of another corporation or legal entity when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(10) make loans as provided in (1) of this section in participation with financial institutions, and establish and regulate the terms of the loans;

(11) make contracts and execute instruments necessary or convenient in the exercise of its corporate powers;

(12) acquire by purchase, lease, bequest, devise, gift, the satisfaction of debts, or the foreclosure of mortgages, and hold, maintain, use, operate, and convey real or personal property;

(13) borrow money and issue secured and unsecured evidence of indebtedness for a corporate purpose or to fund, refund, pay, or discharge outstanding obligations, and enter agreements and contracts concerning these obligations;

(14) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(15) appoint officers, employees, trustees for certificate holders, and agents, and prescribe their powers and duties;

(16) provide technical services to members of the bank; for the purpose of this paragraph, "technical services" includes services

that will enhance the ability of the member to obtain financial assistance from the bank;

(17) make loans, as provided in (1) of this section, secured by liens subordinate to valid first liens and security agreements granted to a private lending institution;

(18) participate with state departments and agencies in formulating policy and in planning for the development of commercial fishing and agriculture in the state;

(19) do what is necessary or desirable to carry out the corporate purposes and powers expressed or implied in AS 44.81.010 - 44.81.350;

(20) make loans to individual commercial fishermen for limited entry permits; a loan under this paragraph may be made only to an individual commercial fisherman who has been a state resident for a continuous period of five years immediately preceding the date of application for the loan and who has had a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43.010 - 16.43.380 for any one of the past five years, and who has actively participated in the fishery during that period; loans made under this paragraph are subject to the provisions of AS 44.81.230;

(21) indemnify a director, officer or employee of the bank and his heirs, executors and administrators against all liabilities and related expenses including, but not limited to, court costs and attorney fees, judgments, and the cost of reasonable settlements, incurred by him in connection with or arising out of an action or proceeding brought against him because of an act or omission in the performance of his official duties as director,

officer or employee of the bank regardless of whether he is a director, officer or employee at the time the expenses or liabilities are incurred;

(22) accept the pledge of a limited entry permit as security for a loan made under AS 44.81.010 44.81.350 for the repair, restoration, or improvement of a commercial fishing vessel or commercial fishing gear, or for the construction or purchase of a commercial fishing vessel, subject to the conditions set out in AS 44.81.230 - 44.81.250 on pledges of limited entry permits.

(b) The provisions of (a)(21) of this section do not authorize the bank to indemnify a director, officer or employee of the bank who is adjudged liable for negligence or misconduct in the performance of his official duties.

Sec. 44.81.220. TRANSITION.

Notwithstanding the provisions of AS 10.15.005, upon the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state, the provisions of AS 44.81.010 - 44.81.350 lapse and the bank may proceed to operate solely as a private cooperative corporation under the terms of its bylaws and the provisions of AS 10.15.010 - 10.15.600.

Resumes

Admin, Boards

Com, Military,

Public Safety

January 1980

FRANK AUSTIN — Curriculum Vitae

Address: 3839 Apollo Drive, Anchorage, Alaska 99504

Home Telephone: (907) 333-1483

Office Telephone: (907) 265-5513

Age: 47

Place of Birth: Newark, New Jersey

Family:

Wife: Ruhymae Austin
Head Librarian Chugiak High School, Anchorage School District
B.S. in Education, Western Washington State College
M.A. Library Sciences, Alaska Methodist University

Children: Paul John (19)
Student, University of Alaska-Anchorage
Part-time employee, Community Education Program, Municipality of Anchorage

Frank Edward (15)
Student, Bartlett High School, Anchorage

PROFESSIONAL EXPERIENCE & EMPLOYMENT SUMMARY

At present I am in my 24nd year of continous employment with the Federal Aviation Administration (FAA) and its' predecessor agencies the Federal Aviation Agency and the Civil Aeronautics Administration.

FAA EXPERIENCE & EMPLOYMENT SUMMARY

September 1975 to Present: Program Analyst, GS-345-13/14, Anchorage Alaskan Region Planning and Appraisal Staff

Duties: Coordination of Alaska Region Long-range Planning for National Airspace System facilities and activities.

Maintaining liasion with Municipal and State organizations responsible for long-range planning.

Coordination and evaluation of Alaska Region compliance with the requirements of the National Environmental Policy Act of 1969 (NEPA).

Maintain liasion with FAA National Offices responsible for Policy Development and Evaluation.

Maintain liasion with other Department of Transportation modal administration Region X field elements (U.S. Coast Guard, Federal Highway Administration and Alaska Railroad).

Coordinates and monitors Alaska Region compliance with the requirements of Federal and State Coastal Zone Management and Office of Management and Budget (OMB) A-95 policies.

Coordirates the development and review of statistical data for Alaskan Region and National FAA Aviation Forecast requirements.

October 1973 to September 1977: Airport Planner, GS-301-12, Anchorage Airports Division Alaskan Region

Duties: Development of Alaskan Region Segment of the National Airport System Plan (NASP) by identifying improvements necessary to bring airports in the NASP up to national standards. A cost summary is developed for congress biennially.

Provide airspace analysis of proposed airport development or development that may impact on airspace or airport use.

Review Airport Layout or Master Plans to assist airport sponsors or owners ensure that all safety criteria or requirements have been met.

Maintain liasion with Municipal governments who are airport operators.

Participated in Airport Inspection and Airport Master Record Developement (5010) programs.

July 1970 to
October 1973: Civil Rights Specialist, GS-160-11/12, Anchorage Regional Civil Rights Staff
(I served as Chief of the Civil Rights Staff for 15 months)

Duties: Development of programs for implementation of National Civil Rights (CR) and Equal Employment Opportunity (EEO) policies in the Alaskan Region.

Assist Program Divisions in developing Special Emphasis Programs to correct identified deficiencies.

Evaluate compliance with Regional and National directives designed to implement CR and EEO policies.

Serve as advisor to Staff Officers and Program Division Chiefs on matters pretaining to CR and EEO.

Investigate compliants of discrimination and develop recommendations for consideration by the Regional Director.

Monitor compliance with Title VI of Civil Rights Act of 1964 in all grant-in-aid programs administered by Alaskan Region.

Monitor compliance with E.O. 11246 in all construction contracting associated with grant-in-aid programs administered by Alaska Region.

October 1960
to July 1970: Air Traffic Control Specialist (Control Tower), GS-2152-7/11, King Salmon & Anchorage*
*(Anchorage International, Lake Hood and Merrill Towers)
Air Traffic Division
Alaskan Region

Duties: Provide air traffic control services for pilots operating on the airport movement areas and in the airspace for which the facility has responsibility for. Services are designed to assist the pilot in completing the flight in a safe manner.

Training lower graded specialist in procedures and methods established to assist the controllers in carrying out the responsibilities assigned to the facility. Both formal and on-the-job methods utilized.

Development of briefings and presentations designed to assist Aviation Association, Flight Training Agencies, Commercial Operators and General Aviation Users improve their understanding of the system to improve overall safety for all users.

November 1956 to October 1960: Air Traffic Control Specialist (Flight Service Station), GS-2152-5/8, Nome; King Salmon; New York City and Philadelphia, Pa.
Air Traffic Division
Eastern and Alaskan Regions

Duties: Provide aeronautical communications relating to aviation weather, airport conditions and the relay of flight following information.

Maintain flies of all information pertinent to conditions at airports in the area of responsibility.

Maintain files of current weather conditions and aviation forecast to assist pilots with flight planning and completion.

Provide assistance to aircraft requesting direction finding and other types of assistance during inflight emergencies.

OTHER EXPERIENCE & EMPLOYMENT

1969 to Present: Austins' Rentals and Services, Anchorage
Owner - Operator

Functions: Apartment and equipement rental services. Assets and liabilities of the business total approximatly four hundred thousand dollars.

1967 thru 1970 Alaska Training and Planning, Inc.(ATAP), Anchorage
Chairman of Board of Directors

Functions: ATAP was a non profit corporation established to provide training, planning and evaluation services to programs funded by the Office Economic Opportunity (OEO) in Alaska. The University of Alaska organized the program and operated it for one year after which we became an independent program funded by OEO. My position was not a salaried position.

MILITARY DUTY

October 1951 to
February 1956: U.S. Air Force, Staff Sargeant

Duties: 1952 - 1955 Williams AFB, Arizona. Air Operations Specialist. Aircraft scheduling, flight planning and flight following for Pilot Training Squadrons. Other general dispacth duties were included.

1955 - 1956 Daharan AB, Kingdom of Saudi Arabia. Passenger and Freight Specialist. Served as Supervisor of Base Air Freight Depot. Processed incoming freight for distribution on base or to Embassies or other location in the Middle East or East Central Africa. We were responsible for Aircraft weight and balance for loads originating at Dahran.

EDUCATION & TRAINING

EDUCATION

My elementary and secondary education through High School were completed in Newark, New Jersey Public School system.

I have completed college or university level courses at the schools listed below, however I have not entered on a program designed to provide a specific degree.

Anchorage Community College
Alaska Methodist University
University of Alaska-Anchorage

MANAGEMENT TRAINING

Course Title	Hours of Instruction	Date
Management Training	12	10/59
Fundamentals of Supervision	40	3/63
Positive Approach to Discipline	Corres.	3/67
Use of Conference Techniques in Everyday Management	Corres.	8/69
Management Team Action Seminar	40	10/71
Workshop for Middle Managers	40	4/72
Seminar in Economic Development in Alaska	24	10/72
EEO Program Planning and Execution	24	1/73
Grievance and Appeal Examiner	24	10/73
Management by Objectives	24	1/75
Airport Management	40	9/75

MANAGEMENT TRAINING (con't)

Staff Specialist Training	35	1/76
FAA Managerial Training Course	75	4/77
Program Planning and Analysis	40	5/77
Labor Management Relations	40	11/77
Program Evaluation and Appraisal	70	1/78
Alaska Aviation Management Program	60	11/78

TECHNICAL TRAINING

Radiological Defense Training	56	3/63
EEO Counselor Training	34	5/69
Investigation of Complaints of Discrimination in Federal Service	24	4/72
Airports Systems Planning	76	12/73
Environmental Assesment Requirement & Procedures	80	6/76

ADMINISTRATIVE TRAINING

Public Speaking	40	3/64
Facility Instructor Training	120	10/67
Accelerated Reading	24	11/72
Effective Listening & Memory Developement	16	7/73
Writing Effective Letters	16	10/73
Management of Time	24	5/77

RESIDENCE & TRAVEL

RESIDENCE

I have lived in each of the following communities or location for atleast six months or more. I have lived in the State of Alaska for just under 21 years.

Alaska
- Anchorage
- Eagle River
- Chugiak
- King Salmon
- Nome

Philadelphia, Penn.
New York City, N. Y.
Phoenix, Ariz.
Newark, New Jersey
Daharan, Kingdom of Saudia Arabia

TRAVEL

My professional and personal travel have provided me with opportunities to visit the following Alaskan communities and locations.

Ambler	Dillingham	Katalla	Metlakatla	Port Alsworth	
Anchor Point	Emmonak	Kenai	Moose Pass	Savoonga	
Anvik	Fairbanks	Ketchikan	Nebesna	Selawik	Unalakleet
Beaver	Gambell	Kipnuk	Naknek	Seward	Valdez
Bethel	Haines	Kodiak	Nondalton	Sitka	Whitter
Black Rapids	Homer	Kotzebue	Noorvik	Soldotna	Wrangell
Cantwell	Hooper Bay	Kulik Lake	Northway	Solomon	Yakatat
Chisana	Hope	Levelock	Palmer	South Naknek	
Chistochina	Icy Bay	Livengood	Paxson	Steven Village	
Chitna	Igiugig	McCarthy	Pedro Bay	Summit	
Cordova	Iliamna	McGrath	Petersburh	Tatitlek	
Council	Juneau	Mekoryuk	Pile Bay	Tenlak	

AWARDS & HONORS

AWARDS

FAA Job Performance Awards were received in the following years;

1968, 1970, 1972, 1973 and 1978.

Group Performance Commendations at Merrill Field Tower were received in,

1969 and 1970.

Special recognition included;

1970 FAA Anchorage Area Male Employee of the Year

1974 FAA Anchorage Area Employee of the Year grades GS-12 thru 15.

HONORS

Honorary Life Membership Alaska Congress of Parents & Teachers

Honorary Life Membership National Congress of Parents & Teachers

My biograph appears in the following publications;

Who's Who Among Black Americans, 1975-76 & 1977-78

Notable Americans of 1976-77

COMMUNITY ACTIVITIES

1976 to Present	Alaska Black Caucus Presently serving on Board of Directors
1976 to Present	Alaska State Real Estate Commission, Consumer Representative
1974 to 1977	Anchorage Bicentennial Planning Commission
1973 to 1977	Anchorage Borough and Municipality of Anchorage Personnel Review Board, Chairman 2 years
1971 to 1973	Anchorage Borough Economic Development Committee, Chairman 1 year
1967 to 1970	Eagle River Volunteer Fire Department, Secretary- Treasurer 2 years
1965 to 1970	Greater Anchorage Area Community Action Agency (GAACAA), Member Board of Directors (various positions)
	GAACAA projects included;
	Neighborhood Community Child Development Corporation,
	Goal Council of Eagle River, &
	Alaska Training and Planning, Inc.
1964 to Present	Alaska Congress of Parents & Teachers (State PTA)
	High School PTA Unit President State PTA District Director State PTA Vice President State PTA President National PTA Repsentative State PTA Board Member
Various dates	Anchorage School District Committees
	Cirriculum Steering Committee Human Growth and Development Steering Committee Minority Educations Concern Committee

REFERENCES

ALASKAN

Ms. Yvonne Alford
Pouch 6650
Anchorage, Alaska 99502

Special Assistant
Office of Mayor
Municipality of Anchorage

Chairperson
Republican Party
State of Alaska

Mr. Ernie Brannon
Box 80
Fish Hatchery Road
Eagle River, Alaska

Department of Interior
Alaska Pipeline Office
701 C Street
Anchorage, Alaska 99501

Chairman
Anchorage Municipal Assembly

Ms. Karon Cory
Pouch CE
Juneau, Alaska 99811

EEO Officer
Department of Administration
State of Alaska

Mr. Harry J. Donahue
SRA Box 1648-A
Anchorage, Alaska 99507

Commissioner
Alaska Pipeline Commission

Mrs. Jewel Jones
Pouch 6650
Anchorage, Alaska 99502

Director
Human Support Services
Municipality of Anchorage

Mrs. Diane LeResche
Pouch AD
Juneau, Alaska 99811

Analyst
Division of Policy Development
& Planning
Office of the Governor
State of Alaska

Mr. E. Louis Overstreet
8521 Golden
Anchorage, Alaska 99502

Consultant-Professional Engineer
Contra-Tech
2506 Fairbanks Street
Anchorage, Alaska 99503

President
Alaska Black Caucus

REFERENCES (con't)

Mr. Donald T. Keil, Jr 4031 Crosson Drive Anchorage, Alaska 99502	Acting Director Federal Aviation Administration Alaskan Region

OTHER

Mrs. Faith Evans 687 Uluhala Kailua, Oahu, Hawaii 96734	Member House of Representatives State of Hawaii
Mr. Ronald Owens 110 Hansbury Ave. Newark, New Jersey 07112	Attorney at Law Former member House of Representatives State of New Jersey
Mr. Quentin S. Taylor 2223 McChesney Ct. Vienna, Va. 22180	Deputy Administrator Federal Aviation Administration Department of Transportation Washington, D. C.

Alaska State Legislature

Senate

Office of the Secretary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senator Vic Fischer
Chairman
State Affairs Committee

FROM: Peggy Mulligan PM
Secretary of the Senate

RE: Governor's Appointments

DATE: February 16, 1983

The President has referred the following Governor's appointees to your Committee for recommendation in accordance with AS 39.05.080:

COMMISSIONERS

Edward G. Pagano
Department of Military Affairs

Lisa S. Rudd
Department of Administration

BOARDS AND COMMISSIONS
(with dates of termination)

Alaska Public Offices Commission
Frank Austin, Anchorage, 2/1/84

Resumes will be forwarded upon receipt

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-4954

MEMORANDUM

TO: Committee Members

DATE: April 20, 1983

FROM: Vic Fischer, Chair

SUBJ: Governor's Appointments

The President has referred the following Governor's appointees to this committee for recommendation in accordance with AS 39.05.080:

Athletic Commission

Joe Armstrong, Anchorage 05/14/86

Alaska Public Offices Commission

Frank Austin, Anchorage 02/01/84

State Commission for Human Rights

Bienvenido E. Holganza, Juneau 01/31/87
Virgie M. King, Fairbanks 01/31/88

I would prefer not to require these appointees to travel to Juneau for a hearing unless you have questions or objections regarding their qualifications. Please contact my office by Tuesday, April 26th if you have any questions regarding these appointments.

Resumes are attached for your information.

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-4954

May 2, 1983

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

Dear Mr. President:

The members of the State Affairs Committee have considered the following executive appointments and no objections have been stated to their confirmation:

Athletic Commission

Joe Armstrong, Anchorage

Alaska Public Offices Commission

Frank Austin, Anchorage

State Commission for Human Rights

Beinvenido E. Holganza, Juneau
Virgie M. King, Fairbanks

This does not indicate an intention on the part of any committee member to vote for or against confirmation of any individual.

Sincerely,

Vic Fischer, Chair
Senate State Affairs Committee

S.R.Box 20059
Fairbanks, Alaska 99701
January 13,1983

Ms. Theda Pittman
Alaska Public Offices Commission
610 "C" Street
Anchorage, Alaska 99501

Dear Theda,

Here is my resume for your information:

My background:

Alaska resident for 29 years - 7 years in S.E., the remainder in the Interior.

Certified Elementary School teacher, currently employed as a substitute with the Fairbanks North Star Borough School District.

Travel Consultant for Sunshine Travel, Fairbanks, Sept. 1980- Dec. 1981

Experience Relevant to the Alaska Public Offices Commission:

Coordinator, Local Government studies, League of Women Voters
Coordinator & Moderator, LWV Radoi program ("Voter's Forum")
Coordinator of LWV statewide Land Use studies and Workshops, 1974-1976
President, LWV of Fairbanks, 1979-1981
LWV local and state Board of Directors, 1968-1971 and 1972-1978
LWV representative of DEC 208 Policy Advisory Committee 1978-1979
Member, Alaska BLM Advisory Board, 1975-1976
Office staff, Hammond-Miller Campaign, 1978
Temporary employee, State Election Office, Fairbanks, August & November, 1982
Member, Fairbanks LWV Action Committee

If there is any other information that would be helpful, please let me know.

Sincerely,

Arlayne D. Klein

Arlayne D. Klein

1/13/83

Alaska State Legislature

Senate

Office of the Secretary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MAY - 9 1983

M E M O R A N D U M

DATE: May 9, 1983

TO : Senator Vic Fischer
Chairman
State Affairs Committee

FROM: Peggy Mulligan PM
Secretary of the Senate

RE : Governor's Appointements

The President has referred the following Governor's appointees to your committee for recommendation in accordance with AS 39.05.080:

BOARDS AND COMMISSIONS
(with dates of termination)

Athletic Commission
Dr. Jay Caldwell, Anchorage, 05/14/85

Alaska Public Offices Commission
Arlayne Klein, Fairbanks, 02/01/88*

*Resume' attached

* - Camery

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-4954

May 18, 1983

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

Dear Mr. President:

The members of the State Affairs Committee have considered the following executive appointments and no objections have been stated to their confirmation:

Athletic Commission

Dr. Jay Caldwell, Anchorage

Alaska Public Offices Commission

Arlayne Klein, Anchorage

This does not indicate an intention on the part of any committee member to vote for or against confirmation of any individual.

Sincerely,

Vic Fischer, Chair
Senate State Affairs Committee

Virgie M. King
4010 Birch Way
Fairbanks, Alaska 99701
Phone: (907) 479-3977

SUMMARY OF QUALIFICATIONS

Nature of Background and Scope of Experiences:

Background of service within varied public contact positions that provided different skills.

Scope of Capabilities:

Proven abilities in the areas of: Teaching, Counseling, Supervising, Managing, and Organizing.

Personal Characteristics:

Personal and self-motivated individual with creative skills and concept-orientations.

Employment Experiences:

FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT
September, 1973 - Present

8th Grade Teacher - Tanana Junior High School
My responsibilities as a teacher include supervision and improving instruction in the basic usage of Grammar for 120 students daily.

STATE OPERATED SCHOOLS - October, 1973 - May 1975

Reading Skills - 8th Grade
The responsibilities as a Reading Teacher for 75 students were to teach the fundamental course that offered Phonics, Word Structure, Comprehension, and Vocabulary Skills.

U. S. ARMY - Fort Wainwright Alaska
1972-1973

Counselor
As a counselor, I assisted the soldiers in education assistance, also place them on the job training (OJT) for RIF. I supervised the soldiers that were on OJT along with the manager that was in charge of where they worked. I further assisted them in applying for loans and checking the colleges they wanted to attend.

SPECIAL EDUCATION, JACKSONVILLE UNIVERSITY
Jacksonville, Alabama - 1971-72

Junior High - 15 Students
Instructor for MR Special Education. Taught students to learn how to survive in society, do general work, such as doing applications for jobs, job hunting, how to feel good about themselves and have confidence that they could make it.

BOARD OF EDUCATION, AMERICAN SCHOOLS - 1968-69
Aschaffenburg, Germany

Assisted in approving funding and programs for 18 schools. Worked with parents, community, and the schools to maintain a working relationship.

INSTRUCTOR, AMERICAN SCHOOLS - 1969-71
Aschaffenburg, Germany

I taught a period of time in different classes.

INSTRUCTOR, HENRY HIGH SCHOOL - 1964-68
Byhalia, Mississippi

As an English Instructor, I worked daily with students 9th through 12th grades. My responsibilities were to continue to focus on basic grammar, parts of speech, sentence structure, paragraph structure, and use of research materials. I sponsored the Senior Class during those years.

TEACHER, WINONA HIGH SCHOOL - 1963-64

Other Experience:

1982-Present	Voter Registrar for Alaska. Three years Delegate to State Democratic Convention. Statewide Fundraiser for NEA - Endorsed Candidates.
1980-1982	National Education Director for Overseas Minority Caucus.
1981-1982	NEA-Alaska Board of Directors

Other Experience: (cont'd)

1982-Present	Chairperson, NEA-Alaska, Minority Affairs Committee
1981-1982	Region V, NEA-Alaska, PACE Chairperson
1980-1982	NEA-Alaska, Steering & Rules Committee
1980-Present	NEA-Alaska, Legislative Contact Team
1981-Present	FEA Minority Caucus Chairperson
1982-1984	Queen for Prince Hall Grand Chapter Order of the Eastern Star for 50 States and Abroad.
1981-1982	Past Grand Associate Matron for State of Alaska O.E.S.
1963-1966	Organizer - NAACP (Mississippi Chapter)
1962-1963	Editor of Jacksonian (Yearbook), Jackson State
1962-1963	Associate Editor of Newspaper, Jackson State

Education:

Have completed 42 hours beyond a Master of Science in Education Degree, University of Southern California, 1979-80.

Bachelor of Science Degree in Language Arts, Jackson State College, Jackson, Mississippi, 1959-1963.

Certifications:

School Administration, University of Alaska, Fairbanks
1975-1980

Special Education, University of Alaska, Fairbanks
1973-1974

Interests:

Involved in organizations, organizing people/groups. I am a people person. Also enjoy reading, sports, poetry, and dancing.

Personal Data:

Marital Status:	Married, 1 son
Birthdate:	October 9, 1940
Height:	5'3"
Weight:	155 lbs.
Health:	Excellent

References:

Available upon request.

RESUME

Jacqueline S. Lindauer
3933 Geneva Place
Anchorage, Alaska 99504
Phones: 277-0307 (home), 265-2611 (work)

Community Support Experiences in Anchorage

September, 1976-Present: Docent, Anchorage Historical and Fine Arts Museum; Member of AFAMA; since July, 1977, AFAMA Board of Trustees.

September, 1976-Present: Alaska World Affairs Council; board member, 1979-1983.

September, 1976-Present: Anchorage Arts Council; Member of Board of Trustees, 1977 to present; President, 1978.

September, 1977-Present: Member, Visual Arts Center Association; sponsors appreciation chairman, 1979.

November, 1978-May, 1979: The Chamber Honors the Arts Night committee.

June-October, 1978: Breakthrough committee to support bond issues; chairman, fund raising event

April, 1978: Chairman, Red Cross annual dinner meeting, Anchorage.

July-November, 1977: Fund raising chairman, Alaska exhibit for International Women's Year Conference in Houston

September, 1976-February, 1978: UAA Associates, support group for University of Alaska, Anchorage; founder, 1976.

September, 1976-February, 1978: UAA Performing Arts Center support group.

Writing Career Experiences

March, 1978-~~Present~~ 1980: Technical writer, statistician, and management analyst. The Alaska Railroad

Position requires researching data, establishing alternative solutions, and supporting them with data, writing them as proposals for management decisions; also, researching ARR historical documents for relevant data to address question of ownership of ARR land; writing and editing reports from ARR to Management Committee and Federal Railroad Administration in Washington.

January, 1977-November, 1978: Author — W.B. Saunders, Publishers, Philadelphia

Involved writing, editing, and participating in publication of third textbook and teachers' guide. Communicating in Business, February, 1979.

September, 1972-December, 1976: Special editor — W.B. Saunders, Publishers, Philadelphia

Involved editing and writing special materials (biographies and historical incidents) for economics textbook; reviewing and editing two textbooks for other communications authors.

September, 1968-October, 1973: Author — The Macmillan Company, New York

Involved writing, editing, and participating in publication of two textbooks in business communications.
Writing in Business, January, 1970.
Communicating in Business, January, 1974.

Teaching Career Experiences

September, 1966-June, 1974: Assistant, then Associate Professor — California State Polytechnic University, Pomona

Involved, in the English Department, teaching Children's Literature, Freshman Composition, Survey of American Literature, Modern Poetry, and Introduction to Fiction; in the Communications Department, Business Communications, Letter Writing, and Technical Writing.
Three times, English Department's Teacher of Year.

September, 1965-June, 1966: Instructor of English — Glendale College (California)

September, 1960-June, 1964: Instructor of English — Oklahoma State University, Stillwater

July, 1959-September, 1960: Writer — News Bureau, Arizona State University, Tempe

Student Experiences

University of Arizona, Tucson	BA, English	1958
Kansas State University, Manhattan	MS, English	1959

Other Facts

Born November 24, 1937 Phoenix, Arizona

Married September, 1960, John Lindauer

Product of Marriage: Susan, 16; John III, 14; and other invaluable intangibles

References

Alaska Railroad references: upon request.

Mrs. Pat Wolf, Curator of Education, Anchorage Historical and Fine Arts Museum

Professor Virginia Adair, English Department, California State Polytechnic University, Pomona, California

Mr. Jack Neifert, Editor, W.B. Saunders Publishing Company, West Washington Square, Philadelphia, Pennsylvania (was also editor at Macmillan)

Jacqueline Lindauer
Addendum to Resume

N ovember, 1982 to present:	General Manager, Alaska Radio Network and Denali Broadcasting Company
November, 1982 to present:	President, AFAMA Board of Trustees
May, 1980-November, 1982:	Owner, General Manager, KANC Radio, Anchorage
1979 to present:	Board member, Common Sense for Alaska; Secretary, 1982-83

R E S U M E

Bienvenido (Ben) E. Holganza SSA# 576-64-5352

166 Switzer Village
Juneau, Alaska 99801

Home Phone: (907) 789-4896

Ethnic Background: Filipino

Citizenship: American

EDUCATION:

1951 - Graduated with a Bachelor of Science in Foreign Service (B.S.F.S.) from the Far Eastern University, Manila, Philippines;

1979 - Finished one (1) semester course towards a Masters of Public Administration degree University of Alaska, Juneau (UAJ).

WORK EXPERIENCES:

Presently self-employed as a Licensed Custodial Contractor Juneau, Alaska for the past two (2) years;

1979 - 1980 - Insurance Salesman for Equitable Life in Alaska. Seminar held in San Francisco, California; 80 hours training.

1975 - 1977 - Security Guard after a 40 hour training on Security & Investigation at the F.B.I. - Bureau of Mint, San Francisco, California.

1947 - 1951 - Security Guard, U.S. Embassy, Manila, Philippines.

1941 - 1946 - Served as an EM with rank of CPL, U.S. Armed Forces (Philippine Scouts) under the late General Douglas Mac Arthur.

CIVIC, RELIGIOUS & FRATERNAL MEMBERSHIP:

1981 - 1982 - President, Filipino Community, Inc., Juneau for two terms to present date. (Preside over 500 member organization)

1980 - 1982 - Member, Cathedral of the Blessed Virgin Mary Parish Council;

Knights of Columbus (K of C), Juneau;

Juneau Economic Diversification; Juneau City & Borough

Employee Relations Board - Juneau City & Borough

Valley Toastmasters Club;

Member, VFW Post 5559, Juneau, Alaska;

Delegate from Juneau to Provincial Convention of Democratic Party in Anchorage, April 1982.

Awards & Honors: Purple Heart - World War II, Salesman of the Month - Equitable Life Insurance 1980 (Most Valuable Agent 1979)

References:

Bishop Michael Kenny, Senator Bill Ray, Reps. Jim Duncan, Mike Miller, Thelma G. Buchholdt, Mayor Overstreet, Messrs, Buck Emery and Kevin Rechie

Curriculum Vita

JAY E. CALDWELL, MD, MPH

Alaska Sports Medicine Clinic
305 West Dimond Boulevard
Anchorage, Alaska 99502
(907) 344-4441 (office)
(907) 338-2708 (home)

CAREER GOALS

*Applied sports medicine/physiology research and teaching in an academic setting.
*Clinical sports and exercise medicine of non-orthopedic nature.

CURRENT POSITIONS

Director, Alaska Sports Medicine Clinic

Private medical practice of sports (injury-related) and exercise (fitness-related) medicine. Practice includes injury diagnosis and prescription (including rehabilitation), exercise prescription, nutrition counseling, performance testing, and acupuncture.

Team Physician and Research Consultant to Department of Physical Education, UAA

Team Physician and Sports Medicine Consultant, Service High School

EDUCATION AND TRAINING

1981-1982 University of Kuopio, Finland
Department of Physiology (Basic and applied science)
Institute of Exercise Medicine (Exercise Physiology)
University Central Hospital (Clinical Physiology)
1976-1978 UCLA School of Public Health, Los Angeles (MPH)
1975-1977 UCLA Family Practice Residency, Los Angeles (FACFP)
1971-1972 Kauikeolani Children's Hospital, Honolulu, Hawaii
(UHawaii Pediatric Internship)
1966-1971 UCLA School of Medicine, Los Angeles (MD)
(Pathology Fellowship-1969)
1962-1966 Harvard College (Anthropology), Cambridge, Mass. (BA)
1958-1962 Tucson High School, Arizona (Dipl)

PROFESSIONAL EXPERIENCE (General Medical)

1982- See CURRENT POSITION
1981-1982 Exercise Physiologist and Physician Supervisor, Kuopio Institute of Exercise Medicine
Instructor and Research Assistant, Department of Physiology, University of Kuopio
Assistant Physician, Department of Clinical Physiology, University Central Hospital
1978-1981 Clinical Coordinator, National Health Service Corps USPHS - Anchorage, Alaska
Clinical and administrative oversight of, and development of new NHSC sites
1977-1978 Director, Los Angeles County Health Clinic, Valencia, California
Direct patient care and clinical supervision of staff
1976-1978 Consultant for Health Affairs, Mauneluk Assoc., Kotzebue, Alaska
Guidance to Alaskan Native health program in maternal and child health issues
1973-1975 Clinical Director, Kotzebue PHS Hospital, Alaska
Clinical oversight and administration of 42-bed hospital
1972-1975 General Medical Officer, Kotzebue PHS Hospital, Alaska
Direct patient care (hospital, clinic, and field)

SPORTS MEDICINE BACKGROUND

CONTINUING EDUCATION (Partial List)
1982 Puijo Symposium (Physical Activity and Cardiovascular Health), Kuopio
1982 Nordisk Forskarkurs (Age Specific Problems in Exercise Medicine), Kuopio
1982 Congress on Sport and International Understanding, Helsinki, Finland
1982 22nd World Congress on Sports Medicine, Vienna, Austria
1982 IVth International Congress on Biomechanics and Medicine in Swimming, Amsterdam, Holland
1981 Hannes Kohlemainen Symposium (Swimming), Kuopio, Finland
1981 Preceptorship, UWashington, Seattle
1980 American College of Sports Medicine Convention, Las Vegas
1980 Scientific Basis of X-C Skiing, UMinnesota, Telemark WI
1980 Sports Medicine Course, UHawaii, Honolulu
1980 High Level Wellness, UAlaska, Anchorage
1980 Sports Medicine Course, Northwestern University, Maui, Hawaii
1979 Nutrition Update, UAlaska, Anchorage
1979 Nutrition for Physicians, UWashington, Seattle
1979 Sports Medicine for Team Physicians, UWashington, Seattle
1979 Exercise and Health, UCalifornia, San Francisco

EXPERIENCE (Partial List)
1982 Medical Supervisor, Doping Control, Finnish National Swimming Championships
1980-1981 Affiliate Professor of Sports Medicine, University of Alaska
--taught semester courses in Sports Medicine, 1980-1981
--research advisor to students in Physical Education Dept.
1980-1981 Medical Supervisor and Exercise Leader, Cardiac Rehabilitation Program, Alaska Treatment Center, Anchorage
1980-1981 Medical Advisor, Midnight Sun Marathon (1980, 1981), Anchorage, AK
1981 Physical Fitness Consultant to Alyeska Pipeline Service Co.

TEAM PHYSICIAN
1980-1981 University of Alaska-Anchorage (skiing, basketball, volleyball, hockey, swimming)
1980-1981 Anchorage Glacier Pilots (baseball)
1979-1981 Anchorage Northern Knights (basketball)
1980-1981 Rough-house boxing, Anchorage
1981 Outlaw boxing, Anchorage

PRESENTATIONS (Partial List)
1983 Anchorage Community Schools (Sports Medicine)
1983 Alaska Sports Medicine Society
1982 Medical Grand Rounds, Providence Hospital, Anchorage
1982 Puijo Symposium, Kuopio
1982 Nordisk Forskarkurs (demonstrations, lectures), Kuopio
1982 Congress on Sport and International Understanding, Helsinki
1982 22nd World Congress on Sports Medicine, Vienna
1982 IVth International Congress on Biomechanics and Medicine in Swimming, Amsterdam
1982 Finnish Central Sports Union (coaching seminar), Kuopio
1982 Kalpa Junior Hockey Symposium, Kuopio
1980-1981 Students in Anchorage, Craig, Unalakleet, Unalaska, and Galena
1980-1981 Medical staff at USPHS Hospital in Anchorage
1980-1981 Community groups in Anchorage
1981 Child Welfare League of America, Annual Convention, Anchorage
1981 National Health Service Corps Medical Conference, Seattle
1980 Sports Medicine Seminar for Valdez (AK) School District
1980 National Health Service Corps Medical Conference, Port Ludlow WA
1979 Alaska Lung Society, Anchorage
1978 IVth International Symposium on Circumpolar Health, Novosibirsk, Siberia, USSR

COMMUNITY INVOLVEMENT (Partial List) - All 1979 to present
Founder and Director, Old Folks Sports, Anchorage
--organizes and sponsors a variety of athletic events
Volunteer Physician, Foster Grandparents Program, Anchorage
Instructor, Community Schools Program, Anchorage
Guest Speaker, Norma Goodman Television Show, Anchorage

ASSOCIATIONS/SOCIETIES
American College of Family Practice
American College of Sports Medicine
American Medical Joggers Association
Alaska Sports Medicine Society
Old Folks Sports, Anchorage
American Polar Society

PUBLICATIONS
1982 Sauna Terminology, FinJSportsMed
1981 Training and Injuries in the Midnight Sun Marathon, AlaskaMedicine
1983 Interseason Training and the Aerobic Fitness of Motocross Racers, Physician & Sports Medicine (11:132-142)

AWARDS AND HONORS
1981 USPHS Commissioned Officer Award
1981 1st Place, Creative Writing Contest (nonfiction), Anchorage Daily News

MEDICAL LICENSES
Alaska (AA1526)

REFERENCES furnished on request

Dept. of Military Affairs

Born: Unga, Alaska, 22 April 1926

Schools: U. S. Army Infantry School, Basic Course 1956; U. S. Army Infantry School, Advanced Course 1961; U. S. Army Command and General Staff College 1956; U. S. Air Force War College 1971.

MAJOR GENERAL EDWARD G. PAGANO

The Adjutant General

Alaska National Guard

General Pagano entered the Army as an enlisted man in October 1944. He was assigned to Fort Lewis, Washington, where he completed basic training. In early 1945 he was transferred to the Asiatic Pacific Theater operations and assigned to Company H, 383d Infantry, 96th Division, which was then preparing for the invasion of Okinawa. During the fighting on the island, he was wounded and awarded both the Bronze Star with V Device and the Purple Heart.

After the war ended, he was attached to a cadre of the Phillipines Scouts and served with them until his return to the United States in July 1946. He was discharged from the Army that December.

In the fall of 1948, he enrolled in college and was graduated from San Francisco State College in 1952 with a Bachelor of Arts Degree in Business Administration.

In June 1954, he enlisted in the Alaska Army National Guard and was assigned to Company D, 207th Infantry Battalion at Kodiak, Alaska. On 28 October of that year he was awarded a direct commission as a Second Lieutenant, Infantry. He served as a Platoon Leader for a short time and then on 11 May 1956 became Company Commander.

The following March General Pagano was transferred to Anchorage as Adjutant of the 207th Infantry Battalion. On 1 July 1964 he moved to Juneau to be Operations and Training Officer of the Alaska Army National Guard. He served in that position until January 1966 when he returned to active duty in the U. S. Army as the Deputy State Director and Fiscal and Procurement Officer for the Selective Service System. He was named State Director in 1971.

In 1974, General Pagano was transferred to the Selective Service System's Regional Service Center in Denver where he served as the regional administrator. Following his tour in Denver, he successively served as Senior Operations Officer for the Selective Service Region III in Chicago, Illinois from 1976 to 1978; Regional Director, Region I, Philadelphia, Pennsylvania, 1978 - 1980; and Regional Director, Region III, Chicago, Illinois 1980 - 1982.

General Pagano retired from the U. S. Army as a Colonel on 30 June 1982.

Decorations and Awards: Combat Infantry Badge; Legion of Merit; Bronze Star with V Device; Purple Heart; Good Conduct Medal; WWII Victory Medal; Army of Occupation Medal; Asiatic Pacific Campaign Medal; Phillipine Liberation Ribbon; Armed Forces Reserve Medal; Army Service Ribbon; Overseas Service Ribbon; Selective Service Meritorious Award (Silver); Selective Service Distinguished Award (Gold); Alaska National Guard Longevity Medal; Alaska Disaster Medal; Michigan Legion of Merit Medal; Indiana Meritorious Medal.

Civic Affiliations: Boy Scout Council, Armed Forces YMCA Board, VFW, American Legion, Elks, Rotary, Association of the U. S. Army (AUSA), Reserve Officers Association (ROA), National Guard Officers Association.

Civilian Occupation: Adjutant General, Alaska National Guard.

STATE OF ALASKA

OFFICE OF THE GOVERNOR
JUNEAU

JAY S. HAMMOND
GOVERNOR

NEWS RELEASE

FOR INFORMATION CONTACT:
Chuck Kleeschulte
Press Secretary
Office of the Governor
Pouch A, Juneau, Alaska 99811

Bus. Phone: (907) 465-3500
Res. Phone: (907) 586-1069

December 4, 1982
No. 9

FOR IMMEDIATE RELEASE

JUNEAU--Governor-elect Bill Sheffield announced the appointment today of former regional Selective Service Director Edward Pagano as Commissioner of the Department of Military Affairs.

Pagano, 56, will hold the title of Adjutant General and the rank of Major General.

Pagano retired from the U.S. Army last June with the rank of full Colonel. For the last 17 years of his Army career, he was detailed to the Selective Service System and at the time of his retirement, was the system's Midwest Director, based in Chicago.

Pagano, who now lives in Anchorage, was born in Unga and is a shareholder of KONIAG Regional Native Corporation. He was inducted into the Army in October 1944 and immediately was assigned to an infantry unit preparing for the invasion of Okinawa.

He received a variety of medals, including the Bronze Star and Purple Heart, for his role in that campaign.

MORE

When the war ended, Pagano was discharged and returned to Kodiak. In 1954, he joined the Alaska National Guard and served in Kodiak, Anchorage and Juneau before the Army assigned him to Selective Service in 1966.

Pagano was named Alaska State Director of Selective Service in 1971, became director of the Eastern region in 1978 and began his final assignment as Midwest Region director in 1980.

MEMORANDUM State of Alaska

TO: Office of the Governor
ATTN: Kevin Bruce

DATE: 19 April 83

FILE NO:

TELEPHONE NO:

FROM: COL John V. Hoyt
AAG/Army (Acting) C T Borg for

SUBJECT: Your Request for Employee Information

In response to your request of April 13, 1983 subject Request for Employee Information, the following is submitted:

Name: John V. Hoyt
Position: Director, Army National Guard, Assistant Adjutant General Army (Acting), Department of Military Affairs
Date of Appointment: March 1, 1983
Salary: $5,629.00 per month
Previous Work Experience: See attached Resume

RESUME

Colonel John V. Hoyt
7519 Island Drive
Anchorage, Alaska 99504
333-4445

PERSONAL DATA:

Born in Skagway, Alaska 23 November 1933
Married with three children
Lifetime Alaskan

CIVILIAN EDUCATION:

Skagway Public Schools
University of Idaho
Oregon State University B.S. Forest Engineering

CIVILIAN EMPLOYMENT EXPERIENCE:

1949 - 1955: While attending high school and college worked various jobs to include sawmill and logging work, railroad bridge and building maintenance, and railroad telephone and telegraph line maintenance in the Skagway area.

1956 - 1957: Military service.

1958 - 1962: Self employed logger and sawmill operator. Part-owner of Moose Valley Lumber Company in Haines, Alaska.

1962 - Present: Employed by the State of Alaska Department of Military Affairs in various assignments (Military Specialist I, Range 17; Military Specialist II, Range 21; Chief of Staff - MA, Range 24) to include Director of Army Operations and Training, Director of Army Personnel and Administration, and as Chief of Staff for the department..

As Chief of Staff I supervise divisions responsible for state budgeting, financial management, personnel management, supply and property accountability, facilities maintenance and management, and a host of other activities.

I am completely familiar with the functioning of the Department and state government and have a proven record as an effective program administrator.

MILITARY EDUCATION:

Officer Candidate School - Fort Benning, Georgia - 1961

Infantry Officer Basic Course (Distinguished Graduate) - Fort Benning, Georgia - 1963

Infantry Officer Advanced Course (Distinguished Graduate) - Fort Benning, Georgia - 1966

Command and General Staff College (Distinguished Graduate) - Fort Leavenworth, Kansas - 1970

U.S. Army War College - Carlisle Barracks, Pennsylvania - 1975-76

Plus numerous specialty courses concerning Special Warfare, Air Mobility, Close air Support, Civil Disturbance, Nuclear Weapons Employment, Chemical Warfare, and others.

MILITARY EXPERIENCE:

1956 - 1960: Drafted in US Army in 1956 after graduation from college. Attended basic training at Fort Richardson and served as a Forester for United States Army, Alaska and Fort Richardson. Discharged in February 1958 and assigned to USAR. Served in the USAR until joining the Alaska Army Guard unit newly formed in Haines in September 1960.

1961 - 1968: Attended Officer Candidate School and various professional education courses and served in a variety of assignments including Infantry Platoo Leader, Operations and Training Officer, and State Headquarters Detachment Commander in Haines, Juneau, and Anchorage.

1968 - 1974: Served as a Company Commander, Battalion Operations and Training Officer, and Battalion Commander of the 3d Battalion, 297th Infantry and as Squadron Commander of the follow-on 5th Squadron, 297th Cavalry. The Squadron was headuartered in Anchorage with subordinate units in Juneau, Sitka, Ketchikan, Fairbanks, Kenai, Seward, and Kodiak. During this period I also served briefly as the State Headquarters Adjutant and attended Command and General Staff College.

1974 - 1976: Served in Personnel and Operations and Training Staff Officer assignments at State Headquarters level prior to selection as a member of the US Army War College Class of 1975-76. I was one of four Army National Guard Officers nationwide to be selected and am the only Alaska ARNG Officer ever selected for attendance at a resident Army War College Course.

1976 - Present: In 1976 I was selected to organize and command the 207th Infantry Group (Scout). The 207th Group is the senior tactical command and control headquarters for the combat units (Headquarters and Headquarters Company, 207th Group and all five Scout Battalions) of the Alaska ARNG. I am responsible in peacetime to prepare Group units to accomplish their wartime mission. The accomplishments of the 207th Infantry Group are a matter of record and this assignment, as well as previous command tours, have proven my ability as both a commander and a leader.

AWARDS AND DECORATIONS:

Alaska Distinguished Service Medal (State)

Alaska Commendation Medal (State)

Meritorious Service Medal (Federal)

General John J. Pershing Award (Federal)

Plus others.

MEMORANDUM State of Alaska

TO: Office of the Governor
ATTN: Kevin Bruce

DATE: 19 April 83

FILE NO:

TELEPHONE NO:

FROM: Charles T. Borg
Chief-of-Staff/DMA

SUBJECT: Your Request for Employee Information

In response to your request of April 13, 1983 subject Request for Employee Information, the following information and attached resume is submitted.

Name: Charles T. Borg
Position: Special Staff Officer, DMA
Date of Appointment: April 1, 1983
Salary: $4,725.00 per month
Previous Work Experience: See attached Resume

CHARLES T. BORG
9630 Basher Drive
Anchorage, Alaska 99507
Telephone: (907) 333-1146

EDUCATION

Eastern Washington State University, 1960; BA, Science and Music

Other: Behavorial Science, Catholic University, 1980
Equal Employment Opportunity, 1976
Personnel Management, 1972
Defense Language Institute, Vietnamese, 1969
Maintenance and Logistics, 1968

PROFESSIONAL SKILLS:

General Management, Operations, Training, Logistics, Personnel Management and Systems Design.

PROFESSIONAL EXPERIENCE:

1983 - Present. Special Staff Officer, Alaska Department of Military Affairs.

1980 - 1982. Assistant Manager to a builders' millwork business. Responsible for day to day operations and decisions including hiring and training of new employees, inside and outside sales; business growth planning and expansion, freight, inventory, supply and public relations. Assisted in budgeting and maintenance of accounts.

Part-time State Director for Selective Service, Federal program volunteer. Responsible for Selective Service registration program in Alaska.

1978 - 1980. Chief of Operations and Training, Office of Chief Army Reserve, Headquarters Department of the Army. Principal staff member responsible for development and oversight of operations and training programs for Army Reserve. Developed plans, programs and budgets to support operations and training objectives. Headed readiness evaluation projects for prioritizing, funding and equipping high priority units.

1976 - 1978. National Headquarters, Selective Service System. Programs Manager and principal staff officer for the development of ADP reliant personnel procurement and processing procedures. Converted manual logistical procedures to ADP and assisted in the conversion of manual personnel management system to an automated procedure. Headed several government and private enterprise projects including a joint Western Union, IBM, and Department of Defense study to determine accuracy and responsiveness of emergency manpower procurement methods.

1974 - 1976. Alaska State Director for Selective Service. Responsible for all personnel, operations, budget and logistical matters in Alaska. Established statewide personnel management and training program for more than 400 employees. Developed emergency operational procedures utilizing optical

PROFESSIONAL EXPERIENCE: (Continued)

1974 - 1976. character recognition concepts for rapid processing of personnel data forms; established and maintained a grass roots public relations and information program.

1971 - 1974. Alaska Deputy State Director for Selective Service. Agency operations and training officer. Developed correspondence training course for remotely located personnel; responsible to State Director for day to day operations including public relations activities. Participated as member of a national task force appointed to devise automated operational procedures. Concepts and design were successfully tested, funded and implemented for national application. Authored agency Affirmative Action Plan, and emergency continuity of operations plans.

1969 - 1971. US Army Recruiting Command. Commanded statewide (Alaska) recruiting and processing activity with offices in Fairbanks, Juneau and Anchorage. Prepared and administered basic and refresher training for 35 employees; prepared and maintained $300,000 annual operating budget; developed a highly successful public information network; successfully implemented an automated supply requisitioning procedure.

1968 - 1969. US Army Vietnam. Operations Officer for 4,000 man infantry unit. Responsible for all plans, operations, training and logistics for day to day operations and major maneuvers. Operational responsibilities also focused on engineer construction projects, both permanent and semi-permanent. Developed and successfully implemented first "Vietnamization" program designed for eventual US withdrawl.

1968. US Army, Chief, Personnel Management for major Army installation housing five service schools. Responsible for requisitioning, processing, refresher training and assignment of incoming personnel. Successfully implemented a centralized processing concept designed to cut costs and time.

1966 - 1967. Senior Advisor to Vietnamese Army Unit. Responsible for planning, programming and budgeting for US military assistance to Vietnamese Army. Advised counterpart on all aspects of operations and training. Recognized as having established highly successful refresher training program for Vietnamese Infantry units.

1964 - 1966. US Army. Commanded Infantry Headquarters Company, consisting of transportation, communication, nuclear weapons, and conventional weapons support elements. Responsible for all operations, training and logistics. Received formal recognition on two occassions for high readiness state resulting from innovative training methods.

1961 - 1964. US Army. Assignments to various units in Europe ranged from staff to command with primary focus on operations and training. Successfully implemented a time/cost saving training concept designed to achieve maximum student participation and interest.

MEMORANDUM State of Alaska

TO: Mr. Kevin Bruce
Special Assistant
Office of the Governor
Juneau

DATE: April 19, 1983

FILE NO:

TELEPHONE NO:

FROM: Lloyd I. Turner
Director
Division of Emergency Services
Wasilla

SUBJECT: Employment Information

Reference your request of April 13, 1983 regarding employment information, the following information and attached resume are submitted.

Name: Lloyd I. Turner

Position: Director, Division of Emergency Services
Department of Military Affairs

Appointed: March 1, 1983

Salary Range: 24 A - $4408

Work Experience: Resume Attached

EMPLOYMENT HISTORY - Lloyd I. Turner

March 1, 1983 - Present

Appointed to position of Director, Alaska Division of Emergency Services.

March 1979 - March 1983

Returned to State service as Deputy Director of the Alaska Division of Emergency Services (ADES). Provided administrative and fiscal management and was responsible for organizing and directing the statewide Civil Defense/Emergency Preparedness program. Responsible for day-to-day operational policies, regulations and procedures for these programs and the administrative requirement of PL-93-288 Federal Assistance for Natural Disaster. Assist the Director in planning, development and execution of Alaska Readiness Programs. Provide direct authority over the Division and programs. Coordinates planning and operations of other state agencies, including recommending responsibilies, standards and procedures for their participation. Responsible for administrative services relating to budget, supply, personnel matters and assures the maintenance of necessary administrative records. Performed review and control of staff functions to assure effective implementation of ADES programs. Assisted the Director in long range management plans and programs. Focal point for requests for assistance from communities and boroughs, and directs and dispatches aid to the point of need. Authorized to make requests for assistance from the Federal agencies when the resources of the State are inadequate to cope with a disaster. Organize, train and supervise the personnel assigned to ADES and evaluate their performance.

In the absence of the Director the Deputy Director acts in his behalf. During the last two years of the past administration the Director was absent from the State for long periods of time due to medical treatment. During his absence I assumed full charge of his responsibilities and provided necessary management and direction. Also I represented the State of Alaska at various meetings and conferences at local, state and national levels. Attached are copies of my evaluation for the period of employment as Deputy Director of ADES.

EMPLOYMENT HISTORY - Lloyd I. Turner

July 1978	Early retirement from state service to assist in establishing a small private business. As operations management was responsbile for scheduling of maintenance and flight crews.
July 1975	Promoted to District Supervisor, Alaska Disaster Office (1975) assigned to the Northern District. Provided staff supervision and coordination of disaster preparedness and response programs for coping with Natural and war caused disasters or lesser emergencies within my assigned area of the state. Provided guidance and staff direction for development of emergency preparedness organizations within communities. Provided council local officials, provide technical advice in obtaining assistance (financial and property). Evaluated local emergency response capability and make recommendations for improving operational effeciency. Performed liaison with State, Federal on behalf of local governments when necessary. Provided advise and council during emergency operations to assure that the community receives all eligible assistance. Assisted in preparations and revisions of local program papers and disaster response plans. Supervised the annual river dusting program and reconnaissance of the major river systems during spring breakup. Attended necessary meeting, training courses and conferences to assure current program management practices.
July 1974	Disaster Operations Specialist for the Alaska Disaster Office. Assisted in the development direction and coordination of all phases of Civil Defense, natural disasters and emergency resources management and economic stabilization within the State of Alaska. Coordinated and managed programs of disaster recovery under PL-93-288 (Bering Sea Disaster). Coordinated section 408, Individual and Family Grant Program for 21 villages in western Alaska during the Bering Sea Disaster. Assisted local government in their emergency planning processes. Work with various state and federal agencies e.g., Corps of Engineers, Federal Disaster Assistance Agency, etc., to provide ongoing program management. Assisted in Flood watch and river breakup programs.

STATE OF ALASKA
PERFORMANCE EVALUATION REPORT

NAME	SOCIAL SECURITY NO.	DEPARTMENT	DIVISION
Lloyd I. Turner	538 18 0973	Military Affairs	Emergency Services

PCN	JOB CLASSIFICATION TITLE	REPORT COVERS PERIOD FROM	TO
09-0051	Deputy Director	02 16 82	01 31 83

REASON FOR REPORT

☐ ANNUAL ☐ RESIGNATION ☐ COMPLETION OF PROBATION

☒ OTHER (SPECIFY) Change of Rater

OSITION DESCRIPTION REVIEWED BY RATER

(YES) NO If no, explain:

SPECIFIC RATING AREAS

	*U	A	O
ERFORMANCE	☐	☐	☒

As shown by: quantity, quality, accuracy, and completeness of work; knowledge of job fundamentals; judgment shown on the job; willingness and ability to carry out new assignments; independence of performance; attitude towards job.)

WORK HABITS	☐	☐	☒

As shown by: attendance; punctuality; appearance and grooming; safety.)

NTERPERSONAL RELATIONSHIPS	☐	☐	☒

As shown by: consideration of public and co-workers; acceptance of supervision.)

SUPERVISORY (for Supervisory Employees Only)	☐	☐	☐

As shown by: training and directing subordinates; evaluating subordinates; planning and organizing work, including delegation; problem solving and decision-making ability.)

*U = Unacceptable, A = Acceptable, O = Outstanding

NARRATIVE SECTION

Overall Effectiveness on the Job U ☐ Acceptable ☐ ☐ ☐ O ☐

(Overall Effectiveness **MUST** be explained. Other performance consideration, such as strong points and areas needing improvement, should be included.)

"Outstanding", being the higest rating permitted in this Performance Evaluation, is in fact the lowest correct descriptive term that I can use to honestly describe Mr. Turner's duty performance. It must be noted that during the ten months covered by this report, Mr. Turner has fulfilled in a superior manner the duties of both those of Deputy Director and those of Director due to my absence for medical reasons.

During this time, Mr. Turner supervised and directed the Division in responding to reported incidences, several of which were declared to be disaster's by the Governor upon receiving Mr. Turner's evaluation and recommendation. When the Governor declares a disaster, State statutes place the responsibility for the supervision and application of resources of all departments of State Government as required, including the finances of the Disaster Relief Fund directly under the Director of the Alaska Division of Emergency Services (ADES). Mr. Turner's management of this authority as Director has been superb.

Rater's Recommended Action: (cont.)

(See Instructions - over)

Rating was discussed with employee ☒ Yes ☐ No If no, explain: _____

Signature of Rater: _____ Title Director Date 2-24-83

Employee: ☒ Concur with Rating ☐ Disagree (Employee comments on back)

Signature _____ Date 2-24-83

REVIEWED AND APPROVED BY:

Division Signature: _____ Title Director Date 2-24-83

Department Signature: _____ Title _____ Date _____

On November 29, 1982, Governor Hammond wrote a letter commending me for establishing and managing an "exceptional disaster preparedness and relief program," and further, he noted "Your Division has contributed much to the safety and well being of so many of Alaska's citizens; for that contribution, I am grateful." Because my medically-caused absence required Mr. Turner's coverage as Director, I believe the commendatory comments made by Governor Hammond are equally applicable to Lloyd Turner. I have received most favorable comments commending Mr. Turner's ADES performance from individual citizens, Village Chiefs, Commissioners of State Departments, and the Director of the Federal Emergency Management Agency, Region X.

Mr. Turner has taken 24.5 hours of sick leave this reporting period.

STATE OF ALASKA
PERFORMANCE EVALUATION REPORT

NAME	SOCIAL SECURITY NO.	DEPARTMENT	DIVISION
Lloyd I. Turner	538 18 0978	Military Affairs	Emergency Services

PCN	JOB CLASSIFICATION TITLE	PERIOD COVERED BY REPORT FROM	TO
09-0051	Deputy Director	03 16 81	03 15 82

REASON FOR REPORT

[X] ANNUAL [ ] RESIGNATION [ ] COMPLETION OF PROBATION
[ ] OTHER (SPECIFY) _____

POSITION DESCRIPTION REVIEWED BY RATER

YES [X] NO [ ] If no, explain:

SPECIFIC RATING AREAS

	* U	A	O
PERFORMANCE	[ ]	[ ]	[X]

(As shown by: quantity, quality, accuracy, and completeness of work; knowledge of job fundamentals; judgment shown on the job; willingness and ability to carry out new assignments; independence of performance; attitude towards job.)

WORK HABITS	[ ]	[ ]	[X]

(As shown by: attendance; punctuality; appearance and grooming; safety.)

INTERPERSONAL RELATIONSHIPS	[ ]	[ ]	[X]

(As shown by: consideration of public and co-workers; acceptance of supervision.)

SUPERVISORY (for Supervisory Employees Only)	[ ]	[ ]	[X]

(As shown by: training and directing subordinates; evaluating subordinates; planning and organizing work, including delegation; problem solving and decision-making ability; affirmative action achievement; cost effectiveness; and, Labor Contract Administration).

* U = Unacceptable, A = Acceptable
O = Outstanding

NARRATIVE SECTION

Overall Effectiveness on the Job U [ ] Acceptable [ ] [ ] [ ] O [X]

(Overall Effectiveness MUST be explained. Other performance consideration, such as strong points and areas needing improvement, should be included.)

Mr. Lloyd Turner's performance continues to be absolutely outstanding.

He actively seeks every opportunity to improve his knowledge and through that his overall ability to serve. In furtherance of that he graduated from the USDA Graduate School course on Federal Circulars A-87 and 74-4, pretaining to Cost Principles Applicable to Grants and Contracts with State and Local Governments.

He took the initiative in the planning, organization and layout of the new building now occupied by this Division. He followed the planning phase by closely supervising the "self-help" project that merged eight separate units into a single, compatable and efficient building for this Division as well as providing the facilities for a Governor's efficient Emergency Operations Center.

Rater's Recommended Action: Recommend Merit Increase
(See Instructions - over)

Rating was discussed with employee [X] Yes [ ] No If no, explain: _____

Signature of Rater [signature] Title Director Date 3-10-82

Employee: [X] Concur with Rating [ ] Disagree (Employee comments on back)

Signature [signature] Date 3/10/82

REVIEWED AND APPROVED BY:

Division Signature [signature] Title Director Date 3-10-82

Department Signature [signature] Title _____ Date _____

STATE OF ALASKA
PERFORMANCE EVALUATION REPORT

NAME	SOCIAL SECURITY NO.	DEPARTMENT	DIVISION
Lloyd I. Turner	538 13 0978	Military Affairs	Emergency Services

PCN	JOB CLASSIFICATION TITLE	EMPLOYMENT DATES
09-0051	Deputy Director	03 16 80 03 15 81

REASON FOR REPORT: [X] ANNUAL [ ] RESIGNATION [ ] COMPLETION OF PROBATION [ ] OTHER (SPECIFY)

POSITION DESCRIPTION REVIEWED BY RATER
YES [ ] NO [ ] If no, explain:

SPECIFIC RATING AREAS

	* U	A	O
PERFORMANCE	[ ]	[ ]	[X]

(As shown by: quantity, quality, accuracy, and completeness of work; knowledge of job fundamentals; judgment shown on the job; willingness and ability to carry out new assignments; independence of performance; attitude towards job.)

WORK HABITS	[ ]	[ ]	[X]

(As shown by: attendance; punctuality; appearance and grooming; safety.)

INTERPERSONAL RELATIONSHIPS	[ ]	[ ]	[X]

(As shown by: consideration of public and co-workers; acceptance of supervision.)

SUPERVISORY (for Supervisory Employees Only)	[ ]	[ ]	[X]

As shown by: training and directing subordinates evaluating subordinates; planning and organizing work, including delegation; problem solving and decision-making ability; affirmative action achievement; cost effectiveness; and, Labor Contract Administration).

* U = Unacceptable, A = Acceptable, O = Outstanding

NARRATIVE SECTION

Overall Effectiveness on the Job — U [ ] Acceptable [ ] [ ] [ ] O [X]

(Overall Effectiveness **MUST** be explained. Other performance consideration, such as strong points and areas needing improvement, should be included.)

Mr. Turner's performance leaves absolutely nothing to be desired. His application of skill and experience is total and results in an outstanding product.

He has taken 81.0 hours sick leave.

Rater's Recommended Action: RECOMMEND MERIT INCREASE
(See Instructions - over)

Rating was discussed with employee [X] Yes [ ] No If no, explain:

Signature of Rater: [signature] Edward S.E. Newbury Title: Director Date: 15 Jan 81

Employee: [X] Concur with Rating [ ] Disagree (Employee comments on back)

Signature: [signature] Date: 15 Jan 81

REVIEWED AND APPROVED BY:
Division
Signature: [signature] Edward S. E. Newbury Title: Director Date: 15 Jan 81
Department
Signature: [signature illegible] Title: [illegible] Date: [illegible]

STATE OF ALASKA
PERFORMANCE EVALUATION REPORT

NAME	SOCIAL SECURITY NO.	DEPARTMENT	DIVISION
Lloyd I. Turner	538 [illegible] 0973	Military Affairs	Emergency Services

RCN	JOB CLASSIFICATION TITLE	PERIOD OF COVERAGE	
		FROM	TO
09-0051	Deputy Director	09 16 79	03 15 80

REASON FOR REPORT

☒ ANNUAL ☐ RESIGNATION ☐ COMPLETION OF PROBATION
☐ OTHER (SPECIFY) _____

POSITION DESCRIPTION REVIEWED BY RATER

YES NO If no, explain:

SPECIFIC RATING AREAS

	* U	A	O
PERFORMANCE	☐	☐	☒

As shown by: quantity, quality, accuracy, and completeness of work; knowledge of job fundamentals; judgment shown on the job; willingness and ability to carry out new assignments; independence of performance; attitude towards job.)

WORK HABITS	☐	☐	☒

As shown by: attendance; punctuality; appearance and grooming; safety.)

INTERPERSONAL RELATIONSHIPS	☐	☐	☒

As shown by: consideration of public and co-workers; acceptance of supervision.)

SUPERVISORY (for Supervisory Employees Only)	☐	☐	☒

As shown by: training and directing subordinates; evaluating subordinates; planning and organizing work, including delegation; problem solving and decision making ability.)

* U = Unacceptable, A = Acceptable
O = Outstanding

NARRATIVE SECTION

Overall Effectiveness on the Job U ☐ Acceptable ☐ ☐ ☐ O ☒

(Overall Effectiveness **MUST** be explained. Other performance consideration, such as strong points and areas needing improvement, should be included.)

Mr. Lloyd Turner continues to be untiring in his efforts toward the successful accomplishment of the missions assigned this Division.

Outstanding is the only description of his overall performance.

He has taken 37.5 hours of sick leave during this reporting period.

Rater's Recommended Action: RECOMMEND MERIT INCREASE
(See Instructions - over)

Rating was discussed with employee ☒ Yes ☐ No If no, explain: _____

Signature of Rater _____ Title Director Date 4 Nov 80

Employee: ☒ Concur with Rating ☐ Disagree (Employee comments on back)
Signature _____ Date 11/10/80

REVIEWED AND APPROVED BY:

Division
Signature: Edward [illegible] Title Director Date [illegible] 80

Department
Signature: _____ Title The Adjutant General Date [illegible]

STATE OF ALASKA
PERFORMANCE EVALUATION REPORT

NAME	SOCIAL SECURITY NO.	DEPARTMENT	DIVISION
Lloyd I Turner	533 18 0078	Military Affairs - Emergency Services	Emergency Services

PCN	JOB CLASSIFICATION TITLE						
09-0051	Deputy Director	03	14	79	09	15	79

REASON FOR REPORT

☐ ANNUAL ☐ RESIGNATION ☐ COMPLETION OF PROBATION

☒ OTHER (SPECIFY) Interim

POSITION DESCRIPTION REVIEWED BY RATER

YES NO If no, explain:

SPECIFIC RATING AREAS

	*U	A	O
PERFORMANCE	☐	☐	☒

(As shown by: quantity, quality, accuracy, and completeness of work; knowledge of job fundamentals; judgment shown on the job; willingness and ability to carry out new assignments; independence of performance; attitude towards job.)

WORK HABITS	☐	☐	☒

(As shown by: attendance; punctuality; appearance and grooming; safety.)

INTERPERSONAL RELATIONSHIPS	☐	☐	☒

(As shown by: consideration of public and co-workers; acceptance of supervision.)

SUPERVISORY (for Supervisory Employees Only)	☐	☐	☒

(As shown by: training and directing subordinates; evaluating subordinates; planning and organizing work, including delegation; problem solving and decision-making ability.)

*U = Unacceptable, A = Acceptable
O = Outstanding

NARRATIVE SECTION

Overall Effectiveness on the Job U ☐ Acceptable ☐ ☐ ☐ O ☒

(Overall Effectiveness MUST be explained. Other performance consideration, such as strong points and areas needing improvement, should be included.)

Mr. Turner is untiring in the performance of his duties--devoting 110 percent of himself in the accomplishment of the mission of this Division.

Overall evaluation of his performance discloses no weak areas; outstanding in all aspects.

He has taken -0- hours of sick leave during this reporting period.

Rater's Recommended Action: RECOMMEND PERMANENT STATUS
(See Instructions - over)

Rating was discussed with employee ☒ Yes ☐ No If no, explain:

Signature of Rater [signature] Title Director Date

Employee: ☐ Concur with Rating ☐ Disagree (Employee comments on back)

Signature [signature] Date [illegible]

REVIEWED AND APPROVED BY:

Division Signature: [signature] Title Director Date

Department Edward S.E. Newbury Signature: Title Date

22. **EMPLOYMENT HISTORY**

Include jobs within past ten years. Give earlier job history, if pertinent to job applied for. Include military experience as part of job history. Include period of unemployment over three months in length. Use additional pages if needed to give complete employment history.

START with MOST RECENT JOB FIRST

Dates of Employment	**Job Title:** Partner in Construction Company
From 7-72	**Duties:** as required in construction: bid jobs, order
To: Present 7-74	material, assist in job completion
Starting Salary	
$ 250. per week	
Final Salary	**Name of Employer:** Koorenny-Turner Construction Co.
$ 250. per week	**Address:** 7411 Papa Circle, Anchorage, Alaska 99502
Hrs. per week: as required	**Reason for leaving:** [illegible]

Dates of Employment	**Job Title:** Civilian: Operations Officer
From 11-15-71	**Duties:** Military: Director of Operations of Airlift Group
To: 1--7--72	
Starting Salary	SEE ATTACHMENT II.A.
$ 16,000+ per annum(GS12)	
Final Salary	**Name of Employer:** U. S., Alaska Air National Guard
$ 19,000+ per annum(GS13)	**Address:** Kulis Air National Guard Base, Anchorage
Hrs. per week: 40	**Reason for leaving:** Retired from military position resulting in separation from civil service position.

Dates of Employment	**Job Title:** Civilian: Safety Officer. Military: Group
From 4-15-66	**Duties:** Safety Officer
To: 11-15-71	
Starting Salary	SEE ATTACHMENT II.B.
$ 13,000+ per annum (NGC12)	
Final Salary	**Name of Employer:** U. S., Alaska Air National Guard
$ 16,000+ per annum (GS12)	**Address:** Kulis Air National Guard Base, Anchorage
Hrs. per week: 40	**Reason for leaving:** Promoted to Operations Officer and Director of Operations of Airlift Group.

Dates of Employment	**Job Title:** Police Officer
From 3-58	**Duties:** SEE ATTACHMENT II.C.
To: 2-66	
Starting Salary	
$ 365. per month	
Final Salary	**Name of Employer:** Portland Police Department
$ 612 per month	**Address:** City of Portland, Portland, Oregon
Hrs. per week: 40	**Reason for leaving:** Moved to Alaska to take Safety Officer position.

Dates of Employment	**Job Title:** Disaster Control Officer, 313 TAG Sqdrn.
From 1959	**Duties:** SEE ATTACHMENT III.
To: 1964	
Starting Salary	
$ per	
Final Salary	**Name of Employer:**
$ per	**Address:**
Hrs. per week:	**Reason for leaving:**

*SEE ATTACHMENT IV.

ATTACHMENT II.A. LLOYD IVEN TURNER

AIR OPERATIONS OFFICER (PILOT)

Organizes and implements the orders, directives and programs appropriate to a particular flying unit.
Works within the general guidelines established by the regulations applicable to the unit.
Has final responsibility for the proper application of the unit resources expended conducting the flying operation and appropriate ground training.
Directs the flying operation, plans or supervises the preparation of plans and programs of aircrew assigned regarding currency in medical, physiological and training requirements.
Supervises the flying training program including evaluation and corrective action as may be required.
Plans and establishes Standard Operating Procedures required for a safe and efficient operation.
Establishes plans and procedures for processing and handling aircraft accidents, evacuation and mobilization as required.
Directs and supervises the maintenance of individual and unit records.

Exercises overall supervision of technicians (plus additional 120 reserve personnel) classified in grades to GS-12.
Monitors the work of subordinates and provides guidance and assistance in execution of their duties.
Has personnel management responsibilities including commending selection of key personnel, appraisal and assignment of performance ratings, administration of discipline, accomplishment of required training of key subordinate personnel.

ATTACHMENT II.C. LLOYD IVEN TURNER

POLICE OFFICER

Is responsible for traffic enforcement, investigates and establishes cause factors of vehicle/pedestrian accidents. Conducts weekly school for violators of pedestrian traffic laws.
Is knowledgeable of use of radar equipment and checking of traffic flow.
Trains new assignees to the department.

INVESTIGATION DIVISION (VICE, NARCOTICS, ETC.)

Is responsible for location and follow-up of various activities such as liquor law violations, gambling, prostitution, narcotics problems and other acts.

Although each division of the police department has special areas of primary concern, they each require a thorough investigation, knowledge of the violation with regard to the law and a responsible presentation which would lead to conviction when presented in a court of law.

ATTACHMENT III. LLOYD IVEN TURNER

DISASTER CONTROL OFFICER

Assists in the establishment of the Unit Disaster Control procedure and plans.
Monitors the results of practice drills and evaluates problem areas.
Supervises the personnel during mobility exercises of the unit.
Assists with training procedures of personnel assigned to Disaster Control duties.

ATTACHMENT I.

LLOYD IVEN TURNER

BUSINESS SCHOOL:

City of Portland Police Academy.
Portland, Oregon
Full time attendance - 1958 - five week initial training with two week annual refresher courses.
Training in various phases of law enforcement and investigation techniques.

TECHNICAL SCHOOLS:

1. University of Southern California
Los Angeles, California
Full time attendance - 1967 - July to October.
Accident Prevention/Investigation.

2. University of New York, New York, N.Y.
Full time attendance - 1967 - November through December.

SERVICE SCHOOLS:

1. Pilot Training Course, U.S.A.F.
Full time - 1943--1945.
Commissioned 2nd Lt., Pilot, U.S.A.F., April 1945.

2. Disaster Control Officer Course.
Lowry A.F.B., Colorado
Full time - October-November 1960.
Disaster Control/Preparedness Officer Course.

3. Explosive Safety Course.
Lowry A.F.B., Colorado
Full time - April-May 1971
Explosive Safety.

4. U.S.A.F. Air War College
Correspondence course - 1970--1972.
Not complete.

ATTACHMENT II.B. LLOYD IVEN TURNER

CHIEF OF SAFETY

Performs duties in accordance with policies and procedures established in regulations.
Plans and organizes and supervises flying, ground, missile, nuclear and explosive safety activities.
Develops plans and procedures for preparation, procurement and dissemination of educational and engineering safety materials.
Determines need for safety education of groups or persons by analysis of operations or review of survey and accident reports.
Plans safety training programs to acquaint supervisory personnel with responsibility for applying safe practice.
Conducts lectures, programs and demonstrations to promote safety consciousness.
Reviews and analyzes directives, regulations, accident reports, safety data and local operating conditions to determine requirements for safety program.
Maintains records, files, charts, graphs on safety activities.
Monitors activities concerned to insure compliance with safe practices, accident prevention policies and standardized training and operations procedures.
Reviews reports of alleged flying violations and initiates preventive actions as appropriate.
Advises commanders and staff officers on problems pertaining to safety and status of safety programs.
Inspects facilities and coordinates with appropriate agencies to insure compliance with safety regulations and programs.
Maintains a continuous study of flight operations to correct conditions detrimental to flying safety.
Prepares reports on results of surveys and investigations and follows through to assure corrective action.
Coordinates with supervisors and staff personnel concerning safety standards within individual functional areas.
Coordinates with motor transportation activities to insure adequate training of vehicle operators in traffic safety.
Coordinates with fire and crash rescue activities on matters concerning fire prevention.
Assures that crash and rescue personnel are entirely familiar with rescue methods relative to each type of aircraft in operation at his facility.
Conducts flying and ground safety studies and recommends corrective action; analyzes charted and reported information, such as accident frequency, cause data and safety survey reports, to determine areas or sources of recurring accidents and recommends action to correct unsafe procedures and conditions; reviews plans and specifications and drawings for construction, alteration, and repair to insure compliance with safety principles; investigates accidents/incidents, determines human causes and recommends such corrective action as removal of obstructions, installation of signs or signals, and change in speed limits.
Prepares local safety standards and assures implementation of established standards and assures implementation of established standards and procedures.

ATTACHMENT III.

LLOYD IVEN TURNER

DISASTER CONTROL OFFICER

Assists in the establishment of the Unit Disaster Control procedure and plans.
Monitors the results of practice drills and evaluates problem areas.
Supervises the personnel during mobility exercises of the unit.
Assists with training procedures of personnel assigned to Disaster Control duties.

Kevin

MEMORANDUM State of Alaska

TO: Larry Crawford
Chief of Staff
Office of the Governor

DATE: 4/22/83

FILE NO:

TELEPHONE NO: 465-4600

FROM: Richard L. Rountree
Administrative Services Division
Department of Military Affairs

SUBJECT: Employee Resumes

In accordance with your memo per subject, dated April 13, 1983, the following is submitted:

Name: Richard L. Rountree

Position: Director of Administrative Services Division

Location: Goldstien Bldg. - Juneau, Ak.

Date of Appointment: 1 March 1983

Salary: $53,640.00 (Annual Base)

Copy of Resume attached.

RESUME - RICHARD L. ROUNTREE

I submit this resume in addition to and to update my State Application file.

My appropriate experience and qualifications for the position include the following:

1. Five years plus as Department Supply Officer for the Department of Public Safety. My duties were: (1962 - 1967)
   A. Responsible for and personally performed all procurement functions for the Department.
   B. Responsible for and supervised stock control and property control for the Department.
   C. Responsible for and directed operation of mailroom and messenger service.
   D. Responsible for and maintained Department S.O.P. pertaining to Supply and Property Control.
   E. Formulated vehicle specs for all Public Safety Vehicles and updated when necessary.
   F. Initiated orders for Public Safety vehicles and approved payments for same.

2. One year as manager of a marine store. (1967 - 1968)
   A. Responsible for ordering and maintaining stock.
   B. Responsible for employee training and supervision.

3. Four years plus as Supply Officer with Department of Highways. (1972 - 1976) Duties were as follows:
   A. Responsible for maintaining a viable property control system for the Department.
   B. For two years I was responsible for Department Reproductions Unit. Duties included monitoring inventories of supplies, auditing job orders and personnel administration.
   C. For two years I was responsible for and supervised the switchboard operation at headquarters.
   D. Responsible for and coded all billings for leases and rental of equipment.
   E. Was responsible for and supervised the licensing, control and issuing of license plates for all state vehicles.
   F. Assisted in the control of the State equipment fleet.
   G. Was responsible for and directed the disposal of state vehicles and equipment and processed for sale, transfer, destruction, or excessing.

4. Now working for the Department of Military Affairs as an Administrative Officer II. (1976 - Present) Duties include:
   A. Responsible for preparation and maintenance of the Department budget. Attend Budget Review Committee hearings and respond as necessary.
   B. Responsible for the Department personnel function.
   C. Certifying Officer for and supervisor of accounting Section.
   D. Responsible for and technical supervision of the Department Supply & Property Control function.

5. I have attended and satisfactorily completed the following training courses:
   A. IBM "Systems Design and Analysis."
   B. AMA Supervisor Management course "Management Principles."
   C. State "Labor Contract Administration."
   D. State Accounting Manual course
   E. Civil Service Zero Base Budgeting course
   F. NIGP Course "Basics of Public Purchasing."

Dept. of Administration

FRANK RAYE, DIRECTOR OF PERSONNEL
DEPT. OF ADMINISTRATION
RESUME HIRED: JAN 16 1983
$62,532/yr.

A. PERSONAL

Name:	Frank Raye
Address:	S.R.A. Box 31-Y Anchorage, Alaska 99507
Home Phone:	344-4491
Business Phone:	264-0574
Social Security Number:	553-40-5683

B. EDUCATION

1949	Graduated from Washington High School, San Francisco, California.
1958	B.A. Degree from the University of California at Berkeley with a Social Science (U.S. History) major and an English minor.
1959	General Secondary Teaching Credential from the University of California.

C. WORK EXPERIENCE

August 1, 1974 to Present: Personnel Director, Alaska Court System. Responsible for all personnel functions for approximately 600 employees throughout Alaska. Responsibilities include classification and pay, management staffing, employee relations and affirmative action.

May 1, 1973 to July, 1974: Personnel Officer III, State of Alaska, Department of Education and State-Operated Schools. Performed all departmental personnel functions for two departments. Duties included classification and pay, management staffing, reorganizing and employee relations.

April 1, 1970 to April 30, 1973: Personnel Officer II, State of Alaska, Department of Education. Performed all departmental personnel functions including establishment and maintenance of a classification maintenance program and employee relations.

April 14, 1969 to March 31, 1970: Personnel Analyst III, State of Alaska, (Central) Division of Personnel. Functioned as a leadman in the Classification and Pay Section. Duties included extensive classification work. Analyzed and evaluated jobs and allocated them to an appropriate classification and salary level.

December 14, 1964 to April 10, 1969: Personnel Analyst, City of Hayward, California. Functioned as a generalist specializing in classification and pay. However,

duties included recruitment and examination, benefits administration, employee relations and training.

D. MILITARY EXPERIENCE

Active Duty U.S. Air Force, June 1951 through August 1956 (Honorable Discharge).

02-250
(Rev. 6/75)

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

EMPLOYME

This 1977 application for State employment form was pulled from Dan Fabe's Dept. of Administration personnel folder. Currently she is Director of Public Defender Agency - Salary is $5,236.00 per month.

INSTRUCTIONS: A SEPARATE APPLICATION IS REQUIR
MENT. COMPLETE AND SPECIFIC ANSWERS WILL AI
DETERMINATION OF WHETHER YOU QUALIFY FOR TH
APPLICATIONS FOR TEMPORARY EMPLOYMENT SHO
WHICH YOU ARE SEEKING WORK. APPLICATIONS
YEAR, AND PART TIME WORK, SHOULD BE SUBMITTED T
PLEASE USE TYPEWRITER OR PRINT LEGIBLY WITH INK.

1. TITLE OF JOB CLASS FOR WHICH I AM APPLYING: Assistant R

PERSONAL DATA

2. SOCIAL SECURITY NO.: 282 50 3226

3. NAME (Last): FABE (First): DANA (A)

NAME, IF DIFFERENT, UNDER WHICH PREVIOUSLY EMPLOYED:

4. ADDRESS (Street &/or P.O. Box): 1443 K ST.

(City): ANCHORAGE (State): AK (Zip Code): 99501

5. TELEPHONE (Home) Area Code: 907 279 8204 (Business): 279 7541

6. DATE OF BIRTH: 03 29 51
MO DAY YR

REPORT ADDRESS AND TELEPHONE CHANGES PROMPTLY

7. EQUAL OPPORTUNITY EMPLOYMENT: THE STATE OF ALASKA IS REQUIRED BY FEDERAL LAW TO HAVE AN AFFIRMATIVE ACTION PROGRAM WHICH WILL ENSURE FAIR EMPLOYMENT PRACTICES. THE FOLLOWING QUESTIONS ARE MADE IN CONFORMANCE WITH THE ADMINISTRATION OF THIS FAIR EMPLOYMENT PRACTICES PROGRAM. ACTIONS TAKEN WILL NOT BE BASED ON RACE, SEX, NATIONAL ORIGIN, NOR OTHER NON-MERIT FACTOR.

7. a) I AM . . . (PLEASE CHECK ONE OF THE FOLLOWING BOXES:)

	White	Black	Spanish	American Indian	Asian	Eskimo Aleut	Other
FEMALE	H X	C	E	A	B	D	J
MALE	T	O	S	K	L	P	U

7. b) I WAS BORN IN:
THE UNITED STATES OF AMERICA (ENTER "Y" IN BOX): Y
ANOTHER COUNTRY: _____ (ENTER "N" IN BOX)

8. I AM A USA CITIZEN, OR, I AM A RESIDENT ALIEN WITH A WORK PERMIT ISSUED BY THE USA DEPARTMENT OF JUSTICE. (YES--enter "Y" in box; NO--enter "N" in box): Y

9. I AM A RESIDENT OF ALASKA (FROM 7/1/76 TO Present)

10. I AM A VETERAN (List dates, Branch & Type of Discharge)

11. I LEARNED OF THE POSITION FOR WHICH I AM APPLYING FROM: (ENTER CORRECT CODE IN BOX AT LEFT): F

E-Employment Center
F-Personal Friend
S-State Employee
P-Div. of Personnel
D-A Dept. Personnel Office
R-Radio Station _____
T-T.V. Station _____
N-Newspaper _____
O-Other

12. I AM APPLYING FOR: (ENTER CORRECT CODE IN BOX AT LEFT): H

H - INITIAL HIRE IN PERMANENT POSITION
P - PROMOTION (Currently in a Permanent Position)
T - TEMPORARY EMPLOYMENT

DO NOT COMPLETE THIS SECTION

IN/REV. _____

EXAM RECORD

	SCORE	DATE	PF	WT	S
MQ					
W					
TE					
ORAL					
O					
AV					
VP					
EC				DEPT.	
FA					

DO NOT COMPLETE

THE STATE OF ALASKA IS AN EQUAL OPPORTUNITY EMPLOYER

13. HAVE YOU EVER BEEN CONVICTED OF A MISDEMEANOR WITHIN THE PAST FIVE YEARS OR A FELONY WITHIN THE PAST TEN YEARS? ☐ YES ☑ NO. IF YES, EXPLAIN ON A SEPARATE SHEET OF PAPER AND ATTACH IT TO THIS APPLICATION. (A CONVICTION RECORD IS NOT ABSOLUTE GROUNDS FOR DISQUALIFICATION. THE NUMBER, NATURE, RECENCY, AND RELATIONSHIP TO THE JOB APPLIED FOR WILL BE EVALUATED IN REVIEWING THIS APPLICATION.)

14. LIST RELATIVES EMPLOYED BY THE STATE OF ALASKA :

(1) Name: Relationship: Dept.:

(2) Name: Relationship: Dept.:

15. DO YOU HAVE A VALID ALASKA DRIVERS LICENSE? ☑ YES ☐ NO IF YES, LIST NUMBER

16. HAVE YOU ANY PHYSICAL OR EMOTIONAL DEFECTS, DISEASE OR AILMENTS WHICH WOULD AFFECT YOUR PERFORMANCE ON A JOB? ☐ YES ☑ NO IF YES, GIVE DETAILS.

EDUCATION & EXPERIENCE

17. LIST CURRENT PROFESSIONAL LICENSES, CERTIFICATIONS, OR REGISTRATIONS:

Member Alaska bar

18. LIST TYPES OF ELECTRONIC OR MECHANICAL EQUIPMENT OR MACHINES THAT YOU ARE QUALIFIED TO:

OPERATE — REPAIR

CURRENT STATE EMPLOYEES WITH PERMANENT OR PROBATIONARY STATUS NEED ONLY TO ENTER EDUCATION OR EXPERIENCE GAINED SINCE APPLYING FOR THEIR PRESENT POSITIONS WHEN COMPLETING ITEMS 19 THROUGH 26 IF YOU ARE SUCH AN EMPLOYEE PLEASE CHECK THIS BOX. ☐

19. CIRCLE HIGHEST GRADE COMPLETED: 1 2 3 4 5 6 7 8 9 10 11 (12)

20. DATE LAST ATTENDED: June, 1969

21. DID YOU GRADUATE: ☑ YES ☐ NO

22. NAME AND ADDRESS OF GRADE OR HIGH SCHOOL LAST ATTENDED: Hillsdale School, Cincinnati, Ohio

23. HIGH SCHOOL EQUIVALENCY CERTIFICATE (GED): (ISSUING AGENCY, NUMBER, DATE)

24. HIGH SCHOOL COURSES MOST RELATED TO THIS JOB CLASS:

25. EDUCATION OR TRAINING RECEIVED AFTER HIGH SCHOOL

NAME & LOCATION	DATES ATTENDED	NO. OF QUARTER HOURS EARNED	NO. OF SEMESTER HOURS EARNED	OTHER	GRADUATED YES/NO	DEGREE AND YEAR	MAJOR OR SUBJECTS TAKEN	DO NOT USE
Cornell University	9/1969 - 1/1973				Yes	BA 1973	Cultural History	
Northeastern School of Law	9/73 - 6/76				Yes	JD 1976	Law	

28. EMPLOYMENT HISTORY. INCLUDE ALL JOBS WITHIN PAST TEN YEARS. GIVE EARLY JOB HISTORY, IF PERTINENT TO JOB APPLIED FOR. INCLUDE ANY PERIOD UNEMPLOYMENT OVER THREE MONTHS IN LENGTH. USE ADDITIONAL PAGES IF NEEDED TO GIVE COMPLETE HISTORY. START WITH LAST OR PRESENT POSITION AND WORK BACKWARDS.

EMPLOYING FIRM: Alaska Supreme Court	FROM: 7/76 current
FIRM ADDRESS: 303 K St	TO: 7/77
JOB TITLE: Law Clerk DUTIES: Research + writing	HOURS PER WEEK: 40 +
	STARTING SALARY:$ 1620 PER mo
	FINAL SALARY:$ 1705 PER mo
	NO. OF EMPLOYEES SUPERVISED:
	NAME OF SUPERVISOR: Edmond Burke
Job terminated	MAY WE CONTACT YOUR PRESENT
REASON FOR LEAVING: [redacted]	EMPLOYER? yes

EMPLOYING FIRM: Hunt, Leavell + Hall	FROM: 12/[illegible] 75-[illegible]
FIRM ADDRESS: 735 Bishop, Honolulu Hawaii	TO: 3/1 - 76
JOB TITLE: Legal Intern DUTIES: Research + writing	HOURS PER WEEK: 40 +
briefings.	STARTING SALARY:$ 500 PER mo
	FINAL SALARY:$ " PER "
	NO. OF EMPLOYEES SUPERVISED:
	NAME OF SUPERVISOR:
REASON FOR LEAVING: return to Northeastern U. Law	

EMPLOYING FIRM: Zaltzman + Zaltzman	FROM: 1-1-75
FIRM ADDRESS: 65A Atlantic Ave, Boston Mass	TO: 9-1-75
JOB TITLE: Legal Intern DUTIES: Research +	HOURS PER WEEK: 40 +
writing	STARTING SALARY:$ 80 PER week
trial prep.	FINAL SALARY:$ " PER "
	NO. OF EMPLOYEES SUPERVISED:
	NAME OF SUPERVISOR:
REASON FOR LEAVING: return to law school	

EMPLOYING FIRM: John Tim McGill, P.S.C.	FROM: 12-1-74
FIRM ADDRESS: 700 W. Jefferson, Louisville Ky	TO: 3-1-75
JOB TITLE: Legal Intern DUTIES: Research +	HOURS PER WEEK: 40 +
writing	STARTING SALARY:$ 100 PER week
trial prep.	FINAL SALARY:$ " PER "
	NO. OF EMPLOYEES SUPERVISED:
	NAME OF SUPERVISOR:
REASON FOR LEAVING: return to law school	

EMPLOYING FIRM: James Gregory	FROM: 6-1-74
FIRM ADDRESS: Bozeman, MT	TO: 9-1-74
JOB TITLE: Legal intern DUTIES: Research +	HOURS PER WEEK: 40 +
writing	STARTING SALARY:$ 75 PER week
	FINAL SALARY:$ " PER "
	NO. OF EMPLOYEES SUPERVISED:
	NAME OF SUPERVISOR:
REASON FOR LEAVING: return to law school	

EMPLOYING FIRM:	FROM:
FIRM ADDRESS:	TO:
JOB TITLE: DUTIES:	HOURS PER WEEK:
	STARTING SALARY:$ PER
	FINAL SALARY:$ PER
	NO. OF EMPLOYEES SUPERVISED
	NAME OF SUPERVISOR:
REASON FOR LEAVING:	

CONDITIONS OF EMPLOYMENT

PLEASE READ CAREFULLY THE ANNOUNCEMENT FOR THE JOB FOR WHICH YOU ARE APPLYING. YOUR NAME WILL BE MADE AVAILABLE ONLY TO VACANCIES THAT MEET THE CONDITIONS OF EMPLOYMENT INDICATED BY YOUR ANSWERS BELOW. RESTRICTIONS NOT COMMON TO THE JOB MAY RESULT IN NOT BEING CONSIDERED. YOU MAY ALTER YOUR CONDITIONS OF EMPLOYMENT BY NOTIFYING THE DIVISION OF PERSONNEL IN WRITING AT ANY TIME DURING THE PERIOD OF YOUR ELIGIBILITY. FAILURE TO ACCEPT A JOB OFFER UNDER THE CONDITIONS YOU HAVE INDICATED MAY RESULT IN REMOVAL OF YOUR NAME FROM THE ELIGIBLE LIST.

27. I AM WILLING TO ACCEPT EMPLOYMENT IN THE FOLLOWING LOCATIONS:

- [ ] ANY AREA OF STATE
- [x] ANCHORAGE
- [ ] FAIRBANKS
- [ ] JUNEAU
- [ ] KETCHIKAN
- [ ] _____

28. I AM WILLING TO WORK FOR THE FOLLOWING DEPARTMENTS:

- [ ] ANY DEPARTMENT
- [x] 01 OFFICE OF THE GOVERNOR
- [ ] 02 ADMINISTRATION
- [ ] 03 LAW
- [ ] 04 REVENUE
- [ ] 05 EDUCATION
- [ ] 06 HEALTH & SOCIAL SERVICES
- [ ] 07 LABOR
- [ ] 08 COMMERCE
- [ ] 09 MILITARY AFFAIRS
- [ ] 10 NATURAL RESOURCES
- [ ] 11 FISH & GAME
- [ ] 12 PUBLIC SAFETY
- [ ] 13 PUBLIC WORKS
- [ ] 14 HIGHWAYS
- [ ] 15 ECONOMIC DEVELOPMENT
- [ ] 18 ENVIRONMENTAL CONSERVATION
- [ ] 19 STATE OPERATED SCHOOL
- [ ] 21 COMMUNITY & REGIONAL AFFAIRS

29. I WILL ACCEPT A POSITION REQUIRING TRAVEL TO THE FOLLOWING EXTENT:

- [ ] NO TRAVEL
- [ ] OCCASIONAL
- [x] FREQUENT
- [ ] CONTINUOUS
- [ ] REMOTE AREAS

30. I WILL BE ABLE TO REPORT TO WORK Immediately ~~DAYS~~ AFTER BEING NOTIFIED THAT I WAS HIRED.

CERTIFICATE OF APPLICANT

I HEREBY CERTIFY THAT ALL INFORMATION MADE ON OR IN CONNECTION WITH THIS APPLICATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY MISREPRESENTATION OR CONCEALMENT OF MATERIAL FACT WILL BE SUFFICIENT GROUND FOR REJECTION OF MY APPLICATION, REMOVAL FROM THE ELIGIBLE LIST, OR REMOVAL FROM EMPLOYMENT.

DATE 10/27/77 *SIGNATURE (IN INK)* Dana Dahl

CHECK YOUR APPLICATION! BE SURE THAT YOU HAVE FILLED IT IN COMPLETELY.

TYPING SKILL CERTIFICATION

IF THE JOB CLASS FOR WHICH YOU ARE APPLYING HAS A TYPING REQUIREMENT, YOUR APPLICATION WILL NOT BE CONSIDERED UNTIL THIS SELF-CERTIFICATION HAS BEEN COMPLETED. READ THE STATEMENT BELOW AND ESTIMATE YOUR TYPING SPEED AT THE LEVEL WHICH YOU ARE COMPLETELY CONFIDENT YOU CAN PERFORM. IF YOU ARE NOT CONFIDENT ABOUT YOUR TYPING SPEED, CONTACT THE LOCAL EMPLOYMENT CENTER AND ARRANGEMENTS WILL BE MADE FOR A TYPING TEST.

I HEREBY CERTIFY THAT I CAN TYPE AT A SPEED EQUAL TO OR GREATER THAN_____WORDS PER MINUTE WITH FEWER THAN_____TOTAL ERRORS (MINIMUM 5 MINUTE EXERCISE). I UNDERSTAND THAT I AM BEING EXAMINED ON THE BASIS OF THIS CERTIFICATION AND THAT INABILITY TO PERFORM AS CERTIFIED MAY CONSTITUTE BASIS FOR SEPARATION DURING THE PROBATIONARY PERIOD.

*DATE*_____ *SIGNATURE (IN INK)*_____

THE STATE OF ALASKA IS AN EQUAL OPPORTUNITY EMPLOYER

LISA RUDD
2827 LORE ROAD
ANCHORAGE, ALASKA 99507
Telephone (907) 344-2623

RESUME

Education: Bennington College, Vermont. B.A. in American History and Government, 1956.

University of Alaska, Anchorage. Master's degree in Public Administration, 1975.

Experience:

1979-82: (During this period I have not sought employment. The following is a partial list of my activities, some of which were done on a paid basis.)

Manager of two estates and my own investments.

Part time teacher, Anchorage Community College.(1980 & 1982)

Consultant to the National Organization for Women, Washington, D.C. (1981)

Member of the Governor's Blue Ribbon Committee on Alaska Lands. This committee was appointed to help with the state's lobbying effort on the Alaska lands issue before Congress. (1979-80)

Monthly public affairs columnist, Anchorage Daily News. (1979-80)

Member of the Alaska Advisory Committee to the United States Commission on Civil Rights.

Occasional public affairs interviewer, KAKM, Anchorage.

Have also served on the boards of several social service and arts organizations.

1975-78: Member of the Alaska House of Representatives. Appointed by Governor Jay S. Hammond in 1975. Elected to a two year term in 1976. Chose not to run for re-election in 1978. Served as Chair of the House Community and Regional Affairs Committee and as a member of the Commerce and Judiciary Committees.

1974-75: Member of the Governor's Equal Employment Opportunity Committee. Appointed by Governor William A. Egan. The committee oversees the work of the State Equal Employment Opportunity Office.

Member of the Anchorage Employee Relations Board. Appointed by Mayors Jack Roderick and George Sullivan. The board designates bargaining units, conducts representation elections and hears complaints of unfair labor practices for the Municipality of Anchorage.

1974-75, 1966-70: Member of the Alaska State Commission for Human Rights. Appointed by Governor William A. Egan. The commission enforces the state's laws against discrimination.

1974: Coordinator of Education Programs, Alaska Native Foundation. Researched and wrote the report "Higher and Adult Education Needs in Rural Alaska". Work contributed to the establishment of the University of Alaska's Rural Education Division. Supervisor: Emil Notti.

1972-72: Director of the Equal Employment Opportunity Program, Anchorage School District (3000 employees). Work resulted in a major increase in the number of minority employees and a modest increase in the number of women in administrative positions. Supervisor: Joe Montgomery.

1970-71: Member, Anchorage Area Charter Commission. The commission was elected to draft a charter to unify the Anchorage city and borough governments.

Memberships: American Society for Public Administration

National Federation of Business and Professional Women

Alaska Women's Political Caucus

Honors: State Honorary Member, Delta Kappa Gamma International Society of Women Educators, 1979.

Winner of the Soroptimist Club of Anchorage's first annual "Women Helping Women" award, 1979.

First performance of the Juneau-Douglas Little Theater's production of "The Doll's House" dedicated to Lisa Rudd, 1977.

Personal: Born in Boston, Massachusetts. An Alaska resident since 1959. Widow, two grown children. Excellent health.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

JAY S. HAMMOND
GOVERNOR

NEWS RELEASE

FOR INFORMATION CONTACT:
Chuck Kleeschulte
Press Secretary
Office of the Governor
Pouch A, Juneau, Alaska 99811

Bus. Phone (907) 465-3500
Res. Phone (907) 586-1069

Pete Spivey

SHEFFIELD ANNOUNCES ADMINISTRATION APPOINTMENT
11-18-82
#1

FOR IMMEDIATE RELEASE

JUNEAU--Governor-Elect Bill Sheffield this afternoon announced the appointment of Lisa Rudd of Anchorage as the new Commissioner of the state's Department of Administration.

Rudd, a former member of the Alaska House of Representatives, has a background in public administration and is highly qualified for her new post, Sheffield said.

"I am delighted to make this offer to her and I am delighted that she has accepted. She is exceptionally qualified for this job," Sheffield said.

Rudd, 49, was appointed to the House by Gov. Jay Hammond in 1975. She was elected to a full two-year term in 1976, but chose not to seek re-election in 1978. During her tenure in the House she served as chair of the House Community and Regional Affairs Committee and was a member of the Commerce and Judiciary Committees.

Rudd, a former part-time teacher, was a member of the Alaska Advisory Committee to the United States Commission on Civil Rights. She also served as a member of the Governor's Blue Ribbon Committee on Alaska Lands, lobbying on the lands issue in 1979-80.

MORE

Rudd, a member of the Governor's Equal Employment Opportunity Committee by appointment of Democratic Governor William A. Egan, was a consultant to the National Organization for Women in Washington, D.C.

Rudd received a B.A. degree in American History and Government from Bennington College in Vermont in 1956. She also holds a master's degree from the University of Alaska, Anchorage, in Public Administration.

-30-

JOHN D. HAYWOOD
~~105 Walton Park~~
~~Melrose, MA 02176~~
~~617/665-3465~~

Occupation:

CORPORATE RISK MANAGER

11/77 to Present

Business Experience:

May, 1974, to ~~present~~ 11/77

3-3

Corporate Risk Manager for Chelsea Industries, Inc., of Boston, a diversified manufacturer of textiles, plastics and food products with 25 manufacturing locations in 14 states and abroad. I report directly to the Director of Personnel and Industrial Relations and the Vice President of Administration, and am responsible for the developing, installing, communicating, and monitoring of all risk management activities coincident with the objective of preserving and protecting the assets and earning ability of the company. Other responsibilities include the discovery and analysis of risks which could have an adverse effect on the corporate assets; recommendation of appropriate levels of risk retention; budgeting; allocation of costs to divisions and subsidiaries; and administration of the risk management policies.

Specific accomplishments include: 1) consolidating 15 pension and profit-sharing plans into one corporate-wide program, selecting the Actuary and Trustee, and communicating the new plan to all employees; 2) eliminating non-essential broker and consultant services; 3) implementing self-insurance in both Workers Compensation and medical programs, retaining cash within the corporation while reducing claims; and 4) broadening coverage on all insurance contracts consistent with cost and availability.

I have developed excellent working relationships with the insurers, brokers, attorneys, actuaries and other service agencies which are vital to the success of the risk management function. I have also had experience with the following governmental agencies: IRS Pension Division, PBGC (2 terminations), Dept. of Labor, OSHA (6 inspections), and the Consumer Product Safety Commission.

Communication with senior management and employees is through direct contact, working administration manuals, newsletters, memoranda, and an annual report to management.

December, 1972, to May, 1974:

1-5

Account executive with Fred S. James & Co., of New England, Inc. (Boston), with responsibility for large risks with premiums of $6 million annually. Development and implementation of self-insurance programs for employee benefits and Workers Compensation. Coordination of loss prevention, claims, and OSHA activities for accounts which were serviced.

September, 1971, to December, 1972:

Self-employed as licensed insurance advisor and employee benefits consultant in the Commonwealth of Massachusetts.

January, 1968, to September, 1971:

3-3

Manager of Codman Insurance Agency, Inc., a general insurance agency in Boston associated with a major commercial real estate and development firm.

August, 1965, to January, 1968:

Licensed agent with Allstate Insurance Co., Woburn, MA. All lines of insurance and mutual funds.

March, 1963, to August, 1965:

Commercial casualty underwriter with Fireman's Fund Insurance Company, Boston.

Education:

English High School, Boston, MA., 1955
Ohio University, Athens, Ohio, AB, cum laude, 1959

Military Service:

Commissioned officer, Army Air Defense Artillery, 1959-1963

Professional Affiliations and Designations:

Chartered Property and Casualty Underwriter, 1966; member, Boston Chapter
Associate in Risk Management Certificate, 1973; member, Massachusetts Risk and Insurance Management Society; member, American Risk and Insurance Management Society

Personal:

Age 40, married, three children.
Height: 5'9", weight: 156, health: excellent.
Willing to relocate.

References furnished upon request.

Michael H. Wheeler,
Employment History:

State of Alaska — September 1980 - Present
Dept of Administration — Director, Data Processing, $5,840/Month

Duties: Responsible for the management of a major division consisting of two large data centers, a statewide communications network with over 1,000 terminals, a staff of 99, and an annual budget in excess of 13 million dollars.

State of Alaska — August 1971 - September 1980
Dept. of Administration — Deputy Director, Data Processing

Duties: Serving under three directors, my primary responsibility was the fiscal management of the Division. I was offered the Directorship on two occasions but declined because I was not eager to leave the classified service and assumed a Director would be appointed based on good management skills, not simply technical knowledge. The third time I accepted.

State of Alaska — November 1969 - July 1971
Dept. of Labor — EDP Supervisor

Duties: Manager of the Employment Security Data Processing Section, consisting of a staff of thirty. I was responsible for the conversion from second to third generation computer equipment. This included preparation of the request for proposal, evaluation and selection of vendors, training of staff, and installation/conversion of the new equipment. I resigned to accept the Deputy Director position in Administration.

State of Alaska — September 1966 - October 1969
Dept. of Education — Systems Analyst III

Duties: Supervisor of the Data Processing and Statistics Section consisting of three programmers and two statisticians. I personally designed, programmed, and implemented a budget system, a project ledger system, and a purchasing system for State Operated Schools. I resigned to accept the D.P. Manager position in Labor.

State of Alaska — July 1963 - August 1966
Dept. of Administration — EDP Programmer IV

Duties: I was originally hired to develop the first computerized payroll system for the State. Working alone, I implemented the system in less than one year. I was promoted to team leader in charge of the development of the first computerized accounting system for the State. I resigned to accept the Senior Systems Analyst position in Education.

The Boeing Company
Seattle, Washington

August 1960 - July 1963
EDP Analyst

Duties: I was hired as a trainee programmer and worked my way up to a Lead Programmer with a team of four people. The major system I was involved with was an inventory project which reported the status of all the parts required to produce a minuteman missile I resigned to accept a position with the State of Alaska.

Personal Data

Education: Electronics, Heald College
Many technical data processing courses

Military: U.S. Army Security Agency, Honorable Discharge, Rank E-5

Marital Status: Married, Three children

Date of Birth: November 26, 1938

CHARLES M. NORTHRIP - Executive Director: AK. Public Broadcasting Commission
Dept. of Administration
Date hired: June 8, 1981
Range 26 D

Curriculum Vitae

3300 Foster, Juneau, Alaska 99801
Telephone: (907) 586-1369 - Home
(907) 465-2846 - Office

EDUCATION

Ohio University	Ph.D.	1969	Mass Communication/Management
University of Florida	M. A.	1963	Mass Communication/Management
University of Florida	B. S.	1962	Broadcasting
University of Florida	A. A.	1960	Liberal Arts

Course work concentrated in the following areas: mass communication; management; arts and humanities; political science/history; education.

Thesis: "Ethics Criteria Used by Television Newsmen in Florida"
Dissertation: "Teaching Announcing in the Foreign Language Laboratory: An Experimental Comparison with Traditional Methods"

Harvard University April 1980; Completion of Executive Management Program

PROFESSIONAL EXPERIENCE

Present: Executive Director, Alaska Public Broadcasting Commission. Chief Executive for nine-member, Governor appointed commission, charged with coordinating and encouraging public radio and television throughout Alaska. Fifteen radio and three television stations plus several other telecommunications entities depend on the APBC for major support. Author of long-range plan for public broadcasting in Alaska. Supervise Commission staff and all budgetary and operating functions of agency.

State Employment

1976 - 1981: President and General Manager for Capital Community Broadcasting, Inc. Responsible for the operation of KTOO(FM) and KTOO-TV, public (non-commercial) broadcasting stations serving the Juneau area. CCBI also provided daily TV coverage of the Alaska Legislature and other governmental activities to all stations in the State via satellite. Wrote proposals resulting in funds to increase radio station's power and procure equipment to activate TV station.

1973 - 1976: Satellite Experiment Coordinator for State of Alaska. Position established in Office of the Governor. Duties included: (1) Coordination of all communications satellite activity by State of Alaska including audio programs on ATS-1 and video/audio programs on ATS-6 and CTS; (2) frequent contact with Federal funding agencies; (3) advising Governor on telecommunication matters, and (4) supervising the structuring of program material for use on the satellites.

State Employment

1971 - 1973: Director of Media Services for University of Alaska, and Associate Professor of Mass Communication. Responsible for overall supervision of all

media activities of the University of Alaska. Supervised four departments--served as General Manager for KUAC (FM) - TV; supervised departments of Audio-Visual Communication, and Engineering and Maintenance. Advised President of the University on all telecommunications matters. Coordinator for University statewide telecommunication endeavors.

1969 - 1971: Executive Director, Alaska Educational Broadcasting Commission. Chief Executive for nine-member, Governor appointed commission, charged with coordinating and encouraging educational broadcasting throughout Alaska. Supervised work of legal and engineering consultants in applying for new and modified station licenses; dealt with federal and private foundation officials on funding; advised Governor of Alaska on telecommunications matters; wrote proposal which resulted in use of NASA ATS-1 satellite being granted to Alaska; represented Alaska at regional and national telecommunications meetings, including two Wingspread Conferences on educational technology.

State Employment

1963 - 1969: Manager KUAC (FM) and Assistant Professor of Broadcasting for University of Alaska. (1968-69 year spent on sabbatical leave completing Ph.D.) Total responsibility for operations, maintenance, and programming of Alaska's only educational radio station; station went from 12 hour a day to 18+ hour a day operation; locally-produced public programming increased from one to over 10 hours per week; wrote proposals and received funding for three years of support from Title I of the Higher Education Act; organized community program advisory groups; served as telecommunications consultant to several State agencies, including Department of Education and Governor's Satellite Communication Task Force. Also taught courses in broadcasting.

Prior to 1963: Worked in various educational and commercial stations in Florida (program director, news editor, newsman, writer, salesman, etc.).

AWARDS AND HONORS

B.S. Cum Laude; Grantland Rice Scholarship; Graduate Assistantship, University of Florida; Graduate Assistantship, Ohio University; Teaching Fellow, Ohio University; tenured faculty member, University of Alaska. Honorary fraternities and societies: Phi Eta Sigma (National Freshmen), Kappa Tau Alpha (Journalism), Alpha Epsilon Rho (Broadcasting), Phi Kappa Phi (National).

Affiliations
(and positions held, underline indicates "former")

National Association of Educational Broadcasters; Alaska Association for the Arts (president and board member); American Association of University Professors (secretary); Chapel by the Lake (Elder; Choir Director); Alaska Press Club (board member); Juneau Lyric Opera Association (president and board member); Juneau Symphony (conductor and percussionist).

ADDITIONAL ACTIVITY

Founding Member - Board of Trustees, Association for Public Broadcasting (NAPTS)

Former Member - Joint NAPTS/PBS Task Force on New Technologies

Former Member - Alaska Legislative Teleconferencing Network Task Force

Program Personality - Two Wingspread Conferences on educational technology.
Topics: The Capabilities of Communications Satellites;
Instructional Radio for Remote Communities

Program Personality - Annual convention of Western Educational Society for Telecommunications.
Topics: Statewide Telecommunications Authorities;
Non-broadcast Methods of Program Distribution

Program Personality - Annual convention of National Association of Educational Broadcasters.
Topic: Instructional Technology Overseas

PERSONAL DATA

Born:	March 12, 1940; Daytona Beach, Florida
Marital Status:	Married to Pamela C. Northrip
Children:	Ian Arthur (1965), Zan Alexus (1968), Ann Nadine (1981)
Health:	Excellent

PHOTOGRAPH AND REFERENCES AVAILABLE ON REQUEST

RESUME

NAME: Vernon L. Perry

TITLE: Division Director

DEPARTMENT: Administration, Division of Pioneers' Benefits

DATE OF HIRE: February 1, 1975

SALARY: $5840.00 per month

STATE EXPERIENCE: 1967-1971

Director Pioneers' Home Division: 1971-1973
Associate Coordinator Office on Aging, Department of Health & Social Services: 1973-1975
Administrator A.P.I., Department of Health & Social Services:

EDUCATION: Bachelor of Art degree in Business Administration, 1951. Walla Walla College; College Place, Washington.

NON - STATE WORK EXPERIENCE:

Douglas Community Hospital, Roseburg, Oregon, 1951-1957, began as Posting Clerk worked up to Assistant Administrator.

1957-1958: Miller Medical Clinic; Pomona, California; Business Manager.

1958-1960: Mojave Hospital; Mojave, California; Administrator.

1960-1964: Roseburg Medical Clinic; Roseburg, Oregon; Business Manager.

1964-1967: Presbyterian Community Hospital; Anchorage, Alaska; Administrator.

VLP/lrd
4/0419-02-PB1

PRESENT: 1/1/83 - DEPUTY COMMISSIONER FOR ADMINISTRATIVE MGMT., DEPT. OF ADMINISTRATION
$5,433/MO.

ANSELM C. H. STAACK

RESIDENCE: 9027 Rosedale Street
Juneau, Alaska 99803
(907) 789-0026

MAIL: P. O. Box 2822
Juneau, Alaska 99803

PERSONAL DATA: Single, 5'11", 170 lbs., 34 years Old, Good Health

JOB OBJECTIVE: Executive Organization Management

MILITARY: Deferred

EDUCATION: UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, North Carolina. Master in Business Administration, May 1973. Electives in accounting, finance, economics, marketing. 64 graduate credit hours. Major project: Study/Implementation of uniform local government accounting system for State of North Carolina. Member - Beta Gamma Sigma, national honorary business fraternity.

MORAVIAN COLLEGE, Bethlehem, Pennsylvania.
B.A. in Economics and Business Administration, Summa Cum Laude, May, 1970. National Association of Accountants Award for distinguished academic achievement. Dean's List, 7 semesters. Course work included accounting, economics, investments, analysis, statistics, management.

EXPERIENCE: STATE OF ALASKA, TREASURY DIVISION, Juneau, Alaska. June 1979 to Present. TREASURY COMPTROLLER. Responsible for all accounting, recording, reporting and safekeeping of all State of Alaska invested funds. Involves five major investment pools; covers 100 funds. Average assets up to $6.0 billion; funds flow (provided/used/turnover) exceed $20 billion/year. Full general ledger, transaction, and asset accounting. Fixed income, marketable securities, loans, mortgages, foreign securities, precious metals, financial futures. Maintain all records in auditable form. Also cash and debt management, including write general obligation bond prospectus; market over $700 million in G. O. and revenue bonded debt in four years -- must have full knowledge of all State finances. Acting Executive Director of Alaska Medical Facility Authority. In charge of Division budget preparation, execution, procurement. Serve as Acting Deputy Commissioner in his physical absence (approximately one-third of the time). Conduct Division testimony before legislative committees; write complete fiscal impact notes. Testified/Fiscal impact calculation on over 120 different legislative bills. Integrate any new programs into Treasury as necessary.

STATE OF ALASKA, DIVISION OF LEGISLATIVE AUDIT, Juneau, Alaska. March, 1978 to June, 1979. COMPUTER AUDIT MANAGER. Responsible for all EDP support, systems analysis, design, systems review, programming, implementation of Legislative Audit systems to audit the State of Alaska's accounting system. Emphasis on systems

EXPERIENCE
Cont'd: systems design/analysis review, adequacy of internal controls, operations capabilities; design and implementation of 'audit' oriented EDP program packages to recreate original output. Also involved in training and general technical assistance to other audit personnel due to teaching background. Set-up of the first formal EDP audit group in Legislative Audit and management duties.

STATE OF ALASKA, DEPARTMENT OF REVENUE/AUDIT DIVISION, Juneau, Alaska. September, 1976 to March, 1978. OFFICE OPERATIONS MANAGER. Responsible for Individual Income Tax, Withholding and Excise Taxes; Audit Files. Duties included audit program design/implementation, processing systems operations. Heavy involvement in processing systems development and design. Major projects included Divisional audit/processing manual, document locator number system, streamline of 'paperwork pipeline' functions, proper integration with Administrative Service, Enforcement, and other processing/audit functions, State accounting functions. Design MIS system. Assigned to review/investigate/catalog/advise on Child Support Enforcement Agency upon assumption of that agency by Department of Revenue in June/July, 1977. Major work involved review of all operating systems and advise as to corrective action necessary.
Also wrote Revenue Rulings, conducted auditee conferences as to tax rules, issued informal conference opinions as to State tax policy. Assisted on Corporate and Business License audits.

CITY AND BOROUGH OF JUNEAU, ALASKA. December, 1975 to August, 1976. CONTROLLER. In charge of all accounting, reporting and accumulation of management data. Also work in budgeting, hospital accounting/systems operation, Federal and State grants. Involved in beginning of project to completely redo City/Borough accounting and information systems. (The first actual implementation phases on this project were begun in March/April, 1978, with approximately one-half of all systems converted as of March/April, 1979.) Also involved in Bond sale and other financing activities.

STATE OF ALASKA, DIVISION OF LEGISLATIVE AUDIT, Juneau, Alaska. March, 1974 to November, 1975. AUDIT MANAGER. Federal Audits Coordinator. Directed audits of both Federal and State programs; significant training involvement, performance auditing. Involved in development/implementation of new audit programs and report formats.

ARTHUR ANDERSEN & COMPANY, Philadelphia, Pennsylvania. June, 1970 to August, 1971; Summer, 1972; June, 1973 to March, 1974. STAFF AUDITOR. Assigned to do audits of commercial, regulated, and financial institutions. Heavy bank involvement, including audit of bank holding corporation. Also acted in audit supervisory capacity.

EXPERIENCE
Cont'd: BUCKEYE PIPELINE COMPANY, Macungie, Pennsylvania. Summer, 1969; December, 1969 to January, 1970. ACCOUNTANT. Responsible for preparation of certain management and public utility regulatory reports, including cost of tariff movement study. Accounts payable. This job was during my senior year in college.

PART-TIME: UNIVERSITY OF ALASKA, JUNEAU. January, 1976 to December, 1979. Part-time instructor in Accounting. Also certified to teach Economics, Marketing, and Finance.

LUTHERAN CAMPUS MINISTRY IN CENTRAL NORTH CAROLINA, Chapel Hill, North Carolina. September, 1971 to May, 1973. Business Manager (unpaid) in charge of financial record keeping, budgets, and report preparation.

SEARS, ROEBUCK AND COMPANY, Allentown, Pennsylvania. June, 1966 to August, 1969. Clerk. Responsible for catalog merchandise distribution and customer service aide.

ADDITIONAL
DATA: CERTIFIED PUBLIC ACCOUNTANT, Alaska (1974)
North Carolina (1973)

Board Member, Bartlett Memorial Hospital, Juneau, Alaska
Finance Committee, January, 1977 to Present
Served as Board President and Vice-President in past.

Member: American Institute of Certified Public Accountants
Alaska Society of Certified Public Accountants
North Carolina Association of Certified Public Accountants
Accounting Research Association (AICPA/FASB)

Speak/read/write German fluently

REFERENCES: Furnished upon request.

10/14/82

NAME: Robert J. Link

TITLE: Director, Division of General Services and Supply
Department of Administration

Appointed: April 1983
Salary: $4888/month

PREVIOUS EXPERIENCE:

1/80-4/83	Deputy Director, Division of General Services and Supply
11/78-1/80	Contracting and Facilities Manager
8/76-11/78	Contracting Officer
5/75-6/76	Graduate student Syracuse University; M.B.A. Marketing/ Organizational Theory (ABD)
9/74-5/75	Claims Representative, Social Security Administration; Rockville, MD
9/70-1/74	Owner/Manager Auto parts business; Anchorage, Alaska
9/68-6/72	Student University of Anchorage - Bachelors Degree; Economics/Management
9/66-9/70	Sgt. 21 Supply Squadron; Elmendorf AFB, Alaska

CERTIFICATIONS: CPPO - Certified Public Purchasing Officer - National Institute of Governmental Purchasing.

CPM - Completed two of four modules. Certified Purchasing Manager. National Association of Purchasing Management.

4/0420-20/GSS2

NAME: Robert J. Link

TITLE: Director, Division of General Services and Supply
Department of Administration

Appointed: April 1983
Salary: $4888/month

PREVIOUS EXPERIENCE:

1/80-4/83	Deputy Director, Division of General Services and Supply
11/78-1/80	Contracting and Facilities Manager
3/76-11/78	Contracting Officer
5/75-6/76	Graduate student Syracuse University; M.B.A. Marketing/ Organizational Theory (ABD)
9/74-5/75	Claims Representative, Social Security Administration; Rockville, MD
9/70-1/74	Owner/Manager Auto parts business; Anchorage, Alaska
9/68-6/72	Student University of Anchorage - Bachelors Degree; Economics/Management
9/66-9/70	Sgt. 21 Supply Squadron; Elmendorf AFB, Alaska

CERTIFICATIONS: CPPO - Certified Public Purchasing Officer - National Institute of Governmental Purchasing.

CPM - Completed two of four modules. Certified Purchasing Manager. National Association of Purchasing Management.

4/0420-20/GSS2

RESUME

April 1983

Susan "Sioux" Plummer
P.O. Box 2411
Juneau, Alaska 99803

Born: April 30, 1942
Married; two children, ages 17 and 18

WORK HISTORY

August 1981 to Present	Director, Division of Telecommunications Services, Department of Administration, State of Alaska. Immediate Supervisor: Julianna Guy, Deputy Commissioner for Telecommunications. Present Salary: $4,885.00/month, Range 26B
May 1979 to August 1981	Legislative Teleconference Network Coordinator and Legislative Media Center Coordinator, Legislative Affairs Agency, State of Alaska. Immediate Supervisors: Charity Kadow, Director of Division of Public Services and Myrt Charney, Executive Director of Legislative Affairs Agency.
January 1977 to April 1979	Customer Services Advisor, Continental Telephone Co., serving Juneau/ Douglas Telephone and Glacier State Telephone. (Juneau, Kenai-Soldotna, Kodiak, North Pole-Delta)
August 1971 to December 1976	Various positions. Continental Telephone of the Northwest, Silverton, Oregon.

PROFESSIONAL TRAINING: Telephone-related:

- Business Office Procedures
- Service Orders
- Key Systems
- Digital Systems, Inc.
- PABX Products

Other:

- Initial Management Training
- Non-Manipulative Selling
- Advanced Management Skills and Techniques
- Time Management
- Data Communications

CONFERENCES ATTENDED:

September 1979. Institute for Graphic Communication, "Promise of Multi-Media Teleconferencing," Andover, Mass.

May 1980. University of Wisconsin, "Teleconferencin and Inter-Active Media," Madison, Wis.

October 1980. Public Service Satellite Consortium, Fifth Annual Conference on Satellite Communications for Public Service, Washington, D.C.

January 1981. Pacific Telecommunications Council, "PTC 81 Conference," Honolulu, Hawaii

PAPERS PRESENTED: Telecommunications in Alaska: A Progress Report. January 1982

Public Involvement in the Legislative Process: The Alaska Experience. May 1980

Alaska's Legislative Teleconference Network: Why it Works. January 1981

EDUCATION: Attended public schools in Long Beach, California. Graduated with honors from Long Beach Polytechnic High School, 1960.

Attended University of California at Long Beach, 1960-63. Left in mid-junior year to travel extensively in Europe. Majored in Art Education.

JULIANNA R. GUY
Deputy Commissioner, Telecommunications
Department of Administration
State of Alaska

Residence: 780 - 5th Street
Douglas, Alaska 99824
(907)

EDUCATION:

1954 - 1959: UCLA and USC, evening accounting courses to prepare for C.P.A. examination.

1948: B.A., Pomona College, Economics Major

C.P.A. Certificates in Washington, California and Alaska

WORK EXPERIENCE:

3/14/83 to Present: Deputy Commissioner, Telecommunications, Dept. of Administration. $5,433.00 per month.

3/79 - 3/83: Station Manager, Channel 13, KCPQ, Tacoma, Washington, Kelly Television Company.
Duties: Administer staff of 90 in all phases of television.

7/76 - 2/79: Western Region Controller, WOMETCO ENTERPRISES, INC.
Duties: Responsible for accounting department at KVOS-TV and controller and financial adviser to four other Wometco Companies in British Columbia and Alaska engaged in theaters, bottling, real estate and film production.

1/73 - 7/76: Supervisor and Personnel Director, LAVENTOL & HORWATH, CPA's.

11/70 - 12/72: Controller, NORTHERN TELEVISION, Anchorage, Alaska.
Duties: Responsible for all financial matters for eight corporations, three radio stations, two television stations and a national office for broadcast advertising in Anchorage, Fairbanks and Seattle.

1/59 - 11/70: Director of Business Affairs, CHRIS CRAFT TELEVISION, Los Angeles, California.
Duties: Responsible for all financial matters at three independent TV stations and one sales representative firm. Also responsible for legal liaison on matters relating to contracts and FCC licensing.

1953 to 1958: Staff Auditor, ARTHUR YOUNG & CO., CPA's, Los Angeles,

RESUME

Joe Kenneth Humphreys
327 7th Street
Juneau, Alaska

Telephone: 586-6852

Experience
Highlights

9/82 to present

State of Alaska
Department of Administration
Division of Retirement & Benefits
Juneau, Alaska

Serving as Director of the Division of Retirement and Benefits.

6/79 to 9/82

State of Alaska
Department of Administration
Division of Retirement & Benefits
Juneau, AK 99811

Served as Deputy Director of the Division of Retirement and Benefits. Major projects included design and implementation of the Supplemental Benefits System in lieu of Social Security.

10/73 to 6/79

State of Alaska
Legislative Affairs Agency
Research Division
Juneau, Alaska

Advanced to Senior Policy Analyst for the Agency. Duties included (1) drafting legislation; (2) research for and analysis of legislative proposals; (3) temporary service to interim and standing committees as liaison and information source; and (4) conducting substantial research projects in interim periods; and (5) contract control. Principle areas of experience included oil and gas, taxation, insurance, banking, retirement and employment. See attached letter of June 6, 1979 for details.

9/69 to 8/73

Auburn University
Department of Mathematics
Auburn, Alabama

Graduate Teaching Assistant and Instructor. Courses taught include introductory mathematics, calculus and linear differential equations.

9/68 to 7/69

University of Texas at Austin
Department of Mathematics
Austin, Texas

Graduate Teaching Assistant.

3/67 to 9/67

University of Texas at Austin
Department of Economics
Austin, Texas

Graduate Teaching Assistant. Taught introductory economics.

1960 to 1967

Experience during this period included various part-time and summer jobs including research assistant, survey crew member, and service station attendant.

Education

July to August 1962	University of Texas at El Paso
September 1962 to May 1964	Texas Technological College
June 1964 to July 1969	University of Texas at Austin (BA Economics '66, MA Math. '69)
September 1969 to August 1973	Auburn University (studied toward Ph.D in Topology)

Undergraduate Major: Economics Minor: Business Administration
Graduate Major: Mathematics Minor: Economics

Recipient of NDEA Title IV Fellowship and NSF Summer traineeship. Member of Phi Kappa Phi honor society and American Mathematical society.

Early Background

Born and raised in Marfa, Texas where family ranched. Moved to El Paso during high school where fathe worked as an electronics instructor for Philco and then as a civi engineer for Texas Highway Department; mother taught in public schools. Selected for Who's Who Among Student Leaders in High Schools of America, lettered in tennis, participated in honors program.

Personal Interests

Enjoy skiing, running, hunting, fishing, racquet sports, darts, family activities, and reading.

Personal Data

Born: 10/24/44. Married, wife Julianna; 2 children, daughter Morgan and son Charles. 6'4", 200 lbs. Excellent healh.

References

Personal references will be supplied upon request.

JON B. WOLFE - Executive Director, Older Alaskans Commission, Department of Administration; hired January 8, 1982; Range 24

EDUCATION

University of Washington, Seattle, Washington, Bachelor of Arts, 1969, Major in Sociology.

University of Washington, Graduate School of Business Administration, administration program for Masters candidates, 1974.

University of Washington, Seattle, Washington, Masters of Social Work, 1975, Major in Gerontology and Community Organization.

WORK EXPERIENCE

1982 to Present - Executive Director, Older Alaskans Commission. Responsible for directing federal and state programs for elderly Alaskans.

1980 - 1981 - Administrator, Visiting Nurse-Home Health Care, Bellingham, Washington. Responsible for administering a Medicare certified home health agency.

1978 - 1980 - Legislative Representative, National Retired Teachers Association and the American Association of Retired Persons, Washington, D.C. Responsible for Associations' legislative programs in a seven-state area.

1975 - 1978 - Assistant Area Representative, NRTA/AARP, Kansas City, Missouri. Responsible for the development and implementation of aging programs in seven-state area.

1974 - 1975 - Program Assistant, NRTA/AARP Institute of Lifetime Learning, Long Beach, California.

1973 - 1974 - ACTION volunteer, Program for Local Service, Seattle, Washington, Administrative Assistant, Senior Services and Centers, Inc.

1972 - 1973 - Senior Center Director and Caseworker, Senior Services and Centers, Inc., Seattle, Washington.

Kenneth R. Ryals
16665 Lena Loop Road
Juneau, AK 99801
(907) 789-9595

Occupational Goal:

Active participation in directing the efforts of State Government to enhance the citizens' integrity and well-being.

Education:

University of Idaho, Moscow, Idaho
1958-1961 Undergraduate studies in Pre-Medicine

University of Maryland, Extension Campus, Aschenburg, Germany
1962-1963 Undergraduate studies in Humanities

Eastern Washington State University, Cheney, Washington
1965-1968 Bachelor of Arts
Majors: Secondary Euducation, Language Arts, Biology

University of Alaska, Juneau, Alaska
1969-1981 Graduate studies (67 hours)
Majors: Secondary Education, Guidance and Counseling, Public Administration

Military Status:

Idaho National Guard, 1957-1962, honorable discharge
U.S. Army, 1962-1964, honorable discharge

Experience:

While attending EWSU as a full-time student, I worked for Safeway Foods. Starting as a clerk, I was promoted to department manager, responsible for: Supervision of department staff; projection of market requirements and procurement of fresh produce; preparing and maintaining cost projections (budgets); newspaper and radio ad layout; and store public relations. I resigned in order to move to Alaska in 1968.

From August 1968 to August 1975, I taught language arts, journalism, photography, drama, and Alaska Native literature in grades 7, 8, and 9. From 1970, I served also as the Language Arts Department Chairman responsible for: department budget; language arts instructors' evaluations and recommendations for tenure; curriculum design for the total districts' language arts programs; and, school public relations through the news media. From 1972 through 1975, I was a volunteer labor contract negotiator for the Juneau (school teachers) Education Association.

In August 1975, I resigned from my District position and was subsequently employed by the Alaska Department of Health and Social Services. Through a series of promotions, I became the manager of the

department's Management and Budget Section under Commissioner Williamson, responsible for coordinating department efforts in budget preparations, and advising the Commissioner's office of current program activity and cash flow.

Under Commissioner Beirne, I became the department's Assistant Finance Officer, supervising and directing the activities of 34 positions in Payroll, Accounts Payable, Accounts Receivable, and Federal Reports.

In January 1980, I transferred to the Department of Administration, as Pre-Audit Supervisor. Supervising 12 positions, I became responsible for ensuring rapid and accurate vendor payments through the PBA accounting system; Review Officer for the State on professional services contracts, and statewide training of fiscal staff in the State accounting procedures.

In August 1981, Commissioner of Administration Bill Hudson appointed me to my current position as Director of Administrative Services. Supervising a staff of 53, I am responsible for ensuring the professional and financial integrity of the departments' activities. Additionally, I serve as Department Budget Officer.

Personal Background:

Born January 21, 1940, in Floydada, Texas, I had a highly migratory childhood until graduating from high school at Bonners Ferry, Idaho in 1958. Interrupting my college education in order to assess myself, I spent almost three years in Germany as a U.S. Army Medical Technician. Returning to the United States, I met a very charming young lady on the EWSC campus who became the mother of our two children, Gary (born August 9, 1969) and Lisa (born September 8, 1974). My wife, Karen, taught in the Juneau schools from 1968 to 1974. She is currently employed by the Alaska Department of Education as the Vocational Education Curriculum Director for the State's community colleges.

Current Interests and Hobbies:

I am (finally) completing an eight year project - the design and construction of my home on the Lena beach. This project has been interrupted by my active interest in the outdoors, as well as volunteer service for community activities.

61D1/0420-01

RESUME

GUY EDWARD STRINGHAM
3444 Nowell, #309
Juneau, Alaska 99801

Telephone (907) 465-4403 Work
(907) 586-5976

EDUCATIONAL BACKGROUND

High School	Murray High School, Murray, Utah. Academic Diploma, 1952
College	Ricks Junior College, Rexburg, Idaho. A.A. Degree, June 196
	Brigham Young University, Provo, Utah. B.S. Degree, August 1964 (Major-History; Minor-Political Science)
	Brigham Young University, Provo, Utah. M.A. Degree, August 1970 (Thesis: Appleton Milo Harmon, Builder in Zion.)
Other	University of Maryland, University of Alaska Anchorage, Utah State University

PROFESSIONAL EXPERIENCE

9/65 - 6/67	Teacher: Ogden School District, Ogden, Utah.
9/67 - 6/72	Teacher: Kenai Central High School, Kenai, Alaska.
Other	Athletics: Football Coach Academics: Chairman of the Social Studies Department
9/72 - 6/74	Director of Student Affairs (Vice-Principal for discipline and student affairs.)
9/74 - 3/75	Athletic Director and Intramurals Director
9/68 - 12/74	Instructor: Kenai Peninsula Community College, Soldotna, Alaska
8/79 - 6/81	Principal: Northwest Arctic School District
7/81 - 6/82	Director of Construction & Maintenance
	Chief Schoolboard Negotiator for NEA Teacher and Principal contract.
Other	Kenai Peninsula Education Association Building representative, Executive Board representative, Delegate to the State Assembly (three years), and member negotiating team (two years); chief negotiator (two years).

OTHER JOB RELATED EXPERIENCE

1963 - 1965	Congressional staff, Second Congressional District, Utah. (Part time field work)
2/75 - 4/77	Business Manager/Secretary Treasurer, Alaska Public Service Employees Local #71 (3300 member AFL-CIO Affiliate)
4/77 - 9/78	Vice-President and Administrative Assistant Alaska State District Council of Laborers (AFL-CIO Affiliate)
Others	Alaska State Employment Security Advisory Council, Gubernatorial appointment
	Operation Breakthrough Finance Committee (Anchorage) Mayoral appointment
	Organization for the Management of Alaska Resources (OMAR) Vice-President
	Diamond High School Citizens Advisory Board (Anchorage) School Board appointment
	Anchorage Central Labor Council (33 affiliated AFL-CIO unions) President and delegate to all international and state meetings and conventions
	NASSP State Representative, Status and Welfare Committee
	AASSP Executive Board Representative Region I
	Task Force on Instructional Television, State Board of Education appointment

MILITARY SERVICE

USAF 10 years (2 years Far East, 3 years Europe, 2 years Presidential Squadron, Washington, D.C.)

Qualify under the disabled veterans requirements for the Federal Affirmative Action Plan.

R E S U M E

J. Christopher Noah
9158 Skywood Lane
Juneau, AK 99801

Home: (907) 789-7619
Office: (907) 465-3510

Present Position: Executive Director
Alaska Council on Science and Technology

Education: M.A. Environmental Affairs
Goddard College

B.A. Political Science
College of the Potomac

EXPERIENCE

1979 to Present: Executive Director, Alaska Council on Science and Technology, the state science policy group established by law to provide scientific advice to the governor and the legislature, set state research needs and priorities and administer state supported research programs. As chief officer for this organization, responsibilities include:

- serving as liaison between the scientific community and the executive and legislative branches; providing testimony, issues analyses and serving on committees and task forces;

- administration of ACST Scientific & Technological Account, a multi-million dollar research program similar to the National Science Foundation to fund scientific research related to stated needs of Alaska;

- administration of the Northern Technology Grants Program, a project to provide small grants to citizens for the development of technological innovations applicable to Alaska;

- supervision of Council staff and eight permanent scientific consultants from various disciplines;

Noah, J.C., "Integrating Science Into the Decision-Making Process - An Overview of Other States' Approaches and A Proposal for Alaska", mimeo. 20 pp., 1978.

Noah, J.C., "Proceedings of the Joint Meetings Between the Alaska Council on Science and Technology and The Polar Research Board to Ascertain Scientific and Technological Research Needs in Alaska", mimeo., 50 pp., 1980.

Noah, J.C., "The Alaska Council on Science and Technology - 1981 - A Year of Broadened Participation", mimeo., 100 pp., 1982.

Noah, J.C., "The Origins of the Recent Environmental Movement", Master of Arts Thesis submitted to Goddard College, 75 pp., 1976, Washington, DC.

Noah, J.C., "The Permitting Process As It Relates to Coastal Programs", unpublished paper, mimeo. 10 pp., 1977.

Rimberg, F.J. and Noah, J.C., An Ecological Glossary for Engineers and Resource Managers, 50 pp., GPO 1974.

Rimberg, F.J. and Noah, J.C., Energy Policy Issues and Responses in Eight Rocky Mountain States, Litho., 50 pp., 1973.

Rimberg, F.J. and Noah, J.C., Eds. The Directory of Environmental Life Scientists, nine volumes, GPO 1974.

COMMITTEES AND ORGANIZATIONS

Alaska Academy of Engineering and Sciences
Appropriate Technology Review Committee for Alaska (DOE) - Steering Council
American Association for the Advancement of Science, Alaska Section
Biology Alliance for Public Affairs, Council Member
Committee on Future Environments
National Committee on Research Natural Areas
Marine Environmental Pollution in Alaska (NOAA) Steering Council
New York Academy of Sciences
Task Group of Public Interest Funding

- cooperation with science advisory groups at the state, national, federal and international level;

- addressing citizen groups, local officials and industry representatives on science and technology issues and applications.

1978 - 1979 Chairman, Alaska Regional Coastal Planning Team, Office of the Governor. Directed this inter-agency work group to provide land use options to the Alaska Coastal Policy Council. The final report "Regional Planning for Alaska" outlined management options for development and environmental concerns on a regional basis.

1977 - 1978 Senior Planner, Alaska Department of Environmental Conservation. Planning liaison for the Department to the Alaska Coastal Management Program. Advised the Commissioner on departmental policy in response to program changes and directions in coastal management.

1972 - 1976 Washington, DC Staff Administrator and Research Associate, The Institute of Ecology (TIE), a federation of one hundred universities and research organizations, which conducts large-scale multidisciplinary studies to provide a scientific perspective to current issues.

During the summer of 1975, served as the Social Science, Environmental Affairs consultant to the Energy Research and Development Administration (ERDA) providing guidance in their efforts to establish a five-year Balanced Program Plan.

1971 - 1972 Legislative Aide to Maryland Delegate, Woodrow M. Allen.

1969 - 1971 Assistant to the President, Hunt Aviation Company, Washington, DC

PAPERS AND PUBLICATIONS

Noah, J.C., et al. "Areas Meriting Special Concern - A Process for Alaska", (outlining a process for identification of planning areas for the Alaska Coastal Management Program) mimeo. 100 pp., 1978

RESUME SYNOPSIS
Eleanor L. Andrews

1/83 to Present: Deputy Commissioner
Department of Administration
State of Alaska
Responsible for Pioneer Benefits, Older Alaskans Commission, Public Defender Agency, Labor Relations, Alaska Public Offices Commission, Personnel, Retirement and Benefits and Equal Employment Opportunity
Salary: $5,433.00 per month

1/82 - 12/82: Director of Human Resources
Municipality of Anchorage
Responsible for Labor Relations, Recruitment, Classification and Pay Records and Benefits, Training and Development, and Affirmative Action.

7/81 - 12/81: Owner of The Andrews Group
Provided management and government studies.

2/80 - 6/81: Business Representative
International Brotherhood of Electrical Workers Union, Local 1547
Negotiated private and public sector labor agreements. Presented cases at arbitration and before NLRB.

1975 - 1970: Field Representative
Alaska Public Employees Association
Negotiated labor agreements and presented cases at arbitration.

1979 - 1980: Temporary or contractual work for State Ombudsman's Office and Alascom

EDUCATION:

1962 - 1964: California State College at Los Angeles
General academic and English.

1970 - 1970: University of Alaska - Anchorage
Psychology and Labor Management Relations.

02-250
(Rev. 6/75)

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

EMPLOYMENT A

INSTRUCTIONS: A SEPARATE APPLICATION IS REQUIRED FOR
MENT. COMPLETE AND SPECIFIC ANSWERS WILL AID IN R
DETERMINATION OF WHETHER YOU QUALIFY FOR THE JOB C
APPLICATIONS FOR TEMPORARY EMPLOYMENT SHOULD B
WHICH YOU ARE SEEKING WORK. APPLICATIONS FOR PE
YEAR, AND PART TIME WORK, SHOULD BE SUBMITTED TO THE D
PLEASE USE TYPEWRITER OR PRINT LEGIBLY WITH INK.

This 1979 application for Sta
employment form was pulled fro
Theda Pittman's Dept. of Adminis.
personnel folder. Currently she i.
five Director of Alaska Public Office
Commission Salary is; $44,408.00 /

1. TITLE OF JOB CLASS FOR WHICH I AM APPLYING: Clerk IV

PERSONAL DATA

2. SOCIAL SECURITY NO.

475 | 48 | 3006

3. NAME (Last) (First)

PITTMAN THEDA S

VIOUSLY EMPLOYED:

4. ADDRESS (Street &/or P.O. Box)

1101 H ST.

(City) (State) (Zip Code)

ANCHORAGE AK 99501

5. TELEPHONE (Home) (Business)

Area Code 907 | 272 | 5920

6. DATE OF BIRTH

08 | 11 | 44

MO DAY YR

REPORT ADDRESS AND TELEPHONE CHANGES FROM: LY

11. I LEARNED OF THE POSITION FOR WHICH I AM APPLYING FROM: (ENTER CORRECT CODE IN BOX AT LEFT)

S

E-Employment Center
F-Personal Friend
S-State Employee
P-Div. of Personnel
D-A Dept. Personnel Office
R-Radio Station
T-T.V. Station
N-Newspaper
O-Other

12. I AM APPLYING FOR: (ENTER CORRECT CODE IN BOX AT LEFT)

H

H - INITIAL HIRE IN PERMANENT POSITION
P - PROMOTION (Currently in a Permanent Position)
T - TEMPORARY EMPLOYMENT

7. EQUAL OPPORTUNITY EMPLOYMENT: THE STATE OF ALASKA IS REQUIRED BY FEDERAL LAW TO HAVE AN AFFIRMATIVE ACTION PROGRAM WHICH WILL ENSURE FAIR EMPLOYMENT PRACTICES. THE FOLLOWING QUESTIONS ARE MADE IN CONFORMANCE WITH THE ADMINISTRATION OF THIS FAIR EMPLOYMENT PRACTICES PROGRAM. ACTIONS TAKEN WILL NOT BE BASED ON RACE, SEX, NATIONAL ORIGIN, NOR OTHER NON-MERIT FACTOR.

7. a) I AM . . . (PLEASE CHECK ONE OF THE FOLLOWING BOXES:)

	White	Black	Spanish	American Indian	Asian	Eskimo Aleut	Other
FEMALE	H ✓	C	E	A	B	D	J
MALE	T	O	S	K	L	P	U

7. b) I WAS BORN IN:

Y — THE UNITED STATES OF AMERICA (ENTER "Y" IN BOX)

ANOTHER COUNTRY: _____ (ENTER "N" IN BOX)

8. I AM A USA CITIZEN, OR, I AM A RESIDENT ALIEN WITH A WORK PERMIT ISSUED BY THE USA DEPARTMENT OF JUSTICE. (YES--enter "Y" in box; NO--enter "N" in box)

Y

9. I AM A RESIDENT OF ALASKA (FROM 9/67 TO CURRENT)

10. I AM A VETERAN (List dates, Branch & Type of Discharge)

DO NOT COMPLETE THIS SECTION

IN/REV. _____

EXAM RECORD

	SCORE	DATE	PF	WT	S
MQ					
W					
TE					
ORAL					
O					
AV					
VP					
EC				DEPT.	
FA					

DO NOT COMPLETE

THE STATE OF ALASKA IS AN EQUAL OPPORTUNITY EMPLOYER

13. HAVE YOU EVER BEEN CONVICTED OF A MISDEMEANOR WITHIN THE PAST FIVE YEARS OR A FELONY WITHIN THE PAST TEN YEARS? ☐ YES ☑ NO. IF YES, EXPLAIN ON A SEPARATE SHEET OF PAPER AND ATTACH IT TO THIS APPLICATION. (A CONVICTION RECORD IS NOT ABSOLUTE GROUNDS FOR DISQUALIFICATION. THE NUMBER, NATURE, RECENCY, AND RELATIONSHIP TO THE JOB APPLIED FOR WILL BE EVALUATED IN REVIEWING THIS APPLICATION.)

14. LIST RELATIVES EMPLOYED BY THE STATE OF ALASKA:
(1) Name: Relationship: Dept.:
(2) Name: Relationship: Dept.:

15. DO YOU HAVE A VALID ALASKA DRIVERS LICENSE? ☑ YES ☐ NO IF YES, LIST NUMBER 261290

16. HAVE YOU ANY PHYSICAL OR EMOTIONAL DEFECTS, DISEASE OR AILMENTS WHICH WOULD AFFECT YOUR PERFORMANCE ON A JOB? ☐ YES ☑ NO IF YES, GIVE DETAILS.

EDUCATION & EXPERIENCE

17. LIST CURRENT PROFESSIONAL LICENSES, CERTIFICATIONS, OR REGISTRATIONS:

FCC 3RD CLASS License W/ Broadcast Endorsement

18. LIST TYPES OF ELECTRONIC OR MECHANICAL EQUIPMENT OR MACHINES THAT YOU ARE QUALIFIED TO:

OPERATE	REPAIR
Typewriter, Calculator	
Radio + TV Production Equip.	

CURRENT STATE EMPLOYEES WITH PERMANENT OR PROBATIONARY STATUS NEED ONLY TO ENTER EDUCATION OR EXPERIENCE GAINED SINCE APPLYING FOR THEIR PRESENT POSITIONS WHEN COMPLETING ITEMS 19 THROUGH 26 IF YOU ARE SUCH AN EMPLOYEE PLEASE CHECK THIS BOX. ☐

19. CIRCLE HIGHEST GRADE COMPLETED: 1 2 3 4 5 6 7 8 9 10 11 (12)

20. DATE LAST ATTENDED: 1962

21. DID YOU GRADUATE: ☑ YES ☐ NO

22. NAME AND ADDRESS OF GRADE OR HIGH SCHOOL LAST ATTENDED: Faribault, Minnesota Senior High

23. HIGH SCHOOL EQUIVALENCY CERTIFICATE (GED): (ISSUING AGENCY, NUMBER, DATE)

24. HIGH SCHOOL COURSES MOST RELATED TO THIS JOB CLASS:

25. EDUCATION OR TRAINING RECEIVED AFTER HIGH SCHOOL

NAME & LOCATION	DATES ATTENDED	NO. OF QUARTER HOURS EARNED	NO. OF SEMESTER HOURS EARNED	OTHER	GRADUATED YES/NO	DEGREE AND YEAR	MAJOR OR SUBJECTS TAKEN	DO NOT USE
Wichita State U. Wichita, Ks.	62-66		130		yes	BS 1966	Speech R-TV	
Indiana State U. Terre Haute, Indiana	66-67				yes	MS 1967	Speech R-TV	

20: EMPLOYMENT HISTORY. INCLUDE ALL JS WITHIN PAST TEN YEARS. GIVE EARL JOB HISTORY, IF PERTINENT TO JOL APPLIED FOR. INCLUDE ANY PERIOD OF UNEMPLOYMENT OVER THREE MONTHS IN LENGTH. USE ADDITIONAL PAGES IF NEEDED TO GIVE COMPLETE HISTORY: START WITH LAST OR PRESENT POSITION AND WORK BACKWARDS.

EMPLOYING FIRM: ALASKA Public Radio Network	FROM: Oct 16, 1978
FIRM ADDRESS: 400 Cambell, Rm 303 Anchorage 99501	TO: June 30, 1979
JOB TITLE: Exec. Direror DUTIES: Administrative	HOURS PER WEEK: 40+
Supervision of Statewide radio network	STARTING SALARY:$ 2,225 PER Mo
	FINAL SALARY:$ 2,225 PER Mo
	NO. OF EMPLOYEES SUPERVISED: 2
	NAME OF SUPERVISOR: KiT Jensen
	MAY WE CONTACT YOUR PRESENT
REASON FOR LEAVING:	EMPLOYER?

EMPLOYING FIRM: AFOC	FROM: 4/5/78
FIRM ADDRESS: 610 "C" St. Suite 209 Anchorage 99501	TO: 10/3/78
JOB TITLE: Clerk III DUTIES: Audit Reg Campaign	HOURS PER WEEK: 37.5
disclosure reports	STARTING SALARY:$ 6.58 PER HR
	FINAL SALARY:$ 6.90 PER HR
	NO. OF EMPLOYEES SUPERVISED: 0
	NAME OF SUPERVISOR:
	RANDALL P. BURNS
REASON FOR LEAVING: TO TAKE NEW Position	

EMPLOYING FIRM: Self-employed	FROM: 9/76
FIRM ADDRESS:	TO: 4/78
JOB TITLE: Communications Consultant various DUTIES:	HOURS PER WEEK: varied
Contracts for research, analysis &	STARTING SALARY:$ 120 PER day
Radio-TV planning & production	FINAL SALARY:$ 150 PER day
for Govs Office (1) Tele Communications,	NO. OF EMPLOYEES SUPERVISED: 0
(2) KAKM (3) Fed-State Land Use	NAME OF SUPERVISOR: Bob Walp, OT
Planning Commission	Bill Jackson, KAKM
REASON FOR LEAVING:	Esther Wunnicke LUPC

EMPLOYING FIRM: Univ of Alaska Speech Dept	FROM: 9/75
FIRM ADDRESS: Fairbanks AK 99701	TO: 5/76
JOB TITLE: Asst Prof DUTIES:	HOURS PER WEEK:
Taught Speech & broadcasting	STARTING SALARY:$ 1988 PER Mo
courses	FINAL SALARY:$ 1988 PER Mo
	NO. OF EMPLOYEES SUPERVISED:
	NAME OF SUPERVISOR:
	Walter D. Ensign
REASON FOR LEAVING: Move to Anchorage	

EMPLOYING FIRM: Self-Employed	FROM: 1/74
FIRM ADDRESS: Fairbanks, AK	TO: 9/75
JOB TITLE: Consultant DUTIES: Various	HOURS PER WEEK:
contracts in R-TV production &	STARTING SALARY:$ 120 PER day
Management for Coop Extension Service	FINAL SALARY:$ 120 PER day
Center for Northern Educational Research	NO. OF EMPLOYEES SUPERVISED: 0
	NAME OF SUPERVISOR: Don Smith, CES
	Kathryn Heikkila, CNER
REASON FOR LEAVING:	

EMPLOYING FIRM: Univ of Alaska Fairbanks	FROM: 9/67
FIRM ADDRESS: Speech Dept & KUAC FM-TV	TO: 12/73
JOB TITLE: DUTIES:	HOURS PER WEEK: 40+
Program Director KUAC-FM	STARTING SALARY:$ 1600 PER Mo
Station Manager KUAC-FM	FINAL SALARY:$ 1900 PER Mo
Head of Production FM & TV	NO. OF EMPLOYEES SUPERVISED:
taught broadcasting Courses	NAME OF SUPERVISOR:
REASON FOR LEAVING: Personal Travel	William G. Simpson, Jr.
	Charles M. Northrup

CONDITIONS OF EMPLOYMENT

PLEASE READ CAREFULLY THE ANNOUNCEMENT FOR THE JOB FOR WHICH YOU ARE APPLYING. YOUR NAME WILL BE MADE AVAILABLE ONLY TO VACANCIES THAT MEET THE CONDITIONS OF EMPLOYMENT INDICATED BY YOUR ANSWERS BELOW. RESTRICTIONS NOT COMMON TO THE JOB MAY RESULT IN NOT BEING CONSIDERED. YOU MAY ALTER YOUR CONDITIONS OF EMPLOYMENT BY NOTIFYING THE DIVISION OF PERSONNEL IN WRITING AT ANY TIME DURING THE PERIOD OF YOUR ELIGIBILITY. FAILURE TO ACCEPT A JOB OFFER UNDER THE CONDITIONS YOU HAVE INDICATED MAY RESULT IN REMOVAL OF YOUR NAME FROM THE ELIGIBLE LIST.

27. I AM WILLING TO ACCEPT EMPLOYMENT IN THE FOLLOWING LOCATIONS:

- [ ] ANY AREA OF STATE
- [x] ANCHORAGE
- [x] FAIRBANKS
- [x] JUNEAU
- [ ] KETCHIKAN
- [ ] _____

28. I AM WILLING TO WORK FOR THE FOLLOWING DEPARTMENTS:

[x]	ANY DEPARTMENT	[ ] 07	LABOR	[ ] 13	PUBLIC WORKS
[ ] 01	OFFICE OF THE GOVERNOR	[ ] 08	COMMERCE	[ ] 14	HIGHWAYS
[ ] 02	ADMINISTRATION	[ ] 09	MILITARY AFFAIRS	[ ] 15	ECONOMIC DEVELOPMENT
[ ] 03	LAW	[ ] 10	NATURAL RESOURCES	[ ] 18	ENVIRONMENTAL CONSERVATION
[ ] 04	REVENUE	[ ] 11	FISH & GAME	[ ] 19	STATE OPERATED SCHOOL
[ ] 05	EDUCATION	[ ] 12	PUBLIC SAFETY	[ ] 21	COMMUNITY & REGIONAL AFFAIRS
[ ] 06	HEALTH & SOCIAL SERVICES				

29. I WILL ACCEPT A POSITION REQUIRING TRAVEL TO THE FOLLOWING EXTENT:

- [ ] NO TRAVEL
- [ ] OCCASIONAL
- [x] FREQUENT
- [ ] CONTINUOUS
- [ ] REMOTE AREAS

30. I WILL BE ABLE TO REPORT TO WORK Immediately DAYS AFTER BEING NOTIFIED THAT I WAS HIRED.

CERTIFICATE OF APPLICANT

I HEREBY CERTIFY THAT ALL INFORMATION MADE ON OR IN CONNECTION WITH THIS APPLICATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY MISREPRESENTATION OR CONCEALMENT OF MATERIAL FACT WILL BE SUFFICIENT GROUND FOR REJECTION OF MY APPLICATION, REMOVAL FROM THE ELIGIBLE LIST, OR REMOVAL FROM EMPLOYMENT.

DATE 7/31/79 SIGNATURE (IN INK) Rhoda S. Pittman

CHECK YOUR APPLICATION! BE SURE THAT YOU HAVE FILLED IT IN COMPLETELY.

TYPING SKILL CERTIFICATION

IF THE JOB CLASS FOR WHICH YOU ARE APPLYING HAS A TYPING REQUIREMENT, YOUR APPLICATION WILL NOT BE CONSIDERED UNTIL THIS SELF-CERTIFICATION HAS BEEN COMPLETED. READ THE STATEMENT BELOW AND ESTIMATE YOUR TYPING SPEED AT THE LEVEL WHICH YOU ARE COMPLETELY CONFIDENT YOU CAN PERFORM. IF YOU ARE NOT CONFIDENT ABOUT YOUR TYPING SPEED, CONTACT THE LOCAL EMPLOYMENT CENTER AND ARRANGEMENTS WILL BE MADE FOR A TYPING TEST.

I HEREBY CERTIFY THAT I CAN TYPE AT A SPEED EQUAL TO OR GREATER THAN 60 WORDS PER MINUTE WITH FEWER THAN 5 TOTAL ERRORS (MINIMUM 5 MINUTE EXERCISE). I UNDERSTAND THAT I AM BEING EXAMINED ON THE BASIS OF THIS CERTIFICATION AND THAT INABILITY TO PERFORM AS CERTIFIED MAY CONSTITUTE BASIS FOR SEPARATION DURING THE PROBATIONARY PERIOD.

DATE 7/31/79 SIGNATURE (IN INK) Rhoda S. Pittman

THE STATE OF ALASKA IS AN EQUAL OPPORTUNITY EMPLOYER

Dept. of Public Safety

Robert J. Rowan
Director
Division of Motor Vehicles
Department of Public Safety
Date of Hire: 9-16-79 (In current position)
Salary: $5236.00 (26-D)

November 10, 1982

To Governor Elect William Sheffield

Attention: Selection Committee
Subject: Director Position, DMV

This letter is my application to retain the position of Director, Division of Motor Vehicles.

I feel that I have performed the duties as division director during the past three years in a highly efficient and effective manner, and I would like to continue in the position so I can continue to help the division and the department grow in its service to the people of Alaska. I also feel that I am the best qualified person in knowledge of the particular area which we encompass.

I had nine years of administrative experience with other departments prior to transferring to the Department of Public Safety in 1976. I was selected to serve as deputy director of DMV at that time. In September, 1979 I was appointed director when the previous director resigned to enter private industry. The division has had much growth in its efficiency and effectiveness during these years, emerging from a poorly organized inefficient unit into one that today rates among the best in the U.S.

I can promise that, if I am retained, I will continue to seek methods and ways to improve public service, internal work procedures, and overall effectiveness.

I can also promise that although I may strongly argue my views at staff meetings or on a one-to-one basis, I will always wholeheartedly support the final department or state position.

I am a member of the Registration, Title, Motor Vehicle Dealers and Manufacturers sub-committee of the American Association of Motor Vehicle Administrators (AAMVA). I have an excellent working relationship with the AAMVA staff and with the other Region IV members.

I would appreciate your positive consideration of this application. My personnel file is open for inspection at any time.

Sincerely,

Robert J. Rowan
Box 6512
Anchorage, AK 99502
Home 243-3069, Work 269-5551

attachment

Positions Held With The State of Alaska

9/79 - Present	Director, Division of Motor Vehicles, Department of Public Safety
4/76 - 9/79	Deputy Director, Division of Motor Vehicles, Department of Public Safety
6/73 - 4/76	Administrative Officer II, Anchorage International Airport, Department of Public Works
11/69 - 6/73	Administrative Officer II, Division of Aviation, Department of Public Works
7/65 - 11/69	Administrative Officer I, Division of Administrative Services, Department of Fish & Game

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES AND DRIVERS SERVICES

P. O. BOX 960
ANCHORAGE, ALASKA 99507

September 21, 1979

Bob Rowan, Deputy Director
Division of Motor Vehicles

Dear Bob:

Let's go back, mentally, for a few years. 1976 was a year that may be considered either great or disasterous, depending on how you look at it. That year we both joined the Division of Motor Vehicles; me, with an almost insurmountable challenge. A challenge that I knew very well that, individually, I would not be able to master. I looked for the best possible talent that I could find to help me in resolving the many problems facing this division. It was my extreme good fortune that you agreed to join me in a joint effort to resolve the problems and to develop an efficient, effective organization to serve the citizens of this state.

As I move on to new fields of endeavor, it is both fitting and appropriate that you assume the reins and the role of guiding the destiny of this division. It has been you, as much as I, who have developed the programs, the policies, and the procedures that have resulted in its successes in the last few years.

Never before in my entire career have I ever found an individual whose style, whose philosophies, and whose abilities were so compatible with those of my own approach. That this combination was effective is now history.

Please accept my sincere thanks, Bob, for the continued help, loyalty, and assistance in serving the citizens of Alaska and looking after the concerns of the people who make up this division.

As I depart, I gladly and happily turn over to you the control of this division, knowing that the citizens of Alaska will continue to be served

in the best possible manner, and that the employees of this division will be capably led.

Bob, for the million and one times that you have done those things necessary to guarantee success, whether or not I was aware of them, I offer you my personal thanks. I expect to continue in the years ahead, the friendship that I have enjoyed in my dealing with you in the past.

My Very Best,

Vern

MEMORANDUM State of Alaska

TO: ALL SECTION HEADS

DATE : April 22, 1971

FROM: Lars L. Johnson, Director
Division of Aviation

SUBJECT: Delegation of Authority

Mr. Ed Granger is hereby delegated the authority to assume all the powers and duties of my office which he may deem necessary for uninterrupted conduct of the affairs of this Division during the periods I am absent.

In Mr. Granger's and my absence, Mr. Robert J. Rowan is hereby delegated such authority.

This notice will remain in effect until cancelled in writing by me.

Copies to.

Ed Granger
Robert J. Rowan
Holger Jorgensen
Clayton C. Hueners
James E. Moody
Fred Branch, Fairbanks
Jack Peck, Anchorage
Tracy D. Kaldor, Juneau

STATE OF ALASKA

WILLIAM A. EGAN, Governor

DEPARTMENT OF PUBLIC WORKS

DIVISION OF AVIATION

4510 INTERNATIONAL AIRPORT ROAD
ANCHORAGE 99502

April 22, 1971

DELEGATION OF AUTHORITY

Mr. Robert J. Rowan
Administrative Officer
Division of Aviation

You are hereby delegated the authority to assume all the powers and duties of my office, as Acting Director, which you may deem necessary for the uninterrupted conduct of the affairs of this Division during my absence and Mr. Granger's absence.

Lars L. Johnson

Lars L. Johnson, Director
Division of Aviation

EMPLOYMENT APPLICATION

Main Office: Pouch C
Juneau, Alaska 99811
465-4446

Field Office: 121 W. 4th Street
Anchorage, Alaska 99501
279-5541

INSTRUCTIONS. A SEPARATE APPLICATION IS REQUIRED FOR EACH JOB CLASS FOR WHICH YOU ARE SEEKING EMPLOYMENT. COMPLETE AND SPECIFIC ANSWERS WILL AID IN RAPID AND ACCURATE PROCESSING OF THE APPLICATION. DETERMINATION OF WHETHER YOU QUALIFY FOR THE JOB CLASS SPECIFIED WILL BE BASED UPON THIS APPLICATION. APPLICATIONS FOR TEMPORARY EMPLOYMENT SHOULD BE SUBMITTED DIRECTLY TO THE STATE AGENCY WITH WHICH YOU ARE SEEKING WORK. APPLICATIONS FOR PERMANENT EMPLOYMENT, INCLUDING SEASONAL, SCHOOL YEAR, AND PART TIME WORK, SHOULD BE SUBMITTED TO THE DIVISION OF PERSONNEL AT ONE OF THE ABOVE ADDRESSES. PLEASE USE TYPEWRITER OR PRINT LEGIBLY WITH INK.

1. TITLE OF JOB CLASS FOR WHICH I AM APPLYING: Deputy Director, Motor Vehicles

DO NOT COMPLETE — Class Code | Range | Date

PERSONAL DATA

2. SOCIAL SECURITY NO. 554 24 8179

3. NAME (Last) ROWAN (First) ROBERT M.I. J

NAME, IF DIFFERENT, UNDER WHICH PREVIOUSLY EMPLOYED:

4. ADDRESS (Street &/or P.O. Box) P.O. Box 6512

(City) Anchorage (State) AK (Zip Code) 99502

5. TELEPHONE (Home) Area Code 907 277 6700 (Business) 279 3486

6. DATE OF BIRTH 12 27 22 (MO DAY YR)

REPORT ADDRESS AND TELEPHONE CHANGES PROMPTLY

7. EQUAL OPPORTUNITY EMPLOYMENT: THE STATE OF ALASKA IS REQUIRED BY FEDERAL LAW TO HAVE AN AFFIRMATIVE ACTION PROGRAM WHICH WILL ENSURE FAIR EMPLOYMENT PRACTICES. THE FOLLOWING QUESTIONS ARE MADE IN CONFORMANCE WITH THE ADMINISTRATION OF THIS FAIR EMPLOYMENT PRACTICES PROGRAM. ACTIONS TAKEN WILL NOT BE BASED ON RACE, SEX, NATIONAL ORIGIN, NOR OTHER NON-MERIT FACTOR.

7. a) I AM . . . (PLEASE CHECK ONE OF THE FOLLOWING BOXES:)

	White	Black	Spanish	American Indian	Asian	Eskimo Aleut	Other
FEMALE	W	C	E	A	B	D	J
MALE	X	O	S	K	L	P	U

b) I WAS BORN IN: THE UNITED STATES OF AMERICA (ENTER "Y" IN BOX) [Y]

ANOTHER COUNTRY: _____ (ENTER "N" IN BOX)

c) I AM A U. S. A. CITIZEN [ ]
YES - Enter "Y" in box.
NO - Enter "N" in box.

d) I AM A RESIDENT OF ALASKA (FROM 1956 to present time)

e) I AM A VETERAN (List date, Branch & Type of Discharge)
41-45, USAF, 2/47-7/64, Honorable

DO NOT COMPLETE [ ] [ ] [ ]

11. I LEARNED OF THE POSITION FOR WHICH I AM APPLYING FROM: (ENTER CORRECT CODE IN BOX AT LEFT) [S]

E-Employment Center
F-Personal Friend
S-State Employee
P-Div. of Personnel
D-A Dept. Personnel Office
R-Radio Station
T-T.V. Station
N-Newspaper
O-Other

12. I AM APPLYING FOR: (ENTER CORRECT CODE IN BOX AT LEFT) [P]

H - INITIAL HIRE IN PERMANENT POSITION
P - PROMOTION (Currently in a Permanent Position)
T - TEMPORARY EMPLOYMENT

DO NOT COMPLETE THIS SECTION [ ]
IN/REV. _____

EXAM RECORD

	SCORE	DATE	PF	WT	S
MO					
W					
TE					
ORAL					
O					
AV					
VP					
EC				DEPT.	
FA					

THE STATE OF ALASKA IS AN EQUAL OPPORTUNITY EMPLOYER

13. HAVE YOU EVER BEEN CONVICTED OF A MISDEMEANOR WITHIN THE PAST FIVE YEARS OR A FELONY WITHIN THE PAST TEN YEARS?
☐ YES ☒ NO IF YES, EXPLAIN ON A SEPARATE SHEET OF PAPER AND ATTACH IT TO THIS APPLICATION. (A CONVICTION RECORD IS NOT ABSOLUTE GROUNDS FOR DISQUALIFICATION. THE NUMBER, NATURE, RECENCY, AND RELATIONSHIP TO THE JOB APPLIED FOR WILL BE EVALUATED IN REVIEWING THIS APPLICATION.)

14. LIST RELATIVES EMPLOYED BY THE STATE OF ALASKA :
(1) Name: None Relationship: Dept.:
(2) Name: Relationship: Dept.:

15. DO YOU HAVE A VALID ALASKA DRIVERS LICENSE? ☒ YES ☐ NO IF YES, LIST NUMBER 80204

16. HAVE YOU ANY PHYSICAL OR EMOTIONAL DEFECTS, DISEASE OR AILMENTS WHICH WOULD AFFECT YOUR PERFORMANCE ON A JOB? IF YES, GIVE DETAILS.
☐ YES ☒ NO

DUCATION & EXPERIENCE

17. LIST CURRENT PROFESSIONAL LICENSES, CERTIFICATIONS, OR REGISTRATIONS:

18. LIST TYPES OF ELECTRONIC OR MECHANICAL EQUIPMENT OR MACHINES THAT YOU ARE QUALIFIED TO:

OPERATE	REPAIR
Electric typewriters	
Electronic calculators	

CURRENT STATE EMPLOYEES WITH PERMANENT OR PROBATIONARY STATUS NEED ONLY TO ENTER EDUCATION OR EXPERIENCE GAINED SINCE APPLYING FOR THEIR PRESENT POSITIONS WHEN COMPLETING ITEMS 19, 20, AND 21. IF YOU ARE SUCH AN EMPLOYEE PLEASE CHECK THIS BOX. ☐

19. CIRCLE HIGHEST GRADE COMPLETED: 1 2 3 4 5 6 7 8 9 10 11 12

20. DATE LAST ATTENDED:

21. DID YOU GRADUATE: ☐ YES ☐ NO

22. NAME AND ADDRESS OF GRADE OR HIGH SCHOOL LAST ATTENDED:
Palm Springs High, Palm Springs, Calif.

23. HIGH SCHOOL EQUIVALENCY CERTIFICATE (GED): (ISSUING AGENCY, NUMBER, DATE)

24. HIGH SCHOOL COURSES MOST RELATED TO THIS JOB CLASS:

25. EDUCATION OR TRAINING RECEIVED AFTER HIGH SCHOOL

NAME & LOCATION	DATES ATTENDED	NO. OF QUARTER HOURS EARNED	NO. OF SEMESTER HOURS EARNED	OTHER	GRADUATED YES/NO	DEGREE AND YEAR	MAJOR OR SUBJECTS TAKEN	DO NOT USE
.endale City College .endale, Calif.	9/45-2/47		Appox 60		no		Biological Sciences	
chorage Comm. College .chorage AK	9/63-12/63		3		no		Bus Admin	
:iv of Virginia, Extention 'lington, VA	54/55		3		no		Accounting	
AFI	56/57		3		no		Accounting	
SAF anute AFB, Ill.	3/47-10/47		18		yes		Weather Forecaster	
:eneral management schools ith Federal and State	56-75				yes		Supr Mngmnt labor Rel.	

EMPLOYMENT HISTORY. INCLUDE ALL JOBS WITHIN PAST TEN YEARS. GIVE EMPLOYER JOB HISTORY, IF RELATIVE TO JOB APPLIED FOR. INCLUDE ANY PERIOD OF UNEMPLOYMENT OVER THREE MONTHS LENGTH. USE ADDITIONAL PAGES IF NEEDED TO GIVE COMPLETE HISTORY. START WITH LAST OR PRESENT POSITION AND WORK BACKWARDS.

EMPLOYING FIRM: State of Alaska, DPW, Div of Aviation	FROM: June 1, 1973
FIRM ADDRESS: Anchorage International Airport	TO: Present time
JOB TITLE: Admin Officer II DUTIES:	HOURS PER WEEK: 37.5
See Attachment # 1	STARTING SALARY:$ 1630 PER month
	FINAL SALARY:$ 2425 PER month
	NO. OF EMPLOYEES SUPERVISED: 7
	NAME OF SUPERVISOR: Richard Jensen
	MAY WE CONTACT YOUR PRESENT
REASON FOR LEAVING: Still employed	EMPLOYER? yes

EMPLOYING FIRM: State of Alaska, DPW, Division of Aviation	FROM: Nov 6, 1969
FIRM ADDRESS: Puuch 6900, Anchorage AK	TO: June 1, 1973
JOB TITLE: Admin Officer II DUTIES:	HOURS PER WEEK: 37.5
See Attachment # 2	STARTING SALARY:$ 1265 PER mo
	FINAL SALARY:$ 1638 PER mo
	NO. OF EMPLOYEES SUPERVISED: 8
	NAME OF SUPERVISOR: Jack Peck
REASON FOR LEAVING: Lateral Transfer	

EMPLOYING FIRM: State of Alaska, Dept of Fish & Game	FROM: July 1965
FIRM ADDRESS:	TO: Nov 1969
JOB TITLE: Admin Officer I DUTIES:	HOURS PER WEEK: 37.5
See attachment # 3	STARTING SALARY:$ 877 PER mo
	FINAL SALARY:$ 1219 PER mo
	NO. OF EMPLOYEES SUPERVISED: 2-10
	NAME OF SUPERVISOR: Vern Roberts
REASON FOR LEAVING: Promotion	

EMPLOYING FIRM: US Air Force	FROM: ~~[illegible]~~ July 1941
FIRM ADDRESS:	TO: July 1964
JOB TITLE: Weather Forcaster/Analyst DUTIES:	HOURS PER WEEK: 40 plus
	STARTING SALARY:$ PER
See attachment # 4	FINAL SALARY:$ PER
	NO. OF EMPLOYEES SUPERVISED: 10-30
	NAME OF SUPERVISOR:
REASON FOR LEAVING:	

EMPLOYING FIRM:	FROM:
FIRM ADDRESS:	TO:
JOB TITLE: DUTIES:	HOURS PER WEEK:
	STARTING SALARY:$ PER
	FINAL SALARY:$ PER
	NO. OF EMPLOYEES SUPERVISED:
	NAME OF SUPERVISOR:
REASON FOR LEAVING:	

EMPLOYING FIRM:	FROM:
FIRM ADDRESS:	TO:
JOB TITLE: DUTIES:	HOURS PER WEEK:
	STARTING SALARY:$ PER
	FINAL SALARY:$ PER
	NO. OF EMPLOYEES SUPERVISED:
	NAME OF SUPERVISOR:
REASON FOR LEAVING:	

PLEASE READ CAREFULLY THE ANNOUNCEMENT FOR THE JOB FOR WHICH YOU ARE APPLYING. YOUR NAME WILL BE MADE AVAILABLE ONLY TO VACANCIES THAT MEET THE CONDITIONS OF EMPLOYMENT INDICATED BY YOUR ANSWERS BELOW. RESTRICTIONS NOT COMMON TO THE JOB MAY RESULT IN NOT BEING CONSIDERED. YOU MAY ALTER YOUR CONDITIONS OF EMPLOYMENT BY NOTIFYING THE DIVISION OF PERSONNEL IN WRITING AT ANY TIME DURING THE PERIOD OF YOUR ELIGIBILITY. FAILURE TO ACCEPT A JOB OFFER UNDER THE CONDITIONS YOU HAVE INDICATED MAY RESULT IN REMOVAL OF YOUR NAME FROM THE ELIGIBLE LIST.

27. I AM WILLING TO ACCEPT EMPLOYMENT IN THE FOLLOWING LOCATIONS:

☐ ANY AREA OF STATE

☒ ANCHORAGE ☐ FAIRBANKS ☐ JUNEAU ☐ KETCHIKAN ☐ _____

28. I AM WILLING TO WORK FOR THE FOLLOWING DEPARTMENTS:

☐	ANY DEPARTMENT	☐ 07	LABOR	☐ 13	PUBLIC WORKS
☐ 01	OFFICE OF THE GOVERNOR	☐ 08	COMMERCE	☐ 14	HIGHWAYS
☐ 02	ADMINISTRATION	☐ 09	MILITARY AFFAIRS	☐ 15	ECONOMIC DEVELOPMENT
☐ 03	LAW	☐ 10	NATURAL RESOURCES	☐ 18	ENVIRONMENTAL CONSERVATION
☐ 04	REVENUE	☐ 11	FISH & GAME	☐ 19	STATE OPERATED SCHOOL
☐ 05	EDUCATION	☒ 12	PUBLIC SAFETY	☐ 21	COMMUNITY & REGIONAL AFFAIRS
☐ 06	HEALTH & SOCIAL SERVICES				

29. I WILL ACCEPT A POSITION REQUIRING TRAVEL TO THE FOLLOWING EXTENT:

☐ NO TRAVEL ☒ OCCASIONAL ☐ FREQUENT ☐ CONTINUOUS ☐ REMOTE AREAS

30. I WILL BE ABLE TO REPORT TO WORK 10 working DAYS AFTER BEING NOTIFIED THAT I WAS HIRED.

CERTIFICATE OF APPLICANT

I HEREBY CERTIFY THAT ALL INFORMATION MADE ON OR IN CONNECTION WITH THIS APPLICATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY MISREPRESENTATION OR CONCEALMENT OF MATERIAL FACT WILL BE SUFFICIENT GROUND FOR REJECTION OF MY APPLICATION, REMOVAL FROM THE ELIGIBLE LIST, OR REMOVAL FROM EMPLOYMENT.

DATE Feb 29, 1976 *SIGNATURE (IN INK)* Robert L Moore

CHECK YOUR APPLICATION! BE SURE THAT YOU HAVE FILLED IT IN COMPLETELY.

TYPING SKILL CERTIFICATION

IF THE JOB CLASS FOR WHICH YOU ARE APPLYING HAS A TYPING REQUIREMENT, YOUR APPLICATION WILL NOT BE CONSIDERED UNTIL THIS SELF-CERTIFICATION HAS BEEN COMPLETED. READ THE STATEMENT BELOW AND ESTIMATE YOUR TYPING SPEED AT THE LEVEL WHICH YOU ARE COMPLETELY CONFIDENT YOU CAN PERFORM. IF YOU ARE NOT CONFIDENT ABOUT YOUR TYPING SPEED, CONTACT THE LOCAL EMPLOYMENT CENTER AND ARRANGEMENTS WILL BE MADE FOR A TYPING TEST.

I HEREBY CERTIFY THAT I CAN TYPE AT A SPEED EQUAL TO OR GREATER THAN _____ WORDS PER MINUTE WITH FEWER THAN _____ TOTAL ERRORS (MINIMUM 5 MINUTE EXERCISE). I UNDERSTAND THAT I AM BEING EXAMINED ON THE BASIS OF THIS CERTIFICATION AND THAT INABILITY TO PERFORM AS CERTIFIED MAY CONSTITUTE BASIS FOR SEPARATION DURING THE PROBATIONARY PERIOD.

DATE _____ *SIGNATURE (IN INK)* _____

THE STATE OF ALASKA IS AN EQUAL OPPORTUNITY EMPLOYER

ATTACHMENT # 4

United States Air Force
Air Force Security Service

July 1950-July 1964

During this period I worked as a special analyst, supervising various sized units of 5 to 30 persons working on special projects of a classified nature. During portions of this period I was assigned directly to the National Secuirty Agency (NSA) for duty. During the period 1956 to 1964 I twice, represented the Alaska area at meetings held in Japan concerning items of mutual concern to the two areas. I was awarded the Air Force Commendation Medal for my contributions to the Air Force Secuirty Service effort in Alaska.

Robert M. Henderson
Director
Division of Fish & Wildlife Protection
Department of Public Safety
Date of Hire: 3-14-83 (In current position)
Salary: $4885.00 (26-B)

Robert M. Henderson
P.O. Box 1325
Palmer, Alaska 99645
745-4973

CAREER OBJECTIVE

I offer nineteen years of practical experience in law enforcement in the State of Alaska, qualifying for a position as Director.

WORK EXPERIENCE

Dec to Present 1975 — City Of Palmer, Palmer, Alaska

Chief of Police.

Aug to Dec 1975 — O'Neill Investigations, Anchorage, Alaska

Security supervisor for Atlantic Richfield operations, Prudhoe Bay, Alaska.

1973 to 1975 — Kodiak Police Department, Kodiak, Alaska

As Lieutenant of police, investigated all felony criminal complaints, supervised the investigation of all felony criminal complaints, court officer and acting Chief of Police. Supervised five desk officers, acted as training officer for the Kodiak Police Department and prepared all court trials and reviewed all criminal cases with the District Attorney's Office.

1972 to 1973 — Alaska State Troopers, Anchorage, Alaska

Stationed in Anchorage as a Trooper, then assigned to open a one man post in Alyeska, Alaska. Assigned to the Division of Protection, Department of Public Safety, Kodiak, Alaska, working with the commercial fisheries.

1967 to 1972 — Kodiak Police Department, Kodiak, Alaska

As Sergeant of police until promoted to Lieutenant in 1970.

1965 to 1967 — Commercial Fishing

1953 to 1965 — United States Navy

EDUCATION

May 1980 — University of Alaska, Mat-Su Community College, Palmer, Alaska

Associate of Arts Degree in Police Administration

June 1974 — Federal Bureau of Investigation National Academy, Quantico, Va.

Relevant courses--- Applied Criminology, Management for Law Enforcement, Forensic Science, Criminal Law, Advanced Latent Fingerprinting, Crime Scenes Photography, FBI Firearms, FBI Practical Pistol Course.

August 1971 — United States Military Police School, Fort Gordon, Georgia

Civil Disturbances Orientation Course in Command Level.

April 1971 — Bureau of Narcotics and Dangerous Drugs, Washington D.C.

Police Training School: Drug identification, drug investigation, drug testing, public speaking
International Association of Chiefs of Police: Principals of Police Administration.

Nov 1967 — Alaska State Troopers Academy, Anchorage, Alaska

Police Recruit School .

OTHER EDUCATION

Advanced Certificate, Alaska Police Standards Council

University of Alaska, Kodiak, Alaska

Radiological defense, Police administration, Procedural Law, Criminal Law, Criminal investigation.

Kodiak High School, Kodiak, Alaska

Lee H. Edwards High School, Ashville, North Carolina

PERSONAL DATA

Age 47, married, good health; 6'1": 190 lbs.
A portfolio of work, former affiliations, personal accomplishments and references available for review.

Michael C. Kolivosky
Director
Division of Alaska State Troopers
Department of Public Safety
Date of Hire: 1-01-83 (In current position)
Salary: $5050.00 (26-C)

RESUME

MICHAEL C. KOLIVOSKY

PERSONAL BIOGRAPHY

Michael C. Kolivosky
2407 Ka-See-An Drive
Juneau, Alaska

Date of Birth: October 12, 1941
Place of Birth: Niagara Falls, New York

Height: 6' Weight: 200

I married Melinda Kolivosky on July 12, 1974, and have three children by a previous marriage; my daughters reside in Fairbanks, and my son, Michael, lives in Juneau.

Sports/Hobbies:

I have both participated in and coached youth in baseball, ice hockey, and boxing.

I have boxed professionally in Alaska, culminating with the professional heavyweight championship in 1977. Previously, I was a two-time Alaska Golden Gloves champ and gold medal winner in the 1974 Arctic Winter Games.

In 1960 I played professional baseball with the New York Yankee farm system.

Additionally, I enjoy weight lifting, racquetball, running, and photography.

Organizations:

I am a member of the FBI National Academy Graduates, Alaska Chapter and the Alaska Peace Officers Association.

EDUCATION

I graduated from Bishop Duffy High School, Niagara Falls, New York, 1959. In 1962, I attended Bryant and Stratton Business Institute, Buffalo, New York and received a diploma in Sales, Advertising, and Management.

In 1978, I graduated from the FBI National Academy in Quantico, Virginia.

In 1980, I received an Associate of Arts degree in Police Administration from the University of Alaska, Matanuska-Susitna Community College, graduating with a 3.8 grade point average.

Michael C. Kolivosky, B

EMPLOYMENT HISTORY/DEPARTMENT OF PUBLIC SAFETY

a. Duty Assignments

July, 1982 to present: Captain, Juneau, Detachment Commander of "A" Detachment, which encompasses all of Southeast Alaska

Septemb , 1978 to July, 1982: Lieutenant, Anchorage, Commander of Bureau of Vehicle Enforcement; Program Director of the Federal Bureau of Motor Carrier Safety Weighing and Inspection Demonstration Program

May, 1978 to September, 1978, Lieutenant, FBI Academy, Quantico, Virginia, student

April, 1972 to May, 1978, Corporal (1972-1974), Sergeant (1974-1976), Lieutenant (1976-1978), Palmer, Detachment Commander of the Matanuska-Susitna Valley Detachment. In 1976 this Detachment was chosen Outstanding Trooper Detachment of year.

September, 1969 to April, 1972, Corporal, Fairbanks, Patrol Shift Supervisor

June to September, 1969, Trooper, Tok, patrol duties

October, 1967 to June, 1969, Trooper, Nome, patrol duties

October, 1966 to October, 1967, Trooper, Fairbanks, patrol duties

Michael C. Kolivosky, C(a)

RESUME

Name:	Robert J. Sundberg
Address:	Nowell Avenue, Juneau, AK 99801
Telephone Number:	(907) 465-4322 (Office) (907) 586-9421 (Home)
Current Employment:	Commissioner, Department of Public Safety
Previous Employment:	City of Fairbanks Police Department 1955 - 1976 (Retired as Chief of Police) Alyeska Pipeline Security Company 1976 - 1978, Served as Security Manager during construction and start-up. (Resigned June 9, 1978)
Education:	Negaunee High School, Negaunee, Michigan - 1948 Northern Michigan College, Marquette, MI 1952 - 1953
Other Training and Education:	Territory of Alaska Police Academy - Fairbanks 1956 F.B.I. National Academy - Washington, D.C. 1962 Organized Crime - University of Oklahoma 1968 National Symposium Police Community Relations - F.B.I. Academy Quantico Virginia 1972 National Conference on Criminal Justice - Washington, D.C. 1973 Executive Development Seminar - Portland, OR 1973 Coordination to Fight Organized Crime - Seattle, WA 1975 F.B.I. Academy Retraining Session - Quantico, VA 1974 Symposium of Adjudication of Traffic Violations - University of Denver Law School - Denver, CO 1972 Terrorism - F.B.I. 1977 (Numerous other symposiums,

conferences, and training sessions both in State and out of State over the years.)

Professional Organization Memberships:

International Association of Chiefs of Police
Alaska Association of Chiefs of Police (Life Member)
Alaska Peace Officers Association (Life Member)
F.B.I. National Academy Associates

Governmental Positions:

Member City of Fairbanks City Council (1978 - 1982)
Alaska Police Standards Council (1972 - 1982)
Alaska Municipal League Legislative Committee (1978 - 1981)
Alaska Municipal League - Chairman, Legislative Committee (1982 - 1983)

Offices Held in Professional Organizations:

Alaska Association of Chiefs of Police President (1964 - 1965, 1969 - 1970)
Alaska Peace Officers Association President (1967 - 1968)
International Association of Chiefs of Police, Membership Committee (1970 - 1976)

Military:

U.S. Air Force (1948 - 1952)

Personal:

Married, wife, Jeanne M. Sundberg, formerly of L'Anse, MI
Four Children:
Sandra - 27
Barbara - 26
Patricia - 25
Robert - 18
Born March 20, 1930, Negaunee, MI
52 years of age
180 pounds, 5'9"
Excellent Health

Charles A. Smith
Director
Highway Safety Planning Agency
Department of Public Safety
Date of Hire: 2-16-77 (In current position)
Salary: $4885.00 (24-E)

PP- Pub. Safety

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

POUCH N
JUNEAU, ALASKA 99811
PHONE:

November 24, 1982

William R. Nix, Commissioner
Department of Public Safety
Pouch N
Juneau, Alaska 99811

Dear Commissioner Nix:

As requested by Governor Elect Sheffield's Transition Team and outlined in Governor Hammond's memorandum of November 15, 1982, I hereby submit my resignation as Director of the Alaska Highway Safety Planning Agency, effective February 1, 1983.

I do, however, wish to be considered for retention in my position under the new administration, and am attaching to this letter a copy of my resume outlining my qualifications and experience.

Sincerely,

Charles A. Smith, Director
Alaska Highway Safety Planning
Agency

CAS/sn
Attach:

CHARLES A. SMITH
P. O. BOX 493
DOUGLAS, ALASKA 99824

PHONE: 789-9418 - Residence
465-4371 - Work

PERSONAL: Resident of Juneau since August 1960; Age: 43; Married; Military Security Clearance: Secret; Hobbies: Jewelry and ivory manufacturing, fishing.

OBJECTIVE: Director of Highway Safety or Commissioner/Deputy Commissioner in local assistance agency such as Community and Regional Affairs.

EDUCATION:

1959 - Graduated: Aztec High School, Aztec, New Mexico

1962 - The LaSalle Correspondence Law Course

1963 - 1964 - The Blackstone Correspondence Law Course

1964 - 1982 - Various College Courses such as statistics, business, real estate, finance/accounting -- No College Degree

1969 - 1982 - Various job related management courses and seminars as follows:

- Insurance, Retirement and Estate Planning courses, Mutual of New York Life Insurance Company;
- Highway Safety Management Course, U. S. Department of Transportation Training Institute;
- Supervisory Management, American Management Association;
- Management by Objectives, Dr. Don Ehet;
- Grant Writing, Grant Management, Grant Monitoring and Auditing, U. S. Department of Transportation Training Institute; and
- The Dale Carnegie Management and Human Relations Course.

MILITARY EDUCATION:

1964 - 1965 - U. S. Army Administrative Course, Fort Ord, California;

1967 - U. S. Army Officer Candidate School, Fort Benning, Georgia;

1977 - U. S. Army Personnel Management and Administration Basic Officers Course;

1978 - Selective Service System Management Course; and

1980 - 1981 - U. S. Army Personnel Management and Administration Advanced Officers Course;

CERTIFICATES/LICENSES:

- Life Insurance License; and
- Real Estate License (Not Presently Active)

REFERENCES:

- Senator Bill Ray, Juneau, Alaska;
- Senator Jay Kerttula, Palmer, Alaska;
- Representative Jack Fuller, Nome, Alaska;
- Representative Bette Cato, Valdez, Alaska;

- Mr. Paul Gagnon, Former President
  Alaska Hotel Properties
  208 North Franklin
  Juneau, Alaska 99801

- E. L. "Red" Holloway
  3441 Douglas Highway
  Juneau, Alaska 99801

- Philip A. Ramos, Former President
  TJM Investments, Inc.
  Fairbanks, Alaska 99707

- Joseph Thomas, Sr. (Father-in-law)
  Triangle Bar
  Juneau, Alaska 99801

- Joseph Thomas, Jr. (Brother-in-law)
  Triangle Bar
  Juneau, Alaska 99801

WORK EXPERIENCE:

1977 To Present

EMPLOYER:
State of Alaska
Department of Public Safety
Highway Safety Planning Agency

ADDRESS:
Pouch N
Juneau, Alaska 99811

JOB TITLE:
Director

DUTIES:
Following is a position description done by Peet, Marwick and Mitchell:

1977 To Present (continued)

DUTIES: (Description Continued)

Generally responsible for the statewide program management and encouragement. Responsible for the program conduct under both federal and state law, regulations, opinions, and decisions.

Responsible within his office for the supervision of the personnel assigned to his staff.

Must develop and recommend procedures to be established, instructions to be issued and guidelines to be followed by state and local agencies involved in the federal reimbursement projects. Responsible to, and receives general instructions from, the Commissioner of Public Safety (Governor's Representative for Highway Safety).

By the Commissioner's delegation and under his guidance, the Director will represent the State of Alaska in matters pertaining to the National Highway Safety Act at meetings, hearings, seminars, etc., with the National Highway Safety Bureau, the U. S. Department of Transportation, the U. S. Department of Health, Education and Welfare and Congressional committees, upon invitation. Is responsible for maintaining liaison with the representatives of other states or federal agencies in pursuit of the furtherance of the state program.

The performance of this administrative and planning functions will include:

a. Contact, encourage, review and coordinate the Highway Safety activities of several state agencies and the political subdivisic of the state.

b. Undertake statewide planning studies and analyses to support development of sound state highway safety programs to be submitted to the National Highway Safety Bureau.

c. Coordinate statewide public information and traffic safety education efforts.

d. Develop and cause to be maintained, adequate basic documentation and records of costs incurred at both state and local political subdivisions level.

e. Develop and prepare fiscal reports to be submitted to the National Highway Safety Bureau.

1977 To Present (continued)

DUTIES: (Description continued)

f. To develop and correlate the following reports to the National Highway Safety Bureau by the listed dates:

1. Establish a reporting base year expenditure pattern for the entire state's traffic safety.

2. Establish a Highway Safety Program needs estimate for the entire state.

3. Establish a comprehensive Alaska Highway Safety Program for the entire state.

4. Establish an annual Highway Safety work program (five year plan) for the state.

Basic functions of the position are:

a. Giving and getting information.

b. Supplying personal services.

c. Giving administrative services.

d. Explaining policies, procedures or methods.

e. Interpreting programs, plans or individual actions.

f. Maintaining coordination, securing cooperation, or settling controversies by means of personal contact.

SEE ATTACHED ORGANIZATIONAL CHART

1976 EMPLOYER:

State of Alaska
Department of Public Safety
Highway Safety Planning Agency and
Division of Motor Vehicles

ADDRESS:

Pouch N
Juneau, Alaska 99811

JOB TITLE:

Federal Projects Coordinator, and
Deputy Director of Division of Motor Vehicles

1975 (Continued)

DUTIES:

In 1975 drafted legislation and worked on Executive Order to consolidate various aspects of motor vehicles into one agency.

As a result, Motor Vehicle Registration was transferred from the Department of Revenue to the Department of Public Safety and consolidated with Driver Licensing to form the Division of Motor Vehicles.

Upon consolidation, I was asked to take the newly created position of Deputy Director of Motor Vehicles to handle the transition. Since the job was temporary in nature, I also retained the responsibilities and duties of Grant Coordinator, directing the state's highway safety program.

All administrative matters, aside from the day-to-day management of the new division, and management of the Southeast Alaska portion of the division, were the responsibility of the Deputy Director.

The duties involved all reorganizational matters including, personnel reclassification, budgeting, contract negotiations with vendors, fee agents and state and local agencies, personnel management and other related duties as assigned by the Commissioner.

Many of the systems, such as, staggered registration, computerized registration and licensing, mail-in registration, machine drivers license testing and others were designed during this time and later implemented.

During this time, the duties of the head of the Highway Safety Agency were also the responsibility of this position. The duties were the same as outlined for the period 1977 through the present.

Late in 1976, the Director of Motor Vehicles resigned, and I was offered the job as Director. Not wanting to move to Anchorage, I declined the position and through reorganization, the position of Federal Projects Coordinator in charge of the Highway Safety was reclassified to Director of the Highway Safety Planning Agency, which became a "mini division", which meant the division was smaller and the head of it was not considered a full director.

1976 (Continued)

DUTIES: (continued)

In addition to previous highway safety duties, in order to justify reclassification, additional duties were assigned to the position. These duties included:

- Legislative liaison for the department;
- Review of all municipal ordinances dealing with motor vehicles;
- Review of all applications for special events involving vehicles, such as snowmobile races, bike-athons, walk-athons, and so on;
- Re-codification, printing and distribution of all motor vehicle statutes and regulations;
- Serving on boards, committees and commissions relating to motor vehicles.
- Representing the U. S. Department of Transportation (DOT), National Highway Traffic Safety Administration, along with other members of the U. S. DOT, such as Admiral Hayes of the Coast Guard, Gene Hanna of the Federal Highway Administration, in briefing the Governor on U. S. DOT matters.
- Coordinating and working on agreements between the state and federal agencies on matters such as Emergency Medical Services (U. S. Coast Guard - 1976), search and rescue (U. S. Army and Air Force - 1979)

10/19/71 - 1976

EMPLOYER:

State of Alaska
Department of Public Safety
Alaska Highway Safety Bureau

ADDRESS:

Pouch N
Juneau, Alaska 99811

JOB TITLE:

Federal Projects Coordinator

DUTIES:

Generally responsible for the statewide program management and encouragement. Responsible for the program conduct under both federal and state law, regulations, opinions, and decisions.

Responsible within his office for the supervision of the personnel assigned to his staff.

10/19/71 - 1976 (Continued)

DUTIES:

Must develop and recommend procedures to be established, instructions to be issued and guidelines to be followed by state and local agencies involved in the federal reimbursement projects. Responsible to, and receives general instructions from, the Commissioner of Public Safety (Governor's Representative for Highway Safety).

By the Commissioner's delegation and under his guidance, the Director will represent the State of Alaska in matters pertaining to the National Highway Safety Act at meetings, hearings, seminars, etc., with the National Highway Safety Bureau, the U. S. Department of Transportation, the U. S. Department of Health, Education and Welfare and Congressional committees, upon invitation. Is responsible for maintaining liaison with the representatives of other states or federal agencies in pursuit of the furtherance of the state program.

The performance of this administrative and planning functions will include:

a. Contact, encourage, review and coordinate the Highway Safety activities of several state agencies and the political subdivision of the state.

b. Undertake statewide planning studies and analyses to support development of sound state highway safety programs to be submitted to the National Highway Safety Bureau.

c. Coordinate statewide public information and traffic safety education efforts.

d. Develop and cause to be maintained, adequate basic documentation and records of costs incurred at both state and local political subdivisions level.

e. Develop and prepare fiscal reports to be submitted to the National Highway Safety Bureau.

f. To develop and correlate the following reports to the National Highway Safety Bureau by the listed dates:

1. Establish a reporting base year expenditure pattern for the entire state's traffic safety.

10/19/71 - 1976 (continued)

DUTIES: (continued)

2. Establish a Highway Safety Program needs estimate for the entire state.

3. Establish a comprehensive Alaska Highway Safety Program for the entire state.

4. Establish an annual Highway Safety work program (five year plan) for the state.

Basic functions of the position are:

a. Giving and getting information.

b. Supplying personal services.

c. Giving administrative services.

d. Explaining policies, procedures or methods.

e. Interpreting programs, plans or individual actions.

f. Maintaining coordination, securing cooperation, or settling controversies by means of personal contact.

In addition to the duties and responsibilities as head of the Highway Safety Agency, during this period, I was also responsible for administration of the following federal programs within the Department of Public Safety:

- Public Employees Program (PEP), predecessor to the SEATA Program;
- Hunter Safety Program;
- Law Enforcement Assistance Administration (LEAA);
- Boating Safety Program; and
- Fatality Analysis Records System (FARS).

All of these programs required fiscal and contract management, as well as various state and federal reports and audits.

In 1974-1975, as Co-Chairman of the Governor's AS28 Review Committee, which was made up of eight legislators and eight members from the general public, affected state and municipal agencies and attorneys and judges, a complete re-codification of all motor vehicle regulations and statutes was completed.

10/19/71 - 1976 (continued)
DUTIES: (continued)

In addition, legislation was drafted to strengthen such areas as drunk driving laws, uniform bail system within the court system, uniform statewide traffic citation and accident report form, and mail-in bail system.

Previous to this, efforts were concentrated on development of programs dealing with emergency medical services and driver education.

Prior to this time, there were many parts of the state, where in case of an accident or illness, it took up to eight hours to get an ambulance or medical assistance. As a result of our programs, almost any place on the highway network or communities in the state now have ambulance and emergency medical technician/paramedic/CPR assistance available within half an hour, and in most populated areas within minutes. There are countless Alaskans walking around today as a direct result of the purchase and equipping of most of the ambulances and the training of emergency medical technicians through Highway Safety.

In addition, driver education programs such as "Safety Bear", defensive driving courses, alcohol information school, and many high school driver education programs are the result of Highway Safety assistance or implementation.

There are eighteen areas with which the Highway Safety Agency is concerned. A list of these standards with a brief explanation is attached.

Also attached is a copy of the organizational chart in effect at that time.

12/16/70 - 10/18/71

EMPLOYER:
State of Alaska
Department of Administration
State Retirement System
Juneau, Alaska 99811

JOB TITLE:
Benefits Specialist

12/16/70 - 10/18/71 (Continued)

DUTIES:

While working with the State Retirement System, I was appointed Assistant to the Administrator. In this capacity, I acted as Office Manager, responsible for the distribution of work and general work flow. In addition, I often had to make decisions as to type and amounts of benefits when questionable. I also had the responsibility for processing payments, refunds and claims. Contributions had to be credited to the proper accounts. There were about 30,000 employees making contributions into the Teacher's Retirement System, Public Employees Retirement System and Social Security. It should be borne in mind that in addition to State employees, many political subdivisions belonged to the system.

Another part of my duties was the proper accounting of funds, supply management, including requisitioning along with personnel management.

10/04/70 - 12/15/70

EMPLOYER:
State of Alaska
Department of Public Safety
Highway Safety Bureau
Juneau, Alaska

JOB TITLE:
Administrative Assistant II

DUTIES:

- Assisted in coordinating all highway safety activities in the state.
- Assisted in studies and analyses to support development of sound highway safety programs.
- Assisted in development and maintenance of records of costs incurred at both state and local levels.
- Assisted in preparation of fiscal reports to be submitted to the National Highway Safety Bureau.
- Assisted in compiling all reports on expenditures; needs estimates; and comprehensive highway safety program for Alaska as needed by the National Highway Safety Bureau.
- Researched statistics and other areas as required in development of this program.

11/04/70 - 12/15/70 (continued)

DUTIES: (continued)

- Made personal appearances and talks in connection with the program.
- Dealt with a variety of government officials and private persons through moderate travel.
- Was responsible for the continued functions of the office and for supervision of the secretarial position in the Director's absence.

2/68 - 3/70

EMPLOYER:
K & L Distributors, Inc.

ADDRESS:
300 - 120th Avenue N. E.
Bellevue, Washington

JOB TITLE:
Southeast Alaska Area Representative

DUTIES:
Managed the Juneau area, representing a liquor wholesale and beverage and supply company. This included taking orders, accounting, collections, and supply management. Also managed Southeast Alaska area from Juneau to Yakutat.

6/67 - 1/68

EMPLOYER:
Santa Fe Book and Stationery
Santa Fe, New Mexico

JOB TITLE:
Sales Manager

DUTIES:
Upon completion of Officer Candidate School, my wife, who was staying in Santa Fe, New Mexico, while I was attending the course, became ill, and was unable to travel for some time. I took the job as sales manager until we could return to Alaska.

My duties were to train and supervise salesmen. Handled all accounting for Sales Department. Handled state bids for office supplies and equipment. Administered entire Northern New Mexico area. Handled all administrative matters for Sales Department.

3/65 - 2/67

EMPLOYER:
Mutual of New York Life Insurance Co.

ADDRESS:
218 Front Street
Juneau, Alaska 99801

JOB TITLE:
Assistant to Area Manager

DUTIES:
In addition to being a Field Representative, assisted in training and supervising new sales personnel. Handled administrative duties for company in area, including accounting and supply management. Left to attend Officer Candidate School.

8/60 - 9/64

EMPLOYER:
Daily Alaska Empire

ADDRESS:
Main Street
Juneau, Alaska 99801

JOB TITLE:
Circulation Manager, Classified Advertising Manager, Advertising Manager

DUTIES:
Managed Circulation Department and Advertising Department. Supervised carriers, mail room and the training of sales personnel. Initiated rural newspaper delivery. Handled all accounting and cost control for departments. Responsible for supply ordering and management.

1/62 - 1/64

EMPLOYER:
Future Investors in Alaska; A Commercial Land Clearing Business; Cinema Alaska, A Commercial Photography Business; Alaska Peat Moss Corporation, an Industrial Corporation.

ADDRESS:
Juneau, Alaska

1/62 - 1/64 (continued)

JOB TITLE:
Managing Partner

DUTIES:
Responsible for all business management of the companies, including accounting, personnel, supply, contracting and related matters. This work was in addition to regular jobs, accomplished evenings and weekends.

5/69 - 7/60

EMPLOYER:
Rogers Oil Company

ADDRESS:
Las Vegas Highway
Santa Fe, New Mexico

JOB TITLE:
Assistant Bulk Plant Manager

DUTIES:
Making out delivery orders and insuring they were carried out for wholesale gasoline company. Handled accounting of orders and collections. Ordered petroleum products and supplies and managed records for company.

MILITARY EXPERIENCE:

2/82 to Present

EMPLOYER:
Alaska Army National Guard

RANK:
Major

DUTIES:
Selective Service Officer responsible for training of Alaska National Guard Selective Service section. Also, in case of emergency, responsible for training and supervising Army, Navy and Marine Corps recruiters to assist in implementing a draft in Alaska if authorized by Congress. During non-emergency, responsible for training and planning for emergency and developing and implementing plans for Selective Service registration.

MILITARY EXPERIENCE (continued)

7/77 - 2/82

EMPLOYER:
Alaska Army National Guard

RANK:
Captain

DUTIES:
Selective Service Officer responsible for all unit administrative matters, as well as being prepared to report for duty on 72 hours notice assume duties as Area Officer in the Juneau/Southeast area, supervising Army recruiter and all compensated and uncompensated employees in the area.

1972 - 1977

EMPLOYER:
Alaska Army National Guard

RANK:
First Lieutenant

DUTIES:
Member of headquarters section, holding various jobs including Assistant Training Officer for the State, Staff Officer and others. Wrote plans for training and exercises as well as staff reports dealing with regional and statewide National Guard issues. Attended some annual training sessions attached to Eskimo Scout Batallions, as advisor and mustering officer responsible for pay.

1968 - 1972

EMPLOYER:
Alaska Army National Guard

RANK:
Second and First Lieutenant

DUTIES:
Began as Platoon Leader and moved to Executive Officer in the 910th Engineer Company, headquartered in Juneau.

Became Company Commander in 1969.

As Company Commander, I supervised and had over-all responsibility for 125 men. My direct supervision was over six men, who, in turn, supervised from 20 to 40 men each.

MILITARY EXPERIENCE (continued)

1968 - 1972

DUTIES: (continued)

My responsibilities varied greatly in that I had over-all responsibility for the feeding, clothing and equipping of all members, as well as the accomplishment of a variety of engineering and construction tasks.

I was responsible for all fiscal and property accounting, requisitioning of food, clothing, supplies, equipment and parts. Supervision over maintenance functions.

Also, planning, coordination and implementation of projects.

The dollar amount of equipment and supplies I was responsible for about two million dollars.

Also responsible for personnel management and general administration.

Commanded the Juneau main unit, as well as a platoon of 40 men in Fairbanks.

During the period I was Commander, the unit excelled in recruitment and retention. Also all training and inspections were above average. In 1969 and 1970, the unit was cited for outstanding general inspections. During annual training (2 weeks active duty) held in Juneau in 1971, the unit built playgrounds, a rifle range, tore down and cleaned up the old Montana Creek sawmill site, built an access to the Boy Scout Camp, disposed of cases of old explosives that had been left in old shacks, as well as hauling fill for the City and Borough of Juneau maintenance shop.

At the conclusion of this training period I was awarded the Army Commendation Medal for outstanding management and achievement by Governor Bill Egan.

During my tenure, the unit, working with the Alaska State Troopers, assisted stranded hunters, was instrumental in minimizing property loss and damage due to flooding conditions in the Juneau area. Rebuilt roads and bridges and installed culverts in the area, replaced worn stairways throughout Juneau and continued to improve playgrounds such as Savikko Park, Cope Park, Evergreen Park, Melvin Park and the Montana Creek Rifle Range.

MILITARY EXPERIENCE (continued)

1968 - 1972

DUTIES: (continued)

During the September 1971 Alaska Airlines crash, working with the Alaska State Troopers, Commanded the National Guard unit working on recovery operations, and provided the Armory as the morgue for crash victims, as well as staging area and support for National Guard troops involved.

Coordinated directly with Governor Bill Egan on matters relating to the welfare and operations of the the National Guard unit during this disaster, having frequent meetings during the situation.

OTHER EXPERIENCE AND AFFILIATIONS:

- Member of BPOE #420 for 19 years.
- For quite a few years was chairman of various fund raising committees for Elks, such as high school programs and so on.
- 1964 - 1965 - Jaycees
  Was Chairman of Muscular Dystrophy Association Fund Raising Committee and as a result, became State President for Muscular Dystrophy Association in the late sixties. Worked Southeast Alaska myself, and with various people throughout the state. Some of the individuals worked with were:
  - George Brandt, Regional Manager
    Muscular Dystrophy Association of America
  - Peter D. Hocson, Executive Vice-President
    National Bank of Alaska, Anchorage
  - Epsilon Sigma Alpha Sorority, Statewide
  - Bill Sheffield, Caberet Hotel and Restaurant
    Display of Jerry Lewis Coin Cannisters
  - Phil Zarro, Manager
    Baranof Hotel
    Assisted in wine tasting and Mexican food fund raisers for MDA in Juneau

AFFILIATIONS: (continued)

- 1979, 1980, 1981 and 1982: Executive Board member representing the State of Alaska, Washington, Oregon and Idaho, on National Association of Governors' Highway Safety Representatives, which influences national issues on highway safety.
- 1970 - Present: Member National Association of Governors' Highway Safety Representatives.
- 1968 - Present: Alaska National Guard Officers' Association.
- 1976 - Present: American Association of Motor Vehicle Administrators.
- 1974 - 1981: Executive Committee, National Committee on Uniform Traffic Laws and Ordinances.
- 1977 - 1979: President, Southeast Alaska Emergency Medical Services Board.
- 1975 - 1976: Co-Chairman AS28 Revision Committee.
- 1976 - Present: Member, International Platform Association.

OTHER EXPERIENCE:

INSTRUCTOR:

- Have instructed in many military subjects throughout National Guard career.
- 1974 - Taught Management by Objectives course to Highway Safety Technical Advisory Committee, which was made up of various local officials such as mayors, managers, Chiefs of Police, engineers, etc.
- Have conducted many seminars dealing with highway safety.
- While with Retirement System, conducted seminars on system for teachers and PERS groups.

LECTURER:

- 1978 and 1979 - Was invited to speak to legislators from Washington, Oregon and Idaho on highway safety legislative matters.

LECTURER: (continued)

- Have made presentations to various groups such as, Alaska Women's Highway Safety Leaders, Alaska Truckers' Association, Alaska School Bus Contractors' Association, Alaska Highway Users Federation, Chambers of Commerce, etc.

- Have testified before the Legislature on National Guard and Highway Safety matters since 1970.

PUBLICATIONS:

- 1972 - Present - Annual Statewide Highway Safety Plans.

- 1973 - Statewide Emergency Medical Services Plan.

- Various statewide plans dealing with the Eighteen Highway Safety Standards.

AWARDS:

- 1970 - Army Commendation Medal.

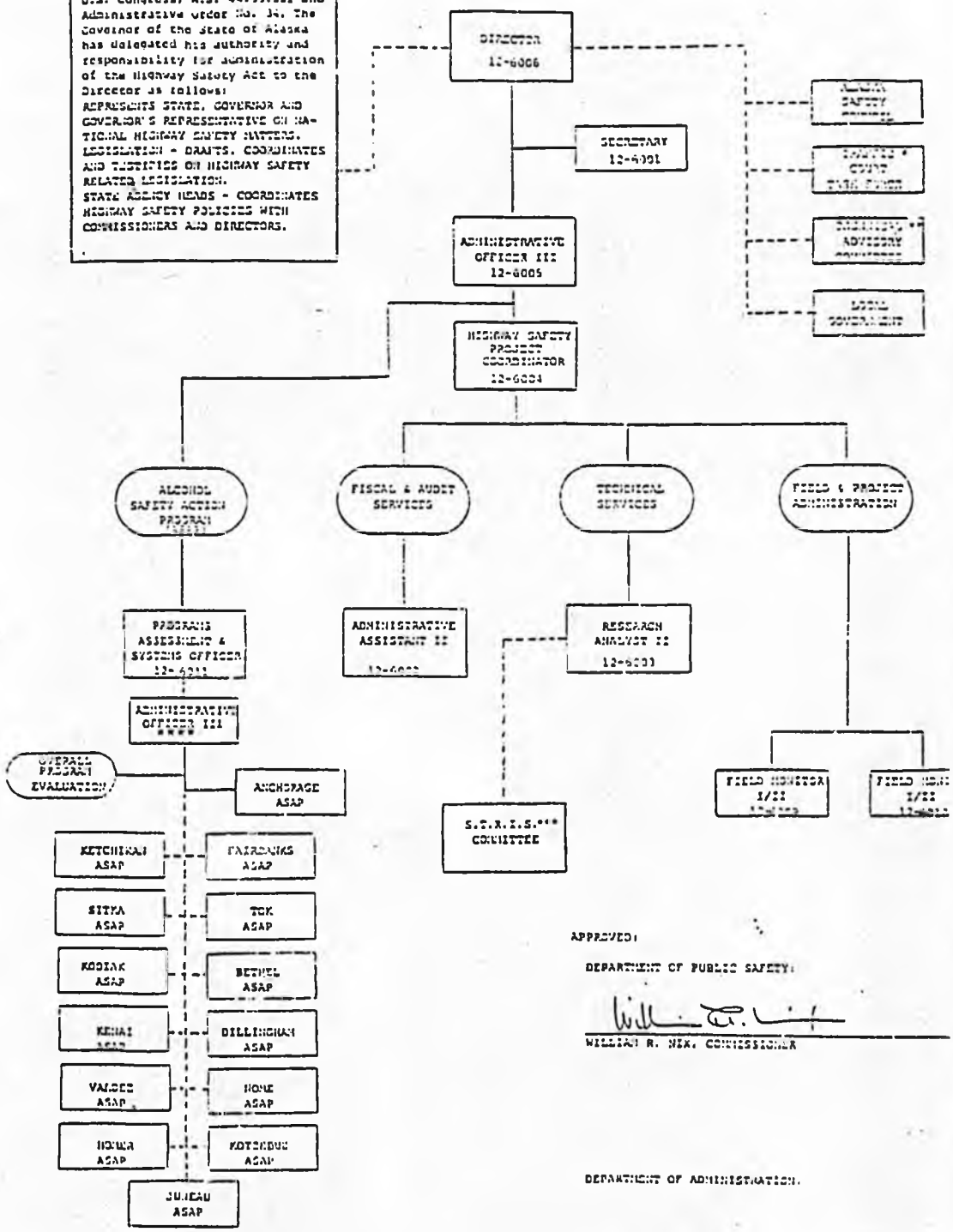
- 1976 - Joint Legislative Resolution Commendation for work on AS28 Revision Committee.

- 1977 - Alaska Highway Safety Man of the Year.

- 1982 - 1983 - Listed in "Who's Who In the West."

ALASKA HIGHWAY SAFETY PLANNING AGENCY

Pursuant to the Highway Safety Act of 1966, (Public Law 89-564 U.S. Congress) A.S. 44.99.021 and Administrative Order No. 34, the Governor of the State of Alaska has delegated his authority and responsibility for administration of the Highway Safety Act to the Director as follows:
REPRESENTS STATE, GOVERNOR AND GOVERNOR'S REPRESENTATIVE ON NATIONAL HIGHWAY SAFETY MATTERS.
LEGISLATION - DRAFTS, COORDINATES AND TESTIFIES ON HIGHWAY SAFETY RELATED LEGISLATION.
STATE AGENCY HEADS - COORDINATES HIGHWAY SAFETY POLICIES WITH COMMISSIONERS AND DIRECTORS.



APPROVED:

DEPARTMENT OF PUBLIC SAFETY:

WILLIAM R. NEA, COMMISSIONER

DEPARTMENT OF ADMINISTRATION:

WILLIAM A. HUDSON, COMMISSIONER

* The State Traffic Court Task Force, established in 1971, is composed of eight Legislators, four from each House, Prosecuting and Defense Attorneys, District Court Judges and Chiefs of Police, and private highway safety agencies. The Task Force assists the Director in obtaining needed legislation and formulations related to highway safety. Presently co-chaired by a state senator and a private citizen.

** The Technical Advisory Committee is composed of individuals appointed by the chief executive officers of various state and local agencies. In most cases, the forty-plus members are from the technical level and work with highway safety related matters on a day-to-day basis. The committee advises the Director on highway safety matters.

*** State Traffic Records Information System, which is made up of all state and local agencies dealing with [illegible]

**** See Attached

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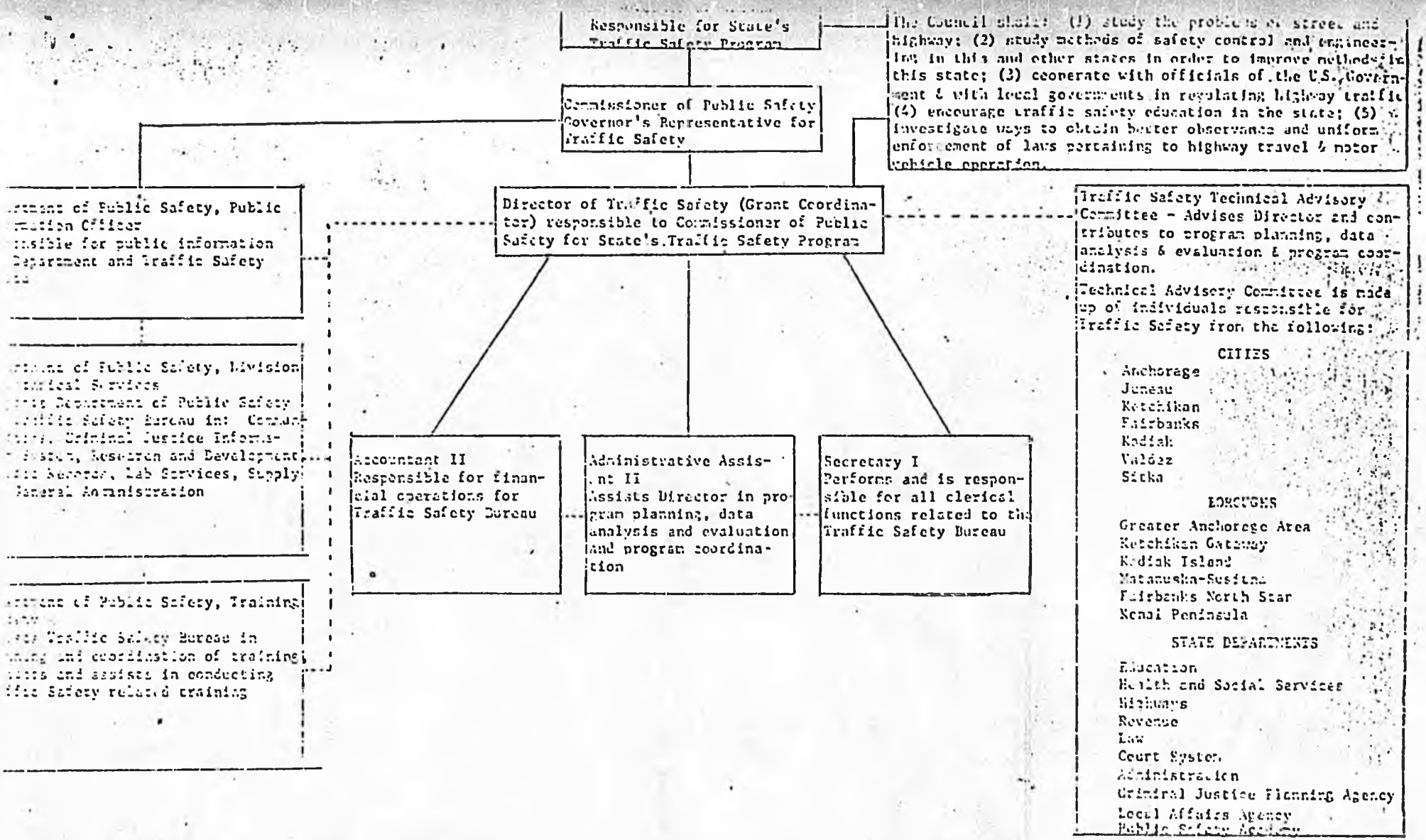
Responsible for State's Traffic Safety Program
Commissioner of Public Safety Governor's Representative for Traffic Safety
The Council shall: (1) study the problems of street and highway; (2) study methods of safety control and engineering in this and other states in order to improve methods in this state; (3) cooperate with officials of the U.S. Government & with local governments in regulating highway traffic (4) encourage traffic safety education in the state; (5) investigate ways to obtain better observance and uniform enforcement of laws pertaining to highway travel & motor vehicle operation.
Director of Traffic Safety (Grant Coordinator) responsible to Commissioner of Public Safety for State's Traffic Safety Program
Traffic Safety Technical Advisory Committee - Advises Director and contributes to program planning, data analysis & evaluation & program coordination.
Technical Advisory Committee is made up of individuals responsible for Traffic Safety from the following:
CITIES
Anchorage
Juneau
Ketchikan
Fairbanks
Kodiak
Valdez
Sitka
BOROUGHS
Greater Anchorage Area
Ketchikan Gateway
Kodiak Island
Matanuska-Susitna
Fairbanks North Star
Kenai Peninsula
STATE DEPARTMENTS
Education
Health and Social Services
Highways
Revenue
Law
Court System
Administration
Criminal Justice Planning Agency
Local Affairs Agency
Public Safety Academy
Accountant II
Responsible for financial operations for Traffic Safety Bureau
Administrative Assistant II
Assists Director in program planning, data analysis and evaluation and program coordination
Secretary I
Performs and is responsible for all clerical functions related to the Traffic Safety Bureau

HIGHWAY SAFETY STANDARDS
ADMINISTERED BY
THE ALASKA HIGHWAY SAFETY PLANNING AGENCY

STANDARD 1 - PERIODIC MOTOR VEHICLE INSPECTION

To increase, through periodic vehicle inspection, the likelihood that every vehicle operated on the public highways is properly equipped and is being maintained in reasonably safe working order.

STANDARD 2 - MOTOR VEHICLE REGISTRATION

To provide a means of identifying the owner and type, weight size and carrying capacities of every vehicle licensed to operate in the State, and to make such data available for traffic safety studies and research, accident investigation, enforcement and other operational uses. To provide a means for aggregating ownership and vehicle information for: (a) accident research; (b) planning and development of streets, highways and related facilities; and (c) other operational uses.

STANDARD 3 - MOTORCYCLE SAFETY

To assure that motorcycles, motorcycle operators and their passengers meet standards which contribute to safe operation and protection from injuries.

STANDARD 4 - DRIVER EDUCATION

To insure that every eligible high school student has the opportunity to enroll in a course of instruction designed to train him to drive skillfully and as safely as possible under all traffic and roadway conditions. To insure that commercial driver training schools achieve and maintain a corresponding level of instruction for beginning drivers with recognition of differences between the needs of adults and adolescents. To provide education courses offering driving instruction to adults.

STANDARD 5 - DRIVER LICENSING

To improve the quality of driving by implementing more effective and uniform licensing procedures, and thereby to reduce the number of accidents while also increasing the efficiency of traffic flow.

STANDARD 6 - CODES AND LAWS

To eliminate all major variations in traffic codes, laws and ordinances on given aspects of highway safety among political subdivisions in a state, to increase the compatibility of these ordinances with a unified overall state policy on traffic safety codes and laws, and to further the adoption of appropriate aspects of the Rules of the Road section of the Uniform Vehicle Code.

STANDARD 7 - TRAFFIC COURTS

To provide prompt impartial adjudication of proceedings involving motor vehicle laws.

STANDARD 8 - ALCOHOL IN RELATION TO HIGHWAY SAFETY

To broaden the scope and number of activities directed toward reducing traffic accident loss experience arising in whole or part from persons driving under the influence of alcohol.

STANDARD 9 - IDENTIFICATION AND SURVEILLANCE OF ACCIDENT LOCATIONS

To identify specific locations or sections of streets and highways which have high or potentially high accident experience as a basis for establishing priorities for improvement, selective enforcement, or other operational practices that will eliminate or reduce the hazards at the location so identified.

STANDARD 10 - TRAFFIC RECORDS

To assure that appropriate data on traffic accidents, drivers, motor vehicles and roadways are available to provide:

1. A reliable indication of the magnitude and nature of the highway traffic accident problem on a national, state and local scale;
2. A reliable means for identifying short-term changes and long-term trends in the magnitude and nature of traffic accidents;
3. A valid basis for:
    a. the detection of high or potentially high accident locations and causes;
    b. the detection of health, behavioral and related factors contributing to accident causation;
    c. the design of accident fatality, and injury countermeasures;
    d. developing means for evaluating the cost effectiveness of these measures;
    e. the planning and implementation of selected enforcement and other operational programs.

STANDARD 11 - EMERGENCY MEDICAL SERVICES

To provide an emergency care system that will:

1. Provide quick identification and response to accidents;
2. Sustain and prolong life through proper first aid measures, both at the scene and in transit;
3. Provide the coordination, transportation, and communications necessary to bring the injured and definitive medical care together in the shortest practicable time, without simultaneously creating additional hazards.

STANDARD 12 - HIGHWAY DESIGN, CONSTRUCTION AND MAINTENANCE

To assure:

1. that existing streets and highways are maintained in a condition that promotes safety;
2. that capital improvements either to modernize existing roads or to provide new facilities meet approved safety standards; and
3. that appropriate precautions are taken to protect passing motorists as well as highway workers from accident involvement at highway construction sites.

STANDARD 13 - TRAFFIC ENGINEERING SERVICES

To assure the full and proper application of modern traffic engineering principles and uniform standards for traffic control to reduce the likelihood and severity of traffic accidents.

STANDARD 14 - PEDESTRIAN SAFETY

To emphasize the need to recognize pedestrian safety as an integral, constant and important element in community planning and all aspects of highway transportation and to insure a continuing program to improve such safety by each State and its political subdivisions.

STANDARD 15 - POLICE TRAFFIC SERVICES

To reduce the deaths and injuries by improving police traffic services in all aspects of accident prevention programs and police traffic supervision, post-accident procedures and aid crash victims and to bring those responsible for the accidents to justice.

STANDARD 16 - DEBRIS HAZARD CONTROL AND CLEANUP

To provide for the assignment of official responsibilities and for the planning, training, coordination and communications necessary to assure the recognition, reporting and prompt correction of conditions or incidents that constitute potential dangers; that incident sites are restored to a safe conditions; and that traffic movement is expeditiously resumed.

STANDARD 17 - PUPIL TRANSPORTATION SAFETY

To improve standard programs for transporting pupils safely in urban and rural areas by setting requirements for proper and safe equipment; maintenance of equipment; selection, training and supervision of drivers and maintenance personnel; and administrative provisions in the field of pupil transportation.

STANDARD 18 - ACCIDENT INVESTIGATION AND REPORTING

To establish a uniform, comprehensive motor vehicle traffic accident investigation program for gathering information -- who, what, when, where, why and how -- on motor vehicle traffic accidents and associated deaths, injuries and property damage; and entering the information into the traffic records system for use in planning, evaluating and furthering highway safety program goals.

Jos D. Mapranath (Mapranathukaran)
Director
Division of Administrative Services
Department of Public Safety
Date of Hire: 7-09-82 (In current position)
Salary: $4725.00 (26-A)

1. Employee's Name: Jos Mapranath
2. Position Title: Director, Division of Administrative Services
3. Department Employed in: Department of Public Safety
4. Date of Hire: 07/09/82
5. Salary per Month: $4725/month
6. Previous Work Experience in State Government: (8 years approximately)

    a) Assistant Director, Division of Administrative Services (1 year approximately).

        ° Responsible for Departmental accounting, budgeting, personnel, payroll, and planning and research operations.

    b) Finance Officer, Department of Public Safety (2 years approximately).

        ° Responsible for accounting and budgeting.

    c) As Budget Analyst and Accountant for Public Safety, in-depth background on Departmental operations. (approximately 5 years)

    Non-State work Experience:

    a) Director (Lecturer/Partner): Mach's Institute of Commerce and Public Administration, Kerala, India (approximately 5 years concurrent with item b) following).

        ° Responsible for full administration.

        ° Teaching background (subjects such as accounting, banking, economics, mathematics, physics, chemistry, etc.).

    b) Administrative Manager (Partner/Planner): Modern Machine Tools, Kerala, India (approximately 5 years concurrent with the above).

        ° Held management responsibility of a manufacturing company (small machines such as drilling machinery; hospital equipment such as surgical operation tables, etc.)

7. Education Background:

    a) M.P.A., University of Alaska, Juneau

    b) B.Sc., University of Kerala, India

Fire Marshal/Director
Division of Fire Prevention
Department of Public Safety

Position Vacant

Deputy Commissioner
Department of Public Safety

Position Vacant

Retire-
ment

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS
FOUCH CR
JUNEAU, ALASKA 99811

Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees' Voluntary Dental-Vision Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

Bill Sheffield, Governor

(907) 465-4460

Appendix IV

September 15, 1983

These letters were sent to all PERS and TRS employers. The numbers in the spaces on questions 1 and 2 represent a tally of the responses.

Dear PERS Employer:

We are in the process of reviewing the benefit structure in the Public Employees' Retirement System (PERS). As you know, the statutory goal (AS 39.35.010) of the PERS is to attract and retain qualified employees. The purpose of the review is to determine the extent to which the statutory goal is being achieved at a reasonable cost to employers. We expect this review to have an impact on future legislative proposals and thus on future benefits to PERS employees and costs to you and the other PERS employers.

Recognizing that it is the benefits provided by the system that help to attract and retain qualified employees but at the same time determine the ultimate costs to participating employers, we are soliciting your help in this review. Please take a few minutes to answer the questions below and on the back. We would appreciate you returning this letter to us by October 1 if possible. Please feel free to call Tom Linklater at 465-4461 if you have any questions.

Thank you.

Sincerely,

J.K. Humphreys

J.K. Humphreys
Director

1.(a) Do you feel that the benefits currently provided in the PERS are sufficient to attract qualified employees to your organization? YES 36 NO 6

(b) If "yes" in (a) above, do you feel that benefits (and therefore costs) might be reduced in some areas without unduly sacrificing that effectiveness? YES 18 NO 15

(c) If "no" in (a) above, do you feel that benefits (and therefore costs) should be enhanced in some areas to improve effectiveness? YES 4 NO 2

02:84LH

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

(over)

2.(a) Do you feel that the benefits currently provided in the PERS are sufficient to retain qualified employees in your organization? YES 37 NO 5

(b) If "yes" in (a) above, do you feel that benefits (and therefore costs) might be reduced in some areas without unduly sacrificing that effectiveness? YES 16 NO 17

(c) If "no" in (a) above, do you feel that benefits (and therefore costs) should be enhanced in some areas to improve effectiveness? YES 3 NO 2

3. Suggestions for possible benefit/cost reductions, if any.

_____

_____

4. Suggestions for possible benefit enhancements/cost increases, if any.

_____

_____

5. General comments (if more space is required, please attach additional sheets).

_____

_____

_____

_____

_____

_____

_____

6. Name of person completing this form: _____

Please return this completed form by October 1, 1983, to the Division of Retirement & Benefits, Pouch CR, Juneau, AK 99811. Thank you.

JKH/mm

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF RETIREMENT & BENEFITS
POUCH CR
JUNEAU, ALASKA 99811

Teachers' Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees' Voluntary Dental Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

Bill Sheffield, Governor

(907) 465-4460

September 15, 1983

Dear TRS Employer:

We are in the process of reviewing the benefit structure in the Teachers' Retirement System (TRS). As you know, the statutory goal (AS 14.25.012) of the TRS is to attract and retain qualified employees. The purpose of the review is to determine the extent to which the statutory goal is being achieved at a reasonable cost to employers. We expect this review to have an impact on future legislative proposals and thus on future benefits to TRS employees and costs to you and the other TRS employers.

Recognizing that it is the benefits provided by the system that help to attract and retain qualified employees but at the same time determine the ultimate costs to participating employers, we are soliciting your help in this review. Please take a few minutes to answer the questions below and on the back. We would appreciate you returning this letter to us by October 1 if possible. Please feel free to call Tom Linklater at 465-4461 if you have any questions.

Thank you.

Sincerely,

J.K. Humphreys

J.K. Humphreys
Director

1.(a) Do you feel that the benefits currently provided in the TRS are sufficient to attract qualified employees to your organization? YES 26 NO 5

(b) If "yes" in (a) above, do you feel that benefits (and therefore costs) might be reduced in some areas without unduly sacrificing that effectiveness? YES 4 NO 19

(c) If "no" in (a) above, do you feel that benefits (and therefore costs) should be enhanced in some areas to improve effectiveness? YES 5 NO

02 84LH

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

(over)

2.(a) Do you feel that the benefits currently provided in the TRS are sufficient to retain qualified employees in your organization? YES 29 NO 2

(b) If "yes" in (a) above, do you feel that benefits (and therefore costs) might be reduced in some areas without unduly sacrificing that effectiveness? YES 3 NO 22

(c) If "no" in (a) above, do you feel that benefits (and therefore costs) should be enhanced in some areas to improve effectiveness? YES 2 NO

3. Suggestions for possible benefit/cost reductions, if any.

4. Suggestions for possible benefit enhancements/cost increases, if any.

5. General comments (if more space is required, please attach additional sheets).

6. Name of person completing this form: _____

Please return this completed form by October 1, 1983, to the Division of Retirement & Benefits, Pouch CR, Juneau, AK 99811. Thank you.

JKH/mn

Review of Benefits in the State of Alaska Retirement Systems

Division of Retirement & Benefits

October 1983

Introduction

The purpose of this report is to review and compare the retirement benefits provided by the State of Alaska. It was prepared in response to a recommendation of the Legislative Budget and Audit Committee in the course of a performance audit of the Division of Retirement and Benefits conducted by the Legislative Auditor.

Retirement benefits comprise an important part of total compensation which, from an employer's point of view, should be sufficient to attract and retain qualified employees. From an employee's point of view, an increase in benefits is desirable even though existing benefits may be sufficient to attract and retain that employee. The efficiency of the state's retirement systems is important since the cost of any excesses is ultimately borne by the citizens of the state. Retirement benefits must be judged according to their effectiveness in achieving objectives; removing benefits that are not effective produces savings to reduce the overall cost of the program and help fund other worthwhile benefits.

Retirement benefits are provided by the state through four separate systems: the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), the Judicial Retirement System (JRS), and the Elected Public Officers Retirement System (EPORS). This report will provide background information which applies generally to all of the

systems and then briefly describe the history and purpose of each system individually. The next section will outline and compare the benefits provided in these systems and give an indication of the benefits provided in other states.

The study of death and disability benefits presents a complex challenge in its own right; to limit the scope of this report to manageable proportions, pending review by the PERS and TRS Disability Review Board, these benefits are not included in this initial review.

Having reviewed the benefit structures, we will provide estimates of the cost impact of selected changes and recommend areas in which we believe further discussion and possible change are indicated.

Hopefully, this report will provide a basis for deliberation and discussion by the many interested parties and groups. Benefits in the Alaska retirement systems are generous, effective and costly. The ultimate objective is to develop legislation which will balance the interests of all concerned, institute an automatic, actuarially funded post retirement pension adjustment (PRPA) mechanism, and improve the cost effectiveness of the systems in achieving the goal of attracting and retaining qualified employees.

General Background

All four of the retirement systems discussed in this report are defined benefit plans; that is, the benefits provided are defined in statute and do not directly depend on the amount of contributions made by or on behalf of the employee. This is in contrast to a "defined contribution" plan such as the annuity plan in the state's Supplemental Benefits System (SBS) where the amount of the benefit an employee may receive at any given time is completely dependent on the balance in that employee's individual benefit account.

The PERS, the TRS, and the JRS are actuarially funded. Each year the actuary computes the amount, in addition to employee contributions, that will be required from the state and other employers to pay for benefits in the system. This is in contrast to pay-as-you-go systems such as the EPORS and social security where current benefits are paid out of current revenues on a year-to-year basis and no attempt is made to balance assets and liabilities. Even if pay-as-you-go systems do not find themselves in real financial difficulty because of accumulating unfunded liabilities, they certainly pass the buck to future generations and present a misleading picture of the costs. The object of actuarial funding is to pay for benefits as they accrue at a stable percentage of payroll. Funding for retirement benefits over each employee's working years avoids the necessity of cutting benefits for future members or, in some cases, a bankrupt system which defaults on obligations. Ideally, a system could be discontinued and the accumulated assets would be sufficient to pay all the accrued benefits.

When an actuary determines the amount of employer contributions, it is intended to cover current costs of benefits as they accrue and to reduce any unfunded liability that may exist in a system. The term unfunded liability refers to an excess of accrued liabilities over assets and may be produced by such things as benefit increases with a retroactive effect, fund earnings which fall short of expectations, or a shortfall in employer contributions.

Without regard to the funding mechanism, the ultimate costs of a retirement system depend on the benefits that are provided. When considering benefit changes and their cost impact it is important to be aware of the legal restrictions on change. Retirement benefits provided under the state plans may not be collectively bargained and can only be changed by statute. In addition, Article XII, Section 7 of the Constitution of the State of Alaska reads: "Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired." This provision has been broadly construed by the courts to mean not only that benefits that have accrued (in the past) cannot be diminished but also that the right to accrue benefits under a given statute cannot be abridged unless the reduction is offset by a simultaneous increase. This clearly limits the power to make significant changes and also means that changes in the law that do take place tend to create new classes of members and complicate administration.

A striking application of the constitutional prohibition against the diminishment of benefits involved the Elected Public Officers Retirement System. The system was established on January 1, 1976, and then repealed by referendum on October 14, 1976. However, the Alaska Supreme Court held

that under the Alaska Constitution all 62 people who had been members of the EPORS during its 10½ months of existence were entitled to continue their participation. Although there can be no new members of the EPORS, the EPORS continues to be administered for this original group.

Another landmark decision was issued by the Alaska Supreme Court in May, 1981 in the Hoffbeck v. Hammond case. This decision stated that an employee gains a right to benefits on the date of hire rather than on the date the employee becomes vested or eligible to receive benefits; benefits may be increased but not decreased for existing employees. A decrease in retirement benefits (for example, an increase in contribution rate without an offsetting increase elsewhere) can only apply to new employees; statutory amendments that operate to a given employee's disadvantage must be offset by comparable new advantages to that employee. The result is the "ratchet effect", a principle of "no turning back" in employee benefits; what has been granted to an employee may not be removed.

The factors mentioned in this section must be kept in mind when considering amendments to the state retirement plans. The task of designing benefits that are equitable, effective and affordable in systems that are actuarially sound becomes even more challenging when many otherwise viable alternatives are foreclosed.

Overview of the Systems

This section will address each of the four systems individually. For each system we will provide general information, an historical outline of significant events that have affected the system and a review of employer contributions.

Teachers' Retirement System (TRS):

The TRS became effective July 1, 1955. Under AS 14.25.012, the purpose is "... to encourage qualified teachers to enter and remain in service with participating employers by establishing a system for the payment of retirement, disability, and death benefits to or on behalf of the members." Qualified members of the TRS include:

a) Certificated full- or part-time teachers, certificated school nurses or a certificated person in a position requiring a teaching certificate as a condition of employment in a public school of the state;

b) The Commissioner of Education and all supervisory positions in the Department of Education;

c) Full- or part-time teachers of the University of Alaska or a person occupying an approved full-time administrative position at the University of Alaska; and

d) State legislators who elect membership under AS 14.25.040(b).

An administrator is appointed by the Commissioner of Administration and serves as secretary of the Alaska Teachers' Retirement Board. The Board consists of five members appointed by the Governor [illegible]oping .three-year terms.

A. Significant events in the TRS

1955 TRS created
Normal retirement age 60
Employee contribution rate of 5% of salary not to exceed $300 per year
Benefit Multiplier 1½%

1966 Ad hoc PRPA's - maximum of 1½%

1968 Vesting reduced from 15 years of membership service to 10 years of membership service

1970 Employer contribution rate actuarially determined
Employee contribution rate increased to 7%
Multiplier increased to 2%

1971 Vesting reduced to 8 years of membership service

1974 Ad hoc PRPA maximum increased to 4%

1975 Normal retirement age lowered from 60 to 55 and "20-and-out" provision added
Health insurance provided for benefit recipients and their dependents

B. TRS Contribution Rate History

School Year	Member Contribution Rate	Employer Matching Contribution Rate	State Matching Contribution Rate
1955-70	5%	2.50%*	2.50%*
1970-71	7%	4.5425%	4.5425%
1971-72	7%	4.91%	4.91%
1972-73	7%	4.91%	4.91%
1973-74	7%	5.61%	5.61%
1974-75	7%	5.61%	5.61%
1975-76	7%	6.82%	6.82%

B. TRS Contribution Rate History (continued)

School Year	Member Contribution Rate	Employer Matching Contribution Rate	State Matching Contribution Rate
1976-77	7%	7.09%	7.09%
1977-78	7%	6.70%	6.70%
1978-79	7%	7.06%	7.06%
1979-80	7%	7.45%	7.45%
1980-81	7%	7.87%	7.87%
1981-82	7%	8.42%	8.42%
1982-83	7%	8.45%	8.45%
1983-84	7%	8.71%	8.71%

* Contribution rate not actuarially determined

Public Employees' Retirement System (PERS):

Under AS 39.35.010, the PERS became effective January 1, 1961, with a purpose "...to encourage qualified personnel to enter and remain in the service of the state or a political subdivision or public organization of the state by establishing a system for the payment of retirement, disability, and death benefits to or on behalf of the employees."

The PERS is composed of two subsystems: Peace Officer/Fireman (P/F) coverage and All Other (PERS) coverage. Qualified members of the PERS include:

a) All permanent state employees unless included in another retirement system, and

b) All permanent employees of participating political subdivisions and public organizations in compliance with their participation agreement, and

c) peace officers, chiefs of police, correctional officers, correctional superintendents, and firemen and fire chiefs.

An administrator is appointed by the Commissioner of Administration and serves as secretary to the Alaska Public Employees' Retirement Board. The Board is composed of five members, three of whom are members of the state personnel board and the other two are members of the system and are elected by the members of the system.

A. Significant Events in the PERS

1961 PERS created
PERS normal retirement age 65, P/F 60

1968 Employee contribution rate set at 3.5%
Multiplier 1% (1-10 yrs.), 1¼% (11-20 yrs.), 1½% (over 20 yrs.)
Ad hoc PRPA's - maximum 1½%

1970 P/F contribution rate separated and increased to 5%
P/F multiplier separated and increased to 2% (1-10 yrs.), 2½% (over 10 years)
PERS multiplier increased to 1% (1-10 years), 1½% (11-20 yrs.), 2% (over 20 yrs.)
PERS normal retirement age reduced to 60, P/F reduced to 55

1972 PERS employee contribution rate increased to 4.25%
Ad hoc PRPA maximum increased to 4%
Vesting requirement reduced from 8 years to 5 years
PERS multiplier increased to 1½% (1-10 yrs.), 1 3/4% (11-20 yrs.), 2% (over 20 yrs.)

1974 PERS multiplier increased to 2% for all years of service

1975 PERS normal retirement age reduced to 55
Health insurance provided for benefit recipients and their dependents

B. State PERS Contribution Rates

	Peace Officer/Fireman		All Other	
Effective Date	Employee Rate	Employer Rate	Employee Rate	Employer Rate
01/01/61	1.5%*	4.000	1.5%*	4.000
01/01/62	1.375%*	3.875	1.375%*	3.875
01/01/63	0.875%*	3.375	0.875%*	3.375
01/01/66	0.3%*	2.800	0.3%*	2.800
01/01/67	0.1%*	2.600	0.1%*	2.600
07/01/67	0.1%*	4.363	0.1%*	4.363
07/01/68	3.5%	7.000	3.5%	7.000
07/01/69	3.5%	3.500	3.5%	3.500
07/01/70	5.0%	8.000	3.5%	8.000
07/01/71	5.0%	7.840	3.5%	7.840
07/01/72	5.0%	11.210	4.25%	11.210

B. State PERS Contribution Rates (continued)

	Peace Officer/Fireman		All Other	
Effective Date	Employee Rate	Employer Rate	Employee Rate	Employer Rate
07/01/73	5.0%	5.410	4.25%	5.410
07/01/75	5.0%	8.320	4.25%	8.320
07/01/76	5.0%	11.180	4.25%	11.180
07/01/77	5.0%	11.580	4.25%	11.580
07/01/78	5.0%	12.580	4.25%	12.580
07/01/79	5.0%	12.240	4.25%	12.240
07/01/80	5.0%	13.660	4.25%	13.660
07/01/81	5.0%	14.000	4.25%	14.000
08/01/81	5.0%	22.350	4.25%	12.690
07/01/82	5.0%	22.360	4.25%	12.710
07/01/83	5.0%	19.990	4.25%	13.200

* The total employee rate of 4.5% included FICA contributions; the rate shown in this table is net of FICA contributions.

Judicial Retirement System (JRS):

The JRS became effective July 1, 1963. No statement of purpose was enacted. Members of the JRS include all supreme court justices, judges of the court of appeals, superior court or district court, and the Administrative Director of the Alaska Court System appointed under art. IV, sec. 16 of the state constitution.

Responsibility for the administration of the JRS has been delegated by the Commissioner of Administration to the Director of the Division of Retirement and Benefits. The Commissioner of Administration adopts regulations as required for the JRS.

A. Significant Events in the JRS

1963 JRS created
Employee contribution rate of 5%
Normal retirement at age 65 with 10 years of service or when age plus service equals 75
Benefit Multiplier 4% with maximum 50% of salary at retirement
Vesting requirement 5 years

1967 Employee contributions repealed
Multiplier increased to 5% with maximum 75% of authorized salary; benefits automatically increase with salaries

1972 Normal retirement age decreased to 60
Health insurance provided for benefit recipients and their dependents

1978 Employee contributions reinstated; 7% for members appointed on or after 7-1-78

1981 System placed under administrative responsibility of Division of Retirement & Benefits
System placed on actuarially funded basis; employer contribution rate figured on gross salary

1982 Employer contribution rate figured on base salary

B. JRS Contribution Rates

Year	Employee Rate	Employer Rate
1963	5.0%	*
1964	5.0%	*
1965	5.0%	*
1966	5.0%	*
1967	0	*
1968	0	*
1969	0	*
1970	0	*
1971	0	*
1972	0	*
1973	0	*
1974	0	*
1975	0	*
1976	0	*
1977	0	*
1978	7.0%**	*
1979	7.0%**	*
1980	7.0%**	*
1981	7.0%**	*
1981	7.0%**	96.02%
1982	7.0%**	104.78%

* Employer contribution funded through a single Court System operating appropriation each year

** Employee contribution rate applies only to members appointed after 7-1-78

Elected Public Officers Retirement System (EPORS):

The EPORS became effective January 1, 1976, and was repealed by referendum in October 1976. The system covers a defined group of elected officials and is closed to new members. Members of the EPORS included the governor, lieutenant governor, and members of the legislature during the period between January and October 1976. Elected public officers are now covered under the PERS.

Responsibility for the administration of the EPORS has been delegated by the Commissioner of Administration to the Director of the Division of Retirement and Benefits. The Commissioner of Administration adopts regulations as required for the EPORS.

A. Significant events in the EPORS

1976	EPORS created effective in January Employee contribution rate of 7% Normal retirement at age 60 Benefit Multiplier 5% for membership service; 2% for other credited service Vesting requirement 5 years of membership service Benefits automatically increase with salaries Health insurance provided for benefit recipients and their dependents EPORS repealed by referendum effective in October
1981	System reinstituted by State Supreme Court for all members participating when the repeal became effective

B. EPORS Contributions

Year	Employee Rate	Appropriations for Benefits
1976	7.0%	$ 15,900
1977-1980	7.0%	$ 15,900/yr
1981	7.0%	$225,100

B. EPORS Contributions (continued)

Year	Employee Rate	Appropriations for Benefits
1982	7.0%	$225,900
1983	7.0%	$292,900
1984	7.0%	$547,400

Benefit Comparisons

This section of the report will be structured in two parts. The first part will compare benefits in the Alaska PERS, TRS, EPORS and JRS; Appendix I provides a comparison in chart form. The second part will compare benefits in the TRS, PERS, and JRS with those provided in other states; Appendix II gives further information on benefits in other states.

This report will concentrate on a few major items which can be easily compared among the Alaskan systems and with the other states. These items are:

(1) vesting requirements,
(2) minimum eligibility requirements for normal retirement,
(3) retirement benefit formula,
(4) employee contribution rate,
(5) post retirement pension adjustments, and
(6) health insurance.

Comparison between Alaska's Systems:

Vesting

Vesting is the term used to describe an employee's right to receive a retirement benefit regardless of whether the employee remains in the service of the employer. Members of the PERS, EPORS and JRS vest with five years of service. The TRS requires eight years to vest.

Minimum Eligibility For Normal Retirement

Most public retirement systems require a combination of age and service credit to qualify for normal (unreduced) retirement benefits. Basic requirements in the Alaska systems are:

PERS	Age 55 and vested or any age with 30 years of service.
PERS-P/F	Age 55 and vested or any age with 20 years of P/F service.
TRS	Age 55 and vested or any age with 20 years of membership service.
EPORS	Age 60 and vested.
JRS	Age 60 and vested.

Retirement Benefit Formula

Most retirement systems use a straightforward formula which uses a benefit multiplier, years of service, and salary. The exact meaning of salary is important and varies from system to system.

PERS	(2%) X (years of service) X (salary)

PERS-P/F	(2%) X (years of service) X (salary) for years 1-10 plus (2½%) X (years of service) X (salary) for all years greater than 10
TRS	(2%) X (years of service) X (salary)
EPORS	(5%) X (years of EPORS service) X (salary) plus (2%) X (years of other service) X (salary)
JRS	(5%) X (years of service) X (salary)

Employee Contribution Rate

Employee contribution rates for the Alaska systems are as follows:

PERS	4.25%
PERS-P/F	5%
TRS	7%
EPORS	7%
JRS	7% only for judges appointed on or after 7/1/78

Post Retirement Pension Adjustment (PRPA)

Ad hoc PRPA's in the PERS and TRS are provided if the cost of living has

increased and if the condition of the fund permits. Alaska JRS and, in most cases, EPORS retirement benefits automatically increase as salaries for judges and elected officials increase.

Health Insurance

Health insurance is provided to benefit recipients and their dependents in the PERS, TRS, EPORS and JRS. The current monthly cost is $156.07 for each benefit recipient.

Comparison with Systems in other States:

This section compares the PERS and TRS with systems in other states. Twenty-four states have a single retirement system covering both teachers and public employees. We have used data from the "1982 Comparative Survey of Major Public Pension Plans" which is Appendix II. A recent survey comparing Judicial Systems in sixteen western states is included as Appendix III. The majority of states (39) provide benefits to judges that are more generous than the benefits provided to regular state employees. Only six states provide judges the same benefits as regular state employees.

Vesting

In comparing the Alaska PERS with other state employee systems, twenty-five states allow employees to vest after ten years of service.

Nineteen states, including Alaska, allow employees to vest with five years of service. The remaining states vest employees after 15 years (one state), eight years (one), four years (three) and one state allows employees to vest immediately.

In comparing the Alaska TRS with other separate state teacher systems, fourteen states allow employees to vest after ten years of service. Ten states vest employees after five years with New Jersey vesting after fifteen years and Alaska vesting after eight years.

Minimum Eligibility For Normal Retirement

The Alaska PERS standard for normal retirement is among the most liberal in the country. Half the states set normal retirement at age 65 with minimum service requirements ranging from four years to ten years. Another five states allow employees to retire without reduction at age 62; 17 states at age 60; and one state at age 58. Only Alaska and Hawaii allow normal retirement at age 55 with minimum service of five years. Other states which allow normal retirement at age 55 require service of 25 or 30 years. Of the 50 public employee retirement plans, 16 have a "30-and-out" provision, and four have a "35-and-out" provision.

The Alaska TRS is the most liberal of all the teachers' systems with retirement at age 55 or with only 20 years of service. Thirteen of the other teacher systems have a minimum eligibility requirement of age 60 with six of those requiring five years service, four requiring ten years, one requiring 20 years, and two having no service requirements. Eight systems have age 65 with from five to ten years service. Four systems

have age 62 with two of those requiring ten years, one requiring 20 years, and one having no service requirement.

Retirement Benefit Formula

Comparing benefit formulas nationwide is not straightforward. Many state retirement plans are integrated with Social Security. Currently, 43 states participate in Social Security. Twenty-three of these have a benefit multiplier of less than 2%, one has a 2.0125 multiplier, and the remainder have variable multipliers. Of the seven states which do not participate in Social Security, three have a multiplier of 2.5%; three, including Alaska, use a multiplier of 2%; and one uses a variable multiplier with a maximum of 2.5%. Of the four states with a fixed multiplier higher than Alaska's, three do not provide Social Security or other supplemental benefits. Most employees of the State of Alaska are eligible to receive additional retirement income through the Supplemental Benefits System.

The benefit multipliers in other state teachers' systems range from 1% to 2.5%. Twelve states have benefit multipliers less than 2%, twelve (including Alaska' have multipliers equal to 2%, and two have multipliers greater than 2%. Please refer to Appendix II for more information.

Employee Contribution Rate

Employee contribution rates in Public Employees' systems vary from .25% to 8.95%. Six states do not require any employee contributions and one has a

variable rate based on age. Of the states which require employee contributions, 30 have rates greater than 4.25%, and 12 have rates less than 4.25%.

Contribution rates in systems for teachers only range from 3% to 9.5% with one state having a variable rate. Five of the states having a defined rate have rates greater than 7%, and 19 have rates less than 7%.

Appendix II contains information about employee rates and also has information about the rates which employers pay.

Post Retirement Pension Adjustments

With the runaway inflation of the '70's, a major concern of most public retirement systems was to protect the purchasing power of benefits. Most public plans have adopted some method of increasing benefits. Twenty-two states increase benefits annually in response to changes in the Consumer Price Index (CPI). Seven states increase benefits annually from 1% to 6% independent of changes in the CPI. The remaining 21 states, Alaska included, provide ad hoc increases which depend on available funding.

Most teachers' systems have also adopted some method of increasing benefits. Ten of the systems increase benefits annually based on changes in the CPI; most of these place a maximum on the increase of 2% through 5% with one state, New Jersey, having a 66% of CPI formula. Three systems have automatic increases ranging from 1% to 3% with one state adjusting benefits annually in proportion to investment returns. The remaining twelve states, Alaska included, have ad hoc PRPA provisions.

Health Insurance

According to a survey published by Martin E. Segal Co., Alaska ranks at the top of the thirteen states which pay the full cost of at least one option of insurance coverage for retirees. In sixteen states the retiree pays the full cost while the state pays nothing.

Overall, benefits for employees in the retirement systems of the State of Alaska are more generous than those provided in the majority of other states. In general, the Alaska systems seem to be achieving the goal of attracting and retaining qualified employees but equity and efficiency could be improved. The results of our survey of PERS and TRS employers (see Appendix IV) support the conclusion that current benefits in those systems are adequate to achieve their purposes. We feel that consideration should be given to legislation in the following areas:

1. Post Retirement Pension Adjustments (PRPA's). Continuing to grant "ad hoc" PRPA's in the PERS and TRS will result in continuing increases in employer contribution rates, growth in unfunded liabilities, and reduced actuarial soundness of the funds. Also, we feel that retirees have a right to know in advance what protection they may expect from inflation. PRPA's should be automatic and actuarially funded. In order to contain costs, they should be provided to older retirees rather than those who are able to continue working or who are actually pursuing second careers. Enacting an automatic PRPA to replace 75% of the loss from inflation for retirees 65 and older would require approximately 4.9% of payroll in the PERS and 8% in the TRS.

   The JRS contains a provision (AS 22.25.020) which ties benefits to the salary of office and amounts to full cost of living protection. Considerable cost savings would result from applying the same

automatic PRPA mechanism to the JRS that might be enacted for the PERS and TRS.

.2. Cost Containment. We feel retirement cost savings could be achieved in the following areas to at least partially offset the cost of an automatic PRPA with the least impact on the systems' ability to attract and retain qualified employees. About half of the PERS employers responding to our survey felt some cutbacks could be accomplished without unduly impairing effectiveness, but most TRS employers felt that benefit/cost reductions would unduly impair effectiveness.

o Requirements for normal retirement. Requirements for normal retirement in the Alaska PERS and TRS are lower than those in virtually all systems in other states. Providing lifetime retirement benefits to relatively young retirees is very expensive, particularly when medical coverage is included. Early retirement options provide an incentive for members to seek employment outside the system rather than remaining in the system. Life expectancy is increasing and the Social Security system is increasing the normal retirement age from 65 to 67. In light of all this, it is difficult to understand what public purpose is served by paying a retiree benefits for thirty or forty years in consideration of as little as twenty years of service.

Increasing normal retirement age from 55 to 60 (early retirement at age 55) would cut costs by approximately 3.54% of pay in the PERS and 5.25% in the TRS. Eliminating the 20-and-out and other

provisions which allow normal retirement at any age in the TRS with less than 30 years of service would reduce costs by about 1.65%.

Peace officers and firemen in the PERS also have the option to retire at any age with 20 years of service. While it is common to have special retirement provisions for police and fire members, a 20-and-out provision still counters the retention objective and consideration should be given to a temporary, retraining benefit in lieu of a lifetime benefit.

- Employee Contributions. Increasing the share of system costs borne by employees is an obvious way to help contain employer costs in a retirement system. Until 1971, the employee rate in the TRS equaled the sum of the employer and state matching rates; now it is less than half that amount. The employee contribution rate in the PERS was half the employer rate in 1968 when the FICA contribution was separated; now it is less than a third as much.

If an employer "pick up" arrangement were instituted, employee contributions could be increased quite a bit without any significant decrease in current take-home pay for the average employee. Appendix V shows the projected impact on take-home pay at various contribution rates under a "pick up" scheme. Taxes on picked up employee contributions would usually be deferred until retirement when the retiree is typically in a lower tax bracket.

- Cost of Living Allowance (COLA). The 10% COLA paid to retirees who reside in Alaska should at least be limited to retirees over the age of 65. This would save about 0.5% in the TRS and 0.8% in the PERS. Depending on the solution that emerges for the Longevity Bonus Program, the COLA might be eliminated altogether and reduce costs by 0.9% in the TRS and 1.2% in the PERS.

- Military Service Credit. Employees can now claim military service in the PERS and the TRS regardless of when the service was rendered, and even if a federal pension is being paid for the same service. Eliminating the "double dipping" on military service would improve equity and save an estimated 0.5% of pay in the PERS and 0.1% in the TRS.

- Medical Benefits. The premium paid in Alaska to provide lifetime major medical coverage for retirees in the PERS, TRS, JRS and EPORS is among the highest in the nation. These costs could be reduced by 1.8% of pay in the PERS and 2.0% in the TRS if these benefits were not provided until age 65; a retiree could be allowed to purchase insurance at the group rate prior to age 60, or at one-half the group rate between the ages of 60 and 65, or with 20 years of service.

3. Unified system. Ideally, members of the PERS, TRS and JRS should be covered by a single retirement system that incorporated an automatic, funded PRPA and cost-containment features such as those mentioned in this report. At this juncture, there do not appear to be any compelling reasons why the same basic features - PRPA, vesting,

contributions and qualifications for retirement - should not apply to all public employees. In the long run, a unified system would be more efficient and avoid questions of service portability and "leap-frogging". The political consensus necessary to create such a system would be difficult to achieve.

It is hoped that the background and recommendations in this report will prove useful to those concerned with legislation affecting state retirement systems in Alaska. The most desirable legislative proposal would feature an automatic, actuarially funded PRPA with an acceptable cost achieved by using some of the cost containment suggestions discussed in this report. It should be emphasized that the cost containment figures given are an indication of potential savings, but accurate fiscal information can't be produced until a specific proposal is formulated. For example, the cost savings for increasing the normal retirement age and increasing the age at which medical benefits begin are not additive because the benefits are interdependent. The Division of Retirement and Benefits will continue to provide whatever assistance it can in resolving the difficult issues that confront the legislature and the State of Alaska.

STATE OF WISCONSIN

RETIREMENT RESEARCH COMMITTEE

STAFF REPORT NO. 60

1982 COMPARATIVE SURVEY OF MAJOR PUBLIC PENSION PLANS

Prepared by RRC Staff
Blair Testin, Director
June 22, 1982

122 W. Washington Ave.
Madison, WI 53703

RRC-SR-60

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I. MAJOR PUBLIC PENSION PLANS - COVERAGE - SOCIAL SECURITY

A. Pension Plan Descriptions

Survey. Nearly every two years the RRC staff updates a comparison of pension plan provisions for the Wisconsin state-administered retirement funds with many major public pension plans. The 1982 survey includes 80 public plans from all of the other 49 states. In addition, comparative information has been tabulated for the Milwaukee pension plans (City and County) which operate under homerule powers, and also the Federal Civil Service Retirement System and the OASDI program.

Data. The RRC office maintains files on most major public retirement systems across the country, and we actively seek annual reports, employee handbooks, statutes, actuarial information, etc. Prior to this study the various state plans were asked for their most current information, and about 80% reponded. For those that did not respond, information was obtained from national surveys such as those published by the National Association of State Retirement Administrators (NASRA), the National Education Association (NEA), the Wyatt Company survey, etc. For nearly all funds listed, the info mation is current to the 1981-82 period.

Employee Coverage. The type of employees covered under the pension plans surveyed is designated on charts found on pages 3 and 4 of this report as "S" - state, "L" - local, and "T" - teachers. In some state plans there is some overlapping between these employee categories. Of the 80 states surveyed, the following summary of employee coverage is noted:

- State employees only	12 funds	15.0% of total
- Teachers only	26 funds	32.5% of total
- Local employees only	5 funds	6.3% of total
- State & local	15 funds	18.7% of total
- State & teacher	3 funds	3.8% of total
- State, local & teacher	19 funds	23.7% of total

With the recent passage of Chapter 96, Laws of 1981, the Wisconsin state-administered retirement funds have been merged into a single system called the Wisconsin Retirement System (WRS) which includes state, local, and teacher employees.

Active Employees. The 80 pension plans surveyed include 8.2 million public employees across the nation. The funds range in size from 6,050 in the Nebraska SERS to 609,434 in the New York ERS. Wisconsin's WRS after merger numbers about 193,000 active employees. The 80 public pension plans can be categorized by size as follows:

Active Employees	# of Funds	% of Total
Less than 50,000	34	42.5%
50,000 to 100,000	19	23.75%
100,000 to 150,000	12	15.0%
150,000 to 200,000	2	2.5%
Over 200,000	13	16.25%
Total	80 funds	100.0%

For comparison purposes, the Milwaukee City and County Funds have 14,381 and 11,214 active employees respectively. Also, the Federal Civil Service has about 2.7 million active employees and the OASDI has about 91.4 million contributing participants.

Social Security. OASDI coverage for public employee pension plans is voluntary instead of compulsory as found in the private sector. Of the 80 major pension plans surveyed, social security coverage is as follows:

- Funds with coverage	65 funds	81.25% of total
- Funds without coverage	15 funds	18.75% of total

Of the 15 funds without social security, 8 apply to pension plans with teachers only, and 7 have varied employee coverage. The Wisconsin WRS has Social Security coverage for nearly all of the covered participants, with minor exceptions for fire, separate teachers, etc.

Integration. Integration refers to the recognition of social security benefits in the design of private or public pension plans. Integration is very common in the private sector, but much less common in the public sector. Of the 65 public pension plans with social security coverage, the integration or lack thereof is as follows:

- No integration	51 funds	78.4% of total
- Step-up formulas	5 funds	7.7% of total
- Offset Integration	7 funds	10.8% of total
- Coordinated maximum	2 funds	3.1% of total
	65 funds	100.0%

"Step-up formula" integration means that a different multiplier is applied to various levels of salary. "Offset integration" means that the final benefit is offset in some manner by all or part of the recognized social security benefit. "Coordinated maximum" integration refers to plans which provide that benefits from the retirement system and social security cannot exceed some specified level. As noted, most public pension plans have no integration, and social security benefits are supplemental (in addition) to the benefits provided by the pension plan. The Wisconsin WRS has a "coordinated maximum" of 85% of final average salary relative to the pension benefit and the primary social security benefit.

B. CHART - PUBLIC RETIREMENT SYSTEMS SURVEYED

No.	State	Fund	EE Coverage	Actives	S.S Coverage	Soc. Sec. Integration
1.	Alab.	ERS	S-L	52,720	Yes	None
2.	Alab.	TRS	T	102,435	Yes	None
3.	Alas.	PERS	S-L	21,565	No	-
4.	Alas.	TRS	T	7,473	No	-
5.	Ariz.	SRS	S-L-T	125,978	Yes	None
6.	Arka.	PERS	S-L	56,655	Yes	Offset Benefit
7.	Arka.	TRS	T	35,352	Yes	None
8.	Cal.	PERS	S-L	561,547	Yes	Offset F.A.S.
9.	Cal.	TRS	T	264,108	No	-
10.	Col.	PERS	S-L-T	99,134	No	-
11.	Conn.	SERS	S	45,900	Yes	None
12.	Conn.	TRS	T	42,026	No	-
13.	Del.	SEPP	S-T	25,136	Yes	Maximum Limit (75% F.A.S.)
14.	Flor.	FRS	S-L-T	382,968	Yes	None
15.	Geor.	ERS	S	51,759	Yes	None
16.	Geor.	TRS	T	110,000	Yes	None
17.	Haw.	ERS	S-L-T	48,868	Yes	None
18.	Idaho	ERS	S-L-T	40,722	Yes	None
19.	Ill.	SERS	S	79,150	Yes	None
20.	Ill.	TRS	T	104,121	No	-
21.	Ill.	MRF	L	104,842	Yes	None
22.	Ind.	PERS	S-L	128,117	Yes	None
23.	Ind.	STRF	T	66,870	Yes	None
24.	Iowa	PERS	S-L-T	152,000	Yes	None
25.	Kans.	PERS	S-L-T	86,238	Yes	None
26.	Ken.	ERS	S-L	40,485	Yes	None
27.	Ken.	TRS	T	42,198	No	-
28.	Lous.	SERS	S	68,231	No	-
29.	Maine	SRS	S-L-T	42,292	No	-
30.	Mary.	SRS	S-L-T	80,309	Yes	Step-Up Formula
31.	Mass.	ERS	S	76,012	No	-
32.	Mass.	TRS	T	76,000	No	-
33.	Mich.	ERS	S	63,300	Yes	None
34.	Mich.	MERS	L	29,528	Yes	Step-Up Formula
35.	Mich.	PSERS	T	305,000	Yes	None
36.	Minn.	MSRS	S & Elec.	48,200	Yes	None
37.	Minn.	PERS	L	82,249	Yes	None
38.	Minn.	TRA	T	65,189	Yes	None
39.	Miss.	PERS	S-L-T	122,303	Yes	None
40.	Mou.	SER	S	34,106	Yes	None
41.	Mou.	PSRS	T	55,707	No	-
42.	Mont.	PERS	S-L	34,000	Yes	None
43.	Mont.	TRS	T	13,000	Yes	None
44.	Nebr.	SERS	S	6,050	Yes	Step-Up M.P. Plan
45.	Nebr.	TRS	T	27,731	Yes	None

(State-S; Local-L; Teacher-T)

PUBLIC RETIREMENT SYSTEMS SURVEYED
(continued)

No.	State	Fund	EE Coverage	Actives	SS Coverage	S.S. Integration
46.	Nev.	PERS	S-L-T	45,437	No	-
47.	N.H.	NHRS	S-L-T	26,693	Yes	Offset Benefit - Age 65
48.	N.J.	PERS	S-L	205,038	Yes	None
49.	N.J.	TRS	T	111,987	Yes	None
50.	N.M.	PERA	S-L	25,540	Yes	None
51.	N.M.	TRA	T	41,204	Yes	None
52.	N.Y.	ERS	S-L	609,434	Yes	Offset Benefit
53.	N.Y.	TRS	T	205,550	Yes	Offset Benefit
54.	N.C.	TSERS	S-T	242,972	Yes	None
55.	N.C.	LGERS	L	66,123	Yes	None
56.	N.D.	PERS	S-L	9,481	Yes	None
57.	N.D.	TRF	T	10,282	Yes	None
58.	Ohio	PERS	S-L	258,559	No	-
59.	Ohio	STRS	T	179,733	No	-
60.	Okla.	PERS	S-L	37,599	Yes	None
61.	Okla.	TRS	T	54,764	Yes	None
62.	Oreg.	PERS	S-L-T	101,094	Yes	None
63.	Penn.	SERS	S	121,973	Yes	None
64.	Penn.	PSERS	T	216,333	Yes	None
65.	R.I.	ERS	S-T	27,394	Yes	None
66.	S.C.	SRS	S-L-T	231,069	Yes	Step-Up Formula ($4,800)
67.	S.D.	SRS	S-L-T	26,854	Yes	Offset Benefit
68.	Tenn.	CRS	S-L-T	141,725	Yes	Step-Up Formula
69.	Tex.	ERS	S	94,477	Yes	None
70.	Tex.	TRS	T	388,458	Yes	None
71.	Tex.	MRS	L	56,231	Yes	None
72.	Utah	SRS	S-L-T	62,911	Yes	Maximum Limit (100% F.A.S.)
73.	Vert.	SRS	S	6,763	Yes	None
74.	Vert.	TRS	T	7,584	Yes	None
75.	Virg.	SRS	S-L-T	222,000	Yes	Offset F.A.S. ($1,200)
76.	Wash.	PERS	S-L	113,202	Yes	None
77.	Wash.	TRS	T	47,064	Yes	None
78.	W.V.	PERS	S-L	34,106	Yes	None
79.	W.V.	TRS	T	49,747	Yes	None
80.	Wyom.	WRS	S-L-T	26,616	Yes	None
81.	Wis.	WRS	S-L-T	192,845	Yes	Maximum Limit (85% F.A.S.)
82.	Milw. City		L	14,381	Yes	Maximum Limit (85% F.A.S.)
83.	Milw. County		L	11,214	Yes	None
84.	Fed. Civ. S.		Federal	2.7 Mill.	No	-
85.	Soc. Sec.		All	91.4 Mill.	-	-

II. NORMAL AND EARLY RETIREMENT REQUIREMENTS

A. Retirement Requirements

Normal Requirements. Most public retirement systems require age and/or service minimums to qualify for retirement benefits without actuarial discount. Actually, most state plans have adopted multiple combinations of age and years of service such as 65 and 5 years; 62 and 10 years; 55 and 30 years. The requirements for the 80 pension plans surveyed is summarized on pages 7 and 8 of this report, along with the requirements for Wisconsin's WRS, the two Milwaukee funds, the Federal Civil Service and the OASDI program.

Age 62 Normal. Most of the discussion in Wisconsin concerning normal retirement has been relative to establishing an age 62 normal which is the earliest age at which participants may also retire under social security. Previous RRC surveys have noted the number of plans which permit normal retirement at age 62 with 10, 20, 30, and 35 years of service. This table updated to include the survey as of 1982 is as follows:

Age & Service	S.R. #26 (1974)	S.R. #34 (1976)	S.R. #53 (1980)	S.R. #60 (1982)
Systems permitting N.R. at 62 & 10 years	-	-	51%	52%
Systems permitting N.R. at 62 & 20 years	58%	65%	67%	65%
Systems permitting N.R. at 62 & 30 years	74%	80%	82%	82%
Systems permitting N.R. at 62 & 35 years	78%	85%	86%	86%

The above table clearly indicates that the majority of major public pension plans surveyed permit normal retirement at age 62 with 10 years of service, and that the percentage at 30 and 35 years of service includes more than four-fifths of the pension plans surveyed. Wisconsin's WRS has a normal retirement age of 65 without any specific service requirement.

X Years and Out. There is also a trend towards "X years and out" provisions in which participants may retire at any age after X number of years of service. Of the 80 pension plans surveyed, 36 plans (45% of the total) permit retirement at any age after X number of years of service as follows:

35 years and any age	--	10 plans
30 years and any age	--	24 plans
28 years and any age	--	1 plan
20 years and any age	--	1 plan

Early Retirement. The charts on pages 7 and 8 indicate that nearly all of the major pension plans surveyed permit retirement before the normal retirement age with actuarial discount. The majority of plans have established age 55 as the earliest retirement age possible, but some have used age 50 or 60. Some of the funds have adopted multiple age and service requirements for early retirement. The Wisconsin WRS permits early retirement at age 55 with actuarial discount, but the WRS does not require a minimum service period as is required by most other public funds. Hence, the WRS meets or exceeds the early retirement provisions of most other public pension plans.

Actuarial Discounts. The actuarial discounts applied for early retirement are to compensate for the longer pay-out period than the plans are normally funded for. The charts on pages 7 and 8 indicate that the actuarial discounts applied by the various pension plans vary greatly. A number of funds use a reduction table which often reflects the "actuarial equivalent" adjustment required so that there is no loss to the pension plan for early retirement. A number of funds have established by rule or statute a specific percentage for the discount, and for many, this is 6% or higher. On the other hand, the charts indicate that about 20% of the plans provide yearly discounts of 3% or less, which represents a policy of subsidizing early retirement. Wisconsin's WRS has adopted, by rule, a 6% discount for years between 60 and 65, and a 4.8% discount for years between 55 and 60.

WRS Requirements. The WRS clearly is more conservative than the majority of public pension plans surveyed in establishing a normal retirement age of 65, and in requiring a yearly discount which is at or close to the actuarial equivalent if retirement occurs before age 65. However, the WRS is more lenient than most plans in requiring no minimum service for early or normal retirement. The WRS also has two temporary plans in effect concerning early retirement. There is an election (subject to bargaining) for employers of teachers to provide benefits as if age 62 were the normal retirement age, but this plan terminates on June 30, 1984. In addition, there is an "age 62 plan" for state employees only, which terminates on June 30, 1983. For comparison purposes, the Milwaukee City and County plans have a normal retirement age of 60.

B. CHARTS - NORMAL AND EARLY RETIREMENT REQUIREMENTS

No.	State	Fund	EE Coverage	Normal Retire. Requirements	E.R. Require.	Actuarial Discount
1.	Alab.	ERS	S-L	60 & 10y; X & 30y	None	-
2.	Alab.	TRS	T	60 & 10y; X & 30y	None	-
3.	Alas.	PERS	S-L	55 & 5y; X & 30y	50 & vested	6%
4.	Alas.	TRS	T	55 & 8y; X & 20y	50 & vested	6%
5.	Ariz.	SRS	S-L-T	65 & Xy; 62 & 10y; 60 & 25y	50 & 5y	3%/5%
6.	Arka.	PERS	S-L	65 & 10y; 55 & 35y	55 & 10y	Table
7.	Arka.	TRS	T	60 & 10y; X & 35y	X & 25y	1%
8.	Cal.	PERS	S-L	60 & 5y	50 & 5y	Table
9.	Cal.	TRS	T	60 & 5y	55 & 5y; 50 & 30y	6%
10.	Col.	PERS	S-L-T	60 & 20y; 55 & 30y; 65 & 5y	55 & 20y; 60 & 5y	6%
11.	Conn.	SERS	S	55 & 25y; 65 & 10y; 70 & 5y	55 & 10y	Table
12.	Conn.	TRS	T	60 & 20y; X & 35y	60 & 10y; X & 25y	6%
13.	Del.	SEPP	S-T	62 & 10y; 60 & 15y; X & 30y	55 & 15y	4.8%
14.	Flor.	FRS	S-L-T	62 & 10y; X & 30y	X & 10y	3%
15.	Geor.	ERS	S	65; X & 30y	60 & 5y	5%
16.	Geor.	TRS	T	62 & 10y; X & 30y	60 & 10y	3%
17.	Haw.	ERS	S-L-T	55 & 5y	X & 25y	5%
18.	Idaho	ERS	S-L-T	65 & 5y; 60 & 30y	55 & 5y	Table
19.	Ill.	SERS	S	60 & 8y; X & 35y	55& 30y	6%
20.	Ill.	TRS	T	62 & 5y; 60 & 10y; 55 & 35y	55 & 20y	6%
21.	Ill.	MRF	L	60 & 8y; 55 & 35y	55 & 8y	6%
22.	Ind.	PERS	S-L	65 & 10y	50 & 15y	1.1%/5%
23.	Ind.	STRF	T	65 & 10y	50 & 15y	1.2%
24.	Iowa	PERS	S-L-T	65	55	4%/6%
25.	Kans.	PERS	S-L-T	65	60 & 10y	7.2%
26.	Ken.	ERS	S-L	65 & 4y; X & 30y	55 & 5y	5%
27.	Ken.	TRS	T	X & 30y; 60 & 5y	55 & 5y	5%
28.	Lous.	SERS	S	60 & 10y; 55 & 25y; X & 30y	None	None
29.	Maine	SRS	S-L-T	60 & X years	X & 25y	Table
30.	Mary.	SRS	S-L-T	62 & 5y; X & 30y	55 & 15y	6%
31.	Mass.	ERS	S	65 & 10y	55 & Xy; X & 20y	Table
32.	Mass.	TRS	T	65 & 10y	55 & Xy; X & 20y	Table
33.	Mich.	ERS	S	60 & 10y; 55 & 30y	55 & 15y	6%
34.	Mich.	MERS	L	60 & 10y	55 & 15y	6%
35.	Mich.	PSERS	T	60 & 10y; 55 & 30y	55 & 15y	6%
36.	Minn.	MSRS	S & Elec.	65 & 10y; 62 & 30y	58 & 20y; 62 & 10y	Table
37.	Minn.	PERS	L	65 & 10y; 62 & 30y	58 & 20y; 62 & 10y	Table
38.	Minn.	TRA	T	65 & 10y; 62 & 30y	55 & 10y	6%/3%
39.	Miss.	PERS	S-L-T	65 & X yrs; X & 30y	60 & 10y	3%
40.	Mon.	SER	S	65 & 4y; 60 & 15y	55 & 15y	Table
41.	Mon.	PSRS	T	60 & 5y; X & 30y	X & 25y	Table
42.	Mont.	PERS	S-L	60 & 5y; 65 & X; X & 30y	55 & 5y	Table
43.	Mont.	TRS	T	60 & 5y; X & 30y	50 & 5y	6%/3%
44.	Nebr.	SERS	S	65 & X yrs.	60	Table
45.	Nebr.	TRS	T	65 & 5y; X & 35y	60 & 5y	Table

(Years - Y; Any - X)

NORMAL AND EARLY RETIREMENT REQUIREMENTS
(continued)

No.	State	Fund	EE Cov.	Normal Retire. Requirements	Early Ret. Req.	Actuarial Discount
46.	Nev.	PERS	S-L-T	60 & 10y; 55 & 30y	X & 10 y	6%
47.	N.H.	NHRS	S-L-T	60 & X yrs.	50 & 10y	6 2/3%
48.	N.J.	PERS	S-L	60; 55 & 25y; X & 35y	X & 25y	3%
49.	N.J.	TRS	T	60; 55 & 25y	X & 25y	3%
50.	N.M.	PERA	S-L	X & 30y; 60 & 20y; 65 & 5y	X & 25y	4.8%
51.	N.M.	TRA	T	65 & 5y; 60 & 15y; X & 35y	X & 25y	4.8%
52.	N.Y.	ERS	S-L	62 & 20y	55& 10y	Table
53.	N.Y.	TRS	T	62 & 20y; 55 & 30y	55 & 10y	Table
54.	N.C.	TSERS	S-T	65; X & 30y	50 & 20y; 60 & X yr	5%/6%/3%
55.	N.C.	LGERS	L	65; X & 30y	50 & 20y; 60 & X yr	5%/6%/3%
56.	N.D.	PERS	S-L	65	55 & 10y	6%
57.	N.D.	TRF	T	65 & 10y; 60 & 35y	55 & 10y	6%
58.	Ohio	PERS	S-L	65 & 5y; X & 30y	55 & 25y; 60 & 5y	Table
59.	Ohio	STRS	T	60 & 5y; X & 30y	55 & 25y	Table
60.	Okla.	PERS	S-L	62 & X; 38 & 30y	55 & 10y	6.67%
61.	Okla.	TRS	T	62 & 10y; 55 & 30y	58 & 10y; X & 30y	Table
62.	Oreg.	PERS	S-L-T	58 & any; 55 & 30y	55	8%
63.	Penn.	SERS	S	60 & 5y; X & 35y	10y	Table
64.	Penn.	PSERS	T	62 & X; 60 & 30y; X & 35y	55 & 25y	3%
65.	R.I.	ERS	S-T	55 & 30y; 60 & 10y; X & 35y	X & 30y	6%
66.	S.C.	SRS	S-L-T	65; X & 30 yrs.	60	5%
67.	S.D.	SRS	S-L-T	65 & 5y	55 & 5y	3%
68.	Tenn.	CRS	S-L-T	60 & X yrs.; X & 30y	55 & 4y	4.8%
69.	Tex.	ERS	S	60 & 10y; 55 & 30y	55 & 25y; 50 & 30y	Table
70.	Tex.	TRS	T	65 & 10y; 60 & 20y; age + y =95	55 & 10y	Table
71.	Tex.	MRS	L	50 & 25y; X & 28y; 60 & 15y	?	?
72.	Utah	SRS	S-L-T	65 & 4y; X & 30y	62 & 10y; 60 & 20y	3%
73.	Vert.	SRS	S	65; 62 & 20y	55 & 10y; X & 30y	Table
74.	Vert.	TRS	T	60 & X yr; X & 30y	55 & X	Table
75.	Virg.	SRS	S-L-T	65 & X yr; 60 & 30y	55 & 5y; 60 & X yr.	6%
76.	Wash.	PERS	S-L	65 & 5y	55 & 20y	7%
77.	Wash.	TRS	T	65 & 5y	55 & 20y	7%
78.	W.V.	PERS	S-L	60 & 5y	55 & 10y	Table
79.	W.V.	TRS	T	60 & 5y; 55 & 30y; X & 35y	55 & 10y	Table
80.	Wyom.	WRS	S-L-T	60 & 4y	50 & 4y	?
81.	Wis.	WRS	S-L-T	65 & any	55 & any	6%/4.8%
82.	Milw. City		L	60	-	-
83.	Milw. County		L	60 & X; 55 & 30y	55 & 15y	5%
84.	Fed. Civ. Se.		Federal	62 & 5y; 60 & 20y; 55 & 30y	50 & 20y; x & 25y	2%
85.	Soc. Sec.		All	65	62	6.67%

III. VESTING AND CONTRIBUTION REQUIREMENTS

A. Provision Description

Vesting. The term "vesting" is usually defined as an employee's right to receive a pension benefit after meeting the age requirements of the plan regardless of whether the employee remains in the service of the employer. The vesting requirements for the plans surveyed are reflected in the charts on pages 11 and 12, and can be summarized as follows:

5 years or less required	32 plans	40.0% of total
6-10 years required	46 plans	57.5% of total
Over 10 years required	2 plans	2.5% of total
TOTAL	80 plans	100.0%

Wisconsin's WRS is unique among all the plans surveyed in that the WRS vests immediately. This literally means that if an employee terminates with even one year of service, the employee has a vested right to a pension benefit payable at normal or early retirement.

Soc. Sec. Contributions. Except for the self-employed and a few other groups, the OASDHI program is financed by equal contributions from the employees and employers involved. The contribution rate in 1982 is 6.7% on a wage base of $32,400, payable by both the employee and employer. Both the rate of contribution and the salary base to which the rate is applied have been increasing over time, which is partially reflected in the following 5-year table:

Year	EE/ER Rate	Wage Base
1978	6.05%	$17,700
1979	6.13%	22,900
1980	6.13%	25,900
1981	6.65%	29,700
1982	6.70%	32,400

The contribution rate is projected to increase to 7.65% by 1990, applied to an earnings base that will be increased as average earnings in the country increase. Although often discussed, the employer rarely "picks up" the required employee contributions to social security. RRC staff is aware of only one state where this has been attempted in the public sector--Texas. The reason that there is little employer "pick-up" is that any such "pick-up" of employee contributions are deemed additions to gross wages resulting in little or no advantage to the employees and employers involved.

Employee Contributions. Although most pension plans in the private sector are non-contributory, most public pension plans require employee contributions. The employee contributions information found on pages 11 and 12 may be summarized as follows:

Employee rate over 5%	38 plans	47.5%
Employee rate of 0-5%	33 plans	41.3%
Employee rate variable (age)	2 plans	2.5%
Non-contributory	7 plans	8.7%
TOTALS	80 plans	100.0%

Of the 80 plans surveyed which require contributions, two plans (Illinois and Oregon) permit the employer to "pick-up" the required employee contributions. Wisconsin's WRS also permits the employer to "pick-up" employee contributions at the local level, and establishes by statute a 4% "pick-up" for state employees under the WRS. A recent DETF survey indicated that about 94% of all employee contributions to the WRS are, in fact, paid by the employer under the "pick-up" provisions. It should also be noted that 13 of the plans requiring contributions of 5% or more are plans that do not have social security coverage and the accompanying required contributions.

Employer Contributions. The data reflected in the charts on pages 11 and 12 relative to employer contributions is somewhat incomplete and confusing. Often, employer contributions in the annual reports for the various plans are stated in dollars instead of as a percentage of payroll. Also, the employer cost usually varies each year depending upon the results of periodic actuarial valuations of the plan's benefit program. Also, the total employer costs may include several categories of charges such as the payment of administrative costs, the normal cost of the retirement plan, amortization charges, and payments for ad hoc benefit increases for those already retired. The employer costs for Wisconsin's WRS are determined each year by Board action based upon current actuarial analysis, plus an amortization charge expressed as a level percent of payroll. The administrative costs of the WRS are charged against investment income from the DETF trust fund.

B. CHARTS - CONTRIBUTION & VESTING REQUIREMENTS

No.	State	Fund	Soc. Sec.	E.E. Retirement Contribution	E.R. Retirement Contribution	Vesting Period
1.	Alab.	ERS	Yes	5%	10.25 %	10 yrs.
2.	Alab.	TRS	Yes	5%	12.5%	10 yrs.
3.	Alas.	PERS	No	4.25%	13.78%	5 yrs.
4.	Alas.	TRS	No	7%	7% + 7% - State & school	8 yrs.
5.	Ariz.	SRS	Yes	7%	7% - matching	5 yrs.
6.	Arka.	PERS	Yes	Non-contributory	12% +	10 yrs.
7.	Arka.	TRS	Yes	6%	12.9%	10 yrs.
8.	Cal.	PERS	Yes	5% - 7%	Varies by contract	5 yrs.
9.	Cal.	TRS	No	8%	8% - matching	5 yrs.
10.	Col.	PERS	No	7 3/4%	12.2% average	5 yrs.
11.	Conn.	SERS	Yes	5%	?	10 yrs.
12.	Conn.	TRS	No	6%	?	10 yrs.
13.	Del.	SEPP	Yes	3%/5% (split)	14.2%	10 yrs.
14.	Flor.	FRS	Yes	Non-contributory	10.93%	10 yrs.
15.	Geor.	ERS	Yes	.25%	?	10 yrs.
16.	Geor.	TRS	Yes	6%	11.71%	10 yrs.
17.	Haw.	ERS	Yes	7.8%	23.47%	5 yrs.
18.	Idaho	ERS	Yes	5.01%	9.5%	5 yrs.
19.	Ill.	SERS	Yes	4% - pick-up allowed	7.5%	8 yrs.
20.	Ill.	TRS	No	8% gross	?	5 yrs.
21.	Ill.	MRF	Yes	4 1/2%	?	8 yrs.
22.	Ind.	PERS	Yes	3%	?	10 yrs.
23.	Ind.	STRF	Yes	3%	?	10 yrs.
24.	Iowa	PERS	Yes	3.7%	5.75%	4 yrs.
25.	Kans.	PERS	Yes	4%	5.2%	10 yrs.
26.	Ken.	ERS	Yes	4%	7.25%	5 yrs.
27.	Ken.	TRS	No	7.84%	11.9%	5 yrs.
28.	Lous.	SERS	No	7%	9%	10 yrs.
29.	Maine	SRS	No	6.5%	12.78%	10 yrs.
30.	Marv.	SRS	Yes	5% over S.S. base	5.16%	5 yrs.
31.	Mass.	ERS	No	5%-7%	?	10 yrs.
32.	Mass.	TRS	No	5%-7%	?	10 yrs.
33.	Mich.	ERS	Yes	Non-contributory	?	10 yrs.
34.	Mich.	MERS	Yes	5%	?	10 yrs.
35.	Mich.	PSERS	Yes	Non-contributory	5% +	10 yrs.
36.	Minn.	MSRS	Yes	4%	4% plus amortization	10 yrs.
37.	Minn.	PERS	Yes	4%	4% plus amortization	10 yrs.
38.	Minn.	TRA	Yes	4.5%	4 1/2 + amortization	10 yrs.
39.	Miss.	PERS	Yes	6%	8.75%	10 yrs.
40.	Mon.	SER	Yes	Non-contributory	?	10 yrs.
41.	Mon.	PSRS	No	9.5%	9.5% - Matching	10 yrs.
42.	Mont.	PERS	Yes	6%	6.2%	5 yrs.
43.	Mont.	TRS	Yes	6 3/16%	6.46%	5 yrs.
44.	Nebr.	SERS	Yes	5%/6% (split)	?	5 yrs.
45.	Nebr.	TRS	Yes	3 1/2%	?	5 yrs.

CONTRIBUTION & VESTING REQUIREMENTS
(continued)

No.	State	Fund	Soc. Sec.	E.E. Retirement Contribution	E.R. Retirement Contribution	Vesting Period
46.	Nev.	PERS	No	Non-contributory	15%	10 yrs.
47.	N.H.	NHRS	Yes	4.6%/9.2% (split)	?	10 yrs.
48.	N.J.	PERS	Yes	Variable by age	?	15 yrs.
49.	N.J.	TRS	Yes	Variable by age	?	15 yrs.
50.	N.M.	PERA	Yes	6.15%	6.15% - matching	5 yrs.
51.	N.M.	TRA	Yes	6.5%	6.5% - matching	5 yrs.
52.	N.Y.	ERS	Yes	3%	8.8%	10 yrs.
53.	N.Y.	ERS	Yes	3%	?	10 yrs.
54.	N.C.	TSERS	Yes	6%	9.92%	5 yrs.
55.	N.C.	LGERS	Yes	6%	?	5 yrs.
56.	N.D.	PERS	Yes	4%	5.12%	10 yrs.
57.	N.D.	TRF	Yes	6.25%	6.25% - matching	10 yrs.
58.	Ohio	PERS	No	8.5%	13.95%	5 yrs.
59.	Ohio	STRS	No	8.5%	13.5%	5 yrs.
60.	Okla.	PERS	Yes	5%	14%	10 yrs.
61.	Okla.	TRS	Yes	5%	?	10 yrs.
62.	Oreg.	PERS	Yes	6% (pickup allowed)	?	5 yrs.
63.	Penn.	SERS	Yes	5%	14.67%	10 yrs.
64.	Penn.	PSERS	Yes	5 1/4%	16%	10 yrs.
65.	R.I.	ERS	Yes	6%-7%	11.3 (S) to 14.6% (T)	10 yrs.
66.	S.C.	SRS	Yes	4%/6% (split)	7%	5 yrs.
67.	S.D.	SRS	Yes	5%	?	5 yrs.
68.	Tenn.	CRS	Yes	Non-contributory	?	10 yrs.
69.	Tex.	ERS	Yes	6% gross	8%	10 yrs.
70.	Tex.	TRS	Yes	6.65%	8 1/2%	10 yrs.
71.	Tex.	MRS	Yes	5% gross	5% - matching -	10 yrs.
72.	Utah	SRS	Yes	8.95%	8.95% - matching	-
73.	Vert.	SRS	Yes	5%	7.07%	10 yrs.
74.	Vert.	TRS	Yes	5.5%	8.7%	10 yrs.
75.	Virg.	SRS	Yes	5%	4.67 (S) to 7.33% (T)	5 yrs.
76.	Wash.	PERS	Yes	5.51%	?	5 yrs.
77.	Wash.	TRS	Yes	6.4%	?	5 yrs.
78.	W.V.	PERS	Yes	4.5%	9.5% (S) to 10.5% (L)	5 yrs.
79.	W.V.	TRS	Yes	6%	?	5 yrs.
80.	Wyom.	WRS	Yes	5.57%	5.57% - matching	4 yrs.
81.	Wis.	WRS	Yes	5%	5.5% + amortization	0 yrs.
82.	Milw.	City	Yes	5 1/2% (ER-picked up)	9.3%	4 yrs.
83.	Milw.	County	Yes	Non-contributory	21.1%	10 yrs.
84.	Fed.	C.S.	No	7%	26% +	5 yrs.
85.	Soc. Sec.		-	6.7%	6.7%	-

IV. POST-RETIREMENT ADJUSTMENTS AND TAXES

A. Post-Retirement Provisions

Social Security. Beginning in 1975, benefits under social security have been automatically adjusted according to changes in the CPI. If the CPI for a particular base quarter increases by at least 3% from what it was in the previous base quarter, the benefits then paid are increased by the percent rise effective the next following June. The automatic adjustments that have come into effect in the most recent five-year period ar as follows:

Year	Percent
1978	6.5%
1979	9.9%
1980	14.3%
1981	11.2%
1982	7.4%

Hence, to the degree that the social security program is part of the total retirement planning for a particular system, at least that part keeps pace with inflation. In addition, social security benefits are not subject to either state or Federal taxes, which increases the value on a net vs. gross analysis.

Post-Retirement Increases. With the runaway inflation of the 1970 decade, the "number one" problem of most public pension plans was to protect the purchasing power of the benefits paid. Most public retirement systems have now adopted various "automatic" plans for increasing benefits which may be directly or indirectly linked to inflation. The types of post-retirement increase plans are noted on pages 15 and 16, and can be summarized as follows:

-Increases based on CPI changes (usually with cap)	34 plans	42.5%
- Annual automatic increases	10 plans	12.5%
- Increases based on investment returns	3 plans	3.75%
- Board or employer discretion	2 plans	2.5%
- Ad Hoc Increases	31 plans	38.75%

The table above notes that 58.75% of the plans surveyed provide an automatic post-retirement increase in benefits which participants may rely upon in their retirement planning. On the other hand, 38.75% of the plans provide only Ad Hoc increases which allows an employer advantage of determining when increases will be paid based upon the funding available. Wisconsin's WRS uses the so-called "dividend" process for providing benefit increases after retirement. This process

relies upon the generation of surplus earnings on those assets dedicated to pay annuities in force. The WRS presumably will be able to pay increases in the 5%-6% range annually for the next several years--a rate which exceeds the CPI or annual automatic provisions of most other public pension plans. Hence, the WRS is now providing equal or greater protection during the post-retirement years than the majority of plans surveyed.

State Taxes. In establishing the goals for a retirement plan, the desired level of retirement benefits partially depends on the tax status at the state and Federal level of the benefits paid. As to Federal taxes, the amount of benefits provided by the employer and investment earnings which have not been previously taxed will be included as income for Federal tax purposes. Employee contributions to the retirement plan have already been subject to Federal tax and are not taxed again. Concerning state income tax laws, the majority of states either exempt benefits (totally or partially) that are payable from the public retirement systems of that state, or have no personal income tax law. The tax provisions for each plan noted on pages 15 and 16 may be summarized as follows:

No income tax law	15 plans	18.73% of total
Benefits totally exempt	35 plans	43.75% of total
Benefits partially exempt	14 plans	17.5% of total
Benefits taxable	16 plans	20.02% of total
TOTAL	80 plans	100.0%

Hence, this survey indicates that the majority of states do not tax part or all of the pension benefits payable from the public retirement system, and presumably may provide lower benefits and still maintain the replacement goal for that system.

Wisconsin Tax Laws. Section 71.03 (2)(d) of Wisconsin statutes provides an exemption for participants of some of the public retirement systems of the state, but no tax exemption for participants of others. This section of law states that participants of Milwaukee pension funds and the State Teachers Retirement System (STRS) who were participants on Dec. 31, 1963, (active or retired) shall have their benefits excluded from state income tax considerations. All other participants including those who are participants of the old WRF and those hired after December 31, 1963, receive no tax exemption on their pension benefits. Those that are covered by this "grandfather clause" receive a significant advantage not extended to other public employees of the state, and yet there is no difference reflected in the calculation of benefits to recognize this advantage.

POST-RETIREMENT INCREASES & STATE TAX PROVISIONS

No.	State	Fund	Soc. Sec.	Post-Retirement Increases	State Taxes
1.	Alab.	ERS	Yes	Ad Hoc increases only	Benefits exempt
2.	Alab.	TRS	Yes	Ad Hoc increases only	Benefits exempt
3.	Alas.	PERS	No	CPI adjustments-4% cap	No income tax law
4.	Alas.	TRS	No	CPI adjustments-4% cap	No income tax law
5.	Ariz.	SRS	Yes	Ad Hoc increases only	Benefits exempt
6.	Arka.	PERS	Yes	Automatic 3% annual adjustment	Exempt to $6,000
7.	Arka.	TRS	Yes	CPI adjustments-3% cap	Benefit exempt
8.	Cal.	PERS	Yes	Automatic 2% annual adjustment	Benefits taxable
9.	Cal.	TRS	No	Automatic 2% annual adjustment	Benefits taxable
10.	Col.	PERS	No	CPI adjustments-3% cap	Benefits exempt
11.	Conn.	SERS	Yes	CPI adjustments-5% cap	No income tax law
12.	Conn.	TRS	No	CPI adjustments-5% cap	No income tax law
13.	Del.	SEPP	Yes	Ad Hoc increases only	Exempt to $2,000
14.	Flor.	FRS	Yes	CPI adjustments-3% cap	No income tax law
15.	Geor.	ERS	Yes	CPI adjustments-3% cap	Benefits exempt
16.	Geor.	TRS	Yes	CPI adjustments-3% cap	Benefits exempt
17.	Haw.	ERS	Yes	Automatic 2 1/2% annual increase	Benefits exempt
18.	Idaho	ERS	Yes	1%-6% annual--Board discretion	Benefits taxable
19.	Ill.	SERS	Yes	Automatic 3% annual increase	Benefits exempt
20.	Ill.	TRS	No	Automatic 3% annual increase	Benefits exempt
21.	Ill.	MRF	Yes	Automatic 2% increase	Benefits exempt
22.	Ind.	PERS	Yes	Ad Hoc increases only	Benefits taxable
23.	Ind.	STRF	Yes	Ad Hoc increases only	Benefits taxable
24.	Iowa	PERS	Yes	Ad Hoc increases only	Benefits exempt
25.	Kans.	PERS	Yes	Ad Hoc increases only	Benefits exempt
26.	Ken.	ERS	Yes	Ad Hoc increases only	Benefits exempt
27.	Ken.	TRS	No	Automatic 1% annual increase	Benefits exempt
28.	Lous.	SERS	No	CPI adjustments-3% cap	Benefits exempt
29.	Maine	SRS	No	CPI adjustments-4% cap	Benefits taxable
30.	Mary.	SRS	Yes	CPI adjustments-3% cap	Exempt to $6,400
31.	Mass.	ERS	No	CPI adjustments-3% cap	Benefits exempt
32.	Mass.	TRS	No	CPI adjustments-3% cap	Benefits exempt
33.	Mich.	ERS	Yes	Ad Hoc increases only	Exempt to $10,000 - jt.
34.	Mich.	MERS	Yes	CPI adjustments-2.5% cap	Exempt to $10,000 - jt.
35.	Mich.	PSERS	Yes	Employer option	Exempt to $10,000 - jt.
36.	Minn.	MSRS	Yes	Investment return increases	Exempt to $11,000
37.	Minn.	PERS	Yes	Investment return increases	Exempt to $11,000
38.	Minn.	TRA	Yes	Investment return increases	Exempt to $11,000
39.	Miss.	PERS	Yes	1/2 CPI adjustments-2 1/2% cap	Benefits exempt
40.	Mou.	SER	Yes	Automatic 4% annual increase	Benefits taxable
41.	Mou.	PSRS	No	CPI adjustments-4% cap	Benefits taxable
42.	Mont.	PERS	Yes	Ad Hoc increases only	Benefits exempt
43.	Mont.	TRS	Yes	Ad Hoc increases only	Benefits exempt
44.	Nebr.	SERS	Yes	Ad Hoc increases only	Benefits taxable
45.	Nebr.	TRS	Yes	Ad Hoc increases only	Benefits taxable

POST-RETIREMENT INCREASES AND STATE TAX PROVISIONS
(continued)

No.	State	Fund	Soc. Sec.	Post-Retirement Increases	State Taxes
46.	Nev.	PERS	No	Ad Hoc increases only	No income tax law
47.	N.H.	NHRS	Yes	Ad Hoc increases only	No income tax law
48.	N.J.	PERS	Yes	60% of CPI adjustments	Exempt to $10,000 - jt.
49.	N.J.	TRS	Yes	66% of CPI adjustments	Exempt to $10,000 - jt.
50.	N.M.	PERA	Yes	CPI adjustments-2% cap	Benefits exempt
51.	N.M.	TRA	Yes	CPI adjustments-2% cap	Benefits exempt
52.	N.Y.	ERS	Yes	CPI adjustments-3% cap	Benefits exempt
53.	N.Y.	TERS	Yes	CPI adjustments-3% cap	Benefits exempt
54.	N.C.	TSERS	Yes	CPI adjustments-4% cap	Benefits exempt
55.	N.C.	LGERS	Yes	Ad Hoc increases only	Benefits exempt
56.	N.D.	PERS	Yes	Ad Hoc increases only	Benefits taxable
57.	N.D.	TRF	Yes	Ad Hoc increases only	Benefits taxable
58.	Ohio	PERS	No	CPI adjustments-3% cap	Exempt to $4,000
59.	Ohio	STRS	No	CPI adjustments-3% cap	Exempt to $4,000
60.	Okla.	PERS	Yes	Ad Hoc increases only	Benefits exempt
61.	Okla.	TRS	Yes	Ad Hoc increases only	Benefits exempt
62.	Oreg.	PERS	Yes	CPI adjustments-2% cap	Benefits exempt
63.	Penn.	SERS	Yes	Ad Hoc increases only	Benefits exempt
64.	Penn.	PSERS	Yes	Ad Hoc increases only	Benefits exempt
65.	R.I.	ERS	Yes	Automatic 3% annual increase	Benefits taxable
66.	S.C.	SRS	Yes	CPI adjustments-4% cap	Benefits exempt
67.	S.D.	SRS	Yes	50% of CPI adjustments-3% cap	No income tax law
68.	Tenn.	CRS	Yes	CPI adjustments-3% cap	No income tax law
69.	Tex.	ERS	Yes	Ad Hoc increases only	No income tax law
70.	Tex.	TRS	Yes	Ad Hoc increases only	No income tax law
71.	Tex.	MRS	Yes	Ad Hoc increases only	No income tax law
72.	Utah	SRS	Yes	CPI adjustments-4% cap	Exempt to $6,000
73.	Vert.	SRS	Yes	CPI adjustments-5% cap	Benefits taxable
74.	Vert.	TRS	Yes	CPI adjustments-5% cap	Benefits taxable
75.	Virg.	SRS	Yes	CPI adjustments-5% cap	Benefits taxable
76.	Wash.	PERS	Yes	Ad Hoc increases only	No income tax law
77.	Wash.	TRS	Yes	Ad Hoc increases only	No income tax law
78.	W.V.	PERS	Yes	Ad Hoc increases only	Benefits exempt
79.	W.V.	TRS	Yes	Ad Hoc increases only	Benefits exempt
80.	Wyom.	WRS	Yes	Ad Hoc increases only	No income tax law
81.	Wis.	WRS	Yes	Investment return increases	Teachers exempt
82.	Milw. City		Yes	Ad Hoc only	Benefits exempt
83.	Milw. County		Yes	Automatic 2% annual increase	Benefits exempt
84.	Fed. Civ. Se.		No	CPI adjustments-no cap	-
85.	Soc. Sec.		-	CPI adjustments-no cap	Benefits exempt

V. RETIREMENT BENEFIT CALCULATIONS

A. Calculation Provisions

Final Average Salary. Most public pension plans may be defined as "final average salary plans" because they base their calculations on the highest earnings over a specified period. Final average salary plans, thusly, provide a great deal of protection against inflation, at least during the working careers. The FAS periods used by the various plans surveyed are reflected on pages 19 and 20, and may be summarized as follows:

2-year FAS periods	2 plans	2.50%
3-year FAS periods	36 plans	45.0%
4-year FAS periods	5 plans	6.25%
5-year FAS periods	35 plans	43.75%
Money purchase plans	2 plans	2.50%
	80 plans	100.0%

This summary indicates that the majority of plans use a three or five-year period for determining the highest average salary for benefit calculation purposes. Most plans also require that the high years be consecutive, and may also require that the years be within the last five or ten-year period. Wisconsin's WRS uses a three-high year average with no requirement that they be consecutive or within the last X number of years. Hence, the WRS meets or exceeds the majority of other public retirement systems relative to the final average salary period.

Limitations. The charts on pages 19 and 20 also reflect that many plans establish some limit on benefits that may be payable. The limits may be based upon integration with social security, a maximum number of creditable years that may be recognized, a maximum salary level for benefit calculation purposes, or a maximum expressed as a percentage of final average salary--with or without inclusion of social security benefits. Wisconsin's WRS has no maximum as to years of service or recognized salary, but it does have a maximum of 85% of final average salary, including the primary social security benefit.

Benefit Formulas. The chart on pages 19 and 20 also reflects the benefit formulas of the surveyed funds. The stars before the benefit formula indicate those plans which do not have social security, and hence, presumably provide a higher benefit to compensate for that lack. Looking primarily at those plans with social security coverage, the formulas indicate that the majority of plans provide a multiplier of 1.5% per year or higher. Wisconsin's WRS uses a multiplier of 1.3% per each year of service, and this results in benefits which rank in the lowest quartile of those pension plans surveyed which have social security. Actual calculations were carried out in Staff Report #57 (1980) reflecting three salary levels (low, medium, high), three lengths of service (25,30,35 years), and two ages at retirement (62 and 65). The following is the "comparative ranking" table which was found on page 7 of the 1980 report, reflecting the percent of surveyed funds providing higher benefits than the WRS.

COMPARATIVE RANKING -- 1974-1976-1980

Variables	Funds Higher in 1974	Funds Higher in 1976	Funds Higher in 1980
20 yrs. & low FAS	73%	76%	79%
20 yrs. & medium FAS	75%	79%	79%
20 yrs. & high FAS	80%	79%	79%
30 yrs. & low FAS	72%	74%	81%
30 yrs. & medium FAS	77%	76%	81%
30 yrs. & high FAS	80%	76%	81%
35 yrs. & low FAS	70%	73%	76%
35 yrs. & medium FAS	75%	75%	76%
35 yrs. & high FAS	78%	81%	76%

In fact, several pension plans have improved their benefit formulas since the 1980 survey including Georgia, Iowa, North Carolina, Oregon, and South Dakota. Hence, the WRS ranking would even be lower in 1982. It would appear that only benefit plans in Kansas, Maryland, Missouri, Nebraska, and North Dakota may provide lower benefits than the WRS.

B. CHART - FINAL AVERAGE PERIODS - FORMULAS - LIMITATIONS

No.	State	Fund	FAS Period	Benefit Formula	Limitation
1.	Alab.	ERS	5H-10	2.0125% x yrs. x FAS	None
2.	Alab.	TRS	5H-10	2.0125% x yrs. x FAS	None
3.	Alas.	PERS	3H-C	*2% x yrs. x FAS	None
4.	Alas.	TRS	3H	*2% x yrs. x FAS	None
5.	Ariz.	SRS	5H-10	2% x yrs. x FAS	None
6.	Arka.	PERS	5H-10	1.625% x yrs. x FAS - partial S.S.	100% FAS including S.S.
7.	Arka.	TRS	5H	1.59% x yrs. x FAS	None
8.	Cal.	PERS	3H-C	2.418% - age 65 x yrs. x FAS discrepancy w/ survey	FAS-$133.33 @ month
9.	Cal.	TRS	3H-C	*2% x yrs. x FAS	None
10.	Col.	PERS	3H	*2.5% x 20 yrs. + 1% x remaining yrs.	70% FAS
11.	Conn.	SERS	3H	2% x yrs. x FAS	None
12.	Conn.	TRS	3H	*2% x yrs. x FAS	75% of FAS
13.	Del.	SEPP	5H	1.6% x yrs. x FAS	75% FAS including S.S.
14.	Flor.	FRS	5H	1.68% (age 65) x yrs. x FAS	None
15.	Geor.	ERS	2H	Benefit tables	None
16.	Geor.	TRS	2H-C	1.92% x yrs. x FAS	40 years credit
17.	Haw.	ERS	5H	2% x yrs. x FAS	None
18.	Idaho	ERS	5H	1.67% x yrs. x FAS	None
19.	Ill.	SERS	4H-C	1% x 1st 10 yr. to 1.5% yrs. over 30	75% FAS
20.	Ill.	TRS	4H-C	*1.67% x 1st 10 yr. to 2.3% x yrs. over 30	75% FAS
21.	Ill.	MRF	4H	Calculation tables	75% FAS
22.	Ind.	PERS	5H	1.1% x yrs. x FAS + ee annuity	None
23.	Ind.	STRF	5H	1.1% x yrs. x FAS + ee annuity	None
24.	Iowa	PERS	5H-C	1.67% x yrs. x FAS	30 yrs. + $70,000 sal. ma:
25.	Kans.	PERS	5H	1.25% x yrs. x FAS	None
26.	Ken.	ERS	5H	1.6% x yrs. x FAS	None
27.	Ken.	TRS	5H	*2% x yrs. x FAS	None
28.	Lous.	SERS	3H-C	*2.5% x yrs. x FAS	100% FAS
29.	Maine	SRS	3H	*2% x yrs. x FAS	None
30.	Marv.	SRS	3H-C	(.8% x SS + 1.5% over SS) x yrs.	None
31.	Mass.	ERS	3H	*2.5% (age 65) x yrs. x FAS	85% FAS
32.	Mass.	TRS	3H	*2.5% (age 65) x yrs. x FAS	85% FAS
33.	Mich.	ERS	5H	1.5% x yrs. x FAS	None
34.	Mich.	MERS	5H-C	Cafeteria System	None
35.	Mich.	PSERS	5H-C	1.5% x yrs. x FAS	None
36.	Minn.	MSRS	5H-C	1%-first 10 yrs; 1.5%-added yrs.	40 years
37.	Minn.	PERS	5H-C	1%-first 10 yrs; 1.5%-added yrs.	40 years
38.	Minn.	TRA	5H-C	1%-first 10 yrs; 1.5%-added yrs.	40 years
39.	Miss.	PERS	5H-C	1.65% x 1st 20 yrs. to 2% x yrs. over 30	None
40.	Mou.	SER	5H-C	1.2% x yrs. x FAS	None
41.	Mou.	PSRS	5H	*2% x yrs. x FAS	80% FAS
42.	Mont.	PERS	3H	1.67% x yrs. x FAS	None
43.	Mont.	TRS	3H	1.67% x yrs. x FAS	None
44.	Nebr.	SERS	-	Money purchase	None
45.	Nebr.	TRS	5H	1.25% x yrs. x FAS	None

(C=Consecutive; 10-last 10 years)

(* - No social security)

FINAL AVERAGE PERIODS - FORMULAS - LIMITATIONS
(continued)

No.	State	Fund	FAS Period	Benefit Formula	Limitation
46.	Nev.	PERS	3H	* 2.5% x yrs. x FAS	75% FAS
47.	N.H.	NHRS	5H	1.67% x yrs. x FAS-S.S. offset	None
48.	N.J.	PERS	3H	1.67% x yrs. x FAS	None
49.	N.J.	TRS	3H	1.67% x yrs. x FAS	None
50.	N.M.	PERA	3H-C10	2% x yrs. x FAS	50% FAS
51.	N.M.	TRA	5H-C	2% x yrs. x FAS	None
52.	N.Y.	ERS	3H-C	2% x yrs. x FAS-S.S. offset	30 years credit
53.	N.Y.	ERS	3H-C	2% x yrs. x FAS-S.S. offset	75% FAS
54.	N.C.	TSERS	4H-C	1.67% x yrs. x FAS	None
55.	N.C.	LGERS	4H-C	1.67% x yrs. x FAS	None
56.	N.D.	PERS	5H-C10	1.04% x yrs. x FAS	None
57.	N.D.	TRF	5H-10	1% x yrs. x FAS	None
58.	Ohio	PERS	3H	*2% x yrs. x FAS	90% FAS
59.	Ohio	STRS	3H	*2% x yrs. x FAS	90% FAS
60.	Okla.	PERS	5H-10	2% x yrs. x FAS	$18,900 salary maximum
61.	Okla.	TRS	5H	2% x yrs. x FAS	None
62.	Oreg.	PERS	3H-10	1.67% x yrs. x FAS	None
63.	Penn.	SERS	3H	2% x yrs. x FAS	None
64.	Penn.	PSERS	3H	2% x yrs. x FAS	None
65.	R.I.	ERS	5H-C	1.7% 1st 10 yrs. to 2.4% over 20 yrs.	80% FAS
66.	S.C.	SRS	3H-C	1.25% x $4,800 + 1.65% x excess wage	None
67.	S.D.	SRS	3H-10	2% x yrs. x FAS less S.S. offset	None
68.	Tenn.	CRS	5H-C	Table-integrated	75% FAS
69.	Tex.	ERS	3H-5	1.5%-first 10 yrs.; 2%-added years	80% FAS
70.	Tex.	TRS	3H	2% x yrs. x FAS	None
71.	Tex.	MRS	--	Money purchase cafeteria	None
72.	Utah	SRS	5H-10	2% x yrs. x FAS	100% FAS including S.S.
73.	Vert.	SRS	5H-C	1.67% x yrs. x FAS	30 years
74.	Vert.	TRS	5H-C	1.67% x yrs. x FAS	30 years
75.	Virg.	SRS	5H-C	1.65% x yrs. x (FAS)-$1,200	None
76.	Wash.	PERS	5H	2% x years x FAS	None
77.	Wash.	TRS	5H	2% x years x FAS	None
78.	W.V.	PERS	5H-10	2% x years x FAS	None
79.	W.V.	TRS	5H-15	2% x years x FAS	None
80.	Wyom.	WRS	5H-C	2% x years x FAS	None
81.	Wis.	WRS	3H	1.5% x years x FAS	85% FAS including S.S.
82.	Milw. City		3H	2% x years x FAS	85% FAS including S.S.
83.	Milw. County		3H	2% x years x FAS	80% FAS
84.	Fed. Civ. Se.		3H	* 1.5% 1st 5 yrs. to 2% yrs. over 10	80% FAS
85.	Soc. Sec.		Career	-	-

SURVEY OF JUDGES' RETIREMENT SYSTEMS OF 16 WESTERN STATES AS OF JANUARY 1, 1983

Appendix III

PLAN PROVISIONS	ALASKA	ARIZONA	ARKANSAS	CALIFORNIA
1. Judges Covered	District Superior Supreme Appellate	Supreme Superior Court of Appeals	Supreme, District, Circuit. (Bill introduced to include Court of Appeals - established in 1979.)	Supreme; Appellate Superior; Municipal
2. Social Security Coverage	No	Yes	Yes	No
3. Service Retirement Benefit Formula	5% of Salary per year. Limited to 75% of current monthly salary.	3-1/3% x FAS x 1st 20 years + 2% x FAS x years after 20.	Benefit set by statute. ½ current salary	Retired by 70 with 20 years worked and contributed, 75% of salary; otherwise 65%. Retired after 70, 50% of salary.
4. Final Average Salary Basis (FAS)	Current monthly salary	Monthly pay at time leaves office	No dollar limit. Current salary.	Current salary
5. Covered Salary	Supreme $77,760 District 60,600 Superior 70,116 Appellate 72,564	All salary covered.	1979-80 / 1980-81 Chief Sup.Crt. $42,048 / $44,991 Supreme Crt. 30,545 / 41,243 Trial Crt. 35,850 / 38,366	Most judges are the following: Supreme Court $77,000 Appellate Court 72,000 Superior Court 63,000 Municipal Court 58,000
6. Normal Retirement	Age 60 and 5 years	Age 65 and 20 years.	At age 65 with 14 or more years.	60 and 20; 70 with 10 of last 15 years.
7. Early Service Retirement	Age 55 or after 20 years	Age 65 and 12 years.	a) With at least 18 years, regardless of age. Benefit = yrs/20 x ½ salary. b) 14 years and age 62; 6% reduction in ½ salary per year retired before age 65.	None before age 60.
8. Mandatory Retirement Age	Age 70	None	Retire by 70 or forfeit pension.	Retire by 70 or benefit is ½ salary
9. Disability Requirement	Involuntary - 2 years Voluntary - 5 years	5 years of service	Permanent physical or mental incapacity - by 2 doctors.	a) If hired before 1/80; no years b) Judge hired after 1/80; 2 years
10. Disability Benefit	5% per year of service No reduction for age.	10 or more years, 2/3 of pay. For 5-10 years, use proportion of 10.	Same benefit as for regular retirement	If at least 20 years service, 75% of salary. If less than 20 years service, 65% of salary.
11. Widow Benefit-Retired Death	50% of his benefit	2/3 of his benefit.	½ of his benefit.	½ of his benefit if retired by 70. No benefit on death of vested member unless optional settlement elected.
12. Widow Benefit-Active Death	50% of his vested interest with a minimum of 30% of salary	2/3 of his benefit at age 65.	½ of benefit regardless of retirement eligibility.	If eligible to retire, ½ of benefit or 25% of salary. If 10-20 years, benefit to widow is 1.625%/yr. of service.
13. Vesting Requirements	5 years; benefit paid at 60	12 years; benefit paid at 65. Under 12 years, refund w/o int.	14 years; benefit paid at age 62. Under 14 years, refund without interest.	With at least 12 years, 3.75% of salary per year (Max. 75%). With 5-11 years, lesser graded percentages. Paid at 63 except at age 60, if at least 20 years or refund w/o interest.

SURVEY OF JUDGES' RETIREMENT SYSTEMS OF 16 WESTERN STATES AS OF JANUARY 1, 1983

PLAN PROVISIONS	ALASKA	ARIZONA	ARKANSAS	CALIFORNIA
14. Judges' Contribution	7%	7%	4% of salary - all years	8% of salary
15. Employer Contribution	104.78% of salary	25% of 1st $20,000 of Judges' salary. Also 40% over $20,000 of fees from Superior Court. 40% of all fees from Appeals and Supreme	Pay as you go. Biennial appropriation.	8% of salary and additional funding if needed.
16. Interest Credited Members	4% per annum	None	None	None
17. Cost of Living Benefit	Increases as active salary	One time increase of 15% in 1982	None	Increases as active salary
18. Major Amendments	None	None	(see Item #1)	Possible 2nd Tier for new Judges.

SUMMARY OF JUDGES' RETIREMENT SYSTEMS OF 16 WESTERN STATES AS OF JANUARY 1, 1983

PLAN PROVISION	COLORADO	HAWAII	IDAHO	MONTANA
1. Judges Covered	All but Magistrate	All but District Court Judges	Supreme, District, Court of Appeals	District and Supreme Court
2. Social Security Coverage	No	Yes	Yes	Yes
3. Service Retirement Benefit Formula	2½% x FAS x 1st 20 yrs. + 1% for each year after. Max. 70% FAS	(Annuity + 3½% x FAS x yrs.) Maximum 75% FAS	2½% x Current Salary x Yrs. (Maximum of 62½%)	3-1/3% x Annual Sal. x 1st 15 years + 1% for each year after 15
4. Final Average Salary (FAS)	Highest 3 years with a 15% year-over-year limitation	3 Highest	Current salary	Current salary
5. Covered Salary	All of it. Salary reaches $53,000 annually.	All of it.	All of it. Salary reaches $47,300.	Chief Supreme Crt $48,204 Supreme Court 47,023 District Court 44,841 (through 6/30/83)
6. Normal Retirement	60 and 20 years; 65 and 5	Age 55 and 5 years; any age with 10 years	8 to 15 years and age 70	65 and 5 years; or 12 years any age, if voluntary
7. Early Service Retirement	55 and 20; 60 and 5	None	65 and 4 years; 20 years at any age	5 years any age
8. Mandatory Retirement Age	Age 72	Age 70	Age 70 or end of elected term	Age 70 or end of elected term
9. Disability Requirement	No age or service requirement	Non-Duty-10 yrs; any age Duty-any age, no years	4 years and any age	No age or service requirement
10. Disability Benefit	50% x FAS + 1% x FAS x for years over 20. Less than 50% if member could not have put in 20 years in total.	Non-Duty-same as serv. ret. Duty-(1) from gainful employment, 2/3 FAS + member's annuity. (2) occupational-same as above for three years, then 1/3 FAS	2½% x Current Sal. x yrs; 62½% maximum	Non-Duty - Service Ret. Benefit actuarially reduced below age 60 Duty - 50% of Salary or Serv. Retirement, if greater
11. Widow Benefit - Retired Death	Optional Election only	Optional election only	30% of Judge's benefit	Optional election. Refund Option provides accumulated benefit of reserve residual
12. Widow Benefit - Active Death	25% of FAS; usually higher if more than 10 years of service.	a) ord. death (not elig.)-contrib. and % of sal. x years. b) ord. death (elig.) -50% of serv. benefit. c) duty death -1/2 FAS + contrib.	30% of Judge's benefit	Actuarial equivalent of Judge's benefit
13. Vesting Requirements	5 years; paid at age 60; or refund w/o interest	5 years; paid at 55	4 years; paid at 65 or 70; or refund with interest	5 years; paid at 65
14. Judges' Contribution	8% of salary.	7.8% of sal. until 75% benefit limit	6% of salary; all years	6% of salary; all years
15. Employer Contribution	15% of salary.	Normal cost and unfunded cost as calculated by actuary	% of filing fees; and 7% of salary. Legislative appropriation if needed.	6% of salary; 20% of salaries from District Court Fees; about 25% from Supreme Court fees

SUMMARY OF JUDGES' RETIREMENT SYSTEMS OF 16 WESTERN STATES AS OF JANUARY 1, 1983

PLAN PROVISION	COLORADO	HAWAII	IDAHO	MONTANA
16. Interest Credited Members	None	4½% per annum	4½% per annum	7½% per annum
17. Cost of Living Benefit	Lower of 1.5%/year or CPI. Addn'l ad hoc benefits to retired improved effective 7/1/82.	Automatic 2½% increases annually of original benefit.	Increases as active salaries	Increases as active salaries
18. Major Amendments Contemplated	Establish pre-funded group plan for health insurance after retirement.	None	None	1) Possible funding increase 2) Possible raise in employee's contribution rate

SUMMARY OF JUDGES' RETIREMENT SYSTEMS OF 16 WESTERN STATES AS OF JANUARY 1, 1983

PLAN PROVISION	NEVADA	NEW MEXICO	OKLAHOMA	OREGON
1. Judges Covered	District and Supreme Court	District, Supreme Court of Appeals	All but Magistrate Judges	All but County Judges
2. Social Security Coverage	No	Yes	Yes	Yes
3. Service Retirement Benefit Formula	2/3 x Curr. Sal. if 60 and 20 yrs.; 1/3 x Curr. Sal. if 60 and 12 yrs. For years over 12 but less than 20, 4.1666% for each additional year.	a) Old Plan - 7½% x Sal x full years (Max. 75%) b) New Plan (affects new Judges after 7/1/80 and old Judges electing) - 18.75% of Sal + Yrs. x 3.75% x Sal. where years = 5 to 15 years	4% x 5 year Avg. Sal. x years. (Maximum of 70% of 5 year average).	45% of FAS
4. Final Average Salary Basis (FAS)	Current Salary (1 year)	Salary for last year in office	Last 5 years of active service	5 highest of last 10 yrs.
5. Covered Salary	Supreme Court $61,500 District Court $56,000	All Salaries	All Salaries	Supreme $53,308 Appellate 52,039 District and Circuit 48,356
6. Normal Retirement	12 years minimum and age 60.	a) Old Plan: 64 and 5 yrs; 60 and 16 yrs. b) New Plan: 64 and 5 yrs; 60 and 15 yrs.	Age 70 and 8 years; Age 65 and 10 years.	Age 70 and 12 years; Age 65 and 16 years.
7. Early Service Retirement	None	None	Age 60 and 20 years.	None
8. Mandatory Retirement Age	None	None	None	Age 75
9. Disability Requirement	-	At least 5 years of service.	Age 55 and 15 years.	a) 6 yrs. any age. b) Former Judges - 16 yrs. any age.
10. Disability Benefit	No disability provision.	Benefit is the same as for Service Retirement.	The amount is left to the discretion of the Court of Judicial Awards but a maximum of the service retirement benefit.	Same as service retirement benefit but reduced actuarially if a Former Judge.
11. Widow Benefit - Retired Death	If widow 60, $600 per month	75% of member's benefit	When spouse is age 60 - 50% of Judge's benefit	If 14 years, ½ of his benefit. Under 14 years, less.
12. Widow Benefit - Active Death	If eligible to retire, same as above.	If at least 5 years, 75% of member's benefit.	When spouse is age 60 -50% of Judge's benefit (Judge must have 8 yrs. service)	If eligible to retire, same as above.
13. Vesting Requirements	12 years; paid at 60.	5 years	8 yrs - paid at 70; 10 yrs - paid at 65; 20 yrs - paid at 65; or refund w/o interest.	16 years; paid at 65. Under 16 years, no refund
14. Judges' Contribution	None	Old Plan = 10% Sal.; New Plan = 7% Sal.	5% of Sal; 8% of Sal. If spouse covered.	7% of Sal. for 16 years.
15. Employer Contribution	By appropriation.	$22.25 from each civil case docket fee.	% of State Judicial Fund	7% of Salary + biennial appropriation to fund liability

SUMMARY OF JUDGES' RETIREMENT SYSTEMS OF 16 WESTERN STATES AS OF JANUARY 1, 1983

PLAN PROVISION	NEVADA	NEW MEXICO	OKLAHOMA	OREGON
16. Interest Credited Members	-	None	None	None
17. Cost of Living Benefit	2% to 5%. Begins at 2%/year and goes to 5%/yr. after 12 years on retirement.	None	Ad hoc 10% increase 10/1/82	None
18. Major Amendments Contemplated	1) Raise widow benefits (level and coverage). 2) Early service retirement. 3) Disability retirement	None	None	Under consideration

SUMMARY OF JUDGES' RETIREMENT SYSTEMS OF 16 WESTERN STATES AS OF JANUARY 1, 1983

PLAN PROVISION	TEXAS	UTAH	WASHINGTON	WYOMING
1. Judges Covered	District Appeals Supreme	Supreme District Circuit Juvenile	Supreme Appelate Superior	Supreme District
2. Social Security Coverage	Yes	Yes	Yes	Yes
3. Service Retirement Benefit Formula	50% of current salary + extra 10% of salary to those retiring before age 71.	a) 2½% x FAS x 1st 10 years + 2% x FAS x next 10 + 1% x FAS x Yrs. over 20), or b) (3% x FAS x 1st 10 years + 2% x FAS x next 10 + 1% x FAS x Yrs. over 20) x Early Ret. Factor if under Age 70 less (smaller of $120 or $6/mo./year)	a) With at least 15 yrs. service, 3½% of salary per year (75% salary maximum) b) Otherwise, 3% of salary per year	50% of current salary
4. Final Average Salary Basis (FAS)	Current monthly salary	Highest salary in 3 consecutive years.	Salary at retirement	Current salary
5. Covered Salary	District $50,900 Civil Appeals 60,100 Supreme and Criminal Appeals 71,400	$44,800 - $50,000	All salary covered	District $61,500 Supreme 63,000
6. Normal Retirement	10 years Age 65 (active); or 65 and 12 years	Age 70 with 6 years.	Age 60 and 15 years	Any age and 18 years; 65 and 15 years; 70 and 6 years.
7. Early Service Retirement	20 yrs. any age; Age 60 + 10 yrs. (active); Age 60 and 12 Yrs. (active or not)	Age 65 with 10 years	Age 50 and 12 years	65 and 6 consecutive years; 6/13 of basic benefit
8. Mandatory Retirement Age	Age 75	Age 70 (Trial); Age 72 (Supreme)	Age 75	None
9. Disability Requirement	7 Yrs. of service at any age.	a) Line of Duty - No min. service b) Ordinary - 5 years	10 years of service at any age.	-
10. Disability Benefit	60% of FAS, if under age 71 50% of FAS, otherwise.	a) Duty - 50% of FAS - 50% of S.S. b) Ordinary - Regular service retire. formula. With 5 years, minimum allowance is 20% FAS - 50% of S.S.	Accrued serv. ret. benefit w/o early reduction.	No disability provision.
11. Widow Benefit - Retired Death	Optional election and $5,000 lump sum.	50% of his benefit	50% of his benefit	None
12. Widow Benefit - Active Death	Reduced annuity to widow with 10 Yrs. (active); 12 Yrs. Service (active or not)	50% of his benefit as if member had not died and was age 70 at time of death.	½ of his accrued benefit or 25% of salary	None
13. Vesting Requirements	10 years active; 12 years active or not	6 years - paid at 70; 10 years - paid at 65.	12 years; under 12 years, nothing (No refund under any circumstances)	6 years; paid at 65

SUMMARY OF JUDGES' RETIREMENT SYSTEMS OF 16 WESTERN STATES AS OF JANUARY 1, 1983

PLAN PROVISION	TEXAS	UTAH	WASHINGTON	WYOMING
14. Judges' Contribution	6% of salary	8% of sal; 6% paid by employer. (6.75% eff. 7/1/83).	7½% of salary; all years	None
15. Employer Contribution	Pay as you go. Legislative appropriations	8.95% of sal. + fees (about equal to 6% of sal.) plus members' 6% contrib.	In practice, State funding has been Pay as you go.	Pay as you go. Legislative appropriations
16. Interest Credited Members	None	7½%	None	-
17. Cost of Living Benefit	Increases as active salary	Maximum 4% per year after 1st year of retirement	Lower of 3% or C.P.I.	Increases as active salary
18. Major Amendments Contemplated	None	1) Eliminate social security offset 2) Eliminate distinction between ordinary and duty disability - 50% FAS 3) Improve service retirement formula to 3 ½%, 2 ½%, 1% and reduction if under 65. 75% max benefit. Amendments passed and effective 7/1/83.	None	Still contemplating. No action yet.

	PERS		TRS	JRS	EPORS	NGRS
	PO/F	All Other				
Benefit Multiplier	2% on years 1-10 2½% on years over 10	2%	2%	5%	5% membership 2% other creditable service	$100.00 x no. of months NGRS service
Vesting	5 years	5 years	0 years	5 years	5 years	5 NG out of 20 MIL
Normal Retirement Age	55 w/5 years service OR 20 years PO/F service	55 w/ 5 years service OR 30 years service	55 w/0 years membership service; OR 5 years membership service and 3 years AK BIA; OR 15 years credited service if hired prior to 7/1/75, last 5 years membership service; OR at any age: 20 years membership service; OR 20 years combined membership and AK BIA, last 5 years membership service; OR 25 years credited service, last 5 years membership service.	60 w/ 5 years service	60 w/ 5 years service	N/A
Conditional Retirement	55 w/2 years service if if vested in the TRS	55 w/2 years service if vested in the TRS	55 w/2 years membership service if vested in the PERS	N/A	N/A	N/A
Employee Contributions	5%	4.25%	7%	7% for Judges hired after 7/01/78; 0% for Judges hired before 7/01/78	7%	N/A
Employer Cont. (actuarially determined)	22.36% consolidated rate; FY 83	12.71% consolidated rate; FY 83	8.45%; FY 83	104.78%; FY 83 and FY 84	Unfunded System, Annual Appropriation	Funded System, $1,202,000 FY 83 and FY 84
Nonmembership Service	Military (max. of 5 years) Territorial Service (must have 3 years service w/State after 1961) Temporary Service	Military (max. of 5 years) Territorial Service (must have 3 years service w/State after 1961) Temporary Service	Military (max. of 5 years) Outside (max. of 10 years; military & outside not to exceed 10 years) AK BIA (no max.)	Magistrate Pre 7/01/67 N/A N/A	PERS Covered Employment	N/A
COLA	10% (or $50.) if domiciled in AK	10% (or $50.) if domiciled in AK	10% if domiciled in AK	NO	NO	NO
Post Retiremen Pension Adjustments	Ad Hoc	Ad Hoc	Ad Hoc	Benefits Increase with Last Position's Salary Increase	Benefits Increase With Last Positions Salary Increase	NO
Health Insurance Coverage After Retirement	Yes	Yes	Yes	Yes	Yes	NO

Appendix I

Appendix V

EFFECT OF "PICKED UP" CONTRIBUTIONS

ON TAKE-HOME PAY

	After-Tax Contributions 7%	"Picked Up" Before-Tax Contributions 7%	8%	9%	10%	11%	12%
TRS Example							
Gross Monthly Pay*	$3,100	$3,100	$3,100	$3,100	$3,100	$3,100	$3,100
Taxes Withheld**	721	641	629	618	608	597	587
Contributions	217	217	248	279	310	341	372
Take-Home Pay	$2,162	$2,242	$2,223	$2,203	$2,182	$2,162	$2,141
Increased Take-Home		80	61	41	20	0	- 21
Increase as a Percent of Gross		2.6%	2.0%	1.3%	0.6%	0%	- 0.7%

	After-Tax Contributions 4.25%	"Picked Up" Before-Tax Contributions 4.25%	5%	6%	7%
PERS Example					
Gross Monthly Pay	$2,300	$2,300	$2,300	$2,300	$2,300
Taxes Withheld**	445	417	411	404	397
Contributions	96	96	115	138	161
Take-Home Pay	$1,759	$1,787	$1,774	$1,758	$1,742
Increased Take-Home		28	15	- 1	- 17
Increase as a Percent of Gross		1.2%	0.7%	0%	- 0.7%

* Systemwide Average
** Based on single person with one exemption

Execu-
tive
Order
53

RECEIVED
FEB 4 1983

Rev. Richard R. Gay
1041 E. Seventeenth
Anchorage, Alaska
99501

January 28, 1983

Our Legislators
Juneau, Alaska

Dear Honorable Legislator:

This is a personal and professional plea that as you weigh all aspects of the Dividend Check Policy that you do not fail to take into account what it has done for individuals and families who are known to us in our pastoral relationships.

Allow me to cite for you just a cross section of the people who have been helped in a time of emergency. And such needs never cease. The checks worked miracles in many situations.

A young couple found it possible to make the down payment on a home for their family with two small children.

A senior citizen found it possible to arrange for his cataract operation.

A young couple found it possible to meet the deductible portion of their health insurance in conjunction with the birth of their child.

An individual found it possible to repay a loan from a family member, thus reducing interpersonal tension.

A seriously depressed person found it possible to take a vacation which was therapeutic.

A student found it possible to resume schooling without adding to his loan burden.

The family of a stroke victim, only 34 years old, was rescued from overhwhelming financial burdens. There were four young children involved.

A person whose car is a necessity was able to afford much needed car repairs.

Another person was able to meet closing costs on the purchase of a home for his family.

This is but a random sample of what I have seen the dividend program accomplish.

PLEASE remember the human element in your policy deliberations.

Sincerely,
Rev. Richard R. Gay
Rev. Richard R. Gay

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Executive Order No. 53
Title Office of Management and Budget
Requested by Governor Date Jan. 12, 1983

II. FISCAL DETAIL
Agency Affected Office of the Governor
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Office of Management and Budget
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact.

IV. DATE January 16, 1983 PREPARED BY Glen Price
AGENCY Office of the Governor-Division of Budget Revi
PHONE 465-2213

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

33-001 (Rev. 12/82)

Agency Contact: Eugene Dusek 465-2213

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

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EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
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OMB is saturated with fiscal notes. This is not a situation that will go away in three days as stated by Pete McDowell. You have to also take into consideration that fact that the committees must have fiscal notes on bills even if a piece of legislation has NO fiscal impact.

Question: Committees are mandated to have fiscal notes on all bills referred to their committees even if that bill has no fiscal impact. In view of the difficulty in ~~xxxx~~ getting any fiscal note; is it fair to say that zero fiscal notes will ~~xxxx~~ be a lower priority?

If the answer is yes----

In the eyes of the committee, and in order to pass a bill through a committee, we must have the notes regardless if they are a zero note or a note with fiscal impact. A bill cannot move without a note — zero or otherwise.

Question: How many fiscal analysts are there in OMB whose primary job is to handle fiscal notes from the departments?

Question: When a fiscal note arrives ~~at~~ to OMB from a department, whose research does the analyst use to evaluate the correctness of the note? (note: the answer is the department's research, OMB has not, to this date, done separate research on a fiscal note.)

Question: Isn't this a duplication of effort?

Question: Since OMB has not formally notified the Legislature and in particular, the committees of this change in policy, for our information, is it true that after the department passes the fiscal note to OMB, OMB then passes that note to Legislative Finance?

If the answer is no, tell him that when we have asked departments to explain this processs they always say that OMB sends the note to Legislative Finance.

We need fiscal notes from every dept affected by a bill—

Question: Why did OMB decide to put this policy into effect before it got it's act together, so to speak? If you had a well-thought out plan, you wouldn't have to implement as you went along.

Question: Rule 20 of the Uniform Rules of the Legislature places certain specific authority on each standing committee over all programs and activities of the departments that fall under the jurisdiction of each standing committee. The most important activity of each department is the preparation of fiscal notes. Will you make all fiscal notes originally prepared by the departments available to the standing committee responsible for that department?

Alaska Statutes

Title 24. Legislature.

Chapter
- 05 In General (§§ 24.05.010 — 24.05.210)
- 10 Officers and Employees (§§ 24.10.010 — 24.10.060)
- 15 Compensation of Legislators, Officers and Employees (§§ 24.15.010 — 24.15.070)
- 20 Agencies of the Legislature (§§ 24.20.010 — 24.20.570)
- 25 Witnesses (§§ 24.25.010 — 24.25.080)
- 30 Enactment of Statutes (§§ 24.30.010 — 24.30.130)
- 35 Printing and Distribution of Legislative Enactments (§§ 24.35.010 — 24.35.020)
- 40 Judicial Proceedings Involving Legislators (§§ 24.40.010 — 24.40.031)
- 45 Regulation of Lobbying (§§ 24.45.011 — 24.45.181)
- 50 Student Guests of Legislature (§§ 24.50.010 — 24.50.040)
- 55 Office of the Ombudsman (§§ 24.55.010 — 24.55.340)

Chapter 05. In General.

Article
- 1 Powers, Composition and Election (§§ 24.05.010 — 24.05.087)
- 2 Meeting and Organization (§§ 24.05.090 — 24.05.180)
- 3 Legislative Space (§ 24.05.190)
- 4 Administrative Services (§ 24.05.200)
- 5 Legislative Expenses (§ 24.05.210)

Article 1. Powers, Composition and Election.

Section
- 10 Legislative power
- 20 Composition
- 30 Qualifications of members
- 40 Dual office
- 50 Membership on boards and commissions
- 60. Disqualifications
- 70. Election
- 80. Terms
- 85. Resignation
- 87. Termination of interim committee membership

Sec. 24.05.010. Legislative power. The legislative power of the state is vested in the legislature of the State of Alaska and extends to all rightful subjects of legislation not inconsistent with or reserved by the constitution of the State of Alaska and the constitution and laws of the United States. (§ 1 ch 157 SLA 1959)

Am. Jur. references. — 49 Am. Jur., States, Territories and Dependencies, §§ 28 to 31; 50 Am. Jur., Statutes, §§ 44, 45.

session of the legislature, the presiding officer elected at the first regular session shall administer the oath of office to new members and proceed with the business of the house in accordance with the rules of the legislature. (§ 19 ch 157 SLA 1959; am § 1 ch 100 SLA 1963)

Revisor's note. — AS 24.10.020 designates the majority leader of each house as the presiding officer pro tempore if the elected presiding officer "resigns, becomes incapacitated, or dies."

Oath prerequisite for salary or per diem. — It is impossible for a newly appointed member of the legislature to receive salary or per diem until he is sworn in as a member of the legislature pursuant to this section. 1959 Op. Att'y Gen., No. 20.

Sec. 24.05.180. Committees. (a) Each house shall have standing committees to facilitate the transaction of business in accordance with the rules of the legislature. The rules may provide for the appointment of special committees, as needed, by the presiding officer of each house. The legislature shall provide for the use of joint committees to facilitate and expedite business.

(b) Repealed by § 7 ch 100 SLA 1963. (§ 20 ch 157 SLA 1959; am § 1 ch 143 SLA 1961; am § 7 ch 100 SLA 1963)

Am. Jur. reference. — 49 Am. Jur., States, Territories and Dependencies, §§ 40 to 44.

Article 3. Legislative Space.

Section
190. Control of legislative space

Sec. 24.05.190. Control of legislative space. (a) The state capitol, with the exception of the capitol space now occupied by the Office of the Governor, and space occupied in any other state building by the legislature or its agencies is under the control of and subject to assignment by the Legislative Affairs Agency as directed by the legislature. The Legislative Affairs Agency is responsible for the equitable allocation of parking spaces at the capitol according to the needs of the legislature and other agencies occupying capitol offices.

(b) Access to legislative space during sessions is generally governed by the uniform rules of the legislature and by (a) of this section. During a session of the legislature no person not a member or an authorized employee of the legislature or its agencies may, without the invitation of the presiding officer or the house, enter upon the floor of either house while it is sitting, or enter upon the floor of either house during a recess or when adjourned for the day, without the invitation of a member of that house. (§ 21 ch 157 SLA 1959; am § 5 ch 47 SLA 1961; am § 3 ch 126 SLA 1966; am § 1 ch 10 SLA 1976)

Effect of amendment. — The 1976 amendment rewrote subsection (a).

from joining or supporting any partisan political organization, faction or activity which would tend to undermine the essential nonpartisan nature of their functions and services. However, this section does not restrict the executive director or members of the professional staff from expressing private opinion, registering or voting. (§ 5 ch 17 SLA 1960; am § 4 ch 126 SLA 1966)

Sec. 24.20.060. Powers. The legislative council has the following powers:

(1) to organize and adopt rules for the conduct of its business;

(2) to hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents, and testimony, and to have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions when consistent with the powers and duties assigned to the council by §§ 10 — 140 of this chapter;

(3) to call upon all state officials, agencies and institutions to give full cooperation to the council and its executive director by collecting and furnishing information, conducting studies and making recommendations;

(4) in addition to providing the administrative services required for the operation of the legislative branch:

(A) provide the technical staff assistance in research, reporting, drafting and counselling requested by standing, interim and special committees and spot research and drafting services for individual members in conformity with law and legislative rules;

(B) conduct a continuing program for the revision and publication of the acts of the legislature;

(C) execute a program for the oversight of the administration and construction of laws by state agencies and the courts through regulations, opinions and rulings;

(D) Repealed by § 6 ch 95 SLA 1971.

(E) operate and maintain the state legislative reference library;

(F) do all things necessary to carry out legislative directives and law, and the duties set out in the uniform rules of the legislature;

(5) to exercise control and direction over all legislative space, supplies, and equipment and permanent legislative help between legislative sessions;

(6) to produce, publish, distribute and to contract for the printing of reports, memoranda and other materials it finds necessary to the accomplishment of its work; and

(7) to take appropriate action for the preconvening and post-session work of each legislative session including the employment one week in advance of each session of not more than 10 temporary legislative employees. The continuing employment of the temporary legislative employees is subject to legislative approval when the session convenes. (§ 6 ch 17 SLA 1960; am § 5 ch 126 SLA 1966; am § 6 ch 95 SLA 1971)

within the power of the senate, house of representatives, or a committee to investigate, upon conviction, is punishable by a fine of not less than $100 nor more than $500, or by imprisonment for not less than 30 days nor more than six months. (§ 4-4-8 ACLA 1949)

Chapter 30. Enactment of Statutes.

Section
10. General procedure
20. Subject of bills
30. Appropriation bills
35. Fiscal notes on bills
36. Fiscal notes on bills affecting state retirement systems
37. General obligation bond bills
40. Enacting clause
50. Prefiling of bills and resolutions
60. Introduction of bills
70. Numbering of bills
80. Readings
90. Vote on passage
100. Action upon veto
110. [Repealed]
120. Bills carry over
130. Constitutional amendments and executive orders

Sec. 24.30.010. General procedure. The procedure for handling bills from the time of their prefiling or introduction until they become law is provided in this chapter subject to implementing rules adopted by the legislature. Resolutions shall be handled in accordance with the provisions of the uniform rules of the legislature. (§ 29 ch 157 SLA 1959, am § 26 ch 71 SLA 1972)

Cross reference. — As to resolutions, see Rule 51, Uniform Rules of the Alaska State Legislature.

Legislative committee report. — For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

Am. Jur. reference. — 50 Am. Jur Statutes, § 1 et seq.

Sec. 24.30.020. Subject of bills. The subject of each bill shall be expressed in its title and every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising or rearranging existing laws. The limitation to one subject shall be liberally construed to permit the subject to include all matters which reasonably can be considered germane to the subject in accomplishing the legal objective of the bill. (§ 30 ch 157 SLA 1959)

Sec. 24.30.030. Appropriation bills. Bills for appropriations shall be confined to appropriations and shall include the amount involved and the purpose, method, manner and other related conditions of payment. (§ 31 ch 157 SLA 1959)

Sec. 24.30.035. Fiscal notes on bills. Before a bill which would require increased appropriations by the state is reported to the rules committee, there shall be attached to the bill an estimate of the probable amount of the appropriation increase for the ensuing fiscal year and at least two succeeding fiscal years. The estimate or statement shall be prepared by the department or departments affected. If the bill is presented by the governor for introduction in accordance with § 60(b) of this chapter and the uniform rules of the legislature, the fiscal note

shall be attached to the bill before the
1968; am § 1 ch 20 SLA 1972; am §

Effect of amendment. — The 1976 amendment added the third sentence.

Sec. 24.30.036. Fiscal notes on systems. Before a bill which would systems of the state is reported to t attached to the bill an analysis of the the state if the bill is adopted, as w actuarial soundness of the fund. The Legislative Board of Retirement Be

Cross reference. — As to the Legislative Board of Retirement Benefits, see AS 21.20.500 et seq.

Sec. 24.30.037. General obligatio issuance of general obligation bond improvements shall contain a state included in the proposed bond issue. description of each capital improve dollars, that portion of the total bonc (§ 2 ch 70 SLA 1973; am § 30 ch 1

Effect of amendment. — The 1975 amendment deleted "major" preceding

Sec. 24.30.040. Enacting clause. shall be: "Be it enacted by the Legis ch 157 SLA 1959)

Sec. 24.30.050. Prefiling of bills the legislature whose term exten legislature, or a member-elect may for a bill or resolution with the Leg before January 1. The agency shal which is approved by the sponsor, chief clerk of the appropriate house convenes or is organized for busine be considered as introduced on the (§ 33 ch 157 SLA 1959; am § 9 ch 47 am § 1 ch 20 SLA 1975)

Effect of amendment. — The 1975 amendment inserted "or resolution" twice in the first sentence and once in the second sentence, and inserted "or resolutions" in the third sentence.

EO 53

STATE OF ALASKA

Art 2
SB12
Constitution

TRANSITION TASK FORCES REPORT

FOR

GOVERNOR SHEFFIELD

1982

I. GENERAL REALIGNMENT CONSIDERATIONS

It is the opinion of this Task Force that reorganization of the Governor's Office is needed to ensure that the following philosophical objectives are met:

A. The structure of the Office will enhance and facilitate Governor Sheffield's strong executive approach to State Government.

B. Operation of the Office will be efficient and effective.

C. The Executive Office will provide the policy definition, operational interdepartmental coordination and decision making at a statewide level.

D. Operational Departments will be responsible for the providing the Governor with efficient and effective functioning within the Agency's.

II. REORGANIZATION OF THE PLANNING, BUDGETING AND CONTROL PROCESS

A. Organizational Considerations

In our opinion, a more coordinated effort is needed between the establishment of policy, the development of the budget, the measurement of performance, the use of federal funds and grants awarded to local communities. One alternative to this is to establish an Office of Management and Budget with the following functions:

- o Policy Research
- o Policy Implementation
- o Long-range Program, Policy and Fiscal Planning
- o Budget Preparation and Execution
- o Organization and Management Audits and Analysis
- o Federal and Local Grants Coordination
- o Information Systems Planning

The OMB Director would report directly to the Governor or his designee and would be at the Cabinet level.

This would entail the merging of the existing Divisions of DPDP, DMB, Internal Audit and some resources from the office of Information Management.

B. Factors Impacting the New OMB Function

To make such an organizational unit effective the following should be considered:

- o Firm direction on the budget from the Governor to OMB and his Commissioners and strong leadership with the Legislature will be needed.
- o A high level Budget Review Committee should be established.
- o Strategic versus operational planning needs to be clearly defined. Strategic plans should be approved by the Governor and in this area OMB and the Commissioners would be involved. Operational plans should be primarily the

responsibility of the respective Commissioner. OMB's function would be to ensure compliance with strategic objectives.

- o A team approach toward planning and management is essential. The Governor, OMB and the Commissioners should participate in formulating policy. Once the Governor approves a direction and establishes budget guidelines all parties should follow these mandates. Any lobbying with the legislative branch should be under the direction of the Governor.
- o OMB should be sensitive to the prerogatives of the Commissioners. Operational planning can best be done at the Department level. Research on substantive legislation should also be coordinated closely with the affected Departments.

C. Criteria for the Position of Directors of OMB

- o A sound educational background in finance, economics or a related field.
- o A broad background in business and government finance and strategic planning.
- o Ability to manage highly skilled personnel.
- o Ability to be professional in approach. Willingness to implement policy. Clear understanding that the Governor is the Chief

Executive Officer.

- o Ability to identify and present, in objective manner, cost/benefit analysis for alternative solutions to policy and operational issues.
- o Good communicator.
- o Strong, mature and mentally tough.
- o Intellectually honest.
- o Confident and secure in his/her ability.
- o Ability to recognize the role of the Executive and Legislative branches of government and to respect the prerogatives of each institution.
- o Ability to resolve conflicts in a positive manner.

III. INCREASE THE STATURE AND VISIBILITY OF THE WASHINGTON D.C. OFFICE

In view of Governor Sheffield's philosophy, relative to the State's relationship with the federal government, it is the opinion of this Task Force that the role of the D.C. office should be redefined.

Conditions noted in our review which impact this office and its importance to the Governor's office are:

A. There are a number of legal and legislative issues which will require resolution at the federal level.

B. Changes in federal funding to States or Federal taxation could dramatically impact the State's financial position and operations.

IV. ORGANIZATIONAL REALIGNMENT

The department has considered the following organizational realignments and the Task Force believes that they merit further consideration by the new administration:

A. Deputy Commissioner Stationed in Anchorage.

Two of the divisions currently are headquarted in Anchorage alongwith field staff from two others. It seems appropriate to place the deputy commissioner there as well to coordinate and oversee division activities there.

B. Combining of Community Planning and Local Government Assistance.

Because much of the work of one division complements the work of the other, closer coordination might be achieved through combining the divisions. This could enhance the current cross training of field personnel. The Task Force is not recommending the division merger, but mentions it as a possible maneuver to ensure the closer coordination of these two divisions. The new administration should carefully consider this problem area and suggested solution. However, in the Community Planning Division, the Municipal Lands Trust program should remain independent of other division programs to maintain the integrity of the program and continuity of operations.

C. Office of Coastal Management.

The Office of Coastal Management, responsible for the development and implementation of the Alaska Coastal Management Program, is in the Office of the Governor on organizational charts, but CRA has fiscal responsibility for it. This dual position causes accountability problems. It has been recommended that functional responsibility for the office be placed in CRA in the Community Planning Division.

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

Office of Management and Budget

(FO 53)

January 27, 1983

The Honorable Mitch Abood
House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Abood:

Attached are additions to the packet of information which was forwarded to you yesterday regarding the Office of Management and Budget.

Sincerely,

Peter B. McDowell
Director

Attachments

RECEIVED
JAN 27 1983

The functional areas belonging to the Governor's Office are as follows:

- Policy analysis and development
- Statewide planning
- Budget preparation and review
- Program/project review - gubernatorial management control
- Coordination of intergovernment activities at State and Federal level
- Appointments to advisory boards and commissions

I. FY83 BUDGET

A review of this budget should be conducted to establish the status of expenditures versus appropriations. Included in this review would be:

- o An analysis of fund balances.
- o Previously appropriated projects versus available funding for them. Consideration should be given to such things as project overruns, interest earnings, updated costs to complete and delayed projects.
- o Cash flow projections for FY83.
- o Supplemental requests for FY83.
- o Expenditures to date against appropriated amounts.
- o State appropriated federal impact funds. This also includes an analysis of current federal funding.
- o Validation of previous revenue projections for FY83.
- o Analysis of the status of loan programs and debt service.

II. FY84 BUDGET

This budget is currently being finalized by DBM for presentation to the Governor. A number of major items should be considered:

- o Revenue estimates should be reviewed and validated.
- o The impact of federal policies on state programs should be defined.
- o The spending limitation should be defined. An AG's opinion and an evaluation by a fiscal analyst is

needed. Since Governor Sheffield will present the '84 budget this analysis should be conducted in the transition.

- o Governor Sheffield's priorities versus the proposed resource allocations should be reviewed.
- o Capital items versus operating expenses should be defined.
- o An Executive Summary of the budget along with the major budgetary issues to be addressed by the new Administration should be developed as soon as possible.
- o Early agreement with the Legislative leadership would be desirable in the following areas:
  - Spending limitation
  - Budgetary ceilings for operations and capital
  - Capital versus operating expenses
  - Criteria for the establishment of capital project priorities
  - An overall process for submission, review and appropriation of the budget along with firm milestones for completing the major tasks
  - Agreement that the Governor's budget should retain its integrity as the control document. Revisions should be coordinated within this document to minimize the number or appropriation bills during the '83 session.
- o To the extent possible an overall picture of all

230: Conventions and Meetings		Continuation
Director attendance at Washington, D.C. briefing on federal budget; Director attendance at National Association of Budget Officers Annual Convention; Director or Deputy Director attendance at nationwide budget training seminar.		3.8
280: Moving or Relocation Expense		
necessary for recruitment and hire of qualified personnel.		10.9
290: Non-Employee Travel		6.2
TOTAL TRAVEL AND MOVING		36.5

	CODE	CONTRACTUAL SERVICES CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	300	TOTAL CONTRACTUAL	431.5	586.5	1052.4		1052.4	
2.	310	Communications	42.5	44.1	46.7		46.7	
3.	320	Printing and Advertising	135.5	109.3	115.9		115.9	
4.	330	Space Expense and Fees						
5.	340	Repair and Maintenance	0.8	0.8	1.0		1.0	
6.	350	Utilities Other Than Space						
7.	360	Equipment Rental - Other Than HWCF and WP	66.5	33.6	35.5		35.5	
8.	364	Equipment Rental - Word Processing		18.0	19.1		19.1	
9.	368	Equipment Rental - Highway Working Capital Fund						
10.	370	Judicial Expense						
11.	380	Professional Fees & Services-Excluding Data Processing	30.2	43.1	416.7		416.7	
12.	382	Professional Fees & Services-Data Processing	74.2	106.3	167.6		167.6	
13.	382a	Data Processing Chargeback	87.3	228.1	246.5		246.5	
14.	390	Other Fees or Expenses	3.8	3.2	3.4		3.4	
15.	930	INTER-AGENCY TRANSFERS (NON-ADD)	87.3	228.1	246.5		246.5	

CODE	EXPLANATION				CONT. $	ADDITION $
310	Communications					
	Telephone:	Centrex Charges	18.7			
		Contel Credit Corp. Charges on Meritor computerized telephone system	5.9			
		Local telephone charges	2.5			
		Long Distance	11.0	38.1		
	Postage and mailing					
		Publications (Economic Reports	5.0			
		Ordinary postage expense, including mailing Executive Budget documents	4.0	8.6	46.7	

15 CONTRACTUAL SERVICES

AGENCY OFFICE OF THE GOVERNOR

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BRU BUDGET AND MANAGEMENT

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FY 84

Continuation

320. Printing and Advertising.

Printing of various budget publications, including Executive Budget documents, operating and capital; Budget in Brief; budget instructions and forms; budget workbooks; demographic summaries; Economic publications, including AEIRS (Alaska Economic Information Recording System) reports, Alaska Statistical Review, Year-end performance report on Alaska Economy, etc. 115.9

340. Repair and Maintenance.

Miscellaneous minor repairs. 1.0

360. Equipment Rental.

Xerox 8200	16.7	Computer Terminals and Controller	15.6
Xerox 3109	3.0	U of A computer USERID	1.5
	19.7		17.1

35.5

364. Equipment Rental - Word Processing.

IBM Displaywriters (5)	15.5
Annual Maintenance Fee	3.6

19.1

380. Professional Fees and Services.

Economic consulting wervice (U of A ISER)	22.3
Additional economic consultant fees and computer time charges	14.8
NASBO (National Association of State Budget Officers) dues, and miscellaneous items	6.0
Miscellaneous professional services (graphics)	2.6
Consultant fees for Annual Survey of Economic & Demographic Data to support budget & economic analysis & long-range budget projections.	371.0

416.7

23 CONTINUED 15

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

COMPONENT

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Revised Date

FY 84

01 1154 (7/82) - 23

		Continuation
382. Professional Fees and Services - Data Processing		
Data Resources Inc. subscription fee	19.4	
Consultant fees for implementation of Automated Budget System	54.9	
Central process time, including program and data storage, and printing services for various economic and budget projection models.	93.3	167.6
382a. Data Processing Chargeback		246.5
390. Other Fees or Expenses		3.4
CONTINUATION LEVEL CONTRACTUAL SERVICES:		1052.4

SYSTEM CODE	SYSTEM NAME	% BUDGETED IF NOT 100%	FY 83 BUDGETED	BUDGET YEAR - FY 84			
				AGENCY			GOVERNORS
				CONTINUATION	ADDITION	REQUEST	BUDGET
GBP	BUDGET PREPARATION		106.3	246.5		246.5	
	TOTALS		106.3	246.5		246.5	
	(Transfer to Form 15, Line 13)						

NOTES:

15dps DATA PROCESSING CHARGEBACK SUMMARY

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SYSTEM CODE	SYSTEM NAME		
GBP	BUDGET PREPARATION		
USER AGENCY CONTACT	PHONE	SIGNATURE	DATE
David Bush	465-2213	David Bush	11-19-82
DIVISION OF DATA PROCESSING CONTACT	PHONE	SIGNATURE	DATE
		Mary W. Hurley	11-19-82

DP BUDGET GROUP	FY 82		FY 83		FY 84 CONTINUATION			FY 84 ADDITION		
	UNITS	COST	UNITS	COST	UNITS	UNIT PRICE	COST	UNITS	UNIT PRICE	COST
1. Computer Resource Units	125,085	137.8	51,000	63.8	153,030	1.25	191.3			
2. Common Output Units	482	13.0	360	11.2	482	31.00	14.9			
3. Comp. Microfilm Output										
A. Originals										
B. Duplicates										
4. Terminal Charges	10	20.0	10	20.0	12	2.00	24.0			
5. Storage Units	1,054	12.6	804	11.3	1,162	14.00	16.3			
6. Data Entry										
7. Other										
TOTALS		183.4		106.3			246.5			

NOTES:
FY 84 continuation computer resource units include almost 28,000 units that are related to moving certain functions from the Data Resources, Inc. computer on the East Coast to the Juneau Data Center's hardware.

15dp DATA PROCESSING CHARGEBACK

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

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01-1132 (7/82) - 15dp

ATTACI

WORKSHEET FOR SYSTEM _ (Budget Preparation)

Please circle the appropriate Data Center: Anchorage or (Juneau)

	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
TAPE (Tape Months)	30	30	30	30	30	30
DISK (Megabytes)	104	104	104	104	104	104
TERMINALS (Connected)	12	12	12	12	12	12

	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
TAPE (Tape Months)	30	30	30	30	30	30
DISK (Megabytes)	104	104	104	104	104	104
TERMINALS (Connected)	12	12	12	12	12	12

1. Estimate the requirements for each item by month, and enter the totals of the estimated monthly usage in the appropriate total area.
2. Make the appropriate calculations as outlined in the memorandum for tape and disk to arrive at storage units.
3. Enter the estimated number of storage units and terminal units in the appropriate places on form 15DP.
4. Return this form to the Division of Data Processing when obtaining the Data Processing chargeback budget approvals.

Total Estimated FY84 Requirements

TAPES	360
DISK MEGS	1248
TERMINAL UNITS	12

TAPES .1 × 360 = 36.0
DISK .9 × 1248 = 1123
TOTAL- 1159

	CODE	COMMODITIES CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	400	TOTAL COMMODITIES	27.1	30.2	32.0		32.0	
2.	410	Agricultural Supplies						
3.	420	Household and Institutional Supplies						
4.	450	Structural Materials and Supplies						
5.	460	Equipment Parts and Supplies		5.5	5.8		5.8	
6.	470	Professional and Scientific Supplies		1.6	1.7		1.7	
7.	480	Office and Library Supplies		16.1	17.1		17.1	
8.	490	Other Operating Supplies		7.0	7.4		7.4	
9.	940	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION	CONT. $	ADDITION $
460	Equipment replacement of items less than $500 each.	5.8	
470	Professional reference materials, books and supplies.	1.7	
480	Office supplies, including library and duplicating supplies; materials and supplies for Displaywriters; binding materials and workbook binders.	17.1	
490	Cover stock and divider stock for Budget and Management reports (Executive Budget Books I and II, Budget in Brief, AEIRS (Alaska Economic Information and Reporting System) reports, Budget Instructions, Alaska Statistical Review, Year End Performance Report).	7.4	

16 COMMODITIES

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Budget and Management

COMPONENT

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	CODE	AGENCY/DIVISION TO RECEIVE THE I/A TRANSFER	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
		2	3	4	5	6	7	8
1.		TOTAL INTER-AGENCY TRANSFERS (NON-ADD)	87.3	228.1	246.5		246.5	
2.	382a	Department of Administration/Division						
3.		of Data Processing	87.3	228.1	246.5		246.5	
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								
13.								
14.								

CODE	EXPLANATION	CONT. $	ADDITION $
382a	Data Processing Chargeback Fees	246.5	

20 INTER-AGENCY TRANSFERS

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

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01-1151 (7/82) - 20

Respondent's Name	Position Title	Telephone	Mail Stop
Laura Dimmler	Publications Specialist	465-2213	0102

Author	Title	Date	Number of Pages
Budget and Management	Alaska Budget In Brief FY 83	11/82	80
Budget and Management	Year-End Performance Report of the Alaska Economy 1981	6/82	38
Budget and Management	Executive Budget Book I - Operating Budget 1983	1/82	574
Budget and Management	Executive Budget Book II - Capital Budget 1983	1/82	362
Budget and Management	AEIRS Quarterly - November 1981	11/81	22
Budget and Management	Alaska Statistical Review 1982 Vol. 1	11/82	55
Budget and Management	Alaska Statistical Review 1982 Vol. 2 - ot yet published		150
Budget and Management	Overview of State Loan Programs and Investment Funds	9/82	173
Budget and Management	Capital Budget Forms & Instructions FY 84	8/82	66
Budget and Management	NRMEC Project Budget Forms & Instructions FY 84	8/82	196
Budget and Management	Detail Budget Forms & Instructions-FY 84	8/82	211

24 FY 82 ALASKA STATE PUBLICATIONS

AGENCY OFFICE OF THE GOVERNOR

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BRU BUDGET AND MANAGEMENT

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BUDGET REQUEST UNIT (BRU)
Policy Development and Planning

RECEIVED
SEP 28 1982
BUDGET AND MANAGEMENT

PROGRAM
Executive Operations

CATEGORY
General Government

AGENCY	DIVISION
Office of the Governor	Policy Development and Planning

NAME AND POSITION OF BRU MANAGER	PHONE
James M. Souby, Director	465-3573
NAME AND POSITION OF AGENCY CONTACT file W4!	PHONE

COMMISSIONS AND/OR ADVISORY BOARDS WHICH HAVE BEEN CONTACTED/OTHER PUBLIC INPUT CONSIDERED IN PREPARING BUDGET REQUEST:

Coastal Policy Council
Council on Economic Policy
Governor's Agency Advisory Committee on Leasing

SIGNATURE OF AGENCY HEAD	DATE
J. M. Hays	8/27/82

0 DETAIL BUDGET SUBMISSION

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Policy Development and Planning

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STATUTORY BASIS: AS 44.19 Article 12 - Division of Policy Development and Planning, AS 44.19.155 - Coastal Management Program; Administrative Order #55 - Major Project Review Process; Administrative Order #62 - A-95 Clearinghouse; Administrative Order #54 - Management Implementation of Coastal Management Program; Administrative Order #52 - Agency Advisory Committee on Leasing; Administrative Order #65 - State Information Districts

PROGRAM GOAL(S): Program Goal - To assist the Governor, through comprehensive analysis and inter-agency coordination, to promote healthy economic growth and to protect and enhance the health, safety and general welfare of all Alaskans.
Long-Term Objective - To maintain a rational and consistent analytical and coordinating capability to respond to the critical issues facing the Governor and the citizens of the State.
Related Policy - To provide government services which meet the needs of Alaskans in an effective and efficient manner. (Governor's Policy Theme #4)

BRIEF DESCRIPTION OF BRU ACTIVITIES AND THEIR RELATIONSHIP TO THE PROGRAM GOALS:

The purpose of this BRU is to provide the Governor with a strong analytical capability to: (1) objectively evaluate, from a statewide perspective, the merits and limitations of major development projects and programs to see if they are in the best long-term interests of Alaska; (2) provide a broad range of policy and program options necessary to rationally address the critical issues facing the State; (3) investigate longer-range issues that could have significant effects on Alaska and its citizens in the future.

A further purpose is to establish and implement procedures and policies for the effective and efficient coordination of inter-agency activities, ensuring that critical issues are being addressed from a broad perspective, with little or no duplication of effort.

1 DEFINITION STATEMENT

AGENCY: Office of the Governor

PROGRAM: Executive Operations

BRU: Policy Development and Planning

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STATE THE PROGRAM OBJECTIVE(S) BEING ADDRESSED BY THIS BRU.	BRU FUNCTION NUMBER	HOW WILL THIS BRU CONTRIBUTE TO EACH PROGRAM OBJECTIVE LISTED?
1. Broaden the range of short- and long-tem issues to be analyzed, in order to provide the Governor with objective policy evaluations on a wide variety of statewide projects and programs.	1a.	Formal Policy Analysis Papers (PAP's) will be generated that reflect the range of technical expertise residing in the Division. PAP's to be made available to the Governor and for general distribution in FY 84 will focus on such areas as agriculture and fisheries development, data processing policy, State fiscal policy, long-range economic development policy, vocational education and employment training, Strategic planning, energy facility siting.
	1b.	The Division's staff will continue to be available, on an as-needed basis, to provide the Governor with quick response analysis of issues that arise during FY 84. These usually take the form of briefing memos and verbal presentations.
2. Maintain a strong capability, through the Major Project Review Process (Administrative Order #55) and the d-2 Implementation Coordinator's Office, to coordinate inter-agency analysis of proposed State and federal OCS leasing programs and d-2 implementation efforts.		Five major OCS leasing programs have been identified that will require comprehensive impact analysis in FY 84. The Division will have the lead responsibility in coordinating the State analysis. The d-2 implementation coordinator will be responsible for ensuring unified inter-agency activities associated with all d-2 matters.
3. To maintain an effective A-95 Clearinghouse program (Administrative Order #62).	3a.	The A-95 Clearinghouse will continue to provide the means for promulgation and dissemination of proposals, plans and for review and comment by agencies of local, State and federal governments and other interested organizations and individuals.

1a BRU OBJECTIVES

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Policy Development and Planning

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Revised Date

FY 84

01 1110 (7/82) 1a

The Division of Policy Development and Planning provides technical assistance to the Governor in two major areas. It provides the Governor with a strong analytical capability in addressing statewide issues, and it serves as a statewide coordinating body to bring a multi-agency perspective to the issues being addressed.

Policy analysts within the Division bring a broad range of technical expertise to bear in evaluating, from a statewide perspective, the short- and long-term advantages and disadvantages of public policy options, major development issues and specific projects and programs being proposed. The intent is to provide the Governor, for his decision making, the most comprehensive and objective information on the merits and limitations of the issue in question. These evaluations become formal Policy Analysis Papers that are presented to the Governor and made available for wide distribution. These papers have addressed a variety of issues - those that are currently being debated and those that while not critical now, could affect Alaska and its citizens in the future. Attached is an index of the papers generated over the last few years. They range from the specific (Power Project Financing, Educational Endowment, Options for Health Care Financing) to the general (Remote Sensing in Alaska: Opportunities and Policy Implications, Regional Planning Coordination). Papers being prepared in FY 83 include Strategic Metals Demand Study, Corrections Policy, Human Impacts of Large-Scale Development, Rural Air Service, U.S. Borax Fiscal Analysis, Susitna Hydroelectric Status Report, Rural Energy White Paper, Unemployment Insurance Trust Fund Options.

The Coordinating arm of the Division has three principal functions:

The State Clearinghouse: Responsible for Governor's Administrative Order No. 62, federal Office of Management and Budget (OMB) Circular A-95 reviews and Alaska Coastal Management Program (ACMP) reviews.

Oil and Gas Leasing Coordinating: Responsible under Governor's Administrative Order No. 52 for helping State agencies develop State positions regarding federal oil and gas leasing activities and providing staff assistance to the Division Director as Co-chair of the Governor's Agency Advisory Committee on Leasing. Five formal "Socioeconomic and Environmental Analysis" efforts are scheduled in FY 84 for State lease sale - Upper Cook Inlet, Minchumina, Bristol Bay Uplands, Holitna Basin, Kuparuk Uplands.

d-2 Implementation Coordination: Responsible for providing staff support to the Governor's Special Assistant in his role as State contact for d-2 matters and as State Co-chairman of the Land Use Council.

2 ANALYTIC STATEMENT

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Policy Development and Planning

Revised Date

FY 84

NUMBER	MEASURE/PERFORMANCE INDICATOR	PRIOR YEAR FY 82		CURRENT YEAR PLAN FY 83	BUDGET YEAR FY 84		
		PLAN	ACTUAL		CONTINUATION LEVEL	AGENCY REQUEST	GOVERNOR BUDGET
1	2	3	4	5	6	7	8
1a.	Number of Policy Analysis Papers generated.	25	18	20	20	20	
1b.	Number of issue analysis briefing memos generated.	30	25	25	25	25	
2a.	Number of Major Project Reviews completed.	4	3	5	5	5	
	Number of d-2 implementation inter-agency efforts completed.	7	10	8	8	8	
3a.	Number of Clearinghouse reviews undertaken.	1,200	1,000	1,000	1,000	1,000	

3 BRU PERFORMANCE PLAN

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Policy Development and Planning

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FY 84

01 112017/021 3

BUDGET OPERATING COMPONENT (ALLOCATION) (LEVEL 83082-01) 11:16

GENERAL GOVERNMENT OFFICE OF THE GOVERNOR EXECUTIVE OPERATION POLICY DEV & PLAN COMP# 01-91-6

EXECUTIVE OPERATIONS
POLICY DEVELOPMENT AND PLANNING

EXECUTIVE OPERATIONS
DPDP

S/F SUMMARY. .
ELECTION DISTRI
PBA UPDATE . .

EXPENDITURES FUNDING	(01) 82 AUTH	(02) 82 FINAL	(03) 82 ACTU	(04) 83 AUTH	(05) 83 SUPL	(06) 83 RP	(07) 84 CONT.	(08) 84 ADD.	(09) REQUEST	(10) GOVERNOR	(11) HOUSE	(12) SENATE
PERS. SERV.	966.0	1071.4	889.2	1123.7			1124.3					
TRAVEL	67.0	86.8	83.2	100.7			29.2					
CONTRACTUAL	1157.7	1458.4	1048.9	859.5			889.8					
COMMODITIES	10.6	12.4	11.2	11.7			12.4					
EQUIPMENT	.6	1.9	.1				-0-					
LANDS/BLDGS												
GRANTS, CLMS												
MISC.												
TOTAL EXPEND	[illegible]	2630.9	2032.6	2095.6			2165.7					
I-A TRANSFER	408.0	408.0	363.4	445.0			463.9					
02 FED RCPTS	354.5	481.5	338.6	161.2			161.6					
03 G/F MATCH	62.6	62.6	22.1	10.7								
04 GEN FUND	1664.8	1870.9	1599.9	1923.7			1944.5					
05 I/A RCPTS	120.0	215.9	72.0									
28 PGM RCPTS												
* IMBALANCE		-2630.9	-2032.6									
FULL-TIME	26.0	26.0	26.0	26.0			26.0					
PART-TIME												
TEMPORARY												
STAFF MONTHS	312.0	312.0	312.0	312.0			312.0					

1. ITEM AND EXPLANATION	2. AMOUNT	3. FUNDING SOURCES	4. 100 PERSONAL SERVICES	5. 200 TRAVEL	6. 300 CONTRACTUAL SERVICES	7. 400 COMMODITIES	8. 500 EQUIPMENT	9. OTHER
1. FY 83 Authorized (Form 4A)	161.2 10.7 1,923.7	FED GFM GF	1,123.7	100.7	859.5	11.7	--	--
2. Less One-time Items (Include All Equipment)	(58.7)	GF See form 23 attached	(12.0)	(26.0)	(20.1)	(--)	(--)	(--)
3. Plus FY 84 Replacement Equipment (Form 17, Line 1, Column 5)	--						--	
4. Personal Services Adjustment (Form 11, Line 22)	13.2	GF	13.2					
5. Sub-total	2,050.1	GF	1,124.3	74.7	839.4	11.7	--	--
6. Plus Inflation Adjustment	55.6	GF		4.5	50.4	.7		--
7. Sub-total	2,105.7	GF	1,124.3	79.2	889.8	12.4	--	--
8. Adjustments to and within Continuation (Forms 5A and 5B)	--		--	--	--	--	--	--
9. FY 84 Continuation	2,105.7	161.2 FED GF 1944.5 GF	1,124.3	79.2	889.8	12.4	--	--

5 COMPONENT CONTINUATION

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Policy Development & Planning

COMPONENT

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The Vocational Education and Employment Training Task Force was created by SCS CSHB 695. $58,700 was appropriated to fund the Task Force through March 31, 1983 when, per terms of the bill, it will be terminated. Although $12,600 was allocated to personal services, no permanent positions were created. For purposes of the FY '84 budget, we have treated the Task Force as a "one time" item.

23 CONTINUED 5

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Policy Development and Planning

COMPONENT

Revised Date

FY 84

		FY 84	AGENCY $	PFT POS.	PPT/SEA POS.	NON-PRM POS.	STAFF MONTHS	GOVERNOR $	PFT POS.	PPT/SEA POS.	NON-PRM POS.	STAFF MONTH
			1	2	3	4	5	6	7	8	9	10
CONTINUATION	1.	Current Authorized Positions (From Form 11)	1,136,859	26			312					
	2.	Continuation Changes to Current Authorized Positions (Form 12, column 11, lines 26-30)	*(12,600)	--			--					
	3.	Subtotal (From 4A, Continuation Column)	1,124,259	26			312					
	4.	SOURCE OF FUNDS										
		Federal Receipts										
		G.F. Match										
		General Fund	1,124,259									
		Inter-Agency Receipts										
		Program Receipts										
		Other										
		Other										
REQUEST	5.	Additions to Current Authorized Positions (Form 12, column 12, lines 26-30)										
	6.	Total Personal Services Request (From 4A)	1,124,259	26			312					
	7.	SOURCE OF FUNDS										
		Federal Receipts										
		G.F. Match										
		General Fund	1,124,259									
		Inter-Agency Receipts										
		Program Receipts										
		Other										
		Other										

*See form 5, page 2 of 2 - one time item

10 PERSONAL SERVICES REQUEST SUMMARY

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			FY 83			FY 84		
			2.Pos	3.No.	4. $	5.Pos	6.No.	7. $
	1. Full Time	(From APBR or Form 11A)	26	312	924,144	26	312	924,1
U E S	2. Part Time/Seasonal	(From Form 11B)						
T R A	3. Overtime	(From Form 11C)						
H N L	4. Shift Differential	(From Form 11D)						
O	5. Additional Salary Costs	(From Form 11E)						
R	6. Subtotal - Permanent Positons and Gross Salary Costs (Sum of Lines 1 - 5)		26	312	924,144	26	312	924,14
I P	7. Enter SBS Costs (Calculate in Box A)				56,650			56,65
Z O B	8. Standard Benefits FY 83 (Calculate in Box B)				144,340			141,02
E S E	9. Police, Firemen Retirement Adjustment (Calculate in Box C)							
D N	10. Enter Adjustment for TRS Employee if Applicable (Calculate in Box D)				( )			( )
	11. Enter Monthly Fixed Costs (Calculate in Box E)				57,096			74,880
12. Subtotal - Authorized Permanent Positions, Salaries and Benefits (Sum of Lines 6 thru 11)			26	312	1,182,230	26	312	1,196,694
13. Non-Permanent Positions, Salaries and Benefits (From Form 11F)								
14. TOTAL POSITIONS, SALARIES AND BENEFITS (SUM OF LINES 12 AND 13)			26	312	1,182,230	26	312	1,196,694

A SUPPLEMENTAL BENEFITS (SBS)

	FY 83 POSITIONS	FY 83 AMOUNT
1.	26	924,144
2.	X2188	X.0613
3.	$56,888	$ 56,650
4. Trans. lower - Line 7, Col 4.		
	FY 84 POSITIONS	**FY 84 AMOUNT**
5.	26	924,144
6.	X2240	X.0613
7.	$ 58,240	$ 56,650
8. Trans. lower - Line 7, Col 7.		

	15. FY 83 Authorized (From Form 4A)	1,123,700
A	16. FY 83 Salary Increase Distribution	-0-
D	17. FY 83 Total Adjusted Funding (Line 15 + Line 16)	1,123,700
J	18. FY 83 Amount Underfunding (Line 14 - Line 17)	58,530
U	19. FY 83 + FY 84 Percent Underfunding (line 18 ÷ Line 14)	(5
S	20. FY 84 Amount Underfunding (Line 19 X Line 14, Col. 7)	59,835
T	21. FY 84 Continuation Request (Line 14 - Line 20)	1,136,859
	22. Continuation Adjustment (Line 21 - Line 15)	13,159

B VARIABLE BENEFITS %

	1. Gross Salary	2. Rate	3. Adjustment
FY 83	924.1	.1562	144,340
FY 84	924.1	.1526	141,020

C BENEFITS ADJUSTMENT FOR POLICE, FIREMEN

	1. Affected Salaries	2. Rate	3. Adjustment
FY 83		.0965	
FY 84		.0965	

D BENEFITS ADJUSTED FOR TRS EMPLOYEES

	1. TRS Salaries	2. Rate	3. Adjustment
FY 83		.0426	( )
FY 84		.0426	( )

E

	Monthly Ben.	LTC	Oth.	TOTAL
FY 83	Months		312	
	$ Fact.	X170	X183	
	TOTAL			57,096
FY 84	Months		312	
	$ Fact.	X200	X240	
	TOTAL			74,880

11 CURRENT AUTHORIZED POSITION SUMMARY

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	PCN	CLASSIFICATION TITLE AND EXPLANATION	LOC.	PAY RANGE	CURRENT YEAR - FY 83				BUDGET YEAR - FY 84			
					NO. OF POS.	NO. OF MONTHS	MONTHLY SALARY	ANNUAL AMOUNT	NO. OF POS	NO. OF MONTHS	MONTHLY SALARY	ANNUAL AMOUNT
	1	2	3	4	5	6	7	8	9	10	11	12
1.		APBR										
2.	3001EX	Director	AWA	26E	1	12	5,433	65,196	1	12	5,433	65,196
3.	3002EX	Deputy Director	AWA	23E	1	12	4,554	54,648	1	12	4,554	54,648
4.	3003EX	Policy & Program Specialist II	AWA	23F	1	12	4,725	56,700	1	12	4,725	56,700
5.	3004EX	Policy & Program Specialist I	AWA	21A	1	12	3,475	41,700	1	12	3,475	41,700
6.	3005EX	Policy & Program Specialist II	AWA	23A	1	12	3,971	47,652	1	12	3,971	47,652
7.	3006EX	Policy & Program Specialist I	AWA	21A	1	12	3,475	41,700	1	12	3,475	41,700
8.	3007EX	Policy & Program Specialist I	AWA	21C	1	12	3,714	44,568	1	12	3,714	44,568
9.	3008EX	Policy & Program Specialist I	AWA	21C	1	12	3,714	44,568	1	12	3,714	44,568
10.	3009EX	Policy & Program Specialist I	AWA	18A	1	12	2,838	34,056	1	12	2,838	34,056
11.	3011EX	Policy & Program Specialist I	AWA	21B	1	12	3,605	43,260	1	12	3,605	43,260
12.	3012EX	Administrative Assistant II	AWA	14B	1	12	2,218	26,616	1	12	2,218	26,616
13.	3013EX	Secretary I	AWA	10F	1	12	1,946	23,352	1	12	1,946	23,352
14.	3014EX	Clerk IV	AWA	9B	1	12	1,627	19,524	1	12	1,627	19,524
15.	3015EX	Clerk Typist III	AWA	8A	1	12	1,487	17,844	1	12	1,487	17,844
16.	3016EX	Clerk II	AWA	7A	1	12	1,408	16,896	1	12	1,408	16,896
17.	3017EX	Policy & Program Specialist II	AWA	23A	1	12	3,971	47,652	1	12	3,971	47,652
18.	3018EX	State-Federal Coordinator	AWA	21A	1	12	3,475	41,700	1	12	3,475	41,700
19.	3019EX	Policy & Program Specialist I	AWA	21B	1	12	3,605	43,260	1	12	3,605	43,260
20.	3020EX	Policy & Program Specialist I	AWA	21A	1	12	3,475	41,700	1	12	3,475	41,700
21.	3021EX	Management Analyst III	AWA	18B	1	12	2,941	35,292	1	12	2,941	35,292
22.	3022EX	Management Analyst II	AWA	16B	1	12	2,556	30,672	1	12	2,556	30,672
23.	3023EX	Management Analyst II	AWA	16A	1	12	2,463	29,556	1	12	2,463	29,556
24.	3024EX	Data Control Clerk	AWA	11B	1	12	1,832	21,984	1	12	1,832	21,984
25.	3025EX	Clerk Typist III	AWA	8A	1	12	1,487	17,844	1	12	1,487	17,844
26.	3026EX	Clerk Typist III	AWA	8B	1	12	1,530	18,360	1	12	1,530	18,360
27.	3027EX	Clerk Typist III	AWA	8A	1	12	1,487	17,844	1	12	1,487	17,844
28.												
29.												
30		TOTALS			26	312		924,144	26	312		924,144

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11a FULL-TIME POSITION RECAP

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	TOTAL	GENERAL GOVERNMENT	SUPERVISORY	CONFI-DENTIAL	PSEA	LTC	NON-COVERED	ELECTED/ APPOINTED	OTHER (SPECIFY)
1. Permanent Position Base Salary for FY 84 (Form 11, line 6, col. 7)	924.1						924.1		
2. Non-permanent Base Salaries for FY 84 (Form 11F, line 27, col. 10)	-0-						-0-		
3. Sub-Total lines 1 and 2	924.1						924.1		
4. Transferred/Deleted Positions FY 84 Base Salaries	-0-						-0-		
5. New Position Base Salaries (Sum of Form 13's, line 5)	-0-						-0-		
6. Other Base Salary Adjustments (Form 23's following Form 12)	-0-						-0-		
7. TOTAL FY 84 REQUESTED BASE SALARIES (LINES 3-6)	924.1						924.1		
8. FUNDING SOURCES: (SHOWN AS A PERCENTAGE)									
a. Federal (1002)									
b. General Fund (1003-4)							100%		
c. Inter-agency Receipts (1005)									
d. Program Receipts (1028)									
e. Other (Specify):									
f.									
g.									
h.									
9. TOTAL		100%	100%	100%	100%	100%	100%	100%	100%

11S BASE SALARY DATA BY BARGAINING UNIT

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01-1160 (7/82) - 11s

	CODE	TRAVEL AND MOVING CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	ADDITION	REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	200	TOTAL TRAVEL AND MOVING	83.2	100.7	79.2		79.2	
2.	210/220	Field/Administrative Travel	4.9					
3.		In-State Transportation		11.7	12.5		12.5	
4.		In-State Per Diem		12.3	13.0		13.0	
5.		Out-Of-State Transportation		6.5	6.9		6.9	
6.		Out-Of-State Per Diem		4.1	4.3		4.3	
7.	230	Conventions and Meeting	66.8	40.1	42.5		42.5	
8.	240	Boards, Commissions and Legislators	.1					
9.	280	Moving or Relocation Expense	9.6					
10.	290	Non-Employee Travel	1.8	26.0				
11.	920	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION	CONT. $	ADDITION $
210/220	Field Administrative Travel - Attend meetings and conferences with State and federal agencies to identify conditions, problems and concerns related to needs of Alaskans - natural resources, energy, human resources, and other issues relating to the economy. Represent Governor at hearings, etc. as required both inside and outside the State.	36.7	
230	Conventions and Meetings - Attend conventions and meetings relating to inter-governmental relations and State planning. Attend professional planning meetings both inside and outside the State.	42.5	

14 TRAVEL AND MOVING

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01-1137 (7/82) - 14

	CODE	CONTRACTUAL SERVICES CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	300	TOTAL CONTRACTUAL	1,048.9	859.5	889.8		889.8	
2.	310	Communications	51.0	62.2	62.2		62.2	
3.	320	Printing and Advertising	37.6	27.5	42.0		42.0	
4.	330	Space Expense and Fees	3.5	2.1				
5.	340	Repair and Maintenance		5.8	14.6		14.6	
6.	350	Utilities Other Than Space						
7.	360	Equipment Rental - Other Than HWCF and WP	60.5	23.2	36.8		36.8	
8.	364	Equipment Rental - Word Processing		26.1	22.1		22.1	
9.	368	Equipment Rental - Highway Working Capital Fund						
10.	370	Judicial Expense						
11.	380	Professional Fees & Services-Excluding Data Processing	889.3	674.0	662.2		662.2	
12.	382	Professional Fees & Services-Data Processing		11.2	14.7		14.7	
13.	382a	Data Processing Chargeback		27.4	35.2		35.2	
14.	390	Other Fees or Expenses	7.0					
15.	930	INTER-AGENCY TRANSFERS (NON-ADD)		445.0	463.3		463.3	

CODE	EXPLANATION	CONT. $	ADDITION $
310	Centrex, telephone, postage.	62.2	
320	Printing of general reports, consolidated annual report, lettersets, envelopes, advertising for vacancies and consistency determinations.	42.0	

15 CONTRACTUAL SERVICES

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Continuation

340 Repair and Maintenance

2 Mag II at $1,088 per year	$ 2,176	
8 Selectric typewriters - per year	965	
3 Mag 6240's at $1,695 per year	5,085	
5 Lexitrons at $101 per month	6,060	
Miscellaneous equipment rental	300	
	$14,586	14.6

360 Equipment Rental

Xerox 5600, $803 per mo. - per yr.	$ 9,636	
Xerox 5400, $715 per mo. - per yr.	8,580	
Usage A-95, DPDP $700 per mo.	8,400	
2 Postage meters, $409.23 per quarter - per year	1,637	
1 mdl. 3279 terminal, $140 per mo.	1,680	
1 mdl. 3274 control unit, $300 per month	3,600	
1 mdl. 3287 printer, $275 per month	3,300	
	$36,833	36.8

364 Equipment Rental - Word Processing

1 Mag 6240 at $215.20 per month	$ 2,582.40	
5 Lexitrons, $1,626.25 per month	19,515.00	
	$22,097.40	22.1

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CONTINUED 15

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01 1154 67021 23

			Continuation
389	Federal (OCS LANDS ACT) Grant funds for Review of Offshore Leasing. OCS 308(C)(2) programs - See form 22.		161.2
	Major Project Review of State Oil and Gas Leases, plus inflation conducted under Administrative Order 52.		290.2
	Major Project Review for special issues as requested by the Governor - interagency review of major projects is accomplished under Administrative Order 55. Professional consultant services for specific issues where contracted expert analysis is required.		210.2
	Computer use and storage - University of Alaska		.6
		Total 389:	662.2
382	Data Processing - see form 15dps		35.2
	1. Costs to DDP - operations terminal 145 mo.		1.7
	2. Costs to other then DDP program maintenance		13.0

SYSTEM CODE	SYSTEM NAME	% BUDGETED IF NOT 100%	FY 83 BUDGETED	BUDGET YEAR - FY 84			
				AGENCY			GOVERNORS BUDGET
				CONTINUATION	ADDITION	REQUEST	
GCH	GCH - A-95 Clearinghouse		27.4	35.2		35.2	
	TOTALS		27.4	35.2		35.2	
	(Transfer to Form 15, Line 13)						

NOTES:

15dps DATA PROCESSING CHARGEBACK SUMMARY

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01 1131 (7/82) - 15dps

SYSTEM CODE	SYSTEM NAME
GCH	A-95 Clearinghouse

USER AGENCY CONTACT Vic Ferreros	PHONE 465-3573	SIGNATURE Margaret Hector for	DATE 9/20/82
DIVISION OF DATA PROCESSING CONTACT Dick Jablonowski	PHONE 465-2152	SIGNATURE Mary W. Tinsley	DATE 9-21-82

DP BUDGET GROUP	FY 82		FY 83		FY 84 CONTINUATION			FY 84 ADDITION		
	UNITS	COST	UNITS	COST	UNITS	UNIT PRICE	COST	UNITS	UNIT PRICE	COST
1. Computer Resource Units	15,441	20.8	16,500	20.6	19,800	1.25	24.8			
2. Common Output Units	56	1.5	36	1.1	46	31.00	1.4			
3. Comp. Microfilm Output A. Originals B. Duplicates	0	0	0	0	0	0	0			
4. Terminal Charges	1	2.0	2	4.0	2	2,000.00	4.0			
5. Storage Units	323	3.9	120	1.7	352	14.00	5.0			
6. Data Entry	0	0	0	0	0	0	0			
7. Other			(voucher)	3.0	(CICS chargeback estimate)					
TOTALS		28.2		30.4			35.2			

NOTES:

15dp DATA PROCESSING CHARGEBACK

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01 1132 (7/82) - 15dp

	CODE	COMMODITIES CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	400	TOTAL COMMODITIES	11.2	11.7	12.4		12.4	
2.	410	Agricultural Supplies						
3.	420	Household and Institutional Supplies						
4.	450	Structural Materials and Supplies						
5.	460	Equipment Parts and Supplies						
6.	470	Professional and Scientific Supplies		2.0				
7.	480	Office and Library Supplies	11.2	6.8				
8.	490	Other Operating Supplies		2.9	12.4		12.4	
9.	940	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION	CONT. $	ADDITION $
	General office supplies, continuation only.	12.4	

16 COMMODITIES

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01 1139 (7/82) - 16

	CODE	AGENCY/DIVISION TO RECEIVE THE I/A TRANSFER	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.		TOTAL INTER-AGENCY TRANSFERS (NON-ADD)		445.0	463.3		463.3	
2.	310	Administration - Centrex	6.5	6.6	7.3		7.3	
3.	380	Major project review - oil and gas	213.9	273.8	290.2		290.2	
4.	380	OCS-State participation, federal leases	158.0	136.2	130.0		130.0	
5.	380	University of Alaska - Computer use	.5	1.0	.6		.6	
6.	382	Administration - Data Processing	28.2	27.4	35.2		35.2	
7.								
8.								
9.								
10.								
11.								
12.								
13.								
14.								

CODE	EXPLANATION	CONT. $	ADDITION $
310	Cost of Centrex phone system - Department of Administration	7.3	
380	Major project review of State oil and gas leases. Departments of Community and Regional Affairs, Fish and Game, Environmental Conservation, Natural Resources and Revenue.	290.2	
380	State participation in federal lease sales. Federal funds (OCS 308(C)(2)) to Departments of Natural Resources, Community and Regional Affairs, Environmental Conservation and Fish and Game.	130.0	
380	University of Alaska - Computer use.	.6	
382	Department of Administration - Data Processing	35.2	

20 INTER-AGENCY TRANSFERS

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1	FUND 100		RECEIPT CODE 773			COLLOCATION CODE 01-91-6-125			
2	RECEIPT TITLE								
3	TYPE OF REVENUE		FY 82	FY 83	FY 83	FY 84			FY 85 ESTIMATE
4	Unrestricted								
5	Restricted - Federal	X	ACTUAL	AUTHORIZED	REVISED	CONTINUATION	ADDITION	REQUEST	
	Program Receipts								
	Inter-Agency Receipts								
	1		2	3	4	5	6	7	8
6	For FY 84 Budget Workbooks BUDGET ESTIMATE		194.1	161.2	165.2	161.2			
7	For FY 84 Revenue Source Book CASH RECEIPTS				ESTIMATE			ESTIMATE	

8 Explanation of the Estimate

An additional 300.0 federal dollars were received for this program. However, spending has been slower than estimated due to the federal lease program. We now believe 161.2 wil be available for FY '84.

9 State Matching Requirements: State Match met for DPDP in FY '83.

10 State Maintenance of Effort Requirements

11 Indirect Cost Rate: Claimed [ ] Unclaimed [ ]

12 Additional Data

13 Name of Person Preparing Estimate: Alice Wolcott Phone: 465-3573 Date: 9/21/82

22 REVENUE DETAIL

AGENCY: Office of the Governor

PROGRAM: Executive Operations

BRU: Policy Development and Planning

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01-1153 (7/82) 1-22

Respondent's Name	Position Title	Telephone	Mail Stop
Policy Development and Planning		465-3573	0164

Author	Title	Date	Number of Pages
	SEE ATTACHED INDEX.		

24 FY 82 ALASKA STATE PUBLICATIONS

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80-23	Improving Interagency Coordination Through a Resource Planning Subcabinet	Sally Rue	12/19/80
80-21	Coordination and Analysis in the Executive Management System	Jay Moor	12/16/80
80-13	Regional Planning Coordination	Sally Rue	10/13/80
80-12	Management of Alaska State Government - The Governor's Policy Themes -	Jay Moor	9/26/80
80-8	State Planning and DPDP	Jay Moor	6/25/80
80-2	State of Alaska Internal Audit/Review Function	Jay Moor	3/1/80
AGRICULTURE			
80-5	Pt. MacKenzie Dairy Project Overview	Bill Luria/B&M	3/14/80
DATA/INFORMATION			
82-11	Statistical Policy and Data Coordination	Vic Ferreros	9/24/82
EDUCATION			
81-7	Educational Endowments	Dona Lehr	3/5/81
80-14	Property Tax Relief and State Funding for Education	Dona Lehr/B&M	10/15/80

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82-9	State Control of Unemployment Insurance Reserves	David Teal	9/13/82
ENERGY			
82-10	Probable Effect of Lower State Revenue Forecasts on Projection of Electricity Demand in the Railbelt	Dick Emerman	9/21/82
82-1	Forecasting the Demand for Electric Power -- Is It Important, Can It Be Improved	Tom Singer	1/25/82
81-25	Statutory Options to Improve the Energy Program for Alaska (SB25) - Analysis and Recommendations -	Tom Singer	10/15/81
81-23	Preliminary Assessment of Cook Inlet Tidal Power	Bill Luria/Acres	9-23-81
81-18	State Energy Reorganization - Options	Bill Luria	5-14-81
81-10	Energy Development Financing	Tom Singer/B&M	3-24-81
81-9	Alternative Energy Systems, Cogeneration and Conservation Financing	Tom Singer/B&M	3-18-81
81-3	Power Project Financing	Tom Singer	1-21-81
80-24	The Impact of Rising Energy Costs on Rural Alaska	ISER/Margo Waring	11-11-80
80-19	Power Production Assistance Program	Dona Lehr/B&M	12-11-80
80-16	Alaska Energy Issues - Options for State Action	Bill Luria	11-1-80
80-11	Alaska Energy Center Board of Directors	Bill Luria	8-15-80

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82-4	Economic Impacts of State Expenditures -- A Preliminary Analysis	Dona Lehr/ISER	4-6-82
81-21	Methodology for Estimating the Fiscal Impact of Petrochemical Development	Dona Lehr	9-9-81
81-5	General Obligation Bonding Policy and Debt Defeasance	Dona Lehr	2-23-81
80-10	Expenditure Limitations	Dona Lehr	8-1-80
FISHERIES			
81-14	Fisneries Development Program Overview	Dave Allison	4-10-81
80-6	Bottom Fisheries Development Program - Joint Ventures	Dave Allison	4-8-80
80-1	Marine Resources Development	Dave Allison	2-1-80
HEALTH CARE			
81-17	Health Care Financing & State Health Insurance	Janice Cole	5-6-81
81-13	Governor's Role In Health Systems Agency Grant Review	Janice Cole	4-2-81
HUMAN RESOURCES			
82-7	Human Impacts of Large-Scale Development Projects	Janice Cole/ Allison Fargnoli	8/2/82
81-19	Federal Cutbacks in Human Resources Programs	Janice Cole	5-19-81

POLICY ANALYSIS PAPERS
INDEX

PAPER #	TITLE	AUTHOR	DATE
OIL & GAS (Cont.)			
81-1	A Socioeconomic and Environmental Analysis of a State Oil and Gas Lease Sale in Upper Cook Inlet	Gretchen Keiser/ Bruce Baker	1/1/81
80-18	Draft Socioeconomic Stipulations - Alaska Natural Gas Transportation System	Janice Cole	12-10-80
SCIENCE & TECHNOLOGY			
81-6	Increasing Public Sector Productivity through Applications of New Technology	Jay Moor	2-24-81
81-2	Remote Sensing in Alaska: Opportunities and Policy Implications	Jay Moor	1-13-81
TRANSPORTATION			
82-8	Airline Deregulation	Dave Teal	8-24-82
80-7	Governor's Haul Road Policy-Implementation Costs	Sally Rue	4-11-80
80-4	Haul Road Policy and Agency Implemencation	Sally Rue	3-13-80
80-3	Long-Term Haul Road Policy	Sally Rue	3-3-80
WEALTH DI_TRIBUTION			
82-3	[redacted]	Dona Lehr	3-12-82
81-24	[redacted]	Dona Lehr/ Dick Emerman	10-12-81
80-17	Royalty Trusts & the British Columbia Resources Investment Corporation	Tom Singer	11-14-80
80-9	[redacted]	Dona Lehr	7-1-80

POLICY ANALYSIS PAPERS
INDEX

PAPER #	TITLE	AUTHOR	DATE
LAND USE			
82-6	An Analysis of State Land Disposal Programs	Sally Rue/ISER	6-15-82
81-8	State Comments on Draft Regulations to Implement the Alaska Lands Act	Nancy Harvey/ Bruce Baker	3-13-81
80-15	State Land Disposal Program	Sally Rue	10-23-80
MINING			
82-5	State Fiscal Analysis Quartz Hill Molybdenum Project	Dona Lehr/ Dick Emerman	5-27-82
80-22	Coal Severance Tax	Bill Luria/Dona Lehr	12-17-80
80-20	Beluga Coal Export Market Study	Dona Lehr/Bill Luria/ Battelle	12-15-80
OIL & GAS			
82-2	A Social, Economic and Environmental Analysis of Oil and Gas Lease Sale 36	Rod Swope/ Gretchen Keiser	2-11-82
81-22	In-State Use of Royalty Oil: "Alaska Oil for Alaskans Now" Proposal -- An Interagency Analysis	Dona Lehr/Bill Luria	9-15-81
81-20	[redacted]	Gretchen Keiser	5-22-81
81-15	Oil and Gas Leasing Schedule for NPR-A - State Response	Gretchen Keiser	4-13-81
81-12	A Proposed State-Sponsored Coastal Studies Program for Alaska Oil and Gas Development Issues	Gretchen Keiser/ Bruce Baker	4-1-81
81-11	A Socioeconomic and Environmental Analysis of a State Oil and Gas Lease Sale in Lower Cook Inlet	Rod Swope/ Gretchen Keiser	10-81
81-4	Federal OCS Oil and Gas Leasing Schedule 1980-1985 - State of Alaska's Position	Bruce Baker/ Gretchen Keiser	2-2-81

TRANSFERS FROM/DELETIONS: 1		FUNDING INFORMATION	TRANSFERS TO/ADDITIONS: 2	
BRU Division of Internal Audit			BRU Office of Management & Budget	
COMPONENT Division of Internal Audit			COMPONENT Office of Management & Budget	
3	4	5	6	7
What is being transferred or deleted from this unit?	AMOUNT	EXPEND. BY OBJECT	AMOUNT	What is being transferred or added to this unit?
Funds transferred to the newly formed Office of Management and Budget.	(854.5)	100 Pers. Serv.	854.5	Funds transferred in from the former Division of Internal Audit.
	(90.3)	200 Travel	90.3	
	(58.1)	300 Contractual	58.1	
	(8.0)	400 Commodities	8.0	
	(7.5)	500 Equipment	7.5	
		600 Lands/Bldgs.		
		700 Grants, Claims		
		800 Miscellaneous		
	(1,018.4)	TOTAL	1,018.4	
		I-A Trans.(Non-Add)		
		Fed. Receipts		
		GF Match		
	(1,018.4)	General Fund	1,018.4	
		I-A Receipts		
		Program Rcpts.		
		Other		
	(19.0)	No. Full-Time (N)	19.0( )	
	( )	No. Part-Time (N)	( )	
	( )	Non-Permanent (N)	( )	
	(228.0)	No. of Months	228.0	

Explain which BRU objectives are affected, and how.

8

5a ADJUSTMENTS WITHIN CONTINUATION LEVEL

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Office of Management & Budget

COMPONENT Office of Management & Budget

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TRANSFERS FROM/DELETIONS: 1		FUNDING INFORMATION	TRANSFERS TO/ADDITIONS: 2	
BRU Regulatory Reform			BRU Office of Management & Budget	
COMPONENT			COMPONENT Office of Management & Budget	
3	4	5	6	7
What is being transferred or deleted from this unit?	AMOUNT	EXPEND. BY OBJECT	AMOUNT	What is being transferred or added to this unit?
Funds transferred to the newly formed Office of Management and Budget.	(91.1)	100 Pers. Serv.	91.1	Funds transferred in from the former Regulatory Reform Office.
	(10.6)	200 Travel	10.6	
	(14.0)	300 Contractual	14.0	
	(2.3)	400 Commodities	2.3	
		500 Equipment		
		600 Lands/Bldgs.		
		700 Grants, Claims		
		800 Miscellaneous		
	(118.0)	TOTAL	118.0	
		I-A Trans.(Non-Add)		
		Fed. Receipts		
		GF Match		
	(118.0)	General Fund	118.0	
		I-A Receipts		
		Program Rcpts.		
		Other		
	(2.0)	No. Full-Time (M)	2.0 ( )	
	( )	No. Part-Time (M)	( )	
	( )	Non-Permanent (M)	( )	
	24.0	No. of Months	24.0	

Explain which BRU objectives are affected, and how.

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5a ADJUSTMENTS WITHIN CONTINUATION LEVEL

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BUDGET REQUEST UNIT (BRU)
Office of Management and Budget

PROGRAM
Executive Operations

CATEGORY
General Government

AGENCY	DIVISION
Office of the Governor	Office of Management and Budget

NAME AND POSITION OF BRU MANAGER	PHONE
Peter B. McDowell, Director	465-2213

NAME AND POSITION OF AGENCY CONTACT	PHONE
Peter B. McDowell, Director	465-2213

COMMISSIONS AND/OR ADVISORY BOARDS WHICH HAVE BEEN CONTACTED/OTHER PUBLIC INPUT CONSIDERED IN PREPARING BUDGET REQUEST:

None

SIGNATURE OF AGENCY HEAD	DATE

DETAIL BUDGET SUBMISSION

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Office of Management & Budget

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STATUTORY BASIS:

AS 37.07	Executive Budget Act	AS 44.19 Article 12		AS 44.19.010
37.07.040	Office of Management & Budget	44.19.155		
37.07.050	Agency Program and Financial Plans, Administrative Order	#55	#52	
37.07.080	Program Execution	#62	#65	
		#54		

PROGRAM GOAL(S):

BRIEF DESCRIPTION OF BRU ACTIVITIES AND THEIR RELATIONSHIP TO THE PROGRAM GOALS:

The Office of Management and Budget is a new budget request unity in FY 84. It combines the Divisions of Budget and Management, Internal Audit, Policy Development and Planning, and the Regulatory Reform Program. The new structure includes the Divisions of Strategic Planning, Budget Review, Management and Government Coordination.

The organizational purpose of this office is to establish a comprehensive system for state program and financial management which furthers the capacity of the Governor and Legislature to plan and finance the services which they determine the State will provide for its citizens.

The principal function of the Division of Strategic Planning is to develop, coordinate and review long-range program and financial plans to implement State policies. The Division of Budget Review will assist the Governor in the preparation, coordination and enactment of the State's operating and Capital Budgets. The Division of Management will assist in the review and periodic revision of the program goals and policies of the State, and will conduct performance audits and sunset reviews as necessary. The Governmental Coordination Division will perform A-95 review of grants, regulatory review, permit reform, and Coastal Zone Management functions.

1 DEFINITION STATEMENT

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Office of Management & Budget

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The Office of Management and Budget is a new budget request unity in FY 84. It combines the Divisions of Budget and Management, Internal Audit, Policy Development and Planning, and the Regulatory Reform Program. The new structure includes the Divisions of Strategic Planning, Budget Review, Management and Government Coordination.

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1. ITEM AND EXPLANATION		2. AMOUNT	3. FUNDING SOURCES	4. 100 PERSONAL SERVICES	5. 200 TRAVEL	6. 300 CONTRACTUAL SERVICES	7. 400 COMMODITIES	8. 500 EQUIPMENT	9. OTHER
1.	FY 83 Authorized (Form 4A)								
2.	Less One-Time Items (Include All Equipment)	( )		( )	( )	( )	( )	( )	( )
3.	Plus FY 84 Replacement Equipment (Form 17, Line 1, Column 5)								
4.	Personal Services Adjustment (Form 11, line 22)								
5.	Sub-Total								
6.	Plus Inflation Adjustment								
7.	Sub-Total								
8.	Adjustments to and within Continuation (Forms 5A and 5B)								
9.	FY 84 Continuation	6023.5	161.2 Fed., 5862.3 GF	3730.4	216.6	2014.3	54.7	7.5	----

*Continuation reflec. FY84 Gov.

5 COMPONENT CONTINUATION

AGENCY Office of the Governor

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BRU Office of Management & Budget

COMPONENT

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TRANSFERS FROM/DELETIONS: 1		FUNDING INFORMATION		TRANSFERS TO/ADDITIONS: 2	
BRU Policy Development & Planning				BRU Office of Management & Budget	
COMPONENT Policy Development & Planning				COMPONENT Office of Management & Budget	
3	4	5		6	7
What is being transferred or deleted from this unit?	AMOUNT	EXPEND. BY OBJECT		AMOUNT	What is being transferred or added to this unit?
Funds transferred to the newly formed Office of Management and Budget.	(1,124.3)	100	Pers. Serv.	1,124.3	Funds transferred in from the former Division of Policy Development and Planning.
	(79.2)	200	Travel	79.2	
	(889.8)	300	Contractual	889.8	
	(12.4)	400	Commodities	12.4	
		500	Equipment		
		600	Lands/Bldgs.		
		700	Grants, Claims		
		800	Miscellaneous		
	(2,105.7)		TOTAL	2,105.7	
			I-A Trans.(Non-Add)		
	(161.2)		Fed. Receipts	161.2	
			GF Match		
	(1,944.5)		General Fund	1,944.5	
			I-A Receipts		
			Program Rcpts.		
			Other		
	(26.0)		No. Full-Time (M)	26.0( )	
	( )		No. Part-Time (M)	( )	
	( )		Non-Permanent (M)	( )	
	(312.0		No. of Months	312.0	

Explain which BRU objectives are affected, and how.

8

5a ADJUSTMENTS WITHIN CONTINUATION LEVEL

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Office of Management & Budget

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TRANSFERS FROM/DELETIONS: 1		FUNDING INFORMATION	TRANSFERS TO/ADDITIONS: 2	
BRU: Division of Budget & Management			BRU: Office of Management & Budget	
COMPONENT: Division of Budget & Management			COMPONENT: Office of Management & Budget	
3	4	5	6	7
What is being transferred or deleted from this unit?	AMOUNT	EXPEND. BY OBJECT	AMOUNT	What is being transferred or added to this unit?
Funds transferred to the newly formed Office of Management and Budget.	(1,660.5)	100 Pers. Serv.	1,660.5	Funds transferred in from the former Division of Budget and Management.
	(36.5)	200 Travel	36.5	
	(1,052.4)	300 Contractual	1,052.4	
	(32.0)	400 Commodities	32.0	
		500 Equipment		
		600 Lands/Bldgs.		
		700 Grants, Claims		
		800 Miscellaneous		
	(2,781.4)	TOTAL	2,781.4	
		I-A Trans.(Non-Add)		
		Fed. Receipts		
		GF Match		
	(2,781.4)	General Fund	2,781.4	
		I-A Receipts		
		Program Rcpts.		
		Other		
	(36.0)	No. Full-time (M)	36.0 ( )	
	(1.0)	No. Part-time (M)	1.0 ( )	
	( )	Non-Permanent (M)	( )	
	(443.5)	No. of Months	443.5	

Explain which BRU objectives are affected, and how.

8

5a ADJUSTMENTS WITHIN CONTINUATION LEVEL

AGENCY: Office of the Governor

PROGRAM: Executive Operations

BRU: Office of Management & Budget

COMPONENT: Office of Management & Budget

Revised Date

FY 84

PETER B. MCDOWELL

128 Dixon Street
Juneau, Alaska 99801
(907) 586-2593

Peter McDowell, 43, is a management consultant and economist with over seventeen years experience, including five as a partner with Price Waterhouse in the United States and abroad. He holds a MBA in Accounting and Business Statistics and a BA in Economics and Mathematics. His experience includes management consulting for a broad range of companies and institutions, with special emphasis on organization, management and financial planning and control for private and public institutions engaged in economic development. He also serves as a member of the Board of Trustees of the Alaska Permanent Fund Corporation.

EDUCATION	MBA, Accounting and Business Statistics, University of Oregon Graduate School of Business, 1965.
	BA, Economics and Mathematics, Willamette University, 1962.
RANGE OF EXPERIENCE	Over seventeen years of management consulting, financial auditing and management experience.
	Management consulting experience has been extensive in the disciplines of organization, management and financial planning and control for small to very large private companies, financial institutions, educational institutions, highway transportation agencies and economic development institutions.
PROFESSIONAL HISTORY	Partner, Homan-McDowell, Juneau, Alaska 1980-present.
	Partner, Price Waterhouse 1974-1979, in Washington, D.C., London, England and Lagos, Nigeria.
	Staff Accountant to Senior Manager, Price Waterhouse 1965-1974, in San Francisco and New York.
	Lecturer, University of Oregon Graduate School of Business, 1962-1965.
PROFESSIONAL QUALIFICATIONS	Certified Management Consultant (CMC), Institute of Management Consultants, USA, since 1974.
	Certified Public Accountant (CPA), American Institute of Certified Public Accountants, since 1967.
PROFESSIONAL CONSULTING EXPERIENCE	Supervision and performance of a large number of management consulting projects of which the following assignments are representative:

-- Reorganization and rationalization of the Special Projects Office from the Office of the Governor of Alaska.

-- Socio-economic analysis of the impacts on Juneau of the proposed move of the Alaska state capital from Juneau.

-- Management and organization review, and development of revised classification and compensation plans for the Tlingit-Haida Central Council.

-- Loan financing application for timber operations of a S.E. Alaska Native Village Corporation.

-- Acquisition reviews of several businesses.

-- Consultant to the Alaska State Investment Advisory Committee and the Legislature with regard to the organization, management, control and accountability of the Alaska Permanent Fund.

This project involved a review and report on the structures and management of national and international development institutions (e.g., World Bank); testimony at public hearings; and drafting of proposed legislation.

-- Conducted a study of the areas cost differentials used to measure geographic location effects on costs in the Alaska Public School Foundation Program.

-- Development of accounting and reporting systems for the Nigerian National Petroleum Company.

-- Review of accounting and budgeting policies of the United Nations Food and Agricultural Organization, Rome, Italy.

-- Reorganization of the management structure of the New York Stock Exchange.

-- Development and implementation of a small business financial planning and budgeting system package using time-sharing computers.

-- Organization, management, program budgeting and accounting consulting for the Oakland, San Francisco and Woodland, California school districts.

-- Financial studies of the allocation of federal and state highway funds among competing road systems in the States of Washington and California and at the federal level.

-- Financial planning and control systems, including charts of accounts for a variety of smaller businesses and organizations.

-- Member of the first Board of Trustees of the Alaska Permanent Fund Corporation.

-- Member of the Business Management Task Force for Governor Sheffield's Transition.

GENERAL MANAGEMENT EXPERIENCE

July 1977 - June 1979 Partner-in-charge of the Price Waterhouse Lagos, Nigeria Office. Full responsibility for the management and affairs of this 80-staff professional practice, including:

-- nationwide auditing, tax and management consulting client services

-- practice administration and accounting

-- staff training and development

-- government relations

-- client service marketing

-- participation on policy board of the Price Waterhouse Africa Firm.

July 1974 - June 1977 Founding President of Price Waterhouse Associates (International), a subsidiary of Price Waterhouse International. Established and directed multi-national efforts to market management consulting work in developing countries of Africa, Asia, Latin America and in the Middle East through personal visits to over 50 countries in these areas and Europe. Established and maintained close liaison and information networks with World Bank and United Nations agencies in Washington D.C. and Europe which fund management consulting work in developing countries. Published manuals about development bank organizations and practices and communicated this knowledge to partners and staff in many countries.

January 1973 - June 1974 Manager in charge of Price Waterhouse, U.S.A. Management Advisory Services Continuing Education and Information Services. Directed a task force of over 15 partners and managers in the design and development of a new comprehensive continuing education program for the entire Price Waterhouse management consulting staff. Managed a staff of four persons who maintained a reference library and referral service of previous firm experience on call to over 60 practice offices.

PETER B. MCDOWELL

COMMERCIAL FISHERIES EXPERIENCE	Owner/operator of salmon power troll vessel during the 1980, 81, and 82 sessions. Member, Alaska Trollers Association.
PUBLISHED WORKS	"What the Chief Executive Should Know About Financial Planning and Control", Price Waterhouse Review and AMA Management Review, 1974. Guide to Financial Planning and Control, Price Waterhouse, New York, 1973.
PROFESSIONAL REFERENCES	
1980 - Present	George W. Rogers, PhD. University of Alaska Economist 1790 Evergreen Avenue Juneau, Alaska 99801 (907) 586-1202
1977 - 1979	Peter A. Davis CA Management Consulting Partner Price Waterhouse Southwark Towers 32 London Bridge Street London, SE19SY, ENGLAND Telephone 407-8989
1972 - 1977	Henry Gunders, CMC Co-Chairman and Deputy Senior Partner Price Waterhouse 1251 Avenue of the Americans New York, New York 10020 Telephone (212) 489-8900

GORDON HARRISON
& ASSOCIATES

social and economic research

3284 Fritz Cove Rd.
Juneau, Alaska
99801
(907) 789-4878

RESUME

Gordon S. Harrison

EDUCATION

1965	B.A. (Honors) University of the Pacific, Stockton, California.
1969	Masters of Journalism, University of California, Berkeley, California.
1969	Ph.D., Political Science, Claremont Graduate School, Claremont, California.

AREAS OF EXPERTISE

Natural resource development planning, government policy, community economic and social systems, fiscal impact analysis; experience includes economic feasibility studies, program evaluations, manpower forecasts, siting studies, survey research, social and economic impact studies, and policy analyses.

PROFESSIONAL EXPERIENCE

1978-present	Consultant - social and economic research.
1977-78	Project Economist, Dames & Moore, Consultants in the Environmental and Applied Earth Sciences, Seattle, Washington.
1977	Staff Assistant, Office of the Governor, State of Alaska.
1974-77	Consultant - social and economic research.
1975-76	Administrative Assistant to the President and Chairman of the Board, Doyon, Ltd.
1969-74	Associate Professor of Political Science, Institute of Social, Economic, and Government Research, University of Alaska, Fairbanks; joint appointment with Department of Political Science 1971-72, 1973-74; tenured 1974.

PROJECTS AND RESEARCH REPORTS

Work in Progress:

Principal investigator in "A Comparative Case Study of Fisheries Management: The Alaska King Crab 'Framework' Plan." Alaska Department of Fish and Game (Institute of Social and Economic Research).

Preparation of a workbook for ANCSA Sec. 14(c)(3) Reconveyances. Alaska Department of Community and Regional Affairs.

Socioeconomic Impact Evaluation, FERC License Application, Silver Lake Hydroelectric Project. DOWL Engineers.

Completed Projects:

Townsite Planning and Site Selection, Beluga River, Alaska. Placer Amex, Inc. 1982.

"Regulatory Analysis Handbook." Regulatory Reform Program, Office of the Governor, 1982.

Fiscal impact and social impact on Juneau, in "Socioeconomic Impact Analysis of Capital Relocation." New Capital Site Planning Commission, (Homan-McDowell and Frank Orth and Associates), 1982.

Area Supervisor and Researcher, "Koyukuk Navigability Study." Alaska Department of Natural Resources (ERTEC, Inc.), 1982.

"An Economic Analysis of Concurrent Development of Outer Continental Shelf Oil and Gas Leases in the Bering Sea." BLM OCS Socioeconomic Studies Program (Dames and Moore), 1982.

"Economic Rationale for an Aleutian Regional Airport." City of Unalaska (Dames and Moore), 1981.

"Chernofski Harbor Development Plan." Alaska Department of Transportation and Public Facilities (with CCC Architects and Planners; Dames and Moore, ABKJ, Inc., and Norgaard, USA, Inc.), 1981.

Consulting for Northwest Alaskan Pipeline Company, 1978-1981.

"A Citizen's Guide to Alaska's Constitution." Written for Legislative Affairs Agency, 1982 (in press).

"Policy Analysis of a Proposed Educational Endowment Fund." Legislative Affairs Agency, 1982.

"Mechanisms for Legislative Policy Development." Legislative Affairs Agency, 1982.

"Petroleum Development and Environmental Protection." Major contributor to interdisciplinary study for U.S. Fish and Wildlife Service (Dames and Moore, University of Alaska); also prepared separate handbook on petroleum development for field biologists, 1979-80.

PROJECTS AND RESEARCH REPORTS (Continued)

Prepared projections of labor demand for 11 federal OCS lease sale areas between 1978 and 1982 as part of comprehensive Petroleum Technology Assessments made by Dames and Moore; BLM Outer Continental Shelf Socioeconomic Studies Program.

Prepared field development scenarios and economic impact assessments for Social, Economic and Environmental Analysis for Oil and Gas Lease Sale No. 35 (Lower Cook Inlet), and No. 37 (Middle Tanana and Copper River Basin). Division of Policy Development and Planning, Office of the Governor, 1980, 1981.

"Socioeconomic Site Evaluations for Petrochemical Manufacturing." Dow-Shell Group (CCC Architects and Planners), 1981.

"Community Planning and Socioeconomic Evaluation for a Proposed Methanol Plant in the Beluga Coal Field." Placer-Amex (CCC Architects and Planners), 1981.

"Rural Economic Impact of CEDC Programs." Community Enterprise Development Corporation, 1980.

"Socioeconomic Impact Assessment," in federal Environmental Impact Statement for Prudhoe Bay Waterflood Project. ARCO Oil and Gas Co. (Dames and Moore), 1980.

"Socioeconomic Impacts of the Proposed ALPETCO Refinery, Valdez, Alaska." Charter Oil Company. (CCC/HOK, Anchorage), 1979.

"Fiscal Impacts on Snohomish County of Snohomish Cascade Subdivision." Hillis Homes, Inc. (David Evans and Associates, Portland), 1979.

"Fiscal Impacts on Snohomish County of Silver Firs Subdivision." Levitt Nu-Pacific Corp. (Kegal and Associates, Everett, Washington), 1979.

"Fiscal Impacts of Evergreen East Shopping Center, King County." DeBartello Development Corp. (Dames & Moore, Seattle), 1979.

"The Economies of Nome and Kotzebue, Alaska." BLM OCS Socioeconomic Studies Program (Policy Analysts, Ltd., Anchorage), 1979, 1980.

"Socioeconomic Impacts of Port Development, Valdez, Alaska." City of Valdez (Dames & Moore, Anchorage), 1979.

"A Social and Economic Evaluation of the Effects of a Commercial Herring Fishery on the Village Economies of the Eastern Bering Sea Coast." North Pacific Fishery Management Council, Anchorage, Alaska (Dames & Moore), 1978.

"Monitoring Petroleum Activity in the Gulf of Alaska and Lower Cook Inlet Between April 1975 and June 1978." Bureau of Land Management (Dames & Moore), 1978.

"The Role of the ASAPCO Refinery in the Tacoma Regional Economy." Puget Sound Air Pollution Control Agency (Dames & Moore), 1978.

PROJECTS AND RESEARCH REPORTS (Continued)

"A Socioeconomic Monitoring Program for the Skagit Nuclear Power Project." Puget Sound Power & Light Company (Dames & Moore), 1978.

"An Analysis of the Fiscal Impacts of the Proposed Atlantic Richfield-Trans Mountain Pipeline Project." Trans-Mountain Pipeline Co. (Dames & Moore), 1977.

"An Analysis of Selected Economic Data for Skagit County and the State of Washington." Puget Sound Power & Light Company (Dames & Moore), 1977.

Contributor to Fairbanks Petrochemical Study. Fairbanks North Star Borough, (University of Alaska), 1977.

"Socioeconomic Impacts and Nuclear Power Plant Siting; An Evaluation of 13 Counties of the Delmarva Peninsula." Delmarva Power Company (Dames & Moore), 1977.

"Report of the Land Status of Potential Nuclear and Coal-fired Power Plants on the Delmarva Peninsula." Delmarva Power Company (Dames & Moore), 1977.

"A Report on the Feasibility of Purchasing the Polaris Building, Downtown Fairbanks." Doyon, Ltd., 1976.

"The Market for Waterborne Petroleum Products in Interior and Southwest Alaska." Doyon, Ltd., 1976.

"The Wholesale Grocery Business in Alaska." Doyon, Ltd., 1976.

"A Description of the Insurance and Bonding Industry in Alaska." Doyon, Ltd., 1975.

"Analysis of Legislation Calling for the Decentralization of the State-Operated School System." Center of Northern Education Research, 1975.

"An Assessment of the Social and Economic Impacts of the Major Refinery Expansion of the Kenai Peninsula." Tesoro Alaska Petroleum Company (Dames & Moore), 1975.

"The Potential Market in Alaska for North Slope Natural Gas." El Paso-Alaska Company, 1974.

"An Evaluation of Social and Economic Impacts of Construction of a Trans-Alaska Natural Gas Pipeline" (two reports). El Paso Alaska Company and Dames & Moore, 1974.

"Evaluation of the Local Government Training Program." (With T.A. Morehouse). Cooperative Extension Service, University of Alaska, 1971.

"Evaluation of a Bio-medical Satellite Communication Experiment in Rural Alaska." (With G. Stanley). Public Health Service, Anchorage, 1971.

PROJECTS AND RESEARCH REPORTS (Continued)

"An Evaluation of the Two Rural Alaska Development Projects." (With T.A. Morehouse and J. Cruikshank). Office of Economic Opportunity, U.S. Department of HEW, 1970.

PUBLICATIONS

A Citizen's Guide to Alaska's Constitution. Anchorage: Institute of Social and Economic Research (in press).

Alaska Growth Policy: A Discussion of Issues. Fairbanks, Alaska: Institute of Social, Economic, and Government Research, 1975.

"The People and the Park: Reactions to a System of Public Transportation in Mt. McKinley National Park," Journal of Leisure Research, 1975.

Contributing author, A Scientific and Policy Review of the Draft EIS for the Proposed Federal Coal Leasing Program of the BLM, Katherine Fletcher, Ed. Washington, D.C.: The Institute of Ecology, 1974.

Alaska's Electoral Profile (with T.A. Morehouse). Fairbanks, Alaska: Institute of Social, Economic, and Government Research, 1973.

"Notes on Alaska Native Electoral Politics," Polar Record XVI (104), June 1973.

Science in Alaska: Proceedings of the 23rd Alaska Science Conference, 1972, editor. Fairbanks, Alaska: AAAS, Alaska Division, 1973.

"The Alaska Native Claims Settlement Act of 1971," Arctic XXV (3), 1972.

"The Alaska Native Claims Settlement Act and Federal Indian Policy," in Alaska and Japan, Tsuguo Arai, ed., Anchorage, Alaska: AMU Press, 1972.

"Mass Media in Native Villages of Alaska," Journalism Quarterly XL (2), 1972.

"The Flow of Communication Between Government Agencies and Eskimo Villages in Alaska," Human Organization XXXL (1), 1972.

Alaska Public Policy, editor. Fairbanks, Alaska: Institute of Social, Economic, and Government Research, 1971.

"Native Voting in Village Alaska," Arctic XXIV, 1971.

"The Hanseatic League in Historical Interpretation," The Historian XXXIII (3), 1971.

"State Government and Economic Development in Alaska," (with T.A. Morehouse) State Government XLIII (4), 1970 and XLIV (1), 1971.

"Rural Alaska's Development Problem," (with T.A. Morehouse) Polar Record XV (95), 1970.

"Electoral Patterns of Alaska Native Villages," ISEGR Research Note, June, 1970.

comprehensive reviews of operations throughout the Municipal government to identify areas of deficiency or weakness in operating procedures and management skills. Assisted operating departments in the conduct of operational reviews to develop improvement recommendations in such areas as financial control, working conditions, interagency coordination, and related interfaces. Provided research, analysis, and recommendations and proposals on a wide variety of special projects requested by the Director of Management and Budget, the Municipal Manager, and the Mayor.

Nov 1964 to March 1977

UNITED STATES AIR FORCE. Diverse, responsible financial managerial functions at five major United States Air Force Bases.

Major Air Command Management Analysis Officer - Planned and developed managerial information programs and procedures for collecting and evaluating operational and financial data with which to evaluate air defense activity management. Developed a Resource Management System training program to provide for more effective and efficient use of available resources.

Base Budget Officer - Planned, analyzed, and evaluated financial progress and status of approved programs, availability of financial resources to achieve desired objectives, and provided technical guidance to the commander and key staff on budget matters such as the propriety of and legislative authority for proposed expenditures.

Base Accounting and Finance Officer - Responsible for the management, operation, and administration of the receipt, disbursement, and accounting for public funds. Provided procedural planning and technical guidance for several major computer systems changes. Implemented quality assurance programs which contributed significantly to marked increases in the quality and timeliness of accounting data and financial services. Participated as a member of a Department of Defense special study team studying the feasibility of merging two military installations; planned and directed the resulting consolidation of two Accounting and Finance operations involving two completely different systems (Air Force and Army).

HONORS

Member of Beta Gamma Sigma (the national business honor fraternity) and Beta Alpha Psi (the national accounting honor fraternity). B.S. and M.B.A. degrees with honors. Distinguished Graduate of the United States Air Force Officer Training School.

PERSONAL DATA

Resident of Anchorage since 1975. Hobbies include photography, camping, numismatics, and art collection. Member and Anchorage Chapter President of the Association of Government Accountants. Member of the Municipal Finance Officers Association of Alaska. Member of the Anchorage Fine Arts Museum Association, the Cook Inlet Historical Society, and the Alaska World Affairs Council.

References are available upon request.

RESUME

Eugene A Dusek
3542 Alexander Avenue
Anchorage, Alaska 99504
Phone: (907)277-0762

Date of Birth: January 16, 1940
Height: 6"0"
Weight: 180 pounds
Health: Excellent

PROFESSIONAL OBJECTIVE

Responsible and challenging management position which utilizes a proven background of technical and managerial experience in an extensive range of resource management, budgeting, accounting, and financial management activities together with active involvement in related legislative processes.

EDUCATION

MICHIGAN STATE UNIVERSITY, EAST LANSING, MICHIGAN. M.B.A., 1968. Major in Accounting.

INDIANA UNIVERSITY, BLOOMINGTON, INDIANA. B.S., 1964. Major in Business Administration, with concentration in Finance.

EXPERIENCE

April 1979 to Present

MUNICIPALITY OF ANCHORAGE, ANCHORAGE, ALASKA (DEPARTMENT OF MANAGEMENT AND BUDGET). MUNICIPAL BUDGET OFFICER -- Responsible for the administration of an annual operating, capital, and grants budget in excess of $500 million for a municipal government serving over 187,000 residents. Assists in the development of the Mayor's annual budget policy and guidelines, including the formulation of funding levels to achieve desired fiscal objectives. Plans and organizes the development of the annual operating budget and the six-year capital improvement program. Provides guidance to the departments and coordinates the preparation of the budget and the capital improvement program. Facilitates the budget review process by the Executive Managers and the Mayor and provides recommendations for action. Coordinates and participates in the Municipal Assembly's review of the budget. Works with the news media regarding budgetary matters. Facilitates ongoing reviews of the budget subsequent to its enactment to evaluate financial progress and status. Responsible for the Municipal coordination of federal and state operating and capital grants. Provides assistance and guidance to the Mayor and the Executive Managers on a wide variety of financial and operational matters through the conduct of special studies and analyses. Reviews and analyzes proposed state legislation to determine the fiscal impacts on the Municipality; identifies problem areas and recommends appropriate legislative action. Identifies potential alternative approaches to state funding. Assists in obtaining favorable state funding legislation through interaction with the Alaska Municipal League and state legislators and staff, including testimony before state legislative committees.

March 1977 to April 1979

MUNICIPALITY OF ANCHORAGE, ANCHORAGE, ALASKA (OFFICE OF MANAGEMENT AND BUDGET). Lead analyst for management systems with responsibility for the development, implementation, and review of ongoing resource management systems to improve management and the utilization of Municipal resources. Directed continuing, systematic, and

JOHN O'MEARA
3429 Meander Way
Juneau, Alaska 99801

Office: (907) 465-2203
Residence: (907) 789-0591

EXPERIENCE:

During the past 8 years, I developed and managed organizations that evaluate the economy, efficiency and effectiveness of Federal, State and Local Government programs and activities. As a manager of these performance audit organizations, I received extensive exposure to many types of organizations, management systems and financial control systems. I handled frequent public inquires and allegations, and press contacts. In addition, I dealt extensively with Federal, State and Local government agencies, conservations groups, private consultants, and private and publicly held companies.

January 1983 to Present-Acting Associate Director, Division of Management, Office of Management and Budget, Office of the Governor, State of Alaska.

August 1980 to December 1982-Director, Division of Internal Audit, Office of the Governor, State of Alaska. The Governor of Alaska hired me to establish the Division of Internal Audit in the Office of the Governor as an organization capable of reviewing the accountability and performance of State agencies and programs. I developed the Division into a creditable organization in one year including developing written policies and procedures and hiring and training 19 professional staff.

September 1978 to July 1980-Senior Evaluator and Management Council member, Seattle Regional Office, U. S. General Accounting Office. As a Senior Evaluator, I managed nationwide evaluations of Federal, State and Local Government programs including supervising and coordinating the activities of professional staff performing the assignment in various parts of the country. This involved leading the staff in establishing overall work objectives and providing direction, guidance, and counseling to the staff.

As a member of the Management Council, I helped set policy and helped plan and implement the regions overall goals.

September 1974 to August 1978-Manager, Anchorage Alaska Office, U.S. General Accounting Office. In September, 1974, I accepted the challenge of developing and managing a GAO office in Anchorage, Alaska. I managed all aspects of GAO's operations in Alaska including planning future GAO work in Alaska, planning staff resources for the Alaska office, performing the administrative responsibilities of operating a GAO office, and providing supervisory direction and guidance to the staff.

August 1969 to September 1974-Supervisory Auditor with the U.S. General Accounting Office in Seattle, Washington. Supervised nationwide audits of Social Programs, Postal Service, Labor Programs, Housing Programs, and Defense Programs.

June 1967 to August 1969-Auditor with the U.S. General Accounting Office in Seattle, Washington.

EDUCATION:

B.S. in Commerce (Accounting), Montana State University, 1967.

RECENT TRAINING:

Supervising Human Resources
Employee Counseling
Producing Organized Writing and Reviewing
Personnel Management for Executives
Role of Supervisors and Managers in EEO
Results Management

PROFESSIONAL DATA:

Certified Public Accountant
Member, American Society for Public Administration
Member, Pacific Northwest Intergovernmental Audit Forum
Member, National Association of State Auditors, Comptrollers and Treasures

REFERENCES:

Jerry Reinwand
P.O. Box 2291
Juneau, Alaska 99803

Jessie L. Dodson
519 W. 4th Avenue
Anchorage, Alaska 99501

Walter H. Henson
Regional Manager
U.S. General Accounting Office
Room 1992, Federal Building
915 Second Avenue
Seattle, Washington 98174

U.S. General Accounting Office Publications:

Report to the Secretary of the Air Force on "Delays in Disposing of Former Communications Sites in Alaska: Millions in Property Cost; Public Safety Jeopardized." 1981

Report to the Secretaries of Defense, The Interior, and Transportation on "Protection and Prompt Disposal Can Prevent Destruction of Excess Facilities In Alaska." 1980

Report to the Congress on "Alternatives for Achieving Greater Equities in Federal Land Payment Programs." 1979

Report to the Secretary of Defense on "Increased Oversight and Interservice Use of Military Aviation Training Ranges Can Reduce Cost." 1979

Report to the Senate Committee on Energy and Natural Resources and Subcommittee on General Oversight and Alaska lands on "Land Title Should be Conveyed to Alaska Natives Faster." 1978

Report to the Secretary of the Interior on "Opportunities to Resolve Some Basic Conflict Over Outer Continental Shelf Leasing and Development." 1978

Report to the Congress on "Lessons Learned From Constructing the Trans-Alaska Oil Pipeline." 1978

Report to the Congress on "The Alaska Railroad: Its Management is Being Improved; Its Future Needs to be Decided." 1978

Report to the Congress on "Lower Cook Inlet -- Another Example of More Data Needed for Appraising Outer Continental Shelf Oil and Gas Resources." 1978

Report to the Senate Committee on Interior and Insular Affairs on a "Survey of Publications on Exploration, Development, and Delivery of Alaskan Oil to Market." 1977

Report to the Congress on the "Trans-Alaska Oil Pipeline -- Information on Construction, Technical, and Environmental Matters through Spring 1977." 1977

Report to the Congress on "Special Travel Benefits for Federal Employees in Hawaii, Alaska, and Similar Areas Outside the Continental U.S. Should be Changed." 1977

Report to the Congress on "Management of and Plans for the Naval Petroleum Reserves." 1976

Report to the Joint Committee On Internal Revenue Taxation on "Internal Revenue Service Assistance to Taxpayers in Filing Federal Income Tax Returns." 1976.

Report to the Congress on the "Trans-Alaska Oil Pipeline -- Progress of Construction through November 1975." 1976

Report to Senator William Proximire on the "Cost of Operating Military Recreation Camps in Alaska." 1975

Report to the Congress on "Project Head Start: Achievements and Problems." 1975

Report to the Joint Committee on "Internal Revenue Taxation on Telephone Assistance to Taxpayers Can be Improved." 1975

Report to the Committee on Labor and Public Welfare, U.S. Senate, on "The Emergency Employment Act: Placing Participants in Nonsubsidized Jobs and Revising Hiring Requirements." 1974

Report to the Committee on Labor and Public Welfare, U.S. Senate, on "Public Service Benefits from Jobs under the Emergency Employment Act of 1971." 1973

Report to the Committee on Labor and Public Welfare, U.S. Senate, on "Impact of Grants to Indian Tribes under the Emergency Employment Act of 1971." 1973

Report to the Committee on Labor and Public Welfare, U.S. Senate, on "Public Employment Programs in Selected Rural and Urban Areas." 1973

Report to the Committee on Labor and Public Welfare, U.S. Senate, on "Types of Jobs Offered to Unemployed Persons under the Emergency Employment Act of 1971." 1972

Report to the Committee on Labor and Public Welfare, U.S. Senate, on "Selection and Enrollment of Participants in Programs under the Emergency Employment Act of 1971." 1972

Report to the Committee on Labor and Public Welfare, U.S. Senate, on "Report on the Preparation and Approval of Plans to Implement the Public Employment Program." 1972

Report to the Committee on Labor and Public Welfare, U.S. Senate, on "Review of the Allocation of Funds for the Public Employment Program under the Emergency Employment Act of 1971." 1971

Report to the Congress on "Improved Use of Cargo Space on Ammunition Ships By Better Planning." 1972

Report to the Congress on "Opportunities to Improve Effectiveness and Reduce Costs of Homeownership Assistance Programs." 1972

Reports to the Congress on "Acquisition of Major Weapon Systems." 1971

Report to the Congress on "Improved Guidance Needed for Relocating Railroad Facilities at Water Resources Projects." 1970

Report to the Congress on the "Status of the Acquisition of Selected Major Systems." 1970

Division of Internal Audit Publications:

The Commercial Fisheries Entry Commission Needs to Better Account For and Control Fees Received. 1982

Department of Revenue's Efforts to Intercept Permanent Fund Dividends Payable to Absent Parents Owing Past Due Child Support. 1982

Better Systemwide Planning Would Improve The Effectiveness of the Correctional System. 1982

The Department of Education Needs to Improve Management of Preschool Programs. 1982

Letter Report on Department of Natural Resources Efforts to Correct Errors in Federal Land Transfer Documents. 1982

The Department of Natural Resources Needs to Improve Their Procedures For Selling Tentatively Approved Land. 1982

The Department of Transportation and Public Facilities Needs to Improve Management Controls and Implement Their Planned Information Systems. 1981

The Alaska Agricultural Action Council's Efforts to Develop a Small Grain Marketing System. 1981

Management of Statewide Employee's Supplemental Benefits System Can Be Improved. 1981

Department of Health and Social Services Should Take Additional Actions to Reduce Payment of Public Assistance Funds to Ineligible Persons. 1981

Review of Unclaimed Property. 1981

Review of Department of Health and Social Services, Division of Corrections, Sitka Contract Prison. 1981

Review of Department of Health and Social Services, Division of Corrections, Nome Correctional Center. 1981

Review of Department of Health and Social Services, Division of Corrections, Juneau Correctional Center. 1981

Review of Department of Health and Social Services, Fairbanks Correctional Center. 1981

Review of Department of Health and Social Services, Division of Corrections, Eagle River Correctional Center. 1981

Review of Department of Health and Social Services, Division of Corrections, Anchorage Annex Correctional Center. 1981

Review of Health and Social Services, Division of Corrections. 1981

Review of Department of Commerce and Economic Development, Division of Insurance. 1981

Review of Department of Community and Regional Affairs, Division of Local Government Assistance Administration of Head Start Contracts. 1981

Report to Department of Commerce and Economic Development on the Alaska State Asian Office, Tokyo, Japan. 1981

Review of the Delta Agricultural Project, Office of the Governor. 1980

Review of the Department of Administration, Lease/Purchase Policy and Procedures. 1980

Review of Department of Administration, Employee Parking. 1980

Review of Department of Administration, Division of General Services and Supply, Alaska Surplus Property Service. 1980

DRAFT - OFFICE OF MANAGEMENT AND BUDGET - FUNCTIONAL ORGANIZATION

GOVERNOR SHEFFIELD

Director
Office of Management and Budget
P.B. McDowell

Organizational Purpose

To establish a comprehensive system for State program and financial management which furthers the capacity of the Governor and Legislature to plan and finance the services which they determine the State will provide for its citizens. (1)

Organizational Policy

Within the formal hierarchical professional organization, various task forces/project teams will be formed as necessary.

Administrative Support

Reports administratively to Executive Office Manager.
Reports functionally to Director O.M.B.

Associate Director Division of Strategic Planning
Dr. Gordon Harrison

- o Develop, coordinate and review long-range program and financial plans to implement State policies (1)
- o Assist in the orderly establishment of goals and policies of the State (1)
- o Evaluate alternatives to existing policies, plans and procedures (1)
- o Cost benefit analyses (2)
- o Development of long-range fiscal and economic consequences of alternate levels of capitalization and preparation of report to the Legislative Budget and Audit Committee (1)
- o Fiscal analysis of legislative proposals (2)
- o Development of Governor's strategic plans (2)
- o Linkage with operating and capital budgets
- o
- o
- o

Associate Director Division of Budget Review
Eugene Dusek

- o Preparation, coordination and enactment of a budget. (1) (This includes both the Capital and Operating Budgets.)
- o Review and improvement of budget process (2)
- o Staff budget liaison with Legislature
- o Staff budget liaison with agencies
- o Linkage with strategic plans
- o Coordination with agency planning processes (2)
- o
- o
- o

Associate Director Division of Management (Acting)
John O'Meara

- o Assist in the review and periodic revision of the program goals and policies of the State (1)
- o Regular appraisal and reporting of program performance (1)
- o Performance auditing, sunset review, etc.
- o Fiscal compliance auditing, etc.
- o Development and operation of an issue and objective tracking process (2)
- o Management consulting and organizational assistance (2)
- o Information systems planning and support (2)
- o Professional service contract support (2)
- o
- o

Associate Director Division of Governmental Coordination
Jay Hogan

- o Governmental coordination (2)
- o A-95 review of grants(2) (E.O. 12372)
- o Regulatory Review (2)
- o Permit reform (2)
- o CZM functions
- o
- o
- o

Approved: Governor Sheffield _____ Date _____

Approved: Peter B. McDowell _____ Date _____

) AS 37.07, Executive Budget Act
) Administration Policy

ober 31, 1982

1/27/83
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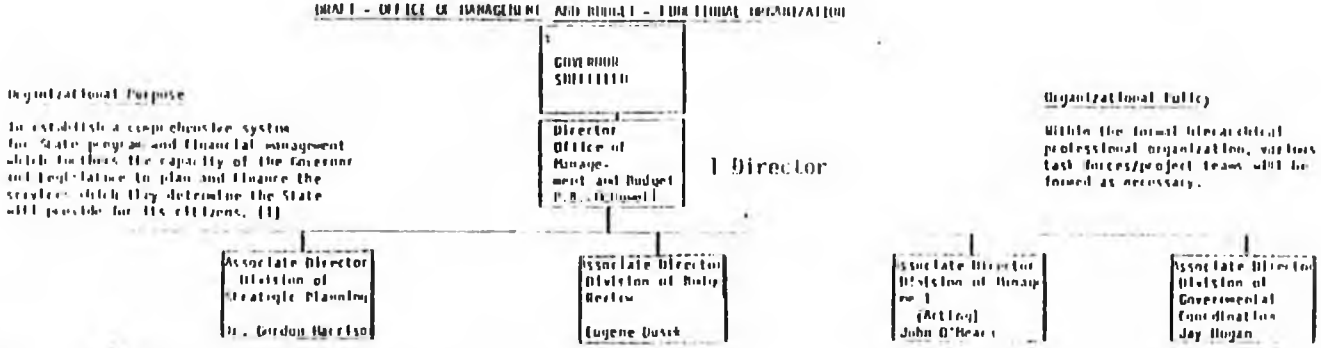
DRAFT - OFFICE OF MANAGEMENT AND BUDGET - FUNCTIONAL ORGANIZATION



Organizational Purpose

To establish a comprehensive system for State program and financial management which furthers the capacity of the Governor and Legislature to plan and finance the services which they determine the State will provide for its citizens. (1)

Organizational Policy

Within the formal hierarchical professional organization, various task forces/project teams will be formed as necessary.

Administrative Support

Reports administratively to Executive Office Manager
Reports functionally to Director O.M.B.

1 Lead Admin. Asst.
1 Pub. Specialist
Admin. Asst.
1 Admin. Support Tech.

Secretary I
Clerk IV
Clerk-Typist III
1 Clerk-Typist
1 Data Control Clerk
1 Documents Clerk

1 Assoc. Director
6 Policy & Program Specialist
1 Research Analyst
1 Program Budget Analyst IV
1 Program Budget Analyst V
1 Economist I
3 Economist II
2 Economist III

1 Assoc. Director
1 Systems Analyst
1 Research Analyst
1 Program Budget Analyst II
4 Program Budget Analyst III
6 Program Budget Analyst IV
3 Program Budget Analyst V

1 Assoc. Director
1 Policy & Program Sp.
2 Program Budget A. IV
1 Program Budget A. V
6 Internal Auditor II
6 Internal Auditor III
3 Internal Auditor IV
1 Internal Auditor V

1 Assoc. Director
1 Dir. of Reg. Reform
1 State/Fed. Coor.
5 Policy & Program Spec.
3 Management Analyst

Estimated Space Allocations

Anchorage:		
1 clerical @ 123 sq. ft.		123
4 professionals @ 156 sq. ft.		624
File cabinets (5 @ 7.5 sq. ft.)		38
Library/conference room		324
xerox, supply room		221
common corridors		unknown
	TOTAL	1,330
Juneau:		
1 Director @ 260 sq. ft.		260
4 Assoc. Directors @ 260 sq. ft.		1,040
64 Professionals @ 156 sq. ft.		9,984
12 Clerical staff @ 123 sq. ft.		1,476
File cabinets (60 @ 7.5 sq. ft.)		450
Library room/shelves (2 @ 324 sq. ft.)		648
Conference room (4 at 600 sq. ft.)		2,400
Xerox, computer, printer, etc. (4 at 221 sq. ft.)		884
Common corridors, etc.		unknown
	TOTAL	17,142

Approved: Governor Sheffield Date

Approved: Peter G. Gillett Date

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Executive Order No. 62
Title Office of Management and Budget
Requested by Governor Date Jan. 12, 1983

II. FISCAL DETAIL
Agency Affected Office of the Governor
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Office of Management and Budget
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact.

IV. DATE January 16, 1983 PREPARED BY Glen Price
AGENCY Office of the Governor-Division of Budget Revi.
PHONE 465-2213

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

33-001 (Rev. 12/82)

Agency Contact: Eugene Dusek 465-2213

RESUME'

J.H. Hogan
P.O. Box 576
Juneau, Alaska 99802
(907) 586-1948

BORN: May 2, 1933
Morristown, New Jersey

HIGH SCHOOL: Morristown, H.S.; Graduated 1951

COLLEGE: Dartmouth College, Hanover N.H.
A.B., Sociology - 1955

University of Massachusetts, Amherst, Mass.
M.A., Government - 1963. Graduate school was part of a public administration intern program sponsored by the Carnegie Foundation. Under the terms of the program, five interns were selected from nationwide applications and worked one year with the Massachusetts State government and took the second year in graduate study in one of four Massachusetts universities.

WORK EXPERIENCE:

1983: Associate Director, Governmental Coordination, Office of Management & Budget, Juneau, Alaska. Functions supervised include determinations of consistency with the State's coastal management program, regulatory review and permit reform and the review and approval of Federal grant applications (soon to be revised A-95 process).

1971 - 1982: Director of Legislative Finance Division, Juneau, Alaska. Legislative Finance serves as staff to the standing finance committees of the Legislature and the Legislative Budget & Audit Committee.

1970 - 1971: Fiscal Analyst, Legislative Affairs Agency, Juneau. Research and drafting of bills relating to appropriations and taxes.

1968 - 1969: Fiscal Analyst, New Mexico Legislative Council Service, Sante Fe, New Mexico. Research and drafting of bills relating to appropriations and taxes.

1966 - 1968: Budget Analyst, Joint Budget Committee, Colorado General Assembly, Denver, Colorado. Budget analysis for the Natural Resources area budgets.

1965: Management Analyst, Colorado Department of Administration, Denver, Colorado.

1963 - 1964: Management Analyst, U.S. Department of Interior, Washington, D.C./Denver, Colorado.

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

AGENDA

DATE: 1/27/83

TIME: 3:00 p.m.

JOINT MEETING

I. Call meeting to Order

A. Note the committee members present.

B. Welcome those observing the meeting.

C. Remind those who have not signed in to do so. And remind those giving testimony to speak up and state their name before talking.

II. Announce legislation under consideration:

EO 53

Introduce Senate committee members + House

OK ~~Introduce Senate committee staff:~~

Susie Tryck (pronounced TRICK) She is their Researcher

David Dye, Adm. Assist.

Other notes or reminders:

HSA Form #004

Courtesy File

EFFECTS: 1. STRONG EXECUTIVE APPROACH TO STATE GOVERNMENT

2. COORDINATE POLICY, BUDGET + PERFORMANCE
- Streamline

PROBLEMS/ QUESTIONS

Right now, the GOVERNOR of ALASKA IS, BY CONSTITUTION, A VERY POWERFUL MAN - w/ LOTS OF AUTHORITY + RESPONSIBILITY
He has complete control of the Budget and also has very powerful veto abilities

? - What additional powers will now be vested in the NEW office of Management and Budget ? -

- what powers are taken from the legislature + vested in Executive ?

1. FISCAL NOTE ANALYSIS BY OMB ?
DOES OMB WANT TO REVIEW ACC COMMITTEE FISCAL NOTE REQUESTS ? - WILL THEY BE THE FINAL CLEARING HOUSE ?

IF SO,
- TWO PROBLEMS -

Eugene Puseta

1. TIME TURN AROUND TIME of FISCAL NOTES - HOW MANY DAYS, weeks etc. a. When striving for a limited session - this OMB analysis of fiscal notes will SLOW things down

2. Over stepping Legislative Jurisdiction
See Rule 20 of Uniform Rules

the State Affairs Committee is the Standing Committee given jurisdiction over the office of the Governor

? - Does the existence of OMB, and its delegated responsibilities conflict with the jurisdiction of the Legislature — State Affairs 'jurisdiction' under Rule 20 of Uniform Rules'?

B. Governor has issued a Zero Fiscal Note for the creation of OMB

? ? - Is this possible?

merging 3 decisions into 1 office w/o costing any money?

? how does the Budget Request Unit (BRU) effect this?

#20

STANDING COMMITTEES

RULE 20. STANDING COMMITTEES. (a) Each house has the following standing committees with the jurisdiction indicated:

Finance (all appropriation, revenue, capital improvement, and bonding measures, the executive budget, and the programs and activities of the Department of Revenue)

Health, Education and Social Services (the programs and activities of the Department of Health and Social Services, the Department of Education, and the University of Alaska)

Judiciary (the programs and activities of the Alaska Court System and the Department of Law, and the legal and substantive review of bills referred to it for that purpose)

Labor and Commerce (the programs and activities of the Department of Labor relating to labor-management relations, industrial safety, unemployment compensation, and workers' compensation and the programs and activities of the Department of Commerce and Economic Development)

Community and Regional Affairs (the programs and activities of the Department of Community and Regional Affairs and other matters relating to political subdivisions)

Resources (the programs and activities of the Departments of Fish and Game, Natural Resources, and Environmental Conservation)

Rules (interpretation of the Uniform Rules, calendar, the internal administration of the house and matters pertaining to the management of the legislature as a whole)

State Affairs (programs and activities of the Office of the Governor and the Departments of Administration, Military Affairs and Public Safety, and programs and activities of the Department of Transportation and Public Facilities relating to public facilities)

Transportation (programs and activities of the Department of Transportation and Public Facilities relating to transportation and other legislative matters relating to transportation).

(b) The committee chairmen are authorized to form such subcommittees as they determine to be necessary.

SPECIAL AND JOINT COMMITTEES

RULE 21. SPECIAL AND JOINT COMMITTEES. (a) A special committee is a committee of one house. A special committee may be established only by the adoption of a simple resolution. The presiding officer of each house appoints the members of a special committee and designates a member to chair the special committee unless otherwise ordered by the house. The persons who chair like committees of each house may arrange for the committees to meet jointly to receive

Note: State Affairs has Jurisdiction over programs of the Office of Governor

Coudeny File

State programs regardless of how they are funded would be helpful. General funds are only one source of revenue available to the State for services provided to the public. a comprehensive, coordinated evaluation of State programs would provide a better base from which to make program and funding decisions.

III. FY85 BUDGET

In order to structure the 1985 budget to reflect the style, direction and priorities of the new Administration, work should begin on the development of long range strategic and fiscal plans as soon as possible. In addition, several issues warrant consideration:

- The existing budget structure should be reviewed and modified to reflect more of a program orientation. This would likely result in some reorganization to provide for a clear linkage from organizational (responsibility) units to program (output) units.
- Federal fund status should be reviwed and be more closely coordinated with the budget process.
- Other services funded by monies not budgeted in General funds appropriations should be reviewed for their relationship to State programs and the effectiveness of current methods to budget and control revenues and expenditures.
- The State's overall bond rating needs to be reviewed

and coordinated with the proposed long-range fiscal plans.

- The current operational planning and budgetary process should be reviewed and streamlined.
- The role of Boards and Commissions in the budgetary process should be reviewed and defined.
- The public input process should be defined.
- Consideration should be given to the adoption of long-range capital plans by the Executive and Legislative branch. The first year of the plan would be appropriated and future years would be adopted. The process for revising adopted projects within the plan should be defined.
- An analysis should be conducted of current loan programs and debt services impacts on the budget over a long term period.

The following critical issues should be immediately addressed:

- FY83 and FY84 Budget analysis and development of a 1983 Legislative session Executive Budget (see Budgetary Considerations) and procedures for revision

- Definition of the organizational structure of the Governor's Office and the personnel needs of this office

- Development and establishment of a coordinated statewide planning, budgeting and control function in the Governor's Office (OMB)

- Development of the Sheffield Administration's 1983 Legislative package

- Analysis of the State Boards, Councils and Commissions and the appropriate placement in the new Administration

- Resolution and monitoring of the Critical Issues reported in the other Departmental Task Force reports

- Improved statewide coordination in intergovernmental functions including: regulatory reform, State/Federal activities, and permiting functions.

- Increase the role and visibility of the Governor's Washington D.C. Office to better facilitate the flow of information between the Governor and Alaska's Delegation to Congress.

- Development of a statewide plan for the use of data processing and telecommunications in the short and long term. Review of the internal audit report in this area (expected early 1983).

BUDGET REQUEST UNIT (BRU)
Internal Audit

RECEIVED
SEP 27 1982
BUDGET AND MANAGEMENT

PROGRAM
Executive Operations

CATEGORY
General Government

AGENCY
Office of the Governor

DIVISION
Internal Audit

NAME AND POSITION OF BRU MANAGER
John O'Meara, Director, Division of Internal Audit

PHONE
465-2203

NAME AND POSITION OF AGENCY CONTACT
Evan McKinney, Deputy Director, Division of Internal Audit

PHONE
465-2203

COMMISSIONS AND/OR ADVISORY BOARDS WHICH HAVE BEEN CONTACTED/OTHER PUBLIC INPUT CONSIDERED IN PREPARING BUDGET REQUEST:

SIGNATURE OF AGENCY HEAD
John O'Meara

DATE
9-22-82

0 DETAIL BUDGET SUBMISSION

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Internal Audit

Page 1 of 1

Revised Date

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STATUTORY BASIS:

A.S. 44.19.010

PROGRAM GOAL(S):

The goal of Internal Audit is to assist the Governor in improving the management and operation of State organizations and programs.

BRIEF DESCRIPTION OF BRU ACTIVITIES AND THEIR RELATIONSHIP TO THE PROGRAM GOALS:

To meet this goal we conduct performance reviews of significant state organizations and programs, and provide the Governor with reports on the results of these reviews.

1 DEFINITION STATEMENT

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Internal Audit

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STATE THE PROGRAM OBJECTIVE(S) BEING ADDRESSED BY THIS BRU.	BRU FUNCTION NUMBER	HOW WILL THIS BRU CONTRIBUTE TO EACH PROGRAM OBJECTIVE LISTED? -
To assist the Governor in improving the management and operations of State organizations and programs.	1	Provide relevant and timely information to the Governor which includes recommendations on
	2	increasing efficiency, economy and
	3	effectiveness of State organizations and programs.

1a BRU OBJECTIVES

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BRU FUNCTION NUMBER	MEASURE/PERFORMANCE INDICATOR	PRIOR YEAR FY 82		CURRENT YEAR PLAN FY 83	BUDGET YEAR FY 84		
		PLAN	ACTUAL		CONTINUATION LEVEL	AGENCY REQUEST	GOVERNOR'S BUDGET
1	2	3	4	5	6	7	8
1	Information provided to State managers -						
	a. reports issued		9	18	18	18	
	b. management letters issued		1	6	12	12	
	c. management briefings		1	3	6	6	
1	Relevancy - percent of products that address significant issues		74%	100%	90%	90%	
1	Timeliness -						
	a. percent of products issued on schedule		n/a	80%	90%	90%	
	b. average calendar days from start of job to final report		170	150	120	120	
2	Dollar savings per dollar of expenditure that will result if all recommendations are implemented - (ratio - for fiscal year)		n/a	4:1	5:1	5:1	
2.	Actual documented dollar savings per dollar of expenditure that occurred as a result of our recommendations - (ratio - cummulative for 3 years)		.88:1	2:1	3:1	3:1	
3	Documented accomplishments with other than dollar savings - (number)		11	15	20	20	
3	Concurrence with recommendations - (percent)		78%	60%	80%	80%	

3 BRU PERFORMANCE PLAN

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R01-02J-2050 STATE OF ALASKA BUDGET REQUEST UNIT SUB-OBJECT EXPENDITURES SUMMARY RUN DATE 09/07/82 PAGE

AGENCY OFFICE OF GOVERNOR CATEGORY GENERAL GOVERNMENT BUDGET REQUEST UNIT 01 91-3-05-00-00

PROGRAM EXECUTIVE OPERATIONS SUB-PROGRAM INTERNAL AUDIT ELEMENT SUB-ELEMENT

SUB-OBJECT NUMBER	SUB-OBJECT DESCRIPTION	PRIOR YEAR EXPENDITURES	OBJECT GROUP TOTAL	BRU TOTAL
110	REGULAR DUTY	578.0		
160	EMPLE FRINGE BENEFIT	152.3	730.4	
210	FIELD TRAVEL	.5		
220	ADMINISTRTIVE TRAVEL	67.0		
230	CONVENTIONS/MEETINGS	.3		
240	BOARDS/COMMS/LEGISLT	.3		
260	MOVING/RELOCATN EXP	17.4		
290	NONEMPLOYEE TRAVEL	.5	86.0	
310	COMMUNICATIONS	14.7		
320	PRINTING/ADVERTISING	1.0		
330	SPACE EXPENSE & FEES	13.4		
340	REPAIR & MAINTENANCE	.0		
360	EQUIPMENT RENTAL	15.8		
380	PROFESSIONAL SERVICE	.0		
390	OTHER FEES & EXPENSE	2.4	47.4	
480	OFFICE & LIBRARY SUP	5.4		
490	OTHER OPERATNG SUPLS	.0	5.5	
520	COMMUNICATIVE	2.5		
550	OFFICE AND HOUSEHOLD	3.8	6.4	875.6

BUDGET OPERATING COMPONENT (ALLOCATION). (LEVEL 62581-00) 11:16

GENERAL GOVERNMENT OFFICE OF THE GOVERNOR EXEC OPERATIONS INTERNAL AUDIT COMP# 01 91-3-05 00

EXECUTIVE OPERATIONS
INTERNAL AUDIT

EXECUTIVE OPERATIONS
INTERNAL AUDIT

S/F SUMMARY...
ELECTION DISTRICT...
PBA UPDATE... 0/00

EXPENDITURES FUNDING	(01) 82 AUTH	(02) 82 FINAL	(03) 82 ACTU	(04) 83 AUTH	(05) 83 SUPL	(06) 83 RP	(07) 84 CONT.	(08) 84 ADD.	(09) REQUEST	(10) GOVERNOR	(11) HOUSE	(12) SENATE	FI
PERS. SERV.	760.3	732.9	730.3	844.3			854.5	108.4					
TRAVEL	59.5	109.5	86.0	85.2			90.3	53.0					
CONTRACTUAL	33.5	33.5	47.3	54.8			58.1	0					
COMMODITIES	4.5	4.5	5.4	7.5			8.0	0					
EQUIPMENT	6.1	6.1	6.3	7.1			7.5	0					
LANDS/BLDGS													
GRANTS, CLMS													
MISC.													
TOTAL EXPEND	863.9	886.5	875.3	998.9									
1 A TRANSFER			12.1				1018.4	161.4					
2 FED RCPTS													
3 G/F MATCH							1018.4	161.4					
4 GEN FUND	863.9			998.9									
5 I/A RCPTS													
8 PCM RCPTS													
* IMBALANCE		-886.5	-875.3										
FULL-TIME	18.0			19.0			19.0						
PART TIME													
TEMPORARY													
STAFF MONTHS	216.0			228.0			228.0						

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1. LINE AND EXPLANATION	2. AMOUNT	3. FUNDING SOURCES	4. 100 PERSONAL SERVICES	5. 200 TRAVEL	6. 300 CONTRACTUAL SERVICES	7. 400 COMMODITIES	8. 500 EQUIPMENT	9. OTHER
1. FY 83 Authorized (Form 6A)	998.9	GF	844.3	85.2	54.8	7.5	7.1	0
2. Less: One-Time Items (Include All Equipment)	(7.1)	GF	(--)	(--)	(--)	(--)	(7.1)	( )
3. Plus: FY 84 Replacement Equipment (Form 17, Line 1, Column 5)	7.5	GF					7.5	
4. Personal Services Adjustment (Form 11, Line 22)	10.2	GF	10.2					
5. Sub-Total	1009.5	GF	854.5	85.2	54.8	7.5	7.5	0
6. Plus Inflation Adjustment	8.9	GF		5.1	3.3	.5		0
7. Sub-Total	1018.4	GF	854.5	90.3	58.1	8.0	7.5	0
8. Adjustments to and Within Continuation (Forms 5a and 5B)	-0-	GF	-0-	0	-0-	0	0	0
9. FY 84 Continuation	1018.4	GF	854.5	90.3	58.1	8.0	7.5	0

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FY 84

5 COMPONENT CONTINUATION

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Internal Audit

COMPONENT

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01113017 02B 5

1 TITLE OF INCREMENT

Continuation funding for flexibly staffed auditor positions

2 EXPLAIN WHICH BRU OBJECTIVE IS AFFECTED, AND HOW.

Program Objective Affected: To assist the Governor in improving the management and operations of State organizations and programs.
How Objective is Affected: By providing funding for internal auditor positions, all of which are flexibly staffed, we can continue to review the effectiveness, economy, and efficiency of State programs.

3 BRIEFLY DESCRIBE WHAT THIS INCREMENT PURCHASES.

This funding represents a continuation of our current level of effort, but has been shown as an increment at the request of the Budget Division. Our auditor positions are flexibly staffed in order to recruit and maintain a staff of qualified auditors. Because most of our staff is relatively new, the positions are currently filled at the lower pay ranges. We anticipate that these same auditors will be qualified for the higher pay ranges by FY 1984.

4. CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services	108.4	
200	Travel		
300	Contractual Services		
400	Commodities		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
	TOTAL	108.4	
	I-A Transfer (NON-ADD)		
	Federal Receipts - Code:		
	General Fund	108.4	
	Other		
5. POSITION INFORMATION	PFT		
	Staff Months		
	FTE		

6. INCREMENT PRIORITY
BRU Level: 1 of 1
Agency Level: 1 of 1

7. CHECK ONE OR BOTH
[X] Currently Existing Service
[ ] New Service

8. IMPACT FROM CAPITAL PROJECT (NAME)

Chapter ____ SLA ____ Page/Line ____

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6 INCREMENT REQUEST

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TITLE OF INCREMENT

1 Improved audit coverage of State activities in Anchorage

EXPLAIN WHICH BRU OBJECTIVE IS AFFECTED, AND HOW.

2 Program Objective Affected: To assist the Governor in improving the management and operations of State organizations and programs

How Objective is Affected: By providing adequate travel funds so we can assure more effective audit coverage of State activities in the Anchorage area.

BRIEFLY DESCRIBE WHAT THIS INCREMENT PURCHASES.

3 This increment provides travel funds to allow Anchorage audit staff to do necessary audit work at various Department headquarters in Juneau, and allows Juneau audit staff to do necessary field work at State facilities and activities in the Anchorage area.

4. CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel	53.0	
300	Contractual Services		
400	Commodities		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
	TOTAL	53.0	
	I-A Transfer (NON-ADD)		
	Federal Receipts - Code:		
	General Fund	53.0	
	Other		
5. POSITION INFORMATION	PFT	0	
	Staff Months	0	
	FTE	0	

6. INCREMENT PRIORITY

BRU Level: 1 of 1

Agency Level: 1 of 1

7. CHECK ONE OR BOTH

[X] Currently Existing Service

[ ] New Service

8. IMPACT FROM CAPITAL PROJECT (NAME)

Chapter _____ SLA _____ Page/Line _____

6 INCREMENT REQUEST

AGENCY Office of the Governor

PROGRAM Executive Operation

BRU Internal Audit

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FY 84

		FY 84	AGENCY					GOVERNOR					
			$	PFT POS.	PPT/SEA POS.	NON-PRD POS.	STAFF MONTHS	$	PFT POS.	PPT/SEA POS.	NON-PRD POS.	STAFF MONTHS
			1	2	3	4	5	6	7	8	9	10
CONTINUATION	1.	Current Authorized Positions (From Form 11)	854,451	19	0	0	228					
	2.	Continuation Changes to Current Authorized Positions (Form 12, column 11, lines 26-30)	-0-									
	3.	Subtotal (From 4A, Continuation Column)	854,451	19	0	0	228					
	4.	SOURCE OF FUNDS										
		Federal Receipts										
		G.F. Match										
		General Fund	854,451									
		Inter-Agency Receipts										
		Program Receipts										
		Other										
		Other										
REQUEST	5.	Additions to Current Authorized Positions (Form 12, column 12, lines 26-30)	-0-									
	6.	Total Personal Services Request (From 4A)	854,451	19	0	0	228					
	7.	SOURCE OF FUNDS										
		Federal Receipts										
		G.F. Match										
		General Fund	854,451									
		Inter-Agency Receipts										
		Program Receipts										
		Other										
		Other										

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10 PERSONAL SERVICES REQUEST SUMMARY

AGENCY: Office of the Governor

PROGRAM: Executive Operations

BRU: Internal Audit

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		FY 83			FY 84		
		2.Pos	3.Mo.	4. $	5.Pos	6.Mo.	7. $
	...om APBR or Form 11A)	19	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	...sonal (From Form 11B)						
	3. Overtime (From Form 11C)						
H M L	4. Shift Differential (From Form 11D)						
O	5. Additional Salary Costs (From Form 11E)						
R	6. Subtotal - Permanent Positons and Gross Salary Costs (Sum of Lines 1 - 5)	19	[illegible]	[illegible]	19	[illegible]	[illegible]
I P	7. Enter SBS Costs (Calculate in Box A)			[illegible]			[illegible]
Z O B	8. Standard Benefits FY 83 (Calculate in Box B)			[illegible]			[illegible]
E S E	9. Police, Firemen Retirement Adjustment (Calculate in Box C)						
D N	10. Enter Adjustment for TRS Employee if Applicable (Calculate in Box D)			( )			(
	11. Enter Monthly Fixed Costs (Calculate in Box E)			[illegible]			[illegible]
12. Subtotal - Authorized Permanent Positions, Salaries and Benefits (Sum of Lines 6 thru 11)		19	[illegible]	870,183	19	[illegible]	[illegible]
13. Non-Permanent Positions, Salaries and Benefits (From Form 11F)							
14. TOTAL POSITIONS, SALARIES AND BENEFITS (SUM OF LINES 12 AND 13)		19	[illegible]	[illegible]	19	[illegible]	[illegible]

A SUPPLEMENTAL BENEFITS (SBS)

FY 83	POSITIONS	AMOUNT
1.	19	680,580
2.	X2188	X.0613
3.	$ 11,[illegible]	$ 41,720
4. Trans. lower - Line 7, Col 4.		

FY 84	POSITIONS	AMOUNT
5.	19	680,580
6.	X2240	X.0613
7.	$ [illegible]	$ 41,720
8. Trans. lower - Line 7, Col 7.		

	15. FY 83 Authorized (From Form 4A)	844,300	
A	16. FY 83 Salary Increase Distribution	-0-	
D	17. FY 83 Total Adjusted Funding (Line 15 + Line 16)	844,300	
J	18. FY 83 Amount Underfunding (Line 14 - Line 17)	[illegible]	
U	19. FY 83 + FY 84 Percent Underfunding (line 18 ÷ Line 14)	→	([illegible]
S	20. FY 84 Amount Underfunding (Line 19 X Line 14, Col. 7)		[illegible]
T	21. FY 84 Continuation Request (Line 14 - Line 20)		[illegible]
	22. Continuation Adjustment (Line 21 - Line 15)		[illegible]

B VARIABLE BENEFITS %

	1.Gross Salary	2.Rate	3.Adjustment
FY 83	680,580	.156[illegible]	106,307
FY 84	680,580	.152[illegible]	103,857

C BENEFITS ADJUSTMENT FOR POLICE, FIREMEN

	1.Affected Salaries	2.Rate	3.Adjustment
FY 83		.0965	
FY 84		.0965	

D BENEFITS ADJUSTED FOR TRS EMPLOYEES

	1.TRS Salaries	2.Rate	3.Adjustment
FY 83		.0426	( )
FY 84		.0426	( )

E

Monthly Ben.		LTC	Oth.	TOTAL
FY 83	Months		[illegible]	
	$ Fact.	X170	X183	
	TOTAL			[illegible]
FY 84	Months		[illegible]	
	$ Fact.	X200	X240	
	TOTAL			[illegible]

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[illegible]

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11 CURRENT AUTHORIZED POSITION SUMMARY

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	PCN	CLASSIFICATION TITLE AND EXPLANATION	LOC.	PAY RANGE	CURRENT YEAR - FY 83				BUDGET YEAR - FY 84			
					NO. OF POS.	NO. OF MONTHS	MONTHLY SALARY	ANNUAL AMOUNT	NO. OF POS	NO. OF MONTHS	MONTHLY SALARY	ANNUAL AMOUNT
	1	2	3	4	5	6	7	8	9	10	11	12
1.		APBR										
2.	5001	State Internal Auditor	JNU	26	1	12	5,236	62,832	1	12	5,236	62,832
3.	5002	Internal Auditor V	JNU	23	1	12	4,725	56,700	1	12	4,725	56,700
4.	5003	Internal Auditor IV	JNU	21	1	12	3,714	44,568	1	12	3,714	44,568
5.	5004	Internal Auditor IV	JNU	21	1	12	3,851	46,212	1	12	3,851	46,212
6.	5005	Internal Auditor (1 - III Flex)	JNU	14-19	1	12	2,639	31,668	1	12	2,639	31,668
7.	5006	Internal Auditor (1 - III Flex)	JNU	14-19	1	12	3,475	41,700	1	12	3,475	41,700
8.	5007	Internal Auditor (1 - III Flex)	JNU	14-19	1	12	2,145	25,740	1	12	2,145	25,740
9.	5008	Internal Auditor (1 - III Flex)	JNU	14-19	1	12	2,639	31,668	1	12	2,639	31,668
10.	5009	Internal Auditor (1 - III Flex)	JNU	14-19	1	12	2,639	31,668	1	12	2,639	31,668
11.	5010	Internal Auditor (1 - III Flex)	JNU	14-19	1	12	2,739	32,868	1	12	2,739	32,868
12.	5011	Internal Auditor (1 - III Flex)	JNU	14-19	1	12	2,639	31,668	1	12	2,639	31,668
13.	5012	Internal Auditor (1 - III Flex)	JNU	14-19	1	12	2,639	31,668	1	12	2,639	31,668
14.	5013	Internal Auditor (1 - III Flex)	JNU	14-19	1	12	2,145	25,740	1	12	2,145	25,740
15.	5015	Clerk Typist III RP 82-64X	JNU	8	1	12	1,578	18,936	1	12	1,578	18,936
16.	5016	Internal Auditor IV	ANC	21	1	12	3,714	44,568	1	12	3,714	44,568
17.	5017	Internal Auditor (1 - III Flex)	ANC	14-19	1	12	2,639	31,668	1	12	2,639	31,668
18.	5018	Internal Auditor (1 - III Flex)	ANC	14-19	1	12	2,145	25,740	1	12	2,145	25,740
19.	5019	Internal Auditor (1 - III Flex)	ANC	14-19	1	12	2,145	25,740	1	12	2,145	25,740
20.	5020	Clerk Typist III (PPT) Transfer	ANC	8	1	12	1,487	17,844	1	12	1,487	17,844
21.												
22.												
23.												
24.												
25.												
26.												
27.												
28.												
29.												
30												

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11a FULL-TIME POSITION RECAP

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01/12/17 82D 11a

	TOTAL	GENERAL GOVERNMENT	SUPERVISORY	CONFI-DENTIAL	PSEA	LTC	NON-COVERED	ELECTED/ APPOINTED	OTHER (SPECIFY)
1. Permanent Position Base Salary for FY 84 (Form 11, line 6, col. 7)	680,580						680,580		
2. Non-permanent Base Salaries for FY 84 (Form 11F, line 27, col. 10)	0						0		
3. Sub-Total lines 1 and 2	680,580						680,580		
4. Transferred/Deleted Positions FY 84 Base Salaries	0						0		
5. New Position Base Salaries (Sum of Form 13's, line 5)	0						0		
6. Other Base Salary Adjustments (Form 23's following Form 12)	0						0		
7. TOTAL FY 84 REQUESTED BASE SALARIES (LINES 3-6)	680,580						680,580		
8. FUNDING SOURCES: (SHOWN AS A PERCENTAGE)									
a. Federal (1002)									
b. General Fund (1003-4)							100		
c. Inter-agency Receipts (1005)									
d. Program Receipts (1028)									
e. Other (Specify):									
f.									
g.									
h.									
9. TOTAL		100%	100%	100%	100%	100%	100%	100%	100%

11S BASE SALARY DATA BY BARGAINING UNIT

AGENCY: Office of the Governor

PROGRAM: Executive Operations

BRU: Internal Audit

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01-1160 (7/82) - 11s

	CODE	TRAVEL AND MOVING CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	200	TOTAL TRAVEL AND MOVING	86.0	85.2	90.3	53.0	143.3	
2.	210/220	Field/Administrative Travel	67.5	71.7	76.0	53.0	129.0	
3.		In-State Transportation		32.7	33.7	24.1		
4.		In-State Per Diem		24.1	25.5	28.9		
5.		Out-Of-State Transportation		9.4	10.0	-0-		
6.		Out-Of-State Per Diem		5.5	6.8	-0-		
7.	230	Conventions and Meeting	.3	3.5	3.7	-0-	3.7	
8.	240	Boards, Commissions and Legislators	.3					
9.	280	Moving or Relocation Expense	17.4	10.0	10.6	-0-	10.6	
10.	290	Non-Employee Travel	.5					
11.	220	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION	CONT. $	ADDITION $
	In-State Transportation (17 auditors)*(avg 8 trips each)*(avg air fare $300 + avg ground trans $125)	33.7	24.1
	In-State Per Diem (17 auditors)*(avg 8 trips each)*(avg five days per trip)*(avg p/d $80)	25.5	28.9
	Out-of-State Transportation (17 auditors)*(avg 1 trip each)*(avg air fare $490 + avg ground trans $100)	10.0	
	Out-of-State Per Diem (17 auditors)*(avg 1 trip each)*(avg 5 days)*(avg p/d $80)	6.8	

14 TRAVEL AND MOVING

AGENCY Office of the Governor

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230 Conventions and Meetings	Continuation	Addition
To assure proper coordination with other state and federal audit agencies, as mandated by the federal government's "one audit" concept, the Director and Deputy Director participate in the Pacific Northwest Intergovernmental Audit Forum.	3.7	
280 Moving or Relocation Expenses		
To recruit qualified personnel for our Juneau Office we have had to pay relocation expenses in some instances. We anticipate the need to relocate two staff members at a cost of $5,300 each.	10.6	-0-

23 CONTINUED 19

AGENCY Office of the Governor

PROGRAM Executive Operations

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01-1154 (7/82) - 25

	CODE	CONTRACTUAL SERVICES CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	300	TOTAL CONTRACTUAL	47.4	54.8	57.8	-0-	57.8	
2.	310	Communications	19.7	21.2	22.5	-0-	22.5	
3.	320	Printing and Advertising	1.0	6.4	6.7	-0-	6.7	
4.	330	Space Expense and Fees	13.4					
5.	340	Repair and Maintenance						
6.	350	Utilities Other Than Space						
7.	360	Equipment Rental - Other Than IWCF and WP	15.8					
8.	364	Equipment Rental - Word Processing		8.9	9.2	-0-	9.2	
9.	368	Equipment Rental - Highway Working Capital Fund						
10.	370	Judicial Expense						
11.	380	Professional Fees & Services-Excluding Data Processing		10.7	11.3	-0-	11.3	
12.	382	Professional Fees & Services-Data Processing		7.6	8.1	-0-	8.1	
13.	382a	Data Processing Chargeback						
14.	390	Other Fees or Expenses		2.4				
15.	930	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION		CONT. $	ADDITION $
310	Telephone equipment rental - Anchorage	$2,086		
	Telephone equipment rental - Juneau	3,221		
	Telephone maintence contract - Juneau	827		
		$6,134		
	Centrex charge	2,327		
	Long Distance	12,720		
	Postage	1,325		
		$22,506	22.5	-0-

15 CONTRACTUAL SERVICES

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320 Printing and Advertising		Continuation	Addition
Xeroxing - Anchorage	$1,272		
Xeroxing - Juneau	1,660		
	$2,932		
Photo Printing	636		
Report Printing	2,120		
Stationary	530		
Newspaper advertising	530		
	$6,748	6.7	-0-
360 Equipment Rental - Word Processing			
Anchorage - typewriter	2,480		
Juneau			
2 160K modules @90/mo	2,256		
2 display @ 15.60/mo	374		
2 keyboards @ 9.00/mo	216		
2 diskette units @ 66/mo	1,584		
1 printer @ 140/mo	1,680		
1 hook-up @ 20/mo	240		
2 test pak @ 16/mo	384		
	6,734		
	$9,214	9.2	-0-
380 Professional Fees and Services - Excluding Data Processing			
Professional auditor training - tuition and fees		11.3	-0-

23 CONTINUED 15

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Internal Audit

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FY 84

382 Professional Fees and Services - Data Processing	Continuation	Addition
Estimated needs in connection with audits	8.1	-0-

	CODE	COMMODITIES CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	400	TOTAL COMMODITIES	5.4	7.5	8.0	-0-	8.0	
2.	410	Agricultural Supplies						
3.	420	Household and Institutional Supplies						
4.	450	Structural Materials and Supplies						
5.	460	Equipment Parts and Supplies						
6.	470	Professional and Scientific Supplies						
7.	480	Office and Library Supplies	5.4	7.5	8.0	-0-	8.0	
8.	490	Other Operating Supplies						
9.	940	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION	CONT. $	ADDITION $
	480 General Office Consumables		
	Juneau	5.5	
	Anchorage	2.5	

16 COMMODITIES

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01-1159 (7/82) - 16

	CODE	EQUIPMENT AND MACHINERY CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84			
					AGENCY			GOVERNOR'S BUDGET
					CONTINUATION	ADDITION	REQUEST	
	1	2	3	4	5	6	7	8
1.	500	TOTAL EQUIPMENT AND MACHINERY	6.6	7.1	7.5	-0-	7.5	
2.	510	Automotive						
3.	520	Communicative						
4.	530	Laboratory and Scientific						
5.	540	Shop, Plant and Industrial						
6.	550	Office and Household		7.1	7.5	-0-	7.5	
7.	560	Special Equipment						
8.	590	Other Equipment						
9.	960	INTER-AGENCY TRANSFER (NON-ADD)						

EXPLANATION

	CODE	DESCRIPTION OF ITEMS REQUESTED	NUMBER OF UNITS	UNIT COST	Continuation (REPLACEMENT)	Addition (NEW)
10.		Replacements				
11.						
12.	550	File cabinet, 4-drawer legal	4	305.65	1,222.60	
13.		Desk, Double pedistal 60"x30"	7	426.10	2,982.70	
14.		Storage cabinet, 36'x18'x78"	1	262.42	262.42	
15.		Chair, w/arms	7	285.00	1,995.00	
16.		Desk, D61 pedistal 72"x36"	1	838.09	838.09	
17.		Table	1	200.22	200.22	
18.						
19.						
20.						
21.						
22.						
23.						
24.						
25.						

17 EQUIPMENT AND MACHINERY

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01.1148 (7/82) - 17

	CODE	AGENCY/DIVISION TO RECEIVE THE I/A TRANSFER	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84			
					AGENCY			GOVERNOR'S BUDGET
					CONTINUATION	ADDITION	REQUEST	
	1	2	3	4	5	6	7	8
1.		TOTAL INTER-AGENCY TRANSFERS (NON-ADG)						
	930	Department of Administration		2.2	2.3	-0-	2.3	
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								
13.								
14.								

CODE	EXPLANATION	CONT. $	ADDITION $
	Cost of 4 centrex lines	2.3	-0-

20 INTER-AGENCY TRANSFERS

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01-1151 (7/82) - 20

Respondent's Name	Position Title	Telephone	Mail Stop
Evan McKinney	Deputy Director	465-2203	0126

Author	Title	Date	Number of Pages
	The Alaska Agriculture Action Councils Efforts to Develop a Small Grain Marketing System	Sept.'81	37
	The Department of Transportation and Public Facilities Needs to Improve Management Controls and Implement Their Planned Information Systems	Dec. '81	16
	The Department of Natural Resources Needs to Improve Their Procedures For Selling Tentatively Approved Land	Jan. '82	18
	The Department of Education Needs to Improve Management of Preschool Programs	Feb. '82	20
	Letter Report on Department of Natural Resources Efforts to Correct Errors in Federal Land Transfer Documents	Feb. '82	12
	Better System-wide Planning Would Improve the Effectiveness of The States Correctional System	April ' 82	30
	The Commercial Fisheries Entry Commission Needs to Better Account For and Control Fees Received	May '82	12
	Department of Revenue's Efforts to Intercept Permanent Fund Dividends Payable to Absent Parents Owing Past Due Child Support.	May '82	16

24 FY 82 ALASKA STATE PUBLICATIONS

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01-1155 (7/82) - 24

STATUTORY BASIS:

The program has evolved from Governor Hammond's memorandum on regulatory reform to commissioners and staff, March 8, 1979.

PROGRAM GOAL(S):

To seek improvement in relationships between individuals, businesses and state agencies through communication and cooperative efforts to identify regulatory burdens and problems. To develop mutually acceptable solutions through deregulation, management improvements or other approaches as appropriate. To reduce intrusion of government regulatory activities into the personal and commercial lives of Alaskans, when possible, and still provide for health, safety and welfare protections.

BRIEF DESCRIPTION OF BRU ACTIVITIES AND THEIR RELATIONSHIP TO THE PROGRAM GOALS:

To work with the general public, businesses and other regulated parties to provide information on the regulatory process (brochures on administrative law and contractor selection), to identify problem areas with regulations and to seek legislative and administrative solutions (contractor registration legislation, participation in Business Opportunities Conference in Anchorage).

To provide training and information/idea sharing programs for state personnel who write regulations and administer regulatory agencies (Administrative Law Seminar, improvements in public notices).

To monitor and update a guidebook for regulation writers which is designed to provide information for executive review and evaluation of the substantive effects of new regulations and to help agency personnel evaluate direct and indirect consequences of proposed regulations.

To provide funds for analysis of selected regulatory programs to determine if economically efficient alternatives are available and to determine if alternative methods of providing public information and access can increase public participation.

1 DEFINITION STATEMENT

AGENCY Office of the Governor

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01 1117 (7/82) 1

STATE THE PROGRAM OBJECTIVE(S) BEING ADDRESSED BY THIS BRU.	BRU FUNCTION NUMBER	HOW WILL THIS BRU CONTRIBUTE TO EACH PROGRAM OBJECTIVE LISTED?
To maintain an ongoing review of existing and new regulations and to work with agencies to resolve problems and develop regulatory alternatives.	A1	Provide staff to work with agencies, legislative staff, the regulated public and other interested parties to review and resolve 15% of identified problems.
	A2	Establish working groups, as needed, to research, develop, and implement appropriate recommendations.
	A3	Work with selected agencies to analyze regulations to determine the practicalities of alternative approaches to regulation, such as, marketable rights, performance standards, monetary incentives, tiering, and information disclosure.
To continue working with the general public to identify problems and inefficiencies with regulations through various types of inquiry.	B1	To initiate and maintain contact with various groups and individuals in the private sector through personal contact, hearings, teleconferences, and mail-outs to determine specific problems.
To continue refining efforts begun in FY 83 to improve public knowledge of the consequences of regulation and to find innovative ways to increase public participation in the regulation process.	C1	Staff will provide informational brochures on the regulation process and specific regulatory programs, technical assistance to agencies in developing regulations, and provide for analysis of existing public notice methods to determine if public interest and participation can be increased by use of innovative approaches to public notice.
To provide training programs to agency personnel and to maintain and distribute information about innovative approaches* to regulation developed by other state agencies, other states, and the federal government. (* includes deregulation)	D1	To provide annual Administrative Law Seminar, collection of other state statutes on regulatory reform, and various methods of keeping agency personnel up-to-date on regulatory reform efforts.

1a BRU OBJECTIVES

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In FY 84 the Regulatory Reform Program will continue its identification of, and formulation of solutions to, problems with regulations and regulatory programs. With the limitations of a small staff, continued analysis of agency practices and processes will be made as systematically as is practicable.

The staff will increase its involvement with public and private sectors to implement appropriate changes, such as improvements in the Administrative Procedure Act; meliorate quality and type of information supplied to the public; identify and work to remove duplication of effort, excessive compliance costs, and other burdensome requirements of regulations. RRP will work to improve communications between the regulators and the regulated through personal contact, the questionnaire process, observance at public hearings, and continued review of proposed regulations in the draft stage. The staff will conduct a second seminar on Administrative Law, based on the attendee responses to the 1982 seminar.

As specific problems are identified, working groups will be formed, when necessary, to research, develop, and implement recommendations for administrative or legislative changes. The "working groups" will include a member of the RRP staff, personnel from the state agency implementing the regulations, and volunteer personnel from the regulated sector. The RRP staff member of the working group will act primarily as liaison between the state agency and the regulated sector.

BRU FUNCTION NUMBER	MEASURE/PERFORMANCE INDICATOR	PRIOR YEAR FY 82		CURRENT YEAR PLAN FY 83	BUDGET YEAR FY 84		
		PLAN	ACTUAL		CONTINUATION LEVEL	AGENCY REQUEST	GOVERNOR'S BUDGET
1	2	3	4	5	6	7	8
A1	Percent of problems identified and subsequently resolved	10%		15%	15%		
A2	Number of contacts made with individuals/ organizations, and problems corrected	20%		50%	50%		
A3	Number of agency contacts			4%	4%		
B1	Number of private sector contacts			5%	10%		
C1	Number of agencies assisted (new objective FY 84)				5%		
D1	Participants in seminar/contacts made and information supplied				95/20		

3 BRU PERFORMANCE PLAN

AGENCY Office of the Governor

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01 1120 17/02) 3

GENERAL GOVERNMENT OFFICE OF THE GOVERNOR EXEC OPERATIONS REG REFORM OFFICE COMP# 01-91-1-06-02 00

EXECUTIVE OPERATIONS
REGULATORY REFORM OFFICE

EXECUTIVE OPERATIONS
REGULATORY REFORM OFFICE

S/F SUMMARY...
ELECTION DISTRICT...
PBA UPDATE... 0/00/00

EXPENDITURES / FUNDING	(01) 82 AUTH	(02) 82 FINAL	(03) 82 ACTU	(04) 83 AUTH	(05) 83 SUPL	(06) 83 RP	(07) 84 CONT.	(08) 84 ADD.	(09) REQUEST	(10) GOVERNOR	(11) HOUSE	(12) SENATE	(13) LEG BI
PERS. SERV.	78.7	81.2	82.2	88.2			91.1		91.1				
TRAVEL	12.3	12.3	8.8	13.5			14.3		14.3				
CONTRACTUAL	15.5	15.5	18.6	15.5			16.5	110.0	126.5				
COMMODITIES	2.2	2.2	1.0	2.2			2.3		2.3				
EQUIPMENT													
LANDS/BLDGS													
GRANTS, CLMS													
MISC.													
TOTAL EXPEND	108.7	111.2	110.6	119.4			124.2	110.0	234.2				
I-A TRANSFER			1.5										
002 FED RCPTS													
003 G/F MATCH													
004 GEN FUND	108.7	111.2	110.6	119.4			124.2	110.0					
005 I/A RCPTS													
028 PGM RCPTS													
*** IMBALANCE		-111.2	110.6										
5 FULL-TIME	2.0			2.0			2.2		2.0				
6 PART-TIME													
7 TEMPORARY													
8 STAFF MONTHS	24.0			24.0			24.0		24.0				

1.	ITEM AND EXPLANATION	2. AMOUNT	3. FUNDING SOURCES	4. 100 PERSONAL SERVICES	5. 200 TRAVEL	6. 300 CONTRACTUAL SERVICES	7. 400 COMMODITIES	8. 500 EQUIPMENT	9. OTHER
1.	FY 83 Authorized (Form 4A)	119.4	General Fund (GF)	88.2	13.5	15.5	2.2	0	0
2.	Less One-Time Items (Include All Equipment)	(0)	" "	(0)	(0)	(0)	(0)	(0)	( )
3.	Plus FY 84 Replacement Equipment (Form 17, Line 1, Column 5)	0	" "					0	
4.	Personal Services Adjustment (Form 11, Line 22)	2.92	" "	2.91					
5.	Sub-Total	122.3	" "	91.1	13.5	15.5	2.2	0	0
6.	Plus Inflation Adjustment	1.9	" "		.8	1.0	.1		0
7.	Sub-Total	124.2	" "	91.1	14.3	16.5	2.3	0	0
8.	Adjustments to and within Continuation (Forms 5A and 5B)	-0-		-0-	-0-	-0-	-0-	0	0
9.	FY 84 Continuation	124.2	" "	91.1	14.3	16.5	2.3	0	0

5 COMPONENT CONTINUATION

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Executive Operations 5

COMPONENT Regulatory Reform Program 2

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01113017/021 5

TITLE OF INCREMENT

1 Intensified efforts to increase public contact and internal productivity.

EXPLAIN WHICH BRU OBJECTIVE IS AFFECTED, AND HOW.

2 Program Objective Affected: To continue working with the general public to identify problems and inefficiencies with regulations through various types of inquiry.

How Objective Is Affected: By using legislative teleconferencing we can increase contact with various groups statewide to identify concerns, and addition of word processing equipment will improve office productivity.

BRIEFLY DESCRIBE WHAT THIS INCREMENT PURCHASES.

3 Additional funds will be used to lease or purchase word processing equipment and to provide for use of legislative teleconference network to 21 sites.

4. CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel		
300	Contractual Services	10.0	
400	Commodities		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
	TOTAL		
	I-A Transfer (NON-ADD)		
	Federal Receipts - Code:		
	General Fund	10.0	
	Other		
5. POSITION INFORMATION	PFT		
	Staff Months		
	FTE		

6. INCREMENT PRIORITY

BRU Level: ____ of ____

Agency Level: 1 of 2

7. CHECK ONE OR BOTH

[X] Currently Existing Service

[ ] New Service

8. IMPACT FROM CAPITAL PROJECT (NAME)

Chapter ____ SLA ____ Page/Line ____

6 INCREMENT REQUEST

AGENCY Office of the Governor

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TITLE OF INCREMENT

1 Enhanced consumer awareness of economic consequences of occupational licensure in order to increase participation at regulation hearings.

EXPLAIN WHICH BRU OBJECTIVE IS AFFECTED, AND HOW.

2 Program Objective Affected: To continue refining efforts begun in FY83 to improve public knowledge of the consequences of regulation and to find innovative ways to increase public participation in the regulation process.

How Objective Is Affected: Analysis of the effects of selected occupational licensure programs on price, quality and availability of services will be conducted. This information will be made available to consumer groups, professions, and others to try to increase interest and participation in occupational licensure regulation programs.

BRIEFLY DESCRIBE WHAT THIS INCREMENT PURCHASES.

3 150.0 will be used to contract for economic analysis of selected occupational licensure programs from which materials can be developed to give the general public a clear understanding of the costs and benefits of occupational licensure.

50.0 will be used to survey public attitudes toward existing information gathering processes, such as, hearings, written comment periods, and workshops in order to find different methods of increasing public participation in occupational licensure hearings and to experiment with various techniques.

4. CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel		
300	Contractual Services	100.0	
400	Commodities		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
	TOTAL		
	I-A Transfer (NON-ADD)		
	Federal Receipts - Code:		
	General Fund	100.0	
	Other		
5. POSITION INFORMATION	PFT		
	Staff Months		
	FTE		

6. INCREMENT PRIORITY

BRU Level: ____ of ____

Agency Level: 2 of 2

7. CHECK ONE OR BOTH

☐ Currently Existing Service

☒ New Service

8. IMPACT FROM CAPITAL PROJECT (NAME)

Chapter ____ SLA ____ Page/Line ____

6 INCREMENT REQUEST

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01 1122 (7/82) 6

		FY 84	AGENCY $	PFT POS.	PPT/SEA POS.	NON-PRM POS.	STAFF MONTHS	GOVERNOR $	PFT POS.	PPT/SEA POS.	NON-PRM POS.	STAFF MONTHS
			1	2	3	4	5	6	7	8	9	10
CONTINUATION	1.	Current Authorized Positions (From Form 11)	91.1	2			24					
	2.	Continuation Changes to Current Authorized Positions (Form 12, column 11, lines 26-30)										
	3.	Subtotal (From 4A, Continuation Column)	91.1	2			24					
	4.	SOURCE OF FUNDS										
		Federal Receipts										
		G.F. Match										
		General Fund	91.1									
		Inter-Agency Receipts										
		Program Receipts										
		Other										
		Other										
REQUEST	5.	Additions to Current Authorized Positions (Form 12, column 12, lines 26-30)	0	0	0	0	0					
	6.	Total Personal Services Request (From 4A)	91.1	2			24					
	7.	SOURCE OF FUNDS										
		Federal Receipts										
		G.F. Match										
		General Fund	91.1									
		Inter-Agency Receipts										
		Program Receipts										
		Other										
		Other										

10 PERSONAL SERVICES REQUEST SUMMARY

01-1125 (7/82) - 10

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FY 84

	TOTAL	GENERAL GOVERNMENT	SUPERVISORY	CONFI-DENTIAL	PSEA	LTC	NON-COVERED	ELECTED/ APPOINTED	OTHER (SPECIFY)
1. Permanent Position Base Salary for FY 84 (Form 11, line 6, col. 7)							70.3		
2. Non-permanent Base Salaries for FY 84 (Form 11F, line 27, col. 10)							0		
3. Sub-total lines 1 and 2							70.3		
4. Transferred/Deleted Positions FY 84 Base Salaries							0		
5. New Position Base Salaries (Sum of Form 13's, line 5)							0		
6. Other Base Salary Adjustments (Form 23's following Form 12)							0		
7. TOTAL FY 84 REQUESTED BASE SALARIES (LINES 3-6)							70.3		
8. FUNDING SOURCES: (SHOWN AS A PERCENTAGE)									
a. Federal (1002)									
b. General Fund (1003-4)							100%		
c. Inter-agency Receipts (1005)									
d. Program Receipts (1028)									
e. Other (Specify):									
f.									
g.									
h.									
9. TOTAL		100%	100%	100%	100%	100%	100%	100%	100%

11S BASE SALARY DATA BY BARGAINING UNIT

AGENCY: Office of the Governor

PROGRAM: Executive Operations

BRU: Executive Operations

COMPONENT: Regulatory Reform Program

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FY 84

01 1160 (7/82) 11S

	1.	FY 83 2.Pos	FY 83 3.Mo.	FY 83 4. $	FY 84 5.Pos	FY 84 6.Mo.	FY 84 7. $
APPROPRIATIONS	1. Full Time (From APBR or Form 11A)	2	24	66.8	2	24	70.3
	2. Part Time/Seasonal (From Form 11B)						
	3. Overtime (From Form 11C)						
	4. Shift Differential (From Form 11D)						
	5. Additional Salary Costs (From Form 11E)						
	6. Subtotal - Permanent Positons and Gross Salary Costs (Sum of Lines 1 - 5)	2	24	66.8	2	24	70.3
ADJUSTMENTS TO BASE	7. Enter SBS Costs (Calculate in Box A)			4.09			4.3
	8. Standard Benefits FY 83 (Calculate in Box B)			10.43			10.72
	9. Police, Firemen Retirement Adjustment (Calculate in Box C)						
	10. Enter Adjustment for TRS Employee if Applicable (Calculate in Box D)			( )			( )
	11. Enter Monthly Fixed Costs (Calculate in Box E)			4.4			5.8
12. Subtotal - Authorized Permanent Positions, Salaries and Benefits (Sum of Lines 6 thru 11)		2	24	85.72	2	24	91.12
13. Non-Permanent Positions, Salaries and Benefits (From Form 11F)							
14. TOTAL POSITIONS, SALARIES AND BENEFITS (SUM OF LINES 12 AND 13)		2	24	85.72	2	24	91.12

A SUPPLEMENTAL BENEFITS (SBS)

FY 83

	POSITIONS	AMOUNT
1.	2	66.8
2.	X2188	X.0613
3.	$4376	$ 4.09

4. Trans. lower - Line 7, Col 4.

FY 84

	POSITIONS	AMOUNT
5.	2	70.3
6.	X2240	X.0613
7.	$4480	$ 4.3

8. Trans. lower - Line 7, Col 7.

	15. FY 83 Authorized (From form 4A)	88.2
A	16. FY 83 Salary Increase Distribution	0
D	17. FY 83 Total Adjusted Funding (Line 15 + Line 16)	88.2
J	18. FY 83 Amount Underfunding (Line 14 - Line 17)	0
U	19. FY 83 ÷ FY 84 Percent Underfunding (Line 18 ÷ Line 14)	→ (0)
S	20. FY 84 Amount Underfunding (Line 19 X Line 14, Col. 7)	0
T	21. FY 84 Continuation Request (Line 14 - Line 20)	91.12
	22. Continuation Adjustment (Line 21 - Line 15)	2.92

B VARIABLE BENEFITS %

	1.Gross Salary	2.Rate	3.Adjustment
FY 83	66.8	.1562	10.43
FY 84	70.3	.1526	10.72

C BENEFITS ADJUSTMENT FOR POLICE, FIREMEN

	1.Affected Salaries	2.Rate	3.Adjustment
FY 83		.0965	
FY 84		.0965	

D BENEFITS ADJUSTED FOR TRS EMPLOYEES

	1.TRS Salaries	2.Rate	3.Adjustment
FY 83		.0426	( )
FY 84		[illegible]6	( )

E

	Monthly Ben.	LTC	Oth.	TOTAL
FY 83	Months		24	
	$ Fact.	X170	X183	
	TOTAL		4.4	
FY 84	Months		24	
	$ Fact.	X200	X240	
	TOTAL		5.8	

11 CURRENT AUTHORIZED POSITION SUMMARY

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01 1115 (7/82) - 11

	PCN	CLASSIFICATION TITLE AND EXPLANATION	LOC.	PAY RANGE	CURRENT YEAR - FY 83				BUDGET YEAR - FY 84			
					NO. OF POS.	NO. OF MONTHS	MONTHLY SALARY	ANNUAL AMOUNT	NO. OF POS	NO. OF MONTHS	MONTHLY SALARY	ANNUAL AMOUNT
	1	2	3	4	5	6	7	8	9	10	11	12
1.		APBR										
2.	0403 Ex	Director	AWA	20C	1	12	3494	42.0	1	12	3714	44.6
3.	0404 Ex	Administrative Assistant II	AWA	14A	1	12	2063	24.8	1	12	2145	25.7
4.												
5.												
6.					2	24	5.6	66.8	2	24	5.9	70.3
7.												
8.												
9.												
10.												
11.												
12.												
13.												
14.												
15												
16.												
17.												
18.												
19.												
20.												
21.												
22.												
23.												
24.												
25.												
26.												
27.												
28.												
29.												
30												

11a FULL-TIME POSITION RECAP

AGENCY Office of the Governor

PROGRAM Executive Operations

BRU Executive Operations

COMPONENT Regulatory Reform Program

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FY 84

01 1126 (7/82) - 11a

	CODE	TRAVEL AND MOVING CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	200	TOTAL TRAVEL AND MOVING	8.8	13.5	14.3		14.3	
2.	210/220	Field/Administrative Travel						
3.		In-State Transportation	2.4	4.2	5.1		5.1	
4.		In-State Per Diem	1.0	1.9	2.2		2.2	
5.		Out-Of-State Transportation	2.4	2.5	2.5		2.5	
6.		Out-Of-State Per Diem	1.0	1.0	1.0		1.0	
7.	230	Conventions and Meeting	1.7	0.0				
8.	240	Boards, Commissions and Legislators	0.0	2.7	2.7		2.7	
9.	280	Moving or Relocation Expense						
10.	290	Non-Employee Travel	.3					
		Inflation adjustment at 6%			.8		.8	
11.	920	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION	CONT. $	ADDITION $
	1. To provide funds for in-state staff travel to work with individuals, businesses and state personnel to identify and solve problems.		
	In-state Transportation	5.1	
	In-state Perdiem	2.2	
	2. To provide funds for out-of-state travel to attend educational seminars and visit other state regulatory reform offices to learn from their experience.		
	Out-of-state Transportation	2.5	
	Out-of-state Perdiem	1.0	
	3. To provide travel for persons selected to serve as a public member of a regulation review project to assist in analyzing problem and developing solution.	2.7	
	4. Inflation adjustment @6%	.8	

14 TRAVEL AND MOVING

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PROGRAM Executive Operations

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	CODE	CONTRACTUAL SERVICES CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	300	TOTAL CONTRACTUAL	18.6	15.5	16.5	110.0	126.5	
2.	310	Communications	3.4	3.5	3.5	3.0	6.5	
3.	320	Printing and Advertising	1.6	3.0	3.0		3.0	
4.	330	Space Expense and Fees						
5.	340	Repair and Maintenance						
6.	350	Utilities Other Than Space						
7.	360	Equipment Rental - Other Than IHWCF and WP	2.0					
8.	364	Equipment Rental - Word Processing	1	3.0	3.0	7.0	10.0	
9.	368	Equipment Rental - Highway Working Capital Fund						
10.	370	Judicial Expense						
11.	380	Professional Fees & Services-Excluding Data Processing	8.5	6.0	6.0	100.0	106.0	
12.	382	Professional Fees & Services-Data Processing						
13.	382a	Data Processing Chargeback						
14.	390	Other Fees or Expenses	1.6					
		Inflation adjustment at 6%			1.0		1.0	
15.	930	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION	CONT. $	ADDITION $
310	Telephone, postage, teleconference increased by 3.0 to provide for periodic teleconference to identify regulatory problems around the state. (20 site[illegible] sessions/yr = 3.0)	3.5	3.0
320	Printing of brochures and reports	3.0	
364	Lease or purchase of "Brand X" word processing equipment	3.0	7.0
380	To provide funds for third Administrative Law Seminar in Juneau and Anchorage, for economic studies of selected occupational licensure programs, for analysis of public participation in occupational licensure programs, and testing new techniques for increasing public participation in these regulatory programs.	6.0	100.0
	Inflation adjustment at 6%	1.0	

15 CONTRACTUAL SERVICES

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	CODE	COMMODITIES CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	400	TOTAL COMMODITIES	.4	2.3	2.4		2.4	
2.	410	Agricultural Supplies						
3.	420	Household and Institutional Supplies						
4.	450	Structural Materials and Supplies						
5.	460	Equipment Parts and Supplies						
6.	470	Professional and Scientific Supplies						
7.	480	Office and Library Supplies	.4	2.3	2.3		2.3	
8.	490	Other Operating Supplies						
		Inflation adjustment of 6%			.1		.1	
9.	940	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION	CONT. $	ADDITION $
480	Office & Library Supplies To purchase office consumables and necessary research material from various organizations. Consumables $150/mo x 12 = 1.8 Research materials .5	2.3	

16 COMMODITIES

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Respondent's Name	Position Title	Telephone	Mail Stop

Author	Title	Date	Number of Pages
Regulatory Reform Staff	Brochure -- "Selecting a Contractor"	7/82	1
Regulatory Reform Staff	Pamphlet -- "Regulations and You"	(print and distribute) 10/82	10+
Regulatory Reform Staff and Contractor	Booklet --"Guideline for Regulatory Analysis"	(print and distribute) 10/82	40+

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BUDGET REQUEST UNIT (BRU)	BUDGET AND MANAGEMENT SERVICES
PROGRAM	EXECUTIVE OPERATIONS
CATEGORY	GENERAL GOVERNMENT
AGENCY	OFFICE OF THE GOVERNOR
DIVISION	BUDGET AND MANAGEMENT
NAME AND POSITION OF BRU MANAGER	RONALD D. LEHR, DIRECTOR
PHONE	465-2213
NAME AND POSITION OF AGENCY CONTACT	JIM STEY, DEPUTY DIRECTOR
PHONE	465-2213

COMMISSIONS AND/OR ADVISORY BOARDS WHICH HAVE BEEN CONTACTED/OTHER PUBLIC INPUT CONSIDERED IN PREPARING BUDGET REQUEST:

As the central budget agency for the executive branch of the Alaska State Government, the Division receives public input through the Governor's office and directly from individuals and groups seeking information on program goals and expenditures. Such requests may cover a variety of subjects ranging from clarification of specific appropriation items to explanations of government spending on specific subjects or to broad recommendations on the direction of government services.

In addition to responding to requests for information from the public, the Division also strives to put more program and fiscal information before the public by widely distributing the Executive Budget documents, the Alaska Economic Information & Reporting System Quarterly Reports, a Statistical Abstract, and a profile of the enacted budget, "Alaska Budget in Brief". The aim of this effort is to develop a more well-informed public and to ensure public input not only to this Division but also to all other budget request units.

SIGNATURE OF AGENCY HEAD	DATE
Ronald D. Lehr	

0 DETAIL BUDGET SUBMISSION

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

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01-1116 (7/82)-0

STATUTORY BASIS:

AS 37.07	Executive Budget Act
37.07.040	Division of Budget and Management
37.07.050	Agency Program and Financial Plans
37.07.080	Program Execution

PROGRAM GOAL(S):

Program Area Goal:	To assure the physical, social and economic well being of Alaskans and their environment.
Long Term Objective:	To increase the benefits/services received by Alaskans from total State expenditures
Related Policy Directive:	To ensure that all agencies' short and long-term expenditure plans reflect gubernatorial and legislative policy. In particular, to select those public services which are genuinely needed by Alaskans and which cannot be provided by the private sector, and to provide them in an effective and efficient manner.

BRIEF DESCRIPTION OF BRU ACTIVITIES AND THEIR RELATIONSHIP TO THE PROGRAM GOALS:

The Division of Budget and Management assists the Governor, his fiscal advisors, and state agencies in the annual preparation of the executive budget and six year capital improvement program. In particular, the Division collects fiscal and program data under a program budget structure which focuses on the benefits/services to be received by Alaskans. After assessing the goals, objectives, policies, performance history and overall direction of a program, the Division's budget analysts make recommendations to the Governor and his advisors on which current service and/or new service increments proposed by agencies will most increase the benefits/services to be received by Alaskans. Following decisions by the Governor on levels of expenditure the Division prepares the Executive Budget for submission to the Legislature.

Upon budget enactment, the Division oversees the budget implementation by state agencies to ensure that program operations are consistent with gubernatorial policies and legislative intent. This program execution function includes the approval of all agency operating and capital budget revisions.

The Division is also responsible for the development of statistics that describe the conditions of the state's economy and forecast future economic activity. In addition, the Division, in concert with other State agencies, conducts studies and advises the Governor on a variety of economic/budget/management issues, including major capital improvement/investment/loan programs and new legislation.

1 DEFINITION STATEMENT

AGENCY: OFFICE OF THE GOVERNOR

PROGRAM: EXECUTIVE OPERATIONS

BRU: BUDGET AND MANAGEMENT

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STATE THE PROGRAM OBJECTIVE(S) BEING ADDRESSED BY THIS BRU.	BRU FUNCTION NUMBER	HOW WILL THIS BRU CONTRIBUTE TO EACH PROGRAM OBJECTIVE LISTED?
To submit to the Legislature and have enacted into law an operating budget and a six year capital program, which do not exceed projected revenues nor increase reliance in the future on nonrecurring revenues and provides benefits equitably.	1	To limit the amount of GF budget amendments to no more than 2% of total GF in the Governor's original budget request.
	2	To maintain at 0% the amount by which the Governor's recommended operating budget exceeds the budget ceiling as defined by the proposed constitutional spending limit.
	3	To maintain at 50% the number of Governor-approved Capital Improvement Projects that were in the prior 6-year Plan.
	4	To limit total agency GF supplemental appropriations to no more than the total prior year GF lapse.
	5	To maintain, if not increase, the quality of timely information and analysis provided to the Governor and his advisors.

1a BRU OBJECTIVES

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OBJECTIVE(S) BEING ADDRESSED BY THIS BRU.	BRU FUNCTION NUMBER	HOW WILL THIS BRU CONTRIBUTE TO EACH PROGRAM OBJECTIVE LISTED?
To increase the quality of budget execution and program management so that revised programs are processed in a more timely manner and are error-free, and program management is guided by well-defined, measurable, and output oriented objectives.	6	To limit the number of audit exceptions (state-wide) cited for budget related executed activities in which the Division of Budget and Management was involved to no more than 4.
	7	To maintain the average (mean) number of calendar days for B&M review of revised programs as follows: a. Reimbursable Services Agreements at 10 days b. Revised Programs requiring B&M's Authorization at 10 days
	8	To ensure that 50% of Policy Budget Objectives are well-defined in terms of being measurable and output-oriented.

1a BRU OBJECTIVES

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INTRODUCTION

Figure 1 is a "global model" of the primary functions performed and the primary outputs of the Division. The general outputs are: (1) the preparation and submission of the Executive Budget, Budget Workbooks, and accompanying general appropriation bill; (2) budget execution (establish authorization levels for expenditures and positions, approve/recommend revised programs, and review/recommend supplemental requests); and (3) provision of information and analysis (fiscal, economic, and management/organization) to policy-makers, State agencies and the general public.

Performing each of the stated functions leads to the accomplishment of the Executive Operations' program goal of "assuring the physical, social, and economic well being of Alaskans and their environment". In particular, the Division contributes to the accomplishment of this goal by evaluating agency budget requests and performance in terms of how well these requests would increase the benefits/services received by Alaskans from total State expenditures. Budget preparation instructions issued to agencies, therefore, request information on program goals and objectives, client conditions to be impacted by program functions, and prior year, current year, and proposed program performance levels. This information allows not only the Division but also policy-makers in the Executive and Legislative branches to determine how well current services are being performed and what increases in benefits/services are planned.

In addition to the information made available to policy-makers and the general public through the Executive Budget documents and the Budget Workbooks, the Division also produces special studies on selected fiscal, programmatic, economic, and management/organizational issues. These studies are conducted by program analysts attached to program budget category sections in the Division as well as by the Economics and Management Analysis sections.

ORGANIZATION STRUCTURE

The Division of Budget and Management is composed of six sections. Three of these sections are concerned primarily with the performance of the submission and execution of the operating and capital budgets. In addition, these sections have primary responsibility for providing information and analysis for new legislative proposals, veto recommendations, federal government initiatives and special studies or issue analyses related to programmatic performance.

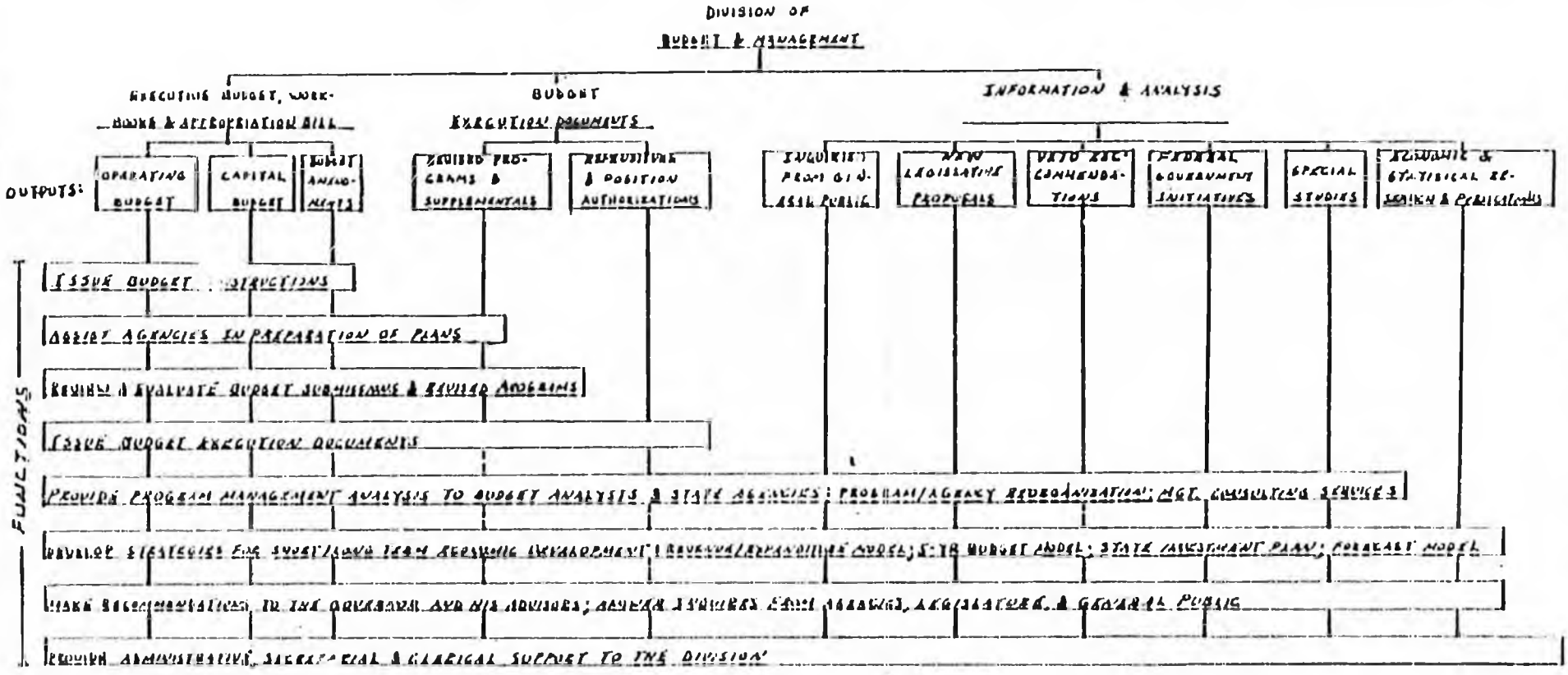

FIGURE 1. GLOBAL MODEL OF THE PRIMARY OUTPUTS & FUNCTIONS OF THE DIVISION OF BUDGET & MANAGEMENT

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AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

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The Management Analysis section provides analytical support to the budget sections for program monitoring and evaluation and to all State agencies for structural reorganization and general management consulting services. In addition, the section provides data processing systems analysis and programming support to the Division and project management for the Automated Budget System C.I.P.

The Economic Analysis section is responsible for research on State government fiscal activities and the impacts of those activities on economic conditions in the State. Significant portions of this research are presented in major publications with widespread public distribution:

Alaska Budget in Brief -- A collection of narratives and supporting statistical materials describing the budget process, specifying objectives of programs, and summarizing historical and current appropriations. 2,500 copies were distributed to individuals and organizations throughout Alaska during FY 82.

Alaska Economic Information and Reporting System -- A collection of economic statistics and an econometric model of the State economy provided historical and forecasted data on major indicators of economic activity. Forecasts are produced quarterly and statistical analyses by industry and geographic region are published on an annual base. During FY 82 an average of 1300 copies of AEIRS quarterly and 1500 copies of the Annual Performance Report were distributed. Based upon continuing new demand for these publications, the FY 84 plan is for a 10% increase in distribution.

The major analytical emphasis of the section has been on State loan programs, energy and petroleum economics and the five-year budget model. Research on loan programs has focused on development goals, the collection of standardized measures of loan activity and the evaluation of current programs relative to State objectives. Activities in the energy area have included reviews of hydroelectric projects, the feasibility of in-state petrochemical manufacture, and analysis of the proposed Alaska Natural Gas Transportation system. A last group of studies relate to the development of tools for analyzing future budgetary commitments. A primary focus is on the operating and maintenance costs generated by capital projects.

The sixth section of the Division provides administrative and clerical support. During the budget preparation phase the data entry staff of the section input thirty-five million characters (bytes) of data into the state computer system. The staff also prepares over 300,000 pages (10 copies) of budget documents for submission to the Legislature and 700 copies of the Executive Budget Books. Finally, in addition to correspondence, the section also supports the processing of approximately 1,000 Reimbursable Services Agreements and 900 revised programs annually.

MEASURES

As the above description of the functions and structure of the Division indicates, the primary output of the Division is information in the form of analysis and recommendations on fiscal, program performance, economic, and management/organization issues. Consequently, the measurement of the impact of Budget and Management Services is difficult. Information provided by the Division is but one of many inputs that affect the quality of decisions made by the Executive Office and the Legislature. Although there is substantial subjective evidence of the value of the information provided to policy-makers, there is no ready way to quantify that value. (Objective #5)

The Division, however, has established a number of program measures to guide its performance. These measures can be separated into two classes: (1) those areas of performance in which the Division shares responsibility with others; and (2) those areas which can be considered to be within the control of the Division.

Technically, good program measures should not be defined in terms of shared responsibilities. The preparation and execution of the governor's budget, however, is basically a responsibility that is shared among the Division of Budget and Management and other policy and fiscal advisors to the governor. For instance, Budget and Management makes recommendations but it is not entirely responsible for the funding level of the governor's budget. Similarly, the commissioner of each state agency is ultimately responsible for the execution of the agency's budget.

To highlight the impact of these joint responsibilities, the Division establishes as targets a number of measures that encourage the consideration of all knowable contingencies within the initial budget request and that seek to constrain the use of new resources in meeting the unknown contingencies. The achievement of the standards set in these measures requires the cooperation of State agencies in applying their best planning efforts to their budget preparations and of other decision-makers in the executive and legislative branches in sharing the same standards for reviewing the budget, budget amendments, revised programs, and supplemental appropriations.

The Division, consequently, has established as targets for budget growth over the original Governor's request an increase of no more than 2% in GF budget amendments. In addition, the division has as a target that the total of all GF supplemental requests approved should be no more than the total for all agency GF lapse. (See objectives #1 and #4)

Another shared measure (Objective #8) concerns the quality of objectives submitted by program managers in their policy budget requests. The quality of objectives in terms of measurability and focus on impact is taken to be a proxy measure of the success of the Division in moving agency program planning toward a more rational process and focus on the Governor's Policy Themes. The Division recently conducted a review of 20% of the FY 84 budgets in the Executive Branch to assess the quality of budget objectives. Twenty-nine (29) percent of the budget objectives were found to be of good or satisfactory quality. For an objective to be rated as "satisfactory it must focus on an outcome or impact of the program rather than a measure of some aspect of the workload. A "good" rating means that the objective is also measurable, i.e., indicates the maintenance level or change in level of impact to be achieved. This 29% percent level is far below our 50% performance measure for the year. There are two reasons for this shortfall. Firstly, at the time this measure was set we thought we would be implementing ABS for the FY 84 Budget. The ABS training plus the rigors of the program performance monitoring module would have led to a much larger proportion of satisfactory/good objectives. Secondly, there was no Policy Budget this year, hence, our review focused on the objectives of the Detail Budget. Objectives in this budget are more workload/task oriented, hence, the low rating on output oriented objectives.

Objective #3 concerns the quality of the six year Capital Program, as reflected in the extent to which it is followed by decision makers. The increase in the size of the capital budget in the last several years makes even more important the need to identify potential projects early. The number of projects being considered increases the risk that there will be duplication in the objectives of these projects. Furthermore, the number and scope of these projects increases the risks of significant cost overruns and large demands for operating and maintenance expenses. Providing more time for review of proposed projects and analysis of interrelationships among projects and of the operating and maintenance costs will reduce those risks. Therefore, the Division seeks to increase the percent of recommended capital projects that were previously identified and included in the six-year capital plan.

The approval of the proposed constitutional limitations on expenditure imposes an added discipline to the struggle to control and maintain a budget ceiling. At the same time the limitation also imposes an increased need for technical accuracy in the match between expenditure totals and revenue projections. The demand for accuracy requires that the Division make explicit the objective of ensuring that the Governor's recommended operating budget does not exceed the budget ceiling in the proposed constitutional expenditure limitation. (Objective #2)

Measures within the control of the Division are basically process oriented. The technical accuracy of the work of the Division is the number of audit exceptions (Statewide) cited for budget rel. d activities in which the Division was involved. (Objective #6)

One other set of measures used by the Division concerns the processing time for revised program documents. (Objective #7) This measure is an indicator of the quality of services provided to agencies who must revise their program and financial plans in line with changing circumstances. To the extent that the mix and number of requests for RP's does not change substantially and the same number of analysts are involved, decreases in the average number of days to process these documents is an indicator of improved productivity in the division. The implementation of the Automated Budget System should contribute to further improvement in the productivity of the review process for these documents.

BRU FUNCTION NUMBER	MEASURE/PERFORMANCE INDICATOR	PRIOR YEAR FY 82		CURRENT YEAR PLAN FY 83	BUDGET YEAR FY 84		
		PLAN	ACTUAL		CONTINUATION LEVEL	AGENCY REQUEST	GOVERNOR'S BUDGET
1	2	3	4	5	6	7	8
1	Amount of GF Budget amendments as percent of total GF in Governor's original budget request	2%	0% RE: FY83 BUDGET	2% RE: FY84 BUDGET	2% RE: FY85 BUDGET	2% RE: FY85 BUDGET	
2	Percent that Governor's recommended operating budget surpasses the budget ceiling as defined by the proposed constitutional spending limit	0%	0%	0%	0%	0%	
3	Percent of Governor-approved CIP's that were included in the prior year 6-year Plan.	50% RE: FY 83 BUDGET		50%	50%	50%	
4	Total Governor's GF Supplemental Request as percent of total GF lapsed	100% RE: FY 82 BUDGET		100% RE: FY83 BUDGET	100% RE: FY84 BUDGET	100% RE: FY84 BUDGET	
5	Quality of information provided to Governor and his advisors	subjective	measure)				
6	Number of audit exceptions (statewide) cited for budget related activities which involves Budget and Management	4	0	4	4	4	

3 BRU PERFORMANCE PLAN

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BRU FUNCTION NUMBER	MEASURE/PERFORMANCE INDICATOR	PRIOR YEAR FY 82		CURRENT YEAR PLAN FY 83	BUDGET YEAR FY 84		
		PLAN	ACTUAL		CONTINUATION LEVEL	AGENCY REQUEST	GOVERNOR'S BUDGET
1	2	3	4	5	6	7	8
7	Number of calendar days for B&M to review revised programs:						
	- Reimbursable Services Agreements	10		10	10	10	
	- Revised Programs (requiring B&M approval)	10	10.2	10	10	10	
8	Percent of policy budget objectives which are well defined and measure impact	50% RE: FY 84 BUDGET	29%	50% RE: FY 85 BUDGET	50%	50%	

3 BRU PERFORMANCE PLAN

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01 1120 (7/82) 3

10-01-01-37-00 BUDGET OPERATING COMPONENT (ALLOCATION). (LEVEL 1111[illegible]-05) 22:0[illegible] [illegible] PAGE

GENERAL GOVERNMENT OFFICE OF THE GOVERNOR EXECUTIVE OPERATION BUDGET & MANAGEMENT [illegible]

EXECUTIVE OPERATIONS
BUDGET & MANAGEMENT

EXECUTIVE OPERATIONS
BUDGET & MANAGEMENT

[illegible]
[illegible]
[illegible]

EXPENDITURES & FUNDING	(01) 82 AUTH	(02) 82 FINAL	(03) 82 ACT	(04) 83 AUTH	(05) 83 SUPL	(06) 83 RP	(07) 84 CONT.	(08) 84 ADD.	(09) REQUEST	(10) GOVERNOR	(11) HOUSE	(12) SENATE	(13) [illegible]
01 PERS. SERV.	1511.1	1538.9	1463.1	1639.9	------.-	------.-	1660.5		1660.5	1660.5	------.-	------.-	------.-
02 TRAVEL	54.0	54.0	54.7	34.4	------.-	------.-	36.5		36.5	36.5	------.-	------.-	------.-
03 CONTRACTUAL	477.5	467.5	431.5	586.5	------.-	------.-	1052.4		1052.4	1052.4	------.-	------.-	------.-
04 COMMODITIES	21.3	31.3	27.2	30.2	------.-	------.-	32.0		32.0	32.0	------.-	------.-	------.-
05 EQUIPMENT		20.0	13.3		------.-	------.-					------.-	------.-	------.-
06 LANDS/BLDGS					------.-	------.-					------.-	------.-	------.-
07 GRANTS, CLMS					------.-	------.-					------.-	------.-	------.-
08 MISC.					------.-	------.-	2781.4		2781.4	2781.4	------.-	------.-	------.-
** TOTAL EXPEND	2063.9	2111.7	1989.8	2291.0									
09 I-A TRANSFER	126.9		179.5		------.-	------.-					------.-	------.-	------.-
1002 FED RCPTS					------.-	------.-					------.-	------.-	------.-
1003 G/F MATCH					------.-	------.-					------.-	------.-	------.-
1004 GEN FUND	2063.9	2111.7	1989.8	2291.0	------.-	------.-	2781.4		2781.4	2781.4	------.-	------.-	------.-
1005 I/A RCPTS					------.-	------.-					------.-	------.-	------.-
1028 PGM RCPTS					------.-	------.-					------.-	------.-	------.-
VARIATION FROM AGENCY REQUEST...										-91.3	[illegible]	[illegible]	[illegible]
15 FULL-TIME	36.0	36.0	36.0	36.0	------.-	------.-	36.0		36.0	36.0	------.-	------.-	------.-
16 PART-TIME					------.-	------.-	1.0		1.0	1.0	------.-	------.-	------.-
17 TEMPORARY					------.-	------.-					------.-	------.-	------.-
18 STAFF MONTHS	434.0	434.0	434.0	434.0	------.-	------.-	443.5		443.5	443.5	------.-	------.-	------.-

1. ITEM AND EXPLANATION		2. AMOUNT	3. FUNDING SOURCES	4. 100 PERSONAL SERVICES	5. 200 TRAVEL	6. 300 CONTRACTUAL SERVICES	7. 400 COMMODITIES	8. 500 EQUIPMENT	9. OTHER
1.	FY 83 Authorized (Form 4A)	2291.0	General Funds	1639.9	34.4	586.5	30.2	0.0	0.0
2.	Less One-Time Items (Include All Equipment)	(70.0)		( )	( )	(70.0)	( )	( )	( )
3.	Plus FY 84 Replacement Equipment (Form 17, Line 1, Column 5)								
4.	Personal Services Adjustment (Form 11, line 22)	20.6	General Funds	20.6					
5.	Sub-Total	2241.6	General Funds	1660.5	34.4	516.5	30.2	0.0	0.0
6.	Plus Inflation Adjustment	34.9	General Funds		2.1	31.0	1.8		
7.	Sub-Total	2276.5	General Funds	1660.5	36.5	547.5	32.0	0.0	0.0
8.	Adjustments to and within Continuation (Forms 5A and 5B)	504.9				504.9			
9.	FY 84 Continuation	2781.4	General Funds	1660.5	36.5	1052.4	32.0	0.0	0.0

5 COMPONENT CONTINUATION

AGENCY OFFICE OF THE GOVERNOR

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TRANSFERS FROM/DELETIONS:		FUNDING INFORMATION	TRANSFERS TO/ADDITIONS:	
1 COUNCIL ON ECONOMIC POLICY BRU COMPONENT			2 BUDGET AND MANAGEMENT BRU COMPONENT	
3	4	5	6	7
What is being transferred or deleted from this unit?	AMOUNT	EXPEND. BY OBJECT	AMOUNT	What is being transferred or added to this unit?
		100 Pers. Serv.		
		200 Travel		
		300 Contractual	371.0	The sum of $371.0 appropriated to the Lt. Governor's office, Council on Economic Policy, to design and implement an annual survey to collect economic and demographic information.
		400 Commodities		
		500 Equipment		
		600 Lands/Bldgs.		
		700 Grants, Claims		
		800 Miscellaneous		
		TOTAL		
		I-A Trans.(Non-Add)		
		Fed. Receipts		
		GF Match		
		General Fund	371.0	
		I-A Receipts		
		Program Rcpts.		
		Other		
	( )	No. Full-Time (M)	( )	
	( )	No. Part-Time (M)	( )	
	( )	Non-Permanent (M)	( )	
		No. of Months		

8 Explain which BRU objectives are affected, and how.

To provide quality budget and economic information to the Governor and his advisors. Current economic and demographic data is needed to ensure accurate analysis of economic and budget issues related to government operations. This information will also support long-range economic forecast and budget projection models. Information in these areas should assist agency program managers and the Governor's office to make more informed decisions, resulting in a more efficient and effective use of State resources.

5a ADJUSTMENTS WITHIN CONTINUATION LEVEL

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

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TRANSFERS FROM/DELETIONS:		FUNDING INFORMATION	TRANSFERS TO/ADDITIONS:	
1 BRU COMPONENT			2 BRU BUDGET AND MANAGEMENT COMPONENT	
3	4	5	6	7
What is being transferred or deleted from this unit?	AMOUNT	EXPEND. BY OBJECT	AMOUNT	What is being transferred or added to this unit?
		100 Pers. Serv.		Data Processing Chargeback Adjustment
		200 Travel		
		300 Contractual	133.9	Additional funds are required to pay for FY 84 DP continuation level services. The FY 84 continuation level is based on actual FY 82 DP service consumption costed at FY 84 DP rate.
		400 Commodities		
		500 Equipment		
		600 Lands/Bldgs.		
		700 Grants, Claims		
		800 Miscellaneous		
		TOTAL		
		I-A Trans. (Non-Add)		NOTE:
		Fed. Receipts		FY 84 DP continuation (Form 15dp) = 246.5
		GF Match		Less FY 83 DP Chargeback adjusted for 6% inflation (112.6)
		General Fund	133.9	133.9
		I-A Receipts		
		Program Rcpts.		
		Other		
( )		No. Full-Time (M)	( )	
( )		No. Part-Time (M)	( )	
( )		Non-Permanent (M)	( )	
		No. of Months		

8 Explain which BRU objectives are affected, and how.

DATA PROCESSING CHARGEBACK ADJUSTMENT

5a ADJUSTMENTS WITHIN CONTINUATION LEVEL

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

COMPONENT

Revised Date

FY 84

01 1121 07/82 1 5a

		FY 84									
							GOVERNOR				
			$	PFT POS.	PPT/SCA POS.	NON-PRH POS.	STAFF MONTHS	$	PFT POS.	PPT/SCA POS.	NON-PRH POS.	STAFF MONTHS
			1	2	3	4	5	6	7	8	9	10
CONTINUATION	1.	Current Authorized Positions (From Form 11)	1,660,519	36	1		443.5					
	2.	Continuation Changes to Current Authorized Positions (Form 12, column 11, lines 26-30)	1,660,519	36	1		443.5					
	3.	Subtotal (From 4A, Continuation Column)										
	4.	SOURCE OF FUNDS										
		Federal Receipts										
		G.F. Match										
		General Fund	1,660,519									
		Inter-Agency Receipts										
		Program Receipts										
		Other										
		Other										
REQUEST	5.	Additions to Current Authorized Positions (Form 12, column 12, lines 26-30)										
	6.	Total Personal Services Request (From 4A)	1,660,519	36	1		443.5					
	7.	SOURCE OF FUNDS										
		Federal Receipts										
		G.F. Match										
		General Fund	1,660,519									
		Inter-Agency Receipts										
		Program Receipts										
		Other										
		Other										

10 PERSONAL SERVICES REQUEST SUMMARY

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

COMPONENT

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Revised Date

FY 84

01 1125 (7/82) - 10

	TOTAL	GENERAL GOVERNMENT	SUPERVISORY	CONFI-DENTIAL	PSEA	LTC	NON-COVERED	ELECTED/ APPOINTED	OTHER (SPECIFY)
1. Permanent Position Base Salary for FY 84 (Form 11, line 6, col. 7)	1,383.2						1,383.2		
2. Non-permanent Base Salaries for FY 84 (Form 11F, line 27, col. 10)									
3. Sub-Total lines 1 and 2	1,383.2						1,383.2		
4. Transferred/Deleted Positions FY 84 Base Salaries									
5. New Position Base Salaries (Sum of Form 13's, line 5)									
6. Other Base Salary Adjustments (Form 23's following Form 12)									
7. TOTAL FY 84 REQUESTED BASE SALARIES (LINES 3-6)	1,383.2						1,383.2		
8. FUNDING SOURCES: (SHOWN AS A PERCENTAGE)									
a. Federal (1002)									
b. General Fund (1003-4)							100%		
c. Inter-agency Receipts (1005)									
d. Program Receipts (1028)									
e. Other (Specify):									
f.									
g.									
h.									
9. TOTAL		100%	100%	100%	100%	100%	100%	100%	100%

11S BASE SALARY DATA BY BARGAINING UNIT

AGENCY: OFFICE OF THE GOVERNOR

PROGRAM: EXECUTIVE OPERATIONS

BRU: BUDGET AND MANAGEMENT

COMPONENT:

Page 1 of 1

Revised Date

FY 84

01 1160 (7/82) · 11s

1.		FY 83 2.Pos	FY 83 3.Mo.	FY 83 4. $	FY 84 5.Pos	FY 84 6.Mo.	FY 84 7. $
APPROVED	1. Full Time (From APBR or Form 11A)	36	432	1,348,524	36	432	1,348,5
	2. Part Time/Seasonal (From Form 11B)	1	6	20,850	1	6	20,8
	3. Overtime (From Form 11C)		5.5	13,817		5.5	13,81
	4. Shift Differential (From Form 11D)						
	5. Additional Salary Costs (From Form 11E)						
	6. Subtotal - Permanent Positons and Gross Salary Costs (Sum of Lines 1 - 5)	37	443.5	1,383,191	37	443.5	1,383,19
	7. Enter SBS Costs (Calculate in Box A)			80,956			82,88
	8. Standard Benefits FY 83 (Calculate in Box B)			216,054			211,07
	9. Police, Firemen Retirement Adjustment (Calculate in Box C)						
	10. Enter Adjustment for TRS Employee if Applicable (Calculate in Box D)			( )			(
	11. Enter Monthly Fixed Costs (Calculate in Box E)			81,161			106,440
12. Subtotal - Authorized Permanent Positions, Salaries and Benefits (Sum of Lines 6 thru 11)		37	443.5	1,761,362	37	443.5	1,783,586
13. Non-Permanent Positions, Salaries and Benefits (From Form 11F)							
14. TOTAL POSITIONS, SALARIES AND BENEFITS (SUM OF LINES 12 AND 13)		37	443.5	1,761,362	37	443.5	1,783,586

A SUPPLEMENTAL BENEFITS (SBS)

FY 83	POSITIONS	AMOUNT
1.	37	1,383,191
2.	X2188	X.0613
3.	$ 80,956	$ 84,790
4. Trans. lower - Line 7, Col 4.		

FY 84	POSITIONS	AMOUNT
5.	37	1,383,191
6.	X2240	X.0613
7.	$ 82,880	$ 84,790
8. Trans. lower - Line 7, Col 7.		

ADJUST			
15.	FY 83 Authorized (From Form 4A)	1,639,900	
16.	FY 83 Salary Increase Distribution	-0-	
17.	FY 83 Total Adjusted Funding (Line 15 + Line 16)	1,639,900	
18.	FY 83 Amount Underfunding (Line 14 - Line 17)	121,462	
19.	FY 83 + FY 84 Percent Underfunding (line 18 ÷ Line 14)		→ (.069)
20.	FY 84 Amount Underfunding (Line 19 X Line 14, Col. 7)		123,067
21.	FY 84 Continuation Request (Line 14 - Line 20)		1,660,519
22.	Continuation Adjustment (Line 21 - Line 15)		20,619

B VARIABLE BENEFITS %

	1.Gross Salary	2.Rate	3.Adjustment
FY 83	1383,191	.1562	216,054
FY 84	1383,191	.1526	211,075

C BENEFITS ADJUSTMENT FOR POLICE, FIREMEN

	1.Affected Salaries	2.Rate	3.Adjustment
FY 83		.0965	
FY 84		.0965	

D BENEFITS ADJUSTED FOR TRS EMPLOYEES

	1.TRS Salaries	2.Rate	3.Adjustment
FY 83		.0426	( )
FY 84		.0426	( )

E

Monthly Ben.		LTC	Oth.	TOTAL
FY 83	Months		443.5	
	$ Fact.	X170	X183	
	TOTAL		81,161	81,161
FY 84	Months		443.5	
	$ Fact.	X200	X240	
	TOTAL		106,440	106,440

11 CURRENT AUTHORIZED POSITION SUMMARY

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

COMPONENT

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Revised Date

FY 84

01-1115 (7/82) - 11

	PCN	CLASSIFICATION TITLE AND EXPLANATION	LOC.	PAY RANGE	CURRENT YEAR - FY 83				BUDGET YEAR - FY 84			
					NO. OF POS.	NO. OF MONTHS	MONTHLY SALARY	ANNUAL AMOUNT	NO. OF POS	NO. OF MONTHS	MONTHLY SALARY	ANNUAL AMOUNT
	1	2	3	4	5	6	7	8	9	10	11	12
1.		APBR										
2.	4001EX	Director		26C	1	12	5,050	60,600	1	12	5,050	60,600
3.	4002EX	Deputy Director		23E	1	12	4,554	54,648	1	12	4,554	54,648
4.	4003EX	Program Budget Analyst V		22A	1	12	3,714	44,568	1	12	3,714	44,568
5.	4004EX	Program Budget Analyst V		22A	1	12	3,714	44,568	1	12	3,714	55,468
6.	4005EX	Program Budget Analyst V		22A	1	12	3,714	44,568	1	12	3,714	55,468
7.	4006EX	Program Budget Analyst V		22C	1	12	3,971	47,652	1	12	3,971	47,652
8.	4007EX	Program Budget Analyst V		22E	1	12	4,251	51,012	1	12	4,251	51,012
9.	4008EX	Program Budget Analyst IV		21A	1	12	3,475	41,700	1	12	3,475	41,700
10.	4009EX	Program Budget Analyst IV		21A	1	12	3,475	41,700	1	12	3,475	41,700
11.	4010EX	Program Budget Analyst IV		21A	1	12	3,475	41,700	1	12	3,475	41,700
12.	4011EX	Program Budget Analyst IV		21A	1	12	3,475	41,700	1	12	3,475	41,700
13.	4012EX	Program Budget Analyst IV		21A	1	12	3,475	41,700	1	12	3,475	41,700
14.	4013EX	Program Budget Analyst IV		21A	1	12	3,475	41,700	1	12	3,475	41,700
15.	4014EX	Program Budget Analyst IV		21C	1	12	3,714	44,568	1	12	3,714	44,568
16.	4015EX	Program Budget Analyst IV		21B	1	12	3,605	43,260	1	12	3,605	43,260
17.	4016EX	Program Budget Analyst III		19B	1	12	3,146	37,752	1	12	3,146	37,752
18.	4017EX	Program Budget Analyst III		19A	1	12	3,041	36,492	1	12	3,041	36,492
19.	4018EX	Program Budget Analyst III		19A	1	12	3,041	36,492	1	12	3,041	36,492
20.	4020EX	Program Budget Analyst III		19B	1	12	3,146	37,752	1	12	3,146	36,652
21.	4021EX	Program Budget Analyst II		16A	1	12	2,463	29,556	1	12	2,463	29,556
22.	4022EX	Economist III		22A	1	12	3,714	44,568	1	12	3,714	44,568
23.	4023EX	Economist III		21A	1	12	3,475	41,700	1	12	3,475	41,700
24.	4024EX	Economist II		18A	1	12	2,838	34,056	1	12	2,838	34,056
25.	4025EX	Economist II		20A	1	12	3,249	38,988	1	12	3,249	38,988
26.	4026EX	Economist II		20A	1	12	3,249	38,988	1	12	3,249	38,988
27.	4027EX	Economist I		18A	1	12	2,838	34,056	1	12	2,838	34,056
28.	4028EX	Research Analyst III		18A	1	12	2,838	34,056	1	12	2,838	34,056
29.	4029EX	Research Analyst II		16A	1	12	2,463	29,556	1	12	2,463	29,556
30.	4030EX	System Analyst I		18A	1	12	2,838	34,056	1	12	2,838	34,056

11a FULL-TIME POSITION RECAP

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

COMPONENT

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Revised Date

FY 84

OI 1126 (7/02) - 11a

	PCN	CLASSIFICATION TITLE AND EXPLANATION	LOC.	PAY RANGE	CURRENT YEAR - FY 83				BUDGET YEAR - FY 84			
					NO. OF POS.	NO. OF MONTHS	MONTHLY SALARY	ANNUAL AMOUNT	NO. OF POS	NO. OF MONTHS	MONTHLY SALARY	ANNUAL AMOUNT
	1	2	3	4	5	6	7	8	9	10	11	12
1.		APBR										
2.	4031EX	Pub Spec II		13B	1	12	2,073	24,876	1	12	2,073	24,876
3.	4032EX	Admin Asst III		16A	1	12	2,463	29,556	1	12	2,463	29,556
4.	4033EX	Admin Asst I		12A	1	12	1,889	22,668	1	12	1,889	22,668
5.	4034EX	Admin Support Technician		11B	1	12	1,832	21,984	1	12	1,832	21,984
6.	4035EX	Clerk Typist IV		9B	1	12	1,627	19,524	1	12	1,627	19,524
7.	4036EX	Clerk Typist III		8B	1	12	1,530	18,360	1	12	1,530	18,360
8.	4037EX	Clerk Typist III		8A	1	12	1,487	17,844	1	12	1,487	17,844
9.												
10.					36	432	112,377	1348,524	36	432	112,377	1348,524
11.												
12.												
13.												
14.												
15.												
16.												
17.												
18.												
19.												
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21.												
22.												
23.												
24.												
25.												
26.												
27.												
28.												
29.												
30												

11a FULL-TIME POSITION RECAP

AGENCY: OFFICE OF THE GOVERNOR

PROGRAM: EXECUTIVE OPERATIONS

BRU: BUDGET AND MANAGEMENT

COMPONENT:

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FY 84

01 1126 (7/82) - 11a

	1	2	LOC.	PAY RANGE	CURRENT YEAR - FY 83				BUDGET YEAR - FY 84			
		EXPLANATION			NO. OF POS.	NO. OF MONTHS	MONTHLY SALARY	ANNUAL AMOUNT	NO. OF POS	NO. OF MONTHS	MONTHLY SALARY	ANN AMT
			3	4	5	6	7	8	9	10	11	12
1.	4019EX	Progra Budget Analyst IV PPT		21A	5	6	3,475	20,850	5	6	3,475	20,8
2.												
3.												
4.												
5.												
6.												
7.												
8.												
9.												
10.												
11.												
12.												
13.												
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19.												
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21.												
22.												
23.												
24.												
25.												
26.												
27.												
28.												
29.												
30												

11b PART-TIME AND/OR SEASONAL POSITION

01-1127 (7/82) - 11b

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

COMPONENT

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Revised Date

FY 84

	PCN	CLASSIFICATION TITLE	PAY RANGE	CURRENT YEAR - FY 83				BUDGET YEAR - FY 84			
				MONTHS EQUIV.	OVERTIME HOURLY RATE	YEARLY HOURS	ANNUAL AMOUNT	MONTHS EQUIV.	OVERTIME HOURLY RATE	NO. OF YEARLY HOURS	ANNUAL AMOUNT
	1	2	3	4	5	6	7	8	9	10	11
1.	4033EX	Admin Assistant I	12A	1.7	17.43	265	4,619	1.7	17.43	265	4,619
2.	4034EX	Admin Support Technician	11B	1.3	16.90	210	3,549	1.3	16.90	210	3,549
3.	4035EX	Clerk IV	9B	1.0	15.01	157	2,361	1.0	15.01	157	2,361
4.	4036EX	Clerk Typist III	8B	1.0	14.13	157	2,218	1.0	14.13	157	2,218
5.	4037EX	Clerk Typist III	8A	0.5	13.73	78	1,070	0.5	13.73	78	1,070
6.											
7.											
8.											
9.											
10.											
11.											
12.											
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14.											
15.											
16.											
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20.											
21.											
22.											
23.											
24.											
25.											
26.											
27.											
28.											
29.											
30.				5.5		967	13,817	5.5		967	13,817

11C OVERTIME RECAP

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

COMPONENT

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Revised Date

FY 84

01-1128 (7/02) - 11c

	CLASSIFICATION TITLE	LOCATION	PRI	PCN	PAY RGE	MONTHLY SALARY	REVISED PROGRAM NUMBER	TOTAL POSITION COST FROM FORM 13	BUDGET YEAR - FY84 NO. POS	NO. MO.	ANNUAL AMOUNT AGENCY CONTINUATION	AGENCY ADDITION	GOVERNOR BUDGET
	1	2	3	4	5	6	7	8	9	10	11	12	13
1.	Delete Program Budget												
2.	Analyst IV PFT	Juneau		4019EX	21A	3475	Pending	(53,183)	(1)	12	(53,183)		
3.	Add Clerk Typist III PF	Juneau		Pending	8A	1487	Pending	24,541	1	12	24,541		
4.	Add Program Budget												
5.	Analyst IV PPT	Juneau		Pending	21A	3475	Pending	26,750	.5	6	26,750		
6.													
7.	Savings realized on												
8.	position conversion												
9.	will be used to fund												
10.	additional overtime										1,892		
11.													
12.													
13.													
14.													
15.													
16.													
17.													
18.													
19.													
20.													
21.													
22.													
23.													
24.													
25.													
								TOTAL ANNUAL AMOUNT		26	-0-		
	IF ADDITIONAL FORM 12'S ARE REQUIRED, COMPLETE THIS SECTION ONLY ON THE LAST PAGE							PERMANENT FULL TIME: POSITIONS & (MONTHS)		27	( )	( )	( )
								PERMANENT PART TIME/SEASONAL: POSITIONS & (MONTHS)	1	28	(6)	( )	( )
								NON-PERMANENT: POSITIONS & (MONTHS)		29	( )	( )	( )
								TOTAL MONTHS		30	6		

12 CHANGES TO CURRENT AUTHORIZED POSITION

01 1135 (7/82) - 12

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

COMPONENT

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Revised Date

FY 84

1.	POSITION TITLE: Clerk Typist III			RANGE/STEP: 8/A	BARG. UNIT: E	FORM 12 PAGE/LINE: 1/	GOV.	APPROV.	DIS
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER: 83-144X	PCN NUMBER: 4037	BRU PRIORITY: 1	LOCATION: Juneau	ELECTION DISTRICT: 4	LEG.		
3.	CONTINUATION LEVEL		ADDITION						

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary 1487 per mo	17,844	
6.	Benefits	2,723	
7.	Supplemental Benefits	1,094	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	24,541
10.	Travel	02	
11.	Contractual	03	
12.	Commodities	04	
13.	Equipment	05	
14.	Other		
15.	TOTAL COST		24,541

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	24,541
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR O&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position was established by revised program in FY 83. The Division of Budget and Management has reduced a Program Budget Analyst IV permanent full-time position to permanent part-time status, and has taken the additional dollars to fund this Clerk Typist III position.

The Division of Budget and Management has almost doubled in personnel in the last three years. During the 1980 session three professional positions were added, and in FY 81 the Economic Analysis Section of the Department of Commerce was transferred to Budget and Management. The Economic Section now produces a large number of statistical charts and reports, and at least eith publications a year. In addition, the budget process has become more complex, with additiona analyses and reports required from the Budget Analyst:

The Clerk Typist III position is required to handle tl additional workload.

This change does not affect the total dollars expende on Personal Services in FY 83 or FY 84.

13 REQUEST FOR NEW POSITION

AGENCY: OFFICE OF THE GOVERNOR

PROGRAM: EXECUTIVE OPERATIONS

BRU: BUDGET AND MANAGEMENT

COMPONENT:

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Revised Date

FY 8

	CODE	TRAVEL AND MOVING CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	200	TOTAL TRAVEL AND MOVING	54.6	34.4	36.5		36.5	
2.	210/220	Field/Administrative Travel						
3.		In-State Transportation	5.7	3.6	11.8		11.8	
4.		In-State Per Diem	2.2	1.4	3.8		3.8	
5.		Out-Of-State Transportation	0.3	0.2				
6.		Out-Of-State Per Diem	0.1	0.1				
7.	230	Conventions and Meeting	20.6	13.0	3.8		3.8	
8.	240	Boards, Commissions and Legislators						
9.	280	Moving or Relocation Expense	16.4	10.3	10.9		10.9	
10.	290	Non-Employee Travel	9.3	5.8	6.2		6.2	
11.	920	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION	CONT. $	ADDITION $
	210/220: Field/Administrative Travel In-State: Staff travel (2-3 trips per analyst depending upon category assignment for agency assistance and familiarization); administrative travel to Legislative Budget and Audit meetings for Director and Dupty Director. Transportation: Per Diem:	 11.8 3.8	

14 TRAVEL AND MOVING

AGENCY OFFICE OF THE GOVERNOR

PROGRAM EXECUTIVE OPERATIONS

BRU BUDGET AND MANAGEMENT

COMPONENT

Revised Date

FY 84

8 COPIES

Steps involved in obtaining a fiscal note for committee meetings:

1. Call the Department involved and advise you need a fiscal note.

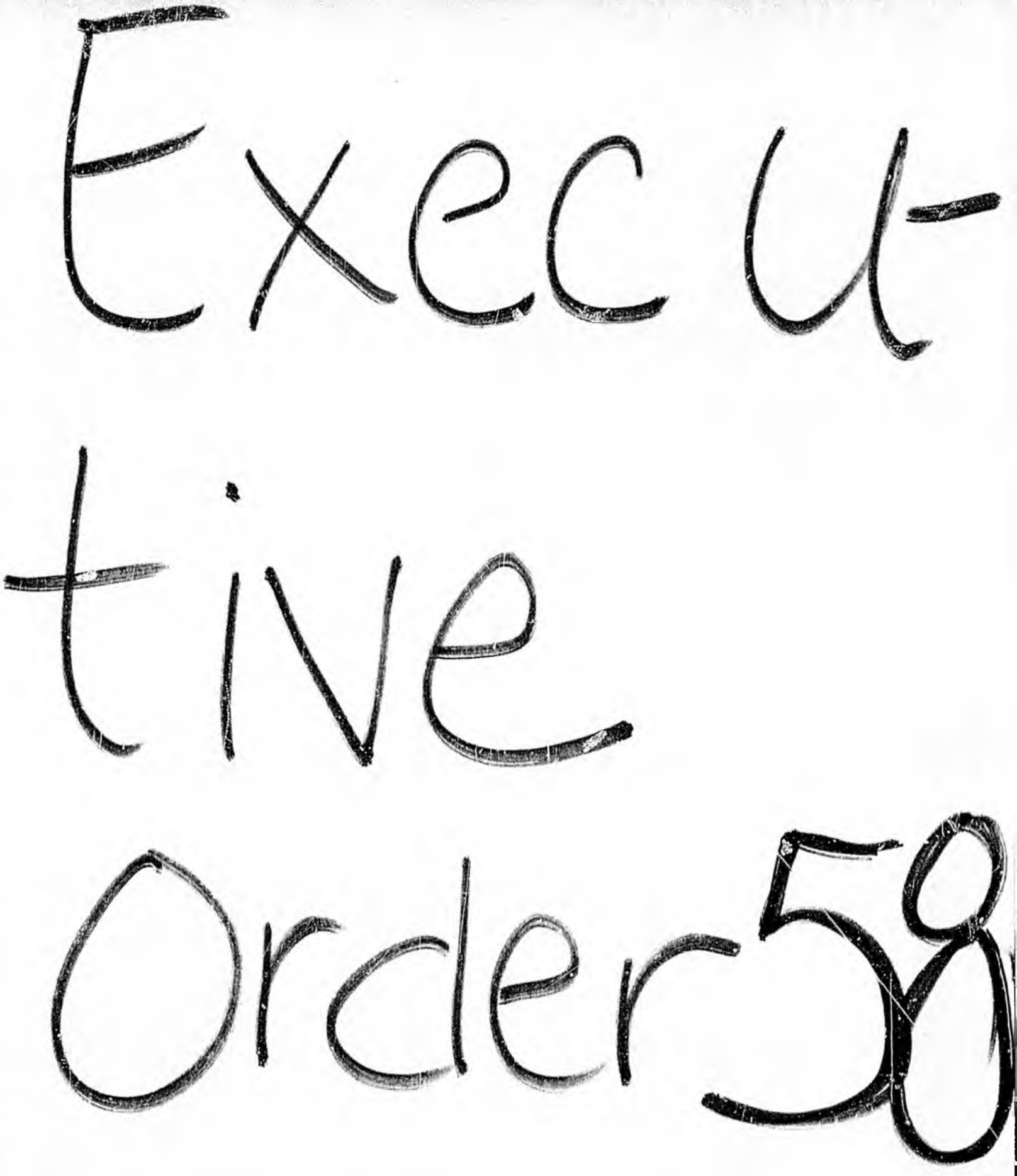
2. Department prepares a fiscal note which can only show a total dollar figure. The notes are not to reflect any breakdown at all.

3. When the department submits the fiscal note to OMB, they can bring with them backup material and cost breakdowns but they are not to be shown on the face of the note.

4. OMB reviews and initials note. Copy is sent to requesting committee or sponsor. At this point, the Department is free to release to us background information and breakdown in any form the requester may desire including phone, written material or someone to testify on the bill at a hearing.

5. After the requester receives a copy of the fiscal note, since it is not specific, you must call the department back to arrange with them how the breakdown can best be presented to the committee. This is very time-consuming as the departments are not prepared to implement these requests, particularly on short notice of a hearing.

Julie
Rep. Abood's Office 2/1


Executive
Order 58

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: Ex order #58
Title: Transfer of Veteran's Services Program & Vet Burial Allowance
Sponsor:
Requestor: Governor Sheffield
Date of Request:

FISCAL DETAIL
Agency Affected: Commerce & Economic Developmer
Program Category Affected: Economic Development
BRU, Program or Subprogram(s) Affected: Accounting & Collections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Net zero fiscal impact (fiscal impact too small to be measured). This division currently spends four hours or less per month of Accounting Clerk III effort requesting vouchers for veterans' burial claims. This effort would be transferred to the new department if this bill becomes law.

ANALYSIS: Attach a separate page for analysis

Prepared By: Margaret I. Hamley, Director Phone: 465-2555
Division: Accounting and Collections Date: 1/6/84

Approved by Commissioner: Richard A. Lyon Date: 1/6/84
Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: Executive Order #58
Title: Consolidation of Veteran Pgms. in new Dept. of Military & Vet. Affairs
Sponsor: Governor Sheffield
Requestor: Governor Sheffield
Date of Request: 1/5/84

FISCAL DETAIL
Agency Affected: Commerce & Economic Development
Program Category Affected: Economic Development
BRU, Program or Subprogram(s) Affected: Veterans Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		[15.8]				
300 CONTRACTUAL		[203.6]				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		[222.7]				
800 MISCELLANEOUS						
TOTAL OPERATING		[442.1]				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		[442.1]				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The fiscal impact of this executive order will be transferred to the new Department of Military and Veterans' Affairs.

ANALYSIS: Attach a separate page for analysis

Prepared By: Paul B. Arnoldt, Director Phone: 465-2510
Division: Division of Investments & Veterans' Affairs Date: 1/6/84

Approved by Commissioner: Richard A. Lyon Date: 1/6/84
Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST #2
Bill/Resolution No.:
Title: Executive Order & #58
Sponsor:
Requestor: Office of the Governor
Date of Request:

FISCAL DETAIL
Agency Affected: Department of Military Affairs
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Life & Property Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		86.5				
200 TRAVEL		6.0				
300 CONTRACTUAL		28.4				
400 SUPPLIES		4.0				
500 EQUIPMENT		20.4				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		145.3				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		145.3				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		2				
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

State Operating Budget

The attached fiscal note from Commerce & Economic Development in the amount of $442.1 represents the costs of transferring to DMA.

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard F. Rountree, Director Phone: 465-4600
Division: Admin. & Support Services Division Date: 1/5/84

Approved by Commissioner: M. G. Edward G. Pagano for Date: 1/5/84
Agency: Department of Military Affairs

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

1.	POSITION TITLE: Special Assistant to the Commissioner II			RANGE/STEP: 23 A	BARG. UNIT	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION: PX	STAFF MONTHS: 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION: EBA	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL		ADDITION	1					

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	50.0	
6.	Benefits	4.1	
7.	Supplemental Benefits	3.1	
8.	Fixed Benefits	2.6	
9.	TOTAL PERSONAL SERVICES 01		59.8
10.	Travel 02		6.0
11.	Contractual 03		28.4
12.	Commodities 04		4.0
13.	Equipment 05		10.6
14.	Other		
15.	TOTAL COST		108.8

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	108.8
19.		1-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&H USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position will be responsible for the administration of the State Division of Veterans Affairs within the Department of Military and Veterans' Affairs. The position will be tasked with the coordination of all Veterans' programs within the State of Alaska. It will also be tasked with the coordination between the State and Federal Veterans' Administration as well as Veterans' Organizations. The position will cooperate with the federal government in matters of mutual concern pertaining to the welfare of Alaskan veterans, including establishing, extending, or strengthening services for veterans, in Alaska.

13 REQUEST FOR NEW POSITION

AGENCY: Department of Military and Veterans' Affairs
PROGRAM: Life and Property Protection
BRU: Veterans' Affairs
COMPONENT: Administration

Page of
Revised Date

FY 85

1.	POSITION TITLE Secretary I			RANGE/STEP 10A	BARG. UNIT GGU	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP
2.	TYPE OF POSITION GGU	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION ERA	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL	ADDITION							

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	21.0	
6.	Benefits	1.7	
7.	Supplemental Benefits	1.3	
8.	Fixed Benefits	2.7	
9.	TOTAL PERSONAL SERVICES 01		26.7
10.	Travel 02		0
11.	Contractual 03		0
12.	Commodities 04		0
13.	Equipment 05		9.8
14.	Other		
15.	TOTAL COST		36.5

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	36.5
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position will provide the clerical and technical support for the Division of Veterans' Affairs. As clerical support to the Administrator of the Division, the position will maintain all files, type, respond to routine correspondence, and act as receptionist for the Division.

13 REQUEST FOR NEW POSITION

AGENCY Department of Military and Vererans' Affairs

PROGRAM Life and Property Protection

BRU Veterans' Affairs

COMPONENT Administration

Page of

Revised Date

FY 85

ANALYSIS

This fiscal note is tempered with the assumption that funding to operate the Veterans' programs at their present level of service will be transferred to the Department of Military & Veterans' Affairs along with the responsibilities.

Therefore this fiscal note only addresses funding needed to provide an increased level of service.

EO 57, (cont'd)

In his message transmitting EO 57 to the Legislature, Governor Sheffield stated:

> Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.30.130(b), I am transmitting an executive order that transfers the Alaska State Office from the Governor's Office to the Department of Commerce and Economic Development and renames it the Alaska Foreign Office.
>
> Under current statutes (AS 44.19.074 -- 44.19.082), the Alaska State Office is in the Office of the Governor. Because the functions of the Alaska State Office are in the area of economic development, resource, and trade information, and contact between government and private industry, the appropriate administrative location for the office is the Department of Commerce and Economic Development. With a very slight re-wording, this Order just relocates the current statutes to that department's chapter from the Governor's Office chapter. No substantive changes are being made. State employees in the Tokyo office remain in the exempt service by virtue of AS 39.25.110(17).
>
> Renaming the office as the Alaska Foreign Office gives it an obvious, more appropriate name.
>
> I believe that this transfer will improve the efficiency of state government.

Dept. of Military & Vets' Affairs

EXECUTIVE ORDER NO. 58, by the Governor. Would transfer two veterans' programs--the vets' services program and the vets' burial allowance program--from the Dept. of Commerce & Economic Development to the Dept. of Military Affairs. Renames the latter the "Department of Military and Veterans' Affairs." Effective March 9, 1984.

Introduced January 9 and referred to Judiciary and Finance in the Senate and Labor & Commerce, State Affairs and Finance in the House.

In his message transmitting EO 58 to the Legislature, Governor Sheffield stated:

> Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting an executive order that transfers two veterans' programs from the Department of Commerce and Economic Development to the Department of Military Affairs and renames that department as the Department of Military and Veterans' Affairs.
>
> The veterans' services program (AS 26.10.010 -- 26.10.050) and the veterans' burial allowance program (AS 26.10.080) are both currently assigned to the division of investments within the Department of Commerce and Economic Development. This executive order would transfer these two programs to the renamed Department of Military and Veterans' Affairs.
>
> The transfer places these programs where they logically belong and the departmental name change corresponds more nearly with the name of Title 26 of the Alaska Statutes, "Military Affairs and Veterans." Most of that title already relates to the Department of Military Affairs. After transfer of these two programs, AS 26.15, concerning the veterans' loan program in the Department of Commerce and Economic Development, will be the only part of AS 26 that relates to another agency. The amendment of AS 26.15.030(c)(1) in sec. 13 recognizes that change by slightly modifying one of the duties of the Department of Commerce and Economic Development. The language being added to AS 44.35.020 in sec. 21 of the order, listing duties of the Department of Military and Veterans' Affairs, is a consolidation of current AS 26.15.030(c)(1) and (3) (the latter of which is being repealed in sec. 25 of the order).

EO 58, (cont'd)

I believe that this [illegible] improve the efficiency and effectiveness of [illegible] programs and will improve the quality of services [illegible]red to veterans and their survivors. It is anticipated that a division of veteran's affairs will eventually be established to provide the services.

Sincerely,

/s/
Bill Sheffield
Governor

****
This report is a simple compilation of information and it is not, nor is it intended to present, a legal interpretation.
****

****
This report includes all bills and resolutions introduced and all action taken in the Alaska House and Senate from January 9 through January 1[illegible], 1984.
****

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HB

6

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M February 24, 1983

SUBJECT: Driving while intoxicated (HB 6)

TO: Representative Mitchell E. Abood, Jr.

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

You have asked me to indicate the changes contained in the draft CSHB 6 as compared to HB 6. I have done this in the form of a sectional analysis of CSHB 6 and the section numbers contained in the headings refer to CSHB 6.

Section 1. This is the same as sec. 1 of HB 6.

Section 2. This is the same as sec. 2 of HB 6.

Section 3. The language "arising out of the operation of a type of motor vehicle for which a driver's license is required" is inserted into subsection (c). The change limits the application of provisions dealing with revocation of a driver's license to situations involving the use of a vehicle, such as an automobile, for which a driver's license is required. The crime of driving while intoxicated under AS 28.35.030 can be committed by a person driving any type of motor vehicle, defined under AS 28.35.260(7) to mean any self-propelled vehicle, or an aircraft or watercraft. Without the added language a person convicted of driving while intoxicated in a case involving an airplane or boat would, under the strict terms of the provision, loose his license to drive an automobile, a somewhat puzzling result. This, however, is the situation under existing AS 28.15.-181(c) which requires revocation of a driver's license, for an automobile, for the crime of driving while intoxicated despite the fact that the crime may have involved a vehicle of a type for which no driver's license is required, such as an airplane or boat.

Section 4. This is the same as sec. 4 of HB 6.

Section 5. This is the same as sec. 5 of HB 6.

Section 6. This prohibits driving while a driver's license is canceled, suspended, revoked or in violation of a limitation placed on the license whether the curtailment of the privilege to drive occurred in this state or another jurisdiction. The change was adopted by the House ~~Community and Regional~~ STATE Affairs Committee as Amendment No. 2. The minimum term of imprisonment for driving without a license has been increased from 14 to 90 days in subsection (a) pursuant to Amendment No. 5 adopted by the House ~~Community and Regional~~ STATE Affairs Committee. In subsection (b) the notice given by the department to a person whose license is curtailed of the consequences of driving without a license is altered to reflect the new 90-day imprisonment provision.

Section 7. This is the same as sec. 7 of HB 6.

Section 8. At the bottom of page 5 and the top of page 6, the language "if the offense arises out of driving a type of motor vehicle for which a driver's license is required" is inserted, since this provision has to do with revocation of a driver's license and impoundment and forfeiture of a motor vehicle. The reason for the change is the same as that indicated under sec. 3. In addition, this makes it clear that the impoundment and forfeiture provisions are to be applied to vehicles for which a driver's license is required such as automobiles, but not to other vehicles such as boats or planes.

Section 9. This contains the material from sec. 13 of HB 6. It was moved to a new section number at the request of the revisor of statutes, who has authority in any case to renumber sections. The language "to a person driving a motor vehicle of a type for which a driver's license is required" has been inserted in subsection (b) and (c)(1), so that the provisions dealing with administrative revocation of a driver's license apply only if a person is driving a vehicle such as an automobile. A chemical test under the implied consent statute can be given to a person driving any type of motor vehicle, including an aircraft or watercraft. Without this change, a driver's license, for an automobile, could be revoked on the basis of a test given in conjunction with the operation of a plane or boat. Under paragraphs (1), (2) and (4), the provision for suspension and for refusal to issue an original license have been included as possible department actions along with the provision for

revocation now contained in HB 6. In subsection (3) the word "suspension" is used in connection with curtailment of the privilege to drive for a limited period of time. The word "revocation" is used to refer only to permanent denial of the privilege to drive. Under existing statutes these terms are used interchangeably. The first sentence in (e) is inserted pursuant to Amendment No. 1 adopted by the House ~~Community and Regional~~ STATE Affairs Committee.

Section 10. This contains material found in sec. 9 of HB 6. As in the previous section, limiting language is inserted so that provisions dealing with curtailment of a driver's license apply only if a person is arrested while driving a vehicle such as an automobile, for which a driver's license is required. Under paragraphs (1), (2), and (4), the provision for suspension and for refusal to issue an original license have been included as possible department actions along with the provision for revocation now contained in HB 6.

Section 11. This contains material found in sec. 10 of HB 6. Limiting language is inserted so that provisions dealing with curtailment of a driver's license apply only if a person refusing to submit to a chemical test was arrested while driving a vehicle, such as an automobile, for which a driver's license is required.

Section 12. This contains material found in sec. 11 of HB 6. The word "suspension" is used in connection with curtailment of the privilege to drive for a limited period of time. The word "revocation" is used to refer only to permanent denial of the privilege to drive.

Section 13. This contains material found in sec. 12 of HB 6.

Section 14. This contains material found in sec. 14 of HB 6. "Suspension" is used in connection with curtailment of the privilege to drive for a limited period of time. "Revocation" refers to permanent denial of the privilege to drive.

Section 15. The language "of a type for which a driver's license is required" is inserted in (a) to limit this section to impoundment of vehicles, such as automobiles for which a driver's license is required. An offense under AS 28.35.030 may involve other types of motor vehicles, such

as airplanes. Without this change these might also be impounded.

Section 16. The language "arising out of driving a motor vehicle of a type for which a driver's license is required" is added to Sec. 28.35.037(a) to limit forfeiture to vehicles such as automobiles or motorcycles. An offense under AS 28.35.030 or AS 28.35.032 may involve other types of motor vehicles, such as airplanes or boats for which no driver's license is issued. Without this change these might also be forfeited. Paragraph (3) is added to Sec. 28.35.038(b) and in (c) "may" is changed to "shall" pursuant to Amendment No. 4 adopted by the House ~~Community and Regional~~ STATE Affairs Committee.

Section 17. This is the same as sec. 17 of HB 6.

TBC:ljb

HOUSE BILL 6

" AN ACT RELATING TO DRIVING A MOTOR VEHICLE"

BILL COMPARISON

REP. ABOOD'S BILL	CURRENT ALASKA LAW
REVOCATION OF A DRIVER'S LICENSE SEC. 2 AS 28.15.181(a) Adds the refusal to submit to a chemical test for breath to the list of grounds for the immediate revocation of a driver's license.	**REVOCATION OF A DRIVER'S LICENSE** No Provision for refusal of breath test.
LICENSE SUSPENSIONS, REVOCATIONS & LIMITATIONS SEC. 3 AS 28.15.181(c) Penalties apply to: DWI and/or refusal of breath test. 1st offense - License is revoked for 90 days. No limited license privileges. 2nd offense - License is revoked for one year. No limited license privileges. more than 2 offenses - License revocation is permanent.	**LICENSE SUSPENSIONS, REVOCATIONS & LIMITATIONS** 1st offense - 1) License is revoked for 30 days or 2) Limited license privileges for 60 days. 2nd offense - License is revoked for one year. No limited license privileges. 3rd offense - License is revoked for 3 years. No limited license privileges.
DRIVING WHILE LICENSE IS CANCELED, SUSPENDED REVOKED OR IN VIOLATION OF LIMITATION SEC. 6 AS 28.15.291 Sentence - not less than 14 consecutive days. Fine - not less than $500 nor more than $1,000.	**DRIVING WHILE LICENSE IS CANCELED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION** Sentence - not less than 10 days. Fine - no provision.

REP. ABOOD'S BILL	CURRENT ALASKA LAW
PENALTIES FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS SEC. 8 AS 28.35.030(c) Sentences 1st offense - not less than 72 consecutive hrs. 2nd offense - not less than 20 consecutive days. more than 2 offenses - not less than 30 consecutive days.	PENALTIES FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS Sentences 1st offense - not less than 72 consecutive hrs. 2nd offense - not less than 10 consecutive days if the offense is committed within 5 years of previous conviction. or not less than 20 consecutive days if the offense is committed within 1 year of previous conviction.
FINES SEC. 8 " " 1st offense - not less than $250 nor more than $500. 2nd offense - not less than $500 nor more than $1,000. MORE THAN 2 offenses - not less than $1,000 nor more than $2,500.	FINES not more than $1,000.
VEHICLE IMPOUNDMENT SEC. 15 AS 28.35 If a peace officer has probable cause to believe a motor vehicle was used in DWI or refusal to submit to a chemical test for breath, the vehicle shall be impounded by the peace officer. The owner or person in lawful possession of the motor vehicle shall pay the necessary costs of impounding & storing the vehicle. Continued next page	VEHICLE IMPOUNDMENT No Provision

REP. ABOOD'S BILL	CURRENT ALASKA LAW
VEHICLE IMPOUNDMENT (continued) 1st offense - 15 days 2nd offense - 90 days	
FORFEITURE Upon a second conviction for DWI or refusal to submit to a chemical test for breath, the court may order the forfeiture of a motor vehicle.	FORFEITURE No Provision
ADMINISTRATIVE REVOCATION OF A DRIVER'S LICENSE SEC. 9 AS 28.35.032 (a) Applies to: 1) a chemical test for breath resulting in an alcohol concentration of .10 or more. SEC. or SEC. 11 2) a refusal to submit to a chemical test for breath. The peace officer shall seize a person's operator's license, and shall notify the person of the state's intention to revoke the license. The notice shall advise the person of the right to obtain district court review of the revocation; the notice itself constitutes a temporary operator's license which expires 7 days after receipt by the person; and that the revocation of the person's license shall take effect upon expiration of the temporary license unless the person, within the 7-day period, initiates a district court proceeding to rescind the	ADMINISTRATIVE REVOCATION OF A DRIVER'S LICENSE No Provision

REP. ABOOD'S BILL	CURRENT ALASKA LAW
revocation. Initiation of a district court proceeding after the 7-day period shall not stay the revocation. The court proceeding shall be without jury and shall be limited to the issues of whether (1) the arresting officer had reasonable grounds to believe the person had been operating or driving a motor vehicle in the state while intoxicated; (2) the arrested person refused to submit to the breath test; (3) the accused defendant was informed fairly of the nature of the tests, the accuracy of the methods, machines, and instruments and equipment involved, the expertise of the person administering the tests, and the accused given such other reasonable information as may be requested by the accused.	
PLACEMENT OF QUESTIONS RELATING TO DWI ON THE DRIVER'S LICENSE EXAMINATION SEC. 1 AS 28.15.081(a) The examination shall test the applicant's knowledge of the effects of alcohol and drugs on drivers and the dangers of driving under the influence of alcohol or drugs, and the applicant's knowledge of the laws relating to driving while intoxicated.	PLACEMENT OF QUESTIONS RELATING TO DWI ON THE DRIVER'S LICENSE EXAMINATION No Provision

#4 COPY

A M E N D M E N T

TO: HB 6

By Abood

Page 15, delete lines 15 - 21 and insert:

"(3) the petitioner was not negligent in parting with the motor vehicle."

Page 15, line 22:

Delete "may" and insert "shall"

The effects of these amendments are to provide added protection to lending institutions involved in a forfeiture proceeding.

2/8/83

COPY

AMENDMENT #5

TO: HB 6

By Abood

Page 3, line 24:

Delete "14" and insert "90"

The effect of this amendment is to increase the mandatory jail time for individuals who drive while a license is cancelled, suspended or revoked. The amendment changes that sentence from 14 consecutive days to 90 consecutive days.

THis amendment addresses a major problem resulting from a DWI conviction, where an individual continues to drive an automobile even though his license has been revoked.

Tamara Brandt Cock

PROPOSED AMENDMENT NO. #1

COPY

Explanation: This change would correct a drafting mistake in HB 6. AS 28.35.033(j) added by Section 13 of the bill includes penalties for a person who has been previously convicted of one offense and for a person previously convicted of more than one offense, but omits the penalty for a person who has not been previously convicted. AS 28.35.034 provides for a three month period of revocation. However, that provision has been deleted in section 14 of this bill. Therefore, it is necessary to include the penalty for a first conviction in the subsection that sets out penalties for persons who have been previously convicted.

Page 11, line 25 after (j) insert a new first sentence to read:

"If the person has not been previously convicted in this or another jurisdiction of driving while intoxicated or of refusal to submit to a chemical test of breath under this or another law or ordinance with substantially similar elements, the period of suspension or revocation of license, nonresident privilege to drive, or denial of original license shall be 90 days."

Adopted 2-7-83

Tamara Brandt Cook

PROPOSED AMENDMENT #2

COPY

Explanation: This change would make it clear that the penalties for driving without a license or in violation of a limitation placed on a license apply whether or not a person is driving under a driving privilege granted in this or another jurisdiction. While the existing provision applies when a person is licensed out of this state, it does not specifically apply to a person originally licensed in Alaska. This change would correct a defect in existing law that was not created by HB 6.

Page 3, lines 16 - 23; change the first sentence of AS 28.15.291 to read:

"A [NO] person may not drive a motor vehicle on a highway or vehicular way or area [IN THIS STATE] at a time when that person's [HIS] driver's license, or privilege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDICTION,] has been canceled, suspended or revoked in this or another jurisdiction, or when [HE IS] driving in violation of a limitation placed upon that person's [HIS] license or privilege to drive in this or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another jurisdiction."

Adopted 2-7-83
with following addition

COPY

AMENDMENT #2

TO: HB 6

By Abood

Page 3, delete lines 17 - 22 and insert:

"drive a motor vehicle on a highway or vehicular way or area [IN THIS STATE] at a time when that person's [HIS] driver's license, or privilege to drive that type or class of motor vehicle [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDICTION,] has been canceled, suspended or revoked in this or another jurisdiction, or when [HE IS] driving in violation of a limitation placed upon that person's [HIS] license or privilege to drive in this or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another jurisdic-"

2/8/83

#3

AMENDMENT

COPY

TO: HB 6

By Abood

Page 15, after line 26 insert:

"Sec. 28.35.039. PETITION FOR REINSTATEMENT OF DRIVER'S LICENSE. (a) A person whose driver's license has been permanently revoked under AS 28.15.181, AS 28.35.032, or 28.35.033 may petition the court for reinstatement of the license if the revocation has been in effect for at least 10 years. A person may file a petition under this section only once every year.

(b) After receipt of a petition under this section, the court shall hold a hearing on the question. After the hearing the court may deny the petition or grant the petition and order the petitioner's driver's license to be reinstated. The court may place a limitation under AS 28.15.201 on a license reinstated under this section that will enable the petitioner to earn a livelihood without excessive risk or danger to the public."

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

10

March 16, 1982

MEMORANDUM

TO: Representative Mitch Abood
Attention: Carol Horos

FROM: Christine Johnson, Research Staff

RE: Research Request No. 82-63
Drunk Driving Statistics

Attached please find several charts which should at least partially address your questions regarding (1) the recidivism rate for drunk drivers; and (2) the number of other offenses which drunk drivers commit. Major findings from the data are summarized below:

- In the last five fiscal years, approximately 16,700 individuals were booked into Alaska correctional facilities on charges of drunk driving. Of these, 7,100 or 42% had been booked for drunk driving on at least one other occasion since 1972.

- Between FY 77 and FY 80, the percentage of drunk drivers who were repeat offenders increased steadily from 33% to 48%. The percentage of repeat offenders declined slightly in FY 81 to 44%; however, it is impossible to say whether this represents a one-time fluctuation or the beginnings of a downward trend.

- Over the five-year period, drunk drivers were charged with a total of 2,600 other offenses, including 1,500 other traffic violations. Forty-nine percent of these other offenses were attributed to drivers who had been picked up for drunk driving on at least one other occasion.

We can provide a more detailed breakdown of this data by geographic location, and by age, sex, or race of the offender, if you desire. Please call if you have any questions.

CJ/bf

TABLE I
Number of Persons Booked in Alaska Correctional Facilities for OMVI Offenses
Who Had Been Booked Previously on the Same Charge
FY 77 - FY 81

Year	Total No. of Persons Booked for OMVI	No. of These Who Were OMVI Repeaters		No. of Other OMVI Offenses Since 1972											
				1	2	3	4	5	6	7	8	9	10	11	12
FY 77	3,340	1,096	33%	789	190	74	24	12	3	2	2				
FY 78	3,297	1,385	42%	949	266	95	46	16	8	4	1				
FY 79	3,775	1,693	45%	1018	356	160	82	44	16	9	7	1			
FY 80	3,004	1,456	48%	803	324	161	77	37	27	13	7	5	2		
FY 81	3,350	1,484	44%	863	295	148	77	35	23	14	10	8	5	4	2
5-Year Total	16,766	7,114	42%	4422	1431	638	306	144	77	42	27	14	7	4	2

SOURCE: House [illegible]rch Agency, March 1982, from Alaska Dept. of Health and Social Services, Division of Corr[illegible], Corrections Master Plan.

TABLE II
Number of Other Offenses For Which Drunk Drivers Were Charged
FY 77 - FY 81

Other Offense	No. of Bookings for OMVI and Other Offense				
	FY 77	FY 78	FY 79	FY 80	FY 81
Murder & Negl. Mansl.					1
Non-Negl. Manslaughter				1	1
Robbery	1	1	1	2	1
Aggravated Assault	26	21	20	11	6
Burglary		2			2
Larceny/Theft	4	3	8	4	4
Joyriding	20	21	20	7	6
Assault, Other	3			1	5
Fraud	1			4	1
Embezzlement			1		
Stolen Property			2	1	
Vandalism	6	8	9	1	5
Weapons	12	13	22	7	10
Sex Offenses				1	
Sale/Distribution of Controlled Substances	6		2		2
Liquor Laws	22	7	7	5	6
Drunkenness	15	7	14	1	6
Disorderly Conduct	11	11	3	9	12
Disord. Conduct, Other	17	13	15	17	52
Suspicion	1	3		1	6

(CONTINUED)

TABLE II (CONTINUED)

Other Offense	No. of Bookings for OMVI and Other Offense				
	FY 77	FY 78	FY 79	FY 80	FY 81
Traffic-M.V.	233	250	334	332	375
Offense Against Court	11	25	37	92	108
Probation Violation	1	1	6	5	3
Parole Violation					2
Bench Warrant	19	15	5	36	42
Bail Violation	1				
Escape	1	2	4	2	
AWOL-Fugitive	1		1	1	3
Contributing to Delinquency			1	2	1
Possession/Use of Controlled Substance	33	26	17	11	11
Juvenile Status Offense	1	1			
Other or Unknown		10	6	2	
TOTAL	446	440	535	556	671

Source: House Research Agency, March 1982, from Alaska Department of Health and Social Services, Division of Corrections, Corrections Master Plan.

TABLE III
Number of Other Offenses For Which Drunk Drivers Were Charged
Cumulative Total for FY 77 - FY 81

Other Offense	No. of Bookings for OMVI and this Offense	No. of These Which Involved OMVI Repeater		No. of Other OMVI Bookings Since 1972				
				1	2	3	4	5+
Murder & Negli. Mansl.	1							
Non-Negl. Mansl.	2							
Robbery	6	1	17%	1				
Aggravated Assault	84	27	32%	17	9			1
Burglary	4	2	50%	2				
Larceny-Theft	23	9	39%	5	2	1	1	
Joyriding	74	30	41%	15	7	1	3	4
Assault, Other	9	2	22%	1	1			
Fraud	6	2	33%		2			
Embezzlement	1							
Stolen Property	3	1	33%	1				
Vandalism	29	12	41%	7	4	1		
Weapons	64	11	17%	10	1			
Sex Offenses	1							
Sale/Distribution of Controlled Substances	10	3	30%	1	1	1		

(CONTINUED)

TABLE III (CONTINUED)

Other Offenses	No. of Bookings for OMVI and this Offense	No. of These Involving OMVI Repeater		No. of Other OMVI Bookings Since 1972				
				1	2	3	4	5+
Liquor Laws	47	7	15%	4	3			
Drunkenness	43	14	33%	9	2	1	1	1
Disorderly Conduct	46	23	50%	13	3	6	1	
Disord. Conduct, Other	114	47	41%	22	11	9	4	1
Suspicion	11	6	55%	2	3		1	
Traffic-M.V.	1,524	825	54%	318	200	112	73	122
Offense Against Court	273	167	61%	70	48	24	10	15
Probation Violation	35	10	63%	3	1	2	2	2
Parole Violation	2	2	100%	1	1			
Bench Warrant	117	66	56%	27	18	6	6	9
Bail Violation	1	1	100%	1				
Escape	9	4	44%	1	2	1		
AWOL-Fugitive	6	1	17%	1				
Contributing to Delinq.	4	1	25%	1				
Possession/Use of Controlled Substance	98	29	30%	23	3	2		1
Juvenile Status Offense	2							
Other or Unknown	18	7	39%	6	1			
TOTAL	2,640	1,310	49%	562	323	167	102	156

Source: House Research Agency, March 1902, from Alaska Department of Health and Social Services, Division of Corrections, Corrections Master Plan.

Original sponsors: Abood, Furnace,
Lindauer, et al

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 6 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to driving a motor vehicle."

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

* Section 1. AS 28.15.081(a) is amended to read:

(a) The department shall examine every applicant for a driver's license. The examination shall include (1) a test of the applicant's eyesight, (2) a test of the applicant's [HIS] ability to read and understand official traffic control devices, (3) the applicant's [HIS] knowledge of safe driving practices, (4) the applicant's knowledge of the effects of alcohol and drugs on drivers and the dangers of driving under the influence of alcohol or drugs, (5) the applicant's knowledge of the laws relating to driving while intoxicated, and the traffic laws and regulations of this state. The examination [, AND] may include a demonstration of ability to exercise ordinary and reasonable control in the driving of a motor vehicle of the type and general class of vehicles for which the applicant seeks a license. However, an applicant who has not been previously issued a driver's license by this or another jurisdiction must demonstrate [HIS] ability, and must present medical information that [WHICH] the department reasonably requires to determine [HIS] fitness to safely drive a motor vehicle of the type and general class of vehicles for which the applicant [HE] seeks a license.

* Sec. 2. AS 28.15.181(a) is amended by adding a new paragraph to read:

(8) refusal to submit to a chemical test of breath under AS 28.35.032.

* Sec. 3. AS 28.15.181(c) is repealed and reenacted to read:

(c) A court convicting a person of an offense under (a)(5) or (a)(8) of this section arising out of the operation of a type of motor vehicle for which a driver's license is required shall revoke that person's driver's license and may not grant limited license privileges for the following periods:

(1) not less than 90 days if the person has not previously been convicted of an offense

(A) under (a)(5) of this section;

(B) under (a)(8) of this section;

(C) in another jurisdiction with elements substantially similar to an offense under (a)(5) of this section; or

(D) in another jurisdiction with elements substantially similar to an offense under (a)(8) of this section;

(2) not less than one year if the person has been previously convicted of one offense

(A) under (a)(5) of this section;

(B) under (a)(8) of this section;

(C) in another jurisdiction with elements substantially similar to an offense under (a)(5) of this section; or

(D) in another jurisdiction with elements substantially similar to an offense under (a)(8) of this section;

(3) permanently if the person has been previously convicted of more than one of the following offenses or has more than once been previously convicted of one of the following offenses:

(A) an offense under (a)(5) of this section;

(B) an offense under (a)(8) of this section;

(C) an offense in another jurisdiction with elements substantially similar to an offense under (a)(5) of this section;

or

(D) an offense in another jurisdiction with elements substantially similar to an offense under (a)(8) of this section.

* Sec. 4. AS 28.15.201(b)(1) is amended to read:

(1) require the surrender of the driver's license [AND, IF THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

* Sec. 5. AS 28.15.201(c) is amended to read:

(c) After the termination of a limitation as shown on the certificate issued under (b) of this section, a person on whom a limitation was imposed is no longer bound by the limitation and may apply for a duplicate license under AS 28.15.141 [OR, IF OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED FOR CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

* Sec. 6. AS 28.15.291 is amended to read:

Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not drive a motor vehicle on a highway or vehicular way or area [IN THIS STATE] at a time when that person's [HIS] driver's license, or privilege to drive that type of motor vehicle [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDICTION,] has been canceled, suspended or revoked in this or another jurisdiction, or when [HE IS] driving in violation of a limitation placed upon that person's [HIS] license or privilege to drive in this or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another jurisdiction. Upon conviction of a violation of this section, the court shall impose a minimum sentence of imprisonment of not less than 90 consecutive days and a fine of not less than $500 nor more than $1,000 [10 DAYS]. The execution of

sentence may not be suspended nor may probation or parole be granted until the minimum imprisonment provided in this section has been served; nor may imposition of sentence be suspended [, EXCEPT UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the person's [HIS] license or privilege to drive shall be revoked, and the person [HE] may not be issued a new license nor may the [HIS] privilege to drive be restored for an additional period of one year after the date that the person [HE] would have been entitled to restoration of [HIS] driving privileges.

(b) When a person's license is canceled, limited, suspended or revoked, that person [HE] shall be informed by the department or the court that [WHICH] takes the action at the time of the action that, upon a conviction of driving on a highway or vehicular way or area in this state at a time when that person's [HIS] driver's license or privilege to drive in this state has been canceled, suspended or revoked, or upon a conviction of driving in violation of a limitation of the [HIS] license, that person [HE] will be subject to the mandatory 90-day [10-DAY] imprisonment under (a) of this section.

* Sec. 7. AS 28.35.030(a)(2) is amended to read:

(2) when, as determined by a chemical test given within four hours after the alleged offense was committed, there is 0.10 percent or more by weight of alcohol in that person's [HIS] blood or 100 milligrams or more of alcohol per 100 milliliters of that person's [HIS] blood, or when there is 0.10 grams or more of alcohol per 210 liters of that person's [HIS] breath; or

* Sec. 8. AS 28.35.030(c) is amended to read:

(c) Upon conviction under this section the court shall impose a minimum sentence of imprisonment of not less than 72 consecutive hours

and a fine of not less than $250 nor more than $500 if the person has not been previously convicted in this or another jurisdiction of driving while intoxicated or of refusal to submit to a chemical test of breath under AS 28.35.032 or another law or ordinance with substantially similar elements. Upon [A SUBSEQUENT] conviction under this section the court shall impose a minimum sentence of imprisonment of not less than 20 consecutive days and a fine of not less than $500 nor more than $1,000 if the person has been previously convicted once in this or another jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while intoxicated [IN THIS OR ANY OTHER STATE] or [CONVICTION] of refusal to submit to a chemical test of breath under AS 28.35.032 or another law or ordinance with substantially similar elements. Upon conviction under this section [,] the court shall impose a minimum sentence of imprisonment of not less than 30 [10] consecutive days and a fine of not less than $1,000 nor more than $2,500 if the person has been previously convicted in this or another jurisdiction of more than one of the following offenses or has more than once been previously convicted of one of the following offenses: (1) driving while intoxicated; or (2) refusal to submit to a chemical test of breath under AS 28.35.032 or another law or ordinance with substantially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor may probation be granted until the minimum imprisonment provided in this section has been served. Imposition of sentence may not be suspended [, EXCEPT UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED IN THIS SECTION]. In addition, if the offense arises out of driving a type of motor vehicle for which a

driver's license is required, the person's driver's [HIS OPERATOR'S] license shall be revoked in accordance with AS 28.15.181 and the vehicle used in commission of the offense shall be impounded and may be forfeited in accordance with AS 28.35.036. In addition, a person convicted under this section [STATUTE] shall undertake, for a term specified by the court, that program of alcohol education or rehabilitation that [WHICH] the court, after consideration of any information compiled under (d) of this section, finds appropriate.

* Sec. 9. AS 28.35.031 is amended by adding new subsections to read:

(b) If a chemical test administered under this section to a person driving a motor vehicle of a type for which a driver's license is required produces results described under AS 28.35.030(a)(2) and the person has a driver's license, the law enforcement officer shall seize the person's driver's license. The law enforcement officer shall read a notice and deliver a copy to the person. The notice shall advise that

(1) the state intends to revoke or suspend the person's driver's license, or no original license will be issued to the person;

(2) the person has the right to obtain court review of the revocation, suspension, or determination not to issue an original license;

(3) the notice itself is a temporary driver's license that expires seven days after receipt of the notice by the person;

(4) revocation or suspension of the person's driver's license or a determination not to issue an original license shall take effect upon expiration of the temporary driver's license unless the person within seven days initiates court proceedings to rescind the action.

(c) Upon receipt of a sworn report of a law enforcement officer

that a chemical test administered under this section produced results described under AS 28.35.030(a)(2), containing a statement of the circumstances surrounding the arrest and the grounds upon which the law enforcement officer's belief was based that the person was driving while intoxicated a motor vehicle of a type for which a driver's license is required, the Department of Public Safety shall notify the person that the person's license or nonresident privilege to drive or operate a motor vehicle in the state is revoked or suspended, or that no original license or permit will be issued effective upon expiration of the temporary driver's license issued under (b) of this section. The department's action under this subsection shall be stayed if the person before expiration of the temporary driver's license initiates a proceeding in the court to rescind the department's action. The court proceeding shall be without jury and shall be limited to the issues of whether

(1) the person was validly arrested for driving while intoxicated a motor vehicle of a type for which a driver's license is required;

(2) the chemical test administered to the person produced the result described under AS 28.35.030(a)(2).

(d) If the issues set out in (c) of this section are determined in the affirmative, the court shall sustain the action of the department. If one or more of the issues are determined in the negative, the department's action shall be rescinded. If the action of the department in suspending or revoking a nonresident's privilege to drive a motor vehicle is sustained by the court, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and to any state in which that person has a license.

(e) If the person has not been previously convicted in this or another jurisdiction of driving while intoxicated or of refusal to submit to a chemical test of breath under this or another law or ordinance with substantially similar elements, the period of suspension of license, nonresident privilege to drive, or denial of original license shall be 90 days. If the person has been previously convicted once in this or another jurisdiction of driving while intoxicated or of refusal to submit to a chemical test of breath under AS 28.35.032 or another law or ordinance with substantially similar elements, the period of suspension of license, nonresident privilege to drive, or denial of original license shall be one year. Revocation of license, nonresident privilege to drive, or denial of original license shall be permanent if the person has been previously convicted in this or another jurisdiction of more than one of the following offenses or has more than once been previously convicted of one of the following offenses:

(1) driving while intoxicated; or

(2) refusal to submit to a chemical test of breath under AS 28.35.032 or another law or ordinance with substantially similar elements.

* Sec. 10. AS 28.35.032(a) is amended to read:

(a) If a person under arrest refuses the request of a law enforcement officer to submit to a chemical test of breath as provided in AS 28.35.031, after being advised by the officer that the refusal will, if that person was arrested while operating or driving a motor vehicle <u>of a type for which a driver's license is required</u>, result in the suspension, denial or revocation of the license or nonresident privilege to drive, that the refusal may be used against the person in a civil or criminal action or proceeding arising out of an act alleged

to have been committed by the person while operating or driving a motor vehicle or operating an aircraft or a watercraft while intoxicated, and that the refusal is a misdemeanor, a chemical test shall not be given, except as provided by AS 28.35.035. If the person was arrested while driving a motor vehicle of a type for which a driver's license is required, refuses to submit to the chemical test, and has a driver's license, the law enforcement officer shall seize that person's driver's license. The law enforcement officer shall read a notice and deliver a copy to the person. The notice shall advise that

(1) the state intends to revoke or suspend the person's driver's license, or no original license will be issued to the person;

(2) the person has the right to obtain court review of the revocation, suspension, or determination not to issue an original license;

(3) the notice itself is a temporary driver's license that expires seven days after receipt of the notice by the person;

(4) revocation or suspension of the person's driver's license or a determination not to issue an original license shall take effect upon expiration of the temporary driver's license unless the person within seven days initiates court proceedings to rescind the action.

* Sec. 11. AS 28.35.032(b) is amended to read:

(b) Upon receipt of a sworn report of a law enforcement officer that a person has refused to submit to a chemical test authorized under AS 28.35.031, containing a statement of the circumstances surrounding the arrest and the grounds upon which the law enforcement officer's belief was based that the person was [OPERATING OR] driving while intoxicated a motor vehicle of a type for which a driver's license is required [IN VIOLATION OF AS 28.35.030], the Department of

Public Safety shall notify the person that the person's license or nonresident privilege to drive or operate a motor vehicle in the state is revoked or suspended, or that no original license or permit will be issued effective upon expiration of the temporary driver's license issued under (a) of this section. The department's action under this subsection shall be stayed if the person before expiration of the temporary driver's license initiates [FOR THREE MONTHS IN THE SAME NOTICE THE DEPARTMENT SHALL INFORM THE PERSON THAT THE PERSON MAY INITIATE] a proceeding in the district court to rescind the department's action. The court proceeding shall be without jury and shall be limited to the issues of whether

(1) the arresting officer had reasonable grounds to believe the arrested person had been [OPERATING OR] driving [A MOTOR VEHICLE IN THE STATE] while intoxicated a motor vehicle of a type for which a driver's license is required;

(2) the arrested person refused to submit to the breath test upon request of the officer after being advised that refusal would result in the suspension, revocation, or denial of the person's license or nonresident privilege to drive and that the refusal is a misdemeanor; and

(3) the accused defendant was informed fairly of the nature of the tests, the accuracy of the methods, instruments [MACHINES], equipment involved, the expertise of the person administering the tests, or operator of the instruments [MACHINES], and the accused given such other reasonable information as may be requested by the accused.

* Sec. 12. AS 28.35.032(d) is amended to read:

(d) If the person who refuses to submit to the chemical test authorized by AS 28.35.031 has not been previously convicted in this

or another jurisdiction of driving while intoxicated or of refusal to submit to a chemical test of breath under this or another law or ordinance with substantially similar elements, the period of suspension of license, nonresident privilege to drive, or denial of original license shall be 90 days. If the person who refuses to submit to the chemical test [AUTHORIZED BY AS 28.35.031] has been previously convicted once in this or another jurisdiction [ANY OTHER STATE] of [OPERATING OR] driving [A MOTOR VEHICLE] while intoxicated or of refusal to submit to a chemical test of breath under this or another law or ordinance with substantially similar elements [SECTION], the period of suspension of [OR REVOCATION FOR HIS] license, nonresident privilege to drive, or denial of original license shall be one year. Revocation of license, nonresident privilege to drive, or denial of original license shall be permanent if the person who refuses to submit to the chemical test has been previously convicted in this or another jurisdiction of more than one of the following offenses or has been more than once previously convicted of one of the following offenses:

(1) driving while intoxicated; or

(2) refusal to submit to a chemical test of breath under this or another law or ordinance with substantially similar elements.

* Sec. 13. AS 28.35.032(g) is amended to read:

(g) Upon conviction of a person under this section, the court shall impose a minimum sentence of imprisonment of not less than 72 consecutive hours and a fine of not less than $250 nor more than $500 if the person has not been previously convicted in this or another jurisdiction of driving while intoxicated or of refusal to submit to a chemical test of breath under this or another law or ordinance with substantially similar elements. Upon [A SUBSEQUENT] conviction under

this section the court shall impose a minimum sentence of imprisonment of not less than 20 consecutive days and a fine of not less than $500 nor more than $1,000 if the person has been previously convicted once in this or another jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION UNDER THIS SECTION OR] of driving while intoxicated or of refusal to submit to a chemical test of breath under this or another law or ordinance with substantially similar elements. Upon conviction under this section the court shall impose a minimum sentence of imprisonment of not less than 30 consecutive days and a fine of not less than $1,000 nor more than $2,000 if the person has been previously convicted in this or another jurisdiction of more than one of the following offenses or has more than once been previously convicted of one of the following offenses: (1) driving while intoxicated; or (2) refusal to submit to a chemical test of breath under this or another law or ordinance with substantially similar elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor may probation be granted until the minimum imprisonment provided in this section has been served. Imposition of sentence may not be suspended [, EXCEPT UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED IN THIS SECTION]. In addition, a person convicted under this section shall undertake, for a term specified by the court, that program of alcohol education or rehabilitation that the court, after consideration of any information compiled under (h) of this section, finds appropriate. The sentence imposed by the court under this subsection shall run

consecutively with any other sentence of imprisonment imposed on the committed person.

* Sec. 14. AS 28.35.034 is amended to read:

Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVOCATION]. A person whose license or permit to operate or drive a motor vehicle has been suspended or revoked under the provisions of AS 28.35.032 shall surrender the [HIS] license or permit to the department on receipt of notice of the suspension or revocation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARDSHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR NULLIFIED.] Unless the license is permanently revoked and after [AFTER] the [THREE MONTHS'] period of suspension has expired, the person may make application for a new license as provided by law.

* Sec. 15. AS 28.35 is amended by adding new sections to read:

Sec. 28.35.036. IMPOUNDMENT OF MOTOR VEHICLE; EXCEPTIONS. (a) If a peace officer has probable cause to believe a motor vehicle of a type for which a driver's license is required was used in the commission of an offense under AS 28.35.030, that motor vehicle shall be impounded by the peace officer. Unless the motor vehicle is released under (c) or (d) of this section, the owner or person with the right to possess the motor vehicle shall pay the necessary costs of impounding and storing the vehicle before it may be released.

(b) Impoundment of a motor vehicle under this section is for

(1) 15 days if the driver has not previously been convicted in this or another jurisdiction of

(A) driving while intoxicated; or

(B) refusal to submit to a chemical test of breath under AS 28.35.032 or another law or ordinance with substantially similar elements;

(2) 90 days if the driver has been previously convicted in this or another jurisdiction of

(A) driving while intoxicated; or

(B) refusal to submit to a chemical test of breath under AS 28.35.032 or another law or ordinance with substantially similar elements.

(c) Upon impoundment of a motor vehicle under this section an opportunity for a hearing under AS 28.05.131 shall be provided to the driver of the motor vehicle at the time of the impoundment, to the person with the right to possess the motor vehicle, and to any other person who has an ownership interest in the motor vehicle. The motor vehicle shall be released to the owner or person with the right to possess the motor vehicle if it is determined after the hearing that the impoundment was improper or that at the time of impoundment the motor vehicle was being driven

(1) by a person other than the owner or person with the right to possess the motor vehicle; and

(2) without the consent of the owner or person with the right to possess the motor vehicle.

(d) A motor vehicle impounded under this section shall be released to the owner or person with the right to possess the motor vehicle if

(1) the driver is not charged within 10 days of impoundment with an offense under AS 28.35.030 or AS 28.35.032(f) related to the impoundment;

(2) the charge of an offense under AS 28.35.030 or

AS 28.35.032(f) related to the impoundment is dropped or dismissed; or

(3) the driver is acquitted of all offenses under AS 28.-35.030 or AS 28.35.032(f) related to the impoundment.

Sec. 28.35.037. FORFEITURE OF MOTOR VEHICLE. (a) Upon conviction of an offense under AS 28.35.030 or AS 28.35.032(f) arising out of driving a motor vehicle of a type for which a driver's license is required the court may order the forfeiture of the motor vehicle involved in the commission of the offense if the convicted person was previously convicted in this or another jurisdiction of

(1) driving while intoxicated; or

(2) refusal to submit to a chemical test of breath under AS 28.35.032 or another law or ordinance with substantially similar elements.

(b) Upon forfeiture of a motor vehicle the court shall require the surrender of the registration and certificate of title of that motor vehicle.

(c) If not released under AS 28.35.038(c), a motor vehicle forfeited under this section may be disposed of at the discretion of the department.

Sec. 28.35.038. REMISSION OF FORFEITURES. (a) Upon ordering forfeiture of a motor vehicle under AS 28.35.037, the court shall within five days provide to every person who has an ownership or security interest in the motor vehicle written notice of the forfeiture that includes

(1) a description of the motor vehicle;

(2) the time and place of the forfeiture;

(3) the legal authority under which the motor vehicle was forfeited;

(4) notice of the right to file a petition for remission of

interest in the forfeited motor vehicle.

(b) Upon receipt of a petition for remission of interest in a forfeited motor vehicle the court shall hold a hearing on the question and shall order remission of the interest if the petitioner shows that

(1) the petitioner has an interest in the motor vehicle acquired in good faith;

(2) a person other than the petitioner was convicted of the offense that resulted in the forfeiture;

(3) the petitioner was not negligent in parting with the motor vehicle.

(c) An order for remission under this section shall provide for

(1) reimbursement of the petitioner's interest in the motor vehicle; or

(2) delivery to the petitioner of the motor vehicle together with title to the motor vehicle.

* Sec. 16. AS 28.15.211(a)(4) is repealed.



Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

AGENDA

DATE: 2/7/83

TIME: 1:00 p.m.

I. Call meeting to Order

A. Note the committee members present.

B. Welcome those observing the meeting.

C. Remind those who have not signed in to do so. And remind those giving testimony to speak up and state their name before talking.

II. Announce legislation under consideration:

HB 151 - Act making a special appropriation to the Dept. of Natural Resources, Divisionof Parks, for acquisition and development of the House of Wickersham in Juneau

HB 6 - Relating to driving a motor vehicle. → Our witness for HB 6, Emily McKenzie is set to testify by teleconference at 2 pm.

Other notes or reminders:

Remind committee members of work session tomorrow, Tuesday at 1:00 p.m.

(a written notice has already been sent though)

HSA Form #004

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

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January 29, 1981

MEMORANDUM

TO: Representative Mitch Abood
Attention: Carol Horos

FROM: Christine Johnson, Research Staff

SUBJECT: Research Request No. 82-5
Drunk Driving Statistics

Carol Horos of your staff has asked for the following information regarding drunk driving:

(1) statewide data on the number of arrests and convictions for drunk driving for a sufficient number of years to show the current trend;

(2) statewide data on the number of arrests and convictions for other traffic violations where the driver was also intoxicated;

(3) a comparison between the incidence of drunk driving in Alaska and the national rate.

As we have explained to Ms. Horos, the second category of data required a special computer run by the Alaska Court System, and we have not yet received the information. We will forward it to you as soon as it arrives.

Arrests

Table I on the following page shows the number of arrests for drunk driving during 1978, 1979, and 1980. This data indicates that arrests for drunk driving are declining. Data for 1980 shows a 21% decrease in the number of arrests for this offense over the arrests reported in 1978. This decline may be related to the stiffer penalties for drunk driving which went into effect in the fall of 1978.

TABLE I
Statewide Arrests for Drunk Driving
1978 - 1980

	1978	1979	1980
Number of Arrests	3,265	3,006	2,575
Rate of Arrest per 100,000 people	815.3	750.6	643.0

Source: House Research Agency, January 1982, from data provided by the Criminal Justice Planning Agency, Alaska Department of Law, Crime in Alaska - 1980.

Table II below compares Alaska's 1980 arrest rate for drunk driving with the national rate for that year. The data indicates that the state's arrest rate for drunk driving is only slightly higher than the national rate.

TABLE II
State and National Arrest Rates for Drunk Driving - 1980
(Rate per 100,000 people)

Alaska Arrest Rate	National Arrest Rate
643.0	626.3

Source: House Research Agency, January 1982, from data provided in Crime in Alaska - 1980, and Federal Bureau of Investigation, U.S. Department of Justice, Crime in the United State, September 1981.

Convictions

Table III on the following pages shows both the number of cases involving drunk driving which were filed with the Alaska Court System during the three year period and the number of convictions which resulted. This information provides the best indication of the conviction rate for drunk drivers, as the data regarding arrests comes from another source and is not comparable to the Court's statistics on convictions.

Between 1978 and 1980, approximately 75% of the individuals charged with drunk driving were convicted. The conviction rate declined slightly in 1980, but no downward trend can logically be inferred from this information.

TABLE III
Drunk Driving Cases Filed with the Alaska Court System and Rate of Conviction
1978 - 1980

	1978	1979	1980
No. of Cases Filed	3,681	3,545	3,096
No. of Convictions	2,765	2,691	2,224
Conviction Rate	75%	76%	72%

Source: Alaska Court System.

We were unable to locate any information on the national conviction rate for drunk drivers. We did learn from the State Highway Safety Planning Commission that nationwide 50% of all fatal accidents in 1979 involved a drunk driver. This figure was closer to 75% for Alaska.

We hope this information is of use to you. Again, we will deliver the other material you requested as soon as it arrives. If we can provide any further assistance, please don't hesitate to contact us.

CJ/cj

Briefly

Alaska

Man charged in fatality faces new DWI charge

By Empire Staff

John M. Brayton, 20, who is awaiting sentencing after pleading no contest last week to a charge of negligent homicide, was arrested and jailed by Alaska State Troopers Sunday night charged with driving while intoxicated.

Troopers arrested Brayton after they were told of a reckless driver near Sharon Street. Upon arrival, Brayton's car was in a ditch, Troopers report.

Brayton pleaded no contest last Monday to a charge of negligent homicide in connection to a fatal car accident at 8 mile Egan Drive June 10. A passenger in Brayton's pickup truck, David Wallace, 25, was killed.

In that accident, Brayton was reportedly traveling between 65 and 80 mph when the truck went out of control and went over an embankment.

He was accused of driving while intoxicated when that accident occurred.

Brayton faces sentencing in the negligent homicide charge on March 17. He could receive a sentence of up to five years in prison in the case.

Title "An Act relating to driving a motor vehicle."
Requested by Representative Abood Date 1/14/83

II. FISCAL DETAIL
Agency Affected Department of Law
Program Category Affected Legal Services
BRU, Program, Or Subprogram(s) Affected Legal Services Operations
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		337.8	364.4	386.3		

FUNDING (Thousands of Dollars)

GENERAL FUND		337.8	364.4	386.3		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
This bill makes several significant amendments to the state laws pertaining to driving while intoxicated, including raising the mandatory minimum sentences which must be imposed upon conviction for driving while intoxicated or refusal to take a breath test. There is the distinct possibility that the number of guilty pleas for Driving While Intoxicated or Refusal to Take a Breath Test will decrease due to the generally more severe penalties specified. With the corresponding increase in trials, a need for additional prosecuting attorney positions may arise. While this possibility is speculative, and consequently no additional prosecution positions have been requested at this time, any legislative action diminishing the resources available to the department in FY 84, coupled with the enactment of this and other crime bills requiring a greater prosecution effort, will severely hamper the department's overall ability to prosecute criminal offenses.

IV. DATE January 24, 1983 PREPARED BY Richard I. Pegues, Dir.Adm.Svcs.Div.
AGENCY Department of Law
PHONE 465-3672

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

83-001 (Rev. 12/82)

Office of Management and Budget
Reviewed by: Mike Maher, Program Budget Analyst
Division of Budget Review

driven by persons arrested for driving while intoxicated. If an impoundment or forfeiture is contested by the vehicle owner, or by someone who has financial interest in the vehicle, a court hearing must be held. It is anticipated that many of these hearings will involve representatives from banks or financing companies who retain a financial interest in the vehicle. The hearings would create a substantial additional workload for Department of Law civil attorneys, and will require an increase in the number of attorneys and support staff in the larger offices.

A fiscal impact statement from the Department of Health and Social Services, Division of Corrections should also be sought, as the additional days in jail which a person would be required to serve after conviction under the bill will probably increase the number of beds in correctional institutions which are permanently filled by D.W.I. convictees and thus unavailable for other offenders.

* Please refer to Rep. Abood's letter for further explanation.

Alaska State Legislature

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843
HOME (907) 274-3102

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4947



HOUSE MAJORITY WHIP
CHAIRMAN
STATE AFFAIRS
MEMBER
TRANSPORTATION
LEGISLATIVE COUNCIL

Representative Mitch Abood
HOUSE DISTRICT 11

MEMORANDUM

TO: Members of the House Committee on State Affairs

FROM: Representative Mitch Abood

DATE: February 1, 1983

SUBJECT: Fiscal Analysis of HB 6

In reviewing the analysis contained within in the fiscal note for HB 6, there are two points which require further clarification:

1) (Pg. 2, Paragraph 1) In the case of a contested impoundment, only an administrative hearing is granted — not a court hearing, (Sec. 28.35.036 (c)). However, an appeal may be filed in district court after the hearing (AS 28.05.141 (d) existing law). A car would, in most cases, be released before an appeal could be heard.

2) (Pg. 2, Paragraph 2) My office requested a fiscal note from the Dept. of Health and Social Services, Division of Corrections on January 13, 1983. We specifically asked the department to provide the following information:

   a) The fiscal impact on Corrections due to the increase sentences for the 2nd and subsequent convictions for DWI, refusal of the breath test, and the longer sentence for driving while a license is cancelled, suspended or revoked.

   b) An estimate of revenue to the State generated by the increased mandatory fines for DWI, refusal of the breath test, and driving while a license is cancelled, suspended or revoked. Although we asked for this information over two weeks ago, to this date we have not received anything from either the Div. of Corrections or OMB.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

6

February 4, 1982

TO: Representative Mitch Abood
Attention: Carol Horos

FROM: Christine Johnson, Research Staff

SUBJECT: Research Request No. 82-5
Arrests and Convictions for Drunk Driving: Additional Information

This memorandum should fulfill your request for data regarding arrests and convictions for driving while intoxicated (DWI). We have been waiting for a computer run from the Court System in order to respond to your question regarding the number of other traffic violations committed by drunk drivers.

Unfortunately, we have found that the Court System's data will only partially answer your question. On the Court's computer system, cases involving multiple offenses are listed by the primary, or the most serious, offense; the number of other lesser offenses is noted, but these offenses are not specifically named. Consequently ,while the data indicates the number of cases where an individual was charged with DWI and other lesser offenses, it does not show the number of people charged with drunk driving and other more serious violations.

The Court System's data for 1980 is summarized on the table on the following page. This information indicates that drunk drivers were responsible for a minimum of 236 other traffic offenses in 1980. Ninety percent of these drivers were ultimately convicted of drunk driving. Eighty-nine percent of those convicted served time in jail, 77% were fined, and 69% were both fined and jailed.

We hope this information is of use to you. We sincerely apologize for the delay in delivering it, but tabulating the data from the Court System took significantly longer than we anticipated. If we can provide any further information, please don't hesitate to contact us.

CJ

Attachment

1980 Court Cases Involving a DWI Offense and Other Lesser Offenses By Disposition of Case

	NO. OF CASES WHICH INVOLVE A DWI OFFENSE AND ANOTHER OFFENSE	CONVICTIONS		PENALTIES									
				Jail		Fine		Both		License Revoked		Restitution Required		Probation
		No.	%	No.	%[1]	No.	%	No.	%	No.	%	No.	%	No.
ONE OTHER OFFENSE	164	146	89%	131	90%	111	76%	100	68%					
TWO OTHER OFFENSES	22	22	100%	20	91%	17	77%	16	73%					
THREE OR MORE OTHER OFFENSES	9[2]	8	89%	6	75%	7	86%	5	63%					
TOTAL	195	176	90%	157	89%	135	77%	121	69%	70	40%	23	13%	63 36%

[1]Percentage of convictions.

[2]Eight cases involve three other offenses and one case involves four other offenses.

Source: House Research Agency from data provided by the Alaska Court System, February, 1982.

RANGE OF JAIL SENTENCES

	No.	%
1- 5 days	82	52%
6- 10 days	32	20
11- 25 days	24	15
26- 50 days	8	5
51-100 days	7	5
101-200 days	3	2
over 200 days	1	1
TOTAL	157	100%

RANGE OF FINES

	No.	%
less than $100	2	2%
$100-199	24	18
$200-299	56	41
$300-399	27	20
$400-499	10	7
$500-750	14	10
over $750	2	2
TOTAL	135	100%

ANCHORAGE ALCOHOL SAFETY ACTION PROGRAM
CLIENT OUTCOME EVALUATION

June, 1980

Dennis Kelso, Ph.D.

PREPARED FOR:

Mr. Charles A. Smith, Director
Alaska Highway Safety Planning Agency
Department of Public Safety
Pouch N
Juneau, Alaska 99811

This document is available to the public through
The Alaska Highway Safety Planning Agency

PREPARED BY:

ALTAM ASSOCIATES
POST OFFICE BOX 42 DOWNTOWN STATION
ANCHORAGE, ALASKA 99510 (907) 274-9442

This research report was conducted under a contract from the Alaska Highway Safety Planning Agency. The author is solely responsible for the content and accuracy of the report.

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ANCHORAGE ALCOHOL SAFETY ACTION PROGRAM
CLIENT OUTCOME EVALUATION

INTRODUCTION

In the last several years, vigorous efforts have been made to develop more effective control of the problem of drunk drivers.

This is one of the major concerns of traffic safety specialists, as well as alcohol treatment specialists, lawmakers, and members of the criminal justice system. There is a well known relationship between alcohol consumption, impairment, and traffic accidents.

Highway safety efforts to establish more effective control systems for the drunk driver problem involve improvements in highway engineering and traffic control devices, vehicle safety improvements, and human behavior and human error.

One of the efforts to deal directly with the human behavior component of alcohol and highway safety has been the establishment and maintenance of greater coordination between the courts and community alcohol education and treatment agencies. Poor or ineffective coordination had been considered

to be at least partly responsible for the unsatisfactory outcomes of the operations of each of the systems separately.

This whole effort is now generally referred to under the name of Alcohol Safety Action Program (ASAP). This effort began nationally in 1970 when the U. S. Department of Transportation funded a national demonstration effort to discover the means and mechanisms to do this. The effort was administered through the National Highway Traffic Safety Administration (NHTSA) and involved Alcohol Safety Action Projects (ASAPs) in thirty-five states.

The purpose of the effort was to reduce the frequency of alcohol-related traffic accidents through the early identification of problem drinker drivers and the initiation of appropriate interventions to inhibit or eliminate alcohol-related driving behavior.

The ASAPs represent the program for obtaining and maintaining the increased coordination between the courts and the community alcohol treatment agencies.

The ASAP program also represents the action side of the combined health-legal concept for dealing more effectively with the drunk driver problem. This health-legal approach

conceives of a drinking driver control system that consists of agencies of the traffic law system and the community agencies that are informally grouped together to form the alcohol control system.

Under this systems approach to the drunk driver problem, the traffic law system takes on the public health functions of casefinding, diagnosis and referral, in addition to the traditional functions of law generation, enforcement, adjudication, and sentencing. The alcohol control system then takes on the function of treatment and rehabilitation of the identified cases.

The ASAP gives structure to the drinking driver control system by linking the two general systems together. Neither system had had purposes or means for systematic and managed interface. The ASAP provided this interface between the systems, based on client management practices that routinized the client flow between the systems.

The general mission of the demonstration effort was to design and explore various alcohol countermeasures involving legislation, enforcement, adjudication, sentencing, and alcohol treatment for problem drinkers. The operation of the national demonstration ASAP programs involved diversity in program structure and procedures, but the central concept was the same.

As a result of the national ASAP demonstration programs, and the associated analytic studies, a number of ASAP-type community programs have developed and been maintained in numerous court jurisdictions throughout the nation. In Alaska, the Highway Safety Planning Agency established the Anchorage Alcohol Safety Action Program (AASAP) to develop and demonstrate appropriate alcohol and traffic safety countermeasures for more effective control of the drunk driver problem in the Anchorage area; and, to serve as a model program for a statewide network.

Compared to the national effort, the Anchorage ASAP was more limited in the nature and the extent of the countermeasures employed. There was, for example, no attempt to directly increase the number of arrests for drunk driving, or to provide additional staff resources to prosecute or adjudicate more cases, or to conduct an area wide public information and education program, etc. The focus was on casefinding and client flow management -- background investigation, screening, education/treatment referral, case monitoring and, system coordination. (See next section for program description.)

PURPOSE

The general purpose of this investigation was to perform a limited evaluation of the Anchorage ASAP program efforts.

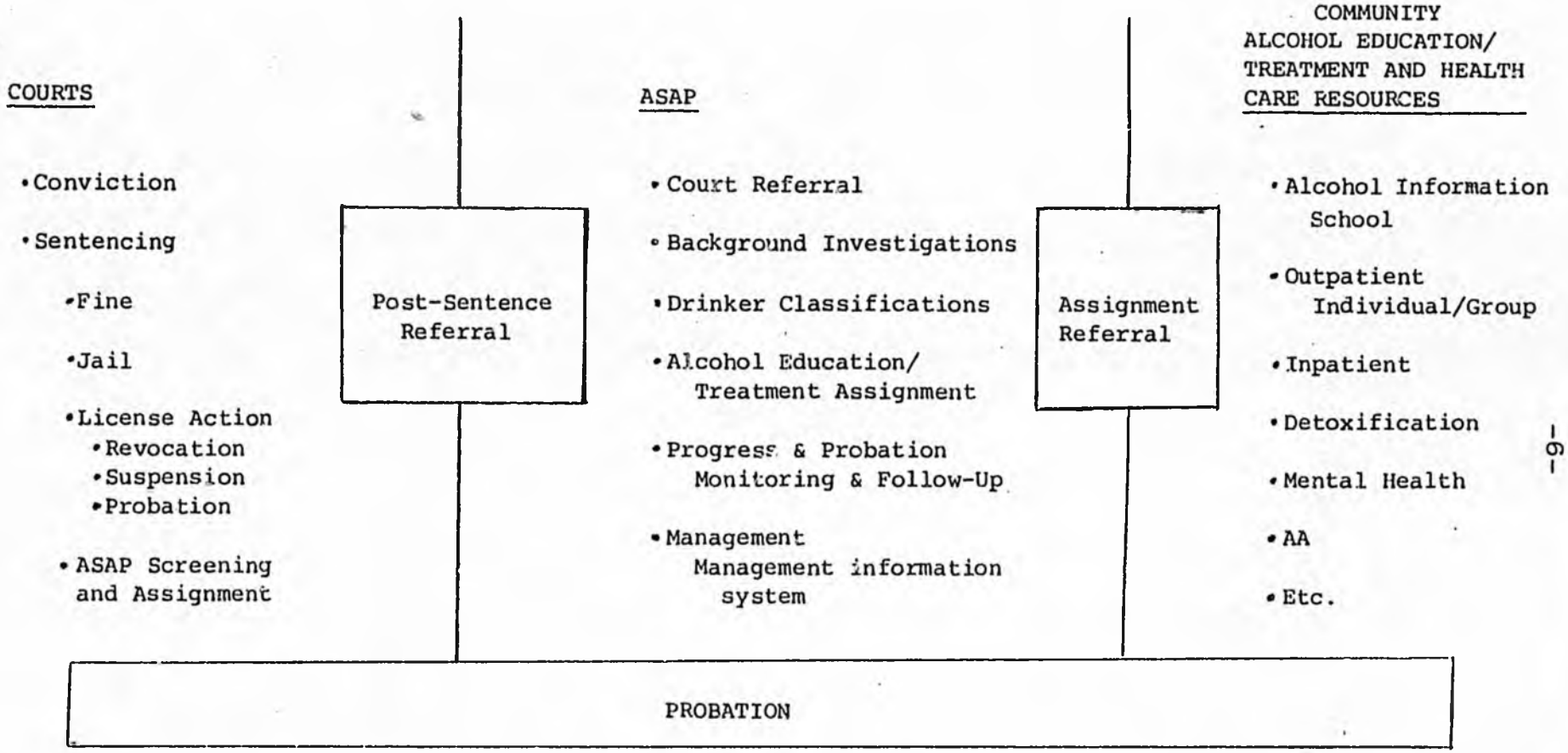
The evaluation concerns a single client outcome measure -- criminal rearrest. The objective was to compare the criminal rearrest rates of individuals who had been exposed to the AASAP screening and subsequent alcohol education/treatment with similar individuals who had not been exposed to this program (a control group). Any differences in the group rearrest rates may then be attributed to the influence of the AASAP screening and alcohol treatment effects.

THE ANCHORAGE ALCOHOL SAFETY ACTION PROJECT: A BRIEF DESCRIPTION

The Anchorage Alcohol Safety Action Program (AASAP) represents a centralized and systematic procedure for the referral of OMVI/DWI cases* from the district court for screening, treatment assignment, monitoring and general and overall post disposition caseload management. Organizationally, the AASAP provides a central link between the court and the community alcohol treatment agencies, and provides a transition stage for the client between the criminal justice system and the health care system. Figure 1 outlines the relationship

* The Anchorage District Court is part of the Alaska State Court System, which is a single, unified court system for the entire state. Thus, it adjudicates cases initiated by the State Troopers and prosecuted by the State District Attorney, using State statutes, as well as cases initiated by the Anchorage Police Department, and prosecuted by the Municipal Prosecutor, using Municipal ordinances. OMVI is the state charge, and DWI is the Municipal charge for Operating a Vehicle While Intoxicated, or Driving While Intoxicated.

Figure 1
AASAP COURT REFERRAL SYSTEM



between systems. The purpose of the court referral to AASAP is to screen cases and supplement the traditional court sanctions with an alcohol education or treatment requirement, not to replace them. In this way, the AASAP is distinguished from criminal justice system diversion programs which substitute alternative treatments for traditional court sanctions (or sometimes stages of processing).

ASAP Components and Client Flow

The main components of the program consist of court referral, background investigation, drinker classification, treatment assignment, monitoring and follow-up, and case management. Most often, cases are referred to AASAP by District Court judges as a condition of a suspended portion of the sentence. Cases referred by the court are usually for OMVI/DWI offenses. However, in the last two years, the number of referrals for other misdemeanor cases has increased somewhat, such that ten percent of the AASAP referrals were for other offenses in 1978, and sixteen percent of the referrals involved other cases in 1979.

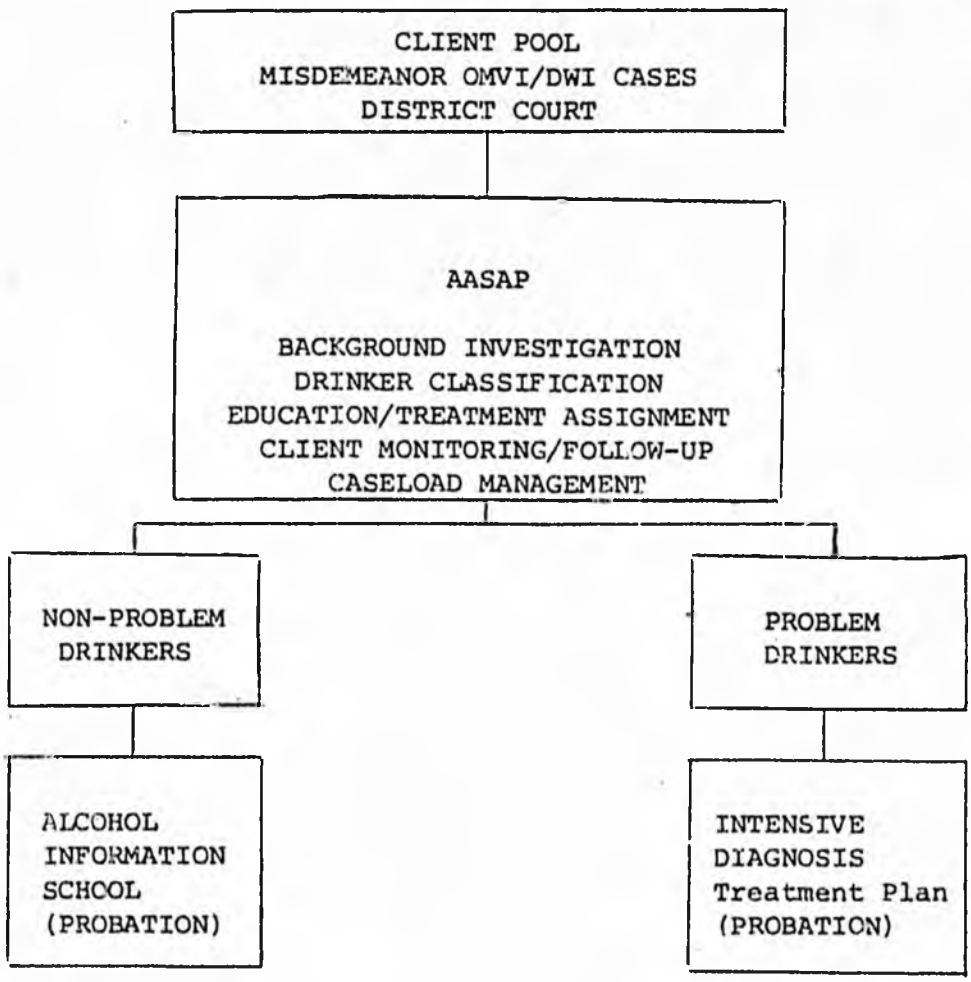
Information is collected by the AASAP, as part of the background investigation, to determine whether or not the individual has a drinking problem. If so, an appropriate assignment is made for alcohol treatment, as a condition of the suspended portion of the sentence.

The background investigation includes consideration of the individual's Blood Alcohol Content (BAC) at the time of arrest, criminal and traffic history, and responses to a questionnaire and structured interview regarding drinking history and drinking patterns (the Mortimer-Filkins Procedure). Evaluation of this information provides evidence for the classification of the individual as a Non-Problem Drinker (NPD), if there is no evidence of problematic drinking, or as a Problem Drinker (PD), if the evidence supports this. If information is inconclusive, the person is referred to a specialist for intensive diagnosis. This additional information is then used to complete the background investigation procedure and the drinker classification.

Following drinker classification, non-problem drinkers are assigned to an alcohol educational program. Problem drinkers are assigned to an alcohol treatment program for diagnosis, intake and design of a specific treatment plan. (See Figure 2)

A client tracking system is used to monitor all clients and determine compliance with the treatment program requirements. Follow-up action is taken in cases of non-compliance. Both non-problem drinkers and problem drinkers are monitored from the time of the initial court referral through the completion of education or treatment/rehabilitation programs and until the completion of the court probation period, which

Figure 2
AASAP CLIENT FLOW
AND FUNCTIONS



is typically one year for OMVI/DWI cases.

Thus, under the specific delegated authority of the court, the AASAP acts in a quasi probation capacity. The court's use of the referral to AASAP and requirement to cooperate with the AASAP as a part of the condition of probation and suspended portion of the sentence is intended to provide the encouragement for the client's participation in the education and/or treatment program.

OUTCOME EVALUATION DESIGN

The purpose of this investigation was to compare criminal rearrest rates of individuals who had been exposed to AASAP screening and alcohol education or treatment with similar individuals who did not have this exposure. Thus, any significant differences in the rearrest rates may be attributed to the AASAP screening and alcohol treatment effects.

In this investigation the pool of subjects consisted of individuals convicted of OMVI/DWI in the Anchorage District Court. The study period was designated as the calendar year of 1978 (January 1 through December 31). Persons convicted of OMVI/DWI who had arrest dates in the 1978 calendar year were included in the study. The follow-up period monitored for criminal rearrest was a one year (twelve month) period from the date of the original arrest.

Cases in the "treatment" group consisted of cases referred to the AASAP by the court. Cases not referred to the AASAP were considered to be the "control" group.

Ideally, in a fully controlled scientific experiment, individuals would be selected at random from the pool of subjects (those convicted of OMVI/DWI) and assigned or not assigned to the AASAP. In this manner, any personal traits or system characteristics that might influence the outcome would be evenly distributed throughout the comparison groups and could be precluded as possible explanations for the findings. This condition is seldom possible in real life situations. It was not the case in this investigation.

In this investigation, individuals in the control group were not exposed to AASAP or any alcohol treatment, but this was accomplished as a result of the action of the court, not random variation. Members of the control group were those persons simply not referred to AASAP, or directly to alcohol education or treatment by the court. However, the control group was balanced with the treatment group, after the fact, to obtain near equivalence of groups.

There was no general policy or procedure that guided the court decision to refer or not refer the cases to AASAP.

In fact, the general policy was to routinely refer OMVI/DWI cases to the AASAP. The Anchorage District Court is composed of seven permanent judges. However, judgments for the cases in the present study were signed by twenty-five different judges. The additional judges were all full-time district court judges, but from other jurisdictions in the state, who substituted for the permanent judges for a number of reasons (sickness, vacation, turnover, etc.) Thus, these judges may not have been familiar with the local practices to make use of the AASAP. It would seem likely that all cases handled by a particular substitute judge were either referred or not referred, thus there would be no selectivity on a case by case basis that would systematically alter the composition of the "treatment" and "control" group. Furthermore, the general pattern of referrals to AASAP by the seven permanent judges indicated that most of the judges routinely referred most cases to the AASAP, while two of the judges (during the time of this study) routinely would not refer most cases. Since daily arraignments were handled by the different judges on a rotational basis, it would seem that there was probably no special selection of individual cases on the part of the judges for referral to AASAP.

One of the functions of the AASAP is to classify persons into non-problem and problem drinker categories in order to make appropriate assignments to alcohol education or alcohol treatment modalities, as a condition of court probation. As mentioned earlier, this classification is based on BAC, prior criminal record and, responses to a questionnaire and a structured interview. The "treatment" group then actually consisted of two groups -- non-problem drinkers, and problem drinkers. AASAP classified non-problem drinkers were assigned to an Alcohol Information School; AASAP classified problem drinkers were assigned to alcohol treatment/ rehabilitation. Both groups were also on a one year court probation, and had to satisfy traditional court sanctions as well (jail, fine, license action and probation).

For the purpose of comparison, the control group was also subdivided into non-problem and problem drinkers. This was accomplished after-the-fact on the basis of a prior record for OMVI/DWI (herein after called priors). Those persons with one or more priors within the last five years were classified as problem drinkers, the remainder (no priors) as non-problem drinkers.* This procedure is less

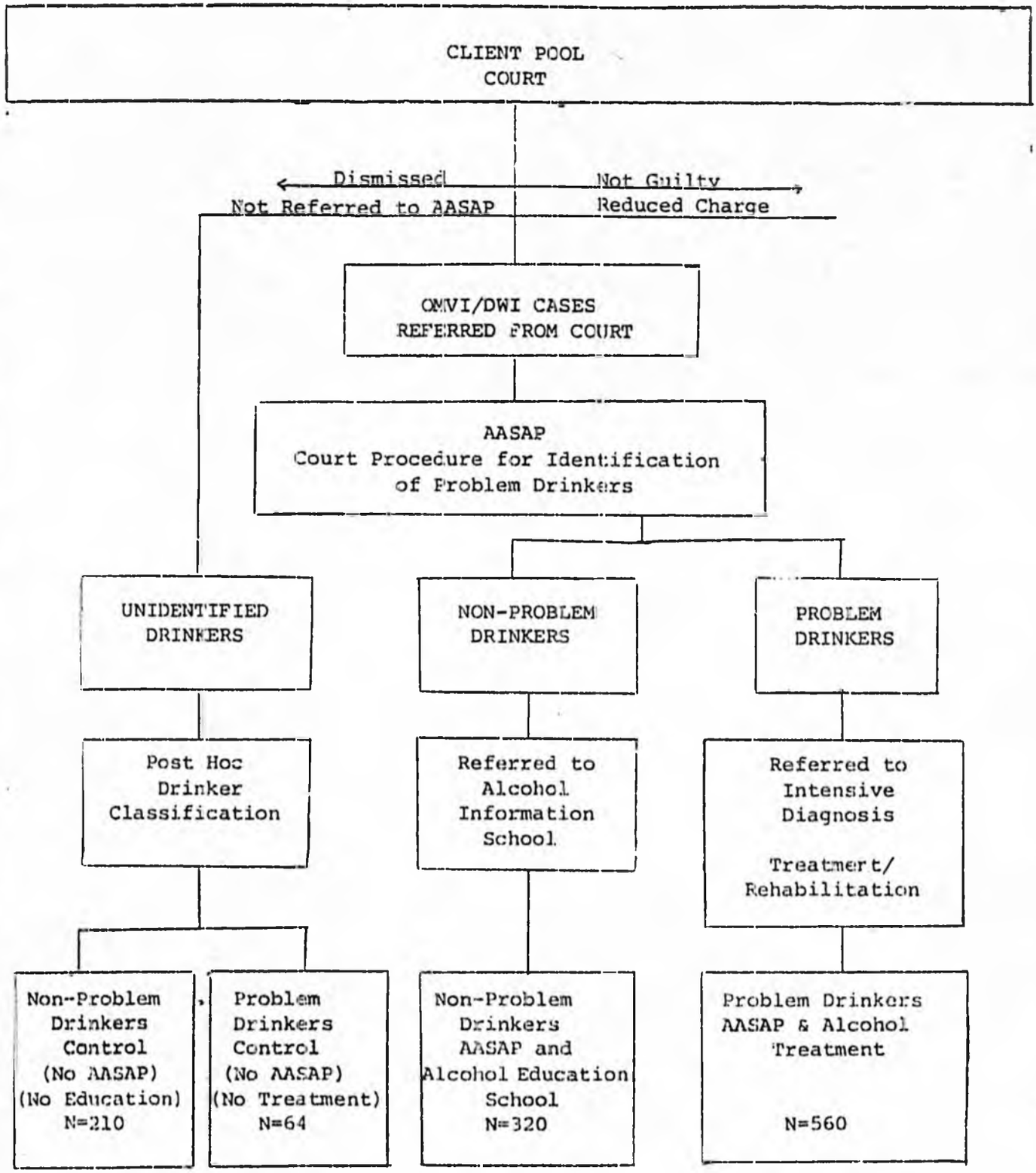
* This method, the use of prior OMVI/DWIs is the single best available indicator for drinker classification as problem drinker. See Mushill and Struckman - Johnson, 1977, for an evaluation of BAC, questionnaire and interview responses, as well as prior record for drinker classification.

sensitive than the AASAP process and would have to be judged as conservative. More persons probably end up classified as non-problem drinkers than would result if all the AASAP drinker classification criteria were used. Thus, there may be more problem drinkers in the non-problem control group than in the AASAP classified non-problem group. In spite of these procedures to equate treatment and control groups, the lack of random assignment must be kept in mind as a limiting factor.

For this investigation, there are four final groups for analysis of criminal rearrest rates. There is a non-problem drinker treatment group (screened by AASAP and assigned to alcohol education) and a non-problem drinker control group; and, there is also a problem drinker treatment group (screened by AASAP and assigned to alcohol treatment/rehabilitation) and a problem drinker control group. The evaluation design showing the structure of the comparison groups is provided in Figure 3.

The statistical technique used for the comparison of rearrest rates for the treatment and control groups was survival rate analysis (Cutler and Ederer, 1958). In this type of analysis, groups of individuals are observed for a predetermined time period. The follow-up period of observation is adjusted for variable entry points so the observation time period

Figure 3
EVALUATION DESIGN



is constant for all cases. In the present study, cumulative survival rates were computed for a twelve month observation period after the date of the initial arrest for OMVI/DWI. All cases had arrest dates in the 1978 calendar year.

Data was collected from AASAP files, the Alaska Court System, and the Alaska Judicial Information System (AJIS). Basically, all AASAP cases with a 1978 arrest date were identified for inclusion in the study in the treatment group. These cases were compared to the Court System's record of dispositions and those cases not accounted for by the AASAP records that had an arrest date of 1978 were included in the control group. Personal characteristics and case processing events were collected from court records and AASAP files. Criminal histories were then collected from the AJIS and reviewed for the one year period following the 1978 OMVI/DWI arrest date for all cases.

All inconsistencies in recorded information between the separate data sources were reconciled. If this was not possible, then the case was excluded from the study.

RESULTS

The total number of cases in the final subject pool numbered 1154 OMVI/DWI cases eligible for inclusion in the study.

As a result of the court referral process, 76.3% of these cases were referred to AASAP, in addition to receiving traditional court sanctions (jail, fine, license action and probation). The remaining 23.7% of the cases were not referred to AASAP, but did receive traditional court sanctions.

Of those cases referred to the AASAP, 320 were classified as non-problem drinkers (social drinkers). This represents 36.4% of the court referred cases. The remaining cases, 520, which represent 63.6% of the cases, were classified as problem drinkers, according to the established AASAP drinker classification criteria.

The drinker classification of the 274 court cases not referred to AASAP, performed on the basis of prior OMVI/DWI's only, resulted in 210 cases defined as non-problem drinkers, or 76.6%; and, 64 cases, or 23.4%, defined as problem drinkers. (See Figure 3)

About two-thirds of all the OMVI/DWI cases referred to the AASAP by the court were problem drinkers, whereas only about one-fourth of the cases not referred were in the problem drinker category. Whatever the intuitive guidelines used by the judges of the court to make referrals to AASAP, they result in referring more problem drinkers than social drinkers.

Survival Rate Analysis

The major evaluation question was whether or not there was any difference in the survival rate for criminal rearrest for those cases exposed to AASAP screening and education/ treatment, compared to those not exposed.

Criminal rearrest was defined in two ways: 1) in terms of rearrest for a similar violation, which was defined as only another OMVI/DWI; and 2) in terms of rearrest for any subsequent criminal arrest, including OMVI/DWI. The follow-up period of observation for each category was one year from the 1978 arrest OMVI/DWI arrest that qualified the case for inclusion in the study. No serious traffic violations were included in either definition. Also, each case of rearrest involved a conviction, but it was the date of the arrest that was observed.

The most common method for examining recidivism for OMVI/DWI cases is to examine only rearrest for another OMVI/DWI within a specified period of time. This would seem to be related to traditional court sentencing practices. In the Anchorage District Court (as in most jurisdictions nationally), if probation is a part of the sentence, it usually carries with it a condition of "no similar violations" for the period of probation. Presumably, if the offender is rearrested and convicted for the same offense during the probation period, then this would constitute grounds

for prosecution as a technical violation of the terms of the court's probation, in addition to another OMVI/DWI charge. There would appear to be no common agreement upon what really constitutes a "similar" violation, however, when the subsequent offense is not the same as the former. Given this standard sentencing practice and the extant lack of common agreement about the definitional range of "similar" in the "no similar violation" condition of probation, it was considered that analysis of criminal rearrest in terms of the two categories adopted would be not only interesting, but perhaps instructive.

Cumulative survival rates were computed for each month of the twelve month period of observation for each of the comparison groups. The cumulative survival rate for each month (30 day period) or for the year would be the proportion of a group that had not been rearrested (survived without rearrest) for that period after the initial arrest. In order to present the various survival rates for each of the study groups in a manner less tedious than tabled values, survival rate profiles were charted -- a plot of survival rates for each 30-day period after the initial arrest.

Survival Without Rearrest For Another OMVI/DWI

The cumulative survival rates for non-problem and problem drinker groups and respective control groups based on

rearrest for another OMVI/DWI (a similar offense) are presented in Figure 4. It can be seen that the rate of survival and the final proportion of cases surviving the full twelve month period is quite similar for the non-problem drinker AASAP/Education group and the non-problem drinker control group. The difference in survival between the problem drinker AASAP/Treatment group and the problem drinker control group, however, showing the greater proportion of survivors is quite clear.

The actual percentage of cases surviving the full twelve month period after the initial arrest for all groups is shown in Table I. This figure was used to statistically compare the survival rate for all groups. A standard test for comparing the equality of two proportions (Dixon and Massey, 1969) at the .05 level was used for each of the comparisons. The results are also indicated in Table I.

Comparison of non-problem drinker groups indicated that more than 95% of all the cases survived without rearrest for another OMVI/DWI whether or not exposed to the AASAP screening and alcohol education. There is a difference of only .8% between the AASAP/Education group and the non-problem drinker control group, which is not statistically significant.

Figure 4
CUMULATIVE SURVIVAL RATES BASED ON REARREST FOR OMVI/DWI
FOR NON-PROBLEM AND PROBLEM DRINKER AND CONTROL GROUPS

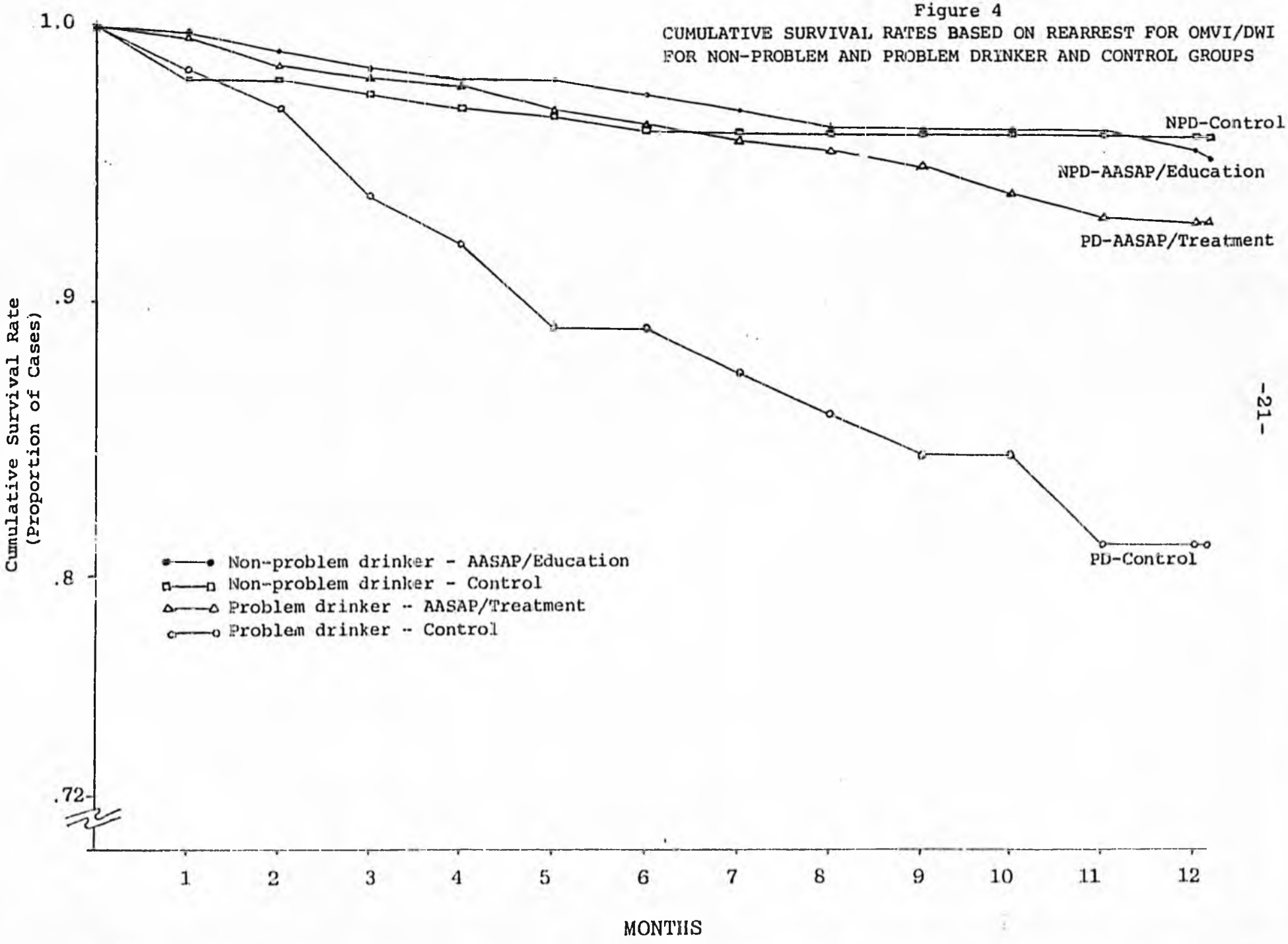


TABLE I

PERCENTAGE OF CASES SURVIVING TWELVE MONTHS WITHOUT REARREST FOR OMVI/DWI OR ANY OTHER CRIMINAL ACT

	Non-Problem Drinkers		Problem Drinkers	
Rearrests	AASAP/ Education	Control	AASAP/ Treatment	Control
Another OMVI/DWI	95.3	96.1	92.9**	81.3
Any Criminal Offense*	93.1	89.5	85.6**	74.6

* Any criminal offense includes rearrest for OMVI/DWI
** Statistically significant at the .05 level

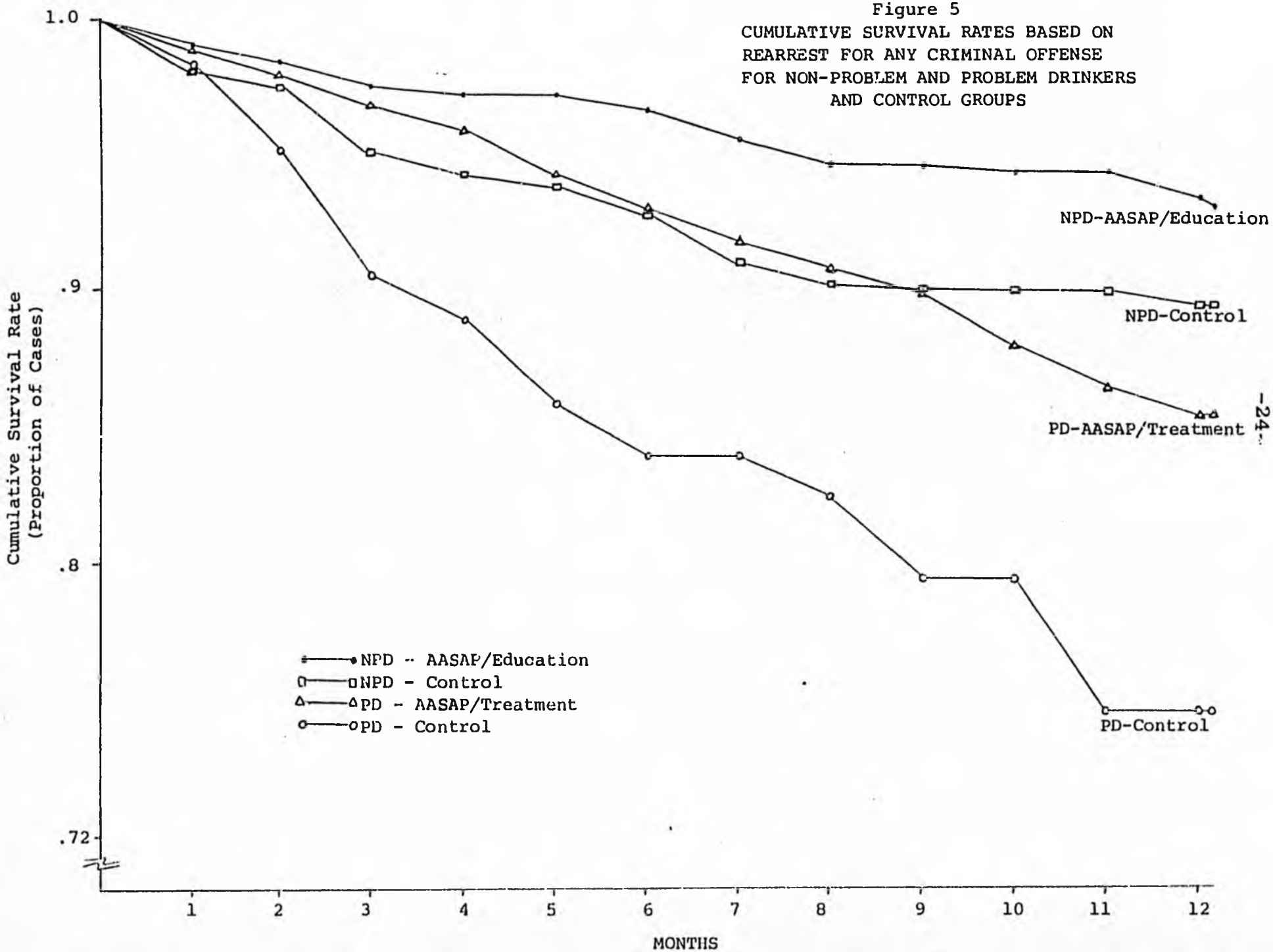
Comparison of problem drinker groups shows a clearly greater proportion of cases surviving for the AASAP screening and alcohol treatment group, which is statistically significant at the .05 level. For the AASAP/Treatment group, 92.9% of the cases survived compared to 81.3% for the problem drinker control group.

Given the initial evaluation question, there are no effects of the AASAP screening and alcohol education on survival without another OMVI/DWI arrest within one year for non-problem drinkers. However, for problem drinkers, there is a clear effect of AASAP screening and alcohol/treatment, a significantly greater proportion of cases survive.

Survival Without Rearrest For Any Criminal Offense

The cumulative survival rates for each of the comparison groups based on rearrest for any criminal offense, including OMVI/DWI, for one year after the initial arrest is shown in Figure 5. This figure shows a generally lower rate of survival for all groups compared to survival based only on rearrest for another similar OMVI/DWI. The cumulative survival rates for the expanded definition of rearrest within the same time period more clearly distinguish each of the groups. It can be seen in general that a somewhat greater proportion of the non-problem drinker group that

Figure 5
CUMULATIVE SURVIVAL RATES BASED ON
REARREST FOR ANY CRIMINAL OFFENSE
FOR NON-PROBLEM AND PROBLEM DRINKERS
AND CONTROL GROUPS



was exposed to the AASAP screening and alcohol education survived the full year than did the respective control group. The much greater difference between the AASAP/ Treatment group and the problem drinker control group is again evident for this rearrest category.

Table I also shows the final percentages of cases surviving for each of the groups for rearrest for any offense. A somewhat lower percentage of non-problem drinkers survived the full year compared to the percentages surviving without rearrest for another OMVI/DWI. For this expanded definition of rearrest there is a greater percentage difference between the non-problem drinker AASAP/Education group and its control group, 93.1% compared to 89.5%, than for rearrest for another OMVI/DWI, but the difference is not statistically significant.

For problem drinkers, there is an even greater reduction in the percentage of survivors in general, but the percentage difference between the AASAP/Treatment group and its control group is about the same as for the survival based on rearrest for another OMVI/DWI. The percentage difference of 11% between the problem drinker AASAP screening and alcohol treatment group and the problem drinker control group, 85.6% compared to 74.6% is statistically significant at the .05 level.

In brief summary, surviving one year without rearrest for any subsequent criminal offense is more difficult than surviving the same time period without rearrest for another OMVI/DWI (a similar violation), for both non-problem drinkers and for problem drinkers. This is true whether or not the groups were exposed to AASAP screening and alcohol education or treatment. Similarly, non-problem drinkers tend to survive better than problem drinkers independent of exposure to AASAP screening and alcohol education or treatment.

When rearrest is defined in terms of another OMVI/DWI, there is no difference in survival between the non-problem drinker group exposed to AASAP screening and alcohol education and the control group. When rearrest is defined in terms of any criminal offenses, the non-problem, AASAP/Education group survived better (but not significantly better) than the respective control group. But for the problem drinker group, there is a clear significant positive difference in the survival rate for the group exposed to AASAP screening and alcohol treatment compared to the problem drinker control group, for both definitions of rearrest.

Satisfactory and Unsatisfactory Completion of Alcohol Education Or Treatment

Non-Problem Drinkers

One other view of the outcome of exposure to AASAP screening

and alcohol education and/or treatment concerns the effects of the completion of alcohol education or alcohol treatment programs on survival. Rearrest rates were compared for subgroups of non-problem and problem drinkers in terms of satisfactory completion of alcohol education programs for the non-problem drinker group, and alcohol treatment for the problem drinker group.

For non-problem drinkers, the 93.1% of the AASAP/alcohol education group survived one year without rearrest for any criminal offense (89.5% for the control group). This group was subdivided into groups of cases which completed the alcohol education program in a satisfactory manner and those cases which completed the alcohol education program in a unsatisfactory manner.

The charted cumulative survival rates for this comparison is shown in Figure 6. It can be seen that there is a very sharp difference in the survival rate for the non-problem drinkers group within the first few months and that the difference is maintained throughout the rest of the one year period.

The actual proportion of cases surviving at the end of one year is shown in Table II. The difference of 10.8% in survival for those who satisfactorily completed the alcohol

Figure 6
CUMULATIVE SURVIVAL RATES BASED ON REARREST FOR ANY CRIMINAL OFFENSE FOR NON-PROBLEM DRINKERS WITH SATISFACTORY AND UNSATISFACTORY COMPLETION OF ALCOHOL EDUCATION PROGRAM

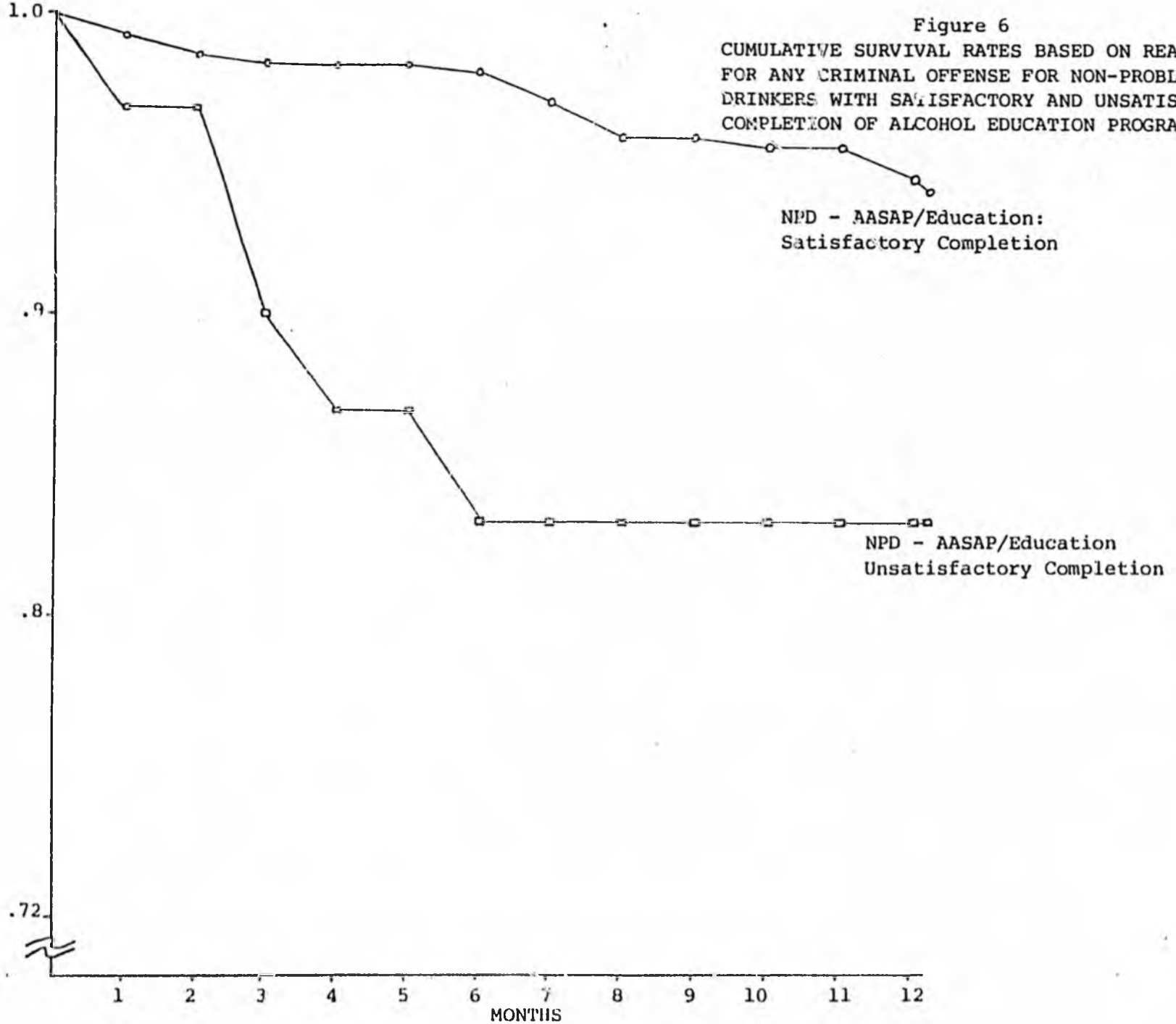


TABLE II

SATISFACTORY COMPLETION OF ALCOHOL EDUCATION PROGRAM AND SURVIVAL WITHOUT REARREST FOR ANY OFFENSE FOR NON-PROBLEM DRINKERS

Survived One Year Without Criminal Rearrest For Any Offense	Non-Problem Drinkers Completed Alcohol Education: YES		NO		ALL	
	N	%	N	%	N	%
Yes	273	94.1*	25	83.3	298	93.1
No	17	5.9	5	16.7	22	6.9
All	290	100.0	30	100.0	320	100.0

*Statistically significant at the .05 level

information school is statistically significant at the .05 level. For this subgroup of non-problem drinkers, 94.1% survived one year without rearrest for any criminal offense, compared to 83.3% for those who did not complete the program in a satisfactory manner.

Although there was no significant difference in survival between non-problem drinkers exposed to AASAP and alcohol education and those not exposed (Table I). there is a positive and significant difference in survival for the subgroup of non-problem drinkers exposed to AASAP and alcohol education who satisfactorily complete the program compared to those who do not. The immediate implication of these findings might be that while simple exposure to AASAP and alcohol education is not related to better survival, satisfactory completion of the program would seem to make a difference for non-problem drinkers referred by the court. However, in consideration of the swiftness of rearrest for the group who unsatisfactorily complete the program (within one to three months after the initial arrest, see Figure 6), it may be more likely that rearrest influenced unsatisfactory completion of the alcohol education program. Furthermore, comparison of non-problem drinkers exposed to AASAP and alcohol education who satisfactorily complete the alcohol education program with the non-problem drinker control group yields no statistically significant difference in proportion of cases surviving, 94.1% compared to 89.5%.

Problem Drinkers

For the problem drinker group there is no apparent difference in the profiles of the cumulative survival rates for the subgroup completing treatment compared to the subgroup not completing alcohol treatment in a satisfactory manner (see Figure 7). The charted cumulative survival rates are very similar for both subgroups and the final proportion of cases surviving at the end of one year is also similar, 85.5% compared to 86.2% (see Table III).

The percentage of cases in the problem drinker AASAP/Treatment group that survived one year is significantly greater than for the control group, 85.6%, compared to 74.6%. But within the AASAP/Treatment group, there is hardly any difference at all in the percentage of cases completing treatment in a satisfactory manner compared to the percentage of cases which unsatisfactorily complete treatment. It would seem that participating in the treatment program is as important as completing it. Certainly, there are other variables that enter into the explanation of the lack of distinction between these two groups. But considerations regarding the type of treatment, the length of treatment, the definition of "satisfactory", etc. are beyond the scope of the data available for this investigation.

Figure 7
CUMULATIVE SURVIVAL RATES BASED ON REARREST FOR ANY CRIMINAL OFFENSE FOR PROBLEM DRINKERS WITH SATISFACTORY AND UNSATISFACTORY COMPLETION OF ALCOHOL TREATMENT PROGRAM

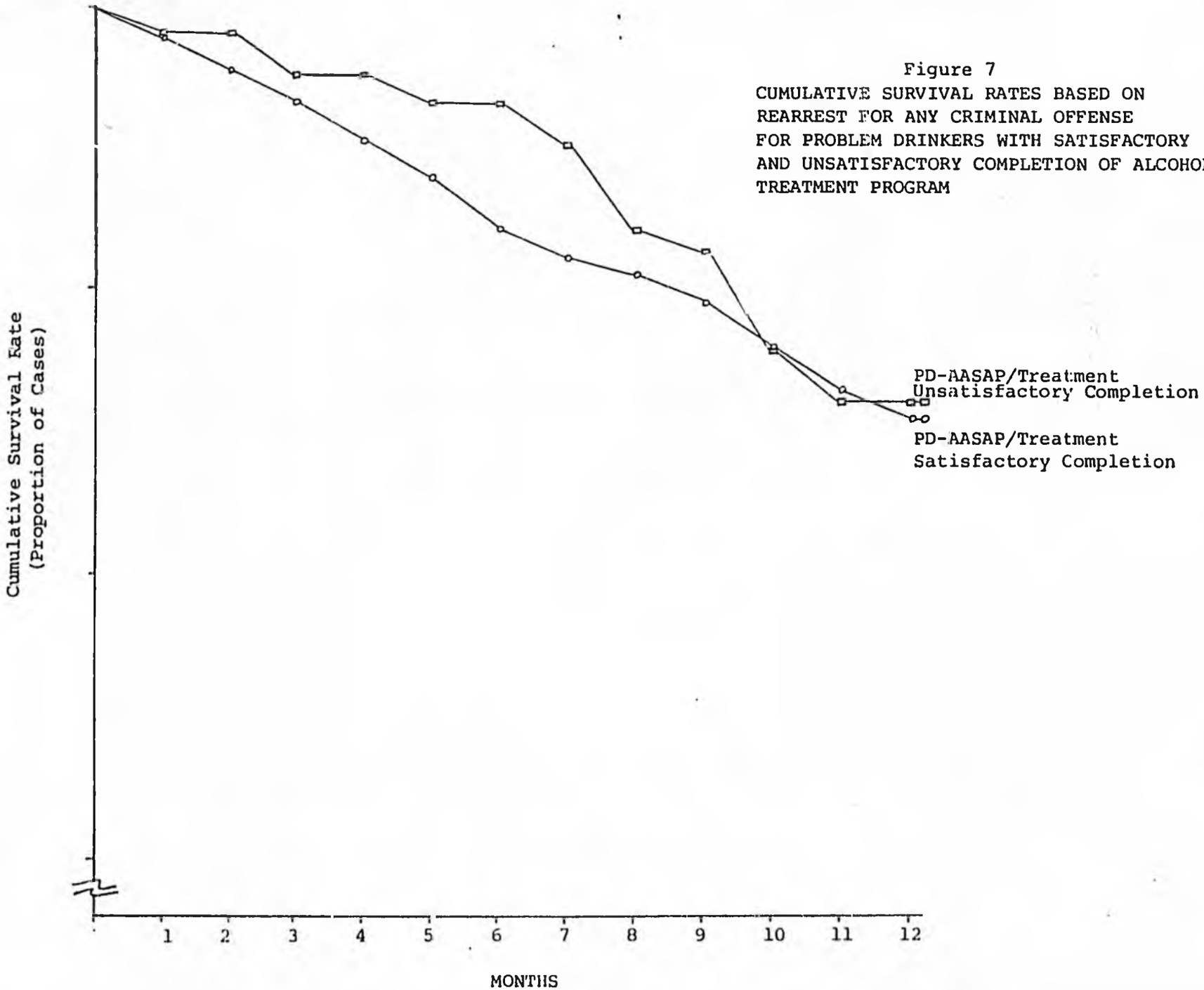


TABLE III

SATISFACTORY COMPLETION OF ALCOHOL TREATMENT PROGRAM AND SURVIVAL WITHOUT REARREST FOR ANY OFFENSE FOR PROBLEM DRINKERS

Survived One Year Without Criminal Arrest For Any Offense	Problem Drinkers Completed Alcohol Treatment: YES		NO		ALL	
	N	%	N	%	N	%
Yes	380	85.6	100	86.2	480	85.7
No	64	14.4	16	13.8	80	14.3
All	444	100.0	116	100.0	560	100.0

DISCUSSION

The purpose of the investigation was to determine the effects of exposure to AASAP screening and alcohol education and treatment on survival without rearrest.

The basic function of the AASAP is to screen cases referred by the court into drinker classification categories so that appropriate decisions may be made about including alcohol education or treatment as an additional condition of sentencing. The general purpose is to obtain early identification of problem drinkers so that the effects of appropriate rehabilitation efforts might be increased through earlier intervention.

The information presented in this investigation generally supports the AASAP screening and alcohol education and treatment referral program. The results indicate positive outcomes (relative success) for problem drinkers. Exposure to AASAP screening and alcohol treatment would seem to have a positive influence on rearrest rate for problem drinkers.

The percentages of cases surviving one year for each of the analytic groups used in this brief investigation is presented in Table IV.

TABLE IV

SUMMARY OF PERCENTAGE OF CASES SURVIVING
FOR ONE YEAR BY ANALYTIC GROUPS

NPD - AASAP/Education	93.1	
Satisfactory Completion		94.1
Unsatisfactory Completion		83.3
NPD - Control	89.5	
PD - AASAP/Treatment	85.7	
Satisfactory Completion		85.5
Unsatisfactory Completion		86.2
PD - Control	74.6	

NPD = Non-Problem Drinkers
PD = Problem Drinkers

For non-problem drinkers, there is no significant difference in the percentage of cases surviving one year for the AASAP/Education and the control group. Survival is about the same for each group. However, for the non-problem drinkers in the AASAP/Education group, there is a significant difference in the survival for those who complete the alcohol education program compared to those who don't complete the program. This difference, however, is quite likely due to the fact of rearrest. It would seem that rearrest influences unsatisfactory completion, rather than vice versa.

For problem drinkers, exposure to AASAP screening and alcohol treatment seems to make a definite difference in survival. The percentage of cases surviving in this group is significantly greater than for the control group. There is no significant difference in survival for cases satisfactorily completing alcohol treatment, compared to those who do not complete treatment satisfactorily.

This information would indicate that AASAP screening for drinker classification and subsequent assignment to alcohol education or treatment did lead to the intended positive effect on survival rate during the one year follow-up observation period.

The findings of this investigation, however, are quite different from the findings of a similar investigation based

on aggregate data from several different ASAP demonstration programs nationwide (Nichols, et. al., 1978). In fact, the findings are quite the opposite of the national findings. For general comparison, the main findings of this investigation and national study findings for non-problem drinkers (social drinkers) and problem drinkers are:

Non-problem drinkers: national findings indicate that the non-problem drinker group exposed to alcohol education had a significantly lower rearrest rate than a control group. This investigation found no difference in rearrest rates for similarly composed comparison groups.

Problem drinkers: national findings indicate no difference in rearrest rate for problem drinkers exposed to ASAP screening and alcohol treatment compared to a control group. This study found an observable and statistically significant positive difference in the rearrest rate for problem drinkers exposed to AASAP screening and alcohol treatment, compared to a control group.

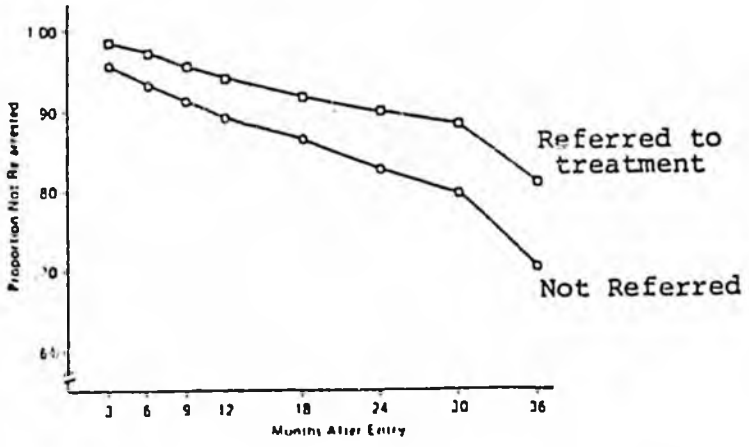
The findings presented in this investigation are consistent with the goals and objectives of the general ASAP effort. This effort, of course, concerns screening a large pool of designated cases to identify drinker types and then taking actions appropriate for each drinker classification. One of the outcome measures of these actions is a reduction in the rate of subsequent rearrest. In this regard, the national findings, that is the lack of positive difference is rearrest rate for problem drinkers screened and exposed to alcohol treatment, have been disappointing to program proponents. Given the contrast in findings and the extensive effort that has been expended on ASAP type program development and evaluation, further comparison of the findings, and the respective procedures and measures, is provided here.

Non-Problem Drinkers

For the purpose of direct comparison, the plotted cumulative survival rates for the national findings and this investigation are presented in Figure 8 (8A and 8B). The differences in the survival rates for the treatment and control groups for the two studies can be directly compared. As can be seen, the rearrest period for the national study is longer than for this investigation, so only equivalent periods should be considered. The observable patterns appear to be quite similar. In fact, the cumulative proportion of survivors (those not rearrested) after one year of the

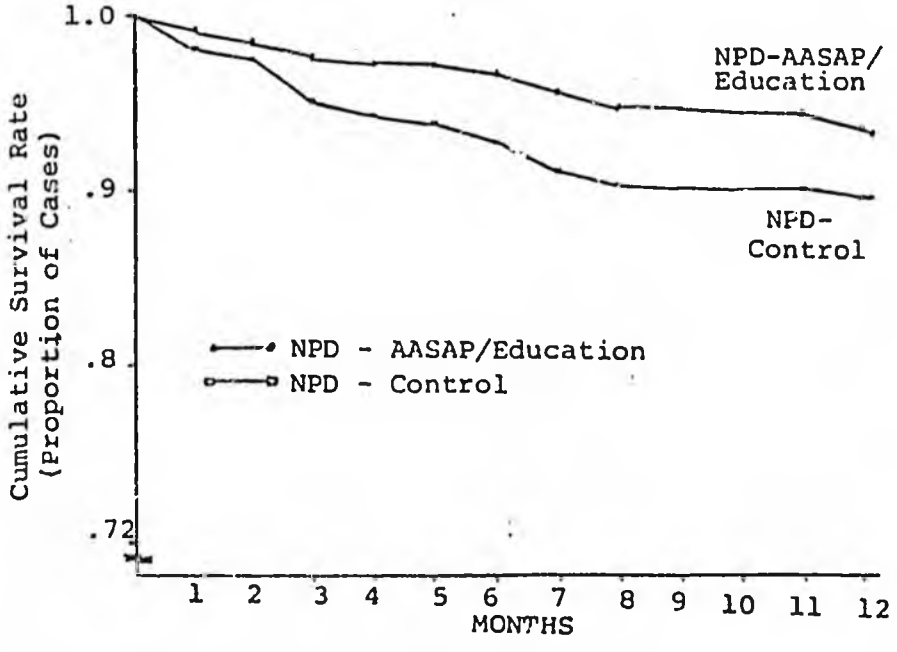
Figure 8
NATIONAL AND LOCAL SURVIVAL RATES
FOR NON-PROBLEM DRINKERS

Figure 8A NATIONAL ASAP SURVIVAL RATES FOR SOCIAL DRINKERS REFERRED AND NOT REFERRED TO TREATMENT*



*Source: Nichols, et.al., 1978. Figure 2, P. 180.

Figure 8B ANCHORAGE ASAP SURVIVAL RATES FOR NON-PROBLEM DRINKERS REFERRED AND NOT REFERRED TO TREATMENT**



**Source: See Figure 5, P. 24.

initial arrest appears to be the same, about 94 or 95% for the group exposed to ASAP screening and alcohol education and, 89% for the respective control groups. The national study reports statistically significant differences between groups at every quarter (three month period). The difference in survival rate for this investigation was only close to being statistically significant.

There are some differences in study procedures and in formation of outcome measures that might have some influence on the difference in the findings. But these differences also apply to consideration of the contrast in findings for problem drinkers. Since findings for problem drinkers are the main area of interest, these considerations are discussed in the next section.

Problem Drinkers

The findings for the rearrest outcomes of problem drinkers are, of course, the primary concern. Presumably, by definition and practical program operation, non-problem drinkers, or social drinkers, require less individual and collective attention and produce relatively less individual and social system impact. For the most part, they have no prior arrests and/or accidents, or at least only minor events; but nothing that would indicate previous problematic behavior. Similarly, individual questionnaire and interview

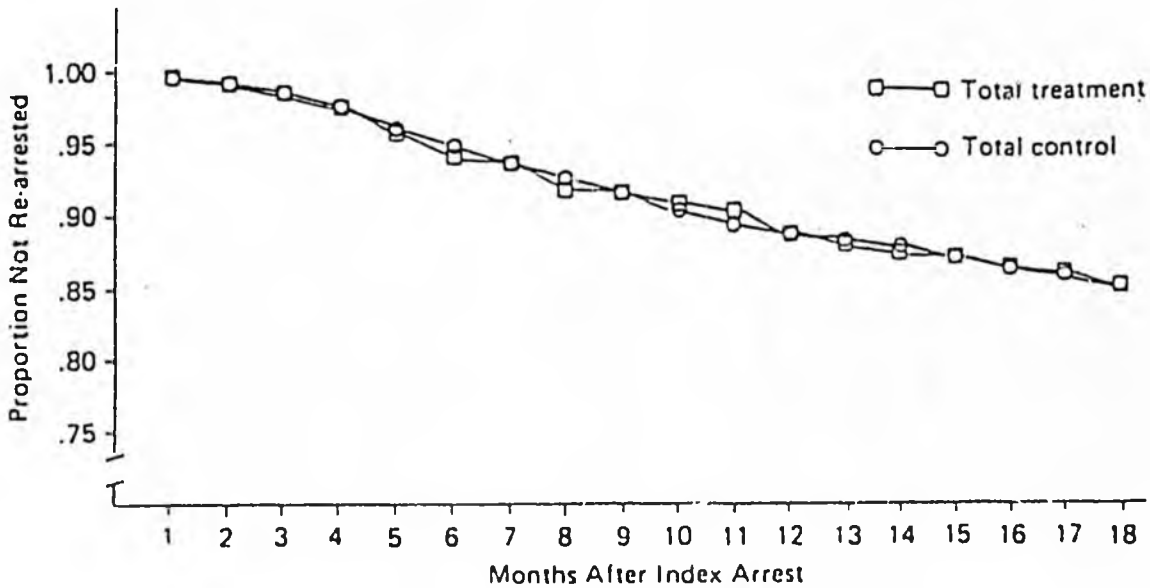
screening procedures indicate no cause for a problematic prognosis. Thus, the drinker classification of "non-problem". Only a small percentage of this group, whether treated (schooled) or not are rearrested. Comparatively, there is a much greater need for intervention to be successful for problem drinkers. The past behavior and future prognosis for this group is, of course, problematic. The potential individual and social consequences are very clear.

The cumulative survival rates for problem drinkers for both investigations are presented in Figure 9 (9A and 9B) for direct comparison. Note here again, that the follow-up observation period is different and only the equivalent periods should be compared. There is an observable difference in rearrest patterns for the comparison groups for the two investigations.

One particularly interesting point of comparison is the proportion of each group surviving the one year period. For the national study, about 90% of the problem drinkers in both the treatment and the control group survived one year without rearrest. (That's about the same as the survival rate for the non-problem drinker control group.) In this investigation, problem drinkers did not do so well as a group. After one year, about 86% of the treatment group survived, compared to about 75% of the control group.

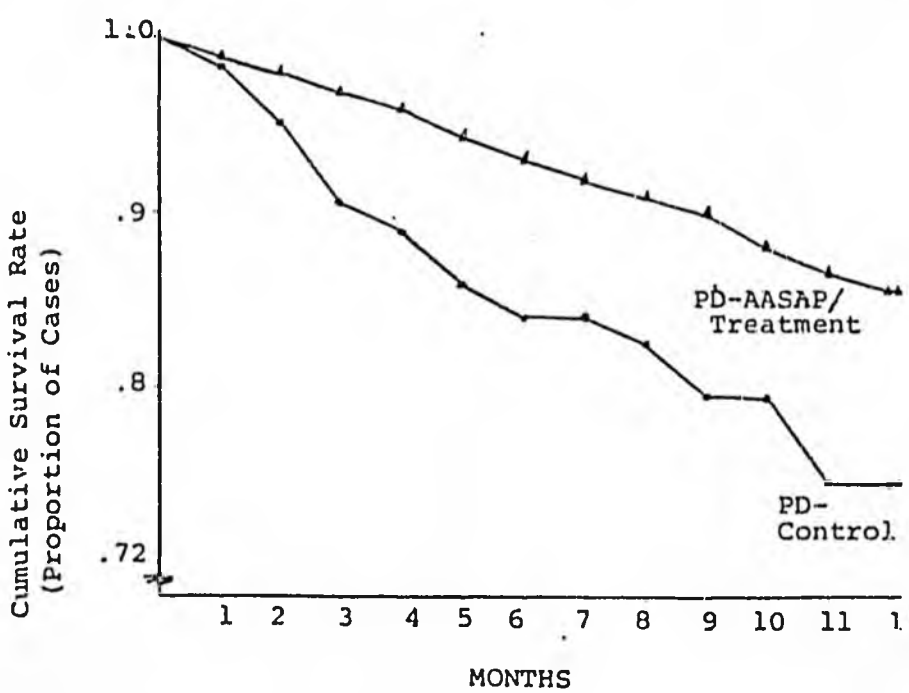
Figure 9
NATIONAL AND LOCAL SURVIVAL RATES
FOR PROBLEM DRINKERS

Figure 9A NATIONAL ASAP SURVIVAL RATES FOR TOTAL TREATMENT AND CONTROL GROUPS* (PROBLEM DRINKERS)



*Source: Nichols, et. al., 1978. Figure 5, P. 182.

Figure 9B ANCHORAGE ASAP SURVIVAL RATES FOR PROBLEM DRINKERS REFERRED AND NOT REFERRED TO TREATMENT**



**Source: See Figure 5, p. 24.

Items for Consideration in Comparison of National and Local Findings

As indicated, there are differences in the procedures and outcome measures that need to be considered as possible sources of explanation for the contrasting findings. The national analysis of rearrest data for problem drinkers comes from a specially designed study to test the effectiveness of short term, court supervised rehabilitation for DWI offenders.

Cases included in the investigation came from eleven national ASAP demonstration programs that were able to work out agreements for random assignment of cases screened to various treatment and control (no treatment) groups. The critical part of this procedure was the ability to achieve random assignment of cases to treatment and control groups, which provides basic equivalency of the comparison groups. There are two major areas of consideration for comparison of the findings: comparability of the treatment and control groups; and, comparability of outcome measures.

A. Comparability of Treatment and Control Groups

It may be that the problem drinker group in the national study was really a less problematic subgroup of problem drinkers compared to the more conventional ASAP definition of problem drinkers. The definition of the problem drinkers for this investigation might include drinkers with more

serious problems. If this is the case, then the results of the present investigation would be even more dramatic. As noted above, the overall survival rate after one year for the problem drinker treatment group resembles that of the non-problem drinker control group for the national study. By definition and through support provided by validity studies of the ASAP drinker classification procedures, problem drinkers have a higher DWI rearrest rate than non-problem drinkers (Results of National Alcohol Safety Action Projects, 1979). In addition, selection of subjects for inclusion in the national study involved several stages of selection after initial drinker classification to determine "mid-range" problem drinkers.

One of the most critical criteria for problem drinker status is prior OMVI/DWI history. The existence of one or more priors is the single best indicator of problem drinker status, and also seems to be the variable that has the greatest influence of survival rate (Mushill and Struckman-Johnson, 1977). The national problem drinker treatment group involved "mid-range" problem drinkers. This group included 33.6% of its cases with one or more priors (Nichols, 1978), compared to the local AASAP screened/ treatment group which included 48.4% of the cases with one or more priors.

The formation of the treatment and control groups for the national investigation was based on random assignment. The use of random assignment was not possible for this investigation. However, the non-problem and problem drinker control groups were defined in terms of prior OMVI/DWI record and thus did account for the greatest source of influence on rearrest. Thus, while the treatment and control groups were not determined by random assignment in this investigation, they were roughly balanced on the important variables. However balanced, the groups may not be considered as equivalent.

B. Comparability of Outcome Measures

There were also some differences in the nature of arrests used to define recidivism. The definition of recidivism in the national study involved arrests for OMVI/DWI, and also arrests for reckless driving and some other lesser alcohol-related charges (not specified). The present investigation, as explained earlier, defined recidivism in two different ways -- rearrest for OMVI/DWI only, and rearrest for any criminal offense (including OMVI/DWI).*

* The decision to define recidivism in the ways indicated for this investigation was based on previous work which pointed to the heavy caseload of alcohol-related misdemeanor cases, in addition to OMVI/DWI cases, on the district court and, the inaccuracy and difficulty of obtaining records of traffic cases. (Kelso, 1977)

Both of these definitions for the present study excluded serious traffic offenses such as reckless driving, or any other alcohol-related offenses. Thus, there is some variability in the nature of arrests considered in the definition of recidivism between the two studies.

CONCLUSION

Thus, it can be seen that the similarities between the investigations certainly warrant comparison, yet the differences cited indicate that caution is required for any direct comparisons. The evidence presented in this investigation indicates that the procedures and practices of AASAP screening and alcohol treatment and monitoring activities under court supervision are effective in deterring problem drinkers. The effectiveness of AASAP screening and alcohol education for social drinkers is not clear but the results are promising.

The findings of this study give reason for optimism in dealing with the problem drinking drivers. The present system would appear to be working in the manner intended. Although the effectiveness of the program for social drinkers is not clear, the screening function of the AASAP and the monitoring function, must be considered to be essentially effective. Comparison of these findings with similar national findings indicates the importance of the screening

and drinker classification for potential alcohol education or treatment success. There is evidence that referral of problem drinkers to larger, lecture type alcohol education programs rather than to alcohol treatment, may actually be harmful. Such practices have been associated with lower survival rates. More intensive alcohol treatment is more appropriate for problem drinkers. (Results of National Alcohol Safety Projects, 1979; Nichols, et.al., 1978)

This general finding about the relative success of AASAP screening and alcohol treatment for problem drinkers would need to be considered as particularly useful in view of the nature of the proportion of drinker types found among the OMVI/DWI district court caseload. Of all the OMVI/DWI court cases during the study year, 76.3% of the cases were referred to AASAP. Of that group, 63.6% of the cases were classified as problem drinkers, and 36.4% of the group were classified as non-problem drinkers. As mentioned, earlier, the relative proportion of problem and non-problem drinkers was reversed for court cases not referred to AASAP. The more interesting comparison, however, is the relative proportion of drinker types for the Anchorage ASAP compared to national ASAP averages. This comparison indicates that about 50% of the OMVI/DWI court cases referred to the national ASAP programs were diagnosed as problem drinkers. (Results of National Alcohol Safety Action Projects, 1979) This is an average figure and based on information from

thirty-five demonstration programs across the country. Certainly there were variations in the figure across projects, but the comparison does provide a context for interpretation of the nature of the OMVI/DWI group in the Anchorage District Court, and the function of the drinker classification procedure performed by the AASAP. With such a larger distribution of problem drinkers in OMVI/DWI court referred population, the importance of drinker classification for more satisfactory case outcomes is clear, in view of the positive findings.

Late in the study year (October), a new law became effective which established mandatory minimum jail sentences for first and subsequent offenders and also "required" the court referral of OMVI/DWI cases for background investigation. While there would appear to be some difference in interpretation about the whether or not court referral is actually "required", among the district court judges, it might be expected that more court cases would be referred in the future. Judging by the distribution of cases not referred during the study, it would follow that the percentage of problem drinkers in the court referred group would decrease. This expected outcome, however, did not in fact occur. According to the AASAP Management Information System Reports, the actual proportion of problem drinkers increased in 1979 (AASAP Annual Report, 1979). Compared to 1978, where about 64% of the court referred cases were classified as problem drinkers, about 71% of the cases were so classified in 1979.

Part of the explanation may lie in the fact that there was also an increase in the number of non OMVI/DWI cases referred by the court during 1979, which were classified as problem drinkers. The actual distribution of drinker types among OMVI/DWI cases awaits further analysis.

The intended function of the AASAP drinker classification and caseload management operations for OMVI/DWI cases to achieve a greater coordination between the criminal justice system and the alcohol treatment system would appear to be supported by the available information. In different terms, the application of the health-legal, systems approach to produce a more effective drinking driver control system in Anchorage is successful. In view of the distinguishable findings, compared to national information, and the basic similaries in intent and procedures, it may be that the operations are just that much more effective. Informal observation indicates that the client monitoring and follow-up system of the AASAP, that accounts for the whereabouts and outcomes of each case to the court, (coordination between AASAP and the court, and between AASAP and treatment agencies) may have achieved an advanced and effective stage of operation not achieved collectively by the national ASAP demonstration programs. In addition, it may also be that the nature of the AASAP operations and the Anchorage caseload volume are particularly well balanced to produce an effective program. Further evaluation is, of course, needed to more systematically investigate outcomes and operations.

While the findings of a positive significant difference in survival rate for AASAP screened/alcohol treatment problem drinkers are encouraging, there are some reservations that must be kept in mind. The first reservation concerns the matter of equivalency between the problem drinker treatment group and the control group. The groups were roughly balanced but since there was no ability to either match or randomly assign groups, some caution in interpretation is still in order.

The second reservation concerns the length of the follow-up observation period. The one year period coincides with the typical period of probation defined by the court. Available national evidence indicates that the survival rates seem to be linear in nature (Nichols, et.al., 1978). Thus, one would have to expect a continued reduction in survival rates in subsequent years. Given the trends provided for social drinkers, this tendency would mean that there may yet be significant differences in the effectiveness of the procedures during the next (second) year after the initial arrest, if the same rates of rearrest are maintained for each group. For problem drinkers, the difference between the treatment and the control group would become even greater, if the same patterns continued during the next year.

Further research is needed to analyze the results for the following years to determine the nature of program effectiveness of over time. Additional research is also needed to further investigate the relative influence on survival rate of the AASAP screening and monitoring process in terms of the influence of exposure and/or completion of alcohol education and treatment programs.

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APPENDIX

BACKGROUND CHARACTERISTICS

APPENDIX

Background Characteristics

	Non-Problem Drinkers				Problem Drinkers			
	AASAP/Education		Control		AASAP/Treatment		Control	
AGE:	N	%	N	%	N	%	N	%
<19	33	10.4	20	9.6	23	4.1	2	3.1
20-39	203	63.8	144	69.2	339	60.6	39	60.9
40-59	70	22.0	39	18.8	176	31.5	20	31.3
>60	12	3.8	5	2.4	21	3.8	3	4.7
Total	318	100.0	208	100.0	559	100.0	64	100.0
$\bar{x}$	33.67		31.14		35.59		34.88	
Md	31.00		28.1		33.59		30.17	
SEX:								
Male	263	83.8	168	85.7	481	86.8	51	89.5
Female	51	16.2	28	14.3	73	13.2	6	10.5
Total	314	100.0	196	100.0	554	100.0	57	100.0
RACE:								
Black	3	1.4	5	3.7	16	4.4	1	2.9
Native	11	5.2	12	8.9	68	18.6	6	17.1
Caucasian	191	90.1	114	84.4	278	76.2	27	77.1
Other	7	3.3	4	3.0	3	0.8	1	2.9
Total	212	100.0	135	100.0	365	100.0	35	100.0

Appendix: Background Characteristics

	Non-Problem Drinkers				Problem Drinkers			
	AASAP/Education		Control		AASAP/Treatment		Control	
MARITAL STATUS:	N	%	N	%	N	%	N	%
Single	131	43.1	35	71.4	208	38.4	11	52.4
Divorced or Separated	53	17.4	4	8.2	133	24.5	7	33.3
Married	116	38.2	9	18.4	192	35.4	3	14.3
Widowed	4	1.3	1	2.0	9	1.7	0	0
Total	304	100.0	49	100.0	542	100.0	21	100.0
EMPLOYMENT STATUS:								
Employed	224	77.0	55	67.9	327	62.5	16	59.3
Unemployed	67	23.0	26	32.1	196	37.5	11	40.7
Total	291	100.0	81	100.0	523	100.0	27	100.0
OCCUPATION:								
Professional	44	16.9	2	4.4	38	8.4	2	11.8
Skilled	31	11.9	13	28.9	56	12.4	2	11.8
White Collar	27	10.4	3	6.7	27	6.0	0	0
Unskilled	140	54.1	23	51.1	298	66.2	11	64.7
Student	10	3.8	2	4.4	9	2.0	0	0
Other	6	2.3	0	0	15	3.3	1	5.9
None	1	0.4	2	4.4	7	1.6	1	5.9
Total	259	100.0	45	100.0	450	100.0	17	100.0

Appendix: Background Characteristics

	Non-Problem Drinkers				Problem Drinkers			
	AASAP/Education		Control		AASAP/Treatment		Control	
INCOME:	N	%	N	%	N	%	N	%
>25,000	10	3.7	4	30.8	24	4.8	1	11.1
15-25,000	10	3.7	2	15.4	29	5.8	1	11.1
10-15,000	18	6.7	2	15.4	36	7.3	2	22.2
8-10,000	18	6.7	1	7.7	35	7.1	0	0.
6-8,000	18	6.7	2	15.4	36	7.3	0	0.
4-6,000	37	13.7	0	0.	77	15.5	0	0.
2-4,000	58	21.5	2	15.4	78	15.7	3	33.3
<2,000	101	37.4	0	0.	181	36.5	2	22.2
Total	270	100.0	13	100.0	496	100.0	9	100.0
EDUCATION:								
Less than 12 yrs.	61	20.9	6	21.4	137	26.2	3	20.0
H.S. Diploma	137	47.1	18	64.3	272	52.0	8	53.3
Technical School	5	1.7	0	0.	11	2.1	1	6.7
Some College	60	20.6	4	14.3	86	16.4	3	20.0
College Degree	19	6.5	0	0.	7	1.3	0	0.
Graduate School	4	1.4	0	0.	6	1.1	0	0.
Graduate Degree	5	1.7	0	0.	4	0.8	0	0.
Total	291	100.0	28	100.0	523	100.0	15	100.0

Appendix: Background Characteristics

	Non-Problem Drinkers				Problem Drinkers			
	AASAP/Education		Control		AASAP/Treatment		Control	
TYPE CHARGE:	N	%	N	%	N	%	N	%
City	165	51.7	110	52.9	357	63.8	35	54.7
State	154	48.3	98	47.1	203	36.3	29	45.3
Total	319	100.0	208	100.0	560	100.0	64	100.0
SENTENCE FINE:								
$0	21	6.6	27	12.9	64	11.4	12	18.8
$1-99	0	0.	0	0.	2	0.4	0	0.
$100-199	12	3.8	13	6.2	30	5.4	3	4.7
$200-299	53	16.7	19	9.0	78	13.9	5	7.8
$300-399	105	33.0	48	22.9	132	23.6	13	20.3
$400-499	113	35.5	96	45.7	168	30.0	13	20.3
$500-1000	14	4.4	7	3.3	86	15.4	18	28.1
Total	318	100.0	210	100.0	560	100.0	64	100.0
$\bar{x}$	308.18		299.67		309.91		325.78	
Md	317.94		358.57		321.90		350.00	

Appendix: Background Characteristics

	Non-Problem Drinkers				Problem Drinkers			
	AASAP/Education		Control		AASAP/Treatment		Control	
SENTENCE JAIL (DAYS):	N	%	N	%	N	%	N	%
Zero Days	15	4.7	20	9.5	18	3.2	4	6.3
1	85	26.7	27	12.9	75	13.4	4	6.3
2	123	38.7	97	46.2	176	31.4	11	17.2
3	49	15.4	30	14.3	88	15.7	6	9.4
4	4	1.3	4	1.9	8	1.4	2	3.1
5-9	21	6.6	19	9.0	81	14.5	8	12.5
10	8	2.5	3	1.4	56	10.0	13	20.3
11-29	7	2.2	9	4.3	33	5.9	4	6.3
30-59	5	1.6	1	0.5	17	3.0	7	10.9
60-89	0	0.	0	0.	5	0.9	2	3.1
90-365	1	0.3	0	0.	3	0.5	3	4.7
Total	318	100.0	210	100.0	560	100.0	64	100.0
$\bar{x}$	3.50		3.21		6.83		22.39	
Md	1.98		2.10		2.63		5.21	

SENTENCE LICENSE ACTION:								
Limited	91	28.8	28	13.3	101	18.1	10	15.6
Suspended	132	41.8	63	30.0	280	50.1	23	35.9
Revoked	72	22.8	94	44.8	149	26.7	27	42.2
No Action	21	6.6	25	11.9	29	5.2	4	6.3
Total	316	100.0	210	100.0	559	100.0	64	100.0

Appendix: Background Characteristics

	Non-Problem Drinkers				Problem Drinkers			
	AASAP/Education		Control		AASAP/Treatment		Control	
PREVIOUS OMVI'S (FREQUENCY):	N	%	N	%	N	%	N	%
None	294	91.9	210	100.0	289	51.6	0	0.
One	18	5.6	0	0.	163	29.1	41	64.1
Two	5	1.6	0	0.	59	10.5	10	15.6
Three	1	0.3	0	0.	23	4.1	6	9.4
Four	2	0.6	0	0.	17	3.0	3	4.7
Five	0	0.	0	0.	8	1.4	0	0.
Six	0	0.	0	0.	1	0.2	1	1.6
Seven	0	0.	0	0.	0	0.	0	0.
Eight	0	0.	0	0.	0	0.	2	3.1
Nine	0	0.	0	0.	0	0.	1	1.6
Total	320	100.0	210	100.0	560	100.0	64	100.0
One or More Priors	26	8.1	0	0.	271	48.4	64	100.0

HB

11

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

Official Business

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
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P.O. Box 333
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1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

February 23, 1983

MEMORANDUM

TO: House Finance Committee Members

FROM: Al Adams, Chair APA
House Finance Committee

SUBJ: Comparison of HB 11 and SS HB 85

Similarities

Both bills would repeal the permanent fund dividend program for 1983 and subsequent years.

Both bills contain a section regarding compilation of jury lists (section 4 of HB 11 and section 1 of SS HB 85). Each section would delete use of the Department of Revenue's list of individuals who filed for a permanent fund dividend in compiling names of individuals for jury duty.

Differences

The most significant difference in the two bills concerns the fate of the income from investment of the principal. Under current law, 50% of net income is transferred to the permanent fund dividend account to pay dividend checks. Additionally, an amount sufficient to offset inflation reverts back to the principal, and the remaining income goes to the undistributed income account for reinvestment.

HB 11 leaves the statute regarding computation of net income (AS 37.13.140) and disposition of income (AS 37.13.145) intact. Therefore, after "inflation proofing" the principal, all the rest of the net income would go to the undistributed income account.

SS HB 85, on the other hand, provides that, after a brief stopover in the undistributed income account, all the income would revert back to the principal "to be treated as principal of the permanent fund in all respects".

Excerpt from Attorney General's Opinion Re: Appropriation Limit Questions, Pertinent to the Permanent Fund Dividend Program

dends;

(2) an appropriation of revenue bond proceeds;

(3) an appropriation to pay principal and interest on general obligation bonds;

(4) an appropriation of money received from nonstate sources in trust for a specific purpose, including revenues of a public corporation that issues revenue bonds; and

(5) an appropriation to meet a state of disaster declared by the governor.

You have requested our interpretation of exceptions (1) and (3) set out above.

A. Alaska Permanent Fund Dividend Exception

The appropriation limit provides: "Except for appropriations for Alaska permanent fund dividends ... appropriations from the state treasury made for a fiscal year shall not exceed $2,500,000,000...." A question obviously arises as to whether "Alaska permanent fund dividends" means only those cash payments provided to individuals under AS 43.23 or if the word "dividend" encompasses other concepts for the distribution of income earned by the Alaska permanent fund.

We believe the answer to your question concerning appropriations for permanent fund dividends depends on whether the exceptions will be construed strictly or liberally. Usually,

provisions in a state constitution are construed liberally using the same rules of construction prescribed for other laws with regard given to the broader object and scope of the constitution as a charter of popular government. Eghert v. Dunseith, 24 N.W.2d 907 (N.D. 1946); 168 A.L.R. 621. Professor Sutherland explains the modern view for construing express exceptions as follows:

> The older rule strictly interpreted both exceptions and provisos but today the prevailing view favors determining the effects of such provisions according to the usual criteria of decision applicable to other kinds of provisions as well without the use of any artificial presumptions to the effect that qualifying language should be strictly construed.

SUTHERLAND STATUTORY CONSTRUCTION § 47.11 (4th ed. 1974)(footnotes omitted). The FCC did not express an intent to limit this exception to only appropriations to finance cash payments to individuals under AS 43.23.

The appropriation limit must be interpreted consistently with the permanent fund amendment contained in article IX, section 15. Section 15 provides that the legislature may dispose of the income of the Alaska permanent fund "as provided by law." Each legislature may reexamine existing law and enact different laws providing for the use of income earned by the Alaska permanent fund. If section 16 were interpreted so that the exception to permanent fund dividends applied only to appropriations to finance cash dividends under AS 43.23, the legislature would essentially be denied the flexibility to adjust to changing philoso-

phies concerning the propriety of making cash payments directly to residents which section 15 expressly reserves to it. 2/ In interpreting and applying the constitution, it must be remembered that the constitution is not a lifeless or static instrument whose interpretation is confined to conditions and outlooks which prevailed at the time of its adoption. Yakus v. United States, 321 U.S. 414 (1944); Warwick v. State, 548 P.2d 384 (Alaska 1976).

The word "dividend" has no precise legal meaning. Trustees of University v. North Carolina R. Co., 13 WORDS AND PHRASES 107 (Permanent ed.); 22 Am. Rep. 671. Webster defines "dividend" as follows: "an individual share of something distributed among a number of recipients." We are not aware of any legal principle which would preclude the characterization of other distribution programs as "dividends." Rather, the words used

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2/ The Thirteenth Legislature may reject direct cash distribution in favor of a plan which it determines will promote public purposes more effectively. During the period of consideration and adoption of the appropriation limit, the permanent fund dividend law was undergoing considerable scrutiny and change by both the legislature and the courts. The legislature adopted the proposed appropriation limit amendment on July 15, 1981. At that time the question of the constitutionality of the permanent fund dividend program as it was then structured was on appeal to the United States Supreme Court. On June 14, 1982, the United States Supreme Court issued an opinion which found the method established for determining the amount of dividends under that program void because the method promoted discrimination based on length of residence in the state. On August 13, 1982, amendments to the dividend law took effect. The people were undoubtedly aware that the dividend law in effect on election day in 1982 was not chiseled in marble.

by the drafters of the amendment afford broad latitude to the legislature to enact new distribution programs which will not be impaired by the appropriation limit.

It is well-settled law that a provision of a state's constitution must receive a liberal, practical construction to meet changed conditions and growing needs of the people. County of Alameda v. Sweeney, 312 P.2d 419, 424 (Cal. 1957). Under the permanent fund amendment, the discretion granted to the legislature to enact, amend, or repeal the present dividend program under AS 43.23 to meet the growing needs of the people is unfettered. However, the operation of exceptions from the appropriation limit must be interpreted consistent with the intent of the framers of the organic law and of the people adopting it. State v. Lewis, 559 P.2d 630, 637 (Alaska 1977).

One important consideration should be carefully observed. The Alaska Supreme Court has found that the purpose of the existing dividend program is to force the legislature to consider the reimposition of taxes when the decline of oil revenue encourages resort to permanent fund income to finance state government. Williams v. Zobel, 619 P.2d 448, 454 (Alaska 1981), rev'd 451 U.S. 905 (1982). The people can be expected to vigilantly protect their dividends by forcing the legislature to seek sources other than the permanent fund to finance state government. If a substitute distribution program accomplishes the same

purpose, it will more likely qualify under the exception in section 16 than if it fails to achieve that purpose. If the constituency benefitted by a dividend is narrow, the dividend may not be a dividend in the sense intended by the drafters of section 16 and the people who adopted it. Proposals soon to be considered by the legislature include replacing the existing distribution to all residents with a distribution of part of the permanent fund income to municipalities and as a substitute for the existing longevity bonus, and use of a part of the income to finance large capital projects.

A vast majority of the population of the state resides in or is served by municipal governments. It is also a fact that we all seek security for our "golden years." The constituents of these proposals seem broad enough to satisfy the purpose of the current dividend law. The use of permanent fund income to finance large capital projects presents a closer question. The character of each project must be considered to determine if it serves a state public purpose, rather than a local special purpose. Additionally, if the project is viewed as merely an alternate way of financing state government operations, the basic intent of the dividend law might not be served.

We cannot advise with certainty whether the financing of large capital projects with permanent fund income would constitute a dividend of the Alaska permanent fund for purposes of

the appropriation limit. Some may argue that the benefits provided by "public works" projects are too localized to approximate the benefits provided by the existing dividend law. However, in State v. Lewis, 559 P.2d 630 (Alaska 1977), the Alaska Supreme Court decided that "[l]egislation need not operate evenly in all parts of the state to avoid being classified as local or special." Lewis at 643. A definite answer will come only when the courts interpret article IX, section 16 of the Alaska Constitution. However, we believe that if the legislature enacts a distribution program which is consistent with the intent of the permanent fund dividend law, any appropriation to implement that program will be exempt from the appropriation limit.

B. Appropriations Required to Pay the Principal and Interest on General Obligation Bonds

Under AS 43.18.100 -- 43.18.135 the state, subject to available appropriations, reimburses municipalities for the payment of a percentage of principal and interest to retire general obligation bonds issued by the municipality to finance school construction costs. Although they have been amended from time to time, these statutes have been in effect since 1971. You have asked whether appropriations to retire municipal general obligation debt are within the exception stated to the appropriation limit.

The exception reads as follows: "Except for ... appro-

STATE OF ALASKA
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

February 3, 1983

The Honorable Mitch Abood, Jr., Chairman
House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Abood:

I appreciate this opportunity you have given me to submit additional information on the effect the Permanent Fund Dividend Program has had on the national image of Alaska. While the impact was never expected to be favorable, it has turned out to be much worse than feared.

From Seattle to Miami, Boston to Los Angeles, Dallas to Chicago, newspapers articles and editorials have been headlined with such banners as "Alaska's New Giveaway Of Our Money" (Chicago Sun-Times, 7/10/82), "Alaskans Pipe Up To Get Share Of Oil-Profit Funds" (The Dallas Morning News, 7/19/82), "Fraud and Greed Hinder Program To Distribute Alaska Oil Money" (New York Times, 8/29/82), "Alaskans May Divvy Up $415M[illion]" (Boston Herald American, 6/5/82), and "$1,000 Checks for Everyone Fail To Make Alaskans Happy" (Washington Post, 8/22/82). People Magazine, in its August 30, 1982 issue, featured an article entitled "The Great Alaskan Giveaway Puts Gold In Them Thar Mailboxes." Accompanying the article were pictures of a woman kissing the mailman as he delivers her check, another happy Alaskan smilingly sporting her new mink coat and a 12 year old girl trying out a new waterbed. In these recessionary times with high unemployment and high energy prices nationwide, articles like these do not endear our State to our fellow Americans.

The underlying theme throughout all of the articles is that Alaskans are sharing in the oil wealth created by taxes imposed on our oil. In a June 10, 1982 Chicago Sun-Times editorial, the newspaper stated:

> The money is out of the pockets of, and should be shared with all Americans--the people who buy and consume energy.

The editorial proceeded with strong suggestions that Congress should limit State severance taxes and impose a national severance tax to be shared with all of the States. Similar sentiment was expressed in a Cincinnati Inquirer editorial:

> Talk about a recession anomaly--the County Commissioners' Association of Ohio has found a whopper: Alaska is so rich that it is doling out $1,000 checks to each of its 415,000 residents. What's worse, part of the dole comes from Ohioans.

The net energy using States, with many being members of a group called the Northeast-Midwest Coalition, are looking at their net energy producing sisters with a combination of jealousy and resentment. They look at Alaska with its balanced budget, contributions from the general fund into the Permanent Fund and Permanent Fund Dividend distribution and compare that situation with that in their own States where many of their residents are wondering how much longer they will be receiving a paycheck, or worse, an unemployment check. Convinced that the energy producing States are exporting energy taxes, legislation has been introduced in Congress to limit the levels of State severance taxes.

The power of a State to impose a severance tax was upheld in the 1981 U.S. Supreme Court decision in Commonwealth Edison Company v. Montana. That court upheld Montana's 30% severance tax on coal but qualified the holding by saying that though the power to impose the tax is clear, the level of the tax is essentially a matter for legislative and not judicial resolution. Thus, the bills which have been introduced seek only to limit rather than eliminate State severance taxes.

During the last session of Congress, two bills were introduced to limit State severance taxes. H.R. 6330 was introduced by Representative Wolpe on May 6, 1982, and Senator Dixon introduced S. 2890 on September 8, 1982. Both bills would limit State severance taxes while H.R. 6330 additionally would impose a national severance tax on crude oil, natural gas, or coal. H.R. 6330 would limit the level of tax to the 1978 level adjusted for inflation while the rate under S. 2890 would be limited to a rate to generate revenue sufficient to meet the costs incurred by the State and any political subdivision thereof which are directly attributable to the production within the State of crude oil, natural gas, or coal. "Severance taxes" are defined in the bills as any tax or fee levied on, measured by, or otherwise imposed with respect to crude oil, natural gas, or coal. Not included in the limitation are income, sales, property or other taxes which apply with respect to a broad range of business activity or property types and which do not result in a significantly higher rate of tax than that imposed on other activities or property.

The impact on Alaska revenue would be disastrous if either of these bills became law. Our estimates indicate that between $5 billion and $8 billion in revenues would be lost during the period from 1985 through 1990. Though the best economic analyses end with the conclusion that

Alaska's oil severance taxes are not passed forward to consumers because of the price of the oil is determined in the marketplace and not by the producers, severance tax limiting legislation will remain alive and threatening so long as the public believes the energy producing states and their residents are becoming personally and individually rich at their expense.

Another area of concern in which Congress may affect the State's revenue is the exemption of State royalty oil and gas from the Windfall Profit Tax Act of 1980. Oil produced at Prudhoe Bay is subject to the Windfall Profit Tax but the State enjoys an exemption from the tax on its 12 1/2 percent royalty interest. Should the Windfall Profit Tax extend through 1993 and the State lose its royalty exemption, we estimate the revenue loss to be approximately $1.2 billion. It is not impossible that those seeking severance tax limitations would also attempt to destroy the State royalty exemption or any other special treatment afforded Alaska and other net-energy producing States.

The cost of energy and the problems in the economy are emotional issues, and emotion sometimes overpowers the most brilliant economic analyses. We do not believe that residents of other States bear the burden of Alaska taxes on oil production because of the basic nature of the crude oil market itself. Governor Sheffield's recommendation to end the Permanent Fund Dividend program is timely and appropriate. The Governor's alternatives for the beneficial use of earnings from the Permanent Fund, creation of the Alaska Investment Fund, reinvestment in the Permanent Fund to protect the Fund from inflation, State revenue sharing, municipal assistance, and the longevity bonus program, would result in the equitable distribution of benefits throughout the state while at the same time providing for a more evenly balanced economic growth. The short-term benefits of the Dividend program are substantially outweighed by the resulting threat to our basic sources of revenue through acts of Congress in response to the expressions of burden and outrage by their constituents.

For your reference I have enclosed brief analyses of H.R. 6330 and S. 2890 along with a summary of our calculations of State revenue losses which would result from the passage of either bill. You will also find our calculations of the expected loss from the State royalty oil exemption under the Windfall Profit Tax Act and various press articles and editorials referring to or commenting on the Permanent Fund Dividend program. If I can be of further assistance, please call on me.

Sincerely,

Robert D. Heath
Commissioner of Revenue

RDH:DMB:mc

Enclosures

STATE OF ALASKA

DEPARTMENT OF REVENUE

FEDERAL LEGISLATION

This summary reflects certain tax areas for which bills have been introduced in Congress. Though the bills may not still be active, they are indicative of the type of legislation we expect to be discussed in the future.

S. 2890

A bill to amend the Internal Revenue Code of 1954 to limit the amount of severance taxes imposed by States on oil, natural gas, and coal.

Summary: This bill would limit severance tax collections to an amount equalling the costs incurred by the State or any political subdivision which are directly attributable to the production of crude oil, natural gas, or coal. The burden of proof to substantiate the rate of tax is on the taxpayer if the severance tax rate does not exceed the 1978 rates and on the States if the rate is higher than the 1978 rate, with the 1978 rate adjusted for inflation. The U.S. Attorney General or taxpayer may bring suit challenging the rate of tax. Severance taxes are defined as taxes on the production of coal, oil or natural gas and include any taxes which impose a significantly higher rate on producers and production property than on other activities or property. This bill is based on the theory that a State severance tax is exported to consumers.

Revenue Impact: We estimate that the bill would effectively limit Alaska severance taxes to the 1978 levels. Estimated revenue loss to the State would be between $5 billion and $8 billion over the period 1985 through 1990.

Position: Our interest of course is primarily in the oil severance tax limitation. Severance taxes are not carried forward to consumers because the price of oil is determined in the marketplace which prevents producers from adding on severance taxes to raise prices above the market price. The bill would harm the States which need additional revenues under the new Federalism of the Reagan administration while not benefitting consumers. Alaska opposes this bill.

H.R. 6330

A bill to limit State severance taxes and impose a national severance tax on crude oil and limit State severance taxes on crude oil, natural gas and coal.

Summary: The proposed National Crude Oil Profit-Sharing Act would establish a 30 percent permanent profit sharing tax on crude oil to be paid by producers. 75% of the proceeds of such a tax would be applied to the Federal deficit with the remaining 25% to be distributed by block grants to the States. The bill would also limit State severance taxes to their 1978 levels, adjusted for inflation.

Revenue Impact: The revenue impact would be similar to S. 2890, between $5 billion and $8 billion over the period 1985 through 1990. Because the proposed methods for determining block grants disfavor Alaska, little, if any, of the loss would be made up by block grants. Additional losses would result if the national severance tax increased oil prices with a corresponding decrease in demand.

Position: This proposed act would be detrimental to the national economy. No tax is proposed for imported oil which may result in a price benefit to foreign producers. Northeastern States which rely substantially on foreign oil would directly benefit from any price differential. The national severance tax would cause inflation by increasing the price of domestic oil equal to the market price (domestic oil is currently selling below the OPEC price). The increased production cost due to the new tax would discourage domestic production and new exploration and development increasing unemployment and greater dependency on foreign producers. Because of the market pricing structure consumers would not benefit from reduction in State severance taxes. With the proposed block grant structure, producing States subject to the boom and bust socioeconomic effects of resource development would be losing severance tax income. In addition, the sharing of the proceeds of the national severance tax favors the populous net energy using States. Alaska opposes this legislation.

DECEMBER 1982 FORECAST ASSUMPTIONS

Severance Tax Revenues Using "Wolpe" Cap

	NORTH SLOPE					COOK INLET					
	Oil Production (MMbbls/day)	$/bbl	Gas Production (bcf/day)	$/Mcf	North Slope Revenue (MM$)	Oil Production (MMbbls/day)	$/bbl	Gas Production (bcf/day)	$/Mcf*	Cook Inlet Revenue	Total Revenue
FY 1985	1.726	.5928	.024	.0603	373.99	.0524	.5928	.451	.0603	21.26	395.25
1986	1.817	.6343	.024	.0645	421.24	.0466	.6343	.499	.0645	21.36	442.60
1987	1.830	.6786	.024	.0739	453.92	.0415	.6736	.651	.0739	27.84	481.76
1988	1.830	.7262	.024	.0791	485.76	.0364	.7252	.651	.0791	28.44	514.20
1989	1.890	.7770	.024	.0846	536.75	.0318	.7770	.651	.0846	29.12	565.87
1990	1.716	.8314	.024	.0905	521.53	.0276	.8314	.645	.0905	29.68	551.21

* Assumes language of HR 6330 introduced by Mr. Wolpe May 6, 1982.

Decrease in Projected Severance Tax Due to Imposed Cap
(Millions $)

	Current Estimated Severance	Estimated Severance With Cap	Net Revenue Loss	Current Estimated Severance	Estimated Severance Cap	Net Revenue Loss
FY 1985	1220.34	395.25	825.09	1490.49	395.25	1095.24
1986	1333.81	442.60	891.21	1639.44	442.60	1196.84
1987	1354.78	481.76	873.02	1729.05	481.76	1247.29
1988	1532.76	514.20	1013.56	2003.62	514.20	1489.42
1989	1449.79	565.87	883.92	1973.71	565.87	1407.84
1990	1288.94	551.21	737.73	1948.92	551.21	1397.71
			5224.53 (30% Case)			7834.34 (Mean Case)

IMPACT OF WINDFALL PROFITS TAX ON ANS ROYALTY CRUDE OIL

	Base Price[1]	Removal Price[2]	North Slope Production Tier One (MMbbls/day)	Royalty Share (MMbbls/day)	State WPT Liability (Millions $)
[3]FY 1983	16.50	19.601	1.524	.191	151.26
1984	17.51	17.36	1.505	.188	0
1985	18.73	18.22	1.495	.187	0
1986	20.04	19.87	1.535	.192	0
1987	21.45	21.01	1.523	.190	0
1988	22.95	24.45	1.523	.190	72.82
1989	24.55	27.14	1.523	.190	125.73
1990	26.27	30.15	1.346	.168	166.55
1991	28.11	33.69	1.136	.142	202.45
1992	30.08	37.65	.949	.119	230.16
1993	32.19	41.80	.835	.104	255.36
					1204.33

[1] Assumes Inflation 4% FY 1983
6% FY 1984
7% FY 1985-1987

[2] Average expected wellhead (Pump Station One) price from December Forecast assumptions. Notice that windfall tax base falls to zero as real oil prices decline, then becomes positive as real oil price begins in the late 1980's.

[3] Windfall tax life assumed through FY 1983 (see WPT Act).

MEMORANDUM State of Alaska

TO: Louann Cutler
Professional Assistant
House Finance Committee

DATE: February 23, 1983

FILE NO:

TELEPHONE NO: 465-2302

FROM: Joseph K. Donohue JKDonohue
Deputy Commissioner, Taxation
Department of Revenue

SUBJECT: PFD Appropriations

At your request, I have prepared the attached chart tracing the appropriations made to the PFD program from inception to date.

JKD:EJ:ms

Appropriation History of PFD Program

FY 81 Ch 120 SLA 80 Sec. 52

TOTAL Appropriations for 1979 Dividend Payments		$129,330,300
Administrative Cost Allocation from Fiscal Note SB 122 Ch. 21 SLA 80		
Enforcement Division	$378,100	
Audit Division	12,100	
Admin. Services	440,100	
TOTAL Administrative Cost		(830,300)
Supplemental Ch. 92 SLA 81 for 1979 Dividend Payments		12,500,000
Available for 1979 Dividend Payments		$141,000,000

FY 82 Ch 82 SLA 81

Total Appropriation for 1980 Dividend Payments		$149,961,800
The balances of administrative costs from FY81 were carried forward in FY82.		
Refundable Credits (Included in total)		(1,632,000)
Available for 1980 Dividend Payment		148,329,800

A supplemental for $419,000 was received, Ch 101 SLA 82 Sec. 52, for administrative costs associated with PFD processing.

FY 83 Ch 101 SLA 82 Sec. 18

Total Appropriations for 1981 Dividend Payments		$150,400,000
Administrative Cost Allocation from Fiscal Note SB 842 Ch 102 SLA 82		
Enforcement Division	$777,200	
Public Services	824,900	
Treasury Division	159,800	
Administrative Services	834,400	
TOTAL Administrative Costs		(2,596,300)
Available for 1981 Dividend Payments		$147,803,700

Chapter 101 SLA 82 Sec. 17 reappropriated Ch 120 SLA 80, Ch 82 SLA 81, and Ch 92 SLA 81 for the purpose of making 1979 and 1980 Permanent Fund Dividend Payments.

Chapter 101 SLA 82 Sec. 19 further appropriated the above for the purpose of making Permanent Fund Dividend payments under any bill passed by the Twelfth Legislature in event the original Permanent Fund Dividend Program was invalidated by the US Supreme Court.

The Supreme Court ruled the original program invalid. Senate Bill 842 was signed and became Chapter 102 SLA 82. This established the new Permanent Fund Dividend program.

The total available for $1,000 dividend payments as a result of reappropriation was: $437,133,500

FY 84

At the recommendation of the Office of Management and Budget, the Department of Revenue reflected the FY84 administrative cost of the PFD distribution program in the operating costs of the Department. This was done in recognition of the PFD program as an on-going function of this Department. The net result was to reflect the $2.6 million in the FY84 budget as continuation.

In preparing the FY84 Executive Budget, OMB chose to reflect the repeal of the PFD program. In so doing, the administrative costs of each affected BRU was reduced as follows:

Enforcement	($ 689,700)	
Admin. Services	(654,800)	
Public Services	789,400)	
Treasury	(160,600)	
TOTAL Reduction		(2,294,500)

The total to be distributed in FY84 is approximately $170 million, the sum of one half the FY82 earning of the Permanent Fund and one-half the estimated FY83 earnings of the Permanent Fund.

FY 85

The estimated amount to be distributed in FY85 under current law is $122 million.

PROPOSED FY 84 BUDGET FOR REPEAL OF PFD PROGR

Attachment D

Reduction due to Dividend Repeal

Division		$	PFT Positions Deleted	PPT/Temp. Positions Deleted
Administrative Services		654.8		
Personal Services	205.0			15
Contractual	447.7			
Commodities	2.1			
Enforcement		689.7		
Personal Services	568.5		7	
Travel	43.5			
Contractual	72.6			
Commodities	5.1			
Public Services		789.4		
Personal Services	356.8			14
Travel	68.9			
Contractual	360.5			
Commodities	3.2			
Treasury		160.6		
Personal Services	57.8		1	1
Travel	4.2			
Contractual	95.4			
Commodities	3.2			
Total Impact		2294.5	8	30

FISCAL NOTE

COPY

LEGISLATIVE FINANCE

I. REQUEST

Bill/Resolution No. HB 11

Title repealing the permanent fund dividend program

Requested by House State Affairs Committee Date 1/21/83

II. FISCAL DETAIL

Agency Affected Revenue

Program Category Affected Revenue Operations

BRU, Program, Or Subprogram(s) Affected Public Services

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Repeal of the permanent fund dividend program is already reflected in the Executive Budget.

IV. DATE 1/27/83 PREPARED BY P A Wall

AGENCY Revenue

PHONE 465-2393

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: Glen Price

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: HB 11

Title: An Act repealing the permanent fund dividend program.

Requested by: House State Affairs Committee Date: January 21, 1983

II. FISCAL DETAIL

Agency Affected: Revenue

Program Category Affected: Permanent Fund, Dividend Fund

BRU, Program, or Subprogram(s) Affected:

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS,CLAIMS,ETC	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Millions of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
_____	-	-	-	-	-	-
_____	-	-	-	-	-	-
	0	0				

POSITIONS

FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

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

The aforementioned amounts reflect no impact since what is proposed is, I am informed by Management and Budget, already implied in the governor's budget.

IV. DATE: January 24, 1983 PREPARED BY: Vincent Wright

AGENCY: Revenue - Research

PHONE: 465-2174

Original: Legislative Finance

cc: Office of Management and Budget

Prime Sponsor (First Legislator Named)

33-001 (Rev. 01/83)

OMB Reviewed by: Glen Price

RECEIVED

FEB 2 1983

LEGISLATIVE FINANCE

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 11
Title An act repealing the permanent fund dividend program
Requested by House State Affairs & Finance Date 01-28-83

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Marilla J. Gemmer

IV. DATE 01-28-83 PREPARED BY Marilla L. Gemmer, Director
AGENCY Department of Revenue
PHONE (907) 465-2366

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

83-001 (Rev. 12/82)

OMB Reviewed by: Glen Price

THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: HB 11

Title: "An act repealing the permanent fund dividend program; and providing for an effective date."

Requested by: House State Affairs Committee Date: 1/21/83

II. FISCAL DETAIL

Agency Affected: Department of Revenue

Program Category Affected: Revenue Collection and Management

BRU, Program, or Subprogram(s) Affected: Administrative Services Div.

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS,CLAIMS,ETC	-	-	-	-	-	-
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)						
	-	-	-	-	-	-

POSITIONS

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

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

The repeal of the Permanent Fund Dividend program has already been reflected in the Governor's FY84 Executive Budget.

IV. DATE: 1/24/83

PREPARED BY: Bryan B. Jones

AGENCY: Revenue

PHONE: 465-2313

Original: Legislative Finance

cc: Office of Management and Budget

Prime Sponsor (First Legislator Named)

33-001 (Rev. 01/83)

OMB Reviewed by: Glen Price

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

☒ Expenditure Type
☐ Revenue Type

I. REQUEST
Bill/Resolution No. HB 11
Title An Act repealing the permanent fund divident program
Requested by House State Affairs Date 1-19-83

II. FISCAL DETAIL
Agency Affected Department of Public Safety
Program Category Affected Life and Property Protection
BRU, Program, Or Subprogram(s) Affected Driver/Vehicle Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This would have no fiscal impact on Division of Motor Vehicles.

Office of Management and Budget
Reviewed by: Mike Maher, Program Budget Analyst
Division of Budget Review

IV. DATE January 19, 1983 PREPARED BY Bill Brown Phone 465-4335
DIVISION Motor Vehicles Initials
DEPARTMENT OF PUBLIC SAFETY Initials

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

33-001 (Rev. 12/82)

THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 11
Title "An Act repealing the permanent fund dividend program; and providing for an effective date
Requested by House State Affairs Date 1-18-83

II. FISCAL DETAIL
Agency Affected Office of the Governor
Program Category Affected Division of Elections
BRU, Program, Or Subprogram(s) Affected Division of Elections
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

No additional fiscal impact is anticipated. The Division of Elections already prepares a microfiche listing of all persons who have registered to vote in this state. This list is generated from a magnetic tape compatible with Department of Administration data processing equipment.

Danith D. Arnoldt

IV. DATE 1-18-83 PREPARED BY Danith D. Arnoldt, Deputy Director
AGENCY Office of the Governor, Div. of Electic
PHONE 586-6181

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

33-001 (Rev. 12/82)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 11

Title Act Repealing the Permanent Fund Dividend Program

Requested by _____ Date 1/21/83

II. FISCAL DETAIL

Agency Affected Department of Administration

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected _____

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

EXPENDITURES (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	(11.0)	(11.5)	(12.1)			

FUNDING (Thousands of Dollars)

GENERAL FUND	(11.0)	(11.5)	(12.1)			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 1/24/83 PREPARED BY Tom Haas

AGENCY Administration - Finance

PHONE 465-2240

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

3/34D1/0124-1

MSG 83-00010487 PRTY 1 02/23/83 14:12:45 ORIG: LIOO IN= 0006 OUT= 0027
FROM: DOROTHY IN DILLINGHAM TO: GAIL/JUNEAU
TARGET: LJH4 SUBJ: TESTI. NY FOR PERM. FUND HEARING

BELOW IS TESTIMONY TO THE HOUSE FINANCE COMMITTEE MEMBERS CONCERNING THE REPEAL OF THE PERMANENT FUND PROGRAM

FROM: WAYNE SCHROEDER, BOX 116, DILLINGHAM, ALASKA 99576 TELEPHONE 842-5984

I OPPOSE THE HB 85 AND HB 11 DUE TO THE FACT THAT IT IS A GREAT PROGRAM. WHO KNOWS HOW TO SPEND MY MONEY MORE THAN ME. MY DAUGHTERS INTEND TO USE THEIR MONEY FOR COLLEGE. I CONSIDER THAT ONE HECK OF AN INVESTMENT. HOW CAN THE REPEAL OF THE PROGRAM MATCH INVESTMENT PLANS BETTER THAN THAT? THANK YOU.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

JUN 10 1982

CHICAGO
SUN-TIMES
CHICAGO, ILL
0. 655,122 SUN. 630,940

DURHAM, N.C.
27706
[illegible]

JUN 9 1982

Alaskan Bonanza

Alaska, whose name means "the great land," has come up with an enviable plan for paying $1,008 in state oil money to every man, woman and child who has lived there for at least six months. It could start flowing this summer.

Alaskan Gov. Jay Hammond is concerned, however, about stirring antipathy in less fortunate states. Sending state money from the capital to the taxpayers is too wild a dream for most Americans to imagine, and they might let their envy take ugly turns.

Not here. More power to the Alaskans. Not only has the state no income tax, it has the right-headed notion that earnings from public oilfields should go to the taxpayers as if they were stockholders in the firm, as, indeed, they are.

Alaska, whose name means "the great land," has come up with an enviable plan for paying $1,008 in state oil money to every man, woman and child who has lived there for at least six months. It could start flowing this summer.

Alaskan Gov. Jay Hammond is concerned, however, about stirring antipathy in less fortunate states. Sending state money from the capital to the taxpayers is too wild a dream for most Americans to imagine, and they might let their envy take ugly turns.

Not here. More power to the Alaskans. Not only has the state no income tax, it has the right-headed notion that earnings from public oilfields should go to the taxpayers as if they were stockholders in the firm, as, indeed, they are.

Alaska's new giveaway of our money

Alaska's plan—which will nearly exhaust the state's current $2.3 billion in the account—is to send each person in the state a check for $1,008 per resident. That raised Anchorage homeowner tax and put $1,029 in the hands of each homeowner. Payout is a bargain in cost to the general fund. The new $1,008 is multiplied property tax. This is like a bill passed every year that would permit you to keep 10 percent tax on all property.

Kelly was mocking from his legislature's approval of a bill to give—you—$1,000 to each man, woman and child in Alaska out of the $3 billion amassed and so far unspent from the state's 10 percent tax on all production on state lands.

The money is out of the pockets of, and should be shared with, all Americans—the people who buy and consume energy. It is [illegible] dollars in severance taxes and royalties that 13 states will collect during the [illegible] year of the $241 billion in energy taxes and royalties on the old gas and coal produced

[illegible] state lands before [illegible]

Alaska's plan—which will nearly exhaust the state's current $2.3 billion in the account—is to send each person in the state a check for $1,008 per resident. That raised Anchorage homeowner tax and put $1,029 in the hands of each homeowner. Payout is a bargain in cost to the general fund. The new $1,008 is multiplied property tax. This is like a bill passed every year that would permit you to keep 10 percent tax on all property.

I like cash according to height of readers. We have said it before Congress in March [illegible] constitutional authority to limit state spending—and not be effectively—and create a national energy tax to [illegible] economic development that would surface like depravity in wealth between energy producing and energy-consuming states. Appropriate legislation is pending. With "[illegible] present." It should pass

CHICAGO
SUN-TIMES
CHICAGO, ILL.
D. 655,122 SUN. 630,940

JUN 10 82

DURHAM, N.C.
HERALD
D. 47,620 S. 69,719

JUN 9 1982

Alaskan Bonanza

Alaska, whose name means "the great land," has come up with an enviable plan for paying $1,008 in state oil money to every man, woman and child who has lived there for at least six months. It could start flowing this summer.

Alaskan Gov. Jay Hammond is concerned, however, about stirring antipathy in less fortunate states. Sending state money from the capital to the taxpayers is too wild a dream for most Americans to imagine, and they might let their envy take ugly turns.

Not here. More power to the Alaskans. Not only has the state no income tax, it has the right-headed notion that earnings from public oilfields should go to the taxpayers as if they were stockholders in the firm, as, indeed, they are.

Being land one-fifth the size of the continental United States, has sparse population: 419,600 residents. By and large, they are rugged individualists who understand the enormous potential of their beautiful and bountiful domain. Gov. Hammond and the legislature think they will pay closer attention to how the proceeds of once-controversial top-of-the-world oil fields are invested if they have a greater stake—and that is what the summer bonanza represents.

Some green-eyed critics may argue that what Alaska has belongs to the rest of us, but they should still their greedy souls and count their own state's blessings which they would not want covetous eyes to caress.

It looks like good stewardship in

Alaska's new giveaway of our money

Alaska state Sen. Tim Kelly said it all: "I think every Alaskan is in for 43 [cents] within a depressed zone or a high-unemployment zone is going to freeze Alaska's wallet and put intergovernmental pressure on that state." Congress looked—but in vain, not like?

(1) Reagan? We're amazed. (2) Pressure on Congress looked—but in vain, not like?

Kelly was mocking those in legislature's approval of a bill to give—give—$1,000 to each man, woman and child in Alaska out of the $3 billion amassed and so far exempt from the state's 10 percent tax on oil production.

The money is out of the pockets of, and should be shared with, all Americans—like people who buy and consume energy. It is part of the $243 billion in extreme taxes and corporate profits that 13 states will collect during the 1980s alone on the oil and coal produced within their borders.

Alaska's share—which will easily exceed $25 billion in the decade—is so enticing that it already has eliminated the state income tax and paid each township $1,000 per student. That enabled Anchorage, home of half the state's population, to do away with the municipal property tax. The new $1,000 payout is a bargain in case the equity lawsuit against a bill passed earlier that would potentially cost the cash-hungry to begin of treasury. We have said it before Congress has constitutional authority to limit state severance taxes—they need not be attached—and create a federal energy tax to feed an economic catastrophe. And that would any private industry to waste between energy producing and energy-consuming states. Appropriate legislation is pending with "bipartisan support." It should pass

To: Bob Clarke
From: Lou Sacco

The New York Times, Sunday, August 29, 1982.

Fraud and Greed Hinder Program To Distribute Alaskan Oil Money

JUNEAU, Alaska, Aug. 28 (AP) — Alaska's program to distribute $1,000 checks to people who have lived in the state for six months is drawing fraudulent applications at a rate that could delay the payoffs, state officials say.

Mirilla Gemmer, director of the Alaska Department of Revenue's enforcement division, said Tuesday that she believed state officials were "seeing the tip of the iceberg" in applications for the checks from people who were not qualified.

So far, the number is small, but the department believes there will be many more as officials continue to process thousands of applications, she said.

Meanwhile, the department is being flooded with telephone calls from Alaskans asking why their checks have not arrived yet, said Philip Wall, who is directing the distribution program. Along with the apparent fraud, the department is seeing "some greed" among those who do qualify, he added.

Governor Urges Patience

Gov. Jay Hammond issued a statement last week urging the 365,000 people who have applied so far to be patient, and said the department must carefully process applications to insure against fraud.

Two months ago the state began its program to distribute an estimated $416 million to people who, by Oct. 15, will have lived in Alaska six months.

The program, which grew out of the state's oil wealth, was started after the United States Supreme Court rejected a plan to distribute money in amounts of $50 for each year recipients have lived in Alaska since it was admitted to the Union in 1959. The Court said that plan discriminated against newcomers.

The substitute distribution plan will continue in future years, although state revenue officials have estimated that next year's check will amount to about $800 per person.

Fraudulent Claims Cited

Miss Gemmer said the Department of Revenue, still in the middle of processing applications, had turned up apparently fraudulent claims from people who said they had been Alaskan residents since April 15, as required.

"We do have some people who have applied even though they apparently live in the Lower 48 and who in fact have lived in the Lower 48 for years," she said.

"We have visitors who apply and are staying for friends to pick up their checks," Miss Gemmer continued, "and retirees who haven't lived here in years and know full well they don't qualify."

She said the state would do all it could to prosecute cases of fraud. The maximum penalty for conviction is one year in jail and a $5,000 fine.



Court Bars a California Board From Revoking Killer's Parole

STEVENS POINT, WIS.
JOURNAL
D. 13,900

SEP 1 1982

An embarrassment of riches in Alaska

EDITORIAL

Alaska seems to be on the way to becoming America's first welfare state, at least as long as the oil holds out.

The state government has been mailing out a $1,000 check to every man, woman and child, and it may give away more.

The money comes from oil taxes and royalties, and Alaska is handing it out because it's coming in faster than it can be spent.

So everybody in Alaska is grateful for this unexpected bonus, right?

Not quite. An official in Alaska's Revenue Department says people are calling, not to say thank you but to complain that the checks are late. "We have received enraged and irate calls from just about everybody," she said. "You've never seen so many greedy people in your life."

But not everyone on the last frontier has lost his pioneering spirit.

"I've lived here 30 years and I don't see why I should rely on the state for subsistence," grumbled one man.

An Anchorage newspaper reporter, after talking to many people, said the consensus was that the giveaway is dumb—but the only thing dumber is not to apply for it as long as they're handing the money out.

Alaska's situation, of course, is academic as far as people in Wisconsin are concerned, since our state's problem is the opposite of a surplus.

But just for fun, what would we do if they struck oil here and the money flowed into the state's treasury faster than we could use it?

Would we reduce the oil royalties? There'd be opposition to that. We'd be dealing with a disappearing resource, and once gone it would be gone forever. A sensible argument could be made that if you don't grab the revenue now you'll never see it.

Still, a fat surplus in the public till that isn't earmarked for specific purposes is a problem. Kept too long, it gets spent foolishly. Given away, it's unearned income that can breed a welfare mentality.

But that's Alaska's worry. It certainly isn't Wisconsin's.

AMARILLO, TEXAS
GLOBE TIMES
D 39,985

SEP 3 1982

Alaskan Politicians Not Typical Spender

EDITORIAL

Politicians are notorious for taking money fr taxpayers' pockets to squander on ridiculous p jects. But something's amiss in Alaska.

Last month the Alaskan government started se ing out $1,000 checks to every man, woman and ch who has lived in the state at least six months.

How can that be possible? Alaska doesn't ev have a state income tax.

Several years ago Alaskan politicians wanted demonstrate their faith in people's ability to dec how their money should be spent. Revolutionary id — trusting taxpayers with their own money.

In order to share the state's oil taxes and royalti legislators set up a "permanent fund" created fr about 25 percent of the state revenues from the P dhoe Bay oil fields and mineral resources. The yea checks will come from half of the interest on the fun

To make Alaskan life even more interesting, G Jay Hammond wants to give away more money putting all of the oil money — about $4 billion — ir the permanent fund. Checks would be reduced whe ever state representatives voted for pork barrel p jects that drain money from the fund. In that wa people would really feel like government spendi was money coming from their pockets.

Hammond says it keeps voters interested "What are you idiots doing with my money?"

The state expects to mail out $415 million in chec this year.

Is this extra money making Alaskans happy?

"We have received enraged and irate calls fro just about everybody," says a Revenue Departme worker. "You've never seen so many greedy people your life."

Maybe those of us in the lower 48 states just don know how blessed we are to have politicians spendi our money for us — sparing us headaches, high blo pressure and displays of greed. How thoughtful.

JUN 18 1982

Alaskans given $1,000 shares of oil wealth

By KARIN DAVIES
Associated Press

JUNEAU, Alaska — The first batch of $1,000 checks was mailed to about a thousand Alaskans today under an unprecendented plan to share more than $400 million in state oil wealth with residents.

The checks were dropped in the mail less than 12 hours after Gov. Jay Hammond signed landmark legislation establishing a program to give every man, woman and child who has lived in Alaska at least since April a one-time cash payment of $1,000.

Smaller payments will be awarded in future years under the bill, which replaces a distribution plan that was invalidated by the U. S. Supreme Court this week.

The high court ruled that the state could not divvy up its oil wealth based on a 1980 formula which would award larger payments to people who have lived in Alaska longer.

Revenue Commissioner Tom Williams said the earlier people applied for their distribution from the earnings of the $3 billion Alaska Permanent Fund, the state's nest-egg savings account, the sooner they will receive their dividend checks. Applications are being processed in the order they are received.

To qualify for a share of the state's bankroll, residents must have lived in Alaska for at least six months by Oct. 16 — the deadline for submitting 1982 dividend applications.

"The new plan will finally allow all Alaskans to receive an equitable portion of the earnings of their oil wealth," Hammond said. "Although that share will not be allocated as appropriately as it might have been, the size of that share will be directly tied to the prudence in which we add to the permanent fund and invest it."

Hammond has been a major advocate of creating the fund as a hedge against excessive spending by the state.

The governor also said the distribution plan may result in reduced government spending because residents will use part of their dividends to buy services from the private sector.

"The dividend won't make Alaska the Promised Land no matter how hard the economic times may appear to be to residents elsewhere," Hammond said.

LOS ANGELES CAL.
D. 1,050,963 S. 1,234,115

JUN 17 1982

Energy and Environment

Alaska Gov. Jay S. Hammond signed a bill to create a 49,000-acre eagle sanctuary in the Chilkat River Valley to commemorate the 200th anniversary of selection of the bald eagle as the national symbol. Hammond noted that the bald eagle is an endangered or threatened species in every state except Alaska. Most of the eagles are concentrated in southeastern Alaska, which has dense forests and abundant salmon runs.

Marine scientists say they have found in the Bay of Fundy, between Canada and the northeast United States, a summer nursery and feeding ground of a now rare and little studied species of whale. As many as 60 right whales, apparently named "right" because early hunters considered the 60-ton mammals the easiest of its kind to kill, have been sighted in two areas of the bay, according to Scott Kraus of the New England Aquarium. Scientists believe the Atlantic branch of the right whale family includes only about 200 animals. Other right whale species are found in the Pacific and South Atlantic.

The International Atomic Energy Agency has approved a safeguards agreement with Argentina covering the nation's supplies of partially enriched uranium from the Soviet Union, an agency spokesman said in Vienna. The agreement, approved June 9, was sought by Argentina and spells out details of how and when inspections in Argentina may be carried out. The agency said the arrangement will cover an initial shipment of 220 pounds of 20% enriched uranium. Such low-grade uranium may be used in power plants or in research but would be of little use for nuclear weapons, experts said.

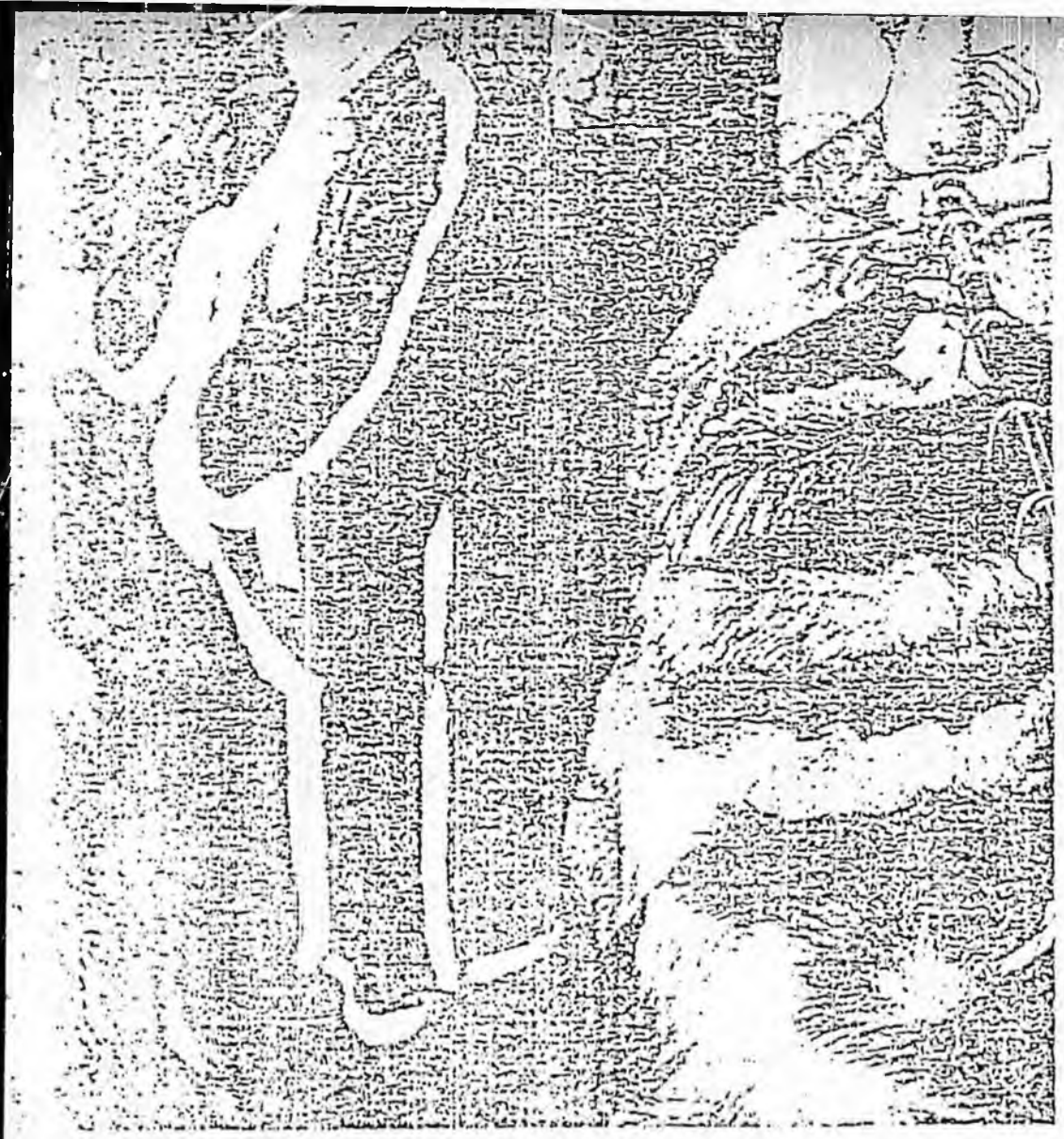
WALL STREET JOURNAL
SAN FRANCISCO, CALIF.
D. 355,910

JUN 15 1982

Justices struck down Alaska's plan for sharing oil revenue based on years of residency. The Supreme Court said the proposal to distribute about $130 million annually was unconstitutional. Last week, Alaska lawmakers passed an alternative plan giving each resident an initial $1,000.

Justice William Rehnquist was hospitalized at George Washington University Hospital for a "minor surgery," a Supreme Court spokesman said. No details were given on the condition of Rehnquist, who in January was hospitalized for a back ailment and the side effects of a pain killer.





[illegible] and Mike Rand admire her mink. "[illegible] may get breakfast in bed," she [illegible] when he hands over his $1,000."

Lisa Pollett and Greg Aucutt bought their rings from jeweler Joshua Jennett. "Sharing the wealth is nice," she says.



obsessed with a dream of instant wealth to be found in the permafrosted bowels of the earth. Few of them earned enough to pay back the cost of their passage; many died in the frigid wastes of the cruel North.

Alas, they came too soon. This year Alaska has finally yielded up its fabled wealth. In a windfall of storybook proportions, $440 million is being distributed in the 49th state, $1,000 to every man, woman and child. "I've always wanted a mink coat," bubbles Janice Rand, 49, an Anchorage phone company employee who pooled her check with that of her husband (and co-worker) Mike to acquire a toffee-colored mink with white trim. "I love Mike without the coat," she says, "but I sure do love him more with it."

The state government's unusual largess is a reaction to a true embarrassment of riches. Since the huge oil strike at Alaska's Prudhoe Bay in 196[illegible], the state has reaped over $11 billion in taxes and royalties. Republican Gov. Jay Hammond, who under Alaska law cannot run for a third consecutive term, used the money to abolish the state income tax in 1980. He also set up a state "savings account" for future needs. That fund has now reached $3.4 billion. Under Hammond's original plan, the state would have paid out part of the interest at a rate of $50 per person for every year of residence in the state. This year the U.S. Supreme Court disallowed that, so the present system, passed by the legislature as a backup, went into effect. In 1983 all residents are expected to receive $356 per person and in 1984, $247.

For Lisa Pollett, 22, and her fiancé, 23-year-old Greg Aucutt, the bonanza led to marriage. College sweethearts at Washington State, they came to Alaska six months ago, just in time to meet the minimum residency requirement for the $1,000 checks. "We've been thinking about getting married for quite some time," says Lisa. "But we were waiting until we were more financially secure." The couple used half of their money to purchase wedding rings—an $800 diamond for Lisa and a $300 gold band for Greg—at an Anchorage jewelry store whose newspaper ads read: "Splurge! It's not every day you get $1,000 from the State!"

CONTINUE

[illegible] the money will [illegible] than luxury. Wassie Balluta, [illegible] Athabascan Indian [illegible] mayor of the tiny fishing village [illegible] (pop. 110), 200 miles [illegible] of Anchorage. Says Balluta [illegible] money will go for fuel next winter [illegible] to put it in a fund for my [illegible]'s college education, but since [illegible] is not as good this year, it must [illegible] my family. Everybody [illegible] broke."

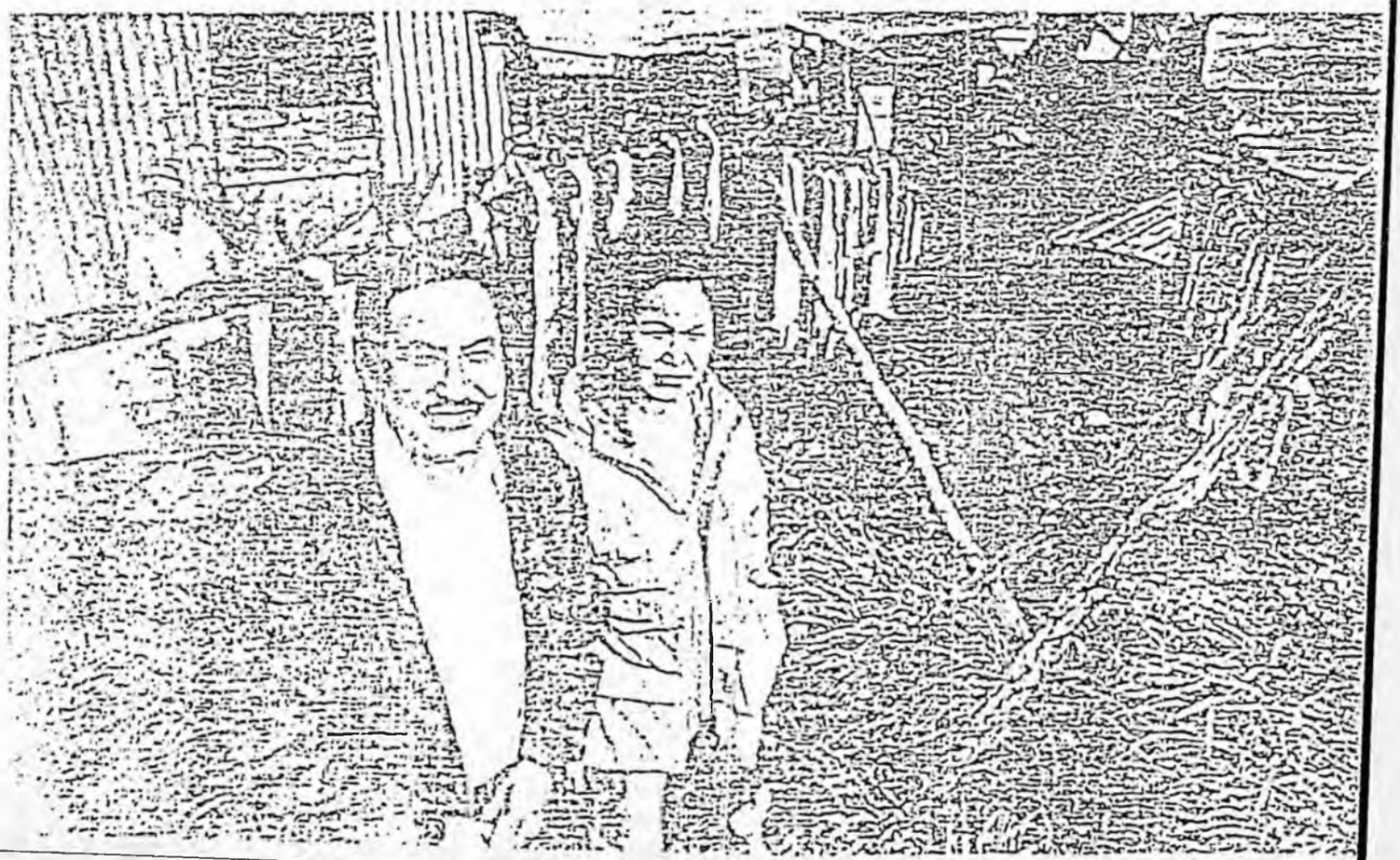
[illegible] the program has its de[illegible] "Republican gubernatorial [illegible] Tom Fink complains that [illegible] will bring out the basest [illegible] in people and attract the un[illegible] to Alaska." Even more ad[illegible] 49-year-old Joe Vogler of Fair[illegible] a lawyer who's lived in Alaska [illegible] 1942, working as a trucker, log[illegible] and miner. A longtime advocate of [illegible] Alaska from the rest of the [illegible] Vogler has even lobbied dele[illegible] of the United Nations to promote [illegible] for the Alaskans." He argues [illegible] the giveaway has "made Alaska a [illegible] from the eyes of 200 million [illegible]. We should be building [illegible] docks, airports, hydroelectric [illegible] hospitals and schools with the [illegible]. What the hell is $1,000 going to [illegible] most people? It's insanity." [illegible] Vogler, "I won't even cash my [illegible]."

MARIA WILHELM



Tracy Reed, 12, tries out a new waterbed. "It's kinda weird to get this," she says, "but neat to have money."

Wassie Balluta will save the money for winter. Says his wife, Fedosia, wistfully, wanted to buy myself new furniture."



The Alaska Payout Ruling

ALASKA WAS INNOVATIVE when it proposed distributing state royalties from the sale of North Slope oil to its residents. But the U.S. Supreme Court was correct in deciding that it was unconstitutional to base residents' shares on the length of their stay in the state.

In the ruling, Chief Justice Warren Burger stated that the precedent created by the state's proposed payout suggested that it would also be possible to levy taxes based on length of residence as well as set conditions for eligibility for government contracts, civil service jobs and student loans on the same basis.

Striking down length of residency as a basis for benefits from a state was consistent with the federal constitution as well as with legal precedent. The fact that Alaska already had backup legislation enacted designed to distribute its oil revenues on a more equitable basis is testimony that even the state recognized the fatal flaw in its 1980 payout formula. Still, the court's ruling is a firm reminder that "equal protection under the law" should never conform to a timetable.

LOS ANGELES, CALIF.
DAILY JOURNAL

JUN 24 1982

Rulings

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Alaska Dividend Program Violated Equal Protection

The *U.S. Supreme Court* has held that Alaska's plan to distribute dividends from its Permanent Fund violated the equal protection guarantee.

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The *U.S. Supreme Court* ruled that the plan violated the constitutional guarantee of equal protection. The court said the state had shown no valid state interest rationally served by creating "fixed, permanent distinctions between an ever increasing number of perpetual classes of concededly *bona fide* residents." Neither creating an incentive to maintain Alaska residence nor assuring prudent management of the fund and the state's natural resources were rationally related to the plan's distinctions among residents, said the court, and rewarding citizens for past contributions was "not a legitimate state purpose." Alaska's reasoning would "permit the states to divide citizens into expanding numbers of permanent classes," a result that was "clearly im-

WASHINGTON, D. C.
D. 584,500 SUN. 820,003

JUN 6 1982

Backlash Seen on Alaska Oil Plan

JUNEAU, Alaska, June 5 (AP)—A new plan to [illegible] pressed areas of the country may feel Alaskans are haunting their state's wealth.

pay $1,000 in state oil money to every man, woman and child who has lived in Alaska at least six months could spur "very adverse publicity" in loss fortunate states, according to Gov. Jay Hammond.

State Sen. Bill Ray, who voted against the plan, also said he is worried about a backlash. "Alaska's image is that we're a bunch of spendthrift, blue-eyed Arabs," he said.

"That's the negative downside" of trying to share Alaska's oil wealth with residents, Hammond said Friday after the legislature passed a plan that could put the payments into pockets of Alaskans this summer.

The $1,000 payments will be made if the U.S. Supreme Court strikes down an existing distribution program, or if the court has not ruled by July 15. If the high court has not ruled, the program will begin July 15 with a four-month period in which Alaskans may apply for the payments.

The share-the-wealth plan was approved Thursday at the urging of Hammond, who argued that if Alaska's 419,600 residents have a personal stake in the state's wealth, they will pay closer attention to how it is invested.

They may apply any time during that period, but in order to be eligible for the money, they must have been residents for at least six months when they apply.

But Hammond said there will be an "enormous obligation" for state officials to explain the program to other Americans, because people in de-

That means only people who have lived in Alaska since May 15 would be eligible for the pay-

ALLENTOWN, PA.
CALL
D. 103,383 SAT. 114,703

JUN 11 1982

A will — and a way

Alaska has its problems, but money isn't one of them. Or ingenuity, for that matter.

The Alaska Permanent Fund, which nets about 10 percent of oil production revenues from state lands, has accumulated $3 billion, and the state is determined to give half of the fund's annual earnings — to Alaskans, of course.

Two years ago the legislature approved a program that would pay the state's 416,000 residents $50 annually for each year they've lived in Alaska since statehood in 1959. That was challenged as discriminatory by two Anchorage attorneys, and the U.S. Supreme Court is expected to decide the case this summer.

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The *U.S. Supreme Court* ruled that the plan violated the constitutional guarantee of equal protection. The court said the state had shown no valid state interest rationally served by creating "fixed, permanent distinctions between an ever increasing number of perpetual classes of concededly *bona fide* residents." Neither creating an incentive to maintain Alaska residence nor assuring prudent management of the fund and the state's natural resources were rationally related to the plan's distinctions among residents, said the court, and rewarding citizens for past contributions was "not a legitimate state purpose." Alaska's reasoning would "permit the states to divide citizens into expanding numbers of permanent classes," a result that was "clearly impermissible."

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T.V. CLIPS

DATE June 16, 1982
TIME 7:00-7:30 PM
NETWORK CBS
PROGRAM CBS Evening News

ACCOUNT NUMBER 4411

Dan Rather reporting:

It has been eighty-five years since gold was discovered in Alaska setting off a stampede in which men clawed and scrambled for riches. As Terry Drinkwater explains, it's considerably easier for residents to share the state's latest bonanza, the first in what will be an annual bonus.

Terry Drinkwater:

All Alaskans had to do was sign up. Every man, woman, and child who has lived here for at least six months is entitled to a thousand dollars. It's oil money. The state had collected four hundred and fifteen million dollars in taxes from the oil companies and the wealth is now being shared.

Governor Jay Hammond: I think it will perhaps revolutionize the concept of government spending and reverse the trend that has occurred in the United States, and certainly here in the state of Alaska, which is-people look to the government to do everything.

Drinkwater: Two years ago as the oil riches were piling up in the state treasury, Alaska tried to start giving away the money, fifty dollars for every year anyone had lived up here. But the courts held up that plan and finally, just this week, the Supreme Court ruled it was unconstitutional and that the money had to be distributed equally. Penny Zobel and her husband Ron filed the case. They were newcomers and are still none too popular with sourdoughs.

Ron Zobel: I am happy that finally all citizens will benefit equally. I think that the notion that a person's rights are dependent upon how long he or she has lived in this state is constitutional nonsense.

Drinkwater: Today in Juneau, the capital, officials were verifying names and about to start up the computer to write the checks. Most residents are understandably delighted the money is on its way, but some Alaskans have reservations.

Resident 1: Mine is going to go to my school tuition for next year, but I also think it's bad for the state's image.

Resident 2: I think most of the people outside think of us as the blue-eyed Arabs and that's not the case.

Resident 3: I suppose I'll spend it. I'm not really in favor of the program. I'd rather have a new road to my house.

Drinkwater: By coincidence, gold was discovered up here on this very date back in 1897 and, of course, the gold rush followed. Alaskans today are hoping there won't be another rush of outsiders now coming North seeking a share of the oil riches.

N 1 4 1982

Windfall Drop in Deficit Bucket

EDITORIAL

Alaska is having trouble giving money away.

Two years ago, the Legislature passed a law offering every resident $ for each year of Alaskan residence. So Anchorage lawyers challenged the formula, contending that it discriminates against newcomers. The case is pending.

Just in case the law is thrown out, Alaska has adopted a backstop program. This legislation calls for a $1,000 payment to every person, regardless of length of residence, with smaller annual payments thereafter.

★

Alaska has established the Alaska Permanent Fund, financed by money from oil wells on state lands. Half of its annual earnings are to go to state residents. The fund currently contains $3 billion. Each of the state's 416,000 residents would be eligible for the $1,000 payment. That would cost $416 million.

Sounds like a lot of money and quite a bonanza for Alaskans.

We were going to make some little joke about Alaskans being able to get oiled or something, but another news item caught our eye.

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The item said that the House Ways and Means Committee had approved legislation raising the federal government's debt ceiling to $1.127 trillion.

The fiscal 1982 budget puts the interest on the national debt this year at more than $106 billion.

This means that the Alaskan windfall wouldn't even make the national debt interest payments for two full days.

After that, we didn't feel like joking anymore.

JUN 15 1982

Alaska Forms Back Up Wealth Distribution Plan

JUNEAU — Alaska Governor Jay Hammond vowed to approve a back up plan to distribute Alaska's oil wealth to residents after the U.S. Supreme Court struck down the original law which based dividends on length of residence.

The Supreme Court, in an 8-1 vote, yesterday reversed a decision by the Alaska State Supreme Court, saying the plan unfairly discriminated against newcomers by proposing to award the largest dividends to long time residents.

Anchorage attorneys Jon and Patricia Zobel had challenged the plan in 1980, claiming it violated the equal protection clause of the U.S. Constitution.

Alaskans apparently will continue to receive dividends from the permanent fund, a trust account created by voters in 1976 to put away some of the state's oil income.

Hammond, calling the high court ruling "far and away the greatest disappointment to me in my almost 20 years in political office," said he would approve a "back-up" plan passed by the legislature earlier this month.

That program would give Alaskans $1,000 each this year, regardless of length of residence. Eligible for the payment would be anyone with at least six months Alaska residence by the time the application period expires in mid-October.

Distribution of nearly $300 million in dividend checks to Alaska's 400,000 residents has been held up pending a decision on the original proposal, approved by the state legislature in 1980. (Reuters)

The Dallas Morning News
DALLAS, TEXAS
M. 286,955 S. 353,677

JUN 19 1982

Alaskans pipe up to get share of oil-profit funds

PAGE ONE

Special to The News

FAIRBANKS, Alaska — Thousands of Alaskans will be keeping a sharp eye on their mailboxes next week. The check — $1,000 for every man, woman and child — is in the mail.

The first dividends went out Friday in a unique distribution of state funds. More than 400,000 adults and children who have lived in the state for at least six months are eligible to apply for a $1,000 payment from the earnings of the Alaska Permanent Fund, $3.1 billion from state oil royalties.

Half the earnings of the Permayear under the law Gov. Jay Hammond signed Thursday night.

Hammond said he wanted Alaskans to realize that "this is their money that the politicians are paying out for programs the state has no business being involved with."

Not everyone supports the dividend plan.

Steve Cowper, a Fairbanks lawyer seeking the Democratic nomination for governor, said, "There are a lot of other things to do with the money."

But Cowper won't be turning down his $1,000 check. "I'm not going to be a martyr to my view

get windfall

000. An estimated 422,000 people will receive cheques.

Smaller payments will be awarded in future years under the bill, which replaces a distribution plan that was invalidated by the U.S. Supreme Court this week.

The court ruled that the state could not divvy up its oil wealth based on a 1980 formula which would award larger payments to people who have lived in Alaska longer.

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4411 | EDITORIAL

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Anchorage lawyers challenged
formula, contending that it dis-
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PHILADELPHIA, PA.
D. 425,877 SUN. 524,056

JUN 5 1982

Alaskans to share oil wealth

Each resident may get $1,000

Associated Press 7/11

JUNEAU, Alaska — Every man, woman and child who has lived in Alaska for six months could pocket $1,000 in cash this summer under a new plan aimed at sharing the state's oil wealth with its citizens.

Under the plan, approved Thursday by the state legislature, $415 million in payments could be mailed out beginning in mid August.

The state's has a population of 419,600, but officials say some residents will be ineligible and some probably won't fill out applications.

A program enacted two years ago called for annual payments to residents of $50 for each year they had lived in Alaska since statehood in 1959. But an Anchorage couple sued, arguing that the program discriminated against newcomers. The state Supreme Court rejected their arguments, and an appeal is pending before the U.S. Supreme Court.

Faced with the delay caused by the suit, the legislature approved Gov. Jay Hammond's new program, which will take effect if the Supreme Court strikes down the first plan or if it fails to rule by July 15.

Hammond's plan calls for the $1,000 payments this year and future annual payments to all Alaskans regardless of length of residency. The size of the payments would depend on income earned by the Alaska Permanent Fund, a savings account established by voters in 1976 that collects about 10 percent of the revenue from oil production on state lands. It has about $3 billion in it.

State officials estimated payments at $356 in 1983 and $247 in 1984.

One opponent, Sen. Tim Kelly, said, "Ever American in the Lower 48 [states] who is in a depressed zone or a high unemployment zone is going to resent Alaska's wealth and put tremendous pressure on their congressmen to take that wealth from the state of Alaska."

The Miami Herald
MIAMI, FLA.
D. 398,415 SUN. 509,100

JUN 15 1982

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court suggested are

• Struck down Alaska's controversial plan for distributing its multimillion dollar oil and mineral revenues to citizens based on their length of residency in the state. The 8-1 vote forces the state to change its program for allocating $130 million in back revenue that has been help up pending resolution of the dispute.

• Refused to disturb a major ruling that prohibits electric utility companies from earning a profit from their customers for spending money on power plants that were never built.

• Volunteered to help settle a complicated, 6-year-old fight over which state — if any — can collect death taxes on billionaire recluse Howard Hughes' estate. Concluding no other court has authority to settle the dispute, the justices voted 5-4 to help seek an answer to the multimillion-question of whether Hughes was an official resident of Texas, California or Nevada when he died in April 1976.

• Refused to remove itself from a case challenging the use of controversial choke holds by Los Angeles police.

The Miami Herald
MIAMI, FLA.
D. 398,415 SUN. 509,100

JUN 5 1982

Alaskans may receive a bonanza

JUNEAU, Alaska — (AP) — Every man, woman and child who has lived in Alaska for six months could pocket $1,000 in cash this summer under a new plan aimed at sharing the state's oil wealth with its citizens.

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But an Anchorage couple, Ron and Patricia Zobel, filed suit on grounds that the program discriminated against newcomers. The state Supreme Court rejected their arguments, and they have appealed to the U.S. Supreme Court.

Faced with the delay caused by the suit, the state Legislature approved Gov. Jay Hammond's "backstop" program to take effect if the U.S. Supreme Court strikes down the first plan or if it fails to rule by July 15, an arbitrary deadline.

The backstop plan calls for the $1,000 payments this year and future annual payments to all Alaskans regardless of length of residency. The size of the payments would depend on income earned by the Alaska Permanent Fund, a savings account that collects about 10 per cent of the revenue from oil production on state lands.

State officials estimated payments at $356 in 1983 and $247 in 1984.

The fund, which now stands at $3 billion, was established by voters in 1976. Half of its annual earnings are earmarked for payments.

Sen. Bill Ray voted against the backstop plan, saying it is premature because the court has yet to rule.

Another opponent, Sen. Tim Kelly, said, "Every American in the Lower 48 states who is in a depressed zone or a high unemployment zone is going to resent Alaska's wealth and put tremendous pressure on their congressmen to take that wealth from the state of Alaska."

D. 425,677 SUN. 624,066

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Associated Press

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SEATTLE, WASH.
JOURNAL OF
COMMERCE
D. 5,454

JUN 15 1982

Dividend

(Continued from Page One)

violated equal protection provisions of the U. S. Constitution.

"This is the way we were certain it would turn out," said the Zobels who have put up with such local disapproval as "Zobels Drop Dead" bumper stickers.

"The Constitution has been vindicated," said Zobel. "Alaska is part of the United States and must start acting that way . . . Hopefully, the governor and the Legislature will realize there are no loopholes in the equal protection clause of the U. S. Constitution."

The case was appealed to the U. S. Supreme Court after the Alaska Supreme Court ruled against the Zobels 3-2.

Gov. Jay Hammond, who conceived the plan, said the ruling was "by far and away the greatest disappointment to me in my almost 20 years in political office."

Reluctantly, Hammond said he would have to go along with the "backstop bill" passed by the 1982 legislature. Under that plan, awaiting the governor's signature, each resident of at least 60 days will receive $1,000, provided proper application has been made.

Writing for the majority, Supreme Court Chief Justice Warren Burger noted: "If the states can make the amount of a cash dividend depend on length of residence, what would preclude varying university tuition on a sliding scale based on years of residence?"

He added, "Alaska's reasoning could open the door to state apportionment of other rights, benefits and services according to length of residency. It would permit the states to divide citizens into expanding numbers of permanent classes. Such a result would be clearly impermissible."

Alone in dissent, Justice William Rehnquist argued, "Alaska's distribution of (its) wealth is in substance no different from any other state's allocation of economic benefits."

Under another act of the 1980 Alaska Legislature one-fourth of the revenues gained from oil and mineral leasing is kept in a permanent fund.

The principal of the fund cannot be spent — only invested — and one-half of the earnings from the investments were to be paid to citizens in the form of "dividends."

Much of the wealth comes from the millions of barrels of oil pumped out of the frigid Prudhoe Bay oil field, north of the Arctic Circle.

Alaska dividend plan is invalid

(FRONT PAGE)

WASHINGTON — The United States Supreme Court has voided the State of Alaska's plan to distribute millions of dollars in state oil revenue dividends to residents based upon their length of time as residents.

The justices ruled 8-1 against the distribution plan approved by the Alaska Legislature in 1980 and aimed at giving residents $130 million in oil and mineral wealth revenues.

The amount any one Alaska could receive from the program was directly related to his time of residence in the state dating from statehood in 1959. A resident over 18 would receive a dividend of $50 for each year in the state up to a maximum amount of $1,050.

In Anchorage, Ron and Patricia Zobel, two attorneys who came to Alaska in 1978, brought suit against the plan on grounds it

(Continued on Page 9, Column 3)

JUN 6 1982

Backlash Seen on Alaska Oil Plan

JUNEAU, Alaska, June 5 (AP)—A new plan to pay $1,000 in state oil money to every man, woman and child who has lived in Alaska at least six months could spur "very adverse publicity" in less fortunate states, according to Gov. Jay Hammond.

"That's the negative downside" of trying to share Alaska's oil wealth with residents, Hammond said Friday after the legislature passed a plan that could put the payments into pockets of Alaskans this summer.

The share-the-wealth plan was approved Thursday at the urging of Hammond, who argued that if Alaska's 419,600 residents have a personal stake in the state's wealth, they will pay closer attention to how it is invested.

Hammond said there will be an "enormous education" for state officials to explain the program to other Americans, because people in depressed areas of the country may feel Alaskans are flaunting their state's wealth.

State Sen. Bill Ray, who voted against the plan, also said he is worried about a backlash. "Alaska's image is that we're a bunch of spendthrift, blue-eyed Arabs," he said.

The $1,000 payments will be made if the U.S. Supreme Court strikes down an existing distribution program, or if the court has not ruled by July 15. If the high court has not ruled, the program will begin July 15 with a four-month period in which Alaskans may apply for the payment. They may apply any time during that period, but in order to be eligible for the money, they must have been residents for at least six months when they apply.

That means only people who have lived in Alaska since May 15 would be eligible for the payments.

BOSTON, MASS.
HERALD AMERICAN
D. 226,000 S. 274,690

JUN 5 1982

Alaskans may divvy up $415M

JUNEAU, Alaska (AP) — Every man, woman and child who has lived in Alaska for six months could pocket $1,000 in cash this summer under a new plan aimed at sharing the state's oil wealth with its residents.

Under the plan, approved by the state Legislature on Thursday, $415 million in payments could be mailed out beginning in mid-August.

The state has a population of 419,600, but officials say some residents will be ineligible and some probably won't fill out applications.

A program enacted two years ago called for annual payments to residents of $50 for each year they had lived in Alaska since statehood in 1959.

But an Anchorage couple, Ron and Patricia Zobel, filed suit on grounds that the program discriminated against newcomers. The state Supreme Court rejected their arguments, and they have appealed to the U.S. Supreme Court.

Faced with the delay caused by the suit, the state Legislature on Thursday approved Gov. Jay Hammond's "backstop" program to take effect if the U.S. Supreme Court strikes down the first plan or if it fails to rule by July 15, an arbitrary deadline.

The backstop plan calls for the $1,000 payments this year and future annual payments to all Alaskans regardless of length of residency.

NYT

Equal Bonuses For Alaskans

Longtime Alaska residents may deserve something for sticking it out, but it's not extra money, the Supreme Court said last week. The Court invalidated Alaska's plan to distribute its oil revenue windfall among citizens on the basis of how long they have lived in the state — $50 for each year of residence retroactive to 1959, when Alaska became the 49th state.

Based on this schedule, 23 percent of the state's population of 416,000 would receive the maximum $1,050 per person. The plan was challenged by a couple who moved to the state in 1978.

Alaska's rationale for such a reward "was not a legitimate state purpose," the Court said, for "If the states can make the amount of a cash dividend depend on length of residence, what would preclude varying university tuition on a sliding scale based on years of residence, or even limiting access to finite public facilities, eligibility for student loans, for civil service jobs or for government contracts by length of domicile?"

Alaska now plans to grant $1,000 to anyone who has lived in the state at least six months, with no distinctions based on age or state seniority.

AUG 30 1982

GOVERNOR'S OFFICE

$1,000 Checks for Everyone Fail to Make Alaskans Happy

By Jay Methews
Washington Post Staff Writer

ANCHORAGE, Alaska—On this northernmost frontier of American political science, a state government has decided to see if money really will buy happiness.

One thousand dollar checks have been going out for a month to every man, woman and child in this oil-rich state. So far few of the recipients have even bothered to say thank you.

"I almost feel that I'm on welfare," grumbled Ron Moore, a 36-year-old realtor from Soldotna. "I've lived here 30 years and I don't see why I should rely on the state for subsistence." The giveaway "was very poorly planned," said Kathy Potter, an office supply sales supervisor here who plans to buy drapes with her money. "There should have been a better way to do it."

In the state Revenue Department at Juneau, Colleen Brown reported the givers are not blessed by the receivers, who only call to complain if their checks have not arrived. "We have received enraged and irate calls from just about everybody," Brown said. "You've never seen so many greedy people in your life."

So go the early days of Alaska's revolutionary scheme to share its oil taxes and royalties with its people, not through new roads or deeper harbors or any of the other pork barrel projects Washington is familiar with, but with blue and yellow checks instantly cashable at any bank. They are called "permanent fund dividends" and Alaska's expe-

See CHECKS, A4, Col. 1

Washington Post 8/22/82
was also printed in the Chicago Paper

$1,000 Checks Failing to Bring

CHECKS, From A1

rience with the idea so far may frighten away any future leaders elsewhere so bold and so rich as to attempt such generosity.

The giveaway has sent many Alaskan brains churning, not with sweet thoughts for Gov. Jay M. Hammond and the state legislature but with schemes to separate other Alaskans from their money. Police have reported several checks stolen from mail boxes. A full-page ad for the Alaska Bank of Commerce in the Anchorage Daily News said: "ONE THOUSAND DOLLARS! We'll help you make the most of it." A furniture store announced a "CHECK'S IN THE MAIL" sale: "Turn your permanent fund dividend into a water bed that you will enjoy for years to come."

Anchorage Times political reporter Ralph Nichols concluded after many discussions with his fellow Alaskans that, "With few exceptions they think it's the dumbest thing in the world, the only thing dumber being not to apply for it as long as they are giving it away."

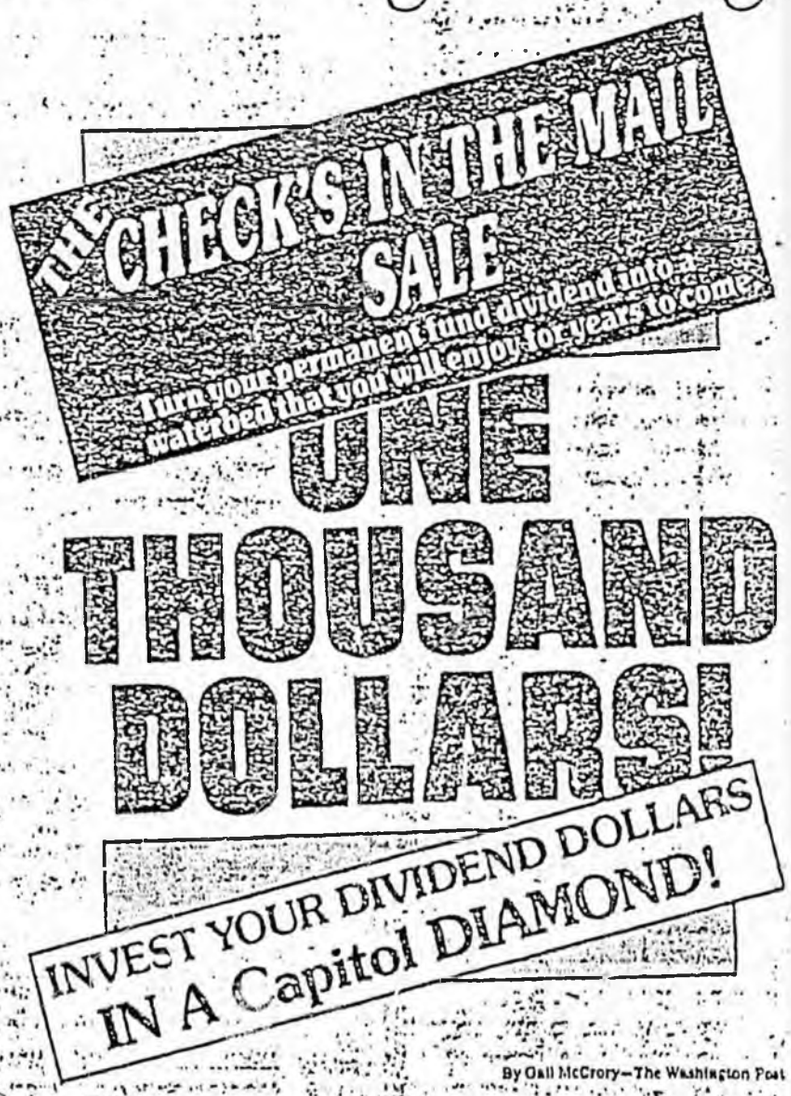
This philosophy extends to the young and the unborn. The state's vital statistics bureau has been swamped with 1,000 requests a day for certified copies of birth certificates, necessary if parents are to claim $1,000 for each of their children. Any resident's child born up to midnight Oct. 15 may claim a check, prompting speculation that women with babies due about that time will flood hospital maternity wards and induce labor in order to make sure.

So far the Revenue Department has sent out 87,901 checks, each decorated with the state flag, which shows, appropriately enough, the stars forming the "Big Dipper." Brown said the state expects to send a total of $415 million in checks to the state's estimated 415,000 residents.

Alaskans don't seem quick to ladle out their new riches. Automobile and snowmobile dealers say there has been little upturn in business so far. Few charities claim to have benefited from the giveaway, though in some cases not for lack of trying.

The Fairbanks Environmental Center asked its members some time ago to donate all or part of their checks to the center, but so far fewer than 10 contributions have come in. The University of Alaska Foundation estimated it has received between 15 and 20 dividend checks.

Instead, with each check in the



By Gail McCrory—The Washington Post

her daughter Sacha, 11, was quick to object when she learned her $1,000 was going into savings. According to her mother, Sacha said, "So and So gets to spend $200 of her's on school clothes and this one's going to camp and that one's going to Hawaii and why can't I have it in cash?"

Alaskan politicians who conceived the giveaway years ago wanted to demonstrate their faith in the people's ability to decide themselves how their money should be spent rather than building the usual political pet projects. The permanent fund has been created with about 25 percent of the state revenues from the Prudhoe Bay oil fields and other mineral resources. The giveaway checks were to come from half of the interest on the fund.

Hammond wants to give away even more. He has argued that all of the oil money, now about $4 billion a year, ought to go into the permanent fund. He said people ought to be paid from the interest and the amount of their checks reduced whenever state representatives voted for a large pork barrel project that drained money from the fund. Since the state income tax has been abol-

The checks sent out this year were originally due in 1980. But Ron and Patricia Zobel, married lawyers who arrived in the state in 1978, objected to the original plan to distribute payments on a sliding scale—$50 for newcomers and up to $1,050 for old timers. The Zobels successfully sued to stop that plan on the ground that it discriminated unconstitutionally against new residents. The leg

Happiness

islature decided to go ahead and give the same amount to everyone who had been in the state at least six months; adding the dividends that had not been paid since 1980. That brought the payment for everyone this year up to $1,000.

Ron Zobel said that like many of his fellow Alaskans he was never very happy with the idea of the government giving away cash. But now that the checks are arriving, the hate mail and threatening phone calls that accompanied his original suit have tapered off. The checks coming to himself, his wife, and their 15-month-old son will be invested in Alaska-oriented stock, he said.

Politicians here worry about what the giveaway will do to the state's relationship with the lower 48 states. They say they fear a mass inflow of American jobless, already a problem because of the widespread and somewhat erroneous impression that Alaska is full of job opportunities.

Under the current plan, Alaskans will each get $350 in 1983, $[illegible] in 1984, and then the annual payments will begin increasing again at an unknown rate. Nearly every politician in the state expects the legislature to change the plan in some way next year. But the Revenue Department's Brown said, "They may find it very hard to get people to give up" the yearly dividend, no matter how ungrateful most have seemed for the money.

The checks have allowed a number of people to realize old dreams. Brown said her office received a letter from an elderly Eskimo man living in one of the coldest regions of the state's northern bush. "After thanking us profusely," Brown said, "He said that he was going to use the money to buy a refrigerator. I don't know if he was ribbing us or not."

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WRITTEN TESTIMONY BY SENATOR FERGUSON

PRESENTED TO HOUSE FINANCE AND

STATE AFFAIRS COMMITTEES

CONCERNING HOUSE BILL 85 AND HOUSE BILL 11

THESE BILLS WILL ELIMINATE THE PERMANENT FUND DIVIDEND PAYMENTS. I HAVE CONCERNS OVER HOW THE FUND EARNINGS WILL BE DISTRIBUTED IF THE DIVIDEND PAYMENTS ARE REPEALED.

THE INTENT OF THE PERMANENT FUND DIVIDEND LAW WAS AND CONTINUES TO BE DISTRIBUTION OF INDIVIDUAL PAYMENTS TO ALL RESIDENTS OF ALASKA. THE ADMINISTRATION HAS DESIGNED PROPOSALS TO USE THE PERMANENT FUND EARNINGS. THE ATTORNEY GENERAL'S OFFICE HAS ATTEMPTED TO JUSTIFY THE ADMINISTRATION'S PROPOSALS BY INDICATING THE VOTER APPROVED SPENDING LIMIT EXCLUDED PERMANENT FUND DIVIDENDS AND THAT DIVIDENDS MEAN SOMETHING OTHER

THAN INDIVIDUAL CASH PAYMENTS. TO DATE, THE ADMINISTRATION'S PROPOSALS WILL NOT GIVE DIVIDENDS TO INDIVIDUALS THROUGH CASH PAYMENTS. LEGISLATIVE INTENT OF THE LAW CANNOT BE CHANGED THROUGH PERSUASION OR ANY OTHER MEANS. ASK ANY ALASKAN WHAT THE DIVIDEND PAYMENT MEANS TO THEM AND THEY WILL TELL YOU INDIVIDUAL CASH PAYMENTS. OTHERWISE, WHY HAVE THEY FILLED OUT FORMS FOR THE LAST THREE YEARS TO RECEIVE THE PAYMENTS.

THE SPENDING LIMIT APPROVED BY THE VOTERS IN THE NOVEMBER 2, 1983 ELECTION HAD SEVEN EXCEPTIONS.

ONLY SEVEN SPECIFIC ITEMS ARE RESTRICTED FROM THE SPENDING LIMIT.

1. AN APPROPRIATION FOR ALASKA PERMANENT FUND DIVIDENDS;

2. AN APPROPRIATION OF REVENUE BOND PROCEEDS;

3. AN APPROPRIATION TO PAY PRINCIPAL AND INTEREST ON STATE GENERAL OBLIGATION BONDS;

4. AN APPROPRIATION OF MONEY RECEIVED FROM NON-STATE SOURCES IN TRUST FOR SPECIFIC PURPOSES;

5. AN APPROPRIATION TO THE ALASKA PERMANENT FUND;

6. AN APPROPRIATION FOR CAPITAL PROJECTS IF THE APPROPRIATIONS BILL IS CONFINED TO PROJECTS OF THE SAME TYPE;

7. AN APPROPRIATION TO MEET A STATE OF DISASTER.

THE EFFECT OF REPEALING THE DIVIDEND PROGRAM WILL BE THAT ANOTHER PROGRAM WILL BE OFFERED TO TAKE ITS PLACE IN ORDER TO RETURN SOME OF THE EARNINGS BACK TO THE PEOPLE.

WHEN THE EARNINGS FROM THE DIVIDEND FUND EXCEED THE AMOUNT THAT CAN BE EXPENDED FOR CAPITAL AND OPERATING ITEMS UNDER THE VOTER APPROVED

SPENDING LIMIT, THEN THAT EXCESS AMOUNT OF REVENUES AVAILABLE FOR APPROPRIATION MUST GO BACK TO A VOTE OF THE PEOPLE.

ALL OPERATING AND CAPITAL BUDGET ITEMS ARE INCLUDED WITHIN THE SPENDING LIMITATION.

THE TERM "PERMANENT FUND DIVIDEND" WAS INCLUDED WITHIN THE TEXT OF THE CONSTITUTIONAL AMENDMENT, AND WAS USED TO COVER THE PERMANENT FUND DIVIDEND PAYMENTS PROGRAM.

IF THE DIVIDEND PAYMENT PROGRAM IS REPEALED, THEN THE EARNINGS FROM THE PERMANENT FUND CAN ONLY BE USED FOR:

1. FURTHER CAPITALIZATION OF THE FUND; OR

2. TRANSMITTAL OF EARNINGS TO THE GENERAL FUND, WHICH IS THEN GOVERNED BY THE SPENDING LIMITATION.

ARGUMENTS AND OPINIONS TO DATE INDICATE THAT THE LEGISLATURE CAN MAKE DIRECT APPROPRIATIONS FROM THE EARNINGS FROM THE PERMANENT FUND FOR SPECIFIC OPERATING OR CAPITAL PURPOSES, THEN THESE EXPENDITURES WOULD FALL WITHIN THE SPENDING LIMIT. TO INDICATE OTHERWISE WOULD BE A CIRCUMVENTION OF THE CONSTITUTIONAL LIMITATION AND THE VOTE OF THE PEOPLE.

HB 11

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 7, 1983

Gene Dusek, Director of Budget
Office of Management & Budget
Pouch AM
Juneau, AK 99811

Re: Appropriation limit questions
Our file: 366-374-83

Dear Mr. Dusek:

You have asked for our opinion concerning issues relating to the appropriation limit imposed by Alaska Constitution, article IX, section 16. These issues are as follows:

(1) Are appropriations to reimburse a municipality for payment of the principal and interest on general obligation school construction bonds subject to the appropriation limit? We believe they are not.

(2) If the permanent fund dividend law (AS 43.23) is amended or repealed and another plan for the distribution of permanent fund income is enacted, will appropriations to finance the new distribution program be included in the appropriation limit or will those appropriations be outside the limit? Generally, we believe that other distribution plans could qualify as dividends. However, certain limitations should be observed to make sure that the new plan satisfies the intent of the appropriation limit.

(3) How will the appropriation limit be implemented if

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anticipated state revenues are less than the limit for a fiscal year? We assume that the appropriation limit will be applied with common sense to empower the legislature to act without regard to allocations imposed by the appropriation limit when economic conditions deplete the state treasury.

(4) How will multi-year appropriations be counted for purposes of the appropriation limit? We believe a multi-year appropriation will be counted against the appropriation limit for the first year in which it could be expended.

(5) What is the definition of "capital project" as that term is used in the appropriation limit? There is some history which suppo ts a liberal interpretation of the term "capital project."

I. BACKGROUND

The appropriation limit, Alaska Const. art. IX, sec. 16, was drafted during a period of anticipated high revenue yields fro oil and gas production. In June 1981, the Alaska Department of Revenue forecast that the state would earn approximately $4,895,300,000 during FY 82. Revenue Sources, Alaska Department of Revenue (June 1981). That forecast did not include the revenue dedicated to the Alaska permanent fund under AS 37.-13.010. The revenue actually earned by the state during FY 82, less the permanent fund contribution, was $4,108,400,000. Reve-

nue Sources, Alaska Department of Revenue (Jan. 1983). The legislature had exhibited a proclivity for appropriating all available revenue and more. 1/ Former Governor Jay S. Hammond introduced SJR 4 during the first session of the Twelfth Alaska Legislature. However, the legislature failed to enact a version of SJR 4 during the first regular session and on June 25, 1981, Governor Hammond called a special session of the legislature to consider SJR 4. In his address to the legislature, Governor Hammond cited the following circumstances which required the enactment of SJR 4:

(1) the FY 82 operating budget increased 32 percent over the FY 81 operating budget;

(2) the FY 82 capital budget increased 127 percent over the FY 81 capital budget; and,

(3) for FY 82, the legislature appropriated an amount equal to 59 percent of the total spent for capital projects since statehood. 1981 S. Jour., FSS Jour. Supp. No. 1, p. 3.

A second free conference committee (FCC) initially appointed during the regular session met to continue consideration of SJR 4 during the special session. 1981 S. Jour., p. 1744. A

1/ The $1.8 billion contribution to the Alaska permanent fund (sec. 2, ch. 61, SLA 1981 as amended by sec. 68, ch. 92, SLA 1981 and sec. 16, ch. 101, SLA 1982) is a continuing operating appropriation which literally causes total unobligated appropriations to exceed available state revenues for each fiscal year since enactment.

transcript of the open meetings of the FCC exists and forms a part of the history of the appropriation amendment (the transcript). However, it is evident from review of the transcript that other discussions concerning the intent of the amendment were conducted outside of open committee meetings. While the transcript is helpful, it presents only a partial record of the deliberations of the drafters of the amendment.

The FCC purported to adopt a letter of intent to accompany its report to the house and senate. 1981 S. Jour., FSS, p. 5. However, the letter of intent is not set out in the journal. A search of the bill files of the Department of Law yielded a copy of the missing letter of intent. See Ex. 1.

The campaigns for and against adoption of the appropriation limit began in September of 1982. The Anchorage Daily News criticized the proposed amendment for the following reasons:

(1) the ceiling is too high, revenues will exceed the limit only once before the year 2000; and

(2) the one-third reservation for capital projects and loan appropriations was included because the legislature "failed to make the distinction between a wise public agenda -- on which capital projects and loans surely would appear -- and an effectively timeless state constitution -- in which no such spending demands should be dictated.

Anchorage Daily News, Sept. 3, 1982, at A14, "opinion." The

Daily News based its opinion concerning revenue forecasts on a report made public by the legislative finance division of the Legislative Budget and Audit Committee. Anchorage Daily News, Sept. 2, 1982, at 1. On September 17, 1982, the Daily News urged Governor Hammond to oppose the adoption of the appropriation limit. The Anchorage Times basically took no position on the amendment. However, on October 19, 1982, the Times reported the results of a poll sponsored by supporters of the amendment. The poll, conducted the week of September 16-23, 1982, showed that the amendment was recognized and favored by the public as a "spending limit." The pollsters asked if the respondents had heard of the proposed amendment to the state constitution which sets a limit on increases on state appropriations. By a three-to-one margin, respondents said they were not familiar with the amendment when it was described as an "appropriation limit." Anchorage Times, Oct. 19, 1982, at A-4. On October 26, 1982, the Juneau Empire editorialized in favor of adoption of the amendment. Juneau Empire, Oct. 26, 1982, at 4.

During the week of October 24, 1982, the major dailies of the state published articles on the amendment. Governor Hammond received coverage in most of those stories by saying "It [the adoption of the appropriation limit] may be our last chance to control the juggernaut which otherwise will likely crush us into bankruptcy." Anchorage Daily News, Oct. 29, 1982, at B3.

On Sunday, October 31, 1982, the Daily News in its forum section, published an article by Governor Hammond in which he again strongly advocated adoption of the amendment because revenue projections and the growing vulnerability of the permanent fund compelled him to plead for the support of the people. Anchorage Daily News, Oct. 31, 1982, at K3. On the preceding Friday, the Daily News quoted Governor Hammond as follows: "Don't let anyone tell you that passage of Proposition 4 won't limit spending." Under recently revised revenue estimates, passage of the ballot issue would bar the legislature from appropriating between $80 million and $380 million in fiscal 1984 alone. Anchorage Daily News, Oct. 29, 1982, at B3.

At the 1982 general election, the voters approved the adoption of SJR 4 by a vote of 110,669 for the amendment and 70,831 opposed to the amendment. State of Alaska Official Returns by Election Precinct General Election Nov. 2, 1982, Div. of Elections, Office of the Governor.

II. EXCEPTIONS FROM THE LIMIT

The appropriation limit contains seven express exceptions. Five of those exceptions are for appropriations which are completely outside the limit and do not require voter approval. They include:

(1) an appropriation for Alaska permanent fund divi-

dends;

(2) an appropriation of revenue bond proceeds;

(3) an appropriation to pay principal and interest on general obligation bonds;

(4) an appropriation of money received from nonstate sources in trust for a specific purpose, including revenues of a public corporation that issues revenue bonds; and

(5) an appropriation to meet a state of disaster declared by the governor.

You have requested our interpretation of exceptions (1) and (3) set out above.

A. Alaska Permanent Fund Dividend Exception

The appropriation limit provides: "Except for appropriations for Alaska permanent fund dividends ... appropriations from the state treasury made for a fiscal year shall not exceed $2,500,000,000...." A question obviously arises as to whether "Alaska permanent fund dividends" means only those cash payments provided to individuals under AS 43.23 or if the word "dividend" encompasses other concepts for the distribution of income earned by the Alaska permanent fund.

We believe the answer to your question concerning appropriations for permanent fund dividends depends on whether the exceptions will be construed strictly or liberally. Usually,

provisions in a state constitution are construed liberally using the same rules of construction prescribed for other laws with regard given to the broader object and scope of the constitution as a charter of popular government. Eghert v. Dunseith, 24 N.W.2d 907 (N.D. 1946); 168 A.L.R. 621. Professor Sutherland explains the modern view for construing express exceptions as follows:

> The older rule strictly interpreted both exceptions and provisos but today the prevailing view favors determining the effects of such provisions according to the usual criteria of decision applicable to other kinds of provisions as well without the use of any artificial presumptions to the effect that qualifying language should be strictly construed.

SUTHERLAND STATUTORY CONSTRUCTION § 47.11 (4th ed. 1974)(footnotes omitted). The FCC did not express an intent to limit this exception to only appropriations to finance cash payments to individuals under AS 43.23.

The appropriation limit must be interpreted consistently with the permanent fund amendment contained in article IX, section 15. Section 15 provides that the legislature may dispose of the income of the Alaska permanent fund "as provided by law." Each legislature may reexamine existing law and enact different laws providing for the use of income earned by the Alaska permanent fund. If section 16 were interpreted so that the exception to permanent fund dividends applied only to appropriations to finance cash dividends under AS 43.23, the legislature would essentially be denied the flexibility to adjust to changing philoso-

phies concerning the propriety of making cash payments directly to residents which section 15 expressly reserves to it. 2/ In interpreting and applying the constitution, it must be remembered that the constitution is not a lifeless or static instrument whose interpretation is confined to conditions and outlooks which prevailed at the time of its adoption. Yakus v. United States, 321 U.S. 414 (1944); Warwick v. State, 548 P.2d 384 (Alaska 1976).

The word "dividend" has no precise legal meaning. Trustees of University v. North Carolina R. Co., 13 WORDS AND PHRASES 107 (Permanent ed.); 22 Am. Rep. 671. Webster defines "dividend" as follows: "an individual share of something distributed among a number of recipients." We are not aware of any legal principle which would preclude the characterization of other distribution programs as "dividends." Rather, the words used

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2/ The Thirteenth Legislature may reject direct cash distribution in favor of a plan which it determines will promote public purposes more effectively. During the period of consideration and adoption of the appropriation limit, the permanent fund dividend law was undergoing considerable scrutiny and change by both the legislature and the courts. The legislature adopted the proposed appropriation limit amendment on July 15, 1981. At that time the question of the constitutionality of the permanent fund dividend program as it was then structured was on appeal to the United States Supreme Court. On June 14, 1982, the United States Supreme Court issued an opinion which found the method established for determining the amount of dividends under that program void because the method promoted discrimination based on length of residence in the state. On August 13, 1982, amendments to the dividend law took effect. The people were undoubtedly aware that the dividend law in effect on election day in 1982 was not chiseled in marble.

by the drafters of the amendment afford broad latitude to the legislature to enact new distribution programs which will not be impaired by the appropriation limit.

It is well-settled law that a provision of a state's constitution must receive a liberal, practical construction to meet changed conditions and growing needs of the people. County of Alameda v. Sweeney, 312 P.2d 419, 424 (Cal. 1957). Under the permanent fund amendment, the discretion granted to the legislature to enact, amend, or repeal the present dividend program under AS 43.23 to meet the growing needs of the people is unfettered. However, the operation of exceptions from the appropriation limit must be interpreted consistent with the intent of the framers of the organic law and of the people adopting it. State v. Lewis, 559 P.2d 630, 637 (Alaska 1977).

One important consideration should be carefully observed. The Alaska Supreme Court has found that the purpose of the existing dividend program is to force the legislature to consider the reimposition of taxes when the decline of oil revenue encourages resort to permanent fund income to finance state government. Williams v. Zobel, 619 P.2d 448, 454 (Alaska 1981), rev'd 451 U.S. 905 (1982). The people can be expected to vigilantly protect their dividends by forcing the legislature to seek sources other than the permanent fund to finance state government. If a substitute distribution program accomplishes the same

purpose, it will more likely qualify under the exception in section 16 than if it fails to achieve that purpose. If the constituency benefitted by a dividend is narrow, the dividend may not be a dividend in the sense intended by the drafters of section 16 and the people who adopted it. Proposals soon to be considered by the legislature include replacing the existing distribution to all residents with a distribution of part of the permanent fund income to municipalities and as a substitute for the existing longevity bonus, and use of a part of the income to finance large capital projects.

A vast majority of the population of the state resides in or is served by municipal governments. It is also a fact that we all seek security for our "golden years." The constituents of these proposals seem broad enough to satisfy the purpose of the current dividend law. The use of permanent fund income to finance large capital projects presents a closer question. The character of each project must be considered to determine if it serves a state public purpose, rather than a local special purpose. Additionally, if the project is viewed as merely an alternate way of financing state government operations, the basic intent of the dividend law might not be served.

We cannot advise with certainty whether the financing of large capital projects with permanent fund income would constitute a dividend of the Alaska permanent fund for purposes of

the appropriation limit. Some may argue that the benefits provided by "public works" projects are too localized to approximate the benefits provided by the existing dividend law. However, in State v. Lewis, 559 P.2d 630 (Alaska 1977), the Alaska Supreme Court decided that "[l]egislation need not operate evenly in all parts of the state to avoid being classified as local or special." Lewis at 643. A definite answer will come only when the courts interpret article IX, section 16 of the Alaska Constitution. However, we believe that if the legislature enacts a distribution program which is consistent with the intent of the permanent fund dividend law, any appropriation to implement that program will be exempt from the appropriation limit.

B. Appropriations Required to Pay the Principal and Interest on General Obligation Bonds

Under AS 43.18.100 -- 43.18.135 the state, subject to available appropriations, reimburses municipalities for the payment of a percentage of principal and interest to retire general obligation bonds issued by the municipality to finance school construction costs. Although they have been amended from time to time, these statutes have been in effect since 1971. You have asked whether appropriations to retire municipal general obligation debt are within the exception stated to the appropriation limit.

The exception reads as follows: "Except for ... appro-

priations required to pay the principal and interest on general obligation bonds...." The wording of the exception does not specify whether the bonds must be issued by the state to qualify. Later in section 16, the drafters carefully identified "appropriations of money received from a nonstate source...." Since the drafters could easily have expressly limited this exception to state general obligation bonds, an implication can be drawn that a strict construction limiting the exception to state general obligation bonds was not intended.

The purpose of the exception recognizes that appropriations to retire general obligation bonds may be to the state's "great advantage." Governor's transmittal letter, 1981 FSS S. Jour., p. 16. Presumably the advantage accrues from the state's enhanced credit rating which results in lower debt service charges for subsequent bond issues. It is probable that the existence of the school construction debt assistance provisions of AS 43.18 have the same effect upon the bond rating assigned to municipalities. The identical purpose is achieved by appropriations made to finance the reimbursement program. Less state assistance will be necessary in the future if local bond ratings remain favorable.

There are some considerations which weigh against this construction. Debt service for general obligation bonds is financed by a continuing appropriation. AS 37.15.012. General

obligation bonds are debts of the state secured by contracts (trust indentures); the impairment of contracts is prohibited by the state and federal constitutions. The reimbursement program under AS 43.18 does not transform municipal general obligation bonds into debts of the state. AS 43.18.130(a). However, the financial burden imposed on municipalities, if their local tax effort were increased to compensate for the loss of assistance under AS 43.18, could be devastating to the local taxpayer. According to the Department of Education, for fiscal year 1984 the estimated total entitlement for school debt retirement is $36,900,000. This total is estimated to increase to $44,300,000 by fiscal year 1988.

Accordingly, we believe that appropriations to retire municipal general obligation school bond indebtedness under AS 43.18 are "required" and qualify as an exception to the spending limit. We believe that the appropriation for school bond indebtedness can be represented as a moral obligation of the state for the following reasons:

(1) the appropriation is made under a statute of general application;

(2) the statute has been in effect since 1971; and

(3) the reimbursement program is heavily relied upon by municipalities when they establish the local tax effort necessary to support local bonded indebtedness.

III. REVENUE SHORTFALL

You have also asked how to interpret the appropriation limit if the amount of state revenues subject to the limit is less than the amount determined to be the limit for a fiscal year, as provided in section 16. You wish to know specifically how the allocations within the limit for operating expenses and capital projects would be interpreted. As we have indicated, section 16 imposes an appropriation limit rather than a spending limit. We have earlier advised that the legislature may make appropriations which exceed available revenues. 1981 Inf. Op. Att'y Gen. (June 24; J77-159-81). However, obligations may not be paid under those appropriations unless there is enough surplus money available in the treasury.

Theoretically, the amount of anticipated state revenue should have no effect on the operation of the appropriation limit. However, under AS 37.07.020(c), the governor's proposed budget may not exceed estimated revenues for the succeeding fiscal year. Also, the amount of surplus revenues anticipated to be received by the state was an issue hotly publicly debated before adoption of section 16. The newspaper articles written about the appropriation limit before the election commonly referred to the amendment as a "spending limit." These articles were undoubtedly instrumental in forming the voters' understanding of the effect of the proposed amendment.

Section 16 provides, in part: "Within this limit, at least one-third shall be reserved for capital projects and loan appropriations." This wording is ambiguous when applied for a year in which revenue available for appropriations falls short of the adjusted limit for that year. Under those circumstances, it is not clear whether the reservation for capital projects and loan appropriations is calculated based on the total amount actually appropriated for that fiscal year (i.e., less than the limit) or on the limit amount ($2.5 billion) for that fiscal year adjusted for population and inflation. Apparent ambiguities contained in the state constitution may be resolved by the contemporaneous construction by law or by the administrative agency charged with implementation of the provision. Amador Valley Joint Union High School District v. State Board of Equalization, 583 P.2d 1281 (Cal. 1978).

A review of the FCC transcript reveals no discussion of the intention of the drafters when they used the phrase "within this limit." Revenue projections at the time painted a rosy picture for the future. No history is available to indicate that the FCC even considered the effect of the amendment if the state suffers a sharp decline in revenue. Former Governor Hammond was clearly concerned by the possibility of a spendthrift legislature with an overflowing treasury at its disposal.

Under the circumstances, we believe it would be unwise

to blindly apply the allocations imposed by the appropriation limit when conditions impose an even more stringent limit than intended by the FCC. 3/ The appropriation limit drastically alters the most significant power of the legislature: the power to appropriate. The power to enact general law is largely nullified unless the money to finance enforcement or implementation of the law is appropriated. Consequently, we believe that an interpretation which restricts the legislature's power to respond to the needs of the state during unanticipated periods of revenue decline will not be endorsed by the courts. See State ex rel. Columbus v. Keterer, 189 N.E. 252 (Ohio 1934). Rather, we believe that the courts will recognize that the evil which the appropriation limit was designed to remedy does not exist when revenues are below the limit. Under those circumstances, a court would probably affirm an interpretation that restores the full lawmaking powers of the legislature to make appropriations in the best interests of the state. We believe the best way to resolve the ambiguity is to disregard the one-third allocation reserved for

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3/ The reservation for capital projects and loan appropriation effectively restricts appropriations to finance the operating budget without restricting the relative share for capital projects. The operating budget finances all manner of essential programs for the preservation of the public health, safety, and welfare. Some of these expenditures are for so-called entitlement programs (aid for families with dependent children, for example) which for fiscal year 1982 comprised 42 percent of the operating budget.

capital projects and loan appropriations when economic conditions impose a limit which is more restrictive than that set out in section 16. 4/ The literal language of the constitution may be disregarded to avoid absurd results and to fulfill the apparent intent of the framers. Sturges v. Crowninshield, 17 U.S. 122, 202 (1819). Where the general welfare is involved, constitutional questions should be approached from the pragmatic, rather than from a legalistic point of view. State v. Board of Administration, 25 So. 2d 880 (Fla. 1946).

IV. ATTRIBUTION OF CAPITAL APPROPRIATION TO A FISCAL YEAR

Another question you have raised is how the words "appropriation ... made for a fiscal year" should be applied to appropriations for capital projects. AS 37.25.020 provides "An appropriation made for a capital project is valid for the life of the project and the unexpended balance shall be carried forward to subsequent fiscal years." This provision recognizes that capital projects often span more than one fiscal year before completion. The balance of the appropriation remains available in sub-

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4/ Another possible interpretation would limit the operating budget allocation for a fiscal year to two-thirds of the total limit ($2.5 billion) adjusted for inflation and population. This interpretation is consistent with our earlier observation that there may be no relationship between appropriations and revenue. However, even under this interpretation, in a fiscal year with depressed revenues, the one-third reservation for capital projects is meaningless.

sequent fiscal years and is carried forward to those succeeding fiscal years. According to the Department of Administration, as of June 30, 1982, the total of all "carry forward" capital appropriations was: approximately $1,591,000,000, and the total of all "carry forward" operating appropriations was $1,862,000,000.

The FCC debated the intent of the limit concerning this issue. Transcript at 47-55. It is clear that the FCC was aware that multi-year appropriations are made. There was an attempt by Representative Hugh Malone to amend the proposal so that a legislature could not appropriate for a fiscal year subsequent to the upcoming fiscal year. This amendment was not adopted. Senator Bill Ray observed that the intent of the amendment was to include only those appropriations which are expended during the fiscal year. According to Senator Ray, appropriations which remain unexpended at the end of a fiscal year should lapse. Transcript at 52. Representative Rick Halford interpreted the proposed amendment to make multi-year appropriations count against the limit each year because each succeeding legislature could amend or repeal these appropriations at will. During all of these discussions, no distinction was made between operating and capital appropriations. However, these comments probably referred only to multi-year operating appropriations. See Transcript at 65-66.

The debate on this issue discloses that the FCC was confused about the operation of carry forward appropriations.

They formulated the $2.5 billion base by taking the fiscal year 1982 appropriation total and reducing that amount by $60 million. Transcript at 2-5. However, 1982 appropriations were made based on forecasts of anticipated surplus for that fiscal year, reduced by expected expenditures for "carry forward" appropriations. We assume, therefore, that the drafters did not intend to count carry forward appropriations in the limit established for each fiscal year.

We believe that a commonsense way to interpret the appropriation limit, which is supported by past practice, is to count appropriations that are available for expenditure in a fiscal year only against the limit for the first fiscal year during which they could be completely expended. This should be done even if an unexpended balance is carried forward into the next fiscal year. That balance must be considered obligated for the purposes of the appropriation limit. Unexpended balances of a prior year appropriation should not be counted with the current year appropriations in complying with the limit for the current year. If the legislature provides that an appropriation may not be expended until a later fiscal year, the appropriation should be counted only against the limit for that later fiscal year.

V. DEFINITION OF THE TERM "CAPITAL PROJECT"

The appropriation limit amendment introduces the term

"capital project" to the glossary of words used in the Alaska Constitution. This new term causes some concern because a similar term, "capital improvement," is used in other sections of article IX setting out the general obligation bonding authority for local governments and the state. There are two Alaska Supreme Court cases which address the meaning of "capital improvement." See City of Juneau v. Hixon, 373 P.2d 743 (Alaska 1962); Wright v. City of Palmer, 468 P.2d 326 (Alaska 1970). The supreme court did not adopt an all-inclusive definition of capital improvement in those cases. Rather, the court concluded that there was nothing in the history of municipal bonding in Alaska or in the minutes of the constitutional convention that indicates that the term "capital improvement" was intended to denote projects radically different than those for which municipalities had been permitted to incur bonded indebtedness in the past.

When former Governor Hammond first introduced SJR 4, the proposed amendment consistently used the term "capital improvement." It was not until the second FCC took up consideration of the proposal that the term capital project was used. Senator Ray defined capital projects to be "what the definitive judgment of a majority of the legislature determines they are." Transcript at 22. This was in response to an observation by Representative Malone that many appropriations designated as capital differ little from items set out in the operating budget. Tran-

script at 21. Former assistant attorney general Rodger W. Pegues explained to the FCC that "we're using the term capital project which pretty much means the capital budget - areas where you are dealing with capital investment or long-term financing and the bulk of your spending. That's a broader term than 'capital improvement.'"

There appears to be support in the history for an interpretation of "capital project" which includes more objects of expenditure than "capital improvement," which traditionally has been limited to public works of a permanent nature. 5/ It is possible, though, that the two terms will be construed to have the same meaning. The supreme court left room for the term "capital improvements" to acquire new meanings to accommodate the changing activities of state government. However, the appropriation limit implies that a general obligation bond may be issued for capital projects. 6/ It is probable that a court would find that not all capital improvements may be characterized as capital

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5/ In recent years, opinions of the attorney general have somewhat broadened this interpretation to permit the use of bond proceeds to finance some unique activities under the Village Safe Water Act, see Inf. Op. Att'y Gen. (April 2; J-99-078-81); and to rehabilitate a leased jail facility. See Inf. Op. Att'y Gen. (Mar. 19; A66-398-78).

6/ Article IX, section 16 provides: "The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations in capital projects, whether of bond proceeds or otherwise, ..." (Emphasis added.)

projects. A distinguishing factor may be that the constitution requires some permanent thing of value to show for the public debt incurred. A more liberal construction may be warranted when public debt is not incurred.

VI. CONCLUSION

The wording of the appropriation limit does not begin to live up to the high standards of clarity and simplicity adopted by the original framers of the Alaska Constitution. There are many who will regard this opinion as mere justification to exploit "loopholes" woven into the fabric of the amendment. However, we hope this opinion will provide the impetus to either adopt amendments to clarify the ambiguities noted or to enact legislation which interprets the amendment so that the ambiguities are avoided. We hope this opinion has answered your questions.

Sincerely yours,

Norman C. Gorsuch
Attorney General

James L. Baldwin
Assistant Attorney General

JLB:NCG:pjg

LETTER OF INTENT

2nd Free Conference Committee on SJR 4

The basic problem faced by Alaska is runaway growth in spending for state government operations and for capital projects. This growth is generated by revenues from resources which are nonrenewable and finite. Some limitation is therefore essential. The constitutional amendment proposed by the 2nd Free Conference Committee will provide a realistic limitation and yet allow, by popular approval, for expenditures in excess of the limitation for capital projects and for contributions to the permanent fund. Those who favor such expenditures can have no reasonable objection to the voters determining which capital projects and contributions are worthwhile and which are not.

The term "capital project" is used rather than the term "capital improvement" in order to have a broader reach. Capital improvements are pretty much limited to public facilities having a more or less permanent nature. Highways, airports, buildings, and ferries are examples. Capital projects include capital improvements and also other expenditures which require a multi-year investment or otherwise tend to fall into the category of capital costs as opposed to day-to-day expenses. Computers, large-scale resources inventories, and high-cost special equipment and instruments for libraries, schools, and museums are some examples.

In addition to limiting the excess appropriations to capital projects and contributions to the permanent fund, the proposed amendment requires bills for capital projects to be confined to capital projects of the same type. This is somewhat more narrow than the single-subject rule. It will require projects in a bill to be parts of an overall system. This will inhibit the packaging of diverse projects into one bill. As a further restraint on logrolling, the bills for excess appropriations are subject to the item veto, including the appropriation of general obligation bond proceeds which are in excess of the limit. Bond proceeds which are not in excess of the limit are not subject to an item veto.

There are three exclusions from the limitation. Debt service is necessarily excluded. An additional exclusion is provided for appropriations for permanent fund dividends. Non-state money, that is, money received from the United States or others to be used for specific purposes, is also excluded. This exclusion includes revenue bond proceeds, the revenues generated by the international airports, and other public enterprises which operate on revenue bonds. The first exclusion is required by the federal constitution's prohibition against impairing contracts. The other exclusions are provided because the use of the money for those purposes is not a part of the problem.

The proposed amendment requires the governor to cause any unexpended and unappropriated balance to be invested

so as to yield competitive rates to the treasury. The words "as prescribed by law" were not included so that the clause will be self-executing. However, the governor performs all executive functions in the manner prescribed by law, and the statutes on loan programs and investments will control here so long as they are consistent with the constitution's requirements.

Additionally, so as to eliminate any reasonable grounds for opposition by those who wish to relocate the capital, the resolution includes a transitional measure to exclude relocation costs, if they are approved at the 1982 general election, from the requirement of additional voter approval under the amendment. Another transitional measure provides for the amendment to take effect beginning with the budget for fiscal year 1984.

Finally, still another transitional measure places the amendment on the ballot again at the 1986 general election to allow it to be repealed by the electorate should it prove to be unworkable. If it is unworkable, the people will repeal it. If it works, they will not.

Sen. Bill Ray	Rep. Richard W. Halford
Sen. Donald E. Gilman	Rep. Robert H. Bettisworth
Sen. Frank R. Ferguson	Rep. Hugh Malone

FEB 2 1983

THIRTEENTH LEGISLATURE

FISCAL NOTE

LEGISLATIVE FINANCE

I. REQUEST
Bill/Resolution No. HB 11
Title An act repealing the permanent fund dividend program
Requested by House State Affairs & Finance Date 01-28-83

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Marilla J Gemmer

IV. DATE 01-28-83 PREPARED BY Marilla L. Gemmer, Director
AGENCY Department of Revenue
PHONE (907) 465-2360

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

33-001 (Rev. 12/82)

OMB Reviewed by: Glen Price

Title Act Repealing the Permanent Fund Dividend Program

Requested by _____ Date 1/21/83

II. FISCAL DETAIL

Agency Affected Department of Administration

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected _____

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

EXPENDITURES (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	(11.0)	(11.5)	(12.1)			

FUNDING (Thousands of Dollars)

GENERAL FUND	(11.0)	(11.5)	(12.1)			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 1/24/83 PREPARED BY Tom Haas

AGENCY Administration - Finance

PHONE 465-2240

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

3/3571/0126-1

FEB 2 1983

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

LEGISLATIVE FINANCE

I. REQUEST: HB 11
Bill/Resolution No.
Title repealing the permanent fund dividend program
Requested by House State Affairs Committee Date 1/21/83

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected Revenue Operations
BRU, Program, Or Subprogram(s) Affected Public Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Repeal of the permanent fund dividend program is already reflected in the Executive Budget.

IV. DATE 1/27/83 PREPARED BY P A Wall
AGENCY Revenue
PHONE 465-2393

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

33-001 (Rev. 12/82)

OMB Reviewed by: Glen Price

Bill/Resolution Number: HB 11
Title: "An act repealing the permanent fund dividend program; and providing for an effective date."
Requested by: House State Affairs Committee Date: 1/21/83

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS,CLAIMS,ETC	-	-	-	-	-	-
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

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

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

The repeal of the Permanent Fund Dividend program has already been reflected in the Governor's FY84 Executive Budget.

IV. DATE: 1/24/83
PREPARED BY: Erwin B. Jones
AGENCY: Revenue
PHONE: 465-2313

Original: Legislative Finance
cc: Office of Management and Budget
Prime Sponsor (First Legislator Named)
33-001 (Rev. 01/83)

OMB Reviewed by: Glen Price

I. REQUEST

Bill/Resolution Number: HB 11

Title: An Act repealing the permanent fund dividend program.

Requested by: House State Affairs Committee Date: January 21, 1983

II. FISCAL DETAIL

Agency Affected: Revenue

Program Category Affected: Permanent Fund, Dividend Fund

BRU, Program, or Subprogram(s) Affected:

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS,CLAIMS,ETC	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Millions of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
_____	-	-	-	-	-	-
_____	-	-	-	-	-	-
	0	0				

POSITIONS

FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

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

The aforementioned amounts reflect no impact since what is proposed is, I am informed by Management and Budget, already implied in the governor's budget.

IV. DATE: January 24, 1983

PREPARED BY: Vincent Wright

AGENCY: Revenue - Research

PHONE: 465-2174

Original: Legislative Finance

cc: Office of Management and Budget
Prime Sponsor (First Legislator Named)

33-001 (Rev. 01/83)

OMB Reviewed by: Glen Price

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

AGENDA

DATE: 1/28/83

TIME: 1:00 p.m.

I. Call meeting to Order

A. Note the committee members present.

B. Welcome those observing the meeting.

C. Remind those who have not signed in to do so. And remind those giving testimony to speak up and state their name before talking.

II. Announce legislation under consideration:

EO 53 - Creating Office of Budget and Management

HB 11 - Repealing the permanent fund dividend program.

Other notes or reminders:

from me for you

There is a note in your file, from me, to ask Mr. MocDowell from OBM, if applicable

HSA Form #004

23.085, and 43.23.095 as set out in sec.
ution of permanent fund dividends during
provisions of AS 43.23 and notwithstand
not be enacted into law before the effe

manent fund for fiscal year 1982 transferr
ed for payment of permanent fund dividend
he dividend fund and be used for payment o
983 along with the fiscal year 1983 earnin
ferred to the dividend fund.
dend distribution under this section is in
AS 43.23 for the years 1979 - 1981.
SLA 1980, is repealed.
d 43.23.050(c) are repealed.
.014, 43.23.020, 43.23.030, 43.23.040, 43.
.23.080, 43.23.090, and 43.23.100 are re

, 13, and 14 of this Act are repealed.
applies only to the determination of the
nd to be paid in 1983 and applies only if
tributed under sec. 19 of this Act on or
r that date, the United States Supreme Court
d.
ontrary provisions of AS 43.23.030, by
r of revenue shall give public notice of the
idend to be paid in 1983. The commissioner

nount of income of the Alaska permanent fund
year 1983 transferred to the dividend fund

AS 43.23.050(b);

(2) determining the number of permanent fund dividends that would have been paid during 1982 if sec. 19 of this Act had not taken effect and an estimate of the number of permanent fund dividends for a prior year under AS 43.23.014; and

(3) dividing the amount determined in (1) of this subsection by the amount determined in (2) of this subsection.

* Sec. 25. If secs. 2 - 5 and 14 of this Act take effect under the provisions of sec. 27 of this Act, then all other provisions of AS 43.23, as enacted in ch. 21, SLA 1980 and as amended in secs. 8, 10 - 12, and 15 - 17 of this Act, remain in effect.

* Sec. 26. Notwithstanding the provisions of AS 43.23.014(c), enacted in sec. 6 of this Act, which require an individual to file an application for prior year permanent fund dividends within one year after reaching 18 years of age, an individual may file a claim during 1983 for permanent fund dividends for all prior years for which the individual is eligible if that individual has turned 18 years of age on or before the last day for filing an application during 1983.

* Sec. 27. Sections 2 - 5, 14, 23, and 25 of this Act take effect 60 days after the date that the United States Supreme Court decides that AS 43.23.010 is invalid but also decides that AS 43.23.010 would not violate the United States Constitution if the amount of a permanent fund dividend were determined by accumulated years of residency in the state beginning on or after January 1, 1979.

* Sec. 28. Sections 1 and 22 of this Act take effect 60 days after the date that the United States Supreme Court decides that AS 43.23.010 is invalid because the amount of a permanent fund dividend is determined by accumulated years of residency in the state whether those years are counted before or after January 1, 1979.

AD 11 (3)

Responsibility for Recommendations:

The legislative enactment creating the Alaska Permanent Fund Corporation mandates that the trustees in their annual report submit their "recommendations of any needed changes, and any other information the board believes would be of interest to the Governor, the Legislature, and the public." (Sec. 37.13 170)

Under present law, this could be the most important contribution by the trustees. Furthermore, under efficient trust administration while the grantor (the Legislature) has the responsibility for determining the policy and objectives of a trust, the trustees (the board) have an obligation to draw on their collective experience and submit options and consequences with decision, in this case, by the Legislature.

Contrast with Province of Alberta:

When the Alberta legislature created the Alberta Heritage Savings Trust Fund, they opted to centralize their oil endowment in one corporation with broad powers and responsibility for all investments in both profit and non-profit projects, research, loans, etc. Our Alaskan Legislature has made the decision to use multiple channels through which the oil revenues are directed. These channels might be broadly classified as follows:

1. Operating budget
2. Capital budget
   e.g. educational, public works, etc.
3. Grants to municipalities, boroughs and other authorities.
4. Loan programs (including equity participations) for business and housing.
5. Permanent Fund Corporation

Consequences of Multiple Channels:

The fact that we in Alaska have chosen the multiple route concept does not mean we can escape from the need for coordination and forward planning of various operations funded basically from a single source. Else we run the danger of:

1. Overlapping, with more than one agency treating the same problem.
2. Missing objectives, with worthwhile projects not funded.
3. Emphasizing the immediate, with inadequate attention to the long-term concerns.
4. Substituting public funding for existing private sources of capital.
5. Concentrating on state funding rather than public leadership in getting local participation.

In the absence of a long-term plan, the Legislature has made a commendable effort to coordinate and arrange the relative priorities during the course of the sessions. However, the policy-making body will always perform best when free from operating burdens.

A brief review of the Permanent Fund as presently constituted should, not only identify possible modifications in the Fund itself, but also evidence why the Fund needs to be coordinated with alternative avenues for disposition of oil revenues.

Investment Problems:

1. Because the investment criteria provide only for money instruments, there is no hedge against inflation.

2. Clarification of policy regarding disposition of current earnings of the Fund would be beneficial. The law now provides for a 50 percent dividend distribution to the people of Alaska. If the other 50 percent could be retained in the Fund, these benefits would accrue:

(a) Longer term investments could be made with higher returns.

(b) It would facilitate a partial offset to inflation.

(c) Assuming the resident population of Alaska will increase, it would help maintain the dividend rate as well as the per capita asset value of the Fund.

3. There appears to be no investments in Alaska from the Fund, contrary to the intent of Sec. 37.13.120 (1) (1).

Alternative Investment Concepts:

The Legislature has stated that the Fund "Should be used as a savings device" and its assets "only be used for income-producing investments." It also mandates the use of the "prudent-man rule." However, an important fact, which necessarily affects investment thinking, is the prospective size of the Fund. Latest Department of Revenue forecasts estimate the Permanent Fund to be $28 billions by the year 2000.

Once the concept is accepted that the oil revenues proceed from one source; that many of the projects authorized by the Legislature are in principle a type of permanent funding for the benefit of all Alaskans; then there is no reason why the total funding cannot be split with direct grants or loans and participation reserved to the Permanent Fund.

For example, if a hydro-power project is deemed worthy from a credit and public standpoint to be funded by the Legislature (or through its designated agency) with 50 percent of the cost as a grant, the other 50 percent could be an investment by the Permanent Fund. If the Permanent Fund charged say 10%, the net cost to the project would be 5% which would probably make it viable and ensure a profitable return to the Fund.

To offset inflation, there must be a return to the Fund that covers the CPI (Consumer Price Index) escalation plus a normal return for the use of the funds. This cannot come from interest alone but requires an equity instrument.

Examples are:

(1) Ownership in real estate. This can be in land with a responsible builder putting up the improvements. A good example is the ownership by the University of Washington of choice, central core real estate in Seattle. Or the state could lease, rather than sell, some of the land received from the Federal government with rentals to the Permanent Fund. Under proper safeguards, and with most of the money put up by strong partners, the Fund could take a position in improvements such as buildings, parking garages, port facilities, etc.

(2) Marketable stocks. Because of the prospective size of the Fund, some investment must be outside of Alaska. Any commitment in stocks should be split among several investment advisories with a satisfactory track record to ensure competition of performance and reduction in risk and regular grading of the results.

(3) Ownership in natural resources related enterprises. If the gas line is built, it will probably involve financing by the owner of the gas, namely, the major oil companies. If they put their money in, there should be little risk to the Fund by taking a combination position of limited debt and equity. The same principle and safeguards can be applied with respect to financing the extraction of gas liquids or an additional refinery. In addition to the equity features, there are collateral benefits of getting the project underway and ensuring consistency in state policies of taxation, regulation, etc.

(4) Public service projects.

(a) It is well known that intra-state communication rates are substantially higher than inter-state. Many areas have inadequate service. While the state could subsidize operating costs, as it has with respect to television, the Fund could make a limited equity investment in a satellite with the lead company in this field in Alaska.

(b) Power--both hydro and fosil fueled--is needed for public benefit. If public owned, consider matching funds with local authorities. If privately owned, the same financial strength from the principal owners should be required as in the discussion of natural resources. Already in this memorandum has been pointed out how a combination of grant and loan from the Fund can help both the project and the Fund.

(c) Water authorities. While Alaska is blessed with a tremendous natural

is for industry, such as fish processors and future mining, and for residential. Again, the financing can be by a formula using state and federal grants, community participation-municipal and private-with Fund participation. The approved mix can make the projects successful and income to the Fund. Frequently, such water projects can be tied in with power generation and transmission.

(d) Transportation. Many communities in Alaska need new or expanded marinas, harbor improvements, and airports. While the Legislature may wish to fund these projects through direct appropriation or grants, local participation would justify need and the Fund could be used for revenue-producing projects. This was the technique used by both the cities of Anchorage and Kodiak to finance crane installations at their respective docks, with ultimate payment coming from Sea Land Corporation.

Investment in Alaska:

The foregoing suggestions provide for enlarged, profitable investment in Alaska with strong safety factors, an oft-mentioned concern of the public. With the prospective size of the Permanent Fund, a bold, new approach is needed to have any meaningful investment in Alaska. This can be accomplished through real estate, income-related projects, and public service projects. Again, the size of the Fund will involve outside investment and the basic principles are equally applicable to the benefit of the Fund.

Frankly, the Fund should be able to follow the lead of our national insurance companies and make private placements.

Summary:

It is apparent that the investment restrictions on the management of the Permanent Fund can be safely and beneficially modified. In so doing, there should be coordination with other agencies and disbursements of the Legislature. This will mobilize the funding capabilities of the state and ensure leadership for better living.

To put this in perspective: if a new arrival in Alaska can step off the plane and acquire a home with over $30,000 in subsidy by the state in interest during the life of the loan, should we not stimulate projects that produce income, and at the same time, benefit a broad section of the Alaskan population, many of whom have lived here all their life?

It would serve as a national model and show we are responsible custodians of both our land and our wealth. Thus would we best escape being designated as the "blue-eyed Arabs" of the North.

The very success in the public mind of our handling the Permanent Fund in coordination with other agencies will in the long run determine the amount placed in the Permanent Fund, especially as the General Fund may run down.

The interrelationship of all the allocations of oil money strongly supports the principle of long-range planning and budgeting. We need in the state a five-year and ten-year budget of cash outflow, especially capital expenditures. This is not as difficult as may first appear.

There are many obvious benefits:

1. Discipline in thinking and computation.
2. A rational basis for allocation of funds.
3. Freedom from pressures on the Legislature by lobbyists and special-interest groups.
4. Furnish the extra time to the Legislature to exercise its prime public policy function.

Recommendation:

It is my suggestion that the Legislature make use of the Board of Trustees of the Alaska Permanent Fund Corporation to serve in this connection as a review body in a staff position to the Legislature.

The advantages are as follows:

1. The trustees are completely objective with no authority but their ideas. All decisions must be made by the Legislature.

2. This procedure does not disturb existing agencies nor alter the multiple approach to distribution of the oil money.

3. It gives the trustees something meaningful to do. They could thereby discharge the responsibilities which the public assumes they have.

4. It is cost effective. There would be no need to hire expensive outside consultants. The facts and considerations are available. The task could be accomplished through existing departments and personnel with minimal aid and secretarial help.

Elmer Rasmuson

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

HB 11 9CXS

JAY S. HAMMOND, GOVERNOR

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

February 2, 1983

The Honorable Mike M. Miller
Alaska State Legislature
House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Miller:

During my talk last Friday, I alluded to the fact that there would be over one billion dollars in bonds (both general obligation and revenue) sold this coming year. Below is a summary of anticipated sales by agency and attached is a breakdown of our statistics received from those agencies involved.

Agency	1/1/83 through 6/30/83	7/1/83 through 6/30/84
Alaska Housing Finance Corporation	350 million	840 million
Alaska Industrial Development Authority	90 million	250 million
Alaska Power Authority	none	35 million
Municipal Bond Bank Authority	30 million	45 million
State Bond Committee	80 million	none
Total estimated bond sales	550 million	1,170 million

You also asked whether or not the Governor's alternatives to the existing Permanent Fund Dividend program would be considered dividends for purposes of the constitutional State Spending Limit. Those alternatives, as set out in his Budget Address, are:

1. Alaska Investment Fund
2. Revenue Sharing and Municipal Assistance
3. Longevity Bonus program
4. Reinvestment in the Permanent Fund itself.

The Department of Law is currently researching this matter. It is their unofficial advice that preliminary research suggests that items 2, 3, and 4 will be considered a dividend. Research is still pending on the Alaska Investment Fund. As research has not been completed and the Department has not released an official opinion, you must consider this view unofficial.

If there is additional information you need, please do not hestitate to contact me.

Sincerely,

Robert D. Heath
Commissioner of Revenue

RDH:CB:mll

Attachments

cc: The Honorable Mitchel E. Abood, Chairman
and Committee members
House State Affairs Committe
w/attachments

Glen Price
Management and Budget
w/attachments

Questions submitted to the agencies contacted:

1. How many millions of dollars of GO and revenue bonds do you estimate will be sold between 1/1/83 through 6/30/83?

2. How many millions of dollars of GO and revenue bonds do you estimate will be sold during FY 84?

3. What was the interest rate at your last bond sale?

4. What is the total bonded indebtedness of your agency?

Alaska Housing Finance Corporation

1. Estimated between 1/1/83 and 6/30/83:

   A. Taxable: 150 million dollars

   B. Veteran's GO: 100 million dollars

   C. Tax exempt: 100 million dollars

2. Estimated during FY 84:

   A. Taxable: 500 million dollars (1st mortgage)
   15 million dollars (2nd mortgage)

   B. Veteran's GO: 225 million dollars
   Note: Authorized to sell 400 million dollars by 12/30/84

   C. Tax exempt: 100 million dollars

   TOTAL estimated bonds to be sold: 1,190 Million

3. A. Taxable: 11.6750 True interest cost
   12.6700 Cost of funds

   B. Veterans: 8.7273 True interest cost
   9.4000 Cost of funds

   C. Tax exempt: 10.550 True interest cost
   11.220 Cost of funds

4. The Corporation's lending activities are:

   $2,490,125,000 issued in total

   $2,443,615,000 outstanding as of 1/1/83

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

1. Estimated between 1/1/83 and 6/30/83:

   A. Revenue: 40 million dollars

   B. GO: 50 million dollars

2. Estimated during FY 84:

   A. Revenue: 100 million dollars

   B. GO: 150 million dollars

   TOTAL estimated bonds to be sold: 340 Million

3. A. Revenue: variable from issue to issue

   B. GO: 11.23 True interest cost (average)

4. The Corporation's lending activities are:

   GO: $101,325,000 issued in total
   Revenue: $310,000,000 issued in total

   GO: $ 90,000,000 outstanding as of 1/1/83
   Revenue: unavailable at this time

ALASKA POWER AUTHORITY

1. Estimated between 1/1/83 and 6/30/83:

   A. Variable demand rates: none

   B. GO: none

2. Estimated during FY 84:

   A. Variable demand rates: none

   B. GO: 35 million dollars

   TOTAL estimated bonds to be sold: 35 Million

3. A. VDR: Tax Exempt Note Rate + 1/4 of 1% = approx 9% quarterly
   Earned interest in investments estimated at 11%

   B. GO: Variable rate not tax exempt
   Earned interest in investments estimated at 13%

4. The Corporation's lending activities are:

   Variable rate demand notes: $165 Million issued

   GO: $35 million issued

Municipal Bond Bank Authority

Note: FY 82 actual was $48,500,000 issued of both types

1. Estimated between 1/1/83 and 6/30/83:

   A. Revenue: none

   B. GO: 30 million dollars

2. Estimated during FY 84:

   A. Revenue: 15 million dollars

   B. GO: 30 million dollars

TOTAL estimated bonds to be sold: 75 Million

3 A. Revenue: 10.34 True interest cost

   B. GO: 10.34 True interest cost

4. The Corporation's lending activities are:

   $130,000.000 issued in total

   $122,000,000 outstanding

STATE BOND COMMITTEE

Total State bonded indebtedness (debt to maturity): $1,435,716,090*
Interest Rate at next bond sale: calculate at 9% for 10 year period
Anticipated Sales this year: 80 million dollars

*Interest rate at last bond sale ($185 M on 10/20/82) at 7.73%

1. Estimated between 1/1/83 and 6/30/83:

   Tax exempt: 80 million dollars

2. Estimated during FY 84:

   Tax exempt: none authorized excluding the Veteran's GO Bonds mentioned in item 4 below.

TOTAL estimated bonds to be sold: 80 Million

3. Tax exempt: 8.73 True interest cost

4. The Corporation's lending activities are:

Authorized GO Bonds:	$1,400,550,500
Issued GO Bonds:	$1,319,057,000
Unissued GO Bonds:	$81,493,500
Outstanding:	$1,007,898,000

Note: The #4 figures do not include the November, 1982 authorization of 400 million to purchase mortgages for qualifying vets as these are mortgage revenue bonds (see AHFC report) which are, however, unconditionally guaranteed as a general obligation of the State. $50 million of these were sold 1/26/83

INTERNATIONAL AIRPORT REVENUE BONDS

The principal amount remaining payable from revenues derived from International Airports: $18,284.000.

THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 11
Title "An Act repealing the permanent fund dividend program; and providing for an effective date
Requested by House State Affairs Date 1-18-83

II. FISCAL DETAIL
Agency Affected Office of the Governor
Program Category Affected Division of Elections
BRU, Program, Or Subprogram(s) Affected Division of Elections
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

No additional fiscal impact is anticipated. The Division of Elections already prepares a microfiche listing of all persons who have registered to vote in this state. This list is generated from a magnetic tape compatible with Department of Administration data processing equipment.

Danith D. Arnoldt

IV. DATE 1-18-83 PREPARED BY Danith D. Arnoldt, Deputy Director
AGENCY Office of the Governor, Div. of Electic
PHONE 586-6181

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

33-001 (Rev. 12/82)

THIRTEENTH LEGISLATURE

FISCAL NOTE

☒ Expenditure Type
☐ Revenue Type

I. REQUEST
Bill/Resolution No. HB 11
Title An Act repealing the permanent fund divident program....
Requested by House State Affairs Date 1-19-83

II. FISCAL DETAIL
Agency Affected Department of Public Safety
Program Category Affected Life and Property Protection
BRU, Program, or Subprogram(s) Affected Driver/Vehicle Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This would have no fiscal impact on Division of Motor Vehicles.

Office of Management and Budget
Reviewed by: Mike Maher, Program Budget Analyst
Division of Budget Review

IV. DATE January 19, 1983 PREPARED BY Bill Brown Phone 465-4335
DIVISION Motor Vehicles Initials
DEPARTMENT OF PUBLIC SAFETY Initials

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

33-001 (Rev. 12/82)

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

THE TRUSTEE PAPERS

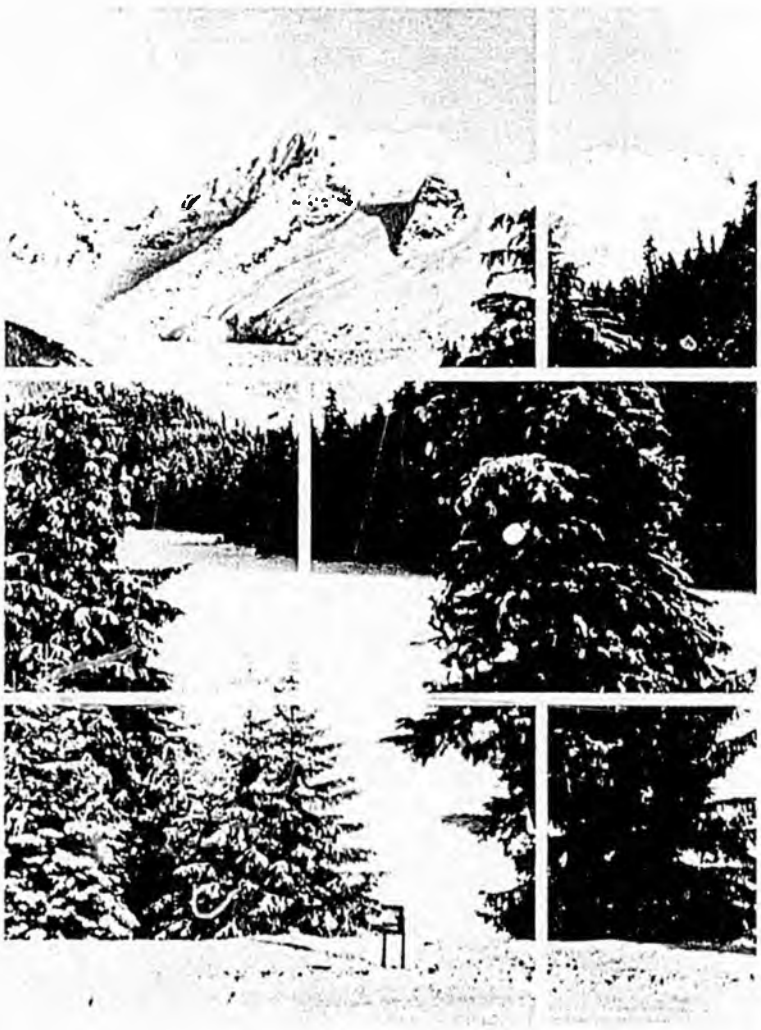
A collection of professional papers prepared for
the Alaska Permanent Fund Corporation Board of Trustees

Published in March, 1982

Alaska Permanent Fund Corporation
Pouch SB
Juneau, Alaska 99811

(2)

ALASKA PERMANENT FUND
Corporation



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NOTE:
1982 ANNUAL REPORT
& FINANCIAL
STATEMENTS

HB

20

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 20 Date on Bill:
Title: "An Act relating to the responsibilities of the APOC; estab. standards of conduct ..."
Sponsor: M.M. Miller and Duncan
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating				399.5	392.5	416.1		
Total				399.5	392.5	416.1		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

All figures are in addition to the Governor's Request for $590.6 which provides 6 F/T and 3 P/T positions for the APOC (under the three existing laws) in FY 84. FY 85 and 86 are based on an inflation factor of 6%. Since the task of working with municipalities and REAA School Districts is too large to be accomplished within the one year allowed for those entities to enact their own codes, substantial travel is anticipated for successive years.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Helen S. Pittman, Exec. Dir. Phone: 276-4176
Division: Alaska Public Offices Commission Date: 3/14/83

Approved by Commissioner: Date: 3/15/83
Department: Administration

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

HB 20 2/24/83 APOC Fiscal Note

The FY 84 total of $399.5 includes an RSA of $100.0 with the Department of Law for the services of a senior attorney, three new positions for the Alaska Public Offices Commission as well as funding to reclassify three existing positions, and increased travel and services to address the bill's applicability to municipalities and REAA school districts.

100 - Personal Services $154.9

New: Assistant Director, Range 23
Research Analyst II, Range 16
Secretary, Range 12

Re-class: Executive Director from range 24 to 26
Assistant Director from range 21 to 23
Administrative Assistant II from range 14 to 16

200 - Travel $ 32.4

4 additional Commission meetings @ $3,220
Municipal information & compliance $15.0
Council on Governmental Ethics $4.5

300 - Contractual $186.8

Printing (RSA) $10.0
Telephone $7.2
Word Processor Modum $1.4
Office Space (RSA) $25.2
Public Information $25.0
Data Processing (RSA or Contract) $18.0
Dept. of Law (RSA). $100.0 - includes $19.5 one-time
Attorney, range 24 & 1/2 time Sec., range 10/10 mo. $63.5
Municipal travel, $7.5; services, $8.0; commodities, $3.5; equipment, $17.5

400 - Commodities $ 3.0

500 - Equipment (one-time items) $ 22.4
Word Processor/terminal, $17.9

FY 84 total $399.5

FY 85 total $392.5
Delete $41.9 in one-time items from FY 84; add $12.7 to cover 2 months of Dept. of Law salaries, multiply by 1.06 to add inflation factor of 6%.

FY 86 total $416.1
Multiply FY 85 by 1.06 for an inflation factor of 6 %.

HB 19 (cont'd)

after Governor's signature).

Introduced January 17 and referred to Health, Education and Social Services, then to Finance.

Public Officials (standards of conduct)

HOUSE BILL NO. 20, By M.M. Miller, Duncan, Zharoff, Davis, McBride, Szymanski, Wendte, Koponen, Malone, Larson, Clocksin, Goll, McBride, and Vaska. Amends AS 39 (Public Officers and Employees) by adding a new chapt - (AS 39.49) outlining standards of conduct for public officials. Rewrites sections of law pertaining to the Alaska Public Offices Commission (APOC), expanding its powers in regards to conduct of public officials.

New standards of conduct would prohibit solicitation of gifts and abuse of office by a public official. Also outlined are various situations wherein conflicts of interest could arise and procedures to be taken by the state or municipical official in order to comply with state law.

New powers given to the Alaska Public Offices Commission (under AS 15.13, State Election Campaigns) provide the Commission administer laws relating to standards of conduct (AS 39.49), conflict of interest (AS 39.50) and regulation of lobbying (AS 24.45). The Commission has the power to issue advisory opinions on violations of standards of conduct, hold hearings and determine if there is sufficient cause to believe an official should be removed from office. The Commission may also assess civil penalties for violations of AS 24.45, AS 39.49 or AS 39.50. Provides the Commission may pursue appropriate legal remedies for violations, including criminal prosecution.

Provides the standards of conduct apply to state officials on the effective date of the bill (July 1, 1983), and to municipal public officials July 1, 1984, unless the municipality adopts standards of conduct for its officials, submits the standards to APOC, and APOC determines the municipal standards are substantially similar to those adopted under AS 39.49. APOC shall consider municipal standards based on the size of the municipality, recent budgets, procedures adopted for the regulation of fiscal procedures, and other matters submitted to the Commission by the municipality.

Repeals AS 15.13.045 (State Election Campaigns. Investigations, hearings.); AS 15.13.130(6) (current definition of "municipality"--replaced in new sections); and AS 39.50.090 (a) - (e) (Conflict of Interest. Prohibited Acts--does not repeal AS 39.50.090(f), prohibiting a municipal official from representing a client for a fee before the municipal body he represents).

Provides Act takes effect July 1, 1983.

Introduced January 17 and referred to State Affairs, Judiciary, then to Finance.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 20
Title "An Act relating to the responsibilities of the Alaska Public
Requested by Representative Abood Date 1/19/83
Offices Commission; establishing standards of conduct for public
II. FISCAL DETAIL officials; and providing for an effective date."
Agency Affected Department of Law
Program Category Affected Legal Services
BRU, Program, Or Subprogram(s) Affected Legal Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		Ø	Ø	Ø		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Although additional work may be caused by enactment of this bill, the department does not believe additional attorney level resources will be needed. The department does note that the FY 84 budget requests, for both the APOC and Law, provide for additional investigative resources at the Associate Attorney level which will be definitely needed if this bill is approved. It is anticipated that, for the time being, any new litigation related to this bill will occur at various locations and be handled by the existing attorney staff.

IV. DATE January 26, 1983 PREPARED BY Richard I. Pegues Dir. Adm. Svcs.
AGENCY Department of Law
PHONE 465-3672

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

33-001 (Rev. 12/82)
OMB Reviewed by: Guy Bell

Alaska State Legislature

House of Representatives

January 10, 1983 Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

RECEIVED
JAN 17 1983

TO: Representative Mike Miller

FROM: Michael Ford, Counsel
House Minority

RE: Conflicts of Interest (HB 20)

This bill as you know is identical to the one passed out of the House Judiciary Committee in the first session of the twelfe Alaska Legislature. The bill in essence creates standards of conduct for public officials, as well as setting up a system for disclosing conflicts that do occur. A commission is also created to accept and initiate complaints concerning violations of the conflicts law.

The major point to bear in mind is that the bill covers all "public officials", which includes members and employees of the legislature, appointed officers and employees of state agencies and municipalities, and the Governor and Lieutenant Governor. Only Judicial branch employees are not included. The bill is in two major parts, the first being the ethical standards and their operation, the second being the administration of the law through the Commission. Each part will be addressed in turn.

The standards to be applied to public officials is contained in section two of the bill. Specifically, gifts are prohibited where given to influence or reward an official action. Under the heading abuse of office, a list of specific conflicts is set forth, which are proscribed. These include using public office to benefit a member of the household, soliciting or accepting compensation for performing official duties, and using public equipment or facilities for private or campaign purposes.

The conflicts section of the bill sets forth those circumstances under which a public official cannot act, without violating the law. This section however does contain an escape clause for both public officials and officials of municipalities. By disclosing the conflict, and in some cases doing so in writing, the official can take action without breaking the law.

The remainder of the bill sets out the structure of the Commission that will administer the law. The existing A.P.O.C. is given the responsibility for enforcement and administration. Of note is the power to issue an advisory opinion at the request of a public official, as well as the power to issue a determination that a wilful violation of the conflicts law has occured.

Finally it should be noted that municipalities may avoid coverage of this law by adopting "substantially similar" standards of conduct within one year of the effective date of this bill, which is July 1, 1983.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

December 3, 1982

Hon. Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, AK 99811

Re: Conflict of interests
Our files: 366-255-83, 366-286-83,
A66-393-81, J66-457-81

Dear Governor Hammond:

I. INTRODUCTION

Seven situations have been brought to our attention which require analysis of the law of conflict of interests. We address this opinion to you because of the statewide importance of these questions and because of the profound implications of our remarks for all officers and employees of state government.

At the outset we must emphasize our key theme. The fact that there may be no conflict of interests statute that makes a particular course of conduct criminal or otherwise improper does not mean that it is legal. A transaction may not violate Alaska's criminal conflict of interests law, AS 39.50.-090; it may not even violate any one of a dozen civil statutes which prohibit conflicts of interests in specific agencies; yet it may still be illegal. By this opinion, we hope to make state officers and employees aware of an ethical code which is not in

the Alaska Statutes but which is in force in Alaska: the common law. Unless and until the legislature puts a different body of enacted law in its place, the common law of conflict of interests, as declared by the courts, prescribes the standards of conduct which must be followed by all state officers and employees.

The common law provides, generally, that public officers and employees are trustees of the people, and as such they are forbidden to have outside interests which conflict with that trust; they not only may not, as public officers, make decisions to benefit their own private businesses (or influence other public officers to do so), but they must avoid even the appearance that they have engaged in self-dealing or attempts to influence official decision-making for their private advantage. Where there is the fact or appearance of impropriety, the courts will declare the contract, transaction, or decision void unless a statute permits the action in question, and this result cannot be avoided by the expedient of letting a "disinterested" colleague or subordinate make the decision.

The questions which prompted this opinion are related below. Our analysis follows thereafter.

First, may a legislator, or his or her company, contract with the state to provide the state with goods or services? The answer is no.

Second, may a legislator, state officer, or state em-

ployee receive a loan from the state? The answer with respect to educational and residential loans is a qualified yes. Because educational and residential loan programs have relatively rigid requirements and loan ceilings, there is much less opportunity for improper influence; thus, state legislators, officers, and employees may receive such loans. However, it would be incumbent upon the applicant/lendee to insure that no one takes any step which might be viewed as an attempt to influence the administrators of the program in their evaluation of the applicant/lendee's application and their administration of the loan. Commercial loans are much more questionable transactions which we will discuss below.

Third, may a legislator vote on a bill which will inure to the financial benefit of the legislator? The answer is yes, unless the legislator's interest is peculiarly personal, such as when the bill benefits only a tiny class of which the legislator is a member, or when the bill concerns a project on which the legislator, or the legislator's company, is a contractor.

Fourth, may a director of a state corporation, board, or commission which is governed by no specific conflict of interests statute hold that position if he or she is also an officer, manager, or large stockholder of a private company which has entered into contracts to provide the state with goods or services? If the director's company has a contract with an agency of state

government different from the agency in which the director serves, and if the likelihood that the two agencies will interact on other than routine, ministerial matters is small, there would be no conflict. If, however, the director's company has contracts with the agency in which the director serves, the director must divest himself of his private holdings or resign his directorship; otherwise, any contracts his company executes with that agency would be void.

Fifth, may an officer of the Division of Minerals and Energy Management of the Department of Natural Resources (DMEM) own a mineral claim, an interest in a mine, or an interest in the products of a mine on land under state jurisdiction? Ownership of such interests is not prohibited under AS 27.05.010 unless DMEM is engaged in an "investigation" described in AS 27.05.010 -- 27.05.070. However, the common law does prohibit the ownership of such interests: A conflict of interests would exist because the officer (or the officer's subordinates) would be required to review and approve the officer's filings with DMEM concerning the officer's mining interests. In addition, the officer would have a substantial voice in the department's land use classifications, which could inure very much to the officer's benefit were he an actual or potential investor in mineral claims on land subject to state regulation.

Sixth, may an inspector in a state regulatory agency

sell the right to use a process the inspector developed and patented to companies whose plants he inspects? The answer is no. Neither may that inspector obtain a state grant to test the process in plants which he inspects.

Seventh, may a person with an interest in a business that has a contract with the state be a member of the board of the Alaska Resources Corporation (ARC)? The answer is a qualified yes. A member is forbidden to acquire any conflicting interest after joining the board. AS 37.12.065(b). Concerning interests which a member holds and held before joining the board, there are two answers: First, if the contract is with an agency other than ARC, and if that other agency has only routine, ministerial contacts with ARC, there is no conflict. Second, if the contract is with ARC, the board member must abstain from voting and take no formal or informal part in discussions of ARC's policies or actions toward the business in which the member has an interest. Id.

II. THE ROLE OF THE ATTORNEY GENERAL

The attorney general is the chief legal officer of the state and "the legal advisor of the governor and other state officers." AS 44.23.020(a). As such, he is duty bound to assist the governor in "the faithful execution of the laws." Alaska Const., art. III, § 16. These laws include the common law of

conflict of interest, see AS 01.10.010; the constitutional requirements that "[no] appropriation of public money [be] made ... except for a public purpose," and that "[n]o obligation for the payment of money shall be incurred except as authorized by law." Alaska Const., art. IX, §§ 6, 13; and AS 39.50 concerning conflicts of interests.

The attorney general performs this function by prosecuting legal actions, AS 44.23.020(b)(1), and furnishing written legal opinions. AS 44.23.020(b)(4). The attorney general is also empowered to bring an action to recover state funds which were illegally paid or paid to a person not authorized to receive them. AS 37.10.090. Short of court action, the attorney general may advise against an agency course of action which he believes is against the public interest. See Mobil Oil Corp. v. Kelley, 353 F. Supp. 582, 586 (S.D. Ala. 1973), aff'd 493 F.2d 784 (5th Cir. 1974). Indeed, the attorney general is duty bound, in the service of the public interest, to give such advice, even in the face of objections from client agencies, officers, or legislators. D'Amico v. Board of Medical Examiners, 520 P.2d 10, 20 (Cal. 1974)(In Bank); Commonwealth ex rel. Hancock v. Paxton, 516 S.W.2d 865 (Ky. 1974). The first allegiance of the attorney general is to the public interest. Id.

In this opinion, we advise on various courses of action. This advice is based upon our best reading of the case law

and our conviction that, were the specific situations presented to a court in a lawsuit, particular outcomes would follow. This is not a certain prospect: as will be made clearer below, we are, with few exceptions, dealing not with specific statutes but with the common law, a general and changing body of principles developed and applied by courts over the centuries. Our conclusions are based upon what we believe a court would do given those general principles, prevailing public policy, the public interest, and the continuing silence of the legislature in this area generally. Thus, this memorandum is a prescription for agency action in the face of conflicts of interests not addressed by statute, and a guide for legislative action should the agency or court resolution be unsatisfactory to the legislature.

State agencies, officers, and employees should heed advice in this memorandum until ordered to do otherwise by a court. See Gray v. Main, 309 F. Supp. 207, 220 (M.D. Ala. 1968); State v. District Court of Mayes County, 440 P.2d 700, 707 (Okla. 1968).

III. STATUTES AND COMMON LAW PRINCIPLES

There are more than a dozen provisions dealing with conflict of interests scattered through the Alaska Statutes. Only AS 39.50 applies to state officers generally. One of that chapter's purposes is "to discourage public officials from acting

upon a private or business interest in the performance of a public duty," AS 39.50.010(a)(1), and it declares that "public office is a public trust which should be free from the danger of conflict of interest." AS 39.50.010(b)(1). Its main feature is its disclosure requirements. E.g., AS 39.50.020. The chapter's only prohibitions are contained in AS 39.50.090, subsection (a) of which provides:

> No public official may use his official position or office for the primary purpose of obtaining financial gain for himself, or his spouse, child, mother, or father, or business with which he is associated or owns stock.

Violation of this subsection is a crime. AS 39.50.090(d).

Other Alaska conflict statutes incorporate AS 39.50 by reference, 1/ or impose other limitations. 2/ The other limitations range from a simple prohibition on the employment of close relatives, AS 14.14.140, to a duty to divest oneself of the conflicting interest or suffer forfeiture of one's office. AS 42.07.061.

The statutes mentioned above speak only to a relative handful of government agencies, boards, corporations, and commissions. 3/ In some cases, the statutes prescribe rules of conduct

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1/ AS 24.55.310; AS 46.12.090.

2/ AS 08.88.391; AS 14.14.140; AS 18.55.080; 18.55.500; AS 21.06.040; AS 24.20.291; AS 27.05.020; AS 37.12.065(b); AS 38.06.035; AS 42.07.061; AS 44.07.330; and AS 44.88.180.

3/ See nn.1, 2, supra.

for officers of state agencies, but offer no guidance for employees. 4/ There remain hundreds of conflict situations to which no Alaska conflict legislation 5/ pertains except as AS 39.50. 6/

It is well-settled in the federal courts, particularly with regard to criminal sanctions for bribery and fraud, that the existence of criminal statutes (such as AS 39.50.090) does not extinguish the common law rights and remedies which would ordinarily exist. United States v. Kearns, 595 F.2d 729, 732-733 (D.C. Cir 1978); Continental Management, Inc. v. United States, 527 F.2d 613, 620 (Ct. Cl. 1975), and cases cited therein. We believe that the same rule would apply in Alaska: AS 39.50 will not be held to repeal, amend, or preempt the common law of conflict of interests which will apply "unless and until the Alaska legislature acts to modify it." Surina v. Buckalew, 629 P.2d

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4/ Compare AS 21.06.040, AS 27.05.020, and AS 44.07.330 with AS 44.88.180, AS 46.12.090, and AS 48.55.500.

5/ Personnel Rules 13 12.0 and 13 16.0 apply to most executive branch personnel and prohibit conflicts of interests in terms which essentially incorporate the standards of the common law.

6/ AS 39.50 governs the conduct of very few persons. AS 39.50.200(a)(1) limits the chapter's scope by excluding officers or employees below the director level from the coverage of the provision. There remain outside the coverage of the Act deputy directors in the executive branch, assistant attorneys general, appointive officers of the legislative branch (including legislative assistants), non-judicial officers of the court system, and all subordinate employees of these agencies. Thus, fully 90 percent of state officers and employees are beyond the reach of the criminal sanctions in AS 39.50.090(a).

969, 973 (Alaska 1981). Thus, a person may act illegally without violating the criminal law, and serious non-penal consequences may follow.

Neither is it possible to formulate a rule of administrative decision for a given situation by analogy, based upon legislative pronouncements with respect to other agencies, for no consistent policy is apparent from an examination of the various statutes. One statute lays down no other rule than that school boards may not hire close relatives of the board members, AS 14.-14.140, and even that rule may be waived by the commissioner of education. Id. Thus, on local school boards, were it not for the common law rule and AS 39.50.090(a), a board member could let a contract to himself. 7/ In another agency, the law provides that a board member may not vote on a contract with his own firm or one in which he holds a "direct" ownership interest, but he need not divest himself of the interest. AS 44.88.180. In still other agencies, such interests are prohibited and the officer must dispose of the interest or forfeit the office. AS 42.07.-061. See AS 21.06.040; AS 24.20.291; AS 27.05.020; AS 38.06.035. From this range of solutions, no overriding general policy prescription is apparent for the guidance of public officers and employees.

7/ A stricter rule applies to regional school boards. AS 14.-08.131.

* * * *

Most conflict of interests situations in Alaska are covered not by statute but by the common law. Judge Wickersham described the common law in In Re Burkell, 2 Alaska 108 (D. Alaska 1903):

> The common law includes those principles, usages, and rules of action applicable to the government and security of person and property which do not rest for their authority on any express and positive declaration of the will of the Legislature (1 Kent's Com. 533); a system of elementary principles and of general judicial truths which are continually expanding with the progress of society, and adapting themselves to the gradual changes of trade and commerce and the mechanic arts and the exigencies and usages of the country (Pierce v. Props. Swan Point Cemetery, 10 R.I. 227, 14 Am. Rep. 667).

Id. at 117. See Howard v. Pfeifer, 443 P.2d 39, 44 (Alaska 1968). In Alaska, the common law controls judicial decision-making "unless and until the Alaska legislature acts to modify it." Surina v. Buckalew. See AS 01.10.010.

The common law of conflict of interests is clearest in the case of a contract made by a public officer who will, as a private person, benefit from the contract. The most comprehensive discussion of the typical situation, the controlling rule, and the underlying public policy is found in Beebe v. Supervisors of Sullivan County, 19 N.Y.S. 629 (App. Div. 1892), aff'd 37 N.E. 566 (N.Y. 1894):

> At the time of his employment [by the board of supervisors as the board's attorney in several

> collection matters], the defendant Anderson was a member of the board of supervisors. They were the agents of the county of Sullivan, and as such had no right to enter into contracts for their own benefit with their principal, the county of Sullivan. They are trustees, and have no right to enter into contracts with each other at the expense of those for whom they are acting, and whose interests they are bound to guard and protect. The illegality of such contracts does not depend upon statutory enactments. They are illegal at common law. It is contrary to good morals and public policy to permit municipal officers of any kind to enter into contractual relations with the municipality of which they are officers; and this principle applies with particular force to members of a board like the board of supervisors, which not only makes the contract, but subsequently audits the bill.
>
> But it is said that in the case before us the supervisor who was employed did not vote on the question of his own employment, or upon the audit of his bill. That does not cure the evil. The influence upon fellow members is the same. His constituents are entitled to his judgment in making contracts, to his scrutiny in passing upon accounts, and to his unbiased and disinterested efforts in both; and he cannot make the violation or neglect of the duties he owes to his constituents the means of validating an otherwise illegal act. He cannot put on and off the garb of a public official, and discharge or refuse to discharge the duties of his trust, at will, and as best subserve his private interests. He is a part of the board of supervisors. Its act is his act; and he cannot, as a supervisor, make a contract with himself as a private citizen.

Id. at 630 (citations omitted).

IV. THE PROCESS OF COMMON LAW ADJUDICATION

In the absence of legislation, it is the task of the courts, with the assistance of the attorney general, other mem-

bers of the bar, litigants, and amici curiae, to apply common law principles and policies articulated by the Beebe court and hundreds of other courts and commentators before and since. The task is a difficult one because, with the exception of the self-dealing public officer situation just described, the law is not settled; the courts must reason from the situations already addressed by the courts to solutions for new questions presented.

For this undertaking the common law is well-suited, as Chief Justice Lemuel Shaw noted in his classic description of the process:

> It is one of the great merits and advantages of the common law, that, instead of a series of detailed practical rules, established by positive provisions, and adopted to the precise circumstances of particular cases, which would become obsolete and fail, when the practice and course of business, to which they apply, should cease or change, the common law consists of a few broad and comprehensive principles founded on reason, natural justice, and enlightened public policy modified and adapted to the circumstances of all the particular cases which fall within it.
>
> ....
>
> Another consequence of this expansive character of the common law is, that when new practices spring up, new combinations of facts arise, and cases are presented for which there is no precedent in judicial decision, they must be governed by the general principle, applicable to cases most nearly analogous, but modified and adapted to new circumstances by considerations of fitness and propriety, of reason and justice, which grow out of those circumstances.

Norway Plains Co. v. Boston & Main Railroad, 1 Gray (67 Mass.)

263 (1854), reprinted in Hart and Sacks, The Legal Process: Basic Problems In The Making And Application Of Law (1958) 386-395. 8/

It is our task to begin with the legislative solutions to determine if any statute answers any of the conflict questions posed. Failing that, we must turn to the common law and, beginning with the first principles, reason to the conclusion the courts would likely reach given the facts, judicial precedent in analogous cases, and prevailing public policy.

V. LEGISLATOR CONFLICTS

Two questions are presented concerning potential legislator conflicts: First, may a legislator, or his or her firm or business, contract with the state to provide the state with goods or services? Second, may a legislator receive a state loan?

The first question does not concern classic self-dealing, the letting of contracts by an official to himself or his relatives, associates or company. It is a different problem described in the following terms:

> There is a great possibility that an official who has no immediate administrative connection with

---

8/ Thus, even if there is no statute and not one case addressing the situation before a court, that court may, by the process of common law adjudication, formulate a wholly new answer to settle the dispute which gave rise to the lawsuit. See Howard v. Pfeifer, 443 P.2d at 44.

> the contract may be sufficiently motivated by his personal interest to exert whatever influence his position allows to pressure the public official who in fact has a direct responsibility concerning the contract to favor that personal interest. In this way, an official without a personal interest in the contract acquires a conflicting interest in the sense that he must choose between appeasing the pressuring official and properly discharging his duties in the matter.
>
> Experience indicates the harm that may flow from [this situation]. Contracts may be awarded that are over-priced or unnecessary, or the performance rendered under the contract may be inferior, all because of official favoritism, compromise or intentional oversight. Even if the abuse is nothing more than partiality in awarding a contract, it may import an aspect of unfairness into public administration, engendering popular disrespect for government.

Note, Conflict-of-Interests of Government Personnel: An Appraisal of the Philadelphia Situation, 107 U. Pa. L. Rev. 985, 987-988 (1959). See Eisenberg, Conflict of Interest Situations And Remedies, 13 Rutgers L. Rev. 666, 686 (1959).

There are no cases which squarely hold, as a matter of common law, that a legislator, having no formal, institutional connection with the letting or oversight of a contract, can or cannot contract with the state. The archetypical situation arises in the municipal context where principles of separation of powers do not apply and assemblymen or councilmen act administratively as well as legislatively. Thus, an assemblyman might, in a private contractor capacity, offer goods or services to the city, which goods or services are accepted, inspected, super-

vised, and compensated by the assembly on which the contractor sits. It is the virtually universal rule at common law that such a transaction is illegal, even if the assemblyman-contractor abstains and takes no part in the review and compensation of the performance. E.g., Beebe v. Supervisors of Sullivan County, quoted supra. While some commentators have declared that the common law rule has been extended to bar such transactions if any public officer or employee, regardless of their official connection with the transaction, is the private contractor, 9/ a close analysis of the cases decided to date and due regard for the difference between holding and dicta belie the claim. 10/

Many states have statutes or constitutional provisions which prohibit legislators or other public officers from contracting with the state. A number of cases have declared that such provisions are declaratory of the common law, i.e., even if there were no statute, the same rule would apply by force of the common law. One case is Schultze v. City of New York, 136 N.Y.S.

9/ E.g., Note, Conflict of Interests: State Government Employees, 47 Va. L. Rev. 1034, 1039 (1961).

10/ Kaplan and Lillich, Municipal Conflicts of Interest: Inconsistencies and Patchwork Prohibitions, 58 Col. L. Rev. 157, 158-174 (1958). We were guilty of uncritically accepting the conclusion of the Virginia Law Review note writer in our formal opinion of August 8, 1979; fortunately, it made no difference in the result in that opinion since the individual in question was an officer with authority to vote on the award of contracts and review the contractor's performance.

715 (App. Div. 1912), aff'd 106 N.E. 1042 (N.Y. 1914). Schultze was a duly appointed coroner's physician whose duty it was to perform autopsies and give evidence at coroners' inquests. He was called upon to assist the district attorney in a homicide case involving a decedent whom Schultze had not examined; he acted as an expert consultant. He submitted a bill which was disapproved under a charter provision which forbade officers to become interested, directly or indirectly, in performance of any contract or work to be paid for from the city treasury; a violation was a misdemeanor, the violator forfeited his office, and the contract was voidable. The court held that the city was not required to pay the bill, and observed that "[t]hese prohibitions are merely declaratory of the common law." Id. at 718. Accord, Marjohn Realty Co. v. City of Long Beach, 204 N.Y.S. 53, 55 (Sup. Ct. 1924), aff'd 206 N.Y.S. 933 (App. Div. 1924).

The case of Norbeck & Nicholson Co. v. State, 142 N.W. 847 (S.D. 1913), involved a legislator who contracted with the state to drill a well. The contract was voided on the basis of a constitutional provision which prohibited legislators to be directly or indirectly interested in any state contract. However, there followed extremely broad dicta:

> A member of the state Legislature, by virtue of his office, stands in a fiduciary and trust relation towards the state; in other words, he is the confidential agent of the state for the purpose of appropriating the state's money in payment of the lawful contractual obligations of the

> state, and it seems to be almost universally held that it is against sound public policy to permit such an agent, or any agent occupying a like position, to himself be directly or indirectly interested in any contract with the state or other municipality, during the period of time of the existence of such trust and confidential relationship. The private interest of such an agent should not become antagonistic to his public duty.

Id. at 849.

On the other hand, at least two courts have described statutory prohibitions of such contracts as new legislative rules foreign to the common law. In re Opinion of Justices, 82 A. 90, 93 (Me. 1911); Lindberg v. Benson, 70 N.W.2d 42, 45 (N.D. 1955). However, the Lindberg court went on to state in forceful terms the very public policy considerations which militate in favor of a common law rule in the absence of legislative action:

> The purpose of the enactment was to extend the ancient common-law rule that no state officer may be interested in any contract which he has a voice in letting (which rule is expressed in many statutes of this state) by providing a more comprehensive legislative rule, founded in public policy, which would take away from legislators as a class any personal incentive to increase their opportunities to make profitable contracts by their votes in the legislature or to use their influence as legislators in securing contracts or the approval of the work done under them. The members of the Legislative Assembly exercise a high degree of control over the fiscal affairs of the State and its subdivisions. They regulate assessments and tax levy limits. They authorize bond issues and, for the State, they make all appropriations. By enacting this initiated measure the people have attempted to remove from the legislators temptation to venality in the exercise of their legislative functions. Many states have constitutional or legislative provisions which are similar in

> nature and which have remained in force unchallenged for many years.

Id. at 45-46.

In two recent cases, courts have held that legislator attorneys may not represent persons in litigation against their city or state. In Georgia Department of Human Resources v. Sistrunk, 291 S.E.2d 524 (Ga. 1982), the Sistrunks were represented by Hill, a state legislator. The department invoked fiduciary principles and a Georgia constitutional provision which declared that "[p]ublic officers are the trustees and servants of the people, and at all times are amenable to them." The court expressly noted that this was not analogous to the classic self-dealing situation, since Hill was not representing both the Sistrunks and the state. Id. at 526.

The Sistrunk court framed the issued in the following terms:

> All public officers, within whatever branch and at whatever level of our government, and whatever be their private vocations, are trustees of the people, and do accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from the discharge of their trusts.
>
> ....
>
> May one trustee of the people, as attorney and for his own financial gain, negotiate on behalf of another for a favorable official dispensation at the hands of another trustee of the people?
>
> Specifically concerning legislators, may one

> trustee of the people -- in whose office are vested the powers of enhancement, diminution, and destruction of the office of another trustee of the people -- as attorney and for his own financial gain act in a manner to hinder or frustrate the discharge by such other trustee of the duties of their common trust?
>
> No.

Id. at 528.

It bears noting that the court in Sistrunk based its decision on a Georgia constitutional provision and not on the common law. However, that provision is so general in its terms and was analyzed with such close attention to common law trust principles that the Sistrunk holding has significance independent of the constitutional language. A similar provision appears in Alaska law. 11/

In a California case, People v. Municipal Court of San Diego Judicial District, 138 Cal. Rptr. 235, 238 (Cal. App. 1977), the court barred a city councilman-attorney from representing a defendant being prosecuted by the city. The decision appears to rest primarily on the ethical standards of, and trust reposed in, members of the bar, rather than on any statutory or constitutional provision. 12/

11/ Compare the Georgia constitutional provision quoted in the text with AS 39.50.020(b)(1), which provides "public office is a public trust which should be free from the danger of conflict of interest."

12/ However, the court did, in passing, compare the councilman's

A legislator contract also raises novel and troubling questions of separation of powers. The federal courts have, in perhaps a dozen cases, condemned the practice of interference by individual legislators or committees in executive branch decision-making. The leading case is Pillsbury Co. v. Federal Trade Commission, 354 F.2d 952 (5th Cir. 1966). In Pillsbury, a decision of the FTC in its quasi-judicial capacity was invalidated because of intense Congressional committee pressure while the decision was pending.

Much less pressure was required to invalidate the decision at issue in Koniag, Inc. v. Andrus, 580 F.2d 601 (D.C. Cir. 1978), cert. denied 439 U.S. 1052 (1978). The court ruled that a letter sent by Congressman Dingell to the Secretary of the Interior, in effect urging him to deny several applications for "native village" status, compromised the Secretary's impartiality in a quasi-judicial proceeding; the court ordered reconsideration of the applications by the new Secretary. In other cases, however, explicit and extreme threats were said to be required before invalidation would occur. E.g., D.C. Federation v. Volpe, 459 F.2d 1231 (D.C. Cir. 1972)(threat of loss of appropriation for unrelated project); Texas Medical Association v. Mathews, 408 F.

12/ cont. . . .
representation to conduct by "[a] local agency officer or employee" which is statutorily proscribed as "incompatible." Id. at 238.

Supp. 303 (W.D. Tex. 1976)(threat of loss of job).

Here, as in the federal legislator influence cases, the legislators would be placing themselves in a non-legislative, i.e., administrative or quasi-judicial, arena. But the kind of legislator pressure which caused the court in Pillsbury to invalidate the FTC decision is not involved here. Still, the federal legislator interference cases lead us to conclude that a court would not require a showing of direct threats where a legislator acted on behalf of himself rather than on behalf of a constituent.

The remarks of the Alaska Supreme Court in two opinions bear on this inquiry. Both cases, Begich v. Jefferson, 441 P.2d 27 (Alaska 1968), and Warwick v. State ex rel. Chance, 548 P.2d 384 (Alaska 1976), involved legislators who held or wished to hold an office of state government outside the legislative branch.

In Begich, the court observed generally:

> Alaska's constitutional prohibition against members of our three separate branches of state government holding any other positions of profit under the State of Alaska reflects the intent to guard against conflicts of interest, self-aggrandizement, concentration of power, and dilution of separation of powers in regard to the exercise by these governmental officials of the executive, judicial, and legislative functions of our state government. The rationale underlying such prohibitions can be attributed to the desire to encourage and preserve independence and integrity of action and decision on the part of individual members of our state government.

441 P.2d at 35.

In Warwick, the court considered Alaska Constitution, article II, section 5, which forbids a person to accept a government post which was created, or the salary for which was increased, while that person served in the legislature. The court observed:

> There is little disagreement as to the purpose of the type of constitutional provision under consideration here. Although the exact language varies from state to state, all such provisions are aimed at a common goal: to remove improper motives from considerations of legislators in voting for increased salaries or the creation of new offices. In one often-cited quotation, Justice Story, commenting upon a like provision in the Constitution of the United States, said:
>
> > The reasons for excluding persons from offices who have been concerned in creating them, or increasing their emoluments, are to take away, as far as possible, any improper bias in the vote of the representative, and to secure to the constituents some solemn pledge of his disinterestedness.
>
> This type of constitutional provision is designed not only to stop overt trafficking in offices, but also to prevent less obvious influences on a legislator's actions:
>
> > [T]his constitutional provision was enacted through fear that a legislator might be, either consciously or unconsciously, influenced by selfish motives when voting for or against a bill.
>
> Another purpose has been said to be the elimination of even the suspicion that legislators were acting with improper motives. As in the case of the judiciary, it is important that the legislature not only avoid impropriety, but also the appearance of impropriety.

548 P.2d at 387-388 (emphasis added by the court, footnotes omitted).

Both the Alaska Constitution and AS 39.50 were adopted by popular vote. From these electoral expressions it is clear that Alaskans view as morally opprobrious public officials who use public office for private gain. Indeed, even the appearance of impropriety is a circumstance to be avoided. Warwick at 388, quoted supra; Falcon v. A.P.O.C., 570 P.2d 469, 477 (Alaska 1977). See AS 39.50.010(b)(1)("public office is a public trust which should be free from the danger of conflict of interest").

The size of the legislature and the executive branch is also an important consideration. There are only 60 legislators, all of whom are likely well-known to the relatively few departmental commissioners, deputy commissioners and directors. Most of these persons work together in close proximity in Juneau for five months of the year.

Our legislators have a keen interest in the budget process. Those legislators who sit on the finance committees are usually familiar with the thousands of pages of budget documents in the minutest detail and make allocations in multi-billion dollar budgets in increments of thousands of dollars. Any legislator, and especially a member of the finance committees or the free conference committee on the budget, can have an enormous impact on the budget of a state agency. Recent legislative ses-

sions have seen both the creation and destruction of agencies at the behest of single or a few legislators who took the initiative to bless or gut the agencies. In recent years, the legislature has also taken to designating its own non-governmental agents to carry out state programs. E.g., p. 25, § 51, ch. 120, SLA 1980.

Alaska is a very small state, with a small pool of talented people from which to draw its leaders. Many of the most talented have extensive commercial enterprises which may do business with the state. Unreasonable barriers should not be placed before these most promising aspirants to public service. Yet, with the legislature tending toward a half-time profession, and with the great potential for conflicts of interests with multi-billion dollar budgets and pervasive government involvement in private commerce, the courts might well be convinced that the only solution in the public interest is a common law prohibition. This would be all the more compelling in the absence of evidence that aspirants to public service are being dissuaded by a common law rule prohibiting legislator contracts, and in the absence of legislative action in this area. Indeed, such a common law prohibition might be a telling experiment for the information of the courts and the legislature.

As we have already noted, there is no case authority directly on point pro or con, but the foundation is there, in Beebe and its progeny, in Begich, in Warwick, and in AS 39.50,

upon which a common law rule against legislator contracts could be constructed. Any voter could bring an action to void such contracts 13/ and we would likely support that result in the absence of a compelling contrary justification. 14/

It is therefore our conclusion that a contract between a state agency, 15/ on the one hand, and a legislator, a business owned or operated by a legislator, or a business in which the legislator is an officer, manager, or large stockholder, on the other hand, would be illegal under the common law. 16/

* * * *

The second legislator conflict situation concerns legislators (and some state officers and employees) who apply to re-

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13/ See AS 39.50.100.

14/ Were a legislator contractor the only possible source for particular goods or services, we might support an exception. Similarly, an exception might be justifiable if a legislator proposed to provide non-unique, "off-the-shelf" goods (e.g., office supplies, motor oil) where price would be virtually the only variable. Exceptions are not supportable where the transaction requires the exercise of judgment by an administrator or an extended period of performance by the legislator. See State v. Yoakum, quoted infra.

15/ A court might well go further and say that legislators may not, as private contractors, do business with any entities (state agencies, municipalities, nonprofit corporations) whose projects are financed with state funds.

16/ At this time, we offer no opinion on situations where the legislator is an employee of the contracting firm, or where a close relative of a legislator is an officer, manager, large stockholder or employee of the contracting firm.

ceive loans from the state. The only case which offers even brief analysis of the public policy considerations which would underlie an exception to the common law rule is State v. Yoakum, 306 S.W.2d 39 (Tenn. App. 1957). In explaining why a loan to a school board of which the president of the lender bank was a member did not violate a statutory prohibition of a direct or indirect interest in a public contract, the court impliedly undercut any common law prohibition:

> A loan of money, however, is unlike a contract for goods or services involved in all our reported decisions. Because they involve questions of value, contracts relating to goods and services provide opportunity for imposition upon the public. In the loan of money the law fixes the maximum rate of interest and no question of value is involved. Only a rate of interest below the maximum fixed by law can be the subject of negotiation. In the loan here involved it is not insisted that such a short term loan could have been made elsewhere at a lower rate of interest and, as we have seen, the loan actually resulted in a loss to the Bank. To apply the statutes to such a situation, it seems to us, would be going beyond their meaning and purpose and result in great inconvenience in small communities where bank officers and stockholders frequently occupy positions of public trust and authority.

Id. at 40.

While the analysis is terse, Yoakum provides a basis for distinguishing the loan situation from other contracts between the state and legislators. However, we can say this with confidence only in the cases of loans for tuition or personal residences, where loan ceilings are relatively low, eligibility

standards are fixed, and the range of administrator discretion subject to influence and abuse is small. 17/ Commercial loan programs, where ceilings are much higher and where evaluation of credit-worthiness is more subjective, may yet present conflicts of interests where the loans are made to legislators.

However, there is potential for influence or abuse in any loan program, especially when foreclosure or other enforcement actions must be considered. Thus, whether the loan is educational, residential, or commercial, a conflict of interests may arise, and state legislators (and some state officers and employees) and their agents, must act with the greatest circumspection and propriety in dealing with the agency concerning the loan or any other matter. The agency, in order to maintain public confidence in the fairness of its program, should brook not even a hint of interference and should report questionable communications to the attorney general.

* * * *

We view the third question, concerning the propriety of a legislator voting on a bill which will financially advantage the legislator, in a different light. It is clear in the case law that, when a legislator acts in a legislative capacity, that

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17/ Even a competitive bidding procedure is subject to greater influence and abuse where the contracting officer has discretion in evaluating the responsibility of the bidders. AS 39.05.230. See AS 36.98.040 -- 36.98.050.

action can be challenged only when the legislator's conduct is "tainted with fraud, or palpably not in the service of the public interest, or otherwise a clear perversion of power." Rollins v. Carter, 69 A. 777 (N.H. 1908); Pyatt v. Mayor of Dunellen, 89 A.2d 1, 3 (N.J. 1952); MASON'S MANUAL OF LEGISLATIVE PROCEDURE, § 522. However, when a legislator acts outside the legislative sphere, with respect to a particular transaction or adjudication in which the legislator is interested, a challenge may be sustained if there is found a "private interest at variance with the impartial performance of ... public duty." Pyatt; Rollins. See Burton v. United States, 202 U.S. 344, 366-367 (1906); Pillsbury Co. v. Federal Trade Commission, 354 F.2d 952, 964 (5th Cir. 1966); Note, Conflicts of Interest of State Legislators, 76 Harv. L. Rev. 1209, 1214, n.38 (1963)("[I]mproper activities in other capacities should not be protected merely because the impropriety arises from the fact that the actor is also a legislator.").

Therefore, where a legislator votes on a bill which will financially benefit the legislator as a member of the public generally, e.g., personal income tax repeal, or where a legislator votes on a bill which will financially benefit the legislator as a member of a numerous though limited class of Alaskans, e.g., bank deregulation or corporate income tax repeal which will benefit shareholders, the legislator's vote may not be challenged. See the memorandum opinion from Kenneth E. Vassar to Wilson L.

Condon dated April 1, 1982.

Where, however, the class of beneficiaries of the legislation is tiny, especially where the bill relates to a project for which the legislator is a private contractor or affiliated with a private contractor, the legislator must disclose the conflict of interests and the legislative body should bar the legislator from voting. See MASON'S MANUAL OF LEGISLATIVE PROCEDURE, § 522 (1979).

VI. OFFICER CONFLICTS

Four potential conflicts of interests by executive branch officers have been presented for our review. We will treat them in turn.

It is first asked whether a director of a state corporation, board, or commission which is governed by no specific conflict of interests statute has a conflict if he or she is an officer, employee, or large stockholder of a company or firm which has contracts with the state to provide goods or services. If there is a conflict, what remedial steps need be taken?

The question is answered by the Beebe case, quoted supra, and the accompanying discussion: a conflict clearly does exist if the person with the potential conflict is associated with both parties to the contract, i.e., the state agency procuring the goods or services and the private contractor providing

them. 18/ If, however, the person with the potential conflict works for a state agency with no contracts with the private contractor with which the person is associated, there would be no conflict. 19/

The Beebe case makes it clear that public service demands total fidelity to the public interest at all times. A public servant, faced with a conflict of interests by reason of private financial associations may not pass official decision-making responsibility on to a colleague or subordinate who may share the same prejudice or be subject to influence. "He cannot put on and off the garb of a public official, and discharge or refuse to discharge the duties of his trust, at will, and as best subserve his private interests." Id. at 630. Faced with a conflict, the person must either resign his or her position, or forego the private opportunity to do business with the state.

18/ If the person is only an employee, there may not be a conflict. Those situations must be addressed on a case-by-case basis.

19/ We must qualify this last mentioned conclusion by noting that a conflict might arise even if the person was not an official in the contracting state agency if the person nevertheless has extensive contacts with the contracting state agency. For example, certain officers of the Department of Law and the Office of the Governor, though not within the Department of Administration, may have extensive contacts with, and considerable influence in, the Department of Administration. A person with similar "interdepartmental" duties might be in a conflict situation if he or she entered into an agreement as a private contractor with the other department.

* * * *

It is next asked whether an officer of the Division of Minerals and Energy Management (DMEM) may hold a mining claim, an interest in a mine, or an interest in the products of a mine on land under state jurisdiction. AS 27.05.020 provides:

> In conducting the inquiries and investigations authorized by AS 27.05.010 -- 27.05.070, no officer or employee of the department may have any personal or private interest in a mine or the products of a mine under investigation, or accept employment from a private party for services in the examination of private mineral property. Nothing in this section prevents employment by the department, in a consulting capacity or in the investigation of special subjects, of an engineer or other expert whose principal professional practice is outside his employment by the department.

The syntax of AS 27.05.020 is not an aid to understanding. A thoughtful reading of the provision reveals that it is not any officer or employee of the department who is prohibited from holding an interest in a mine under investigation; only officers and employees "conducting the inquiries and investigations authorized by AS 27.05.010 -- 27.05.070" are so restricted. We are informed by the director of DMEM that that division conducts virtually none of the "investigations" in question; those matters are within the jurisdiction of the Division of Geological and Geophysical Surveys. However, there is still the common law.

DMEM is the state agency which regulates the acquisition of mining claims and leases on lands under state jurisdiction, see AS 38.05.185 -- 38.05.280; 11 AAC 86, and issues mis-

cellaneous land use permits. See 11 AAC 96. DMEM also has a representative on the regional planning teams which make recommendations to the commissioner on state land use classifications. See AS 38.04.065; 11 AAC 55.

As the regulatory agency for mining claims, DMEM receives the filings of persons who stake mineral claims. See AS 38.05.195. It must review the filings to verify that there has been a discovery, see 11 AAC 86.105, and that the claim has been properly staked. See 11 AAC 86.205 -- 11 AAC 86.215. On an annual basis, DMEM receives additional filings from each claim owner attesting to the performance of statutorily-required annual labor on the claim, see AS 38.05.210; 11 AAC 86.220, and must verify that the claimed labor meets prescribed requirements. Id. A major component of the DMEM mining section's effort and budget is devoted to this "adjudication" of mineral claims.

In this light, we believe that an ownership interest in mineral claims (or in a company which owns mineral claims) on lands under state jurisdiction creates a common law conflict of interests on the part of officers and employees of DMEM. Given the size of the mining section of DMEM (25 persons) and the likely close working association of all the officers and employees, it is probable that a court, as a matter of common law, would forbid any person in DMEM to own a mineral claim on lands under state jurisdiction since the opportunity for influence is so evi-

dent. It is even clearer that a court would forbid a supervisory officer to own such a mineral claim since it would be that person's subordinate who would review the sufficiency of the claim and the annual labor affidavit. 20/ And, as we noted, supra, at page 31, the conflict is not cured by removing oneself from the review of one's own filings: the public has the right to demand that a state officer bring his or her skills to bear in all matters which the office calls upon him or her to consider.

DMEM is one of only three agencies principally responsible for overseeing mineral exploration and mining activities on lands under state jurisdiction. DMEM personnel cannot be both regulators and regulated. If they wish to serve in DMEM, they must forego this relatively narrow range of investment opportunities. The common law requires officers and employees in DMEM who have interests in mining claims to dispose of those interests with all deliberate speed, or resign. 21/

20/ DMEM officers and employees also have access to confidential geological, geochemical, geophysical, and airborne surveys. See AS 38.05.240. Were they permitted to own mineral claims, they might have a distinct advantage over other prospectors, miners, and investors. This is another aspect of the conflict of interests inherent in the situation.

21/ The Department of Law has had the full cooperation of DMEM officers and employees in this inquiry; indeed, it was a DMEM officer with an interest in mineral claims who first asked our advice on this matter. At that time, we informally advised him that there was no conflict, and he ordered his affairs accordingly. Thus, it was our erroneous advice, and no wrongdoing by the DMEM officer, that allowed the conflict situation to develop.

* * * *

It is next inquired whether a Department of Environmental Conservation (DEC) inspector of seafood processing plants may sell the right to use a process he developed and patented to companies whose plants he inspects. The answer is clearly no.

The evil of such an arrangement is patent: seafood processors might feel compelled to purchase the right to use the process or suffer the wrath of the seller when next he inspects their plants.

We hasten to add that there is not the slightest suggestion that the particular inspector involved has ever acted improperly; it is the appearance of impropriety which condemns these proposed transactions. If the inspector wishes to market his process, he must resign or sell his rights in the process to another who may market it. 22/

The same inspector also wishes to apply to the Department of Commerce and Economic Development (DCED) for a grant to test his process. Because the grant project would likely involve one or more seafood processors in a cooperative effort to test the process, a conflict of interests on the inspector's part

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22/ If the inspector chooses the latter course, he may not reserve any right to receive royalties or license fees; were he to do so, the spectre of influence would again appear since, though he is not personally marketing the process, each seafood processor that used the process would be paying the inspector indirectly.

would almost certainly arise. In that case, the grant would be illegal. See Newton v. Domas, 258 A.2d 376 (N.J. App. 1969)(municipal engineer had an outside contract with a developer to design a water system; the contract was void because the engineer would have had to review his own design in his official capacity).

* * * *

It is last asked whether a member of the board of the Alaska Resources Corporation (ARC) has a conflict of interests if he or she is associated with a company that has a contract with the state. AS 37.12.065 provides:

> (a) Members of the board are subject to the provisions of AS 39.50.
>
> (b) No member or employee of the board may acquire an interest, direct or indirect, in a corporation, company, association, or project owned, controlled, or invested in by the corporation. If a member or employee owns or controls such an interest, he shall immediately disclose the interest in writing to the board and refrain from participating in any manner in any activity relating to that interest.

Subsection (b) modifies the common law as it would apply to ARC. Under the common law, the member could neither acquire a new interest nor keep an old interest in a company doing business with ARC, and this disability could not be cured by abstaining on votes and taking no part in deliberations. Under AS 37.12.065, acquisition is forbidden, but interests owned upon appointment may be retained, so long as the member abstains from

voting and has no contact, formal or informal, with other members concerning ARC's policies or actions toward the firm in which the member has an interest. This departure from the common law applies only to members and employees of ARC. 23/

VII. CONCLUSION

The common law of conflict of interests is uncharted water for most public officials, including government attorneys. They err when they believe that a public official's conflict can be cured if the official takes no part in the decision in which he or she is interested. They err when they believe that a court will not invalidate a contract if, though a party to the contract has a conflict, it is still a fair price.

The courts take the view that officials have a duty to the public to participate in all the decisions they were elected or appointed to make. The courts ordinarily will not allow an

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23/ It was also inquired whether an ARC board member may also be a member of the Alaska Historical Commission. AS 44.27.011, et seq. In view of the clear prohibition on holding "any other state or federal office, position, or employment . . . ," AS 37.-12.045(b), we believe the board member must resign from either ARC or the Alaska Historical Commission. This prohibition goes further than the common law; indeed, as applied in this situation, it appears to advance no laudable goal. But it is within the legislature's power, and it does prevent the appearance of conflict of interests in many other situations. If a more refined provision is to be substituted, one which is better able to discriminate between real and imagined potential for abuse, the legislature alone has the power to do it.

official to decline to make a decision in order that he or she might be free to have the benefit of that decision.

The courts will not allow an official to make a contract with his agency and, when challenged, assert as a defense that the contract was more advantageous to the state than any other offer received.

The common law of conflict of interests aims not only to prevent officials from actually taking unfair advantage of their office. It also aims to eliminate the potential for abuse and the appearance to the public that officials are subject to temptation. For these reasons, the courts have dealt sternly with officials in conflict situations, and they will continue to do so. Unless the legislature formulates another means to sustain the public's confidence that public officials are not benefitting in private from their positions in public, we, and all public officials, must abide by the common law.

Sincerely yours,

Wilson L. Condon
Attorney General

WLC/pjg

HB

29

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 13
HOUSE FINANCE COMMITTEE
CHAIRMAN–UNIVERSITY OF ALASKA BUDGET

3960 REKA DRIVE–B6
ANCHORAGE, AK 99508
PHONE 333-4990

DURING LEGISLATURE
POUCH V
STATE CAPITOL BLDG.
JUNEAU, AK 99811
PHONE 465-3783

April 30, 1984

Senator Vic Fischer, Chairman
Senate State Affairs Committee
Pouch V
Juneau, Alaska 99811

Open Letter regarding House Bills 29 and 30

Dear Senator Fischer:

The purpose of this letter is to formally request that you schedule the above-referenced bills for hearing before your committee. These bills are extremely pertinent to the upcoming elections, and should be given a fair hearing before your committee.

House Bill 29 would authorize the Division of Elections to investigate a candidate's claim of proper residency in the district in which the candidate has filed to run for office. At this time, the Division has no authority to investigate a candidate's residency. In fact, the only agency empowered to do so is the Alaska Court System, and then only when a suit is brought by a private concern or individual challenging the candidate's residency.

House Bill 30 authorizes the Division of Elections to require more specific information from a person who registers to vote. This bill is designed to eliminate questionable registrations. It would, for instance, allow the Division to question a person registering to vote in one district, but showing a mailing address across town; or to request a more specific address than "general delivery".

These bills have been in your committee since May, 1983, and my office has several times asked that these bills be scheduled for hearing by the State Affairs Committee. I cannot understand your hesitation to hold public hearings on these bills. I would appreciate knowing your specific objections to hearing these bills.

Your constituents and I look forward to your response.

Sincerely,

Terry Martin

Representative Terry Martin

cc: All Legislators
Anchorage Times
Anchorage Daily News

Alaska State Legislature

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



3240 REKA DRIVE—06
ANCHORAGE, AK 99504
PHONE 333-6990

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

MEMORANDUM

To: Senator Vic Fischer, Chairman
Senate State Affairs Committee

From: Representative Terry Martin TM.

Date: February 3, 1984

Subject: HB 29

"An Act relating to the verification of residency of candidates for certain public offices."

The Constitution of the State of Alaska, Article II, Section 2, requires that "a member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office." HB 29 is necessary in order to give the Division of Elections statutory authority to investigate a declared candidate's eligibility to seek office.

Under current law, no state agency is authorized to check a candidate's claims of residency when a citizen of Alaska questions the matter. If a complaint is lodged with the Division, the Division asks the candidate to verify the statements made at the time of filing for office. If the candidate says that the the statements made are true, then neither the Alaska Public Offices Commission nor the Division of Elections has authority to investigate further. The party questioning the candidate's filing must take the issue to court if the matter is to be pursued. I refer you to the attached Memorandum from Rodger Pegues, Assistant Attorney General, to Terry Miller, Lieutenant Governor, dated January 22, 1980:

> "As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity....
>
> ...The Election Code makes no provision for the election officials to reject an application which is valid on its face and timely filed....

On page 2 of that same memorandum, paragraph 2, Mr. Pegues goes on to say that, even if a candidate states that he is not sure he does meet residency requirements, but later "repudiates" that statement, the Division of Elections has no authority to question residency, because an admission of disqualification could be "dead wrong", and because "proof of residence consists of both objective facts and subjective feelings" (page 2, para. 1).

This is inconsistent with state policy in other residency-based programs, such as the permanent fund dividend distribution. If a permanent fund applicant does not appear to meet residency requirements, the state not only has the authority, but has an obligation to question the applicant's legal residence. If we can question every permanent fund applicant's right to a permanent fund dividend based on that applicant's legal Alaskan residency, then we surely should enable our election officials to determine whether a candidate meets the Constitutional residency requirements to run for office.

Your careful consideration of this legislation is greatly appreciated. Please contact me if I can offer any assistance to you with regard to HB 29. It is most important to expedite hearing on this bill so that implementation can be assured before the upcoming election.

OFFICE OF THE LIEUTENANT GOVERNOR

Rod Pegues
Assistant Attorney General
Dept. of Law

January 18, 1980

Terry Miller
Lieutenant Governor

Constitutional Residency Requirements for Filing for Office

Rod, as you already know, my office has had many requests for the necessary forms for filing for office for the 1980 elections. Along with these requests have been several questions regarding the residency requirements outlined in the State Constitution. For example, one gentleman has lived in California since 1977; however, he has maintained a permanent residence address in Alaska and has voted by absentee ballot. According to the constitution, he qualifies as being a resident of the state for three years and a resident of the district for one year although in reality he no longer lives here.

I am requesting an opinion from the Department of Law on the residency requirement, what my position is in accepting an individual's declaration base on these requirements, and what the appropriate response may be to individuals in this situation.

I would appreciate your prompt attention to this matter.

Thanks!

STATE
of ALASKA

MEMORANDUM

EXHIBIT A - 2

LIEUTENANT GOVERNOR
JAN 23 '80
RECEIVED
STATE OF ALASKA

TO: Honorable Terry Miller
Lieutenant Governor

DATE: January 22, 1980

FILE NO: J-66-412-80

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

By:
Rodger W. Peggs
Assistant Attorney General

SUBJECT: Constitutional residency requirements for elective state office

You have asked what you, as Lieutenant Governor and the state's chief election officer, should do with respect to the application of the constitution's residency requirements to those who file for elective state office.

As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity.

Under the Alaska Constitution, one who files for elective public office must have been a resident of the State (and, for legislators, of the election district) for a prescribed period. */ A candidate's eligibility for filing is determined "immediately preceding his filing for office." Alaska Const., art. II, § 2, art. III, § 2. The requisite information is entered on the declaration of candidacy which is filed by the candidate. AS 15.25.030(8).

The Election Code makes provision for the election officials to reject an application which is valid on its face and timely filed. Under AS 15.25.040, an untimely filed declaration of candidacy clearly must be rejected. But there is no similar provision for rejecting a declaration which substantially complies with the prescribed requirements for filing for office. With respect to residency, those requirements are that, in substance, the candidate states that he meets "the specific residency requirements of the office for which he is a candidate." AS 15.25.030(8). Given substantial compliance by the candidate, his name must

---

*/ For the legislature, three years in the State and one in the district is required. Alaska Const., art. II, § 2. For governor and lieutenant governor, seven years in the State is required. Alaska Const., art. III, §§ 2, 7.

be placed on the ballot. AS 15.25.060.

For the most part, the Alaska Election Code, like many others, depends upon the adversarial nature of the election process for enforcement. The law reasonably assumes that a candidate's opponents will be the first to raise complaints against any false or fraudulent filing. Residence (domicile) is an elusive legal concept. Proof of residence consists of both objective facts and subjective feelings. A determination requires a full blown hearing and an independent, nonpartisan decision maker. The Election Code quite wisely does not provide for the election officials to make such determinations.

Of course, if a declared or would-be candidate states to the election officials that in his own mind he does not believe he is a resident of the state or of the election district or that he believes that he no longer meets the constitution's residency requirements, then the officials -- on the basis of that admission -- may reject a declaration of candidacy from that person unless it is preceded or accompanied by a withdrawal or repudiation of the admission of disqualification. While election officials have no duty to question or determine residency, they are not compelled to ignore admissions of disqualification. However, whether one is qualified or not is a legal question and an admission of disqualification could be dead wrong. Therefore, the election officials must honor any subsequent withdrawal or repudiation of such an admission. And, indeed, if they are convinced at the outset that a candidate's admission of disqualification is in error, they can and should disregard it and accept a timely and properly filed declaration of candidacy from the candidate.

RWP/pjg

HB 29

BILL HB0029
PAGE 00024
DATE 01/17/83
CHAMBER HOUSE
TEXT HOUSE BILL NO. 29 by Martin, Flood and Lindauer, entitled:
"An Act relating to the verification of residency of candidates for certain public offices."
was read the first time and referred to the State Affairs and Judiciary Committees.

BILL HB0029
PAGE 00049
DATE 01/18/83
CHAMBER HOUSE
TEXT Speaker Hayes added a Finance Committee referral to HOUSE BILL NO. 29 (relating to the verification of residency of candidates for certain public offices)
HB 29 is now referred to the State Affairs, Judiciary and Finance Committees.

BILL HB0029
PAGE 00501
DATE 03/16/83
CHAMBER HOUSE
TEXT The State Affairs Committee has had HOUSE BILL NO. 29 (verification of residency of candidates for certain public offices) under consideration and reports it back as follows: Abood (Chairman), Shultz, Cowdery, Furnace and Larson recommend do pass. A fiscal note was attached.
HB 29 was referred to the Judiciary Committee.
Fiscal note appears in House Journal Supplement No. 25.

BILL HB0029
PAGE 01251
DATE 05/10/83
CHAMBER HOUSE
TEXT The Judiciary Committee has had HOUSE BILL NO. 29 (relating to the verification of residency of candidates for certain public offices) under consideration and reports it back as follows: Bussell (Chairman), Liska, Hayes, Wendte and Barnes recommend do pass. Malone and Clocksin have no recommendation.
HB 29 was referred to the Finance Committee.

HB
29

PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 29 Date on Bill: 1/17/83
Title: relating to the verification of residency of candidates for certa
Sponsor: Martin, Flood & Lindhauer public offices
Requestor: State Affairs Committee (HOUSE) 1/14/83 1:45 pm Rm.102

1. Estimated fiscal impacts on: Division of Elections staff

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	FY 87	
Capital								
Operating					-4-		-3-	
Debt								

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions: Regulations must be written and adopted to require coordination between Div. of Elections and local taxing authorities to confirm length of residency. ($1,000 in FY 85)
Staff time must be allocated to verify residency of 120-150 state office candidates every 2 years. This should take the month of July for one person. ($3,000 every 2 years)

4. Disclaimer:
This statement has not been reviewed by the CAB in the Office of the Governor. It do not represent the policy of the Sheffield Administration or the final estimate of fis impact.

Prepared By: TPThoma Phone: 4611
Division: Elections Date:

Approved by Commissioner: Date:
Department:

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor

5/5/83

COMMITTEE REPORT

HOUSE

5/17

FURTHER: Rules

Date: 5/16/83

5/10/83

Mr. Speaker:

The Committee on FINANCE has had HB 29

"An Act relating to the verification of residency of candidates for certain public offices."

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

H-60

Candidates for Public Office (residency requirements)

HOUSE BILL NO. 29, by Martin, Flood and Lindauer.
Amends section of the Election Code relating to the nomination of candidates (AS 15.25) by adding new sections requiring the verification of residency of candidates. Candidates must meet specific requirements (to be adopted as regulations by the Director of Elections). Requirements apply to candidates for state executive and national legislative offices (AS 15.25.030), and also for candidates who do not represent a political party (AS 15.25.180). Does not provide for an effective date.

Introduced January 17 and referred to State Affairs, Judiciary, then to Finance.

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

OFFICE OF THE GOVERNOR

PHONE: (907) 586-6181

September 27, 1983

Honorable Vic Fischer
Alaska State Senate
State Affairs Committee
1024 W. 6th, Suite 204C
Anchorage, Alaska 99501
Attn: Suzanne Tryck

Dear Senator Fischer:

Enclosed are the observations and other materials that you requested for HB 29 and HB 30.

If this office can be of any further assitance to you, please do not hesitate to call upon us.

Sincerely,

Mary Lou Meiners

Mary Lou Meiners
Director

Enclosures

TO: Senate State Affairs Committee Date: 9/27/83

FR: Director, Division of Elections

RE: HB 29 and HB 30

The Division gave considerable testimony in the respective State House Committees in 1983 on both HB 29 and HB 30. We consider both bills as unnecessary legislation that will complicate the present procedures for running for office and registering as a voter.

The analysis of HB 29 is attached. In addition to this analysis, we feel that the present situation of candidate scrutiny of other candidates who file for office from the same district is superior to any regulatory or administrative checks that the Division could impose. To give two examples:

One Alaskan filed as a representative from Ketchikan in 1974. His long and immediate residence in Anchorage was known to his fellow candidates and to many voters; his candidacy was thus disallowed. Another Alaskan was an Anchorage House candidate, challenged on duration of residency by her opposing candidate in 1982. Because of her housing situation in that district, she was allowed to remain on the ballot.

In both situations it was the opposing candidates who made public their charges of residency; after review of their answers to the changes, the situations were resolved without the Division becoming directly involved.

The Division feels that an investigative arm for checking each candidates' truth in filing would be a magnet for opposing candidates to plant suspicion of eligibility. If a opposing candidate is so unsure of the "facts" regarding a candidates' eligibility, then they should let their doubts be publically known to members of the press or others who can ascertain whether that candidate is eligible. The Division is no more capable of determining this information though State or local government entities than is the neighbor next door or a campaign worker, or member of the press.

Again, we feel this investigative arm would be a target for candidates and the press, which, if our information is incorrect, could well lead to lawsuits and charges of misconduct or malfeasance by the Division.

Similarly, we do not feel comfortable in requesting or checking local tax records, phone bills or other information on the residence of candidates.

We are not that sort of watchdog or investigative agency. Our files reflect the residence and mailing addresses of each registered voter. We feel this is sufficient information to check a candidate's residence, using previous years microfiche of voter registration.

HB 30 - "an Act relating to proof of eligibility for registration as a voter" by Martin.

This legislation would require the Division of Elections to design and print new voter registration forms containing an expanded oath section. The estimated cost would be $20,000 for 500,000 forms.

Section (e) is an unneeded new subsection; some sort of identification is already required by all new registrants, unless they are personally known by a registrar. However, a new voter is not required to list their social security number or date of birth, the traditional ways to verify the identify of a person through cross-files. Thus, we do not feel that information from other divisions of state government will provide any better knowledge of eligibility than a potential voter's own Alaskan identification at the time of registration.

Section (f) would require new sections on the form which we feel is also unnecessary; a person can easily file a change of voter addresss; registrars are well aware of the 30 day period of registration prior to an election, but many city and borough charters do not require this; overseas voters are an extremely small percentage of our voters, mostly military; those eligible to vote for only presidential candidates during the November election every four years are also an extremely small percentage of the votes cast, and should not merit this special treatment on the voter registration form. They vote questioned ballots, and our election workers are aware of this category of voter who may vote only for President.

Section (g) is an open-ended authority by the Director to launch investigations of voters, which we consider to be unnecessary. Also, as we've stated, the access and level of information available is rarely of better use than a voter's own identification.

In summary, we feel that both HB 29 and HB 30 are bills that would put the Division in a delicate position of instigating, investigating, judging and sentencing both candidates and voters for subjective violations in filling out forms. Since Alaska has no history of voter fraud, and candidates seem to police their fellow candidates with close scrutiny, we request that both pieces of House legislation be examined carefully for their merits, if any.

Attachments:
Legislative testimony
fiscal notes (revised)
1984 candidates application form
voter registration form

Chapter 25. Nomination of Candidates
Article 1. Primary Elections—Excerpts

Section
30. Declaration of candidacy
40. Manner and date of filing declaration
45. Withdrawal of Candidacy
50. Requirement of filing fee
55. Removal of name from primary ballot

Sec. 15.25.030. Declaration of candidacy. (a) A member of a political party who seeks to become a candidate of the party in the primary election shall execute and file a declaration of candidacy. The declaration shall be executed under oath before an officer authorized to take acknowledgments and shall state in substance: (1) the full name of the candidate; (2) the full mailing address of the candidate; (3) if the candidacy is for the office of state senator or state representative, the election or senate district of which the candidate is a resident; (4) the office for which the candidate seeks nomination; (5) the name of the political party of which he is a candidate for nomination; (6) the full resident address of the candidate; (7) the date of the primary election at which the candidate declares himself to be a candidate; (8) that the candidate will meet the specific residency requirements of the office for which he is a candidate; (9) that the candidate will meet the specific citizenship requirements of the office for which he is a candidate; (10) that the candidate is a qualified voter as required by law; (11) that the candidate will meet the specific age requirements of the office for which he is a candidate; (12) that the candidate requests that his name be placed on the primary election ballot; (13) that the required fee accompanies the declaration; (14) that he is not a candidate for any other office to be voted on at the primary or general election and that he has not filed another declaration of candidacy or nominating petition for the office for which this declaration is filed; (15) the manner in which he wishes his name to appear on the ballot; and (16) that the candidate is registered to vote as a member of the political party whose nomination he seeks. (b) A person filing a declaration of candidacy under this section shall simultaneously file a statement of income sources and business interests which complies with the requirements of AS 39.50.

Sec. 15.25.040. Manner and date of filing declaration. (a) The declaration is filed by either (1) the actual physical delivery of the declaration in person or by mail at or before 5:00 p.m., prevailing time, June 1 of the year in which a general election is held for the office, or (2) the actual physical delivery by telegram of a copy in substance of the statements made in paragraphs (1) - (5) of the declaration as required by AS 15.25.030 at or before 5:00 p.m., prevailing time, June 1 of the year in which a general election is held for the office and also the actual physical delivery of the declaration containing paragraphs (1) - (16) as required by AS 15.25.030 by registered mail which is received not more than 15 days after that time. (b) If the postmark is illegible, a dated receipt from the post office where dispatched shall be acceptable as evidence of mailing. If June 1 is a Sunday or holiday, the deadlines for postmarking and receipt of the declaration shall be extended 24 hours in each instance. (c) A candidate for a statewide office or a candidate for a district-wide office shall file either with the director or an election supervisor. If the candidate files his declaration with an election supervisor, the election supervisor shall immediately forward the declaration to the director. (d) If the declaration filed under (a) of this section is not received within seven calendar days, the candidate shall be notified of nonreceipt. The candidate shall have the opportunity to refile his declaration with proof that his previous declaration has been filed in a timely manner and in accordance with law.

Sec. 15.25.045. Withdrawal of candidacy. Notice of withdrawal of candidacy must be in writing over the signature of the candidate.

Sec. 15.25.050. Requirement of filing fee. (a) At the time the declaration is filed, each candidate shall pay a filing fee to the director. The filing fee for candidates for office of governor, lieutenant governor, United States senator, and United States representative is $100. The filing fee for candidates for office of state senator and state representative is $30. Subject to legislative appropriation, the director shall pay the filing fee collected from a candidate under this section to the central committee of the political party of that candidate. (b) An indigent person as defined by regulations adopted under the administrative procedure act (AS 44.62) may file a statement of indigency in the form prescribed by regulation in place of the filing fee required by this section.

Sec. 15.25.055. Removal of name from primary ballot. A candidate's name will appear on the primary election ballot unless notice of his withdrawal from the primary is received by the director at least 40 days before the date of the primary election.

RETURN TO:
DIRECTOR OF ELECTIONS OR
ELECTION SUPERVISOR

DECLARATION OF CANDIDACY
STATE HOUSE OF REPRESENTATIVES
1984

PLEASE TYPE OR PRINT

HOME PHONE _____
WORK PHONE _____

I, _____, (Please use same form of name as on your voter acknowledgment card) declare that my full resident address is: _____, _____, Alaska, and that my full mailing address is: _____, Alaska _____. (zip code)

I declare myself a resident of and candidate for nomination to the office of State Representative representing Election District_____, Seat_____. I am a candidate for the_____ political party in the primary election to be held on August28, 1984. I am a citizen of the United States and have been a resident of Alaska since _____, 19 _____. I am a qualified voter and am registered to vote under the _____ political party and have been a resident of Election District_____ since_____, 19_____. I shall meet the age requirement upon taking the oath of office if elected. I am not a candidate for any other office to be voted upon at the primary or general election and I have not filed another declaration of candidacy or nominating petition for the office for which this declaration is filed. I request that my name appear on the primary election ballot and that it appear in the following form.*

_____
(printed name for ballot use)

The required fee of $30.00 accompanies this declaration.

_____
(Signature of Candidate)

Subscribed and sworn before me this _____ day of _____, 198 .

_____
(Notary Public or Postmaster)
(Commission expires:_____)

Please check one of the following:

_____ I am filing my conflict of interest statement with this declaration.

_____ I have a current conflict of interest statement on file with the Alaska Public Offices Commission. (A current municipal conflict of interest does not apply)

To assist the staff in verifying voter identification, please provide one or more of the following:

1. Voter Registration Number _____
2. Social Security Number _____
3. Birthdate _____

---

*The director of elections may not include on the ballot, as a part of a candidate's name, any honorary or assumed title or prefix but may include in the candidate's name any nickname or familiar form of a proper name of the candidate. (AS 15.15.030 (4))

STATE OF ALASKA
FISCAL NOTE

Revision Date 05-16-83 1983

I. REQUEST

Bill/Resolution No.: HB 29
Title: "Verify residency of candidates"
Sponsor: Representative Martin & Flood
Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: Office of the Governor
Program Category Affected: Exec. Operation
BRU, Program of Subprogram(s) Affected:
Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES			4.4		5.	
200 TRAVEL						
300 CONTRACTUAL			1.			
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING			5.4		5.	
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND			5.4		5.	
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY			2		2	

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not Provided

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: T.P. Thora, Information Officer Phone: 465-4611
Division: Division of Elections Date: 05-16-83

Approved by Commissioner: [signature] Date: 05-16-83
Department: Lieutenant Governor

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

FISCAL ANALYSIS
HB 29

"Verification of residency of candidates for certain offices"

ASSUMPTIONS:

Regulations must be written in FY 83 to allow cooperation between the Division of Elections and local entities such as property taxing authorities. This would confirm length of local residency. It is assumed that advertising for the change in regulations will cost $1000 in contractual services.

Two temporary staff persons, at range 10, would work one month to verify residency of between 120- 150 state office candidates every two years. With 25% benefits and 6% inflation, these costs should be $4,400 in FY 85 and $5000 in FY 87.

HB 29

"An Act relating to the verification of residency of candidates for certain public offices"

by: Martin, Flood and Lindauer

This bill would require the Director of Elections to verify the residency (by place and duration) of all candidates for the offices of:

Governor	U.S. House
Lieutenant Governor	State Senate
U.S. Senate	State House

In 1982 for example, there were 120 individual candidates in the Primary whose address and length of residence would need verification by the Division.

ASSUMPTION:

If this proposal were to become statutory law, the Division of Elections forsees the need to employ up to four more temporary staff persons in 1984 to investigate the durational residence and residence location of an increasing number of candidates for state office.

Presently, the Division of Elections requires candidates to file a notarized declaration of candidacy with the Division which includes their:

1) full residence address;
2) that the candidate meets the residency requirements as outlined in Article 2, Section 2 of the Alaska Constitution;
3) that they are registered voters of the parties under which they have filed as candidates for office.

At the bottom of the notarized form is the statement "to assist the staff in verifying voter identification, please provide one or more of the following:

1) voter registration number;
2) social security number;
3) birthdate"

RESOLVE:

An oath similar to that on the voter registration form could be added to the candidacy form attesting that all the information is true and setting out penalties for false statements. This may address the intent of HB 29.

The present method of challenging residency statements by candidates for office is to file a legal challenge with the courts, Attorney General, the Division of Elections, APOC or take the matter directly to the press.

IMPACT OF HB 29:

For the Division of Elections to verify each individual candidate for office would require that, between June 1 (the last day for filing) and August 1 (an arbitrary date before the primary), a check of residence and duration be run on all 120-150 candidates. Since the Division has only six year voter history, not district residence history, per se, we would have to check with the propetty tax division of the boroughs and municipalities, landlords or others renting units to absolutely confirm duration of residency.

HB

30

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 30 Date on Bill: 1/17/83
Title: "relating to proof of eligibility for registration as a voter"
Sponsor: Martin and Lindhauer
Requestor: House State Affairs Committee

1. Estimated fiscal impacts on: Office of the Governor, Division of Elections

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating				12				
Total								

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill: General Funds

3. Assumptions: Passage of HB 30 would require the re-design and new printing of the voter registration forms. Compared to costs experienced by printing these forms in 1982, a run of one-half as many forms should incur this fiscal impact.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: TPThoma Information Officer Phone: 4611
Division: Elections Date: 2/23/83

Approved by Commissioner: Date:
Department:

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Soonsor

2/23/83

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 30
Title "An Act relating to proof of eligibility for registration as a
Requested by House State Affairs Date 1-18-83 voter."

II. FISCAL DETAIL
Agency Affected Office of the Governor
Program Category Affected Division of Elections
BRU, Program, Or Subprogram(s) Affected Division of Elections
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

No additional fiscal impact is anticipated. Although House Bill No. 30 would require to some extent a re-design of the currently used voter registration form, reprinting of such forms is periodically provided for in the normal operating budget.

IV. DATE 1-19-83 PREPARED BY Danith D. Arnold+ Deputy Director
AGENCY Office of the Governor, Div. of Electio
PHONE 586-6181

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

33-001 (Rev. 12/82)

Voter Registration (proof of eligibility)

HOUSE BILL NO. 30, by Martin and Lindauer. Amends section of the Election Code relating to information required when registering to vote (AS 15.07.060) by adding a new section that would allow the Director of Elections to require an applicant to provide proof of eligibility to vote. The Director may use information available from other state departments or agencies to determine an applicants eligibility to vote. The Director shall provide an application form containing a statement wherein the voter certifies that he has been a state resident for at least 30 days prior to the date of the election or that he claims eligibility as an overseas voter, or that he is eligible to vote in a presidential election. Provides a false claim of eligibility is a criminal offense. The Director is to investigate a claim of eligibility if information provided by the voter is or seems inconsistent with other information regarding eligibility of the applicant. Does not provide for an effective date.

Introduced January 17 and referred to State Affairs, Judiciary, then to Finance.

Property Tax (exemption-- disabled veterans)

HOUSE BILL NO. 31, by Furnace, Barnes, Grussendorf, Koponen, Phillips, Lindauer, Abood, Liska, Larson and Fritz. Would require municipalities to exempt the real property owned and occupied as a permanent place of abode by a disabled veteran from taxation. The exemption for veterans would be the percentage of the assessed value of the property that is the same as the percentage of disability as established by the vets' service disability rating. The bill changes sections of the existing Municipal Code relating to assessment and taxation (AS 29.53.020--required exemptions), effective January 1, 1984, and would change those sections of a new Municipal Code (AS 29.45.030) when enacted by the Thirteenth Legislature.

Introduced January 17 and referred to Community & Regional Affairs, then to Finance.

Appropriation (special) (Anchorage campus dorms)

HOUSE BILL NO. 32, by Furnace, Martin, Barnes, Flood, Lindauer, Abood, Liska, Szymanski and Fritz. Makes a special appropriation in the amount of $15,000,000 to the University of Alaska for construction of dormitories for the U of A Anchorage campus. Provides appropriation is for a capital project and does not lapse. Provides Act takes effect immediately.

Introduced January 17 and referred to Health, Education and Social Services, then to Finance.

Appropriation (special) (Anch. state trooper facility)

HOUSE BILL NO. 33, by Furnace, Martin, Barnes, Lindauer, Abood, Liska, Szymanski, Pestinger. Makes a special appropriation in the amount of $8,100,000 to the Department of Public Safety for construction of a state trooper crime laboratory and office facility in Anchorage. Provides appropriation is for a capital project and does not lapse. Provides Act takes effect July 1, 1983.

Introduced January 17 and referred to State Affairs, then to Finance.

government to provide housing facilities to persons engaged in national defense activities, to register and vote at elect in state. 142 ALR 430.

Sec. 15.07.040. Time for registration. A person who is qualified under AS 15.05.010(1) — (4) is entitled to register at any time throughout the year except that a person under 18 years of age may register at any time within 90 days immediately preceding his 18th birthday. (§ 2 ch 211 SLA 1968; am § 20 ch 32 SLA 1971; am § 6 ch 116 SLA 1972; am § 7 ch 100 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "a person under 18 years of age may register at any time within 90 days immediately preceding his 18th birthday" for "no registration will be made for a period of 30 days preceding the election" at the end of the section.

Collateral references. — Constitutionality of statutes in relation to registration before voting at election or primary. 91 ALR 349.

Sec. 15.07.050. Registration in person or by mail. Registration may be made in person before a registration official or by mail. (§ 2 ch 211 SLA 1968)

Sec. 15.07.060. Required registration information. (a) Each applicant who requests registration or reregistration shall supply the following information under oath:

(1) name and sex;

(2) address and other necessary information establishing residence if requested;

(3) Repealed by § 8 ch 100 SLA 1980.

(4) term of residence in state and in election district; and whether the applicant has previously been registered to vote in another jurisdiction, and, if so, the jurisdiction and the address of the previous registration;

(5) a declaration that the registrant will be 18 years of age or older within 90 days of the date of registration;

(6) a declaration that the registrant is a citizen of the United States;

(7) date of application;

(8) signature or mark.

(b) If the applicant has been previously registered to vote in another jurisdiction, he shall surrender to the registration official any voter registration or identification card or credentials from that jurisdiction the applicant may possess. The director shall notify the chief elections officer in that jurisdiction that the applicant has registered to vote in Alaska, request that jurisdiction to cancel the applicant's voter registration there, and return the applicant's voter registration or identification card or credentials, if any, to that jurisdiction.

(c) If application for registration is made in person before a registration official, the applicant shall exhibit one form of identification to

the official, including but not limited to a driver's license, birth certificate, passport, hunting or fishing license. A registration official who knows the identity of the applicant may waive the identification requirement.

(d) If the applicant requests reregistration, the applicant shall supply under oath any former name under which the applicant was registered to vote in the state. (§ 2 ch 211 SLA 1968; am § 21 ch 32 SLA 1971; am §§ 6, 7 ch 197 SLA 1975; am § 8 ch 100 SLA 1980)

Effect of amendments. — The 1980 amendment inserted "under oath" at the end of the introductory paragraph of subsection (a), repealed the former provisions of paragraph (3) of subsection (a), which read: "Election district and precinct as of the date of registration," substituted "the jurisdiction and the address of the previous registration" for "where" at the end of paragraph (4) of subsection (a), substituted "within 90 days of the date of registration" for "on or before the date of the next statewide election" at the end of paragraph (5) of subsection (a), substituted "director" for "lieutenant governor" at the beginning of the second sentence of subsection (b), and added subsections (c) and (d).

NOTES TO DECISIONS

Omission of a voter's complete address is not a "minor" omission. Willis v. Thomas, Sup. Ct. Op. No. 1923 (File No. 4398), 600 P.2d 1079 (1979).

Where a voter filled out a voter registration application on October 5, 1978, but failed to supply her complete street address as required by this section, and on election day, filled out a second voter registration form, this time including her complete address, her ballot should not be counted. Willis v. Thomas, Sup. Ct. Op. No. 1923 (File No. 4398), 600 P.2d 1079 (1979).

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

Collateral references. — Validity of statute requiring information as to age, sex, residence, etc., as condition of registration or right to vote. 44 ALR 260.

Propriety of test or question asked applicant for registration as voter other than formal questions relating to specific conditions of his right to registration. 76 ALR 1238.

Right of married woman to use maiden surname. 67 ALR3d 1266.

Sec. 15.07.065. Exchange of voter registration information.

Repealed by § 231 ch 100 SLA 1980.

Editor's notes. — The repealed section derived from § 8, ch. 197, SLA 1975.

Sec. 15.07.070. Procedure for registration. (a) The director may adopt regulations under the Administrative Procedure Act (AS 44.62) relating to the registration of voters consistent with the requirements of this section.

(b) To register by mail the director or the area election supervisor shall furnish, upon request, and at no cost to the voter, forms prepared

Voter Registration (proof of eligibility)

HOUSE BILL NO. 30, by Martin and Lindauer. Amends section of the Election Code relating to information required when registering to vote (AS 15.07.060) by adding a new section that would allow the Director of Elections to require an applicant to provide proof of eligibility to vote. The Director may use information available from other state departments or agencies to determine an applicants eligibility to vote. The Director shall provide an application form containing a statement wherein the voter certifies that he has been a state resident for at least 30 days prior to the date of the election or that he claims eligibility as an overseas voter, or that he is eligible to vote in a presidential election. Provides a false claim of eligibility is a criminal offense. The Director is to investigate a claim of eligibility if information provided by the voter is or seems inconsistent with other information regarding eligibility of the applicant. Does not provide for an effective date.

Introduced January 17 and referred to State Affairs, Judiciary, then to Finance.

Property Tax (exemption--disabled veterans)

HOUSE BILL NO. 31, by Furnace, Barnes, Grussendorf, Koponen, Phillips, Lindauer, Abood, Liska, Larson and Fritz. Would require municipalities to exempt the real property owned and occupied as a permanent place of abode by a disabled veteran from taxation. The exemption for veterans would be the percentage of the assessed value of the property that is the same as the percentage of disability as established by the vets' service disability rating. The bill changes sections of the existing Municipal Code relating to assessment and taxation (AS 29.53.020--required exemptions), effective January 1, 1984, and would change those sections of a new Municipal Code (AS 29.45.030) when enacted by the Thirteenth Legislature.

Introduced January 17 and referred to Community & Regional Affairs, then to Finance.

Appropriation (special) (Anchorage campus dorms)

HOUSE BILL NO. 32, by Furnace, Martin, Barnes, Flood, Lindauer, Abood, Liska, Szymanski and Fritz. Makes a special appropriation in the amount of $15,000,000 to the University of Alaska for construction of dormitories for the U of A Anchorage campus. Provides appropriation is for a capital project and does not lapse. Provides Act takes effect immediately.

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Introduced January 17 and referred to State Affairs, then to Finance.

REGISTRATION PROCEDURES BY MAIL

1. If you are currently registered to vote in another state you must complete the attached "Voter's Authorization to Cancel Registration" card.

2. Print or type full name - last, first and middle initial. Names containing punctuation, such as a hyphen (-) or apostrophe ('), should be shown with that punctuation. A name suffix such as "Jr.", "Sr.", or "III" should follow the last name.

3. Print previous name if registered to vote under that name. Be sure to sign this card according to your new name.

4. Print complete Alaska residence address. Exact descriptions are necessary to determine accurately the exact precinct and district in which you live. As examples (where applicable) you should provide street name and house number, subdivision name, highway name, milepost number, a pier and slip number for ships, space number and trailer park name for trailers, and tract or plot numbers for rural areas. A rural postal box or highway will not suffice.

5. Print your mailing address if different from your residence address including a specific street address (where applicable), postal box number, star route, city and zip code.

6. It is not mandatory to provide your social security number, however, this information is helpful to our office.

7. Please fill in place of birth, although this information is not mandatory. If you were born abroad, enter the foreign country along with a phrase indicating military or American parents (if applicable).

8. Please fill in date of birth. Although this information is not mandatory, it is helpful to the Elections Office for identification purposes.

9. If you are a naturalized citizen, fill in your date of naturalization.

10. Fill in how long you have lived in Alaska. This information is computed from the day you moved to Alaska to the date of registration. For those who have lived here longer than one year, only the number of years need be entered. If you have temporarily resided outside of Alaska after initially residing here, your time in Alaska would include the time spent outside IF you have not registered to vote in any other state. If you have registered to vote in another state, THEN, the length of time in Alaska would be computed from the date of your return to Alaska.

11. Fill in how long you have lived in the current election district, following the same guidelines as above. If you are unsure of your election district, indicate how long you have lived at your current address.

12. Indicate male or female.

13. Please indicate if you have been convicted of a felony. If your civil rights have not been restored, it is illegal for you to register to vote. If you have been unconditionally discharged from incarceration, probation and/or parole be sure to indicate the date of your discharge.

14. You are not required to provide your political affiliation. "Non-Partisan" is the same as "Independent" (a designation used in some other states) while "Other" is the category for any political affiliation other than Republican and Democrat (such as Libertarian, Alaskans for Independence, etc.)

15. Fill in today's date -- the date of this registration -- so that this office can compute the thirty-day registration requirement.

16. You are required to sign the registration form, and are, in fact, taking an oath. Sign the form by the same name you have printed above (i.e. by your proper first, middle initial, and last name, including any suffixes, etc.).

17. Have a registrar, notary public, U.S. postal official, a district judge or magistrate, commissioned officer of the armed forces, or other person qualified to administer oaths, witness and sign this registration form. If a qualified official is not available, two witnesses over the age of 18 years may sign this registration form, and, in addition, shall provide certification according to AS 09.65.012. A sample certification is attached.

E-Z-OUT

UARCO Business Forms - Ro

007660

SAMPLE VOTER REGISTRATION CARD

STATE OF ALASKA

VOTER REGISTRATION

PLEASE PRINT

READ INSTRUCTIONS ON BACK SIDE BEFORE COMPLETING CARD

(1) VOTER'S AUTHORIZATION TO CANCEL REGISTRATION

To the voter registration office of _____ (City or County), _____ (State)

This is to advise that I am now a resident of Alaska. Therefore, my registration where I formerly resided at the following address should be cancelled.

NAME		
FORMER ADDRESS (House Number and Street Name or Rural Route and Box Number)		
CITY	STATE	ZIP CODE
BIRTHDATE	SOCIAL SECURITY NUMBER	
SIGNATURE X	DATE	

195108

(2) VOTER'S NAME _____ (LAST) (FIRST) (INITIAL)

(3) PREVIOUS NAME (If registered to Vote in Alaska under that name) _____

(4) ALASKA RESIDENCE ADDRESS _____ (DO NOT LIST P.O. BOX OR RURAL ROUTES)

CITY _____ STATE _____

(5) MAILING ADDRESS _____

CITY _____ STATE _____ ZIP _____

FOR OFFICE USE ONLY

VOTER NUMBER

☐ INITIAL REGISTRATION ☐ CHANGE OF AFFILIATION

☐ CHANGE OF ADDRESS ☐ CHANGE OF NAME

FORM 01-3001 (3/82)

(6) SOCIAL SECURITY NUMBER	PLACE OF BIRTH (7)	DATE OF BIRTH (8) MO DAY YR.	DATE OF NATURALIZATION (9) MO DAY YR
(10) HOW LONG HAVE YOU LIVED IN ALASKA? YEARS MONTHS DAYS	HOW LONG HAVE YOU LIVED IN THIS ELECTION DISTRICT (AT CURRENT ADDRESS) (11) YEARS MONTHS DAYS	SEX: (12) ☐ MALE ☐ FEMALE	
(13) IF YOU HAVE EVER BEEN CONVICTED OF A FELONY, HAVE YOU BEEN UNCONDITIONALLY DISCHARGED FROM INCARCERATION, PROBATION AND/OR PAROLE? IF SO, GIVE DATE	OATH: I, the undersigned declare that the foregoing facts concerning my qualifications as a voter or a voter changing my address are true. I further declare that I am a citizen of the United States and will be 18 years of age or older within 90 days of the date of registration.		
	DATE (15)	SIGNATURE OF VOTER (16) X	
(14) POLITICAL AFFILIATION (Circle preference) REPUBLICAN DEMOCRAT NON-PARTISAN OTHER (SPECIFY) _____	WITNESS (17)	WITNESS OR OFFICIAL (17)	
	TWO WITNESSES OR A QUALIFIED OFFICIAL MUST SIGN	TITLE	LOCATION

Sample Certification

The following is a sample of the certification which must be used if a notary public or other individual empowered to administer oaths (discussed in number 17 of the previous page) is unavailable to witness the registrant's (voter's) signing of the voter registration card.

I _____ certify under penalty of
Registrant's Name (Please Print)

perjury that the information on the attached voter registration form is true and accurate. I further certify that no notary public or other official empowered to administer oaths is available.

_____ _____
Date Signature of Registrant

_____
Location

I certify that I am at least 18 years old and that I have witnessed the registrant's signing of the attached voter registration card and this certification.

_____ _____
Date Signature of Witness

I certify that I am at least 18 years old and that I have witnessed the registrant's signing of the attached voter registration card and this certification.

_____ _____
Date Signature of Witness

HB

33

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 33
Title "An Act... for a State Trooper Facility"
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Public Safety
Program Category Affected Administration of Justice
BRU, Program, Or Subprogram(s) Affected AST / Support & Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

Had two Chemists in FY84 operating budget but deleted by Gov.

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85 (July 84)	FY 86	FY 87	FY 88
100 PERSONAL SERVICES			416.6	441.6	468.1	496.2
200 TRAVEL			10.0	10.6	11.2	11.9
300 CONTRACTUAL			30.0	31.8	33.7	35.7
400 COMMODITIES			28.3	30.0	31.8	33.7
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			484.9 +6%	514.0 +6%	544.8 +6%	577.5

29.0 06/94

FUNDING (Thousands of Dollars)

484.9
29.1
514.0

GENERAL FUND			484.9	514.0	544.8	577.5
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME			9	9	9	9
PART TIME						
TEMPORARY						

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

This legislation provides funds for the construction of a 30,000 sq. ft. public safety facility in Anchorage to house an expanded Statewide Crime Laboratory, the Anchorage Metropolitan Drug Enforcement Unit and the local Alaska State Troopers and Fish & Wildlife Protection Detachments. The attached Schedule 1 details the Capital Costs and Schedule 2 details the operating Costs. The vast majority of the Operating Costs represents a shift in direction for the Crime Lab from being a limited service A.S.T. facility to becoming a full-service operation designed to meet the needs of all ~~local~~ law enforcement agencies in the state. Operating costs after FY'85 reflect an annual 6% inflation rate estimate.

Crime Lab = 17K
FWPdc = 13K

IV. DATE January 17, 1983 PREPARED BY Francis C. Allan F.C.Allan
AGENCY Division of Alaska State Troopers
PHONE 269-5691

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 24, 1983

MEMORANDUM

To: Representative Walt Furnace

From: Leonard Steinberg, Research Staff L.S.

Re: FBI Examination of Legal Evidence
Research Request 83-11

Steve Levi of your office requested the following information:

1) The number of Alaska criminal cases which made use of the FBI crime lab in Washington D.C.;

2) How many legal cases went to court with FBI assistance;

3) How often the FBI's time for analysis exceeded Alaska's 120 day limitation for court appearances; and

4) What specific evidence has been sent to the FBI for analysis.

Our attempts to answer these questions involved contacting: the Federal Bureau of Investigation in Anchorage and in Washington D.C.; the State of Alaska's Chief Prosecuter and the Anchorage District Attorney; the Alaska State Troopers; and the municipal police in Anchorage and Fairbanks.

Number of Alaska Criminal Cases Involving the FBI's Crime Lab

The table below lists the number of Alaska cases and the number of different examinations of Alaska evidence that were performed by the FBI's crime lab in federal fiscal years 1980, 1981, and 1982. (The federal fiscal year runs from October 1 to September 30; FY 80, for example began began October 1, 1979 and ended September 30, 1980.) This information was obtained from Manuel Marquez, of the Federal Bureau of Investigation in Washington D.C.

The number of examinations performed is many times larger than the number of cases because each case often includes many different items and each item may undergo numerous different examinations.

Year	Number of Cases	Number of Examinations
1980	181	10,744
1981	209	13,531
1982	236	19,510

Number of Legal Cases Which Went to Court With FBI Assistance

There are no records of the number of times the FBI's crime lab analysis has actually been used in court. Though FBI crime lab examiners frequently travel to Alaska to testify in criminal proceedings, only rough estimates of the number of visits are avialable.

According to Larry Nelson, the FBI's chief agent in Alaska, not a month goes by without one of the FBI's crime lab examiners traveling to Alaska to make a court appearance. Captain Smith, of the Anchorage Police Department, said he knew of at least 6 FBI crime lab examiners that visited Alaska during the last year.

The FBI in Washington D.C. may maintain records on number of visits examiners make to testify in Alaska courts, but the FBI declined to make that information available to us. The use of FBI examiners or laboratory analysis could be reconstructed by reviewing all the criminal files of the District Attorneys in Alaska, but doing so would require a substantial amount of time.

Excessive Time Required For FBI Analysis

Law enforcement authorities in Alaska are concerned that the FBI's crime lab will not analyze and return the evidence to Alaska in time to meet the requirement, unless waived by the defendent, that criminal trials take place within 120 days of an arrest.

There is little evidence of the FBI's laboratory analysis failing to arrive in time for a trial. The State Troopers have described one case (Alaska vs. Lewis, 1981) in which the trial court suppressed use of the FBI's lab report received the morning of the trial, but that case was complicated by other factors and the suppression was overturned on appeal.[1]

No other specific cases of laboratory analysis too late for use in court have been cited. However, Fairbanks Police Chief Matthew Kiernan estimated that perhaps in one percent of his cases he was unable to use the

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[1] Department of Public Safety. The Development of a Full Service Forensic Laboratory for Law Enforcement in Alaska. September 1982. Page 11.

FBI's laboratory analysis in court because of delays. Other Alaska law enforcement authorities indicated that, to their knowledge, evidence has always arrived in time, but not without the use of personal contacts between the law enforcement authorities in Alaska and FBI examiners in Washington D.C. Estimates of amount of time normally required for an FBI analysis ranged from two to six months.[2]

Specific Evidence Sent To The FBI For Analysis

It was not possible to obtain a list of the specific legal evidence which has been sent from Alaska to the FBI for analysis in the time available to complete this research request. All law enforcement authorities were contacted but regular records of what has been submitted for analysis have not been maintained.

The FBI crime lab in Washington D.C. may maintain records of what it has analyzed for Alaska, but this information was not made available to us. A list of the specific evidence sent to the FBI for analysis could be reconstructed by going through all the criminal files of the law enforcement authorities in Alaska, but doing so would require a substantial amount of time.

The FBI's crime lab conducts all known types of criminal analysis. Examples of Alaskan criminal evidence currently analyzed by the FBI include: questioned documents, body fluids, firearms, trace metals, voice prints, hair, fibers, and fingerprints.

Additional Information

Currently, all FBI service (analysis and expert witnesses) are available free of charge. The FBI crime lab s work is well respected and the examiners make excellent witnesses. However, many of Alaska's law enforcement officials spoke of the federal government's intention to cease providing lab services for state and local police.

The FBI, while supporting the development of regional criminal analysis laboratories, denies any intention of reducing services to state and local law enforcement authorities.

* * * * *

We hope this information is useful to you. Please let us know if we can be of any further assistance.

---

[2] Captain Smith of the Anchorage Police Department estimated normal FBI turnaround time at two months while Major Korhonen of the Alaska State Troopers estimated normal turnaround times of five to six months.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 24, 1983

MEMORANDUM

To: Representative Walt Furnace

From: Leonard Steinberg, Research Staff L.S.

Re: FBI Examination of Legal Evidence
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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 26, 1983

MEMORANDUM

To: Representative Walt Furnace

From: Leonard Steinberg, Research Staff

Re: Criminalistics Analysis--Additional Information On Costs
Research Request 83-11

Steve Levi of your office requested additional information on the costs of criminalistic analysis performed by both public and private institutions. Also included is an update on the FB crime lab's involvement in court proceedings in Alaska and the specific analytical techniques used by the FBI.

Criminalistics Analysis Costs--Findings

Many different rate structures are used to establish the prices of criminalistics analysis services. Most prices are based on hourly rates, though some labs charge a flat fee for each individual service. In general, labs are reluctant to charge flat fees because there is considerable variability in the amount of time required to analyze different pieces of evidence. Apparently some tests, such as toxicology, are very routine and their costs are affected by economies of scale. Other examinations, however, such as firearm and toolmark identification, vary greatly in the amount of time required for each examination.

Hourly rates vary from twenty-three to one hundred dollars per hour with the public and non-profit facilities providing the lowest hourly rates. Most private criminalistics analysis organizations provide only limited services, primarily for defense counsel's rebuttal of a prosecutor's evidence. In fact, there are very few private laboratories; most of the private sector activity in criminalistics is from individuals formerly associated with a criminalistics lab who are experts in interpreting the laboratory data. The private laboratories which do exist are small and their costs are high, in part, due to their low volume.

Five public, one private non-profit, and three private for-profit criminalistics laboratories were sampled for the cost of their services. The results are listed below by each organization.

Contra Costa County Sheriff's Crime Lab

Like most counties in California, the Contra Costa County Sheriff's Crime Lab provides criminalistics analysis for all law enforcement agencies, municipal, county, state and federal, located in that county for no charge. The lab ocassionally contracts to provide its services to public agencies outside the county, and charges only the additional costs it incurs in making these services available. In general, its extra costs are only labor; their labor rate has been estimated at $23 per hour.

According to Gerald Mitosinko, the lab's director (415 372-2466), the Contra Costa County Crime Lab has calculated the amount of time it has spent on various criminalistics procedures during the last several years. The average amounts of time required are listed below by different types of examinations. In parentheses is a rough approximation of the costs of these examinations, calculated on the basis of the time shown multiplied by the labor cost of $23 per hour.

Amphetamines	.7 hours ($16)	Heroin	1.36 hours ($31)
Cocaine	.5 hours ($12)	Marijuana	.39 hours ($9)
Explosives	4.83 hours ($111)	Document	2.84 hours ($65)
Shoe/Tire Prints	4.17 hours ($96)	Firearms ID	11.91 hours ($274)
Fiber & Hair	5.18 hours ($119)	Toolmarks ID	7.13 hours ($164)

Dallas County -- Southwestern Institute of Forensic Sciences

The Southwestern Institute of Forensic Sciences is a Dallas County agency. According to Director Irving Stone (214 638-9980), the Institute charges a fixed rate by the type of service performed. The rates have been set on the assumption that labor rates are approximately $50 per hour. In addition, the Institute charges a flat $200 fee for testimony and travel. The Institute's fee schedule and background information is being sent in the mail, but examples of their charges are listed below.

Documents Exam	$50	Fingerprint Exam	$50
Bullet Exam	$35	Typewriter Comparison	$50
Serial Number Restoration	$50	Search for Spermatazoa	$15

Tool Mark Comparison	$50	Search for Blood or Seminal Stains	$15
Hair & Fiber Analysis	$30	Analysis of ABO/RH From Dried Stains	$40

Connecticut State Police Forensic Sciences Laboratory

Dr. Henry Lee,is the Chief of the Forensic Sciences Laboratory in the state of Connecticut (203 238-6324). Dr. Lee explained that in addition to providing criminalistic analysis services for law enforcement authorities throughout Connecticut for no charge, his lab charges law enforcement authorities in surrounding states only for the cost of materials used in criminalistic analysis and for the time required for testimony.

Dr. Lee said that his lab has twenty-six employees and an annual budget of approximately $500,000.

Washington State Police Crime Lab

George Ishi is the Director of the Washington State Police Crime Lab (206 464-7073). According to Mr. Ishi, the Washington State Police Crime Lab does provide ciminalistics analysis services to other public agencies under contract. The lab charges $60 per hour plus any unusual expenses such as for special chemicals, special instruments, or testimony. Mr. Ishi is sending an analysis of the time spent by his lab on different types of criminalistic proceedures.

Kansas City, MO, Regional Criminalistics Laboratory

According to Gary Howell of the Regional Criminalistics Laboratory in Kansas City, MO (816 234-5000), public sector laboratory that charges $30 per hour to all public agencies within a surrounding five county region and $45 per hour to other public agencies outside that five county region. Howell was careful to say that it is impossible to predict how much time any particular examination will require.

Howell said that time spent by his staff testifying is billed at the same rate as laboratory time. Howell calculated that his lab spends about 20,000 hours examining evidence each year. Howell is sending additional information in the mail.

Northern Illinois Police Crime Lab

The Northern Illinois Police Crime Lab is a private non-profit membership agency organized to provide criminalistics services to municipal

police departments throughout Northern Illinois, an area with a population of approximately 500,000. The lab's Director, Andrew Principe (312 432-8160), explained that each member municipality pays an annual assessment based on its population as illustrated in the table below.

Population of City	Annual Fee
1000	$1500
3500	$3100
20,000	$11,500
50,000	$25,800
70,000	$29,800
100,000	$35,800

The Northern Illinois Police Crime Lab also provides criminalistic analysis for non-member public organizations at a cost of $75 per hour, with a one-hour minimum charge. In addition, when the lab's staff is required to testify, the charge for that service is $200 for the first hour and $50 per hour thereafter.

According to Mr. Principe, the lab's annual budget of about $300,000, is primarily from the annual membership fees. The lab employs a staff of ten and the lab has $500-600,000 worth of equipment.

Forensic Science Associates

Forensic Science Associates is a private for-profit criminalistics laboratory located in the San Francisco area that does not provide routine types of analysis; Forensic Science Associates does not do toxicology, blood alcohol analysis, or drug identification. Peter Barnett (415 653-3530) said that his firm's fee is $70 per hour and the amount of time he spends on any one procedure varies considerably. Most of this firm's work is for private defense counsel.

Criminalistic Laboratory

Criminalistic Laboratory is also a private for-profit small volume lab in the San Francisco area. According to the lab's Chuck Morton (415 451-0767), some of their work is performed for public agencies, but most of their work is also for private defense counsel. Criminalistic Laboratory charges $75-100 per hour depending on the analysis being conducted. In addition, Criminalistic Laboratory also has some

fixed fees for standard procedures, such as paternity testing ($70-80 per sample), blood grouping ($75 per sample), saliva analysis ($50 per sample) and others.

Western Laboratories

Western Laboratories, also in the San Francisco area, is primarily a private for-profit medical laboratory. However, Western Labs does perform toxicology, forensic alchohol, and autopsy service under contract to Alameda County. Dr. Paul Herman, head of the lab, said that fixed fees are charged for these services and is sending a fee schedule by mail. Dr. Herman warned, however, that Western's fees are expected to rise by about 20% in the near future.

FBI Crime Lab Update

According to Larry Nelson, the FBI's agent in charge in Alaska, in federal FY 82, FBI examiners made fifty-one trips to Alaska to testify in court. In forty-seven cases, testimony was actually given in court and four cases were resolved prior to the FBI examiner's scheduled court appearance.

The fifty-one trips made by FBI examiners to Alaska in FY 82 were to present testimony about the following analytical proceedures.

Type of Examination	Number of Examinations
Firearm and Toolmark Identification	17
Hair and Fiber Analysis	15
Serology and Blood Type Examinations	13
Neutron Activiation Tests	3
Paint Analysis	1
Metallurgy Analysis	1
Document Examination	1

of crime lab tests provide facts contributing to the exoneration of the innocent and the establishment of proof of the guilty. The modern lab requires highly trained scientists and technicians who use costly materials and sophisticated instrumentation in an expensive environment, for there can be no compromise in the quality of the work they perform.

A modern, full-services Crime Lab presents a wide array of expertise. Some of these are:

* Toxicology A Toxicologist detects and identifies the presence of drugs or poisons in body tissues, fluids and organs.

* Firearms and Tool Marks Examination The Examiner can, for example, match a spent bullet to the gun that fired it by examination of the microscopic markings on the bullet caused by the irregularities on the inner surface of the gun barrel, among other capabilities. As a Tool Marks Specialist, he can identify the tire iron or other implement found in the suspect's car as the one that pried open the window or door of the victim's home by comparing and matching the microscopic nicks on the blade of the tire iron to the impressions left in the wooden window sill.

* Forensic Serology The Forensic Serologist, through analyses of body fluids, semen, and saliva found at the crime scene, can limit the population group of the assailant to those within certain blood groups, thus eliminating persons with other blood groups and characteristics as suspects in a given crime.

* Questioned Documents Examination The Questioned Documents Examiner can ascertain the source or authenticity of a document through the many characteristics of an individual's handwriting, as well as through the variations in typewriter letters as a function of the use and wear to the machine's moving parts, and through the analyses of inks and different types of paper.

* Forensic Chemistry The Forensic Chemist tests and analyzes unknown substances. By testing substances thought to be illegal drugs, he can determine the type drug, its relative purity and the substances that may be mixed with the drug. He can also identify small amounts of accelerants from a suspected arson fire by testing charred and burned materials

found at the fire, as well as numerous other related tasks requiring chemical analysis.

* Trace Evidence Examination The Trace Evidence Examiner can narrow the origin of minute bits of evidence such as human hair and fibers, that are exchanged during a violent confrontation, to a group that includes (or excludes) the suspect. The brown head hair found on the shirt of the suspect can be shown to match the hair of the victim of the assault.

* Fingerprint Examination The Fingerprint Examiner can match fingerprints found on a gun or some other surface to those of the suspect based upon the matching of the characteristics of the fingerprint ridges that are unique to each individual. (The Automated Fingerprint Identification System, funded during the 1982 session of the legislature, and now being developed, will be placed within the Crime Laboratory.)

It is the use of carefully gathered evidence, analyzed by the latest scientific methodologies of the numerous forensic disciplines that builds both a strong case against the accused, while eliminating other persons as suspects.

Unfortunately, state and local law enforcement agencies in Alaska do not have a laboratory with such capabilities. In fact, Alaska is the only State without a statewide crime lab. The rudimentary laboratory in the Troopers building in Anchorage is limited by space, personnel and budget to only narcotics testing, fingerprint identification and crime photography. These very limited services are performed at no cost to all law enforcement agencies in Alaska.

Historically Alaska has depended upon the FBI lab to perform criminalistics tests and has done so to a greater degree than any other state. While this dependence upon the FBI has worked reasonably well in the past, the FBI has recently suffered budget cuts as part of the general decrease

Project Justification: Continued

100 Personal Services - Maintenance & Operations

Job Class Range	Maintenance Worker Range 54	Janitor Range 59
Annual Salary	$22,380	$16,776
One Month Overtime	- 0 -	- 0 -
Subtotal	22,380	16,776
Benefits	3,929	2,945
SBS	1,371	1,028
Health Insurance	2,400	2,400
TOTAL	$30,080	$23,149

Summary - Personal Services, Lab and Maintenance & Operations

	Lab	Maint & Ops	Total
Annual Salary	$ 235,044	$ 39,156	$ 274,200
One Month Overtime	26,160	- 0 -	26,160
Subtotal	$ 261,204	$ 39,156	$ 300,360
Benefits	45,861	6,874	52,735
SBS	14,903	2,399	17,302
Health & Ins.	20,160	4,800	24,960
TOTAL	$ 342,128	$ 53,229	$ 395,357

CONTINUATION FROM: 35b

CATEGORY Administration of Justice

AGENCY Department of Public Safety

PROGRAM Crime ID & Apprehension

Revised Date

FY 84

200 Travel

In-state & out-of-state travel to maintain $ 10,000 OPERATING COSTS

and develop professional expertise. $ 10,000

300 Contractual

Telephone	$18,400	
Electricity	13,000	
Other Utilities	5,000	
Building Repairs & Maint	7,000	
Subtotal		$ 43,400

400 Commodities

Heating Fuel	$31,800	
Miscellaneous	2,000	
Subtotal		$ 33,800

Total Annual Operating Costs $402,557

OPERATING COSTS

	FY 85	FY 86
Line 100	$395,357	$395,357
Other	+ 55,000	+ 07,200
Sub-total	$450,357	$402,557
Inflation	+ 27,021	+ 59,644
Total	$477,378	$542,201

IDENTIFICATION OF ALTERNATIVES CONSIDERED:

(1) Do not expand the crime lab and thus avoid becoming involved in evidence analysis on a statewide basis. This is unreasonable and unacceptable given our statutory responsibilities.

(2) Ship evidence to out-of-state laboratories (there is no in-state laboratory capable of performing the necessary tests). This is unacceptable for the following reasons:

CONTINUATION FROM: 35b

CATEGORY Administration of Justice

AGENCY Department of Public Safety

PROGRAM Crime ID & Apprehension

Revised Date 10/4/82

FY 84

01-1147 (7/82) - CONT

ANCHORAGE COMBINED FACILITY
CAPITAL COSTS

Schedule 1

1) Construction Costs

Crime Lab - 17,000 sq. ft.	$3,366.0	
A.S.T. & F.W.P. Posts - 11,000 sq. ft.	1,210.0	
Metro - 2,000 sq. ft.	220.0	
DOT/PF Overhead, Architect, Planning Contingency, etc.	1,472.2	
Subtotal		$6,268.2

2) Equipment

Crime Lab	859.0	
A.S.T. & F.W.P. Posts	37.5	
Subtotal		896.5

3) Commodities

Crime Lab - Initial stock	71.0

4) Inflation - Through construction start 864.3

TOTAL Rounded $8,100.0

8.066.6

(The additional amt went into DOT/PF overhead)

Lab Space Only - Operational = 5750 ⌂
Non operational = 5500 ⌂
Future Expansion = 5500 ⌂
16.750 - rounded to 17,000 ⌂

Space Cost - FBI says forensic lab cost = 180% of Commercial Bldg Space -
Commercial Space - Anc - mid 82 = $110/ ⌂

ANCHORAGE COMBINED FACILITY
FY'85 OPERATING COSTS

Schedule 2

100 Personnel Services

Serologist - Range 19	$38,124	
Trace Evidence Specialist - Range 19	38,124	
Fingerprint I.D. Specialist - Range 18	35,580	
Fingerprint I.D. Specialist - Range 18	35,580	
Firearms & Tool Marks Specialist - Range 19	38,124	
Forensic Chemist/Dep. Director - Range 21	44,508	
Administrative Ass't II - Range 14 & O.T.	29,133	
Maintenance Worker - Range 54	22,380	
Janitor - Range 59	16,776	
Subtotal		$298,329
Benefits for above	94,662	
Subtotal		$392,991

Only state employee can clean lab

These have always been in the Capital budget

Subtotal - Above at 106% to reflect inflation through FY'85 $416,570

200 Travel

In-state & out-of-state travel needed to attain and maintain professional expertise	10,000

300 Contractual Services

Telephone	$12,500	
Electricity	9,100	
Other Utilities	3,500	
Building Repairs & Maintenance	4,900	
Subtotal		30,000

400 Commodities

Heating Fuel	$26,700	
Miscellaneous	1,600	
Subtotal		28,300
TOTAL		$484,870

[illegible] Bill No. 33

FY85

Have had a wage increase

Slight increase here

Job Class Range	Serologist Range 19	Trace Evidence Specialist Range 19	Fingerprint ID Specialist Range ~~19~~ 18	Fingerprint ID Specialist Range ~~19~~ 18	Firearms & Tool Marks Specialist Range 19	[illegible] Range 21	Administrative Ass't II Range 14	Maintenance Worker Range 54	Janitor Range 59	Total	
100 Annual Salary	$38,124	38,124	35,580	35,580	38,124	44,508	26,892	22,380	16,776	296088	
	-0-	-0-	-0-	-0-	-0-	-0-	2,241	-0-	-0-	2241	
Subtotal	38,124	38,124	35,580	35,580	38,124	44,508	29,133	22,380	16,776	298329	
Benefits	6,695	6,695	6,248	6,248	6,695	7,828	5,116	3,930	2,945	5[illegible]400	
SBS	2,240	2,240	2,183	2,183	2,240	2,240	1,577	1,371	1,028	17,302	
Health Insurance	2,880	2,880	2,880	2,880	2,880	2,880	2,880	2,400	2,400	24,960	
TOTAL	49,939	49,939	46,891	46,891	49,939	57,456	38,706	30,081	23,149	392,991	@1069 416570
200 [illegible]											10000
300 Contractual											
Telephone	$	12500									
Electricity		9100									
Other Utilities		3500									
Building Repairs & Maint		4900									
Subtotal											30000
400 Commodities											
Heating Fuel	$	26700									
Miscellaneous		1600									
Subtotal											
Total Annual Operating Costs											2[illegible]
										Total	454870

[illegible]

— TO TESTIFY —

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

WITNESS
SIGN-IN SHEET

HEARING DATE: 1-27-83

NAME (PRINTED)	ADDRESS	REPRESENTING	PHONE	MATTER
M. J. Messick	5700 Tudor Rd.	State Troopers	269-5350	HB-33
T D Vaden	5700 Tudor Rd	State Troopers	269-5645	HB-33
Rep Walt Furnace/	P.O. Box 1542	Self	465-3892	HB33
Norma Jumberg				

HSA FORM #002

— TO OBSERVE —

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

House of Representatives

Committee on State Affairs

OBSERVER
SIGN-IN SHEET

HEARING DATE: 1-27-83

NAME (PRINTED)	ADDRESS	REPRESENTING	PHONE	MATTER
~~BOB SUNDBERG~~	~~450 WHITTIER~~	~~DPS~~	~~456-4323~~	~~CRIME LAB~~ HB 33
Leonard Steinberg	Pouch V - Juneau	House Rsch Agency	465 3991	
Barbara Lachel	Pouch V	Leg.	465-4694	

HSA FORM #003

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 33
Title "An Act... for a State Trooper Facility"
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Public Safety
Program Category Affected Administration of Justice
BRU, Program, Or Subprogram(s) Affected AST / Support & Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85 (July 84)	FY 86	FY 87	FY 88
100 PERSONAL SERVICES			416.6	441.6	468.1	496.2
200 TRAVEL			10.0	10.6	11.2	11.9
300 CONTRACTUAL			30.0	31.8	33.7	35.7
400 COMMODITIES			28.3	30.0	31.8	33.7
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL			484.9	514.0	544.8	577.5

FUNDING (Thousands of Dollars)

GENERAL FUND			484.9	514.0	544.8	577.5
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME			9	9	9	9
PART TIME						
TEMPORARY						

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

This legislation provides funds for the construction of a 30,000 sq. ft. public safety facility in Anchorage to house an expanded Statewide Crime Laboratory, the Anchorage Metropolitan Drug Enforcement Unit and the local Alaska State Troopers and Fish & Wildlife Protection Detachments. The attached Schedule 1 details the Capital Costs and Schedule 2 details the operating Costs. The vast majority of the Operating Costs represents a shift in direction for the Crime Lab from being a limited service A.S.T. facility to becoming a full-service operation designed to meet the needs of all ~~local~~ law enforcement agencies in the state. Operating costs after FY'85 reflect an annual 6% inflation rate estimate.

IV. DATE January 17, 1983 PREPARED BY Francis C. Allan F.C.Allan
AGENCY Division of Alaska State Troopers
PHONE 269-5691

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

33-001 (Rev. 12/81)

Home Bill No. 33

FY85

Slight increase here

Household & wage increase

Job Class Range	Serologist Range 19	Trace Evidence Specialist Range 19	Fingerprint ID Specialist Range ~~19~~ 18	Fingerprint ID Specialist Range ~~19~~ 18	Firearms & Tool Marks Specialist Range 19	Deputy Director Range 21	Administrative Ass't II Range 14	Maintenance Worker Range 54	Janitor Range 59	Total	
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SBS	2,240	2,240	2,183	2,183	2,240	2,240	1,577	1,371	1,028	17,302	
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TOTAL	49,939	49,939	46,891	46,891	49,939	57,456	38,706	30,081	23,149	392,991	@1069 416570
200 Travel											
In State "out of state"											10000
300 Contractual											
Telephone	$	10500									
Electricity		9100									
Other Utilities		3500									
Building Repairs & Maint		1900									
Subtotal											30000
400 Commodities											
Heating Fuel	$	267,00									
Miscellaneous		1,001									
Subtotal											
Total Annual Operating Costs											2000
										Total	154570
											48469

ANCHORAGE COMBINED FACILITY
FY'85 OPERATING COSTS

Schedule 2

100 Personnel Services

Serologist - Range 19		$38,124	
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	Subtotal		$298,329
Benefits for above		94,662	
	Subtotal		$392,991
Subtotal - Above at 106% to reflect inflation through FY'85			$416,570

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Building Repairs & Maintenance		4,900	
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Heating Fuel		$26,700	
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	Subtotal		28,300
	TOTAL		$484,870

ANCHORAGE COMBINED FACILITY
CAPITAL COSTS

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Subtotal		$6,268.2

2) Equipment

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Subtotal		896.5

3) Commodities

Crime Lab - Initial stock	71.0

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TOTAL Rounded $8,100.0

8,066.6

(the additional amt went into DOT/PF overhead)

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Non operational = 5500 ⌗
Future Expansion = 5500 ⌗
16,750 - rounded to 17,000 ⌗

Cost - FBI says forensic lab cost = 180% of Commercial Bldg Space -
Commercial Space - Anc - mid 82 = $110/⌗

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 26, 1983

MEMORANDUM

To: Representative Walt Furnace

From: Leonard Steinberg, Resear

Re: Criminalistics Analysis--Additional Information On Costs
Research Request 83-11

Steve Levi of your office requested additional information on the costs of criminalistic analysis performed by both public and private institutions. Also included is an update on the FBI crime lab's involvement in court proceedings in Alaska and the specific analytical techniques used by the FBI.

Criminalistics Analysis Costs--Findings

Many different rate structures are used to establish the prices of criminalistics analysis services. Most prices are based on hourly rates, though some labs charge a flat fee for each individual service. In general, labs are reluctant to charge flat fees because there is considerable variability in the amount of time required to analyze different pieces of evidence. Apparently some tests, such as toxicology, are very routine and their costs are affected by economies of scale. Other examinations, however, such as firearm and toolmark identification, vary greatly in the amount of time required for each examination.

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Dr. Lee said that his lab has twenty-six employees and an annual budget of approximately $500,000.

Washington State Police Crime Lab

George Ishi is the Director of the Washington State Police Crime Lab (206 464-7073). According to Mr. Ishi, the Washington State Police Crime Lab does provide ciminalistics analysis services to other public agencies under contract. The lab charges $60 per hour plus any unusual expenses such as for special chemicals, special instruments, or testimony. Mr. Ishi is sending an analysis of the time spent by his lab on different types of criminalistic proceedures.

Kansas City, MO, Regional Criminalistics Laboratory

According to Gary Howell of the Regional Criminalistics Laboratory in Kansas City, MO (816 234-5000), public sector laboratory that charges $30 per hour to all public agencies within a surrounding five county region and $45 per hour to other public agencies outside that five county region. Howell was careful to say that it is impossible to predict how much time any particular examination will require.

Howell said that time spent by his staff testifying is billed at the same rate as laboratory time. Howell calculated that his lab spends about 20,000 hours examining evidence each year. Howell is sending additional information in the mail.

Northern Illinois Police Crime Lab

The Northern Illinois Police Crime Lab is a private non-profit membership agency organized to provide criminalistics services to municipal

police departments throughout Northern Illinois, an area with a population of approximately 500,000. The lab's Director, Andrew Principe (312 432-8160), explained that each member municipality pays an annual assessment based on its population as illustrated in the table below.

Population of City	Annual Fee
1000	$1500
3500	$3100
20,000	$11,500
50,000	$25,800
70,000	$29,800
100,000	$35,800

The Northern Illinois Police Crime Lab also provides criminalistic analysis for non-member public organizations at a cost of $75 per hour, with a one-hour minimum charge. In addition, when the lab's staff is required to testify, the charge for that service is $200 for the first hour and $50 per hour thereafter.

According to Mr. Principe, the lab's annual budget of about $300,000, is primarily from the annual membership fees. The lab employs a staff of ten and the lab has $500-600,000 worth of equipment.

Forensic Science Associates

Forensic Science Associates is a private for-profit criminalistics laboratory located in the San Francisco area that does not provide routine types of analysis; Forensic Science Associates does not do toxicology, blood alchohol analysis, or drug identification. Peter Barnett (415 653-3530) said that his firm's fee is $7[illegible] per hour and the amount of time he spends on any one procedure varies considerably. Most of this firm's work is for private defense counsel.

Criminalistic Laboratory

Criminalistic Laboratory is also a private for-profit small volume lab in the San Francisco area. According to the lab's Chuck Morton (415 451-0767), some of their work is performed for public agencies, but most of their work is also for private defense counsel. Criminalistic Laboratory charges $75-100 per hour depending on the analysis being conducted. In addition, Criminalistic Laboratory also has some

fixed fees for standard procedures, such as paternity testing ($70-80 per sample), blood grouping ($75 per sample), saliva analysis ($50 per sample) and others.

Western Laboratories

Western Laboratories, also in the San Francisco area, is primarily a private for-profit medical laboratory. However, Western Labs does perform toxicology, forensic alchohol, and autopsy service under contract to Alameda County. Dr. Paul Herman, head of the lab, said that fixed fees are charged for these services and is sending a fee schedule by mail. Dr. Herman warned, however, that Western's fees are expected to rise by about 20% in the near future.

FBI Crime Lab Update

According to Larry Nelson, the FBI's agent in charge in Alaska, in federal FY 82, FBI examiners made fifty-one trips to Alaska to testify in court. In forty-seven cases, testimony was actually given in court and four cases were resolved prior to the FBI examiner's scheduled court appearance.

The fifty-one trips made by FBI examiners to Alaska in FY 82 were to present testimony about the following analytical proceedures.

Type of Examination	Number of Examinations
Firearm and Toolmark Identification	17
Hair and Fiber Analysis	15
Serology and Blood Type Examinations	13
Neutron Activiation Tests	3
Paint Analysis	1
Metallurgy Analysis	1
Document Examination	1

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

[XX] Expenditure Type
[ ] Revenue Type

I. REQUEST
Bill/Resolution No. House Bill No. 33
Title "An Act...for a State Trooper Facility"
Requested by House Senate Affairs Date 01/25/83

II. FISCAL DETAIL
Agency Affected Department of Public Safety
Program Category Affected Administration of Justice
BRU, Program, Or Subprogram(s) Affected AST Support & Services/Laboratory
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		-0-	484.9	514.0		

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	484.9	514.0		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This legislation provides funds for the construction of a 30,000 sq. ft. public safety facility in Anchorage to house an expanded Statewide Crime Laboratory, the Anchorage Metropolitan Drug Enforcement Unit, and the local Alaska State Troopers and Fish & Wildlife Protection Detachments. This represents a shift in direction for the Crime Lab from being a limited service AST facility to becoming a full-service operation designed to meet the needs of all local law enforcement agencies in the State.

IV. DATE January 25, 1983 PREPARED BY Frank Allan Phone 269-5691
DIVISION AST Initials
DEPARTMENT OF PUBLIC SAFETY Initials 1/24/83

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

33-001 (Rev. 12/82)

DETAIL OF FISCAL DATA

		FY 84	FY 85	FY 86
100	Personal Services		416.6	441.6
200	Travel		10.0	10.6
300	Contractual		30.0	31.8
400	Commodities		28.3	30.0
500	Equipment			
600	Land & Structures			
700	Grants, Claims, etc.			
	TOTAL	-0-	484.9	514.0

POSITIONS

PFT		9	9

ANCHORAGE COMBINED FACILITY
CAPITAL COSTS

Schedule 1

1)	**Construction Costs**		
	Crime Lab - 17,000 sq. ft.	$3,366.0	
	A.S.T. & F.W.P. Posts - 11,000 sq. ft.	1,210.0	
	Metro - 2,000 sq. ft.	220.0	
	DOT/PF Overhead, Architect, Planning Contingency, etc.	1,472.2	
	Subtotal		$6,268.2
2)	**Equipment**		
	Crime Lab	859.0	
	A.S.T. & F.W.P. Posts	37.5	
	Subtotal		896.5
3)	**Commodities**		
	Crime Lab - Initial stock		71.0
4)	**Inflation** - Through construction start		864.3
	TOTAL		$8,100.0

ANCHORAGE COMBINED FACILITY
FY'85 OPERATING COSTS

Schedule 2

100 Personnel Services			
Serologist - Range 19		$38,124	
Trace Evidence Specialist - Range 19		38,124	
Fingerprint I.D. Specialist - Range 18		35,580	
Fingerprint I.D. Specialist - Range 18		35,580	
Firearms & Tool Marks Specialist - Range 19		38,124	
Forensic Chemist/Dep. Director - Range 21		44,508	
Administrative Ass't II - Range 14 & O.T.		29,133	
Maintenance Worker - Range 54		22,380	
Janitor - Range 59		16,776	
	Subtotal		$298,329
Benefits for above		94,662	
	Subtotal		$392,991
Subtotal - Above at 106% to reflect inflation through FY'85			$416,570
200 Travel			
In-state & out-of-state travel needed to attain and maintain professional expertise			10,000
300 Contractual Services			
Telephone		$12,500	
Electricity		9,100	
Other Utilities		3,500	
Building Repairs & Maintenance		4,900	
	Subtotal		30,000
400 Commodities			
Heating Fuel		$26,700	
Miscellaneous		1,600	
	Subtotal		28,300
	TOTAL		$484,870

R. STEVE LEVI, LEGISLATIVE AIDE
ON. WALT FURNACE, STATE HOUSE
JNEAU

EAR MR. LEVI:

HANK YOU FOR YOUR INQUIRY REGARDING THE BREAKOUT OF THE $8.1 MILLION FOR A
RIME LAB. THIS TOTAL INCLUDES $6.043 MILLION FOR THE LAB WITH AN ADDITIONAL
2.057 MILLION FOR THE RELOCATION OF THE ANCHORAGE METRO DRUG UNIT,(WHICH IS
HE COMBINED DRUG INTERDICTION TEAM OF STATE TROOPERS AND ANCHORAGE POLICE
EPT.), THE FISH AND WILDLIFE PROTECTION DIVISION, AND THE ANCHORAGE POST OF
HE STATE TROOPERS INTO NEW QUARTERS WITH ADEQUATE SPACE. THESE THREE AGENCIES
ND THE LAB WOULD BE COMBINED INTO A SINGLE FACILITY LOCATED ON STATE LAND
DJACENT TO THE EXISTING TROOPERS HEADQUARTERS.

E RELOCATION OF THESE THREE AGENCIES AND THE NEW LAB IS PART OF THE CAPITAL
MPROVEMENT REQUEST UNDER DEVELOPMENT FOR THE PAST FOUR YEARS AS A COMBINED
ROJECT. THE LAB PLAN AND THE EXECUTIVE SUMMARY, OF COURSE, RELATE ONLY TO THE
EW LAB. PAGES 104-110 DETAIL THE EXPECTED LAB-RELATED COSTS.

LEASE CALL ME IF ANY ADDITIONAL INFORMATION IS NEEDED.

INCERELY YOURS,
.J. MESSICK / DD/SP11 \

MEMORANDUM State of Alaska

TO: Colonel T. R. Anderson
Director
Alaska State Troopers

DATE: April 14, 1982

FILE NO:

TELEPHONE NO:

FROM: Lieutenant John Lucking
Acting Commander
Criminal Investigation Bureau

SUBJECT: FBI Lab Services

As a matter of information to you, be advised of the following recent events this past week.

In our homicide case I82-3203 (double murder) evidence was sent to the FBI Lab for analysis. This included some hair and fiber tests. We received a phone call from the lab in which they discussed the necessity of our requested examinations.

In our homicide case I81-50020 (double murder) evidence was sent to the FBI Lab for analysis. This also included hairs and fibers for testing. Again we received a phone call from the lab in which they discussed the necessity of our requested examinations.

I believe these events demonstrate the pressure the FBI Lab is under in attempting to accomodate all requests.

RECEIVED
JAN 20 1983

To: Representative Mitch Abood, Chairman
House Committee on State Affairs

Through: Representative Walt Furnace

From: Steven C. Levi, Staff

Date: 1/20/83

RE: HB 33

At the present time, law enforcement agencies across Alaska are facing a crisis. First, there is the 120 day rule. Upon the arrest of a suspect, the police have 120 days to build and develop a case. If they cannot build the case and take it court, within that time frame, the suspect must be freed. This is in line with the constitutional guarantee of a speedy trial.

Second, since many of the cases involved have evidence which is sent to the FBI, prosecution depends not only on the quality of evidence gathered, but on the timeliness of the FBI.

Third, over the years the FBI has expanded its crime lab facilites and services and, as a result, more and more law enforcement agencies have taken advantage of the FBI's services. At this point the FBI is so overload that the agency cannot assure Alaskan law enforcement agenices that the FBI can consistently provide an analysis of evidence within the 120 day time frame.

Additionally, the FBI is also facing a manpower crunch. As the volume of evidence increases and the number of manhours necessary to be in court grows, FBI specialists are spending more and more time on-the-road and in court and less and less time in the laboratory. Unfortunately, many of the matters upon which the FBI testifies are those which could reasonably be handled by local laboratories.

Alaska is thus faced with a dilemma. Alaska may 1) continue to depend on the FBI and expect to lose cases because of the time factor, 2) pay a private firm or firms to analyze evident or 3) the State can build, maintain and run a crime lab that will handle many of the basic functions of evidence analysis.

The crime lab dilemma is made even more complicated by the fact that whichever way the State turns it is going to be expensive It is simply a matter of spending money or losing cases. The FBI provides its analysis for free; it cannot be guaranteed that cases will not fall out of the judicial process simply because the evidence could not get back to Alaska on time.

The proposed crime lab facility, as expressed by Representative Furnace in HB 33, will contain facilities for serology, fingerprinting, trace evidence, forensic sciences, firearms and tool marks as well as basic

chemical analysis of unknown substances. The facility will also house an expanded evidence storage facility. The crime lab will not handle such specialized services as ballistics and paint samples.

Additionally, staff notes the following.

1) Since many law enforcement agenices across the state use the FBI lab for a variety of functions, an actual assessment of the evidence sent to the lab on an annual basis is not available. There is no central clearinghouse for evidence. The Alaska State Troopers, the Anchorage Police Department and the Fairbanks City Police all use the FBI but do not inform one another of that fact.

2) Estimated costs of private labs are speculative. Many labs do not want to examine sample piecemeal. Long term contracts with private labs are both reasonable and prudent. But they will also be expensive. And, since Alaska may not have many of the necessary facilities instate, there is a great likelyhood that evidence will have to be sent out of state for analysis. There has been comment that this would force Alaskan dollars to be spent out-of-state on services Alaska should be developing instate.

THE DEVELOPMENT OF A FORENSIC LABORATORY IN ALASKA

EXECUTIVE SUMMARY

Within the last decade or so, a series of Supreme Court decisions relative to search and seizure, interrogation, and confessions have had the effect of limiting the scope of permissible investigative activities by law enforcement agencies nationwide. This situation has resulted in the increased attention to the use of physical evidence in criminal investigations, and the subsequent development of state and regional crime laboratories throughout the country to analyze this evidence.

The application of the natural and physical sciences to items of evidence found at a crime scene is an increasing part of modern investigations and courtroom trials, and often becomes a crucial part of judicial proceedings. The increased reliance upon analysis of physical evidence also confers upon crime laboratories the responsibility for the highest degree of professionalism in their work.

The role of the forensic laboratory is to assist both the investigator and the prosecutor in their efforts to reconstruct and explain the crime, the crime scene and information about the possible offender. The results

* This paper summarizes the more extensive report issued by the Department of Public Safety in September 1982 entitled "The Development of a Full Service Forensic Laboratory for Law Enforcement in Alaska."

of crime lab tests provide facts contributing to the exoneration of the innocent and the establishment of proof of the guilty. The modern lab requires highly trained scientists and technicians who use costly materials and sophisticated instrumentation in an expensive environment, for there can be no compromise in the quality of the work they perform.

A modern, full-services Crime Lab presents a wide array of expertise. Some of these are:

* Toxicology A Toxicologist detects and identifies the presence of drugs or poisons in body tissues, fluids and organs.

* Firearms and Tool Marks Examination The Examiner can, for example, match a spent bullet to the gun that fired it by examination of the microscopic markings on the bullet caused by the irregularities on the inner surface of the gun barrel, among other capabilities. As a Tool Marks Specialist, he can identify the tire iron or other implement found in the suspect's car as the one that pried open the window or door of the victim's home by comparing and matching the microscopic nicks on the blade of the tire iron to the impressions left in the wooden window sill.

* Forensic Serology The Forensic Serologist, through analyses of body fluids, semen, and saliva found at the crime scene, can limit the population group of the assailant to those within certain blood groups, thus eliminating persons with other blood groups and characteristics as suspects in a given crime.

* Questioned Documents Examination The Questioned Documents Examiner can ascertain the source or authenticity of a document through the many characteristics of an individual's handwriting, as well as through the variations in typewriter letters as a function of the use and wear to the machine's moving parts, and through the analyses of inks and different types of paper.

* Forensic Chemistry The Forensic Chemist tests and analyzes unknown substances. By testing substances thought to be illegal drugs, he can determine the type drug, its relative purity and the substances that may be mixed with the drug. He can also identify small amounts of accelerants from a suspected arson fire by testing charred and burned materials

found at the fire, as well as numerous other related tasks requiring chemical analysis.

* Trace Evidence Examination The Trace Evidence Examiner can narrow the origin of minute bits of evidence such as human hair and fibers, that are exchanged during a violent confrontation, to a group that includes (or excludes) the suspect. The brown head hair found on the shirt of the suspect can be shown to match the hair of the victim of the assault.

* Fingerprint Examination The Fingerprint Examiner can match fingerprints found on a gun or some other surface to those of the suspect based upon the matching of the characteristics of the fingerprint ridges that are unique to each individual. (The Automated Fingerprint Identification System, funded during the 1982 session of the legislature, and now being developed, will be placed within the Crime Laboratory.)

It is the use of carefully gathered evidence, analyzed by the latest scientific methodologies of the numerous forensic disciplines that builds both a strong case against the accused, while eliminating other persons as suspects.

Unfortunately, state and local law enforcement agencies in Alaska do not have a laboratory with such capabilities. In fact, Alaska is the only State without a statewide crime lab. The rudimentary laboratory in the Troopers building in Anchorage is limited by space, personnel and budget to only narcotics testing, fingerprint identification and crime photography. These very limited services are performed at no cost to all law enforcement agencies in Alaska.

Historically Alaska has depended upon the FBI lab to perform criminalistics tests and has done so to a greater degree than any other state. While this dependence upon the FBI has worked reasonably well in the past, the FBI has recently suffered budget cuts as part of the general decrease

in federal government services and the widespread economic malaise throughout the Nation. As a result, some test results may not be received for three to six months. Since the Speedy Trial Rule in Alaska requires trial within 120 days of the arrest, test results may not be available by the time of trial, nor can additional investigation occur as a result of the outcome of the tests. Complete investigation and prosecution is therefore adversely affected.

However, the FBI's continuing role of providing crime laboratory services may be changing. A 1980 report by the General Accounting Office charges that the Bureau's policy of providing free criminalistics services has acted to inhibit the growth of regional and state wide crime laboratories. The effect of this report creates doubt that Alaska, and the other states, can rely upon FBI lab testing to the extent they have in the past. Decreased availability of FBI laboratory services has already begun with a fee now being charged for certain services and a much closer screening of requests. Most recently the FBI questioned the need for tests in a case that involved a double Homicide. Any further curtailment of service will be even more serious since Alaska is both increasing its population and experiencing a general crime increase while crime is generally decreasing nationwide.

While Alaska has, and continues to have some of its forensic tests performed by private laboratories elsewhere, this is not a good alternative for several reasons. Alaskan law enforcement agencies have no control over the scheduling, priorities of the methodologies and techniques used by external facilities, nor is there any control over the caliber of personnel

performing the tests. Additionally, such tests are usually expensive, since a profit is being made. Finally, the state has to pay a fee for all tests performed plus the travel and expenses of the technicians from the "lower 48" states who testify during trial.

That crime is increasing in Alaska appears obvious to the public. A few statistics show the extent of increase of crime:

* Forcible rape increased from 51 cases per 100,000 population in 1978 to 88 cases per 100,000 population in 1982;

* Robbery increased from 87 cases per 100,000 population in 1978 to 110 cases per 100,000 population in 1982.

* Total violent crime increased from 399 cases per 100,000 population in 1978 to 556 cases per 100,000 population in 1982.

Public attitudes as measured by recent public opinion surveys seem to reflect the growing crime statistics. Survey conclusions were that most people in Alaska believe crime is increasing faster than the population. The public further believes a basic cause of crime in Alaska is the failure of the justice system to punish criminals. A statewide forensics lab would aid the justice system in better investigation and more effective prosecution.

Perhaps the most compelling reason for a full services crime lab is the high evidentiary value of the crime scene evidence that has been analyzed and tested, for the test results provide irrefutable information about the suspect to either link him to a crime, or to eliminate him from any further investigation. Laboratory test results can thus provide a high degree of proof of guilt.

Passage of legislation aimed at increasing interdiction of illicit drugs throws a further burden upon the existing, very limited laboratory at the Troopers headquarters. The addition of five more drug investigators funded by the legislature for 1982 has caused an increasing backlog of drug related tests to perform, while the number of forensic chemists remains the same.

The continuing lack of a crime lab to service Alaska's law enforcement efforts is affecting the decisions and perceptions of some police officers. Knowing there is no facility to perform certain tests and analyses in a timely and affordable manner, some officers place a decreasing value upon physical evidence found at the crime scene and therefore tend to rely upon other means to develop their case. Therefore their case will lack the high evidentiary value that often results from forensic examinations. Any future, long term lack of a statewide lab, in the face of reduced services from the FBI, will probably result in the emergence of several small efforts by local enforcement agencies to provide their own testing facilities. These will likely be of limited scope, overlapping, and fragmented efforts of unknown value. The smaller police departments, unable to afford their own limited facilities, and unable to pay the high costs charged by private labs elsewhere will simply do without forensic tests.

If the above reasons argue forcefully for the development of a statewide crime lab to provide services for all law enforcement agencies in Alaska, the next questions are how big a facility is needed, what services need to be provided and what are the costs involved?

The term full-services lab as proposed here means the hiring of scientific personnel to the extent that the level of need in Alaska justifies a given discipline. For example, a forensic chemist could be hired immediately on the basis that the present drug-testing workload, and that of the immediate future justifies another full time forensic chemist. By contrast, a Questioned Documents Examiner would not be hired now because the workload is not sufficient to support a full-time Examiner. Each of the other forensic disciplines would be similarly evaluated. Those forensic services of an infrequent nature, or that require sophisticated instrumentation that cannot be justified in Alaska would be referred by Alaska's lab to another facility in the "Lower 48 states." To avoid the problems associated with the use of other labs, these external resource agencies would be carefully screened, evaluated, and their proficiency periodically tested, to ensure that personnel, procedures and equipment utilized are the best possible. Sufficient workload exists now, and in the in the future, for the hiring of the following forensic scientists and support personnel:

1. An additional Forensic Chemist
2. Serologist
3. Trace Evidence Technician
4. Firearms and Tool Marks Examiner
5. Administrative Assistant
6. Laboratory Director

In short, the proposed Crime Lab would hire its scientific and support personnel when the existing and forecasted workload makes such action

cost-effective while contracting with other forensic facilities to perform the balance of the work.

The lab would honor all requests by law enforcement agencies, by either performing the work in house or through contract elsewhere. This central facility would be managed by the State Troopers, as the statewide law enforcement agency, for the benefit of the entire law enforcement community in the state. Tests and related services would continue to be provided by the lab at no cost to the requesting agencies.

The proposed lab would be constructed adjacent to the Troopers Headquarters in Anchorage, on state-owned land. Substantial assistance has been obtained from the FBI Forensic Research Laboratory in Quantico, Virginia, during an intensive on-site visit to obtain their recommendations for construction requirements, space needs for scientific personnel and instrumentation, and the factors that should be used in calculating overall construction costs. (These are presented in detail in the main lab report).

Using data recommended by the FBI to provide a Crime Lab with the above professional staff, plus the staff of the existing facility of the Troopers, necessary instrumentation and the numerous support requirements, plus some space for expansion in the years ahead will require a structure of about 17,000 square feet. FBI data indicates that cost per square foot is about 180% of the cost of commercial construction ($110/sq ft, according to the Department of Transportation and Public Facilities) due to the unique plumbing, heating, ventilation and construction aspects required by a forensic laboratory. Construction would total about $3.366 million, with

another $1.1 million, representing 30% of construction cost required by the State for building State buildings. Scientific instruments, furnishing and commodities will total another $.930 million, for a total of $5.396 million. A 12% inflation factor for construction in 1983 and 1984 brings the grand total to $6.043 million.*

* The lab constitutes about 75% of the total cost of the FY'84 Public Safety Anchorage Combined Facility Capital Improvement Project request that has been under development through the normal budgeting process over the last four years, totaling $8.1 million and 30,000 square feet.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF STATE TROOPERS

P.O. BOX 6188 ANNEX
ANCHORAGE, ALASKA 99502
PHONE:

January 18, 1983

Ms. Carol Horos, Legislative Aide
c/o The Hon. Mitch Abood, Chairman
State Affairs Committee
State House
Pouch B
Juneau, AK

Dear Ms. Horos:

Steve Levi, of Rep. Walt Furnace's office asked me to forward reference materials concerning the Crime Lab appropriations bill (HR-33). I have enclosed herewith:

(1) Eight Additional copies of the detailed lab report.

(2) Eight copies of the Executive Summary of the lab report.

(3) Eight copies of the letter from our Criminal Investigations Bureau to the Director of the State Troopers relative to the FBI lab questioning our need for certain forensic examinations in two cases of double homicide, (see p. 10 of the detailed report)

(4) One copy - all I have left - of the General Accounting Office report which recommends decreased forensic lab services by the FBI and certain other federal agencies. Pertinent areas have been highlighted for easy reference. I think it is significant that the report continually refers to state and regional crime labs in several contexts. Clearly the assumption is that these labs already exist. Alaska, perhaps alone among the states, does not yet have such a lab.

Steve earlier asked for some cost effectiveness data as relates to the proposed new Crime Lab. Developing cost effectiveness is relatively easy to do when comparing two known quantities such as the cost of the state contracting with private enterprise to produce license plates versus to the cost of production by the State Corrections System. In this case, the pertinent cost factors — level of production, personnel, equipment etc. is all known and quantifiable. Thus the cost of the present system can be compared to the proposed one to a rather high level of accuracy.

L13LH

Unfortunately since Alaska has no full services crime lab, we cannot realistically compare the cost of the state performing forensic services to the cost of the FBI and other existing labs performing these same services, even if these were viable alternatives. We cannot, for example, quote the level of forensic services (and therefore the cost), required by Alaska's law enforcement agencies because they do not have such services available. To be sure, serious crime result in evidence being shipped to the FBI lab. But for many cases involving "less serious" crimes, forensic analyses are not performed because police departments realize they would place an intolerable burden upon the FBI, which already questions examinations needed in serious cases. (See item three above). Other reasons forensic examinations are not sought is the expense involved by private labs; the long time required to receive test results (including the FBI); lack of quality control in terms of procedures, personnel and equipment employed, and so on.

Even if we could in some way determine the cost of what full utilization of forensic services would be, any comparison with an alternative such as private labs, the FBI Lab, etc. would not be meaningful since they don't represent a viable alternative to a full services statewide lab, which of course is part of our problem, for the above noted reasons.

Although qualifiable cost effectiveness figures are admittedly difficult to ascertain, the development of a full services crime lab for Alaska has many easily identified positive aspects as follows:

A. Forensic Tests will be completed in a timely manner - Quicker test results means better investigation of the crime, particularly those crimes in which further investigation hinges upon the outcome of forensic testing. More timely test results also means more time for the prosecutor to prepare his case.

B. Increased Use of Forensic Examinations - With the availability of a statewide lab in Alaska, police officers will become better trained in evidence recognition, collection and preservation and will therefore submit more evidence for examination, thereby building a better case.

C. Earlier and More Efficient Elimination of the Innocent as Suspects - With the benefit of the capabilities of a forensic lab in Alaska, the innocent can be more quickly eliminated as a criminal suspect, thereby enhancing the effectiveness of the justice system.

D. Fewer Judicial Delays - With timely receipt of the results of forensic analyses, the state will not have to request continuances from the Court because of non receipt of lab tests, thereby reducing delays in trial as well as enhancing calendaring by the Courts.

E. Establish the Basis for a Medical Examiner Program in the future - Much of the criminal justice system considers a medical examiner preferable to the existing coronor system, particularly in the smaller communities to assure that an unattended death is in fact a natural death and not a cleverly contrived homicide. A Medical Examiner system could be co-located wi[illegible] the Crime Lab with benefits being derived by both [illegible]ncies, in terms of professional consultation, common use of equipment, facilities, etc.

F. High Evidentiary Values of Forensic Tests - The results of forensic tests provide irrefutable proof about an item of evidence thereby enabling more effective follow-up investigation by the police officer. In addition, lab tests have a very high evidentiary value, thereby better enabling the prosecutor to meet the high burden of proof required in Alaska. Both of these facts should result in additional numbers of successful prosecutions.

G. Signify Legislative Intent to Reduce Crime - Funding a Crime Lab, managed by the Troopers, for use by all city and borough police departments, military police agencies and federal agencies could only be viewed as continuing support by the lesislature to assist in the efforts against crime and to make existing law enforcement efforts more effective.

H. Better Control of Existing Forensic Tests - In the absence of a statewide forensic laboratory, Alaska's law enforcement agencies will continue to experience problems in their dealings with "Outside" laboratories involving lack of "quality control" over the expertise of technicians performing tests, type of equipment used, the reluctance of non-forensic scientists to testify in Court, procedures employed, and the setting of priorities and maintaining the "chain of custody" of items of evidence analyzed. Alaska has experienced too many instances of "Outside" experts who have been discredited in court, thereby casting a cloud over forensic test results in general. Additionally there is no control over a lab suddenly deciding to go out of business as happened to the Troopers in 1977, leaving them with a lot of evidence to analyze and no lab to do it.

I. Prudent Move in the face of Decreasing Federal Services - Developing a Crime Lab in Alaska now may be a very prudent move considering cut-backs in federal services, including the FBI Lab which have already begun. (See letter from Invest. Lucking to Dir. Anderson, State Troopers of April 14, 1982). Reduction of FBI lab services will adversely affect Alaska more than any other state, since Alaska has more requests per capita, than any other state, and even in gross numbers, more than many other states (See Map, p. 10-A of report). Coupled with increasing population and the present existing level of inadequacies in forensic testing, Alaska may not have a viable option if they do not construct a lab of their own.

J. Support by the Criminal Justice System - The realization of the need and advantages of a full-services crime lab extends beyond the law enforcement component to include prosecutors and judges as well. All realize the justice system would be improved with a crime lab.

K. Probable Consequences of Failure to Develop a Crime Laboratory - Beyond the inadequacies that presently exist in obtaining forensic services, the failure to develop a lab in Alaska will probably result in the emergence of several small rather restricted efforts by municipal police departments to provide their own testing facilities. They will probably be of limited scope, overlapping, fragmented efforts, costly, with test results from several facilities conducted by individuals of varying competency.

L. Lab Would Expand as the Need Arises - the concept of a "Full Services" Lab as more completely set forth on p. 21 envisions the lab accepting all evidence for whatever tests are needed. However those tests of an infrequent nature that do not justify an in-house scientist would be performed by an external agency of proven reputation. The entire laboratory concept involves adding an additional scientific discipline, or another scientist to an existing discipline when the level of requests for tests justifies such addition, rather than gearing up for a full services lab immediately only to find that the work load does not justify the entire lab staff and that certain equipment on hand is being used only infrequently. We think this guiding principal is reasonable, addresses the problem of not being able to do a realistic cost effectiveness analysis and assures an overall cost-effective approach to the proposed new lab.

M. Cost Estimates of Alaska's Lab have been developed in conjunction with the FBI - The cost figures contained in the last of the main report and the Executive Summary, are realistic, as accurate as possible, and come from the best of all possible sources -- the FBI lab itself. Three days were spent with the Director of the FBI's Forensic Research and Training Unit, touring their new facility in Quantico, Virginia. The Director personally designed the building, developed cost criteria, determined space and equipment needs, and ultimately supervised the on-site construction. His guidance and recommendations concerning space, utilities and design are reflected in the main report and his cost factors were used in determining the cost of the proposed lab in Alaska. Inflation, the higher cost of Alaskan construction and the 30% of building cost for the Dept. of Transportation and Public Facilities as their fee, are all expenses in addition to the basic construction cost, as more completely explained in the last chapter of the main report.

Carol, I'm sorry this has been such a long letter, but the subject is both important and has many aspects to be presented. Please call me at 269-5508 if additional information or justification is required.

Thanks for all your help in this matter.

Sincerely yours,

M. James Messick
Special Assistant
to the Commissioner

cc: Mr. Steve Levi, Legislative Aide
c/o Hon. Walt Furnace

Mr. Robert R. Sundberg, Commissioner
Dept. of Public Safety

Col. Michael Kolivosky, Director
Alaska State Troopers

Enclosures

Project Justification: Continued

100 Personal Services - Maintenance & Operations

Job Class Range	Maintenance Worker Range 54	Janitor Range 59
Annual Salary	$22,380	$16,776
One Month Overtime	- 0 -	- 0 -
Subtotal	22,380	16,776
Benefits	3,929	2,945
SBS	1,371	1,028
Health Insurance	2,400	2,400
TOTAL	$30,080	$23,149

Summary - Personal Services, Lab and Maintenance & Operations

	Lab	Maint & Ops	Total
Annual Salary	$ 235,044	$ 39,156	$ 274,200
One Month Overtime	26,160	- 0 -	26,160
Subtotal	$ 261,204	$ 39,156	$ 300,360
Benefits	45,861	6,874	52,735
SBS	14,903	2,399	17,302
Health & Ins.	20,160	4,800	24,960
TOTAL	$ 342,128	$ 53,229	$ 395,357

CONTINUATION FROM: 35b

CATEGORY Administration of Justice

AGENCY Department of Public Safety

PROGRAM Crime ID & Apprehension

Revised Date

FY 84

200 Travel

In-state & out-of-state travel to maintain

$ 10,000

OPERATING COSTS

and develop professional expertise.		$ 10,000			
			FY 85		FY 86
300 Contractual					
			$395,357	Line 100	$395,357
Telephone	$18,400		+ 55,000	Other	+ 87,200
Electricity	13,000		$450,357	Sub-total	$482,557
Other Utilities	5,000		+ 27,021	Inflation	+ 59,644
Building Repairs & Maint	7,000		$477,378	Total	$542,201
Subtotal		$ 43,400			
400 Commodities					
Heating Fuel	$31,800				
Miscellaneous	2,000				
Subtotal		$ 33,800			
Total Annual Operating Costs		$482,557			

IDENTIFICATION OF ALTERNATIVES CONSIDERED:

(1) Do not expand the crime lab and thus avoid becoming involved in evidence analysis on a statewide basis. This is unreasonable and unacceptable given our statutory responsibilities.

(2) Ship evidence to out-of-state laboratories (there is no in-state laboratory capable of performing the necessary tests). This is unacceptable for the following reasons:

CONTINUATION
FROM: 35b

CATEGORY Administration of Justice

AGENCY Department of Public Safety

PROGRAM Crime ID & Apprehension

Revised Date 10/4/82

FY 84

THE DEVELOPMENT of a FULL SERVICE FORENSIC LABORATORY for LAW ENFORCEMENT IN ALASKA



By

The Department of Public Safety

September 1982

William R. Nix, Commissioner

Thomas R. Anderson, Director
Division of State Troopers

"Criminalistics is an occupation that has all of the responsibility of medicine, the intricacy of the law, and the universality of science. Inasmuch as it carries higher penalties for error than other professions, it is not a matter to take lightly, nor to trust to luck..."

Paul L. Kirk, Ph.D.
1902-1970

ALASKA FORENSIC LABORATORY PLAN

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FOREWORD

The decision to develop a plan for the establishment of a full service crime laboratory for use by all law enforcement agencies in Alaska followed the realization that Alaska is experiencing a substantial increase in the need for such a facility so that law enforcement and the criminal justice system can continue functioning in a professional manner.

The project began with extensive travel throughout the state to obtain the views and opinions of the law enforcement community and the criminal justice system generally concerning the present inadequacies of the laboratory and what services they would like to see a forensic's laboratory in Alaska perform. Other travel to Seattle, Sacramento and Santa Clara County, California provided an insight into laboratories that now provide a wide range of services. A later visit to the FBI s Forensic Training and Research facility at Quantico provided information about the unique needs of a crime laboratory that must be reflected in architectural design and later facility construction. The same trip provided a visit to the Automated Fingerprint Identification System of Montgomery and Prince Georges Counties in Maryland.

The extensive narrative needed to reflect user views and explain such a facility required that this plan be divided into different sections, beginning initially with why a full-service crime laboratory is needed, and some background about the existing, but very limited laboratory. Following is an explanation of what a full services crime laboratory is and can do. These capabilites are then related to Alaska in terms of the recommended improvements in services and facilities over the next several years. These recommendations are single spaced and sequentially numbered for easier reference.

The first draft was reviewed by laboratory personnel. Their comments were then incorporated into the draft that was sent to the many different justice system agencies throughout Alaska. Their comments were then incorporated into this final version.

Persons assisting in this laboratory plan are far too numerous to list individually. However, personnel in the Crime Laboratory devoted considerable time and effort and deserve individual recognition. They are Chris Beheim, Susanne Feller, Hank Chambers, Robert LaPoint, Arnie Lind, John Sauve, Kathy Kohn, Jim Gordon, Dave Beagel, Nadia Schalk, Myrtle Homesky, and Mira Franco.

Numerous law enforcement agencies throughout the state assisted, including the police departments in Anchorage, Fairbanks, Juneau, Ketchikan, Sitka, Petersburg, North Pole, Bethel, Palmer, Soldotna, Kenai, Homer, Seward, and Seldovia.

State Troopers personnel from the Detachments at Anchorage, Bethel, Juneau, Fairbanks, Palmer, and Soldotna, plus the Criminal Investigation Bureau, the White Collar Crime Unit and personnel in the existing Crime Laboratory in Anchorage participated and offered ideas and suggestions. The office of the Director of Fish and Wildlife Protection likewise forwarded ideas and reviewed aspects of interest in their field, as did the Anchorage office of the State Fire Marshal. Crime statistics were obtained from the office of Criminal Justice Assistance in the Department of Law, Juneau. Several prosecutors offered comments as did several judges from the Alaska Court System.

A literature search and listing of references was obtained from the National Criminal Justice Reference Service, Rockville, Illinois. Other data and information was forwarded by Larry Howard of the Georgia Crime Laboratory in Atlanta; Dr. Andrew Principe of the Northern Illinois Crime Laboratory in Highland Park; David Stafford, President of the American Society of Laboratory Directors, at the University of Tennesee in Memphis; Edward Whittaker, Dade County Florida, Crime Laboratory; George Taft, Director of the Texas Department of Public Safety Crime Laboratory in Austin; Lt. George K. Matsuda, Oregon State Police Crime Laboratory in Portland; and Lowell Bradford, a California based consulting forensic scientist.

Finally, particular thanks to Colonel T. R. Anderson, Director of the State Troopers and Commissioner William R. Nix for their interest in improving forensic capabilities in Alaska and continuing support during the development of this plan.

The assistance of each is gratefully acknowledged.

M. James Messick
Assistant to the Commissioner
July 1982

INTRODUCTION

Within the last decade or so, a series of Supreme Court decisions relative to search and seizure, interrogation and confessions have had the effect of limiting the scope of permissible investigative activities by law enforcement agencies. This situation, in turn, has resulted in the increased attention to the use of physical evidence in criminal investigations, and the subsequent development of crime laboratories to analyze this evidence throughout the nation. The application of the technologies and techniques of the natural and physical sciences to items of evidence found at a crime scene is an increasing part of modern investigations and courtroom trials. The expectation that these sciences are devoid of prejudice makes the results of crime laboratory tests and analyses an often crucial part of judicial proceedings. It also confers upon crime laboratories the responsibility for the highest degree of professionalism in their work.

The role of the crime laboratory is to assist both the investigator, and the prosecutor in their efforts to reconstruct and explain the crime, the crime scene and to establish possible linkages among a number of different, but related aspects of the crime. The success of the crime laboratory working with the investigators provides facts contributing to the exoneration of the innocent, and the establishment of proof of the guilty.

The 1970's witnessed the development of a significant number of crime laboratories in the United States. Many were developed with federal assistance through the Law Enforcement Assistance Administration. Attempts were also made to provide standards within the criminalistics field, both with regard to the proficiency of laboratories and the expertise of their personnel. Professional organizations were organized, assisted and encouraged by the FBI which up to that time had handled the majority of evidence testing and analyses in their forensic crime laboratory in Washington, D.C.

Alaska, however, did not develop a statewide forensics laboratory, preferring to utilize private enterprise and the FBI laboratory for the level of services needed at that time.

By the early 1980's however, LEAA was all but disbanded, and the federal government had embarked on an era of cost cutting and retrenchment in scope of services. A recent General Accounting Office report indicated that federal assistance, while obviously beneficial to investigative efforts, was in fact fostering greater dependence upon federal laboratories, and in some cases, actually inhibiting the development of state and local laboratories. During the last two years the number of requests to the FBI laboratory has kept increasing at the same time that budget cuts were being absorbed. A general economic malaise developed throughout the country, forcing cutbacks by the states and their political subdivisions and subsequently increasing dependence upon the FBI laboratory, which in turn has increased the response time for test results requested by law enforcement agencies throughout the country.

During the latter 1970's Alaska experienced an economic boom perhaps unequaled in its history, which after a short pause following completion of the oil pipeline, carried over into the 1980's. This prosperity in conjunction with oil revenues and the promise of continued growth in the years ahead through resource development all act as a powerful impetus for additional population growth which continues today. Many new residents are following the lure of high paying, but often temporary jobs associated with the construction industry. Drug use and violent crime is now increasing at the same time that crime is showing a decrease in the rest of the country according to the FBI.

Any extensive, in-depth discussion of a forensic's laboratory leads to the subject of forensic pathology, perhaps better known as a Medical Examiner system, since the two are often closely related.

Alaska presently does not have a Medical Examiner system, but rather a Coroner-Public Administrator system. There is considerable interest particularly in the smaller communities with limited local expertise in pathology, to improve the death investigation system by instituting a state medical examiner program. There is, moreover, interest in a Medical Examiner system not only within law enforcement, but from certain prosecutors and the judges as well.

There are several significant advantages to such a system. Perhaps most important is the professional expertise of a medical examiner who has been specifically trained in forensic pathology. Such a person can better assess whether a death is indeed a suicide, a natural death or a cleverly contrived homicide.

In addition to more professional death investigations, significant advantages can develop with a medical examiner and a crime laboratory sharing the same facility, including the mutual use of certain equipment, clerical and other support personnel, vehicles, and even facilities for the different tests needed by each. Increased professionalism would occur also. The integration of these two functfunctions within a single facility would produce substantial reinforcement for both disciplines, through the cross fertilization of ideas, methodologies, problem solving, consultation, and research concepts.

Although the medical examiner system is beyond the scope of this paper it is strongly urged that such a system be evaluated for Alaska. A later section dealing with the new facility required for an expanded laboratory recommends co-locating both functions within the same building.

The criminal justice system, and particularly law enforcement agencies and prosecutors in Alaska now seem to be at a juncture. They can continue without benefit of a statewide forensics laboratory,

thus maintaining the status quo in the face of increasing incidence of crime, or crime in Alaska can be vigorously addressed by scientists and technicians analyzing evidence with modern methods of technology, complementing the efforts of investigators and prosecutors.

This report examines the needs of law enforcement throughout Alaska and recommends the immediate deployment of resources toward a full-services crime laboratory for use by all law enforcement agencies in Alaska.

I. ALASKA'S NEED FOR A CRIME LABORATORY

What is a crime lab and why does Alaska need one? Although definitions will vary, a crime laboratory may be very basically defined as a scientific laboratory in which the natural sciences are used to test and analyze the various items of physical evidence associated with a crime.

One category of personnel in a crime laboratory are criminalists who are specialists within one or more specific disciplines. There may be chemists, toxicologists, serologists, trace evidence analysts, and numerous others. In addition, a crime laboratory may have several technical positions such as firearms identification and tool marks specialists, fingerprint examiners, photographers, explosive ordnance disposal experts, polygraph operators, questioned document examiners and others.

All are highly trained and educated, require frequent specialized training to keep abreast of changes within their fields and often use costly materials and sophisticated instrumentation in an expensive environment. There can be no compromise about the quality of the work they perform for the outcome of their tests may well determine the innocence or guilt of the accused.

Their work is often fascinating and can produce a wealth of information. A complete analysis of a white powder can establish not only whether a controlled substance is present, but its purity, if it is mixed with other drugs, or other substances. This can help establish whether or not it is possibly of the same lot as the drugs found at the home of a dealer. Analysis of a suspected stain can establish initially if it is blood, and if so if it is human or animal. Further blood grouping and enzyme analysis of the blood can eliminate certain individuals as suspects and establish probabilities of other persons as suspects. The examination of bullet holes in a pane of glass can establish from which side a bullet was fired, and the sequence and side if several shots were fired. Glass

comparisons can connect a suspect to a scene by the recovery of small chips found on the suspect and matching them to glass at the scene. Optical and physical properties along with refractive indices can yield additional data. Small fragments of glass fused to the filament of a vehicle's headlight can establish if the light was on or not when the hit and run accident occurred. Identification of latent fingerprints can establish a suspect, and so on.

The following paragraphs describe the reasons why such a facility is needed in Alaska.

A. Limitations of the Existing Lab

Beyond establishing drug identification and fingerprint comparisons which comprise almost the entire workload of the existing Troopers laboratory, Alaska has no crime laboratory with broad capabilities of the type described above. The existing "crime lab" is located in crowded quarters in the basement of the troopers headquarters building in Anchorage. Lack of additional personnel and physical limitations prevent its expansion.

Its professional personnel - chemists, fingerprint examiners and a photographer - are busy full time with the existing case load. With perhaps the exception of one other state, Alaska is the only state to not yet have a full-service crime laboratory. Some states including Alabama, Ohio, Illinois, Michigan, New Jersey, Florida, Virginia, Washington, California and others have developed a comprehensive statewide system of regional or satellite laboratories. Most states have had crime laboratories for some time. As long as nine years ago there were only four states, Alaska being one, that did not have a crime lab.[1]

[1]Fox, Richard & Carl L. Cunningham, "Crime Scene Search & Physical Evidence Handbook," October 1973.

B. Overview of the Crime Problem in Alaska

The following pages contain several charts that give an overview of crime in Alaska.

For data collecting purposes, the FBI has categorized crimes as Part I, (often called Index Crimes), and Part II crimes. The former includes the major crimes of murder, rape, robbery, aggravated assault, burglary, larceny, theft, arson and motor vehicle theft. The latter are the less serious, but more numerous crimes including vandalism, gambling, liquor law violations and many others.

Data about crime are submitted by 23 local police departments in Alaska and the State Troopers to the Department of Law which compiles the data for state purposes and then forwards the data to the FBI for national crime data information published each August, entitled Crime in the United States. A similar publication entitled Crime in Alaska is published annually by the Department of Law.[2] The data shown on the following charts has been modified from the 1981 Crime in Alaska, and for sake of brevity pertain only to Part I crimes, since they are the most serious, often the most violent, and can be assumed to involve evidence that can be analyzed in a forensics laboratory.

[2]Office of Law Enforcement Assistance.

Chart 1

Statewide

Number of Part I Crimes

1978-1981

	1978 ACTUAL OFFENSES	1979 ACTUAL OFFENSES	1980* ACTUAL OFFENSES	1981 ACTUAL OFFENSES
Violent Crimes				
Murder	50	55	35	58
Forcible Rape	216	275	228	355
Robbery	365	432	359	458
Aggravated Assault	1,046	1,059	1,145	1,372
Total Violent Crime	1,677	1,821	1,767	2,243
Property Crime				
Burglary	5,238	5,440	5,378	5,103
Larceny/Theft	14,179	14,501	14,356	15,237
Motor Veh Theft	2,496	2,230	2,172	2,344
Total Property Crime	21,913	22,171	21,906	22,684
TOTAL PART I CRIME	23,590	23,992	23,673	24,927

Chart 2

Anchorage Police Department

Number of Part I Crimes

1978-1981

	1978 ACTUAL OFFENSES	1979 ACTUAL OFFENSES	1980 ACTUAL OFFENSES	1981 ACTUAL OFFENSES
Violent Crime				
Murder	16	17	15	18
Forcible Rape	91	132	117	173
Robbery	218	343	296	380
Aggravated Assault	203	217	308	353
Total Violent Crime	528	709	736	924
Property Crime				
Burglary	2,049	2,478	2,611	2,797
Larceny/Theft	6,702	7,621	7,322	8,826
Motor Veh Theft	964	1,041	1,055	1,186
Total Property Crime	9,715	11,140	10,988	12,809
TOTAL PART I CRIME	10,243	11,849	11,724	13,733

*1980 offenses appear to have decreased as the result of a change in data collection and reporting.

Chart 3
Fairbanks Police Department
Number of Part I Crimes
1978-1981

	1978 ACTUAL OFFENSES	1979 ACTUAL OFFENSES	1980 ACTUAL OFFENSES	1981 ACTUAL OFFENSES
Violent Crime				
Murder	5	6	0	5
Forcible Rape	14	20	5	43
Robbery	41	28	20	32
Aggravated Assault	79	59	87	109
Total Violent Crime	139	113	112	189
Property Crime				
Burglary	334	332	384	422
Larceny/Theft	1,495	1,554	1,621	1,711
Motor Veh Theft	284	227	273	276
Total Property Crime	2,113	2,113	2,278	2,409
TOTAL PART I CRIME	2,252	2,226	2,390	2,598

With the exception of apparent decreases in 1980, the trend for Part I crimes, statewide, and for the cities of Anchorage and Fairbanks, is unmistakenly upward.

- -

Chart 4
Statewide Crime Trend Analysis
per 100,000 population
1978-1982

Projected	1978 Crime Rates	1979 Crime Rates	1980 Crime Rates	1981 Crime Rates	1982 Crime Rates
Violent Crime					
Criminal Homicide	12.0	13.0	9.0	14.0	12.5
Forcible Rape	51.0	66.0	57.0	85.0	88.0
Robbery	87.0	104.0	90.0	109.0	110.5
Aggravated Assault	249.0	255.0	286.0	327.0	345.5
Total Violent Crime	399.0	438.0	442.0	535.0	556.5
Property Crime					
Burglary	1,247.0	1,307.0	1,344.0	1,218.0	1,266.5
Larceny/Theft	3,376.0	3,486.0	3,589.0	3,637.0	3,743.5
Motor Veh Theft	594.0	536.0	543.0	559.0	533.5
Total Property Crime	5,217.0	5,329.0	5,476.0	5,414.0	5,543.5
TOTAL PART I CRIME	5,616.0	5,767.0	5,918.0	5,949.0	6,100.0

The rates of serious crimes, adjusted for population increase are shown above. With but a few exceptions, the overall trend in Alaska for Part I crimes is that they have been increasing during the past four years and are forecast to rise even higher in 1982.

Chart 5
Alaska's Ranking Among the
Fifty States for Index Crimes
per 100,000 population

Crime Categories	1979 Ranking	1980 Ranking
Violent Crime		
Criminal Homicide	5	19
Forcible Rape	1	2
Robbery	28	34
Aggravated Assault	16	13
Total Violent Crime	19	20
Property Crime		
Burglary	25	30
Larceny/Theft	10	11
Motor Veh Theft	9	8
Total Property Crimes	10	14
TOTAL INDEX CRIMES	12	14
Population	50th	50th

Although still having the least population of all the states, Alaska nonetheless had the highest and second highest rate of rape in 1979 and 1980, with slightly lower rates for other crimes. On the average Alaska is the 12th and 14th highest state for incidence of Part I crimes.

Chart 6
Statewide
Part I Clearance Rates
1981

	ACTUAL OFFENSES	OFFENSES CLEARED	CLEARANCE RATE AS A PERCENT
Violent Crime			
Murder	60	42	70
Rape	419	168	40
Robbery	467	95	20
Aggravated Assault	1,564	1,034	66
Property Crime			
Burglary	5,410	872	16
Larceny/Theft	16,079	3,776	23
Motor Veh Theft	2,822	749	27
TOTAL	26,281	6,736	25%

An offense is said to be cleared when a law enforcement agency has identified the offender, there is enough evidence to charge him, and he is actually taken into custody. The arrest of one person can clear several crimes, or several persons may be arrested in the process of clearing one crime.

During 1981, only 25% of the serious crimes in Alaska were cleared. During the past several years, the clearance rate has remained almost the same.

The foregoing statistics portray the increase of crime in Alaska from several different viewpoints, also show that on a per capita basis Alaska is number 14 of the 50 states for incidence of crime and that only about one in four crimes is ever solved. With these relatively high rates of serious, often violent crime, the development of a full services forensic laboratory would aid police in apprehending suspects and district attorney's in prosecuting the accused, thereby increasing the clearance rates.

C. Public Attitudes about Crime

There can be little doubt of the public's concern about rising crime. About five years ago the Dittman study, which is the last known opinion survey about crime in Alaska, showed several significant conclusions:[3]

- Most people in Alaska believe crime is rising faster than the population. Urban people believe crime is rising more than rural people.

- One of the basic causes of crime in Alaska is the justice system's failure to punish criminals.

---

[3]Dittman Research Associates, Public Opinions about Crime and Criminal Justice in Alaska, 1976.

A year before the Dittman study, another attitudinal study by the Rowan Group showed that one of the four perceived causes of crime in Alaska is that "the police have failed and this has caused crime." The public believes in a toughening stance toward crime according to the Rowan report, by denying right to bail for certain offenses, by being against plea bargaining and by perceiving that the purpose of jail is to remove dangerous people from society.[4]

The preceeding statistics about incidence of crime show an overall increase. One can assume the public's concern about crime has correspondingly increased and that public attitudes have remained firm.

The development of a forensics' crime laboratory in Alaska to make the job of law enforcement and prosecution more effective would therefore seem to have broad public support.

D. Increasing Delays for FBI Laboratory Tests

Perhaps the greatest reason for Alaska to develop a full services Crime Laboratory is that investigations are being hampered by the increasingly longer time required to receive results of tests now routinely being sent to the FBI laboratory in Washington, D.C. According to the Criminal Investigation Bureau of the State Troopers, and many local law enforcement agencies, the time required for laboratory tests of a routine nature from the FBI now require from four to six months.

[4]Rowan Group Report on the Criminal Justice System of Alaska, July 1976.

The apparent reasons for this situation is a general budget tightening among federal agencies, an apparent re-examination of the extent of federal assistance following a General Accounting Office (GAO) review, and an ever increasing number of requests nation-wide for FBI laboratory services.

The GAO report indicates that, among other conclusions, forensic testing by federal laboratories of the FBI, Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco and Firearms, is in effect inhibiting the development of local and statewide forensic laboratories, which is contrary to the federal policy of decreasing reliance on federal laboratories.[5] The report recommends that the Attorney General and the Secretary of the Treasury require the heads of these federal agencies develop a coordinated plan providing for a phased reduction in Federal crime laboratory assistance to State and local law enforcement agencies. Such a plan should:

- provide a time schedule which will enable the States to prepare for the phased reduction in Federal laboratory assistance;

- discontinue the practice of accepting routine requests from local law enforcement agencies, thereby bypassing laboratories where the capability exists or should be developed; and

- define the complex or sophisticated analyses which the Federal laboratories should continue to perform.

---

[5]U.S. Government Printing Office, General Accounting Office, "Federal Crime Laboratories Lack a Clear Policy for Assisting State and Local Jurisdictions," Sept 12, 1980.

Dramatic evidence of the situation facing the FBI laboratory were two telephone calls received by the Trooper's Criminal Investigation Bureau during mid April 1982. Both calls were from the FBI laboratory inquiring about the necessity of two examinations of hairs and fibers that had been forwarded earlier by CIB investigators. Both cases involved double murders.

Also, items sent to the FBI laboratory, if to be tested for other than fingerprints as well as for fingerprints, are not to be examined by a local laboratory for just fingerprints. The FBI wants to perform all tests, utilizing their own personnel. This policy causes additional delays in receiving examination results.

The problem of long turn-around time often collides with the speedy trial rule in Alaska, [Criminal Rule 45(b)], which requires that the trial begin within 120 days following arrest, barring any delays by the judge as may be requested by either side.

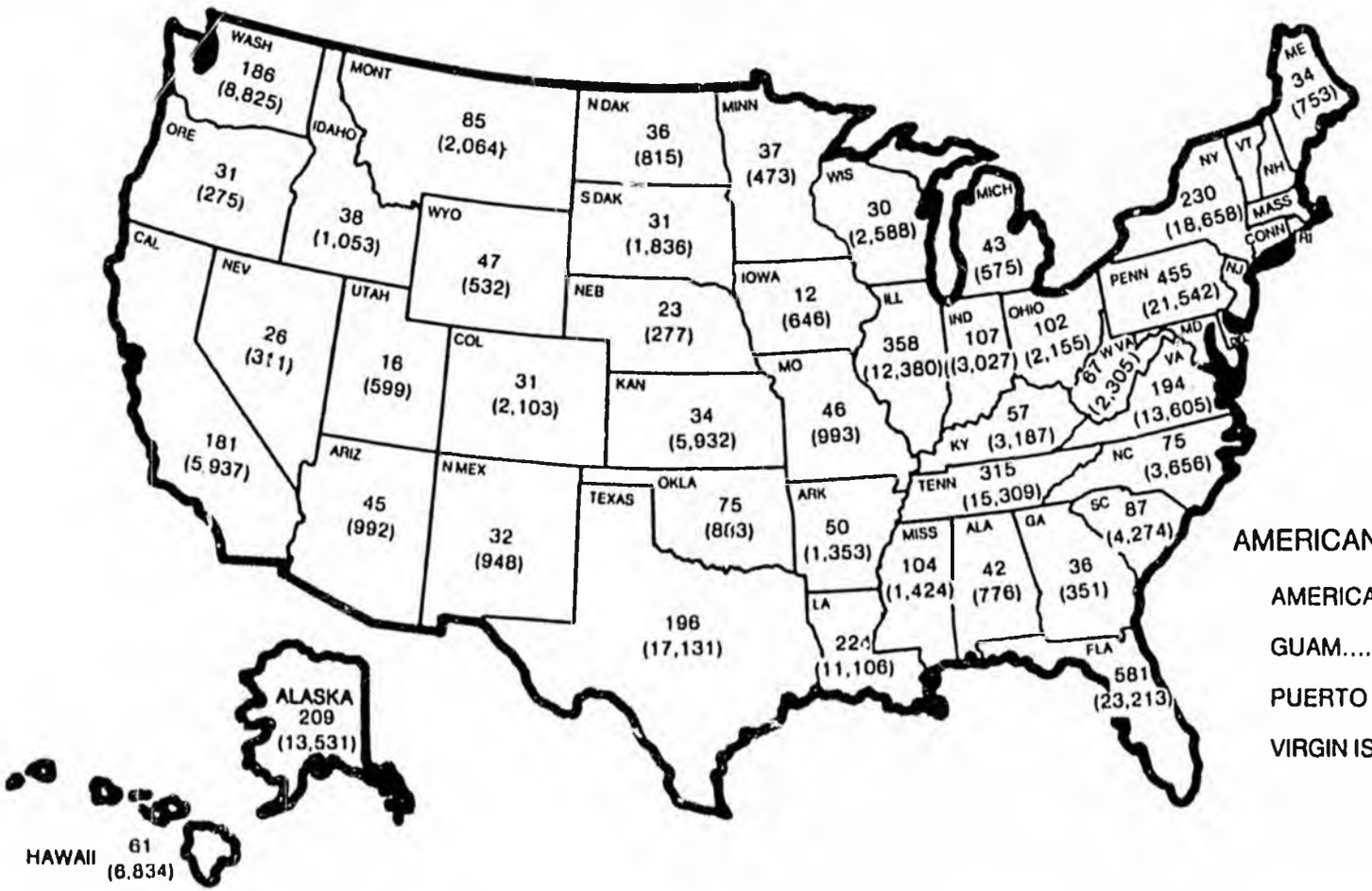
The restricting of services by the FBI will adversely affect Alaska more than any other single state because of the extreme reliance Alaska has historically placed upon FBI resources and assistance. That this is so, is in large measure a function of Alaska having the smallest population of any state, and thus Alaska is one of last states to be able to justify a crime laboratory. The almost total reliance by Alaska upon the FBI Crime Lab is shown most dramatically by the data and map shown on the following page. As is obvious, the 209 requests from Alaska are within the top ten highest of all the states. When calculated as a percentage of the population, Alaska has the highest number of requests to the FBI laboratory. Alaska, therefore, will be the state most adversely affected by the restriction of services of the FBI laboratory.

FBI LABORATORY

Assistance To Non-Federal Law Enforcement Agencies

REQUESTS RECEIVED 6,599
EXAMINATIONS CONDUCTED (297,832)

FISCAL YEAR 1981



VT	167 (6,958)
N.H.	81 (848)
MASS.	56 (1,301)
CONN.	171 (4,345)
R.I.	73 (6,163)
N.J.	233 (8,589)
DEL.	188 (13,394)
MD.	539 (20,957)
D.C.	357 (17,610)

AMERICAN POSSESSIONS

AMERICAN SAMOA	1 (63)
GUAM	11 (252)
PUERTO RICO	1 (1)
VIRGIN ISLANDS	72 (2,124)

FBI, Crime Laboratory Digest, Dec. 1981

Increased turn-around time is also occurring with the very limited capabilities of the existing laboratory. As of April 1982, the average time required for test results is up to two months for just drug-related tests, although turn-around time for fingerprint work is from one to two days.

E. Judicial Problems Caused by Delays

Investigators and prosecutors facing delay in obtaining forensic tests also face going to trial without adequate time for preparation. This is particularly true if the results of the test are needed before additional investigation can occur. While continuances can and are requested to permit additional time, they cause calendaring and scheduling problems for both the court and participants in the proceedings.

While many continuances in proceedings have occurred as the result of delays in obtaining laboratory test results, at least one judge has suppressed the states' evidence relative to the results of crime laboratory tests because of violations of Discovery. In that case, (Alaska vs. Lewis, Feb 1981) the FBI's formal laboratory report was not available until the morning of trial, for several reasons. In any event, due to this problem, several earlier discovery violations, and emphasizing that the state could have requested a continuance, the trial judge ruled that the test results and testimony concerning them would be suppressed.

Although overturned by the Appeals Court which said the results of the suppressive sanction are capricious and thus defeat the objective of Discovery it is important to note that the opinion said the Supreme Court has not completely ruled out excluding evidence from forensic tests as a possible sanction for delays by the state.

Defense attorneys can also point out that a continuance imposes a hardship on their clients because they would have a serious, felony charge pending against them for a longer period of time if a continuance is granted.

Continuances based upon lack of timely test results may also be questioned by defense attorneys who might object on the basis that there are other laboratories which can obtain test results in a timely manner, thus questioning that if the state cannot obtain timely results, they could contract with other facilities that can do so. In the future the state may be faced with an order to "show cause" as to why it doesn't use other laboratory facilities. In addition, defense attorney's have the right to examine evidence and should be afforded this opportunity without having to request a delay in the trial in order to do so. Additionally, the state should have time to prepare a rebuttal.

F. Use of Other Laboratories

Although a given test or tests within particular disciplines can be performed by private laboratories in addition to the FBI (and indeed this concept is included in this plan), it would not be feasible to rely upon other facilities for the entire range of criminalistics tests required by police and prosecutors in Alaska, for many reasons.

Use of other facilities over which the state has no control would mean that there would be no control over the caliber, background and experience of the technicians performing the work, nor of the degree of sophistication of the tests and equipment employed. There are already too many instances of less than qualified persons who have testified in Alaska to the results of tests, only to be proven wrong. Such discrediting of persons reputed to be an expert causes long

term harm to the profession of criminalistics, and casts a shadow over the result of all forensic tests.

Use of other facilities may also result in problems relating to the unbroken "chain of custody." Unless it can be shown that items of evidence have been in continuous custody of an officer, there is a question of whether the evidence has been altered. Use of a laboratory unaccustomed to the strict requirements of law enforcement may result in a break in the chain of custody, thereby permitting doubt to be cast upon the evidence by the defense attorney.

Use of other facilities will also prove to be more expensive than if the same capabilities existed in a state crime lab. Reliance upon out-of-state labs and their personnel will require the state to pay the transportation plus expenses of lab technicians to travel to Alaska to testify in court. In addition, the cost of the tests themselves can reasonably be assumed to cost more from private enterprise, since private firms exist to make a profit.

Reliance upon non-state facilities also involves the risk of the private firm going out of business and not performing any additional tests. This is exactly what occurred in late 1977 when the Alaska Medical Laboratories suddenly went out of business. As a result the Troopers were left with a number of items of evidence requiring forensic examination. With no other facility in the state and the need to have these tests performed, the Troopers formed what is now the very limited crime laboratory that exists now.

G. Value of Forensic Examinations

A major value of forensic examinations not often realized is the high evidentiary value they represent, and the positive impact they can have upon a jury.

An eye witness to a crime is often considered by the public to be the best possible evidence in determining guilt. While an eye witness is indeed important to a case, eye witnesses have to rely upon their memory, and a person's memory is fallible. The results of a carefully conducted forensics examination, however, do not rely upon memory. In cases where eye-witnesses are not available, forensic examinations are even more important, for they can present irrefutable conclusions, both to help establish the innocence or guilt of an accused. Civil rights organizations and similar groups concerned with instances of alleged unequal treatment of poor and minority persons charged with a crime should, in particular, support a professional criminalistics facility, since it offers completely unbiased evidence about a suspect.

Plainly, without a full services crime lab in Alaska the benefits of the high value of criminalistic tests will simply not be available. The efforts of police and prosecutors may therefore be less effective.

H. Support by the Criminal Justice System

One of the most compelling reasons for Alaska to develop a full service crime laboratory is the unanimity of need for such a facility by all the law enforcement agencies, district attorneys and judges. Police officers at both state and local levels consider the development of a full services crime laboratory as long overdue. They recount numerous criminal case investigations and accident scenes

that would have been enhanced if criminalistics services would have been available in a timely manner. Prosecutors and judges recall past cases in which the results of criminalistics tests were a significant part of the trial because the standard of proof is so high in Alaska. they also recall other cases that were weakened by lack of adequate criminalistics tests or in which evidence was overlooked.

I. Impact of Drug Legislation

Another reason for enhancing the existing statewide crime laboratory is the impact of legislative appropriations to detect and apprehend illicit drug violators. These funds were used for a third Trooper for the Anchorage Metro squad during 1981, the activation of a full-time narcotics investigator in Juneau during 1982, the addition of a new drug dog and trooper at the Fairbanks airport in late 1981, and the addition of five new drug investigators for the Troopers in 1982. These additional drug investigators plus increased efforts by local police departments will exacerbate the existing problem of timely drug tests by the existing crime laboratory, as additional requests for identification of suspected drug substances are received.

In summary, the following are the major reasons a full services crime laboratory is needed in Alaska:

- Increasing delays in obtaining test results from the FBI Crime Laboratory, and the existing limited state laboratory.

- Problems to the judiciary caused by delays in obtaining test results.

- Inability of the existing laboratory to perform other forensic tests, due to the number and priority of the drug tests required.

- Inability of the forensic chemistry section of the laboratory to expand their services due to physical space and personnel limitations.

- The extremely adverse affect upon Alaska resulting from cutbacks in service by the FBI laboratory.

- The numerous disadvantages inherent in using private facilities.

- The high evidentiary value of results of criminalistics tests.

- The need to address the increasing crime rate in Alaska by expanding scientific testing of crime scene evidence.

- Virtual unanimity of agreement for the need of a full services crime laboratory by criminal justice system agencies.

- The desire of society to reduce crime, resulting in a more peaceful community.

In assessing the need for a full services crime lab in Alaska, one can also attempt to foresee the consequences in the future of the failure to develop a crime laboratory. One possible result may be the emergence of several small, rather restricted efforts of local law enforcement agencies to provide their own testing facilities. These will probably be of limited scope, overlapping, and fragmented

efforts. Other penalties may be reasonably inferred, including test results from a wide array of other facilities and experts of varying degrees of competency as the larger police agencies attempt to cope with the lack of a single statewide crime laboratory. The smaller police departments probably will not be able to afford some of the prices charged by private facilities and thus will be forced to do the best they can without scientific analysis of evidence. Unfortunately, at least one consequence is already occurring. That is the decreasing importance some police officers attach to laboratory tests and analysis of crime scene evidence. This in not from a lack of appreciation of the value of such tests, but from the double frustration of knowing the value of forensic examinations and being unable to obtain professional testing in a timely manner. In many cases, police officers have no other choice than to do without forensic analyses. One can safely assume their investigations and the prosecutors efforts are less effective in proving the innocence or guilt of the accused. In an era of increasing concern about accountability of government, increasing costs of criminal justice, and rising crime rates, Alaska needs more than just additional police officers. It needs the means whereby their efforts can become more effective.

II. HISTORICAL BACKGROUND

The Alaska State Troopers Crime Laboratory, located at their headquarters building in Anchorage, is the only statewide law enforcement crime laboratory in Alaska. It is relatively new, having begun in early 1978 following the closure of the Alaska Medical Laboratories in Anchorage, which had been the primary facility for laboratory work for law enforcement in the State. Many tests, of course, continue to be handled by the FBI and other specialty laboratories throughout the "lower 48."

The laboratory presently has a staff of three chemists, two latent fingerprint examiners, a photographer, an evidence clerk and three other clerks. Two additional latent fingerprint examiners are located in Juneau.

At present the laboratory provides a relatively narrow range of services due to crowded conditions, heavy caseload and a limited staff. Most of the work involves drug testing, photographic services and fingerprint comparisons. However, some work can be done in blood alcohol, serial number restoration, limited serology and some arson related tests. Turnaround time to receive results varies according to the analyses required and section involved but may be up to four weeks or longer.

Due to existing limitations, private laboratories and in particular the FBI laboratory, are being utilized for testing of questioned documents, toxicology, serology, firearms identification and tool marks examinations, hairs and fibers and other specialized assistance. Turnaround time for FBI laboratory tests may be from four to six months.

The laboratory also receives and files duplicates of drivers licenses and personal identification cards issued by the state, as well as copies of "mug shots" from correctional facilities.

Copies of these are made by laboratory personnel upon request by law enforcement agencies to assist in their efforts in investigation.

The laboratory also prepares photographs for line-up purposes.

Major items of equipment presently available in the laboratory include an infrared and ultraviolet spectrophotometer several chromatographs, five microscopes of varying capabilities, two comparison microscopes, a Mettler Hot Stage, balances, centrifuges and other equipment for specialized purposes. Additionally, laboratory personnel assist investigators in gathering evidence at crime scenes and testify in court.

Clients of the laboratory include the uniformed military services in the state, the Drug Enforcement Administration, the U. S. Marshal, the FBI, the entire law enforcement community at the local level, the State Troopers, the Fire Marshal, and several specialized non-law enforcement agencies such as Probation and Parole, Treatment Alternatives to Street Crime (TASC) and others.

There are no fees charged to client agencies by the laboratory for work they perform or for work they forward to another facility. Obviously tests that agencies arrange for directly with other laboratories are paid for directly by that agency with the exception of the FBI laboratory which does not charge for it's laboratory services or for expert witness testimony.

To assist their clients the laboratory has printed a Crime Laboratory Manual and a small brochure which generally describes the laboratory capabilities and provides information about packaging and submittal of evidence to the laboratory. Manuals have been sent to all State Trooper posts and detachments and all local police departments and other concerned agencies.

Evidence gathering kits for field use have been developed for gunshot residue, rape, urinalysis, and blood alcohol.

As of the beginning of 1982 the chemistry section of the laboratory was experiencing an increasing delay or backlog of tests. As a result a priority system for testing has been set up to ensure that efforts are directed to the most pressing needs. In addition, extensive testing beyond establishing the identity of a substance that indicates a crime has occurred is not performed, recognizing the futility of extensive testing for a case which may not go to court or cases in which the defendant pleads guilty.

There are several private specialty laboratories and hospitals in Alaska that perform tests and analysis in specific fields, such as petroleum products, waste water, environmental concerns, toxicology and other areas.

III. GOAL STATEMENT

The goal of the proposed full-services crime Laboratory is to aid in the quality of justice in Alaska through the impartial and professional analysis of evidence obtained from the scene of a crime.

The term "full services laboratory" has broad implications. The major concept is the performance of all tests requested by investigators and prosecutors whether such tests are performed in-house or by another specialty laboratory elsewhere in Alaska or in another state.

Within this concept is the hiring of a full time professional laboratory director and sufficient staff to perform the tests routinely required by investigators. Other less frequently required tests that demand very specialized skills and sophisticated equipment and that could not be performed in a cost effective manner in Alaska would be performed by external agencies. Thus the level of need for bullet comparisons may be shown to justify hiring a Firearms Examiner now in the laboratory whereas the need for analysis of an infrequent nature, such as vehicle lubricants, would result in those tests being performed at another facility.

A full service lab would also require additional equipment, and a larger physical plant than now available. Several satellite laboratories could be established in the larger metropolitan cities in the years ahead for handling high volume work such as fingerprints and drug testing.

The concept would also include technical assistance in crime scene analysis, evidence gathering, packaging, and shipment, forensics training courses for all law enforcement agencies, and courtroom testimony by laboratory personnel.

All tests by the laboratory and external agencies would be performed on a no-cost basis to the requesting agencies.

Laboratory management would be improved in every respect. Turn-around time for test results would be measured in days rather than weeks.

The intent and philosophy of a statewide crime laboratory for Alaska is to offer the highest level of service to law enforcement through accurate and reliable tests and analyses in a timely manner while remaining flexible and capable of responding to the changing needs of the law enforcement community in the years ahead. The balance of this plan addresses the foregoing aspects in detail.

IV. CAPABILITIES OF A FULL SERVICE LABORATORY

The value and need for a modern forensics laboratory has been presented earlier. Since a laboratory is such a crucial capability for investigations and prosecutors as well as for an accused, a modern crime lab must have a broad range of scientific disciplines available, either in-house or available through an outside facility.

At this point, it is useful to consider certain definitions and terms that may not be familiar when referring to crime laboratories.

A Criminalist is an individual trained in the scientific and professional discipline of criminalistics, a science directed to the recognition, identification, individualization and evaluation of physical evidence by application of the natural sciences in the reconstruction of events related to a crime and in the connection or elimination of a suspect with that crime.

Criminalistics is a broad term that involves the application of the natural sciences and scientifically based techniques to the analyses of physical evidence. Criminalists therefore span a wide range of disciplines and perform examinations on such items of evidence as alcohol, blood, body fluids, drugs, firearms, glass, hair, fibers, paint, accelerant residues and similar evidence. Criminalists performs analyses utilizing techniques such as macro and microscopic examinations, qualitative and quantitative chemical analysis, and serological determinations. They use complex measuring, recording and testing instruments such as the gas chromatograph, and mass spectrometer, infrared and ultra-violet spectrophotometers, polarizing microscopes and others. They must be prepared to travel throughout the state to testify in court as an expert witness and to assist law enforcement officers and prosecutors in analyzing and interpreting

evidence. They also give instruction in the field of criminalistics at police officer training schools and to conduct examinations of crime scenes for physical evidence in complex cases.

Professional criminalists usually have a minimum of a BA or BS degree in criminalistics, chemistry, biochemistry, biology or other closely related natural or physical science, to prepare them as a forensic serologist, a chemist, trace evidence examiner, and related jobs. Criminalists can also be referred to as forensic chemists, forensic biologists etc, depending upon their areas of expertise. The term forensic means belonging to, used in, or suitable to courts of judicature. Thus the term forensic lab may be used synonomously with crime laboratory, or a criminalistics laboratory.

In addition to the various criminalist fields, there are other professional positions in a good crime laboratory, including the Fingerprint Examiners, the Photographer, a Police Artist, the Firearms and Tool Marks Examiner, the Polygrapher who operates and interprets the polygraph, a Questioned Document Examiner, an Explosive Ordnance Technician and possibly others. Although not all these individuals may have an academic degree, those employed in these fields are properly considered professionals within each of their respective disciplines. Each has completed substantial professional training and is accredited by his professional organization nationwide. Each may expect to become qualified as an expert witness in a court of law and offer testimony, as well as supervise and train lower ranking employees, assist law enforcement officers and prosecutors in analyzing and interpreting evidence, and travel to crime scenes to assist in gathering evidence.

The development of crime laboratories in the U. S. may be described as rapid growth accompanied by a lack of national and

regional planning and coordination."[6] Some have developed almost solely for drug testing purposes, others for a full range of forensic services. Some work in concert with a Medical Examiner system while others are independent. While most laboratories function as an element of a law enforcement agency, others are within the prosecution function. A few are affiliated with Universities.

Laboratory staffs and their expertise also vary reflecting the size of client population served, government structure, and available resources.

The diversity of laboratories makes it impossible to select any one as typical, or as a model to follow. However, the importance of forensic skills to law enforcement is the National Advisory Commission on Criminal Justice Standards and Goals for the Police which recommended that "every state should by 1982 establish a consolidated criminal laboratory system composed of local, regional, or state facilities capable of providing the most advanced forensic science services to police agencies."[7]

Some of the more common areas of expertise within a forensics laboratory include the following:

A. Toxicology

Toxicology is the detection and identification of the presence of drugs and poisons in body fluids, tissues and organs. The Toxicologist is not restricted to crime laboratories. They are often found in hospitals to identify drug overdoses, and other medical related

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[6]Saferstein, Richard, "Criminalistics, An Introduction to Forensic Science," Prentice Hall, 1977, p. 7.
[7]U.S. Government Printing Office, 1973.

facilities involved in monitoring drug usage and other potentially toxic substances such as alcohol abuse, tests on children exposed to leaded paints and urine analysis of addicts in methodone maintenance programs.

Although a Forensic Toxicologist is by definition one who is involved in work relative to violations of criminal law, the responsibility for performing toxicological services in the criminal justice system varies considerably throughout the U.S. In some areas, the Toxicologist may reside in a Medical Examiner's system whereas in other areas the Toxicologist is in a crime laboratory. Still other areas may share his services.

In Alaska, the location of a Toxicologist is yet to be determined, and is dependent upon if and when a Medical Examiner system becomes established, the relative need for Toxicological services in the crime laboratory, existing external services and available funding. Wherever ultimately located, it is a virtual certainty that a large portion of the workload will be the analysis of blood to determine the presence and amount of drugs and alcohol, since alcohol and drug abuse figures so prominently in criminal acts.

B. Firearms and Tool Marks Examination

A Firearms and Tool Mark Examiner compares the minute random markings on surfaces which can impart identification to inanimate objects, such as identifying a spent bullet to a particular firearm, a scratch, abrasion or indentation on a surface to a particular tool or object that caused such marking, or a tire track, or boot imprint to a particular tire or to a particular boot, and similar related work. As an example:

- A bullet is obtained during the autopsy in a murder case. Examination reveals it to have been fired from a .38 caliber Smith & Wesson revolver. Later a suspect found with such a weapon is arrested and the weapon submitted for examination. The gun is test-fired and the bullet compared to the bullet found during the autopsy. The examiner finds that the minute striations on the bullet caused by irregularities on the inner surface of the barrel of the revolver, match the markings on the bullet recovered from the murder victim.

- Another example relates to tool marks. The microscopic nicks and irregularities or cut marks on the jaws of a bolt cutter found in a suspects car was used to cut an identical lock as was cut during the course of a burglary at a lumber yard. The first lock was found to contain the same marks as on the lock that was cut to allow access to the lumber yard.

C. Questioned Documents Examination

A Questioned Documents Examiner examines handwriting and typewriting to ascertain the source or authenticity of a questioned document. His efforts involve both visual and microscopic comparisons to uncover all effort designed to change the content or meaning of a document, including reconstruction of written contents of charred or burned paper and indented writings on a pad of paper.

The normal handwriting of two different individuals has never been totally and exactly duplicated. Individual variations exist in angularity, slope, speed, pressure, size, letter and word spacing, connections and writing skill in addition to margins, spacing, alignment and so on.

Variations in typewritten letters occur as a function of the user and damage to the machines moving parts. Vertical alignment and spacing of the characters, defects in each typeface, pressure variations and other individualizations all combine to enable the Examiner to make comparisons between a given typewriter and the questioned document, and between samples of a given persons handwriting compared to the document in question. The Examiner will often use microphotography with a comparison microscope to produce photo enlargements to compare parts of the questioned document with perhaps a suspect's handwriting or typewriter.

D. Forensic Serology

Forensic Serology involves the analysis of body fluids, such as blood, semen, and saliva to attempt to limit the population of the source of such fluids found at a crime scene. A major key to limiting the source population is through blood grouping and identification of certain enzymes within the blood. Samples of saliva, such as found on cigarette butts and toothpicks may yield information about the blood of the individual. Identification of seminal stains on clothing and swabs may also yield information about the blood type of the individual involved, thereby limiting the population to only those persons with a certain blood identification. For example:

- A suspect is in custody following a stabbing. He has what appears to be blood stains on his clothing. The stained clothing should be submitted for examination by the evidence collector, along with known blood specimens from both the suspect and the victim. Serological examinations may reveal whether the blood stains on the clothing could have originated from the suspect, or the victim, or possibly another source.

- Stains are noted on a handkerchief in possession of a rape suspect. Analysis in the laboratory shows them to be seminal stains containing intact spermatozoa as well as two blood stains. The seminal stains are further analyzed and found to be from Group A which matches the suspect who is a secretor. The blood stains are determined to be group O, however, which differs from that of the victim.

E. Forensic Chemistry

Forensic chemistry involves the analysis and subsequent identification of unknown substances. Although testing of substances thought to be illegal drugs in terms of identifying the drug and its relative purity occupies an extensive amount of time of the Forensic Chemist, he can also perform other chemistry-related analyses such as identifying trace amounts of an accelerant from a suspected arson fire.

F. Trace Evidence Examination

Trace Evidence refers to the often very small items such as human hairs, fibers, paint chips, bits of broken glass, soil and similar items that are transferred between individuals and objects during a crime. If recovered, they can often corrobrate other evidence developed during the investigation. Although in most cases trace evidence cannot by itself provide positive identification of a suspect, the results of a laboratory examination may narrow the origin of the minute bits of trace evidence to a group that includes the suspect, such as:

- A suspect with brown hair is arrested near the scene of a rape. His shirt has foreign hair and fibers on the shoulder. The blond hair on his shirt is

obviously different from his own. The foreign fibers appear to be those commonly used in rugs. It is determined by laboratory analyses that the hair could have come from the victim's head, and the nylon could have come from the rug at the scene of the rape.

- A burglary suspect is caught outside a building where entry was gained through the wall. His clothing is submitted for examination. Microscopic particles of brick, plasterboard, paint and fiberglass insulation found on his clothing match the corresponding materials from the building. It is unlikely that such a combination of materials would be from any other source than the burglarized building.

G. Fingerprint Examination

The Fingerprint Examiner attempts to match fingerprints found at a crime scene with the inked impressions of fingerprints by studying the individuality of their ridge characteristics. Acceptance of fingerprint evidence by the courts rests upon the assumption that no two individuals have identical prints, which is substantiated by the many millions of individual prints that have been classified throughout the world, and barring accidental or surgical removal of the finger, that fingerprints do not change during a person's life.

Matching of fingerprints involves the type, number, and relative location of the ridge characteristics, including the ridge endings, bifurcations or divisions of the ridge, and some that form enclosures. These are collectively referred to as "minutae."

The work of the Examiner also includes elimination of individuals as suspects, establishing the identity of a

deceased person through their fingerprints, conducting training sessions for law enforcement officers and testifying as an expert witness in court. The Examiner will also utilize photographic enlargements to demonstrate to the court how comparisons are made and identification effected.

A major goal of the Examiners is to be able to identify fingerprints found at a crime scene. However without a suspect the tedious manual matching of latent prints from a crime scene to inked impressions on ever increasing number of fingerprint cards effectively precludes the use of latent prints as a significant tool for the investigator. Within the last few years, several jurisdictions nationwide and some foreign countries have purchased an automatic fingerprint identification system using minutae-based technology which holds considerable promise as an aid to the fingerprint examiner. Funding for such a system in Alaska was appropriated by the 1982 Legislature.

H. Photography

The Photographer in a crime laboratory requires considerable artistic, creative, and special technical skills, independent interpretation of equipment needs and techniques. He makes contact and projection prints, enlargements, slides, transparencies, overlays, and cuts and edits film. Forensic photography includes accident scene coverage, photographing various aspects of a crime scene using specialized techniques such as close-up photography to record small items of trace evidence including fibers and particles, tire and boot impressions, and related items. He may use special photographic techniques to record fingerprints, utilize other special techniques for surveillance work and generally respond with appropriate equipment and techniques to whatever situation is confronted.

The foregoing are the task skills of a larger Forensic Laboratory. They may involve one or more specialists within each field depending upon the type caseload experienced in the region the lab serves. Smaller labs will have correspondingly smaller staff and capabilities reflecting smaller number of clientele and availability of resources.

V. IMPROVING FORENSIC SERVICES IN ALASKA

This section - the largest in the plan - deals with the many perceived inadequacies with the present level of forensic services in Alaska by addressing each of the aspects that comprise a full services laboratory, initially describing the existing situation and problems and then presenting recommendations to solve these problems. (For ease in reference all the recommendations have been single spaced). Some problem descriptions relate to forensic disciplines and how they can be initiated or improved, while others deal with the internal administrative aspects needed for a successful crime laboratory. All, however, have a substantial bearing upon improving forensic services in Alaska.

A. Additional Forensic Skills

At present, the lab has three chemists whose time is devoted almost entirely to drug and alcohol analyses, although the senior chemist can perform serial number restoration, limited serological tests and some arson related work. Four other personnel perform fingerprint work, another handles photographic work, and four clerical personnel provide support services, including evidence storage. Beyond the fingerprint and photographic services, the existing laboratory is essentially a drug identification facility rather than a broadly based forensics laboratory.

Law enforcement agencies, judges and prosecutors throughout the state desire a far broader array of analytical expertise. Interestingly, the needs of smaller police departments initially appeared different than their more urban counterparts. Their interests are primarily in fingerprints, drug testing, photography and questioned documents while the larger departments, State Troopers and

prosecutors want the additional expertise of serology, toxicology, identification of hairs and fibers, firearms and tool mark examinations. The two views are actually compatible when one considers that the larger departments experience the more complex and serious crimes, which by contrast occur only infrequently in the smaller towns. In addition, the smaller departments often call upon the State Troopers for assistance when major crimes or complex problems arise.

The result of the lack of greater forensic capabilities in the laboratory, the familiar long turn around time to receive test results from the FBI, and general lack of knowing where to turn or what else to do has all acted to dampen the importance of physical evidence. Many times, police officers commented that they don't send items to the FBI because of the delay involved, and their desire to not further contribute to the backlog problem by requesting laboratory analysis in "minor" cases. As the result, one may conclude that lack of in-state forensic capabilities results in the less than effective use of crime scene evidence, particularly in the more routine cases.

The decreasing reliance upon analysis of crime scene evidence, for numerous and varying reasons and the very narrow range of services available in-state has in turn contributed to a decrease in appreciation at the local level of the value of forensic services. In part, this may be traced to a lack of training that should be afforded by a full services lab, as well as not having a broader range of services available. Thus not only does law enforcement not really have access to forensic services, they are also experiencing a decreasing realization of the value of those services.

Another situation encountered in the field is the lack of any usable data and statistics to determine the extent of

need for additional forensic skills by the law enforcement community. Neither police or prosecutors could quantify their relative needs. They could offer only "gut level" assessments, such as"we really need a ballistics expert", and " I hope you can get a questioned documents examiner because we're really having a problem with forgeries". Or, "the lab could really help us in traffic investigations by obtaining a Trace Evidence Technician", and similar observations.

A review of statistics kept by the laboratory are not particularly useful because they cannot reflect the impact that will occur in the future as the result of expanded forensic capabilities and services, a professional directions, and of training offered to the law enforcement community in the techniques and values of forensic examinations.

Notwithstanding the foregoing, several conclusions can be made:

- Although current field and laboratory data are not adequate to determine the extent of need in terms of the number of criminalists needed in a given discipline, there is general agreement on the type of expertise needed.

- Similarly, current data from the lab showing tests performed on an agency by agency basis are not going to be good predictors of when the quantity of specialized laboratory tests would justify the hiring of additional laboratory personnel.

- The fact that additional, new, forensic expertise will become available along with overall laboratory improvement and a new facility will in itself generate additional requests for laboratory services.

- Conducting training relative to crime scene analysis and the value and potential of forensic tests to the investigator, will have the effect of raising the visibility of forensic services, and consequently an increase in laboratory services.

One may safely conclude that the potential need for a full services laboratory is substantially out of proportion to the level of work now being performed within existing disciplines.

Recognizing the inherent difficulties posed by lack of empirical data, and the consequent need to rely upon subjective assessments, the following recommendations are made pertaining to additional forensic skills within the laboratory:

1. Develop Additional Forensic Disciplines

Based upon a surprising degree of uniformity from within the law enforcement community it is recommended that three additional criminalists be hired at the earliest possible time to handle forensic examinations in:

a. Serology
b. Trace Evidence
c. Firearms and Tool Marks Identification

The development of serological examinations is particularly important since unlike most physical evidence - hairs, fibers, bullets, etc. - blood and other biological tissues and body secretions routinely encountered in violent crimes, continue to degrade even after collection. Physical and chemical changes in aged blood and bloodstains can preclude the possibility of successful analysis. Since these changes cannot be reversed, it is imperative the analysis of serological evidence be conducted as soon as possible if the most information from a given specimen is to be obtained. In addition, some instrumentation is available in the existing lab and assuming space could be made available, serological examinations could begin soon. Moreover the chemist of the states Fish and Wildlife Laboratory in Palmer has had extensive serological experience and can provide technical assistance and consultation.

Although there is substantial interest in Toxicology as well, the state presently is using the services of the Fairbanks Memorial Hospital to perform examinations on body fluids. Although some logistical problems occur, there is in-state capability to perform these tests, whereas there is no facility for serological tests in Alaska. Thus those needs must all be performed out-of-state. In addition, any development of a Medical Examiner system in Alaska would have to include toxicological capabilities, which may be available to the Crime Laboratory. These new criminalists should be hired consistent with the recommended qualifications contained in this report.

2. Hire Additional Criminalist for Forensic Chemistry

Based upon the current forensic chemistry workload and the anticipated increase in requests for drug testing arising from increasing suppression efforts against illicit drugs, there is the need to provide an additional Forensic Chemist. If the three personnel in the new forensic fields have experience in drug analysis they could assist in drug testing while their specialty workload increases. If the individuals hired do not have that experience, it will be necessary to hire another Criminalists for drug testing. The hiring of the forensic chemist could be delayed if one or more of the three Criminalists has drug testing experience. By FY 85, it is anticipated that the serology, firearms and tool marks and trace evidence workload will have increased beyond the point of any continued help in drug testing.

3. Determine the Extent of the Need for Questioned Documents Examiner

There is a need for a Questioned Documents Examiner by numerous law enforcement agencies, although such need was seen as less pressing than the need for a Toxicologist/Serologist, Trace Evidence and Firearms Identification and Tool Marks Examiner. In addition, the use of a highly respected individual from Seattle has also assisted Alaska in major cases. On the other hand, the fact that the Questioned Documents Examiner in the Anchorage Police Department is working full time on just local matters seems to indicate that a serious need exists.

It is therefore recommended that the laboratory undertake an effort to better determine the extent of this need. It may be that a Questioned Documents Examiner should be hired before the Trace Evidence Examiner, or the Firearms Identification and Tool Mark

Examiner. Regardless of the sequence of hires, it is reasonable to project that all these skills will be needed by the laboratory within five years.

4. Hire Administrative Assistant

With the hiring of additional professional personnel the hiring of an experienced, full-time laboratory director who may also perform forensic tests, and the anticipated increase in the number of agencies being served by the laboratory, there will be a substantial increase in administrative and clerical work to be completed with a minimum of administrative oversight and direction. It is recommended an Administrative Assistant be hired who would serve as a personal assistant to the director, performing and supervising numerous interrelated administrative and clerical duties directly concerned with the work of the Director and the image of the laboratory. The wide range of future activities the Director will be involved in requires he have a staff member who is aware of everything that is happening in the laboratory and outside the laboratory that relate to it.

It is recognized that the present space limitations in the existing laboratory will preclude the immediate hiring of all the additional laboratory staff as recommended in this section. While some additional space can be reclaimed by cleaning out one evidence room and by possibly co-locating the OL Photo section with the White Collar Crime Unit, space problems will still remain.

5. Part-time Internships

It is recommended that the Laboratory Director contact the University of Alaska in Anchorage and Fairbanks to determine the feasibility of developing an internship program involving natural and physical science majors working part-time in the laboratory to help fulfill their course-work requirements. Appropriate security measures would need to be developed.

Initial contact with the Director of the Criminal Justice Center in Anchorage and his inquiries within the University system resulted in very positive response and the feeling that a student internship program involving a nominal stipend for work in the laboratory could be developed. Such assistance could be part of an Independent Studies Program within the University, or to complement existing course requirements.

The advantages of being able to obtain perhaps half day assistance from a graduate biology student in forensic chemistry could be significant, not only in terms of reducing the workload, but also to familiarize students with the field of forensics and possibly developing interest in later employment as a staff member in a crime laboratory.

6. Identify External Resource Agencies

Based upon the expressed need for other less frequent, often highly sophisticated forensic skills that cannot be justified in-house, it is recommended that the lab develop a directory of specialized facilities and individuals it wishes to employ from time to time. These facilities and individuals must have their credentials verified so that every test of whatever nature can be submitted immediately with every confidence that the personnel and procedures utilized will reflect the highest order of professionalism and that the tests will be performed and returned in a timely manner.

Once the directory has been completed, it may be necessary to make arrangements with the Department of Administration whereby the laboratory is authorized to deal directly with these external agencies, if the expense exceeds a certain figure.

Completion of determination of external resource agencies and personnel will hopefully enable the laboratory to develop procedures whereby client agencies can ship evidence directly to the specialty agency rather than shipping to the laboratory, which then reships to the specialty agency. The existing procedure is subject to extensive field criticism since it entails a longer time to receive test results and extends the Chain of Custody.

Present laboratory policy is apparently a manifestation of lack of expertise in the field in evidence handling. This problem should be met by the impact of the training team as described elsewhere. When lab concerns have been met, it is recommended that a procedure be developed whereby the requesting agency can send the evidence directly to the testing facility, perhaps through a telephoned authorization from the laboratory, or other means.

B. Satellite Laboratories

Within the concept of a full service forensics' laboratory is the idea of one or more satellite laboratories elsewhere

in the state to address the most numerous types of local requests for assistance - by any calculation, fingerprints and drug testing. The work level for drug testing in the existing laboratory already keeps the three forensic chemists at work full time. Existing and planned increases in identification of illicit drugs will increase the lab work load. Fingerprint personnel in Juneau now devote full-time attention to routine processing of fingerprint cards and associated administrative work, as well as training and the priority, on-scene response to crime scenes. The Anchorage fingerprint personnel are essentially in the same situation.

With the addition of the computerized fingerprint identification system, estimated to be completed by January 1984, there will be an increase in the fingerprint associated workload due to inputting the latent prints in the automated system and the comparisons required as the result of the respondents identified by the system. Up to 15% of the latent prints entered into the system are expected to result in a "hit". In addition there are numerous latents on file from earlier crimes awaiting system completion so that they can be entered. One may readily expect that additional court testimony by the examiners will be required as the result of increased identification of latent prints.

The question concerning this anticipated increase in workload is whether it should all be handled within the laboratory in Anchorage, or whether the advantages of regionalizing at least the most common services would be the better approach.

7. Needs Assessment

It is recommended that planning efforts be undertaken leading to the possible establishment of a satellite laboratory in Fairbanks and Juneau. Planning efforts

should include determination of drug testing and fingerprint identification workload that could be handled on a regional basis in those two cities, the impact of the automated identification system in Anchorage, and other factors that would justify establishing one or more regional laboratories of limited services and a date to open such satellite facilities. Cost estimates of personnel, laboratory space, equipment, and related information would also have to be determined.

On the basis of information available now, it appears that fingerprint identification would be required first, followed by forensic chemistry to handle regional drug testing. Two latent Fingerprint Examiners would be required in each satellite laboratory in order that each can verify the conclusions of the other regarding identification of latent fingerprints. Similarly two Forensic Chemists will be required in each sattelite laboratory.

Planning should also include provision whereby the transmittal of fingerprint cards from Anchorage to the satellite laboratory(s) can be accomplished more expeditiously and easier than is now the case, which involves taking four photographs of each card.

A clerk-typist would also be required in a satellite laboratory. If the satellite laboratory can be initially be co-located with a local police department or Trooper Detachment, it may be possible to obtain existing space and clerical assistance there, until the workload requires separate facilities and support personnel.

C. Fingerprint Examination

The present crime laboratory has four Latent Fingerprint Examiners. Two, including the Supervisor of the Section are located in Juneau and the other two in the laboratory in Anchorage. Anchorage services all of the state except southeast which is serviced by the Juneau personnel.

Fingerprints from all police and correctional agencies in the state plus applicants for 18 different job categories from Janitors to Attorneys are taken on two "10 print cards," which are forwarded to the Juneau based fingerprint

examiners where extensive processing occurs. In the case of offenders, one card is forwarded to the FBI for classification and entry into the national fingerprint files. The second card is maintained Juneau and file jackets and index cards are prepared. Case dispositions are entered into AJIS. Rap sheets are kept current. Duplicates are screened out and statistical data is developed. Information relative to job applicants is sent to the requesting agency. Rap sheet information is passed on to police and prosecutors, including inquiries from the "lower 48," and related clerical functions. A significant amount of clerical processing is performed by the two Juneau fingerprint examiners, including substantial typing.

All four latent print personnel examine evidence obtained at crime scenes to determine the presence of fingerprints as well as comparing latent prints with inked impressions of fingerprints of a suspect, if a suspect exists. Persons with a valid reason to be at the scene are also examined as suspects. On occasion, they are called to assist in obtaining fingerprints at a crime scene. They also print the fingers of dead bodies, conduct training courses, and testify in court.

Since the 10 print cards are all on file in Juneau, it is an easy matter for the Juneau latent examiners to compare crime scene prints with the fingerprint card of a suspect. However, the Anchorage based examiners whose case load averages about 60 per month compared to the 15 or so per month in Juneau, must call or teletype the Juneau examiners when they need to make a comparison with the inked impressions on the fingerprint card. To do so, high resolution polaroid photographs (four for every card at $1.75 for each photograph) are made in the darkroom in Juneau by the latent examiners and sent to Anchorage. The process also costs the price of a phone call if used, plus a minimum of two or three days for delivery.

The examiners also photograph latents developed on evidence in their darkroom as well as prepare enlargements of latent and inked prints to demonstrate how comparisons are made for use in court. The Juneau Examiners also prepare duplicates of mug shots in their darkroom, thus duplicating to some extent the function of the OL photo section in the Anchorage laboratory.

A by-product of having the fingerprint section supervisor in Juneau is that when the Laboratory Director, who is in Anchorage, wants to contact the supervisor about an issue relating to Anchorage latent print personnel, the Director must contact the supervisor in Juneau, who then contacts the Anchorage personnel about the matter. Predictably the Director has gone directly to the Anchorage personnel, thus by-passing the section supervisor, and creating a management problem.

Collection of fingerprints in Alaska began essentially at Statehood. Initially very few were involved. By the mid 1960's, only 50 or so fingerprint cards were being received each week. Ten years later, the flow of prints had increased by five-fold to about 250 per week. By 1980, this had increased to 350 per week until the present flow of almost 400 per week was reached. This is expected to increase to about 600 in 1983.

Although an estimated 90,000 fingerprint cards are on file, (or 900,000 separate prints) these are of little practical value to an investigator who is successful in raising latent prints at a crime scene if he cannot develop a suspect whose prints he can have compared with those prints found at the scene. The only way, at present, to compare latent prints found at the scene with those on file is to manually examine each file print against the latent. Although successful in a few instances in years past, it is

increasingly impractical to do as the number of file prints increases. Thus there are several thousand latent prints that have been obtained at crime scenes over the years that have simply been filed in both Juneau and Anchorage. The possibility of computer entry and matching of these numerous latent prints with the thousands of fingerprint cards on file in Juneau holds the promise of solving hundreds of crimes throughout the state.

There is general agreement by the examiners that the current level of training for Troopers and municipal officers at the Sitka Academy is inadequate. Presently, four hours is allotted to fingerprint related training which permits little more than teaching fingerprint patterns and taking and developing prints. In some cases only two or three hours have been available, whereas eight hours is recommended as a minimum by the section supervisor.

A major need for both state and local police agencies, plus correctional institutions, is for training to take higher quality fingerprints. Although in the past, inadequate prints on the 10 print cards were sent back to be redone so that they could be classified, this is no longer done. All prints are now filed but those that cannot be classified are so noted. This is a problem of some magnitude. Approximately one out of six prints received is unable to be classified.[8] This will be a significant problem when the Automated Fingerprint Identification System is installed in Alaska, since the ability of the computer to match the ridge characteristics requires that these aspects be clear and identifiable. The greater the input into the data base of smudged or otherwise unclear prints, the lesser the probability of matching the latent print to the file prints within the data base.

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[8]Data Compiled by Robert LaPoint, Fingerprint Section Supervisor, AST, Juneau for the year 1981.

In addition to the need for taking better prints, there is the related need for training of both state and local law enforcement officers in the handling, packaging, and shipping of items sent to the laboratory for latent print searches.

A problem expressed by some in the field is the less than total acceptance of results of fingerprints being developed on items of evidence in the laboratory. Complaints seem to arise from items being sent to the laboratory that the officers "know" have prints, but too often the results of the laboratory are "negative". To some officers that term means there was virtually nothing on the evidence, which is contrary to what they perceive to be the case. Hence the problem.

The following are recommendations pertaining to fingerprints:

8. Relocate Juneau Fingerprint Section to Anchorage Laboratory

   Since half or more of the states population is located in the Anchorage bowl area, the Anchorage laboratory would be the most logical and reasonable place for the states fingerprint section, particularly when the automated identification system is to be implemented. It is therefore recommended that the fingerprint supervisor and the Latent Examiner I, the clerical positions supporting the Juneau fingerprint section and all fingerprint records and files be moved to the crime laboratory in Anchorage. Since the dispatchers in Juneau now assisting the fingerprint section cannot be moved, it may be necessary to hire a clerk in Anchorage for this purpose. An additional advantage of this move will be to physically locate the fingerprint supervisor in the same facility with all his staff, resulting in better overall control by the supervisor and the Laboratory Director.

9. Develop Implementation Plan for Automated Fingerprint Identification System

   A further recommendation is that a plan for implementation be developed by the fingerprint section supervisor to identify the tasks to be completed with

the FY83 appropriation, the amounts of funding needed in future years and the tasks to be completed in each year until the system is complete. The implementation of the system should also include periodic information going to all potential users to keep them apprised of system progress.

10. Personnel for the Automated Fingerprint Identification System

The potential for assistance in crime investigations by being able to identify a latent print at a crime scene with prints on file to yield a suspect is obviously significant. In addition there are many latent prints on file from previous crimes that might clear up many more crimes if the latents could be identified to the inked print file.

The Automated Fingerprint Identification System (AFIS) which has been approved and funded by the 1982 legislature, holds the promise of substantially improving law enforcement in Alaska through the identification of latent prints with those on file.

Encoding of Ten-Print cards and latent prints will be required in order to make the automated system operational. These tasks will require additional personnel. Latent prints are manually encoded and require the knowledge of a Fingerprint Examiner to make accurate ridge detail determinations. Although the encoding of the 10-print cards does not require the background of a certified Examiner, the automated system would benefit most by hiring only certified personnel. To input the system data now on hand, and to input continuing data, and to generally address additional work generated by the automated system, it is recommended that two additional Fingerprint Examiners be hired.

11. Improve Quality of Fingerprints

Upon implementation of AFIS, there will be the need to improve the quality of fingerprints obtained from some of the local police departments and jail facilities. According to the supervisor of the Fingerprint Examiners, one out of six "10 print" fingerprint cards are unable to be classified. The Troopers should offer training courses in obtain quality prints.

12. Explain "Negative" Response

To attempt to build confidence in the field regarding latent prints on items of evidence submitted to the laboratory, it is recommended that the present

terminology of "NEGATIVE RESULTS" be explained somewhere on the standard response format, as not necessarily meaning "nothing", but rather that it could mean that a print was developed but lacked the number of identifying points needed for use in court; that a print was obtained, but too smudged to be of value or whatever. It is expected that increased training efforts, as explained elsewhere, and better rapport between the laboratory and the field will also ameliorate this problem.

13. Upgrade Academy Fingerprint Training

Fingerprint personnel in the laboratory consider the various training courses at the Sitka Academy to be inadequate. The time for fingerprint training should be increased to the minimum required time of eight hours rather than the four hours or less as is the case now and include a mock crime scene for developing latent prints. This will also permit greater time for individual instruction. The Anchorage police department currently devotes six hours to fingerprint training at their academy.

D. Photography

At present, the Photography Section of the Crime Laboratory is a one-man operation. The photographer performs forensic related tasks as well as substantial non-laboratory related tasks.

As the result of his many duties the photographer can do little more than receive and record information pertaining to film received from the field, (which is picked up twice weekly for developing by a local fast-photography service) return the film to the field after commercial development, inventory and order supplies, respond to crime scenes upon request, and mix and replace photography chemicals daily that he uses for custom printing, (photographs larger than 3" x 5"). Regular 3" x 5" photographs are printed commercially by the same photography firm. It is estimated that he handles some 1500 to 2000 rolls of film each year. Commercial processing cost $2.50 per roll for developing.

Turnaround time to receive developed film in the field varies from three to seven days plus mailing, reflecting the twice weekly pickup by the commercial firm, and whether or not the photographer is away from the laboratory which may cause further delay in return of the film.

The lab does not process all film used by the State Troopers. Detachments and Posts often utilize local photography shops for processing film, and in many cases this is to their advantage. A commercial 24 hour service available in the larger urban areas is a more expeditious way to process film than to send it by mail to the laboratory, which under the best of circumstances, will almost always require a minimum of 24 hours by mail each way. In addition a local shop is preferable if negatives must be reviewed prior to enlargement, rather than sending film to the laboratory for developing, then returning it for review, then sending back to the laboratory for the enlargements, and then finally the lab sending them back to the officer. In other circumstances, however, such as at remote bush outposts, it may be most expeditious for the laboratory to process their film.

Unfortunately the total number of rolls of film used annually by law enforcement in Alaska is not available to determine whether the expense of commercially processing the film would justify a large processing operation within the Laboratory, which might also reduce existing turnaround time to receive processed film.

When the photographer is in the field, on vacation, or otherwise not in the Laboratory, a clerk receives and disperses the film, but no custom printing is done, and even then, delays may occur in shipping and receiving film.

Specialized forensic photography includes on-scene highway accidents, additional crime scene photography, autopsies, surveillance photography, rape victims, arson scenes, and evidence photography such as shoe, boot, and tire impressions, microphotography involving fingerprints, questioned documents and other evidence of a comparative nature. Techniques utilized include close-up photography, special lighting techniques, various films and filters, ultraviolet and infrared photography.

The Laboratory Photographer indicates the need for training of law enforcement officers in the field of crime photography, citing photographs from the field that are inadequate for courtroom presentation.

One section of the laboratory, nominally under administrative responsibility, deals with the receipt and filing of a copy of all Drivers Licenses issued in the state, copies of state identification cards and copies of offender photographs, ("mug shots") from the jails of all persons who have been booked. These three sources serve as a photo-photograph pool from which law enforcement agencies in Alaska, both state and local, and other states, may obtain a copy of the latest photograph of an individual, or obtain copies of mug shots for use in a line-up.

A copy of the Operators License and ID cards are forwarded to the laboratory from the Division of Motor Vehicles when individuals apply for these cards.

A copy of offender photographs from local and state jails are supposed to be sent to the laboratory. However the laboratory receives photographs from only certain state institutions. Other state institutions apparently send their photographs to Records & Identification Section in

Juneau, where they are filed in the offender files. Still other jails apparently do not send pictures they take anywhere, and some of them may not be taking pictures at all.

Drivers licenses expire five years after issuance at which time a new license must be obtained. Their expired licenses at the laboratory are then destroyed. The state ID cards have no expiration, and may be renewed at any time by the individual. The mug shots, of course, have no expiration. They are extremely important since they may represent the only picture of persons who have no driver's license or ID card, which is quite common in bush areas.

Photographs for line-up purposes are made by copying pictures from outdated drivers licenses that have been grouped together by such identifiers as age, race, sex, beard, mustache, glasses, etc. Copies are made by Polaroid camera for about $1.00 per copy. The homogeneous groupings and copying procedures are both performed manually.

Two clerks now attempt to manually file some 11,000 mug shots alphabetically by name; almost 130,000 copies of drivers license cards by license number, and some 17,000 copies of identification cards by name per year.[9] In addition, they attempt to respond to requests by law enforcement agencies for copies of some 12,000 ID card photographs, about 18,000 drivers license photographs, and approximately 750 requests per year for four or five similar appearing individuals for line-up purposes.

These tasks, plus the accompanying clerical and administrative requirements combine to exceed the ability of the two clerks to manually file the incoming drivers license cards identification cards and mug shots in a timely manner. As

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[9] Division of Motor Vehicles Annual Report 1981.

of mid May 1982, the two clerks were about eight weeks behind in filing the operators and ID cards, which translates into about 24,000 cards. Filing of the mug shots from the jails has progressed to filing those received in late 1980.

As a result, when requests are received from local, state and federal law enforcement agencies and police agencies from "Outside", for the latest picture of an individual, the laboratory has to reply that "there is no information on file" if his license or ID card, or photograph has not yet been filed or if he was photographed by jails not now forwarding their photos to the laboratory.

By any reckoning, law enforcement is not being well served.

RECOMMENDATIONS:

14. Hire Photograph Technician

The present situation of the Photographer spending a substantial part of his time in non-forensic related duties and consequently the very limited services he has time to perform for investigations can best be met by the hiring of a Photography Technician. A two man operation will enable the present Photographer to devote almost all of his time to forensic photography while the technician can handle the routine daily tasks in the laboratory and most of the non-laboratory activities.

15. Field Locations Determine Film Processing

The objective of the photography section, and indeed the entire laboratory, is to be a service oriented unit. However, this should not preclude the use of comparably priced local services in the private sector if such use is to the advantage of the individual officer involved. Thus field locations should continue to use commercial photography services, if available, providing it is advantageous to do so, rather than some policy being developed whereby everyone must use the laboratory for photography services solely for the sake of uniformity. It is therefore recommended that for routine film processing, field locations determine for themselves whether to use the laboratory or a commercial service.

16. Develop Feasibility Data for Automated Processing

Cost data should be developed by the laboratory whereby it would be possible to ascertain if an automated film processor, such as a Kodak Continuous Print Processor could be justified by the existing level of processing done by a commercial firm through the laboratory, or the projected level of future processing requirements of both State and local law enforcement. In addition to cost justification, the value of reduced turnaround time to the investigator must be considered which would likely be reduced to hours rather than days as is now the case. Also, with automated equipment, the photography personnel could obviously devote more time to both forensic and non-forensic photography, than is possible to do with the existing manual operation. In addition, a large part of the record keeping associated with the present system would be eliminated. The automated capability may also mean that a two man operation would be adequate for years to come.

17. Automate Operators License Photograph Section

Tests by Kodak confirm that it is possible to obtain a good quality photograph from a microfilmed copy of the drivers license, ID card and mug photographs, then enlarging it and obtaining hard copy by a viewer printer.[10] It is therefore recommended that the present labor-intensive procedures be abandoned in favor of microfilmed copies of the pictures coupled with a computer aided retrieval system. To utilize a modern system for this function, it will be necessary to:

a. Purchase a Kodak Planetary camera ($8700.00), accessories ($350.00), and an additional viewer/printer ($16,000), if the Photography Laboratory cannot use the same viewer/printer as is being installed in the White Collar Crime Unit.

b. Determine data entry information as is required for photograph retrieval, and the identifiers needed to obtain pictures for line-up purposes.

c. Establish 24 hour response time or less for mailing back the copy of the microfilmed picture to the inquiring law enforcement agency, an entirely reasonable goal, according to persons experienced in the microfilming process.

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[10]Testing program by Mike Penniston, Kodak rep., Anchorage, May 14, 1982.

d. Contact all law enforcement agencies in state to apprise them of the new service.

e. Contact the Division of Corrections and request all state correctional institutions send a copy of all mug shots at least weekly, which is the frequency that drivers license cards are forwarded from bush offices to DMV in Anchorage. In this way photographs issued from DMV locations and from jails in bush locations would be available for microfilming by the envisioned system within 10 days. The system would then never be more than 10 days from being current. Anchorage issued drivers license cards are available daily for entry into the system.

f. Contact R & I in Juneau to request that any pictures now being sent to them from jails be sent to Anchorage for microfilming.

g. Develop procedures to assure receipt of mug shots from the local jails, of which fifteen are on contract with the Department, and make receipt of the photographs a part of the jail contract the Department of Public Safety signs with the local community. The pictures should then be forwarded to the laboratory on a periodic basis in accordance with the procedures.

h. Since the drivers licenses expire in five years, and are the most numerous by far of the photographs to be microfilmed, it is recommended that only the existing backlog of drivers licenses and each day's receipt of new drivers licenses be microfilmed. Then at the end of five years all cards now on file can be destroyed, (other than those retained for line-up purposes). Thus a dual system of manual and automated retrieval would exist for five years relative to drivers licenses although each passing year would see a greater proportion of licenses in the automated system.

i. Since the ID cards and mug shots do not expire, it would be necessary to microfilm all of them "up-front". To do this, as well as microfilm the backlog of drivers licenses will require substantial effort to get the system operational. It is recommended that this work be contracted out to a local microfilming firm, to assure speed and archieval quality.

j. Coordinate this proposed system with the White Collar Crime unit to determine whether the equipment for both operations can be located together, and if so where, priority involving equipment to be used in common, and which unit would be nominally in charge of the two existing clerical positions in the laboratory, and how they might best be used to meet the best interests of both units.

k. However the foregoing in item "J" is decided, it is recommended that the two clerical positions be trained on-the-job with the Division of Motor Vehicles in the skills of microfilming and computer assisted retrieval. In addition both positions should be reclassified as a Microfilm Operator Trainee at Range 8, with later advancement to Microfilm Operator I, Range 10.

l. Since the microfilming section is more closely related to the photography section than administration, it is recommended that the Microfilm Operator(s) if they remain assigned to the laboratory, be included within the functional responsibility of the Photographer.

Conversion from the existing manual system to automated system, while initially requiring equipment purchases and data base development will also result in additional photographic capabilities as represented by the new planetary cameras and will assure law enforcement throughout the state, at all levels, of dependable and timely service, and interface with and permit common usage of equipment by the White Collar Crime Unit.

E. Management Policies

There are numerous laboratory related problems that can best be described as pertaining to the lack of continuity of management, due to rapid turnover of Laboratory Directors, and periods of time when there is no Director, or even an Acting Director.

Problems cited by field interviews encompass a wide spectrum, from poor to non-existent internal procedures, lack of confidentiality by laboratory personnel, lack of priorities, not knowing what the laboratory does and can do, not having or knowing about the laboratory manual, poor reputation in certain skills, interpersonal conflicts with laboratory personnel, re-shipping of evidence, lack of direction and supervision, lack of continuity of management, and related concerns.

Problems cited by laboratory personnel seem to almost echo field complaints. Laboratory personnel cite everyday problems as lack of standard procedures in the laboratory, lack of direction and objectives, lack of continuity of supervision and management, periods of times with no supervison, lack of clients knowing what the laboratory does and what it can do, outdated laboratory manual, friction among personnel, exclusion from involvement in management decisions, inadequate handling of evidence by client agencies, and so on.

In addition, although not voiced by field interviews, there is the obvious need for the laboratory to continue to improve its perception by the justice system of being impartial. Simply being impartial is not enough. The laboratory, its personnel, their activities, and all they do, must also impart the perception of impartiality as well. While not an overt problem at present, the laboratory must remain vigilant and take all actions needed to assume the continuance of impartiality.

It seems clear that the hiring of an experienced, competent, professional Laboratory Director will result in the solving of many, if not all the problems noted above. Therefore a detailed description of these numerous problems seems presumptuous at this time. Specific actions to

address the numerous management problems are properly left to the discretion of the new director. However certain recommendations about broad managerial aspects are of sufficient importance to be included here because of the extent of criticism received from the field during development of this plan, and from the overview of existing laboratory operations.

18. Laboratory Director be a Full Time Experienced Civilian

The laboratory director should be a full time, experienced, technically trained and competent civilian, since having a sworn officer as director has not proven to be effective, hinders the perception of impartiality, and would not be as effective in both the management and technical aspects needed for a successful forensic's laboratory. All staff positions should likewise be civilians.

19. Director have Authority Commensurate with his Responsibility

The laboratory director should have written confirmation of independent responsibility for professional results, and the authority to assure those results, as well as the authority to try new approaches and innovations.

20. Separate Division or Accountable only to Division Director

The laboratory should be a separate division within the Department of Public Safety, or at the least, be accountable only to the Director of the Division of State Troopers. Thus positioned, the Laboratory Director will be in a better position to make decisions, arrange functional responsibilities, personnel staffing, laboratory policies, and control of laboratory budget. He should also be considered a part of the management team of the State Troopers and should attend and participate in staff meetings called by the Director.

The recommendations for greater independence and responsibilities call for commensurate laboratory policy that while all laboratory employees work for and are responsible to the civilian director, the entire laboratory function is being developed as a resource for the police officer in the field. He must have every assurance of laboratory assistance when he needs it.

21. Laboratory Director Sign Analytical Reports

The laboratory director should sign all analytical reports, along with the analyst. The latter identifies whose opinion and work is being reported on, while the director authenticates the official status of the report and that it was conducted in accordance with official laboratory procedures.

22. Ensure Maximum Use of Laboratory

A periodic "breakout" of client use of the laboratory is highly desirable to assure that forensic examinations make the maximum contribution to the criminal justice system. Several approaches could be used. One is to tabulate the number of cases each client agency submits to the laboratory. These gross figures would yield a rough idea of relative use. This data can be refined over time to obtain a ratio of the average number of lab requests to the number of sworn officers. When a given agency falls substantially below the average, the decrease could signal a problem, perhaps with the laboratory, laboratory personnel, or the need for training of new personnel within the client agency or other circumstances.

Another approach to determine relative use is to compare the average number of Part I crimes over the preceeding several years, which are available in the annual "Crime in Alaska" to the number of sworn officers and the number of requests for assistance. Since Part I crimes may be assumed to usually involve evidence susceptible of forensic examination, such comparison could indicate the extent of laboratory utilization.

Whether the foregoing methods, or another is used, it is important to establish that all police agencies are making maximum use of forensic examinations. A personal visit either by the laboratory director to agencies which appear to be under-utilizing the laboratory or a visit by the agencies themselves to the laboratory would perhaps be the best ways to resolve any problems that may have risen, as well as make arrangements for training or whatever is needed.

23. Development of Workload Data

Workload data is an essential element of management information. Data should be gathered in a standardized, on-going manner relative to the number of incoming tests, number of completed tests and the backlog, which represent the number of tests awaiting

action. Over time, trends will become apparent relative to increases or decreases of backlogged cases. From this rough data, one can make projections about when to increase staff in order to assure backlog of tests do not exceed a pre-determined percentage of total cases.

A subset of the foregoing is to develop data showing number of cases, number of items submitted and the type and number of analyses performed, by client agency, as well as laboratory totals. Among other information, increases and decreases by type of analysis will yield trends that will indicate need for additional personnel and equipment.

It may also be desirable to develop a breakout of personnel time by function, thereby revealing time spent in actual tests at the bench, courtroom testimony, crime scene assistance, training of others, training received, vacation, etc. Such data can be used for predicting staffing levels needed in the future, deciding about changes in emphasis of employee activities, and related information.

Analysis of time spent in certain types of testing compared to later use of results of tests in court will suggest priorities of work activity. For example in drug cases, the laboratory might elect to cease testing after a controlled substance is identified on any one item. Any other items of the same type substance would undergo only screening procedures for presumptive identification. Quantitative analysis would only be performed in special circumstances, and so on.

Later, as experience with a broad array of analyses is gained, it may be possible to assign an arbitrary weight to each test, based on the average amount of time for completion, and thus be able to refine measurement of output productivity of the laboratory. This can be used as a predicator of when additional space, manpower, equipment and so on will be needed. If satellite labs are established, their output versus backlog will indicate the need for temporarily shifting manpower from one laboratory to another, and related decisions.

24. Development of Response Timetable

A response timetable is desirable to measure the time elapsed from receipt of given tests until the analyses are completed; i.e. so many days for drug testing, so

many for blood alcohols, etc. These "times to completion," or turnaround time can be determined in concert with the needs of the requesting police agencies, and should be viewed as an ideal to be strived for by the laboratory. At the end of each month measurements would be made to determine how close the laboratory achieved the ideal times. Thus if in a given month, perhaps 45 of the 50 drug tests were all completed within the pre-determined time of perhaps five days, as agreed upon by police and the laboratory, then the laboratory completed 90% of the drug tests within the agreed upon time. The percentage of completions of each type of test will show which category of tests is most delinquent. Resources and priorities can be shifted accordingly.

25. Develop Statistical Data

While most of the foregoing are primarily management tools, statistical data, such as total number of tests performed, total items and analyses performed, and listing of tests by client agencies, trends and projections must also be kept for overall use at budget time, and for client agency consumption. It is recommended that an annual report be developed and commercially printed showing overall lab usage and the numerous other data elements seen desirable for distribution to police, prosecutors, the judiciary and the legislature. Further it is recommended that the laboratory forward certain data of general interest to the Office of Criminal Justice Assistance for inclusion in their annual "Crime in Alaska" publication, thus carrying the word of laboratory operations to an even wider group of consumers. Distribution of both documents will help disseminate information about the lab and its capabilities, thereby helping to increase its image throughout the criminal justice system and the legislature.

26. Standard Operating Procedures

In the long term it is recommended that the laboratory prepare written Standard Operating Procedures to the extent deemed necessary. An obvious area in which written procedures would be appropriate is in the evidence room. The high turnover of clerks there creates the situation of a new person coming in with virtually no similar experience elsewhere, little or no overlapping time with the incumbent, and simply taking over. Confusion is bound to occur, both in the evidence room and to the officers submitting evidence as they are subjected to a new person unfamiliar with the new job, and accustomed procedures.

Written procedures would provide the necessary guide for a new employee in this job. Possibly other written procedures would be appropriate elsewhere in the laboratory as well.

The foregoing paragraphs about statistics and workload data not intended to be all inclusive or to suggest that each item is needed, but to suggest some of the analyses that may be of management value. The type and extent of data and statistics developed is properly the decision of the Director.

27. Laboratory Management Philosophy

Perhaps the key to successful management of a forensics laboratory is the rapport within the laboratory and the involvement of laboratory personnel in the decisions relating to laboratory operations. Management of professional, highly skilled scientists and technicians is substantially different than management of subordinate ranks by a superior officer as exists within the State Troopers. It is recommended that the Laboratory Director adopt at the outset a participatory management philosophy to assure the fullest utilization of staff ideas, consultations, and recommendations, although making the final decisions himself. Such philosophy might include among other aspects, the use of weekly staff sessions involving all professional, technical, and clerical employees in the decisional process, adoption of an "open-door" policy by the director, a policy of keeping staff fully informed and such other actions as will ensure a feeling of value, involvement, and participation by all laboratory employees. Within this environment will be the greatest opportunity to establish work priorities, develop critical objectives, set goals and direction and generally have a dynamic and responsive forensic laboratory. In addition to being good management over the long term, such management style is suggested here primarily because it is so badly needed now and holds such great potential for the successful immediate and long term development of a full-services laboratory.

28. Clientele Feedback

Obtaining information from client agencies about the degree of satisfaction experienced in dealing with the laboratory is important for early identification of existing and potential problems of service delivery. It is recommended that some system, or feedback loop, from client agencies be established for early appraisal of laboratory services. Several means might

be employed. A survey form, or postage paid postcard could be sent to each client agency following completion of the requested laboratory services. Several questions relative to timeliness of laboratory services, quality of work, cooperation of personnel etc., could be asked, as well as a place for general observations. A letter might be sent periodically to all client agencies asking their opinion of laboratory services to date and encouraging ideas and recommendations for better service delivery. The Laboratory Director could meet with Chiefs of Police at meetings of regional chiefs organizations and at statewide meetings. Similarly he could meet with judges at their annual judicial conferences, and with District Attorney's at the periodic meetings, and so on, in an effort to set up a continuing dialogue with users of laboratory services, and thereby assure the highest possible level of forensic services.

29. Cost Policies

Since the inception of the existing laboratory, the Departments policy has been to provide laboratory services at no cost, both for work provided in-house, and for tests performed elsewhere if the evidence was first sent to the laboratory. It is recommended that the provision of services at no cost be continued.

An additional cost consideration pertains to payment of travel and per diem of AST and speciality laboratory personnel to testify in court. Presently the District Attorney's pay these costs, but this is not an established uniform policy of the Department of Law. Most District Attorneys have sufficient funding, but not in every case. A major local law enforcement agency claims the local district attorney will not proceed with drug cases that do not "plead out," because he does not have funds for travel of laboratory personnel to testify in court. As a result, this major police department says they have had virtually no use of the laboratory for the past year. This problem may exist elsewhere for some of the smaller departments. To address this problem, it is recommended that the Department of Public Safety allocate additional funds to the laboratory for travel and per diem expenses for testimony by both AST and speciality laboratory personnel. This is an additional expense item, but the policy of the FBI laboratory which pays these costs for their personnel provides powerful precedent to justify such expenditures, and such policy is in accordance with the concept of a full-services crime laboratory.

Although the potential for abuse may exist, the Director of the Laboratory can develop overall management guidelines with the Chief Criminal Prosecutor if it appears that District Attorneys are requesting laboratory personnel to travel too frequently.

30. Standardization of Field Kits

At present, there is no standardized narcotics field test kit, arson investigation kit, rape or gunshot residue kits. State Trooper Detachments apparently purchase from vendors that differ from vendors used by local police departments. The result is a lack of uniformity that causes confusion in the field, endless questions to the laboratory, difficulties for training, and ultimately complaints from the field.

While the laboratory cannot control vendor selection of local police departments, it can, with assistance from major crimes investigators, laboratory personnel, and the Fire Marshals Office survey the available field kits on the market and decide which ones appear to be the best, and why. This information should become policy of the Department, and be sent to all other client agencies including local fire departments, as the recommended items for them to purchase, along with a summary of the advantages of standardizing field kits throughout the state.

31. Evaluation of Drug Testing Kits

The head chemist in the laboratory has already evaluated the drug testing kits and has found the ones most widely used to be generally unreliable. According to him, even experienced investigators are unaware of the false positive reactions which could be encountered. It is therefore further recommended that the laboratory prepare information concerning these tests for both the Troopers and local law enforcement agencies, leading to the recommended adoption of only the most reliable kits by the Troopers, with the same suggestion for local units of law enforcement.

32. Updating Laboratory Plan

It is recommended that additions and deletions to this plan be made as circumstances change, to show the accomplishments of certain objectives, changes in emphasis and priority and to provide long term budgeting forecasts, and rational.

F. Upgrading Personnel

At present (June 1982), the existing AST laboratory is staffed by three chemists, a photographer, two latent fingerprint examiners, two additional latent print examiners including the Section Supervisor in Juneau, an Evidence Custodian, two clerks and a clerk typist. The position of Laboratory Director has been unfilled for several months, and there has been no interim director.

With the exception of the Lab Director, who has always been a commissioned State Trooper, the balance of the laboratory positions have always been filled by civilian personnel.

Assigning a commissioned position to manage a forensic science laboratory has several disadvantages. Directing the laboratory is one of the many possible assignments available to a Lieutenant and above as the organization broadens and expands the background and experience of the personnel who will one day be in top managerial positions. While a brief stint in the laboratory helps accomplish this purpose, it poses several impediments to a laboratory that wants to expand its services and level of expertise. While the degree of personal interest and effectiveness among commissioned directors has varied, it is undeniably true that to date, none of the commissioned directors has previously managed a forensics lab, has a forensic background, a degree in one of the natural sciences, or has ever supervised civilian laboratory personnel. In addition, he has not been able to make policy decisions for the laboratory, since he must go through several higher levels of the organization. Moreover, commissioned directors have been assigned other additional duties that further dilutes their effectiveness. The last director spent a[illegible] half his time in other non-laboratory related tasks. Finally, with frequent changing of directors, there

is little opportunity for developing long-term objectives, setting priorities, hiring well-qualified personnel, or realizing the advantages of continuity of direction.

The present situation of having no one as full time director, and not having named anyone as acting director in the interim, has not improved morale among laboratory personnel who feel that their function is important enough to warrant someone being named in charge so that the daily problems and questions of both a technical and management nature can be addressed, and efficiency of their function maintained.

Salary for staff personnel in the laboratory can only be described as low. Virtually all laboratory personnel have an entry level salary that is less than a trooper recruit with no training. The chemists all have a required four year college degree in an appropriate scientific field. Similarly the Latent Print Examiners and the Photographer have completed technical training and are at the journeyman level before being hired. By comparison, a Trooper recruit needs only a GED which is less than a high school diploma, and typically has no experience in law enforcement.

Three of the four Latent Print Examiner I positions are at an entry level pay range 15, or $27,540.00 per year. The supervisor is paid a range 17, or $31,668.00 per year. By comparison, the fingerprint examiner at the Anchorage Police Department is paid $36,650.00 a year. His salary is the same as a Patrol Officer. Although the laboratory does not presently have a Questioned Documents Examiner, the Anchorage Police Department's Questioned Documents Examiner receives $34,392.00.

One common method of attempting to set equitable salaries for persons in state service in Alaska is to review the

salaries paid in private industry. An exact comparison doesn't exist, since there are no other forensic chemists in Alaska. However, there are numerous chemists in Alaska employed in the oil industry. Although the results of their tests do not have the potential of resulting in freedom or imprisonment of an individual, they receive a salary of $40,000.00 - $48,000.00 which is substantially more than is received by the Chemists in the crime lab, whose salary ranges from $29,556 to $38,988.

Within the support personnel the Evidence Room Custodian is classified as a Clerk IV, pay range nine, with an annual salary of $18,936, compared to the $26,720 received by the Evidence Specialist at the Anchorage Police Department. According to the position description, this clerk "implements office procedures, orders supplies, provides for training, prepares complex reports and acts as a source person for information that requires considerable interpretation, and explains policies." Skills required are "proper English useage, composition, and modern office practices", among others.

By comparison, the Evidence Room Custodian is responsible for the receipt and safekeeping of about one quarter of a million dollars in cash, some two million dollars worth of illicit drugs, thousands of dollars worth of guns, coins, jewels, electronic equipment and other items too numerous to list. He also receives, stores, maintains, and ships items of evidence. Of even greater importance is the responsibility to ensure an unbroken chain of custody of each item, the immediate retrieval of items of evidence, and a records system that assures nothing is misplaced, lost, or stolen. Failure to function successfully can mean an accused murderer or drug dealer will be set free. This very thing has happened in the past as the result of evidence being lost.

It seems clear that the functions of the Evidence Room Custodian are not well reflected in the existing clerical position description, and that a pay range nine is inadequate for the responsibilities involved. The incumbent can perhaps afford to receive this low rate of pay because he also receives retirement from a former employer. The skills of the next custodian may more nearly approximate the low rate of pay being offered.

Additional inappropriate job descriptions also apply to the forensic chemists. The chemist series does not adequately describe the forensic functions now being performed, nor would additional chemist positions be suitable for other skills in the area of criminalistics being contemplated for the future. Moreover, the wide range of background in criminalistics needed by applicants for future positions is not contained within the existing chemist job descriptions, nor does a chemist testify in Court. In short, the existing chemist classification is not appropriate to a forensics laboratory.

In addition to demonstratably low salaries, the laboratory staff personnel have substantial difficulty advancing to higher job classifications, since either a position vacancy must exist, or their existing position must be reclassified. In short, there is no career path. In a large organization such as the State Troopers, the large number of officer and field grade positions means substantial chance for advancement as personnel retire and resign. A vacancy near the top may mean that perhaps five or six openings occur as individuals move up to fill the vacancies above them created by the people who moved up to fill still higher level positions. Within the existing chemist and fingerprint job positions, the only way to advance to a higher level position is through a reclassification of the incumbent's present position, or to fill a higher level

position that becomes vacant. A position reclassification takes considerable time and effort and requires written justification, a rewritten job description, review by departmental personnel and final concurrence by the Department of Administration. The process may take six months or longer, and then there is no assurance that the reclassification will be granted.

The only other way to advance is for a vacancy to occur in a higher level position. Since there is only one higher level chemist, and one higher level Latent Print Examiner, vacancies in those positions require that the supervisor either dies, retires, or terminates. Even then, only one of the lower level individuals can advance. The others are still stuck where they are. That this situation is true is well illustrated by the Latent Print Examiners. One Examiner has been at a Range 15 for seven years. Another has been a Range 17 for nine years. Thus it appears that the only existing way for any kind of "career ladder" to be available is through the termination, in one way or another, of a supervisor, which is in itself directly in opposition to the goal of long-term retention of qualified forensic personnel. In a very real sense the existing structure of job classifications acts to block one of the goals of a professional organization. The combination of low salary and lack of a professional career path and consequent stagnation in grade has predictably resulted in short tenure for the professional laboratory employees. (The tenure of the commissioned directors has also been short, although for different reasons.) Although one chemist, the photographer, and two of the Latent Print Examiners have been employed since the laboratory began in 1978, other personnel have been employed and then terminated after only short periods of time. One chemist stayed for a year, another for nine months, and a third for four months. Of the present chemists, one has been employed for a year, a second for eight months. The

present Evidence Custodian with 15 months on the job has been employed the longest, since there were three prior custodians in as many years. There have been two other photographers and two other fingerprint personnel. There have been three directors since 1978, and the position is open again, and remains unfilled. The rapid turnover of commissioned troopers as Directors further contributes to the lack of continuity and effort, although the reasons for turnover are not for reasons of low salary and lack of career path, but rather reflect their upward mobility into higher ranks of management.

Other results of frequent turnover of professional personnel are that new employees must develop their forensic skills by experience, which is not available in colleges, in order to be accepted as expert witnesses in court. The development of forensic skills can only be learned by on-the-job experience, since there is no other forensic laboratory facility in the state from which to obtain experienced laboratory analysts. In addition, employees with no forensic background will not have experience in how to testify in court. Finally, the forensics arena has its own unique requirements. A graduate chemist, for example, coming to a laboratory to fill a criminalist position as a serologist does not know the tests and equipment utilized by the forensic serologist and will need further training to undertake the functions of a serologist. Any forensic-related skill must also include training in evidence handling and evidence custody and in writing laboratory reports that meet the requirements of the prosecutor and judge. By any measure, the loss of an experienced, capable criminalist in a crime laboratory has significant and long-term implications. Constant turnover of personnel means the laboratory never really progresses beyond a certain point, for it is continually obliged to stop and begin over again to meet the results of hiring inexperienced personnel.

RECOMMENDATIONS:

33. Professional Director

It is recommended that the position of Director of the Crime Laboratory be filled by an experienced criminalist and previous Laboratory Director or someone with proven administrative, fiscal and planning talents. The individual should be hired as a full-time civilian director, and have no unrelated responsibilities.

The advantages of an experienced or otherwise qualified Laboratory Director includes possible past experience on the bench, the more effective management of professional civilian staff, the knowledge of what constitutes a qualified applicant, the knowledge born of experience of how to solve common laboratory problems, knowing how to evaluate the effectiveness of laboratory services, the continuity of direction, and the setting and meeting of long term goals.

34. Name Acting Director

Until the hiring of a full-time professional Lab Director occurs, it is recommmended that someone be named as Acting Director in order that day to day operational decisions can be made. Many of the recommendations in this plan need not wait until a new Director is hired, but rather can begin to be implemented immediately. Moreover an Acting Director can give an immediate sense of direction, continuity, and routine decisions that the laboratory does not now have, and thus significantly improve laboratory morale.

35. Reclassify Existing Professional Positions and Upgrade Salaries

It is recommended that the existing professional positions - that is the Chemist, Latent Print Examiner, and the Photographer positions be deleted and replaced by two broad job descriptions entitled "Criminalist" and "Forensic Specialist." Within each of these broad job descriptions there should be subsets, relating to the several specialty disciplines either now existing in the laboratory or that may be needed in the future. The Criminalist Class would include all the existing and future criminalist positions, such as Forensic Chemist, Serologist, Toxicologist and related positions, generally characterized by extensive formal education requirements. The "Forensic Specialist" class would include all the existing and future positions such as Latent Fingerprint

Fingerprint Examiner, Photographer, Questioned Documents Examiner and related positions, generally characterized by not requiring extensive formal education.

By adopting this reclassification scheme, the Personnel System is spared the increasing prolification of new, very narrow job descriptions as the laboratory seeks to hire additional individuals for very specific fields found only in Alaska's Crime Laboratory. Moreover, the broad reclassification scheme would enable the laboratory to hire the expertise it requires without experiencing the delay and trauma attendant to obtaining a new job classification everytime a new skill is needed in the laboratory.

In addition it is further recommended that both job descriptions contain seven levels, beginning at a trainee level, entry level, through a technician, journeyman, section head, deputy laboratory director, culminating at the top with Laboratory Director position. By adopting a seven-level system within both classes, there is a provision for upward mobility for each employee as he attains the experience, education, and other requirements for each level. Such opportunity for career development does not now exist. The chart on the next page illustrates the recommended reclassification of laboratory job descriptions, as well as salary recommendations discussed in the following pages.

Closely related to the recommendation to adopt a new class specification is the issue of salaries of laboratory personnel.

The present low salaries of laboratory personnel should be increased to reflect the often crucial role the outcome of their tests have in criminal proceedings; address the problem of short term tenure now being experienced as the direct result of low salary; and to recognize the formal education and professional standing required before eligible for hire.

Comparison of the salaries paid laboratory personnel in several other states is not particulary useful since it is not known if the salaries in those states are nigh or low in comparison to the remaining states. In addition, the latest salary surveys proved to be dated. A more fruitful approach has been to determine salaries paid to chemists in the private sector in Anchorage, salaries paid by the Anchorage Police Department to their three personnel who perform

JOB DESCRIPTIONS

ALASKA STATE TROOPERS CRIME LAB

JOB TITLE	FORMAL EDUCATION	EXPERIENCE	SUBSTITUTIONS	OTHER REQUIREMENTS	SALARY RANGES	COMMISSIONED EQUIVALENCY
Criminalist 7 or Forensic Specialist 7 (Laboratory Director)	BS or BA in Criminalistics, Chemistry or Biochemistry or related physical or natural science. Advanced degree preferred or MPA or MBA degree.	8 years experience in a forensic science lab in Alaska or comparable experience elsewhere, including two years in supervisory capacity or five years experience as Director of a regional or state crime lab.	An advanced degree in an applicable field may be substituted for one year of required experience.	Qualifications as an Expert Witness and active membership in related Professional Society or Association.	23	Major
Criminalist 6 or Forensic Specialist 6 (Deputy Director)	BS, BA in Criminalistics, Chemistry, Biochemistry or closely related natural or physical science. Advanced degree preferred.	7 years experience in forensic science lab with demonstrated expertise in Criminalistics, two years of which has been supervisory experience of a technical section.	An advanced degree in Chemistry or a related field may be substituted for one year of experience. A four year degree in a related field may be substituted for two years of experience.	Qualifications as an Expert Witness and active membership in related Professional Society or Association.	21	Lt.
Criminalist 5 (Section Head)	BS or BA in Criminalistics, Chemistry, Biochemistry or closely related natural or physical science.	5 years in forensic science lab, with demonstrated experience and expertise in Criminalistics.	An advanced degree in Chemistry or a related field may be substituted for one year of experience.	Qualifications as an Expert Witness and active membership in related Professional Society or Association.	20	1st Sgt.
Forensic Specialist 5 (Section Head)	High School Diploma plus successful completion of FBI 80 hour course in fingerprint identification or equivalent. 2-4 year degree preferred.	7 years experience as Forensic Specialist in Alaska or comparable experience elsewhere.	A two year degree in a related field may be substituted for one year of experience.	Qualifications as an Expert Witness and active membership in related Professional Society or Association.	20	1st Sgt.
Criminalist 4 (Journeyman)	BS or BA in Criminalistics, Chemistry, Biochemistry or closely related natural or physical science.	3 years in a laboratory with demonstrated experience and expertise in appropriate field of criminalistics.	An advanced degree in Chemistry or related field may be substituted for one year of experience.	Qualifications as an Expert Witness and active membership in related Professional Society or Association.	19	Sergeant
Forensic Specialist 4 (Journeyman)	High School Diploma plus successful completion of FBI 80 hour training in fingerprint identification or equivalent elsewhere.	5 years experience as Forensic Specialist in Alaska or comparable experience elsewhere.	None	Qualifications as an Expert Witness and active membership in related Professional Society or Association.	19	Sergeant

JOB TITLE	FORMAL EDUCATION	EXPERIENCE	SUBSTITUTIONS	OTHER REQUIREMENTS	SALARY RANGES	COMMISSIONED EQUIVALENCY
Criminalist 3 (Technician)	BS or BA in Criminalistics, Chemistry, Biochemistry or closely related natural or physical science.	1 year professional lab experience at level of Criminalist 2 with Alaska or other relevant job experience to the specific area of expertise.	An advanced degree in appropriate graduate experience may be substituted for one year experience.	None	17	Trooper
Forensic Specialist 3	High School Graduate	3 years as Forensic Specialist in Alaska or comparable experience elsewhere.	None	None	17	Trooper
Criminalist 2 (Entry level)	BS or BA in Criminalistics, Chemistry, Biochemistry or closel, related natural or physica science.	None	None	None	15	Rookie
Forensic Specialist 2 (Entry level)	High School Graduate	1 year experience as Forensic Specialist in Alaska or comparable experience elsewhere.	None	None	15	Rookie
Criminalist 1 (Trainee)	2 year degree in Chemistry, Biochemistry or related science; or 60 semester hours within a course of study leading to related degree.	None	None	None	13	Less than a Rookie
Forensic Specialist 1 (Trainee)	High School Graduate	None	None	None	13	Less than a Rookie

laboratory related functions, and to equate existing salaries of laboratory personnel in one of the outstanding laboratories nationwide to the salaries of their commissioned officers. The following is a recap of these results:

A. The Tesoro Refinery on the Kenai employs chemists in the following jobs.[11]

1.	Lab Technician	non degreed	- $38,278
2.	Chemical Engineer	degreed	- $40,800
3.	Chemistry Lab Supervisor	degreed	- $55,200

B. A University of Alaska Chemistry major who had not completed his degree was employed by another refinery for $48,000.00 per year, in 1982.[12]

C. Nationally, the medium salary of chemists (that is, the salary which is exceeded by 50% of the chemists participating in the survey) employed by the petroleum industry in 1981 was $40,000.00.[13] This is a national figure involving median salaries of all the states, rather than an Alaska median which would be higher.

D. The Anchorage Police Department pays their personnel who perform lab-related functions the following annual salaries.[14]

1. Identification Technician - $35,650/year - same as Patrol Officer.
2. Identification Specialist - $41,900/year - same as Sergeant and Investigator.
3. Assistant ID Specialist - $23,670/year - same as Police Cadet.

E. The Dade Co. Florida, Crime Laboratory provided the following salary comparison with their Crime Laboratory personnel and their Commisioned police officers:

1. Criminalist I is approximately equivalent to a Corporal.
2. Criminalist II is approximately equivalent to a Sergeant.

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[11]Telephone conversation with Tesoro Petroleum, Anchorage, Alaska, June 4, 1982.
[12]University of Alaska, Chemistry Department.
[13]Chemical and Engineering News, June 22, 1981.
[14]Telephone conversation with Anchorage Police Department June 3, 1982.

3. Criminalist III is approximately equivalent to a Lieutenant.
4. Criminalist IV (not applicable in Dade Co.)
5. Criminalist V (Lab Director) is approximately equivalent to a Major.
6. Fingerprint Technician I is slightly below a police officer.
7. Fingerprint Technician II is approximately equivalent to a Corporal.
8. Fingerprint Supervisor is approximately equivalent to a First Sergeant.
9. Photographer is the same as a Fingerprint Technician I is slightly less than a police officer.
10. Police Property Custodian is slightly less than a Police Officer.

F. The Oregon State Police Crime Laboratory in Portland provided the following comparative salary information:

1. Criminalist I - Entry Level - equivalent to Patrolman.
2. Criminalist II - Trainee - equivalent to Corporal.
3. Criminalist III - Journeyman - equivalent to a Sergeant.
4. Criminalist IV - Supervisor - equivalent to First Sergeant.
5. Regional Laboratory Director - equivalent to Lieutenant.
6. Statewide Laboratory Director - equivalent to Captain.

In view of the foregoing, it is recommended that the proposed Criminalist and Forensic Specialist positions described earlier be equivalent to the salaries received by the following commissioned personnel:

Laboratory Positions	Commissioned Equivalency	Pay Range
Level Seven (Director)	Major	Range 23
Level Six (Deputy Director)	Lieutenant	Range 21
Level Five (Section Head)	First Sergeant	Range 20
Level Four(Journeyman)	Sergeant	Range 19
Level Three (Technician)	Trooper	Range 17
Level Two (Entry)	Trooper Recruit	Range 15
Level One (Trainee)	(No comp. Position)	Range 13

The foregoing chart portrays all the recommendations relative to position reclassifications, the seven levels within the proposed two new broad job

descriptions, salary equivalencies of lab personnel to commissioned officers, and the recommended State of Alaska pay ranges. In addition, job prerequisites in terms of formal education, experience and other qualifications are also presented.

The intent of this chart is to portray a concept of simplified job descriptions for the lab, the upward mobility possible with seven levels of proficiency, training and education, the improvement of salary levels to some reasonable figures, and the formal job requirements of each level of proficiency. It is expected that the prerequisites for each level may be changed, depending upon the best judgment of the new, professional Lab Director.

36. Reclassify Existing Clerk IV

It is recommended that the existing Clerk IV position for the Evidence Room Custodian be changed to a Storekeeper, which more nearly reflects the actual work performed by the Evidence Room Custodian. A Storekeeper, by the Personnel System definition "orders, receives, maintains, stores, issues and ships supplies, materials and equipment, and accounts for supplies issued and received." The position has to function independently since there is only one Evidence Room Custodian in what is the only crime lab in the state. Therefore, the proposed storekeeper position should reflect this fact, and not be a low level storekeeper who functions "under close supervision." Since the end result of professional criminal investigation is often a criminal court proceeding in which every possible avenue of defense is explored, it is foolheartedly to oefense is explored, it is foolheartedly to weaken the entire case and risk the possibility of many manhours of investigation, stakeout, and preparation being negated because an underclassed, underpaid employee could not locate a vital piece of evidence or is impeached upon the witness stand.

The existing photographer position, the proposed microfilm positions described with the photography section, and clerical position are not recommended for reclassification. None of the positions are unique to

state service, whereas undeniably the criminalist and identification specialist are unique, simply because there is only one crime lab within state service. There are numerous other state agencies have photographers, microfilmers and clerical personnel. Any attempt here to alter these existing positions, however desirable for the lab, would impact other persons in those same jobs elsewhere in the state government, and this would not likely be accepted by the Division of Personnel.

37. Develop Educational Incentive:

It is further recommended that a salary differential, based solely upon completion of academic requirements be developed, so that even if an individual cannot advance to a higher level position, he can at least advance in salary beyond the normal increases now available based upon tenure. Such a system might offer a five percent salary increase for completion of 15 semester hours of applicable academic coursework in the Upper Division and/or beyond the Bachelors level, and another five percent for completion of a Masters Degree, or a required minimum number of semester hours of undergraduate and graduate class work.

A similar approach could apply to the Technician positions that do not now require an academic degree. A 5% differential could be awarded for completion of a two year degree in a criminal justice program, with another 5% for either a combination of additional lower division course work and upper division course work, or the completion of a Bachelors Degree, or perhaps completion of formal training courses elsewhere.

Actual details of such a program would have to be developed in consonance with course offerings at the University. Part of the recommendation also involves reimbursement of tuition and related expenses to the employee upon his successful completion of each course.

This recommendation is nothing new to law enforcement agencies. The Anchorage Police Department has had a salary differential for academic achievement for more than ten years. More than a third of their sworn personnel now have either a two year or a four year degree. According to the Anchorage Police Department this program has had the effect of reducing employee turnover through an increase in professonalism and self-improvement.

G. Crime Scene Processing, Evidence Handling, Storage, and Disposition

A major problem voiced by local departments, some AST personnel, some district attorneys and judges, is the lack of consistent, skilled, professional handling of crime scenes. The reason for this problem is the lack of adequate numbers of well-trained and experienced personnel at both the state and local levels to respond to and process crime scenes.

On occasion, laboratory personnel are called to a scene to gather evidence and generally handle crime scene responsibilities. However, lacking the experience and training of an investigator, the technicians must essentially be told what to do at the scene of a crime by an investigator. The trained investigator surveys the crime scene and all items that appear to be evidence and tries to form an opinion as to what happened, the sequence of events as they happened, and the probable participants who had to be involved. Having formed a mental image of what likely occurred and how, the investigator is in a much better position to begin checking for evidence, both visible and invisible. If his idea of what happened is incomplete, or if the evidence doesn't verify his idea of what happened, he will change his opinion of what occurred. Perhaps certain evidence, insignificant in itself, is the key to filling in certain aspects of the investigators opinion of what happened. That in turn may suggest another avenue of inquiry that appears fruitful.

The laboratory technician, however, is at a distinct disadvantage at the crime scene. His expertise and experience is in the actual performance of certain tests in the laboratory. Not being trained as an investigator, he does

not think the same way as the investigator. Evidence that may appear to be inconsequential to him may be quite important to the investigator. What may appear important to photograph in the view of the investigator may not be recognized as important by the photographer.

Laboratory personnel themselves question their value at a crime scene. They acknowledge their lack of investigative expertise. They consider their biggest contribution to be made in the laboratory, performing the tests and analyses that they have been prepared academically and by experience, to do.

When laboratory personnel are called out to the scene, they are unsure of what support items other investigative agencies have. On one occasion, the laboratory and two other agencies were involved in a crime scene that included several bodies. None of the three agencies brought body bags. Each thought another would have them.

Calling laboratory personnel to the scene also reduces the output of tests they perform. One recent case resulted in three laboratory people being called out of town to a crime scene.

Although one tends to think of the need for crime scene expertise as relates to major crimes, the need extends beyond that to also include expertise in vehicle accident scene analysis, suspected arson fires, and a whole host of lesser crimes which are perceived to be quite important, particularly by the smaller local departments which experience relatively few major crimes. A crucial aspect of a hit and run automobile accident may be whether one car's headlights were on or not. Analysis of the headlamp filament may provide the answer. Paint transfers and

fibers from the victim's clothing and his hair may be important in identifying the hit and run car. The determination of the presence of accelerants may point to an arson fire. In every case, the collection of uncomtaminated evidence is needed for anaylsis and further investigation. The usefulness of a crime laboratory, however sophisticated it might be, is dependent upon receipt of physical evidence in an unchanged condition.

Several approaches to the overall problem of recognizing, gathering and transporting evidence to a crime laboratory seem possible:

(a) Theoretically, laboratory analysts with police investigator backgrounds could be hired. However, it's unlikely that an academically qualified analyst could be found who also happens to be an accomplished investigator. The reverse seems equally true.

(b) Laboratory specialists could be trained as an investigator. While some degree of cross training in both disciplines appears desirable so each has an appreciation of the problems of the other, it is unlikely a person can be a well-trained investigator and an academically qualified laboratory analyst and keep current in both fields.

(c) Assuming that in Alaska at least, the two professions can best complement each other by working closely together, but by remaining essentially separate, the only other approach seems to be someone or group of persons who can bridge the gap between the professional investigator and the laboratory specialist. Signifi-

cantly both the investigators and the laboratory personnel suggested essentially the same idea - Evidence Technicians in the words of the laboratory people, and a Crime Scene Team in the words of the investigators. This team, to be comprised of experienced investigators, for reasons already noted, would need to be sensitive to the needs of both the investigators and the analysts in the laboratory, perform tasks on behalf of both, and take other actions deemed appropriate to fill the need for a more professional handling of the crime and accident scene.

If such a team is to be developed, there are several questions that arise as to the composition of such a team and how it can be organized to be of optional value to law enforcement in Alaska.

Field interviews revealed almost 100% agreement with the idea of a Crime Scene Team, but ideas differed as to its structure. While many troopers and some local departments think a highly specialized, centralized Crime Scene Team should be developed that could respond to requests for assistance virtually anywhere in the state, others thought that a single team would not be available when needed because of weather, court appearances and other commitments. Then to, there is the matter of pride of organization and the desire of the smaller police agencies to increasingly be able to handle their own affairs and not to rely on the troopers.

Other authorities prefer the development of regional crime scene teams, perhaps one in each detachment which would be closer than a single team in Anchorage, and theoretically better able to respond. In addition there is the indisputable need to offer training to all police agencies through-

out the state in field analysis and evidence handling, to generally build better capabilities and develop additional expertise for solving crimes of whatever nature and better investigation of vehicle accidents.

Receipt of items of evidence at the laboratory from both local police departments and AST Detachments often involves improper procedures in the handling, labeling, packaging and shipment. Occasionally some items are received via regular mail which breaks the chain of custody. Some are received by certified mail rather than by registered mail. Flammables are sometimes received in plastic bags instead of tin cans, large items that are not flat are received in envelopes which may become torn in the mail and similar related problems. The situation has reached such proportions that the laboratory has had to develop a standard memorandum with places for check marks to describe the specific problems encountered which is then mailed back to the submitting agency.

Evidence received from the field is stored in two extremely crowded rooms in the laboratory. Red evidence tags with case-related information accompany most items of evidence. However, not all laboratory clients use this same tag. Although all Trooper evidence has these red tags, as well as some local police agencies, other local and regional police agencies use their own, and some local departments don't use any. [This situation necessitates the Evidence Technician preparing a red AST tags as a second tag, when local tags are insufficient to include all needed information.] In particular an AST tag is prepared when the local tag does not have enough spaces to record the complete Chain of Custody. This situation is not a serious problem since the Chain of Custody is maintained on the laboratory request. However, there is an obvious lack of standarization which is not desirable.

Evidence is stored in large manila envelopes or cardboard boxes of varying sizes depending upon size of the items. Because of cramped storage area, numerous items of evidence comprising several cases may be stored in a single box, whereas cases involving a large number of items may be stored in several boxes, some of which may have evidence from one or more different cases, thus posing the potential of mixed up or misplaced items of evidence.

Upon completion of testing, the items of evidence from client agencies are shipped back to those agencies. This evidence from local police departments does not accumulate to become part of the massive evidence storage problems confronting the laboratory. Clearly almost all evidence in the evidence room is from the State Troopers.

All evidence from Trooper cases dating from 1978 to the present is stored in a computer which involves a terminal in the evidence room. Thus all data can be retrieved by case number, description of items of evidence, the officer involved, and dates. A problem arises, however, if evidence is submitted to the laboratory independently by the investigating Troopers, without coordinating the numbers assigned each item on the ST-10 form. The computer will not accept duplicate numbering of items of evidence which may occur if more than one officer submits evidence and uses the same numbers, nor will the computer display any numbered items of evidence if there is a break in the sequence of the numbers used by the investigating officers.

The results cause additional work for the Evidence Technician who must assign the next sequential numbers following those already used for evidence submitted, change the numbers on the evidence tags, and then advise the submitting officer of the change. Confusion can obviously occur when the numbers assigned to items of evidence must be changed.

At present, the disposition of evidence from criminal cases is handled in various ways both within the several detachments, the crime laboratory and apparently by local police departments. Some Trooper evidence dates back to 1973. As a result, some locations are relatively up to date and do not have a significant amount of evidence from old cases, whereas other locations have a large amount of evidence in storage going back many years.

The age of a case, of course, is not the sole determinant of whether it should be disposed of. In homicide cases and other serious cases it is desirable to hold the evidence until sentences have been served, since any time less than that may involve an appeal and possible need for the evidence. However for cases in which the defendant has been found not guilty or the case dismissed or cases in which time has passed and prosecution does not appear likely, the evidence can probably be destroyed, returned or otherwise disposed of. A single "bunny book" containing a blood stain from an assault six years ago represents a case that probably will not be prosecuted nor is the evidence of any conceivable value. Evidence in the crime laboratory represents cases awaiting prosecution, cases already adjudicated involving sentences already served, to cases with no statute of limitations. Evidence has not been segregated and stored according to case status, severity, or other criteria, but rather reflects use of whatever space is available in the two extremely crowded evidence rooms.

At present, there are court orders pertaining to disposition of evidence on a case by case basis, and at least one order of about six years ago that authorizes disposition of evidence from all cases meeting certain criteria. However, that order is for only one Judicial District. Until recently, there apparently was no statewide authorization

for disposition of evidence from cases meeting certain criteria. Now, however, under legislation passed in 1982, (SB-535) provisions are made concerning disposition of property, but unfortunately the wording is too rigid, and problems may result.

Although the problem of accumulated evidence is serious, the Evidence Custodian has been contacting individual troopers on his own initiative, asking them for disposition instructions for evidence in old cases. That this particular approach can be fruitful is well illustrated by one trooper who cooperated fully in this effort. Originally he had four and one half pages of single spaced items of evidence on the computer for his cases. After his review and determination that numerous items would no longer be needed, his list of evidence was decreased to two pages. However a problem arises in that some troopers have not been cooperative, and have not responded to these requests.

The methods and means by which evidence is physically destroyed varies, both within AST and probably from one local department to another. The certification of destruction similarly varies, from the relatively informal approach to the well documented. Lack of good procedures in the destruction of evidence, particularly drugs, firearms, and cash exposes law enforcement agencies to possible criticism and embarrassment.

Adding to the clutter within the Troopers evidence rooms is the accummulation of "found property" of varying descriptions age, and value. Until passage of the earlier referred SB 535 there apparently nas been no uniform policy regarding such property and its eventual disposition. Some evidence rooms are relatively free of these items, usually reflecting a recent "cleaning out". Other evidence rooms

have significantly more. In any event, found property utilizes valuable storage space and contributes to the potential of mixed up or misplaced items of evidence from criminal cases.

As the result of on-going efforts by the Court System to dispose of items of evidence introduced into proceedings which they must store, the evidence storage problem at state and local law enforcement agencies throughout the state may be substantially increased. Court System evidence will soon be transferred to the investigating law enforcement agency. Some evidence dates back to statehood. Presently, in Anchorage at least, the court system is cleaning out old evidence from civil cases. They estimate they will begin returning evidence from criminal cases in late 1982. Absent any effort before then by law enforcement agencies to dispose of existing evidence, their evidence storage problems will likely get worse before they get better.

In addition, there appears to be no means by which items of evidence in the laboratory that are of value to the police are being retained for legitimate law enforcement purposes. Firearms, cartridges and related items could profitably be used as the laboratory expands it's capabilities to include firearms identification. Certain handguns and rifles could possibly be used as issued weapons for state and local police agencies and Fish and Wildlife Protection personnel. Displays could be constructed showing contraband and illegal articles for public presentation and viewing.

Finally there are items of evidence in the lab slated for destruction that are of use and have intrinsic value, such as stereo components, TV sets, fishing poles, and numerous

items that could be sold at auction, with the proceeds going to the State's General fund or to charitable organizations which might obtain them at no cost.

Following are the recommendations pertaining to evidence gathering, handling, storage, and disposition:

38. Investigators be Assigned to the Laboratory

The problem of spanning the gap between the investigators and the laboratory, in terms of working closer together, becoming familiar with each others problems, having better crime scene work performed, and obtaining better evidence for analysis may perhaps best be met by assigning two investigators from Major Crimes Unit to the laboratory on a rational basis to function as a Crime Scene Team.

In addition, at least one Trooper Detachment has an Investigative Sergeant who responds to vehicular homicides, rapes and related crimes. He has assigned to him a new Trooper for a period of six months, who receives training in investigations. Then, two to five years later the Trooper is probably transferred to the bush. The Investigative Sergeant could temporarily be assigned to the laboratory because he would then be in a better position to instruct the Troopers. The advantages of a better trained Trooper in the bush handling serious crimes are obvious.

These Investigators would be responsible for processing major crime and certain highway accident scenes, including the determination of what constitutes evidence, gathering, tagging and packaging it, and providing for its delivery to the laboratory, and all associated paperwork plus the photographs, fingerprinting, obtaining clothing, etc., at autopsies. This would permit the investigator assigned to the case to immediately begin interviewing witnesses, making the telephone calls and all the related investigative activities, without having to spend often considerable amounts of time at the scene. Particularly with homicides, the first day or so is crucial to the successful investigation of the case.

From time to time the Crime Scene Team would also take one or more of the laboratory staff with them to show them how the investigator approaches the crime scene, how they determine what constitutes evidence, what should be fingerprinted, what things should be photographed, and related aspects.

In rural areas, the local police officer and the trooper should also be involved with the team so that they can assist them, as well as become familiar with methods and techniques the "experts" use. Similarly, the team should establish good liaison with local police departments and offer to assist them as needed. Arrangements could also be worked out whereby local investigators could spend several days at the statewide laboratory, observing how the evidence is handled, inventoried, how tests are performed and why a certain amount of evidence is needed in an uncontaminated condition, and related aspects sufficient to show them why the laboratory has certain requirements pertaining to evidence. Other Trooper Investigators could also spend several days in the laboratory for the same purpose, thereby sharpening their own skills relating to crime scenes and evidence.

The proposed Crime Scene Team could also rotate with the proposed three man training team, as described in the training section, to travel with a prosecutor and a member of the laboratory, to conduct local and regional classes relative to evidence recognition, handling, identification, shipping and the supporting paperwork.

The investigators from CIB should be assigned to the laboratory on a rotating basis for perhaps six months with overlapping terms to assure continuity. In this way all the CIB investigators will eventually complete the laboratory tour. When personnel are in place, the Laboratory Director and the CIB Director should contact client agencies apprising them of this additional, improved capability. This recommendation should insure speedier investigation of major crimes, more professional handling of crime scenes, better quality evidence going into the laboratory, familiarization of both laboratory personnel and investigators with each others requirements and problems, better trained local and Trooper investigators, and more effective prosecution.

39. Standard Evidence Tags

The situation of lack of standardized evidence tags can best be met by offering all client agencies a supply of the red trooper evidence tags at no cost, and suggesting their use as a means whereby they can assist in standardizing laboratory operations and thereby improving laboratory services. It is recognized that some client agencies may decline the use of the troopers' evidence tags.

40. Standard Size Evidence Containers

The present system of the use of various sized cardboard boxes to store evidence at the laboratory should be changed to the extent that standard size boxes be used. These should be purchased commercially and be of a size that maximizes the space available in each bin. If possible two smaller boxes should total the same space as one large box to facilitate any stacking that may be required, and to conserve available space. Although space limitations at present may preclude immediate implementation, this recommendation should be viewed as a long term objective.

41. One Case per Container

Closely related is the recommendation that only one case be stored in one (or more) containers. This will further reduce the likelihood of misplaced items, or items inadvertently destroyed with items from another case that were in the same container, as well as enhance locating the evidence in the storage area. As with the standard size containers the existing space problems may not permit immediate implementation.

42. Evidence Information Entry Into the Computer

The problem of duplicate numbers being assigned to different items of evidence and breaks in the sequence of numbers used in a given case can best be met by the lead Trooper assigned to the case being responsible for assigning the numbers used for each item of evidence. Other investigators would need only to telephone the lead Trooper to obtain the next number for each item being submitted.

43. Determination of Evidence Disposition Policies

The lack of an overall statewide standardized policies and procedures relative to determining disposition of evidence by both state and local police agencies can best be addressed by a joint effort between the Department of Law and the State Troopers.[15] Such effort might also involve the Court System. Consideration should include cases in which the District Attorney declines prosecution, cases dismissed by the Court, cases in which the defendant is found not guilty, evidence that is contraband, cases in which

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[15]Letter from T.R. Anderson, Director, AST to Dan Hickey, Chief Prosecutor, Dept of Law, May 5, 1982, & letter from Dan Hickey to T.R. Anderson in response, May 28, 1982.

the defendant is found guilty, cases involving probability of post conviction relief, evidence introduced into proceedings and thereby held in storage by the court system, evidence that the DA determines will not be used in prosecutions evidence from cases in limbo for some time for which prosecution is not likely, evidence from cases in which the investigating police officers are no longer with their departments, evidence seized by search warrant which requires court order for disposition, and perhaps others. Procedures to implement the agreed upon policy should also be developed.

The results of such interagency effort should become policy guidance for the laboratory, AST detachments, and should be disseminated to local police agencies for their review and possible adoption as their policy. The policies adopted should also be included in the Lab Manual for continued reference by all client agencies. Operating Procedures Manuals of the Troopers and local police departments should likewise reflect these policies and procedures.

Such standardization of policies and procedures should substantially reduce problems of lost or misplaced evidence needed for trial, instances of theft, and related evidence problems that sooner or later plague every police department. It is further recommended that no additional computerization involving Trooper evidence prior to 1977 be undertaken until an evidence disposition policy is determined. This project will be an onerous and often frustrating job.

44. Immediate Disposition of Items of no Value

While standardized procedures need to be developed, court orders received and liaison developed with the District Attorney for long term policy about evidence retention/disposition, it is equally true that there are numerous items, in the laboratory many years old, of obviously no value or future use that should be destroyed.

45. Long Term Evidence Storage

Existing evidence in storage at the laboratory should be evaluated according to the severity of the case it represents. Evidence from homicides, forcible rapes and other heinous crimes may have to be stored for the length of the sentence, since any successful appeal may involve the need for this evidence. Such evidence should be transferred to secure, long term storage, thereby freeing space for more immediate use.

46. Convert Storage Space to Operational Use

Through a combination of the foregoing ways to reduce the present large volume of space devoted to storing evidence, it is recommended that one of the two storage rooms be emptied as quickly as possible. This space can then be used for expansion of lab services even before the completion of the new lab building.

47. Photographing Evidence

As part of the preceding recommendation it may be possible to expand the photographing of items of evidence, return the evidence to its owner and retain the photograph instead of the physical evidence. This is now being done in cases involving large items such as vehicles. Such a system has the advantages of allowing the owner the use of the evidence such as items stolen in a burglary and reducing the physical space that would have been required if the items themselves had to be stored. The Intake Officer for the District Attorneys office in Anchorage indicates that no universal guidelines can be set covering photographing versus storing the evidence.[16] It's clear however that this approach is possible only where cases have progressed to 60 to 90 days after convictions which allows substantial time beyond the 30 day time for filing an appeal. It is likely that the defendants consent may be needed to return evidence after photographing it. The final decision rests with the District Attorney who will have to review each case individually. The investigating officer also must be aware of what happens. Because of the case load in the District Attorneys office and the fact that evidence storage is really a problem of the police it seems reasonable that initiation of requests to the District Attorney to photograph and return evidence would best be made by the Evidence Custodian in the laboratory and the police in general. Some means is needed whereby the laboratory and police departments can track each case and thereby know when to initiate the request to the District Attorney. A recording and records management system will also be needed.

Since this approach seems feasible and beneficial to all concerned it is recommended that procedures be set up with the District Attorneys office in accordance with the terms of SB 535, to determine when retention of photographs, rather than the actual items of evidence can occur.

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[16]Conversation with Steve Branchflower, Department of Law, June 4, 1982.

48. Disposition Assistance by Troopers

Previous efforts by the Evidence Custodian to contact trooper personnel to obtain disposition of evidence from old cases has in some cases not elicted any response. It is recommended that in the absence of a Laboratory Director, the higher ranking commissioned officer ultimately responsible for the laboratory prepare and send the necessary memorandum commanding the response of troopers involved.

49. Destruction of Evidence

The actual destruction of evidence by all law enforcement agencies should not only be above reproach but should also have all appearances of being above reproach. Two recommendations:

a. Standardized policy be determined about the methods to be employed for destruction of the various types of evidence.

b. When evidence is to be destroyed, a disinterested third party witness the destruction. All persons should sign a form attesting to their witnessing the on-scene destruction of the evidence. Under no circumstances should signatures attesting to the destruction of evidence be made before the actual destruction occurs.

50. Evidence to be Returned by the Court System

To prevent a worsening of the evidence storage problem by the return of evidence by the Court System that has been used in proceedings, it is recommended that the policies determined for evidence disposition be applied to the evidence now being held by the Court System before it is sent back to the laboratory detachments and local departments. If delay occurs in policy determination, the additional evidence will have to be accepted and disposed of at a later time. It is also anticipated that evidence received from the Court may suffer from breaks in the Chain of Custody, which may be a problem if such evidence is used again in post-conviction relief.

51. Found Property

a. There are several implications in the new legislation relating to "found property" embodied in SB 535.

To the extent that "found property" contributes measurably to the problem of storage within evidence rooms, it is recommended that the influx of new items be reduced by keeping records of the property, but suggesting the property remain with the finder. The finder's report to a peace officer is apparently sufficient under the new statutes (11.46.160). He apparently can keep found property after reporting that fact to the police.

Policy and procedures should be developed concerning disposition of existing found property now in storage by AST and presumably local police departments, in accordance with the terms of SB 535, which now seem to require the police agency to hold the property for only two years, after which time it can be disposed of. Coordination should occur with the District Attorney concerning developing policy relating to found property.

52. Weapons Collection for Ballistics Purposes

Since it is reasonable to assume that a Firearms Identification/Tool Marks Examiner will be among the several additional staff positions hired for the lab, it is necessary that he have reference to a wide variety of firearms and cartridges. It is therefore recommended that the laboratory, all detachments, local police departments and the Court System be requested to not destroy any firearms without first contacting the laboratory to determine if the weapons in question are needed for laboratory purposes. This should also be carried out in coordination with the District Attorney and the terms of SB 535.

Until such person is hired it is recommended that the Administrative Officer for the troopers, a technically knowledgeable firearms and ammunitions collector, and author be given the responsibility for this aspect.

Although most firearms-related crimes involve handguns, it is equally true that big game violations investigated by the Division of Fish & Wildlife Protection include rifles and shotguns. The development of a weapons collection should therefore include these weapons as well.

53. Weapons for Law Enforcement

Part of the weapons collection concept should include the retention of all .38 caliber and .357 caliber handguns in good condition for future use by Troopers, Fish and Wildlife Protection, local police officers,

and for newly developed police departments. It makes little sense to destroy these weapons one day and have new ones ordered as part of the equipment for a uniformed officer the next day. Further, turning over such weapons to local police departments results in financial savings to them. Legislation may be needed to give handguns to local departments because the guns are state evidence if involved in a state offense. This issue should be researched.

54. Disposition of Evidence of Value

A substantial number of items of evidence slated for destruction represent some use and value, such as fishing poles, TV sets, stereo sets, and numerous other items. The destruction of those items represents a waste. Policy should be developed in coordination with the District Attorney whereby items of value could either be sold at auction or donated to charitable organizations.

H. TRAINING, EDUCATION, and PUBLIC INFORMATION

Training, education and information about criminalistics is one of the most often mentioned needs by Alaska State Troopers, local police departments, laboratory personnel, judges, and district attorneys.

A major need is information throughout the criminal justice system about what the crime laboratory does and will be able to do in the future. There is a need to convince client agencies about the value of forensic tests and the prominent place they have in a carefully conducted investigation and later prosecution. Some officers both within State Troopers and at the local level view the existing laboratory with skepticism while others simply will not refer certain tests to the laboratory since they do not think the laboratory does a good job in certain fields. The validity of these perceptions may or may not be accurate. The important thing is that they exist. They represent an impediment to both good police investigations and prosecution.

Training for police officers relative to crime scene work conducted at the Trooper Recruit Academy and the Municipal Police Academy, is viewed as inadequate by troopers and local officers, particularly when these skills may not be used within the ensuing months. After completing the field training, some trooper assignments are in Judicial Services and Traffic enforcement that do not involve crime scene investigation. Even when they become involved initially in a crime scene such as a burglary while working on patrol, investigators usually take over and the trooper resumes his patrol. In time, transfers and promotions occur. When assigned to a bush post the trooper may have had very little experience in crime scenes. He may even be assigned as an investigator with little prior experience in actually working a crime scene, and with only his recruit academy training as formal classwork.

Not only may the Trooper Academy training be inadequate, there appears to be no crime scene and forensic related courses available through the University of Alaska or the Community College System. However there are criminal justice related courses available leading to a degree in Police Science.

Training is also a concern of the laboratory personnel. Even though they may be fully qualified when hired, the state of the art advances in technology and methodology are continuously changing. To remain up to date they must be given the opportunity to regularly attend professional courses. Attendance at courses also enables them to exchange ideas with other professionals in their field, quite apart from information received in class. To not remain up to date may ultimately result in the use of outdated methods and approaches, and adversely affect their credibility as an expert witness.

Presently the laboratory has a limited professional reference library. The laboratory also has no library room or reading room where staff can retire quietly for researching information, or reading periodicals to keep abreast of developments in their field.

Following are the recommendations pertaining to the broad field of training, education and public information.

55. Improve Laboratory Manual Brochure

An excellent means to present information about forensic capabilities is through the existing Laboratory Manual and the small laboratory brochure. However, many police officers are unaware of these publications. Indeed two laboratory employees were unaware of the existence of these items. The manual is dated, incomplete and does not have a professional format. It should be updated, with provisions made for periodic changes to reflect the increasing capabilities in the years ahead, the format changed, and the publication professionally reprinted in sufficient quantity for distribution to all client agencies and others with a need for such information.

The small brochure should similarly be redone and used as a general means of presenting information of a non-technical nature for distribution to all interested individuals. This brochure will have to be reprinted periodically to reflect changes in the laboratory since it cannot easily be updated.

56. Communications With Clients

A major reason for the general ignorance of client agencies about the laboratory and its capabilities is that no one representing the laboratory has talked with many of them about the laboratory, obtained their ideas of the short-comings, recommendations for improvement, etc. As soon as possible after the hiring of the new Laboratory Director it is recommended he initiate a program of communications with all existing and potential client agencies by personally visiting each, talking with the agency head and establishing good rapport. This relationship should result in client agencies better understanding the laboratory and its capabilities, the resolution or explanation of problems that have or may develop, and an increased use of forensic tests in general. The director should also visit with district attorneys and judges to apprise them of laboratory operations.

57. Laboratory Publication

Perhaps the best way of keeping client agencies advised about the laboratory and also extending a degree of training is through the use of a monthly informational publication or newsletter. It could cover a wide range of topics including but not limited to information about new laboratory personnel, their field of expertise, general information about criminalistics, state of the art advances, new equipment obtained and it's capabilities and uses, schedules of training sessions in the field, legal decisions of interest, a recap of a particular case in which forensics played a prominent part and related topics. Ideas may be obtained from the series of bulletins published by the California Bureau of Forensic Services.[17]

These recommended informational bulletins while produced monthly should be three hole punched and retained in the field to form a growing forensics reference for criminal justice system agencies.

58. Director's Comments

The use of the "Director's Comments", the monthly videotaped messages from the Director to State Trooper field personnel can also assist in getting information about the laboratory at least to Troopers in the field. The Director can describe the latest information about new technical expertise, capabilities of forensic equipment, the outcome of a trial in which forensic tests were of significant value and so on.

59. Video Presentations

A related approach to training and information is the development of a series of video tapes pertaining to the laboratory and the broad subject of forensics. The entire series can then be duplicated and copies sent to detachments, local police departments, and other client agencies. One tape might be an overview of forensic sciences and the laboratory in general. The other tapes could deal with specific subjects, such as crime scene analysis, evidence gathering, shipment, actual laboratory analysis, and related topics. Major crimes investigators in the Troopers and local police departments as well as laboratory personnel could suggest topics for videotaping that would be of particular value.

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[17] "Physical Evidence Bulletin," Department of Justice.

60. Forensics Training Team

It is recommended that one or more of the major crimes investigators, district attorneys, and when possible, a member of the laboratory staff be designated to form a team to travel throughout the state to conduct courses to all law enforcement agencies about evidence recognition, collection, handling, preservation, shipping and related forensic topics. This three man team can structure their training about what the police can do in terms of gathering evidence for analysis; what the laboratory can do in terms of the tests and analyses of the evidence; and what the District Attorney can do with the crime laboratory analyses in the courtroom. The training should primarily be directed to law enforcement agencies, but special seminars could also be developed for prosecutors to fully apprise them of the value and use of forensic analyses in the courtroom.

One aspect of the training should be a presentation of methods of evidence analysis, in laymans terms, to explain the importance of certain evidence handling procedures in the field. The earlier referenced physical evidence bulletins from California might be used as a basis for such training.

The training team should establish a good relationship with the Anchorage Police Department training academy. As the client agency with the largest number of personnel and thus potentially the largest user of the laboratory, the Anchorage Police Department should be involved to the fullest extent with forensic training programs.

It may be appropriate to host training programs at regional centers for numerous smaller police agencies for which on-site training in each community would not be a cost effective approach. Partial costs might be paid by the State Troopers if local resources are not available.

Since the primary beneficiaries of the training program would be police officers, the coordinator of the team should be a major crimes investigator who enjoys conducting training and who has already proved to be a good educator.

Likewise it is recommended that the Director of the State Troopers meet with the Chief Prosecutor in the Department of Law to determine if an experienced District Attorney who has an appreciation of the

value, and potential of criminalistics, and is a good educator, could be assigned to work full time as a member of the training team. If necessary, the legislature should be asked to fund an additional District Attorney as part of the improvement of forensic services.

Funding would also be required for purchase of training accessories, such as films, film projector, expendable items for demonstration and related materials. Travel and per diem expenses are also needed.

Correct personnel selection with long term tenure is the key to the success of this recommendation. It will not succeed if the positions in the Troopers and Department of Law are used for other purposes, and the responsibility for training is shifted from one person to another, depending upon who is relatively free at the moment to try to conduct training. A full-time professional training team is needed with training as their only priority.

When the training offered by this team seems to have addressed the need in the field, the investigator and district attorney can be phased back into other duties, but must be continually available from time to time to conduct further training and refresher courses to assure a continuing high level of knowledge relative to forensics within the justice system in Alaska.

61. Review of Existing Academy Training

After spending several months presenting the training, the training team will have revised their course as they deem appropriate to meet field requirements. At this point, the team should review the curriculum and training aids for the Recruit Academy, Municipal Police Academy and VPSO training at Sitka to determine whether adequate time is devoted to forensics instruction. If determined inadequate, suitable recommendations for changes should be made. The team should also review the adequacy of reference materials in the Sitka Academy library.

It is recognized that any recommended increases in Academy training time may be met by the response that the curriculum is now full and that the recruits can absorb only so much. If this is the case, then serious thought should be given to requiring troopers to complete a specific training course relative to forensics before being sent to a bush post or other assignments involving responsibility for handling crime scenes.

62. Forensic Training For the Fire Service

Recommendations from the State Fire Marshals Office concerning the laboratory reveal the need for training in evidence gathering and handling for local fire departments which are invariably the first on the scene and upon whom rests the responsibility to determine cause and origin of a possible arson fire. Such training would of course await the labs capability to perform hydrocarbon analysis for traces of accelerants and would best fit as part of another fire service training program. Since arson is a crime, although discovered first by firemen rather than policemen, the law enforcement community should assist the fire service in training local fire fighters about evidence handling relative to suspected arson fires. The most appropriate approach would be to enlist the aid of the State Fire Marshal to help develop the arson related course work and through the Fire Marshal, offer to assist in instruction.

63. Training For Laboratory Personnel

Laboratory personnel should be offered opportunities to attend professional training courses, such as at the new FBI facility in Quantico. The Special Agent in Charge in Anchorage is willing to assist in the enrollment process. Other specialized forensic courses are held elsewhere in the United States that are of value to the personnel in the laboratory. Periodic training is needed to assure that personnel stay abreast of the latest techniques and methodologies, and to consult with other professionals from around the country, thereby establishing contacts of possible value in the future. A goal of each laboratory technician attending a minimum of one professional training course per year should be established.

A training course in courtroom procedures, testimony and personal decorum should be developed for all laboratory personnel who may be required to testify in court. The training should be develped by a major crimes investigator who has participated in numerous trials, and by an experienced criminal prosecutor. Both can use their own experience to develop the training. A Moot Court session can also be developed in which the prosecutor can play the part of the defense attorney. Completion of such training should improve the impact of testimony offered by laboratory personnel.

Additional training for laboratory personnel should occur through in-house training relative to procedures and techniques to be employed as well as to explain any new developments and approaches. Such training should be on-going, perhaps an hour or two a week, rather than on an irregular basis.

64. Laboratory Reference Library

A scientific library and reading room should be part of the new laboratory building, as noted later. For purposes of this section, periodicals, professional journals and reference texts should be subscribed to and purchased, as suggested by laboratory personnel.

65. Professional Associations

Laboratory personnel should also be encouraged to join their respective professional organizations and be afforded the opportunity to attend annual meetings. As is true with attending training courses, valuable contacts will be made by attending professional organization meetings. Attendance at such meetings and belonging to professional organizations also enhances personal credibility in court.

66. Reference Services

The laboratory should make arrangements to be able to obtain forensic related information from one or more automated resource services in order to obtain periodic reviews of articles.

67. University Courses

As time permits the laboratory and the Criminal Investigation Bureau should check with the University of Alaska to ascertain the possibility of setting up specified courses relating to criminalistics. Such courses may possibly be taught at regional centers in an intensive manner, whereby a semesters length course could be taught on a full time basis in perhaps one week. Such arrangement would make it possible for officers from several communities to attend, whereas a more lengthy, semester long course would not be feasible.

The training team could assist with instruction and training aids as requested by the University.

It may be possible that semester length courses be conducted through the Community College System in the larger communities whose law enforcement complement would justify conducting such a course. The

Laboratory Director could be a guest lecturer from time to time, or possibly even a full course instructor for the Community College or the University.

However it may all work out, the potential of the University and Community College system should be evaluated as one of the means used to further training and education for criminal justice system personnel in the field of forensics.

I. Proficiency Testing, Laboratory Accreditation, and Personnel Certification

Both the investigator and the laboratory analyst agree that the highest order of scientific analysis must be used if a suspect is to be properly judged regarding involvement in a crime. Anything less invites the possibility of a guilty person going free, and even worse an innocent person being falsely convicted. To provide less than the highest standards subjects the forensics profession to the consequences of rejected work and discredited testimony. There can be no substitute for quality in a crime laboratory.

Proficiency testing, personnel certification and laboratory accreditation all aid in quality assurance.

The laboratory currently participates in proficiency testing on both a regional and national basis with other crime labs around the country. The nationwide testing program which includes laboratories in some foreign countries is conducted on a voluntary basis. The laboratories periodically send each other a substance for analysis. Each laboratory is assigned a number for each test. The results of the tests are listed by number rather than the name of each laboratory.[18]

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[18]For additional information about the national testing Program, see "Crime Laboratory Proficiency Testing Research Program", by LEAA, 1978.

The laboratory also began a proficiency testing program with the specialty laboratories used to perform tests that could not be conducted in-house. The intent of such a program is to insure quality performance of these other labs. Periodically these other labs were sent items for analysis or testing. In this way the Statewide Crime Laboratory can identify those facilities that perform accurate work and those that do not. This is one means of identifying and maintaining satisfactory laboratories elsewhere for specialty work under a full services laboratory concept. However, this program has not continued beyond the initial steps.

At about the same time the laboratory began proficiency testing among its own personnel, but this effort has not been consistent nor is it yet a formalized policy of the laboratory.

Following almost as a natural consequence of the development of crime labs in the 1970's was the concern about quality assurance of these labs. Spurred on by LEAA, the several crime laboratory directors formed the American Society of Crime Laboratory Directors (ASCLD) which thereafter developed a voluntary program of accreditation standards by which a crime laboratory could have it's operations and procedures compared against a national norm.

ASCLD recently set up a Laboratory Accreditation Board which was to perform the actual on-site inspections. Four major objectives were seen as the outcome of the proposed accreditation program:[19]

- Improve the quality of the laboratory services.

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[19]"Accreditation Standards and Program," American Society of Crime Laboratory Directors, Laboratory Accreditation Board, August 1981, P. 2.

- Identify laboratories nationwide that would satisfy accreditation standards.

- Develop and maintain criteria which could be used by a laboratory to assess its performance and strengthen its operation.

- Provide an independent, impartial, and objective system by which laboratory facilities could be evaluated.

Laboratories are to be inspected by a team of two or more directors of already certified laboratories, who use an extensive and detailed inspection procedure. Certification is for a period of five years, with provision for recertification.

Not being accredited by the Society would not necessarily mean a laboratory is inadequate, since the accreditation program is entirely voluntary. Clearly, however, accreditation is assurance that a laboratory has met national standards.

Unfortunately, the entire issue of accreditation has not been fully accepted by the forensic community nation-wide. While conceptually the idea of national standards is a worthy good, the program has not been extensively used. Until adopted by all criminalists, its impact nationally will continue to be limited.

The existing laboratory has certain recognition attesting to high standards that has been extended by the Alaska Department of Health and Social Services concerning verification of the chemical composition and volume of ampoules used in the statewide breathalyzers, and by a review of the laboratory by the Drug Enforcement Administration.

Personnel certification is another means to assure quality performance as well as personal credibility in court, but this program has been initiated on only a partial basis nationwide, generally along a discipline by discipline approach. For example the Association of Firearm and Tool Marks Examiners has a personnel certification program as does the International Association for Identification for its Latent Fingerprint Examiners, among others. However certification for criminalists, such as forensic chemists, serologists, trace evidence specialists and others, although spurred on by LEAA funding has not yet been initiated due to several unresolved concerns by ASCLD membership. Thus within the existing laboratory most of the Latent Examiners are members of and have been certified by the International Association for Identification, whereas nocertification program has yet been accepted for the forensic chemists.[20]

Following are recommendations relating to Proficiency Testing, Laboratory Accreditation and Personnel Certification:

68. Laboratory Proficiency Testing

The Laboratory should continue its present participation in national proficiency testing, and should also formalize in-house proficiency testing.

69. Proficiency Testing of Resource Agencies

The laboratory should initiate a proficiency testing program for all the specialty laboratories used, for whatever purposes, whether such facilities are those used for relatively common testing at the present, or

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20 For additional information about crime laboratory proficiency and related management aspects, see "Barriers to Quality Achievement in Crime Laboratory Operations," by L.W. Bradford as presented at the Plenary Session, 32nd Annual Meeting of the American Academy of Forensic Sciences, New Orleans, La., Feb 20-23. 1980.

for the relatively infrequent tests that cannot be justified even when the full services laboratory is operational in the future.

70. Personnel Certification

Personnel certification should be pursued to the fullest extent possible. All laboratory personnel should seek and maintain certification from their respective professional organization.

VI. NEW LABORATORY FACILITY

The development of a full-services laboratory is dependent upon a new physical plant with the unique requirements for electrical, plumbing and ventilation systems characteristic of a forensic facility. It is these requirements that set a laboratory apart from commercial building space, make a laboratory more expensive to build and make it difficult to remodel an existing building to a forensics well functioning laboratory.

The state owns land adjacent to the existing Trooper headquarters building in Anchorage. This land has been tentatively identified as the site for a new lab for the past several years. Municipal utilities are available at this site. The close proximity to both the Trooper headquarters, the Anchorage Post, and Anchorage Police Department present obvious advantages.

The unique design requirements pertaining to a crime lab led to a visit to the Forensic Science Training and Research facility in Quantico, Virginia, the site of the FBI's National Academy, and also to the FBI's laboratory in downtown Washington. Information was obtained concerning the FBI's experience when they built their Training and Research Center in 1981. Although their facility involves training as well as forensic research, their opinion was that their experience would be applicable to just a forensic laboratory. The FBI's analysis of their costs for scientific instruments, and the costs for laboratory furnishings as a percentage of the final cost of the building, should generally hold true for constructing a new lab anywhere. Similarly their cost per square foot related to the cost of a commerical building should also provide good guidelines for estimating the cost of a local lab.

The FBI's experience indicated that:

- The total cost of a forensic lab building will be approximately 180% of constructing commercial building space, due to the unusual electrical, ventilation, plumbing, and structural requirements.
- The cost of scientific equipment will total about 75% of the cost of the building.
- The cost of furnishings will total about 15% of the cost of the building.
- Half the total laboratory space will be operational space, and half will be non-operational (such as hallways, storage areas, stairs, closets, etc.).

In an attempt to develop the approximate cost of a new laboratory in Alaska, the following assumptions have been used:

1. Total building cost will be about 180% of commercial building cost. (In Anchorage, as of August 1982, commercial space costs about $110.00/square foot according to the Alaska Department of Transportation and Public Facilities.)
2. The cost of fixed equipment-tables, chairs, benches etc., will total about 10% of the cost of the building, since certain items of fixed equipment are already available in the existing laboratory.
3. Approximately half the floor space will be non-functional areas, such as stairways, halls, storage areas, closets, etc.
4. Each lab analyst requires approximately 150 square feet of workspace which includes benches, tables, etc.
5. The Department of Transportation and Public Facilities will require 30% of total project cost as their overhead.
6. The laboratory will be built on state land. Therefore it is assumed that there will not be any cost for the land.
7. Emergency power required by the laboratory will be supplied at no cost as part of a project now underway to provide stand-by power to the Trooper headquarters building. This project includes an additional power plant specifically for the new laboratory.

8. Inflation will increase costs of construction, and purchase of equipment and furnishings by about 15% per year.

9. The recommended increase in professional staff occurs.

10. The fingerprint section in Juneau moves to Anchorage and the automated fingerprint identification system becomes part of the laboratory.

11. Although this plan is nominally for the next five years, the physical plant, many of the furnishings and most of the equipment will last far beyond five years. The useful life of many of these items will probably be 20 years and even longer for the building. In addition, the states' population will double or triple in 20 years and there is no indication that crime will diminish. The need for forensic testing will likewise increase. Therefore it is reasonable and prudent to plan now for circumstances beyond five years. Scientific equipment, for example, will become more sophisticated in the years ahead. While one could purchase an item of limited capabilities to handle existing needs, it seems prudent to purchase an instrument that costs more initially, but lasts longer, has a wider range of capabilities, and is of such design that permits modular retrofitting to keep it up-to-date.

In addition to these assumptions, a statewide laboratory in Alaska should also consider, and plan for expansion in the future, rather than move into a building that does not permit any expansion. While the determination of the extent of expansion is admittedly arbitrary, and one that can be changed, 50% of the initial floor space is used for planning purposes. In addition, suitable space should be included for a medical examiner system, although that is not considered in this plan.

A. Space Needs

Based upon the experience, and recommendations of the FBI concerning space requirements and allocations, the following are the space needs estimated for the new lab. They have been calculated on the basis of operational, non-operational, and future space requirements.

1. Office and Work Space: (Calculated at 150 sq. ft. per person unless otherwise indicated)

Existing Staff (12)

a.	Three forensic chemists	450 sq ft
b.	Four Fingerprint Exam.(2 moving from Juneau)	600
c.	Three photography (including OL Photo Tech's)	450
d.	Two clerical at 100 square feet	200
	Sub total	1700 sq ft

New Hires (11)

a.	Serologist	150 sq ft
b.	Trace Evidence Technician	150
c.	Firearm and Tool Marks Examiner	150
d.	Additional Forensic Chemist	150
e.	Administrative Assistant	150
f.	Laboratory Director	200
g.	Photo Technician	150
h.	Two Fingerprint Examiners	300
i.	Two Investigators (transfer from CIB)	300
	Sub Total	1700 sq ft

2. Other Operational Areas:

Central area for use of common equipment	1000 sq ft
Fingerprint Area - Automated system	600
Darkroom and Photography/OL Photo	750
Sub Total	2350 sq ft
Total Operational Area	5750 sq ft

3. Non-Operational Areas (Hallways, stairs, storage, closets etc.)

Non-operational areas are estimated to be about 5500 square feet.

4. Future Expansion

An additional 5500 square feet, or about half of the above total is proposed.

A recap of total spatial needs are:

Operational Space	5,750 sq ft
Non-operational Space	5,500
Expansion	5,500
Total	16,750 sq ft

Using the foregoing space figures and cost assumptions, it is possible to obtain an approximate cost figure for the proposed lab.

Total Space of approximately 17,000 square feet multiplied by the average cost of commercial space in Anchorage of $110/square foot x 180% yields a cost of $3.366 million.

B. Instrumentation Needs

The cost of scientific equipment needs to be determined on the basis of what each scientific discipline in the laboratory requires. Although the FBI's experience was that equipment costs about 75% of the building, this figure is not being used because substantial equipment already exists in the lab. Indeed, some equipment is not being fully utilized now due to lack of sufficient laboratory staff. In addition building costs in Alaska are higher than in the other states, whereas equipment costs will be increased by only the cost of shipment to Alaska. In addition some equipment can be used by more than one discipline in the laboratory.

Serology	Cost
Additional Incubator	$ 300
Additional Electrophoresis unit	1,200
Three large freezers	1,500
Medical Microscope	2,000
Balance	3,000
Subtotal	$ 8,000
Firearms and Tool Marks	
Stereomicroscope	$ 1,500
Bullets as reference samples	1,500
Subtotal	$ 3,000
Small Shop Area	
Hand tools, drill press, grinder, bench, firearms tools, etc.	$ 15,000

Toxicology (if located within the crime laboratory)

Additional Gas Chromatographs	$ 60,000
Coaximeter	5,000
Gas Chromatograph/Mass Spectrometer	225,000
Subtotal	$290,000

Trace Evidence

Polarizing Microscope	$ 20,000
Two Stereo Microscopes	12,000
Scanning Electron Microscope	115,000
Gas Chromatograph	15,000
Subtotal	$162,000

Forensic Chemistry

Liquid Chromatograph	$ 60,000
Ultraviolet Spectrophotometer	30,000
Infrared Spectrophotometer	30,000
Subtotal	120,000

Fingerprints (Automated system is funded through a separate appropriation)

Two Evidence Cameras	$ 1,000

Photography -(OL Photo Section upgrade funded through existing budget)

General Expansion-Additional cameras, related darkroom expansion Subtotal	$ 10,000
Instrumentation TOTAL	$609,000

C. Furnishings

The cost of furnishings of the FBI laboratory amounted to 15% of their total construction cost. Since some desks, cabinets, tables, etc., are already in the laboratory, a 10% of construction cost has been used.

Thus, $2.486 million construction cost times 10% yields approximately $.250 million.

D. Commodities - Estimated supplies to stock expanded laboratory $ 71,000

Recap of Estimated Costs
(In millions of dollars)

Construction	$3.366
30% DOTPF	1.100
Instrumentation	.609
Furnishings	.250
Commodities	.071
	5.396
12% Inflation per DOTPF	.647
Grant Total-New forensic facility	$6.043

E. Analysis

A proposed laboratory of about 17,000 square feet is a major undertaking. One may validate the size of the proposed laboratory by comparing it to the existing laboratory. The latter contains about 4,000 square feet for the present staff of 10 in Anchorage which is crowded and lacks certain essential areas. There is also additional space in the fingerprint section in Juneau. The space for these personnel and their operational area is approximately 1,000 square feet, including substantial file cabinet space, or a total of about 5,000 square feet of both operational and non-operational space at both locations.

The laboratory plan proposes an additional staff of eleven personnel, or essentially a doubling of the existing staff. By extension, a doubling of space is needed, plus the addition of a first aid room, library, computer room, firearms storage area and vehicle examination area. The existing laboratory has virtually none of these areas required of a full services laboratory.

Thus a doubling of the existing laboratory space of some 5,000 square feet to 10,000 square feet plus about 1,600 additional square feet for the above described additional non-operational areas, means the projected 11,250 square feet for a new laboratory is, if anything, conservative. This total area is seen as necessary for existing and proposed staff and support areas and makes no provision for expansion for future requirements.

It seems short sighted to not include space for future expansion. Such space would not be empty or lack for activity. This space could serve as a training center for police and prosecutors relative to forensic activities.

One can assume that the need for training is greatest now, simply because so little training now exists. Further into the future, as more police agencies receive training, the need for training should decrease, while as forensic examinations increase, the need for operational laboratory space will also increase.

It is acknowledged that the calculations of space and cost can only be estimates, by their very nature. However, they are based upon the known cost factors experienced by the FBI, with modifications for costs in Alaska and the values of existing laboratory equipment and furnishings.

F. Time Schedule

Construction of a Crime Laboratory obviously requires a legislative appropriation. Assuming a budget request is approved by the legislature for FY84 (July 1, 1983), there a number of phases or steps in the construction of a new building. Each can be expected to require a certain amount of time. The following is a rough estimate of the time required to complete construction:

Sept-Oct 1982	AST Project Director develops scope of the project with facility Planners of DOT/PF. Project scope reviewed and estimates of cost are completed. Submit for legislative approval.
Jan-May 1983	Legislative Session - approves or denies appropriation.
July 1, 1983	Assuming appropriation granted, DOT/PF prepares funding and project documents.
Oct 1983	Preliminary budget completed by DOT/PF.
Oct 1983	Advertise for design consultant.
Nov 1983	Select Consultant.
Feb 1984	Design completed and reviewed.

Feb	1984	Advertise for construction.
Apr	1984	Bid opening and award.
Apr-May	1984	Construction begins (may require more than one year).
Apr-May	1985	Constructed completed.
Jun	1985	Construction inspection.
Jul	1985	Construction deficiences resolved. Final inspection and approval. Acceptance by DOT/PF.
Jul-Aug	1985	Move-in and occupancy.

G. Recommendations:

71. It is recommended that the State Troopers develop and coordinate an aggressive program of support for constructing a full services statewide Crime Laboratory, leading to a legislative appropriation for FY84.

72. It is further recommended that a Project Director be named as soon as possible and that he be given written authority and responsibility for coordinating the entire project.

73. The Project Director should establish immediate contact with the State Department of Transportation and Public Facilities (DOT/PF) and work with their facility planners to develop the scope and estimated costs of the project, which according to DOT/PF must be completed in October 1982.

74. To the extent possible, the state should engage a design consultant who has had prior experience designing a forensic lab, or other laboratory related structure. Further, upon design completion and review by laboratory staff, it is recommended that the blueprints be reviewed by one or more lab directors and/or other authorities elsewhere to ensure the proposed structure will provide the most efficient and effective forensic laboratory for Alaska.

HB

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HD 34

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

RECEIVED
APR 13 1983

April 12, 1983

Post on Committee file for

MEMORANDUM

TO: Representative Walt Furnace

FROM: Deb Pomeroy, Research Aide

RE: Succession to the Offices of Governor and Lt. Governor
Research Request 83-119

Steve Levi of your office called requesting the following information regarding succession to the offices of Governor and Lt. Governor in other states:

1) What is the line of succession in other states?

2) Is succession decided constitutionally or by statute?

3) What is the term of the successor?

4) Is the successor appointed Acting Governor or Governor?

5) Does the Acting Governor have the same powers as the Governor?

6) Are there any states where Supreme Court Justices succeed to Governor?

As you are aware, Alaska does not have a constitutional line of succession after the Lt. Governor. AS 44.19 states that after the start of the initial term of office, the Governor appoints, and the Legislature confirms in a joint session, a person from a principal department of state government as the successor to the Lt. Governor. If the Lt. Governor succeeds to the Governor's office, the appointee becomes Lt. Governor and serves for the remainder of the term. If, however, the appointed successor succeeds to the Governor's office, (s)he serves only until a special election is held.

Thirty-six states decide the succession to the Governor's office by constitution; thirteen states either decide the succession or add to the line of succession by statute. In all of the states, the successor has the duties and powers of the Governor. In all states except Hawaii,

the successor is appointed Governor; in Hawaii, only the Governor and Lt. Governor may have the title of Governor, with other successors known as "Acting" Governor.

The majority of the states have direct succession to Governor. That is, if the Lt. Governor becomes Governor, his office remains vacant until the next election. Connecticut, Hawaii, Minnesota and Pennsylvania are the only states which have a successor to the office of Lt. Governor.

In 31 states, either the Senate President or House Speaker is next in line after the Lt. Governor to become Governor. Of the remaining 18 states, all but Delaware have an elected administrative official next in line for succession. Delaware has an appointed secretary of state in line after the Lt. Governor, although the next official for succession is elected. Nebraska is the only state in which the entire line of succession consists of legislative committee chairmen.

In reference to the term of the successor, most of the states have the successor serving for the remainder of the Governor's term, or until the next general election at which time a successor is elected for the unexpired portion of the term. A few states' constitutions or statutes vaguely state that the successor will serve "until the vacancy is filled."

I have prepared the attached chart listing the following information for each state:

1) the order of succession to either the Governor's or Lt. Governor's office and whether or not it is decided by statute or constitutionally;

2) whether the person in the line of succession is elected, appointed, or a legislative official; and

3) the length of the term the successor holds and any conditions which apply.

I hope this information is useful. If you have any questions, please call.

DP

Attachment

STATE	SUCCESSION TO	CONSTITUTION OR STATUTE	ORDER OF SUCCESSION	APPOINTED OR ELECTED	CONDITIONS
Alabama	Governor	Cons. Art.V	Lt. Governor Sen. Pres. pro tem House Speaker Attorney General State Auditor Secretary of State State Treasurer	Elected Sen. Elected Hse. Elected Elected Elected Elected Elected	If the Gov. & Lt. Gov. seats become vacant more than 60 days before a General Election, these seats are filled at that election for the unexpired term; otherwise successor serves for the remainder of the term.
Alaska	Governor Lt. Governor	Cons.Art.III AS 44.10	Lt. Governor Gov. appointee	Elected Appointed	Elected Lt. Gov. serves for remainder of term. Legislature confirms Gov. appointee as successor to Lt. Gov. If (s)he succeeds to Gov., (s)he serves only until a special election is held.
Arizona	Governor	Cons. Art.V	Sec. of State Attorney General State Treasurer Supt.of Pub. Instr.	Elected Elected Elected Elected	Successor holds office until a Governor is duly elected and qualified. Only elected officials may succeed, not those who have been appointed to fill a vacancy
Arkansas	Governor	Cons. Art. 6	Lt. Governor Senate President Assembly Speaker	Elected Sen. Elected Assm.Elected	The Governor's term is two years. Successor holds office until the vacancy has been filled.
California	Governor	Cons. Art.VI Govt 12058	Lt. Governor Sen. Pres. pro tem Assembly Speaker Sec. of State Attorney General Controller	Elected Sen. Elected Assm.Elected Elected Elected Elected	Successor serves full term.
Colorado	Governor	Cons. Art.IV	Lt. Governor Sen. Pres. pro tem House Speaker	Elected Sen. Elected Hse. Elected	Successor holds office until the vacancy has been filled.

STATE	SUCCESSION TO	CONSTITUTION OR STATUTE	ORDER OF SUCCESSION	APPOINTED OR ELECTED	CONDITIONS
Connecticut	Governor	Cons. Art.IV	Lt. Governor Sen. Pres. pro tem	Sen. Elected	Office is held until the next gen. election. When the Lt. Gov. succeeds to Gov., the Senate Pres. becomes Lt. Gov. Within 15 days of the Lt. Gov. taking his oath, the Sen. must select a new Pres. pro tem. If during an interim, a successor is required & there is no Pres. pro tem, the Sec. of State will convene Senate to elect one.
Delaware	Governor	Con. Art.III	Lt. Governor Sec. of State Attorney General Sen. Pres. pro tem House Speaker	Elected Appointed Elected Sen. Elected Hse. Elected	Successor holds office until a Governor is duly elected and qualified.
Florida	Governor	Cons. Art.IV FS 14.55	Lt. Governor Sec. of State Attorney General State Comptroller State Treasurer Comm.of Education Comm.of Agriculture	Elected Elected Elected Elected Elected Elected Elected	Successor serves for the remainder of the term.
Georgia	Governor	Cons. Art.V	Lt. Governor House Speaker	Elected Hse. Elected	Lt. Governor serves until next general election, at which time a Governor is elected for the unexpired term. If the House Speaker succeeds to Gov.,a special election must be held to elect a Gov. within 60 days of the Speaker taking office.
Hawaii	Governor	Cons. Art. V HS 26-2	Lt. Governor Senate President House Speaker Attorney General Director of Finance Comptroller Dir. of Taxation Dir. of Pers.Svces	Elected Sen. Elected Hse. Elected Appointed Appointed Appointed Appointed Appointed	Successor serves for the remainder of the term. When the Lt. Gov. succeeds to Gov., the Sen. Pres. becomes Lt. Gov. After that, succession leaves the Lt. Gov. office vacant. Only the Governor and Lt. Governor can hold the title of Governor; the others are known as Acting Governor. Although known as "Acting" Governor, the successor has all powers given to the Gov.

STATE	SUCCESSION TO	CONSTITUTION OR STATUTE	ORDER OF SUCCESSION	APPOINTED OR ELECTED	CONDITIONS
Idaho	Governor	Cons. Art.IV	Lt. Governor Sen. Pres. pro tem House Speaker	Elected Sen. Elected Hse. Elected	Lt. Gov. holds office for the remainder of the term; Sen. Pres. pro tem and House Speaker serve "until the vacancy is filled."
Illinois	Governor	Cons. Art. V IS127¶63b122	Lt. Governor. Attorney General Secretary of State Comptroller Treasurer Senate President House Speaker	Elected Elected Elected Elected Elected Sen. Elected Hse. Elected	Holds office for the remainder of the term. Elected officials only are eligible to succeed.
Indiana	Governor	Cons. Art. V	Lt. Governor	Elected	Serves until Governor is elected. Constitution states that further succession will be determined by law; however, no statutes were found.
Iowa	Governor	Cons. Art.IV	Lt. Governor Sen. Pres. pro tem House Speaker	Elected Sen. Elected Hse. Elected	Lt. Gov. serves remainder of term; Sen. Pres. and House Speaker serve "until the vacancy is filled."
Kansas	Governor	Cons. Art. 1 KS 48-12-4	Lt. Governor Senate President House Speaker Secretary of State Attorney General Chancellor, U.of K. Pres, Kansas State Univ. of Ag. and Applied Science	Elected Sen. Elected Hse. Elected Elected Elected	Serves until next election.
Kentucky	Governor	Cons. Art.84	Lt. Governor Sen. Pres. pro tem	Elected Sen. Elected	Lt. Governor serves until a Gov. is duly elected and qualified; if the Sen. Pres. pro tem succeeds, and vacates office before the first two years are over, a new election is held. If there is no Pres. pro tem, the Secretary of State, then Attorney General hold office until a President pro tem has been elected.

STATE	SUCCESSION TO	CONSTITUTION OR STATUTE	ORDER OF SUCCESSION	APPOINTED OR ELECTED	CONDITIONS
Louisiana	Governor	Cons. Art.IV	Lt. Governor Secretary of State Attorney General Treasurer Presiding Sen. Off. House Speaker	Elected Elected Elected Elected Sen. Elected Hse. Elected	Successor serves for the remainder of the term. The governor appoints and the legislature confirms a new Lt. Governor. He is not eligible to succeed however, to the Governor's position. The constitution states further succession may be determined by law; however no statute was found.
Maine	Governor	Cons. Art. V	Senate President	Sen. Elected	If the office becomes vacant more than 90 days before primary election for a bienniel election, a Governor is elected at that bienniel election and serves for the remainder of the term.
Maryland	Governor	Cons. Art.II	Lt. Governor	Elected	A Lt. Governor is appointed by the Governor and confirmed by the majority of a joint session. If both seats become empty, the assembly elects a new Governor. The Senate President serves as Acting Governor until that time.
Massachusetts	Governor	Cons. Ch. 2	Lt. Governor	Elected	Serves for remainder of the term.
Michigan	Governor	Cons. Art. V	Lt. Governor Sec. of State Attorney General	Elected Elected Elected	Successor serves for remainder of the term. Order of succession pertains to elected officials only, not those appointed to fill a vacancy. The constitution states that further succession may be determined by law; however, no statute was found.
Minnesota	Governor	Cons. Art. V MS 4.06	Lt. Governor Senate President House Speaker Secretary of State State Auditor State Treasurer Attorney General	Election Sen. Elected Hse. Elected Elected Elected Elected Elected	Successor serves for remainder of term. The Senate President succeeds to the Lt. Gov. office. After the Senate President, all successors are for the governor's office. If the Senate President succeeds to governor, the Lt. Governor office remains vacant.
Mississippi	Governor	Cons. Art. V	Lt. Governor Sen. Pres pro tem House Speaker	Elected Sen. Elected Hse. Elected	Successor serves for the remainder of the term. If all three mentioned seats are vacant, the Sec. of State convenes Senate to elect a Pres. pro tem.

STATE	SUCCESSION TO	CONSTITUTION OR STATUTE	ORDER OF SUCCESSION	APPOINTED OR ELECTED	CONDITIONS
Missouri	Governor	Cons. Art.IV	Lt. Governor	Elected	Successor serves for the remainder of the term.
			Sen. Pres.pro tem	Sen. Elected	
			House Speaker	Hse. Elected	
			Sec. of State	Elected	
			State Auditor	Elected	
			State Treasurer	Elected	
			Attorney General	Elected	
Montana	Governor	Cons. Art.VI	Lt. Governor	Elected	Successor serves for the remainder of the term.
		MS 2-16-514	Senate President	Sen. Elected	If the Lt. Gov. or Sen. President succeeds to
			House Speaker	Hse. Elected	Gov., they appoint a Lt. Gov.; if the House Speaker succeeds, the legislature elects a Lt. Governor in joint session.
Nebraska	Governor	Cons. Art.IV	Lt. Governor	Elected	Successor serves until vacancy is filled.
			Speaker of the Leg.	Leg. Elected	
		NS 84-120	Chair,Exec.Board of Leg. Council,	Leg. Elected	
			Chair,Comm.on Comm.	Leg. Elected	
			Chair, Judiciary	Leg. Elected	
			Chair, Government	Leg. Elected	
			Chair, Military & Veterans Affairs	Leg. Elected	
			Chair, Approp.	Leg. Elected	
			Chair, Revenue	Leg. Elected	
			Chair, Education	Leg. Elected	
			Chair, Banking,Commerce & Insurance	Leg. Elected	
			Chair, Public Work	Leg. Elected	
			Chair, Ag. & Envir.	Leg. Elected	
			Chair, Hlth&Welfare	Leg. Elected	
			Chair,Misc.Subjects	Leg. Elected	
			Chair, Urban Affair	Leg. Elected	
			Chair, Labor	Leg. Elected	
			Chair, Const.Rev.	Leg. Elected	

STATE	SUCCESSION TO	CONSTITUTION OR STATUTE	ORDER OF SUCCESSION	APPOINTED OR ELECTED	CONDITIONS
Nevada	Governor	Cons. Art. V	Lt. Governor	Elected	Serves for the remainder of the term.
New Hampshire	Governor	Cons. Art. 49	Senate President	Elected	Successor serves for the remainder of the term. The Secretary of State and State Auditor are entitled to serve only until the Senate or House elects a President or Speaker.
			House Speaker	Elected	
			Secretary of State	Leg. Elected	
			State Treasurer	Leg. Elected	
New Jersey	Governor	Cons. Art. V	Senate President	Sen. Elected	Successor serves until the next general election at which time a Governor is elected for the unexpired portion of the term. The constitution states further succession may be determined by statute; however, no statute was found.
			Assembly Speaker	Assm. Elected	
New Mexico	Governor	Cons. Art. V	Lt. Governor	Elected	Serves for the remainder of the term.
			Secretary of State	Elected	
			Sen. Pres. pro tem	Sen. Elected	
			House Speaker	Hse. Elected	
New York	Governor	Cons. Art. IV	Lt. Governor	Elected	Lt. Governor serves for remainder of the term. Sen. Pres. and Assembly Speaker serve until next general election to be held not more than 3 mo. after both Gov. & Lt. Gov. seats become vacant.
			Sen. Pres. pro tem	Sen. Elected	
			Assembly Speaker	Assm. Elected	
N. Carolina	Governor	NCS 174.11	Lt. Governor	Elected	Holds office for remainder of term.
			Sen. President	Sen. Elected	
			House Speaker	Hse. Elected	
			Secretary of State	Elected	
			State Auditor	Elected	
			State Treasurer	Elected	
			Supt. of Pub. Inst.	Elected	
			Attorney General	Elected	
			Agriculture Comm.	Elected	
			Labor Comm.	Elected	
			Insurance Comm.	Elected	

STATE	SUCCESSION TO	CONSTITUTION OR STATUTE	ORDER OF SUCCESSION	APPOINTED OR ELECTED	CONDITIONS
N. Dakota	Governor	NDS 44.2.3 NDS 54.47.3	Lt. Governor Secretary of State House Speaker Sen. Pres. pro tem Attorney General	Elected Elected Hse. Elected Sen. Elected Elected	Successor serves for remainder of term. Only elected officials are eligible for succession, not those appointed to fill a vacancy. If none of the listed officials may serve, line of succession moves to the ex-Governors, the most recent one serving first.
Ohio	Governor	Cons.Art.III	Lt. Governor Senate President House Speaker	Elected Sen. Elected Hse. Elected	Serves for the remainder of the term. When both Gov. & Lt. Gov. seats are vacant prior to the expiration of the the first 20 months of the term, the Gov. and Lt. Gov. are elected at the next gen. election held in an even numbered year.
Oklahoma	Governor	Cons. Art.VI	Lt. Govenor Sen. Pres. pro tem House Speaker	Elected Sen. Elected Hse. Elected	Lt. Governor serves for the remainder of the term. Sen. Pres. and House Speaker serves "until the vacancy is filled."
Oregon	Governor	Cons. Art. V	Secretary of State Treasurer Sen. Pres. pro tem House Speaker	Elected Elected Sen. Elected Sen. Elected	Serves until the next election. An appointed official may not succeed to office.
Pennsylvania	Governor	Cons. Art.IV	Lt. Governor Sen. Pres. pro tem	Elected Sen. Elected	Serves for the remainder of the term. The Sen. Pres. succeeds to Lt. Gov. office when the Lt. Gov. succeeds to Gov.
Rhode Island	Governor	Cons. Art. 7	Lt. Governor Presiding Sen.Off.	Elected Sen. Elected	Holds office until the next annual election.
S. Carolina	Governor	Cons. Art.IV	Lt. Governor Sen. Pres. Pro tem	Elected Sen. Elected	Holds office until the next general election. Constitution states that further succession may by determined by law; no statute was found.
S. Dakota	Governor	Cons. Art.IC SDS 1-7-4.1	Lt. Governor Hse. Speaker Sen. Pres. pro tem Hse.Spkr. pro tem Secretary of State	Elected Hse. Elected Sen. Elected Hse. Elected Sen. Elected	Successor serves for remainder of term. Governor appoints new Lt. Governor who is confirmed by the legislature, and is not eligible for succession.

STATE	SUCCESSION TO	CONSTITUTION OR STATUTE	ORDER OF SUCCESSION	APPOINTED OR ELECTED	CONDITIONS
Tennessee	Governor	Cons.Art.III	Senate Speaker House Speaker	Sen. Elected Hse. Elected	The Senate Speaker is by statute Lt. Governor. If succession occurs within the first 18 months, successor holds office until the next general election; after the 1st 18 mo. of the term, the successor serves for the remainder of the term.
Texas	Governor	Cons. Art.IV	Lt. Governor Senate President	Elected Sen. Elected	Holds office for the remainder of the term.
Utah	Governor	Cons.Art.VII	Secretary of State Sen. Pres. pro tem	Appointed Sen. Elected	Holds office until the next general election.
Vermont	Governor	VS 3.4	Lt. Governor House Speaker	Elected Hse. Elected	Holds office for the remainder of the term.
Virginia	Governor	Cons. Art. V	Lt. Governor Attorney General House Speaker	Elected Elected Hse. Elected	Holds office for the remainder of the term.
Washington	Governor	Cons. Ch.III	Lt. Governor Secretary of State State Treasurer State Auditor Attorney General Supt. of Pub. Inst. Comm. of Pub. Lands	Elected Elected Elected Elected Elected Elected Elected	If the vacancy occurs more than 30 days before a general election, then a new Governor is elected at that election.
W. Virginia	Governor	Cons.Art.VII	Senate President House Speaker	Sen. Elected Hse. Elected	If vacancy occurs before the first 3 years of term a new election must be held.
Wisconson	Governor	Cons. Art. V	Lt. Governor Secretary of State	Elected Elected	Holds office for the remainder of the term.

STATE	SUCCESSION TO	CONSTITUTION OR STATUTE	ORDER OF SUCCESSION	APPOINTED OR ELECTED	CONDITIONS
Wyoming	Governor	WS 9-1-211 9-1-212	Secretary of State Senate President House Speaker State Auditor State Treasurer Supt. of Pub. Inst. Senate Vice-Pres H. Speaker pro tem	Elected Sen. Elected Hse. Elected Elected Elected Elected Sen. Elected Hse. Elected	Serves until the end of the term if vacancy occurs less than 60 days before a general election. If it occurs more than 60 days before a general election, a Governor is elected for the unexpired term at that election.

STATE OF ALASKA

CHAIRMAN,
HOUSE LABOR AND
COMMERCE

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3692

P.O. BOX 1542
ANCHORAGE, ALASKA 99510
(907) 333-2616

REPRESENTATIVE WALT FURNACE

To: Mitch Abood, Chairman
House Committee on State Affairs

From: Representative Walt Furnace

RE: SSHB 34

Date: March 25, 1983

Under current statute, the succession to the chair of Governor runs through the Lt. Governor and thereafter the Governor's appointed and legislatively confirmed successor.

This bill allows for the line of succession to continue thereafter to a lock step progression of administrators, whether they have been confirmed or not. Should the vacancy occur in the office of Governor-Elect and Lt. Governor-Elect, the outgoing Governor will become the Acting Governor for that period after his expired term until a special election is held and the new Governor inaugurated.

The important fact to keep in mind is that if the Governor and Lt. Governor are unable to fullfill the duties of their respective posts and the Governor's handpicked successor has not yet been confirmed, there must be someone who can step in immediately and assume the powers and duties of the Acting Governor.

any vetoed bill, with a statement of his objections, to the house of origin.

Action Upon Veto

SECTION 16. Upon receipt of a veto message during a regular session of the legislature, the legislature shall meet immediately in joint session and reconsider passage of the vetoed bill or item. Bills to raise revenue and appropriation bills or items, although vetoed, become law by affirmative vote of three-fourths of the membership of the legislature; other vetoed bills become law by affirmative vote of two-thirds of the membership of the legislature. Bills vetoed after adjournment of the first regular session of the legislature shall be reconsidered by the legislature sitting as one body no later than the fifth day of the next regular or special session of that legislature. Bills vetoed after adjournment of the second regular session shall be reconsidered by the legislature sitting as one body no later than the fifth day of a special session of that legislature, if one is called. The vote on reconsideration of a vetoed bill shall be entered on the journals of both houses.

(The amendment of this section was approved by the voters of the state November 2, 1976 and became effective December 23, 1976. This amendment inserted "during a regular session of the legislature" in the first sentence and added the present fourth and fifth sentences.)

Bills Not Signed

SECTION 17. A bill becomes law if, while the legislature is in session, the governor neither signs nor vetoes it within fifteen days, Sundays excepted, after its delivery to him. If the legislature is not in session and the governor neither signs nor vetoes a bill within twenty days, Sundays excepted, after its delivery to him, the bill becomes law.

Effective Date

SECTION 18. Laws passed by the legislature become effective ninety days after enactment. The legislature may, by concurrence of two-thirds of the membership of each house, provide for another effective date.

To: Representative Mitch Abood, Chairman
House Committee on State Affairs

Through: Walt Furnace, Representative

From: Steven C. Levi, Staff

Date: January 20, 1983

RE: ~~HB~~ 34

At the present time, the line of succession to the Governor's chair is limited to two (2) individuals: the elected Lt. Governor and the Governor's hand-picked, legislatively confirmed successor. Should the Governor's chair fall empty when there is no Lt. Governor, for whatever reason, the hand-picked, legislatively confirmed successor is only an acting governor and will hold this postion only until a special election may be held to fill the office with an elected governor.

There is, however, a gap in the succession process. Should the Governor and the Lt. Governor be unable to fill the chair and there is no hand-picked, legislatively confirmed successor, there is no procedure for succession.

Representative Furnace recommends, through HB 34, that in the hopefully unlikely case that the Governor's chair is vacant and there is no Lt. Governor or hand-picked, legislatively confirmed successor, that the President of the Senate and thereafter the Speaker of the House shall succeed to the chair of governor.

Legislative Counsel has assured Representative Furnace that the succession to the chair of Governor by the President of the Senate or the Speaker of the House is only in the capacity of Acting-Governor and only until such time as a special election may be held. Legislative intent is that the President or the Speaker shall be Acting-Governor only.

RECEIVED
JAN 20 1983

Lt. Governor (successor to)

HOUSE BILL NO. 34, by Furnace and Lindauer. Relates to appointment of a successor to the post of Lieutenant Governor (AS 44.19.040). Current law states: ". . .If the person designated and confirmed is removed from or vacates the appointment, the governor shall appoint a successor subject to confirmation in the same manner as the person initially appointed." This bill adds the following: "The president of the senate and the speaker of the house of representatives are next in line for succession to the office of lieutenant governor at any time that an appointee of the governor has not been confirmed under this section or the position is vacant for any other reason." Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced January 17 and referred to State Affairs, then to Judiciary.

Appropriation (supplemental) (public schools)

HOUSE BILL NO. 35, by Malone, Clocksin, Zharoff. Wendte, Koponen, Davis, Shultz, Larson, Szymanski, Fritz, Goll, and McBride. (See SB 16, SB 22, and HB 3, and HB 73, this report, identical).

Introduced January 17 and referred to Health, Education and Social Services, then to Finance.

Longevity Bonus Program (residency requirements)

HOUSE BILL NO. 36, by Malone, Zharoff, Wendte and Szymanski. Would change the residency requirements of the Alaska Longevity Bonus Program (AS 47.45), in keeping with the recent Supreme Court decision on the Permanent Fund. Currently the Longevity Bonus Program gives a $250 monthly bonus to persons 65 years of age or over who were living in the Territory of Alaska on or before January 3, 1959 and who have maintained a continuous domicile in the Territory or State for 25 years. This bill would change those requirements, providing a person who is 65 years of age or over, who is a state resident and who has been a resident for not less than one year immediately preceding the date of application may apply to the Commissioner of Administration for qualification to receive the monthly $250 bonus.

Defines "resident" as one ". . .who, except for brief intervals, medical treatment, military service, attendance at an educational or training institution, or for absences for good cause shown, has resided in Alaska and who has maintained a domicile in Alaska; domicile is the true and permanent home of a person from which that person has no present intention of moving and to which that person intends to return whenever away;" (this definition would replace the current definition of "domicile": "'domicile' means the place with which a person has a settled connection for determination of his civil status or other legal purposes because it is actually or legally his permanent and principal home.")

Provides Act is retroactive to July 1, 1982, and states that a person who was eligible to receive the bonus as of that date is entitled to receive accrued retroactive bonuses from 7/1/82, and a person reaching the age of 65 after 7/1/82 is entitled to receive

RECD FEB 2 1983 LEGISLATIVE FINANCE

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 34
Title "An Act regulating succession to the Office of Lt. Governor"
Requested by State Affairs and Judiciary Date 1-17-83

II. FISCAL DETAIL
Agency Affected Office of the Governor
Program Category Affected Executive Operations
BRU, Program, Or Subprogram(s) Affected Executive Office
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	0	0	0			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact is anticipated.

IV. DATE 1-20-83 PREPARED BY Laurie Herman
AGENCY Office of the Governor
PHONE 465-3500

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

33-001 (Rev. 12/82)
OMB Reviewed by: Glen Price

HB

409

STATE AFFAIRS COMMITTEE SIGN-IN SHEET DATE OF HEARING: 2/25/83

HB 20, HB 49, HB 6

NAME (PRINTED)	ADDRESS	REPRESENTING	PHONE	TESTIFYING? YES/NO WHICH BILL
Michael P. McMullen	Pouch C	Division of Personnel	x4430	Yes. HB 49
Terry Crawer	Pouch YG	Blue Ribbon Com'n	4442	Yes HB49 if needed

HSA FORM #002

Sec. 39.10.010. Nepotism prohibited. It is unlawful for a person who is the spouse of or is related by blood within and including the second degree of kindred to the executive head of a principal state department or agency to be employed in that department or agency. (§ 1 ch 98 SLA 1959)

Am. Jur. 2d reference. — 63 Am. Jur. 2d Public Officers and Employees, § 97.

Chapter 15. Official Bonds.

Section
10. Form, amount, and conditions
20. Obligation and effect
30. Action on bond
40. Recovery on defective bond
50. Procedure when bond becomes insufficient
60. Number of sureties
70. Justification of sureties
80. Release of sureties
90. Proceedings for release of sureties
100. Failure to file new bond

Sec. 39.15.010. Form, amount, and conditions. The official bond of an officer or employee of the state required by statute, or rule or regulation under authority of law shall be in a form joint and several, and made payable to the state in the penal sum and with the conditions required by law. (§ 11-2-1 ACLA 1949)

Cross reference. — As to surety bonds furnished by the principal executive officer of each department and subordinate officials, see AS 39.05.050.

Am. Jur. 2d references. — 12 Am. Jur. 2d, Bonds, § 1 et seq.; 63 Am. Jur. 2d, Public Officers and Employees, §§ 122, 414-482.

Sec. 39.15.020. Obligation and effect. Bonds of state officers and employees are in force and obligatory upon the principal and sureties for breach of the condition of the bond committed during the time the officer or employee discharges the duties of or holds the office or appointment. Each bond is considered in force and obligatory upon the principal and sureties for the faithful discharge of all duties required of the officer or employee by any law enacted after the execution of the bond and this condition shall be set out in the bond. (§ 11-2-2 ACLA 1949)

Sec. 39.15.030. Action on bond. An official bond executed by a state officer or employee is in force and obligatory upon the principal and sureties to and for the state, and for the use and benefit of all persons injured or aggrieved by the wrongful act or default of the officer or employee in his official capacity or employment. A person injured or aggrieved may bring suit on the bond in his name. (§ 11-2-3 ACLA 1949)

Article 1. Administration.

Section
10. Purpose of chapter
20. Appointing authority
30. Division of personnel and board
40. Director of personnel
50. Powers and duties
60. Personnel board
70. Powers and duties of personnel board
80. Public records

Sec. 39.25.010. Purpose of chapter. (a) It is the purpose of this chapter to establish a system of personnel administration based upon the merit principle and adapted to the requirements of the state to the end that persons best qualified to perform the functions of the state will be employed, and that an effective career service will be encouraged, developed and maintained.

(b) The merit principle of employment includes the following:

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) regular integrated salary programs based on the nature of the work performed;

(3) retention of employees with permanent status on the basis of the adequacy of their performance, reasonable efforts of temporary duration for correction in inadequate performance, and separation for cause;

(4) equal treatment of applicants and employees with regard only to consideration within the merit principles of employment; and

(5) selection and retention of an employee's position secure from political influences. (§ 1 ch 144 SLA 1960; am § 1 ch 46 SLA 1980)

Effect of amendment. — The 1980 amendment added subsection (b).

Legislative history report. — For report on original bill, see 1960 House Journal, p. 209.

Quoted in Mueller v. Alaska State Bd. of Personnel, Sup. Ct. Op. No. 396 (File No. 738), 425 P.2d 145 (1967).

Am. Jur. 2d references. — 15A Am. Jur. 2d, Civil Service, § 1 et seq.; 1 Am. Jur. 2d, Administrative Law, § 1 et seq.

Sec. 39.25.020. Appointing authority. The authority to appoint to positions in the state service is as follows:

(1) The legislature is the appointing authority for all officers and employees of the legislature and the legislative agencies, but the authority to make appointments may be delegated.

(2) The governor is the appointing authority for all officers and employees of the executive branch, but the authority to make appointments may be delegated.

(3) The chief justice of the supreme court is the appointing authority for all administrative and clerical personnel of the state judicial system, but the authority to make appointments may be delegated.

(4) The board of regents is the appointing authority for all employees of the University of Alaska, but the authority to make appointments may be delegated. (§ 8 ch 144 SLA 1960)

Stated in State v. Bogenrife, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Cited in Wolfe v. O'Neill, 336 F. Supp. 1255 (D. Alas. 1972).

Sec. 39.25.030. Division of personnel and board. There is established within the Department of Administration a division of personnel. There is established within the division of personnel a personnel board. (§ 9 ch 144 SLA 1960)

Sec. 39.25.040. Director of personnel. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel must have at least three years of practical working experience in the field of personnel administration. (§ 10 ch 144 SLA 1960; am § 3 ch 82 SLA 1975)

Sec. 39.25.050. Powers and duties. The director of personnel shall direct and supervise the administrative and technical activities of the division of personnel. In addition to the other duties imposed on him, he shall

(1) administer this chapter and the personnel rules;

(2) encourage and exercise leadership in the development of effective personnel administration in the state government;

(3) develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness and morale;

(4) attend meetings of the personnel board and serve as secretary for the board;

(5) establish and maintain a roster of employees subject to this chapter;

(6) prepare the rules, not inconsistent with this chapter, which are required to implement and administer this chapter;

(7) perform other lawful acts which he considers necessary or desirable to carry out the purposes of this chapter. (§ 14 ch 144 SLA 1960)

The scope of rules prepared pursuant to this section is limited severely in AS 39.25.150, leaving the director of personnel very little discretion and virtually no policymaking power. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Quoted in Whaley v. State, Sup. Ct. Op. No. 465 (File No. 833), 438 P.2d 718 (1968).

Cited in State v. Bogenrife, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF PERSONNEL

POUCH C-0201
JUNEAU, ALASKA 99811-0201
(907) 465-4430

February 2, 1983

Honorable Mitch Abood
Chairman
House State Affairs Committee
Alaska State Legislature

RECEIVED
FEB 3 1983

Dear Mr. Chairman:

This is a follow up to my testimony given before the House State Affairs Committee on January 26, 1983. At your request I am reducing to writing some of my concerns about House Bill 49.

At the outset I wish to express my support for a nepotism bill for the Executive Branch of Government. At the present time AS 39.10.010 only prohibits spouses and close relatives of "... the executive head of a principal state department or agency..." from being employed. Therefore the need for additional prohibitions is obvious.

There are, however, some potential problems with House Bill 49 which I would like to point out:

1. Concepts of Nepotism - There are two concepts of nepotism, one of which should be decided on:

    a. The Narrow Concept - Nepotism is the prohibition of a high official from using his or her influence to hire a spouse or other close relative.

    b. The Broader Concept - Nepotism is the prohibition of spouses or close relatives working together.

Under the first concept, it would be permissible for two people to continue to work together provided they were married after being employed. Under the second broader concept, when two employees got married, one of them would have to quit because of apparent conflict of interest.

I recommend the narrower concept to allow people who meet on the job and decide to live together to have the choice of marriage.

It is my understanding that the phrase "A person may not be appointed..." incorporates the narrower concept only. I support this interpretation. However, I feel it is arguable. There-

fore, I recommend that the intent of the legislation be clear in the bill so that it will not be administered on the basis of an Attorney General's Opinion.

2. Possible conflict with Title 18 - Alaska law prohibits discrimination on the basis of marital status or change in marital status. To prohibit one from working with a spouse could be argued to be discrimination. The counter argument is that the discrimination is based on who a person is married to (that is a state employee) not on marital status per se (that is if a person is married or single). Again, I believe the argument should be settled prior to the adoption of the legislation.

3. Approval by the Director of Personnel - Paragraph C of House Bill 49 prohibits a person from being appointed to any executive branch, department or agency if they are the spouse or close relative to any other employee in that department or agency "...unless the director of personnel and the appointing authority approve the appointment in writing."

I recommend that language be changed to permit the executive head of a department or agency to give written approval. I see no need to have the Director of Personnel give approval. Furthermore, you may wish to state in the bill conditions under which commissioners and agency heads may give their approval. For example, it may be desirable to prohibit one spouse from supervising another.

4. Definition - I also suggest the bill provide a definition of "second degree of kindred". This is a term which, as I understand it, comes from probate law and which does in fact have a legal definition. However, that definition is not commonly understood nor readily available.

Thank you for the opportunity to give testimony before your committee and for considering these points. I will be glad to appear before you again to answer any questions or discuss any of these issues further.

Sincerely,

Frank Raye

Frank Raye
Director

FR/sjh

c.c. Teresa B. Cramer
Blue Ribbon Commission

Commissioner Lisa Rudd
Department of Administration

Members of Blue Ribbon Commission

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 49
Title An Act relating [illegible] in State employment
Requested by House State [illegible] Date January 24, 1983

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Central Administrative Services
BRU, Program, or Subprogram(s) Affected Personnel
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0					

FUNDING (Thousands of Dollars)

GENERAL FUND	0						
FEDERAL FUNDS							
OTHER (Specify Source)							

POSITIONS

FULL TIME							
PART TIME							
TEMPORARY							

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

No fiscal impact presuming the Executive Branch will not be expected to monitor or enforce this Act in the Legislative or Judicial Branch.

IV. DATE January 24, 1983 PREPARED BY Frank Raye Frank R. Raye
AGENCY Administrator Personnel
PHONE 465-4430
OMB Reviewed By: Liz Blecker

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
4707/0121-7

Bill/Resolution No. HB 49
Title An Act relating to nepotism in State employment
Requested by Abood Date 1-25-83

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Centralized Administrative Services
BRU, Program, or Subprogram(s) Affected Labor Relations
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

No fiscal impact.

Gary E. Stringham

IV. DATE 1-25-83 PREPARED BY [illegible] P. Clark
AGENCY Division of Labor Relations
PHONE 465-4404
OMB Reviewed By: Liz Blecker

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

B/C128-10/LR1
FORM C1203-3

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 20, 1983

TO: House State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 49, Relating to Nepotism in State Employment

The existing statute prohibiting nepotism in state employment forbids only the employment of anyone related to the executive head of a department or agency. AS 39.10.010. The Personnel Rule is more extensive, prohibiting the employment of relatives of the head of a division or subdivision within that division or subdivision. In addition, the Rule prohibits the employment of two related persons in the same agency unless express approval is given by both the appointing authority and the Director of Personnel.

The scope of the Personnel Rule is broader than the statutory authority granted in AS 39.10.010. In addition, the rule-making authority given to the Personnel Board by the State Personnel Act may not extend to nepotism, since the nepotism statute is placed outside the Act. The Attorney General has advised the Division of Personnel that the nepotism rule may exceed the scope of statutory authority. A lawsuit has been filed challenging the Department of Transportation's implementation of nepotism prohibitions.

The Blue Ribbon Commission recommends that legislation prohibiting nepotism in state employment be adopted to provide statutory authority for the Personnel Rule. The prohibition against employing relatives does limit the opportunities for some Alaskans to find state jobs. The disadvantage to those people should be weighed against the appearance of impropriety and favoritism which is created by people working for a close relative. Problems can also arise if relatives are working in the same office so it is appropriate that the hiring decision be scrutinized with the potential for personnel problems in mind.

Bill Analysis

Page 1
Line 9 The first section of the proposed legislation codifies the Personnel Rule. The first paragraph retains the existing nepotism prohibition and extends it to include relatives of

deputy or assistant commissioners. The prohibition against employing a person related to the executive head of an agency applies to all legislative, judicial and executive branch agencies.

Line 17 The second paragraph adds new langage based on the Personnel Rule to prohibit appointment of a relative of the head of a division within that division. It applies to positions in the legislative, judicial or executive branch.

Line 22 The third paragraph prohibits employment of two relatives within the same executive branch department or agency unless the appointing authority and the Director of Personnel approve the second appointment in writing.

In each of the paragraphs, relatives include spouses and persons within the "second degree of kindred", which the Personnel Rules define as:

> father, mother, son, daughter, brother, sister, husband, wife, grandfather, grandmother, grandson, granddaughter, uncle and aunt including those involving half or step relationships.

Line 29 The second section of the proposed legislation provides for an immediate effective date.

Will TESTIFY

FRANK RAYE PERSONNEL DIRECTOR

under any provision of these Personnel Rules or in any manner commit any fraud preventing the impartial execution of these Personnel Rules.

13 08.0 Rights of Others

No State employee or other person may defeat, deceive, or obstruct any person in his right to examination, eligibility, certification, appointment, or promotion under these Rules.

13 09.0 Nepotism

13 09.1 No person may be employed in a position in any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to the appointing authority of the agency.

13 09.2 No person may be employed in a position in any division or subdivision of any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to the head of the division or subdivision of the agency.

13 09.3 No person may be employed in a position in any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to any other employee in the agency without the expressed approval of the appointing authority and the Director.

13 10.0 Information from Applicant

No State agency or agency supported in whole or in part by State funds may request or suggest that an applicant for employment provide information concerning the applicant's religious opinions, or his membership in fraternal organizations or of an applicant for a classified position as to his political convictions.

13 11.0 Outside Employment

13 11.1 No employee or official of the state shall engage in or accept private employment, or render services for private interest when such employment or service is incompatible with the proper discharge of his official duties.

13 11.2 No employee or official of the State may solicit, negotiate for, or promise to accept employment by or anything of substantial value from any person, firm or company with which he or his agency is engaged in the transaction of business on behalf of the state, or which may be affected by his official action.

I. REQUEST

Bill/Resolution No. HB 49

Title An Act relating to nepotism in State employment

Requested by Abood Date 1-25-83

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected Centralized Administrative Services

BRU, Program, or Subprogram(s) Affected Labor Relations

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

EXPENDITURES (Thousands of Dollars)

		FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

No fiscal impact.

Gary E. Stringham

IV. DATE 1-25-83

PREPARED BY [illegible]

AGENCY Division of Labor Relations

PHONE 465-4404

OMB Reviewed By: Liz Blecher

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

B/0128-10/LR1

FORM 81203-3

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 49, SB 56
Title An Act relating to nepotism in State employment
Requested by House State Affairs Date January 24, 1983

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Central Administrative Services
BRU, Program, or Subprogram(s) Affected Personnel
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact presuming the Executive Branch will not be expected to monitor or enforce this Act in the Legislative or Judicial Branch.

IV. DATE January 24, 1983 PREPARED BY Frank Raye
AGENCY Administrator Personnel
PHONE 465-4430
OMB Reviewed By: Liz Blecker

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

47D7/0121-7

COPY

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

RECEIVED
FEB 24 1983

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

COPY

M E M O R A N D U M

February 24, 1983

SUBJECT: Nepotism
(HB 49)

TO: Representative Mitchell E. Abood, Jr.
Chairman, House State Affairs Committee

FROM: Linn H. Asper
Legislative Counsel

You have asked whether the relationships included in the "second degree of kindred" as that term is defined in the proposed committee substitute for HB 49 are the same relationships that are traditionally associated with that phrase. The term "degree of kindred" is not defined in the Alaska Statutes. In other jurisdictions the "degree of kindred" between one person and another is normally determined as follows: Take the closest common ancestor of the two persons and count the generations back to that ancestor from each; each generation represents a degree of kindred. Thus, the first degree of kindred to a person includes the parents and children of that person, the second degree includes brothers and sisters, grandparents, and grandchildren, and the third degree includes nephews and nieces and aunts and uncles. In proposed CSHB 49 aunts and uncles are included within the definition of "second degree of kindred" although they would normally be considered to be in the "third degree of kindred". In other respects the statutory and common law definitions are the same.

It should be pointed out that since the definition of "second degree of kindred" in the proposed CSHB 49 only applies to the section in which it appears, the term can include any relationships that the legislature sees fit to include. You can also use a different term, such as "close relationship" if you feel that use of the traditional "degree of kindred" terminology will cause confusion.

LHA:ljb

Enclosure

HB

51

Position Paper

HB 51

Both the Public Employees' and Teachers' Retirement Board unanimously passed resolutions at their March meetings opposing passage of HB 51. The Department of Administration agrees that the existing mechanisms for granting waivers of adjustments (AS 39.35.522 and AS 14.25.175) are equitable and allow the boards to decide these cases on their own merits.

We are concerned that this bill would arbitrarily limit recovery of overpayments even in cases where the person receiving the overpayment knew or had reasonable grounds to know an error had been made. In addition, the bill makes no provision for oversight by the boards where adjustments are prohibited. Again, we are opposed to changing the existing law; however, the two specific objections mentioned above were addressed in the Senate State Affairs Committee substitute for SB 57.

J.K. Humphreys — 5/2/83

J.K. Humphreys, Director, Division of Retirement & Benefits — Date

Lisa Rudd — 5/3/83

Lisa Rudd, Commissioner, Department of Administration — Date

Introduced: 1/18/83
Referred: Labor & Commerce,
State Affairs and Finance

CSSB 57

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 51

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits; and providing for an effective date."

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

* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or teacher or beneficiary was notified of the change or error; and

(2) the change or error was not caused by the member or teacher or beneficiary.

* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the employee or beneficiary was notified of the change or error;

(2) the change or error was not caused by the employee or beneficiary; and

(3) the change or error relates to the employee's credited service with the state and does not relate to credited service with another participating employer.

* Sec. 3. This Act is retroactive to July 1, 1979.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Bill No: House Bill 51 Date on Bill: 1-18-83
Title: An Act Limiting the Adjustment of Retirement Benefits
Sponsor: Rules Committee
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions

Undoubtedly there will be some costs to the reitrement systems, but they cannot be measured. In most instances the individual adjustment would be small.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: J.K. Humphreys, Director Phone: 465-4460
Division: Retirement & Benefits Date: 2-23-83

Approved by Commissioner: [illegible] Date: 2/24/83
Department: [illegible]

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

MEMORANDUM

To: John
From: Brent

April 29, 1983

Re: HB 51 Limiting the Adjustment of Retirement Benefits

John, this bill was heard in Labor and Commerce on February 14. You voted a "do pass" along with Furnace, Uehling and Ringstad.

I talked with Ken Humphreys, the Director of Retirement this morning about this bill.

The devision of Retirement is not in favor of this bill, because it feels the existing mechinism in place is adequate. (see his letter, Feb 14, to the L&C Committee)

Under HB 51, the board of Retirement would have no way of making sure that corruption of the system might happen.
QUESTION: Under HB 51, What checks would the board have to insure that nobody is corrupting the system? Is there any reporting to the board the cases of incorrect benefit?

Here is what would happen under HB 51.
Say a person received $1000 benefit and shouldhave received really only $500. They are overpayed $500 each month so overpayed $6000 every year. If this goes unnoticed for two years, the beneficiary does not have to repay the overpayed amount.

Under current law, if the board discovers an overpayment, they can require the benficiary to take a decrease in their monthly retirement check till the correct amount is balanced.
If you look at Humphrey's letter of Feb. 14, you will see that the Devision of Retirement usually waives this pay back requirement.
You will also notice that there really are so few people concerned or effected by this legislation

1 yr

1. adequate measures in place
2.

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

JUNEAU, ALASKA

MEMORANDUM

April 14, 1983

TO: House State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 51 - Limiting the Adjustment of Retirement Benefits

Retired state employees may have substantial difficulties if they are required to repay retirement benefits improperly received because of errors made by the Division of Retirement and Benefits or because of a change in law. The commission is proposing legislation to limit the authority of the division to collect amounts paid improperly through no fault of the beneficiary or retired person if the error is not corrected within two years.

One woman testified to the commission that before she retired she asked the division to verify her years of credited service. Several years later a court-ordered change in retirement regulations reduced the number of years for which she received credit. Her employment with the University of Alaska could no longer be counted as credited service in PERS. As a result she had received more than $5000 in benefits to which she was not entitled. The division reduced her benefit to the correct amount and began withholding an additional $100 per month to be applied to the overpayment. She appealed to the Public Employees Retirement Board asking that collection of the overpayment be waived. The Board agreed.

Both the Public Employees' Retirement Board and the Teachers' Retirement Board have authority to waive collection of overpayments, but the uncertainty of an appeal can cause considerable stress to people on fixed incomes. Both boards are required to determine whether there would be undue hardship imposed by requiring repayment. AS 14.25.175 and AS 39.35.522. In establishing whether there is financial hardship, the entire family financial situation is considered, not just the resources of the petitioner.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments which resulted from errors which were not caused by the retired state employee. Two years provides ample opportunity for the division to audit its records and correct any errors. After that period, a retired person should not be required to repay benefits erroneously received if he or she did not cause the error. The division would still correct the amount of future benefits paid to the retired person.

Bill Analysis

Page 1 Line 9	The first section of the proposed legislation adds the two-year statute of limitations to the Teachers' Retirement System.
Line 18	The second section adds the same provision to the Public Employees' Retirement System. The amendment to PERS is applied only to state employees because the Blue Ribbon Commission considered that requiring other participating employers to pay for errors made by the state was inappropriate.
Line 29	The third section makes the bill effective retroactively to July 1, 1979, in order to apply to those individuals whose situations came to the commission's attention.
Page 2 Line 2	The fourth section of the bill contains an immediate effective date clause.

HB

53

Introduced: 1/18/83
Referred: Labor & Commerce, State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 53

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act prohibiting duplicate teachers' retirement benefits for Alaska BIA service."

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

* Section 1. AS 14.25.107 is amended to read:

Sec. 14.25.107. CREDIT FOR ALASKA BIA SERVICE. A member who joins the system on or after July 1, 1978, who has Alaska BIA service may claim all of that service as credited service. [A RETIREMENT BENEFIT PAYABLE UNDER THIS CHAPTER FOR ALASKA BIA SERVICE SHALL BE REDUCED BY AN AMOUNT EQUAL TO THE RETIREMENT BENEFITS PAID TO THE MEMBER BY THE UNITED STATES GOVERNMENT FOR THE SAME SERVICE.]

* Sec. 2. AS 14.25.169 is amended to read:

Sec. 14.25.169. DUPLICATE BENEFITS. (a) If payments from this retirement system are due to a teacher or to the teacher's spouse under more than one provision of this plan, the teacher or spouse shall elect under which provision and which benefit the teacher or spouse wishes to receive and no payments may be made under any other provision. However, benefits under AS 14.25.155, 14.25.157, 14.25.160, 14.25.162, 14.25.164, and 14.25.167 shall be paid in addition to those benefits or that service credit a person is entitled to receive because of the person's own membership in the retirement system.

(b) A teacher may not receive

(1) duplicate credit under this system for the same period of service,

(2) more than one year of service credit in the course of a

school year, or

(3) a benefit while accruing service credit under this system, except as provided in this section.

(c) A retirement benefit payable under this chapter for Alaska BIA service earned under AS 14.25.107 shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service. Before appointment to retirement under this chapter, and once each year thereafter, the administrator may require a member who has received credit for Alaska BIA service under AS 14.25.107 to produce verification of the benefit amount the member is receiving from the United States government for that same service or verification that the member is not entitled to receive a benefit from the United States government for that same service.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM May 11, 1983

SUBJECT: Duplicate teachers' retirement benefits for Alaska BIA service (HB 53)

TO: Representative Mitchell E. Abood, Jr.
Chairman, House State Affairs Committee

FROM: James H. Lear
Legislative Counsel JHL

You have asked our office to provide, if appropriate, a committee substitute for House Bill 53 (An Act prohibiting duplicate teachers' retirement benefits for Alaska BIA service) that would modify page 2, line 5, by inserting "under AS 14.25.107" after the word "service". In the opinion of this office that change would be unnecessary and also misleading.

The word "service" on that line is used to describe the basis for "A retirement benefit payable under this chapter". AS 14.25.107 merely addresses the fact that credit for Alaska BIA service may be claimed. By inserting the qualifying phrase "under AS 14.25.107", you would mislead the reader by having the reader expect to find under AS 14.25.107 detailed provisions at to what constitutes Alaska BIA service.

It is helpful to note that the sentence in which the suggested modification would appear is being transferred from AS 14.25.107 because the section pertains to credit for service while the transferred sentence pertains to duplicate benefits. As the sentence appears in AS 14.25.107 there is no equivalent language such as "under this section" following the word "service" as one might expect to find if it were necessary and appropriate to make the suggested modification.

If you have any questions, do not hesitate to contact our office.

JHL:ljb

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

AGENDA

DATE: 4/29/83

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY. AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

hb 53 - an act prohibiting duplicate teacher's retirement benefits for alaska BIA services

hb 369 - an act relatin to credited service under the public emp. retirement system

HB 51 - an act limited the adjustment of retirement benefits.

OTHER NOTES OR REMINDERS:

_____

_____

_____

_____

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4412

MEMORANDUM

April 25, 1983

TO: House State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 53 - Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service

The Blue Ribbon Commission heard testimony from the Division of Retirement and Benefits that a loophole exists in the Teachers' Retirement System statutes which permit receiving TRS credited service for federal employment in Alaska BIA schools. Teachers who qualified for federal retirement from a BIA school and who then worked for the state in a position covered by the Teachers' Retirement System could receive benefits for the same years of service from each system.

Under TRS, teachers may receive credit for Alaska BIA service by contributing 7% of their entry TRS salary for each year of BIA service to be credited. The law provides that state retirement benefits for Alaska BIA service will be reduced by the amount received from the federal government for the same service. However, this is verified only at the time of applying for retirement.

Credit from both retirement systems is possible if the teacher who has worked for both employers buys TRS credited service for BIA employment and takes a lump sum payment of his or her federal retirement contributions before retiring from the state. At the time of state retirement, the teacher reports being eligible to receive no federal retirement benefits for Alaska BIA service. After establishing state benefits, the teacher could repay the lump sum to the federal government and claim a federal retirement. The teacher would then be drawing from two retirement systems for the same period of service.

The commission recommends that language be added to the TRS statutes to permit the Division of Retirement to require retired members to verify annually any federal benefits received for Alaska BIA service.

Bill Analysis

Page 1
Line 9 — The first section of the bill deletes material concerning treatment of duplicate benefits from the current authorization for claiming BIA service.

Page 2 Line 4	The language deleted in section 1 is moved to AS 14.25.169 by the second section of the bill.
Line 7	Section 2 also provides authorization for the Division of Retirement and Benefits to request annual verification of the amount of any federal retirement benefits for Alaska BIA service for which state benefits are also received.

Title: An Act Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service
Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected: Administration - Division of Retirement & Benefits
Program Category Affected: Labor Services and Elementary & Secondary Education
BRU, Program, Or Subprogram(s) Affected: TRS
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

There will be no costs or savings as a result of this bill as it contains a change in language of the statute which is procedural and the effect is the same; that is a benefit payable for Alaska BIA service must be offset by any benefits paid by the federal government for the same service.

IV. DATE 1/31/83 PREPARED BY O.K. Humphreys, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

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

33-001 (Rev. 12/82)

HB

54

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

RECEIVED
MAR 2 1983

Bill No: HB 54 Date on Bill: 1/18/83
Title: Relating to regulations adopted under the Administrative Procedure
Sponsor: Act (AS 44.62) and providing for an effective date
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating			0	0	0	0		
Total								

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Phone: 465-2200
Division: Deputy Commissioner of Administrative Management Date: March 2, 1983

Approved by Commissioner: for Date: March 2, 1983
Department: Department of Administration

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

AGENDA

DATE: 3/2/83

TIME: 1:00 p.m.

I. Call meeting to Order

A. Note the committee members present.

B. Welcome those observing the meeting.

C. Remind those who have not signed in to do so. And remind those giving testimony to speak up and state their name before talking.

II. Announce ~~legislation~~ under consideration:

HCR 18 - Relating to displaying the flags of the US of America and the State of AK

HB 54 - An act relating to regulations adopted under the administrative procedures Act AS 44.62.

HB 106 - An act relating to bidder preference.

Mitch: Rep Ward needs to testify first (HB106) in order to return to the Finance Committee meeting.

Other notes or reminders:

Susitna hearings will continue tomorrow in State Affairs

HSA Form #004

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

March 2, 1983

Honorable Mitchell E. Abood, Jr.
Chairman, House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: HB 54 (regulations adopted under the Administrative Procedure Act)

Dear Mr. Abood:

In line with the first section of this bill, the Department of Law wholeheartedly supports the idea "that regulations adopted, revised or amended under the Administrative Procedure Act (AS 44.62) be simple, clear, understandable, and easily readable." However, we oppose this bill.

The heart of this bill is, of course, in its section 4, which would require the application of the Flesch "reading ease test" to administrative regulations adopted under the Alaska Administrative Procedure Act. That test is derived from a part of the "readability formula" developed by Dr. Rudolph Flesch in the 1940's. See his The Art of Plain Talk (Harper & Row, Publishers, 1946) and The Art of Readable Writing (Harper & Row, Publishers, 1949). In his preface to the second book, Dr. Flesch states

> . . . I can only repeat what I said in the preface to The Art of Plain Talk: "Some readers, I am afraid, will expect a magic formula for good writing and will be disappointed with my simple yardstick. Others, with a passion for accuracy, will wallow in the little rules and computations but lose sight of the principles of plain English. What I hope for are readers who won't take the formula too seriously and won't expect from it more than a rough estimate." [Emphasis added.]

Dr. Flesch himself recognized that, while such a formula can be useful in helping sensitize a writer to certain elements of his writing, it should not be rigidly applied or overemphasized. This bill does just that. Under section 2 of the bill, an administrative regulation, no matter how essential to the wellbeing of the state and no matter how easily understood by the portion of the public governed by that regulation, would be invalid if it does not achieve a certain score on the Flesch reading ease test. Conversely, a regulation could satisfy the requirements of the proposed statute, by containing simple

sentences and words of few syllables, and still be pure gibberish.

The proposed AS 44.62.055(a)(4) requires counting words and syllables only for a regulation containing 10,000 words or less. That would be virtually every regulation. That means that someone in the Department of Law serve as a word and syllable counter, since it is this department that is responsible for assuring the legality of administrative regulations (AS 44.62.060). That does not seem to be a productive use of staff time. A regulation drafter, whether or not an attorney, should be aware of such things as sentence and word length as well as the many other things discussed so well by Professor Reed Dickerson in his The Fundamentals of Legal Drafting (Little, Brown & Co., 1965).

Professor Dickerson's book has served as the basic reference work for both legislative and regulation drafting in Alaska for many years. In a 1980 article, Professor Dickerson points out, with regard to sentence length, that "the psycholinguists recently confirmed the fact that because the structure of an unavoidably complicated idea is normally hierarchical, it is better grasped if framed in sentences long enough to accommodate appropriate clauses and subclauses than if chopped up into short sentences whose interrelationships are accordingly obscured." Plain English in a Complex Society (The Poynter Center, Indiana University, April 1980). That, itself, is a rather long sentence, but its meaning seems quite clear and the professor's point is certainly valid.

It is a coincidence that section 3 of this bill, requiring the Drafting Manual for Administrative Regulations to consider the requirements of the proposed Flesch-test section, appears at this time. The Department of Law is currently in the final stages of preparing the 8th edition of the Drafting Manual for Administrative Regulations, and a new Chapter 20 mentions Dr. Flesch and his readability formula. A copy of that Chapter 20 taken from the final (but not yet proof-read) draft of the 8th edition is attached, for your convenience.

Two other points: (1) it is not clear why only medical terminology has been singled out (page 3, line 16) as a particular kind of technical terminology to be excepted from the definition of "text." (2) Proposed AS 44.62.055(c) and (d) (page 3, lines 21 -- 27) assign duties to the commissioner of administration. Currently, that commissioner has no role under the Administrative Procedure Act, and it would be more appropriate to assign the two functions mentioned there either to the Department of Law or the Lieutenant Governor's Office.

The bill's concern with clear writing of administrative regulations is commendable. However, it does not appear that a

rigid use of the Flesch test (or some other such approach) will assure clear writing, and this bill appears likely to cause more problems than it will solve.

Thank you for this opportunity to comment.

Yours truly,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Arthur H. Peterson
Arthur H. Peterson
Assistant Attorney General

AHP:md

cc: Hon. Walt Furnace
House of Representatives
Alaska State Legislature

Emil Notti, Legislative Assistant
Office of the Governor

From final draft of Department of Law's 8th edition of its Drafting Manual for Administrative Regulations (12/82).

CHAPTER 20. PLAIN ENGLISH.

In writing regulations, use "plain English." Legislation has been introduced in Alaska and has been enacted in some states (e.g., Connecticut, Massachusetts, New York) requiring certain legal material to be written in plain English. President Carter's Executive Order No. 12044 (March 23, 1978) included a provision requiring officials to determine that their regulations are "written in plain English and . . . understandable to those who must comply with [them]."

Obviously, people will disagree as to what that means. Much has been written on the subject. For the purposes of this manual, the admonition to use plain English should be taken in much the same vein as Edwin Newman's advice to use a "civil tongue."

> A civil tongue . . . means to me a language that is not bogged down in jargon, not puffed up with false dignity, not studded with trick phrases that have lost their meaning. It is not falsely exciting, is not patronizing, does not conceal the smallness and triteness of ideas by clothing them in language ever more grandiose, does not seek out increasingly complicated constructions, does not weigh us down with the gelatinous verbiage of Washington and the social sciences. It treats errors in spelling and usage with a decent tolerance but does not take them lightly. It does not consider "We're there because that's where it's at" the height of cleverness. It is not merely a stream of sound that disk jockeys produce, in which what is said does not matter so long as it is said without pause. It is direct, specific, concrete, vigorous, colorful, subtle, and imaginative when it should be, and as lucid and eloquent as we are able to make it. It is something to revel in and enjoy.
>
> From A CIVIL TONGUE, copyright ©1975, 1976 by Edwin H. Newman, used with permission of the publisher, The Bobbs-Merrill Company, Inc.

While administrative regulations are rarely "colorful," Mr. Newman's point is well taken. They should be direct, specific, concrete, etc. It is necessary to think about each word that is written. For regulations as for statutes, the potential for administrative difficulties, public confusion, and litigation --

all stemming from careless drafting -- must be borne in mind. This is a matter of what may be called "substantive clarity" -- the logical organization and accuracy of the writer's thought and of the expression of that thought.

In addition, it is necessary to consider how clearly or easily that thought is likely to be understood by a particular reader or class of readers. Regulations should be written for two audiences: (1) that portion of the public who will be governed by the regulations, and (2) the general public. As part of the law of the state, regulations should be written in a style that can be readily understood by people of fairly widely varying educational backgrounds. They should not be written as part of an esoteric realm accessible only to some highly educated or governmental elite. However, this does not mean that a set of commercial banking regulations, for example, should be written at an eighth-grade level. The primary focus should be on the persons governed by the regulation. The standard is flexible. Balance and good judgment are required.

Legal writing will sometimes deal with complicated concepts. Nevertheless, the drafter's words and writing style should be geared toward expressing those concepts as simply, clearly, and accurately as possible. Typically, the substance of a regulation is the source of much dispute. A jargon-laden, "governmental" writing style can cause confusion and resentment; it should be avoided.

A widely used State of Alaska form, revised in 1980, retained the following language (immediately after providing a blank for a land description):

> Together with, all and singular, the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, . . .

Not even in legal writing is there any longer a justification for that sort of archaic, redundant jargon. While its origins may be described, whatever value it may once have had is overwhelmed by the problems it creates in current writing. Whoever approved that form in 1980 simply did not think about all of the words he or she was using. Equally importantly, that language does not show any concern about the comprehension level of the people using that form.

In 1946, Rudolf Flesch wrote The Art of Plain Talk (Harper and Row, Publishers), in which he developed a statistical formula for measuring "readability." By finding average sentence length and

proceeding through some additional steps, use of Dr. Flesch's formula tells a writer where the writing stands on a scale ranging through seven steps from "very easy" (e.g., comic books) to "very difficult" (e.g., scientific journals). Dr. Flesch's The Art of Readable Writing (Harper and Row, Publishers, 1949) offered a revised version of his readability formula, and he cautioned readers of his books not to expect more from the formula than a rough estimate. It is simply an attempt to provide some sort of objective measurement of readability.

More recently, computers have been used to assist in that kind of statistical or objective approach. An oversimplified statement of its basic premise might be "The longer the sentences, and the longer the words, the harder it will be to understand the writing.". A writer's use of the Flesch formula or of a computer or of some other readability analysis certainly does not guarantee good writing. It does not even guarantee easily understood writing. But one who is aware of the factors discussed by Dr. Flesch has some guidance in producing writing that ought to be understood by the appropriate reading audience.

As indicated in the long quotation at the beginning of this chapter, it is also necessary to think about the precision of each word itself. Four relatively recent and popular books that emphasize the precision that is available in the English language are: Edwin Newman's Strictly Speaking (Warner Books, 1975) and A Civil Tongue (Warner Books, 1977); William Safire's On Language (Avon, 1981); and John Simon's Paradigms Lost (Clarkson N. Potter, Inc./Publishers, 1980). With varying degrees of dogmatism and humor, these books help sensitize one to the appropriate uses of words and phrases.

Those authors criticize errors in punctuation and word usage that they have observed in the press, in television commercials, in everyday social exchanges, and in a variety of other sources. This criticism emphasizes the need to adhere to standards of "correctness" while not freezing the development of the language. And it emphasizes the obvious need to avoid the thoughtless use of a language that, if used with care, can provide very accurate communication.

This manual will not attempt to offer a bibliography of books and articles on legal drafting or other kinds of writing. However, two classic reference works must be mentioned: H. W. Fowler's A Dictionary of Modern English Usage (Oxford University Press, 2d ed., 1965); and William Strunk, Jr., and E. B. White's The Elements of Style (Macmillan Publishing Co., Inc., 3d ed., 1979). In addition, Margaret Nicholson's A Dictionary of American English Usage (Signet, 1958) can be useful (although it is now out of print). The Fowler book and the Nicholson book (based on

the first edition of Fowler) provide dictionary entries, often extending to brief essays, on such things as split infinitives and the distinction between the proper uses of "which" and "that." A basic characteristic of Fowler is mentioned by the editor in the preface to the second edition:

> [H]e never forgot what he calls "that pestilent fellow the critical reader" who is "not satisfied with catching the general drift and obvious intention of a sentence" but insists that "the words used must . . . actually yield on scrutiny the desired sense." [Footnote omitted.]

The Strunk and White book sets out rules, examples, and discussion, in a very few pages. It provides what White calls (in his introduction to the third edition) a "summation of the case for cleanliness, accuracy, and brevity in the use of English."

A discussion of legal writing has to include mention of Reed Dickerson's The Fundamentals of Legal Drafting (Little, Brown and Co., 1965), referred to at several places in this manual. Through logic, humor, and a very "readable" writing style, Professor Dickerson provides guidance and insight. One can use his book for its "do" and "don't" rules (such as some of those in Chapter 15 of this manual) as well as for its solution of various kinds of language puzzles that appear in legal drafting (such as semantic and syntactic ambiguities, logical fallacies, and distinguishing the appropriate use of vagueness). His explanations and advice help one's thinking and one's writing.

The purpose of this little chapter is to stress the importance of the writing of regulations and to suggest just a few basic books that will help in the effort. Most of the rest of this manual deals with substantive issues and procedural requirements. However, if the language used is not carefully selected to help assure clear thinking and to help assure that the concept in the writer's mind is likely to be the same concept that the reader derives from the writing, the attention devoted to those issues and requirements may well have been wasted. Not only that, the administrative problems, public confusion, and litigation that might result could be very expensive. A regulations drafter is writing law. That is not something that can be done with abandon.

CHAPTER 21. SECRETARIES' SUMMARY.

A. Introduction

HB 54

Page 1 line 15 What are words of art?

Refer to the fiscal note from the Dept. of Law:

The department of law recommends that the power to authorize a lower Flesch score when such a lower score is necessary to prevent substantive misinterpretation of a statute be vested in either the Attorney General or the Lt. Governor and NOT the Commissioner of Administration.

Wouldn't the Attorney General's office be the most reasonable place to guard against any substantive misinterpretation of a statute?

Please disregard

Also, please note the appearance of several typo's on:

page 3 lines 21;22;24;25 the words "commissioner" and "administration."

My office has notified the Chief Clerk of the engrossing errors and ~~it~~ they will be corrected in the next printing.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 54 Date on Bill: 2/9/83

Title: "An Act relating to regulations adopted under the Administrative Procedure Act (AS 44.62):

Sponsor: House State Affairs Committee

Requestor: House State Affairs Committee

and providing for an effective date."

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating			7.3	50.6	53.6			
Total			7.3	50.6	53.6			

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

No information provided.

3. Assumptions:

Each year the Department of Law reviews and assists in the preparation of approximately 150 separate sets of regulations adopted under the Administrative Procedure Act. The department agrees fully with the purpose and intent of the bill, which is that the state's regulations be simple, clear, understandable, and easily read. The department's drafting manual for administrative regulations and its civil division law office manual both stress the importance of simplifying legal writing, through example and instruction. Due to the large number of regulations being reviewed by the department, and their varied

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Richard L. Pegues/ Director Phone: 465-3672

Division: Administrative Services Date: 2/10/83

Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: 2/10/83

Department: Department of Law

5. Distribution:

Original to Legislative Finance

Copy to OMB

Copy to Sponsor

Copy to Requestor

2/8/83

scope and nature, it will be necessary to add a new and ongoing level of examination during the review process. Consequently, resources made available to the department must be increased to add attorney supervised staff who will be responsible for insuring that regulations comply with a "Flesch reading ease" type test.

The department notes that proposed Sec. 44.62.055(d) would empower the Commissioner of Administration to authorize a lower score when such a lower score is necessary to prevent substantive misinterpretation of a statute. The department recommends that this power be vested in either the Attorney General or the Lieutenant Governor rather than the Commissioner of Administration. Adding a new player to an already complicated game, one that we are all trying to simplify, will probably complicate the process further.

7AAC 35.090 (c)

Words		Syllables
9	(c) It shall be the duty and responsibility of all	14
7	physicians licensed to practice medicine in the	13
9	State of Alaska who are in attendance or any	13
8	physician who by virtue of his appointment as	13
7	medical examiner or local health officer shall	15
8	have knowledge or suspect that a person has	11
7	died of a communicable disease which may	12
8	reasonably constitute a threat to the health of	15
6	morticians and their staffs, village officials,	11
7	clergymen, and all others involved in the	11
8	handling and preparation of a dead human body,	12
7	to inform and counsel such individuals promptly	13
9	of this hazard or potential threat to their health	13
5	and safety. Appropriate precautionary measures	13
7	to prevent the spread of communicable diseases	13
7	from deceased human bodies to employees of	12
5	mortuary establishments, persons contracted to	13
7	provide services involved in the preparation and	14
8	handling of dead human bodies, and to the	11
8	general public, shall be undertaken at all times	14
8	and shall be the responsibility of the funeral	13
8	director, or in his absence, the senior village	13
2	official present.	5
Total 165		287 Total

Sentences = 2

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 31, 1983

MEMORANDUM

TO: Representative Walt Furnace
Attention: Jeff Barry

FROM: Christine Johnson, Research Staff

RE: Readability Formulas
Research Request No. 83-1

Jeff Barry of your staff has asked for a description of the formulas which are used to test the "readability" of written material. There are many readability formulas, although six are most commonly used. A brief description of these six tests is attached. We have also enclosed some material prepared by the National Conference of State Legislatures (NCSL) regarding "plain language laws" in other states. States which require that contracts, insurance policies, etc., be subjected to a readability test generally specify the Flesch readability formula.

All readability tests determine the reading level of a document based on (a) the difficulty of the vocabulary and (b) the complexity of the sentence structure. They generally judge the complexity of vocabulary by the number of syllables per word. Several formulas also have their own vocabulary lists of "familiar" words. Written material which has a large percentage of words not on these lists is considered more difficult to read. The formulas determine the complexity of sentences based on the average number of words per sentence.

Readability formulas differ in the types of material they are designed to evaluate and in the ease with which they are applied. The table on the following page shows the grade levels for which each test is suited. The American public reads at roughly a junior high school level; newspapers are written at a sixth to seventh grade reading level.

As you can tell from the information we have attached, it does not require any specialized training to use the readability formulas. It can, however, be time consuming to count the number of words in sentences, the number of syllables per word, etc. The Spache and the Dall-Chall formulas are the most complicated and time consuming to use as each word in a document must be looked up on the word list. Readability formulas which can instantly test the reading level of a document are available on the softwear for many brands of word processors. The more sophisticated programs will automatically display

alternatives to words in the document which are above the desired reading level. We have enclosed a description of the readability formulas available for Wang word processors for your information.

We hope this information is of use to you. If you would like any additional information on this topic, please don't hesitate to contact us.

Six Most Common Readability Formulas

Grade Level for which Test is Suited

	1	2	3	4	5	6	7	8	9	10	11	12	College	Professional
Spache	1	-	-	-	-	-	-	-	4					
Dale-Chall					5	-	-	-	-	-	-	-	-	College
Fry	1	-	-	-	-	-	-	-	-	-	-	-	-	College
Raygor				4	-	-	-	-	-	-	-	-	-	Professional
Flesch								8	-	-	-	-	-	College
Gunning-Fog								8	-	-	-	-	-	College

Source: Alaska Department of Education, Office of Educational Technology and Telecommunications.

Descriptions of the Six Most Common Readability Formulas

1. The Spache Formula
2. The Dale-Chall Formula
3. The Fry Formula
4. The Raygor Formula
5. The Flesch Formula
6. The Gunning-Fog Formula

SPACHE READABILITY FORMULA

The Spache Formula was developed to determine the readability of written materials for grades 1 - 4. The steps used in evaluating selections are presented below.

1. Count the number of words

2. Count the number of sentences

3. Count the number of words not on the Spache Word List

4. Find the average sentence length by dividing number 2 by number 1.

5. Divide number 3 by number 1 and multiply by 100.

6. Multiply number 4 by .121

7. Multiply number 5 by .082

8. Add number 6 and number 7 plus a constant .659 to obtain the grade level.

This outline of the Spache test is given so the reader will know how the formula is calculated. It is not intended to be complete. For the word list, and further details, see Appendix C, Reference 8.

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DALE-CHALL FORMULA

One of the most commonly known and widely used formulas for determing the reading level of printed materials is the "Dale-Chall Formula". This formula is based on two counts: average sentence length and percentage of unfamiliar words. This formula is used extensively in the elementary field to evaluate vocabulary in textbooks. However, the range and vocabulary in senior high school books makes this formula somewhat impractical for that level. The steps used in evaluating written selections are presented below:

1. Count the number of words in the sample;
2. Count the number of sentences in the sample;
3. Count the number of words not included in Dale's list of 3000 words;
4. Divide the number of words by number of sentences to obtain the average sentence length;
5. Divide the number of words not on Dale's list of 3000 words by the total number of words in the sample;
6. Multiply the average sentence length by .04696;
7. Multiply the Dale score by .1579;
8. Add the results from steps 6 and 7 to a constant (3.6365) to obtain the formula raw score;
9. Convert to a readability score by the use of the following conversion table:

FORMULA SCORE	CORRECT GRADE LEVELS
4.9 and below	Grades 4 and below
5.0 to 5.9	Grades 5 and 6
6.0 to 6.9	Grades 7 and 8
7.0 to 7.9	Grades 9 and 10
8.0 to 8.9	Grades 11 and 12
9.0 to 9.9	Grades 13 - 15 (College)
10.0 and above	Grades 16 - above (College Grad)

This description of the Dale-Chall test is given so the reader will know how the formula is calculated. It is not intended to be complete. For the word list, and further details, see Appendix C, Reference 1.

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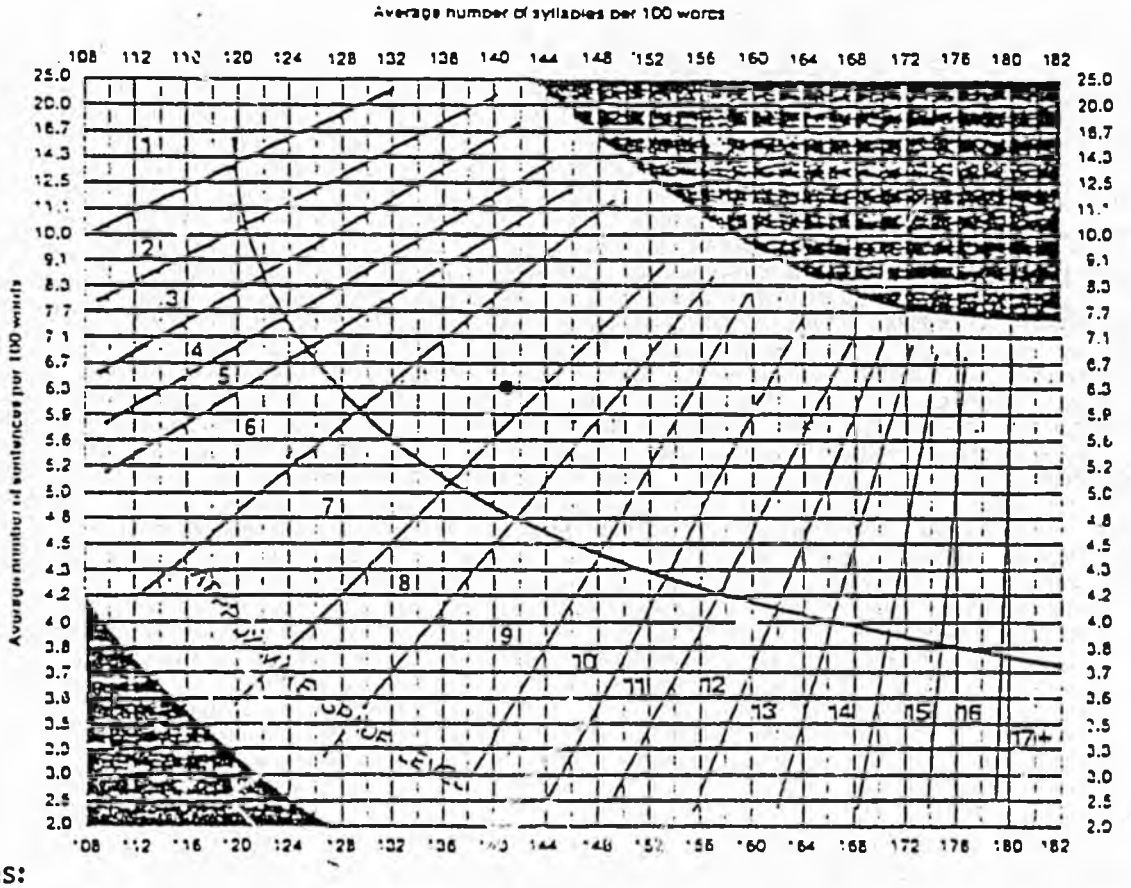
FRY READABILITY ESTIMATE

by Edward Fry, Rutgers University Reading Center, New Brunswick, N.J. 08904



Directions:

Randomly select three one hundred word passages from a book or an article. Plot average number of syllables and average number of sentences per 100 words on graph to determine the grade level of the material. Choose more passages per book if great variability is observed and conclude that the book has uneven readability. Few books will fall in the gray area but when they do, grade level scores are invalid.

Count proper nouns, numerals and intializations as words. Count a syllable for each symbol. For example, "1945" is 1 word and 4 syllables and "IRA" is 1 word and 3 syllables.

Example:

	SYLLABLES	SENTENCES
1st Hundred Words	124	6.6
2nd Hundred Words	141	5.5
3rd Hundred Words	158	3.8
AVERAGE	141	6.3

READABILITY 7th GRADE (see dot plotted on graph)

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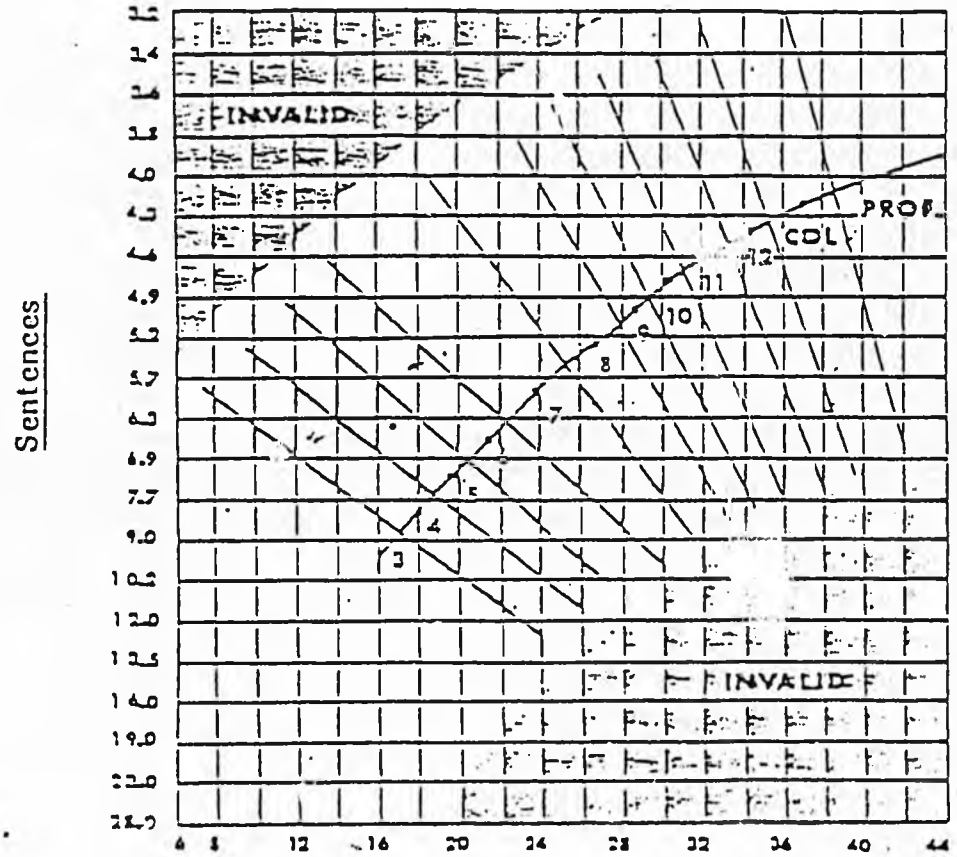
THE RAYGOR READABILITY ESTIMATE

ALTON L. RAYGOR - UNIVERSITY OF MINNESOTA



Directions:

Count out three 100-word passages near the beginning, middle, and end of a selection or book. Count proper nouns, but not numerals.

1. Count words with six or more letters (long words).
2. Count sentences in each passage, estimating to nearest tenth (sentences).
3. Average the sentence length and word length over the three samples and plot the average on the graph.

Example:

	Long Words	Sentences
A	15	6.0
B	19	6.8
C	17	6.4
Total	51	19.2
Average	17	6.4

Note mark on graph. Grade level is about 5.

FLESCH FORMULA

The Flesch formula is based to compute scores for "reading ease" and "human interest". Although this method has been criticized, no better system seems to have been developed to this time for quick evaluation of adult reading materials. Flesch has a chart inside the cover of his book, The Art of Readable Writing, which is a short-cut to determining readability and will eliminate the need to compute the formula. This chart can be used in place of steps 6 and 7 in the procedure outlined below. For those who do not have access to his book, the procedure he follows to determine readability is:

1. Count the words in the article (mark each 50th word).
2. Count the sentences.
3. Count the syllables in the article.
4. Divide the number of words by the number of sentences to obtain the average sentence length.
5. Divide the number of syllables by the number of words and multiply by 100 to obtain the average number of syllables per 100 words.
6. Multiply the average sentence length in words by 1.015.
7. Multiply the average number of syllables per 100 words by .846, then add the totals of steps 6 and 7, then subtract the total from 206.835 to obtain the readability score for the article.
8. Convert the readability score to reading ability level given below to determine usability.

READABILITY	READING ABILITY LEVEL
80 - 70	7th and 8th grades
70 - 60	9th and 10th grades
60 - 50	11th and 12th grades
50 - 40	College Freshman to Juniors
40 - 30	College Seniors
30 - 20	College Graduates

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GUNNING-FOG FORMULA

The Gunning-Fog Formula was developed to determine the readability of magazine articles. The steps used in evaluating articles are presented below:

1. Count the number of words

2. Count the number of sentences

3. Count the number of hard words

4. Find the average sentence length by dividing number 2 by number 1.

5. Multiply the percent of hard words (number 3) by number 1 times 100.

Fog Index

Total (4+5) x .4

This outline of the Gunning-Fog formula is given so the reader will know how the formula is calculated. It is not intended to be complete. For further details, see Appendix C, Reference 4.

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Why Results Of Tests May Vary

Grade levels predicted for a book based upon a large number of 100 word samples was found to have a normal distribution. Several passages from a book may differ by several grade levels because, individually, the passages are not representative of the whole book. It is important, therefore, to use an average of three or more passages to obtain an accurate estimate of reading level.

Results obtained by the various tests applied to a given book or passage may differ because of the measures used as predictors and the criteria by which the methods were validated.

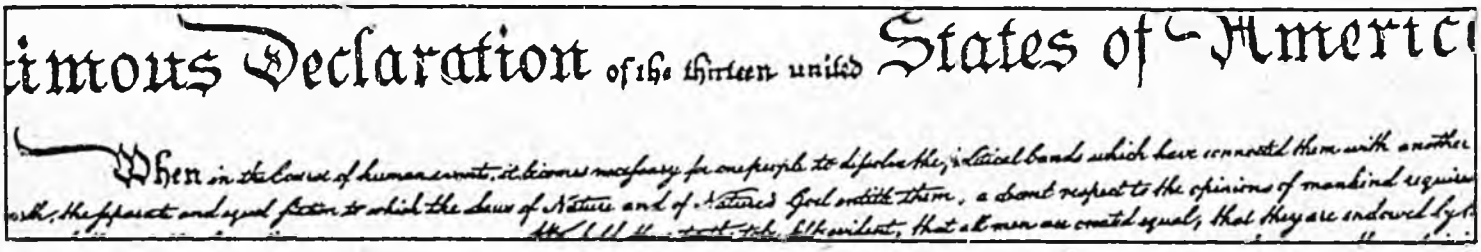
All methods in School Utilities Volume 2 are based upon a measure of vocabulary difficulty and a method of sentence structure complexity as predictors. However, the various methods arrive at these measures in different ways.

Sentence length is the predictor of sentence structure complexity for all the methods in School Utilities Volume 2, but the weight given to this predictor varies from one method to the next.

Several measures are used to predict vocabulary difficulty which accounts for most of the variance between the grade level results in the various methods. For example, there are quite a number of words with three or more syllables that appear on the Dale list of "familiar" words. These familiar words are counted as difficult by methods which employ syllable counts. The word list methods of Dale-Chall and Spache have proven to be more accurate.

Another cause of differences in results is the criterion used to validate each of the methods. The Spache method was validated against the grade level of basal reader series. Most other measures predict the grade level required to score 50 percent correct on the multiple choice comprehension tests used by McCall and Crabbs in their Standard Test Lessons in Reading.

It is important to keep in mind that readability formulas only predict the probable grade level. However, as Edward Fry has said, "high motivation can overcome high readability level, but low motivation demands a low readability level." ("Fry's Readability Graph", Journal of Reading, 21, December 1977, pp. 242-251.)



STATE LEGISLATIVE REPORT

An Information Service of the National Conference of State Legislatures — Earl S. Mackey, Executive Director

Vol. 4, No. 3 July 15, 1979

LEGISLATION REQUIRING PLAIN LANGUAGE

ISSUE DEFINITION

Many legal documents, especially contracts and insurance policies, awkwardly like this first sentence often read. As part of a general dislike for cumbersome language and as part of renewed interest in consumer protection, several states have passed legislation requiring use of "plain language" in consumer agreements. The purpose behind these "plain language laws" is to make legal documents simpler and understandable to the average person -- a good few would dispute. The laws themselves, however, have been subject to a continuing controversy in the state legislatures because of their vagueness, the influential interests that often oppose them, and the effects of such legislation on the body of contract law.

BACKGROUND

In the late 1960s and 1970s members of the consumer movement expanded their attack on what they saw as attempts by business interests to bilk consumers through the design of unreadable contracts for goods and services. The image was one of the business representative who presented the consumer with a multi-page contract, written in small print and a strange hand. Even if the consumer were not intimidated by the mere appearance of the document, the contorted language would prevent this average person from understanding the terms of the agreement.

To remedy the situation, consumer advocates (and others who were interested simply in the preservation of the English language) created a drive to have certain consumer contracts written in plain, easy-to-understand language. The purpose behind this effort was succinctly stated in the Maine bill (Legislative Document 1634) which stated that the "purpose of this chapter is to enable the average consumer, who makes a reasonable effort under ordinary circumstances, to read and understand the terms of loan documents without having to obtain the assistance of a professional".

When the Citibank of New York simplified its consumer loan forms, it gave credence to the argument that such simplification was practical. Moreover, various political candidates

and officeholders moved in the mid-seventies to make government documents more readable. Chief among these disciples of readability was President Jimmy Carter who issued an Executive Order in 1977 insisting on understandable language in federal regulations.

At about the same time, the New York legislature passed an amendment to that state's general obligations law. This "Sullivan Law" (named after its sponsor, Assemblyman Peter M. Sullivan), as amended in 1978, became the model for a groundswell of legislative concern and action in the area of consumer contract and insurance policy readability.

The plain-language laws usually require consumer contracts, loan agreements, and insurance policies to contain simplified language that the "average person" can understand. In many instances the laws pertain only to contracts involving no more than $50,000, and they frequently set penalties in the range of $50 for violation of the plain language requirements. The aggregate liability of a person who originates a document in violation of a plain language law -- in the event he or she is sued in a class action--is usually set at $10,000. Plain-language laws rarely render the document void simply because it does not meet the plain-language requirements; they simply penalize the originator of the document.

The laws are usually met with a swirl of controversy. Proponents of plain-language laws frequently cite the following arguments in their support.

1. The average consumer cannot understand most contracts and insurance policies without assistance from legal counsel. Since few consumers are willing to take every insurance policy, loan agreement, and lease to an attorney because of the time and expense involved, they often enter binding arrangements without understanding the full implications of their signatures. Plain-language requirements for these documents would protect the consumers and make it possible for them to read and evaluate their own business transactions.

2. Some academicians and journalists complain that the English language is often mutilated in contracts, insurance policies, and other documents covering the exchange of goods and services. Plain-language laws are one method by which public officials can be restrained from inflicting further damage on the language.

3. Anything that can be written in complicated, difficult, and generally tortuous English can be written in plain English. Simply by taking the time and effort to guarantee understandable language in public records and private contracts, government and business can become more democratic, open, and understandable to the general public.

Opponents of the plain-language movement usually grant the good intentions of the movement's members, but argue that problems surround the execution of these laws.

1. No one knows what language is sufficiently "plain". What might be plain language to one person, might be confusing, vague, or misleading to another.

2. The enforcement costs will be high. They will involve not only the expense to private firms of designing and printing new forms, but also administrative and investigative costs for government.

3. The government will also incur substantial costs in prosecuting violators. Current contracts and policies have been developed through thousands of court cases. Introduction of an entirely new language structure will require much of that litigation to commence again as new, precise meanings are given to the altered vocabulary in contracts and insurance policies. The only people likely to benefit from this need for litigation will be the attorneys involved in the suits.

4. The requirements for plain language in contracts and insurance policies will create the potential for a tremendous number of interstate conflicts and state-federal conflicts, as each state develops different document forms based on different models of plain-language law. It is even possible that some stringent state plain-language laws might be questioned as unlawful restrictions on interstate commerce if they severely hamper the ability of a firm in one state to conduct business in another state.

Even as the pros and cons of plain language requirements for consumer agreements grow and intensify, however, the drive for plain language has spread to areas other than consumer protection. Just as President Carter has asked federal bureaucrats to write rules and regulations in understandable terms, state legislatures have considered bills and memorials to require the same standards in their own halls and in the state bureaucracies.

STATE LEGISLATION

Since the enactment of the Sullivan law in New York, the idea of plain language requirements has become popular in state legislatures. A 50-state survey by NCSL in June of this year indicated that over half the states had passed plain-language laws or had them introduced in the past two years. Below is a list of states that reported recent activity in this area:

Arkansas
Arizona
California
Colorado
Connecticut
Delaware
Hawaii
Iowa
Illinois
Kentucky
Kansas
Maine
Maryland
Michigan
Minnesota
Mississippi
Nebraska
Nevada
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oregon
Rhode Island
South Carolina
Vermont
Washington
Wisconsin

Many of this year's plain-language bills have died in committee, but some have already been passed by the legislatures and signed into law.

The approaches taken by these plain-language laws vary widely. In Rhode Island, a 1979 bill (H5820) passed containing the following language:

> SIMPLIFIED COMPREHENSIVE POLICIES OF INSURANCE -- Simplified policies of insurance providing broad coverage of all or various combinations of risks may be approved by the director of business regulation and issued by insurers notwithstanding any provision of this chapter, and notwithstanding those provisions of any other law which specify the contents of insurance policies, provided that such policies contain provisions assuring to policyholders and claimants protection not less favorable that they would be entitled to under Section 27-5-3 of this chapter or a substantially similar policy which is not subject to this section.

Still another approach has been taken by the Illinois legislature in which HB305 requires:

> Every written agreement entered into after June 1, 1979, for the lease of space to be occupied for residential purposes, or to which a consumer is a party wherein the money, property or service which is the subject of the transaction is primarily for personal, family or household purposes must be:
>
> 1. Written in a clear and coherent manner using words with common and every day meanings;
>
> 2. Appropriately divided and captioned by its various sections.

By far the most stringent requirement on language is set forth in states that subject insurance policies and other forms of consumer contracts to the "Flesch readability formula". At least eight states have this formula written into pending or enacted legislation. A section from the North Carolina House Bill 707, which was enacted into law, describes how this formula is applied to consumer contracts.

> (a) A Flesch scale analysis readability score will be measured as provided in this section.
>
> (b) For policies containing 10,000 words or less of text, the entire policy must be analyzed. For policies containing more than 10,000 words, the readability of two 200-word samples per page may be analyzed in lieu of the entire policy. The samples must be separated by at least 20 printed lines. For the purposes of this subsection a word will be counted as five printed characters or spaces between characters.
>
> (c) The number of words and sentences in the text must be counted and the total number of words divided by the total number of sentences. The figure obtained must be multiplied by a factor of 1.015. The total number of syllables must be counted and divided by the total number of words. The figure obtained must be multiplied by a factor of 84.6. The sum of the figures computed under this subsection subtracted from 206.835 equals the Flesch scale analysis readability score for the policy.

Most states using the Flesch readability score require a score of 40 for a document to be designated as readable.

Many of the state laws have additional requirements for the format and design of insurance policies and other contracts. Ohio's H.B. 119 carried in it the requirement that:

> The agreement shall be divided in a logical manner into sections organized for orderly and understandable reading of the entire agreement. Each section shall contain an underlined, boldface, or otherwise conspicuous title or caption at the beginning that indicates the nature of the subject matter included in or covered by the section.

Oregon Senate Bill 730 contained several requirements of this type:

> (6) Have the text of the contract or policy printed in Roman type at least as

large as 10-point modern type, two points leaded;

(7) Have margins that are adequate for purposes of readability, and have a line length of the text not exceeding four inches for a column;

(8) Have contract section headings printed in contrasting color, typeface or size; and

(9) Be printed so that the contrast and legibility of the ink and paper used is substantially the equivalent of black ink on white paper.

Several states' bills contained a combination of these requirements.

Legislation in Hawaii is mindful of the possibility that "plain language" and "plain English" laws are not necessarily synonymous in the United States. S.B. 48 in that state dealt with plain language in acts of the legislature, rules, and public records. A sentence from Section 3 of the bill states, "A Hawaiian word which is commonly understood may be used as a technical term in any public record". So in that state, words other than English-language words are specifically considered in one form of plain-language legislation.

As mentioned in the previous section, requirements for plain language have not remained confined to the realm of consumer protection or commercial law. States have started to consider the possibility that plain language requirements can have applications in other areas. In Wisconsin, Senate Bill 6 requires that:

> The state or county, municipality, school district or other unit of government within this state may furnish a document used in a transaction between it and a consumer only if the document is coherent, written in commonly understood language, legible, appropriately divided and captioned and presented in meaningful sequence.

The bill also applies similar requirements to "every tax form, set of directions and instruction booklets relating to the imposition of personal income tax issued by the department of revenue".

Some bill drafting manuals now devote as much space to grammatical instruction as to legal requirements for bills. The Montana manual states the point behind these requirements simply and forcefully:

> Bills should be written in simple, clear, and direct style, phrased for the common reader as well as for the political or legal expert...A poorly drafted, ambiguous bill will waste the time of citizens affected, confuse those charged with its administration, lead to litigation, and likely fail to accomplish the purpose of the author.

The high level of activity in the area of plain-language legislation in the past year does not necessarily mean that defeated bills from this session will be re-drafted and re-introduced next year. Nor is it certain that additional states will join the list of states active in this area. However, we are witnessing a strong current level of interest in the basic concept which underlies plain-language legislation -- that citizens should be able to read and understand the laws which govern them and the contracts which commit them to action.

REPORTS AND PUBLICATIONS

Goldbaum, D. "Insurance Policy Readibility Laws," Ohio Legislative Service Commission, Service Commission, May 8, 1979. (Available through NCSL's Legislative Information System. Document RCH7903353.)

Givens, R.A. "Practice Commentary," in New York's General Obligations Law 5-702, p. 15.

Havemann, J. "The Headache of Writing Regulations in a New Language," National Journal, November 12, 1977, pp. 1769-1771.

"Plain English Laws in Banking," The American Banker, June 29, 1978.

"Flaws are Seen in Simple English Legislation," La Crosse (WI) Tribune, February 2, 1979.

"Cutting Through the Thicket of Legal Lingo," Milwaukee Journal, February 9, 1979.

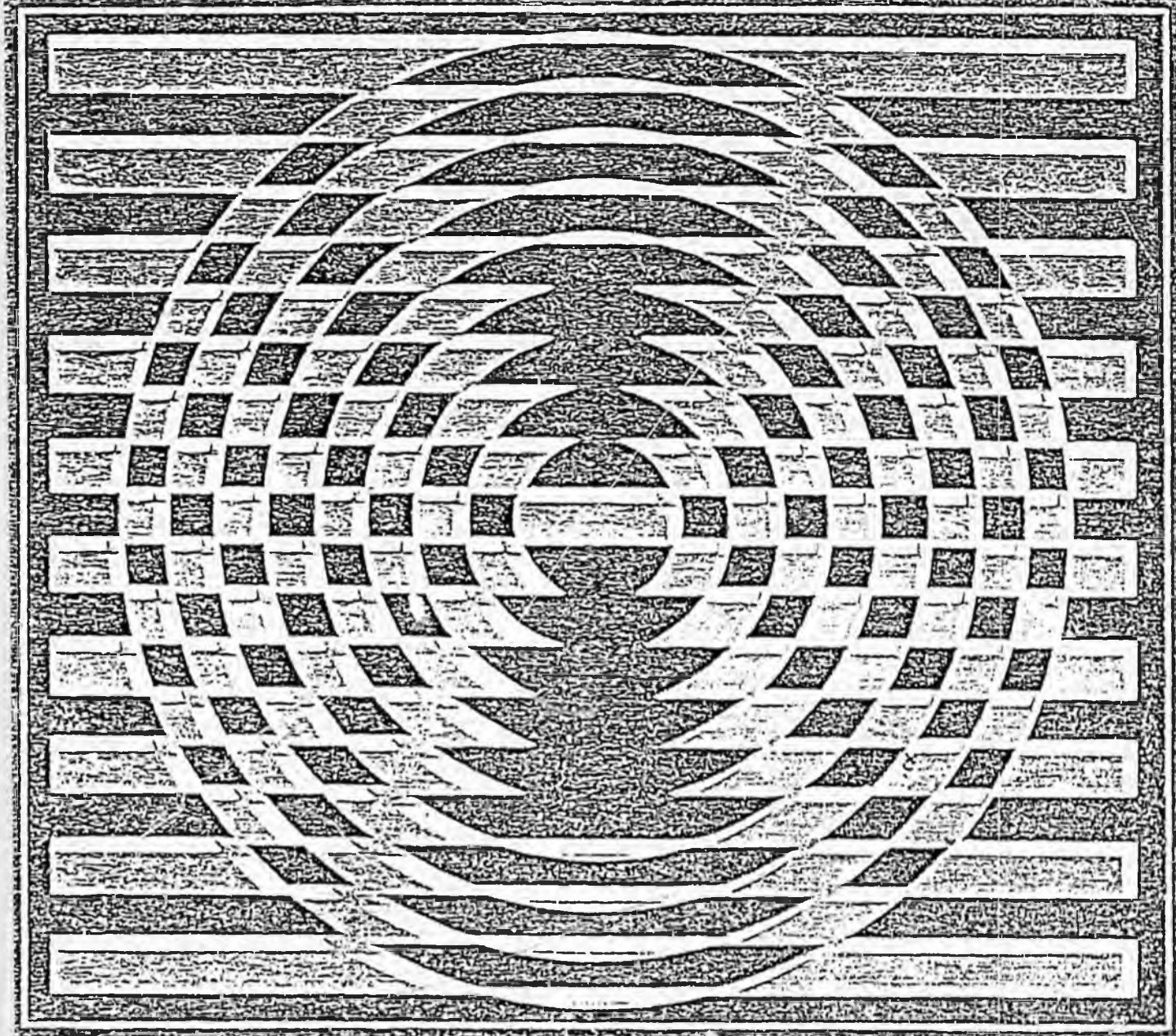
"Plain Language Law in Connecticut," New York Times, July 8, 1979.

"Plain Language Law in New York," New York Times. May 2, 1978.

The Alliance of American Insurers Public Relations Committee presents its Fifth Annual Conference on Company Communications in New York, September 23-25, 1979. At that meeting, Alan Siegel of Siegel & Gale, Inc., will discuss the status of simplified language and plain-language policies.

NCSL maintains a file of state activity on plain language legislation and requests that state legislators and legislative staff send bill copies, updated information, and relevant reports and articles on this topic to our Denver offices, c/o Glenn Newkirk.

OIS READABILITY INDEX USER MANUAL



OFFICE INFORMATION SYSTEMS

WANG

CHAPTER 1
INTRODUCTION

1.1 WHAT IS READABILITY?

Some documents are easier to understand than others. We read some letters and memos once and immediately know what the writer means, while we must reread others over and over before we can understand them. What is the factor that makes the difference? The answer is "readability." Readability is the element in written material that makes it easy or difficult to read.

Since the 1920s, researchers have been developing ways to measure readability. They have devised various systems, including the Flesch Index, and the Kincaid Index (MIL-M-38784A). These indices are computed by the Readability Index on the Wang Office Information System (OIS), Models 140 and 145.

Readability is important because, in today's business world, productivity and communication are major concerns. The time spent trying to read difficult writing decreases productivity. The less time spent reading, the more productive a person can be.

1.2 THE PLAIN ENGLISH MOVEMENT

Federal and state laws and forms have traditionally been difficult to read. Anyone who has filled out a tax return knows that. Yet tax forms are only a small part of the problem. Every business must comply with a host of federal regulations, many of which carry stiff penalties if they are not adhered to. Business and government spend much time and money each year interpreting these rules.

As a result, the "plain English movement" originated. A pension reform act was passed in 1974, requiring information sent out by companies describing their pension plans and benefits be clearly understood by their employees. A year later, the Moss-Magnuson Warranty Act was passed. This law applied similar readability standards to warranties for consumer goods.

CHAPTER 2
ABOUT THE PROGRAM

2.1 HOW THE READABILITY PROGRAM WORKS

The Readability Index reads a word processing document and analyzes it for reading difficulty. It analyzes documents that are not damaged, in use, or in a print queue.

The program creates a new document containing readability statistics and a list of all polysyllabic words (three or more syllables) used in the text. If specified by the user, the text of the input document is also output. The statistics indicate how easy or difficult the text is to understand.

The Readability Index gathers the following statistics and indices for each paragraph.

- Number of words
- Number of sentences
- Number of syllables
- Number of polysyllabic words
- Average number of syllables per word
- Average number of words per sentence
- Kincaid Index (MIL-M-38784A)
- Flesch Index score
- Grade level (a Flesch Index derivative)

After each line of paragraph statistics, the Readability Index lists all polysyllabic words in the order in which they occur in the text.

At the end of each page, the program accumulates the items and prints the page totals. At the end of the document, the program accumulates all the statistics and prints the document totals.

2.2 COUNTING SYLLABLES, WORDS, SENTENCES, AND PARAGRAPHS

To efficiently use the Readability Index, the user should understand how the program counts syllables, words, sentences, and paragraphs. Readability tests are based on the assumption that only the "running" text, i.e., the actual text contained within paragraphs, need be tested. This program, however, tests all text including titles, headings, section and paragraph numbers, date lines, salutations, and signature lines. The decision about what constitutes running text is left to the user. By using exclusion symbols, the user can exclude any part of the text from the analysis process.

2.2.3 Sentences

The Readability Index uses common typing rules to determine its sentence and paragraph designations. A sentence is defined as any word or group of words ending with a period, question mark, exclamation point, colon, or semicolon.

To indicate a sentence, a period must be followed by at least two spaces (or at least one return character). If there is only one space after a period, the Readability Index does not count it as a sentence (for example, Mrs. Smith). Only one space must follow other end-of-sentence punctuation marks to indicate a sentence. The end of a paragraph indicates the end of a sentence.

A word followed by any end-of-sentence punctuation (other than a period) and a single or double quotation mark is not the end of a sentence unless the quotation mark is followed by at least two spaces or by at least one return character. Also, a word followed by a single return and no end-of-sentence punctuation does not denote an end of sentence.

If the program encounters an ellipsis (a sequence of three dots indicating missing text, i.e., "...") or more than one exclamation point or question mark in a row, the system does not count them as multiple sentences. For example, the sentence "What on earth do you mean???" is counted as one sentence.

2.2.4 Paragraphs

The Readability Index recognizes a paragraph when it finds one or more words followed by two or more return characters regardless of end-of-sentence punctuation (period, question mark, exclamation point, colon, or semicolon). A paragraph end is implied if a sentence ends at the end of a page, even if there are no return characters.

A word at the end of a page that is not followed by any end-of-sentence punctuation or a return character indicates that the sentence, and the rest of the paragraph, continue on the next page.

If the last word on the page is part of a sentence that continues on the next page, the program does not consider that page an end of paragraph. If a sentence carries over to the next page, the Readability Index includes the sentence's statistics on the page on which it ends. Syllable, word, and sentence counts for all complete sentences in the partial paragraph are included in the page totals for the page on which the paragraph began. The totals for the entire paragraph appear when the end of the paragraph is reached.

Thus, if there are split paragraphs in a document, the totals for the entire document will not equal the sum of the various page totals because the document totals represent the sums of all the complete paragraph statistics. Thus, accuracy is maintained at the paragraph and document level.

Sect.	[---- NUMBER OF ----] Words	Sent	Syl	Poly-syl	[- AVERAGE -] Syls/ Word	Words/ Sent	[-KINCAID-] MIL-M-38784A	[- FLESCH -] Raw Score	Grade Level

(TO: John Clark

FROM: Martha Johnson

SUBJECT: Office Information Systems Readability Index

DATE: September 30, 1981)

Enclosed is a demonstration of the Office Information Systems Readability Index. This demonstration should be able to be performed easily, as a result of the advanced human interface design aspects of the package.

Pr	1	33	2	62	6	1.88	16.50	13.0	31.14	16.3

POLYSYLLABIC WORDS: demonstration Information Readability demonstration easily interface

The necessity of the following software package demonstration becomes readily understandable when one investigates the series of events which have led to the development and implementation of the Pension Reform Act of 1974, the Moss-Magnuson Warranty Act of 1975, and the Presidential Executive Order 12044 in 1978. This legislation requires increased levels of readability for documentation in the insurance industry, the public sector, and the federal government.

Pr	2	67	2	134	19	2.00	33.50	21.1	3.63	20.5

POLYSYLLABIC WORDS: necessity following demonstration readily understandable investigates development implementation Moss-Magnuson Warranty Presidential Executive legislation readability documentation insurance industry federal government

PG	1	100	4	196	25	1.96	25.00	17.3	15.64	18.7
TOTAL:		100	4	196	25	1.96	25.00	17.3	15.64	18.7

Sect.	[----- NUMBER OF -----] Words	Sent	Syl	Poly-syl	[- AVERAGE -] Syls/ Word	Words/ Sent	[-KINCAID-] MIL-M-38784A	[- FLESCH -] Raw Score	Grade Level

(TO: John Clark

FROM: Martha Johnson

SUBJECT: Office Information Systems Readability Index

DATE: September 30, 1981)

Enclosed is a demo for the OIS Readability Index. This demo should be easy to run because of the human design aspects of the package.

Pr	1	25	2	39	1	1.56	12.50	7.7	62.17	9.6

POLYSYLLABIC WORDS: Readability

The need for this software package becomes clear when one learns of the events which led to the creation of the 1974 Pension Reform Act, the 1975 Moss-Magnuson Warranty Act, and the 1978 Presidential Executive Order 12044. These laws call for easy-to-read texts in the insurance industry, the public sector, and government.

Pr	2	52	2	83	9	1.60	26.00	13.4	45.41	14.2

POLYSYLLABIC WORDS: creation Moss-Magnuson Warranty Presidential Executive easy-to-read insurance industry government

PG	1	77	4	122	10	1.58	19.25	10.6	53.25	11.9
TOTAL:		77	4	122	10	1.58	19.25	10.6	53.25	11.9


HB
59

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

RECEIVED
MAR 1 1983

February 28, 1983

TO: House State Affairs Committee

FROM: Representative John Lindauer

RE: House Bill #59 "An Act requiring motor vehicles 10 years or older to be inspected by the Department of Public Safety before registration."

Data: There are 375,000 vehicles registered in Alaska (12/30/82)
There are 125,591 vehicles older than 10 years (1/30/83)

The intent of HB 59 is to provide mandatory mechanical safety inspections prior to registration of motor vehicles which are a minimum of 10 years old.

The administrative code currently provides for the minimum safe operating standards for motor vehicles (13 AAC 04.001 - 13 AAC 04.355). The inspection of unsafe vehicles are left to the discretion of law enforcement officers who then issue the appropriate citations.

While old cars are not necessarily unsafe, they have a greater potential to have worn or unsafe equipment. By requiring vehicles of a certain age, 10 years or older, to be inspected prior to registration the end result of this legislation would be to remove unsafe older vehicles from the Alaskan highways.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 59 Date on Bill: 1/18/83
Title: An Act requiring motor vehicles 10 years or older to be inspected.....
Sponsor: Lindauer
Requestor: House State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				4,455.0				
Operating				4,257.7	3,516.8	3,727.8		
Total				8,712.7	3,516.8	3,727.8		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Not indicated by author.

3. Assumptions:

According to department statistics, there are 125,591 vehicles in Alaska over 10 years old. This figure will change yearly as a new year is added.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Robert J. Rowan Phone: 269-5551
Division: Motor Vehicles Date: 1-27-83/2-17-83

Approved by Commissioner: [signature] Date: 2-/23/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83


HB
62

FROM THE DESK OF IRIS A. LATHROP

P.O. BOX 187, TOK, ALASKA 99780
907-883-5172

April 18, 1984

RECEIVED
APR 22 1984

The Honorable Mitch Abood
Alaska State Legislature
Pouch V, Mail Stop 3100
Juneau, Alaska 99811

Dear Representative Abood: Re: Magistrate Retirement
House Bill 279

I respectfully ask for your "do pass" recommendation on the subject bill. I spoke with Representative Shultz a few days ago and he recommended that I write to you, as Chairman for the State Affairs Committee.

I was present at a teleconference March 25th at Anchorage, where two of our magistrates and a district judge gave testimony to Senator Ray and the senate judiciary committee. During that conference APEA entered their opposition, to which I later responded by letter to Senator Ray and enclose a copy for your information.

In addition, a representative of the State Division of Retirement and Benefits advised it would cost the state $625,000 to include the magistrates in the judicial retirement system. Inasmuch as I have no conception of what is involved to administer a retirement system, I have written to that division for a cost breakdown. If this figure is accurate, I wonder at the cost to the state for the high-salaried people that are presently participating in that system.

I realize that you have many other issues to decide this session, however, I must ask that you give consideration to our magistrate association's request. We have had bills submitted in prior years, and as you may or may not know, we have been deeply disappointed that none of those bills were enacted. Hopefully, with your help, as well as the members of your committee, this will be the year the legislature acts in our favor.

Thank you for your consideration.

Enclosure
Copy: Honorable Bill Ray

Sincerely,

Iris A. Lathrop

Iris A. Lathrop

P. S. Please feel free to copy this letter for distribution to other house members.

ial

FROM THE DESK OF IRIS A. LATHROP

16

P.O. BOX [redacted] TOK, ALASKA 99780
907-883-5172 Office
907-883-4311 - Home

April 1, 1983

The Honorable Bill Ray
Alaska State Senate
Pouch V (MS 3100)
Juneau, Ak. 99811

Dear Senator Ray: Re: Teleconference 3/25/83 on Senate Bill #20

I respectfully request your "do pass" recommendation for this subject bill and wish to thank you for this teleconference.

In response to APEA's opposition, I wish to point out some differences between state employees and magistrates.

1) Most state employees work 37-1/2 hour weeks and are paid overtime. Magistrates work 37-1/2 hours plus any number of hours overtime and on-call duty 24 hours per day, seven days per week and are not paid overtime.

2) State employees can be union members. Magistrates cannot.

3) Most state employees do not have to abide by the Conflict of Interest Law. Magistrates must.

4) Most state employees can contribute to their choice of political parties and candidates. Magistrates cannot.

5) Most state employee's families (if any) do not have to abide by the conflict law and the judicial cannons. Magistrate's families must abide by both.

In addition, any of the state employees that may be bound by either the conflict law or judicial cannons earn salaries which enable them to provide for their retirement years. Magistrate salaries are, in most cases, less than half of those state employees. In addition, many of those state employees have the use of state vehicles. Magistrates must use their own vehicles. Some magistrates use their vehicles to transport bodies in coroner cases. The only mileage magistrates are allowed is for long distance trips and then only from city limit to city limit. Each of us put on many miles for court business which we are unable to be reimbursed for.

Historically, magistrates have been underpaid for their positions of trust, although we are finally becoming recognized to some degree.

It is very difficult to "blow our own horns" so to speak, as by nature, for the most part, we are humble people and the type that do best in this position. We cannot afford to hire a lobbyist nor can we give or receive any favors, as we are bound by the judicial cannons.

In response to Mr. Humphries, of the Division of Retirement and Benefits, presentation, at this time I am unable to understand the horrendous cost for one year! $625,000 is unbelievable!! I am writing to Mr. Humphries for a copy of this estimate.

I respectfully request that copies of this letter be distributed to all members of the judiciary committee.

I do wish to thank you for any consideration you may give to a "do-pass" recommendation.

Sincerely,

Iris A. Lathrop

Alaska State Legislature

House of Representatives

March 2, 1983

TO: House State Affairs Committee

FROM: Representative John Lindauer

RE: House Bill #62: "An Act relating to the use of public money for the payment of nonresident individuals or businesses."

The purpose of this bill is to assist the state and its educational institutions in the identification of the career opportunities and educational needs of the youth of Alaska.

It is the state's policy to encourage our youth to stay in Alaska. For that reason we have for some years forgiven a portion of our student loans in the event that student borrower resides in Alaska after graduation.

The retention of Alaska's youth requires that we provide them with an educational system which trains them for the jobs which exist in the Alaskan economy. This requires that the state identify those areas for which there are not enough trained Alaskans. This bill will identify the occupational areas and training where our scarce educational dollars can be best concentrated.

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF ADMINISTRATION

DIVISION OF GENERAL SERVICES AND SUPPLY

POUCH C (MS 0210)
JUNEAU, ALASKA 99811

(907) 465-2150

March 8, 1982

Honorable John Lindauer
Alaska State Legislature
House of Representatives
Pouch V (MS 3100)
Juneau, AK 99811

Dear Representative Lindauer:

Re: HB 62

After discussion with you and further thought I find that I agree with your points regarding HB 62. Though it would be easier to apply if "resident" and "expertise or services" were defined, it would not be impossible to implement the bill as is.

Sincerely,

Robert Link
Acting Director

RL/dlr
6/0308-01/6GSS2
cc: Commissioner Lisa Rudd
Department of Administration

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M March 7, 1983

SUBJECT: Constitutionality of SSHB 62

TO: Representative John Lindauer

FROM: Thomas A. Sofo
Legislative Counsel

This memo supplements my earlier memo to you of February 25, 1983, regarding the constitutionality of SSHB 62. The recent (February 28, 1983) decision of the United States Supreme Court in White v. Massachusetts Council of Construction Employees, Inc. may add strength to arguments supporting the constitutionality of SSHB 62. I have attached a copy of the slip decision in that case for your review.

The case certainly seems to stand for the proposition that the state, as a market participant rather than regulator, may prefer its own residents without a violation of the Commerce Clause. The Court did not decide whether there is a Privileges and Immunities Clause violation. Inasmuch as SSHB 62 involves the use of the state's own money in providing services to the state, the parallel to the White case may support a defense to a challenge to the bill in the basis of its constitutionality.

TAS:ljb

Enclosure
1/011

MAR 0 8 1983

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

WHITE, MAYOR OF BOSTON, ET AL. *v.* MASSACHUSETTS COUNCIL OF CONSTRUCTION EMPLOYERS, INC., ET AL.

CERTIORARI TO THE SUPREME JUDICIAL COURT OF MASSACHUSETTS

No. 81–1003. Argued November 1, 1982—Decided February 23, 1983

Petitioner Mayor of Boston, Mass., issued an executive order requiring all construction projects funded in whole or in part by city funds or funds that the city had authority to administer to be performed by a work force at least half of which are bona fide residents of the city. The Massachusetts Supreme Judicial Court held the order unconstitutional under the Commerce Clause.

Held: The Commerce Clause does not prevent the city from giving effect to the Mayor's executive order. Pp. 2–11.

(a) When a state or local government enters the market as a participant, it is not subject to the restraints of the Commerce Clause. *Hughes* v. *Alexandria Scrap Corp.*, 426 U. S. 794; *Reeves, Inc.* v. *Stake*, 447 U. S. 429. In a case like the instant one, the only inquiry is whether the challenged program constituted direct state or local participation in the market. Pp. 2–4.

(b) Insofar as the city expended only its own funds in entering into construction contracts for public projects, it was a market participant and entitled to be treated as such under the rule of *Alexandria Scrap Corp.* Even if implementation of the Mayor's order might have a significant impact on specialized construction firms employing out-of-state residents, this is not relevant to the inquiry of whether the city is participating in the marketplace when it provides funds for construction. Impact on out-of-state residents figures in the equation only after it is decided that the city is regulating the market rather than participating in it, for only in the former case need it be determined whether any burden on interstate commerce is permitted by the Commerce Clause. And, even if the Mayor's order is characterized as sweeping too broadly, such

Syllabus

characterization is relevant only if the Commerce Clause imposes restraints on the city's activity and is no help in deciding whether those restraints apply. Pp. 5–7.

(c) Insofar as the Mayor's order was applied to projects funded in part with funds obtained from certain federal programs, the order was affirmatively sanctioned by the pertinent regulations of those programs. Where the restrictions imposed by the city on construction projects financed in part by federal funds are directed by Congress, then no dormant Commerce Clause issue is presented. Pp. 7–9.

384 Mass. 466, 425 N. E. 2d 346, reversed and remanded.

REHNQUIST, J., delivered the opinion of the Court, in which BURGER, C. J., and BRENNAN, MARSHALL, POWELL, STEVENS, and O'CONNOR, JJ., joined. BLACKMUN, J., filed an opinion concurring in part and dissenting in part, in which WHITE, J., joined.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 81–1003

KEVIN H. WHITE, ETC., ET AL., PETITIONERS *v.* MASSACHUSETTS COUNCIL OF CONSTRUCTION EMPLOYERS, INC., ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME JUDICIAL COURT OF MASSACHUSETTS

[February 28, 1983]

JUSTICE REHNQUIST delivered the opinion of the Court.

In 1979 the mayor of Boston, Massachusetts, issued an executive order[1] which required that all construction projects funded in whole or in part by city funds, or funds which the city had the authority to administer, should be performed by a work force consisting of at least half *bona fide* residents of Boston.[2] The Supreme Judicial Court of Massachusetts decided that the order was unconstitutional, observing that

[1] The executive order provides:

"On any construction project funded in whole or in part by City funds, or funds which, in accordance with a federal grant or otherwise, the City expends or administers, and to which the City is a signatory to the construction contract, the worker hours on a craft-by-craft basis shall be performed, in accordance with the contract documents established herewith, as follows:

a. at least 50% by bona fide Boston residents;
b. at least 25% by minorities;
c. at least 10% by women."

Only the residency requirement is being challenged.

[2] In 1980, of approximately $482 million expended on construction in the City of Boston, some $54 million, or 11%, was spent on projects to which the executive order applied. Of this latter amount, approximately $34 million represented projects being funded in part through federal Urban Development Action Grants (UDAGs).

the Commerce Clause "presents a clear obstacle to the city's order." 384 Mass. 446, 425 N. E. 2d 346 (1981). We granted certiorari to decide whether the Commerce Clause of the United States Constitution, Art. I, § 8, cl. 3, prevents the city from giving effect to the mayor's order. 455 U. S. 919 (1982). We now conclude that it does not and reverse.

I

We were first asked in *Hughes* v. *Alexandria Scrap Corp.*, 426 U. S. 794 (1976), to decide whether state and local governments are restrained by the Commerce Clause when they seek to effect commercial transactions not as "regulators" but as "market participants." In that case, the Maryland legislature, in an attempt to encourage the recycling of abandoned automobiles, offered a bounty for every Maryland-titled automobile converted into scrap if the scrap processor supplied documentation of ownership. An amendment to the Maryland statute imposed more exacting documentation requirements on out-of-state than in-state processors, who in turn demanded more exacting documentation from those who sold the junked automobiles for scrap. As a result, it became easier for those in possession of the automobiles to sell to in-state processors. "The practical effect was substantially the same as if Maryland had withdrawn altogether the availability of bounties on hulks delivered by unlicensed suppliers to licensed non-Maryland processors." 426 U. S., at 803, n. 13. In upholding the Maryland statute in the face of a Commerce Clause challenge, we said that "[n]othing in the purpose animating the Commerce Clause prohibits a State, in the absence of congressional action, from participating in the market and exercising the right to favor its own citizens over others." *Id.*, at 810 (footnotes omitted). Because Maryland was participating in the market, rather than acting as a market regulator, we concluded that the Commerce Clause was not "intended to require independent justification," *id.*, at 809, for the statutory bounty.

We faced the question again in *Reeves, Inc.* v. *Stake*, 447 U. S. 429 (1980), when confronted with a South Dakota policy to confine the sale of cement by a state operated cement plant to residents of South Dakota. We underscored the holding of *Hughes* v. *Alexandria Scrap Corp.*, saying:

> "The basic distinction drawn in *Alexandria Scrap* between States as market participants and States as market regulators makes good sense and sound law. As that case explains, the Commerce Clause responds principally to state taxes and regulatory measures impeding free private trade in the national marketplace. [Citation omitted]. There is no indication of a constitutional plan to limit the ability of the States themselves to operate freely in the free market." 447 U. S., at 436–437.[3]

We concluded that South Dakota, "as a seller of cement, unquestionably fits the 'market participant' label" and applied the "general rule of *Alexandria Scrap*." *Id.*, at 440.

Alexandria Scrap and *Reeves*, therefore, stand for the proposition that when a state or local government enters the market as a participant it is not subject to the restraints of the Commerce Clause. As we said in *Reeves*, in this kind of case there is "a single inquiry: whether the challenged 'pro-

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[3] We also noted the policy in support of this limitation on the Commerce Clause:

"Restraint in this area is also counseled by considerations of state sovereignty, the role of each State 'as guardian and trustee for its people,' *Heim* v. *McCall*, 239 U. S. 175, 191 (1915), quoting *Atkin* v. *Kansas*, 191 U. S. 207, 222–223 (1903), and 'the long recognized right of trader or manufacturer, engaged in an entirely private business, freely to exercise his own independent discretion as to parties with whom he will deal.' *United States* v. *Colgate & Co.*, 250 U. S. 300, 307 (1919). Moreover, state proprietary activities may be, and often are, burdened with the same restrictions imposed on private market participants. Evenhandedness suggests that, when acting as proprietors, States should similarly share existing freedoms from federal constraints, including the inherent limits of the Commerce Clause." 447 U. S., at 438–439 (footnotes omitted).

gram constituted direct state participation in the market.'" *Id.*, at 436, n. 7. We reaffirm that principle now.

The Supreme Judicial Court of Massachusetts concluded that the City of Boston is not participating in the market in the sense described in *Alexandria Scrap Corp.* and *Reeves* because the order applies where the city is acting in a nonproprietary capacity, has a significant impact on interstate commerce, is more sweeping than necessary to achieve its objectives, and applies to funds the city receives from federal grants. 384 Mass., at ——, 425 N. E. 2d, at 354–355. For the same reasons the court found that the city is not a market participant, it concluded that the executive order violated the substantive restraints of the Commerce Clause.[4] *Ibid.*

II

Petitioners and respondents both, to a greater or lesser extent, seek to have us decide questions not presented by the record in this case. In support of the Massachusetts court's finding that the city is acting in a nonproprietary capacity, respondents urge that much of the construction subject to the mayor's order involved nonpublic projects that were financed largely through private funds. While the mayor's order by its terms would appear to apply to such construction, there is simply nothing in the record before us to support the conclusion that city funds were used for these types of construction projects. Respondents, had they wished to raise this question, were obligated to offer some evidence that city funds and private funds were used jointly to finance construction of some of the projects which were in fact subjected to the provisions of the mayor's order; nothing in the record supports such a conclusion.[5] The only issues before us, then, are the

[4] Respondents made several other challenges to the order, none of which are before us. Respondents also directed challenges to resident preferences contained in other state and local laws. None of these provisions is before us.

[5] The case was submitted below on an agreed statement of facts. The

propriety of applying the mayor's executive order to projects funded wholly with city funds and projects funded in part with federal funds. We address first the application of the order to city funded projects.

The Supreme Judicial Court of Massachusetts expressed reservations as to the application of the "market participation" principle to the city here, reasoning that "the implementation of the mayor's order will have a significant impact on those firms which engage in specialized areas of construction and employ permanent works crews composed of out-of-State residents." 384 Mass., at ——, 425 N. E. 2d, at 354. Even if this conclusion is factually correct,[6] it is not relevant

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only reference in that statement to the funds affected by the order provides:

"The approximate dollar value of construction, both private and public, within the City of Boston in 1980 was $492,886,000; of that amount approximately $4,421,040 represented construction projects 'funded in whole or in part by City funds, or funds which, in accordance with a federal grant or otherwise, the City expends or administers, and to which the City is a signatory to the construction contract' to which the Executive Order, by its terms, was applicable. Of that $54,421,040 approximately $34,000,000 represented projects involving Urban Development Action Grants." Agreed Statement of Facts, at A42.

[6]The record does not readily support a finding of "significant impact" on firms employing out-of-state residents. The parties stipulated that a "*small number* of plaintiff contractors are out-of-state contractors who have regular and permanent work crews comprised entirely of out-of-state residents. These contractors for the most part are those who perform specialty work. . . ." Agreed Statement of Facts, at A41 (emphasis added). Although the parties also stipulated that some out-of-state workers who would otherwise have been employed on the projects would be unemployed and that some out-of-state contractors would be discouraged from bidding on public construction work, Agreed Statement of Facts, at A–37, the record does not reveal that any significant number of out-of-state workers or contractors has withdrawn from the construction market because of the order. Furthermore, the data in the record does not show that the increased employment of city residents in publicly funded construction projects has been accompanied by a decline in the percentage of

to the inquiry of whether the city is participating in the marketplace when it provides city funds for building construction. If the city is a market participant, then the Commerce Clause establishes no barrier to conditions such as these which the city demands for its participation. Impact on out-of-state residents figures in the equation only after it is decided that the city is regulating the market rather than participating in it, for only in the former case need it be determined whether any burden on interstate commerce is permitted by the Commerce Clause.

The same may be said of the Massachusetts court's finding that the executive order sweeps too broadly, creating more burden than is necessary to accomplish its stated objectives. *Id.*, at ——, 425 N. E. 2d, at 355. While relevant if the Commerce Clause imposes restraints on the city's activity, this characterization is of no help in deciding whether those restraints apply. The Massachusetts court relied in part on our decision in *Hicklin* v. *Orbeck*, 437 U. S. 518 (1978), saying that "as in *Hicklin*, *supra*, there is a broadly drawn statute which sweeps far wider than merely favoring unemployed or underemployed local residents." *Ibid.*

In *Hicklin* we considered an Alaska statute which required employment in all work connected with oil and gas leases to which the State was a party to be offered first to "qualified" Alaska residents in preference to nonresidents. The State sought to justify the "Alaska Hire" law on the ground that the underlying oil and gas were owned by the State itself. Analyzing the case under the Privileges and Immunities Clause of Art. IV, § 2, cl. 1, we held that mere ownership of a natural resource did not in all circumstances render a state regulation such as the "Alaska Hire" law immune from attack under that clause. We summarized our view of the Alaska statute in these words:

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out-of-state residents. See Agreed Statement of Facts, at Appendix E.

> "In sum, the Act is an attempt to force virtually all businesses that benefit in some way from the economic ripple effect of Alaska's decision to develop its oil and gas resources to bias their employment practices in favor of the State's residents." 437 U. S., at 531.

Even though respondents no longer press the Privileges and Immunities Clause holding of *Hicklin* in support of their Commerce Clause argument, we note that on the record before us the application of the mayor's executive order to contracts involving only city funds does not represent the sort of "attempt to force virtually all businesses that benefit in some way from the economic ripple effect" of the city's decision to enter into contracts for construction projects "to bias their employment practices in favor of the [city's] residents."[1]

The Supreme Judicial Court of Massachusetts also observed that "a significant percentage of the funds affected by the order are received from Federal sources." 384 Mass., at ——, 425 N. E. 2d, at 354. The record does indicate that of approximately $54 million expended on projects affected by the mayor's executive order, some $34 million represented projects being funded in part through Urban Development

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[1] JUSTICE BLACKMUN's opinion dissenting in part, *post*, argues that the mayor's order goes beyond market participation because it regulates employment contracts between public contractors and their employees. We agree with JUSTICE BLACKMUN that there are some limits on a state or local government's ability to impose restrictions that reach beyond the immediate parties with which the government transacts business. Cf. *Hicklin* v. *Orbeck*, 437 U. S. 518, 529–531 (1978). We find it unnecessary in this case to define those limits with precision, except to say that we think the Commerce Clause does not require the city to stop at the boundary of formal privity of contract. In this case, the mayor's executive order covers a discrete, identifiable class of economic activity in which the city is a major participant. Everyone affected by the order is, in a substantial if informal sense, "working for the city." Wherever the limits of the market participation exception may lie, we conclude that the executive order in this case falls well within the scope of *Alexandria Scrap* and *Reeves*.

Action Grants (UDAGs).[4] While the record assigns specific dollar amounts only for UDAGs, the parties also have stipulated that the executive order applies to Community Development Block Grants (CDBGs) and Economic Development Administration Grants (EDAGs).[5]

But all of this proves too much. The Commerce Clause is a grant of authority to Congress, and not a restriction on the authority of that body. See *American Power & Light Co.* v.

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[4] Not all UDAG projects in Boston have been subjected to the executive order. HUD publications indicate that in 1980 Boston received $28,600,000 through UDAGs and that this money was to be spent on projects costing a total of $397,000,000. UDAG Project Approval List, Region I, Department of Housing and Urban Development, at 1 (Boston, Mass., Feb. 9, 1982). While we do not know what percentage of the $34,000,000 spent on projects affected by the executive order was in fact UDAG money, we do know that overall UDAG funds comprised 7% of the total costs of projects they were expended on.

[5] UDAGs are administered by the Department of Housing and Urban Development pursuant to the Housing and Community Development Act of 1977, 42 U. S. C. § 5318 (Supp. IV 1980). The HUD regulations governing the program are found at 24 CFR Part 570, Subpart G (1982). CDBGs are administered by HUD pursuant to the Housing and Community Development Act of 1974, 42 U. S. C. § 5301 et seq. (1976 & Supp. IV 1980), and the implementing regulations at 24 CFR Part 570 (1982). EDAGs are administered by the Department of Commerce in accordance with the Public Works and Economic Development Act of 1965, 42 U. S. C. § 3131 et seq. (1976 and Supp. IV 1980), and the implementing regulations at 13 CFR Part 305 (1982).

Respondents have asserted in this Court that the executive order also applies to funds the city receives from the Department of Transportation. In the Agreed Statement of Facts the parties stipulated that a resident preference in a state statute challenged below applied to DOT funds. Agreed Statement of Facts, at A45. There is, however, nothing in the record to indicate that DOT funds are affected by the order. In fact, the parties stipulate that the affected federal funds come from UDAGs, CDBGs, and EDAGs. Agreed Statement of Facts, at A43–A44. Without support in the record for a contrary conclusion, we decide this case as though DOT funds are not involved. See *Ramsey* v. *UMW*, 401 U. S. 302, 312 (1971); *Tyrrell* v. *District of Columbia*, 243 U. S. 1, 4–6 (1917).

SEC, 329 U. S. 90 (1946); *Gibbons* v. *Ogden*, 9 Wheat. 1 (1824). Congress, unlike a state legislature authorizing similar expenditures, is not limited by any negative implications of the Commerce Clause in the exercise of its spending power. Where state or local government action is specifically authorized by Congress, it is not subject to the Commerce Clause even if it interferes with interstate commerce. *Southern Pacific Co.* v. *Arizona*, 325 U. S. 761, 769 (1945). Thus, if the restrictions imposed by the city on construction projects financed in part by federal funds are directed by Congress then no dormant Commerce Clause issue is presented.

An examination of the applicable statutes reveals that these federal programs were intended to encourage economic revitalization, including improved opportunities for the poor, minorities, and unemployed.[10] Examination of the regulations set forth in the margin indicates that the mayor's executive order sounds a harmonious note; the federal regulations for each program affirmatively permit the type of parochial favoritism expressed in the order.[11]

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[10] See 42 U. S. C. § 5318 (Supp. IV 1980) (UDAGs); 42 U. S. C. § 5301 (1976 and Supp. IV 1980) (CDBGs); 42 U. S. C. 3131 (1976) (EDAGs).

[11] In issuing implementing regulations to carry out its authority under the UDAG program, HUD requires that a city certify that its project would not be undertaken by the private sector without public funds and that the project will alleviate economic distress by helping the poor, minorities, and unemployed. 24 CFR § 570.458(c) (1982). The regulations further provide that the city must "comply with . . . Section 3 of the Housing and Urban Development Act of 1968, as amended, and implementing regulations at 24 CFR Part 135." 24 CFR § 570.458(c)(14)(ix)(D) (1982). The regulations implementing that Act provide that "to the greatest extent feasible opportunities for training and employment arising in connection with the planning and carrying out of any project assisted under any such program be given to lower income persons *residing in the area of such project*. . . ." 24 CFR § 135.1(a)(2)(i) (1982) (emphasis added).

Similarly, CDBG regulations provide that a recipient of funds must "comply with section 3 of the Housing and Urban Development Act of 1968,

III

We hold that on the record before us the application of the mayor's executive order to the contracts in question did not violate the Commerce Clause of the United States Constitution.[12] Insofar as the city expended only its own funds in en-

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as amended, requiring that to the greatest extent feasible *opportunities for training and employment be given to lower-income residents of the project area* and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the area of the project." 24 CFR § 570.307(m) (1982) (emphasis added).

EDAG regulations provide that

"[t]he maximum feasible employment of local labor shall be made in the construction of public works and development facility projects receiving direct grants and loans. Accordingly, every contractor and subcontractor undertaking to do work on any such project which is or reasonably may be done as on-site work, shall be required to employ in carrying out such contract work, qualified *persons who regularly reside in the designated area where such project is to be located*, or in the case of economic development centers, qualified persons who regularly reside in the center or in the adjacent or nearby redevelopment areas within the economic development district. . . ." 13 CFR § 305.54(a) (1982) (emphasis added).

[12] Respondents ask us to decide whether the executive order offends the Privileges and Immunities Clause of Art. IV, § 2, cl. 1, which provides: "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in several States." In addressing this issue, the Massachusetts court said:

"The preference is for inhabitants of the city, and its 'negative' effect is felt in significant part by other citizens of the Commonwealth, as well as by residents of other States. In such circumstances it may be more difficult to find a violation of the privileges and immunites clause because the discrimination adversely affects citizens of the Commonwealth as well." 384 Mass., at ——, 425 N. E. 2d, at 354.

Because of its disposition under the Commerce Clause, however, the court did not resolve this issue.

This question has not been, to any great extent, briefed or argued in this Court. We did not grant certiorari on the issue and remand without passing on its merits. See *General Talking Pictures Corp.* v. *Western Electric Co.*, 304 U. S. 175, 177–178 (1938).

SEC, 329 U. S. 90 (1946); *Gibbons* v. *Ogden*, 9 Wheat. 1 (1824). Congress, unlike a state legislature authorizing similar expenditures, is not limited by any negative implications of the Commerce Clause in the exercise of its spending power. Where state or local government action is specifically authorized by Congress, it is not subject to the Commerce Clause even if it interferes with interstate commerce. *Southern Pacific Co.* v. *Arizona*, 325 U. S. 761, 769 (1945). Thus, if the restrictions imposed by the city on construction projects financed in part by federal funds are directed by Congress then no dormant Commerce Clause issue is presented.

An examination of the applicable statutes reveals that these federal programs were intended to encourage economic revitalization, including improved opportunities for the poor, minorities, and unemployed.[11] Examination of the regulations set forth in the margin indicates that the mayor's executive order sounds a harmonious note; the federal regulations for each program affirmatively permit the type of parochial favoritism expressed in the order.[12]

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"The preference is for inhabitants of the city, and its 'negative' effect is felt in significant part by other citizens of the Commonwealth, as well as by residents of other States. In such circumstances it may be more difficult to find a violation of the privileges and immunities clause because the discrimination adversely affects citizens of the Commonwealth as well." 384 Mass., at ——, 425 N. E. 2d, at 364.

Because of its disposition under the Commerce Clause, however, the court did not resolve this issue.

This question has not been, to any great extent, briefed or argued in this Court. We did not grant certiorari on the issue and remand without passing on its merits. See *General Talking Pictures Corp. v. Western Electric Co.*, 304 U. S. 175, 177–178 (1938).

tering into construction contracts for public projects, it was a market participant and entitled to be treated as such under the rule of *Hughes* v. *Alexandria Scrap Corp.*, *supra*. Insofar as the mayor's executive order was applied to projects funded in part with funds obtained from the federal programs described above, the order was affirmatively sanctioned by the pertinent regulations of those programs. The judgment of the Supreme Judicial Court of Massachusetts is therefore reversed, and the case is remanded to that court for proceedings not inconsistent with this opinion.

It is so ordered.

HOUSE BILL NO. 62

POSITION PAPER

HB 62 would require that a written report be filed with the Office of the Governor and the Division of Legislative Audit where public money is paid to a nonresident individual or business. Information to be provided includes a work description, reasons a nonresident was chosen, efforts made to use residents and recommendations to use residents in the future.

The use of resident contractors is certainly desirable. Our concern is that there are lower cost methods to conduct the information gathering and review function attempted by this bill. The Division of Legislative Audit or other agency could conduct a peformance review of employment of nonresident contractors, targeting those areas necessary. They can do this with much greater efficiency and without the cost of additional resources, forms, further bureaucracy, etc.

It is necessary that the bill define "nonresident" so there is no confusion as to which group this bill is to be applied to; also to insure consistency with any other legal rulings as to the definition of residency.

Prepared by:

Anselm Staack, Deputy Commissioner — 3/28/83 Date

Lisa Rudd, Commissioner — 3/28/83 Date

(3/28/83)

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SSHB 62
Title An Act relating to the use of public money for the payment of non- (+)
Requested by Reps. Lindauer and Grussendorf Date

(+) resident individuals or businesses.

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

EXPENDITURES (Thousands of Dollars)

		FY 84	FY 85	FY 86	FY87	FY 88	FY 89
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES	1.0	1.0	1.0			
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	1.0	1.0	1.0			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Form design and printing costs

IV. DATE March 7, 1983 PREPARED BY Gerald L. Wilkerson
AGENCY Division of Legislative Audit
PHONE 465-3830

Original: Legislative Finance
cc: OMB
Prime Sponsor (First Legislator Named)

38-001 (Rev. 12/79)

STATE OF ALASKA
FINAL* STATEMENT OF FISCAL IMPACT

Bill No: HB226 Page 1 of 2 Date on Bill: 2/25/83
Title: "An Act relating to the compensation of State Officers and employees
Sponsor: Governor
Requestor: Governor

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating	6,269.6	746.9	12,746.9	
Total	6,269.6	746.9	12,746.9	

b. Revenues:

Revenue				

2. Source of funds to offset fiscal impact of bill:

These funds are included in the Governor's expenditure plan for FY 83 and FY 84. The FY 83 amount has been requested as a supplemental appropriation in HB227. The FY 84 amount will be included as an amendment to the Governor's FY 84 budget.

3. Assumptions:

Estimates of fiscal impact on Legislative Branch, Judicial Branch, and University of Alaska were provided by agency representatives and are assumed to be accurate.

*This statement has been reviewed by the OMB in the Office of the Governor.

Prepared By: Jeff Morrison Phone: 465-3568
Division: Office of Management and Budget - Division of Budget Ana Date: 2/24/83
Approved by Commissioner: Date: 3/1/83
Department: OMB
Reviewed by OMB: Date: 3-3-83
Phone: 7567

5. Distribution:
Original to Legislative Finance
Copy to Department
Copy to Sponsor
Copy to Requestor

2/24/83

HB 226 Page 2 of 2

Analysis of Salary Schedule Bill

The fiscal impact of changing the salary schedule as proposed affects the executive, legislative, and judicial branches of government and the University of Alaska. The fiscal impact on the legislative and judicial branches and the University of Alaska was obtained by contacting the following representatives:

Court System	Robert Fisher
Legislative Affairs	Wally Harrison
Legislative Finance	Pat Williams
Legislative Audit	Merle Jensen
Ombudsman	Robin Ross
University of Alaska	Frank Spargo

The fiscal impact on the executive branch was calculated using a computer program developed by the Office of Management and Budget, and coordinated by Jeff Morrison. Fiscal Impacts are summarized as follows:

	FY 83 TOTAL	FY 83 GF	FY 85/85 TOTAL	FY 84/85 GF
Court System	578.7	578.7	1163.0	1163.0
Legislative Affairs	312.2	312.2	629.8	629.8
Legislative Finance	43.4	43.4	86.8	86.8
Legislative Audit	53.9	53.9	107.8	107.8
Ombudsman	28.9	28.9	57.8	57.8
University of Alaska	3791.3	3390.4	7751.8	6150.1
Executive Branch	1461.2	1408.1	2947.9	2835.2
TOTALS	6269.6	5815.6	12,746.9	11,010.5

The FY 83 amounts will be requested as a supplemental appropriation. The FY 84 amount will be included as an amendment to the Governor's FY 84 budget. The FY 85 amounts will be included in the instructions for agency preparation of the FY 85 budget.

HB
203

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 203 Date on Bill: February 16, 1983
Title: Appropriation to DOT/PF for Phase I of the Home Port Facility
Sponsor: Fuller and Bussell
Requestor:

1. Estimate fiscal impact on:

a. Expenditures:

(Thousands of Dollars)

			FY 84	FY 85	FY 86	FY 87		
Capital			12,000.0					
Operating			-0-					
Total			12,000.0					

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill.

Not identified by sponsor.

3. Assumptions:

This project is already designed. $12 million is sufficient to construct the full 3600' causeway, plus the required bridge.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

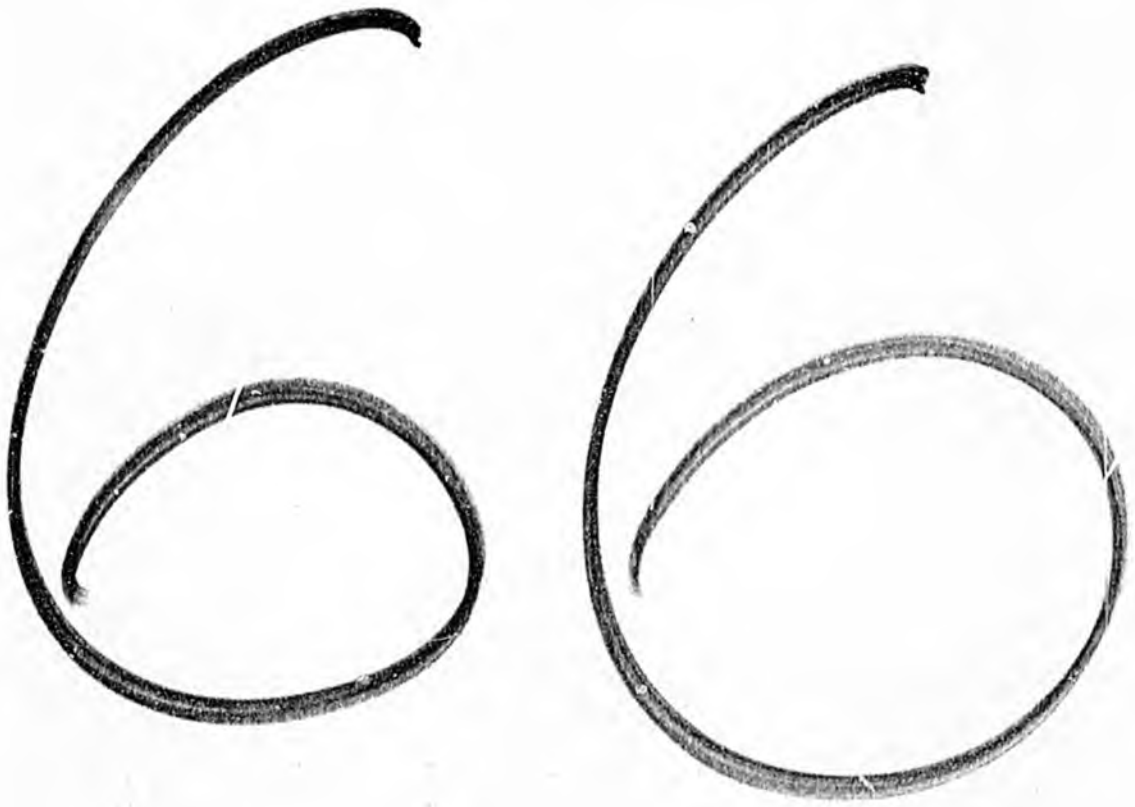
Prepared By: Robert R. Venuti Phone: 479-4201
Division: Planning and Programming Date: 2/24/83

Approved by Commissioner: Date: 2/25/83
Department: Department of Transportation and Public Facilities

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83


HB


66

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508



While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 2, 1983

TO: House State Affairs Committee

FROM: Representative John Lindauer J.L.

RE: House Bill 66: "An Act relating to fiscal notes on bills that affect state retirement systems; and providing for an effective date."

The intent of this bill is to close a loophole within th current statute. WHile fiscal notes are currently required on bills affecting the state retirement systems, the enity who is to prepare these fiscal notes is no longer in existence.

The bill amends AS 24.30.036 by replacing he Legislative Board of Retirement Benefits, which no longer exists, with the Division of Retirement Benefits in the Department of Administration.

In addition, this section has been changed to conform with AS 24.30.035 requiring the fiscal note to be prepared before the bill is reported from the committee of first reference.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

January 5, 1983

SUBJECT: Actuarial notes for retirement legislation (Work Order No. 13-0343)

TO: Representative-elect John Lindauer

FROM: Linn H. Asper
Legislative Counsel

I have received your authorization to proceed with the suggestion in my December 15th memorandum that a bill be prepared that would state actuarial note requirements for state retirement legislation. I have prepared this bill by drafting an amendment to AS 24.30.036. As it was enacted in 1977, this section did essentially what you have requested, but it is not used now because the entity that was directed by the statute to make the fiscal and actuarial analysis, the Legislative Board of Retirement Benefits, no longer exists (sec. 40, Chapter 146, SLA 1980). In amending the section, I have replaced the Legislative Board of Retirement Benefits with the division of retirement benefits in the Department of Administration. I have also conformed the section to the change made to AS 24.30.035, requiring the fiscal note to be prepared before the bill is reported from the committee of first reference. Please review this bill to see if it will accomplish your purpose. The last date for receipt of prefile approvals is noon on January 11th. We are assuming that this bill has not yet been approved for prefile because you have not had it before you in draft until now.

LHA:ljb

Enclosure

HB

74

HB 74 FISCAL NOTE

THERE IS A ZERO FISCAL NOTE FROM THE DEPARTMENT OF ADMINISTRATION.

IT HAS NOT ARRIVED FROM OMB YET.

HB 74

City of Nenana

State of Alaska

January 18, 1983

Mark Lewis, Commissioner
Department of Community & Regional Affairs
Pouch B
Juneau, Alaska 99811

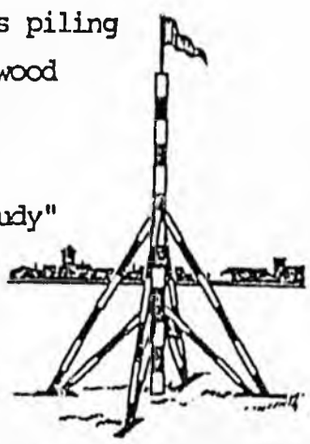
Ref: Correspondence of January 13, 1983

Dear Mr. Lewis,

For the past several years, the City of Nenana has been promoting the development of two major projects which have an impact on the economic development of a large portion of the State. These projects are:

1) Rehabilitation of the dock facilities at Nenana that provide service to the river freight transportation system for the Yukon River and its tributaries. Design and permitting for these improvements was performed in 1981 and 1982. The project was funded during the second session of the 12th Legislature, as part of the "bond bill" which Governor Hammond eventually vetoed.

Reconstruction of the dock is vitally important-especially the replacement of that wood piling installed by the Alaska Railroad circa 1937. this piling is rotted and falling in the river. The City plans on replacing the wood piling with 1,000 l.f. of steel sheetpile bulkhead.



Attached is a copy of the "Port of Nenana-Bulkhead Expansion Study" done by Peratrovich and Nottingham in 1981. A project budget of $2.5 million is recommended.

2) Construction of the main east-west transportation corridor for the Nenana-Totchaket Resource area in general, and, in particular the Nenana-Totchaket Agricultural Project.

The State of Alaska is currently planning a disposal of large acreage farm tracts to the west of Nenana. Funding for the farm project development is being sought, but neither DNR nor DOT/PF have done any budgeting for the construction of a first class farm-to- market road. It does not make any economic sense at all to put farmers in a remote area for the purpose of producing marketable crops, without providing them with a farm-to-market road.

To this end, the City of Nenana is pursuing funding for the construction of such a road. Included as major cost items are:

a.	NENANA RIVER BRIDGE	$3.8 MILLION
b.	BRIDGES ACROSS LITTLE NENANA RIVER, EAST AND WEST MIDDLE RIVERS	$1.9 MILLION
c.	22.8 MILES OF ROADWAY	$10.1 MILLION
	TOTAL	$15.8 MILLION

Approximately $1.6 million now sits with the Ag Action Council to begin construction on this roadway. (This money was re-appropriated from DELTA II West during the second session of the 12th Legislature)

A complete set of plans and cost estimates for the construction of the 22.8 miles of roadway and the four bridges was developed under various design contracts administered by the City of Nenana working with DOT/PF according to the terms of a Transfer of Responsibilities Agreement (T.O.R.A.).

The permits for the project were secured by the City of Nenana.

This project is designed and ready to build. A complete set of construction plans will be sent to your office under a separate cover.

A copy of resolution C82-2, passed unanimouisly by the Nenana Municipal Assembly on November 11, 1982, is attached to this letter as support of the "Statewide" project funding that the City of Nenana is pursuing. All of these projects will stimulate economic development in the State of Alaska as a whole.

The construction of the Interior State Fire Fighting Center is not a priority for 1983, but plans are underway to pursue construction of this facility in 1984 or 1985.

At the same time, the City of Nenana seeks to improve that area within its municipal boundaries. A copy of Resolutions C82-3 and C82-5 lists those areas of immediate local concern. A brief summary of the items, listed according to priority, is as follows:

1. CONSTRUCTION OF ROADWAYS AND DRAINAGE STRUCTURES WITHIN THE CITY LIMITS OF NENANA $615,000

The City, lying predominantly within a flood plain area between the confluence of the Nenana and Tanana Rivers, is continuosly filling in areas, and building new streets. Expansion and growth have continued to the point where drainage and upgrading of the roadways has become critical. The City is currently working under a T.O.R.A. with DOT/PF to develop a six year transportation improvement program. This should be available by March 1, 1983,and will at that time be sent to your office to provide additional detail as to phase funding required, project time tables, and O&M costs.

2. RENOVATION OF EXISTING CITY OF NENANA CIVIC CENTER $750,000

The existing Civic Center (50 x 100 ft.) was built in 1952. The Building frame-work remains intact, but the other components (plumbing, heating, electrical, insulation, etc.) have reached the end of their useful life. The building is used extensively, so the City of Nenana is currently preparing to renovate and largely reconstruct the Civic Center.

Plans and cost estimates are due to be complete in March of 1983, at which time they will be sent to your office.

3. RECLAMATION OF THAT ROAD RIGHT-OF-WAY AND PROPERTY WITHIN ST. MARKS ADDITION THAT HAS BEEN LOST TO EROSION BY THE TANANA RIVER, INCLUDING CONSTRUCTION OF BANK STABILIZATION AND A FLOOD CONTROL DIKE $885,000

An area of the St. Marks addition (see attached U.S. Survey map) has been eroded by the forces of the Tanana River. A large portion of that public right-of-way named "Front Street" has fallen into the river. The City must reclaim this property and establish a bank protection system to prevent further erosion.

SEWER SYSTEM $45,000

A municipal water and sewer system for the "downtown" area of the City of Nenana was built in 1979-1980. This system, owned and operated by the City of Nenana, has been working very well. As development and expansion of Nenana continues, we are now encountering problems with an increasing density of on-site water and sewer systems located on the standard platted 50ft. x 140 ft. city lot. The close proximity of septic tanks and well points are leading to contamination of individual water sources.

The City of Nenana at this time must begin planning for an extension of the municipal water and sewer systems. The existing sewage treatment plant is adequately sized to handle sewage flow two to three times the current flows, so an extension of the sewer system should be looked at for construction in the near future.

5. FOR THE BENEFIT OF THE MUNICIPALITY OF NENANA'S FIRE RESCUE AND EMERGENCY MEDICAL SERVICES:

1.)	3,000 Gallon Large Capacity Fire Tanker, fully equipped as per NFPA #1901	$195,000
2.)	Equipment to fight flammable and hazardous material fires at the Nenana Municipal Airport	51,650
3.)	Water supply and flammable liquids fire protection equipment for the Nenana River Port Facility	54,500
	TOTAL	$301,150

The City of Nenana has a very well trained and competent Fire Department and Emergency Medical Service Branch. Being located on the Parks Highway, the Nenana Fire Department has a protection area that is 45 miles long, with fire hydrants located only in the core area of downtown Nenana. With a substantial increase in business and residential construction, railroad and airport traffic, the need for a 3,000 gallon large capacity fire tanker is immediate. Cost of this fire tanker is estimated to be $195,000.

Our nearest mutual aid department is over 20 miles away. With two bulk fuel tank farms, increasing highway, barge, railroad, and airport traffic, we must increase our capabilities to attack and control large flammable, and hazardous materials incidents with our own resources. The $51,650 requested would provide the fire department with such things as:

Combustable gas indicators
Aluminized Crash/rescue suits
Spare airpack bottles
Forestry fire tools

Fire/rescue training tapes/films
Smoke ejector
Breathing air compressor (refill bottles)
Portable electric generators
2 1/2" nozzles and adapters
Rescue torch cutting kit
Ground to Air search & rescue radios
Salvage tarps
Metal radio antenna tower
Hose drying/training tower

Due to the economic importance of the Nenana Port Facility not only to Nenana but to all the downriver villages which depend upon the barge lines for vital fuel and supplies, the fire protection facilities in the dock areas must be extensive and complete. Water supply and flammable liquids fire protection are two key points. The $54,500 requested will provide such things as:

Diesel-powered skid-mounted fire pumps (100 gpm each, set up at each end of port)
Foam carts, eductor tubes, hose/nozzles
High expansion foam generator for shipboard fires
Firefighter protective clothing
Fire alarm/detection system

6. FUNDING TO PURCHASE GRADER FOR MAINTENANCE OF MUNICIPAL STREETS AND AIRPORT $185,000

The City maintains its own airport and streets. This puts a lot of wear and tear on the City's grader. Our current grader has about come to the end of its usefull life. The City faces major maintenance costs to rebuild its current grader, so it economically makes more sense to purchase new equipment if at all possible.

7. FUNDING FOR CONSTRUCTION OF A SIDING TRACK OFF OF THE ALASKA RAILROAD FOR HANDLING OF HAZARDOUS MATERIAL $495,000

There currently exists in Nenana, a bulk propane tank and transfer facility,in the immediate downtown area, 14 feet from the main railroad trackline,and 5 feet from a major truck thorough-fare. This situation is extremely dangerous, and if the propane tank were to explode, most of the downtown area (including the school) would be destroyed. The City has approached the Alaska Railroad for purposes of relocating the propane storage and transfer facilities. There exists enough open railroad land in U.S.S. 1138, but construction of a siding track into this area is required. The City needs to pursue the funding for the construction of this siding track in hopes of getting the propane plant out of the town core area before a major catastrophe occurs.

(EMERGENCY WATER RESERVOIR) $495,000 .

This is a project which the City is thinking about for 1984 or 1985. There is a lot of support in the community for public recreational facilities, and especially a public swimming pool. It is also recognized that a swimming pool has tremendous operation and maintenance costs, so the City is considering incorporating this into the next expansion phase of the municipal water project in hopes that it might serve as additional water storage capacity available for fire fighting or other emergency situations.

The preceding pages should give you some indication of where the City of Nenana is headed in the next couple of years. We recognize that the City is pursuing an agressive program, but we see this as an effort to be able to meet the direct and indirect demands placed on our community by the fast-paced development of the areas adjacent to the City of Nenana.

As indicated in this letter, various items of backup material will be sent to your office as it becomes available. Feel free to contact myself or Steve Bainbridge at 832-5501 should additional information be required.

Sincerely,

John B. Coghill, Mayor
City of Nenana

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF NENANA OR HIS DESIGNATED REPRESENTATIVE TO PURSUE FUNDING REQUESTS AND ENTER INTO AGREEMENTS WITH THE STATE OF ALASKA FOR PURPOSES OF ACCOMPLISHING THE FOLLOWING CAPITAL IMPROVEMENT PROJECTS;

ON A STATEWIDE BASIS:

1. REHABILITATION OF THE TANANA RIVER DOCK AND WATER FRONT FACILITIES AT NENANA THAT PROVIDE SERVICES FOR DELIVERY OF FREIGHT TO ALL VILLAGES ALONG THE YUKON RIVER — 2.5 MILLION

2. DEVELOPMENT OF THE TOTCHAKET RESOURCE AREA, INCLUDING AGRICULTURE, MINERALS, AND TIMBER
   a. NENANA RIVER BRIDGE — 3.8 MILLION
   b. BRIDGES ACROSS LITTLE NENANA RIVER, EAST AND WEST MIDDLE RIVERS — 1.9 MILLION
   c. 22.8 MILES OF ROADWAY — 10.1 MILLION
   d. THREE PHASE ELECTRICAL POWER — 1.3 MILLION

3. CONSTRUCTION OF THE INTERIOR STATE FIRE FIGHTING CENTER — 1.4 MILLION

Adopted by the Municipal Assembly of the City of Nenana, Alaska on this 11th day of November, 1982, by a vote of 5 for and 0 against.

By: _____
John B. Coghill, Mayor
City of Nenana

CORPORATE SEAL
NUMBER 2

Introduced: Nov. 11, 1982
Adopted: Nov. 11, 1982
Attested: _____

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF NENANA OR HIS DESIGNATED REPRESENTATIVE TO PURSUE FUNDING REQUESTS AND ENTER INTO AGREEMENTS WITH THE STATE OF ALASKA FOR PURPOSES OF ACCOMPLISHING THE FOLLOWING CAPITAL IMPROVEMENT PROJECTS;

ON A LOCAL BASIS:

1. CONSTRUCTION OF ROADWAYS AND DRAINAGE STRUCTURES WITHIN THE CITY LIMITS OF NENANA $615,000

2. RENOVATION OF EXISTING CITY OF NENANA CIVIC CENTER $750,000

3. RECLAMATION OF THAT ROAD RIGHT-OF-WAY AND PROPERTY WITHIN ST. MARKS ADDITION THAT HAS BEEN LOST TO EROSION BY THE TANANA RIVER, INCLUDING CONSTRUCTION OF BANK STABILIZATION AND A FLOOD CONTROL DIKE $885,000

4. FUNDING FOR IMPLEMENTATION OF THE ENGINEERING REQUIRED TO PRODUCE PLANS AND SPECIFICATIONS FOR THE PHASE II EXPANSION OF THE MUNICIPAL WATER AND SEWER SYSTEM $ 45,000

5. FUNDING TO PURCHASE GRADER FOR MAINTENANCE OF MUNICIPAL STREETS AND AIRPORT $185,000

6. FUNDING FOR CONSTRUCTION OF MUNICIPAL SWIMMING POOL (EMERGENCY WATER RESERVOIR) $495,000

7. FUNDING FOR CONSTRUCTION OF A SIDING TRACK OFF OF THE ALASKA RAILROAD FOR HANDLING OF HAZARDOUS MATERIALS $495,000

Adopted by the Municipal Assembly of the City of Nenana, Alaska on this 11th day of November, 1982, by a vote of 5 for and 0 against.

By: _____
John B. Coghill, Mayor
City of Nenana

CORPORATE SEAL NENANA ALASKA INCORPORATED NUMBER

Introduced: Nov 11, 1982

Adopted: Nov. 11, 1982

Attested: _____

RESOLUTION C 82-5

A RESOLUTION AUTHORIZING THE MAYOR OF THE MUNICIPALITY OF NENANA OR HIS DESIGNATED REPRESENTATIVE TO PURSUE FUNDING REQUESTS AND ENTER INTO AGREEMENTS WITH THE STATE OF ALASKA FOR PURPOSES OF ACCOMPLISHING THE FOLLOWING CAPITAL IMPROVEMENT PROJECTS FOR THE BENEFIT OF THE MUNICIPALITY OF NENANA'S FIRE RESCUE AND EMERGENCY MEDICAL SERVICES:

1.)	3,000 Gallon Large Capacity Fire Tanker, fully equipped as per NFPA #1901	$195,000
2.)	Equipment to fight flammable and hazardous material fires at the Nenana Municipal Airport	51,650
3.)	Water supply and flammable liquids fire protection equipment for the Nenana River Port Facility	54,500
		$301,150

Adopted by the Assembly of the Municipality of Nenana, Alaska on this 20th day of December, 1982, by a vote of 5 for and 0 against.

CORPORATE SEAL NENANA ALASKA DEC 17 1921

BY: _____

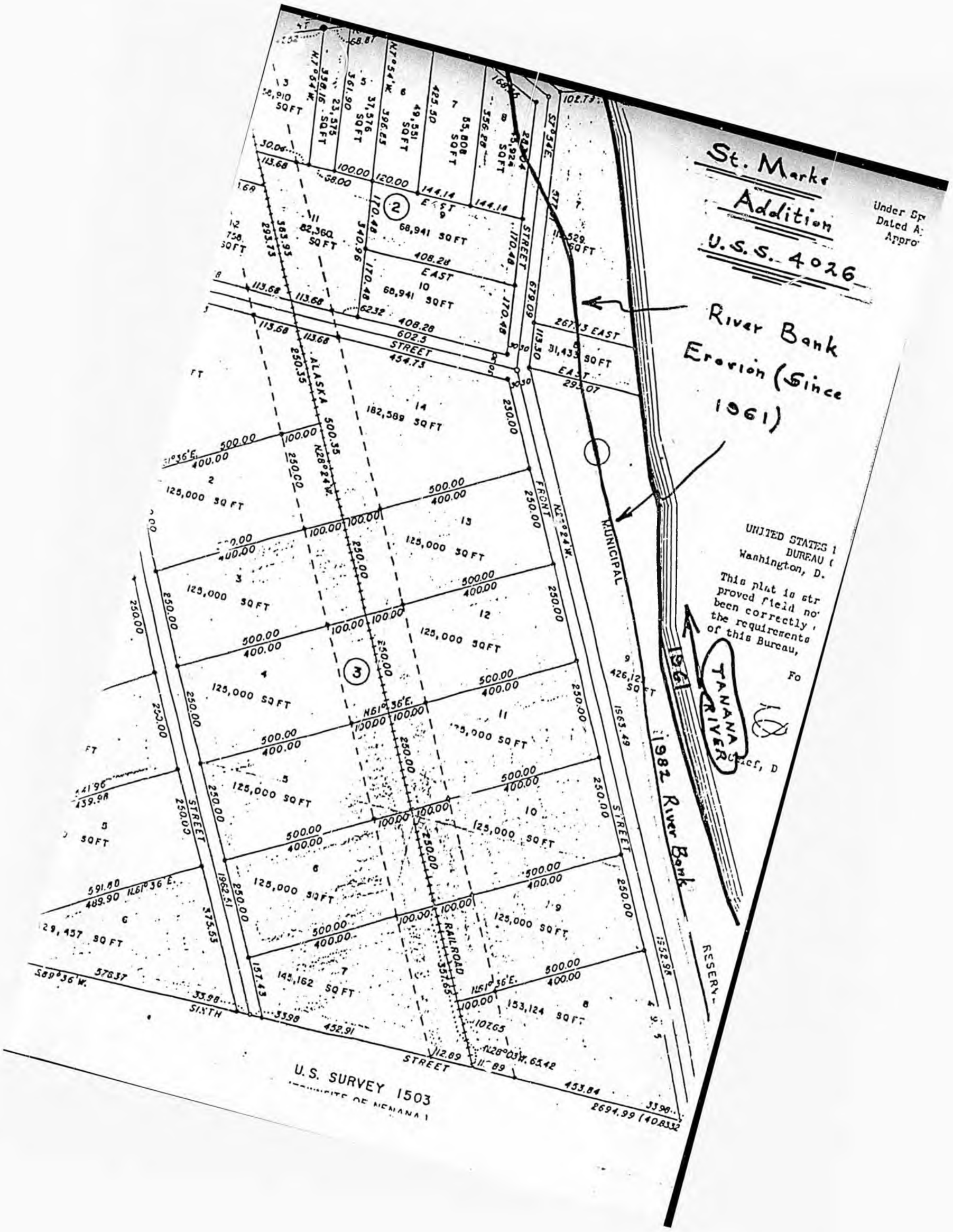
John B. Coghill, Mayor
Municipality of Nenana

Introduced: 12/20/82

Adopted: ~~12/20/82~~ 2

Attested: _____

Rick S. Brewer
Municipal Clerk


St. Marks
Addition
U.S.S. 4026
River Bank
Erosion (Since
1961)
1982 River Bank
TANANA
RIVER
1961
MUNICIPAL
RESERV
ALASKA
STREET
FRONT
RAILROAD
SIXTH
U.S. SURVEY 1503
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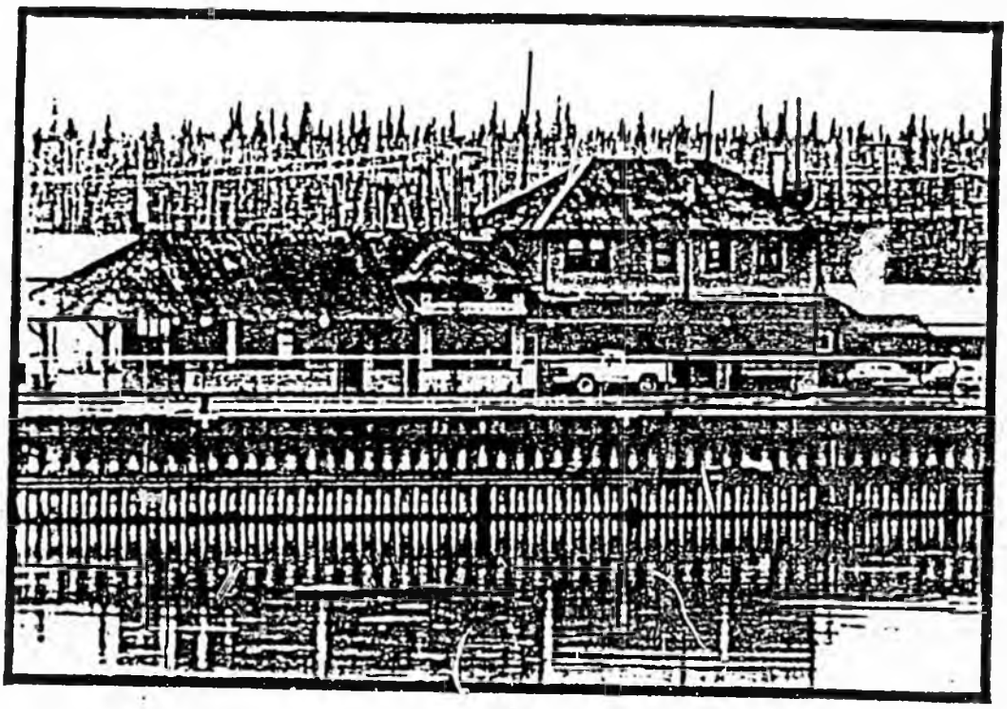


PORT OF NENANA
ALASKA

BULKHEAD EXPANSION
STUDY

Peratrovich, Nottingham & Drage, Inc.
Engineering Consultants

Peratrovich, Nottingham & Drage, Inc.
Engineering Consultants
1506 West 36th Avenue • Suite 101 • Anchorage, Alaska 99503 • 907-277-8633

January 20, 1983

PN&D 81059

Mr. Steve Bainbridge, City Engineer
City of Nenana
P.O. Box 177
Nenana, Alaska 99760

Re: Port of Nenana Bulkhead Expansion

Dear Mr. Bainbridge:

In accordance with your request, we have updated the 1981 preliminary study for the above referenced project. Included in this report are our initial findings and an updated projected budget.

Parts of the original study included a site visit to Nenana, contact with the USGS in Fairbanks regarding river parameters, inspection of Alaska Railroad-owned salvaged sheetpile material in Anchorage, and research of Alaska Railroad files and documents. The cost for the salvaged Railroad-owned sheet piling is no longer competitive.

From this effort, we concluded the following:

1. A 1,000-foot bulkhead extension, as shown on the attached drawing is possible.

2. This extension, properly placed, would create a longer usable dock and avoid riverbed deposition.

3. About 2.5 acres of additional improved marine use uplands would be created, and at least 800 linear feet of usable dock frontage would result.

4. Flood elevations are not expected to be significantly impacted, although this needs to be accurately established through more engineering work.

5. Suitable fill and riprap material is available near Nenana.

6. Riverbed materials are suitable for the type of construction envisioned.

As we noted before, due to an apparent constriction and the potential to raise flood levels, the Corps of Engineers will probably require an accurate analysis to show that flood levels will not increase significantly (usually less than one foot).

We hope this report addresses your needs; and should you have any questions, please contact us at any time.

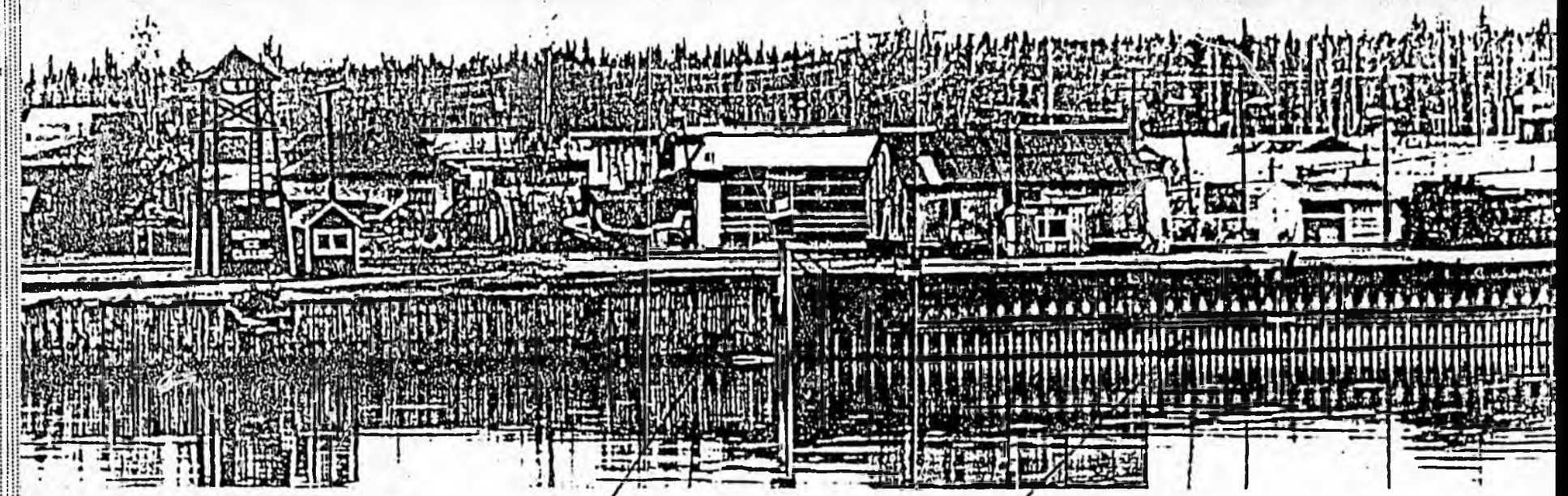
Sincerely,

PERATROVICH, NOTTINGHAM & DRAGE, INC.

Roy Peratrovich, Jr., P.E.
Vice President

RP/bm/L2-81080

Enclosures



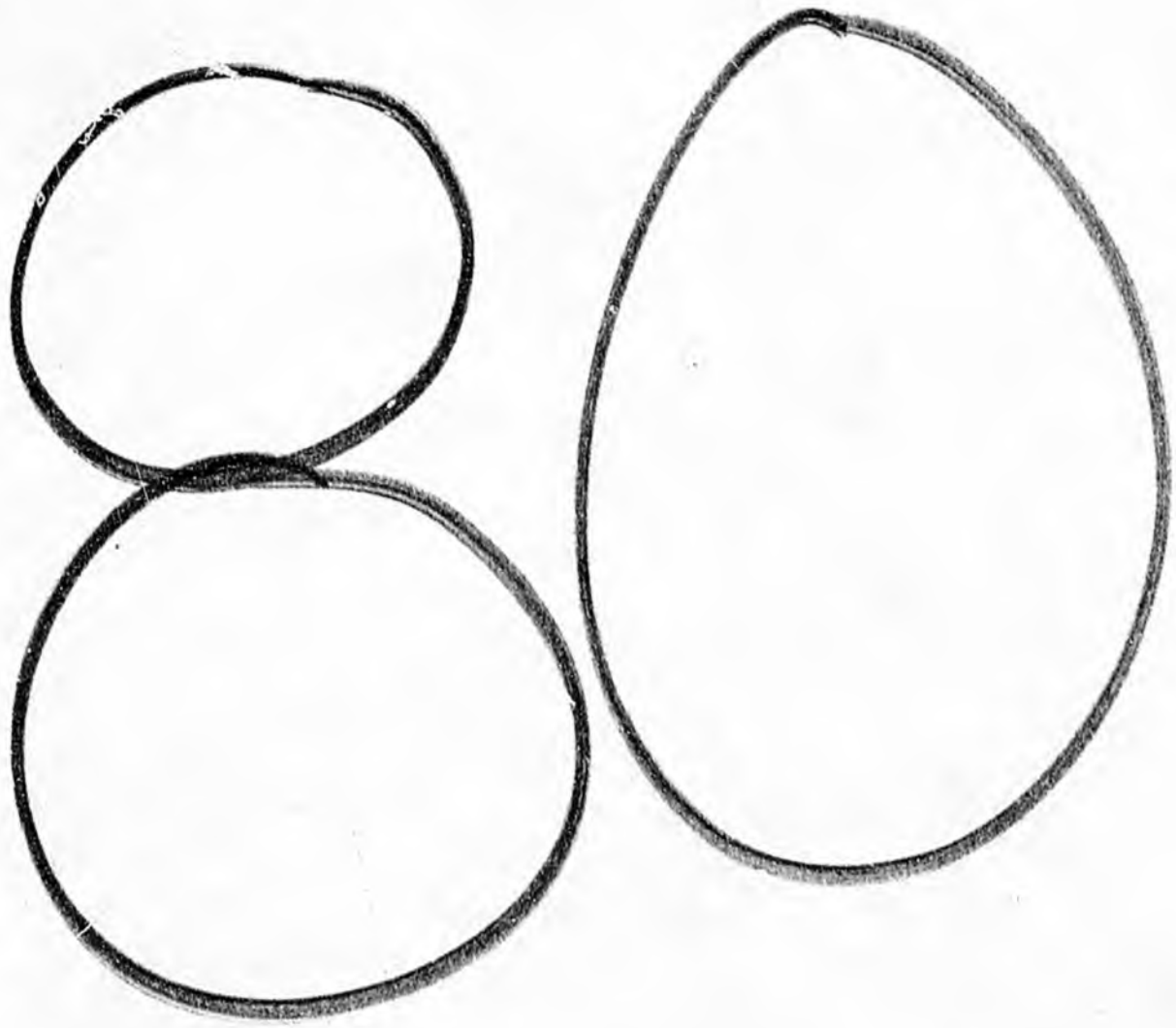
TYPICAL EXISTING BULKHEAD
PORT OF NENANA

PORT OF NENANA
PROPOSED BULKHEAD EXPANSION
Estimate and Recommended Budget

Sheetpiles Supply	
2,275,000# @ $.40 =	$ 900,000
Sheetpile Fabrication	
45 "Y" connections @ 2,100#	
47 "T" connections @ 1,050# = 143,850# @ $0.60 =	86,300
Sheetpile Erection	
2,635 LF @ $200 =	527,000
Bull Rail Supply	
1,100 ft. @ 85# = 94,000# @ $1.00 =	94,000
Bull Rail Erection	
94,000# @ $0.50 =	47,000
Fill	
60,000 CY @ $6 =	360,000
Riprap	
500 CY @ $30 =	15,000
Mobilization and Demobilization =	100,000
	$2,129,300
Construction contingency	150,000
Surveys, soils and permit preparation	20,000
Administration and construction engineering	100,000
Design engineering	100,000
Total Estimated 1983 Project Cost	$2,499,300

Recommended Project Budget = $2.5 Million

HB



Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU ALASKA 99811
(907) 465-4949

BOX 142
EAGLE RIVER, ALASKA
99577
(907) 694-4149

Representative Randy Phillips
HOUSE DISTRICT 15

TO: REPRESENTATIVE MITCH ABOOD
CHAIRMAN, HOUSE STATE AFFAIRS COMMITTEE

FROM: REPRESENTATIVE RANDY PHILLIPS

DATE: JANUARY 31, 1983

RE: HOUSE BILL 80

On the day of the 1982 general election, the Anchorage area experienced a power outage, caused by person or persons unknown who shot out a power line in the Anchorage area. While power was restored to some of the Anchorage bowl by about 6:00 p.m. that day, power was not restored to outlying areas (including the Chugiak-Eagle River area) until 12:30 a.m. the next morning. Additionally, the normally 45-minute to an hour trip from the downtown Anchorage area to places of residence in Chugiak-Eagle River took approximately two hours because of traffic signal light malfunction and traffic tieups. Many persons in my district have expressed to me that they just assumed the polling places would be closed (for lack of lighting) or that they left town at the normal time, only to arrive home too late to vote because of the traffic problems.

According to an article in the November 3 Anchorage Times, "Stray Bullet Stalls Traffic, Voters, Power," page C-1, Attorney General Wilson Condon stated that after review of the situation and the law, he determined that there was "Absolutely no authority to extend the polling time."

The proposed legislation presently before your committee in the form of House Bill 80 is an attempt to rectify this matter so that if a natural disaster or something on the order of the Anchorage situation occurs in later years, there will be some authority for some action if any action is deemed necessary.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 80 -- "An Act providing for the
Title extension of the time for voting on election day under certain
Requested by Representative Phillips Date 1/24/83
circumstances.

II: FISCAL DETAIL

Agency Affected Office of the Governor
Program Category Affected Division of Elections
BRU, Program, Or Subprogram(s) Affected Division of Elections
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

No additional fiscal impact will be incurred with House Bill No. 80.

IV. DATE 1/24/83 PREPARED BY Danith D. Arnoldt, Deputy Director

AGENCY Office of the Governor, Division of Elections

PHONE 586-6181

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

33-001 (Rev. 12/82)

Polling Hours for the General Election

	Polls open	Polls close	Notes on Hours
ALABAMA	8 a.m.	6 p.m.	Opening and closing times not mandatory: polls must be open at least 10 consecutive hours
ALASKA	6 a.m.	8 p.m.	
ARIZONA	6 a.m.	7 p.m.	
ARKANSAS	8 a.m.	7:30 p.m.	Polls may open at 7 a.m.
CALIFORNIA	7 a.m.	8 p.m.	Charter cities may set different hours for municipal elections
COLORADO	7 a.m.	7 p.m.	
CONNECTICUT	6 a.m.	8 p.m.	
DELAWARE	7 a.m.	8 p.m.	
FLORIDA	7 a.m.	7 p.m.	
GEORGIA	7 a.m.	7 p.m.	In cities of 100,000 or more, polls remain open until 8 p.m.
HAWAII	7 a.m.	6 p.m.	Voters standing in line at 6 p.m. may vote. No one may join line after 6 p.m.
IDAHO	8 a.m.	8 p.m.	Polls close 8 p.m. or earlier when all registered electors of the precinct have appeared and voted. County clerk has option of opening polls at 7 a.m.
ILLINOIS	6 a.m.	7 p.m.	
INDIANA	6 a.m.	6 p.m.	
IOWA	7 a.m.	9 p.m.	
KANSAS	7 a.m.	7 p.m.	Hours may be changed by election authorities, but polls must be kept open at least 12 consecutive hours between 6 a.m. and 8 p.m.
KENTUCKY	6 a.m.	6 p.m.	Persons in line may vote until 7 p.m.
LOUISIANA	6 a.m.	8 p.m.	Persons in line at 8 p.m. are entitled to vote.
MAINE	Between 6 a.m. & 10 a.m.	Between 8 p.m. & 9 p.m.	Only municipalities using voting machines have the option of staying open until 9 p.m.
MARYLAND	7 a.m.	8 p.m.	
MASSACHUSETTS	May open as early as 5:45 a.m.; must be opened by 10 a.m.	8 p.m.	In cities and towns, the polls shall be kept open at least 10 hours
MICHIGAN	7 a.m.	8 p.m.	
MINNESOTA	7 a.m.	8 p.m.	Municipalities of less than 1,000 may establish hours of 9 a.m. to 8 p.m.
MISSISSIPPI	7 a.m.	6 p.m	
MISSOURI	6 a.m.	7 p.m.	
MONTANA	8 a.m. 12 p.m.	8 p.m. 8 p.m. or earlier when all have registered in any precinct have voted	In precincts of less than 100 registered voters.

Polling Hours for the General Election (cont.)

	Polls open	Polls close	Notes on Hours
NEBRASKA	7 a.m. 8 a.m.	7 p.m. 8 p.m.	Mountain Time Zone. Central Time Zone.
NEVADA	7 a.m.	7 p.m.	
NEW HAMPSHIRE	Varies	Varies	Cities: Polls open not less than 4 hours and may be opened not earlier than 6 a.m. nor later than 8 p.m. Small towns: In towns of less than 700 population the polls shall be open not less than 5 consecutive hours. On written request of 7 registered voters the polls shall be kept open until 6 p.m. In towns of less than 100 population, the polls shall close if all on the checklist have voted. Other towns: Polls shall open not later than 10 a.m. and close not earlier than 6 p.m. On written request of 10 registered voters the polls shall be kept open until 7 p.m.
NEW JERSEY	7 a.m.	8 p.m.	
NEW MEXICO	8 a.m.	7 p.m.	
NEW YORK	6 a.m.	9 p.m.	
NORTH CAROLINA	6:30 a.m.	7:30 p.m.	In voting precincts where voting machines are used, county board of elections may permit closing at 8:30 p.m.
NORTH DAKOTA	Between 7 a.m. & 9 a.m.	Between 7 p.m. & 9 p.m.	
OHIO	6:30 a.m.	7:30 p.m.	
OKLAHOMA	7 a.m.	7 p.m.	
OREGON	8 a.m.	8 p.m.	
PENNSYLVANIA	7 a.m.	8 p.m.	
RHODE ISLAND	Between 7 a.m. & 12 noon	9 p.m.	
SOUTH CAROLINA	8 a.m.	7 p.m.	Lancaster County is allowed to keep polls open until 8 p.m.
SOUTH DAKOTA	7 a.m. 8 a.m.	7 p.m. 8 p.m.	Mountain Time Zone. Central Time Zone.
TENNESSEE	Varies	8 p.m. EST 7 p.m. CST	Polls must be open minimun of 10 and maximum of 13 continuous hours
TEXAS	7 a.m.	7 p.m.	In counties of more than one million population the polls may be opened at 6 a.m.
UTAH	7 a.m.	8 p.m.	
VERMONT	Between 6 a.m. & 10 a.m.	Not later than 7 p.m.	Polls must be open at least 9 consecutive hours during the day.
VIRGINIA	6 a.m.	7 p.m.	
WASHINGTON	7 a.m.	8 p.m.	
WEST VIRGINIA	6:30 a.m.	7:30 p.m.	
WISCONSIN	7 a.m. 7 a.m.	8 p.m. 8 p.m.	1st, 2nd and 3rd class cities. 4th class cities, villages and towns. Opening hours extendable by governing body to not earlier than 7 a.m.
WYOMING	8 a.m.	7 p.m.	

SOURCE: *The Book of the States 1982-83*, (Lexington, Kentucky: The Council of State Governments, 1982) p. 106-7.

MEMORANDUM State of Alaska

TO: Wilson L. Condon
Attorney General
Juneau - AGO

Mrs Minor

DATE: November 13, 1982

FILE NO:

TELEPHONE NO:

FROM: Elizabeth Page Kennedy
Assistant Attorney General
and
Gayle W. Savage, Investigator
Anchorage - AGO

SUBJECT: Effect of Power Outage on Voting Procedures

As a result of the power outage in the Anchorage area on November 2, 1982, an investigation was initiated at the request of the Attorney General to determine whether or not election procedures at the polls were adversely affected and whether or not the voters in those areas were deprived of their right to vote.

The investigation included interviews with officials of Chugach Electric, Municipal Light & Power, the Anchorage Police Department, the Federal Bureau of Investigation, officials of the Division of Elections, and members of the election boards from the election precincts directly affected by the power outage.*

I. Extent of Power Outage

According to Robert H. Day, an engineer for Municipal Light and Power, there were two power outages in Anchorage on

---

* A list of election board members interviewed follows this report.

RECEIVED
FEB 7 1983
DIRECTOR OF ELECTIONS

Election Day, November 2, 1982. The first occurred at approximately 7:00 a.m. and power was restored at about 7:45 a.m. The second power outage in Anchorage occurred at about 4:00 p.m. and was caused by an apparent act of vandalism** which caused a power line belonging to Chugach Electric to fall across a power line belonging to Municipal Light and Power. The resulting overload and power surge caused power to go out throughout much of Anchorage. Power in Anchorage west of Muldoon Road was restored by approximately 6:15 p.m. Power east of Muldoon to Eagle River was not restored until as late as 1:00 a.m. the following morning.

According to officials in the Division of Elections, the following 28 polling places reported power outages:

1. District 10, Precinct 84 (Stellar School, 2508 Blueberry, Anchorage)

2. District 10, Precinct 86 (Rogers Park Elementary School, 1400 East Northern Lights Blvd., Anchorage)

3. District 10, Precinct 88 (North Star Elementary School, 605 W. Fireweed, Anchorage)

4. District 10, Precinct 89 (West High School, 1700 Hillcrest Dr., Anchorage)

5. District 11, Precinct 104 (Enstar, 3000 Spenard Road, Anchorage)

6. District 11, Precinct 111 (West High School, 1700 W. Hillcrest Dr., Anchorage)

7. District 12, Precinct 120 (Inlet View School, 1219 "N" Street, Anchorage)

** The cause of the power outage was not the subject of this investigation but is being investigated by the FBI. Agent Kampher of the FBI indicated that at this point in time, there is no evidence to suggest that the motive for the vandalism, if in fact it was vandalism, was to affect election results.

8. District 12, Precinct 121 (Pioneer Home, 923 West 11th Ave., Anchorage)

9. District 12, Precinct 122 (Denali Elementary School, 148 East 9th Ave., Anchorage)

10. District 12, Precinct 123 (Fairview Elementary School, 1317 Nelchina, Anchorage)

11. District 12, Precinct 124 (Airport Heights Elementary School, 1510 Alder, Anchorage)

12. District 12, Precinct 126 (Alaska Sales & Service, 1300 East Fifth Ave., Anchorage)

13. District 12, Precinct 127 (Chugach Elementary School, 1205 "E" St., Anchorage)

14. District 12, Precinct 128 (Government Hill Elementary School, 525 E. Bluff Road., Anchorage)

15. District 13, Precinct 140 (Lake Otis Elementary School, 3331 Lake Otis Pkwy., Anchorage)

16. District 13, Precinct 141 (College Gate Elementary School, 3104 Sunflower, Anchorage)

17. District 13, Precinct 142 (Baxter Elementary School, 2991 Baxter Road, Anchorage)

18. District 13, Precinct 143 (East High School, Bragaw and Northern Lights Blvd., Anchorage)

19. District 13, Precinct 144 (Russian Jack Elementary School, 4420 East 20th Ave., Anchorage)

20. District 13, Precinct 147 (Clark Jr. High School, 150 S. Bragaw, Anchorage)

21. District 14, Precinct 160 (Baxter Elementary School, 2991 Baxter Road, Anchorage)

22. District 14, Precinct 170 (Bartlett High School, 25500 North Numdoon, Anchorage)

23. District 15, Precinct 184 (Homestead Elementary School, 2901 Baranof Drive, eagle River)

24. District 15, Precinct 185 (Northland Baptist Church, Eagle River Loop Road, Eagle River)

25. District 15, Precinct 186 (First Baptist Church, Old Glenn Highway, Eagle River)

26. District 15, Precinct 187 (Eagle River Elementary School, Old Eagle River Road, Eagle River)

27. District 15, Precinct 188 (Chugiak High School, Birchwood Loop, Chugiak)

28. Statewide Precinct at Anchorage International Airport

Of the above-listed polling places, power was restored to all before or by about 6:15 p.m. except for the five polling places in District 15 (Chugiak, Eagle River) where power was not restored until after midnight.

II. Auxillary Power or Supplemental Lighting

With the exception of precincts 12-121, 12-126, 14-170, 15-185, 15-186, and the statewide polling place at Anchorage International Airport, all of the polling places were equipped with auxillary power sources and those persons working at the polling places were able to move polling booths and punch machines beneath lighted areas so that those voting could see more clearly.

At the precinct polling places which were not equipped with auxillary power, election board members usually were able to move the punch machines and booths near windows until supplemental sources of light such as candles, flashlights and lanterns, could be obtained.

All board members that were interviewed reported that supplemental light was obtained very quickly; many reported that due to the morning power outage, they brought flashlights with them to the polls and were prepared when the power went out in the evening. In addition, precinct workers reported that school principals, custodians, as well as the voters were very cooperative in providing light sources to the poll workers.

III. Ballot Security

All board members interviewed reported that despite the power outage, security of the ballots and the procedures ensuring the integrity of the voting process were not compromised. In most instances, those signing the precinct registers were separated from those waiting to vote and those voting. Reports indicated that at no time did four or five voters have ballots in hand waiting to vote. Many precincts used a card system whereby those who had signed the register received cards and in turn traded the card for a ballot. Other precincts did not give voters ballots until booths and flashlights became available.

All precincts reported that despite less than ideal lighting conditions, visual contact and control were maintained throughout the power outage.

Finally, all precincts reported that throughout the entire election day, including the period of time the power was out, the ballot box was attended by a precinct worker and a source of light was near the ballot box to ensure security.

IV. Poll Closures

All board members interviewed except those in precinct 13-143 indicated that their precincts closed the polls at 8:00 p.m. Precinct 13-143 closed the polls at 8:01 and allowed two people to vote who had come in by way of a back door and were in the building at 8:00 p.m.

Fourteen of the precincts that reported a power outage also reported that persons arrived at their polling place after closure of the polls and were not allowed to vote. The total number of people denied access to the polls after closure in these 14 precincts was about 30 with precinct 15-185 (Eagle River) reporting about four or five people arriving too late to vote.

Those denied access to the polls in some cases indicated to the precinct workers that they had had a difficult time getting from their work in Anchorage to the polling place due to fog and traffic. Others indicated that they had heard on the radio or television that because of the power outage, polling places might be open late. Many indicated that they simply did not make it to the polls in time and offered no excuse.

According to precinct workers interviewed, the number of people who arrived late at the polls and were not allowed to vote did not differ appreciably from previous elections.

V. Questioned Ballots

Board members interviewed reported a range of 33 to 103 questioned ballots in their precincts. People generally cast questioned ballots because their names were not on the precinct register. Others told precinct workers that due to traffic delays, they would not be able to get to their polling places before the 8:00 p.m. poll closure. Others simply indicated that due to traffic congestion, it was inconvenient to vote at their regular polling places.

Board members indicated that the number of questioned ballots generally did not differ significantly from previous elections and where significant differences did occur, may have been a result of redistricting as well as problems associated with the power outage.

All those interviewed indicated that when a voter wanted to cast a questioned ballot, they were advised, if time permitted, to vote at their correct precinct so that the voter could vote for the local legislative candidates for their district but in all cases, if the voter wanted to vote a questioned ballot at their precinct, the precinct workers allowed voters to do so.

VI. Complaints by Voters

Nearly all precinct workers interviewed indicated that generally, voters were very cooperative and praised the election workers for an admirable job in light of the conditions. It was reported that some voters complained of long lines, or the inconvenience involved in getting to the polls, or of the poor lighting conditions, but those complaints were few in number. None of those interviewed reported people walking away from the polls without voting because of lines or conditions. Some voters did indicate they would vote later after polls were a bit less crowded and did return. While voters generally were inconvenienced by traffic congestion and, in some cases, insufficient light, board members indicated that the atmosphere was a bit more jovial and voters more cooperative as a result of the power outage.

Generally, board members reported that, subsequent to the election, they had not talked with any people who absolutely had been unable to vote either in their own district or cast a questioned ballot in another district as a result of the power outage.

VII. Conclusions

The power outage in the Anchorage area has raised three primary concerns:

1) whether or not security of the ballots and integrity of the voting procedures as practiced by the election boards was compromised;

2) whether or not voters were deprived in any way of their right to vote;

3) whether or not the turnout by voters was affected by the power outage.

With regard to the security of the ballots and the integrity of the procedures followed by the election boards, it appears that neither were compromised despite less than ideal lighting conditions. Board members seem to have been very careful with regard to the security of the ballots by ensuring that ballot boxes were under constant supervision and under adequate light. Those signing the voter register generally were kept separate from those obtaining ballots. Those receiving ballots were generally limited to a small number of people and various procedures were used to safeguard against non-registered persons obtaining ballots. Finally, while in many instances lighting limitations required that voting booths be abandoned, voters were able to vote in relative privacy and sufficiently lighted areas.

Interviews with board members indicated that the polling places were open until 8:00 p.m. and that voting was not interrupted except in some instances for a very short period of time, a few minutes at most, to enable board members to find supplemental lighting or to move voting booths or punches to lighted areas.

All of the precinct boards allowed voters to cast questioned ballots if voters chose to do so but if time permitted, encouraged voters to vote at the proper polling places

so that voters could vote for candidates in their legislative districts.

Apparently, some people indicated that they heard on the radio or television that the polls might be open later than 8:00 p.m. According to the Division of Elections, no release or statements by the Division were made to the media that polling hours would be extended. This misinformation was apparently a result of conjecture by certain members of the media. In fact, the Division of Elections enlisted the assistance of the Anchorage Police Department and the Alaska State Troopers to notify election boards that the polls would officially close at 8:00 p.m.

Finally, with regard to how the outcome of the elections was affected by the power outage, it is impossible to determine how many voters did not participate in the election as a result of the power outage. There is no question that traffic congestion, as a result of inoperative traffic signals, may have affected the ability of many people to vote in areas that were both directly and indirectly affected by the power outage. Officer Hutchison of the Anchorage Police Department indicated that some traffic arteries were congested as much as 45 minutes to an hour after power was restored. On the other hand, members of election boards reported that while many people were delayed by as much as two hours in getting to the polls, there generally was enough time for most voters to make it to their precincts. In addition, there was nothing prohibiting persons from casting questioned ballots at more convenient locations which many voters in fact did.

A look at the percentage of registered voters who cast ballots in the November 2 election (excluding questioned and absentee ballots) shows that the turnout in those precincts directly affected by power outages ranged from 43.4 percent (District 12, Precinct 127, a downtown Anchorage location) to 67.1 percent (District 15, Precinct 187, an Eagle River precinct). The figures cited are not intended to be used to explain voting patterns, only to show that the power outage did not necessarily adversely impact voter turnout in areas where power was out for a period of time.

The conclusion to be drawn then is that while many people may have been inconvenienced and delayed by the power outage in the Anchorage area, a majority of the people registered to vote did vote and while others may not have voted, most had the opportunity to vote either at their proper precincts or to

cast questioned ballots in other precincts. In addition, despite less than ideal conditions in those precincts without power, order and control over the security of the ballots and integrity of the voting procedures was maintained by election board members. It does not appear that anyone was deprived of the right to vote nor was that right compromised by improper conduct or negligence on the part of election boards.

ELECTION BOARD MEMBERS INTERVIEWED

1. District 10, Precinct 84: Kathryn Marshall (274-4724) and Holly Brown (337-3897)

2. District 10, Precinct 86: Lela Morgan (272-1882) and Clara Tappley (279-9873)

3. District 10, Precint 88: Hazel Gallagher (277-7832) and Janet Boylan (694-5387)

4. District 10, Precinct 89: Kay Linton (272-6961) and Marjean Dunaway (277-5356

5. District 11, Precinct 104: Martha Proudfoot (277-8854) and Lorraine Russo (274-4149)

6. District 11, Precinct 111: Carol Merbs (277-2760) and Suzanne Stefano (279-4338)

7. District 12, Precinct 120: Dorothy Wilcox (277-5906) and Phyllis Kempton (274-8138)

8. District 12, Precinct 121: Grace Nurse (272-1989) and Eileen Hickey (272-1609) and Frieda Plumb (272-2929)

9. District 12, Precinct 122: Cindy Bline (345-1067) and Inez Parko (272-1866)

10. District 12, Precinct 123: Dorothy Seitz (272-4832)

11. District 12, Precinct 124: Gayle Hunter (279-4668), Pat Robar (279-3981) and Peggy Hicklin (279-1001)

12. District 12, Precint 126: Eileen Rink (272-4155) and Deanna Wieskamp (277-4554)

13. District 12, Precinct 127: Mary McKenzie (277-0448) and Vivian Mearig (272-8177)

14. District 12, Precinct 128: Gloria White (277-0439) and Lorraine Bennett (279-5396)

15. District 13, Precinct 140: Margaret Barr (276-3136) and Dianne Acheson (276-1281)

16. District 13, Precinct 141: Sparky Rumfelt (337-2903) and Marge McLaughlin (333-5485)

17. District 13, Precinct 142: Ruth Deary (333-8003)

18. District 13, Precinct 143: Mary Ann Bartholomew (333-7327) and Donna Luiten (333-7583)

19. District 13, Precinct 144: Shirleen Noble (337-6376) and Paula Lund (337-1978)

20. District 13, Precinct 147: Mary Topolski (272-8291) and Hermine Beuwkamp (337-2057)

21. District 14, Precinct 160: Francis Pitzke (337-7335) and Tammy Townsend (337-5665)

22. District 14, Precinct 170: Anna Campbell (333-7633) and Alpha Brown (333-5677)

23. District 15, Precinct 184: Phyllis Janke (694-2712) and Marty Rourke (694-9153)

24. District 15, Precinct 185: Norma Kindred (694-2283) and Annette LaPage (694-2534)

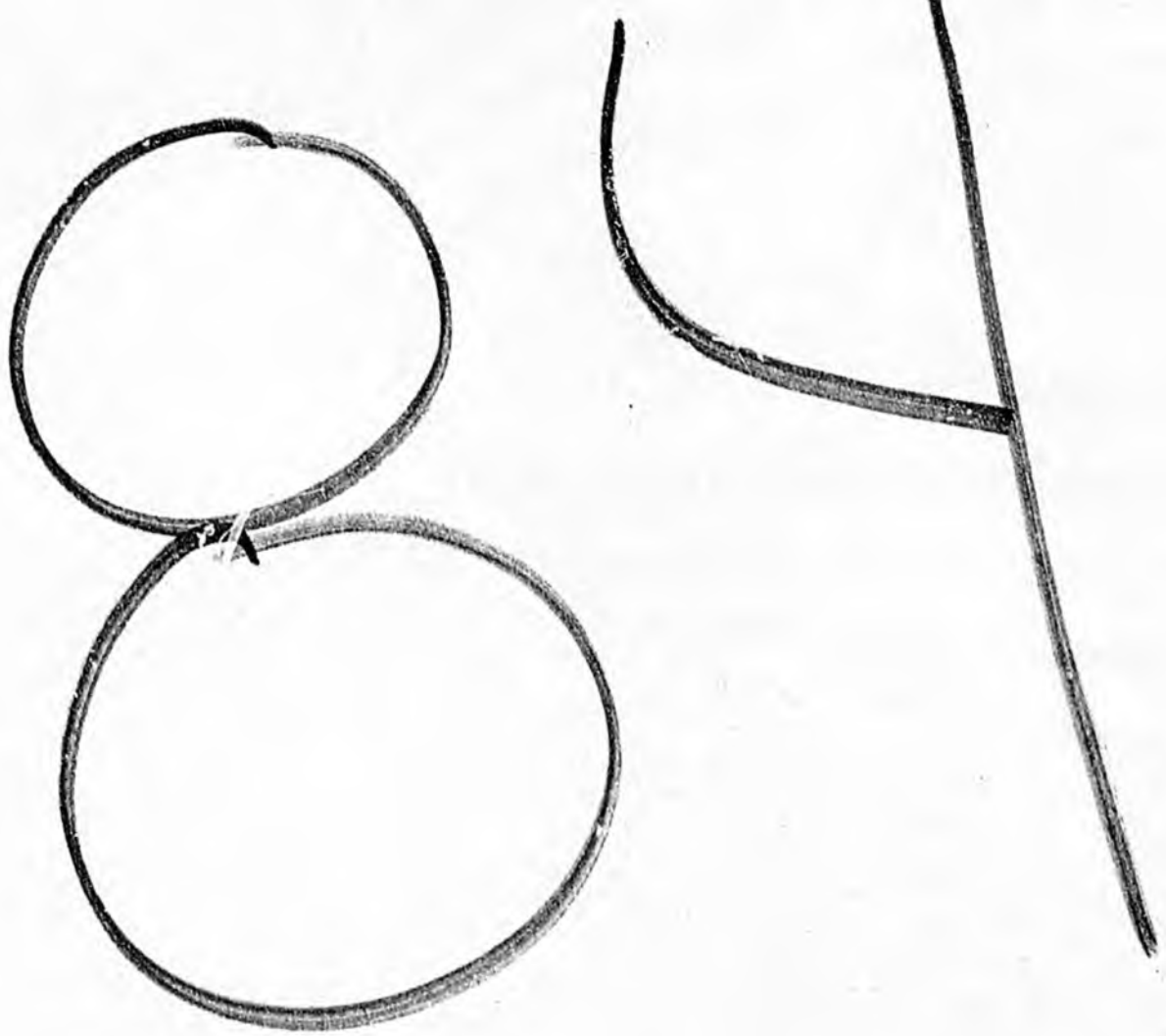
25. District 15, Precinct 186: Hazel Arndt (694-2310) and Lorraine Pederson (694-9125)

26. District 15, Precinct 187: Mary Whitman (694-5084) and Alma Werre (688-2634)

27. District 15, Precinct 188: Rita Lane (688-2507) and Mickie Delk (688-3347)

28. Statewide Precinct at International Airport: Shirley Looney (428-2937)

HB



THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 84
Title "An Act relating to smoking in public places and vehicles."
Requested by House State Affairs Committee Date 2/8/83

II. FISCAL DETAIL
Agency Affected Department of Law
Program Category Affected Legal Services
BRU, Program, Or Subprogram(s) Affected Legal Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		48.4	51.1	54.2		

FUNDING (Thousands of Dollars)

GENERAL FUND		48.4	51.1	54.2		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
This bill extends the state's current mandatory prohibition of smoking in public places to include public meetings of municipalities and most places of business such as retail stores, restaurants, banks, offices, factories, warehouses, and other places of employment. Under existing statute, this extended prohibition is at the option of the person having control of such places of employment. The bill would also make the existing mandatory requirement to provide reasonable smoking areas, in most prohibited areas, optional. Because of the very broad changes to the existing law, requiring mandatory compliance by nearly every place of business in the state, except for cocktail lounges, taverns and tobacco shops, it is anticipated that the department will have to devote additional resources to provide the enforcement actions required by the bill such as seeking injunctions and the collection of fines and penalties.

IV. DATE February 9, 1983 PREPARED BY Richard I. Pegues, Dir. Adm. Svcs.
AGENCY Department of Law
PHONE 465-3672

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

33-001 (Rev. 12/82)

FEBRUARY 7, 1983

MILLER FAMILY
P.O. BOX 2436
JUNEAU, AK.
99803

STATE AFFAIRS COMMITTEE
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
ALASKA STATE HOUSE OF REPRESENTATIVES

DEAR PEOPLE,

WE HAVE READ HOUSE BILL NO. 84, "AN ACT RELATING TO SMOKING IN PUBLIC PLACES AND VEHICLES". WE FEEL THAT WHILE THE BILL IS AN IMPROVEMENT TO THE CURRENT STATUTES, IT FALLS FAR SHORT OF PROTECTING THE PUBLIC. WE FEEL THAT SMOKING SHOULD BE LIMITED TO ONES RESIDENCE, PRIVATE VEHICLE, OR THE OUT-OF-DOORS.

IN THE UNITED STATES, 67% vs 33% OF THE POPULATION IS NONSMOKING[1] AND WE FEEL THE STATUTES SHOULD PROTECT THE RIGHTS OF THE 67% WHO DON'T AND NOT THE PRIVILEGE OF THE 33% WHO DO. WE HOPE YOU WILL CONSIDER MAKING IT ILLEGAL TO SMOKE ANYWHERE BUT IN ONES RESIDENCE, PRIVATE VEHICLE, OR THE OUT-OF-DOORS.

THANK YOU.

SINCERELY,

Kathy Miller
Gary Miller
KATHY, SHAWN, AND GARY MILLER

RECEIVED
FEB 8 1983

1. SURGEON GENERALS REPORT, 1978

STATE OF ALASKA
FINAL STATEMENT OF FISCAL IMPACT

Bill No: HB 84 Date on Bill: January 20, 1983
Title: "An Act relating to smoking in public places and vehicles." COF
Sponsor: Fritz et al
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				-0-				
Operating				$10,000.00				
Total				$10,000.00				

b. Revenues:

Revenue				-0-				

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

18 AAC 55, "Smoking In Public Places" will be amended if this legislation passes. It would necessitate printing new regulations and public education to inform affected public facility operators and the general public of their rights and responsibilities under the new law.

4. This statement has been reviewed by the OMB in the Office of the Governor. It may be considered to represent the policy of the Sheffield Administration and the final estimate of fiscal impact.

Prepared By: Joe Cladouhos Phone: 465-2640
Division: Environmental Quality Management Date: 2-14-83

Approved by Commissioner: Dave Walling for R.A. Neve Date: 2/14/83
Department: Environmental Conservation

Reviewed by OMB: Date:
Phone:

5. Distribution:
Original to Legislative Finance
Copy to Department
Copy to Sponsor
Copy to Requestor

2/8/83

Juneau, Alaska
February 10, 1983

The Honorable Mitchell E. Abood, Jr.
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

Dear Sir:
RE: HB 84 Smoking in Public Places

As a respiratory Therapist in an acute care facility I see the ravages of smoking every day. Men and women who were once active and healthy now are reduced to no better than cripples by the self destructive act of smoking.

As Chairman of the State Affairs Committee, I encourage you to work toward passing this bill out of your committee with a unanimous "Do Pass." It will protect the non-smokers from the exposure to smoke in the air from smokers. Cigarette, cigar and pipe smoke does not heed "No Smoking Signs" it drifts as it pleases. Smoke assaults the lungs, sometimes only as unseen particles of all people, smokers and non smoker alike.

Smoking is an active habit done by conscious choosing, unfortunately non-smokers are subjected to the passive act of smoking against their own choosing. Passive smoking by non-smokers causes some people great distress, in the form of headache, nausea, itchy eyes and sore throats. In some cases it can trigger shortness of breath, elevated blood pressure and heart rate, coughing and even asthma attacks in some individuals. The worst result of passive smoking is the effect on infants and little children and the elderly who have minimal reserves to combat the ill effect.

Non Smokers deserve equal rights, provide them with public places where they will be free from passive smoking.

PLEASE SUPPORT H.B. #84 SMOKING IN PUBLIC PLACES.

Sincerely,

Sandra N. Gast

Sandra N. Gast, R.T.
6310-22 Glacier Hwy
Juneau, Alaska 99801

(Bartlett Memorial Hospital)

CC: Milo Fritz
Mike Miller

Wants to Testify ✓

Sandra Harbanuk



Gary Miller

Bill Church

Rio Iannolins

These folks wont to testify

Anch. Daily News - 22 Oct '82

Non-smoker gets disability pay

The Associated Press

SAN FRANCISCO — A non-smoking federal worker transferred to an office with several smokers is entitled to about $20,000 in disability pay because she developed breathing difficulties, a federal appeals court ruled Thursday.

Irene Parodi cannot "perform her job due to its location in a smoke-filled office," the 9th U.S. Circuit Court of Appeals wrote in what the woman's lawyer called a landmark ruling.

"Unlike a person with a physical limitation, a person with an enviromental limitation can physically perform the assigned work in a proper environment," the court said.

"She is as disabled for her job at her assigned worksite as she would be had she actually suffered permanent and severe chronic bronchitis or another physically disabling disease," the court said.

The court said that unless Parodi is offered a job in a smoke-free office within 60 days, she will become eligible for disability retirement benefits of about $500 a month.

BARTLETT MEMORIAL HOSPITAL

P. O. BOX 3-3000 • JUNEAU, ALASKA 99801 • TELEPHONE (907) 586-2611
MILE 3 — GLACIER HIGHWAY

February 11, 1983

HOUSE BILL 84 "SMOKING IN PUBLIC PLACES"

Traditionally, smokers have enjoyed the freedom to smoke when and where they choose. In recent years, research has shown that second hand smoke can have harmful effects on non-smokers. Non-smokers are no longer a silent majority, they mind if you smoke and are speaking up.

Tobacco smoke contains hazardous compounds; tar, nicotine, carbon monoxide, cadmium, nitrogen dioxide, ammonia, benzene, formaldehyde and hydrogen sulfide. Two-thirds of the smoke from the burning cigarette goes into the environment. The smoke from the burning end of the cigarette has the highest concentration of these pollutents.

Being in a room with smokers can significantly increase the carbon-monoxide levels in non-smokers. The half-life of carbon-monoxide is over 5 hours and with prolonged repeated exposure a non-smoker may have a carbon-monoxide level as high as someone that smokes. This carbon-monoxide has a higher affinity for hemoglobin in the blood than does oxygen and causes a decrease in the ability of the blood to transport oxygen thru out the body. This can lead to impaired performance and physiological stress to vital organs.

Persons exposed to second hand smoke experience an increase in the likelyhood of developing; broncitis, emphysema, lung cancer and persons with existing lung disease such as asthma who are sensitive to tobacco smoke are compromised.

Nonsmokers have the right to breath clean air, free from harmful and irritating tobacco smoke. I support House Bill 84 and encourage the legislature to take action on their behalf.

Sincerely,
Gary Dunne RRT
Gary Dunne RRT

February 14, 1983

Dear Hearing Officer,

I support House Bill No. 84, which if enacted would prohibit smoking in public places and work area. As a nonsmoker, I am co ned about the injurious effects of secondary smoke to my health.

I believe my desire for a smoke free environment can be achieved, and that smokers may continue to smoke, by providing for designated smoking areas and segregating work areas into smoking and nonsmoking areas.

I am also concerned that the tobacco industry, by spending large amounts of money, may sway the apparent consensus of the group presenting testimony.

I hope that you will seek information from the interested public beyond the short sighted profit motive of the tobacco companies.

Sincerely,

Eugene E. Miller

Eugene E. Miller
17040 Glacier Highway
Juneau, AK 99801

cc: Representative Mike Miller
Representative Jum Duncan
Senator Bill Ray

Feb. 14, 1983

To: The Honorable Sponsors of HB No. 84

I would like to see passage of the above---especially as related to the "close work area". Many workers are exposed, to "smokers" who have allergy/respiratory problems and should be allowed to have a smoke-free work place.

Thank you.

Pat Ellsworth RN.

Pat Ellsworth RN
Health Unit, Fed. Bldg.
Bx 378
Juneau, Alaska 99802

COPY

P.O. Box 803
Juneau, AK 99802
Feb. 10, 1983

TO: State Affairs, Resources & Judiciary Committees

Dear Committee Members:

We are both state office workers in the Department of Labor Building. The Air conditioning doesn't work and our superiors have repeatedly failed to address the problem of smoke in the air with reasonable accomodations to protect us from the effects of ambiant smoke inhalation. In the light of recent court decisions on the subject and in behalf of the approximately two thirds of state workers who don't smoke please consider your duty to your constituents and to the state workers and give your full support to passage of House Bill #84 "An Act Relating to Smoking in Public Places and Vehicles".

Thank you,
Roberta S Banko.
Dennis G. Andison
Roberta S. Banko
Dennis G. Andison

COPY

To: All Members of the State Affairs, Resources & Judiciary Committee

From: Anna von Reitz, State Employee, Alaska Voter

Dear Committee Members,

I urge you to support and pass the proposed House Bill 84, "An Act Relating to Smoking in Public Places and Vehicles." The health hazards of smoking and of ambient smoke inhalation are well documented; the correlation between exposure to tobacco smoke and incidence of heart and lung diseases is too strong to ignore. In the best interests of public health, it is your responsibility to take action against this ubiquitous menace.

There are some special areas of concern that I urge you to consider with exceptional care — those being the provisions to protect young children, the elderly and non-smoking members of the work force.

As you are probably well aware, the elderly and young children are especially susceptible to lung damage and impaired vascular performance, which is further complicated by exposure to ambient smoke. Non-smoking members of the work force deserve special consideration because their abstinence from smoking is a contributing factor toward greater productivity, lower insurance rates and lower work site maintenance costs.

A final urgent concern is for the establishment of an effective and comprehensive educational program for the general population concerning the dangers to public and personal health, and the very real social costs, that are associated with smoking and inhalation of ambient smoke.

Support House Bill 811!

2-[illegible]-83

P.O. box 206
Douglas, Ak. 99824

2 - 8 - 83

State Affairs

C.C. Resources and Judiciary

I wish to convey my suport for House Bill No. 84. Tobacco smoke irritates my eyes, nose and throat. I resent having to restrict my activites to protect my health from others smoking

Sincerely,

mark J Miller

Mark J. Miller

RECEIVED
FEB 8 1983

APPLECART



Feb. 14, 1983

TO: State affairs, Resources + Judiciary Committees

Dear Committee Members,

I would appreciate your consideration of House Bill # 84 "an act Relating to Smoking in Public Places + Vehicles.

I am now in private business + do not allow smoking on the premises due to the fact that I quit working at the museum (Dept. of Ed.) to get away from smoke as I have a real allergy to cigarette smoke.

Sincerely,

Martha Stevens

Larry and Martha Stevens
515 N. Franklin Street
Juneau, Alaska 99801

(907) 586-3689

— Consulting Services —
— Workshops —
— Software —

Ca-A Cancer Journal
for Clinicians

Published by the
American Cancer Society

Jan/Feb 1981
Vol. 31, No. 1



Lung Cancer in Women:
#1 Cause of Cancer Death by 1985?

TESTIMONY OF REP. MILO FRITZ

FEBRUARY 12, 1983 ON HB 84

MR. CHAIRMAN, I AM REP. MILO FRITZ TESTIFYING IN FAVOR OF THE PASSAGE OF HOUSE BILL 84.

THE LEADING CAUSE OF CANCER DEATH AMONG MEN IS DUE TO LUNG CANCER CAUSED BY SMOKING. LUNG CANCER IS A RARE DISEASE AMONG NON-SMOKING MALES.

LUNG CANCER, I BELIEVE, YOU CAN CALL AN EQUAL-OPPORTUNITY DISEASE, IN THAT, AS MORE AND MORE WOMEN SMOKE, THE INCIDENCE OF LUNG CANCER AMONG THEM IS APPROACHING THAT AMONG SMOKING MEN. IN THIS CHART THAT I HOLD BEFORE YOU, IT SHOWS WHAT HAS HAPPENED SINCE 1945 AND WHAT IS PROJECTED FOR 1985 WHEN LUNG CANCER WILL EQUAL IN INCIDENCE AMONG SMOKING WOMEN WHAT NOW PREVAILS AMONG SMOKING MEN.

IN ADDITION TO LUNG CANCER, SMOKING CAUSES CANCER OF THE LARYNX, THAT IS, THE VOICE BOX, THE BRONCHIAL TUBES, AND THE BLADDER. IN ADDITION, IT AGGRAVATES HEART DISEASE, LUNG DISEASE, SUCH AS BRONCHIECTASIS, AND DIFFERENT CIRCULATORY DISEASES AS WELL, AND IS RESPONSIBLE FOR THE LOSS OF MANY MEN AND WOMEN IN THE PRIME OF THEIR LIVES. TIME LOST FROM WORK OWING TO ILLNESS CAUSED BY OR AGGRAVATED BY SMOKING APPROACHES BILLIONS OF DOLLARS EVERY YEAR. OF EQUAL IMPORTANCE IS DEATH IN THE EARLY RETIREMENT YEARS OR ILLNESS FROM SMOKING WHEN PLANS FOR CARRYING OUT HOBBIES AND TRAVEL THAT COULD NOT BE AFFORDED

DURING ACTIVE YEARS OF WORK ARE NEVER CARRIED OUT. THIS IS A FREQUENT AND MOVING TRAGEDY.

IF SMOKING AFFECTED ONLY THOSE WHO SMOKED, THERE WOULD BE LITTLE NEED FOR THIS KIND OF LEGISLATION. IF SMOKE FOLLOWED THE SMOKER ABOUT LIKE A PENUMBRA LEAVING NON-SMOKERS UNDISTURBED, THERE WOULD BE EVEN LESS NEED FOR THIS LIGISLATION, BUT SMOKE IS NOT CONFINED TO THE SMOKER; IT PERMEATES THE ROOM, BEFOULS THE CLOTHING OF NON-SMOKERS, MAKES THE EYES BURN, AND AGGRAVATES THOSE WITH NASAL ALLERGIES. IT CAUSES HOTELS' TOWELS TO REEK OF TOBACCO EVEN AFTER LAUNDERING. IN OTHER WORDS, SMOKING PERMEATES THE ROOM WHERE SMOKING IS CARRIED ON WHETHER OR NOT NON-SMOKERS ARE WILLING TO PUT UP WITH IT. SMOKING, THEREFORE, INTERFERES WITH THE RIGHTS AND PRIVILEGES OF OTHERS WHO DO NOT SMOKE, AND SHOULD BE BANNED AS A PUBLIC HEALTH HAZARD. SMOKING INTERFERES WITH THE RIGHTS OF THOSE WHO DO NOT SMOKE TO WORK OR CARRY ON THEIR BUSINESS IN A SMOKE-FREE ENVIRONMENT.

THEREFORE, SMOKING SHOULD BE BANNED IN VEHICLES AND INDOOR AREAS OPEN TO THE PUBLIC, IN VEHICLES OF PUBLIC TRANSPORTATION SUCH AS TAXIS, AIRLINES, BUSES, FERRIES, AND ELEVATORS.

IT SHOULD BE BANNED IN LIBRARIES, THEATERS, MUSEUMS, LECTURE AND CONCERT HALLS, SWIMMING POOLS, AND OTHER INDOOR PLACES OF ENTERTAINMENT OR RECREATION.

WHAT NON-SMOKER AMONG US HAS NOT BEEN REPELLED BY THE STINK OF SMOKE IN A TAXI OR AN AIRLINER? IN THE LATTER

INSTANCE, THE DESIGNATION OF SMOKERS' AND NON-SMOKERS' SECTIONS IS EUPHEMISM, SINCE THE SMOKE DIFFUSES THROUGHOUT THE CABIN FROM WHICH, OF COURSE, THERE IS NO ESCAPE.

I HOPE YOU WILL FAVORABLY CONSIDER THIS LEGISLATION. I STAND READY TO ANSWER ANY RELEVANT QUESTIONS. I THANK YOU, MR. CHAIRMAN.

P.O. Box 308
Juneau, Ak. 99802
Feb. 14, 1983

State Affairs Committee
State of Alaska

Ref. House Bill #84 – "An Act relating to smoking in public places and vehicles."

I strongly support the enactment of legislation which restricts or hopefully eliminates smoking in public places in the State of Alaska.

I feel it is a violation of my rights that I must be subjected to second hand smoke. Why should my health be jeopardized by the actions of others.

Thank you for considering this letter.

Sincerely,

Frederick C. Low

FREDERICK C. LOW
586-7247; 3154

This is to show I have read House Bill # 84 and approve of its passage.

Bis

FEBRUARY 7, 1983

MILLER FAMILY
P.O. BOX 2436
JUNEAU, AK.
99803

STATE AFFAIRS COMMITTEE
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
ALASKA STATE HOUSE OF REPRESENTATIVES

DEAR PEOPLE,

WE HAVE READ HOUSE BILL NO. 84, "AN ACT RELATING TO SMOKING IN PUBLIC PLACES AND VEHICLES". WE FEEL THAT WHILE THE BILL IS AN IMPROVEMENT TO THE CURRENT STATUTES, IT FALLS FAR SHORT OF PROTECTING THE PUBLIC. WE FEEL THAT SMOKING SHOULD BE LIMITED TO ONES RESIDENCE, PRIVATE VEHICLE, OR THE OUT-OF-DOORS.

IN THE UNITED STATES, 67% vs 33% OF THE POPULATION IS NONSMOKING[1] AND WE FEEL THE STATUTES SHOULD PROTECT THE RIGHTS OF THE 67% WHO DON'T AND NOT THE PRIVILEGE OF THE 33% WHO DO. WE HOPE YOU WILL CONSIDER MAKING IT ILLEGAL TO SMOKE ANYWHERE BUT IN ONES RESIDENCE, PRIVATE VEHICLE, OR THE OUT-OF-DOORS.

THANK YOU.

SINCERELY,

Kathy Miller
Gary Miller
KATHY, SHAWN, AND GARY MILLER

1. SURGEON GENERALS REPORT, 1978

Feb 14, 1983

Dear Mr Vaska,

The bill to control smoking in public places needs committee action. I hope you can help the bill along.

Currently I work in a smoky office. I resent the costs (of cleaning, health, and smell) imposed on me. I must work but I'd like to have smoking restricted from the area in which I sit. Apparently the management will resist this until there's a law.

Thank you for introducing the bill. I hope it is more than a nice sentiment.

Anne Fuller

registered voter
Goodnews Bay
ALASKA

Anne Fuller
2895 Mendenhall Loop 69
Juneau AK 99801

2-14-83

Dear Mr Abood:

One of the great things about Alaska is its clean air. Maybe that's why I'm deeply concerned about the filthy air where I work.

The bill to limit smoking in public places, if passed, would make my life easier. Work would be pleasanter & my clothes would not stink. It seems to me smokers can use break times to light up, away from where I must work.

Sincerely

Anne Fuller

Anne Fuller
2895 Mendenhall Loop #69
Juneau AK 99801

Juneau AK 99802
P.O Box 1001
Feb 14, 1983

Dear Committee members:

I am a state worker with the Dept. of Labor. A year ago I was in a traffic fatality in which I lost my son. The death of my son caused me to have depression problems. Cigarette smoke ~~bothers~~ makes me sick.

I'm all for house bill # 84.

Thank you —

Evelyn R. Hudson

To the State Affairs Committee of the
Alaska House of Representatives

Mitch Abood, Chairman:

I am a nine-year resident of Alaska and a state employee. Although I respect the right of individuals to choose to smoke themselves, I strongly feel that this right cannot take precedence over the rights of other individuals who chose not to smoke. Unfortunately, non-smokers who work in close proximity to smokers do indeed forfeit their right of choice, forced as they are by the inhalation of ambient, or "second-hand" smoke, to endure the inconvenience, discomfort, and even toxic hazards posed by this smoke.

There are many professions and job situations which do not allow unrestricted smoking in the work place (teaching, public health, most factory situations, food processing and health industries, to name a few) so to suggest adopting similar restrictions as health protection in our state is not a radical idea.

I therefore strongly urge you to support and seek passage of House Bill 84 "An Act Relating to Smoking in Public Places and Vehicles". I am not asking that others be banned

from smoking, only that non-smokers not be forced to do so, to the detriment of their health.

Sincerely yours,

Jackie Sorensen
6041 Pine Street
Juneau, Alaska 99801

To State Affairs Committee
Alaska House of Representatives

Mitch Wood, Chairman:

H.B 84 proposes to prohibit smoking in public places. I would encourage you to give serious consideration to these measures. Smokers have been subjecting themselves and others to the health hazards created by smoking far too long. Smokers should not have the unfettered right to inflict nose bleeds, headaches, noxious odors, and other medically verifiable afflictions on others.

While I may sound like a nonsmoker, this is not the case, I smoke a pipe and cigars. I do not smoke in public places or if someone is in my presence objects.

Howard S. Trivette

Juneau, Alaska
February 10, 1983

COPY

The Honorable Mitchell E. Abood, Jr.
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

Dear Sir:
RE: HB 84 Smoking in Public Places

As a respiratory Therapist in an acute care facility I see the ravages of smoking every day. Men and women who were once active and healthy now are reduced to no better than cripples by the self destructive act of smoking.

As Chairman of the State Affairs Committee, I encourage you to work toward passing this bill out of your committee with a unanimous "Do Pass." It will protect the non-smokers from the exposure to smoke in the air from smokers. Cigarette, cigar and pipe smoke does not heed "No Smoking Signs" it drifts as it pleases. Smoke assaults the lungs, sometimes only as unseen particles of all people, smokers and non smoker alike.

Smoking is an active habit done by conscious choosing, unfortunately non-smokers are subjected to the passive act of smoking against their own choosing. Passive smoking by non-smokers causes some people great distress, in the form of headache, nausea, itchy eyes and sore throats. In some cases it can trigger shortness of breath, elevated blood pressure and heart rate, coughing and even asthma attacks in some individuals. The worst result of passive smoking is the effect on infants and little children and the elderly who have minimal reserves to combat the ill effect.

Non Smokers deserve equal rights, provide them with public places where they will be free from passive smoking.

PLEASE SUPPORT H.B. #84 SMOKING IN PUBLIC PLACES.

Sincerely,

Sandra N. Gast

Sandra N. Gast, R.T.
6310-22 Glacier Hwy
Juneau, Alaska 99801

(Bartlett Memorial Hospital)

CC: Milo Fritz
Mike Miller

Box 981
Juneau, Alaska 99802
February 9, 1983

COPY

The Honorable Mitchell F. Abood, Jr.
Chair. State Affairs Committee
Alaska State House of Representatives
Pouch V State Capitol Building
Juneau, Alaska 99811

Dear Mr. Abood:

Re: HB #84 SMOKING IN PUBLIC PLACES

I encourage you to work toward passing HB #84 out of your committee with a unanimous "Do Pass."

Medical studies show that exposure to tobacco smoking among healthy non-smokers significantl reduces small airway function. In people who are allergic to smoke, it can cause headaches, elevated blood pressure and heart rate, coughing and even asthma attacks. Prevent discrimination agains non smokers, by providing public places where they can do their grocery shopping etc, without being subjected to the passive act of smoking agains their own choosing.

I think people in general are considerate of others, when it is pointed out that their actions can harm others. This is demonstrated by the way people obey the no smoking signs in hospital rooms and in elevators.

HB # 84 can be used to let smokers know that non smokers have the right not to be subjected to their side smoke.

Sincerely,

Nina L. Brown

Nina L. Brown, R.N.

CC: Milo Fritz
Mike Miller

FEBRUARY 7, 1983

MILLER FAMILY
P.O. BOX 2436
JUNEAU, AK.
99803

STATE AFFAIRS COMMITTEE
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
ALASKA STATE HOUSE OF REPRESENTATIVES

DEAR PEOPLE,

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THANK YOU.

SINCERELY,

Kathy Miller
Gary Miller
KATHY, SHAWN, AND GARY MILLER

RECEIVED
FEB 8 1983

1. SURGEON GENERALS REPORT, 1978



STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill 85 Date on Bill: 1/20/83
Title: "An Act relating to the Alaska permanent fund (AS 37.13) and repealing the permanent fund
Sponsor: divident program (AS43.23); and providing for an effective date."
Requestor: St. Affairs, Judiciary and Finance Sponsor: Rep. Szymanski

1. Estimated fiscal impacts on:

a. Expenditures:

Millions
(~~Thousands~~ of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			$117 mill.					
Operating								
Total			$117 mill.					

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

COPY

3. Assumptions:

Bill takes effect immediately, and is retro to January 1, 1983. The $117 million figure is an approximate of the assets from the PFD that would now transfer to the Alaska permanent fund upon the bills effective date, taking in funds from FY 80, FY 81, FY 82, and FY 83 to date.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Mary Rehfeld Phone: 465-2300
Division: Commissioner's office Date: 2/10/83

Approved by Commissioner: Robert O'Keefe Date: 2/10/83
Department: Revenue

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF–STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

January 20, 1983

M E M O R A N D U M

TO: Hon. Mike Szymanski
House of Representatives

FROM: Milt Barker MB
Fiscal Analyst

SUBJECT: Permanent Fund Earnings Retention

The attached graphs compare projected Permanent Fund earnings to projected operating and total general fund budgets. The budgets are projected assuming 0%, 5%, 10%, and 15% annual increase. The Permanent Fund is assumed to earn a 12% annual return in all cases. All earnings are retained in the fund.

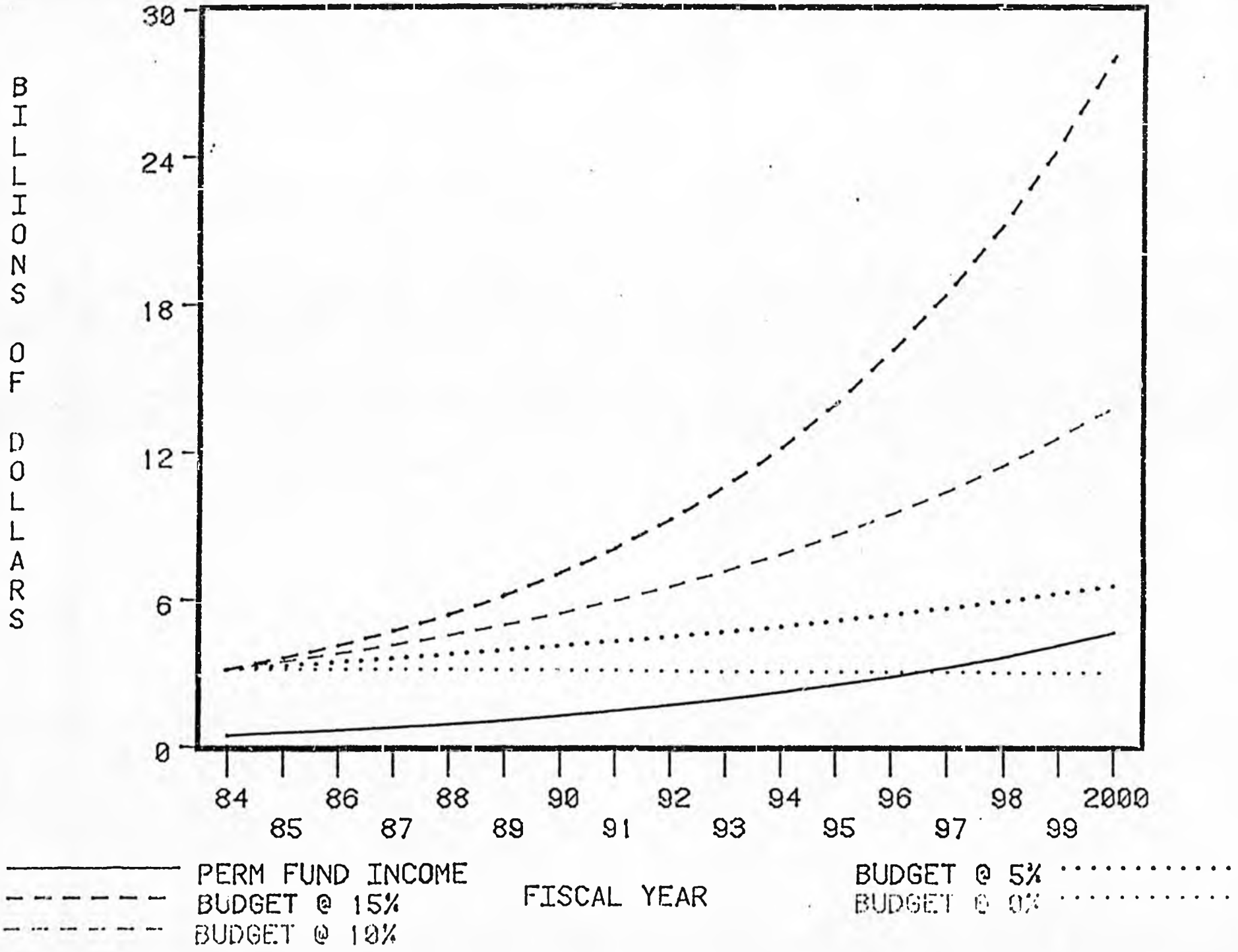
The amounts for operating and total budgets and the Permanent Fund balance (as well as other items) are shown in the attached computer runs for each case.

The amount of Permanent Fund earnings (not displayed in the runs) would be the same in all cases and was estimated as follows ($ millions):

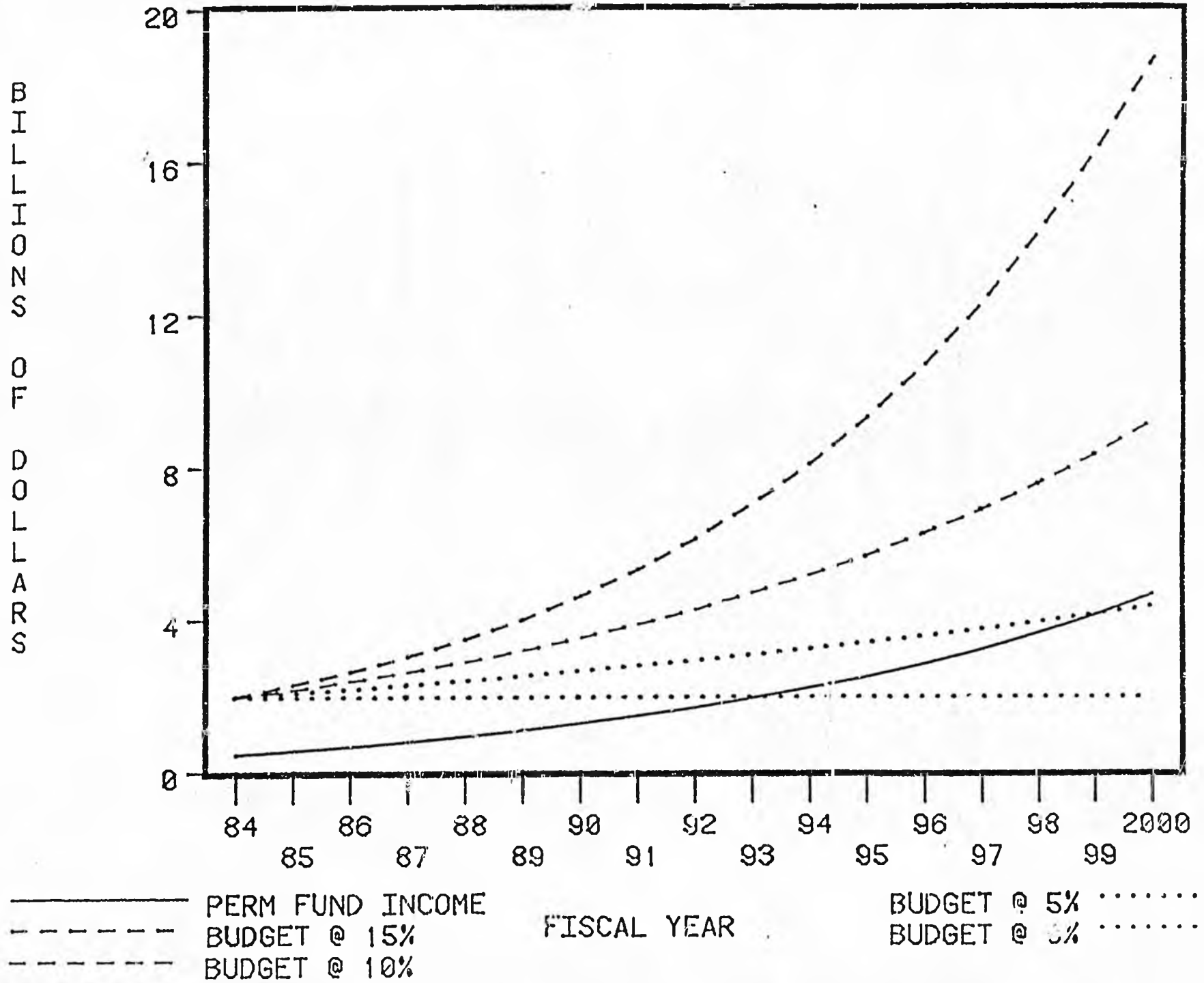
Fiscal Year		Fiscal Year	
1984	$ 473	1993	$1938
1985	565	1994	2209
1986	671	1995	2511
1987	792	1996	2847
1988	932	1997	3224
1989	1093	1998	3646
1990	1275	1999	4120
1991	1474	2000	4655
1992	1694		

31-Q1LH

PERMANENT FUND INCOME VS.
TOTAL BUDGET AT VARIOUS GROWTH RATES



PERMANENT FUND INCOME VS.
OPERATING BUDGET AT VARIOUS GROWTH RATES



ANUARY 20,1983

STATE OF ALASKA
LEGISLATIVE FINANCE WORKING DOCUMENT
BUDGET FORECASTING MODEL

*** ACTUAL DOLLARS IN MILLIONS ***

JAN 83 DEPT OF REVENUE ESTIMATES
ALL PERMANENT FUND EARNINGS RETAINED IN FUND
NO PERMANENT FUND DIVIDENDS
NO BUDGET GROWTH

ISCAL YEAR	REVENUE	INTEREST	TOTAL REVENUE	OPERATING BUDGET	CAPITAL BUDGET	DEBT SERVICE	PERMANENT FUND DIVIDENDS	TOTAL BUDGET	SURPLUS OR DEFICIT	PERM-ANENT FUND	GENERAL FUND END OF YEAR	REVENUE REC FOR GF BAL OF$ 0 MIL
1983										3790	282	
1984	2703	184	2887	2000	1000	167	0	3167	-281	4558	1	0
1985	2775	180	2955	2000	1000	165	0	3165	-210	5425	0	209
1986	3029	194	3223	2000	1000	164	0	3164	59	6433	59	0
1987	3112	207	3319	2000	1000	156	0	3156	163	7573	222	0
1988	3456	251	3706	2000	1000	150	0	3150	557	8896	778	0
1989	3540	330	3870	2000	1000	140	00	3140	730	10420	1506	00
1990	3300	410	3700	2000	1000	120	00	3120	580	12100	2084	00
1991	3000	460	3470	2000	1000	100	00	3100	370	13940	2452	00
1992	2890	500	3390	2000	1000	70	00	3070	320	15990	2772	00
1993	2700	530	3230	2000	1000	60	00	3060	160	18250	2936	00
1994	2610	550	3170	2000	1000	30	00	3030	140	20780	3076	00
1995	2520	560	3080	2000	1000	20	00	3020	50	23590	3131	00
1996	2380	560	2940	2000	1000	20	00	3020	-80	26720	3051	00
1997	2440	560	2990	2000	1000	20	00	3020	-20	30230	3027	00
1998	2510	560	3070	2000	1000	10	00	3010	50	34180	3079	00
1999	2660	570	3230	2000	1000	10	00	3010	220	38620	3302	00
2000	2800	610	3410	2000	1000	00	00	3000	410	43620	3714	00
OTALS:	48410	7220	55640	34000	17000	1410	00	52410	3220			210

ANUARY 20,1983

STATE OF ALASKA
LEGISLATIVE FINANCE WORKING DOCUMENT
BUDGET FORECASTING MODEL

*** ACTUAL DOLLARS IN MILLIONS ***

JAN 83 DEPT OF REVENUE ESTIMATES
ALL PERMANENT FUND EARNINGS RETAINED IN FUND
NO PERMANENT FUND DIVIDENDS
5% ANNUAL BUDGET GROWTH

ISCAL YEAR	REVENUE	INTEREST	TOTAL REVENUE	OPERATING BUDGET	CAPITAL BUDGET	DEBT SERVICE	PERMANENT FUND DIVIDENDS	TOTAL BUDGET	SURPLUS OR DEFICIT	PERM-ANENT FUND	GENERAL FUND END OF YEAR	REVENUE REQ FOR GF BAL OF$ 0 MIL
1983										3790	282	
1984	2703	184	2887	2000	1000	167	0	3167	-281	4558	1	0
1985	2775	185	2960	2100	1050	165	0	3315	-355	5425	0	353
1986	3029	204	3233	2205	1102	164	0	3471	-239	6433	0	239
1987	3112	214	3326	2315	1158	156	0	3629	-303	7573	0	303
1988	3456	225	3681	2431	1216	150	0	3796	-115	8896	0	115
1989	3540	240	3770	2550	1280	140	00	3970	-190	10420	0	190
1990	3390	250	3540	2680	1340	120	00	4140	-600	12100	0	600
1991	3000	260	3270	2810	1410	100	00	4320	-1050	13940	0	1050
1992	2890	270	3160	2950	1480	70	00	4500	-1340	15990	0	1340
1993	2700	290	2980	3100	1550	60	00	4720	-1740	18250	0	1740
1994	2610	300	2920	3260	1630	30	00	4910	-2000	20780	0	2000
1995	2520	320	2830	3420	1710	20	00	5150	-2320	23590	0	2320
1996	2380	330	2710	3590	1800	20	00	5410	-2700	26720	0	2700
1997	2440	350	2790	3770	1890	20	00	5670	-2890	30230	0	2890
1998	2510	370	2880	3960	1980	10	00	5950	-3080	34180	0	3080
1999	2660	390	3040	4160	2080	10	00	6250	-3200	38620	0	3200
2000	2800	400	3210	4370	2180	00	00	6550	-3340	43620	0	3340
TOTALS:	45410	4770	53190	51680	25840	1410	00	78930	-25740			25460

ANUARY 20,1983

STATE OF ALASKA
LEGISLATIVE FINANCE WORKING DOCUMENT
BUDGET FORECASTING MODEL

*** ACTUAL DOLLARS IN MILLIONS ***

JAN 83 DEPT OF REVENUE ESTIMATES
ALL PERMANENT FUND EARNINGS RETAINED IN FUND
NO PERMANENT FUND DIVIDENDS
10% ANNUAL BUDGET GROWTH

ISCAL YEAR	REVENUE	INTEREST	TOTAL REVENUE	OPERATING BUDGET	CAPITAL BUDGET	DEBT SERVICE	PERMANENT FUND DIVIDENDS	TOTAL BUDGET	SURPLUS OR DEFICIT	PERM-ANENT FUND	GENERAL FUND END OF YEAR	REVENUE REC FOR GF BAL OF$ 0 MI
1983										3790	282	
1984	2703	184	2887	2000	1000	167	0	3167	-281	4558	1	0
1985	2775	190	2965	2200	1100	165	0	3465	-500	5425	0	498
1986	3029	218	3247	2420	1210	164	0	3794	-547	6433	0	547
1987	3112	240	3352	2662	1331	156	0	4149	-797	7573	0	797
1988	3456	264	3720	2928	1464	150	0	4542	-822	8896	0	822
1989	3540	290	3830	3220	1610	140	00	4970	-1140	10420	0	1140
1990	3300	320	3610	3540	1770	120	00	5440	-1820	12100	0	1820
1991	3000	350	3360	3900	1950	100	00	5950	-2590	13940	0	2590
1992	2890	390	3270	4290	2140	70	00	6500	-3230	15990	0	3230
1993	2700	430	3120	4720	2360	60	00	7140	-4020	18250	0	4020
1994	2610	470	3080	5190	2590	30	00	7810	-4720	20780	0	4720
1995	2520	510	3030	5710	2850	20	00	8580	-5550	23590	0	5550
1996	2380	570	2950	6280	3140	20	00	9440	-6490	26720	0	6490
1997	2440	620	3060	6900	3450	20	00	10370	-7310	30230	0	7310
1998	2510	690	3190	7590	3800	10	00	11410	-8210	34180	0	8210
1999	2660	750	3410	8350	4180	10	00	12540	-9130	38620	0	9130
2000	2800	830	3630	9190	4590	00	00	13790	-10160	43620	0	10160
OTALS:	48410	7310	55730	81090	40540	1410	00	123050	-67320			67040

ANUARY 20,1983

STATE OF ALASKA
LEGISLATIVE FINANCE WORKING DOCUMENT
BUDGET FORECASTING MODEL

*** ACTUAL DOLLARS IN MILLIONS ***

JAN 83 DEPT OF REVENUE ESTIMATES
ALL PERMANENT FUND EARNINGS RETAINED IN FUND
NO PERMANENT FUND DIVIDENDS
15% ANNUAL BUDGET GROWTH

FISCAL YEAR	REVENUE	INTEREST	TOTAL REVENUE	OPERATING BUDGET	CAPITAL BUDGET	DEBT SERVICE	PERMANENT FUND DIVIDENDS	TOTAL BUDGET	SURPLUS OR DEFICIT	PERM-ANENT FUND	GENERAL FUND END OF YEAR	REVENUE REC FOR GF BAL OF$ 0 MIL
1983										3790	282	
1984	2703	184	2887	2000	1000	167	0	3167	-281	4558	1	0
1985	2775	195	2970	2300	1150	165	0	3615	-645	5425	0	643
1986	3029	233	3262	2645	1322	164	0	4131	-870	6433	0	870
1987	3112	268	3380	3042	1521	156	0	4719	-1339	7573	0	1339
1988	3456	308	3764	3498	1749	150	0	5397	-1633	8896	0	1633
1989	3540	350	3890	4020	2010	140	00	6170	-2280	10420	0	2280
1990	3300	410	3700	4630	2310	120	00	7060	-3360	12100	0	3360
1991	3000	470	3470	5320	2660	100	00	8080	-4610	13940	0	4610
1992	2890	540	3430	6120	3060	70	00	9250	-5820	15990	0	5820
1993	2700	620	3320	7040	3520	60	00	10620	-7300	18250	0	7300
1994	2610	710	3330	8090	4050	30	00	12160	-8840	20780	0	8840
1995	2520	820	3330	9300	4650	20	00	13980	-10650	23590	0	10650
1996	2380	940	3320	10700	5350	20	00	16070	-12750	26720	0	12750
1997	2440	1080	3520	12310	6150	20	00	18480	-14950	30230	0	14950
1998	2510	1250	3760	14150	7080	10	00	21240	-17490	34180	0	17490
1999	2660	1430	4090	16270	8140	10	00	24420	-20330	38620	0	20330
2000	2800	1650	4450	18720	9360	00	00	28080	-23620	43620	0	23620
TOTALS:	48410	11470	59880	130150	65080	1410	00	196440	-136760			136470


H B

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

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

March 3, 1983

The Honorable Mitchell E. Abood, Jr.
Chairman, House State Affairs
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: HB 89

Dear Representative Abood:

This letter is in regards to a February 25, 1983 letter from Tom Sofo, Legislative Affairs Agency, questioning the intent of HB 89. Mr. Sofo was concerned that the House State Affairs Committee did not realize that in changing the effective date of the bill from January 1, 1983, to July 1, 1983, we had "opened the door for people to claim tax credits for the first half of the calendar year 1983." Mr. Chairman, it was my understanding, and I believed yours, that we were definitely aware of this being the case. The committee's reasoning being that in order to properly notify Alaskans who gave political contributions in 1982 that the PCC program was being repealed, the July 1, 1983 effective date was needed with the understanding that anyone who contributed money to a political campaign [illegible] before July 1 would be able to apply for a refund in 1983.

This letter today is only to clarify a possible misunderstanding that the House State Affairs Committee, as well as the Department of Revenue, realize that some number of PCC's will need to be paid in FY 84, honoring only those applications received on or before June 30, 1983. If you have any questions with regard to this issue, please let me know.

Sincerely,

Robert D. Heath
Commissioner of Revenue

RDH:jas

04-D2LH

Introduced: 1/20/83
Referred: State Affairs and Finance

IN THE HOUSE BY BETTISWORTH AND HAYES

HOUSE BILL NO. 89

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act repealing the tax credit for political contributions; and providing for an effective date."

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

* Section 1. AS 43.20.013(a) is repealed.

* Sec. 2. This Act is retroactive to January 1, 1983.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Amendment? CS July 1, 1982
Senate Mod amendment → June 30, 1983

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 8, 1983

RECEIVED 2-10-83

The Honorable Jerry Ward
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Ward:

You asked for an explanation of the conclusion we reached in our memorandum of July 15, 1982 to the Department of Revenue regarding funding for tax credits for political contributions for fiscal year 1983. In that memo we advised the department that funding was provided for this purpose and for child care tax credits by Ch. 101, SLA 1982 in the amount of $1,033,000.

We reached this conclusion by examining the 1982 House budget bill (CS for HB 666 (Fin)), the 1982 Senate budget bill (SCS for HB 148 (Fin)), enacted as Ch. 101, SLA 1982, and the legislative history of those bills. The legislative intent was not entirely clear from the available legislative history. However, from what history did appear in the public record, we could only conclude that funding was provided in the amount stated above in the budget component of "refundable credits", which included both political contributions and child care credits.

As we pointed out in the memorandum, there were indications to the contrary. However, when reviewing legislative documents to determine legislative intent, we must examine those documents as a whole. Statements of certain members of one house cannot be used to determine the intent of the entire body. In this case, there was no conclusive evidence that both houses of the legislature intended to delete all funding for credits for political contributions. Under these circumstances, we could only reach one conclusion.

Our conclusion was also compelled by the fact that we are dealing here with a mandatory law, one which requires the Department of Revenue to perform a certain duty. AS 43.20.013 provides:

> (a) A resident individual is entitled to a tax credit not to exceed $100 for
>
> (1) a contribution made in a calendar year

to a person or organization for use exclusively

(A) for a political campaign for a candidate for . . . ; or

(B) by a group seeking to influence the outcome of a ballot proposition or question in Alaska; and

(2) dues paid in a calendar year to a nonprofit organization organized primarily for the purpose of influencing elections in Alaska.

(b) A resident individual is entitled to a tax credit equal to 16 percent of a tax credit claimed by the individual on his federal income tax return for household and dependent care services necessary for his gainful employment.

(c) The commissioner of revenue shall pay the amount of a tax credit allowed by this section to a resident individual who makes a return as provided in AS 43.20.012. A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds and payment may not be made without an appropriation for that purpose. (emphasis added)

The Department of Revenue is thus required to make payments for tax credits for both political contributions and child care expenses when money is appropriated for that purpose. Likewise, under the statute, a person is entitled to payments for both political contributions and child care expenses. Both categories have equal stature under AS 43.20.013, and it is not within the department's discretion to give one priority over the other.

The mandatory language in AS 43.20.013 also means that even if an intent statement regarding political contributions had accompanied the appropriation for refundable credits, it may have had no effect. As you may know, Article II, section 13 of the state Constitution requires that appropriation bills be confined to appropriations. This means that they cannot contain any substantive legislation; i.e., provisions dealing with the purpose of the appropriation or giving directions to the recipients of the appropriation. They may contain only an authorization for expenditure of public funds. A statement of intent frequently

contains directions which are substantive in nature. In this case, an intent statement limiting reimbursement to child care expenses would have required the Department of Revenue to ignore the clear mandate of AS 43.20.013(a). Such a statement, even if clearly expressed, probably would have violated the constitutional requirement and would not have nullified an individual's right to payments for credits for political contributions nor the department's obligation to pay them, so long as funds which could be used for these payments were available.

By discussing the mandatory nature of the law and the problem with intent statements, we by no means wish to imply that the legislature was somehow precluded from accomplishing the purpose of eliminating funding for political contributions. It could have done so by repealing AS 43.20.013(a) which provides for the political contribution tax credit or simply by making the appropriation, itself, more specific; i.e., by expressly limiting the wording of the appropriation to payment for child care credits under AS 43.20.013(b) only. In either case, the department could not have made payments for political contributions, and the intent of the legislature would have been clear. Instead, the legislature funded the general category of refundable credits, leaving the department with only one option -- making payments for both political contributions and child care expenses.

We hope this information is of assistance to you. We regret any misunderstandings that may have been caused by the conclusion we reached, but, it was, for the reasons stated above, the only determination we could have made based on the legislative history available to us and the nature of the statute itself. We note that an analysis of our opinion is included in the December 1982 edition of A Report to the Twelfth State Legislature, prepared by Legal Services, Legislative Affairs Agency for the Legislative Council. The authors of that report do not dispute the conclusion we reached. They recommend legislative review of AS 43.23.013, but for other reasons.

If you have any further questions, please do not hesitate to contact us. We would be happy to discuss this subject

with you in greater detail.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Diane Colvin
Diane T. Colvin
Assistant Attorney General

DTC:eja

cc: The Honorable Albert P. Adams
Representative
Chairman, House Finance Committee
Alaska State Legislature

The Honorable Robert H. Bettisworth
Representative
Vice-Chair, House Finance Committee

The Honorable Terry Martin
Representative
Alaska State Legislature

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 8, 1983

RECEIVED 2-10-83

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Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

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We reached this conclusion by examining the 1982 House budget bill (CS for HB 666 (Fin)), the 1982 Senate budget bill (SCS for HB 148 (Fin)), enacted as Ch. 101, SLA 1982, and the legislative history of those bills. The legislative intent was not entirely clear from the available legislative history. However, from what history did appear in the public record, we could only conclude that funding was provided in the amount stated above in the budget component of "refundable credits", which included both political contributions and child care credits.

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(A) for a political campaign for a candidate for . . . ; or

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If you have any further questions, please do not hesitate to contact us. We would be happy to discuss this subject

w:.h you in greater detail.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Diane Colvin
Diane T. Colvin
Assistant Attorney General

DTC:eja

cc: The Honorable Albert P. Adams
Representat.ve
Chairman, House Finance Committee
Alaska State Legislature

The Honorable Robert H. Bettisworth
Representative
Vice-Chair, House Finance Committee

The Honorable Terry Martin
Representative
Alaska State Legislature

HB 67

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

February 1, 1983

The Honorable Albert P. Adams
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: Refundable Credits

Dear Representative Adams:

Pursuant to the discussions concerning the refundable credit program which occurred at Revenue's Budget Overview hearing yesterday, I am providing the members of the House Finance Committee the attached copies of this department's opinion request regarding funding of Political Contribution Credit for FY 83 as well as the Attorney General's response. If there is any other information concerning this issue which I can provide, please let me know.

Sincerely,

Joseph K. Donohue

Joseph K. Donohue
Deputy Commissioner, Taxation

JKD:jas

Enclosures

cc: Members of House Finance Committee

MEMORANDUM State of Alaska

TO: Ronald W. Lorensen
Deputy Attorney General

DATE: July 7, 1982

FILE NO:

TELEPHONE NO:

FROM: Joseph K. Donohue
Deputy Commissioner, Taxation

SUBJECT: Political Contribution Credits

I would appreciate your legal opinion on the issue of whether the political contribution credits (PCC's) provided for under AS 43.20.013(a) have been left unfunded for 1982 or whether they along with their counterpart the child care credits (CCC's) (AS 43.20.013(b)) have been underfunded for 1982 necessitating a request for a supplemental.

AS 43.20.013(c) states:

> The commissioner of revenue shall pay the amount of a tax credit allowed by this section to a resident individual who makes a return as provided in AS 43.20.012. A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds and payment may not be made without an appropriation for that purpose. (Emphasis added.)

The Budget submitted by the Governor at the outset of the 1982 session of the Twelfth Alaska Legislature requested some $2,791,000 to finance the refundable credit program. The detailed budget shows the following allocation within that appropriation:

1,033,000	child care credit
1,758,000	political contribution credit
2,791,000	

(See Attachment A)

As background on this issue, the Governor has opposed the refundable credit concept from its inception and in 1981 introduced a bill to repeal AS 43.20.013 in its entirety. SB53 ultimately went nowhere but a similar bill, CSHB137(fin)(efd failed), went through hearings on the House side and generated considerable discussion concerning the advisability of funding or partially funding the political contribution credits. Ultimately the bill passed the House and died in the Senate. The House budget funded only the child care credit allocation of $1,033,000. See CS for HB No. 666(Finance) (page 10).

On the Senate side, as you will recall, the Administration and the Senate leadership unofficially delegated the authority to Ron Lehr to develop an alternative budget which was variously referred to as the Governor's amended budget or Senate Budget No. 1. The Department of

Revenue at that time recommended the deletion of the $1,758,000 feeling that this was consistent with the Governor's view and a developing consensus in the House. This recommendation was accepted, we believe, and the Senate II Budget SCSHB148(Fin) (on page 25) appropriates only $1,033,000 for "refundable credits." We also note that the component budget analysis prepared by the Legislative Finance Division for the Department of Revenue's budget confirms intent to delete funding for the PCC. (See Attachment B.). This bill was eventually adopted in toto by the House, signed by the Governor, and became the state operating budget. Ch 101 SLA 1982.

The legal question which arises is whether the language of the operating budget which appropriates $1,033,000 for "Refundable credits" generally is limited to CCC's by virtue of the legislative history outlined above or whether the failure of the legislature to expressly limit the program to CCC's leaves both programs underfunded requiring preparation of forms to cover both credit types, payment of both types of claims up to $1,033,000 next April, and preparation of an appropriate request for a supplemental. Both Senator Rodey and Senate Fischer have expressed concern about this issue and feel that it was not the Senate's intent to delete the PCC's. Rather, they encourage the Department to take the latter approach.

Should you determine that the PCC's were not funded for 1982, the Department would undertake a mailout to candidates and organizations indicating that result and asking them to disclose the absence of funding in their solicitations. Obviously nothing would preclude the next administration and the next legislature from funding this program, although if forms are not developed, there would be some administrative delays in implementing such a change.

Should you determine the question is ambiguous and the decision could go either way, then the Department feels that, although we are still comfortable with our original recommendation to delete the PCC's, we realize that it is a policy call which should be made by the Governor's office.

Attachments

cc: Ervin Jones, Director
Administrative Services

Phil Wall, Director
Public Services Division

Rebecca Engen
Office of the Governor

Ron Lehr
Budget & Management

Attachment A

	CODE	EXPENDITURE CLASSIFICATION	PRIOR YEAR FY 81 ACTUAL	CURRENT YEAR FY 82 AUTHORIZED	BUDGET YEAR – FY83 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	600	LAND, BUILDING, NON-STRUCTURAL IMPROVEMENTS						
2.	600	LAND, BUILDING, ETC. (EXCLUDING ASHA PAY)						
3.	628	ASHA PAYMENT						
4.	960	INTER-AGENCY TRANSFERS (NON-ADD)						
5.	700	ASSISTANCE GRANTS AND BENEFITS	1,031.1	1,632.0	2,791.0		2,791.0	2791.0
6.	720	LOCAL ASSISTANCE, STATE SOURCES						
7.	730	BENEFITS TO INDIVIDUALS						
8.	740	GRANTS AND AWARDS TO INDIVIDUALS	1,031.1	1,632.0	2,791.0		2,791.0	
9.	750	GRANTS, OTHER AGENCIES						
	870							
10.	970	INTER-AGENCY TRANSFERS (NON-ADD)						
11.	800	MISCELLANEOUS						
12.	810	DEBT SERVICE						
13.								

14. EXPLANATION:	CONTINUATION $	ADDITION $	
720 Refundable Credits Political Contributions 1,758,000 Child Care Credit 1,033,000 The political contribution credit estimate is based on historical data supplied by the Governor's Office. The Department of Revenue projects on the basis of this historical data estimate. The child care credit estimate is calculated on the basis of historical information provided from the 1979 individual income tax return.	2,791.0		

AGENCY Department of Revenue

PROGRAM Revenue Collection & Management

BRU Administration & Support

COMPONENT Refundable Credits

18 LANDS, GRANTS AND MISCELLANEOUS

Page 1 of 1

REVISED DATE

FY 83

00552

Attachment B

AGENCY: DEPARTMENT OF REVENUE
CATEGORY: GENERAL GOVERNMENT

PROGRAM: REFUNDABLE CREDITS
SUB-PROGRAM:

* * * * HOUSE ANALYSIS * * * *

GOVERNORS REC $2,791.0

OBJECT GROUP	VARIATION		DESCRIPTION: HOUSE VERSUS GOVERNOR
07 GRANTS, CLMS	-1758.0	-63.0%	DELETE POLITICAL CONTRIBUTION CREDIT (1,758.0).
** TOTAL	-1758.0	-63.0%	

HOUSE FIGURE $1,033.0

* * * * SENATE ANALYSIS * * * *

GOVERNORS REC $2,791.0

OBJECT GROUP	VARIATION		DESCRIPTION: SENATE VERSUS GOVERNOR
07 GRANTS, CLMS	-1758.0	-63.0%	DELETE POLITICAL CONTRIBUTION CREDIT (1758.0).
** TOTAL	-1758.0	-63.0%	

SENATE FIGURE $1,033.0

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

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

March 3, 1983

The Honorable Mitchell E. Abood, Jr.
Chairman, House State Affairs
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: HB 89

Dear Representative Abood:

This letter is in regards to a February 25, 1983 letter from Tom Sofo, Legislative Affairs Agency, questioning the intent of HB 89. Mr. Sofo was concerned that the House State Affairs Committee did not realize that in changing the effective date of the bill from January 1, 1983, to July 1, 1983, we had "opened the door for people to claim tax credits for the first half of the calendar year 1983." Mr. Chairman, it was my understanding, and I believed yours, that we were definitely aware of this being the case. The committee's reasoning being that in order to properly notify Alaskans who gave political contributions in 1982 that the PCC program was being repealed, the July 1, 1983 effective date was needed with the understanding that anyone who contributed money to a political campaign in 1983 before July 1 would be able to apply for a refund in 1983.

This letter today is only to clarify a possible misunderstanding that the House State Affairs Committee, as well as the Department of Revenue, realize that some number of PCC's will need to be paid in FY 84, honoring only those applications received on or before June 30, 1983. If you have any questions with regard to this issue, please let me know.

Sincerely,

Robert D. Heath
Commissioner of Revenue

RDH:jas

04-D2LH

Alaska State Legislature

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

POUCH V
JUNEAU, ALASKA 99811

P.O. BOX 80288
COLLEGE, ALASKA 99708

February 23, 1983

TO: Rep. Mitch Abood, Chairman
House State Affairs Committee

FROM: Rep. Bob Bettisworth

RE: H.B. 89 "An Act repealing the tax credit for political contributions; and providing for an effective date."

I respectfully request the House State Affairs Committee's indulgence with this informal presentation of facts. However, due to the administration's current procedures, the Dept. of Revenue has not been able to provide the Committee with the information requested by my office.

I was able to acquire the following information from Ms. Marcie Rehfield, Legislative Liaison for the Dept. of Revenue, by phone.

In 1981, after the last major election, the Dept. of Revenue had 13,780 applications for the political contribution credit, or an expenditure of $1,378,000. The Dept. of Revenue's projections to fund this program for 1983 are based on the fact that 1982 was a more prominent election year than '81, with the gubernatorial race and the numerous ballot propositions placed before the voters. The Department is anticipating at least three times as many applicants, or somewhere between 50-60,000, or $5-6,000,000 in expenditures.

The Dept. of Revenue anticipates requesting a supplemental appropriation for $6,000,000 to ensure that all applicants will receive their political contribution credit, mandated by statute.

RBettisworth

MEMORANDUM State of Alaska

TO: Joseph K. Donohue
Deputy Commissioner
Department of Revenue

DATE: July 15, 1982

FILE NO: 366-034-83

TELEPHONE NO: 465-3600 ex. 56

FROM: WILSON L. CONDON
ATTORNEY GENERAL

By: Diane Tremmel Colvin
Assistant Attorney General

SUBJECT: Funding for Tax Credits under AS 43.20.013(a) for FY'83

You ask whether funding is provided by Ch. 101, SLA 1982 for payment of refunds to persons who make contributions to candidates for public office and political organizations as authorized by AS 43.20.013(a). 1/ While the legislative intent is not clear, we believe that funding is provided for this purpose and for child care tax credits by Chapter 101. The amount of the appropriation is $1,033,000. We base this conclusion on an examination of the legislative history of CS for HB 666(Fin) (1982 House budget bill) and SCS for HB 148(Fin) (1982 Senate budget bill).

AS 43.20.013 authorizes tax credits not to exceed specified limits for:

> (1) contributions made to certain candidates for public office and certain political organizations, and
>
> (2) expenses for child care.

Subsection (c) of AS 43.20.013 provides as follows:

> The commissioner of revenue shall pay the amount of a tax credit allowed by this section to a resident individual who makes a return as provided in AS 43.20.012. A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds and ~~payment may not be made without an appropriation for that purpose~~

1/ You also ask whether this program is underfunded for fiscal year 1983. That is not a legal question and no response is made to that question in this memo.

It is apparent from the language of subsection (c) that payments for political contributions and child care expenses may not be made without an appropriation.

Your question concerning funding of refunds for political contributions arises because Ch. 101, SLA 1982, at p. 26, line 7 appropriates $1,033,000 for Refundable Credits, with no indication of the specific amount provided for the two types of credits under this budget component, political contributions and child care credit. Thus we must turn to the legislative history of this issue to reach a conclusion. 2/

The budget submitted to the 1982 Legislature by the governor requested $2,791,000 for the credits authorized by AS 43.20.013. The detailed budget shows that the figure for this component, termed "refundable credits", was calculated as follows:

Political Contributions	$1,758,000.
Child Care Credit	$1,033,000.

When the budget emerged several weeks later in the form of HB 666, the figure allocated for the component of Refundable Credits was $1,033,000. In hearings before the House Finance Committee on March 31, 1982, a motion was made to accept this figure, with the statement that it would fund child care credits. There was considerable discussion over the elimination of the amount originally proposed by the Governor for political contributions. To answer objections to the change from the Governor's

---

2/ On its face, the appropriation for refundable credits is clear and unambiguous and it can be argued that it is unnecessary to resort to extrinsic interpretative aids such as legislative history. Alaska Public Employees v. State, 525 P.2d 12, 14 (Alaska 1974). This approach is based on the "plain meaning rule", i.e., where the meaning of a statute is apparent, there is no need to resort to methods of statutory construction. White v. Alaska Ins. Guaranty Ass'n., 592 P.2d 367, 369 (Alaska 1979). However, we believe it is appropriate in this case to examine legislative history for assistance in making a judgment on the meaning of the provision in question. The Alaska court has rejected the "plain meaning" rule as a strict exclusionary rule. North Slope Borough v. Sohio Petroleum Corp., 585 P.2d 534, 540 (Alaska 1978).

request, Representative Meekins proposed that any money left from the current fiscal year be reappropriated to cover refunds for political contributions. The minutes of the House Finance Committee for March 31 show that he made the following motion:

> ...to extend the lapse date of the FY'82 appropriation so that if there are any funds left they could be used for refunds during the period between January 1 and July 1.

After some discussion, the motion passed, along with the motion to accept the figure of $1,033,000. Thus the House budget, as it was passed out of the House Finance Committee and taken up on the floor of the House, included funding for child care credit in the amount of $1,033,000 and funding for political contributions dependent on "left-over" FY'82 funds, if any.

As you know, CS for HB 666 passed in the House, but not in the Senate. 3/ An "alternative" budget (SCS for HB 148(Fin)) was developed by the Senate. It included the same figure, $1,033,000, in the category of Refundable Credits. This was the figure included in the version passed on the Senate floor, and sent to Conference Committee. 4/

The Conference Committee on CS for HB 148(Fin) requested limited powers of free conference on several items, including Refundable Credits. 5/ The request was granted by both houses, and the issue of refundable credits was discussed in free conference on May 31, 1982. The minutes of the Free Conference Committee for that date read as follows:

> Representative Cotten noted that current law

3/ 1982 House Journal, p. 1155.

4/ 1982 Senate Journal, p. 1503.

5/ 1982 Senate Journal, p. 1620; 1982 House Journal, p. 2231.

> allows for refunds for political contributions, and asked if the funding level for this program is adequate to cover refund claims. Representative Adams advised that the law states that refunds may be given; it does not state that reimbursements must be made. Representative Cotten attested to inequities involved in refunds issued on a "first come/first served" basis. Mr. Adams moved for adoption of the House figure of 1,033.0. Representative Cotten objected. Senator Ray moved for adoption of the Senate figure (identical to that of the House). Representative Cotten's objection to the figure was overridden and the "synonymous" House/Senate total adopted.

While not clear, this discussion appears to contemplate continued funding for political contributions, albeit at a reduced and arguably insufficient level. At the least, it does not manifest legislative intent to eliminate funding for credits for political contributions. Without such a showing, we believe it would be difficult to maintain that the amount approved by the Conference Committee in the budget category of Refundable Credits and ultimately accepted by both houses and enacted into law by the Governor eliminated all funding for political contributions and funds child care credits only. 6/

This apparent lack of intent to eliminate political contributions funding is further demonstrated by the format of the budget bill itself. There are numerous appropriations in Ch. 101, SLA 1982 that are accompanied by intent statements. For example, on page 26, lines 12-17, the appropriation for student ADM Support is followed by this statement:

> This appropriation does not provide for student ADM Support for BIA schools which may

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6/ It should be noted that a bill which would have repealed AS 43.20.013(a), CS for HB 137(Fin), passed in the House but was not acted upon in the Senate. 1982 House Journal, p. 655. Failure of this bill to pass both houses is an additional indication of legislative intent in this area. Had this bill passed in the Senate as well as the House the intent to eliminate the political contributions program would have, of course, been clear.

> transfer to school districts or new schools or programs which may be established during FY'83. It is the intent of the legislature that the Department of Education fund any such transfers or additions out of this appropriation and present to the legislature a request for a supplemental appropriation to accommodate the costs of any BIA transfers or establishment of new schools or programs, no later than the 15th day of the 1983 legislative session.

We believe that the appropriation for refundable credits would have been accompanied by a statement of this kind had the legislature intended to eliminate all funding for political contributions.

There are, however, indications to the contrary. The analysis of SCSHB 148(Fin) prepared by Legislative Finance shows at p. 48 the reduction from the governor's recommendation of $2,791,000 in the refundable credits program category to $1,033,000 in both the Senate and House budgets. This is accompanied by the notation: "Delete political contribution credit (1758.0)". This is of interest, but cannot be taken, we believe, as proof of legislative intent to eliminate all funding for credits for political contributions. It is rather, a staff analysis of the means of arriving at the figure of $1,033,000 and explaining the variation between the Governor's recommendation and the legislative versions.

Thus we conclude that with no clear showing of legislative intent to the contrary Ch. 101, SLA 1982 appropriates $1,033,000 for refundable credits, which includes credits for political contributions and credits for child care. Payments for both types of credits may be made by the Department of Revenue up to this amount. As you indicated in your memorandum to us, it may be necessary to prepare a request for a supplemental in 1983 to cover claims that exceed this amount.

We hope this information is of use to you. If you have further questions, please do not hesitate to contact us.

WLC/DTC/pkh

Editor's notes. — As to legislative findings and intent, see § 1, ch. 110, SLA 1978, in the 1978 Temporary and Special Acts and Resolves.

Section 4, ch. 110, SLA 1978, provides: "This Act applies to taxable income earned or received after December 31, 1977."

Section 52, ch. 113, SLA 1980 makes sections 8—10 of the Act applicable to tax years beginning after December 31, 1979. Section 51 of the Act makes section 11 of the Act applicable to tax returns for tax years beginning after December 31, 1978.

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

Section 20, ch. 116, SLA 1981 provides that the amendment by § 2 of ch. 116 apply to tax years beginning after December 31, 1977 and ending by December 31, 1980.

Section 21 of ch. 116 provides that the amendment by § 3 of ch. 116 apply to tax years beginning after December 31, 1980 and ending by December 31, 1981.

Section 23 of ch. 116 provides that the amendment by § 4 of ch. 116 apply to tax years beginning after December 31, 1981.

The Alaska Native Claims Settlement Act may be found in 43 U.S.C. § 1601 et seq.

Sec. 43.20.012. Limitation on application of AS 43.20.011 — 43.20.350; credits. The tax imposed by AS 43.20.011 — 43.20.350 does not apply to individuals or to fiduciaries. However, an individual may file a return under AS 43.20.011 — 43.20.350 in order to receive tax credit under AS 43.20.013. (§ 2 ch 1 SSSLA 1980; § 2 ch 2 SSSLA 1980)

Effective dates. — Section 12 of ch. 1 provides that this section is retroactive to January 1, 1980, and § 10 of ch. 2, provides that this section is retroactive to January 1, 1979.

Editor's notes. — For legislative findings and purpose of the enacting legislation, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 43.20.013. Individual tax credits. (a) A resident individual is entitled to a tax credit not to exceed $100 for

(1) a contribution made in a calendar year to a person or organization for use exclusively

(A) for a political campaign for a candidate for

(i) President or Vice President of the United States, whether or not the candidate will be voted on in a primary election in Alaska;

(ii) United States senator from Alaska;

(iii) United States representative from Alaska;

(iv) governor or lieutenant governor of Alaska;

(v) the Alaska legislature;

(vi) delegate to an Alaska constitutional convention;

(vii) electoral confirmation as a judge or justice of a court in Alaska; or

(viii) municipal office in Alaska; or

(B) by a group seeking to influence the outcome of a ballot proposition or question in Alaska; and

(2) dues paid in a calendar year to a nonprofit organization organized primarily for the purpose of influencing elections in Alaska.

(b) A resident individual is entitled to a tax credit equal to 16 percent of the tax credit claimed by the individual on his federal income

tax return for household and dependent care services necessary for his gainful employment.

(c) The commissioner of revenue shall pay the amount of a tax credit allowed by this section to a resident individual who makes a return as provided in AS 43.20.012. A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds and payment may not be made without an appropriation for that purpose. (§ 2 ch 1 SSSLA 1980; am § 9 ch 1 SSSLA 1980; § 2 ch 2 SSSLA 1980)

Effect of amendments. — Section 9 ch. 1, SSSLA 1980 substituted "$100" for "$50" in the introductory language of subsection (a).

Effective dates. — Section 12 of ch. 1 provides that this section is retroactive to January 1, 1980, and § 10 of ch. 2, provides that this section is retroactive to January 1, 1979.

Editor's notes. — For legislative findings and purpose of the enacting legislation, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 43.20.015. Individual tax credit.

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

Editor's notes. — The repealed section, derived from § 1, ch. 144, SLA 1978.

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

Sec. 43.20.016. Sharing of corporate income tax revenue with municipalities.

(a) There is established within the Department of Revenue the municipal assistance fund. The legislature may appropriate to the fund during each fiscal year an amount equal to or greater than 30 percent of the income tax revenue received by the state under AS 43.20.011(e) and AS 43.21 for the previous fiscal year. The Department of Revenue shall distribute money from the fund to each organized borough and each city of any class on an annual basis as provided in (b) and (c) of this section. A borough or city may not receive payment under (b) or (c) of this section until it submits to the Department of Revenue a resolution approved by the governing body of the municipality that requests the funds. Distribution of money from the fund to a city or organized borough with a fiscal year beginning on January 1 shall be made on February 1 of the state fiscal year for which the appropriation to the fund is made. Distribution of money from the fund to all other cities and organized boroughs shall be made on June 1 of the state fiscal year for which the appropriation to the fund is made. A borough or city that incorporates after December 31 of a state fiscal year is not eligible for a distribution under this section until the following state fiscal year.

(b) The base amount to be distributed from the fund to each borough and city for the fiscal year shall be the amount received by the borough or city during fiscal year 1978 under AS 43.70.080; however, if the amount appropriated to the fund by the legislature under (a) of this

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EDITORIAL PAGE

The Anchorage Times

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
Associate Editor
And General Manag

DREX HEIKES
Managing Editor

Runoff elections

IN NEW JERSEY last week, there were so many candidates for governor in primary election balloting that critics said the campaign produced mostly noise and confusion — and very little in the way of enlightenment for the public.

The reason most often heard for the cluttered field was that this was the first election in which candidates for governor were able to draw on public funds to finance their campaigns. This experiment in populist politics resulted in all kinds of people jumping into the race. And why not? For some, it was better than working for a living — and the public picked up the tab.

The result, however, was something of a mess. Which should be a warning to Alaska, where some politicians are trying to sell this bill of goods as a way to go in our political affairs.

WHILE such a move would be far from the state's best interests, there is a change that could be made to improve gubernatorial elections in the state.

This corrective action would require a runoff election if the winner in the general election failed to get a majority of the vote cast, or at least close to a majority.

The 1978 general election should be a warning to Alaskans. There were five candidates for governor — four of them officially on the ballot, and the fifth — former Gov. Walter J. Hickel — a popular write-in candidate.

As things turned out, Gov. Jay Hammond polled 49,580 votes and won re-election with only 38.2 percent of the total. Mr. Hickel's write-in effort drew 33,555 votes, 7,899 more than the Democratic nominee, Chancy Croft, who polled 25,656. The rest of the votes went to independent candidate Tom Kelly (15,656) and Alaska Party candidate Don Wright (2,463).

Even with fewer candidates in the field it's possible that a future governor could be elected with a smaller percentage than posted last time by Mr. Hammond. That kind of outcome would be considerably short of a mandate.

IRONICALLY, it takes a bigger percentage to elect a mayor than a governor. Runoff elections for mayor are mandated in the Alaska general code when any candidate falls to muster at least 40 percent of the votes.

If it makes sense to demand that the mayor of a city go into office with at least 40 percent of the voters in his favor, it should be a thousand times more sensible to make certain that the governor does so with at least that much.

This is not a change that is likely to come about for the next gubernatorial race, which is practically upon us. A constitutional amendment would be necessary to bring it about. But it is a change that deserves consideration by the 1982 legislature and would appear to be a non-controversial item that could be placed before the voters for approval in 1984.

Contribution refunds under new attack

Associated Press

Juneau — The Hammond administration made another pitch Wednesday to stop state refunds for political contributions.

Joe Donohue, Department of Revenue deputy commissioner of taxation, said "there may be a place for public financing of political campaigns, but the current system is essentially cost-free for the contributor."

The House State Affairs Committee is considering legislation sponsored by House Speaker Joe Hayes, R-Anchorage, to end the refunds.

Political contribution and child-care credits are holdovers from when Alaska had a state income tax — taxpayers were allowed to deduct the credits from their tax payments.

The credits were not repealed when the state income tax was in 1980, and as a result the state has been stuck with refunding campaign donations and some child-care expenses.

Donohue said "before you had a choice of donating $100 and paying less income tax. Now you pay $100 and you get $100 back. All you lose is the interest. It's not effective in involving the small contributor."

This year, the department has requested $1.76 million for political contribution credits and $1.03 million for child care credits — a total of $2.8 million.

Donohue said the average child-care credit paid to Alaskans in 1980 was $47.63.

He said the department "is not opposed to giving away this amount of money," but that another agency should be charged with the task. Donohue said the Department of Health and Social Services is better equipped than the Department of Revenue to make refunds for child-care expenses.

The State Affairs Committee did not take a final vote on the bill (HB137).

Rebate law pulls candidates out early

by Steve Rinehart
For The Times

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

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

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

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

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

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

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

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

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

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

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

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

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

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LAWS OF ALASKA

1980

Second Special Session

Source

CSHB 1042(Rules)

Chapter No.

2

AN ACT

Relating to taxes; repealing the Alaska net income tax on individuals and fiduciaries; providing for tax credits for political contributions and household and dependent care services; providing for refunds of 1979 individual and fiduciary income taxes; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 13

Approved by the Governor: September 24, 1980
Actual Effective Date: September 25, 1980 with sections 2 - 6 and 9 retroactive to January 1, 1979.

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* Section 1. FINDINGS. The legislature finds:

(1) Section 1, ch. 22, SLA 1980 afforded complete tax relief to a majority of individual taxpayers under the Alaska Net Income Tax Act and substantial tax relief to most other taxpayers by means of exemptions based on the number of years an individual reported Alaska income. On September 4, 1980, the Alaska Supreme Court ruled that these exemptions violate the equal protection clause of art. I, sec. 1 of the state constitution. The effect of that decision is to reimpose the full income tax burden on all taxpayers.

(2) It is in the public interest to remedy the constitutional defect and provide tax relief to the public at least equal to that attempted by the exemptions in sec. 1, ch. 22, SLA 1980. This can best be accomplished by repealing the Alaska net income tax on individuals and fiduciaries.

(3) Because ch. 22, SLA 1980 applied to taxes due for the tax year 1979, many taxpayers expected a refund of part or all of their state income tax for 1979, and many of them made plans and commitments in anticipation of the refund. The state has a moral obligation to fulfill this widely held expectation, and this obligation is best discharged by repealing the Alaska

net income tax on individuals and fiduciaries retroactive to January 1, 1979.

* Sec. 2. AS 43.20 is amended by adding new sections to read:

Sec. 43.20.012. LIMITATION ON APPLICATION OF CHAPTER; CREDITS. The tax imposed by this chapter does not apply to individuals or to fiduciaries. However, an individual may file a return under this chapter in order to receive a tax credit under AS 43.20.013.

Sec. 43.20.013. INDIVIDUAL TAX CREDITS. (a) A resident individual is entitled to a tax credit not to exceed $50 for

(1) a contribution made in a calendar year to a person or organization for use exclusively

(A) for a political campaign for a candidate for

(i) President or Vice President of the United States, whether or not the candidate will be voted on in a primary election in Alaska;

(ii) United States [illegible] from Alaska;

(iii) United States [illegible]resentative from Alaska;

(iv) governor or lieutenant governor of Alaska;

(v) the Alaska legislature;

(vi) delegate to an Alaska constitutional convention;

(vii) electoral confirmation as a judge or justice of a court in Alaska; or

(viii) municipal office in Alaska; or

(B) by a group seeking to influence the outcome of a ballot proposition or question in Alaska; and

(2) dues paid in a calendar year to a nonprofit organization organized primarily for the purpose of influencing elections in Alaska.

(b) A resident individual is entitled to a tax credit equal to 16 percent of the tax credit claimed by the individual on his federal income tax return for household and dependent care services necessary

for his gainful employment.

(c) The commissioner of revenue shall pay the amount of a tax credit allowed by this section to a resident individual who makes a return as provided in AS 43.20.012. A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds and payment may not be made without an appropriation for that purpose.

* Sec. 3. AS 43.20.021(c) is amended to read:

(c) For purposes of calculating the alternative tax on capital gains provided for in the provisions of Internal Revenue Code sec. 1201, the rate is 4.5 percent for corporations [AND 4 PERCENT FOR INDIVIDUALS AND FIDUCIARIES].

* Sec. 4. AS 43.20.021(d) is amended to read:

(d) Where a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to [16 PERCENT FOR INDIVIDUALS AND FIDUCIARIES AND] 18 percent for corporations of the amount of credit determined for federal income tax purposes which is attributable to Alaska.

* Sec. 5. AS 43.20.021(f) is amended to read:

(f) For the purpose of calculating the minimum tax on tax preferences provided for in secs. 56 - 58 of the Internal Revenue Code (26 U.S.C. secs. 56 - 58), the rate is [16 PERCENT FOR INDIVIDUALS AND] 18 percent for corporations of the applicable minimum federal tax rate.

* Sec. 6. AS 43.20.030(a) is amended to read:

(a) If a [EVERY INDIVIDUAL, FIDUCIARY,] partnership which has a corporation as a partner or a [AND] corporation is required to make a return under the provisions of the Internal Revenue Code, it shall at the same time file with the department a return setting out

(1) the amount of tax due under this chapter, less credits

claimed against the tax; and

(2) other information for the purpose of carrying out the provisions of this chapter which the department requires.

* Sec. 7. REFUND OF 1979 INCOME TAXES. (a) An individual or fiduciary is entitled to a refund of his Alaska net income taxes paid or withheld under AS 43.20 for all or part of a tax year occurring after December 31, 1978 and before January 1, 1980.

(b) A refund under this section may be made only as provided in this section. Refunds of Alaska net income taxes paid may not be made without an appropriation for that purpose.

(c) The department shall establish procedures for determining the amount of and for making the refunds described in (a) of this section.

(d) The commissioner may adopt regulations to implement this section, and those regulations may be adopted as emergency regulations under AS 44.62.250 and 44.62.260.

(e) In this section,

(1) "commissioner" means the commissioner of revenue;

(2) "department" means the Department of Revenue.

* Sec. 8. The provisions of AS 43.05.280 do not apply to refunds made under sec. 7 of this Act.

* Sec. 9. The following laws are repealed: AS 43.20.011(a) - (d) and (f), 43.20.015, 43.20.017, 43.20.021(e), 43.20.030(f) and (g), 43.20.031(a), (b), and (f) - (h), 43.20.033, 43.20.035, 43.20.036(d) - (i), 43.20.038, 43.20.039, 43.20.040(b)(3) and (6), 43.20.045, 43.20.061, 43.20.160(e), 43.20.180, 43.20.215, and secs. 6 - 11 of ch. 22, SLA 1980.

* Sec. 10. Sections 2 - 6 and 9 of this Act are retroactive to January 1, 1979.

* Sec. 11. This Act takes effect immediately in accordance with AS 01.10.070(c).

Original sponsor: State Affairs Committee

Offered: 9/22/80
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 1042

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SPECIAL SESSION

A BILL

For an Act entitled: "An Act providing for refunds of 1979 individual income taxes; and providing for an effective date."

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

* Section 1. REFUND OF 1979 INCOME TAXES. (a) An individual is entitled to a refund of his Alaska net income taxes paid or withheld under AS 43.20 for all or part of a tax year occurring after December 31, 1978 and before January 1, 1980.

(b) A refund under this section may be made only as provided in this section. Refunds of Alaska net income taxes paid may not be made without an appropriation for that purpose.

(c) The department shall establish procedures for determining the amount of and for making the refunds described in (a) of this section.

(d) The commissioner may adopt regulations to implement this section, and those regulations may be adopted as emergency regulations under AS 44.-62.040 - 44.62.290.

(e) In this section,

(1) "commissioner" means the commissioner of revenue;

(2) "department" means the Department of Revenue.

* Sec. 2. The provisions of AS 43.05.280 do not apply to refunds made under sec. 1 of this Act.

* Sec. 3. This Act takes effect on the effective date of the repeal of AS 43.20.011(a) - (d) and (f).

Introduced: 9/22/80
Referred: Finance

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

HOUSE BILL NO. 1042

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SPECIAL SESSION

A BILL

For an Act entitled: "An Act relating to taxes; repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; and providing for an effective date."

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

* Section 1. FINDINGS. The legislature finds

(1) Section 1, ch. 22, SLA 1980 afforded complete tax relief to a majority of individual taxpayers under the Alaska Net Income Tax Act and substantial tax relief to most other taxpayers by means of exemptions based on the number of years an individual reported Alaska income. On September 4, 1980, the Alaska Supreme Court ruled that these exemptions violate the equal protection clause of art. I, sec. 1 of the state constitution. The effect of that decision is to reimpose the full income tax burden on all taxpayers.

(2) It is in the public interest to remedy the constitutional defect and provide tax relief to the public at least equal to that attempted by the exemptions in sec. 1, ch. 22, SLA 1980. This can best be accomplished by repealing the Alaska net income tax on individuals.

(3) Because ch. 22, SLA 1980 applied to taxes due for the tax year 1979, many taxpayers expected a refund of part or all of their state income tax for 1979, and many of them made plans and commitments in anticipation of the refund. The state has a moral obligation to fulfill this widely held expectation, and this obligation is best discharged by repealing the Alaska net income tax on individuals retroactive to January 1, 1979.

* Sec. 2. AS 43.20 is amended by adding new sections to read:

Sec. 43.20.012. INDIVIDUALS; RETURNS FOR TAX CREDITS. The tax imposed by this chapter does not apply to individuals. However, an individual may file a return under this chapter in order to receive a tax credit under AS 43.20.013.

Sec. 43.20.013. INDIVIDUAL TAX CREDITS. (a) A resident individual is entitled to a tax credit not to exceed $50 for

(1) a contribution made in a calendar year to a person or organization for use exclusively

(A) for a political campaign for a candidate for

(i) President or Vice President of the United States, whether or not the candidate will be voted on in a primary election in Alaska;

(ii) United States senator from Alaska;

(iii) United States representative from Alaska;

(iv) governor or lieutenant governor of Alaska;

(v) the Alaska legislature;

(vi) delegate to an Alaska constitutional convention;

(vii) electoral confirmation as a judge or justice of a court in Alaska; or

(viii) municipal office in Alaska; or

(B) by a group seeking to influence the outcome of a ballot proposition or question in Alaska; and

(2) dues paid in a calendar year to a nonprofit organization organized primarily for the purpose of influencing elections in Alaska.

(b) A resident individual is entitled to a tax credit equal to 16 percent of the tax credit claimed by the individual on his federal income tax return for household and dependent care services necessary for his gainful employment.

(c) The commissioner of revenue shall pay the amount of a tax credit allowed by this section to a resident individual who makes a return as provided in AS 43.20.012. A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds and payment may not be made without an appropriation for that purpose.

* Sec. 3. AS 43.20.021(c) is amended to read:

(c) For purposes of calculating the alternative tax on capital gains provided for in the provisions of Internal Revenue Code sec. 1201, the rate is 4.5 percent for corporations [AND 4 PERCENT FOR INDIVIDUALS AND FIDUCIARIES].

* Sec. 4. AS 43.20.021(d) is amended to read:

(d) Where a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to [16 PERCENT FOR INDIVIDUALS AND FIDUCIARIES AND] 18 percent for corporations of the amount of credit determined for federal income tax purposes which is attributable to Alaska.

* Sec. 5. AS 43.20.021(f) is amended to read:

(f) For the purpose of calculating the minimum tax on tax preferences provided for in secs. 56 - 58 of the Internal Revenue Code (26 U.S.C. secs. 56 - 58), the rate is [16 PERCENT FOR INDIVIDUALS AND] 18 percent for corporations of the applicable minimum federal tax rate.

* Sec. 6. AS 43.20.030(a) is amended to read:

(a) <u>If a</u> [EVERY INDIVIDUAL, FIDUCIARY,] partnership <u>which has a corporation as a partner or a</u> [AND] corporation <u>is</u> required to make a return under the provisions of the Internal Revenue Code<u>, it</u> shall at the same time file with the department a return setting out

(1) the amount of tax due under this chapter, less credits claimed against the tax; and

(2) other information for the purpose of carrying out the provisions of this chapter which the department requires.

* Sec. 7. REFUND OF 1979 AND 1980 INCOME TAXES. (a) An individual is entitled to a refund of his Alaska net income taxes paid or withheld after December 31, 1978 for all or part of a tax year occurring after December 31, 1978. An individual is also entitled to a refund of his estimated net income tax payments made under AS 43.20 after December 31, 1978, for a tax year for which he has not filed a year-end return under AS 43.20.030.

(b) A refund under this section may be made only as provided in this section. Refunds of Alaska net income taxes paid may not be made without an appropriation for that purpose.

(c) The department shall establish procedures for determining the amount of and for making the refunds described in (a) of this section.

(d) The commissioner may adopt regulations to implement this section, and those regulations may be adopted as emergency regulations under AS 44.-62.040 - 44.62.290.

(e) In this section,

(1) "commissioner" means the commissioner of revenue;

(2) "department" means the Department of Revenue.

* Sec. 8. The provisions of AS 43.05.280 do not apply to refunds made under sec. 7 of this Act.

* Sec. 9. AS 43.20.013(a) is amended to read:

* (a) A resident individual is entitled to a tax credit not to exceed $100 [$50] for

(1) a contribution made in a calendar year to a person or organization for use exclusively

* (A) for a political campaign for a candidate for

(i) President or Vice President of the United States, whether or not the candidate will be voted on in a

primary election in Alaska;

(ii) United States senator from Alaska;

(iii) United States representative from Alaska;

(iv) governor or lieutenant governor of Alaska;

(v) the Alaska legislature;

(vi) delegate to an Alaska constitutional convention;

(vii) electoral confirmation as a judge or justice of a court in Alaska; or

(viii) municipal office in Alaska; or

* (B) by a group seeking to influence the outcome of a ballot proposition or question in Alaska; and

* (2) dues paid in a calendar year to a nonprofit organization organized primarily for the purpose of influencing elections in Alaska.

* Sec. 10. The following laws are repealed: AS 43.20.011(a) - (d) and (f), 43.20.015, 43.20.017, 43.20.021(e), 43.20.030(f) and (g), 43.20.031(a), (b), and (f) - (h), 43.20.033, 43.20.035, 43.20.036(d) - (i), 43.20.038, 43.20.039, 43.20.040(b)(3) and (6), 43.20.045, 43.20.061, 43.20.160(e), 43.20.215, 43.20.340(4), (7), (13), (14), (16), and (17), and secs. 6 - 11 of ch. 22 SLA 1980.

* Sec. 11. AS 43.20.170 and 43.20.180 are repealed.

* Sec. 12. Sections 3 - 6 and 10 of this Act are retroactive to January 1, 1979.

* Sec. 13. Sections 9 and 11 of this Act take effect January 1, 1981. Sections 1 - 8, 10, 12, and 13 of this Act take effect immediately in accordance with AS 01.10.070(c).

CSHB 1040 CSHB 1041 CSHB 1042

The letter of intent on CSHB 1040, CSHB 1041 and CSHB 1042 appears as follows:

HOUSE FINANCE COMMITTEE

LETTER OF INTENT
FOR
CSHB 1040, CSHB 1041 and CSHB 1042

The House Finance Committee has reported out three bills (HB 1040, HB 1041 and HB 1042) as Finance Committee Substitutes relating to repealing the Alaska net income tax on individuals, providing for refund of 1979 Alaska state individual income taxes paid, providing for refundable tax credits, and appropriating funds for payment of refunds, withholding, tax credits and administrative costs.

The Finance Committee has separated into two bills the provisions contained in HB 1040 as introduced. The Finance Committee Substitute for HB 1040 contains the repeal of Alaska net income taxes on individuals and the provisions for refundable tax credits effective January 1, 1979. The legislation necessary to enable refund of 1979 taxes collected is contained in the Finance Committee Substitute for HB 1042. This was done to ensure that any question of the constitutionality of a 1979 tax refund not affect the immediate repeal of the Alaska individual income tax. Retaining both repeal and 1979 refunds in one bill with a severability clause was considered. However, it was rejected in favor of the two bill approach because severability is determined by the courts, and any challenge of 1979 tax refunds would tie up the income tax repeal provisions until such time as the court ruled on the constitutionality of the bill.

The Finance Committee Substitute for HB 1041 includes the appropriations necessary to pay 1979 tax refunds and 1979 and 1980 tax credits as section 1; 1980 withholding as section 2; the administrative costs of section 1 and section 2, as section 3; a repeal of appropriations made in Ch 120, SLA 1980 for the purposes of Ch 22, SLA 1980, ruled unconstitutional by the Alaska Supreme Court as section 4; and an effective date clause as section 5. The appropriations are made separately, again to avoid any problems of a challenge of the constitutionality of 1979 tax refunds.

Russ Meekins, Chairman
House Finance Committee

The Finance Committee has had HB 1041 (
ation to the Department of Revenue t
tax and withholding payment refunds
effective date) under consideration a
the committee recommends it be replac
SUBSTITUTE FOR HOUSE BILL NO. 1041 (
it do pass and attaches a letter of
ring: Meekins (Chairman), Guy, McKinn
Freeman, Duncan, Smith, Montgomery and

HB 1041 was referred to the Rules Com
ment on the calendar.

The letter of intent on CSHB 1041 appe
10 of the House Journal.

The Finance Committee has had HB 10
Alaska net income tax on individual
tax credits for political contributi
and dependent care services; effec
consideration and a majority of the
mends it be replaced with COMMITTE
HOUSE BILL NO. 1042:

"An Act providing for refun
individual income taxes; and
for an effective date."

that it do pass, and attaches a lette
curring: Meekins (Chairman), Guy,
Rogers, Freeman, Duncan, Smith, Mont

HB 1042 was referred to the Rules Co
ment on the calender.

The letter of intent on CSHB 1042 app
10 of the House Journal.

Representative Carney announced a Dem
recess.

Representative Anderson moved and as
sent that the House recess to a cal
the purpose of party caucuses. There
the House recessed at 6:12 p.m.

The Finance Committee has had HB 1041 (special appropriation to the Department of Revenue to provide income tax and withholding payment refunds to individuals; effective date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1041 (same title), that it do pass and attaches a letter of intent. Concurring: Meekins (Chairman), Guy, McKinnon, Moss, Rogers, Freeman, Duncan, Smith, Montgomery and Haugen. HB 1041

HB 1041 was referred to the Rules Committee for placement on the calendar.

The letter of intent on CSHB 1041 appears above on page 10 of the House Journal.

The Finance Committee has had HB 1042 (repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; effective date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042: HB 1042

> "An Act providing for refunds of 1979 individual income taxes; and providing for an effective date."

that it do pass, and attaches a letter of intent. Concurring: Meekins (Chairman), Guy, McKinnon, Moss, Rogers, Freeman, Duncan, Smith, Montgomery and Haugen.

HB 1042 was referred to the Rules Committee for placement on the calender.

The letter of intent on CSHB 1042 appears above on page 10 of the House Journal.

Representative Carney announced a Democratic Caucus upon recess.

Representative Anderson moved and asked unanimous consent that the House recess to a call of the chair for the purpose of party caucuses. There being no objection, the House recessed at 6:12 p.m.

The Rules Committee has had HB 1042 (repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; effective date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (Rules): HB 1042

> "An Act relating to taxes; repealing the Alaska net income tax on individuals and fiduciaries; providing for tax credits for political contributions and household and dependent care services; providing for refunds of 1979 individual and fiduciary income taxes; and providing for an effective date."

and that it do pass. Concurring: Cotten (Chairman), Brown, Miller, Hayes, Anderson, Parr and Phillips.

HB 1042 appears on today's calendar.

CONSIDERATION OF THE DAILY CALENDAR

Representative Anderson moved and asked unanimous consent that HB 1041 be moved to the bottom of the calendar. There being no objection, it was so ordered. HB 1041

SECOND READING OF HOUSE BILLS

HOUSE BILL NO. 1040 (repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; effective date) was read the second time with the Finance Committee report (page 9 of the journal) and the Rules Committee report (page 14 of the journal). HB 1040

Representative Anderson moved and asked unanimous consent that the Rules COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1040 (page 14 of the journal) be adopted in lieu of the original bill. There being no objection, it was so ordered. CSHB 1040 (Rls)

CSHB 1040 (Rls) am

Representative Anderson moved that the effective date clauses be adopted.

The question being: "Shall the effective date clauses be adopted?" The roll was taken with the following result:

CSHB 1040(RULES)AM EFD

Yeas:	40	Anderson, Barnes, Beirne, Bettisworth, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Haugen, Hayes, Hurlbert, McKinnon, Malone, Martin, Meekins, Metcalfe, Miles, Miller, Montgomery, Moss, Munson, O'Connell, Osterback, Parker, Parr, Phillips, Randolph, Rogers, Schaeffer, Smith, Zharoff
Nays:	0	
Not Voting:	0	

And so, the effective date clauses were adopted.

CSHB 1040 (Rules)am was referred to the Chief Clerk for engrossment.

HB 1042 HOUSE BILL NO. 1042 (repealing the Alaska net income tax on individuals; providing for tax credits for political contributions and household and dependent care services; effective date) was read the second time with the Finance Committee report (page 11 of the journal) and the Rules Committee report (page 15 of the journal).

CSHB 1042 (Rls) Representative Anderson moved and asked unanimous consent that the Rules COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (page 15 of the journal) be adopted in lieu of the original bill. There being no objection, it was so ordered.

Amendment No. 1 by Randolph:

Page 2, lines 2 - 29 and
Page 3, lines 1 - 7:

Delete sec. 2.

Representative Randolph moved and asked unanimous consent that Amendment No. 1 be adopted.

Representative Rogers objected.

The question being: "Shall Amendment No. 1 be adopted?" The roll was taken with the following result:

CSHB 1042(RULES) AM1

Yeas:	11	Barnes, Beirne, Haugen, Hayes, Montgomery, Munson, Randolph
Nays:	29	Anderson, Branson, Buchholdt, Carney, Cotten, Duncan, Fuller, Gardiner, Hurlbert, McKinnon, Miles, Miller, Parker, Parr, Phillips, Schaeffer, Smith
Not Voting:	0	

And so, Amendment No. 1 was not adopted.

Amendment No. 2 by Hayes:

Page 1, line 28:

After "refund." insert the new language:

"There is abundant public policy to be served by both 1978 and 1979 refunds, which is stimulating the economy of the state in the most direct and expeditious fashion."

Amendment No. 1 by Randolph:

CSHB 1042 (Rls)

Page 2, lines 2 - 29 and
Page 3, lines 1 - 7:

Delete sec. 2.

Representative Randolph moved and asked unanimous consent that Amendment No. 1 be adopted.

Representative Rogers objected.

The question being: "Shall Amendment No. 1 be adopted?"
The roll was taken with the following result:

CSHB 1042(RULES) AM1

Yeas:	11	Barnes, Beirne, Bettisworth, Haugen, Hayes, Martin, Metcalfe, Montgomery, Munson, O'Connell, Randolph
Nays:	29	Anderson, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Hurlbert, McKinnon, Malone, Meekins, Miles, Miller, Moss, Osterback, Parker, Parr, Phillips, Rogers, Schaeffer, Smith, Zharoff
Not Voting:	0	

And so, Amendment No. 1 was not adopted.

Amendment No. 2 by Hayes:

Page 1, line 28:

After "refund." insert the following new language:

"There is abundant public purpose to be served by both 1978 and 1979 refunds, which is stimulation of the economy of the state in the most direct and expeditious fashion. The

CSHB 1042 (Rls)

intent of the Legislature was clear in the passage of the phased tax-relief measure and the Permanent Fund dividend distribution as well as the half-billion dollar supplemental appropriations bill for capital projects. All three were intended to spur the economy, however to date very little of that has been effected. The state has a moral obligation to fulfill this widely held expectation, and this obligation is best discharged by repealing the Alaska net income tax on individuals and fiduciaries retroactive to January 1, 1978.

Page 4, line 19:

Insert the following new material:

"* Sec. 8. REFUND OF 1978 INCOME TAXES. (a) An individual is entitled to a refund of his Alaska net income taxes paid or withheld under AS 43.20 for all or part of a tax year occurring after December 31, 1977 and before January 1, 1979.

(b) A refund under this section may be made only as provided in this section. Refunds of Alaska net income taxes paid may not be made without an appropriation for that purpose.

(c) The department shall establish procedures for determining the amount of and for making the refunds described in (a) of this section.

(d) The commissioner may adopt regulations to implement this section, and those regulations may be adopted as emergency regulations under AS 44.62.040 - 44.62 [illegible].

(e) In this section,

(1) "commissioner" means the commissioner or revenue;

(2) "department" means the Department of Revenue.

Page 1, lines 26 and 27:

Delete "January 1, 1979" a
with "January 1, 1978".

Renumber all sections accordin

Representative Hayes moved and as
sent that Amendment No. 2 be adopte

Representative Rogers objected.

The question being: "Shall Amendmen
The roll was taken with the followi

CSHB 1042(RULES) AM2

Yeas:	13	Barnes, Beirne, Branson, Elias Hayes, Martin, O'Connell, Phi
Nays:	27	Anderson, Brow Chatterton, Co Fuller, Gardine McKinnon, Malc Miller, Moss, Parker, Parr, Schaeffer, Smi
Not Voting:	0	

And so, Amendment No. 2 was not ado

Representative Anderson moved and as
sent that CSHB 1042 (Rules) be co
advanced to third reading and place
There being no objection, it was so

CSHB 1042 (Rules) was read the third

The question being: "Shall CSHB 104
House?" The roll was taken with the

Page 1, lines 26 and 27: CSHB 1042 (Rls)

Delete "January 1, 1979" and replace with "January 1, 1978".

Renumber all sections accordingly.

Representative Hayes moved and asked unanimous consent that Amendment No. 2 be adopted.

Representative Rogers objected.

The question being: "Shall Amendment No. 2 be adopted?" The roll was taken with the following result:

CSHB 1042(RULES) AM2

Yeas:	13	Barnes, Beirne, Bettisworth, Branson, Eliason, Halford, Haugen, Hayes, Martin, Metcalfe, Montgomery, O'Connell, Phillips
Nays:	27	Anderson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Freeman, Fuller, Gardiner, Guy, Hurlbert, McKinnon, Malone, Meekins, Miles, Miller, Moss, Munson, Osterback, Parker, Parr, Randolph, Rogers, Schaeffer, Smith, Zharoff
Not Voting:	0	

And so, Amendment No. 2 was not adopted.

Representative Anderson moved and asked unanimous consent that CSHB 1042 (Rules) be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 1042 (Rules) was read the third time.

The question being: "Shall CSHB 1042 (Rules) pass the House?" The roll was taken with the following result:

CSHB CSHB 1042(RULES)
1042
(Rls) Yeas: 40 Anderson, Barnes, Beirne, Bettisworth, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Haugen, Hayes, Hurlbert, McKinnon, Malone, Martin, Meekins, Metcalfe, Miles, Miller, Montgomery, Moss, Munson, O'Connell, Osterback, Parker, Parr, Phillips, Randolph, Rogers, Schaeffer, Smith, Zharoff

Nays: 0

Not Voting: 0

And so, CSHB 1042 (Rules) passed the House.

Representative Anderson moved that the effective date clause be adopted.

The question being: "Shall the effective date clause be adopted?" The roll was taken with the following result:

CSHB 1042(RULES) EFD

Yeas: 40 Anderson, Barnes, Beirne, Bettisworth, Branson, Brown, Buchholdt, Carney, Chatterton, Cotten, Duncan, Eliason, Freeman, Fuller, Gardiner, Guy, Halford, Haugen, Hayes, Hurlbert, McKinnon, Malone, Martin, Meekins, Metcalfe, Miles, Miller, Montgomery, Moss, Munson, O'Connell, Osterback, Parker, Parr, Phillips, Randolph, Rogers, Schaeffer, Smith, Zharoff

Nays: 0

Not Voting: 0

And so, the effective date clause was adopted.

CSHB 1042 (Rules) was referred to the Chief Clerk for engrossment.

HOUSE BILL NO. 1041 (special approp
ment of Revenue to provide incom
payment refunds to individuals;
read the second time with the Fir
(page 11 of the journal) and the
(page 14 of the journal).

Representative Anderson moved and
sent that the Rules COMMITTEE SUB
NO. 1041 (page 14 of the journa
of the original bill. There be
was so ordered.

Representative Anderson moved and
sent that CSHB 1041 (Rules) be
advanced to third readin and pla
There being no objection, it was

CSHB 1041 (Rules) was read the th

The question being: "Shall CSHB
House?" The roll was taken with

CSHB 1041 (RULES)

Yeas: 40 Anderson, Ba
Bettisworth,
Buchholdt, C
Cotten, Dunc
Fuller, Gard
Haugen, Haye
Malone, Mart
Miles, Mille
Munson, O'Co
Parr, Phillip
Schaeffer, Sc

Nays: 0

Not Voting: 0

And so, CSHB 1041 (Rules) passed

Representative Anderson moved tha
clause be adopted.

CSHB 1042 (Rls) for refunds of 1979 individual and fiduciary income taxes; and providing for an effective date.

ENROLLMENT

The following were enrolled, signed by the Speaker and Chief Clerk, President and Secretary of the Senate and the engrossed and enrolled copies were transmitted to the Office of the Governor at 12:05 p.m., September 24, 1980:

CSHB 1040 (Rls) am — CSHB 1040(Rules)am

CSHB 1041 (Rls) — CSHB 1041(Rules)

CSHB 1042 (Rls) — CSHB 1042(Rules)

MESSAGES FROM THE GOVERNOR

Messages from the Governor, dated September 24, 1980, were received stating the Governor had signed the following and was transmitting the enrolled and engrossed copies to the Lieutenant Governor's Office for permanent filing:

CSHB 1040 (Rls) am — CSHB 1040(Rules)am
An Act relating to taxes; repealing the Alaska net income tax on individuals and fiduciaries; providing for tax credits for political contributions and household and dependent care services; and providing for an effective date

Chapter 1, SSSLA 1980

CSHB 1042 (Rls) — CSHB 1042(Rules)
An Act relating to taxes; repealing the Alaska net income tax on individuals and fiduciaries; providing for tax credits for political contributions and household and dependent care services; providing for refunds of 1979 individual and fiduciary income taxes; and providing for an effective date

Chapter 2, SSSLA 1980

CSHB 1041 (Rls) — CSHB 1041(Rules)
An Act making an appropriation to the Department of Revenue for income tax, estimated income tax, and withholding

payment refunds to indivi
and providing for an effe

Chapter 3, SSSLA 1980

* * * * * *

This final supplemental jour al com
legislation for the Second Special
State Legislature.

Those portions of appropriations invalidly vetoed are valid law as originally enacted by the legislature. Therefore, no reconsideration, as authorized by Article II, section 16 of the Alaska Constitution, is necessary.

It is possible, however, even if expedited, that the lawsuit will not generate a definitive result within this fiscal year. Also, in the absence of a judicial mandate, the governor need not, and may not, disburse funds in a manner consistent with the intent of the legislature.

The legislature may determine that the public interest demands that some appropriations affected by the governor's vetoes be disbursed according to the legislature's intent prior to final judicial resolution of this dispute. If the legislature so finds, it may, without abandoning its position, reconsider such invalidly-vetoed portions of appropriations in the prescribed manner, and override the governor's purported vetoes. As to these appropriations, the governor would have no choice but to disburse the appropriations in the manner originally intended by the legislature. The lawsuit will continue, however, to determine the validity of those appropriations improperly vetoed and the limitations on the governor's veto power.

STANDING COMMITTEE REPORTS

The Finance Committee considered COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1040 (Rules) amended (relating to taxes; repealing the Alaska net income tax on individuals and fiduciaries) and a majority of the committee recommends it do pass. The report was signed by Senator Sackett, Chairman and concurred in by Senators Kerttula, Bennett, Hackney and Sumner. Senators Hohman and Ray signed "no recommendation".

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1040 (Rules) amended was referred to the Rules Committee.

The Finance Committee considered COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (Rules) (relating to taxes; repealing the Alaska net income tax on individuals and fiduciaries; providing for tax credits for political contributions and household and dependent care service) and a majority of the committee recommends it do pass. The report was signed by Senator Sackett, Chairman and concurred in by Senators Kerttula, Bennett, Hackney and Sumner. Senators Hohman and Ray signed "no recommendation".

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (Rules) was referred to the Rules Committee.

The Finance Committee considered HO
(special appropriation for a study
tion law) and the committee recomm
SENATE COMMITTEE SUBSTITUTE FOR HOU
entitled:

"An Act providing for resid
to state residents; and pr
effective date."

and do pass. The report was si
Chairman and concurred in by Senat
Hackney, Sumner and Bennett.

HOUSE BILL NO. 36 amended was refer

The Rules Committee considered HO
(special appropriations to the Legi
of Alaska's fisheries ta...ion law
the following: Senator Colletta, C
signed "do pass the Senate Committ
September 23". Senators Tillion,
"calendar September 23".

Senator Colletta moved and asked
Rules be suspended and HOUSE BILL
Special Order of Business at this
it was so ordered.

SPECIAL ORDER OF

SECOND READING OF

HOUSE BILL NO. 36 amended (special
of Alaska's fisheries taxation law)

Senator Ray moved and asked unanim
Senate Committee Substitute offered
objection, SENATE COMMITTEE SUBSTI
(Finance) was adopted.

SENATE COMMITTEE SUBSTITUTE FOR H
(providing for residency payments
read the second time.

SENATE JOURNAL

ALASKA STATE LEGISLATURE

ELEVENTH LEGISLATURE - SECOND SPECIAL SESSION

JUNEAU, ALASKA Wednesday September 24, 1980

Third Day

Pursuant to adjournment, the Senate was called to order by President Tillion at 9:10 a.m.

The roll call showed nineteen members present. Senator Dankworth was absent.

The prayer was offered by the Chaplain, Lay Rabbi Danny Plotnick of the Juneau Jewish Community.

Senator Colletta moved and asked unanimous consent that the journal for the second legislative day be approved as certified. Without objection, it was so ordered.

STANDING COMMITTEE REPORTS

The Rules Committee considered the following bills and recommends they be placed on the September 24 calendar:

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1040 (Rules) amended

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (Rules)

The reports were signed by Senator Colletta, Chairman and concurred in by Senators Sumner, Hohman and Tillion.

The above bills appear on today's calendar.

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (Rules) (relating to taxes; repealing the Alaska net income tax on individuals and fiduciaries; providing for tax credits for political contributions and household and dependent care services; provid[illegible] for refunds of 1979 individual and fiduciary income taxes) was read the second time.

Senator Colletta moved and asked unanimous consent that the Rules be suspended and COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (Rules) be advanced to third reading and placed on final passage. Without objection, it was so ordered.

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (Rules) was read the third time.

The question being: "Shall COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (Rules) (relating to taxes; repealing the Alaska net income tax on individuals and fiduciaries; providing for tax credits for political contributions and household and dependent care services; providing for refunds of 1979 individual and fiduciary income taxes) pass the Senate?" The roll was taken with the following result:

CSHB 1042 3RD

Yeas:	18	Bennett, Bradley, Colletta, Dankworth, Fahrenkamp, Ferguson, Hackney, Kelly. Kerttula, Meland, Mulcahy, Ray, [illegible]odey, Sackett, Stimson, Sturgulewski, Sumner, Ziegler
Nays:	1	Tillion
Excused:	0	
Absent:	1	Hohman

and so, COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (Rules) passed the Senate.

Senator Colletta moved and asked unanimous consent that the roll call on the passage of the above bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

COMMITTEE SUBSTITUTE FOR HOUSE BILL [illegible] signed by the President and Secretar[illegible] House.

Senator Colletta gave notice of re[illegible] MITTEE SUBSTITUTE FOR HOUSE BILL NO. [illegible] and moved and asked unanimous consen[illegible] at [illegible]s time. Without objection, it w[illegible]

HOUSE BILLS IN THIRD

COMMITTEE SUBSTITUTE FOR HOUSE BILL N[illegible] was before the Senate on re[illegible]sideratio[illegible]

The question to be reconsidered is: [illegible] STITUTE FOR HOUSE BILL NO. 1040 (Rule[illegible] taxes; repealing the Alaska net inco[illegible] and fiduciaries; providing for tax [illegible] contributions and household and dep[illegible] pass the Senate?" The roll was tak[illegible] result:

CSHB 1040 AM RECONSIDER

Yeas:	18	Bennett, Bradley, Dankworth, Fahren[illegible] Hackney, Kelly, K[illegible] Mulcahy, Ray, Rod[illegible] Stimson, Sturgule[illegible] Ziegler
Nays:	1	Tillion
Excused:	0	
Absent:	1	Hohman

and [illegible], COMMITTEE SUBSTITUTE FOR HOUSE[illegible] amended passed the Senate on reconside[illegible]

Senator Colletta moved and asked unan[illegible] roll call on the above bill be consi[illegible] the effective date clause. Without [illegible] ordered.

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1042 (Rules) was signed by the President and Secretary and returned to the House.

Senator Colletta gave notice of reconsideration on COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1040 (Rules) amended and moved and asked unanimous consent that it be taken up at this time. Without objection, it was so ordered.

HOUSE BILLS IN THIRD READING

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1040 (Rules) amended was before the Senate on reconsideration.

The question to be reconsidered is: "Shall COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1040 (Rules) amended (relating to taxes; repealing the Alaska net income tax on individuals and fiduciaries; providing for tax credits for political contributions and household and dependent care services) pass the Senate?" The roll was taken with the following result:

CSHB 1040 AM RECONSIDER

Yeas:	18	Bennett, Bradley, Colletta, Dankworth, Fahrenkamp, Ferguson, Hackney, Kelly, Kerttula, Meland, Mulcahy, Ray, Rodey, Sackett, Stimson, Sturgulewski, Sumner, Ziegler
Nays:	1	Tillion
Excused:	0	
Absent:	1	Hohman

and so, COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1040 (Rules) amended passed the Senate on reconsideration.

Senator Colletta moved and asked unanimous consent that the roll call on the above bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

HB

93

	Fiscal 1983	Fiscal 1984
Executive Branch	13,545.4	13,551.0
Legislative Branch	406.9	411.5
Judicial Branch	572.0	593.3
sub total:	14,524.3	14,561.7
U of A	3,971.6	4,095.5
Grand total:	18,495.9	18,657.2

3971.6
14524.3

4095.5
14561.7

Population: 464,460* or 3% = 13,933.8

* As of March 1983 according to Community and Regional Affairs

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 93 Date on Bill: January 20, 1983
Title: An Act relating to limitation of the number of State employees
Sponsor: Bettisworth, Phillips & Tischer
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	
Capital							
Operating							
Total			-0-	-0-	-0-	-0-	

b. Revenues:

Revenue			-0-	-0-	-0-	-0-	

2. Source of funds to offset fiscal impact of bill:

N/A

3. Assumptions:

N/A

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Guy Stringham Phone: 465-4403
Division: Labor Relations Date: 3-2-83

Approved by Commissioner: Lisa Rudd Date: 3/10/83
Department: Administration

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

5/0302-02-2/LR3

POSITION PAPER
HOUSE BILL NO. 93
PREPARED BY: DIVISION OF LABOR RELATIONS
DEPARTMENT OF ADMINISTRATION

The proposed language amendment to AS 37.07.080(d) does not appear to materially disturb the mission or ongoing operational functions of the Division of Labor Relations. The rationale for the additional language inserted in Subsection (d) of this bill is a fine point that seems to use the power of legislative directives, in the form of an appropriation act, to control the size of State agencies by the time-honored method of controlling the purse strings. By leaving the options of Subsection (h) in place, there are still means to adjust in-house needs of an agency within the restrictive process afforded by this Section.

The net affect of this language change is nil of the Labor Relations Division.

Prepared by: Guy Stringham 3/16/83 Date:
Guy Stringham, Director, Labor Relations

Commissioner's Office Review by: Lisa Rudd Date: 3/10/83
Lisa Rudd, Commissioner

5/0302-02-3/LR3

OK GBS 3/17/83

UNITED STATES DEPARTMENT OF
COMMERCE
NEWS
WASHINGTON, D.C. 20230

BUREAU OF
THE
CENSUS

Public Information Office
(301) 763-4040

For Release Wed., Sept. 22, 1982
CR82-134

STATE AND LOCAL GOVERNMENT EMPLOYMENT ROLLS SHRINK FIRST TIME SINCE WORLD WAR II, CENSUS REPORTS

State and local government employment dropped in 1981 for the first time since World War II, according to a report issued today by the Commerce Department's Census Bureau.

The report says annual increases began in 1945 when state and local government workers totaled 3.2 million. Employment in 1980 reached 13.3 million, then dropped last year to 13.1 million.

The report attributes much of the decline to the ending of public service employment portions of the Comprehensive Employment and Training Act on Oct. 1, 1981.

Drops greater than 4 percent between October 1980 and October 1981 occurred in the District of Columbia (9.2), Georgia (6.3), Kentucky (5.9), Michigan (5.9), Massachusetts (5.8), Maryland (4.9), West Virginia (4.7), Washington (4.4), and Alabama (4.3).

Federal civilian employment also dropped in 1981, but not for the first time. It peaked at nearly 3.4 million during World War II, receded to 2.0 million in 1947, then rose to 2.5 million in 1951 and to 3.0 million by 1967. Since then it has remained near its present level of about 2.9 million.

(more)

Federal civilian employment decreased from 1980 to 1981 by 34,000, or 1.2 percent. State employment dropped by 27,000, or .7 percent, to a total of 3.7 million, and local governments lost 185,000, or 1.9 percent, down to 9.4 million. Total government employment dropped 1.5 percent between 1980 and 1981 to 16 million. In 1944, the total was 6.5 million.

Despite lower employment at all levels of government, October 1981 payrolls were 6.3 percent higher than the previous October, rising to $21.2 billion.

October 1981 state government salaries and wages went up 8.9 percent to $4.7 billion, while local government payrolls rose 8.1 percent to $11.3 billion. The federal total was $5.2 billion, up just 0.6 percent.

Monthly pay excluding fringe benefits for full-time state and local government employees averaged $1,464 in October 1981, up 9.5 percent from October 1980.

More than 51 percent of the October 1981 state and local government employment was in education. About 58 percent of federal civilian employees worked in national defense, international relations, and the postal service.

Attached tables show employment and payroll data for each state by level of government.

Copies of the report, Public Employment in 1981, GE-81, No. 1, are available for $3.50 each prepaid from the Data User Services Division, Customer Services (Publications), Bureau of the Census, Washington, D.C. 20233, or from Commerce Department district offices in major cities.

-X-

PUBLIC EMPLOYMENT IN 1981

Number of Public Employees, by Level of Government and by States: October 1981

State	All employees - full-time and part-time					Full-time equivalent employment in state- and local governments					
	All governments	Federal (civilian)[1]	State and local governments			Number			Number per 10,000 population[2]		
			Total	State	Local	Total	State	Local	Total	State	Local
UNITED STATES, TOTAL	15 862 393	2 750 472	13 102 921	3 726 085	9 376 836	10 917 146	3 086 679	7 830 467	476	135	341
ALABAMA	276 377	61 298	215 078	71 689	143 389	189 422	60 272	129 150	484	154	330
ALASKA	52 278	15 407	36 781	19 349	17 432	33 066	18 031	15 035	903	438	365
ARIZONA	190 363	36 148	163 245	46 093	117 152	137 092	38 782	98 350	491	139	352
ARKANSAS	142 187	19 770	122 417	42 812	79 605	103 753	35 837	67 916	452	156	296
CALIFORNIA	1 727 928	388 190	1 429 738	309 461	1 120 277	1 107 725	246 663	861 062	458	102	356
COLORADO	234 921	50 344	184 577	59 221	130 356	150 356	43 289	107 067	507	146	361
CONNECTICUT	185 278	20 051	165 227	57 527	107 700	140 880	49 535	91 345	459	158	291
DELAWARE	40 317	4 786	35 531	18 354	17 177	31 691	16 423	15 268	530	275	255
DISTRICT OF COLUMBIA	257 542	209 583	47 959	-	47 959	45 725	-	45 725	717	-	717
FLORIDA	603 951	82 656	521 295	122 070	399 225	461 614	106 410	355 204	453	104	349
GEORGIA	303 220	76 968	326 252	85 823	240 429	292 395	77 299	215 096	525	139	386
HAWAII	83 137	24 834	58 303	45 959	12 344	48 694	37 074	11 620	496	378	118
IDAHO	68 410	11 230	57 171	18 908	38 263	46 010	15 351	30 659	480	160	320
ILLINOIS	750 205	102 169	620 936	151 916	476 120	503 506	121 822	381 684	439	106	333
INDIANA	342 533	41 695	300 838	91 819	209 019	243 627	65 801	177 826	446	120	325
IOWA	201 729	18 936	182 793	53 528	129 265	143 199	43 878	99 311	498	151	343
KANSAS	186 669	22 751	163 918	53 225	110 693	128 801	40 286	88 515	540	169	371
KENTUCKY	227 607	34 517	173 090	65 434	107 656	151 101	56 975	94 126	413	156	257
LOUISIANA	279 589	33 381	246 248	94 582	151 666	219 388	81 301	138 043	509	189	320
MAINE	77 366	7 013	68 353	22 780	45 573	51 110	17 751	33 359	451	157	294
MARYLAND	384 624	133 514	251 110	68 768	166 342	218 762	78 997	139 765	513	185	328
MASSACHUSETTS	375 803	57 016	318 787	85 479	233 308	271 769	74 691	197 078	471	129	341
MICHIGAN	579 047	54 065	524 982	103 065	371 917	406 961	118 222	288 739	442	128	314
MINNESOTA	294 791	30 335	264 456	73 273	191 183	199 930	54 422	145 508	488	133	355
MISSISSIPPI	174 302	28 206	146 096	44 577	101 519	127 026	38 729	88 297	502	153	349
MISSOURI	327 175	66 365	261 110	69 045	192 065	222 114	59 759	162 355	450	121	329
MONTANA	68 574	12 816	55 758	20 135	35 623	43 293	14 848	28 445	546	187	359
NEBRASKA	130 796	15 350	115 437	32 191	83 336	91 347	26 840	64 507	579	170	409
NEVADA	57 748	9 523	48 225	14 833	33 392	42 017	11 927	30 090	497	141	356
NEW HAMPSHIRE	66 648	15 [illegible]	51 604	18 225	33 379	40 573	14 026	26 547	433	150	284
NEW JERSEY	493 338	69 600	423 639	99 988	323 651	362 558	86 270	276 288	490	117	374
NEW MEXICO	117 309	27 622	89 687	41 197	48 490	76 726	32 801	43 925	578	247	331
NEW YORK	1 249 542	156 276	1 093 266	251 268	841 998	955 067	232 565	722 502	543	132	410
NORTH CAROLINA	370 175	41 925	328 250	102 350	234 900	291 483	88 685	202 798	490	148	341
NORTH DAKOTA	56 131	5 717	50 414	16 553	33 861	32 821	12 468	20 353	499	189	309
OHIO	670 140	88 345	581 795	151 388	430 407	467 974	114 693	353 281	434	107	326
OKLAHOMA	235 586	45 703	189 883	69 595	120 288	163 221	57 719	105 502	527	186	340
OREGON	198 886	28 791	170 095	52 939	117 256	133 568	40 697	92 871	504	154	350
PENNSYLVANIA	692 308	128 364	563 944	147 468	416 476	471 730	124 594	347 136	397	105	292
RHODE ISLAND	61 781	9 373	52 708	26 729	25 979	44 103	20 745	23 358	463	218	245
SOUTH CAROLINA	209 420	31 961	177 459	64 484	113 375	157 958	59 118	98 840	499	187	312
SOUTH DAKOTA	57 397	10 176	46 921	16 165	30 756	34 415	12 166	22 249	502	177	324
TENNESSEE	319 148	71 563	247 585	75 444	172 141	219 761	64 405	155 356	476	140	337
TEXAS	958 530	169 215	789 315	199 483	589 832	706 018	169 267	536 751	478	115	364
UTAH	119 851	34 828	85 023	30 566	54 457	66 559	25 918	40 741	439	171	268
VERMONT	30 655	4 384	30 271	12 717	17 554	24 511	10 937	13 574	475	212	263
VIRGINIA	462 369	144 586	317 783	116 733	201 050	270 227	96 496	173 731	498	178	320
WASHINGTON	302 424	62 961	239 463	90 887	148 576	196 589	68 880	127 709	466	163	303
WEST VIRGINIA	122 864	15 963	107 001	42 169	64 832	95 816	35 805	59 413	489	183	305
WISCONSIN	327 443	27 219	300 224	80 749	219 475	220 992	57 163	163 829	466	121	345
WYOMING	46 505	6 805	39 700	11 664	28 036	32 144	9 588	22 556	853	254	598

Note: Statistics for local governments are estimates subject to sampling variation; see text for statement of reliability. Because of rounding, totals may not add to totals.

- Represents zero.

[1] Federal civilian employees within the United States as of December 31, 1980. Total accordingly differs from Federal civilian employees reported in table 1 which pertains to October 1981. The data above exclude employees working outside the United States and certain other groups.

[2] See table 12 for estimated State populations as of July 1, 1981.

State and Local Government Payrolls and Average Earnings of Full-Time State and Local Government Employees, by States: October 1981

State	Amount of payroll (thousands of dollars)			Percent of October payroll		Average earnings of full-time State and local government employees (dollars)				
							Education employees			
	Total	State government	Local governments	State government	Local governments	All employees	All	Instructional personnel, local schools	Instructional personnel, institutions of higher education	Other than education employees
UNITED STATES, TOTAL	15 9.4 295	4 667 453	11 286 841	29.3	70.7	1 464	1 514	1 629	2 562	1 419
ALABAMA	223 754	85 249	138 504	38.1	61.9	1 185	1 262	1 244	2 332	1 122
ALASKA	79 147	40 078	39 069	50.6	49.4	2 394	2 372	2 624	2 223	2 409
ARIZONA	218 834	63 212	155 621	28.9	71.1	1 592	1 611	1 694	2 207	1 573
ARKANSAS	111 748	44 739	67 009	40.0	60.0	1 076	1 115	1 169	2 364	1 037
CALIFORNIA	2 062 099	501 714	1 560 385	24.3	75.7	1 869	1 886	2 020	2 802	1 672
COLORADO	231 557	77 079	154 477	33.3	66.7	1 542	1 543	1 559	2 243	1 541
CONNECTICUT	197 181	66 507	130 674	33.7	66.3	1 407	1 497	1 624	1 769	1 318
DELAWARE	43 670	22 376	21 294	51.2	48.8	1 360	1 501	1 582	2 270	1 235
DISTRICT OF COLUMBIA	88 520	-	88 520	-	100.0	1 998	2 070	2 438	2 712	1 904
FLORIDA	595 255	144 543	450 712	24.3	75.7	1 288	1 324	1 406	2 454	1 261
GEORGIA	337 019	100 460	236 559	29.8	70.2	1 157	1 175	1 259	2 309	1 149
HAWAII	74 746	56 534	18 212	75.6	24.4	1 531	1 606	1 645	2 306	1 474
IDAHO	58 248	21 456	36 792	36.8	63.2	1 271	1 278	1 335	1 769	1 264
ILLINOIS	799 870	192 978	606 893	24.1	75.9	1 597	1 644	1 768	2 598	1 553
INDIANA	318 202	102 457	215 746	32.2	67.8	1 301	1 444	1 548	2 565	1 138
IOWA	202 535	69 731	132 804	34.4	65.6	1 394	1 469	1 520	2 457	1 310
KANSAS	160 621	55 472	105 149	34.5	65.5	1 259	1 297	1 384	2 135	1 196
KENTUCKY	189 030	76 583	112 447	40.5	59.5	1 259	1 323	1 445	2 419	1 190
LOUISIANA	271 455	108 598	162 858	40.0	60.0	1 247	1 340	1 465	2 015	1 162
MAINE	61 218	23 383	37 835	38.2	61.8	1 200	1 192	1 247	1 920	1 210
MARYLAND	336 434	108 307	226 127	32.2	67.8	1 542	1 691	2 011	1 895	1 413
MASSACHUSETTS	389 558	98 828	290 730	25.4	74.6	1 440	1 551	1 686	2 056	1 392
MICHIGAN	724 305	213 444	511 861	29.3	70.7	1 790	1 835	2 100	2 534	1 741
MINNESOTA	298 509	91 646	206 862	30.7	69.3	1 498	1 448	1 607	2 544	1 552
MISSISSIPPI	131 019	45 256	85 764	34.5	65.5	1 035	1 110	1 136	2 126	962
MISSOURI	266 628	72 254	194 374	27.1	72.9	1 204	1 207	1 299	1 878	1 201
MONTANA	58 306	22 131	36 176	38.0	62.0	1 349	1 405	1 455	2 057	1 294
NEBRASKA	117 248	33 184	84 064	28.3	71.7	1 291	1 291	1 405	2 031	1 291
NEVADA	75 880	20 883	54 997	31.2	68.8	1 558	1 504	1 578	2 416	1 592
NEW HAMPSHIRE	51 694	17 208	34 486	33.3	66.7	1 202	1 208	1 247	1 623	1 195
NEW JERSEY	549 915	132 958	416 957	24.2	75.8	1 523	1 728	1 953	2 585	1 340
NEW MEXICO	98 854	44 702	54 152	45.2	54.8	1 286	1 369	1 442	2 291	1 196
NEW YORK	1 591 919	362 399	1 229 520	22.8	77.2	1 674	1 673	2 069	2 396	1 567
NORTH CAROLINA	357 837	119 088	238 749	33.3	66.7	1 232	1 276	1 361	2 013	1 186
NORTH DAKOTA	49 976	19 671	30 306	39.4	60.6	1 530	1 657	1 805	2 325	1 374
OHIO	645 663	159 482	486 181	24.7	75.3	1 542	1 977	1 608	2 274	1 289
OKLAHOMA	194 821	79 192	115 629	40.6	59.4	1 191	1 225	1 247	2 410	1 157
OREGON	205 899	64 756	141 152	31.4	68.6	1 545	1 542	1 619	1 069	1 548
PENNSYLVANIA	681 487	186 985	494 503	27.4	72.6	1 450	1 543	1 678	2 679	1 368
RHODE ISLAND	78 681	31 725	36 958	46.2	53.8	1 560	1 704	1 915	2 110	1 447
SOUTH CAROLINA	187 804	80 737	107 067	43.0	57.0	1 192	1 241	1 258	2 270	1 139
SOUTH DAKOTA	40 529	16 338	24 190	40.3	59.7	1 177	1 179	1 186	1 984	1 174
TENNESSEE	266 558	83 404	183 154	31.3	68.7	1 222	1 330	1 436	2 334	1 132
TEXAS	938 156	256 508	681 648	27.3	72.7	1 332	1 336	1 381	2 445	1 326
UTAH	90 682	35 087	55 595	38.7	61.3	1 373	1 318	1 431	1 861	1 485
VERMONT	30 391	14 857	15 534	48.9	51.1	1 237	1 229	1 192	2 200	1 247
VIRGINIA	358 233	133 606	220 629	37.7	62.3	1 323	1 383	1 426	2 427	1 261
WASHINGTON	336 847	117 148	219 699	34.8	65.2	1 725	1 758	2 019	2 465	1 698
WEST VIRGINIA	115 166	42 731	72 438	37.1	62.9	1 206	1 329	1 439	2 270	1 054
WISCONSIN	336 455	94 752	241 702	28.2	71.8	1 520	1 586	1 649	1 977	1 471
WYOMING	48 572	16 489	32 083	33.9	66.1	1 525	1 588	1 599	2 484	1 465

Notes: Statistics for local governments are estimates subject to sampling variation; see text for statement of reliability. Because of rounding, detail may not add to totals.

- Represents zero.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 93 Date on Bill: January 20, 1983
Title: An Act relating to limitation of the number of State employees
Sponsor: Bettisworth, Phillips & Tischer
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	
Capital							
Operating							
Total			-0-	-0-	-0-	-0-	

b. Revenues:

Revenue			-0-	-0-	-0-	-0-	

2. Source of funds to offset fiscal impact of bill:

N/A

3. Assumptions:

N/A

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Guy Stringham Phone: 465-4403
Division: Labor Relations Date: 3-2-83

Approved by Commissioner: Lisa Rudd Date: 3/10/83
Department: Administration

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

5/0302-02-2/LR3

POSITION PAPER
HOUSE BILL NO. 93
PREPARED BY: DIVISION OF LABOR RELATIONS
DEPARTMENT OF ADMINISTRATION

The proposed language amendment to AS 37.07.080(d) does not appear to materially disturb the mission or ongoing operational functions of the Division of Labor Relations. The rationale for the additional language inserted in Subsection (d) of this bill is a fine point that seems to use the power of legislative directives, in the form of an appropriation act, to control the size of State agencies by the time-honored method of controlling the purse strings. By leaving the options of Subsection (h) in place, there are still means to adjust in-house needs of an agency within the restrictive process afforded by this Section.

The net affect of this language change is nil of the Labor Relations Division.

Prepared by: Guy Stringham 3/16/83 Date:
Guy Stringham, Director, Labor Relations

Commissioner's Office Review by: Lisa Rudd Date: 3/10/83
Lisa Rudd, Commissioner

5/0302-02-3/LR3

OK GBS 3/17/83

UNITED STATES DEPARTMENT OF
COMMERCE
NEWS
WASHINGTON, D.C. 20230

BUREAU OF
THE
CENSUS

Public Information Office
(301) 763-4040

For Release Wed., Sept. 22, 1982
CB82-134

STATE AND LOCAL GOVERNMENT EMPLOYMENT ROLLS SHRINK FIRST TIME SINCE WORLD WAR II, CENSUS REPORTS

State and local government employment dropped in 1981 for the first time since World War II, according to a report issued today by the Commerce Department's Census Bureau.

The report says arnual increases began in 1945 when state and local government workers totaled 3.2 million. Employment in 1980 reached 13.3 million, then dropped last year to 13.1 million.

The report attributes much of the decline to the ending of public service employment portions of the Comprehensive Employment and Training Act on Oct. 1, 1981.

Drops greater than 4 percent between October 1980 and October 1981 occurred in the District of Columbia (9.2), Georgia (6.3), Kentucky (5.9), Michigan (5.9), Massachusetts (5.8), Maryland (4.9), West Virginia (4.7), Washington (4.4), and Alabama (4.3).

Federal civilian employment also dropped in 1981, but not for the first time. It peaked at nearly 3.4 million during World War II, receded to 2.0 million in 1947, then rose to 2.5 million in 1951 and to 3.0 million by 1967. Since then it has remained near its present level of about 2.9 million.

(more)

Federal civilian employment decreased from 1980 to 1981 by 34,000, or 1.2 percent. State employment dropped by 27,000, or .7 percent, to a total of 3.7 million, and local governments lost 185,000, or 1.9 percent, down to 9.4 million. Total government employment dropped 1.5 percent between 1980 and 1981 to 16 million. In 1944, the total was 6.5 million.

Despite lower employment at all levels of government, October 1981 payrolls were 6.3 percent higher than the previous October, rising to $21.2 billion.

October 1981 state government salaries and wages went up 8.9 percent to $4.7 billion, while local government payrolls rose 8.1 percent to $11.3 billion. The federal total was $5.2 billion, up just 0.6 percent.

Monthly pay excluding fringe benefits for full-time state and local government employees averaged $1,464 in October 1981, up 9.5 percent from October 1980.

More than 51 percent of the October 1981 state and local government employment was in education. About 58 percent of federal civilian employees worked in national defense, international relations, and the postal service.

Attached tables show employment and payroll data for each state by level of government.

Copies of the report, Public Employment in 1981, GE-81, No. 1, are available for $3.50 each prepaid from the Data User Services Division, Customer Services (Publications), Bureau of the Census, Washington, D.C. 20233, or from Commerce Department district offices in major cities.

PUBLIC EMPLOYMENT IN 1981

Number of Public Employees, by Level of Government and by States: October 1981

State	All employees (full-time and part-time)				Full-time equivalent employment of state and local governments					
	All governments	Federal (civilian)[1]	State and local governments		Number			Number per 10,000 population[2]		
			Total	State	Total	State	Local	Total	State	Local
UNITED STATES, TOTAL	15 862 393	2 759 472	13 102 921	5 726 085	10 917 146	3 086 679	7 830 467	476	135	341
ALABAMA	276 377	61 299	215 078	71 689	189 422	60 272	129 150	488	154	330
ALASKA	52 278	15 497	36 781	19 349	33 086	18 031	15 055	903	438	365
ARIZONA	199 393	36 148	163 245	46 093	137 092	38 742	98 350	691	139	352
ARKANSAS	102 187	19 770	122 417	42 812	103 753	35 837	67 916	452	156	296
CALIFORNIA	1 727 928	298 190	1 429 738	309 461	1 107 725	246 663	861 062	458	102	356
COLORADO	239 921	50 344	189 577	59 221	150 356	43 289	107 067	507	146	361
CONNECTICUT	185 278	20 051	165 227	57 527	140 880	49 635	91 245	450	158	291
DELAWARE	40 317	4 786	35 531	18 354	31 691	16 423	15 268	530	275	255
DISTRICT OF COLUMBIA	257 542	209 583	47 959	-	45 725	-	45 725	717	-	717
FLORIDA	603 951	82 656	521 295	122 070	441 619	106 410	355 209	453	109	344
GEORGIA	403 220	76 968	326 252	85 823	292 395	77 299	215 096	525	139	386
HAWAII	83 137	24 834	58 303	45 959	48 698	37 078	11 620	496	378	118
IDAHO	68 810	11 239	57 171	18 908	46 010	15 351	30 659	460	160	320
ILLINOIS	730 205	102 169	628 036	151 916	503 506	121 822	381 684	439	106	333
INDIANA	342 533	41 695	300 838	91 819	243 627	65 801	177 826	446	120	325
IOWA	201 729	18 936	182 793	53 528	143 189	43 878	99 311	496	151	343
KANSAS	186 669	22 751	163 918	53 225	128 801	40 286	88 515	540	169	371
KENTUCKY	197 607	34 517	173 090	65 434	151 101	56 975	94 126	613	156	257
LOUISIANA	285	33 341	246 248	98 582	219 384	81 301	138 043	509	189	320
MAINE	77 366	7 013	68 353	22 780	51 110	17 751	33 359	451	157	294
MARYLAND	304 624	133 514	251 110	84 768	218 762	78 997	139 765	513	185	328
MASSACHUSETTS	375 803	57 016	318 787	85 479	271 769	74 691	197 078	471	129	341
MICHIGAN	579 047	54 065	524 982	153 065	406 961	118 222	288 739	442	128	314
MINNESOTA	294 791	30 335	264 456	73 273	199 930	54 422	145 508	488	135	353
MISSISSIPPI	174 302	28 206	146 096	44 577	127 026	38 729	88 297	502	153	349
MISSOURI	327 175	66 065	261 110	69 045	222 118	59 759	162 359	450	121	329
MONTANA	68 574	12 816	55 758	20 135	43 293	14 848	28 445	546	187	359
NEBRASKA	130 796	15 359	115 437	32 101	91 336	26 840	64 507	579	170	409
NEVADA	57 744	9 519	48 225	14 933	42 017	11 927	30 090	497	141	356
NEW HAMPSHIRE	66 648	15 044	51 604	18 225	40 573	14 926	26 547	453	150	284
NEW JERSEY	403 338	69 699	333 639	99 988	323 551	86 270	276 536	490	117	374
NEW MEXICO	117 309	27 622	89 687	41 197	78 490	32 801	43 925	578	247	331
NEW YORK	1 249 542	156 276	1 093 266	251 265	841 998	232 565	722 502	543	132	410
NORTH CAROLINA	370 175	41 925	337 250	102 350	234 900	58 685	202 798	490	148	341
NORTH DAKOTA	59 131	8 717	50 414	16 553	33 861	12 466	20 353	499	189	309
OHIO	670 190	88 395	581 795	151 388	430 607	114 693	353 081	434	107	326
OKLAHOMA	235 586	45 703	189 883	69 595	120 288	57 719	105 502	527	186	340
OREGON	198 886	28 791	170 095	52 539	117 256	40 697	92 671	504	154	350
PENNSYLVANIA	842 308	128 364	563 924	147 466	416 158	124 548	347 136	397	105	292
RHODE ISLAND	61 781	9 373	52 708	26 729	25 979	20 745	23 358	463	218	245
SOUTH CAROLINA	209 420	31 961	177 859	64 484	113 375	59 118	98 940	499	187	312
SOUTH DAKOTA	57 397	10 176	46 921	16 165	30 756	12 166	22 249	502	179	324
TENNESSEE	319 148	71 563	247 585	75 444	172 141	64 405	155 356	476	142	337
TEXAS	938 530	149 215	789 315	199 483	589 832	169 267	536 751	478	115	364
UTAH	119 651	34 828	85 023	30 566	54 457	66 959	25 918	439	172	266
VERMONT	38 655	4 384	30 271	12 717	17 554	24 511	10 937	475	212	263
VIRGINIA	462 369	144 586	317 783	116 733	201 050	270 217	96 494	173 723	498	178 320
WASHINGTON	302 424	62 761	239 463	90 887	148 576	196 589	68 880	127 709	466	163 303
WEST VIRGINIA	122 864	15 863	107 001	42 169	94 832	95 418	35 805	59 613	469	183 305
WISCONSIN	327 483	27 219	300 224	80 749	219 475	220 992	57 183	163 829	466	121 345
WYOMING	46 505	6 805	39 700	11 664	28 036	32 144	9 588	22 556	653	195 458

Note: Statistics for local governments are estimates subject to sampling variation; see text for statement of reliability. Because of rounding, totals may not equal sum of items.

- Represents zero.

[1] Federal civilian employees within the United States as of December 31, 1980. Total accordingly differs from Federal civilian employees reported in table 1 which pertains to October 1981. The data above exclude employees working outside the United States and certain other groups.

[2] See table 12 for estimated State populations as of July 1, 1981.

State and Local Government Payrolls and Average Earnings of Full-Time State and Local Government Employees, by States: October 1981

State	Amount of payroll (thousands of dollars)			Percent of October payroll		Average earnings of full-time State and local government employees (dollars)				
							Education employees			
	Total	State government	Local governments	State government	Local governments	All employees	All	Instructional personnel, local schools	Instructional personnel, institutions of higher education	Other than education employees
UNITED STATES, TOTAL	15 954 295	4 667 453	11 286 841	29.3	70.7	1 464	1 514	1 629	2 562	1 419
ALABAMA	223 758	85 249	138 504	38.1	61.9	1 185	1 262	1 244	2 332	1 122
ALASKA	79 147	40 078	39 069	50.6	49.4	2 394	2 372	2 624	2 223	2 409
ARIZONA	218 834	63 212	155 621	28.9	71.1	1 592	1 611	1 694	2 827	1 573
ARKANSAS	111 748	44 739	67 009	40.0	60.0	1 078	1 115	1 169	2 364	1 031
CALIFORNIA	2 062 099	501 714	1 560 385	24.3	75.7	1 869	1 866	2 020	2 802	1 672
COLORADO	231 557	77 079	154 477	33.3	66.7	1 542	1 543	1 559	2 243	1 541
CONNECTICUT	197 181	66 507	130 674	33.7	66.3	1 407	1 497	1 624	1 769	1 318
DELAWARE	43 670	22 376	21 294	51.2	48.8	1 360	1 501	1 562	2 279	1 255
DISTRICT OF COLUMBIA	88 520	-	88 520	-	100.0	1 998	2 070	2 436	2 712	1 904
FLORIDA	595 255	144 543	450 712	24.3	75.7	1 288	1 324	1 406	2 454	1 261
GEORGIA	337 019	100 460	236 559	29.8	70.2	1 157	1 175	1 259	2 309	1 143
HAWAII	74 746	56 534	18 212	75.6	24.4	1 531	1 606	1 645	2 308	1 474
IDAHO	58 248	21 456	36 792	36.8	63.2	1 271	1 278	1 335	1 769	1 264
ILLINOIS	799 670	192 978	606 693	24.1	75.9	1 597	1 644	1 768	2 598	1 553
INDIANA	318 202	102 457	215 746	32.2	67.8	1 301	1 484	1 548	2 545	1 138
IOWA	202 535	69 731	132 804	34.4	65.6	1 354	1 469	1 520	2 457	1 310
KANSAS	160 621	55 472	105 149	34.5	65.5	1 249	1 297	1 384	2 135	1 198
KENTUCKY	189 030	76 583	112 447	40.5	59.5	1 259	1 323	1 445	2 419	1 190
LOUISIANA	271 456	108 598	162 858	40.0	60.0	1 247	1 340	1 465	2 015	1 162
MAINE	61 218	23 383	37 835	38.2	61.8	1 200	1 192	1 247	1 920	1 210
MARYLAND	336 434	108 307	228 127	32.2	67.8	1 542	1 691	2 011	1 895	1 413
MASSACHUSETTS	389 558	98 828	290 730	25.4	74.6	1 440	1 551	1 686	2 056	1 352
MICHIGAN	724 305	212 444	511 861	29.3	70.7	1 790	1 835	2 100	2 534	1 741
MINNESOTA	298 509	91 845	206 862	30.7	69.3	1 498	1 448	1 807	2 544	1 552
MISSISSIPPI	131 019	45 256	85 764	34.5	65.5	1 035	1 110	1 136	2 126	962
MISSOURI	266 628	72 254	194 374	27.1	72.9	1 208	1 207	1 299	1 878	1 201
MONTANA	58 306	22 131	36 176	38.0	62.0	1 349	1 405	1 455	2 057	1 298
NEBRASKA	117 248	33 184	84 064	28.3	71.7	1 291	1 291	1 405	2 031	1 291
NEVADA	65 940	20 443	44 997	31.2	68.8	1 558	1 504	1 578	2 418	1 592
NEW HAMPSHIRE	51 694	17 208	34 486	33.3	66.7	1 202	1 208	1 247	1 823	1 195
NEW JERSEY	549 915	132 958	416 957	24.2	75.8	1 523	1 724	1 953	2 585	1 340
NEW MEXICO	98 854	44 702	54 152	45.2	54.8	1 266	1 369	1 442	2 291	1 196
NEW YORK	1 591 919	362 399	1 229 520	22.8	77.2	1 674	1 873	2 089	2 398	1 567
NORTH CAROLINA	357 837	119 088	238 749	33.3	66.7	1 232	1 276	1 381	2 013	1 169
NORTH DAKOTA	49 976	19 671	30 306	39.4	60.6	1 530	1 657	1 805	2 325	1 378
OHIO	645 [illegible]	159 482	486 181	24.7	75.3	1 362	1 477	1 608	2 274	1 289
OKLAHOMA	194 821	79 192	115 629	40.6	59.4	1 191	1 225	1 247	2 410	1 157
OREGON	205 899	64 746	141 152	31.4	68.6	1 545	1 542	1 619	1 869	1 548
PENNSYLVANIA	681 487	186 905	494 583	27.4	72.6	1 450	1 543	1 678	2 679	1 388
RHODE ISLAND	68 681	31 725	36 956	46.2	53.8	1 560	1 709	1 915	2 110	1 447
SOUTH CAROLINA	187 804	80 737	107 067	43.0	57.0	1 192	1 241	1 258	2 270	1 139
SOUTH DAKOTA	40 529	16 338	24 190	40.3	59.7	1 177	1 179	1 186	1 984	1 174
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TEXAS	938 158	256 508	681 648	27.3	72.7	1 332	1 336	1 381	2 445	1 326
UTAH	90 682	35 087	55 595	38.7	61.3	1 373	1 318	1 431	1 861	1 445
VERMONT	30 391	14 857	15 534	48.9	51.1	1 237	1 229	1 192	2 200	1 247
VIRGINIA	354 233	133 606	220 626	37.7	62.3	1 323	1 383	1 426	2 427	1 261
WASHINGTON	338 847	117 148	219 699	34.6	65.2	1 725	1 758	2 019	2 465	1 698
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WISCONSIN	336 455	94 722	241 702	28.2	71.8	1 520	1 586	1 649	1 977	1 471
WYOMING	48 572	16 489	32 083	33.9	66.1	1 525	1 568	1 599	2 484	1

Note: Statistics for local governments are estimates subject to sampling variation; see text for statement of reliability. Because of rounding, detail may not add to totals.

- Represents zero.


HB


97

RE HB 87 - TOLL-FREE TELEPHONE CALLS TO STATE AGENCIES

The goal of this legislation appears to be to guarantee direct access to government for all citizens of the States.

If it is practicable to expand and improve existing facilities to accomplish this goal at lower cost than instituting "toll-free" telephone service, then it makes sense to do so. After all, why spend more when you can spend less?

Special attention should be given to providing direct communication with the government for those citizens who do not presently have the facilities for communication.

For example, Rep. Vasca mentioned last time that some villages in his district do not even have a pay phone. If the villages have any telephone service, then certainly a special government access phone should be provided for free calls to Bethel or the closest existing facility. If no phone service exists in the villages, then perhaps each village could be provided wireless communication with the nearest existing facility and thence to Juneau., via teleconferencing or computer. Each village could be provided with a two-way radio in the custody of a trained operator who would assist citizens in making contact with government.

The ability of the people to communicate with the government and the ability of the government to be responsive to the people are essential to the effective functioning of our democracy. I definitely support legislation that will guarantee direct access to government for all citizens at lowest possible cost.

Bella Blue

Sent copy to Mr. Abood

ALASKA PUBLIC INTEREST RESEARCH GROUP
Post Office Box 1093/Anchorage, Alaska 99510/(907) 278-3661

HB 97 folder!
Fyl.
E & C

April 4, 1983

The Honorable William Sheffield
Governor of Alaska
3rd Floor, State Capitol
Pouch A
Juneau, AK 99811

Dear Governor Sheffield:

I am writing in support of SB-27 and HB-97, relating to toll-free telephone calls to state agencies.

During our eight years of existence, the primary goal of the Alaska Public Interest Research Group has been to increase accountability and access to the government by its citizens. During your campaign for governor, you expressed a similar commitment. We believe that the bills mentioned above, when passed, will go far in addressing this important goal.

At present, doing business with the State can be like running a gauntlet for some residents. Assuming a resident has access to a phone, long distance charges can pile up quickly in pursuing a simple state-related matter. For example, an injured worker from Kodiak would pay almost $10 for one fifteen-minute conversation with the Worker's Compensation office in Anchorage, provided s/he contacted the proper official on the first call. And, as many lawyers and social service workers can tell you, a phone call is often the only way to properly resolve a problem.

The Personal Opinion Message program does convey short messages to legislators, but the program cannot handle similar messages to your office, nor does it provide for longer, or two-way conversations between citizens and legislators. A 15-minute conversation from Anchorage to a legislator in Juneau costs over $12.

Finally, there was widespread agreement last year that if the Capital Move effort failed, the State would intensify its efforts to increase citizen access to government. House Bill 27 and SB 97 are a key part of that effort.

Can we count on your support on this issue?

Sincerely,

Maureen Kennedy

Maureen Kennedy, Director

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 15, 1983

MEMORANDUM

TO: Representative Barbara Lacher

FROM: Deb Pomeroy, Research Aide

RE: Cost of Toll-Free Telephone Service
Research Request 83-10

Joan Mathews of your staff asked for information on the cost of having a State toll-free number to the Juneau Centrex operator who would then transfer these calls to the appropriate agency for handling.

On January 28, I sent a letter to the Division of Telecommunications, Department of Administration requesting this cost estimate as well as related costs which Ms. Mathews and I discussed. I have attached a copy of both the information request and the reply which was received yesterday.

According to the analysis done by Ted McIntire of the Division of Telecommunications, it would cost $1,022,891 to have a toll-free number to the Centrex operator who would then transfer calls to the appropriate agency. This includes a monthly flat fee of $211 ($2,532 per year) for the Zenith line. There would also be a $19,000 one-time start-up cost. This estimate is based on the assumptions described in the attached letter to Susan Brody from Sioux Plummer, Director of the Division of Telecommunications. Ted McIntire of Ms. Plummer's staff prepared these estimates.

If you have any questions regarding this information, please call.

DP

Attachments

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C
JUNEAU, ALASKA 99811
PHONE: (907) 465-2041

DIVISION OF TELECOMMUNICATIONS SERVICES

February 14, 1983

Ms. Susan Brody, Acting Director
Alaska State Legislature
House Research Agency
Pouch Y
Juneau, Alaska 99811

This is in response to your January 28 memo requesting information and costs on certain aspects of a possible toll-free telephone service. Our responses to your specific questions are listed here:

1) Cost of toll-free access to Centrex attendant in Juneau for the purpose of transferring calls to appropriate agency: The cost of the toll-free (Zenith number) service would be directly proportional to the number of calls, and their duration and distance, (the basis on which toll calls are billed). In addition, there is a flat fee for Zenith service which is $211.00 per month.

Since we have no way of knowing how much public need is being unmet by the lack of toll-free access, cost estimates have to be made on the basis of assumptions which cannot be supported by hard data. Some agencies now provide Zenith numbers for public access, but because there are so few of these, and their use varies so widely, (from over a thousand calls per month to the Permanent Fund information number, to 2 or 3 per month to the DEC oil-spill reporting number), they do not provide useful data for projections.

For this analysis we have assumed that there are 83 agencies in Juneau with significant public access requirements. If these agencies receive 10 calls per day at a cost of $0.85 per minute (the rate for distances between 575 and 814 miles), the line and toll costs would be $77,605.00 per month or $931,260.00 annually.

(a) The existing Centrex switch in Juneau would be capable of handling this amount of additional traffic.

(b) It would be necessary to set up as many as 20 lines in rotary to handle possible levels of traffic. However, adding or deleting rotary lines is only a matter of switch programming, and can be accomplished for two one-time charges of $50.00 per line. There are no recurring costs.

(c) Additional equipment required would be attendant consoles and automatic call distribution (ACD) equipment. ACD equipment provides automatic answering and call queing when operators are busy (this is the type of equipment used by airlines reservations services).

2) The cost of expanding the present Centrex operator's space to accommodate two additional attendants is estimated to be $8,000.00. This includes remodeling and furnishing.

3) The cost of ACD equipment including attendant consoles and call detail recording equipment is estimated to be $10,000.00.

4) The cost of periodic audits of incoming traffic is estimated to be $2,000.00 for an audit of one month's traffic. This audit would be performed by Alascom as they are the entity that handles all intrastate toll traffic and records the billing information. Calling number information cannot be automatically recorded at the customer (State) end of the call. The alternative to obtaining audits from the carrier is to "manually" review the monthly toll bills. However, this would be nearly as expensive because of added personnel costs and would have a greater potential for error.

Summary

The estimates of costs associated with establishing toll-free central attendant service in Juneau are as follows:

	One-Time	Annual Recurring
Zenith Service		$ 931,260
Operators (2½ @ range 8)		83,099
Remodeling	$ 8,000	
Call Directing Equipment	10,000	
Centrex Programming	1,000	
Periodic Audits (3)		6,000
TOTALS	$ 19,000	$ 1,020,359

A variation on the central attendant idea could involve assignment of direct Zenith numbers to agencies known to have high public-contact requirements and having a central attendant handle calls to all other agencies. This would not change the Zenith calling costs significantly, but it could reduce the operator requirements.

Sincerely,

Sioux Plummer
Director

SP/bb

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 28, 1983

MEMORANDUM

TO: Sioux Plummer, Director
Division of Telecommunications

FROM: Susan Brody, Acting Director SB

RE: Cost Estimate of a State Toll-Free Number

We have been requested by one of the legislators to estimate the cost of a toll-free number for the state. When this request originated, we were asked to estimate the cost of a toll-free number to each individual agency. I spoke with Ted McIntire of your staff who explained to me the difficulty in estimating this cost due to various reasons. He gave me some information on general toll-free service costs as well as a report done by your division for the Commissioner of Administration entitled "Toll-Free Service."

I explained the difficulty of making this type of estimation to the staff person making this request and gave her a copy of your report. As a result of this conversation, our agency has been requested to obtain the following information from your division:

1) The cost of having one toll-free number to the Juneau Centrex office number. Instead of having an information officer man this number (as in Option 3 in your report), each incoming call would be transferred to the appropriate agency for handling.

   (a) Would the existing equipment be adequate for handling the expected increase in the number of calls?

   (b) Would it be necessary to install additional rotary lines to handle the increase?

   (c) If additional equipment were necessary, what equipement would be required and what would be the cost.

2) The cost of expanding the existing Centrex Operator's space to accommodate up to two additional operators to handle the increase in incoming calls.

CS

Put amendments on 97

get figures { Take another look at fiscal note
2-45mt. letter to Lacher 1.22

Take up at later date.

Original Sponsors - Lacher

* → Stu Brown - Celebrate. specific proposals.
weekend.

→ Dept

Alaska

* Sioux Plunner - list of proposals.

HB 97

RECEIVED
APR 7 1983

April 1, 1983

Honorable Tony Vaska
Alaska State Legislature
Pouch V
Juneau, AK 99811

THRU: Julie Guy, Deputy Commissioner
for Telecommunications
Department of Administration

Dear Representative Vaska:

Over the past year the Division of Telecommunications Services has been examining various options for toll-free telephone access from the public to their State Government. These possibilities have ranged from a limited directory information service to virtually unlimited direct access to all state agencies. This is not to say we have examined every possibility; within each option there are feasible variations that affect cost and level of service.

We have a particular problem affecting our ability to determine even approximate costs and levels of service since there is no immediate way of knowing what latent demand for service now exists, or how much usage would develop after a system is implemented. As was done for the fiscal notes accompanying HB81 and HB97, we have to make assumptions, that we hope are reasonable, and base our cost estimates on them.

The basic types of toll-free service that we have examined are:

(1) Directory Operator. Under this option the State would provide toll-free access to a directory operator. This operator would provide directory type information (names and phone numbers) to callers wishing to contact State agencies. It is presumed that callers would then call or write to the agency identified at their own expense. The directory operator could be located any where in the State, and could be provided under contract by a private concern. Operators, however, would have to be knowledgeable about State Government operations and programs.

Like all options, the actual costs would depend on where the operator is located and the amount of traffic handled. If a very high level of traffic is anticipated and if the traffic generated, from any area, is in proportion to the population; Anchorage would be the logical choice for the operator location since most callers would be in the local calling area. If traffic is light or originates mostly from rural areas, the advantage of an Anchorage location would be lessened.

The cost estimates for this service are based on the assumptions that the operator is located in Juneau, that the operator will handle 150 calls per day with a 1-minute holding time.

	Annual	One-Time
Operator Costs	44,513	
Construction		8,000
Zenith Service Charge	2,532	
Toll Costs	100,000	
Equipment		10,000
TOTALS	$147,045	$18,000

2. Directory and Call Transfer Service. (Juneau only). This option would provide state-wide directory information as in Option (1) and, in addition, operators would transfer calls directly to agencies in Juneau. This option is available only in Juneau because this is the only location where most offices are on the same Centrex system. This would be considerably more expensive than directory-only service since it is expected that a considerable amount of routine traffic now coming into Juneau would shift to the toll-free number, thereby increasing operator requirements and toll costs.

	Annual	One-Time
Operator Costs	59,350	
Construction		8,000
Zenith Service Charge	2,532	
Toll Costs (400/day)	920,040	
Equipment		10,000
TOTALS	$981,922	$18,000

3. Information Operators. This service would be an expansion of straight directory service in that operators would provide more information directly to callers and would take requests for information and forward them to agencies for appropriate response. Operators could be centrally located or located regionally such as in Anchorage, Fairbanks and Juneau. This would be more expensive than a simple directory service because holding times would be longer, more operators would be required and operators would have to be highly trained and knowledgeable. Regionalizing the service would reduce toll costs but would increase personnel and facility costs. The Governor's Office in Anchorage is presently providing information service, but does not provide toll-free access.

The following cost estimates are based on the assumption that the service is located in Juneau.

	ANNUAL	ONE-TIME
Operator Costs	59,350	
Construction		8,000
Zenith Service Charge	2,532	
Toll Costs (200/day)	132,600	
TOTALS	$194,482	

4. Toll-Free Service Directly to Agencies. This could be accomplished simply by directing all agencies to accept collect calls or establish Zenith service to the appropriate numbers. This would be the most expensive option, but it would provide full access to all agencies from citizens anywhere. One problem associated with immediate implementation of this service is that agencies will not have been able to budget for increased telephone costs. Zenith service is more convenient to the caller, but provides a potential for abuse since agencies have no way to screen inappropriate calls. If properly implemented and managed, this type of service could provide data on traffic levels and patterns that would be useful in designing a permanent system of toll-free access.

The estimated costs for this service are based on the assumptions that 227 agencies will receive 10 5-minute calls per day.

	ANNUALLY
Zenith Service	$2,222,784
Collect Calls	1,648,020

5. Other Options. The options listed previously are only those which can be implemented fairly rapidly without large capital expenditures, long-term contracts, or other financial commitments. Other possibilities include:

An integrated State Telephone System connecting State agencies in Anchorage, Fairbanks and Juneau could provide direct telephone access to major State offices for most of the population through local calls. To implement such a system will require considerable expenditure, time and money for planning, design, procurement and construction. The Department's 5-year plan for telephone communications includes a 3-city telephone system. It is estimated that capital costs to complete this system will be in the 3-4 million dollar range.

Solicitation of Competitive Bids. The State could solicit private industry for proposals to set up and operate a system to provide toll-free access to State offices. The present difficulty with this, in the eyes of the Department, is that without better data than we now have, it would not be possible to specify parameters in terms of traffic handling requirements or to knowledgeably evaluate proposals.

A mini-network to handle public calls only could be constructed by the State. This would be similar in layout to the tri-city network of the 5-year plan, but would be limited, in configuration and capacity, to handling calls from the public. This would require time, and money for engineering, implementation and operation. As with other system options, the difficulty lies in trying to design an effective system without clear knowledge of traffic handling requirements.

The fact that cost estimates for previously presented options were based on the use of tariffed long-distance toll rates, does not indicate that the Department considers this the only way to go. Regular long-distance telephone service is, however, the only available service for which costs are known.

If other telecommunications service vendors should offer comparative service on a per-call basis regardless of calling level or, once demand levels are known, on a basis competitive with regular toll telephone service, the Department would, under its procurement regulations and guidelines, consider all such proposals.

I hope this information will be helpful to you even though it shows that we don't have any clear cut, most-effective answers to the problem of citizen access.

Sincerely,

Sioux Plummer
Director

SP/bb
Enclosure:

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C
JUNEAU, ALASKA 99811
PHONE: (907) 465-2041

DIVISION OF TELECOMMUNICATIONS SERVICES

April 4, 1983

Honorable Barbara Lacher
Alaska State Legislature
Pouch V
Juneau, AK 99811

THRU: Julianna Guy, Deputy Commissioner
for Telecommunications

Dear Representative Lacher:

This is in response to your memorandum of March 4, 1983 requesting information on implementation of a State government Centrex telephone system to include State offices in Anchorage, Fairbanks and Juneau, and how such a system would be configured to provide toll-free access to State offices in these cities.

As a first step in setting up a tri-city network, telephone switching systems similar to the one being used by State offices in Juneau would have to be installed in Anchorage and Fairbanks. Once these installations are completed, the main State switches in each city could be connected together with intercity circuits called tie-lines. With a system thus arranged, a person at a State office in any of the three cities wishing to call an office in any of the others could simply dial a single-number access code and then the extension number of the called office. Calls could be forwarded or transfered just as though all offices were on the same local system.

With such a system in place, toll-free access to State offices could be greatly simplified since residents of Anchorage, Fairbanks, or Juneau (approximately 60% of the population) could contact principle agencies through local calls. With central attendants in the three major cities, residents in outlying areas could call the nearest node for transfer to the appropriate office. Attendant service at each node would probably be provided whether or not toll-free citizen access is required. Thus, provision of toll-free access would have little financial impact on the cost of implementing an integrated state network.

There is one factor that causes us to be hesitant about estimating the full appropriation required to implement an integrated State telephone system today, this is the fact that a final decision on the proposed State office complex in Anchorage is yet to be made The design and cost of the Anchorage system would be simpler and less expensive if the majority of offices were located so that they can be served by a single PBX without the expense of hundreds of off-premise extensions or intracity tie-lines.

However, based on the number of State offices and phones in Anchorage and Fairbanks and their dispersed locations, the capitol funding required to implement full Centrex service in those cities is estimated at approximately four million dollars.

The Department of Administration has requested one million dollars for FY84 for the purchase of a PBX for Anchorage. The purpose of this request was to ensure availability of funds to commence procurement procedures when the status of the Anchorage Office Complex becomes clearer. The delivery time for a large PBX is 6 to 12 months after order.

Should FY84 funding for toll-free access be made available, a test program based on reversed toll charges could be established for an interim period. This would provide information needed to design a permanent, more cost-effective system. If the demand for toll-free access is comparatively low, it may well be that continuation of reversed charges or collect calls is the least expensive option. A heavy demand might indicate that a system based on central attendants, special switching equipment and leased lines would be more efficient.

Sincerely,

Sioux Plummer

Sioux Plummer
Director

SKP/ct
cc: Julianna Guy
Deputy Commissioner for Telecommunications

"TOLL-FREE" ACCESS TO STATE GOVERNMENT
Developed by Division of Telecommunications Services
Department of Administration
April 19, 1983

VARIOUS OPTIONS	FY84 ANNUAL COSTS	TYPE OF SERVICE	CITIZEN ACCESS POINTS	GOVERNMENT DESTINATIONS
Promote & advertise existing information services on TVP, ITV, in newspapers, radio. (See Attachment: "Existing Services")	$20,000 advertise only	State government information services via telephone to local or regional offices; public opinion messages by electronic mail; inquiries referred to legislature, Governor, State Agencies.	Legislative Information Offices, Offices of the Governor and telephone.	Legislators, Legislative Affairs Agency, Office of the Governor, selected State Agencies.
Toll-Free Zenith number to existing Centrex Directory Operator in Juneau.	$36,192.00 (fixed monthly charge ÷ 50 calls per day).	Directory Service for State telephone numbers only.	Any telephone through long-distance operator.	Directory operator for Juneau only numbers.
Toll-Free Zenith Number to Legislative (only) operator.	$78,400.00 (Zenith service, equipment and 100 calls per day) only to leg	Legislative Information Service only; referrals to legislators when necessary.	Any telephone via long-distance operator.	Legislative Affairs Agency, Juneau.
Expand existing L.A.A. electronic mail system (OMNICOM) to interconnect with other electronic mail systems: U of A, Marine Highway & Rural Education Network.	$60,000	Data terminal to data terminal.	19 state-wide Legislative Information Offices and 1 L.I.O. in Washington, D.C.	Legislative Information Offices, University of Alaska (many locations), ferry system offices, Department of Education and state-wide school districts. (300 legislative terminals and 1500 Executive Branch terminals).
Interconnect all existing State electronic mail systems to form one system plus have access to "Tymnet" system, an international data base.	$150,000 (capital funds already exist)	Data terminal to data terminal.	Legislative Information Offices, Governor's Offices, University of Alaska, school districts.	Same as origination locations plus, Department of Education, Department Administration, Marine Highway, Legislative and Executive Branch Data Centers and terminals (300 legislative terminal and 1500 Executive Branch terminals).

VARIOUS OPTIONS	FY84 ANNUAL COSTS	TYPE OF SERVICE	CITIZEN ACCESS POINTS	GOVERNMENT DESTINATIONS
Toll-Free Zenith numbers to 5 Offices of the Governor for State Government Information.	$276,000 (includes Zenith lines + toll, personnel, directory listings).	State Government Information at regional offices; referrals made to Governor and State agencies when necessary.	Any telephone or in person.	Governor's Offices in Anchorage, Juneau, Fairbanks, Kotzebue and Nome.
Toll-free Zenith number to Centrex Information Operator (no call transfer).	$194,482 (Zenith service plus 200 calls per day and personnel costs.)	State Government Information provided by informed operator via one toll free number; referrals given to agencies if necessary.	Any telephone through long-distance operator.	One information operator based in Juneau; separate position from Centrex Directory Operator.
Directory/Information Operators in Anchorage (Governor's Office) and Juneau.	$175,000 (refelects estimated toll reduction due to Anchorage population).	Information, referrals and directory service.	Any telephone.	Information Operators in Anchorage or Juneau.
Toll-free Zenith number to Centrex Information Operator plus call transfer capability to 83 State agencies.	$1,100,000 (Zenith service plus 830 calls per day, space, equipment and personnel costs.)	Direct access to certain State agencies via one number only; citizens transferred to appropriate agency by answering operator.	Any telephone through long-distance operator.	83 Juneau-based agencies only, due to Centrex transfer feature.
Collect calls received by State agencies.	$1,648,020 (toll charges only; no Zenith charges.	Direct access to certain numbers in certain State agencies.	Any telephone; through long-distance operator.	227 specific agencies in Juneau, Anchorage and Fairbanks.
Toll-free Zenith numbers to 227 frequently-called State agencies.	$2 300,000 (Zenith service plus 2,270 calls per day).	Direct access to certain State agencies via 227 specific telephone numbers.	Any telephone through long-distance operator.	227 State agencies in Juneau, Anchorage and Fairbanks.

ZENITH, TOLL-FREE NUMBERS

Currently 18 ZEnith numbers provide toll-free telephone access to selected State agencies. Most, but not all, offer this service statewide. To use a ZEnith number, call the Long Distance operator (dial 100) and request him or her to ring the ZEnith number for you.

ZE Number	Reaches	Serves
ZE-9111	Alaska State Troopers	Homer & Seward
ZE-5500	C&ED Loans & Vets Affs.	Statewide
ZE-2222	C&RA Local Govt. Assis.	40 locations
ZE-4585	C&RA Housing Assistance	Statewide
ZE-1700	H&SS Public Health	47 locations
ZE-8900	H&SS Public Assistance	Statewide
ZE-2800	DOE Learn/Alaska ITV info.	Statewide
ZE-3800	Learn/Alaska tech. trouble reporting	Statewide
ZE-8650	Rev. Fraud Hot Line	Statewide
ZE-3300	Rev. Child Support Enforce.	Statewide
ZE-4900	Rev. Perm. Fund. Div. Enforce.	Statewide
ZE-2333	Rev. PFD info & assistance	Statewide
ZE-4444	DOTPF Hwys. Construction	20 locations
ZE-6742	DOTPF Avalanche Control	15 locations
ZE-9300	Oil & Hazardous Waste Spills	Statewide
ZE-9900	Labor Market Info.	Fairbanks to Anchorage
ZE-2496	Labor-TTY Deaf Service	Statewide
ZE-5627	Labor-Job Service Info.	Valdez to Glennallen

The Legislative Affairs Agency operates 16 Legislative Information Offices around the state and an office in Washington, D.C. that provide a variety of data information services and teleconferencing. Also, 22 Teleconference Centers, located in smaller villages, provide teleconferencing services only. ALECSYS, the Alaska Legislative Computer System, permits citizen access to the following information:

STAIRS - Users can find out what bills have been introduced, read existing Alaska Statutes, legislative journals, session laws, uniform rules, executive orders and committee minutes.

BASIS - Users can track the status of bills of interest. This program will tell who authored a bill, what committee it is in, committees of next referrals and fiscal information.

EDLS - Election District Locator System - lists all election districts, all towns within districts, and cross references House districts with Senate precincts.

TELE - provides current schedules for teleconferences on the Legislative Teleconference Network.

SIRS - lists and index of Alaska Statutes affected by pending or passed legislation. Shows if statutes have been (or will be) added to, amended, referenced, repealed or re-enacted.

POM - Citizens may send 50 words or less Public Opinion Messages to legislators by using the ALEXSYS Electronic Mail System. When received in Juneau, messages are distributed to the appropriate offices.

//

TELECONFERENCING

The Legislative Teleconfernece Network allows citizens to participate in legislative committee hearings and constituency meetings. Teleconferencing equipment and facilities are available at all Legislative Information Offices and at 22 Teleconference Centers located in smaller communities. Also, the LTN can dial-in citizens in other locations. Legislative Information Offices are located in the following communities:

Anchorage	Barrow	Bethel	Delta Junction
Dillingham	Fairbanks	Juneau	Kenai Peninsula(Soldotna)
Ketchikan	Kodiak	Kotzebue	Mat-Su (Wasilla)
Nome	Petersburg	Sitka	Valdez
Washington. D.C.			

Teleconference Centers are located in the following communities:

Ambler	Anaktuvuk Pass	Cordova	Fort Yukon
Galena	Gambell	Haines	Homer
Hoonah	Hooper Bay	Kaktovik	Point Hope
St. Paul	Sand Point	Savoonga	Selawik
Seward	Shishmaref	Unalakleet	Unalaska
Wainwright	Wrangell	Yakutat	Noorvik

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

M E M O R A N D U M

TO: House State Affairs Committee

FROM: Representative Barbara Lacher

DATE: March 23, 1983

SUBJECT: HB 97

It is my belief that implementation of HB 97, "An act relating to toll-free calls to state agencies," is to act in the best interests of the State. I recognize that additional information will be required to determine what type of permanent arrangement for toll-free telephone service will best serve the public. Therefore, I request that information of HB 97 be in the form that directs state agencies to accept collect telephone calls from the public as a pilot project for one year from the date of the passage of this legislation.

As part of this pilot project, the Gover[illegible] be requested to:

1) direct the Commissioner of Administratio[illegible] designate a sufficient number of agency telephones on which collect calls will be accepted, that will allow adequate access to all agencies which serve the public;

2) develop a policy for refusing or terminating nuisance, harassing, abusive or frivolous collect calls;

3) develop a policy to deter unnecessary inter-agency collect calls;

4) direct agencies to keep uniform records on collect call utilization and costs;

5) direct the Commissioner of Administration to study all feasible alterations and make recommendations for implementing a permanent system of toll-free calls and;

6) submit a report on the pilot program, including the above recommendations, to the legislature by February 1, 1984.

I also submit, for the Committee's consideration, the following proposed changes to wording in the bill which are intended to clarify the intent of the legislation.

Line 12. Following the word "calls," delete "to a state agency by residents of the state," and insert "originating in the state to a state agency."

Line 15. delete the words "including the University of Alaska."

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C
JUNEAU, ALASKA 99811
PHONE: (907) 465-2041

DIVISION OF TELECOMMUNICATIONS SERVICES

COST SUMMARY

ZENITHS

Zenith Monthly Service Charges	
82 Juneau Zeniths	$ 207,624/year
89 Anchorage Zeniths	225,348/year
56 Fairbanks Zeniths	141,792/year
Subtotal	$ 574,764/year
Toll Estimate - Juneau	$ 595,320/year
Toll Estimate - Anchorage	$ 646,140/year
Toll Estimate - Fairbanks	$ 406,560/year
TOTAL	$2,222,784/year

COLLECT CALLS

Toll Estimate - Juneau	$ 595,320/year
Toll Estimate - Anchorage	$ 646,140/year
Toll Estimate - Fairbanks	$ 406,560/year
TOTAL	$1,648,020/year

CENTRAL OPERATORS

One Zenith Monthly Service Charge	$ 2,532
Local Telephone Company Monthly Line Charge	294
Remodeling	8,000
Personnel	59,350
Toll Estimate	920,040/year
Equipment Purchase (One Time Charge)	10,000
TOTAL ANNUAL	$ 990,216
TOTAL ONE-TIME CHARGE	$ 10,000

02-822LH

ZENITH NUMBERS FOR ALL AGENCIES WITH EXTENSIVE PUBLIC CONTACT

ADVANTAGES

1. No additional personnel or equipment required.
2. Can be implemented quickly.
3. No long term committment required. Service can be stopped without liability.
4. If implemented as an interim solution, data gathered regarding frequency of use and costs can be used to plan the best, permanent solution.
5. Easier access for caller than Collect Call option.

DISADVANTAGES

1. Most expensive of three options due to Monthly Service Charge for each Zenith number in addition to toll charges.
2. Less control at agency and no chance to screen calls. More potential for abuse.
3. Increase in agency budget required.

CENTRAL OPERATOR ANSWERING ONE STATE ZENITH NUMBER

ADVANTAGES

1. Cheaper than Zenith option.
2. Easiest access for public as only one number involved.
3. Less "wrong numbers" will be reached by caller as operator will transfer to correct agency.
4. Other information services will be provided in addition to channeling calls to appropriate agencies.

DISADVANTAGES

1. More expensive than Collect Call option.
2. Additional personnel and equipment required.
3. Only Juneau has existing technical capability to implement this type of service.
4. Could not be implemented as quickly as other options due to hiring, training and remodeling requirements.

COLLECT CALLS ACCEPTED BY ALL STATE AGENCIES

ADVANTAGES

1. Least expensive of three options presented. Costs directly related to usage. No additional fixed costs such as Monthly Service Charge.

2. No additional personnel or equipment required.

3. Can be implemented quickly.

4 Agencies can have more control to prevent abuse. Special numbers will be assigned and agency designee will have authority to accept or reject inappropriate calls.

5. No long term committment required. Service can be stopped without liability.

7. If implemented as an interim solution, data gathered regarding frequency of use and costs can be used to plan the best, permanent solution.

8. Increased public awareness that toll calls are not free and are being paid by the State.

DISADVANTAGES

1. Increase in agency budgets required to cover toll charges.

2. Less convenient for caller than Zenith option.

MEMORANDUM State of Alaska

TO: Carole Burger, Commissioner
Dept. of Administration

DATE: July 30, 1982

FILE NO:

THRU: Alex Hills, Deputy Commissioner
for Telecommunications

TELEPHONE NO: 465-2041

FROM: Sioux Plummer, Director
Div. of Telecommunications Services

SUBJECT: Toll-Free Service Report

Attached is the expanded "Toll-Free Service" report which you requested. In preparation for the FY'84 budget process, we have included detailed cost breakdowns and greater consideration of every forseeable requirement associated with the option which we recommend.

I will be happy to further discuss this report with you at your convenience. In the meantime, I hope the information as presented here is what you were seeking.

INTRODUCTION

In his memorandum to the cabinet dated January 8, 1982, Governor Hammond directed that "steps be taken to study the establishment of a toll-free number statewide so that the public can have their governmental questions answered, or receive referrals to proper agencies for reply, by dialing one central toll-free number." The Governor further stated that he believed "this service could, to a great degree, relieve the frustration of the public attempting to obtain information from State government."

Interest has been shown for some time, by both state agencies and citizens, in a toll-free information service. The need for such a service is primarily based upon the high intra-state rates for long-distance telephone calls, as well as the inaccessibility to state government due to some unique situations in Alaska such as great distances between communities, extreme weather conditions, few interconnecting highways, and four time zones.

Citizens often have questions that must be directed to specific agencies for correct answers. Currently, someone unsure of where to direct a call will probably call the Centrex Operator in Juneau for help in determining who to call, after first consulting with their local directory information operator or telephone book. In most cases, the Centrex Operator can direct the caller to the agency that is thought to provide the answer. At that time, the call can be transferred, if it is to a 465-Centrex number, or the caller can hang up and re-dial that number another time. In either case, the calls are placed at the citizen's expense and are not always productive.

At present, the Centrex Operator is averaging between 50-60 calls per hour. This call volume allows the Centrex Operator to function as a directory operator only. This operator is not equipped and lacks the time to offer in-depth information or have lengthy conversations with callers who have legitimate inquiries.

EXISTING SERVICE

In order to describe options that would provide a toll-free information service, existing similar services should be considered. At present, two similar information services and 10 agency-sponsored Zenith Toll-Free information numbers are being offered in Alaska to the general public:

1. Legislative Information Offices

These offices are operated by the Legislative Affairs Agency, Division of Public Services, in fourteen communities throughout the state. They are centrally located in each community, managed by local citizens and offer a wide range of information to walk-ins and callers in the form of electronic mail to and from the Capitol, facsimile transfer and teleconferencing. Inquirors are provided with about 75% legislative information, and 25% of the information given relates to the executive branch, if it is known. Generally, the information officers in these locations are quite well-informed and know where to direct people for correct answers to non-legislative questions. However, if a citizen needs to call an agency it is at his or her own expense. The legislative offices do not offer free long-distance telephone calls.

2. Governor's Offices in Anchorage, Nome, Fairbanks & Kotzebue

The Anchorage Governor's Office offers an in-depth service to citizens, often providing specific answers during the initial call precluding the need for another call. The Anchorage staff has compiled a detailed State government guide which lists programs, agencies, commissions, acronyms, abbreviations and much more, to which they refer when answering queries. The other offices do not have staff to answer numerous telephone calls as they act more broadly in representing the Governor in those rural areas. All offices refer questions or problems to the Governor's Office in Juneau and other agencies for reply. This service is extremely well-received but does not answer the need for relief from long distance charges since there are no toll-free lines into these offices.

3. Presently, six State departments operate Zenith Toll-Free numbers to provide specific information.

Department of Environmental Conservation

DEC has provided a toll-free number for the reporting of oil spills since 1977. The infrequent calls to this number (2-3 per month) are primarily from the general public because most oil spills are reported by people or agencies that are familiar with other DEC numbers.

Department of Education

DOE lists a toll-free number in its publications that relate to their Learn/Alaska instructional television channel. Interested viewers can call in for printed material that relates to the programming, offer comments or ask questions. This number is not intended to reach the general public; rather it is aimed at elementary and secondary educators. Started in January, 1982, the number averages 15-20 calls per month.

Community and Regional Affairs

C&RA's Division of Housing Assistance has had a toll-free number for two years which provides information to the general public about three C&RA housing assistance programs. Although the traffic is somewhat seasonal, this number averages 15-20 calls per day.

Department of Revenue

Revenue presently has three toll-free numbers: two that provide information about Permanent Fund Dividends and one that gives Child Support Enforcement information. One of the permanent fund numbers, activated two years ago for taxpayer assistance, presently receives 780 calls per day for dividend information. The other number, installed in January, 1982 for Ketchikan area residents to call Juneau, is also used primarily for dividend information. It has been receiving up to 300 calls per day recently. The Child Support Enforcement number handles 300-500 calls per month.

Department of Labor

Labor uses two toll-free numbers as an inexpensive alternative to offering permanent staff in two locations. Valdez does not have a Job Service office, so employers and job seekers in that area can call toll-free to the Glenallen Job Service office. Similarly, people in Fairbanks who want labor market information can call toll-free to the labor market economists located in Anchorage.

Lieutenant Governor's Office

The Division of Elections in the Lt. Governor's Office began offering toll-free service in their offices in Anchorage, Fairbanks, Juneau and Nome in June, 1982. Information about election and filing dates, candidates and issues is provided. Since the service is new and not well publicized yet, no traffic data is available.

OPTIONS

There are three options that are most practical for providing a toll-free service, in terms of cost, timely installation and personnel requirements.

Option One

One solution is to expand the Governor's office staff in Anchorage and install toll-free (Zenith) telephone service to that facility. The present staff could not sufficiently handle the impact of a new free service, so at least one full-time person would have to be hired, as well as back-up personnel.

These employees would be responsible for providing information to callers and keeping the information document current.. Work involving the collection and verification of State agency numbers in Anchorage for local telephone book listings is presently handled by the Anchorage Governor's Office and would become another responsibility of the Information personnel.

It is estimated that work related to the toll free service would involve 65% of two employees time. The remaining 35% could be devoted to other work in the Governor's Office.

In 1981, the Anchorage office received over 35,000 calls; sometimes up to 200 calls per day. This was double the 1980 figure. Most calls were local; the remainder were primarily from within Southcentral Alaska, (at caller's expense), and less than 2% were from out of state. Not many of the calls received were longer than three minutes, and most queries related to employment, public assistance, agency phone numbers, loan programs and other government-supplied services. Due to their up-to-date information on hand, the Anchorage staff could answer questions adequately, in most instances.

Option Two

Another option is to locate the new service in Juneau, within the Department of Administration on the 10th floor of the State Office Building, or within the Governor's Office in the Capitol. In either case, new staff would be required, as well as work and equipment space. Back-up personnel would be necessary as well. Unlike the Anchorage location, where training is readily available, training would have to be arranged or a person hired who is familiar with State agencies and the functions and operations of State government. This can be done with little difficulty, provided it is clear what information is to be provided, i.e., level of service offered and who is responsible for its accuracy.

Option Three

A third option is to locate this service in Juneau in conjunction with the Centrex Operator position which is presently located on the 8th level of the State Office Building in a central, publicly-accessible area. This office is actually a glass cornered booth. Presently, this space is arranged for only one person who sits at a central switchboard. While it appears that the operator sits there to answer questions for passers-by while answering the phone, that is actually not his or her function. He or she is a central switchboard operator with access to over 1600 telephone stations in Juneau. Callers from all over the State who want an agency, name and/or telephone number, are assisted by the operator who offers only directory assistance, but has the ability to transfer many of the inquiring callers from the switchboard directly to the agency they seek. This operation could

be expanded to include two operator stations, one offering toll-free information service and the other handling local and centrex directory calls. To do this would require some remodeling of the space around the present operator station, adding appropriate acoustic treatment and accommodating two persons. It is possible also, that this arrangement would free the present operator from receiving so many calls as to allow for more adequate response to public (including tourist) inquiries at the window of the booth. Since there are no signs or indicators on these windows now, it could be advertised to note "State Government and Directory Information," or something similar. Tourists with other types of inquiries would still be directed to the local Juneau Chamber of Commerce log cabin only a few blocks away.

While gathering information for this study, need for another service associated with the Juneau Centrex was discovered. It is included here in the discussion of Option Three as a recommended consideration in addition to a toll free service. The desire is to have at least two "lobby phones" installed outside the booth for State business use. These phones could be restricted so as to only accept Centrex (465 prefix) calls and would provide a convenient and free way for state employees and other visitors to call ahead before dropping in for unscheduled visits. The placement of the phones by the Centrex Operator's booth would allow easy access for questions, numbers or other information.

COSTS

Both one-time and on-going costs must be considered for the provision of toll-free service. One-time costs would include purchase of equipment for options 2 & 3, advertising the service, telephone company installation charges, and remodeling for option 3. On-going expenditures would include the costs of the Zenith line and local telephone company lines, toll charges, salaries for new positions and listings in Alaskan telephone directories.

ONE-TIME COSTS

Equipment

Staff in the Anchorage Governor's Office keep all data for their information document in an information processor in order to facilitate updating. Changes are entered as they become known and updated versions are run off quickly and easily. To provide this type of equipment to a new location, as in option 2 or 3, would require $20,000. If the Anchorage Governor's Office continued to provide service to the Anchorage area and a new location provided the same information to the rest of Alaska it would be advisable for the two information processors to have communication capability (via phone line) in order to exchange new data. If option 3 is adopted, the Centrex Operator's data could be filed in the information processor also.

Advertising

In order for this new service to receive maximum use, its availability will have to be publicized statewide. One scenario to accomplish this would be to mount a traditional month-long advertising campaign using Alaska's print and electronic media. The Governor could issue a press release, followed by maximum runs of three 30-second T.V. and radio Public Service Announcements and display ads in Alaska's newspapers. Given that two channels of statewide T.V. exist, as well as 12 T.V. and 50 radio stations, it seems that the information could be disseminated easily at relatively low cost. If newspaper display ads were added to the campaign the cost would triple and although newspaper advertising would assure complete statewide saturation, an adequate campaign could be run without that component. Costs for a T.V. and radio campaign would be $4,500. Display ad costs would be estimated at $15,634. Details are included in Attachment #1.

Local Telephone Company Installations

$206 would be needed to provide the installation of four telephone instruments and associated lines. One would be for the Information Operator, one to allow the information processing equipment to communicate with its counterpart in Anchorage and two would be for lobby phones.

Remodeling

The remodeling of the existing Centrex Operator's space mentioned in Option 3 would include carpentry work to reconfigure the space, some additional furniture, signs and special accoustical treatment to provide sound insulation. Also, one additional electrical power circuit would be needed for the information processor components. It is estimated that $7,000.00 would be needed.

Training

Training new personnel, if Option 1 is not adopted, should take place in the Anchorage Governor's Office as that office currently provides the service closest to the kind described in the this report. It would be advisable to send the new staff person to Anchorage so the person could see Anchorage personnel in action and more importantly, to see how the information processor is used in conjunction with the information document. Airfare and per diem for two days in Anchorage would cost approximately $460.00.

If the Anchorage service was kept in place and additional service added in Juneau it would still be advisable to send new personnel to Anchorage to insure proper coordination of the two services as well as training.

It is assumed that any new personnel hired would be familiar with an information processor and possessed the necessary skills to operate that machine.

ON-GOING COSTS

Zenith and Local Telephone Lines

A flat fee per month is charged by Alascom for the dedicated Zenith toll-free number. There is also a monthly charge from the local telephone utility for the connection to Alascom and for other associated lines.

Charges for Option 1 or 2:		
Zenith	$211.00/mo. X 12	$2,532.00
Local Telco.	$24.50/mo. X 12	294.00
Option 1 or 2 total:		$2,826.00

Charges for Option 3:		
Zenith	$211.00/mo. X 12	$2,532.00
Local Telco. (Zenith)	$24.50/mo. X 12	294.00
Local Telco. (Juneau Info. Proc.)	$24.50/mo. X 12	294.00
Local Telco. (Anch. Info. Proc.)	$24.50/mo. X 12	294.00
2 Centrex lobby phones (Juneau)	$1.69/mo. X 12	20.28
Option 3 total:		$3,434.28

Toll Charges

Associated costs are the long distance calls made by the people using the Zenith number and charged to the State. If 120 three-minute calls are placed per day to the Zenith number and are divided equally among regions, using Ketchikan, Nome, Fairbanks and Kotzebue as examples, the following cost assumptions can be made:

	To Juneau From	
Ketchikan	@ 1.65/3 min. x 30	$ 49.50
Nome	@ 2.75/3 min. x 30	82.50
Fairbanks	@ 2.55/3 min. x 30	76.50
Kotzebue	@ 2.75/3 min. x 30	82.50
		$ 291.00 plus tax

ON-GOING COSTS (cont.)

	To Anchorage From	
Ketchikan	@ 2.55/3 min. x 30	$ 76.50
Nome	@ 2.40/3 min. x 30	82.50
Fairbanks	@ 1.65/3 min. x 30	49.50
Kotzebue	@ 2.40/3 min. x 30	72.00
		$ 270.00 plus tax

Per 20-day month, based on above, typical costs would then be:

	Monthly	Annually
To Juneau	$5,820.00	$69,840.00
To Anchorage	$5,400.00	$64,800.00

If Option 3 is chosen the information processors would need to "talk to each other" at least once a week to update information. Since computers communicate much more rapidly than people, two full pages of information could be easily transmitted in one three-minute call. As the station-to-station daytime rate for calls between Anchorage and Juneau is high ($2.55/3 min.), it would be advisable for a weekly call routine to be established rather than having the processors call each other every time new information is obtained. The cost for 52 three-minute calls would be $132.00.

Salaries

Along with toll charges, personnel costs must also be considered. There is presently great disparity between the Centrex Operator position at a Range 7 and the Information Officer in the Governor's Office at a Range 14. Where this new position fits in depends on the level of service provided and the knowledge required to fill the position. Range 7 is paid $1,319.00 per month; Range 14 - $1,995.00 per month.

Listings in Alaskan Telephone Directories

$288.00 would be needed annually to list the Zenith Toll Free number in Alaska's telephone directories.

COST SUMMARY

Annual costs described herein include charges for the Zenith number, typical toll charges, salary for one Information Operator (Range 10) and charges for telephone directory listings.

One-time costs include equipment and training (Options 2 and 3), telephone and line installations, advertising and remodeling (Option 3).

	Annual	One-Time	Total
OPTION ONE Information service in Governor's Office, Anchorage	$ 87,990.00	$ 4,547.00	$ 92,537.00
OPTION TWO Information service in Governor's Office or Department of Administration, Juneau	93,030.00	25,007.00	118,037.00
OPTION THREE Information service in State Office Building, 8th Level, Centrex Booth, Juneau	111,654.88	32,166.00	143,820.88

RECOMMENDATION

There is not one option that will absolutely offer the best possible service statewide to all Alaskans. This is due to the existence of similar services in some state locations, the difference in costs for long distance calls between points and because start-up costs will differ in each location. Therefore, the recommendations herein is based on the best possible compromise of all considerations:

1. Promote existing services
2. Implement Option 3 (Juneau Centrex Booth location)
3. Continue Anchorage Governor's Office service on a local basis
4. Coordinate new Juneau service with existing Anchorage service to create one service with 2 locations.

Since there are both Legislative and Executive branch services presently offering information, particularly in the rural areas, and considering that some State agencies have toll-free numbers operating now, it seems reasonable to promote these services as much as possible.

While the present services are being promoted and it is hoped, more effectively utilized, implementation should take place for locating a toll-free number in Juneau. While it may take longer to develop, the most suitable permanent location would be on the 8th level of the State Office Building in conjunction with the Centrex Directory Operator. It seems appropriate for this service to be located in the capital where state government access is greater and the up-dating of information is more readily available. Also, there would exist a natural exchange of current information between the Directory Operator and the Information Operator, which would enhance both positions and the service they provide to the public.

Further, both positions, as well as back-up personnel, could be employees of the Department of Administration, Division of Administrative Services. The Directory Operator could also handle public information at the window, while the Information Operator could handle the more in-depth calls which would not allow him/her time to deal with the walk-up public as well. Significantly, a high visibility location in Juneau will encourage state agencies to more fully cooperate when the up-dating of information is solicited from them by the operators, and will naturally help to support the function of the service, that is, to provide better access for the public to state government.

The present information service being offered by the Anchorage Governor's Office should be continued as a local service. As the majority of calls received are local, it would be silly to refer those requests to Juneau especially when the State pays the toll charges. Long distance callers could be informed of the Zenith number for future calls or referred to it if the information needed was not readily available.

The two services would work in concert and would, in fact, be one service with two locations. This service should be based on the format and information document developed in Anchorage and should utilize the interactive capabilities of two information processors. Both locations could gather data which then could be shared to provide the most current information to the public.

Initial training should be conducted by Anchorage personnel. Additional training should include an understanding of what present services are offered and materials should be supplied to the operator by these agencies. A frequent liaison

should develop between these offices and the Operator for continual up-date and information exchange. The Information Operator should also develop a working rapport with the Information Officers of each state department, as well as become familiar with the primary function of the departments.

The Information Operator must not only have personable telephone courtesy skills, but must be well-organized, thoughtful, deliberate and accurate. He or she must have the tenacity to follow-through and have self-initiative to provide an adequate level of service to the public. Additionally, previous experience with information processing equipment would be necessary. These criteria make the demands of the position somewhat greater than those of the Centrex Directory Operator position at a Range 7. However, it has been felt for sometime that Range 7 has not been sufficient for the Centrex Operator position due to the high pressure nature of that position. In developing the new Information Operator position as recommended, the duties of the Centrex Directory Operator could change enough to allow handling the questions of passers-by at the windows of the operators' booth. It is recommended then, that the Information Operator be hired at a Range 10, equivalent to a Secretary I, and that the Directory Operator be upgraded to a Range 8.

There has been question about transferring long-distance Zenith calls from the Information Operator station to agencies on the State Centrex System. While this would certainly be an enhancement to the overall service, it would also add considerable expense due to the length of the "free" call. Based on the assumption that the Information Operator will be able to adequately answer most questions, transferring calls will not be necessary in most cases. However, where more in-depth service is required, the operator will refer the call to the proper agency, who will then respond by telephone or letter, whichever that agency determines is appropriate. This procedure is recommended for start-up and can be re-evaluated after the service has been operational for a suitable length of time to determine if any changes in the level of service should be made.

As noted previously in this report, this recommended option (OPTION 3) would cost the State $111,654.88 annually which covers costs for Zenith and local telephone company lines, toll charges, salaries, and Alaskan telephone directory listings. Additional one-time costs for remodeling, furniture and equipment would be $32,166.00 and if a reasonable amount of advertising was desired, an additional $4,500.00 would be needed. Maximum costs for an FY 84 appropriation would be $143,820.88.

The aforementioned recommendation, if implemented, may well be an interim measure, as the result of a present study being under-taken by the Division of Telecommunications Services. This study will review state government telephone systems and data communications networks, with an eye to developing a five-year telecommunications master plan. A requirement within this plan is to develop a state telephone network that will provide centrex to centrex calling and tie lines between urban centers. This will enable citizens to make calls to a central number at their nearest urban center that would be extended via toll-free tie lines to the appropriate agency or central information center. This is the long-term solution to more economical and efficient telephone service, as well as the permanent answer for continued citizen access to state government.

Advertising

Costs associated with advertising of a new toll-free service fall into two categories: Radio and T.V., and newspapers.

1. Radio and T.V. Public Service Announcements

T.V. - Production and duplication of three 30 second PSA's	$3,000.00
Radio - Production and duplication of three 30 second PSA's	1,500.00
Subtotal	$4,500.00

Includes copies for 12 T.V. and 50 radio stations. Distribution via these stations and the two statewide channels (TVP and LEARN/Alaska) would be free as broadcasters are required to run PSA's at no charge.

2. Newspaper Display Ads

There are eight dailies and 22 other papers that publish weekly, bi-monthly or monthly in Alaska. Prices for ads vary, but generally the larger, urban papers charge more than the rural or non-daily publications. For budget purposes two averages have been developed:

$265.00 per ¼ page ad in urban dailies
$ 98.00 per ¼ page ad in rural or non-dailies

Ads could be run four times in one month in the dailies and weeklys (25), and once in each of the others (5).

$265.00 per ad x 8 papers x 4 ads =		$ 8,480.00
$ 98.00 per ad x 17 papers x 4 ads =		6,664.00
$ 98.00 per ad x 5 papers x 1 ad =		490.00
	Subtotal	$15,634.00
	TOTAL	$20,134.00

*By cutting the size of ads run to 1/8 page, costs for newspaper ads could be reduced by half.

ATTACHMENT TWO

Total Costs for Recommendation
(Option Three)

Non-Recurring		
1.	Equipment	
	Information Processor	$20,000.00
2.	Advertising	
	3 30 sec Radio and TV PSA's	4,500.00
3.	Remodeling	
	Carpentry, Furniture, Signs, Acoustic Treatment & Additional Electric Circuit	7,000.00
4.	Local Telephone Company Installations	
	4 Telephone Instruments & Lines	206.00
5.	Training	
	Travel & Per Diem to Anchorage for 1 Person for 2 Days	460.00
	Non-Recurring Total	$32,166.00
Annual Recurring		
1.	Zenith line @ $211/mo x 12 mos.	$ 2,532.00
2.	Local Telephone Company Lines	
	3 Single Lines @ 73.50/mo x 12	882.00
	2 Centrex Lines @ 1.69/mo x 12	20.28
	Sub-total	$ 3,434.28
3.	Toll Charges	
	120 3 min. calls/day x 20 days per mo/ x 12	$69,840.00
	Information Processor - 1 3 min. call/wk @ 2.55 x 52 wks.	132.60
	Sub-total	$69,972.60
4.	Salaries	
	Information Operator (Range 1) $1,673/mo x 12	20,076.00
	Centrex Operator (Range 8) $1,487/mo x 12	17,884.00
	Sub-total	$37,960.00
5.	Alaskan Telephone Directory Listings	
	$1.20/mo x 20 directories x 12	288.00
	Annual Recurring Total	$108,982.88
	Grand Total	$143,820.88

Based on the above figure $143,820.88 would be needed in FY 84 to cover start-up and one years operating costs. For subsequent years, $108,982.88 would be needed, plus a percentage for inflation.

Possible Toll-Frees for Fairbanks

56 total

Office of the Governor - Reg. offices
Div. Elections (ZE exists)
Human Rts Comm ?

Admin
Div Personnel
Pioneers Home ?

C & ED
Div. Business Loans
Div. Econ. Enterprises

C & RA
CETA Div.

Court System
Supremes
Superior
District
Area Court Admin

Education
Libs & Mus
Voc Rehab

DEC
Regional offices
Oil Spill (ZE exists)

F & G
Regional offices
Dept Fish Info
Subsistence Sec

D & SS
Div Public Asst.
Cash-food-Med. Asst.
Fam & Youth Svcs
Div Corrections
Div Public Health
(also in Labor) Work Incentive Pgm

Labor
Regional offices
Fbks Job Service
YES
Employers Job Orders
Unemployment Insur
Rural Svcs
Workmans Comp - OSHA Div

Law
DA
AG - regional off.

Legislative
LIO

Mil. Affs
Army National Guard

Nat. Res.
AK Ag Action Council (w/ Admin?)
Assay Off / Geolog. Geophys. Surys Div.
Div Forest Land & Water Mgmt.
Div Lands
Div Parks
Report Forest Fires

Ombudsman
Regional office

Public Defender
Regional office

Pub. Safety
Troopers
Fire Marshall
Fish & Wildlife
Drivers Lic.
Motor Veh.

Rev
Business Lic:
Tax Div.

DOTPF
Regional Offices
Reg. M&O
Mbls. Airport
Railroad Airport?

Possible Toll-Frees for Anchorage

89 total

Office of the Governor
- Anch Office
- St. Govt. Info
- Div. Elections
- Human Rts Comm ?
- Ak Land Use Council

Admin
- Div. Personnel
- Anch. Pioneers Home
- Public Defender

Ak Oil & Gas Conservation Comm.

Ak Ren. Res. Corp.

C & ED
- Business Loans
- Div Tourism
- Occ. Lic.
- APUC
- Transportation Comm

CoRA
- CETA Div.
- ANSCA
- Housing Asst Div.
- Local Govt Asst.

Court System
- Dist Court Admin
- Superior & Dist
- Supremes
- Birth, Death, Marriage Certs
- Magistrate

Ed
- Commish Rep
- Ak Historical Comm.
- Voc Rehab
- Libs & Mus
- Arts Council
- Ed Pgm Spt.
- Post Secondary

DEC

Regional offices
Solid Waste
Permit Info & Referral
Seafood & Animal Inspection

F&G

Regional Offices
Hunt & Fish Info (recording)
Game Div
Sport Fish Div
Comm Fish Div
FRED Div
Habitat Div

DHSS

Regional Offices
Alcohol & Drug Abuse
Div Corrections
Fam & Youth Svcs. Div.
Health Facilities & Licensing
API
Div Pub. Asst.
Div. Pub. Health

Labor

Regional ofc.
Emp. Security Div.
Anch. Employment Center
Unemployment Ins.
Workmen's Comp.

Law

AG
DA

Legislature

Anch L-IO

Mil. Affs

Ad Gen
Div Emergency Svcs.
Alt Nat Guard Hdqts
Civil Air Patrol

Nat Res

Regional ofc.
Div. Agriculture
Forest, Land & Water Mgmt.
Fire Supression
Geolog & Geophys Survey Div
Mins & Energy Mgmt Div.
Div Parks

Ombudsman

Dnch ofc.

Pub. Safe

Troopers
Div Fire Prevention
Fish & Wildlife Protection
Div Motor Veh.

Revenue

Perm Fund Info (ZE exists)
Taxpayer Dsst.
Child Support Enforce Div.

DOTPF

Statewide M&O
Road Condition Reports
Dnch Airport
Marine Trans
Railroad

OTHERS -
Frequently Called

DNFC
DL St. Doose Auth
Dpp - Longevity Bonus
Consumer Protect.
Coop. Ext. Svc.
Vital Stats

Agencies (82 possible)

for Zenith (possibly)

Juneau

- Gov's Office
- Div Elections

Administration

- Commish
- Municipal Grants
- APOC
- Ex Exec
- GSBS
- Purchasing
- Archives
- Labor Relations
- Personnel
- Older Alaskans Commish
- Pioneer Benefits
- Public Defender
- Retire & Benefits
- Telecom Services

Commerce

- Commish*
- ASHA*
- State Dev Corp
- V.A.
- Econ Dev.
- Energy & Power Dev*
- Commerce (Cont)
- Occupational Licencing
- Pipeline Comm. *
- Transport Comm. *

C & RA

- Commish
- CETA
- Local Govt Asst.
- State Assessor.

DOE

- Post Secondary
- Commish
- Correspondence Study
- Telcom
- Public Info
- Mgt Law & Fin
- Ed. Program Support
- Voc Rehab
- Libraries

DEC

- Commish
- Enviro Quality
- Oil Spill (ZE exists)

F&G

Commish

SE Region

comm Fish

Subsistence

Game

H&SS

commish / Public Info

Alcohol / Drug Abuse

Family & Youth

Mental Health

Public Assistance

Public Health

Judicial

Supreme

Superior

Dist

Labor

Information

ESC

Commish

OSHA

Workmen Comp

Empl. Center

Law

Attorney. Gen

Chief Prosecutor

Military Affairs

Director

Emergency Services

Ombudsman

Post Secondary Ed Comm.

Director

Student Loans

Public Safety

commissioner

Fish & Wildlife

Motor Vehicles

State Trooper Det. A

Revenue

Commissioner

Income Tax info

Public Services Div

Enforcement Div

Juneau Field Office

Treasury Div

DOT/PF

Commish

Information HQ

Information EE

Pers

Marine Highway Systems

MEMORANDUM State of Alaska

TO: TED MCINTIRE

DATE: DECEMBER 8, 1982

FILE NO:

TELEPHONE NO:

FROM: JOHN J. CAMERON

SUBJECT: ALASKA STATE LEGISLATURE TOLL-FREE INFORMATION

1. OPERATIONAL CONCEPT
   The information operator position will be equipped with a SL-1 Display Feature Phone that provides ten (10) programmable keys for direct access to telephone lines and/or features (call transfer, ring again, release, conference, etc).

   The incoming call shall be to one Listed Directory Number (LDN) that is in a four (4) line hunt group. Therefore there can be 4 calls being processed at once by the operator. The operator can provide information, take memo messages or forward the call to the appropriate number.

   Four (4) lines in rotary hunt should provide that there be an available line to the calling public most of the time. The rotary hunt group hunts from the smallest number to the largest number (1 to 4) at all times, therefore allowing the operator to answer the calls sequentially.

2. EQUIPMENT AND CIRCUITS
   a) SL-1 display feature phone
   b) Operator headset
   c) Zenith telephone circuit
   d) Four (4) centrex lines in rotary hunt group

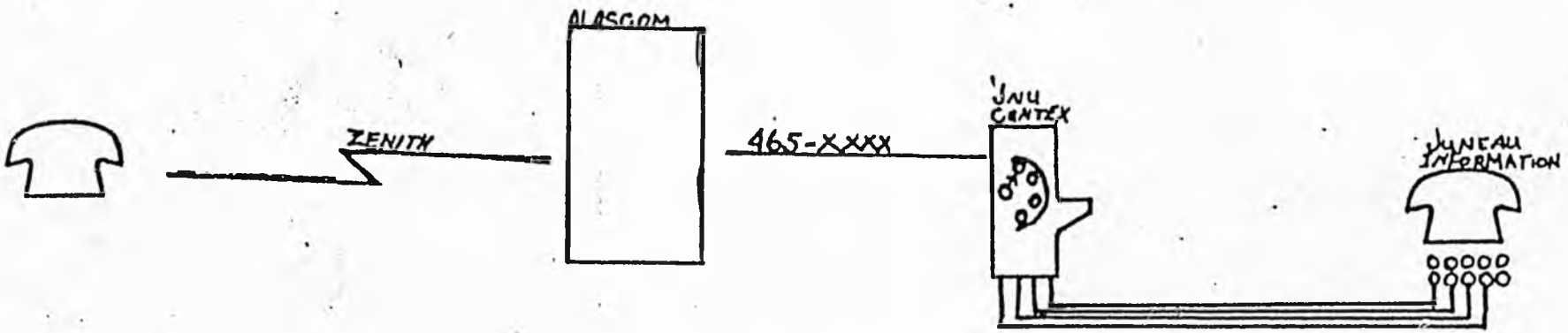
3. COSTS, ONE TIME INSTALLATION

a) SL-1 Display Feature Phone	1 @ $700.	$700.
b) Operator headset	1 @ $150.	$150.
c) Zenith number	1 @ $27.	$27.
d) Centrex lines	4 @ $40.	$160.

4. COSTS, MONTHLY RECURRING

a) Zenith number	1 @ $215.	$215.
b) SL-1 Display phone data line	1 @ $11.	$11.
c) Operator assist long distance charges, estimated at $3.15 average per 3 minute call		$????.??

ALASKA STATE LEGISLATURE
JUNEAU TOLL-FREE INFORMATION



TELECOMMUNICATIONS SERVICES

4. MESSAGE TELEPHONE SERVICE (Cont'd)
4.2 Schedules of Charges (Cont'd)
4.2.2 This-Line Message Telephone Rates (Cont'd)
(c) This-Line Message Telephone Rate Schedule

			Station-To-Station						Person-To-Person			
			Day		Evening		Night Sat & Sun		Day		Eve, Night Sat & Sun	
Zone	Mileage From	Mileage To	First 3 Mins. $	Each Addl Min. $	First 3 Mins. $	Each Addl Min. $	First 3 Mins. $	Each Addl Min. $	First 3 Mins. $	Each Addl Min. $	First 3 Mins. $	Each Addl Min. $
1	0	34	.45	.10	.45	.10	.45	.10	.90	.10	.90	.10 (x)
2	35	49	.55	.15	.55	.15	.45	.10	1.10	.20	1.10	.20
3	50	64	.65	.20	.65	.20	.45	.10	1.30	.20	1.30	.20
4	65	94	.75	.20	.65	.20	.45	.10	1.45	.20	1.40	.20
5	95	124	.90	.30	.75	.20	.45	.10	1.85	.30	1.65	.20
6	125	154	1.10	.35	.85	.25	.55	.15	2.20	.35	1.95	.30
7	155	184	1.30	.35	1.00	.30	.65	.20	2.55	.35	2.30	.30
8	185	214	1.45	.45	1.10	.35	.75	.20	2.95	.45	2.55	.35
9	215	274	1.65	.55	1.30	.35	.85	.25	3.30	.55	2.95	.35
10	275	334	1.85	.55	1.40	.45	.90	.30	3.65	.55	3.20	.45
11	335	394	2.00	.65	1.55	.45	1.00	.30	3.85	.65	3.40	.45
12	395	454	2.20	.70	1.65	.55	1.10	.35	4.05	.75	3.50	.55
13	455	574	2.40	.75	1.85	.55	1.20	.35	4.20	.75	3.65	.55
14	575	814	2.55	.85	1.95	.65	1.30	.35	4.40	.85	3.75	.65
15	815	1174	2.75	.90	2.10	.65	1.40	.45	4.60	.90	3.95	.65
16	1175	-Over	2.95	.90	2.20	.75	1.40	.45	4.75	.90	4.05	.75 (x)

7:00 AM - 5:00 PM

(x) Subject to a temporary discount of 12.3% until the terms and conditions of Order 27 of A.P.U.C. Docket U-78-4 pertaining to the temporary discount are fulfilled.

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-4954

LETTER OF INTENT

It is the intent of the State Affairs Committee that immediate implementation of CS for SB 27, "An Act relating to toll-free telephone calls to state agencies," would be in the best interest of the State. However, the committee recognizes that additional information will be required to determine what type of permanent toll free telephone service will best serve the public. Therefore, the committee requests that the Governor implement CS for SB 27 by directing state agencies to accept collect telephone calls from the public as a pilot project for one year from the date of the passage of this legislation.

As part of the pilot project the committee requests that the Governor:

1) direct the Commissioner of Administration to designate a sufficient number of agency toll free telephone numbers to allow adequate access to all agencies which serve the public;

2) develop a policy for refusing or terminating nuisance, harassing, abusive or frivolous collect calls;

3) develop a policy to deter unnecessary inter-agency collect calls;

4) direct agencies to keep uniform records on collect call utilization and costs;

5) direct the Commissioner of Administration to study all feasible alternatives and make recommendations for implementing a permanent system of toll free calls and;

6) submit a report on the pilot program, including the above recommendations, to the legislature by February 1, 1984.

It is the intent of the committee that the pilot program be implemented at the least possible cost to the State and therefore requests that the Governor direct State agencies to pay for collect calls during the remainder of FY83 from funds saved by decreased travel of State employees.

_____
SEN. VIC FISCHER, CHAIR

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

M E M O R A N D U M

TO: House State Affairs Committee

FROM: Representative Barbara Lacher

DATE: March 23, 1983

SUBJECT: HB 97

It is my belief that implementation of HB 97, "An act relating to toll-free calls to state agencies," is to act in the best interests of the State. I recognize that additional information will be required to determine what type of permanent arrangement for toll-free telephone service will best serve the public. Therefore, I request that information of HB 97 be in the form that directs state agencies to accept collect telephone calls from the public as a pilot project for one year from the date of the passage of this legislation.

As part of this pilot project, the Governor should be requested to:

1) direct the Commissioner of Administration to designate a sufficient number of agency telephones on which collect calls will be accepted, that will allow adequate access to all agencies which serve the public;

2) develop a policy for refusing or terminating nuisance, harassing, abusive or frivolous collect calls;

3) develop a policy to deter unnecessary inter-agency collect calls;

4) direct agencies to keep uniform records on collect call utilization and costs;

5) direct the Commissioner of Administration to study all feasible alterations and make recommendations for implementing a permanent system of toll-free calls and;

6) submit a report on the pilot program, including the above recommendations, to the legislature by February 1, 1984.

I also submit, for the Committee's consideration, the following proposed changes to wording in the bill which are intended to clarify the intent of the legislation.

Line 12. Following the word "calls," delete "to a state agency by residents of the state," and insert "originating in the state to a state agency."

Line 15. delete the words "including the University of Alaska."

TELELINK
COMMUNICATIONS INC.

March 31, 1983

The Honorable Mitch Abood
Chairman House State Affairs Committee
Alaska State Legislature
Pouch Y
Juneau, Alaska 99811

Dear Representative Abood:

In response to your request I have forwarded TELELINK's proposal on toll free dialling to Ms. Sioux Plummer at the Division of Telecommunications Services. I have also provided you with a copy for your committee's review.

TELELINK's proposal allows the State to start with a limited number of toll free lines and incrementally increase the number if telephone traffic warrants. I believe the advantage of having single number access to all state agencies, coupled with the fact that an Alaska corporation like TELELINK can provide this service in lieu of increased state government has its merits.

If you should have any questions or require our assistance in this matter, please don't hesitate to call.

Sincerely,

Stuart P. Browne
President

cc: Ms. Sioux Plummer, Division of Telecommunications Services

A Proposal for a Model Toll-Free Dial Access Service

TELELINK Communications, Inc., an Alaska based company providing advanced telecommunications services, proposes to install and operate a toll-free dial access service through which Alaska citizens could call government agencies in a unique and cost effective manner.

TELELINK proposes to establish a group of INWATS lines which would connect to an automatic call distribution system (similar to those used by airlines) that is operator attended on a ten hour per day, five day a week basis for answering and forwarding calls to State agency offices. TELELINK's proposed service would also provide an information directory service, 3-way call conferencing to enable a citizen caller to talk to two state locations simultaneously, and will electronically capture call detail information such as:

- Number of calls to a particular agency
- Average length of calls (call holding time)
- Time of day
- Number of calls not answered after 3 rings

This call detail would be provided by TELELINK to the Division of Telecommunications for traffic analysis and modelling.

TELELINK proposes to operate a toll-free dialling service, on a trial 1 year basis in the following manner.

TELELINK will install a group of 6 Inbound 800 WATS lines. A single lead number such as 800-426-1234 would be the prime number that would be listed and advertised for public access. A citizen wishing to call a State agency would call the 800 WATS line number which would be answered by one of several TELELINK operators in a manner such as - "Alaska Telecenter, may I help you?" The calling party would give the Telecenter operator the agency telephone number if known. The operator would then speed dial the call to the appropriate agency and connect the two parties. If a calling party does not have the agency number or is unsure of which agency to contact, the Telecenter operator will access a computerized information base from a keyboard console. The information base will have telephone directory numbers, agency names and other information such as commissions, chairperson telephone numbers, etc. Once the Telecenter has assisted the calling party in identifying the number to call, the operator speed dials the call to the agency completing the call. In the case of a called party being unvailable or if the agency called is unable to assist the calling party, the calling party can recall the Telecenter operator by touching 0 (if they have a touch-tone telephone) allowing the operator to redial another agency or take a message for later delivery.

TELELINK's service approach provides Alaskan citizens calling State government with these benefits:

- Single number access
- Personable operator answering
- Information and directory assistance in locating the appropriate agency

- **The opportunity to call more than one agency through a single transaction, and call conferencing to enable two agencies or two state extensions to assist a caller through a simple 3-way conference.**

TELELINK proposes to provide the service to the State on a one-year trial basis. Since the system will provide sophisticated call detail reports, the State will have ample information to plan for a permanent system. A proposal to use collect calling or Zenith lines as an interim results in high toll costs and inadequate call detail information. It also does not satisfy the need for single number access to all State agencies.

The cost for TELELINK to provide the proposed toll free dialling service would be as follows;

Monthly Service Fee - $18,456

(Includes Inbound and Outbound WATS lines, operator answering, information service and call detail reporting)

Cost Per Call - $1.00 Per Minute

For the first 40 hours after 40 hours the call rate drops to $.89 per minute.

Cost Assumptions

6 INWATS lines, each capable of handling six ten minute calls per hour during a ten hour a day operation.

60 calls/day/line		
6 lines		
360 calls day		
x 20 days per month		
7,200 calls per month		
x 12		
86,400 calls per year =	864,000	call minutes annually
	x 1.00	per call minute
	$864,000.00	annual toll charge
Monthly Service Fee -	$ 18,456.00	
	x 12	months
Annual Service Fee	$ 221,472.00	
Annual Call Volume	$ 864.000.00	
(Projected)	$1,085,472.00	

TELELINK can initiate the service as described within 90 days. Since the State would contract with TELELINK for only a one year trial basis, TELELINK would require the first and last months service fees at the time of contract initiation..

TYMSHARE

Alaska Mail Interconnect Proposal

Western State and Local Governments
555 Capitol Mall #675
Sacramento, CA. 95814

--- PRIVATE ---

Confidential

Proposal

Not For Distribution

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I. EXECUTIVE OVERVIEW

A. CURRENT SYSTEM

The State of Alaska currently uses a variety of computers and electronic mail systems (EMS's). These systems are located in three different geographic areas: Juneau, Anchorage and Fairbanks. A user on any one of these computer systems cannot send a message in a reasonable manner to a user on another host. (See attached list of computer systems). As a result, users must rely on more traditional forms of communications which are frequently inefficient, time consuming and costly.

TYMSHARE and its wholly owned subsidiary, TYMNET, are able to provide the State of Alaska a complete offering of powerful technologies to effectively integrate dissimilar EMS's residing on the different computers.

B. TYMSHARE'S PROPOSED SYSTEM

Using proven technologies, TYMSHARE is prepared to install and operate a system specifically designed to enable users of different electronic mail systems to communicate with one another and with TYMSHARE'S electronic message network, "OMTYME". This mail 'interchanger' is user friendly and essentially transparent to existing mail systems.

The implementation of this solution has many benefits.

-> No time or effort is required to modify existing EMS's.

-> The Interchange System will handle most future changes and upgrades of the EMS's as well as new EMS's.

-> It is practically invisible to the user.

-> Single Vendor

-> Minimal training

C. TYMSHARE'S CAPABILITIES

TYMSHARE is an international corporation providing information and communication services to business, industry, government and other institutions throughout the world. We bring together proven computing and communication technologies that provide our clients with state-of-the-art solutions to information problems or needs. Our established capabilities reflect a careful blend of an intimate knowledge of complex hardware and software technology and financial strength.

D. TYMNET CAPABILITIES

In 1969, TYMSHARE began growing a network to deliver it's remote computing services. Over the years the network's capabilities attracted an increasing number of network users who connected private hosts into the network. In 1977, TYMNET INC. was founded as a wholly-owned, FCC regulated subsidiary of TYMSHARE, INC.

TYMNET, the world's largest and most sophisticated public packet network currently supports over 1000 network nodes and is expanding at the rate of more than 20 nodes per month. It has supported more users with a greater variety of computers and terminals over a larger period of time than any similar technology or service.

E. TASKS

There are three primary tasks which must be accomplished to affect this solution.

1. Development and testing of software

2. Connection of the State owned host computers to TYMNET

3. Installation, training and operation of the system

The basic steps to complete each of these tasks are in the TECHNICAL SOLUTION section of this proposal.

F. SOFTWARE

The EMS Interchange Software consists of existing technologies of TYMSHARE/TYMNET and is largely proprietary at this time.

The entire system will be available for purchase within 3 years of usage by the State of Alaska. The exact timing for this availability has not yet been determined.

The TYMSHARE Interchange Software permits the users of the State owned EMS's and State subscribers of TYMSHARE'S electronic message network "ONTYME" to to exchange messages in a way that is almost transparent to the individual user. This software resides on TYMSHARE hardware and interfaces with the EMS's in such a way that the State's systems view TYMSHARE's software as a legitimate mailbox that can send and receive messages. As such, the TYMSHARE software is designed so the State can change or upgrade it's systems or software with little regard to the kind of system the sender or receiver is using. This means the State can make changes with the anticipation of minimal, if any additional expenditures.

In the future the Interchange Software may reside on either a TYMNET ISIS slot or State of Alaska host. This is of particular importance if the State's long term plans include a private network.

II. SYSTEM OVERVIEW

The proposed system consists of three highly integrated components:

A. Alaskan computers will be linked to TYMNET.

Because TYMNET is 'intelligent' it performs several functions required in this application. The network will be responsible for building circuits between devices, handling communication protocols, data integrity and network statistics.

B. Electronic Mail Systems (EMS)

Various EMS's run on different Alaska hosts and have different characteristics. TYMSHARE will also offer ONTYME as an optional EMS.

Each mail system will run with no changes and will be completely unaware of the mail exchanger. The exchanging will be done through a valid mail address on each EMS where mail will be sent and received.

The Exchanger is designed to give each EMS the control over it's own user directory. Thus the directories do not require any updating to the Exchanger. As a result, the Exchanger does not need to be aware of the contents of any user directory, and therefore will not produce EMS directory listings.

The only new feature in each mail system will be the requirement to place structured information in the beginning of the message text. The exchanger will break out the inserted text and use it to rebuild the message and send it to the destination EMS.

C. The EMS Exchanger

The exchanger is a program that resides on TYMSHARE hardware and 'drives' the application.

The exchanger will be hardwired to the network and will send directives to the network supervisor (a special node) to build circuits between an Alaskan host and itself.

Once a circuit is built, the exchanger will approach a mail system as though it were a 'standard' user. It will send and receive messages from a mail address with the main difference being that everything is automatic and electronic. (received messages are stored in a file on the exchanger's disk)

After the exchanger has disconnected from the source computer, it analyzes lines of text in each message, then sorts and restructures the message to be compatible with the destination EMS and stores it for future delivery.

The exchanger now establishes a new circuit to the next host and begins the process all over. The timing between cycles is adjustable and can be changed if desired.

III. TECHNICAL SOLUTION

There are three primary technical tasks which must be accomplished to affect a successful solution.

A. TASK #1 DEVELOPMENT AND TESTING OF EXCHANGER

-> Learn the technical operational characteristics of each EMS.

-> Write a functional specification.

-> Review and approval of the functional specification.

-> Design Exchanger application.

-> Develop Exchanger.

-> System testing.

-> Acceptence testing.

Initially the exchanger will reside on TYMSHARE hardware for a sufficient period to allow the application to settle. After the system is reasonably static, the exchanger may be moved to a TYMNET node and reside in an 'ISIS' slot.

B. TASK #2 CONNECTION OF THE STATE SYSTEMS TO TYMNET

Five interfaces are necessary to connect the three 3705's in Juneau and the two 3705's in Anchorage. X.25 software which runs on the 3705 is required and is available from IBM or from TYMSHARE. The X.25 interface will allow both 3270 and asynchronous traffic.

X.25(1) interfaces operate at 4800 or 9600 BPS; both require a one time installation or upgrade charge. It is our belief that 9600 BPS should be used as it will eliminate the need to upgrade from 4800 BPS.

The DEC, Honeywell and WANG systems will require one interface each. X.25 can only be used with a programmable front end (F.E.). If the F.E. is not sophisticated enough to run the X.25, then a port to port connection into onsite TYMCOM-X's would be necessary.

The proposed costs for these connections and the cost of their continued operation is based on all of the systems identified in this proposal being connected to the network. If the State elects to have fewer systems connected, the costs associated with this TASK would be reduced. (See SECTION IV., PRICING)

With these connections, the Alaska systems will be accessable via dial-up terminal from anywhere that TYMNET offers service providing the State has given access rights. Terminals hardwired to an Alaska host will not have access to other host computers via TYMNET unless appropriate software exists. All access of this type is outside the scope of the EMS Interchanger and each Data Center granting access of this type will receive a separate TYMNET billing at standard State of Alaska rates for dial-up access through TYMNET.

(1) X.25 software for the IBM 3705's is available from IBM or TYMNET. X.25 for the other systems must be supplied by the State.

C. TASK #3 INSTALLATION AND TRAINING

The Exchanger will be installed at the TYMSHARE office in Sacramento, California for it's initial operation and can be moved to Alaska when it reaches production status. (Estimated at 6 months)

Because the Interchange Software is user friendly, training will require very little time and will be presented in easy-to-understand terms. The schedule for training will be mutually agreed upon.

The following reflects what we consider to be an adequate level of training:

-> A 4-hr training session will be offered twice for each data center.

-> One 4-hr training session in Juneau, Fairbanks and Anchorage in support of TYMSHARE'S Electronic Message Network ONTYME.

-> One 2-hr management overview on the capabilities of the Interchange Software.

-> Two sets of the documentation on the use of the the Interchange Software for each Data Center.

-> Two sets of the ONTYME System Managers Documentation for each data center subscribing and sufficient pocket guides for the users of ONTYME through each subscribing data center.

Unless Accepted
prior to this date,
the pricing
in this proposal
will be in effect only
until April 8, 1983

A. INTERCHANGER APPLICATION

(Due 180 days from contract date)

IMPLEMENTATION:

* T/L (MAX)	$15,000
* CONSULTING	9,000
* TRAINING	3,600
* DOCUMENTATION	1,000
* PERPETUAL LICENSE	25,000
TOTAL	$53,600

MONTHLY SERVICE

* BASIC RENTAL Includes first 1,000 Exchanger transactions where 1 message = 2 transactions, a message with 1 copy = 3 transactions, etc.	$3,000
* ADDITIONAL TRANSACTIONS	$0.12 ea.

B. Connection of State Owned Computers to TYMNET

Completion Date	Estimated One-time costs	Estimated Fixed Recurring Costs
150 days From contract date	$ 9,000 (2)	$12,800/month (1)(2)
TOTAL	$ 9,000	$12,800/month
Annual Cost	$ 9,000	$153,600/year (2)

Note 1: This monthly billing will be sent under seperate invoices and does not include any of the TYMNET usage charges or surcharges imposed by Alascom. These additional charges are based upon connect time and character transmission and are applied in the followins manner:

- for each 1,000 characters per month $0.30
- for each hour of connect time $6.50

Note 2: These charges are based on the TYMNET connection of all systems described in "Attachment A" of this proposal. If fewer systems are connected, these prices will be lower.

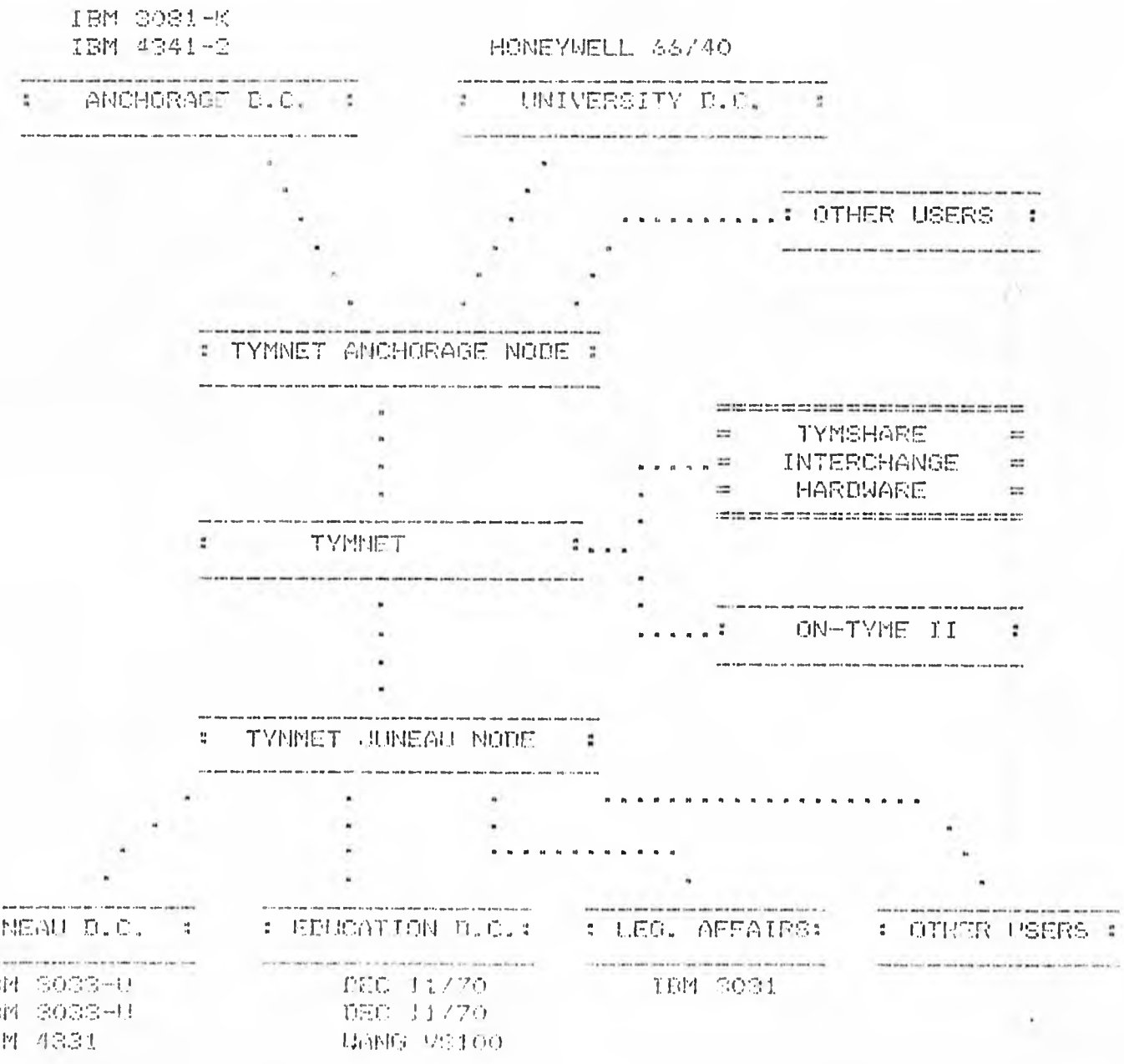
ATTACHMENT A

LIST OF COMPUTER SYSTEMS

- IBM 3033 (MVS) Juneau Data Center
- IBM 3033 (VM370) Junee Jata Center
- IBM 4341 Juneau Data Center
- IBM 3081 (MVS) Juneau Legislative Analyst
- DEC 11/70 (RSTS/E) Department of Education
- DEC 11/70 (RSTS/E) Department of Education
- WANG (VS100) Department of Education
- IBM 3081 Anchorage Data Center
- IBM 4341-G2 (VM370) Anchorage Data Center
- Honeywell 66/40-level 6 University of Alaska

ATTACHMENT B

CONFIGURATION



ATTACHMENT C

ASSUMPTIONS

For the purpose of this proposal, TYMSHARE has made the following assumptions and all pricing, time elements and growth capabilities have been based on these assumptions.

* The computers to be connected to TYMNET are those identified in "Attachment A".

* There are approximately 5,800 total users on these systems.

* A maximum of 30% of these total users will use the Interchange Software, 30% represents 1740 users.

* There is an average message size of 500 bytes.

* The maximum message size is 10,000 bytes which is approxiamtely 10 - 1,000 character pages.

* Monthly billing will be based on the following:

  - Number and duration of host connections
  - Number and size of messages
  - Normal TYMNET service charges
  - Alascom surcharge for character transmission & connect time
  - TYMSHARE hardware

* Messages that cannot be delivered due to State owned host being out of service will be stored by TYMSHARE for future delivery for a maximum of 72 hours.

* Monthly costs estimated do not include the cost of using "ONTYME". ONTYME usage will be billed separately.

* Host interfaces with TYMNET will be done on a mutually agreed upon schedule.

* After a period of approximately 12 months, the TYMSHARE hardware may reside at a State facility.

* Due to staggered installations of the host connections to TYMNET, differing peak workload cycles and learning curves, the number of users and proportionately the number of messages will gradually increase to 1740 users per month and 1740 messages per day.

David
n John

STATE OF ALASKA

HB97 - file

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C
JUNEAU, ALASKA 99811
PHONE: (907) 465-2041

DIVISION OF TELECOMMUNICATIONS SERVICES

February 8, 1983

3:00
Butrovich

Honorable Vic Fischer
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Fischer:

Here is the summary of State telephone expenditures requested by John Hartle at our meeting last Friday.

State of Alaska Communications Expenditures

	FY 81	FY 82
Long Distance	$ 5,348,820	$ 6,764,200
Regular, including Centrex and Local Service	3,440,961	4,108,700
TOTAL TELEPHONE	$ 8,789,781	$10,872,900
TOTAL COMMUNICATIONS CATEGORY	$15,359,155	$22,793,587

This information derived from print-out "Expenditure Summary Report for Statewide Expenditures" Fiscal Years '81 and '82. The "Total Communications Category" includes such items as telegraph and teletype, radio, postage and data communications.

I hope this provides the information you are looking for, if you have any questions please give us a call.

Sincerely,

Sioux

Sioux Plummer
Director

SP/bb

cc: Representative Barbara Lacher
Alaska State Legislature

02-B22LH

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811
(907) 465-4954

RECEIVED
MAR 24 1983

March 15, 1983
3:00pm

Butrovich Room
Capitol Bldg.

Members Present

Senator Vic Fischer, Chair
Senator Pat Rodey
Senator Tim Kelly
Senator Arliss Sturgulewski

CSSB 27--Toll free telephone calls to state agencies

The committee discussed the committee substitute, a letter of intent and the fiscal note. The latter was delivered only minutes prior to the meeting. Several members questioned the congruence of the fiscal note with the CS and the letter of intent.

Ralph Walp of General Communications, Inc. spoke in favor of the bill and the letter of intent. He felt that the committee should consider enhancing toll-free service with a central information operator who would direct callers to the right agency. He also stressed the need to publicize the program.

The bill was held over.

SB 83--Court leave for non-permanent employees of the state.

Terry Cramer, Executive Director of the Blue Ribbon Commission on State Personnel explained that the bill allows statutory court leave for "non-permanent" employees who are not part of a bargaining unit covered by the collective bargaining agreement. All forms of leave, including court leave, are bargainable items. However no collective bargaining agreement currently covers this type of leave.

Mike McMullen, Deputy Director of Personnel explained certain technical drafting considerations. He also explained the difference between "non-permanent" and "temporary" employees. He stated that this bill would affect about 35-40 employees.

Senator Sturgulewski moved and asked unanimous consent to move the bill from committee with individual recommendations. There was no objection.

CSSB 111--Use of teleconferences under the Administrative Procedures Act.

David Dye, Aide to the committee explained the CS to the committee. Changes from the original bill were in the nature of clarification rather than changes in substance and had been suggested by a representative of the Department of Administration at the first hearing on the bill.

Senator Kelly moved and asked unanimous consent that the bill move from committee with individual recommendations. There was no objection.

Senator Fischer adjourned the meeting at 3:45pm.

by
David Dye
committee Aide

HB

101

101

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH O — JUNEAU 99811

February 15, 1983

The Honorable Mitchell E. Abood, Jr.
Chairman, House State Affairs Committee
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

RECEIVED
FEB 16 1983

Dear Chairman Abood:

Re: HB 101

As requested by the House State Affairs Committee, the Department of Environmental Conservation, Representative Barbara Lacher's staff, and the Alaska Municipal League met to discuss the amendments proposed for House Bill 101. The Department proposed four amendments to HB 101 in its testimony before the committee on February 11, 1983. Mr. Robert Harris, testifying for Representative Lacher, objected to three of these amendments. During our discussions we were successful in reconciling our differences on two of the three objections.

All parties now support amendments 1, 2, and 4 to HB 101, which, if adopted, will match similar changes made to SB 21.

AMENDMENT #1 - Add Section 3, AS 46.03.030(d) to read:

> The Department shall, by regulation, identify those costs which are eligible costs for the purposes of this section. Eligible costs include the costs [ESTABLISHED IN A CONSTRUCTION CONTRACT] which are necessary for the construction of a project, but do not include the cost of interest in financing and right-of-way acquisition, or costs related to operation, maintenance, repair or replacement of a project. Eligible costs include the costs of the initial purshase of water delivery and sewage collection vehicles if the water delivery and sewage collection vehicles are determined by the department to be cost effective compared with conventional water supply and sewage collection systems. Eligible costs also include the cost of facilities for the maintenance and storage of these vehicles.

AMENDMENT #2

> Delete the following clause in Section 2, AS 46.03.030(e) beginning on page 1, line 29; [INCLUDING COSTS OF OBTAINING FEDERAL WAIVERS FROM THE REQUIREMENT FOR SECONDARY TREATMENT PLANTS.] This provision is now obsolete since the time period for applying for these waivers has passed.

AMENDMENT #4

The addition to the statute contained on page 1 of the bill and beginning on line 16 with the word "If" is no longer relevant. It was originally included to provide a maximum State/federal funding ceiling of 87.5 percent when 75 percent federal grants were available from the U.S. Environmental Protection Agency. Since the EPA grants are being reduced to 55 percent in 1984 and other federal grants are scarce, this provision could probably be dropped. However, until the federal law change in 1984 it is possible for some communities to qualify for a combined State/federal grant of 92.5 percent. Deletion of the subject clause from the bill will make it possible for the higher participation.

AMENDMENT #3 - No agreement reached

Add a provision in Section 1, AS 46.03.030 after line 19, page 1. Total State funding, from all sources, shall not exceed 75 percent of eligible project costs not financed by the federal government. This provision prevents the municipal grants program from fully matching legislative appropriations, which would result in 100 percent project financing by the State. Requiring a minimum of 25 percent local funding will provide for more local project management.

We were unable to reach agreement on this proposed amendment. The Administration's philosophy to limit grant participation and extend the Department's resources does not match that of Representative Lacher. The committee's evaluation on the merits of this amendment will be required.

The undersigned agree that the above statements reflect their understanding of the agreement reached.

Representative Barbara Lacher
House of Representatives

Keith Kelton, Director
Facility Construction and Operation
Department of Environmental Conservation

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

February 11, 1983

To: House State Affairs Committee

From: Ginny Chitwood, AML Executive Director

Re: HB 101 - Grants for Water Supply, Sewerage, and Solid Waste Facilities

The Alaska Municipal League urges your favorable consideration of HB 101, increasing the state share of construction grants for community water supply, sewerage, and solid waste facilities from 50% to 75% of the non-federal share.

Public Health Needs: Adequate and clean water, sanitary sewer, and solid water disposal are basic public health issues that, for the most part, cannot be addressed on an individual basis. Because total costs of these projects are very large, it is hard for many areas to raise the 50% local match required by the current programs. Further compounding the problem is the decrease in available federal funding.

Relief for Property Owners: The local share of water and sewer projects traditionally is paid by assessments on local property, not by general municipal taxation. Increasing the state share will provide direct relief to property owners and taxpayers by reducing local improvement district (LID) payments. Additionally, none of the state assistance dollars under this program will result in increased federal tax payments, as is the case with many of the other state revenue distribution plans. LID payments, as opposed to property and sales tax payments, are not eligible as federal income tax deductions, nor are monthly charges for water, sewer, and solid waste services.

Mandated Costs: Many of the municipal water, sewer, and solid waste projects have costly additional features, not because communities want them, but because they are mandated by federal and/or state laws and regulations. It seems only fair that a large portion of the mandated cost be borne by other than local residents.

Most areas of the state are way behind the rest of the country in having basic water supply, sewerage disposal, and solid waste facilities. Expanding the state's construction grants program is a means to accelerate the process of "catch-up". Because this is a matching grants program, an expenditure by the state will generate an increased amount of capital projects throughout the state. The new facilities will be maintained by the local governments and utility districts and will not require state operating assistance.

DISCLAIMER: This fiscal note has not been reviewed by the OMB in the Office of the Governor. It does not necessarily represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

COPY

I. REQUEST
Bill/Resolution No. House Bill 101
Title An Act relating to grants for water supply, sewerage, and solid waste facilities; and providing for an effective date.
Requested by Lacher and Szymanski Date

II. FISCAL DETAIL
Agency Affected Department of Environmental Conservation
Program Category Affected NRMEC
BRU, Program, Or Subprogram(s) Affected Facility Construction & Operation
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.		19.5	21.5			
TOTAL		19.5	21.5			

FUNDING (Thousands of Dollars)

GENERAL FUND		19.5	21.5			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		-0-	-0-			
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
Estimating the fiscal impact of this bill requires that several assumptions be made: 1) that the base level of funding appropriated by the Legislature remains approximately $30.0 million per year; 2) that the Legislature wishes to increase the base level to fund the same number of projects at the higher level; and 3) increased funding would be provided to meet the demand created by smaller communities seeking 75% grants where they now are required to provide only a 25% match. The effect of these assumptions is an increase of approximatly $19.5 million in FY-84 with a 10% annual increase thereafter.

$30.0 x 75/50 = $45.0
6.0 x .75 = 4.5
Total = $49.5

$49.5 million - $30.0 million = $19.5 million

cont'd

IV. DATE January 24, 1983 PREPARED BY Keith Kelton
AGENCY ADEC
PHONE 465-2610

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

33-001 (Rev. 12/82)

The fiscal impact of this bill could be much larger if the Legislature attempts to appropriate funds sufficient to meet all the identified needs for water, sewage, and solid waste facilities. A survey conducted by the Department in July of 1982 indicated a total grant demand exceeding $230 million for fiscal years 84 and 85. Assuming appropriations adequate to meet even 50 percent of this demand, the impact of increasing grants to 75 percent results in $57.5 million impact for FY-84; therefore, it is obvious that the fiscal impact depends solely upon the size of the appropriation and can be limited to whatever the Legislature wishes.

If the Legislature wishes to fund the same number of projects as in the past at the new 75 percentage rate, plus meet the new demand from smaller communities, the fiscal impact is $19.5 million. On the other hand, if the intent is to appropriate only $30 million regardless of the percentage of State grant, there is no fiscal impact.

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

TO: Representative Mitch Abood

FROM: Representative Barbara Lacher

DATE: February 10, 1983

SUBJECT: Department of Environmental Position Paper
HB 101

The following are my comments pertaining to proposed amendments to HB 101 as recommended by the Department:

Amendment #1 excludes land acquisition from the eligible costs of sewer and water projects. This exclusion creates a "catch 22" situation in many communities with a small tax base.

In certain other state grant programs, the applicant must own the proposed development site prior to acceptance of a grant application by the State agency. Senior citizens housing projects comprise one such program.

Small communities attempting to construct a sewerage treatment plant, lagoons, and intercepters must first bear the expense of preliminary surveys, studies, engineering design and grant application preparation. The amendment may also require them to purchase several acres of land prior to submitting a grant application for which there is no assurance of approval.

The land purchase will also have to be made by the community before final design and cost estimates are prepared and before a Local Improvement District is formed and assessed upon approval by vote of the local property owners.

Amendment #3

The proposed limit of 75 % of state funding from all state sources is an assumption of legislative authority and decision making.

I agree with the philosophy that local communities must assume some of the burden of financing the capital costs of local sewer and water projects in addition to the operation and maintenance costs. However, it is also within my responsibility as a legislator to be aware of the revenue raising capability of communities that I represent and to make determinations on whether or not additional assistance is required.

The 75 % limit on small projects may not impose a hardship in some communities but this arbitrary limit on total state assistance may preclude the acceptance of a self-imposed tax assessment for the more expensive projects. The more expensive projects are generally those that require establishing new treatment plants, lagoons, or long outfall lines. Generally, these capital intensive projects are of the nature needed in smaller communities with no existing system, a small tax base and, thus, least likely to afford the large initial investment.

The option for legislators to provide additional assistance to offset some of the costs to property owners must be retained. I request that this proposed amendment not be accepted.

POSITION PAPER ON HOUSE BILL 101
by the
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Before the
HOUSE STATE AFFAIRS COMMITTEE
February 11, 1983

House Bill No 101 amends existing statute AS 46.03.030. This statute authorizes the Department of Environmental Conservation to award grants up to 50 percent of the eligible costs for water, sewerage, and solid waste facilities. The primary purpose of the amendment is to increase the State's grant percentage from 50 to 75 percent. The bill also provides for an effective date.

This bill contains the same major provisions as SB 252 which passed the Legislature last year and was vetoed by Governor Hammond due to several minor provisions not found in HB 101. In his veto statement Governor Hammond stated his support for the basic legislation and his intent to recommend that the new administration reintroduce the bill this session. The Sheffield administration also supports the concept and has directed the Department of Law to draft a bill raising the grant funding percentage. This bill has been introduced through the House Rules Committee. The administration's proposed bill differs slightly from HB 101 but both contain the same major provisions.

The Department supports this legislation for several reasons:

1) Small municipalities are often unable to raise the 50 percent local match required under the existing statute. The proposed amendment will allow many of these municipalities to improve their basic sanitation services.

2) Federal matching grants have been drastically reduced. Adoption of HB 101 with the accompanying fiscal note will help offset the impact of decreased federal revenues.

3) Alaska's residents will receive a nontaxable financial benefit. An increase in State funds will reduce LID and property assessments, thereby providing a financial benefit. Since there is no direct monetary gain for the taxpayer, there can be no increase in their federal income tax.

The Department respectfully recommends that the committee consider four amendments to HB 101, which will make the bill consistent with the administration's proposal. We request that HB 101 be amended as follows.

1) Add Section 3, AS 46.03.030(d) to read:

The Department shall, by regulation, identify those costs which are eligible costs for the purposes of this section. Eligible costs include the costs [ESTABLISHED IN A CONSTRUCTION CONTRACT] which are necessary for the construction of a project, but do not include the cost of interest and financing and right-of-way and land acquisition, or costs related to operation, maintenance, repair or replacement of a project. Eligible costs include the costs of the initial purchase of water delivery and sewage collection vehicles if the water delivery and sewage collection vehicles are determined by the department to be cost effective compared with conventional water supply and sewage collection systems. Eligible costs also include the cost of facilities for the maintenance and storage of these vehicles.

2) Delete the following clause in Section 2, AS 46.03.030(e) beginning on page 1, line 29; [INCLUDING COSTS OF OBTAINING FEDERAL WAIVERS FROM THE REQUIREMENT FOR SECONDARY TREATMENT PLANTS.] This provision is now obsolete since the time period for applying for these waivers has passed.

3) Add a provision in Section 1, AS 46.03.030 after line 19, page 1. Total State funding, from all sources, shall not exceed 75 percent of eligible project costs not financed by the federal government. This provision prevents the municipal grants program from fully matching appropriations, which would result in 100 percent project financing by the State. Requiring a minimum of 25 percent local funding will provide for more local project management.

4) The addition to the statute contained on page 1 and beginning on line 16 with the word "If" is no longer relevant. It was originally included to provide a maximum State/federal funding ceiling of 87.5 percent when 75 percent federal grants were available from the U.S. Environmental Protection Agency. Since the EPA grants are being reduced to 55 percent in 1984 and other federal grants are scarce, this provision could probably be dropped.

Adoption of HB 101 will result in construction of projects that would not have been built under the 50 percent funding program. As a practical matter, however, there is no means by which we can reliably predict which projects will be affected or their costs. The attached fiscal note estimates that if

the base level of funding remains constant at $30.0 million per year, the effect of this bill will be approximately $19.5 million in FY-84.

Thank you for the opportunity to present these comments. I will be happy to address any questions you may have.

Official Business

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: House State Affairs Committee
Attention: Carol

FROM: Representative Barbara Lacher
House C & R A Committee

SUBJECT: House Bill 101, an act relating to grants for water supply, sewerage, and solid waste facilities.

HB 101 is a companion bill, identical to SB 21. The attached materials were prepared by various agencies in support of SB 21. Rather than ask each agency to reproduce their documents and reflect HB 101 as the subject, I believe it more rational to provide to you copies of their products.

The Department of Environmental Conservation position paper makes reference to SB 252 which was vetoed by Governor Hammond. A copy of the veto letter is included; you will find none of the cited objections in HB 101.

The following persons may be contacted for further information or to appear as witnesses:

Keith Kellton, DEC, Juneau
Ginny Chitwood, Alaska Municipal League, Juneau
City Manager of Juneau

POSITION PAPER ON SENATE BILL 21
by the
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Before the
SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE
January 25, 1983

Senate Bill No 21 amends existing statute AS 46.03.030. This statute authorizes the Department of Environmental Conservation to award grants up to 50 percent of the eligible costs for water, sewerage, and solid waste facilities. The primary purpose of the amendment is to increase the State's grant percentage from 50 to 75 percent. The bill also provides for an effective date.

This bill contains the same major provisions as SB 252 which passed the Legislature last year and was vetoed by Governor Hammond due to several minor provisions not found in SB 21. In his veto statement Governor Hammond stated his support for the basic legislation and his intent to recommend that the new administration reintroduce the bill this session. The Sheffield administration also supports the concept and has directed the Department of Law to draft a bill raising the grant funding percentage. The administration's proposed bill differs slightly from SB 21 but both contain the same major provisions.

The Department supports this legislation for several reasons:

1) Small municipalities are often unable to raise the 50 percent local match required under the existing statute. The proposed amendment will allow many of these municipalities to improve their basic sanitation services.

2) Federal matching grants have been drastically reduced. Adoption of SB 21 with the accompanying fiscal note will help offset the impact of decreased federal revenues.

3) Alaska's residents will receive a nontaxable financial benefit. An increase in State funds will reduce LID and property assessments, thereby providing a financial benefit. Since there is no direct monetary gain for the taxpayer, there can be no increase in their federal income tax.

The Department respectfully recommends that the committee consider four amendments to SB 21, which will make the Bill consistent with the administration's proposal. We request that SB 21 be amended as follows.

1) Add Section 3, AS 46.03.030(d) to read:

The Department shall, by regulation, identify those costs which are eligible costs for the purposes of this section. Eligible costs include the costs [ESTABLISHED IN A CONSTRUCTION CONTRACT] which are necessary for the construction of a project, but do not include the cost of interest and financing and right-of-way and land acquisition, or costs related to operation, maintenance, repair or replacement of a project. Eligible costs include the costs of the initial purchase of water delivery and sewage collection vehicles if the water delivery and sewage collection vehicles are determined by the department to be cost effective compared with conventional water supply and sewage collection systems. Eligible costs also include the cost of facilities for the maintenance and storage of these vehicles.

2) Delete the following clause in Section 2, AS 46.03.030(e) beginning on page 1, line 29; [INCLUDING COSTS OF OBTAINING FEDERAL WAIVERS FROM THE REQUIREMENT FOR SECONDARY TREATMENT PLANTS.] This provision is now obsolete since the time period for applying for these waivers has passed.

3) Add a provision in Section 1, AS 46.03.030 after line 19, page 1. Total State funding, from all sources, shall not exceed 75 percent of eligible project costs not financed by the federal government. This provision prevents the municipal grants program from fully matching appropriations, which would result in 100 percent project financing by the State. Requiring a minimum of 25 percent local funding will provide for more local project management.

4) The addition to the statute contained on page 1 and beginning on line 16 with the word "If" is probably no longer relevant. It was originally included to provide a maximum State/federal funding ceiling when 75 percent federal grants were available from the U.S. Environmental Protection Agency. Since the EPA grants are being reduced to 55 percent in 1984 and other federal grants are scarce, this provision could probably be dropped.

Adoption of SB 21 will result in construction of projects that would not have been built under the 50 percent funding program. As a practical matter, however, there is no means by which we can reliably predict which projects

will be affected or their costs. The attached fiscal note estimates that if the base level of funding remains constant at $30.0 million per year, the effect of this bill will be approximately $19.5 million in FY-84.

Thank you for the opportunity to present these comments. I will be happy to address any questions you may have.

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 16, 1982

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

Dear President:

Under the authority of art. II, sec. 15, of the Alaska Constitution, I have vetoed House Committee Substitute for Committee Substitute for Senate Bill 252 (Fin) am H, relating to grants for water supply, sewerage and solid waste facilities; and providing for an effective date. While I support the basic thrust of this bill - increasing the state's grant proportion of water, sewer and solid waste facilities - there are several provisions which are objectionable.

The bill would allow replacement of obsolete facilities to be grant eligible. In the past, the Department of Environmental Conservation has funded only new construction, expansion, and modification of facilities. Replacement of obsolete facilities should be funded by revenues accumulated from user charges. In this way, communities and users are encouraged to provide adequate operation and maintenance or they will foot the bill for costs to replace projects which have become "obsolete" through neglect.

The bill would also apparently allow funding of water delivery and honey bucket collection vehicles. The Attorney General has ruled that these vehicles cannot be eligible for funding through general obligation bond financing, as the Constitution restricts general obligation bonds to capital projects. General fund moneys could be used for vehicles; however, the principle source of funds for water and sewer projects has been general obligation bonds.

Finally, the bill would mandate that the Department of Environmental Conservation provide grants to communities with village safe water projects to assist in operation and maintenance of those projects. Presently, the authority to provide those grants is contained in the Village Safe Water Act and is discretionary. If the department determines that

a community must have a state grant for the project to survive, and if the operation is sufficiently cost-efficient and funds are available, the department can fund grants to these villages. The proposed revisions would mandate these grants regardless of the community's ability to pay, the operating history of the project, or how well it is run. To the extent possible, these projects should pay their own way without relying on the state to subsidize them.

A veto of this bill would have little effect over the next year. No funds were appropriated by the legislature to implement the provisions of the bill; in fact, the Department of Environmental Conservation does not have sufficient funds to amend grants under the existing formula to the extent it has grant applications. There is also no funding available for operation and maintenance grants to communities with village safe water facilities.

I am requesting the Commissioner of Environmental Conservation to work on draft legislation addressing these issues for me to consider for submittal to the next legislature.

Sincerely,

Jay S. Hammond
Governor

Offered: 5/15/82
Referred: Rules

IN THE SENATE BY THE FINANCE COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 252 (Finance) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to grants for water supply, sewerage and solid waste facilities; and providing for an effective date."

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

* Section 1. AS 46.03.030(b) is amended to read:

(b) The department may grant to a municipality, as funds are available, up to 70 [50] percent of eligible costs not financed by the federal government, for public water supply, treatment and distribution systems and public sewage collection, treatment and discharge facilities for which construction has not commenced on or before July 1, 1982. If a project is partially financed by the federal government, a grant under this subsection may not exceed the difference between the amount of the federal financing for the project and 87.5 percent of the eligible costs of the project [JUNE 21, 1976]. The eligible cost of a project or portions of a project will be as determined by the federal agency granting the most monetary assistance. On projects or portions of projects, for which federal participation is not available, eligible costs will be determined by the department in accordance with (d) of this section. Projects will be constructed in accordance with plans and specifications approved by the department.

* Sec. 2. AS 46.03.030(d) is amended to read:

(d) The department shall, by regulation, identify those costs which are eligible costs for the purposes of this section. Eligible costs include the costs [ESTABLISHED IN A CONSTRUCTION CONTRACT] which

are necessary for construction of a project <u>including the costs of replacing obsolete facilities</u>, but do not include the cost of interest and financing and right-of-way acquisition, or costs related to operation, maintenance, <u>and normal repairs. Eligible costs include the costs of the initial purchase of water delivery and honey bucket collection vehicles if the vehicles are determined by the department to be cost effective compared with conventional water supply and sewage collection systems. Eligible costs also include the cost of facilities for the maintenance and storage of those vehicles</u> [REPAIR OR REPLACEMENT OF A PROJECT].

* Sec. 3. AS 46.03.030(e) is amended to read:

(e) The department may grant to a municipality not more than <u>70</u> [50] percent of the eligible costs, including costs of obtaining federal waivers from the requirements for secondary treatment plants, which are not paid for by the federal government for solid waste processing or disposal facilities constructed after <u>July 1, 1982</u> [JULY 1, 1980]. However, the department may grant a municipality up to <u>85</u> [60] percent of the eligible costs not paid for by the federal government for a solid waste processing or disposal facility constructed after <u>July 1, 1982</u> [JULY 1, 1980], if the facility is used for resource recovery. The eligible costs of a solid waste processing or disposal facility are determined by the federal agency granting the most monetary assistance for construction of the facility. For a solid waste processing or disposal facility for which federal money is not available, the department shall determine the eligible costs in accordance with (d) of this section. A municipality shall construct solid waste processing or disposal facilities financed by grants under this section according to plans and specifications approved by the department.

* Sec. 4. AS 46.03.030 is amended by adding a new subsection to read:

(f) The department shall make a grant to a municipality or unincorporated community to supplement revenues to assist in the payment of operation and maintenance costs for a village safe water and sewer facility.

* Sec. 5. AS 46.03.900(19) is amended to read:

(19) "sewer system" or "sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other appurtenant constructions, devices, and appliances used for conducting sewage, industrial waste, or other wastes to a point of ultimate disposal and includes the original purchase of ~~water delivery and~~ honey bucket collection vehicles if the vehicles are determined by the department to be cost effective compared with conventional water supply and sewage collection systems and facilities for the maintenance and storage of those venicles;

* Sec. 6. This Act takes effect immediately in accordance with AS 01.10-070(c).

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

January 25, 1983

To: Senate Community and Regional Affairs Committee

From: Ginny Chitwood, AML Executive Director

Re: SB 21 - Grants for Water Supply, Sewerage, and Solid Waste Facilities

The Alaska Municipal League urges your favorable consideration of SB 21, increasing the state share of construction grants for community water supply, sewerage, and solid waste facilities from 50% to 75% of the non-federal share.

Public Health Needs: Adequate and clean water, sanitary sewer, and solid water disposal are basic public health issues that, for the most part, cannot be addressed on an individual basis. Because total costs of these projects are very large, it is hard for many areas to raise the 50% local match required by the current programs.

Relief for Property Owners: The local share of water and sewer projects traditionally is paid by assessments on local property, not by general municipal taxation. Increasing the state share will provide direct relief to property owners and taxpayers by reducing local improvement district (LID) payments. Additionally, none of the state assistance dollars under this program will result in increased federal tax payments, as is the case with many of the other state revenue distribution plans. LID payments, as opposed to property and sales tax payments, are not eligible as federal income tax deductions, nor are monthly charges for water, sewer, and solid waste services.

Mandated Costs: Many of the municipal water, sewer, and solid waste projects have costly additional features, not because communities want them, but because they are mandated by federal and/or state laws and regulations. It seems only fair that a large portion of the mandated cost be borne by other than local residents.

Most areas of the state are way behind the rest of the country in having basic water supply, sewerage disposal, and solid waste facilities. Expanding the state's construction grants program is a means to accelerate the process of "catch-up". Because this is a matching grants program, an expenditure by the state will generate an increased amount of capital projects throughout the state. The new facilities will be maintained by the local governments and utility districts and will not require state operating assistance.

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
FACILITY CONSTRUCTION AND OPERATION DIVISION
STATUS REPORT
OF
MUNICIPAL GRANTS PROGRM

April 1982

MUNICIPAL GRANTS

The municipal Grants Program is authorized by AS 46.03.030. This program provides grants up to 50 percent of the nonfederally financed costs for water, sewerage, and solid waste improvements. These grants may be used to pay for engineering, construction, legal, administrative and equipment costs. Grants are available only to incorporated municipalities. The State does not provide any operation and maintenance support beyond technical asistance.

Project scope, scheduling, and funding are left to local determination. The Department does not attempt to second-guess the validity or local priority of requested grants. The Department is concerned with approval of construction plans and specifications, contract documents for engineering design and for construction. Progress payments and interim contruction inspections are made duirng the course of the project. Grantees' final project costs are audited by the Department. The emphasis of the program is to minimize grant requirements with the grantees responsible for the majority of project administration.

Funding for this program has been provided by general obligation bonds approved by the voters. Bonds totaling $112.5 million have been authorized in 1970, 72, 76, 78, and 80. Grants are awarded on a first-come, first-servie basis, subject to the availability of funds. No priority system is presently utilized in awarding these grants.

The program has currently obligated all but approximately $1.0 million of the bonds approved by the voters. This $1.0 million is being held in reserve to fund grant increases due to change orders for existing projects under construction. We are in receipt of approved grant applications totaling nearly $18.7 million, which we are unable to fund at this time. The projects will be funded in the order that applications were approved, subject to the availability of funds. A list of these projects is attached.

The Governor's capital budget request obtains $10.0 million in general funds that will be available this summer, subject to approval by the Legislature. An additional $40.0 million is proposed for voter approval in this fall's general election. As can be noted, general fund approval of $10.0 million by the Legislture will result in over $8.0 million of projects that cannot be constructed this summer. Delaying these projects by a year will result in approximately a 15 percent increase due to inflation.

It is our estimate that to fully meet the needs of grantees for the 1982 construction season, $25.0 million will be required and should be available no later than June 1. The balance of program funding requirements could then be met by voter approval of bonds in the 1982 general election. It is estimated that an additional $50.0 million will need to be approved for FY-83 & 84 if the grants program is to fully responds to the public's demand for sanitation improvements.

If funding is unavailable at the estimated levels of need, we propose to develop a priority system considering public health, benefiting population, and level of existing services. If this occurs, all grantees will be asked to submit their project applications by a specified date for the full calendar year. The projects would then be ranked in accordance with the priority system.

PENDING GRANTS

Project		Date Received	Grant Amount	Date Funded
Anchorage	- SD 81-1 Fire Hydrants	12-16-81	$ 425,520	
	W81-13 Dowling Rd Water	12-16-81	100,950	
	S81-20 Brown's LID	12-16-81	103,000	
	S81-21 AERO LID 112	12-16-81	272,550	
	S81-22 Stella LID 112	12-16-81	107,850	
Kotzebue	- Water Transmission	12-21-81	232,380	
	Water System Exp.	12-21-81	248,320	
	Sewer System Exp.	12-21-81	1,153,800	
Ketchikan	- Karlanna/Hawkins S/D	12-24-81	90,800	
Anchorage	- S81-26 Abbot Loop Manor LID 132	12-31-81	292,650	
	S81-18 Original LID 117	12-31-81	45,050	
Ketchikan	- Penstock Ktn Lakes	1-11-81	19,320	
Seward	- Terminal Water & Sewer SW82-1	1-22-82	1,562,657	
Anchorage	- W82-3 Univ. Drive 16" Water	1-26-82	50,950	
	W82-4 Ship Avenue Water	1-26-82	20,900	
	S82-1 Shackleton LID Sewer	1-26-82	70,500	
	S82-2 Alpine Village LID Sewer	1-26-82	238,200	
	S82-3 Zodiac LID Sewer	1-26-82	60,250	
	S82-4 Fire Lk Int. Phase III	1-26-82	120,694	
	W82-2 Northern Lights Water	1-26-82	103,100	
Houston	- Sanitary Landfill	2-11-82	30,000	
Anchorage	- W82-6 Ship Creek Water Plant Exp.	2-19-82	4,580,850	
	W82-5 Ingra St 16" Water 11th-15th	2-19-82	109,619	
Skagway	- Solid Waste	2-21-82	211,610	
	Water Storage Tank	2-21-82	269,000	
Sitka	- Water Storage Tank	2-22-82	1,192,500	
	Water Storage Tank	2-22-82	1,186,050	
Valdez	- Solid Waste Landfill	2-22-82 (permit)	210,876	
Juneau	- Vanderbilt Hill Water	2-23-82	616,431	
	- Lemon Road Water	2-23-82	524,173	
Skagway	- Water System	2-24-82	628,000	
Juneau	- Bayview S/D	2-26-82	684,600	

PENDING GRANTS
Page 2

Project		Date Received	Grant Amount	Date Funded
Valdez	- Pioneer/Chitina Dr W & S	3-09-82	$ 233,973	
Sitka	- Car Smasher	3-12-82	11,160	
Sand Point	- Meadows S/D Phase I	3-24-82	1,867,800	
Soldotna	- Kobuk	3-25-82	383,906	
Kake	- Water Dist. Loop	3-30-82	122,305	
Nome	- Increase 82 Water & Sewer	4-01-82	504,236	
			$18,686,530	

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

March 26, 1981

to: Senate Community & Regional Affairs Committee

from: Ginny Chitwood

re: SB 252 - Grants for Water Supply, Sewerage, and Solid Waste Facilities (AB 101)

Alaska Municipal League urges your favorable consideration of SB 252, increasing the state share of construction grants for community water, sewer, and solid waste projects from 50% to 75% of the non-federal share. In looking at various ways to distribute the state's revenues, this proposal should rank high on the list for many reasons:

1.-Public Health Needs. Adequate and clean water, sanitary sewer, and solid waste disposal are basic public health issues that, for the most part, cannot be addressed on an individual basis. Because total costs of these projects are very large, it is hard for most areas to raise the current 50% local match.

2.-Relief for Property Owners. The local share of water and sewer projects traditionally is paid by assessments on local property, not by general municipal taxation. Increasing the state share will provide direct relief to property owners and tax payers by reducing local improvement district (LID) payments.

3.-Federal Income Tax. None of the state assistance dollars under this program will result in increased federal income tax payments, as is the case with many of the other distribution proposals. LID payments, as opposed to property and sales tax payments, are not deductible, nor are monthly charges for water, sewer, and solid waste services.

4.-Price of Land. A big issue for the last couple of years has been the high cost of land. One reason for these high prices in developable suburban areas is the high cost of installing necessary water and sewer systems. Increasing state participation in providing these systems will help to lower the cost of making land available for use. For example, it costs an average of $13,000 per lot in Ketchikan to provide sewerage under the current state construction grants program. In Juneau, the per lot assessment for a proposed water system would drop from $1,217.19 to $608.65 for the smallest lot in the project and from $8,318.70 to $4,159.35 for the largest lot if the state share is increased to 75%.

5.-Mandated Costs. Many of the municipal water, sewer, and solid waste projects are constructed not because communities

want them but because they are mandated by federal and state laws. It seems only fair that a large portion of the mandated costs be borne by other than the local units.

At one time it was feared that an increase in the state share would be a disincentive for municipalities to seek federal funds, thus increasing even more the cost to the State. It has since been determined that in many cases, "jumping through the hoops" for federal funds increases project costs so high as to negate the benefits of those funds. In addition to the extras required by the feds, the inflationary increases in the two extra years required for federal processing add tremendously to the cost of a project. In contrast, the Alaska Department of Environmental Conservation has an excellent record of timely processing applications.

HB

102

Alaska State Legislature

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

February 12,1983

To: Rep. Mitch Abood
Chairman-State Affairs Committee

From: Rep. Joe Hayes
Speaker

Re: HB 102/ Supplemental appropriation to Department of Environmental Conservation

HB 102 by Lacher which appropriates $28 million as a supplemental appropriation to DEC for statewide water and sewer projects is currently in your committee.

I would appreciate your scheduling this bill as soon as possible for a hearing so that it may move through the committee process and be brought to the floor of the House.

There are many projects statewide which could begin this spring, including $10-12 million in Anchorage projects if the bill is approved. Since one of the Coalition's stated priorities is to address basic statewide needs, we need to move this bill through the process as rapidly as possible.

Thanks.

RECEIVED
FEB 14 1983

102

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: House State Affairs Committee
Attention: Carol

FROM: Representative Barbara Lacher
House C & R A Committee

SUBJECT: House Bill 102, supplemental appropriation to the Department of Envieronmental Conservation.

HB 102 is a companion bill to SB 15. The attached materials were prepared by various agencies with regard to SB 15. Rather than ask each agency to reproduce their documents and reflect HB 102 as the subject, I am simply sending you copies of their comments on SB 15.

STATE OF ALASKA
DEPT. OF ENVIRONMENTAL CONSERVATION

BILL SHEFFIELD, GOVERNOR

POUCH O – JUNEAU 99811

FEB 2 1983

January 31, 1983

The Honorable Barbara Lacher
House of Representatives
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Lacher:

As a co-sponsor of HB 102 which would appropriate $28 million supplemental to the Department of Environmental Conservation, I thought you might be interested in recent events concerning your bill.

I have enclosed a copy of the Department's testimony before the Senate Community and Regional Affairs Committee on SB 15, along with a list of potential projects that could be funded from the supplemental appropriation. The list was prepared after a careful review of the projects contained in our FY 84 capital budget submittal. The capital budget contained over $230 million in eligible grants; therefore, it is obvious that many worthwhile projects cannot appear on the abbreviated list. In developing the new list, our main concern was to include priority projects that would be ready to proceed with construction this summer. These are projects where design has generally been completed and where the project could be bid and constructed in 1983, if funding were available by approximately March 1.

We anticipate that this list will be dynamic with new projects replacing those of a lower priority as the appropriation request is reviewed by the various committees. We will be happy to work with you or your staff to review projects for potential inclusion on the list.

We have discussed the $28 million supplemental with the Administration and have received an initial favorable reaction. However, passage of the supplemental would most likely result in a request to reduce the Department's capital budget. If additional funding were to remain in the capital budget, we would most likely fund the projects remaining in our capital budget request in their order of priority.

We are appreciative of your confidence in our criteria system and our ability to select priority projects for construction. I assure you that while we will be unable to completely satisfy all competing demands, we will strive to achieve a fair balance between need and equity of project distribution.

Please feel free to call me at 465-2610 if I may provide any information on the status of the supplemental.

Sincerely,

Keith Kelton

Keith Kelton, Director
Facility Construction
and Operation

P.S. SB 15 was passed from C&RA Committee to Senate Finance with a do-pass recommendation on January 25.

Enclosure

cc: Emil Notti
Lennie Boston

POSITION PAPER ON SENATE BILL 15
by the
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Before the
SENATE COMMUNITY REGIONAL AFFAIRS COMMITTEE
January 25, 1983

Senate Bill 15 provides for a $28.0 million supplemental appropriation to the Department of Environmental Conservation for municipal grants to construct water, sewage, and solid waste facilities. As you are aware, the Department, as authorized by AS 46.03.030, awards these grants at a current 50 percent match to incorporated municipalities.

This program did not receive funding last year due to the veto of the proposed bond proposition by Governor Hammond. In fact, the program has been essentially out of funds since January 1982. At the present time there are a significant number of projects ready for construction this summer for which no funding is available. A list of the projects we are familiar with that are of high priority and are ready to proceed is attached for your information.

We respectfully request they not be named in the appropriation bill. Variability in local government funding priorities will certainly result in some of these projects being delayed. If the appropriation does not list the specific projects, the Department will have the flexibility to move unused funds to other projects.

Thank you for the opportunity to comment. I will be happy to respond to any questions you may have.

January 21, 1983

	Project	Grant Request
	ANCHORAGE	
1.	Brown LID 121 S81(20)	$ 103,000
2.	Stella LID 133 S81(22)	107,900
3.	Library LID 131 S81(23)	301,200
4.	Abbott Loop Manor LID 132 S81(26)	292,700
5.	Shackleton LID 79 S82(1)	70,500
6.	Alpine Village LID 135 S82(2)	238,200
7.	Zodiak LID 85 S82(3)	60,300
8.	Windemere Upgrade S82(8)	28,700
9.	W. 44th Sewer Extension S82(9)	34,600
10.	C-3 Trunk - North of Sand Lake S82(10)	150,900
11.	Knik Interceptor CMP Upgrade S82(11)	589,600
12.	Zurick LID 137 S82(12)	117,900
13.	Rosewood LID 138 S82(13)	140,200
14.	Juanita Loop/Santa Maria Drive S82(14)	369,500
15.	A/B Street E. 56th Extension S82(16)	8,200
16.	Dowling Road/New Seward to Petersburg W81(13)	101,000
17.	Broadmoor Estates Upgrade W82(9)	14,000
18.	Barbara Street Extension W82(10)	55,200
19.	10-11 Alley "N" to "P" Street Upgrade W82(11)	22,000
20.	Manor Street Upgrade W82(13)	28,400
21.	W. 44th Place Extension W81(15)	25,700
22.	Abbott Loop 30" Tudor to 68th W82(16)	537,300
23.	Juanita Loop/Santa Maria Drive W82(17)	300,800
24.	Atkins WID 316 W82(18)	19,400
25.	10 MG Reservoir Grant Increase W80(6)	360,000
26.	Eagle River System Inter-ties	220,000
27.	C-5-2 Trunk	264,000
28.	S.E. Interceptor/Roy to Huffman	1,250,000
29.	West Interceptor, Phase II	2,125,000
30.	Distribution Reservoir Eagle River	180,000
31.	Production Well #14	180,000
32.	Chugach W /Arctic to Spenard Road	136,000
33.	Woodstave ne Replacement	153,000
34.	8th Avenue Diversion Upgrade	37,500
35.	Spruce Street/Lore Road to 68th Avenue	128,000
36.	80th Avenue Ease of Lake Otis	40,000
37.	Lake Otis/Abbott Road to O'Malley	375,000
38.	E-4A Trunk	240,000
39.	E-4C Trunk	216,000
40.	S.E. Interceptor, Huffman to DeArmoun	600,000
	ANIAK	
41.	Community Sewer System	500,000

	Project	Grant Request
	BRISTOL BAY BOROUGH	
42.	Naknek Sewage Facility	$ 574,800
	CORDOVA	
43.	Morpac Parallel Water Line	60,000
44.	Power Creek Booster Station	400,000
45.	Small Boat Harbor Water Line	221,300
	FAIRBANKS	
46.	Sludge Disposal Facility, Phase II	187,500
47.	NE Water Transmission	1,980,000
	HAINES	
48.	Mud Bay Road Water Line	35,000
49.	4th Avenue & Mathias Water Line Improvements	40,000
	HOMER	
50.	Cooper S/D	285,000
51.	Mattox Water and Sewer	62,500
	HOUSTON	
52.	Houston Sanitary Landfill	70,000
	HYDABURG	
53.	Water and Sewer Upgrade	2,250,000
	JUNEAU	
54.	Salmon Creek Connection	1,050,000
	KAKE	
55.	Water Supply Tank	125,000
	KENAI	
56.	Candlelight/Lindwood/Aurora	535,000
57.	Evergreen/Haller Water and Sewer	700,000
	KENAI PENINSULA BOROUGH	
58.	Ninilchik Landfill	70,000

	Project	Grant Request
	KETCHIKAN	
59.	Mental Health Water and Sewer	$ 34,600
60.	Hawkins - Carlanna	90,700
61.	Heath Addition	196,700
62.	Washington Park Addition	303,500
	KETCHIKAN PUBLIC UTILITIES	
63.	Fairview-Jackson Water	161,600
	NOME	
64.	Phase II Water and Sewer (Belmont Pt.)	307,500
65.	Phase II Water and Sewer (Water Reservoir)	500,000
	NORTH POLE	
66.	Water Treatment	720,200
	PETERSBURG	
67.	Water Storage Facility	294,000
	SAND POINT	
68.	Meadows S/D, Phase I	1,867,800
	SCAMMON BAY	
69.	Water and Sewer	111,000
	SEWARD	
70.	Terminal Addition Water and Sewer	1,562,700
	SITKA	
71.	Solid Waste Disposal System	1,750,000
	SOLDOTNA	
72.	Redoubt Avenue Water and Sewer	187,600
73.	Water Reservoir and Transmission	750,000
74.	Wilson Lane Water and Sewer	11,000
75.	Binkley Street Water and Sewer	74,500
	UPPER KALSKAG	
76.	Water and Sewer System	250,000

	Project	Grant Request
	VALDEZ	
77.	North Harbor/Kennicot/South Harbor Dr. W & S	$ 650,000
78.	Landfill Improvemments	100,000
79.	Old Landfill Reclamation	51,000
	WASILLA	
80.	Water Utility Extension	60,600
81.	Sewer Utility Extension	60,600
	WRANGELL	
82.	Evergreen Water and Sewer Extension	1,046,000
	TOTAL ALL PROJECTS	$30,599,400

STATE OF ALASKA

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

Position Paper

Re: SB 15

Sponsor: Senator Gilman

Program Effects of Bill

Makes a $28,000,000 appropriation to fund water, sewer and solid waste facility construction under a Department of Environmental Conservation program (AS 46.03.030).

Comments

This supplemental appropriation will fund the State's matching requirement for the construction of local water, sewer and solid waste disposal facilities. The Public Facilities Construction Program has been one of the most effective capital support programs for local communities. Project funds are not set aside until engineering and costing studies are complete and local financing for construction, maintenance and operation. Thus completed projects are well planned and are financed for their full life cycle.

1-P1LH

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH O — JUNEAU 99811

November 23, 1982

The Honorable Donald Gilman
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Gilman:

During the Alaska Municipal League meeting in Fairbanks, my staff and I were approached by several municipal officials concerned about the shortage of State funding for water and sewerage projects. These officials requested we investigate the possibility of a supplemental appropriation to insure construction of vital sanitation improvements this coming summer.

As you are aware, we are currently out of funding but we have submitted a $231 million capital budget request. It is extremely unlikely that more than $30-$40 million will be recommended by Budget and Management. In addition, these funds, if approved by the Legislature, will probably be too late to allow much construction to proceed during 1983. A supplemental appropriation, if expedited, could provide funding for priority projects ready to proceed during the 1983 construction season as well as supplement the total supply of funding available.

To prevent a supplemental from becoming a "Christmas tree" bill, it appears desirable to introduce legislation, which does not designate funds to specific projects. Rather, a lump sum appropriation to DEC would allow the Department to obligate funds to priority projects that are ready to proceed with construction during the summer of 1983. The capital budget submittal requests funds earmarked for specific projects and should provide the vehicle for individual legislative support. If we are to avoid missing two construction seasons in a row, it is imperative that an appropriation be introduced and passed early in the session.

The enclosed letter and attachments were sent to all the communities who responded to our questionnaire. These projects were prioritized by the Department for both FY 84 and 85. A list of projects as prioritized by each community is also enclosed. The total request for FY 84 is $109 million. The majority of these projects will not be ready to proceed with construction in 1983 but will require grant funds to begin design. Only those projects which can can actually go to construction in 1983 need to be considered in supplemental appropriation. We estimate that 46 projects requiring approximately $28 million will be ready for construction this next summer.

I would appreciate your thoughts on this suggested approach to funding and would be happy to meet with you to discuss its viability. If you agree that the supplemental appropriation is desirable, your willingness to act as a sponsor to the legislation would be appreciated.

Sincerely,

Ernst W. Mueller
Commissioner

Enclosures

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

AML 1983 POLICY PRIORITIES

SB 17

Municipal Supplemental. The League supports the supplemental appropriation of (a) $25.1 million FY 83 Municipal Assistance revenues to fully fund the entitlement at the amount had not the method of taxation of the petroleum industry been changed during the 1981 state legislative session; and (b) $3.5 million FY 83 Section 89 State Revenue Sharing for roads, health facilities and hospitals, and volunteer fire departments to fully fund the entitlement at the level authorized by state statutes. The League further encourages the Legislature to appropriate and the Governor to approve the aforementioned supplemental appropriation by April 15, 1983 so that local governments can use the additional funding in setting their 1983 mill levies.

Educational Supplemental. The League urges the approval of a $33.7 million education supplemental for FY 83 because of costs connected with the state take-over of BIA schools, unprecedented increases in school population throughout the state, and unanticipated reductions in the public school foundation program funding last year, and urges the approval of a $12 million supplemental to fund the shortfall in the school construction reimbursement fund

Consolidation of Municipal Assistance and Revenue Sharing. The League endorses the consolidation of the current Municipal Assistance and State Revenue Sharing programs with adequate and predictable funding so that municipalities can continue to provide important needed services while holding down local taxes.

SB 21
&
SB 15
HB 102

Water/Sewer/Solid Waste Construction Grants Program. The League strongly endorses the concept of the state paying at least 75% for sewerage, solid waste facilities, and water systems constructed by municipalities under the State of Alaska Construction Grants Program and that the replacement of out-moded systems be grant eligible in the same manner as the installation of the new systems. The League strongly supports appropriation levels to meet statewide needs, including a supplemental appropriation of $28 million.

Fiscal Notes/State Mandates. The League supports enactment of legislation requiring preparation of notes assessing the fiscal impact on local governments of any proposed bill or regulation, including pass-through grants. The League urges passage of legislation which would require the state to reimburse municipalities for costs they incur in programs or activities mandated by the State of Alaska.

Official Business

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: House State Affairs Committee
Attention: Carol

FROM: Representative Barbara Lacher
House C & R A Committee

SUBJECT: House Bill 101, an act relating to grants for water supply, sewerage, and solid waste facilities.

HB 101 is a companion bill, identical to SB 21. The attached materials were prepared by various agencies in support of SB 21. Rather than ask each agency to reproduce their documents and reflect HB 101 as the subject, I believe it more rational to provide to you copies of their products.

The Department of Environmental Conservation position paper makes reference to SB 252 which was vetoed by Governor Hammond. A copy of the veto letter is included; you will find none of the cited objections in HB 101.

The following persons may be contacted for further information or to appear as witnesses:

Keith Kellton, DEC, Juneau
Ginny Chitwood, Alaska Municipal League, Juneau
City Manager of Juneau

HB

106

PLEASE NOTE: Rep Betterworth wants to submit a Spon Sub—

HB 93. "An Act limiting the number of state employees" will not be heard today in order to ~~gixxex~~ allow the sponsor time to prepare a sponsor substitute.

In its place, we will hear HB 106, "an Act relating to Alaska bidder preference." Rep. Ward is the prime sponsor.

Mitch; Charlie Bussell will testify first for HB 209. ~~Hexx~~ Jerry Ward's office called to say that a Finance meeting is scheduled for 1:30 today; so, could you take his testimony before 1:30?

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

RECEIVED
MAR 21983

Bill No: HB 106 Date on Bill: January 21, 1983
Title: An Act Relating to Alaska Bidder preference
Sponsor: Ward, etc.
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	
Capital			0	0	0	0	
Operating			0	50.0*	50.0*	50.0*	
Total			0	50.0*	50.0*	50.0*	

b. Revenues:

Revenue			0	0	0	0	0

2. Source of funds to offset fiscal impact of bill:

3. *Assumptions: The only quantifiable costs associated with this bill are the impact on Agency operating budgets for commodities and non-professional services, which would have occurred if the bill passed last year. The larger and more unquantifiable costs would be due to reduced competition as out-of-State firms are driven out of the Alaskan market.

This cost estimate does not include effects on construction contracts, travel, and professional services which are not effected by this Act.

The State already spends a majority of its commodity and non-professional dollars with Alaska vendors.

4. Disclaimer: This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Bob Link Phone: 465-2250
Division: General Services & Supply Date: March 1, 1983

Approved by Commissioner: FOR Date: MARCH 2, 1983
Department: COMMISSIONER LISA RODD
DEPT OF ADMINISTRATION

5. Distribution:
Original to Legislative Finance
Copy to Department
Copy to Sponsor
Copy to Requestor

2.8/83

7/0228-84/BDGSF1

HB 106

This bill doesn't have an effective date, so it will become law 90 days after it is signed by the governor. Ask the representative from the Dept. of Administration, if they would like to see this bill with a specific effective date.

1,000,000.00
4,150
8,500,000.

~~Companies like~~:

2 ~~would~~ If the low bid from Seattle Inc, is 1, mill and the next ~~low~~ high low bid was alaska Inc 1,500,000 would alaska Inc ~~get~~ have to except the bid for 850,000?

3 Could not the outside bidders submit real low bids in order to force the State to award the bids to alaskan Companies and by doing so, cause a contractor to go broke because he had to except a bid for less money than it would cost?

4. Is this in conflict with the fair trade laws?


HB


110

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 110
Title: "Act relating to avalanche and fire.."
Sponsor: Rep. M.M. Miller
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Crime ID
BRU, Program of Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		(275.0)				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		(275.0)				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		(275.0)				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis (See attached)

Prepared By: Michael Orelove Phone: 465-4349
Division: Administrative Services Date: 5-13-83

Approved by Commissioner: [signature] Date: 5/12/83
Department: Public Safety

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

HB 110

ANALYSIS

The Department of Public Safety FY 84 Operating Budget contains 275.0 for the Avalanche Warning System which should be transferred to the Department of Natural Resources if the function is transferred to the Department of Natural Resources.

FISCAL NOTE Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB110
Title: Avalanche and Fire Weather
Sponsor: M.M. Miller
Requestor: House State Affairs Ct.

II. FISCAL DETAIL

Agency Affected:
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		275.0	286.0	297.0	309.0	321.0
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	275.0	286.0	297.0	309.0	321.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	275.0	286.0	297.0	309.0	321.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Would transfer existing program from Department of Public Safety to Department of Natural Resources.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Ned Farquhar NF Phone: 465-2400
Division: Commissioner's Office Date: 17 May 1983
Approved by Commissioner: Date: 17 May 1983
Department: Natural Resources

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/8

NATIONAL SKI PATROL SYSTEM, INC.
Alaska Division

P.O. Box 432
Douglas, Alaska 99824

May 17, 1983

Mr. Chairman and Members of the
House State Affairs Committee:

My name is Bob Janes and I am testifying for the National Ski Patrol System in Alaska, in support of HB 110 which would amend certain portions of the Alaska Avalanche Warning System.

NSPS in Alaska is comprised of more than 350 registered patrollers who provide voluntary highly skilled services for the general safety and well being of the skiing public. This organization gave strong support toward establishing the existing system, which from the state participation standpoint, became a state law effective July 1, 1980.

We believe the proposed operational change for transferring responsibility for representing the state from the Department of Public Safety to another state agency with closer on-the-ground applications of the system would result in a more efficient operation.

We have just learned today that the Arctic Environmental Information and Data Center (AEIDC), University of Alaska, is interested in and willing to take on the lead responsibility role for the state. We also understand this is agreeable with the Department of Natural Resources.

The National Ski Patrol System in Alaska therefore urges passage of HB 110 as written, except for Sec 18.76.010 substitute the Arctic Environmental Information and Data Center, University of Alaska, for the Department of Natural Resources. This direction would be logical, since AEIDC currently supervises and directs the work of professional meteorologists operating from the Avalanche Forecast Center in Anchorage.

Thank you for your time. I would be pleased to answer any questions.

Bob Janes

Bob Janes
Legislative Advisor, NSPS Alaska Division

P.O. Box 432
Douglas, Alaska 99824

May 6, 1983

Representative Mitch Abood, Chairman
House State Affairs Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Representative Albert P. Adams, Chairman
House Finance Committee
Alaska State Legislature

Dear Representative _____

This letter is in support of the enclosed House Bill No. 110, sponsored and introduced in the present session on 1/24/83 by Representative Mike Miller. It has been referred to State Affairs and Finance, where it now sits.

This bill is an amendment to legislation passed in 1979 pertaining to an avalanche warning system for Alaska. It is primarily a housekeeping measure, with word changes that recognize the scientific forecasting value of the system rather than implying scare tactics through emphasizing warnings. However, should extreme avalanche danger develop, then of course appropriate warnings would be disseminated to the public. It also recognizes the associated value of the fire weather forecasting part of the overall system, and the nomenclature of the project therefore becomes the Alaska Avalanche and Fire Weather Forecasting System (AA/FWFS).

Probably the most significant change in the statute is a proposed shifting of responsibility from the Department of Public Safety to the Department of Natural Resources, in representing the state for operation of the system. Experience to date has shown this to be a more practical approach, since DNR now plays the major role in conducting the public education and prevention aspects of the program. Technical avalanche awareness workshops are offered throughout the state by DNR. In other words, DNR is closer to an on-the-ground application in a working mode than is DPS. By prior agreement between the two Departments, this change appeared to be needed. The change should therefore not meet with any opposition, from the standpoint of the Departments involved.

While employed by the U.S. Forest Service, I was personally helping to formulate the original legislation which was sponsored by Representative Mike Miller to get the system going on a statewide basis. Although I have recently retired from that agency, I still maintain a personal interest in the AA/FWFS for its most effective operation.

I urge you to schedule this bill on the calendar at the earliest possible time, to enable possible passage during the current session. In this way, DNR would be in a position to followup with regular program planning and a budgetary request for Fiscal Year 1985. DPS has already submitted a budget request for Fiscal Year 1984 which is presently under routine review. This bill therefore does not

involve any new fiscal impacts from the standpoint of any needed special supplemental appropriations.

Sincerely,

Robert C. Janes

Enclosure

cc: Reprentative Mike Miller
House State Affairs Committee

Representative Jim Duncan
House Finance Committee

Wallace Watts, USFS Anchorage
Program Director AA/FWFS

Gary Morrison, USFS Juneau
Division of Recreation

HB

120

To: Tony

From: Jim

Subject: Susitna Bills in Resources 4/6/83, HB 99 & 121

HB 99 appropriates 47 million for Susitna - it's Lacher's bill. The Gov has include $17.5 mil in his capital budget. This is the amount considered necessary for continuation of seeking FERC licensing. There is no real need for the full 47 million at this time.

HB 121 is for an advisory vote on whether to spend 2.3 billion for Susitna. We may question whether this would result in any meaningful response with out the full information of full costs of the project and extent of the benefits to be realized.

Attached are: 1) AEL position papers on Susitna and 2) Fisher's committee report on State Affairs hearings on Susitna.



Alaska Environmental Lobby, Inc.

419 6th Street, Suite 328 Juneau, Alaska 99801 907-586-2345

3 March 1983

TO: Resources Committee members
FROM: Jay Nelson, Executive Director, AEL
SUBJECT: Susitna

Enclosed is a critical analysis of three Susitna bills presently before the House Resources Committee. This paper was prepared by Mr. Eric Myers, Energy Specialist for the Northern Alaska Environmental Center, at my request.

I believe that the time for boosterism and wishful thinking are past. The legislature needs to critically examine the issue of how to best provide for the long term energy needs of the Railbelt. Steeply declining state revenues make it essential that we not risk our capital on projects with, at best, questionable economics.

I hope you and your staff will take the time to review this paper. Please contact our office if you have any further questions.

Thank you.

PROPOSED LEGISLATION: SUSITNA
HB 120, 121, 122
A REVIEW OF KEY ISSUES

ALASKA ENVIRONMENTAL LOBBY
419 6th Street, Suite 328
Juneau, Alaska 99801
586-2345

HB 120/ AUTHORIZATION AND APPROVAL OF THE SUSITNA FEASIBILITY STUDY AND APPROVAL OF THE PROPOSED "PLAN" OF FINANCE

Issue — Acceptability of the APA/Acres Feasibility Study

The Susitna Feasibility Study prepared for the APA by Acres American (March 1982), concluded that Susitna could offer the most attractive long term electrical energy source for the Railbelt but only on the basis of several very critical assumptions. Most importantly, these assumptions included: 1) high electrical demand growth (forecasts), 2) rapidly increasing oil prices, 3) outdated revenue projections/multi-billion dollar cash construction subsidies, and 4) tax exempt bond financing.

The Acres report included a "sensitivity analysis" which tested how critical certain assumptions were to the conclusion that Susitna was economically viable (Attachment A).

Since the time that the Acres study was prepared, fundamental changes in world economic circumstances has invalidated the conclusion that Susitna is the most attractive Railbelt alternative, at least until well into the next century.

Electrical Demand: The "need" for Susitna was predicated on a host of assumptions about future economic activity-population growth-employment-household formation, etc. which results in electrical demand. Assumptions included the ANGTS line, an ALPETCO-like refinery in Valdez, PacAlaska, and State spending trends as before the world oil market collapsed. In light of the changed circumstances, the most recent revised projections of Railbelt electrical demand for the year 2010 (Battelle, 1982) are close to half those used by Acres a couple of years back in its design development selection work which led to the choice of the Watana/Devil Canyon proposal currently under consideration (Attachments B and C).

The ISER (1980) projections used by Acres called for a Moderate (or "most likely") demand case of 8,940 Gwh per year in 2010 which compares to the more recent Battelle (1982) Moderate demand estimate of 4,986 Gwh/year in 2010. That is, the most recent demand projections for 2010 are only about 56% of those used by Acres to arrive at the conclusion that we "need" Susitna.

Another way of considering this question is in terms of capacity requirements: how many megawatts of additional capacity are needed to replace retired capacity over time and meet expected peak (highest) demand? Acres, in its design development and selection analysis, used the ISER (1980) projections calling for a Moderate case peak demand of 1,635 megawatts (MW); this contrasts with the more recent Battelle (1982) projection of peak demand projection of 1,003 MW. Approximately 577 MW of capacity would still be in place in the year 2010. The essential issue is how large a "capacity deficit" can

be expected and how much additional capacity is needed to meet the shortfall. Using the capacity retirement schedule developed by Acres and the most recent capacity requirement projections by Battelle (including a 30% reserve capacity margin) it is evident that the Railbelt will experience a capacity shortfall of about 200 MW in the year 2000 and about 727 MW by the year 2010. This contrasts with the Susitna project at a total of 1,620 MW (Watana at 1,020 and Devil Canyon at 600). A premature commitment to Susitna would result in massive amounts of excess, idle capacity as is the case with the Lake Tyee project (Attachment D).

Note that the Acres' "sensitivity analysis" (Attachment A) tested a "Low" demand case for 2010 as 6,300 Gwh. This supposed "Low" scenario — which renders the project marginal at best — is 26% higher than the more recent "Moderate" case and 64% higher than the revised Battelle "Low" for 2010 (3,844 Gwh).

Using Acres own analysis, the new demand projections would indicate that the project had negative net benefits (ie, was more costly than the alternatives).

Fuel Price Escalation Rate: Acres assumed that there would be constantly rising fuel prices through 2010 reflecting the constantly increasing cost of the world price of oil. The Acres projection called for real (adjusted for inflation) price increases of 2.6%/year to 2000 and 1.2%/year to 2010 (Attachment A). The "sensitivity analysis" shows that a 0% real rate of fuel price increase yields a negative net benefit in excess of $1 billion. The Alaska Department of Revenue projects a negative (declining) real price of oil throughout most of this decade and does not anticipate positive real price increases anywhere near as great as the Acres base case assumed.

Again, using Acres own analysis, it is apparent that the project would cost more than the alternatives.

Outdated Revenue Projections/ Multi-Billion Dollar Subsidies: The Energy Program for Alaska was conceived of in a time of upwardly spiraling revenues; before the collapse of the world oil market. Superabundent revenues are clearly no longer available (Attachment E) yet the financing scheme proposed by HB 121 presumes the availability of $2.3 billion in grants for the project in order to make the project's cost of power artificially competitive with the less expensive alternatives. Acres/APA acknowledges that Susitna power (at 30¢/kwh) will cost more than twice the alternatives (at 14.5¢/kwh) when/if it is brought on line as scheduled in 1993 (Attachment F). The alternatives will continue to be lower in cost until well into the next century.

Tax Exempt Financing: Acres assumed that the project could be built with tax exempt bonds. This assumption has been questioned by, among others, the APA's own bond counsel (Acres: Task 11/January 1983, pp. 11-13).

General Comment: It is especially noteworthy that the Alaska Power Authority Board of Directors never endorsed the conclusion that the Susitna project was the most attractive electrical alternative for

the Railbelt. At least until the APA Board formally adopts that position, it would be premature for the Legislature (with vastly less information and understanding) to do so.

The Feasibility Study should not be endorsed in the absence of such action on the part of the APA Board or without a formal reconsideration and economic reevaluation of the project in light of present economic realities.

Issue — Approval of the "Plan" of Finance

There is, in fact, no "plan" per se, but rather a vague set of options that have been proposed (Acres: Task 11/January 1983). These proposals call for multi-billion dollar grant subsidies with some sort of complimentary bonding — revenue bonds? G.O. bonds? "double barrel" bonds? There is no plan, just several nebulous scenarios.

What is being sought (in the form of approval of the so-called plan) is an open-ended commitment to multi-billion dollar subsidies. That's the plan.

The most basic issue raised by this aspect of the proposed legislation is: how does this finance "plan" approval relate to the other companion proposals: $2.3 billion subsidy grants (HB 121) and $5.4 billion "double barrel" bonding (HB 122)? What specifically is being contemplated?

General Comment: A proposed plan of finance should be very specific as to the marketing of power and power sales agreements. The object is, of course, to avoid a situation like Lake Tyee where we have a $120 million project and no takers ($82 million in State appropriations, $50 million in short term debt). The APA charged ahead with the 20 MW Tyee project without power sales agreements with Wrangell and Petersburg. Now nearly completed (with $10 million cost overrun), the two communities don't want the power because it would cost significantly more than oil-fired electricity (even with about 70% grant financing).

The "Plan" of Finance (Task 11) is very vague on the relationship of power sales agreements and State expenditures and bond financing. It is absolutely critical that this relationship be clear and explicit. Power sales contracts (take-or-pay) should be an absolute prerequisite to any State expenditures on the project.

HB 121/ CONSTITUTIONAL AMENDMENT AND $2.3 BILLION SUBSIDY FUND: ADVISORY VOTE

Issue — Constitutional Amendment

One can wonder whether the framers of the Constitution would approve of an amendment to the Constitution to secure a single capital project.

Issue — Advisory Vote/Costs and Public Education

It is estimated that a special statewide election would cost about $1 million.

It has been well documented that people generally don't have even a remote idea of what the project would actually cost. The recently released Dittman poll showed that while people were mostly supportive of the project, 53% didn't have any idea as to what the project would cost while 71% either didn't know or thought that it would cost less than $500 million. The acknowledged nominal (as spent) cost of the project is $10-15 billion excluding finance charges or the possibility of cost overruns. (A cost overrun the same size as experienced on the Tyee project — 9% — would amount to about $460 million).

Certainly any popular vote or advisory vote should be preceeded by an objective and impartial educational effort designed to inform people about the true costs of the project (Attachment E). If billions are to be allocated to Susitna, as proposed by HB 121, the decision should be carefully considered in light of the opportunity costs. Susitna subsidies threaten the loan programs, municipal revenue sharing, Permanent Fund dividends, education funding, property tax relief, and would likely force the return of the personal income tax. These are the true costs of Susitna that nobody is talking about.

HB 122/DOUBLE BARREL BONDING

Issue — Change in APA Statutes/Public Vote on Susitna Bonds

Current APA statutes (AS 44.83.130(b)) expressly disallows the APA from engaging the State's credit in its bonding efforts. HB 122 would empower the APA to put the "full faith, credit and resources" of the State behind $5.4 billion of revenue bonds making them virtually indistinguishable from general obligation (G.O.) bonds. (Revenue bonds backed up by the State's general obligation are "double barrel" bonds). The basic issue to be addressed is whether the Susitna project justifies exemption from the explicit blanket prohibition to engage the State's credit.

The fiscal implications of this matter are profound. If the APA were to be empowered, by a public vote, to issue "double barrel" bonds in the amount of $5.4 billion the entire credit of the State would be at risk. It is a near certainty that that the public has little understanding of the issue and could well, in complete innocence, give over this power to the APA on the basis of a shallow understanding based on the pro-Suitna propaganda campaign.

Giving the APA autonomy to put the State into significantly greater debt is inadvisable in light of the State's presently precarious

debt situation with what is perhaps the highest per capita debt for any state in the nation (Attachment G).

Again, if this measure is adopted there had better be some provision for a dispassioned educational effort in order to inform the public what the credit risks and opportunity costs are all about.

Moreover, the APA's own bond counsel has advised that if "a major portion of (Susitna's costs) were met from State G.O. Bonds, Alaska's present double A ratings would be endangered" (Acres: Task 11/January 1983, p.12). The bond counsel has also stated that the State can "only 'safely' issue about $565 million (nominal dollars, using 8% inflation) G.O. Bonds during the period fiscal 1983-1990."* Finally, the bond counsel recommends that "to the fullest extent possible" The APA should use revenue bonds secured by income derived from participating Railbelt Utilities pursuant to long term power sales contracts" (emphasis added).

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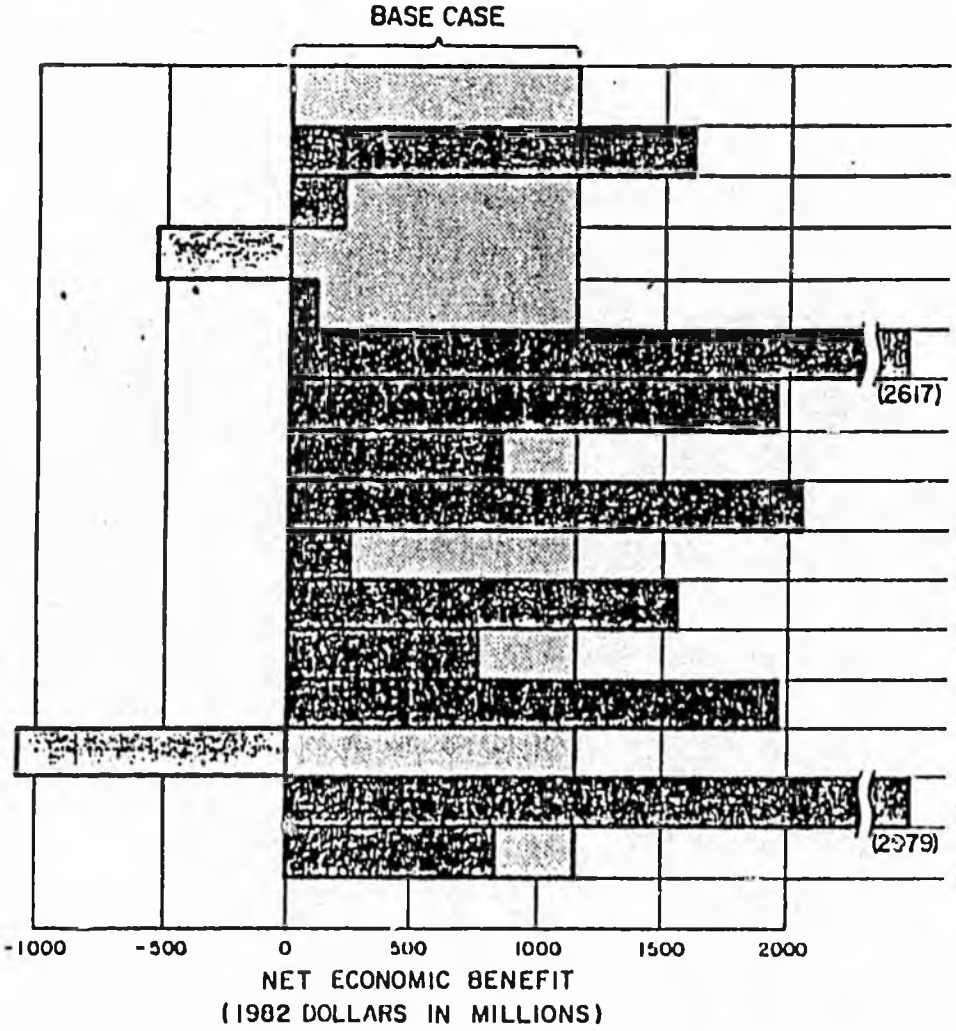
* Using the December 1982/30th Percentile Department of Revenue forecasts.



ELEMENT TESTED	BASE CASE VALUE
HIGH LOAD FORECAST (11,400 GWH IN 2010)	7,800 GWH IN 2010
LOW LOAD FORECAST (6,300 GWH IN 2010)	7,800 GWH IN 2010
5 % REAL DISCOUNT RATE	3 %
4 % REAL DISCOUNT RATE	3 %
2 % REAL DISCOUNT RATE	3 %
HIGH CAPITAL COST FOR ALTERNATIVE (20 % ABOVE ESTIMATE)	BATTELLE ESTIMATE
LOW CAPITAL COST FOR ALTERNATIVE (10 % BELOW ESTIMATE)	BATTELLE ESTIMATE
LOW SUSITNA CAPITAL COSTS (83 % OF ESTIMATE)	PROJECT ESTIMATE
HIGH SUSITNA CAPITAL COSTS (117 % OF ESTIMATE)	PROJECT ESTIMATE
ZERO CAPITAL COST ESCALATION	1.8 % /ANNUM
HIGH CAPITAL COST ESCALATION (3.6 % /ANNUM)	1.8 % /ANNUM
HIGH BASE COAL PRICE ($ 2.08/MM BTU)	$ 1.43 / MM BTU
ZERO FUEL PRICE ESCALATION	2.6 % TO 2000 1.2 % TO 2010
HIGH FUEL PRICE ESCALATION (5 % TO 2000, 2.2 % TO 2010	2.6 % TO 2000 1.2 % TO 2010
CHAKACHAMNA ALTERNATIVE	ALL THERMAL PLAN

ATTACHMENT A

PLATE 24 | **SENSITIVITY ANALYSIS**

ATTACHMENT B

TABLE 5.6: ISER 1980 RAILBELT REGION LOAD AND ENERGY FORECASTS USED FOR GENERATION PLANNING STUDIES FOR DEVELOPMENT SELECTION[5]

	LOAD CASE											
	Low Plus Load Management and Conservation (LES-GL Adjusted)[1]			Low (LES-GL)[2]			Medium (MES-GM)[3]			High (MES-GH)[4]		
Year	MW	GWh	Load Factor	MW	GWh	Load Factor	MW	GWh	Load Factor	MW	GWh	Load Factor
1980	510	2790	62.5	510	2790	62.4	510	2790	62.4	510	2790	62.4
1985	560	3090	62.8	580	3160	62.4	650	3570	62.6	695	3860	63.4
1990	620	3430	63.2	640	3505	62.4	735	4030	62.6	920	5090	63.1
1995	685	3810	63.5	795	4350	62.3	945	5170	62.5	1295	7120	62.8
2000	755	4240	63.8	950	5210	62.3	1175	6430	62.4	1670	9170	62.6
2005	835	4690	64.1	1045	5700	62.2	1380	7530	62.3	2285	12540	62.6
2010	920	5200	64.4	1140	6220	62.2	1635	8940	62.4	2901	15930	62.7

Notes:

(1) LES-GL: Low economic growth/low government expenditure with load management and conservation.
(2) LES-GL: Low economic growth/low government expenditure.
(3) MES-GM: Medium economic growth/moderate government expenditure.
(4) MES-GH: High economic growth/high government expenditure.
(5) Excludes reserve requirements. Energy figures are for net generation.

Source: Acres (1982) Vol. 1 Section 5.

ATTACHMENT C

Revised Moderate and Low Case Electricity Forecasts, Railbelt

	Revised Annual Energy[a] (GWh)		Old Annual Energy (GWh)	
	Moderate	Low	Moderate	Low
1980	2551	2551	2551	2551
1985	3000	2560	3136	3028
1990	3391	3001	4256	3853
1995	3884	3164	4875	4063
2000	4010	3106	5033	3988
2005	4319	3332	5421	4278
2010	4986	3844	6258	4936

	Revised Peak Demand[b] (MW)		Old Peak Demand (MW)	
	Moderate	Low	Moderate	Low
1980	531	521	521	521
1985	615	525	643	621
1990	701	621	880	797
1995	791	652	993	837
2000	810	673	1017	815
2005	870	678	1092	870
2010	1003	780	1259	1001

(a) Revised downward based on low case annual consumption of 9.84 MWh per capita and moderate case annual consumption of 10.40 HWh per capita in the year 2000. See Appendix B, Tables B.3, B.4, B.12, and B.18. Other years consumption reduced proportionately. 1985 figures was adjusted upward judgmentally for moderate case; 1985-1995 adjusted upward for low case.
(b) Based on the ratio of peak demand to annual energy from Appendix B, Tables B.12 and B.18.

Source: Battelle NW (1982)

ATTACHMENT D

MODERATE DEMAND

PROJECTED ADDITIONAL CAPACITY NEEDS

FOR THE RAILBELT

(megawatts)

Year	Existing Installed Capacity [1]	Projected Peak Demand (w/ 30% RSRV) [2]	Required Additional Capacity
1985	1154 MW	690 MW	0 MW
1990	1242	911	0
1995	1095	1028	0
2000	853	1053	200
2005	610	1131	521
2010	577	1304	727

[1] Ebasco (1982): Assumes already planned additions of 158.4 MW of gas turbines in 1982 and Bradley Lake at 97 MW in 1988 with a capacity retirement schedule for existing plants from Acres (1981).

[2] Battelle (1982/revised): Moderate Growth Case with 30% reserve margin.

ATTACHMENT E

TABLE I
FUNDS AVAILABLE FOR CAPITAL PROJECTS UNDER CURRENT LAW
($ Millions)

FISCAL YEAR	(1) FUNDS AVAILABLE FOR CAPITAL PROJECTS: GENERAL FUND	(2) FUNDS AVAILABLE FOR CAPITAL PROJECTS: GO BONDS	(3) FUNDS AVAILABLE FOR CAPITAL PROJECTS: TOTAL	(4) SB 68* STATE FUNDING FOR SUSITNA	(5) OTHER APA CAPITAL PROJECTS	(6) TOTAL HYDRO PROJECTS	(7) LOAN PROGRAM APPROPRIATIONS	(8) GOVERNOR'S SIX YEAR CAPITAL BUDGET	(9) TOTAL CAPITAL PROJECTS
ACTUAL DOLLARS									
85	593.0	--	593.0	403.7	244.5	648.2	300.0	2035.0	2983.2
86	611.0	300.0	911.0	472.7	282.3	755.0	300.0	742.9	1797.9
87	447.0	90.0	537.0	479.7	125.8	605.5	300.0	961.2	1866.7
88	503.0	125.0	628.0	499.5	--	499.5	300.0	1066.2	1865.7
89	280.0	--	280.0	938.3	--	938.3	300.0	?	1238.3+
90	--	50.0	50.0	738.4	--	738.4	300.0	?	1038.4+
91	--	140.0	140.0	--	--	--	300.0	?	300.0+
92	--	--	--	--	--	--	300.0	?	300.0+
93	--	--	--	--	--	--	300.0	?	300.0+
Total	2434.0	705.0	3139.0	3532.3	652.6	4184.9	2700.0	4805.3	11690.2+
FY 84 DOLLARS									
85	554.0	--	554.0	364.5	228.5	593.0	280.0	1901.9	2774.9
86	534.0	262.0	796.0	398.9	246.6	645.5	262.0	648.9	1556.4
87	365.0	73.0	438.0	378.3	102.7	481.0	245.0	784.7	1510.7
88	384.0	95.0	479.0	368.2	--	368.2	229.0	813.4	1410.6
89	200.0	--	200.0	646.4	--	646.4	214.0	?	860.4+
90	--	33.0	33.0	475.4	--	475.4	200.0	?	675.4+
91	--	87.0	87.0	--	--	--	187.0	?	187.0+
92	--	--	--	--	--	--	175.0	?	175.0+
93	--	--	--	--	--	--	163.0	?	163.0+
Total	2037.0	550.0	2587.0	2631.7	577.8	3209.5	1955.0	4148.9	9313.4+

(Notes to Table I on next page.)

* SB 68 is identicle to HB 121

Source: Legislative Finance, "Funds Available for Capital Projects", prepared by Milt Barker for the Senate State Affairs Committee (21 February 1983).

ATTACHMENT F

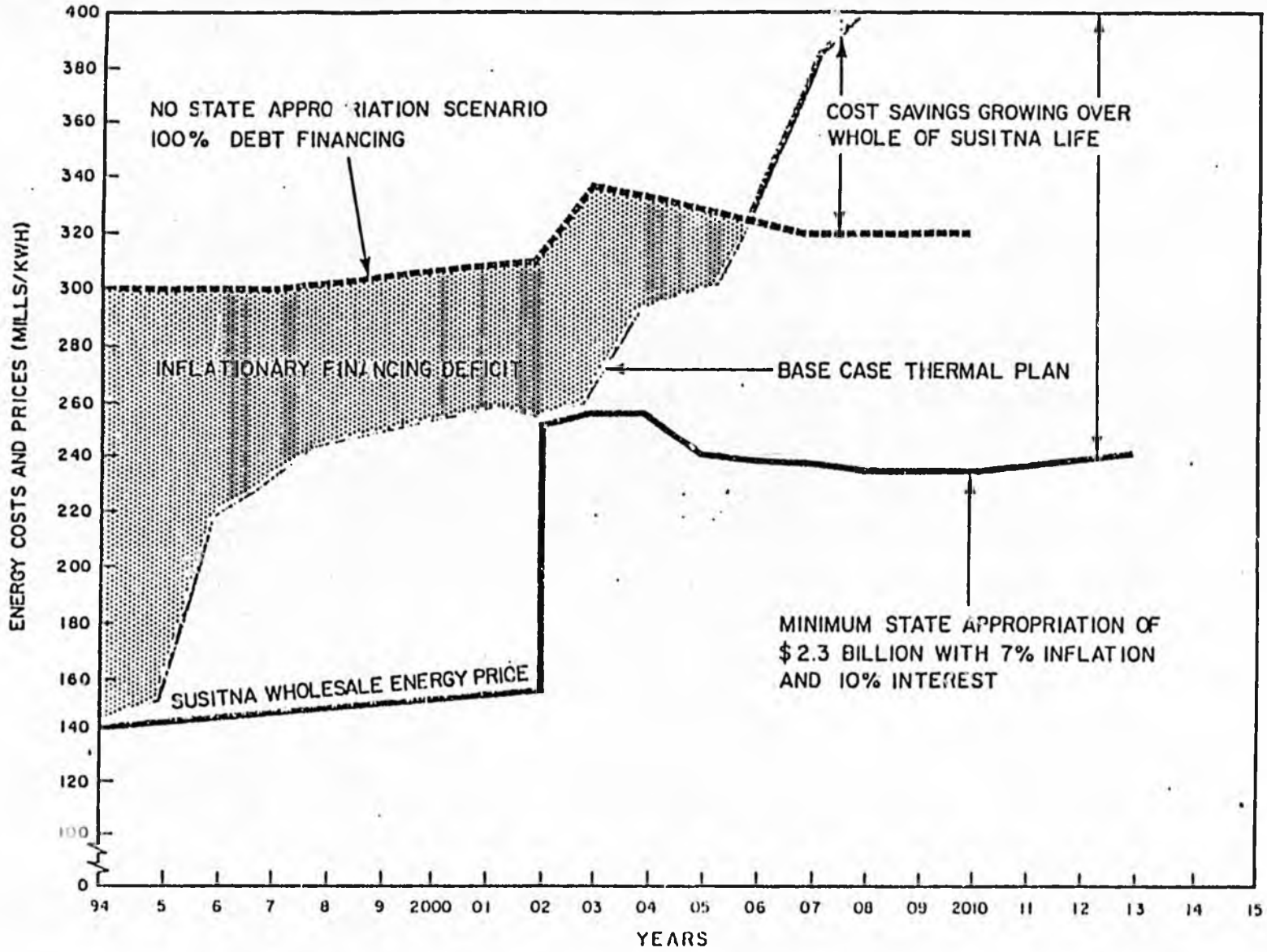


PLATE 26 | ANNUAL COST COMPARISION

ATTACHMENT G

SEATTLE BUSINESS JOURNAL February 7, 1983

STATE DEBT

State	Net Tax-Supported Debt (millions)	Per Capita	Western States	Per-Capita Debt
1. Alaska	$1,045	$2,610	Alaska	$2,610.43
2. Hawaii	1,424	1,476	Hawaii	1,476.49
3. Delaware	581	977	Washington	398.36
4. Connecticut	2,132	686	New Mexico	202.67
5. Maryland	2,851	676	Oregon	131.18
6. Massachusetts	3,355	567	California	108.79
7. New York	9,300	557	Utah	106.85
8. West Virginia	991	508	Montana	99.04
9. Louisiana	2,116	503	Idaho	21.90
10. Vermont	241	472	Arizona	19.60
11. Washington	1,645	398	Wyoming	7.07
(National median)		203	Colorado	0.28

(Information provided by Moody's Investors Service municipal department as of Feb. 28, 1982)

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-4954

March 25, 1983

TO: Senate State Affairs Committee Members
Senate President Jay Kerttula
Senator Bettye Fahrenkamp, Resources Chair
Senator Don Bennett, Finance Co-chair
Senator John Sackett, Finance Co-chair

FROM: Senator Vic Fischer, State Affairs Chair

RE: Committee Report on the Susitna Project

Attached is the committee report on the proposed Susitna project, based on the hearings held by the committee in late February and early March. A great deal of information was presented, and we have attempted to summarize and synthesize it into a readable document. The report also includes a list of the witnesses who testified, a copy of the letter I sent to the Governor on March 10 requesting the Administration's position on Susitna and answers to related questions, and the Governor's response of March 16.

Also provided here are minutes of the February 24, February 26, March 1, and March 3 committee meetings and transcripts of the testimony by witnesses Eileen Titmuss, Gregg Erickson, and Lee Gorsuch.

cc: All Senators
All Representatives

Note to recipients of the report only: Copies of the minutes and transcripts, as well as all documents referenced in the committee report and minutes, are available in my office.

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-4954

SENATE STATE AFFAIRS COMMITTEE

COMMITTEE REPORT

ON

THE SUSITNA PROJECT

SENATE BILLS 68, 69, 70, AND 71

MARCH 24, 1983

Senate State Affairs Committee
Committee Report -- the Susitna Project
Senate Bills 68, 69, 70, and 71

The Senate State Affairs Committee held four days of hearings on hydroelectric development and the proposed Susitna project. Testimony on three days was primarily from witnesses invited to address specific issues. In an all-day public hearing in Anchorage, the views of more than thirty members of the public were heard. The focus of the hearings was on economic and fiscal concerns within the province of the committee.

Summary of Principal Findings

1. Alaska's oil revenues have fallen below anticipated levels, making uncertain the state's ability to fund the Susitna project.

2. Falling oil prices have also affected the net benefits of the Susitna project, and the Acres determination that the project is economically feasible may no longer be supportable.

3. Other questions, including whether Susitna would be eligible for tax-exempt bonds, remain to be answered.

4. As the federal construction license is not expected before 1986, three years remain in which to reevaluate the project's economics and financing and to gather additional data before making a decision to construct.

5. Other APA hydro projects have experienced significant cost increases. Power projects in Washington State are facing default because of poor planning and management; this is expected to result in a tighter bond market for new projects like Susitna.

6. Power sales contracts are a prerequisite for the construction of Susitna. Utilities are reluctant to sign take-or-pay contracts until they have assurance that the price of this power will be competitive with alternatives.

7. The APA is continuing to assess Susitna and the alternatives, with a report expected in May.

8. The public, while supporting hydropower generally, is concerned about the the costs of Susitna power, both in power rates and in opportunity costs.

Bills Before the Committee

Of the bills currently before the committee, SB 68, SB 69, and SB 71 would authorize construction of Susitna and would approve a finance plan for the project consisting of a state appropriation of $2.3 billion in 1983 dollars to be dedicated through a constitutional amendment and revenue bonds of the APA backed by the general obligation of the state. SB 70, an alternative financing bill, would provide for power project funding through per capita "energy dividends."

Background of The Proposed Susitna Project

The Susitna project is a two-dam (Watana and Devil Canyon) hydroelectric project proposed by the Alaska Power Authority (APA) to provide power to the railbelt area. As planned, the Watana phase (1020 MW) would come on-line in 1993 and the Devil Canyon phase (600 MW) in 2002.

A 2½-year feasibility study was conducted by Acres American at a cost to the state of $41 million. A $1 million study of railbelt power alternatives was conducted concurrently for the Governor's office by Battelle.

The Acres study concluded that the project was technically viable, environmentally acceptable, and economically feasible. The determination of economic viability was based on a number of assumptions, many of which have changed since the completion of the study last year.

The APA Board of Directors, in making its recommendations to the State of Alaska last April, noted that while the project offers a potential for long-term benefits, realizing those benefits will depend on skillful management, proper timing, and assumptions about an uncertain future holding true. They concluded, "The Authority believes it is premature to make any commitment, at this time, to actual project construction."[1]

The capital costs of the project are estimated at $5.1 billion 1982 dollars or $12.5 billion nominal dollars at 7% inflation. Acres concluded that in order for power in the early years of the project to be priced competitively against thermal alternatives, a state appropriation of $2.3 billion (later revised to $1.8 billion) in 1982 dollars would be required.[2]

This appropriation, variously referred to as an equity investment, state financing, grant, or subsidy would not be repaid to the state's treasury; instead, benefits in terms of jobs, economic development, and state electric rates would be expected to accrue to Alaskans.

Last year, the legislature authorized work to be done on project design and a license application to be submitted to the Federal Energy Regulatory Commission (FERC), and appropriated $25.6 million. The engineering firm of Harza-Ebasco has been selected for the design work; the FERC application was filed on February 28.

Financing of Hydro Projects in Alaska

The Energy Program for Alaska (AS 44.83.400), adopted in 1981, provides that power projects developed by the Alaska Power Authority are to be funded largely through cash grants from the general fund, with supplemental funds coming from the sale of revenue bonds by APA. The stated purpose of this state participation in the funding of power projects was to convert a portion of Alaska's one-time oil wealth into a renewable resource with long-term benefits to Alaskans. In addition, state funding of such capital-intensive projects would help ensure that consumer costs in the projects' early years would be competitive with the costs from alternative (oil or gas) power sources.

The Energy Program for Alaska currently includes four major hydro projects that are either in operation or under construction. These are Solomon Gulch, Swan Lake, Tyee Lake, and Terror Lake. So far, $270 million has been appropriated by the Legislature for direct funding of these projects. In addition, the APA has borrowed in the form of short-term notes $200 million in interim financing to supplement the financing of these projects.[3] The next major projects anticipated to be added to the Energy Program for Alaska are Bradley Lake and Susitna.

A characteristic of the Energy Program for Alaska is that each project must pay a proportionate share of the combined outstanding debt. This means additional debt cannot be added to the system in a proportion higher than the existing ratio of debt to state funding without raising all rates throughout the system.

Under this system there must be sufficient state revenues available if hydroelectric projects are to be successfully financed in Alaska. As 88% of the state's income comes from oil revenues, the future of the state, and its hydro development plans, is inextricably tied to the price of oil on the world market.

Future State Oil Income

There is now great uncertainty concerning the direction in which oil prices, which have fallen significantly in the last year, are heading. While some analysts believe that prices will stabilize in the long-run and continue to escalate in real terms, others anticipate a serious drop in the short-term that will only very gradually return to price levels experienced during the last decade.[4]

To demonstrate the expected severe decline in state revenues, the Institute of Social and Economic Research compared their 1983 preliminary projections of petroleum revenues with projections they made just two years ago.[5]

For FY 84, their former projection of $5.6 billion (nominal dollars) compares to the new projection of $3.2 billion. For FY 93 (the year in which the Watana phase of Susitna could be expected to come on-line) the 1981 projection of $13.8 billion compares with a new projection of just $4.0 billion.

The Department of Revenue and the Legislative Finance Division have projected similar revenue declines.[6] Alaska's peak oil revenue year appears to have already passed.

Effect of Oil Prices on Susitna

Lower oil prices will affect the Susitna project in at least four major ways:

1) Lower state revenues may be insufficient to pay for Susitna.

Reduced state income may mean that there are insufficient state funds to pay for the state's portion of Susitna.

The Legislative Finance Division has compared projected revenues to funds available for capital projects and to funds needed for Susitna.[7] They identify just $2.4 billion in nominal dollars available for all capital projects between 1985 and 1993, under current law, after subtracting funds needed for the operating budget. This compares to the $3.5 billion alone that would be required for Susitna under SB 68 and to the $11.7 billion that has been identified for other planned capital projects. Even if the law were changed so that both permanent fund inflation-proofing and dividends were repealed, the analysis shows that there would still be a total of only $6.6 billion available for capital projects in the same time

period.

2) Less state spending and reduced economic activity decreases the demand for power.

Battelle, in revising its electricity forecasts for the railbelt last year, adjusted its forecasts downward to reflect this effect.[8] The previous peak demand projected for 1995, for example, was 993 MW in the moderate case; the revised peak demand is 791 MW for the same year.

3) Lower inflation rates may result in higher financing costs.

If interest rates remain high, the discount rate--the difference between inflation and interest rates-- will increase. Higher discount rates will result in higher real costs for bonds.

4) Thermal alternatives to Susitna will be cheaper than anticipated.

Less expensive thermal alternatives (oil, gas or coal) reduce the net economic benefits of Susitna. The financial feasibility of Susitna would also be affected, as more state funding would be required to assure the marketability of Susitna power. The House Research Agency has studied the effect of lower natural gas prices on Susitna feasibility.[9] The recent gas contracts signed by Enstar Natural Gas Company and the Department of Revenue's most-recent oil price escalation forecast were used as the basis for comparison with the Acres feasibility analysis. The conclusion was that if oil prices correspond closely to the Department of Revenue's forecast, the price of power from gas generation would be 38% less in 1994 than projected by Acres, and 50% less in 1996. This means that, in order for the price of power from Susitna to be at a marketable rate, an additional $600-700 million in state grant funds, above the $1.8 billion projected by Acres, would have to be appropriated to the project.

Key Feasibility Factors

The real discount rate and fuel price escalation are the key feasibility factors that must fall within defined limits for Susitna to be an economically feasible long-term source of railbelt power. Acres, in performing the feasibility analysis, made assumptions on future values of these factors based on the information available at the time of the study.[10] Acres performed a sensitivity analysis, that

showed the net economic effect of changes in these assumptions.

Acres assumed a base case discount rate of 3%, and the APA continues to assume that Susitna financing can be obtained at that rate. Acres concluded that Susitna was viable only with a discount rate of less than 4.2%. A discount rate of 5%, the sensitivity analysis showed, would result in a negative net benefit of over $500 million. The current discount rate, according to Data Resources Inc., is more than 6%.[11] Even that favorable rate assumes tax-exempt financing.

It is not clear whether Susitna bonds will be eligible for tax-exempt status. According to the APA, the IRS has indicated that the "two-county rule" would prohibit tax-exemption, unless power sale contracts were something other than take-or-pay. The APA has identified alternative methods of obtaining tax-exempt status, including granting the APA authority to retail power (by-passing the utilities) or restructuring the existing utilities.[12]

The fuel escalation rate assumed by Acres in its base case was 2.6% above inflation to 2000 and 1.2% to 2010. An escalation rate less than 1%, according to the APA, would result in negative net benefits. A zero percent escalation rate would result in a negative net benefit of over $1 billion.

Other critical factors in the feasibility analysis include load forecasts, capital costs and capital cost escalation, and base fuel costs.

There is now considerable uncertainty regarding oil and gas price trends. Other elements of the feasibility analysis are also in flux. The APA is currently reevaluating the assumptions for its Susitna update, which will be reviewed by the Office of Management and Budget. Much of this information can be fed into computer models, so that project feasibility may be continually monitored.

Susitna Financing Plan

The APA is required by statute to submit a finance plan for each proposed project. Acres has prepared a report for the APA, "Task 11: Financing Options," which is the first step towards a finance plan for Susitna.

The financing options suggested by Acres, and reviewed by the APA's financial advisors, involve state appropriations of between $1.4 and $1.8 billion (1982 dollars) between 1984 and 1989, with the balance of funding coming from revenue bonds. Two of the four options involve state appropriations guaranteed through a constitutional

amendment.

Among the recommendations of APA's financial advisors are that prior to major state expenditures or the sale of any bonds, participating utilities sign definitive contractual commitments, an updated economic and financial analysis of the project be completed, and the question of whether or not tax-exempt bonds can be sold be answered

The advisors stressed that bonding, to the greatest degree possible, should be with revenue bonds, backed by the moral obligation of the state, rather than relying upon general obligation (G.O.) bonds . They said that G.O. bonds would, in any case, be of limited usefulness, as they will be marketable only if their maturity dates fall within the state's short oil revenue curve, and the state can only incur an additional $565-$900 million in G.O. debt without negatively affecting its bond rating. The advisors also recommended that the state appropriation be made first, before any bonds are sold.

Cost History of Other Power Projects

The four hydro projects of the APA that are either in operation or under construction have experienced significant increases in construction cost estimates between the feasibility and actual construction stages. These have varied from 54% for Swan Lake to 218% for Tyee.[13]

The committee specifically reviewed the Tyee Project. Its wholesale power price, even with the state paying 70% of the capital costs, will be much higher than the cost of diesel power for Petersburg and Wrangell. Problems identified were major changes in project design, poor initial cost estimates, poor review of cost estimates, poor pricing analyses, hasty decisions made without the benefit of accurate data and analysis, overcapacity resulting in underutilization, and mid-project statutory changes.

In response to committee concerns, APA staff testified that they expect to gain better control of project costs in the future through more professional and complete engineering work, closer supervision by the APA, and a requirement for independent cost estimates.

Other lessons may be learned from the experiences of the Washington Public Power Supply System (WPPSS), as explained by Eileen Titmuss, a bond analyst for Drexel, Burnham, and Lambert in New York City.

In WPPSS, Washington created an agency to enter into long-term power sales contracts with utilities to build nuclear plants. The bond market believed that the projects were backed by the full faith and credit of the U.S.

Government, and the bonds found a generous market acceptance. In truth, the real security behind the bonds was the ability of the Bonneville Power Administration to raise rates. When costs of the nuclear plants rose and power demand proved to be less than had been projected, two of the five plants had to be mothballed and a substantial rate increase was proposed. Participating utilities balked at the increase, claiming they simply could not raise the required revenues, despite take-or-pay contracts.[14] This has resulted in a revenue shortfall that may soon force WPPSS into defaulting on these bonds.

The lessons of WPPSS that could be applied to Susitna include knowing true and full project costs, having realistic demand forecasts, requiring the utilities to participate in project investment, providing for rate-payer education and involvement, and close state monitoring of agency management and contracting.

The bond market, after WPPSS, is expected to be tighter because of competition for funds among other large-scale projects. In addition, bond purchasers can be expected to take a harder look at both the sanctity of power sales contracts and the economic assumptions underlying project feasibility analyses.

Power Sales Contracts

Power sales contracts help assure the marketability of a project's power. It is standard industry practice to obtain power sales contracts prior to beginning project construction.[15]

Until now, the APA has not followed this practice, and utilities have been under no obligation to purchase power from its completed projects. In the Ketchikan case, the power sale contract that was eventually signed allows the utility to cease purchasing Swan Lake power if it becomes higher priced than the diesel alternative.

The APA is currently in the process of developing a standard take-or-pay contract, requiring utilities to purchase the power regardless of its cost.

Utilities are understandably reluctant to sign such contracts if the price of project power may cost more than the alternatives. This problem has been most apparent in the case of Petersburg and Wrangell, where it appears that the power from Tyee Lake will cost significantly more than continuing to generate with diesel.

Utilities are also reluctant to sign take-or-pay contracts for power under the Energy Program for Alaska because of flaws in the legislation.[16] One concern is the

provision that if $5 billion is not appropriated for energy projects by 1986, all projects must pay a 10% return on state investment each year. Further, because of the "pooling" nature of the Energy Program for Alaska, utilities are responsible for paying a proportionate share of any new debt that enters the system and have no control over rate increases to meet that debt. This makes it impossible to predict rates or ensure price stability.

The APA has recommended, the Federal Energy Regulatory Commission will require, and the Governor has insisted that construction not begin on Susitna without first having rigorous power sales contracts in place. The utilities are reluctant to make commitments and have indicated that they will not do so until they have a better assurance that Susitna costs will be competitive with alternatives.

All major railbelt utilities were represented at the Anchorage hearing, and all testified that they must have more information about the level of state funding and the possible price of power before they will be willing to negotiate take-or-pay contracts.

Although the Alaska Public Utilities Commission has no jurisdiction over the APA, it does have authority to review the power supply contracts of regulated utilities to ensure reasonable consumer rates. It would likely become involved if the reasonableness of Susitna prices came into question.

Information and Work Schedule

APA's Susitna feasibility update will not be completed until mid-May, and will include, besides economic feasibility factors, information on alternatives including Cook Inlet gas, North Slope gas, coal, and Chakachamna hydro.

The Administration indicated that it will be prepared, also in May, when oil market fluctuations may have steadied, to discuss the state's ability to finance Susitna.

A license application was filed with FERC on February 28, 1983. FERC approval for construction is not expected until December 1986, although FERC hopes to expedite the approval process.

The APA Board of Directors, meeting March 14, altered their request for funding for the Susitna project from the $37 million recommended in the Governor's preliminary FY 84 capital budget to $22 million. This smaller amount of money will enable them to continue with the work required for FERC licensing, but will not provide for detailed design engineering. The reason given for the decision was to request funds only as needed; as FERC licensing is expected to take three years, it is not necessary to proceed with

detailed design work during FY 84.

The APA is also studying the possibility of lowering the height of the Watana Dam. Preliminary indications are that dropping the dam height by 85 feet could save 10% of the Watana construction costs for 12% less annual energy, while a drop of 185 feet could save 20% of the costs for 26% less energy. The intent of such a design change would be to enhance the financial viability of the project by requiring less appropriation of state funds. Although the project cost would decrease, the per unit cost of energy would increase.

Conclusions

The two major outstanding questions regarding the viability of the Susitna project concern its economic and financial feasibilities.

Economic feasibility relates to the project's net benefits, compared to the alternatives for providing electricity to the railbelt. The study completed by Acres in 1982 concluded that at that time the project appeared feasible. Since that time, a number of fundamental assumptions have changed and remain unsettled. An updated feasibility analysis is required to determine if Susitna remains the most economic choice.

This feasibility analysis must realistically consider the alternatives to Susitna. These include Cook Inlet gas, North Slope gas, coal, other hydro including Chakachamna, and conservation. Each of these alternatives has so far received far less consideration than the Susitna option.

Financial feasibility relates to whether, regardless of the project's economic feasibility, the project can be financed so that the price of power will be at a marketable rate. The Acres analysis showed that a state appropriation of at least $1.8 billion (in 1982 dollars) would be required to keep the price of power competitive. Unless Alaska is both willing and able to pay this price, the project will not be financially feasible, utilities will not contract to purchase Susitna power, and project bonds will not be marketable.

A workable finance plan for Susitna needs to answer at least three questions:

(1) How much does the state need to appropriate to Susitna to assure that its power will be initially priced no higher than the alternatives?

(2) Will state revenues be sufficient to make such an appropriation without negatively impacting other state needs?

(3) Can a mechanism be developed that

would either guarantee the availability of the necessary funds or provide for the accumulation of all necessary funds prior to bonding and construction?

The finance plan proposed in the legislation before the committee does not answer these questions. The state revenues available for Susitna have not been determined, the tax-exempt status of Susitna revenue bonds is uncertain, the degree to which the state can safely obligate to back the revenue bonds is unknown, and other elements of a successful finance plan are absent. Accordingly, the basis for acting on the bills is not currently available.

A public vote would be desirable to assure public acceptance of both project subsidies and future power rates. Such a vote requires a realistic and workable finance plan, and a question for the voters with specific information as to total project costs and levels of state funding.

The FERC license for Susitna is not expected before late 1986, so a construction decision is not required at this time.

NOTES

1. Letter from Charles Conway to Governor Hammond, April 26, 1982.

2. A distinction is made between economic feasibility and financial feasibility. Economic feasibility relates to whether a project is the lowest-cost option in the long-run. Financial feasibility relates to the ability to finance a project in such a manner that the price of power is competitive with alternatives. A project might thus be economically feasible without being financially feasible.

3. The interim financing is divided between Tyee Lake ($50 million), Swan Lake ($35 million), and Terror Lake ($115 million).

4. Recent forecasts are noted in "Alaska Energy Planning Studies," by Arlon Tussing and Gregg Erickson, Nov. 1982. The authors note that, while the government agency forecasters referenced by Acres project increases in real oil prices, recent internal forecasts by petroleum producers assume real declines through 1985 and a long-term trend between a level nominal-dollar and a level constant-dollar trajectory. The significance of varying forecasts is not whether one may be more reliable than another but that there is neither consensus nor certainty.

5. "Comparison of ISER MAP Model Projections Prepared in 1981 for Battelle Railbelt Study and Preliminary Projections Prepared in 1983," prepared for the Alaska Senate State Affairs Committee by Scott Goldsmith and Gunnar Knapp, Feb. 1983

6. All revenue projections are simply projections, and actual revenues could vary widely. The Department of Revenue currently bases its projections on the 30th percentile of probability, which means that there is a 70% chance that revenues might be higher than projected. With the recent drop in OPEC prices, however, the 30th percentile projections are considered most likely.

7. "Funds available for Capital Projects," memo to Senator Vic Fischer from Milt Barker, Fiscal Analyst, Feb. 21, 1983

8. "Railbelt Electric Power Alternatives Study," Battelle, Volume 1, Dec. 1982, p. xv

9. "Comparison of Susitna and Natural Gas Power Costs," memo to Rep. Hugh Malone from Jack Kreinheder, Research Staff, March 3, 1983

10. Plate 24, "Sensitivity Analysis," Acres summary report, 1982

11. Data Resources U.S. Review, Feb. 1983

12. APA Susitna "Checklist," Table 1, transmitted to Governor Sheffield Jan, 17, 1983

13. "Cost History of APA Hydro Projects", Chart 5 accompanying transcript of testimony by Gregg Erickson before the Senate State Affairs Committee, March 1, 1983

14. In Oregon, the courts have ruled that contracts binding municipal utilities to WPPSS debts are illegal. At question is whether the utilities had the right to make such commitments without a vote of the ratepayers.

15. Letter to Charles Conway from Eric Yould, October 11, 1982

16. "Marketing of Project Power Under the Energy Program for Alaska," memo from Myles Yerkes to Eric Yould, Dec. 28, 1982

WITNESSES WHO TESTIFIED BEFORE THE COMMITTEE

WITNESS	AFFILIATION
Governor Sheffield	Administration
Eric Yould	APA
Ray Benish	APA
William Wakefield	FERC
Tom Singer	Erickson & Associates
Ernie Haugen	Thomas Bay Power Commission
Richard Underkoffler	City of Petersberg
Kenneth Mason	City of Wrangell
George Matz	OMB
Ernie Mueller	Environmental Services, Limited
Kent Wick	Homer Electric Association
Bob Mellin	Self
Mike Kelly	Golden Valley Electric Association
Jeff Bohman	Self
Harold Pomeroy	Self
Jeff Eustis	Self
Bob Penney	State Chamber of Commerce
Mano Frey	Laborers' Union Local 341
Joseph Henri	Resource Development Council
Jim Ayres	Self
Paul Lowe	Self
Larry Underwood	Self
Wayne Beckwith	Anchorage Chamber of Commerce
Budd Goodyear	Matanuska Electric Association
Tom Stahr	Municipal Light and Power
Lee Woreham	Susitna Power Now
Liz Gilbert	Chugach Electric Association
Sharon O'Dell	Self
Nancy Lee	Self
Mary Pat Haberle	Self
Keith Treseder	Self
Victor Mittasch	Self
Judy Zimicki	Northern Alaska Environmental Center
Jim Sykes	Self
George Skladal	Self
Doug Stark	Self
Ron Kuzek	Self
Mark Beltz	Self
Bill Holton	Self
Brian Boyd	Self
Earl Finkler	CSM

Chuck Konigsburg	Self
Lisa Moorehead	Self
George Rogers	Self
Don Grimes	First Southwest
Steve McAleer	First Boston
Sterling Gallagher	John Nuveen
Tony Merritt	Acres American
Gervin Wernock	Acres American
Eileen Titmuss	Drexel Burnham Lambert
Greg[illegible] Erickson	Erickson and Associates
Lee Gorsuch	ISER
Milt Barker	Legislative Finance Division
Robert Heath	Department of Revenue
Harrison Call	RMI Pacific Northwest
Carolyn Guess	APUC
Dick Emmerman	OMB
David Rogers	Senate Advisory Council
Al Carson	DNR
Dennis Kelso	ADFG

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-4954

March 10, 1983

Honorable Bill Sheffield
Office of the Governor
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

The Senate State Affairs Committee has completed extensive hearings on the proposed Susitna hydroelectric project. We appreciated your taking the time to share your thoughts on this project with us.

The inescapable conclusion of the hearings is that the precipitous drop in oil prices has substantially altered the economic foundations of the Susitna project. Unless an immediate and thorough re-evaluation is made, and new answers provided, Susitna may well change from its desired goal of being the high benefit keystone to future state development into an uneconomic white elephant with an appetite for state funds capable of destroying Alaska's economy for years to come.

It has become clear that action by you and your administration is critical before the project can move ahead, and before we will be in position to act knowledgeably on legislation pending before the Senate State Affairs Committee (SB 68, 69, 70, and 71). We trust that you will cooperate in providing the necessary information and answers.

A summary of the extensive information and analytical work presented at the hearings will be completed next week and will be presented with the meeting minutes and edited transcripts. The purpose of this letter is to share with you, immediately, some of the questions that have been raised so that they may begin to get the attention that they require.

Though most people favor hydroelectric power and Susitna, the crucial question now facing Alaska is, simply, how and whether the state can pay for the project. The economic and financial picture was

quite different a few years ago, when oil revenues were piling up and it appeared that we would have billions of dollars in "surplus" revenues to spend on Susitna. If we are to proceed, we must find new ways of financing the project that will not undermine the fiscal structure of the state.

The committee was told that falling oil prices will affect the Susitna project in four ways:

*First, state revenues will be lower, and the funds simply will not be available to appropriate the state's "equity" portion without sacrificing other needs. As Lee Gorsuch, of the Institute of Social and Economic Research, testified, it now looks as though our peak revenue year may well be past.

*Second, lower state revenues will result in less economic activity within the state, which will reduce the future demand for the project's power.

*Third, lower oil prices and reduced economic activity should result in a lower inflation rate, which may raise the real cost of project financing.

*Fourth, lower prices mean that the cost of the thermal alternatives to Susitna will be less.

To elaborate on the last point, a recent memo by the House Research Agency indicates that with lower than expected gas prices (as evidenced by the recent Enstar contracts) the Susitna project would need subsidies of an additional $600-700 million in state appropriations, above the minimum$1.8 billion projected by Acres, as necessary to simply make Susitna power marketable relative to the alternatives.

Given the projected revenue situation, an awareness seems to be emerging that the factors that made Susitna an economically positive project just a short time ago may no longer be present. These factors must be continually monitored from this time forward so that when the time is right, we will be in a position to go forward with Susitna. Some of these factors, as identified by OMB, are:

--load forecasts
--fuel prices
--capital costs
--the discount rate

All of these factors are now different from the assumptions made by Acres in evaluating Susitna eighteen months ago, and are still changing.

At this stage, we have identified some of the key issues and questions that now need to be addressed in order to proceed with decisions on Susitna. We need your help to deal with them.

1. FINANCING

The basic question is: is there, can there be, a workable

finance plan for Susitna? So far, the Alaska Power Authority has not presented a finance plan, only a list of possible options. APA has suggested that only a dedicated revenue stream of $1.8 billion ($1982) would satisfy the need for a cash contribution by the state, with revenue bonds to supplement the financing. Analysis by the Legislative Finance Division, however, has found that such a dedicated stream would leave no money for any other capital projects in the whole state. Commissioner Heath has indicated that the administration is "very nervous" about Susitna financing, but is not prepared to comment more specifically on a finance plan until some of the uncertainties in the oil market are resolved. I believe we will have no progress on Susitna until a realistic financing plan is in place, one that can be approved by all parties.

What are Administration plans with respect to Susitna financing?

Is a financing plan being prepared?

When can the legislature expect a bona fide proposal from the administration for financing Susitna?

What is the Administration position on the financing bills pending before the Senate State Affairs Committee?

SB 68 -- advisory vote on financing Susitna
SB 70 -- Alaska Energy Dividend Fund
SB 71 -- bonding for Susitna

2. UPDATING ASSUMPTIONS

Which of the Susitna study and feasibility assumptions need to be updated, and how shall the updates be incorporated into the project's evaluation?

Who will be responsible for what data, and how will it all be tracked?

When will an authoritative re-assessment be available?

Many of the factors in question were identified during our hearings. They include the forecasted demand, fuel prices and price escalation, capital costs, and the bond discount rate. The APA is responsible for the update, but they have indicated that it will not be completed until May. Even then, these factors will still be subject to considerable uncertainty.

3. DECISION TIMING

You and others testified to the necessity to meet various criteria before a decision can be made to go ahead with Susitna.

The FERC representative, William Wakefield, testified that FERC approval is not likely before December, 1986, maybe not until 1987.

How far shall we go and what shall we do with Susitna before we are sure that it is both feasible and financable?

What is the Administration position on SB 69, which would authorize first phase construction of Susitna?

What schedules do you anticipate for provision of neces-

sary answers?

APA staff testified that a smaller Watana Dam is under consideration. They also indicated the possibility of a different, single dam on the Susitna River in lieu of the two-dam configuration; it would be designed for smaller load demands and would cost less. At the same time, site specific design and engineering are being considered and appropriations have been requested to pursue plans previously prepared.

What timing and effort is considered appropriate for further preparatory work pending FERC approval? What further action will be required in pursuit of FERC application action? What costs are entailed in what activities in FY 84, 85, and 86? In other words, how much money is required, and when, to keep the Susitna project viable during the FERC application and re-evaluation periods?

4. RELATIONSHIP TO BRADLEY LAKE

APA staff testified that Bradley, in order to compete with gas, would require a cash contribution of 50-75% of the project cost which is estimated at a total of about $400 million.

How does Susitna fit with the need for and financing of other planned hydro projects, specifically Bradley Lake?

How and when shall we proceed with Bradley? Shall it be the 135 MW size or the 60-90 MW size? Such decisions are clearly intertwined with a decision on the timing of Susitna, and they need to be addressed in that context.

In addition, is it wise to begin funding this smaller but still expensive dam incrementally, without considering where the full funding will come from and whether we can afford it either with or without Susitna?

5. ALTERNATIVES

Serious questions have been raised about the extent to which alternatives to Susitna hydro have been adequately examined. This matter becomes particularly important if Susitna decisions are deferred due to financing, marketability, or other problems.

It has been very difficult in the past to evaluate alternatives--gas, coal, other hydro--because they have not enjoyed the same degree of financial support as Susitna. Although many studies have been completed, the focus has not always been clear. For example, of the two recent studies concerned with using North Slope gas for electrical generation, one (Ebasco) is principally a hardware study, and the other (Booz-Allen) basically avoided the option because Ebasco had already looked at it. The representative from Booz-Allen, when asked to compare the gas option to Susitna, commented that the way to decide on how to meet railbelt electrical needs was to identify the need and then look at all the options, not to identify a source and then show how it could serve the need.

It was also suggested that we let the marketplace [illegible] the

choosing, and then decide whether to subsidize the capital costs of that choice.

In any case, in order to be prepared, additional consideration of the short-term and long range alternatives to Susitna appear to be called for.

How can we best continue to evaluate alternatives? Who should do that?

Are there technologically "clean" ways of using coal for power generation? Could such use facilitate development of coal resources for export and other economic development? Would state subsidies be required to make that feasible? How much money would be required to adequately study coal potentials?

How can we best determine what the realistic prospects are for use of gas to meet future power demand? What effect would state equity or subsidies akin to Susitna have on future gas and power cost?

Chakachamna and other hydro?

The Department of Commerce and Economic Development (DCED) has documented significant savings, even in Anchorage, through residential energy conservation. In other parts of the country, utilities have found that it's usually more cost effective to invest in conservation than in new generating facilities. Even though conservation will not by itself solve future power requirements problems, its potential for energy and cost savings is enormous.

What role can and should conservation play in decreasing the need for additional power for the railbelt?

How do the benefits of other alternatives, including subsidized power costs, compare with the benefits of energy conservation?

There are many other questions that need to be answered in the near future, including: tax-exempt bonding, land ownership, fisheries mitigation, and power sales contracts. The ones I noted above seem, based on the committee hearings, to be those that are the most basic and urgent at this time.

The above questions are, of course, difficult to answer. But they must be confronted in light of the fiscal realities now faced by the Susitna Project. As the issues before us are of such importance that they must be addressed at the highest level, I look forward to your Administration taking the lead in seeking answers to all the many questions and establishing a policy course for Alaska's energy future.

It is clear from the information we obtained in the hearings that legislative actions on Susitna will be stymied unless we receive

critical financial and other information from your administration. Your cooperation in this will be greatly appreciated.

Sincerely,

Senator Vic Fischer

cc: Commissioner Dick Lyon
Commissioner Esther Wunnike
Commissioner Dan Casey
Peter McDowell, OMB
Charles Conway
John Schaeffer
Robert Huffman

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 16, 1983

The Honorable Vic Fischer
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Fischer:

This will acknowledge receipt of your letter of March 10, sharing with me the questions raised during the extensive hearing held by the Senate State Affairs Committee on the proposed Susitna hydroelectric project.

A copy of your list of questions has been sent to the Commissioner of the Department of Commerce and Economic Development, Dick Lyon. I have asked him to personally coordinate the Administration's response to these questions and to assist you further, if necessary.

I look forward to receiving a summary of the hearings when it is completed.

Sincerely,

Bill Sheffield
Governor

JAY S. HAMMOND, GOVERNOR

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF GEOLOGICAL & GEOPHYSICAL SURVEYS

Pouch 7-028
Anchorage, Alaska 99510
274-9681

February 1, 1983

Mr. Eric P. Yould
Executive Director
Alaska Power Authority
334 West 5th Avenue
Anchorage, Alaska 99501

Dear ~~Mr. Yould~~ Eric:

The Division of Geological and Geophysical Surveys, Department of Natural Resources has just completed a preliminary appraisal of the undiscovered oil and gas resource potential of the Cook Inlet Basin. The area assessed is outlined in Attachment "A". Attachment "B" presents the resource distributions for oil, gas and their sum, barrels of oil equivalent (BOE), in place. That is, these "in place" distributions reflect total quantities of fluids trapped in reservoir rock; no adjustment is made to account for any economic considerations such as what proportion of in place resources in a reservoir are actually recoverable.

However, in response to your request, in the November 5, 1982 letter to Commissioner Katz, for estimates of "economically recoverable" resources we have developed a method for adjusting the in place resource distributions to approximate what proportion might be economically recoverable. This approximation method applys two assumptions regarding what proportion of the resources in a reservoir would actually be recovered and what size a reservoir would have to be to be commercial. By assumption we have used recovery factors of 0.5 for oil and 0.9 for gas and minimum commercial deposit sizes of 50 million bbl. for oil and 200 billion cubic feet for gas. Based on these assumptions Attachment "C" presents our preliminary estimate of the undiscovered but economically recoverable oil and gas resources in the Cook Inlet Basin. Summarizing Attachment "C", the expected (average) amount of undiscovered but economically recoverable natural gas remaining in the Cook Inlet Basin is two trillion cubic feet, with a 5 percent chance that it could be as much as five trillion cubic feet.

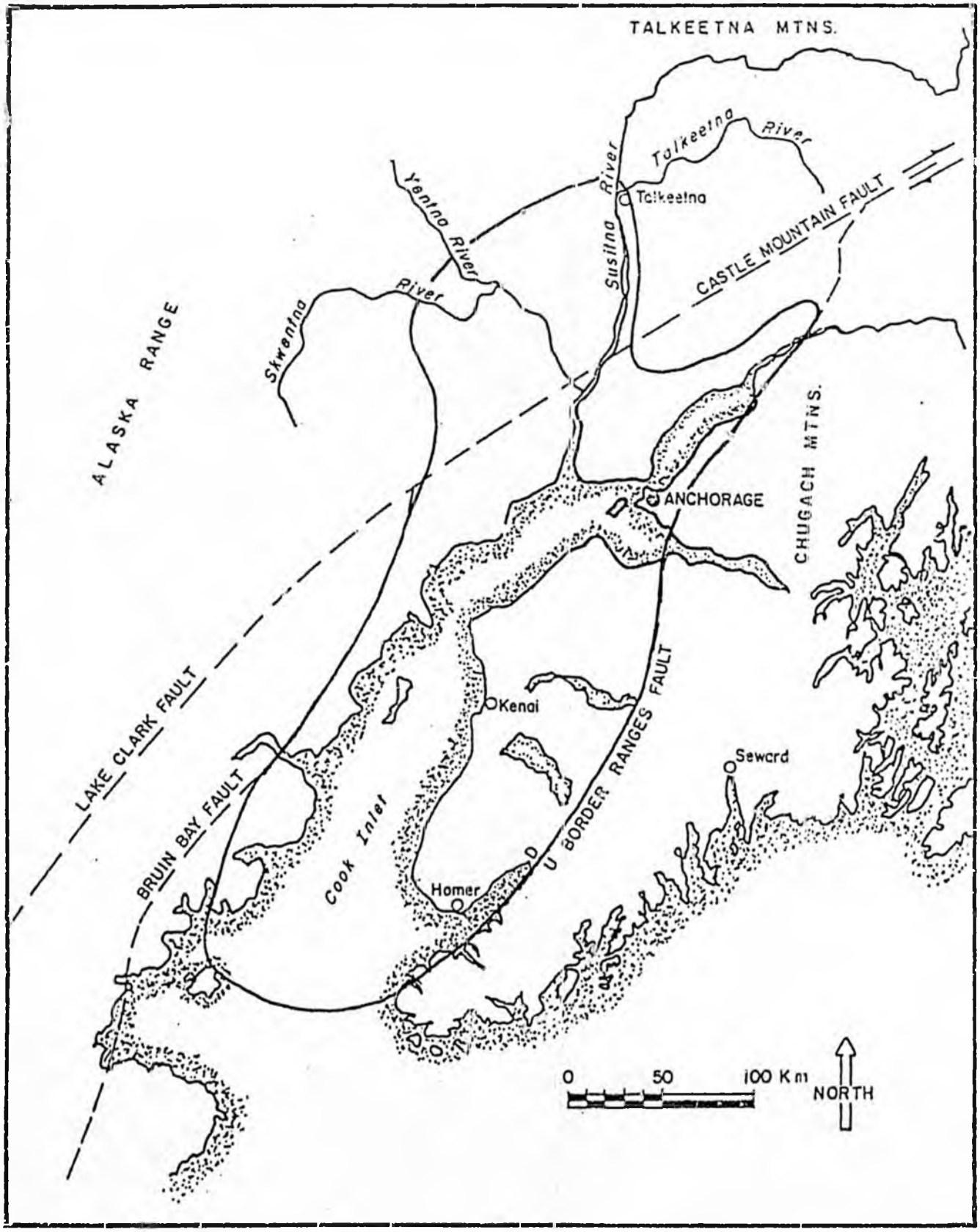
A full report on these assessments is in preparation and will be published as a DGGS Oper File Report in the near future. Should you have any questions regarding these preliminary assessments please contact Rex White of my staff.

Cordially yours,

Ross G. Schaff
State Geologist

cc: Commissioner Wunnicke, DNR

RGS/plc


TALKEETNA MTNS.
Talkeetna River
Susitna River
Talkeetna
CASTLE MOUNTAIN FAULT
Yentna River
Skwentna River
ALASKA RANGE
CHUGACH MTNS.
ANCHORAGE
LAKE CLARK FAULT
BRUIN BAY FAULT
Kenai
Cook Inlet
BORDER RANGES FAULT
Seward
Homer
0
50
100 Km
NORTH

PRELIMINARY ESTIMATES OF UNDISCOVERED OIL AND GAS RESOURCES IN PLACE FOR THE COOK INLET BASIN

Division of Geological and Geophysical Surveys
Department of Natural Resources
State of Alaska
January 28, 1982

RESOURCES IN PLACE[a] (barrels of oil equivalent)		DEPOSIT SIZE[b]		OIL IN PLACE		GAS IN PLACE[a]	
Probability that quantity is at least the given value (%)	Billions of barrels of oil equivalent	Conditional probability that size is at least the given value (%)	Billions of Cubic Feet	Probability that quanity is at least the given value (%)	Billions of barrels	Probability that quanity is at least the given value (%)	Trillions of cubic feet
99	.13	99	1.5	99	.00	99	.47
95	.28	95	5.2	95	.00	95	.93
90	.38	90	9.6	90	.03	90	1.24
75	.61	75	26.8	75	.13	75	1.98
50	.96	50	76.0	50	.36	50	3.07
25	1.43	25	203.3	25	.73	25	4.38
10	2.02	10	475.2	10	1.20	10	5.84
5	2.49	5	761.7	5	1.62	5	6.93
1	3.76	1	1688.2	1	2.72	1	9.06
Average BOE	1.12	Average Deposit Size	191.6	Average Oil	0.53	Average Gas	3.36

[a]Because the distribution of each resource is estimated indepenaently, "Gas in Place" after conversion to barrels of oil equivalent, cannot be added to "Oil in Place" to get "Resources in Place (barrels of oil equivalent)" at any probability level except at the expected value (average).

[b]Conditional upon the existence of oil and gas deposits in the Cook Inlet Basin, this column presents the estimated distribution of deposit size measured in cubic feet of gas.

ATTACHMENT C

PRELIMINARY ESTIMATES OF UNDISCOVERED OIL AND GAS ECONOMICALLY RECOVERABLE RESOURCES

FOR THE COOK INLET BASIN

Division of Geological and Geophysical Surveys
Department of Natural Resources
State of Alaska
January 28, 1983

ECONOMICALLY RECOVERABLE RESOURCES[a] (barrels of oil equivalent)		DEPOSIT SIZE[b]		ECONOMICALY RECOVERABLE OIL		ECONOMICALLY RECOVERABLE GAS[a]	
Probability that quantity is at least the given value (%)	Billions of barrels of oil equivalent	Conditional probability that size is at least the given value (%)	Billions of Cubic Feet	Probability that quanity is at least the given value (%)	Billions of barrels	Probability that quanity is at least the given value (%)	Trillions of cubic feet
99	.00	99	202	99	.00	99	.00
95	.09	95	211	95	.00	95	.22
90	.15	90	223	90	.00	90	.43
75	.28	75	266	75	.00	75	.93
50	.50	50	373	50	.14	50	1.76
25	.78	25	597	25	.32	25	2.78
10	1.12	10	993	10	.55	10	4.04
5	1.39	5	1358	5	.78	5	4.90
1	2.01	1	2353	1	1.31	1	6.83
Average BOE	0.58	Average Deposit Size	525	Average Oil	0.22	Average Gas	2.04

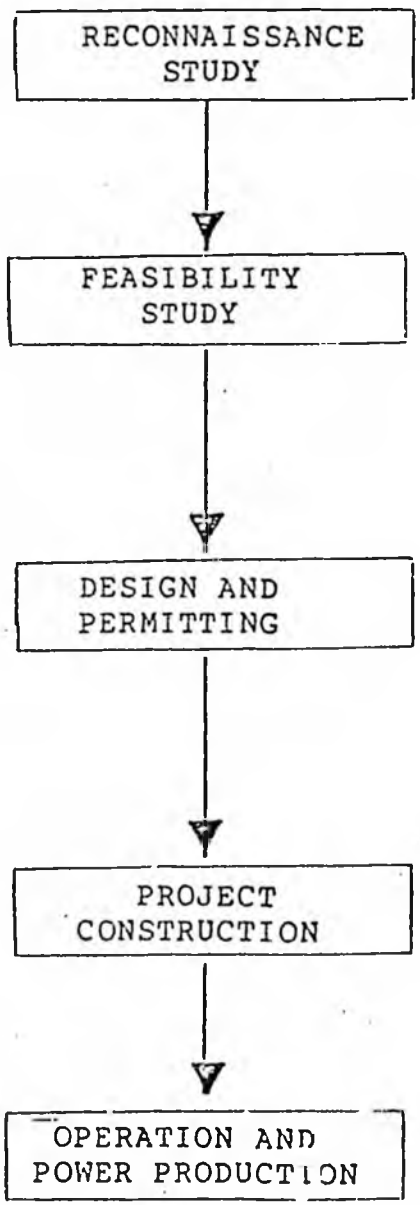
[a]Because the distribution of each resource is estimated independently, "Economically Recoverable Gas" after conversion to barrel of oil equivalent, cannot be added to "Economically Recoverable Oil" to get "Economically Recoverable Resources" (barrels of oil equivalent)" at any probability level except at the expected value (average).

[b]Conditional upon the existence of oil and gas deposits in the Cook Inlet Basin region, this column presents the estimated distribution of deposit size measured in cubic feet of economically recoverable gas.

S U S I T N A P R O J E C T S T A T U S R E P O R T

F E B R U A R Y 1 9 8 3

FIVE STAGES OF PROJECT DEVELOPMENT



PRELIMINARY ANALYSIS.
NARROW RANGE OF OPTIONS

DETAILED ALTERNATIVES COMPARISON.
FEASIBILITY LEVEL COST ESTIMATE.
INDEPENDENT COST ESTIMATE.
FINANCE OPTIONS.

FINAL COST ESTIMATE.
CONSTRUCTION DECISION.
FINAL FINANCE PLAN.
POWER SALES AGREEMENTS.

OPERATION AND MAINTENANCE AGREEMENTS.

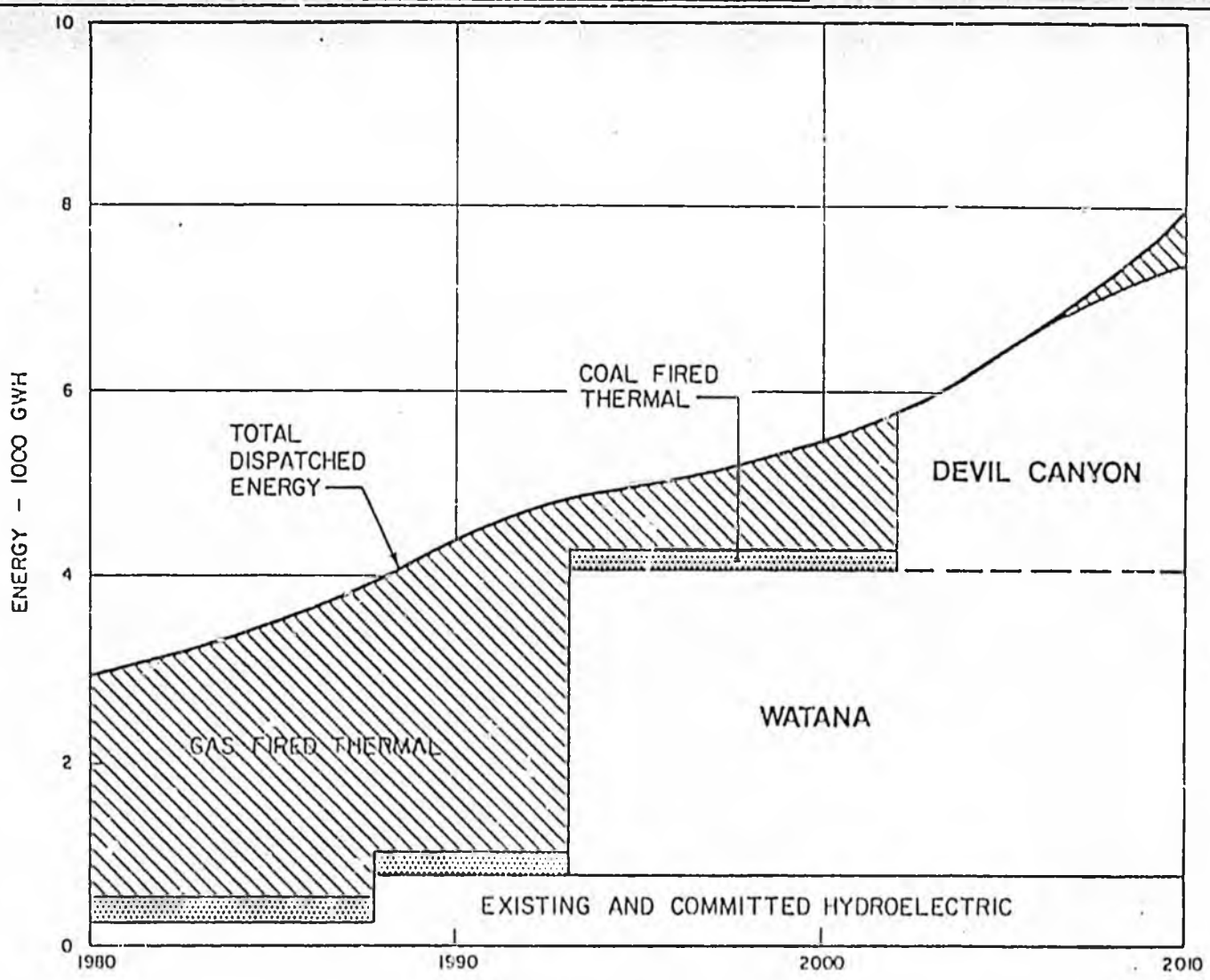
THE SUSITNA PROJECT

	WATANA	DEVIL CANYON
DAM TYPE	ZONED EARTHFILL	CONCRETE ARCH
DAM HEIGHT	885 FEET	645 FEET
RESERVOIR LENGTH	48 MILES	26 MILES
INSTALLED CAPACITY	1,020 MW	600 MW
AVERAGE ANNUAL ENERGY	3,460 GWH	3,340 GWH
TRANSMISSION SYSTEM	345 KV	345 KV
COST ($ 1982)	3.58 BILLION	1.57 BILLION
COST (@ 6% INFLATION)	5.94 BILLION	---
COMMISSIONING DATE	1993	2002

PROJECT PURPOSE

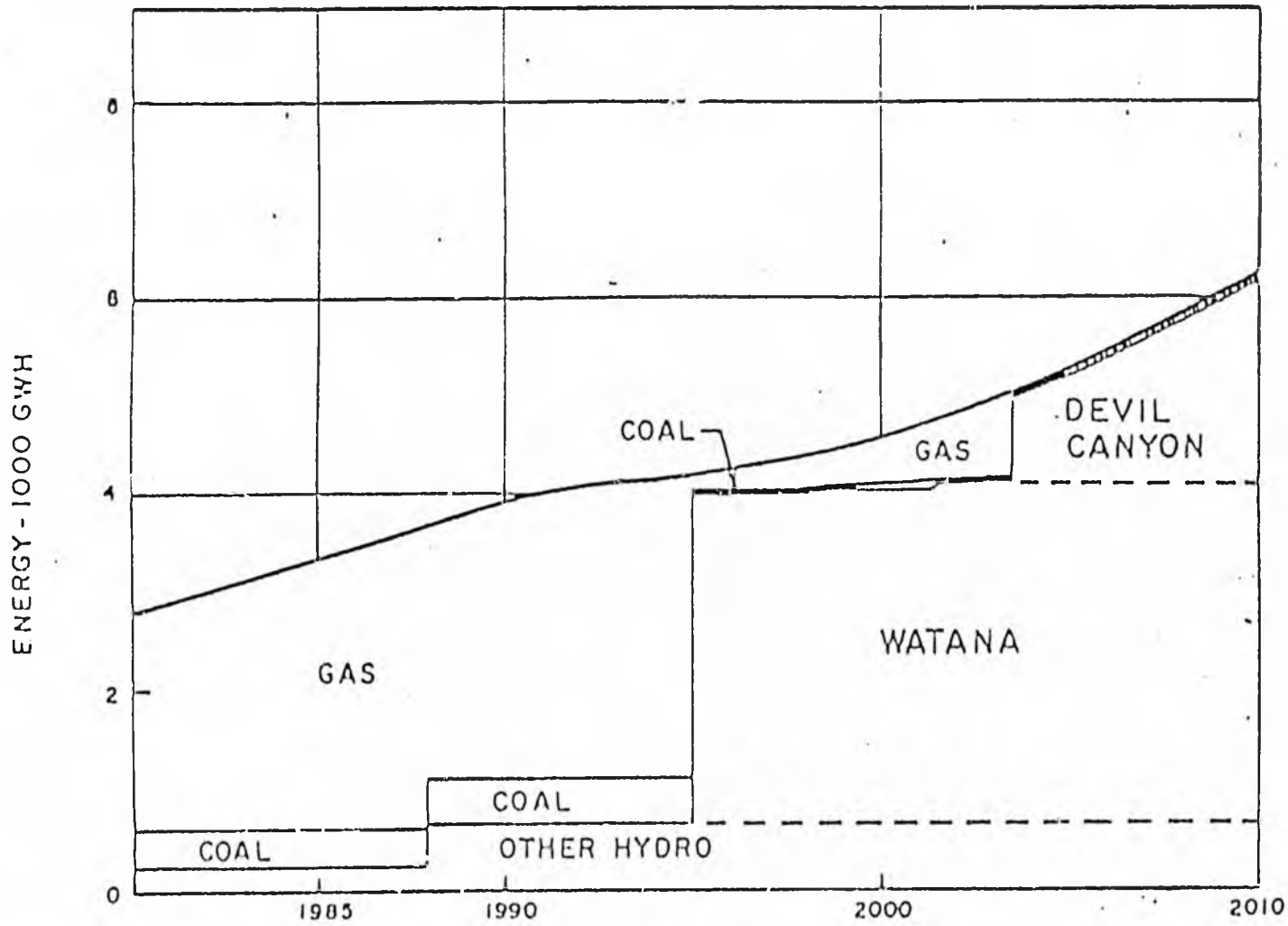
- MEET RESERVE MARGINAL AND ENERGY REQUIREMENTS
- REDUCE OVERALL COST OF THE GENERATING SYSTEM

USE OF SUSITNA GENERATION



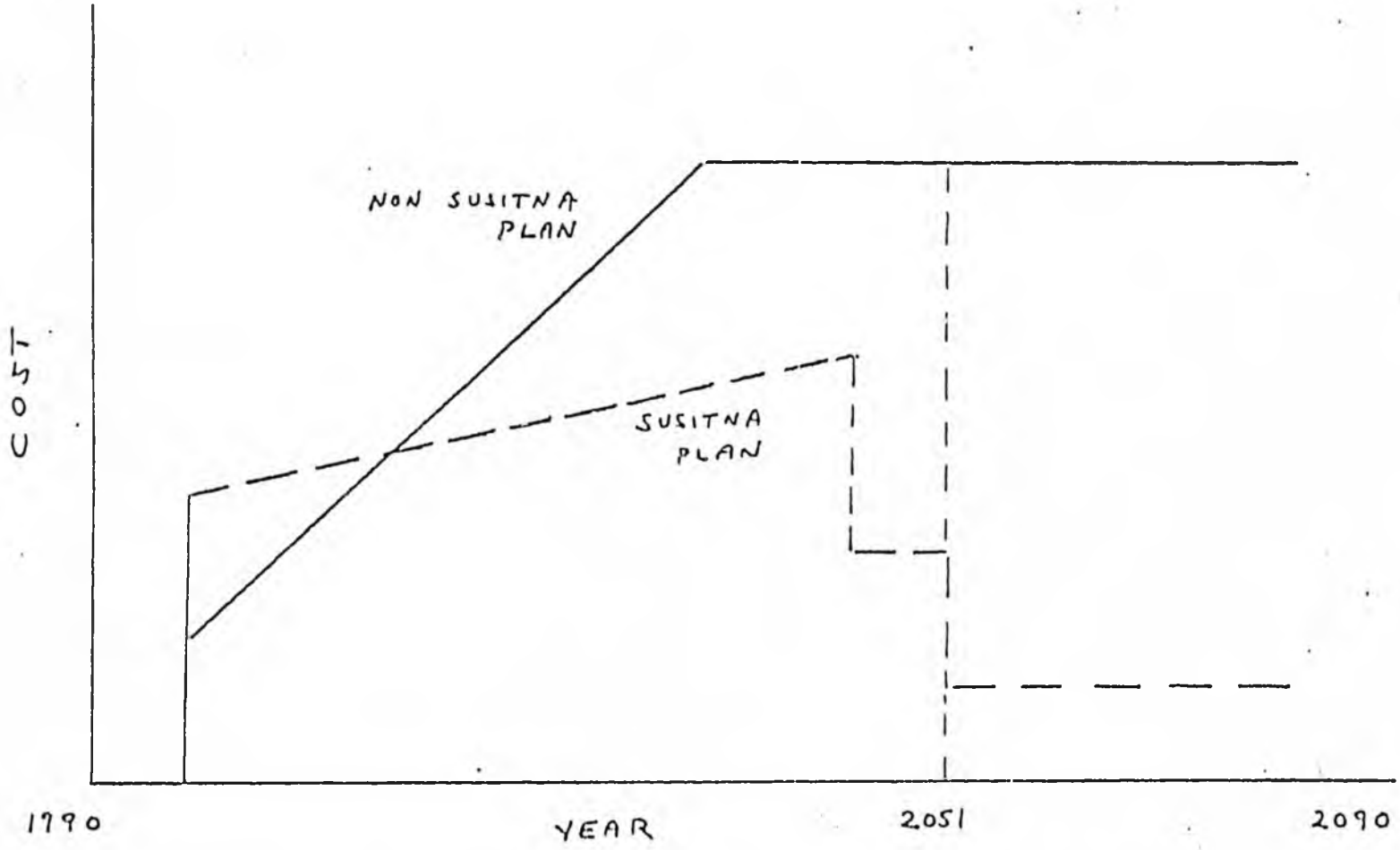
Medium Load Forecast

USE OF SUSITNA GENERATION



LOW LOAD FORECAST

ECONOMIC FEASIBILITY TEST



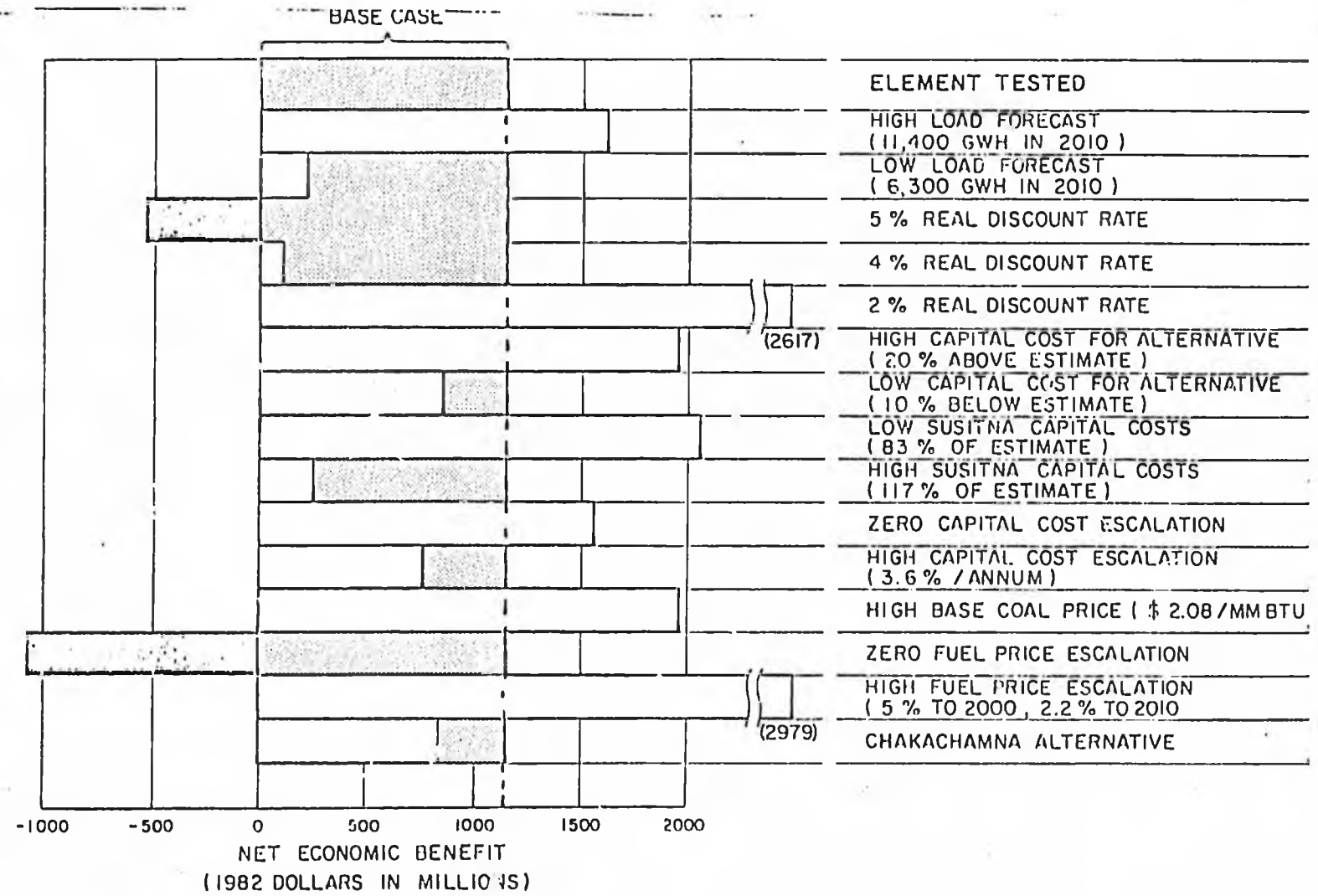
SYSTEM COSTS WITHOUT SUSITNA (A)

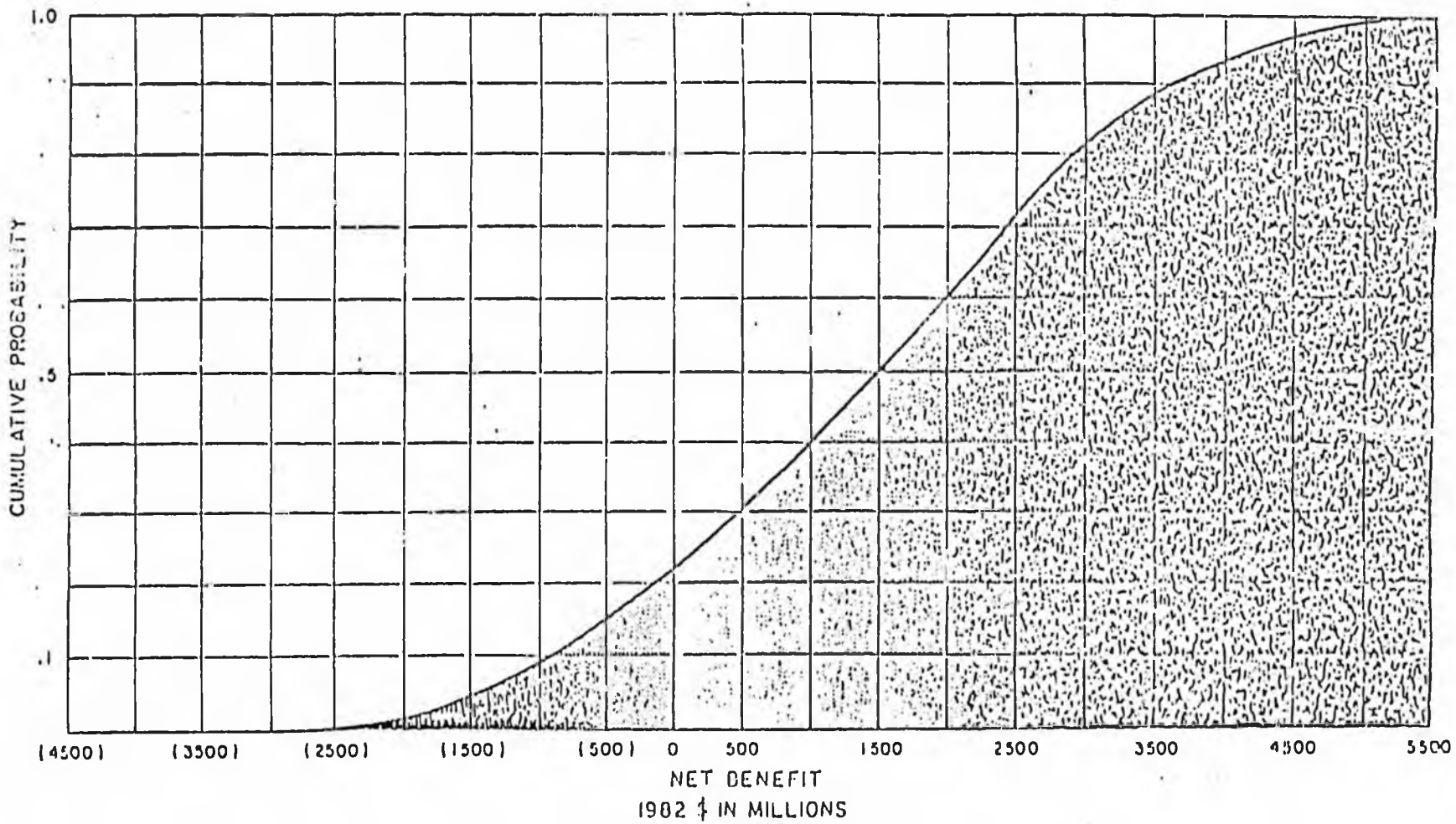
COMPARED TO

SYSTEM COSTS WITH SUSITNA (B)

(A - B) = NET BENEFITS OF SUSITNA PLAN

SENSITIVITY ANALYSIS





MULTIVARIATE ANALYSIS

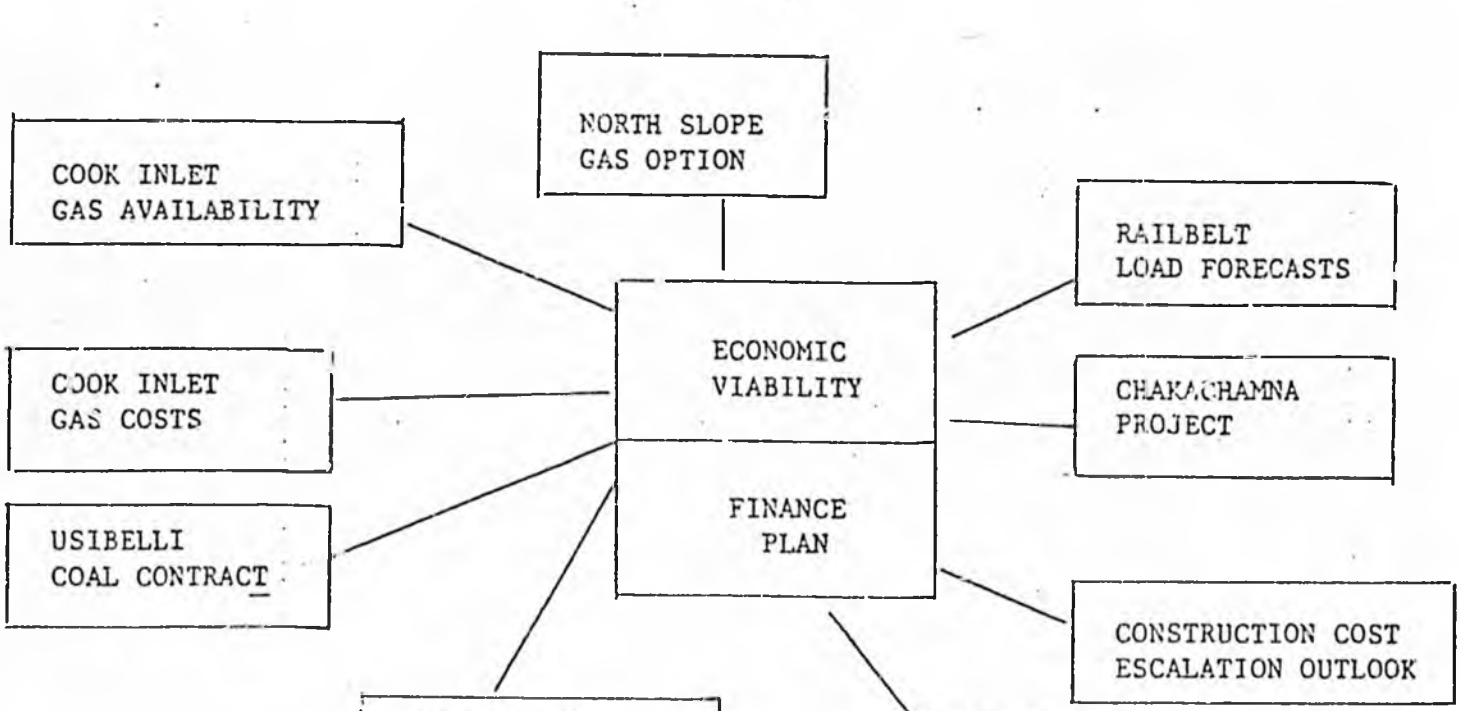
	Low	Medium	High
Load Forecast	0.2	0.6	0.2
Susitna Capital Cost	0.60	0.25	0.15
Fuel Cost Escalation	0.25	0.50	0.25

PREREQUISITES TO CONSTRUCTION

- 100 PERCENT DESIGN COMPLETION FOR INITIAL CONTRACTS.
- ACCEPTABLE MASTER LABOR AGREEMENT.
- FINAL PRE-CONSTRUCTION COST ESTIMATE.
- POWER SALES AGREEMENTS.
- FERC LICENSE AND OTHER MAJOR PERMITS.
- EXTERNAL REVIEW PANEL CONCURRENCE WITH DESIGN, SAFETY, AND MITIGATION MEASURES.
- FINANCE PLAN WITH FUNDING SOURCE ESTABLISHED.
- TAX EXEMPT STATUS RULING FOR REVENUE BONDS.
- LEGISLATIVE AUTHORIZATION.
- POWER AUTHORITY DECISION TO CONSTRUCT.
- PROJECT LANDS ACQUIRED.

LAND ACQUISITION SCHEDULE

JANUARY 1980 - DECEMBER 1982	o IDENTIFY PROJECT LANDS o IDENTIFY LAND STATUS
MARCH - JULY 1983	o PRIORITIZE ACQUISITION o EFFECT CONVEYANCE OF STATE AND NATIVE SELECTED LANDS
JULY 1983 - JANUARY 1985	o NEGOTIATE WITH PRIVATE LANDOWNERS o ACQUIRE ROW, LEASES


NORTH SLOPE
GAS OPTION
COOK INLET
GAS AVAILABILITY
RAILBELT
LOAD FORECASTS
ECONOMIC
VIABILITY
COOK INLET
GAS COSTS
CHAKACHAMNA
PROJECT
FINANCE
PLAN
USIBELLI
COAL CONTRACT
CONSTRUCTION COST
ESCALATION OUTLOOK
1982 ACTUAL
GENERATION DATA
NEWER VERSION
GENERATION PLANNING MODEL

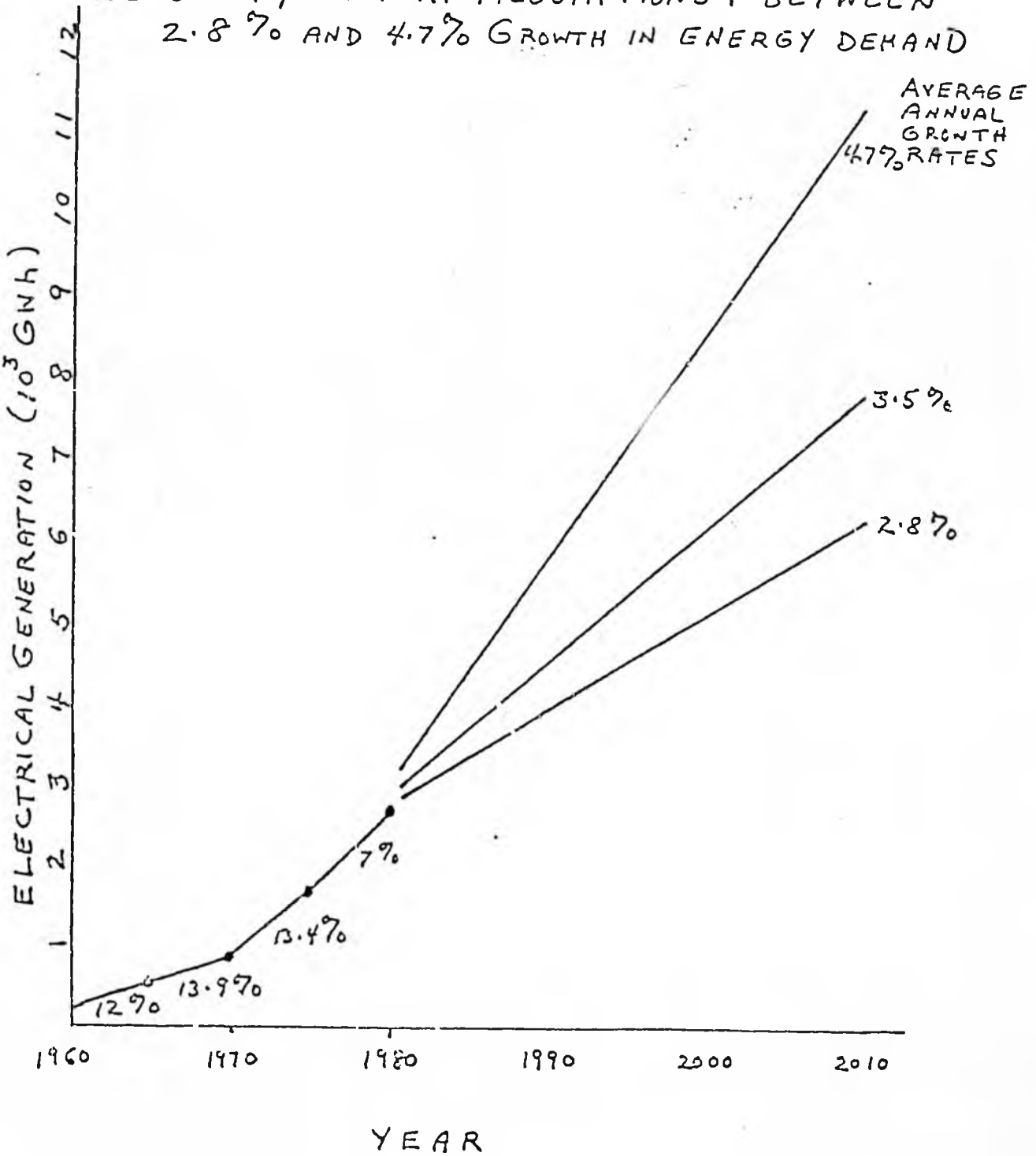
I M P O R T A N T P A R A M E T E R S

	LOW	BASE	HIGH
LOAD FORECAST (in 2010) ANNUAL GROWTH RATE	6,300 GWh (2.8%)	7,800 GWh (3.5%)	11,400 GWh (4.7%)
DISCOUNT RATE (CONSTANT $)	2%	3%	5%
SUSITNA CAPITAL COSTS (CONTINGENCY)	0%	20%	40%
CAPITAL COST ESCALATION	0%	2%	4%
FUEL PRICE ESCALATION*			
BELUGA COAL ($1.51/MMBTU)**	0%	2.1%/1.2%	4.2%/2.2%
NATURAL GAS ($3.00/MMBTU)	0%	2.5%/2.0%	5.0%/2.0%
OIL ($6.50/MMBTU)	0%	2.5%/2.0%	5.0%/2.0%

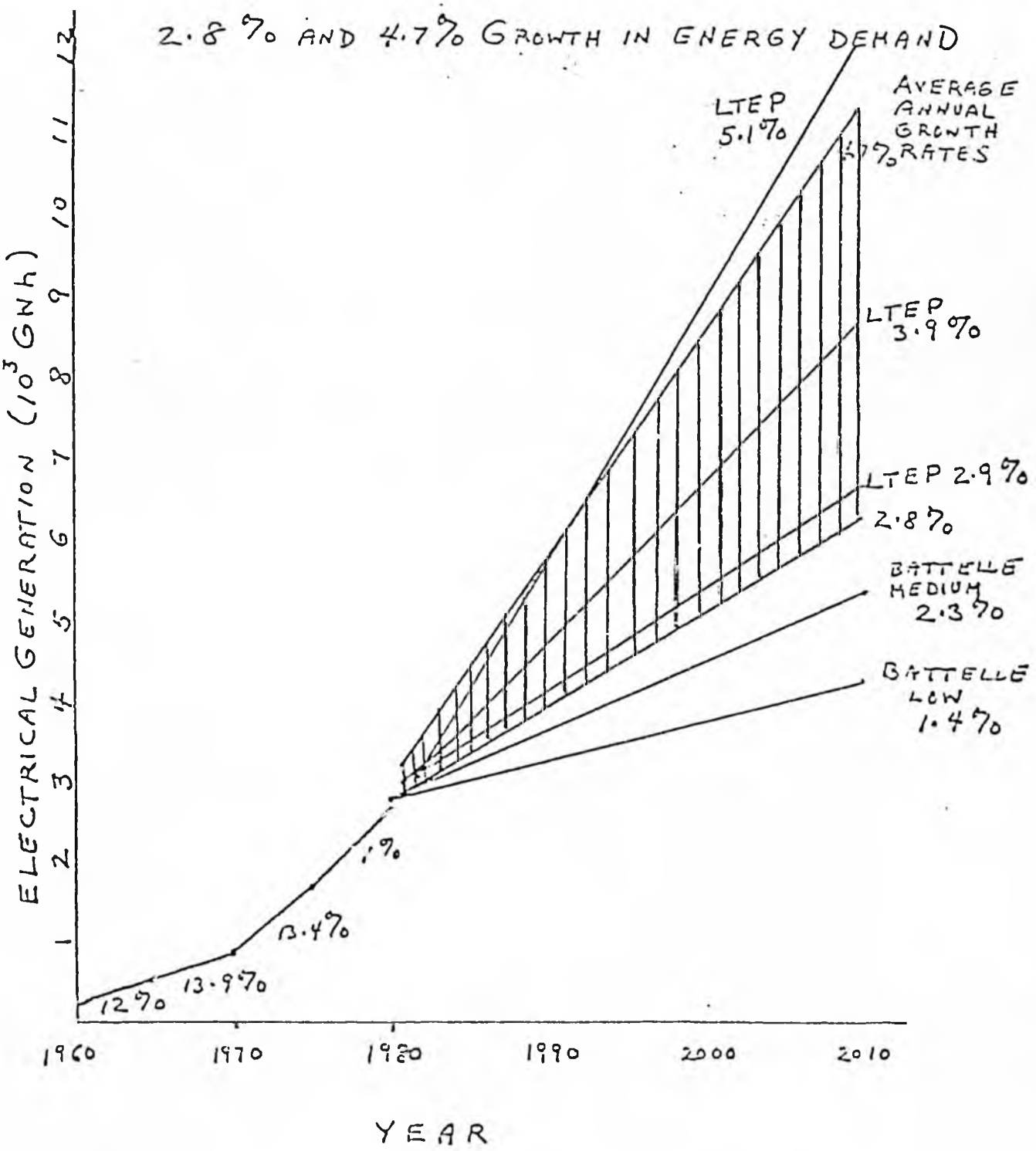
* (1982-2000)/2001-2010)
** 1982 Price Estimate

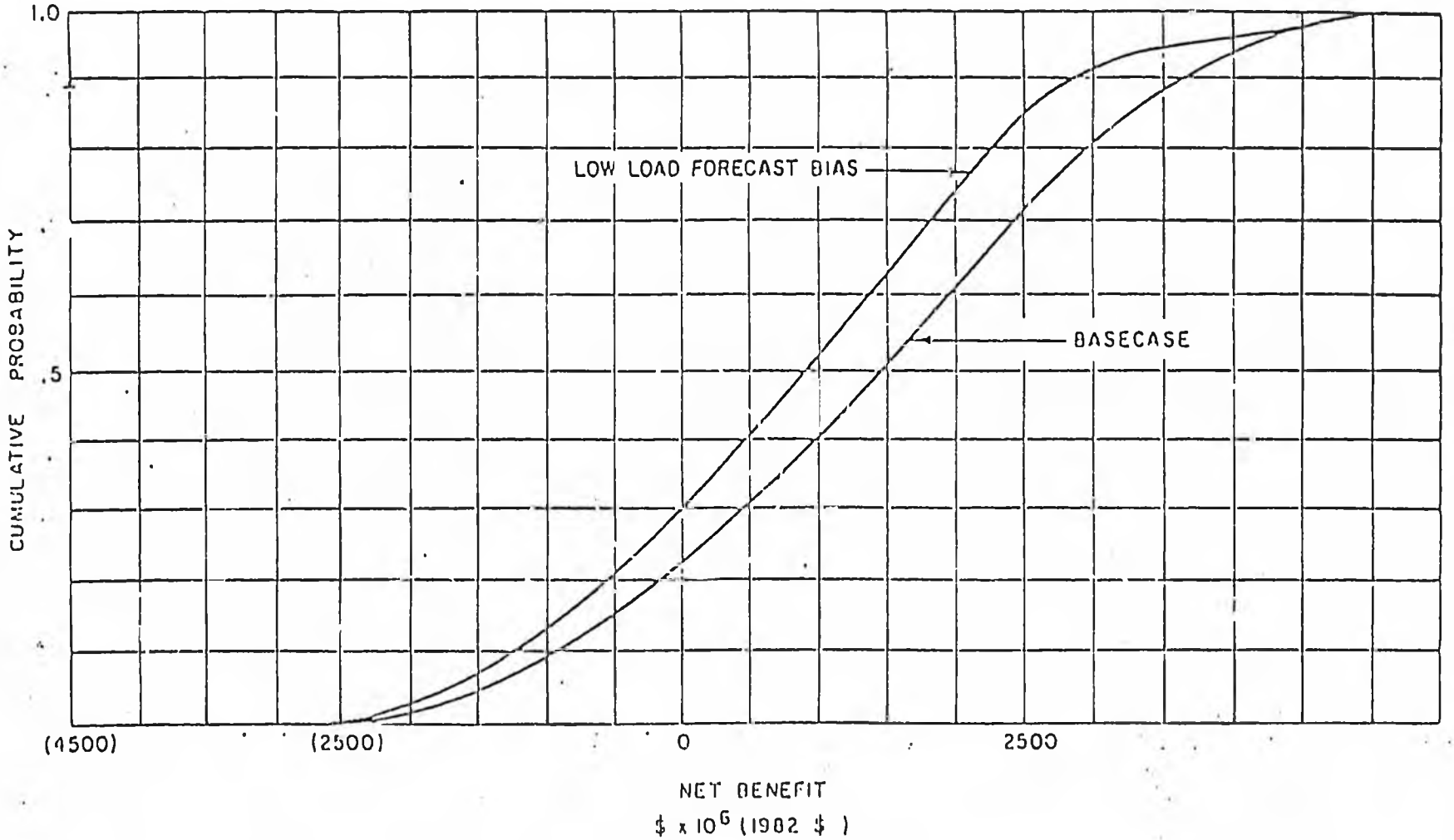
LOAD FORECAST

FEASIBILITY REPORT ASSUMPTIONS: BETWEEN 2.8% AND 4.7% GROWTH IN ENERGY DEMAND



LOAD FORECAST UPDATE

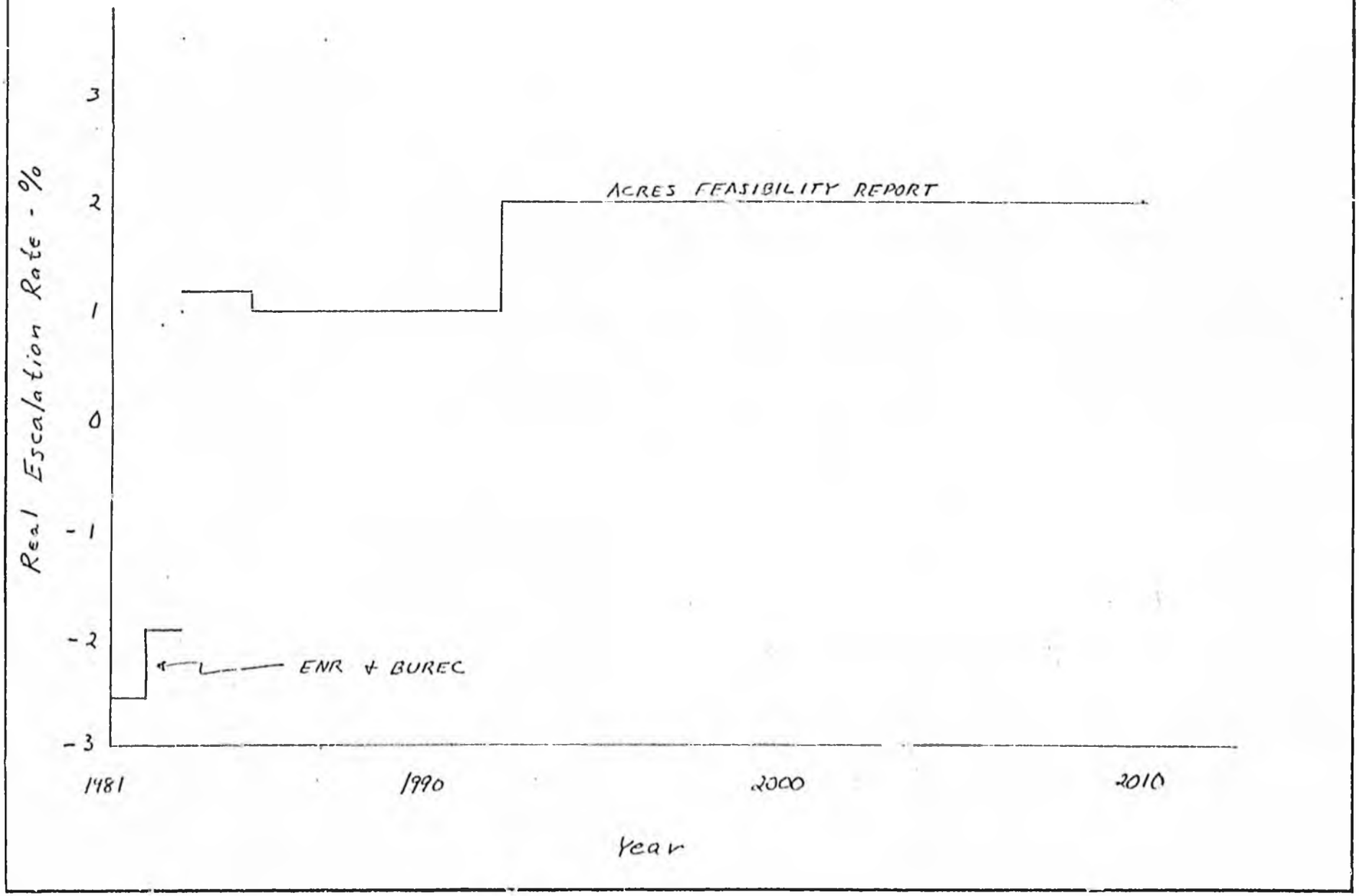


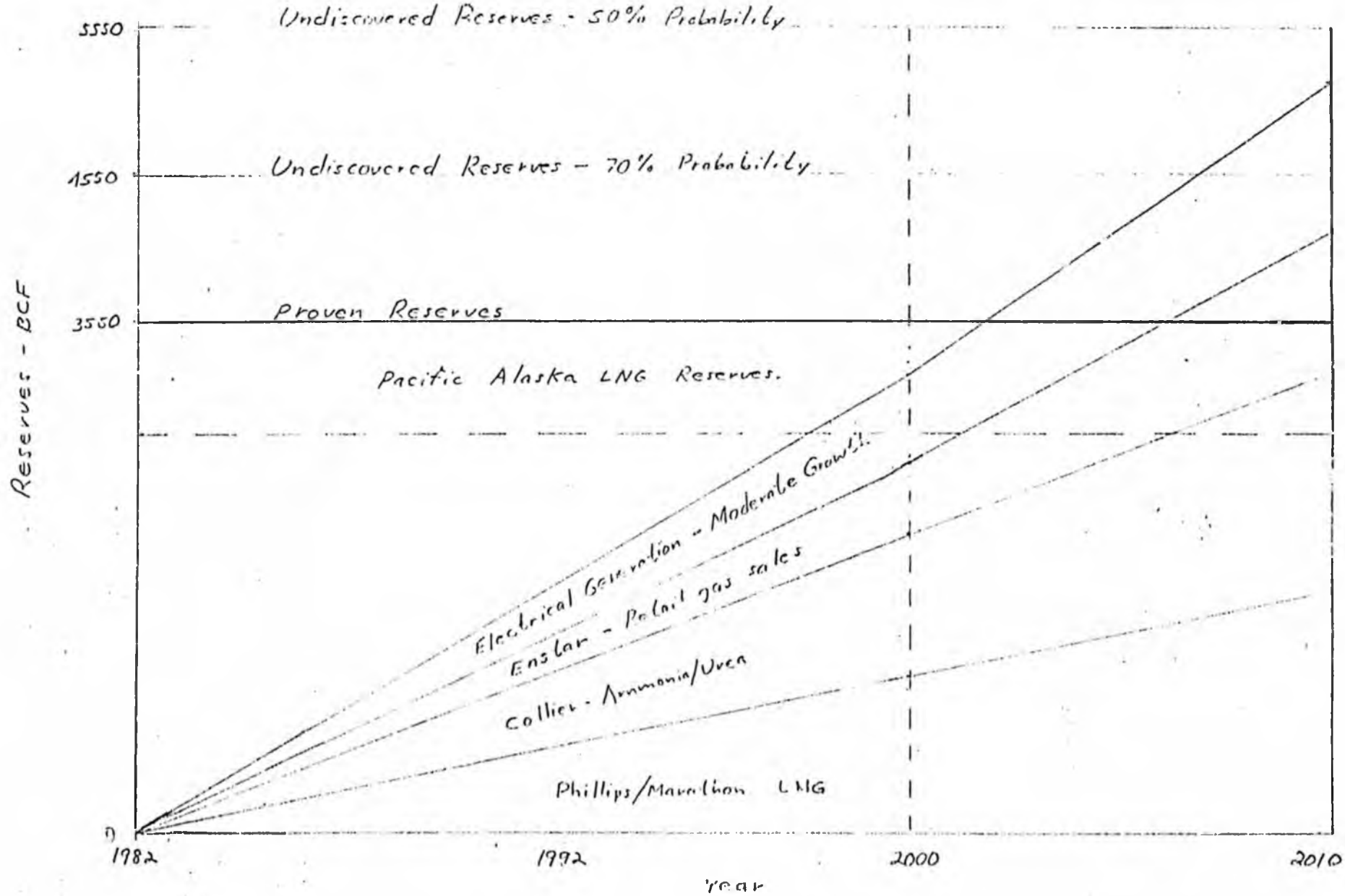


ASSIGNMENT OF PROBABILITIES

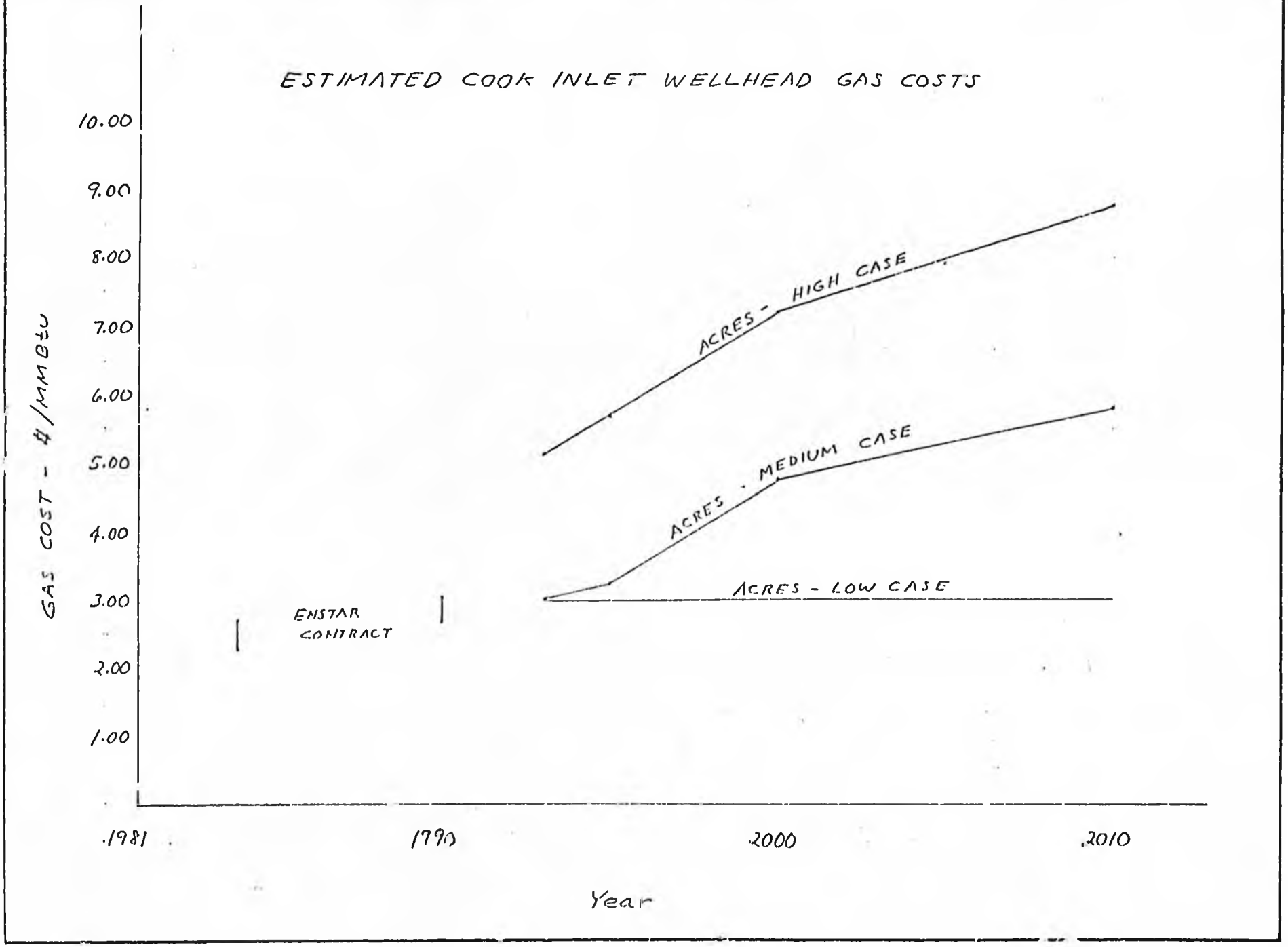
	Low	Medium	High
Feasibility Study	0.2	0.6	0.2
Alternative Outlook	0.6	0.3	0.1

CONSTRUCTION COST ESCALATION

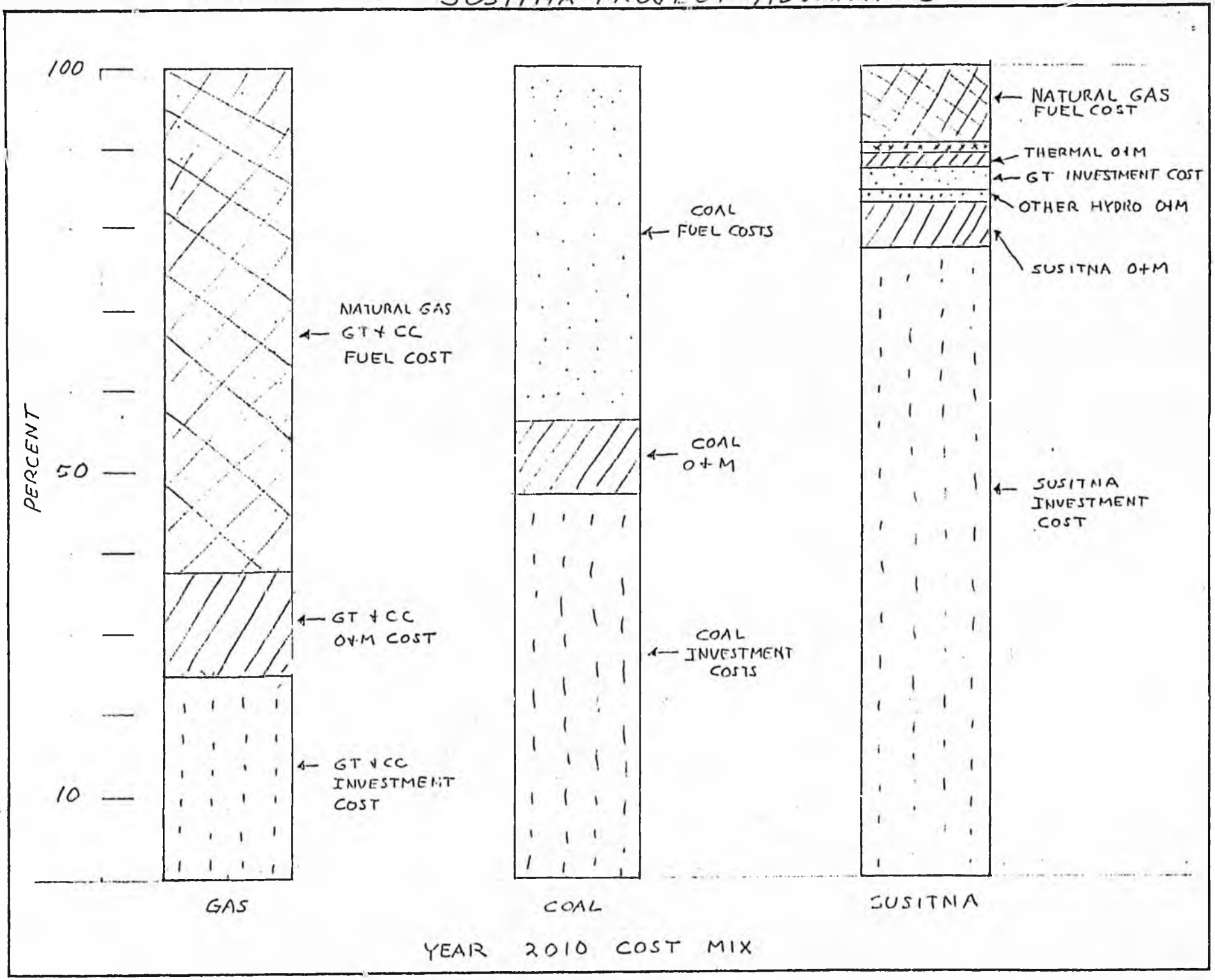




COOK INLET NATURAL GAS SUPPLIES
AND ESTIMATED CONSUMPTION


ESTIMATED COOK INLET WELLHEAD GAS COSTS
10.00
9.00
8.00
7.00
6.00
5.00
4.00
3.00
2.00
1.00
GAS COST - $/MMBTU
ACRES - HIGH CASE
ACRES - MEDIUM CASE
ACRES - LOW CASE
ENSTAR CONTRACT
1981
1990
2000
2010
Year

SUSITNA PROJECT ADVANTAGES



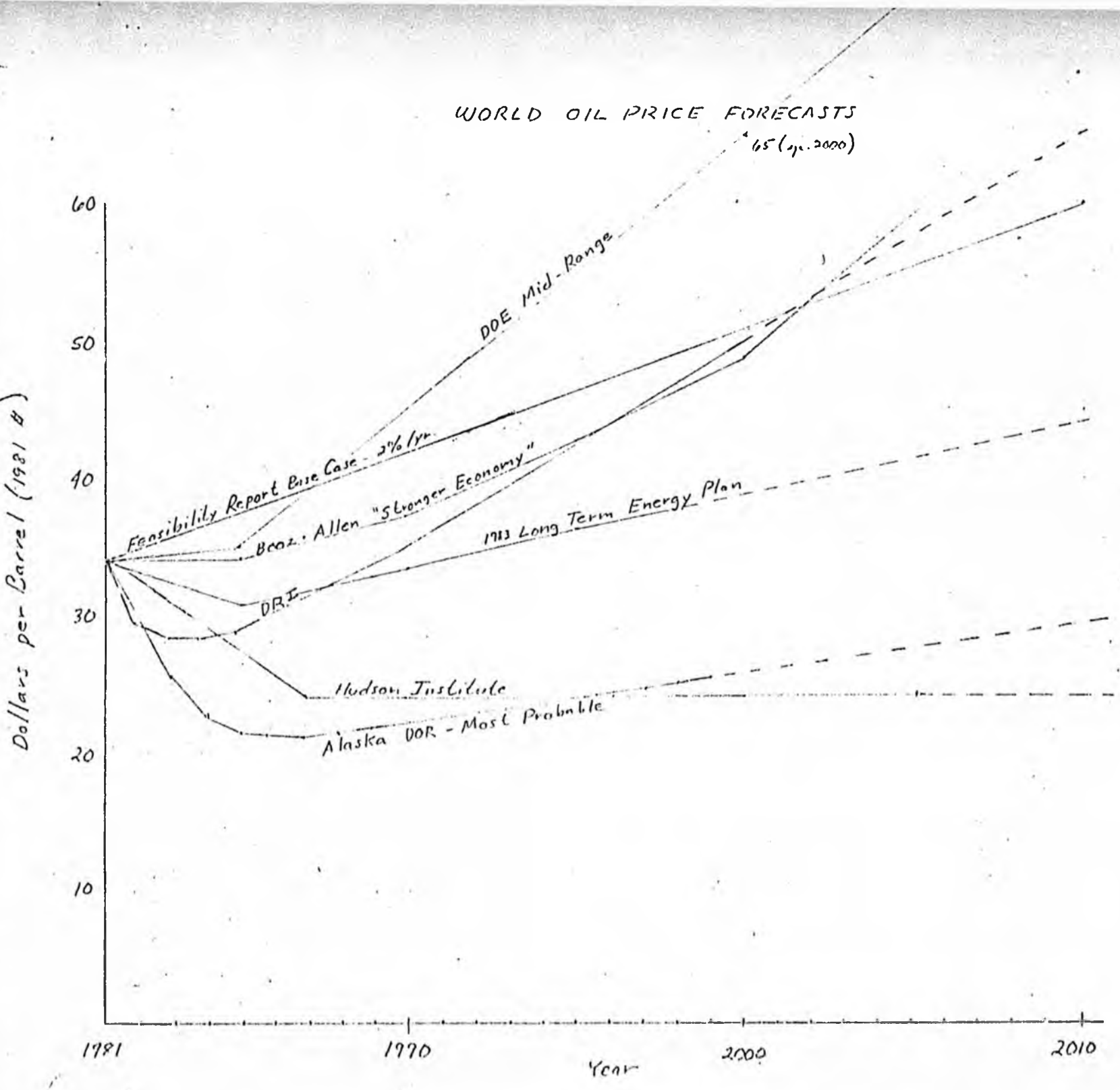
NORTH SLOPE GAS OPTION

- DRAFT REPORT UNDER REVIEW
- THREE OPTIONS
- SITING, CONCEPTUAL DESIGN, FACILITY COST ESTIMATES

CHAKACHAMNA PROJECT

	FEASIBILITY STUDY	UPDATE
CAPACITY	330 MW	330 MW
FIRM ANNUAL ENERGY	1,374 GWh	1,236 GWh
ANNUAL GENERATION	1,446 GWh	1,301 GWh
TOTAL COST (1982 $)	$1.45 BILLION	$1.32 BILLION
TOTAL COST ENERGY*	43.5 MILLS/KWh	44.5 MILLS/KWh

* Includes 15 MILLS PER KWh FOR O+M


WORLD OIL PRICE FORECASTS
'65 ($ yr. 2000)
60
50
40
30
20
10
Dollars per Barrel (1981 $)
DOE Mid-Range
Feasibility Report Base Case - 2% /yr
Booz. Allen "Stronger Economy"
1983 Long Term Energy Plan
DRI
Hudson Institute
Alaska DOR - Most Probable
1981
1990
2000
2010
Year

WATANA DAM HEIGHT REDUCTION
CURRENTLY UNDER STUDY

DAM HEIGHT	885 FEET	800 FEET	700 FEET
FILL QUANTITY	62 MILLION CY	46 MILLION CY	29 MILLION CY
TIME OF CONSTRUCTION	9 YEARS	8 TO 9 YEARS	7 TO 8 YEARS
ANNUAL ENERGY	3450 GWh	3040 GWh	2550 GWh
CONSTRUCTION COST ($1982)	3.58 BILLION	3.2 BILLION	2.8 BILLION
PROBABLE COST REDUCTIONS	--	10%	20%

TECHNIQUES FOR SUSITNA COST CONTROL

- EMPHASIS ON "HIGH CONFIDENCE" ESTIMATE
- INDEPENDENT ESTIMATE
- EARLY CM INVOLVEMENT
- MAXIMUM PRE-CONSTRUCTION SITE INVESTIGATION
- 100% DESIGN PRIOR TO BIDDING
- RIGOROUS CHANGE CONTROL PROCEDURE
- MASTER LABOR AGREEMENT
- FIRM FIXED-PRICE CONTRACTS

POWER AUTHORITY RECOMMENDATIONS

APRIL 1982

- CONTINUE PER-CONSTRUCTION DEVELOPMENTAL EFFORTS
- SUBMIT A FERC LICENSE APPLICATION
- INITIATE DESIGN

Anchorage
CHAMBER of COMMERCE

Crossroads of the Air World

RECEIVED
FEB 24 1983

February 1983

TO ALL LEGISLATORS:

The Susitna Hydro Project is certainly complex and requires a lot of background information.

Many of you have asked for a summation or outline of the project. The attached article by Dave Hutchens in the February issue of "Ruralite" is as good a one page summary as we've seen. It's caption "Decision Time" is really on target - you are the one's that must act now for our future needs.

Sincerely,

Robert C. Penney

RCP/mja

encl.



Dave Hutchens
executive director,
Alaska Rural Electric
Cooperative Association

The Alaska Scene

RECEIVED
FEB 24 1983

Decision Time

The 1983 Legislature has a very important decision to make on behalf of electrical consumers throughout much of Alaska, from Homer to Fairbanks.

This decision deals with developing a financing plan for the Susitna Hydroelectric Project. Several facts make this decision critical.

Right now, natural gas provides the primary source of electric generation in this region. Only Golden Valley Electric Association and the Fairbanks Muncipal Utilities use coal to generate power. Golden Valley also uses oil-fired turbines for peak load generation. Two small hydroelectric facilities—Eklutna Lake and Cooper Lake—are the only other sources of electrical power.

According to the best estimates of utility managers, the proven gas supplies in Cook Inlet will begin running out of enough gas to generate electricity and heat homes in about 1995—only 12 years away. Without gas, another source of clean power to generate electrical energy must be developed and put into use before 1995.

The alternatives are known. Either coal-fired generation or hydroelectric power.

Coal-fired plants have some advantages. They are less expensive to build than hydroelectric plants and they can be built in about seven years as opposed to ten years for a project like Susitna. On the other hand, coal-fired plants have high maintenance costs, high labor costs and generate air pollution. Coal-fired plants also have to be replaced in about 35 years as their equipment ages and wears out. In the Cook Inlet area, coal is available but unless the coal mining companies can move larger quantities through export channels, the economics of developing a major coal field for one or two power plants are not favorable.

The hydroelectric potential of Susitna, on the other hand, is a source of clean power that will be available on a long term basis in excess of 50 years. It will also offer the advantage of stable prices. Coal-fired plants have somewhat variable costs for fuel since labor and machinery costs to extract the coal from the ground usually rise over the years. Hydroelectric facilities always have the same source of "free fuel"—the water in the river they are built on.

The Susitna project also appears to be relatively free from major environmental impacts. The river itself supports little fish life above the dam sites at Devil Canyon and Watana, and apparently there will be few long-term effects on salmon runs in Cook Inlet. Fishery resources can also be enhanced by construction of hatcheries. The dams themselves are designed to minimize changes in the character of the river water, another move associated with avoiding damage to fisheries resources.

The real benefits of Susitna lie in the area of economics. Susitna will provide stable power rates which will become less expensive in real terms as long as it lasts. From the $35 million study conducted by ACRES, there is no doubt that the savings to the consumers will be enormous over the useful life of the Susitna project. The trick is to finance it in such a way that some of those savings are received in the early years.

Employment associated with the Susitna Project is also a factor that must be considered. During the 20-year construction period for both dams there would be as many as 3,400 persons directly employed. The townsite at the dams would house the bulk of these workers, lessening the impact on communities such as Trapper Creek and Talkeetna. Over the long term, the northern Susitna Valley can expect a population increase due to dam construction and operation. The effects of this population increase remain a source of intense discussion in the Matanuska-Susitna Borough.

In short, construction of the Susitna Project is at a crossroads. Proven gas supplies for power generation in the Cook Inlet basin will begin running out in just twelve years. It will take ten years to finish the first part of the Susitna Project at Watana. If construction is not approved and a plan of finance approved within the next two years, *we* may be the ones freezing in the dark, not the people Outside.



Alaska Environmental Lobby, Inc.
419 6th Street, Suite 328 Juneau, Alaska 99801 907-586-2345

RECEIVED
FEB 23 1983

Susitna

21 February 1983

TO: All Legislators
FROM: Jay Nelson, Executive Director
Eric F. Myers, Energy Specialist
RE: Understanding Public Opinion on Susitna

The recent Dittman Research poll found widespread support for hydroelectric development in Alaska generally and Susitna specifically. These results are hardly suprising; it is a direct reflection of the massive media blitz sponsored by Susitna Power Now and the Anchorage Chamber of Commerce. The poll results would be similar if Dittman had asked if people were interested in a free car, a free house, or a free lunch. The answer is obvious.

The most significant finding of the poll is that it showed how virtually none of the respondents had even the remotest idea of what the Susitna project would cost. Even Eric Yould, Executive Director of the Alaska Power Authority and prime sponsor of the project, acknowledges that the total costs for the project will amount to upward of 15 billion dollars. This does not include any finance charges or the possibility of cost overruns.

Over 70 percent of the people polled indicated that they either didn't know what the project would cost or thought that it would cost less than 500 million dollars. Only 2 percent of the survey had a realistic notion of what the actual project costs would be (ie, over 10 billion dollars).

Also noteworthy is that those who indicated support for the project gave "cheapest source of power" and "need" as their main reasons. The project is neither cheaper than the alternatives, nor is it needed.

It is acknowledged by all parties to the Susitna debate that alternatives, primarily gas, will be less expensive than Susitna until well into the next century. In fact, the Alaska Power Authority feasibility study on Susitna by Acres American shows clearly that electricity from Susitna at 30¢/kwh would be more than twice as expensive as the gas alternative at 14.5¢/kwh if and when the project is brought on line as scheduled in 1993. Only with multi-billion dollar subsidies, the Acres study concluded, could Susitna possibly

be competitive. The proponents of Susitna attempt to trivialize this need for multi-billion dollar subsidies as "a marketing problem."

Concerning the "need" for Susitna, the most recent comprehensive and up-to-date work on Railbelt power requirements by Battelle (1982, revised) shows that there will be a need (in the Moderate or "most likely" case) to add only some 200 megawatts to the Railbelt system by the end of the Century. By contrast, Susitna is a 1600 megawatt project. Some day Susitna may make sense, perhaps by the year 2050. But for the forseeable future, Susitna is clearly far oversized for our needs.

Contrary to popular belief, the official economic analyses of Susitna done to date have not found that Susitna offers any clear, cost-effective advantage over alternatives. In fact, the Acres feasibility study analysis prepared for the Alaska Power Authority rejects Susitna when the fundamental changes in world oil markets are taken into consideration. With world oil markets stable or falling, the Acres study observed, building Susitna would be a massive mistake. That is, a commitment to Susitna would cost over one billion dollars more than developing alternatives. Of considerable significance is the fact that the Alaska Power Authority Board of Directors has not endorsed the conclusion that Susitna is the most attractive Railbelt power option.

To raise questions about Susitna, as the Alaska Environmental Lobby has, must not be misconstrued as blanket opposition to Alaska hydroelectric power development. To the contrary, the Lobby has repeatedly spoken out in support of more modestly scaled hydro projects such as Bradley Lake which, together gas, offers a far more economically attractive, low risk native to Susitna. Individual projects, however, must be careful onsidered on their merits — not on the basis of the superficial Susitna Power Now public relations media hype.

The objective, of course, is to avoid a circumstance like the Tyee debacle. Although much smaller than Susitna, the Tyee project is in many ways similar to its Railbelt counterpart. Tyee was developed by the Alaska Power Authority and is far too large for the two communities (Wrangell and Petersburg) it is intended to serve. Now nearly completed, it is apparent that the price of power from the project may be as high as twice that currently faced by the communities — even with about seventy percent of the project's cost paid for with grants. Not surprisingly, the communities have refused this expensive Tyee power. And the Alaska Power Authority has a 120 million dollar white elephant.

The most critical issue underlying the Susitna debate is not whether you are "for" or "against" Susitna but, rather: How can we provide responsibly — economically and environmentally — for the reliably anticipated increases in Railbelt power demand? At some point in the distant future, the 1600 megawatt project may make sense but now is not the time.

This is particularly true in light of the revenue picture. It must be understood that the Energy Program for Alaska, with its multi-billion dollar subsidy scheme proposed for the Susitna hydro project, is a legacy from the past when revenues were coming into the State treasury faster (almost) than we could spend them. The "problem" in those days was to think up ways to spend money creatively. Now we are being forced to reckon quite soberly with dropping revenues. Even without the added financial burden of trying to provide 2-3 billion dollars in subsidies for Susitna, the State is facing a severe fiscal crisis in the early 1990's.

With regard to the Dittman poll once again, there is one question that was conspicuous by virtue of its absence: What are people willing to <u>give up</u> in order to subsidize Susitna?

Even if people were to express support for, say, a 5 or even 10 billion dollar expenditure for Susitna the question remains, what are they willing to trade away? To a great degree, the number would be irrelevant anyway because the real issue is: Are the people of Alaska willing to give up the Permanent Fund Dividend Program; abandon municipal revenue sharing and property tax relief; cut back on education funding; do without sewer, water and road improvements; pay income taxes?

These are the true costs of Susitna, the questions few are willing to talk about.

[illegible] SUBJ: ROM

[illegible] [illegible]TULA
[illegible]
REP. LACHER
(COPY TO [illegible] LEGISLATORS)

RECEIVED
FEB 28 1983

FROM MRS. HAROLD LARSON
BOX 7-2 111, GOLD CREEK
C/O ALASKA RAILROAD
ANCHORAGE 99510
PHONE: 733.2329

PLEASE BE ADVISED THAT THE GOLD CREEK-SUSITNA NATIVE ASSOCIATION WAS CERTIFIED BY THE BIA AS A >NATIVE GROUP< ON FEBRUARY 4, 1983, AND HAS VALID AND EXISTING RIGHTS AND CLAIMS AT THE SUSITNA HYDROELECTRIC DAM SITE. PLEASE SEE THAT OUR REPRESENTATIVES ARE PRESENT AT ANY DELIBERATION AFFECTING OUT LAND AND RIGHTS.

Rep. Lindauer
Brought this for You to see.

(B)

References cited in SB 69 and 71

Sec. 44.83.181. Feasibility study and finance plan. (a) Unless the reconnaissance study has been disapproved by the division of budget and management under AS 44.83.179, the authority shall complete a feasibility study and plan of finance for each proposed project.

(b) A feasibility study shall include

(1) information about the proposed project, including but not limited to estimates of total project construction costs, total project operating costs, the costs of transmission systems and reserve power requirements, the timing and amount of anticipated returns from the completed project, a benefit-to-cost ratio, the potential effect of the project on the environment of the area which will be served by the project when completed, and the availability of alternative government financing;

(2) a statement of all assumptions which affect the economic feasibility of the project, including but not limited to the discount rate and interest rate of amounts of money to be used for the project, anticipated fuel prices, an escalation rate, state and local electric load growth, and estimates of indirect costs and benefits;

(3) a comparative analysis of all reasonable alternatives to construction of the proposed project; and

(4) information based on engineering and design work which meets the requirements for submission of a license application for the project to the Federal Energy Regulatory Commission.

(c) The plan of finance shall include recommendations of the most appropriate means to finance a project, including, but not limited to,

(1) the issuance of revenue bonds of the authority;

(2) the issuance of

(A) general obligation bonds of the state; or

(B) revenue bonds of the authority which are guaranteed or partially guaranteed by the state;

(3) an appropriation from the general fund

(A) to pay debt service on bonds or for other project purposes; or

(B) to reduce the amount of debt financing for the project;

(4) a loan from the general fund;

(5) financing arrangements with other entities using leveraged leases or other financing methods;

(6) assistance from any federal agency, including, but not limited to, the Rural Electrification Administration;

(7) a loan from the power project fund (AS 44.83.170(a)), or from the renewable resources investment fund (AS 37.11.050); or

(8) any combination of financing arrangements listed in this subsection.

(d) When financial assistance from the state is necessary for a project to meet financial feasibility criteria, the plan of finance shall include an estimate of the minimum amount of financial assistance required from the state. The plan of finance shall include an estimate of the present value of the financial assistance from the state, computed as the difference between

(1) a market rate of interest, which is

(A) the rate determined under AS 44.83.170(f)(2)(B)(i); or

(B) the estimated interest rate for revenue bonds to be issued by the authority for the project; and

(2) the effective rate of interest because of state financial assistance provided.

(e) The authority, in consultation with the division of budget and management, shall adopt regulations defining

(1) the techniques which it shall apply to determine that the information required by (b) — (d) of this section is obtained; and

(2) standard criteria and measures for comparative analysis of alternative financing arrangements. (§ 24 ch 83 SLA 1980; am § 6 ch 133 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 26, 1982, inserted "the costs of transmission systems and reserve power requirements" in paragraph (1) of subsection (b).

Sec. 44.83.183. Review of feasibility studies and plans of finance by division of budget and management. (a) The division of budget and management in the Office of the Governor shall review the feasibility study and plan of finance for a project of the authority for compliance with the provisions of AS 44.83.181(b) — (d).

(b) In its review under this section, the division of budget and management may obtain an independent evaluation of a feasibility study and plan of finance to determine compliance with the provisions of AS 44.83.181(b) — (d).

(c) When the division of budget and management has completed a review of the feasibility study and the plan of finance for a project under this section, it shall submit a report to the governor. The report shall examine the feasibility study and plan of finance for compliance with the requirements of AS 44.83.181(b) — (d). The report of the

division of budget and management shall include a recommendation to the governor and legislature for approval or disapproval of the project based on the division's review of the feasibility study and plan of finance for compliance with the requirements of AS 44.83.181(b) — (d).

(d) The report required by (c) of this section shall be prepared and submitted not later than 60 days after the feasibility study and plan of finance for a proposed project have been received by the division of budget and management.

(e) The report required by (c) of this section shall include a financial analysis of the proposed project of the authority that evaluates proposed bond resolutions or other financial arrangements or financial plans, security plans and arrangements, cost and demand uncertainties, and debt volume, as they relate to the total direct and indirect indebtedness of the state. In preparing the financial analysis required by this section the division of budget and management may use the services of outside agencies or institutions that are not otherwise involved in the project. (§ 24 ch 83 SLA 1980; am § 7 ch 133 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 25, 1982, added subsection (e).

Sec. 44.83.185. Submission to the legislature. (a) The authority shall submit a feasibility study and plan of finance for a proposed new project to the legislature. When the report of the division of budget and management examining the feasibility study and plan of finance is completed as required by AS 44.83.183, it shall be submitted to the legislature.

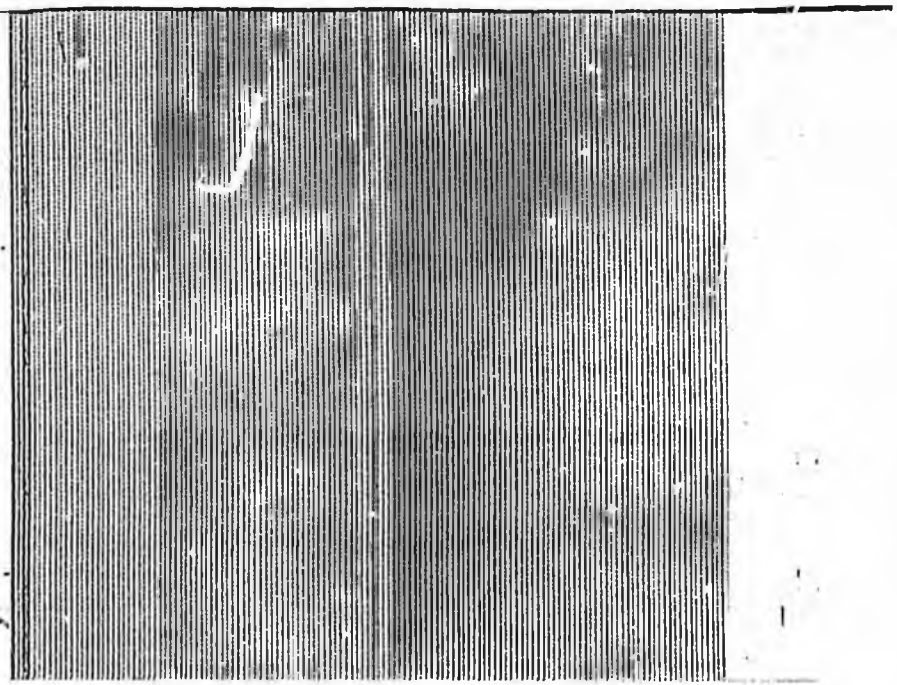
(b) The authority may not proceed with work on the engineering or design phase of a proposed new project for which legislative approval is required until the legislature approves the proposed new project. However, the authority may proceed with the engineering or design work necessary to meet the requirements for submission of a license application for the proposed new project to the Federal Energy Regulatory Commission without obtaining legislative approval of the proposed new project.

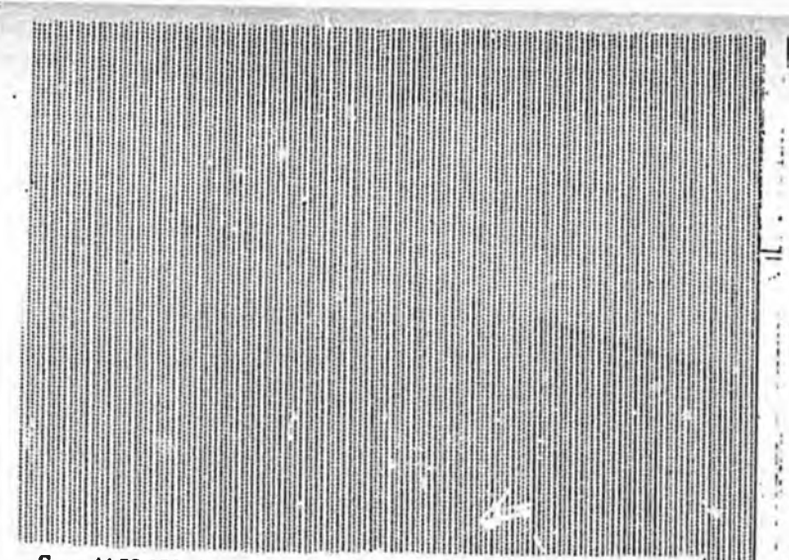
(c) The legislature shall consider and must approve all proposed new projects except proposed new projects that are exempt under AS 44.83.187. The legislature may approve a proposed new project only by enacting law that authorizes the project and approves a construction cost for that project. (§ 24 ch 83 SLA 1980; am § 8 ch 133 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 25, 1982, substituted "that authorizes the project and approves a construction cost for" for "authorizing" in the second sentence of subsection (c).

Sec. 44.83.186. Final cost estimate and reauthorization by the legislature. If a project is approved under AS 44.83.185(c), the authority shall obtain a final cost estimate for the project from an independent source qualified to make such an estimate. If the final cost estimate does not exceed the construction cost authorized by the legislature under AS 44.83.185, adjusted for inflation, by more than seven and one-half percent, the authority may proceed with the construction of the project. If the final cost estimate exceeds the construction cost authorized by the legislature under AS 44.83.185, adjusted for inflation, by more than seven and one-half percent, the authority shall revise its feasibility study and, if it determines that the project remains feasible, the authority shall submit the revised feasibility study and the independent cost estimate to the legislature. A proposed project that is returned for reconsideration by the legislature under this section may not be constructed unless the legislature reauthorizes it by enacting law for that purpose. (§ 9 ch 133 SLA 1982)

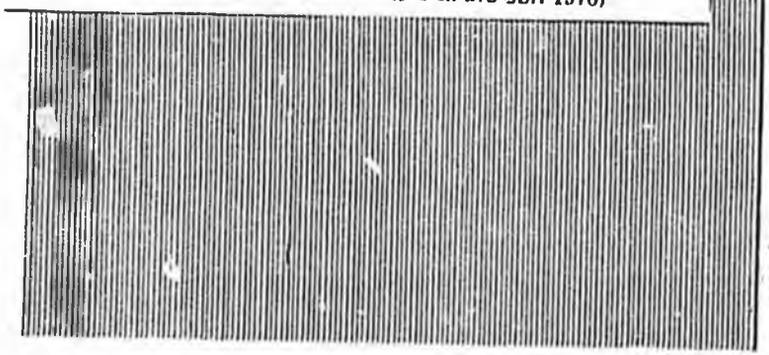
Effective dates. — Section 22, ch. 133, SLA 1982, makes this section effective June 25, 1982, in accordance with AS 01.10.070(c).





Sec. 44.83.130. Nonliability on bonds. (a) Neither the members of the authority nor a person executing the bonds is liable personally on the bonds or is subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state, except the authority, to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 1 ch 278 SLA 1976)



Article 7. Susitna River Hydroelectric Project.

Section
300. Description of project
310. Purpose of project
320. Preliminary reports
325. Restrictions on contracting
330. Construction, maintenance and operation of project
340. Annual report
350. Legislative and executive oversight
360. Project financing

Sec. 44.83.300. Description of project. The Susitna River hydroelectric project consists of dams and related reservoirs, and power plants located in the Upper Susitna River Basin, and related transmission lines, facilities, and load centers, as described in the Alaska Power Authority's report required by AS 44.83.320(b). (§ 2 ch 169 SLA 1980)

Sec. 44.83.310. Purpose of project. The primary purpose of the Susitna River hydroelectric project is to generate, transmit and distribute electric power in a manner which will

(1) minimize market area electrical power costs;

(2) minimize adverse environmental and social impacts while enhancing environmental values to the extent possible; and

(3) safeguard both life and property. (§ 2 ch 169 SLA 1980)

Sec. 44.83.320. Preliminary reports. (a) By March 30, 1981, the authority shall prepare and submit to the governor and to the legislature a preliminary report recommending whether work should continue on the Susitna River hydroelectric project, and, if the recommendation is to continue on the project, the report shall explain in detail

(1) economic evaluations and preliminary environmental impact assessments for the Susitna River hydroelectric project and all viable alternatives;

(2) the federal and state permits required to be obtained before construction can begin and the expected construction start date; and

(3) any other information the authority considers appropriate or necessary to adequately inform the governor and the legislature of the status of the Susitna River hydroelectric project.

(b) By April 30, 1982, the authority shall prepare and submit to the governor and to the legislature a preliminary report recommending whether work should continue on the Susitna River hydroelectric project, and other viable alternatives. If the recommendation is to continue on the Susitna River hydroelectric project, the report shall explain in detail

(1) the proposed conceptual design and phases of construction of the Susitna River hydroelectric project,

(3) the expected cost of each phase of construction;

(4) the costs to the state and consumers of the project under alternative methods of project financing, including revenue bonds, general obligation bonds, and general fund appropriations; and

(5) any other information the authority considers appropriate or necessary to adequately inform the governor and the legislature of the status of the Susitna River hydroelectric project.

(c) The preliminary reports required under (a) and (b) of this section are in addition to any reports required under AS 44.83.180 — 44.83.224. (§ 2 ch 169 SLA 1980)

Sec. 44.83.325. Restrictions on contracting. The authority may not enter into contracts under AS 44.83.300 — 44.83.360 other than those contracts necessary to complete (1) feasibility studies, (2) the preliminary reports required by AS 44.83.320, or (3) construction of the Anchorage-Fairbanks intertie, until the legislature approves by law the preliminary report required under AS 44.83.320(b). (§ 2 ch 169 SLA 1980)

Sec. 44.83.330. Construction, maintenance and operation of project. Within one year after approval of its preliminary report submitted under AS 44.83.320(b), the authority may enter into a contract for the construction of the Susitna River hydroelectric project in a manner consistent with the purpose of the project as described in AS 44.83.310. (§ 2 ch 169 SLA 1980)

Sec. 44.83.340. Annual report. (a) If the Susitna River hydroelectric project is approved by the legislature under AS 44.83.320(d), beginning in 1983 the authority shall prepare an annual report which explains in detail

(1) the status of construction on the Susitna River hydroelectric project;

(2) the completion date of any phase of the Susitna River hydroelectric project which has been completed and the reasons for any deviation between the completion date and the expected completion date stated in the preliminary report required under AS 44.83.320(b);

(3) the actual cost of any phase of the Susitna River hydroelectric project which has been completed and the reasons for any deviation between the actual cost and the expected cost stated in the preliminary report required under AS 44.83.320(b);

(4) the federal and state permits necessary to begin or continue construction of the Susitna River hydroelectric project, the actual dates on which the federal and state permits necessary to begin or continue construction were obtained, and the reasons for any deviation between the actual dates and the expected dates stated in the preliminary report required under AS 44.83.320(a) or in the earlier annual reports required under this section;

(5) any other information the authority considers appropriate or necessary to adequately inform the governor and the legislature of the status of the Susitna River hydroelectric project.

(b) The annual report required under (a) of this section is in addition to any reports required under AS 44.83.180 — 44.83.224 and shall be submitted, by March 30 of each year, to the governor and to each member of the legislature. (§ 2 ch 169 SLA 1980)

Sec. 44.83.350. Legislative and executive oversight. The legislature or the governor may provide for ongoing oversight, review and selected in-depth analysis of the Susitna River hydroelectric project plan of study. The authority shall provide all data, analyses, reports, and other information to whomever conducts the oversight, review, or analysis activities. Selected in-depth analyses shall include assessments of the power alternatives, financing, and power marketing sections of the Susitna River hydroelectric project plan of study. (§ 2 ch 169 SLA 1980)

Sec. 44.83.360. Project financing. The Susitna River hydroelectric project shall be financed by general fund appropriations, general obligation bonds, revenue bonds, or other plans of finance as approved by the legislature. (§ 2 ch 169 SLA 1980)

Article 7. Susitna River Hydroelectric Project.

Sec. 44.83.325. Restrictions on contracting.

Editor's note. — Section 21, ch. 133, SLA 1982, provides: "Notwithstanding the provisions of AS 44.83.325, the Alaska Power Authority may enter into contracts under AS 44.83.300 — 44.83.360 for preliminary work without the approval required by AS 44.83.325. In this section, 'preliminary work' means the preparation of plans and studies and the preparation and submission of license applications, as well as other types of work, that must be completed before actual construction of the Susitna River hydroelectric project, described in AS 44.83.300, may begin. This section does not authorize the Alaska Power authority to enter into contracts for the actual construction of the Susitna River hydroelectric project or for the preparation of the site of the Susitna River hydroelectric project without the approval required by AS 44.83.325."

LOOKING AT SUSITNA ISSUES

A number of bills promoting the Susitna hydroelectric project face the legislature this session. Debate on the issue promises to be spicier than in previous sessions.

What was in most minds a few years ago, simply a matter of proving Susitna was feasible and then selecting a financing method, has suddenly become vastly more complicated. The complications are not the usual conservationists versus the Chamber of Commerce boosters syndrome either. There is, in fact, a good deal of agreement between the two, that the Railbelt needs a long term, environmentally acceptable source of power: Susitna. However, even among the voices who concede that Susitna is our best bet for the future, we are beginning to hear dissent about the feasibility (economic and social) of bringing Susitna power on line before the next century.

Some Arguments Against

The arguments being voiced against going ahead with Susitna, at least in the decade of the 1980s, are: 1) the decline of oil revenues to finance the $10-$15 billion project, 2) uncertainty in the level of long term need for a large quantity of power in the Railbelt area, 3) the cost and availability of alternative fuels (natural gas) with which to generate power, 4) the construction cost of the project and 5) the cost of financing the hydro project.

A few years ago, oil revenue analysts projected a continual rise in Alaska's oil revenue. The curve was to increase steadily until 1989 and then begin a gradual decline to the end of the century. The decline, because of the fluctuation in world oil prices, has already begun. With our income in decline, 89 percent of which comes from sales of oil, the anticipated population and industrial boom of the 1980s may not materialize as predicted. The upshot of decreased revenues is that as oil and gas prices fall, less money will be available with which to build the Susitna project. At the same time, again because of falling oil and gas prices, Susitna becomes a less feasible source of power because of the cheaper thermal alternative: natural gas. The price of natural gas will not rise as sharply in the 1980s and early 1990s as previously thought.

A slow down in the money supply will also directly affect one of the most significant factors analysts point to as a determinant in the feasibility of the Susitna project: future demand for electricity.

Electrical demand is based on the ability of the state to stimulate industrial growth and create jobs. The assumptions made by the two state funded feasibility studies (Battelle and Acres American) tied their positive recommendations to go ahead with Susitna on population and industrial growth stimulated by, at the very least, the construction of the Alaska Gas Pipeline and continued state spending at current levels even in a "low growth" scenario. With the gas pipeline project on hold and cut-backs in state spending, critics claim it is risky at best to predict, much less project a rate of growth sufficient to justify the project.

New Gas Price

A more recent fact has produced concern about the project's near-term feasibility: the Enstar gas contract. Last December Enstar Natural Gas Company negotiated a 15-year gas contract, which would supply hugh quantities of low cost natural gas to Railbelt electrical power generators. The price negotiated was not only much lower than anticipated, but cost escalation terms and the quantity of gas contracted for were both unanticipated in previous feasibility studies. In terms of price the $2.32 per mcf Enstar negotiated actually computes to about $2.00 per mcf when older, cheaper gas is factored into the rate. The escalation terms basically removed natural gas from the wildly fluctuating world oil and gas market by tying the fuel to the price movement of #2 Tesoro diesel oil

(Continued on Page 6)

SUSITNA QUESTIONS . . . . (from page 3)

which is used for home heating. The difference between the reality of the Enstar contract and the original projections of the Battalle and Acres American feasibility studies is that, while Acres predicted a 2 percent annual escalation in gas prices starting with an anticipated base of $3.00, the Battelle report predicted a 6 percent annual increase at $.64 per mcf which adds up to about the same dollar figure Acres came up with when figured over a period of years.

Both the Acres and Battelle studies based their assumptions on per KWH cost of Susitna power being comparable to gas or coal fired generation by the early 1990s. The Enstar contract, which will run nearly to the 21st century, has thrown new light on some not so old assumptions.

Actual Cost

A fourth critical concern being voiced about Susitna is a question about the actual cost of the dam. The well known cost overruns of the TransAlaska Pipeline and dozens of other smaller capital projects makes this an important point of analysis to many. Susitna would be one of the highest dams in the world and one of the single largest efforts of its type. Both of these factors, according to construction analysts, make cost estimation tricky and overruns a probability. In defense of estimators it is notable that the hugh Churchill Falls dam in Canada, which is by all accounts similar to Susitna, came in on time and near budget. It may be that estimators have found the handle on estimating big projects during these inflationary times.

Bonding Costs

The final of the five factors heard in criticism of the Susitna project is the currently unattractive bond market and a generally soft market for bonding hugh public utility projects. The financial problems encountered by the Washington Public Power System which analysts predict will run into the biggest financial default this country has seen because of cost overruns have bonding companies looking sharply at public utility investments. The Acres American study, which appears the more rigorous of the two reports, concludes that unless the bonding of Susitna were carried out in a tax-exempt market at a discount rate for 3 percent, the project would not be cost effective. Currently, the bond market is running at 4 percent and above. Whether the rate will decline to acceptable levels is a complete uncertainty.

Despite these criticisms it would be hard to find a knowledgable person, including those who would be in direct competition with Susitna, who would disagree with the belief that at some point we will need Susitna hydro power, whether it is the high Devils Canyon dam or a combination of the Watana and Devils Canyon dams. The question critics are asking is: When and how much?

Alaska has had a long and sometimes politically stormy love affair with hydro projects. Rampart Dam on the Yukon was the big "grand daddy" of them all, and native and environmental issue surrounding that project contributed to the defeat of U.S. Sen. Ernest Gruening in 1968. The project also pushed Alaska into the mainstream of the growing stream of U.S. environmentalism, and oddly, it was that issue that pushed Don Young, a Fort Yukon school teacher into the political arena (on the side of environmentalists against Rampart. Susitna in those days was the alternative to giant Rampart.

Susitna Hearings

The Senate State Affairs Committee will hold hearings on the Susitna Project on Feb. 26 in Anchorage at the Westward Hotel (9 a.m. to 4 p.m.)

The committee hearing will resume on March 1st and 3rd in Juneau and will be teleconferenced. Expert witnesses on the project are scheduled to appear before the panel.

DATA1DMS.D11 WATANA (ON LINE 1993)-$1.8 BN STATE FUNDS (PER 30% SCHED)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3,647 8-JAN-83

CASH FLOW SUMMARY
---($MILLION)---

		1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
73	ENERGY GWH	0	0	0	0	0	0	0	0	3387	3387
521	REAL PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.93	61.60
466	INFLATION INDEX	122.62	129.98	137.78	146.05	154.81	164.10	174.04	184.48	195.55	207.28
520	PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	103.34	133.76
	-----INCOME----------										
516	REVENUE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	350.0	453.0
170	LESS OPERATING COSTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	25.1	27.3
517	OPERATING INCOME	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	324.9	425.7
214	ADD INTEREST EARNED ON FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.3
550	LESS INTEREST ON SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	10.7
391	LESS INTEREST ON LONG TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	340.2	369.8
548	NET EARNINGS FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-15.2	50.4
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-15.2	50.4
446	STATE CONTRIBUTION	806.8	413.3	475.3	532.1	156.4	0.0	0.0	0.0	0.0	0.0
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	1275.1	1259.3	867.3	311.6	0.0
248	WORCAP DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
549	TOTAL SOURCES OF FUNDS	806.8	413.3	475.3	532.1	156.4	1275.1	1259.3	867.3	387.8	65.9
320	LESS CAPITAL EXPENDITURE	373.3	390.5	389.2	390.9	768.1	1390.1	1259.3	867.3	296.4	25.7
448	LESS WORCAP AND FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
260	LESS DEBT REPAYMENTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	13.6
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	433.5	22.8	86.1	141.2	-611.7	-115.0	0.0	0.0	0.0	11.1
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	52.6	57.4
371	OTHER WORKING CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	38.8	49.4
454	CASH SURPLUS RETAINED	456.6	479.4	565.5	706.7	115.0	0.0	0.0	0.0	0.0	11.1
370	CUM. CAPITAL EXPENDITURE	373.3	763.8	1153.0	1543.9	2312.0	3702.1	4961.4	5828.8	6125.2	6150.9
465	CAPITAL EMPLOYED	829.9	1243.2	1718.5	2250.6	2427.0	3702.1	4961.4	5828.8	6216.5	6268.8
461	STATE CONTRIBUTION	806.8	1220.1	1695.4	2247.5	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9
462	RETAINED EARNINGS	23.1	23.1	23.1	23.1	23.1	23.1	23.1	23.1	7.9	58.3
555	DEBT OUTSTANDING-SHORT TERM	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	106.8
554	DEBT OUTSTANDING-LONG TERM	0.0	0.0	0.0	0.0	0.0	1275.1	2534.4	3401.8	3713.4	3699.7
542	ANNUAL DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	0.0	769.7	710.5	457.3	153.6	0.0
543	CUM. DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	0.0	769.7	1480.3	1937.6	2091.2	2091.2
519	DEBT SERVICE COVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.96	1.10

Option D -- $1.8 Billion Dedicated From
Permanent Fund Income
Page 1 of 2



DATA1OH5.D11 WATANA (ON LINE 1993)-$1.8 BN STATE FUNDS (PER 30% SCHED)- INFLATION 6%,7%-INTEREST 10%-CAPCOST 13.647 8-JAN-83

CASH FLOW SUMMARY
($MILLION)

		1995	1996	1997	1998	1999	2000	2001	2002	2003	TOTAL
73	ENERGY GWH	3387	3387	3387	3387	3387	3387	3387	3387	3387	37257
521	REAL PRICE-MILLS	58.08	54.51	51.39	48.34	45.52	42.89	40.46	38.24	36.19	0.00
466	INFLATION INDEX	232.33	248.59	265.99	284.61	304.53	325.85	348.66	373.07	399.18	0.00
520	PRICE-MILLS	134.94	135.52	136.69	137.57	140.61	139.77	141.08	142.66	144.46	0.00
	-----INCOME----------										
516	REVENUE	457.0	459.0	462.9	465.9	469.5	473.4	477.8	483.2	489.2	5040.9
170	LESS OPERATING COSTS	29.8	32.6	35.6	38.8	42.3	46.2	50.4	55.1	60.1	443.3
517	OPERATING INCOME	427.2	426.4	427.4	427.1	427.1	427.1	427.4	428.1	429.2	4597.5
214	ADD INTEREST EARNED ON FUNDS	5.7	6.3	6.8	7.5	8.1	8.9	9.7	10.6	11.6	80.5
550	LESS INTEREST ON SHORT TERM DEBT	11.1	10.8	12.4	12.7	13.4	14.1	15.2	16.8	18.8	135.9
391	LESS INTEREST ON LONG TERM DEBT	368.5	367.0	365.3	363.5	361.5	359.3	356.9	354.2	351.3	3957.3
548	NET EARNINGS FROM OPERS	53.4	54.9	56.6	58.4	60.3	62.6	65.0	67.7	70.6	584.9
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	53.4	54.9	56.6	58.4	60.4	62.6	65.0	67.7	70.6	584.9
446	STATE CONTRIBUTION	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2403.9
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3713.4
248	WORCAP DEBT DRAWDOWNS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
549	TOTAL SOURCES OF FUNDS	61.1	79.6	67.1	69.6	70.6	72.5	78.5	82.1	86.0	6926.3
320	LESS CAPITAL EXPENDITURE	27.5	29.4	31.5	33.7	36.1	38.6	41.3	44.2	47.3	6480.4
448	LESS WORCAP AND FUNDS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
260	LESS DEBT REPAYMENTS	15.0	16.6	18.2	20.0	22.1	24.3	26.7	29.3	32.3	218.1
393	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	10.8	8.9	6.9	4.6	2.3	-0.2	-2.9	-5.8	-8.9	1.6
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	62.7	68.4	74.7	81.5	88.9	97.1	105.9	115.6	126.2	126.2
371	OTHER WORKING CAPITAL	51.9	70.8	75.0	79.4	82.2	83.9	88.6	93.3	98.0	98.0
454	CASH SURPLUS RETAINED	21.9	30.8	37.7	42.3	44.6	44.4	41.4	35.6	26.7	26.7
370	CUM. CAPITAL EXPENDITURE	6178.4	6207.8	6239.3	6273.0	6309.1	6347.7	6389.0	6433.2	6480.4	6480.4
465	CAPITAL EMPLOYED	6314.9	6377.8	6426.7	6476.3	6524.8	6573.1	6624.9	6677.6	6731.3	6731.3
461	STATE CONTRIBUTION	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9
462	RETAINED EARNINGS	111.7	166.6	223.2	281.6	342.0	404.6	469.6	537.3	608.0	608.0
555	DEBT OUTSTANDING-SHORT TERM	114.6	139.2	149.7	160.9	171.1	181.0	194.5	208.9	224.2	224.2
554	DEBT OUTSTANDING-LONG TERM	3684.7	3668.2	3649.9	3629.9	3607.8	3583.6	3556.9	3527.6	3495.3	3495.3
542	ANNUAL DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2091.2
543	CUM. DEBT DRAWDOWN $1982	2091.2	2091.2	2091.2	2091.2	2091.2	2091.2	2091.2	2091.2	2091.2	2091.2
519	DEBT SERVICE COVER	1.10	1.10	1.10	1.10	1.10	1.10	1.10	1.10	1.10	0.00

ACRES

(E)

Summary of 3 Volumn Report + 2 Volumns of appropriate regs.

REGULATORY IMPACT MANAGEMENT PLAN

FOR THE SUSITNA HYDROELECTRIC PROJECT

Presented to:

Honorable Ed Dankworth
Honorable Don Bennett
Co-Chairmen
Senate Finance Committee

January 15, 1982

Contractor:

Ronald G. Birch
BIRCH, HORTON, BITTNER AND MONROE

Subcontractors:

S. John Byington
ROGERS HOGE & HILLS

Gerald R. Hill
REGULATORY IMPACT MANAGEMENT INC.

(5)

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EXECUTIVE SUMMARY

The Susitna hydroelectric project is facing obstacles which place its successful completion in doubt. Even if Acres American's (the license-preparation company under contract to the Alaska Power Authority) study concludes that the project is feasible (from an environmental, economic and engineering standpoint) and if the Alaska government and active interest groups agree, the massive inter-group coordination required of any major hydroelectric project could delay this project to the point of jeopardizing its completion. The most notable of the pitfalls include:

- 15 to 20 state and local government approvals
  - air and water quality permits, fish and game impact-mitigation measures, waste disposal, etc.;
- 10 to 15 federal permits
  - involving at a minimum these federal agencies:

    Federal Energy Regulatory Commission (FERC); Environmental Protection Agency (EPA); Corps of Engineers (COE); Coast Guard; U.S. Fish and Wildlife Service (USF&WS); Bureau of Land Management (BLM); Advisory Council on Historic Preservation (ACHP); National Marine Fishery Service (NMFS); and the Federal Aviation Administration (FAA);
- other factors
  - uncertain land ownership patterns, water rights disputes, and subsistence rights, plus probability of intra- and inter-agency communications breakdowns concerning the adequacy and implications of the data base.

Multi-agency involvement at the federal, state and local government levels, and the attendant demands for different information and possibly conflicting interpretations of data, make delay inevitable. Delays and resulting confusion can cost hundreds of millions of dollars. The threat of such significant cost increases alone jeopardizes the project. The project sponsors must, therefore, seek to minimize delay and maximize cooperation.

Management of the regulatory process can reduce delay and confusion substantially by coordinating and giving definition to the agency reviews and agency information needs. Avoiding agency jurisdiction disputes and planning to fill agency information requirements promptly will, in a very real sense, ensure timely and successful completion of the Susitna hydroelectric project.

A regulatory impact management system will give Alaska the appropriate tools to shepherd the project through the bureaucratic maze efficiently and at the least possible cost.

This report constitutes the first step of Phase I of such a system. It identifies and documents the problems, both regulatory and non-regulatory, facing the Susitna project. The report makes specific findings and recommendations that require state officials' immediate consideration. Futhermore, the identification of issues and deficiencies provides a foundation for implementing a regulatory management system in the future.

Examples of major problems which could affect the ultimate completion of the Susitna hydroelectric project significantly include:

- Unsettled Native land ownership disputes in the project area which could delay the project for years unless efforts are made to bring about a negotiated settlement;

- Inadequate data bases concerning fish and wildlife resources in and along the Susitna River, and the absence of any analysis of the project's impacts on subsistence uses of such resources by Natives;

- Unsettled jurisdictional disputes among federal agencies concerning certain aspects of the licensing and construction of hydroelectric dams and associated transmission facilities;

- Inadequate inventory of persons or entities who may have appropriated water rights or who may have valid water claims along the Susitna River which could be affected by construction of the dams; and

- The absence of a clearly defined policy governing land use in the project area, including an analysis of the socio-economic impacts of the project on the people and natural resources in the region.

The remaining steps of Phase I of the management system would initiate a review of all data, studies, and other materials which currently are available to interested groups and agencies. Initially the data would be checked to ensure that it is adequate to meet the agencies' informational and regulatory needs. Then the data and conclusions would be used to prepare the various permit and license applications. Agency memoranda of understanding (MOUs) would be negotiated, presetting agency review by defining its scope and timetable. This will reduce the uncertainty and confusion attendant to any project of this magnitude.

Upon filing the applications, the regulatory process formally begins. To ensure that the permitting process stays on track, the second phase will feature:

- frequent status reports to keep all parties informed and to show agency compliance with the pre-agreed schedule;
- management reports to the Alaska Legislature to facilitate effective oversight and to ensure the efficient use of public funds.

The following information on a historical perspective of power planning in Alaska and the statutory framework are from the Battelle "Railbelt Electric Power Alternatives Study" (February 1982). It does not include the events of the last session and the statutory amendment to establishing wholesale power rates.

9.2 A HISTORICAL PERSPECTIVE OF POWER PLANNING IN ALASKA

In Alaska, state involvement in planning and directly providing generating capacity and transmission facilities is a new undertaking. Prior to 1976, planning and construction of facilities were performed either by the individual municipal or cooperative utility, or by various federal government agencies. For example, the Alaska Power Administration (now within the U.S. Department of Energy) has owned and operated the Eklutna Hydroelectric project since 1995. Chugach Electric Association has planned and assumed responsibility for both constructing hydroelectric projects such as Cooper Lake (1961) and installing gas-fired generating capacity, as well as the transmission and distribution systems associated with these projects. Other local utilities also assumed responsibility for constructing facilities and conducting various feasibility studies. Federal agencies also undertook a variety of feasibility and planning studies.

Lack of direct state involvement in the first fifteen years after statehood can be explained by several factors. Perhaps most significantly is that little need for such involvement was perceived. Another major factor was that the local utilities were able to plan and manage the projects they required. Furthermore, federal funds were available and state funds were not.

In the mid-seventies, however, these factors began to give way to other forces. Estimated project costs escalated significantly because of inflation, government regulation, and the expected growth in demand, which implied bigger facilities. Additionally, state revenues were rising. In 1976 these forces resulted in passage of a bill creating the Alaska Power Authority. The legislative findings and declaration of purpose in the enabling legislation reveal the broad purposes and objectives that the legislation sought to address.

Legislative Finding and Policy

(a) The legislature finds, determines and declares that

(1) there exist numerous potential hydroelectric and fossil fuel generating sites in the state;

(2) the establishment of power projects at these sites is necessary to supply lower cost power to the state's municipal electric, rural electric, cooperative electric, and private electric utilities, and regional electric authorities, and thereby to the consumers of the state, as well as to supply existing or future industrial needs;

(3) the achievement of the goals of lower consumer power costs and long-term economic growth and of establishing, operating and development power projects in the state will be accelerated and facilitated by the creation of an instrumentality of the state with powers to incur for constructing, and with powers to operate, power projects.

(b) It is declared to be the policy of the state, in the interests of promoting the general welfare of all the people of the state, and public purposes, to reduce consumer power costs and otherwise to encourage the long-term economic growth of the state, including the development of its natural resources, through the establishment of power projects by creating the public corporation with powers, duties and functions as provided in this chapter.

To accomplish its objectives the Power Authority was given broad powers, including the power to issue bonds, to enter into contracts for the construction, acquisition, operation and maintenance of power projects, and to transmit and sell such power. It was also authorized to conduct feasibility studies for hydroelectric and fossil fuel power generating projects.

The same legislation that created the Power Authority also created the Power Project Revolving Loan fund. The Power Authority administered this fund, which was set up as a "trust fund" to make loans to municipal or public

utilities for feasibility studies, preconstruction engineering and design, and construction of hydroelectric and fossil fuel plants. For example, in 1977 $1.6 million was appropriated for the Green Lake Hydroelectric project at Sitka and $540,000 was appropriated to the Power Project Revolving Loan Fund. Through the fund, loans also could be made to cities, boroughs, village corporations, village councils and nonprofit marketing cooperatives for meeting their "energy requirements."

In 1978 the legislature significantly amended its 1976 legislation. The findings were changed to state that the legislature's policy was to foster power projects to supply power at "the lowest reasonable cost . . .," whereas the earlier findings had referred only to "lower cost" power. The provision relating to pricing of power was amended to make certain that the prices at which power was sold covered the "full cost of the electricity and services..."

In 1978 the legislature also adopted resolutions approving the sale of $300,000,000 in revenue bonds for constructing a coal-fired electric generating plant at Healy and authorizing the Power Authority to incur indebtedness ($25,000,000) for Phase I studies for the Susitna Hydroelectric Project. Additionally, the state Senate adopted a resolution directing its Special Committee on the Permanent Fund to investigate the use of money from the permanent fund as a source of revenues for financing hydroelectric projects.

In 1979 the legislature adopted two resolutions related to power. One asked the Army Corps of Engineers to use funds from the Small Hydroelectric Plants program to investigate the feasibility of small-scale hydroelectric projects in rural Alaska as an alternative to the high cost of deisel-generated electricity. The other resolution approved issuance of $120 million in revenue bonds for the Terror Lake Hydroelectric project and $20 million for the Solomon Gulch project.

The 1980 session of the legislature passed substantial legislation relating to the Power Authority. Approximately $50 million was appropriated for some 35 projects. The major appropriations were $15 million for the Tyee Lake project at Wrangell and an $18 million loan for the Swan Lake project. Most other projects received funds ranging from $40,000 to $2 million.

In addition to these direct appropriations, two resolutions authorized the issuance of a variety of revenue bonds. The revenues from those bonds would be

used for constructing or acquiring generating facilities or for financing expansion of distributions systems by local utilities. The revenues used included the following:

- $70 million toward construction of the Tyee Lake project
- $120 million for the Swan Lake project
- $110 million for waste heat power generation facilities to be constructed by Golden Valley Electric Association
- $15 million to finance the Lake Elva (Dillingham) project
- $30 million for the Bear Lake project (Prince of Wales Island)
- lesser amounts for Homer Electric Association, Naknek Electric Association, Matanuska Electric Association, Glacier Highway Electric Association and Cordova Electric Association.

In addition to this legislation relating to funding, two bills were passed that again amended substantially the legislation creating the Power Authority. The first bill was a major piece of legislation on the general subject of energy. One part of this bill contained the provisions relating to amendment of the Power Authority statute. These amendments gave the Power Authority the power to recommend power project financing through the use of general obligation bonds--a financing approach that earlier legislation had not contemplated. This bill also amended substantially the provisions creating the Power Project Revolving Loan Fund. One change converted the fund from a revolving loan fund to a direct loan program, with funds for loans appropriated by the legislature to the fund and revenues from repayment deposited in the state's General Fund rather than in the Power Project Fund. The purposes for which loans could be granted were expanded. A provision that permitted the Power Authority to make unsecured loans in some instances also was added. The right to forgive loans was transferred from the Power Authority to the legislature itself.

A new section was added requiring the Authority to undertake reconnaissance studies to identify power alternatives for communities. Under this addition reconnaissance studies must be reviewed by the Division of Budget and Management and submitted to the legislature. The Susitna Hydroelectric project was addressed directly in subsequent 1980 legislation.

In 1981 the legislature again passed electric power legislation, known as SB 25 and SB 26. The legislation, discussed in Section 9.3, relates to the Power Authority.

The above discussion is not intended as either a comprehensive review of history of electrical power planning and development in the State of Alaska or a detailed review of the legislation relating to the Power Authority. Nonetheless, several relevant observations can be drawn. First, involvement by legislative and executive branches of the state government in the planning, analysis, financing, and direct ownership of power generation and distribution facilities is a recent phenomenon. Second, although recently involved, the State has clearly assumed a major role in these activities. It has preempted significantly most other efforts by federal agencies and by individual utilities. Third, almost yearly the state's involvement has been expanding significantly, in terms of dollar volume, complexity, and geographic area. Fourth, the specific means and parameters that define that involvement have changed frequently.

These observations suggest that the analysis of the 1981 legislation and its impact upon alternative energy projects, which follows, must be viewed with some skepticism. Most likely, these laws will be changed before either the Susitna Project or some alternative can be implemented. Furthermore, because the State's involvement has been so fluid, if an alternative is perceived publicly as preferable to the Susitna Project, the alternative most likely could be implemented directly by changes in the current statutes.

Federal, state, or local governments have become involved in the construction and ownership of power generating facilities for four general reasons. First, government involvement in the decision making process and ownership of production facilities may be appropriate where market imperfections prevent a utility from building the generating capacity it needs to meet demand. Such imperfections do exist in the capital markets and also may be caused by regulatory risks. To address such imperfections, the simplest approach is for the government to make available to the utility a grant or loan to provide a direct source of capital. Normally, the government entity would not have to take over the decision making process or own the facility simply to correct capital market imperfections.

A second reason for government involvement is to give recognition to "externalities" that result in public benefits but which are not factored into

an individual utility's decision making process. Many projects undertaken by the federal government are justified on this basis. For example, construction of Tennessee Valley Authority dams was undertaken when public sentiment viewed the creation of construction jobs as a public benefit in itself. In this instance, the government was willing to spend money to put people to work on a construction project even if a private entity was not willing to build the project. For dams built in the West, the externalities that constitute public benefits justifying the expenditure of public dollars include making water available for irrigation and for protection against flooding. Although a private utility might not chose construction of a hydroelectric plant if cheaper energy sources are available, the hydroelectric plant may be the "best" plant when consideration is given to the additional public benefits it creates.

A third reason for government involvement is the decision to effect income transfers through the distribution and consumption of power. If the government wishes to subsidize the consumption of power, it may construct a plant and sell the power below its free market price. The result will be a subsidy to electricity users. Such a subsidy can result in income transfer either to end-use consumers, to the utility distribution companies, or to both.

A fourth reason for government intervention in the decision making or production production process is simply to alter the free market result for political or policy reasons. Thus, if a private utility will generate electricity using methods "A" and "B" and the government prefers methods "C" and "D", it can intervene to ensure use of methods "C" and "D." The government's preference for "C" and "D" might result from objectives already discussed (such as income redistribution) or it might be the result of noneconomic objective. For one example, a noneconomic objective might be the desire to create a local market for coal. If this were a government objective, the government might wish to encourage coal-fired power generation even if that method was not the least-cost method.

9.3 THE CURRENT STATUTORY FRAMEWORK IN ALASKA

The legal authority for the state to implement the electric energy plans is contained in the recently adopted legislation that revises the legislation creating the Alaska Power Authority. The provisions creating the Alaskan Energy Program, A.S. 44.83.380 et seq (SB 25), are especially important. This statute creates a fund, the revenues of which may be used for, among other

things, reconnaisance, feasibility and construction of power projects (including all related costs of such construction). The fund may not be used for operation and maintenance which, as discussed below, creates a significant bias in planning. Before the revenues can be used for constructing a project, the project must satisfy the following conditions:

1. The project must be economically feasible and after construction, must be able to provide revenue sufficient to return annually to the State five percent (5%) of the amount that the Power Authority has spent from the fund for the project.

2. The project must provide the lowest reasonable power cost to the utility in the market area for the estimated life of the power project, whether operated by itself or in conjunction with other power projects in the market area.

3. The project must operate either on renewable energy resources such as hydroelectric, wind, biomass, geothermal, tidal, solar, temperature differentials of the ocean, or coal, peat, waste heat, or fossil fuel.

4. The project must be approved by the legislature and funds appropriated by the legislature.

Because these limitations are defined primarily in economic and political terms and not in terms of engineering or hardware, the statute appears to have enough flexibility to permit the Power Authority to adopt any of the four alternative electric energy plans, provided that the plan meets the tests of the statute. The exception to this conclusion is the plan option that requires large expenditures for conservation of electrical energy. The statute appears to contemplate construction of facilities that will generate electricity. The statute may be interpreted so that certain types of conservation programs could be classified as "projects;" however, this approach is doubtful. Implementating the conservation option appears to require new authorizing legislation.

Although the requirements of A.S. 44.83.384 et seq. do not preclude implementing any of the energy option plans (except perhaps conservation as mentioned above), the circumstances under which the requirements dictate a particular option as the only authorized option cannot be determined with

certainty. Lack of certainty results because the requirements are too general and sometimes contradictory to judge definitively how the courts will interpret the statute.

The relationship between the requirements set forth in A.S. 44.83.384 (conditions 1-3 above) and the requirement of legislative approval contained in A.S. 44.83.380 is not clear. Legislative approval appears to be a separate, independent requirement and therefore should not be sufficient to authorize construction of a project that does not also satisfy the requirements of A.S. 44.83.384. On the other hand, the legislative approval must be in accordance with A.S. 44.83.185, which requires passage of a law authorizing the project. Most likely the legislation authorizing approval will either make explicit or implied amendments, or if necessary, repeal the requirements of A.S. 44.83.384 as to the project the legislation authorizes. If the legislature takes this action, then any of the options are possible if it is approved by enactment of a law. While this analysis seems logical, it renders the requirements of A.S. 44.83.384 illusory, and for that reason, a court might conclude that a project is not properly before the legislature for approval until the requirements of A.S. 44.83.384 are met.

Application of the standards set forth in the statues requires interpretation by the Power Authority. For example, the requirement that a project "be able to provide revenue sufficient to return annually to the State five percent (5%) of the amount that the (Power Authority) has spent from the fund. . ." is ambiguous. If this requirement is interpreted to mean that a project must return five percent (5%) of the amount spent, almost no project could qualify because the price the Power Authority charges for power pursuant to section .490 expressly excludes capital recovery. This provision must mean that five percent (5%) would be returned if a full price is charged. However, even this interpretation raises questions. What price and demand assumptions should be made to determine if the project meets the requirement? Is it realistic that a project large enough to meet demand at a low price will also be able to sell enough power at a much higher price to return five percent (5%) per year? What rate of return should be assumed for invested capital? Also, if the State has a 100% equity position in the project, this requirement necessarily implies a 20-year amortization of the project.

The statute requires that a project must provide the lowest price by itself and when operated in conjunction with other power projects in the market area. However, a project may be lowest in only one situation, not both. All

of these uncertainties are problems that are frequently encountered and handled by planners and engineers when making decisions about future generating additions. Once assumptions are made about market area, future demand, project lifetime and other parameters, conclusions can be drawn about which project will provide the "lowest" cost. In the current statute uncertainty exists, however, because it authorizes projects only when certain criteria, such as "lowest cost," are met. It does not provide guidance on the assumptions that are to be used when arriving at the final determination.

Because the statutory requirements are technical and require the Power Authority in determining whether they are met, its determination should be final unless a court finds that no reasonable basis exists for the their finding. This standard maximizes the Power Authority's flexibility to evaluate alternatives, but does not give the Power Authority complete freedom to select whatever option it wants. If the option or base case is not justified in terms of the statutory requirements, interpreted in a reasonable manner, the option or base case could not be implemented under the existing statute.

In the statute, other provisions that seemingly are unrelated to the statutory standards create bias in favor of a particular generation option. Because the Power Authority obtains the needed funds for a project from the legislature and because the project is expected to be subsidized partially with General Fund revenues, no direct market accountability exists for whatever option the Power Authority undertakes. On the other hand, the Power Authority, as an agency of the state, must be accountable to the legislature, the governor and the people of the state and, to the extent this political accountability is a direct substitute for market accountability, the Power Authority can be expected to seek out the least-cost approach just as a private utility would. Conversely, if the least-cost objective conflicts with other political objectives, the Power Authority may seek to accommodate both the economic and political goals to the maximum extent feasible.

Section .490(b)(2) of SB 25 states that if the legislature has not appropriated $5 billion to the fund, the wholesale power rate shall be the higher of either 10% of the amount the Power Authority has invested in power projects or the amount of revenues necessary to pay operation and maintenance (O&M) costs plus debt service plus safety inspections. If O&M costs, debt service and safety inspections are less than 10% of investment, which is quite likely, then purchasing utilities will want the legislature to appropriate the

$5 billion to satisfy the condition contained in (b)(2) since they then will avoid the risk of the higher wholesale power costs. To meet the $5 billion appropriation requirement, the legislature will have to select those power projects and energy options that have the greatest initial capital cost. Of the option plans identified in this study, only those including construction of Susitna appear to meet that requirement. The purchasing utilities can be expected to work aggressively, in their own self interest, to persuade the Power Authority to choose an energy option that includes construction of Susitna, even if Susitna is not the least-cost approach.

The pricing provision also creates a second kind of bias. Assuming the legislature does appropriate $5 billion, the wholesale price the Power Authority charges to purchasers is a function of O&M costs, safety inspections and the financing approach used by the Power Authority. Under this provision, the price to the purchasing utilities will be lowest for those projects having lowest O&M and safety inspection costs, regardless of capital cost, when the project is funded by direct appropriation. If the least-cost approach is one that includes projects with higher overall long-term O&M costs but less initial capital investment, the least-cost approch will not be favored by the purchasing utilities because it results in greater power costs to them (and less cost to the State). This bias in favor of the facility with the lowest O&M is significant when considering alternatives. Those facilities, such as hydroelectric projects, with high initial capital investment but low O&M costs, will be favored by purchasing utilities because the capital costs are subsidized by the State but O&M costs are not. On the other hand, projects, such coal-fired plants, which have lower front end costs but higher O&M costs, might be the least-cost project (in present dollars) but will not be favored by the purchasing utilities because it could result in higher cost power to them and to their customers because the State subsidy will be less.

The extent to which the statute's pricing provisions create, for the purchasing utilities, objectives that conflict with the criteria contained in other parts of the statute cannot be known until additional economic analyses of the options are undertaken. Likewise, the extent to which the Power Authority's analysis will be directly or indirectly inflenced by the desires of purchasing utilities is unknown. Note that the Power Authority is required to average prices statewide for all projects. This requirement means that all purchasing utilities, not just Railbelt utilities, will be impacted by the

Power Authority's decisions. All utilities which do, or may, purchase power from the Power Authority's, therefore, will have the same objectives of prefering those projects that receive maximum State subsidy whether they purchase power from a particular project or not.

The 1982 amendment (HB 9) changes the single, shared wholesale price to a project-specific cost based on each project's proportionate share of the outstanding debt for all projects. In addition, a "cap" assures that the early projects will "phase-in" to paying their proportionate shares, with other projects making up the difference.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 5, 1983

MEMORANDUM

TO: Representative Brian Rogers

FROM: Jack Kreinheder
Research Staff

RE: Status of Susitna Project Studies
Financing and Power Sales Proposals
Research Request 82-157

You requested that we monitor and report on the progress of studies and on recent events related to the proposed Susitna hydroelectric project, particularly those studies dealing with alternatives to Susitna and Susitna fisheries impacts. You also asked that we review new developments in Susitna financing and power sales contracts.

THE KEY ROLE OF OIL PRICES AND STATE REVENUES

The outlook for future oil prices is one of the most important and controversial issues regarding the Susitna project today. As you know, the power demand forecasts and the power cost analyses presented in the Battelle Railbelt Electric Power Alternatives Study and the Acres Draft Susitna Hydroelectric Feasibility Report were developed before the recent downturn in oil prices and State revenues. According to Battelle and some other analysts, this downturn, coupled with State forecasts of oil prices which are much lower than earlier projections, indicates that Railbelt power demand and the cost of thermal generation are likely to be substantially lower than projected by Acres and the original Battelle report. These factors could reduce or eliminate the economic benefit of building the Susitna project, and also make power marketing and project financing more difficult.

Others, including Acres and the Power Authority, maintain that the consensus among nationally-recognized energy forecasters is for continued increases in the real price of oil averaging about 2 percent annually, which is the figure used in the Acres and Battelle reports. Thus, the analyses in these reports, which demonstrate that Susitna is the lowest cost source of electrical power for the Railbelt, remain valid.

The price of oil and other fossil fuels is important in evaluating any proposed hydroelectric development throughout the world because this

price usually determines the "base case" cost of power against which a new hydro project is compared. However, petroleum prices are even more significant for the Susitna project because of the strong link between petroleum prices, State revenues, and economic activity in the Railbelt. In addition to affecting relative power costs, oil prices also influence load growth and the fiscal capacity of the State to appropriate the $2.3 billion (in 1982 dollars; $3.5 billion in actual appropriations) which was estimated by Acres to be necessary for financing Susitna.

The economic feasibility of the Susitna project, as it is currently proposed, depends not only on the increased cost of fossil fuels, but also on substantial growth in Railbelt electrical demand. The Watana and Devil Canyon dams would produce more than twice as much electricity as is now consumed in the Railbelt. Although the output from the Watana dam could be fully utilized with only a small increase in electrical load growth (combined with replacement of retired generating units), Acres has stated that a modified Devil Canyon dam appears to be the best single-dam development plan.

The economic and population growth which is necessary to create this level of electrical demand depends significantly on the level of State spending in the Railbelt over the next 20 years. As you know, nearly 90 percent of State revenues are currently derived from petroleum taxes and royalties. Increases or decreases in oil prices translate fairly directly into similar changes in State revenues and spending, inducing corresponding increases or decreases in economic and population growth, which in turn are the primary determinants of electrical power demand in the Railbelt. Thus, the increase in power demand which is necessary to realize the full benefits of the Susitna project is also substantially dependent on future increases in oil prices (although subsidized power costs could increase demand, as discussed below).

REVISED BATTELLE RAILBELT LOAD FORECASTS

In response to concern among State officials and others that the decline in current and projected State revenues made Battelle's original forecasts of demand for power in the Railbelt too high, Battelle revised these forecasts based on current (March 82) revenue projections. These updated forecasts were issued as an addendum to the executive summary of the Battelle report. The calculations for the updated projections are approximate and much less detailed than Battelle's initial work. However, Battelle now believes that Railbelt load growth is likely to be substantially lower than originally projected.

The revised Battelle forecasts contain a number of poorly documented assumptions and calculations. The most obvious case is in the projection of State petroleum revenues. Although Battelle states that their revisions were based on Department of Revenue forecasts (apparently the March 1982 report), the revenue figures listed in the Battelle report differ significantly from the Department's. In 1990 the Battelle revenue figure is 33 percent higher than the comparable Department of Revenue projection.

The revised "moderate" and "low" forecasts of power demand prepared by Battelle are about 20 percent lower than the original forecasts for the years 2000 to 2010. In addition, Battelle states that because of factors which were not quantified in the revised load forecasts, the most likely case probably lies between the revised low and moderate cases. The midpoint between the revised low and moderate cases is about 29 percent below the original moderate or most likely case over the 2000 to 2010 period. Battelle concludes that "while still the most resistant [energy plan] to inflation once it is completed, [Susitna's] power output would be larger than the Railbelt region could readily accommodate."[1]

It should be noted that the growth rate of electricity consumption in the Anchorage-Cook Inlet area during 1981 and 1982 has been considerably larger than was forecast by Battelle in their earlier work. This recent trend has raised concern over the accuracy of the forecasting models, and has been cited as evidence that the revised Battelle forecasts are too pessimistic.

One major factor favoring Susitna which was not mentioned in Battelle's revised summary, or in the Tussing/Erickson review (discussed below), is the effect which State investment in Susitna would have on Railbelt power demand. In their original analysis, Battelle estimated that demand for Susitna power would be approximately double the level otherwise expected by the year 2010 if the State appropriated the full $5.1 billion project cost, rather than using 100 percent market financing as assumed in the base case.[2] This analysis assumed that the cost of power to consumers would reflect only the operation and maintenance costs of the project, which are very low compared to the costs of debt service under the bond financing case.

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[1] Battelle, Railbelt Electric Power Alternatives Study, Newsletter #4, December 1982, p. 13

[2] Dick Emmerman, Division of Policy Development and Planning, The Probable Effect of Lower State Revenue Forecasts on the Projection of Electricity Demand in the Railbelt, September 1982, pp. 5-6.

Based on this analysis and full State funding for Susitna, Railbelt power demand could be more than originally estimated in the Battelle Railbelt alternatives study, even with the decline in oil price and revenue forecasts. It now appears very unlikely that the State will fund the full cost of Susitna through appropriations; therefore, State investment in the project will probably have a more moderate effect on demand. In any case, this factor should be addressed in any re-evaluation of Susitna, as should the higher load growth rates discussed above.

The Power Authority is planning to contract with Battelle for a more detailed revision of their power demand forecasts, including an update of the historical power demand data used in the forecasting models. The Power Authority plans to submit a status report on Susitna to the Governor and the legislature in March 1983, as required by AS 44.83. 340. The staff of the Authority believes that a more detailed revision of the Battelle forecasts is necessary to provide an accurate and realistic update on the status of the Susitna project. The contract amount would be about $30,000.

THE TUSSING/ERICKSON STUDY

In Alaska Energy Planning Studies, a report prepared for the Division of Policy Development and Planning by Arlon Tussing and Gregg Erickson, the authors review both the Acres and Battelle studies mentioned above. The principal conclusions of the report are: (1) the change in oil-price expectations since 1980 suggests that economic activity and load growth in the Railbelt will be substantially lower than projected by Battelle and Acres; (2) the Acres and Battelle estimates of Railbelt coal and gas prices are too high because they are based on export market values rather than regional market factors; (3) recent high interest rates and capital-market conditions raise concerns about the risks, costs, and financing arrangements of the Susitna project; and (4) the economic attractiveness of the Susitna project is significantly less favorable than indicated by Acres and Battelle.

While a thorough discussion of the Tussing/Erickson review is beyond the scope of this memorandum, a few observations may be helpful. On the whole, the report does a very good job of highlighting the key factors affecting the Susitna project, and generally appears factually correct. However, the authors sometimes draw conclusions based on limited data and overlook opposing viewpoints.

For example, the discussion of oil prices notes that the Department of Revenue forecasted in March 1982 that real oil prices would decline through 1998. While this is true, Tussing and Erickson did not mention

that wellhead prices were projected to rise in real terms at 0.1 percent annually in the March forecast and 1.7 percent in the June forecast. Wellhead, rather than market prices, are the determining factor in the level of State oil revenues. The 1.7 percent figure is much lower than the 4.8 percent annual increase in wellhead value forecast in June 1981, so that the overall point made by the authors is still accurate. However, it would seem appropriate to discuss forecasted wellhead prices, as well as market values.

Tussing and Erickson also seem to misinterpret the meaning of the Department of Revenue 30th percentile or "risk adjusted" revenue estimates, which are now used as the basis for the executive budget. The report states that the use of the 30th percentile figure "indicates the Department's judgment about the probability that actual revenues will be less than the figure shown."[3] The use of the 30th percentile figure does not mean revenues are anticipated to be less than the mean forecast value. Instead the lower figures are used to adjust for the greater risk or impact associated with lower than expected revenues. The lower estimates simply reflect the fact that it is more disruptive to the budget process to have lower than expected revenues than to have higher revenues, and that it is prudent to base the State budget on a revenue estimate that is more certain than the mean "50-50" figure.

In the section on financing issues, Tussing and Erickson argue that the discount rate used by Acres (3 percent) is too low, and that at a discount rate corresponding to current real interest-rate levels, even the Acres analysis rejects Susitna. In Acres review of the draft report, the firm maintained that a project specific discount rate analysis, as recommended by Tussing and Erickson, resulted in a discount rate lower than 3 percent. The authors appear to ignore the Acres comments on the discount rate issue in the final report and reach the same conclusion stated above.

Acres and the Power Authority criticized the draft Tussing/Erickson report for relying almost exclusively on the Department of Revenue oil price forecasts in concluding that Railbelt electricity demand is likely to be lower than the lowest Acres and Battelle projections. Acres cited a number of oil price forecasts by major energy-oriented firms and agencies which generally supported the 2 percent annual real increase used by Acres and Battelle for their base case analysis. Eric Yould of the Power Authority stated that on the oil price issue, Tussing and Erickson "seem to have adopted a somewhat extreme position outside the mainstream of informed opinion."

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[3] Tussing and Erickson, Alaska Energy Planning Studies, November 1982, p. 15.

Tussing and Erickson responded to these comments by noting that none of the forecasts cited by Acres were made by oil companies and that four of the eight forecasts were made by agencies with a stake in oil price increases. The authors also stated that internal forecasts by oil companies and oil-exporting nations, major decreases in drilling activity, and declines in the value of petroleum reserves all point to lower expectations of future oil prices.

Department of Revenue Forecasts

An important issue raised by this discussion is the accuracy of the Department of Revenue forecasts of oil prices and State revenues, and the role of these forecasts in evaluating the feasibility of the Susitna project. Acres and the Power Authority clearly imply in their comments on the Tussing/Erickson report that the Department or Revenue forecasts are too pessimistic, do not correspond with the projections of most reputable forecasting agencies or firms, and are not a valid basis for reevaluating the Susitna project. This situation is somewhat ironic, given the strong criticism of the Department of Revenue forecasts which was levied by the legislature and others just last spring because the forecasts were too high.

I spoke with Chuck Logsdon, Chief Petroleum Economist for the Division of Petroleum Revenue, regarding the apparent discrepancies between the Division's oil price forecasts and the much higher forecasts cited by Acres. Dr. Logsdon explained that the Division's projections are, in fact, more conservative than those of many other forecasters, in part because of the need for prudent revenue estimates in the State budget process, and because of the State's recent experience with revenue shortfalls. However, the oil price projections represent the best judgment of the Division's staff, and are not intentionally biased downward to provide a margin of error; this margin is provided by the use of the 30th percentile revenue estimates, as discussed above.

It would appear to be a difficult and confusing situation for the legislature (and the Governor) if the Power Authority's studies concluded that Susitna was feasible and properly sized, while the revenue projections on which the State budget is based suggested that excess capacity could prevent the project from being the lowest cost generation alternative.

While it may not be possible, or necessarily desirable, to reach a consensus on the oil price issue, it is important to recognize that the forecast(s) used in Susitna feasibility updates will have a major effect on the evaluation of the project. The "base case" analysis must center on one rate of growth, but the sensitivity analysis should address the effect of a wide range of oil prices on both relative power

generation costs and load growth. Ideally, the range of oil prices considered should be continuous, so that the "break-even" point can be easily determined, and so that the effect of new developments in the oil price area can be assessed.

I should mention that Susitna is not the only project affected by the oil price issue; nearly every Alaska hydro project, including those under construction, as well as planned projects like Bradley Lake, would show substantially lower benefits if projections of flat or declining real oil prices were used instead of the positive escalation rates used by the Power Authority.

Cook Inlet Gas Prices

The discussion in the Tussing/Erickson report concerning Cook Inlet fossil fuel prices, and natural gas prices in particular, emphasizes the importance of considering local market conditions and gas contracts, rather than the export opportunity values derived by Battelle and Acres. This point is supported by the recent announcement of the new Enstar gas contracts with Shell Oil Co. and Marathon Oil Co. for 470 billion cubic feet of gas at a base price of $2.32 per thousand cubic feet (MCF). Although this price is more than a three-fold increase from Enstar's current primary gas price of $0.65 per MCF, it is about 25 percent below the $3.00 per MCF figure estimated by Battelle and Acres for the cost of new gas.

The future gas price under the contracts is tied to the current ratio between gas and heating oil prices. Only if oil prices increase more than projected by Battelle and Acres would the contract gas price be more than 75 percent of the Battelle/Acres projections. Smaller oil price increases would mean lower gas prices. Thus, the future cost of gas-fired generation could be significantly less than estimated by Battelle and Acres.

In responding to the draft Tussing/Erickson report, Acres stated that the authors' rejection of Acres export valuation of Cook Inlet gas was a short-term view based on the lack of current gas export development, and did not reflect the long-time horizon for the Susitna project. It is true that it is difficult to project future gas markets and export opportunities, and it may well be appropriate to use the higher Battelle/Acres gas prices over the long term. However, the new Enstar contracts run until the year 2002, and would appear to be the most accurate indicator of Cook Inlet gas prices for this period.

The marketability of Susitna power may be more affected by the new Enstar contracts than is the economic feasibility of the project. The Enstar contracts and any new Chugach Electric contracts with

similar terms could increase the difference in cost between Susitna power and the cost of thermal generation, particularly during the first few years of Susitna operation. It is these early years that are most difficult from a marketing standpoint (reference Acres' discussion of the "inflationary financing deficit").

It is important to note that the most recent Enstar contracts affect (with respect to electricity prices) primarily the Anchorage Municipal Light and Power utility, which buys nearly all of its gas from Enstar. Chugach Electric Association, Inc. (CEA) buys over 80 percent of its gas directly from producers. However, the Enstar contracts give a strong indication that producers are willing to sell gas under long-term contracts at a price substantially below the Acres and Battelle values.

I spoke with Tom Kolasinski, Production Manager for CEA, about the significance of the Enstar contracts for CEA's future gas prices. Mr. Kolasinski believes the Enstar contracts have effectively set a ceiling on Cook Inlet gas prices, and he expects CEA to be able to negotiate new gas contracts at prices less than or equal to the Enstar rates. CEA will be beginning negotiations this month with Chevron and Arco, who each have 220 BCF of proven, uncommitted reserves in the Beluga field.

According to the Acres Susitna feasibility study, a State appropriation of about $2.3 billion (1982 dollars) is likely to be required in order to bring the first-year power costs from the Susitna project down to the level of thermal generation costs. If gas is available in the early 1990's at a cost 25 percent below the Acres estimate, the State appropriation for Susitna may have to be significantly higher than $2.3 billion to maintain the marketability of Susitna power.

SUSITNA FINANCING PROPOSALS

Acres is currently developing a series of financing options for the Susitna project. These options are in preliminary draft form at this point and have not been approved by the Authority, but have been reviewed by the Authority's financial advisors, First Boston, John Nuveen, and First Southwest. The financing alternatives include a mix of general obligation and revenue bond issues and State appropriations, with the State contributions ranging from $100 million per year to $250 million per year (in real dollars) from 1985 to 1993-4. Another option would rely entirely on G.O. bonds until 1987 and then require a State appropriation of $306 million in 1988 (in 1988 dollars) continuing through 1994.

The financial advisors concluded in their review of the various options that the levels of borrowing proposed in all of the options could be

achieved without material effect on Alaska's credit rating providing that a sufficient proportion of revenue bonds were issued, no other major State borrowing were attempted during periods of peak borrowing for the project, and the borrowing were phased to meet market conditions prevailing at the time. The group of advisors also indicated that the options are practicable methods for financing the project. However, the advisors emphasized the need for prudent and full reevaluation of financing alternatives with changing economic and financial conditions.

Acres noted that because all of the preliminary financing options appear to be technically feasible, the choice between the options depends on other criteria, the most important of which are:

(1) the financial viability of Watana in its early years under each option, and thus the level of revenue bonds which could be issued;

(2) the percentage of the State funds available for capital and loan appropriations which would be required for Susitna;

(3) the timing of the demands for State appropriations with regard to variations in the amount of funds available for capital projects and loans.

Although Acres did not recommend a particular financing plan to the Power Authority, they suggested that the three criteria listed above were best met by the two financing options which balance lower levels of appropriations before 1987 against higher amounts from 1988 to 1994.

Because of the preliminary nature of these financing options, it would not be appropriate to critique them in detail in this memorandum. In general, the options point out the trade-off between the amount of money appropriated by the State for Susitna and the amount of G.O. bonds required for the project, because lower State appropriations reduce the financial viability of the Watana phase and limit the amount of revenue bonds that the bond markets would be willing to purchase.

The financing discussion also indicates that there is a good deal of uncertainty about the proportion of the project cost that can be financed through revenue bonds because this proportion will depend on the financial position and credit rating of the State, the power sales contract which have been negotiated, and other factors. Finally, the options which Acres favors include higher amounts of State appropriations in the later years. This approach seems to run counter to current forecasts of State revenues, which are expected to decline in real terms after 1989.

FERC LICENSING/PROJECT DESIGN

The Power Authority currently plans to submit a license application for construction of the Susitna project to the Federal Energy Regulatory Commission (FERC) in February. The firm of Acres American, Inc., is overseeing the preparation of the license application up to the point of filing the application. After submission of the application to FERC, the joint venture of Harza and Ebasco will assume responsibility for project licensing and the next phase of project design. Acres estimated that it would take approximately 24 months for a FERC license to be issued after filing the application. Major litigation or a requirement for substantial additional information could extend this period.

SUSITNA FISHERIES STUDIES

I spoke with Dr. Richard Fleming, who is responsible for environmental studies for the Power Authority, regarding the research effort on the Susitna fisheries. The fisheries data collected during the summer of 1982 by the Alaska Department of Fish and Game (ADF&G) is now being compiled and will be released in a draft ADF&G report around January 31. A subsequent study to be completed by June will contain an analysis of the "raw" data included in the January report.

The Arctic Environmental Information and Data Center (AEIDC) is responsible for the analysis of probable fisheries impacts from the Susitna project. AEIDC is currently developing a model with which to evaluate these impacts. It is expected that the model will be completed by June, but no results from the impact analysis will probably be available until the fall and winter of 1983.

The firm of Woodward-Clyde is preparing "Exhibit E," which includes fisheries impacts and mitigation measures, for the Susitna license application to be submitted in February by the Power Authority to the Federal Energy Regulatory Commission (FERC). Although no analysis of the 1982 fisheries data will be available until June, the Authority plans to submit the tentative findings from the 1981 research program, plus a preliminary mitigation plan, to FERC in February. Additional submissions will be made as new information becomes available.

The 1982 summer research program was benefitted (although the salmon were not) by an unusually dry period in which the Susitna River flow dropped below 12,000 cubic feet per second (CFS) for part of the salmon spawning period. This flow compares to average summer flows in the 25,000-30,000 CFS range. This dry period allowed the researchers to observe the effects of lower flows, such as would occur from the operation of the Susitna project, on the spawning patterns of the Susitna

salmon. A number of negative effects from the low flows were observed, including blockage of access in some sloughs and a reduction in the size of spawning areas. It should be noted that the effects of these low natural flows were more severe than the effects that would be caused by comparable flow reductions from the Susitna project. This is because the drought reduced flows from tributaries and ground water sources, as well as in the Susitna itself.

Summer river flows in the primary spawning areas during operation of the Susitna project would be about 8,000 to 10,000 CFS if the economic benefits of annual power production were to be maximized. The preliminary data from 1981 indicated that summer flows of about 19,000 CFS would be needed to avoid any significant impact on salmon reproduction (absent any other mitigation measures).

The preliminary mitigation plan to be submitted to FERC in February will be based on a combination of moderate flow increases and intervention measures to provide access to spawning areas at reduced flow levels. According to Dr. Fleming, the research conducted to date suggests that flows of 11-12,000 CFS during the critical spawning months of August and September, combined with habitat modifications, could avoid any decrease in salmon stocks. The intervention measures cover a broad range of possibilities and will not be defined on a specific area-by-area basis in the February FERC submission. Possible approaches include removal of obstacles, lowering of slough entrances, construction of small check dams to increase slough flows, and gravel substrate placement or improvement.

I checked with Carl Yanagawa, the Director of the ADF&G Habitat Division for the Southcentral Region, regarding the Department's response to the proposed mitigation measures and FERC license submission. Mr. Yanagawa is presently coordinating comments from the different divisions in the Department and stated that no response had yet been developed, but that a formal response would be provided to the Power Authority by January 15.

The fisheries research program for the summer of 1983 and the winter of 1983-84 has not yet been finalized, nor have funding levels been determined. Scoping meetings with ADF&G and other consultants will be held in January and February to determine what studies are needed. Dr. Fleming indicated that he expected the field research efforts to become more focused as a result of previous experience, and that the FY 84 budget may be reduced from the FY 83 level.

SUSITNA ALTERNATIVES STUDIES

North Slope Gas Studies

Task Force Study. Railbelt power generation is one of the options being evaluated by Booz-Allen & Hamilton in their study for the State Task Force on Alternative Uses of North Slope Natural Gas. The Phase I report, which was released in November, screened a wide range of potential transportation and utilization options and eliminated the options which did not pass the screening criteria. The Railbelt power generation option was selected as one of five alternatives for more detailed evaluation. However, this option would be in conjunction with one of the other alternatives, i.e., with a conventional gas pipeline such as ANGTS, a pipeline to the Kenai area for LNG production, or Fairbanks methanol production. This report should be completed in the next two months.

Alaska Power Authority Study

The Alaska Power Authority is analyzing the feasibility of three options for generating Railbelt power from North Slope gas:

(1) construction of a small-diameter gas pipeline from the North Slope to the Fairbanks area, with power generation in Fairbanks and transmission of power to Anchorage via the intertie now under development;

(2) generation of power on the North Slope and transmission via new high voltage lines to Fairbanks, and then to the remainder of the Railbelt.

(3) utilization for power generation of low-BTU waste gas from an LNG facility on the Kenai Peninsula, located at the terminus of an "all-Alaska" gas line.

This study, which is being conducted by Ebasco Services Inc. for the Authority, is due to be completed in February 1983. Two reports reviewing existing data and assumptions and system planning studies have been released. Ebasco has determined that only about 10 percent of the maximum daily Prudhoe Bay gas production would be required to meet all Railbelt power generation requirements, and that combined cycle gas turbines would be the most cost-effective generation system using North Slope gas. Ebasco estimates that the low-BTU waste gas option would be able to meet less than one-third of Railbelt power needs. No information on the cost of power or overall feasibility of electricity generation from North Slope gas has yet been released.

Chakachamna Hydro Studies

The Chakachamna project is not an alternative to Susitna in itself because of its much smaller generation capacity (330 megawatts versus 1660 megawatts for Susitna). However, it would be a major element, if constructed, of any Railbelt generation plan not including Susitna. The Power Authority has been conducting a study of the Lake Chakachamna hydro site since August 1981. According to Eric Marchegiani, the project manager, this is not a feasibility-level effort, but rather an interim study. The work is being done under contract to Bechtel and Woodward-Clyde and was funded by the Power Authority Board for $800,000 for the current fiscal year. Approximately $900,000 was spent on Chakachamna studies during FY 82.

The legislature appropriated $3.3 million for FY 83 Chakachamna studies as part of the $25.6 million authorized for continuation of the Susitna project studies. This figure was reduced by the Power Authority Board based on a recommendation from the staff that $800,000 was sufficient to carry out the FY 83 study efforts. Mr. Marchiagiani did not wish to comment on the adequacy of this funding level, but it appears from the program description that field studies and other portions of the study were constrained significantly by the limited funds available. Also, because FY 83 funds were not authorized until the end of June, study efforts during July were limited.

Approximately 80-90 percent of the Chakachamna study funds are being spent on fisheries research, primarily to determine salmon escapement levels, major spawning areas, and other baseline data. This funding allocation was based on the judgment that fisheries impacts were the area of primary concern for the Chakachamna site, with the cost estimate for the project another major concern. The development plan recommended by Bechtel and Woodward-Clyde would have a power generation capacity of about 330 megawatts and would involve a power tunnel from Lake Chakachamna into the McArthur River, which is one of the adjacent drainages.

Earlier studies had indicated that up to 480 megawatts of capacity could be developed at the Chakachamna site, but the current studies have found that mitigation of fisheries impacts and other factors limit the capacity of the site to the 330 megawatt figure. The current estimated cost for construction of the project is $1.2 billion (January 82 dollars), provided that the power tunnel can be bored rather than blasted. Blasting of the tunnel would add about $222 million to the project cost.

Bechtel and Woodward-Clyde will release a report on their findings to date in February 1983. However, because of the limited scope of the

studies, no determination of project feasibility will be included in this report. Instead, the report will summarize the fisheries and geotechnic data collected, discuss potential project impacts and possible mitigation measures, and review the project cost analysis conducted by Bechtel.

The Power Authority requested $2.9 million for Chakachamna studies in FY 84. This has been reduced to $2.5 million by the Governor's Office.

* * * *

I hope this summary information on the Susitna project and related issues is useful. If you have any questions, please call. Also, if there are other legislators who you feel would be interested in this subject, we would be glad to provide this memorandum to them.

JK/sj

January 18, 1983

Addendum to Susitna Status Memorandum -- APA Comments

This memorandum was reviewed after its completion by Robert Mohn, Director of Engineering and Susitna Project Manager for the Alaska Power Authority. Mr. Mohn provided the following comments on the report:

Cook Inlet Gas Prices. Mr. Mohn indicated that there are several add-on charges to the $2.32 base price of the Enstar gas contracts which effectively boost its price to about $3.00/MCF. This is about the same as the current gas price used in the Acres and Battelle base case analyses of Railbelt thermal generation costs. The Power Authority therefore does not view the Enstar contracts as significantly altering the conclusions of the Battelle and Acres studies. Time did not permit additional research on this question by this agency; however, two analysts in the Governor's Office of Management and Budget are doing some work on the effect of the Enstar contracts which should be completed in the next several weeks.

Susitna Fisheries Studies. The memorandum states that no analysis of the 1982 fisheries data will be available to June, in reference to the Alaska Department of Fish & Game's report which is scheduled to be completed at that time. Mr. Mohn stated that although the full ADF&G analysis will not be completed until June, there has been a substantial amount of analysis conducted on the 1982 fisheries data by ADF&G and Woodward-Clyde. The February FERC licence application will include the results of the analysis conducted to date.

Chakachamna Study Funding. There appears to be some dispute on the legislative intent for FY 83 Chakachamna studies. Mr. Mohn's understanding is that there was no clear statement of intent by the legislature that $3.3 million of the $25.6 million in FY 83 Susitna funding be used for studies of the Chakachamna project. Rather, there was only a general directive that the $25.6 million include funding for the study of alternatives to the Susitna project, as necessary.

According to George Matz of the Office of Management and Budget, who handled this budget request, there was clear intent by the legislature that a feasibility level study of the Chakachamna project be conducted, as stated in a budget amendment document. Both the Power Authority Board and the Policy Review Committee overseeing the Battelle study recommended that $3.3 million be provided for this purpose; however, it was not expected that these funds would come out of the appropriation for Susitna studies.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 11, 1983

MEMORANDUM

TO: Representative Don Clocksin

FROM: Jack Kreinheder
Research Staff

RE: Lake Tyee Power Costs and Project History
Research Request 83-39

You requested that we summarize the current status of contract negotiations for the sale of power from the Lake Tyee hydro project. You asked that we address the expected cost of power from the project, current power costs in Petersburg and Wrangell, and alternatives for reducing Tyee power costs to marketable levels..

The attached letter from the Alaska Power Authority outlines the sequence of construction cost estimates for the Tyee project and the decisions made by the Power Authority Board concerning project construction.

It is important to emphasize that the power cost projections in this memorandum are preliminary and are currently being revised by the Power Authority to reflect detailed financing arrangements for the Tyee project. These revised cost estimates will probably be somewhat lower than the figures cited here.

SUMMARY OF FINDINGS

The basic power marketing problem for the Tyee project is that the wholesale cost of power from the project in its first years of operation is projected to be about 40 percent higher than current power generation costs for Petersburg and Wrangell. The Power Authority estimates that Tyee power will cost about 16.5 cents per kilowatt hour (KWH) in FY 1986. Recent press reports have cited claims by Petersburg officials that the retail cost of power from Tyee would be 100 percent higher than current levels. However, these claims are disputed by the Power Authority, as discussed later.

Power generation in Petersburg and Wrangell now costs about 12 cents per KWH and this cost is not likely to increase substantially over the next several years unless oil prices increase more than expected by most forecasters. These communities are understandably not willing

to sign contracts to purchase Tyee power at rates substantially higher than current generation costs.

If no action is taken by the legislature to reduce Tyee rates, it appears that power sales agreements could not be obtained and the Power Authority would not be able to sell the necessary revenue bonds to repay the interim financing for the project. Although I did not research the possible steps the Power Authority might take in this situation to avoid a default on the Tyee debt, the Authority would probably be in a precarious financial position.

There are several possible approaches to reducing power rates for the Tyee project, most of which require more State money:

(1) Make an additional lump sum appropriation to the hydro program to reduce the amount of debt financing required for Tyee and other projects. About $70-80 million may be required to reduce Tyee rates to the level of current power costs. If desired, this appropriation could be structured as a loan, to be repaid to the State after Tyee power becomes competitive with the cost of power from present generation facilities.

(2) Appropriate a smaller amount of about $20 million only to the Tyee project and enact temporary legislation which would reduce only the Tyee rates. (Under present law, an appropriation to any power project would reduce the power rates by an equal percentage for all projects.)

(3) Make annual appropriations of about $2-3 million to cover a portion of the debt service costs for the Tyee project, allowing power rates to be reduced until the project becomes competitive with diesel generation costs.

(4) Amend the rate structure under present law to spread the higher cost of Tyee power among other power projects.

(5) Restructure the long-term debt for the Tyee project to reduce debt service costs in the early years of project operation (the viability of this approach is uncertain).

TYEE POWER COSTS

The following table shows projected wholesale power costs for the Tyee project from FY 85 to FY 90.

PROJECTED TYEE WHOLESALE POWER COSTS
(Cents per Kilowatt Hour)

Fiscal Year	1985	1986	1987	1988	1989	1990
Power Cost	12.8	16.5	16.7	16.8	17.0	17.2
Power Sales (Millions of KWH)	32.0	32.8	33.6	34.5	35.3	36.2

Source: Alaska Power Authority for FY 85-86, adjusted by House Research Agency for FY 87-90 for 4 percent annual increase in debt service cap, 3 percent average annual load growth for all APA projects, and 5 percent annual inflation in operation and maintenance costs. Debt service calculations based on 35-year revenue bonds at 11 percent interest, with a 1.1 coverage level.

Again, these projections are preliminary, and more accurate figures will be available within a week. These projected rates are probably on the high side because they do not account for the interest earned on debt reserve funds or the lower-than-expected cost of the interim financing for the project. The Power Authority's financial advisors are now working to incorporate these and other adjustments to arrive at more accurate rate projections. One uncertainty in these rates is that they assume the Wrangell sawmill will buy about 7 million KWH per year -- about 20 percent of total projected power sales from the project. The sawmill was shut down for over a month this winter and could be an uncertain buyer of Tyee power.

The Tyee project is scheduled to be completed in early 1984, and may be on line as soon as October 1983 if work continues at its current pace. When the project begins generating power, the initial rate will be set to cover only operation and maintenance costs (4-5 cents/KWH) until the start of the 1985 fiscal year, when the rate will increase to cover the costs of long-term financing for Tyee and the Swan Lake project. The power rate will increase again in FY 86 to reflect the cost of

revenue bonds issued for the Terror Lake project. After 1986, the Tyee power rate will probably increase by about two percent per year.*

PROJECT FINANCING

82M/112M

The completed cost of the Tyee project is now estimated at $115 to $125 million. Construction of the project has been financed by $82 million in appropriations from the legislature and $50 million in interim financing. This interim financing will have to be repaid in the spring of 1984 through the issuance of revenue bonds, additional State appropriations, or a combination of the two. The Swan Lake project also has $50 million in interim financing which will be repaid at about the same time. Terror Lake has $100 million in short-term debt which will be due in 1985.

HB 9 RATE STRUCTURE

The financing and power costs for Tyee are tied to those of other Power Authority hydro projects under legislation enacted in 1982 (CCSHB 9 -- Chapter 155). This statute requires each hydro project to pay its "proportionate share" of the total debt service costs for all projects, as determined under a formula in the statute. Basically, the statute means that if the construction cost of Tyee is 25 percent of the total cost of all projects in the system, Tyee must pay 25 percent of the total debt service costs for all projects. The wholesale power rate for each project is then determined by adding operation and maintenance expenses to debt service costs and dividing this sum by the expected power sales for each project.

The HB 9 rate structure replaced the "postage stamp" or single statewide rate formula which was enacted in 1981 by SB 25. The major purpose for the change in the rate structure was to increase the incentive for building cost-effective and properly sized projects, by linking power costs more directly with project construction costs.

When the conference committee on HB 9 reviewed rate projections for the four power projects, there was concern that the rates for the Tyee and Swan Lake projects would be excessive under the HB 9 rate structure. As a result, the committee included in the legislation a limit or cap on the debt service cost for each project. Under this cap, no project must pay more than the average debt service cost for all Power Authority

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* The rate calculation is complex, but the three main factors that affect the project rates after 1986 are: inflation in O&M costs, the rate of growth in power sales, and the 4 percent annual increase in the HB 9 debt service cap. The addition of the Bradley Lake project or other projects could also affect Tyee rates substantially.

projects, plus a certain percentage which increases each year (8 percent in FY 85, 12 percent in FY 86, and so on). Although this debt service limit reduces the power rate for Tyee substantially, it does not reduce the rate to a marketable level.

Because the debt service costs are pooled for all projects in the system, an appropriation to Tyee or any other project would reduce the power costs for all projects by an equal percentage.

PETERSBURG AND WRANGELL POWER COSTS

Current Costs

Exact power costs for Wrangell and Petersburg were not readily available at this writing. However, the busbar generation cost (equivalent to the wholesale power cost from Tyee) for both communities is approximately 12 cents per KWH. Wrangell generates all of its electricity from diesels, while Petersburg obtains about half its power from the Crystal Lake hydro project, which was built many years ago. The Petersburg utility apparently has a higher level of debt than the Wrangell utility, which offsets the lower cost of power from the hydro facility.

While most of the recent publicity concerning the Tyee project has focused on the city of Petersburg, the Power Authority staff maintains that Wrangell would face a larger rate increase if Tyee power were purchased at current projected rates than would Petersburg. According to Mike Yerkes, who is negotiating the Tyee contracts for the Power Authority, this is because Wrangell would convert entirely from diesel generation to Tyee power, while Petersburg would continue to generate about half its power from the low-cost Crystal Lake hydro project, which was built decades ago.

Future Costs

The rate of increase in future generation costs for Petersburg and Wrangell is one of the basic questions to consider in determining what approach the State might take to the Tyee situation. The cost of diesel fuel is the largest expense component for these utilities, averaging about 9-10 cents per KWH generated over the past year. As you know, the future of world oil prices is highly uncertain and the range of forecasts is considerable. However, the most recent Department of Revenue forecast projects a 28 percent cumulative decrease in the real price of oil through FY 87. In nominal terms, oil prices in FY 88 are forecast to be about the same as today.

If this projection is accurate, it may be the early to mid-1990s before diesel generation costs would increase to the level of Tyee

costs. However, an additional consideration is that Wrangell and Petersburg may have deferred expansion of their generation facilities in expectation of receiving Tyee power. Therefore, new generators might have to be added to meet increases in load growth during the 80s, which would increase power rates.

Retail Power Rates

Part of the publicity over the Tyee project centered on claims by Petersburg officials that they would have to add about 9 cents per KWH to the wholesale cost of power from Tyee for distribution and overhead costs, thus doubling the retail power costs from current levels. The Power Authority staff believe this figure is highly inflated and does not account for savings in diesel maintenance costs which would occur when Tyee comes on line. The staff is preparing documented estimates of what they feel are more realistic distribution and overhead costs.

Other Concerns

It is important to note that the cost of power from current projects is not the only concern of Petersburg, Wrangell, and other cities or utilities to be served by Power Authority projects. These groups are also concerned that under the current rate structure, their power rates could increase substantially as additional projects are added to the system. Whether this would occur depends on the level of State funding for the additional projects. If the ratio of State funding to bonded costs for new projects is lower than the average for current projects, the rates for current projects would rise.

The "Susitna Blackmail Clause" [AS 44.83.398(b)(2)] is an additional source of concern for municipalities and utilities, as the clause could dramatically increase power rates if not repealed. This clause would increase power rates by requiring a 10 percent annual return on investment to the State if $5 billion has not been appropriated for power projects by 1986.

POSSIBLE APPROACHES TO THE TYEE RATE PROBLEM

There are several possible approaches to the Tyee rate problem, as summarized earlier. The choice among them is complex and depends on basic policy issues relating to the power development program. Some of the more important factors to consider are discussed below.

Lump Sum Appropriation

This approach would be the most expensive; preliminary calculations indicate that $70-80 million would be necessary to lower the Tyee power rates to the cost of diesel generation.* Although the outstanding debt on the Tyee project is only $50 million, the pooling of debt service among all projects under the APA rate structure requires a larger appropriation to reduce Tyee rates sufficiently. A lump sum appropriation would also lower the power rates for Solomon Gulch, Swan Lake, and Terror Lake by an equal percentage (about 40 percent). This raises two questions.

First, is it necessary or desirable to reduce the power rates for other projects that already have reasonably price power? Second, what effect would lowering the rates for all projects now on line or under construction have on future projects? Lowering the average power rate would reduce the debt/equity ratio for current projects and require a higher level of State appropriations for future projects unless power rates were to be increased for all projects.

Special Tyee Legislation

If special legislation were passed so that a one-time appropriation would be used to reduce only Tyee power rates, roughly $20 million would be required to provide the necessary rate reduction. However, this approach could be viewed as creating a precedent for "bailing out" high-cost projects which might result in similar problems for future projects.

Annual Appropriation

In lieu of a one-time appropriation, the legislature could make annual appropriations of about $2.4 million to cover the debt service shortfall that will result if power is sold at 12 cents rather than 16.5 cents per KWH. These appropriations would continue and eventually diminish

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* I have not included these calculations here for the sake of brevity, but can provide them if desired.

to zero as the cost of diesel generation increased to match the cost of Tyee power or the cost of Tyee power fell. Although it is uncertain how long these annual appropriations would be required, depending on fuel escalation rates and other factors, the total cost would probably be half or less the cost of a lump sum appropriation.

The Petersburg and Wrangell utilities would be eligible for rate relief under the power cost assistance program, but only for the portion of retail rates above 16 cents in FY 86. This floor increases by one cent each fiscal year. Also, cost assistance is available only for the first 600 KWH per month sold to each customer. Therefore, a separate appropriation specifically for Tyee debt service might be required each year in order to reduce power rates sufficiently.

Modification of Rate Structure

It would be technically possible to modify the statutory rate structure to reallocate at least part of the Tyee debt service to other lower cost projects, primarily Solomon Gulch and Terror Lake. The communities served by these projects would probably strongly oppose this change. In addition, the bond markets could view this juggling of the rate structure with some concern.

Restructure Project Debt

It may be possible to reduce the debt service costs for the first few years of operation of the Tyee project by borrowing additional funds with which to pay part of the interest on the bonds for several years. According to Sterling Gallager of John Nuveen and Associates, it is legally possible to have this type of arrangement for five years without violating federal arbitrage regulations. However, the financial viability of this approach is uncertain and would require additional research.

Another possibility would be to use a geometric financing approach, in which the debt service schedule would be shifted so that debt service costs would be lower in the early years and increase gradually as the project power sales increased. This approach has been used in a few utility bond issues, but it is uncommon and would also require more investigation to determine its viability for the Tyee situation.

IMPLICATIONS FOR OTHER POWER PROJECTS

A number of legislators and other observers have expressed concern about the possibility of the Tyee marketing problem occurring with Susitna or other hydro projects. This is a controversial issue with numerous points of view, but a few observations may be helpful in understanding the problem.

It is important to recognize the distinction between the economic feasibility of a hydroelectric project and the marketing feasibility of the same project. Although the economic feasibility of the Tyee project is an issue itself, the point is that even a clearly feasible hydro project will usually require some sort of grant or low-cost financing to lower power rates to marketable levels in its early years of operation. After a period of years, increasing power sales and higher fuel costs for the alternative generation source should result in a break-even point, after which the hydro power becomes less expensive. The initial subsidy to the project can then be repaid, if necessary.

In the case of the Tyee project, the continually increasing cost estimates for the project made it difficult to determine how much State money was required to achieve marketable power rates. The power marketing problem for Tyee is also accentuated by the fact that Tyee has the largest excess generation capacity of the four projects now on line or under construction -- only about 25-30 percent of the project's capacity will be used in the first years of operation. This lower level of utilization means that a higher proportion of State funds is necessary to obtain reasonable power rates.

A major element of the Tyee problem appears to be that neither the legislature nor the Power Authority placed sufficient emphasis until recently on the marketing of power from the projects under construction. Part of the reason for this apparent oversight is that in 1980 and 1981, State revenues were increasing rapidly and it was expected that most of the project costs would be funded through direct appropriations or low-cost loans, rather than by revenue bonds. With this expectation, power marketing was not an issue because of the low power costs. The sharp decline in State revenues has resulted in more reliance on debt financing, causing higher power rates and the marketing problem demonstrated by the Tyee project.

With respect to the Power Authority, an additional problem was the lack of staff with experience in marketing and rate issues. It was only about 10 months ago that the Power Authority hired someone with rate setting and utility experience. Until then, the focus of the staff

was more on the feasibility, design, engineering and financing aspects of power development.

A final contributing factor to the Tyee situation was that the revisions to the Power Authority rate structure enacted in 1982 by HB 9 were not based on a full assesment of the effect of these rate revisions on the marketability of power from Tyee and the other projects.

The likelihood of the Tyee rate problem occurring with other power projects is difficult to assess. The Power Authority appears to have made good progress in dealing with the marketing issue. Several measures have been taken to avoid the recurrence of the Tyee cost escalation problem, and a number of recent bids for construction of the Terror Lake and Anchorage-Fairbanks projects have been substantially lower than engineering estimates.

In addition, the Authority has proposed changing its procedures to require power sales contracts to be signed before project construction begins, and this was done for the Terror Lake project. In the past it has been difficult to obtain contracts because it was uncertain how much funding would be provided by the legislature, and there is a natural incentive for communities to lobby the legislature for additional funds to reduce their power rates. It may also be difficult to obtain pre-construction power sales agreements for the Susitna project because of the long lead time of the project.

The chances of the Tyee power marketing problem occurring with future power projects would be reduced if the legislature made certain it had sound estimates of the maximum appropriation necessary for power marketing purposes before approving construction of a project, and committed itself to the appropriation of the necessary amount. Any changes in the rate structure should also be made only after detailed evaluation of the impact on project power rates and marketability.

* * * * *

I hope this information is useful. If you have any questions or would like additional information, please don't hesitate to call.

JK

Attachment

ALASKA POWER AUTHORITY

334 WEST 5th AVENUE · ANCHORAGE, ALASKA 99501

Phone: (907) 277-7641
(907) 276-0001

February 9, 1983

Mr. Jack Kreinheder
House Research Agency
Pouch Y
Juneau, Alaska 99811

Subject: Tyee Hydroelectric Project-Summary of Estimated Total Costs

Dear Jack:

As per your request, following is a brief summary on the sequence of events on the Tyee hydropower project primarily relating to cost. The summary of Board actions was extracted from our corporate minutes. Most of the actions taken by the Board were based on advice from myself and my staff.

On December 19, 1979, the Alaska Power Authority submitted a revised application to the Federal Energy Regulatory Commission (FERC) for the construction of the Tyee Hydroelectric Project in the vicinity of Wrangell and Petersburg, Alaska. Our engineers, R.W. Retherford Associates/International Engineering Company (IECO) estimated the total cost of the project at that time at $39,590,000 (1980$'s). With an allowance for inflation and interest during construction the estimated total capital investment at that time came to $53,333,000.

In September 1980, IECO submitted a revised cost estimate of $50,976,000 (August 1980$'s).

Early in 1981, the Power Authority retained EBASCO Services, Inc., to prepare an independent cost estimate. EBASCO subsequently estimated the total project cost at $96,693,000 (May 1981$'s). Escalated to the midpoint of construction, this would represent a completed cost of approximately $110 million. After reviewing the EBASCO estimate, IECO conceded that its previous estimates were low and IECO raised its estimate to $81,069,000 (June 1981$'s). EBASCO refuted this revised estimate.

Procurement of long-lead-time turbines began in July 1981 in anticipation of a FERC license. The Board of Directors was realigned by Statute in the latter part of July 1981. The FERC issued a license on August 5, 1981 and the award of several additional procurement and one construction contract followed almost immediately thereafter.

IECO continued to make monthly reports on the status of the project, including estimated total project costs. It is important to note that by the end of March 1982, IECO had increased its project estimate to $97,072,000,

including engineering costs prior to construction. In the March report the overhead transmission line was estimated to cost $12,840,000 plus a $6,000,000 contingency. Less than two months later, during the bid opening for that contract, IECO provided an engineer's estimate of $23,280,887.00--an estimate that is 24 percent above any previous estimate, including contingency funds. The actual low bid was even higher at $24,901,466.

Starting with the IECO estimate from the March 1982, report, adjusting for the actual low bid on the transmission line, and adding the estimated cost for a proposed separate substation construction contract, the estimated total project cost was increased by IECO to $110,133,000 (May 1982). This did not include approximately $5 million for owner provided insurance. During the months that followed, the total project cost has decreased and increased, slightly, as adjustments have been made for actual bids on relatively small procurement contracts..

In December 1982, and again in January 1983, senior staff of IECO and IECO's parent company, Morrison Knudson (M-K), met with representatives of the Power Authority to discuss construction management of the project, including total project costs. The latest information from IECO is that the total project cost will not exceed $124,886,100. The Power Authority has asked the parent company, M-K, to completely review this estimate. A report from the M-K staff is anticipated the second week of March 1983.

A summary of Board actions, as extracted from our corporate minutes, is as follows:

October 4, 1978 Board receives report on Tyee Project indicating that, according to the reconnaissance study by Robert W. Retherford Associates, (RWR) the Project looks favorable and that Thomas Bay Power Commission (TBPC) will soon enter into contract with RWR for Federal Energy Regulatory Commission (FERC) work and that TBPC may request the Alaska Power Authority to take over the project.

November 18, 1978 APA Board voted to make $120,000 loan to TBPC for Tyee FERC work and this would supplement the $300,000 available from the Water Resources Revolving Loan Fund (WRRLF) in order to cover the $475,000 contract with RWR.

June 21, 1979 Board makes a loan to TBPC of $60,000 for Tyee Project. TBPC and Representative E.J. Haugen request the APA take over Tyee. The Board directed staff to bring information back at next Board meeting for Project take-over.

September 27, 1979 Tyee Letter of Understanding with TBPC adopted by Board.

November 2, 1979 Board authorized Executive Director to submit FERC license application. Also passed "stop-the-clock" resolution needed for bonding.

February 7, 1980 Board agreed to extend contract for advanced Engineering

and Design to IECO for Tyee but it was later decided with legal council to seek competitive proposals.

April 18, 1980 Board selects IECO for the Engineering and Design from among three proposals.

October 23, 1980 Board informed that costs have increased from $39,000;000 to $51,000,000 and has IECO explain to Board.

April 20, 1981 Board selects consultant panel as required by FERC.

May 14, 1981 Board awards Bids for Turbines.

July 6, 1981 Board considered awarding contract for Steel Towers and Conductors but defers "notice to proceed" until after opening of major Civil Contract so that the Board could get a better fix on the true cost of the Project.

August 18, 1981 FERC license has been received. Bids for Civil construction were reviewed as were the economics of the Project based on new cost estimates. Notice-to-proceed was given on Towers and Conductors. The Board was informed that existing funds were insufficient and that interim financing would be necessary. Board deferred action until the next meeting.

September 10, 1981 Board awards Civil Works contract to Southeast Harrison Western (SEHW) after lengthy debate.

October 2, 1981 Board informed on legal actions against Tyee construction contracts. Need for interim financing was discussed and indicated a proposal would be presented to the Board in December, 1981. Risk Management's desire to use "Wrap-up Insurance" on Tyee Project was discussed and actions that would be taken to effectuate such a program.

December 15, 1981 A Finance Plan was presented to the Board. It was recommended that the Board appoint a subcommittee to review the feasibility of the Tyee Project based on present knowledge of the costs. Commissioners Ward and Mueller and Dr. Weeden were appointed to the subcommittee. The Board moved that final financing documents for financing be prepared. The economics of the Project was reviewed.

January 22, 1982 Senator Dankworth and Representative Haugen addressed the Board and recommended proceeding with interim financing. Board authorized securing of $50,000,000 in interim financing. Board awarded a contract for Underwater Cables.

May 25, 1982 The Board awarded the Overhead Transmission Line contingent upon the Legislature not passing a piece of legislation that was being considered but that subsequently was not passed. Thus on June 3, 1982 the Executive Director informed the Board of his intent to issue the award for Transmission Tower construction.

October 22, 1982 The Board awarded contract for Transformers.

I trust this information is of assistance to you. If there is any further information you need, please call on me.

Sincerely,

Eric P. Yould
Executive Director

CC:
C. Conway
Comm. D. Lyon

MARKETS & INVESTMENTS

A fiasco that may rock municipal bonds

When a delegation of top Washington State officials traveled to New York City recently to drum up interest in a bond sale, institutional money managers turned out in force. Despite the unusually large crowd, the obligatory call for questions following the briefing was greeted with silence. "Finally, someone asked about 'Whoops,'" recalls one attendee, "and all hell broke loose."

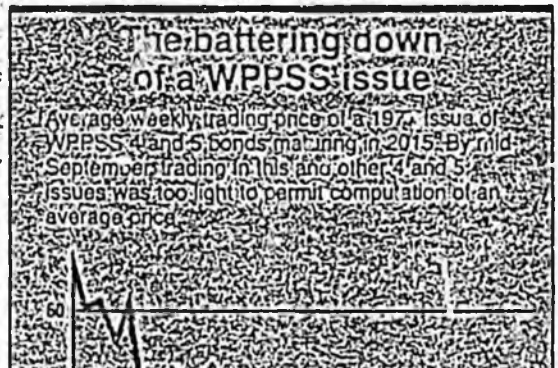
Washington Public Power Supply System, better (if unaffectionately) known as Whoops, is giving Wall Street a severe case of the jitters. WPPSS, which is the nation's largest single issuer of tax-exempt debt, is perilously close to defaulting on $2.25 billion of the $8.3 billion in bonds it has sold to finance a massive nuclear construction program. "The worst is beginning to come true," sighs a municipal bond portfolio manager for a big mutual fund.

A WPPSS default would be the biggest in municipal bond market history, and analysts say it could prove more disruptive than previous financial collapses. Unlike the typical tax-exempt issue, WPPSS bonds are in the hands of investors throughout the country. And in contrast to New York City and Cleveland—both of which had delayed repayment of short-term debt—WPPSS is on the verge of defaulting on long-term bonds. "It is an unparalleled situation," says Howard Sitzer, municipal research director for Thomson McKinnon Securities Inc.

Bad timing. WPPSS's predicament, moreover, is entering the crisis stage just as the health of the municipal bond market is becoming more crucial than ever. Sales of long-term tax-exempt bonds, which have hovered at $45 billion since 1977, shot up to $76 billion in 1982. Another record is expected this year as states and cities rush to finance long-delayed building projects.

"Any problem with Whoops will have an effect on the whole muni market," says a senior executive at a top brokerage house. "I really shouldn't say any more about it," he adds. "Just say we are very concerned." Investment bankers are particularly loath to discuss Wall Street's role in the WPPSS debacle. At the urging of four Northwestern congressmen, the Securities & Exchange Commission recently began looking into allegations of fraud in the underwriting and sale of WPPSS bonds. And John D. Dingell (D-Mich.), chairman of the House Energy & Commerce Committee, is considering holding hearings..

The syndicates put together to underwrite WPPSS bonds were headed by some of the premier names in public finance—Merrill Lynch, Goldman Sachs, Salomon Bros., Smith Barney, Blyth Eastman, and Paine Webber. Virtually every brokerage house of any consequence participated in these huge offerings. "Everybody sold Whoops bonds," says one analyst. To the dismay of investors, a long series of setbacks has depressed many WPPSS bond issues (chart).



Upward revisions. WPPSS was forced to abandon two partially constructed nuclear plants a year ago; estimates had soared after Robert Ferguson took charge as WPPSS managing director and ordered a recalculation of costs. On Jan. 25, the 88 Pacific Northwest utilities that joined in this project were required to begin paying off the $4.8 billion in interest due over 30 years on the $2.25 billion in bonds sold to finance the plants.

Although each participant signed a contract obligating it to pay its share even if the plants were never completed, WPPSS received payments from only two utilities—totaling $9,435 of the $19 million it had coming. Five other utilities set aside funds in escrow accounts.

WPPSS needs the funds to make monthly payments to Chemical Bank, the bond fund trustee, which in turn makes semiannual distributions to investors. Unless WPPSS begins collecting by March, it will not have enough money to cover the $93.9 million payment due bondholders on July 1. Chemical holds $102 million in reserves, but tapping them might trigger a technical default.

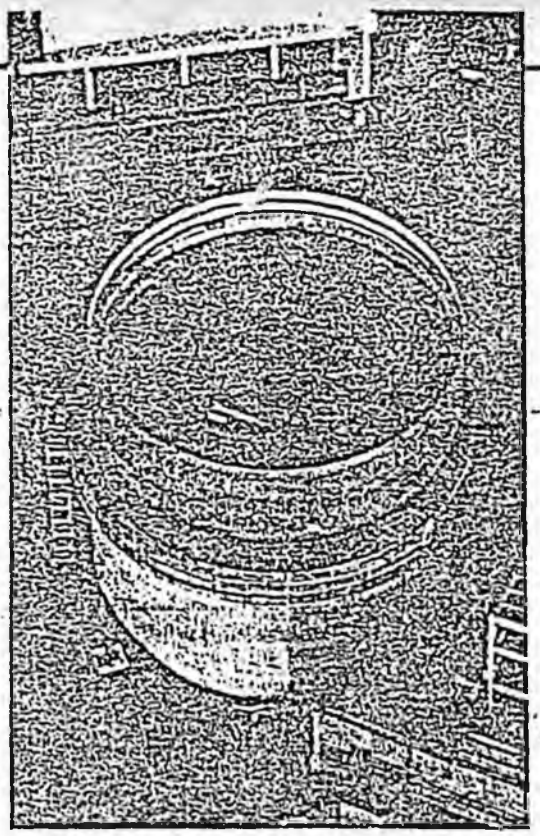
'We're stretching.' Moreover, by the end of March, WPPSS expects to exhaust the funds set aside to pay up to $490 million due contractors on the ill-fated plants. It might be able to buy more time by selling off assets and delaying payments to contractors. "We're stretching," says James Perko, WPPSS's treasurer.

The participants, most of which are small public utilities, are under intense pressure from angry ratepayers. Crowds have marched on, and in some cases occupied, headquarters of public utility districts. Although many major participants are willing and able to fulfill their WPPSS contracts, they are unlikely to begin paying unless their legal obligation to do so is clarified in court. (Otherwise, they could be sued by ratepayers—and in Washington, public utility officials are personally liable.)

In fact, the 11 participants from Oregon are barred from paying by a state court ruling that found they exceeded their authority by entering into contracts with WPPSS in the first place. That decision is being appealed. Similar challenges are before courts in Idaho and Wyoming. In Washington, home to 70% of the participants, a suit to force utilities to pay WPPSS will not go to trial until April at the earliest. A half dozen other WPPSS cases—including one not expected to reach a federal court until summer—are pending.

No sympathy. Northwestern political and business leaders have tried in vain to jawbone recalcitrant utilities into paying. Attempts to seek a solution outside the region have proved similarly ineffective. California utilities have demonstrated little interest in buying WPPSS plants or any future output, and neither the Rea-





Director Ferguson and one of the two nuclear power plants (right) WPPSS decided to leave unfinished after getting new cost estimates.

gan Administration nor Congress is sympathetic to pleas for federal help.

Last fall, Shearson/American Express Inc., a major institutional owner of WPPSS debt, was unable to muster even token support on Capitol Hill for a bail-out plan. "The federal government is waiting to receive guidance from the states to see what, if anything, they want done," says Lawrence S. Hobart, deputy executive director of the American Public Power Assn.

Efforts to reach an out-of-court compromise have gotten nowhere. "A lot of people would like to see all the parties sit down together and work something out," says Robert Greening, director of the Public Power Council, a utility trade group that counts many participants as members. "But as long as the lawyers are advising everyone not to give an inch, it won't happen. A lot of people are becoming fatalistic."

Thinking the unthinkable. Default, once unthinkable, increasingly is being viewed in the Northwest as a legitimate political option. Two recent studies contended that the impact of default on Washington's economy would not be as catastrophic as had earlier been predicted. Washington Governor John Spellman in mid-January commissioned an independent study of the effect on the state.

Although many observers cling to the hope that default can somehow be averted, some veteran WPPSS analysts already have concluded that it is virtually inevitable. "Under the most streamlined circumstances imaginable, there is the potential for an interruption in payment of interest, conceivably for two years or greater," says Eileen Titmuss, an analyst for Drexel Burnham Lambert Inc. Adds Jeffrey Whitehorn, an analyst for Dreyfus Corp.: "There is no way bondholders are going to come out whole."

If WPPSS is forced into receivership or bankruptcy, creditors might be able to get at funds—including bond reserves—meant for the three other plants it is building. WPPSS still needs to raise $1.1 billion to complete two of these plants (work on the third has been halted). But it is not clear that the Supply System will be able to return to the bond market for additional financing this spring as planned unless the legal uncertainties surrounding the impact of a default have been resolved.

The $6.2 billion in bonds WPPSS has sold to finance these plants are backed by the Bonneville Power Administration (BPA), a federal agency that markets the output of U.S. government-owned dams in the Northwest. But the BPA, too, is under mounting financial strain. Standard & Poor's Corp. recently downgraded the bonds for the three plants to AA.

A default also is likely to trigger an investor backlash against other Pacific Northwest tax-exempt issuers—even those not directly involved in WPPSS. "The precedent is really bad," says Edward Hosinger, municipal research director for Oppenheimer & Co. "I don't think a portfolio manager can risk owning a general obligation bond within these states."

The old story. Investors also may demand an additional risk premium to buy the securities offered by the nation's other 31 major regional public-power agencies, many of which employ "take or pay" contracts of the sort that WPPSS relied on. As a result, they may have to pay more for the $24 billion that John Nuveen & Co. estimates they will need to raise by 1990. One lesson of the WPPSS debacle, Titmuss says, is that "a project financing is only as good as the economics which underlie it."

But some analysts foresee an even stronger investor reaction. Although individuals now account for as much as 75% of all municipal bond purchases, "they are relatively unknowledgeable about munis," Sitzer argues. "If you had a Supply System default, people are going to be reluctant to buy more."

"It will affect people's assessment of the safety of all similar investments or even of all dissimilar investments," says Sterling Munro, former chief administrator of the BPA and Nuveen's national director of public power. "It is the old story—once the cat has been burned, it won't sit on the hot stove again, and it won't sit on a cold stove, either." ■

Alaska State Legislature

Senator Vic Fischer • Pouch V • Juneau, Alaska 99811 • (907) 465-4954

RECEIVED
JAN 27 1982
ALASKA POWER AUTHORITY

January 20, 1983

Eric Yould, Executive Director
Alaska Power Authority
344 W. 5th Avenue.
Anchorage, Alaska 99501

Dear Eric:

As you know, developments in recent months have significantly altered the outlook for future oil and gas prices and for energy demand. It now appears that some of the assumptions made by Acres and Battelle in their evaluations of the proposed Susitna project and alternatives are inaccurate. For example, it now appears that supplies of Cook Inlet natural gas will be available as fuel for the southcentral part of the state, and that they may be considerably less expensive than previously anticipated. (The intertie will make gas-fired electricity available to the interior as well.)

I have heard, though, that your understanding of the $2.32/mcf contracts recently signed by Enstar is that they do not differ significantly for the $3.00/mcf assumed in the Acres study, because the Acres price includes some additional costs that must also be added to the $2.32 to compare them on an equal basis. I would very much appreciate it if you could provide me with a written explanation of this, as I believe it's critical to an understanding of the impact of the Enstar contracts.

Perhaps more important than the initial price, however, is the expected price escalation. Acres, I noted, in their medium forecast, assumes a real price escalation to $4.80/mcf by the year 2000. Since the Enstar contracts are tied to changes in the price of locally-produced fuel oil and, since at least some experts in the field expect those prices to drop, it seems very possible that the escalation rate assumed by Acres is too high.

I understand further that people within the industry expect the Enstar contracts to act as a ceiling, and that future contracts are expected to be equal to or lower than the Enstar prices.

Given these developments, I would very much like to know how the up-dated Susitna-related work will reflect them. It seems to me that new net benefits calculations comparing Susitna to the base thermal case and to alternatives is called for. It would be most helpful to the legislature if such calculations could include a sensitivity analysis or, at the very least, a careful explanation of how changes in oil and gas prices will affect the net benefits.

I understand that Acres has in the past insisted on valuing the thermal alternatives at their "opportunity costs," or the prices they could bring on the export market if they could be sold. Although there

may be some value in providing such a comparison, it seems to me obvious that we have at work some local market conditions that must be considered when deciding on the relative costs and merits of competing sources of energy. In fact, the market value of Cook Inlet gas is not the price it might bring in Japan if Japan wanted to buy it, but the price that the producers are willing to sell it for. It would be fiscally irresponsible to develop an energy project that would cost more than an available alternative; I would not want to face the prospect of building Susitna and then having the utilities opt to purchase Cook Inlet gas instead. Even disregarding such as extreme event, an accurate net benefits calculation is critical to determining how much state funding will need to be appropriated to Susitna so that its initial costs are lower than the thermal alternative, assuring that there will, in fact, be a market for the power. I would therefore very much appreciate it if Acres, or the APA, would, in addition to its "net-back" approach, provide a net benefits calculation based on actual costs available in Alaska.

Because of changing economic conditions, I have previously stressed to you what I felt was a need for updated load forecasts. I understand that Battelle was to do some revised forecasts, but that the contract has been both altered and delayed. I again stress the importance of this information to future decisions regarding Susitna. Further, I hope that new forecasts will include information on the effect of pricing on demand and some analysis of the energy demand "bubble" experienced by Anchorage in the last year.

I understand that the APA is apparently still expecting to submit a FERC license application for Susitna in February. It seems to me that there's a great deal of new information (including environmental field data for the 1982 season) that needs to be integrated into the application. Will a license application submitted in February take into account the recent pricing and demand developments and include this year's data and update? If it does not, how will the information later be incorporated?

I thank you for your attention to these matters and look forward to your early response.

Best regards,

Senator Vic Fischer

cc: Governor Bill Sheffield
Dick Lyon, Commissioner, DCED
Chuck Conway, APA Board Member
Robert Weeden, APA Board Member
John Schaeffer, APA Board Member
Peter McDowell, Director, OMB

ALASKA POWER AUTHORITY

334 WEST 5th AVENUE - ANCHORAGE, ALASKA 99501

Phone: (907) 277-7641
(907) 276-0001

February 10, 1983

The Honorable Vic Fischer
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

Thank you for your thoughtful inquiry into matters affecting the economic feasibility of the Susitna Hydroelectric Project.

In being associated with the project, I have noted that various people frame the arguments for or against Susitna in very different ways. Some concentrate on the environmental issues; others focus on the alternative uses for state funds. Some emphasize the risks inherent in building Susitna; others concentrate on the risks of relying on the alternatives and not building Susitna. Some base their judgement on the economic analysis, while others prefer to take a long term view of the project's potential contribution.

It is my personal opinion, and one which I have passed on to Governor Sheffield, that the issue is whether or not, at this juncture in the State's history, the State has sufficient discretionary funds to develop a secure renewable energy resource, at some risk regarding project cost, to satisfy power needs of about 70 percent of the State's population for more than 100 years.

Philosophy aside, there is no doubt that the economic analysis (with all its limitations) is a useful indicator that should contribute to a well reasoned decision. I will try to respond to each of your points.

The feasibility study, for purposes of the economic analysis, assumed unlimited supplies of Cook Inlet gas. I believe this to be a potentially dangerous assumption, but it nonetheless underlies the cost comparison. Mr. Dale Teel, of Enstar, continues to advise, in the strongest terms, that Cook Inlet gas supplies should not be depended upon for power generation beyond the mid 1990's. You may want to speak with him to gain insight into his view of the future.

With respect to Cook Inlet gas prices, the recent Enstar contracts provide an extremely valuable data point in the forecast of gas value. Previously contracted supplies will be exhausted by the time Watana could come on line in 1993. Therefore, the pertinent price for evaluating Susitna is the marginal value of new supplies. I have no reason to

believe that the recent Enstar contracts are other than accurate indicators of the present day marginal price of Cook Inlet gas. The Alaska Power Authority's review of the contracts and our discussions with Mr. Teel lead us to the conclusion that the 1993 price of Cook Inlet gas delivered to Anchorage Municipal Light & Power (ML&P), in 1982 dollars and excluding any escalation between now and 1993, is about $3.00. This figure is arrived at by adding the severance tax (0.06/MCF), the delivery system fixed charges (0.30/MCF) and the demand charge (0.35/MCF) to the base price of $2.32/MCF. The estimates of severance tax and delivery system cost were provided by Mr. Teel. He was also the source of the forecast as to when the demand charge would go into effect (1990).

If an electric utility manages to negotiate an equally attractive contract and is able to burn the gas closer to the field than can ML&P, at least a portion of the delivery costs could be eliminated. Of course, that would mean increased electrical transmission facilities.

The Susitna Feasibility Report uses a 1993 cost of Cook Inlet gas (1982 dollars) of $3.03/MMBTU. Thus, the indicated cost based on the Enstar contracts would be virtually identical to the feasibility study estimate, as long as there is no real escalation in the gas prices between now and 1993. If there is real escalation over the next decade, Acres' estimate would prove too low; if there is de-escalation, the opposite would be true.

With this fairly close agreement on initial year prices between forecasted values and costs recently contracted, I agree with you that the expected price escalation is probably more important than the initial price. Acres assumed several escalation rates. In the low case, the price was assumed constant at $3.00/MMBTU throughout the study period (i.e., no escalation). The high case escalation rate was set at five percent to the year 2000, two percent for the next decade and zero thereafter. The resulting set of long-term system costs are presented in the Feasibility Report.

I am not privy to industry expectations that the Enstar contracts will serve as a ceiling for future price agreements. Please transmit any such information so that we can take it into account in our planning.

At my insistence, the Feasibility Report has been prepared to reflect and highlight the uncertainties and risks associated with both proceeding and not proceeding with the Susitna Project. Pages 46-49 of the March 1982, Summary Report offer a vivid presentation of the sensitivity of the economic evaluation to assumptions different than those that were assumed as the base case. Section 18, Volume 1 of the Feasibility Report provides more detail.

Your letter goes on to ask for economic (net benefits) and financial (yearly cost of thermal power) calculations based on actual costs

available in Alaska. With respect to the latter, the actual generation cost (fuel, O&M and new capital investment) facing the utilities when Watana goes into operation is a very critical number in formulating the finance plan. The estimate is very dependent on inflation over the next decade and is also sensitive to the rate of demand growth. The first year alternative cost facing the utilities is one of several items that must receive periodic review.

You suggest that the market value of a fuel is not a function of the price it could bring in the Far East, but rather the price the Alaskan producers are willing to sell it for. Why would the producers want to sell the fuel locally at a price less than could be received from exporting? As long as the net-back procedure is performed properly and cost estimates are reasonably accurate, the procedure should yield good fuel price forecasts. If there is no interested overseas buyer, than the estimated market price should reflect that situation. If the forecast of world demand and markets proves incorrect and an export opportunity turns out not to exist, then the Alaskan production cost would become the controlling price.

To summarize, the net-back export price is the appropriate yardstick, but it is admittedly difficult to estimate world market conditions a decade and more into the future. The lowest price at which Alaskan fuels could possibly be valued is the local cost of production. I will include a sensitivity test where production based fuel costs are used for those fuel types where there is presently no established markets.

Battelle's RED model for Railbelt load forecasting has now been transferred to the State, under the custodianship of the Division of Energy and Power Development. Rather than hire Battelle to exercise the model for a forecast update, the project team will be using it directly. By so doing, we will be able to provide the necessary coordination of the forecasting and project evaluation to satisfy Federal Energy Regulatory Commission (FERC) requirements and can eliminate an extra player. The updated forecasts, like those prepared by Battelle, will show the sensitivity of demand to varied prices. They will also incorporate actual 1982 demand in the historical base.

You are correct that the Susitna license application will be submitted to FERC this month. It will have had the benefit of FERC and agency review and will be more thorough as a consequence. It will incorporate much of the results of the 1982 field season and will be accompanied by Alaska Department of Fish and Game's (ADF&G) 1982 data report. It will represent the largest amount of environmental information ever assembled for a FERC license application.

The "need for power" sections of the application will present the same analytical tools for load forecasting and project evaluation that are contained in the Feasibility Report. The application will also

include the sensitivity testing methodology of the Feasibility Report and the full range of sensitivity test results. As the license processing proceeds, the Power Authority will be transmitting periodically updated load forecasts, fuel price assumptions and revenue projections. The FERC staff can be expected to critically review these and develop their own independently.

The FERC staff will initially concentrate on understanding and evaluating the analytical tools; only then will FERC turn to the actual evaluation of the project itself. By that time, the update presently in progress should be complete. FERC is well aware of the changing outlook for Alaskan revenues and is sensitive to their impact on demand.

As you consider the merits of the Susitna Project, it might be helpful to keep in mind that only the second phase, Devil Canyon, is predicated on load growth. The Watana phase is being planned to displace thermal generation and can be utilized from its first day of operation. Of course, the finance plan must result in competitive power costs to support this approach.

I hope I have adequately responded to your questions.

Sincerely,

Robert A. Mohn

for Eric P. Yould
Executive Director

Attachment: Vic Fischer's letter dated January 20, 1983

cc: Governor Bill Sheffield
Richard Lyon
Charles Conway
Robert Weeden
John Schaeffer
Peter McDowell
Ray LaRusso
Henry Chen
Jane Drennan

POLICY ANALYSIS PAPER 82-14

Potential for Industrial Development in the Railbelt Region of Alaska Based on the Availability and Cost of Electric Power

December 1982

Prepared by: SRI International
333 Ravenwood Ave
Menlo Park, CA 94025

SRI International

POTENTIAL FOR INDUSTRIAL DEVELOPMENT IN THE RAILBELT REGION OF ALASKA BASED ON THE AVAILABILITY AND COST OF ELECTRIC POWER

Prepared for:

State of Alaska
Office of the Governor
Division of Policy Development
and Planning
Juneau, AK 99811

Submitted by:

Ralph J. Richardson
Michael D. Kimball
Jeffrey H. Barber
Technology and Innovation Management Center
SRI International

December 1982

SRI International®
333 Ravenswood Ave. • Menlo Park, CA 94025
(415) 859-6200 • TWX: 910-373-2046 • Telex: 334 486

EXECUTIVE SUMMARY

The potential of new Alaskan hydroelectric and tidal power projects to provide large amounts of electrical power suggests that such hydroelectric capacity might serve as a magnet for industrial development and would help expand Alaska's economy. To assist the Office of the Governor in evaluating the potential for industrial development in Alaska based on inexpensive power, SRI International has reviewed available information on the proposed hydroelectric and tidal power projects and examined the issues related to an Alaskan location for a group of identified electrically intensive industries.

In addition to addressing particular industrial segments, SRI has examined other nonindustrial uses for low-cost electrical energy. These include electrification of the Alaskan Railroad, the possibility of an intertie to electrical grids in the lower 48 states, and expansion of electric space heating.

To determine the scope and timing of the proposed facilities, SRI used several studies on electric power development in the Railbelt region of Alaska. These include:

- Preliminary Assessment of Cook Inlet Tidal Power (Acres American/Governor's Office).
- Susitna Feasibility Study (Acres American/Alaska Power Authority) (Final Draft).
- Railbelt Electric Power Alternatives Study (Battelle Northwest Laboratories/Governor's Office) (Comment Draft).
- Energy Intensive Industry for Alaska (Battelle Northwest Laboratories/Division of Energy and Power Development).
- Various feasibility, engineering, and design studies on the Railbelt region by the Alaska Power Authority.
- Economic Development in Alaska--A Sectoral Analysis (Arthur D. Little/Alaska Department of Revenue).

In reviewing these studies of the Susitna hydroelectric and Cook Inlet tidal power projects, SRI collected data by project and in total for the following factors:

(a) Project location, likely completion date, power output, and other relevant system characteristics.

(b) Estimated project cost range.

(c) Forecast of service area demand.

(d) Estimated electric power price based on a, b, and c above.

(e) Nonutilized or surplus power availability through 2010, including a definition of "surplus" power and analysis of the impact of load growth on surplus power availability over time.

(f) Surplus or nonutilized power price ranges, including four cases: 100% market financing, 50% market financing and 50% state grants, 100% state loans with the rate of return equal to the inflation rate, and 100% state grants. The effect of potential wholesale and retail rate structures on surplus power price ranges was considered.

In addition, to place the hydroelectric and tidal power projects in perspective, SRI tabulated information about hydroelectric and other electric power developments worldwide that affect Alaska's competitive position compared to alternative industrial locations.

After reviewing the reports listed above, SRI concludes that for many of the proposed financing methods and demand scenarios, the projected capacities and price of power of electricity from the Susitna and Eagle Bay projects will not be major incentives for electrically intensive industries to locate in the Railbelt region.

Energy projects are usually phased to balance supply with expected demand. Significant quantities of nonutilized power are unlikely to be available as an inducement for industry to locate in Alaska unless the state chooses to adopt a construction schedule and plant mix that result in excess capacity.

More importantly, even though the annual operating costs of these projects may be low relative to alternative power sources, the high carrying costs associated with the initial construction of these projects, financed at prevailing interest rates, will offset such savings. As a result, unless the state is able to obtain low interest rates or provide the majority of capital costs at no or very low interest rates, the cost of excess power, even if available, will not be sufficiently low to attract industry.

Table 1 summarizes the pertinent data of the reviewed reports and to indicate the likely completion dates. The actual completion dates will depend on the demand for electric power and the potential for financing the projects.

Table 1

CHARACTERISTICS OF HYDROELECTRIC AND TIDAL POWER PROJECTS

Project Location	Earliest Completion Date, Medium Demand Forecast	Installed Capacity (MW)	Energy (GWh)	Capital Costs (billion 1982 $)	Projected Electricity Cost (mills/kWh)	Forecasts for Nonutilized Energy, 2000-2010 (GWh)	
						Medium Demand	Low Demand
Hydroelectric							
Susitna--Watana	1993	680					
Subtotal				$3.647		0	0
Susitna--Devil Canyon	2002	600		$1.470		0	900-1,300
Total		1,280	6,790	$5.117	58		
Tidal							
Eagle Bay	2010	1,440	4,000	$3.825[2]	48	4,000	4,000
Directly usable power			1,600		121		
Available power for retiming			2,400		79		

[1]Actual costs will include any additional interest to finance each project.

[2]Does not include any costs for retiming or storage.

To identify potential industries that might be attracted to Alaska by the long-term availability of inexpensive electrical energy, SRI compared U.S. Department of Commerce data on the value of purchased electrical energy with the value of shipped product for over 960 4-digit Standard Industrial Classification (SIC) code industries.

The screening process identified nine industries that might benefit from inexpensive power. Four are in Category I, for which electricity costs exceed 10% of product value. Two are in Category II, for which electricity costs are between 5% and 10% of product value; these were combined with three in Category III, for which total energy costs are greater than 10% of product value and electricity may be substituted for thermal energy sources.

In addition to the Category I, II, and III industries retained for further screening, four other potential large-scale electrical energy uses were considered as specified in the statement of work. The list of industries and "other industrial applications" evaluated are listed in Table 2.

Of the nine potential candidate industries and four additional application areas considered, only residential space heating and processing of certain primary metals are likely to take advantage of the low-cost power in the Railbelt region. Expanded space heating usage has the best potential to utilize any excess power produced in the Railbelt. Investment in an aluminum plant appears to be likely only if the construction costs of the hydroelectric projects are subsidized by the state, and then it is questionable that there will be sufficient excess power available to serve a single "world-class" plant. Although the tidal project might provide sufficient power, the power from this project will not be low cost. Other metal processing plants are likely to be considered only if feedstocks are found in Alaska. The construction of an intertie with the Lower 48 does not appear to be cost-effective without state grants to finance the power projects, but there is no rationale for Alaska to subsidize power delivered to other states.

SRI's findings are predicated on 10% interest rates, continued high Alaskan labor costs, and little real increase in petroleum prices during the next 25 years.

The major findings of the study are:

- The cost of power from the Susitna project will not be competitive without a very substantial state subsidy, in the form of either grants or subsidized interest rate (until the capital cost obligation is paid off in 2010).

- The Cook Inlet project will not produce power at competitive rates because of the intermittent nature of tidal power.

Table 2

INDUSTRIES AND OTHER INDUSTRIAL APPLICATIONS EVALUATED AS POTENTIAL LARGE USERS OF RAILBELT ELECTRICAL POWER

Category I

- The Aluminum Industry (SIC 3334, Primary Production Aluminum)
- The Chlor-Alkali Industry (SIC 2812, Alkalies and Chlorine)
- Industrial Gases (SIC 2813, Industrial Gases)
- Ferroalloy and Miscellaneous Metal Alloy Production (SIC 3313, Electrometallurgical Products)

Categories II and III

- Pulp and Paper Industry (SIC 2661, Building Paper and Building Board Mills; 2611, Pulpmills; and 2621, Papermills, Excluding Building Paper)
- Cement Industry (SIC 3241, Hydraulic Cement)
- Chemical Industry (2819, Industrial Inorganic Chemicals, NEC)
- Primary Metals Industry (SIC 3339, Primary Smelting and Refining of Nonferrous Metals, NEC; SIC 3333, Primary Zinc)
- The Fertilizer Industry (SIC 2873, Ammonia Production, Nitrogenous Fertilizers; 2874, Phosphate Fertilizers)

Other Applications

- Agglomerations of Small Industrial Facilities
- Residential Space Heat
- Electrification of Alaskan Railroad Intertie with the Lower 48
- Intertie with the Lower 48.

- There is not likely to be excess power available from Susitna alone unless the Alaskan economy stagnates or declines.

- There is unlikely to be sufficient excess power to serve a single world-class aluminum plant.

- Other than aluminum, electrically intensive industries are unlikely to derive sufficient cost savings from subsidized power to consider an Alaskan site on the basis of low-cost electricity alone.

- The availability of low-cost power might improve the economics of processing materials, provided the major feedstocks are native to Alaska.

- Without a tiered rate structure to discourage use for residential space heating, subsidized power is likely to increase electric space heating use sufficiently to absorb any excess power from the Susitna project.

- The relatively high state corporate income tax is a barrier to industrial development in the state.

- Although the SRI study is predicated on stable energy prices through 2002, the findings of the study are not greatly affected by an increase in fuel prices of 50%, since transportation costs will escalate commensurately.

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I PROPOSED RAILBELT HYDROELECTRIC AND TIDAL POWER PROJECTS

The potential of new Alaskan hydroelectric and tidal power projects to provide large amounts of electrical power suggests that such hydroelectric capacity might serve as a magnet for industrial development and would help expand Alaska's economy. To assist the Office of the Governor in evaluating the potential for industrial development in Alaska based on inexpensive power, SRI International has reviewed available information on the proposed hydroelectric and tidal power projects and examined the issues related to an Alaskan location for a group of identified electrically intensive industries.

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In addition, to place the hydroelectric and tidal power projects in perspective, SRI tabulated information about hydroelectric and other electric power developments worldwide that affect Alaska's competitive position compared to alternative industrial locations.

The economics of the proposed hydroelectric and tidal power plants are highly dependent on future oil prices and lower interest rates. Increasing oil prices will provide more state revenue, enabling the Legislature to consider grants or low-interest loans. More importantly, increased oil prices are more likely to force electric energy costs higher and induce electric-energy-intensive industries to build new facilities in regions with low-cost electric power. Industry is also more likely to finance the construction of new plants if interest rates are low.

After reviewing the reports listed above, SRI concludes that for many of the proposed financing methods and demand scenarios, the projected capacities and price of power of electricity from the Susitna and Eagle Bay projects will not be major incentives for electrically intensive industries to locate in the Railbelt region.

Energy projects are usually phased to balance supply with expected demand. Significant quantities of nonutilized power are unlikely to be available as an inducement for industry to locate in Alaska unless the state chooses to adopt a construction schedule and plant mix that result in excess capacity.

More importantly, even though the annual operating costs of these projects may be low relative to alternative power sources, the high carrying costs associated with the initial construction of these projects, financed at prevailing interest rates, will offset such savings. As a result, unless the state is able to obtain low interest rates or provide the majority of capital costs at no or very low interest rates, the cost of excess power, even if available, will not be sufficiently low to attract industry.

SRI International prepared Table I-1 to summarize the pertinent data of the reviewed reports and to indicate the likely completion dates. The actual completion dates will depend on the demand for electric power and the potential for financing the projects.

Susitna Hydroelectric Development

Project Location

The Susitna basin development plan recommended by Acres American, Inc., indicates that the proposed 1,280 MW Watana-Devil Canyon dam project is the optimum plan from an economic, environmental, and social point of view. The proposed plan develops approximately 91% of the total basin potential.

The Susitna River system is the sixth largest in Alaska. The main stream of the Susitna River originates about 90 miles south of Fairbanks, where melting glaciers contribute much of its summer flow. For more than 30 years, the vast hydroelectric potential of this river has been recognized and studied. Strategically located in the heart of the south central Railbelt, the Susitna could be harnessed to produce more than twice as much electrical energy per year as is now being consumed in the Railbelt. Figure 1-1 illustrates the location of the proposed Watana and Devil Canyon dams.

The main Watana dam is projected to be an earth/rockfill structure constructed primarily with locally excavated materials. The maximum height of the dam above the foundation will be approximately 880 feet, and the crest elevation will be 2,225 feet. The overall volume of the dam is estimated at approximately 63 million cubic yards.

The main Devil Canyon dam is currently proposed as a thin concrete arch structure with an overall height of 650 feet and developed crest length of 1,230 feet. The crest width will be 20 feet, and the base width at the crown cantilever will be 90 feet. The geometry of the arch corresponds to a two-center configuration compatible with the asymmetric transverse profile of the valley. The development at Devil Canyon will be located at the upper end of the canyon at its narrowest point.

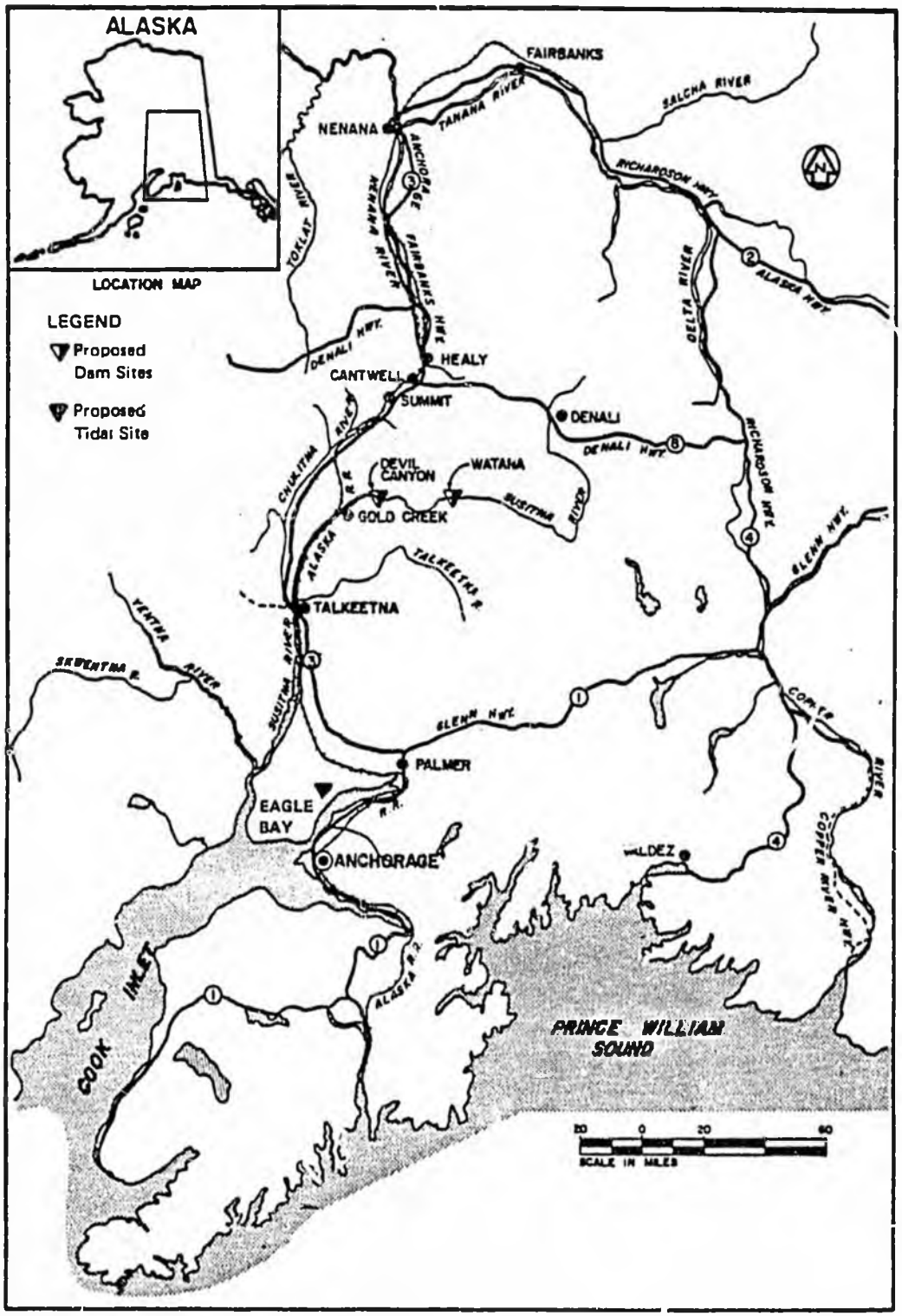
Table I-1

CHARACTERISTICS OF HYDROELECTRIC AND TIDAL POWER PROJECTS

Project Location	Earliest Completion Date, Medium Demand Forecast	Installed Capacity (MW)	Energy (GWh)	Capital Costs (billion 1982 $)	Projected Electricity Cost (mills/kWh)	Forecasts for Nonutilized Energy, 2000-2010 (GWh) Medium Demand	Low Demand
Hydroelectric							
Susitna--Watana	1993	680					
Subtotal				$3.647		0	0
Susitna--Devil Canyon	2002	600		$1.470		0	900-1,300
Total		1,280	6,790	$5.117	58		
Tidal							
Eagle Bay	2010	1,440	4,000	$3.825[2]	48	4,000	4,000
Directly usable power			1,600		121		
Available power for retiming			2,400		79		

[1]Actual costs will include any additional interest to finance each project.

[2]Does not include any costs for retiming or storage.



SOURCE: Acres American, Incorporated, *Susitna Hydroelectric Project, Task 11 Economic, Marketing and Financial Evaluation*, prepared for Alaska Power Authority (March 1982)

FIGURE I-1 LOCATION OF PROPOSED PROJECTS

Completion Dates

The Watana rockfill dam is expected to take approximately 11 years to complete from the start of the access road to the testing and commissioning of all generating units. The earliest date that power production from the Watana dam could start is January 1993, based on construction of the access road beginning in early 1985 as soon as the Federal Energy Regulatory Commission (FERC) license is received. The Devil Canyon thin arch dam will take approximately 9 years and will be completed by 2000 at the earliest.

Power Output

The selected Susitna Basin development plan involves the construction of the Watana dam with a 680-MW powerhouse scheduled to commence operation by 1993, the earliest that a project of this magnitude can be brought on line. The final stage involves the construction of the Devil Canyon dam with an installed capacity of 600 MW.

Should the load growth rate increase more slowly than the current medium growth forecast, then Alaska would have to consider postponing both the capacity expansion proposed at Watana and the construction of the Devil Canyon dam to the year 2002 or later. If Watana were delayed to the late 1990s, Devil Canyon would be delayed to 2010. This slippage corresponds to the low load forecast with an increased level of load management and conservation. For actual load growth rates higher than the medium load forecasts, construction of the Devil Canyon dam could be advanced to 1998.

Although this development plan is economical for a wide range of possible future energy growth rates, the actual scheduling for the various stages should be continuously reassessed. In addition, dam heights and installed capacities should be considered representative at this stage of project planning.

Project Cost Estimates

The total projected capital cost (1982 dollars) for the selected Susitna hydroelectric development project is $5.117 billion, with Watana costing $3.647 billion and Devil Canyon an additional $1.470 billion. The annual operating costs are projected to be $10 million for Watana and $5.42 million for Devil Canyon--a total of $15.42 million per year. Other forecast financial parameters are shown in Table I-2.

Cook Inlet Tidal Power Development

Tidal power was selected for consideration in Railbelt electric energy plans because the substantial Cook Inlet tidal resource is among the largest in the world and because of the renewable character of this energy resource.

Tidal power plants typically consist of a tidal barrier extending across a bay or inlet that has substantial tidal fluctuations. The barrier contains sluice gates to admit water on the incoming tide and turbine-generator units through which the outgoing tide passes to generate power. Tidal power is intermittent, requiring a power system with an equivalent amount of installed capacity capable of cycling its output. Hydroelectric plants and/or energy storage facilities (pumped hydro, compressed air, storage batteries) could be used to regulate the power output of the tidal facility.

Project Location

The Acres American study, "Preliminary Assessment of Cook Inlet Tidal Power" (September 1981), evaluated three tidal power plant alternatives, identifying Eagle Bay in Knik Arm northeast of Anchorage as the most economically attractive site based on preliminary results of its technical evaluation. SRI analyzed the price and availability of power only at the Eagle Bay site because of its compatibility with Railbelt load projections and avoidance of some environmental problems common to sites farther down the Knik Arm in Cook Inlet. The other two sites, Rainbow and Point Mackenzie-Point Woronzof, are not included in the SRI comparative analysis.

Completion Date

The overall tidal project at Eagle Bay is estimated to require 10 years to complete once the FERC license application is received. A license probably would not be awarded by FERC before late 1989 at the earliest. The process could be accelerated by performing the detailed design and engineering specifications (with a model of the test turbines) during the federal license process. Although construction could begin as early as 2000, the State of Alaska is unlikely to undertake the tidal project until the Susitna project is nearing completion. The phasing of economic cycles, in combination with the financial drain of the large capital outlays required by both tidal and hydroelectric projects, precludes them from being constructed concurrently. In light of the periodic nature of tidal energy output, the hydroelectric projects at Susitna built before the development of the Cook Inlet tidal basin could assist in leveling the output of a tidal generation facility by idling Susitna generators during tidal plant output periods. Alternatively, thermal power plants could be disengaged while the tidal power plant was generating. However, even with Susitna on line, not all tidal power would be used. With the Devil Canyon dam being completed by 2000 at the earliest, the Eagle Bay project would be ready to start up by 2010.

Table I-2

FORECASTS OF SUSITNA FINANCIAL PARAMETERS

	Watana	Devil Canyon	Total
Project completion date	1993	2002	
Costs (1982 $)			
Capital costs (billion $)	$ 3.647	$ 1.470	$ 5.117
Operating costs (million $/year)	$10.0	$ 5.42	$15.42
Provision for capital renewals* (million $/year)	$10.94	$ 4.41	$15.35
Operating working capital	15% of operating costs plus 10% of revenue		
Reserve and contingency fund	100% of operating costs plus 100% of provision for capital renewals		
Real rate of increase in operating costs			
1981 to 1987	1.7% per annum		
1986 to 1992	1.0% per annum		
1993 on	2.0% per annum		

*0.3% of capital costs.

Power Output

The planned Eagle Bay tidal plant could have an installed capacity of 1,440 MW and could produce about 4,000 GWh annually when the project is in full operation. In the Railbelt system, the value of the installed capacity of a tidal power plant operating strictly on tidal cycles cannot be fully realized. The periodic nature of the tidal plant's generation cycle and the very substantial output of energy in comparison to the Railbelt demand provides a unique problem in fitting the supply to match the pattern of demand.

Previous tidal power studies estimated that, in theory, the energy output from a tidal plant must be less than 10% of the total system requirements for it to be directly absorbed without "retiming" of energy. The 4,000 GWh produced at Eagle Bay would be as much as 90% of total system energy needs in the Railbelt projected by Battelle for the year 2010. SRI is not aware of any major industrial users of electricity that could utilize the intermittent power. Some type of retiming or energy storage is necessary if the full tidal power plant output is to be absorbed effectively.

If the energy usable in the system is defined as that portion of the tidal power plant production that meets system demand, the usable portion varies from about 30% of the total energy produced in summer months, to about 35% in the spring and fall months, to more than 50% in the winter months. Overall, about 1,600 GWh, or 40% of the Eagle Bay plant total of 4,000 GWh, can be classified as directly usable in the system.

Because of the magnitude of the directly unusable energy--about 2,400 GWh--three options should be considered to increase utilization of the tidal power: (1) installation of an energy storage system designed to balance the tidal fluctuations, (2) providing a balancing power supply source, or (3) attracting an industrial base to take advantage of unretimed tidal output. The penalty for not using the full output of tidal power is major. The cost of the usable energy goes up by a factor of 2.5 at Eagle Bay if the unretimed and directly unusable energy is not utilized.

Project Cost Estimates

Cost estimates for the tidal project of Eagle Bay are taken from the study prepared by Acres American. The Eagle Bay project is expected to have a capital cost of $3.825 billion (1982 dollars), which does not reflect the additional costs for retiming or any other costs associated with integration of the intermittent phased output pulses of tidal power.

II RAILBELT FORECASTS OF ANNUAL PEAK LOAD AND ELECTRIC ENERGY REQUIREMENTS

Historical Electricity Demand Profiles

Between 1940 and 1978, electricity sales in the Railbelt grew at an average annual rate of 15.2%, roughly twice the national average. However, the gap between national and Alaskan energy consumption has been narrowing due to the maturing of the Alaskan economy. Growth in the Railbelt has exceeded the national average for two reasons: the population growth in the Railbelt has been higher than the national rate, and the proportion of Alaskan households served by electric utilities was initially lower than the U.S. average so that some growth in the number of customers occurred independently of population growth.

The 1980 annual energy requirement of the Railbelt utility system was estimated to be 2,790 GWh and the peak demand 515 MW. Near-term future demands can be satisfied by the existing generating system, the committed expansion at Bradley Lake (hydroelectric), and the combined-cycle (gas-fired) plant at Anchorage. These facilities are expected to meet the demand until 1993, provided an Anchorage-Fairbanks intertie of adequate capacity is constructed.

Demand Forecasting

The feasibility of a major hydroelectric project depends partly on the extent to which the available capacity and energy are consistent with the needs of the market to be served by the time the project comes on line. Therefore, load forecasts are a most important factor in selecting the type and timing of generation units.

The Battelle Northwest study, "Railbelt Electric Power Alternatives Study" (February 1982), produced forecasts of annual electric energy and peak electric demand requirements for the Railbelt region and its three principal load centers: the Anchorage-Cook Inlet area, the Fairbanks-Tanana Valley area, and the Glennallen-Valdez area. These forecasts are designed as internally consistent estimates of power needs that take into account the following effects on the Railbelt region:

- Future economic and population growth.
- Future changes in the age, size, and energy-use characteristics of households.
- Future growth in commercial building stock.
- Future price and availability of fuel oil, natural gas, and wood.
- Cost of power from specific combinations of conservation and electrical generation that could be used to meet power demands.

- Public policy actions directly affecting energy demand or the cost of power.
- Possible new major uses of electric power, such as industrial use in manufacturing.

Because groups of these factors may interact in complex ways to produce a range of possible (but not equally plausible) forecasts, computer models of the interaction process were developed to determine how these factors individually and jointly affect demand estimates. The models, together with certain key assumptions concerning Alaska's economy, Alaskan public policy, and world prices for fossil fuels, produced contingent forecasts of electricity demand at 5-year intervals beginning from 1980. The demand forecasts were used as the basis for power plant planning in the Battelle study.

The forecasting process consisted of two steps: (1) combining sets of consistent economic and policy assumptions (scenarios) with economic models from the University of Alaska Institute of Social and Economic Research (ISER) to produce forecasts of future economic activity, population, and households in the Railbelt region and its three load centers; and (2) combining these forecasts with data on current end uses of electricity in the residential sector, data on the size of the Railbelt commercial building stock, data on the cost and performance of conservation, assumptions concerning the future prices of electricity and other fuels, and future new uses of electricity to produce demand forecasts.

Specifically, three basic scenarios for private economic activity and state spending were combined to give three overall economic scenarios: (1) high private economic activity and high state spending (high economic growth case); (2) medium private economic activity and medium state spending (medium economic growth case); and (3) low private economic growth and low state spending (low economic growth case). Increased industrialization and unsustainable state spending were investigated by Battelle but are not included in the three major growth scenarios. The Battelle forecasting model, the Railbelt Electric Demand (RED) model, is based on the linkage between economic growth scenarios and electricity consumption.

Peak demand and annual energy forecasts for the low, medium, and high economic growth cases, as developed by Battelle, are presented in Table II-1.* The medium growth scenario is established in the Battelle

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*Note that the forecasts used by Acres American, Inc., in the Susitna hydroelectric project were initial projections derived from December 1981 computer runs of the various scenarios. The final forecasts produced in February 1982 by Battelle are approximately 20% lower. The result is that the Acres American low growth case corresponds to the latest Battelle medium growth forecast.

study as the base-case. The projected annual growth rate in base-case demand for electric energy is approximately 3.0% between 1980 and 2010, for an increase in per capita use of approximately 0.9% per year. Demand in the low economic growth case increases at 2.2% per year. Demand in the high economic growth case shows an average increase of 4.3% per year. The corresponding Railbelt system peak load (expressed in megawatts) corresponds basically to growth rates in annual energy demand.

Table II-1

PEAK DEMAND AND ANNUAL ENERGY REQUIREMENTS FOR THE LOW, MEDIUM, AND HIGH ECONOMIC GROWTH CASES*

	Low Economic Growth		Medium Economic Growth		High Economic Growth	
Year	Peak (MW)	Energy (Gwh)	Peak (MW)	Energy (Gwh)	Peak (MW)	Energy (Gwh)
1980	520	2,550	520	2,550	520	2,550
1985	620	3,030	640	3,140	670	3,240
1990	800	3,850	880	4,260	1,060	5,414
1995	840	4,060	990	4,880	1,180	6,060
2000	820	3,990	1,020	5,030	1,230	6,380
2005	870	4,280	1,090	5,420	1,440	7,430
2010	1,000	4,940	1,260	6,260	1,760	9,010

*The peak demand and annual energy requirements in this table do not assume a subsidy of the electric rate. The demand for electricity would increase if rates were subsidized.

III ELECTRIC POWER PRICE RANGES

Susitna Project

Electricity cost estimates depend directly on the ability to correctly forecast electricity demand. If electricity consumption drops by one-third, the cost per kilowatt-hour more than doubles. As the unit price of power increases (decreases), consumption rates tend to decrease (increase). This elasticity of demand for electric power has proven to be a major factor in the economic health of domestic utilities. Clearly, to assure an economical match between electricity production and consumption, the timing of a major project like Susitna and the cost of power are extremely critical. The issue of full utilization of Susitna capacity is complicated by the present system of decentralized independent utilities which can be expected to bargain for rates no higher than the cost of energy from the best thermal option available to them.

Unless Susitna is completely financed by the state, residual bond financing will be required, at interest rates determined by complex political and economic forces. Acres American developed a financing plan based on interest rates of 10% to 12% to arrive at estimates of project financing characteristics. Analysis of this plan indicates that the costs of supporting the Susitna project on a 100% market-financed basis are higher than its projected revenues during the early years of the project. The cost of 100% market financing would result in electric rates which vary over time but are 9 to 15 times the level that would result from 100% state grants. These multiples result from high debt-servicing costs associated with the 100% market-financed scenario.

Table III-1 illustrates overall power costs, and the fraction of those costs attributable to operational costs and debt servicing for the four basic scenarios under consideration for the year 1995 (2 years after Watana's earliest power production), 2003 (2 years after Devil Canyon's earliest power production), and 2010 (at which point Susitna power costs should be relatively level). Price ranges were taken directly from published Acres American financial data, except for the 100% state loan scenario. The power price for this scenario was calculated from yearly plant expenses in the absence of capital cost debt servicing as determined by the 100% state grant case, and from debt-servicing data used in the 100% market-financed case.

With 100% state grants and a total capital cost of $5.1 billion (in 1982 dollars), the price for hydroelectric power of $.01 per kWh would be very competitive worldwide. This plan represents the simplest financing option.

Table III-1

ELECTRIC POWER PRICE RANGES
(Mill/kWh, Constant 1982 Dollars)

Scenario	Amount of Power Cost Attributable to Debt Servicing			Annual Operational Expense*			Total Cost		
	1995	2003	2010	1995	2003	2010	1995	2003	2010
100% state grant	N/A	N/A	N/A	8.24	8.84	8.35	8.24	8.84	8.35
100% state loan	78.47	49.05	26.72	8.24	8.84	8.35	86.71	57.89	35.07
50% market financing 50% state grant	47.14	51.06	25.11	8.24	8.84	8.35	55.38	59.90	33.46
100% market financing	112.10	70.07	38.17	8.24	8.84	8.35	120.34	78.91	46.52

*Assumed constant for all scenarios; see Table II-1.

Source: Acres American Susitna Feasibility Study

If Susitna is built with 100% state grants, the implication is that only the relatively small annual costs necessary for successful operation would be charged as the cost of output. The energy developed by Susitna would thus be supplied to utilities at a fraction of the cost of power from alternative sources. It has been assumed that no financing or marketing problems will exist for this case. The major problem may be arriving at an equitable allocation of the low-cost power among the consuming utilities whose normal demand may well exceed the supply of heavily subsidized power. The 100% state grants case would result in rates of about $.01/kWh (in 1982 dollars), which are comparable to but slightly lower than the $.0125 industrial rates for Le Grande Complex in Canada.*

Another possible scenario is for the state to provide 100% of the capital costs in the form of a state loan to be repaid at an interest rate based on inflation. Assuming repayment at an average interest rate of 7%, this scenario would result in a rate of $.09/kWh in 1995, which decreases to $.035/kWh by 2010 (in 1982 dollars). If the state provides about half ($2.3 billion) of the capital costs as a grant, with the remaining portion being market financed, the electric rate would vary from $.05/kWh in 1995 to $.06 in 2003 and then decrease to $.033/kWh by 2010, somewhat higher than the current industrial rates in the Pacific Northwest. This rate is fractionally lower than the state loan case, reflecting the effect of the $2.3 billion grant. If the Susitna hydroelectric project is 100% market financed, then the rates would be $.12/kWh in 1995, decreasing to $.08/kWh in 2003 and $.046/kWh by 2010.

Cook Inlet Tidal Project

As illustrated in Table III-2, estimated production costs of an unretimed tidal power facility ($.048/kWh) would be competitive with principal alternative sources of power, such as coal-fired power plants, but this cost can be realized only if all the available power could be used effectively by a specialized industry established to absorb the predictable but cyclic output of the plant. Alternatively, if it is assumed that only the portion of the power output that could be absorbed by the Railbelt power systems could be classified as usable, the cost of this energy ($.121/kWh) would be extremely high relative to other power-producing options because only a fraction of the raw energy production could be used. An additional alternative would be to construct a retiming facility, such as a pumped storage facility. Because of the increased capital costs and power losses inherent in this option, busbar power costs ($.079/kWh) would still be substantially greater than for nontidal generating alternatives.

If the power production capability of the proposed 1,440-MW Eagle Bay plant were halved, using 30 instead of 60 turbines, the energy costs, when the excess energy cannot be used, are still relatively high.

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*LeGrande Complex rates for small power users vary between $.026/kWh and $.045/kWh.

Table III-2

TIDAL GENERATION ENERGY COSTS AT [redacted]
($/kWh)

Installed Capacity (MW)	Production Cost of Unretimed Energy	[redacted]*	
		Excess Energy Not [redacted]	Excess Energy Retimed
1,440	.048	.121	.079
720	.058	.087	.076

*Assumes a 3% real rate of return on the capital [redacted].

Source: Preliminary Assessment of Cook Inlet Tidal [redacted], Phase I Report, Acres American, Incorporated, [redacted].

IV AVAILABILITY OF NONUTILIZED POWER THROUGH 2010

Nonutilized power can be the result of seasonal variations, insufficient demand in the short term (3 to 5 years), or long-term low energy demand. The actual demand for electricity in the Railbelt varies seasonally. The capacity of new generation facilities is designed to meet peak loads, even if some surplus capacity results during certain time periods. Little can be done with short-term excess capacity when the normal demand growth will consume it within a few years. Only long-term surpluses of a generation system like the Susitna hydroelectric or the Eagle Bay tidal project would have the potential for attracting electrically intensive industry. These industries require reliable energy sources at low cost for periods exceeding 10 to 15 years.

According to Table I-1, in their final configuration the proposed Susitna hydro projects at Watana and Devil Canyon are expected to produce 6,790 GWh of energy annually. Under the Battelle-derived medium demand electric energy forecast, all of this energy will be consumed through normal load growth and displacements of existing generation facilities. Nonutilized power would only become available if the low growth forecast occurs. Should the low growth scenario prevail, approximately 1,200 to 1,800 GWh of nonutilized power, when Devil Canyon comes on line in 2002, could then be consumed annually by electrically intensive industries.

The mere availability of inexpensive electrical energy is not sufficient to ensure that the managers of electrically intensive industries will elect to locate new facilities in Alaska. Companies are reluctant to invest the required capital in a new plant to take advantage of inexpensive electric energy if large quantities of electricity cannot be guaranteed beyond 10 to 15 years. For example, the Acres American report states that even under their medium demand scenario some Susitna energy output (about 350 GWh) will not be used during the summer in 2010 (medium demand, summer). This seasonal energy output could be available to industry in the summer months. However, since most manufacturing processes require year-round operation, this power would not be attractive to most industries and cannot really be classified as a "surplus." In addition, the projected cost of the power from the unsubsidized facility is high when compared to other large hydroelectric power facilities like Le Grande Complex in Canada. If the state provides 100% of the capital for the project and does not expect any return on capital, then the cost of electricity will be very low, but this lower rate is likely to increase domestic demand significantly, resulting in little power availability for industry.

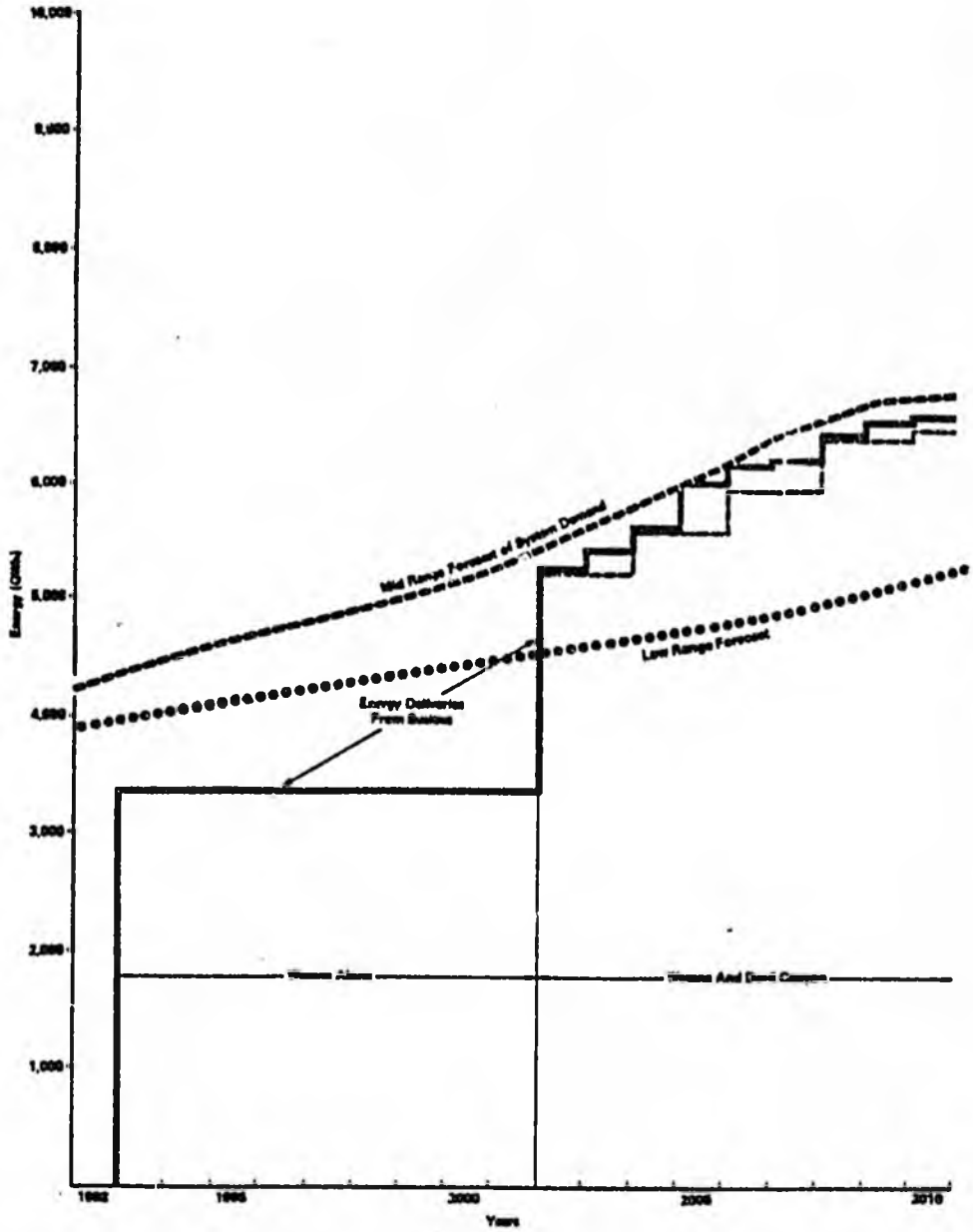
If the proposed Eagle Bay tidal power facility is approved, construction is expected to begin after 2000, when the Susitna project is about ready to go on line. This schedule would most effectively use Alaskan labor supply and is not likely to overtax the Alaskan economy. The required 10 years of construction would bring the tidal-generated power on line in 2010 or 2012. Even for the medium demand forecast, very little if any Eagle Bay output is expected to be required in 2010-2012. All of the output of this facility could be available, therefore, for additional industrial consumption. Because the generation of tidal power is intermittent, the energy produced will be in excess of the demand at certain periods, resulting in power that is not directly usable by the power grid without a large energy storage facility for retiming. The additional costs for retiming would make the project uneconomical. If only the directly usable power is included in the overall project, the cost for Eagle Bay power is estimated at $0.12/kWh.

Optimum economic use of the Watana and Devil Canyon hydroelectric plants requires that they be operated as close as possible to full capacity. Large users of electric power could be offered blocks of power at a reduced rate to encourage full utilization of the capacity of the dam with maximum payback on the high capital costs and fixed operation and maintenance.

Potential for Nonutilized Electric Power

By comparing the forecast of system demand for the Railbelt with the energy deliveries from Susitna and Eagle Bay, the projected quantity of nonutilized electric power can be derived. The medium forecast of system demand and capacity is used as the base case in most of the studies that were compared. This comparison is shown in Figure IV-1 for both the medium and low case scenarios used by Acres. The wholesale energy cost from the hydroelectric and tidal plants is assumed to be less than the cost of the best thermal option and also less than the avoided operating costs of electricity supplied by existing equipment so that existing facilities are displaced. These assumptions would result in Railbelt utilities purchasing the majority of their power requirements from the hydroelectric and tidal projects. If the wholesale energy cost from the hydroelectric and tidal plants is not competitive with the cost of the thermal options, then there is little justification to undertake the large water projects. If the wholesale price is substantially less than the thermal alternatives because of financing subsidies, then the quantity of nonutilized power (excess capacity) would decrease as a higher "normal" demand consumes the lower-cost energy.

Figure IV-1 compares energy demand projections from Acres and projected deliveries from the Susitna hydroelectric projects. When Watana comes on line in 1993, the total energy output would not exceed the expected demand. No surplus is expected to be available for large-scale industrial usage, at least until Devil Canyon comes on line in



SOURCE: Acres American Incorporated, *Susitna Hydroelectric Project, Task 11: Economic, Marketing and Financial Evaluation*, prepared for Alaska Power Authority (March 1982)

FIGURE IV-1 ENERGY DEMAND AND DELIVERIES FROM SUSITNA

2000-2002. Under the medium growth forecast, little if any nonutilized power would be available. However, the low range forecast projects that 1,200 to 1,800 GWh of energy would be available annually for at least 10 years.

If the Eagle Bay tidal power plant comes on line in 2010, then the complete output of the project would be available for industrial use in the near term, although only 1,600 kWh would be directly usable.

The State of Alaska and the Corps of Engineers are considering two additional hydroelectric projects, Chackachamna and Bradley Lake. Chackachamna would be completed no earlier than 1995; its installed capacity of 330 MW would produce 1,500 GWh of energy annually. The 90-MW Bradley Lake project, which could be completed in 1988, would produce 350 GWh of energy annually. This plant has a 90-MW base load and 135-MW peak load capacity. By 1995 these plants would make an additional 1,850 GWh available for industrial use.

Fiscal Crisis Scenario

The various scenarios that have been discussed assume that any nonutilized or excess power capacity above normal reserve margins is the general result of a conscious decision to build such capacity for attracting industry and that massive excess capacity will not occur unintentionally. One additional scenario that SRI was asked to address concerns a worst-case fiscal crisis situation in which dams are constructed and even the low growth economic projection fails to materialize. This scenario is similar to the situation in which the utilities that make up the Washington Public Power Supply System found themselves when building what turned out to be excess nuclear capacity. They were forced to terminate at least two plants of five under construction, one of which was more than 24% complete. Under the fiscal crisis scenario, the state would have approximately 3,800 GWh available to attract industry.

In all financing scenarios except the 100% state grant, the ability or nonability to repay financing debt has serious consequences. In cases with fixed capital costs and falling demand, management is likely to increase power prices to maintain revenue. In any event, this scenario would result in an increase in the range of power available for industrial development if capacity is built before the Alaskan economy enters stagnation or downturn.

Summary of Potential for Surplus Energy

Table IV-1 summarizes the potential for surplus energy that might develop in the Railbelt. The data in the table indicate that if all the contemplated projects are built and if the Railbelt region experiences a low growth rate (2.2% per year), up to 5,350 GWh of annual output could be available by 2010 to attract electrically intensive industries. Even if the Cook Inlet and Chackachamna facilities are not built, 2,000 GWh of annual output could be available by 2000 if Devil Canyon is built and the "fiscal crisis" scenario develops.

Table IV-1

SUMMARY OF POTENTIAL SURPLUS ENERGY*

	2000	2010
Watana/Devil Canyon[1]	1,300 GWh	
Watana/Devil Canyon and Cook Inlet Tidal[1]	1,300 GWh	5,300 GWh
Watana alone[2]	2,500 GWh	
Watana/Devil Canyon[2]	3,800 GWh	

*Without consideration of project financing.

[1]Assumes Acres low demand case.

[2]Assumes Battelle "Fiscal Crisis" case.

V WORLDWIDE POWER PROJECTS COMPETITIVE WITH ALASKA'S HYDROELECTRIC DEVELOPMENT

Roughly half of the world's hydropower potential (approximately 1,200 GW) is in developing countries. Only 10% of the potential projects have been developed. Tables V-1 and V-2 show the status of worldwide hydroelectric development. Given the large increases in oil prices, many previously uneconomical hydroelectric sites have become more attractive. Developing countries are funding hydropower surveys and feasibility studies to explore these possibilities, but because of the long lead time for such projects and high financing cost, very few large projects will be completed during the present decade. Nevertheless, about 100 GW of hydroelectric capacity are expected to be completed over the next decade in some 60 developing countries. At fuel oil prices of $20-$25 per barrel, hydropower costing $2,500 to $3,000 per kilowatt of installed capacity can be competitive with oil-fueled steam units or large diesels. At this investment cost, assuming financing at 10%, hydroelectricity would cost about $0.07/kWh. Several sites, particularly in Canada and Brazil, have projected rates of about $.015/kWh. With power costs of $.0125/kWh for large industrial users, Le Grande Complex in Quebec will be a competitor of the Railbelt for electrically intensive industries. Moreover, significant amounts of power are expected to be available for industrial use from this facility.

Industry is a major user of commercial energy in the developing world. In countries for which data are available, the industrial sector accounts for one-fifth to two-thirds of total commercial energy consumption, with an average at around 35%.

Those developing countries with relatively high levels of energy consumption are also major producers of the more energy-intensive industrial products, such as steel (Brazil, India, Republic of Korea, Mexico, Romania, Turkey, Yugoslavia), cement (Brazil, India, Republic of Korea, Romania, Turkey), ammonia (India, Indonesia, Republic of Korea, Mexico, Romania), aluminum (Brazil, India, Yugoslavia), pulp and paper (Brazil, Republic of Korea, Mexico, Romania), fertilizers (India, Brazil, Romania, Turkey), and chemicals (Brazil, India, Portugal, Romania). These countries are potential competitors of Alaska as industrial sites.

Table V-1

HYDROELECTRIC DEVELOPMENT STATUS
(MW)

Country	Installed Capacity	Under Construction	Planned	Other Probable
Australia (1981)	6,113	-	2,350	9,765
Argentina (1979)	3,900	3,872	33,717	8,340
Brazil (1979)	23,842	26,163	14,096	100,000
Chile (1979)	1,480	950	6,595	6,781
Venezuela (1979)	3,000	2,620	13,565	-
India (1979)	9,908	6,820	1,978	42,000
Indonesia (1979)	450	-	2,500	31,000
Nepal (1979)	37	90	80,000	-
Colombia (1979)	3,120	1,150	23,350	23,600
Iceland (1979)	3,069	-	-	28,000
Honduras (1979)	69	600	-	3,000
Nigeria (1979)	600	1,145	1,200	8,000
Guatemala (1977)	121	600	1,635	4,000
Thailand (1977)	910	185	19,602	-
New Zealand (1978)	3,766	-	-	-

Table V-2

INTERNATIONAL DEVELOPMENT STATUS OF HYDROELECTRIC POWER SITES--INSTALLED OR INSTALLABLE CAPACITY
(MW)

Country	Operating	Under Construction	Planned	Other Probable	Total
World	402,294	122,137	247,105	457,850	1,229,386
Canada	40,810	17,522	4,050	37,397	99,779
U.S.	68,933	8,200	2,013	103,477	182,623
Asia and Pacific					
Australia	5,695	1,660	2,350	-	9,705
New Zealand	3,617	868	1,320	5,000	10,805
Nepal	36	-	-	-	36
Philippines	725	2,085	-	4,778	7,588
Sri Lanka	335	-	-	-	335
Thailand	910	185	19,602	-	20,697
India	9,353	6,820	1,978	-	18,151
Indonesia	976	-	2,500	28,500	31,976
Malaysia	350	348	838	1,150	2,686
Latin America					
Argentina	1,945	5,872	33,717	8,340	49,874
Brazil	19,038	26,163	14,096	44,734	104,031
Chile	1,474	950	6,595	6,781	15,800
Colombia	2,801	1,150	23,350	23,600	50,901
Guatemala	121	20	1,635	4,881	6,657
Honduras	69	-	-	-	69
Paraguay	265	-	-	-	265
Peru	1,412	488	-	37,140	39,040
Uruguay	236	1,245	20	42,520	1,926
Venezuela	2,353	2,620	13,565	0	18,538
Africa					
Angola	368	80	300	9,000	9,748
Ghana	792	-	140	527	1,459
Madagascar	40	-	-	-	40
Mozambique	937	3,700	2,500	5,000	12,137
Nigeria	420	440	3,930	-	4,790
Zaire	1,159	289	-	32,000	33,448
Zambia	1,669	-	-	-	1,669

Source: Yearbook of World Energy Statistics, United Nations (1979).

VI INDUSTRIAL LOCATION DECISIONS

General

Business location decisions depend on a variety of site-specific factors, the objectives of the particular company involved, and the changing business environment and health of the relevant industry. Justification for specific facilities is an outgrowth of specific corporate strategies. The compelling reasons behind the search for new sites include:

- Expansion of existing production capacity
- New product manufacturing
- Cost reduction of production and distribution
- Expansion of market area
- Replacement of obsolete facilities.

Table VI-1 lists typical site selection criteria. Five broad categories--labor costs, transportation costs, utility costs, construction and other occupancy costs, and tax costs--represent about 90% of the total geographically variable cost factors associated with a typical plant location study. Usually treated as recurring expenses, these costs are therefore annualized; their totals represent a major input into locational decisions by most companies.

Usually a number of noncost, or subjective, factors are investigated during the course of a facility location project. The list may be as short as a half-dozen or as long as 100 or more. However, most company lists include at least labor issues (unionism, attitudes, availability), electric power and natural gas availability and dependability, physical site suitability, community attitude toward business development, and living conditions.

The specific measures used by an industry to determine each location's degree of compliance with the general location criteria consist of two types of screens: (1) thresholds or minimum requirements that must be met by any location to be considered suitable for a plant, such as those relating to environmental regulations or availability of required utilities, transportation facilities, and land and buildings; and (2) relative measures that provide a basis for comparing locations that meet all minimum requirements, such as those relating to production factors and quality of life issues.

Once the list of alternative locations is narrowed, specific cost analyses of total facility costs attributed to labor, transportation, amortization, utilities, taxes, and other costs are often conducted.

Table VI-1

GENERAL SITE SELECTION CRITERIA

Financial Considerations

- Overall cost of living
- Cost of transportation for feedstock and parts to plant and for product to marketplace
- Cost of direct and indirect labor
- Utility costs
- Salary levels
- Taxes on industry
- Availability of industrial development assistance
- Availability of capital
- Overall operating costs
- Employee relocation costs
- Cost of land and buildings
- Construction costs, including expense of added time for permit approval

Locational Considerations

- Availability and reliability of utilities
- Proximity to transportation, including airports, rail lines, trucking, shipping, and mass transit
- Proximity to like industries
- Proximity to materials, vendors, and services
- Start-up training and facilities
- Stability of regulatory and political climate
- Labor union presence
- Environmental sensitivities
- Recruitment potential and labor availability
- Legal status of land ownership

Quality of Life Considerations

- Quality of public schools
- Availability and cost of housing; potential neighbors
- Cultural activities
- Presence of major university--4-year, 2-year, vocational
- Recreational activities
- Climate
- Community attitudes
- Alternative employment potential
- Proximity to resource centers for professional development

Compromises are almost always necessary in locating a new facility. For example, a company may have extensive requirements for electricity that would cause it to select a second-best site. Many site selections result from arbitrary corporate decisions that contradict purely economic analyses. This situation most often occurs when economic variations between competing sites show few significant differences and personal preferences by corporate management become the deciding factor. A list of the site selection factors considered by industry in analyzing energy issues is presented in Table VI-2.

Electrically Intensive Industries*

The cost of electric power, like the cost of any input to production, will affect Alaska's attractiveness as a location for new production facilities, but low-cost electricity by itself is insufficient to attract industry. For example, although a typical aluminum plant incurs electrical energy costs from 14% to 18% of product value, the extra construction costs (1.6 times U.S. average) and other additional expenditures associated with an Alaskan location may outweigh the benefit of reduced electricity costs.

Plant Location Factors

New forces are emerging that are shifting the weight of the relative measures for comparing locations. Cost factors are changing significantly, making future cost projections difficult. Figure VI-1 shows that transportation, electric power, and occupancy costs have increased much more dramatically during the past 10 years than the cost of labor or local property taxes.

Changes in transportation costs during the past 10 years have been closely linked to escalating fuel costs. As transportation costs increase, the importance of strategic markets and raw material availability increases for new plant sites.

Electric power costs have escalated rapidly during the past 10 years and can be expected to continue to increase over the next 10 years. Electricity rates for large industrial users rose by 18% between 1980 and 1981 alone, and recent increases in the Northwest have dramatically shifted the economics of existing plants.

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*Derived from A. R. Tussing in "Introduction to Electric Power Supply Planning," Tussing and Associates, May 1980.

Table VI-2

SITE LOCATION FACTORS RELATING TO
ELECTRIC ENERGY AND UTILITIES

Power Source

- Thermal--coal, natural gas, propane, fuel oil, lignite
- Hydroelectric
- Other--nuclear, geothermal, solar

Electric Power Supply

- Company or public agency serving area
- Interconnection with other systems
- Capacity--present and planned
- Recent record of shortages or interruptions
  - Average number of interruptions per year
  - Maximum duration
- Vulnerability to natural disasters
- Location of nearest electric substations and whether interlocking
- Voltage, phase, and cycle available
- Size of connection at proposed site
- Two-way feed
- Rates based on demand for services
  - Lighting
  - Machine operation
  - Air conditioning
  - Welding
  - Furnaces
- Cost of extending service
- Typical residential rates
- Off-peak possibilities
- Fuel adjustment provisions

Potential for On-Site Independent Energy Source

- Gas well
- Coal mine
- Nuclear reactor
- Cogeneration
- Waste burning

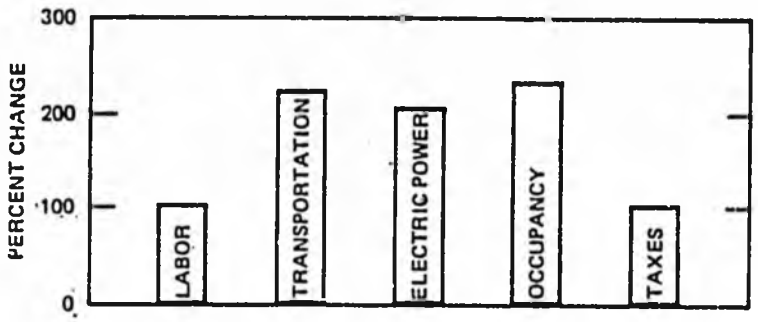

FIGURE VI-1 PERCENT CHANGE IN KEY COST FACTORS, 1970-1980

As competition among the states for new facilities increases, more and more states are seeking to improve their business climates to attract new industries. Although median tax rates have increased from about 2% to 4% of total investment during the past 10 years, more states are granting full or partial exemption to various classes of property to lure new facilities. Similarly, state levies on corporate income have remained relatively stable. Only two states have increased corporate income taxes during the past 5 years.

Occupancy costs have risen faster than any other costs during the 1970s. Both of the key elements that make up this cost, construction costs and interest rates, have doubled during the past 10 years. A $2 million building in 1970 cost $4,444,000 in 1980. A typical revenue bond interest rate in 1970 of 7% nearly doubled to 13% by 1980. The annual cost to amortize a 25-year loan jumped more than 250% between 1970 and 1980.

A review of site location studies written during the early 1970s reveals a concern with unionism, natural gas availability, proximity to interstate highways, and proximity to various support services. By 1980, additional factors such as state and community attitude toward industry, environmental concerns, living conditions, airline and truck service, and electric power availability and reliability are equally important.

Companies are becoming more concerned, in making their siting decisions, about living conditions, community attitudes, and political stability. In addition to forecasting geographically variable costs, corporations will become more adept at evaluating noncost or subjective factors. These concerns could become significant when comparing an Alaskan site to a site in a developing country with competing low-cost hydroelectric power. The relative political stability offered by Alaska represents a real asset when compared to the political uncertainty in many developing countries, although this asset may be offset by the economic uncertainty resulting from the expected decline in oil revenues in the 1990s.

During the next 10 years, additional issues such as water availability are expected to increase in importance. The availability of grants, subsidies, and inducements will also be a major locational criterion. The aggressive worldwide competition for new industry, exemplified by Japanese aluminum smelters in Brazil and by U.S. microelectronics industry in Scotland, are becoming increasingly important as U.S. manufacturers look in both developed and developing countries for sites which lower their production costs.

VII CHARACTERISTICS, RESOURCES, AND LIMITATIONS OF THE RAILBELT REGION

Characteristics of the Railbelt region critical to industry-specific location decisions are:

- Labor costs and supply
- Taxation
- Construction costs
- Transportation cost and infrastructure
- Land status
- Climate
- Environmental considerations and land use plans
- Basic services and secondary industry
- Natural resources
- Existing industry
- Geographical location and proximity to markets

Alaska's principal economic attractions are its potential supply of undeveloped raw materials and fuel and its power availability. These attractive features must be weighed against those factors of the Alaskan economy which will prevent certain types of development in the state for the foreseeable future.

Labor Costs and Supply

As indicated in Table VII-1, the Railbelt has only limited supplies of labor in the construction, mining, and manufacturing (industrial) sectors. Any major developments in those sectors would require a significant labor influx. The most recent, accurate data concerning labor supplies in the Railbelt region are the employment figures for the third quarter of 1980. The data in Table VII-1 represent the averages for that year and are given by sector and by subregion (census division).

Table VII-1

NUMBER OF EMPLOYEES BY SECTOR IN THE RAILBELT

Sector	Anchorage	Kenai	Mat-Su	Subtotal South Central	Fairbanks/ SE Fairbanks	Cordova/ Valdez	Total Railbelt	Percent Total
Government	20,356	1,169	1,281	22,806	7,460	1,100	31,366	26%
Services	17,182	1,023	511	18,716	4,554	686	23,956	20
Retail trade	13,324	1,048	792	15,164	3,662	332	19,158	16
Transportation, communication, utilities	8,318	671	306	9,295	2,882	608	12,785	11
Construction	7,190	902	267	8,359	2,374	360	11,093	9
Finance, insurance, real estate	4,900	203	115	5,218	698	123	6,039	5
Manufacturing	2,532	2,022	27	4,581	502	532	5,615	5
Wholesale trade	4,230	272	53	4,555	679	51	5,285	4
Oil & gas extraction	2,671	793	--	3,464	6	--	3,470	3
Other mining	244	--	53	297	74	152	523	--
Other	804	82	36	922	103	--	1,025	1
Total	81,751	8,185	3,441	93,337	22,994	3,944	120,715	100%
Percent Total	68%	7%	3%	78%	19%	3%	100%	

Source: U.S. Bureau of Labor Statistics

Alaskan wage rates for industrial occupations tend to be substantially above U.S. averages. For example, in 1982 the average construction worker's weekly wage in Anchorage was approximately 1.52 times the average of 27 other U.S. metropolitan areas (Table VII-2). Other industries such as services and manufacturing are somewhat closer to national averages. Hourly manufacturing wage rates in Alaska in 1980 were about 1.17 times higher than those for the U.S. as a whole and are expected to remain at least 1.3 times higher in most sectors throughout the study horizon of 1982-2010. In the specific industry analyses, which are contained in Section IX, labor data for the individual industries are used where available.

Not only are prevailing wage rates in Alaska relatively high, but Alaska does not have a large pool of highly skilled workers. Many of the recent unemployed are construction workers. Workers with specific skills in the oil industry and other specialized skills are generally recruited outside of the state.

In general, extractive and primary processing operations are less labor intensive than final product manufacture. In addition, the increased use of automation and robotics in manufacturing will decrease the importance of labor in this sector. Nevertheless, labor costs, especially for construction, will remain an inhibiting factor to any industry that does not gain an offsetting economic advantage from an Alaskan location (e.g., lower material or energy costs).

Taxation

Recent changes in Alaskan taxation policies have made the state more attractive to both individuals and corporations, although corporate income taxes remain high.

Most states levy corporate income and/or corporate franchise taxes as significant sources of state revenues. For 1982, the income tax rate for large corporations was significantly reduced in Alaska, to 9.4% from the previous maximum rate of 11%. This reduction makes Alaska more competitive with states such as California (9.6%), but the rate remains high relative to many Sunbelt states which have either no corporate income tax (Nevada, Texas) or rates in the 5% to 6% range (Alabama, Florida, Georgia, South Carolina, North Carolina, etc.). Alaska is also high relative to Pacific Northwest states. Washington has a business occupation tax of 1%, and Oregon has a 7.5% corporate tax rate.[2]

The retroactive repeal of personal income tax, in combination with the absence of a general sales tax, is a significant attraction to individuals and may eventually have a positive impact on Alaskan labor rates.

Table VII-2

HOURLY AVERAGE WAGE RATES IN CONSTRUCTION
FOR ANCHORAGE AND 27 U.S. METROPOLITAN AREAS
($ 1982/hr)

Albuquerque	15.10	Indianapolis	17.78
Anchorage	27.28	Kansas City	18.13
Atlanta	13.89	Miami	15.74
Baltimore	15.49	Minneapolis	17.52
Birmingham	13.41	New Haven	17.70
Boston	18.31	New York	19.33
Buffalo	18.39	Philadelphia	17.33
Chicago	19.25	Phoenix	19.28
Cincinnati	19.05	Pittsburgh	17.88
Cleveland	19.24	Portland, OR	20.51
Dallas	16.21	St. Louis	17.63
Denver	16.19	San Diego	22.30
Detroit	19.71	San Francisco	22.96
Houston	17.73	Seattle	21.06

Source: Engineering News-Record, September 23, 1982.

Construction Costs

Location adjustment factors computed to account for added construction costs in Alaska typically range from 1.5 to 2.0. Location adjustment factors increase as site locations move inland and northward. They are also dependent on the extent to which prefabrication can be performed in the lower 48 states.

Many estimates of Alaskan construction escalation factors were based on pipeline construction experience and reflect the high rates of inflation which occurred during that period. There is evidence that the Alaskan labor rate differential is moderating. Cost of living indexes for various Alaskan areas are not growing as rapidly as some other U.S. regions.[3] Nevertheless, 1982 hourly construction labor rates in Anchorage are approximately 1.52 times those of 27 other U.S. metropolitan areas (see Table VII-2).

Material costs also contribute to high construction costs in Alaska because of the necessity to import many materials. Some materials, such as sand and gravel, may be at or below national average prices because of their availability in Alaska. However, cement prices are approximately 2 times higher in Anchorage than in Seattle due to transportation charges. A general materials cost factor of 1.7 was assumed by SRI and is reasonable for the Railbelt region during the time frame of the study. Labor costs generally constitute about 1/3 of direct construction costs, with materials and project management costs accounting for the remainder. An overall construction factor of 1.5 can be derived for the Railbelt region based on current rates.

This factor is consistent with recent estimates obtained by SRI for specific plant construction cost factors in the Railbelt region. The engineering firm C. F. Braun recently quoted 1.5 as the construction offset factor, and Chevron (a component of Standard Oil of California) suggested 1.6 as a construction factor for a hypothetical ammonia/urea plant constructed in the Railbelt. Wherever possible, construction cost factors for specific plants have been used in the SRI study. These location factors would probably decrease over time, assuming that Alaska economic development continues.

Transportation Costs and Infrastructure

The Railbelt region has the only comprehensive transportation system in the state. All of the urban centers are connected by air, rail, and highway links and have good access to ocean shipping. Specialized oil ports exist in Valdez and Cook Inlet. A coal terminal is planned for Seward, and grain terminals are being planned for Seward and Valdez. A

specialized coal terminal is also contemplated for the Beluga coal fields.* Specific areas set aside for energy, industrial, and port development activities include the Port of Anchorage, Point MacKenzie (Mat-Su Borough), and the Port of Seward.

Transportation costs are high both within Alaska and between Alaska and its markets and suppliers. Because the state's transportation infrastructure is limited, low-cost intrastate transportation is scarce. Many areas can only be reached by air, or by sea in ice-free months. The costs of transportation to areas outside of the Railbelt are high because of their remoteness and because of the small quantities shipped and lack of backhaul. The cost of shipping equipment to or product from a mine or plant off the established transportation routes places the additional burden of road construction on any prospective developer.

Until additions to this infrastructure are made, most development will be limited to the coastal and immediate Railbelt areas. Only projects with immense economic potential will be able to finance their own transportation facilities (e.g., the oil/gas pipelines, coal facilities) and these projects will occur only as dictated by world market and national policy considerations. Beyond the Anchorage/Fairbanks corridor, little infrastructure is available to serve industries and their employees. Any mining or manufacturing activities outside of the Anchorage/Fairbanks corridor will have to provide housing and other population-serving infrastructure--either temporary camps or permanent new towns--for workers.

Because of the lack of a major inland waterway transportation infrastructure, locations in Alaska near coastal areas can be expected to be favored for process plants. Pulp, chemicals, and primary metals are all industries that typically require waterborne transport access.

Industries whose transportation costs are low relative to the value of product have more flexibility in location decisions than those with comparatively high transportation costs. Industries that produce high-value, low-weight products may choose locations that minimize power, labor, or other costs.

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*The transportation network is described in detail in ISER, Alaska's Unique Transportation System (June 1980), and Booz, Allen, Strategic Marketing Plan for Port of Anchorage, Chapters II and III and Appendix B (February 1981).

In summary, transportation costs will remain a major factor in Alaska's future economic development because of the costs involved in transporting natural resources and feedstocks to processing facilities and the costs of transporting goods to international markets.

Land Status

A great deal of important land in the Railbelt is still under federal ownership, a fact that will limit certain resource extraction and industrial activities. Much of the Anchorage coastline, for example, is owned by the Alaska Railroad (a federal entity) and the Department of Defense. The Fairbanks area also has large military reservations and other federal holdings.

Land status is currently in flux because of the slow pace of selection by, and conveyance to, the state and native corporations. Site-specific information about particular land areas is available from federal, state, and local authorities for areas under their respective jurisdictions and from private holders, including native corporations.

Although land availability is a negative factor for firms seeking to exploit mineral resources, most land that might be desired for industrial development in the Railbelt region could be leased for the economic life of the facility, which should be a satisfactory arrangement to most firms.

Climate

Not only is the Railbelt region's climate severe, but Fairbanks often has extensive ice smog created by air inversions trapping sediments and particles from burning fuels in the river valleys of the area, and active volcanoes are located in the Cook Inlet region. Permafrost is a unique subsurface characteristic of the Arctic that poses special problems for construction.

Alaska's climate limits most construction and extraction activities to the summer months and curtails transportation to northern parts of the state in winter. The limitations imposed by the weather raise the overall cost of doing business in the state (e.g., creating a need for substantial summer overtime hours and premiums in construction or for costly air freight transport in the winter). Weather conditions in the Railbelt region are a severe inhibitor to the location of manufacturing industries in Alaska, not only because of construction and operating cost considerations but also because it restricts freedom of movement for personnel and material during much of the winter.

Environmental Considerations and Land Use Plans

Uncertainty over the state's future environmental policies, especially for pristine wilderness areas, may inhibit new industry. An example of such uncertainty is the state's mineral tax policy. The question of whether royalties and severance taxes (similar to those on oil and gas) should be imposed on hardrock minerals and the rates of such taxes remain unsolved. In addition, opinions on what the state should seek to gain through industrial development are contradictory and unresolved.

The Anchorage and Matanuska-Susitna boroughs (Mat-Su) have standards for energy facility siting. Anchorage has a formal coastal management plan. Mat-Su, Kenai/Cook Inlet, and Valdez have written plans which are currently being reviewed and are in the approval process. All permit--and encourage--industrial location in designated areas. The state also has a natural resources plan for its lands. Most intermediate product manufacturers and bulk material producers require large sites to accommodate plants and facilities. The effect of land use plans must be considered on a project-by-project basis once the initial threshold requirements have been met.

Basic Services and Secondary Industry

Local representation of major infrastructure (e.g., insurance firms, repair services, banking) and secondary industry firms (e.g., emergency resupply for mechanical or electrical failure) can be an important factor in plant location decisions. The perceived lack of secondary support facilities is likely to be a major inhibiting factor for the location of new industries in Alaska.

Many aspects of developed industrial infrastructure, such as specialized industrial supplies and services, apart from petroleum extractors and transportation services, do not currently exist in Alaska. Repair services, machine shops, parts depots, and other complementary firms will have to be established concurrently with industrial development, or such supplies and services will have to be imported at high cost.

Natural Resources

The major natural resources of the Railbelt include coal, minerals, and metal ores (although no bauxite reserves for aluminum production), oil and natural gas, fish and shellfish, forests (soft and hardwood), nonfuel minerals; and water (for hydroelectric generation and for consumption). Historically, economic development in any region has usually begun with some type of resource extraction. Mineral resources that have not yet been extensively developed can

become the basis for primary processing industries, including mining and smelting. Timber and fishing resources have supported most of Alaska's manufacturing activity to date, and it is likely that manufacturing based on these resources can be expanded.

A special category of natural resources includes hydrocarbons, which can serve as raw materials as well as fuels for manufacturing processes. Industries such as food processing, pulp and paper, petrochemicals, primary and fabricated metals, and electrometallurgical processes require stable and/or low-cost supplies of oil, gas, or coal as process fuels or as feedstocks as well as the appropriate materials, minerals, and metals for processing. The potential of Alaskan oil and gas as industrial feedstocks is widely recognized and proposals for in-state processing of royalty oil have been considered. If oil and natural gas (including LNG) become more expensive and scarce, the availability of petroleum feedstocks will become an increasingly attractive factor.

While oil and particularly natural gas have traditionally been used as industrial process fuels, this use will become less widespread as costs continue to increase and regulatory actions encourage use of other fuels (primarily coal). In this regard, Alaska also has vast quantities of low-sulfur steam coal available for industrial use. The ready avail- ability of water in the south central region could be particularly important for those industries that require significant amounts of process water (e.g., food products, particularly beverages, pulp and paper, chemicals), particularly in view of the shortfalls in water availability predicted for many regions of the U.S.

The presence of important natural resources is not sufficient to guarantee development. For example, extensive high-grade strategic metals and minerals are present in the Brooks Range, but development of the transportation infrastructure for extraction is economically prohibitive.

Existing Industry

Government is the major employer in the Railbelt (see Table VII-1), and most of the employment in the region is associated with services. Although relatively small, the petroleum industry has the character of a true basic industry in that the Railbelt includes the people and facilities for administration (primarily in Anchorage), transportation (primarily in Valdez and Kenai), and processing (North Pole refinery near Fairbanks and Tesoro and Chevron Oil refineries, Phillips LNG plant, and Union Chemicals nitrogen fertilizer plant, all located at Nikiski, Kenai), as well as exploration and development.

Employment statistics for the petroleum industry are aggregated by reporting agencies to avoid disclosure of individual business reporting units. The labor force in the petroleum sectors is estimated, however, to include about 3,650 to 4,900 persons.

Petroleum production capacities are as follows:

	Capacity (barrels/day)
Kenai	
Tesoro oil refinery	48,000
Chevron oil refinery	22,000
Fairbanks	
Mapco North Pole refinery	47,000

Another major plant is the Union chemical fertilizer plant, which produces 1 million tons of liquid ammonia per year and 800,000 tons of urea per year. The Phillips LNG plant produces 140 million cubic feet of LNG per year for the Japanese market.

Other than those associated with the petroleum industry, there are few industry groupings already in Alaska to naturally attract similar firms or suppliers.

Geographical Location and Proximity to Markets

Alaska's remoteness and the requirement to use U.S. registered ships for U.S.-bound goods results in high shipping costs between Alaska and the rest of the United States. The state's vastness also increases the likelihood of future developments being remote from the state's population centers or from the principal resource base. If a primary processing facility is located near a mine to minimize ore handling and shipping, for example, provisions will have to be made to provide housing and related facilities for workers. Alternatively, a firm performing processing near the population centers will have to transport bulk ores from the mine. Similarly, the distance from Anchorage, the commercial center, to the many outlying towns and villages will make it very difficult for even an Anchorage-based producer to supply the in-state market at reasonable prices. In addition, Alaska's remoteness from the Lower 48 may discourage small or medium-sized firms from even considering Alaska as a potential site.

Alaska's local market is quite small (approximately 400,000 people) and is further limited by the difficulties of distributing products to the more remote areas. Furthermore, unlike other states with relatively small markets, no neighboring states can absorb excess production of local market-oriented goods. The most basic local market industries do exist in Alaska--bakeries and newspapers, for example--but the population is too small to support other consumer-product

makers. The need to ship excess production at possibly high cost will inhibit development of locally oriented consumer or industrial suppliers until local demand is sufficiently sustained to support such industries.

Service industries, which are the fastest growing segment of the U.S. economy, locate near the population centers or companies they serve. Intermediate product industries, such as concrete producers, metal forgers, commercial printers, and glass container makers, tend to locate near industrial or commercial purchasers of their products. In many of these industries, industrial development must occur sequentially. For example, a plastics manufacturer may logically locate near a petrochemical complex as long as product transportation costs to the marketplace are relatively low. The sequencing or downstream integration of production facilities depends on upstream materials being available.

Alaska's geographic location on the Pacific Ocean is tantalizing. As the international procurement of materials and the international manufacturing of products increase, Alaska's location may be more beneficial than previously assumed. The ports in the south central region of the Railbelt are closer to Japan and Korea than the Lower 48 ports; unfortunately, this factor is currently largely offset by higher construction, labor, and operating costs in the Railbelt region.

Summary

The major advantages of developing an Alaskan industrial site are the state's vast supplies of natural resources and its fuel and feedstocks for extraction and initial processing industries. As natural resources and fuel or power shortages develop, Alaska will become an increasingly attractive site. Alaska is also favorable in comparison to many developing countries, which have the potential for political instability.

Deterrents to an industry's siting its facilities in Alaska arise from the state's economic environment, as well as industry-specific resource development constraints. Inhibiting factors are generally those that raise the costs of operating in Alaska, making Alaska-produced goods less competitive in U.S. and world markets, or that contribute to an adverse business climate (e.g., highly publicized environmental lawsuits and Teamsters Union activities have had a detrimental effect on corporations contemplating expansion into Alaska).

The principal inhibitors to development in Alaska are:

- High labor costs (1.3 to 1.5 times U.S. average) and lack of skilled labor.
- Lack of transportation and other infrastructure.

- High construction costs (1.5 times U.S. average is typical).
- Remoteness from major markets (transportation costs--highly dependent on product and destination).
- Limited local market.
- Institutional and regulatory issues:
  - Uncertain land status
  - Environmental constraints
  - Federal government influence.
- Climate.
- Relatively high corporate taxes.

The relative importance of inhibiting factors to economic development and industry-specific location decisions varies, depending on the proposed industrial facility, the economic health of the industry, and world market trends. Most of the Railbelt characteristics that presently inhibit industrial development increase the operating costs for industry. The advantages of an Alaskan location, such as proximity to specific resources and Pacific markets, are insufficient to offset these additional operating costs for most industries. The special case of electrically intensive industries will be examined in the next section.

VIII IDENTIFICATION OF POTENTIAL LARGE USERS OF RAILBELT ELECTRICAL POWER

To identify potential industries that might be attracted to Alaska by the long-term availability of inexpensive electrical energy, SRI compared U.S. Department of Commerce data on the value of purchased electrical energy with the value of shipped product for over 960 4-digit Standard Industrial Classification (SIC) code industries. The four SIC industries for which electrical energy costs exceed 10% of the value of the shipped product are listed in Table VIII-1. Firms in these Category I industries are considered the most likely to consider an Alaskan site for new plant facilities if long term, low cost electrical power becomes available in the Railbelt region.

Additional industries considered as secondary candidates are listed in Table VIII-2. For these Category II industries, electrical power costs range between 5% and 10% of the value of shipped product. The lure of inexpensive energy will generally be less important for firms participating in the industries listed in Table VIII-2 than those in Category I.

Finally, the value of total (not just electrical) energy used was compared with the value of shipped product for all 4-digit SIC code industries to identify energy-intensive industries that might consider substituting inexpensive electrical energy for other forms of energy. These Category III industries identified during this process are listed in Table VIII-3, which does not include industries already listed in Table VIII-1 and Table VIII-2. Firms participating in Category III industries are considered to be less likely candidates for a Railbelt location than firms from the industries listed in Table VIII-1 and Table VIII-2, because of the largely unexplored issues associated with energy substitution.

Based on this initial screening, all four Category I industries were further evaluated to determine the potential additional costs of a Railbelt location for new plants in these industries. Of the Category II industries, manufactured ice, hydraulic cement, iron foundries, and reclaimed rubber were not considered likely candidates because of the obvious tradeoff between low product value and high transportation costs associated with these industries. An analysis of the transportation costs for cement is included in the study for comparison purposes and is considered to be representative of these low-value products. Malleable iron foundries and reclaimed rubber both depend on close proximity to associated industries (e.g., heavy machinery, automobile) and are unlikely to consider any locations which lack these supporting industries.

Table VIII-1

CATEGORY I: ELECTRICALLY INTENSIVE INDUSTRIES
(Electrical Energy Costs as Percentage of Product Value, 1980)

SIC Code	Description
2812	ALKALIES AND CHLORINE (18.8)

Establishments primarily engaged in manufacturing alkalies and chlorine.

Alkalies	Potassium hydroxide
Carbonates, potassium and sodium	Sal soda
Caustic potash	Soda ash
Caustic soda	Sodium bicarbonate
Chlorine, compressed or liquefied	Sodium carbonate (soda ash)
Potassium carbonate	Sodium hydroxide (caustic soda)

2813	INDUSTRIAL GASES (23.3)

Establishments primarily engaged in manufacturing gases for sale in compressed, liquid, and solid forms. Establishments primarily engaged in manufacturing fluorine and sulfur dioxide are classified in Industry 2819, household ammonia in Industry 2842, and other ammonia in Industry 2873, and chlorine in Industry 2812. Distributors of industrial gases and establishments primarily engaged in shipping liquid oxygen are classified in trade. Ammonia and chlorine production are considered separately. Fluorine, sulfur dioxide, and liquid oxygen are expected to have production economics similar to the gases listed in SIC 2813.

Acetylene	Helium
Argon	Hydrogen
Carbon dioxide	Neon
Dry ice (solid carbon dioxide)	Nitrogen
Gases, industrial: compressed, liquefied, or solid--nfpm	Nitrous oxide
	Oxygen, compressed and liquefied

Table VIII-1 (Concluded)

SIC Code	Description

3313 ELECTROMETALLURGICAL PRODUCTS (14.1)

Establishments primarily engaged in manufacturing ferro and nonferrous additive alloys by electrometallurgical or metallothermic processes, including high-percentage ferroalloys and high-percentage nonferrous additive alloys.

Additive alloys, except copper: not produced in blast furnaces
Electrometallurgical products, except aluminum, magnesium, and copper
Ferroalloys, not made in blast furnaces
Ferrochromium
Ferromanganese, not produced in blast furnaces
Ferromolybdenum
Ferrophosphorus
Ferrosilicon, not produced in blast furnaces
Ferrotitanium
Ferrotungsten
Ferrovanadium
High-percentage ferroalloys, not produced in blast furnaces
Manganese metal, not produced in blast furnaces
Molybdenum silicon, not produced in blast furnaces
Nonferrous additive alloys, high percentage: except copper
Steel, electrometallurgical

3334 PRIMARY PRODUCTION OF ALUMINUM (15.4)

Establishments primarily engaged in producing aluminum from alumina, and in refining aluminum by any process. Establishments primarily engaged in rolling, drawing, or extruding aluminum are classified in Industries 3353, 3354, and 3355 and are not classified as electrically intensive.

Aluminum ingots and primary production shapes, from bauxite or alumina
Extrusion ingot, aluminum: primary
Pigs, aluminum
Slabs, aluminum: primary

Source: U.S. Commerce Department Data

Table VIII-2

CATEGORY II: ELECTRICALLY INTENSIVE INDUSTRIES
(Electrical Energy Costs as Percentage of Product Value, 1980)

SIC Code	Description
2097	MANUFACTURED ICE (8.0)

Establishments primarily engaged in manufacturing ice for sale. Ice plants operated by public utility companies are included in this industry when separate reports are available. (Establishments primarily engaged in manufacturing dry ice are classified in Industry 2813 and have not been analyzed.)

Block Ice
Can ice
Ice cubes
Ice, manufactured or artificial: except dry ice
Ice plants, operated by public utilities

2661 BUILDING PAPER AND BUILDING BOARD MILLS (5.6)

Establishments primarily engaged in manufacturing building paper and building board from wood pulp and other fibrous materials. Pulp mills combined with building paper and building board mills, and not separately reported, are also included in this industry; where separately reported, they are classified in Industry 2611.

Asbestos paper and asbestos-filled paper, mitse
Asphalt board and sheathing, mitse
Asphalt paper: laminated--mitse
Board, building: composition, cellular fiber, and hard pressed--mitse
Board, building; except gypsum--mitse
Building board, mitse
Building paper: sheathing, insulation, saturating, and dry felts--mitse
Construction paper, mitse
Dry felts, mitse
Felts, building: unsaturated--mitse
Fiber board, wood or other vegetable pulp: mitse
Insulating siding, paper or board, mitse
Insulation board, cellular fiber or hard pressed (without gypsum): mitse
Kraft sheathing paper, mitse
Lath, fiber: mitse
Paper, building: mitse
Paperboard, building (containing no gypsum): mitse
Roofing board and felt stock, unsaturated: mitse
Roofing, wood fiber: mitse
Saturated felts, mitse
Tar paper, building and roofing: mitse
Wall tile, fiber board: mitse
Wallboard, except gypsum: cellular fiber or hard pressed--mitse

Table VIII-2 (Continued)

SIC Code	Description
2819	INDUSTRIAL INORGANIC CHEMICALS, NEC (8.7)

Establishments primarily engaged in manufacturing industrial inorganic chemicals, not elsewhere classified. Important products of this industry include inorganic salts of sodium (excluding refined sodium chloride), potassium, aluminum, calcium, chromium, magnesium, mercury, nickel, silver, tin; inorganic compounds such as alums, calcium carbide, hydrogen peroxide, sodium silicate, ammonia compounds (except fertilizers), rare earth metal salts and elemental bromine, fluorine, iodine, phosphorus, and alkali metals (sodium, potassium, lithium, etc.). Establishments primarily engaged in mining, milling, or otherwise preparing natural potassium, sodium, or boron compounds (other than common salt) are classified in Industry 1374, which is not electrically intensive. Establishments primarily engaged in manufacturing household bleaches are classified in Industry 2842, which is not electrically intensive; phosphoric acid in Industry 2874; and nitric acid, anhydrous ammonia, and other nitrogenous fertilizer materials in Industry 2873 are discussed separately.

Activated carbon and charcoal
Alkali metals
Alumina
Aluminum chloride
Aluminum compounds
Aluminum hydroxide (alumina trihydrate)
Aluminum oxide
Aluminum sulfate
Alums
Ammonia alum
Ammonium chloride, hydroxide, and molybdate
Ammonium compounds, except for fertilizer
Ammonium perchlorate
Ammonium thiosulfate
Barium compounds
Bauxite, refined
Beryllium oxide
Bleaching powder
Borax (sodium tetraborate)
Boric acid
Bromine, elemental
Cesium metal
Calcium carbide, chloride, and hypochlorite
Calcium compounds, inorganic
Calcium metal
Calomel
Carbide
Catalysts, chemical
Cerium salts
Charcoal, activated
Chlorosulfonic acid
Chromates and bichromates
Chromic acid
Chromium compounds, inorganic
Chromium salts
Cobalt chloride
Cobalt 60 (radioactive)
Cobalt sulfate
Copper chloride
Copper iodide and oxide
Copper sulfate
Cyanides

Table VIII-1 (Continued)

2819 INDUSTRIAL INORGANIC CHEMICALS, NEC (8.7) (Continued)

Boron compounds, not produced at mines
Borosilicate
Brine
Fissionable material production
Fluorine, elemental
Fuel propellants, solid: inorganic
Fuels, high energy: inorganic
Glauber's salt
Heavy water
High purity grade chemicals, inorganic: refined from technical grades
Hydrated alumina silicate powder
Hydrochloric acid
Hydrocyanic acid
Hydrofluoric acid
Hydrogen peroxide
Hydrogen sulfide
Hydrosulfites
Hypophosphites
Indium chloride
Inorganic acids, except nitric or phosphoric
Iodides
Iodine, elemental
Iodine, resublimed
Iron sulphate
Isotopes, radioactive
Laboratory chemicals, inorganic
Lead oxides, other than pigments
Lead silicate
Lime bleaching compounds
Lithium compounds
Lithium metal
Luminous compounds, radium
Magnesium carbonate
Magnesium chloride
Magnesium compounds, inorganic
Manganese dioxide powder, synthetic
Mercury chlorides (calomel, corrosive, sublimate), except U.S.P.
Mercury compounds, inorganic
Mercury oxides
Mercury, redistilled
Metals, liquid
Desiccants, activated: silica gel
Dichromates
Ferric chloride
Ferrocyanides
Potassium iodide
Potassium metal
Potassium nitrate and sulfate
Potassium permanganate
Propellants for missiles, solid: inorganic
Radium chloride
Radium luminous compounds
Rare earth metal salts
Reagent grade chemicals, inorganic; refined from technical grades
Rubidium metal
Salt cake (sodium sulfate)
Salts of rare earth metals
Scandium
Silica, amorphous
Silica gel
Silicofluorides
Silver bromide, chloride, and nitrate
Silver compounds, inorganic
Soda alum
Sodium aluminate
Sodium aluminum sulfate
Sodium antimoniate
Sodium bichromate and chromate
Sodium borates
Sodium borohydride
Sodium bromide, not produced at mines
Sodium chlorate
Sodium compounds, inorganic
Sodium cyanide
Sodium hydrosulfite
Sodium, metallic
Sodium molybdate
Sodium perborate
Sodium peroxide
Sodium phosphate
Sodium polyphosphate
Sodium silicate
Sodium silicofluoride

Table VIII-2 (Continued)

2819 INDUSTRIAL INORGANIC CHEMICALS, NEC (8.7) (Concluded)

Mixed acid
Muriate of potash, not produced at mines
Nickel ammonium sulfate
Nickel carbonate
Nickel compounds, inorganic
Nickel sulfate
Nuclear cores, inorganic
Nuclear fuel reactor cores, inorganic
Nuclear fuel scrap reprocessing
Oleum (fuming sulfuric acid)
Oxidation catalyst made from porcelain
Perchloric acid
Peroxides, inorganic
Phosphates, except defluorinated and ammoniated
Phosphorus and phosphorus oxychloride
Potash alum
Potassium aluminum sulfate
Potassium bichromate and chromate
Potassium bromide
Potassium chlorate
Potassium chloride and cyanide
Potassium compounds, inorganic: except potassium hydroxide and carbonate
Potassium cyanide
Potassium hypochlorate
Sodium stannate
Sodium sulfate--bulk or tablets
Sodium tetraborate, not produced at mines
Sodium thiosulfate
Sodium tungstate
Sodium uranate
Stannic and stannous chloride
Strontium carbonate, precipitated, and oxide
Strontium nitrate
Sublimate, corrosive
Sulfate of potash and potash magnesia, not produced in mines
Sulfides and sulfites
Sulfocyanides
Sulfur chloride
Sulfur dioxide
Sulfur hexafluoride gas
Sulfur, recovered or refined, including from sour natural gas
Sulfuric acid
Tanning agents, synthetic inorganic
Thiocyanates, inorganic
Tin chloride
Tin salts
Uranium slug, radioactive
Water glass
Zinc chloride

Table VIII-7 (Continued)

SIC Code	Description
3031	RECLAIMED RUBBER (6.9)

Establishments primarily engaged in reclaiming rubber from scrap rubber tires, tubes, and miscellaneous waste rubber articles by processes which result in devulcanized, depolymerized, or regenerated replasticized products containing added ingredients. These products are sold for use as a raw material in the manufacture of rubber goods with or without admixture with crude rubber or synthetic rubber. Establishments primarily engaged in the assembly and wholesale sale of scrap rubber are classified in trade industries.

Reclaimed rubber (reworked by manufacturing processes)

3241	CEMENT, HYDRAULIC (7.4)

Establishments primarily engaged in manufacturing hydraulic cement, including portland, natural, masonry, and pozzolan cements.

Cement, hydraulic: portland, natural
masonry, pozzolan

3322	MALLEABLE IRON FOUNDRIES (5.6)

Establishments primarily engaged in manufacturing malleable iron castings.

Castings, malleable iron
Foundries, malleable iron
Pearlitic castings, malleable iron

Table VIII-2 (Concluded)

SIC Code	Description
3339	PRIMARY SMELTING AND REFINING OF NONFERROUS METALS, NEC (5.4)

Establishments primarily engaged in smelting and refining nonferrous metals, not elsewhere classified. Establishments primarily engaged in rolling, drawing, and extruding these nonferrous primary metals are classified in Industry 3356, which is not electrically intensive, and the production of bullion at the site of the mine is classified in the mining industries.

Antimony refining, primary
Beryllium metal
Bismuth refining, primary
Cadmium refining, primary
Chromium refining, primary
Cobalt refining, primary
Columbium refining, primary
Germanium refining, primary
Gold refining, primary
Ingots, magnesium
Iridium refining, primary
Magnesium refining, primary
Nickel refining, primary
Nonferrous refining, primary: except copper, lead, zinc, and aluminum
Pigs, magnesium
Platinum-group metals refining, primary
Precious metal refining, primary
Primary refining of nonferrous metal: except copper, lead, zinc, aluminum
Primary smelting of nonferrous metal: except copper, lead, zinc, aluminum
Refining of nonferrous metal, primary: except copper, lead, zinc, aluminum
Rhenium refining, primary
Selenium refining, primary
Silicon, epitaxial (silicon alloy)
Silicon, pure
Silicon refining, primary (over 99% pure)
Silver refining, primary
Slabs, magnesium: primary
Smelting of nonferrous metal, primary: except copper, lead, zinc, aluminum
Tantalum refining
Tellurium refining, primary
Tin base alloys, primary
Tin refining, primary
Titanium metal, sponge and granules
Zirconium metal, sponge and granules

Source: Commerce Department Data

Table VIII-3

CATEGORY III: ENERGY-INTENSIVE INDUSTRIES
(Total Energy Costs as Percentage of Product Value, 1980)

SIC Code	Description	Energy Costs As Percent of Product Value
2046	Wet Corn Milling	8.7
2063	Beet Sugar	8.3
2083	Malt	6.7
2261	Finishing Plants, Cotton	7.4
2492	Particleboard	6.8
2611	Pulpmills	10.1
2621	Papermills, Excl. Building Paper	10.3
2631	Paperboard Mills	14.4
2816	Inorganic Pigments	8.8
2822	Synthetic Rubber	5.1
2823	Cellulosic Manmade Fibers	8.0
2824	Organic Fibers, Noncellulosic	5.2
2861	Gum and Wood Chemicals	7.1
2865	Cyclic Crudes & Intermediates	6.9
2869	Industrial Organic Chemicals, NEC	7.1
2873	Nitrogenous Fertilizers	18.2
2874	Phosphatic Fertilizers	6.0
2895	Carbon Black	10.7

Table VIII-3 (Continued)

SIC Code	Description	Energy Costs As Percent of Product Value
2951	Paving Mixtures and Blocks	6.4
3211	Flat Glass	9.8
3221	Glass Containers	10.3
3229	Pressed and Blown Glass	8.1
3251	Brick & Structural Clay Tile	20.1
3253	Ceramic Wall & Floor Tile	6.2
3255	Clay Refractories	8.0
3259	Structural Clay Products	17.3
3261	Vitreous Plumbing Fixtures	5.5
3263	Fine Earthenware Food Utensils	6.8
3269	Pottery Products, etc.	6.3
3274	Lime	31.3
3275	Gypsum Products	9.3
3295	Minerals, Ground or Treated	7.7
3296	Mineral Wool	9.1
3297	Nonclay Refractories	6.1
3312	Blast Furnaces & Steel Mills	9.7
3321	Gray Iron Foundries	7.5

Table VIII-3 (Concluded)

SIC Code	Description	Energy Costs As Percent of Product Value
3325	Steel Foundries, NEC	5.4
3333	Primary Zinc	10.3
3398	Metal Heat Treating	6.9
3624	Carbon & Graphite Products	6.6

The three remaining industries in Category II are building paper and building board mills; industrial inorganic chemicals, not elsewhere classified; primary smelting and refining of nonferrous metals, not elsewhere classified. These industries were considered further as potential candidates because of possible Alaskan feedstocks.

Industries identified in the Category III screening that are associated with food processing (e.g., wet corn milling, beet sugar, malt); textile finishing (e.g., cotton finishing plants, man-made fibers); or heavy, low-value materials (e.g., paving mixtures, lime, glass containers, brick and structural clay tile and clay products) are unlikely candidates because of the remoteness of an Alaskan location from both feedstocks and markets for these commodities. Carbon black production is energy intensive only because petroleum-based feedstocks are used in the manufacturing process and is therefore precluded from further consideration. Although ammonia production is energy intensive for the same reason, electrically driven compressors can be substituted for gas-fired turbines in the production process. Furthermore, the major feedstock for ammonia production, natural gas, is available in Alaska. For these two reasons, ammonia production was selected for limited consideration. The construction of new processing facilities of most primary metals (e.g., copper, steel) is unlikely in the Railbelt region primarily because these industries are dependent on nearby feedstocks and are likely to remain depressed in the U.S. economy in the foreseeable future. In addition, the consequences of energy conservation (e.g., automobile downsizing) have caused the heavy manufacturing industries that are supplied by the primary metal industries to permanently reduce their requirements for feedstock. Although selected primary metals (e.g., zinc) might benefit from the combination of Alaskan feedstocks and low-cost electrical energy for thermal processes, most of these industries are unlikely candidates for expansion throughout the remainder of this century. The only industries in Category III that were retained for further consideration were ammonia production, nonferrous metals, and paperboard mills.

In addition to the Category I, II, and III industries retained for further screening, four other potential large-scale electrical energy uses were considered as specified in the statement of work. The list of industries and "other industrial applications" evaluated in Section IX are listed in Table VIII-4.

Table VIII-4

INDUSTRIES AND OTHER INDUSTRIAL APPLICATIONS EVALUATED AS POTENTIAL LARGE USERS OF RAILBELT ELECTRICAL POWER

Category I

- The Aluminum Industry (SIC 3334, Primary Production Aluminum)
- The Chlor-Alkali Industry (SIC 2812, Alkalies and Chlorine)
- Industrial Gases (SIC 2813, Industrial Gases)
- Ferroalloy and Miscellaneous Metal Alloy Production (SIC 3313, Electrometallurgical Products)

Categories II and III

- Pulp and Paper Industry (SIC 2661, Building Paper and Building Board Mills; 2611, Pulpmills; and 2621, Papermills, Excluding Building Paper)
- Cement Industry (SIC 3241, Hydraulic Cement)
- Chemical Industry (2719, Industrial Inorganic Chemicals, NEC)
- Primary Metals Industry (SIC 3339, Primary Smelting and Refining of Nonferrous Metals, NEC; SIC 3333, Primary Zinc)
- The Fertilizer Industry (SIC 2873, Ammonia Production, Nitrogenous Fertilizers; 2874, Phosphate Fertilizers)

Other Applications

- Agglomerations of Small Industrial Facilities
- Residential Space Heat
- Electrification of Alaskan Railroad Intertie with the Lower 48
- Intertie with the Lower 48.

IX EVALUATION OF POTENTIAL LARGE USERS OF RAILBELT ELECTRICAL ENERGY

To evaluate the real potential of the candidate users of electrical energy, the likely characteristics of representative process plants in the selected industries must be considered. Because of the increasing importance of energy costs in recent years, much of the research and development in the candidate industries is devoted toward reducing process energy costs. The effect of these efforts should be to increase the likelihood of the construction of new process facilities in the candidate industries, but to reduce the importance of a regional location based on low cost electrical energy. The industry averages used to select candidate industries undoubtedly overestimate the importance of the costs of electrical energy for new facilities because they include marginal facilities that might be replaced by more efficient plants during a period of economic expansion. In the specific industry analyses which follow, the most recent available data on plant efficiency were used to evaluate the attractiveness of low-cost electrical energy. In each case the reduced costs of an Alaskan location attributable to inexpensive power must be balanced against the increased costs associated with an Alaskan location.

A range of electric energy rates, including a most probable competing energy rate (where possible), was assumed when comparing energy savings with additional transportation, construction (e.g., capital) and labor expenses associated with a Railbelt location. Because of industry infrastructures and market locations, the competitiveness of given electrical energy prices to attract new industry varies with the industry. Aluminum smelters are typically sited in lower-cost energy locations than chlor-alkali plants, which are more dependent on local resources. Since the availability of the low-cost electric power is highly dependent on the demand scenario associated with Alaskan population growth and petroleum-derived state revenues, SRI assumed for the purposes of the study that sufficient capacity would be available for at least one "world-class" plant in each category (e.g., 2,700 GWh annually for an aluminum smelter).

In addition to energy requirements, a major consideration for prospective Alaskan industries is the cost of transporting raw materials to Alaska and the resultant products to user markets. Materials and products which are subject to mass handling techniques and bulk shipment are preferable because lower handling costs associated with such materials reduce the overall cost of transportation. Transportation costs were considered for a "typical" facility to determine the additional expense

of this factor associated with an Alaskan location. Related to transportation costs is the important consideration of the ability of the candidate industries to utilize indigenous Alaskan raw materials.

Primary industries with relatively simple input requirements may be most easily sited initially. As will be described in the industrial analyses which follow, however, synergistic relationships can form as an industrial base develops and industries are able to utilize locally produced materials. As an example, caustic soda from chlor-alkali production is an important input to alumina production, or facilities producing bulk commodities such as caustic soda might provide a partial return cargo for Alaska-bound alumina carriers serving aluminum smelters in the state.

Other important factors are the relatively high costs for labor and construction in the state, the degree of labor intensiveness of candidate industries, the relative proximity of markets, and the overall projected demand for candidate industry products.

The Aluminum Industry

Of the industries which have been examined, aluminum has, at .154, the third highest ratio of purchased electrical energy costs to value of shipped product. In spite of the high energy costs associated with aluminum production, the metal increasingly contributes to energy efficiency in other products, particularly in the transportation sector. As a result, projections for aluminum demand indicate annual growth of 4-6%[4,5] over the next decade. As the aluminum industry continues to expand, areas offering low-cost electricity will be considered as locations for new plants.

Currently, the industry is dominated by six multinational corporations which collectively account for over 66% of the world's bauxite/alumina production and 54% of aluminum metal production.[6] As shown in Table IX-1 and Table IX-2, these corporations are:

- The Aluminum Company of America (Alcoa, U.S.A.)
- Pechiney Ugine Kuhlmann (France)
- Swiss Aluminum (Alusuisse, Switzerland)
- Aluminum Company of Canada (Alcan, Canada)
- Reynolds Metals Company (U.S.A.)
- Kaiser Aluminum and Chemical Corporation (U.S.A.).

Table IX-1

INVESTORS IN THE ALUMINUM INDUSTRY: ALUMINA REFINERIES, 1979
(Thousands of Tons; Percentage)

	Capacity in Developed Countries	Capacity in Developing Countries	Total Capacity		
			Thousands of Tons	As Percentage of Market Economy Countries' Capacity	As Percentage of World Capacity
Six Major Transnational Corporations					
Alcan	2,208	1,344	3,552	12.2	10.3
Alcoa	4,135	1,966	6,101	20.9	17.8
Alusuisse	1,265	36	1,301	4.5	3.8
Kaiser	2,645	471	3,116	10.7	9.1
Pechiney	2,169	130	2,299	7.9	6.7
Reynolds	2,318	430	2,749	9.4	8.0
Total	14,740	4,377	19,118	65.6	55.7
Other TNCs with Private Investors in Developed Market Economy Countries	5,772	738	6,510	22.3	18.9
Governments of Developed Market Economy Countries	1,569	18	1,587	5.4	4.6
Governments of Centrally Planned Countries	5,208	-	5,208	-	15.2
Governments of Developing Countries	-	1,590	1,590	5.5	4.6
Private Investors in Developing Countries	-	355	355	1.2	1.0
World Total	27,289	7,078	34,368	100.0	100.0

Source: United Nations Centre on Transnational Corporations, as published in Transnational Corporations in the Bauxite/Aluminum Industry, United Nations, 1981, p. 37.

Table IX-2

INVESTORS IN THE ALUMINUM INDUSTRY: ALUMINUM SMELTERS, 1979
(Thousands of Tons; Percentage)

	Capacity in Developed Countries	Capacity in Developing Countries	Total Capacity: Thousands of Tons	Total Capacity: As Percentage of Market Economy Countries' Capacity	Total Capacity: As Percentage of World Capacity
Six Major Transnational Corporations					
Alcan	1,355	154	1,509	11.2	8.6
Alcoa	1,673	131	1,804	13.4	10.3
Alusuisse	649	-	649	4.8	3.7
Kaiser	884	227	2,222	8.2	6.3
Pechiney	973	71	1,044	7.7	6.0
Reynolds	1,043	82	1,125	8.3	6.4
Total	6,577	665	7,242	53.6	41.3
Other TNCs and Private Investors					
Europe	686	13	699	5.1	4.0
United States and Canada	1,218	32	1,251	9.3	7.1
Other	1,652	26	1,678	12.4	9.6
Total	3,556	71	3,628	26.8	20.7
Governments of Developed Market Economy Countries	1,569	-	1,569	11.6	9.0
Governments of Developed Centrally Planned Economies	3,732	-	3,732	-	21.2
Developing Country Governments	-	979	979	5.2	5.6
Developing Country Private Investors	-	378	378	2.8	2.2
Market Economy Countries, Total	11,703	1,821	13,522	100	
World, Total	15,434	2,093	17,528		100

Source: United Nations Centre on Transnational Corporations, as published in Transnational Corporations in the Bauxite/Aluminium Industry, United Nations, 1981, p. 37.

Collectively, these corporations have aluminum smelters in virtually all developed countries. Historically, smelting facilities have been located in developed countries, which have imported bauxite (or alumina), the primary feedstock for aluminum production. As energy prices have risen, smelters are being built with increasing frequency in countries with indigenous bauxite and lower-priced electric power.

The effect of high energy costs on aluminum production is particularly evident in both Japan and the United States, as is the effect of worldwide recession on the demand for aluminum. It is estimated that Japan's internal smelting capacity will decrease 40% by mid decade from the level of 1,204,000 metric tons of 1981, largely as a result of increased electricity costs in Japan. In 1981, Japanese smelters were facing electrical rates 2 to 23 times those available in the United States and Canada. As production has decreased in Japan, Japanese companies have increasingly participated in joint refinery projects overseas and are building smelters in Australia, Brazil, and Indonesia.[7] In the United States, aluminum producers have also been faced with escalating electrical energy costs at a time when plants are operating at approximately 40-60% of capacity, largely due to the current recession. In the Northwest, for example, the Bonneville Power Administration indicated that electrical rates for aluminum smelters would increase 49.7% to 25.9 mills/kWh, up from 17.3 mills, effective October 1, 1982. Initial industry reaction has been to indicate that such rate increases will seriously affect plans for capital investment and plant modernization in the area, which currently accounts for about 1/3 of U.S. production capacity.[8]

The most recently constructed U.S. aluminum smelter, the Alumex plant at Mt. Holley, South Carolina, is reported to use 6.24 kWh/lb of metal produced. A representative of Kaiser Aluminum indicated, during a telephone interview, that major breakthroughs in electricity usage are not expected and that 6.24 kWh/lb should be regarded as representative for plants which will come on line in the early 1990s.

In spite of the rising cost of energy in the developed nations, some experts believe that a large-scale shifting of aluminum production to developing countries will not occur. Indigenous electrical energy needs of the developing countries will compete for available power and may make other energy sources in developed countries, such as U.S. western coal reserves, economically attractive. There are also concerns about political stability in some of the developing countries, the higher costs associated with construction in remote areas, and the distance of such facilities from aluminum markets.

As noted in a recent United Nations report on the aluminum industry, "finance charges contribute about as much as do alumina and power to the cost of a ton of aluminum metal for a new smelter. Cheap power will not make a smelter competitive."[9] Since Alaska offers the potential combination of political stability and low-cost power, it remains to examine the importance of other costs which may be pivotal in decisions to site aluminum production facilities in the state.

Foremost among these other costs is the cost of transporting both raw materials to Alaska and aluminum ingot or finished products to markets in the United States and the Pacific basin. Primary aluminum production consists of two steps. The first is the mining and subsequent refining of bauxite into alumina, which is followed by smelting into primary aluminum ingots. The principal producers of bauxite are Australia, Guinea, and Jamaica as shown in Table IX-3. These countries, however, produce only a small fraction of the world's aluminum. Aluminum production is dominated by the United States, the U.S.S.R., Japan, and Canada (Table IX-4). Thus, the aluminum industry has historically transported bauxite/alumina over long distances to smelting facilities.

Transportation Costs

Both bauxite and alumina can be shipped using bulk handling procedures. Although alumina transportation costs are generally higher than for bauxite, there are advantages to refining bauxite into alumina at the mine since 2 to 2.5 tons of bauxite are required to produce 1 ton of alumina. This process requires only small amounts of caustic soda and other materials and consumes only 300 to 350 kWh of electrical energy per ton of alumina, as compared to the refining of aluminum, which requires 14 to 16 MWh (industry average) of electrical energy per ton of aluminum produced (Table IX-5 and Table IX-6).

Many exporting countries are increasingly shipping alumina rather than unrefined bauxite. Australia is an example of this trend. Approximately 74% of alumina imported by the United States is obtained from Australia, but no bauxite has been imported from Australia in recent years. It should also be noted that relative sizes of world-class alumina plants and aluminum smelters are significant in determining the structure of the industry which might develop in Alaska. Most new alumina plants have capacities in excess of 500,000 tons/year, and at least 10 have capacities in excess of 1,000,000 tons. Aluminum smelters tend toward capacities above 100,000 tons, usually around 200,000 metric tons. As a result, a single world-class alumina facility can support a number of smelters. This fact, in combination with the distances which bauxite would have to be transported, suggests that one or more aluminum smelters, as opposed to alumina processing plants, would be the most likely facilities located in Alaska, with alumina feedstocks coming from Australia.

Although our analysis indicates that the Alaskan smelting site might incur increased transportation charges compared to the Pacific Northwest, Alaskan sites may not incur significantly higher charges than most other U.S. smelting sites. Alaska is closer to Australia than east coast smelters such as the newly completed Mount Holly plant in South Carolina, which is importing alumina from Alcoa of Australia. In addition, Alaska is less than 1,600 miles above smelters in the Pacific

Table IX-3

BAUXITE AND ALUMINUM PRODUCTION IN 1980
(Metric Tons x 1000)

	Bauxite	Aluminum
Australia	27,584	369
Guinea	14,000	-
Jamaica	12,261	-
USSR	4,600	2,167
U.S.	1,460	5,463
Japan	-	1,323
Canada	-	1,295
World Total	89,933	16,940

Source: 1980 Minerals Yearbook

Table IX-4

1980 ALUMINUM PRODUCTION PERCENTAGE

U.S.	30.3
Canada	6.9
Japan	7.1
Western Europe	23.3
Eastern Europe	16.2
Australia & New Zealand	3.0
Rest of World	13.2

Source: 1980 Minerals Yearbook

Table IX-5

REPRESENTATIVE INPUTS FOR 1 METRIC TON OF ALUMINA

Bauxite, dry	2.0 to 2.5 tons
Caustic soda	0.07 to 0.17 tons
Fuel oil (steam and calcinating)	0.28 to 0.38 tons
Electric energy	300 to 350 kWh
Total labor and supervision	2.5 to 5 hours

Source: United States Bureau of Mines, Mineral Commodity Profile, May 1978, as reported in Transnational Corporations in the Bauxite/Aluminum Industry, United Nations, 1981.

Table IX-6

REPRESENTATIVE INPUTS FOR 1 METRIC TON OF ALUMINUM

Alumina	1.92 - 1.95 tons
Calcined petroleum coke	0.40 - 0.45 tons
Pitch	0.14 - 0.16 tons
Fluoride salts (with dry scrubbers)	0.02 - 0.03 tons
Electric energy	14 - 16 MWh
Labor and supervision	10 - 20 hours

Source: Transnational Corporations in the Bauxite/Aluminum Industry, United Nations, 1981, p. 17.

Northwest. Transportation costs on a per mile basis tend to decrease with distance, because the relatively fixed costs of time spent in terminals and handling charges are spread over the larger distances. Thus, the added expense associated with this extra distance may not be significant compared to the cost savings of inexpensive power.

Transportation charges for bauxite to the U.S. mainland averaged $5.77 per metric ton in 1980, although charges from some countries were in excess of $10.00 per ton. Alumina shipping charges averaged $16 per ton; however, as a fraction of product value, bauxite transportation charges averaged 18% as opposed to 9% for alumina, reflecting the added value associated with alumina.

An analysis of the additional transportation costs associated with an Alaskan location is complex. A major consideration is the suitability of harbor facilities in Alaska. Although 35,000-ton shipments are common, bauxite vessels are projected to increase in size to 60,000-100,000 dwt because efficiencies increase for bulk materials as vessel size increases and because of bauxite's low value per unit weight. Alumina vessel capacities are expected to remain under 50,000 dwt. Harbor facilities at Kenai, for example, might accommodate such tonnages, but it is not clear that access to these private harbor facilities is possible. Use of the port of Anchorage would require the smaller 35,000-ton vessels, while construction cost for a new port would be on the order of $28,000,000.[10]

Weather is another important factor. In the 1960s, Alcoa stockpiled materials during the ice-free season on the St. Lawrence and subsequently developed a large shipping business in Canada to effectively utilize its shipping capacity during the off-season. Thus, potential delays associated with use of the port of Anchorage or other harbors due to dredging or ice formation could affect overall transportation costs.[11]

Other factors which influence transportation cost calculations are the degree to which carriers are owned by the aluminum companies and their accounting practices. Rates can also vary markedly depending on the destination of the shipping run, independent of the distance traveled. For example, lack of return cargos can have a significant effect on shipping costs.[12]

Even more important than feedstock transportation costs are the costs associated with transporting aluminum metal. Approximately 90% of aluminum is produced in the developed countries where it is consumed. On a per weight basis it is estimated that aluminum transportation is 4 to 5 times more costly than bauxite or alumina because of added handling costs associated with the discrete ingots. Thus, the location of smelting facilities geographically close to metal users in the developed countries may have helped to offset rising electrical energy costs. As aluminum smelters are located near bauxite resources, overall transportation charges can increase.

Based on current U.S. averages for transportation costs in the aluminum industry, SRI estimates that transportation costs are approximately 7% of the primary aluminum value.[13] While Alaska may be more distant from U.S. aluminum users than other smelters in the U.S., it is closer to Japanese and other Pacific basin markets. As such, Alaskan transportation costs may not be higher than those of other U.S. smelters. Some increase in transportation costs may result from the need for additional alumina storage and delays associated with weather. SRI estimates that a transportation adjustment factor of 0% to 10% of the average U.S. rate is appropriate for computing additional transportation costs associated with an Alaskan site.

Capital Cost

An estimate of the capital costs for a smelter in Alaska can be made by using a location adjustment factor and data on cost of construction for a similar facility operating in the Lower 48. As stated previously, SRI estimates an adjustment factor of approximately 1.5 for construction of plants in the Anchorage area relative to the Lower 48. Only one new smelter facility has been constructed in the United States since 1973. This is the Mt. Holly plant, built by Alumax, Inc., at Mt. Holly, South Carolina, which went into operation in 1980. This plant cost $350,000,000, of which $40 million was attributed to environmental controls (that might be inadequate for an Alaskan location). The plant occupies 300 acres, receives over 35,000 short tons of alumina from Australia per month, and produces approximately 197,000 metric tons of aluminum product annually. It has an alumina storage capacity of approximately 40,000 tons and is located 14 miles from its port facility in North Charleston. The plant employs approximately 700 persons.[14]

Labor Costs

Since there are no nonferrous metal smelters in operation in Alaska, the differential in labor cost to be expected, relative to other U.S. sites, must be computed by comparison with other published industry labor data. The method used compares the ratio of hourly wages for primary metal production to general manufacturing, modified by specific plant data published for the Mt. Holly facility. As shown in Table IX-7, primary metal workers' hourly earnings are consistently higher than general manufacturing workers'. The variation is highest in the southern states at about 40% but decreases in the Northwest to less than 20%. Total annual payroll reported for the Mt. Holly plant in 1980 was $16,000,000 or an average hourly rate per employee of $10.98. This average, unlike Table IX-7 data, includes salaried professions. Based on an average 42% higher salary paid primary metal workers over general manufacturing in the Southeast, the average hourly rate for the Mt. Holly plant is estimated at $7.94 using the data in Table IX-7 on general manufacturing labor rate in South Carolina. The additional $3.04 ($10.98 minus $7.94) per employee in South Carolina accounts for the salaried management component of the overall plant payroll.

Table IX-7

1980 AVERAGE HOURLY MANUFACTURING WAGES FOR PRIMARY METALS AND MANUFACTURING
($ in Millions)

	Manufacturing	Primary Metals	Ratio (Primary Metals/Manufacturing)
U.S. Total	7.27	9.77	1.34
Alaska	10.22	-	-
South Carolina	5.59	-	-
Washington	9.41	10.74	1.14
Oregon	8.65	10.24	1.18
Texas	7.15	8.99	1.26
Kentucky	7.34	10.44	1.42
Tennessee	6.08	8.58	1.41
West Virgina	8.08	11.73	1.45

Source: U.S. Bureau of Labor Statistics as reported in the "Geo-Economic Index," Site Selection Handbook, May 1982, Conway Publications, Inc.

Although average U.S. hourly rates are 42% higher than in the Southeast, it is assumed that the Mt. Holly plant is paying above the prevailing wage in the region. Assuming that the U.S. rate is only one-third greater than the Mt. Holly rate. It is estimated that a hypothetical 1980 overall hourly rate in the U.S. for Mt. Holly type plants would have been $14.64. Overall plant payroll in Alaska, assuming a similar percentage of management personnel as at Mt. Holly and a factor of 1.4 (ratio of Alaska to U.S. average labor rates in Table IX-7), would thus be:

(1.4) x (700 employees) x ($14.64) x (1,920 hours) = $27.5 million.

Adjusted for inflation, this would amount to $30.3 million in 1982 dollars for an Alaskan smelter as opposed to $17.6 million in the Mt. Holly facility. (A hypothetical U.S. average plant would have a $21.6 million payroll.) Thus, the additional labor cost for an Alaskan smelter would be approximately $12.7 million annually. If a lower differential of 1.3 is used for Alaska labor costs, the additional labor costs would be only $10.5 million annually.

Construction Costs

If a Mt. Holly type plant were constructed today, it is estimated that it would cost between $450 million and $500 million. In Alaska, a similar plant would cost approximately $675 million to $750 million, assuming a construction adjustment factor of 1.5. The cost differential is between $225 million and $250 million. Over 30 years, assuming a 10% interest rate, this differential produces an additional annual cost of approximately $25 million per year.

Electricity Rates

Average U.S. industrial electrical power costs have been escalating rapidly since 1970. After many years of constant real costs, large power user rates jumped from an average of about $0.015/kWh in 1970 to an average of $0.046/kWh in 1980 and $0.054/kWh in 1981.[15]

Aluminum smelters are generally located in regions with industrial electricity rates well below the average. Using the published electricity rates for aluminum smelters plus other published rate data, it is estimated that Alaskan power must compete with average current rates of $0.026/kWh to $0.029/kWh (1982 dollars).

Alaskan Site Sensitivity Summary

In Table IX-8 are summarized some of the major additional-cost differentials which are expected to be incurred in siting an aluminum smelter in the Railbelt region near an existing port facility. Additional construction expenses associated with taxes, housing, or harbor modification are not included.

Table IX-8

ANNUAL COST DIFFERENTIALS ASSOCIATED WITH ALASKAN SMELTER
($ 1982)

	Increase
Labor	$10.5 to $12.7 million
Construction	$25 million
Transportation	$0-$2.2 million
Total	$35.5-$39.9 million

Table IX-8 indicates that electrical power savings associated with Susitna power must be in excess of $35-$40 million annually to offset other higher costs associated with location in the state. Based on plant usage of 6.24 kWh per pound of product and 197,000 metric tons of output, the plant requires 2,700 GWh annually. Susitna power must therefore be $.014/kWh to $.016/kWh cheaper than competing sites to reach "break-even" against the added differential costs computed above. Table IX-9 shows the maximum prices at which Susitna power can be sold to achieve "break-even." Thus only the 100% state grant case could provide power at a sufficiently low price to compete effectively (see Table III-1). It is questionable that sufficient power (2,700 GWh) would be available for a single large aluminum facility at this rate since demand would increase significantly from domestic users at this low rate.

Table IX-9

POWER COST SENSITIVITY OF SMELTER FACILITY*
($/kWh)

Competing site power rates	.029	.035	.050
Susitna power rates at "break-even"	.015	.021	.036

*Assumes $40 million must be saved to offset costs.

The Chlor-Alkali Industry

The ratio of purchased electricity to value of shipments for the chlor-alkali industry in 1980 was 18.8%. The primary electrically intensive products of the chlor-alkali industries are sodium hydroxide (NaOH) and chlorine (Cl_2). Chlorine is produced commercially through the electrolysis of brine, with sodium hydroxide (also known as caustic soda) as a byproduct. Table IX-10 contains a comparison of U.S. chlorine capacity and production. Sodium hydroxide production follows a pattern similar to chlorine production, with some variation.[16] Sodium hydroxide capacity and production are compared in Table IX-11.

The top five producers, shown in Table IX-12, account for over 65% of U.S. capacity. Dow Chemical, the major producer of chlorine, accounts for almost one-third of U.S. production. In the world production of chlorine, the U.S. share, second to Europe, is 36% (see Table IX-12). Approximately 54% of total U.S. chlorine production is liquefied for sale or in-plant transport; the remainder is used captively by producers to make chlorinated products or transferred via pipeline as a gas. Geographic distribution of chlorine production is listed in Table IX-14.

Table IX-10

U.S. CHLORINE CAPACITY AND PRODUCTION
(Thousands of Metric Tons)

Year	Capacity	Production	Operating Rate (Percent)
1977	14,281	11,630	80.9
1978	15,243	12,157	79.8
1979	15,725	13,520	86.0
1980	15,815	12,563	79.4
1981	15,860	11,615	73.2

Source: Current Industrial Reports, U.S. Department of Commerce

Table IX-11

U.S. SODIUM HYDROXIDE CAPACITY AND PRODUCTION
(Thousands of Metric Tons)

Year	Capacity	Production	Operating Rate (Percent)
1977	12,532	9,979	79.6
1978	13,082	10,275	78.5
1979	13,604	11,242	82.6

Source: Current Industrial Reports, U.S. Department of Commerce

Table IX-12

THE TOP FIVE U.S. CHLORINE PRODUCERS

	Percent
Dow Chemical U.S.A.	31.3
PPG Industries, Inc.	10.4
Diamond Shamrock Corp.	8.8
Occidental Petroleum Corp.	7.9
Olin Corp.	6.8
Others	34.8

Source: SRI

Table IX-13

WORLD PRODUCTION OF CHLORINE

	Percent
Europe	47
United States	36
Asia	11
Canada	4
South America, Oceania, and Africa	2
Total	100

Source: Encyclopedia of Chemical Technology

Table IX-14

U.S. CHLORINE PRODUCTION
BY GEOGRAPHIC AREA

Geographic Area	Metric Tons (000s)	Percentage
New England	656.2	5.0
Middle Atlantic	505.9	3.9
North Central	858.3	6.6
South Atlantic	942.2	7.2
East South Central	1,531.1	11.7
West South Central	7,640.1	58.5
Mountain & Pacific	935.2	7.2

Source: The Chlorine Institute

Chlorine is primarily used for the manufacture of organic chemicals. Other uses include pulp, paper, and textile bleaching, the production of inorganic chemicals, water and waste treatment, cleaning and sanitation products, and metallurgical processing (see Table IX-15). Of the 12,563,000 metric tons of chlorine produced in 1980, 564,058 tons (4.5%) was shipped as a gas. Out of the 7,774,565 tons produced as a liquid, 4,621,980 tons were commercially shipped; of this, only 128,626 tons were exported.[17] This low figure is primarily due to the risk of chlorine transportation.

Though the pulp and paper industry has been a significant user of chlorine, there is a trend to move away from chlorine dependence by way of substitutions. Due to a tightening of Cl_2 and NaOH supply,[18] prices have risen faster than inflation. The imbalance has became worse as pulp and paper producers (who spend $600 million on bleaching chemicals a year) substitute other bleaching agents for chlorine. For example, the replacement of conventional Cl_2 processes by oxygen-using processes is one trend. Another trend is the substitution of chlorine dioxide, which possesses 2.63 times the oxidizing equivalent of chlorine. Mills using hardwood feeds are said to decrease chlorine consumption by almost 30%. In addition, chlorine-base products also face competition from hydrogen peroxide.

According to the data in Table IX-16, chemical manufacturers consume almost half of the sodium hydroxide used (in 1979 this amounted to approximately 5 million metric tons). The production of alumina from bauxite by the Bayer process is one of the major chemical uses of sodium hydroxide. The volume of NaOH is approximately 9% of the alumina produced; in 1979, for example, 540,000 metric tons were consumed to produce 6 million tons of alumina. A large portion of sodium hydroxide exports in liquid form has been to countries that are major manufacturers of alumina (e.g., Australia, Jamaica, and Surinam). Destinations for most caustic exports will continue to be tied to trends in alumina production. Unfortunately, because it is more economical to produce alumina at the site where it is mined, it is unlikely that this potential infrastructural synergism could develop between the two industries in Alaska.

The pulp and paper industry, however, may provide a potential interaction. Because of the limited supplies and high prices, the pulp and paper industry (which consumed over 2 million tons of caustic soda in 1979) has turned to other sources. Several mills, for example, are using sodium sulfate as a substitute. Now, however, partly due to regional shifts to alternative chemicals such as sodium sulfate and soda ash, caustic supplies have become more plentiful and prices have fallen. As a result, production rates have dropped from 80.2% in June 1981 to as low as 65% in June of 1982.[19]

Table IX-15

U.S. CONSUMPTION OF CHLORINE
(1979)

	Metric Tons Consumed	Percent
Organic Chemicals	7,834,000	71.1
Pulp & Paper Production	1,215,000	11.0
Inorganic Chemicals	648,000	5.9
Water Treatment	500,000	4.5
Other	830,000	7.5

Source: SRI International

Table IX-16

U.S. CONSUMPTION OF SODIUM HYDROXIDE
(1979)

	Metric Tons Consumed	Percent
Chemical Manufacturing	5,000,000	49.7
Pulp & Paper Manufacturing	2,050,000	20.4
Cleaning Products (Soaps, Bleaches, etc.)	634,000	6.3
Petroleum & Natural Gas	495,000	4.9
Cellulosics (Rayon, etc.)	267,000	2.6
Cotton Mercerizing	170,000	1.7
Other		14.4

Source: SRI International

Another contribution to the decrease in price has been the contribution of energy-saving production technology. Previous chlor-alkali production has been dependent on various designs based on the diaphragm or mercury intermediate electrode. A new generation of electrolytic cells is now being developed which promises to cut energy consumption by 20% and more.[20]

PPG is converting the diaphragm chlor-alkali cells to the more efficient (by 25%) bipolar electrolyzer technology that the company has developed.[21] (Other companies, such as Diamond Shamrock, Chemetics, and Occidental Research, are also installing electricity-cutting technologies involving new catalysts and separation membranes.) These new methods can be expected to reduce the importance of the cost of electricity.

In the economics of the production process, investment costs for a 1-billion lb-per-year chlorine plant in the U.S. are approximately $260 million. Based on the typical escalation factor for construction in Alaska, the investment in a Railbelt site would be expected to be approximately $395 million in 1982 dollars. At 10% interest, the annualized cost differential for an Alaskan location would be approximately $14 million. Electricity consumption using diaphragm cells is approximately 1.28 kWh/lb of Cl_2 produced. For each pound of Cl_2 produced, approximately 1.128 lb of NaOH is produced. For a typical plant producing 1 billion lb of Cl_2 annually, electricity consumption is equal to 1,280 GWh annually. At the current average price of $0.045/kWh, annual electricity costs are $57.6 million.

Labor operating costs for the facility will be approximately $7.5 million annually. For an Alaskan location, the operating labor cost differential would be $2.25 million based on an adjustment factor of 1.3. Estimates of the costs associated with transporting the product to market were obtained from shipping firms. The cost of transporting the Cl_2 and NaOH from Anchorage to Seattle by container ship range from $0.042/lb to $0.059/lb for Cl_2 and $0.031/lb to $0.043/lb for NaOH (50% solution). If the additional cost of transporting salt from Baja to Anchorage and distributing the product from Seattle is ignored, the annual transportation penalty for an Alaskan location would be approximately $92 million.

Table IX-17 summarizes the pertinent data for a large Cl_2 plant. Table IX-18 summarizes the cost differential for an Alaskan location. The $108 million cost penalty can only be offset if Alaskan electricity is $0.084/kWh below the prevailing rates in competing regions. The high cost of transportation makes the production of Cl_2 an unlikely candidate industry for an Alaskan location.

Table IX-17

DATA FOR A LARGE (1 BILLION LB/ANNUALLY)
Cl_2 PLANT LOCATED IN ALASKA

Capital Cost	$260 million
Electricity Usage	1,280 GWh
NaOH Product	1.13×10^9 lb
Raw Material Costs	$.75 million
Direct Operating Costs (including Labor)	$15.4 million
Indirect Operating Costs	$41.9 million
Electricity Costs	$57.6 million
Other Utility Costs	$16.7 millior

Source: SRI International

Table IX-18

COST SAVINGS AND PENALTIES
ASSOCIATED WITH AN ALASKAN LOCATION FOR A Cl_2 PLANT

Construction Differential	½ 14 million
Labor Differential	$ 2.25 million
Transportation Differential	$ 92.0 million
Total	$108.25 million

Source: SRI International

The Industrial Gases Industry

As a group, industrial gases had the highest ratio of electrical energy purchases to product value, .233. Gases within this classification include:

Acetylene	Neon
Argon	Nitrogen
Carbon dioxide	Nitrous oxide
Helium	Oxygen
Hydrogen	

Based on the value of U.S. shipments, oxygen and nitrogen are the most economically significant, as shown in Table IX-19.

Acetylene, carbon dioxide, and hydrogen are all made from hydrocarbon refining processes. Carbon dioxide and hydrogen are both largely produced by steam reforming of natural gas. Nitrogen, oxygen, and argon are more energy intensive and are produced by the cryogenic separation of air into its elemental constituents.

The primary producers of industrial gases are:

- Airco Industrial Gases Division of Airco Inc.
- Industrial Gases Division of Air Products and Chemicals, Inc.
- Linde Division of Union Carbide Corp.

Currently, Alaska has a 30-ton/day air separation plant owned by Liquid Air Corporation. Acetylene is also produced in the state. Production of the other hydrocarbon-derived gases in Alaska was not confirmed but is certainly feasible with the abundant feedstocks available.

After World War II, large air separation plants were constructed in the United States, primarily to supply oxygen to the steel industry. Most large facilities are near their primary users and utilize pipelines for product transportation. Until recently, the synfuels industry seemed likely to emerge as a major oxygen consumer. Based on SRI energy price projections, it now seems unlikely that the synfuel industry will emerge as a major user of oxygen by the year 2000.

The co-product of air separation, nitrogen, is expected to show continued strong growth for secondary oil recovery. At least one company, Ingersoll-Rand Enhanced Recovery Company, builds cryogenic air separation plants with compression capability at oil and gas field sites substituting hydrocarbon-based energy for electricity. Table IX-20 shows a breakdown of market share for various oxygen and nitrogen producers.

Table IX-19

1979 VALUE OF U.S. SHIPMENTS OF INDUSTRIAL GASES
(In Millions of Dollars)

Oxygen	502.4
Nitrogen	407.3
Acetylene	175.2
Argon	136.5
Carbon Dioxide	130.4
Hydrogen	119.0

Source: U.S. Department of Commerce, 1979 Industrial Gases Report issued November 1980.

Table IX-20

OXYGEN AND NITROGEN
ON-SITE AND MERCHANT CAPACITY
(Tons per Day)

	Oxygen Gas	%	LinLox	%	Oxygen Gas	%	LinLox	%
Linde	27,158	43.3	13,000	36.0	50,000[a]	34.6	26,700	35.6
Airco	8,935	14.3	6,100	17.0	20,500[b]	13.8	13,000	17.3
Air Products	10,180	16.3	5,900	16.3	25,000[c]	17.3	14,000	17.7
Big Three	7,883	12.6	3,600	10.0	15,000	10.4	6,500	8.4
Liquid Air	4,000	6.3	3,600	10.0	7,000	4.8	8,000	10.7
Liquid Carbonic	0	0.0	1,400	3.9	3,000	2.1	2,500	3.3
Burdox	630	1.0	800	2.2	1,000	0.8	1,500	2.0
Burdett	400	0.6	1,200	3.3	1,500	1.0	2,000	2.7
Others	3,465	5.5	500	1.5	22,000	15.2	800	1.0
Capacity (billion cubic feet)	397		263		916	520		
Demand (billion cubic feet)	292		163		780	410		
Operating Rate	73%		62%		85%	80%		

Note: Oxygen gas: on-site. LinLox (liquid nitrogen and oxygen): merchant.

[a] 6,000 tpd synfuel on-site.

[b] 6,000 tpd synfuel on-site.

[c] 8,000 tpd synfuel on-site.

Source: Smith Barney Harris Upham & Co., as quoted in Chemical Business, May 4, 1981.

In the last two decades, two trends have been in evidence in the industrial gas industry. The first is a shift toward bulk liquefied gas transportation with a commensurate decrease in the use of small gas cylinders as a major transportation mode, and the second is an increase in the number of small plants and on-site production facilities. Both of these trends are brought about by the high cost of transporting compressed and liquefied gases. Currently, no industrial gas is shipped from Alaska. Nationwide, the industry is operating below capacity, particularly in the Pacific Northwest.

Since there are no bulk shipments of industrial gases from Alaska, precise transportation charges are not available. Using current classification rates for liquid nitrogen, however, transportation costs relative to product value were examined.

All industrial gases are subject to widely varying prices depending on the quantity of gas required, location of the user, length of contract, supplier competition, and availability of feedstocks. Prices on the west coast for nitrogen are approximately $.40 per 100 ft^3 of gas based on a 3-year contract and usage of 700,000 ft^3 per month. This figure does not include vaporization charges or storage tank leasing fees. Currently, rail barge service is available from Anchorage to Seattle, and it is assumed that liquid nitrogen could be transported by railcar. An average tank car weighs approximately 111,000 lb and has a liquid nitrogen capacity of 82,000 lb (or 840,000 ft^3 of gas when vaporized). Southbound transportation costs, Anchorage to Seattle, for 80,000 lb of nitrogen are quoted, using class rates, at $4.60/100 lb. Thus, for a typical rail car, the ratio of transportation costs to product value would be 1.10.[22]

Given regular shipments, this class rate could be greatly reduced, however, even if it were reduced by 50%, transportation costs alone would outweigh the advantage of inexpensive electricity, even if it cost as little as $0.005/kWh. Thus, while indigenous Alaskan gas producers would certainly benefit from lower industrial power rates, even free energy would not overcome the cost of transportation outside the state.

The Ferroalloy Industry

The production of ferro and nonferrous additive alloys is electrically intensive (electric energy/shipped product value ratio of .141). These alloys are primarily utilized in steel production to remove undesired elements and to form alloys with improved strength and corrosion properties. These additives also are used to form alloys with improved temperature performance and to neutralize undesirable characteristics of other elements within the metal. Alloys within this group are listed in Table IX-21.

Table IX-21

SIC CODE 3313 ELECTROMETALLURGICAL PRODUCTS

Additive alloys, except copper: not produced in blast furnaces
Electrometallurgical products, aluminum, magnesium, and copper
Ferroalloys, not made in blast furnaces
Ferrochromium
Ferromanganese, not produced in blast furnaces
Ferromolybdenum
Ferrophosphorus
Ferrosilicon, not produced in blast furnaces
Ferrotitanium
Ferrotungsten
Ferrovanadium
High percentage ferroalloys, not produced in blast furnaces
Manganese metal, not produced in blast furnacnes
Molybdenum silicon, not produced in blast furnaces
Nonferrous additive alloys, high percentage: except copper
Steel, electrometallurgical

The ferroalloy industry, like other metals industries in the developed countries, is being adversely effected by high energy and labor costs. Ferroalloys are not end products, but are in turn dependent on the health of the steel industry they support. In recent years, both the U.S. steel industry and the ferroalloy industry have been under continual pressure from foreign imports and the economic recession.

In 1980, ferroalloy imports into the United States were valued at $644 million while U.S. exports were only $93 million, a 6 to 1 ratio of imports to exports. The principal imported alloys are manganese alloys, ferrosilicon, chromium alloys, and ferronickel alloys as shown in Table IX-22.

The availability of feedstock ores in Alaska will be a major factor in any decision to locate a ferroalloy processing plant there.

From 1917 to 1957 chromite was produced at three main sites: the Star and Chrome Queen claims at Red mountain, and the Reef mine at Claim Point in Seldovia, all on the Kenai Peninsula.

There has been no domestic production of chromium since 1961, and no production of manganese since 1973. The United States currently imports chromium from the Republic of South Africa (44%), the Philippines (16%), and the Soviet Union (18%).

Red Bluff Bay, in southeast Alaska, contains high-grade deposits with a good chromium-to-iron ratio. Reserves of 570 tons of more than 40% chromium and 29,000 tons of 18-35% chromium have been noted. These deposits could be valuable national reserves; however, they are not major occurrences on the world scale.

Manganese is imported from Gabon (40%), Brazil (19%), Australia (15%), and South Africa (14%).

Approximately 40% of mined tungsten is consumed by ferrous alloys; when added to iron or steel it improves high-temperature strength and hardness. 38% of all tungsten produced is used as tungsten carbide in many die and drilling applications. On Gilmore Dome, east of Fairbanks, the Yellow Pup mine has produced tungsten concentrates at its small gravity mill.

Molybdenum is a strategic metal used in the production of high-strength alloy steels where minimum weight is required. Reserves of molybdenum have been either proved or inferred at Bond Creek (500 Mt at .03%), Stepovak Bay (100 Mt at .03%), and Nunatak (8.5 Mt at .125%). The most widely known and important reserves, however, can be found in Alaska at Quartz Hill, 45 miles east of Ketchikan. This deposit,

discovered in 1974 by U.S. Borax and Chemical Corp., contains an orebody of 1.5 billion tons of ore and a gross value of $18 billion; it is believed to be one of the largest molybdenum deposits in the world. Quartz Hill will produce 40 million lb of molybdenum a year, and is expected to come on stream in late 1987. U.S. Borax estimates that half its output will be exported to markets in the Pacific Basin and Europe.

The United States is heavily dependent on external sources for many of the vital elements listed in Table IX-21, as shown in Table IX-23. There were 32 U.S. ferroalloy producers in 1980 (Table IX-24), many of which are foreign owned. The pattern of plant locations in the United States is an indication that proximity to markets is a more important factor in this industry than electricity costs.

An estimated 15,000 to 20,000 kWh is needed to produce 1 ton of ferroalloy. Based on industry averages, a "typical" ferroalloy plant might produce 1,600 tons of product annually. Pertinent data for a representative ferroalloy production facility are listed in Table IX-25. The differential costs associated with an Alaskan facility are listed in Table IX-26. Because of the varying points of origin of feedstocks, average transportation costs will vary widely, but based on the parameters estimated in Table IX-25, Railbelt electricity would have to be $0.0625/kWh less expensive than competing sites before the region would be considered on the basis of inexpensive electricity alone. Transportation costs for input feedstocks and product would make an Alaskan plant site less competitive than in the eastern U.S. Unless Alaskan producers can identify and economically process local feedstock resources, there is little potential for ferroalloy production in the state based on inexpensive electricity alone.

Even if plants are built, this industry is unlikely to utilize significant quantities of electrical energy, based on the total average annual electrical energy usage for individual plants (32 GWh) in this industry. Such plants would be candidates for the agglomeration of small facilities discussed later in this section.

Table IX-22

1980 U.S. IMPORTS OF FERROALLOYS
AND METALS USED IN FERROALLOYS
($ in Thousands)

Manganese alloys	240,833
Ferrosilicon	42,639
Chromium alloys	155,803
Ferronickel	104,156
Ferromolybdenum	243
Ferrophosphorus	10
Ferrotitanium and Ferrosilicon titanium	1,679
Ferrotungsten and Ferrosilicon tungsten	4,039
Ferrovanadium	3,477

Source: 1980 U.S. Minerals Yearbook.

Table IX-23

1980 NET IMPORT RELIANCE AS A PERCENTAGE OF APPARENT CONSUMPTION

Manganese	98%
Chromium	90%
Silicon	20%
Nickel	73%
Titanium	Data withheld by the Bureau of Mines to avoid disclosing company proprietary data
Tungsten	52%

Source: "Mineral Commodity Summaries 1982," U.S. Department of Interior, Bureau of Mines

Table IX-24

PRODUCERS OF FERROALLOYS IN THE UNITED STATES IN 1980

Producer	Plant Location	Products[1]	Type of Furnace
FERROALLOYS (EXCEPT FERROPHOSPHORUS)			
Alabama Alloy Co., Inc.	Beaumar, AL	FeSi	Electric
Aluminum Co. of America, Northwest Alloys, Inc.	Addy, WA	Si, FeSi	Do.
Autlan Manganese Corp.	Mobile, AL	SiMn	Do.
AMAX Inc., Climax Molybdenum Co. Div.	Langeloth, PA	FeMo	Metallothermic
Cabot Corp., KBI Div. Penn Rare Metal Div.	Revere, PA	FeCb	Do.
Chromasco Ltd., Chromium Mining & Smelting Corp. Div.	Woodstock, TN	FeCr, FeSi	Electric
Dow Corning Corp.	Springfield, OR	Si	Do.
Engelhard Minerals & Chemicals Corp., Minerals and Chemicals Div.	Strasburg, VA	FeV	Metallothermic
Foote Mineral Co., Ferroalloys Div.	Cambridge, OH Graham, WV Keokuk, IA	FeSi, FeV, silvery pig iron, other[2]	Electric
Hanna Mining Co., The:			
Hanna Nickel Smelting Co.	Riddle, OR	FeNi, FeSi	Do.
Silicon Div.	Wenatchee, WA	Si, FeSi	Do.
Interlake, Inc., Globe Metallurgical Div.	Beverly, OH Selma, AL	FeCr, FeCrSi, Si FeSi, SiMn	Do.
International Minerals & Chemical Corp., Industry Group, TAC Alloys Div.	Bridgeport, AL Kimball, TN	FeSi Do.	Do. Do.
Macalloy Inc.	Charleston, SC	FeCr, FeCrSi	Do.
Metallurg, Inc., Shieldalloy Corp.	Newfield, NJ	FeAl, FeB, FeCb, FeTi, FeV, other[2]	Metallothermic
Ohio Ferro-Alloys Corp.	Montgomery, AL Philo, OH Powhatan Point, OH	FeB, FeMn, FeSi, Si, SiMn	Electric
Pennzoil Co., Duval Corp.	Sahuarita, AZ	FeMo	Metallothermic
Passes Co., The	Newton Falls, OH Solon, OH Pulaski, PA Fort Worth, TX	FeAl, FeB, FeCb FeMo, FeNi, FeTi, FeV, FeW, other[2]	Electric, metallothermic

Table IX-24 (Concluded)

Producer	Plant Location	Products	Type of Furnace
FERROALLOYS (EXCEPT FERROPHOSPHORUS)			
Reactive Metals and Alloys Corp.....	W. Pittsburgh, PA	FeTi, other[2]	Electric,
Reading Alloys, Inc.....	Robesonia, PA	FeCb, FeV	Metallothermic
Reynolds Metals Co.....	Sheffield, AL	Si	Electric
Satra Corp., Satralloy, Inc. Div....	Steubenville, OH	FeCr, FeCrSi	Do.
SEDEMA S.A., Chemetals Corp.....	Kingwood, WV	FeMn	Fused-salt electrolytic
SKW Alloys, Inc.....	Calvert City, KY.. Niagara Falls, NY.	FeMn, FeSi, SiMn	Electric
South African Manganese Amcor, Ltd.. Rosne Ltd.	Rockwood, TN	FeMn, SiMn	Do.
Teledyne, Inc., Teledyne Wah Chang, Albany Div	Albany, OR	FeCb	Metallothermic
Union Carbide Corp., Metals Div.....	Alloy, WV Ashtabula, OH Marietta, OH Niagara Falls, NY Portland, OR Sheffield, AL	FeB, FeCr, FeCrSi FeMn, FeSi, FeV, FeW, Si, SiMn, other[2]	Electric
Union Oil Co. of California, Molycorp, Inc.	Washington, PA	FeB, FeMo, FeW	Electric and metallothermic
FERROPHOSPHORUS			
Electro-Phos Corp.....	Pierce, FL	FeP	Electric
FMC Corp., Industrial Chemical Div	Pocatello, ID	Do.	Do.
Monsanto Co., Monsanto Industrial Chemicals Co.	Columbia, TN	Do.	Do.
	Soda Springs, ID	Do.	Do.
Occidental Petroleum Corp., Hooker Chemical Co., Industrial Chemicals Group	Columbia, TN	Do.	Do.
Stauffer Chemical Co., Industrial Chemical Div.	Mt. Pleasant, TN Silver Bow, MT Tarpon Springs, FL	Do.	Do.

[1]FeAl, ferroaluminum; FeB, ferroboron; FeCb, ferrocolumbium; FeCr, ferrochromium; FeCrSi, ferrochromium-silicon; FeMn, ferromanganese; FeMo, ferromolybdenum; FeNi, ferronickel; FeP, ferrophosphorus; FeSi, ferrosilicon; FeTi, ferrotitanium; FeV, ferrovanadium; FeW, ferrotungsten; Si, silicon metal; SiMn, silicomanganese.

[2]Includes specialty silicon alloys, zirconium alloys, and miscellaneous ferroalloys.

Source: U.S. Minerals Yearbook, 1980.

Table IX-25

DATA FOR REPRESENTATIVE 1600-TON/YEAR FERROALLOY PLANT

Investment Costs for New Plant Construction	$10-$20 million
Labor Costs (200 employees)	$4 million
Electricity Costs ($0.045/kWh)	$1 million

Source: SRI International

Table IX-26

ANNUALIZED DIFFERENTIAL COSTS ASSOCIATED WITH AN ALASKAN SITE FOR A FERROALLOY FACILITY

Construction Costs	$0.5 - $1.0 million
Labor	$1.2 million
Transportation Costs	$0.2 - $0.3 million
Total	$1.9 - $2.5 million

Source: SRI International

The Pulp and Paper Industry

In 1979, paper mills (excluding building paper) ranked as the fourth largest energy-consuming industry in the United States, using 592.2 trillion Btu costing $1.689 billion. Of this total, 32% ($536.7 million) was for electric power. For the building board and building board mills, purchased electrical energy represented 5.6% of the value of shipped product in 1980. Much of this industry produces a major portion of its own electricity through cogeneration. The United States ranks first in the world in both production and consumption of paper, board, and pulp. In 1981, the U.S. produced over 57 million metric tons of paper and board alone. A breakdown by grade of U.S. paper and board production for 1970-1981 is given in Table IX-27. The increase in annual demand expected by SRI through the 1980s, though far below growth in the 1950s and 1960s, will be about 65 million tons, or an annual increase of 3.3% per year. Growth of demand in developing countries is expected to be greater than in the U.S. U.S. exports have been increasing from 65,000 metric tons in 1979 to 159,000 in 1980 and 245,000 in 1981.[23,24]

The paper/forest products industry, like many other industries, is currently depressed by the recession and high interest rates. Some of the biggest companies, such as Boise Cascade, Champion International, and Crown Zellerbach are having a difficult time meeting interest payments.[24] Although the industry is currently depressed (see Table IX-28), it can be assumed that the economic recovery will lead to expansion of the industry comparable to historic trends. In the timeframe of interest (1990-2010), the industry can be expected to add capacity, particularly if new markets are developed, such as the People's Republic of China.

Because a newsprint facility[25] using thermomechanically processed pulp (TMP) possesses the least ability to generate its own internal sources of electricity, and because it is representative of the predominant paper commodities, this segment of the industry was selected by SRI as an example of the most likely of the pulp and paper industry segments to benefit from low-cost Alaskan electricity.

Industry estimates of plant energy costs vary from 12% to 30% of shipment value. Canadian plants, which produce the preponderance of newsprint, report purchased energy costs at 12% of the value of shipment. An Alaskan site would compete with the most efficient alternative sites, so the Canadian data are the most pertinent for comparison purposes. Based on industry averages, electricity costs

Table IX-27

PAPER AND BOARD PRODUCTION IN THE UNITED STATES
(Thousands of Short Tons)

	Paper							Paperboard				Construction[1]			
Year	Newsprint	Coated Printing	Publicat. & Print.[2]	Writing & Relat.	Coarse[3]	Sanitary	All Paper Total	Other Bleached Paperboard	Corrugating Material	Unbleached Kraft[4]	All Paperboard Total	Wet Machine Board	Construction (Paper)	All Construction Total	Total All Types
1970	3,345	3,279	2,646	2,937	5,439	3,548	23,625	1,856	4,332	11,436	25,477	139	1,594	4,276	53,516
1971	3,321	3,251	2,758	2,996	5,442	3,660	23,811	1,938	4,596	11,700	26,135	138	1,837	5,001	55,086
1972	3,451	3,546	3,010	3,329	5,713	3,796	25,435	1,964	4,992	13,030	28,522	148	1,915	5,352	59,457
1973	3,459	3,814	3,116	3,817	5,694	3,726	26,483	1,971	5,285	13,139	29,267	149	1,858	5,406	61,304
1974	3,395	3,974	2,832	4,102	5,731	3,800	26,674	1,957	5,093	12,755	28,017	144	1,845	5,118	59,930
1975	3,476	3,318	2,400	3,244	4,805	3,669	23,306	1,792	4,411	11,170	24,452	115	1,616	4,648	52,521
1976	3,400	3,967	2,984	3,910	5,661	3,936	26,612	1,894	5,045	12,501	27,840	130	1,771	5,316	59,898
1977	3,525	4,215	3,316	4,170	5,930	4,045	28,096	1,968	5,485	105,902	29,006	N.A.	1,852	5,492	62,722
1978	3,489	4,513	3,507	4,277	5,778	4,036	28,506	1,634	5,792	N.A.	30,033	N.A.	1,915	5,625	64,300
1079	3,778	4,580	2,048	4,596	5,708	4,403	29,580	1,841	5,918	13,857	31,168	144	1,868	5,436	66,329
1980[5]	4,660	4,751	2,127	4,793	5,327	4,298	30,164	1,794	5,864	14,249	31,143	138	1,369	4,390	65,034
1981[6]	5,000	4,900	2,000	4,900	5,700	4,600	31,500	1,900	6,000	14,800	32,000	150	1,200	4,600	68,000

[1]Paper and Board. [2]Prior to 1979 data are for book paper, uncoated. [3]Packaging & industrial converting paper. [4]Prior to 1979 data are for linerboard. [5]Preliminary. [6]Estimate.

Source: Bureau of the Census

Table IX-28

U.S. PAPER/FOREST PRODUCTS FIRST-QUARTER RESULTS
($000)

Paper Companies	Sales	Change 1982/81	Earnings[1]	Change 1982/81
Chesapeake	$ 59,600	-6.6%	$ 1,900	-67.8%
Clevepak	31,079	5.9	949	0.1
Consolidated	135,816	-1.1	10,905	-29.7
Crown Zellerbach	725,000	-5.3	5,600	-69.6
Diamond	264,979	-14.4	2,204	-73.1
Federal Paper	123,015	8.0[2]	5,348	8.1[2]
Fort Howard	120,295	8.4	21,803	10.2
Glatfelter	68,696	29.3	5,774	150.7
GN Nekoosa	367,900	0.5	22,000	3.8
Hammermill	325,916	5.7	7,080	-34.1
Intl. Paper	1,002,700	-23.2	60,000[3]	-59.3
James River (1/24)[4]	184,250	-1.6	4,391	-5.9
Kimberly-Clark	734,300	0.1	57,700	-4.2
Longview (1/31)[4]	92,912	11.0	(2,185)	n.m.
Mead	689,866	2.6	13,803	-54.0
Mosinee	22,021	-6.1	1,022	-41.6
Pentair	67,865	17.0	2,223	-19.5
St. Regis	672,230	9.8	19,430	-61.0
Scott	580,156	2.5[2]	18,639	-27.9[2]
Socono	122,953	-4.2[2]	6,667	-13.8[2]
Sorg	19,932	-8.8	(98)	n.m.
SW Forest	144,948	-27.6	(4,603)	n.m.
Stone Container	105,442	2.3	2,556	-58.6
Union Camp	372,433	-10.6	32,241	-19.4
Wausau (2/18)[4]	44,833	-5.6	(864)	n.m.
Westvaco	342,644	-5.4	8,323	-57.4
Willamette	214,305	-12.2	(4,652)	n.m.
Total	$7,906,086	-3.1%	$298,156	-42.3%

Table IX-28 (Continued)

Forest Products	Sales	Change 1982/81	Earnings[1]	Change 1982/81
Boise Cascade	$ 713,960	-9.0%	$ 5,560	-85.2%
Champion Intl.	905,913	-9.5	617	-97.8
Georgia-Pacific	1,199,000	-11.1	15,000	-51.9
Louis.-Pacific	196,570	-26.4	(11,750)	n.m.
Popo & Talbot	59,633	-4.0	857	39.3
Potlatch	201,308	-7.9	4,485	-43.6
Weyerhaeuser	1,057,457	-3.7	56,952	-0.1
Total	$ 4,333,841	-9.3%	$ 81,721	-59.3%
U.S. Total	12,239,927	-5.4	379,877	-47.1
CANADIAN PAPER INDUSTRY RESULTS				
Abitibi	C$414,618	0.9%	C$22,019	-21.5%
B.C. Forest	198,300	-2.9	(4,700)	n.m.
B.C. Resources	143,200	-35.9	(13,000)	n.m.
Con-Bathurst	362,600	1.6	17,600	-32.8
Donam	30,600	-1.0	(7,700)	n.m.
Fraser	102,734	8.4[2]	143	-97.0[2]
Great Lakes	132,275	-4.7	12,179	-42.0
Mac/Bloedel	505,000	-17.5	(10,400)	n.m.
Scott	52,900	9.3	2,200	10.0
Weldwood	99,700	-23.2	(4,047)	n.m.
Total	C$2,041,927	-9.2%	C$14,294	-87.1%

Note: n.m. = not meaningful

1. Income after taxes, from continuing operations, excluding most significant nonrecurring items in both years.

2. 1981 figures restated by company.

3. 1982 results include after-tax gain of $17.2 million from sale of tax benefits. 1981 results include after-tax gain of $57 million from land transactions.

4. Period ended. Figures for James River are for third quarter, Wausau for second quarter.

Source: Pulp and Paper, June 1982

are approximately 32% of energy costs, and the cost per metric ton (based on a production cost of $425.25/Mt) in Canada is equal to $16.33. For marginal plants where electricity is 20% of the total operating costs of an integrated facility, the costs might be as high as $85/ton. Alternatively, if electricity were substituted for all other energy uses, costs might be as high as $50/ton, even for a Canadian plant.

Average costs for construction of new forest products facilities are given in Table IX-29. Construction of a typical large newsprint facility is estimated at $330 million with a capacity of approximately 200,000 metric tons per year. At 10% interest over 30 years, finance charges on such a plant are approximately $712 million, for a total cost of $1,042 million. A similar plant in Alaska using a 1.5 location adjustment factor is estimated to cost $1,564 million over 30 years, of which $1,068 million is interest. These costs represent an annual cost differential for an Alaskan location of $17.3 million (1982 dollars).

Although input feedstock transportation costs are expected to be comparable to those for competing sites, output transportation costs will be greater for an Alaskan location than for an average site in Canada or the Pacific Northwest. At bulk shipment rates, annual costs for shipment of 200,000 tons of newsprint from Anchorage to Oakland, California, are expected to be $33.6 million (see Table IX-30). This value represents an added expense of approximately $168/ton, compared to average U.S. transportation charges of $64.50/ton. For a 200,000-ton production plant, the annual transportation differential is approximately $20.6 million (1982 dollars). Although export to Asia might be comparable for an Alaskan site and a U.S. west coast site, competing low-cost Asian labor rates make shipment of finished paper products to Asian users unlikely for all U.S. sites.

The labor cost differential can be calculated using published pulp and paper hourly rates for the Northwest and the United States as a whole and using the assumption that Alaskan labor rates are approximately 1.2 times higher than in the Northwest, and approximately 1.68 times higher than the U.S. average for the paper and pulp industry.[25] This results in an overall labor differential for an Alaskan plant of $13.5 million.

As shown in Table IX-31, the overall annual cost differential for a typical plant, which must be offset by energy rates, is $51.4 million, or $257/ton, which compares unfavorably with the $85/ton cost of electricity for even marginal plants.

Using an average of $.02/kWh price for electricity in Canada, the energy usage per pound of product can be estimated at approximately 1.28 kWh. Based on this estimate, Susitna power would have to be approximately $.09/kWh cheaper than competing sites in order to achieve a break-even with the annualized added cost of construction, labor, and transportation associated with an Alaskan site. An analysis of other

Table IX-29

TYPICAL U.S. MILL CONSTRUCTION COSTS

Grade	Capacity (metric tons/day)	Costs (million $)
Newsprint	550	330
Linerboard	1,100	Less than 200
Kraftboard	550	300
Printing & Writing Paper	550	600
Tissue	550	300

Source: Composite taken from interviews with industry officials.

Table IX-30

NEWSPRINT TRANSPORTATION COSTS

	Mode	Annual Cost (million $)
Newsprint from Anchorage to Seattle; $116.38/metric ton x 200,000 tons	Container vessel	23.3
Newsprint from Seattle to Oakland; $51.70/metric ton x 200,000 tons	Rail	10.3
Solid wood from British Columbia to Anchorage; $20/cubic meter x 483,000 cubic meters	Container vessel	9.7
Total Transportation Costs		43.3

Source: SRI International

Table IX-31

ANNUAL COST DIFFERENTIAL ASSOCIATED WITH AN ALASKAN SITE FOR A PULP AND PAPER PLANT

	Total	$/Ton
Construction	$17.3 million	86.5
Labor	13.5 million	67.5
Transportation	20.6 million	103.0
Total	$51.4 million	257.0

Source: SRI International

segments of the pulp and paper industry can be expected to produce similar results, since newsprint production is characteristic of the energy intensity of the pulp and paper industry processes, and this segment of the industry is less able to take advantage of cogeneration.

The Cement Industry

Because of the low value-to-weight ratio of cement, transportation charges are a major factor in its production. Most cement is used within 150 miles of where it is produced. Overall, cement industry capacity has not changed in recent years, but because of extreme competition within the industry, numerous older, obsolete plants have been retired and new, more efficient plants constructed. In the period 1980 through 1981, 22 plants were closed while 9 million tons of capacity were added in 1981.[26]

Four companies dominate the current cement industry.[27] These are:

- Lone Star Industries
- Ideal Basic
- Kaiser Cement
- Texas Industries.

Overall, there are 48 companies and 159 plants producing cement in 39 states. Most energy (90%) associated with cement production is used in the drying of cement clinker, which is then ground into the final product. There are two processes, wet and dry, which are used in the industry, although most new plants employ the dry process. Dry process plants typically are 20% lower in energy consumption than wet process plants.[28,29]

Although the cement industry is a high user of electrical energy, the preponderance of energy usage is from fossil fuels. In 1979, 76% of kiln energy was fueled by coal, 16% was natural gas, and 8% was oil. Since low-cost hydropower might be used to displace fossil fuel in thermal processes, the cement industry could be a candidate for energy substitution.[30]

Currently, there are no cement plants in Alaska. Product is shipped at a cost of approximately $60/ton from plants in Seattle which receive their raw materials from British Columbia.[31] Because of these added transportation costs, the cost of cement in Anchorage is twice the cost relative to the average U.S. price. Fifty percent of U.S. cement production currently comes from six states: Texas, California, Pennsylvania, Michigan, Missouri, and Florida. In general, the high cost of transportation from Alaska (approximately 100% of product value) appears to overshadow any possible energy saving associated with Alaskan cement production.

The Chemicals Industry

The industrial inorganic chemicals in SIC 2819 are a potpourri of diverse products and dissimilar industries. Contained within this group are a number of materials discussed in this report in conjunction with other industrial processes, such as alumina and bauxite as feedstocks to the aluminum industry. Of the remainder, the importance of energy costs varies markedly. The classification of this group as electrically intensive is somewhat misleading, since uranium production is included in this classification group.

The U_{235} isotope occurs in small concentrations in uranium ore, and the ore must be enriched in this isotope to produce nuclear fuel. In the currently used diffusion process, uranium oxide (U_3O_8) is converted into uranium hexafluoride (UF_6). This gas is then passed through diffusion tubes in an iterative process resulting in an increase in the concentration of the fissionable isotope. The entire process is extremely electrically intensive. Production of uranium fuel is controlled by the federal government, and no new diffusion plants are planned. Future isotope separation plants will utilize either centrifuge or laser separation techniques, both of which are less energy intensive.

Many of the other energy-intensive products are associated with production of low volumes of elemental metals, propellants, and elemental gases, which do not require large facilities. This SIC code also contains a number of high-volume, low-energy products. Eight chemicals within this SIC code are among the top 50 chemical products in the United States on a weight basis, as shown in Table LX-32. The production of these chemicals is, however, not very electrically intensive. Sulfuric acid production is an example of this class. Phosphate fertilizer production accounts for about 2/3 of sulfuric acid production, but other uses could be significant to Alaska. Its use in chloro-alkali production has been discussed previously. About 1.8 million metric tons is used annually in petroleum refining, and 1.7 million tons is used annually in recovering copper from low-grade ores.

In the production of sulfuric acid, sulfur dioxide reacts with excess air in an exothermic reaction which requires cooling. The resultant sulfur trioxide reacts with water to form sulfuric acid. The energy produced in this exothermic reaction can be used in a cogeneration steam process to produce electrical energy. Plants built in the 1980s will be able to generate 1.3 lb of steam per pound of acid. Significantly, this will occur at higher pressures (900 psi as opposed to 300 psi) and thus be more suitable for energy recovery than in older plants. Addition of a turbo generator to recover this energy would add $5,000,000 to the plant capital costs of $25,000,000 but would generate 15,000 kWh of energy.[32]

Table IX-32

RANKING OF SELECTED U.S. INORGANIC CHEMICALS
ON PRODUCTION BASIS

	Rank	1980 Production (billions of pounds)
Sulfuric acid	1	80.7
Sodium hydroxide	7	22.6
Sodium carbonate	12	16.6
Hydrochloric acid	26	5.5
Sodium sulfate	35	2.5
Aluminum sulfate	37	2.4
Calcium chloride	40	2.0
Sodium tripolyphosphate	47	1.4

Source: Standard & Poor's Industrial Surveys, "Chemicals," November 5, 1981

Three general conclusions can be made concerning SIC 2819 industries. Energy usage is heavily skewed by radioactive material production; many other high-volume chemicals are actually not energy intensive; and finally, of those that remain, most represent small markets and are secondary products associated with developed industry infrastructures and not primary industries, a factor which SRI regards as important in identifying candidate industries for Alaska. SRI has not identified any candidate industries within the group which appear to be likely candidates to benefit from low-cost Alaskan power.

The Primary Metals Industry (Excludes Steel, Copper, and Aluminum)

Five metals (gold, silver, zinc, nickel, and tin) within these SIC codes either are in production in Alaska, are the subject of exploration, or are known to exist in potentially significant quantities. In the case of precious metals, Alaska has approximately 13 principal producers working placer gold deposits within the state. Overall, about 65,000 troy ounces of gold were recovered by over 200 operators in 1979. Approximately 6,500 troy ounces of silver were also recovered alloyed with the placer gold. At least 3 tin mining facilities are operating within the state. Zinc and nickel are the subject of exploration by a variety of multinational corporations, and various reserves have been reported. Unfortunately, of 244 known major mineral areas catalogued by Resource Associates of Alaska, over 80% are in closed lands. Of the 13 most economically viable deposits identified by RAA, 9 are closed to exploitation by the Alaska National Lands Interest Conservation Act.

Some of the larger known deposits that contain economically recoverable metals are:

- Lik - sulphides of Pd (8.5%), Zn (25.5%), Ag, Cd (0.25%)
- Cominco - very similar to Lik
- Artic - sulphides of Cu (4.0%), Zn (5.5%), Pg (1.0%), Ag
- Picnic Creek - similar to Artic
- Lost River - tin, fluorite, tungsten, and beryllium
- Brady Glacier - Ni-Cu
- Bohemia Basin - Ni (0.4%), Cu (0.25%), Co (0.04%)
- Green's Creek - Pb (1.94%), Zn (7.71%), Cu (0.4%), Ag, Au
- Quartz Hill - molybdenite (0.15% MoS_2).

Zinc, copper, and silver ores are the most prevalent, but significant deposits of strategically important cobalt, chromite, titanium, molybdenum, and tungsten ores are located throughout Alaska.

Nickel is used in the production of stainless steel and other corrosion-resistant alloys. The deposit at Brady Glacier, at Glacier Bay National Park, is considered to be a major nickel reserve for the U.S. Probable reserves are estimated to be between 100 million and 300 million tons of 0.5% Ni. On Yakobi Island, Inspiration Development Co. has conducted drilling and geological detailing at its claims covering the Bohemia Basin and Takanis deposits. These deposits, together with the Flapjack deposit, contain in excess of 20.7 million tons of 0.33-0.51% Ni and up to 0.04% Co.

Tin concentrates are produced as a by-product of molybdenum mining in Colorado and from placer deposits in Alaska. Only one tin smelter is in operation in the U.S., at Texas City, Texas. Although the U.S. is 80% dependent on tin imports and Alaska contains the primary U.S. reserves, the U.S. reserves are only 0.5% of the world total. Tin is, however, available from a number of world suppliers, including Southeast Asia, Australia, Bolivia, Brazil, Mainland China, and the USSR. Overall, U.S. tin usage is expected to grow at less than 1% annually through 1990.[34]

Zinc mining in the U.S. was a $306-million industry in 1981, with 25 mines producing 99% of total output. Tennessee, Missouri, New York, and Idaho accounted for 79% of total production. Although the United States is a net importer, its reserve base is approximately 20% of the world total. Demand is expected to grow at about 1.1% annually through 1990.

Energy costs for processing these ores as a percent of value are generally less than 10% of the final product value. The unknown costs of extraction in an Alaskan setting and transportation of finished products are expected to be a significant fraction of the final cost for these metals. Low-cost Alaskan electricity would enhance the economies of extraction of these minerals but is not likely to be an overriding factor in the decision to exploit them. Detailed economic analysis is required for each site before the impact of low-cost electricity can be determined, especially since many of these deposits are precluded from exploitation in the foreseeable future.

It is not practical to examine the economies of processing at all the sites for minerals in this category, but zinc smelting is representative of the group and will be examined in some detail.

Commercially valuable zinc-bearing ores occur predominantly in sulfide form. Valuable impurities in zinc ores, from which the zinc is extracted via specific metallurgical operations, include lead, iron, copper, silver, gold, antimony, and occasionally tin.

The process of extracting zinc from the ore takes place in three operational steps:

- Concentrating - where ores, after being mined, are separated into a concentrated mineral and a waste rock.
- Smelting - where the concentrate is reduced to the metal in a metallurgical works.
- Refining - where the metal is further refined and alloyed to commercially usable form.

The concentration of zinc sulfide ores usually takes place adjacent to the mine site. First, the ore must be crushed and ground in order to free the mineral lattices from those of the waste rock (gangue). Next, the finely divided ore is mixed into a slurry with water, and the mineral and gangue particles are separated utilizing the effect of gravity. This separation usually takes place by way of the froth flotation process, where the gangue is discarded as waste (tailings). During the last step in concentration (or beneficiation), the mineral slurry is separated into solids and water via a filtration process. The resulting zinc sulfide concentrates contain 50% to 64% zinc.

The preparation of the concentrate for smelting involves a process (roasting, sintering, or pyroconcentration) in which the source material is made into a crude zinc oxide form and specified particle size. During roasting, the sulfide is heated and burned with oxygen to form ZnO and gaseous SO_2 (which is generally converted to sulfuric acid). Sintering may take place to further treat the ZnO to increase density and particle size before feeding into the smelter. In pyroconcentration, the zinc-bearing material is mixed with coal, heated, and turned into a vapor, which is carried via a gas stream to a baghouse (filter) and condensed.

In the reduction step, the zinc is reduced from its oxide to its elementary form. Several different thermal processes may be used: horizontal retort, vertical retort, electrothermic furnace, and blast furnace (all of which use carbon as a reducing agent). The electrolytic process uses the passage of electric current for reduction to metal from a liquid bath. This hydrometallurgical (electrolytic) process for zinc smelting, rather than using heat for the reduction, relies on electrodeposition of the metal from a zinc sulfate solution prepared from the crude zinc oxide and sulfuric acid. Virtually all impurities remaining from the preparation step are eliminated in this process.

The quality of zinc produced by the various carbon reduction processes mentioned is suitable for hot-dip galvanizing, continuous-line galvanizing, and in some cases for brass manufacture and rolled (wrought) zinc. For sizable usage in die-casting alloys, however, output from this type of smelter must undergo a refining step. The major method of upgrading the lower-purity zinc metal is fractional distillation in reflux refining columns, which is capable of producing 99.995% pure zinc.

Sulfuric acid, one of the major byproducts of the zinc industry, is used by the chemical and oil industries (e.g., for chemical cleaning of steel; in making phosphates for fertilizers).

Identified world resources of zinc are estimated to be about 1.8 billion tons. (Metal Statistics, 1980, American Metal Market, Fairchild Publications, New York, 1980). Canada, the largest producer of zinc, is also the country with the largest known reserves. Other important producers are Peru, Australia, the U.S., and Mexico. In 1980, Peru produced 72,000 Mt; Australia, 300,000 Mt; United States, 325,300 Mt; Mexico, 165,000 Mt; and Canada 550,000 Mt. Major U.S. companies producing zinc include:

- Amax, Inc. (Greenwich, Conn.).
- Asarco, Inc. (New York).
- Bunker Hill Co. (Kellogg, Idaho), a unit of Gulf Resources and Chemical Corp.).
- National Zinc Co. (Bartlesvillle, Okla.; a unit of Engelhard Minerals and Chemicals Corp.).
- New Jersey Co. (Nashville; a unit of Gulf and Western Industries, Inc.).
- St. Joe Zinc Co. (Pittsburgh; a unit of St. Joe Minerals Corp., which closed its Monaca, Pa., electrothermic zinc smelter at the end of 1979).

A zinc smelter employing the electrolytic reduction process can be expected to use about 3,500 kWh per ton of finished product. Free electricity might produce a savings of $200 per ton, but this would be offset by $60 per ton in additional capital costs ($180 million for an Alaskan site) and $54 a ton for additional labor costs (300 workers) associated with an Alaskan location. Transportation costs cannot be evaluated without consideration of a specific site. In conclusion, the availability of inexpensive electricity makes an Alaskan zinc smelter more favorable but is clearly not a deciding factor.

The Fertilizer Industry

Although the chemical fertilizer industry is currently suffering from overcapacity, SRI projects a growth rate of 2% to 3% over the next 20 years for this industry, and there is potential for expansion of the industry in the 1990s. The industry has reduced the electric energy "content" of its product in recent years and has generally converted from mechanical compressors to the reforming process, which involves combustion of natural gas at 1,800°F to produce H_2 and steam for turbines. Siting issues are primarily associated with the availability and price of natural gas, which is used as feedstock for these plants. A new ammonia plant produces a product with an electric energy content of only 25 kWh/ton, compared to [illegible] kWh/ton for a plant using mechanical compressors. To determine the value of conversion back to electricity, the cost of the displaced gas ($28/ton of product, assuming $3.75 per million Btu) must be balanced against the electricity cost and the other costs associated with an Alaskan location.

Electrical energy (compressors) would only be substituted for natural gas (gas-fired turbines) if the electric energy content of the product did not exceed $25 to $30 per ton. SRI estimates the investment required to build a 1,500-metric-ton-per-day plant in Alaska at $[illegible]39 million, based on an investment of $166 million for a similar facility at a Gulf Coast site. Differential carrying costs associated with the capital investment in an Alaskan site are therefore approximately $10 per ton. Differential transportation costs can be expected to add another $35 to $45 per ton. Based on the increased construction costs and transportation costs of an Alaskan site, inexpensive energy alone will not attract investors to Alaska interested in siting a new ammonia plant.

If, however, an Alaskan location is considered because of economically priced natural gas, a decision between the gas-fired plant and a mechanical plant will be made on the tradeoff between the cost of displaced gas (7 billion Btu) and the electricity costs. Electricity prices below $0.026/kWh would be required before the mechanical plant would have lower operating costs than a gas-fired plant, assuming a gas cost of $3.75 per million Btu. If operation of the reciprocating-compressor ammonia plant proved economical, it would require approximately 550 GWh annually.

Electric Space Heat in the Residential/Commercial Markets of the Railbelt

In addition to major industrial development and activity, commercial and residential space heat offer market opportunities for utilizing low-cost electrical energy. Electric pricing policies and marketing programs could provide incentives to displace a portion of fuel oil and gas space heaters in both existing and new units. If electric rates were low enough relative to other space heating options, there would be a shift from fossil fuel to electric-generated space heating.

At present, electricity supplies approximately one-third of all residential end-use energy in the Railbelt. Commercial use is also large. The current and forecast use in both markets by fuel type predicted by Applied Economics Associates, adjusted and amplified by SRI as noted, are shown in Table IX-33.

Residential Electricity Demand

Total demand for residential energy (taken here as heat demand) is shown as growing to 57.844 trillion Btu by 2010 (see Table IX-33, Table IX-34). Likely conservation factors, estimated as reducing overall demand by 10%, 20%, and 30% in 1990, 2000, and 2010, respectively, result in a demand of approximately 40.5 trillion Btu in 2010 (see Table IX-34). If it is assumed that all savings are in the fossil fuel component, the fossil fuel usage after conservation would be approximately 30 trillion Btu (equivalent to approximately 18 trillion Btu of electricity). This quantity must be added to the original forecast for electricity of 12.5 trillion Btu. Accounting for conservation, this gives a total potential residential all-electric demand of approximately 30.5 trillion Btu. Assuming a favorable price advantage for electricity, conversion of existing facilities and the total electrification of all new construction in the Railbelt can be expected to approximate the conversion from coal to natural gas for space heating that occurred in the Midwest and Northeast during the late 1940s and 1950s. Because of transmission and distribution limitations, market penetration of approximately 80% is assumed at equilibrium in the Railbelt. The estimated potential residential electrical usage in 2010 is therefore approximately 24 trillion Btu (7,000 GWh). For 1990 it was assumed that the price differential between electricity and fossil fuels would be smaller, leading to a smaller equilibrium market share; that the market would be half way to equilibrium; and that only 90% of the potential market can be reached because of geographical factors. These assumptions imply that 25% of residential demand would be met by electricity. Similar considerations lead to a 45% share in 2000.

Table IX-33

ENERGY CONSUMPTION IN THE RAILBELT:
RESIDENTIAL/COMMERCIAL[1,2]
(10^9 Btu)

	1979	1990	2000	2010
Electric				
Residential	3,572	5,427	8,240	12,500 (3)
Commercial	2,544 (4)	3,998	6,618	10,060
Petroleum				
Residential	14,355	18,533	23,722	
Commercial	3,481	5,345	6,231	
Natural gas				
Residential	7,178	9,266 (5)	11, (5)	
Commercial Heat	3,221	4,810 (6)	5, (6)	
Total liquid fuels				
Residential				45,300
Commercial				17,800
Total energy				
Residential	25,105	33,226	43,823	57,844 (1)
Commercial	9,246	14,153	18,457	27,860

[1]Basic data from Department of Commerce and Economic Development, Division of Energy and Power Development, State of Alaska: Long-Term Energy Plan, p. 30, Appendix p. C-66 (August 1981).

[2]Coal excluded.

[3]Extrapolated by SRI International.

[4]Taken from energy balances, Long Term Plan, as 2,544 x 10^9 Btu. Other figures in row extrapolated at rate indicated on p. C-66 (4.2%).

[5]Inferred by SRI from 1979 data as 50% of petroleum use.

[6]Inferred by SRI from 1979 data as 90% of petroleum use.

Table IX-34

ESTIMATES OF POTENTIAL ELECTRIC DEMAND FOR
RAILBELT RESIDENTIAL END USE
(10^9 Btu Unless Otherwise Noted)

	1979[1]	1990	2000	2010[2]
Forecast usage				
Electricity	3,573	5,427	8,240	12,500
Fossil	21,533	27,799[3]	35,583[3]	45,346
Total	25,106	33,226	43,823	57,846
Total with conservation	25,106	29,903	35,058	40,492
Energy demand if all electric	16,493	20,113	24,331	29,295
Likely fraction of demand electric	0.217	0.25	0.45	0.8
Resulting electricity usage				
Btu	3,573	5,028	10,949	23,730
GWh	1,047	1,474	3,209	6,955

[1]Actual.

[2]Extrapolated by SRI International.

[3]Natural gas taken as 50% of petroleum values.

Source: Department of Commerce and Economic Development, Division of Energy and Power Development, State of Alaska: Long-Term Energy Plan, p. 30, Appendix p. C-66 (August 1981).

Commercial Electricity Demand

Similar considerations apply to commercial conversion to electricity and total potential electricity use. For the commercial sector it is assumed that some activities preclude the use of electricity, resulting in an arbitrary limit of 70% maximum market penetration. If the same market share approach* used in the residential estimates is assumed, the fractional shares indicated in Table IX-35 can be calculated. These values lead to the electricity demand forecasts presented at the bottom of Table IX-35.

Supply and Demand

The forecast[20] generation and generation capability are contrasted with the potential residential and commercial electricity use projected above in Table IX-36.

It is apparent that unless use for space heating is discouraged by a tiered rate structure, increased residential and commercial use of electricity could result in near saturation of the proposed Susitna-based generation system without any increase in industrial demand above the current 600 GWh per year. If long-term favorable electric rates are offered to residential and commercial consumers, a substantial substitution of electricity for fossil fuels will occur since electrical space heating equipment is generally less expensive than fossil-fuel-fired space heating equipment. The conversion will take place over a 20-year period as old space heating equipment is replaced. Electrical heating equipment will be specified in both the new construction and replacement markets, if the prospect for long-term favorable electric rates is widely perceived and accepted.

If the same analysis is performed for the fiscal crisis scenario, where the population is assumed to grow only by a factor of 1.25 by 2010 and conservation reduces per capita demand so that total usage is comparable to 1980 usage, the projected demand is reduced accordingly (approximately 3,900 GWh). In this scenario, substantial excess capacity is projected.

Agglomerations of Small Industrial Facilities

One alternative to attracting a single enterprise that utilizes large quantities of electric power is to attract a group of small energy-intensive businesses to an industrial park. The industrial park setting has been widely adopted as a way to attract business development to a region and to provide planned commercial development. As a job creation mechanism, there are advantages to a strategy that attracts small

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*With slightly different equilibrium share and penetration figures.

Table IX-35

ESTIMATE OF POTENTIAL ELECTRIC DEMAND FOR
RAILBELT COMMERCIAL END USE
(10^9 Btu Unless Otherwise Noted)

	1979[1]	1990	2000	2010[2]
Forecast usage				
Electricity	2,544	3,998	6,618	10,060
Fluid fuels	6,702	10,155[3]	11,839[3]	17,800
Coal	825	na	na	na
Total	10,071	14,153[4]	18,457[3]	27,860[3]
Total after conservation		12,738	14,766	19,502
Energy demand if all electric	7,060	9,242	11,507	20,740
Fraction of demand electric	0.360	0.400	0.441	0.567
Electricity use				
Btu	2,544	3,697	5,075	11,759
GWh	746	1,084	1,487	3,447

[1]Actual.

[2]Extrapolated by SRI.

[3]Natural gas taken as 90% of petroleum.

[4]Without coal.

Source: Department of Commerce and Economic Development, Division of Energy and Power Development, State of Alaska: Long-Term Energy Plan, p. 30, Appendix p. C-66 (August 1981).

Table IX-36

POTENTIAL ELECTRICITY USE IN THE
RESIDENTIAL AND COMMERCIAL SECTORS COMPARED TO SUPPLY
(GWh)

	1990	2000	2010
Residential	1,474	3,209	6,955
Commercial	1,084	1,487	3,447
Total projected demand[1]	2,558	4,696	10,402
Projected demand[2]	2,440	3,100	3,921
Projected supply[3]	4,846	5,107	7,031
Projected supply[4]	5,578	9,473	12,383

[1]4.2% annual growth.

[2]Fiscal crisis scenario.

[3]Battelle (4.2% annual growth in population).

[4]Arbitrary retention of all existing and projected fossil capacity operating at previous maximun yearly rate.

Source: Department of Commerce and Economic Development, Division of Energy and Power Development, State of Alaska: Long-Term Energy Plan, p. 30, Appendix p. C-66 (August 1981).

businesses rather than large process plants. Large capital-intensive process plants tend to require fewer workers than small businesses per dollar invested. Moreover, large businesses are less likely to expand further in a single location than smaller businesses, which have a better potential for growth. Finally, large plants based on a single commodity are vulnerable to worldwide market changes, whereas a diversified business base can more easily adjust to changing market realities.

There are negative aspects of an agglomeration strategy. Large process plants can be planned as independent entities with waste treatment facilities, fire protection, and other services designed to satisfy the needs of the plant. For planned industrial parks, these services are often provided by the surrounding community. It will be more difficult for Alaska to provide the support facilities for a group of small businesses in an economically timed development program since the first tenant will require full services and it might take 20 years to fill the development. The projected energy requirements for a typical industrial park are not large, and it is difficult to envision any strategy (short of extremely favorable industrial development bonds for financing) that would enable Alaska to compete effectively with the large number of regional industrial development programs and commercially developed industrial parks in a way that would fill a large number of industrial parks.

The successful development of industrial parks designed for energy-intensive small businesses might be feasible if other aspects of an Alaskan location are exploited in addition to the potential availability of inexpensive electrical power. Materials processing, especially of Alaskan minerals, is the most likely type of business activity to be attracted to an Alaskan industrial park setting. The secondary processing of scarce high-value minerals is usually feasible only on a small scale. One approach for an integrated processing park would be to target the processing of critical or strategic materials like cobalt, chromium, molybdenum, manganese, zinc, nickel, tin, and fluorspar, and this possibility has been briefly discussed under "Ferroalloy Production."

SRI has found no meaningful way to quantitatively assess the potential for the development of small business industrial parks based on inexpensive electrical energy. SRI could find no examples of such parks that have been attracted to existing regions by the availability of inexpensive hydroelectric power. Since electrically intensive potential candidates, large or small, are considered throughout Section IX, potential candidates for the agglomeration strategy have been considered during the study. Based on this screening process, the most likely candidates appear to be associated with electrometallurgical processing (SIC 3313) or the processing of inorganic chemicals (SIC 2819).

Electrification of the Alaskan Railroad

Electrification of the Alaskan Railroad might be an attractive alternative to continued use of diesel-electric locomotives if low-cost plentiful electrical power becomes available. Two questions must be answered to determine the viability of electrification of the Alaskan Railroad:

- What approximate quantity of electric power would be consumed each year?
- What annual savings in the cost of energy would be available to repay the capital cost of electrification plus a return on investment?

Facilities and Equipment

The Alaskan Railroad has 654 miles of mainline, branch, yard, and other track for which traction power must be supplied. At present, the railroad owns 65 diesel-electric locomotives, including 21 classed as switchers. Thirty-eight locomotives are in service, 9 are undergoing heavy repair, 13 are stored in serviceable condition, and 1 is leased.[35]

If electrification were undertaken, some tracks such as yards and some branch lines would not be converted. Also, the Portage-Seward mainline has very low traffic density and would probably not be converted. For present purposes we will assume that 450 miles of track would be considered for electrification. This includes 419 miles of single track mainline between Whittier and Fairbanks and unspecified branch lines.

Construction of overhead electric lines, substations, and power distribution lines account for most of the capital cost of electrification. Electric locomotives would have to be purchased, but in the long run electric and diesel-electric locomotive fleets have similar capital costs.

Operations

Traffic on the Alaskan Railroad has varied greatly from year to year. In FY 1980 the railroad carried 271 million revenue ton-miles. In FY 1981 the traffic increased to 407 million revenue ton-miles, mainly because of increases in shipments of sand and gravel.[36]

Electrification is usually regarded as an interesting possibility only on lines that carry many trains each day and have high traffic densities--e.g., 40 million gross tons per year. The mainlines of the Alaskan Railroad have a low rate of utilization (Reference 3). In summer there are only 14 freight and passenger trains per week, each way, between Anchorage and Fairbanks, and the most heavily traveled line--between Anchorage and Matanuska--carries a total of only 37 round-trip trains per week. Traffic densities for mainline links in FY 1981 were as follows:

	Million Gross Tons Per Year
Fairbanks - Menana	3.1
Menana - Healy	3.2
Healy - Matanuska	2.2
Matanuska - Anchorage	5.9
Anchorage - Portage	1.8
Portage - Whittier	1.0
Portage - Seward	0.3

Energy Requirements

The Alaskan Railroad consumed 3,060,000 gallons of diesel fuel in 1981. In April 1981, at about midpoint in FY 1981, the average price paid for diesel fuel by U.S. railroads was $1.04 per gallon.[37] If we assume that the Alaskan Railroad paid $1.04 per gallon throughout FY 1981, its fuel cost was about $3.2 million.

In Reference 38, SRI developed factors for diesel fuel and electric power which indicate that an electrified system would require about 10.4 kWh to do the work of 1 gallon of diesel fuel in a diesel-electric system. Thus, in FY 1981, 100% conversion of the Alaskan Railroad would have generated a demand for about 32 million kWh of electric power, Actual demand would be somewhat less because some track would not be converted. If electric power had been available for $0.01/kWh, the cost of electric power would have been less than $320,000, or about 1/10 the cost of diesel fuel.

The difference between the costs of diesel fuel and electric power is the principal economic advantage of electrification. According to the foregoing estimates, the potential saving from 100% conversion would be about $2.9 million per year for the volume of freight carried in 1981 and at the price of diesel fuel in 1981. Savings from conversion of 450 miles would be somewhat less, of course. In future years savings would be higher if more freight were carried or if the difference in the prices of electric power and diesel fuel were higher.

Economics of Electrification

SRI's assessment of railroad electrification[38] indicates that the average cost of electrifying single track mainline without automatic signaling equipment was about $100,000 per mile at 1974 price levels. Costs in Alaska would be higher, and inflationary factors from 1974 to the 1990s would further increase costs. If these two factors are included, it would cost, on average, approximately $250,000 per mile for 450 miles, for a total cost of $110 million for electrification. If it is further assumed that the investment should be recovered in 40 years

at a return of 10% per year, annualized capital costs will be approximately $11.2 million per year. This amount compares unfavorably with the estimate of the potential savings from electrification, which are estimated at less than $2.9 million per year.

It seems unlikely that the conclusions of the analysis will be altered in the future by changing conditions. Savings in operating costs would increase if the cost of diesel fuel increased or if the volume of traffic increased. However, based on the rough estimates presented above, the annualized capital cost of electrification would barely be recovered if the average cost of diesel fuel increased to $4 per gallon (in 1980 dollars) or if the average volume of freight increased to 1.6 billion revenue ton-miles. Neither event is considered likely by SRI in the time frame of interest (i.e., 1990-2010). The price of electricity has little influence. The merits of electrification would not be changed greatly if the cost of electricity were $.02/kWh or if it were free.

Electric Intertie to the Lower 48

Exporting electric power from the proposed Alaska hydroelectric and/or tidal power plants to the Lower 48 is one option in utilizing the full production capacity of these plants. As shown in Figure IX-1, the overland route would run from Fairbanks or Anchorage to Everett, Washington, where it could tie into the Pacific Northwest power grid. Since the electric power systems of the Pacific Northwest are now interconnected with those of British Columbia, another option for consideration is to interconnect Alaskan, Canadian, and Pacific Northwest power sources and markets through exchange and load displacement. However, since additional transmission capacity through British Columbia and the Pacific Northwest would be required, the costs associated with an interconnection to British Columbia are expected to be comparable with the costs associated with a direct intertie to the Lower 48, if the ultimate destination of the power is the Lower 48.

Physical Factors

Routes considered for the intertie involve an impressive variety of terrain, geology, and climate settings. Most route locations lie in remote, sparsely settled areas.

A potential 1,810-mile route from Fairbanks to Everett, Washington, involves only two elevations greater than 3,000 ft.

Canadian portions of the route are map locations for study purposes only. Generally, use is made of protected mountain trenches and relatively low inland plateaus, thus avoiding the rugged, wet coastal mountains. Existing roads and railroads now use predominantly these terrain features.

Several studies have been made of road and rail routings through Northern British Columbia and the Yukon Territory.

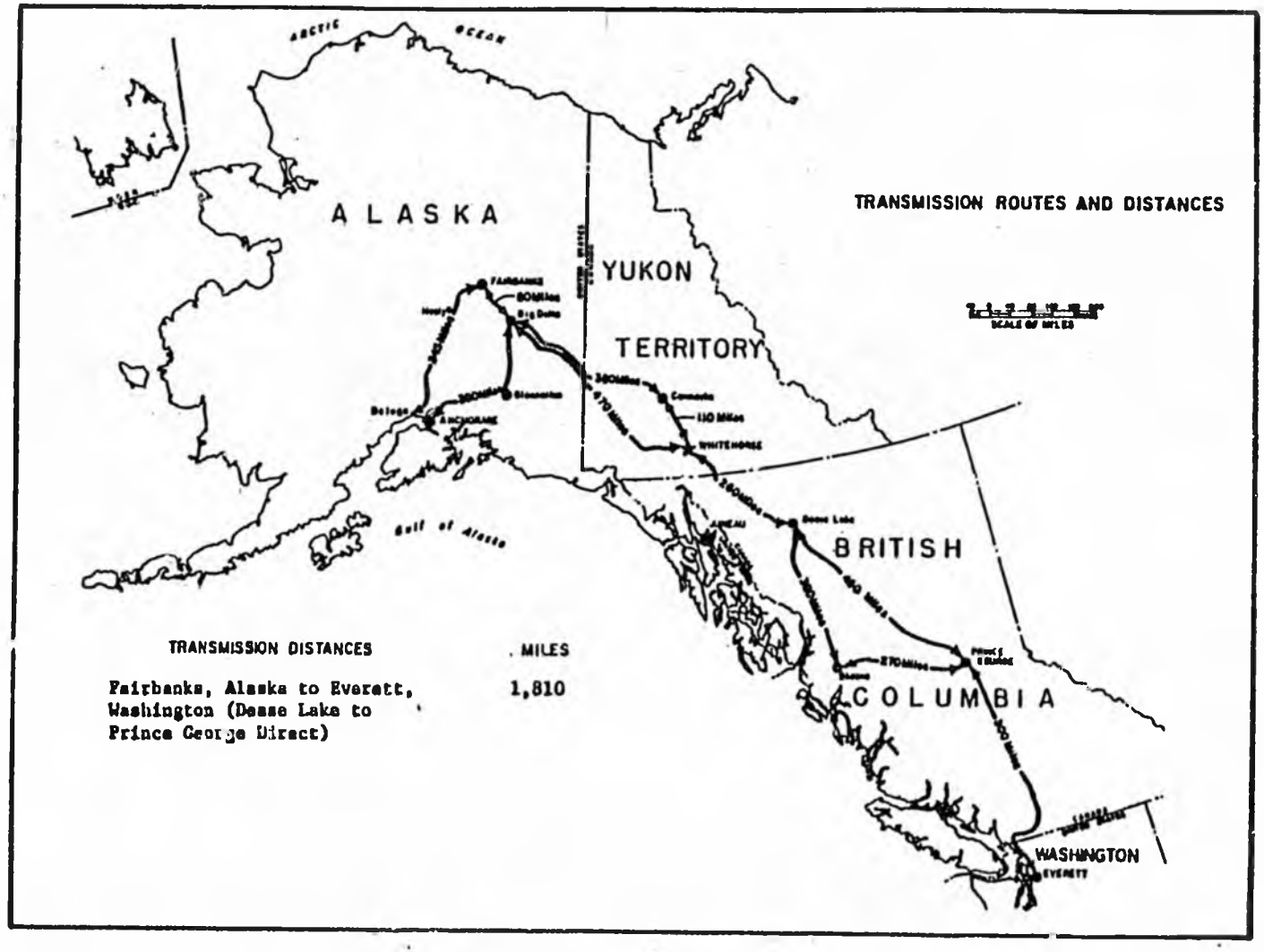

FIGURE IX-1 TRANSMISSION ROUTES AND DISTANCES

Existing 138-kV transmission systems near Fairbanks and Whitehorse, plus the extensive B.C. Hydro system extending as far North as the Peace River Project, provide an invaluable experience base. The Healy-Fairbanks 138-kV line experiences many of the environmental factors expected for the intertie, including exposure and operation in -70°F weather and tower foundations in fragile, discontinuous permafrost. From a design viewpoint, the southern portions of British Columbia may have the most difficult combination of terrain, snow, and icing problems encountered in the entire route.

Permafrost is known to exist as far south as the Yukon-British Columbia border and is a factor in foundation and access road design. Except for extremes of cold and duration of cold, the available climate data indicate few unusual design problems. Winds, snow, icing, and electrical storms all seem well within the range of climate conditions routinely handled in transmission systems in the Lower 48.

The route areas appear unusually free of earthquake dangers, considering the proximity to active areas of the Pacific Rim. Of the regions involved, the Puget Sound area has the most severe earthquake hazard.

Limited access presents problems for construction, operation, and maintenance. Routing generally along existing and developing transportation corridors should meet these concerns.

In summary, the available data support a tentative conclusion that no physical impediments exist which preclude construction of high voltage electric transmission lines along the routes considered. Careful attention to foundations and full use of existing knowledge of Arctic conditions appears to ensure physical feasibility.

A detailed study would involve careful consideration of the actual route selection, including soils and terrain, plus study of critical points such as the divides and mountain passes and full attention to the unique operation and maintenance situations in the Arctic.

Technology

Significant advances in high voltage transmission capabilities have been made in the last decade. Extensive alternating current transmission systems now exist at 500 kV, and some major Canadian and U.S. lines are operational at 735 and 765 kV.

Parallel advances in high voltage direct current (HVDC) technology include the 846-mile dc circuit of the Pacific Northwest-Southwest Intertie, which has a rated capacity of 1,440 MW. The Russian government has under study 1,500- and 1,800-mile lines at 750 kV dc for capacities up to 6,000 MW.

Existing and assured near-future transmission technology is adequate. This appears to be no technical barrier for the contemplated intertie.

Transmission towers would likely be of steel. Environmental effects of possible concern include esthetic impacts, direct effects of construction, increased activities in presently remote areas, and potential health effects of high voltage transmission lines. Interception of wildfowl by transmission lines has been experienced in some areas.

Transmission line clearing and weed control programs would be of possible concern. Differences would be expected in vegetation patterns and snow accumulation in cleared areas. Possible effects on wildlife, such as availability of feed, would need to be anticipated in location and clearing design.

It is assumed that any Canadian decisions on possible transmission routes in Canada would reflect full consideration of environmental effects. At this time, no environmental aspects of the transmission line preclude its development.

International Aspects

Transmission of the electric power would involve an international element in the feasibility of exporting Alaskan surplus power to the Lower 48. We assume appropriate arrangements with Canada can be reached if the U.S. and Canada determine there is a mutual interest. It should be noted, however, that B.C. Hydro is presently undertaking studies concerning exporting surplus electricity from British Columbia to potential markets in the Pacific Northwest and California. The interest by British Columbia in selling its own hydroelectric-generated power may place it in a competitive position with Alaska-generated electricity.

Design and Cost Assumptions

Adapting the Department of Interior North Slope Transmission Study Analysis,[39] the costs of an intertie with the Lower 48 were scaled according to the differences in transmission distances between the North Slope and the Railbelt (i.e., 2,249 miles vs. 1,510 miles). All estimates are based on routes and distances shown in Figure IX-1.

The analysis was based on Pacific Northwest construction costs, adjusted by a factor of 1.9 to reflect higher labor and transportation costs for Alaskan and northern Canadian construction. The transmission routes generally follow existing and planned roads and railroads, so no added costs were assumed for access roads or right-of-way. Costs were included for a service road suitable for 4-wheel-drive vehicles along those portions of the route where soil conditions permit. The service road would be used for construction and operation and maintenance.

For permafrost areas, such primitive service roads would be suitable only where soil conditions are ideal. For frost-susceptible soils and suspected high-ice-content permafrost, it is assumed that overland access for both construction and operation and maintenance would be limited to winter transport on frozen soils. Helicopters would be used extensively.

Tower foundations in permafrost areas require a departure from normal practice. Estimates for this study assume free-standing structural steel towers with foundations on timber grillage and gravel pads for permafrost areas, based on successful Canadian experience with this design.

Rough estimates of clearing costs were based on regional forest cover types and required width of rights-of-way. The costs do not include any allowance for right-of-way acquisition. System voltage and conductor configurations were selected by rule-of-thumb methods, and rough approximations were made of line capabilities, losses, and series compensations.

The estimates include substation (or terminal) costs to deliver power to regional transmission systems. The costs do not include subtransmission or distribution facilities within the regions. Unit transmission costs reflect assumptions of 50-year life for transmission lines and 30 years for terminals and substations, and an assumption of public financing. The estimated costs for transmission of electricity from the Railbelt region to the Lower 48 are expected to average $0.022/kWh in 1981 dollars (Table IX-37).

Under the proposed bulk transmission of electric power to the Pacific Northwest, the power must satisfy an unmet demand and be cost competitive in the potential market areas.

The increased cost of transmission to the Lower 48 compares unfavorably with current industrial market prices, which range from $0.01/kWh to $0.025/kWh in the Pacific Northwest. Although the price of subsidized Alaskan electricity transported to the Northwest ($0.035/kWh) might compare favorably with the projected prices of electricity in the Northwest and California in the 1990s, Alaska would have to assure power availability throughout the lifetime of the transmission line, and there seems to be little incentive for Alaska to subsidize power delivered to the Northwest.

Established HV and EHV transmisson grids in the Pacific Northwest interconnect the region's federal and investor utility generating plants and load centers. A recent report on potential markets in the Pacific Northwest and California for surplus electricity from British Columbia in the late 1980s concluded that:

Table IX-37

ESTIMATED COSTS FOR TRANSMISSION OF ELECTRICITY FROM RAILBELT TO LOWER 48 FOR 4,000 MW WITH 90% LOAD FACTOR AND 7% LOSSES (2.6×10^{10} kWh at market)

Construction cost (1981$)	$\$4.7 \times 10^9$
Interest during construction $\left(\frac{\text{cost} \times 10\% \times 4 \text{ yrs}}{2}\right)$	$\$0.9 \times 10^9$
Investment	$\$5.6 \times 10^9$
Annualized cost (10%)	$\$0.56 \times 10^9$
Operation and maintenance	$\$ .01 \times 10^9$
Total cost	$\$0.57 \times 10^9$
Energy cost for transmission	$0.022/kWh

Utility forecasts indicate that the Pacific Northwest states will have a net SURPLUS of electrical energy under most foreseeable circumstances through the mid-1990s.

...the Pacific Northwest is NOT a promising market for surplus British Columbia electricity, except under extremely infrequent (and certainly unpredictable) "critical" water conditions.*

In the 1990-2010 time frame, power from Alaska would be a supplement to the hydro-thermal program in lieu of nuclear installation near the Pacific Northwest load centers. There are many uncertainties as to probable future costs of new baseload electric energy in the Pacific Northwest. Increasing construction costs, siting questions, and a range of environmental considerations all point to higher cost of energy from future plants. Independent analyses by SRI of the supply and demand in the Pacific Northwest confirm that supplies should be adequate in this region through the 1990s. There is some potential to market Alaskan electricity in California if it can be made available below prevailing industrial rates.

The export to the Pacific Northwest of power generated with the proposed hydroelectric or tidal facilities through a direct bulk power delivery system is fully feasible from a physical and engineering standpoint. However, it is unlikely at this time to have sufficiently favorable financial feasibility to merit priority consideration in the use of surplus hydroelectric power. More detailed investigations of transmission systems to deliver energy generated by hydroelectric or tidal power in the 1982-1995 time frame do not seem merited. Potential delivery to California markets on a regular basis through the Pacific Northwest grid may be feasible beyond 1995.

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*A. R. Tussing, S. A. van Vactor, C. C. Barlow, "Potential Markets in the Pacific Northwest and California for Surplus Electricity from British Columbia." ARTA, Inc., Seattle, Washington, November 1981.

X CONCLUSIONS

SRI has evaluated the potential of low-cost power in the Railbelt region to attract energy-intensive industries. Of the nine potential candidate industries and four additional application areas considered, only residential space heating and processing of certain primary metals are likely to take advantage of the low-cost power in the Railbelt region. Expanded space heating usage has the best potential to utilize any excess power produced in the Railbelt. Investment in an aluminum plant appears to be likely only if the construction costs of the hydroelectric projects are subsidized by the state, and then it is questionable that there will be sufficient excess power available to serve a single "world-class" plant. Although the tidal project might provide sufficient power, the power from this project will not be low cost. Other metal processing plants are likely to be considered only if feedstocks are found in Alaska. The construction of an intertie with the Lower 48 does not appear to be cost-effective without state grants to finance the power projects, but there is no rationale for Alaska to subsidize power delivered to other states.

SRI's findings are predicated on 10% interest rates, continued high Alaskan labor costs, and little real increase in petroleum prices during the next 25 years.

The major findings of the study are:

- The cost of power from the Susitna project will not be competitive without a very substantial state subsidy, in the form of either grants or subsidized interest rate (until the capital cost obligation is paid off in 2010).
- The Cook Inlet project will not produce power at competitive rates because of the intermittent nature of tidal power.
- There is not likely to be excess power available from Susitna alone unless the Alaskan economy stagnates or declines.
- There is unlikely to be sufficient excess power to serve a single world-class aluminum plant.
- Other than aluminum, electrically intensive industries are unlikely to derive sufficient cost savings from subsidized power to consider an Alaskan site on the basis of low-cost electricity alone.

- The availability of low-cost power might improve the economics of processing materials, provided the major feedstocks are native to Alaska.

- Without a tiered rate structure to discourage use for residential space heating, subsidized power is likely to increase electric space heating use sufficiently to absorb any excess power from the Susitna project.

- The relatively high state corporate income tax is a barrier to industrial development in the state.

- Although the SRI study is predicated on stable energy prices through 2002, the findings of the study are not greatly affected by an increase in fuel prices of 50%, since transportation costs will escalate commensurately.

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10. Ibid., pp. 4-27.

11. Sterling Brubaker, Trends in the World Aluminum Industry, Johns Hopkins Press, 1967, pp. 155-162.

12. Ibid.

13. Average U.S. price of aluminum ingot in 1980 = 71.6¢/lb
    = $1,575 $/metric ton
    Average shipping cost for alumina = $16/ton
    2 tons alumina/ton aluminum = $16 x 2 = $32/ton input shipping charge
    Export shipping of ingot = 4.5 x $16 = $72/ton
    Total average shipping charge per ton aluminum = $72 + $32
    = $104
    Fraction of value attributable to shipping = $104/ton shipping
    ÷ $1,575/tons value
    = 6.6%

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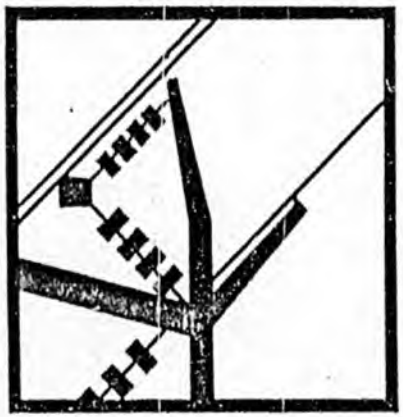

SUSITNA HYDROELECTRIC PROJECT

SUMMARY REPORT

MARCH, 1982

DRAFT

ACRES

ALASKA POWER AUTHORITY

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FRONTISPIECE — WATANA DAMSITE

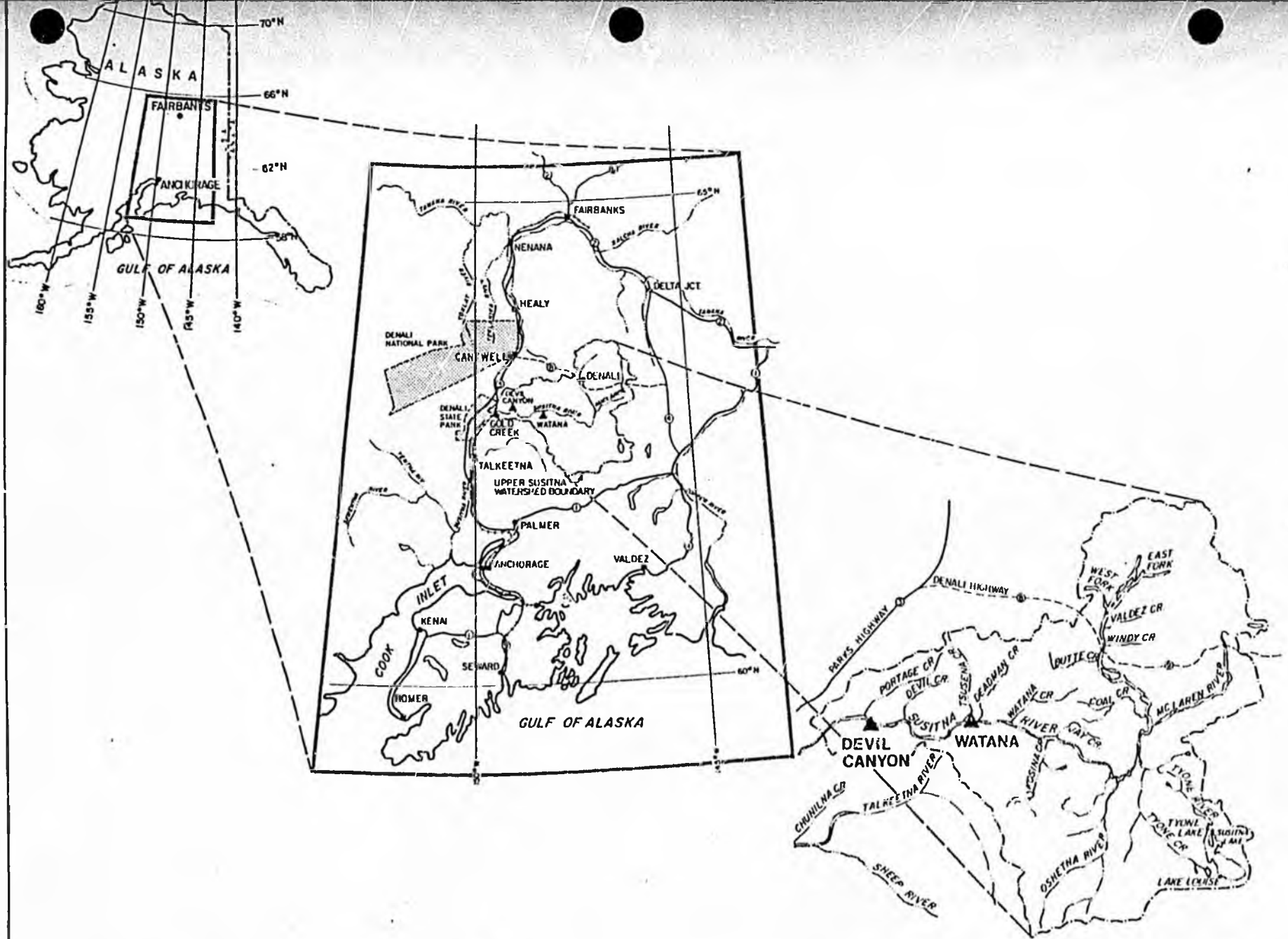


PLATE 1 | **LOCATION PLAN**

INTRODUCTION

1

The Susitna River, with a drainage area of more than 19,000 square miles, is the sixth largest in Alaska. (See Plate 1.) Rising in the glacier-topped mountains of the Alaska Range about 90 miles south of Fairbanks, the river meanders across a broad alluvial fan for about 50 miles in a southerly direction before it turns westward and begins a 75-mile plunge between essentially continuous canyon walls. Turning once again to the south, it flows for another 125 miles before discharging into the upper reaches of Cook Inlet west of Anchorage. An important and productive fishery resource, the Susitna also contributes to the support of significant wildlife populations in the virtually untouched and relatively inaccessible lands across which it flows.

Contained entirely within the southcentral Railbelt region, the Susitna basin is strategically situated between the two largest Alaskan population centers of Anchorage and Fairbanks.

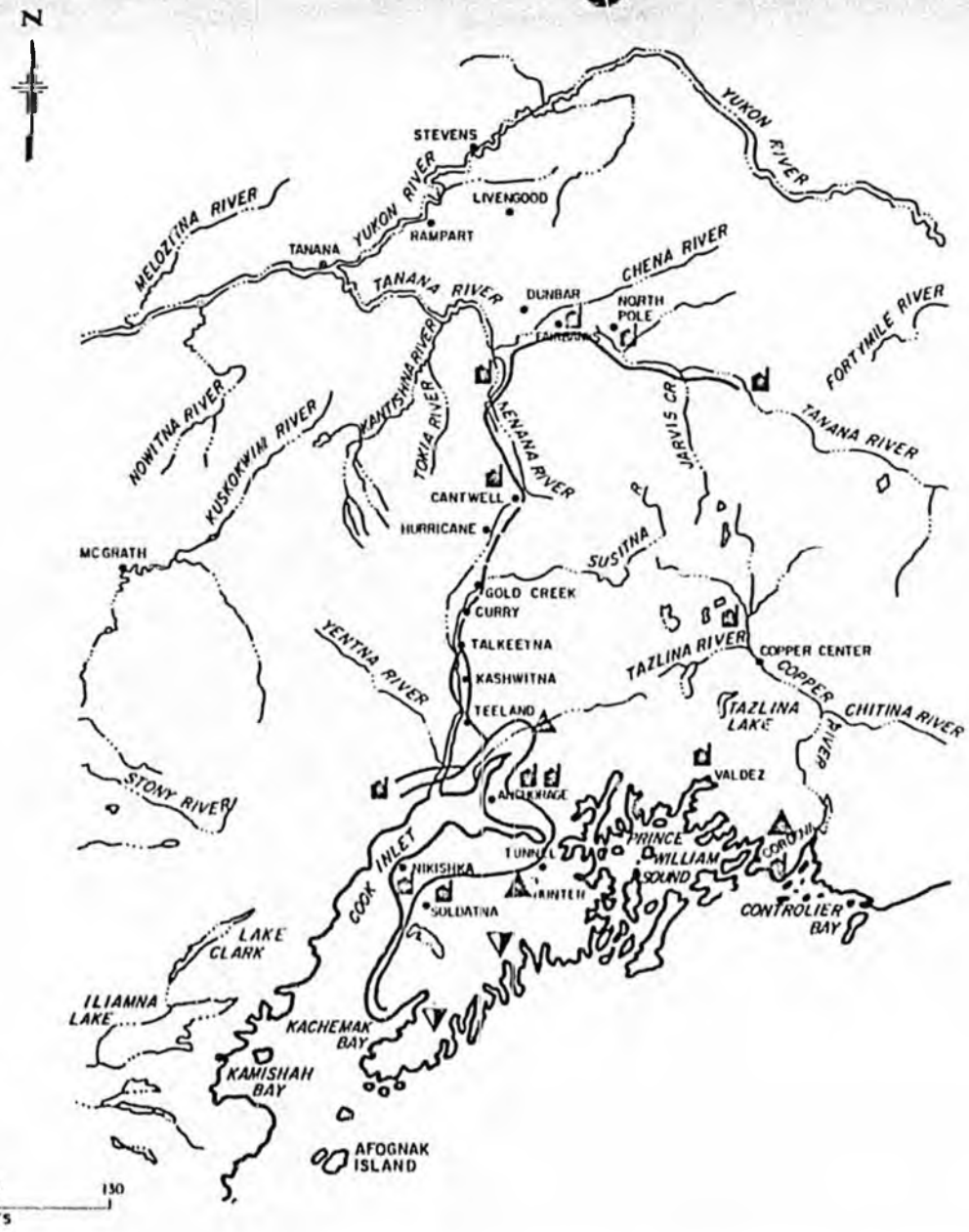
The extensive hydroelectric potential of the Susitna River first came to public attention in 1948 when the Bureau of Reclamation issued a report of its initial investigations there. Since that time, various development schemes have been advanced by public agencies and private organizations. A common thread in the many earlier reports is a virtually unanimous agreement that some project should proceed.

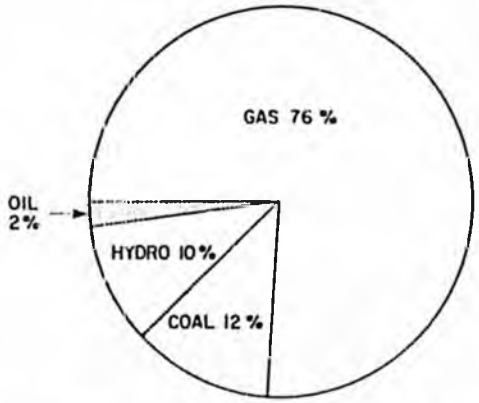
Acres American Incorporated was commissioned by the Alaska Power Authority, in December 1979, to conduct a detailed feasibility study in order to determine technical feasibility, economic viability, and environmental impacts of an optimal development in the basin. A rigorous program of field investigations, alternative plan evaluations, design studies, environmental studies, and economic analyses led to the production of a final draft feasibility report issued for public comment in March 1982. This document provides a summary of the detailed report.

Throughout the study period, an agressive public participation program was conducted by the Alaska Power Authority. Comments from interested organizations and individuals have greatly influenced the work. In addition, coordination with federal and state resource agencies has resulted in the selection of design criteria, project features, and operation plans which appear to offer balanced solutions to sometimes conflicting objectives.

A separate and independent study of alternatives to the Susitna project has been prepared by Battelle Pacific Northwest Laboratories under the terms of an agreement with the Office of the Governor, State of Alaska. Both the Battelle Report and the detailed feasibility study are available for public review at libraries throughout the Railbelt.

THE EXTENSIVE HYDROELECTRIC POTENTIAL OF THE SUSITNA RIVER FIRST CAME TO PUBLIC ATTENTION IN 1948...





NET GENERATING BY TYPES OF FUEL

GENERATING PLANTS

- EXISTING THERMAL
- EXISTING HYDRO
- PROPOSED HYDRO

TRANSMISSION LINES

- EXISTING
- PROPOSED

PLATE 2 | GENERATING AND TRANSMISSION FACILITIES

NEEDS

2

Current Generation System

About 90 percent of the current total net generation of electricity in the Railbelt depends upon the use of fossil fuels. Anchorage and other communities in the south now enjoy relatively low-cost energy because of their proximity to Cook Inlet gas fields and to existing small hydroelectric plants. In the north, the Fairbanks-Tanana Valley area depends primarily upon coal (which is mined near Healy) and a small amount of oil. Plate 2 provides a breakdown of generation by fuel types.

At the present time, the northern and southern load centers are not interconnected. Thus, generating systems have evolved independently over the years in these two areas. The total installed capacity in the Railbelt, exclusive of military generation, is nearly 1000 MW.

Five electric utility companies serve the Anchorage-Cook Inlet area. The two largest, Achorage Municipal Light and Power and Chugach Electric Association, operate the bulk of the generating resources. Alaska Power Administration, a federal agency, operates the 30-MW Eklutna hydroelectric plant, marketing wholesale power to several of the utility companies. Aside from the Eklutna plant, most generating resources in the south are concentrated around urban areas or near Beluga, west of Anchorage, where natural gas is piped from various wells. Transmission interconnections between utility systems generally exist in the Anchorage-Cook Inlet area.

The Fairbanks-Tanana Valley area is served by two utility companies: Golden Valley Electric Association and Fairbanks Municipal Utilities System. A coal-fired plant operated near the mine mouth at Healy supplies energy to communities to the north through a 138-kV transmission line.

Military bases in the Railbelt independently operate generating units, as does the University of Alaska at Fairbanks. The Glennallen-Valdez area, east of Anchorage, is served by the Copper Valley Electric Association.

Scheduled Additions

An intertie permitting transfer of up to 70 MW of power between Anchorage and Fairbanks is currently planned by the Alaska Power Authority. It will provide an opportunity for economic interchange of energy and will permit sharing reserve capacity. Provisions have been made for integrating the intertie into a future larger transmission system in the event that the Susitna project or other regional-scale facility is constructed.

THE TOTAL INSTALLED CAPACITY IN THE RAILBELT, EXCLUSIVE OF MILITARY GENERATION, IS NEARLY 1000 MW.

Five new generating units are currently planned in the Railbelt. Two hydroelectric plants will provide about 97 MW with perhaps another 45 MW of spinning reserve. The larger of these is the Bradley Lake Project east of Homer, now being considered at alternative capacities of either 90 MW or 135 MW. Grant Lake would add a further 7 MW. One gas-fired combined-cycle unit and two gas turbines will add another 160 MW. When scheduled retirements and new additions are accounted for, the total system capacity in the early 1990s is expected to be about 1200 MW.

Historical Trends

Between 1940 and 1978, electricity sales in the Railbelt grew at an average annual rate of 15.2 percent - roughly twice that of the nation as a whole. Plate 3 illustrates the historical growth in electric energy demand between 1965 and 1980. Although the rate of demand increase in the Railbelt has consistently exceeded the national average, the gap has narrowed in recent years as the Alaskan economy has matured. Past high growth rates can be attributed both to rapid population increases and to installation of electric service in households which had not previously been served.

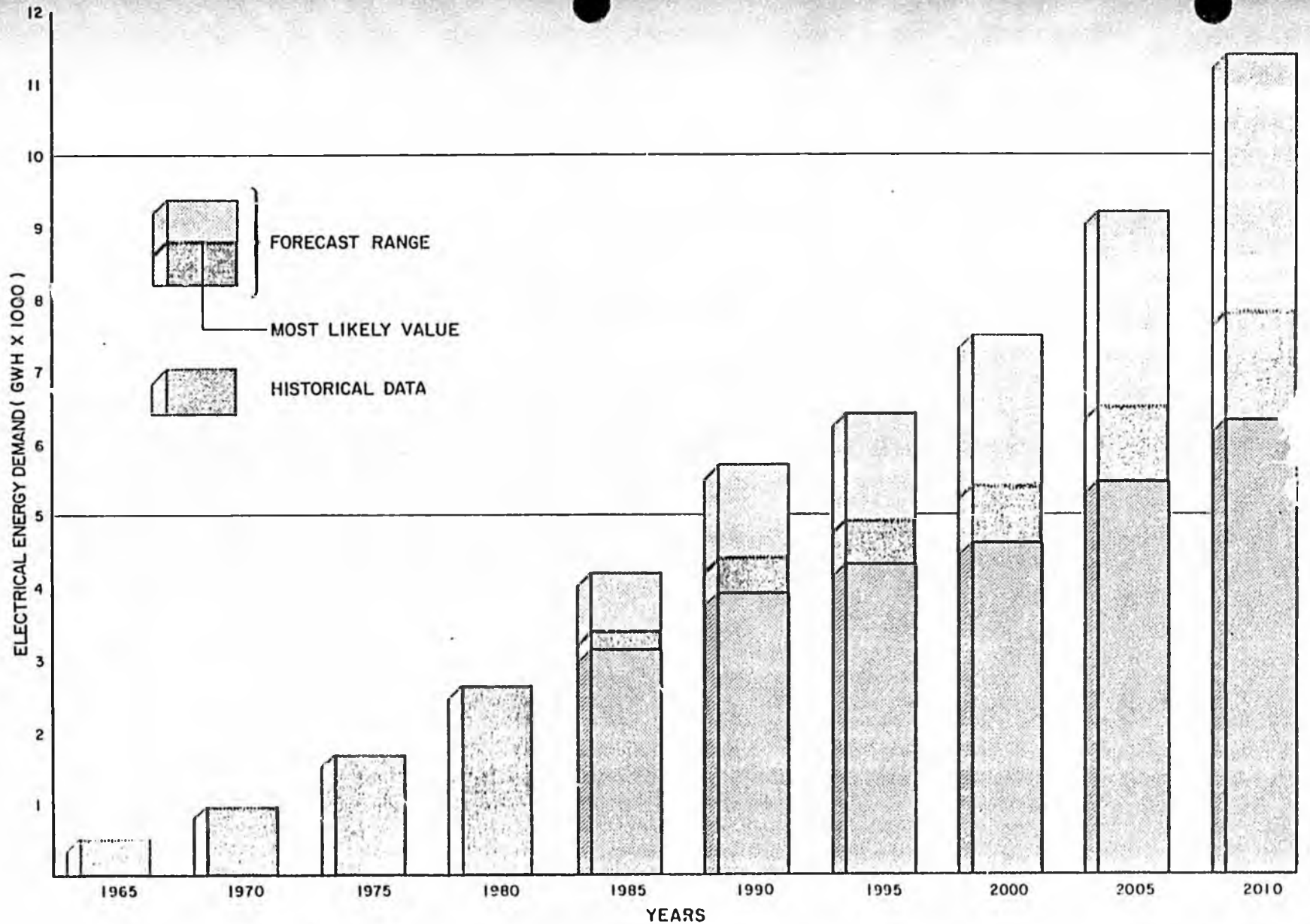


PLATE 3 | **RAILBELT ENERGY DEMANDS**

Currently, about 47 percent of utility sales are to residential customers, 1 percent for miscellaneous use (e.g. street lighting), and the remaining 52 percent to the commercial-industrial-government sector. This split has been relatively constant during the past decade.

Forecasts of Future Demand

A great deal of uncertainty is necessarily associated with the preparation of demand and load forecasts. Population growth, industrial activity, government expenditures, energy prices, conservation measures and a variety of other factors will affect — and are frequently affected by — future demand. To ensure objectivity, a range of load forecasts was independently derived. Initial work accomplished by the Institute for Social and Economic Research, University of Alaska, was subsequently updated by Battelle Pacific Northwest Laboratories (Battelle). Plate 3 illustrates the December 1981 Battelle forecasts used in the final evaluation of Susitna project viability. Between 1981 and 2010, the mid-range forecast suggests that electrical and energy demand will grow at an annual rate of about 3.5 percent, with the high and low range limits at about 4.6 percent and 2.8 percent, respectively. The mid-range value was selected as the base case for planning future generation needs in the Railbelt. Sensitivity tests were conducted for the high and low cases (see Section 10).

All forecasts include substantial electricity conservation due to the cost of power. In the low case, industrial developments such as mining Beluga coal, U.S. Borax mining, a petrochemical plant, and a Valdez refinery are assumed not to occur. These developments do appear in the high case, but no additional major capital projects for which planning has not yet commenced are assumed. In each case, demand was sensitive to energy costs. Thus, more energy demand is assumed to occur for the least cost alternative than for higher cost alternatives.

Military bases and self-supplied industries are assumed to continue to generate electricity for their own needs and they are not included in the demand forecast.

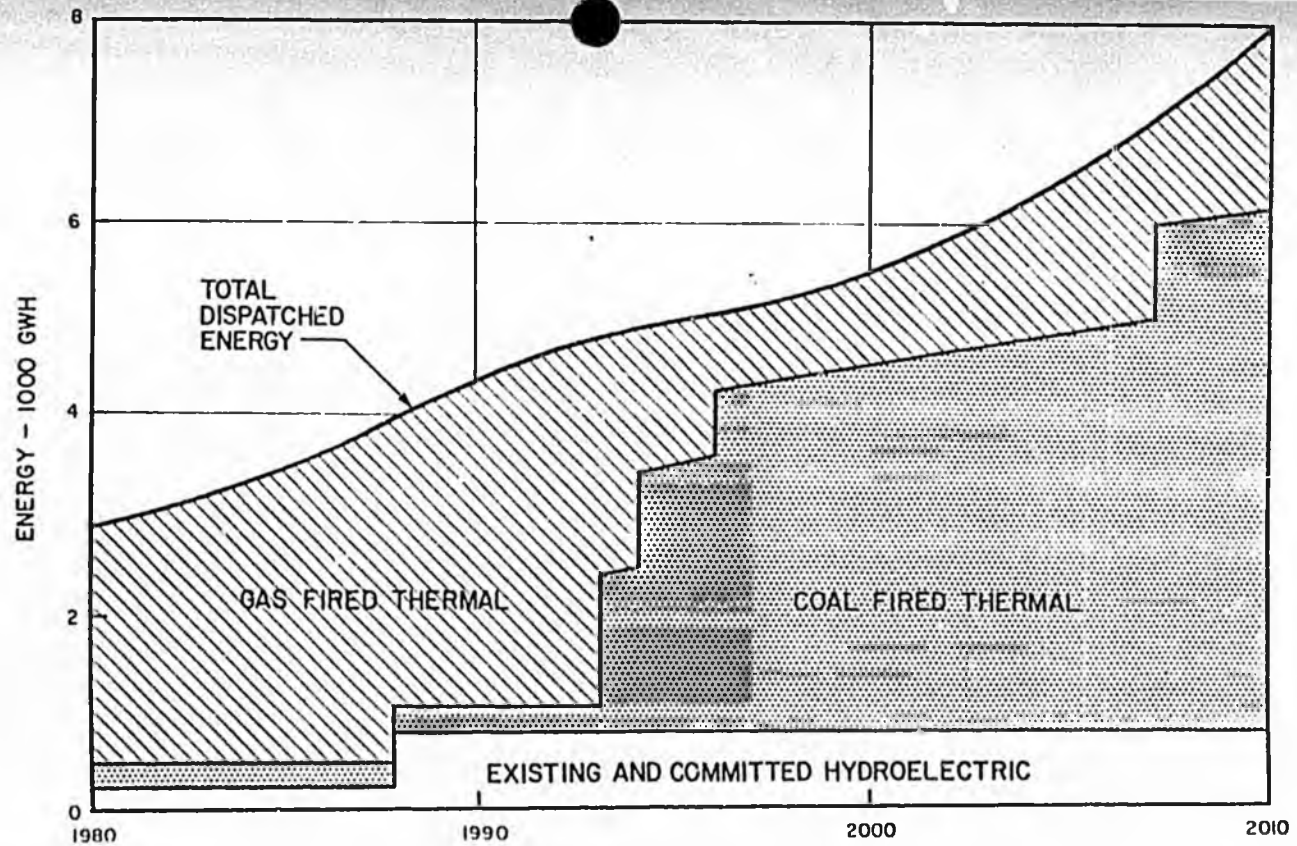
Electric space heating which now warms about 21 percent of the households in Anchorage and 9 percent in Fairbanks is assumed to change in relation to price differences between electricity and alternative heating fuels. Growth in population and tourism varies from case to case. Battelle indicated that the chances of realizing lesser and greater demand than the mid-range forecast are equal.

Requirements for Additional Capacity[1]

Under the mid-range forecast, currently scheduled additions are sufficient until 1993 to meet rising demand as well as to replace aging units which must be retired. Between 1993 and 2010, about 1400 megawatts of capacity must be added to the system to meet additional demand as well as to replace aging units.

. . . THE MID-RANGE FORECAST SUGGESTS THAT ELECTRICAL ENERGY DEMAND WILL GROW AT AN ANNUAL RATE OF ABOUT 3.5 PERCENT.

If required system expansion occurs by continued use of the thermal generating plants, a shift toward increased use of coal will be necessary not only because the Cook Inlet gas reserves may be insufficient to sustain long-term reliance upon natural gas in the face of increased demand but also because sharp increases in gas prices will occur in the next decade as old supply contracts expire. The installation of thermal (coal- or gas-fired) plants to meet the demand would offer the consumer no protection against rising costs, since fuel prices will continue to be exposed to inflation and to extraordinary escalation occasioned by world market conditions. Thus, it is appropriate to consider what other options may exist, as well as to ponder important implications and risks which might be associated with them.



VALUES OF SELECTED PARAMETERS

	200 MW COAL – FIRED PLANT (BELUGA)	70 MW GAS-FIRED COMBUSTION TURBINE
FUEL PRICE (1982 $/MMBTU)	$1.43	$3.00
ANNUAL FUEL PRICE ESCALATION:		
1982-2000	2.6%	2.5%
2000-2010	1.2%	2.0%
CAPITAL COSTS (1982 $/KW)	$2,242	$636
ANNUAL CAPITAL COST ESCALATION	1.8%	1.8%
INFLATION RATE	0%	0%
DISCOUNT RATE	3%	3%
ANNUAL OPERATING AND MAINTENANCE COSTS		
FIXED (1982 $/KW)	$16.83	$2.70
VARIABLE (1982 MILLS/KWH)	0.60	4.84
ASSUMED USEFUL LIFE (YEARS)	30	30

PLATE 4 | **BASE CASE INSTALLATION SEQUENCE**

OPTIONS

3

In Battelle's preparation of load and demand forecasts, consideration was given to the extent to which reasonable and extreme conservation measures might be taken to minimize growth in electricity consumption. Indeed, conservation assumptions contributed in part to the earlier noted major decrease in growth rate from historical trends to alternative future expectations. It follows that the post-1993 demand must be met by physically installing additional generating units. An additional consideration, regardless of load growth, is the possible value of substituting new generation modes for existing fossil fuel-fired facilities subject to significant cost increases.

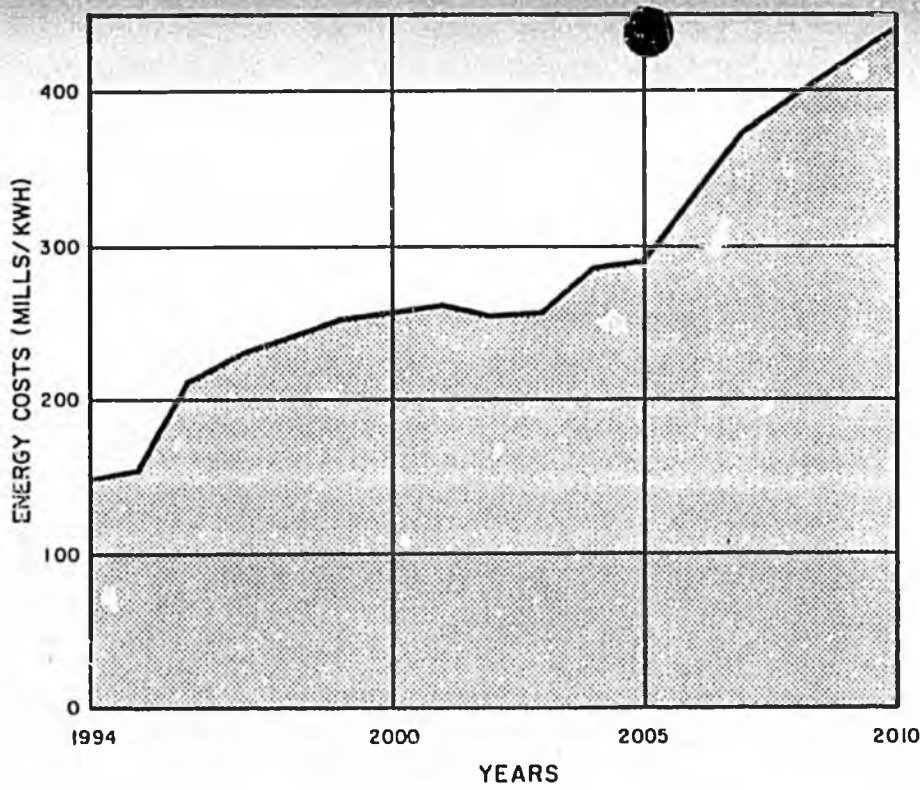
While it was not the purpose of the Susitna feasibility study to define the preferred alternative to Susitna development, it is nonetheless true that a reasonable "without Susitna" plan had to be developed as the basis for determining the nature, phasing, and economic viability of the apparent optimum Susitna project.

A computerized generation planning model, Optimized Generation Planning (OGP), is commonly used in the utility industry to assist in making decisions about future system expansion. This tool was employed to develop an apparent least-cost non-Susitna thermal generation plan. Given a list of possible additions — each with associated capacity, capital costs, fuel requirements and costs, operating and maintenance costs, reliability and availability data — the model selects appropriate additions on an annual basis throughout the planning period. Plate 4 illustrates the installation sequence developed for the "all thermal" non-Susitna plan, together with a tabulation of selected additions and key cost parameters. It is this plan which provides a base case for comparing alternative Susitna developments and for evaluating net benefits.

Although different methodologies and planning models were employed, the base case thermal plan shown on Plate 4 is similar to that produced by Battelle as Plan 1A in the independent alternatives study.

Certain non-Susitna hydroelectric options are available in the Railbelt. Of these, the most attractive from an economic standpoint would appear to be the Chakachamna project, located about 80 miles west of Anchorage. Chakachamna does not appear in the base case plan primarily because it may have a substantial fishery impact and because studies to date have been insufficient to determine expected capital costs with precision. Even so, as will be seen in Section 10, sensitivity analyses were conducted to determine the extent to which Chakachamna development would change net project benefits.

... THE BASE CASE THERMAL PLAN ... IS SIMILAR TO THAT PRODUCED BY BATTELLE ...



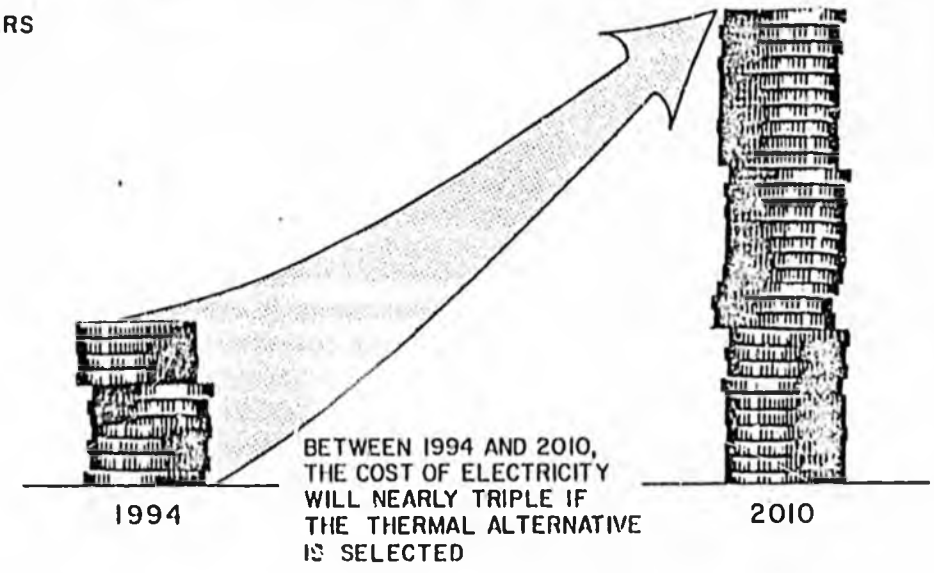


PLATE 5 | **ANNUAL COSTS - BASE CASE**

Future Electric Energy Costs

If the base case plan is implemented, certain relatively dramatic changes in Railbelt energy costs will occur during the study period, as shown on Plate 5. In part, the expected electricity price rise can be ascribed to the insidious effects of inflation, assumed to average about 7 percent per annum through 2010. In part, the compounding effects of continuing fuel cost escalation over and above inflation will be translated into higher electricity bills. But other influences come into play as well, and they represent important considerations.

Not shown on Plate 5, but nonetheless significant to the consumer, particularly in Anchorage, is the fact that between 1982 and 1993, many of the long-term contracts now held by utility companies for very favorably priced Cook Inlet gas will expire. Not only will major increases in electric energy costs result from the requirement by local utility companies to purchase gas at market prices, but also known Cook Inlet gas reserves may have been depleted in the early 1990's to the point that reliance upon natural gas as the principal fuel for electric energy generation would no longer be possible. The availability during the study period of North Slope gas near Fairbanks remains uncertain. Even if the gas pipeline is built, however, the gas price is projected to be higher than that for the Cook Inlet resource. For these reasons, use of North Slope gas for electric energy generation is not considered a viable alternative.

The base case plan calls for the addition of two 200-MW coal-fired steam plants at Beluga in 1993-94. Coal mining is assumed to occur at Beluga and an export market for Beluga coal is assumed to exist. To recover the investment in these plants and to account for anticipated major increases in gas costs, as well as inflation and fuel price escalation above the underlying inflation rate, the wholesale price per kWh for electricity will have risen by 1994 to 145 mills (14.5¢) per kWh and will continue to rise thereafter. It is this price trend against which any proposed hydroelectric development on the Susitna River must compete.

If the mid-range forecast is realized, another 200-MW coal-fired plant will be required, probably near Nenana, in 1996 — accounting for the sharp increase between 1995 and 1996 shown on Plate 5. By 2007, a 200-MW coal-fired plant must be added, probably at Beluga. In the meantime, a number of gas turbines must be installed to maintain system peaking capability, to satisfy reserve requirements, and to replace similar units which will have reached the end of their useful operating life. Existing and planned hydroelectric plants are included in the base case plan and no hydroelectric units are assumed to retire during the study period. If the Bradley Lake Project is not constructed, costs for the non-Susitna plan will be greater than those shown on Plate 5.

An important assumption in the development of the base case plan has been that coal mining operations in the Beluga fields will have been conducted on a commercial scale within the next decade. Even with the assumed transition from gas to coal as the principal fuel for Railbelt electricity generation, coal demand within Alaska will have to be supplemented by substantial coal export requirements before opening the Beluga fields becomes an economically wise decision. Thus, there is some risk associated with reliance upon the Beluga coal scenario. The energy prices reflected on Plate 5 would rise dramatically if Healy fields were to represent the only reasonable coal source or if the only market for Beluga coal were to be for electric energy generation in Alaska.

AN IMPORTANT ASSUMPTION . . . HAS BEEN THAT OPERATIONS IN THE BELUGA FIELDS WILL START WITHIN THE NEXT DECADE.

It may be anticipated that, if primary dependence is placed upon fossil fuels for energy generation, electricity costs will rise after 2010 at a rate similar to that reflected in the last five years shown on Plate 5. As will be seen in Section 11 of this report, development of the upper Susitna basin could result in suppression of long-term growth in energy prices and a true saving to consumers. Even so, important potential risks and environmental impacts must be pondered.

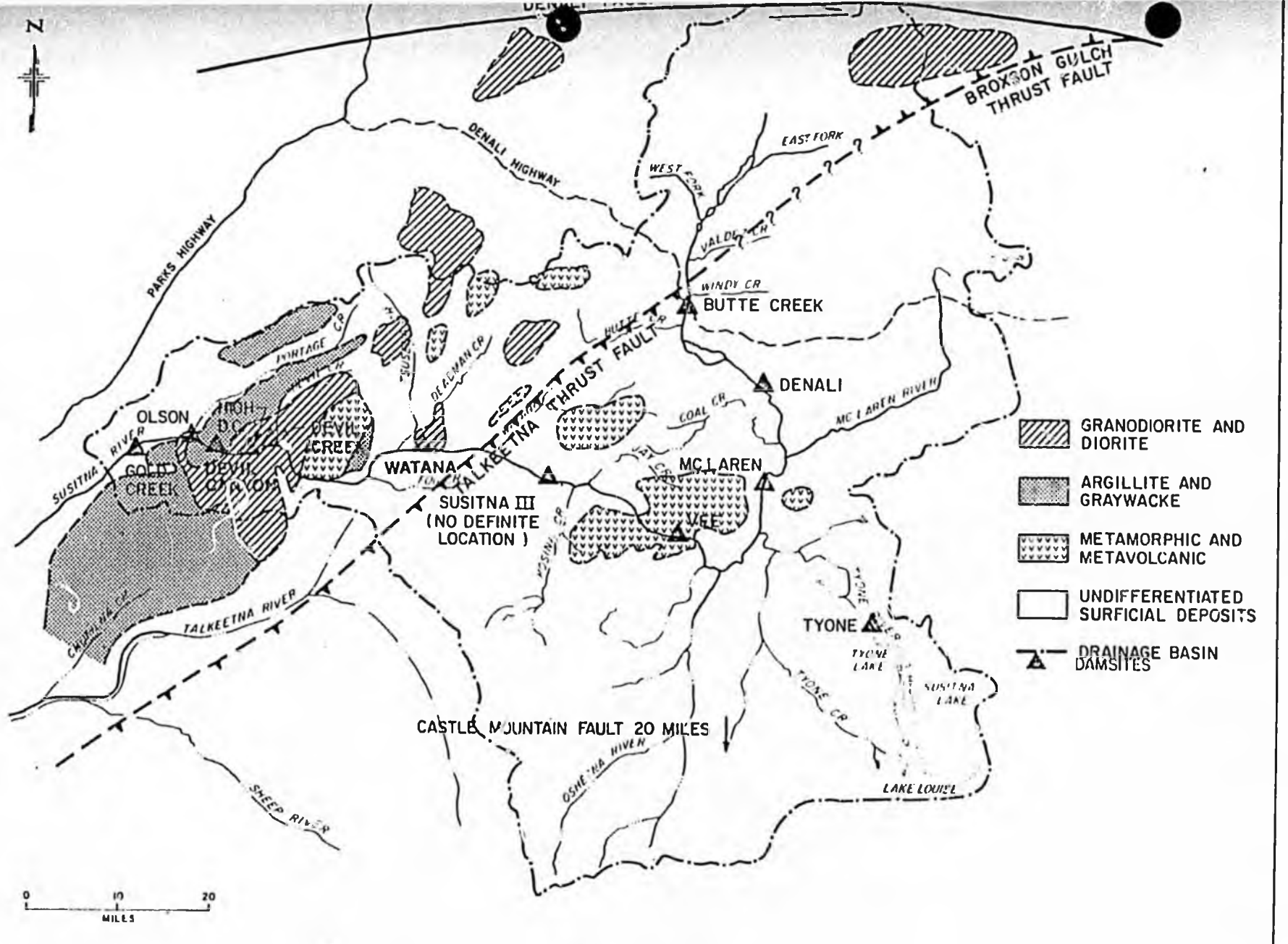


PLATE 6 | **UPPER SUSITNA BASIN**

Basin Characteristics

The Susitna River exhibits two distinct seasons of flow. Between May and October, snow and glacial melt, together with heavy rainfall, contribute about 90 percent of the annual total flow. Modest winter flows occur in the mainstem, and many smaller tributaries freeze solid in the coldest months. Less than 20 percent of the total Susitna discharge into Cook Inlet is contributed by the Susitna river above Devil Canyon. As the river turns in a southerly direction after leaving the steep narrow canyons of its westerly leg, major tributaries, including the Chulitna, Talkeetna and Yentna Rivers, contribute to the bulk of the total discharge which ultimately reaches the mouth.

Occasional high flows in the Susitna contribute to the formation of productive habitat both for fisheries and for wildlife as land is alternately inundated and exposed and as sedimentation and debris is picked up and redeposited. However, Portage Creek, just west of Devil Canyon (see Plate 6), is the furthest point to which salmon migrate. Raging torrents in the canyons beyond Portage Creek present a natural barrier to further upstream movement. Floods with return periods of 50 to 10,000 years range from 48,000 cfs to 200,000 cfs at Devil Canyon. The probable maximum flood (expected never to occur) is 366,000 cfs at Devil Canyon.

The upper Susitna basin has a complex geology, as will be seen on the overlay for Plate 6. A history of at least three periods of major tectonic deformation contributes to this complexity. Volcanic flows and limestones, formed 250 to 300 million years ago, are overlain by sandstones and shale. A tectonic event dated approximately 150 million years ago resulted in the intrusion of large diorite and granite plutons. Marine deposition of silts and clays followed. Faulting and folding of the Talkeetna Mountains area in the late-Cretaceous period (65 to 100 million years ago) resulted in the formation of argillites and phyllites near Devil Canyon. The diorite pluton that forms the bedrock of the Watana site was intruded into sediments and volcanics about 65 million years ago. Andesite and basalt flows nearby were intruded after this plutonic intrusion.

A third regional uplift about 20 to 40 million years ago raised portions of the basin as much as 3000 feet. Since then, erosion, glaciation, and active downcutting of streams and rivers have combined to form the current topography.

The upper basin lies in a highly seismic region. Historical earthquakes within 200 miles of the upper Susitna River have generally originated from deep within the earth (the Benioff Zone) and from the crustal seismic zone. Major faults include the Denali fault system and the Castle Mountain fault. The Denali fault lies 30 to 40 miles north of potential dam sites and it is capable of causing earthquake magnitudes of 8.0 on the Richter scale. The Castle Mountain fault is 60 to 70 miles to the south and could cause earthquakes of magnitude 7.5. The most dominant earthquake source, however, is the Benioff Zone, which itself contains two distinct segments separated by a transition zone of low seismic activity. The shallower portion could produce earthquakes of 8.5 magnitude within about 57 miles of Devil Canyon and 40 miles of Watana. The deeper segment could generate 7.5 magnitude about 19 miles closer to Devil Canyon. The absence of faults with recent displacement in the vicinity of the sites sets an upper limit on the magnitude of an event that could have occurred in the crustal zone without detection. However, a remotely possible "terrain" earthquake occurring with a magnitude of 6.25 less than 6 miles from the sites must also be considered.

It follows that if hydroelectric development does proceed in the basin, proposed projects must be sufficiently robust to withstand occasional high floods and major earthquakes. At the same time, impacts on important downstream fishery resources and on wildlife populations in general must be minimized.

THE UPPER BASIN LIES IN A HIGHLY SEISMIC REGION.

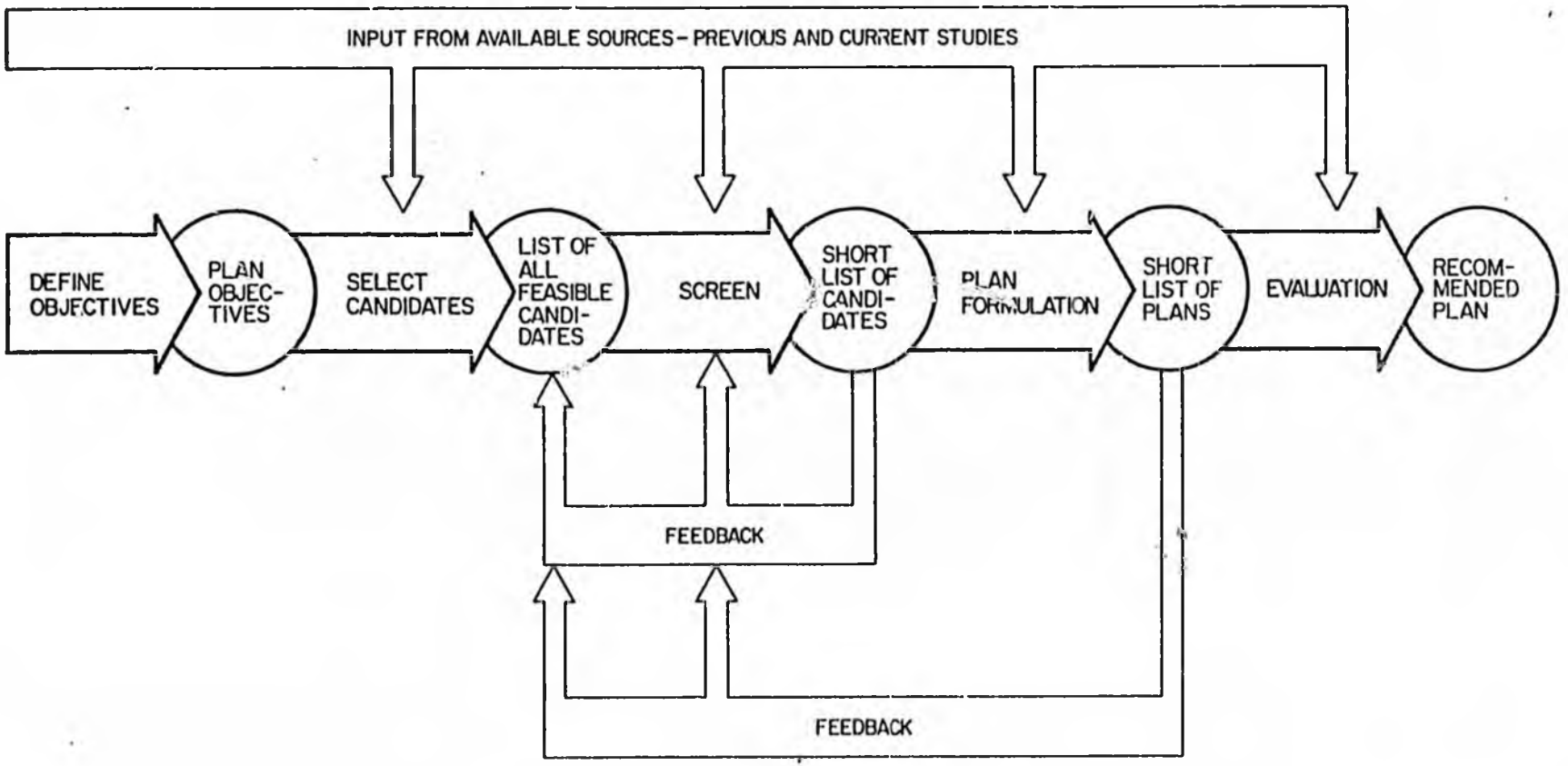


PLATE 7 | DEVELOPMENT SELECTION PROCESS

Plan Formulation

A generalized plan formulation and selection process was developed to guide the various planning studies. Plate 7 illustrates the procedure. Of the numerous planning decisions made, perhaps the most important were the selection of the preferred Susitna basin development plan and appropriate routes for access and transmission lines. In broad terms, a large number of possible choices was subjected to successively tighter criteria screens until a preferred plan was defined.

The steep narrow canyons in the upper basin offer an unusually large number of possible dam sites. They offer opportunities as well for considering a range of alternative developments at any single site. Plate 6 locates the many sites which were reviewed in the development selection process.

After detailed screening to account for important technical, economic, and environmental criteria, three general plans emerged as being appropriate for more detailed evaluation: (1) the Watana and Devil Canyon sites, (2) High Devil Canyon and Vee sites, and (3) a combination of a dam at Watana, a relatively low regulation dam midway between Watana and Devil Canyon, and a tunnel from the low dam to a downstream portal near Devil Canyon.

A technically sound preliminary design was produced for each plan, and preliminary cost and energy production estimates were prepared. The OGP model was run to evaluate economic viability as well as to determine optimum dates upon which the various stages of alternative Susitna developments should be operable. Quantitative and qualitative environmental and social data were compiled and comparisons were made. Sensitivity tests were conducted to determine the extent to which differences between expectations and the potential extreme values of certain key parameters affected each plan.

The Watana-Devil Canyon plan was found to be clearly superior to development of the High Devil Canyon and Vee sites on economic, energy contribution, and environmental grounds; and it was found marginally better in terms of social criteria. Both plans are technically feasible.

The Watana development is common to both remaining plans. When compared to the tunnel alternative, the Devil Canyon dam was found to be significantly better in terms of economic and energy contribution criteria, and marginally favored for social criteria. The tunnel scheme was moderately favored environmentally. While both plans appear to be technically feasible, however, a greater degree of technical uncertainty was associated with the tunnel plan. A clear economic advantage of the Devil Canyon dam was judged to outweigh the reduced environmental impact associated with the tunnel scheme.

Thus, the selected arrangement involves construction of dams at the Watana and Devil Canyon sites. It lends itself well to staged development since the second dam can be deferred or accelerated as a function of actual future growth in Railbelt energy demand.

. . . THE SELECTED ARRANGEMENT INVOLVES CONSTRUCTION OF DAMS AT THE WATANA AND DEVIL CANYON SITES.

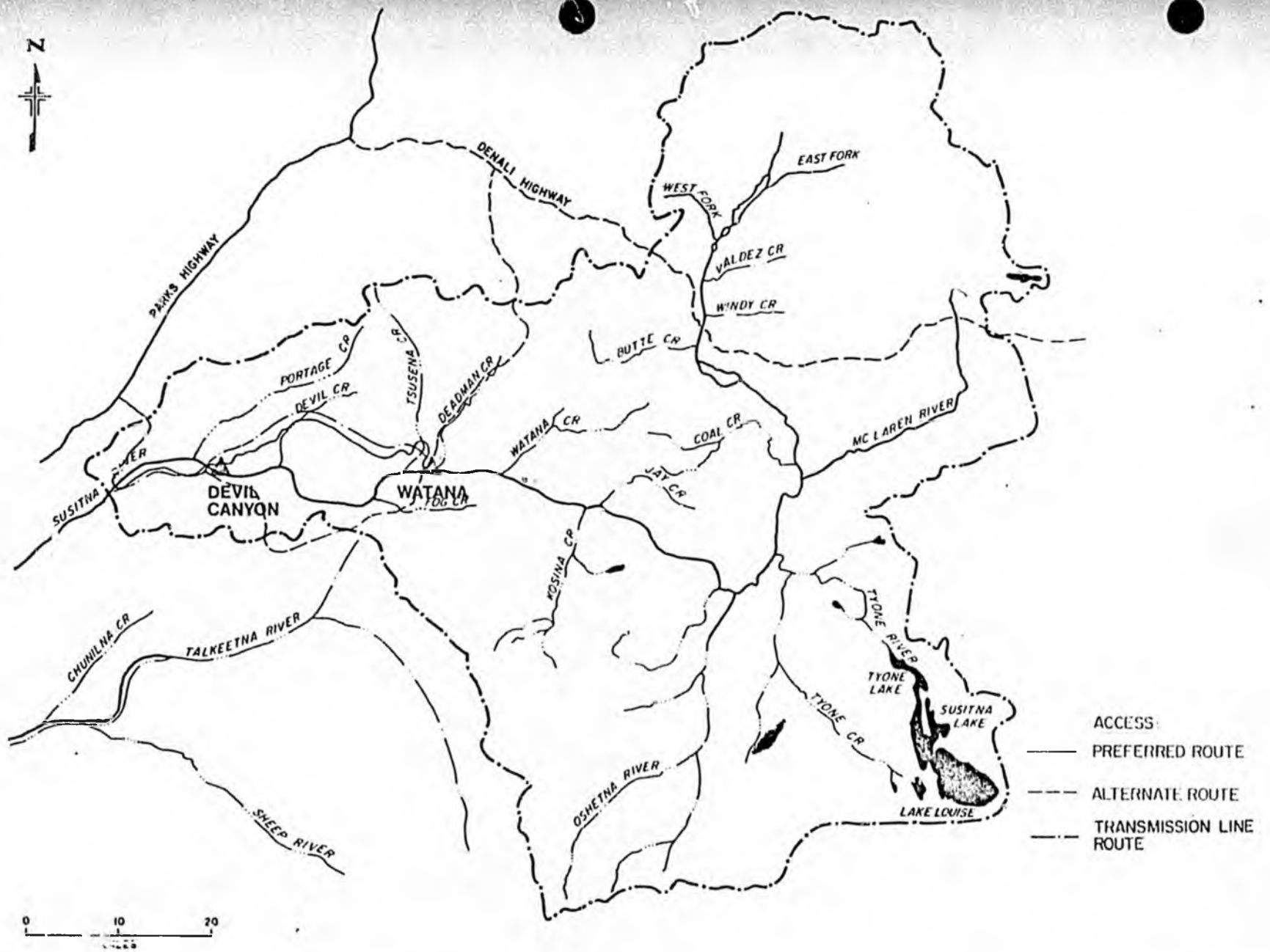


PLATE 8 | **ACCESS ROUTES**

Access Route Selection

The generalized plan formulation and selection process illustrated on Plate 7 was also applied to the selection of important access and transmission line routes. Plate 8 displays various candidate choices considered in the upper basin.

Three main access corridors emerged after initial screening. Each was assessed by conducting environmental and engineering studies, reviewing aerial photography, and preparing geologic maps. Important objectives included allowing construction to proceed on schedule, minimizing construction and logistics costs, facilitating operation and maintenance, minimizing adverse biological impacts, accommodating preferences of local communities and Native landowners, and accounting for the concerns of interested resource agencies.

A total of eleven different plans was produced from the three main corridors.

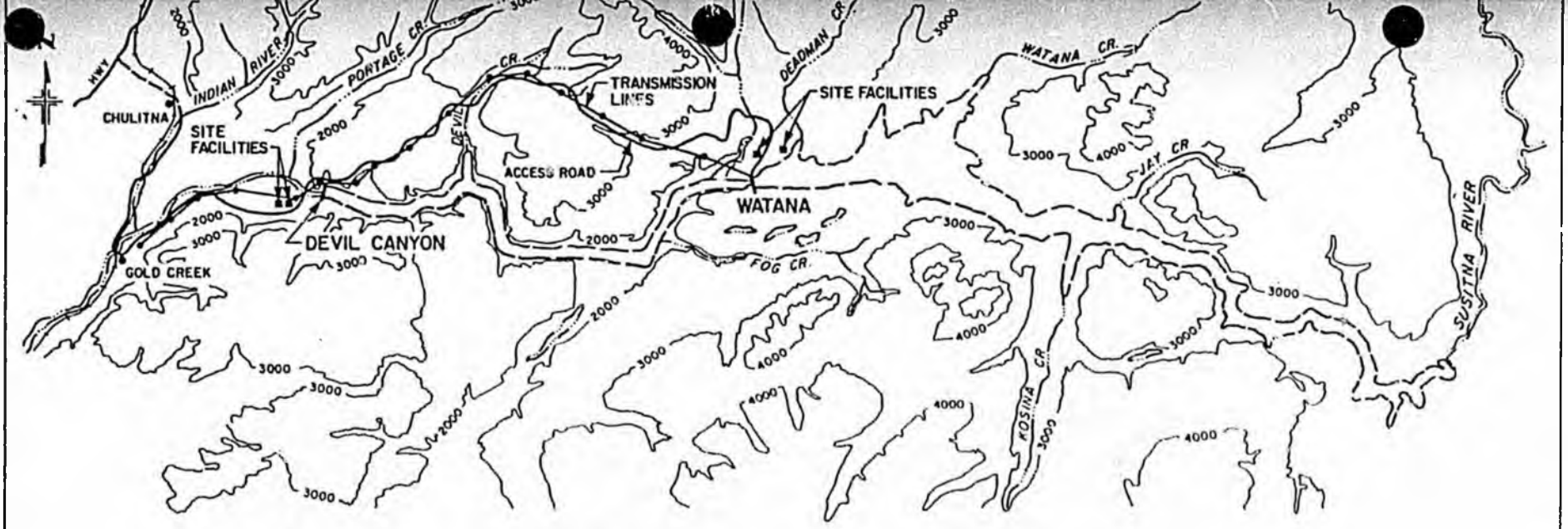
No single plan was found to be consistently best in meeting all objectives. Even so, tradeoffs were made between environmental impacts and socio-cultural impacts, and a preferred access plan was selected. Plate 8 traces this route. Important features include: provisions for limited access between Gold Creek and the Watana site by way of a pioneer road to commence in mid-1983; deferment of road access from the Parks Highway until after award of a federal license for the project; rendering the pioneer road impassable in the event that the project does not proceed; use of special construction techniques to minimize environmental damages; controlling public access; and special mitigation recommendations, such as a full service construction camp, to minimize undesired changes in local communities.

Transmission Line Routes

Transmission line route selection followed a similar pattern to that for access routes. Initial corridor selection resulted in narrowing the options from 22 possible choices to three which reasonably met established objectives. The selected transmission line route generally parallels the Alaskan Railroad between Willow and Fairbanks. Between Willow and Anchorage, the route extends in a southerly direction to a point west of Anchorage, where undersea cables will cross Knik Arm. Between Willow and Healy, the route would utilize the transmission corridor previously selected by the Power Authority for the Railbelt Intertie.

Plate 8 displays that portion of the transmission line route which lies within the upper basin.

NO SINGLE ACCESS PLAN WAS FOUND TO BE CONSISTENTLY BEST IN MEETING ALL OBJECTIVES.



RESERVOIR PLAN

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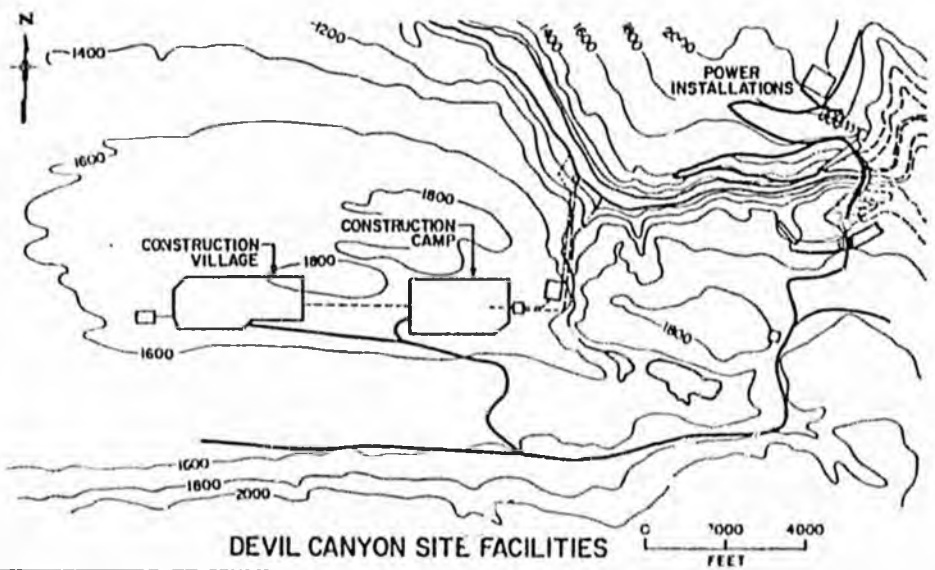
MILES



DEVIL CANYON SITE FACILITIES

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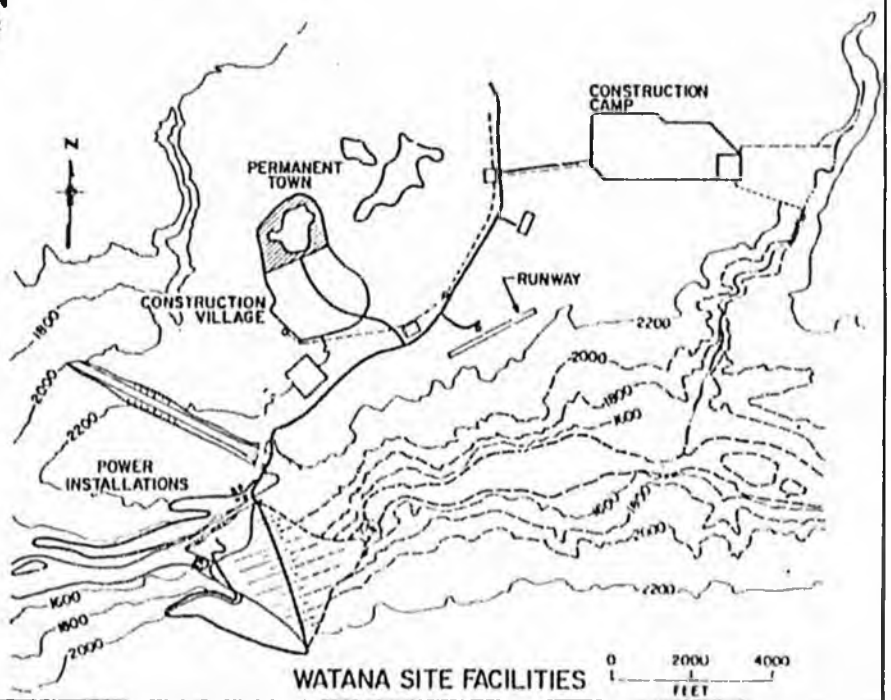
FEET



WATANA SITE FACILITIES

0 2000 4000
FEET

PLATE 9 | **PREFERRED DEVELOPMENT PLAN**

PROPOSED DEVELOPMENT

The proposed plan for full basin development is shown on Plate 9. In the event that the State decides to develop this plan, two major reservoirs will be formed. The larger reservoir extends 48 miles upstream of the Watana site and has an average width of about one mile and a maximum width of 5 miles. The Watana reservoir has a surface area of 38,000 acres and a maximum depth of about 680 feet at normal operating level.

The Devil Canyon reservoir is about 26 miles long and one-half mile wide at its widest point. A surface area of 7,800 acres and a maximum depth of about 550 feet represent conditions at normal operating level.

Temporary construction camps near each of the dam sites will be removed after construction is complete, but a permanent townsite will remain in the project area to accommodate the needs of the operating and maintenance staff. Appropriate recreational, educational, medical, commercial, sanitation, water supply, and religious facilities will be included in the townsite. Access and egress will follow the same route as was originally provided for construction purposes. A permanent 6,000-foot airstrip will be constructed.

Staged development is planned to provide maximum flexiblity in meeting actual growth in energy demand as it develops. An initial installation of 680-MW of capacity at Watana will be available to the system in 1993 and 340 MW will be added in 1994. If the mid-range forecast is realized, Devil Canyon will be completed by 2002 with an installed capacity of 600 MW. Even so, the commencement of construction and the completion date for this second stage can be deferred or advanced as necessary to meet future needs.

THE WATANA RESERVOIR WILL BE 48 MILES LONG AND THE DEVIL CANYON RESERVOIR 26 MILES LONG.

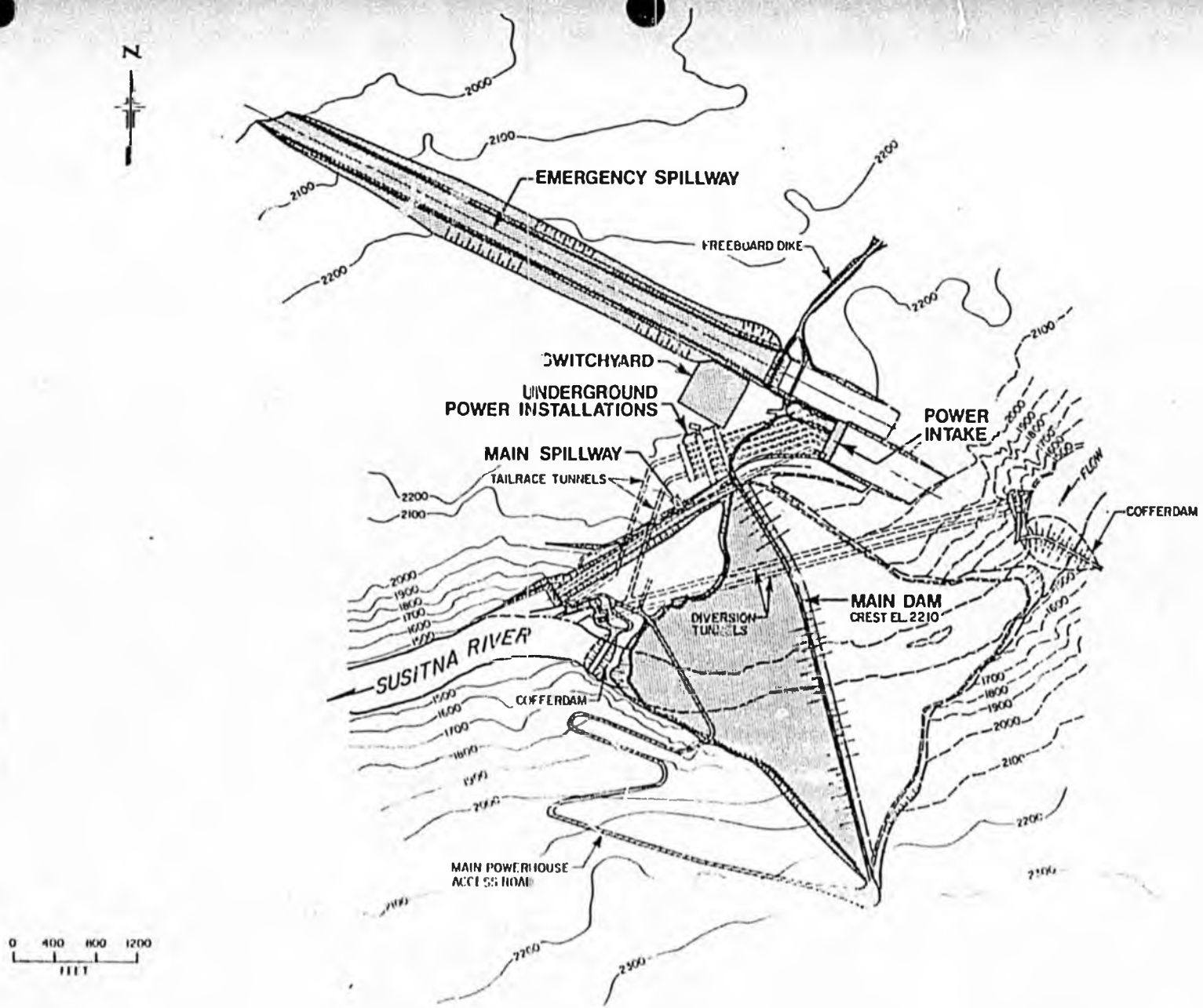


PLATE 10 | **WATANA GENERAL ARRANGEMENT**

Watana Details

The general arrangement for development of the Watana site is illustrated on Plate 10 and a sketch appears on Plate 27. Comparisons of embankment and arch dam alternatives at Watana showed significant cost advantages in favor of the former.

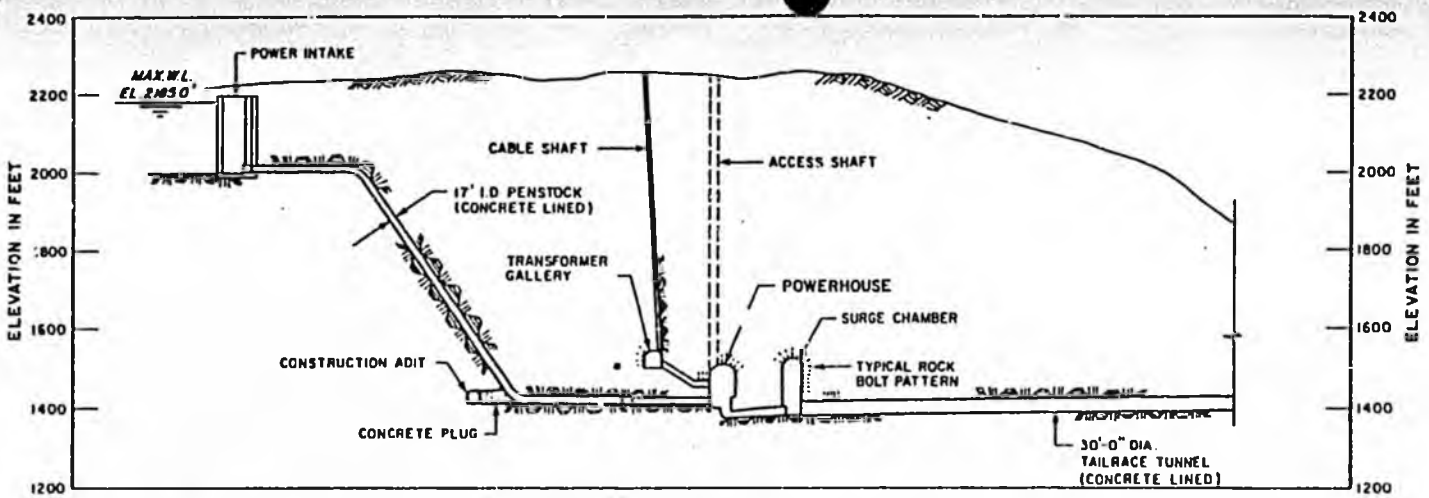
The main dam will be an earthfill structure with a maximum height of 885 feet, a crest length of 4,100 feet, and a total volume of about 62,000,000 cubic yards. During construction, the river will be diverted through two concrete-lined diversion tunnels, each 38 feet in diameter, in the right (north) bank of the river. Upstream and downstream cofferdams will protect the dam construction area from floods with return frequencies of 50 years or less.

The power intake includes an approach channel in rock on the right bank. A multi-level, reinforced concrete, gated intake structure capable of operating over a full 140-foot drawdown range will facilitate maintenance of downstream water quality (especially temperature control — an important consideration for Susitna fishery resources). Six concrete-lined penstocks, each 17 feet in diameter, lead to steel-lined sections terminating in an underground powerhouse complex where six Francis turbines, each producing 250,000 hp at rated head, can be accommodated. The initial stage includes four such units together with 180-MVA generators to be installed by 1993, followed in 1994 by the final two units. The turbines discharge into a surge chamber and thence to the river via two concrete-lined 30-foot diameter tailrace tunnels, one of which connects with one of the original diversion tunnels. A transformer gallery is provided upstream of the powerhouse cavern. Oil filled cables extend from the transformer gallery to a surface switchyard.

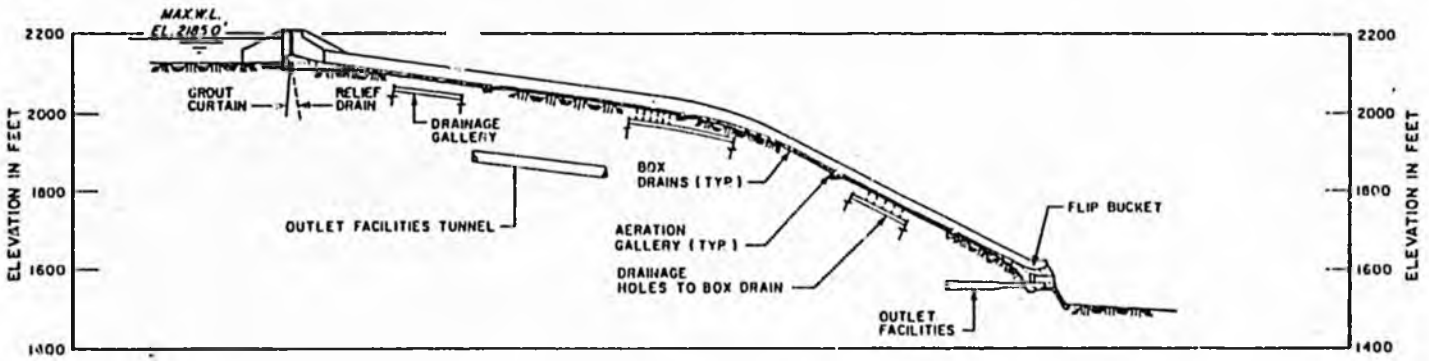
Outlet facilities incorporated into the arrangement will discharge floods with return frequencies of 50 years or less through six fixed-cone valves to minimize undesirable downstream nitrogen supersaturation — another important consideration for fishery resources.

Two spillways will also be provided. Flows with return frequencies between 50 years and 10,000 years will be handled by a main chute spillway on the right bank. An emergency spillway, also on the right bank, will permit discharge of the probable maximum flood without overtopping the dam.

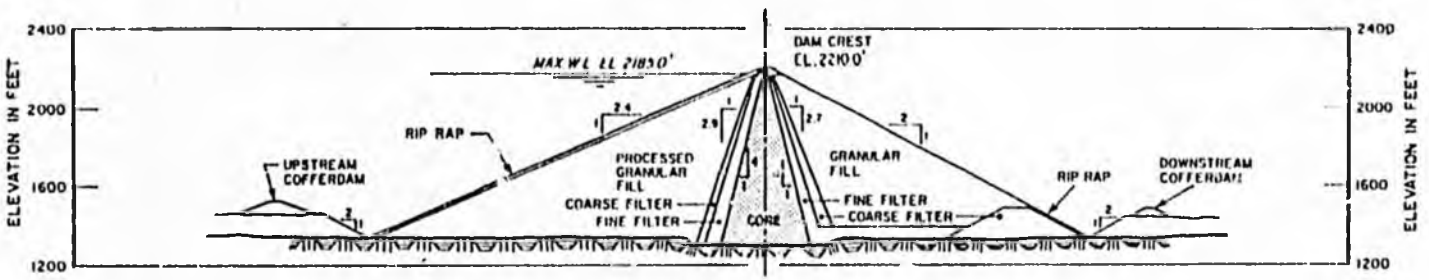
OUTLET FACILITIES WITH FIXED-CONE VALVES WILL MINIMIZE UNDESIRABLE DOWNSTREAM NITROGEN SUPERSATURATION.



POWER INSTALLATIONS PROFILE



SPILLWAY PROFILE



MAIN DAM SECTION

PLATE 11 | **WATANA DETAILS**

Details of certain components at the Watana site are shown on Plate 11.

The main dam at Watana will be among the highest in the world. Its 885-foot height will exceed that of the highest completed embankment dams in North America at Mica Creek in British Columbia (794 feet) and at Oroville in California (771 feet). Two dams under construction in the USSR will exceed 1,000 feet, but only one dam higher than 800 feet has been completed there.

At least seven large (over 500-feet high) embankment dams have been built in seismically active areas. The proposed core width, upstream and downstream slopes, and other parameters of the Watana design are consistent with and generally more conservative than corresponding average values for precedent structures. Even so, special features are incorporated in the Watana section to provide additional safeguards against the effects of seismic loading.

The dam foundation will be excavated to solid rock throughout its cross-section and allowances have been made for extensive consolidation and curtain grouting. Grouting will be accomplished from underground galleries, after which the same tunnels will be used to facilitate drilling drainage pressure relief holes.

The core of the main dam is a trapezoidal section, separated from granular fill sections by coarse and fine filter zones. Rip rap protection is provided upstream and a coarse filter zone will be placed at the downstream toe.

Field investigations conducted to date have provided supporting data for selection of the proposed general Watana arrangement. Even so, extensive data collection is expected to continue into the construction phase to ensure the safety and reliability of the various structures. One area of particular concern is a buried (relict) channel which runs from a point upstream of the proposed dam site to Tsusena Creek, a distance of about 1.5 miles. This channel represents a potential source of leakage from the Watana reservoir and remedial measures may be required to guarantee the integrity of the reservoir rim through the channel area. Allowances have been made in the project estimate to account for this feature. If no major problems are identified in continuing field investigations of the relict channel, construction costs will probably be less than those indicated in Section 8 of this report.

THE MAIN DAM AT WATANA WILL BE AMONG THE HIGHEST IN THE WORLD.

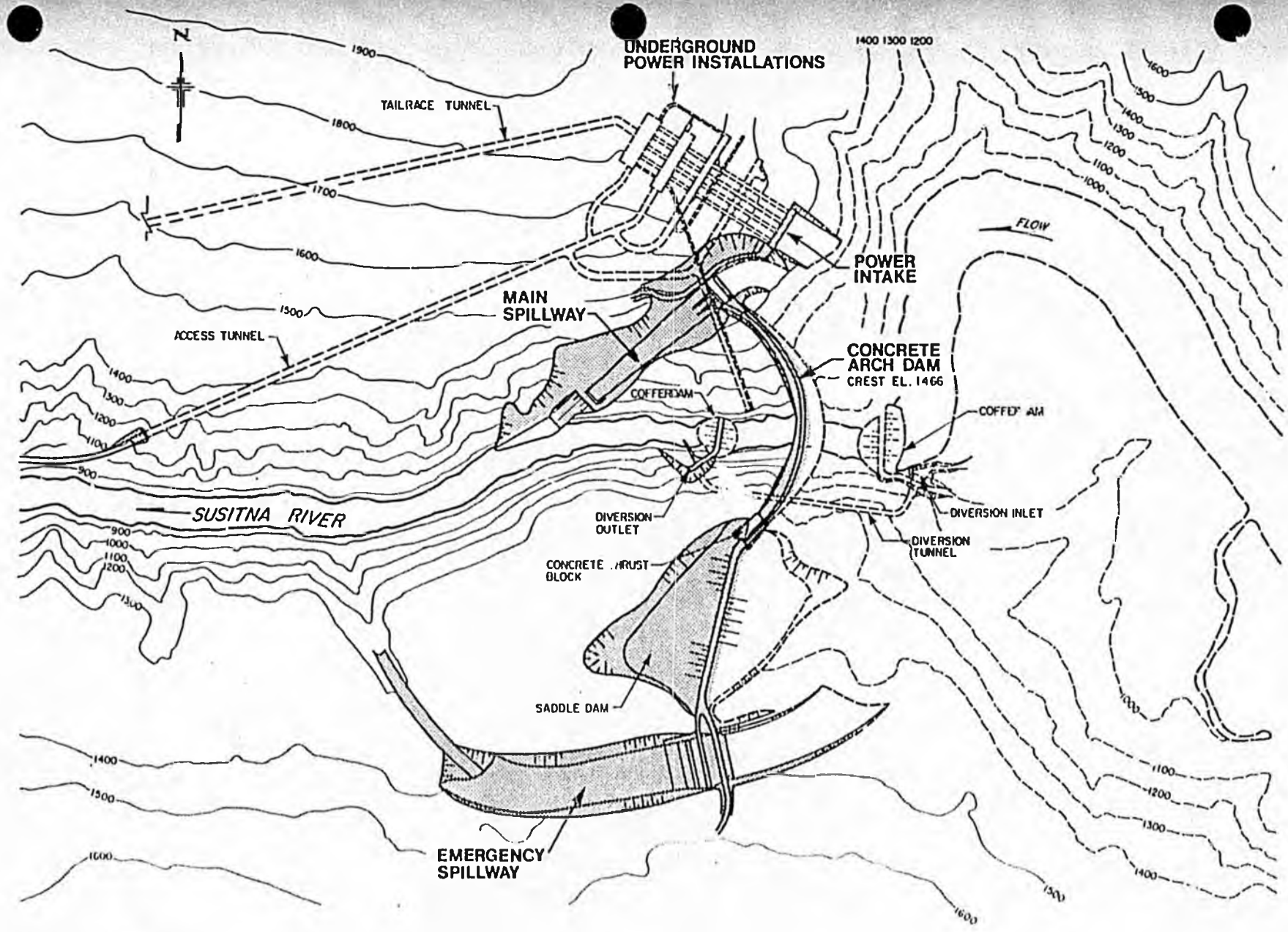


PLATE 12 | DEVIL CANYON GENERAL ARRANGEMENT

Devil Canyon Details

Plate 12 illustrates the general arrangement for development of the Devil Canyon site and a sketch is presented on Plate 28.

The narrow "V" shaped canyon allows a number of alternative dam types to be considered. Detailed analysis indicated that a thin arch concrete dam is preferred over either a rock-fill embankment dam or a concrete gravity arch dam.

The main dam will be a double-curved arch structure with a maximum height of about 645 feet and a crest elevation of 1463 feet. The crest will be a uniform 20-foot width and the maximum base width will be 90 feet. The center section will be founded on a concrete pad, carried to bedrock beneath the river sediments, and the exteme upper portion of the dam will terminate in concrete thrust blocks located on the abutments. A two-center configuration will be adopted for the arches to counteract the slight asymmetry of the valley and to give more uniform stress distribution across the dam. A rock-fill saddle dam on the left (south) bank of the river will be constructed to a maximum height of about 245 feet above foundation level.

Flow during construction will be diverted through a single 30-foot diameter concrete-lined pressure tunnel in the left bank. Cofferdams and the diversion tunnel provide adequate protection during construction against floods with return periods of 25 years or less. The selection of a lesser return period than that used at Watana takes into account a shorter construction period, the availability of regulation at the then completed upstream Watana dam, and the fact that not only is the main concrete dam at Devil Canyon less susceptible to damage than an earthfill dam if it is overtopped during construction, but also that outlet facilities at the base of the dam will have been constructed well before the entire dam is completed.

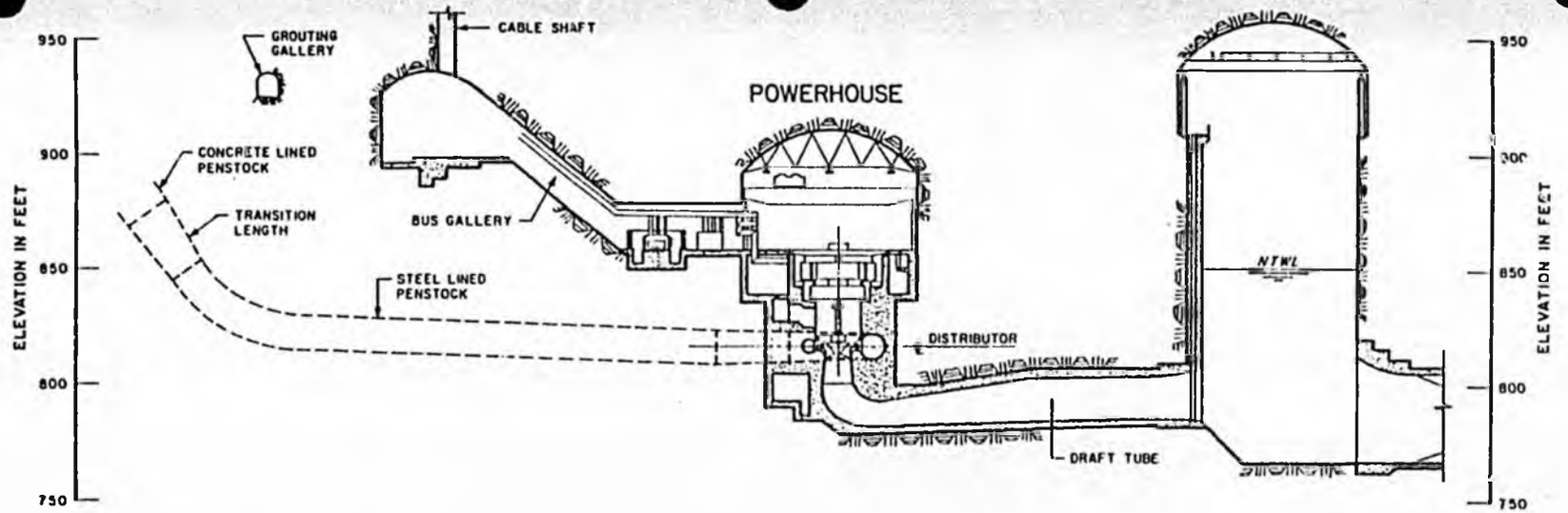
The power intake on the right bank will include an approach channel in rock leading to a reinforced concrete gate structure which will accommodate a maximum drawdown of 55 feet. Four concrete-lined penstocks, each 20 feet in diameter, will lead to an underground powerhouse, where four 225,000 hp (at rated head) Francis turbines will be housed. A single 38-foot diameter tailrace tunnel will lead from a surge chamber downstream of the powerhouse cavern.

The transformer gallery, oil-filled cable arrangement, and surface switchyard are similar in concept to those at Watana.

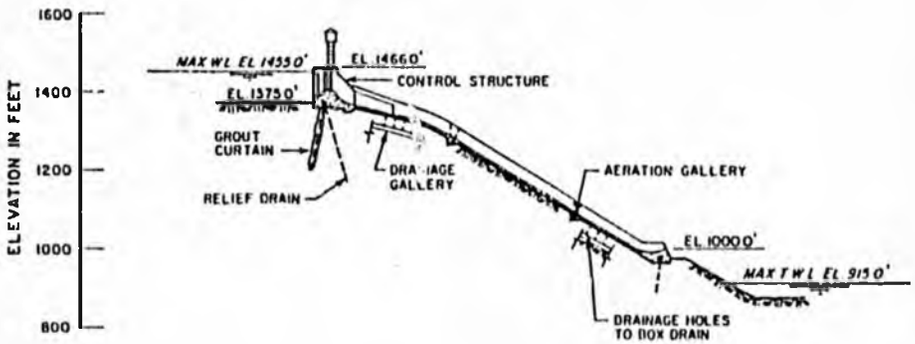
Seven individual outlets, each with a fixed-cone valve, will be located in the lower part of the main dam and will be designed to discharge all floods with return frequencies less than 50 years. Once again, this approach, though more costly than conventional surface spillways, minimizes nitrogen supersaturation problems downstream.

Floods with return periods between 50 and 10,000 years will be handled by a chute spillway on the right bank, similar in design to that for Watana. An emergency spillway on the left bank will permit discharge of the probable maximum flood without overtopping the dam.

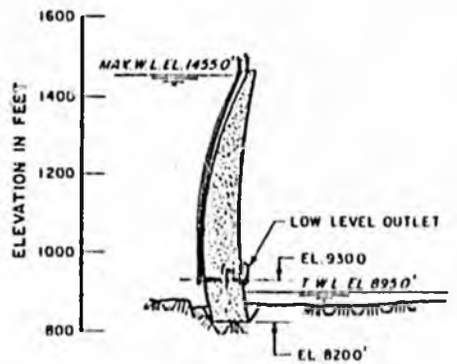
THE MAIN DAM AT DEVIL CANYON WILL BE A DOUBLE-CURVED CONCRETE ARCH STRUCTURE.



POWER INSTALLATIONS SECTION



MAIN SPILLWAY PROFILE



ARCH DAM SECTION

PLATE 13 | DEVIL CANYON DETAILS

Details of certain components at Devil Canyon are shown on Plate 13.

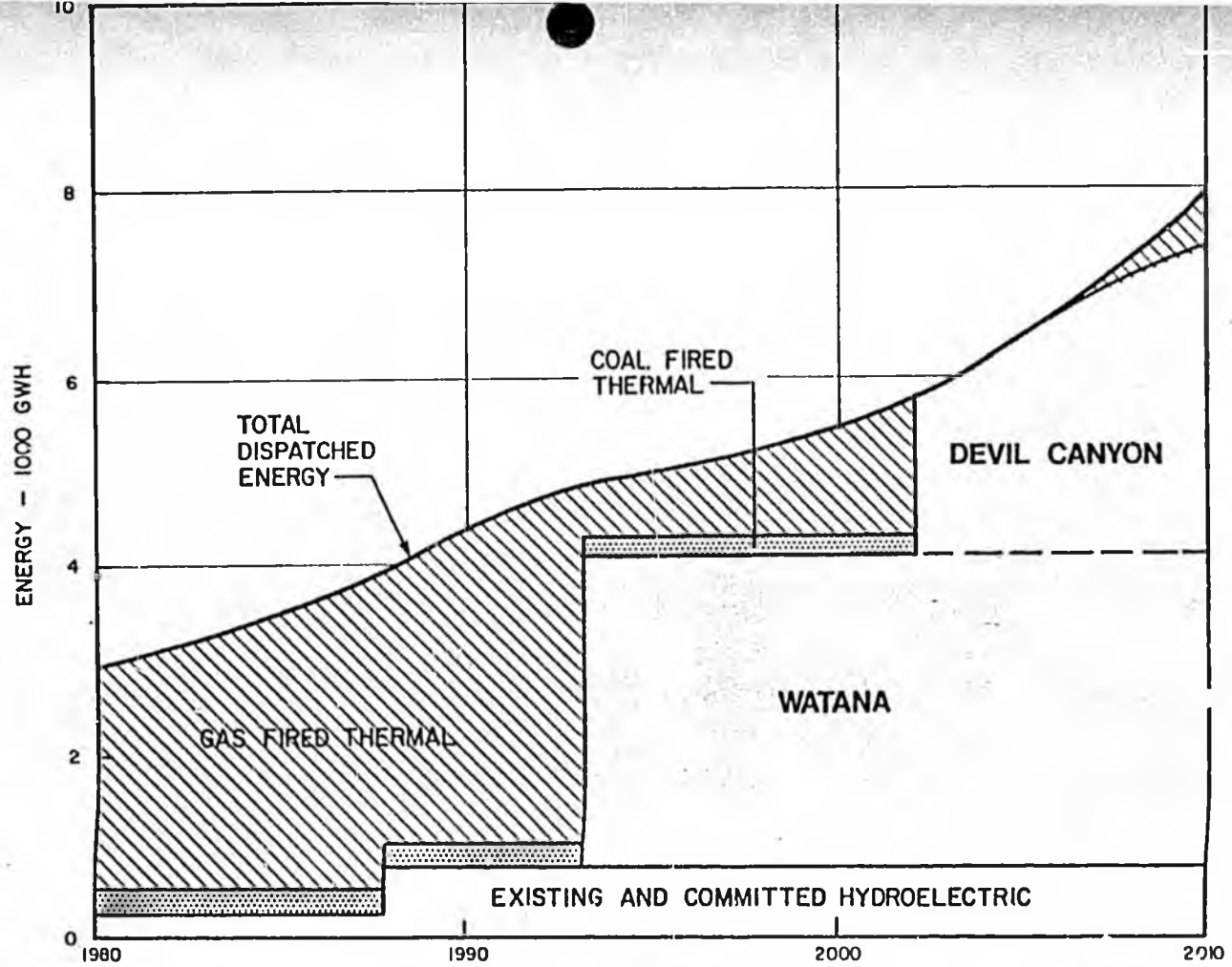
Eight major arch dams greater than 650-feet high have been constructed in the world, the highest being 858 feet at Veneto, Italy. A new arch dam is under construction at Inguiri in the USSR. Upon completion in 1985, it will be 892 feet high.

The Devil Canyon thin arch dam will be designed to withstand dynamic loadings from intense seismic shaking. High earthquake loadings at the 548-foot high Vidraru Arges dam in Rumania and at the 372-foot high Pacoima dam in California have been experienced with no loss of structural integrity.

The arch dam will be founded on sound bedrock located 20 to 40 feet below the normal bedrock surface. To minimize stress concentrations and to increase symmetry, rock surfaces will be trimmed. Consolidation grouting will be provided over the whole of the foundation area and a double grout curtain up to 300 feet deep will run the length of the dam. As at Watana, galleries will be provided both to facilitate grouting and for the purpose of collecting any seepage to be drained through holes drilled downstream of the grout curtain.

The saddle dam is similar in design to that for Watana, except that the saddle dam shells will be rock-filled.

EIGHT MAJOR ARCH DAMS GREATER THAN 650 FEET HIGH HAVE BEEN CONSTRUCTED.



VALUES OF SELECTED PARAMETERS

	1020 MW AT WATANA (FIRST STAGE)	1020 MW WATANA 600 MW DEVIL CANYON (SECOND STAGE)
FUEL PRICE (1982 $/MMBTU)	0	0
CAPITAL COSTS (1982 $/KW)	$ 3,643	$ 3,186
ANNUAL CAPITAL COST ESCALATION	1.8%	1.8%
INFLATION RATE	0%	0%
DISCOUNT RATE	3%	3%
ANNUAL OPERATING AND MAINTENANCE COSTS (1982 $ IN MILLIONS)	$ 10.0	$15.2
USEFUL LIFE FOR ECONOMIC ANALYSIS (YEARS)		50
EXPECTED USEFUL LIFE OF PROJECT (YEARS)		100

PLATE 14 | **SUSITNA INSTALLATION SEQUENCE**

PROJECT OPERATION

The OGP model described in Section 3 was used to determine the optimum project staging sequence under each of the demand forecasts. As may be seen from Plate 14, in the case of the mid-range forecast, the Susitna project represents a major portion of the net energy generation when its various stages come on line, though this share would gradually decrease after 2010 if demand continued to rise.

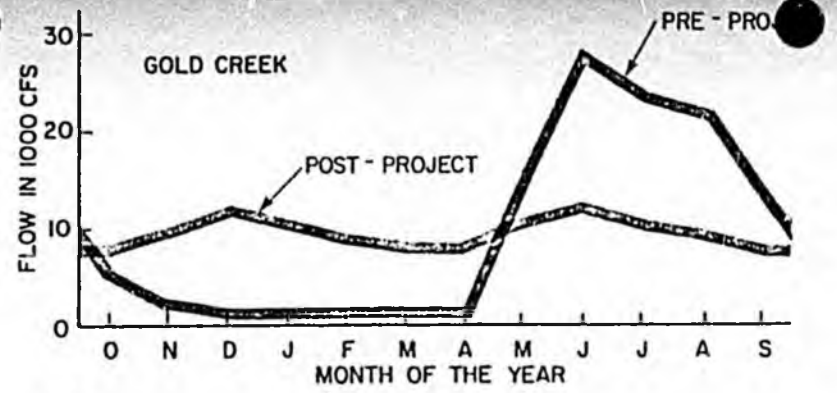
Operating Constraints

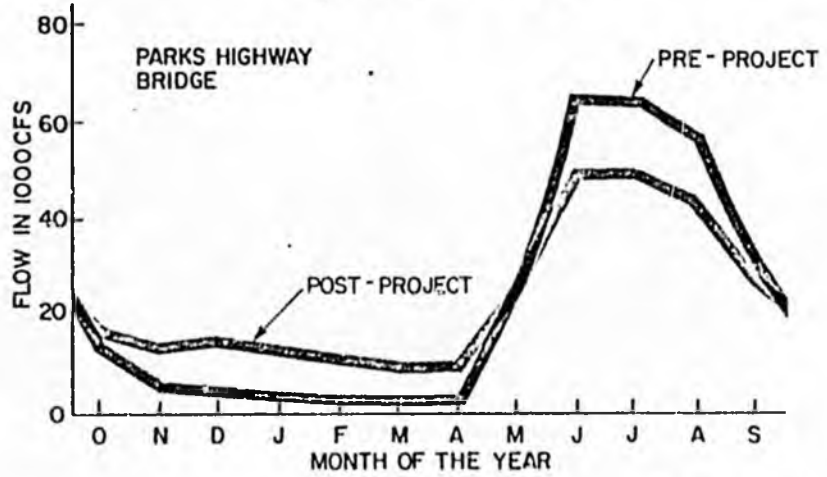
The extent of the concentration of Railbelt generation once Susitna has been built requires that special attention be paid to system reliability. To this end, four major categories of operational reliability criteria were applied in generation planning and project scoping: (1) total system loss of load probability must be less than one day in ten years, (2) a single contingency situation (e.g., loss of a single generating unit or a single transmission line) must be met without overloading remaining system components; a double contingency situation should be handled within emergency ratings of surviving system components for the probable duration of the outage, (3) provisions must be made for maintaining system stability and voltage regulation through a broad range of likely incidents, and (4) in the event of catastrophic loss (e.g. all transmission lines on a single right of way), rapid restoration of supply must be possible. A risk analysis of the proposed, transmission system confirmed that these criteria will be satisfied.

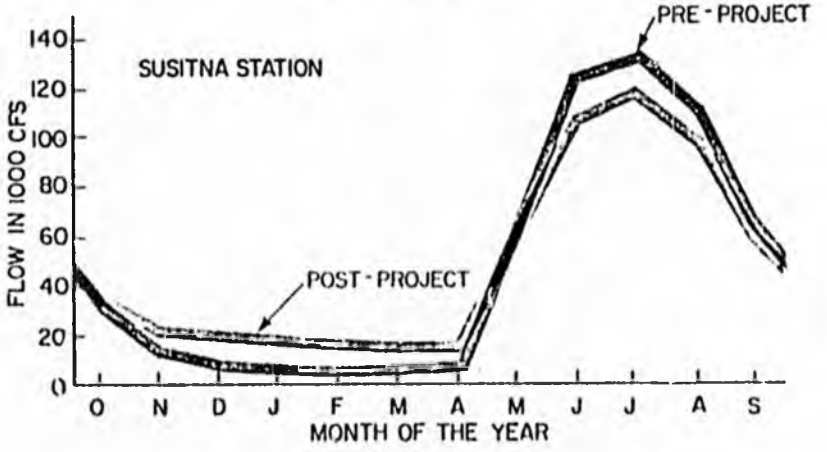
In addition to meeting technical criteria, project operation must also accommodate vagaries of nature (e.g., a year of unusually low flow conditions), a variety of important environmental constraints (e.g., downstream water quality and quantity), the performance characteristics of generating units (e.g., rough operation at less than 50 percent of maximum output for any single turbine-generator represents an equipment constraint), and geotechnical concerns (e.g., reservoir slope stability problems can be exacerbated by extreme drawdown and filling limits).

A mathematical model of the reservoir was used to evaluate the optimum method of operating the Susitna reservoirs and power plants to meet these criteria; from this it is estimated that average annual energy output of 3540 GWh at Watana alone and 6790 GWh for the total project can be achieved. Firm energy, corresponding to a low flow sequence expected to occur only once in 70 years, is about 5400 GWh per year.

AVERAGE ANNUAL ENERGY WILL BE 3450 GWh FOR WATANA ALONE AND 6790 GWh FOR THE TOTAL PROJECT.







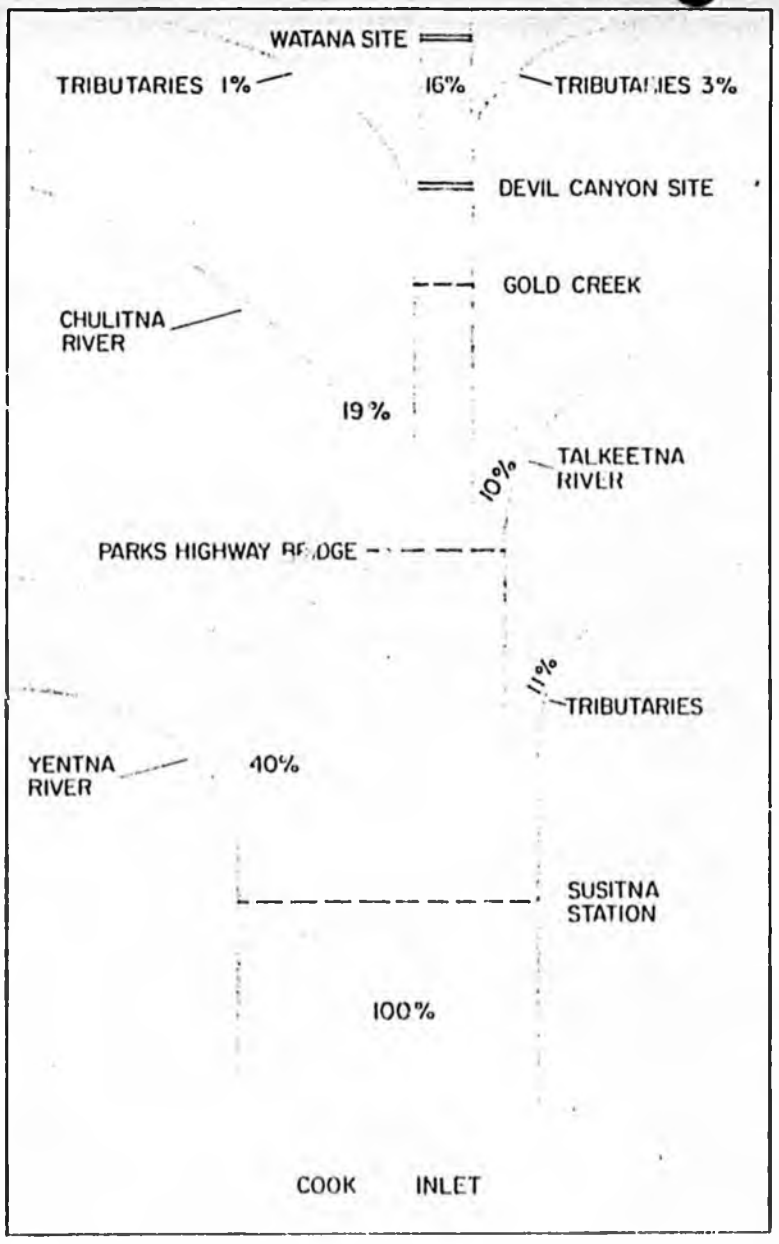


PLATE 15 | **SUSITNA RIVER FLOWS**

Reservoir Considerations

A particularly critical period for effective project implementation occurs during impoundment of the Watana reservoir. Based upon meeting minimum post-project flow requirements in critical months for river maintenance and fisheries needs, about 2-1/2 years of average stream flow is required to fill the reservoir. Filling will commence after dam construction proceeds to a point where impoundment concurrent with continued construction can be accommodated even if a flood with a 100-year return frequency is realized during the filling operation. Once Watana reservoir is operational, later impoundment in the smaller Devil Canyon reservoir can be accomplished with relative ease.

Downstream Flows

Plate 15 provides a hydrograph which relates average flows under natural conditions with those which would normally be provided after the project is completed. Below the confluences with major tributaries of the Susitna River, differences between pre- and post-project flow conditions will be less pronounced, as the entire upper basin contributes less than 20 percent of the total discharge into Cook Inlet.

Reservoir Induced Seismicity

After the reservoirs are filled and particularly during the early years of project operation, some potential exists for reservoir induced seismicity (RIS). Earthquakes which would occur at some point in time under natural states of stress may be triggered by the increased weight of water in a new reservoir or by lubrication and hydraulic action upon highly stressed rock. Based upon mathematical models and data collected during the feasibility study, it is estimated that there is a 90-percent probability of an RIS event if both reservoirs are considered as a single hydrologic regime. The maximum magnitude of such an earthquake is estimated to be 6.0 on the Richter scale, which is within the range of extreme seismic events which the dams are designed to withstand. This maximum magnitude is no greater than that which could be produced under natural conditions if the project is never constructed.

IT WILL TAKE 2-1/2 YEARS TO FILL THE WATANA RESERVOIR.

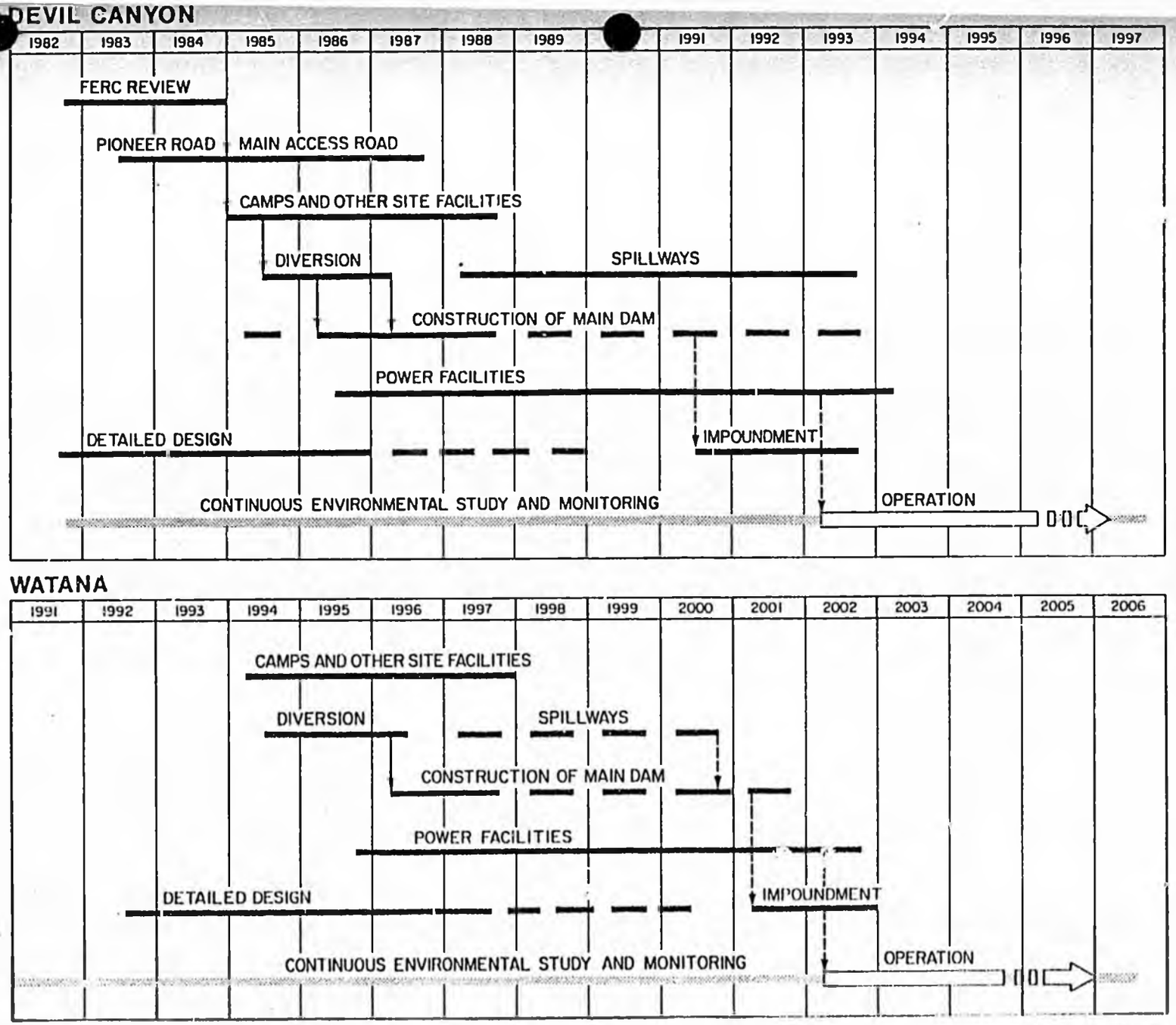


PLATE 16 | PROJECT SCHEDULE

CONSTRUCTION

7

Because generation planning studies indicated that capacity must be added to the Railbelt system in the early 1990s, construction planning for the proposed Susitna project has been based upon meeting a 1993 power-on-line date. Plate 16 provides a broad schedule of activities which must take place if the Susitna project is to assist in meeting perceived needs implicit in the mid-range forecasts.

The Licensing Period

Should the State of Alaska decide to proceed with the project, a license application will be submitted to the Federal Energy Regulatory Commission (FERC) on September 30, 1982. Given the large size of the project and the inevitable changes its construction would cause, it may be anticipated that concerned agencies, organizations, and individuals will avail themselves of the opportunity to be heard. Thus, a period of 27 months has been set aside to accommodate license processing. Commencing in mid-1983 and concurrent with this processing period, construction of a limited access pioneer road is planned. Necessary permits for this activity will be submitted by September 1982.

Detailed design and the preparation of initial construction bid packages will also proceed during the license processing period. Important field investigations, particularly in the environmental and geotechnical areas, will continue.

Post-License Activities

Upon award of the FERC license, bids will be solicited for required early construction activities and for equipment with long lead times. The pioneer road will facilitate the transportation of equipment and camp modules to the Watana site so that camp and diversion facilities can be developed while construction of the main access road proceeds.

By mid-1985, work will commence on the first diversion tunnel at Watana. All diversion facilities, including cofferdams, will be operable in the spring of 1987. Thereafter, major construction activities for various project features will generally proceed in parallel. Reservoir impoundment will begin after breakup in 1997 and as soon as the main dam elevation is high enough to safely permit it.

The construction schedule for Devil Canyon is less critical, since under the mid-range forecast, power is not needed there until nearly a decade later than at Watana.

SHOULD THE STATE OF ALASKA DECIDE TO PROCEED WITH THE PROJECT, A LICENSE APPLICATION WILL BE SUBMITTED TO THE FEDERAL ENERGY REGULATORY COMMISSION ON SEPTEMBER 30, 1982.

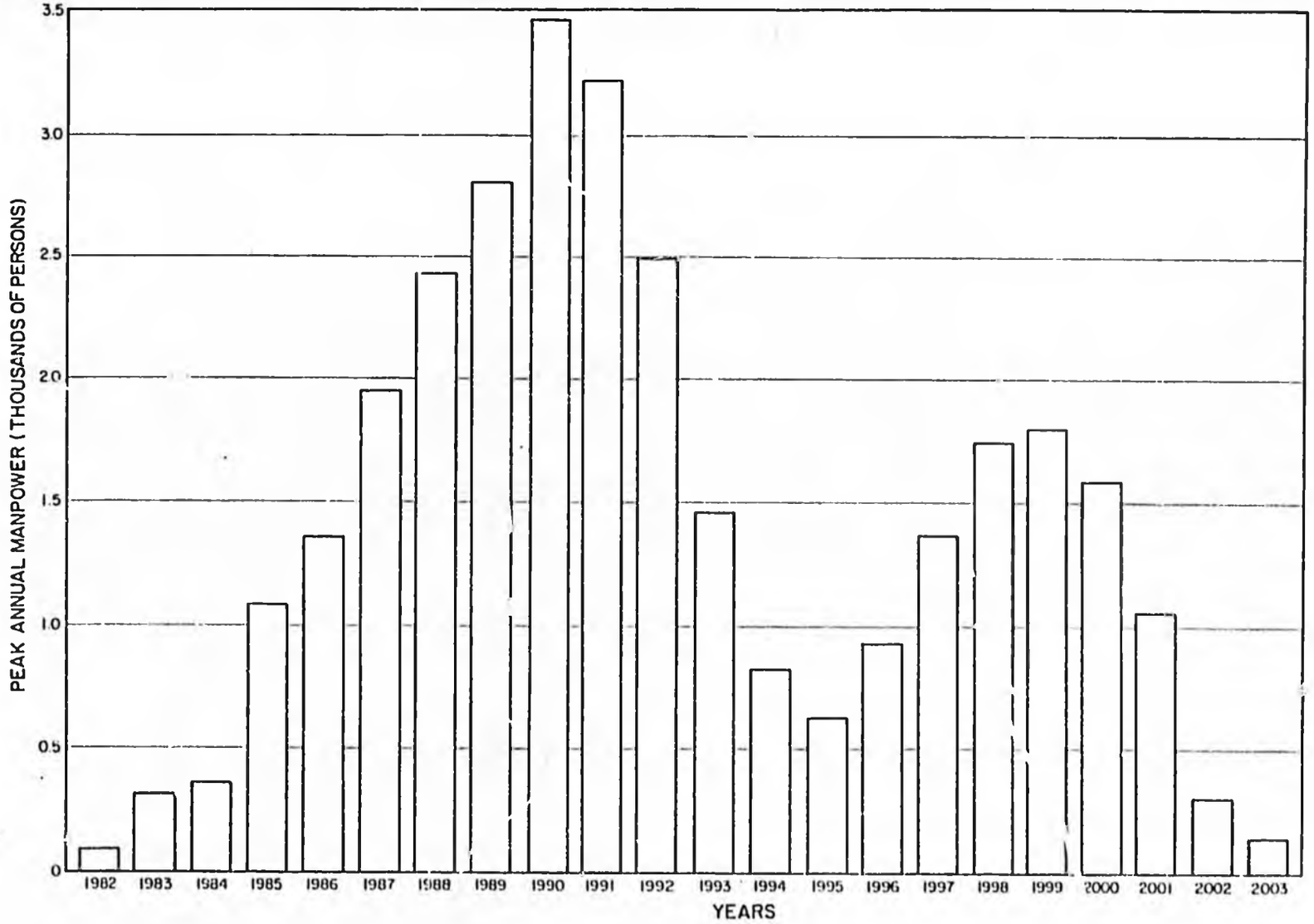


PLATE 17 | **WORK FORCE**

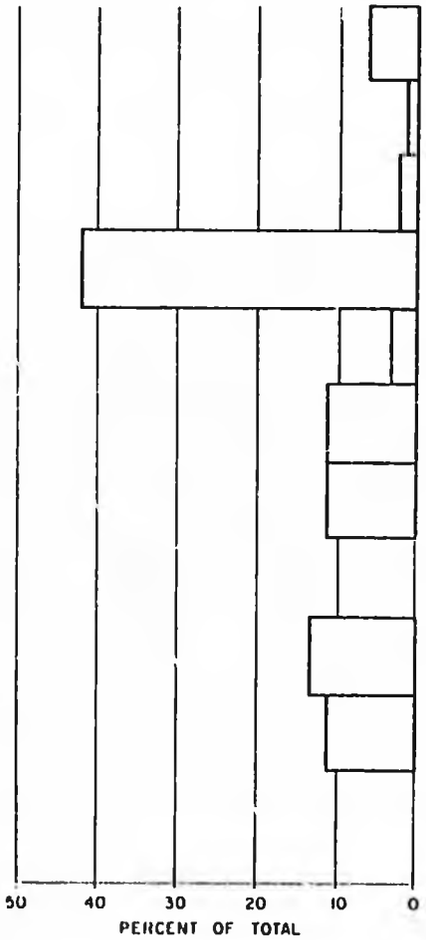
Risks

Although the project scheduling has taken into account historical data for normal efficiency and productivity in northern regions and allowances have been made for a range of possible adverse conditions, it is nonetheless true that important uncertainties remain. A schedule risk analysis was conducted to account for unusual extremes in nature, labor and material, and other variables. This indicates that while there is a 65-percent chance that the Watana project will be completed on or before the scheduled date, there is about a 10-percent chance that the power-on-line date will be delayed by two years or longer when important regulatory risks are accounted for (especially the possibility of delays in FERC licensing). Risks are further discussed in Section 8.

Manpower

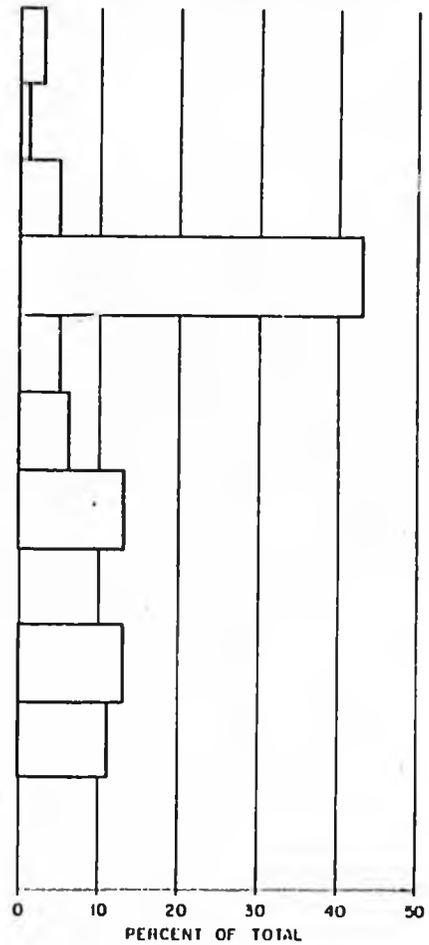
Employment opportunities will be significant during construction of the Susitna project. A gradual increase in the work force will lead to an average requirement of about 1,450 persons between 1985 and 2000, and a peak of about 3,500 in 1990. Plate 17 plots manpower needs during the construction period of both projects.

EMPLOYMENT OPPORTUNITIES WILL BE SIGNIFICANT DURING CONSTRUCTION OF THE SUSITNA PROJECT.



WATANA		DEVIL CANYON
$ 230	ROADS	$ 39
51	LAND AND LAND RIGHTS	22
78	POWERPLANT	76
1,532	DAMS AND SPILLWAYS	635
100	MECHANICAL AND ELECTRICAL EQUIPMENT	68
391	TRANSMISSION	91
378	CONSTRUCTION INDIRECT COSTS	188
2,760	SUBTOTAL	1,119
482	CONTINGENCIES	196
405	ENGINEERING AND ADMINISTRATION	165
$ 3,647	TOTALS	$ 1,480

ESTIMATED TOTAL COST OF PROJECT = $ 5,127



ALL COSTS IN MILLIONS (JANUARY 1982 DOLLARS)

PLATE 18 | ESTIMATE OF COST

COSTS

8

Capital Cost Estimate

In terms of January 1982 dollars, the cost estimate of the Susitna development, including a 17.5 percent contingency and all overhead costs, but exclusive of allowance for funds used during construction, is about $5.1 billion dollars. Plate 18 summarizes major accounts for the Watana and Devil Canyon projects.

Preparation of the project estimate took into account detailed Alaska-specific data and historical experience, vendor quotations, construction methodology and feasibility, seasonal influences on productivity, and a variety of other factors. Allowances of about $150 million are included for important mitigation features integral to design (e.g., multi-level intake structure, outlet facility valves) or appropriate for aesthetic and socioeconomic considerations (e.g., restoration of disturbed areas, self-contained camp facilities).

Assumptions were generally conservative and the total project cost estimate is on the order of 50 percent higher than the January 1982 dollar value of the most recent estimate by the U.S. Army Corps of Engineers for a similar development of the upper Susitna basin.

Cost and Schedule Risks

Extreme floods or major earthquakes can lead to serious cost consequences if they occur during construction, although the project is designed to safely withstand such events after it is completed. Geotechnical investigations to date have included an unusually extensive drilling program for feasibility determination, but excavation during construction may yet reveal unfavorable and unanticipated conditions for which expensive remedial measures must be applied.

A risk analysis was conducted to determine the confidence level of the estimate as well as to define the probability of exposure to serious overruns. Up to 10 possible magnitudes for each of 21 different risks were considered, and probabilities were associated with each. Estimates were made of the conditional probabilities of various damage levels if any single risk magnitude were to be realized; and minimum, modal, and maximum values were assigned to the cost and schedule implications of appropriate responses. In addition to considering unusual and unexpected possibilities, the risk analysis also took into account historical variance between initial estimates and actual costs on various completed water resources projects.

PREPARATION OF THE PROJECT ESTIMATE TOOK INTO ACCOUNT DETAILED ALASKA-SPECIFIC DATA...

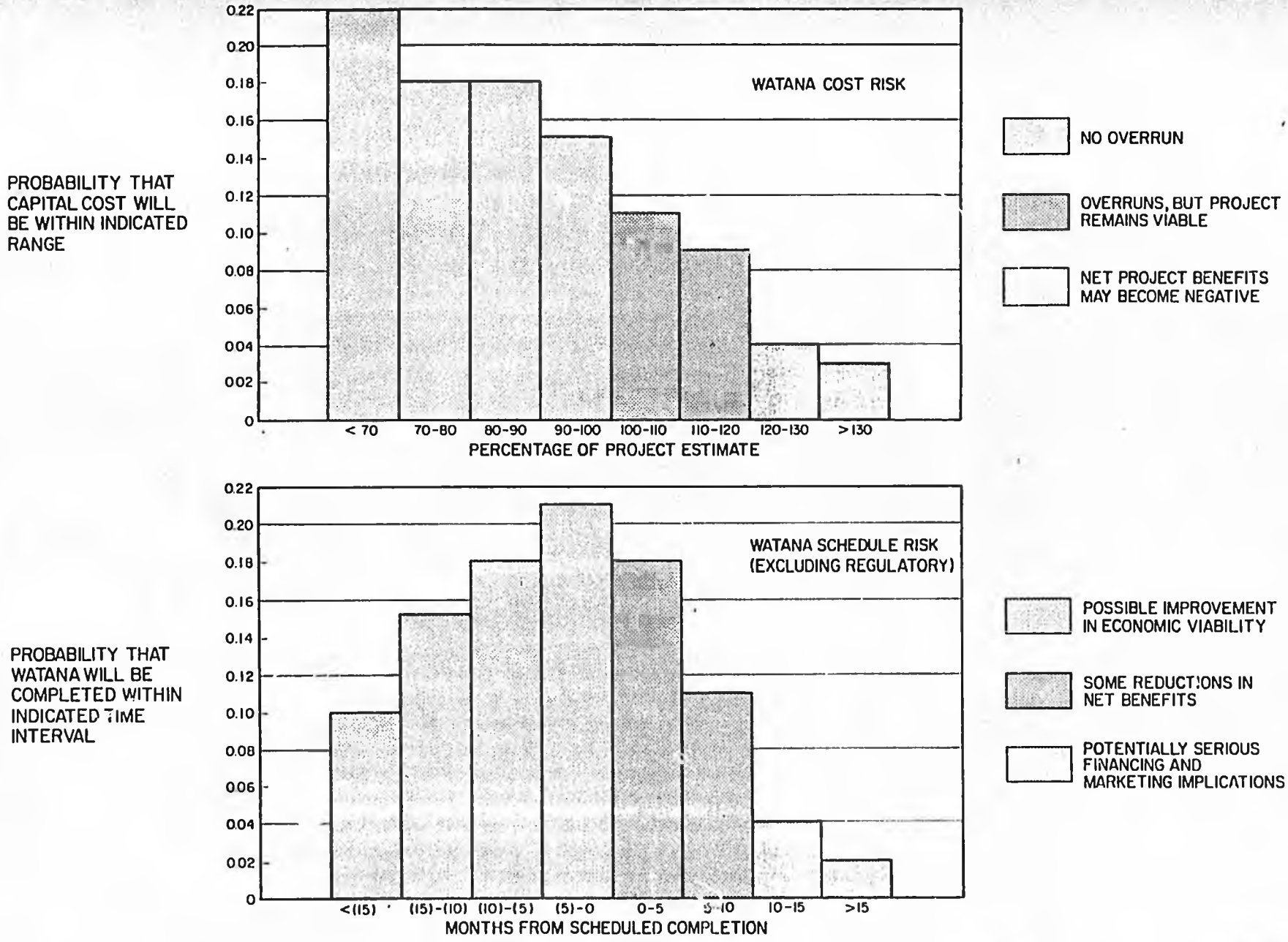


PLATE 19 | **RISK DATA**

Probability distributions for selected intervals of possible cost and schedule variations are presented on Plate 19. As may be seen from the cost risk histogram, the probability that the project will be completed at a total cost between 90 percent and 100 percent of the estimate is about 0.15. A probability of 0.73 (73 percent confidence level) that the actual cost (in January 1982 dollars) will not exceed the project estimate can be determined by adding individual probabilities for each interval.

There is a 7-percent chance that the proposed Susitna development will experience overruns so great that the base case thermal alternative would be favorable.

The second histogram on Plate 19 indicates that there is about a 6-percent chance that delays other than those caused by regulatory matters will be long enough to cause serious financing and marketing implications.

In short, the estimated cost and schedule are likely to be achieved, although a not insignificant exposure remains.

Operation and Maintenance

As is characteristic of most new hydroelectric developments, the capital cost of the Susitna project per unit of installed capacity is much greater than that for conventional thermal plants. To the extent that net benefits are demonstrated for Susitna, they are largely derived from avoiding escalating fuel costs which form a large portion of the annual operating costs in the thermal case.

When the Susitna project is fully operational, a central maintenance staff and an operating staff, together with appropriate support personnel, will be located at the permanent townsite. Power plants at both dams will be controlled from the Susitna Area Control Center at Watana. In January 1982 dollars, the annual operating and maintenance costs will be $10 million for the first stage Watana project and $15.2 million for the complete development. For operation of the project within the Railbelt system, a Central Dispatch Control Center is planned near Willow.

POWER PLANTS AT BOTH DAMS WILL BE CONTROLLED FROM THE SUSITNA AREA CONTROL CENTER AT WATANA.

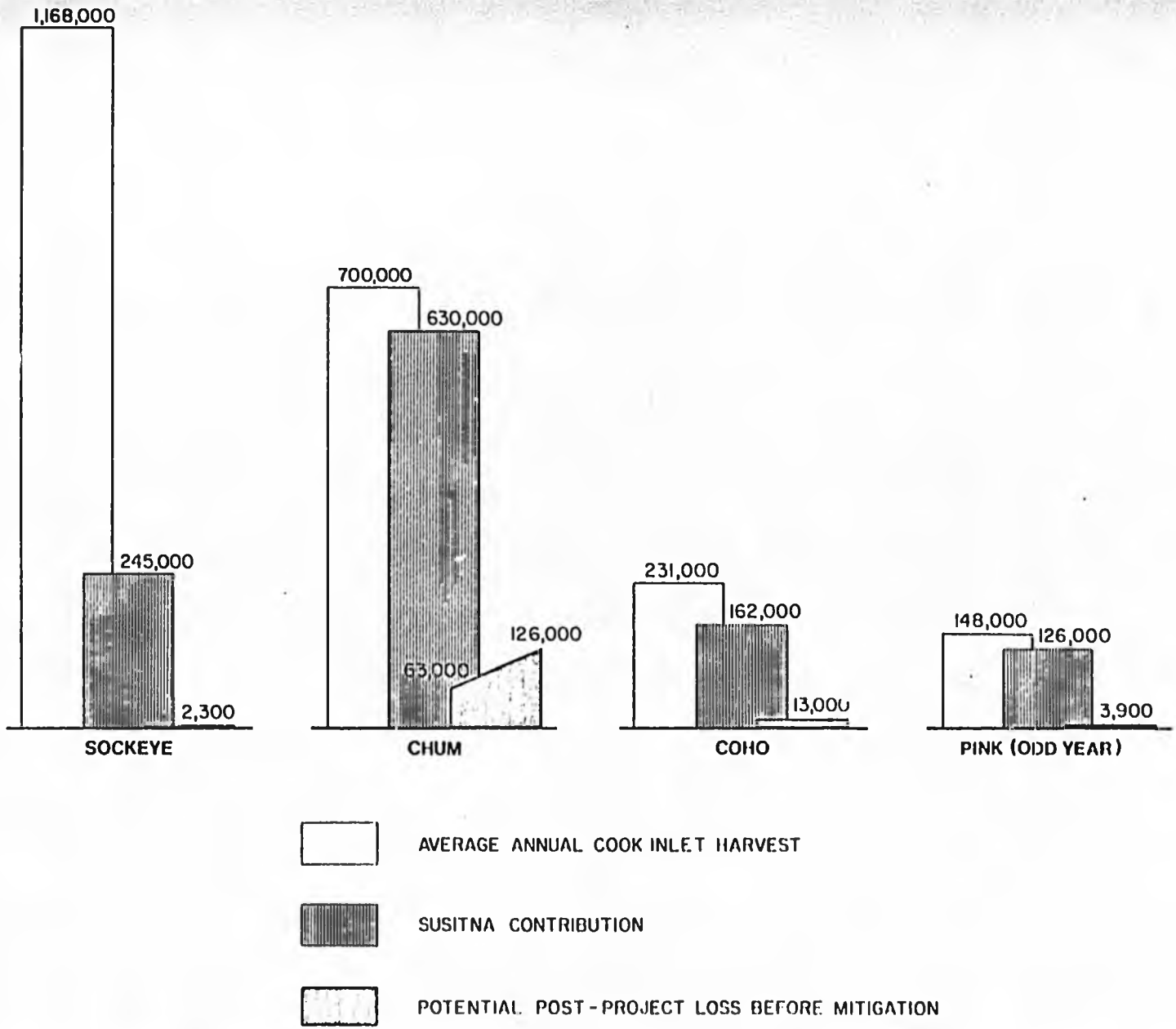


PLATE 20 | SALMON DISTRIBUTION IN THE SUSITNA

ENVIRONMENTAL ISSUES

9

Environmental issues are addressed initially in this section in the context of the proposed Susitna development. Potential impacts associated with the non-Susitna plan are summarized in the final portion.

Fisheries

The Susitna River is a major contributor to Cook Inlet fisheries. More than half of the combined Cook Inlet total of chum, sockeye, coho and pink salmon return to the Susitna to spawn. Resident fish species abound as well in the basin. The mainstem provides a migratory corridor and most of the spawning habitat is located within tributaries, side channels and sloughs. Plate 20 illustrates estimated migratory distributions for important anadromous fish.

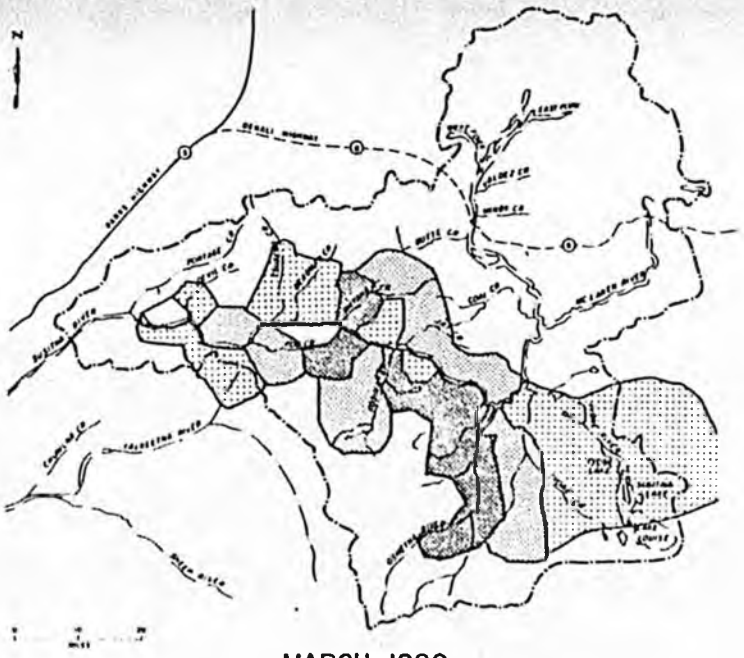
If the Susitna project is constructed, the principal fishery impacts will be measured upstream of the confluence of the Talkeetna River and the Susitna mainstem. In the absence of any mitigation efforts, the greatly altered post-project flow regime and warmer water temperatures in winter could result in a reduction of 63,000 to 126,000 chum from the current long-term average annual Cook Inlet harvest of 700,000. There would also be a decrease of 2,300 sockeye from an annual harvest of 1,168,000, and other losses as shown on Plate 20. In any single year, relatively large differences from these estimated long-term averages can occur. In 1981, for example, chum losses would have been 68,000 and sockeye 14,000.

Mitigation measures incorporated into project design include the effective removal of nitrogen supersaturation as a contributor to fish mortality and provisions for some water temperature control, as earlier described in Section 5. Other mitigation plans under consideration include modification of operating procedures to increase downstream flows during critical times, streambed modification to compensate for lost spawning habitat (though the effectiveness of such a measure is by no means certain — homing problems could ensue), and construction of a hatchery to replace losses.

Because of the natural barrier to migration near Devil Canyon, the principal direct impacts of reservoir impoundment will be felt only by resident fish populations. Some loss of spawning areas will be compensated by an increase in overwintering habitat and the reservoirs may provide the habitat necessary for the existing population of resident fisheries.

The ultimate objective of all the various mitigation measures is to achieve no net loss. Potential losses need not occur if proposed artificial measures to maintain the fishery resource are taken.

MITIGATION MEASURES HAVE BEEN INCORPORATED INTO PROJECT DESIGN...

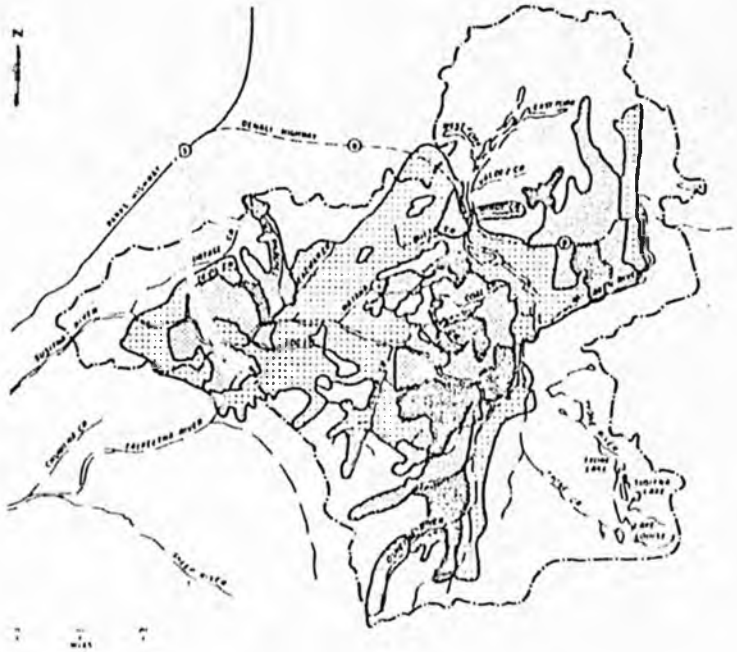


MARCH 1980

LOW DENSITY

MEDIUM DENSITY

HIGH DENSITY



NOVEMBER 1980

PLATE 21 | **MOOSE DISTRIBUTION**

Wildlife Resources

The principal species of big game in the proposed project area are moose, caribou, wolf, wolverine, bear and dall sheep.

Plate 21 provides relative distributions of moose observed during the field investigation program. In addition to direct loss of inundated moose habitat and displacement of home ranges within the reservoir area, some reduction in downstream browse may occur as altered flow regimes affect vegetative succession. Habitat management is the principal mitigation measure being explored to maintain the moose population. Controlled burning to stimulate browse growth and reclamation of areas of disturbance are typical examples of habitat management being considered.

Although not recently used, an important historical migration route for caribou will be intersected by reservoir impoundment. Mud flats and shore line ice conditions could impede caribou migration despite their excellent swimming capability. Monitoring spring migration to locate calving areas and protection of calving grounds from human intrusion during the calving period are proposed. Clearing and removal of trees from the reservoirs is also proposed, to prevent mortalities which may be caused by floating debris.

Black bear prefer the forest habitat which lies within the impoundment zone. Nine known dens in the Watana reservoir and one in Devil Canyon will be flooded. Reductions in black bear population are likely if the project proceeds. Lesser losses will be suffered by brown bear as a result of reductions in seasonal foraging areas, though no known dens will be flooded. Restrictions will be imposed to reduce human-caused disturbances, and maintenance of a healthy moose population will aid in providing a food source for bears.

The Watana dall sheep herd uses a mineral lick along Jay Creek. Partial inundation of this lick will occur, and in the event that use by the herd is discontinued, an artificial lick with similar chemical composition will be established.

Furbearers will suffer some habitat loss and increased trapping and hunting pressure can be expected. Measures have been included in project planning to limit human access and to create common corridors for transmission and ground transportation. Hunting and trapping regulations will be enforced.

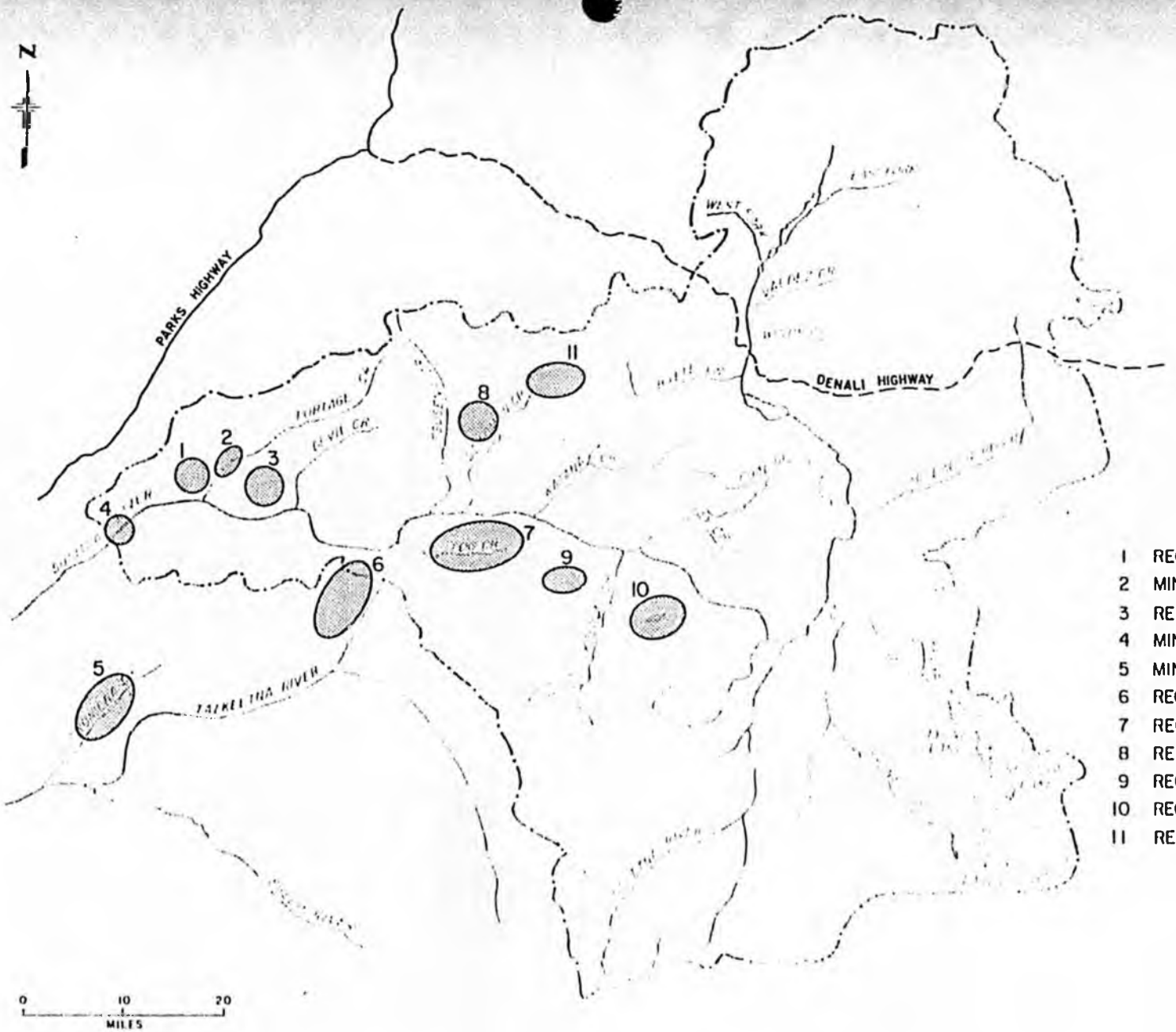
Active and inactive nest sites for golden eagle, bald eagle, and raven lie within the proposed reservoir area. Even so, creation of two large impoundments may result in an increased eagle population in the upper basin. Measures will be taken to preserve clumps of tall spruce trees to encourage nesting and the possibility of and need for constructing artificial nests will be explored.

No endangered species (the bald eagle is not endangered in Alaska) have been identified in the project area.

Historic and Archeological Resources

Archeological sites representing human occupation during the last 10,000 years and historic cabins built in the 1920s were located during the field investigation program. Mitigation will be accomplished through avoidance, preservation, and where appropriate, excavation and removal of artifacts to museums.

NO ENDANGERED SPECIES . . . HAVE BEEN IDENTIFIED IN THE PROJECT AREA.



	USE	INTENSITY
1	RECREATION	MEDIUM
2	MINING	MEDIUM
3	RECREATION	MEDIUM
4	MINING/RESID.	HIGH
5	MINING	HIGH
6	REC./RESID	HIGH
7	RECREATION	HIGH
8	RECREATION	LOW
9	RECREATION	MEDIUM
10	RECREATION	MEDIUM
11	RECREATION	LOW

PLATE 22 | LAND USE

Socioeconomics

The population of Alaska has increased steadily since the 1940s, with accelerated growth occuring in the 1970s. About 50 percent of the total is located in the greater Anchorage area, and the Railbelt as a whole contains 70 percent. Historical spurts have been occasioned by major project activities, generally followed by short-term decline or a levelling off. The Trans Alaska Pipeline System provides the most recent example of this phenomenon. Increases in population during the past decade have been particularly pronounced in the Matanuska-Susitna Borough, within which the proposed dam sites are contained. The borough is more dependent on seasonal employment than large urban centers and has consistently had high unemployment rates.

As was indicated in section 8 of this report, significant employment opportunities will be generated over a period of 15 years if Susitna proceeds.

Demands for services (e.g. water supply, education) will increase in general by less than 5 percent above baseline conditions, particularly if much of the required work force is drawn, as planned, from within the state.

The greatest relative impacts are likely to be felt in Talkeetna and Trapper Creek, where housing shortages may occur and where proportionally greater numbers of visitors and would-be residents, particularly during the construction period, can be expected.

To mitigate adverse impacts on local communities, the proposed site facilities include construction camps and a permanent town site fully equipped with all amenities, thereby reducing the need for travel to and service from these areas. As the project proceeds, coordination will be maintained with local communities in order to maintain a proper balance between preservation of desired life style and local economic needs which project management may be able to satisfy.

Land Ownership and Use

Most land in the project area and directly south has been selected by Native corporations under provisions of the Alaska Native Claims Settlement Act. The U.S. Bureau of Land Management generally manages lands to the north.

Existing land use in the upper basin is typical for that of interior undeveloped Alaska (see Plate 22). Broad expanses of wilderness areas are present, access is severely restricted, and only a few man-made developments or structures are currently found. Early in the feasibility study period, a camp near the Watana dam site was erected on Native land to support field investigation activities. In the event that the Susitna project does not proceed, this camp facility may revert to Native ownership. If so, some further developments on Native land would probably occur.

If the project does proceed, only low-level recreational development is currently proposed. Camp grounds, picnic areas, boat launches, and hiking trails are planned, as are scenic overlooks.

While the creation of major dams and reservoirs will necessarily change the aesthetics, efforts were made in project planning to minimize visual impacts. Powerhouses will be underground, flow will be maintained in the short stretch between Devil Canyon dam and the tailrace portal downstream, borrow areas will be within the impoundment area where possible and will otherwise be restored or converted to ponds, and other similar measures will be taken.

MOST LAND IN THE PROJECT AREA AND DIRECTLY SOUTH HAS BEEN SELECTED BY NATIVE CORPORATIONS...

ALTERNATIVE GENERATING UNIT	POTENTIAL IMPACTS									
	AIR QUALITY	WATER QUALITY	TERRESTIAL ECOLOGY	AQUATIC/ MARINE ECOLOGY	NOISE, VISUAL & ODOR	HEALTH AND SAFETY	JOBS IN ALASKA	BOOM/ BUST EFFECTS	LAND-USE EFFECTS	SUSCEPTIBILITY TO INFLATION
ANCHORAGE-COOK INLET										
GAS TURBINE										
COAL-FIRED										
FAIRBANKS-TANANA VALLEY										
GAS TURBINE										
COAL-FIRED										
HYDROELECTRIC										
CHAKACHAMNA										

MINOR IMPACTS

MODERATE IMPACTS

SIGNIFICANT IMPACTS

PLATE 23 **BASE CASE IMPACTS**

Water Quality

In its natural state, the Susitna River is turbid after breakup. The estimated annual transport of suspended materials at the Gold Creek gaging station is 7.7 million tons. Winter flows are relatively free of sediment.

Sediment capture efficiencies for proposed reservoirs are estimated at 70 to 100 percent. In 100 years, the estimated sediment deposition will represent about 5 percent of the gross reservoir volume at Watana and about 14.2 percent at Devil Canyon. No reduction in energy production as a result of sedimentation is anticipated during the project life. As a result of sedimentation entrapment, flows downstream of Devil Canyon will be considerably less turbid in late spring, summer, and early fall. Winter flows will be more turbid than under natural conditions. Other water quality changes will occur, but no significantly adverse impacts are anticipated.

Non-Susitna Expansion

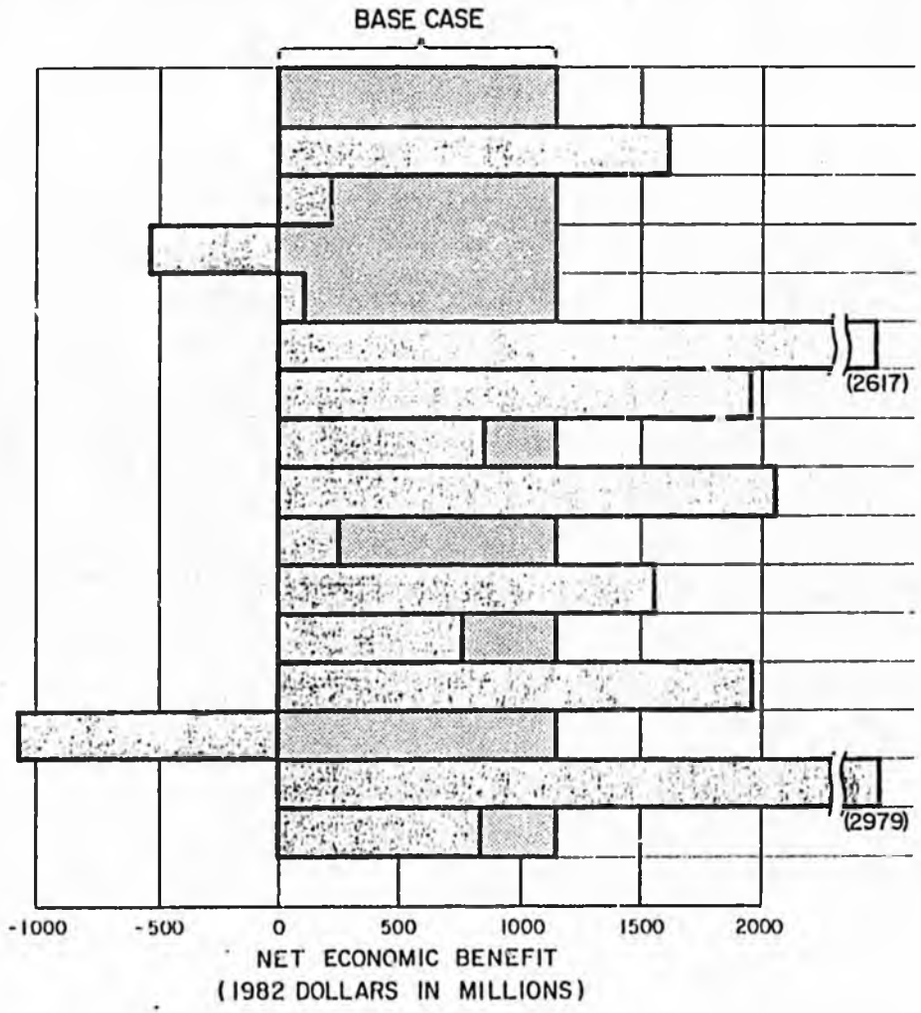
It was earlier noted that significant generating capacity must be added to the Railbelt system during the study period if the mid-range forecast is realized. If, instead of proceeding with Susitna, the base case representative thermal plan is followed, different types of environmental impacts can be expected. Plate 23 summarizes impacts as presented in the Battelle report for system additions common to both Battelle's Plan 1A and the representative thermal plan. Chakachamna appears on the summary because the economic effect of its inclusion was tested in the sensitivity analysis.

Coal-fired steam generating plants, the principal component of the representative non-Susitna plan, will be developed in open, well-ventilated sites as near as possible to available coal fields. Visual impacts will be significant since plumes from cooling towers and smokestacks will be seen for miles, particularly in winter months. Local air quality degradation will be inevitable. Relatively large land areas will be required to accommodate major plant components, stockpiles, and mining operations. Lesser, but nonetheless important impacts in other categories as shown on Plate 23 will occur.

Gas turbines would be environmentally superior to coal-fired plants, but new units of this type will serve primarily to satisfy peaking needs and to maintain system reliability criteria. Neither gas supply estimates nor cost expectations support long-term reliance on gas as the principal fuel for generation of electricity.

Construction of a hydroelectric plant at Chakachamna would introduce impacts generally of the types described in preceding paragraphs for the Susitna project. Studies to date by others on Chakachamna have not advanced sufficiently to make definitive estimates of potential fish losses, but initial indications are that they will be greater on a relative basis that those associated with the Susitna project.

IN 100 YEARS, THE ESTIMATED SEDIMENT DEPOSITION WILL REPRESENT ABOUT 5 PERCENT OF THE GROSS RESERVOIR VOLUME AT WATANA AND ABOUT 14.2 PERCENT AT DEVIL CANYON.



ELEMENT TESTED	BASE CASE VALUE
HIGH LOAD FORECAST (11,400 GWH IN 2010)	7,800 GWH IN 2010
LOW LOAD FORECAST (6,300 GWH IN 2010)	7,800 GWH IN 2010
5 % REAL DISCOUNT RATE	3 %
4 % REAL DISCOUNT RATE	3 %
2 % REAL DISCOUNT RATE	3 %
HIGH CAPITAL COST FOR ALTERNATIVE (20 % ABOVE ESTIMATE)	BATTELLE ESTIMATE
LOW CAPITAL COST FOR ALTERNATIVE (10 % BELOW ESTIMATE)	BATTELLE ESTIMATE
LOW SUSITNA CAPITAL COSTS (83 % OF ESTIMATE)	PROJECT ESTIMATE
HIGH SUSITNA CAPITAL COSTS (117 % OF ESTIMATE)	PROJECT ESTIMATE
ZERO CAPITAL COST ESCALATION	1.8 % /ANNUM
HIGH CAPITAL COST ESCALATION (3.6 % /ANNUM)	1.8 % /ANNUM
HIGH BASE COAL PRICE ($ 2.08/MM BTU)	$ 1.43 / MM BTU
ZERO FUEL PRICE ESCALATION	2.6 % TO 2000 1.2 % TO 2010
HIGH FUEL PRICE ESCALATION (5 % TO 2000, 2.2 % TO 2010	2.6 % TO 2000 1.2 % TO 2010
CHAKACHAMNA ALTERNATIVE	ALL THERMAL PLAN

PLATE 24 | **SENSITIVITY ANALYSIS**

ECONOMICS

10

In spite of the fact that some legislative support has been demonstrated for subsidies and grants for hydroelectric development, all economic analyses to identify plans and to determine net benefits were conducted on a common, non-subsidized basis. Thus, competing plans were tested on equal terms.

Net economic benefits were calculated by comparing the system-wide production costs of electricity with and without the Susitna project. The OGP model was employed for this purpose, and for the set of economic parameters considered most likely in the base case, the Susitna project was shown to have an advantage over the representative thermal plan of $1176 million (expressed as present worth in 1982 dollars of the difference in total costs of the two plans over an assumed 50-year operating period). A great deal of uncertainty was associated with the various parameters whose values contributed to this result, however. It was noted in Section 8, for example, that a range of possible Susitna capital costs must be contemplated, and earlier in Section 2 that demand can vary across a broad spectrum. Other parameters are far from firm.

Sensitivity Analysis

A sensitivity analysis was conducted to determine the extent to which a reasonably conceivable change in any single parameter would affect the outcome of the analysis. Results are presented on Plate 24.

The most sensitive parameter is clearly the assumed future escalation of fuel prices, particularly coal, over and above the underlying inflation rate. Simply stated, it would be an unwise economic decision to develop Susitna if long-term fuel price stability could be assured. High fuel price escalation in the future, on the other hand, would make Susitna increasingly attractive.

Varying the real (inflation adjusted) discount rate also demonstrates strong effects. The apparent "break even" discount rate is about 4.1 percent.

The Chakachamna project had not been included in the base case for reasons earlier noted in Section 3. If environmental issues can be resolved there and if the initial cost estimate is adhered to, a combination of the Chakachamna hydroelectric project and thermal generation additions would present a lower cost alternative than the all-thermal plan, but Susitna would continue to be favored.

Tests were also made to evaluate the economic effects of delays. A one year delay for the Watana project alone would reduce net benefits by $43 million. Delaying both Watana and Devil Canyon one year causes a reduction of $103 million. A two year delay for both yields a decrease of $168 million.

Not shown on Plate 24, but also worthy of consideration is the extent to which a decision not to proceed with the currently planned Bradley Lake Project would change net benefits. Such a scenario would make the non-Susitna plan more costly and would raise the net benefits of the Susitna plan from $1176 million to $1453 million.

. . . ALL ECONOMIC ANALYSES TO IDENTIFY OPTIMAL PLANS AND TO DETERMINE NET BENEFITS WERE CONDUCTED ON A COMMON, NON-SUBSIDIZED BASIS.

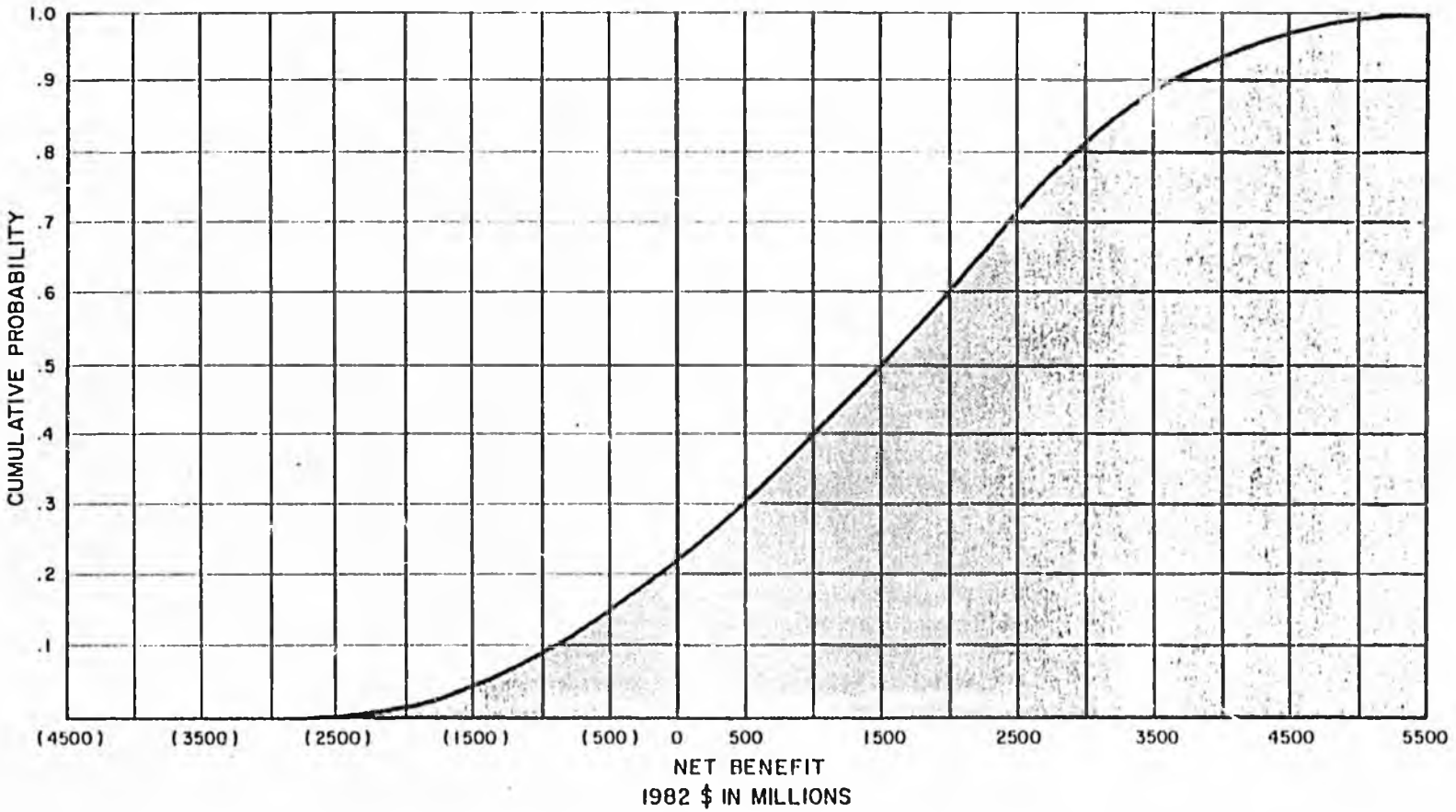


PLATE 25 | MULTI-VARIATE SENSITIVITY

"Multi-Variate" Analysis

Given the uncertainties involved in each of the parameters subjected to sensitivity tests, there is no reason to believe that only one will ultimately vary from the assumed center-point values. To test the effect of multiple variations, a "decision tree" was constructed and the probability of occurrence was assigned to each of three possible values for the four most sensitive parameters. OGP runs were made to determine long-term present worth costs of each possible combination of load forecast, Susitna capital cost, alternative capital cost, and fuel cost escalation. Discount rates were not included in this analysis because their determination is largely a matter of policy.

Based on this analysis, the cumulative probability that a particular net benefit will not be exceeded is plotted on Plate 25. As may be seen from that depiction, there is about a 23 percent chance that a decision to proceed with Susitna will result in negative or zero net benefits, and the maximum negative exposure is about $2.5 billion. Correspondingly, the chance that Susitna will produce positive benefits over a 50-year operating period is about 77 percent, with cost advantages as high as $5.5 billion.

Conservative Treatment

Certain features of the economic analysis probably introduced a measure of conservatism into the calculation of net benefits. The first and most significant such feature is the fact that constant production costs were assumed after 2010 in all cases tested. This assumption has the effect of excluding both real escalation in fuel prices after 2010 and the replacement costs of thermal plants which have a shorter operating life than hydroelectric facilities.

A second consideration was to do with load forecasts. For purposes of the economic analysis, no further growth was assumed after 2010. Thus, no benefit to Susitna accrues for available energy output of about 340 GWh which is not forecast to be required by the system by 2010. In addition, no cost penalties were assigned to thermal plants to account for possible future environmental legislation; finally, indications by the OGP model that a new thermal plant would be needed in 2011 if only a minor increase in load occurred thereafter were ignored.

It was earlier noted in Section 3 that important uncertainties exist with respect to economic development of the Beluga coal fields and the long term availability of Cook Inlet gas. Nonetheless, the economic analysis was conducted as if no such constraints were present.

CERTAIN FEATURES OF THE ECONOMIC ANALYSIS PROBABLY INTRODUCED A MEASURE OF CONSERVATISM INTO THE CALCULATION OF NET BENEFITS.

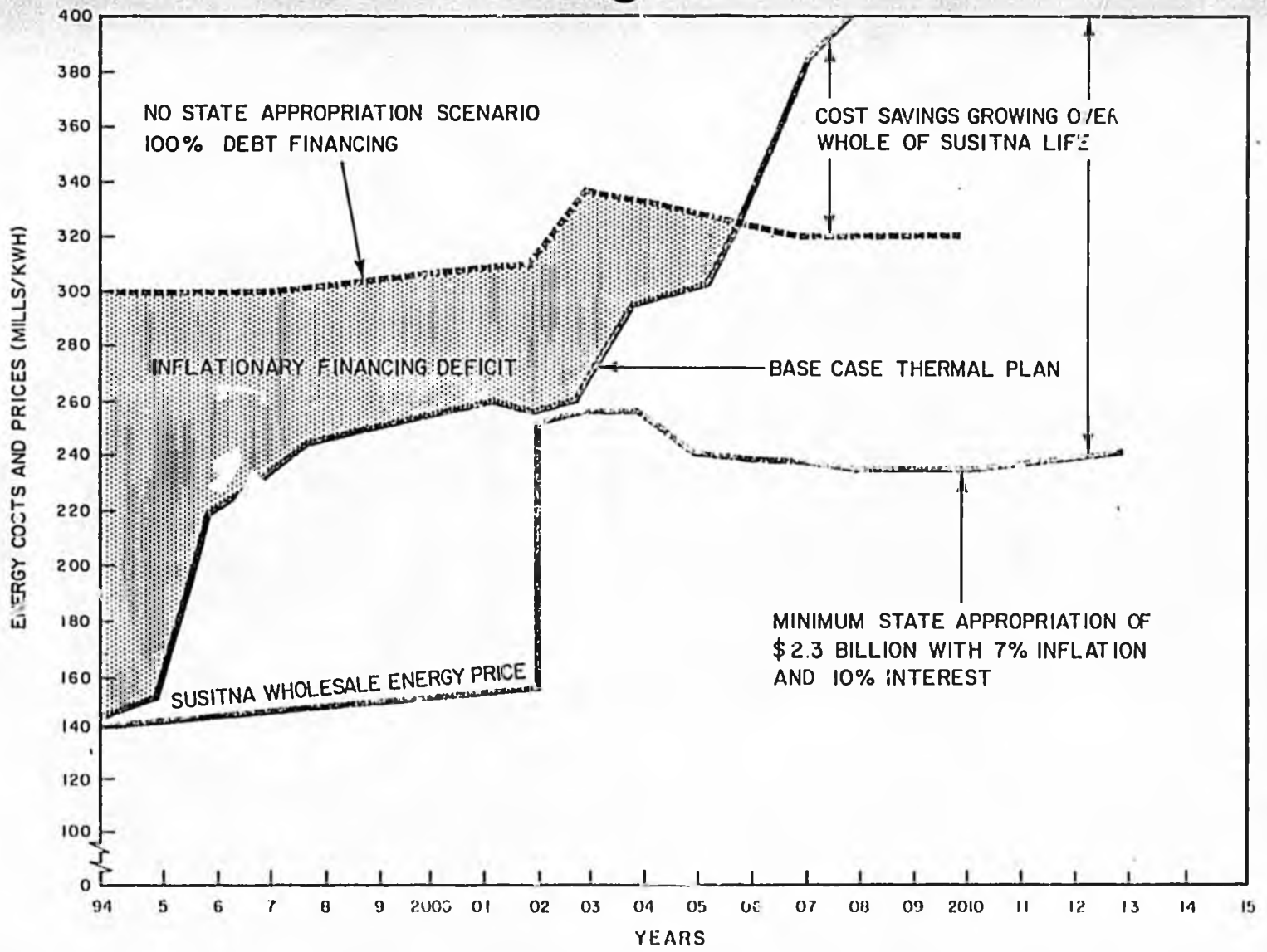


PLATE 26 | ANNUAL COST COMPARISION

Having demonstrated, by the economic analysis described in the previous secton, that there is a high probability that development of the hydroelectric potential of the Susitna basin would provide significant cost advantages when compared to alternative means of meeting projected Railbelt power demands, further analyses were made of the financial aspects of the development program. These further analyses were aimed at determining whether the project could be financed in an inflationary economy and what impact various scenarios for state participation in funding would have on the ultimate cost to the consumer. The results of one such analysis are plotted in Plate 26.

The sharply rising red line on Plate 26 traces the unit energy costs associated with the representative all-thermal plan. The same curve had been presented earlier on Plate 5. The dashed curve lying above thermal plan costs in the early years of project operation is associated with a Susitna case with no state participation. It exhibits a characteristic which is common to many major capital-intensive projects. Simply stated, the Susitna Hydroelectric Project would be more costly to the consumer in its early years of operation, if no state participation is involved, than the thermal plan. After about a dozen years, rising thermal plan costs intersect those for Susitna. Thereafter, the Susitna plan looks increasingly more attractive and, over a 50-year economic life, it can be shown that Susitna would generate important cost savings — even without state funding participation. The project is expected to remain operational long after the 50-year life upon which economic and financial analyses were based. Once project debts are amortized, Susitna costs will drop dramatically.

The third curve, shown as the solid blue line on Plate 26, illustrates the case for which state participation is just enough to make the entry costs for Susitna comparable to those for the thermal plan, increasingly great savings being realized thereafter. Other financing variations were explored in the detailed feasibility report. It is anticipated that conventional financing will be used to provide required funding over and above whatever state participation is involved. State participation at the level indicated by the solid blue curve would provide an 11 percent return on investment.

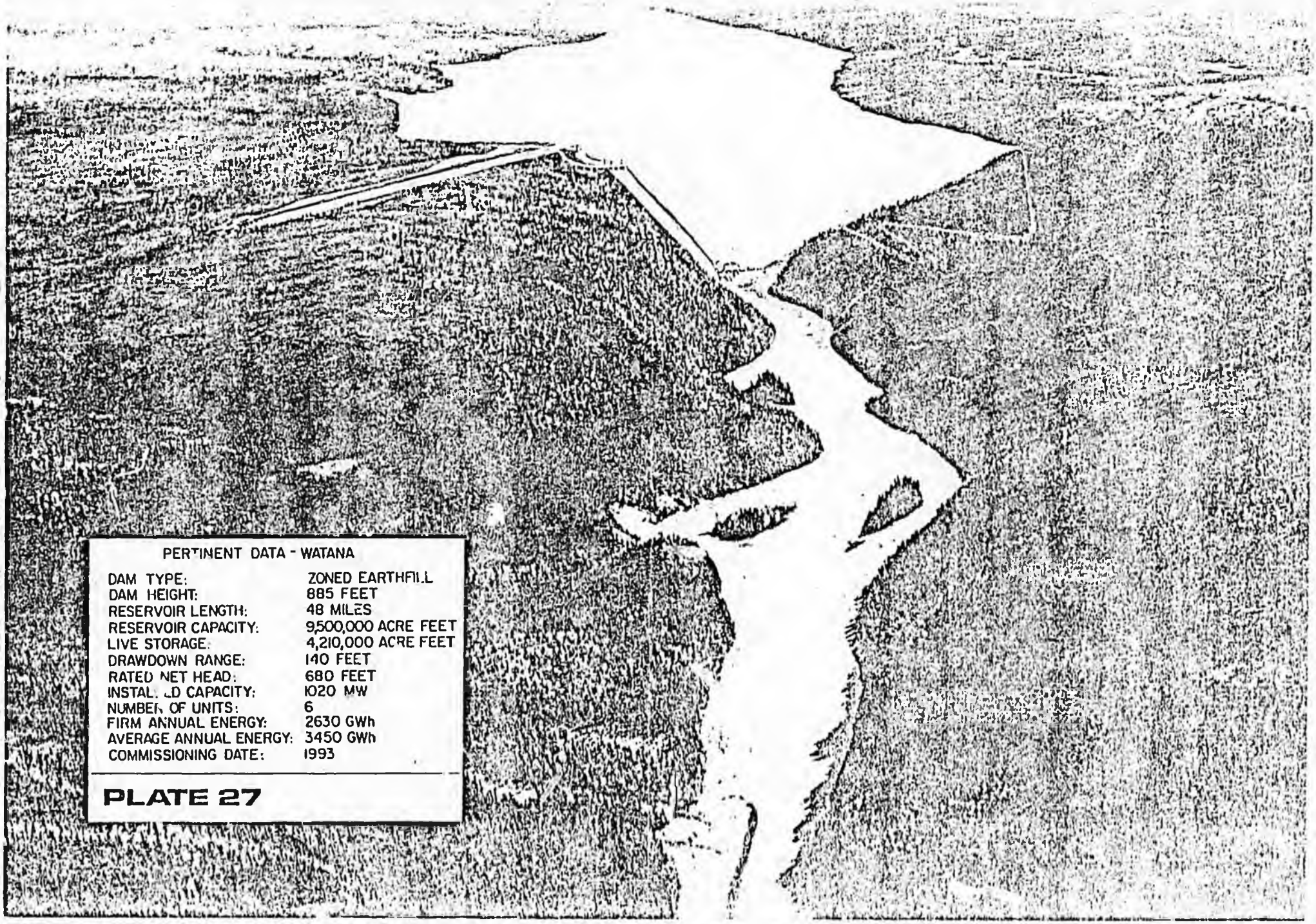
Financing Risks

Financial risks to the state and to consumers were analyzed, taking into account such factors as the risks of bond requirement overrun, inadequate debt service cover and others. The analysis suggests that there is a probability of 0.73 (73 percent confidence level) that savings to the Alaska consumer will be equal to or greater than those calculated.

Marketing Considerations

The Railbelt market area was earlier described in Section 2. In the absence of any plans to merge existing utilities into a central power authority, it was assumed that various utilities will enter into contracts for Susitna energy if it is seen as the lowest cost alternative available for meeting demand. Under the minimum state appropriation scenario, purchase of Susitna energy would be found preferable to installing and operating new thermal plants either to meet demand or to replace retiring units.

The relatively large capacity associated with each successive stage of the Susitna project will inevitably lead to periods during which more capacity is available to the system than prudent reserve criteria would otherwise require. As a result, it may be anticipated that those thermal units which are most costly to operate will be shut down temporarily until demand rises once again to the point that additional capacity is needed. During wet years, hydroelectric energy production in excess of estimated firm energy output will be available at virtually no incremental cost, and it will be used to displace higher cost energy from some thermal plants which may be operated only during years of low flow. In short, under the minimum state appropriation scenario, total system generation costs (and, therefore, costs to the consumer) will be less after various Susitna stages come on line even though a temporary surfeit of capacity may exist.



PERTINENT DATA - WATANA

DAM TYPE:	ZONED EARTHFILL
DAM HEIGHT:	885 FEET
RESERVOIR LENGTH:	48 MILES
RESERVOIR CAPACITY:	9,500,000 ACRE FEET
LIVE STORAGE:	4,210,000 ACRE FEET
DRAWDOWN RANGE:	140 FEET
RATED NET HEAD:	680 FEET
INSTALLED CAPACITY:	1020 MW
NUMBER OF UNITS:	6
FIRM ANNUAL ENERGY:	2630 GWh
AVERAGE ANNUAL ENERGY:	3450 GWh
COMMISSIONING DATE:	1993

PLATE 27

IMPLEMENTATION

12

The essential conclusions of the detailed feasibility study are that the project is technically feasible and economically viable. The safety of the population in the vicinity of the project will not be impaired and the unavoidable impacts which this large project will cause on the environment will not be unduly severe and can be adequately mitigated. Financing of the project is also feasible with state assistance at acceptable risk to consumers in the Railbelt region.

In the event that the state decides to proceed with the project, a license application will be prepared and it will be filed with the Federal Energy Regulatory Commission by September 30, 1982.

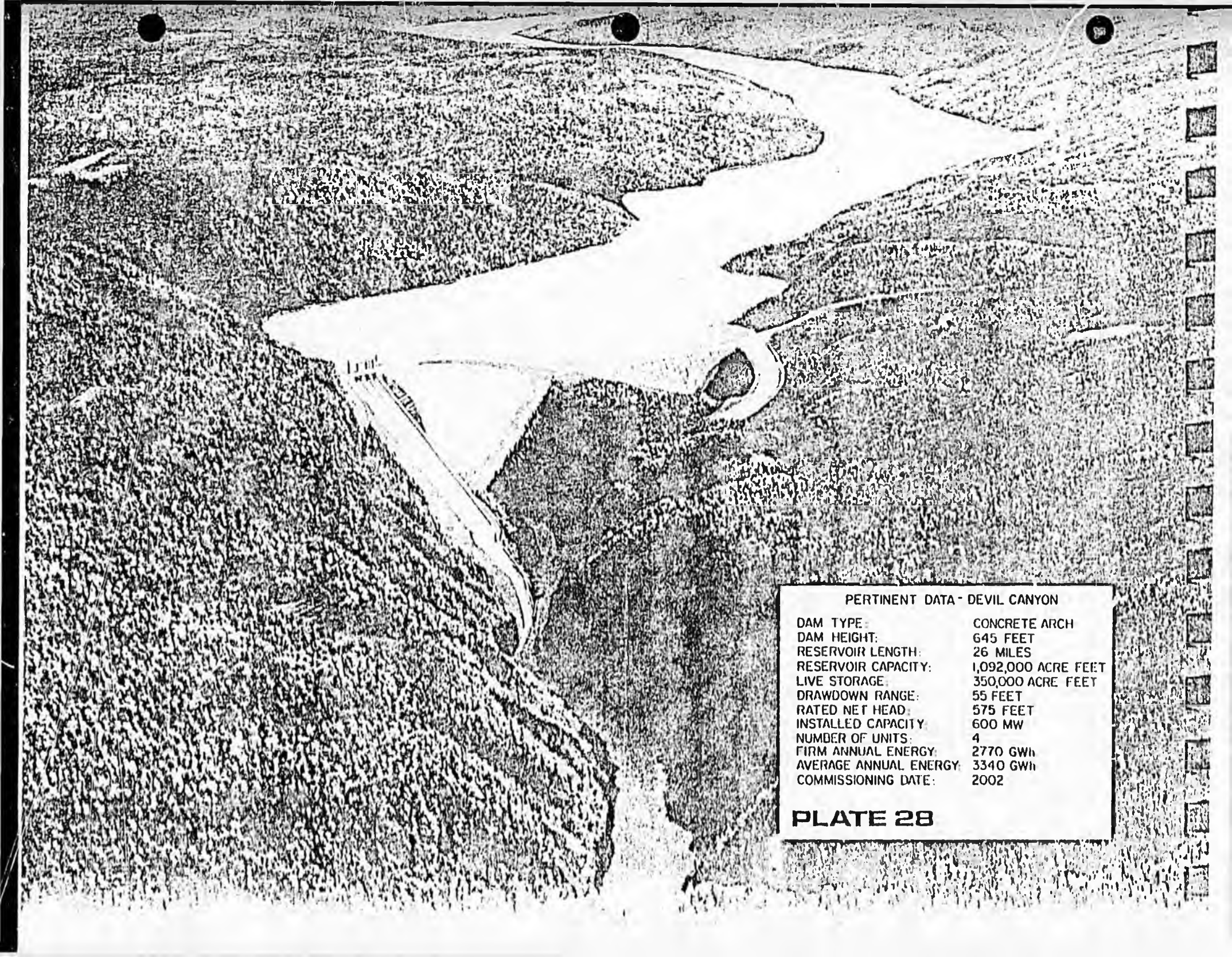
The high level of activity associated with environmental studies will continue unabated throughout the licensing period, which is assumed to extend until December 1984, and into the construction period should this proceed. Technical field investigations will continue as well. Future environmental and engineering findings will influence detailed design.

Prior to submission of the license application, the Alaska Power Authority will accept competitive proposals for detailed engineering services from qualified firms and will select one or more organizations to continue the work after September 1982 when the contractual obligations of Acres American Incorporated will have been fulfilled.

Aside from the construction of a limited access pioneer road commencing in mid-1983, activities within the proposed project area will not cause irreversible change before award of a license and prior to a further decision by the state to construct the first stage Watana dam and associated facilities.

No major commitment of funds is necessary to support preparation of a license application since its content will largely be based upon studies completed to date. Continuation beyond that point will require an investment in excess of $50 million, including land costs, before the end of 1983 to support continuing investigations and the commencement of detailed design and pioneer road construction. Immediate action is necessary to ensure that required lands are available for this early construction activity. Options open to the Power Authority include purchase, lease, and land transfer options.

THE ESSENTIAL CONCLUSIONS ARE THAT THE PROJECT IS TECHNICALLY FEASIBLE AND ECONOMICALLY VIABLE. UNAVOIDABLE IMPACTS WILL NOT BE UNDULY SEVERE AND CAN BE ADEQUATELY MITIGATED.



PERTINENT DATA - DEVIL CANYON

DAM TYPE:	CONCRETE ARCH
DAM HEIGHT:	645 FEET
RESERVOIR LENGTH:	26 MILES
RESERVOIR CAPACITY:	1,092,000 ACRE FEET
LIVE STORAGE:	350,000 ACRE FEET
DRAWDOWN RANGE:	55 FEET
RATED NET HEAD:	575 FEET
INSTALLED CAPACITY:	600 MW
NUMBER OF UNITS:	4
FIRM ANNUAL ENERGY:	2770 GWh
AVERAGE ANNUAL ENERGY:	3340 GWh
COMMISSIONING DATE:	2002

PLATE 28

REFERENCES AND ACKNOWLEDGEMENTS

13

References

Information presented in this summary report is drawn from two principal sources, both of which have been distributed to libraries throughout the Railbelt:

(1) **Draft Susitna Hydroelectric Project Fesibility Report,** Acres American Incorporated, March 1982:

Volume 1 — Engineering and Economic Aspects
- Section 1: Introduction
- Section 2: Summary
- Section 3: Scope of Work
- Section 4: Previous Studies
- Section 5: Railbelt Load Forecasts
- Section 6: Railbelt System and Future Power Generation Options
- Section 7: Susitna Basin
- Section 8: Susitna Basin Development Selection
- Section 9: Selection of Watana General Arrangement
- Section 10: Selection of Devil Canyon General Arrangement
- Section 11: Selection of Main Access Plans
- Section 12: Watana Development
- Section 13: Devil Canyon Development
- Section 14: Transmission Facilities
- Section 15: Project Operation
- Section 16: Estimates of Cost
- Section 17: Development Schedule
- Section 18: Economic and Financial Evaluation

Volume 2 — Environmental Aspects
- Section 1: General Description of the Locale
- Section 2: Water Use and Quality
- Section 3: Report on Fish, Wildlife, and Botanical Resources
- Section 4: Report on Historic and Archeological Resources
- Section 5: Report on Socioeconomic Impacts
- Section 6: Geology and Soils
- Section 7: Report on Recreational Resources
- Section 8: Report on Aesthetic Resources
- Section 9: Report on Land Use
- Section 10: Alternatives to the Susitna Project
- Section 11: List of Literature

Volume 3 — Plates

Volumes 4 through 8 — Appendices

(2) **Comment Draft Railbelt Electric Power Alternatives Study: Evaluation of Railbelt Electric Energy Plans,** Battelle Pacific Northwest Laboratories, February 1982.

Acknowledgements

Major subcontractors to Acres American Incorporated who made significant contributions during the course of the study include:

R&M Consultants, Incorporated
Cook Inlet Region, Incorporated/Holmes and Narver, Incorporated
Woodward-Clyde Consultants
Frank Moolin & Associates, Incorporated
Terrestrial Environmental Specialists, Incorporated, together with subcontractors and members of the faculty of the University of Alaska.

Numerous other participants in Alaska provided responsive logistical support and related activities.

State agencies working under the terms of reimbursable services agreements with the Alaska Power Authority conducted studies and investigations, without which this report would not have been possible:

Institute for Social and Economic Research, University of Alaska
Alaska Department of Fish and Game

Cooperation and assistance from resource agency representatives who served on the Steering Committee is gratefully acknowledged, as is the extraordinary effort of the Public Participation staff of the Alaska Power Authority.

Rigorous professional review of all major aspects of the proposed Susitna development was accomplished by the External Review Panel which reported to the Alaska Power Authority, and by a second Review Panel and numerous consultants who assisted the Acres' team throughout the course of the work. The diligence and skill of these eminent experts has been important to the successful identification and resolution of problems and to the development of optimal plans.

Space limitations preclude the mention by name of the many others whose interest, support, and healthy criticism have been invaluable, but their selfless efforts are sincerely appreciated.

Finally, the expert management and guidance provided by the Executive Director and the staff of the Alaska Power Authority and the unusual professionalism they have displayed throughout the study period are particularly worthy of note.

SUSITNA HYDROELECTRIC PROJECT

TASK 11: FINANCING OPTIONS

Prepared by:
Acres American Incorporated

January 1983

ACRES

ALASKA POWER AUTHORITY

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TABLES

Table 1 - CAPITAL FUNDS AVAILABLE FOR SUSITNA - 30th Percentile Projections
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EXHIBITS

Exhibit A - System Costs Avoided by Developing Susitna

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FINANCIAL ANALYSES

Option A - $1.4 Billion Drawn from Uncommitted State Funds Available for Capital Construction

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Option D - $1.8 Billion Dedicated from Permanent Fund Income

ALASKA POWER AUTHORITY
SUSITNA HYDROELECTRIC DEVELOPMENT
FINANCING OPTIONS

1 - OBJECTIVES

The objective of this report is to set out the currently most viable financing options for the Watana phase (1985-1993) of the Susitna Hydroelectric Development together with the comment of the Power Authority's investment advisors (The First Boston Corporation, John Nuveen & Company, and First Southwest Company) on the impact of these options on the credit rating of the State of Alaska and on other related issues.

2 - ECONOMIC CONTEXT OF THE FINANCING PROPOSALS

The economics, marketing and financing of Susitna will be the subject of a final review by Acres American in March of 1983. The data utilized in this analysis however is, with minor modification, based on the Susitna Task 11 Reference Report. Some amendment of the data used here will then arise in the light of the March 1983 review. Our preliminary indications are however that the probable revisions will not materially impact the conclusions which may be based on the results presented in this memorandum.

3 - BASIC POLICY ISSUES: RISK AND TIMING

The Watana phase alone of Susitna will take 10 years (from the present stage of FERC licence application) to complete. It is also clearly apparent that it will not be possible to produce wholly certain forecasts of the underlying energy economics of the project nor of the availability of State revenues or of the competing demands for State resources

which may arise over this extended period. The requirement that such forecasts be produced as an initial pre-condition for authorization of development would therefore effectively preclude Susitna or indeed, any long term development of Alaska's natural resources.

It must also be frankly recognized that risks from erroneous forecasts will arise from proceeding with Watana at its estimated capital cost of $3.6 billion (1982 dollars). These are primarily risks associated with load forecasts, interest rates, inflation, etc. But it must be recognized also that risks will arise through not proceeding with Susitna since this will force Alaska electric power consumers to face the alternative risks arising from the estimated $1.7 billion (1982 dollars) of capital cost for fossil fuel plants and the risk that these plants will also require meeting the ever increasing operating costs reflected in Exhibit A. Moreover, these other options also involve risks from forecasting errors in the load forecasts, interest rates, inflation, etc.

In the Watana investment decision, therefore, the issue is not between risk and no risk, or investment and no investment, but only between one set of risks and another and one set of capital expenditures and another. The financing options as developed below therefore endeavor to reflect these risks in a realistic manner and provide for development/financing options which effectively minimize these risks.

It is an inherent characteristic in the very magnitude of their financial requirements and the complex political and economic issues which they pose, that "mega-projects" such as Susitna, have a "window of opportunity" during which they can proceed. If this "window" is missed the opportunity to proceed may not recur for many years.

Ultimate development of the hydroelectric potential of Susitna must be considered as highly probable given the authoritive estimates (see Exhibit C) and forecasts of Alaska's own Department of Revenue of continued significant long term real increase in alternative energy prices. Hence the essential issue is whether we proceed in the immediate future with this window of opportunity or whether the project is postponed-- possibly for a long period. Here, the following considerations must be taken into account:

(a) On present forecasts, postponement of Susitna wholly delaying its net benefits, would cost $43 million p.a. in 1982 present value terms.

(b) The possibility, referred to above, that the "window of opportunity" for Susitna may not recur for a very long period. This could result in the cost of postponement being a multiple of that given in (a).

Finally, we would stress that the Susitna Project would also be re-assessed by the Power Authority in 1984 before any major outlays were undertaken in 1985. By this date we will have two more years of economic and financial data with which to re-evaluate the situation and the uncertainties regarding the scale of the world economic recovery. The existing uncertainty of near-term future petroleum prices and revenues should be substantially reduced.

4 - THE FINANCING OPTIONS

The Essential Pre-conditions

The essential pre-conditions for any financing scheme is taken as the requirement that they meet:

(a) An acceptable cost of energy in the early years of operation. This is taken as effectively meaning that the cost of power must be close to or below the cost of energy that would result from pursuing the best Thermal Option as shown in Exhibit A.

(b) Meeting its debt coverage. All the residual financing requirements are assumed to be met (long-term) by borrowing in the form of tax-exempt bond financing at 10% with a coverage requirement of 1.1. This requirement must be met or the borrowing could not be regarded as meeting the basic requirements of acceptability to investors.

(c) Acceptable and viable levels of borrowing. The level of borrowing which the project requires to be met by G.O. bonds will depend upon the capacity of the State of Alaska to raise G.O. Bonds either without effect on its bond rating or with an effect that is regarded as an acceptable price for proceeding with the project. The other source of borrowing will be Revenue Bonds which, as discussed below, depend upon the power contracts which are in place.

(d) An acceptable level of demands on the funds available to the State of Alaska. The funds here are taken as the estimate of the uncommitted funds for capital appropriation as estimated by John Nuveen & Company and shown in Tables 1 and 2. (These take into account the estimated maximum G.O. Bonds as a source of funds.)

The Financing Options

A very large number of financing options have been considered. The four options: A, B, C, and D summarized in Tables 3 and 4 appear those most likely to fulfill the essential criteria stated above. These options are:

Option A

This option calls for $1.4 billion 1982 dollars in State appropriations phased over the period 1984 to 1989. This option may also indirectly involve drawing upon G.O. Bonds since these (see Tables 1 and 2) are built into the final total "available for Susitna". (The phasing of the appropriations year-to-year is, of course, arbitrary in that it can be adapted to the flow of funds represented by the "available for Susitna", providing the total remains the same.)

Option B

This option is precisely identical to that of Option A except that it involves a State appropriation of $1.8 billion in 1982 dollars phased over the period 1984-1989.

Options C and D

These options involve the concept of dedicated funds of the same magnitude as Option A and B being made available through a constitutional amendment. Since these options are of a markedly different character, they are discussed separately below.

Phases and Forms of Borrowing

Before reviewing the characteristics of the schemes proposed, it is necessary first to deal briefly with the phases and forms which the borrowing may involve.

In the Preliminary Phase between 1985 and 1987, the dam itself will not be under actual construction and only preliminary work will be in progress. Under these circumstances, it must be accepted that no Revenue Bond financing could be obtained and that the project at this stage would have to rely wholly upon State appropriations from the resources shown in Tables 1 and 2.

In the final and major phase of construction between 1989 and 1993 the objective of any financing or scheme must be to ensure that the financing at this stage is based upon Revenue Bonds which, although they will require moral obligation of the State of Alaska, are based on sufficiently rigorous power contracts that they wholly meet their debt coverage requirements when Watana comes into operation and do not to any significant extent rely upon the credit of the State of Alaska.

Whether this objective can be attained will depend first on the levels of State appropriations. This might be seen as the "equity" investment in the project which provides security to the investors and reduces the total amount of borrowing which the project requires.

The second factor is the precise magnitude and terms of the power contracts with the utilities. Since this depends upon detailed negotiations and organizational considerations it is not possible to comment definitively on whether or not the objective of 100% Revenue Bond financing would be possible for the final stage of the Watana development. In what follows, therefore, the Revenue Bond requirement is simply stated as a total sum which follows from the level of State appropriations A, B, C and D.

Hence any financing scheme must be seen at this stage as simply conditional with a key condition being that power contracts providing for such Revenue Bond financing are obtained and are in place before any major capital expenditure is undertaken. Since any significant capital expenditure could not, in any case, take place before the end of 1984 when the FERC license is expected to be granted, there are at least two years during which to secure such power contracts and meet this condition.

Assessment of the Financing Options

Details of the financing options are given in the computer printouts (attached) and the basic details are summarized in Tables 3 and 4 and Attachment E. In order to make the data conform as far as possible with the data on State revenues and the sums described in Tables 1 and 2 as "uncommited capital funds", the inflation assumptions in the Acres Task 11 March 1982 report, were revised to conform to those of the State revenue projections. Other minor revisions were also made.

Subject to maintaining the State's present double A rating, the assessment of the options given in Table 3 must be seen as a trade-off between the criteria of cost of power and State appropriations, (the higher the State appropriations, the lower the cost of power). Where these objectives are in conflict, it is left to the political decision-makers to resolve this conflict by modification of the criteria.

Considering Option A first, it is seen from Table 3 to involve State appropriations of $1.4 billion over the six year to 1989 and to require Revenue Bond financing of $2.7 billion (all in 1982 dollars).

Turning first then to the criterion of acceptability in terms of the percentage of uncommitted capital funds in Tables 1 and 2, this is shown in Table 4 as an average over the appropriation period 1984 to 1989. It varies from 57% for the 30th percentile projections to 38% in the 50th percentile case. It is left, of course, for the political assessment whether the percentages shown are acceptable in the light of other priorities.

No year-by-year figures of this percentage is given since in Acres' assessment the year-by-year engineering estimates of costs are, in the early years, subject to very considerable choice and could be changed significantly with rescheduling if this was thought desirable to reduce the claims on the funds available.

Turning then to the criterion of the cost of power, it is found that this option, because of the high level of borrowing (assuming a 10% rate of

interest), would involve significant deficits during operation in early years unless the cost of power were increased above the level set by the Best Thermal Option.

In these early years the essential problem facing Watana in marketing its power is that, in the first year or two of its life, it is in competiton with power sources with the advantage of being based on the cost of facilities purchased years earlier at much lower cost than will be involved either in their replacement or in the additional coal-fired units which would be required in 1995 and 1996 if Watana power were not available.

As shown in Tables 3 and 4 and in Exhibit E, the only means of meeting the deficits without further State appropriations would be to allow the cost of power to rise above the best Thermal Option in these three transitional years. Whether this would be regarded as an acceptable option is again an issue of political judgment. It might reasonably be supposed given that the only alternative option would be to face the dramatically escalating cost of the best Thermal Option only a few years later, the increase in the cost of power above the Best Thermal Option might be acceptable in turn for the very considerable long-term advantages afforded by a source of power which would be virtually fixed in cost even in nominal dollars.

It is also possible that appropriate levelizing provisions could be devised in the rate base to bring about a phased increase in price closer to the price set by the Best Thermal Option ceiling.

Option B might be seen as defining an alternative to any increase in the cost of power by increasing the level of State appropriation to $1.8 billion over the period 1984 to 1989. This is seen from Table 2 and the attached Exhibit E, to produce a cost of power below the Thermal Option even in the earliest years. It also has the advantage of reducing the Revenue Bond requirement in the Final Phase of Watana by $0.52 billion (in 1982 dollars). It would, however, mean committing between 50% and 75% of the uncommitted capital funds to the project over the period 1984-1989 and thus heavily competing with other priorities in the 30th percentile revenue forecast case.

The Dedicated Fund Options C & D

A significant difficulty in the development of any long-term financing scheme such as would be required for any long term development of Alaskan resources is the uncertainty of the year-by-year political appropriation process. This applies generally throughout North America, but is of particular relevance in the context of Alaska given the constitutional considerations and the relative importance of appropriations for capital spending in the State.

It is of understandable concern to investors in State of Alaska securities related to long-term developments, that through the political process these projects could be subject to deferral, limitations of State contribution, or even cancellation in the course of their development phase. This may be considered a serious handicap to the long-term development of Alaska's natural resources.

In the light of this, we have been asked to consider the dedication of 50% of the Permanent Fund income to a Power Development Fund which would be designed to provide a relatively more secure and certain source of appropriations for the major long-term development potential for Alaska represented by hydroelectric power and which could offer most Alaskans permanent low-cost power as a basic domestic and industrial resource. This proposal is regarded as representing an important contribution to securing long-term appropriations for such major developments in a manner which would be regarded by investors as offering much greater assurance of on-going systematic development and hence greater security for borrowing in the course of construction.

The scheme, as provisionally formulated, involves the principle of $4,500 to $6,000 per capita being the normal contribution from the fund for a

hydro development serving a particular area. In the context of Susitna this would involve a total State appropriation from the fund of approximately $1.4 to $1.8 billion. Its results are shown as Options C and D in Tables 3 and 4 and in Exhibit E. Its impact on cost of power and the level of Revenue Bond financing required is seen to be very close to that of Options A and B.

A further important characteristic of this particular proposal, however, is that such funding would provide the Power Authority with a substantial financial base that would make it capable of raising finance or providing guarantees where these were important to secure financing under changing market conditions or secure funding for developments lacking an adequate independent credit base.

It is recognized that this proposal would involve a constitutional amendment, but it is precisely the constitutional nature of such a dedicated fund that would be most effective in terms of development of Alaska's resources.

5 -STATEMENT BY THE FIRST BOSTON CORPORATION,
JOHN NUVEEN & COMPANY, AND FIRST SOUTHWEST COMPANY

The First Boston Corporation and John Nuveen & Company (the Alaska Power Authority's co-senior managing underwriters) and First Southwest Company (the Power Authority's financial advisor) have reviewed the financing options described in this memorandum and have made the following observations regarding the financing of the Susitna Project. Together these investment firms are referred to as the Power Authority's Investment Advisors. Their opinions stated herein are based primarily upon the State's projected revenues using the "30th Percentile". First Boston Corporation, John Nuveen & Company and First Southwest Company have concurred in the following statement:

"It is our opinion that prior to major State expenditures, of State appropriations definitive contractual commitments by participating Railbelt Utilities be in place and that such appropriations should be funded by the State during the period 1983-1989, a period within the estimated life of Alaska's oil and gas reserves, so that appropriations provided during this period will provide the crucial "equity" to assure the most economical bond financing of the remainder of the project.

In view of the magnitude of Susitna and the relatively long construction period, the Power Authority should not commence significant borrowing for Susitna before the late 1980's at which time major risks have been defined and completion and start-up dates are known with a high degree of reliability.

In our opinion, in order to maintain the financial integrity for the State of Alaska, prerequisites for issuance of bonds of any type for the project are:

(a) Definitive contractual commitments by participating Railbelt utilities;

(b) Up-dated economic and financial analysis of the project; and

(c) Resolution of the question of tax exemption of such bonds.

With regard to the utilization of State G.O. Bonds, it is our opinion that the issuance of such bonds will be of limited importance to financing Susitna because of the substantial borrowing required for this project. If a major portion of such borrowing were met from State G.O. Bonds, Alaska's present double A ratings would be endangered. The following are some major limitations of State G.O. Bonds:

(1) A crucial feature of Alaska's double A rating is the Rating Agencies' concurrence with the State's present debt policy of amortizing G.O. Bonds rapidly (i.e., within 10 to 15 years (a period within current estimates of oil/gas revenues (the principal source of State revenues) and we believe this policy should be continued.

(2) Using the State's December, 1982 Department of Revenue forecasts, we estimate that the State can issue a relatively small volume of G.O. Bonds while maintaining it's double A rating (see Tables 1 and 2). Based on the "30th percentile" of the Department of Revenue projections, the State could "safely" issue $565 million (nominal dollars, assuming 8% inflation) G.O. Bonds during the period fiscal 1983-1990. This amount would rise to $945 million if the "50th percentile" revenue projections were achieved during this period.

A reduction in the State's rating from double A to single A could correspondingly lower the rating of Alaska Power Authority's own revenue bonds backed by a Capital Reserve Fund with a moral obligation to a rating as low as Baa by Moody's and BBB by Standard & Poors. Such a rating would substantially raise the

Authority's borrowing cost and could impair the viability of the project. The volume of debt contemplated under all scenarios would be extremely difficult to market if rated less than "A".

The Power Authority, rather than utilizing State G.O. Bonds, should utilize, to the fullest extent possible, revenue bonds secured by the income derived from participating Railbelt Utilities pursuant to long-term power sales contracts. Additional security for the bonds would be provided by the Capital Reserve Fund provided in the Alaska Power Authority Act whereby to the extent that revenues from Susitna were insufficient to service the bonds, the Legislature may, but is not legally obligated to, appropriate monies to make up such deficiency in the Capital Reserve Fund. Alaska Power Authority's credit perception will be enhanced by a simple and straightforward debt structure comprised solely of revenue bonds backed by the State's "moral obligation" pledge.

Any dedicated stream of State appropriations covering the entire construction and start-up period will enhance confidence of investors, participating utilities, and the rating agencies in the completion of the project. Such an appropriation would, however, require a constitutional amendment.
In conclusion, as Investment Advisors to the Authority, we strongly prefer the financing plan developed as Option B and D which requires greater appropriations prior to issuance of Revenue Bonds because the credit status of the State is least affected and the credit quality of the Authority's bonds is enhanced, maintaining project feasibility. Should oil revenue and projections, however, dramatically improve we would be in a position to more favorably consider alternate financial options."

6 - CONCLUSIONS

Our conclusions relate primarily to Options A and B since the dedicated fund proposals C and D can be seen in the present context as primarily a legislative route to these options.

It may be appropriate in conclusion first to state our own assessment of the decision issues involved at this stage. First, the decision issue is not an irrevocable commitment to proceed with Watana. As already noted, the FERC license will not be available for another two years and no major expenditures could be undertaken until 1985.

It would therefore appear that the essential issue is that of maintaining and planning for the Watana option. The only grounds for not maintaining this option with its very substantial long-term economic advantages, would be that we had concluded that no viable and politically acceptable financing scenario was possible.

Given the very wide range of uncertainties for future State revenues, and hence the levels of State appropriations which might be available at the first point of major commitment in late 1985, such an adverse conclusion certainly cannot be substantiated at this time on the basis of the preceding analysis. If, for example, State revenues were as high or higher than the 50th percentile, the State capital fund available for Watana would be substantially increased and the $1.4 billion appropriation (Option A) would represent 38% of the uncommitted capital funds over the period 1984-1989. Moreover, the circumstances which would bring about such an increase in State funds--mainly a recovery in world oil prices--would confirm the economic desirability of advancing with Watana and obviating dependence on fuels with prices related to that of oil.

We must also note again that the levels of spending in individual years used in the analysis was constructed on normal engineering criteria without reference to phasing the engineering expenditures to conform (without significant additional cost) to year-to-year budget constraints.

Subject to political decisions and priorities, therefore, our assessment is that all the financing options proposed in this memorandum are viable. In consequence, we recommend that over the two-year decision period to 1984, the remaining preconditions of financing viability, both political and contractual (in terms of power contracts and tax exempt bond financing) are resolved. A reconsideration of the financing options might then be undertaken in 1984 when, as aleady noted, some of the major economic uncertainties affecting the economics of generation options and the revenues of the State of Alaska are also likely to be resolved. It should also be possible within this time frame to review the time profile of potential cash demands for construction and bring them more closely into conformity with available appropriations.

If this conclusion were adopted, it might also be considered appropriate, in order to avoid undue "bunching" of demands for Susitna financing, to establish a level of funding for the project of the order of perhaps $100 million in FY 1984. This, in our view, would be seen as a positive step which should appreciably assist in the negotiations of power contracts since it would indicate the State's conditional intent to proceed with the project. This would give such negotiations the credibility essential to a successful outcome.

TABLES

ALASKA POWER AUTHORITY
CAPITAL FUNDS AVAILABLE FOR SUSITNA
30th PERCENTILE PROJECTION

Fiscal Year	General Fund Unrestricted Revenues (1)	Total Capital Spending Limits	Estimated Maximum G.O. Bond Issues (2)	Total Available Capital	Committed Capital Grants and Loans (8%)	Remaining Capital	APA Capital Budget Excluding Susitna	Uncommitted Capital Funds	Planned Susitna Expenditures (nom. $) (3)
1984	2908.2	969	0	969	475	494	174.2	320	0
1985	2939.9	980	0	980	513	467	244.5	222	183
1986	3472.9	1158	300	1458	554	904	282.3	622	405
1987	3870.4	1290	90	1380	598	782	125.8	656	437
1988	3917.0	1306	125	1431	646	785	0	785	442
1989	4293.8	1431	0	1431	698	733	0	733	639
1990	3679.9	1227	50	1277	754	523	0	523	1121
1991	3295.9	1099	140	1239	814	425	0	425	1270
1992	3186.4	1062	0	1062	879	183	0	183	862
1993	2919.4	973	110	1083	950	133	0	133	584
1994	2779.0	926	0	926	1025	0	0	0	0

(1) 30th percentile projection of Department of Revenue net of Debt Service on the State G.O. Debt.

(2) Maximum General Obligation Debt that can be issued (10 year, equal annual principal amortization at 7.5%) and keep total G.O. Bond Debt Service below 5% of General Fund Unrestricted Revenues.

(3) Source: Acres American Incorporated (Converted to June 30 Fiscal Year).

TABLE 1

ACRES

ALASKA POWER AUTHORITY
CAPITAL FUNDS AVAILABLE FOR SUSITNA
50th PERCENTILE PROJECTION

Fiscal Year	General Fund Unrestricted Revenues (1)	Total Capital Spending Limits	Estimated Maximum G.O. Bond Issues (2)	Total Available Capital	Committed Capital Grants and Loans (8%)	Remaining Capital	APA Capital Budget Excluding Susitna	Uncommitted Capital Funds	Planned Susitna Expenditures (nom. $) (3)
1984	3369	1123	0	1123	475	648	174.2	474	0
1985	3492	1164	350	1514	513	1001	244.5	757	183
1986	4116	1372	190	1562	554	1008	282.3	726	405
1987	4553	1518	95	1613	598	1015	125.8	889	437
1988	4645	1548	235	1783	646	1137	0	1137	442
1989	5103	1701	50	1751	698	1053	0	1053	639
1990	4848	1616	25	1641	754	887	0	887	1121
1991	4345	1448	160	1608	814	794	0	794	1270
1992	4221	1407	35	1442	879	563	0	563	862
1993	4017	1339	170	1509	950	559	0	559	584
1994	3957	1319	0	1319	1025	294	0	294	0

(1) 50th percentile projection of Department of Revenue net of Debt Service on the State G.O. Debt.

(2) Maximum General Obligation Debt that can be issued (10 year, equal annual principal amortization at 7.5%) and keep total G.O. Bond Debt Service below 5% of General Fund Unrestricted Revenues.

(3) Source: Acres American Incorporated (Converted to June 30 Fiscal Year).

TABLE 2

ACRES

SUSITNA-SUMMARY OF FINANCING REQUIREMENTS

----------REAL 1982 DOLLARS----------

	STATE APPROPIATION TAKEN AS NEEDED				DEDICATED STATE APPROPIATION			
	----$1.4 BN----- (REAL)		----$1.8 BN----- (REAL)		----$1.4 BN----- (REAL)		----$1.8 BN----- (REAL)	
	DEBT	STATE APPROP.	DEBT	STATE APPROP.	DEBT	STATE APPROP.	DEBT	STATE APPROP.
	$M	$M	$M	$M	$M	$M	$M	$M
1983	-	-	-	-	-	160	-	160
1984	-	81	-	81	-	222	-	222
1985	-	225	-	225	-	276	-	276
1986	-	336	-	336	-	318	-	318
1987	-	317	-	317	-	345	-	345
1988	-	306	-	306	-	79	-	378
1989	409	94	9	535	337	-		101
1990	884	-	847	-	878	-	770	-
1991	757	-	718	-	750	-	710	-
1992	505	-	466	-	498	-	457	-
1993	146	-	146	-	146	-	146	-
TOTAL	2701	1400	2186	1800	2609	1400	2083	1800

COST OF ENERGY TO MEET 1.1 DEBT SERVICE COVER AND PERCENT IN EXCESS OF BEST THERMAL OPTION

	MILLS		MILLS		MILLS		MILLS	
1993	74	46 %	61	17 %	72	41 %	58	14 %
1994	77	25 %	64	5 %	75	22 %	62	-
1995	73	21 %	61	1 %	70	17 %	58	-
1996	72	-	57	-	69	-	55	-
1998	68	-	54	-	65	-	51	-
1999	63	-	51	-	61	-	48	-
2000	60	-	48	-	57	-	46	-

TABLE 3 -- SUSITNA: SUMMARY OF FINANCING REQUIREMENTS IN REAL TERMS

AGRES

SUSITNA-SUMMARY OF FINANCING REQUIREMENTS

----------NOMINAL DOLLARS----------

	STATE APPROPIATION TAKEN AS NEEDED				DEDICATED STATE APPROPIATION			
	----$1.4 BN----- (REAL)		----$1.8 BN----- (REAL)		----$1.4 BN----- (REAL)		----$1.8 BN----- (REAL)	
	DEBT	STATE APPROP.	DEBT	STATE APPROP.	DEBT	STATE APPROP.	DEBT	STATE APPROP.
	$M	$M	$M	$M	$M	$M	$M	$M
1983	-	-	-	-	-	175	-	175
1984	-	100	-	100	-	257	-	257
1985	-	276	-	276	-	338	-	338
1986	-	436	-	436	-	413	-	413
1987	-	437	-	437	-	475	-	475
1988	-	447	-	447	-	115	-	552
1989	633	208	13	828	522	-		157
1990	1465	-	1403	-	1454	-	1275	-
1991	1341	-	1274	-	1329	-	1259	-
1992	958	-	883	-	945	-	868	-
1993	296	-	296	-	296	-	296	-
TOTAL	4693	1904	3869	2524	4546	1773	3698	2367
PERCENTAGE OF UNCOMMITTED STATE CAPITAL FUNDS		30 to 57 %		50 to 75 %				

COST OF ENERGY TO MEET 1.1 DEBT SERVICE COVER AND PERCENT IN EXCESS OF BEST THERMAL OPTION

	MILLS		MILLS		MILLS		MILLS	
1993	150	46 %	123	17 %	145	41 %	118	14 %
1994	168	25 %	140	5 %	163	22 %	134	- .
1995	169	21 %	141	1 %	164	17 %	135	-
1996	179	-	143	-	172	-	137	-
1998	180	-	144	-	173	-	137	-
1999	181	-	145	-	175	-	139	-
2000	182	-	147	-	176	-	110	-

NOTE: PERCENTAGE OF UNCOMMITTED FUNDS CALCULATED FROM 30 AND 50 PERCENTILE PROJECTIONS

TABLE 4 -- SUSITNA: SUMMARY OF FINANCING REQUIREMENTS IN NOMINAL TERMS

AGRES

EXHIBITS

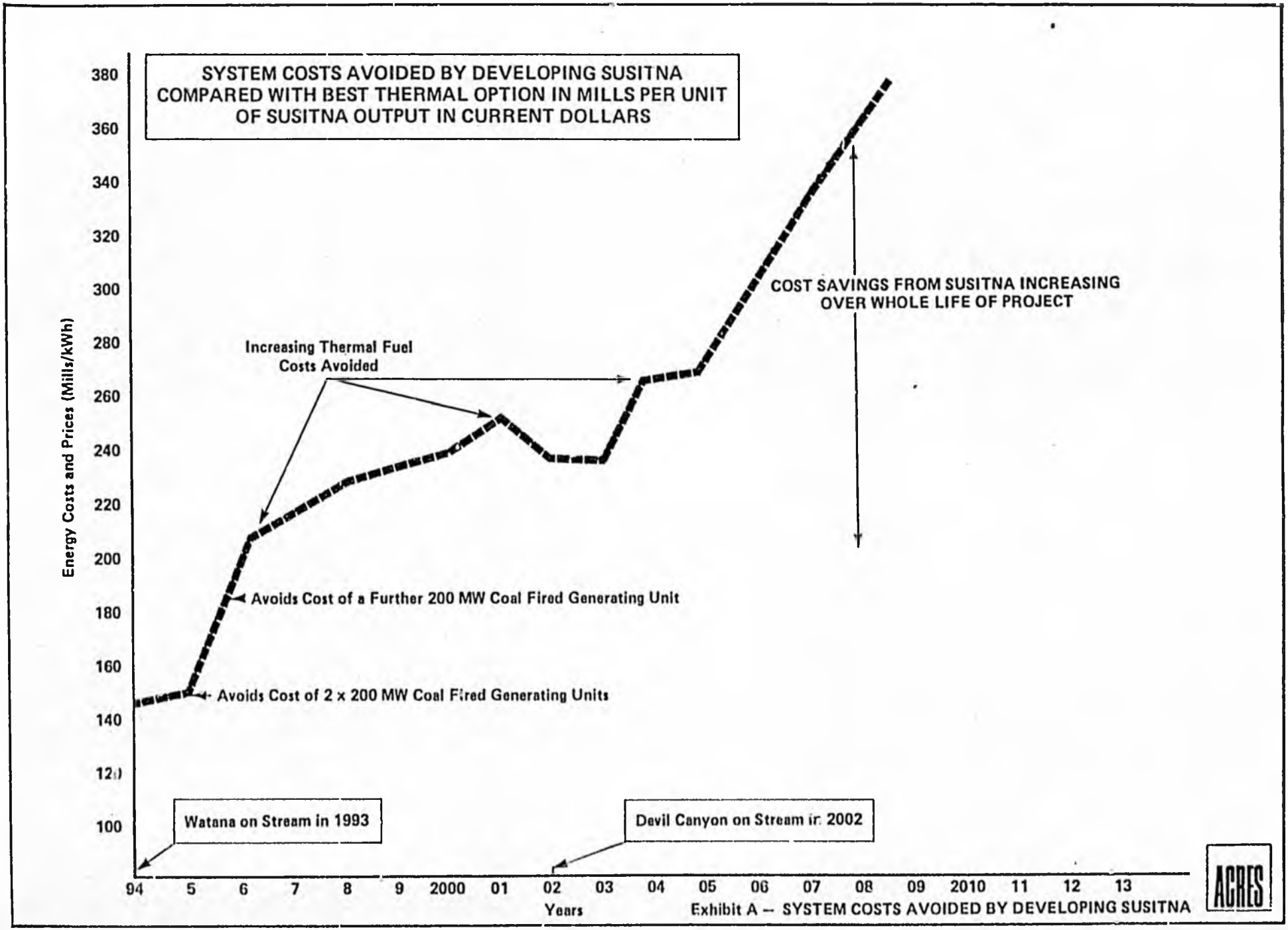


Exhibit A -- SYSTEM COSTS AVOIDED BY DEVELOPING SUSITNA

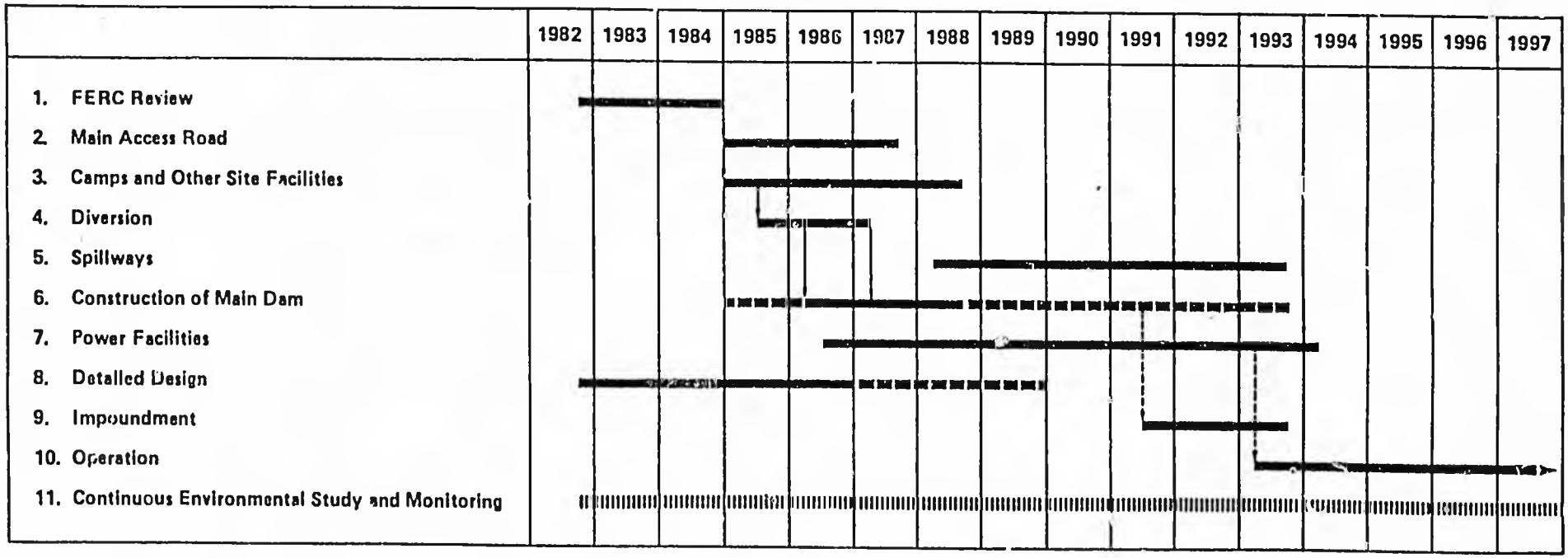


EXHIBIT B -- WATANA CONSTRUCTION SCHEDULE

ACRES

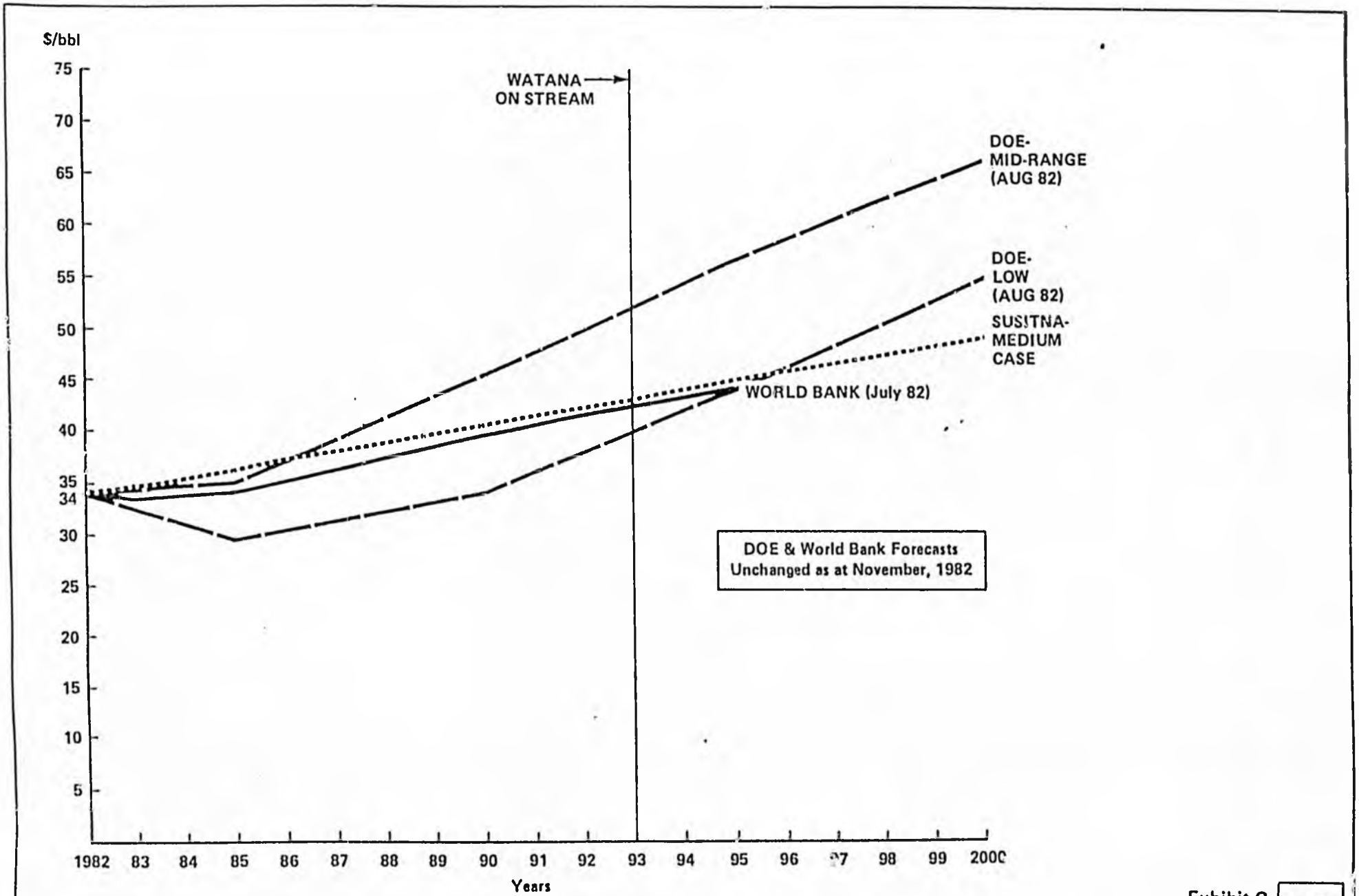
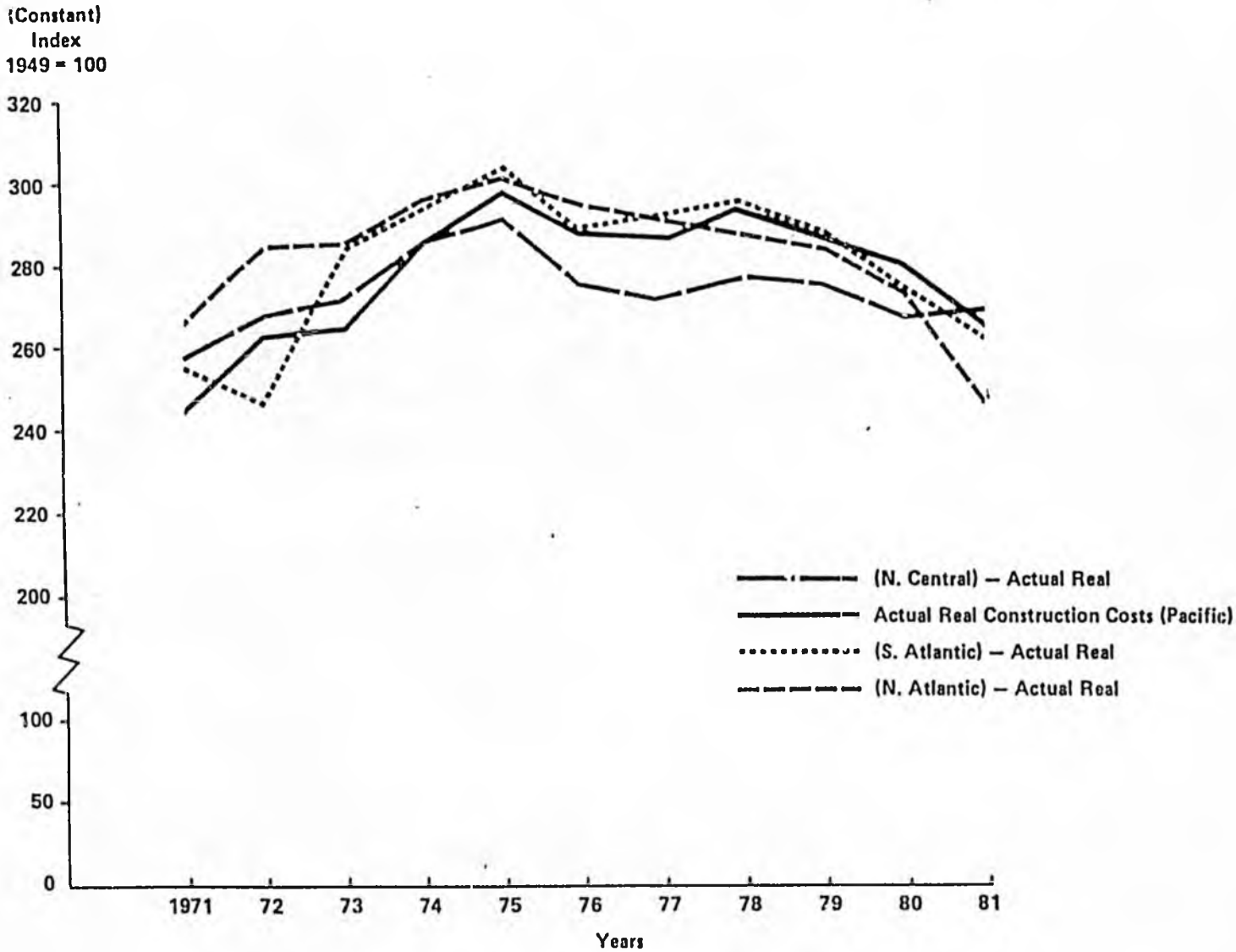


Exhibit C
WORLD OIL PRICE FORECASTS
(Constant 1982 Dollars)

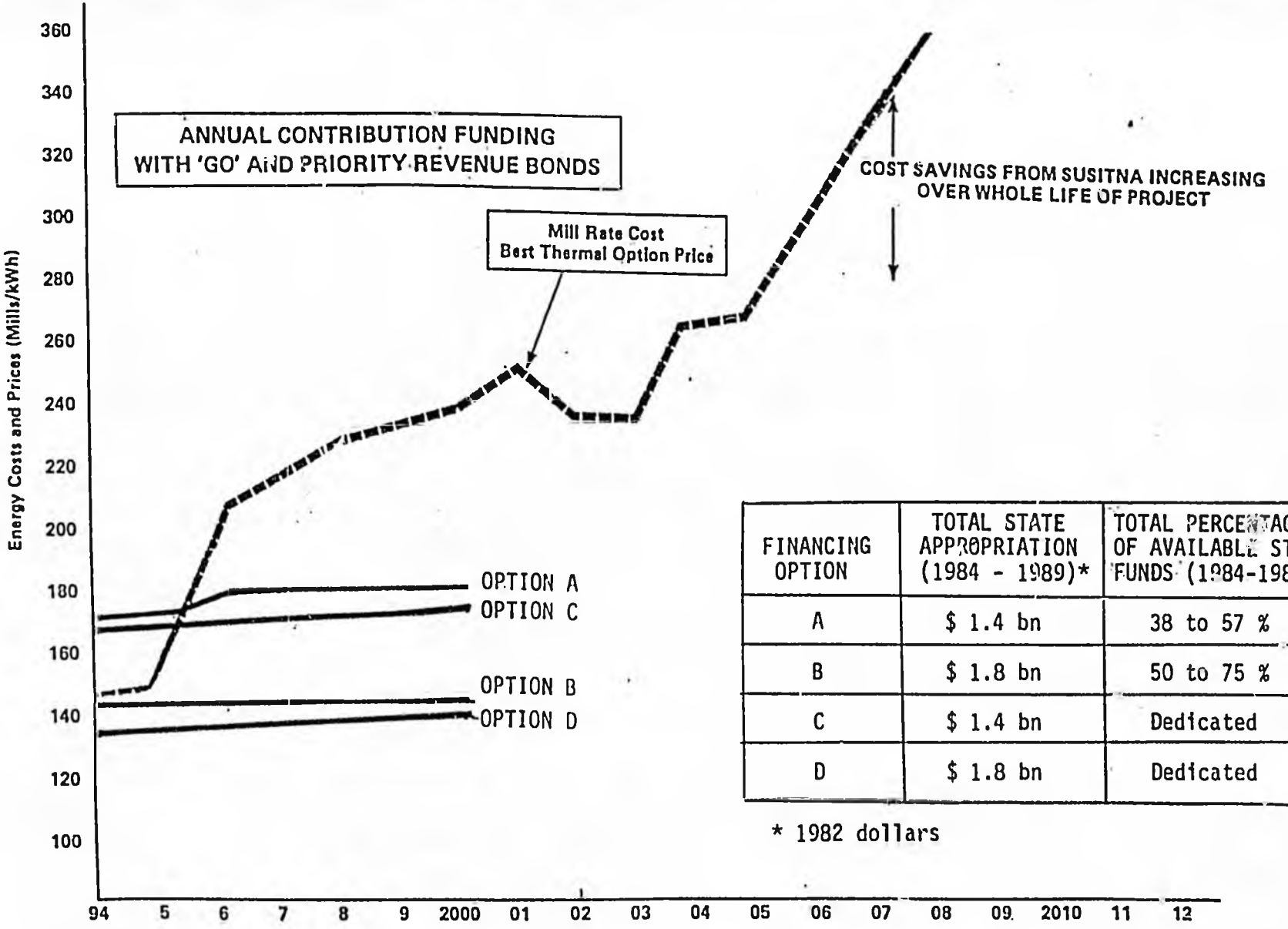
ACRES



Source: ENR Utilities, December 17, 1981 for nominal costs;
Monthly Labor Review, US Dept. of Labor November, 1982 for Consumer Price Index

EXHIBIT D -- US HYDROELECTRIC PLANT CONSTRUCTION COST INDEXES

ACRES



FINANCING OPTION	TOTAL STATE APPROPRIATION (1984 - 1989)*	TOTAL PERCENTAGE OF AVAILABLE STATE FUNDS (1984-1989)*
A	$ 1.4 bn	38 to 57 %
B	$ 1.8 bn	50 to 75 %
C	$ 1.4 bn	Dedicated
D	$ 1.8 bn	Dedicated

* 1982 dollars

EXHIBIT E
ENERGY COST COMPARISON
WITH VARIOUS FINANCING OPTIONS

ACRES

FINANCIAL ANALYSES

ACRES

DATA1OMS.D11 WATANA (ON LINE 1993)- STATE FUNDS TO 1989 ($1.4 BN)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3.647 BN 8-JAN-93

		1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
					CASH FLOW SUMMARY						
					===($MILLION)===						
73	ENERGY GWH	0	0	0	0	0	0	0	0	3387	3387
521	REAL PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.93	61.60
466	INFLATION INDEX	122.62	129.98	137.78	146.05	154.81	165.65	177.24	189.65	202.92	217.13
520	PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	103.34	133.76
	-----INCOME----------										
516	REVENUE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	350.1	453.0
170	LESS OPERATING COSTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	25.1	27.3
517	OPERATING INCOME	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	324.9	425.7
214	ADD INTEREST EARNED ON FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.3
550	LESS INTEREST ON SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	20.6
551	LESS INTEREST ON LONG TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	439.7	469.3
548	NET EARNINGS FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-114.7	-59.0
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-114.7	-59.0
448	STATE CONTRIBUTION	375.7	436.1	437.2	447.4	208.2	0.0	0.0	0.0	0.0	0.0
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	632.6	1464.8	1341.6	957.8	411.1	102.0
248	WORCAP DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
549	TOTAL SOURCES OF FUNDS	375.7	436.1	437.2	447.4	840.8	1464.8	1341.6	957.8	387.8	58.5
320	LESS CAPITAL EXPENDITURE	375.7	436.1	437.2	447.4	840.8	1464.8	1341.6	957.8	296.4	25.7
448	LESS WORCAP AND FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
260	LESS DEBT REPAYMENTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	17.3
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	52.6	57.4
371	OTHER WORKING CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	30.8	49.4
454	CASH SURPLUS RETAINED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
370	CUM. CAPITAL EXPENDITURE	375.7	811.8	1248.9	1696.3	2537.1	4002.0	5343.5	6301.3	6597.7	6623.4
465	CAPITAL EMPLOYED	375.7	811.8	1248.9	1696.3	2537.1	4002.0	5343.5	6301.3	6889.1	6730.3
461	STATE CONTRIBUTION	375.7	811.8	1248.9	1696.3	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5
462	RETAINED EARNINGS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-114.7	-173.8
555	DEBT OUTSTANDING-SHORT TERM	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	106.8
554	DEBT OUTSTANDING-LONG TERM	0.0	0.0	0.0	0.0	632.6	2097.4	3439.0	4396.8	4807.9	4892.7
542	ANNUAL DEBT DRAWNDOWN $1982	0.0	0.0	0.0	0.0	408.6	884.3	756.9	505.0	202.6	47.0
543	CUM. DEBT DRAWNDOWN $1982	0.0	0.0	0.0	0.0	408.6	1292.9	2049.8	2554.9	2757.5	2804.5
519	DEBT SERVICE COVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.74	0.84

Option A -- $1.4 Billion Drawn From Uncommitted State Funds Available For Capital Construction

ACRES

DATA1OM5.DIR WATANA (ON LINE 1993)- STATE FUNDS TO 1989 ($1.4 BN)- INFLATION 6%/7%-INTEREST 10%-CAPCOST $3.647 BN 8-JAN-83

		1995	1996	1997	1998	1999	2000	2001	2002	2003	TOTAL
					CASH FLOW SUMMARY						
					===($MILLION)====						
73	ENERGY GWH	3387	3387	3387	3387	3387	3387	3387	3387	3387	37257
521	REAL PRICE-MILLS	60.24	71.94	67.56	63.34	59.44	55.81	52.45	49.36	46.51	0.00
466	INFLATION INDEX	232.33	248.59	265.99	284.61	304.53	325.85	348.66	373.07	399.18	0.00
520	PRICE-MILLS	139.96	178.84	179.71	180.28	181.02	181.87	182.87	184.15	185.64	0.00
	-----INCOME----------										
516	REVENUE	474.0	605.7	608.6	610.6	613.1	615.9	619.3	623.7	628.7	6202.6
170	LESS OPERATING COSTS	29.8	32.6	35.6	38.8	42.3	46.2	50.4	55.1	60.1	443.3
517	OPERATING INCOME	444.2	573.1	573.1	571.8	570.7	569.7	568.9	568.6	568.7	5759.3
214	ADD INTEREST EARNED ON FUNDS	5.7	6.3	6.8	7.5	8.1	8.9	9.7	10.6	11.6	80.5
550	LESS INTEREST ON SHORT TERM DEBT	32.4	42.8	43.2	42.4	41.9	41.5	41.3	41.7	42.4	390.1
391	LESS INTEREST ON LONG TERM DEBT	467.6	465.7	463.6	461.3	458.7	456.0	452.9	449.5	445.8	5030.1
548	NET EARNINGS FROM OPERS	-50.1	70.9	73.1	75.6	78.2	81.2	84.5	88.0	92.0	419.7
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	-50.1	70.9	73.1	75.6	78.2	81.2	84.5	88.0	92.0	419.7
446	STATE CONTRIBUTION	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1904.5
143	LONG TERM DEBT DRAWDOWNS	96.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5006.6
248	WORCAP DEBT DRAWDOWNS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
549	TOTAL SOURCES OF FUNDS	54.3	95.5	83.6	86.8	88.4	91.1	98.0	102.4	107.3	7555.0
320	LESS CAPITAL EXPENDITURE	27.5	29.4	31.5	33.7	36.1	38.6	41.3	44.2	47.3	6953.0
448	LESS WORCAP AND FUNDS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
260	LESS DEBT REPAYMENTS	19.0	22.1	24.3	26.8	29.4	32.4	35.6	39.2	43.1	289.2
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	0.0	19.3	17.3	15.1	12.8	10.2	7.6	4.7	1.6	88.6
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	62.7	68.4	74.7	81.5	88.9	97.1	105.9	115.6	126.2	126.2
371	OTHER WORKING CAPITAL	51.9	70.8	75.0	79.4	82.2	83.9	88.6	93.3	98.0	98.0
454	CASH SURPLUS RETAINED	0.0	19.3	36.6	51.7	64.5	74.7	82.3	87.0	88.6	88.6
370	CUM. CAPITAL EXPENDITURE	6631.0	6680.4	6711.9	6745.6	6781.7	6820.3	6861.6	6905.7	6953.0	6953.0
465	CAPITAL EMPLOYED	6765.5	6838.9	6898.2	6958.2	7017.2	7076.0	7138.3	7201.6	7265.8	7265.8
461	STATE CONTRIBUTION	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5
462	RETAINED EARNINGS	-223.8	-152.9	-79.8	-4.2	74.0	155.2	239.7	327.7	419.7	419.7
555	DEBT OUTSTANDING-SHORT TERM	114.6	139.2	149.7	160.9	171.1	181.0	194.5	208.9	224.2	224.2
554	DEBT OUTSTANDING-LONG TERM	4970.2	4948.1	4923.8	4897.0	4867.6	4835.2	4799.6	4760.5	4717.4	4717.4
542	ANNUAL DEBT DRAWDOWN $1982	41.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2846.0
543	CUM. DEBT DRAWDOWN $1982	2846.0	2846.0	2846.0	2846.0	2846.0	2846.0	2846.0	2846.0	2846.0	2846.0
519	DEBT SERVICE COVER	0.86	1.10	1.10	1.10	1.10	1.10	1.10	1.10	1.10	0.00

ACRES

DATA1OM5.D11 WATANA (ON LINE 1993)- STATE FUNDS TO 1989 ($1.8 BN)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3.647 BN 8-JAN-83

CASH FLOW SUMMARY
===($MILLION)====

		1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
73	ENERGY GWH	0	0	0	0	0	0	0	0	3387	3387
521	REAL PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.93	61.60
466	INFLATION INDEX	122.62	129.98	137.78	146.05	154.81	165.65	177.24	189.65	202.92	217.13
520	PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	103.34	133.76
	-----INCOME----------										
516	REVENUE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	350.0	453.0
170	LESS OPERATING COSTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	25.1	27.3
517	OPERATING INCOME	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	324.9	425.7
214	ADD INTEREST EARNED ON FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.3
550	LESS INTEREST ON SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	12.4
391	LESS INTEREST ON LONG TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	357.3	386.9
548	NET EARNINGS FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-32.3	31.6
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-32.3	31.6
446	STATE CONTRIBUTION	375.7	436.1	437.2	447.4	827.4	0.0	0.0	0.0	0.0	0.0
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	13.3	1402.9	1273.5	882.9	328.7	8.3
268	WORCAP DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
549	TOTAL SOURCES OF FUNDS	375.7	436.1	437.2	447.4	840.8	1402.9	1273.5	882.9	387.8	55.4
320	LESS CAPITAL EXPENDITURE	375.7	436.1	437.2	447.4	840.8	1402.9	1273.5	882.9	296.4	25.7
148	LESS WORCAP AND FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
260	LESS DEBT REPAYMENTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	14.3
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	52.6	57.4
371	OTHER WORKING CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	38.8	49.4
454	CASH SURPLUS RETAINED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
370	CUM. CAPITAL EXPENDITURE	375.7	811.8	1248.9	1696.3	2537.1	3940.0	5213.5	6096.4	6392.8	6418.5
465	CAPITAL EMPLOYED	375.7	811.8	1248.9	1696.3	2537.1	3940.0	5213.5	6096.4	6404.1	6525.3
461	STATE CONTRIBUTION	375.7	811.8	1248.9	1696.3	2523.8	2523.8	2523.8	2523.8	2523.8	2523.8
462	RETAINED EARNINGS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-32.3	-0.7
555	DEBT OUTSTANDING-SHORT TERM	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	106.8
554	DEBT OUTSTANDING-LONG TERM	0.0	0.0	0.0	0.0	13.3	1416.3	2689.7	3572.6	3901.3	3895.4
542	ANNUAL DEBT DRAWNDOWN $1982	0.0	0.0	0.0	0.0	8.6	846.9	718.5	465.5	162.0	3.8
543	CUM. DEBT DRAWNDOWN $1982	0.0	0.0	0.0	0.0	8.6	855.5	1574.0	2039.5	2201.5	2205.4
517	DEBT SERVICE COVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.91	1.04

Option B -- $1.8 Billion Drawn From Uncommitted State Funds Available For Capital Construction

ACRES

DATA1ON5.[illegible] LINE 1993)- STATE FUNDS TO 1989 ($1.8 BN)- INFLATION 6%.7%-INTEREST 10%-CAPCOST $3.647 BN 8-JAN-83

		1995	1996	1997	1998	1999	2000	2001	2002	2003	TOTAL
					CASH FLOW SUMMARY						
					===($MILLION)====						
73	ENERGY GWH	3387	3387	3387	3387	3387	3387	3387	3387	3387	37257
521	REAL PRICE-MILLS	60.24	57.33	54.00	50.76	47.76	44.98	42.39	40.03	37.85	0.00
466	INFLATION INDEX	232.33	248.59	265.99	284.61	304.53	325.85	348.66	373.07	399.18	0.00
520	PRICE-MILLS	139.96	142.51	143.63	144.46	145.45	146.54	147.81	149.34	151.08	0.00
	-----INCOME----------										
516	REVENUE	474.0	482.6	486.4	489.3	492.6	496.3	500.6	505.8	511.7	5242.3
170	LESS OPERATING COSTS	29.8	32.6	35.6	38.8	42.3	46.2	50.4	55.1	60.1	443.3
517	OPERATING INCOME	444.2	450.1	450.9	450.5	450.2	450.1	450.1	450.7	451.6	4799.0
214	ADD INTEREST EARNED ON FUNDS	5.7	6.3	6.8	7.5	8.1	8.9	9.7	10.6	11.6	80.5
550	LESS INTEREST ON SHORT TERM DEBT	14.7	14.9	16.3	16.4	16.9	17.5	18.3	19.7	21.5	179.6
391	LESS INTEREST ON LONG TERM DEBT	383.5	383.9	382.2	380.3	378.2	375.9	373.4	370.6	367.5	4141.5
548	NET EARNINGS FROM OPERS	49.7	57.6	59.3	61.2	63.3	65.6	68.2	71.0	74.1	569.4
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	49.7	57.6	59.3	61.2	63.3	65.6	68.2	71.0	74.1	569.4
446	STATE CONTRIBUTION	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2523.8
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3909.7
248	WORCAP DEBT DRAWDOWNS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
549	TOTAL SOURCES OF FUNDS	57.4	82.2	69.8	72.4	73.5	75.6	81.7	85.4	89.4	7227.0
329	LESS CAPITAL EXPENDITURE	27.5	29.4	31.5	33.7	36.1	38.6	41.3	44.2	47.3	6748.0
448	LESS WORCAP AND FUNDS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
260	LESS DEBT REPAYMENTS	15.7	17.4	19.2	21.1	23.2	25.5	28.1	30.9	34.0	229.2
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	6.5	10.7	8.6	6.4	4.1	1.6	-1.1	-4.0	-7.1	25.5
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	62.7	68.4	74.7	81.5	88.9	97.1	105.9	115.6	126.2	126.2
371	OTHER WORKING CAPITAL	51.9	70.8	75.0	79.4	82.2	83.9	88.6	93.3	98.0	98.0
454	CASH SURPLUS RETAINED	6.5	17.2	25.8	32.2	36.3	37.8	36.7	32.6	25.5	25.5
370	CUM. CAPITAL EXPENDITURE	6446.0	6475.4	6506.9	6540.6	6576.7	6615.3	6656.6	6700.8	6748.0	6748.0
465	CAPITAL EMPLOYED	6567.0	6631.8	6682.4	6733.8	6784.1	6834.1	6887.8	6942.3	6997.8	6997.8
461	STATE CONTRIBUTION	2523.8	2523.8	2523.8	2523.8	2523.8	2523.8	2523.8	2523.8	2523.8	2523.8
462	RETAINED EARNINGS	49.0	106.6	163.9	227.1	290.4	356.1	424.3	495.3	569.4	569.4
555	DEBT OUTSTANDING-SHORT TERM	114.6	139.2	149.7	160.9	171.1	181.0	194.5	208.9	224.2	224.2
554	DEBT OUTSTANDING-LONG TERM	3879.7	3862.2	3843.1	3822.0	3798.8	3773.3	3745.2	3714.4	3680.4	3680.4
542	ANNUAL DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2205.4
543	CUM. DEBT DRAWDOWN $1982	2205.4	2205.4	2205.4	2205.4	2205.4	2205.4	2205.4	2205.4	2205.4	2205.4
519	DEBT SERVICE COVER	1.08	1.10	1.10	1.10	1.10	1.10	1.10	1.10	1.10	0.00

ACRES

DATA1OMS.D11 WATANA (ON LINE 1993)-$1.4 BN STATE FUNDS (PER 30% SCHED)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3.647 8-JAN-83

		1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
					CASH FLOW SUMMARY						
					($MILLION)*						
73	ENERGY GWH	0	0	0	0	0	0	0	0	3387	3387
521	REAL PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.93	61.60
466	INFLATION INDEX	122.62	129.98	137.78	146.05	154.81	165.65	177.24	189.65	202.92	217.13
520	PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	103.34	133.76
	-----INCOME----------										
516	REVENUE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	350.0	453.0
170	LESS OPERATING COSTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	25.1	27.3
517	OPERATING INCOME	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	324.9	425.7
214	ADD INTEREST EARNED ON FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.3
550	LESS INTEREST ON SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	19.1
391	LESS INTEREST ON LONG TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	424.9	454.6
548	NET EARNINGS FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-100.0	-42.8
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-100.0	-42.8
446	STATE CONTRIBUTION	806.8	413.3	475.3	115.4	0.0	0.0	0.0	0.0	0.0	0.0
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	521.8	1453.8	1329.4	944.4	396.4	85.3
248	WORKCAP DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	-15.5
549	TOTAL SOURCES OF FUNDS	806.8	413.3	475.3	115.4	521.8	1453.8	1329.4	944.4	387.8	57.9
320	LESS CAPITAL EXPENDITURE	373.3	390.3	389.2	390.9	811.8	1453.8	1329.4	944.4	296.4	25.7
448	LESS WORKCAP AND FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
260	LESS DEBT REPAYMENTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	16.8
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	433.5	22.8	86.1	-275.5	-290.0	0.0	0.0	0.0	0.0	0.0
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	52.6	57.4
371	OTHER WORKING CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	38.8	49.4
454	CASH SURPLUS RETAINED	456.6	479.4	565.5	290.0	0.0	0.0	0.0	0.0	0.0	0.0
370	CUM. CAPITAL EXPENDITURE	373.3	763.8	1153.0	1543.9	2355.7	3809.4	5138.8	6083.2	6379.6	6405.3
465	CAPITAL EMPLOYED	829.9	1243.2	1718.5	1833.9	2355.7	3809.4	5138.8	6083.2	6471.0	6512.1
461	STATE CONTRIBUTION	806.8	1220.1	1695.4	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8
462	RETAINED EARNINGS	23.1	23.1	23.1	23.1	23.1	23.1	23.1	23.1	-76.9	-119.7
555	DEBT OUTSTANDING-SHORT TERM	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	106.6
551	DEBT OUTSTANDING-LONG TERM	0.0	0.0	0.0	0.0	521.8	1975.5	3304.9	4249.3	4645.7	4714.2
542	ANNUAL DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	337.0	877.6	750.0	498.0	195.7	39.3
543	CUM. DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	337.0	1214.6	1964.7	2462.6	2658.0	2697.2
519	DEBT SERVICE COVER	.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.76	0.87

Option C -- $1.4 Billion Dedicated From
Permanent Fund Income

ACRES

DATA1DH5.DII WATANA (OIL LIKE 1993)-$1.4 BN STATE FUNDS (PER 30% SCHED)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3.6@7 8-JAN-83

		1995	1996	1997	1998	1999	2000	2001	2002	2003	TOTAL
					CASH FLOW SUMMARY						
					===($MILLION)====						
73	ENERGY GWH	3387	3387	3387	3387	3387	3387	3387	3387	3387	37257
521	REAL PRICE-MILLS	60.24	69.32	65.13	61.09	57.35	53.87	50.65	47.69	44.96	0.00
466	INFLATION INDEX	232.33	248.59	265.99	284.61	304.53	325.85	348.66	373.07	399.18	0.00
520	PRICE-MILLS	139.96	172.33	173.25	173.87	174.65	175.55	176.60	177.92	179.46	0.00
	-----INCOME----------										
516	REVENUE	474.0	583.7	586.7	588.9	591.5	594.5	598.1	602.6	607.8	6030.7
170	LESS OPERATING COSTS	29.8	32.6	35.6	38.8	42.3	46.2	50.4	55.1	60.1	443.3
517	OPERATING INCOME	444.2	551.1	551.2	550.1	549.2	548.3	547.6	547.5	547.7	5587.4
214	ADD INTEREST EARNED ON FUNDS	5.7	6.3	6.8	7.5	8.1	8.9	9.7	10.6	11.6	80.5
550	LESS INTEREST ON SHORT TERM DEBT	29.2	37.8	38.4	37.8	37.4	37.2	37.2	37.7	38.7	350.5
391	LESS INTEREST ON LONG TERM DEBT	452.9	451.0	449.0	446.8	444.3	441.6	438.7	435.4	431.8	4871.0
548	NET EARNINGS FROM OPERS	-32.2	68.5	70.6	73.0	75.6	78.4	81.5	85.0	88.8	446.4
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	-32.2	68.5	70.6	73.0	75.6	78.4	81.5	85.0	88.8	446.4
446	STATE CONTRIBUTION	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1810.8
143	LONG TERM DEBT DRAWDOWNS	70.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4809.1
248	WORCAP DEBT DRAWDOWNS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
549	TOTAL SOURCES OF FUNDS	53.7	93.1	81.1	84.2	85.7	88.3	95.0	99.4	104.1	7290.5
320	LESS CAPITAL EXPENDITURE	27.8	29.4	31.5	33.7	36.1	38.6	41.3	44.2	47.3	6734.9
448	LESS WORCAP AND FUNDS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
260	LESS DEBT REPAYMENTS	18.4	21.3	23.4	25.7	28.3	31.1	34.3	37.7	41.4	278.4
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	0.0	17.8	15.7	13.5	11.2	8.7	3.0	3.1	0.0	53.0
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	62.7	68.4	74.7	81.5	88.9	97.1	105.9	115.6	126.2	126.2
371	OTHER WORKING CAPITAL	51.9	70.8	75.0	79.4	82.2	83.2	80.6	93.3	98.0	98.0
454	CASH SURPLUS RETAINED	0.0	17.8	33.5	47.1	58.3	67.0	73.0	76.1	76.1	76.1
370	CUM. CAPITAL EXPENDITURE	6432.8	6462.3	6493.8	6527.5	6563.5	6602.1	6643.4	6687.6	6734.9	6734.9
465	CAPITAL EMPLOYED	6547.4	6619.2	6677.0	6735.5	6792.9	6850.1	6910.9	6972.6	7035.2	7035.2
461	STATE CONTRIBUTION	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8
462	RETAINED EARNINGS	-151.9	-83.4	-12.7	60.2	135.8	214.2	295.8	380.7	469.5	469.5
555	DEBT OUTSTANDING-SHORT TERM	114.6	139.2	149.7	160.9	171.1	181.0	194.5	208.9	224.2	224.2
554	DEBT OUTSTANDING-LONG TERM	4773.9	4732.6	4729.3	4703.5	4675.2	4644.1	4609.8	4572.1	4530.7	4530.7
542	ANNUAL DEBT DRAWDOWN $1982	33.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2730.9
543	CUM. DEBT DRAWDOWN $1982	2730.9	2730.9	2730.9	2730.9	2730.9	2730.9	2730.9	2730.9	2730.9	2730.9
519	DEBT SERVICE COVER	0.89	1.10	1.10	1.10	1.10	1.10	1.10	1.10	1.10	0.00

ACRES

DATA10M5.D11 WATANA (ON LINE 1993)-$1.8 BN STATE FUNDS (PER 30% SCHED)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3,647 8-JAN-83

		1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
					CASH FLOW SUMMARY						
					===($MILLION)====						
73	ENERGY GWH	0	0	0	0	0	0	0	0	3387	3387
521	REAL PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.93	61.60
466	INFLATION INDEX	122.62	129.98	137.78	146.05	154.81	164.10	174.04	184.48	202.92	217.13
520	PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	103.34	133.76
	-----INCOME----------										
516	REVENUE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	350.0	453.0
170	LESS OPERATING COSTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	25.1	27.3
517	OPERATING INCOME	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	324.9	425.7
214	ADD INTEREST EARNED ON FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.3
550	LESS INTEREST ON SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	10.7
391	LESS INTEREST ON LONG TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	340.2	369.8
548	NET EARNINGS FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-15.2	50.4
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-15.2	50.4
446	STATE CONTRIBUTION	806.8	413.3	475.3	532.1	156.4	0.0	0.0	0.0	0.0	0.0
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	1275.1	1259.3	867.3	311.6	0.0
248	WORCAP DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
549	TOTAL SOURCES OF FUNDS	806.8	413.3	475.3	532.1	156.4	1275.1	1259.3	867.3	387.8	65.9
320	LESS CAPITAL EXPENDITURE	373.3	370.5	389.2	390.9	768.1	1390.1	1259.3	867.3	296.4	25.7
448	LESS WORCAP AND FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
260	LESS DEBT REPAYMENTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	13.6
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	433.5	22.8	86.1	141.2	-611.7	-115.0	0.0	0.0	0.0	11.1
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	52.6	57.4
371	OTHER WORKING CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	38.8	49.4
454	CASH SURPLUS RETAINED	456.6	479.4	565.5	726.7	115.0	0.0	0.0	0.0	0.0	11.1
370	CUM. CAPITAL EXPENDITURE	373.3	743.8	1133.0	1543.9	2312.0	3702.1	4961.4	5828.8	6125.2	6150.9
465	CAPITAL EMPLOYED	829.9	1243.2	1718.5	2270.6	2427.0	3702.1	4961.4	5828.8	6216.5	6268.8
461	STATE CONTRIBUTION	806.8	1220.1	1695.4	2247.5	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9
462	RETAINED EARNINGS	23.1	23.1	23.1	23.1	23.1	23.1	23.1	23.1	7.9	58.3
555	DEBT OUTSTANDING-SHORT TERM	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	106.8
554	DEBT OUTSTANDING-LONG TERM	0.0	0.0	0.0	0.0	0.0	1275.1	2534.4	3401.8	3713.4	3699.7
542	ANNUAL DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	0.0	769.7	710.5	457.3	153.6	0.0
543	CUM. DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	0.0	769.7	1480.3	1937.6	2091.2	2091.2
519	DEBT SERVICE COVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.96	1.10

Option D -- $1.8 Billion Dedicated From
Permanent Fund Income

ACRES

DATA1OM5.D11 WATANA (ON LINE 1993)-$1.8 BN STATE FUNDS (PER 30% SCHED)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3.647 8-JAN-03

		1995	1996	1997	1998	1999	2000	2001	2002	2003	TOTAL
					CASH FLOW SUMMARY						
					($MILLION)*						
73	ENERGY GWH	3387	3387	3387	3387	3387	3387	3387	3387	3387	37257
521	REAL PRICE-MILLS	38.08	34.51	31.39	48.34	45.52	42.89	40.46	38.24	36.19	0.00
466	INFLATION INDEX	232.33	248.59	265.99	284.61	304.53	325.85	348.66	373.07	399.18	0.00
520	PRICE-MILLS	134.94	135.52	136.69	137.57	138.61	139.77	141.08	142.66	144.46	0.00
	-----INCOME----------										
516	REVENUE	457.0	459.0	462.9	465.9	469.5	473.4	477.8	483.2	489.2	5040.9
170	LESS OPERATING COSTS	29.8	32.6	35.6	38.8	42.3	46.2	50.4	55.1	60.1	443.3
517	OPERATING INCOME	427.2	426.4	427.4	427.1	427.1	427.1	427.4	428.1	429.2	4597.5
214	ADD INTEREST EARNED ON FUNDS	5.7	4.3	6.8	7.5	8.1	8.9	9.7	10.6	11.6	80.5
550	LESS INTEREST ON SHORT TERM DEBT	11.1	10.8	12.4	12.7	13.4	14.1	15.2	16.8	18.8	135.9
391	LESS INTEREST ON LONG TERM DEBT	348.5	347.8	345.3	343.5	341.5	339.3	336.9	334.2	331.3	3957.3
548	NET EARNINGS FROM OPERS	53.4	54.9	56.6	58.4	60.4	62.6	65.0	67.7	70.6	584.9
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	53.4	54.9	56.6	58.4	60.4	62.6	65.0	67.7	70.6	584.9
446	STATE CONTRIBUTION	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2403.9
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3713.4
248	WORCAP DEBT DRAWDOWNS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
549	TOTAL SOURCES OF FUNDS	61.1	79.6	67.1	69.6	70.6	72.5	78.5	82.1	86.0	6926.3
320	LESS CAPITAL EXPENDITURE	27.5	29.4	31.5	33.7	36.1	38.6	41.3	44.2	47.3	6480.4
448	LESS WORCAP AND FUNDS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
260	LESS DEBT REPAYMENTS	15.0	16.6	18.2	20.0	22.1	24.3	26.7	29.3	32.3	218.1
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	10.8	8.9	6.9	4.6	2.3	-0.2	-2.9	-5.8	-8.9	3.6
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	62.7	68.4	74.7	81.5	88.9	97.1	105.9	115.6	126.2	126.2
321	OTHER WORKING CAPITAL	51.9	70.8	75.0	79.4	82.2	83.9	88.6	93.3	98.0	98.0
454	CASH SURPLUS RETAINED	21.9	30.8	37.7	42.3	44.6	44.4	41.4	35.6	26.7	26.7
370	CUM. CAPITAL EXPENDITURE	6178.4	6207.8	6239.3	6273.0	6309.1	6347.7	6389.0	6433.2	6480.4	6480.4
45	CAPITAL EMPLOYED	6314.9	6377.8	6426.7	6476.3	6524.8	6573.1	6624.9	6677.6	6731.3	6731.3
461	STATE CONTRIBUTION	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9	2403.9
462	RETAINED EARNINGS	111.7	166.6	223.2	281.6	342.0	404.6	469.6	537.3	608.0	608.0
555	DEBT OUTSTANDING-SHORT TERM	114.6	139.2	149.7	160.9	171.1	181.0	194.5	208.9	224.2	224.2
554	DEBT OUTSTANDING-LONG TERM	3684.7	3668.2	3649.9	3629.9	3607.8	3583.6	3556.9	3527.6	3495.3	3495.3
542	ANNUAL DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2091.2
543	CUM. DEBT DRAWDOWN $1982	2091.2	2091.2	2091.2	2091.2	2091.2	2091.2	2091.2	2091.2	2091.2	2091.2
519	DEBT SERVICE COVER	1.10	1.10	1.10	1.10	1.10	1.10	1.10	1.10	1.10	0.00

ACRES

initiative drive for dam project

12/5

By ANN CONY
Daily News business reporter

The Anchorage Chamber of Commerce is launching a ballot initiative drive and a $250,000 advertising campaign aimed at winning statewide voter approval for construction of the proposed $5.1 billion Susitna hydroelectric project.

The ballot initiative would have voters approve or reject a financing scheme for the controversial two-dam Susitna River project that is designed to provide electrical power to the Railbelt.

"What the chamber will accomplish is to act as a catalyst to see that construction is actually started in 1984," said Bob Penney, chairman of the chamber's energy committee. "No more studies: Let's pour some concrete."

The chamber will conduct a petition drive if the legislature fails to adopt a bill that would automatically put Susitna on the statewide general election ballot in November, he said.

Dave Rose and Eric Wohlforth are drafting a Susitna bill that Sen. President Jalmar Kerttula has agreed to sponsor in the legislative session that begins next month, according to Penney. Rose is a member of the chamber energy committee and executive director of the state Permanent Fund. Wohlforth is a private attorney and state bond counsel.

"The problem with Susitna is that because of the cost, it's hard to get the legislature to bite into spending such a massive amount of money," Penney said. "So we decided to bring the issue of constructing Susitna — including the financing — to a vote of the people."

The chamber's financing plan would allow the state to digest the cost of Susitna over 12 to 20 years, he said.

Voters would be asked to approve or reject a plan calling for direct state appropriations of $200 million per year for the next 12 years, with additional funds needed for construction of the first-phase Watana dam to be raised from state bond sales. The initiative would propose that the second-phase Devil Canyon dam be funded in 10 years, or whenever the added power is needed, solely through bond financing.

Consultants have estimated that construction of the 1020-megawatt Watana dam will cost $3.6 billion and that construction of the 600-megawatt Devil Canyon dam will cost $1.5 billion, in January 1982 dollars.

Penney said the chamber intends to raise money for its Susitna advertising campaign from business and industry sources.

"We estimate it'll take $250,000 or more to put on a public education effort beginning next year — probably in February — so the public can understand both sides of the issue," he said.

A kick-off for the campaign actually will begin earlier, with television spots and double-page newspaper advertisements scheduled for Jan. 2-15.

The chamber already has raised $25,000 for the pilot program with equal donations from the International Brotherhood of Electrical Workers and the Associated General Contractors of Alaska, Penney said.

Cartoonist Jerry Flu has created a beaver dubbed Susitna Sam to serve as the lead mascot in a cast of animated cartoon characters.

Acres American, the consulting firm that has analyzed the proposed project most recently, has said the state needs to make a direct investment of at least $2.3 billion, in January 1982 dollars, to assure that electricity generated by the dams will not cost consumers more than alternative power sources prior to the year 2006.

Appropriations of $200 million for 12 years would amount to $2.4 billion.

While Susitna supporters claim the project is the best investment the state could make, Susitna critics have maintained that it's a potential boondoggle.

The critics point to Acres' conclusion that Watana dam by itself would not be the most economical source of power and, in light of failing state revenue predictions, question the validity of Acres' projections for power demand that would justify construction of the Devil Canyon dam.

Penney expressed confidence Friday that a majority of voters favor Susitna.

Chamber's Susitna plan may focus future debate

By ANN CONY
Daily News business reporter

The Anchorage Chamber of Commerce may unveil as soon as next week the draft of a legislative bill aimed at setting aside state funds for construction of the Susitna hydroelectric project.

Meanwhile, critics this week threw out arguments likely to shape debate on the issue in the coming months.

The chamber energy committee announced last Friday that it would pursue a statewide ballot initiative that would ask voters to authorize construction of the controversial dam project backers say would carry the Railbelt into the 21st century with "cheap" electricity.

According to Bob Penney, chairman of the energy committee, the chamber wants to see the legislature appropriate $200 million annually for 12 years for Susitna construction. That $2.4 billion would be supplemented liberally by bond sales to build the first dam, and construction of the second dam would be financed solely by bond

See Page D-4, SUSITNA

Myers and Tussing argued that even if bond financing were possible, the state could not afford it.

"It's putting all the eggs in one basket," Tussing said, warning that bonding Susitna could preclude bonding for other projects that might prove more beneficial to the state economy.

Myers questioned, as Tussing and Erickson have, whether the Railbelt will need the full capacity of power that would be generated by the Watana and Devil Canyon dams, saying the state risks ultimate bankruptcy for a project that could turn out to be a white elephant.

"The dialogue has been dominated by proponents of the project who have dismissed any consideration about less costly, more moderately scaled alternatives," Myers said. "Let's evaluate the project on its merits and not confuse the desire for a massive construction project with a rational plan for future energy development and the Railbelt."

Tussing claimed that much of the impetus for Susitna comes from groups such as contractors and unions who see the proposed project as a "big Christmas tree" and are more enamored with it the more it costs.

Penney claims the project enjoys broad based support because it will ensure present and future Railbelt residents of cheap, reliable power.

"It would be a gift to all of us," he said.

Power generated from the dams will be "one of the best electric buys in the nation," Penney argued, saying that once the project is built the cost of electricity in the Railbelt will be inflation-proof.

"Anything's cheap if somebody else pays for it," Tussing countered. "It would probably be some of the most expensive power generated anywhere in North America when you consider the capital costs."

Penney expressed confi-

Susitna

Continued from Page D-1

sales.

The advance dedication of state revenues would require an amendment to the state constitution.

The dams are estimated to cost $5.1 billion in January 1982 dollars; assuming an inflation rate of 10 percent, the project would cost $14.5 billion when finished.

Criticisms raised this week by Eric Myers of the Northern Alaska Environmental Center and economists Arlon Tussing and Gregg Erickson were that:

- Such a commitment of funds could potentially bankrupt the state;
- The bond market probably would reject such an offering as too risky;
- If the bonds could be sold, they might absorb virtually all of the state's bonding capacity for the next 12 years or longer;
- The legislature shouldn't tamper with the state constitution just to build Susitna, and
- Susitna power would seem "cheap" to some only because the money for it would come from the state rather than directly from the ratepayer's pocket.

"It represents an enormous incumbence on the state's economy and the future fiscal policy of the state," said Tussing. "It's hard to believe that the investment community isn't going to perceive that."

The bond market would perceive the issue as too risky because of the state economy's reliance on oil prices and state spending, he said.

According to Erickson, 44 percent of Alaskans' personal income is the result of state spending.

Penney countered that the economists have been wrong before, and "if everything goes according to our preliminary plans, we'll be able to show Mr. Tussing he's incorrect."

Susitna hydro a good investment?

By ANN CONY
Daily News business reporter

The proposed Susitna River hydroelectric project could be the best investment the state will ever make, or the worst, depending on who you believe.

The pros and cons of the $5.1 billion two-dam project were argued Thursday by Wayne Beckwith and Eric Myers, respectively, at a luncheon meeting of the Anchorage Woman's Club.

Beckwith, co-chairman of the Anchorage Chamber of Commerce energy committee, justified the need for the 1,620-megawatt project on grounds that the cost of natural gas — which fuels more than 90 percent of electricity generation in Southcentral Alaska — is rising while the supply is falling. Though Susitna would require a large capital investment, operating costs would be mininimal and the cost of hydro power would be constant after the capital investment is made, while "constantly increasing fuel costs must be passed on to the consumer."



Eric Myers



Wayne Beckwith

Susitna hydro power would be cheaper than fossil-fuel power shortly after the turn of the century, Beckwith said.

Quoting Susitna feasibility study projections that the project would create an average of 1,450 jobs a year for 16 years, he urged the audience to think about the "ripple effects" that would have on local businesses.

Myers, consultant to the Northern Alaska Environmental Center, argued that Susitna could put the state in a fiscal straitjacket and urged a careful reexamination of the project in light of outdated economic feasibility assumptions.

Rational planning to meet future state energy needs in recent years has become confused with desires for creation of new jobs and distribution of oil wealth, according to Myers.

Once a commitment to construction is made, "We've totally lost all our flexibility in dealing with energy planning for the future," he said. "If we made a commit-

See Page B-6, SUSITNA

Susitna hydro proposal's merits debated

Continued from Page B-5

ment to Susitna now, it could involve more than 50 percent of the state's capital spending revenues until the end of the century."

Myers quoted state Division of Budget and Management calculations that while Susitna is estimated to cost $5.1 billion in 1982 dollars, it will end up costing $10 billion to $15 billion, depending on inflation rates. He urged consideration of smaller-scale hydro projects as alternatives.

The recent decline in oil prices and state revenue projections lowers the outlook for the state economy and population growth, thus lowering anticipated increases in power demand, Myers said.

Beckwith argued that forecasts for power demand used in the Susitna feasibility study were reasonable, and that even under a 2.8 percent annual "low growth" scenario, Susitna will prove economical as a replacement for fossil-fuel power generation.

Saying Susitna is "one of the finest investments this state will ever make" and "more important than any project ever developed in the history of the Railbelt," he predicted revenues from Susitna power sales would pay off revenue bonds and provide the state a return on its investment.

Myers, on the other hand, warned that if power demand does not increase as previously forecast, Susitna would strap the state economically and tax consumers.

"I'm not saying the Susitna project is a horrible idea and we ought to walk away from it . . . Susitna may be the best thing that ever happened to the Railbelt, but probably not until the year 2050," he said.

The state has at least until the end of the century to make a commitment to construction, Myers argued, ar "I don't think we should stampeded into making that kind of decision now."

Environmental group asks delay of Susitna licen

by Steve Hansen
Times Writer

A statewide environment group is asking the Alaska Power Authority to delay its license request for the Susitna hydroelectric project until an alternate site at Lake Chakachamna is "adequately evaluated."

Eric Myers, an energy consultant and spokesman for the Northern Alaska Environmental Center, sent a letter to APA executive director Eric Yould on Dec. 13 saying a recent engineering study indicated the Lake Chakachamna site would be "even more economically attractive than previously thought."

He urged the APA executive to "commit the financial resources presently at its disposal toward the development of a comprehensive feasibility studye of a quality and detail equal to the Susitna studies."

Myers said the issue "is not whether you are for or against the Susitna project, but how to provide responsibly for Railbelt power needs. Many people have forgotten that."

Myers said the Chakachamna project "is the most significant and likely hydro alternative to Susitna and a comprehensive evaluation of this potential hydro option is central to the ongoing Railbelt power studies."

The letter asked Yould to defer filing of the Susitna license application with the Federal Energy Regulatory Commission until further studies have been completed.

"Chakachamna is especially attractive economically because a project the size of Chakachamna would not be vulnerable to the uncertainty of furter of electrical demand growth."

If constructed, the Chakachamna project would provide 330 megawatts while Susitna would provide 1,600 megawats.

"We can reasonably assume the need for the 330 megawatts Chakachamna could provide but we can't safely assume the need for all 1,600 megawatts from Susitna," Myers said.

Myers said a recent Railbelt electricity demand forecast for the year 2010 are 44 percent lower than previous projections which led to the Susitna proposal. Susitna would cost an estim
In 1982 dollars w
kachamna project
estimated $1.2 billio

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Dam builder praises state hydro plans

by Carl Gidlund
Times Writer

The president of a firm selected to design Watana Dam, first phase of the proposed giant Susitna power network, said today the project is the most attractive hydroelectric project in North America.

"Down south, there just isn't the potential that you have in Alaska," said Harza Engineering Co.'s Richard D. Harza. "Either the water's been used for hydro already or it can't be used because of national parks or similar barriers."

Speaking before the Anchorage Chamber of Commerce today, Harza compared the proposed Watana dam, which at 885 feet is to be the largest earth-filled structure in North America, to another project in which his firm is engaged, the Guri project in Venezuela.

Both, he said, are large projects with small, economical beginnings. Also, he said, both Susitna and Guri — which may become the world's largest power project, generating 20,000 megawatts — are conceived for eventual full-scale use of the hydro resource but are designed and built to meet smaller needs during construction.

Finally, Garza said, Guri is an example of "how to 'upgrade' revenue from a depleting resource, oil, into a non-depleting, clean, almost permanent hydro energy resource."

Although the design contract with the state has not been formally signed, the Alaska Power Authority voted unanimously in October to award it to Harza's Chicago-based company and a joint venture firm, Ebasco Services Inc. of Bellview, Wash., and New York.

The legislature has approved $25.6 million for preliminary design work on the million-kilowatt Watana dam and will be asked to appropriate more during the upcoming session. Total costs will exceed $3 billion in 1982 dollars, according to most estimates.

"It doesn't appear the project would have grave environmental impacts," Harza said. "We don't have to displace people, roads or railroads and other physical impacts are relatively minimal when looking at a project of this scale."

Harza described hydroelectric power as the most economical, least polluting source of energy, and he said industrial countries with hydro potential — the U.S., Soviet Union, Japan and European nations — have almost fully developed their potential.

He said high initial investment costs "are more than offset by the absence of fuel costs, and of fuel cost escalation" during the life of such projects, which may be as long as a century.

Hydro power's only drawback, he said, is its transportability. Natural gas can be shipped economically via pipeline or tanker 2,000 to 5,000 miles, and oil can be sent 10,000 miles or more, but the economic limit for sending electricity over power lines is about 800 miles, Harza said.

In addition to its Venezuela project, Harza's firm is designing hydroelectric projects in Central America, Iceland, Jordan, Egypt, Senegal and Pakistan. It also is engaged in two other Alaska projects, one near Bethel and on at Black Bear Lake, which would serve the Southeast communities of Craig, Klawok and Hydaburg.

Harza said his firm will establish a small Watana project office in Anchorage with Ebasco. Ten to 20 personnel from the two companies will be engaged in field investigation work, he said, but the principal design office, employing 50-60 people, will be in Bellview.



RICHAR
Involved in

Susitna engineer touts hydropower

y ANN CONY
ily News business reporter

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See Page D-6, SUSITNA

Susitna

Continued from Page D-1

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ally News business reporter

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"When possible, the fossil energy has been exported while the hydro energy has served the developing domestic or local market."

According to Harza, countries such as Venezuela have chosen to invest part of their fossil fuel export revenues in long-term hydro power to meet future energy needs.

"In general, wherever it is available, hydro power is the most economical, least polluting power source," he said.

Harza acknowledged that capital costs for constructing the dams are high. But, he maintained, the high initial costs are "more than offset" by the long life expectancy of the dams and the absence of escalating fuel costs.

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See Page D-6, SUSITNA

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Continued from Page D-1

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The total cost of designing Watana has been projected to be about $70 million. Adding construction costs, Watana dam has been estimated to cost $3.6 billion, while the second-phase Devil Canyon dam would cost an estimated $1.5 billion, both in January 1982 dollars.

.awmakers hear plea for Susitna dam

ANN CONY
ly News business reporter

Calling 1983 the most critical islative year for the proposed sitna hydroelectric project since 79, a spokesman for Susitna wer Now urged Wednesday that wmakers authorize construction the $5.2 billion project in the ming legislative session.

In a speech before the Anchore Chamber of Commerce's anal breakfast with local legislars, Dave Hutchens urged that e legislature authorize construcn either of the entire project or least the first dam of the assive two-dam Susitna River oject designed to carry the Railit into the 21st century with heap" electricity.

In addition, Hutchens said, the legislature should devise a plan for financing Susitna and should approve the Alaska Power Authority's request for a $47 million appropriation for continued engineering work.

Distributed at the chamber's breakfast meeting attended by 15 legislators here was a Nov. 30 letter to Gov.-elect Bill Sheffield from Hutchens in the latter's capacity as executive director of the Alaska Rural Electric Cooperative Association Inc., a trade group representing 16 electric authorities in the state.

In the letter, Hutchens lambasted a report by economists Arlon Tussing and Gregg Erickson, who have argued that projections for Railbelt power demand — as presented in the Susitna feasibility study — should be lowered in light of falling world oil prices and the impact that will have on local population and economic growth.

Referring to the study by Tussing and Erickson as a "doomsday report," Hutchens told Sheffield: "If you believe that, maybe you shouldn't build Susitna. But if you do believe that, you ought to sell your hotels."

Hutchens sited Acres American's Susitna feasibility study, which predicts a 3.5 percent annual growth rate for power demand. He presented statistics showing that electricity supplied by five of six Railbelt utility companies grew by double-digit figures between the first nine months of 1981 and the first nine months of 1982.

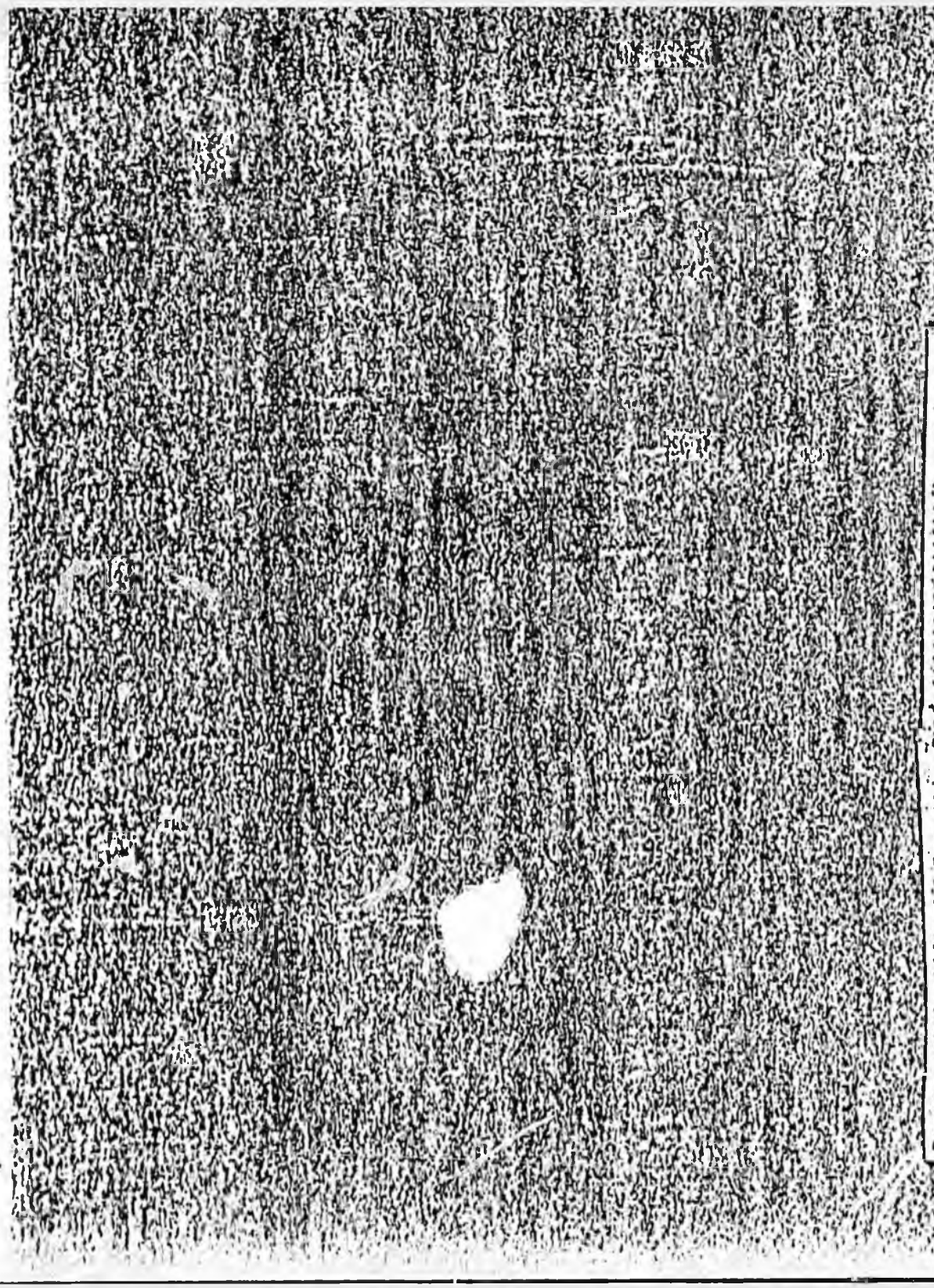
By the end of this year, growth in power demand will be nearly three years ahead of Acres' projections, according to Hutchens.

"It is ludicrous for the opponents to contend that those projections are significantly too high," he wrote to Sheffield.

Asked to respond Wednesday afternoon, Tussing defended his and Erickson's position.

"This year there has been a big jump (in electric demand), but the problem is that it's atypical," Tussing said.

See Page D-3, SUSITNA



Susitna dam proponents call 1983 critica

Continued from Page D-1

Hutchens conceded that much in his letter to Sheffield. But while he maintained that the 3.5 percent projection for increased electric demand was well within reason, Tussing argued that "there's no ground for confidence in it" because the projection was based on a state spending outlook that has dimmed considerably since Acres concluded its Susitna feasibility study.

Tussing maintained that the Railbelt has plenty of natural gas and coal for future electric generation and that Susitna could prove to be a painfully expensive mistake if the 3.5 percent growth projection does not materialize.

Hutchens said that due to high capital construction costs, the cost of electricity from Susitna in its first few years of operation would be about twice as high as power from other sources.

But that problem could be solved, he maintained, if the state subsidizes construction by making an "equity investment in Susitna large enough so the rates to the consumers will not jump when it comes on line."

Acres American has pegged that figure at $2.3 billion, in January 1982 dollars.

Susitna hydroelectric power will be much cheaper in the long run than other power sources, Hutchens told legislators Wednesday.

In a packet of position papers distributed at the breakfast meeting, the chamber argued that the cost of natural gas now used to gen electricity for 90 percen Southcentral Alaska wil crease by as much as six times when current low- gas contracts expire and renegotiated, beginnin 1984.

"Energy costs, and quently the cost of doin ness and living in An.ho will escalate dramatic Hydroelectric power is best alternate energy so to relieve our dependenc fossil fuel," the position per on hydroelectric p said.

In addition to financin Susitna, the chamber is l ing continued state fun for hydroelectric pro statewide.

Economist ups Susitna estimates

by Bill Wh...
Times Juneau Bureau

Juneau — The two massive Susitna River dams proposed to bring cheaper power to the Railbelt region of Alaska may cost between $10 billion and $25 billion, according to a state economist.

The $5.2 billion estimate commonly used for the project is computed in 1982 dollars, not the inflated money the state will actually pay, said Ron Ripple, an economist with state budget office.

That estimate is found in a $35 million state-funded study of the Susitna dams released last March by a Buffalo, N.Y., firm, Acres American Inc.

Ripple recently took Acres' projections of how much construction money would be needed each year to build the dams, and added inflation rates to compute his estimates.

Two dams are being studied for the Susitna River northeast of Talkeetna. They are expected to provide for the power needs of the state's population center into the next century, if the dams are built.

Ron Lehr, Ripple's boss and a director of the Alaska Power Authority, which would build the dams, said many people are comparing the $5.2 billion Susitna figure with the estimated cost of moving the state capital to Willow from Juneau, $2.8 billion.

But the capital move figure is in inflated dollars. The Susitna number isn't.

If the dams are to be built, the state had better start saving, Lehr said. "If you really don't want Susitna the easiest thing to do is sit back and wait."

Ripple estimated 1991 would be the year the largest amount of cash would be needed. Depending on the inflation rate, the legislature might need to find between $1.1 billion and $2.1 billion for Susitna alone. The state budget for this year comes to $3 billion.

Ripples' lowest cost estimate — $10.5 billion — would come if inflation were 7 percent per year, the rate Acres projected.

But many economists believe that inflation rate is too low. A project the size of Susitna in a state whose economy is as small as Alaska's could whip up its own inflation, they say.

So Ripple computed Acres' figures at four higher inflation rates:

- $12.2 billion if inflation hits 8.4 percent a year, the rate used by the Capital Site Planning Committee in estimating capital move costs.
- $14.5 billion if prices rise 10 percent annually, the figure used by the state transportation department in estimating construction costs.
- $18.1 billion with a 12 percent inflation rate.
- $25.4 billion with 50 percent inflation.

Ripple assumes the state would pay cash to build the dams.

But Acres said the state could sell bonds to finance up to half the project, pay off the bonds with income from selling electricity produced by the dams and still have reasonable power rates.

Bonding would cut the amount of cash the state needs. However, it would jack up electrical rates and the cost of building the dams because the state would pay interest on the bonds.

Anchoring one of the seven volumes of Acres' Susitna report are two cost projections using bonds and cash.

In both cases inflation is estimated at 7 percent and the interest rate on the bonds is 10 percent.

If the state paid $3 billion in cash (1982 dollars) and bonded the rest, total construction costs would come to $16.1 billion by the year 2013, Acres said. The state would pay $4.8 billion cash, sell $9.1 billion in bonds and use $4.1 billion from the sale of electricity.

If the state paid $2.3 billion in cash (1982 dollars), the construction tab would hit $16.2 billion. Of that, the state would pay $3.5 billion (inflated dollars), sell $10.1 billion in bonds and use $5 billion from selling electricity.

Outside firms win contrac for Susitna dam design w

Alaska Power Authority directors on Friday awarded a Susitna hydroelctric engineering design contract worth at least $70 million to Harza Engineering Co. of Chicago and Ebasco Services Inc. of New York.

Those firms will be responsible for designing the proposed 885-foot-high Watana dam, the first phase of the $5.1 billion two-dam project northeast of Talkeetna that has been proposed for the Susitna River to carry the Railbelt into the 21st century with "massive amounts of "cheap" electricity.

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See Back Page,

10/23

Firms win contracts for design work on Susitna dam

Continued from Page A-1

from the Army Corps of Engineers after hearing endorsement of that plan from Anchorage Mayor Tony Knowles, representatives of utility companies, environmental groups and others.

The 135-megawatt Bradley Lake dam project near Homer is primarily intended to serve the Kenai Peninsula, but it would generate excess power that could supply Anchorage area utilities as well.

Many Bradley Lake backers say they support the project not as an alternative to the Susitna project but as an interim power source to meet growing electricity demand before Susitna can be built.

Yet to be answered, however, is the question of how the Susitna project will be financed.

The Anchorage Chamber of Commerce's energy committee is considering a ballot initiative drive aimed at allowing state residents to vote next year on a proposal that would require the legislature to dedicate funds for the project.

Power Authority Director Ron Lehr, who also is Gov. Jay Hammond's budget director, cited projections by his staff that while the Susitna project is estimated to cost $5.1 billion in 1982 dollars, the final cost of the project would likely be $15.6 billion by 2002, assuming an annual inflation rate of more than 10 percent but less than 12 percent.

Lehr was part of a two-director revolt that sought unsuccessfully Friday to buck the power authority staff and a majority of the board to overturn last month's choice of an access route.

On a motion by Commissioner Robert Weeden of the University of Alaska to dump the route that would provide access from Denali Highway in favor of a more environmentally acceptable route from the Parks Highway, Lehr and Weeden were overruled.

The power authority plans to apply in January for a Federal Energy Regulatory Commission license to build Susitna.

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City / State

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- Tell It to Bud
- Obituaries

Official calls Susitna cost data 'obsolete'

by Bill White
Times Juneau Bureau

Juneau — Part of a two-and-a-half-year, $35 million study that endorsed building the multibillion-dollar Susitna River dams may be invalid, a high-ranking state cabinet officer has declared.

Revenue Commissioner Tom Williams said oil prices and state revenue estimates have crashed since that study was released last winter.

New, lower estimates undermine parts of the Susitna feasibility study that rely on revenue and oil price projections, Williams said in a letter to Eric Yould, executive director of the Alaska Power Authority. It is the state agency that plans to build two Susitna dams for about $5.2 billion.

"To the extent that the conclusions of the Susitna feasibility analysis are dependent on oil price levels over the long term, a radical revision in the long-range outlook for those prices may have invalidated those conclusions," Williams said.

"Certainly they have become obsolete, and the analysis supporting them should be redone using more current expectations of oil prices over the long term."

Williams referred Yould to a study done last month by Jamie Love, special assistant to the revenue commissioner. Love found that state spending helps determine population growth and electricity demands, and new revenue projections forecast much less state spending than the feasibility study had predicted.

Love also said the Susitna project will require large cash subsidies from the state up front, and that cash may not be available if the new revenue projections are true.

Yould today agreed some of the feasibility study was made using estimates that since have been lowered.

But the power agency all along planned to continue to update — while waiting to get the go-ahead to build from the Federal Energy Regulatory Commission — its assumptions on whether the dams are a good idea economically. Federal permission likely is two to three years off, Yould said.

In his letter, Williams was answering Yould's questions about the accuracy of a draft study done for the governor's office by economists Arlon Tussing and Gregg Erickson.

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Report says 2 dams may be 1 too many

9/3

By Bill White
Times Juneau Bureau

Juneau — Demand for electricity in Alaska's Railbelt region might be too low to justify construction of the second of two massive dams on the Susitna River, according to a study by the governor's office.

Growth in demand should be tied to growth in population, which in turn is linked to growth in state spending, concluded the report by the governor's division of policy development and planning.

But state spending may not materialize to the extent anticipated by backers of the Susitna dams, the report said. Recent long-term revenue forecasts look with pessimism at expected state income through the rest of the century.

The $5.2 billion Susitna hydroelectric project involves building two dams on the Susitna River northeast of Talkeetna to serve the power needs from Fairbanks to the Kenai Peninsula, including Anchorage. First to be built — by 1993 — would be an 885-foot rockfill dam and powerhouse at an area called Watana. Then, by 2010, a 650-foot concrete arch dam and powerhouse would be erected downstream at Devil Canyon.

"There is little question that electricity demand will be sufficient by 1990 to absorb the output of the first half of the project — the Watana dam," the report said.

"However, it is uncertain whether demand will continue to grow between 1990 and 2010 such that the second half of the project — the Devil Canyon dam — can be justified."

A two-and-a-half-year, $35 million study for the state released in March concluded demand for electricity in the Railbelt should justify building the two dams.

But the new report from the governor's office said that justification depends on the state having extensive savings in the next decade that would allow continued growth in state spending through the year 2010.

"However, it no longer seems credible that the state will actually accumulate such savings, especially in view of the substantially lower petroleum revenue forecasts that have been issued in March and June 1982 by the Department of Revenue."

The report added that revenue estimates are just estimates, and actual income could be higher than the forecasts. Oil prices could escalate, another rich oil field like Prudhoe Bay could be found and tapped in the 1990s, or private development could offset a fall in state spending.

Also, demand should be higher if the state pays for dam construction instead of consumers. "As a result, it appears likely that the full output of both dams would still be absorbed despite today's state revenue projections."

Another recent study on Susitna for the division concluded that outdated assumptions were made in previous studies that concluded there was a need for the hydroelectric project.

Written by Arlon R. Tussing and Gregg K. Erickson, the report criticized recent studies on Susitna as "already largely obsolete."

In a related development, Standard Research Institute is expected to complete within a couple weeks what kind of inducement low-cost energy from Susitna would have in luring industry to the railbelt.

New Susitna report claims old inaccurac

by A.J. McClanahan 9/23
Times Writer

Recent studies showing a need for the two-dam $5.1 billion Susitna hydroelectric project are based on incorrect information, according to a draft report done for the governor's office.

Arlon R. Tussing and Gregg K. Erickson say in their report that outdated assumptions were made in previous studies that concluded there was a need for Susitna.

Questioning Tussing and Erickson's report, however, is the energy committee of the Anchorage Chamber of Commerce.

And the Alaska Power Authority, charged with coordinating studies on the project, has no comment yet on the Tussing-Erickson report because officials there are still studying it.

The Tussing-Erickson draft is called "Alaska Energy Planning Studies: Substantive Issues and the Effects of Recent Events," and was done for the governor's Division of Policy Development and Planning.

Tussing and Erickson criticized recent studies on the Susitna project as "already largely obsolete."

Tthe studies' "critical assumptions — regarding the future prices of various fossil fuels, the growth of population and economic activity in Alaska and the resulting growth of energy demand in the state — are based upon a 'conventional wisdom' about future energy prices that should have been suspect even in 1980 and 1981 when the study contracts were signed, and which subsequent experience has made nearly untenable," Tussing and Erickson said in the draft.

Erickson declined to be interviewed about the report, stressing that comments are still being sought on it before it is put into final form.

The main findings of the draft report are:

• Dramatic changes in oil price expectations since 1980 demand reconsideration of the level of Alaska economic activity and energy demand.

• Assumptions in previous reports concerning prices and availability of Alaska coal and natural gas for local electric power generation are not well supported.

• Recent studies did not deal with high interest rates and capital-market conditions, and so their conclusions about risks, costs and financing arrangements of the Susitna project are suspect.

• Now is not the time for major initiatives in publicly financed power development in Alaska unless those ventures are able to satisfy stricter tests of economic feasibility.

Former chamber president Bob Penney and other representatives of the chamber energy committee said an earlier report by Tussing has proven to be "very conservative" in terms of population growth estimates for railbelt communities.

And as for the current draft report there have been dramatic changes in oil tations, Penney said demand for all natur including oil, is down now. But, he sa economy improves, "we'll all use more."

Countering other findings, Penney sai

• Coal is economically feasible if the mercial development for coal already a there are no projects to commercially Beluga field, and without them Beluga's be too high to be an alternative to Susitna

• Interest rates already have fallen ment in the Susitna project by the state v ture Alaskans a return on some of today's

• Now is the time for the state to build cause gas burned today to generate elect saved for future generations for heating t

Access route for Susitna project OK'd

by A.J. McClanahan
Times Writer

9/15

An access route for the proposed $5.1 billion Susitna hydroelectric project that would go south from the Denali Highway to the Watana Dam site was narrowly approved by the Alaska Power Authority board Tuesday.

The 4-3 vote followed a public hearing which drew little comment except from a spokesman for an environmental organization that questioned the need for the massive hydroelectric project.

Selection of the access route does not mean bulldozers will be carving up the near 100 miles of roadway soon. In fact, any road construction is likely to be at least three years away. The recommended access route will be included in the licensing application to be submitted by March to the Federal Energy Regulation Commission. Processing of the application could take up to three years.

Although the Department of Natural Resources prefers an all-rail, limited-access route, department spokesman Al Carson said his agency will cooperate as much as possible with the power authority and won't fight the access route chosen.

One of the two routes not chosen went from the Parks Highway at Hurricane, through the Chulitna Pass, then north of the Susitna River and through the Upper Portage Creek drainage, including a a spur road to the Devil Canyon dam site. The second route not chosen went from the Parks Highway at Hurricane, through the Chulitna Pass, proceeding on the south side of the river to just before the Watana Dam site, including a road from Gold Creek running to the Devil Canyon site.

The route approved by the board Tuesday was a variation on one suggested by the consulting firm Acres American. That plan called for the route to have a railroad spur built on the south side of the river to the Devil Canyon dam site.

Native corporations had listed

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Susitna

(Continued from page A-1)

the Acres suggestion as their second choice, saying they wanted as much access as possible to their lands.

Although the route approved has the greatest ease of construction, it also has the most environmental impact, power authority staff said. But they added that their suggestion — because it goes on the north side of the Susitna — reduces the the environmental impact because the north side is less sensitive.

Dr. Ernst Mueller disagrees. The commissioner of the state Department of Environmental Conservation said today he voted against the access route "because it's a more expensive route and the most environmentally harmful route."

Mueller said the road, if constructed, would eventually become a public road and the onslaught of more people coming into this area would affect caribou migration patterns.

Power authority Executive Director Eric Yould told board members that even though the board approved the route Tuesday as the one to be submitted to FERC, "it's not set in concrete." The commission may require that it be changed, or the power authority could change its mind and re-submit a route to the commission.

Raising questions about the project in general was Eric Myers of the Nothern Alaska Environmental Center. He said recent changes in world oil prices invalidate the economic justification for the project. Because of that, he said, the power authority should not be allowed to proceed with the project.

In a prepared statement submitted to the board, Myers said revised expectations about world oil prices and associated state spending trends should be taken into account in planning for the project.

The power authority board and staff told Myers that forecasts of Alaska power needs are being re-evaluated to account for such things as changes in oil revenues and trends in state spending.

Voting for the route suggested by power authority staff were board members Dr. Ron Lehr, budget and management director in the governor's office; Charles Webber, commissioner of the state Department of Commerce and Economic Development; board Chairman Charles Conway, partner in a public relations firm; and Robert Ward, commissioner of the state Department of Transportation.

Joining Mueller in voting against the access route were John Schaeffer, president of NANA, a native corporation and Dr. Robert Weeden, University of Alaska wildlife sciences professor.

Also at the day-long power authority meeting, an Anchorage man who said he represented Talkeetna area residents said people in that area want construction of the transmission intertie to be by helicopter only in their area.

Jim Sykes of Anchorage, who owns land near Talkeetna, also told the power authority that Talkeetna residents don't want the agency to use pesticides.

They want the agency to adopt an official policy against the use of insecticides, herbicides and other pesticides, he said.

Power authority spokesman George Gleason said the agency will not use any pesticides in the construction of the intertie, which would allow for power exchanges between Anchorage and Fairbanks even if the Susitna project is not built. But he added that it's too early to consider what the maintenance policy for the intertie would be.

In other action the board:

— Narrowed a list of consultants to design the Watana dam to Bechtel Civil and Minerals Inc. of San Francisco, the joint venture of Harza Engineering Co. and Ebasco Services Inc. of Bellevue, Wash. and Raymond Kaiser Engineers of Oakland, Calif. The state legislature appropriated $25.6 million to begin the design of the Watana phase of the project, and the power authority will seek additional funds during the next session to complete the project design.

— Decided to begin contract negotiations with Ebasco Services Inc. on a study of using North Slope natural gas for electrical generation in the Railbelt area.

— Decided to begin negotiations with Land Field Services Inc. of Anchorage to provide land acquisition, permitting and regulatory management services for the Susitna project.

Susitna project access road approved

9/15

The directors of the Alaska Power Authority approved by a narrow margin a 100-mile access route from the Denali Highway to the proposed $5.1 billion Susitna River hydroelectric project.

The directors voted 4-3 for a staff-recommended variation of an access route favored by consultants, with the vote reflecting, in part, disagreement over environmental impacts.

The chosen route would provide road access from the Denali Highway to the proposed Watana and Devil Canyon dam sites in two phases. It also would include construction of a rail spur from the Devil Canyon site south and west to hook up to the Alaska Railroad at Gold Creek.

Power authority spokesman George Gleason said the staff recommended the revised route — and a majority of directors approved it — partly because it was deemed more cost effective.

The initial costs would be less and construction would be far easier than under the consultant's proposed access route he said.

"We can shorten the construction of the whole project by a year to a year and a half."

The power authority staff maintained that the favored route from the Denali Highway north of the Susitna River also would pose fewer environmental problems because it would cross relatively flat, dry tundra, while the consultant's suggested route from the south would run across wetlands.

But some of the board directors and representatives of state agencies felt otherwise.

Ernst Mueller, a power authority director and commissioner of the Department of Environmental Conservation, voted against the staff recommendation, saying later that the access road eventually would be public and that the road development could disrupt caribou migration.

Mueller said he opposed the chosen route also because the final cost would be higher.

The route chosen by most of the directors is not the best alternative for wildlife, according to Karl Schneider, a Department of Fish and Game biologist who supervised big game studies for the access alternatives.

"The route that they chose ... was a segment we felt would be most detrimental to wildlife, particularly caribou," Schneider said.

The chosen route will not necessarily be devastating to caribou, he said, but "it would make an important part of their range less usable."

Eric Myers of the Northern Alaska Environmental Center said Wednesday that the chosen route was "the least environmentally acceptable."

Myers also raised broader objections to the massive hydroelectric project, saying that recent state revenue forecasts could put a significant damper on the outlook for electricity demand in the Railbelt.

The board acknowledged the need to reassess future demand and said that a reevaluation is in the works.

Directors voting with Mueller against the recommended access route were Robert Weeden, a wildlife sciences professor from the University of Alaska, Fairbanks, and John Schaeffer, president of NANA, the Kotzebue-based Native regional corportion.

The access route preferred by the majority of directors will be included in the state's Federal Energy Regulatory Commission licensing application for the project.

Though the application is expected to be submitted by March, its processing could take as long as three years.

Eric Yould, the power authority's executive director, said after the vote that the access route is "not set in concrete."

HB

1221

PROPOSED LEGISLATION: SUSITNA
HB 120, 121, 122
A REVIEW OF KEY ISSUES

HB 120/ AUTHORIZATION AND APPROVAL OF THE SUSITNA FEASIBILITY STUDY AND APPROVAL OF THE PROPOSED "PLAN" OF FINANCE

Issue — Acceptability of the APA/Acres Feasibility Study

The Susitna Feasibility Study prepared for the APA by Acres American (March 1982), concluded that Susitna could offer the most attractive long term electrical energy source for the Railbelt but only on the basis of several very critical assumptions. Most importantly, these assumptions included: 1) high electrical demand growth (forecasts), 2) rapidly increasing oil prices, 3) outdated revenue projections/multi-billion dollar cash construction subsidies, and 4) tax exempt bond financing.

The Acres report included a "sensitivity analysis" which tested how critical certain assumptions were to the conclusion that Susitna was economically viable (Attachment A).

Since the time that the Acres study was prepared, fundamental changes in world economic circumstances has invalidated the conclusion that Susitna is the most attractive Railbelt alternative, at least until well into the next century.

Electrical Demand: The "need" for Susitna was predicated on a host of assumptions about future economic activity-population growth-employment-household formation, etc. which results in electrical demand. Assumptions included the ANGTS line, an ALPETCO-like refinery in Valdez, PacAlaska, and State spending trends as before the world oil market collapsed. In light of the changed circumstances, the most recent revised projections of Railbelt electrical demand for the year 2010 (Battelle, 1982) are close to half those used by Acres a couple of years back in its design development selection work which led to the choice of the Watana/Devil Canyon proposal currently under consideration (Attachments B and C).

The ISER (1980) projections used by Acres called for a Moderate (or "most likely") demand case of 8,940 Gwh per year in 2010 which compares to the more recent Battelle (1982) Moderate demand estimate of 4,986 Gwh/year in 2010. That is, the most recent demand projections for 2010 are only about 56% of those used by Acres to arrive at the conclusion that we "need" Susitna.

Another way of considering this question is in terms of capacity requirements: how many megawatts of additional capacity are needed to replace retired capacity over time and meet expected peak (highest) demand? Acres, in its design development and selection analysis, used the ISER (1980) projections calling for a Moderate case peak demand of 1,635 megawatts (MW); this contrasts with the more recent Battelle (1982) projection of peak demand projection of 1,003 MW. Approximately 577 MW of capacity would still be in place in the year 2010. The essential issue is how large a "capacity deficit" can

be expected and how much additional capacity is needed to meet the shortfall. Using the capacity retirement schedule developed by Acres and the most recent capacity requirement projections by Battelle (including a 30% reserve capacity margin) it is evident that the Railbelt will experience a capacity shortfall of about 200 MW in the year 2000 and about 727 MW by the year 2010. This contrasts with the Susitna project at a total of 1,620 MW (Watana at 1,020 and Devil Canyon at 600). A premature commitment to Susitna would result in massive amounts of excess, idle capacity as is the case with the Lake Tyee project (Attachment D).

Note that the Acres' "sensitivity analysis" (Attachment A) tested a "Low" demand case for 2010 as 6,300 Gwh. This supposed "Low" scenario — which renders the project marginal at best — is 26% higher than the more recent "Moderate" case and 64% higher than the revised Battelle "Low" for 2010 (3,844 Gwh).

Using Acres own analysis, the new demand projections would indicate that the project had negative net benefits (ie, was more costly than the alternatives).

Fuel Price Escalation Rate: Acres assumed that there would be constantly rising fuel prices through 2010 reflecting the constantly increasing cost of the world price of oil. The Acres projection called for real (adjusted for inflation) price increases of 2.6%/year to 2000 and 1.2%/year to 2010 (Attachment A). The "sensitivity analysis" shows that a 0% real rate of fuel price increase yields a negative net benefit in excess of $1 billion. The Alaska Department of Revenue projects a negative (declining) real price of oil throughout most of this decade and does not anticipate positive real price increases anywhere near as great as the Acres base case assumed.

Again, using Acres own analysis, it is apparent that the project would cost more than the alternatives.

Outdated Revenue Projections/ Multi-Billion Dollar Subsidies: The Energy Program for Alaska was conceived of in a time of upwardly spiraling revenues; before the collapse of the world oil market. Superabundent revenues are clearly no longer available (Attachment E) yet the financing scheme proposed by HB 121 presumes the availability of $2.3 billion in grants for the project in order to make the project's cost of power artificially competitive with the less expensive alternatives. Acres/APA acknowledges that Susitna power (at 30¢/kwh) will cost more than twice the alternatives (at 14.5¢/kwh) when/if it is brought on line as scheduled in 1993 (Attachment E). The alternatives will continue to be lower in cost until well into the next century.

Tax Exempt Financing: Acres assumed that the project could be built with tax exempt bonds. This assumption has been questioned by, among others, the APA's own bond counsel (Acres: Task 11/January 1983, pp. 11-13).

General Comment: It is especially noteworthy that the Alaska Power Authority Board of Directors never endorsed the conclusion that the Susitna project was the most attractive electrical alternative for

thr Railbelt. At least until the APA Board formally adopts that position, it would be premature for the Legislature (with vastly less information and understanding) to do so.

The Feasibility Study should not be endorsed in the absence of such action on the part of the APA Board or without a formal reconsideration and economic reevaluation of the project in light of present economic realities.

Issue — Approval of the "Plan" of Finance

There is, in fact, no "plan" per se, but rather a vague set of options that have been proposed (Acres: Task 11/January 1983). These proposals call for multi-billion dollar grant subsidies with some sort of complimentary bonding — revenue bonds? G.O. bonds? "double barrel" bonds? There is no plan, just several nebulous scenarios.

What is being sought (in the form of approval of the so-called plan) is an open-ended commitment to multi-billion dollar subsidies. That's the plan.

The most basic issue raised by this aspect of the proposed legislation is: how does this finance "plan" approval relate to the other companion proposals: $2.3 billion subsidy grants (HB 121) and $5.4 billion "double barrel" bonding (HB 122)? What specifically is being contemplated?

General Comment: A proposed plan of finance should be very specific as to the marketing of power and power sales agreements. The object is, of course, to avoid a situation like Lake Tyee where we have a $120 million project and no takers ($82 million in State appropriations, $50 million in short term debt). The APA charged ahead with the 20 MW Tyee project without power sales agreements with Wrangell and Petersburg. Now nearly completed (with $10 million cost overrun), the two communities don't want the power because it would cost significantly more than oil-fired electricity (even with about 70% grant financing).

The "Plan" of Finance (Task 11) is very vague on the relationship of power sales agreements and State expenditures and bond financing. It is absolutely critical that this relationship be clear and explicit. Power sales contracts (take-or-pay) should be an absolute prerequisite to any State expenditures on the project.

HB 121/ CONSTITUTIONAL AMENDMENT AND $2.3 BILLION SUBSIDY FUND: ADVISORY VOTE

Issue — Constitutional Amendment

One can wonder whether the framers of the Constitution would approve of an amendment to the Constitution to secure a single capital project.

Issue — Advisory Vote/Costs and Public Education

It is estimated that a special statewide election would cost about $1 million.

It has been well documented that people generally don't have even a remote idea of what the project would actually cost. The recently released Dittman poll showed that while people were mostly supportive of the project, 53% didn't have any idea as to what the project would cost while 71% either didn't know or thought that it would cost less than $500 million. The acknowledged nominal (as spent) cost of the project is $10-15 billion excluding finance charges or the possibility of cost overruns. (A cost overrun the same size as experienced on the Tyee project — 9% — would amount to about $460 million).

Certainly any popular vote or advisory vote should be preceeded by an objective and impartial educational effort designed to inform people about the true costs of the project (Attachment E). If billions are to be allocated to Susitna, as proposed by HB 121, the decision should be carefully considered in light of the opportunity costs. Susitna subsidies threaten the loan programs, municipal revenue sharing, Permanent Fund dividends, education funding, property tax relief, and would likely force the return of the personal income tax. These are the true costs of Susitna that nobody is talking about.

HB 122/DOUBLE BARREL BONDING

Issue — Change in APA Statutes/Public Vote on Susitna Bonds

Current APA statutes (AS 44.83.130(b)) expressly disallows the APA from engaging the State's credit in its bonding efforts. HB 122 would empower the APA to put the "full faith, credit and resources" of the State behind $5.4 billion of revenue bonds making them virtually indistinguishable from general obligation (G.O.) bonds. (Revenue bonds backed up by the State's general obligation are "double barrel" bonds). The basic issue to be addressed is whether the Susitna project justifies exemption from the explicit blanket prohibition to engage the State's credit.

The fiscal implications of this matter are profound. If the APA were to be empowered, by a public vote, to issue "double barrel" bonds in the amount of $5.4 billion the entire credit of the State would be at risk. It is a near certainty that that the public has little understanding of the issue and could well, in complete innocence, give over this power to the APA on the basis of a shallow understanding based on the pro-Suitna propaganda campaign.

Giving the APA autonomy to put the State into significantly greater debt is inadvisable in light of the State's presently precarious

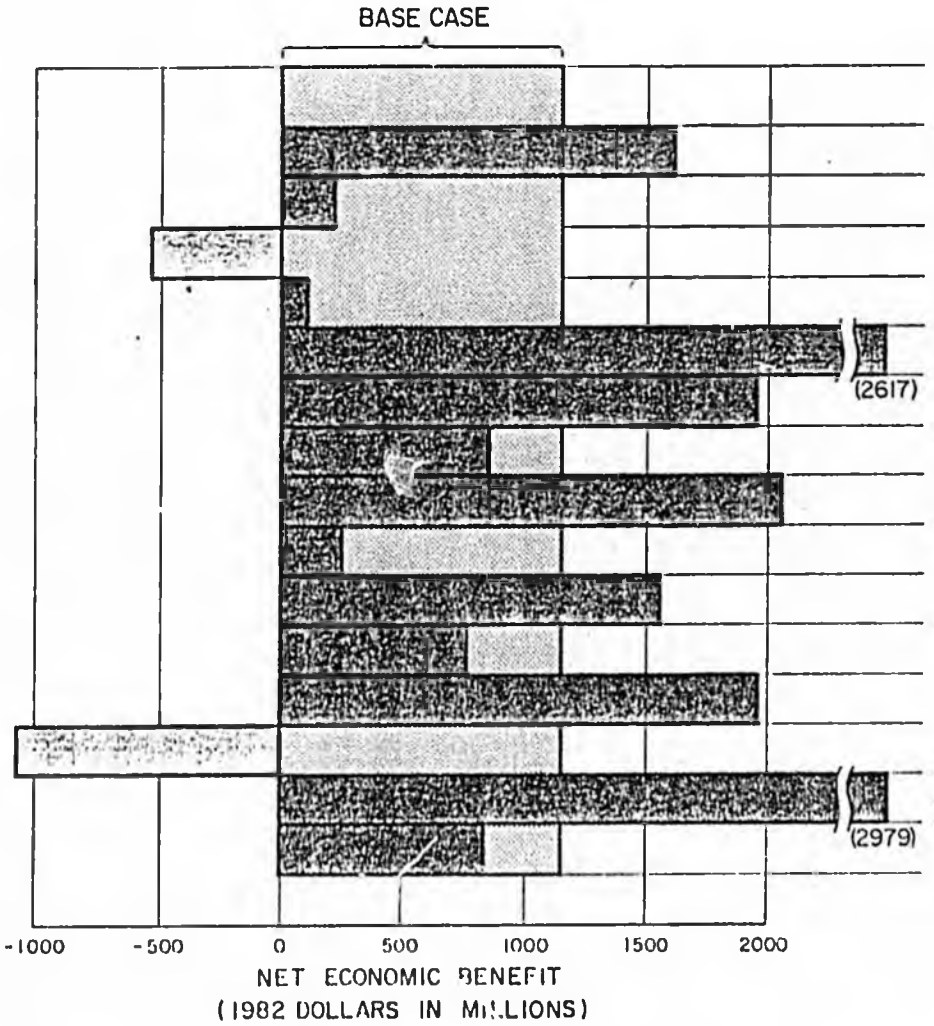
debt situation with what is perhaps the highest per capita debt for any state in the nation (Attachment G).

Again, if this measure is adopted there had better be some provision for a dispassioned educational effort in order to inform the public what the credit risks and opportunity costs are all about.

Moreover, the APA's own bond counsel has advised that if "a major portion of (Susitna's costs) were met from State G.O. Bonds, Alaska's present double A ratings would be endangered" (Acres: Task 11/January 1983, p.12). The bond counsel has also stated that the State can "only 'safely' issue about $565 million (nominal dollars, using 8% inflation) G.O. Bonds during the period fiscal 1983-1990."* Finally, the bond counsel recommends that "to the fullest extent possible" The APA should use revenue bonds secured by income derived from participating Railbelt Utilities pursuant to long term power sales contracts" (emphasis added).

* Using the December 1982/30th Percentile Department of Revenue forecasts.

ATTACHMENT A



ELEMENT TESTED	BASE CASE VALUE
HIGH LOAD FORECAST (11,400 GWH IN 2010)	7,800 GWH IN 2010
LOW LOAD FORECAST (6,300 GWH IN 2010)	7,800 GWH IN 2010
5 % REAL DISCOUNT RATE	3%
4 % REAL DISCOUNT RATE	3%
2 % REAL DISCOUNT RATE	3 %
HIGH CAPITAL COST FOR ALTERNATIVE (20 % ABOVE ESTIMATE)	BATTELLE ESTIMATE
LOW CAPITAL COST FOR ALTERNATIVE (10 % BELOW ESTIMATE)	BATTELLE ESTIMATE
LOW SUSITNA CAPITAL COSTS (83 % OF ESTIMATE)	PROJECT ESTIMATE
HIGH SUSITNA CAPITAL COSTS (117 % OF ESTIMATE)	PROJECT ESTIMATE
ZERO CAPITAL COST ESCALATION	1.8 % / ANNUM
HIGH CAPITAL COST ESCALATION (3.6 % / ANNUM)	1.8 % / ANNUM
HIGH BASE COAL PRICE ($ 2.08 / MM BTU)	$ 1.43 / MM BTU
ZERO FUEL PRICE ESCALATION	2.6 % TO 2000 1.2 % TO 2010
HIGH FUEL PRICE ESCALATION (5 % TO 2000, 2.2 % TO 2010	2.6 % TO 2000 1.2 % TO 2010
CHAKACHAMNA ALTERNATIVE	ALL THERMAL PLAN

PLATE 24 | **SENSITIVITY ANALYSIS**

ATTACHMENT B

TABLE 5.6: ISER 1980 RAILBELT REGION LOAD AND ENERGY FORECASTS USED FOR GENERATION PLANNING STUDIES FOR DEVELOPMENT SELECTION[5]

	LOAD CASE											
	Low Plus Load Management and Conservation (LES-GL Adjusted)[1]			Low (LES-GL)[2]			Medium (MES-GM)[3]			High (HES-GH)[4]		
Year	MW	GWh	Load Factor	MW	GWh	Load Factor	MW	GWh	Load Factor	MW	GWh	Load Factor
1980	510	2790	62.5	510	2790	62.4	510	2790	62.4	510	2790	62.4
1985	560	3090	62.8	580	3160	62.4	650	3570	62.6	695	3860	63.4
1990	620	3430	63.2	640	3505	62.4	735	4030	62.6	920	5090	63.1
1995	685	3810	63.5	795	4350	62.3	945	5170	62.5	1295	7120	62.8
2000	755	4240	63.8	950	5210	62.3	1175	6430	62.4	1670	9170	62.6
2005	835	4690	64.1	1045	5700	62.2	1380	7530	62.3	2285	12540	62.6
2010	920	5200	64.4	1140	6220	62.2	1635	8940	62.4	2900	15930	62.7

Notes:

(1) LES-GL: Low economic growth/low government expenditure with load management and conservation.
(2) LES-GL: Low economic growth/low government expenditure.
(3) MES-GM: Medium economic growth/moderate government expenditure.
(4) HES-GH: High economic growth/high government expenditure.
(5) Excludes reserve requirements. Energy figures are for net generation.

Source: Acres (1982) Vol. 1 Section 5.

ATTACHMENT C

Revised Moderate and Low Case Electricity Forecasts, Railbelt

	Revised Annual Energy[a] (GWh)		Old Annual Energy (GWh)	
	Moderate	Low	Moderate	Low
1980	2551	2551	2551	2551
1985	3000	2560	3136	3028
1990	3391	3001	4256	3853
1995	3884	3164	4875	4063
2000	4010	3106	5033	3988
2005	4319	3332	5421	4278
2010	4986	3844	6258	4936

	Revised Peak Demand[b] (MW)		Old Peak Demand (MW)	
	Moderate	.ow	Moderate	Low
1980	531	521	521	521
1985	615	525	643	621
1990	701	621	880	797
1995	791	652	993	837
2000	810	673	1017	815
2005	870	678	1092	870
2010	1003	780	1259	1001

(a) Revised downward based on low case annual consumption of 9.84 MWh per capita and moderate case annual consumption of 10.40 MWh per capita in the year 2000. See Appendix B, Tables B.3, B.4, B.12, and B.18. Other years consumption reduced proportionately. 1985 figures was adjusted upward judgmentally for moderate case; 1985-1995 adjusted upward for low case.

(b) Based on the ratio of peak demand to annual energy from Appendix B, Tables B.12 and B.18.

Source: Battelle NW (1982)

ATTACHMENT D

MODERATE DEMAND

PROJECTED ADDITIONAL CAPACITY NEEDS

FOR THE RAILBELT

(megawatts)

Year	Existing Installed Capacity [1]	Projected Peak Demand (w/ 30% RSRV) [2]	Required Additional Capacity
1985	1154 MW	690 MW	0 MW
1990	1242	911	0
1995	1095	1028	0
2000	853	1053	200
2005	610	1131	521
2010	577	1304	727

[1] Ebasco (1982): Assumes already planned additions of 158.4 MW of gas turbines in 1982 and Bradley Lake at 97 MW in 1988 with a capacity retirement schedule for existing plants from Acres (1981).

[2] Battelle (1982/revised): Moderate Growth Case with 30% reserve margin.

ATTACHMENT E

IMPACT OF SUSITNA SUBSIDY SCHEME
AS PROPOSED IN HB 121
ON AVAILABILITY OF STATE REVENUE

CONSTANT DOLLARS
(adjusted for inflation, in millions)

Fiscal Year	General Fund Unrestricted Revenue	Operating Budget (est.)	Surplus Revenue Available	Susitna Grant Subsidies (HB 121)
1982	3674	1600	2074	-
83	2990		1390	-
84	2329		729	230
85	2254		654	230
86	2314		714	230
87	2241		641	230
88	2341		741	230
89	2259		659	230
90	1989		389	230
91	1716		116	230
92	1558		-	230
93	1375		-	230
94	1260		-	-
95	1145		-	-
96	1024		-	-
97	989		-	-
98	959		-	-
99	957		-	-
2000	950		-	-

Note:

General Fund Unrestricted Revenue projection is net of legally required Permanent Fund contribution. Projection by Department of Revenue (February, 1983).

ATTACHMENT F

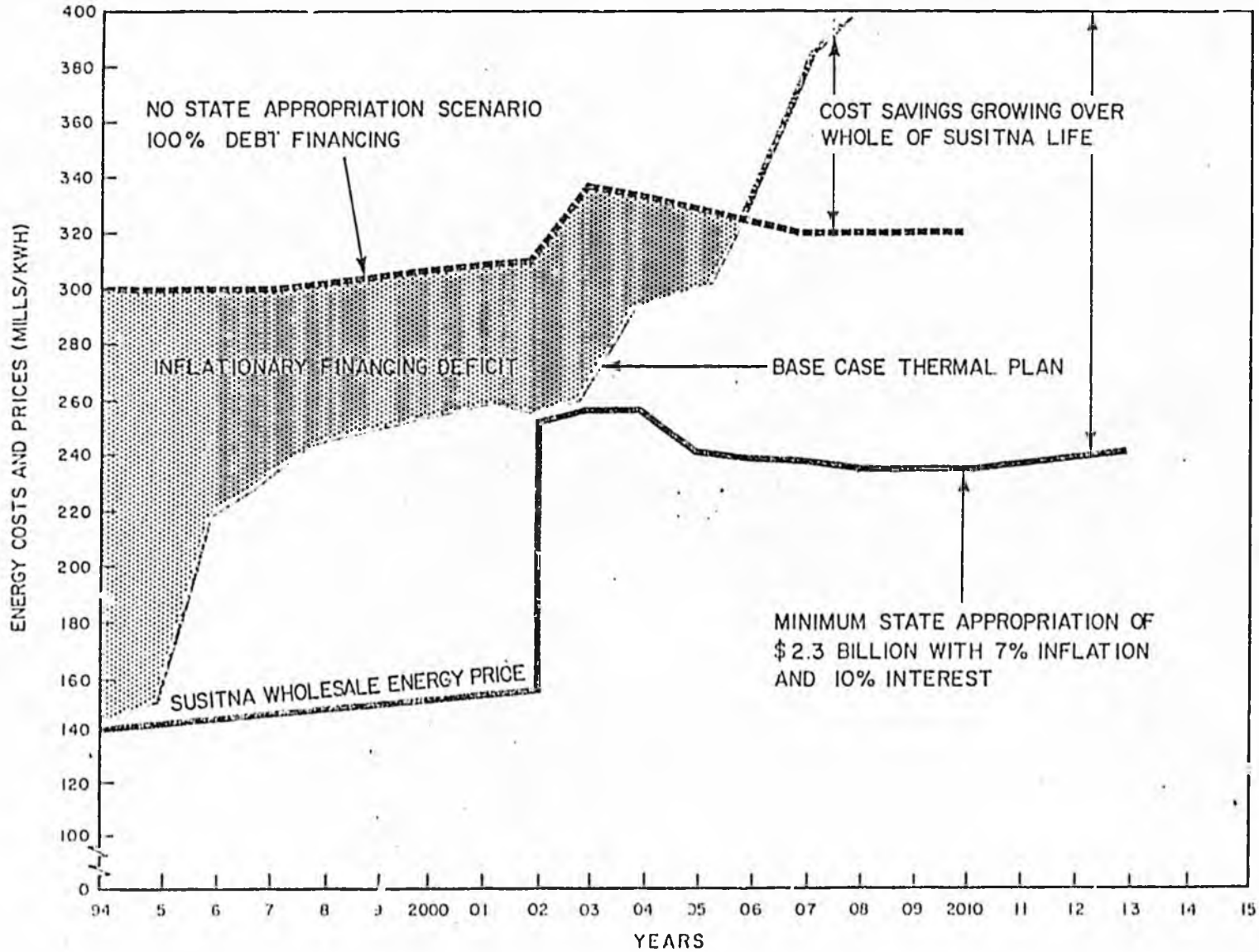


PLATE 26 | ANNUAL COST COMPARISON

ATTACHMENT G

SEATTLE BUSINESS JOURNAL February 7, 1983

STATE DEBT

State	Net Tax-Supported Debt (millions)	Per Capita
1. Alaska	$1,045	$2,610
2. Hawaii	1,424	1,476
3. Delaware	581	977
4. Connecticut	2,132	686
5. Maryland	2,851	676
6. Massachusetts	3,355	567
7. New York	9,300	557
8. West Virginia	991	508
9. Louisiana	2,116	503
10. Vermont	241	472
11. Washington	1,645	398
(National median)		203

Western States	Per-Capita Debt
Alaska	$2,610.43
Hawaii	1,476.49
Washington	398.36
New Mexico	202.67
Oregon	131.18
California	108.79
Utah	106.85
Montana	99.04
Idaho	21.90
Arizona	19.60
Wyoming	7.07
Colorado	0.28

(Information provided by Moody's Investors Service municipal department as of Feb. 26, 1982)

Alaska Environmental Lobby, Inc.
419 6th Street, Suite 328 Juneau, Alaska 99801 907-586-2345

17 February 1983

TO: Representative Mitch Abood
Chair, State Affairs Committee

FROM: Eric F. Myers, AEL Energy Specialist

I would like to offer my formal comments on the legislation you are now considering related to the proposed Susitna hydroelectric project. Some of the oral testimony I gave yesterday, particularly observations on the history and evolution of the so-called Energy Program for Alaska, are not reflected in these written comments to a great extent. You will find, however, that the specific concerns I raised about the proposals before you (HB 120,121, 122) are addressed in the attached issue paper. I hope that you will find these comments useful.

As I am sure you appreciate, the Susitna issue is enormously complex and multi-faceted. My comments — particularly those concerning the adequacy of the feasibility study — reflect an effort to summarize a great deal of data. If you have any questions about these comments, I would welcome the opportunity to meet with you or your staff to consider these issues in detail.

I have also attached two other reports which should be of use to the Committee in its consideration of this issue:

Alaska Energy Planning Studies, Policy Analysis Paper No. 82-13, Division of Policy Development and Planning (November 18,1982). This report prepared by the University of Alaska's Institute of Social and Economic Research, is a review of the three major energy studies (Acres; Battelle, Long Term Plan) and deals extensively with the Acres American feasibility study. The report is particularly useful in its analysis of the critical role played by key assumptions (eg., discount rates, fuel escalation rates, demand projections) in the Acres feasibility study which led to the questionable assumption that Susitna is the most attractive Railbelt power option. Again, it is particularly noteworthy that the Alaska Power Authority Board of Directors has not endorsed the Acres study conclusion.

State Spending and the Alaska Economy, by Gregg K. Erickson and Thomas O. Singer. An issue raised in the testimony yesterday concerned the recent surge in power demand currently being experienced by Railbelt utilities, relative to expected long term demand growth rates. Electricity demand is a function of population growth, employment, economic activity, disposable income, etc. The recent high growth rates (1982) for electricity can be understood in this context as a reflection of the massive State expenditures of the past few years. The Cash on

the Street analysis shows how the large State appropriations of the past — loan programs, capital projects, public works, etc. — have been working through the appropriations process and "on to the street" and generating the currently "boom" economy that we enjoy. As I am sure you are aware, this is particularly the case in Anchorage where there is a big building spree on at present. The significance of this analysis, with regard to electrical demand, is that in the near future (5-10 years) we can expect significant increases in electrical demand as a consequence of State spending trends. We can also expect those same short term trends to drop off dramatically with the down turn in revenues and spending. It would be especially unfortunate if the abberant demand growth rates we are experiencing presently were mistaken for anything but a temporary circumstance. A few years back the Pacific Northwest, as a result of a percieved need for massive additional capacity, embarked on the WPPSS ("woops") debacle. That region now faces what is recognized by observers such as Business Week to be "the biggest (default) in municipal bond market history." About $7,000,000,000 in bond repayments.

In reflecting on my testimony of yesterday, I would like to once again highlight what I see as the most critical issue underlying the Susitna debate. As I said yesterday, it is not whether you are "for" or "against" the Susitna project but, rather: "How can we provide responsibly for the reliable anticipated increases in Railbelt electrical demand?" The advocates of Susitna Power Now! presume to be able to predict with certainty the events of 50 to 100 years in the future. I do not share their confidence. And with upwards of $15 billion involved, gambling of such a magnitude should, I feel, be discouraged.

This is particularly true in light of the revenue picture. The Energy Program for Alaska, with its multi-billion dollar subsidy financing proposal for Susitna, is a legacy from the past when revenues were coming into the State treasury faster (almost) than we could spend them. The "problem" in those days was how to spend money creatively. Now we are being forced to reckon quite soberly with frugality. It is my hope that the House State Affairs Committee and the Legislature as a whole will embrace this responsibility and look very closely at the fiscal impacts of the proposed subsidy scheme. Are the people of Alaska willing to give up the Permanent Fund Dividend Program, cut back on education, do without sewer, water and road improvements, pay income taxes? These are the true costs of Susitna; the questions few are willing to talk about.

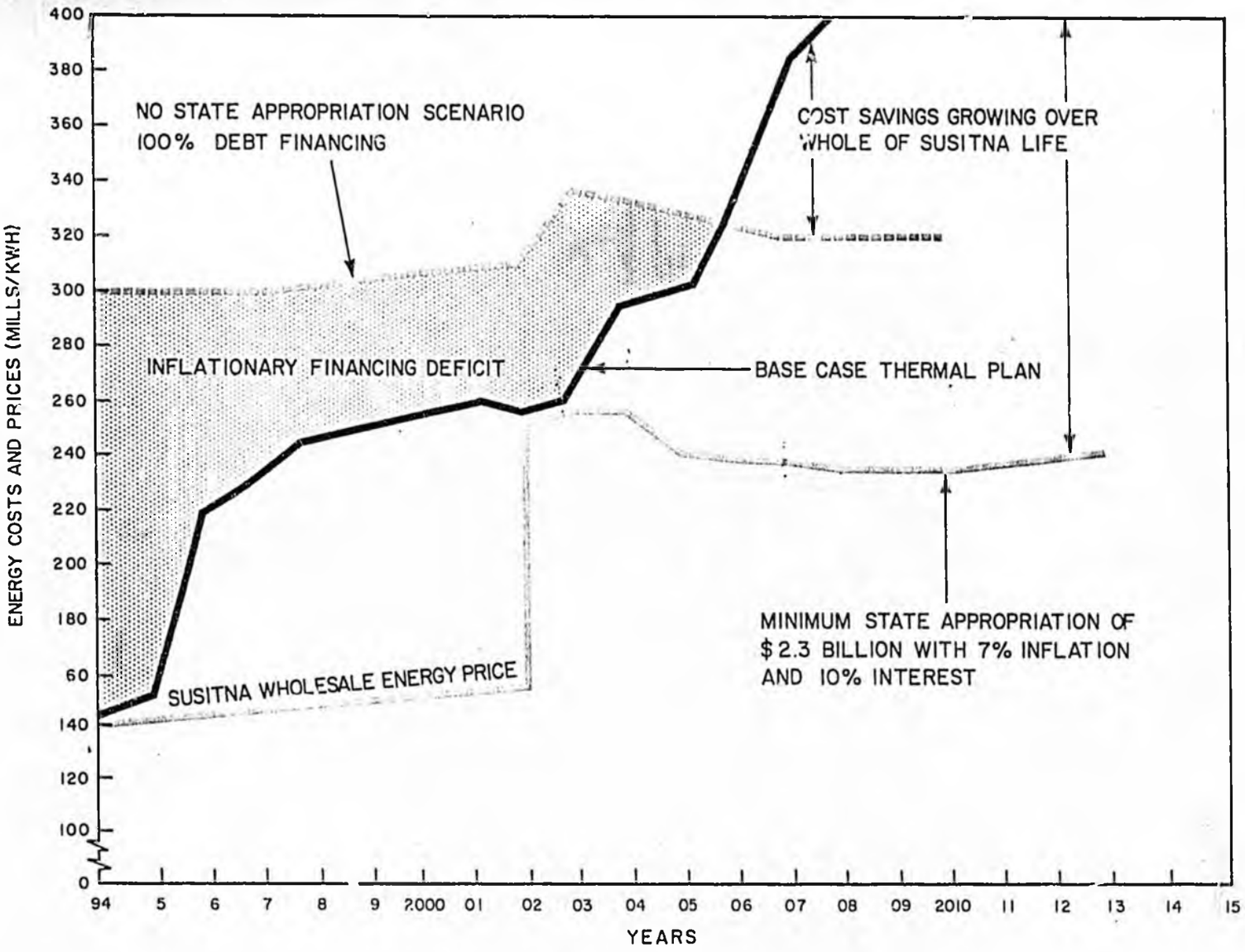


PLATE 26 | **ANNUAL COST COMPARISION**

Follow-up to Hutchin's "you don't understand..."

You understood exactly. Moreover, Hutchins' theory of "rolling in" rural projects is bullshit!

1) Anchorage people are not going to support a rural project that raises their rates (the effect of a rollin)

2) Rural projects are not capital intensive. The "energy program for Alaska" only applies, by its nature, to capital-intensive ones, not ones that use fuel.

Can his firm sign power contracts. If so sure of economics, etc, would they be willing to sign such an open power contract at this point?

Anc — Bob Penny - Anc
Mike Fenwick IBEW
Wayne Beckwith.
Tom Starr load projections

Fenwick: job market will be significant
people will come from all over the state
"capability of training"

Beckwith: gas:
Coal:

Starr — load growth +12% annually

Fai

Dave Lacy: unfair

Mike Kelly. GVEA Board supports it
.30/kwh

Betty Huffman. Bob Huffman

Jeff Wilson

Valdez — Barney Maring - Valdez Chamber of Commerce

Anc — Jim Stark
Investment in future of Alaska

Judy Zemike - AEC

Talkeetna — Larry Roberta Sheldon: not Susitna, Chakachamna

Jnu Ken Kasner: Nor Pacific Fisheries Assn Homer
protect ability fisheries

Anc Jeff Eustes - self
smaller projects as they are needed
Marketability test - not speculative
constitutional intent

Chris
attract outside capital
"Susitna blackmail"
"what do you do for rural Alaska?"

Jnu Frank Mullen. United Cook Inlet Fishermen
almost same as Kasner

DLG Gusty Tunugen. No to 120, 121, 122

Jnu Dave Hutchens Alaska Rural Electric Cooperative Assn
14 Alaska
① load growth 3½% / yr 7-12% ∴ 5%
② projected cost credible?
③ consumer benefit

double barrel bonding revenue + GO bond
④ what about rural areas?

housing
Fishing
Docks/Harbors
Airports

Anc Gilbert Susitna Valley
individual
Grant financing
against advisory vote

Chugach Electric Association
Talkeetna: Suzy Keller: [against]

HB

122

POLICY ANALYSIS PAPER NO. 82-13

Alaska Energy Planning Studies

A review of three consultant studies
submitted to Alaska state agencies
in fiscal-year 1982

November 18, 1982

STATE OF ALASKA

OFFICE OF THE GOVERNOR

Division of Policy Development and Planning

POUCH AD

JUNEAU, ALASKA 99811

(907) 465-3577

POLICY ANALYSIS PAPER NO. 82-13

Alaska Energy Planning Studies

A review of three consultant studies
submitted to Alaska state agencies
in fiscal-year 1982

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ALASKA ENERGY PLANNING STUDIES
A review of three consultant studies submitted to Alaska state agencies in fiscal-year 1982

for Division of Policy Development and Planning
Office of the Governor
State of Alaska

by Arlon R. Tussing

and

Gregg K. Erickson

INSTITUTE OF SOCIAL AND ECONOMIC RESEARCH
UNIVERSITY OF ALASKA

4 November 1982
(supersedes all previously-dated drafts)

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ALASKA ENERGY PLANNING STUDIES

Introduction and Summary

Introduction. During the first half of 1982, Alaska state agencies received three major energy-policy reports they commissioned in 1980 and 1981. The fir t of these is the second annual "Long Term Energy Plan" mandated by the Legislature.[1] Two others specifically address issues raised by the proposed Susitna hydropower project (hereinafter the "Acres" and "Battelle" repo'ts).[2,3]

Unfortunately, these newly-delivered reports are already largely obsolete.

Their critical assumptions regarding price trends for various fossil fuels, the growth of population and economic activity in Alaska, and the resulting growth of energy demand in the state, are based upon a conventional wisdom about future energy prices that subsequent experience has made nearly untenable.

The Division of Policy Development and Planning (DPDP) of the Governor's Office engaged the University of Alaska Institute of Social and Economic Research (ISER)[4] to review the three study reports and to identify and discuss those areas that are central to the reports' conclusions, particularly with regard to investment in new electrical-generation facilities in Alaska's "Railbelt" (roughly the corridor from Fairbanks through Anchorage to the Kenai Peninsula).

Readers should be aware that this paper is only a **review** and not intended as a successor to or substitute for any of the existing studies. The following pages are intended to cover a few crucial issues in sufficient depth to determine whether or not the reports make a solid case for their findings. In large, the answer is "no", but any new recommendations about an optimum energy-development strategy will have to await a new study or amendment of one of the existing studies.

Summary. Briefly, the findings of this review are that:

1. World Oil Prices and Alaska Energy Demand. The dramatic change in oil-price expectations since 1980 calls for reconsideration of the levels of Alaska economic activity and energy demand assumed in the Acres and Battelle studies, and to a lesser extent in the Long Term Energy Plan.

2. Alaska Coal and Natural-Gas Supply. The assumptions in the Battelle and Acres studies concerning the prices and availability of Alaska coal and natural gas for local electric power generation are not well supported.

3. Capital-Market Conditions. Recent high interest rates and capital-market conditions not dealt with by the contractors cast serious doubt on the Acres and Battelle conclusions regarding the risks, costs, and financing arrangements of the Susitna hydroelectric project, and with respect to capital-intensive energy-supply projects generally.

4. Implications for Susitna. Findings 1-3 imply significantly less favorable conclusions from those of Acres and Battelle regarding the relative economic attractiveness of the Susitna hydroelectric projects for serving electricity demand in the Railbelt region.

5. All of these findings point toward a conclusion that now is not the time for major initiatives in publicly financed power development in Alaska.

Despite the erosion of some of their fundamental assumptions, the analytical framework and much of the data presented in the reports remain useful --- even essential --- to evaluating Alaska's choices with respect to the Susitna project in particular, and energy issues in general.

Background to the Studies

Energy looms bigger in Alaska's public-policy deliberations than in any other state. Elsewhere --- even in states with a history of economic activism, like Wisconsin or California --- no one would consider as even plausible a scheme to invest public funds equivalent to two or three times expected annual state tax revenues (or about $15 thousand per capita) in all energy ventures as a class, let alone to devote such funds to a single electric-power generation project like Susitna.

Nor would the legislature of any other state countenance anything remotely similar to the energy-cost subsidy programs that Alaska now has on its books --- programs which in Fiscal-Year (FY-) 1983 can be expected to account for more than one-sixth of the state budget.[5] The sources of this unique perspective on the state's role in energy policy are not the focus of this review, but they surely include the fact that oil production has --- almost painlessly --- put unprecedented fiscal resources at the command of state policy-makers.

Regardless of its origins, the deep involvement of Alaska state government in energy decisions that would be left to the private sector in any other state has evoked a demand for information and analysis on an awesome range of engineering, economic, and financial topics. Because the responsible state agencies (including the legislature and the governor's office) do not have the experience or staff to assemble this information, evaluate it critically, or assimilate it effectively, they have had to depend on outside consultants to generate and process the relevant data, propose policies and programs, and monitor them.

The legislators and executive-branch officials who promoted and authorized these three studies viewed them as complementary to one another --- overlapping in places so that decision-makers could view

certain crucial issues from more than one perspective but, on the whole, dealing with different aspects or segments of an interrelated whole. These officials expected that, together, the various reports would put the decisions they had to make in some kind of rational order, and resolve some of the uncertainties they faced in making these decisions. One hope, for example, was that rigorous engineering and economic analysis by nationally renowned experts would give them objective and politically acceptable answers, for each of the state's regions, about ---

1. The amount of electrical-generating capacity Alaska would need over the next two decades;

2. Which generation technologies and/or specific generating projects would be most cost-effective; and

3. What was the optimum strategy for financing the chosen investments?

Most of the information sought from these three studies is clearly relevant to the issues the state intended to address. And, although the quality of the three reports varies widely, as a group they present the bulk of the requested information --- in one place or another --- in a professionally competent fashion.

Nevertheless, these studies, together with the march of events since they were commissioned, have conspired to leave the responsible state officials facing even more uncertain and contradictory signals than when the various studies were commissioned.

The Three Studies

Acres' study of the Susitna hydroelectric project. The Feasibility Study of the Susitna Hydroelectric Project prepared by Acres American Inc. was conceived as a detailed examination of the technical and economic feasibility of the the proposed project. In addition, it was to provide searching analyses of the project's environmental and social impacts. The studies leading up to the report were carried out over a two-year period at a cost to the state of nearly $40 million. The report itself is organized in three hierarchical tiers, a Summary Report of 56 pages, a main report titled Draft Susitna Hydroelectric Project Feasibility Report, consisting of three weighty volumes and four equally weighty appendices, and a multitude of "task reports" which, unlike the others, have not been widely circulated. Our review has focused on the Summary Report, volume 1 of the Feasibility Report, and the the Task 11 Reference Report: Economic, Marketing and Financial Evaluation.

The centerpiece of the Acres study is a "multivariate risk analysis", which uses the probabilities the investigators have attached to different assumptions about the key variables (fuel prices, construction costs, interest rates, etc.) to produce an array of economic judgments (about whether the Susitna projects are the least-cost approach to serving Railbelt electrical demand, for example) ranked by their respective probabilities.

Of the three works reviewed here, the Acres study deserves the greatest praise. Not only is it physically the largest, but it is also --- particularly in the Summary Report --- the most carefully and readably written. In most areas of interest a reader has the option of delving deeply or superficially, and in either case will usually find a clear and appropriately detailed explanation of the assumptions used, the evidence supporting those assumptions, and the methodology by which they were incorporated into the analysis.

The fact that the Acres report is analytically the most interesting of the three studies --- and will clearly be the most influential --- has caused us to devote more attention to it than to the others --- and to emphasize its failings. Readers should not be misled by this concentration. The methodology by which the Acres team evaluated the project's economic feasibility is elegant, and largely sound. While the report's errors come at sufficiently critical points to invalidate Acres' "bottom line", namely the economic ranking of the various electrical generation alternatives for the Railbelt, most of these errors are correctible, and Acres' general approach will survive them.

The Battelle "Alternatives" study. Both authors of the present review were professionally involved in the process that led to the choice of Battelle to conduct a Railbelt generation-alternatives study. This involvement gives them a special insight into what was expected of the study, but it inescapably colors their assessment of the work that resulted. Readers should be aware of this fact, and draw their own conclusions taking it into account.

The Battelle study has generated several documents, but we have reviewed only two of them here: Railbelt Electric Power Alternatives Study: Evaluation of Railbelt Electric Energy Plans (February 1982), and Railbelt Electric Power Alternatives Study: Fossil Fuel Availability and Price Forecasts. Although the former volume is labeled "comment draft", we understand that it is in substance the final report.

Because Acres and the other contractors were directed to use scenarios and vital assumptions from Battelle, we have dealt with the Acres and Battelle analyses of individual issues, like load forecasting and coal prices, in one place.

"The Long Term Energy Plan". In 1978, Alaska adopted legislation requiring the state Department of Commerce and Economic Develop-

ment, in conjunction with the Alaska Power Authority, to prepare an annual "long-term energy plan". The law (AS 44.83.224) mandates that the plan shall contain: (1) an "end-use" study of Alaska energy consumption, (2) a plan for meeting "projected energy needs", (3) a review of conservation efforts, (4) an emergency energy supply plan, and (5) a review of ongoing energy research. The Division of Energy and Power Development (DEPD) has been responsible for the preparation of both the 1981 and 1982 plans, but in both cases has made extensive use of contractors. The 1982 report was largely written under a $390,000 contract with the national accounting and consulting firm of Booz, Allen & Hamilton. However, the firm's name does not appear on the cover or in the introduction, and we do not know how much of the report's content and format should be attributed to Booz-Allen, and how much to the DEPD staff.

The 1982 report was designed, in its own terms, "to focus existing energy information to support current decision-making needs and to provide a sense of priority across state projects and programs."[6] The report is well written, contains few serious errors of fact or obviously faulty analysis, and provides the mandated "existing energy information" in a convenient format.

The "plan" does not fare well in its attempt "to provide a sense of priorities," however. With respect to the really tough social and political issues raised by Susitna and the state's hydropower program generally it largely leaves the field to Acres and Battelle; the Plan's treatment of the Railbelt hydroelectric construction proposals is confined to less than two pages of text. After urging the state to continue planning for Susitna, the report warns that the project's "impact may be to severely limit the consideration of less costly alternative Alaskan based resources such as coal or residual oil."[7]

In other areas, including the treatment of Alaska's complex system of energy subsidies, the authors develop an extensive and unique data collection, but seem reluctant to draw the prescriptive conclusions that clearly follow from it. Finally, many of the study's featured findings are pedestrian, for example the conclusion that "opportunities exist to increase the completeness and accuracy of Alaska's energy data."[8]

Some of these deficiencies are probably the result of the short time in which the state's contractor was required to produce a draft report. In one of their concluding sections the authors seem to recognize these shortcomings, proposing that next year's energy plan focus on developing a "strategic energy planning process." The discussion of how that might be accomplished is one of the most interesting in the entire report.[9]

The Conceptual Framework for Considering Electrical-Generation Alternatives for the Railbelt

The Acres report sets out most clearly the conceptual framework shared by all three studies. In the Railbelt, the key issue is to identify the combination of electrical generating facilities that is most likely to be the cheapest in the long run. The main choices are: (1) a two-stage strategy involving Susitna River hydroelectric power; (2) continued reliance mainly on gas-fired combustion turbines (either "simple-cycle" or "combined-cycle" plants), or on some combination of gas turbines and coal-fired steam plants; (3) and a combination of smaller hydropower facilities with thermal generation.

The crux of the economic comparison between Susitna and thermal generation is the comparison, over time, of hydro construction costs and thermal-plant fuel costs.

The chief hydroelectric option, which centers on the Susitna River projects, involves a relatively high front-end capital expense per unit of capacity but very low continuing costs for maintenance and operation. Combustion turbines, on the other hand, are relatively cheap to install per unit of generating capacity, and the cost of the electricity they produce is principally the cost of the natural gas used as fuel. Coal-fired steam turbines would be less capital intensive than hydro, and while they would cost considerably more to build per unit of capacity than gas turbines, they might still provide the cheapest base-load power if the price of coal (per unit of electricity generated) were sufficiently below that of natural gas.

Out of the many issues that are relevant to this choice, the present review focuses on the way the various reports deal with ---

a. Future world oil prices;
b. Future Railbelt electricity demand;
c. Future Railbelt fossil-fuel prices;

d. Construction costs for hydro projects;
e. The appropriate interest or discount rate; and
f. Risk and uncertainty regarding these and other issues.

The six issues fit together as follows:

(a) World oil prices will powerfully influence Alaska economic activity, and through it electricity demand, by determining state revenues from petroleum royalties and taxes, and thus state spending. Oil prices are also a major influence on Alaska economic development and thereby on electricity demand, by way of their impact on energy-related private investment --- in oil and gas exploration, coal export projects, the Alaska Highway gas pipeline (ANGTS), petrochemicals manufacturing, and the like.

World oil prices, moreover, may influence the prices of natural gas and coal for electrical generation in the Railbelt. Indeed, the Acres and Battelle analyses seem to treat world oil prices as the crucial force determining fossil-fuel prices in the region.

(b) Electricity load growth. Susitna generating capacity would be very "lumpy" as well as capital-intensive; additions would come in multi-billion-dollar packages or not at all. Gas-turbine capacity can be added in small increments, however, with coal-fired steam turbines and some smaller hydroelectric options falling between the Susitna projects and gas turbines in "lumpiness".

If projected power demand and demand-growth rates are high, they can be expected to liquidate any excess generating capacity rapidly; high load-growth forecasts therefore improve the prospective economic ranking of the Susitna projects, all other things being equal.

With low or uncertain load growth, however, the larger hydro projects pose a greater risk than do thermal plants that underutilization

of capacity would result in high unit costs for electricity. Thus, the risk of temporary or permanent overbuilding would be least in a strategy built around gas-fired combustion turbines, with the risks somewhere in-between for smaller hydroelectric projects and for coal-fired steam generation.

(c) Future fuel costs and (d) expected construction costs. In the framework described here, the comparison of electricity costs must focus most sharply on the cost of fuel for gas-fired combustion turbines, and on the original construction cost for the proposed hydroelectric plants. The relative cost of electricity from coal-fired steam plants will depend more on capital costs than electricity from gas turbines, but more on continuing operating (fuel) expenses than hydroelectric power.

Estimates of construction costs and future fuel costs are both subject to great uncertainty --- and the treatment of this uncertainty (f) below is itself a major issue in any comparison.

(e) Discount rates. Because the Susitna plants would be capital-intensive, long-lived, and take many years to build, the long-term cost of electricity from these projects would be highly sensitive to interest rates. This would be true whether the interest rates in question were the rates the state would have to pay to borrow for Susitna construction, or the rates it could have otherwise earned on money appropriated to build Susitna. The net benefit from the Susitna option is, therefore, most sensitive to the choice of interest rates used to "discount" future costs and benefits.

(f) Treatment of risk and uncertainty. The various factors that influence future Alaska economic activity and thus electricity demand (including but not limited to future world oil prices); Susitna and other generating-plant construction costs; future Alaska fossil-fuel prices

(which may or may not be closely linked to world oil prices); and future interest rates are all unknown today. Important assumptions that the analysts plug into their models are thus essentially guesses.

These guesses may be informed or ignorant, and insightful or obtuse, but their impact on the final comparison will reflect both the raw values assumed by the analysts, and the way in which the analysts deal with the risk and uncertainty that surround them. Subsequent sections of this review reveal considerable disagreement with some of the raw values Battelle and Acres have assumed in the studies, and the probabilities they have assigned to these values, but not with Acres' design and execution of the "multivariate risk analysis" used to integrate these assumptions.

Future Oil Prices

World oil prices and Alaska state revenues. From the standpoint of Alaska policy-makers, no aspect of the current scene is more confusing than the recent radical change in the the state's official oil-price forecasts, and the forecasts of state revenues that depend directly on oil prices.

> **This change in the oil-price outlook invalidates virtually every important economic and policy conclusion in the studies reviewed here.**

Between June 1980 and January 1982, the Alaska Department of Revenue's quarterly Petroleum Production Revenue Forecast predicted that nominal-dollar ("inflated") oil revenues would increase over the four years beginning on the forecast date at a compound annual rate between 12.2 and 25.8 percent. **In its March 1982 Forecast, the Department's three-year estimate of the expected annual change in state revenues fell abruptly to a negative 0.8 percent.**[10]

Specifically, the "most likely" projection in the March Forecast was that the weighted average wellhead value for Alaska North Slope (ANS) crude oil in fiscal year (FY) 1983 would be 29 percent lower than in FY-1982, and that world prices would then resume their nominal-dollar increase, at a compound annual rate of about 7 percent. Not until the beginning of FY-1987 did the Department expect prices to regain FY-1982 levels. With respect to constant-dollar ("real") oil prices, the March Forecast boldly reported "a consensus that oil prices will continue to fall,"[11] and projected declining real oil prices through 1998.[12]

> **The authors of the present review agree that world oil markets cannot sustain the level of prices reached in early 1981, and that prices in any given year during the remainder of the century are likely to be considerably lower in real terms than they are today.**

There was, however, no consensus on the long-term oil-price outlook that one could prudently rely upon last March, and none exists today.

What has happened, instead, is that the near-consensus which did exist at the beginning of 1981 has been shattered, namely the assumption that the long-term trend in oil prices was inexorably upward.

Abrupt changes in expectations have not been a problem unique to Alaska's official revenue forecasters; a review of the energy literature generally confirms that a widespread reevaluation began in late 1981 and early 1982. Few authorities any longer confidently assume that the energy-price increases of 1973-1981 will continue unabated through the rest of the Century, and an increasing number are suggesting, as the present reviewers have done since 1980,[13] that the price rises of the 1970's may never resume. The crude-oil price slump of late 1981 and early 1982, which few industry and government forecasters anticipated, drew attention to the difficulties of predicting energy prices, but is also pushing forecasters into a more general reexamination of both the demand and supply of petroleum, and the way in which they determine oil prices in the long run.

As late as September 1980, it was possible for Cambridge economist Nicholas Kaldor to write seriously that, " . . . OPEC changed everything. By cornering oil it managed to increase the price four-fold, then double it again, and presumably it could be doubled again, without any really serious impact on consumption." (emphasis added)[14] It is now clear that the world economy has a much greater capacity and willingness both to substitute other fuels for high-priced petroleum and to economize on energy generally than had been widely supposed. Over the past six months, virtually every published authority in the area of petroleum demand has radically altered its expectations regarding future U.S. and world petroleum demand.[15]

On the supply side, so much excess oil-producing capacity now exists that it is hard to contrive any scenario in which OPEC, Saudi Arabia, or anyone else, can long function as a "price-maker" in world oil markets. To the extent that there is any consensus about world oil markets among the experts today, the managing director of Royal Dutch-Shell summarized it well when he wrote that "we are in for a period of severe and unpredictable discontinuities."[16,17]

> **An advance draft of Tussing's "Reflections on the End of the OPEC Era", included as an appendix to this review, takes a backward look at the events that led most forecasters in the late 1970s to expect ever-increasing world oil prices, and the reasons such an outlook seems untenable today.**

Consequences for Alaska. These changes in outlook have extraordinary significance for Alaska, because its economy, like that of (say) Kuwait, is a net exporter (seller) of energy. Well over half of Alaska economic activity depends directly or indirectly on crude-oil production. The largest such influence operates directly through state oil royalties and production taxes, and if prices continue to fall, resulting reductions in state revenues will make it impossible for state spending to continue its new-found role as the main prop and guarantor of Alaska's economy.

Table 1 below compares the state's June 1981 and June 1982 forecasts.

> At the same time the Department of Revenue was reducing its revenue expectations generally, it also decided to emphasize the uncertainty of petroleum-price forecasts, and began highlighting its "30-percent" rather than its "expected value" series. The different percentage figure indicates the Department's judgment about the probability that actual revenues will be less than the figure shown.

Table 1

1982-Dollar Petroleum-Revenue Projections by the Alaska Department of Revenue, June 1982 vs June 1981

Fiscal Year	Oil and Gas Revenue ($ Millions)		
	June 1981 Forecast	June 1982 Forecast	
	"Expected Value"	"Expected Value"	"30%" Series
1983	4030	2654	2399
1984	4137	2657	2250
1985	4271	2623	2177
1986	4448	2953	2411
1987	4713	3305	2644
1988	4851	3196	2507
1989	4983	3365	2595
1990	4742	3095	2246
1991	4544	2714	1862
1992	4382	2477	1668
1993	3979	2285	1427
1994	3637	2149	1265
1995	3144	1826	1059
1996	2701	1622	936
1997	2289	1608	908

Alaska Department of Revenue, Petroleum Production Revenue Forecast, Quarterly Report, June 1981, p.13; June 1982, p. 18, Personal Communication, Charles Logsdon to Erickson.

In 1981, state and local government employment directly accounted for 21 percent of Alaska non-agricultural wage and salary employment.[18] State government expenditures, in turn, were 86 percent financed in FY-1982 by oil production revenue,[19] and Alaska local governments received about two-thirds of their revenues from the state government. State aid to the City and Borough of Juneau, for example, will equal 262 percent of local property tax revenues in FY-1983.[20] Much of the revenue received by several other local governments in Alaska, moreover, comes from direct taxes on oil industry activity and property.

These illustrations do not begin to encompass the indirect effect of expectations regarding future oil prices on the state economy. These expectations largely determine the level of private-sector investment in oil and gas, coal, and other energy-extraction, conversion, and transportation ventures; energy-industry service activity; and have an added "multiplier" impact on the Alaska economy via the income flowing from such investment activity into the trade, finance, and service industries. A large, if not precisely measurable, part of the present boom in the Anchorage area reflects private investment commitments made in 1979-1981 on the basis of a bullish outlook about future oil prices. This boom is unlikely to survive long once those expectations have been shattered or drastically modified.[21]

The situation is quite different for energy-importing states like New York or California, where a radical increase or decrease in energy prices would at the most, over the short run, cause no more than a three or four percent change in the major economic indicators such as employment, gross state product, or disposable income. In these importing regions, the dominant impacts of energy price changes will operate rather diffusely, through the influence of fuel prices on the real incomes of consumers, and through the impact of changed fuel prices on production costs, and thereby on prices, sales, and profits in manufacturing, transportation, and commerce. In Alaska, the potential response is an order of magnitude larger, and is dominated by impacts on employment and population that flow directly from the primary role that petroleum production and state government spending (89 percent supported by petroleum production) play in the regional economy.

Load Forecasts

The studies reviewed here pay close attention to the usual income and price-factors that affect energy demand, and carefully evaluate the impacts of different oil price scenarios on the electrical-power costs implicit in various energy development schemes. But remarkably, they largely ignore the possibility of a major decline in oil revenues, and the direct effects such a decline would have on the Alaska economy. [22]

The Battelle reports base their forecasts of energy demand on scenarios and econometric modeling studies generated by ISER in 1980 and 1981, using its Man-in-the-Arctic (MAP) model. Acres' growth scenarios are, in turn, adapted from those of Battelle, and the Battelle reports provide the clearest explanation of the economic-development and state spending assumptions that went into the forecasts of Alaska Railbelt economic activity. Battelle offers five "scenarios", ranging from "low" to "superhigh", and a sixth scenario (tagged "fiscal-crisis") which shows very high spending in the 1980s, followed by a drastic decline in the 1990s.

The "moderate-growth" case. Battelle's "moderate" case (which the report defines as having a 50-percent probability of being exceeded) shows population in the Railbelt growing at a compound annual rate of 2.15 percent.[23] This scenario is powered by assumptions that state spending will increase from the FY-1981 level (when general-fund appropriations were about eleven thousand dollars per capita) proportionally with per-capita personal income, that the Alaska Highway gas pipeline (ANGTS) will be under construction by 1983,[24] that the PacAlaska LNG project will come on line between 1985 and 1987, that a 100,000-barrel per day refinery will be built in Valdez, and that 7 billion barrels of oil will be discovered and developed on federal outer continental shelf (OCS) acreage leased through 1989.[25]

The Acres study adopts the Battelle load-growth scenarios[26] with some modifications, which are not always described in sufficient detail to allow critical examination. Acres summarizes the outcome, however, as follows:

> *Between 1981 and 2010, the mid-range forecast suggests that electrical and energy demand will grow at an annual rate of about 3.5 percent, with the high and low range limits at about 4.6 percent and 2.8 percent, respectively. . .*
>
> *Under the mid-range forecast, currently scheduled additions are sufficient until 1993 to meet rising demand as well as to replace aging units which must be retired. Between 1993 and 2010, about 1400 megawatts of capacity must be added to the system to meet additional demand as well as to replace aging units.*[27]

The "low-growth" case. The Battelle report states that there is only a 5 to 10-percent chance economic activity will at any point dip below the values projected in the "low-growth" scenario.[28] A review of Battelle's assumptions underlying this boundary case show population increasing at a compound rate of 3.4 percent in the 1980-1985 period,[29] and constant per capita state spending (based on the exceedingly high FY-1981 base) and construction of ANGTS, but with a lower level of offshore oil activity and no Valdez refinery or Cook Inlet LNG plant.

None of Battelle's moderate-case assumptions, as listed above, now appears likely to materialize. The gas pipeline has, for example, been put on indefinite hold; with the most optimistic outlook, construction could not get under way before 1985 at the earliest. The Valdez refinery project was scuttled about a year before the Battelle report was delivered (and never did achieve much credibility among petroleum experts).[30] And Battelle itself has elsewhere virtually written off the LNG project.[31]

The most stunning discrepancy between Battelle's assumptions and what now seems realistic concerns the state government budget. Even

in Battelle's low-growth scenario (given the low-case population growth projections), total state spending in FY-1985 would have to be in the neighborhood of $4.3 billion.[32] However, state appropriations for FY-1983 were only $2.7 billion, or $6,590 per capita, a fall of 45 percent from the previous year's peak and about 27 percent less than the low-case figure used by Battelle. The Division of Legislative Budget and Audit expects that even this spending reduction will leave the state budget with a deficit of $400 million relative to projected revenues.[33]

As we noted previously, the state's official March 1982 forecast expected real prices to remain below their FY-1982 levels through FY-1998. Total petroleum-production revenues projected for FY-1985 were $2.8 billion.[34] If non-petroleum revenues add another half billion dollars, the state would have $3.3 billion to spend in FY-1985. The "low-case" population estimate therefore means that $3.3 billion is $6,952 per capita, or only about three-fourths of the figure implied by Battelle's "low-case" assumption that state spending will remain at FY-1981 levels.

In short, the median, "most-likely" revenue projections of the state's Division of Petroleum Revenue imply a level of state spending that is far lower than, and inconsistent and incompatible with, even the "low-case" boundary conditions assumed in the Battelle analysis of electricity demand and the Acres analysis of Susitna feasibility. None of the contractors has used the model to beget a scenario given by falling real prices for crude oil, but it is clear that oil-price declines of the magnitude implicit in the state's most recent revenue forecasts would, if cranked into the model, result in demand-growth projections below those of the most pessimistic cases considered by either Acres or Battelle.

We have not calculated the quantitative effect on Alaska's economy of these actual and projected changes in state spending, the

stalemate and possible demise of ANGTS, or the bleak outlook for other large capital projects (including, by the way, Susitna) whose construction lies explicitly or implicitly behind the load forecasts.

Clearly, however, a realistic, up-to-date view of state revenues and private-sector investment plans implies a "most-likely" future in which electricity demand will be lower than the lowest case postulated by Acres or Battelle.

Lessons for the future. Predicting future economic activity is and always has been a tricky business, and Alaska's thin, open economy makes it exceptionally so. Recent Alaska electrical load forecasts have consistently overestimated the growth of demand --- **even without the kind of downturn in Alaska economic activity that is likely to proceed from the current oil-price slump.** In 1977, ISER forecast that state electricity consumption would grow between 1974 and 1980 at an annual rate of nearly 12 percent, with the lowest possible rate 8.7 percent. The actual growth rate was 8.2 percent.[35] The forecasts ISER furnished Acres in 1980 implied a 4.6 percent annual growth of Railbelt electricity consumption in 1978-1981 in the moderate-growth case, and 4.0 percent in the low-growth case. The actual increase was 3.4 percent.[36] It appears, however, that the forecasting performance of other parties has been even less satisfactory.

If there is a lesson to be learned from this experience it is that grave dangers lurk in relying on a single consultant or institution for insights about the future. The purpose of the Battelle Railbelt Alternatives study was (at least originally) to provide a check on the assumptions and analysis used by the Alaska Power Authority and Acres. One reason the governor's office sponsored and the legislature mandated this study was their concern that Acres' stake in Susitna construction might affect the credibility of its load forecasts and other elements of its economic and financial analysis.

Events show that the original purpose of an independent study of Railbelt generation alternatives was frustrated when Acres and Battelle were directed to standardize their assumptions on a number of issues, (e.g., load forecasts) and to rely only on ISER's 1980 economic-development scenarios as the basis for projecting future electricity demand --- probably the most important variable of all in evaluating the wisdom of the massive commitment of present and future resources to a project like Susitna.

Long Term Energy Plan. The Long Term Energy Plan describes its assumptions concerning the variables that drive the Alaska economy as derived from Battelle's work.[37] However, in the case of expected population and employment growth The Long Term Energy Plan respectively assumes compound rates of 1.1 and 0.6 percent through the year 2000, figures that are clearly inconsistent with the Battelle projections.[38] Unaccountably, the authors of the Plan nevertheless adopt Battelle's Railbelt electricity-demand forecast.[39]

Alaska Fossil-Fuel Availability and Cost

The Cook Inlet basin, which contains the bulk of the Railbelt's population and economic activity, is a major natural-gas producing area and contains large deposits of steam coal close to tidewater. Indeed, the bulk of the electricity produced in the Anchorage-Kenai peninsula area today comes from gas-fired combustion turbines, and much of the Interior's electricity comes from a coal-fired steam plant at Healy. Thus, the most obvious alternatives to the Susitna project for new electrical generating capacity in the Railbelt are coal- and gas-fired plants, or a combination of smaller hydro projects with coal-and/or gas-fired plants.

The Acres Summary represents both Acres' and Battelle's position with respect to this choice:

> *. . . If required generation expansion occurs by continued use of the thermal generating plants, a shift toward increased use of coal will be necessary not only because the Cook Inlet gas reserves may be insufficient to sustain long-term reliance upon natural gas in the face of increased demand but also because sharp increases in gas prices will occur in the next decade as old supply contracts expire. The installation of thermal (coal- or gas-fired) plants to meet the demand would offer the consumer no protection against rising costs, since fuel prices will continue to be exposed to inflation and to extraordinary escalation occasioned by world market conditions.*[39]

Despite the central role that fossil-fuel availability and cost must play in comparing generation alternatives, neither Acres nor Battelle has attempted to assess the probable future cost of fossil fuels for generation in the Railbelt from local coal or gas supply conditions. The reports give little if any attention to the incremental cost of gas or coal production in the region, the ownership and regulatory or contractual status of proved and potential reserves, or the other physical, economic, and institutional features of the local supply picture for

either fuel. Indeed, the Acres reports and Battelle's Railbelt Alternatives reports do not even cite Battelle's own 1982 forecasts of Alaska oil and gas supply and demand for the Alaska Department of Natural Resources (whose conclusions appear to conflict with the assumptions used in the reports reviewed here), or the coal-supply study conducted by Ebasco Services, Inc., under a subcontract to Battelle for the Railbelt alternatives study.

Both contractors have, instead, deduced Railbelt coal and natural-gas supply costs from (1) recent LNG and coal import prices in Japan, (2) assumptions about future world oil-price movements, and (3) the relative processing and transport costs between the mine mouth or gas field and markets in Alaska and Japan. The following passage on the relationship between coal prices and the economics of the Susitna project sets out the implicit pricing model Acres shares with Battelle:

> *. . . Coal mining is assumed to occur at Beluga and an export market for Beluga coal is assumed to exist. To recover the investment in these plants and to account for anticipated major increases in gas costs, as well as inflation and fuel price escalation above the underlying inflation rate, the wholesale price per kWh for electricity will have risen by 1994 to 145 mills (+14.5¢) per kWh and will continue to rise thereafter. It is this trend against which any proposed hydroelectric development on the Susitna River must compete.*[40] *(emphasis added)*

The assumption of "fuel price escalation above the underlying inflation rate" stems directly from the proposition Acres shares with Battelle that the price of coal to new electrical generating plants in Alaska's Railbelt will reflect its market value in Japan (less transportation costs between Alaska and Japan) and that this market value is in turn, directly determined by world oil prices. The Acres and Battelle assumptions regarding natural-gas prices follow the same logic: The cost of natural gas to electric utilities in the Railbelt will be the

price of LNG landed in Japan (which will move with world oil prices), less liquefaction costs and transportation costs from Alaska.

The relevance of "opportunity cost" to Railbelt natural-gas and coal supply. The concept at the heart of Acres' and Battelle's treatment of both coal and gas prices is **opportunity cost.** The opportunity cost of Alaska-produced natural-gas or coal is the **highest price their owners could have got** for the fuel, even if they actually made a deal at some lower price. Acres succinctly states the principle as follows:

> *. . . if export markets exist for LNG (or coal) at the prices which have been determined in the Report, then it must be assumed that any rational gas (coal) producer in Alaska would select the opportunity to receive the highest price which is offered for the gas (coal). If the gas (coal) producer chooses to sell gas (coal) in Alaska at a lower price instead, then should the Susitna project evaluation be based on this economically inefficient price? If this is so, the project evaluation will not be consistent with generally accepted principles of public investment appraisal. (parentheses and "coal" added)*[41]

The principle set out in the previous citation is generally a sound one. The cost figure the state ought to use in calculating the net benefits to Alaska of selling royalty oil to an in-state refiner or petrochemical producer is not the actual transaction price (which state officials may decide to discount for the purpose of fostering industrial development) but, rather, the revenue the state **would have got by selling its royalty oil to the highest bidder.** Likewise, the cost to Alaskans of electricity from the Susitna project includes all interest the state **could otherwise have earned** on money appropriated to the project, even if the legislature or the Power Authority decides to set electric rates on the basis of a lower (or even zero) rate of return on that money.

Opportunity cost in this sense measures the true cost of state royalty oil sold to an in-state processor and establishes the proper discount rate for evaluating investments of surplus state funds within Alaska, but only because there are ready, and for practical purposes unlimited, export markets for royalty crude oil and surplus state money. Thus, it is reasonable to assume that any royalty oil which is not processed within Alaska can and will be sold at world market prices (as limited, of course, by the federal prohibition on exports of crude oil shipped throught the Trans Alaska pipeline). It is also reasonable to assume that any state money that is not spent or invested within Alaska can and will be invested elsewhere to get the highest available yield (consistent with the degree of security sought by the state's money managers.)

> It is not, however, reasonable to suppose that all Alaska gas or coal that is burned in Alaska would otherwise have been exported at the netback prices assumed by Acres or Battelle.

If effective export markets in fact existed for all of Alaska's potential coal and natural gas production at current Japanese import prices less transport costs, export markets would exist at comparable prices for all of the natural gas that is now shut in or being flared (close to tidewater at least) anywhere in the world. Trillions of cubic feet of gas would not be flared each year in the Middle East, for example, and LNG from Cook Inlet would already be flowing into foreign markets to the limit of the region's producing capacity. Likewise, if there were really an effective export market at recent Japanese import prices for any coal that is economically feasible to produce in Alaska's Railbelt, there would be little uncertainty about the future development of Beluga (or Bering River, or other Alaska) coal, while coal prices almost everywhere in the world would have reached levels comparable with the netback "opportunity cost" that the two reports posit for Alaska coal.

What the "opportunity-cost" approach of Acres and Battelle ignores is the fact that the world's known reserves of coal and natural gas, technically capable of development and delivery to Japan at resource costs below that nation's recent import prices, are **many times greater than potential Japanese or global markets** for coal and LNG at those prices. Since 1974, Japanese consumers (among others) have been willing to pay prices for coal and LNG related to the rising cost of imported oil, but only because the construction of export and import terminals, on-shore transportation facilities, and the specialized bulk carriers **could not keep up with the worldwide growth of demand** for fuels capable of underpricing OPEC petroleum in the electric-utility and industrial boiler-fuel markets.

In 1981-82, however, a combination of falling oil prices, the economic slump, and completion of the first generation of major LNG and coal-shipment projects initiated after the 1973-74 oil crisis, have (1) marked an end to the period of frantic growth in Japanese and worldwide demand for both coal and LNG, and (2) permitted new supplies to catch up with and perhaps outstrip that demand. Of the more than twenty new coal-export terminal developments that were under active consideration on the West Coast of North America in early 1981, it now appears that the growth of East Asian demand will economically support **at most** two such projects between now and the year 2000. There is likewise a growing conviction in industry that LNG-export projects already committed to construction will satisfy Japanese demand for the rest of the century, and that even some of these "committed" projects (the British Columbia LNG venture, for example) may yet be scuttled.[42]

<u>Coal prices and oil prices.</u> Acres and Battelle combine (1) the peak 1981 spot prices for coal imported to Japan, (2) the assumption

that world oil prices will continue to escalate in real terms, apparently without limit, and (3) their "opportunity-cost" netback pricing methodology to arrive at the following most-likely constant-dollar price-escalation rates for Beluga Coal (at Anchorage) and Healy coal (at Nenana):[43]

Table 2. Alaska Coal-Price Assumptions

	Coal Source	
	Beluga	Healy
	(01/82 cents per mmbtu)	
Acres	1.43	1.75
Battelle	1.69	2.43
	(annual constant-dollar escalation rate in percent)	
Acres	2.5	2.7
Battelle	2.1	2.0

Two weaknesses in the Acres and Battelle coal-market assumptions compromise the usefulness of their comparisons between Susitna and coal-fired generation costs: Firstly, if constant-dollar oil prices are not likely to increase at the rates that Acres and Battelle assume throughout their studies, the rationale for similarly-increasing coal prices is mortally damaged. Thus, a more realistic, up-to-date oil-price outlook would call for a reevaluation of the probable cost of coal in Alaska, and of electricity generated from coal, just as it calls for reevaluation of most of the important assumptions and conclusions of the two studies.

Secondly, even if Acres and Battelle oil-price scenarios had remained plausible, their supposition that Alaska coal-price movements

will be driven by world oil prices in some straightforward and easily predictable way is unwarranted. The effect of this mechanistic assumption is to evade one of the most difficult, yet one of the most crucial, issues in choosing among generation alternatives --- the need to forecast the change in **relative** prices among various fossil fuels over time.

Historical evidence. Acres gives a number of good reasons why production costs alone are not sufficient to predict coal prices at any given time and place. For example,

> *. . . "economic rents" (that is, a price that exceeds production costs including a normal return on investment) may be earned by the producers, mine labor and/or governments. For example, in the interests of supply security, a coal importer may be willing to pay a price much higher than actual coal production costs. In addition, oil price increases induce increased demand for coal, thus exerting upward pressure on coal prices.*[45]

The report then remarks that "(h)istorical trends support these observations." "Historically, it has been observed that export prices of coal are highly correlated with oil prices, and that production cost analysis has not predicted accurately the level of coal prices."[46] Acres follows with evidence from a number of sources that real coal prices have increased in recent years, presumably at rates exceeding the increase in production costs, and with citations from a number of other authorities who have also predicted or assumed that coal prices will continue to increase at rates comparable with, or tied to, world oil prices.

The historical data Acres cites do show that rapidly growing coal demand can cause real-price increases, but they do not, in fact, support the notion that coal prices have been tightly linked to oil prices in the recent past. Examine the following three illustrations, for example:

Coal prices (bituminous, export unit value, FOB U.S. ports) grew at real annual rates of 1.5 percent (1950 to 1979) and 2.8 percent (1972 to 1979).[47]

In fact, the constant-dollar price of imported crude oil rose at an average rate of 3.9 percent --- almost 2½ times that of the average FOB export value of coal --- between 1950 to 1979, and at an average rate of 29.2 percent --- almost ten times as rapidly as coal prices --- between 1972 and 1979.[48] The 1.5-percent average coal-price increase cited by Acres for the longer period was actually less than the average increase in hourly compensation of bituminous coal miners in the U.S. over the same period (1.9 percent).[49]

In Alaska, the price of thermal coal sold to the GVEA utility advanced at real rates of 2.2 percent (1950 to 1978) and 2.3 percent (1970 to 1978).[50]

The contrast between Alaska coal and oil-price trends depends wholly on the years chosen. The constant-dollar price of No. 2 fuel oil in Fairbanks actually decreased at an average annual rate of 0.4 percent between 1970 and 1978. Between 1973 and 1981, however, GVEA's real coal price increased at an average rate of 2.1 percent, while No. 2 fuel oil prices were increasing at an average rate of 15.6 percent.[51]

In Japan, the average CIF prices of steam coal experienced real escalation rates of 6.3 percent per year in the period 1977 to 1981.[52]

The constant-dollar price of Japanese crude-oil imports, however, increased at an annual rate of 17.6 percent over the same period --- about three times as rapidly as the country's average coal-import price.[53]

Table 3 compares the cost of coal and oil at electric generating plants in the United States over the last decade, and is further evidence against the direct relationship between coal and oil prices

Table 3. Cost of Fossil Fuels Delivered
To Electrical-Generating Plants in the United States
1973-1981

Year	Current Prices (cents per mmbtu) Coal	Residual Oil	GNP Deflator (1972 = 100)	1981 Prices (cents per mmbtu) Coal	Residual Oil	Oil-Coal Differential
1973	40.5	78.8	105.8	74.1	144.2	70.1
1974	71.0	191.0	116.0	118.5	318.7	200.2
1975	81.4	201.4	127.2	123.9	306.6	182.7
1976	84.8	195.9	122.7	133.8	309.0	175.3
1977	94.7	220.4	141.7	129.4	301.1	171.7
1978	111.6	212.3	152.1	142.1	270.3	128.2
1979	122.4	299.7	165.5	143.2	350.6	207.4
1980	135.2	427.9	177.4	147.6	467.0	319.5
1981	153.3	529.0	193.6	153.3	529.0	375.7
				Change, 1973-1981		
Absolute				79.2	384.8	305.6
Multiple				2.07	3.67	5.36
Annual rate (%)				9.51	17.64	23.35

Source: Monthly Energy Review

asserted by Acres and Battelle. The real price that utilities paid for coal did indeed more than double between 1973 and 1981, but at the end of the period, the fuel-cost advantage of coal- over oil-fired generation (in constant dollars per million btu) was 5.4 times as high as it was at the beginning.

Whatever limited validity there might be in the model behind the Acres and Battelle coal-price assumptions, it would exist only for spot markets and only for short-term fluctuations. The oil-price surges of the 1970's, without doubt, stimulated increases in the demand for coal that outran the ability of the industry to open new mines. As a result, excess demand did pull up world coal prices dramatically --- particularly the spot prices of steam coal. But Acres ignores the fact

that slack demand and overinvestment in coal-producing capacity can just as easily cause reductions as surges of demand can cause increases in spot-market coal prices relative to production costs.

Moreover the Acres report offers the reader no reason to believe that the excess-demand conditions that existed during the 1970's will continue unbroken for the next twenty to forty years. The historical record, which stretches back more than two centuries, shows both cyclical and random fluctuations in coal prices, but no evidence of rising real costs over the long term. It is likely the peak of the most recent cycle was reached in 1981; at any rate, nothing in the world supply-demand picture suggests further real coal-price rises in the foreseeable future.

> In the long-run and on the average, coal prices must reflect the real resource cost of opening and operating new mines.

The real world of coal-purchase contracts. No major coal-fired electrical generating plant will be planned or built by Alaska utilities or the Alaska Power Authority (or financed with revenue bonds) unless it has secured "dedicated" coal reserves and producing capacity sufficient to supply it with fuel over its economic life, or at least over the period of its long-term financing. A prospective mine operator must, in turn, have a long-term coal-purchase contract from the utilities or the Power Authority in order to get financing for mine development and production equipment, and working capital.

That long-term coal-purchase contract will, in every likelihood, be a cost-of-service contract. It will probably provide automatic price adjustments for certain production-cost items, and may allow the return to the mine-owners and/or operators (assuming they are different parties) to increase in proportion to the Anchorage consumer price index (CPI) or the gross national product deflator.

It is almost inconceivable that Chugach Electric Association (CEA) or the Alaska Power Authority would sign long-term contracts containing a floating-price term that was not firmly tied to some element of production cost.

It is even less likely that the Alaska Public Utilities Commission (APUC) or the Legislature (in the case of a facility built by the Power Authority) would approve any coal-or electricity-purchase arrangement that was subject to such a floating-price term. There are two reasons for this judgment:

(1) The cost-of-service arrangement described above is the way that utilities actually purchase coal on long-term contract from dedicated mines.

Indeed, we have not been able to locate any instance in which a state public utilities commission approved a utility's long-term coal-purchase contract whose price was tied to the price of oil. Moreover ---

(2) Mine financing will depend on the existence of long-term coal-purchase contracts. The preponderance of bargaining power in negotiations over such a contract will be on the side of the utilities or the Power Authority, rather than the mine owner.

If CEA, for example, offered one or more of the owners of Beluga coal reserves (or any other coal reserve in the Railbelt) a 20-year cost-of-service take-or-pay contract to provide coal for a 200-megawatt generating plant, with a reasonable rate of return to the operator(s) and a reasonable royalty to the owner(s) of the mineral rights, that offer would be much too good to refuse (assuming, of course, that this production volume is sufficient to cover the mine's startup costs). It would indeed be a more attractive business proposition than anything yet offered by potential customers in East Asia.

Any opportunity the mine owner(s) may have to export coal to the Far East over the same period will, incidentally, make them more, not

less eager to deal with an Alaska utility on a long-term cost-of-service basis, because of the ability added sales for export would give them to capture economies of scale by spreading fixed costs over a larger volume of production.

Gas-fired vs Susitna generating costs. The current average cost of Cook Inlet natural gas to Railbelt electric utilities is $0.86 per million btu (mmbtu).[54] Simple-cycle gas turbines that can be bought "off the shelf" would produce electricity at capital costs of about $630 per installed kilowatt.[55] At today's Cook Inlet gas prices, the bus-bar cost (the price at the plant) of power from such a facility will be in the neighborhood of 4.3 cents per kilowatt-hour.[56] The generation cost per kilowatt-hour would presumably be even lower for combined-cycle gas plants, and lower yet for gas-fired steam turbines operated at high plant factors (say, 80 percent) in base-load service. The 4.3-cent estimate, however, contrasts impressively with projected Susitna electricity prices of 14 cents per kilowatt-hour (assuming the state subsidizes the project with a $2.3 billion appropriation) and 30 cents (the full cost of power based upon 100-percent debt financing).[57]

Given these relative costs, it is reasonable to wonder why the Susitna project is even being considered. The Acres Summary gives the answer in brief:

> . . . between 1992 and 1993, many of the long-term contracts now held by utility companies for very favorably priced Cook Inlet gas will expire. Not only will major increases in electric energy costs result from the requirement by local utility companies to purchase gas at **market prices,** but also known Cook Inlet gas reserves may have been depleted in the early 1990's to the point that reliance upon natural gas as the principal fuel for electrical energy generation would no longer be possible.[58] (emphasis added)

Acres and Battelle have thus assumed that the "market prices" of Alaska natural gas will rise dramatically. Acres' "low" fossil-fuel price

case, to which the report assigns a 25-percent probability, projects Cook Inlet natural-gas costs at a constant $3.00 per mmbtu, which is three and one-half times present gas prices. The Acres "medium" ("50-percent probability") fossil-fuel price case assumes that these prices will skyrocket between now and the year 2000 at an average annual real rate of 9 percent, to $4.80 per mmbtu. The "high" case (25-percent probability) projects the trend at 11.2 percent annually, with its end-point at $7.22 per mmbtu, a more than eightfold increase over present gas prices.[59] (All prices are in constant 1982 dollars.)

The weaknesses of Battelle and Acres in their analyses of gas prices closely parallel those that fatally compromise their analysis of coal prices. The assumption of high future prices in both reports flows from two basic postulates, (1) that world oil prices will keep increasing in real terms, apparently without limit, and (2) that Cook Inlet natural-gas and Railbelt coal prices are, or at any rate presently will be, tightly coupled to these rising world oil prices.

<u>The Cook Inlet gas-price/world oil-price nexus</u>. Acres assumes that the "opportunity value" of Cook Inlet gas is now $3.00 per mmbtu, 2.5 times more than prices currently paid by Anchorage utilities. This assumption is based on the contractor's analysis of LNG export opportunities, LNG processing and transportation costs, and the btu relationship between gas and oil. Since the assumption applies to all three cases --- "low", "medium", and "high" --- it is an essential element in the analytical process by which Acres discards natural-gas-fired plants as an economical long-term generation option, and by which the report finds Susitna to be the preferred option.[60]

More importantly, there is enough evidence to make at least a plausible case that Cook Inlet gas prices will be established largely on the basis of factors local to the region. Proved gas reserves, for example, are far in excess of current demand, sufficient to supply the

local utilities for roughly 75 years at present rates of consumption.[61] If the full capacity of the existing LNG and ammonia-urea plants is regarded as part of regional demand, the same proved reserves are good for about 23 years at existing production rates.[62] In other regions of North America (Alberta, for example), similar reserve-to-production (r/p) ratios are considered evidence of a gas glut.[63]

Even these measures tend to understate the potential gas supply in Cook Inlet. "Proved" reserves (or "identified economically recoverable reserves", in the terminology of Alaska's Oil and Gas Conservation Commission) constitute only that fraction of the resource base which producers have had a commercial incentive to explore to the point at which the producible volumes are a near certainty. This kind of exploration is expensive and, absent credible near-term market prospects, there is no reason for the lease owners to spend the money.

The known reservoirs of the Cook Inlet basin contain considerably more unproved gas (or "indicated" reserves) than the 3.9 trillion cubic feet (tcf) reported as proved at the end of 1981. Nobody knows the volume of indicated gas in these reservoirs with much confidence (otherwise they would be counted in the "proved" column), but unpublished estimates in the industry tend to be in the 5 to 10 tcf range.[64] Acres and Battelle disregard the high r/p ratios and the region's additional gas-development potential, on the ground that new demands will arise for Cook Inlet gas in the form of additional LNG exports to Japan or California. This may indeed turn out to be the case, but it is a proposition not very well supported by the experience of the only new LNG export scheme to be seriously proposed --- the PacAlaska project, whose sponsors in September 1982 announced the project's indefinite postponement.[65]

Most importantly, overwhelming evidence has accumulated in the last few months that the final-market value of natural gas is consider-

ably lower, and total demand in either the Lower-48 or Japan much more limited, than the industry believed during the 1970's. The new gas-market outlook has cast a serious cloud over all "supplemental-gas" projects --- ANGTS and synthetics --- as well as LNG.[67] At any rate, there are no other proposals to establish new Cook Inlet LNG facilities (or increase the capacity of existing facilities).[68] Until serious industry interest appears in some such project, it is unrealistic to assume that Cook Inlet gas prices will be dictated by "netback" gas values in export markets.[69]

The world oil-price assumption once again. Acres' and Battelle's Alaska gas-price model, in which Cook Inlet gas prices reflect world oil prices, is driven by the contractors' assumption of continuously rising real prices for crude-oil. In Acres' "most-likely case" the rate is 2.0 or 2.6 percent, depending on which of the Acres reports one reads.[71] The report states that its scenarios for gas-price escalation are expected to "follow closely the crude oil-price scenarios."[72]

For the years through 1998, however, the Department of Revenue assumes that the real price of Saudi "marker crude" (which underlies and drives the state's official revenue forecasts) will decrease at a compound annual rate of almost one percent. At least for the period through FY-98, the state's recent oil-price forecasts are as incompatible with the Acres and Battelle assumptions regarding gas-price escalation in the Railbelt as they are with the consultants' forecasts of economic activity and energy demand.

Susitna Construction Costs

The Acres base-case estimate for the original cost of the Watana unit is $5,081 per kilowatt, and for the Devil Canyon unit $2,265 per kilowatt. (Several other figures appear for the two units in the Battelle and Acres reports, but the distinctions among them are not crucial here.) These figures contrast with an estimate of only $636 per kilowatt for a 70- megawatt simple-cycle gas turbine. Costs per kilowatt of capacity for combined-cycle plants, coal-fired steam plants, and some smaller hydroelectric projects considered for the Railbelt fall between these two extremes. Thus, the Susitna project is by far the most capital-intensive of the major electrical-generation options considered by Acres and Battelle, and this capital-intensiveness means that the unit cost of Susitna power is much more vulnerable to capital-cost overruns than power from combustion or steam-turbine plants.

The authors of this review are not in a position to scrutinize the Acres estimates of Susitna construction costs as such; the way in which Acres deals with cost-overrun and related risks is within the scope of this review, however. Large construction projects have become notorious in recent years for costs running far above and sometimes many times higher than the cost estimates on which the owners --- private corporations and public agencies alike --- based their decision to go ahead. The TAPS and ANGTS experiences, among others, have made Alaskans particularly sensitive to the cost-overrun issue.

One obvious question in evaluating and comparing any large project proposal like Susitna is how much credibility anyone can place in the cost estimates and budgets. Public officials and the general public have become increasingly sophisticated about the tendency of project sponsors, their engineers, and their consultants to underestimate costs, and to downplay the risk of delay, false starts, and other

causes of overruns. They have become increasingly skeptical about the figures offered by project promoters.

Overruns and other cost-estimation errors are not a new phenomenon,[73] however, and there are a few generalizations that the research literature supports with a good deal of confidence.[74] Errors in construction-cost estimates can be separated, at least conceptually, into two components: variance and bias. Variance is a measure of the expected departure of the actual cost either up or down from the estimated cost, and bias is the expected departure in one consistent direction (usually upward) from the estimated cost. These measures of error depend in different degrees on (1) the specific features of the project, (2) the general economic environment, and (2) the institutional framework in which the project is carried out.

Character of the project. Cost-estimation variance clearly tends to increase with the size of project; novelty in design, location, or construction technique; the time required for conception, authorization, design, construction and shakedown; and the number of licenses, permits, and degree of regulatory surveillance. Both measures of estimation error decline with the amount of experience in similar or related construction on the part of the owners, designers, and contractors. Many of these features are intercorrelated: larger projects tend to be custom-designed, more complex, take longer to complete, and involve a greater number of regulations and regulatory entities. The larger the project, moreover, the fewer similar projects the owners, designers, and contractors are likely to have had experience with. Because of these intercorrelations, the effects of the various factors are nearly impossible to distinguish in practice, but ---

> On their face, the specific features of the Susitna project suggest a high risk of cost-estimation error.

Among other things, Susitna would be (a) one of the highest dams in the world, (b) the largest enterprise anywhere, ever, of its particular type, (c) the highest-latitude large-scale hydroelectric project in the world and, so far as we can find, the largest civil works project ever attempted above 55th parallel.

The Acres study has attacked these project-specific features of the cost-estimation risk from two angles; at the core of the whole Sustina feasibility study is an impressively designed, comprehensive engineering-type "multivariate" risk analysis. Acres then checked the findings of this analysis against a comparison of cost-estimates and actual costs on a large sample of completed federal water projects.

In the core analysis, Acres has created a model of the construction process in which the study team has identified each major uncertainty, including everything the designers think might go wrong, in the following areas:

- 3 categories of **natural risks** (flood, ice, etc.),
- 2 categories of **design-controlled risks** (seepage, etc.),
- 6 categories of **construction risks** (equipment availability, labor disputes, etc.),
- 4 categories of **human risks** (including contractor capability and quality control), and
- 2 categories of **special risks** (including regulatory delay)

The Acres team assigned probabilities to the various contingencies in each category and then combined these probabilities mathematically, to create a schedule that shows the probabilities of various levels of total cost (and a number of other outcomes of the construction process).

With the availability of computers capable of manipulating huge arrays of variables each of which is paired to a probability coefficient, this kind of risk analysis has become common in the engineering of

large and complex projects, where it is a powerful tool for helping designers choose the project configuration that minimizes expected costs, subject to certain maximum acceptable cost, schedule, and operations risks. The general method used by Acres is probably the best available technique for comparing expected costs and risk factors among variants of a single project concept, and it is reasonably reliable for projecting which of (say) three proposed configurations of the project would have the lowest expected cost, and which would have the lowest risk of unacceptable cost overruns or operating failure.

For a number of theoretical and practical reasons, however, such risk analysis is probably less valid and reliable for comparing widely different technologies, facilities, or strategies, or for generating absolute-dollar cost estimates, cost-overrun, or schedule-risk estimates to be used outside the design process, particularly as input to benefit-cost analysis. No matter how competent and objective the analysts are, it is almost impossible for them to escape a certain amount of misplaced specificity,[75] subjectivity and over-optimism,[76] institutional blind spots,[77] and underallowance for non-completion.[78] Nevertheless ---

> **The Acres approach to controlling cost-estimation variance stemming from the character of the project is as rigorous as any we have seen.**

More importantly, perhaps ---

> **We have not found any evidence of bias in the cost-estimation procedure or in the construction-cost aspects of Acres' multivariate risk analysis.**

In the second phase of its risk analysis the Acres report implicitly recognizes the inevitable subjectivity of any engineering-type risk analysis, and checks its results against a sample of actual project experience. Acres' discussion acknowledges shortcomings in the survey data base --- particularly the fact that the sample is made up of

projects completed before passage of the National Environmental Policy Act, the Endangered Species Act, and other environmental legislation had their present great impact on project schedule and completion. Further examination reveals that the sample offered by Acres has virtually no resemblance to the Susitna projects in type, location, scale, or timing. More comforting historical evidence that overruns can be controlled exists, however, in the construction record of the 5,225 MW Churchill Falls hydroectric project on James Bay in Canada. Churchill Falls is probably the closest parallel to Susitna in scale or location anywhere in North America.[79]

> The Churchill Falls project, whose design and construction were managed by a joint venture of Acres and a Bechtel subsidiary, was completed essentially on time and on budget.

General economic conditions. It is inevitable that overruns (which correspond to a downward bias in cost estimates) are more frequent and generally larger in periods when inflation is accelerating, and also in periods when environmental, safety, and other kinds of regulation are getting more complex and demanding. The upward push that these factors give to costs is even stronger when inflation proceeds out of (or coincides with) an economic boom, because accelerating real economic growth tends to push construction wage rates, building-materials prices, and other construction costs (including contractor markups) ahead of general inflation (as measured by the Gross National Product deflator or the Consumer Price index).

Accelerating inflation also tends to mean rising interest rates, which result in higher interim financing costs (in utility parlance, "allowance for funds used during construction" or AFUDC), and thus cause final project costs to increase even faster than the wages of construction labor and the cost of building materials (themselves racing ahead of the rest of the economy). As the 1960s and 1970s saw all of

these conditions, it is not surprising that the experience of this period fostered a belief that large overruns are the rule rather than the exception in large projects.

The economic and regulatory forces that generated the construction-cost overruns of the 1970s have largely run their course. General inflation will probably decelerate (meaning that escalation rates built into construction-cost estimates will typically be too high rather than too low). This trend probably means lower nominal interest rates as well and, as a result, pre-construction estimates of interim-financing costs (AFUDC) will tend to be too high. Real economic growth rates are likely to be lower than in the 1960s and early 1970s, moreover, causing the construction-cost indexes to increase less rapidly than general inflation.

Finally, the impact of environmental and safety regulation on costs and schedules will tend to be less severe than at present. While we do not anticipate a significant retreat from the goals motivating today's environmental and safety regulation, regulation will tend to be more sensitive to cost-effectiveness criteria and on balance less dilatory. For these reasons ---

> Big cost cost and schedule overruns are not likely to be the rule over the next decade as they have been over the last.

A number of large projects are likely to surprise their sponsors and the public by coming in on time and under budget. Susitna might be one of these.

Institutional considerations: The Road to WPPSS. It seems reasonable to expect governmental entities to have weaker incentives for cost-minimizing design and cost-effective contracting than private enterprise, and for regulated private utilities (which profit by enlarging

their "rate base" and are not supposed to profit from cost-cutting) to have weaker efficiency incentives than unregulated private enterprises. The existing literature on defense-procurement costs seems to support the first thesis, but we do not know of any systematic comparison relating the costs of otherwise similar plants owned by different kinds of organization.

A casual survey by the reviewers shows mixed results: the publicly-owned Washington Public Power Supply System (WPPSS) is likely to ride its overruns into the biggest financial default of any industry in US history. On the average, public entities in the United States have worse schedule and cost performance on nuclear plants than private utilities. (TVA's reactors seemed to be doing better than the average, however, before construction was stopped, making their effective unit cost of capacity infinite.) But Ontario Hydro's performance in nuclear plant construction (and operation) has been better than any private utility in the United States (a result that stems at least in part from its choice of a much less troublesome reactor technology). Clearly, this issue needs further investigation. Nevertheless ---

The Susitna project has disturbing parallels with WPPSS.

Like WPPSS, Susitna is sponsored by a single-purpose entity (the Alaska Power Authority) whose importance in the world rests primarily on this enterprise; and like WPPSS, that entity has had little or no experience in designing or building works of a similar kind or scale. The technical case for the project is built to a large extent on exaggerated projections of future electricity "needs" and on unrealistic projections of alternate-fuel costs. More importantly, however, the decision process is highly political, and a large part of the political constituency for the project is indifferent to its power-generation economics, sound or otherwise. Many advocates see the project mainly in terms of "jobs"

or an undefined thrust for "economic development", in which the perceived benefits increase proportionally with construction costs. And like WPPSS' "net-billing" agreements with the Bonneville Power Administration, at least some of the financing schemes being considered for Susitna (a direct appropriation from the state treasury, or general-obligation bonding) would bypass the need to convince lenders that the project is prudently conceived and designed and will be implemented efficiently.

In our judgment, the most serious cost-overrun risks connected with Susitna do not flow from oversights or biases in Acres' engineering-cost estimates. Nor do we believe that big cost overruns will be as prevalent on large custom-engineered construction projects as they have been since the mid-1960s.

> **The paramount construction-cost risk connected with the Susitna project is not that the Acres cost estimate is too low and, as a result, encourages the state of Alaska to invest in a project that turns out to be uneconomic.**

The Acres estimates, in other words, may be on target. The most serious cost risk associated with Susitna is, rather, that ---

> **An Acres cost estimate which is essentially correct may combine with unrealistic forecasts of Railbelt electricity demand and fossil-fuel prices to encourage an Alaska investment in a project that would be uneconomic even in the absence of construction-cost overruns.**
>
> **This is precisely what is likely to happen if the Alaska Power Authority and the Legislature rely on the present Battelle and Acres reports as the last word on project feasiblity.**

Ironically, the latter risk begets the risk, from an entirely different source, of large cost overruns relative to the Acres estimate, no matter how good that estimate in itself may be. If the legislature authorizes construction of the Susitna project on the basis of fanciful

economic assumptions, financing the project will likely require state government to shelter consumers from the true cost of Susitna power by means of a direct capital grant, or to shelter lenders from the true economic risks of project investment by means of general-obligation bond financing. These devices, adopted precisely because the Susitna project could not stand on its own feet, would deprive the project of any important constituency for good management and cost control to offset the interests that stand to benefit from overbuilding, gold-plating, and wasteful mismanagement.

Non-completion risk. In the last few years, construction of a large number of electrical generating plants (mainly nuclear, but a few coal-fired) in the United States has been abandoned, suspended, or stretched out. Most of these plants were, at the time, suffering major technical, regulatory, and/or financing problems, but it is a mistake (albeit a widespread one) to regard these problems as the cause of abandonment or delay.

> In almost every recent case of power-plant non-completion in the United States the root cause has been falling load-growth projections.

Systems that had to pare back their construction schedules in line with revised demand forecasts naturally chose to abandon or delay their most troubled projects, while plants that were not justified by prospective load growth naturally became relatively difficult to finance. If the utilities in question really "needed" the added capacity, they would have persevered in trying to build them despite their technical and regulatory problems. Likewise, the utilities would have been able to finance most of the troubled plants if lenders had been confident that consumer demand would generate sufficient revenue to pay their costs.

Acres concluded that there is only a negligible risk of non-completion stemming from those contingencies Acres explicitly consi-

dered in its analysis of construction risks; we do not dispute that judgment. In recent years at least, no major hydroelectric project in North America has been terminated or indefinitely postponed for engineering reasons after construction began. Hydro facilities are not, however, inherently immune to cancellation or prolonged delays stemming from some of the troubles that have beset nuclear-plant construction plans, including environmental regulation or litigation.[80] There is certainly no reason to believe that hydropower is any less vulnerable to non-completion risks that arise from changed economic circumstances or bad planning and management than are nuclear and fossil-fueled plants.

If the state does abandon Susitna construction in the face of now-unforseen engineering, environmental, regulatory, or financial problems, it will at bottom be because the state and/or the lenders belatedly realized that the demand for Susitna power at its expected cost no longer justifies the additional outlays necessary for completion.

This, rather than the fickleness of construction-cost estimates, is the real lesson of the WPPSS disaster for Alaskans.

Financing Issues

Real discount and interest rates. Benefit-cost analysis is the technique of comparing all of the benefits created by a project with all of its costs, no matter when they occur. In earlier years, the end product of such an analysis was usually a benefit/cost ratio: a worthwhile project was one with a ratio greater than 1.0, and the best of a group of competing projects was the one with the highest ratio. More recently, the concept of net benefits (total benefits less total costs) has become more fashionable: a worthwhile project is one that creates a positive net benefit, and the best project from a group of projects is the one that creates the greatest net benefit.

Acres has used a variant of this approach that assumes total benefits to Alaskans of meeting their electric power demand to be the same regardless of how the power is generated. Thus, the system that has the lowest expected cost is the one to be chosen, and under most assumptions, Acres finds that the Susitna project results in lower expected costs than any of its alternatives.

All of these benefit-cost approaches require the analysts to choose a discount rate for translating the costs and benefits of various future years to present value at the time the investment decision is made. Thus, the stated goal of the Acres analysis is to find the system that has the lowest expected costs as of 1982.

The outcome of benefit-cost analyses involving long-lived capital-intensive investments is very sensitive to the choice of discount rates, therefore making it a consequential and often controversial issue. The various assumptions adopted by Acres, for example, lead to the finding that Susitna is most likely the least-cost alternative if costs and benefits are discounted at a real (inflation-adjusted) rate of 4 percent or less, but that it is probably not the least-cost alternative if costs and

benefits are discounted at 5 percent or more. A more familiar way of stating this finding is that money invested in Susitna is likely to earn the people of Alaska more than 4 percent and less than 5 percent per year, in excess of the return necessary to offset inflation.

After a clear discussion of the various discount-rate concepts used in benefit-cost analysis, Acres points out that the proper concept to use depends upon the purpose of the analysis.[81] In the case of the Susitna project, the proper discount rate is one that reflects the investment cost to Alaskans of the money sunk into the project; however, this cost, and thus the discount rate to be chosen, also depend on the specific financing arrangements proposed. The appropriate discount rate to use, and thus the decision whether or not a given project is a good investment, depend on the state of the capital market at the time the evaluation is made. And, benefit-cost analysts need to to take inflation into consideration in choosing a discount rate --- or more precisely, the expected rate of inflation over the life of the investment. Acres makes this adjustment by using "real" or "constant-dollar" interest and discount rates. Even after this adjustment, however, real interest rates vary greatly over time.

Interest rates on tax-exempt municipal bonds are normally lower than those on taxable securities of the same quality and maturity. Thus, it is conceivable that an economic feasibility analysis of Susitna would indciate that the project is a good buy for Alaskans if it can be financed with tax-exempt borrowing, but a loser if the Internal Revenue Code does not permit the Alaska Power Authority to sell tax-exempt securities, or if the legislature were to appropriate funds that otherwise could have been invested in high-yielding federal-government or corporate securities.

To the extent Susitna (or any alternative to Susitna) is to be debt-financed, the appropriate discount rate is the interest rate at which the

money would be borrowed and, to the extent the state proposes to underwrite the project with appropriated funds, the proper discount rate is the return the state could otherwise earn by investing the same funds.

The Acres analysis does not explicitly take into account the difference between the state's borrowing and lending costs. Nor is the report clear what Acres assumes about the federal income-tax status of Susitna debt. It does not, at any rate, offer any coherent support for assuming that the Alaska Power Authority will be able to borrow in the tax-exempt bond market. Neither does the report deal with the possible effect of changes in real interest rates over time. Acres, instead, uses an approach that bypasses all of these issues: After some general observations about interest-rate history, the report adopts a discount rate of 3 percent on the following grounds:

> *. . . long-term industrial bond rates have averaged about 2 to 3 percent in the US in real (inflation-adjusted) terms. Forecasts of real interest rates show average values of about 3 percent and 2 respectively. The US Nuclear Regulatory Commission has also analyzed the choice of discount rates for investment appraisal in the electric utility industry and has recommended a 3 percent real rate. Therefore, a real rate of 3 percent has been adopted as the base case discount and interest rate for the period 1982 to 2040.*[82]

This approach might have been workable ten or even two years ago, but it is unsuitable in today's financial environment, in which current real yields have only the most tenuous connection with historic levels.

> The only capital cost or discount rate that really matters is the actual cost of borrowing (or not investing elsewhere) at the time the financial commitment is made.

In August 1982, inflation (in the form of the annualized rate of change in the gross national project deflator) was running below 7

percent, and most forecasters expected even lower rates of inflation in the late 1980's and the 1990's. Long-term municipal bond yields were in the vicinity of 13 percent, and long-term taxable utility and corporate bond yields 14-15 percent. Both nominal interest rates and future inflation rates were generally expected to fall, but the numbers implied that the real interest rate today (current bond yields less expected inflation) was in the 6-8 percent range. In July, 1982, Data Resources Inc., forecast real long-term interest rates remaining above 4.5 percent through 1992.[83] (In late October, bond yields and forecasts of future inflation had both fallen substantially relative to August levels, but the general relationship among them remained about the same.[84])

At a discount rate corresponding to current real interest-rate levels, even the Acres analysis rejects Susitna.[85]

Even with the outdated or questionable assumptions (identified elsewhere in this review) that bias the reports' benefit-cost analysis in Susitna's favor, Acres' own analysis implies that the project is not cost-effective in today's capital market. Thus, it would not be prudent for the state to borrow money at today's market rates to finance the project even with tax-exempt securities, and it would be even less cost-effective to commit permanent-fund or general-fund revenues that might otherwise be invested at today's high yields.

When and whether long-term capital markets will return to normal historical patterns, with long-term (taxable) real-interest rates on the order of 3 percent, is one of the big economic puzzles of the age. The real interest rates that have prevailed recently are about the highest on historical record, and they were not foreseen by any school of economic or financial analysts. The two most fashionable expert explanations for high interest rates today are almost totally contradic-

tory. Stated differently, long-term capital markets are in great disorder and nobody really knows why or what "normalcy" now means.

A 3-percent discount rate appears much too low to use as a base case for evaluating the economic merits of electricity-generation alternatives for the Railbelt.

Today's capital market is sending a message to the sponsors of big-ticket private investments (like ANGTS, for example) as well as to the state of Alaska with respect to Susitna that now is not the time to lock billions of dollars into them. If the rest of Acres' economic assumptions were sound (they are not), we might reasonably hope that a window would open in (say) two years or five years, in which real interest rates would have fallen to a level that makes the project cost-effective. Under today's capital market conditions, however ---

Acres' own analysis does not justify or support a state investment in Susitna.

NOTES

Introduction and Summary

1. State of Alaska, Division of Energy and Power Development, State of Alaska Long Term Energy Plan (Juneau: 1982). The "plan" is in two volumes, an Executive Summary (cited hereafter as LTEP Summary), and the main report (cited as LTEP).

2. Acres American Inc. for the Alaska Power Authority, Susitna Hydroelectric Project Feasibility Report (Anchorage: 1982). The report encompasses a "Summary Report" (cited hereafter as Acres, Summary), the main report (cited as Acres), and 73 "reference reports." Reference report R-72, "Task 11: Reference Report: Economic, Marketing, and Financial Evaluation," is cited as Acres, Task 11. Reference report R-73, "Task 11.03, Close-Out Report, Susitna Risk Analysis," is cited as Acres, Task 11.03.

3. Battelle Pacific Northwest Labratories for the Office of the Governor, State of Alaska, Railbelt Electric Power Alternatives Study: Evaluation of Railbelt Electric Energy Plans (Richland: February 1982), cited hereafter as Battelle. A subsidiary report, "Fossil Fuel Availbility and Price Forecasts" (Richland: March 1982), is cited as Battelle, Fossil Fuels.

4. The present reviewers were not involved in ISER's production of Railbelt economic scenarios or load-forecasts for Battelle (and indirectly for Acres).

Background to the Studies

5. These programs cost the state over $790 million in FY 1982 (LTEP, p IV-6). The 1982 legislature eliminated some programs, including the energy audit subsidies, but the costs of others, such as "power cost assistance," can be expected to increase. If the aggregate costs of these programs stay constant in nominal terms, the energy subsidy programs will account for roughly 18 percent of the $2.7 billion appropriated for FY 1983. For a description of each of the state's 20 subsidy programs, see LTEP, Exhibit IV-4 (following p IV-6).

The Three Studies

6. LTEP, p 1.

7. LTEP, p IV-11.

8. LTEP, p IV-4.

9. LTEP, pp IV-15 - IV-22.

Future Oil Prices

10. Division of Petroleum Revenue, Alaska Department of Revenue, Petroleum Production Revenue Forecast: Quarterly Report. In June 1982 the Department of Revenue's oil-price forecasts were revised slightly upward. In September, however, the Department issued a forecast which in the long term is even more pessimistic (regarding state oil revenues) than the March report. (Anchorage: June 1980 through September 1982), cited hereafter as Pet. Rev. Forecast.

11. Pet. Rev. Forecast, March 1982, p 5.

12. Charles Logsdon, Chief Petroleum Economist, Alaska Department of Revenue, personal communication to Erickson, July 18, 1982.

13. Cf. Tussing's remarks to the quarterly meetings of the US Department of Commerce Economic Advisory Board during 1979 and 1980; A R Tussing, "The 1981 Oil Price Outlook" in The Economic Outlook for 1981, University of Michigan, November 1980; A R Tussing, "Will Oil Prices Keep Rising? Maybe Not", Anchorage Daily News, February 14, 1981; Jon Matthews, "State Revenues Likely Will Drop: Oil Prices are Heading Down", Anchorage Daily News, May 29, 1981; A R Tussing, "Alpetco's Collapse Has Lessons for Budget Planners", Anchorage Daily News, May 23, 1981; Bob Shallit, "State Faces Revenue Loss, Economists Say", Anchorage Daily News, January 15, 1982; "Alaska Cuts Forecasts", January 18, 1982; Erickson & Associates for the Alaska State Legislature, The World Oil Market and Alaska State Revenues: A Fifteen Month Forecast (Juneau: March 1982). Also see the appendix to this review, "Reflections on the End of the OPEC Era".

14. "The Energy Issues" in T Barker and V Brailovsky, Oil or Industry, edited proceedings of a Conference on Policy Issues in Energy Self-Sufficient Economies at Different Stages of Industrialization held at Oaxaca, Mexico in September 1980. (London: Academic Press, 1981, p 3.)

15. The following examples are typical of the lot, as far as the reviewers can tell. In 1977 Exxon forecast that US consumption of petroleum liquids would be 20.3 million barrels per day in 1980, but actual consumption was only 16.3 million. And two years ago, Data Resources Inc. (DRI), an authority upon which Acres and Battelle have relied for fuel-price forecasts, was predicting 20 years of 4-percent annual oil-consumption growth in Europe. However, DRI now expects the conti-

nent's consumption to be below its 1979 peak during the rest of this century. (Reported in Petroleum Intelligence Weekly, 28 June 1982, p 7.) Also see the appendix to this review, "Reflections on the End of the OPEC Era" for further elaboration of the world "flight from oil."

16. D. de Bruyne, as quoted in Petroleum Intelligence Weekly, 14 June 1982, p 9.

17. The published forecasts of government agencies, and the big consulting firms seem to be among the last to recognize the changed outlook --- just as they were among the last to recognize that the high prices established in 1973-74 would be with us for a while. In response to the review draft of this paper, Acres offered the following list of "major forecasts of oil-price trends":

Source	Date of Forecast	Forecast Trend (percent)
Data Resources Inc.	Summer 1982	+2.8
International Energy Agency	Spring 1982	-0.5 to +2.0
US DOE Energy Inform. Adm.	Spring 1982	above +3.0
Canada: Energy Mines & Res.	Summer 1982	+1.7
Ontario Hydro	Spring 1982	+1.8
Energy Modeling Forum		
Average of ten models	February 1982	+1.9 to +5.3
Dr. F. Fesharaki	Spring 1982	+1.7

From Alaska Power Authority, Susitna Hydroelectric Project, "Commentary on 'Alaska Energy Planning Studies' (A R Tussing and G K Erickson)", prepared by Acres American Inc., September 7, 1982.

While the Acres compilation does not reveal the time span of the various projections, it is not unrepresentative of the kind of forecasters polled, even in late 1982. Significantly, however, this list does not contain a single petroleum-producing company, financial institition, or agency of an oil-exporting political entity, while four (half) of the forecasts come from governmental entities that have a powerful institutional stake (as does the Alaska Power Authority) in perpetuating the belief that real oil prices will continue to rise.

None of the recent forecasts the reviewers have seen, prepared for internal use by major petroleum producers (corporations or governments), expects sustained growth in the real price of oil during the rest of this century. All of them now assume continued constant-dollar price declines through at least 1985. At least two major integrated oil companies that now assume for their own planning purposes that the

long-term oil-price trend will fall somewhere between a level nominal-dollar and a level constant-dollar trajectory, released public forecasts in 1982 that still show long-term real-price increases for oil.

More significant than what the companies are saying, however, is what they are doing.

The dramatic change in industry's long-term oil-price expectations over the last two years is impossible to ignore: The companies have scuttled every major unsubsidized synthetic-fuels project in North America, and most of the subsidized ones to boot. Oil companies are cutting back massively on drilling programs, but the most telling indicator of the drastic change in their expectation is the fact that they are now paying only about half as much per barrel for proved petroleum reserves as they were paying in late 1980. (On the last point, see B F Picchi, "The Valuation of US Petroleum Reserves: Exploding the Myths" in Salomon Brothers Inc Stock Research/Industry Analysis, October 15, 1982.)

18. Alaska Department of Labor, Alaska Planning Information: 1982, p 26.

19. Alaska Department of Revenue, Revenue Sources, June 1982, p 7.

20. Calculated from data contained in City and Borough of Juneau, "Notice to Taxpayers," May 1982.

21. Recent preliminary work by one of the reviewers on the actual phasing of state expenditures suggests that there may be a significant lag (as much as two or three years) between the time that revenues and appropriations began to fall (the interval between the FY-1982 and FY-1983 budgets) and the beginning of a decline in actual state expenditures. For example, state appropriations for FY-1981 --- when revenues and appropriations were still increasing rapidly --- were $3.1 billion, yet our preliminary data on actual spending (based on warrants redeemed) show that the state actually spent only $1.8 billion in that fiscal year.

Load Forecasts

22. Acres Task 11, pp 18-30. Acres "tests" the possibility of a positive correlation between oil prices and Alaska energy demand; however, as we show below, the "low load forecast" used in the Acres sensitivity analysis is unreasonably high given present expectations concerning state revenue, state spending, and major resource-development projects.

23. Calculated from data in Battelle, p A-6 (Table A-3).

24. Battelle, p A.2 (Table A-7).

25. Battelle, p A.2 (Table A-1). According to O S Goldsmith, the ISER and Battelle moderate case assumed that per-capita state spending moved proportionally with per-capita personal income. (Personal communication, September 6, 1982)

26. Acres, Task 11, pp 18-50. According to Acres, the State directed Acres to use the Battelle load forecasts. (Alaska Power Authority, Susitna Hydroelectric Project, "Commentary on 'Alaska Energy Planning Studies' (A R Tussing and G K Erickson)", prepared by Acres American Inc., September 7, 1982, p 2).

27. Acres Summary, p 5.

28. Battelle, p 3.12 (note a).

29. Calculated from data in Battelle, p A-7 (Table A - 4).

30. A R Tussing & L S Kramer, Hydrocarbons Processing (Anchorage: ISER, 1981).

31. Battelle, Fossil Fuel, p 2.7.

32. This calculation assumes a 1982 population of 410,000, and the 3.4-percent annual rate of population increase in Battelle's forecast. Real dollars are converted to nominal dollars using the seven-percent annual inflation rate assumed by the Department of Revenue (note 13, supra).

33. Pet. Rev. Quart. Forecast, March 1982; Milt Barker, Memorandum to Representative Thelma Buchholdt, 9 June 1982.

34. Pet. Rev. Quart. Forecast, March 1982, p 13.

35. Arlon R Tussing and Associates, Inc., Introduction to Electric Power Supply Planning (Anchorage, 1980), pp 32-33, 90-91.

36. University of Alaska, Institute of Social and Economic Research, "Alaska Electric Power Requirements, A Review and Projection," in Alaska Review of Business and Economic Conditions, June 1977, pp 1, 15. The actual growth rate is calculated from data in Alaska Power Administration, Electric Power Statistics, 1960-1980, August 1981, p 39.

37. Telephone communication, O S Goldsmith to Tussing, July 24, 1982.

38. LTEP, p I-6 (footnote).

39. LTEP, p I-6. As we noted above, Battelle's "low-case" assumption for Railbelt population growth is 1.8 percent annually through 2000. Another Battelle study gives a "low-case" projection of statewide population in the year 2000 that implies an annual growth rate (1980-2000) of 1.7 percent. (Michael J Scott, et al, Historical and Projected Oil and Gas Consumption. Battelle Pacific Northwest Laboratories for the Division of Minerals and Energy Management, Alaska Department of Natural Resources, January 1982, p D.4)

40. LTEP, Exhibit I-10 (following p I-7). It is not clear, however, which of the many Battelle "cases" was used; the 1980-2000 Railbelt electric energy demand growth rate is listed as 3.5 percent.

Alaska Fossil-Fuel Availability and Costs

39. Acres Summary, p 5.

40. Acres Summary, p 9.

41. Alaska Power Authority, Susitna Hydroelectric Project, "Commentary on 'Alaska Energy Planning Studies' (A R Tussing and G K Erickson)", prepared by Acres American Inc., September 7, 1982, p 9.

42. ARTA, Inc. "Outlook for Proposed Coal-Export Terminals on the West Coast of North America" (unpublished proprietary report, October 1982), "Full Tanks Make Japan a Tough Customer for LNG", in The Asian Wall Street Journal, September 21, 1982.

43. Battelle, p 2.2; Acres Task 11, Table 18.2.3.

44. omitted

45. Acres Task 11, p 18-8.

46. loc. cit.

47. op. cit., p 18-9.

48. Minerals Yearbook, 1980.

49. US Department of Labor, Bureau of Labor Statistics, Weekly and Hourly Compensation of Production Workers in the Bituminous Coal Industry.

50. Acres Task 11, loc. cit.

51. Fuel oil prices: 1950 and 1970, US Department of Labor, Bureau of Labor Statistics, Western Regional Office (San Francisco), telephone communication; coal prices: 1973 and 1981, GVEA public information office, telephone communication; other data from Fairbanks North Star Borough, Community Research Center, The Energy Report.

52. Acres Task 11, loc. cit.

53. Japan, Commodity Trade Statistics.

54. Battelle, p 2.2 (Table 2.1).

55. Acres, p 2-4.

56. This estimate assumes a heat rate (btu/kilowatt-hour ratio) of 10,000, an interest rate of 15 percent, a 50-percent load factor, 5 mills per kilowatt-hour operation and maintenance costs, and present Cook Inlet gas prices. (loc. cit.) The cost estimate would probably be somewhat high even if the Acres-Battelle gas-price assumptions were accepted, as heat rates substantially lower are possible; levelized prices comparable to those used to project Susitna power costs would require the use of "real" (inflation-adjusted interest rates) of 3 percent (6 to 8 percent would probably be more realistic in today's market), and 5 mills considerably exceeds CEA's current O & M costs for gas turbines.

57. Acres, Summary, p 50.

58. op. cit., p 9.

59. All of the data used here are derived or calculated from Acres, Task 11, Table 18.2.3. The Anchorage natural-gas utility has offered to purchase gas from currently shut-in fields on the Kenai peninsula at a price in the neighborhood of $2.25 per Mcf, escalating with the producer-price index. The offer was refused but, in the absence of any visible alternative markets, the refusal could be construed as violating the "diligent development" provision of the state oil and gas leases.

60. In particular, see the sensitivity of the "net benefits" of Susitna to $0.65 MMBtu change in the price of coal. Acres, Summary, p 46.

61. Battelle, Fossil Fuel, p 2.29, 2.30 (Tables 2.9, 2.10).

62. Assuming no change in the consumption of the LNG and chemical plants. See Battelle, Fossil Fuel, p 2.12.

63. US Department of Energy, The Current State of The Gas Market, 1982.

64. The US Geological Survey's latest estimates of undiscovered natural gas in the Cook Inlet area are as follows:

	Low ($F_{.95}$)	Mean ($F_{.5}$)	High ($F_{.05}$)
Onshore			
Associated-Dissolved	neg.	.2	.6
Non-Associated	1.1	3.3	7.2
Offshore			
Associated-Dissolved	0	.4	2.2
Non-Associated	0	1.3	5.9
TOTAL*	3.0	5.2	12.4

* Totals assume resources in the four categories are independent of one another.

Source: US Geological Survey, Circular 860, Estimates of Undiscovered Recoverable Conventional Resources of Oil and Gas in the United States (1981), pp 76-78.

Industry personnel in Alaska seem to be somewhat more optimistic about the Cook Inlet gas resource than is the USGS. A typical industry view of the Cook Inlet gas-supply situation (the most lucid expression of that view the reviewers have encountered) came from a veteran oil-company geologist:

> Sure, there's gas shows all over the place. How much? Hell, who knows? But I'll tell you one thing. Ain't nobody goin' to drill much of it till some of that shut-in stuff starts movin'.

Similar views are expressed by officials of Pacific Gas and Electric Company. (William L. Cole, personal communication to Erickson, February 6, 1981). See also, another Battelle study: Michael J. Scott, et al, Historical and Projected Oil and Gas Consumption (Battelle Pacific Northwest Laboratories for the Division of Minerals and Energy Management, Alaska Department of Natural Resources, January 1982)

65. At the end of September 1982, the California Public Utilities Commission gave the sponsors of the LNG project 60 days to prove its economic viability. (Inside FERC, October 11, 1982) The companies --- Pacific Gas and Electric, and Pacific Lighting --- responded immediately with an announcement putting off construction indefinitely:

. . . the NGPA has made available substantial added supplies of domestic natural gas, according to Bill Wood, gas company senior vice president and president of Pacific Lighting Gas Supply Co. As a result, Wood said, the company has announced that an affiliate has concluded it will not proceed at this time with construction of a liquefied natural gas (LNG) receiving terminal some 40 miles northwest of Santa Barbara, as well as an LNG liquefaction plant in south Alaska. . .

Alluding to the current adequacy of natural gas supplies, Wood said: We continue to believe the importation of LNG is an extremely valuable energy source for California. Further we believe that within two or three years we will be much better able to determine when these LNG facilities should be put into operation. (Southern California Gas Company press release, October 4, 1982.)

66. omitted.

67. On the export market, see, for example, "Full Tanks Make Japan a Tough Customer for LNG", in The Asian Wall Street Journal, September 21, 1982. For US market conditions see, inter alia, A R Tussing and C C Barlow, "The Rise and Fall of Regulation in the Natural Gas Industry," Public Utilities Fortnightly, March 4, 1982. (An expanded version is to appear as "The Future is Now", in the October 1982 Energy Journal.) Also, Tussing and Barlow, "A Survival Strategy for Gas Pipelines in the Post-OPEC Era", address to the Annual Meeting of the Interstate Natural Gas Association of America, September 27, 1982. (To appear in Public Utilities Fortnightly in January 1983.) See Business Week's cover story, "Gas Pipeliners: Priced into a No-Growth Future, Massacre in the Marketplace", August 2, 1982, pp 44-47.

68. We understand, but have not verified, that current LNG plant siting and safety standards essentially preclude construction of any new LNG facilities on the east side of Cook Inlet.

69. Cook Inlet vs North Slope gas prices. The Acres and Battelle treatment of North Slope gas is curious at best. For the purpose of determining Alaska economic activity and thus electricity demand, all scenarios assume that ANGTS will in fact be built (thus imparting an upward bias to population, gross state product, and electricity-load forecasts). When they are considering fuel supplies for electrical generation, however, the project is treated as doubtful. The Acres Summary is typical; after suggesting that "Cook Inlet gas reserves may have been depleted in the early 1990s to the point that reliance upon natural gas

as the principal fuel for electrical generation may no longer be possible," Acres states that

> *The availability during the study period of North Slope gas near Fairbanks remains uncertain. Even if the gas pipeline is built, however, the gas price is projected to be higher than that for the Cook Inlet resource. (Acres Summary, p 9; emphasis added)*

Acres and Battelle are not only inconsistent in their treatment of the ANGTS construction outlook, but show a double standard in their gas-pricing assumptions. They both use a "netback opportunity-cost" model to project Cook Inlet gas prices (which result in very high price forecasts), but they reject that approach in forecasting Alaska prices of North Slope gas (where it would have implied low gas prices for generating plants in Interior Alaska).

In the latter case, Battelle obtains a level 1982-dollar price of $5.92 per million btu at Fairbanks by adding the pipeline-transportation cost to the statutory wellhead price for Prudhoe Bay gas, despite the fact that such a price plus transportation charges beyond Fairbanks would surely make the gas unmarketable in the Lower 48. (Indeed, a 1982-dollar price of $5.92 at the lower 48 "tailgate of ANGTS would probably price North Slope gas out of the market.) Thus, the contractors have assumed as a certainty that ANGTS will be built on schedule where this assumption imparts an upward bias to load forecasts, and thereby a bias in favor of Susitna, while they treat ANGTS as doubtful when it undermines the crucial assumption that the Railbelt will have run out of natural gas by the 1990's. For Cook Inlet and North Slope gas, they have used quite different pricing models, and in each case they have also chosen the one that results in relatively high gas prices and which are, therefore, most favorable to the economics of the Susitna project. (Battelle, p 2.5.)

70. omitted

71. Acres, Task 11, Table 18.1.1; Acres, Summary, p 46 (Plate 24).

72. Acres, Task 11, p 18-7. In fact, the gas prices used do not follow these scenarios, but are instead substantially higher. See Acres, Task 11, p 18-7. For even more confusion, see Table 18.2.3, which implies a constant gas price of $3.00 per Mcf through 1990, and then a sudden spurt at a compound rate of 4.7 percent annually.

Cost-Overrun Risks

73. For a review of notorious cost overruns beginning in the 19th century, see Myron Kaplan, "Keeping Engineering Within Budget", in Technology Review, January 1976.

74. Our review included: US Library of Congress, Congressional Research Service, "Cost Escalation in Selected Major Construction Projects," an unpublished survey for A R Tussing, chief economist, U S Senate Committee on Interior and Insular Affairs, May 22, 1975; M M Hufschmidt and Jaques Gerin, "Systematic Errors in Cost Estimates for Public Investment Projects," in Julius Margolis (ed), The Analysis of Public Output (New York: Columbia University Press, 1970); Robert H. Havemann, The Economic Performance of Public Investments: An Ex-Post Evaluation of Water Resources Investments (Baltimore: Johns Hopkins University Press for Resources for the Future Inc., 1972) (This volume is the source of the samaple of federal water projects cited by Acres); Walter J. Mead et al, Transportation of Natural Gas from the Arctic (Washington: American Enterprise Institute, 1977), pp 83-94; and E W Merrow et al, A Review of Cost Estimation in New Technologies (Santa Monica CA: The Rand Corporation, 1979).

75. Misplaced specificity. The cost and schedule figures examined in an engineering-type risk analysis apply only to a specified project with a specified design. But almost every major construction project gets redesigned in major respects, both after the risk analysis is completed and before construction begins, and during construction.

Thus, sponsors of the Trans Alaska oil pipeline (TAPS) can in good conscience deny that the difference between their original $900 million estimate and the final $9 billion construction cost was all, or even mostly, an "overrun". Likewise, the pipeline engineers who carried out the first risk analysis (which showed a 95-percent probability that the pipeline would come in at less than $1.4 billion), do not believe that their work was incompetent or misleading, because the pipeline that was ultimately built was a very different thing physically from what these engineers originally had in mind.

What would have been improper and misleading, would have been to place great weight on these estimates of costs and risk parameters, (1) in comparing the pipeline with the icebreaking-tanker technology that Exxon was then testing, or (2) in assessing the economic feasibility of developing and producing the Prudhoe Bay reserves. To the credit of the TAPS sponsors, they never attempted to use their risk analysis in this way.

The Susitna hydroelectric project has already gone through several conceptual changes and considerable escalation in real-cost estimates under the Corps of Engineers and Acres. The design examined in the present Acres Feasibility Study is surely not the final design, we have been unable to determine from the current Acres reports how, and at what cost, the truly final design is expected to differ from the concept now under consideration.

76. Subjectivity and Overoptimism. Several kinds of subjectivity tend to flaw engineering risk analyses as a source for point-estimates of expected costs, or probability distributions around those point-estimates. Firstly and utterly fundamentally, risk analysts build into their models only those contingencies that they can foresee. The really major risks are, well, surprises . . .

Secondly, the probabilities assigned to most risk factors are frankly arbitrary and subjective. While a few probability factors (stream-flow conditions, industrial accidents, etc.) may reflect physical or actuarial analysis, most of the individual figures that go into the calculations are blind guesses, and many of them are inevitably inexpert and uninformed guesses.

Finally, these subjective features of risk analyses leave them vulnerable to designer and sponsor overoptimism. Only the project's own engineering design team is likely to know enough about it to carry out a competent risk analysis and, as we pointed out above, they often conduct similar analyses in the course of their own design work. Such teams are, however, almost always "believers" in the project analyzed and in its technology (be it hydro or nuclear power, space travel, or whatever); and their organization usually has a material interest in low cost and risk estimates. They are, therefore, among the least likely parties to anticipate all unpleasant surprises, or to assign sufficient weight to those that they do identify.

77. Institutional blind spots. Engineering-type risk analyses almost invariably exclude risks arising from certain institutional causes. These include changes in sponsor or public perceptions regarding the need for the project; design error and mismanagement; changes in laws or regulations; political controversies and lawsuits; changed capital-market conditions, etc. Together, these factors have played a large part in the cost-overruns, completion delay, and abandonment of "megaprojects" in recent years. Among these factors, the Acres report appears to consider only "contractor competence" and "regulatory delay".

One famous instance of project failure is the Washington Public Power Supply System (WPPSS) nuclear-plant construction program. Its history included planning and management failures, design errors and

frequent redesign, incompetent or dishonest contractors, regulatory delays, unforseen interest-rate increases, ratepayer protests that culminated in a voter initiative to restrict WPPSS' borrowing power, repudiation of purchase obligations by some utilities, and a flock of lawsuits, any one of which may prevent further bond sales.

Very few (if any) of these factors were contemplated in the risk analyses that WPPSS presented to prospective lenders and to Washington State's Energy Facilities Site Evaluation Council (EFSEC). None of them, however, was as important in creating the impending disaster than the **collapse of the load-growth forecasts** prepared for or by the Northwest's utilities. Year after year, demand growth fell below the **minimum** values the utilities had forecast in previous years. (Is there something familiar here?) After billions of dollars had been spent on the WPPSS plants, it turned out that the power from them wasn't needed and couldn't be sold --- even if the system had been able to overcome all its other problems.

Almost all of the generating projects in the United States that have recently been, or will soon be terminated or indefinitely delayed or stretched out, have faced a combination of changing designs, escalating cost estimates, higher interest rates, regulatory problems, and falling demand forecasts. In most cases however, the last element was the most effective cause, as it undermined both the rationale for the projects, and the capacity of the utilities to finance them.

78. Underallowance for non-completion. The "expected final cost" figures generated by risk analyses almost invariably assume that the project in question will be completed. The Acres Susitna study is no exception, as Acres found the non-completion risks flowing from natural and construction factors, regulatory problems, or cost-overruns that cause mid-construction abandonment, to be "negligible" whether taken in isolation or together.

A true "expected-cost" figure for use in a benefit-cost analysis must incorporate the cost of "dry holes", however --- plants that are abandoned in mid-construction or which, even if nominally completed, cannot get an operating license or go on stream. Suppose the expected cost of a finished plant is 120 percent of budget, but that there is a 10 percent probability construction will be abandoned half way to the budget figure, a 5 percent chance it would be abandoned or not operate after the entire budget had been expended, and a 2 percent chance that it would be a washout after 120 percent of budget had been spent. The expected cost of a unit of added capacity would then be 135 percent of the budget figure, rather than 120 percent.

79. See the Appendix to Alaska Power Authority, Susitna Hydroelectric Project, "Commentary on 'Alaska Energy Planning Studies' (A R Tussing and G K Erickson)", prepared by Acres American Inc., September 7, 1982. Also, "Hydropower Broker Robert Byrd, Quebec's Master Energizer of James Bay, in Engineering News Record, February 12, 1981.

80. The Tennessee Valley Authority's Tellico Dam is notorious because of the "snail-darter" case that held up filling of the reservoir for more then two years after the dam was completed. The reason this is the only example that comes to mind is that most of the major hydro sites in the US Lower 48 had already been developed before the plague of cost-overruns, litigation, and regulatory and economic troubles began to overwhelm the nuclear power industry. There are other recent instances of controversies that precluded construction of hydropower projects, however --- the New River project in Virgina and North Carolina, for example.

An interesting aspect of this case is that, by the time that the federal courts finally authorized operation of the project, new studies by TVA showed that it would be uneconomic to install turbines and fill the reservoir even after the dam itself had been completed. Tellico had, in the meantime, generated such a political constituency that Congress ordered the TVA to go ahead with it.

Financing Issues

81. Acres Task 11, p 18-3/4

82. ibid.

83. Business Week, July 27, 1982.

84. October 14-15 yields for new utility bonds were 12¾-14 percent; Aa industrials 12.1 percent; US treasury bonds (1994-99) 10.1 percent, and the 20-bond Bond Buyer index of municipals 9¾ percent. Long-term inflation expectations, however, had fallen to the 2-5-percent range. For a summary of current market expectations, see Kenneth H Bacon, "Price Risk: Fed, Forecasters Differ on Inflation Outlook; Firms Have to Gamble. Companies Counting on Rate Staying 5% May Suffer Reserve Sees Further Fall. The Trauma of Disinflation" in the October 14, 1982 Wall Street Journal.

85. Acres Summary, pp 24-25.

REFLECTIONS ON THE END OF THE OPEC ERA

By Arlon R. Tussing*
Institute of Social and Economic Research
University of Alaska

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Oil Prices and Alaska's Economy

Alaska's labor force, population, and personal income have been increasing faster than those of any other state for almost a decade. Very little of this growth would have happened without the two great surges in world oil prices that most people identify with the rise of OPEC --- the Organization of Petroleum Exporting Countries.

The five-fold price increase for Middle Eastern crude oil in 1973-74, and the resulting three-fold increase in the market value of US domestic crude oil, made it economically feasible to develop the Prudhoe Bay field and complete the Trans-Alaska oil pipeline (TAPS). Even if real oil prices had remained at their 1975-78 levels, Prudhoe Bay oil royalties and taxes would have made Alaska the richest state government per capita throughout the 1980s, and the spending and respending of these revenues in Alaska would have combined with continuing private investment in energy resources to put Alaska among the faster-growing states in income and employment.

World oil prices took off once more in 1979-80, however. Real prices at the Persian Gulf "only" tripled this time, but the stability of transportation charges between the North Slope and Lower-48 refineries caused the price of Prudhoe Bay oil --- and consequently Alaska's royalty and severance-tax collections --- to grow almost five-fold. At their peak in 1981, oil revenues were flowing into the state treasury at an annual rate of more than $10,000 per capita. The effect of this bonanza on state spending for government operations, transfer payments, loan programs, and public works was as awesome as it was predictable. In 1980 the Legislature abolished personal income taxes, and in 1982 it voted to distribute a "Permanent Fund dividend" check of $1,000 to each resident.

By the second quarter of 1981, when crude-oil prices began their present downward trend, most private and governmental planning in the state had come to reflect the assumption that oil prices and, with them, the prices of other fossil fuels would keep rising without limit. Disagreement about the long-term oil-price outlook was largely confined to the question whether price increases would average two, three, or five percent in excess of general inflation.

The prospect of ever-rising oil prices not only implied that Prudhoe Bay would generate more and more revenue for the state, and that the spending and respending of that revenue would provide more and more public- and private sector jobs. It also promised to sustain a high level of exploration activity on state lands and the federal Outer Continental Shelf (OCS) and, most likely, a series of major new discoveries. Rising oil prices convinced sponsors of the proposed Alaska gas pipeline that they could just about ignore the difficulty of marketing North Slope gas as a constraint on the project's economic feasibility.

An ever-increasing real price of oil on world markets seemed to promise Alaska a petrochemicals boom based on the growing cost-advantage North Slope natural-gas liquids (NGLs) would have over oil-based petrochemical feedstocks used elsewhere; it promised development of Alaska's coal for export, as well. Higher and higher prices for oil meant, moreover, that natural gas and coal would be too valuable to use for generating electric power in Alaska; this outlook has been the main rationale for planning a multi-billion dollar hydroelectric generating plant on the Susitna River, and led many Legislators to believe that the state would be able to finance the Susitna project with a direct appropriation from the General Fund.

The price of oil is thus the biggest single outside influence on Alaska's economy, and in 1982, uncertainty about the oil-price outlook has become the biggest single source of uncertainty about the state's economic future. The possibility that the oil-price boom may be over has profound consequences, which it has thus far been easier to ignore in Alaska than in other energy-exporting areas.

Since the upward movement of oil prices ended in 1981, economic distress has already overtaken many of the top oil-exporting countries. By the end of 1982, all but two OPEC nations are likely to be in a deficit fiscal and foreign-exchange position. In less than a year, a record boom has given way to grave depression in the deep-gas areas of Oklahoma, among oilfield-service contractors, and for the financial institutions that specialized in backing them. All but a handful of synthetic-fuels projects have now been abandoned, and the future of those is doubtful.

Several forces join to to perpetuate a petroleum-driven boom longer in Alaska than in other petroleum-exporting regions. Most crucial has been the fact that the actual spending of state money appropriated in 1980 and 1981 has continued to increase month by month well into 1982. Another factor has been the momentum of North Slope oil exploration and development programs, some of which would be viable at any world oil-price level higher than (say) $10 per barrel. A third element in the present boom is a host of Anchorage commercial

building projects for which the key decisions and commitments were made before 1981. Finally, the continuing increase in the amount of state money actually flowing into the economy has combined with the flow of oil-industry investments to perpetuate a mood of high optimism among private investors in Alaska's non-energy industries, particularly residential and commercial real-estate development.

The 1981 Turning Point

This paper is intended to put the OPEC oil-price rises of the 1970s and the more recent oil-price decline into historical perspective. Alaskans can then weigh the chance that energy prices will resume their upward climb, giving new momentum to economic growth in the state, against the prospect that the OPEC era is indeed over --- meaning that Alaska, along with other energy-exporting regions, must accept a radical and mostly downward adjustment in its development expectations.

At the end of 1981, oil prices were suffering their greatest decline in half a century, but many industry executives and forecasters --- even outside Alaska --- cautioned that the attendant "glut" was a temporary phenomenon. Despite many signals to the contrary, that opinion has persisted well into 1982, with Occidental's Chairman Armand Hammer and others predicting $100-per-barrel oil in 10 years. The scarcity mentality that fed the price leaps of 1974 and 1979, plus a belief that unpredictable Middle Easterners control the world oil market through OPEC gave such assumptions nearly axiomatic status during the past decade. But the exporting nations' boast that "oil in the ground is a better investment than money in the bank" is turning out to be so much wishful thinking.

The truth is that neither an end to the recession, nor OPEC attempts at production quotas, nor continued wars in the Middle East will long be able to shore up a sagging crude-oil market. It is, indeed, because oil prices climbed so rapidly and so high in the 1970's that they are now almost certain to fall and keep falling --- perhaps as steeply and as far as they rose. Today's prices are still higher than markets can tolerate, and the forces that led to the enormous price hikes of the past decade work just as effectively in reverse.

While real (constant-dollar) crude-oil prices are unlikely to rise again to their 1980-81 levels any time in this century, forecasting prices for any specific future year is a nearly hopeless task. The fall in crude-oil prices that began last year will some day give way to another price rise, another decline, and so on. For crude-oil markets are inherently **cyclical** and, except during a unique period of almost four decades when the State of Texas dominated both U.S. and world crude-oil markets, oil-price fluctuations have been large and frequent. His-

tory shows us no long-term oil-price trends, but only a series of cycles of uneven duration and amplitude. The era of OPEC's opportunistic price-gouging is over, but no other entity is in sight with the power to move oil prices in any consistent direction or to stabilize them at any given level.

Market Control by the Texas Railroad Commission (1935-1972).[2]

To understand OPEC's helplessness in today's crude oil-market, it is useful to review how the market operated before OPEC came to power, and how the Texas Railroad Commission (TRC) managed to exercise control for nearly forty years.

The TRC's rule emerged in the mid-1930's from circumstances quite different from those that nurtured OPEC in the 1960's and 1970's. In the era between 1859, the year Colonel Drake first discovered oil in Pennsylvania, and the Great Depression, crude-oil markets everywhere were dominated by events in the United States, where one black-gold rush after another unleashed an oversupply and sent prices plummeting. Growing oil demand rapidly restored prices after most of these crises, as petroleum captured markets that were previously held by whale oil, gas, or coal, and as the automobile population swelled.[3]

The Yates field in Texas, for example, was first tapped in 1926. It was the biggest field yet found, and over its first year of production, average crude-oil prices in the United States fell 24 percent. Prices recovered quickly, but in 1930, the beginning of the Depression coincided with discovery of the even larger East Texas field. Oil literally ran in the creeks, and prices fell to 10 cents per barrel.

Much of this market chaos resulted from the common-law "rule of capture". The principle that nobody owned oil until it was brought to the surface generated frenzied competition among drillers to lift as much oil as they could from each newly-discovered pool before their neighbors got it. The East Texas drilling rush ended in 1931 only when the governor sent the National Guard into the field to shut down production. The next year, a bitterly divided Texas legislature granted the TRC authority to limit output from individual wells in the interest of conservation and market order. Under "market-demand prorationing", refiners told the TRC how much oil they wanted to buy each month, and the Commission parceled out the "allowable" share of this demand to each well. This system assured every Texas producer a buyer for at least some of his oil, no matter how much excess producing capacity other producers held. The TRC's ability to stabilize the market was bolstered by market-demand prorationing in several other states including Louisiana, the number-two US producer. Under state regulation, physical shortages and surpluses both became a thing of the

past, "conservation" replaced physical waste, and the violent short-term fluctuations of crude-oil prices ended.

Even more important were a series of federal actions backstopping TRC authority. In the 1935 Connally "hot-oil" law, Congress made it a federal crime to ship oil produced in violation of state conservation orders. After the War, the executive branch acted to prevent uncontrolled imports of low-cost foreign crude oil from undermining the states' control of US oil supplies. For a while, the handful of largely US-based oil companies that controlled the oil reserves of the Middle East and the Caribbean had cooperated successfully in limiting petroleum production from their foreign concessions to just about the amount demanded by their own foreign refineries.

Nevertheless, by 1948, the huge low-cost oil reserves overseas had become enough of a threat to Texas regulation that the Truman administration started assigning "voluntary" import quotas to the companies. In 1958, after independents like Hunt and Occidental developed enormous new reserves in Libya, President Eisenhower established a mandatory oil-import program (MOIP). The MOIP gave each US refiner the right to import some lower-priced foreign oil, but it enabled the TRC and other state conservation authorities to continue setting the total volume of crude oil supplied to the domestic market.[4]

Critics of market-demand prorationing and import quotas, including the 1970 Cabinet Task Force On Oil Import Control headed by George Shultz, saw the combination mainly as an arrangement that kept US prices artificially high and perpetuated wasteful excess capacity. It did, indeed, shut in much of the nation's lowest-cost oilat the same time that it created an incentive to develop domestic fields that would not have been viable in a free market.[5] But precisely because it sheltered surplus producing capacity, Texas prorationing functioned as the balance wheel of the world oil market for four decades. Texas was the "price-maker": The TRC determined the price all domestic producers received for their oil and it was at the same time the most powerful single force in the world crude-oil market. Other producers were relegated to the passive role of "price-takers" who could always sell as much or as little oil as they wished, once they accepted the price structure established by Texas.

The TRC could play the price-maker's role because it had control over sufficient spare producing capacity to supply refiners with all the Texas oil they wanted at the established price, offsetting any rise in demand prompted by boom conditions or long-term economic growth, or any drop in output by other producers at home or abroad. The Commission also had the power to enforce production cuts if necessary to prevent a surplus from appearing when oil demand waned or production outside Texas increased.

The Texas system worked for nearly 40 years, through World War II, the US recessions of the 1950s, and several supply disruptions caused by Middle Eastern political upheavals in the 1950s and '60s. Oil supplies were seriously curtailed in 1952-54, for example, following Mossadeq's nationalization of the Iranian oil concessions, during the Suez crisis of 1956, and again during the 1967 Yom Kippur War. US and world crude-oil prices remained relatively stable, however, as the majors produced more oil in the unaffected Persian Gulf countries, while the TRC and other state commissions increased production at home.[3] From 1935 to 1972, roughly the period of the TRC's domination of the world market, the average annual change in real crude-oil prices in the United States was only 4 percent, plus or minus, a stark contrast to the average annual change of 21 percent between 1871 and 1935.

One reason for the TRC's success was that it did not exploit its market power opportunistically. The 1952, 1956, and 1967 Middle Eastern conflicts offered Texas producers (and the state of Texas, a major royalty owner) a chance for huge short-run profits, as they did the big international oil companies. But each time, the TRC and the majors opted for long-term stability, forestalling the kind of consumer panic that generated the price run-ups of 1974 and 1979 after the TRC had lost control.

Once domestic production reached full capacity in 1972, the US government had no choice (politically, at least) other than to do away with import controls, leaving consumers exposed to whatever upheavals might occur in the oil-exporting countries. Meanwhile, nationalization of the major oil companies' overseas concessions, plus the growing influence of independents (including national oil companies like those of France, Italy, and Brazil), had stripped the majors of their ability to balance supply and demand outside of North America. A supply curtailment by the Arab oil producers, which would have hardly caused a ripple in oil prices ten years or even two years earlier, transformed world energy markets and, for a few years at least, handed control of those markets to OPEC.

Panic Pricing in 1973-74 and 1979.

OPEC's spectacular successes in the 1970's were due more to market psychology than to anyone's direct manipulation of crude-oil supplies. OPEC <u>per se</u> did not engineer either of the decade's great price leaps; they came instead out of consumer panics that spread through the spot market after the 1973-74 Arab embargo and the 1978 Iranian revolution. In both cases, OPEC merely voted, after the panic had run its course, to establish the prevailing spot prices as the base prices for all crude-oil sales.

Crisis psychology was thus the key to the short-term oil market behavior that ratcheted prices upwards. The physical shortfall that provoked the panic of 1973-1974 was proportionally no greater than the shortfalls (or excess supplies) that the industry faced periodically because of unusual weather or the business cycle, and there was no reduction in output at all immediately before the 1979 price spiral. In neither case was the actual shortage greater than the sum of (1) the oil then being consumed by electrical-generating and manufacturing plants that had the capacity to use other fuels, (2) the standby or underutilized oil-producing capacity of US and uninvolved foreign producers, and (3) the inventory cushions that industry ordinarily would have drawn down in order to prevent market turmoil.

The price fly-ups, rather, began both times with a handful of large buyers who believed that the "shortage" was real, and who were thus willing to pay almost anything. This crisis mentality had a powerfully perverse effect on the market: instead of restraining demand, soaring spot prices gave the shortage credibility and helped propagate the panic to every class of consumer, so that demand actually increased. Much of the apparent supply deficiency was caused by hoarding, the most memorable example of which was fashion of topping-off gasoline tanks daily in private automobiles. This practice alone probably created demand for an additional 600 million barrels of gasoline in the United States --- equal to about three months of refinery output.[7]

However socially irrational that hoarding may have been, it seemed quite reasonable at the time from an individual company or consumer standpoint. In 1973-74, both the Arab producers and the Western media were insisting that the embargo and production cutbacks were in fact harming the consuming countries. Congress had passed an Emergency Petroleum Allocation Act; President Nixon had declared an "energy emergency" and had begun allocating crude-oil and petroleum products.

No one knew how long the apparent shortage would last or how high prices might go before it was over; hence it made sense for anyone with a preferred position in the allocation scheme to take every drop of price-controlled gasoline or fuel oil allowed under the rules, regardless of current need, and for every other consumer to buy as much at the prevailing price as he could store. Motorists, households, and businesses all sought to build up and maintain high inventories in case things "really got bad" later, while producers, refiners, and others expected to profit from holding products for resale at higher prices in the future. All of these anticipations of course validated themselves: supplies did get tighter and prices continued to rise.

The Role of Spot Prices.[8]

Oil producers and refiners usually try to plan their physical operations and to budget their purchase outlays and revenues well in advance. For this reason, the great bulk of the world's crude oil moves in "captive" channels from producing companies to their own refinery affiliates or on relatively long-term contracts between producers and refiners. "Spot" transactions --- sales of a single tanker-load or less --- usually account for only a few percent of world supply, but they are an indispensable part of the total market because they allow any company or government to dispose of a temporary oversupply or fill a temporary shortfall. A general surplus or shortage equal to only (say) three percent of total world demand may thus show up as a surplus or shortage amounting to fifty or one-hundred percent of normal spot-market demand. As a result, spot prices tend to fluctuate daily and seasonally, and to range widely above and below "posted" or contract price levels, which typically change slowly and infrequently.

Changes in crude-oil spot prices occasionally herald deep-seated market changes, but more often they are only exaggerated reflections of unexpected weather or business conditions, the buildup or drawdown of inventories, or political events. After some such contingency has caused spot prices to diverge sharply from contract prices, the spot market normally returns to a relatively narrow band of prices in the vicinity of previous contract-price levels. What was special about the OPEC-dominated markets of the the 1970's is that they twice failed to respond in this normal way. After the panics of 1973-74 and 1979, spot prices did **not** fall back to pre-crisis levels; instead, contract prices rose --- by OPEC decree --- to the peak values to which the panic had carried spot prices. This feat was OPEC's great triumph which, ironically, is now begetting its downfall.

The Power of Saudi Arabia and OPEC.

The TRC determined prices by actively manipulating the aggregate supply of crude oil; as a state agency, it had the power to enforce its orders on the many thousands of Texas producers regardless of their conflicting individual interests and viewpoints. OPEC, on the other hand, has never had any authority over the diverse and sometimes warring sovereignties that make up its membership.

Nevertheless, in the early 1970's, once the surplus capacity of Texas and Louisiana had disappeared, Saudi Arabia by itself conceivably could have taken over the TRC's balance-wheel role. Its potential authority came from a combination of the world's largest reserves of conventional crude oil with a population on the order of only five million. The Saudis have thus had the same mix of assets, at least

theoretically, that earlier gave the TRC its power --- the ability to increase or decrease output over a wide range.

Proved and indicated reserves in Saudi Arabia number in the hundreds of billions of barrels --- how many hundreds, no one knows or much cares, because it has never been worthwhile to carry out the intensive exploration and development work needed to get an accurate estimate. The known reserves are, in any event, so large and so easy to develop that it would take Saudi Arabia only a few months to double its exports from the current level of less than 6 million barrels per day. (After all, production was almost 11 million barrels per day only one year ago.) With two or three years for drilling of development wells and construction of gathering lines and terminals, exports probably could rise to something like 18 million barrels per day. Indeed, before the 1973 embargo, the big oil companies (the Aramco shareholders) that controlled the Saudi concession were planning for production on the order of 20 million barrels per day by 1976.

Saudi market power rests on the ability to curtail as well as to increase production. The country's small population has permitted Saudi Arabia to reduce its output by almost half over the last year, from 10.6 million barrels per day in August 1981 to about 5.5 million in May 1982, without suffering a fiscal or foreign-exchange crisis. Throughout the 1970's, therefore, Saudi Arabia, with or without the cooperation of other OPEC nations, had much of the wherewithal to stabilize the market in just the same way as the Texas Railroad Commission once did.

The OPEC Mystique.

It was a worldwide obsession with scarcity, rather than deliberate management of total world supplies, that underpinned the OPEC mystique and locked in the high prices OPEC decreed in 1974 and 1979 after the direct causes of panic had vanished. The doctrine of imminent resource exhaustion was embraced in the 1970's by a broad spectrum of parties who had entirely different world-views and different ends.

Environmentalists hoped to slow the wasteful plundering of the earth's riches; oil companies were seeking to ward off price controls and attacks on their tax preferences; alternative-energy entrepreneurs sought business; politicians found in the energy crisis a moral equivalent of war; civil servants made it the rationale for massive expansion of their agencies and intervention into almost everything; and an army of academics, consultants and journalists waxed rich and famous by studying, interpreting, or advocating national energy policies. Each group wanted to believe, or at least to persuade others, that "the wolf is really here" --- that OPEC's prices might have risen too abruptly for

comfort but that, in the last analysis, those prices only expressed the dictates of geological necessity.

"Oil in the Ground is Better than Money in the Bank."

In this intellectual climate, each price increase, regardless of its proximate cause, helped convince the oil-exporting nations that "oil in the ground is a better investment than money in the bank." This doctrine could remain valid for just as long as most producers believed in it, because it encouraged them to hold oil off the market in the faith that its value would be much higher in the future. It was therefore the most effective and durable weapon in OPEC's ideological arsenal.[10] Although the organization had no enforcement machinery, and did not even attempt a prorationing scheme until 1982, its members did reduce production when preservation of the price gains of 1974 and 1979 required it.

When the OPEC nations cut back their total exports in 1974 and again in 1979, it is important to note that they made the required cuts individually. They did so **without coordination** or **urging by OPEC,** because they had more money than they needed at the moment, and because they believed that their oil would be worth more later. Even the 1973-74 price rise had been so immense that most OPEC countries had substantial financial surpluses; only Algeria, Ecuador and Indonesia were in deficit. In 1975 OPEC as a whole had a $59-billion (or 14-percent) surplus of export revenues over import expenditures. Several countries understandably concluded that their economies couldn't absorb further increases in oil income without generating intolerable inflation and social unrest.

It also seemed obvious to the producers that oil prices would continue to advance at a higher rate than their surplus cash would yield in risk-free financial instruments. Thus, Kuwait, Libya, and Venezuela together reduced their exports by 4 million barrels per day after the 1974 price rises. Saudi Arabia abandoned Aramco's 20 million barrel-per-day target in 1974, and cut production sharply in January 1979 and then again in April --- ostensibly to offset an imminent oil glut, which was in fact an aftermath of the price panic that followed the overthrow of the Shah. In neither price rise did OPEC as such have any role in initiating or orchestrating the curtailments.

Thus, a short-lived belief in acute scarcity twice created a real scarcity that caused spot prices to soar. A belief that chronic energy shortages would engender a permanent seller's market then led producers and consumers alike to interpret an unusual and otherwise transitory market phenomenon as obedience to holy writ. The self-fulfilling doctrine that oil in the ground was the world's best investment not only encouraged OPEC officially to adopt spot market prices generated by

consumer panic; it also enabled those prices to stick. In 1973-74, the world price of crude oil (measured at the Persian Gulf) increased five-fold in real terms, and then in 1979-80 it again tripled (a vivid contrast to the decades of tranquility under the TRC).

The End of the OPEC Era.

OPEC's hold over world energy markets in the 1970's was no less real because it was mainly psychological. However, the cartel's mystique is far more fragile than the earlier market power of Texas, which stemmed from the TRC's direct control over production volumes. Today, few of the material requisites for further OPEC success remain. Its share of the world oil market has fallen from 55 percent in 1974 to 31 percent in August 1982; and Saudi Arabia's share is already less than the share Texas held as late as the mid-1960's.

Some recognition of these shifting realities began to strike the Saudi leadership only after two deliberate production cuts in 1979 had locked in a series of huge price increases voted by OPEC. Saudi Arabia's actions have now become more-or-less consistent with the professions of the kingdom's oil minister, Sheikh Yamani, who had long given lip-service to the cause of moderation and market order. Explicitly invoking the memory of the TRC, Yamani claims to have engineered the 1980-81 "oil glut" --- increasing production from less than 8 million barrels per day to almost 11 million, specifically in order to bring prices down to $34 per barrel and to persuade his OPEC partners they should join a prorationing scheme under Saudi leadership. In 1982, after succeeding too well, perhaps, the Saudis have abruptly reversed course, now cutting their exports by nearly half in an attempt to support the $34 price.

But Saudi Arabia appears to have been too late in discovering the market power it alone possessed. While the TRC held crude-oil prices in the United States above short-term free-market levels, it still kept them low enough to encourage ever-increasing oil consumption and stave off the development of alternative energy sources. The Saudis, however, wittingly or unwittingly had a key role in both OPEC price hikes of the 1970's, unleashing inexorable and profound reactions from both producers and consumers, which today threatens to make OPEC oil a dispensable commodity.

Contrary to a near-consensus of industry, government, and the academic/consulting community during the 1970's, crude-oil demand does respond --- slowly but massively --- to price changes. In the long run, higher prices have a profound effect on oil supply too, but the relationship is too complex to pursue in detail here. In any event, non-OPEC output has grown rapidly and will continue to grow: Production from the North Sea, Alaska, and Mexico, for example, increased by 4

million barrels per day between 1977 and early 1982, and Mexico's exports --- driven now by economic necessity --- could increase another 3, 5, or more millions of barrels per day before 1990. Most clearly and most importantly, however, high oil prices are shrinking oil demand both by reducing total energy consumption and by making coal, natural gas, nuclear power, and other energy sources more attractive.

The Flight from Oil.

After a modest dip in 1974, total world oil consumption resumed its growth, and finally turned down only in 1979. This experience reinforced the impression that oil demand was insensitive to price changes, misleading economists as well as industry executives and government officials in both oil-producing and oil-consuming countries. An absolute decline in US oil consumption was first visible in 1979; the rest of the industrialized world followed a year later. In retrospective, it is remarkable how many were unable to see what was happening.

Exxon in 1977 forecast that US consumption of petroleum liquids would be **20.3 million barrels per day in 1980.** In 1979, Shell predicted **18.6** million barrels per day consumption in 1980, and both the Oil and Gas Journal and the Independent Petroleum Association of America forecast 18.4 million. As late as mid-1980, Shell had only revised its published estimate downwards to **17.2** million barrels per day, while the Independent Petroleum Association of America had come down to **17.4.** **At year-end in 1980, however, average consumption for the year stood at only 16.3 million barrels per day.**

The drop in total oil use over the last three years and the experts' tardiness in recognizing the trend of consumption stem from profound changes in the structure of world energy demand, which have actually been under way since 1974. From 1960 to 1973, oil prices were low and declining in real terms. As a result, absolute oil consumption in the industrialized countries grew at an annual rate of 7.6 percent. Japan led this growth with an 18-percent average over the thirteen-year period. After 1974, however, the quadrupled crude-oil price led to a gradual leveling off of demand for oil everywhere. Total oil consumption in the industrialized countries dropped slightly in 1974-75; growth resumed between 1975 and 1979 at an annual rate of about 1 percent, but this partial recovery only concealed the fundamental shift that had taken place in the world's energy-use patterns.

More telling than gross consumption figures is the change in oil use per unit of economic activity, or "gross domestic product" --- the oil/GDP ratio. After rising at an annual rate of 1.3 percent from 1960 to 1973, the oil/GDP ratio for the major industrialized countries showed a 1.5-percent annual decline between 1973 and 1979. The 1979

upheaval initiated an even more decisive and long-lasting shift away from oil, reflecting both an immediate reaction to the second OPEC price surge and the delayed but cumulating response to the price increases of the early 1970's. From 1979 to 1981, oil consumption in the industrialized countries fell 7 percent per year, and the oil/GDP ratio fell at an annual rate of 8 percent.

Since the latter measure represents the amount of oil used **per unit of economic activity** rather than an absolute figure, its fall implies that an end to the present recession will not be the panacea that much of the energy industry and many analysts still seem to anticipate. The die has been cast. It is unlikely that individual homeowners will tear the insulation out of their houses if the price of home heating oil drops, or scrap their new fuel-efficient automobiles in response to lower real prices for gasoline. Nor will the construction and automobile industries abandon their new energy-efficient designs. Those who attribute the oil glut and the current "softness" of oil markets primarily to the world recession forget that economic recovery will mean a **more rapid replacement** of existing vehicles, industrial machinery, and buildings with models designed since 1974 in response to high energy prices.

Except in a couple of OPEC countries, no new base-load electrical generating plants fired by oil, or large-scale oil-fired boilers of any sort, have been built since the mid-1970's; over the past decade, industry has been relentlessly converting existing oil-burning equipment to coal, natural gas, and other energy sources. Because changes in the world's fuel-use patterns are generally embodied in long-lived capital-intensive investments such as buildings, transportation equipment, and industrial machinery, the extended period it has taken for the 1974 price rises to produce an absolute decline in oil consumption only reflect the time required to replace these assets. This long lag in adjusting the world's capital stock to changed energy-supply conditions also suggests that the all-time high oil prices of 1974-1982 will influence consumption patterns for many more years, **even if world oil prices now fall as rapidly and as far as they rose in the 1970's.**

The truism that the world's petroleum resource is finite thus does not mean that oil prices will continue to rise. The world has no demand for crude oil as such, but only for the heat, motive power, and chemical building blocks it provides, and only for so long as it is the cheapest source of these goods. No matter how scarce natural petroleum liquids become, their prices can not rise and remain above the cost at which each of these wants can be dispensed with or served in some other way.

It should be fairly obvious now that predictions of $100 per barrel oil are ludicrous. At $15 per barrel, oil was already more expensive than coal in most of the world, and had consequently priced itself out of electrical-generation and other large-scale stationary-heat and boiler-

fuel markets. At well under $50 per barrel, given a few years for market and infrastructure development, liquid petroleum products would have become marginal even as transportation fuels, increasingly replaced by some combination of compressed and liquefied hydrocarbon gases and alcohols. A world that is already fleeing from oil at $32 per barrel would hardly have any use for it at two or three times that price.

This dynamic does not bode well for OPEC, or for the ability of Saudi Arabia or anyone else to manipulate or stabilize the market. Only when demand falls is the power of a price-maker tested. Can the OPEC nations, many of whom are deeply in debt, now afford to cut back production as they must?

On this point too, the OPEC of 1982 is as different from its predecessor, the Texas Railroad Commission, as it is from the OPEC of the mid-1970's. In comparing OPEC with the TRC, it is essential to remember that the Commission's power developed during the Depression, and that its institutions were designed expressly to manage a chronic excess of producing capacity. Once that excess was gone, the TRC became impotent and economically irrelevant. OPEC, in contrast, showed its muscle under totally opposite conditions. It twice seized upon a brief moment of consumer panic, convinced itself and consumers alike that a permanent world oil scarcity existed, and for a while reaped the benefits of a seller's market even after the foundations of that market had vanished.

There is little prospect that OPEC can function effectively in a chronic buyer's market, especially in the face of the organization's current internal dissensions and the precarious financial situation of its members. At its March 1982 meeting, the group made its first serious attempts at TRC-style prorationing. The experiment was an instant failure, with at least three members brazenly exceeding their quotas from the beginning.[12] By July 1982, Iran was selling 1.0 million barrels per day above its quota, Nigeria .3 million, and Libya .25 million. Venezuela --- the sole advocate of OPEC prorationing before 1980 --- had threatened to start selling more than its assigned 1.5 million barrels per day if the other countries didn't get in line, and in August, the Saudis, who had already reduced their output by 45 percent in the hope of supporting the $34 marker price, were also hinting that they would increase their exports if the cheating didn't stop.[13]

Even holding the line at today's production level is not enough to bolster OPEC's flagging power, as world oil consumption continues to shrink and the production of non-members --- especially Mexico --- continues to grow. The organization as a whole must somehow manage to reduce production even further if present prices are to hold. Yet its member-nations individually face internal problems and pressures that urge them in just the opposite direction.

The greatest source of downward pressure on prices is the shaky financial condition of the exporting countries, a drastic turnaround from the situation of 1975. Since 1973, the OPEC nations' spending for imports has risen at an average annual rate of 30 percent, because of ambitious industrialization plans in every one of them and extravagant purchases of military hardware in many. Already, the combination of declining oil demand and rapidly rising expenditures has resulted in trade deficits for all but three OPEC members. Unless oil production or prices increase sharply, every member, including Saudi Arabia, could slip into deficit by the end of 1982.

These deficits, exacerbated by the continuing Iran-Iraqi war, are already beginning to take their toll as the most hard-pressed countries, in search of revenues to pay for today's imports, produce as much oil as they can sell. Moreover, with declining or even stable prices and real (inflation-adjusted) interest rates at their highest level in history, the slogan that oil in the ground is a better investment than money in the bank is obsolete even for countries that don't have an immediate cash-flow or foreign-exchange deficit. In the 1980's, it is hard for even a cash-surplus oil-exporter to avoid recognizing that "**oil in the ground is a non-earning asset**", which ought to be cashed out so the proceeds can be invested in high-yielding financial instruments. This doctrine is just as true and may be just as self-fulfilling today as was the opposite notion in 1975 or 1979.

To put OPEC's weakness into further perspective, consider the following:

*In August 1982, world crude-oil production was about 54 million barrels per day. Out of this total, the Saudi share was about 5.5 million, or 10 percent; all of OPEC was producing about 17 million barrels per day, or 31 percent of world supply. If new production in non-OPEC countries plus further declines in consumption were to equal only 10 percent of present world demand, OPEC's members would have to reduce their own production by 32 percent in order to defend any chosen price level.

Saudi Arabia, which has already reduced its exports by 45 percent over the last year, can not and will not accommodate much of this burden, as a 10 percent shift in world supply or demand would be just about equal to the country's current export volume. Further growth in non-OPEC production and a further fall in world consumption are not only plausible but nearly inevitable. Thus Saudi Arabia's reign as world price-maker is ending virtually as soon as it began.

*Conservation, fuel-switching and recession caused the non-communist world's oil consumption to fall by 7.5 million barrels

per day between 1979 and mid-1982. If consumption declined by only half as much over the next two years, OPEC's output would have to fall by an amount equal to the combined production of Kuwait, Libya, Algeria and Indonesia in August 1982, or by 68 percent of current Saudi output.

*Crude oil production from Alaska, Mexico and the North Sea increased by more than 4 million barrels per day between 1977 and 1981. If all non-OPEC producers were to increase their output by another 4 million, OPEC could maintain control of prices only if its members could cut production by at least the equivalent of 73 percent of August 1982 Saudi Arabian production.

*Production from Iran, the world's former number-two oil exporter, has fallen 4 million barrels per day from its 1974 peak. The former number three exporter, Iraq, is producing 2.6 million barrels per day less than the peak it reached in 1978. If the war between these countries should end and they returned to the market with their 1978 sales volumes, other OPEC countries would have to curtail production by an amount equal to 90 percent of August 1982 Saudi output.

*Finally, if by chance the last three developments all took place, and if OPEC hoped to sustain world prices at current levels, it would have to find places to cut production by least 12.7 million barrels per day --- 75 percent of the organization's current output, or 231 percent of August 1982 Saudi production.

The range of conditions within which OPEC, Saudi Arabia, or anyone can continue to dictate or even defend the level of world oil prices is thus extremely narrow. The reckless opportunism that held sway in the 1970's is now taking its toll. Long-term changes in supply and demand adverse to OPEC's interests have been under way ever since the cartel's first big coup in 1974. As these changes become visible to everybody, the mystique that has been OPEC's chief source of power will vanish along with forecasts of hundred-dollar oil. The world market will soon be, if it is not already, out of anyone's control.

What Have We Learned?

A big new disturbance in world oil markets could push prices either up or down. It is still conceivable, if only barely so, that a sharp economic upturn and an exceptionally cold winter could combine with the right kind of Middle Eastern political crisis, and send prices soaring for a third time to levels significantly above those reached in 1980-81.

The probabilities, however, weigh heavily on the other side. There is a huge overhang of excess producing capacity in the oil-exporting countries. Several of them are in big fiscal distress; Mexico

in particular has both the ability and a desperate need to increase oil exports. Meanwhile, the price-induced flight from oil is still gathering momentum that will not be spent for years **no matter what happens to oil prices today.**

All of these forces together, not to mention a worldwide economic slump that is far from over, add up to irresistible downward pressure on oil prices. Prices must **eventually** go down, and they must go down substantially. The serious questions are whether they will descend smoothly or chaotically, and how deep they will go. There is still a sliver of a chance that prices could firm for weeks or months, or even --- given the unlikely coincidence of events decribed above --- increase once more. But a market collapse this year or next has a far bigger likelihood, a collapse every bit as spectacular as the two price eruptions of the 1970s.

Looking back across the years of OPEC and Energy Crises to the relative tranquillity of the TRC era and beyond, there are a several lessons for the future.

1. **Worldwide scarcity and rising real resource costs had little or no direct responsibility for the worldwide energy-price upheavals of the 1970s.**

The earths's **known** resources still include plenty of crude oil that could be developed and produced at resource costs (capital, material, and labor costs) well below 1973 real prices. Considering these resources alone, there is enough low-cost oil left to satisfy the world's current rate of consumption for several decades.

2. **In the absence of an effective price-maker like the Texas Railroad Commission, crude-oil markets are inherently cyclical.**

Oil demand is highly responsive ("elastic") to price changes, but this response is very slow, because fuel-use patterns are embodied in capital goods whose turnover is measured in decades: buildings, transportation equipment, industrial machinery, and production processes. For the same reason, demand is exceedingly inelastic to price changes in the short run. This contrast between short- and long-term price-responsiveness inevitably fosters cyclical price behavior. In the 1970s **short-term price-inelasticity** spawned a steep cyclical upswing after years of artifically-maintained stability, and in 1981, a high **long-term price-elasticity** finally began to show itself in the beginning of a downswing.

If there is no "surge-tank" or "damping" mechanism comparable to market-demand prorationing, moreover ---

3. Market structure and psychology can exaggerate an episodic oil-price fluctuation, up or down, far out of proportion to the original supply-demand imbalance that triggered it.

Inventory accumulation or liquidation, the financial position of major producers, and consumer panic can all cause markets to behave perversely over a "short-run" that can last for several years. In a mockery of the "normal" supply-demand map, an oil-price rise can for a while create an incentive to build inventories, and sustained price rises can encourage the withholding of production. A price reduction, likewise, can provoke liquidation of inventories and the expansion of output. As a result ---

4. A small excess of demand or supply, real or imagined, can send the market soaring or plummeting far beyond the price level that ultimately could have brought it back into balance.

Thus, there is no stable equilibrium toward which an unregulated petroleum market unfailingly "hunts" once it is disturbed. The upheavals of the 1970s, which carried prices well above any level that could be sustained in the long run, have now set the stage for a descent far below the range of sustainable prices.

5. No cartel or regulatory system could have held world oil prices at the low levels of the early 1970s, and none can do so in the future.

Before 1973, state regulators in the United States and the cartel of international companies maintained prices that were above the shortest-term "market-clearing" levels, but which were still so low that oil totally dominated transportation-fuel markets (even capturing railroads that had earlier been powered by electricity generated from coal) and, except in a small corner of the United States, virtually swept coal from the world's markets for industrial boiler fuels and organic-chemical feedstocks. These prices were, at the same time, too low to perpetuate the surplus oil-producing capacity in the United States, to which the state regulators owed their market power. Though the world's stock of very low-cost oil was still immense, the loss of spare capacity in the United States concentrated the power to increase or curtail production rapidly in a handful of economically underdeveloped and politically turbulent countries.

The problem, therefore, was not a permanent worldwide scarcity of "cheap" oil, but rather the absence of short-term oil-demand flexibility, together with the disappearance of the short-run supply

flexibility that had previously been exercised by governmental and private institutions that had were consciously striving for market order. In these circumstances, a relatively small curtailment of sales by a few producers openly aiming at market disruption could and did trigger an upward explosion of prices. If world oil prices now fell to pre-1973 levels (in constant-dollar terms) once more, a world-wide "energy crisis" would be with us again sooner or later. Likewise, however ---

6. No group of producers could long hold world oil prices at the high levels of the early 1980s, and it is unlikely anyone will ever be able to do so.

Today's prices are not viable because they are well on the way to pricing oil out of both the industrial fuels market and the market for petrochemical feedstocks. If prolonged, today's prices would even begin to erode oil's monopoly in transportation-fuels markets. Oil at $30 and up has, therefore, guaranteed the emergence of excess producing capacity not in just one or a handful of political entities (Texas and Lousiana, for example, or Saudi Arabia, Kuwait, and Abu Dhabi), but all over the globe.

7. Market stability at any price requires the supply-demand balance to respond promptly and in the normal direction to any price change, and prices to respond promptly and in the normal direction to any change in the supply-demand balance.

If the world is to avoid repeated violent swings in oil prices, market arrangements must be such that a small rise in oil prices can cause either a sizeable increase in effective oil supply or a sizeable decrease in oil consumption, or both. A small drop in prices must, likewise, be able to induce a prompt reduction in supply or increase in consumption.

8. Short-term supply-side adjustments that foster price stability rather than instability require a TRC-style price-maker, but none is now in sight.

Any supplier or group of suppliers that hopes to regulate the market must have the ability and the will to swing world oil production upward to satisfy any surge of demand or supply interruption, or (more importantly now) to swing it downward in order to make room for a surge of supply or slump in demand. The system run by the TRC underpriced away its power to increase output whenever it was needed. OPEC as such never had either the will or the capacity to take responsibility, and Saudi Arabia --- out of greed or timidity, we may never know --- blew its chance. It has now overpriced away its ability

to reduce production sufficiently to support world prices at present levels or, most likely, at any level.

The only plausible new candidates for price-maker may be PEMEX (Mexico's state oil company) and the US Strategic Petroleum Reserve. Even if one of them maneuvers itself into the right strategic spot in the world market, however, there is only the barest chance that domestic politics in the United States or Mexico would permit either institution to move quickly, independently, and responsibly enough to serve as the world's oil-supply balance wheel.

9. The only price level that even a supply-side price-maker can maintain for long is one that fosters demand-side stability as well.

10. Specifically, the range of sustainable oil prices is limited to those prices at which oil, coal, and gas are effective and close competitors in the world's markets for electrical-generation fuels, industrial boiler and stationary heating fuels, and petrochemical feedstocks.

If the price of oil remains within a range where oil, natural gas, and coal effectively compete for industrial sales in North America, Europe, and East Asia, many of the world's large energy-consumers will find it worthwhile to install dual or multi-fuel capacity, expressly in order to take advantages of small shifts in relative prices. The ability of a large consuming sector to switch fuels rapidly in response to changes in relative fuel prices or availability would preempt the perverse market behavior that has permitted small market shocks to explode into global crises. Multi-fuel consumers would simply let go of enough oil in a tight market, and absorb enough additional oil in a slack market, to avoid even the illusion of a physical shortage or surplus. The greater this demand-side flexibility becomes, the more modest will be the world's need for a supply-side price-maker like the TRC, the less onerous will be the price-maker's task if one is still needed, and the less damage an incompetent or irresponsible price-maker will be able to cause.

11. The most stable and easily sustainable price range is probably on the order of $10 to $18 per barrel (in 1982 constant dollars), delivered to the world's major consuming regions.

Unlike pre-1973 prices, the $10-to-$18 price range is high enough to cover the cost of mining and transporting coal, and of burning it in an environmentally acceptable fashion, almost but not quite everywhere

in the world. These prices are also high enough to justify shipping liquefied natural gas (LNG) from any low-cost gas-producing area near tidewater to almost any port in the world, and to justify building transcontinental natural-gas pipelines (though maybe not the Alaska or Yamal pipelines). Prices in this range would still leave oil holding a significant fraction of the markets for electric-utility and industrial boiler fuels and for petrochemical feedstocks. Any price excursion outside of this range, however, would still carry the threat of steep price fluctuations further away from, or substantially overshooting, any attainable equilibrium.

History offers some empirical support for the viability of a long-term world oil price in the $10-to-$18 range. Over 110 years of crude-oil price records in the United States, the average price in 1982 dollars has been almost exactly $13 per barrel and, despite an average constant-dollar price fluctuation of more than 20 percent per year, no long-term trend can be detected. (The average 1982-dollar price between 1871 and 1925 was $12.96 per barrel, and the average price between 1926 and 1980 was $13.04 per barrel.) Thus, the safest guess as to the average crude-oil price over (say) the next 25 years may be about $13 per barrel in 1982 dollars. However ---

12. **These generalizations do not warrant a forecast of a $13 price, or any other specific price at any specific future time.**

In the absence of a secure mechanism for getting world oil prices into this range and keeping them there for several years, and in the absence of a competent and responsible successor to the Texas Railroad Commission, the prospect is for wide and unforeseeable fluctuations in world oil prices, like those that occurred before the TRC took control in the mid-1930s. The managing director of Royal Dutch Shell, D. de Bruyne, summarized the new outlook well when he wrote that "we are in for a period of severe and unpredictable discontinuities."[14] The most ambitious forecast we dare make with any confidence is that --- without some new market-ordering mechanism, which is not now in sight ---

13. **World oil prices will fluctuate both randomly and cyclically. In any given future year, however, the most likely price will be far below 1979-1982 levels.**

In summary, there is no basis in geology, resource-economics or history for predicting a never-ending increase in the real price of oil. Private investments and governmental institutions founded on that proposition are sure losers.

NOTES

*Connie C Barlow, Michelle Celarier, Gregg K Erickson, and Samuel A Van Vactor all helped develop the concepts in this paper and clarify their expression; M A Adelman provided useful corrections and suggestions.

1. "'OPEC Will Survive', Oilman Hammer Says." Associated Press story in Seattle Post-Intelligencer, July 12, 1982, p B8.

2. For the history of oil conservation and the rise of the Texas Railroad Commission, see Wallace F Lovejoy and Paul T Homan, Economic Aspects of Oil Conservation Regulation, (Baltimore: The Johns Hopkins University Press, 1967), pp 33-57, and Stephen L McDonald, Petroleum Conservation in the United States: An Economic Analysis, (Baltimore: The Johns Hopkins University Press, 1971), pp 29-55.

3. From the July 1882 Scientfic American:

> *The history of the discoveries in the Pennsylvania oil fields has been one of a series of disappointments to the producers. From 1866 to 1872 the price per barrel averaged from $4 to $5, and the producers were making money rapidly. Then the field in Butler County was struck, and from that day to this the production has been greater than the consumption. Then came the Bullion pool with its 2,000- and 3,000-barrel wells, which forced the price down to $1.50. This field was soon exhausted, and better times for the producers were at hand when the Bradford field, the largest in extent ever known, was opened. Then Bradford began to decline and again a silver lining was seen, but again disappointment came.*
>
> *In May of last year the first well was struck in Allegany County, New York, and a new field was opened that soon more than made up for the decline. Then was the great "646" well struck, and with it followed disaster to the owners of wells generally, and lower-priced oil than since the summer of 1874, when for a time it sold for 45 cents a barrel. Where the next field will be is only a matter of conjecture.*

4. For the history of import controls, including the influence of the Texas Railroad Commission on import policy, see M A Adelman, The World Petroleum Market (Baltimore: The Johns Hopkins University Press, 1972), pp 150-154.

5. Lovejoy and Homan, op cit, pp 265-285, and the Cabinet Task Force on Oil Import Control, The Oil Import Question (Washington: US Government Printing Office, 1970). pp 24, 121, 216, 242-246.

6. Adelman, op cit. For a history of oil prices during the entire era, see pp 131-191.

7. M A Adelman, "Coping with Supply Insecurity," The Energy Journal, October 1982, pp 1-16.

8. On the role and operation of spot markets, see Paul H Frankel, Topical Problems (London: Petroleum Economics, Ltd), July/August 1973, p xx, January/February 1976, p iv and June 1979, p xvii-xviii.

9. Estimated proved reserves as of January 1, 1982 can be found in Robert J Enright, "Worldwide Report," Oil and Gas Journal, December 28, 1981, p 86. The Journal lists Saudi Arabia's proved reserves as 164.6 billion. John Blair in The Control of Oil (New York: Vantage, 1978), pp 18-19, quotes Yamani as saying that "Saudi Arabia's 'true reserves' are more than two and a half times the 'ultra conservative numbers' at which 'proved reserves' were being carried."

   In 1972, James Akins, then US Ambassador to Saudi Arabia, told Senator Mike Gravel and one of the authors that Saudi Arabia's reserves were "realistically" at least 700 billion barrels and "probably closer to a trillion." At a Central Intelligence Agency briefing one of us attended in 1975, an Agency spokesman gave almost the same estimates (likely from a common source) of the ultimate reserves in the known fields in Saudi Arabia. He added that Iraq's reserves were probably "almost as big".

   For our present purposes it doesn't matter which of these reserve estimates is the most realistic --- even the most conservative of them implies that Saudi Arabia is physically capable of producing considerably more than 20 million barrels per day without any new discoveries.

10. See, for example, the remarks of Jahangir Amuzegar, Iranian Ambassador-at-Large and sometime petroleum minister, at a 1975 Salomon Brothers conference in London (World Petroleum: The Economics of Current Pricing and Supply Policies. London: Salbro Press 1976, p 30):

> Notwithstanding Western calculations and projections to the contrary, OPEC members believe that their oil reserves underground will be worth more in the future compared to the present --- even with accumulated returns on the invested revenues.

   Adelman makes a plausible case that this notion is economically fallacious and, by implication, cynical and deliberately misleading. (M

A Adelman, "OPEC as a Cartel" in Griffin and Teece, OPEC Behavior and World Oil Prices, pp 38-53)

However, Adelman's argument that oil reserves never earned as much as financial investments rests on discount rates that reflect the short life-expectancies of governments in Third World oil-exporting countries. This approach ignores the ideological content of national policy in such countries. Economic policy in most OPEC nations is either made by nationalist bureaucrats who view their nations as something different from the present government, or by heads of state who believe that their persons are identical with the nation, which is itself immortal. Either case results in lower discount rates and longer amortization periods than Adelman assumes for a non-ideological world.

Adelman's analysis also virtually dismisses the specific ideological role played by the concept of oil-reserves as a long-term investment. OPEC spokesmen were doubtless sincere when they insisted that the asset-value of their resources was appreciating at a higher rate than the real rate of return on risk-free financial investments. My ground for accepting such professions at face value stems both from personal contact with high-placed and lowly Believers, and from the fact that it was in the oil-exporters' interest that they and their customers both believe their motives were something more honorable than greed, and their production-scheduling was built on something more substantial than simple opportunism.

At the same 1975 conference one of us directly addressed Amuzegar's 1975 argument and anticipated Adelman's 1981 argument:

> *To Karl Marx, who gave us the concept, "ideology" was a body of doctrine that provided a religious, moral, or scientific cloak to self-interest. Ideology is in the first place a political weapon: if they believe in it, its sponsors can draw from it moral fervor and confidence of success. And an effective ideology can also captivate or neutralize its adversaries. Believing one's own propaganda uncritically (or that of one's opponents) has, however, led to some remarkable foolishness, as various Crusades from the Middle Ages to Vietnam have shown.*
>
> *I suppose that my message today is not to take OPEC's rhetoric too seriously, nor the opposing rhetoric . . . The conservationist element in OPEC doctrine deserves more serious attention (than its profession of solidarity with the poor and exploited everywhere), particularly as it is a notion shared by a rich, industrialized non-OPEC oil producer like Canada and by a variety of environmentalists and Malthusian doomsayers in all of the rich countries. The common theme of all these parties is that mankind ought to keep its*

cheapest energy source, petroleum, in the ground because it will be more valuable in the future than it is today.

This proposition cannot be dismissed out of hand. There may well be some producing country or countries with reserves of only ten to fifteen times current production, without the hope of major new discoveries and with only limited opportunities for productive investment at home. Such a country could reasonably estimate the so-called user cost of its petroleum --- the present value of future production given up by producing today --- to be as great or greater than the current world price. Such a country might reasonably believe, in other words, that its oil could appreciate in value over the average life of its reserves at a higher rate than the rate of earnings on risk-free foreign investment. Or it may believe that the risks --- market and political --- of all foreign investments are so great that they make speculation in oil inventories at home a more prudent investment.

I am not certain there is such a country --- but that country surely is not Iran or Venezuela, whose ability to absorb foreign exchange in profitable domestic investment ventures is insatiable, nor is it Saudi Arabia, whose potential reserves are so huge that the present value of a barrel of oil not produced today is truly negligible.

No, to each of these countries, limiting production is rational not because its oil will be more valuable in the future but because less production means higher prices today. Conservation, however, sounds more noble in the producers' own ears than maximization of monopoly profit, and it appeals to a fashionable intellectual current in the rich consuming nations. The conservationist rhetoric is, therefore, a particularly effective ideological weapon of the cartel. (emphasis added)(A R Tussing, discussant, comments on speeches by Chief M O Feyide, Secretary-General of OPEC; Amuzegar; T O Enders, US Assistant Secretary of State for Economic Affairs; Adelman; and P T Frankel, Director of Petroleum Economics Ltd., op cit, pp 41-44)

We need not be overly skeptical about the OPEC nations' belief in a doctrine that helped enrich them, when the same doctrine was believed by so many statesmen and scholars (including the majority of "energy economists") in Europe and America, who used it to rationalize policies that helped impoverish their own nations.

12. Youssef M Ibrahim, "Saudi Role in OPEC Under Siege" in The Wall Street Journal, July 21, 1982, p 33.

13. "Oil Nation Warns its Partners", Associated Press story in the Seattle Post-Intelligencer, July 8, 1982, p B9. On Saudi Arabia's threats, se Platt's Oilgram, July 13, 1982, p 1A.

14. D. de Bruyne, quoted in Petroleum Intelligence Weekly, June 14, 1982, p 8.

TASK 11: FINANCING OPTIONS
SUMMARY

Task 11 was prepared by Acres American to set out what they considered the most viable financing options for the Watana phase of the Susitna project. Task 11 also includes comments by the Alaska Power Authority's investment advisors.

The pre-conditions laid out are (1) an acceptable cost of electricity in the early years, (2) meeting the debt coverage, (3) acceptable levels of borrowing, both G.O. and revenue, (4) acceptable level of demands on available revenues of the State.

The four options are:

* Option A -- state appropriations of $1.4 billion in 1982 dollars from 1984-89, with revenue bonds after 1989
* Option B -- the same as A but with $1.8 billion
* Option C -- the same as A and B but with the state appropriations guaranteed through a constitutional amendment

All options assume that no revenue bonds could be obtained in the early years (1985-87), and that revenue bonds sold after 1989 would require the backing of the moral obligation of the state and would be based on "sufficiently rigorous" power contracts so that they would not "to any significant extent" rely upon the state's credit. A key condition would be that "power contracts providing for such Revenue Bond financing are obtained and are in place before any major capital expenditure is undertaken."

The APA's investment advisors have reviewed the options and commented upon them. Their recommendations are:

* state appropriations should be funded during 1983-89
* prior to major expenditures definitive contractual commitments by participating utilities should be in place
* significant borrowing should not commence before the late 1980's
* prerequisites for issuance of bonds should be (1) definitive contractual commitments by utilities, (2) updated economic and financial analysis of the project, and (3) resolution of the question of tax exemption of bonds
* rather than using G.O. bonds, borrowing should be, to the fullest extent possible, by revenue bonds secured by long-term power sales contracts with participating utilities
* over the next two years, the preconditions of financing viability should be resolved

SUSITNA HYDROELECTRIC PROJECT

TASK 11: FINANCING OPTIONS

Prepared by:
Acres American Incorporated

January 1983

ACRES

ALASKA POWER AUTHORITY

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ALASKA POWER AUTHORITY
SUSITNA HYDROELECTRIC DEVELOPMENT
FINANCING OPTIONS

1 - OBJECTIVES

The objective of this report is to set out the currently most viable financing options for the Watana phase (1985-1993) of the Susitna Hydroelectric Development together with the comment of the Power Authority's investment advisors (The First Boston Corporation, John Nuveen & Company, and First Southwest Company) on the impact of these options on the credit rating of the State of Alaska and on other related issues.

2 - ECONOMIC CONTEXT OF THE FINANCING PROPOSALS

The economics, marketing and financing of Susitna will be the subject of a final review by Acres American in March of 1983. The data utilized in this analysis however is, with minor modification, based on the Susitna Task 11 Reference Report. Some amendment of the data used here will then arise in the light of the March 1983 review. Our preliminary indications are however that the probable revisions will not materially impact the conclusions which may be based on the results presented in this memorandum.

3 - BASIC POLICY ISSUES: RISK AND TIMING

The Watana phase alone of Susitna will take 10 years (from the present stage of FERC licence application) to complete. It is also clearly apparent that it will not be possible to produce wholly certain forecasts of the underlying energy economics of the project nor of the availability of State revenues or of the competing demands for State resources

which may arise over this extended period. The requirement that such forecasts be produced as an initial pre-condition for authorization of development would therefore effectively preclude Susitna or indeed, any long term development of Alaska's natural resources.

It must also be frankly recognized that risks from erroneous forecasts will arise from proceeding with Watana at its estimated capital cost of $3.6 billion (1982 dollars). These are primarily risks associated with load forecasts, interest rates, inflation, etc. But it must be recognized also that risks will arise through not proceeding with Susitna since this will force Alaska electric power consumers to face the alternative risks arising from the estimated $1.7 billion (1982 dollars) of capital cost for fossil fuel plants and the risk that these plants will also require meeting the ever increasing operating costs reflected in Exhibit A. Moreover, these other options also involve risks from forecasting errors in the load forecasts, interest rates, inflation, etc.

In the Watana investment decision, therefore, the issue is not between risk and no risk, or investment and no investment, but only between one set of risks and another and one set of capital expenditures and another. The financing options as developed below therefore endeavor to reflect these risks in a realistic manner and provide for development/financing options which effectively minimize these risks.

It is an inherent characteristic in the very magnitude of their financial requirements and the complex political and economic issues which they pose, that "mega-projects" such as Susitna, have a "window of opportunity" during which they can proceed. If this "window" is missed the opportunity to proceed may not recur for many years.

Ultimate development of the hydroelectric potential of Susitna must be considered as highly probable given the authoritive estimates (see Exhibit C) and forecasts of Alaska's own Department of Revenue of continued significant long term real increase in alternative energy prices. Hence the essential issue is whether we proceed in the immediate future with this window of opportunity or whether the project is postponed-- possibly for a long period. Here, the following considerations must be taken into account:

(a) On present forecasts, postponement of Susitna wholly delaying its net benefits, would cost $43 million p.a. in 1982 present value terms.

(b) The possibility, referred to above, that the "window of opportunity" for Susitna may not recur for a very long period. This could result in the cost of postponement being a multiple of that given in (a).

Finally, we would stress that the Susitna Project would also be re-assessed by the Power Authority in 1984 before any major outlays were undertaken in 1985. By this date we will have two more years of economic and financial data with which to re-evaluate the situation and the uncertainties regarding the scale of the world economic recovery. The existing uncertainty of near-term future petroleum prices and revenues should be substantially reduced.

4 - THE FINANCING OPTIONS

The Essential Pre-conditions

The essential pre-conditions for any financing scheme is taken as the requirement that they meet:

(a) An acceptable cost of energy in the early years of operation. This is taken as effectively meaning that the cost of power must be close to or below the cost of energy that would result from pursuing the best Thermal Option as shown in Exhibit A.

(b) Meeting its debt coverage. All the residual financing requirements are assumed to be met (long-term) by borrowing in the form of tax-exempt bond financing at 10% with a coverage requirement of 1.1. This requirement must be met or the borrowing could not be regarded as meeting the basic requirements of acceptability to investors.

(c) Acceptable and viable levels of borrowing. The level of borrowing which the project requires to be met by G.O. bonds will depend upon the capacity of the State of Alaska to raise G.O. Bonds either without effect on its bond rating or with an effect that is regarded as an acceptable price for proceeding with the project. The other source of borrowing will be Revenue Bonds which, as discussed below, depend upon the power contracts which are in place.

(d) An acceptable level of demands on the funds available to the State of Alaska. The funds here are taken as the estimate of the uncommitted funds for capital appropriation as estimated by John Nuveen & Company and shown in Tables 1 and 2. (These take into account the estimated maximum G.O. Bonds as a source of funds.)

The Financing Options

A very large number of financing options have been considered. The four options: A, B, C, and D summarized in Tables 3 and 4 appear those most likely to fulfill the essential criteria stated above. These options are:

Option A

This option calls for $1.4 billion 1982 dollars in State appropriations phased over the period 1984 to 1989. This option may also indirectly involve drawing upon G.O. Bonds since these (see Tables 1 and 2) are built into the final total "available for Susitna". (The phasing of the appropriations year-to-year is, of course, arbitrary in that it can be adapted to the flow of funds represented by the "available for Susitna", providing the total remains the same.)

Option B

This option is precisely identical to that of Option A except that it involves a State appropriation of $1.8 billion in 1982 dollars phased over the period 1984-1989.

Options C and D

These options involve the concept of dedicated funds of the same magnitude as Option A and B being made available through a constitutional amendment. Since these options are of a markedly different character, they are discussed separately below.

Phases and Forms of Borrowing

Before reviewing the characteristics of the schemes proposed, it is necessary first to deal briefly with the phases and forms which the borrowing may involve.

In the Preliminary Phase between 1985 and 1987, the dam itself will not be under actual construction and only preliminary work will be in progress. Under these circumstances, it must be accepted that no Revenue Bond financing could be obtained and that the project at this stage would have to rely wholly upon State appropriations from the resources shown in Tables 1 and 2.

In the final and major phase of construction between 1989 and 1993 the objective of any financing or scheme must be to ensure that the fina at this stage is based upon Revenue Bonds which, although they will require moral obligation of the State of Alaska, are based on sufficiently rigorous power contracts that they wholly meet their debt coverage requirements when Watana comes into operation and do not to any significant extent rely upon the credit of the State of Alaska.

Whether this objective can be attained will depend first on the levels of State appropriations. This might be seen as the "equity" investment in the project which provides security to the investors and reduces the total amount of borrowing which the project requires.

The second factor is the precise magnitude and terms of the power contracts with the utilities. Since this depends upon detailed negotiations and organizational considerations it is not possible to comment definitively on whether or not the objective of 100% Revenue Bond financing would be possible for the final stage of the Watana development. In what follows, therefore, the Revenue Bond requirement is simply stated as a total sum which follows from the level of State appropriations A, B, C and D.

Hence any financing scheme must be seen at this stage as simply conditional with a key condition being that power contracts providing for such Revenue Bond financing are obtained and are in place before any major capital expenditure is undertaken. Since any significant capital expenditure could not, in any case, take place before the end of 1984 when the FERC license is expected to be granted, there are at least two years during which to secure such power contracts and meet this condition.

Assessment of the Financing Options

Details of the financing options are given in the computer printouts (attached) and the basic details are summarized in Tables 3 and 4 and Attachment E. In order to make the data conform as far as possible with the data on State revenues and the sums described in Tables 1 and 2 as "uncommited capital funds", the inflation assumptions in the Acres Task 11 March 1982 report, were revised to conform to those of the State revenue projections. Other minor revisions were also made.

Subject to maintaining the State's present double A rating, the assessment of the options given in Table 3 must be seen as a trade-off between the criteria of cost of power and State appropriations, (the higher the State appropriations, the lower the cost of power). Where these objectives are in conflict, it is left to the political decision-makers to resolve this conflict by modification of the criteria.

Considering Option A first, it is seen from Table 3 to involve State appropriations of $1.4 billion over the six year to 1989 and to require Revenue Bond financing of $2.7 billion (all in 1982 dollars).

Turning first then to the criterion of acceptability in terms of the percentage of uncommitted capital funds in Tables 1 and 2, this is shown in Table 4 as an average over the appropriation period 1984 to 1989. It varies from 57% for the 30th percentile projections to 38% in the 50th percentile case. It is left, of course, for the political assessment whether the percentages shown are acceptable in the light of other priorities.

No year-by-year figures of this percentage is given since in Acres' assessment the year-by-year engineering estimates of costs are, in the early years, subject to very considerable choice and could be changed significantly with rescheduling if this was thought desirable to reduce the claims on the funds available.

Turning then to the criterion of the cost of power, it is found that this option, because of the high level of borrowing (assuming a 10% rate of

interest), would involve significant deficits during operation in early years unless the cost of power were increased above the level set by the Best Thermal Option.

In these early years the essential problem facing Watana in marketing its power is that, in the first year or two of its life, it is in competiton with power sources with the advantage of being based on the cost of facilities purchased years earlier at much lower cost than will be involved either in their replacement or in the additional coal-fired units which would be required in 1995 and 1996 if Watana power were not available.

As shown in Tables 3 and 4 and in Exhibit E, the only means of meeting the deficits without further State appropriations would be to allow the cost of power to rise above the best Thermal Option in these three transitional years. Whether this would be regarded as an acceptable option is again an issue of political judgment. It might reasonably be supposed given that the only alternative option would be to face the dramatically escalating cost of the best Thermal Option only a few years later, the increase in the cost of power above the Best Thermal Option might be acceptable in turn for the very considerable long-term advantages afforded by a source of power which would be virtually fixed in cost even in nominal dollars.

It is also possible that appropriate levelizing provisions could be devised in the rate base to bring about a phased increase in price closer to the price set by the Best Thermal Option ceiling.

Option B might be seen as defining an alternative to any increase in the cost of power by increasing the level of State appropriation to $1.8 billion over the period 1984 to 1989. This is seen from Table 2 and the attached Exhibit E, to produce a cost of power below the Thermal Option even in the earliest years. It also has the advantage of reducing the Revenue Bond requirement in the Final Phase of Watana by $0.52 billion (in 1982 dollars). It would, however, mean committing between 50% and 75% of the uncommitted capital funds to the project over the period 1984-1989 and thus heavily competing with other priorities in the 30th percentile revenue forecast case.

The Dedicated Fund Options C & D

A significant difficulty in the development of any long-term financing scheme such as would be required for any long term development of Alaskan resources is the uncertainty of the year-by-year political appropriation process. This applies generally throughout North America, but is of particular relevance in the context of Alaska given the constitutional considerations and the relative importance of appropriations for capital spending in the State.

It is of understandable concern to investors in State of Alaska securities related to long-term developments, that through the political process these projects could be subject to deferral, limitations of State contribution, or even cancellation in the course of their development phase. This may be considered a serious handicap to the long-term development of Alaska's natural resources.

In the light of this, we have been asked to consider the dedication of 50% of the Permanent Fund income to a Power Development Fund which would be designed to provide a relatively more secure and certain source of appropriations for the major long-term development potential for Alaska represented by hydroelectric power and which could offer most Alaskans permanent low-cost power as a basic domestic and industrial resource. This proposal is regarded as representing an important contribution to securing long-term appropriations for such major developments in a manner which would be regarded by investors as offering much greater assurance of on-going systematic development and hence greater security for borrowing in the course of construction.

The scheme, as provisionally formulated, involves the principle of $4,500 to $6,000 per capita being the normal contribution from the fund for a

hydro development serving a particular area. In the context of Susitna this would involve a total State appropriation from the fund of approximately $1.4 to $1.8 billion. Its results are shown as Options C and D in Tables 3 and 4 and in Exhibit E. Its impact on cost of power and the level of Revenue Bond financing required is seen to be very close to that of Options A and B.

A further important characteristic of this particular proposal, however, is that such funding would provide the Power Authority with a substantial financial base that would make it capable of raising finance or providing guarantees where these were important to secure financing under changing market conditions or secure funding for developments lacking an adequate independent credit base.

It is recognized that this proposal would involve a constitutional amendment, but it is precisely the constitutional nature of such a dedicated fund that would be most effective in terms of development of Alaska's resources.

5 -STATEMENT BY THE FIRST BOSTON CORPORATION, JOHN NUVEEN & COMPANY, AND FIRST SOUTHWEST COMPANY

The First Boston Corporation and John Nuveen & Company (the Alaska Power Authority's co-senior managing underwriters) and First Southwest Company (the Power Authority's financial advisor) have reviewed the financing options described in this memorandum and have made the following observations regarding the financing of the Susitna Project. Together these investment firms are referred to as the Power Authority's Investment Advisors. Their opinions stated herein are based primarily upon the State's projected revenues using the "30th Percentile". First Boston Corporation, John Nuveen & Company and First Southwest Company have concurred in the following statement:

"It is our opinion that prior to major State expenditures, of State appropriations definitive contractual commitments by participating Railbelt Utilities be in place and that such appropriations should be funded by the State during the period 1983-1989, a period within the estimated life of Alaska's oil and gas reserves, so that appropriations provided during this period will provide the crucial "equity" to assure the most economical bond financing of the remainder of the project.

In view of the magnitude of Susitna and the relatively long construction period, the Power Authority should not commence significant borrowing for Susitna before the late 1980's at which time major risks have been defined and completion and start-up dates are known with a high degree of reliability.

In our opinion, in order to maintain the financial integrity for the State of Alaska, prerequisites for issuance of bonds of any type for the project are:

(a) Definitive contractual commitments by participating Railbelt utilities;

(b) Up-dated economic and financial analysis of the project; and

(c) Resolution of the question of tax exemption of such bonds.

With regard to the utilization of State G.O. Bonds, it is our opinion that the issuance of such bonds will be of limited importance to financing Susitna because of the substantial borrowing required for this project. If a major portion of such borrowing were met from State G.O. Bonds, Alaska's present double A ratings would be endangered. The following are some major limitations of State G.O. Bonds;

(1) A crucial feature of Alaska's double A rating is the Rating Agencies' concurrence with the State's present debt policy of amortizing G.O. Bonds rapidly (i.e., within 10 to 15 years (a period within current estimates of oil/gas revenues (the principal source of State revenues) and we believe this policy should be continued.

(2) Using the State's December, 1982 Department of Revenue forecasts, we estimate that the State can issue a relatively small volume of G.O. Bonds while maintaining it's double A rating (see Tables 1 and 2). Based on the "30th percentile" of the Department of Revenue projections, the State could "safely" issue $565 million (nominal dollars, assuming 8% inflation) G.O. Bonds during the period fiscal 1983-1990. This amount would rise to $945 million if the "50th percentile" revenue projections were achieved during this period.

A reduction in the State's rating from double A to single A could correspondingly lower the rating of Alaska Power Authority's own revenue bonds backed by a Capital Reserve Fund with a moral obligation to a rating as low as Baa by Moody's and BBB by Standard & Poors. Such a rating would substantially raise the

Authority's borrowing cost and could impair the viability of the project. The volume of debt contemplated under all scenarios would be extremely difficult to market if rated less than "A".

The Power Authority, rather than utilizing State G.O. Bonds, should utilize, to the fullest extent possible, revenue bonds secured by the income derived from participating Railbelt Utilities pursuant to long-term power sales contracts. Additional security for the bonds would be provided by the Capital Reserve Fund provided in the Alaska Power Authority Act whereby to the extent that revenues from Susitna were insufficient to service the bonds, the Legislature may, but is not legally obligated to, appropriate monies to make up such deficiency in the Capital Reserve Fund. Alaska Power Authority's credit perception will be enhanced by a simple and straightforward debt structure comprised solely of revenue bonds backed by the State's "moral obligation" pledge.

Any dedicated stream of State appropriations covering the entire construction and start-up period will enhance confidence of investors, participating utilities, and the rating agencies in the completion of the project. Such an appropriation would, however, require a constitutional amendment.
In conclusion, as Investment Advisors to the Authority, we strongly prefer the financing plan developed as Option B and D which requires greater appropriations prior to issuance of Revenue Bonds because the credit status of the State is least affected and the credit quality of the Authority's bonds is enhanced, maintaining project feasibility. Should oil revenue and projections, however, dramatically improve we would be in a position to more favorably consider alternate financial options."

6 - CONCLUSIONS

Our conclusions relate primarily to Options A and B since the dedicated fund proposals C and D can be seen in the present context as primarily a legislative route to these options.

It may be appropriate in conclusion first to state our own assessment of the decision issues involved at this stage. First, the decision issue is not an irrevocable commitment to proceed with Watana. As already noted, the FERC license will not be available for another two years and no major expenditures could be undertaken until 1985.

It would therefore appear that the essential issue is that of maintaining and planning for the Watana option. The only grounds for not maintaining this option with its very substantial long-term economic advantages, would be that we had concluded that no viable and politically acceptable financing scenario was possible.

Given the very wide range of uncertainties for future State revenues, and hence the levels of State appropriations which might be available at the first point of major commitment in late 1985, such an adverse conclusion certainly cannot be substantiated at this time on the basis of the preceding analysis. If, for example, State revenues were as high or higher than the 50th percentile, the State capital fund available for Watana would be substantially increased and the $1.4 billion appropriation (Option A) would represent 38% of the uncommitted capital funds over the period 1984-1989. Moreover, the circumstances which would bring about such an increase in State funds--mainly a recovery in world oil prices--would confirm the economic desirability of advancing with Watana and obviating dependence on fuels with prices related to that of oil.

We must also note again that the levels of spending in individual years used in the analysis was constructed on normal engineering criteria without reference to phasing the engineering expenditures to conform (without significant additional cost) to year-to-year budget constraints.

Subject to political decisions and priorities, therefore, our assessment is that all the financing options proposed in this memorandum are viable. In consequence, we recommend that over the two-year decision period to 1984, the remaining preconditions of financing viability, both political and contractual (in terms of power contracts and tax exempt bond-financing) are resolved. A reconsideration of the financing options might then be undertaken in 1984 when, as aleady noted, some of the major economic uncertainties affecting the economics of generation options and the revenues of the State of Alaska are also likely to be resolved. It should also be possible within this time frame to review the time profile of potential cash demands for construction and bring them more closely into conformity with available appropriations.

If this conclusion were adopted, it might also be considered appropriate, in order to avoid undue "bunching" of demands for Susitna financing, to establish a level of funding for the project of the order of perhaps $100 million in FY 1984. This, in our view, would be seen as a positive step which should appreciably assist in the negotiations of power contracts since it would indicate the State's conditional intent to proceed with the project. This would give such negotiations the credibility essential to a successful outcome.

ALASKA POWER AUTHORITY
CAPITAL FUNDS AVAILABLE FOR SUSITNA
30th PERCENTILE PROJECTION

Fiscal Year	General Fund Unrestricted Revenues (1)	Total Capital Spending Limits	Estimated Maximum G.O. Bond Issues (2)	Total Available Capital	Committed Capital Grants and Loans (8%)	Remaining Capital	APA Capital Budget Excluding Susitna	Uncommitted Capital Funds	Planned Susitna Expenditures (nom. $) (3)
1984	2908.2	969	0	969	475	494	174.2	320	0
1985	2939.9	980	0	980	513	467	244.5	222	183
1986	3472.9	1158	300	1458	554	904	282.3	622	405
1987	3870.4	1290	90	1380	598	782	125.8	656	437
1988	3917.0	1306	125	1431	646	785	0	785	442
1989	4293.8	1431	0	1431	698	733	0	733	639
1990	3679.9	1227	50	1277	754	523	0	523	1121
1991	3295.9	1099	140	1239	814	425	0	425	1270
1992	3186.4	1062	0	1062	879	183	0	183	862
1993	2919.4	973	110	1083	950	133	0	133	584
1994	2779.0	926	0	926	1025	0	0	0	0

(1) 30th percentile projection of Department of Revenue net of Debt Service on the State G.O. Debt.

(2) Maximum General Obligation Debt that can be issued (10 year, equal annual principal amortization at 7.5%) and keep total G.O. Bond Debt Service below 5% of General Fund Unrestricted Revenues.

Source: Acres American Incorporated (Converted to June 30 Fiscal Year).

TABLE 1

ACRES

ALASKA POWER AUTHORITY
CAPITAL FUNDS AVAILABLE FOR SUSITNA
50th PERCENTILE PROJECTION

Fiscal Year	General Fund Unrestricted Revenues (1)	Total Capital Spending Limits	Estimated Maximum G.O. Bond Issues (2)	Total Available Capital	Committed Capital Grants and Loans (8%)	Remaining Capital	APA Capital Budget Excluding Susitna	Uncommitted Capital Funds	Planned Susitna Expenditures (nom. $) (3)
1984	3369	1123	0	1123	475	648	174.2	474	0
1985	3492	1164	350	1514	513	1001	244.5	757	183
1986	4116	1372	190	1562	554	1008	282.3	726	405
1987	4553	1518	95	1613	598	1015	125.8	889	437
1988	4645	1548	235	1783	646	1137	0	1137	442
1989	5103	1701	50	1751	698	1053	0	1053	639
1990	4848	1616	25	1641	754	887	0	887	1121
1991	4345	1448	160	1608	814	794	0	794	1270
1992	4221	1407	35	1442	879	563	0	563	862
1993	4017	1339	170	1509	950	559	0	559	584
1994	3957	1319	0	1319	1025	294	0	294	0

(1) 50th percentile projection of Depar ment of Revenue net of Debt Service on the State G.O. Debt.

(2) Maximum General Obligation Debt that can be issued (10 year, equal annual principal amortization at 7.5%) and keep total G.O. Bond Debt Service below 5% of General Fund Unrestricted Revenues.

(3) Source: Acres American Incorporated (Converted to June 30 Fiscal Year).

TABLE 2

ACRES

SUSITNA-SUMMARY OF FINANCING REQUIREMENTS

----------REAL 1982 DOLLARS----------

	STATE APPROPIATION TAKEN AS NEEDED				DEDICATED STATE APPROPIATION			
	----$1.4 BN----- (REAL)		----$1.8 BN----- (REAL)		----$1.4 BN----- (REAL)		----$1.8 BN----- (REAL)	
	DEBT	STATE APPROP.	DEBT	STATE APPROP.	DEBT	STATE APPROP.	DEBT	STATE APPROP.
	$M	$M	$M	$M	$M	$M	$M	$M
1983	-	-	-	-	-	160	-	160
1984	-	81	-	81	-	222	-	222
1985	-	225	-	225	-	276	-	276
1986	-	336	-	336	-	318	-	318
1987	-	317	-	317	-	345	-	345
1988	-	306	-	306	-	79	-	378
1989	409	94	9	535	337	-		101
1990	884	-	847	-	878	-	770	-
1991	757	-	718	-	750	-	710	-
1992	505	-	466	-	498	-	457	-
1993	146	-	146	-	146	-	146	-
TOTAL	2701	1400	2186	1800	2609	1400	2003	1800

COST OF ENERGY TO MEET 1.1 DEBT SERVICE COVER AND PERCENT IN EXCESS OF BEST THERMAL OPTION

	MILLS		MILLS		MILLS		MILLS	
1993	74	46 %	61	17 %	72	41 %	58	14 %
1994	77	25 %	64	5 %	75	22 %	62	-
1995	73	21 %	61	1 %	70	17 %	58	-
1996	72	-	57	-	69	-	55	-
1998	68	-	54	-	65	-	51	-
1999	63	-	51	-	61	-	48	-
2000	60	-	48	-	57	-	46	-

TABLE 3 -- SUSITNA: SUMMARY OF FINANCING REQUIREMENTS IN REAL TERMS

AGRES

SUSITNA-SUMMARY OF FINANCING REQUIREMENTS

----------NOMINAL DOLLARS----------

	STATE APPROPIATION TAKEN AS NEEDED				DEDICATED STATE APPROPIATION			
	----$1.4 BN----- (REAL)		----$1.8 BN----- (REAL)		----$1.4 BN----- (REAL)		----$1.8 BN----- (REAL)	
	DEBT	STATE APPROP.	DEBT	STATE APPROP.	DEBT	STATE APPROP.	DEBT	STATE APPROP.
	$M	$M	$M	$M	$M	$M	$M	$M
1983	-	-	-	-	-	175	-	175
1984	-	100	-	100	-	257	-	257
1985	-	276	-	276	-	338	-	338
1986	-	436	-	436	-	413	-	413
1987	-	437	-	437	-	475	-	475
1988	-	447	-	447	-	115	-	552
1989	633	208	13	828	522	-		157
1990	1465	-	1403	-	1454	-	1275	-
1991	1341	-	1274	-	1329	-	1259	-
1992	958	-	883	-	945	-	868	-
1993	296	-	296	-	296	-	296	-
TOTAL	4693	1904	3869	2524	4546	1773	3698	2367
PERCENTAGE OF UNCOMMITTED STATE CAPITAL FUNDS		38 to 57 %		50 to 75 %				

COST OF ENERGY TO MEET 1.1 DEBT SERVICE COVER AND PERCENT IN EXCESS OF BEST THERMAL OPTION

	MILLS		MILLS		MILLS		MILLS	
1993	150	46 %	123	17 %	145	41 %	110	14 %
1994	168	25 %	140	5 %	163	22 %	134	-
1995	169	21 %	141	1 %	164	17 %	135	-
1996	179	-	143	-	172	-	137	-
1998	180	-	144	-	173	-	137	-
1999	181	-	145	-	175	-	139	-
2000	182	-	147	-	176	-	140	-

NOTE: PERCENTAGE OF UNCOMMITTED FUNDS CALCULATED FROM 30 AND 50 PERCENTILE PROJECTIONS

TABLE 4 -- SUSITNA: SUMMARY OF FINANCING REQUIREMENTS IN NOMINAL TERMS

AGRES

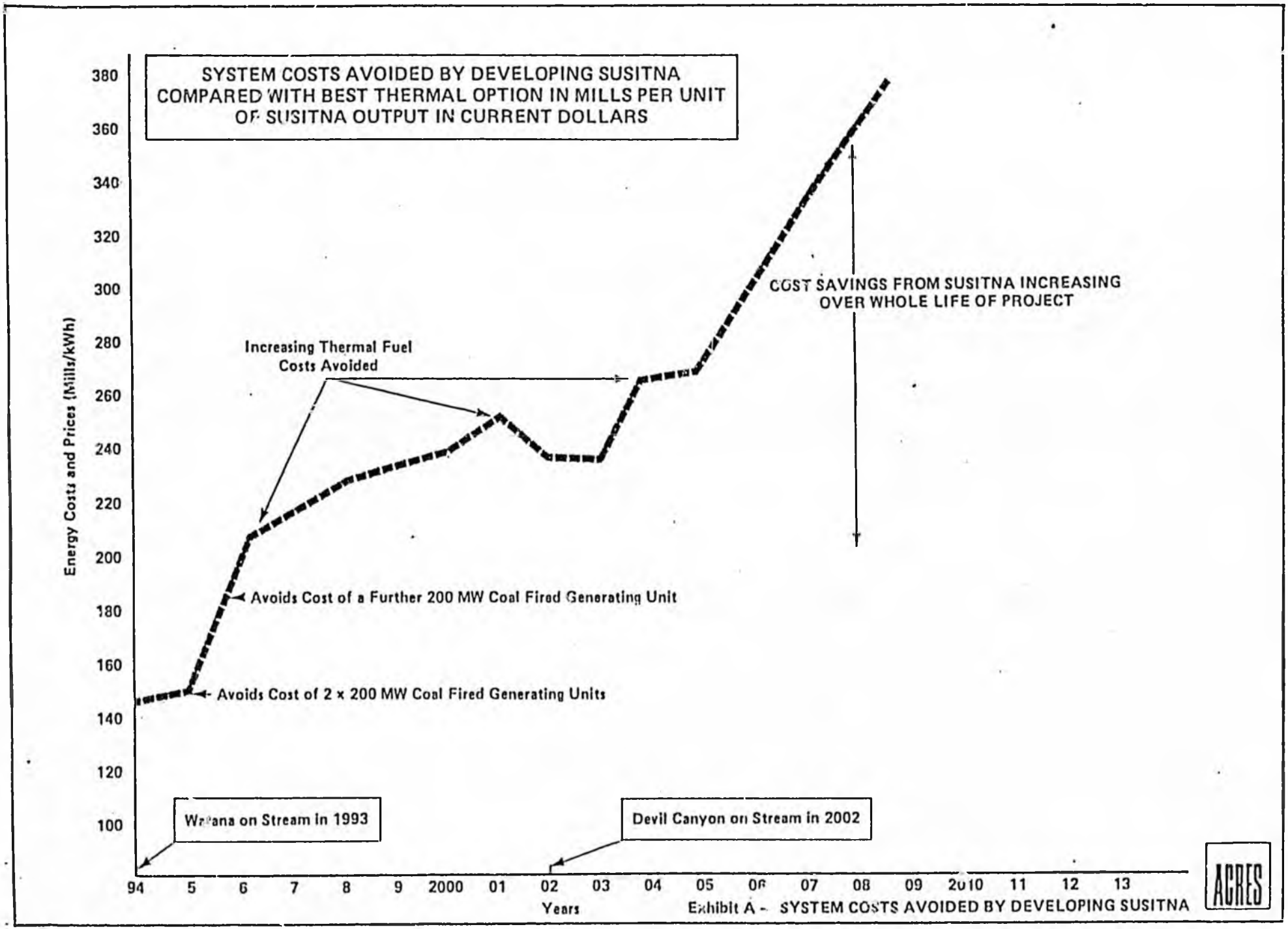


Exhibit A - SYSTEM COSTS AVOIDED BY DEVELOPING SUSITNA

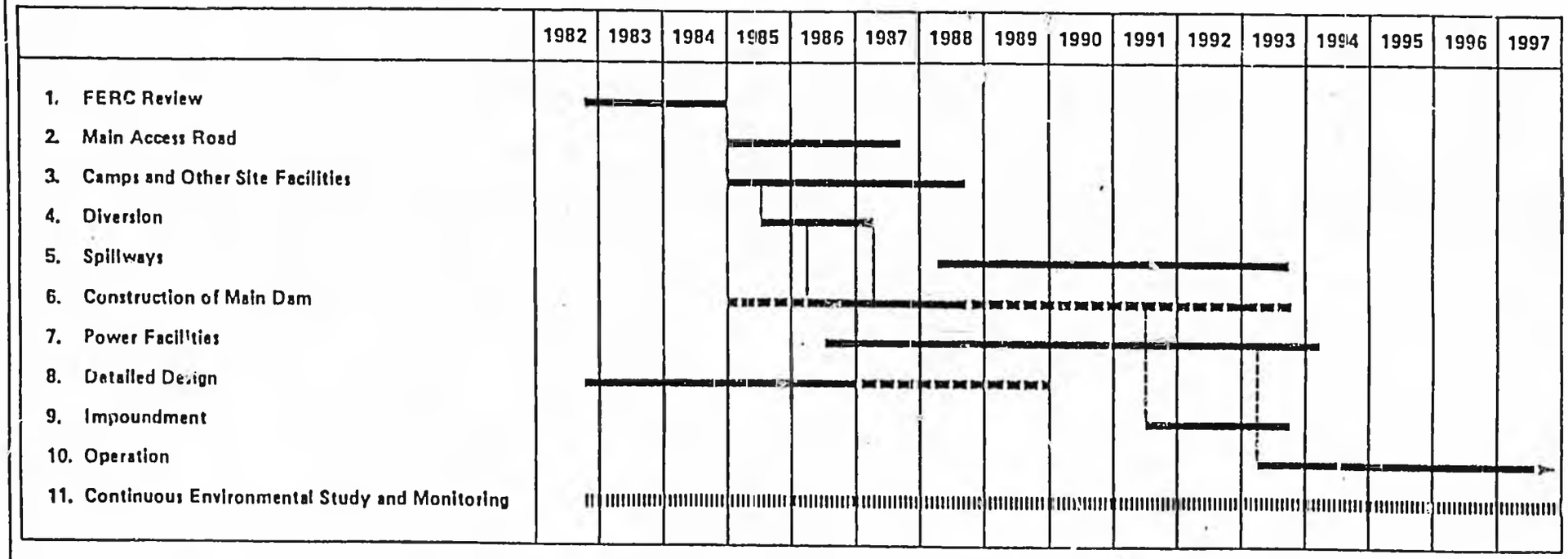


EXHIBIT B -- WATANA CONSTRUCTION SCHEDULE

ACRES

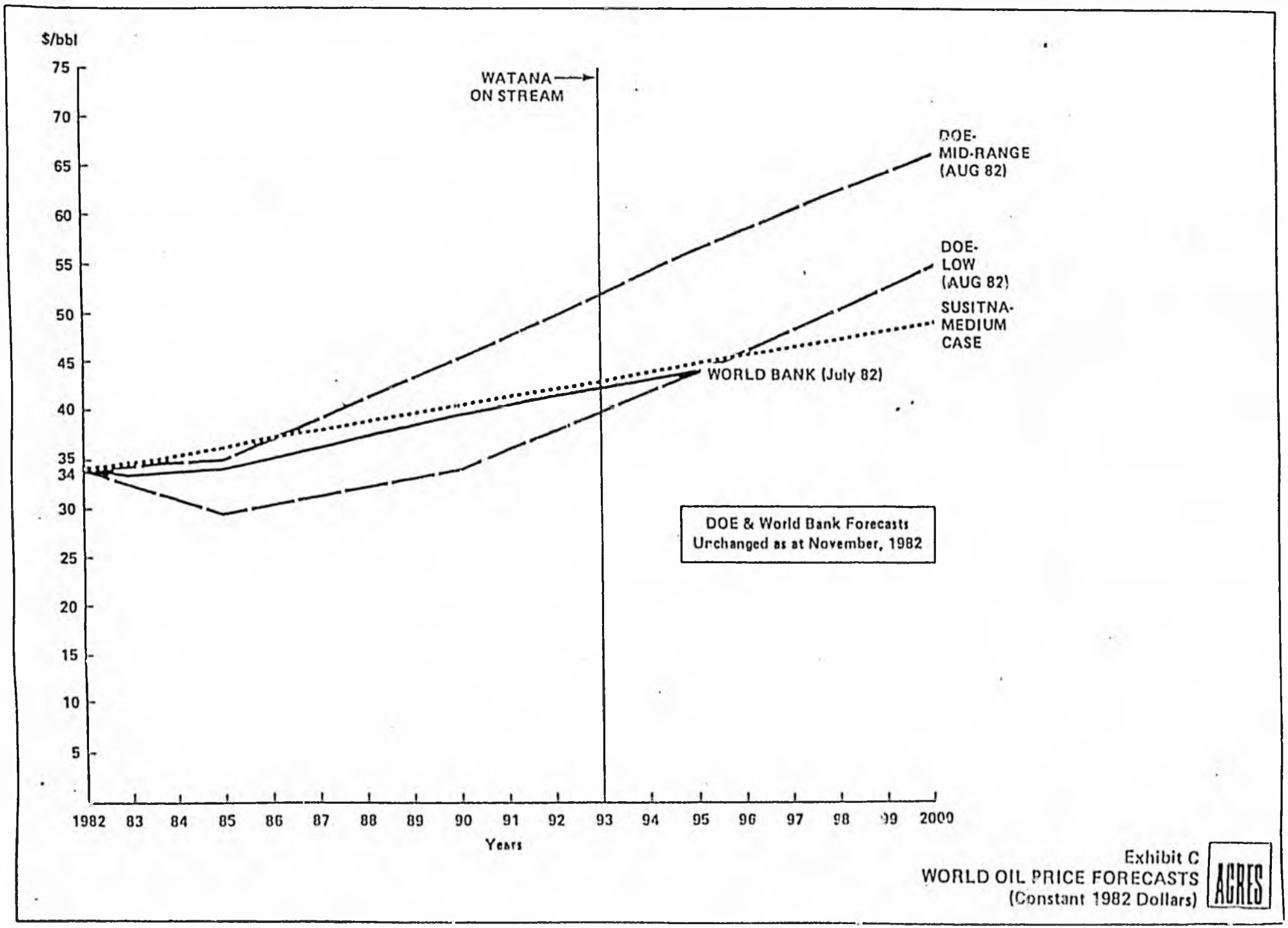
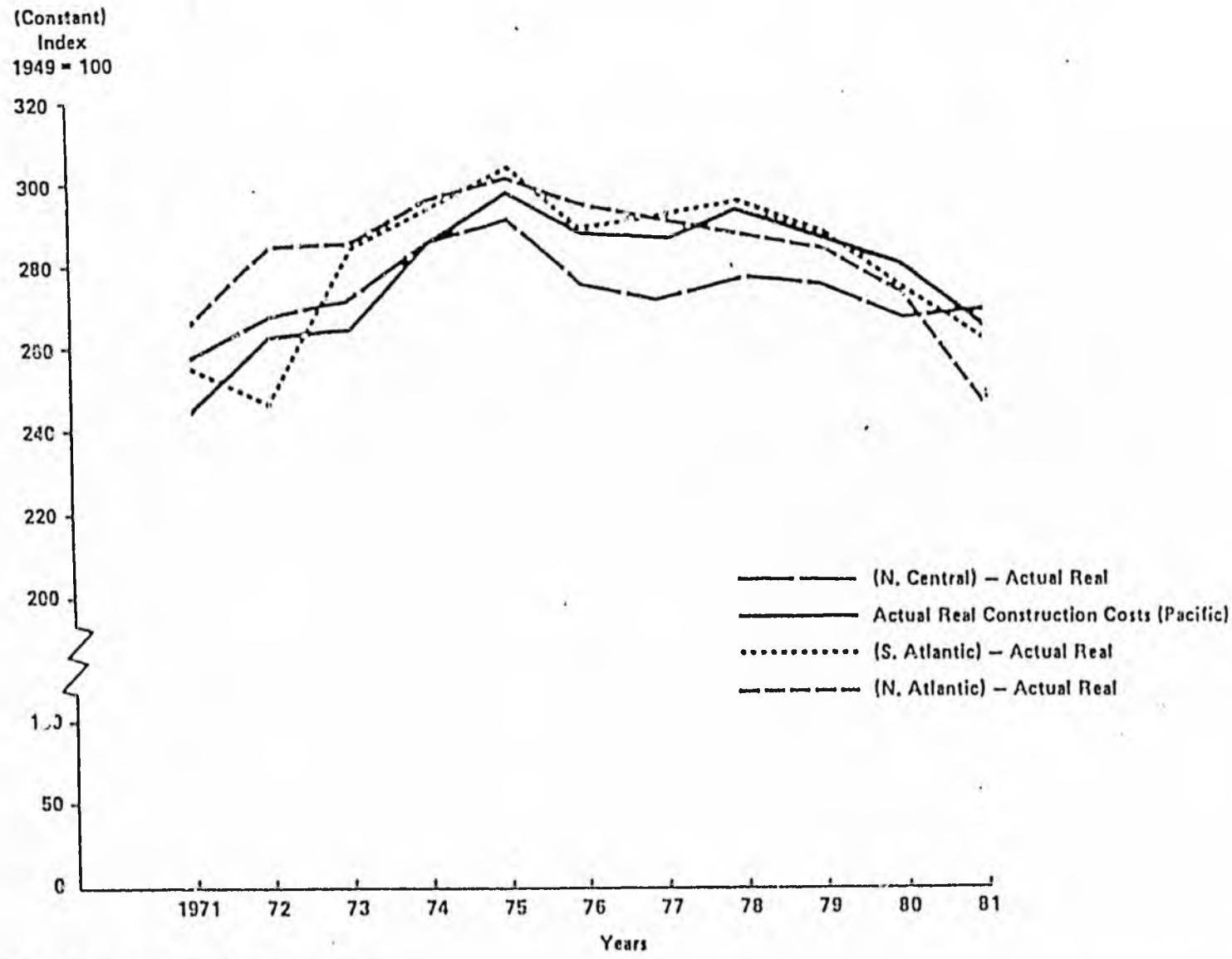


Exhibit C
WORLD OIL PRICE FORECASTS
(Constant 1982 Dollars)

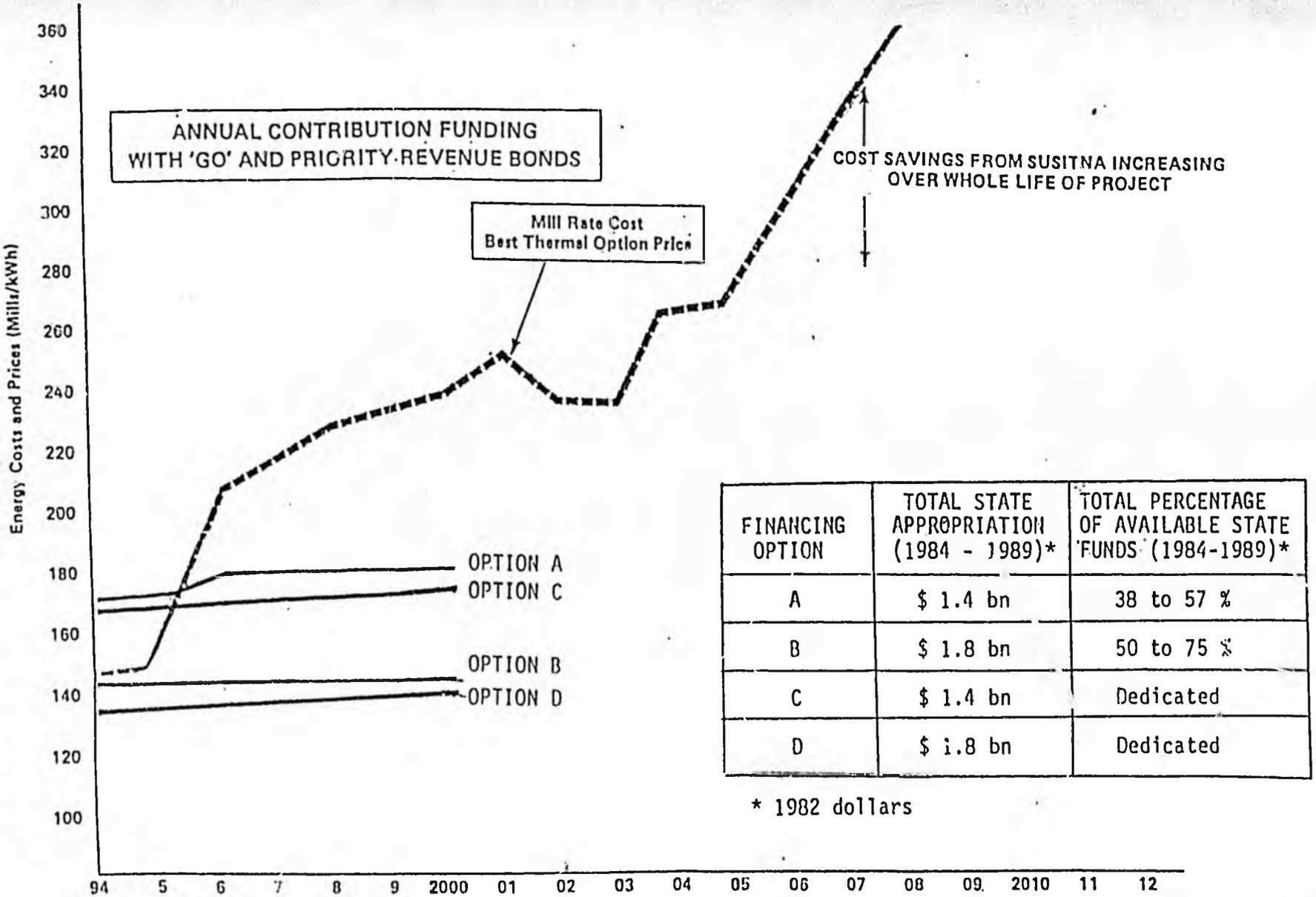
ACRES



Source: ENR Utilities, December 17, 1981 for nominal costs;
Monthly Labor Review, US Dept. of Labor November, 1982 for Consumer Price Index

EXHIBIT D -- US HYDROELECTRIC PLANT CONSTRUCTION COST INDEXES

ACRES



FINANCING OPTION	TOTAL STATE APPROPRIATION (1984 - 1989)*	TOTAL PERCENTAGE OF AVAILABLE STATE FUNDS (1984-1989)*
A	$ 1.4 bn	38 to 57 %
B	$ 1.8 bn	50 to 75 %
C	$ 1.4 bn	Dedicated
D	$ 1.8 bn	Dedicated

* 1982 dollars

EXHIBIT E
ENERGY COST COMPARISON
WITH VARIOUS FINANCING OPTIONS

ACRES

FINANCIAL ANALYSES

ACRES

DATA10M5.D11 WATANA (ON LINE 1993)- STATE FUNDS TO 1989 ($1.4 BN)- INFLATION 6%-7%-INTEREST 10%-CAPCOST $3.647 BN 8-JAN-83

		1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
					CASH FLOW SUMMARY						
					===($MILLION)===						
73	ENERGY GWH	0	0	0	0	0	0	0	0	3387	3387
521	REAL PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.93	61.60
466	INFLATION INDEX	122.62	129.98	137.78	146.05	154.81	165.65	177.24	189.65	202.92	217.13
520	PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	103.34	133.78
	-----INCOME----------										
516	REVENUE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	350.0	453.0
170	LESS OPERATING COSTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	25.1	27.3
517	OPERATING INCOME	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	324.9	425.7
214	ADD INTEREST EARNED ON FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.3
550	LESS INTEREST ON SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	20.6
391	LESS INTEREST ON LONG TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	439.7	469.3
548	NET EARNINGS FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-114.7	-59.0
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-114.7	-59.0
448	STATE CONTRIBUTION	375.7	436.1	437.2	447.4	208.2	0.0	0.0	0.0	0.0	0.0
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	632.6	1464.8	1341.6	957.8	411.1	102.0
248	WORCAP DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
549	TOTAL SOURCES OF FUNDS	375.7	436.1	437.2	447.4	840.8	1464.8	1341.6	957.8	387.8	58.5
320	LESS CAPITAL EXPENDITURE	375.7	436.1	437.2	447.4	840.8	1464.8	1341.6	957.8	296.4	25.7
448	LESS WORCAP AND FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
260	LESS DEBT REPAYMENTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	17.3
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	52.6	57.4
371	OTHER WORKING CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	38.8	49.4
454	CASH SURPLUS RETAINED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
370	CUM. CAPITAL EXPENDITURE	375.7	811.8	1248.9	1696.3	2537.1	4002.0	5343.5	6301.3	6597.7	6623.4
465	CAPITAL EMPLOYED	375.7	811.8	1248.9	1696.3	2537.1	4002.0	5343.5	6301.3	6389.1	6730.3
461	STATE CONTRIBUTION	375.7	811.8	1248.9	1696.3	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5
462	RETAINED EARNINGS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-114.7	-173.8
555	DEBT OUTSTANDING-SHORT TERM	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	106.8
554	DEBT OUTSTANDING-LONG TERM	0.0	0.0	0.0	0.0	632.6	2097.4	3439.0	4396.8	4807.9	4892.7
542	ANNUAL DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	408.6	884.3	756.9	505.0	202.6	47.0
543	CUM. DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	408.6	1292.9	2049.8	2554.9	2757.5	2804.5
519	DEBT SERVICE COVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.74	0.84

Option A -- $1.4 Billion Drawn From Uncommitted State Funds Available For Capital Construction

ACRES

DATA1OH3.DII WATANA (ON LINE 1993)- STATE FUNDS TO 1989 ($1.4 BN)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3.647 BN 8-JAN-83

		1995	1996	1997	1998	1999	2000	2001	2002	2003	TOTAL
					CASH FLOW SUMMARY						
					($MILLION)*						
73	ENERGY GWH	3387	3387	3387	3387	3387	3387	3387	3387	3387	37257
521	REAL PRICE-MILLS	60.24	71.94	67.56	63.34	59.44	55.81	52.45	49.36	46.51	0.00
466	INFLATION INDEX	232.33	248.59	265.99	284.61	304.53	325.85	348.66	373.07	399.18	0.00
520	PRICE-MILLS	139.98	178.84	179.71	180.28	181.02	181.87	182.07	184.15	185.64	0.00
	-----INCOME----------										
518	REVENUE	474.0	605.7	608.8	610.6	613.1	615.9	619.3	623.7	628.7	8202.6
170	LESS OPERATING COSTS	29.8	32.6	35.6	38.8	42.3	46.2	50.4	55.1	60.1	443.3
517	OPERATING INCOME	444.2	573.1	573.1	571.8	570.7	569.7	568.9	568.6	568.7	5759.3
214	ADD INTEREST EARNED ON FUNDS	5.7	6.3	6.8	7.5	8.1	8.9	9.7	10.6	11.6	80.5
550	LESS INTEREST ON SHORT TERM DEBT	32.4	42.8	43.2	42.4	41.9	41.5	41.3	41.7	42.4	390.1
391	LESS INTEREST ON LONG TERM DEBT	467.6	465.7	463.6	461.3	458.7	456.0	452.9	449.5	445.8	5030.1
548	NET EARNINGS FROM OPERS	-50.1	70.9	73.1	75.6	78.2	81.2	84.5	88.0	92.0	419.7
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	-50.1	70.9	73.1	75.6	78.2	81.2	84.5	88.0	92.0	419.7
446	STATE CONTRIBUTION	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1904.5
143	LONG TERM DEBT DRAWDOWNS	96.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5006.6
248	WORCAP DEBT DRAWDOWNS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
549	TOTAL SOURCES OF FUNDS	54.3	95.5	83.6	86.8	88.4	91.1	98.0	102.4	107.3	7555.0
320	LESS CAPITAL EXPENDITURE	27.5	29.4	31.5	33.7	36.1	38.6	41.3	44.2	47.3	3953.0
448	LESS WORCAP AND FUNDS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
260	LESS DEBT REPAYMENTS	19.0	22.1	24.3	26.8	29.4	32.4	35.6	39.2	43.1	289.2
393	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	0.0	19.3	17.3	15.1	12.8	10.2	7.6	4.7	1.6	88.6
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	62.7	66.4	74.7	81.5	88.9	97.1	105.9	115.6	126.2	126.2
371	OTHER WORKING CAPITAL	51.9	70.8	75.0	79.4	82.2	83.9	88.6	93.3	98.0	98.0
454	CASH SURPLUS RETAINED	0.0	19.3	36.6	51.7	64.5	74.7	82.3	87.0	88.6	88.6
370	CUM. CAPITAL EXPENDITURE	6631.0	6680.4	6711.9	6745.6	6781.7	6820.3	6861.6	6905.7	6953.0	6953.0
465	CAPITAL EMPLOYED	6765.5	6838.9	6898.2	6958.2	7017.2	7076.0	7138.3	7201.6	7265.8	7265.8
461	STATE CONTRIBUTION	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5	1904.5
462	RETAINED EARNINGS	-223.8	-152.9	-79.8	-4.2	74.0	155.2	239.7	327.7	419.7	419.7
555	DEBT OUTSTANDING-SHORT TERM	114.6	139.2	149.7	160.9	171.1	181.0	194.5	208.9	224.2	224.2
554	DEBT OUTSTANDING-LONG TERM	4970.2	4910.1	4923.8	4897.0	4867.6	4835.2	4799.6	4760.5	4717.4	4717.4
542	ANNUAL DEBT DRAWDOWN $1982	41.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2046.0
543	CUM. DEBT DRAWDOWN $1982	2046.0	2046.0	2046.0	2046.0	2046.0	2046.0	2046.0	2046.0	2046.0	2046.0
519	DEBT SERVICE COVER	0.06	1.10	1.10	1.10	1.10	1.10	1.10	1.10	1.10	0.00

ACRES

DATA1OM5.DI1 WATANA (ON LINE 1993)- STATE FUNDS TO 1989 ($1.8 BN)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3.647 BN 8-JAN-83

CASH FLOW SUMMARY
($MILLION)*

		1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
73	ENERGY GWH	0	0	0	0	0	0	0	0	3387	3387
521	REAL PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.93	61.60
466	INFLATION INDEX	122.62	129.98	137.78	146.05	154.81	165.65	177.24	189.65	202.92	217.13
520	PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	103.34	133.76
	-----INCOME----------										
516	REVENUE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	350.0	453.0
170	LESS OPERATING COSTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	25.1	27.3
517	OPERATING INCOME	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	324.9	425.7
214	ADD. INTEREST EARNED ON FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.3
550	LESS INTEREST ON SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	12.4
391	LESS INTEREST ON LONG TERM DEBT	0.0	0.0	0.0	0.9	0.0	0.0	0.0	0.0	357.3	384.9
548	NET EARNINGS FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-32.3	31.6
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-32.3	31.6
446	STATE CONTRIBUTION	375.7	436.1	437.2	447.4	827.4	0.0	0.0	0.0	0.0	0.0
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	13.3	1402.9	1273.5	882.9	320.7	8.3
248	WORCAP DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
549	TOTAL SOURCES OF FUNDS	375.7	436.1	437.2	447.4	840.8	1402.9	1273.5	882.9	387.8	55.4
320	LESS CAPITAL EXPENDITURE	375.7	436.1	437.2	447.4	840.8	1402.9	1273.5	882.9	296.4	25.7
448	LESS WORCAP AND FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
280	LESS DEBT REPAYMENTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	14.3
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	32.6	37.4
371	OTHER WORKING CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	30.8	39.4
454	CASH SURPLUS RETAINED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
370	CUM. CAPITAL EXPENDITURE	375.7	811.8	1248.9	1696.3	2537.1	3940.0	5213.5	6096.4	6392.8	6418.5
465	CAPITAL EMPLOYED	375.7	811.8	1248.9	1696.3	2537.1	3940.0	5213.5	6096.4	6484.1	6525.3
461	STATE CONTRIBUTION	375.7	811.8	1248.9	1696.3	2523.0	2523.0	2523.0	2523.0	2523.0	2523.0
462	RETAINED EARNINGS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-32.3	-0.7
553	DEBT OUTSTANDING-SHORT TERM	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	106.0
554	DEBT OUTSTANDING-LONG TERM	0.0	0.0	0.0	0.0	13.3	1416.3	2689.7	3572.6	3901.3	3895.4
542	ANNUAL DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	0.6	846.9	710.5	465.5	162.0	3.0
543	CUM. DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	0.6	855.5	1574.0	2039.5	2201.5	2205.4
519	DEBT SERVICE COVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.91	1.04

Option B -- $1.8 Billion Drawn From Unconmitted State Funds Available For Capital Construction

ACRES

DATA1OH5.DII WATANA (ON LINE 1993)- STATE FUNDS TO 1989 ($1.0 BN)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3.647 BN 8-JAN-83

		1995	1996	1997	1998	1999	2000	2001	2002	2003	TOTAL
					CASH FLOW SUMMARY						
					---($MILLION)----						
73	ENERGY GWH	3387	3387	3387	3387	3387	3387	3387	3387	3387	37257
521	REAL PRICE-MILLS	40.24	37.33	34.00	30.76	47.76	44.98	42.39	40.03	37.85	0.00
466	INFLATION INDEX	232.33	248.59	265.99	284.61	304.53	325.85	348.66	373.07	399.18	0.00
520	PRICE-MILLS	139.96	142.51	143.63	144.46	145.45	146.55	147.81	149.34	151.08	0.00
	-----INCOME----------										
516	REVENUE	474.0	482.6	486.4	489.3	492.6	496.3	500.6	505.8	511.7	5242.3
170	LESS OPERATING COSTS	29.8	32.6	35.6	38.8	42.3	46.2	50.4	55.1	60.1	443.3
517	OPERATING INCOME	444.2	450.1	450.9	450.5	450.2	450.1	450.1	450.7	451.6	4799.0
214	ADD INTEREST EARNED ON FUNDS	5.7	6.3	6.8	7.5	8.1	8.9	9.7	10.6	11.6	80.5
550	LESS INTEREST ON SHORT TERM DEBT	14.7	14.9	15.3	15.4	16.9	17.5	18.3	19.7	21.5	168.6
391	LESS INTEREST ON LONG TERM DEBT	383.5	383.9	382.2	380.3	378.2	375.9	373.4	370.6	367.5	4141.5
548	NET EARNINGS FROM OPERS	49.7	57.6	59.3	61.2	63.3	65.6	68.2	71.0	74.1	569.4
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	49.7	57.6	59.3	61.2	63.3	65.6	68.2	71.0	74.1	569.4
446	STATE CONTRIBUTION	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2523.8
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3909.7
248	WORCAP DEBT DRAWDOWNS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
549	TOTAL SOURCES OF FUNDS	57.4	82.2	69.8	72.4	73.5	75.6	81.7	85.4	89.4	7227.0
320	LESS CAPITAL EXPENDITURE	27.5	29.4	31.5	33.7	36.1	38.6	41.3	44.2	47.3	6748.0
448	LESS WORCAP AND FUNDS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
260	LESS DEBT REPAYMENTS	15.7	17.4	19.2	21.1	23.2	25.5	28.1	30.9	34.0	229.2
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	6.5	10.7	8.6	6.4	4.1	1.5	-1.1	-4.0	-7.1	25.5
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
325	RESERVE AND CONT. FUND	62.7	68.4	74.7	81.5	88.9	97.1	105.9	115.6	126.2	126.2
371	OTHER WORKING CAPITAL	51.9	70.0	75.0	79.4	82.2	83.9	88.6	93.3	98.0	98.0
454	CASH SURPLUS RETAINED	6.5	17.2	25.8	32.2	36.3	37.8	36.7	32.6	25.5	25.5
370	CUM. CAPITAL EXPENDITURE	6446.0	6475.4	6506.9	6540.6	6576.7	6615.3	6656.6	6700.8	6748.0	6748.0
465	CAPITAL EMPLOYED	6567.0	6631.8	6682.4	6733.8	6784.1	6834.1	6887.8	6942.3	6997.8	6997.8
461	STATE CONTRIBUTION	2523.8	2523.8	2523.8	2523.8	2523.8	2523.8	2523.8	2523.8	2523.8	2523.8
462	RETAINED EARNINGS	49.0	106.6	165.9	227.1	290.4	356.1	424.3	495.3	569.4	569.4
555	DEBT OUTSTANDING-SHORT TERM	114.6	139.2	149.7	160.9	171.1	181.0	194.5	208.9	224.2	224.2
554	DEBT OUTSTANDING-LONG TERM	3979.7	3862.2	3843.1	3822.0	3798.8	3773.3	3745.2	3714.4	3680.4	3680.4
542	ANNUAL DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2205.4
543	CUM. DEBT DRAWDOWN $1982	2205.4	2205.4	2205.4	2205.4	2205.4	2205.4	2205.4	2205.4	2205.4	2205.4
519	DEBT SERVICE COVER	1.00	1.10	1.10	1.10	1.10	1.10	1.10	1.10	1.10	0.00

ACRES

DATA1OH5.M11 WATANA (ON LINE 1993)-$1.4 BN STATE FUNDS (PER 30% SCHED)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3,647 8-JAN-83

		1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
					CASH FLOW SUMMARY						
					(MILLION)						
73	ENERGY GWH	0	0	0	0	0	0	0	0	3387	3387
521	REAL PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.93	61.60
466	INFLATION INDEX	122.62	129.98	137.78	146.05	154.81	164.10	174.04	184.48	202.93	217.13
520	PRICE-MILLS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	103.34	133.76
	-----INCOME----------										
516	REVENUE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	350.0	453.0
170	LESS OPERATING COSTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	25.1	27.3
517	OPERATING INCOME	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	324.9	425.7
214	ADD INTEREST EARNED ON FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.3
550	LESS INTEREST ON SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	19.1
391	LESS INTEREST ON LONG TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	424.9	454.6
548	NET EARNINGS FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-100.0	-42.8
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-100.0	-42.8
446	STATE CONTRIBUTION	806.8	413.3	475.3	115.4	0.0	0.0	0.0	0.0	0.0	0.0
143	LONG TERM DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	521.8	1453.8	1329.4	944.4	396.4	85.3
248	WORCAP DEBT DRAWDOWNS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
549	TOTAL SOURCES OF FUNDS	806.8	413.3	475.3	115.4	521.8	1453.8	1329.4	944.4	387.8	57.9
320	LESS CAPITAL EXPENDITURE	373.3	390.5	389.2	390.9	811.8	1453.8	1329.4	944.4	296.4	25.7
448	LESS WORCAP AND FUNDS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	15.5
260	LESS DEBT REPAYMENTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	18.8
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	433.5	22.8	86.1	-275.5	-290.0	0.0	0.0	0.0	0.0	0.0
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	52.6	57.4
371	OTHER WORKING CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	38.8	49.4
454	CASH SURPLUS RETAINED	456.6	479.4	565.5	290.0	0.0	0.0	0.0	0.0	0.0	0.0
370	CUM. CAPITAL EXPENDITURE	373.3	763.8	1153.0	1543.9	2355.7	3809.4	5138.8	6083.2	6379.6	6405.3
465	CAPITAL EMPLOYED	829.9	1243.2	1718.5	1833.9	2355.7	3809.4	5138.8	6083.2	6471.0	6512.1
461	STATE CONTRIBUTION	806.8	1220.1	1695.4	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8
462	RETAINED EARNINGS	23.1	23.1	23.1	23.1	23.1	23.1	23.1	23.1	-76.9	-119.7
555	DEBT OUTSTANDING-SHORT TERM	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	91.4	106.8
554	DEBT OUTSTANDING-LONG TERM	0.0	0.0	0.0	0.0	521.8	1975.3	3304.9	4249.3	4645.7	4714.2
542	ANNUAL DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	337.0	877.6	750.0	498.0	195.3	39.3
543	CUM. DEBT DRAWDOWN $1982	0.0	0.0	0.0	0.0	337.0	1214.6	1964.7	2462.6	2658.0	2697.2
519	DEBT SERVICE COVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.76	0.87

Option C -- $1.4 Billion Dedicated From
Permanent Fund Income
Page 1 of 2

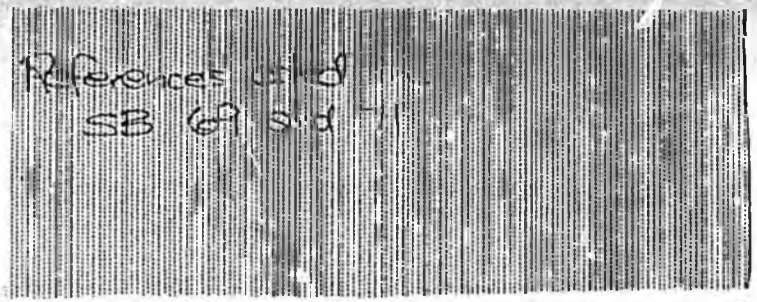
ACRES

DATA1OMS.D11 WATANA (ON LINE 1993)-$1.4 BN STATE FUNDS (PER 30% SCHED)- INFLATION 6%,7%-INTEREST 10%-CAPCOST $3.647 8-JAN-83

		1995	1996	1997	1998	1999	2000	2001	2002	2003	TOTAL
					CASH FLOW SUMMARY						
					---($MILLION)----						
73	ENERGY GWH	3387	3387	3387	3387	3387	3387	3387	3387	3387	37257
521	REAL PRICE-MILLS	60.24	69.32	65.13	61.09	57.35	53.87	50.65	47.69	44.96	0.00
466	INFLATION INDEX	232.33	248.59	265.99	284.61	304.53	325.85	348.66	373.07	399.18	0.00
520	PRICE-MILLS	139.96	172.33	173.25	173.87	174.65	175.55	176.60	177.92	179.46	0.00
	-----INCOME----------										
516	REVENUE	474.0	583.7	586.7	588.9	591.5	594.5	598.1	602.6	607.8	6030.7
170	LESS OPERATING COSTS	29.8	32.6	35.6	38.8	42.3	46.2	50.4	55.1	60.1	443.3
517	OPERATING INCOME	444.2	551.1	551.2	550.1	549.2	548.3	547.6	547.5	547.7	5587.4
214	ADD INTEREST EARNED ON FUNDS	5.7	6.3	6.8	7.5	8.1	8.9	9.7	10.6	11.6	80.5
550	LESS INTEREST ON SHORT TERM DEBT	29.2	37.8	38.4	37.8	37.4	37.2	37.2	37.7	38.7	350.5
391	LESS INTEREST ON LONG TERM DEBT	452.9	451.0	449.0	446.8	444.3	441.6	438.7	435.4	431.8	4871.0
548	NET EARNINGS FROM OPERS	-32.2	68.5	70.6	73.0	75.6	78.4	81.5	85.0	88.8	446.4
	-----CASH SOURCE AND USE----										
548	CASH INCOME FROM OPERS	-32.2	68.5	70.6	73.0	75.6	78.4	81.5	85.0	88.8	446.4
446	STATE CONTRIBUTION	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
143	LONG TERM DEBT DRAWDOWNS	78.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	78.2
248	WORCAP DEBT DRAWDOWNS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	124.2
519	TOTAL SOURCES OF FUNDS	53.7	93.1	81.1	84.2	85.7	88.3	95.0	99.4	104.1	1290.5
320	LESS CAPITAL EXPENDITURE	27.5	29.4	31.5	33.7	36.1	38.6	41.3	44.2	47.3	6734.9
448	LESS WORCAP AND FUNDS	7.7	24.6	10.5	11.2	10.2	9.9	13.5	14.4	15.3	224.2
260	LESS DEBT REPAYMENTS	18.4	21.3	23.4	25.7	28.3	31.1	34.3	37.7	41.4	278.4
395	LESS PAYMENT TO STATE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
141	CASH SURPLUS(DEFICIT)	0.0	17.8	15.7	13.5	11.2	8.7	6.0	3.1	0.0	53.0
249	SHORT TERM DEBT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444	CASH RECOVERED	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	-----BALANCE SHEET----------										
225	RESERVE AND CONT. FUND	62.7	68.4	74.7	81.5	88.9	97.1	105.9	115.6	126.2	126.2
371	OTHER WORKING CAPITAL	51.9	70.8	75.0	79.4	82.2	83.9	88.6	93.3	98.0	98.0
454	CASH SURPLUS RETAINED	0.0	17.8	33.5	47.1	58.3	67.0	73.0	76.1	76.1	76.1
370	CUM. CAPITAL EXPENDITURE	6432.8	6462.3	6493.8	6527.5	6563.6	6602.1	6643.4	6687.6	6734.9	6734.9
465	CAPITAL EMPLOYED	6547.4	6619.2	6677.0	6735.5	6792.9	6850.1	6910.9	6972.6	7035.2	7035.2
461	STATE CONTRIBUTION	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8	1810.8
462	RETAINED EARNINGS	-151.9	-83.4	-12.7	60.2	135.8	214.2	295.8	380.7	469.5	469.5
555	DEBT OUTSTANDING-SHORT TERM	114.6	139.2	149.7	160.9	171.1	181.0	194.5	208.9	224.2	224.2
554	DEBT OUTSTANDING-LONG TERM	4773.9	4752.6	4739.3	4703.5	4675.2	4644.1	4609.8	4572.1	4530.7	4530.7
542	ANNUAL DEBT DRAWDOWN $1982	33.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2730.9
543	CUM. DEBT DRAWDOWN $1982	2730.9	2730.9	2730.9	2730.9	2730.9	2730.9	2730.9	2730.9	2730.9	2730.9
519	DEBT SERVICE COVER	0.89	1.10	1.10	1.10	1.10	1.10	1.10	1.10	1.10	0.00

ACRES

(B).



Sec. 44.83.181. Feasibility study and finance plan. (a) Unless the reconnaissance study has been disapproved by the division of budget and management under AS 44.83.179, the authority shall complete a feasibility study and plan of finance for each proposed project.

(b) A feasibility study shall include

(1) information about the proposed project, including but not limited to estimates of total project construction costs, total project operating costs, the costs of transmission systems and reserve power requirements, the timing and amount of anticipated returns from the completed project, a benefit-to-cost ratio, the potential effect of the project on the environment of the area which will be served by the project when completed, and the availability of alternative government financing;

(2) a statement of all assumptions which affect the economic feasibility of the project, including but not limited to the discount rate and interest rate of amounts of money to be used for the project, anticipated fuel prices, an escalation rate, state and local electric load growth, and estimates of indirect costs and benefits;

(3) a comparative analysis of all reasonable alternatives to construction of the proposed project; and

(4) information based on engineering and design work which meets the requirements for submission of a license application for the project to the Federal Energy Regulatory Commission.

(c) The plan of finance shall include recommendations of the most appropriate means to finance a project, including, but not limited to,

(1) the issuance of revenue bonds of the authority;

(2) the issuance of

(A) general obligation bonds of the state; or

(B) revenue bonds of the authority which are guaranteed or partially guaranteed by the state;

(3) an appropriation from the general fund

(A) to pay debt service on bonds or for other project purposes; or

(B) to reduce the amount of debt financing for the project;

(4) a loan from the general fund;

(5) financing arrangements with other entities using leveraged leases or other financing methods;

(6) assistance from any federal agency, including, but not limited to, the Rural Electrification Administration;

(7) a loan from the power project fund (AS 44.83.170(a)), or from the renewable resources investment fund (AS 37.11.050); or

(8) any combination of financing arrangements listed in this subsection.

(d) When financial assistance from the state is necessary for a project to meet financial feasibility criteria, the plan of finance shall include an estimate of the minimum amount of financial assistance required from the state. The plan of finance shall include an estimate of the present value of the financial assistance from the state, computed as the difference between

(1) a market rate of interest, which is

(A) the rate determined under AS 44.83.170(D)(2)(B)(i); or

(B) the estimated interest rate for revenue bonds to be issued by the authority for the project; and

(2) the effective rate of interest because of state financial assistance provided.

(e) The authority, in consultation with the division of budget and management, shall adopt regulations defining

(1) the techniques which it shall apply to determine that the information required by (b) — (d) of this section is obtained; and

(2) standard criteria and measures for comparative analysis of alternative financing arrangements. (§ 24 ch 83 SLA 1980; am § 6 ch 133 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 25, 1982, inserted "the costs of transmission systems and reserve power requirements" in paragraph (1) of subsection (b).

Sec. 44.83.183. Review of feasibility studies and plans of finance by division of budget and management. (a) The division of budget and management in the Office of the Governor shall review the feasibility study and plan of finance for a project of the authority for compliance with the provisions of AS 44.83.181(b) — (d).

(b) In its review under this section, the division of budget and management may obtain an independent evaluation of a feasibility study and plan of finance to determine compliance with the provisions of AS 44.83.181(b) — (d).

(c) When the division of budget and management has completed a review of the feasibility study and the plan of finance for a project under this section, it shall submit a report to the governor. The report shall examine the feasibility study and plan of finance for compliance with the requirements of AS 44.83.181(b) — (d). The report of the

division of budget and management shall include a recommendation to the governor and legislature for approval or disapproval of the project based on the division's review of the feasibility study and plan of finance for compliance with the requirements of AS 44.83.181(b) — (d).

(d) The report required by (c) of this section shall be prepared and submitted not later than 60 days after the feasibility study and plan of finance for a proposed project have been received by the division of budget and management.

(e) The report required by (c) of this section shall include a financial analysis of the proposed project of the authority that evaluates proposed bond resolutions or other financial arrangements or financial plans, security plans and arrangements, cost and demand uncertainties, and debt volume, as they relate to the total direct and indirect indebtedness of the state. In preparing the financial analysis required by this section the division of budget and management may use the services of outside agencies or institutions that are not otherwise involved in the project. (§ 24 ch 83 SLA 1980; am § 7 ch 133 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 25, 1982, added subsection (e).

Sec. 44.83.185. Submission to the legislature. (a) The authority shall submit a feasibility study and plan of finance for a proposed new project to the legislature. When the report of the division of budget and management examining the feasibility study and plan of finance is completed as required by AS 44.83.183, it shall be submitted to the legislature.

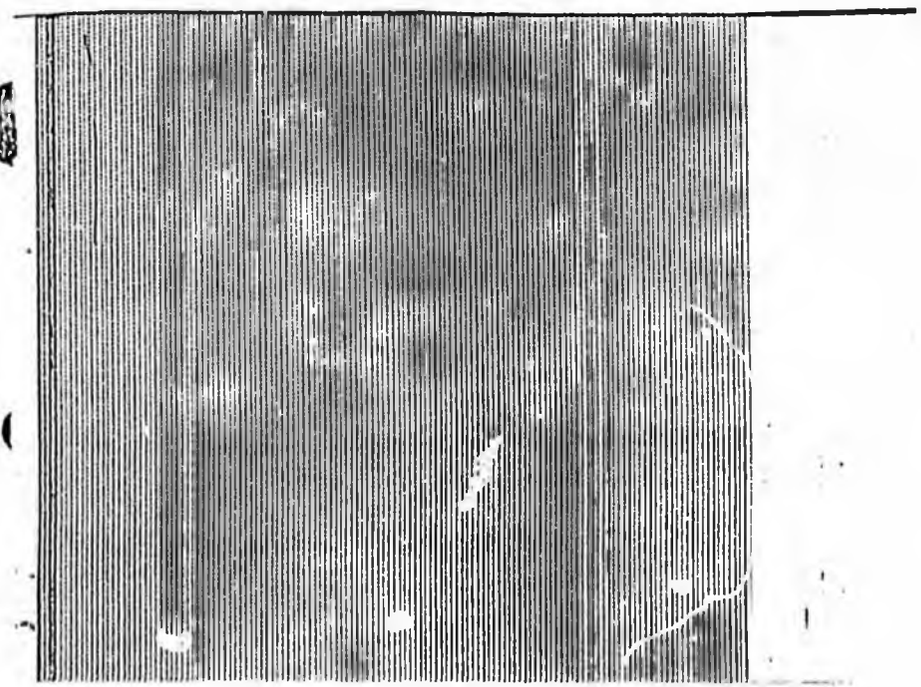
(b) The authority may not proceed with work on the engineering or design phase of a proposed new project for which legislative approval is required until the legislature approves the proposed new project. However, the authority may proceed with the engineering or design work necessary to meet the requirements for submission of a license application for the proposed new project to the Federal Energy Regulatory Commission without obtaining legislative approval of the proposed new project.

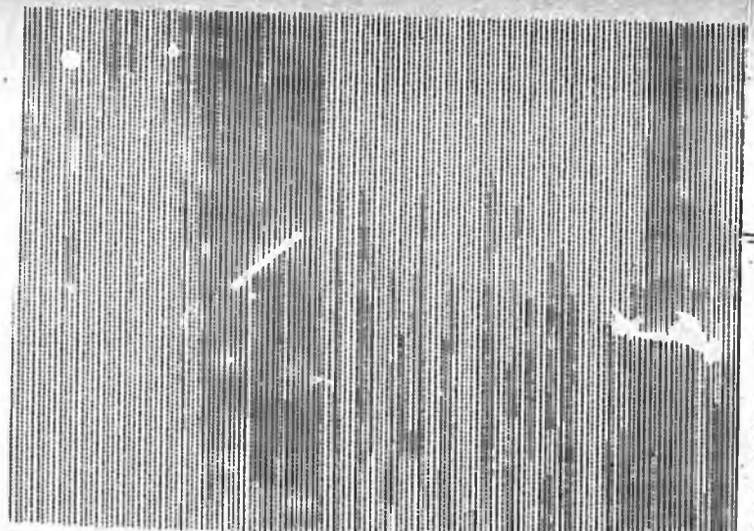
(c) The legislature shall consider and must approve all proposed new projects except proposed new projects that are exempt under AS 44.83.187. The legislature may approve a proposed new project only by enacting law that authorizes the project and approves a construction cost for that project. (§ 24 ch 83 SLA 1980; am § 8 ch 133 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 25, 1982, substituted "that authorizes the project and approves a construction cost for" for "authorizing" in the second sentence of subsection (c).

Sec. 44.83.186. Final cost estimate and reauthorization by the legislature. If a project is approved under AS 44.83.185(c), the authority shall obtain a final cost estimate for the project from an independent source qualified to make such an estimate. If the final cost estimate does not exceed the construction cost authorized by the legislature under AS 44.83.185, adjusted for inflation, by more than seven and one-half percent, the authority may proceed with the construction of the project. If the final cost estimate exceeds the construction cost authorized by the legislature under AS 44.83.185, adjusted for inflation, by more than seven and one-half percent, the authority shall revise its feasibility study and, if it determines that the project remains feasible, the authority shall submit the revised feasibility study and the independent cost estimate to the legislature. A proposed project that is returned for reconsideration by the legislature under this section may not be constructed unless the legislature reauthorizes it by enacting law for that purpose. (§ 9 ch 133 SLA 1982)

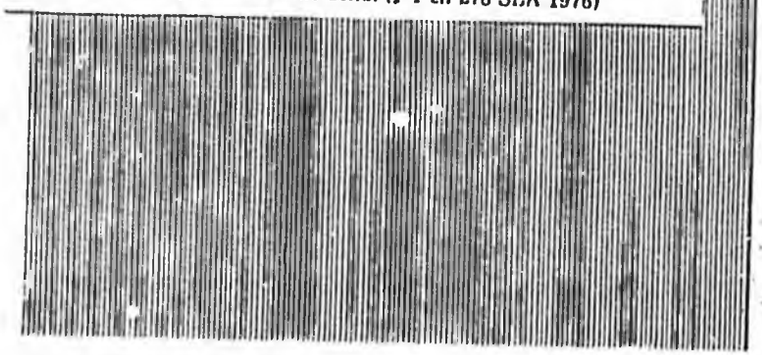
Effective dates. — Section 22, ch. 133, SLA 1982, makes this section effective June 25, 1982, in accordance with AS 01.10.070(c).





Sec. 44.83.130. Nonliability on bonds. (a) Neither the members of the authority nor a person executing the bonds is liable personally on the bonds or is subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state, except the authority, to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 1 ch 278 SLA 1976)



Article 7. Susitna River Hydroelectric Project.

Section
300. Description of project
310. Purpose of project
320. Preliminary reports
325. Restrictions on contracting
330. Construction, maintenance and operation of projects
340. Annual report
350. Legislative and executive oversight
360. Project financing

Sec. 44.83.300. Description of project. The Susitna River hydroelectric project consists of dams and related reservoirs, and power plants located in the Upper Susitna River Basin, and related transmission lines, facilities, and load centers, as described in the Alaska Power Authority's report required by AS 44.83.320(b). (§ 2 ch 169 SLA 1980)

Sec. 44.83.310. Purpose of project. The primary purpose of the Susitna River hydroelectric project is to generate, transmit and distribute electric power in a manner which will

(1) minimize market area electrical power costs;

(2) minimize adverse environmental and social impacts while enhancing environmental values to the extent possible; and

(3) safeguard both life and property. (§ 2 ch 169 SLA 1980)

Sec. 44.83.320. Preliminary reports. (a) By March 30, 1981, the authority shall prepare and submit to the governor and to the legislature a preliminary report recommending whether work should continue on the Susitna River hydroelectric project, and, if the recommendation is to continue on the project, the report shall explain in detail

(1) economic evaluations and preliminary environmental impact assessments for the Susitna River hydroelectric project and all viable alternatives;

(2) the federal and state permits required to be obtained before construction can begin and the expected construction start date; and

(3) any other information the authority considers appropriate or necessary to adequately inform the governor and the legislature of the status of the Susitna River hydroelectric project.

(b) By April 1, 1982, the authority shall prepare and submit to the governor and to the legislature a preliminary report recommending whether work should continue on the Susitna River hydroelectric project, and other viable alternatives. If the recommendation is to continue on the Susitna River hydroelectric project, the report shall explain in detail

(1) the proposed conceptual design and phases of construction of the Susitna River hydroelectric project;

(3) the expected cost of each phase of construction;

(4) the costs to the state and consumers of the project under alternative methods of project financing, including revenue bonds, general obligation bonds, and general fund appropriations; and

(5) any other information the authority considers appropriate or necessary to adequately inform the governor and the legislature of the status of the Susitna River hydroelectric project.

(c) The preliminary reports required under (a) and (b) of this section are in addition to any reports required under AS 44.83.180 — 44.83.224. (§ 2 ch 169 SLA 1980)

Sec. 44.83.325. Restrictions on contracting. The authority may not enter into contracts under AS 44.83.300 — 44.83.360 other than those contracts necessary to complete (1) feasibility studies, (2) the preliminary reports required by AS 44.83.320, or (3) construction of the Anchorage-Fairbanks intertie, until the legislature approves by law the preliminary report required under AS 44.83.320(b). (§ 2 ch 169 SLA 1980)

Sec. 44.83.330. Construction, maintenance and operation of project. Within one year after approval of its preliminary report submitted under AS 44.83.320(b), the authority may enter into a contract for the construction of the Susitna River hydroelectric project in a manner consistent with the purpose of the project as described in AS 44.83.310. (§ 2 ch 169 SLA 1980)

Sec. 44.83.340. Annual report. (a) If the Susitna River hydroelectric project is approved by the legislature under AS 44.83.320(d), beginning in 1983 the authority shall prepare an annual report which explains in detail

(1) the status of construction on the Susitna River hydroelectric project;

(2) the completion date of any phase of the Susitna River hydroelectric project which has been completed and the reasons for any deviation between the completion date and the expected completion date stated in the preliminary report required under AS 44.83.320(b);

(3) the actual cost of any phase of the Susitna River hydroelectric project which has been completed and the reasons for any deviation between the actual cost and the expected cost stated in the preliminary report required under AS 44.83.320(b);

(4) the federal and state permits necessary to begin or continue construction of the Susitna River hydroelectric project, the actual dates on which the federal and state permits necessary to begin or continue construction were obtained, and the reasons for any deviation between the actual dates and the expected dates stated in the preliminary report required under AS 44.83.320(a) or in the earlier annual reports required under this section;

(5) any other information the authority considers appropriate or necessary to adequately inform the governor and the legislature of the status of the Susitna River hydroelectric project.

(b) The annual report required under (a) of this section is in addition to any reports required under AS 44.83.180 — 44.83.224 and shall be submitted, by March 30 of each year, to the governor and to each member of the legislature. (§ 2 ch 169 SLA 1980)

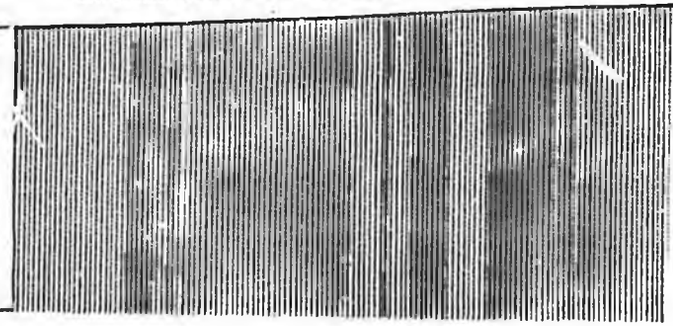
Sec. 44.83.350. Legislative and executive oversight. The legislature or the governor may provide for ongoing oversight, review and selected in-depth analysis of the Susitna River hydroelectric project plan of study. The authority shall provide all data, analyses, reports, and other information to whomever conducts the oversight, review, or analysis activities. Selected in-depth analyses shall include assessments of the power alternatives, financing, and power marketing sections of the Susitna River hydroelectric project plan of study. (§ 2 ch 169 SLA 1980)

Sec. 44.83.360. Project financing. The Susitna River hydroelectric project shall be financed by general fund appropriations, general obligation bonds, revenue bonds, or other plans of finance as approved by the legislature. (§ 2 ch 169 SLA 1980)

Article 7. Susitna River Hydroelectric Project.

Sec. 44.83.325. Restrictions on contracting.

Editor's note. — Section 21, ch. 133, SLA 1982, provides: "Notwithstanding the provisions of AS 44.83.325, the Alaska Power Authority may enter into contracts under AS 44.83.300 — 44.83.360 for preliminary work without the approval required by AS 44.83.325. In this section, 'preliminary work' means the preparation of plans and studies and the preparation and submission of license applications, as well as other types of work, that must be completed before actual construction of the Susitna River hydroelectric project, described in AS 44.83.300, may begin. This section does not authorize the Alaska Power Authority to enter into contracts for the actual construction of the Susitna River hydroelectric project or for the preparation of the site of the Susitna River hydroelectric project without the approval required by AS 44.83.325."



SEE FILE
HB 120
HSA
FOR THIS REPORT

POLICY ANALYSIS PAPER 82-14

Potential for Industrial Development in the Railbelt Region of Alaska Based on the Availability and Cost of Electric Power

December 1982

Prepared by: SRI International
333 Ravenwood Ave
Menlo Park, CA 94025

HB

133

STATE AFFAIRS COMMITTEE SIGN-IN SHEET DATE OF HEARING: 3/10

HB 133 & HB 334

NAME (PRINTED)	ADDRESS (MUST BE INCLUDED)	REPRESENTING	PHONE	TESTIFYING? YES/NO WHICH BILL?
J. K. HUMPHREYS	DEPT OF ADMIN MD	DEPT OF ADMIN	465-4460	TO ANSWER QUESTIONS HB 133
Cheri Shelley		APEA	586-2334	yes 133

HSA FORM #002

HB 130 (cont'd)

Amends section relating to the disposal of land by lottery (AS 38.05.057) by deletion of language permitting an applicant to be represented by an agent on the day of the lottery if the land offered for sale is commercial, industrial or agricultural. Provides an applicant need not be present to win if military service prevents him from attending the lottery (presently applicant needs not be present if military service "outside the state" prevents presence).

Amends section relating to the leasing of a remote parcel (AS 38.05.077(i)(3)) to require that a person certify that he has not either previously leased a remote parcel "or have made application for a homestead entry on state land" within eight years immediately preceding the date of staking a remote parcel "and certify the facts in the application." (Underlined requirements added.)

Introduced January 26 and referred to Resources and Finance.

Parenthood (discrimination based on in sale/rental of real prop.)

HOUSE BILL NO. 131, by Rep. Hurlbert. Would prohibit discrimination based on parenthood in the sale or rental of real property. In other words, a landlord could not refuse to rent to a person or couple simply because they had children, and a real estate agent could not refuse to sell property to a person or couple because of children. (Amends AS 18.80.240, "Unlawful Practices in the Sale or Rental of Real Property.)

Deletes: "However, nothing in this paragraph prohibits the sale, lease or rental of classes of real property commonly known as housing for 'singles' or 'married couples' only." Does not provide for an effective date (effective 90 days after the Governor's signature).

Introduced January 28 and referred to Labor & Commerce and Judiciary.

Munic. Sales Tax (on food or nonalcoholic beverages)

HOUSE BILL NO. 132, by Reps. Vaska and Koponen. Would prohibit municipalities from levying and collecting a sales tax on food or nonalcoholic beverages. Would apply to home rule and general law municipalities. (Amends AS 29.53.415, "Sales & Use Tax.") Effective January 1, 1984.

Introduced January 28 and referred to Labor & Commerce and Community & Regional Affairs.

Public Emp. Retirement (credited svc. for former federal workers)

HOUSE BILL NO. 133, by Rep. Martin by request. Would allow members of PERS to claim credited service for service rendered before January 1, 1961 as "a temporary or permanent" employee of the federal government in Alaska, excluding service in the U.S. armed forces (underlined words added to AS 39.35-360(a), "Earlier Service"). Employee must have been employed by the state before January 1, 1980 and must have completed three years of credited service with the state after January 1, 1961, for which employee has made the required contributions (no change from existing law).

HB 133 (cont'd)

If the bill passes, state employees who have already retired would be eligible to receive increased benefits based on prior federal service. Effective immediately.

Introduced January 28 and referred to State Affairs and Finance.

Appropriation (Snettisham Power Project)

HOUSE BILL NO. 134, by Reps. Duncan and M.M. Miller. Would repeal a $4.5 million appropriation made in 1981 for the Snettisham power project near Juneau and reappropriate the money to the Alaska Power Authority for "feasibility studies, preconstruction design, engineering, and construction at the Snettisham (Crater Lakes) power project." The 1981 appropriation, contained in Ch. 90, SLA 1981, Sec. 6(7), was part of a $37,300,000 allocation to the Power Authority for "feasibiity studies, preconstruction design, and engineering" for various projects around the state (specifically did not include "construction").

Appropriation is for capital project and is subject to AS 37.25.020 (it does not lapse). Effective immediately.

Introduced January 28 and referred to Resources and Finance.

Court Leave for Nonperm. & Temporary Employees

HOUSE BILL NO. 135, by the Rules Committee by request of the Legislative Council (for the Blue Ribbon Commission on the State Personnel Act). Identical to SB 83, page 81.

Appropriation (Municipal Assistance Fund)

HOUSE BILL NO. 136, by Rep. Larson. Would appropriate $25.1 million to the Dept. of Revenue for the Municipal Assistance Fund (AS 43.20.016(a)) for distribution to municipalities for fiscal year ending June 30, 1983. Lapses on June 30, 1983. Effective immediately. Identical to SB 17, page 5.

Introduced January 28 and referred to Community & Regional Affairs and Finance.

Appropriation (supplemental) (school construction debts)

HOUSE BILL NO. 137, by Reps. Larson, David, Duncan, Fritz, Furnace, Koponen, Malone, M.M. Miller, M.W. Miller, Szymanski and Zharoff. Would make a $13.1 million supplemental appropriation to the Dept. of Education for the retirement of school construction debts in accordance with AS 43.18.100 for fiscal year 1983. Effective immediately.

Introduced January 28 and referred to Health, Education & Social Services and Finance.

Appropriation (supplemental) (state aid for roads)

HOUSE BILL NO. 138, by Rep. Larson. Would make a $3.5 million appropriation to the Dept. of Community & Regional Affairs for distribution to municipalities for roads under AS 29.89.020 (state aid for roads) for the fiscal year ending June 30, 1983. Appropriation lapses on June 30, 1983. Effective immediately.

Introduced January 28 and referred to Community & Regional Affairs

Alaska State Legislature

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

3960 REKA DRIVE—86
ANCHORAGE, AK 99504
PHONE 333-6990

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

January 27, 1983

Mr. Eugene Horning
3100 Glenndon Drive
Anchorage, Alaska 99504

Dear Eugene:

Enclosed is a copy of my bill relating to credit for earlier service for certain members of the public employees' retirement system.

I expect the bill to be given a number and introduced in the House today.

I appreciate you calling this matter to my attention.

Sincerely,

Terry

Terry Martin
Representative

TM/ta

P.S. The bill number is HB 133.

January 7, 1983

Representative Terry Martin
Pouch V
Juneau, Alaska 99811

Dear Representative Martin,

I am writing in regard to Senate Bill 589 relating to credit for earlier service for certain members of the public employees' retirement system.

As you can see from the attached letters, I have attempted to clarify the exact meaning of the wording in AS 39.35.360(A).

Even after the meeting with the Retirement Board I still feel that the wording in 39.35.360 is misleading and needs to be changed.

Therefore I am submitting this letter with attachments in support of Senate Bill 589 and for your use in securing passage of the bill.

P. Sen. Vic ~~Fischer~~ Fischer had this Bill last year in Senate St. Affairs Comm

Respectfully yours,

Eugene A. Horning

Eugene A. Horning
3100 Glenndon Drive - Dist. 13
Anchorage, Alaska 99504

EAH/bp
Attachments
cc: Vic Fischer
Jerry Ward
Joe Josephson

~~Sen Bell~~ and We can introduce a new bill on House side for Pop. Board's Comm

H- 337-1427
W- 269-5792

December 11, 1981

Seante Distric C
Bill Ray
Pouch J
Juneau, Ak. 99811

Dear Senator Ray:

I am currently employed with the State of Alaska, Department of Public Safety in Anchorage.

I have filed a claim with the Public Employees Retirement System for EARLIER SERVICE CREDIT as an employee of the Federal Government before January 1, 1961 as per AS 39.35.360 (A). (See enclosed copy.)

The Division of Retirement would only grant me credit for permanent time and not for temporary time. (See enclosed letter.)

There is no mention of permanent or temporary in AS 39.35.360 (A).

I requested and was granted an appearance before the Public Employee's Retirement Board at its scheduled meeting in October.

At this meeting Mr. Paul Arnoldt, Director of the Division of Retirement and Benefits, stated that temporary service was not creditable under the PERS law with the exception of AS39.35.156 "Temporary Service Credit".

Therefore in AS 39.35.360 "Earlier Service Credit" permanent Federal Service is implied and did not need to be explicitly stated.

Was this also your understanding when you sponsored Senat Bill #26 in 1979 in which AS 39.35.360 was rewritten?

I would like to hear from you on this matter.

Respectfully yours,

Eugene A. Horning

Eugene A. Horning
8620 Boundary #1
Anchorage, Ak. 99504
Phone - 337-1427 (home)
269-5792 (work)

Alaska State Legislature

Senate

Committee on Transportation

Senator Bill Ray
Chairman

Official Business
Pouch V
State Capitol
Juneau, Alaska 99811

December 18, 1981

Eugene A. Horning
8620 Boundary #3
Anchorage, Alaska 99504

Dear Mr. Horning:

Thank you for your letter of December 11 concerning earlier service retirement credit.

I have referred your inquiry to Teresa Cramer, my Administrative Assistant for the Blue Ribbon Commission. She will investigate the matter and report to you her findings.

Sincerely,

Bill Ray
Senator
District C

cc: Teresa Cramer

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

January 11, 1982

Eugene A. Horning
8620 Boundary #3
Anchorage, Alaska 99504

Dear Mr. Horning:

Senator Ray asked that I reply to your letter about retirement credit for temporary employment with the federal government prior to statehood. The answers which you received from Mr. Motter and from Ms. Woolford of the Division of Retirement and Benefits are consistent with the present state of the retirement laws. The problem of interpretting what counts as "service" in the retirement system comes in part from the definition sections which do limit membership in the system to employees who are "receiving compensation for seasonal, permanent full-time or permanent part-time services" in most cases. AS 39.35.680(1) defining "active member".

Last legislative session, Senator Ray sponsored legislation which directly addresses your situation. I am enclosing a copy of SB 589 which amends the section on credit for earlier service to provide that both temporary and permanent employment with the United States government in Alaska prior to statehood will count as credited service. This bill is presently in the Senate State Affairs Committee, which Senator Vic Fischer chairs. If you wish to support the legislation, you may write directly to the committee at Pouch V, Juneau, Alaska 99811. If there are hearings scheduled on the bill, I will let the committee know of your support for the proposed amendment during any testimony I give on behalf of the Blue Ribbon Commission.

Yours very truly,

Teresa B. Cramer
Administrative Assistant

TBC:lmk
Enclosure

Alaska State Legislature

SENATOR
ARLISS STURGULEWSKI

COMMITTEES
CHAIRMAN
Legislative Budget & Audit

Community & Regional Affairs
Finance
Resources

Senate

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99504
DISTRICT 10-H

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3818

05 April 1982

Eugene Horning
8620 Boundary #3
Anchorage, Alaska 99504

Dear Mr. Horning:

As I am sure you are aware, Senate Bill 589, relating to credit for earlier service for certain members of the public employees' retirement system is currently in the Senate State Affairs Committee, chaired by Senator Vic Fischer. I have contacted Senator Fischer's office about Senate Bill 589 and have been informed that this bill is not currently scheduled for hearing and it is not anticipated that it will be scheduled during this session.

I am sending along to Senator Fischer's office a copy of the packet of material you sent to me. I am sorry to say that it does not seem likely that this bill will come before me this year, but you may be assured that if it should, I will give it my most careful and positive consideration.

Sincerely,

Arliss Sturgulewski

Arliss Sturgulewski
Senator, District 10-H

cc: Senator Vic Fischer

Alaska State Legislature

REPRESENTATIVE
CHARLES ANDERSON
DISTRICT 10



1841 E. 24TH AVENUE
ANCHORAGE, ALASKA 99504
277-3906

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
465-4943

House of Representatives

April 8, 1982

Eugene A. Horning
5419 East 42nd Avenue
No. 22
Anchorage, Alaska 99504

Dear Eugene,

Thank you for your recent letter regarding SB 589, "An Act relating to credit for earlier service for certain members of the public employees retirement system; and providing for an effective date." I appreciate hearing from you on this matter.

As you know, this legislation was introduced by Senator Ray of Juneau and has been referred to the Senate State Affairs Committee. I realize that while this may be a relatively minor change in the law on retirement, it can be an important one for individuals like yourself. Accordingly, I am in support of this bill and have written to the Senate State Affairs Committee Chairman (copy enclosed) to urge that they act on this matter.

While it is relatively late in the legislative session, I believe that a hearing on this bill will considerably enhance the possibility of it being approved by the legislature.

Again, thank you for contacting me on this issue and please feel free to communicate with me further on this or any other matters of mutual interest.

Sincerely,

Charles Anderson

Charles G. Anderson
House of Representatives

CGA:mac

Enclosure

Alaska State Legislature

REPRESENTATIVE
CHARLES ANDERSON
DISTRICT 10



1841 E. 24TH AVENUE
ANCHORAGE, ALASKA 99504
277-3906

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
465-4943

House of Representatives

April 8, 1982

The Honorable Vic Fischer
Chairman
Committee on State Affairs
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

I am writing to urge that the Senate State Affairs Committee conduct a hearing on SB 589, "An Act relating to credit for earlier service for certain members of the public employees retirement system; and providing for an effective date."

This legislation would permit credit under the Public Employees Retirement System of temporary or permanent employment with the United States government prior to statehood.

While this change in the law is likely to affect only a small number of individuals, it could be an important one for those people. I believe that the issue deserves a fair hearing so that all aspects of the problem can be discussed.

Thank you for your attention on this matter.

Sincerely,

Charles Anderson

Charles G. Anderson
House of Representatives

CGA:mac

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

POUCH CR
JUNEAU, ALASKA 99811
Ph: 465-4463

May 14, 1981

Mr. Eugene A. Horning
5419 East 42nd Avenue, #22
Anchorage, AK 99504

PERS: 274-30-2593

Dear Mr. Horning:

This letter is in response to your note to Ms. Nancy Woolford, April 27, 1981.

I have talked to Nancy regarding your question and have looked over the documentation that you have submitted. I am terribly sorry, but the answer that Ms. Woolford gave you is the correct answer. Your temporary federal service is not creditable.

Enclosed is a copy of Section 39.35.156, Temporary Service Credit. You will note that temporary service is creditable for service regularly rendered a full-time personnel basis to an employer. Since the United States Government was never an employer under PERS, I cannot recognize your temporary service with them.

In Section 39.35.360, earlier service that you cited, there is no reference to temporary service other than that that is found in part G of that section. The reference there is specific to temporary employees of the legislature of the State or territory during legislative sessions.

In view of the above, the answer is we cannot recognize temporary federal service.

Sincerely,

W. Stewart Motter

W. Stewart Motter
Retirement Field Representative

WSM/rw
Enclosure

August 23, 1981

Steve Hafling
Chairman
State of Alaska
Public Employees' Retirement Board
430 W 7th Ave.
Anchorage, Alaska 99501

Dear Mr. Hafling:

We request an appearance before the board at its next scheduled meeting in Anchorage during the month of October 1981.

We wish to discuss an apparent discrepancy in the granting of credit for temporary Federal service.

We will be asking the following questions:

1. RE: CHAPTER 146, SLA 1980
AS 39.35.156 TEMPORARY SERVICE CREDIT.

HOW CAN THIS PARAGRAPH APPLY TO FEDERAL SERVICE WHEN THE WORDS "FEDERAL SERVICE" DO NOT APPEAR IN THE PARAGRAPH?

2. RE: CHAPTER 146, SLA 1980
AS 39.35.360 EARLIER SERVICE CREDIT.

HOW CAN THIS PARAGRAPH BE INTERPRETED TO READ PERMANENT FEDERAL SERVICE ONLY WHEN THE WORDS "PERMANENT OR "TEMPORARY" DO NOT APPEAR IN THE PARAGRAPH?

3. HOW CAN THE STATE LOSE A COURT SUIT GIVING CREDIT FOR TEMPORARY FEDERAL SERVICE AND STILL CLAIM THAT TEMPORARY FEDERAL SERVICE IS NOT CREDITABLE?

Respectfully yours,

Eugene A. Horning
Eugene A. Horning
Systems Analyst
Department of Public Safety

Charlene Stewart
Charlene Stewart
EDP Supervisor
Department of Administration

EAH:nct

HB

135

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

February 3, 1983

TO: Members of the House State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 135 - Granting Court Leave to Nonpermanent Employees

The Blue Ribbon Commission received a request that it consider whether nonpermanent employees should receive court leave benefits. The person who called was working as a nonpermanent employee on a project which was expected to last for nine months. She was summoned to serve on a jury for a criminal trial. The proceedings lasted two weeks.

Nonpermanent employees are short-term classified service employees. By statute their period of service is limited to 120 calendar days or to the duration of a program or project. Short-term employees in the partially exempt and exempt services are called temporary employees. Nonpermanent employees must be hired based on their relative ability from the lists of eligibles maintained by the Division of Personnel for that job class. They are paid according to the pay rate assigned to that job class. They are not eligible for state leave, health or retirement benefits.

Most state employees continue to receive their regular salaries while serving on juries or when they are subpoenaed to serve as a witness in a court proceeding. The employee gives the state his or her jury service fee (currently $25 a day) or witness fee. Nonpermanent and temporary employees are not entitled to this benefit. They must take leave without pay since they do not earn annual, sick or personal leave, and their only compensation is the jury service or witness fee provided by the court.

Jury service is a civic duty. All state employees should be treated equally while meeting this obligation. The Blue Ribbon Commission strongly recommends that nonpermanent and temporary employees be entitled to the same court leave benefits as other state employees.

Bill Analysis

Paragraph (7) of AS 39.20.310 denies temporary employees the leave benefits granted to other state employees. The proposed legislation amends the court leave statute to nullify the general exclusion. Temporary and nonpermanent employees would therefore be eligible to receive the court leave benefits provided other state employees.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 135 (SB 83) Date on Bill: January 28, 1983
Title: An Act relating to court leave for nonpermanent and temporary employees.
Sponsor: Rules - Legislative Council (for the Blue Ribbon Commission)
Requestor: House State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	
Capital							
Operating							
Total			-0-	-0-	-0-	-0-	

b. Revenues:

Revenue							

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor

Prepared By: Frank Raye Frank Raye Phone: 465-4430
Division: Personnel Date:

Approved by Commissioner: Lisa Rudd Date: 3/10/83
Department: Administration

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

47F4/0304-8

HB

151

Tamara Brandt Cook

PROPOSED AMENDMENT NO. 2 TO HB 6

Explanation: This change would correct a drafting mistake in HB 6. AS 28.35.033(j) added by Section 13 of the bill includes penalties for a person who has been previously convicted of one offense and for a person previously convicted of more than one offense, but omits the penalty for a person who has not been previously convicted. AS 28.35.034 provides for a three month period of revocation. However, that provision has been deleted in section 14 of this bill. Therefore, it is necessary to include the penalty for a first conviction in the subsection that sets out penalties for persons who have been previously convicted.

Page 11, line 25 after (j) insert a new first sentence to read:

"If the person has not been previously convicted in this or another jurisdiction of driving while intoxicated or of refusal to submit to a chemical test of breath under this or another law or ordinance with substantially similar elements, the period of suspension or revocation of license, nonresident privilege to drive, or denial of original license shall be 90 days."

Tamara Brandt Cook

PROPOSED AMENDMENT NO. 1 TO HB 6

Explanation: This change would make it clear that the penalties for driving without a license or in violation of a limitation placed on a license apply whether or not a person is driving under a driving privilege granted in this or another jurisdiction. While the existing provision applies when a person is licensed out of this state, it does not specifically apply to a person originally licensed in Alaska. This change would correct a defect in existing law that was not created by HB 6.

Page 3, lines 16 - 23; change the first sentence of AS 28.15.291 to read:

"A [NO] person may not drive a motor vehicle on a highway or vehicular way or area [IN THIS STATE] at a time when that person's [HIS] driver's license, or privilege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDICTION,] has been canceled, suspended or revoked in this or another jurisdiction, or when [HE IS] driving in violation of a limitation placed upon that person's [HIS] license or privilege to drive in this or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another jurisdiction."

FISCAL NOTE

I. REQUEST
Bill/Resolution No. H.B. 151
Title Special Appropriation: House of Wickersham
Requested by State Affairs Date 2/3/83

II. FISCAL DETAIL
Agency Affected Natural Resources - Parks
Program Category Affected Parks & Recreation
BRU, Program, Or Subprogram(s) Affected Park Operations
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		1032.8 (a)	50.5	59.9		

FUNDING (Thousands of Dollars)

GENERAL FUND		1032.8	50.5	59.9		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

(a) Includes $1.0 million capital appropriation

IV. DATE 2/7/83 PREPARED BY Hilt Wolfe
AGENCY Natural Resources
PHONE 465-2400

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

OMB Reviewed By: Glen Price

February 24, 1983

PLEASE NOTE:

The back-up report to HB 151, titled "Wickersham House Report", by the Wickersham House Task Force, March 82, approx. 300 pages,

was requested by House Finance for their hearings on HB 151 on Friday at 1:30 pm February 25, 1983. Since all of the extra committee reports were gone, we took the HSA Committee members individual copies.

Committee staff

HB

161

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

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

March 10, 1983

The Honorable Mitchell E. Abood
Chairman, House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: HB 161

Dear Mr. Chairman:

Enclosed you will find the Department of Revenue's response to questions asked at the February 28, 1983 meeting of the House State Affairs Committee pertaining to HB 161. I hope this information is what your seek. If you would like any further information, please let me know.

Sincerely,

Robert D. Heath
Commissioner of Revenue

RDH:mll
Enclosure

4-D2LH

POSITION PAPER ON HOUSE BILL 161

"An act establishing a defeasance fund in the Department of Revenue for the purpose of retiring State general obligation debt; transferring a portion of the income of the Alaska Permanent Fund to the defeasance fund and providing for an effective date."

This paper will explain certain aspects of a defeasance fund, highlight the issues surrounding its creation and present the position of the Department of Revenue.

A defeasance fund is a trust account which would be set up with an independent third party trustee such as a national bank. This account would be used to purchase a portfolio of securities whose maturities and cash flow income would correspond to the principal and interest payments of the G.O. bonds which are being defeased. Once the fund is established, the debt service on these bonds would not need to be appropriated from the General Fund.[1] A schedule of the yearly debt service on the pre-1978 bonds is attached. The reason the total appropriation is lower than the balance due on the G.O. bonds is because of the difference in interest rates which can presently be earned and the coupon rates of the bonds.

The bill refers to G.O. debt issued before May 2, 1978. The reason is that in 1978 the Internal Revenue Service issued a ruling limiting the amount of interest which can be earned on defeasance funds to the rate paid on the bonds. Thus, defeasance on bonds issued after 1978 offer little financial benefit.

In regard to the bill itself, the Department of Revenue sees possible legal problems. HB 161 is a temporary bill in that it attempts to take the earnings of the Permanent Fund for one year to create the defeasance fund. No attempt is made to repeal the current law governing the use of Permanent Fund income.

[1] Debt service is now an automatic appropriation (AS 37.15.012 by § 1 Ch. 100, SLA 1981).

The question must be addressed by law as to whether a temporary bill can override substantive law.

Another legal question deals with interest earned on the defeasance fund. The interest would go back into the fund by nature of the defeasance which could be viewed as a dedication of funds. Alaska's constitution prohibits dedication of funds. (Alaska Constitution Article IX, Section 7)

In analyzing the financial feasibility of the bill, the rate of interest paid on the G.O. bonds (see schedule attached) and the current rate of interest on investments must be compared. A majority of the bonds are below 6% interest and today's market will pay 8 1/2% to 10% interest depending on the type of security. Thus, there is little financial reason to pay off this low interest debt sooner than the current schedule specifies.

Also, to create this defeasance fund will restrict future legislative sessions' funding because once the fund is established, these monies are no longer available for appropriation.

Another problem connected with showing a surplus of funds is our national image. We are concerned that people in the "lower 48" may feel Alaska is not sharing its wealth with the nation. (Per letter dated February 3, 1983 to Representative Abood on this subject.)

The last point we wish to make concerns the status of future bonding issues. If the State of Alaska has the surplus funds to set up a defeasance fund, the IRS may view any future bond issues (at least for 18 months) as arbitrage bonds and declare them taxable. This would increase the interest rate considerably and could cost the State more money in interest payments.

For the reasons stated herein and in view of the Governor's policy concerning the use of Permanent Fund income, the Department of Revenue opposes HB 161. Our recommendation would be to continue paying the bonds on their established schedule.

Attachment

OUTSTANDING BALANCE ON PRE-MAY. 1978 G.O. BONDS
JUNE 30, 1983

Bond Title	Rate of Interest	Principal	Interest	Total
Univ. of Ak. Housing Bonds, 1958, Series A	3.00%	$ 310,000	$ 28,350	$ 338,350
Ferries & Roads Bonds, 1961, Series A	3.82	6,130,000	1,115,870	7,245,870
"Composite 1/8/64 Sale", Series L	3.56	565,000	20,340	585,340
1964, Series B (1967 Issue)	3.75	7,277,000	1,741,932	9,018,932
1964, Series C (1967 Issue)	3.75	1,156,000	630,152	1,786,152
1967, First Series	4.50	9,190,000	2,316,125	11,506,125
1967, Second Series	4.90	8,550,000	2,222,270	10,772,270
1968, Series A	5.19	5,375,000	861,475	6,236,475
1968, Series B	5.24	4,250,000	672,657	4,922,657
1969, Series A	5.74	3,575,000	748,175	4,323,175
1969, Series D (1966 Univ. of Ak.)	3.00	1,380,000	380,100	1,760,100
1970, Series C	5.88	3,100,000	280,535	3,380,535
1971, Series A	5.07	10,285,000	2,924,680	13,209,680
1971, Series B	6.04	14,520,000	7,478,400	21,998,400
1971, Series C	6.04	2,950,000	1,509,000	4,459,000
1971, Series D	6.00	850,000	411,000	1,261,000
1972, Series A	5.24	15,800,000	5,958,000	21.758,000
1972, Series B	5.16	19,600,000	7,979,525	27,579,525
1973, Series A	5.12	15,000,000	5,890,500	20,890,500
1973, Series B	5.11	18,500,000	7,696,500	26,196,500
1973, Series C	5.80	26,500,000	13,319,375	39,819,375
1974, Series A	6.86	26,100,000	15,078,000	41,178,000
1975, Series A	5.99	33,200,000	16,552,100	49,752,100
1975, Series B	6.53	37,000,000	20,191,750	57,191,750
1975, Series C	6.86	32,250,000	16,298,075	48,548,075
1976, Series A	5.87	25,000,000	7,733,750	32,733,750
1976, Series B	5.80	25,000,000	7,672,500	32,672,500
1977, Series A	5.08	27,500,000	8,406,250	35,906,250
1977, Series B	4.51	24,000,000	3,283,000	27,283,000
1978, Series A (4/1/78)	4.87%	25,000,000	3,650,000	28,650,000
		$429,913,000	$163,050,386	$592,963,386

163,050,386

66,857,614

214.

DEBT SERVICE ON OUTSTANDING G.O. BONDS BY YEAR

Years Ended June 30	Principal	Interest	Total	Debt Service on pre 5/78 Bonds
1984	$100,175,000	$63,240,329	$163,415,329	$60,539,165
1985	100,060,000	56,149,274	156,209,274	58,370,860
1986	101,465,000	49,119,762	150,584,762	57,707,763
1987	100,580,000	42,229,846	142,809,846	54,769,221
1988	100,885,000	35,449,255	136,334,255	53,044,505
1989	95,927,000	28,547,971	124,474,971	46,006,721
1990	87,760,000	22,063,090	109,823,090	40,131,590
1991	69,699,000	15,870,180	85,569,180	38,947,430
1992	48,349,000	10,523,425	58,872,425	38,152,425
1993	43,563,000	7,396,987	50,959,987	31,719,987
1994	20,598,000	5,219,975	25,817,975	25,817,975
1995	19,096,000	3,987,625	23,083,625	23,083,625
1996	18,610,000	2,864,412	21,474,412	21,474,412
1997	14,865,000	1,800,418	16,665,418	16,665,419
1998	13,380,000	1,008,193	14,388,193	14,388,194
1999	8,640,000	368,931	9,008,931	9,008,931
2000	2,531,000	69,081	2,600,081	2,600,081
June 30, 1983	$946,183,000	$345,908,754	$1,292,091,754	$592,428,304

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

RECEIVED FEB 21 1983

Bill No: HB 161 Date on Bill: 2/4/83
Title: "An act establishing a defeasance fund in the Dept. of Rev.
Sponsor: Ward & Liska
Requestor: House State Affairs Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital		From P.F.		
Operating	$100.000	-363.0 mill.	-14.5 mill.	
Total	$100.000	To Def. Fund		
		+363.0 mill.	+14.5 mill.	

b. Revenues:

Revenue				

2. Source of funds to offset fiscal impact of bill:

Permanent Fund Earnings

COPY

3. Assumptions:

The $100,000 is for Financial Advising and legal fees related to establishment of the fund. The $377,000,000 is a transfer of monies from the Permanent Fund earnings accounts to the Defeasance Fund. This transfer is made over two fiscal years. Once the Fund has been established, the G.O. bond debt of $654,000,000 before May of 1978 can be deducted from the State's books. The Defeasance Fund would reduce the appropriation to the State debt service by $60,539,000 in FY 84, $58,371,000 in FY 85, and 57,708,000 in FY 86.

Creation of this Fund would eliminate the Permanent Fund dividend, inflation proofing, and undistributed accounts for FY 83.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: _____ Phone: _____
Division: _____ Date: _____

Approved by Commissioner: Joseph K. Donohue for Robert Heath Date: 2/20/83
Department: Revenue

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

What Percentage of Intrest are we Paying on these Bonds?

What Percentage of Intrest are we Presently earning with our P. F. Investments?

11/26

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

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

March 7, 1983

The Honorable Mitchell E. Abood
Chairman, House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: HB 161

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RDH:mll
Enclosure

4-D2LH

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The bill refers to G.O. debt issued before May 2, 1978. The reason is that in 1978 the Internal Revenue Service issued a ruling limiting the amount of interest which can be earned on defeasance funds to the rate paid on the bonds. Thus, defeasance on bonds issued after 1978 offer little financial benefit.

In regard to the bill itself, the Department of Revenue sees possible legal problems. HB 161 is a temporary bill in that it attempts to take the earnings of the Permanent Fund for one year to create the defeasance fund. No attempt is made to repeal the current law governing the use of Permanent Fund income.

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June 30, 1983	$946,183,000	$345,908,754	$1,292,091,754	$592,428,304

STATE AFFAIRS COMMITTEE

SIGN-IN SHEET

DATE OF HEARING: FEBRUARY 28, 1983

HB 161 -

NAME (PRINTED)	ADDRESS	REPRESENTING	PHONE	TESTIFYING? YES/NO
Bob Heath		Revenue		Yes
Cathy Poe		"		No

HSA FORM #002

Birch: Ask this question

Governor has proposed spending $464 million for revenue sharing, municipal assistance and longevity bonus. Why does spending $376 million, or $28 million less, expanding the fund more →

Bache

Bache Halsey Stuart Shields Incorporated

Municipal Bond
Research Department

A Special Report

April 5, 1982

THE STATE OF ALASKA

Prepared by: Helen Raffel
(212) 791-3633

Bache Halsey Stuart Shields Incorporated, 100 Gold St., New York, N.Y. 10038
The above information is a summary and is not complete. In all instances, for full information reference should be made to the respective Official Statement or Prospectus. Information contained herein is based on data obtained from recognized services, issuer reports or communications, or other sources believed to be reliable. However, such information has not been certified by us, and we do not make any representations as to its accuracy or completeness. Any statements nonfactual in nature constitute only current opinions, which are subject to change without notice. Copyright 1982. All Rights Reserved

THE STATE OF ALASKA

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I. Summary and Opinion

Alaska has a land area one-fifth the size of the continental United States, but the total population is smaller than that of the city of Seattle and is chiefly clustered in a handful of urban areas. Migration from the "Lower 48" states has been successively drawn to Alaska by the gold rush, military build-ups during two World Wars and, most recently, North Slope oil.

Since the completion of the Trans Alaska Pipeline that runs from the North Slope oil fields to the southern port of Valdez, the oil and gas industry has overshadowed all other Alaskan industries in terms of revenue produced. Four-fifths of total General Fund revenues come from oil and gas taxes, rents, royalties and bonuses. With U.S. decontrol of oil prices at the end of the 1970s, Alaskan revenues soared. During the past year, however, world oil prices have weakened, lowering State revenues and reversing the earlier rising trend in General Fund balances.

Alaskans are conscious of the sensitivity of their economy to fluctuations in world demand for Alaska's depletable resources. In 1976 the voters had the foresight to approve a State constitutional amendment creating a Permanent Fund to receive and maintain in perpetuity a large share of oil and gas industry payments to the State. In Fiscal 1981 and 1982 large transfers from the General Fund were appropriated to the Permanent Fund, over and above the direct oil and gas revenue payments that are constitutionally mandated. Earned investment income from the Permanent Fund (which now aggregates over $3 billion) supplies significant supplementary revenue to the General Fund.

Alaskan general expenditures normally include a large amount of capital outlays, as may be expected in an underdeveloped land experiencing rapid economic growth. Conventional capital financing through bond issuance has also been relatively large. As a consequence, per capita tax-supported State debt is over ten times that of the median state, and debt is very high relative to personal income. However, these measures of ability to pay are at present irrelevant for Alaska, since almost all State revenues are derived directly from minerals production and processing. General obligation bond maturities are timed to match projected depletion of petroleum resources, and by that time new petroleum and non-petroleum mineral resources are likely to have been developed. The instability of petroleum prices remains a cloud on the short run horizon because of the dependence of State revenues on oil and gas earnings.

On the basis of all of these considerations, we rate the State of Alaska in the mid-range of the "double A" (AA) quality rating scale.

Key Statistical Comparisons: Alaska and U.S., 1980

	Alaska	U.S.
Population	401,851	226,545,805
Per capita personal income	$12,790	$9,521
% employed in government (1978)	39.0%	17.9%
Unemployment rate (1981)	9.3%	7.6%
Total State revenue per capita	$ 8,064	$1,223
% General Fund revenue from oil & gas industry (1981)	81.0%	NA
Total State expenditure per capita	$ 5,058	$1,138
Tax-related State debt per capita (1982)	$ 2,314	$ 203[a]
Debt service as % of total revenue (1981)	2.3%	4.0%

[a]Moody's state median

BACHE: AA
MOODY'S: Aa
STANDARD & POOR'S: AA-

II. Demographic and Economic Trends

POPULATION AND LAND OWNERSHIP

Between roughly B.C. 20,000 and A.D. 1700 Alaska was populated by only a few thousand Indians and Eskimos, descendants of Ice Age migrants who had crossed the Bering Strait land bridge while the sea was captured by the expansive Polar Ice Cap. The advent of Russian fur-traders brought the first Europeans to the land. In 1867 the Russian claim was sold to the United States, and only 23 years ago, in 1959, Alaska achieved Statehood. Even now, however, on a land area one-fifth the size of the continental United States, the entire population is only slightly over 400,000, a population smaller than that of the city of Seattle.

Table 1. Alaska and U.S. Decennial Population: Actual 1950-1980 and Projected 1990-2000

Year	Alaska Population	Alaska % Change	U.S. Population	U.S. % Change	Alaska/ U.S.
1950	128,643		151,325,798		0.1%
1960	226,167	75.8%	179,323,175	18.5%	0.1
1970	302,583	33.8	203,302,031[a]	13.4	0.2
1980	401,851[a]	32.8	226,545,805	11.4	0.2
1990	532,000	32.4	247,859,000	9.4	0.2
2000	665,000	25.0	264,726,000	6.8	0.3

[a]Revised 1980 Census figure, September, 1981.

Sources: Decennial Census Figures from Bureau of the Census, "Census of Population and Housing: Alaska" (September, 1981 and "Number of Inhabitants - Alaska"; 1990 and 2000 adjusted projections from Regional Economic Analysis Division, Bureau of Economic Analysis, U.S. Department of Commerce.

New arrivals from the "Lower 48" have come to Alaska in accordion-like waves. Until 1880 the non-native population of Alaska still consisted primarily of fur traders. In 1880, however, Richard Harris and Joe Juneau discovered gold in the Southeast Panhandle below Canada's Yukon Territory, and the first large wave of white migration began.* The gold rush was over by the early 20th century, and although the territorial capital was transferred from Sitka to the new city of Juneau in 1900, Juneau's population remains less than 20,000. It will become smaller still if the capital is moved to Willow, north of Anchorage, as approved in a 1976 State-wide referendum but subject to a confirming referendum in November, 1982.

*As a result of the gold rush, Juneau was the first city to be founded in Alaska since its purchase from Russia.

The establishment of military bases in Alaska during the two World Wars brought more inhabitants from the mainland. Military installations in Anchorage, on the south-central coast of Alaska, and Fairbanks in the interior are but one of the elements that have made these cities the two largest in the State. The 1980 population of Anchorage was 173,017, or 43% of the State total, and the population of Fairbanks was 22,645. The most recent wave of migration to Alaska, attracted by the huge North Slope oil find in 1968, has helped to swell the population of Fairbanks, a major supply depot and staging point for the North Slope. All told, successive waves of migration from the Lower 48 have brought the non-native population up to 77% of the total, most of it clustered in a handful of urban areas.

The Statehood Act of 1958 granted Alaska the right to select 103.4 million acres as State lands -- 27% of the total area of the State -- subject to the claims of the native Eskimos, Aleuts and Indians. The Alaska Native Claims Settlement Act of 1971 delayed State land selection until thirteen regional Native Corporations were established and had selected their own 44 million acres (including subsurface rights), 12% of the total land area. Under the terms of the Settlement Act, the Native Corporations have also received $462 million from the Federal Government and joint payment by the Federal and State governments of $500 million derived from royalties, rentals and bonuses related to mineral production. Monetary payments were completed in 1981, but land selection is still under way.

A further restraint on Alaskan State land selection is the Alaska National Interest Lands Conservation Act of 1980 (the "Lands Act") which set aside 120 million acres (32% of the total Alaskan land area) for National Parks, refuges and other conservation systems.

When State and Native selection has been completed, the Federal Government will still own about 60% of the total Alaskan land area. Beyond the land area proper, however, the State has received an estimated 35 to 45 million acres of submerged territory, some of which contains producing oil and gas fields or has high potential for such production.

INDUSTRY AND EMPLOYMENT

The oil and gas industry overshadows all other Alaskan industries in terms of revenue produced. When measured in terms of total employment, however, the predominant industry in Alaska is government. Almost two-fifths of the employed labor force is in the government sector (Table 2).

Table 2. Alaska and U.S. Employment Distribution by Industry: Actual 1978 and Projected 1990 and 2000

Industry	Alaska			U.S.		
	1978	1990	2000	1978	1990	2000
Trade	14.8%	17.5%	19.7%	21.2%	21.8%	22.0%
Services	17.1	20.9	23.0	20.4	22.4	23.5
Government	39.0	31.6	27.7	17.9	16.4	15.9
Manufacturing	5.7	5.4	5.3	20.7	19.8	19.3
Construction	6.7	6.4	6.1	5.3	5.4	5.3
Finance[a]	4.3	5.4	5.9	5.1	5.7	5.9
Transportation[b]	8.1	7.4	7.2	5.1	4.9	4.8
Agriculture[c]	1.4	1.0	1.1	3.4	2.6	2.4
Mining	2.9	3.7	3.7	0.9	0.9	0.8
Total[d]	100.0	100.0	100.0	100.0	100.0	100.0

[a] Finance, Insurance and Real Estate
[b] Transportation, Communication and Public Utilities
[c] Farm, Agricultural Services, Forestry, Fisheries and Other
[d] Columns may not sum to 100% due to rounding

Source: Survey of Current Business (November, 1980) pp. 56 and 70.

Juneau is the official seat of State government, and the economy of the Southeast region, where Juneau is located, is heavily dependent upon government employment. Fishing, forestry, tourism and trade are also important to the region, although at present the forestry industry is depressed by a fall-off in construction activity in Japan, the prime market for Alaskan timber and pulp. New mineral production in the Southeast may provide substantial employment opportunities by the mid-1980s. A silver-zinc-lead mine near Juneau and a molybdenum mine near Ketchikan are expected to be operative in a few years, as environmental and financial problems are worked out.

Two time zones westward from Juneau on the southern coast is the thriving city of Anchorage, the financial and commercial hub of Alaska. The city is an important seaport, an air transportation center, headquarters for many of the national and international firms participating in North Slope oil and natural gas development, and the site of Fort Richardson and Elmendorf Air Force Base. Although Juneau is the capital, many State government offices are located in Anchorage. Governmental operations, including the 2800 civilians

employed at Federal military installations, accounted for an estimated 27% of total wage and salary jobs in Anchorage in 1980, a high percentage by average U.S. standards, but a lower dependency on government employment than in the other two major Alaskan cities.

Anchorage is at the center of a growing and diversified region of Alaska. The Kenai Peninsula forms the southeastern coast of Cook Inlet, the 200-mile long entrance to the port of Anchorage. Oil and gas production and refining on the Peninsula and in Cook Inlet account for about 50% of the Kenai tax base; the Kenai National Moose Range provides an example of "compatible use" between a wildlife preserve and the first oil field in Alaska. At the southern end of the Peninsula is the port of Seward on the Gulf of Alaska, the southern terminus of the 470-mile long Federally owned Alaska Railroad which runs north to Anchorage, on through the agricultural Matanuska-Susitna ("MatSu") river valleys where a giant hydroelectric plant may eventually be built, through Mt. McKinley National Park past the highest mountain in North America, and past the Nenana coal field with the only operating mine in a State that has purported coal reserves of almost 2 trillion tons. The northern terminus of the railroad is Fairbanks.

In addition to being a government and military center (Fort Wainwright, Fort Greeley and Eilson Air Force Base) and host to the main campus of the University of Alaska, Fairbanks is the service and distribution center for the interior and northern portions of the State. It has both benefited and suffered from the construction of the Trans Alaska oil pipeline that runs from the Arctic Ocean to the port of Valdez, just east of the Kenai Peninsula. Fairbanks benefited from the trade and employment generated by pipeline construction activity during the mid-1970s. But with the completion of the line in 1977, unemployed construction workers flooded into the city looking for work.

Even before completion of the oil pipeline, Fairbanks in particular and Alaska in general experienced high unemployment rates. The climate and the predominance of outdoor or seasonal productive activities like fisning, mining, drilling, lumbering and construction work cause unemployment to be exceedingly high for many months each year. More importantly, chronic rather than seasonal unemployment is caused by the widespread impression in the Lower 48 that jobs and wealth are available in plenty in Alaska. The result is that job-seekers, often with the wrong skills, pour into Alaska in greater numbers than can be accommodated. Except for 1975, one of the years of major pipeline construction, the average annual unemployment rate in Alaska has been above the national average since 1970, and frequently highest in the nation.

Table 3. Average Annual Unemployment Rate, Alaska and U.S.

	Alaska	U.S.
1970	10.3%	4.9%
1971	11.9	5.9
1972	10.4	5.6
1973	10.4	4.9
1974	10.5	5.6
1975	6.9	8.5
1976	8.0	7.7
1977	9.4	7.0
1978	11.2	6.0
1979	9.2	5.8
1980	9.7	7.1
1981	9.3[a]	7.6

[a]Preliminary figure.

Source: U.S. Bureau of Labor Statistics; U.S. Bureau of the Census, Statistical Abstract of the United States, for 1970-74 Alaskan unemployment rates.

Since the completion of the Trans Alaska oil pipeline, North Slope petroleum production has been a major factor in the Alaskan economy. Pipeline capacity increased from 720,000 barrels per day in 1977 to 1.5 million barrels per day in 1980. Maximum design capacity is 2 million barrels per day. In the older Kenai fields, oil production averages 100,000 barrels per day. It has been conservatively estimated that at least one-third of the labor force employed in Alaska is in one way or another dependent on the petroleum industry.* This estimate takes into account the fact that approximately 90% of State government revenues are derived from oil and gas taxes, rents and royalties. Thus in the near term Alaska's economic strength and State financial resources will be greatly influenced by trends in the world price of petroleum. In the longer run, new mining operations, oil and gas field discoveries and increased earnings from the Permanent Fund of accumulated set-asides from the State's mineral-based revenues are expected to extend the benefits of Alaska's depletable wealth far into the future.

PROSPECTS FOR ALASKAN MINERAL DEVELOPMENT

With the 1968 discovery of a large oil and gas reservoir near Prudhoe Bay on the North Slope of the Brooks Mountain Range, Alaska jumped to second place among the states in oil reserves and third place in natural gas. The principal Prudhoe Bay reservoir, with remaining recoverable reserves of approximately 8.4 billion barrels of oil and 27 trillion cubic feet of gas, is larger than any oil field previously found in North America. Prudhoe Bay oil currently supplies almost one-fifth of total U.S. oil production.

*Alaska Office of the Governor, The Alaska Economic Information and Reporting System (Quarterly Report, October 1981).

West of Prudhoe Bay on the North Slope, the Kuparuk field began operating in December, 1981. It is now producing 80,000 barrels per day and is expected to reach 250,000 barrels per day by 1986. Known recoverable reserves at Kuparuk are close to a billion barrels; total Kuparuk reserves are estimated at 4-5 billion barrels.

Additional substantial oil finds are also anticipated in the State-owned shallow waters of the Beaufort Sea to the east of Prudhoe Bay, but formations here have yet to be proven.

At the present time the natural gas produced in conjunction with North Slope oil operations is being injected back into the Prudhoe Bay reservoir. A project to pipe the gas through Canada along the Alcan Highway to the Lower 48 has been devised, an agreement between the U.S. and Canada was concluded in 1977, and gas is already flowing from Canada to the Western U.S. through completed segments. If the entire pipeline is completed, the Alaskan Natural Gas Transportation System would be the largest privately financed project ever undertaken in the world. Certain enabling legislation, including a waiver package to permit precompletion billing, rolled-in pricing, producer equity participation and other conditions submitted by the pipeline sponsors has been passed by Congress, but escalating cost estimates and financing problems continue to cause delay. Recent weakness in world petroleum prices has raised additional doubts about the profitability of investing in the high-cost Alaskan segment.

Alaskan non-petroleum mineral development was held up for many years by uncertainties about land ownership, but Congressional passage of the Lands Act in 1980 cleared the way for accelerated development. The largest of the projects now proceeding involves exploitation of an estimated 2 billion pound deposit of molybdenum sulfide located 75 miles from Ketchikan in the Southeast. Production startup is currently scheduled for 1987.

Coal reserves in Alaska are estimated as high as 1.9 trillion tons. Most Alaskan coal is found in four areas of the State: on the North Slope, in the Nenana field south of Fairbanks, in the Susitna River Basin north of Anchorage and on the southeastern side of the Alaska Peninsula (including the northwestern shore of Cook Inlet). The North Slope alone is estimated to contain 1.8 trillion tons of coal, but 83% of the proven resources occur in the other areas, chiefly the Nenana field where the producing Usibelli mine is located and the Beluga field on Cook Inlet. Compared to the coal of Montana and Wyoming, Alaskan coal is slightly lower in sulfur content but also lower in heating value and much higher in ash and moisture content. The chief advantage over mainland coal of proven Alaskan reserves is relative nearness to marine ports and to Far Eastern markets, thus compensating for lower quality with lower transportation costs.

III. Fiscal Trends

Alaskan State revenues are strongly dependent on the world price of petroleum. During the late 1970s, as oil prices rose so did State revenues. However, weakening oil prices during the past two years have generated net deficits in the State budget and reduced the large General Fund balances that had accumulated by 1980. The Governor has therefore recommended that State appropriations be cut back in Fiscal 1983.

Because of the projected decrease in oil and gas revenues, coupled with a large relative amount of outstanding tax-supported debt, the Governor's Fiscal 1983 budget also recommends that further general obligation borrowing be suspended during the next two fiscal years, and that capital outlays be financed solely from general revenues. Fortunately, voters had the foresight in 1976 to approve a constitutional amendment creating a Permanent Fund which receives a large percentage of mineral-based State revenues.* The principal of the Fund is constitutionally required to be maintained in perpetuity;** investment earnings from the Permanent Fund, however, are transferred to the General Fund and are available for capital as well as operating expenditures.*** Income from the Permanent Fund should enable the State to implement the Governor's Fiscal 1983 budget recommendations.****

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*The original amendment provided that at least 25% of all mineral lease rentals, royalties, royalty sale proceeds, Federal mineral revenue sharing payments and bonuses received by the State be placed in the Permanent Fund. Subsequent legislation increased the Permanent Fund's share to 50% for rents and royalties on mineral leases issued after December 1, 1979 and to 50% for bonuses on mineral leases issued after February 15, 1980. The principal balance of the Permanent Fund as of December 31, 1981 totaled $2,960,670,000, including a required deposit of nearly $1.3 billion during Fiscal 1981 and a special appropriation of $900 million from the General Fund. A second legislative appropriation to the Permanent Fund of $1.8 billion requires that at least $1.4 billion be transferred during Fiscal 1982 and any remainder during Fiscal 1983.

**No systematic prescription for maintaining the value of the principal in terms of real purchasing power has yet been adopted.

***Permanent Fund income is unlikely to be available for debt service because of U.S. Internal Revenue Service arbitrage rules. (See also Revenue Ruling 82-101, issued by the IRS on April 30, 1982, in connection with indirect support for State of Alabama G.O. bonds by income from the State's Heritage Trust, an oil and gas revenue trust fund similar to the Alaska Permanent Fund.)

****The 1980 Legislature appropriated 50% of distributable Permanent Fund income as a direct dividend payment to Alaskan residents based on length of State residency. However, the legislation has been challenged on constitutional grounds and has not yet been implemented pending a decision by the U.S. Supreme Court. The recent drop in oil-related revenues may induce reconsideration of the proportional allocation of Permanent Fund income between private and public purposes.

REVENUES, EXPENDITURES AND FUND BALANCES

Because of a State constitutional prohibition against dedicating the proceeds of State taxes and licenses, appropriations from the General Fund are required for almost every program in Alaska. General Fund revenues increased strongly in Fiscal 1980 and Fiscal 1981, and responsive increases in spending were legislated for Fiscal 1981 and Fiscal 1982. A drop in projected revenues for Fiscal 1982 presages a large decrease in the General Fund balance, although the total will still be substantial (Table 4).

Table 4. State of Alaska General Fund Revenues, Expenditures and Balances, Fiscal 1977-82[a]
(Millions of Dollars)

	FY 1977	FY 1978	FY 1979	FY 1980	FY 1981	January Projection FY 1982
Total Receipts	$1,206	$1,099	$1,458	$2,793	$4,500	$4,336
Total Expenditures	1,036	1,097	1,236	1,477	4,613	5,259[b]
Ending General Fund Balance	760	761	984	2,300	2,187	1,264

[a] State of Alaska fiscal year runs from July 1 to June 30.
[b] Includes $1.4 billion appropriated for transfer to the Permanent Fund over and above the constitutionally mandated amount.

Sources: State of Alaska Official Statement, February 26, 1982, and Alaska Executive Budget Fiscal 1983.

Sources of State revenue, detailed in Table 5, are predominantly oil and gas-related. The State has no sales tax. The State personal income tax was repealed in September, 1980, retroactive to calendar year 1979, and income taxes already paid or withheld were refunded in Fiscal 1981. Table 6 highlights the sharp contrast between Alaskan revenue sources and the U.S. average distribution. Alaska receives negligible sales tax revenue (none at the State level) and transfer payments from the Federal Government provide a relatively small proportion of the total.* The Alaskan revenue distribution is clearly overwhelmed by oil and gas corporate** and severance taxes,*** royalties, leases and bonus payments from the sale of mineral leaseholds.

*Alaska, however, receives a larger amount of Federal outlays than its citizens pay to the Federal Government in taxes. U.S. Department of Interior expenditures in Alaska were fourth highest among the states in 1979 and Federal defense is also a prime source of Alaskan income. In 1979, U.S. Department of Defense expenditures in Alaska were over $1,500 per resident, three times the national average.

**The constitutionality of the oil and gas corporation income tax is under litigation but the companies continue to pay the tax under protest. An adverse court ruling could require repayment of more than $1 billion. Furthermore, recent legislation has significantly reduced the future amounts that will be derived from this tax.

***Oil and gas severance taxes were raised in Fiscal 1982 according to a phased-in formula, and the severance tax was extended to other mineral production.

Table 5. Alaska General Fund Receipts and Expenditures, Fiscal 1977-81
(Millions of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81
Unrestricted Revenue	$ 877	$ 768	$1,117	$2,467	$3,702
Taxes	752	542	799	1,411	2,293
Oil & Gas Corporate Income[a]	-	-	233	547	860
Oil & Gas Production[b]	24	108	174	506	1,170
Petroleum Real Property	139	175	163	169	144
Oil & Gas Reserves[c]	271	-	-	-	-
Individual Income	210	146	117	100	7[d]
Other Corporate Income	36	34	25	18	39
Fuel	20	23	22	26	23
Fish	4	6	12	15	21
Other Taxes[e]	48	53	53	29	29
Natural Resource Revenues	45	139	207	339	1,150
Oil & Gas Royalties	34	127	188	306	1,118
Sale of State Land	2	2	8	4	4
Federal Shared Resource Revenues	1	4	4	5	9
Lease Rentals, Bonuses & Royalties	4	2	2	320[f]	12
Other Natural Resource Revenues	3	3	4	4	6
Other Unrestricted Revenues	81	88	111	218	259
Interest Earned	37	43	59	147	154
Licenses & Permits	18	19	20	19	21
Transportation Fees	18	16	20	22	25
Other	8	10	13	30	59
Restricted Revenue	244	246	235	242	219
Federal Grants-in-Aid	230	233	220	224	201
Other Restricted Revenue	15	13	14	18	18
TOTAL GENERAL FUND REVENUE	1,122	1,014	1,352	2,709	3,921
INTERAGENCY RECEIPTS	65	59	74	72	153
NET TRANSFERS & ADJUSTMENTS	20	25	33	12	426
TOTAL GENERAL FUND NET RECEIPTS	1,206	1,099	1,458	2,793	4,500
Operating Expenditures (Current FY Appropriations)	778	853	983	1,126	3,129
Education	306	333	389	446	556
Social Services	90	101	114	131	167
Health	47	61	71	73	100
Natural Resources	59	63	68	83	118
Public Protection	20	25	26	29	36
Administration of Justice	67	71	80	85	101
Development	41	43	50	63	162
Transportation	97	96	113	130	152
General Government	51	61	71	86	1,737[g]
Capital Expenditures (Current FY Appropriations)	190	182	178	249	1,370
Education	6	3	25	50	51
Social Services	1	negligible	1	2	6
Health	2	1	1	1	6
Natural Resources	5	4	8	18	42
Public Protection	negligible	negligible	1	2	3
Administration of Justice	1	1	1	1	9
Development	6	7	8	39	403
Transportation	135	147	104	82	172
General Government	34	18	28	55	677[h]
TOTAL GENERAL FUND EXPENDITURES OF CURRENT FY APPROPRIATIONS	949	1,035	1,161	1,375	4,499
EXPENDITURES OF PRIOR FY APPROPRIATIONS[i]	88	62	75	101	114
TOTAL GENERAL FUND EXPENDITURES	1,036	1,097	1,236	1,477	4,613
EXCESS (DEFICIENCY) OF RECEIPTS OVER EXPENDITURES	170	2	222	1,316	(113)

[a] The "separate accounting" formula for allocating production and pipeline income to Alaska has been modified effective January 1, 1982. Future revenues from this source are expected to be significantly reduced by the modification, but the reductions should be largely offset by 1981 legislation that increased the severance tax.

[b] Severance Tax.

[c] Tax on mineral reserves was eliminated after FY 1977.

[d] Individual income tax was repealed in September, 1980, and will not be a source of revenue after FY 1981.

[e] Includes Insurance Premium, Alcoholic Beverage Tax, Business License Tax, Cigarette Tax, School Tax and Other.

[f] Includes $317 million Mineral Lease Bonus. In December, 1979, the State of Alaska and the United States held a joint oil and gas lease sale in the Beaufort Sea from which the State received a bonus payment of $457 million for u[illegible]outed State lands. (Most of the $140 million remainder was credited to the Alaska Permanent Fund.)

[g] Comprised of (a) the Permanent Fund deposit of $900 million, (b) the payment to Alaska Housing Finance Corporation of $550 million, (c) the refund of State income taxes previously withheld of $162 million and (d) other expenditures of $127 million. Items (a) and (b) are essentially capital investments despite the accounting classification.

[h] Includes $292 million Native Claims Settlement final payment and the original Rainy Day Fund transfer of $350 million.

[i] Prior year appropriations may be encumbered during July and August but lapse on September 1.

(Note: Sums may not equal totals due to rounding. "Negligible" means less than $500,000.)

Source: State of Alaska Official Statement, February 26, 1982.

Table 6. Fiscal 1980 State Revenue Comparisons: Alaska and U.S. Average

	Alaska		U.S.	
	State	State & Localities	States	States & Localities
Revenue ($Millions)[a]	3,230	3,846	276,962	451,537
Distribution by Source (%):[b]				
Federal Government	12%	11%	22%	18%
Property Tax	5	9	1	15
General Sales Tax	-	1	16	11
Motor Fuels Tax	1	1	4	2
Motor Vehicle License	negligible	negligible	2	
Income Tax (Personal & Corporate)	21	17	18	
Other Tax[c]	18	15	9	
Fees	3	5	6	10
Interest	6	6	3	4
Insurance Trust Revenue	7	6	14	10
Liquor Store Revenue	-	negligible	1	1
Utility Revenue	-	1	negligible	5
Other[d]	28	26	2	3
Tax Revenue per capita[e]	$3,590	$4,184	$ 605	$ 987
Total Revenue per capita[e]	8,064	9,603	1,223	1,993
Tax Revenue per $1000 personal income[f]	280	326	63	103
Total Revenue per $1000 personal income[f]	629	749	128	209

[a] Includes employee retirement trust revenues and certain other revenues not included in Tables 4 and 5.
[b] Columns may not sum to 100% due to rounding.
[c] For Alaska, includes the oil production (severance) tax ($496 million in FY 1980).
[d] For Alaska, includes the oil production royalty ($552 million in FY 1980) and the mineral leases bonus ($340 million in FY 1980).
[e] Calendar 1980 population.
[f] Calendar 1980 personal income.

Source: U.S. Bureau of the Census, Governmental Finances 1979-80 (1981).

From Table 5 once again, it can been seen that the expenditure pattern for Fiscal 1981 was unusual. In that year, operating expenditures were augmented by a $900 million transfer from the General Fund to the Permanent Fund, a mortgage portfolio transfer from the State Treasury and other large payments to the Alaska Housing Finance Corporation, and refunding of personal income taxes. Before 1981, the more normal distribution of General Fund current operating expenditures allocated roughly 40% to education, over 10% each to transportation and social services, and lesser amounts to the other program categories. On the capital expenditures side, well over half of the total went to transportation projects in the earlier years, with economic and natural resource development receiving increasing allocations during the 1980s. Fiscal 1981 capital expenditures were augmented by the Native Claims Settlement final payment (pursuant to the Alaska Native Claims Settlement Act of 1971) and the establishment of a Rainy Day Fund within the General Fund as a contingency reserve for emergencies.*

Transportation is a particularly significant budget item in Alaska because of the State's extended expanse, formidable terrain, and wide dispersion of its population. Alaska has only 2,100 miles of paved highway and approximately 600 miles of railroad track.** Far and away the most important means of transportation in Alaska is the airplane, an expensive but essential mode of travel. Airports serve not only the resident population but also the international traffic that passes over the polar routes between Europe or North America and the Orient with refueling stops at Fairbanks or Anchorage. Second in importance to air transport is shipping; construction and maintenance of port and harbor facilities also comprise large items in the Alaska State budget.

In July, 1981, a special session of the Alaska State Legislature passed a joint resolution proposing a constitutional amendment to limit annual State appropriations to not more than $2.5 billion, with formula adjustments for increases in population and inflation.*** The limit may be exceeded, subject to voter approval, for appropriations to the Permanent Fund and for capital outlays. The amendment will be submitted to the voters in November, 1982, to be effective in Fiscal 1984, and must be reaffirmed by referendum in November, 1986, for permanent ratification.

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*Of the $340 million currently in the Rainy Day Fund, $5 million apiece may be transferred annually, without further legislative appropriation, to the Disaster Relief Fund and the Fire Suppression Fund.

**The principal highway system consists of two widely separated routes between Anchorage and Fairbanks. The Federally-owned Alaska Railroad also runs through Anchorage to Fairbanks, and another railroad runs from Skagway in the Southeast into British Columbia.

***Certain expenditures, including General Obligation bond debt service and appropriations of revenue bond proceeds, are exempted from the ceiling.

Table 7 compares Fiscal 1980 Alaskan expenditures and their programmatic distribution with the U.S. state averages for that year. Per capita State expenditures in Alaska were four and a half times as large as the U.S. state average in 1980, and local Alaskan governmental expenditures were more than twice the average. Higher than average proportions of the Alaska State budget were spent on education, environment and general administration, while lower than average proportions (but not per capita dollar amounts) were allocated to welfare payments and transfers to local governments. Above all, the distribution of Alaskan State expenditures was strongly tilted toward capital outlays, as may be expected in an underdeveloped land experiencing rapid economic growth.

Table 7. Fiscal 1980 State Expenditure Comparisons: Alaska and U.S. Average[a]

	Alaska		U.S.	
	State	State & Localities	States	States & Localities
Total Expenditure ($Millions)	2,033	2,723	257,812	434,073
Distribution by Function (%)[b]				
To Federal Government	-[c]	-[c]	1%	-[c]
To Local Government	17%	-	32	-
Education	18	27%	14	31%
Public Welfare	6	4	13	11
Health & Hospitals	2	2	6	7
Other Social Services	1	1	1	1
Highways	9	8	8	8
Other Transportation	3	2	-[c]	1
Public Safety	3	5	3	6
Environment & Sanitation	6	7	[illegible][c]	6
Housing & Urban Renewal	1	2	-	1
Governmental Administration	6	7	3	4
Interest on General Debt	4	8	3	3
Insurance Trust Expenditure	5	4	10	7
Liquor Store Expenditure	-	-[c]	1	1
Utility Expenditure	-	4	1	8
Other	21[d]	19[d]	3	5
Expenditure per capita[e]	$5,058	$6,776	$1,138	$1,916

[a] Includes certain expenditures not included in Tables 4 and 5.
[b] Columns may not sum to 100% due to rounding.
[c] Negligible.
[d] For Alaska, "Other Expenditures" are primarily direct capital outlays.
[e] Calendar 1980 population.

Source: U.S. Bureau of the Census, Governmental Finances 1979-80 (1981).

DEBT

The large amount of general revenue appropriated for capital expenditures in Alaska has been additional to conventional capital financing through bond issuance.

Since Statehood was achieved in 1957, Alaska has issued $1.13 billion in General Obligation bonds.* Of the $810 million issued during the past ten years, 42% has been for transportation projects and 29% for schools (including the University of Alaska).

Table 8. Functional Distribution of General Obligation Bonds Issued Since 1972[a]
(Thousands of Dollars)

Transportation[b]	$343,211
Schools (incl. Univ. of Alaska)	235,835
Natural Resource Management & Parks	77,965
Water & Sewer	70,890
Health & Housing	43,515
Fire Protection & Correctional Facilities	38,214
Total	$809,630

[a] Including $200,000,000 issue dated April 1, 1982.
[b] Includes airports, highways, roads, ferries, flood control structures, port facilities and small boat landings.

Sources: State of Alaska, Annual Financial Report (Fiscal 1981) and Official Statement, February 26, 1982.

State agency issues outstanding during the past three years are itemized in Table 9.** All of the agency issues are self-supporting except for the State Housing Authority Lease Revenue Bonds, for which debt service is paid entirely from State rental appropriations, and the University of Alaska Revenue Bonds, some of which are nominally serviced from student fees and charges but which are also supported by State appropriations for general operations of the University.

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*Including the most recent $200 million G.O. bond dated April 1, 1982.

**"Stand-alone" issues of the Alaska Industrial Development Authority, bonds issued by the Alaska State Housing Authority for housing and urban renewal projects, and certain other agency bond issues are not included in Table 9. See Table 9 footnotes for details.

Table 9. State of Alaska State-Related Bonds Outstanding FY 1980-FY 1982[a]
(Thousands of Dollars)

	June 30, 1980	June 30, 1981	April 30, 1982	Projected June 30, 1982
General Obligation	$631,723	$701,178	$846,783[b]	$842,413
International Airports Revenue Bonds[c]	29,460	28,270	27,059	26,985
Alaska State Housing Authority Lease Revenue Bonds[d]	78,550	73,015	67,125	67,125
University of Alaska Revenue Bonds[e]	22,251	21,363	20,360	20,305
Alaska Housing Finance Corp.[f]	618,065	1,220,240	1,763,570	1,902,975
Alaska Municipal Bond Bank Authority	48,478	63,832	124,804[g]	122,189
Alaska Industrial Development Authority[h]	-	17,640	74,900	74,900
Alaska Medical Facility Authority[i]	12,000	11,715	11,410	11,410
Alaska Power Authority[j]	35,000	35,000	85,000	85,000
Total	$1,475,527	$2,172,253	$3,021,011	$3,153,302

[a] State of Alaska fiscal year ends June 30.

[b] Includes $200,000,000 issue dated April 1, 1982. No further G.O. issues are expected during FY 1982.

[c] Payable solely from gross revenues of the Anchorage and Fairbanks International Airports. Of the amount currently outstanding, $8.7 million remains in escrow exclusively for the benefit of the Series E Revenue Bonds.

[d] Lease Revenue Bonds of the Alaska State Housing Authority are serviced through annual lease rental appropriations by the State. Proceeds of these bonds are used to construct or purchase public buildings which are operated and maintained by the State as tenant. Title to the properties passes to the State as the bonds mature. Legal authority for the issuance of additional State lease rental debt, however, has been repealed and further issuance is dependent upon subsequent enabling legislation. In addition to Lease Revenue Bonds, ASHA issues revenue bonds for low and middle income housing and urban renewal projects, none of which are obligations of the State.

[e] As of June 30, 1982, University of Alaska Revenue Bonds will be distributed among specific programs as follows:

Anchorage Campus Student Center	$4,680,000
Anchorage Energy Utility System	665,000
Fairbanks Campus Housing	8,010,000
University of Alaska Heating Corporation	6,950,000

Debt service on these bonds may be paid from appropriations by the State to the University for general operating purposes. In addition to the above issues, the University also has outstanding $2,077,632 in FHA-insured notes, the proceeds of which were used to construct faculty/student housing that is self-supporting.

[f] State appropriations to the AHFC totalled $828 million in FY81 and 82. These appropriations included pledged coverage of two special mandatory redemptions necessitated by withdrawal of Federal tax-exempt status of the bond issues consequent to passage of the Mortgage Subsidy Bond Tax Act of 1980 (the "Ullman Bill") by the U.S. Congress. The remainder of the appropriated amount was authorized for overcollateralization of certain AHFC bond issues in order to allow the purchase of residential mortgages at below market interest rates. In addition to this assistance, the State has debt service reserve and insurance fund deficiency make-up arrangements for several AHFC issues. These arrangements, however, have never been utilized. The AHFC is authorized to issue up to $592 million additional bonds during FY 1982 and a like amount each year thereafter until superceded by further legislation.

[g] Includes $26.4 million Coastal Energy Impact Program Bonds sold to the U.S. Department of Commerce, proceeds of which are loaned to Alaskan municipalities in conformity with the Federal Coastal Zone Management Act of 1972. (The entire amount has been committed, but only $19.2 million has thus far been disbursed by the U.S. Treasury.) Total outstanding indebtedness of the Alaska Municipal Bond Bank may not exceed $150 million, as prescribed by the Bank's original authorizing legislation.

[h] Only includes general obligations of AIDA ("Umbrella Program" bond issues). In addition, since its inception in 1967, AIDA has financed 15 "stand-alone" projects under its Revenue Bond Program, aggregating $120.5 million in low-cost loans to private Alaskan companies. As of August 31, 1981, AIDA's loan portfolio had a total unamortized principal balance of $142.1 million. In FY 1981, the State legislature appropriated to AIDA an additional portfolio of $166 million in small business loans previously held by the State Treasury. AIDA is authorized to issue up to $400 million additional bonds each year until superceded by further legislation.

[i] The Medical Facility Authority may issue up to $52 million additional bonds or bond anticipation notes during the remainder of FY 1982 or during FY 1983, but as of the date of this report issuance plans are not yet firm. Legislation in July, 1981, appropriated this sum to the Alaska Department of Revenue to form a special bond guarantee account to secure such bonds and any unused portion of the appropriation lapses back to the General Fund after June 30, 1983.

[j] The Power Authority issued $35 million G.O. bonds to finance the Swan Lake hydroelectric project and $50 million variable rate demand notes towards financing the Lake Tyee hydroelectric project. A further bond issue of up to $120 million may possibly be forthcoming before the end of FY 1982, for completion of the Terror Lake project on Kodiak Island.

Sources: State of Alaska, Annual Financial Report, various dates; State and agency official statements, various dates; and private communication with State and agency officials.

Compared to other states, Alaskan debt per capita is extremely high. Combined State and local debt is equal to almost four-fifths of the personal income of Alaskan residents; tax-supported State debt alone is close to one-fifth of personal income. However, these measures of ability to pay are irrelevant for Alaska at least at present, since almost all State revenues are derived directly from minerals production and processing.

Table 10. Long-Term Debt Comparisons, FY 1980

	Alaska		U.S. State Average	
	Per Capita	Percent of Personal Income	Per Capita	Percent of Personal Income
Total State Debt[a]	$3,844	30.1%	$ 529	5.6%
Total State & Local Debt	20,059	78.6	1,424	15.0
State G.O. Debt	1,372	12.3	218	2.3
Net Tax-Supported State Debt (1982)[b]	2,314	18.1	303[c]	2.5

[a] G.O. and agency debt.
[b] State G.O. bonds, Alaska State Housing Authority lease revenue bonds and University of Alaska revenue bonds.
[c] Moody's state median.

Sources: U.S. Bureau of the Census, Governmental Finances 1979-80 (1981) and Table 8, above.

As a proportion of total State revenue, debt service requirements in Fiscal 1981 dropped to an all-time low of 2.3% (Table 11). Prior to 1980 the relationship of debt service to revenue ranged betwen 4% and 10%. Oil price decontrol coupled with the enormous rise in production that accompanied the commissioning of the Trans Alaska Pipeline greatly enhanced revenues relative to debt, but recent weakening of petroleum prices -- not a slack in Alaskan oil output -- may cause this debt ratio to rise.

Table 11. Debt Service As Percent of Total Revenues, FY 1979 - FY 1983

	FY 79	FY 80	FY 81	FY 82[a]	FY 83[a]
Debt Service ($Millions)	$ 58.9	$ 76.2	$ 97.7	$102.4	$141.7
Total Revenues ($Millions)	1497	2929	4232	4336	4134
Debt Service as % of Revenue	3.9%	2.6%	2.3%	2.4%	3.4%

[a] Estimates provided in the Alaska Executive Budget Fiscal 1983.

Sources: State of Alaska Annual Financial Report (Fiscal Years 1980 and 1981) and Alaska Executive Budget Fiscal 1983.

With continued prudent investment of Permanent Fund assets, constitutional constraints on State expenditures, and the established pattern of transferring money from the General Fund to the Permanent Fund when oil prices are high, prospects for prolonged Alaskan fiscal stability appear to be good. General Obligation bond maturities are timed to match projected depletion of current petroleum sources, and by that time new petroleum and non-petroleum mineral resources are likely to have been developed. The only small cloud on the horizon is the possibility that both interest rates and oil prices might fall in the near term -- both events devoutly hoped for in the Lower 48 -- in which case Alaskan Permanent Fund earnings* and General Fund Revenues would be simultaneously depressed.

---

*The Permanent Fund is heavily invested in short term securities, which minimizes the potential for capital gains as interest rates fall.

Bache

Bache Halsey Stuart Shields Incorporated

IF WE DON'T BEGIN TO ADDRESS THE ISSUES OF OUR LONG-TERM NEEDS AND OUR EVER-INCREASING BONDED INDEBTEDNESS, WE WILL NOT NEED TO WORRY ABOUT CONTROLLING CRIME ; PROVIDING BETTER ROADS OR MANY OTHER ISSUES AND SOCIAL PROGRAMS WE SPEAK ABOUT TODAY. WE WILL NOT HAVE TO WORRY ABOUT IT, BECAUSE WE WILL HAVE LOST THE ABILITY AND THE REVENUES TO DO SOMETHING ABOUT IT. THE LEGACY WE ARE PROVIDING OUR CHILDREN ~~WILL BE~~ IS A RE-INSTATEMENT OF STATE TAXES TO AN EXTENT THAT OUR OWN PAST TAXES WILL BE INSIGNIFICANT IN COMPARISON.

THE TOTAL BONDED DEBT OF THE STATE OF ALASKA AND ITS AGENCIES IN 1981, WAS OVER 2 BILLION DOLLARS. THE INTEREST WE WILL ULTIMATELY PAY ON THE MATURITY OF THIS DEBT WILL AMOUNT TO ANOTHER 2.5 BILLION DOLLARS. AND YET WE CONTINUE TO INVEST IN PROJECTS AND FACILITIES WHICH SERVE THE IMMEDIATE NEEDS OF OUR CONSTITUENTS WITHOUT PROVIDING A FIRM BASE FOR SUSTAINED GROWTH. WE HAVE GRABBED FOR THE IMMEDIATE GRATIFICATION WHILE PLUNGING OURSELVES AND OUR CHILDREN INTO LONG-TERM DEBT.

SOMEONE WILL HAVE TO PAY THE PIPER.

-more-

(1) have a risk level and expected yield comparable to alternate investment opportunities; and

(2) are included in the list of permissible investments in (g) of this section.

(m) Certificates of deposit or the equivalent instruments which are not of a quality that may be readily sold in a secondary market at prices reflecting fair value must be secured by a pledge as collateral of investments authorized for the Alaska permanent fund under (g)(1), (2), (8), or (12) — (17) of this section, which investments have value at least equal to the face value of the certificate of deposit. The board may require substitution of collateral in order to ensure continued satisfaction of the requirements set out in this subsection. (§ 5 ch 18 SLA 1980; am §§ 5 — 7 ch 81 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, in subsection (g), substituted "contained in this section" for "in (h) and (i) of this section" and inserted "at such competitive national market rates or prices as are applicable to each investment only" in the introductory language, rewrote paragraphs (3) — (7) and (16), substituted "Federal Veterans Administration" for "Federal Veterans Association" in paragraph (13), and added paragraphs (17) — (20). The amendment also rewrote subsection (i) and added subsection (m).

Editor's notes. — Section 9, ch. 18, SLA 1980 provides: "TRANSITION. The commissioner of revenue shall transfer the Alaska permanent fund to the Alaska Permanent Fund Corporation established by this act after request for transfer is made by the board of trustees of the corporation. Notwithstanding AS 37.10.065(a) [now repealed], the commissioner of revenue may invest the money in the Alaska permanent fund in the investments described in AS 37.13.120(g) subject to the limitations of AS 37.13.120(h) and (i)."

Sec. 37.13.130. Gains and losses.

Repealed by § 13 ch 81 SLA 1982, effective July 1, 1982.

Editor's notes. — The repealed section derived from § 5, ch. 18, SLA 1980.

Sec. 37.13.140. Income. Net income of the corporation must be computed annually as of the last day of the fiscal year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. Income available for distribution equals the average net income of the corporation for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the corporation for the fiscal year just ended plus the balance in the undistributed income account described in AS 37.13.145. (§ 5 ch 18 SLA 1980; am § 8 ch 81 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, rewrote this section.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 19, 1982

MEMORANDUM

TO: Representative Mitch Abood

FROM: David Teal
Research Staff

RE: Bonded Indebtedness
Research Request Number 82-17

This memorandum addresses your questions pertaining to the extent of Alaska's bonded indebtedness and ways of reducing that debt. We have requested additional information on this topic and will update this preliminary response when the information is received.

Outstanding Debt

Total State bonds outstanding as of June 30, 1981 were $2.128 billion. This total includes general obligation bonds, revenue bonds, and agency obligations. The Annual Financial Report for fiscal year 1981 contains a detailed account (reproduced in part as an attachment to this memorandum) of outstanding debt. Another recent publication of the Department of Administration, Bonded Debt and Debt Service, also contains much information on this subject. Carol Horos has both of these publications so this memorandum presents only a brief summary of State debt.

General Obligation Bonds. As of June 30, 1981, the State of Alaska had $701.1 million in general obligation bonds outstanding. No new bonds have been authorized or issued since that date, but $200 million in bond anticipation notes were issued on December 16, 1981. Notes are generally issued prior to a bond issue and proceeds from the bond issue are used to repurchase the notes. The notes in question are due April 16, 1982. Bonds are expected to be issued on April 1.

Revenue Bonds. In addition to general obligation bonds, the State has issued bonds secured by a pledge of gross revenues derived from the operation of the international airports at Anchorage and Fairbanks. The interest and principal on these bonds is to be paid from airport operating revenues. Current outstanding balance of revenue bonds is $19 million.

Agency Obligations. A number of agencies have a legal existence independent of the State and have the authority to issue bonds of their own. The Alaska Housing Finance Corporation had issued $1.22 billion (87 percent) of the total $1.408 billion in agency bonds outstanding on June 30, 1981. Other agencies with bonded debt are listed in an attachment to this memorandum. Bonds of these agencies are self-liquidating. That is, both principal and interest are payable from earnings derived from user charges.

Both the Alaska Housing Finance Corporation (AHFC) and the Alaska Industrial Development Authority (AIDA) have issued bonds since June 30, 1981 and both agencies have plans for future bond issues. The AHFC now has $1.722 million outstanding and recently postponed a $60 million issue due to market conditions. The AHFC has a specialist on contract to determine bonding policy. The AIDA has issued an additional $57 million of debt and now has $74 million outstanding. The AIDA is beginning the process for an additional issue, but the amount and date have not been set.

Both agencies said that there is no formal coordination of bond issues, but stated that informal communication and coordination does occur. To the best of my knowledge, other agencies have not issued additional debt since June 30, 1981 and have no plans to issue debt in the near future.

Reduction of Debt

As discussed with Carol Horos, the National Conference of State Legislatures (NCSL) recently held a conference on bonding. Ken Kirkland, of the NCSL, will send us a copy of the proceedings of that conference as soon as the report is printed. We will forward the report to you when it is received.

Mr. Kirkland mentioned that most states appear to be attempting to increase, not reduce, bonded indebtedness. He provided the names of four states which he felt might aid our research on ways to reduce debt. Deb Pomeroy contacted those states to determine what actions had been taken. Her summary of discussions with personnel in the four states follows.

Oregon. A law passed in 1981 requires the Governor to recommend biennial maximum general obligation bonding levels and requires the Legislature to determine maximum bonding levels for each program for each fiscal year. According to a report prepared by the the Governor's Bonded Debt Advisory Panel, the law was proposed primarily in response to a market saturation problem which was increasing the cost of borrowing. A copy of the Oregon law is attached to this memorandum and the report of the advisory panel is enclosed.

New Jersey. The State Constitution requires that 1) all bond issues be approved by voters; 2) bonds be authorized for a single project with specific objectives delineated; and 3) the ways and means of repaying the bonded debt be specified. The third requirement is usually met by designating certain tax revenues as the means of repayment. Because the State limits the amount of increase in both state and local income taxes, the level of bonded indebtedness is limited in an indirect manner. As an aside, the State also controls the bonding powers of municipalities and state agencies. Additional detail is being sent to this agency and will be forwarded to you when it is received.

Maryland. The Maryland Legislature created a Capital Debt Affordability Committee consisting of personnel from various state agencies. The Committee considers revenue projections and current debt levels and recommends a limit on bond issues for the upcoming year. The legislature has so far followed the recommendations of the Committee.

Maryland is considering two other options which are briefly described below. The report by the Capital Debt Affordability Committee discusses these options in detail. A copy has been requested and will be forwarded to you upon receipt.

1) Surplus funds will be used to reduce debt by cancelling bond issues and paying cash for capital projects or by depositing surplus cash in the annuity fund to pay off outstanding debt.

2) Bonded debt will be eliminated by gradually shifting to a "pay as you go" basis over the next 15 years. (Fifteen years is the maturity of Maryland bonds.) Currently, appropriations to retire debt are roughly equivalent to authorization for new debt. By appropriating an additional 1/15 of this amount each year, bonded debt would be eliminated in 15 years.

Massachusetts. Massachusetts has not imposed limits on bonded debt nor do they intend to take specific action to limit future bond issues. The State is simply attempting to remove authorized but unissued bonds from the books.

The options discussed above appear to be feasible means of reducing bonded indebtedness in Alaska. If you have any questions about the material in this memorandum, please feel free to call.

Attachments
Enclosure

STATE OF ALASKA

At the general election held on November 4, 1980, the people authorized $289.7 million of new bond issues. The total of $289.7 million was the largest amount authorized in any year since Alaska became a State in 1959.

On July 1, 1980 the State issued $125.0 million of general obligation bonds. This was, by far, the largest single issue of general obligation bonds in the history of Alaska. The bonds bear an effective interest rate of 5.76% and, in keeping with current policy on the life of new issues, mature serially from July 1, 1981 to July 1, 1990 with an average life of 5.5 years. The practical effect of current policy on the life of new issues is that when proven reserves of oil are exhausted, the State will be debt-free.

In addition to general obligation bonds, the State has issued bonds secured by a pledge of gross revenues derived from the operations of the international airports at Anchorage and Fairbanks. Also, a number of agencies that have a legal existence independent of the State have issued their own obligations. Bonds of these agencies are self-liquidating — principal and interest are payable from earnings derived from user charges.

The following schedule is a summary of outstanding State and agency obligations as of June 30, 1981.

Type of Bonds	Bonds Outstanding (Millions)	Interest to Maturity on O/S Bonds (Millions)	Total Debt Service to Maturity (Millions)
State General Obligation Bonds	$ 701.1	$ 268.5	$ 969.6
State International Airports Revenue Bonds	19.0	11.7	30.7
Bonds of State Agencies			
Alaska Housing Finance Corporation	$1,220.2	$2,102.9	$3,323.1
Municipal Bond Book Authority	63.8	52.3	116.1
Alaska State Housing Authority	73.0	26.1	99.1
Alaska Industrial Development Authority	17.6	26.4	44.0
University of Alaska	21.4	14.4	35.8
Other	11.8	11.8	23.6
Total, State Agencies	$1,407.8	$2,233.9	$3,641.7
Total, All Bonds	$2,128.0	$2,514.0	$4,642.0

Source: Alaska Annual Financial Report for fiscal year 1981

B-Engrossed

House Bill 3146

Ordered by the Senate July 3
(Including Amendments by House May 19
and by Senate June 24 and July 3)

Sponsored by COMMITTEE ON HOUSING AND URBAN DEVELOPMENT (at the request of Governor's Bonded Debt Advisory Panel)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires Governor to recommend biennial maximum general obligation bonding level. Requires Governor to allocate maximum bonding level among programs financed by bonds. Requires Governor to submit recommendation and Governor's allocation to Legislative Assembly with Governor's budget. Requires Legislative Assembly to determine maximum bonding level for each program for each fiscal year.

Requires state agency authorized to issue general obligation bonds to report to Governor biennially on agency plans for issuing bonded indebtedness.

Sets amounts allocated for general obligation bonds that may be issued during the 1981-1983 biennium. Sets total maximum for all state agencies at $1,898,200,000.

Allows Emergency Board to modify authorized bond issuance amounts within program designation, between program designation or as to the total amount of general obligation bonds authorized by Legislative Assembly for the biennium.

Exempts refunding bonds from provisions of Act.

Prohibits interest rate increase above 6.9 percent for veterans' loans granted on or after May 27, 1971, with interest rate originally set at 5.9 percent. Prohibits interest rate increase above 8.2 percent for veterans' loans granted after January 1, 1981, with original rate of 7.2 percent. Prohibits interest rate increase above 8.9 percent for veterans' loans, for acquisition of a mobile home or house boat, granted after May 27, 1971, with original rate of 7.9 percent. Allows Director of Veterans' Affairs to fix variable interest rates at rate greater than specified limits to extent necessary to avoid invoking certain constitutional provisions.

Requires director to reserve amount of requested loan in Oregon War Veterans' Fund [*before notifying applicant of loan approval and*] before making a loan commitment.

Declares emergency, effective July 1, 1981.

A BILL FOR AN ACT

Relating to bonds; creating new provisions; amending ORS 407.072; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Legislative Assembly finds that incurring of state debt by sale of bonds should be subjected to the same process of executive recommendations and legislative approval as the process by which the state biennial budget is recommended and approved.

SECTION 2. (1) The Governor shall recommend to the Legislative Assembly for each biennium, beginning July 1, 1983, by fiscal year, the total maximum bonding level for all state programs for which general obligation bonds are authorized. In making the recommendations, the Governor shall seek the advice of the Oregon Investment Council on the total maximum bonding level for each biennium by fiscal year. The council's advice shall be given at a time requested by the Governor and shall be based on the council's review of available economic and financial data for the state. After reviewing the council's advice, the Governor shall present the total maximum bonding level for each program to the Legislative Assembly as part of the Governor's budget along with the figures advised by the council. The Legislative Assembly shall then determine the maximum bonding level for each program for each fiscal year.

NOTE: Matter in bold face in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted; complete new sections begin with SECTION.

(2) For biennia beginning on and after July 1, 1983, each state agency authorized to issue general obligation bonds shall report to the Governor biennially on a date determined by the Governor on agency plans for issuing bonded indebtedness during the coming biennium. The agency shall include any knowledge it has on refunding outstanding indebtedness during the following biennium or thereafter.

SECTION 3. For the 1981-1983 biennium, the following amounts are allocated for general obligation bonds of this state that may be issued during the biennium as follows:

Program Designation	1981-82	1982-83	1981-83
GENERAL OBLIGATION BONDS			
General Fund Obligations			
Forestry Dept. (Art. XI-E)	$ 0	$ 0	$ 0
Dept. of Higher Education			
(Art. XI-G)	0	0	0
Dept. of Education (Art. XI-G)	0	0	0
Power Development Bonds			
(Art. XI-D)	0	0	0
Dept. of Environmental Quality			
(Art. XI-H)	20,000,000	30,000,000	50,000,000
Correctional Facilities	--	75,000,000	75,000,000
Dedicated Fund Obligations			
Dept. of Veterans' Affairs			
(Art. XI-A)	750,000,000	800,000,000	1,550,000,000
Dept. of Higher Education			
(Art. XI-F(1))	28,610,000	28,610,000	57,220,000
Highway Division (Art. XI(7))	--	--	--
Dept. of Commerce, Housing			
Division (Art. XI-I)	30,000,000	30,000,000	60,000,000
Water Resources Dept.			
(Art. XI-I)	12,000,000	14,000,000	26,000,000
Dept. of Energy (Art. XI-J)	35,000,000	45,000,000	80,000,000
Total General			
Obligation Bonds	$875,610,000	$1,022,610,000	$1,898,220,000

SECTION 4. (1) The bond issuance amounts authorized by this Act may be modified by the Emergency Board within program designation, between program designation or as to the total amount of general obligation bonds authorized by the Legislative Assembly for the biennium.

(2) Nothing in this Act applies to refunding bonds authorized or required under any state general obligation bond program.

(3) The provisions of section 3 of this Act relating to bonds issued under Article XI-G of the Oregon Constitution are controlling over any greater amount that may be appropriated therefor except as the amount set forth in section 3 of this Act is subject to modification under this section.

Section 5. ORS 407.072 is amended to read:

407.072. (1) The director, with the advice of the committee, will periodically, during the term of the loan, fix the variable interest rates to be paid by the applicant, taking into consideration the current value of the money, the solvency of the loan program, and the rates' effect on veterans. If the director, after considering the factors specified in this section, determines that there is an economic need for a higher rate of interest on loans made for the acquisition of mobile homes and houseboats, the director shall fix the rate of interest for the acquisition of a mobile home or houseboat at not higher than two percent more per annum than the basic rate established by this section.

(2) Except as provided in subsection (3) of this section:

(a) The rate of interest on loans granted on or after May 27, 1971, and originally set at five and nine-tenths percent per annum shall not be increased to more than six and nine-tenths percent per annum.

(b) The rate of interest on loans granted on or after January 1, 1981, and originally set at seven and two-tenths percent per annum shall not be increased to more than eight and two-tenths percent per annum.

(c) The rate of interest on a loan granted on or after May 27, 1971, for the acquisition of a mobile home or houseboat originally set at seven and nine-tenths percent per annum shall not be increased to more than eight and nine-tenths percent per annum.

(3) The director may fix the variable interest rates to be paid by the applicant at a rate greater than the rates described in subsection (2) of this section, but only to the extent necessary to avoid invoking the provisions of section 4, Article XI-A of the Oregon Constitution.

SECTION 6. Section 7 of this Act is added to and made a part of ORS 407.010 to 407.210.

SECTION 7. (1) When the director determines that an applicant's loan may be approved in accordance with ORS 407.010 to 407.210, the director, before making a loan commitment, shall reserve an amount of money in the Oregon War Veterans' Fund equal to the amount requested by the applicant to be used only for payment to the applicant which shall be set aside in the Direct Commitment Reserve Account.

(2) Moneys in the Oregon War Veterans' Fund Direct Commitment Reserve Account shall be reserved as loan proceeds for an applicant under subsection (1) of this section and shall not be used for any other purpose unless the applicant cancels the application for the loan prior to receipt of the loan proceeds.

SECTION 8. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect July 1, 1981.

LAST YEAR, THE COST OF OUR DEBT SERVICE, WHICH IS THE PAYMENTS FOR PRINCIPAL AND INTEREST, AMOUNTED TO 97.6 MILLION DOLLARS. THIS IS THE SUM WE PAY TO REDUCE OUR BONDED DEBT. EVERY YEAR, A PERCENTAGE OF OUR GENERAL UNRESTRICTED REVENUE GOES TO HELP PAY OFF OUR DEBT SERVICE. AND EVERY YEAR THAT PERCENTAGE GETS SMALLER. IN 1975, 9% OF OUR REVENUES WENT TOWARDS RETIRING OUR BONDED INDEBTEDNESS. LAST YEAR, WE ONLY TARGETED 2.6% OF OUR WEALTH TO PAY OFF OUR DEBT.

WE SPENT 97.6 MILLION TO HELP RETIRE OUR DEBT, WHILE ~~SPENDING~~ selling 289 MILLION IN NEW BONDS IN THE SAME YEAR, TO BRING US INTO EVEN GREATER DEBT.

THE QUESTION IS -- DO WE STOP IT, BEFORE IT STOPS US?

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 23, 1982

MEMORANDUM

TO: Representative Terry Gardiner

FROM: David Teal
Research Staff

RE: General Obligation Bonds
Research Request Number 82-74

Clifford Groh submitted a request on your behalf for a graph showing real per capita growth in general obligation bonds issued by the state of Alaska. After a brief discussion with Cliff, the request was expanded to include several graphs.

All five of the enclosed graphs are on a per capita basis and show money values in 1970 dollars. The Anchorage consumer price index (CPI) was used to convert nominal dollar values to 1970 dollars. The CPI and statewide population for each year are shown in the table below. A brief explanation of each graph follows the table.

Fiscal Year	Anchorage CPI	Statewide Population
1970	107.3	302,580
1971	111.5	311,200
1972	114.4	324,000
1973	116.9	330,000
1974	123.8	344,000
1975	140.0	383,100
1976	157.4	410,700
1977	167.6	413,100
1978	177.3	403,100
1979	194.8	400,600
1980	211.8	401,850
1981	232.0	422,200

Source: Alaska Department of Labor, Research and Analysis 3/82

==========

Graph 4: General Obligation Bonds Outstanding. Real per capita bonded indebtedness increased steadily (except for slight declines in 1974 and 1976) throughout the 1970's. A decline in population during 1978 and 1979 was part of the reason for the per capita increase in the 1970 dollar value of bonds outstanding during those years. Population increases during 1980 and 1981 are partially responsible for the decline in real per capita bonded debt during the past two years. The 1970 dollar value of bonded debt was $768 per capita in 1981.

Graph 5: Debt Servicing Costs of Outstanding General Obligation Bonds Issued by the State of Alaska. Graph 5 shows the amount each Alaskan would have paid (in 1970 dollars) in order to retire all general obligation bonds outstanding in each year. As noted in the description of graph 2, all coupon payments are attributed to the year of bond issue so the amount is somewhat overstated.

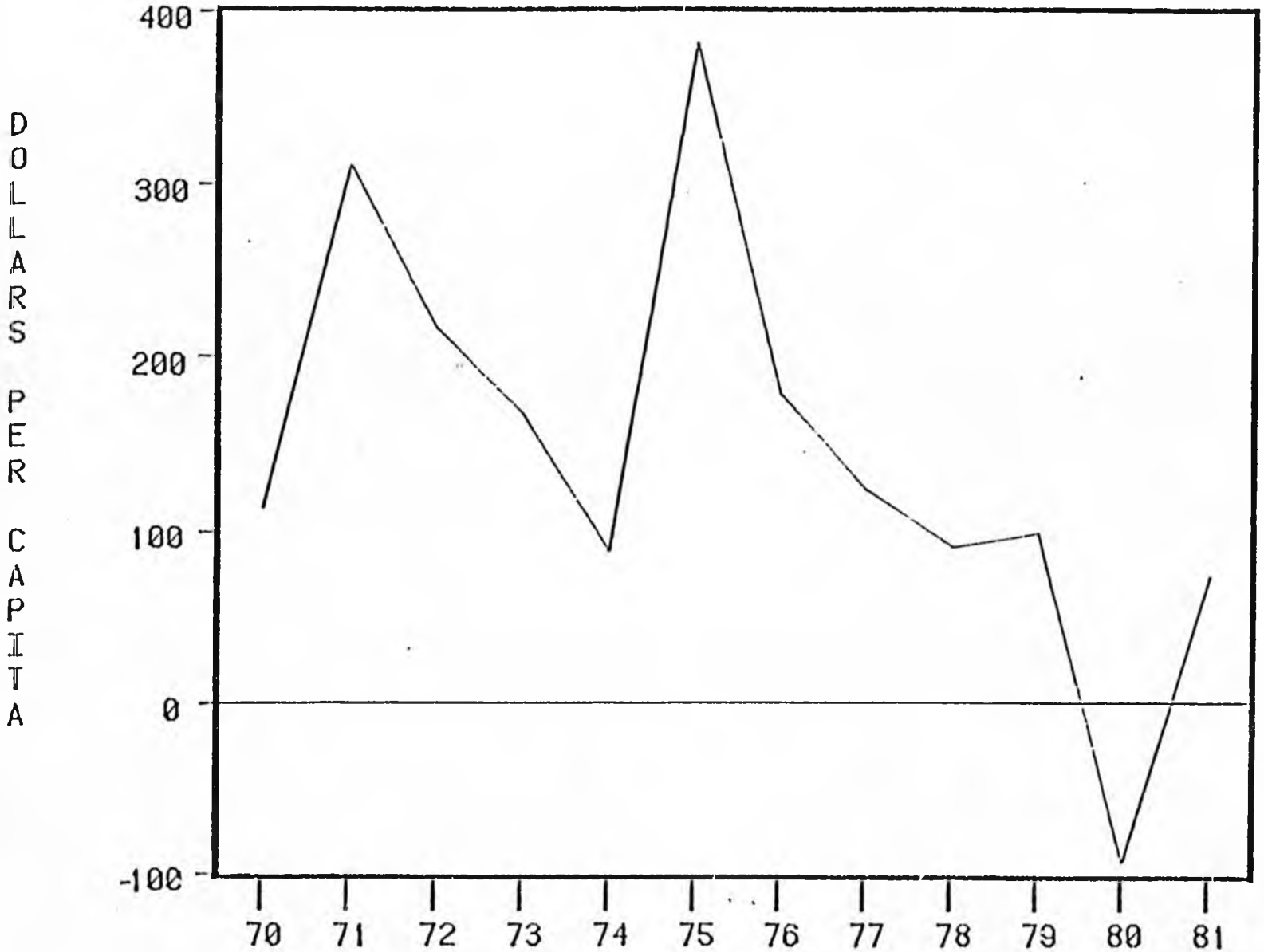
* * *

As discussed with Cliff, the most useful presentation of a set of numbers depends to a large extent on the intended use of the data. I would be happy to discuss the above data or its presentation at your convenience.

Enclosures

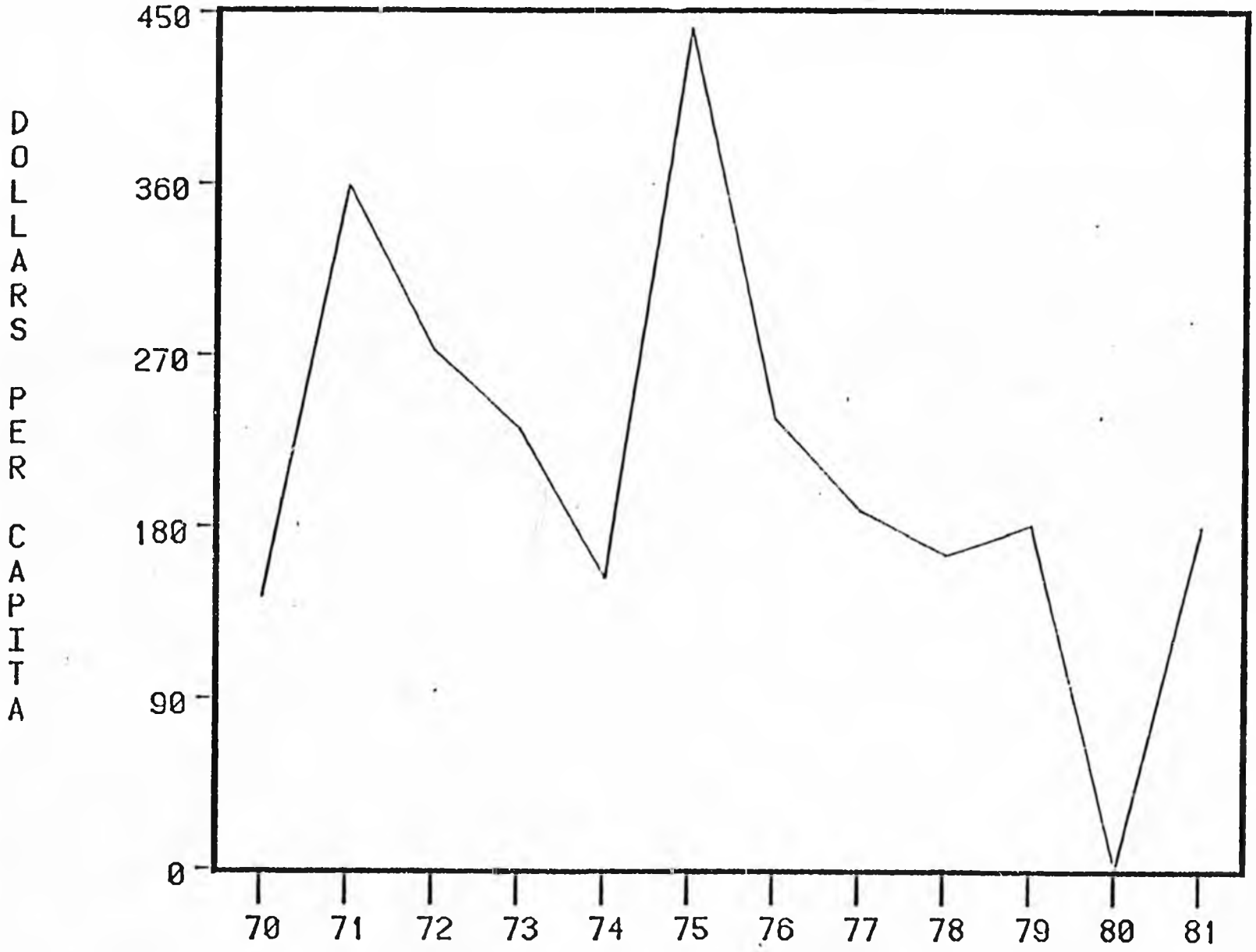
GRAPH 3

DEBT SERVICE ON G.O. BONDS ISSUED LESS REPAYMENTS OF MATURE ISSUES
PER CAPITA IN 1970 DOLLARS



DEBT SERVICING COSTS FOR G.O. BONDS, STATE OF ALASKA, 1970 - 1981

PER CAPITA IN 1970 DOLLARS



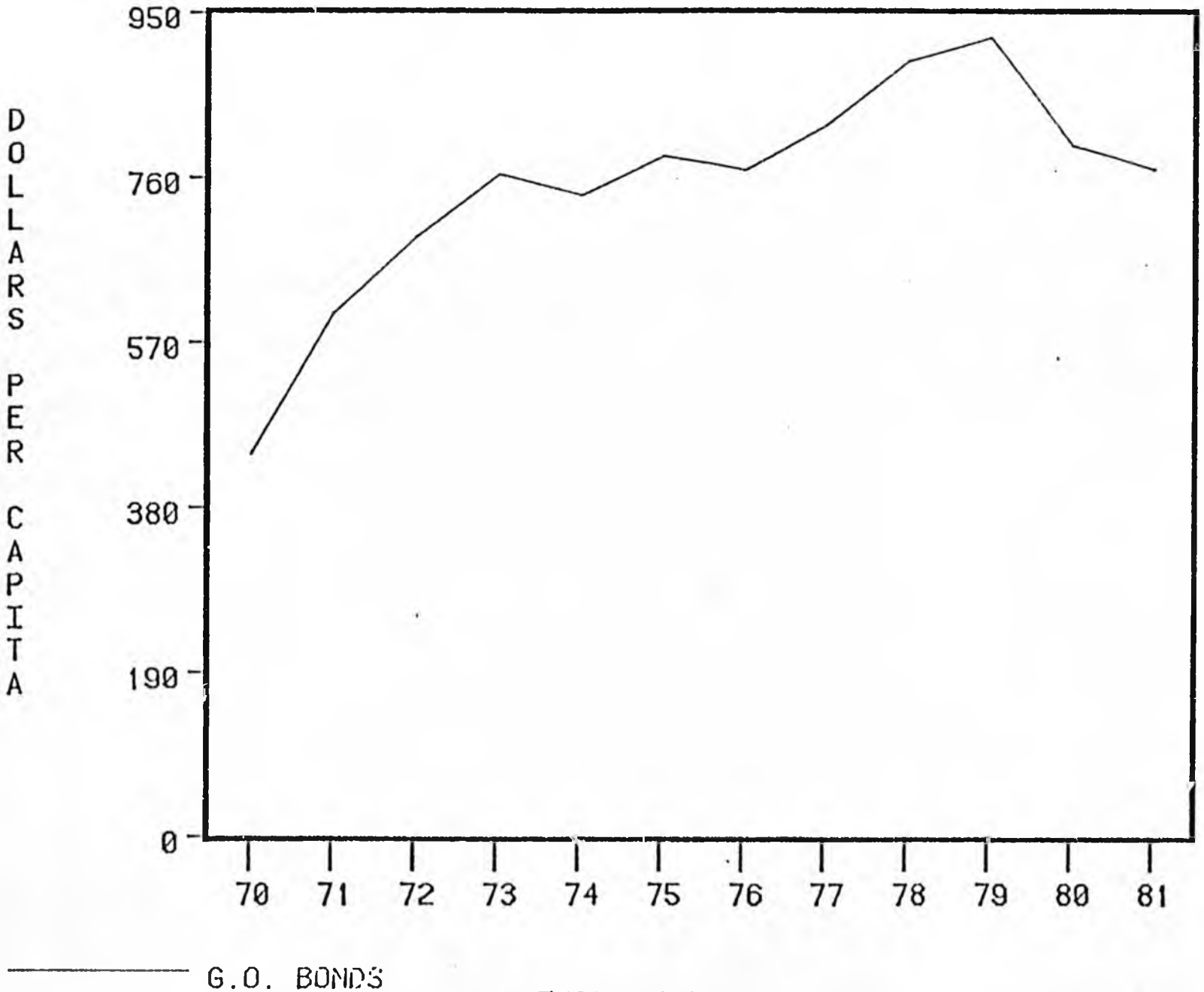
DEBT SERVICE

Interest payments are converted to 1970 dollars at the discount factor applicable in the year of bond issue

GRAPH 4

G.O. BONDS OUTSTANDING, STATE OF ALASKA, 1970 - 1981

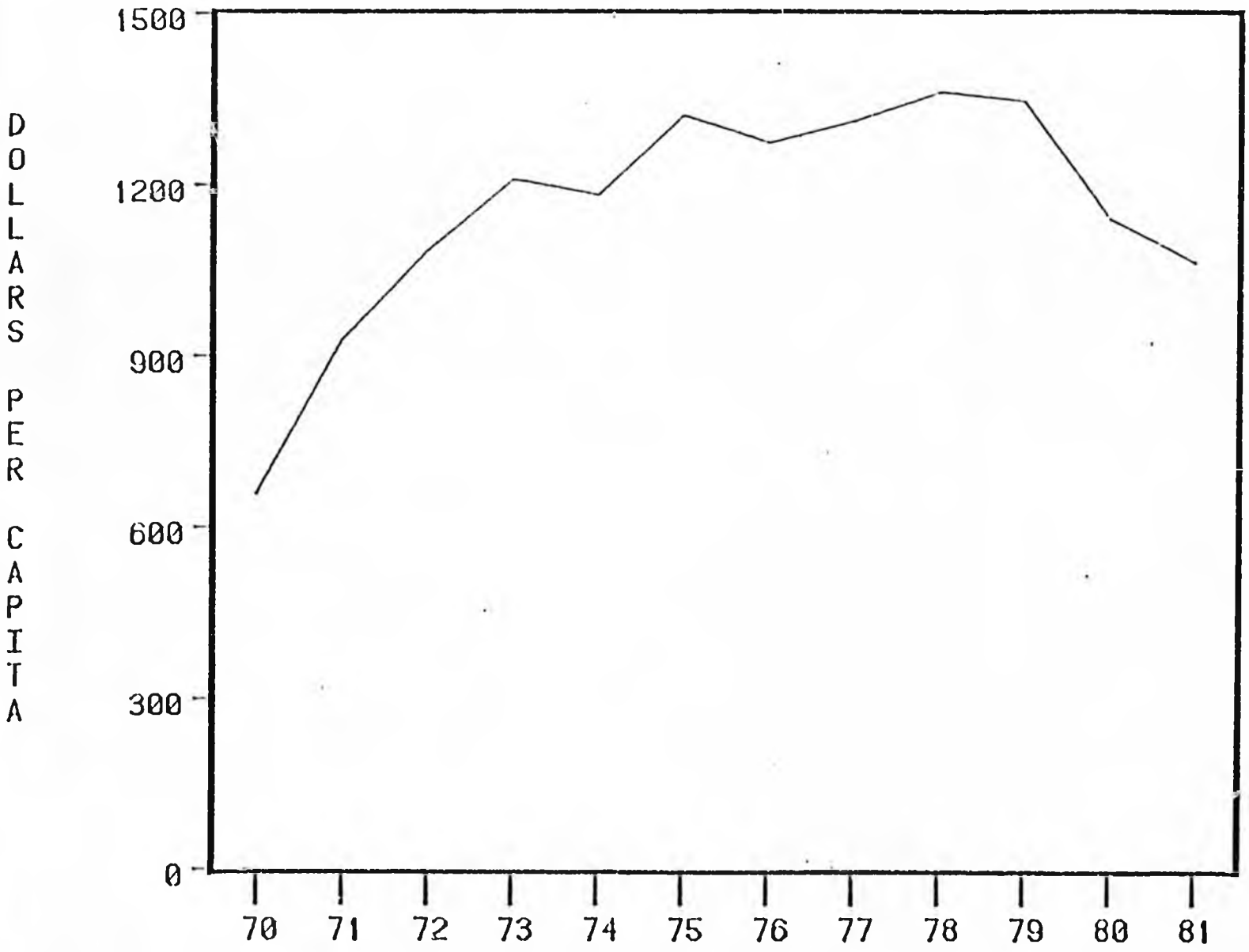
PER CAPITA IN 1970 DOLLARS



GRAPH 5

DEBT SERVICE ON OUTSTANDING G.O. BONDS, STATE OF ALASKA, 1970 - 1981

PER CAPITA IN 1970 DOLLARS



terest payments are converted to 1970 dollars

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

April 22, 1982

MEMORANDUM

TO: Representative Gardiner

FROM: David Teal Research Staff
Deb Pomeroy, Research Aide

RE: Bonded Debt
Research Request Number 82-109

You requested graphs showing the per capita debt servicing costs (in 1982 dollars) of outstanding bonds issued by the State of Alaska and by municipalities within the state. Three types of State bonds were considered in this analysis.

General Obligation Bonds are backed by the full faith, credit, and resources of the State. General obligation bonds must be authorized by legislation for capital improvements and be ratified by the electorate.

International Airports Revenue Bonds are special obligations of the State. They are payable from and secured by a first lien on gross revenues derived from operations of the Anchorage and Fairbanks International Airports.

Agency Bonds are issued by a number of agencies that have a legal existence independent of the State. The Alaska Housing Finance Corporation is responsible for about 90 percent of bonded debt held by State agencies. Agency debt is self-liquidating; principal and interest are payable from earnings derived from user fees.

Although municipalities may issue both general obligation and revenue bonds, I was unable to find a source which could provide aggregate information on 1) the debt servicing costs for municipal general obligation bonds; 2) the amount of municipal revenue bonds outstanding; or 3) debt servicing costs for municipal revenue bonds. This information could probably be obtained from the municipalities, but Gregg Erickson--speaking for Cliff Groh, of your staff--suggested that the effort would not be worthwhile at this time.

There were similar data-gathering problems with bonds issued by State agencies. Gregg Erickson suggested graphing data only for years after 1971, which is when reports on agency bonds were incorporated into the State's annual financial report. Due to data problems and as a result of my conversation with Gregg Erickson, your request for graphs was modified slightly. The attached graphs are described briefly below.

Graph 1 shows the aggregate amount of State general obligation bonds, airport revenue bonds, and State agency bonds outstanding in the years 1972 through 1981. Nominal values were converted to 1982 dollars by applying a factor based the Anchorage consumer price index (CPI). The per capita values shown in the graph were obtained by dividing the 1982 dollar values by statewide population in each year. All values in graph 1 (and in the other attached graphs) appear in tables attached to this memorandum.

Graph 2 shows per capita debt servicing costs (in 1982 dollars) associated with the bonded debt shown in graph 1. Debt service includes both principal and interest payments. As emphasized in my memorandum of March 23, 1982 (research request number 82-74) on the subject of bonded debt, this treatment of debt servicing costs implicitly assumes that all principal and interest payments are made in the year shown rather than spread into the future. In an economy characterized by inflation, this treatment overstates constant (1982) dollar obligation because payments will be made in the future when the dollars are worth less. In addition, population growth would decrease the per capita repayment required to retire the debt.

The effect of attributing future payments to current time periods is to increase debt servicing costs in early years relative to debt servicing costs in later years. That is, the true trend is steeper than is indicated by graph 2. This effect is accentuated by the recent trend toward shorter maturity issues. The problem could be corrected by considering the timing of payments as well as the amount of payments, but some assumptions would be required to complete an analysis. If you wish, I would be happy to discuss the complexities of this issue with you or your staff.

Graph 3 shows the per capita amount (in 1982 dollars) of municipal general obligation bonds outstanding in the years 1972 through 1981. Note that municipal revenue bonds are not included in the figures and that statewide population is used to obtain per capita values.

You may be interested in the attached table which shows that municipal general obligation debt has increased faster in recent years than has general obligation debt issued by the State. Municipalities had $1.09

billion outstanding on July 1, 1981, compared to $701.2 million in general obligation debt issued by the State.

The State has adopted a policy of short-term issues in response to current market conditions, but without further study of the terms of sale, it is impossible to determine whether municipalities have adopted the same approach. The potential risk for municipalities is substantial, and to the extent that municipal debt issues are school bonds (which are partially paid by the State), there is some cause for concern by the State.

Graph 4 shows the sum of municipal general obligation bonds and all State bonds outstanding, and graph 5 shows separate curves for municipal general obligation bonds, State general obligation bonds, and all State bonds outstanding in each year from 1972 through 1981. As in the graphs discussed previously, all lines depict per capita amounts in 1982 dollars.

* * *

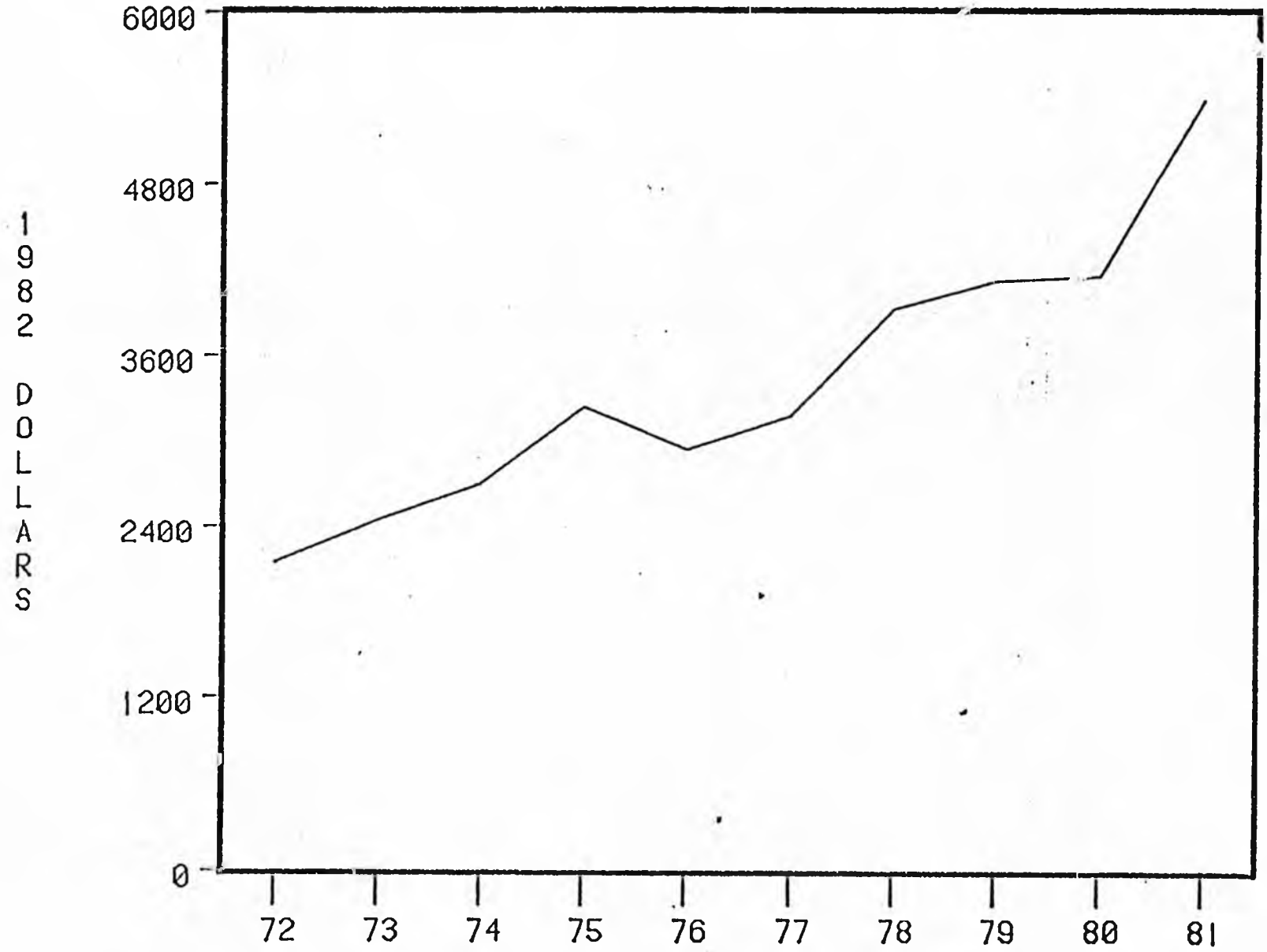
As always, the agency extends an offer to perform additional work or to discuss the material presented with you or your staff.

Attachments

GRAPH 1

BONDS OUTSTANDING--STATE OF ALASKA

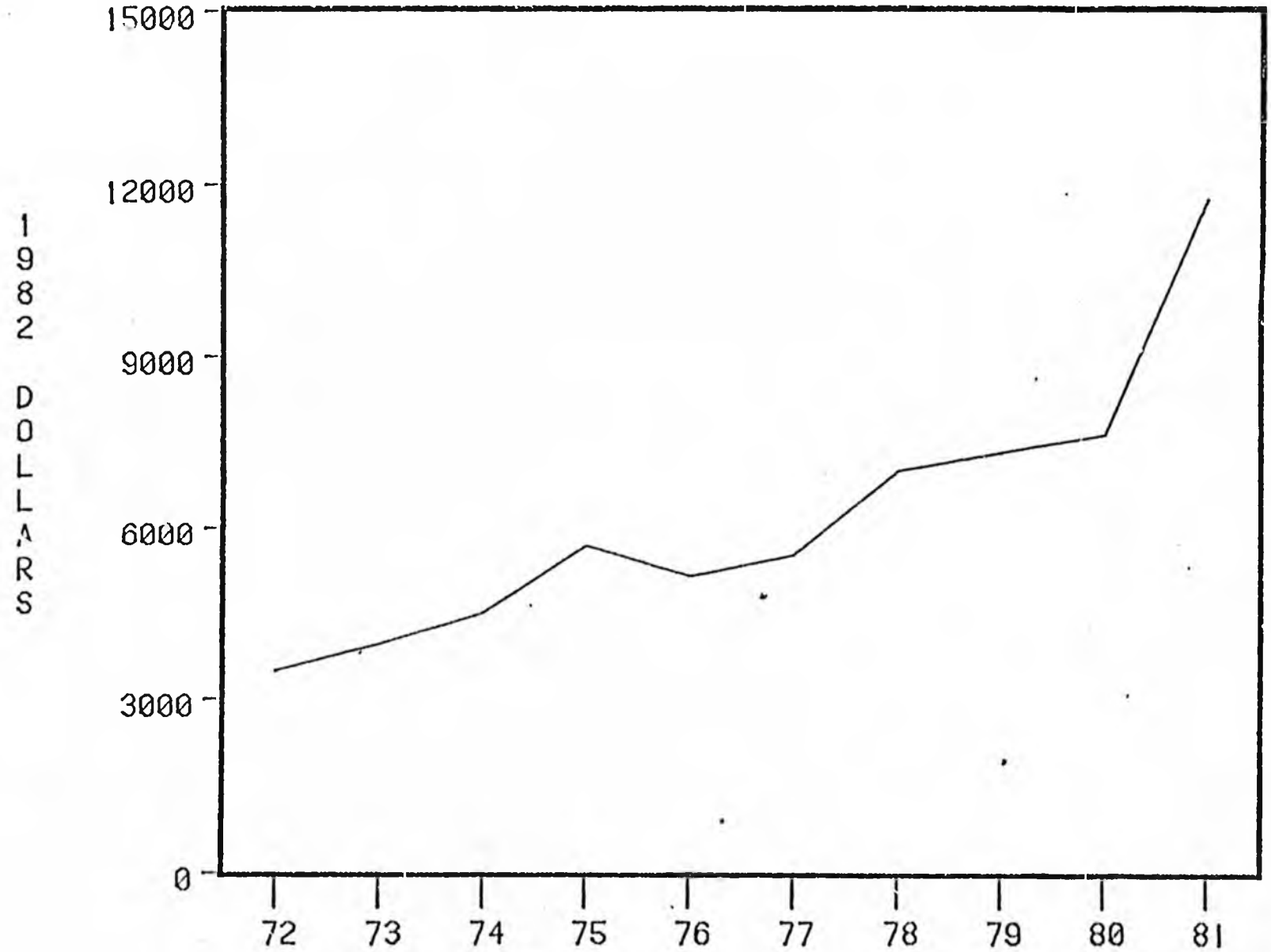
1982 DOLLARS PER CAPITA



GRAPH 2

DEBT SERVICE ON OUTSTANDING BONDS--STATE OF ALASKA

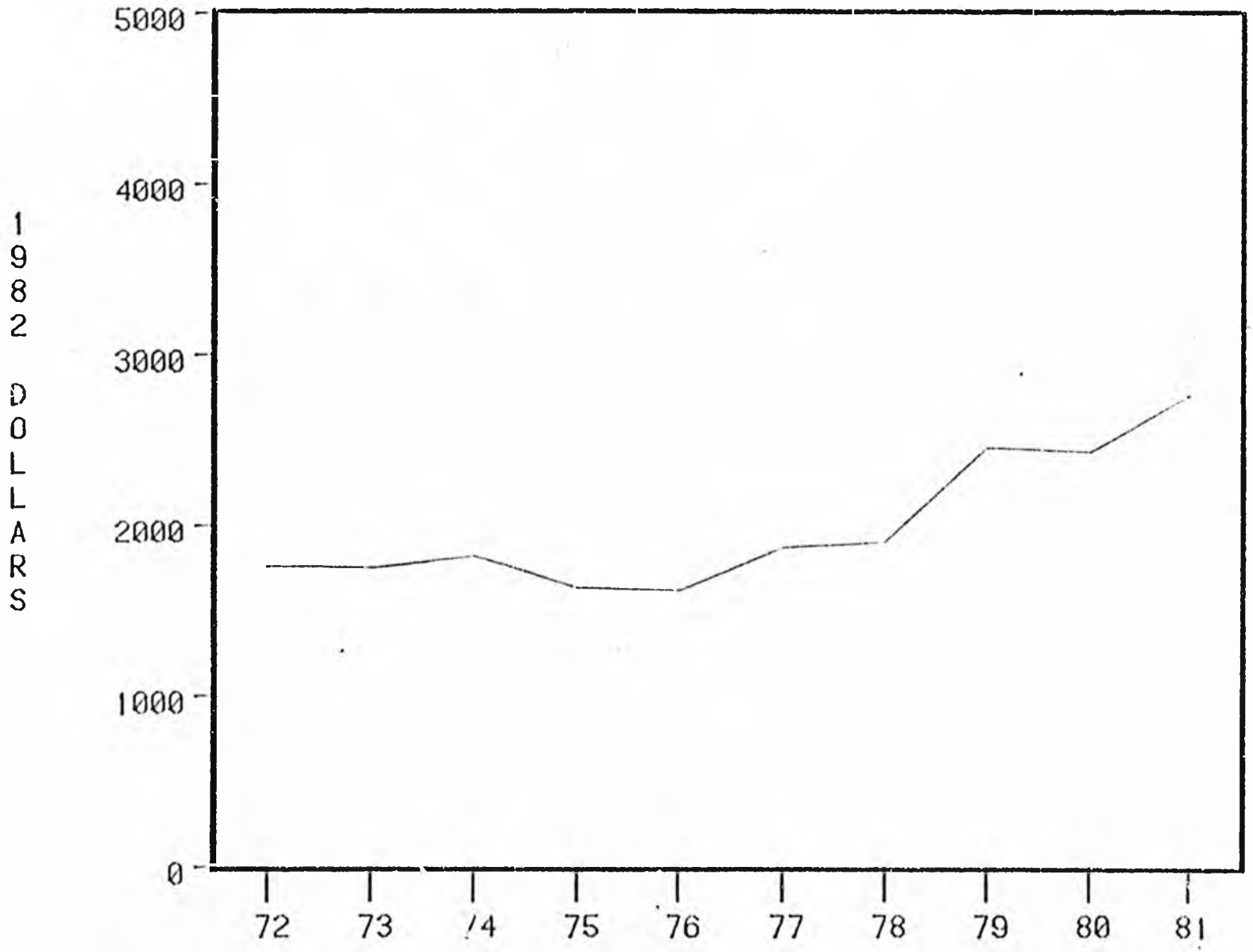
1982 DOLLARS PER CAPITA



GRAPH 3

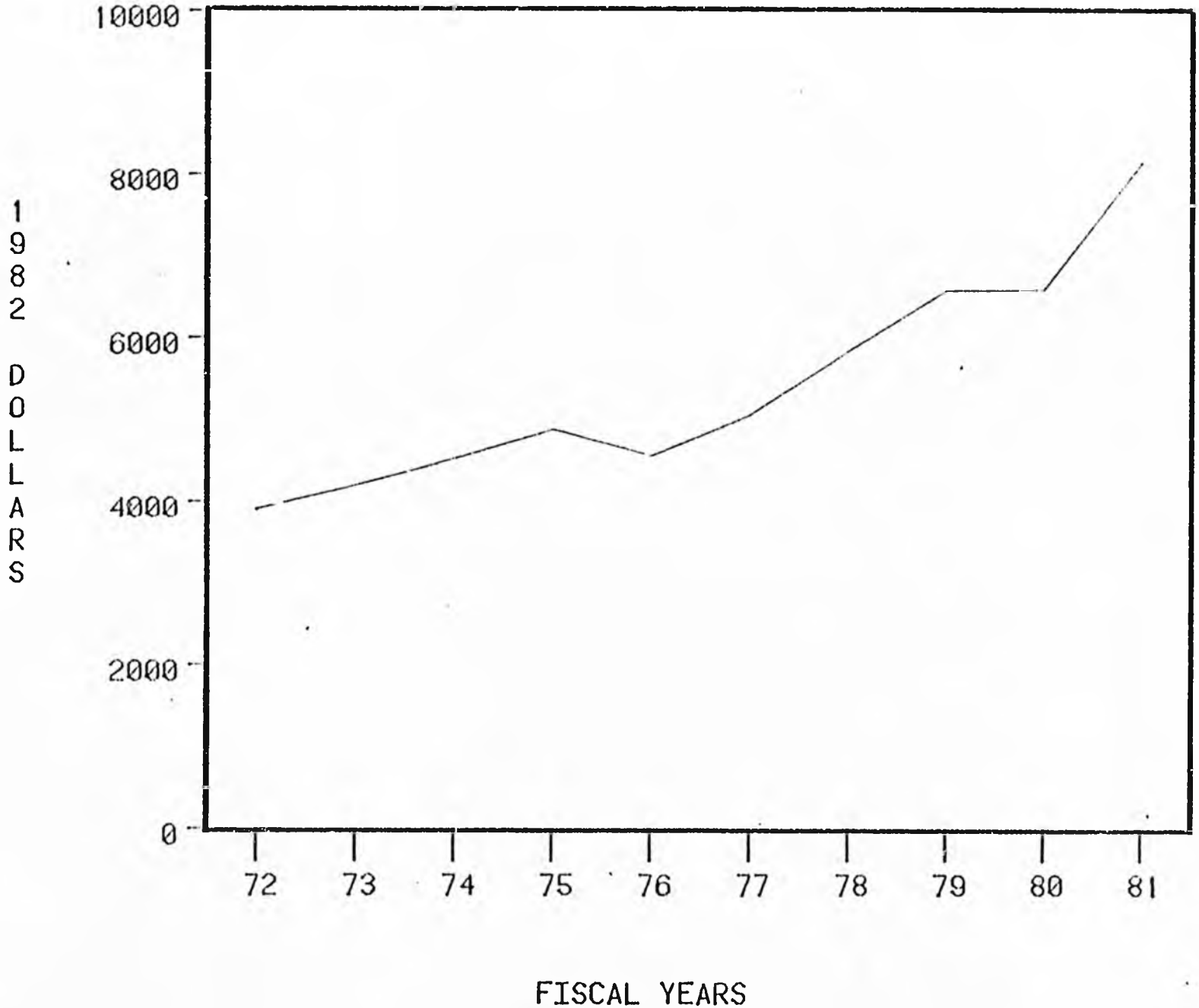
MUNICIPAL BONDS OUTSTANDING--STATE OF ALASKA

1982 DOLLARS PER CAPITA



MUNICIPAL AND STATE BONDS OUTSTANDING--STATE OF ALASKA

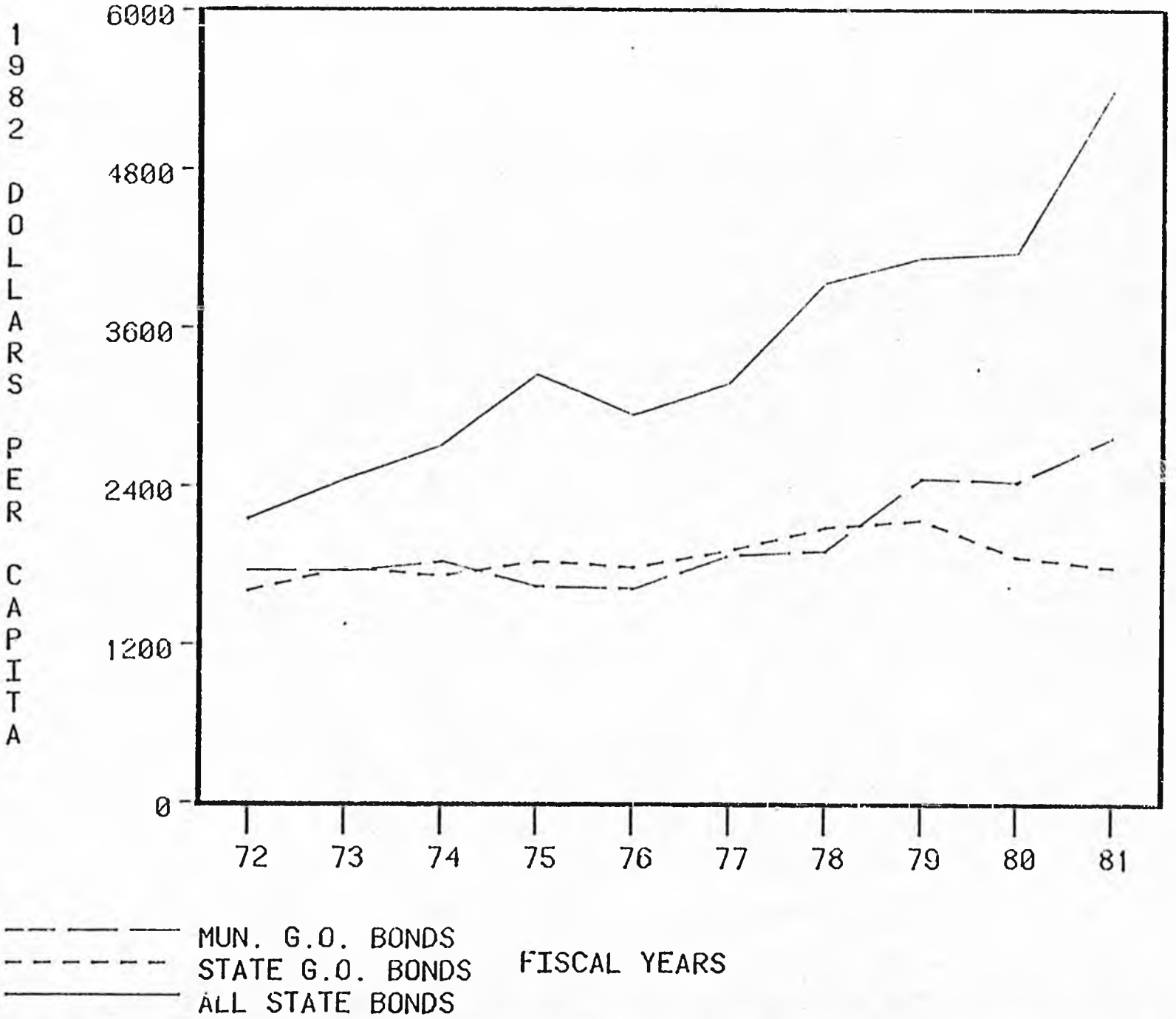
1982 DOLLARS PER CAPITA



GRAPH 5

BONDS OUTSTANDING--STATE OF ALASKA

MUNICIPAL & STATE G.O. BONDS AND ALL STATE BONDS



BONDS OUTSTANDING AND DEBT SERVICE REQUIREMENTS
State of Alaska 1972 - 1981
($ in millions unless otherwise noted)

Fiscal Year	GEN OBLIGATION		STATE AGENCY		AIRPORT REVENUE		ALL BONDS		CPI Adj.	Popu-lation[1]	PER CAP. 1982$[2]	
	Outs.	Debt Service	Outs.	Debt Service	Outs.	Debt Service	Outs.	Debt Service			Outs.	Debt Service
72	$238.9	$375.0	$ 66.0	$ 115.8	$ 15.2	$ 29.4	$ 320.1	$ 520.3	2.18	324.0	$2,154	$3,501
73	274.6	434.6	81.6	138.4	23.4	44.0	379.6	616.9	2.13	330.0	2,450	3,982
74	293.1	469.0	147.0	262.8	23.0	42.2	463.1	774.0	2.01	344.0	2,706	4,522
75	392.5	660.0	272.2	504.1*	33.2	62.2	697.7	1,226.4	1.78	383.1	3,242	5,698
76	462.9	767.0	267.5	514.4*	32.7	59.5	763.1	1,340.9	1.58	410.7	2,936	5,158
77	530.0	846.4	319.7	633.5	32.1	56.7	881.8	1,536.8	1.49	413.1	3,178	5,543
78	596.2	906.3	508.2	1,063.7	20.9	36.5	1,125.4	2,006.4	1.41	403.1	3,937	7,018
79	670.5	977.7	602.1	1,283.3	20.3	34.5	1,292.9	2,295.5	1.28	400.6	4,131	7,335
80	631.7	902.6	767.4	1,666.3	19.7	32.6	1,418.8	2,601.5	1.18	401.8	4,166	7,639
81	701.2	969.6	1,407.8	3,641.7	19.0	30.7	2,128.0	4,642.0	1.07	422.2	5,393	11,764

*estimated.
[1]Population is in thousands.
[2]Per Capita figures are not in millions.

Source: House Research Agency 4/82

MUNICIPAL AND STATE BONDS OUTSTANDING
State of Alaska 1972 - 1981

Fiscal Year	Mun. Bonds Outstanding ($ Millions)	Per Capita (in 1982 dollars)	Municipal & State Bonds Outstanding ($ Millions)	Per Capita (in 1982 dollars)
72	$ 262.2	$ 1,764	$ 582.3	$ 3,918
73	271.5	1,752	651.1	4,203
74	312.2	1,824	775.3	4,530
75	351.4	1,633	1,049.1	4,875
76	420.8	1,619	1,183.9	4,555
77	519.6	1,874	1,401.4	5,055
78	545.2	1,907	1,670.6	5,844
79	768.5	2,456	2,061.4	6,587
80	827.1	2,429	2,245.9	6,595
81	1,091.0	2,765	3,219.0	8,158

HB

164

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

RECEIVED
MAR 30 1983

March 29, 1983

MEMORANDUM

To: Representative Barbara Lacher

From: Leonard Steinberg, Research Staff L. S.

Re: Distribution of Permanent Fund Dividends to Municipalities
Research Request 83-23 -- Final Report

Bob Harris of your staff requested a summary of findings regarding our analysis of the fiscal impacts of HB 164. The analysis, describing how much money would be distributed to municipalities and unincorporated communities, was delivered to your office on March 8. The discussion below briefly describes the analysis and highlights its major findings.

Description of Analysis

HB 164 would distribute the real earnings of the Permanent Fund to every municipality and unincorporated community of greater than 25 on a per capita basis. According to HB 164, the distributed Permanent Fund earnings could only be used to create local permanent funds; i.e., localities could only invest and not spend the Permanent Fund earnings they receive. However, each year, municipalities and unincorporated communities could spend 75 percent of their funds' interest income.

The analysis we performed answered three questions: first, how much money would be distributed to municipalities and unincorporated communities; second, what would be the size of each local permanent fund; and third, how much much money would be available for spending from the earnings of the community permanent funds.

These questions were addressed for every fiscal year 1984-1990. However, the answers to these questions are highly dependent on estimates of future interest and inflation rates. Therefore, in addition to a most likely scenario that projects a future interest rate of 10 percent and a future inflation rate of 6 percent, we also analyzed two other interest and inflation rate combinations. One alternative contained the fairly high interest and inflation rate levels of 13 and 10 percent respectively, and the second alternative contained relatively low interest and inflation rate levels of 6 and 4 percent respectively. It is worth noting, however, that the real rate of return (the difference between the interest and inflation rate) varies from 4 percent

under the most likely scenario to 3 percent under the high interest and inflation rate scenario to 2 percent under the low interest and inflation rate scenario.

Summary of Findings

The amount of money each community receives is based on its population. Communities receive their largest share of Permanent Fund earnings, have their largest fund balances, and have the most money available for spending under the most likely scenario of a 10 percent interest rate and 6 percent inflation rate.

Increasing the interest and inflation rates to 13 and 10 percent respectively actually decreases the Permanent Fund earnings distributed to communities and decreases the size of local fund balances. These phenomena occurs because the Permanent Fund's inflation-proofing mechanism retains more money to compensate for lost purchasing power as the real rate of return falls from 4 to 3 percent. However, because the amount of money available for spending from the local permanent funds is affected solely by interest rates, the amount of money available for spending under the higher interest and inflation rates remains almost the same as under the more likely rates of 10 and 6 percent interest and inflation.

Under the low interest and inflation rates of 6 and 4 percent respectively, the amount of money available for spending in future years, future fund balances, and the distributions from the Permanent Fund are all substantially less than under the other interest and inflation rate scenarios.

Examples

Under the scenario of 10 percent interest and 6 percent inflation, Anchorage would receive $36 million in FY84, increasing every year to $99 million in FY 90. At the end of FY90, Anchorage's permanent fund would be approximately $500 million and Anchorage would have approximately $28 million dollars available for spending in FY90.

Under the high interest and inflation rate scenario, Anchorage's fund balance at the end of FY90 would fall to $369 million though it would still have approximately $28 million dollars to spend in that fiscal year. Under the low interest rate scenario, Anchorage's fund balance would fall to $286 million and have only $10.5 million to spend.

The pattern of declining funds repeats itself in the same proportions for communities of all sizes. For example, the Matanuska-Susitna Borough (population 13,746), would have a fund balance of $39 million

in FY90 and have $2.2 million available for spending under the most likely interest and inflation rate scenario. Under the high interest and inflation rate scenario, the fund balance would fall to $29 million but the amount available to spend would remain at about $2.2 million. Under the lower interest and inflation rate scenarios, the FY90 fund balance would fall to $22.5 million and the amount available to spend would drop to $833,000.

Similarly, in FY90 the City of Palmer (population 2,141), would have a fund balance of $6 million and have $349,000 available for spending under the most likely interest and inflation rate scenario. Under the high interest and inflation rate scenario the fund balance would fall to $4.5 million but the amount available for spending would remain nearly the same at $345,000. Under the lower interest and inflation rate scenario the fund balance would fall to $3.5 million and the amount available to spend would fall to $130,000.

Finally, even very small communities, such as Tenakee Springs (population 138) would experience the same trends. In FY90, Tenakee Springs would have have a fund balance of $396,000 and have $22,500 available for spending under the most likely interest and inflation rate scenario. Under the high interest and inflation rate scenario, Tenakee Springs would have a fund balance of $292,000 and have about $22,000 available for spending in FY90. Under the lower interest and inflation rate scenario, Tenakee Springs would have a fund balance of $225,000 in FY90 and have $8,000 available to spend in that year.

* * * *

We hope this summary is helpful. Please let us know if you have any additional questions.

LS

Permanent Fund

(164)
Lacher - Municipal Assistant

(201)
Sheriff - 5% interest

(245)
M.M. Miller Advisory Vote

- Longivity Bonus
- All interest into Permanent Fund
- Equal Benefit Retirement program

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Representative Lacher

FROM: Staff

DATE: March 9, 1983

RE: HB164

The following data pertaining to the Alaska Permanent Fund was provided by the Department of Revenue/Research to the House Research Agency. The information is dated 1-6-83.

The following assumptions apply to the forecast indicated below:
- use 30th percentile of probabilities of income
- 6% inflation
- .1024% earnings
- 4% real rate of return

Fiscal Year	Perm Fund	Total Interest	Inflation Proofing	Available for Appropriation	
1984	3,943.75				(mid-year)
	4,203.06	403.84	252.2	151.66	(end-year)
1985	4,481.66				
	4,769.25	458.92	285.6	173.30	(end-year)
1986	5,072.55				
	5,384.84	519.43	23.1	196.34	(end-year)
1987	6,058.34				
	6,436.59	586.89	363.5	222.39	(end-year)
1988	6,814.83				
	7,236.93	659.11	408.9	250.22	(end-year)
1989	7,659.03				
	8,090.78	741.06	459.5	281.52	(end-year)
1990	8,522.52	828.50	511.40	317.15	

****

The following data from the previous mentioned source, again uses the 30th percentile of probabilities, 10% interest return, and 6% inflation. The first column is State population estimates developed from Bureau of Census data. The second column is the projected dividend payment per person, in current dollars, under existing law. The third column is the individual dividend payment in 1981 dollars.

	I	II	III
1983	444.33	$1000.00	$881.68
1984	464.33	365.51	304.02
1985	484.68	251.06	197.00
1986	505.38	333.51	246.89
1987	526.44	409.06	285.67
1988	547.85	448.55	295.52
1989	569.61	489.82	304.45
1090	591.72 (thousands)	530.34	310.98

CITY OF CORDOVA

Box 1210 602 Railroad Avenue
Cordova, Alaska 99574
Phone: (907) 424-3237
or 424-3238

"The Friendly City"

Good
Answer & File

March 23, 1983

James A. Poor
Mayor

Perry D. Lovett,
Manager

Donna M. Sherby,
Clerk / Treasurer

Council Members
Richard Groff
R. J. Kopchak
Garry Purvis
Joe Gunderson
Phyllis Day
Oliver Osborn

Representative Barbara Locher
Pouch V
Juneau, Alaska 99811

MAR 28 1983

Dear Representative ~~Locher~~ BARBARA:

I received your letter regarding HB 164 which you introducted to distribute Alaska permanent fund income to municipalities and unincorporated communities and repealing the permanent fund divident program.

I took your letter to the City Council meeting held last Monday, and they unanimously voted to support your bill.

The general comments were that these funds would then stay within the community and benefit everyone, plus supporting the State revenue and municipal assistance programs.

Sincerely,

Perry D. Lovett
City Manager

cc: Representative Peter Goll
Representative Richard Eliason

Box 53
Willow, Alaska
March 11, 1983

MAR 13 1983

answer

Hon. Barbara Lacher
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mrs. Lacher:

I understand the House is presently considering various bills on the Dividend Program, and if not too late, my husband and I would like to be numbered among those favoring its repeal. Letters to the Anchorage News seem to be predominantly for the program, but most of the people we've been talking to favor repeal, as we do. I must admit they are over 40, and some of our younger friends are the ones who want to keep the checks coming, and I believe a vote of the people would favor keeping the program, but that doesn't mean it's the best answer to the problem. Few people are going to refuse a handout, and as a former president once said, the average voter is incapable of considering the public good above his own. I believe this money belongs to the state as a whole and not to the people individually.

Second subject: Other benefits for Alaskans such as the Pioneer Home and the Longevity Program, now mentioned in the News as under scrutiny by the Legislature also. These programs benefit older people with reduced incomes when they most need help, and I know several people who stay in Alaska because of them. I think they are far more important than the Dividend Program and I hope the Legislature will find a way to continue them that satisfies the law.

Third: I hope if and when the matter arises you will all remember that poor old Willow still needs a new community building. The present one is a fire-trap, and we have no fire department either. If any place could use a little help in this regard, Willow sure could.

Sincerely,

Mary Lee Mayfield

Mary Lee Mayfield

STATE OF ALASKA
THE LEGISLATURE

FEB 9 1983

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 9, 1983

SUBJECT: Distributions to municipalities and unincorporated communities (Work Order No. 13-0609)

TO: Representative Barbara Lacher

FROM: Linn H. Asper
Legislative Counsel

You have asked for a sectional analysis of your Work Order No. 13-0609, relating to distributions of Alaska permanent fund income to municipalities and unincorporated communities.

* Section 1 amends AS 37.13.145 to delete references to the reinvestment of the undistributed income account in the fund, because your proposal calls for all of the undistributed income to be distributed to municipalities and unincorporated communities. Some may be retained for the benefit of individual municipalities or unincorporated communities, but the income from such retained money will be credited to the named communities rather than to the undistributed income account.

* Section 2 contains amendments to AS 37.13 that are necessary to provide a distribution mechanism for the Alaska permanent fund income. Proposed AS 37.13.147 requires distribution of part of the permanent fund income to municipalities. Determination of the amount of the annual distribution to a municipality is made by multiplying the total amount to be distributed by a fraction representing the ratio of the population of the municipality to the total population of entities that are eligible for distributions. Population is calculated on the same basis set out in AS 29.88.015. The population of a city that is eligible for its own distribution and that is within a borough is excluded in calculating the population of the borough. A municipality that receives a distribution from the Alaska permanent fund must invest the money and then reinvest

25 percent of the earnings, using the remaining 75 percent for municipal purposes. A municipality may choose to leave its money in the Alaska permanent fund so that the commissioner of revenue can invest it for the municipality and distribute 75 percent of the income as if the municipality were investing the money itself. A municipality may reclaim its money upon proper notice. A municipality is defined as a general law or home rule city or borough, or a unified municipality.

Proposed AS 37.13.148 provides for distributions to unincorporated communities. Unincorporated communities are treated somewhat differently from municipalities in this legislation. An unincorporated community is a group of 25 or more people living as a social unit in the unorganized borough. This is the definition used in a previous distribution of state money in 1981 (Chapter 60, SLA 1981). An unincorporated community may only receive and invest its money if it is an entity that has the legal capacity to do so, as determined by the attorney general. If the unincorporated community does not have the legal capacity to invest the money, or if it does have the capacity, but chooses to leave its money in the Alaska permanent fund, the commissioner of revenue invests the money for the community and distributes 75 percent of the income from that investment to the community. Population and amounts to be distributed are determined in a manner similar to that established for municipalities.

* Section 3 repeals the permanent fund dividend distribution program in order to make Alaska permanent fund income available for the distributions to municipalities and unincorporated communities.

* Section 4 is a technical amendment to terminate the dividend fund now used to pay permanent fund dividends. Provisions are made in this section and in * Sec. 5 to insure that persons eligible for 1982 permanent fund dividends will receive those dividends.

* Section 6 deletes a cross-reference in Title 09 of the Alaska Statutes to the permanent fund dividend distribution program.

* Section 7 provides for an immediate effective date.

LHA:ljb

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

TO: Representative Lacher

FROM: Staff

DATE: March 9, 1983

RE: HB164

The following data pertaining to the Alaska Permanent Fund was provided by the Department of Revenue/Research to the House Research Agency. The information is dated 1-6-83.

The following assumptions apply to the forecast indicated below:
- use 30th percentile of probabilities of income
- 6% inflation
- .1024% earnings
- 4% real rate of return

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	6,436.59	586.89	363.5	222.39	(end-year)
1988	6,814.83				
	7,236.93	659.11	408.9	250.22	(end-year)
1989	7,659.03				
	8,090.78	741.06	459.5	281.52	(end-year)
1990	8,522.52	828.50	511.40	317.15	

****

The following data from the previous mentioned source, again uses the 30th percentile of probabilities, 10% interest return, and 6% inflation. The first column is State population estimates developed from Bureau of Census data. The second column is the projected dividend payment per person, in current dollars, under existing law. The third column is the individual dividend payment in 1981 dollars.

	I	II	III
1983	444.33	$1000.00	$881.68
1984	464.33	365.51	304.02
1985	484.68	251.06	197.00
1986	505.38	333.51	246.89
1987	526.44	409.06	285.67
1988	547.85	448.55	295.52
1989	569.61	489.82	304.45
1090	591.72 (thousands)	530.34	310.98

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 29, 1983

MEMORANDUM

To: Representative Barbara Lacher

From: Leonard Steinberg, Research Staff L. S.

Re: Distribution of Permanent Fund Dividends to Municipalities
Research Request 83-23 -- Final Report

Bob Harris of your staff requested a summary of findings regarding our analysis of the fiscal impacts of HB 164. The analysis, describing how much money would be distributed to municipalities and unincorporated communities, was delivered to your office on March 8. The discussion below briefly describes the analysis and highlights its major findings.

Description of Analysis

HB 164 would distribute the real earnings of the Permanent Fund to every municipality and unincorporated community of greater than 25 on a per capita basis. According to HB 164, the distributed Permanent Fund earnings could only be used to create local permanent funds; i.e., localities could only invest and not spend the Permanent Fund earnings they receive. However, each year, municipalities and unincorporated communities could spend 75 percent of their funds' interest income.

The analysis we performed answered three questions: first, how much money would be distributed to municipalities and unincorporated communities; second, what would be the size of each local permanent fund; and third, how much much money would be available for spending from the earnings of the community permanent funds.

These questions were addressed for every fiscal year 1984-1990. However, the answers to these questions are highly dependent on estimates of future interest and inflation rates. Therefore, in addition to a most likely scenario that projects a future interest rate of 10 percent and a future inflation rate of 6 percent, we also analyzed two other interest and inflation rate combinations. One alternative contained the fairly high interest and inflation rate levels of 13 and 10 percent respectively, and the second alternative contained relatively low interest and inflation rate levels of 6 and 4 percent respectively. It is worth noting, however, that the real rate of return (the difference between the interest and inflation rate) varies from 4 percent

under the most likely scenario to 3 percent under the high interest and inflation rate scenario to 2 percent under the low interest and inflation rate scenario.

Summary of Findings

The amount of money each community receives is based on its population. Communities receive their largest share of Permanent Fund earnings, have their largest fund balances, and have the most money available for spending under the most likely scenario of a 10 percent interest rate and 6 percent inflation rate.

Increasing the interest and inflation rates to 13 and 10 percent respectively actually decreases the Permanent Fund earnings distributed to communities and decreases the size of local fund balances. These phenomena occurs because the Permanent Fund's inflation-proofing mechanism retains more money to compensate for lost purchasing power as the real rate of return falls from 4 to 3 percent. However, because the amount of money available for spending from the local permanent funds is affected solely by interest rates, the amount of money available for spending under the higher interest and inflation rates remains almost the same as under the more likely rates of 10 and 6 percent interest and inflation.

Under the low interest and inflation rates of 6 and 4 percent respectively, the amount of money available for spending in future years, future fund balances, and the distributions from the Permanent Fund are all substantially less than under the other interest and inflation rate scenarios.

Examples

Under the scenario of 10 percent interest and 6 percent inflation, Anchorage would receive $36 million in FY84, increasing every year to $99 million in FY 90. At the end of FY90, Anchorage's permanent fund would be approximately $500 million and Anchorage would have approximately $28 million dollars available for spending in FY90.

Under the high interest and inflation rate scenario, Anchorage's fund balance at the end of FY90 would fall to $369 million though it would still have approximately $28 million dollars to spend in that fiscal year. Under the low interest rate scenario, Anchorage's fund balance would fall to $286 million and have only $10.5 million to spend.

The pattern of declining funds repeats itself in the same proportions for communities of all sizes. For example, the Matanuska-Susitna Borough (population 13,746), would have a fund balance of $39 million

in FY90 and have $2.2 million available for spending under the most likely interest and inflation rate scenario. Under the high interest and inflation rate scenario, the fund balance would fall to $29 million but the amount available to spend would remain at about $2.2 million. Under the lower interest and inflation rate scenarios, the FY90 fund balance would fall to $22.5 million and the amount available to spend would drop to $833,000.

Similarly, in FY90 the City of Palmer (population 2,141), would have a fund balance of $6 million and have $349,000 available for spending under the most likely interest and inflation rate scenario. Under the high interest and inflation rate scenario the fund balance would fall to $4.5 million but the amount available for spending would remain nearly the same at $345,000. Under the lower interest and inflation rate scenario the fund balance would fall to $3.5 million and the amount available to spend would fall to $130,000.

Finally, even very small communities, such as Tenakee Springs (population 138) would experience the same trends. In FY90, Tenakee Springs would have have a fund balance of $396,000 and have $22,500 available for spending under the most likely interest and inflation rate scenario. Under the high interest and inflation rate scenario, Tenakee Springs would have a fund balance of $292,000 and have about $22,000 available for spending in FY90. Under the lower interest and inflation rate scenario, Tenakee Springs would have a fund balance of $226,000 in FY90 and have $8,000 available to spend in that year.

* * * *

We hope this summary is helpful. Please let us know if you have any additional questions.

LS

CITY OF MC GRATH

P.O. BOX 57 MC GRATH, ALASKA 99627
PHONE (907) 524-3825

March 21, 1983

The Honorable Barbara Lacher
Alaska House of Representative
Pouch V
Juneau, Alaska 99811

Dear Representative Lacher:

I have read your letter and HB-164 with great interest. I believe that the four points covered in your letter are adequately addressed in the bill. Passage of HB-164 would, in my opinion, be a service to the residents of Alaska for several reasons. First, it would approve the image of Alaska in the eyes of rest of the country. The distribution of $1,000 checks was a major mistake from a practical and political standpoint. Second, it would take the Permanent Fund Program out of the political arena. It is my understanding, that former Gov. Hammond saw one of the uses of the Permanent Fund Program as the beginning of a local tax base. Your approach is very similar but differs in that HB-164 could be used as an in lieu of tax program. Third, it would allow communities to decide how the Permanent Fund money was going to be used. This is very important. Each community has different needs at different times. Use of the Permanent Fund to meet those needs as established locally is extremely important.

I found HB-164 interesting in another aspect. For the past few months, Tim Troll, City Mgr. of St. Marys, and I have been discussing a similar approach using municipal funds. Surplus municipal funds could be invested to maximize their return with the interest being used to underwrite specific local programs or services. You might want to consider a provision which would allow a municipality to invest additional funds in the Permanent Fund program under the same provisions outlined in HB-164.

Sincerely,

Robert S. Juettner
City Administrator

cc: Alaska Municipal League

Box 1210 602 Railroad Avenue
Cordova, Alaska 99574
Phone: (907) 424-3237
or 424-3238

"The Friendly City"

March 23, 1983

James A. Poor
Mayor

Perry D. Lovett,
Manager

Donna M. Sherb,
Clerk / Treasurer

Council Members
Richard Groff
R. J. Kopchak
Garry Purvis
Joe Gunderson
Phyllis Day
Oliver Osborn

Representative Barbara Locher
Pouch V
Juneau, Alaska 99811

MAR 29 1983

Dear Representative ~~Locher~~ BARBARA:

I received your letter regarding HB 164 which you introducted to distribute Alaska permanent fund income to municipalities and unincorporated communities and repealing the permanent fund divident program.

I took your letter to the City Council meeting held last Monday, and they unanimously voted to support your bill.

The general comments were that these funds would then stay within the community and benefit everyone, plus supporting the State revenue and municipal assistance programs.

Sincerely,

Perry D. Lovett
City Manager

cc: Representative Peter Goll
Representative Richard Eliason

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 9, 1983

MEMORANDUM

To: Representative Barbara Lacher

From: Leonard Steinberg, Research Staff L. S.

Re: Distribution of Permanent Fund Dividends to Municipalities
Additional Information -- Research Request 83-23

During our meeting on the afternoon of February 4, you requested additional information on how to clarify the Permanent Fund language in AS 37.13 140 and 145. The information I obtained from Jim Rhode of the Alaska Permanent Fund, Milt Barker of the Division of Legislative Finance, and Lynn Asper of the Division of Legal Services is summarized below.

Jim Rhode

Jim Rhode has been involved in Alaska Permanent Fund legislation since the Fund's inception and is now the Permanent Fund Corporation's Research and Liaison Officer. Mr. Rhode first clarified that the Fund's Board of Trustees has not been and will not be concerned with how to spend the Fund s earnings. According to Mr. Rhode, the Trustees recognize that the existing language is confusing and their intent has been to attempt to clarify the law during the next legislative session. However, because of the legislature's considerable interest in the Fund this legislative session, the Permanent Fund Corporation may support clarifying legislation this year after all.

Mr. Rhode described the Corporation's preference for an entire rewrite of AS 37.13.140 and 145 clearly outlining the uses of Permanent Fund income. Mr. Rhode has suggested that gross income, excluding unrealized gains and losses, be used as the starting point from which is subtracted: (1) the cost of operating the Permanent Fund Corporation, and; (2) the amount to be reinvested necessary to compensate for inflation. According to Mr. Rhode, the funds remaining should be transferred to the undistributed income account and be available for distribution. Mr. Rhode has suggested that these policies be written in clear and nontechnical language and substituted for sections 140 and 145.

Currently there is some debate within the Permanent Fund Corporation as to whether or not the undistributed income account can be used for

inflation-proofing. Jim Rhode argues that only if these funds are available for inflation-proofing during years when inflation exceeds income will the real value of the Permanent Fund be maintained. Despite Mr. Rhode's arguments, other knowledgeable individuals associated with the Permanent Fund Corporation disagree with his interpretation of existing law. Mr. Rhode supports clarification of the State's policy on this issue.

Jim Rhode also supports the existing law's procedures for determining the amount of money available for distribution on the basis of a five-year average. Mr. Rhode feels that smoothing out the spending of the Fund's real earnings will reduce the danger of dipping into the inflation-proofing mechanism and Fund principal for additional money.

Mr. Rhode did not have specific language to suggest at this time. However, I asked Mr. Rhode to respond to substituting "of the annual transfers and interest income to the undistributed income account" in place of "net income" after the word "average" in the second sentence of section 140. Mr. Rhode stated that this is a less complete rewrite than he would like to see, but that it essentially accomplishes the purpose of clarifying the legislation.

Milt Barker

Milt Barker has been with the Division of Legislative Finance for many years and is a recognized expert in the areas of public finance, budgeting, and revenue forecasting. Mr. Barker commented that repealing AS 43.23 will go a long way toward clarifying the existing law regarding Permanent Fund income. Mr. Barker also recommends a total rewrite of sections 140 and 145 of AS 37.13.

Milt Barker suggests defining the income available for spending from the Fund as the Fund's real income. If possible, Mr. Barker suggested defining real income according to the guidelines established by the FASB, the Financial Accounting Standards Board. (The FASB is the national organization that defines what are generally accepted accounting procedures.) I have asked Mr. Gerald Wilkerson, Director of the Division of Legislative Audit, to look into the FASB's guidelines for defining real income and will report these guidelines to you as soon as they are available.

Mr. Barker also suggested eliminating the undistributed income account and allocating the real income either to a specific program or allowing it to go back into the general fund. I asked Mr. Barker to comment on Jim Rhode's assertion that the undistributed income account should be available for inflation-proofing during years when inflation exceeds real income. Mr. Barker stated that an undistributed income account

is not necessary to fully inflation-proof the Fund. According to Mr. Barker, his proposal, which defines income only as real income, would carry forward into a subsequent year any real loss, and earnings in subsequent years would be used to erase that loss.

Lynn Asper

I spoke with Mr. Lynn Asper of the Division of Legal Services about the existing law in sections 140 and 145. Mr. Asper agreed that the existing law is very difficult to understand. Mr. Asper declined to offer specific suggestions for clarifying the law because he felt unprepared to do so without additional review.

I asked Mr. Asper to comment on substituting "of the annual transfers and interest income to the undistributed income account" in place of the phrase "net worth" after the word "average" in section 140. Mr. Asper noted that this alteration would clarify the first part of the sentence but the last part of the sentence would remain unclear. After further discussion, I suggested the deletion of the phrase, "net income of the corporation for the fiscal year just ended plus" after the word "exceed" and Mr. Asper said such a deletion, in combination with the previously mentioned substitution, would clarify the sentence and the intent of the section.

* * * *

We hope this information is helpful to you. We plan to prepare the projections of Permanent Fund earnings and the funds available for spending within the next two weeks. Any additional information we obtain on clarifying the law will be passed on to you promptly. Please let us know if we can be of further assistance.

LS

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 4, 1983

MEMORANDUM

To: Representative Barbara Lacher

From: Leonard Steinberg, Research Staff L.S.

Re: Distribution of Permanent Fund Dividends to Municipalities
Research Request 83-23

Bob Harris of your staff requested a section-by-section analysis of the proposed legislation entitled "An Act providing for the distribution of Alaska permanent fund income to municipalities; and providing for an effective date." Additionally, we have been requested to calculate the earnings which would be available to municipalities under the proposal for the next four years. This memorandum provides the sectional analysis; the earnings calculations will be provided in a subsequent memorandum.

The proposed legislation's interaction with existing law may be unclear in certain sections. Our interpretation of the interaction between the proposed legislation and existing law is discussed below. Additionally, photocopies of the relevant sections of existing law are attached for your review.

We estimate that the earnings calculations can be completed by hand and delivered within one week for no more than 10 to 12 communities. Alternatively, within two weeks we can calculate the earnings for a larger number of communities with the use of a computer. Please let us know which of these alternatives you prefer.

Section 1

Section 1 of the proposed legislation, which amends A.S. 37.13.145, is intended to "inflation-proof" the Alaska Permanent Fund and provides for the disposition of the Fund's income. Under the proposed legislation, the inflation-proofing mechanism in the existing statute is retained; Section 1 requires that a portion of the income sufficient to compensate for inflation be transferred to the principal in order to maintain the Fund's real value or purchasing power.

Under existing law and in the proposed legislation, the income that remains after inflation-proofing is transferred to the Undistributed Income Account (UIA). The effective language is, "The balance of the

net income as defined in AS 37.13.140 shall be transferred to the undistributed income account in the Alaska permanent fund." The proposed legislation adds to the end of the existing sentence quoted above, "for annual distribution under AS 37.13.147 and 37.13.148.

The proposed legislation's new language may be ambiguous. The language could be interpreted to mean that the total income transferred to the UIA each year is to be distributed annually. Alternatively, the language could be interpreted to mean that only the five-year average of income is annually distributed in conformance with section 140.

Lynn Asper, the Legal Services attorney that drafted the legislation told me that it was his intention to retain the five-year averaging requirement of section 140. This intention can be clarified with the addition of the words "according to the five-year averaging formula of AS 37.13.140 and" between "distribution" and "under" on lines ~~19~~ 21 and ~~20~~ 22, page 1 of the proposed legislation.

Though the proposed legislation refers to section 140, the meaning of those references may be ambiguous because sections 140 and 145 do not work well together. For example, section 140 states that the income available for distribution is the five-year average of net income. However, section 145 does not transfer net income to the undistributed income account but transfers net income minus the income necessary to offset inflation. The result is that section 140 makes far more income available for distribution than is ever transferred to the undistributed income account. Mr. David Rose and Mr. Jim Rhode, both with the Alaska Permanent Fund Corporation, agreed that it is difficult to determine the meanings of sections 140 and 145 as they are currently written. However, Mr. Rose pointed out that the averaging of the amount of money available for distribution from the UIA moderates fluctuations that might occur if the amount of money available for distribution is based on annual transfers to the undistributed income account. Section 140 could be clarified with an amendment deleting "net income" after the word "average" and substituting "of the annual transfers and interest income to the undistributed income account."

Section 2

Section 2 of the proposed legislation amends AS 37.13 by adding two new sections 147 and 148 entitled, "Distribution To Municipalities" and "Distribution To Unincorporated Communities."

Sec. 37.13.147 DISTRIBUTION TO MUNICIPALITIES. Subsection (a) states that a portion of the money transferred to the undistributed income account shall be annually distributed to or invested for the municipalities of the state. The word portion may be read in numerous different

ways including: (1) a portion of the amount transferred to the UIA; or (2) a portion of what is available for distribution. Subsection (a) also refers to distributing money that is transferred to the UIA rather than money that is available for distribution from the UIA, casting doubt once again on whether all of the funds transferred to the UIA are to be distributed or only some portion of those funds, presumably the portion available for distribution according to section 140.

Legal Services attorney Lynn Asper indicated to me that "portion" was intended to refer to the dividing up of the funds between municipalities and unincorporated communities. However, this point has already been made in section 145 where it says the funds are to be annually distributed under sections 147 and 148 which includes both municipalities and unincorporated communities. Additionally, Mr. Asper previously indicated that he intended only the five-year average to be available for distribution.

As "portion" may not be necessary and may be interpreted as ambiguous, it may be desirable to delete this term from the proposed legislation. Subsection (a) may be further clarified by deleting the term "transferred" and substituting the term "available for distribution" so that the sentence would read, "The money that is available for distribution in the undistributed income account...."

Subsection (b) outlines a population-based formula for determining how much of the total amount available for distribution is to be made available to each municipality. The formula distributes the funds on a per capita basis. Population figures to be used are predominantly those developed by the U.S. Bureau of the Census. One issue in subsection (b) that may be ambiguous, however, is the meaning of "eligible" in the phrase "A person who is eligible to vote...." This issue is discussed in further detail in Research Request 83-41, "Effect of Population Counting Method in SSHB 42" which you will receive very soon.

Subsection (b) also provides for funds to be distributed to boroughs on a per capita basis. The distribution formula subtracts the population of each city located within the boundaries of the borough from the total population of that borough. The effect of the provision is to avoid double counting of individuals that live in both a city and a borough. The population of unincorporated communities within a borough do not have to be subtracted from the borough population because unincorporated communities as defined in subsection (e) can exist only in the unorganized borough.

Subsection (c) establishes that the funds received by municipalities under this law are to be invested under the same guidelines that apply

to Alaska Permanent Fund investments. Subsection (c) also states that 25 percent of the earnings from those investments shall be reinvested; the remaining 75 percent of the earnings may be used for any municipal purpose.

Subsection (d) allows municipalities to leave their funds with the Permanent Fund Corporation to be invested in the name of the municipality. Under this option, the Permanent Fund Corporation is required to distribute to the municipalities choosing this option 75 percent of the income earned on the funds invested in the name of the municipality involved, which can then be spent for any municipal purpose. Twenty-five percent of the income earned must be reinvested by the Permanent Fund Corporation in the funds managed in the name of municipalities. Municipalities are also allowed to withdraw their funds from the Permanent Fund's management with 90 days notice.

Subsection (e) defines municipality as a general law or home rule city, a general law or home rule borough, or a unified municipality organized under the laws of Alaska. An unincorporated community is defined as an unincorporated place in the unorganized borough in which 25 or more persons reside as a social unit.

Sec. 37.13.148 DISTRIBUTION TO UNINCORPORATED COMMUNITIES. Subsection (a) establishes that a portion of the money transferred to the undistributed income account shall be annually distributed to or invested for unincorporated communities of the state. The comments made earlier on section 147 (a) also apply to subsection (a) of section 148.

Subsection (b) outlines a population-based formula for determining how much of the total amount available for distribution is to be made available to each unincorporated community. The formula distributes the funds on a per capita basis. The population of unincorporated communities is to be determined by the latest figures of the U.S. Bureau of the Census.

Subsection (c) provides for the distribution of funds to unincorporated communities if the attorney general determines that communities have the legal capacity to invest the money received. If the attorney general determines that an unincorporated community does not have the legal capacity to invest the funds to which it is entitled, then the funds are to be invested in the name of that community by the Permanent Fund Corporation. Those communities entitled to receive their funds may opt to have their funds invested for them by the Permanent Fund Corporation. In all cases, the investments must follow the guidelines established for Permanent Fund investments; 25 percent of the earnings must be reinvested and 75 percent of the earnings are available to be spent for any municipal purpose.

Subsection (d) provides the same definitions of municipality and unincorporated community as in subsection (e) of section 147.

Section 3

Section 3 of the proposed legislation repeals AS 43.23, the Alaska Permanent Fund Dividend program.

Section 4

Section 4 of the proposed legislation transfers money and other assets held in the dividend fund, except for what is needed to pay 1982 dividends, to the undistributed income account of the Alaska permanent fund.

Section 5

Section 5 of the proposed legislation makes the repeal of the dividend program retroactive to January 1, 1983.

Section 6

Section 6 of the proposed legislation deletes references to lists of persons who filed for Alaska permanent fund dividends from the existing law describing how to develop a list of potential jurors for trials.

Section 7

Section 7 of the proposed legislation provides for the new law to take effect immediately in accordance with AS 01.10.070(c).

* * * *

We hope this information is helpful to you. Please let us know if we can be of further assistance.

LS

Attachment

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 9, 1983

MEMORANDUM

To: Representative Barbara Lacher

From: Leonard Steinberg, Research Staff L. S.

Re: Distribution of Permanent Fund Dividends to Municipalities
Additional Information -- Research Request 83-23

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STATE OF ALASKA
THE LEGISLATURE

FEB 9 1983

POUCH V STATE CAPITOL
JUNEAU ALASKA 99811
907-465 3820

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 9, 1983

SUBJECT: Distributions to municipalities and unincorporated communities (Work Order No. 13-0609)

TO: Representative Barbara Lacher

FROM: Linn H. Asper
Legislative Counsel

You have asked for a sectional analysis of your Work Order No. 13-0609, relating to distributions of Alaska permanent fund income to municipalities and unincorporated communities.

* Section 1 amends AS 37.13.145 to delete references to the reinvestment of the undistributed income account in the fund, because your proposal calls for all of the undistributed income to be distributed to municipalities and unincorporated communities. Some may be retained for the benefit of individual municipalities or unincorporated communities, but the income from such retained money will be credited to the named communities rather than to the undistributed income account.

* Section 2 contains amendments to AS 37.13 that are necessary to provide a distribution mechanism for the Alaska permanent fund income. Proposed AS 37.13.147 requires distribution of part of the permanent fund income to municipalities. Determination of the amount of the annual distribution to a municipality is made by multiplying the total amount to be distributed by a fraction representing the ratio of the population of the municipality to the total population of entities that are eligible for distributions. Population is calculated on the same basis set out in AS 29.88.015. The population of a city that is eligible for its own distribution and that is within a borough is excluded in calculating the population of the borough. A municipality that receives a distribution from the Alaska permanent fund must invest the money and then reinvest

25 percent of the earnings, using the remaining 75 percent for municipal purposes. A municipality may choose to leave its money in the Alaska permanent fund so that the commissioner of revenue can invest it for the municipality and distribute 75 percent of the income as if the municipality were investing the money itself. A municipality may reclaim its money upon proper notice. A municipality is defined as a general law or home rule city or borough, or a unified municipality.

Proposed AS 37.13.148 provides for distributions to unincorporated communities. Unincorporated communities are treated somewhat differently from municipalities in this legislation. An unincorporated community is a group of 25 or more people living as a social unit in the unorganized borough. This is the definition used in a previous distribution of state money in 1981 (Chapter 60, SLA 1981). An unincorporated community may only receive and invest its money if it is an entity that has the legal capacity to do so, as determined by the attorney general. If the unincorporated community does not have the legal capacity to invest the money, or if it does have the capacity, but chooses to leave its money in the Alaska permanent fund, the commissioner of revenue invests the money for the community and distributes 75 percent of the income from that investment to the community. Population and amounts to be distributed are determined in a manner similar to that established for municipalities.

* Section 3 repeals the permanent fund dividend distribution program in order to make Alaska permanent fund income available for the distributions to municipalities and unincorporated communities.

* Section 4 is a technical amendment to terminate the dividend fund now used to pay permanent fund dividends. Provisions are made in this section and in * Sec. 5 to insure that persons eligible for 1982 permanent fund dividends will receive those dividends.

* Section 6 deletes a cross-reference in Title 09 of the Alaska Statutes to the permanent fund dividend distribution program.

* Section 7 provides for an immediate effective date.

LHA:ljb

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 16, 1983

FEB 18 1983

The Honorable Barbara Lacher
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: House Bill 164

Dear Representative Lacher:

This is in response to your memorandum dated February 9 which asked the question whether the Metlakatla Indian Community and Alaska Native villages would be eligible for distribution of money under H.B. 164.

Section 37.13.148(a) of H.B. 164 provides for distribution of money to "unincorporated communities". Section 37.13.148(d) defines "unincorporated community" to mean "a place in the unorganized borough, not incorporated as a municipality, in which 25 or more persons reside as a social unit".

This is to advise you that the Metlakatla Indian Community and Alaska Native villages in which 25 or more persons reside as a social unit are within the definition of "unincorporated community" of section 37.13.148(d). Further, there is no reason under state law for excluding the Metlakatla Indian Community or Alaska Native villages from benefits under the statute. It has been the consistent position of this office that the state may provide grants to Alaska Native villages so long as the grant recipients do not discriminate on the basis of race in the administration of the grant. See 1981 Inf. Op. Att'y Gen. (April 27, J-66-335-81. You may also wish to consider a waiver of sovereign immunity by the Alaska Native village and the Metlakatla Indian

Community as a condition of the distribution of money in order to avoid any problem with enforcement of the grant of money. See Native Village of Eyak v. GC Contractors, Alaska Supreme Court, No. 2601 (January 14, 1983).

Very truly yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Robert E. Price
Assistant Attorney General

REP/jb

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 3, 1983

MEMORANDUM

To: Representative Barbara Lacher

From: Leonard Steinberg, Research Staff

Re: Distribution of Permanent Fund Dividends to Municipalities
Research Request 82-23 -- Additional Information

On February 9 you requested additional information on how to clarify the statutory provisions for retaining and distributing Permanent Fund earnings. Additional discussions I have had with Dave Rose and Jim Rhode of the Permanent Fund, and Gerald Wilkerson of the Division of Legislative Audit, are summarized below.

Comments by Dave Rose

Alaska Statute 37.13.145 requires the use of a "nationally recognized index" in determining the inflation-proofing requirements of the Permanent Fund. However, Mr. Rose pointed out that there is considerable variation between indexes and the law does not specify which index is to be used. Last year, for example, the consumer price index for Anchorage, as calculated by the U.S. government, was about one-half the national consumer price index. Mr. Rose recommends requiring that the same index be used for inflation-proofing that the State chooses to use for its index-based spending; in particular he suggested that the Permanent Fund use the same index that is used for Alaska's new spending limit which is similarly required to use a federal index to determine the inflation rate.

Mr. Rose also discussed the advisability of retaining the five-year averaging mechanism to smooth out the spending of Permanent Fund earnings. He noted that Fund managers are more comfortable with smooth as opposed to erratic spending because they fear that erratic spending will threaten the integrity of the Fund.

Last, Mr. Rose commented on the vagueness of the law concerning the use of the undistributed income account (UIA) for inflation-proofing. Currently there are two schools of thought on this issue; one group interprets the law so as to allow use of UIA for inflation-proofing and the other school reaches the opposite conclusion. Dave Rose would prefer to be able to use the UIA for inflation-proofing but, regardless of the policy decision, supports new legislation to clarify this issue.

Comments by Jim Rhode

Mr. Rhode expressed concern that HB 164 could result in substantial economic inefficiencies. He raised three issues related to small-scale versions of the Permanent Fund. First, the set-up and transaction costs associated with any investment are relatively more costly for small investments than for large investments. Second, the small funds would lack the ability of larger funds to diversify and maximize the balance of risk and return. Last, investor inexperience could result in poor fund performance. Jim Rhode would be happy to discuss HB 164 with you at any time; he can be contacted at 465-2350.

Comments by Gerald Wilkerson

As mentioned in my memorandum to you of February 9, Gerald Wilkerson, Director of the Division of Legislative Audit, has prepared excerpts from Accounting Standards by the Financial Accounting Standards Board (FASB) related to the definition of real income. A copy of this material is enclosed with this memorandum.

The FASB material indicates that there are accounting methods which reflect the real value of monetary assets in terms of purchasing power. Though additional analysis may be necessary, it appears that the Permanent Fund's financial statements could reflect both the impact of inflation and distinguish between nominal and real income with the use of the FASB accounting guidelines.

Additional Observations

I spoke with Bob Harris of your office regarding the fact that HB 164 does not specify the timing of payments to municipalities or when the municipalities can use their interest income. The amount of money available for municipal spending in future years is affected by whether payments occur during the fiscal year in which they are earned or only at the conclusion of the fiscal year. HB 164 as it is currently written could be interpreted either way. In accordance with Bob Harris' suggestion, our projections of the amount of money that will be available for distribution and spending will be based on the conservative assumptions that Permanent Fund earnings are distributed soon after the beginning of the State's fiscal year, and that communities will spend 75 percent of the earnings from the prior fiscal year.

* * * *

We hope this information is useful to you. The remaining portion of this research request, projecting the distributions and earnings of funds in various municipalities and communities, will be sent to you as soon as the project is completed.

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Attachments

CHANGING PRICES: REPORTING THEIR EFFECTS IN FINANCIAL REPORTS

SECTION C27

Sources: FASB Statement 33; FASB Statement 39; FASB Statement 40; FASB Statement 41; FASB Statement 46; FASB Statement 54; FASB Technical Bulletin 79-8; FASB Technical Bulletin 81-4

Summary

This section [redacted] to provide information about effects of changing prices as [redacted] in their published annual reports.

The information to be provided for the current fiscal year includes:

a. Income from continuing operations adjusted both for effects of general inflation and for effects of specific price changes
b. The purchasing power gain or loss on net monetary items; the current cost of inventory and property, plant, and equipment at the end of the fiscal year and changes in those current costs, and measures of net assets based on adjustments for general inflation and for specific price changes

This section also requires presentation of selected financial information for each of the last five years expressed in constant dollars. Information to be presented in the summary includes net sales, dividends and market price per share of common stock, the excess of increases in specific prices over increases in the general price level, the gain from the decline in purchasing power of net amounts owed, and income from continuing operations (in the aggregate and per share) and net assets adjusted for general inflation and for specific price changes.

The information to be provided is to be accompanied by explanations of its significance in the circumstances of the reporting enterprise.

[Note: Enterprises that elect to apply Section F60, "Foreign Currency Translation," before its effective date should refer to paragraph F60.153.]

Applicability and Scope

.101 The requirements of this section apply to public enterprises [FAS33, ¶23] except for investment companies as defined in Section 3 of the Investment Company Act of 1940, as amended, [FAS54, ¶3] that prepare their primary financial

statements in U.S. dollars and in accordance with U.S. generally accepted accounting principles and that have, at the beginning of the fiscal year for which financial statements are being presented, either:

a. Inventories and property, plant, and equipment[1] (before deducting accumulated depreciation, depletion, and amortization) amounting in aggregate to more than $125 million
b. Total assets amounting to more than $1 billion (after deducting accumulated depreciation)

Both amounts shall be measured in accordance with generally accepted accounting principles as reported in the primary financial statements (consolidated if applicable) of the enterprise. [FAS33, ¶23] [(Refer to paragraphs .501 through .504 as to the applicability of this section to certain brokers and dealers in securities.)]

.102 The requirements of this section do not apply, during the year of a business combination accounted for as a pooling of interests, to an enterprise created by the pooling of two or more enterprises, none of which individually satisfies the size test described in paragraph .101. [FAS33, ¶24]

.103 Nonpublic enterprises and enterprises that do not meet the size test in paragraph .101 [are encouraged] to present the information called for by this section. [FAS33, ¶25]

.104 This section does not change the standards of financial accounting and reporting used for the preparation of the primary financial statements of the enterprise. [FAS33, ¶26]

.105 The information required by this section shall be presented as [redacted] in any published annual report that contains the primary financial statements of the enterprise except that the information need not be presented in an interim financial report. The information required by this section need not be presented for segments of a business enterprise although such presentations are encouraged. [FAS33, ¶27]

.106 An enterprise that presents consolidated financial statements shall present the information required by this section on the same consolidated basis. The information required by this section need not be presented separately for a parent company, an investee enterprise, or other enterprise in any financial report that includes the results for that enterprise in consolidated financial statements. [FAS33, ¶28]

[1] For the purposes of this section, except where otherwise provided, inventory and property, plant, and equipment shall include land and other natural resources and capitalized leasehold interests but *not* goodwill or other intangible assets. [FAS33, ¶23, fn1]

Requirements for Supplementary Information

.107 An enterprise is required to disclose:

a. Information on income from continuing operations for the current fiscal year on a historical cost/constant dollar basis (refer to paragraphs .117 through .124)

b. The purchasing power gain or loss on net monetary items for the current fiscal year (refer to paragraphs .125 through .128)

The purchasing power gain or loss on net monetary items included in income from continuing operations [FAS33, ¶29]

.108 An enterprise is required to disclose:

a. Information on income from continuing operations for the current fiscal year on a current cost basis (refer to paragraphs .129 through .145)
b. The current cost amounts of inventory and property, plant, and equipment at the end of the current fiscal year (refer to paragraph .129)
c. Increases or decreases for the current fiscal year in the current cost amounts of inventory and property, plant, and equipment, net of inflation (refer to paragraphs .134 and .135)

The increases or decreases in current cost amounts shall *not* be included in income from continuing operations. [FAS33, ¶30]

.109 In some circumstances, there may be no material difference between the amount of income from continuing operations on a historical cost/constant dollar basis and the amount of income from continuing operations on a current cost basis. In those circumstances, the current cost information listed in paragraph .108 need not be disclosed for the fiscal year concerned, but the enterprise is required to state, in a note to the supplementary disclosures, the reason for the omission of the information. [FAS33, ¶31]

.110 Information on income from continuing operations (on a historical cost/constant dollar basis or on a current cost basis) may be presented either in a *statement format* (disclosing revenues, expenses, gains, and losses) or in a *reconciliation format* (disclosing adjustments to the income from continuing operations that is shown in the primary income statement). Whichever format is used, such information shall disclose, unless they are immaterial, the amounts of or adjustments to cost of goods sold, depreciation, depletion, and amortization expense and (in the case of historical cost/constant dollar income from continuing operations) reductions of the historical cost amounts of inventory, property, plant, and equipment to lower recoverable amounts as required by paragraph .122. Formats for the presentation of the supplementary information are illustrated in Exhibits 149A through 149C. [FAS33, ¶32]

.111 If depreciation expense has been allocated among various expense categories in the supplementary computations of income from continuing operations (for example, among cost of goods sold and other functional expenses), the aggregate amount of depreciation expense, on both a historical cost/constant dollar basis and a current cost basis, shall be disclosed in a note to the supplementary information. [FAS33, ¶33]

.112 An enterprise shall disclose, in notes to the supplementary information:

a. The principal types of information used to calculate the current cost of inventory, property, plant, and equipment, [FAS33, ¶34] **mineral resource assets,** [FAS39, ¶7] cost of goods sold, and depreciation, depletion, and amortization expense (refer to paragraph .140)
b. Any differences between (1) the depreciation methods, estimates of useful lives, and salvage values of assets used for calculations of historical cost/constant dollar depreciation and current cost depreciation and (2) the methods and estimates used for calculations of depreciation in the primary financial statements (refer to paragraph .142)
c. The exclusion from the computations of supplementary information of any adjustments to or allocations of the amount of income tax expense in the primary financial statements (refer to paragraph .133) [FAS33, ¶34]

.113 An enterprise is required to disclose the following information for each of its ~~five most recent fiscal years~~ (refer to paragraphs .146 and .147):

~~a. *Net Sales and Other Operating Revenues*~~
~~b. *Historical Cost/Constant Dollar Information*~~
~~(1) Income from continuing operations~~
(2) Income per common share from continuing operations
~~(3) Net assets at fiscal year-end~~
~~c. *Current Cost Information*~~ (except for individual years in which the information was excluded from the current year disclosures in accordance with paragraph .109)
~~(1) Income from continuing operations~~
(2) Income per common share from continuing operations
~~(3) Net assets at fiscal year-end~~
(4) Increases or decreases in the current cost amounts of inventory and property, plant, and equipment, net of inflation
~~d. *Other Information*~~
~~(1) Purchasing power gain or loss on net monetary items~~
(2) Cash dividends declared per common share
(3) Market price per common share at fiscal year-end

~~All enterprises shall report, in a note to the five-year summary, the average level or the end-of-year level (which is used for the measurement of income from con-~~

[redacted] (refer to paragraphs .118 and .119). [FAS33, ¶35] If an enterprise chooses to state net assets, in the five-year summary, at amounts computed from comprehensive financial statements prepared on a historical cost/constant dollar basis or on a current cost/constant dollar basis, that fact shall be disclosed in a note to the five-year summary (refer to paragraph .147). [FAS33, ¶36]

114. Enterprises that own mineral reserves other than oil and gas[2] shall disclose the following information[3] for each of their five most recent fiscal years:

a. Estimates of significant quantities of proved, or proved and probable (whichever is used for cost amortization purposes) mineral reserves, other than oil and gas, at the end of the year, or at the most recent date during the year for which estimates can be made. If estimates are not made as of the end of the year, the disclosures shall indicate the dates for which they apply.
b. The estimated quantity, expressed in physical units or in percentages of reserves, of each mineral product that is recoverable in significant commercial quantities if the mineral reserves included under paragraph .114(a) include deposits containing one or more significant mineral products.
c. The quantities of each significant mineral produced during the year. If the mineral reserves included under paragraph .114(a) are ores that are milled or similarly processed, the quantity of each significant mineral product produced by the milling or similar process also shall be disclosed.
d. The quantity of significant proved, or proved and probable, mineral reserves purchased or sold in place during the year.
e. For each significant mineral product, the average market price, or for mineral products transferred within an enterprise, the equivalent market price prior to use in a manufacturing process. [FAS39, ¶13]

.115 Enterprises shall provide, in their financial reports, explanations of the information disclosed in accordance with this section and discussions of its significance in the circumstances of the enterprise. [FAS33, ¶37]

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[2]Quantity disclosures for oil and gas reserves are required by Section Oi5, "Oil and Gas Industry." [FAS39, ¶13, fn5]

[3]In determining the quantities to be reported in conformity with paragraph .114:

a. If the enterprise issues consolidated financial statements, 100 percent of the quantities attributable to the parent company and 100 percent of the quantities attributable to its consolidated subsidiaries (whether or not wholly owned) shall be included.
b. If the enterprise's financial statements include investments that are proportionately consolidated, the enterprise's quantities shall include its proportionate share of the investee's quantities.
c. If the enterprise's financial statements include investments that are accounted for by the equity method, the investee's quantities shall not be included in the disclosures of the enterprise's quantities. However, the enterprise's (investor's) share of the investee's quantities of reserves shall be reported separately, if significant. [FAS39, ¶14]

[A format that may be used for this presentation is illustrated in paragraph .150.]

.116 The disclosures summarized in paragraphs .107 through .115 are required by this section. Enterprises are encouraged to provide additional information to help users of financial reports understand the effects of changing prices on the activities of the enterprise. [FAS33, ¶38]

Historical Cost/Constant Dollar Measurements

.117 The index used to compute information on a constant dollar basis shall be the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the U.S. Department of Labor.[4] [FAS33, ¶39]

.118 An enterprise that presents the minimum historical cost/constant dollar information required by this section shall restate inventory, property, plant, and equipment, cost of goods sold, depreciation, depletion, and amortization expense and any reductions of the historical cost amounts of inventory, property, plant, and equipment to lower recoverable amounts (refer to paragraph .122) in constant dollars represented by the average level over the fiscal year of the Consumer Price Index for All Urban Consumers. Other financial statement elements need not be restated. An enterprise that chooses to present comprehensive financial statements on a historical cost/constant dollar basis may measure the components of those statements either in average-for-the-year constant dollars or in end-of-year constant dollars. [FAS33, ¶40]

119. If the level of the Consumer Price Index at the end of the year and the data required to compute the average level of the index over the year have not been published in time for preparation of the annual report, they may be estimated by referring to published forecasts based on economic statistics or by extrapolation based on recently reported changes in the index. [FAS33, ¶41]

.120 Inventory and property, plant, and equipment (for computation of the amount of net assets at the end of the current fiscal year for inclusion in the five-year summary of selected financial data [refer to paragraph .113(b)(3)]), cost of goods sold, and depreciation, depletion, and amortization expense shall be measured at their historical cost/constant dollar amounts or lower recoverable amounts. Inventories may need to be reclassified as monetary assets at the date of the use on or commitment to a contract (refer to paragraphs .151 and [.505 through .520]). [FAS33, ¶42]

.121 Measurements of historical cost/constant dollar amounts shall be computed by multiplying the components of the historical cost/nominal dollar measurements by the average level of the Consumer Price Index for the current fiscal year

[4]The index is published in *Monthly Labor Review*. Those desiring prompt and direct information may subscribe to the Consumer Price Index (CPI) press release mailing list of the Department of Labor. [FAS33, ¶39, fn2]

(or the level of the index at the end of the year if comprehensive financial statements are presented) and dividing by the level of the index at the date on which the measurement of the associated asset was established (that is, the date of acquisition or the date of any measurement not based on historical cost). Those measurements may be restated in base-year dollars for inclusion in the five-year summary (refer to paragraph .146). [FAS33, ¶43]

.122 If it is necessary to reduce the measurements of inventory and property, plant, and equipment during the current fiscal year from historical cost/constant dollar amounts to lower recoverable amounts, the reduction shall be deducted in the computation of income from continuing operations. [FAS33, ¶44]

.123 Except as provided in paragraphs .120 through .122 and paragraph .142, the accounting principles used in computing historical cost/constant dollar income shall be the same as those used in computing historical cost/nominal dollar income. Only the measuring unit is changed. [FAS33, ¶45]

.124 Inventory, property, plant, and equipment, and related cost of goods sold and depreciation, depletion, and amortization expense that are originally measured in units of a foreign currency shall first be translated into U.S. dollars in accordance with generally accepted accounting principles and then restated in constant dollars in accordance with the provisions of paragraph .121. [FAS33, ¶46]

Purchasing Power Gain or Loss on Net Monetary Items

.125 A monetary asset is money or a claim to receive a sum of money the amount of which is fixed or determinable without reference to future prices of specific goods or services. A monetary liability is an obligation to pay a sum of money the amount of which is fixed or determinable without reference to future prices of specific goods or services. The economic significance of monetary assets and liabilities (monetary items) depends heavily on the general purchasing power of money, although other factors, such as the credit worthiness of debtors, may affect their significance. [FAS33, ¶47]

.126 All assets and liabilities that are not monetary are nonmonetary. The economic significance of nonmonetary items depends heavily on the value of specific goods and services. Nonmonetary assets include (a) goods held primarily for resale or assets held primarily for direct use in providing services for the business of the enterprise, (b) claims to cash in amounts dependent on future prices of specific goods or services, and (c) residual rights such as goodwill or equity interests. Nonmonetary liabilities include (a) obligations to furnish goods or services in quantities that are fixed or determinable without reference to changes in prices or (b) obligations to pay cash in amounts dependent on future prices of specific goods or services. [FAS33, ¶48]

.127 Guidance on the classification of balance sheet items as monetary or nonmonetary is set forth in paragraphs .151 [and .505 through .520]. [FAS33, ¶49]

.128 The purchasing power gain or loss on net monetary items shall be equal to the net gain or loss found by restating in constant dollars the opening and closing balances of, and transactions in, monetary assets and liabilities. An enterprise that presents comprehensive supplementary financial statements on a historical cost/constant dollar basis may measure the purchasing power gain or loss in average-for-the-year constant dollars or in end-of-year constant dollars; other enterprises shall measure the purchasing power gain or loss in average-for-the-year dollars. An acceptable approximate method of calculating the purchasing power gain or loss on net monetary items is illustrated in paragraphs .173 and .174. [FAS33, ¶50]

Current Cost Measurements

.129 The current cost amounts of inventory and property, plant, and equipment shall be measured as follows:

a. Inventories at current cost or lower recoverable amount (refer to paragraphs .136 through .145) at the measurement date. [FAS33, ¶51]
b. Property, plant, and equipment [including mineral resource assets] at the current cost or lower recoverable amount (refer to paragraphs .136 through .145) of the assets' remaining service potential at the measurement date. (This provision is qualified by paragraph .131 in respect of [timberlands and growing timber,] **income-producing real estate,** [and **motion picture films**].) [FAS39, ¶10]
c. Resources used on partly completed contracts shall be measured at current cost or lower recoverable amount at the date of use on or commitment to the contracts. [FAS33, ¶51]

.130 An enterprise that presents the minimum information required by this section on current cost income from continuing operations shall measure the amounts of cost of goods sold and depreciation, [FAS33, ¶52] depletion, [FAS39, ¶11] and amortization expense as follows: [FAS33, ¶52]

a. Cost of goods sold shall be measured at current cost or lower recoverable amount (refer to paragraphs .136 through .145) at the date of sale or at the date on which resources are used on or committed to a specific contract. [FAS33, ¶52a]
b. Depreciation, depletion, and amortization expense of property, plant, and equipment [including mineral resource assets] shall be measured on the basis of the average current cost or lower recoverable amount (refer to paragraphs

.136 through .145) of the assets' service potential during the period of use. (This provision is qualified by paragraph .131 in respect of [timberlands and growing timber,] income-producing real estate, [and motion picture films].) [FAS39, ¶11]

Other revenues, expenses, gains, and losses may be measured by such an enterprise at the amounts included in the primary income statement. An enterprise that chooses to present comprehensive financial statements on a current cost/constant dollar basis may measure the components of those statements either in average-for-the-year constant dollars or in end-of-year constant dollars. (This paragraph is qualified by paragraph .145 for enterprises that are subject to rate regulation or other form of price control.) [FAS33, ¶52]

.131 When an enterprise presents information on a current cost basis, it shall measure:

a. *Timberlands and growing timber* and related expenses at either their historical cost/constant dollar amounts or at current cost or lower recoverable amounts. [FAS41, ¶7] This provision, together with the provisions of paragraph .109, means that an enterprise needs to present information on a current cost basis only if it has significant holdings of inventory, property, plant, and equipment apart from timberlands and growing timber. [FAS40, ¶4]
b. *Income-producing real estate* and related expenses at either their historical cost/constant dollar amounts or at current cost or lower recoverable amounts. [FAS41, ¶7] This provision, together with the provisions of paragraph .109, means that an enterprise needs to present information on a current cost basis only if it has significant holdings of inventory, property, plant, and equipment apart from income-producing real estate and certain other specialized assets. [FAS41, ¶4]
c. *Motion picture films* and related amortization expense at either their historical cost/constant dollar amounts or at current cost or lower recoverable amounts. [FAS46, ¶8]

.132 If an enterprise estimates the current cost of growing timber and timber harvested by adjusting historical cost for the changes in specific prices, those historical costs may either (a) be limited to the costs that are capitalized in the primary financial statements or (b) include all costs that are directly related to reforestation and forest management, such as planting, fertilization, fire protection, property taxes, and nursery stock, whether or not those costs are capitalized in the primary financial statements. [FAS40, ¶7]

.133 The amount of income tax expense in computations of current cost income from continuing operations shall be the same as the amount of income tax expense charged against income from continuing operations in the primary financial state-

ments. No adjustments shall be made to income tax expense for any timing differences that might be deemed to arise as a result of the use of current cost accounting methods. Income tax expense shall not be allocated between income from continuing operations and the increases or decreases in current cost amounts of inventory and property, plant, and equipment. [FAS33, ¶54]

Increases or Decreases in the Current Cost Amounts of Inventory and Property, Plant, and Equipment

.134 The increases or decreases in the current cost amounts of inventory and property, plant, and equipment represent the differences between the measures of the assets at their *entry dates* for the year and the measures of the assets at their *exit dates* for the year. *Entry dates* means the beginning of the year or the dates of acquisition, whichever is applicable; *exit dates* means the end of the year or the dates of use, sale, or commitment to a specific contract, whichever is applicable. For the purposes of this paragraph, assets are measured in accordance with the provisions of paragraph .129. [FAS33, ¶55]

.135 The increases or decreases in current cost amounts of inventory and property, plant, and equipment shall be reported both before and after eliminating the effects of general inflation. An enterprise that presents comprehensive supplementary statements on a current cost/constant dollar basis may measure increases or decreases in current cost amounts in average-for-the-year constant dollars or in end-of-year constant dollars; other enterprises shall measure those increases or decreases in average-for-the-year constant dollars. An acceptable approximate method of calculating the increases or decreases in current cost amounts and the inflation adjustment is illustrated in paragraphs .175 through .179. [FAS33, ¶56]

Information about Current Costs

.136 The current cost of inventory owned by an enterprise is the current cost of purchasing the goods concerned or the current cost of the resources required to produce the goods concerned (including an allowance for the current overhead costs according to the allocation bases used under generally accepted accounting principles), whichever would be applicable in the circumstances of the enterprise. [FAS33, ¶57]

.137 The current cost of property, plant, and equipment owned by an enterprise is the current cost of acquiring the same service potential (indicated by operating costs and physical output capacity) as embodied by the asset owned; the sources of information used to measure current cost should reflect whatever method of acquisition would currently be appropriate in the circumstances of the enterprise. The current cost of a used asset may be measured:

a. By measuring the current cost of a new asset that has the same service potential as the used asset had when it was new (the current cost of the asset as if it were new) and deducting an allowance for depreciation
b. By measuring the current cost of a used asset of the same age and in the same condition as the asset owned
c. By measuring the current cost of a new asset with a different service potential and adjusting that cost for the value of the differences in service potential due to differences in life, output capacity, nature of service, and operating costs

Current cost may be measured by direct reference to current prices of comparable assets or methods such as functional pricing or unit pricing under which the current cost of a unit of service embodied in the asset owned is measured and the current cost per unit is multiplied by the appropriate number of service units. [FAS33, ¶58]

.138 [Measurements of] the current cost of inventory and property, plant, and equipment located outside the United States should be based on production or purchase of the asset in whatever location or market would minimize total cost including transportation cost. In some cases, the purchase would be made in the United States and current cost would be estimated directly in dollars. In other cases, current cost would be estimated first in an external market, and that cost would be translated into dollars. Such cases may present particular difficulty depending upon the availability of economic information in the country concerned. Experimentation in methods of measurement will be particularly necessary in such cases and approximate methods are acceptable in cases of difficulty. [FAS33, ¶181]

.139 If current cost is measured in a foreign currency, the amount shall be translated into dollars at the current exchange rate, that is, the rate at the date of use, sale, or commitment to a specific contract (in the cases of depreciation expense and cost of goods sold) or the rate at the balance sheet date (in the cases of inventory and property, plant, and equipment). [FAS33, ¶59]

.140 Enterprises may use various types of information to determine the current cost of inventory, property, plant, and equipment, cost of goods sold, and depreciation, depletion, and amortization expense.[5] The information may be gathered and applied internally or externally and may be applied to single items or broad categories, as appropriate in the circumstances. The following types of information are listed as examples of the information that may be used, but they are *not* listed in any order of preferability. Enterprises are expected to select types of

[5]Cost of goods sold measured on a LIFO basis may provide an acceptable approximation of cost of goods sold, measured at current cost, provided that the effect of any decreases in inventory layers is excluded. [FAS33, fn3]

information appropriate to their particular circumstances, giving due consideration to their availability, reliability, and cost:

a. Indexation
   (1) Externally generated price indexes for the class of goods or services being measured
   (2) Internally generated price indexes for the class of goods or services being measured
b. Direct pricing
   (1) Current invoice prices
   (2) Vendors' price lists or other quotations or estimates
   (3) Standard manufacturing costs that reflect current costs [FAS33, ¶60]

.141 The current cost of mineral resource assets is given by current market buying prices or by the current cost of finding and developing mineral reserves. It is recognized that no generally accepted approach exists for measuring the current finding cost of mineral reserves. To indicate the effects of changes in current costs, it may be impracticable to do more than adjust historical cost by an index of the changes in specific prices of the inputs concerned. That approach may fail to yield a close approximation of the current cost of finding and developing new reserves. In recognition of this difficulty, the requirements of this section are flexible regarding the approach used to measure current cost [of mineral resource assets]. The approach may include use of specific price indexes, direct information about market buying prices, and other statistical evidence of the cost of acquisitions. [FAS39, ¶2]

Depreciation Expense

.142 There is a presumption that depreciation methods, estimates of useful lives, and salvage values of assets should be the same for purposes of current cost, historical cost/constant dollar, and historical cost/nominal dollar depreciation calculations. However, if the methods and estimates used for calculations in the primary financial statements have been chosen partly to allow for expected price changes, different methods and estimates may be used for purposes of current cost and historical cost/constant dollar calculations. [FAS33, ¶61]

Recoverable Amounts

.143 The term *recoverable amount* means the current worth of the net amount of cash expected to be recoverable from the use or sale of an asset. If the recoverable amount for a group of assets is judged to be materially and permanently lower than historical cost in constant dollars or current cost, the recoverable amount shall be used as a measure of the assets and of the expense associated with the use or sale of the assets. Decisions on the measurement of assets at their recoverable

amounts need not be made by considering assets individually unless they are used independently of other assets. [FAS33, ¶62]

.144 Recoverable amounts may be measured by considering the net realizable values or the values in use of the assets concerned:

a. *Net realizable value* is the amount of cash, or its equivalent, expected to be derived from sale of an asset net of costs required to be incurred as a result of the sale. It shall be considered as a measurement of an asset only when the asset concerned is about to be sold.
b. *Value in use* is the net present value of future cash flows (including the ultimate proceeds of disposal) expected to be derived from the use of an asset by the enterprise. It shall be considered as a measurement of an asset only when immediate sale of the asset concerned is not intended. Value in use shall be estimated by discounting expected future cash flows at an appropriate discount rate that allows for the risk of the activities concerned. [FAS33, ¶63]

.145 An enterprise that is subject to rate regulation or other form of price control may be limited to a maximum recovery through its selling prices, based on the nominal dollar amount of the historical cost of its assets. In that situation, nominal dollar/historical costs may represent an appropriate basis for the measurement of the recoverable amounts associated with the assets at the end of the fiscal year. Recoverable amounts may also be lower than historical costs. However, cost of goods sold and depreciation, depletion, and amortization expense shall be measured at historical cost/constant dollar amounts (in measurements of historical cost/constant dollar income from continuing operations) or at current cost (in measurements of current cost income from continuing operations) provided that replacement of the service potential provided by the related assets would be undertaken, if necessary, in current economic conditions; if replacement would not be undertaken, expenses shall be measured at recoverable amounts. [FAS33, ¶64]

Five-Year Summary of Selected Financial Data

.146 The information presented in the five-year summary shall be stated either:

a. In average-for-the-year constant dollars or end-of-year constant dollars (whichever is used for the measurement of income from continuing operations) as measured by the Consumer Price Index for All Urban Consumers for the current fiscal year
b. In dollars having a purchasing power equal to that of dollars of the base period used by the Bureau of Labor Statistics in calculating the Consumer Price Index (currently 1967) [FAS33, ¶65]

.147 If an enterprise presents the minimum information required by this section, it shall measure net assets (that is, shareholders' equity) for the purposes of the five-year summary:

a. On a historical cost/constant dollar basis at the amount reported in its primary financial statements adjusted for the difference between the historical cost/nominal dollar amounts and the historical cost/constant dollar amounts of lower recoverable amounts of inventory and property, plant, and equipment
b. On a current cost basis at the amount reported in its primary financial statements, adjusted for the difference between the historical cost/nominal dollar amounts and the current cost or lower recoverable amounts of inventory and property, plant, and equipment and restated in constant dollars in accordance with paragraph .146

If an enterprise elects to present comprehensive supplementary financial statements on a current cost/constant dollar basis, or on a historical cost/constant dollar basis, it may report the amount of net assets in the five-year summary in accordance with the comprehensive statements. [FAS33, ¶66]

Transition Provisions

.148 An enterprise is required to state, in the five-year summary of selected financial data, only the following amounts for fiscal years ended before December 25, 1979: net sales and other operating revenues, cash dividends declared per common share at fiscal year-end (paragraphs .113(a), (d)(2), and (d)(3)). Disclosure of the other items listed in paragraph .113 for fiscal years ended before December 25, 1979 is encouraged. Disclosure of current cost information in the five-year summary (paragraph .113(c)) for fiscal years ending before December 25, 1980 may be postponed to the first annual report for a fiscal year ending on or after December 25, 1980. [FAS33, ¶68] An enterprise that first applies the requirements of this section for a fiscal year ended on or after December 25, 1980 is required to state for earlier years, in its five-year summary, only the following items listed in paragraph .113: net sales and other operating revenues (item (a)), cash dividends declared per common share (item (d)(2)), and market price per common share at fiscal year-end (item (d)(3)). Disclosure of the other items listed in paragraph .113 for earlier years is encouraged. [FAS33, ¶69]

Illustrations of Disclosures

.149 Exhibits 149A through 149C illustrate formats that may be used to disclose the information required by this section. The illustrations relate to a manufacturing enterprise. Clear presentations and explanations are important if information on the effects of changing prices is to be as useful as possible. Enterprises are encouraged to experiment with the use of different forms of presentation. [FAS33, ¶70]

Exhibit 149A

Statement of Income from Continuing Operations Adjusted for Changing Prices

For the Year Ended December 31, 19X9
(in 000s of average 19X9 dollars)

Income from continuing operations, as reported in the income statement		$ 9,000
Adjustments to restate costs for the effect of general inflation		
Cost of goods sold	$(7,384)	
Depreciation and amortization expense	(4,130)	(11,514)
Loss from continuing operations adjusted for general inflation		(2,514)
Adjustments to reflect the difference between general inflation and changes in specific prices (current costs)		
Cost of goods sold	$(1,024)	
Depreciation and amortization expense	(5,370)	(6,394)
Loss from continuing operations adjusted for changes in specific prices		$(8,908)
Gain from decline in purchasing power of net amounts owed		$ 7,729
Increase in specific prices (current cost) of inventories and property, plant, and equipment held during the year*		$24,608
Effect of increase in general price level		18,959
Excess of increase in specific prices over increase in the general price level		$ 5,649

*At December 31, 19X9, current cost of inventory was $65,700 and current cost of property, plant, and equipment, net of accumulated depreciation, was $85,100. [FAS33, ¶70]

Exhibit 149B

Statement of Income from Continuing Operations Adjusted for Changing Prices
For the Year Ended December 31, 19X9
(In (000s) of Dollars)

	As Reported in the Primary Statements	Adjusted for General Inflation	Adjusted for Changes in Specific Prices (Current Costs)
Net sales and other operating revenues	$253,000	$253,000	$253,000
Cost of goods sold	197,000	204,384	205,408
Depreciation and amortization expense	10,000	14,130	19,500
Other operating expense	20,835	20,835	20,835
Interest expense	7,165	7,165	7,165
Provision for income taxes	9,000	9,000	9,000
	244,000	255,514	261,908
Income (loss) from continuing operations	$ 9,000	$ (2,514)	$ (8,908)
Gain from decline in purchasing power of net amounts owed		$ 7,729	$ 7,729
Increase in specific prices (current cost) of inventories and property, plant, and equipment held during the year*			$ 24,608
Effect of increase in general price level			18,959
Excess of increase in specific prices over increase in the general price level			$ 5,649

*At December 31, 19X9 current cost of inventory was $65,700 and current cost of property, plant, and equipment, net of accumulated depreciation was $85,100. [FAS33, ¶70]

Exhibit 149B

Statement of Income from Continuing Operations Adjusted for Changing Prices
For the Year Ended December 31, 19X9
(In (000s) of Dollars)

	As Reported in the Primary Statements	Adjusted for General Inflation	Adjusted for Changes in Specific Prices (Current Costs)
Net sales and other operating revenues	$253,000	$253,000	$253,000
Cost of goods sold	197,000	204,384	205,408
Depreciation and amortization expense	10,000	14,130	19,500
Other operating expense	20,835	20,835	20,835
Interest expense	7,165	7,165	7,165
Provision for income taxes	9,000	9,000	9,000
	244,000	255,514	261,908
Income (loss) from continuing operations	$ 9,000	$ (2,514)	$ (8,908)
Gain from decline in purchasing power of net amounts owed		$ 7,729	$ 7,729
Increase in specific prices (current cost) of inventories and property, plant, and equipment held during the year*			$ 24,608
Effect of increase in general price level			18,959
Excess of increase in specific prices over increase in the general price level			$ 5,649

*At December 31, 19X9 current cost of inventory was $65,700 and current cost of property, plant, and equipment, net of accumulated depreciation was $85,100. [FAS33, ¶70]

Exhibit 149C

Five-Year Comparison of Selected Supplementary Financial Date Adjusted for Effects of Changing Prices (In (000s) of Average 19X9 Dollars)

	Years Ended December 31,				
	19X5	19X6	19X7	19X8	19X9
Net sales and other operating revenues	$265,000	$235,000	$240,000	$237,063	$253,000
Historical Cost information adjusted for general inflation					
Income (loss) from continuing operations				(2,761)	(2,514)
Income (loss) from continuing operations per common share				$ (1.91)	$ (1.68)
Net assets at year-end				55,518	57,733
Current cost information					
Income (loss) from continuing operations				(4,125)	(8,908)
Income (loss from continuing operations per common share				$ (2.75)	$ (5.94)
Excess of increase in specific prices over increase in the general price level				2,292	5,649
Net assets at year-end				79,996	81,466
Gain from decline in purchasing power of net amounts owned				7,027	7,729
Cash dividends declared per common share	$ 2.59	$ 2.43	$ 2.26	$ 2.16	$ 2.00
Market price per common share at year-end	$ 32	$ 31	$ 43	$ 39	$ 35
Average consumer price index	170.5	181.5	195.4	205.3	220.9

[FAS33, ¶70]

Illustrations of Mineral Reserves Disclosures

.150 Exhibit 150A illustrates a format for presenting quantity and price information relating to an enterprise's mineral reserves other than oil and gas. The format given here is only an illustration and is not intended to constrain enterprises from experimenting with the use of different forms of presentation. [FAS39, ¶17]

Exhibit 150A

Illustration of Supplementary Operating Statistics
For a Mining Enterprise
For the Five Years Ended 19X5

	19X5	19X4	19X3	19X2	19X1
Proven and probable ore reserves at beginning of year (Note)					
Tons (thousands)	21,000	21,500	22,000	23,000	24,000
Copper (percent)	1.109	1.109	1.109	1.109	1.109
Lead (percent)	5.99	5.98	5.98	5.98	5.98
Silver (ounces/tons)	3.79	3.80	3.80	3.75	3.75
Tons of ore milled (thousands)	1,025	1,000	890	900	850
Metal produced (thousands)					
- copper (pounds)	17,250	18,480	16,880	10,980	11,220
- lead (pounds)	92,700	92,400	75,450	53,910	45,750
- silver (ounces)	2,800	2,803	2,270	1,850	1,540
Average market price					
- copper (cents per pound)	85	75	68	72	61
- lead (cents per pound)	44	40	36	36	32
- silver (cents per ounce)	510	400	350	368	325

Proved reserves—The estimated quantities of commercially recoverable reserves that, on the basis of geological, geophysical, and engineering data, can be demonstrated with a reasonably high degree of certainty to be recoverable in the future from known mineral deposits by either primary or improved recovery methods.

Probable reserves—The estimated quantities of commercially recoverable reserves that are less well defined than proved reserves and that may be estimated or indicated to exist on the basis of geological, geophysical, and engineering data.

This [exhibit] illustrates one method of disclosing information about quantities of minerals owned, marketable products produced, and average market prices for those products. Other formats are acceptable. Information about ore grades and differentiations between the production of ores and of marketable product may not be appropriate for some

minerals. The classification and degree of detail should follow normal industry practice. Beginning-of-year reserves are used for illustrative purposes. The requirement is for end-of-year or the most recent date during the year. Ranges of prices during the year may be supplied in addition to average prices. [FAS39, ¶17]

Monetary and Nonmonetary Items

.151 Exhibit 151A provides guidance on the interpretation of paragraphs .125 and .126 for the classification of certain asset and liability items as monetary or nonmonetary. It is not intended to provide answers that should be followed regardless of the circumstances of the case. Rather, the intent is to illustrate the application of the definitions to common cases under typical circumstances. In other circumstances the classification should be resolved by reference to the definitions [in the glossary]. [FAS33, ¶208] [The supplemental information in paragraphs .504 through .520 provides additional guidance on classification.]

Exhibit 151A

Examples of Monetary and Nonmonetary Items

Assets

	Monetary	Nonmonetary
Cash on hand and demand bank deposits (U.S. dollars)	X	
Time deposits (U.S. dollars)	X	
Foreign currency on hand and claims to foreign currency†	X	
Securities:		
Common stocks (not accounted for on the equity method)		X
Common stocks represent residual interests in the underlying net assets and earnings of the issuer.		
Preferred stock (convertible or participating)		
Circumstances may indicate that such stock is either monetary or nonmonetary.		
Refer to convertible bonds.	(Refer to discussion.)	
Preferred stock (nonconvertible, nonparticipating)		
Future cash receipts are likely to be substantially unaffected by changes in specific prices.	X	

Exhibit 151A (continued)

	Monetary	Nonmonetary
Convertible bonds If the market values the security primarily as a bond, it is monetary; if it values the security primarily as a stock, it is nonmonetary.	(Refer to discussion.)	
Bonds (other than convertibles)	X	
Accounts and notes receivable	X	
Allowance for doubtful accounts and notes receivable	X	
Variable rate mortgage loans The terms of such loans do not link them directly to the rate of inflation. Also, there are practical reasons for classifying all loans as monetary.	X	
Inventories used on contracts They are, in substance, rights to receive sums of money if the future cash receipts on the contracts will not vary due to future changes in specific prices. (Goods used on contracts to be priced at market upon delivery are nonmonetary.)	(Refer to discussion.)	
Inventories (other than inventories used on contracts)		X
Loans to employees	X	
Prepaid insurance, advertising, rent, and other prepayments Claims to future services are nonmonetary. Prepayments that are deposits, advance payments, or receivables are monetary because the prepayment does not obtain a given quantity of future services, but rather is a fixed money offset.	(Refer to discussion.)	
Long-term receivables	X	
Refundable deposits	X	
Advances to unconsolidated subsidiaries	X	
Equity investment in unconsolidated subsidiaries or other investees*		X
Pension, sinking, and other funds under an enterprise's control		

Exhibit 151A (continued)

	Monetary	Nonmonetary
The specific assets in the fund should be classified as monetary or nonmonetary. (Refer to listings under securities above.)	(Refer to discussion.)	
Property, plant, and equipment		X
Accumulated depreciation of property, plant, and equipment		X
Cash surrender value of life insurance	X	
Purchase commitments—portion paid on fixed price contracts		X
An advance on a fixed price contract is the portion of the purchaser's claim to nonmonetary goods or services that is recognized in the accounts; it is not a right to receive money.		
Advances to supplier—not on a fixed price contract	X	
A right to receive credit for a sum of money; [it is] not a claim to a specified quantity of goods or services.		
Deferred income tax charges†	X	
[These are] offsets to prospective monetary liabilities.		
Patents, trademarks, licenses and formulas		X
Goodwill		X
Deferred life insurance policy acquisition costs†	X	
The portion of future cash receipts for premiums that is recognized in the accounts. Alternatively, viewed as an offset to the policy reserve.		
Deferred property and casualty insurance policy acquisition costs related to unearned premiums		X
Other intangible assets and deferred charges		X
Liabilities		
Accounts and notes payable	X	
Accrued expenses payable (wages, etc.)	X	
Accrued vacation pay		
Nonmonetary if it is paid at the		

Exhibit 151A (continued)

	Monetary	Nonmonetary
wage rates as of the vacation dates and if those rates may vary.	(Refer to discussion.)	
Cash dividends payable	X	
Obligations payable in foreign currency	X	
Sales commitments—portion collected on fixed price contracts		X
An advance received on a fixed price contract is the portion of the seller's obligation to deliver goods or services that is recognized in the accounts; it is not an obligation to pay money.		
Advance from customers—not on a fixed price contract	X	
Equivalent of a loan from the customer; not an obligation to furnish a specified quantity of goods or services.		
Accrued losses on firm purchase commitments	X	
In essence, these are accounts payable.		
Deferred revenue		
Nonmonetary if an obligation to furnish goods or services is involved. Certain deferred income items of savings and loan associations are monetary.	(Refer to discussion.)	
Refundable deposits	X	
Bonds payable and other long-term debt	X	
Unamortized premium or discount and prepaid interest on bonds or notes payable	X	
Inseparable from the debt to which it relates—a monetary item.		
Convertible bonds payable	X	
Until converted these are obligations to pay sums of money.		
Accrued pension obligations		
Fixed amounts payable to a fund are monetary; all other amounts are nonmonetary.	(Refer to discussion.)	
Obligations under warranties		X
These are nonmonetary because they oblige the enterprise to furnish goods or services or their future price.		

Exhibit 151A (continued)

	Monetary	Nonmonetary
wage rates as of the vacation dates and if those rates may vary.	(Refer to discussion.)	
Cash dividends payable	X	
Obligations payable in foreign currency	X	
Sales commitments—portion collected on fixed price contracts		X
An advance received on a fixed price contract is the portion of the seller's obligation to deliver goods or services that is recognized in the accounts; it is not an obligation to pay money.		
Advance from customers—not on a fixed price contract	X	
Equivalent of a loan from the customer; not an obligation to furnish a specified quantity of goods or services.		
Accrued losses on firm purchase commitments	X	
In essence, these are accounts payable.		
Deferred revenue		
Nonmonetary if an obligation to furnish goods or services is involved. Certain deferred income items of savings and loan associations are monetary.	(Refer to discussion.)	
Refundable deposits	X	
Bonds payable and other long-term debt	X	
Unamortized premium or discount and prepaid interest on bonds or notes payable	X	
Inseparable from the debt to which it relates—a monetary item.		
Convertible bonds payable	X	
Until converted these are obligations to pay sums of money.		
Accrued pension obligations		
Fixed amounts payable to a fund are monetary; all other amounts are nonmonetary.	(Refer to discussion.)	
Obligations under warranties		X
These are nonmonetary because they oblige the enterprise to furnish goods or services or their future price.		

Exhibit 151A (continued)	Monetary	Nonmonetary
Deferred income tax credits†	X	
Cash requirements will not vary materially due to changes in specific prices.		X
Deferred investment tax credits		X
Not to be settled by payment of cash; associated with nonmonetary assets.		
Life insurance policy reserves	X	
Portions of policies' face values that are now deemed liabilities.		
Property and casualty insurance loss reserves	X	
Unearned property and casualty insurance premiums		X
These are nonmonetary because they are principally obligations to furnish insurance coverage. The dollar amount of payments to be made under that coverage might vary materially due to changes in specific prices.		
Deposit liabilities of financial institutions	X	

*If an investment is accounted for on the equity method, and if the investor is preparing comprehensive constant dollar financial statements, the financial statements of the investee theoretically should be restated in constant dollars and the equity method should then be applied. However, if restated financial statements cannot be obtained from the investee, the investor may be able to prepare such statements using nominal dollar information that is available, such as nominal dollar financial statements for a series of years. As a simpler alternative, an investor that prepares comprehensive constant dollar statements merely could restate the entries in the investment account as recorded in accordance with the equity method.

†Although classification of this item as nonmonetary may be technically preferable, the monetary classification provides a more practical solution for the purposes of constant dollar accounting. [FAS33, ¶208]

Illustrative Calculations to Compute Historical Cost/Constant Dollar Information and Current Cost Information

.152 Paragraphs .153 through .183 give an example of the methodology that might be used in calculating the disclosures illustrated in Exhibits 149A through 149C. [FAS33, ¶209]

.153 Computation of historical cost/constant dollar information and of current cost information could be based on a detailed analysis of all transactions and an updating of all revenues, expenses, gains, and losses to reflect changes in purchasing power. However, the costs of preparing the information can be reduced with little loss of usefulness by simplifying the methods of calculation. Therefore, reve-

nues, expenses, gains, and losses except cost of sales and depreciation expense need not be adjusted from the amounts shown in the primary income statement, and approximate methods of computation are acceptable for adjusting cost of sales and depreciation expense (and the related asset measurements). The *measurement* of current cost is not illustrated in this section. However, enterprises may find it convenient to follow the methods of measurement illustrated for historical cost/constant dollar measurements, using specific price indexes in place of general price indexes. [FAS33, ¶210]

.154 The objective in making these calculations is to obtain a *reasonable degree* of accuracy—complete precision is not required. Preparers are encouraged to devise short-cut methods of calculation appropriate to their individual circumstances. [illegible] [FAS33, ¶211]

.155 If inventories and cost of sales are accounted for under the LIFO method in the primary financial statements, the only adjustment normally required in computing income from continuing operations would be to eliminate the effect of changing prices on any prior period LIFO layer liquidation. [FAS33, ¶212]

.156 The following sample calculations illustrate the minimum required calculations (in paragraphs .165 through .179). A method of checking the arithmetical accuracy of the calculations is included in paragraphs .180 and .182. [FAS33, ¶213]

.157 Throughout this illustration [illegible] and [illegible] [FAS33, ¶214]

.158 The results of these calculations, summarized in paragraph .182, are reflected in the illustrative disclosures in Exhibits 149A through 149C. [FAS33, ¶215]

[illegible]

.159 Seven basic steps to restate nominal dollar information (on either a historical cost basis or a current cost basis) into constant dollars are illustrated in paragraphs .164 through .182 [(based on information in Exhibits 159A and 159B and paragraphs .160 through .163)].

a. Analyze inventory (at the beginning and end of the year) and cost of goods sold to determine when the costs were incurred.
b. Restate inventory and cost of goods sold into constant dollars and current cost.

c. Analyze property, plant, and equipment and related depreciation, depletion, and amortization expense to determine when the related assets were acquired.
d. Restate property, plant, and equipment and depreciation, depletion, and amortization expense into constant dollars and current cost.
e. Identify amount of net monetary items at the beginning and end of the period and changes during the period (refer to Exhibit 151A).
f. Compute the purchasing power gain and loss on net monetary items.
g. Compute change in current cost of inventory and property, plant, and equipment and the related effect of the increase in the general price level. [FAS33, ¶216]

Exhibit 159A

Historical Cost/Nominal Dollar Financial Statements and Other Background Information

Balance Sheets as at December 31, 19X9 and 19X8
(000s)

	19X9	19X8		19X9	19X8
Current assets:			Current liabilities:		
Cash	$ 1,000	$ 2,000	Bank indebtedness	$ 35,000	$ 22,000
Accounts receivable	36,000	30,000	Accounts payable and accrued expenses	12,000	10,000
Inventories, at FIFO cost	63,000	56,000	Income taxes payable	6,000	6,000
Total current assets	100,000	88,000	Current portion of long-term debt	5,000	5,000
Property, plant, and equipment, at cost	100,000	85,000	Total current liabilities	58,000	43,000
Less accumulated depreciation	56,000	46,000	Deferred income taxes	6,000	5,000
	44,000	39,000	Long-term debt	34,000	39,000
			Total liabilities	98,000	87,000
			Shareholders' equity	46,000	40,000
	$144,000	$127,000		$144,000	$127,000

[FAS33, ¶217]

d. At December 31, 19X9, the selling price per unit was $85. [FAS33, ¶218]

.161 Property, Plant, and Equipment

a. Details of fixed assets at December 31, 19X9 are as follows:

Date Acquired	Percent Depreciated	Historical Cost (000s)	Accumulated Depreciation (000s)
19X2	80	$ 50,000	$40,000
19X3	70	5,000	3,500
19X4	60	5,000	3,000
19X5	50	5,000	2,500
19X6	40	5,000	2,000
19X7	30	5,000	1,500
19X8	20	10,000	2,000
19X9	10	15,000	1,500
		$100,000	$56,000

b. Depreciation is calculated at 10 percent per annum, straight-line. A full year's depreciation is charged in the year of acquisition.

c. There were no disposals.

d. Management has measured the current cost of property, plant, and equipment at December 31, 19X9 and 19X8 as follows:

(000s)

Date Acquired	December 31, 19X9 Current Cost	December 31, 19X9 Accumulated Depreciation	December 31, 19X8 Current Cost	December 31, 19X8 Accumulated Depreciation
19X2	$120,000	$ 96,000	$110,000	$ 77,000
19X3	10,000	7,000	6,000	3,600
19X4	15,000	9,000	7,000	3,500
19X5	18,000	9,000	12,000	4,800
19X6	12,000	4,800	10,000	3,000
19X7	17,000	5,100	15,000	3,000
19X8	12,000	2,400	10,000	1,000
19X9	16,000	1,600	—	—
	220,000	$134,900	170,000	$ 95,900
Accumulated depreciation	134,900		95,900	
Net current cost	$ 85,100		$ 74,100	

Exhibit 159B

Statement of Earnings and Shareholders' Equity for the Years Ended December 31, 19X9 and 19X8 (000s)

	19X9	19X8
Sales	$253,000	$220,000
Cost of goods sold, exclusive of depreciation	197,000	170,600
Selling, general, and administrative expenses	20,835	25,500
Depreciation	10,000	8,500
Interest	7,165	3,400
	235,000	208,000
Earnings before taxes	18,000	12,000
Income taxes	9,000	6,000
Net income	9,000	6,000
Shareholders' equity at beginning of year	40,000	37,000
	49,000	43,000
Dividends	3,000	3,000
Shareholders' equity at end of year	$ 46,000	$ 40,000
Net income per share	$ 6.00	$ 4.00

[FAS33, ¶217]

.160 Inventory and Production

a. Inventory is accounted for on a FIFO basis and turns over four times per year. There is no significant amount of work in progress or raw material.

b. At December 31, 19X9 and 19X8, inventory consisted of 900,000 units and 1,000,000 units respectively—representing production of the immediately preceding quarter. Management has measured the current cost of inventory at $73 per unit at December 31, 19X9 ($65,700,000) and $58 per unit at December 31, 19X8 ($58,000,000).

c. Costs were incurred and goods produced as follows:

	19X8	19X9				
	4th	1st	2nd	3rd	4th	Total
Historical Costs (000s)	$56,000	$39,560	$59,400	$42,040	$63,000	$204,000
Units produced (000s)	1,000	618	900	618	900	3,036
Units sold (000s)		1,000	618	900	618	3,136

e. The net recoverable amount has been determined by management to be in excess of net current cost. [FAS33, ¶219]

.162 Dividends: Dividends were p[illegible] at the rate of $750,000 per quarter. [FAS33, ¶220]

.163 Consumer Price Index (All Urban Consumers) [for 19X2 through 19X9 is as follows:]

Average	19X2	133.1	Average 4th Qtr.	19X8*	210.0
"	19X3	147.7	Average 4th Qtr.	19X9*	237.8
"	19X4	161.2	December	19X8	212.9
"	19X5	170.5	December	19X9	243.5
"	19X6	181.5			
"	19X7	195.4			
"	19X8	205.0			
"	19X9	220.9†			

*Calculated by averaging the estimated monthly indexes for each quarter.
†Calculated by averaging the estimated monthly indexes for 19X9. The index for the last month of the year may not be available at the time of preparing the supplemental disclosures and may be estimated by extrapolating the rate of change for the previous month. [FAS33, ¶221]

Objective

.164 The objective is to express the supplementary information in average 19X9 dollars. As indicated in paragraph .153, nominal dollar measurements are to be used for all elements other than inventory, property, plant, and equipment, cost of sales, depreciation, and increases in current cost amounts of inventory and property, plant, and equipment. [FAS33, ¶222]

Inventory and Cost of Goods Sold

.165 *Step 1: Analyze inventory and cost of goods sold.* Inventory is assumed to turn over four times per year (refer to paragraph .164). Therefore, inventory with a historical cost of $63,000 at December 31, 19X9 is assumed to have been acquired during the fourth quarter of 19X9 and inventory with a historical cost of $56,000 at December 31, 19X8 is assumed to have been acquired in the fourth quarter of 19X8. [FAS33, ¶223]

.166 *Step 2: Restate historical cost of inventory and cost of goods sold into average 19X9 dollars and at current cost.* Inventory [is restated as follows:]

	(000s)	
	Historical Cost/ Constant Dollars	Current Cost
$63,000* × 220.9 (average 19X9) / 237.8 (4th qtr. 19X9)	C$ 58,523	$65,700†

*From paragraph .160(c).
†From paragraph .160(b). [FAS33, ¶224]

.167 Cost of goods sold, historical cost/constant dollar, [is computed as follows:]

	(000s)		
	Nominal Dollars	Conversion Factor	Average 19X9 Dollars
Balance, January 1, 19X9	$ 56,000	× 220.9 (avg. 19X9) / 210.0 (4th qtr. 19X8)	C$ 58,907
Production during 19X9 (refer to paragraph .160(c))	204,000	*	204,000
Balance, December 31, 19X9	(63,000)	× 220.9 (avg. 19X9) / 237.8 (4th qtr. 19X9)	(58,523)
Cost of goods sold	$197,000		C$204,384

*Assumed to be in average 19X9 dollars. [FAS33, ¶225]

.168 Cost of goods sold, current cost is [as follows]:

Current cost at the beginning of the year	$ 58/unit
Current cost at the end of the year	73/unit
	$ 131/unit
Average current cost ($131 × ½)	$ 65.5/unit
Units sold during the year (000s)	3,136
Average current cost of goods sold (000s)	$205,408

[FAS33, ¶226]

.169 In applying this section, the historical cost/constant dollar and current cost amounts should be compared to the recoverable amount. This is illustrated below:

Market price/unit at year-end (from paragraph .160(d))	$85
Restated to average 19X9 dollars:	
$85 x 220.9 (average 19X9) / 243.5 (Dec. 19X9)	C$ 77.11
Historical cost/constant dollar:	(000s)
Market value of inventory on hand at year-end (77.11 x 900,000)	C$ 69,399
Restated historical cost (refer to paragraph .167)	58,523
Excess—no write-down required	C$ 10,876
Current cost:	
Market value per unit at year-end	$85
Current cost per unit of inventory on hand at year-end (refer to paragraph .160(b))	73
Excess—no write-down required	$12

[FAS33, ¶227]

Property, Plant, and Equipment and Depreciation, Depletion, and Amortization Expense

.170 *Step 3: Analyze property, plant, and equipment and depreciation, depletion, and amortization.* An analysis of property, plant, and equipment is given in paragraph .162. It normally will not be necessary to restate the cost and accumulated depreciation for each asset individually in order to obtain an acceptable level of accuracy. Satisfactory results can normally be obtained by using annual totals of acquisitions and dispositions and the average index for the year of acquisition and disposal. Moreover, assets acquired many years before the balance sheet date might be combined into convenient groups if there is some doubt about the specific years of acquisition or if changes in the index for several years can be considered on an average basis. For example, the cost of all assets acquired between 1945 and 1950 could be measured by reference to an index representing an average of those years. [FAS33, ¶228]

.171 *Step 4: Restate property, plant, and equipment and depreciation, depletion, and amortization expense into constant dollars and current cost.* Historical cost or property, plant, and equipment in average 19X9 dollars [is presented in Exhibit 171A.] [FAS33, ¶229]

Exhibit 171A

Historical Cost of Property, Plant, and Equipment in Average 19X9 Dollars

Date of Acquisition	(1) Historical Cost/ Nominal Dollars (000s)	(2) Conversion Factor	(3) (1) x (2) Historical Cost/ Constant Dollars (000s)	(4) Percent Depreciated	(5) (3) x (4) Accumulated Depreciation (000s)	(6) (3) – (5) Net
19X2	$ 50,000	x 220.9 (Avg. 19X9) / 133.1 (Avg. 19X2) =	C$ 82,983	80	C$66,386	
19X3	5,000	x 220.9 (Avg. 19X9) / 147.7 (Avg. 19X3) =	7,478	70	5,235	
19X4	5,000	x 220.9 (Avg. 19X9) / 161.2 (Avg. 19X4) =	6,852	60	4,111	
19X5	5,000	x 220.9 (Avg. 19X9) / 170.5 (Avg. 19X5) =	6,478	50	3,239	
19X6	5,000	x 220.9 (Avg. 19X9) / 181.5 (Avg. 19X6) =	6,085	40	2,434	
19X7	5,000	x 220.9 (Avg. 19X9) / 195.4 (Avg. 19X7) =	5,652	30	1,696	
19X8	10,000	x 220.9 (Avg. 19X9) / 205.0 (Avg. 19X8) =	10,776	20	2,155	
19X9	15,000	x 220.9 (Avg. 19X9) / 220.9 (Avg. 19X9) =	15,000	10	1,500	
	$100,000		C$141,304		C$86,756	C$54,548

Historical cost/constant dollar depreciation expense for 19X9 is calculated as follows:

C$141,304 (column (3) x 10% straight-line = $14,130 [FAS33, ¶229]

Property, Plant, and Equipment at Current Cost

.172 It will usually be appropriate to calculate current cost depreciation, depletion, and amortization expense by reference to average current cost of the related assets (current cost of assets at beginning of year and current cost of assets at end of year ÷ 2).

	Current Cost (000s)
Current cost, December 31, 19X8 (refer to paragraph .161(d))	$170,000
Current cost, December 31, 19X9 (refer to paragraph .161(d))	220,000
[Total]	$390,000
	÷ 2
Average current cost	$195,000
Current cost depreciation: 10% straight-line	$ 19,500

In this example, management has determined that the *recoverable amount* is greater than net current cost of property, plant, and equipment and there is no write-down required. [FAS33, ¶230]

Purchasing Power Gain on Net Monetary Items

.173 *Step 5: Identify monetary items at the beginning and end of the period and change during the period.* Monetary items [are identified as follows:]

	(000s) Balance*	
	Dec. 19X9	Dec. 19X8
Cash	$ 1,000	$ 2,000
Accounts receivable	36,000	30,000
Bank indebtedness	(35,000)	(22,000)
Accounts payable and accrued expenses	(12,000)	(10,000)
Income taxes payable	(6,000)	(6,000)
Current portion of long-term debt	(5,000)	(5,000)
Deferred income taxes	(6,000)	(5,000)
Long-term debt	(34,000)	(39,000)
Net monetary liabilities	$ (61,000)	$ (55,000)

*Refer to Exhibit 159A. [FAS33, ¶231]

.174 *Step 6: Compute the purchasing power gain or loss on net monetary items.* The amount of net monetary items at the beginning of the year, changes in the net monetary items, and the amount at the end of the year are restated into 19X9 dollars. The purchasing power gain or loss on net monetary items is then the balancing item as illustrated below:

Why not year end dollars?

	(000s)		
	Nominal Dollars	Conversion Factor	Average 19X9 Dollars
Balance, January 1, 19X9	$55,000	× 220.9 (avg. 19X9) / 212.9 (Dec. 19X8)	C$57,067
Increase in net monetary liabilities during the year	6,000	*	6,000
			63,067
Balance, December 31, 19X9	$61,000	× 220.9 (avg. 19X9) / 243.5 (Dec. 19X9)	55,338
Purchasing power gain on net monetary items			C$ 7,729

*Assumed to be in average 19X9 dollars. [FAS33, ¶232]

Increase in Current Cost of Inventories and Property, Plant, and Equipment

.175 *Step 7: Compute change in current cost of inventory and property, plant, and equipment and effect of the increase in the general price level.* Increase in current cost of inventories [is computed as follows:]

	(000s)		
	Current Cost/ Nominal Dollars	Conversion Factor	Current Cost/ Average 19X9 Dollars
Balance, January 1, 19X9 (refer to paragraph .160(b))	$58,000	× 220.9 (avg. 19X9) / 212.9 (Dec. 19X8)	C$ 60,179
Production (refer to paragraph .160(c))	204,000	*	204,000
Cost of goods sold (refer to paragraph .168)	(205,408)	*	(205,408)
Balance, December 31, 19X9 (refer to paragraph .160(b))	(65,700)	× 220.9 (avg. 19X9) / 243.5 (Dec. 19X9)	(59,602)
Increase/(decrease) current cost of inventories	$ 9,108		C$ 831

*Assumed to be in average 19X9 dollars. [FAS33, ¶233]

.176 The *inflation component* of the increase in current cost amount is the difference between the nominal dollar and constant dollar measures. Using the numbers from paragraph .175, [it is computed as follows:]

	(000s)
Increase in current cost (nominal dollars)	$9,108
Increase in current cost (constant dollars)	C$ 831
Inflation component	8,277

[FAS33, ¶234]

.177 Increase in current cost of property, plant, and equipment [is determined as follows:]

	(000s)		
	Current Cost/ Nominal Dollars	Conversion Factor	Current Cost/ Average 19X9 Dollars
Balance, January 1, 19X9 (refer to paragraph .161(d))	$74,100	× 220.9 (avg. 19X9) / 212.9 (Dec. 19X8)	C$ 76,884
Additions (refer to paragraph .161(a))	15,000	*	15,000
Depreciation expense (refer to paragraph .172)	(19,500)	*	(19,500)
Balance, December 31, 19X9 (paragraph .161(d))	(85,100)	× 220.9 (avg. 19X9) / 243.5 (Dec. 19X9)	(77,202)
Increase in current cost of property, plant, and equipment	$ 15,500		C$ 4,818

*Assumed to be in average 19X9 dollars. [FAS33, ¶235]

.178 The *inflation component* of the increase in current cost amount is the difference between the nominal dollar and constant dollar measures. Using the numbers from paragraph .177, [it is computed as follows:]

	(000s)
Increase in current cost (nominal dollars)	$15,500
Increase in current cost (constant dollars)	C$ 4,818
Inflation component	10,682

[FAS33, ¶236]

Summary of Increase in Current Cost Amounts

.179 Summarizing paragraphs .176 and .178 above:

	(000s)		
	Increase in Current Cost	Inflation Component	Increase Net of Inflation
Inventory	$ 9,108	8,277	C$ 831
Property, plant, and equipment	15,500	10,682	4,818
Totals	$24,608	18,959	C$5,649

[FAS33, ¶237]

Check of Calculations

.180 A reconciliation of shareholders' equity, with changes in the amounts of net assets on a historical cost/constant dollar basis and current cost/constant dollar basis, although not required by this section, acts as a check on the arithmetical accuracy of the calculations. [The reconciliation is presented in Exhibit 180A.]

Exhibit 180A

Changes in Shareholders' Equity during 19X9 in Average 19X9 Dollars

	(000s)			
	Source Paragraph	Historical Cost/ Average 19X9 Dollars	Source Paragraph	Current Cost/ Average 19X9 Dollars
Equity at January 1, 19X9				
Inventory	(.167)	C$ 58,907	(.175)	C$ 60,179
Property, plant, and equipment—net	(.181)	53,678	(.177)	76,884
Net monetary items	(.174)	(57,067)	(.174)	(57,067)
		55,518		79,996
Loss from continuing operations	(149A)	(2,514)	(149A)	(8,908)
Dividends	(.162)	(3,000)	(.162)	(3,000)
Gain from decline in purchasing power of net monetary liabilities	(.174)	7,729	(.174)	7,729
Excess of increase in specific prices over increase in the general price level			(.179)	5,649
		C$ 57,733		C$ 81,466
Equity at December 31, 19X9				
Inventory	(.166)	C$ 58,523	(.175)	C$ 59,602
Property, plant, and equipment—net	(171A)	54,548	(.177)	77,202
Net monetary items	(.174)	(55,338)	(.174)	(55,338)
		C$ 57,733		C$ 81,466

[FAS33, ¶238]

.181 Historical cost/constant dollar property, plant, and equipment at December 31, 19X8 in average 19X9 dollars [are as follows:]

	(000s)		
Date of Acquisition	Historical Cost/ Constant Dollars*	Percent Depreciated	Accumulated Depreciation
19X2	C$ 82,983	70	C$58,088
19X3	7,478	60	4,487
19X4	6,852	50	3,426
19X5	6,478	40	2,591
19X6	6,085	30	1,826
19X7	5,652	20	1,130
19X8	10,776	10	1,078
Totals	C$126,304		C$72,626
Accumulated depreciation	72,626		
Net property, plant, and equipment at December 31, 19X8 carried to paragraph .180	C$ 53,678		

*Refer to Exhibit 171A. [FAS33, ¶239]

.182 Restated amounts [are as follows:]

Summary of Amounts Restated in Average 19X9 Dollars

	(000s)			
	Source Paragraph	Historical Cost/ Constant Dollars	Source Paragraph	Current Cost/ Information
Cost of goods sold	(.167)	C$204,384	(.168)	C$205,408
Depreciation expense	(171A)	C$ 14,130	(.172)	C$ 19,500
Purchasing power gain on net monetary items	(.174)	C$ 7,729	(.174)	C$ 7,729
Increase in current cost of inventories			(.176)	C$ 831
Increase in current cost amount of property, plant, and equipment			(.178)	C$ 4,818
Inventory	(.166)	C$ 58,523	(.175)	C$ 59,602
Property, plant, and equipment—net	(171A)	C$ 54,548	(.177)	C$ 77,202

[FAS33, ¶240]

Measurements for a Regulated Enterprise

.183 [Paragraphs .183 and .184 discuss the measurement of expenses by regulated enterprises. It is assumed that] an enterprise has property, plant, and equipment measured at $10,000 at historical cost in nominal dollars at the beginning of the year (and no other assets and no liabilities). It is permitted to set its prices at a level that will result in income, on a historical cost/nominal dollar basis, equal to 15 percent of net assets, that is, $1,500. Assets were purchased at various past dates and have varying lives. Depreciation for the year and asset values at the beginning and end of the year are as follows:

	Depreciation	Assets at Beginning of Year	Assets at End of Year
Historical cost in nominal dollars	$2,000	$10,000	$ 8,000
Historical cost in constant dollars	2,800	13,000	11,500
Current cost	4,000	18,000	16,700
Recoverable amount	3,500	10,000	8,000

[FAS33, ¶175]

.184 It is assumed that recoverable amounts of assets are equal to historical costs in nominal dollars although that equality does not always hold because, for example, the allowed rate of return may be higher or lower than the appropriate discount rate. It is also assumed for simplicity that all sales are made and expenses incurred at the end of the year. The rate of inflation is 10 percent per year. Computations of income from continuing operations based on the alternative measures of expenses and of related changes in current cost amounts of assets would run as follows, in end-of-year dollars:

	Historical Cost in Nominal Dollars	Historical Cost in Constant Dollars	Current Cost
Sales revenues less expenses	$3,500	$3,500	$3,500
Depreciation expense	(2,000)	(2,800)	(4,000)
Reduction of historical cost to lower recoverable amount		(200)	
Income from continuing operations	$1,500	$ 500	$ (500)
Increase in current cost amounts, net of inflation			$1,000

The increase in shareholders' equity, measured in constant dollars, is $500 (assets at the end of the year $11,500 = cash $3,500 plus plant $8,000—less assets at the beginning of the year $10,000 × 110/100). The current cost computations divide this amount between income from continuing operations and the increase in current cost amounts of assets. [FAS33, ¶175]

The Consumer Price Index

.185 The table in Exhibit 185A is the official Department of Labor Consumer Price Index—CPI(U), U.S. City Average, All Items (1967 = 100). This table includes monthly indexes and the average index for the year from 1913. Monthly updates to the table are published in the United States Department of Labor, Bureau of Labor Statistics, *News*. [FAS33, ¶241]

Exhibit 185A

Consumer Price Index
All Urban Consumers—(CPI-U)
U.S. City Average
All Items
(1967 = 100)

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.	Avg.
1913	29.4	29.3	29.3	29.4	29.2	29.3	29.6	29.8	29.9	30.1	30.2	30.1	29.7
1914	30.1	29.8	29.7	29.4	29.6	29.8	30.1	30.5	30.6	30.4	30.5	30.4	30.1
1915	30.3	30.1	29.8	30.1	30.2	30.3	30.3	30.3	30.4	30.7	30.9	31.0	30.4
1916	31.3	31.3	31.6	31.9	32.0	32.4	32.4	32.8	33.4	33.8	34.4	34.6	32.7
1917	35.0	35.8	36.0	37.6	38.4	38.8	38.4	39.0	39.7	40.4	40.5	41.0	38.4
1918	41.8	42.2	42.0	42.5	43.3	44.1	45.2	46.0	47.1	47.9	48.7	49.4	45.1
1919	49.5	48.4	49.0	49.9	50.6	50.7	52.1	53.0	53.3	54.2	55.5	56.7	51.8
1920	57.8	58.5	59.1	60.8	61.8	62.7	62.3	60.7	60.0	59.7	59.3	58.0	60.0
1921	57.0	55.2	54.8	54.1	53.1	52.8	52.9	53.1	52.5	52.4	52.1	51.8	53.6
1922	50.7	50.6	50.0	50.0	50.0	50.1	50.2	49.7	49.8	50.1	50.3	50.5	50.2
1923	50.3	50.2	50.4	50.6	50.7	51.0	51.5	51.3	51.6	51.7	51.8	51.8	51.1
1924	51.7	51.5	51.2	51.0	51.0	51.0	51.1	51.0	51.2	51.4	51.6	51.7	51.2
1925	51.8	51.6	51.7	51.6	51.8	52.4	53.1	53.1	52.9	53.1	54.0	53.7	52.5
1926	53.7	53.5	53.2	53.7	53.4	53.0	52.5	52.2	52.5	52.7	52.9	52.9	53.0
1927	52.5	52.1	51.8	51.8	52.2	52.7	51.7	51.4	51.7	52.0	51.9	51.8	52.0
1928	51.7	51.2	51.2	51.3	51.6	51.2	51.2	51.3	51.7	51.6	51.5	51.3	51.3
1929	51.2	51.1	50.9	50.7	51.0	51.2	51.7	51.9	51.8	51.8	51.7	51.4	51.3
1930	51.2	51.0	50.7	51.0	50.7	50.4	49.7	49.4	49.7	49.4	49.0	48.3	50.0

1931	47.6	46.9	46.6	46.3	45.8	45.3	45.2	45.1	44.9	44.6	44.1	43.7	45.6
1932	42.8	42.2	42.0	41.7	41.1	40.8	40.8	40.3	40.1	39.8	39.6	39.2	40.9
1933	38.6	38.0	37.7	37.6	37.7	38.1	39.2	39.6	39.6	39.6	39.6	39.4	38.8
1934	39.6	39.9	39.9	39.8	39.9	40.0	40.0	40.1	40.7	40.4	40.3	40.2	40.1
1935	40.8	41.1	41.0	41.4	41.2	41.1	40.9	40.9	41.1	41.1	41.3	41.4	41.1
1936	41.4	41.2	41.0	41.0	41.0	41.4	41.6	41.9	42.0	41.9	41.9	41.9	41.5
1937	42.2	42.3	42.6	42.8	43.0	43.1	43.3	43.4	43.8	43.6	43.3	43.2	43.0
1938	42.6	42.2	42.2	42.4	42.2	42.2	42.3	42.2	42.2	42.0	41.9	42.0	42.2
1939	41.8	41.6	41.5	41.4	41.4	41.4	41.4	41.4	42.2	42.0	42.0	41.8	41.6
1940	41.7	42.0	41.9	41.9	42.0	42.1	42.0	41.9	42.0	42.0	42.0	42.2	42.0
1941	42.2	42.2	42.4	42.8	43.1	43.9	44.1	44.5	45.3	45.8	46.2	46.3	44.1
1942	46.9	47.3	47.9	48.2	48.7	48.8	49.0	49.3	49.4	49.9	50.2	50.6	48.8
1943	50.6	50.7	51.5	52.1	52.5	52.4	52.0	51.8	52.0	52.2	52.1	52.2	51.8
1944	52.1	52.0	52.0	52.3	52.5	52.6	52.9	53.1	53.1	53.1	53.1	53.3	52.7
1945	53.3	53.2	53.2	53.3	53.7	54.2	54.3	54.3	54.1	54.1	54.3	54.5	53.9
1946	54.5	54.3	54.7	55.0	55.3	55.9	59.2	60.5	61.2	62.4	63.9	64.4	58.5
1947	64.4	64.3	65.7	65.7	65.5	66.0	66.6	67.3	68.9	68.9	69.3	70.2	66.9
1948	71.0	70.4	70.2	71.2	71.7	72.2	73.1	73.4	73.4	73.1	72.6	72.1	72.1
1949	72.0	71.2	71.4	71.5	71.4	71.5	71.0	71.2	71.5	71.1	71.2	70.8	71.4
1950	70.5	70.3	70.6	70.7	71.0	71.4	72.1	72.7	73.2	73.6	73.9	74.9	72.1
1951	76.1	77.0	77.3	77.4	77.7	77.6	77.7	77.7	78.2	78.6	79.0	79.3	77.8
1952	79.3	78.8	78.8	79.1	79.2	79.4	80.0	80.1	80.0	80.1	80.1	80.0	79.5
1953	79.8	79.4	79.6	79.7	79.9	80.2	80.4	80.6	80.7	80.9	80.6	80.5	80.1
1954	80.7	80.6	80.5	80.3	80.6	80.7	80.7	80.6	80.4	80.2	80.3	80.1	80.5
1955	80.1	80.1	80.1	80.1	80.1	80.1	80.4	80.2	80.5	80.5	80.6	80.4	80.2

Source: U.S. Department of Labor, Room 1539, Bureau of Labor Statistics, Washington, D.C. 20212. The CPI Detailed Report may be ordered from the Superintendent of Documents U.S. Government Printing Office, Washington, D.C. 20402. The Library of Congress Catalog number is 74-647019.

Exhibit 185A (continued)

Consumer Price Index
All Urban Consumers—(CPI-U)
U.S. City Average
All Items
(1967 = 100)

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.	Avg.
1956	80.3	80.3	80.4	80.5	80.9	81.4	82.0	81.9	82.0	82.5	82.5	82.7	81.4
1957	82.8	83.1	83.3	83.6	83.8	84.3	84.7	84.8	84.9	84.9	85.2	85.2	84.3
1958	85.7	85.8	86.4	86.6	86.6	86.7	86.8	86.7	86.7	86.7	86.8	86.7	86.6
1959	86.8	86.7	86.7	86.8	86.9	87.3	87.5	87.4	87.7	88.0	88.0	88.0	87.3
1960	87.9	88.0	88.0	88.5	88.5	88.7	88.7	88.7	88.8	89.2	89.3	89.3	88.7
1961	89.3	89.3	89.3	89.3	89.3	89.4	89.8	89.7	89.9	89.9	89.9	89.9	89.6
1962	89.9	90.1	90.3	90.5	90.5	90.5	90.7	90.7	91.2	91.1	91.1	91.0	90.6
1963	91.1	91.2	91.3	91.3	91.3	91.7	92.1	92.1	92.1	92.2	92.3	92.5	91.7
1964	92.6	92.5	92.6	92.7	92.7	92.9	93.1	93.0	93.2	93.3	93.5	93.6	92.9
1965	93.6	93.6	93.7	94.0	94.2	94.7	94.8	94.6	94.8	94.9	95.1	95.4	94.5
1966	95.4	96.0	96.3	96.7	96.8	97.1	97.4	97.9	98.1	98.5	98.5	98.6	97.2
1967	98.6	98.7	98.9	99.1	99.4	99.7	100.2	100.5	100.7	101.0	101.3	101.6	100.0
1968	102.0	102.3	102.8	103.1	103.4	104.0	104.5	104.8	105.1	105.7	106.1	106.4	104.2
1969	106.7	107.1	108.0	108.7	109.0	109.7	110.2	110.7	111.2	111.6	112.2	112.9	109.8
1970	113.3	113.9	114.5	115.2	115.7	116.3	116.7	116.9	117.5	118.1	118.5	119.1	116.3

	J	F	M	A	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
1971	119.2	119.4	119.8	120.2	120.8	121.5	121.8	122.1	122.2	122.4	122.6	123.1	121.3
1972	123.2	123.8	124.0	124.3	124.7	125.0	125.5	125.7	126.2	126.6	126.9	127.3	125.3
1973	127.7	128.6	129.8	130.7	131.5	132.4	132.7	135.1	135.5	136.6	137.6	138.5	133.1
1974	139.7	141.5	143.1	143.9	145.5	146.9	148.0	149.9	151.7	153.0	154.3	155.4	147.7
1975	156.1	157.2	157.8	158.6	159.3	160.6	162.3	162.8	163.6	164.6	165.6	166.3	161.2
1976	166.7	167.1	167.5	168.2	169.2	170.1	171.1	171.9	172.6	173.3	173.8	174.3	170.5
1977	175.3	177.1	178.2	179.6	180.6	181.8	182.6	183.3	184.0	184.5	185.4	186.1	181.5
1978	187.2	188.4	189.8	191.5	193.3	195.3	196.7	197 8	199.3	200.9	202.0	202.9	195.4
1979	204.7	207.1	209.1	211.5	214.1	216.6	218.9	221.1	[223.4]	[225.4]	[227.5]	[229.9]	[217.4]
1980	[233.2]	[236.4]	[239.8]	[242.5]	[244.9]	[247.6]	[247.8]	[249.4]	[251.7]	[253.9]	[256.2]	[258.4]	[246.8]
1981	[260.5]	[263.2]	[265.1]	[266.8]	[269.0]	[271.3]	[274.4]	[276.5]	[279.3]	[279.9]	[280.7]	[281.5]	[272.4]
1982	[282.5]	[283.4]	[283.1]	284.3	287.1	290.6	292.2	292.8	293.3	294.1			

[FAS30, ¶41]

Source: U.S. Department of Labor, Room 1539, Bureau of Labor Statistics, Washington, D.C. 20212. The CPI Detailed Report may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Library of Congress Catalog number is 74-647019.

Glossary

.401 Constant dollar accounting. A method of reporting financial statement elements in dollars, each of which has the same (that is, constant) general purchasing power. This method of accounting is often described as accounting in units of general purchasing power or as accounting in units of current purchasing power. [FAS33, ¶22]

.402 Current cost accounting. A method of measuring and reporting assets and expenses associated with the use or sale of assets at their current cost or lower recoverable amount at the balance sheet date or at the date of use or sale. [FAS33, ¶22]

.403 Current cost/constant dollar accounting. A method of accounting based on measures of current cost or lower recoverable amount in terms of dollars, each of which has the same general purchasing power. [FAS33, ¶22]

.404 Current cost/nominal dollar accounting. A method of accounting based on measures of current cost or lower recoverable amount without restatement into units, each of which has the same general purchasing power. [FAS33, ¶22]

.405 Historical cost/constant dollar accounting. A method of accounting based on measures of historical prices in dollars, each of which has the same general purchasing power. [FAS33, ¶22]

.406 Historical cost/nominal dollar accounting. The generally accepted method of accounting, used in the primary financial statements, based on measures of historical prices in dollars without restatement into units, each of which has the same general purchasing power. [FAS33, ¶22]

.407 Income from continuing operations. Income after applicable income taxes but excluding the results of discontinued operations, extraordinary items, and the cumulative effect of accounting changes. [FAS33, ¶22]

.408 **Income-producing real estate.** Properties that meet all of the following criteria:

a. Cash flows can be directly associated with a long-term leasing agreement with unaffiliated parties.
b. The property is being operated. (It is not in a construction phase.)
c. Future cash flows from the property are reasonably estimable.
d. Ancillary services are not a significant part of the lease agreement. [FAS41, ¶6]

Hotels, which have occupancy rates and related cash flows that may fluctuate to a relatively large extent, do not meet the criteria for income-producing real estate. [FAS41, ¶24]

.409 **Mineral resource assets.** Assets that are directly associated with and derive value from all minerals that are extracted from the earth. Such minerals include oil and gas, ores containing ferrous and nonferrous metals, coal, shale, geothermal steam, sulphur, salt, stone, phosphate, sand, and gravel. Mineral resource assets include mineral interests in properties, completed and uncompleted wells, and related equipment and facilities and other facilities required for purposes of extraction (refer to Section Oi5, paragraph .103). This definition does not cover support equipment because that equipment is included in property, plant, and equipment. [FAS39, ¶5]

.410 **Monetary asset.** Money or a claim to receive a sum of money the amount of which is fixed or determinable without reference to future prices of specific goods or services. [FAS33, ¶47]

.411 **Monetary liability.** An obligation to pay a sum of money the amount of which is fixed or determinable without reference to future prices of specific goods and services. [FAS33, ¶47]

.412 **Motion picture films.** All types of films and videotapes and disks, including features, television specials, series, and cartoons that are:

a. Exhibited in theaters or
b. Licensed for exhibition by individual television stations, groups of stations, networks, cable television systems, or other means or
c. Licensed for commercial reproduction (for example, for the home viewing market) [FAS46, ¶7]

.413 **Net assets (shareholders' equity).** If an enterprise presents the minimum information required it shall measure net assets (that is, shareholders' equity) for the purposes of the five-year summary:

a. On historical cost/constant dollar basis at the amount reported in its primary financial statements adjusted for the difference between the historical cost/nominal dollar amounts of inventory and property, plant, and equipment
b. On a current cost basis at the amount reported in its primary financial statements, adjusted for the difference between the historical cost/nominal dollar amounts and the current cost or lower recoverable amounts of inventory and property, plant, and equipment and restated in constant dollars in accordance with paragraph .146.

If an enterprise elects to present comprehensive supplementary financial statements on a current cost/constant dollar basis, or on a historical cost/constant dollar basis, it may report the amount of net assets in the five-year summary in accordance with the comprehensive statements. [FAS33, ¶66]

.414 **Net realizable value.** The amount of cash, or its equivalent, expected to be derived from sale of an asset net of costs required to be incurred as a result of the sale. It shall be considered as a measurement of an asset only when the asset concerned is about to be sold. [FAS33, ¶63]

.415 **Probable mineral reserves in extractive industries other than oil and gas.** The estimated quantities of commercially recoverable reserves that are less well-defined than proved reserves and that may be estimated or indicated to exist on the basis of geological, geophysical, and engineering data. [FAS39, ¶5]

.416 **Proved mineral reserves in extractive industries other than oil and gas.**[401] The estimated quantities of commercially recoverable reserves that, on the basis of geological, geophysical, and engineering data, can be demonstrated with a reasonably high degree of certainty to be recoverable in the future from known mineral deposits by either primary or improved recovery methods. [FAS39, ¶5]

.417 **Public enterprise.** A business enterprise (a) whose debt or equity securities are traded in a public market on a domestic stock exchange or in the domestic over-the-counter market (including securities quoted only locally or regionally) or (b) that is required to file financial statements with the Securities and Exchange Commission. An enterprise is considered to be a public enterprise as soon as its financial statements are issued in preparation for the sale of any class of securities in a domestic market. [FAS33, ¶22]

.418 **Recoverable amount.** Current worth of the net amount of cash expected to be recoverable from the use or sale of an asset. [FAS33, ¶62]

.419 **Unprocessed natural resources.** Mineral resource assets, timberlands, and growing timber. [FAS39, ¶5]

.420 **Value in use.** The net present value of future cash flows (including the ultimate proceeds of disposal) expected to be derived from the use of an asset by the enterprise. It shall be considered as a measurement of an asset only when immediate sale of the asset concerned is not intended. Value in use shall be estimated by discounting expected future cash flows at an appropriate discount rate that allows for the risk of the activities concerned. [FAS33, ¶63]

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[401] The various classes of oil and gas reserves are defined in Section Oi5. [FAS39, ¶5, fn1]

Supplemental Guidance

Applicability to Certain Brokers and Dealers in Securities

.501 *Question*—Should closely held broker[illegible]alers in securities that file financial statements with the Securities and Exchange Commission (SEC) be considered nonpublic enterprises for purposes of applying this section? [FTB79-8, ¶1]

.502 *Background*—This section states that an enterprise that is required to file financial statements with the SEC is a public enterprise. [FTB79-8, ¶4]

.503 All security brokers and dealers registered with the SEC must file complete sets of financial statements with the SEC for use by the SEC's Division of Market Regulation for regulatory purposes, whether they are closely held or publicly held. Although the statement of financial condition filed by a broker-dealer must be available for public inspection, the income statement and statement of changes in financial position may be treated as confidential if so requested by the broker-dealer. A publicly held broker-dealer that is subject to Sections 12 and 13 of the Securities Exchange Act of 1934 must, in addition, file a complete set of financial statements and various forms with the SEC in the same manner as is required of other publicly held enterprises subject to those sections of the 1934 Act. [FTB79-8, ¶5]

.504 *Response*—The fact that financial statements are required to be filed for broker-dealer regulatory purposes with the SEC does not make an otherwise nonpublic enterprise public for purposes of this section. Thus, the definition of a public enterprise excludes closely held broker-dealers that are required to file financial statements with the SEC only for use by its Division of Market Regulation, principally because the broker-dealer can cause a significant portion of those financial statements (that is, the income statement and statement of changes in financial position) to be unavailable for public inspection by requesting confidential treatment. [FTB79-8, ¶6]

Classification as Monetary or Nonmonetary Items

.505 For purposes of determining a purchasing power gain or loss on net monetary items, the following items that are not listed in paragraph .154 should be classified as follows:

	Monetary	Nonmonetary
Trading account investments in fixed-income securities owned by banks, investment brokers, and others		X
The unguaranteed residual value of property owned by a lessor and leased under direct financing, sales-type, and leveraged leases	Refer to discussion.	
Commodity inventories whose values are hedged by futures contracts whose contract amounts have not been recorded in the financial statements	Refer to discussion.	
Portion of the carrying amount of lessors' assets leased under noncancelable operating leases that represent claims to fixed sums of money		X
Vested pension benefits in excess of fund assets or other accrued pension obligations, recorded in a business combination accounted for by the purchase method		X
Investment tax credits that are deferred by a lessor as part of the unearned income of a leveraged lease	Refer to discussion.	
Minority interests in consolidated subsidiaries		X
Capital stock of the enterprise or of its consolidated subsidiaries subject to mandatory redemption at fixed amounts		X

[FTB 81-4, ¶4]

.506 *Trading account investments in fixed-income securities owned by banks, investment brokers, and others.* Trading account securities are "securities of all types carried . . . in a dealer trading account (or accounts) that are held principally for resale to customers."[501] The predominant practice by banks is to carry these securities at the lower of cost or market, although a substantial minority carry them at market value. Trading account investments include both fixed-income securities (for example, nonconvertible preferred stock, convertible bonds, and other bonds) and other securities (for example, common stock). Usually, trading account securities are held for extremely short periods of time—sometimes for only a few hours. Frequently, the enterprise buys and sells the securities expecting to make a profit on the difference between dealer and retail, or bid and asked prices, rather than on the price changes during the period securities are held. However, the prices of the securities change with market forces. [FTB81-4, ¶5]

.507 Trading account investments in fixed-income securities are not "claims to receive a sum of money . . . which is fixed or determinable" (refer to paragraph .125). The market prices of the securities might and frequently do change while the securities are held. Paragraph .151 indicates that, generally, nonconvertible and nonparticipating preferred stock, convertible bonds that the market values primarily as bonds rather than as stocks, and nonconvertible bonds should be classified as monetary items. However, those classifications were based, in part, on the assumption that those securities would be held for long periods, if not to maturity. Trading account investments, on the other hand, are held for shorter periods and so their value depends much less heavily on the general purchasing power of money and depends more on the specific values of the securities. Therefore, trading account investments in fixed-income securities should be classified as nonmonetary. [FTB81-4, ¶6]

.508 *The unguaranteed residual value of property owned by a lessor and leased under direct financing, sales-type, and leveraged leases.* The unguaranteed residual value is included with the minimum lease payments, at present value, in the net investment in the lease. [FTB81-4, ¶7]

.509 The minimum lease payments are monetary items because they are claims to fixed sums of money. The residual value is not a claim to a fixed sum of money, so it is a nonmonetary item. Some assets and liabilities, of which the net investment in the lease is a good example, are combinations of claims to (or obligations of) fixed amounts and claims to (or obligations of) variable amounts. Ideally, those claims should be separated for purposes of classifying them as monetary and nonmonetary. However, if the information necessary to make the separation is not available or is impracticable to obtain, such items need not be divided into monetary and nonmonetary components and would be classified according to their

[501] Office of the Federal Register, *Code of Federal Regulations*, vol. 12 (Washington, D.C.: U.S. Government Printing Office, 1980), p. 217. [FTB81-4, ¶5, fn1]

dominant element. If the net investment in leases is principally claims to fixed amounts, it would be classified as monetary; it would be classified as nonmonetary if it is principally claims to residuals. [FTB81-4, ¶8]

.510 *Commodity inventories whose values are hedged by futures contracts whose contract amounts have not been recorded in the financial statements.* Many enterprises hedge commodity inventories (such as grain or metals). *Selling hedges* are designed to provide a degree of assurance that a decline in the price of the commodity would be offset by an increase in the value of the hedge contract. Selling hedges thus help protect the value of the inventory that is hedged. [FTB81-4, ¶9]

.511 There are certain similarities between inventories that are hedged and inventories that are used on or committed to a contract. In each case, the risk of gain or loss due to price changes before the inventory is sold is largely or entirely eliminated. Paragraph .120 states that "inventories may need to be reclassified as monetary assets at the date of the use on or commitment to a contract. . . ." To the extent that hedges fix the value of an inventory in dollars, the inventory effectively becomes a monetary item. However, in some cases, hedging positions may not be identifiable with specific inventory positions. In those cases, the inventory should be classified as nonmonetary. [FTB81-4, ¶10]

.512 Some inventory may be hedged and other inventory not hedged. As discussed in paragraph .509, in those cases the ideal solution would be to separately classify the hedged and nonhedged portions. However, if the information is not available or is impracticable to obtain, the enterprise would classify the entire inventory according to its dominant element as either monetary or nonmonetary. [FTB81-4, ¶11]

.513 *Portion of the carrying amount of lessors' assets leased under noncancelable operating leases that represent claims to fixed sums of money.* These assets are carried at depreciated historical cost under generally accepted accounting principles and are classified with or near property, plant, and equipment. Paragraph .151 indicates that property, plant, and equipment are nonmonetary. [FTB81-4, ¶12]

.514 The classification of a lease as an operating lease under Section L10, "Leases," indicates that the lease has not transferred substantially all of the benefits and risks incident to ownership to the lessee. Thus, the economic significance of the asset continues to depend heavily on the value of the future lease rentals, residual values, and associated costs. Therefore, an asset subject to an operating lease should be classified as nonmonetary. [FTB81-4, ¶13]

.515 *Vested pension benefits in excess of fund assets or other accrued pension obligations, recorded in a business combination accounted for by the purchase method.* Paragraph .151 indicates that fixed amounts of accrued pension obligations that are payable to a fund are monetary; all other accrued pension

obligations are nonmonetary. Other liabilities mentioned in paragraph .151 are monetary, except those to be satisfied by providing goods and services (for example, obligations under warranties) and accrued vacation pay if it is to be paid at wage rates as of the vacation dates and if those rates may vary from rates in effect at the balance sheet date. [FTB81-4, ¶14]

.516 Under Section B50, "Business Combinations," vested pension benefits in excess of fund assets sometimes are recorded as liabilities on the occurrence of business combinations treated as purchases. The amounts may be similar to accrued vacation pay that is to be paid at rates in effect as of the vacation dates—the pension benefits to be paid also may depend on future salary and wage rates, dates of retirement, and future changes in pension plan benefits. Therefore, vested pension benefits in excess of fund assets should be classified as nonmonetary items. [FTB81-4, ¶15]

.517 *Investment tax credits that are deferred by a lessor as part of the unearned income of a leveraged lease.* Under Section L10, the deferred investment tax credit related to the leased asset is subtracted from rentals receivable and estimated residual value as part of the calculation of the lessor's investment in the leveraged lease. The investment, including the deferred investment tax credit related to the leveraged lease, is presented as one amount in the balance sheet. As indicated in paragraph .509, the investment in a leveraged lease would be classified as monetary or nonmonetary according to its dominant element. [FTB81-4, ¶16]

.518 As indicated in paragraph .151, a deferred investment tax credit should be classified as nonmonetary but, if it is part of an investment in a leveraged lease and if the information necessary to separate its elements is not available or is impracticable to obtain, the investment would be classified according to its dominant element. [FTB81-4, ¶17]

.519 *Minority interests in consolidated subsidiaries.* The interests of minority shareholders in the earnings and equity of subsidiaries are, from the consolidated entity's point of view, claims that are not fixed. Rather, they are residuals that will vary based on the subsidiary's earnings, dividends, and other transactions affecting its equity and so are nonmonetary. (Refer to paragraph .520 as to classification of capital stock of the enterprise or of its consolidated subsidiaries subject to mandatory redemption at fixed amounts.) [FTB81-4, ¶18]

.520 *Capital stock of the enterprise or of its consolidated subsidiaries subject to mandatory redemption at fixed amounts.* Such securities are claims of the stockholders to a fixed number of dollars and therefore are nonmonetary. Classification as a monetary item called for in this section is only for purposes of determining a purchasing power gain or loss. This section does not address how such securities should be classified in balance sheets or the accounting for dividends on those securities. [FTB81-4, ¶19]

(The next page is 6985.)

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165

REMARKS BY REPRESENTATIVE RICK UEHLING ON BEHALF OF SSHB 165

Thank you, Mr. Chairman, members of the committee. I am here to today to ask that you favorably consider House Bill 165, which would effect various changes in the current law regarding the Public Offices Commission.

The current law specifies seven individual campaign reports: 30 days prior to each election, 7 days prior to each election, 10 days after each election, and at year end. Additionally, during the seven days immediately preceeding the primary and general elections, each candidate is responsible for reporting to the APOC, within 24 hours, all contributions or expenditures in excess of $250. As former candidates yourselves, you probably recognize the tremendous burden which these laws place on anyone seeking public office. I maintain that many of these regulations are largely unnecessary, even wasteful and counter-productive.

With your permission, Mr. Chairman, I would like to continue by briefly describing the intent behind my bill. Simply stated, HB 165 is intended to free the political candidate from some of the red-tape required to seek office. I recognize that we as public servants have a genuine responsibility to keep our campaign finances within the public domain and that reports to the APOC are an effective means to that end. Whatsmore, I truly believe that most candidates feel just as I do. The problem arises only when the number and frequency of such reports become overwhelming, often times preventing adequate performance of more important political functions--debating the issues, presenting positions to the public.

SSHB 165 goes a long way toward eliminating many of these unneccessary restraints. The bill changes the present $100 threshold for public disclosure of contributors to $250; it raises the ceiling for cash transactions from $100 to $250; the bill allows a deputy campaign treasurer to complete required APOC report forms; and most importantly, HB 165 eliminates the requirement of a report 7 days before an election, and loosens highly restrictive reporting requirements on contributions and expenditures made during the week before an election.

Let me explain the rationale behind these main points.

I propose changing the threshold for public disclosure of contributors for two reasons. First, raising the threshold will reduce the bookkeeping requirements for candidates substantially; contributions for under $250 will be recorded by amount and date only. This will significantly reduce the length and complexity of reports, without adversely affecting the essential qualities of the report. Second, the arbitrary $100 figure was set nearly ten years ago; you don't have to be an economist to realize that $100 in 1974 is about $261 today. The changes I propose up-date the statutes to reflect the intent of the original law--that is, to record detailed information on all large contributors.

I also propose raising the ceiling for cash contributions. Arguments

similar to the ones previously mentioned also apply in this case.

You will also note that SSHB 165 extends to the deputy campaign treasurer the authority to complete APCC reports. The purpose and desirabilty of this provision should be obvious to anyone who has been responsible for completing campaign reports. Allowing the designated deputy campaign treasurer to officially perform the reporting function is a viable method of establishing accountability.

My final proposal in SSHB 165 is to 1. eliminate the APOC report due seven days before each election and 2. dramatically reduce the report requirements on campaign contributions and expenditures during the week immediately before each election. I propose both changes for basically the same reasons: the report requirements are an almost unbearable burden on some campaigns, especially those in which the candidate himself serves the function of campaign treasurer. Anyone who has run for office knows that the week just prior to election is the busiest and most hectic of all. Any reduction in report obligations would be welcome relief from the helter-skelter pace which we have all experienced.

That summarizes the main points of HB 165. Now I want to explain what my bill is not intended to do. This bill does not eliminate relevant campaign reporting responsibility; it merely reduces the number and frequency of reports. The same material is still legally required to be reported. SSHB 165 is not intended to allow the buying or selling of elections; there are no hidden agenda. This bill is only intended to loosen the bureaucratic paperwork.

Thank you, Mr. Chairman. I appreciate your allowing me to testify today. I would be pleased to take your questions at this time.

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to, one candidate 50 per cent or more of its funds, the name of the candidate shall be a part of the name of the group. Promptly upon receiving the registration, the commission shall notify the candidate of the group's organization and intent. (§ 1 ch 76 SLA 1974; am § 15 ch 189 SLA 1975)

Sec. 15.13.060. Campaign treasurers. (a) Each candidate and group shall appoint a campaign treasurer who is responsible for receiving, holding, and disbursing all contributions and expenditures, and for filing all reports and statements required by law. A candidate may be a campaign treasurer.

(b) Each group shall file the name and address of its campaign treasurer with the commission at the time it registers with the commission under AS 15.13.050.

(c) Each candidate for state office shall file the name and address of the campaign treasurer with the commission, or submit, in writing, the name and address of the campaign treasurer to the director for filing with the commission, no later than 15 days after the date of filing the declaration of candidacy or the nominating petition. Each candidate for municipal office shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing the declaration of candidacy or the nominating petition. If the candidate does not designate a campaign treasurer, the candidate is the campaign treasurer.

(d) In the case of the death, resignation or removal of a campaign treasurer, the candidate shall appoint a successor as soon as practicable and file his name and address with the commission within 48 hours of the appointment. The candidate is disqualified when he has been found to have been in wilful violation of this subsection.

(e) A campaign treasurer may appoint as many deputy campaign treasurers as he considers necessary. The candidate shall file the names and addresses of the deputy campaign treasurers with the commission.

(f) The candidate is responsible for the performance of his campaign treasurer, and any default or violation by the treasurer also shall be considered a default or violation by the candidate if he knew or had reason to know of the default or violation. (§ 1 ch 76 SLA 1974; am §§ 16 — 19 ch 189 SLA 1975; am § 1 ch 133 SLA 1977; am § 35 ch 59 SLA 1982)

Effect of amendments. — The 1977 amendment rewrote subsection (c).

The 1982 amendment, effective May 28, 1982, substituted "director" for "lieutenant governor" in the first sentence of subsection (c).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

to a candidate with a value of more than $250 to influence the election of a candidate shall furnish the commission a signed statement, on a form made available by the commission. The statement shall itemize the contributions and goods and state that the contributor is not a person or group prohibited by law from contributing and that the contribution consists of funds or property belonging to the contributor and has not been given or furnished by another person or group. The contributor's statement shall be filed with the commission by the contributor no later than 10 days after the contribution is made. A copy of the statement shall be furnished the candidate, campaign treasurer, or deputy campaign treasurer at the time the contribution is made. (§ 1 ch 76 SLA 1974; am § 29 ch 189 SLA 1975)

Sec. 15.13.090. Identification of communication. All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group or individual paying for the advertising. In addition, candidates and groups must identify the name of their campaign chairman. (§ 1 ch 76 SLA 1974; am § 22 ch 189 SLA 1975; am § 36 ch 100 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "chairman" for "treasurer" at the end of the section.

Collateral references. — Validity and construction of state statute prohibiting anonymous political advertising. 4 ALR4th 741.

Sec. 15.13.100. Expenditures before filing. No political campaign expenditure may be made or incurred by a person in an election or by a person or group with his knowledge and on his behalf before the date upon which he or she files for nomination for the office which the person seeks, except for personal travel expenses or for opinion surveys or polls. These expenditures shall be charged against the spending limitation that applies to the office for which he subsequently files, and shall be included in the first report required under this chapter after filing for office. (§ 1 ch 76 SLA 1974; am § 23 ch 189 SLA 1975)

Editor's notes. — For discussion relating to the enforcement of the expenditure limits of this chapter, see the editor's notes and notes from the opinion of the attorney general dated May 13, 1976 following AS 15.13.070.

Sec. 15.13.110. Filing of reports. (a) Each candidate and group shall make a full report in accordance with AS 15.13.040 during the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report, or, if a first report, all contributions received and expenditures made before three days before the due date of the report. The report shall be filed at the following times:

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(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;

(2) one week before the election;

(3) ten days after the election; and

(4) December 31 of each year for expenditures and contributions received which were not reported that year.

(b) Each contribution or expenditure which exceeds $250 and which is made within one week of the election shall be reported to the commission by date, amount, and contributor or recipient within 24 hours of receipt or expenditure by the candidate or campaign treasurer.

(c) The reports of candidates shall be filed with the commission's central office. All reports required by this chapter shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

(d) Within 30 days after each election, each supplier shall make a full report to the commission in accordance with AS 15.13.040. Within 60 days after each election, the commission shall prepare a summary by candidate or group of the transactions and make the summaries public.

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section. (§ 1 ch 76 SLA 1974; am § 24 ch 189 SLA 1975; am § 2 ch 133 SLA 1977)

Effect of amendments. — The 1977 amendment added subsection (e).

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

NOTES TO DECISIONS

Stated in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 630 P.2d 227 (1981).

Sec. 15.13.120. Penalty; limitations on actions. (a) A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment for not more than one year or by a fine of not more than $5,000. A violation includes but is not limited to any of the following acts or omissions:

(1) failing to make a statement or report required to be made under this chapter, or failing to make a statement or report at the time the statement or report is required to be made under this chapter;

Section 1 amending AS 15.13.040(a) is consistent with the APOC's 1982 recommendations regarding the threshold at which a contributor's name is on a report. Expenditure reporting offers at least as much ground for amendments to lighten the reporting burden and will be explored further.

Section 2 of SSHB 165 should be replaced with language such as that which follows. This would still accomplish the same end with regard to reporting contributors, but would also make the language concerning groups parallel the language concerning candidates.

Section ____ AS 15.13.040(b) is repealed and reenacted to read:

(b) Each group shall make a full report, upon a form prescribed by the commission, listing the date and amount of all expenditures made or obligations incurred by the group, the total amount of all contributions, and for each contribution in excess of $250 in the aggregate a year, the name, address, principal occupation, and employer of the contributor and the date and amount contributed.

Section 3 of SSHB 165 is fine; the following allows certification by the chairperson as well.

Section ____ AS 15.13.040(c) is amended to read:

(c) The report required under (b) of this section shall be filed in accordance with AS 15.13.110 and shall be certified as correct by the group's <u>chairperson, campaign</u> treasurer<u>, or deputy campaign treasurer</u>.

Section 4 of SSHB 165 is consistent with current practice. AS 15.13.040(d) is frequently the source of confusion because the words group and expenditure are used differently than elsewhere. The following language would not expand on the current law, but it would be clearer.

Section____ AS 15.13.040(d) is amended to read:

(d) Every individual or [,] person, and every [OR] group that is not required to register in accordance with AS 15.13.050, shall make a full report, upon a form prescribed by the commission, of the following contributions or expenditures: (1) any contribution of cash, goods or services valued at more than $250 [$100] a year to any group or candidate; or (2) any independent expenditure [WHATSOEVER] for advertising in newspapers, on radio or on television[;] or[,] for the publication, distribution or circulation of brochures, flyers or other campaign material for or against any candidate, [OR] ballot proposition or question.

Section ____ AS 15.13.040 is amended by adding a new subsection to read:

(g) As used in this section, an "independent expenditure is a disbursement of funds supporting or opposing the election of a candidate or the passage of a ballot proposition or question, not made with the cooperation, consent, or at the request of a candidate, a campaign committee or controlled group of a candidate, or a group which is supporting or opposing the candidate or ballot proposition or question for which the funds are disbursed.

Section 5 of SSHB 165 is a logical extension of earlier amendments allowing deputy treasurers to certify reports but it does nothing to improve the poor quality of the existing language of AS 15.13.060(f).

The following is a first draft of language which could go somewhere in .060:

It is presumed that the candidate, or in the case of a group the chairperson and campaign treasurer, had knowledge of and approved the reports required to be filed under this chapter.

Sections 6 and 7 are logical extensions of the change in thresholds. Both are enforcement problems for which optimum solutions have not been worked out.

In Section 8 of SSHB 165, replacing the words "one week" with the words "nine days" has been discussed (see the next page for illustration) and the words "or recipient" should be deleted.

Section 9 as worded does such critical damage to the underlying intent of the Campaign Disclosure Law that it could result in no successful amendments; proposals to change the reporting of expenditures would be a more productive area of consideration.

Section 10, an immediate effective date, is quite feasible in a municipal election year so long as final passage does not approach the end of the fiscal year.

AUGUST 1982

sunday	monday	tuesday	wednesday	thursday	friday	saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14 LAST DAY IN 7 DAY REPORT
15 1ST DAY IN 10 DAY REPORT TWO DAY 7 DAY &	16 GAP BETWEEN 24 HOUR	17 7 DAY DUE $25 1ST DAY IN 24 HOUR REPORTS	18 $250+ 24 DUE	19 $250+ 24 DUE	20 $250+ 24 DUE	21 $250+ 24 DUE
22 $250+ 24 DUE	23 $250+ 24 DUE	24 PRIMARY $250+ 24 DUE	25	26	27	28
29	30	31	1 SEPTEMBER	2	3 10 DAY DUE	4

Cities and Boroughs with Highest Levels of Campaign Expenditures by Municipal Candidates

Year	Total Expenditures	Anchorage*	Fairbanks*	North Slope*	Kenai*	Juneau*	Ketchikan*	Kodiak*
1974	$100,012	$49,317(49.3%)	$32,904(32.9%)	0/0	$3,878(3.8%)	$6,927(6.9%)	$3,599(3.6%)	$331(.3%)
1975	371,398	278,778(75.1%)	31,849(8.6%)	14,290(3.8%)	25,604(6.9%)	8,057(2.2%)	2,124(.6%)	6,638(1.8%)
1976	188,913	103,822(55.0%)	61,430(32.5%)	0/0	2,884(1.5%)	15,796(8.4%)	1,085(.6%)	1,095(.6%)
1977	192,112	116,544(60.7%)	50,634(26.4%)	0/0	5,857(3.0%)	5,382(2.8%)	4,392(2.3%)	3,139(1.6%)
1978	454,980	336,709(74.0%)	53,983(11.8%)	34,586(7.6%)	10,038(2.2%)	10,295(2.3%)	3,988(.9%)	2,021(.4%)
1979	323,972	221,895(68.5%)	51,656(15.9%)	0/0	8,834(2.7%)	16,188(5.0%)	8,839(2.7%)	3,449(1.1%)
1980	348,338	139,690(40.1%)	65,725(18.9%)	43,461(12.5%)	51,799(14.9%)	12,235(3.5%)	4,842(1.4%)	4,435(1.3%)
1981	1,140,028	860,113(75.4%)	45,175(3.9%)	104,014(9.0%)	64,790(5.6%)	28,943(2.5%)	10,249(.8%)	6,683(.1%)
1982	450,000	194,019(43.1%)	167,400(37.2%)	5,688(1.3%)	13,203(2.9%)	24,162(5.4%)	14,692(3.3%)	642(0%)
Nine-Year Average		(64.5%)	(15.7%)	(5.7%)	(5.2%)	(3.6%)	(1.5%)	(.8%)

*Anchorage represents Municipality of Anchorage (also former City of Anchorage, Greater Anchorage Area Borough, former Eagle River Borough).

*Fairbanks represents Fairbanks North Star Borough and the City of Fairbanks.

*Juneau represents City and Borough of Juneau.

*Kenai represents Kenai Peninsula Borough and the Cities of Kenai, Seward, Soldotna, and Homer.

*North Slope represents North Slope Borough and the City of Barrow.

*Ketchikan represents Ketchikan Gateway Borough and the City of Ketchikan.

*Kodiak represents Kodiak Island Borough and the City of Kodiak.

Sectional Analysis

SSHB165

SECTION 1
This section cleans up the language by substituing candidate with himself. It raises the threshold of aggregate contributions from $100 to $250. A position of Deputy Campaign treasurer is added to the list of people authorized to certify reports.

SECTION 2
The threshold of contributions made to a group is raised from $100 to $250.

SECTION 3
A Deputy Campaign treasurer is added as a person who may certify reports as correct.

SECTION 4
The aggregate threshold for contributors is raised from $100 to $250.

SECTION 5
This section needs to be amended. The drafters added language to eliminate pronouns in accordance with their rules and it appears to be in conflict. Should read : "appointed by the treasurer"not"appointed by the candidate" because in section (e) the campaign treasurer is given the authority to appoint deputy treasurers.

SECTION 6
The threshold for acceptance of cash contributions is raised from $100 to $250.

SECTION 7
The threshold for cash expenditures is raised from $100 to $250.

SECTION 8
24 hour reporting of expenditures is eliminated. The thereshold for 24 hour reporting of contributions is raised from $250 to $500. 24 hour reporting is changed to 48 hour reporti g. Language is cleaned up: recieved is changed to made, deletes expenditure, adds Candidate and Deputy Campaign treasurer to people responsible for reciept of contributions.

SECTION 9
7 day reporting is eliminated.

SECTION 10
An immediate effective date is proved for.

PROPOSED AMENDMENT SSHB 165

Page 2, line 7: Delete "candidate" and insert "campaign treasurer".

The drafters of this bill inadvertently created a conflict between the provisions of (f) as amended and the provisions of (e) in this section. Subsection (e) states that the campaign treasurer has the authority to appoint deputy campaign treasurers. The drafter's language in (f) states that the candidate appoints the deputy treasurer. This ambiguity will allow controversy over interpretation when it is implemented. Therefore, in order to avoid confusion, the above language change is proposed.

As of 3/27/83

ANALYSIS OF CSSSHB165

General Overview: The purpose of this legislation is to clean up the Campaign Disclosure Laws without sacrificing their original intent. In order to accomplish this goal, the following changes are proposed: 1) raise reporting threshold relating to monetary transactions; 2) clarify the roles of campaign officers; 3) simplify required reports; and 4) more clearly contrast the applicability of statutes as to groups or candidates.

Specific amendments to existing statutes are as follows:

P. 1, l. 14: Raises yearly threshold for reporting campaign contributions to candidates from $100 to $250 in the aggregate.

P. 1, l. 18: Adds reference to revised section 60(a) which deals with certification of reports and statements.

P. 1, l. 21-28: This section deals with groups. It has been rewritten to parallel (a) which pertains to candidates. This section raises aggregate yearly threshold for reporting contributions made to the group to $250. It incorporates former section (c), which has subsequently been listed for repeal in section 19. Former subsection (1) has been omitted since it is duplicated in 60(b). This section references revised section 060(a) which delineates who may certify the reports and statements required by law to be filed with APOC.

P. 2, l. 1-3: Language added to clarify that section applies to groups which are not primarily organized for political purposes and are not raising funds for the purposes of influencing the outcome of an election.

P. 2, l. 6: Raises threshold for reporting total contributions made to a candidate or group in a year from $100 to $250.

P. 2, l. 7: Adds "independent" to expenditure. See new (g) which defines meaning of "independent".

P. 2, l. 10: Adds "or against any candidate, ..." This clarifies that the intent of the expenditure is to influence the outcome of the election either negatively or positively.

P. 2, l. 12-19: Definition section added to clarify that the transaction referred to in section 40(d)(2) is not made in cooperation with an affected entity.

P. 2, l. 21-29: Clarifies roles of campaign officers for groups and candidates. Requires groups to appoint chairmen along with treasurer.

Specifies that candidate will be assumed to be officer if another's name has not been filed with APOC.

P. 3, l. 1-2: Specifically states that a candidate may perform function of treasurer even if campaign treasurer is another person.

P. 3, l. 4-6: Adds group campaign chairman to officers required to be on file with APOC.

P. 3, l. 7-11: This paragraph restricts persons from acting in the capacity of campaign chairman or treasurer for a candidate if their names and addresses are not on file with APOC. The candidate's assumption of responsibility for the treasurer's duties has been transferred to new section 60(a). Former section required candidate to file name of campaign treasurer with APOC within a specific time period.

P. 3, l. 13-18: Added language specifies that section pertains to groups and expands scope to include all officers whose appointment is required under new section 60(b). Penalties for non-compliance by candidates are removed from section.

P. 3, l. 20-25: Changes responsibility for filing name of deputy campaign treasurer from the candidate to the person responsible for appointing them (the treasurer). Explicitly bars deputy campaign treasurers from certifying reports or statements.

P. 3, l. 27-29: Delineation of responsibility. Candidate is responsible for the performance of the campaign treasurer who is responsible for the performance of the deputy campaign treasurer(s).

P. 4, l. 1-4: Removes language joining legal responsibility of candidate with treasurer.

P. 4, l. 5-11: New section specifies that only officers specifically mentioned within this chapter may receive or expend funds. Applies to both groups and candidates.

P. 4, l. 13: Raises threshold for cash contribution to $250.

P. 4, l. 17: Raises threshold for cash expenditure to $250.

P. 4, l. 28: Changes officer required to be stated in disclaimer on literature or communications from campaign chairman to campaign treasurer. Listing the campaign treasurer is more consistent with the actual duties of this officer as set forth by statute.

P. 5, l. 2: Adds reference to new section 60(a) relating to certification of reports.

P. 5, l. 13: Changes due date for year-end report from three days prior to December 31st to 15 days after December 31st. (See AS 15.13.110(a).)

P. 5, l. 17-22: Changes the Twenty-Four Hour Report. Expands period to 9 days, eliminates reporting of expenditures, raises threshold for

reporting contributions from $250 to $500, specifies that it is receipt of contribution which brings it under the purview of this reporting requirement (ref. l. 18 "made" to "received"), and expands report intervals from 24 hours to 48 hours. Specifies that this report applies to both candidates and groups.

P. 5, l. 24-25: Added language specifies campaign treasurer rather than candidate and expands scope of this paragraph to apply to treasurers of groups.

P. 6, l. 3-9: Added language refers specifically rather than generally to campaign treasurer of a group since new 60(a) mandates appointment of group treasurers who, then, are solely responsible for certifying reports and statements.

P. 6, l. 10: Repealers. 40(c) is incorporated in re-write of (b). Sections 70(f) and 70(g) are campaign expenditure ceilings and inflation adjustment clauses which were declared unconstitutional for national campaigns by the U.S. Supreme Court in Buckley v. Valeo. An Alaska Attorney General Opinion of 1976 subsequently declared sections void for enforcement purposes on state level.

P. 6, l. 11: Immediate effective date.

Bradley
3/25/83

Original sponsors: Uehling, Barnes,
Bussell, et al

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 165 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Public Offices Commission; and providing for an effective date."

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

* Section 1. AS 15.13.040(a) is amended to read:

(a) Each candidate shall make a full report, upon a form prescribed by the commission, listing the date and amount of all expenditures made by the candidate, the total amount of all contributions, including all funds contributed by the candidate [HIMSELF], and for all contributions in excess of $250 [$100] in the aggregate a year, the name, address, principal occupation, and employer of the contributor and the date and amount contributed by each contributor. The report shall be filed in accordance with AS 15.13.110 and shall be certified as correct under AS 15.13.060(a) [BY THE CANDIDATE OR CAMPAIGN TREASURER].

* Sec. 2. AS 15.13.040(b) is repealed and reenacted to read:

(b) Each group shall make a full report, upon a form prescribed by the commission, listing the date and amount of all expenditures made by the group, the total amount of all contributions, and for all contributions in excess of $250 in the aggregate a year, the name, address, principal occupation, and employer of the contributor and the date and amount contributed by each contributor. The report shall be filed in accordance with AS 15.13.110 and shall be certified as correct under AS 15.13.060(a).

* Sec. 3. AS 15.13.040(d) is amended to read:

(d) Every individual or [,] person and every [OR] group that is not required to register under AS 15.13.050 [MAKING A CONTRIBUTION OR EXPENDITURE] shall make a full report, upon a form prescribed by the commission, of the following contributions or expenditures:

(1) any contribution of cash, goods or services valued at more than $250 [$100] a year to any group or candidate; or

(2) any independent expenditure [WHATSOEVER] for advertising in newspapers, on radio or on television [;] or [,] for the publication, distribution or circulation of brochures, flyers, or other campaign material for or against any candidate, [OR] ballot proposition or question.

* Sec. 4. AS 15.13.040 is amended by adding a new subsection to read:

(g) As used in this section, an "independent expenditure" is a disbursement of funds made to support or oppose the election of a candidate or the passage of a ballot proposition or question not made with the cooperation, consent, or at the request of a candidate, a campaign committee or controlled group of a candidate, or a group that is supporting or opposing the candidate or ballot proposition or question for which the funds are disbursed.

* Sec. 5. AS 15.13.060(a) is amended to read:

Sec. 15.13.060. CAMPAIGN OFFICERS [TREASURERS]. (a) Each candidate may and each group shall appoint a campaign treasurer who is responsible for [CERTIFYING] [RECEIVING, HOLDING, AND DISBURSING ALL CONTRIBUTIONS AND EXPENDITURES, AND FOR FILING] all reports and statements required by law. Each candidate may and each group shall appoint a campaign chairman. The campaign chairman and the campaign treasurer may be the same individual. A candidate who does not appoint a campaign chairman is the campaign chairman. A candidate who does not appoint a campaign treasurer is the [A CANDIDATE MAY BE A]

campaign treasurer. [redacted]

* Sec. 6. AS 15.13.060(b) is amended to read:

(b) Each group shall file the name and the address of its campaign chairman and its campaign treasurer with the commission at the time it registers with the commission under AS 15.13.050.

* Sec. 7. AS 15.13.060(c) is repealed and reenacted to read:

(c) An individual may not act as either a campaign chairman or a campaign treasurer of a candidate for state or for municipal office until the candidate has filed the name and [redacted] of the campaign chairman or the campaign treasurer with the commission.

* Sec. 8. AS 15.13.060(d) is amended to read:

(d) In the case of the death, resignation or removal of a campaign chairman or a campaign treasurer of a group, the group [CANDIDATE] shall appoint a successor as soon as practicable and file the [HIS] name and address with the commission within 48 hours of the appointment. [THE CANDIDATE IS DISQUALIFIED WHEN HE HAS BEEN FOUND TO HAVE BEEN IN WILFUL VIOLATION OF THIS SUBSECTION].

* Sec. 9. AS 15.13.060(e) is amended to read:

(e) A campaign treasurer may appoint as many deputy campaign treasurers as the campaign treasurer [HE] considers necessary. The campaign treasurer [CANDIDATE] shall file the names and addresses of the deputy campaign treasurers with the commission. A deputy campaign treasurer may not certify reports and statements required to be certified by law.

* Sec. 10. AS 15.13.060(f) is amended to read:

(f) A [THE] candidate is responsible for the performance of [redacted] [HIS] campaign treasurer and a campaign treasurer of a candidate or of a group is responsible for the

performance of the deputy campaign treasurers [, AND ANY DEFAULT OR VIOLATION BY THE TREASURER ALSO SHALL BE CONSIDERED A DEFAULT OR VIOLATION BY THE CANDIDATE IF HE KNEW OR HAD REASON TO KNOW OF THE DEFAULT OR VIOLATION].

* Sec. 11. AS 15.13.060 is amended by adding a new subsection to read:

(g) Contributions to a candidate may be received and expenditures of a candidate may be made only by the candidate, the campaign chairman, the campaign treasurer, or a deputy campaign treasurer of the candidate. Contributions to a group may be received and expenditures of a group may be made only by the campaign chairman, campaign treasurer, or a deputy campaign treasurer of the group.

* Sec. 12. AS 15.13.070(b) is amended to read:

(b) No contribution over $250 [$100] may be made in cash or by cash payment and it may not be accepted by or on behalf of a candidate.

* Sec. 13. AS 15.13.070(c) is amended to read:

(c) No expenditures over $250 [$100] may be made in cash or by cash payment unless a written receipt is obtained and filed with the commission.

* Sec. 14. AS 15.13.090 is amended to read:

Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION. All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group or individual paying for the advertising. In addition, candidates and groups must identify the name of their campaign treasurer [CHAIRMAN].

* Sec. 15. AS 15.13.110(a) is amended to read:

(a) Each candidate and group shall make a full report in accordance with AS 15.13.040 that is certified under AS 15.13.060(a) during the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report, or, if a first report, all contributions received and expenditures made before three days before the due date of the report. The report shall be filed at the following times:

(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;

(2) one week before the election;

(3) 10 [TEN] days after the election; and

(4) 15 days after the end [DECEMBER 31] of each year for expenditures and contributions received which were not reported that year.

* Sec. 16. AS 15.13.110(b) is amended to read:

(b) Each contribution [OR EXPENDITURE] which exceeds $500 [$250] and which is received [MADE] within nine days [ONE WEEK] of the election shall be reported to the commission by date, amount, and contributor [OR RECIPIENT] within 48 [24] hours of receipt [OR EXPENDITURE] by the [CANDIDATE OR] campaign treasurer of the candidate or of the group.

* Sec. 17. AS 15.13.110(c) is amended to read:

(c) The reports of the campaign treasurer of a candidate or a group [CANDIDATES] shall be filed with the commission's central office. All reports required by this chapter shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform

categories of reporting.

* Sec. 18. AS 15.13.110(e) is amended to read:

(e) The campaign treasurer of a [A] group formed to sponsor an initiative, a referendum or a recall shall report 30 days after the [ITS] first filing of the group with the lieutenant governor. Thereafter the campaign treasurer of each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section.

* Sec. 19. AS 15.13.040(c) and AS 15.13.070(f) and (g) are repealed.

* Sec. 20. This Act takes effect immediately in accordance with AS 01.-10.070(c).

AS15.13.040 DOCUMENT= 1 OF 1 PAGE = 1 OF 4

CHAPTER = 15.13
SECTION = 15.13.040
TITLE = 15

HEADINGS TITLE 15.
Elections.
CHAPTER 13.
State Election Campaigns.

CITATION Sec. 15.13.040.

CATCH LINE
CONTRIBUTIONS, EXPENDITURES AND SUPPLYING OF SERVICES TO REPORTED.

TEXT (a) Each candidate shall make a full report, upon a form prescribed by the commission, listing the date and amount of all expenditures made by the candidate, the total amount of all contributions, including all funds contributed by the candidate himself, and for all contributions in excess of $100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor and the date and amount contributed by each contributor. The report shall be filed in accordance with AS 15.13.110 and shall be certified correct by the candidate

or campaign treasurer.

(b) Each group shall make a full report upon a form prescribed by the commission, listing

(1) the name and address of each officer and director;

(2) the aggregate amount of all contributions made to it; and, for all contributions in excess of $100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; and

(3) the date and amount of all contributions made by it and all expenditures made, incurred or authorized by it.

(c) The report required under (b) of this section shall be filed in accordance with AS 15.13.110 and shall be certified as correct by the group's treasurer.

(d) Every individual, person or group making a contribution or expenditure shall make a full report, upon a form prescribed by the commission, of the following contributions or expenditures:

(1) any contribution of cash, goods or services valued at more than $100 a year to any group or candidate; or

(2) any expenditure whatsoever for advertising in newspapers, on radio or on television; or, for the publication, distribution or circulation of brochures, flyers, or other campaign material for any candidate or ballot proposition or question.

(e) The report required under (d) of this section shall contain the name, address, principal occupation and employer of the individual filing the report, and an itemized list of expenditures. The report shall be filed with the commission by the contributor no later than 10 days after the contribution or expenditure is made. A copy of the report shall be furnished to the candidate, campaign treasurer or deputy campaign treasurer at the time the contribution is made.

(f) During each year in which an election occurs, all businesses, persons, or groups which furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each transaction: newspapers, radio, television, advertising, advertising agency services, accounting, billboards, printing, secretarial, public opinion polls, or research and professional campaign consultation or management,

media production or preparation, or computer services. The records shall be maintained on the forms provided and in the manner required by he commission. The supplier shall file a report of the complete record of each transaction with all candidates or groups to whom he provides services, facilities or supplies in excess of $250 in the aggregate in accordance with AS 15.13.110. All records shall be available for public inspection.

HISTORY (Sec. 1 ch 76 SLA 1974; am sec. 13 ch 189 SLA 1975)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND

CHAPTER = 15.13
SECTION = 15.13.060
TITLE = 15

HEADINGS TITLE 15.
Elections.
CHAPTER 13.
State Election Campaigns.

CITATION Sec. 15.13.060.

CATCH LINE
CAMPAIGN TREASURERS.

TEXT (a) Each candidate and group shall appoint a campaign treasurer who is responsible for receiving, holding, and disbursing all contributions and expenditures, and for filing all reports and statements required by law. A candidate may be a campaign treasurer.

(b) Each group shall file the name and address of its campaign treasurer with the commission at the time it registers with the commission under AS 15.13.050.

(c) Each candidate for state office shall file the name and ddress of the campaign treasurer with the commission, or submit,

in writing, the name and address of the campaign treasurer to the director for filing with the commission, no later than 15 days after the date of filing the declaration of candidacy or the nominating petition. Each candidate for municipal office shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing the declaration of candidacy or the nominating petition. If the candidate does not designate a campaign treasurer, the candidate is the campaign treasurer.

(d) In the case of the death, resignation or removal of a campaign treasurer, the candidate shall appoint a successor as soon as practicable and file his name and address with the commission within 48 hours of the appointment. The candidate is disqualified when he has been found to have been in wilful violation of this subsection.

(e) A campaign treasurer may appoint as many deputy campaign treasurers as he considers necessary. The candidate shall file the names and addresses of the deputy campaign treasurers with the commission.

(f) The candidate is responsible for the performance of his

campaign treasurer, and any default or violation by the treasurer also shall be considered a default or violation by the candidate, if he knew or had reason to know of the default or violation.

HISTORY (Sec. 1 ch 76 SLA 1974; am secs. 16 - 19 ch 189 SLA 1975; am sec. 1 ch 133 SLA 1977; am sec. 35 ch 59 SLA 1982)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAN

CHAPTER = 15.13
SECTION = 15.13.050
TITLE = 15

HEADINGS TITLE 15.
Elections.
CHAPTER 13.
State Election Campaigns.

CITATION Sec. 15.13.050.

CATCH LINE
GROUPS.

TEXT Each group, before making an expenditure on behalf of, or in opposition to, a candidate or a contribution to a candidate, shall register, on forms provided by the commission, with the commission. If the group intends to support or oppose only one candidate, or to contribute to or expend on behalf of, or in opposition to, one candidate 50 per cent or more of its funds, the name of the candidate shall be a part of the name of the group. Promptly upon receiving the registration, the commission shall notify the candidate of the group's organization and intent.

AS15.13.050 DOCUMENT= 1 OF 1 PAGE = 2 OF 2
HISTORY (Sec. 1 ch 76 SLA 1974; am sec. 15 ch 189 SLA 1975)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND

CHAPTER = 15.13
SECTION = 15.13.070
TITLE = 15

HEADINGS TITLE 15.
Elections.
CHAPTER 13.
State Election Campaigns.

CITATION Sec. 15.13.070.

CATCH LINE
CONTRIBUTIONS AND EXPENDITURES; AMOUNT AND FORM OF PAYM

TEXT (a) No person or group, including but not limited to all political committees, businesses, corporations, and labor unions, may contribute to or expend more than $1,000 a year on behalf of or in opposition to the competing candidates for each elective office. Political parties and their subdivisions are not subject to the limitation prescribed in this subsection, but they are subject to the reporting requirements prescribed by AS 15.13.040(b) and 15.13.110. Nothing in this chapter prohibits

(1) a candidate from contributing more than $1,000 of his own money to his own campaign; or

(2) individuals or groups, including but not limited to all political committees, businesses, corporations, and labor unions, from contributing to or expending on behalf of a ballot proposition or question more than $1,000 a year; however, these contributions and expenditures shall be reported in accordance with AS 15.13.040 and 15.13.110.

(b) No contribution over $100 may be made in cash or by cash payment and it may not be accepted by or on behalf of a candidate.

(c) No expenditures over $100 may be made in cash or by cash payment unless a written receipt is obtained and filed with the commission.

(d) No contribution may be made, and no expenditure may be made or incurred, directly or indirectly, anonymously, in a fictitious name, or by one person or group in the name of another, to influence the election of a candidate in an election. A contribution made by a person wishing to remain anonymous, and received by a candidate, campaign treasurer or deputy campaign treasurer, may not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found,

the contribution escheats to the state if not donated by the candidate to the charity of his choice.

(e) Contributions to a candidate or a political committee may be received by, and expenditures of a candidate or political committee may be made by, only the candidate, campaign treasurer, or deputy campaign treasurer.

(f) The total amount of expenditures made by a candidate and by all groups operating under his control may not exceed (1) 40 cents times the total population of the state according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, if the candidacy is for governor or lieutenant governor, of which amount no more than 50 per cent may be spent in a primary election campaign and no more than 50 per cent in the general election campaign; (2) $1 times the total population of the geographical area of the constituency according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, divided by the number of seats in the senate

district if the candidacy is for the state senate; (3) $1 times the total population of the geographical area of the constituency according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, divided by the number of seats in the house district if the candidacy is for the state house of representatives. The expenditure limitations in this section include expenditures for both a primary and a general election campaign, or for a special election.

(g) Each general election year the commission shall adjust the campaign expenditure limitations for each category of (f) of this section to reflect cost-of-living changes as determined and published by the Bureau of Labor Statistics of the United States Department of Labor.

(h) No campaign expenditure of any type whatsoever shall be made by any candidate, treasurer, or group unless the source is disclosed as required by the provisions of this chapter whether or not those funds were received prior to May 10, 1974.

HISTORY (Sec. 1 ch 76 SLA 1974; am secs. 20, 21 ch 189 SLA 1975)

CHAPTER = 15.13
SECTION = 15.13.110
TITLE = 15

HEADINGS TITLE 15.
Elections.
CHAPTER 13.
State Election Campaigns.

CITATION Sec. 15.13.110.

CATCH LINE
FILING OF REPORTS.

TEXT (a) Each candidate and group shall make a full report in accordance with AS 15.13.040 during the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report, or, if a first report, all contributions received and expenditures made before three days before the due date of the report. The report shall be filed at the following times:

(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the

election;

(2) one week before the election;

(3) ten days after the election; and

(4) December 31 of each year for expenditures and contributions received which were not reported that year.

(b) Each contribution or expenditure which exceeds $250 and which is made within one week of the election shall be reported to the commission by date, amount, and contributor or recipient within 24 hours of receipt or expenditure by the candidate or campaign treasurer.

(c) The reports of candidates shall be filed with the commission's central office. All reports required by this chapter shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

(d) Within 30 days after each election, each supplier shall make a full report to the commission in accordance with AS 15.13.040. Within 60 days after each election, the commission

shall prepare a summary by candidate or group of the transactions and make the summaries public.

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section.

HISTORY (Sec. 1 ch 76 SLA 1974; am sec. 24 ch 189 SLA 1975; am sec. 2 ch 133 SLA 1977)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND

HB

176

Re: Lachen's
Bill - #176

There is no
question or
problem with
Residency.

- Does not apply -

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB176 Date on Bill: 02/08/83
Title: An act relating to employment preference rights for veterans
Sponsor: Lacher, Lindauer, and Furnace by request
Requestor: House State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86
Capital					
Operating			105.2	18.6	18.6
Total			105.2	18.6	18.6

b. Revenues:

Revenue

2. Source of funds to offset fiscal impact of bill:

3. Assumptions: 1. Effective date of July 1, 1983.

2. No inflation for FY 85, FY 86.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Frank Rinaldi Phone: x4430
Division: Director of Finance & Date: 3/7/83

Approved by Commissioner: Lisa Rudd Date: 3/10/83
Department: Administration

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

17D7/0304-2

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

TO: Representative Mitch Abood
Chair of the House State Affairs Committee

FROM: Representative Barbara Lacher
Chair of the House Community and Regional Affairs Committee

DATE: April 4, 1983

RE: House Bill 176 "An Act relating to employment preference rights for Veterans."

The purpose of this legislation is to clarify the intent of Alaska Statutes pertaining to veterans preference for employment with State Agencies.

Present law provides that an additional 5 points be added to a Veterans Merit System Examination only the first time the Veteran obtains employment in the classified service. This wording has been interpreted to exclude the additional point award on second or subsequent jobs in the classified service, even if the points were not requested or awarded on the first employment examination.

The change in wording in House Bill 176 retains the provision that the additional points can only be added once, but does not specify that it must be the first time the Veteran obtains a position in the classified service.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF PERSONNEL

~~JAY S. HAMMOND, GOVERNOR~~
Bill Sheffield, Governor

3341 FAIRBANKS ST.
ANCHORAGE, ALASKA 99503
PHONE: (907) 279-6441

January 20, 1983

Mr. Wayne J. Pinquoch
Box 315
Wasilla, Alaska 99687

Dear Mr. Pinquoch:

Your name has been on State of Alaska eligible lists with Veteran's Preference Points.

Recent legislative changes to the State Personnel Act have affected the criteria for awarding Veteran's Preference Points. Effective July 1, 1982, the law has been changed to allow points only for first time entry into the classified service. Once an individual is hired into a permanent/probationary position s/he loses all future rights to veteran's points.

Review of your current application indicates you have been previously employed by the State of Alaska. Therefore, in compliance with the law, I have removed your Veterans' Preference Points from all lists on which your name appears.

If you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Michael McCain

Michael McCain
Personnel Technician

MM:aj

cc: Certif cations

January 25,1983

Mr. Michael McCain
Personnel Technician
3341 Fairbanks St.
Anchorage,Alaska 99503

Dear Mr. McCain

I received your letter interpreting the law concerning my veteran's points. It is my belief that I still have the option of using those points because I have never received that benefit in any initial entry into the system. Checking my records will prove that.

You notified me of the fact that you have already deleted these points from all lists containing my name and I thank you for that notification at this time because it is important to me now that a new governor is endeavoring to rebuild the crumbling correctional system. I have applied for several positions because I feel that those new steps are in the right direction and that I could again receive satisfaction in being able to do a good job.

I am sending a copy of this correspondence to the Director of Corrections and to a legislator to seek a definition concerning the application of this law to my situation.

Had I utilized those points for entry into the classified service,you would be correct;however I do not believe that I have ever used that benefits given to me for serving my country.

Sincerely

Wayne Pinquoch

Wayne Pinquoch
Box 315
Wasilla. Alaska 99687

c.c. Roger Endell Director of Corrections
Barbara Lacher Legislator

Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 1, 1983

Mr. Wayne J. Pinquoch
Box 315
Wasilla, Alaska 99687

Dear Wayne:

Unfortunately, the state personnel law was changed, as had been explained to you in the letter you received from Michael McCain of the Divisic of Personnel. The language of this new law reads: "...but the additional (veteran's preference) points may be used only the first time the veteran obtains a position in classified service..."

Since you have held a classified position previously, by law, you lose the right to ever use your veteran's preference again.

The situation you presently find yourself in is very unfair, and I will be having a bill drafted that change the language so that a veteran's preference may be used once, but not necessarily the first time a veteran obtains a classified position. This would ensure the veteran's right to use the preference points whenever those points would most benefit the veteran.

I'm sorry that there is nothing I can do to immediately help the situation, but I will do everything possible to correct this unfair law.

Sincerely,

Barbara Lacher
Representative
District 1

CHAPTER = 39.25
SECTION = 39.25.150
TITLE = 39

HEADINGS TITLE 39.
Public Officers and Employees.
CHAPTER 25.
State Personnel Act.
ARTICLE 3.
Personnel Rules.

CITATION Sec. 39.25.150.

CATCH LINE
SCOPE OF THE RULES.

TEXT The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary specifications for each class of positions;

(2) the preparation, maintenance, revision and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods, including open competitive examinations, when appropriate, that will fairly test the capacity and fitness of the person examined to discharge the duties of the class in which employment is sought;

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates; the rule adopted under this paragraph may include procedures providing a preference for certifying local residents when

appropriate;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, the applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the reinstatement of a person who resigns in good standing;

(13) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(14) the development, maintenance, and use of employee performance records;

(15) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(16) the procedures for review of disputed personnel actions, for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state personnel system;

(17) hours of work for all employees in the state service;

(18) methods and procedures covering overtime work and pay;

(19) the granting of employment preference rights to a veteran not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in an examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the

passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran, but the additional points may be used only the first time the veteran obtains a position in the classified service; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; this paragraph may not be interpreted to amend the terms of a collective bargaining agreement; in this paragraph

(A) "veteran" means a person with 181 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975;

(B) "disabled veteran" means a veteran who is entitled to compensation under laws administered by the United States Veterans' Administration, or a person who was honorably discharged or released from active duty because of a service-connected disability;

(20) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees;

(21) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment [illegible] competitive examination; provisional employment [illegible] this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

(22) the establishment of programs facilitating the employment of disadvantaged persons;

(23) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

(24) the establishment of a transition period of up to 12 months for an employee to be reappointed to a classified position if the employee's position is withdrawn from the partially exempt or exempt service and placed in the classified service;

(25) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its

enforcement.

HISTORY (Sec. 13 ch 144 SLA 1960; am sec. 1 ch 130 SLA 1961; am sec. 1 ch 147 SLA 1962; am sec. 1 ch 117 SLA 1966; am sec. 1 ch 33 SLA 1967; am sec. 3 ch 226 SLA 1970; am sec. 1 ch 39 SLA 1971; am sec. 3 ch 42 SLA 1971; am sec. 1 ch 21 SLA 1973; am sec. 1 ch 27 SLA 1976; am sec. 1 ch 4 SLA 1978; am sec. 2 ch 67 SLA 1979; am sec. 38 ch 94 SLA 1980; am secs. 1, 2 ch 89 SLA 1982; am sec. 14

ch 112 SLA 1982)

HB

1894

HB 184

"An Act relating to issuing a certificate of title for vehicles exempt from registration."

This bill provides for the issuance of certificates of title for certain motor vehicles that are exempt from the state registration requirements. The present law limits the Department of Motor Vehicles' authority to issue a certificate of title to the owner of a vehicle exempt from registration upon application to:

AS 28.10.011 (6) - vehicles exempt under the Soldier's and Sailor's Civil Relief Act (50 U.S.C. App. 501 et seq.).

HB 184 adds the following subsections allowing a certificate of title to be issued:

(3) - special mobile equipment as defined by regulation

(7) - driven or parked only on private property

(11) - driven or moved on a highway or vehicular way not connected to the state highway system established under AS 19.10.020

Article 1. Registration.

Section

11. Vehicles subject to registration
181. Registration of unique and special vehicles and vehicles used for special purposes

Sec. 28.10.011. Vehicles subject to registration. Every vehicle driven, moved, or parked upon a highway or other public parking place in the state shall be registered under AS 28.10.011 — 28.10.502 except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulation;

(2) driven or moved on a highway under a dealer's plate or temporary permit as provided for in AS 28.10.031 and 28.10.181(j);

(3) special mobile equipment as defined by regulation;

(4) owned by the United States;

(5) moved by human or animal power;

(6) exempt under the Soldier's and Sailor's Civil Relief Act (50 U.S.C. App. 501 et seq.);

(7) driven or parked only on private property;

(8) the vehicle of a nonresident as provided under AS 28.10.121;

(9) a commercial interstate vehicle under AS 28.10.141;

(10) transported under a special permit under AS 28.10.151;

(11) driven or moved on a highway or vehicular way not connected to the state highway system established under AS 19.10.020. (§ 7 ch 178 SLA 1978; am § 1 ch 54 SLA 1979)

Effect of amendments. — The 1979 amendment inserted "driven, moved, or parked upon a highway or other public parking place" in the introductory language, substituted "U.S.C. App." for "U.S.C.A. Appr." in paragraph (6), deleted "or" from the end of paragraph (9), and added paragraph (11).

NOTES TO DECISIONS

For case construing former AS 28.10.040 and meaning of "cross the highway," see Newell v. National Bank, Sup. Ct. Op. No. 2518 (File No. 5437), — P.2d — (1982).

Sec. 28.10.181. Registration of unique and special vehicles and vehicles used for special purposes. (a) The department shall register unique and special vehicles and vehicles used for special purposes and issue registration plates as provided in this section. Notwithstanding other provisions of AS 28.10.011 — 28.10.502, registration plates issued under this section remain with the person or organization to whom they are issued when vehicle ownership is trans-

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB-184 Date on Bill: 2-11-83
Title: An Act Relating to Issuing a Certificate of Title for Vehicles Exempt from Reg.
Sponsor: Bussell
Requestor: State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue				.8	1.0	1.2		

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Robert J. Rowan, Director, RJR Phone: 269-5551
Division: Motor Vehicles Date: 2-18-83

Approved by Commissioner: [signature] Date: 3-1-83
Department: Department of Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

LESLIE NEWELL, Appellant, v. NATIONAL BANK OF ALASKA Appellee.	File No. 5437

OPINION

[No. 2518 - June 18, 1982]

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, James K. Singleton, Judge.

Appearances: M. Ashley Dickerson, Anchorage, for Appellant. Thomas R. Tatka, Anchorage, for Appellee.

Before: Rabinowitz, Chief Justice, Connor, Burke and Matthews, Justices, and Dimond, Senior Justice.* (Compton, Justice, not participating.)

DIMOND, Senior Justice.
BURKE, Chief Justice, concurring.

Appellant Leslie Newell brought this action against Ray and Samantha Charlton, the National Bank of

*Dimond, Senior Justice, sitting by assignment made pursuant to article IV, section 11 of the Constitution of Alaska, and Alaska R. Admin. P. 23(a).

Alaska (NBA), and one other party in connection with the default by the Charltons on a promissory note which they had executed in favor of Newell when they purchased his mobile home or house trailer[1] in 1978. The suit against the Charltons sought judgment against them on the note, and asserted a lien against the mobile home which, Newell contended, served as security on the promissory note. NBA was later joined as a party in the suit when Newell learned that NBA also claimed a security interest in the mobile home.

The sole issue between Newell and NBA concerns which party has the superior security interest. NBA sought to perfect its interest by filing the requisite documents with the Motor Vehicle Division, according to the certificate of title provisions of the Motor Vehicle Code. Newell sought to perfect his interest by filing the promissory note with the Anchorage district recorder several months later.[2] Each party claims that its method of filing its respective security interest was the exclusive method of perfecting a security interest in the mobile home. Summary judgment was granted in favor of NBA, and Newell has appealed.

---

1. Newell, throughout his brief, refers to the mobile home as a trailer or house trailer.

2. Although the validity of Newell's security interest, a promissory note, was challenged by NBA in the superior court, this issue is not raised on appeal.

Perfection of security interests and priority of perfected interests in personal property and fixtures is generally governed by the provisions of the Uniform Commercial Code - Secured Transactions.[3] Under the UCC, the filing of a financing statement to perfect a security interest in property covered by the code would properly be made at the office of the recorder in the recording district of the debtor's residence, or in the case of fixtures, in the office where a mortgage on the real estate concerned would be filed or recorded. AS 45.09.401 (former AS 45.05.768).

There are certain exceptions to the filing provisions of the UCC. AS 45.09.302 (former AS 45.05.734) provides in part:

> (c) The filing provisions of AS 45.09.101-45.09.507 do not apply to a security interest in property subject to a statute
>
> . . . .
>
> (2) of this state which provides for central filing of, or which requires indication on a certificate of title of, the security interests in the property, unless the property is inventory held for sale by a dealer, which has not been previously sold at retail and for which no certificate of title has been issued.

---

3. At the time of the transactions in question, UCC - Secured Transactions was set out in AS 45.05.690-.794. The article has since been renumbered and is now AS 45.09.-101-.507.

> (d) A security interest in property covered by a statute described in (c) of this section can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate of a certificate of title by a public official.

The Alaska Motor Vehicle Act which was in effect prior to October 1978 former AS 28.10.010-.660, provided a comprehensive scheme for registration, certification of title and perfection of security interests in vehicles subject to the act.[4] The act provided that the owner of a vehicle subject to registration must apply for a certificate of registration and title to the vehicle. Former AS 28.10.-040, .050, .060, .270.

Liens or encumbrances on a vehicle which was registered or subject to registration were not valid against a subsequent encumbrancer without notice unless the filing requirements of the chapter were complied with. Former AS 28.10.470. The filing provisions required that instruments

---

4. AS 28.10.010-.660 (short title: Alaska Motor Vehicle Act) was repealed and a new AS 28.10 was enacted by ch. 178, § 7, SLA 1978, which became effective in October 1978. In 1976, Newell purchased the mobile home, and a certificate of title was issued for it pursuant to the Alaska Motor Vehicle Act. The later sale of the mobile home to the Charltons, and the negotiation and filing of the two security agreements, took place between May and August 1978. Because these transactions took place before the effective date of the new legislation, the repealed provisions of AS 28.10 are applicable to this case. See AS 01.10.100(a).

creating or evidencing liens or encumbrances be filed with the Department of Public Safety. Former AS 28.10.480. A certificate of title was issued containing a statement of liens and encumbrances certified to the department as existing against the vehicle. Former AS 28.10.510. Filing was the exclusive method of giving constructive notice of liens or encumbrances on registered vehicles. Such liens or encumbrances were exempt from other provisions of law such as the UCC requiring or relating to the recording or filing of instruments creating or evidencing liens or encumbrances upon a registered vehicle. Former AS 28.10.530.

If the mobile home or house trailer was a vehicle subject to registration under the Alaska Motor Vehicle Act, filing with the department and notation of the security interest on the certificate of title was clearly the exclusive method of perfecting a security interest in the mobile home. Applicability of the registration requirements of the Alaska Motor Vehicle Act in this case turns on whether the mobile home or trailer was properly subject to registration when Newell purchased it. Once the vehicle was properly

registered, and a certificate of title issued, the act provided the method for transfer of title.[5]

---

5. See former AS 28.10.350(a), .360 and .370. AS 28.10.350(a) required the owner of a registered vehicle to endorse an assignment of warranty of title on the certificate of title for the vehicle, including a statement of all liens and encumbrances, and deliver the certificate of title and registration to the transferee. The transferee then presented the endorsed certificate of title, the certificate of registration, and an application for registration and title to the department. The department then reregistered the vehicle and issued the transferee a new certificate of title. AS 28.10.360-.370. Transfer of title to a registered vehicle was generally not deemed complete absent compliance with these statutes. Harbor Ins. Co. v. U.S. Fidelity & Guar. Co., 350 F. Supp. 723 (D. Alaska 1972); Christian v. State, 513 P.2d 664 (Alaska 1973).

Newell and Charlton complied with these provisions when Newell sold the mobile home to Charlton; a new certificate of title was issued in Charlton's name.

When Newell purchased the mobile home in 1976, he filed with the Motor Vehicle Division of the Department of Public Safety an "Application for Certificate of Title and Motor Vehicle Registration". The record shows that he was issued a "Certificate of Title to a Motor Vehicle" covering the mobile home, but no registration certificate appears in the record on appeal. Similarly, when the Charltons purchased the mobile home in April 1978, they executed an "Application for Title and Registration", showing NBA as the lienholder. A new certificate of title was issued in the names of the Charltons, but again the record does not show that a registration certificate was issued.

The absence of registration certificates in the record does not necessarily mean that they were not issued. But even if this were the case, it is of no consequence. The important point is that the records of the Division of Motor Vehicles showed NBA as having a security interest in the mobile home. As we have mentioned, the filing of notice of the existence of such security interest was the exclusive method of giving constructive notice of the existence of such an encumbrance on the mobile home. Former AS 28.10.-530.

Newell maintains that the trial court was incorrect in granting the bank's cross-motion for summary judgment because the mobile home was exempt from registration requirements under the statutes in effect prior to October 1978.[6]

Former AS 28.10.040, which was in effect at the time the various transactions in this case took place, described the vehicles subject to and exempt from registration under the Alaska Motor Vehicle Act. That section provided:

> Every motor vehicle, trailer, and semi-trailer when driven or moved or parked upon a highway or in a public parking place is subject to the registration provisions of this chapter except
>
> (1) a motor vehicle, trailer, or semi-trailer which is driven or moved upon a highway only to cross the highway from one property to another;
>
> (2) an implement of husbandry which is only incidentally operated or moved upon a highway;

---

6. Newell mentions in his brief that he relied completely on the UCC in making his argument for summary judgment below. The sections of the UCC he refers to deal with Commercial Paper (AS 45.03.101-.805, former AS 45.05.-246-.402), and seller's rights upon buyer's failure to pay the price of goods as it becomes due. (AS 45.02.709, former AS 45.05.210).

These sections may have been applicable to a dispute between Newell and Charlton, but they do not apply to the dispute between Newell and NBA. Here, the validity of Newell's security interest is presumed. It is the method of perfecting interests, and the priority of competing interests, which are at issue.

(3) special mobile equipment;

(4) a vehicle for which permanent identification plates and an identification certificate have been issued under § 125 of this chapter, when the vehicle is being driven or moved upon a highway for the primary purpose of historical exhibition or for a similar purpose;

(5) a motor vehicle used in relation to fishing, mining, hunting or farming operations and which is used only occasionally upon a highway, and for which a license has been issued under § 127 of this chapter;

(6) snow vehicles, automobiles and motorcycles which are permitted to race under AS 05.35.

As applied to this case, the section required registration of a trailer[7] if it were to be moved upon a highway, unless movement of the trailer was within one of the exemptions set out in the section. Newell acknowledges that the mobile home was moved once, from the lot where it was purchased to the trailer space where he and his wife occupied it. The act did not provide for a temporary license or temporary

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7. Former AS 28.10.650(16) defined "trailer" as

a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

Appellant does not argue that the mobile home involved in this case was not a trailer as defined by this section. For the purposes of this case we therefore assume that to be true.

registration for transfer of a mobile home or trailer. Therefore, unless the movement of the mobile home or house trailer came within an exemption, it was a vehicle subject to registration when purchased by Newell.[8]

Subsection (1) of AS 28.10.040 exempted from registration requirements "a . . . trailer . . . driven or moved upon a highway only to cross the highway from one property to another." Newell contends that this subsection exempted a house trailer or mobile home without an engine which was moved upon a highway solely for delivery to a space in a trailer park. He apparently construes "cross the highway" to cover movement along the highway as long as it is only to move a vehicle such as a trailer from one property to another.

As to the proper interpretation of AS 28.10.-040(1), NBA maintains that the ordinary meaning of the

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8. The only alternatives to registration were identification plates and certificates for historic vehicles (former AS 28.10.125), and licenses for owners of vehicles used in relation to fishing, mining, hunting or farming operations which were used only occasionally upon the highway (former AS 28.10.127). Historic vehicles and the vehicles named in AS 28.10.127 were exempt from registration under AS 28.10.040(4) and (5). There were no provisions in the act for the transportation of vehicles under a dealer's plate.

word "cross" should be applied,[9] and that the section should be interpreted to cover only those vehicles which cross from one side of the road to the other. In support of this construction, NBA cites a California case which read a similar statute to mean "crossing the highway from one property to another on the opposite side of the roadway." Connolly v. State, 164 P.2d 60, 63 (Cal. App. 1945).

We believe this is a reasonable construction of the statute. The case and the annotation[10] which Newell cites in support of his interpretation of the subsection do not suggest a different result. Both deal with exceptions for farm vehicles which are moved temporarily along highways in the course of farming operations. There is no discussion

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9. See State, Dept. of Revenue v. Debenham Elec. Supply Co., 612 P.2d 1001, 1002 (Alaska 1980)(citation omitted): "Unless words have acquired a peculiar meaning, by virtue of statutory definition or judicial construction, they are to be construed in accordance with their common usage." The definition of "cross" when used as a verb is "to intersect . . . to extend from one edge or corner to the other: traverse . . . to go from one side to the opposing side (cross a street) . . . to transfer (as from one side to another). . .." Webster's Third New Int'l Dictionary 540-41 (1963). Issues of the definition of the word "cross" have been annotated at 10A West, Words and Phrases 228-30 (1968): "Cross means to pass or extend from one side to the other of, as to cross a stream. People v. Hawkins, 124 P.2d 691, 692 [(Cal. App. 1942)]. To cross means to pass from side to side of. . . . Atchison, T. & S.F. Ry. Co. v. Kansas City, M. & O. Ry. Co., 70 P. 939, 940 [(Kan. 1902)]."

10. Allred v. J. C. Engleman, Inc., 61 S.W.2d 75 (Tex. 1933); Annot., 91 A.L.R. 422 (1934).

that the mobile home was moved once, from the dealer's lot to the mobile home park, but, denies that it was moved again. He contends that the court improperly granted summary judgment tc the bank because of this dispute as to the number of times the mobile home was moved.

The trial court's decision was not based on the number of times the mobile home was moved. It was based on the conclusion that the exemption for vehicles which "cross the highway" applied only to vehicles which crossed from one side of the road to the other. Therefore, there was no genuine issue of fact concerning the number of times the mobile home was moved.

The trial court reasonably concluded that the mobile home was a vehicle subject to registration under the Alaska Motor Vehicle Act. Therefore, the filing and notation on certificate of title provisions of the act were the exclusive method of perfecting a security interest in the mobile home. NBA followed these procedures. Newell did not. The trial court was correct in granting summary judgment in favor of NBA.

The judgment is AFFIRMED.

in either the case or the annotation of an exemption similar to the one in subsection (1). Nor is there a need to make comparison of or distinction between crossing and moving along the highway.

The trial court concluded that former AS 28.10.-040(1) did not exempt the mobile home from registration. The court's order to this effect stated in part:

> The issue presented for consideration is thus a purely legal one. Does the phrase "cross the highway from one property to another" apply to a mobile home purchased for use as a residence with the intent to maintain it in a mobile home park where the mobile home is transported on the highway from its place of acquisition to one mobile home park and thereafter to another? Defendant Bank suggests that the exemption is limited to movement of a trailer from one piece of property across the road to another and does not exempt vehicles that on rare occasions are moved along the highway from one locale to another.

The court concluded that NBA's interpretation of the exemption was correct, and awarded summary judgment in its favor.

Newell has interpreted the quoted language to mean that the trial court based its decision on the assumption that the mobile home had been moved twice.[11] He concedes

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11. The trial court apparently concluded that the mobile home had been moved twice because the certificate of title issued to Newell listed his address as 4110 DeBarr Road, and the location of the mobile home at the time of sale to Charlton was shown as 7800 DeBarr Road. Newell claimed that the mobile home had been moved from the dealer's to 7800 DeBarr Road, and that 4110 DeBarr Road was only his mailing address.

MEMORANDUM State of Alaska

TO: William R. Nix
Commissioner
Department of Public Safety

DATE: July 13, 1982

FILE NO:

TELEPHONE NO: 269-5551

FROM: Robert J. Rowan, Director
Division of Motor Vehicles
Department of Public Safety

SUBJECT: Vehicle Title, Mobile Homes

This division has always, since I've been with it, issued title for mobile homes as the lending institutions found this an easy method of securing their lien interest and for recording ownership. It didn't significantly effect our workload so we had no problem with this method. We recognized that a problem existed after AS 28 was changed by the 1978 Legislature. We attempted to address this by submitting a suggested change to the law. This was in SB-319 Section 10, however this bill never got out of committee.

After I read the attached recent supreme court decision, I met with Assistant's Attorney General Joseph Balfe and Diane Olson to discuss the ramifications of this opinion. They were unanimous in suggesting that we stop titling mobile homes immediately.

Because this action will undoubtably result in some adverse reaction from the lending institutions, I thought it best if you looked at the opinion and the proposed letter before I go any further.

Basically I would request your approval or disapproval of sending this letter at this time.

Attached is a draft of the proposed letter and a copy of the Alaska Supreme Court decision.

attachments (2)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES

P. O. BOX 960
ANCHORAGE, ALASKA 99510

DRAFT

July 13, 1982

To: All Lending Institutions

A recent Alaska Supreme Court opinion, Leslie Newell v National Bank of Alaska, No. 2518, June 18, 1982, has brought to our attention a discrepancy under the most recent revised motor vehicle code, Alaska Title 28, which prohibits us from issuing title or registration to certain vehicles not normally moved upon the highways.

Of particular interest to you may be the prohibition of titling vehicles "driven or parked on private property". This would include mobile homes and similar vehicles.

It is the division's opinion that all such vehicles described above may not be titled and any such title issued since October , 1978, to a vehicle driven or parked on private property which attempted to perfect a security interest is ineffective under the Alaska Motor Vehicle Code.

The division has attempted unsuccessfully to correct the noted discrepancy by legislative action and will continue to do so during the Thirteenth Session of the Alaska State Legislature. In the meantime, commencing immediately the division will no longer issue title to vehicles driven or parked on private property and would suggest that you review your records for any such titled vehicles so that you may perfect your security interest under the Uniform Commercial Code or a similar method.

If you have questions concerning this matter do not hesitate to contact my office at your convenience.

Robert J. Rowan, Director

before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

LESLIE NEWELL, Appellant, v. NATIONAL BANK OF ALASKA Appellee.	File No. 5437 O P I N I O N [No. 2518 - June 18, 1982]

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, James K. Singleton, Judge.

Appearances: M. Ashley Dickerson, Anchorage, for Appellant. Thomas R. Tatka, Anchorage, for Appellee.

Before: Rabinowitz, Chief Justice, Connor, Burke and Matthews, Justices, and Dimond, Senior Justice.* (Compton, Justice, not participating.)

DIMOND, Senior Justice.
BURKE, Chief Justice, concurring.

Appellant Leslie Newell brought this action against Ray and Samantha Charlton, the National Bank of

*Dimond, Senior Justice, sitting by assignment made pursuant to article IV, section 11 of the Constitution of Alaska, and Alaska R. Admin. P. 23(a).

Alaska (NBA), and one other party in connection with the default by the Charltons on a promissory note which they had executed in favor of Newell when they purchased his mobile home or house trailer[1] in 1978. The suit against the Charltons sought judgment against them on the note, and asserted a lien against the mobile home which, Newell contended, served as security on the promissory note. NBA was later joined as a party in the suit when Newell learned that NBA also claimed a security interest in the mobile home.

The sole issue between Newell and NBA concerns which party has the superior security interest. NBA sought to perfect its interest by filing the requisite documents with the Motor Vehicle Division, according to the certificate of title provisions of the Motor Vehicle Code. Newell sought to perfect his interest by filing the promissory note with the Anchorage district recorder several months later.[2] Each party claims that its method of filing its respective security interest was the exclusive method of perfecting a security interest in the mobile home. Summary judgment was granted in favor of NBA, and Newell has appealed.

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1. Newell, throughout his brief, refers to the mobile home as a trailer or house trailer.

2. Although the validity of Newell's security interest, a promissory note, was challenged by NBA in the superior court, this issue is not raised on appeal.

2518

Perfection of security interests and priority of perfected interests in personal property and fixtures is generally governed by the provisions of the Uniform Commercial Code - Secured Transactions.[3] Under the UCC, the filing of a financing statement to perfect a security interest in property covered by the code would properly be made at the office of the recorder in the recording district of the debtor's residence, or in the case of fixtures, in the office where a mortgage on the real estate concerned would be filed or recorded. AS 45.09.401 (former AS 45.05.768).

There are certain exceptions to the filing provisions of the UCC. AS 45.09.302 (former AS 45.05.734) provides in part:

> (c) The filing provisions of AS 45.09.101-45.09.507 do not apply to a security interest in property subject to a statute
>
> . . . .
>
> (2) of this state which provides for central filing of, or which requires indication on a certificate of title of, the security interests in the property, unless the property is inventory held for sale by a dealer, which has not been previously sold at retail and for which no certificate of title has been issued.

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3. At the time of the transactions in question, UCC - Secured Transactions was set out in AS 45.05.690-.794. The article has since been renumbered and is now AS 45.09.-101-.507.

> (d) A security interest in property covered by a statute described in (c) of this section can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate of a certificate of title by a public official.

The Alaska Motor Vehicle Act which was in effect prior to October 1978 former AS 28.10.010-.660, provided a comprehensive scheme for registration, certification of title and perfection of security interests in vehicles subject to the act.[4] The act provided that the owner of a vehicle subject to registration must apply for a certificate of registration and title to the vehicle. Former AS 28.10.-040, .050, .060, .270.

Liens or encumbrances on a vehicle which was registered or subject to registration were not valid against a subsequent encumbrancer without notice unless the filing requirements of the chapter were complied with. Former AS 28.10.470. The filing provisions required that instruments

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4. AS 28.10.010-.660 (short title: Alaska Motor Vehicle Act) was repealed and a new AS 28.10 was enacted by ch. 178, § 7, SLA 1978, which became effective in October 1978. In 1976, Newell purchased the mobile home, and a certificate of title was issued for it pursuant to the Alaska Motor Vehicle Act. The later sale of the mobile home to the Charltons, and the negotiation and filing of the two security agreements, took place between May and August 1978. Because these transactions took place before the effective date of the new legislation, the repealed provisions of AS 28.10 are applicable to this case. See AS 01.10.100(a).

creating or evidencing liens or encumbrances be filed with the Department of Public Safety. Former AS 28.10.480. A certificate of title was issued containing a statement of liens and encumbrances certified to the department as existing against the vehicle. Former AS 28.10.510. Filing was the exclusive method of giving constructive notice of liens or encumbrances on registered vehicles. Such liens or encumbrances were exempt from other provisions of law such as the UCC requiring or relating to the recording or filing of instruments creating or evidencing liens or encumbrances upon a registered vehicle. Former AS 28.10.530.

If the mobile home or house trailer was a vehicle subject to registration under the Alaska Motor Vehicle Act, filing with the department and notation of the security interest on the certificate of title was clearly the exclusive method of perfecting a security interest in the mobile home. Applicability of the registration requirements of the Alaska Motor Vehicle Act in this case turns on whether the mobile home or trailer was properly subject to registration when Newell purchased it. Once the vehicle was properly

registered, and a certificate of title issued, the act provided the method for transfer of title.[5]

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5. See former AS 28.10.350(a), .360 and .370. AS 28.10.350(a) required the owner of a registered vehicle to endorse an assignment of warranty of title on the certificate of title for the vehicle, including a statement of all liens and encumbrances, and deliver the certificate of title and registration to the transferee. The transferee then presented the endorsed certificate of title, the certificate of registration, and an application for registration and title to the department. The department then reregistered the vehicle and issued the transferee a new certificate of title. AS 28.10.360-.370. Transfer of title to a registered vehicle was generally not deemed complete absent compliance with these statutes. Harbor Ins. Co. v. U.S. Fidelity & Guar. Co., 350 F. Supp. 723 (D. Alaska 1972); Christian v. State, 513 P.2d 664 (Alaska 1973).

Newell and Charlton complied with these provisions when Newell sold the mobile home to Charlton; a new certificate of title was issued in Charlton's name.

When Newell purchased the mobile home in 1976, he filed with the Motor Vehicle Division of the Department of Public Safety an "Application for Certificate of Title and Motor Vehicle Registration". The record shows that he was issued a "Certificate of Title to a Motor Vehicle" covering the mobile home, but no registration certificate appears in the record on appeal. Similarly, when the Charltons purchased the mobile home in April 1978, they executed an "Application for Title and Registration", showing NBA as the lienholder. A new certificate of title was issued in the names of the Charltons, but again the record does not show that a registration certificate was issued.

The absence of registration certificates in the record does not necessarily mean that they were not issued. But even if this were the case, it is of no consequence. The important point is that the records of the Division of Motor Vehicles showed NBA as having a security interest in the mobile home. As we have mentioned, the filing of notice of the existence of such security interest was the exclusive method of giving constructive notice of the existence of such an encumbrance on the mobile home. Former AS 28.10.-530.

(3) special mobile equipment;

(4) a vehicle for which permanent identification plates and an identification certificate have been issued under § 125 of this chapter, when the vehicle is being driven or moved upon a highway for the primary purpose of historical exhibition or for a similar purpose;

(5) a motor vehicle used in relation to fishing, mining, hunting or farming operations and which is used only occasionally upon a highway, and for which a license has been issued under § 127 of this chapter;

(6) snow vehicles, automobiles and motorcycles which are permitted to race under AS 05.35.

As applied to this case, the section required registration of a trailer[7] if it were to be moved upon a highway, unless movement of the trailer was within one of the exemptions set out in the section. Newell acknowledges that the mobile home was moved once, from the lot where it was purchased to the trailer space where he and his wife occupied it. The act did not provide for a temporary license or temporary

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7. Former AS 28.10.650(16) defined "trailer" as

> a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

Appellant does not argue that the mobile home involved in this case was not a trailer as defined by this section. For the purposes of this case we therefore assume that to be true.

Newell[5] maintains that the trial court was incorrect in granting the bank's cross-motion for summary judgment because the mobile home was exempt from registration requirements under the statutes in effect prior to October 1978.[6]

Former AS 28.10.040, which was in effect at the time the various transactions in this case took place, described the vehicles subject to and exempt from registration under the Alaska Motor Vehicle Act. That section provided:

> Every motor vehicle, trailer, and semi-trailer when driven or moved or parked upon a highway or in a public parking place is subject to the registration provisions of this chapter except
>
> (1) a motor vehicle, trailer, or semi-trailer which is driven or moved upon a highway only to cross the highway from one property to another;
>
> (2) an implement of husbandry which is only incidentally operated or moved upon a highway;

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6. Newell mentions in his brief that he relied completely on the UCC in making his argument for summary judgment below. The sections of the UCC he refers to deal with Commercial Paper (AS 45.03.101-.805, former AS 45.05.-246-.402), and seller's rights upon buyer's failure to pay the price of goods as it becomes due. (AS 45.02.709, former AS 45.05.210).

These sections may have been applicable to a dispute between Newell and Charlton, but they do not apply to the dispute between Newell and NBA. Here, the validity of Newell's security interest is presumed. It is the method of perfecting interests, and the priority of competing interests, which are at issue.

registration for transfer of a mobile home or trailer. Therefore, unless the movement of the mobile home or house trailer came within an exemption, it was a vehicle subject to registration when purchased by Newell.[8]

Subsection (1) of AS 28.10.040 exempted from registration requirements "a . . . trailer . . . driven or moved upon a highway only to cross the highway from one property to another." Newell contends that this subsection exempted a house trailer or mobile home without an engine which was moved upon a highway solely for delivery to a space in a trailer park. He apparently construes "cross the highway" to cover movement along the highway as long as it is only to move a vehicle such as a trailer from one property to another.

As to the proper interpretation of AS 28.10.-040(1), NBA maintains that the ordinary meaning of the

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word "cross" should be applied,[9] and that the section should be interpreted to cover only those vehicles which cross from one side of the road to the other. In support of this construction, NBA cites a California case which read a similar statute to mean "crossing the highway from one property to another on the opposite side of the roadway." Connolly v. State, 164 P.2d 60, 63 (Cal. App. 1945).

We believe this is a reasonable construction of the statute. The case and the annotation[10] which Newell cites in support of his interpretation of the subsection do not suggest a different result. Both deal with exceptions for farm vehicles which are moved temporarily along highways in the course of farming operations. There is no discussion

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9. See State, Dept. of Revenue v. Debenham Elec. Supply Co., 612 P.2d 1001, 1002 (Alaska 1980)(citation omitted): "Unless words have acquired a peculiar meaning, by virtue of statutory definition or judicial construction, they are to be construed in accordance with their common usage." The definition of "cross" when used as a verb is "to intersect . . . to extend from one edge or corner to the other: traverse . . . to go from one side to the opposing side (cross a street) . . . to transfer (as from one side to another). . . ." Webster's Third New Int'l Dictionary 540-41 (1963). Issues of the definition of the word "cross" have been annotated at 10A West, Words and Phrases 228-30 (1968): "Cross means to pass or extend from one side to the other of, as to cross a stream. People v. Hawkins, 124 P.2d 691, 692 [(Cal. App. 1942)]. To cross means to pass from side to side of. . . . Atchison, T. & S.F. Ry. Co. v. Kansas City, M. & O. Ry. Co., 70 P. 939, 940 [(Kan. 1902)]."

10. Allred v. J. C. Engleman, Inc., 61 S.W.2d 75 (Tex. 1933); Annot., 91 A.L.R. 422 (1934).

in either the case or the annotation of an exemption similar to the one in subsection (1). Nor is there a need to make comparison of or distinction between crossing and moving along the highway.

The trial court concluded that former AS 28.10.-040(1) did not exempt the mobile home from registration. The court's order to this effect stated in part:

> The issue presented for consideration is thus a purely legal one. Does the phrase "cross the highway from one property to another" apply to a mobile home purchased for use as a residence with the intent to maintain it in a mobile home park where the mobile home is transported on the highway from its place of acquisition to one mobile home park and thereafter to another? Defendant Bank suggests that the exemption is limited to movement of a trailer from one piece of property across the road to another and does not exempt vehicles that on rare occasions are moved along the highway from one locale to another.

The court concluded that NBA's interpretation of the exemption was correct, and awarded summary judgment in its favor.

Newell has interpreted the quoted language to mean that the trial court based its decision on the assumption that the mobile home had been moved twice.[11] He concedes

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11. The trial court apparently concluded that the mobile home had been moved twice because the certificate of title issued to Newell listed his address as 4110 DeBarr Road, and the location of the mobile home at the time of sale to Charlton was shown as 7800 DeBarr Road. Newell claimed that the mobile home had been moved from the dealer's to 7800 DeBarr Road, and that 4110 DeBarr Road was only his mailing address.

HB

185

HB 185

AS 39.35.680

CHAPTER = 39.35
SECTION = 39.35.680
TITLE = 39
HEADINGS TITLE 39.
Public Officers and Employees.
CHAPTER 35.
Public Employees' Retirement System of Alaska.
ARTICLE 8.
General Provisions.
CITATION Sec. 39.35.680.
DEFINITIONS.
TEXT In this chapter, unless the context otherwise requires,

(1) "active member" means an employee who is employed by an employer, is receiving compensation for seasonal, permanent full-time, or permanent part-time services, and is making contributions to the system;

(2) "actuarial adjustment" means equality in value of the aggregate expected payments under two different forms of pension payments, considering expected mortality and interest earnings on the basis of tables adopted from time to time by the board;

(3) "administrator" means the person appointed by the commissioner of administration under AS 39.35.050;

(4) "average monthly compensation" means the result obtained by dividing the compensation earned by an employee during a considered period by the number of months, including fractional months, for which compensation was earned; the considered period consists of the three consecutive calendar years during the period of credited service which yields the highest average, or if the employee does not have three consecutive calendar years, his period of credited service; an employee must have at least 115 days of credited service in the last calendar year in order to be used as part of the three consecutive calendar years;

(5) "beneficiary" means a person designated by an employee to receive benefits that may be due from the system upon the employee's death;

(6) "board" means the Public Employees Retirement Board;

(7) "calendar year" means the period beginning on January 1 and ending on December 31;

(8) "compensation" means the total remuneration earned by an employee for personal services rendered, including cost-of-living differentials, payments for leave that is actually used by the employee, the amount by which the employee's wages are reduced under AS 39.30.150(c), and any amount deferred under an employer-sponsored deferred compensation plan, but does not include retirement benefits, welfare benefits, per diem, expense allowances, workers' compensation payments or payments for leave not used by the employee whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins;

(9) "credited service" means the number of years, including fractional years, recognized for computing benefits that may be due from the system;

(10) "deferred vested member" means an inactive member who meets the five-year credited service requirement to qualify for a retirement benefit;

(11) "dependent child" means an unmarried child of an employee, including one adopted, who is dependent upon the employee for support and who is either (A) under 19 years old or (B) under 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education; age restrictions set out in this paragraph do not apply to a child who is totally and permanently disabled;

(12) "disabled member" means an employee who is terminated, who has not received a refund from the system and is receiving a disability benefit from the system;

(13) "early retirement" means retirement for a member who is not eligible for normal retirement and who is at least 50 years old and is eligible to receive benefits under AS 39.35.370(b) or under AS 39.35.385(b) or (f);

(14) "elected official" means a person whose compensation results from personal services rendered to an employer as an elected representative;

(15) "employee contribution account" means the total maintained by the system of the employee's mandatory contributions, voluntary contributions, indebtedness principal, and interest contributions, interest credited to each of those accounts, and adjustments to the accounts in accordance with AS 39.35.100;

(16) "employee savings account" means the account maintained by the system to record the voluntary contributions of each employee, including interest and adjustments to the account in accordance with AS 39.35.100;

(17) "employer" means the State of Alaska or a political subdivision or public organization of the state which participates in the system;

(18) "fiscal year" means the period beginning on July 1 and ending on June 30 of the following calendar year;

(19) "former member" means an employee who is terminated and who has received a total refund of the balance of his employee contribution account, or who has requested in writing a refund of the balance in his employee contribution account, or who is eligible for a refund under AS 39.35.200(b);

(20) "inactive member" means an employee who is terminated and who has not received a refund from the system or an employee on leave-without-pay status or layoff status;

(21) "member" or "employee"

(A) means a person eligible to participate in the system and who is covered by the system;

(B) includes
(i) active member;
(ii) inactive member;
(iii) vested member;
(iv) deferred vested member;
(v) non-vested member;
(vi) disabled member;
(vii) retired member;
(C) does not include
(i) former members;
(ii) persons compensated on a contractual or fee basis;
(iii) casual or emergency workers or nonpermanent employees as defined in AS 39.25.200;
(iv) persons covered by the Alaska Teachers' Retirement System;
(v) employees of the division of marine transportation engaged in operating the state ferry system who are covered by a union or group retirement system to which the state makes contributions;
(vi) justices of the supreme court or judges of the court of appeals or of the superior or district courts of Alaska;
(vii) the administrative director of courts appointed under art. IV, sec. 16 of the state constitution unless he becomes a member under AS 39.35.158; and
(viii) members of the elected public officers' retirement system (former AS 39.37);
(D) may include employees of the division of marine transportation excluded under (C)(v) of this paragraph provided that
(i) the State of Alaska formally agrees to their inclusion through the process of collective bargaining; and
(ii) no collective bargaining agreement has the effect of obligating contributions made by the state under AS 39.30.150 in the event the state resumes participation in the federal social security system;

(22) "military service" means active duty service in the armed forces of the United States;

(23) "nonoccupational disability" means a physical or mental condition which, in the judgment of the administrator, presumably permanently prevents an employee from satisfactorily performing his usual duties for his employer or the duties of another position or job which his employer makes available and for which the employee is qualified by training or education, not including a condition resulting from a cause which the board, in its regulations has excluded;

(24) "non-vested member" means an active or inactive member who does not meet the five-year credited service requirement to qualify for a retirement benefit;

(25) "normal retirement" means retirement for a member

who is eligible to receive benefits under AS 39.35.370(a) or under 39.35.385(a) or (f);

(26) "occupational disability" means a physical or mental condition which, in the judgment of the administrator, presumably permanently prevents an employee from satisfactorily performing his usual duties for his employer; however, the proximate cause of the condition must be a bodily injury sustained, or a hazard undergone, while in the performance and within the scope of the employee's duties and not the proximate result of the wilful negligence of the employee;

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

(28) "pension fund" means all assets held in the name of the system;

(29) "permanent full-time" means an employee who is occupying a permanent position which regularly requires working 30 or more hours a week;

(30) "permanent part-time" means an employee who is occupying a permanent position which regularly requires working at least 15 hours but less than 30 hours a week;

(31) "prescribed rate of interest" means the rate of interest used for computing employer contributions, for preparing actuarial tables used by the system and for crediting interest to employee contributions and savings accounts, and for charging interest on employee indebtedness accounts;

(32) "qualified employee of the Department of Fish and Game" means a full-time employee of that department whose duties necessitate a significant amount of field work, travel, or exposure to hazardous working conditions, and who holds a position which is designated as complying with the requirements of this section by regulations adopted by the commissioner of administration after consultation with the commissioner of fish and game, except that other personnel of that department are not excluded by this paragraph from status as an "employee" under (21) of this section;

(33) "retired member" means an employee who is terminated, who has not received a refund from the system and is receiving a benefit other than disability, from the system;

(34) "retirement" means that period of time from the first day of the month following (A) the date of termination and (B) application for retirement, in which a person is appointed to receive a retirement benefit, other than occupational or nonoccupational disability benefit;

(35) "seasonal" refers to an employee who is occupying a position for less than 12 months each year where it is anticipated that the same employee will return to the position when needed and includes a temporary employee of the legislature if part of the service for the legislature during each calendar year is performed during a legislative session;

(36) "surviving spouse" means the spouse of an employee who has been married to the employee for at least one year at the time of the employee's death; the one-year marriage requirement does not apply when the employee's death was an occupational or accidental death;

(37) "system" means the Public Employees' Retirement System of Alaska;

(38) "vested member" is an active member who meets the five-year credited service requirement to qualify for a retirement benefit;

(39) "public organization" means an organization or entity

(A) created by the constitution or laws of the state for the purpose of administering state programs;

(B) whose officers and employees are paid by a method other than by the state payroll prepared by the Department of Administration; and

(C) whose employees are not required by law to participate in the system.

HISTORY (Sec. 3 ch 143 SLA 1960; am sec. 2 ch 93 SLA 1962; am sec. 3 ch 102 SLA 1963; am sec. 10 ch 155 SLA 1966; am sec. 14 ch 83 SLA 1967; am secs. 18 - 21 ch 109 SLA 1970; am sec. 16 ch 159 SLA 1972; am sec. 36 ch 1 SLA 1974; am sec. 110 ch 127 SLA 1974; am sec. 3 ch 200 SLA 1975; am secs. 9, 10, 15 ch 205 SLA 1975; am secs. 5, 6 ch 27 SLA 1976; am secs. 22, 23 ch 123 SLA 1976; am sec. 1 ch 141 SLA 1976; am sec. 7 ch 218 SLA 1976; am secs. 6, 7 ch 245 SLA 1976; am secs. 12, 13 ch 263 SLA 1976; am sec. 54 ch 128 SLA 1977; am sec. 3 ch 58 SLA 1979; am sec. 3 ch 67 SLA 1979; am sec. 14 ch 82 SLA 1979; am sec. 27 ch 12 SLA 1980; am secs. 47, 48 ch 13 SLA 1980; am secs. 36, 37 ch 146 SLA 1980; am secs. 68 - 73 ch 137 SLA 1982)

AS 39.35.370

CHAPTER = 39.35
SECTION = 39.35.370
TITLE = 39

HEADINGS TITLE 39.
Public Officers and Employees.
CHAPTER 35.
Public Employees' Retirement System of Alaska.
ARTICLE 6.
Benefits.

CITATION Sec. 39.35.370.
RETIREMENT BENEFITS.

TEXT (a) A terminated employee is eligible for a normal retirement benefit (1) at age 55 with at least five years credited service, or (2) with at least 20 years of credited service as a peace officer or fireman, or (3) with at least 30 years of credited service for all other employees.

(b) A terminated employee is eligible for an early retirement benefit at age 50 with at least five years credited service.

(c) The monthly amount of a retirement benefit for a peace officer or fireman is two per cent of the average monthly compensation times the years of credited service up through 10 years, plus two and one-half per cent of the average monthly compensation times the years of service over 10 years. For all other employees it is two per cent of the average monthly compensation times the years of service. An actuarial adjustment must be made for an early retirement benefit.

(d) The monthly amount of a retirement benefit for a deferred vested member shall be determined in accordance with (c) of this section as it was in effect on the date of the employee's termination of employment.

(e) Benefits payable under this section accrue from the first day of the month after which all of the following requirements are met: (1) The member meets the eligibility requirements of this section; (2) he terminates his employment; and (3) he applies for retirement. The benefits are payable the last day of the month. If payment is delayed, a retroactive payment shall be made to cover the period of deferment. The last payment shall be made for the month in which a benefit is payable under this section.

(f) A member who is vested in the system as a peace officer or fireman at the time he incurs a permanent disability of at least 33-1/3 per cent under workers' compensation and who (1) undergoes retraining because of the disability; and (2) is subsequently employed with the state or other employer in a position other than peace officer or fireman, is eligible for a normal retirement benefit as a peace officer or fireman under (a) and (c) of this section when he has completed 20 years of credited service.

HISTORY (Sec. 18 ch 143 SLA 1960; am sec. 2 ch 102 SLA 1963; am sec. 7 ch 155 SLA 1966; am sec. 5 ch 235 SLA 1968; am sec. 6 ch 109 SLA 1970; am secs. 6, 7 ch 159 SLA 1972; am sec. 15 ch 47 SLA 1974; am sec. 34 ch 128 SLA 1977; am sec. 33 ch 146 SLA 1980)

MEMORANDUM

To: John
From: Brent
Date: May 4, 1983

Re: HB 185 STATE RETIREMENT SYSTEM, INCLUDING PROBATION OFFICERS & PARK RANGERS

WHAT THE BILL DOES:

Amends the Public Employee's Retirement System to include Probation officers and park rangers in the definition of peace officers for retirement system purposes.

Provides Act only applies to employees who retire after July 1, 1983

Provides a probation officer or park ranger who retires after July 1, 1983 may receive peace officer benefits before July 1, 1983 if he chooses, within a year of that date, to receive the additional benefits and agrees to pay an amount equal to additional contributions that would have been made if he was considered a peace officer before July 1, 1983.

What all this means is that this bill puts probation officers and park rangers into a higher paying retirement program. How much higher? Well for all other employees besides "peace officers or firemen", the monthly amount is 2% of the avg. monthly compensation times the years of service. However, for firemen and peace officers, they receive two and one-half percent of the monthly compensation times the number of years of service over ten years. So the difference is 1/2% for the years of service ten years and after.

QUESTIONS:

FISCAL NOTE:
$477,700 1984
515,900 1985
557,200 1986
601,900 1987
649,900 1988

Let's get some facts. What amounts of money are we talking about? How much more in retirement benefits will these "probation officers" and "park rangers" be receiving? What is the additional cost to the state? And how many people will this added increase in retirement benefits benefit? How many people are we talking about? How many "park rangers" and "probation officers" are there currently working for the state?

Why did the 2 1/2% ever come into existence? What makes firemen and peace officers differ so much that they can receive a higher retirement benefit than other state employees? Could be because they at times really put their life on the line, ie. high risk job situation. I can see where firemen and police officers getting into "high risk" situations, thus perhaps earning the higher retirement benefit. But, how do "probation officers" and "park rangers" fall into this "high risk" classification? And for that matter, how do "qualified employees of the Dept. of fish and Game?" (perhaps you might want to make an

amendment striking them out of the higher benefits and putting them in with the rest of the state employees)

Alaska State Legislature

Representative Milo Fritz
District 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MILO FRITZ

MEMORANDUM

TO: Representative Mike M. Miller
Representative Jim Duncan
House States Affairs Committee Members

FROM: Representative Milo H. Fritz MHF

DATE: April 27, 1983

RE: House Bill 185, "An Act Amending the Public Employees Retirement System..."

I would like to request that the term "fireman" on line 13 and line 23 of page 1 be deleted and changed to "firefighter." This will update the language of the bill.

I would also request that two new groups be added to the definition of firefighter (fireman). The first would be "emergency medical technicians." The second would be "physician-trained mobile intensive care paramedics."

In many areas of our state, emergency medical technicians and paramedics are also firefighters or involved directly in firefighting operations. Their primary job also has the same type of dangers inherant in the other categories now covered. This addition would put them on equal ground with other public safety personnel.

There would also, of course, be the necessary changes in the title, Section 1, and Section 2 to facilitate these amendments. Your consideration would be appreciated.

dss

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 185
Title: An Act Amending PERS
Sponsor: M.M. Miller
Requestor:

II. FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Cent. Adm. Service
BRU, Program of Subprogram(s) Affected:
Retirement & Benefits (PERS)

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		477.7	515.9	557.2	601.8	649.9
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		477.7	515.9	557.2	601.8	649.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		431.8	466.4	503.7	544.0	587.5
FEDERAL FUNDS		22.0	23.7	25.6	27.7	29.9
*OTHER (Specify Source)		23.9	25.8	27.9	30.1	32.5

*4% Veterans; 12% Fish & Game; 26% Highway; 58% Airport

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: J.R. Humphreys, Director Phone: 465-4460
Division: Retirement & Benefits Date: 3-21-83

Approved by Commissioner: Lisa Rudd, Commissioner Date: 3-21-83
Department: Administration

Distribution:
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3/8/83

State of Alaska

Fiscal Note

HB 185

IV Analysis: To fund this bill, the state PERS contribution rate must be increased by .11% in FY 84. The state PERS payroll is estimated to be $434,286,000 in FY 84 and increasing by 8.0% each year thereafter.

If this bill becomes law, the funding ratio in PERS will decrease by .3%.

The total actuarial present value of cost of this bill is $4.7 million.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL NO. 185

"An Act amending the public employees retirement system, to include probation officers and park rangers in the definition of peace officers for retirement system purposes; and providing for an effective date."

This Bill would make probation officers and park rangers eligible for enhanced "peace officer" retirement benefits after July 1, 1983. It would also enable current employees in those job classes to receive the enhanced benefits for past service by allowing them to make additional contributions to the retirement system.

The Department of Health and Social Services opposes this Bill. The Bill, if enacted, would result in significant additional costs to the State with no increase in services or benefits to the general public. The Department and the Administration maintain that the employees in question are adequately compensated and do not perform duties which result in a significant amount of exposure to hazardous working conditions.

The fact that the employees in question are adequately compensated is demonstrated by the low rate of employee turn-over in the probation officer job class and by the number of qualified applicants for probation officer positions. Eligibility for the standard State retirement program appears to be sufficient to allow for the recruitment and retention of qualified probation officers. There is no evidence to indicate that the effectiveness of services would be increased by making probation officers eligible for enhanced retirement benefits. Simply increasing the benefits or compensation to existing employees beyond the negotiated level will not result in a corresponding increase in their productivity or qualifications, or greater service to the public. Neither should it be expected to substantially increase the numbers or qualifications of those persons applying for probation officer positions.

An analysis of the duties of probation officers indicates that those duties differ qualitatively from those of law enforcement officers for whom the enhanced peace officer retirement benefits were designed. Peace officer activities are primarily of an enforcement nature and entail a high degree of risk. Such enforcement activities comprise only a minute proportion of probation officer duties and differ markedly from police enforcement activities.

Probation officer's enforcement activities are almost never of an emergency nature requiring immediate action by probation officers to protect life or personal safety. Similarly these activities rarely entail a significant risk of violence. Enforcement activities of probation officers consist largely of obtaining and serving warrants for the arrest of probationers and parolees and of making warrantless arrests of such persons for violations of conditions imposed by the court or Parole Board. These arrests are made, with rare exceptions,

POSITION PAPER/Department of Health & Social Services

while accompanied by police officers who effect the actual physical arrest.

Longstanding policy for both adult and juvenile probation officers required that an arrest be made by those officers only when no law enforcement officer was available and immediate arrest was necessary to protect the person being arrested, the community, or the probation officer, or to prevent the probationer or parolee from absconding. Normal policy was for a warrant for the arrest of the probationer or parolee to be obtained and a request made of police to effect the arrest.

Recent policy changes within the Division of Adult Corrections allow probation officers employed by that agency greater discretion to effect arrests themselves. However, policy continues to strongly encourage police assistance. Standard policy also requires that if arrest situations involve significant risk of violence probation officers are to ". . . , back away immediately . . . " and not proceed ". . . until proper assistance can be obtained." Obviously, "proper assistance" is police aid.

Arrests accomplished by probation officers, then, generally are of a pro forma nature in which police personnel effect the physical arrest of the violator. The great majority of the arrests of probationers or parolees are based on warrants issued by the court or Parole Board and are made by police officers. In the majority of even warrantless arrests of probationers or parolees, which must technically be accomplished by probation officers, police personnel accomplish the actual physical arrest and they are accompanied by probation officers as a matter of form and legal necessity. This is a prudent policy given the differences in training and experience between police and probation staff.

Similarly prudent policies govern other enforcement activities carried out by probation officers. These activities, such as the conduct of searches of the residences or persons of probationers and parolees, constitute a very limited portion of the probation officer activities. They are also generally conducted with the aid of police.

Although probation officers are authorized to carry weapons they do not do so on a regular basis and such use is strictly limited as a matter of policy and because there is little need or justification for such use.

The primary activities of probation officers, then, are not those which place them in hazardous situations or require physical strength or abilities greater those normally needed in other professions. The risk of harm or violence to probation officers from job-related incidents is very slight and would not reasonably be the cause of higher levels of mental stress than those which exist in any number of other professions.

POSITION PAPER/Department of Health & Social Services

It is clear that the duties and activities of probation officers differ significantly from those of police officers for whom the enhanced "peace officer" retirement benefits were originally designed. This difference also extends to the other persons defined as peace officers which include correctional officers whose duty stations are adult penal facilities and whose duties involve the maintenance of security and day-to-day control and supervision of prisoners.

The Department recognizes the significant contribution made by probation officers to the criminal justice system and to the rehabilitation of probationers and parolees but believes that these contributions differ qualitatively and significantly from those of police and correctional officers and other "peace officers." The Department and Administration also maintain that probation officers are fairly compensated within the existing salary and retirement system structures. The addition of probation officers to the group of those eligible for enchanced "peace officer" retirement benefits would constitute a significantly greater expense to the State without and additional benefit to the public. This would be unconscionable at any time but particularly so in a time of declining State revenues when increasing benefits to a few would inevitably mean decreased services to many.

The Department opposes House Bill 185.

RECOMMENDED: Michael L. Price

Michael L. Price, Director
Division of Family and
Youth Services

DATE: 4/4/83

RECOMMENDED:

Roger W. Endell, Director
Division of Adult
Corrections

DATE: April 26, 1983

APPROVED BY: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

DATE: 4/29/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

SUMMARY

I. REQUEST

Bill/Resolution No.: HB No. 185
Title: Peace Officers Retirement
Sponsor: M.M. Miller
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: H&SS
Program Category Affected: Adm. of Justice
BRU, Program or Subprogram(s) Affected: Adult Confinement Probation & Community Programs, Adm. & Support, Youth Correction Services.

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		453.2	480.4	509.2	539.7	572.1
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		453.2	480.4	509.2	539.7	572.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		453.2	480.4	509.2	539.7	572.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funding was not identified by the sponsors.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price / Roger C. Lange Phone: 465-3170
Division: F&YS, Adult Corrections Date: 4/1/83

Approved by Commissioner: Robert London Smith Date: 4/29/83
Department: H. & S.S.

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
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3/8/

IV. ANALYSIS

A. Assumptions:

This cost estimate is based upon inclusion of all Probation Officer positions in the Governor's FY 84 budget being eligible for benefits under the peace officers' retirement system, at an additional contribution rate of 9.65% for the State. There are Probation Officer positions in both the Divisions of Family and Youth Services and Adult Corrections.

B. Program Summary:

No new positions would be necessary. However, there would be increased Personal Services costs estimated at $149,605 for the Division of Family and Youth Services, and $303,563 for the Division of Adult Corrections.

C. Computations:

Increased costs are based upon the base salaries for 43 positions in the Division of Family and Youth Services, and 90 in the Division of Adult Corrections (65 currently authorized and 25 new positions requested) as follows:

F&YS	Base salaries of	$1,550,31[illegible]	x .0965 =	$149,605
AC	Base salaries of	$3,145,728	x .0965 =	$303,563
TOTAL		$4,696,044		$453,168

D. Economic Impact:

There would be no economic impact.

E. Impact on Local Governments:

There would be no impact on local governments.

STATE OF ALASKA
FISCAL NOTE

Revision Date ____, 1983

I. REQUEST

Bill/Resolution No.: HB No. 185
Title: Peace Officers Retirement
Sponsor: M.M. Miller
Requestor:

II. FISCAL DETAIL

Agency Affected: H&SS
Program Category Affected: Adm. & Justice
BRU, Program of Subprogram(s) Affected: Youth Correctional Services BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		149.6	158.6	168.1	178.2	188.9
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		149.6	158.6	168.1	178.2	188.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		149.6	158.6	168.1	178.2	188.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funding was not identified by the sponsors.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price Michael L Price Phone: 465-3170
Division: Family & Youth Services Date: 4/1/83

Approved by Commissioner: Robert London Smith, M.D. Date: 4/12/83
Department: H & SS

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3/8/8

HB 182, (cont'd)

into a community." (Definition added to AS 47.37, "Uniform Alcoholism and Intoxication Treatment Act.") Wages for participants in residential drug abuse and alcoholism treatment programs would be the same as the wages paid to correctional industries workers under AS 33.32.050. Those wages are set by regulation, but are limited to no more than one half the current minimum wage. Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced February 9 and referred to Health, Education & Social Services, Labor & Commerce and Finance.

State Retirement Benefits (seasonal employees)

HOUSE BILL NO. 183, by Reps. Duncan and M.M. Miller. Relates to retirement benefits for seasonal employees under the Public Employees' Retirement System. Adds language to AS 39.35.385 (Public Employees' Retirement System. Benefits. Conditional Service Retirement Benefits) providing: "An employee is eligible for a normal retirement benefit at age 55 or an early retirement benefit at age 50 if the employee has at least 60 days of credited service as a seasonal employee during each of five calendar years." Provides Act takes effect July 1, 1983.

Introduced February 11 and referred to State Affairs, then to Finance.

Motor Vehicle Titles

HOUSE BILL NO. 184, by Rep. Bussell. Provides for the issuance of certificates of title for certain motor vehicles that are exempt from the state registration requirements. The bill provides the Department of Motor Vehicles may issue a certificate of title to the owner of a vehicle exempt from registration under AS 28.10.011(3),(6),(7) and (11), upon application by that owner (subsections are as follows: (3) special mobile equipment as defined by regulation; (6) exempt under the Soldier's and Sailor's Relief Act; (7) driven or parked only on private property; (11) driven or moved on a highway or vehicular way not connected to the state highway system). Does not provide for an effective date (becomes law 90 days after Governor's signature).

Introduced February 11 and referred to State Affairs.

State Retirement System (probation officers & park rangers)

HOUSE BILL NO. 185, by Reps. M.M. Miller and Duncan. Amends the Public Employees' Retirement System (AS 39.35) to include probation officers and park rangers in the definition of peace officers for retirement system purposes. Provides Act applies only to employees who retire after July 1, 1983 (the bill's effective date). Provides a probation officer or park ranger who retires after July 1, 1983 is entitled to receive peace officer benefits before July 1, 1983 if he elects, within a year of that date, to receive the additional benefits and agrees to pay an amount equal to additional contributions that would have been made if he had been considered to be a peace officer before July 1,1983. Provides Act takes effect July 1, 1983.

Introduced February 11 and referred to State Affairs, then to Finance.

HB

193

HOUSE COMMITTEE ON STATE AFFAIRS
LETTER OF INTENT
FOR
CSHB 193 (STATE AFFAIRS)

Mr. Speaker:

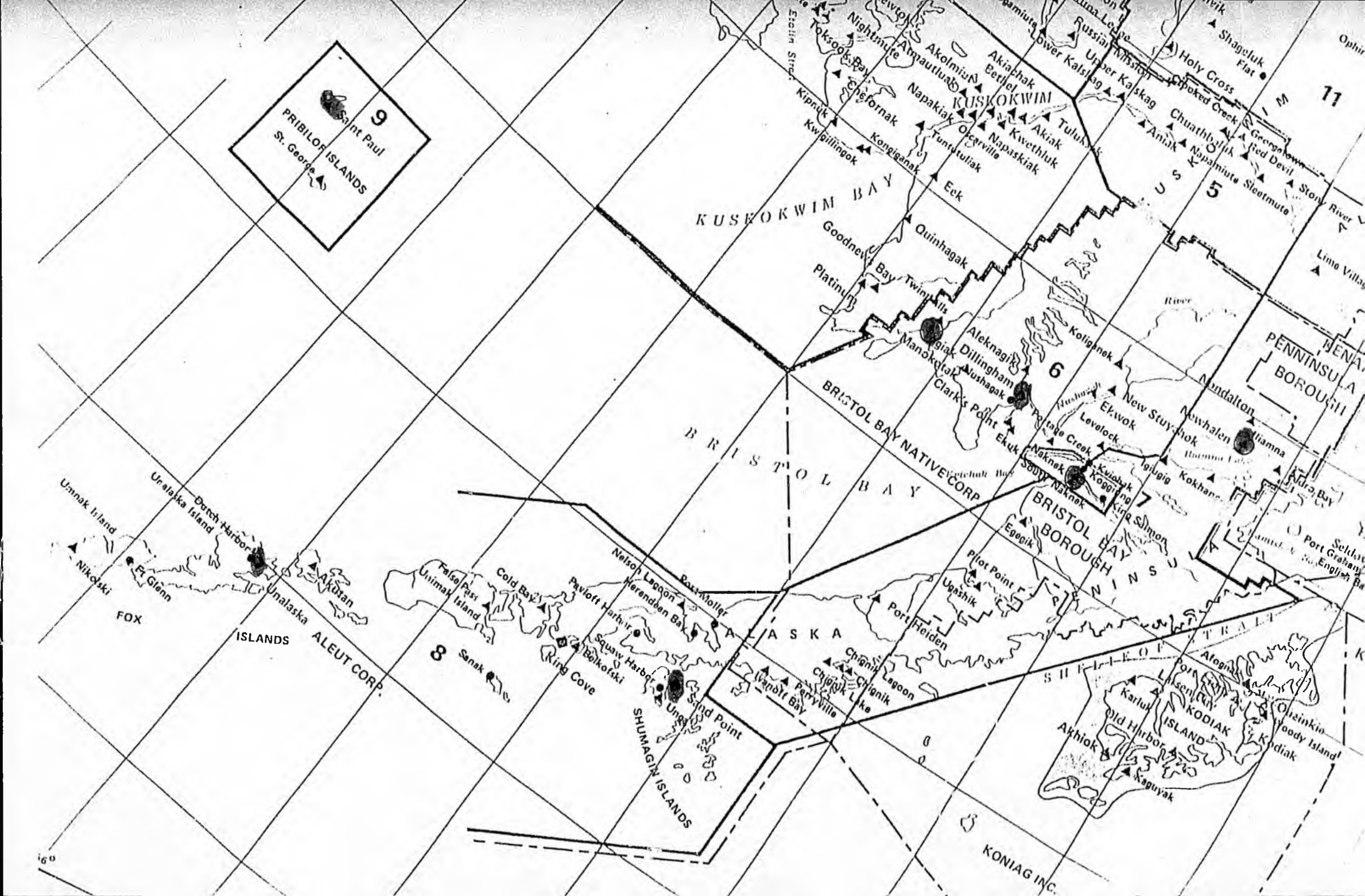
The Committee on State Affairs has had House Bill 193 under consideration, and the Committee recommends that the bill be replaced by Committee Substitute for House Bill 193, and that the Committee Substitute (CSHB 193) do pass.

The State Affairs Committee intends to reflect, through CSHB 193, a commitment to the Legislative Information & Teleconference Network and recognizes the importance of linking the government of Alaska to her people.

Testimony before the committee has clearly established that Alaska's legislative telecommunications system is unique in providing for the vital interchange of thoughts and opinions throughout our vast and diverse land.

Respectfully submitted,

Rep. Mitch Abood
Chairman



9
Saint Paul
PRIBILOF ISLANDS
St. George
KUSKOKWIM BAY
KUSKOKWIM
Nightmute
Toksook Bay
Chefornak
Kipnuk
Kwigillingok
Kongiganak
Atmautluak
Akolmiut
Napakiak
Oscarville
Tuntutuliak
Akiachak
Bethel
Napaskiak
Kwethluk
Akiak
Tuluksak
Lower Kalskag
Upper Kalskag
Russian Mission
Holy Cross
Shageluk
Flat
Chuathbaluk
Aniak
Napamiute
Sleetmute
Red Devil
Georgetown
Stony River
Lime Village
Eek
Quinhagak
Goodnews Bay
Platinum
Twin Hills
Manokotak
Aleknagik
Dillingham
Nushagak
Clark's Point
Ekuk
Koliganek
6
New Stuyahok
Ekwok
Levelock
Portage Creek
Naknek
South Naknek
Kvichak
Koggiung
King Salmon
Igiugig
Kokhanok
Newhalen
Iliamna
Nondalton
PENNINSULA BOROUGH
BRISTOL BAY NATIVE CORP
BRISTOL BAY
BRISTOL BAY BOROUGH
7
Egegik
Pilot Point
Ugashik
Port Heiden
Chignik Lagoon
Chignik
Chignik Lake
Perryville
Ivanoff Bay
Nelson Lagoon
Herendeen Bay
Port Moller
ALASKA
Cold Bay
Pavloff Harbor
Squaw Harbor
Belkofski
King Cove
False Pass
Unimak Island
Sanak
8
Sand Point
Unga
SHUMAGIN ISLANDS
Umnak Island
Unalaska Island
Dutch Harbor
Nikolski
Ft Glenn
Akutan
Unalaska
FOX
ISLANDS
ALEUT CORP.
SHELIKOF STRAIT
Afognak
Karluk
Old Harbor
Akhiok
Kaguyak
KODIAK ISLAND
Kodiak
Woody Island
KONIAG INC.
11
5

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4863

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

AGENDA

DATE: 4/18/83

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY. AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

HB 193 - SPECIAL APPROPRIATION TO LAA TO ESTABLISH AND OPERATE TELECONFERENCE SITES.

HB 323 - AN ACT RELATING TO RESIDENCY AND RESIDENCY REQUIREMENTS.

HB 307 - AN ACT RELATING TO THE POWERS, DUTIES AND ORGANIZTION OF THE ALASKA PUBLIC BROADCASTING COMMISSION, RESTRICTING THE USE OF STATE MONEY FOR PUBLIC BROADCASTING; AND REQUIRING COMPETITIVE BIDDING AS A CONDITION FOR STATE GRANTS TO PUBLIC BROADCASTERS.

OTHER NOTES OR REMINDERS:

_____

_____

_____

_____

THIRTEENTH LEGISLATURE

FISCAL NOTE - REVISED

COPY

I. REQUEST

Bill/Resolution No. HB 193 HOUSE BILL NO. 193

Title An Act making a special appropriation to the Legislative Affairs Agency to establish and operate teleconference sites Date 3/22/83

Requested by: Representative Mitch Abood - House State Affairs Committee

II. FISCAL DETAIL

Agency Affected Legislative Affairs Agency

Program Category Affected General Government

BRU, Program, Or Subprogram(s) Affected Public Services - Teleconference Sites

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		39.6				
200 TRAVEL		15.6				
300 CONTRACTUAL		64.1				
400 COMMODITIES		2.4				
500 EQUIPMENT		27.8				
600 LAND & STRUCTURES		9.6				
700 GRANTS,CLAIMS,ETC.						
TOTAL		159.1				

FUNDING (Thousands of Dollars)

GENERAL FUND		159.1				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

ONE-TIME COSTS:

200-Admin. travel to site for interview, arrangements, staff travel to major center for training

300-Telephone installation, freight for initial supplies, signs, rubber stamps, etc.

400 - Initial stock of office supplies

500-Teleconf equipment, file cabinet & equipment stand, typewriter, telecopier, answering machine, associated freight

RECURRING COSTS:

100 call moderator, including cost of living differential

200 staff travel to major center for orientation & training, admin travel to site for supp train

300-Telephone service, postage & mailing, off-net tolls & bridge svcs, required printed matter, funds for local advertising & newspaper subscriptions, equip repair & maintenance, freight

400 - Stationery and supplies

500-Routine recurring requirements for teleconf equipment, office furniture & equipment

600-Funds to reimburse donor of space for janitorial and/or utilities costs, if required.

IV. DATE March 22, 1983 PREPARED BY Wally Harrison, Director, Admin. Svcs.

AGENCY Legislative Affairs Agency

Original: Legislative Finance PHONE 586-3850

cc: Budget and Management

Introduced: 2/11/83
Referred: State Affairs and Finance

Funding Information
General Fund $157,368
Other Funds -0-

IN THE HOUSE BY HERRMANN

HOUSE BILL NO. 193

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Legislative Affairs Agency to establish and operate teleconference sites; and providing for an effective date."

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

* Section 1. The sum of $157,368 is appropriated from the general fund to the Legislative Affairs Agency to establish and operate teleconference sites at Naknek, Kwiamna, New Stuyahok, and Togiak.

* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1984.

* Sec. 3. This Act takes effect July 1, 1983.

REPRESENTATIVE
ADELHEID HERRMANN
P.O. BOX 63
NAKNEK, ALASKA 99633
(907) 246-4495

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4942, 465-4943

Alaska State Legislature

House of Representatives

CHAIRMAN
SPECIAL COMMITTEE
ON FISHERIES

MEMBER
TRANSPORTATION
COMMITTEE

DISTRICT 26
ADAK
AKUTAN
ALEKNAGIK
ATKA
BELKOFSKI
CLARK'S POINT
COLD BAY
DILLINGHAM
DUTCH HARBOR
EGEGIK
EKUK
EKWOK
FALSE PASS
IGIUGIG
ILIAMNA
KING COVE
KING SALMON
KOKHANOK
KOLIGANEK
LEVELOCK
MANOKOTAK
NAKNEK
NELSON LAGOON
NEWHALEN
NEW STUYAHOK
NIKOLSKI
NONDALTON
PEDRO BAY
PILOT POINT
PORT ALSWORTH
PORT HEIDEN
PORT MOLLER
PORTAGE CREEK
SAND POINT
SOUTH NAKNEK
SQUAW HARBOR
ST. GEORGE
ST. PAUL
TOGIAK
TWIN HILLS
UGASHIK
UNALASKA

COPY

MEMORANDUM:

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Representative Adelheid Herrmann

DATE: March 17, 1983

SUBJECT: Amendments to HB 193

This is to inform you that I intend to request tomorrow that a Committee Substitute be adopted for HB 193 incorporating the following changes:

Line 11, change $157,368 to ~~$118,026~~ 151.1

Line 13, delete "Iliamna," add "Newhalen"

Line 13, delete "New Stuyahok,"

I will explain the proposed amendments during my oral testimony on March 18, 1983. I wanted to notify you in advance of this request.

AH/hc

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

ANCHORAGE INFORMATION OFFICE
FEBRUARY 1983

TO: Charity Kadow, Director
Division of Public Services

FROM: Marcie Sharrock, Information Officer

The first two weeks of February were very busy with a slight drop off of activity near the end of the month. With longer daylight hours we are seeing more people stopping by the office and using the daily status reports and computer terminals. Requests are still stacking up for the Legislative Pocket Directory, but we have given out "thousands" of the one page phone lists, rosters, committee lists, etc. Hopefully, before the end of March all publications will be available and distributed before the traffic for bills and bill status starts to peak.

INFORMATION SERVICES

With the new data bases available in the computer this year, our requests for documents printed from the computer are beginning to multiply. We have given out or searched for numerous committee minutes as well as several copies of the journal entry bill histories. As more and more bills start moving through the process we will see this type of request increase as people become aware of the availability of the data.

Our office was heavily impacted this month by information and research requests from the other information offices. We handled a total of 21 requests for items such as Anchorage phone numbers, prior years' Session Laws, locating and sending miscellaneous reports and publications, as well as explaining different computer functions. The toughest question to answer, without all of the necessary information, related to the public use of photographs vs. invasion of privacy.

The bills getting the most requests for copies, status, or POMS deal with Susitna hydro, death penalty, homesteading, student loan program, permanent fund dividend program, decompression chamber, ERA and retirement. I think I would be safe in saying that we have had at least one request for every bill that has been introduced to date.

With the start of a new legislature, we have started manually recording all scheduled meetings, hearings and teleconferences on a card file for each bill, Governor's appointee, Sunset Audit report, etc. Although it is very time consuming to scan daily action, journal announcements, committee schedules and weekly schedules, it does give us one place to search when responding to an inquiry.

At the staff meeting at the end of the month, we came to the conclusion that we needed more table space for the public to spread out the bills books, journals and statutes, so have added a narrow table and 3 more chairs to accomodate at least 5 people at one time doing bill research. It is gratifying to see so many new people getting involved in the legislative process.

Anchorage Information Office Activity Tally - February 1983

POMS sent	599
to number of addressees	15,274
Call-ins	2,553
Teleconference calls	500
Div/Public Services calls	122
Walk-in traffic	420
Info mail-outs (requested)	90
Bill status/process/info inquiries	197
Legislator/staff phone/address inquiries	583
US Congress phone/address/referrals	25
Governor phone/address/referrals	75
State agencies phone/address/referrals	102
Federal agencies phone/address/referrals	5
Muni/Anchorage phone/address/referrals	14
Miscellaneous inquiries	76
Research (by staff or visitors):	
Current bills	79
Previous sessions	23
AS & ACC	12
Issues	5
Budget	4
Reference library	14
Distribution:	
Bills	1,934
SLA, AS & ACC	71
Directory of State Officials	21
Weekly status	117
LAA Publications	297
Reports and Audits	61
Applications/forms	27
Other (phone lists, rosters, etc.)	716
Telecopy 495:	
Pages sent	129
Pages received	158

Please note that each information office staff member attempts to record each transaction, but when inquiries are coming in three or four at a time, the log sheet tends to get buried under bills, journals, and statute books, and not seen until the desk is cleared at the end of the day. We would like to find a way to keep a list of offices, agencies and groups that we serve but most people identify themselves by name only. We are lucky to get at least the tick mark noted on the log in the right column for type of service given.

OUTREACH

Although we scheduled one office tour during the month for the Women's Club Free Committee, we have given the 5 to 20 minute office tour to a number of individuals stopping into the office just to see what types of information we provide. As we note that someone is regularly coming in to track a number of bills, we are giving them training on the computer and building a list of users for the BTMF program (bill tracking maintenance facility). At the moment I would estimate that we have about 20 people that come in to track bills more than once a week and another 20 to 30 people who come in every week or two to check status of bills and if progress occurs, they are doing in-depth research.

During February we provided the following groups with multiple copies of all publications and lists, as well as specific bills as noted:

Anchorage Community College Student Association - 1 set all publications and lists
FREE Committee - 10 sets all publications and lists and 10 copies of the House Research Agency Report on Loans (HRA 82-A)
Methodist High School students traveling to Juneau - 35 sets all pulications
Mobile Home Dealers meeting - 50 copies all lists - 5 copies all publications
Alaska Political Women's Caucus Workshop - 100 copies all publication, lists, state and Anchorage district maps and 100 each of SB 63 and SJR 1

We do have several office tours scheduled for March.

SERVICES FOR LEGISLATORS

February was a record month for handling a variety of requests from Legislators. For Representative Cowdery we provided office space for a full day and one-half of meetings, attempted to locate a stenographer for the meetings and after the meeting spent time trying to locate a missing hat. We sent a record number of messages on the OMNI system to individual legislators or committees as well as handled telecopy requests, special pouches and errands around town.

Representatives Szymanski, Ringstad, Fuller, Davis, and Senators Pettyjohn and Sturgulewski visited, used phones, picked up copies of bills, weekly status books, or sent telecopy. For a week prior to the Anchorage Senate State Affairs Committee hearing on the Susitna bills we responded to numerous inquiries and pre-registered individuals who wished to testify. Per Representative Lacher's request, we contacted 6 local organizations with a message and also sent copies of legislation and all LAA publications to the editor of the Anchorage Community College student newspaper. Representative Jerry Ward's aide, Jerry Sanders, stopped by and was given an office tour. I also trained the House Minority Office staff to use the OMNICOM and BASIS system on the computer.

Although February seemed busy, we are preparing for the peak traffic to start by mid-March or early April when more pieces of legislation will be approaching floor votes.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

To: Charity Kadow, Director, Public Services

From: Florence Carnahan, Barrow LIO

Re: February 1983

The month of February has continued to bring alot of business to the Barrow Lio. Dorcas, the Barrow reserve, has been in the office most Monday, Wednesday and Friday afternoons. Her help as been very welcome this year! We received several requests from the surrounding villages of Nuiqsut, Point Hope, Kaktovik and Anaktuvuk Pass for copies of bills. Outreach is still the primary activity in this office. I am constantly trying to streamline this activity so that we can reach the most people in the most effective manner. We had a visit from a highschool student, Alexander Solomon, who had been involved in the "Close-Up" program in Juneau. He attended a teleconference for his 11th grade Government and Law class and talked to me about what he learned in Juneau. He requested information on how to become a page.

Office activity for the month of February:

Telephone requests: 40+
Walk-in requests: 30+
Mailouts: 3
Telecopy: 6 pages received
P.O.M.s: 4
Teleconferences: 8 with 10 people to testify and 6 to observe

Distribution:

Bills: 227
Status Reports: 14
Journal pages: 9
Reports: 10
Statutes: 2 research requests
AAC: 1 research request
Legislative process: 2
Glossary: 2
Handbook of State Government: 2
Who's Where in Juneau: 100
Vertical file info: 2 requests

The following subjects were queried and requests were filled on them: Land lottery, state regulations on certified public accountants, payment of non-employees under Federal regulations (thanks to D.C.!), permanent fund, laws regarding the use and publication of photographs, uniform building codes, state loan programs, Governor's budget on museums and cultural facilities, how to become a page to the State Legislature, electrical contractor's licensing, funding for a senior citizen's home in Barrow, foreclosure of Barrow land's transferred from Nome Judicial District, disqualification of voting rights, listing of committees and

subcommittees of the Federal government, 3 requests for the address for obtaining birth certificates from California (!), social security number applications, capital projects, the confidentiality of personnel records.

One request was made for census information. This was from Juneau for the numbers of students in each school in the North Slope Borough School District during a period of years specified by the requestor, Jo van Patten.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES
Bethel Legislative Information Office
P.O. Box 886
Bethel, Alaska 99559

Monthly Report

March 3, 1983

To: Charity Kadow
Director

Fr: Wally Richardson

I'm sorry that February was so short, I was having fun this month. Here are the stats for the month and then I will give a detailed report at the end.

Phone calls	616
Walk-ins	320
Copies of bills	160
Scheduled teleconferences	15
Participants	22
POM's	5

Reports given out

Seperation of Powers (sent to all the villages)
Legislative Process (sent to all the villages)
Citizens Guide to the State Constitution
Day Care in Alaska - Status Report
Status of Bills and Resolutions
Who's Where in the Capitol

Misc requests & applications given out

Business License (26)
Land Brochure (9)
Commercial Fishing License & Boat License renewal forms (5)
Student Loan Program (36)
Notary applications (2)
Contractors License application (2)
Bingo permit applications (1)
Boards & Commissions information (3)
Alaska Delegation Addresses & phone numbers (7)
Alaska State Statutes - usage (4)
Administrative Code usage (2)
Copies of Federal Bills (2)

Legislator Contact

Rep. Vaska (17)
Senator Sackett (15)
Rep. Clocksin (1) re: teleconference
Various Department addresses & phone numbers (58)

The majority of the phone calls were regarding the Permanent Fund. Senator Sackett was in Bethel and asked the public to call his office if they had not received their dividend check. People started to call for his Juneau office number. There were so many calls to his office, he requested the Department of Revenue to send a representative to Bethel to work out of my office and take the calls. Mr. Phil Wall was in Bethel two days and was quite busy. Thanks to Data Processing, my terminal was able to access the Permanent Fund data base. Mr. Wall was able to explain why these people had not received their dividends and take care of some very bad problems that had been a big factor in why some checks had not arrived. I must say that those two days were very busy (Friday & Saturday), but very productive.

Rep. Vaska was in Bethel for one day. He was scheduled to travel to some villages, but due to bad weather, was unable to travel. It was nice to have him in the office though.

Senator Sackett utilized the office for a day also. He met with constituents and visited with old friends.

I feel real good about our area Legislators using the office during the legislative session. It's great to touch base with them on the one to one basis.

I have been receiving quite a few requests from the villages. Copies of bills have been one of the biggest. With the younger generation getting on more City Councils, the interest is mounting. I feel all the informational booklets that I have sent out to the villages is very worth while to them.

Out-reach is on going. I call the radio station weekly with the schedule of teleconferences for the week. I tape all the PSA's that I receive for each teleconference. Posters are up-dated weekly with the schedule. With 15 scheduled teleconferences this month and 22 participants, something is working. I discontinued using the weekly newspaper, unless I'm asked specifically to put something in it. I don't like the way they present the schedule and they won't change their ways, so.....

The strangest request I had this month was from a Minister from one of our churches. This is the question he asked that prompted copies of the State Statutes on the subject, "I am a Minister and would like to know if I have to have a special license to marry people in our church." Valid question, don't you think?

Have a great month of March!!!

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

TO: Charity Kadow

From: Linda Harris, Delta LIO

Date: February 28, 1983

During the month of February, I began to realize the benefits of having an extra pair of hands around the office. With Liz working three days a week, we have been rewarded with new faces, many new names, and a larger rural outreach.

Although agriculture will probably always be the main area of interest, we are beginning to see various organizations in the community getting more involved with the legislative process, especially in the areas of funding that affect each one. I always find it interesting when explaining the legislative process, as most people are unaware of the complete cycle. The most familiar reaction is."I thought once a bill was introduced, it was a law!"

Questions answered and information provided on: homestead bills; permanent fund; tax credit forms; agriculture bills; municipal revenue; student loans; energy loans; landlord-tenent act; unemployment; bankruptcy laws and Senior citizen legislation. My favorite request was for a copy of the state song and its history from a Junior High student.

Legislative stats for February:

call in	88
calls out	52
traffic	197
POM's	13
mail outs	24
hand outs	13
State & Fed. agency referrals	28
bill copies	974
legislative assist	14
telecopy	8

Outreach

Liz continues to stuff envelopes as she progresses through the voter registration list with her outreach letters. These attempts to familiarize the out lying areas with the facilities has shown as increase in interest towards the legislative process.

Outreach stats for February:

mail outs.....629
teleconference schedules....136
personal contact..... 20

Teleconference information this month included organizations such as: Department of Agriculture; University of Alaska-Adult education programs; Alaska Farmers and Stockgrowers Association; Alaska Farm Magazine; Chamber of Commerce; Senior Citizens; City Council; Co-operative Extension Service; Delta Paper; Copper Vally Views: The Mukluk News; and numerous individuals

Teleconference stats for February:

Teleconferences scheduled.....9
participants to testify.....10
to observe only.....10

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

TO: Charity Kadow, Director

FROM: Dorothy M. Larson
Dillingham Legislative Office

DATE: March 08, 1983

The month of February was very busy at the Dillingham Legislative office. There were 17 teleconferences with 56 participants. There were about 375 to 400 visiting the office. One very large group of students 25 plus 2 teachers observed a teleconference on February 8th; we demonstrated the 7th grade Middle School Class and it was very enjoyable.

On February 17th a teleconference was held with Senator Mulcahy and Representative Herrmann with the Land Managers of villages in the Bristol Bay Region. The group spent the entire afternoon here and we were able to demonstrate the equipment and distribute alot of information. There was a video crew here and some 30-40 people in and out so it was quite compact.

We have been working with several teachers and student groups coordinating visits and distributing infomation for upcoming legislative trips.

There were about 40-45 POMS sent to legislators via the Omni and telecopy during February. There isn't the usual amount that we've gotten in the past. It is early yet and we expect that traffic to increase.

I was able to make two field trips with 2 groups from the University to Naknek and Togiak. While in those 2 locations I was able to leave information and touch base with some key people in both areas.

Senator Mulcahy asked BBNA to take names of people to forward to his office of people who have not received their permanent dividened fund checks. We took names, Social Security number's and forward several hundred names down in February.

Beth Robinson, Representative Herrmann's aid was in Dillingham from February 16-19 and spent part of Thursday and all day Friday in our office for appointments. She was able to see many of the village people in for the land conference.

Our telephone business has increased tremendously. The increased number of teleconferences this year had certainly added to the business of the office. I've noticed more of an increase of people in the area coming in out of curiosity to observe teleconferences. There has been a increase in bill requests and status from different people.

We have provided services to Senator Mulcahy and Representative Herrmann by relaying their press releases via the omni and telecopy.

Thanks again to faraway D.C. office for several pieces of information like the Defense Budget for a student at Dillingham High School.

There have been many calls from people requesting land brochures and information of late.

It has been a very busy session thus far and expect it to continue. There have been many people in to check on legislation passed last session, to research statutes, get updated forms, several state agencies who need to get forms and applications out frequently call us to be a distribution on referral place when they are out of town. We've distributed many Directories of State officials and looking for the receipts of the pocket Directory.

My office has taken on more pieces of art work and I'll continue to hang my own personal pieces of artwork regardless. We, too, are showing signs of overcrowding and an over abundance of paper products.

Thats it for now hope you will have a good month of March.

DML/mp

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

FEBRUARY 1983

To: Charity Kadow, Director

Fr: Maxine Walton, Fairbanks

Maxine

With additional daylight hours in February, more legislation being introduced and increasing committee teleconference activity our people traffic, paper work and telephone calls have reached a fever pitch. Our traffic patterns have a definite trend with rush periods between 8:00 - 9:00AM and 12:00 - 2:30PM in the afternoon. This would appear to fall before work in the morning and different lunch hours in the afternoon.

The figures recorded reflect about 95% of our actual traffic.

FACTS AND FIGURES

Telephone call-ins	872
Walk-in visitors	565
Bills & Reports distributed	3867
Legislators' phone/addresses	312
Referral to State Agencies	115
Referral to Federal Agencies	26
Ak. Statute research/requests	24
Telecopy received/sent	80
Teleconference calls/activity	101
Total Teleconferences	33
Teleconference - testify	88
Teleconference - observe	55
POM's	193

OUTREACH

2/2 Prof. Drahne's Sociology class UAF. This included an office tour, demonstration of teleconference and computer systems available to the public and information services.

2/2 Division of Energy & Power Dev. held an evening meeting using our conference room.

2/8 Division of Housing Assistance held a conference call meeting in our office.

2/19 Presentation to the Business and Professional Women Saturday. Xeroxed copies of bills and gave out legislators' addresses and committee assignments to all.

2/24 Furnished moderator and 2-wire conference set to the Ester Community meeting held at the Ester Fire Station. This was of great concern to the community and a special request was placed for an impartial moderator. I was extremely pleased that they felt our office would meet these specifications. Rep. Davis and Rep. Koponen attended the meeting by conference call from Juneau. Lynda did an excellent job and was congratulated for keeping the meeting running smoothly. 77 people attended.

2/28 Interview at KUAC TV on their evening "TC" program. This month featured teleconferencing and how the public could participate. Next month will feature information services.

Our office has put special emphasis on building public participation and awareness of teleconferencing as a viable means of communication with the legislature. Teleconference schedules are mailed out twice monthly and sign-up cards are still trickling in.

To further keep the public informed of our scheduling, we have set up a 24 hour "Hot Line" using the Record-a-call and our special line used only for conference calls. This is updated every Monday and as additions or deletions are made in the schedule.

Since we received such enthusiastic response reading the t/c schedule on the tv news each week last session, we have again contacted KTVF TV and arranged for a spot on the 6:00PM news every Saturday during this session.

COMMUNITY SERVICES

The following list reflects a fair representation of various organizations in the community using our office:

Michael Baker Jr., Inc.
Alaska Miners' Assoc.
Community Research Center
Dept. of Revenue
Div. of Corrections
League of Women Voters
Alaska Environmental Center
Mental Health Clinic
Fur Farmers Assoc.
Citizens Committee for Dist. 19
Citizens for Eq. Hunting/Fishing Rights
F.N.S.B. Mayor's Office
Dept. Fish & Game
Resource Center for Parents/children
Boy Scouts of America
North Star Council on Aging
Business & Professional Women
Alaska State Troopers
W.I.C.C.A.
A.P.E.A.
K101
Health Science Laboratory
Fairbanks Memorial Hospital
Alaska Sportsmans' Council
Republican Legislative Cmte.
Law Library
Dept. of Forestry
Fbk. Chiropractic Clinic

It was our pleasure to assist the Senate Resources and Finance Committees' field hearing held in Fairbanks February 4, by pre-registering those wishing to testify and xeroxing extra copies of bills for that hearing.

RURAL COMMUNITY SERVICES

We received calls from Yukon Flats School District(2), our moderator in Ft Yukon(1), customer in Ft Yukon(1), Prudhoe Bay(2), Eagle R.(1), Manley Hot Springs(1),Railbelt School District(2) and one letter from Barrow which we sent by telecopy to Florence.

RESEARCH

Year Limited Entry enacted
Equal Employment Hiring
Pharmacy Regs. (Admin Code)
TB tests for school children
Arbour Day
A.H.F.C. statutes
Equal opportunity in sports at school
Law/ wear a helmut while operating motorcycle
Statutes on Sexual Assault
Koslosky amendment
Alaska R.R. advisory studies/approp. (all)
H. Research reports on Ag. (all)
Laws governing landlords
Community watch
Ak. school activities program approp.
Child Custody
Coal Mining Reports
Real Estate default
Occupational Licensing
Geothermal Rep./Approp.
Taxes on Oil/Gas
Special Education
U of A Land Pur. approp.
Dalton Hwy permits
Mobile home parks
Susitna Hydro legis.
Kivalina/Chukchi regs. & Port Cmsn. approp.
Fur farming, etc...

Most popular POM's for February were "IRBY" contract (Fbx/Anch intertie), permanent fund dividends, SB 154 (Koslosky amend) and student loans. Bills of the month were HB 130, SS HB 167, SB 43, SB 102 (Homestead bills).

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report -- FEBRUARY 1983

TO: Charity Kadow, Director
Division of Public Services

FROM: Joyce M. Roloff, Information Officer
Juneau Legislative Information Office

Due to my temporary leave-of-absence, a January Monthly Report was not prepared. I would like to take this opportunity to briefly mention who is working in our office for the Session. Sue Gullufsen is our permanent Information Assistant; Patricia Meili is our session Information Assistant, and Nicholas Kimlinger was hired as our session Mail Clerk. Becky Germain provided assistance during my absence and remained under our employ until the end of February. I returned to the office full-time on February 14.

Our office has been in full operation since Session began and we have been extremely pleased to find that our services are becoming more widely known in the Juneau area. We do continue to receive many long-distance communications from the Lower 48 re-establishing contacts from last year, and long-distance In-State calls are normally processed and then referred to their regional information office for subsequent inquiries.

COMPUTER-RELATED RESEARCH

Again, we are finding that the public has become more aware of our services. Tracking down legislation and providing status is the bulk of this activity. More sophisticated questions are coming through with regard to statute research and election district location. The new EDLS data base has come in handy in helping the public and staff identify House and Senate districts and which towns are located where.

PUBLICATIONS

The beginning of a new Legislature ushered in the need for revised/updated publications printed by the Agency and distributed by the Information office. After doing initial runs for the Legislators', Legislative Staff and LIN/LTN Orientations, we have returned to the print shop to fill orders to meet the public's demand.

Sue worked diligently to update the Directory of State Officials (February issue) and requests for that document is the greatest at the time. We are also busy with keeping our bins stocked with our standard publications: Legislator/staff locater lists, Legislative Process, Uniform Rules, House and Senate seating charts, etc. Demand has also been great for the previous Session's documents, such as House/Senate Bill History and Journal Indices, slip laws, Journal (and supplement) pages. Other publications that have been distributed run the gamut of subjects from Audits to Washington, D.C. (federal-related) matters. Due to volume, we do not track the distribution of any particular document.

PRESENTATIONS

In addition to providing packets to various groups for presentations, I spoke to the following groups detailing the legislative process and responded to general inquiries of state government.

February 14 -- Close-Up (2 groups averaging 25 students/teachers each)
February 28 -- Close-Up (same as above)

Scheduled for March are the following presentations:

March 9 -- U. S. Forest Service Orientation (15-20 participants)
-- Basic Emergency Management Workshop (15-18 participants)
March 14 -- Close-Up (2 groups averaging 25 students/teachers each)
March 29 -- RuralCAP Village Participation Conference (40 participants)

GENERAL

Juneau staff continues to monitor all House and Senate action taken during session and to provide answers on committee action. Xeroxing statutes and other pertinent data have become routine. Much of our time is spent directing traffic, both legislative and executive, to the appropriate office. Our office is also charged with sending the weekly legislative updates (status, sponsor summary, etc.), as well as copies of all bills, resolutions and journals to our sister offices. Starting this year, Nick has the added responsibility of mailing all relevent data to the Teleconference Centers.

ACTIVITY TALLY

The following activity tally does not reflect our First Class mailing. Within our Division, we send first class mail daily to five of our Information Offices; and send mail, as need arises, to 24 Teleconference Centers. Nor does the tally reflect first class mail sent in response to an inquiry.

ACTIVITY TALLY		MONTHLY TOTAL
Public Opinion Messages (pom's)		1480*
Phone Calls In	average 42/day	840#
Phone Calls Out	average 45/day	900#
Staff Requests	average 36/day	720#
Public Requests	average 37/day	740#
Requests from Other Sites	average 21/day	420#
Express Mail (Information Offices)		65+
Courier Service (pouch) (Information Offices)		128+
Telecopy		531*

* This figure does not represent the number of legislators addressed which adds considerably to the amount of paperwork processed by Juneau Info. It represents single public opinion messages or in the case of telecopy, the sheets of paper telecopied. The pom total was achieved by adding figures provided from other Information Offices. The telecopy total represents both incoming and outgoing and is a quick-count.

This total was achieved by our staff keeping a poll for one day (February 28). That figure was multiplied by 20 working days for February.

+ This total is provided by our receipts and represents the total of sites sent pouches for the month. The actual amount of pouches packaged by our office was 139 which means 11 offices received more than 1 package for a particular day. The Express Mail total is an actual count confirmed by receipts also. The count on Pouch/Express Mail only reflects the mailing of one large envelope or box, and not the number of letters it contains.

JMSR/s

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

KENAI PENINSULA LIO
Drawer 3280 Soldotna, AK.
262-9364 99669

Monthly Report

TO: Charity B. Kadow March 3, 1983

FROM: Rhoda A. Eady

FEBRUARY 1983 REPORT

WALK-IN'S: 485
PHONE CALLS: 773
BILLS DISTRIBUTED: 477
NAMES, ADDRESSES ETC.: 644
LITERATURE: 1306
MAIL-OUTS: 315
TELECOPIES: 3 sets 7 pages
TELECONFERENCES: 16 (51 in attendence)
P.O.M.'S: 2159
D.C. NAMES, ADDRESSES: 91
D.C. OFFICE: 5

February seemed to have 128 days instead of a mere 28. Someone walked off with our telephone log. So there is no report on the amount of long distance and collect calls we accepted until we receive our statement. take my word, there were many !

February 9, - Alaska Housing Finance Corporation used our T/C room and Speaker Phone to have a meeting. There were 15 participants in Soldotna.

February 13, 14 - I went to Homer to join the Director and Jean Schroeder on KGTL Radio. Director Charity B. Kadow was the speaker for Homer Chamber of Commerce on the 14 th..

February 16 - Teresa Williams, Assistant to the Ombudsman met with people, I feel the response to her visit was very good.

February 19 - Rep. Milo Fritz met with constituents in person between 3:00 p.m. and 5:00 p.m. A unscheduled visit from Rep. Hugh Malone was a favorable surprize to the people.

February 21 - Pat Irvine, Special Assistant to the Governor Bill Sheffield dropped by. We discussed monthly visits to this office by him for the governor.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

KENAI PENINSULA LIO
Drawer 3280 Soldotna, AK.
262-9364 99669

Monthly Report

February 23 - I had a meeting with Rita Smagge of the Kenaitze Indian Tribe. We reviewed the possibility of using CETA or D.E. workers in this office.

February 26 - The Billiken Professional Women's Club invited me as the Guest Speaker for thier February meeting. The meeting was held in North Kenai.

The teleconference attendance has picked up considerably this month. The most interest was in the following: University Budget, Permanent Fund Dividend. And Constituent teleconferences as always.

Maintaining the Permanent Fund Program and HJR-10, SJR-7 (Halibut Moratorium) were the popular topics for P.O.M.'S.

Til next month.

Sincerely Yours,
Rhoda A. Eady

dt/RE

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

March 1, 1983

TO: Charity Kadow, Director
Division of Public Services

FROM: Bonnie Potter, Information Officer
Ketchikan Information Office

RE: February 1983 Monthly Report

I am finding it hard to express exactly how busy the Ketchikan Office was this past month. We have found the need to hire a reserve person. We are hoping to have her/he on board by the middle of March. It is our contention if the hours are available to use the reserve person three afternoons a week plus evening and weekends.

The work load has more than doubled since we have moved. With the additional work load we are finding that our regular work (filing, publicity of teleconferences etc.) is going by the way side.

Out of curosity I researched last years stats and compared them with this months. Example for the month of February.

1982		1983	
PHONE CALLS:	In 163	PHONE CALLS:	In 218
	Out 65		85
WALK-IN TRAFFIC:	114	WALK-IN TRAFFIC:	218
TELECONFERENCES:		TELECONFERENCES:	
Number	16	Number	16
Attending	31	Attending	94
Testify	15	Testify	32
TELECOPIER USAGE:	29	TELECOPIER USAGE:	52
BILLS:	340	BILLS:	285
MISC. REQUEST:	82	MISC. REQUESTS	246
MAIL OUTS:	36	MAIL OUTS:	86
DISTRIBUTION:	Stats not available	DISTRIBUTION:	109

I know that this dows not reflect an exact picture, as this past month it was getting difficult to record all the transactions that took place in the office.

It is my hope that if our office continues to show a high input and output for the months that we are open, that sometime in the near future our office can operate on a year round basis.

As I noted in last months report it was our plan to hold an open house as soon as our new furniture arrived. Well the furniture has arrived but we have not found the time to proceed with the open house. It is a possiblity that as soon as the reserve person is trained we can go ahead with the planning.

The local television station did a five minute oreintation spot of the office on February 8th. It was so well done we purchased a tape and had a copy made to use before our various local groups. The Ketchikan Daily News did a front page article on the office which ran on February 23rd. It was to bad we didn't get the chance to proof the article before printing. A few of the facts were wrong and I was misquoted. On the whole it was a informative article on the office. We also made the front page of the newspaper three days in a row when a local reported covered the Fisheries and constituent teleconferences.

Question of the month: Person called saying, "Your an information offics aren't you?" Yes, says June. "Well I hear sirens and I want to know where the ambulance is going?" Well, we are so efficent. Within 3 minutes we had the anwer and was calling the person back.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

February 1983

Kodiak Legislative Information Office

Another busy month with much more emphasis on legislative activity!

Legislative - Requests continue to come in for Legislator phone numbers and addresses along with committee assignments. We have also been experiencing an increase for information on bill hearing's and possible teleconferences. Bill's of particular interest in Kodiak this past month include; fisheries, education, agriculture, homesteading, equal rights, public employees, student loan program, SB53, children, Shuyak Island and permanent fund.

Bills distributed:	673	
Reports:	24	
Legislators' phone/addresses:	25	
POM's:	58	Addressees: 1124
Legislative Information:	84	

Teleconferencing - As predicted, all aspects of teleconferencing increased during February.

Teleconferences:	14
Participants:	35
In House T/C's:	7
Participants:	14
T/C schedules:	180
PSA's:	43

Outreach - We are continuing our Alaska State Government educational program over the radio and have now completed six programs in our series. The weekly news spot is proving worthwhile for getting out information on teleconferences and other office services.

State Program Activities - Requests for information on rural land interest rate reduction, energy auditors, non-owner occupied housing loans, listing of lobbyists, business license applications, state reapportionment plan, oath of office forms, alternative energy loans, student loans, state land disposal, energy assistance grant forms, fisheries loans, Dept. of Natural Resources, Alaska Seafood Marketing Institute, Office of Commercial Fisheries Development, APUC, Commissioner of Labor, Governor's address, airport leasing office, and a Ketchikan ordinance on retail alcohol tax have all come in.

Loan forms:	28
State officials:	34
State programs:	24

Permanent fund:	118
Directories:	43
Statutes:	131
AAC:	35
Proposed regulations:	20

As you can see our requests for statutes and AAC were heavier with requests for; non-profit corporations, landlord tenant laws, real estate laws, sexual abuse of a minor, exempt and partially exempt state employees, title 18, title 10, title 12, title 3, the Alaska Securities Act of 1959, lobbyists, guiding and education and proposed regualtions on Commercial Fisheries Entry Commission, electricians and plumbers. We also handled research on the Office of Telecommunications and special education funding sources.

Federal - We did not receive any requests for Federal legislation this month, but did have 13 requests for the addresses of our Congressional Delegation.

Other - Other sources of inquiry; IRS toll free number and address in Anchorage, two requests for census information and 17 requests for tax payable credit forms.

General Statistics:

People traffic:	260
Telephone calls in:	357
Telephone calls out:	71
Mail outs:	430
Voter Registration:	2
Telecopy received:	26 pages
Telecopy sent:	15 pages

Please note that all numbers represent approximates as there are occasions when traffic or requests do not get logged.

From the looks of the first few day's, March should be an even busier month.

Mary Jo Simmons Mary Jo
Information Officer

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

February 1983

TO: Charity Kadow, Director
Division of Public Services

FR: Mary J. Schaeffer
Kotzebue LIO

RE: February Monthly Report - 1983

Again activities for the month of February were rather hectic. Numerous calls continue to flood our office regarding addresses, phone numbers, permanent fund program, commercial fishing loan program, student loan program, small business loan program and many other programs that are available.

Teleconferences have increased as we expected during the month. The first constituent meeting with Senator Ferguson and Representative Adams was held on the 24th of the month with several participants. We had expected approximately 23 students from the Kotzebue High School Government class but we lost quite a few between the school and our office. I found out later many of the students were mike fright and decided not to participate. All in all we had a good turnout.

Bill requests are increasing along with bill status as people are beginning to follow legislation once again. Journals are also becoming popular. State Statutes are being used more early on compared to last year.

Requests for other documents such as State directories, pocket directories and many other informational documents have increased.

The following are approximate figures on activities for the month of February:

Phone Calls (In/Out)	156	Mail Outs	54
Teleconferences		State Statutes/	13
No's	13	ACC	
Attendance	24	Addresses/phone	81
People Traffic	71	Numbers	
Telecopier Usage	5	Bills/Journals	46
Express Mail	13	Other Info	29

Have a good month in March.....

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

TO: Charity B. Kadow, Director
Division of Public Services

FROM: Mary A. Kvalheim
Information Officer

RE: February Monthly Report

DATE: March 3, 1983

February was a very good month for the Mat-Su LIO. As well as session being fully underway, we were pleased to have Diane Hutchinson back to work with us from the 22nd to the 25th. (Diane is our permanent part-time person who was blinded in a shooting incident last fall.) Diane capably handled phone inquirees, made copies of lengthy bills, sent P.O.M.s and moderated two teleconferences. We are looking forward to her returning to work by the beginning of the next session.

Rep. Lacher used the office during her trip home to meet with constituents on the 19th. She had made plans and appointments for a trip home on the 12th but, due to weather, she could not get out of Juneau. We were able to contact all the persons who had appointments and reschedule. She had a full day as she met with people from 12:00p.m. until 6:30p.m. Rep. Lacher plans to do this monthly during the session.

Cynthia Bryson, Administrative Aide to Represent Larson, used the office during her visit to the district on the 14th and 15th. She met with local municipal officials and constituents while here.

Pat Irvine, Special Assistant to Governor Sheffield, has made arrangements to meet with area residents in our office on the second and fourth Wednesday of each month. He has been kept very busy on the two occasions he has been here. As the word spreads, we are getting more requests for appointments with him.

Activity was constant and the figures this month are very low as we missed recording many services during the especially busy periods.

Recorded figures for the month:

Phone calls - 568
Drop-ins - 251

Requests for Administrative information/phone numbers/addresses - 62
Student Loan applications - 31
Longevity Program applications - 5
Federal legislation/requests - 16

Distributions
Bills - 834
Statutes - 58
Administrative Code - 10
Journals - 113
Publications - 30

Teleconferences
Information - 49
Participants - 60

The teleconference mailing list has grown to 231 mailouts.

P.O.M. Statistics
378 individual messages sent to 1187 addressees
26 to all legislators
5 to all representatives

With many, many requests for the pocket directory and the Directory of State Officials, we are looking forward to their arrival and to the continued activity in March.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

March 2, 1983

TO: Charity Kadow, Director
Division of Public Services

From: Sandy Gardiner, Nome LIO

RE: February Office Report

With the first month of my new job behind me, I feel that I can now breathe a little easier as Legislative Information Officer. It was so nice to have Bob Scott right out the door; sure made my transition easier.

There wasn't much happening at the beginning of the month - almost no phone calls, no requests for bills, and few participants in teleconferences. Vernita Zilys of the Unalakleet Legislative Teleconference Center typed up a PSA for the Unalakleet LTC and one for the Nome LIO (see attachment). That must have caught the attention of several people who passed the word around that there was a Legislative Information Office where they can keep in touch with whats going on in Juneau, because I started getting calls and requests for bills, and more people started attending teleconferences.

I also mailed out about 20 teleconference schedules, and have received more requests for them, and more inquiries about upcoming teleconferences. That also seems to have helped in getting people interested in coming to visit the LIO.

On February 24, I gave my first presentation on the Nome LIO to a group of students from the outlying villages - the Kawerak Youth Planning Council. Was I ever nervous! After they came in, my initial nervousness disappeared. As it turned out, I knew most of the students or their relatives, so it was a good group to give a first presentation to. It went smoothly, and the students asked questions on the legislative process, teleconferencing and computer equipment, and seemed to really enjoy themselves.

Here are the stats for February:

Requests for bills: 7
P.O.M.'s: 3
Telecopy: 2 out, 4 in
Teleconferences: 19

At the beginning of the month I tried to keep track of my phones calls, but lost track about the middle of the month. I have started this for March once again, and hopefully I will be able to have stats for you on phone calls at the end of the month.

This is the first monthly report I have ever done, so I hope I have done it right. If I have left out some other statistics you need, please let me know.

That's all for February!

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

February, 1983

TO: Charity Kadow, Director
Division of Public Services

FROM: Dorothy Penttila, Petersburg, Information Officer

It's March already and I guess it is true, when they say "Time flies when you are having fun." The office has been very busy, and one good sign is that the "in" telephone calls are increasing. I have had three radio interviews--one about the data processor--and a very good outreach with the B.P.W. It was my first one and I was very satisfied with the reception and results.

Most of the questions asked and information wanted pertained to:

Fish
Education
Student Loans
ERA
Time Zones
Permanent Fund
Susitna Hydro-Power

Phone Calls	
Out	22
In	15
Walk-in traffic	97
Addresses	
Legislators	18
Distribution	
Bills	64
Weekly Status	6
Journals	9
Telecopy	
Sent	3
Teleconferences	
Number	11
Attend	72
Testify	28
Outside Contacts	15

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

SITKA LEGISLATIVE OFFICE

Monthly Report FEBRUARY

TO: Charity Kadow, Director
Division of Public Services

FROM: Elaine Sunde, Information Officer
Sitka

Elaine Sunde

Key issues in Sitka during February included the student loan bills and proposals; DMV decision not to license 3-wheelers; the proposed U.S./Canada salmon treaty; and a wide variety of budget interests. Variety is the spice....

We tallied a total of 1,455 transactions under 'information services,' and participated in 19 teleconferences, with a variety of outreach efforts to publicize.

LEGISLATIVE INFORMATION

We distributed 168 bill copies throughout the month, not including those distributed at teleconferences. We also provided 38 copies (or sections) of bill status books. We logged 20 new requests for monitoring of bills and sent 68 monitoring notices. We have appreciated several call-backs on our monitoring notices, indicating that some groups are traveling to Juneau to give personal testimony as a result of committee announcements. We are hearing, also, that people are beginning to better understand the importance of early input during committee review, so that our POM's are more timely.

We logged 66 Public Opinion Messages to 518 legislators, along with 16 pages of telecopy to legislators from various groups.

We distributed copies of 56 sections from the Governor's budget books, with a wide variety of requestors and interests. We also logged 22 persons using Alaska Statutes and Administrative Code books, many of whom requested copies of materials. We logged 17 requests for use and copies from news clip files — many from students preparing research papers.

Among our own research projects were: (1) Laws, regulations, bills, reports concerning noise pollution; (2) State guidelines for development of sheltered workshops for the handicapped; (3) Eligibility criteria under ASHA & HUD for senior citizen housing occupants; and (4) Several researchers using census data.

A sampling of our information requests is attached. Some are wonderful.

LEGISLATIVE SERVICES

We completed our first-ever round of Constituent meetings in February and felt that community response was good. We did an initial mailing to 93 groups to announce the 'inauguration' of constituent teleconferences, along with usual media PSA outreach.

We logged 22 pages of telecopy to/from seven legislators. We logged 46 requests for addresses/phone numbers of our District legislators and also distributed 47 copies of legislator contact sheets.

LEGISLATIVE SERVICES (cont.)

We completed several requested tasks for the District legislators -- distribution of draft bills to designated constituents, delivery of news releases in town, pouch service, etc. Rep. Grussendorf kept office hours for one full day and saw many constituents who made appointments or dropped by to talk.

FEDERAL INFORMATION

February was another very busy month for the Washington office -- if Sitka requests are an indicator! Among the requests which the D.C. staff helped us meet:

* Copies of PL 96-487, PL re Veterans, S. 303 re: Forest Management
* Continuing lengthy research on documentation of vessels
* Telecopy of key testimony at Indian Education Act budget hearings for four Sitka requestors.
* Information on war bonds.
* California law concerning car seats for children
* California campaign laws
* Information on Job Training Partnership Act

We also logged seven requests for membership and addresses of Congressional committees--all filled by the D.C. staff; 18 requests for addresses of the Alaska Congressional delegation; and a number of requests for telephone numbers for IRS and SS Administration.

We have several people reviewing our "Congressional Clipboard" and have found it of such interest that they are making scheduled weekly stops.

Our favorite request in this category was from a Sitka resident who explained that her mother in Seattle was having a problem with her social security checks and, since the Legislative Office was so helpful, could we help her too. We thought: "Why not?" So, with help from the D.C. staff, we sent the lady a list of her Congressional delegation members & concact information, along with Seattle phone numbers for Social Security.

STATE AGENCY ASSISTANCE

Statistics:

Permanent Fund Questions-70
Permanent Fund Phone #s -78
Student Loan Applications-90
Business License Apps - 11
Comm. on Women Conference Reg-6
Referrals to Agencies-77
Voter Registration-18
Energy Audit Program-3
Lands Program-8
CFAB Loan Apps-10
Tax Credit Forms-28
Various other publications (below)

Referrals Included:

Student Loan Office
Legal Services
Consumer Protection
Div. of Housing Assistance
Dept. of Labor
DMV
Occupational Licensing
Health & Soc. Services
Develop. Disabled Program
District Attorney
Ak. Marine Highway
Ombudsman
Human Rights Comm.
Governor
State Assessor
Dept. Environ. Conserv.
Dept. of Ed.
Dept. of Revenue
CFAB
AHFC
Longevity Bonus Office
ADF&G
Dept. Commerce & Econ. Dev.
AIDA
Div. of Telecommunications

PUBLICATIONS DI[illegible]

In addition to vari[illegible]ations and progra[illegible] handouts identified above, we distributed:

Day Care in Alaska
HRA Report Re: Catastrophic Illness
Task Force Report-DOT/PF
Task Force Report-State Loans
Handbook on State Gov't-20
US/Canada Salmon Treaty-3
Glossary-14
Legislative Process-15
Nonconforming Housing Brochure
Boston U. Study on Ak. image
C2M Studies
State Study on Deep Water Port
Governor's News Releases - 28
Constitution Handbook-22
Statehood Final Report-23
Steps in Passage of House Bill-14
Separation of Powers-100
AIDA handout
Final Election results
State plan for disabled services

TELECONFERENCES

Statistics:
Total Teleconferences: 19
Participants : 40
Observers : 39

Associated with teleconferences, we logged distribution of 51 PSA's to the media and mailed PSA's to 61 individuals or groups. As mentioned earlier, we also sent notices to 93 groups/individuals announcing constituent teleconferencings. We racked up a grand total of 23 posters...and took them all down again!

We logged 31 inquiries about teleconferences and mailed 167 teleconference schedules to those who have requested weekly distribution.

GROUPS USING THE LEGISLATIVE OFFICE

SE Ak. Women in Fisheries
Sitka Historical Society
Sheldon Jackson College
Chamber of Commerce
Sitkans Against Family Violence
Baranof Mental Health Clinic
AAUW
City Administrator
PACS (handicapped children)
City Attorney (Sitka)
City Attorney (Wrangell)
Pushka (H.S. Newspaper)
PHS Administrator
SE Aviation Association
National Secretaries Assoc.
Parks & Recreation Committee
SE Reg. EMS Council
Superior Court
Court Clerk
Mayor, City & Borough
Friends of Sitka
Sitka Bar Association
Sitka Community Assoc.
Raven Radio
Police & Fire Commission
Sitka Handtrollers
Ak. Visitors' Bureau
U of Ak Co-op Agent
Ak. Bd. of Education
Sitka Community Hosp.
Double O-Sr. Citizens
NBA
Sitka School Board
Air Center Sitka
Mt. Edgecumbe H.S.
Sitka H.S.
Sitka Native Ed. Prog.
Mt. Edgecumbe Day Care
Ak. Trollers
City Clerk
Shee Atika, Inc.
Raven Radio Foundation
Adult Basic Ed. Program Co-ord.
Ak. Longline Fishermen
Sitka Community College
Sitka School Superintendent
BelAir Aviation
Assembly Members (4)
BPW
Sitka Conservation Society
Fire Chief
Forest Service
Sitka Sentinel
KIFW
Mountain Aviat[illegible]
Soroptimist International
Ak. Lumber & Pulp
Comm. Coll. Advisory Board
Sitka Teen Club
Nurses Association
1st Bank
No.SE Regional Aquaculture
Ak. Native Sisterhood
Spec. Borough Committee on Sr. Citizen Housing
Sitka Task Force on Mt. Edgecumbe High School

Sampling of Information Requests:

* Where & when will AHFC reps. be in Sitka?
* Who are members of State Vocational Ed. Task Force?
* Information on Loans -- housing, fisheries, small business, students, etc.
* All bills and news clips on proposed time zone changes
* All bills on fisheries, student loans, women's issues, domestic violence, etc.
* When will State have bid opening on project in Sitka?
* What is the process for applying for State recreation development grant?
* What is in the budget for Pioneers' Homes, State Fairs, Council on Science & Technology, colleges, Longevity Bonus, Commission on Women, etc.
* How does one propose a bill?
* Explain the organization of the Department of Commerce & Economic Development (?)
* Information on Rural Electrification Programs

and several candidates for our favorites.....

* Request for information on octopus fishery, as reported in SE Log. Petersburg LIO located the researcher/writer and our inquirer was in phone contact the next day!

* What was the type of roofing put on the State Capitol Building?

* When is Seward's Day?

And a wonderful round robin conversation whereby the District Attorney's aid called to ask how to attach a Permanent Fund check. I referred her to the Court Clerk. Within ten minutes, I had another call....yes, the Court Clerk wondering how to attach a Permanent Fund check. I referred them all to the Dept. of Revenue.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

FEBRUARY REPORT
March 4, 1983

Monthly Report

TO: Charity Kadow, Director
Division of Public Services

FROM: Pat Von Bargen
Legislative Information Officer, Valdez Pat

General activity increased during the month of February. As more people become acquainted with the location, general ease of use, as well as amount of current information, traffic should continue to increase.

Access to evening teleconferences should be helped during March. The magistrate's office has asked us to keep the outer doors to the building locked. Some people have complained their knocking is difficult to be heard. So, the local DOT office (in charge of this building's maintenance) has agreed to our request to install a bell on the outside of the building. A notice will be placed behind glass only during an evening teleconference to forestall vagrant use of it.

Shortly after that request the Kenai delegation elected to remove Valdez from their teleconferences because of time constraints with so many other localities on the Kenai Peninsula. However, Senator Gilman has attended/Rep. Cato's evening constituent meetings. Senator Paul Fischer has elected to contact our local newspaper on a weekly basis with items of current interest.

Tags were received and placed on all office furniture this month.

Friday, February 25, our terminal went down and remained so into the beginning of March, requiring assistance from IBM.

February Activity - Valdez LIO

Teleconferences/Participants	
Legislative	9/13
Non-Legislative	1/1
Call-ins	11
Walk-ins	10
Bill Distribution	78

Outreach - To radio, chamber of commerce meetings, newspaper, notices

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

ALASKA LEGISLATIVE INFORMATION OFFICE
400 NORTH CAPITOL, N.W.
SUITE 181
WASHINGTON, D.C. 20001
(202) 624-5873

March 7, 1983

Subject: February End of Month Report

To : Charity Kadow, Director, Division of Public Services

From: : Gene Kennedy, Washington LIO

This month has been a busy one despite the rather sparse amount of legislation which has been enacted. In addition, I have been on a swing through Alaska and I cannot tell you how great it is to get back and visit Alaskans but now I am back attempting to catch up with the work that piled up. In addition, we have been kept busy with a great number of requests this month and Kim and our temporary, Rob, were especially busy in my absence. Our busiest month thus far brought forth these statistics:

	Alaskan Requests Legislators & LIO's	Congressional Requests	Other Requests	
February	81	3	21	Total - 105

When you consider that many of these requests are not simply requests for copies of bills, addresses, etc. but genuine research requests which take a long time to respond to, I can only be thankful that I have such wonderful assistance. I hope you will let us know whenever we fall down on the job but it is doubtful we miss much unless it is a lost message or a "down computer". It is a tribute to your support that we are still here and responding to your requests.

Presidential Month - Not only is February the historic month of the Presidents - who can name the other one other than Washington and Lincoln born in this month; and the two who died in February? - but it is also the month every four years when aspirants to the White House announce their candidacy for the Presidency. Four announced this month:

February 2nd - California Senator Alan Cranston, 68, a Senator since 1968 and minority whip of the Senate, was the first to announce. Two former employees of Congresswoman Gladys Noon Spellman, for whom I worked as Adm. Asst. for 5 years and 7 months, work for Senator Cranston and asked me to attend. Thinking they might need a crowd I went over to the famous Senate Caucus Room (where Sen. Sam Erwin held forth during Watergate) but it was mobbed and I soon left but it was interesting.

February 9th - Rep. Morris K. Udall of Arizona, a much-loved man in this town and enormously respected (although I would suspect that is not always the consensus of Alaskans) here, disavowed interest in running again for the Presidency.

February 17th - Senator Gary Hart of Colorado and a Senator since 1974 announced he would be a candidate.

February 21st - Former Vice President Walter ("Fritz") Mondale, the

front-runner so far in the executive sweepstakes, made his long-awaited announcement.

February 23rd - Former Governor Reubin Askew of Florida announced he would run. He was Governor from 1971-1978 and later served as President Carter's special trade representative.

Now we have two or three expected candidates to come forth in the spring - Senator John Glenn of Ohio, Sen. Fritz Hollings of South Carolina and, perhaps, Sen. Dale Bumpers of Arkansas.

New Members of Congress -

February 12th - Ex-Rep. Phil Gramm of Texas won with 55.3% of the vote over 10 other candidates. Jim Kuntak, his Democratic opponent, has indicated already he would run again in 1984. He got 39.6% of the vote. Rep. Gramm won last November by 94.5% of the vote before he changed his party designation and resigned from Congress.

March 1st - Democratic State Senator Gary Ackerman won election in a 4-way race to replace the late Rep. Benjamin Rosenthal with over 50% of the vote and was sworn in the next day.

Almost New Members (Choose 1 of 2) - The only other vacancy in the Congress in Colorado's 6th District will finally be filled on March 29th. The Democrats chose former State Rep. Steve Hogan, 34, who ran against Rep.-Elect Jack Swigert (who died just days before he was to be sworn into office in the 98th Congress) in 1982 and received only 35.6% of the vote in this largely-Republican district. Earlier the Republicans selected State Senator Dan Schaefer, 46, on the 4th ballot of a special convention.

The change in numbers of each party in the House therefore is now 268 Democrats and 165 Republicans. Interestingly, of the House races (minus 11 races - 3 in Florida and 8 in Louisiana where no tallies were held due to the fact there was no opposition) a total of 35,523,031 Americans voted Democratic or 55.6% of the vote and 27,354,388 or 42.9% of the vote went for the Republican candidates. This was a change from 1980 when Democrats won 50.4% and Republicans won 48% of the total vote.

New Lobby Registrations - On November 1, 1982 the NANA Regional Corporation, Inc. of Kotzebue, Alaska was represented by the firm of Keenan, Timme, DeRaitzes & Middleton, 1049 30th St., N.W., Washington, D.C. 20007. Legislative interest: "...including but not limited to all matters relating generally to Alaska, its land and natural resources, the Alaska Native Claims Settlement Act, matters relating to Indians, Eskimoes and Aleyts, generally".

Senate Votes in 1983 - There have been only 4 recorded votes in the Senate this year. We informed you of the 97-0 vote for the confirmation of Elizabeth Dole as Sec. of Transportation in January. Richard Burt, the Administration's choice for Asst. Sec. of State for European Affairs, was, finally, confirmed 85-11 (all Conservatives in opposition) after many months of Sen. Jesse Helms holding up the nomination. Former Congresswoman Margaret Heckler was confirmed March 3rd by 82-2 as the new Secretary of Health & Human Services. The last vote was to Amendments to the 1972 Protocol to 1928 Convention Concerning International Expositions.

House Votes - Not much more substantial had passed the House before last week. Votes No. 4 and 5 concerned the Select Committee on Children, Youth & Families (passed 312-69) and the Select Committee on Narcotics Abuse and Control (passed 290-77) and the establishment of these select Committees.

Last Week in the House - The Emergency Math & Science Act passed 348-54 on March 2nd and the Emergency Supplemental Appropriations for FY 1983 passed 324-95 on March 3rd. This latter bill of $4.9 billion, had several provisions which may be of interest to Alaska:

- $1.25 billion for Community Development Grants to create 80,000 jobs in the light construction industry.
- $200 million for the Economic Development Administration.
- $202 million for small business loans.
- $200 million for rural water and sewer grants.
- $171 million for mass transit under urban discretionary grants.
- $ 75 million for VA hospital repairs
- $100 million for summer youth jobs
- $ 75 million for displaced workers
- $150 million for low-income home weatherization
- $150 million for social service block grants including day care
- $100 million for Women, Infants and Children feeding programs
- $564 million for Soil Conservation Servide and Army Corps of Engineers for flood control
- $125 million for repairs to federal buildings
- $120 million for Amtrak grants
- $243 million for military housing
- $ 50 million for emergency food and shelter

There were many other aspects to the bill - job training vouchers to the unemployed that would allow a business to collect a tax credit on unemployed workers it hires and trains, creating urban enterprise zones, a National Infrastructure Bank to rebuild deteriorating public facilities - and chief among these would be the creation of new jobs of about 300,000 through the programs listed above and others.

Social Security Amendments - The Ways and Means Committee passed 26-2 the changes to the Social Security system and that bill will be on the floor of the House this Wednesday and Thursday. It is most certain to pass.

Of course, the jobs bill and the Social Security Amendments still have to go to the Senate and it remains to be seen what will be included in the bills by the time they pass both Houses and eventually go to conference.

Tomorrow a bill of interest to me, personally, the Gladys Noon Spellman Memorial Parkway, is up for House consideration. This bill would rename the Baltimore-Washington Parkway (operated by the National Park Service) for Mrs. Spellman because of the work she did in repaving it. It passed the House last June but Senator Wallop of Wyoming did not let it out of his Subcommittee in the Senate in the 97th Congress. We are all hopeful of Congressional passage in this Congress.

Our first real teleconference was held February 8th when a representative of NOAA and the Dept. of State participated with one other in the Juneau-based Legislative hearing on the Halibut Treaty with Canada. Unfortunately, a 2nd hearing was unattended because employees were allowed to go home at noon for another snowstorm was on its way.

I visited over 40 State Legislative Offices in Juneau. Kim visited 46 when she was in Juneau for the orientation session - so nearly every office has been covered. I met with Sen. Kerttula, was warmly received by Rep. Grussendorf, talked with Sen. Sturgulewski in the airport line, and chatted with many others including Rep. Koponen, Rep. Zharoff, Rep. Szymanski, Rep. Larson, Rep. Ringstad, Senator Fahrenkamp, Sen. Josephson, and others - and even saw the two llamas walking the streets of Juneau. Tom Begich, son of my friend, Nick, is the new Adm. Asst. to Senator Josephson in Juneau. Keep us in mind until the end of March report.....

CONGRESSIONAL FOCUS/RICHARD E. COHEN

Congress Works!

Here's one for the "believe it or not" column: Congress works!

After years of hand-wringing over legislative paralysis resulting from poor leadership, too many subcommittees, too many special interests and too few results, House and Senate insiders have growing confidence that the lawmakers will get their work done this year promptly and responsibly. By the end of March, no less, they may have nearly completed the three major items on the spring agenda—a supplemental appropriations bill designed to create jobs, a social security package and the fiscal 1984 budget resolution. Soon to follow, according to the script, will be tax and appropriations bills. Some fights are likely on details such as specific defense systems and indexing of tax brackets to inflation, but over all, these measures should receive expeditious handling.

Things are moving so smoothly that serious thought is being given to the longstanding proposal by Senate Majority Leader Howard H. Baker Jr., R-Tenn., that Congress turn off the air conditioners and go home for July and August. The best laid plans could fall apart at any moment, of course, but there is a spirit abroad of wanting to get the job done on important bills with minimal horseplay.

Many describe the operative condition these days as "bipartisanship." But that may be more the result than the motive. In fact, what seems to be at work is a powerful movement toward consensus across the political spectrum.

Take the budget resolution as an example. In both the House and Senate, Budget Committee members have been discussing informally the outlines of next year's budget. Rep. James R. Jones (D-Okla.) and Sen. Pete V. Domenici, R-N.M., the two chairmen, hope to finish committee work in the next two weeks and floor action by the scheduled March 25 start of the Easter recess.

More important than the timetable is the content of the budget. In contrast to most of 1981-82, when President Reagan's wishes dominated the legislative process, the new budget likely will be primarily a congressional document. Compromises will not emanate from widely heralded meetings with the President or from the desks of his aides, and Reagan's views will be considered but will not dominate the legislative process. Congressional Republicans have joined Democrats in making clear that they will support cuts in Reagan's proposed defense spending and increases in taxes and discretionary domestic programs—especially beyond fiscal 1984.

A Senate Democratic aide said the results will be similar to the kind of centrist budgets produced by the Senate during the late 1970s when Edmund S. Muskie, D-Maine, chaired the Budget Committee and Henry Bellmon of Oklahoma was the senior Republican. But there is an important difference, he said. "Muskie and Bellmon felt they needed to be bipartisan to make the budget process survive Senate politics. This time, the two sides are coming to a consensus via the economic route. They are coming together on the 'macro' goals and leaving the details to other committees to resolve."

A House Budget Committee aide agreed that lawmakers must resolve relatively few major decisions and that the political and economic climates leave relatively little leeway on the broad outlines. A senior GOP political aide made a similar point: "My sense is the public is tired of congressional carping and confrontation while the country is going to hell. This climate allows us to solve some problems and differentiate the views of the two parties while the people catch their breath."

House Democrats, who want to prove they can pass a respectable budget of their own, recently offered a dramatic example of their desire to avoid internal confrontation. After weeks of skirmishing among House Democrats over a proposal by Anthony C. Beilenson of California, chairman of the House Rules Committee task force on the budget process, to make what he called "modest" changes in handling the budget, the full committee met on March 1 to consider his plan. But Beilenson told the other members that House Speaker Thomas P. O'Neill Jr., D-Mass., had requested that the panel not vote on the proposal. "After arguing with him for some time, I acceded to his request," Beilenson said.

Under strong pressure from Jones, who said the proposal would weaken budget discipline, O'Neill told Beilenson the procedural issue should be postponed until the House adopted 1984 budget targets. "I said I wanted an intra-party squabble," O'Neill later told reporters. *(See NJ, 2/12/83, p. 315.)*

The action was not a complete defeat for Beilenson. According to aides, Jones has taken several steps in recent weeks to respond to his critics' charges that he was ignoring their views on enforcing budget targets. For example, Rep. Leon E. Panetta, D-Calif., a senior committee member, met with the staff directors of other House committees to give them a preview of the forthcoming resolution and invite their reactions. That does not mean other committee chairmen will drop their complaints that Jones is poaching on their turf, but he may have defused their attacks on the budget process by accepting the spirit, if not the letter, of some of their complaints.

House Democrats are not the only ones with conflicts. Domenici likely will not resolve his disagreement with Senate Armed Services Committee chairman John Tower, R-Texas, on defense cuts. Senate Finance Committee chairman Robert Dole, R-Kan., will remain at odds with Rep. Jack F. Kemp of New York and other Republicans on tax policy. Many Democrats will continue to be unhappy that their party leaders are not pushing hard enough for more money for jobs programs. And, in resolving their differences on the budget, the Democratic House and Republican Senate may produce ambivalent results that fall short of needed policy changes.

But in the atmosphere of realism and cooperation that pervades what may become the "can do" Congress, those differences probably will not stand in the way of action.

"There's a political concern in both parties that Congress has not been doing its job because of all the delays," said a Democratic aide. "The public expects important bills to be passed on time." □

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

March 9, 1983

TO: Charity B. Kadow
Director

FROM: Micki Henson, Manager
Anchorage Teleconference

RE: February

February just flew by! Anchorage participated in a total of 55 teleconferences, an impressive increase over last month's 21. Participation rose to 273 over January's 173. Our 13 constituent meetings were attended by 67 participants. These meetings are increasing in popularity and we expect March totals to be high. Our weekly teleconference schedule is now being mailed to 650 people.

During this month the "leg work" was completed on phone line installations and verification in the 9 off site locations we are utilizing in the Anchorage area. Teleconferences were held at 4 of these sites in February with the remainder to be used in March. Distances from the LIO to our various off site locations range from 14 to 1/4 miles (one way) with the average distance totaling 5 miles for a one way drive. The teleconferences have been sucessful at our off site locations, however the worst problem is trying to beat the rush hour traffic to set up for a 6:00 p.m. teleconference. Impossible!

I am happy to say that all LTC's now have their PCI conference sets and are up and operational. The last of the major equipment had been checked and shipped out. February also saw our first statewide hearing involving all LIOs and LTCs. We can all appreciate the hard work and careful planning it takes for teleconferencing in a network twice as large. I would like to take this time to send the Juneau teleconference staff a warm "congratulations" for a job well done.

We had several visitors this month. Vernita Zilys from Unalakleet was in on the 17th to attend the moderator update and discussion. Carol Williams from Hoonah spent the 23rd and 24th here for training. Both Vernita and Carol are wonderful people and we are very lucky to have them on board.

During all of the normal flurry of activity we have been anxiously watching the workmen ready the new teleconference space on the first floor. We are very excited about the move and look forward to being close to the Information folks. Another plus is that our new phone number is in effect -- 278-9624. This should lift some of the burden off the information lines.

I also had the opportunity to attend a time management seminar, along with Lana Trujillo. This was a most enlightening experience and offered numerous suggestions and tips. Now if we can just find the time to get organized!

We are looking forward to a busy busy March.

TOTALS	#	Participants	Observers	Total
Legislative Public Hrgs.	15	38	48	86
Legislative Work Sessions	4	7	11	18
Non-legislative Work Sessions	8	37	1	38
Constituent Mtgs	13	42	25	67
Conference Calls	5	18	21	39
Internal	4			
Other	6	14	11	25
TOTAL	55	156	117	273

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LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

March 2, 1983

TO: Charity Kadow, Director
Divisi . of Public Services

FROM: Margaret Dayton
Galena Moderator Margaret Dayton

RE: February Report

This was a very busy month for me learning how to run a teleconference meeting and doing all the paper work that had to be done. I learned how to use my telecopier for the very first time with Kathi in Juneau. That was a lot of fun. There was a mayors conference here in Galena last month and they needed a resolution from Juneau. I cant tell you how glad I was when I didnt have any problems with that.

The teleconference on the Dividend Repeal was very interesting. I had two participants. Apparently Juneau was having trouble with there conference set and could not hear some of the testifiers around the state. My participants were not able to testify. So that was one of the first problems I had to deal with during a teleconference.

I'm still trying to get people to participate by putting up poster around town. Galena has a newsletter that comes out twice a week, so thats one good way of advertising.

Last but not least, I'm really looking forward to my two day orientation in Anchorage. It would be a good learning experience just to see how they run things in there office.

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LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

February 24,1983

TO: Charity Kadow, Director
Division of Public Services

FROM: Robert Tungiyan
Gambell Teleconference

RE: February Monthly Report

So far Gambell LTC has participated in two teleconferences. The first one was a constituent meeting with Senator Frank Ferguson and Representative John Fuller. And the other teleconference was about the Repeal of the Permanent Fund Dividend. Both went really smooth but to be honest I was a little nervous at the start of both teleconferences. On the first teleconference we had three participants and on the other teleconference we had five participants. I'm hoping that a lot more will come on our next teleconference on March 7.

I'd like to thank the staff in Anchorage for the very informational orientation that we had back in January.

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LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

February, 1983

TO: Charity B. Kadow, Director
Division of Public Services

FR: Aleta Adkins, Moderator
Haines Teleconference Center

Teleconference activity increased greatly this month. We also had some participants new to the network, and they were very favorably impressed. Here are the statistics:

Legislative TC's--8 Participants--8 Observers--5

Non-legislative TC's none

Calls out---8

Calls for information--3 (Usually there are none)

The newspaper (Lynn Canal News) is willing to write up an informative article about the LTN. They also print TC and constituent meeting schedules for us. We continue to get good coverage from the public radio station, KHNS; several people have told me they heard about aTC first from radio.

We are looking forward to plans for the network open house--should be great!

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LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

February 28, 1983

To: Charity B. Kadow, Director
Division of Public Services

From: Jean M. Schroeder, Moderator
Homer Teleconference Center

Re: February Monthly Report

Phone Calls In - 60
Phone Calls Out - 45
Teleconferences - 7
Teleconferences (Work Sessions) - 3
Attendance - 57
Testifying - 25
Observing - 22
Constituent Meetings - 3
Attendance - 19
Requests for Bills - 30
Walk-Ins - 15

After the slow fall months, January seemed very busy. However, all activities (teleconferences, calls, requests, etc.) in February virtually doubled our January totals. We have had good response to our new regular "open" hours (2 hours) every Thursday as seen in regard to walk-in traffic as well as several phone calls during those hours.

Many of February's activities enhanced our outreach. One of the highlights for the month was the privilege of having Charity Kadow, our director, and Rhoda Eady, Information Officer from the Soldotna office in Homer to participate on radio station KGTL's weekly talk show, "Encounter." Charity also spoke at a Chamber of Commerce luncheon (see attached clipping) and I'm sure her comments and explanation of the teleconference center here really sparked the interest of many people in the community. The results of this were apparent when 31 people attended the teleconference on the Permanent Fund. This, in turn, allowed several people to sign up for our teleconference schedule mailouts.

Homer has had good participation and interest in constituent meetings and many people also visited our office the morning Rep. Fritz was here in person.

We are anticipating a high level of activity throughout the remainder of the session as more and more people discover our office.

Homer's link to Juneau is on Pioneer Ave.

The Alaska Legislature has kept its part of the bargain by providing access to legislative information: now it is up to the people to use it, according to Charity Kadow, director of the state Division of Public Services.

The Homer Teleconference Center is one part of a statewide network of information centers and "access points" which have developed in the past several years, she said. "It has grown in direct response to people's demands," she said.

"We have never closed a teleconference center, we have only upgraded them," Ms. Kadow told the Homer Chamber of Commerce Monday. If there was enough demand for information, she said, it is possible the Homer center could be turned into a full-fledged information center.

Currently the only such center on the Kenai Peninsula is in Soldotna. Just the same, she said, people in the Lower Peninsula can call the Soldotna office collect to secure many of its services. Among them are copies of pending or approved legislation, committee meeting records, and state studies.

Through the Homer center a person can attend scheduled teleconferences, talk directly to area legislators during the weekly constituent meetings (Thursday nights at 7 p.m.), and send short "public opinion messages," all free of charge.

Legislators, Ms. Kadow said, give much credence to teleconference testimony. Hearings are commonly held on such matters of general interest as taxes, transportation, health care, and the judicial system, she said.

State of Alaska
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Telephone # 758-4329

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES
Legislative Teleconference Center
General Delivery
Hooper Bay, Alaska 99604

Monthly report for FEBRUARY 1983.

The month of February for the Hooper Bay Legislative Teleconference Center here was pretty good, aside from having a bad PCI Equipment and weather related outages of local phone services, which was the case of missed Rap Sessions and Teleconferences. Slowly the awaretion of have a local legislative teleconference center is being known to the local citizens with more phone calls inquiring what the purpose of the services are for.

The Teleconference Center is still located at the City Office Building, with the permanent location still under construction and are working on the finishing phase, hopefully we can move all equipments some time during the spring season. The regular hours are from 9:00 am to 5:30 pm. Monday - Friday

Duties I work on are as follow;
a) Filing H.B.'s and S.B.'s
b) Publicity for up-coming teleconferences
c) Telephone inquiries & Correspondences
d) other related needed work.

February 03,	Rap Session from Aniak.
10,	Rap Session-Hooper Bay - local service problems (telephone)
15,	Teleconference on S.B.# 29 Municipal Elections disconnect early due to radio/telephone interference.
17,	Rap Session Hooper Bay
23	Teleconference on S.B. # 11 & 85 - Permanent Fund Dividend Repeal.
24	Rap Session Hooper Bay - problems with phone and operator.

Participated total 5 persons

Telephone calls out 22
inquiries (local) 20

recieved
1 Address stamp @ pad
1 Punch
2 dozen envolops
25 Hanging file folders
1 box Plastic tabs
1 box Holders

David A. Smart
Teleconference Moderator

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

TO: Charity B. Kadow

FROM: Linda Hoff Linda

SUBJECT: February Report

Use of the LTN in February broke the 1981 all-time-high-record for the number of teleconferences in a month. A total of 91 teleconferences were scheduled, tracked and moderated by the Juneau staff.

The total number of legislative teleconferences more than doubled last year's February figure, with the number of participants also doubling. The constituent category accounted for many of the increases, as the number of teleconferences doubled, and the people attending them tripled figures for last year.

February statistics:

	Observed	Testified	Total
Legislative Constituent (39)	457	381	838
Legislative Public Hearing (18)	623	435	1058
Legislative Work Session (6)	79	54	133
Legislative Two-Wire (12)	189	108	297
Administrative (8)	3	216	219
Non Legislative (8)	13	65	78
Total Number of Teleconferences (91)*	1364	1259	2623

*Totals do not include:

Two statewide broadcasts of Senators Stevens and Murkowski address to the Legislature or the number of cancelled teleconferences (10).

To put these figures in a 12 month perspective, compare the number of participants in teleconferences for the month of February, 2,600 to the 7,000 participants for the entire year of 1982. These advances necessitated a full-speed-at-all-times effort in the Juneau office - a pace that broke another record as the Juneau staff moderated 9 (NINE!) "chairing-site" teleconferences in one day. We knew that Juneau and all LTN sites were being heavily impacted this month - now we know how heavily - doubled and tripled!

Juneau Teleconference Monthly Report
February 1983

While all these teleconferences were being professionally handled, Bonnie and Tom were working on the new contact/confirmation sheets with all 41 sites listed. These were sent out to all sites along with a map of our sites that may help to orient our users, and a sample of the new polling sheet. The polling sheet is one of the ways the primary moderator keeps track of sites with witnesses and transmits that information to the chairperson. It helps to have a copy of it nearby during a statewide teleconference so you can see the probable order the sites will be called in.

February saw more requests for special, non-funded off network sites to be added to particular teleconferences than ever before. These requests probably quadruple the amount of detailed backup coordination necessary to make the teleconference run smoothly. Another sort of request was fielded more than ever before in Juneau - requests for more teleconferences from state agencies, commissions and departments than we can accommodate during session. If they continue, I expect that we will get a chance to moderate teleconferences for record breaking numbers of Alaskans all through the coming year. Onward into March!

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

March 2, 1985

To: Charity Kadow, Director
Division of Public Services

From: Sterling Goodgerger, Moderator
Savoonga Teleconference

Re: February Report

The month of February has been another busy month, though not as chaotic as January. Teleconferences are picking up. Savoonga had 2 official teleconferences. One was with Representative Fuller and a staff member of Senator Ferguson; who were very nice to take the time to speak on the Savoonga Teleconference "Open House." One council member participated and 13 people were present to observe. The "Open House" was well attended, though many people were in Barrow meeting with the whalers and a girl from Savoonga died on the day of the "Open House."
The other teleconference was the hearing on the repeal of the Permanent Fund [illegible] had one participant who did

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

(continued)
February Report
Dawson Teleconference

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not have the chance to testify because of the lack of time on the statewide teleconference. Five people came to observe.
Public interest is growing steadily; some of it due to the Open House. I hope. I am getting more calls of inquiry and some of interest in participating on legs in teleconferences.
Office supplies, P.C.I., and bill journal binders arrived, which have made work much more organized.
I have recently hired Mary Louise Kiyukuok as my substitute. I am in the process of training her and she's proven to be an avid learner and dependable.
I attended a stockholders' meeting of the Dawson Native Corporation and got a chance to speak briefly on the purpose and operation of the Legislative Teleconference Network. That is all for this month.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

Selawik Teleconference Site
March 3, 1983

TO: Charity Kadow, Director
Division of Public Services

FROM: Ruthie Sampson, Moderator
Selawik LTC

Re: February Monthly Report

February has been a good month to learn about being a teleconference moderator. Because this is not a legislative information office, I have not kept track of all the activity that goes on in here because it is on a limited level. However, for your information, here are a few statistics:

Legislative Teleconferences:	3	(2 public hearings 1 constituent meeting)
Participants	5	
Unable to Testify	1	
Observors	7	
Total	13	
Rap Sessions	4	(1 in Kotzebue with Mary Schaeffer of the LIO)
Telecopy	3	sheets sent to Juneau

Equipment received: The PCI, bookcase and the filing cabinet

I also have a reserve person whose name is Linda Mitchell. She will be receiving her training and filling in for me most of the month of March, as I will be in Kotzebue.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

TO: Charity Kadow, Director
FR: Vicki Seigel, Seward Moderator
RE: Seward Report

Seward had a busy month and Esther and Jolene did a great job while I was away.
Seward had 10 teleconferences with 22 observers and 13 participants in February.
It is good to be back and March is going to be a good month.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

UNALAKLEET TELECONFERENCE CENTER
General Delivery
Unalakleet, Alaska 99684

February 28, 1983

Charity B. Kadow, Director
Division of Public Services
1024 West Sixth Avenue
Anchorage, Alaska 99501

Subject: Monthly Report - January/February 1983

Dear Charity:

Enclosed within this letter is a combined monthly report for January and February 1983. As I continue to make progress in the establishment of the Unalakleet Teleconference Center, I promise to make these reports every month, on time.

JANUARY '83:

To backtrack just a little bit so the entire history of the Unalakleet teleconference center may be recorded, my first statewide teleconference was conducted using the Duophone on Thursday, December 16, 1982. At that time, I was unaware that my telephone equipment had arrived; therefore, my father graciously consented to allow the teleconference to take place in my parents' livingroom.

The experience was awesome for both of us. My father was born in 1918, before the advent of widespread telephone networks. As for me, I had envisioned a certain kind of teleconference, nearer to a hook-up between extensions in a single office. It must have been about the time Mary from Naktovik and Harry from St. Paul came on-line that my father and I exchanged looks of wonder and delight. Having never used a PCI before then, I did not miss its technological superiority to the Duophone, and while we did have a small problem with the jack not wanting to stay in its place on the Duophone, we were so caught up in the fun of listening to voices that originated from faraway places and that belonged to people from such a wide array of cultures, that later, when Kathi Baltes apologized for any "difficulties" we had experienced, it was all I could do not to laugh aloud. Far from being "frustrated" or "disgusted", we felt as though we had been let in on a huge and pleasurable secret.

Thus began what I have come to consider as my "love affair" with the legislative teleconference network. I left on holiday for Anchorage December 22, looking forward to training and orientation in Juneau January 10-14; I was somewhat apprehensive as to exactly what was planned for me and my fellow trainees and greenhorns, and not very sure about my ability to handle the computer equipment Kathi informed me Unalakleet had been selected to receive.

It did not take long for the staff who participated in the orientation and training sessions in Juneau to draw me even further into the magic world of the legislative teleconference network. I would like to take this opportunity to thank each one for their untiring patience, their effervescent enthusiasm, and their unceasing attention to the information we offered in our turn. If, at first, the equipment did not work; if the schedules sometimes overlapped or confused; and if Juneau itself often seemed like Fairyland, so infused with people I am used to seeing only on the evening news from Anchorage, well, somehow everything seemed to work out to the benefit of the moderators. When the equipment failed, we learned what to do about it, and the experience reassured us all that "these things happen - don't freak out!". It turned out that the flexible scheduling allowed all of us to proceed at our own pace, and I for one, was delighted to find myself with Marilyn Rasmussen, exploring the Capitol Building on our own, like delinquent schoolgirls. We probably absorbed more of what we did see than any formally guided tour would have taught us. As for "Fairyland" - the exposure helped to convince me that our legislature must not be looked upon as a gathering of eagles. Certainly, I will be more able to convince people to attend and participate in future teleconferences as equals of <u>any</u> legislator present.

Maria Moya and Pete Kinney must also receive my gratitude for their efforts to open up the terminal screens, transforming their inscrutable 'faces' into exhibitions of available information. I am looking forward to practicing and using the Omni to exchange information with other moderators. I hesitate at this point to name names among the staff who participated in the training process. I refuse to be specific for fear of omitting some gracious person - and they all were. But I learned the following:

1. It IS possible to "hear" a smile over the network, and I often smile back, though my PCI remains mute.

2. The PCI is a useful and exciting tool, not a piece of conjurer's art.

3. The administrative side of my work is often the most satisfying, as it gives me the chance to look back over the small triumphs - as when things go off without a hitch; or when people say on the evaluation sheet that they liked the teleconference.

4. The entire staff is truly concerned that the network be amenable to the people of the villages. I was extremely pleased to hear expressions of concern about dealing with elders and people who have trouble with the English language.

5. Courtesy and consideration are alive and well, thanks to the LTT.

FEBRUARY '83:

During February and January, I received the TELECOPIER; the EASAPHONE; the PCI SET; a 2-DRAWER FILE CABINET; a BOOKCASE; and various and sundry SUPPLIES. I also received both Senate and House JOURNALS, BILLS and folders for them.

All of this equipment is working beautifully. I figured out the intricacies of the PCI with Candy Muse standing by helpfully in Anchorage. She also made the first test phone call to my Easaphone; and when the City Land Planner requested a copy of the 1982 version of SB 95 recently, I called Carol Dickason, who then let Candy send copies over the telecopier as a way of showing another moderator who happened to be visiting the Anchorage LIO, how to use the machine. To our mutual delight, the telecopier performed <u>exactly</u> as it had been demonstrated in Anchorage and Juneau!!!

There were six teleconferences (aside from the weekly rap sessions, and semi-weekly data processing sessions) during February. The first, which was a constituent meeting for Rep. Jack Fuller and Sen. Frank Ferguson on February 7, was a smashing success, by Unalakleet standards anyway. Five observor-participants attended. The total number of observor-participants for all teleconferences was 15. When Frank Ferguson and Al Adams held a joint constituent meeting on February 24, four people (3 of whom spoke over the network) attended.

Technical difficulties have been kept to a minimum. Our main problem (and lately, the most irksome - at least insofar as any part of my job is able to BE irksome) has been with the reception from certain of the Juneau microphones. Particularly during the "Date of Municipal Elections"/Commission on the Status of Women" hearings, I noticed that the microphone used by Bill Ray was all but inaudible due to "clipping" and lowered volume. But on the whole, transmissions have been clear and unintercepted by other static or interruption. Everyone who sees how the PCI works is just as fascinated as I still am (I wonder if I will <u>ever</u> become blasé about the system?). The PCI, all by itself, is our best P.R. tool. I think as word gets around, people may come just to see it in action.

I think I have rhapsodized enough. My future Monthly Reports will contain more figures and less excited prose - but I could not resist the chance to let you know how much I have appreciated being a part of the legislative teleconference network. Until next time, I remain

Yours Faithfully,

Vernita Zilys
Unalakleet Moderator

P.S.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

FEBRUARY REPORT: UNALASKA LEGISLATIVE TELECONFERENCE CENTER

February represets Unalaska's first full month as a Legislative Teleconference Center. It was a rewarding month in terms of participation with 8 community members turning out for the first constituent meeting. I particularly found February's "All Alaskan Public Hearings" positive in terms of "rural input." I wrote articles for the local newpaper on the hearing from SenateBill 29, 63 and the Permanent Fund Dividend Repeal, thus giving the Community of Unalaska wider access to what communities from around the state were saying about these issues. I gave updates of these hearings on our community access television station's weekly public affairs program. As it takes time and thought to reach the community and time to build an appreciation for the opportunity the Network can offer participants/communities. I would like to know more about the outreach programs other sites have developed to increase community awareness.

A project developed at the Unalaska LTC this month involves the Alaska Student Close-Up Program. Unalaska's Center has put together a student teleconference to be jointly sponsored by Learn/Alaska, Department of Education and Legislative Affairs Agency, Division of Public Services. The conference, "Question Your Classmates of the Legislative Process" will be Friday, April 8th. It will involve student participants in Juneau that week and their classmates in Petersburg, Dillingham, Fairbanks, Unalaska, Cordova, Hoonah, and Haines. I will have information packets in the mail to the above LTC's or LIO's including all details of the conference. Those will be in the mail in very short order.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

TO: Charity B. Kadow, Director
Division of Public Services

FROM: Mabel Fennimore, Moderator
Wrangell Teleconference Center

RE: February 1983

Legislative Teleconferences	9
Non-Legislative Teleconferences	1
Participants	11
Observers	55
Participants unable to testify	2
Phone calls out	64
Phone calls in	6
Personal contact	11
Requests for bills	7
Posters made	24
T.V. notices	8
Radio notices	8
Newspaper notices	6

February was a busy month for Wrangell. Being a fishing town the teleconferences on the proposed U.S./Canada Salmon Treaty got the fishermen out in full force. I was very pleased with the turn out for our first Constituent Meeting with our Represenatives Ron Wendte, and Jack McBride, with 14 in attendance.

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

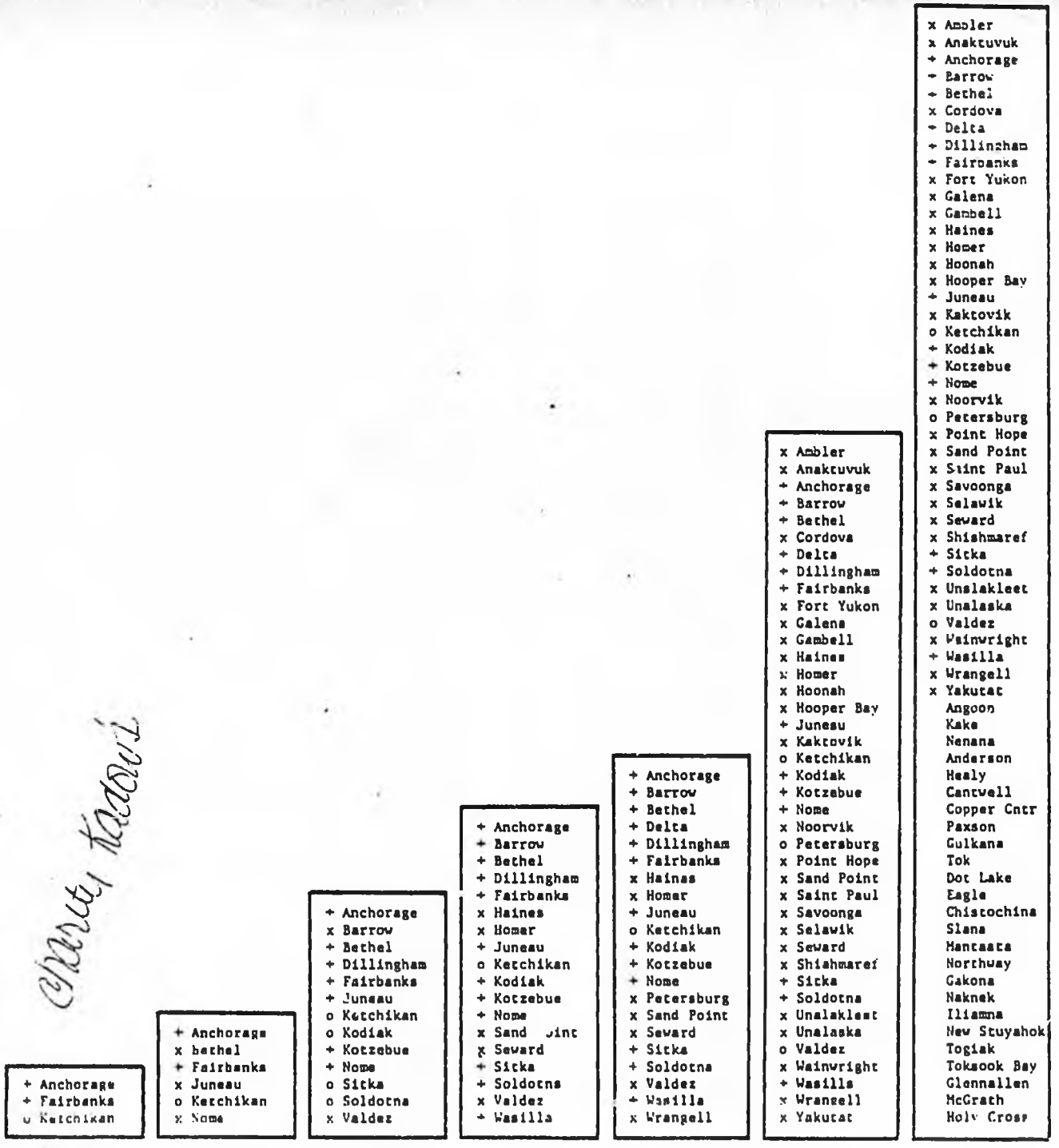
TO: Charity Kradow, Director
Division of Public Services

From: Martha Nelson, moderator
Yakutat Teleconference Center

Re: February

The Yakutat LTC's first month in operation was a learning experience and very exciting. We had six teleconferences with five participants and eighteen observers. We also had four lengthy RAP sessions. I spent a lot of time contacting people to let them know about the teleconferences.

I recieved a bookcase, filecabinet, telecopier and PCI set. The PCI is much nicer to use than the Dial-phone.



Legislative Affairs Agency

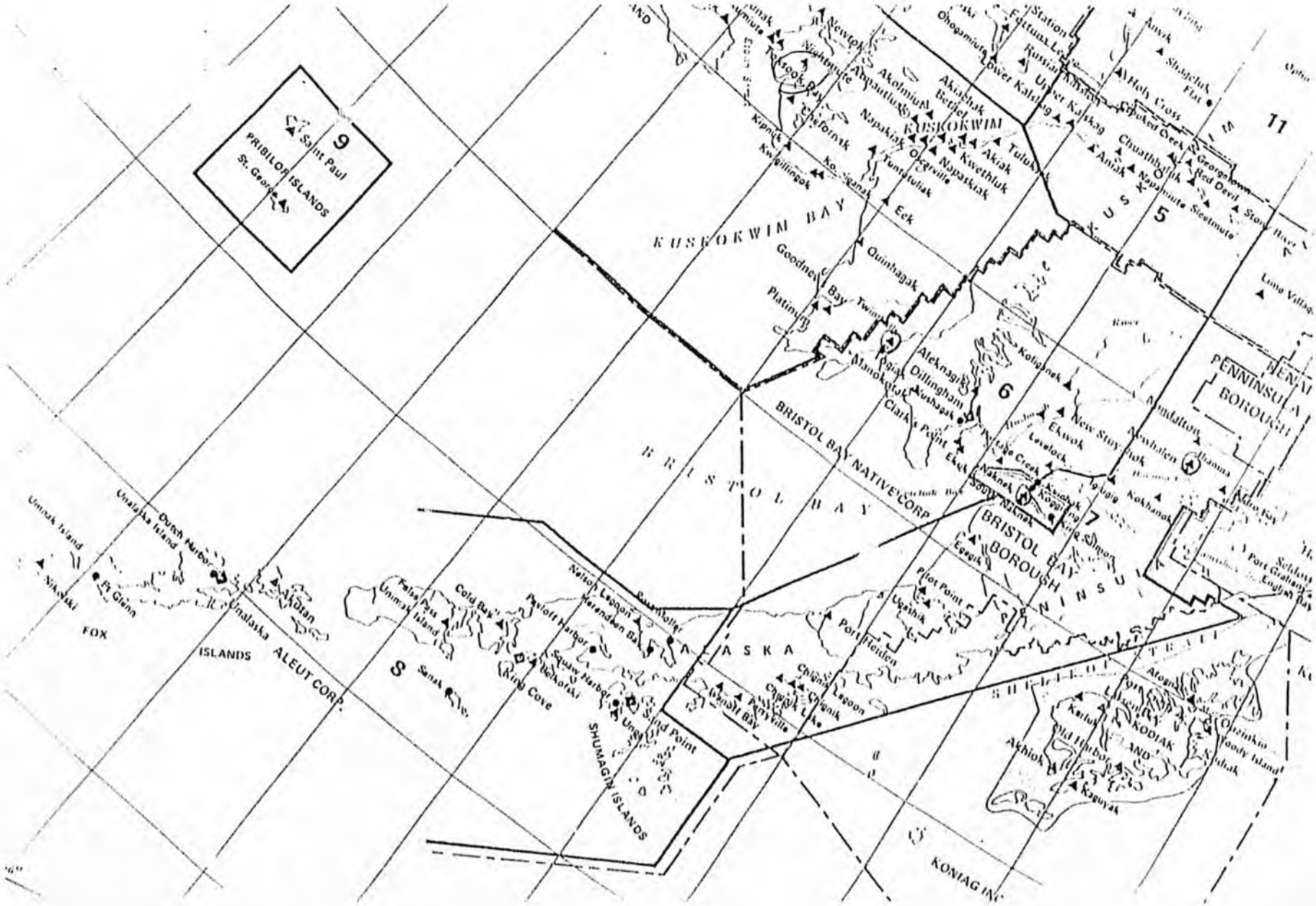
DIVISION OF PUBLIC SERVICES

LEGISLATIVE TELECONFERENCE NETWORK activated February 1978
DIVISION OF PUBLIC SERVICES established May 1979

\+ Full-time Legislative Information Office
o Part-time or session-only Legislative Information Office
x Teleconference Center

Unfunded sites requested for teleconferences in a recent four-week period: Pelican (2); Tenakee (2); Boys' Club, Anchorage; Whittier (2); North Pole (7); Adak (2); Seldovia (4); Palmer; Talkeetna (2); Craig; Pioneers' Home, Anchorage; Susitna Valley High School; Brevig Mission; Teller; Wales; Girdwood; Metlakatla; Port Alexander; Chester Valley. Nine simultaneous teleconferences held during February 1983.

3-15-83



9
Saint Paul
PRIBILOF ISLANDS
St. George
KUSKOKWIM BAY
BRISTOL BAY
BRISTOL BAY NATIVE CORP
BRISTOL BAY BOROUGH
PENNINSULA BOROUGH
KUSKOKWIM
Bethel
Akiachak
Akiak
Kwethluk
Napaskiak
Napakiak
Oscarville
Tuntutuliak
Eek
Quinhagak
Goodnews Bay
Platinum
Aleknagik
Dillingham
Manokotak
Clark's Point
Koliganek
New Stuyahok
Ekwok
Levelock
Naknek
South Naknek
King Salmon
Egegik
Pilot Point
Ugashik
Port Heiden
Chignik Lagoon
Chignik Lake
Perryville
Nelson Lagoon
Herendeen Bay
False Pass
Unimak Island
Cold Bay
Pavlof Harbor
Squaw Harbor
Belkofski
King Cove
Sand Point
SHUMAGIN ISLANDS
Sanak
Unalaska Island
Dutch Harbor
Unmak Island
Nikolski
Ft Glenn
FOX
ISLANDS
Akutan
Unalaska
ALEUT CORP.
KODIAK
Old Harbor
Akhiok
Kaguyak
Karluk
Afognak
Port Lions
Ouzinkie
Woody Island
Kodiak
KONIAG INC
Holy Cross
Shageluk
Anvik
Chuathbaluk
Napamiute
Sleetmute
Red Devil
Georgetown
Stony River
Lime Village
Mountain Village
Newtok
Nightmute
Toksook Bay
Chefornak
Kipnuk
Kwigillingok
Akolmiut
Akiachak
Tuluksak
Lower Kalskag
Upper Kalskag
Russian Mission
Fortuna Ledge
Station
Ohogamiut
Oquawka
Eek
Koliganek
Ekwok
Levelock
Naknek
Egegik
Port Heiden
Chignik
Perryville
Kodiak
Akhiok
Kaguyak
Karluk
Old Harbor
Afognak
Port Lions
Ouzinkio
Woody Island
Kodiak
Port Graham
English Bay
Seldovia
Homer
Kachemak Bay
Kenai Peninsula
Mondaltoe
Iliamna
Newhalen
Kokhanok
Aleknagik
Dillingham
Manokotak
Clark's Point
Koliganek
New Stuyahok
Ekwok
Levelock
Naknek
South Naknek
King Salmon
Egegik
Pilot Point
Ugashik
Port Heiden
Chignik Lagoon
Chignik Lake
Perryville
Nelson Lagoon
Herendeen Bay
False Pass
Unimak Island
Cold Bay
Pavlof Harbor
Squaw Harbor
Belkofski
King Cove
Sand Point
SHUMAGIN ISLANDS
Sanak
Unalaska Island
Dutch Harbor
Unmak Island
Nikolski
Ft Glenn
FOX
ISLANDS
Akutan
Unalaska
ALEUT CORP.
KODIAK
Old Harbor
Akhiok
Kaguyak
Karluk
Afognak
Port Lions
Ouzinkio
Woody Island
Kodiak
KONIAG INC
8
7
6
5
11

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C
JUNEAU, ALASKA 99811
PHONE: (907) 465-2041

DIVISION OF TELECOMMUNICATIONS SERVICES

March 14, 1983

Honorable Adelheid Herrmann
Alaska State Legislature
Pouch V
Room 212, Behrends Bldg.
Juneau, Alaska 99811

Dear Representative Herrmann:

Re: HB193

It has come to my attention that New Stuyahok, one of the four proposed Legislative Teleconference Network sites in HB193, does not presently have the technical capability to adequately accomodate that service.

The Division of Telecommunications Services has recently sent inquiries to all Alaskan telephone companies requesting information regarding existing or planned exchange service in Alaska's communities. Response from Bristol Bay Telephone Cooperative indicates that the certification process to extend exchange service to eight Bristol Bay area communities has begun. If certified, Bristol Bay intends to provide exchange service to New Stuyahok, but not until the last quarter of 1984. The other three communities in HB193 presently have exchange service.

I hope this information is useful. Please contact me if the Division staff or I can provide further help.

Sincerely,

Sioux Plummer

Sioux Plummer, Director

Thru: Lisa Rudd, Commissioner

SP/bb

02-822LH

Bristol Bay Borough

Box 189 • Naknek, Alaska 99633

RESOLUTION NO. 82-21

A RESOLUTION REQUESTING A LEGISLATIVE OFFICE WITH A TELECONFERENCE CAPABILITY IN THE BOROUGH.

WHEREAS, important items which affect the lives of citizens in Bristol Bay Borough are introduced and debated each year in the legislature, and

WHEREAS, public input is difficult to provide due to the long distance from the Borough and the State Capital, and

WHEREAS, infromation about legislative affairs often arrives after the decision has been made, and

WHEREAS, a Legislative Office with a teleconference line would greatly improve the information flow between the Borough and State capital and the legislators and their constituents.

NOW THEREFORE BE IT RESOLVED, that the Assembly of Bristol Bay Borough request the legislature to establish an office with teleconference capability in the Borough.

Passed this 20th day of December, 1982.

Jim L. Clark
Mayor

ATTEST:

Borough Clerk

Bristol Bay Borough
BOX 189 • NAKNEK, ALASKA 99633

JIM D. CLARK
MAYOR

TELEPHONE
(907) 246-4224

January 14, 1983

Rep. Adelheid Herrmann
House of Representatives
Pouch V
Juneau, Alaska 99[illegible]

Dear Adelheid:

Enclosed is a Resolution from the Borough Assembly requesting a legislative office with teleconference capabilities within the Borough.

We believe this office will better link us to the State Capital and keep us better informed about issues and items that affect us. We would appreciate any help you can give us.

Please call me if you have any questions or need more information.

Sincerely,

Francis W. Mandeville
Borough Manager

FWM:bjt

Enclosure:

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

DIVISION OF PUBLIC SERVICES
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-8518

January 5, 1983

Senator Bob Mulcahy
Box 246
Kodiak, Alaska 99615

Dear Senator Mulcahy:

As you requested, we have developed cost figures for session-only Legislative Information Offices and for Legislative Teleconference Centers in Iliamna and Naknek.

The attached worksheets show both one-time and recurring costs for each type of facility. We have based FY 83 recurring costs on a March 1, 1983 startup date. If it is your intent to seek funding to establish the facilities in FY 84, rather than for the balance of FY 83, the funding request should include both both the one-time costs and the coming year recurring costs.

The funding requirements would be as follows:

Iliamna - information office, 3-1-83 startup	27,605	one-time
	46,894	recurring
	74,499	
7-1-83 startup	27,605	one-time
	115,873	recurring
	143,478	
Iliamna - teleconference center, 3-1-83 startup	8,315	one-time
	11,249	recurring
	19,564	
7-1-83 startup	8,315	one-time
	31,027	recurring
	39,342	
Naknek - information office, 3-1-83 startup	27,585	one-time
	45,434	recurring
	73,019	
7-1-83 startup	27,585	one-time
	111,493	recurring
	139,078	

Naknek - teleconference center, 3-1-83 startup	8,315	one-time
	11,249	recurring
	19,564	
7-1-83 startup	8,315	one-time
	31,027	recurring
	39,342	

If we can provide further information, please let us know.

Very truly yours,

Judy D. Hopkins
Operations Coordinator

c: Representative-elect Adelheid Herrmann
M. R. Charney
Wally Harrison
Charity Kadow
Carol Dickason
Kathi Baltes

FACILITY DEVELOPMENT QUOTE

MARKER

Establish and operate a Legislative Teleconference Center
March 1 through June 30, 1983

Requestor: Mulcahy/Herrmann
Prepared: 1/5/83

		ONE-TIME COSTS	RECURRING COSTS for period 3/1 thru 6/30/83	TOTAL	AMOUNT AVAILABLE FROM CURRENT YEAR FUNDS	CURRENT YEAR FUNDING REQUIREMENT	RECURRING COSTS, COMING YEAR
100	Personal Services	-0-	3272	3272	-0-	3272	9815
200	Transportation, Per Diem	1655	1900	3555	-0-	3555	1900
300	Contractual Services	480	5177	5657	-0-	5657	15532
400	Commodities	300	100	400	-0-	400	300
500	Equipment	5880	-0-	5880	-0-	5880	1080
	Space	-0-	800	800	-0-	800	2400
	Data Communications	-0-	-0-	0	-0-	0	-0-
	Totals	8315	11249	19564	0	19564	31027

See category breakdowns, attached

If funding is sought to establish and operate facility during the current fiscal year, use Current Year Funding Requirement figure. The Division of Public Services will request funds required for continuation in the coming fiscal year if current-year funding is approved.

If funding is sought to establish facility in the coming fiscal year, rather than for the balance of the current fiscal year, funding request should include One-Time Costs and Recurring Costs, Coming Year.

Category Breakdowns
LEGISLATIVE TELECONFERENCE CENTER

ONE TIME COSTS

Transportation and Per diem - Administrative travel to site for interview, arrangements; staff travel to major center for training.

Contractual Services - Telephone installation; freight for initial supplies; signs, rubber stamps, notary seals.

Commodities - Initial, "staple" office supplies; maps, flags.

Equipment - Teleconference equipment, file cabinet and equipment stand, typewriter, telecopier, answering machine, tape recorder, and associated freight.

RECURRING COSTS

Personal Services - On-call moderator; includes cost of living differential where applicable and percentage for employer costs/benefits.

Transportation and Per Diem - Staff travel to major center for orientation and training, administrative travel to site for supplemental training.

Contractual Services - Telephone service, postage and mailing, pouch service, off-net tolls and bridge services, required printed materials, funds for local advertising and newspaper subscriptions; equipment repair and maintenance, freight.

Commodities - Stationery and supplies, duplicating supplies, computer commodities, library supplies.

Equipment - Routine recurring requirements for office furniture and equipment and for teleconference equipment.

Space - Funds to reimburse donor of space for janitorial and/or utilities costs if required.

12/82

2/2/83

HISTORY
Alaska's Legislative Information and Teleconference Facilities

DIVISION OF PUBLIC SERVICES — May 15, 1979

Establishment of the Divison of Public Services was approved by Legislative Council May 15, 1979.

Funds for operation of the Division were transferred from the Division of Administrative Services and from session funds.

Appointment of Director approved May 15, 1979.

JUNEAU INFORMATION CENTER/LEGISLATIVE INFORMATION NETWORK — May, 1979

Juneau Information Center/Legislative Information Network were established with the transfer of responsibility for public information services to the Division of Public Services.

Legislative Information Network (LIN) staffperson hired May 18, 1979.

Prior to establishment of the Juneau information facility, information support services were provided to regional facilities under the auspices of the Division of Administrative Services, Legislative Affairs Agency.

LEGISLATIVE TELECONFERENCE NETWORK — February 2, 1978

LR 93, 1977, directed establishment of a Legislative Teleconference Network (LTN) to be operational in January, 1978, and to include Anchorage, Bethel, Fairbanks, Ketchikan, Juneau, and Nome. The LTN was operational February 2, 1978.

CH 161, SLA 78, Sec. 7 funded expansion and maintenance of the LTN. Expansion included addition of teleconference centers in Barrow, Kotzebue, Kodiak, Soldotna and Sitka in 1979.

****

ANCHORAGE — 1972

Information office established by the Seventh State Legislature in 1972.

Included as initial teleconference site under LR 93, 1978.

FAIRBANKS — 1975

Information office established by the Ninth State Legislature in 1975.

Included as initial teleconference site under LR 93, 1978.

KETCHIKAN — January, 1978

Legislative Council minutes, 6-17-77: "Mr. Charney noted there was evidence that the House Finance Committee had approved an in-session information office for Ketchikan and approved $8,000 for that purpose. The FCC kept the intent, but failed to provide the funds. Motion by Ray that project be carried forward within the limitations of the session funds." FY 79

Explanation of LAA/budget during 1-7-78 Council meeting notes inclusion of funds for Ketchikan office and that it was "authorized for 1978 but not funded."

Included as initial teleconference site under LR 93, 1978.

Information officer hired 12-4-77.

NOME — July 1, 1979

Teleconference center established under LR 93, 1978.

Legislative Council approved $22,500 from Council contingency funds to establish session-only information office, at request of Senator Ferguson, 12-6-78.

LAA's FY 80 budget included funds for a full-time information office (per 5-15-79 review of Agency's budget before Legislative Council).

On-call moderator hired 1-15-79; status changed to full-time information officer when full-time Nome LIO opened 7-1-79.

BETHEL — July 6, 1979

Teleconference center established in 1978 under LR 93.

Information officer hired 7-6-79; full-time information office opened for business 7-6-79.

DILLINGHAM — August 6, 1979

Information officer hired 7-25-79; information office opened 8-6-79.

LAA's FY 80 budget included funds for full-time information office.

KENAI PENINSULA (SOLDOTNA) — September 7, 1979

Teleconference center established by CH 161 SLA 78.

LAA's FY 80 budget included funds for session-only office.

Opened as session-only 9-7-79. On-call moderator hired 1-15-79; became information officer 9-7-79.

Division's FY 81 base budget request increased by $25,000 for full-time information office by action of Legislative Council 6-2-80.

KOTZEBUE — September 24, 1979

Teleconference center established in 1979 by CH 161 SLA 78.

LAA's FY 80 budget included funds for full-time information office.

Information officer hired when full-time LIO opened 9-24-79.

VALDEZ — October 10, 1979

Cost figures for various configurations prepared at request of Representative Branson 7-12-79.
Legislative Council approved $6,172 for establishment of teleconference center 10-10-79, from balance of uncommitted funds previously appropriated for the Agency's Research Services Division.
Cost figures for upgrade provided to Representative Cato 2-81.
$85,300 authorized by Sec. 80, CH. 101 SLA 1982 to operate as part-time information office during FY 83.

KODIAK — December 15, 1979

Teleconference center established by CH 161 SLA 78.
LAA's FY 80 budget included funds for session-only information office.
Opened as session-only information office 12-15-79.
Cost figures to upgrade to full-time information office provided at request of Representative Zharoff 1-15-79.
$25,000 included in CH 50 SLA 80 to upgrade Kodiak from session only to full-time information office.

SITKA — December 17, 1979

Teleconference Center established by CH 161 SLA 1979.
LAA's FY 80 budget included funds for session-only information office.
Session-only office opened 12-17-79; information officer originally hired as on-call moderator 2-26-79.
Cost figures to upgrade to full-time prepared at request of Representative Eliason 4-15-80. Rep. Eliason requested at 4-18-80 meeting of the Council that upgrade funds be included as an addendum to the Division's FY 81 budget.
Divison's FY 81 base budget request increased by $25,000 for full-time information office by action of Legislative Council 6-2-80.

MATANUSKA-SUSITNA (WASILLA) — January 28, 1980

Cost figures for teleconference center prepared at request of Senator Kerttula 11-5-79.
Cost figures for various configurations prepared at request of Representative Meekins 1-3-80.
Cost figures for "modified" information office (no data equipment) prepared at request of Representative Meekins' staff 1-20-80.
News clip dated 1-29-80: "...Carney has obtained a commitment from the Legislature to establish an information office in Wasilla."
$34,000 included in CH 50 SLA 80 to cover establishment of Mat-Su "modified" facility and operation through FY 80.
Cost figures for upgrading to full-time information office prepared at the request of Representative Carney and provided to Representative Carney and Senator Kerttula 4-3-80.
Divison's FY 81 base budget request increased by $80,000 for full-time information office by action of Legislative Council 6-2-80.
CRT equipment installed late June 1980; BASIS October 1980.
Information officer hired 1-28-80; office opened 1-28-80.

BARROW — May 1, 1980

Teleconference center established by CH 161 SLA 78, Sec. 7.
Information officer hired 4-7-80; full-time information office opened 5-1-80.

HAINES — June 19, 1980

Cost figures for teleconference center prepared at request of Senator Ray 4-8-80.
$21,100 included in Ch 50 SLA 80 to cover establishment and operation of teleconference center through FY 80.
Teleconference drop active 6-19-80.
Moderator hired 10-15-80.

HOMER — July 21,1980

Cost figures prepared at request of Representative Malone 2-8-80.
$14,000 included in CH 50 SLA 80 to cover establishment of Homer and Seward teleconference centers and operation through FY 80.
Teleconference drop active 7-21-80. Moderator hired 4/29/80.
At request of Representative Malone, $3500 authorized by Legislative Council 3/16/81 to rent and furnish space.

SEWARD — September 8, 1980

Cost figures for teleconference center prepared at request of Representative Malone 2-8-80.
$14,000 included in CH 50 SLA 80 to cover establishment of Homer and Seward teleconference centers and operation through FY 80.
Moderator hired 8-27-80; news release on facility opening dated 9-8-80.

SAND POINT

Cost figures for teleconference center prepared at request of Representative Osterback 2-7-80.
$13,510 included in CH 50 SLA 80 to cover establishment and operation of teleconference center through FY 80.

DELTA JUNCTION — January 26, 1981

Cost figures prepared at request of Representative Moss 10-9-80.
Legislative Council approved $20,000 "for establishment of a teleconference/information office" 1-10-81. Moderator hired 1-14-81; full-time information office opened 1-26-81.

PETERSBURG — March 1981

At request of Representative Haugen, $3,000 authorized by Legislative Council 3-16-81 for operation as off-net teleconference center for balance of FY 81. Moderator hired 3-19-81. First usage - constituent meeting 3/23/81.
Cost figures for upgrade to session-only information office prepared at the request of Senators Ziegler and Eliason 12/2/82.
$30,000 from session funds authorized by Council 12-8-82 for operation as session-only information office for the balance of FY 83.

WRANGELL — March 1981

At request of Representative Haugen, $3,100 authorized by Legislative Council 3/16/81 for operation as off-net teleconference site for balance of FY 81. Moderator hired 3-[illegible]-81. First usage - constituent meeting 3/23/81.

CORDOVA — July 1982

$22,500 authorized by Sec. 80, CH 101 SLA 1982 to establish and operate teleconference center during FY 83.

AMBLER, ANAKTUVUK PASS, FORT YUKON, GALENA, GAMBELL, HOONAH, HOOPER BAY, KAKTOVIK, NOORVIK, PT. HOPE, ST. PAUL, SAVOONGA, SELAWIK, SHISHMAREF, UNALASKA, UNALAKLEET, WAINWRIGHT, YAKUTAT — July 1982

$741,300 authorized by Sec. 173, CH 141 SLA 1982 to establish, operate and provide administrative support for teleconference centers during FY 83. At request of Senator Eliason, Legislative Council approved substitution of Hoonah for Kake 10-1-82. At request of Senator Ferguson, Legislative Council approved deletion of ANS/Anchorage and addition of Ambler and Selawik 12-8-82. Original funding had been adequate to provide for dial-up data on a pilot basis in five sites; with approval of additional site, dial-up data pilots reduced to three - Ft. Yukon, Unalakleet, Unalaska. Overall funding adequate for centers to maintain minimal regular "office hours" for provision of limited information services.

Notes:

Information prior to the establishment of the Division of Public Services (5-15-79) is not maintained in the Division files. The FY 80 budget for public information services was prepared and presented by the Division of Administrative Services. The first budget written under the Division of Public Services was the FY 81 budget.

At the end of 1979, the Division was operating 13 sites - Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Juneau, Kenai Peninsula, Ketchikan, Kodiak, Kotzebue, Nome, Sitka and Valdez.

Five sites were added in 1980 - Haines, Homer, Mat-Su, Sand Point and Seward.

Three sites were added in 1981 - Delta Junction, Petersburg and Wrangell.

Nineteen sites were added in 1982 - Ambler, Anaktuvuk Pass, Cordova, Fort Yukon, Galena, Gambell, Hoonah, Hooper Bay, Kaktovik, Noorvik, Point Hope, St. Paul, Savoonga, Selawik, Shishmaref, Unalaska, Unalakleet, Wainwright and Yakutat.

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Routine proceuure has been that new facilities are created by legislative initiative. Once a facility has been initially funded, it is carried ahead in the Division's budget as originally established; upgrades also are dependent on legislative initiative. The Division of Public Services budgets to maintain a facility at the level established by the Legislature.

References:

LA 93 1977
CH 161 SLA 78 e.d. 10-10-78
CH 50 SLA 80 e.d. 5-31-80
CH 101 SLA 1982
CH 141 SLA 1982
Legislative Council Minutes

HB 193
File

H I S T O R Y

ESTABLISHMENT OF ALASKA'S LEGISLATIVE INFORMATION FACILITIES

DIVISION OF PUBLIC SERVICES — May 15, 1979

Establishment of the Division of Public Services was approved by Legislative Council May 15, 1979.

Funds for operation of the Division were transferred from the Division of Administrative Services and session funds.

Appointment of Director approved May 15, 1979.

JUNEAU INFORMATION CENTER/LEGISLATIVE INFORMATION NETWORK — May, 1979

Juneau Information Center/Legislative Information Network were established with the transfer of services to the Division of Public Services.

Legislative Information Network (LIN) staffperson hired May 18, 1979.

Prior to transfer of the Juneau information facility, information support services were provided to regional facilities under the auspices of the Division of Administrative Services, Legislative Affairs Agency.

LEGISLATIVE TELECONFERENCE NETWORK — February 2, 1978

LR 93, 1977, directed establishment of a Legislative Teleconference Network (LTN) to be operational in January, 1978, and to include Anchorage, Bethel, Fairbanks, Ketchikan, Juneau, and Nome. The LTN was operational February 2, 1978.

CH 161, SLA 78, Sec. 7 funded expansion and maintenance of the LTN. Expansion included addition of teleconference centers in Barrow, Kotzebue, Kodiak, Soldotna and Sitka in 1979.

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REGIONAL FACILITIES

ANCHORAGE LEGISLATIVE INFORMATION OFFICE 1972

Established by the Seventh State Legislature in 1972.
Included as initial teleconference center under LR 93, 1978.

FAIRBANKS LEGISLATIVE INFORMATION OFFICE 1975

Established by the Ninth State Legislature in 1975.

Included as initial teleconference site under LR 93, 1978.

KETCHIKAN LEGISLATIVE INFORMATION OFFICE (SESSION-ONLY) January, 1978

Legislative Council minutes, 6-17-77: "Mr. Charney noted there was evidence that the House Finance Committee had approved an in-session information office for Ketchikan and approved $8,000 for that purpose. The FCC kept the intent, but failed to provide the funds. Motion by Ray that project be carried forward within the limitations of the session funds." FY 79
Explanation of LAA/budget during 1-7-78 Council meeting notes inclusion of funds for Ketchikan office that it was "authorized for 1978 but not funded."
Included as initial teleconference site under LR 93, 1978. Information Officer hired 12-4-77.

NOME LEGISLATIVE INFORMATION OFFICE July 1, 1979

Teleconference center established under LR 93, 1978.
Legislative Council approved $22,500 from Council contingency funds to establish session-only office, at request of Sen. Ferguson, 12-6-78.
LAA's FY 80 budget included funds for a year-round office (per 5-15-79 review of Agency's budget before Legislative Council).
On-call moderator hired 1-15-79; status changed to full-time Information Officer when full-time Nome LIO opened 7-1-79.

BETHEL LEGISLATIVE INFORMATION OFFICE July 6, 1979

Teleconference Center established in 1978 under LR 93.
Information Officer hired 7-6-79; Bethel LIO opened for business 7-6-79.

DILLINGHAM LEGISLATIVE INFORMATION OFFICE August 6, 1979

Information Officer hired 7-25-79; Dillingham LIO opened 8-6-79.

LAA's FY 80 budget included funds for year-round office.

KENAI PENINSULA LEGISLATIVE INFORMATION OFFICE September 7, 1979

Teleconference center established by CH 161 SLA 78.
LAA's FY 80 budget included funds for session-only office.
Opened as session-only 9-7-79. On-call moderator hired 1-15-79; became Information Office 9-7-79.
Division's FY 81 base budget request increased by $25,000 full-time Soldotna office by action of Legislative Council 6-2-80.

KOTZEBUE LEGISLATIVE INFORMATION OFFICE — September 24, 1979

Teleconference Center established in 1979 by CH 161 SLA 78.
Information Officer hired when full-time LIO opened 9-24-79.
LAA's FY 80 budget included funds for full-time office.

VALDEZ TELECONFERENCE CENTER — October 10, 1979

Cost figures for various configuration prepared at request of Representative Branson 7-12-79.
Legislative Council approved $6,172 for establishment of teleconference center 10-10-79, from balance of uncommited funds previously appropriated for the Agency's Research Services Division.
Cost figures for upgrade provided to Representative Cato 2-81.
$85,300 authorized by Sec. 80, CH 101 SLA 1982 to operate Valdez as part-time LIO during FY 83.

KODIAK LEGISLATIVE INFORMATION OFFICE — December 15, 1979

Teleconference Center established by CH 161 SLA 78.
Opened as session only 12-15-79.
Cost figures to upgrade to full-time provided at request of Representative Zharoff 1-25-79.
$25,000 included in CH 50 SLA 80 to upgrade Kodiak from session-only to full-time.
LAA's FY 80 budget included funds for session-only office.

SITKA LEGISLATIVE INFORMATION OFFICE — December 17, 1979

Teleconference Center established by CH 161 SLA 1979.
Session-only office opened 12-17-79; information officer Charles Bickenheuser originally hired as on-call moderator 2-26-79.
Cost figures to upgrade to full-time prepared at request of Representative Eliason 4-15-80. Rep. Eliason requested at 4-18-80 meeting of the Council that upgrade funds be included as an addendum to the Division's FY 81 budget.
LAA's FY 80 budget included funds for session-only office.
Division's FY 81 base budget request increased by $25,000 for full-time Sitka office by action of Legislative Council 6-2-80.

MATANUSKA-SUSITNA LEGISLATIVE INFORMATION OFFICE — January 28, 1980

Cost figures for teleconference center prepared at request of Senator Kerttula 11-5-79.
Cost figures for various configurations prepared at request of Representative Meekins 1-3-80.
Cost figures of "modified" information office (no data equipment) prepared at request of Representative Meekins' staff 1-20-80.
News clip dated 1-29-80: "...Carney has obtained a commitment from the Legislature to establish an information office in Wasilla."
$34,000 included in CH 50 SLA 80 to cover establishment of Mat-Su facility and operation through FY 80.
Cost figures of upgrading to full-time prepared at the request of Representative Carney and provided to Representative Carney and Senator Kerttula 4-3-80.

Division's FY 81 base budget request increased by $80,000 for full-time Mat-Su office by action of Legislative Council 6-2-80.
CRT equipment installed late June 1980; BASIS October 1980.
Information Officer hired 1-28-80; office opened 1-28-80.

BARROW LEGISLATIVE INFORMATION OFFICE — May 1, 1980

Teleconference center established by CH 161 SLA 78, Sec. 7.
Information Officer hired 4-7-80. Barrow LIO opened 5-1-80.

HAINES TELECONFERENCE CENTER — June 19, 1980

Cost figures prepared at request of Senator Ray 4-8-80.
$21,100 included in CH 50 SLA 80 to cover establishment and operation through FY 80.
Teleconference drop active 6-19-80.
Moderator hired 10-15-80.

HOMER TELECONFERENCE CENTER — July 21, 1980

Cost figures prepared at request of Representative Malone 2-8-80.
$14,000 included in CH 50 SLA 80 to cover establishment of Homer and Seward teleconference centers and operation through FY 80.
Teleconference drop active 7-21-80. Moderator hired, 4-29-80.
At request of Rep. Malone, $3,500 authorized by Legislative Council 3-16-81, to rent and furnish space.

SEWARD TELECONFERENCE CENTER — September 8, 1980

Cost figures prepared at request of Representative Malone 2-8-80.
$14,000 included in CH 50 SLA 80 to cover establishment of Homer and Seward facilities and operation through FY 80.
Moderator hired 8-27-80; news release on facility opening dated 9-8-80.
$13,510 included in CH 50 SLA 80 to cover establishment and operation through FY 80.

SAND POINT TELECONFERENCE CENTER — Spring, 1981

Cost figures prepared at request of Representative Osterback 2-7-80. $13,510 included in CH 50 SLA 80 to cover establishment and operation through FY 80.

DELTA JUNCTION LEGISLATIVE INFORMATION OFFICE — January 26, 1981

Cost figures prepared at request of Representative Pappy Moss 10-9-80.
Legislative Council approved $20,000 "for establishment of a teleconference/information office" 1-10-81. Moderator hired 1-14-81; office opened 1-26-81.

PETERSBURG TELECONFERENCE CENTER — March, 1981

At request of Representative Haugen, $3,000 authorized by Legislative Council 3-16-81 for operation as off-net teleconference site for balance of FY 81. Moderator hired 3-19-81. First usage - constituent meeting 3-23-81.

Cost figures for upgrade to session-only LIO prepared at the request of Senators Ziegler and Eliason 12-2-82. $30,000 from session funds authorized by Council 12-8-82 for operation as session-only LIO for the balance of FY 83. Dial-up data pilot.

WRANGELL TELECONFERENCE CENTER — March, 1981

At request of Representative Haugen, $3,100 authorized by Legislative Council 3-16-81 for operation as off-net teleconference site for balance of FY 81. Moderator hired 3-19-81. First usage - constituent meeting 3-23-81.

CORDOVA TELECONFERENCE CENTER — July, 1982

$22,500 authorized by Sec. 80 CH 101 SLA 1982 to establish and operate Teleconference Center during FY 83.

AMBLER, ANAKTUVUK PASS, FORT YUKON, GALENA, GAMBELL, HOONAH, HOOPER BAY, KAKTOVIK, NOORVIK, PT. HOPE, ST. PAUL, SAVOONGA, SELAWIK, SHISHMAREF, UNALASKA, UNALAKLEET, WAINWRIGHT AND YAKUTAT TELECONFERENCE CENTERS — July, 1982

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Legislative Council Minutes

State of Alaska
THE LEGISLATURE

M- Get with the Communications bill

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

ANCHORAGE INFORMATION OFFICE
MARCH 1983

RECEIVED
APR 18 1983

TO: Charity Kadow, Director
Division of Public Services

FROM: Marcie Sharrock, Information Officer

March brought spring, more daylight, more sunshine and was a very busy month. The teleconference office and hearing room was moved to the main floor behind our information office which makes traffic flow more efficient for the staff, and public teleconference traffic goes through the main lobby of the building rather than up our very ugly back stairs. With the relocation of phones we added a new three line rotary to the telephone system which gives the public a seperate phone number to call for teleconference inquiries. With the new lines in use, we have had no more complaints that the info lines are always busy, and people are able to get through to information or teleconfence on their first call.

INFORMATION SERVICES

Bill information requests have become more complex as bills started moving through the committees and the public became more aware of the variety of data available in the computer and our manual record of scheduled committee hearings. Bills receiving the greatest number of requests during March were bills dealing with the budget and capital appropriations, student loans, homesteading, permanent fund dividends, corrections, juvenile corrections and alcohol bills.

With the publication of the Directory of State Officials and Legislative Pocket Directory, the staff made a major effort to complete distribution of all pending requests for these documents. In the one month period, we distributed 700 copies of the state directory and 4,500 copies of the legislative directory.

We averaged one inquiry per day from other info sites. These inquiries included requests such as contacting the Judicial Council requesting that a report be mailed, statute research, committee hearing schedules, voting procedures, HUD information for a site, and copies of the working draft of the mental health commitment procedures bill to several sites. We also picked up and mailed a copy of a court case file for the Legal Services Division.

While 4 of the new teleconference moderators were in town for training, Lou gave a demonstration on how to clean a telecopier and I gave a session on the legislative process, tour of the information office and answered many questions about reading and filing of bills and journals.

We logged 39,550 pages copied on the Xerox 5600 and printed out 109 bills 'on the same day as introduced' using the laser printer (388 pages). We gave out 14 BTMF printouts and printed 14 documents (197 pages) from the committee minutes and journal data bases in STAIRS.

Anchorage Information Office Activity Tally - March 1983

POMS sent	799
to number of addressees	17,050
POMS to Washington, D.C.	6
Call-ins	2,370
Teleconference calls	189
Div/Public Services calls	106
Walk-in traffic	601
Info mail-outs (requested)	1,129
Bill status/process/info inquiries	437
Legislator/staff phone/address inquiries	484
US Congress phone/address/referrals	29
Governor phone/address/referrals	50
State agencies phone/address/referrals	75
Federal agencies phone/address/referrals	9
Muni/Anchorage phone/address/referrals	8
Miscellaneous inquiries	55
Research (by staff or visitors):	
Current bills	49
Previous sessions	7
AS & ACC	14
Issues	2
Budget	14
Reference library	6
Distribution:	
Bills	2,110
SLA, AS & ACC	44
Directory of State Officials	700
Legislative Pocket Directories	4,500
Weekly status	135
LAA Publications	641
Reports and Audits	88
Applications/forms	7
Other (phone lists, rosters, etc.)	951
Telecopy 495:	
Pages sent	207
Pages received	339
Special Request DHL pouch to Juneau	3

Although we frequently respond to student requests for information, the attached thank you letter from a 9th grade student in the state of Washington is my favorite. After not receiving a response to a written inquiry and also calling the state for the information, the student's mother called our office in desperation. We immediately gathered the requiried information and included our usual informational publications with the mail out.

OUTREACH

The major outreach effort in March was the distribution of the directories to all pending requestors as well as a mailing of the Legislative Pocket Directory to the 700 individuals on the Anchorage Teleconference Newsletter mailing list.

Carol Dickason gave a presentation on the Information and Teleconference Network services to a statewide gathering of 75 Community School people. June and I came in on a Saturday and gave a presentation and office tour to a group of 24 women attending a day long conference sponsored by the United Methodist Women. We also continue to give short tours and computer training to new office users daily.

During March we provided the following groups with directories and publications:

Anchorage Pioneer Home
Libertarian Party
Anchorage Republican Women's Club
Anchorage Women's Club FREE Committee
IBEW
RURALCAP
UAA
Anchorage Governor's Office
Anchorage Election's Office
Federation of Community Councils

SERVICES FOR LEGISLATORS

During March we were responding to 3 or 4 legislative requests a day, with telecopy, omnicom messages, in-town deliveries and staff back-up for local meetings. Lou worked one Saturday and assisted during a Senate Labor and Commerce hearing, Senator Josephson's hearing on mental health commitment procedures and Representative Uehling's constituent meeting. We also pre-registered participants for the Anchorage Senate Judiciary hearing on the death penalty.

April promises to be another busy month, but the peak activity is still more than a month away. Before the end of April though, we should start receiving those crystal ball questions; Will this bill pass? Will the Governor sign or veto the bill? When will the legislature adjourn?

Marcie Sharrock,

I would like to take this opportunity to thank you for the information that you have given me on the state of Alaska. I know it took you some time to do this for me, thank you. The information you gave me was more than enough to give me a very good grade.

Thank You,

Chris Henderson

(P. O. Box 653
Ridgefield, Washington 98642)

2/9/93

3706 Bisquier Drive
Anchorage, Alaska
March 25, 1983

Marcie Sharrock, Information Officer
Legislative Information Office
1024 West 6th Ave.
Anchorage, Alaska 99501

Dear Marcie,

On behalf of the Planning Committee of the Legislative Training Event sponsored by United Methodist Women, I thank you and your staff member for graciously coming in especially to give us a tour of the Legislative Information Office.

We very much appreciate the information about the services offered by the Office and how we can make use of them. You increased our awareness of how to keep intouch with legislation and legislators. Thank you again.

Sincerely,

Grace Arai

Grace Arai
United Methodist Women

State of Alaska
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

Monthly Report

April 6, 1983

TO: Charity Kadow
Director

FROM: Micki Henson, Manager
Anchorage Teleconference

RE: March Report

March was another busy month! The majority of our days are spent in a flurry of teleconference activity. A normal day consists of telephones ringing, walk-in customers, non-stop conversations on the LTN, (during the moments actual teleconferences are not taking place) and the postman arriving with a steady stream of correspondence from our regional Legislative Teleconference Centers and numerous others. I know this is a "statewide" mode of operation. During March so many things took place I feel it best to take the highlights and elaborate somewhat.

TELECONFERENCE OFFICE MOVES

During the first week of the month we watched the finishing touches being completed in our new space and managed to relocate ourselves all at once. We are now located on the first floor directly behind the Legislative Information Office. Our new phone number 278-9624 is in operation complete with a recording set for evenings we are not in the office that gives the next day's schedule. We are very pleased with the new location and it is much more accessible to the public. We are still using the second floor conference room for those non-teleconferenced meetings and hope to continue this practice during the interim.

ORIENTATION

On the 7th and 8th Anchorage teleconference hosted a orientation/training session for the Legislative Teleconference Center moderators who were not able to attend in January. Justlie Paneak from Anaktuvuk Pass, Margaret Dayton from Galena, Mary Riley from Kaktovik and Mable Finnimore from Wrangell participated in the two day session. Linda Hoff our Juneau teleconference manager traveled to Anchorage to assist in the training. The session was very productive and well received by all.

TELECONFERENCE ACTIVITY

Anchorage participated in 54 teleconferences with participation at 474. Legislative public hearings totaled 24 for the month. A wide range of subjects were topics. Comments were heard on the Susitna Hydro project, the permanent fund, residency issues, the Iditarod, motor vehicles and liquor laws to name a few.

Thirteen constituent meetings were scheduled for Anchorage. The majority of these teleconferences are held at "off-net" locations in the Anchorage area. During this month the teleconference staff traveled to 9 seperate locations. Our "off-net" locations include the Boys Club of Alaska where District 11 constituents meet, Tudor Road Elementary School is the site for District E 8 and 9. District H 14 utilizes both the teleconference office and Chester Valley Elementary School. District G 13 has held their constituent meetings in conjunction with the local community council meetings at Chester Valley Elementary School, Wonder Park Elementary and the Mt. View Community Center. I have attached a questionaire that was sent to area residents for one of the meetings. District G-12 speaks to their constituents gathered in the teleconference office and the Anchorage Pioneer Home Residents on 11th Avenue, are dialed in to participate. Constituents from District H 15 may participate at the Eagle River Library or the Anchorage office. In addition to our tally of 13 constituent meetings, Representative Szymanski has held 2 constituent meetings using our PCI conference set.

Our room has been used for 2 non-teleconferenced public hearings, the Senate Labor and Commerce committee and the Senate HESS committee. Representative Uehling held an "in town" District meeting.

STUDENT PARTICIPATION

Representative Furnace sponsored a presentation over the network for a class of 69 eighth graders from Clark Junior High. By using the teleconference drop at the Mt. View Library the students were able to walk from the school to listen and ask questions of Representative Furnace.

The Multihandicapped Special Education class at Central Junior High continues to provide assistance to our office by preparing the weekly teleconference schedule for mailing. We have 6 students who participate in the project as "job training". The schedules are delivered to the students on Tuesday mornings for folding, labeling and stapling. The class instructor Ms. Susan Ryan, would then bring the schedules back to our office on Wednesday for mailing. During the last week the students have been coming down to our office on Wednesday mornings for a few hours to complete the project "on the job". The students accompanied by an instructor leave the school and take a bus to our office, finish the project and return to school. We are happy to have the assistance and pleased that we can provide valuable training for the students. They have our special "thanks".

Kenny Nekeferoff
Jana Maxey
Paul Kimbal
Steven Schoenberg
Terre Malm
Shane Duwell

TELECONFERENCE TOTALS

	#	Participants	Observers	Total
Public Hearings				
Legislative	24	71	124	184
Non-Legislative	2	12	21	33
Work Sessions				
Legislative	5	17	11	28
Non-Legislative	8	35	2	37
Constituent Mtgs.	13	59	45	104
Other *	2	15	62	88
TOTAL	54	209	265	474

* Press Conference
Legislative Presentation

QUESTIONNAIRE

By

University Area Community Council

The results of this questionnaire will be tabulated for the upcoming teleconference with our House District 13 and Senate District G legislators (Jerry Ward, Terry Martin, Joe Josephson and Vic Fischer).

DATE: Wednesday, March 9, 1983
TIME: 7:00 pm
PLACE: College Gate Elementary School

Please complete and return the questionnaire IMMEDIATELY so that we can tabulate the results before the teleconference. Drop in the mail (postage paid) or deliver to the Community Councils Center, 801 W. Fireweed Lane, #103.
For more information call B.J. Morton: 333-8915 or Judy Stanek: 333-2998 (evenings).

	YES	NO	No Opinion
1. Do you favor continuation of the direct distribution of the permanent fund dividends?	____	____	____
2. Should the State tax credit (now $100/person) be continued for political contributions?	____	____	____
3. Should the State fund day care facilities/programs?	____	____	____
4. Do you support the acquisition of additional land within our area for open space/recreational use?	____	____	____
5. Do you support "Forward Funding" (money in the bank) for the State ? The State could not spend money which it did not already have. If adopted there would have to be a transition of several years to change from the current system.	____	____	____
6. Do you support zero-based budgeting for the State?	____	____	____
7. Do you support budgeting State capital improvements separately from operating costs?	____	____	____
8. Do you support a requirement that future operating and maintenance costs be estimated for proposed State capital improvement projects?	____	____	____
9. Should the State prepare:			
A 5 year funding plan for capital improvements?	____	____	____
A 20 year plan to prioritize long term projects?	____	____	____
10. Do you support compulsory liability insurance for automobiles?	____	____	____
11. Do you support a standard requirement for being an "Alaskan Resident" for all public programs?	____	____	____

	YES	NO	NO Opinion
12. Do you support confiscation of automobiles in DWI (drinking while intoxicated) cases after:			
1st offence?	____	____	____
2nd offence?	____	____	____
Manslaughter Conviction?	____	____	____
Other:	____	____	____
13. Do you support legislation (SB 79, Right to Know) which requires that the use & composition of certain hazardous and toxic materials found in the workplace are made known to the workers and communities exposed to them so that appropriate preventative measures can be taken?	____	____	____
14. Do you support State subsidies for public radio and TV?	____	____	____
15. Should the State provide financing to broadcast the Legistlative session?	____	____	____
16. Is the death penalty needed as a deterent to violent crime?	____	____	____
17. Should "prison industries" be encouraged?	____	____	____
18. Do you support mandatory automobile inspections for safety?	____	____	____
19. Do you support mandatory automobile inspections for emmissions?	____	____	____
20. Should public hearings be required prior to passage of legislative bills?	____	____	____
21. Do you support development of alternative energy resources?	____	____	____

22. What are your priorities regarding the State's development of energy resources? Rate the following with no. 1 being the top priority.

____ Oil ____ Susitna Hydro Project ____ Small Hydro Projects

____ Natural Gas ____ Coal ____ Hydrogen ____ Nuclear ____ Solar

____ Wind ____ Other _____

23. What are your priorities in terms of State funding for the following using no. 1 as your top priority:

____ Constructing Capital improvements ____ Developing Energy Resources

____ Developing Human Resources ____ Other _____

24. What (if any) legislative reform is needed in the student loan program?

____ Raise the current interest rate (Now 5%)

____ Reduce the loan amount to $_____

____ Eliminate the forgiveness clause

____ Use high test scores to determine eligibility

____ Other _____

HB

202

Introduced: 2/11/83
Referred: State Affairs and Finance

Funding Information
General Fund $157,368
Other Funds -0-
$157,368

IN THE HOUSE BY HERRMANN

HOUSE BILL NO. 193

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Legislative Affairs Agency to establish and operate teleconference sites; and providing for an effective date."

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

* Section 1. The sum of 159.087 $157,368 is appropriated from the general fund to the Legislative Affairs Agency to establish and operate teleconference sites at Naknek, ~~Iliamna~~ Newhalen, ~~New Stuyahok~~ Lo Alaska, and Togiak.

* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1984.

* Sec. 3. This Act takes effect July 1, 1983.

Time enough

THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 193

Title An act making special appropriation to Legislative Affairs Agency to establish and operate Teleconference sites Date March 17, 1983

Requested by Representative Mitch Abood - State Affairs

II. FISCAL DETAIL

Agency Affected Legislative Affairs Agency

Program Category Affected Public Services Division

BRU, Program, Or Subprogram(s) Affected Teleconference Sites

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		39,260				
200 TRAVEL		14,220				
300 CONTRACTUAL		6[illegible],048				
400 COMMODITIES		2,400				
500 EQUIPMENT		27,840				
600 LAND & STRUCTURES		9,600				
700 GRANTS,CLAIMS,ETC.		-0-				
		-0-				
TOTAL		157,368				

FUNDING (Thousands of Dollars)

GENERAL FUND		157,368				
FEDERAL FUNDS		-0-				
OTHER (Specify Source)		-0-				

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

ONE-TIME COSTS

200-Admin. travel to site for interview, arrange., staff travel to major center for training.
300-Telephone install., freight for initial supplies, signs, rubber stamps, etc.
400-Initial stock of office supplies
500-Teleconf. equip., file cabinet & equip. stand, typewriter, telecopier, answering machine, associated freight.

RECURRING COSTS

100-On-call moderator, inc. cost of living differential.
200-Staff travel to major center for orient. & train., admin. travel to site for supp. train.
300-Telephone service, postage & mailing, off-net tolls & bridge svcs., required printed mat., funds for local advertising & newspaper sub , equip. repair & maint., freight.
400-Stationery and supplies
500-Routine recurring requirements for teleconf. equip., office furniture & equip.
600-Funds to reimb. donor of space for janitorial and/or utilities costs if required.

IV. DATE March 17, 1983 PREPARED BY Wally Harrison, Director, Admin. Svcs.

AGENCY Legislative Affairs Agency

PHONE 465-3850

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

33-001 (Rev. 12/82)

HOUSE COMMITTEE ON STATE AFFAIRS
LETTER OF INTENT
FOR
CSHB 193 (STATE AFFAIRS)

Mr. Speaker:

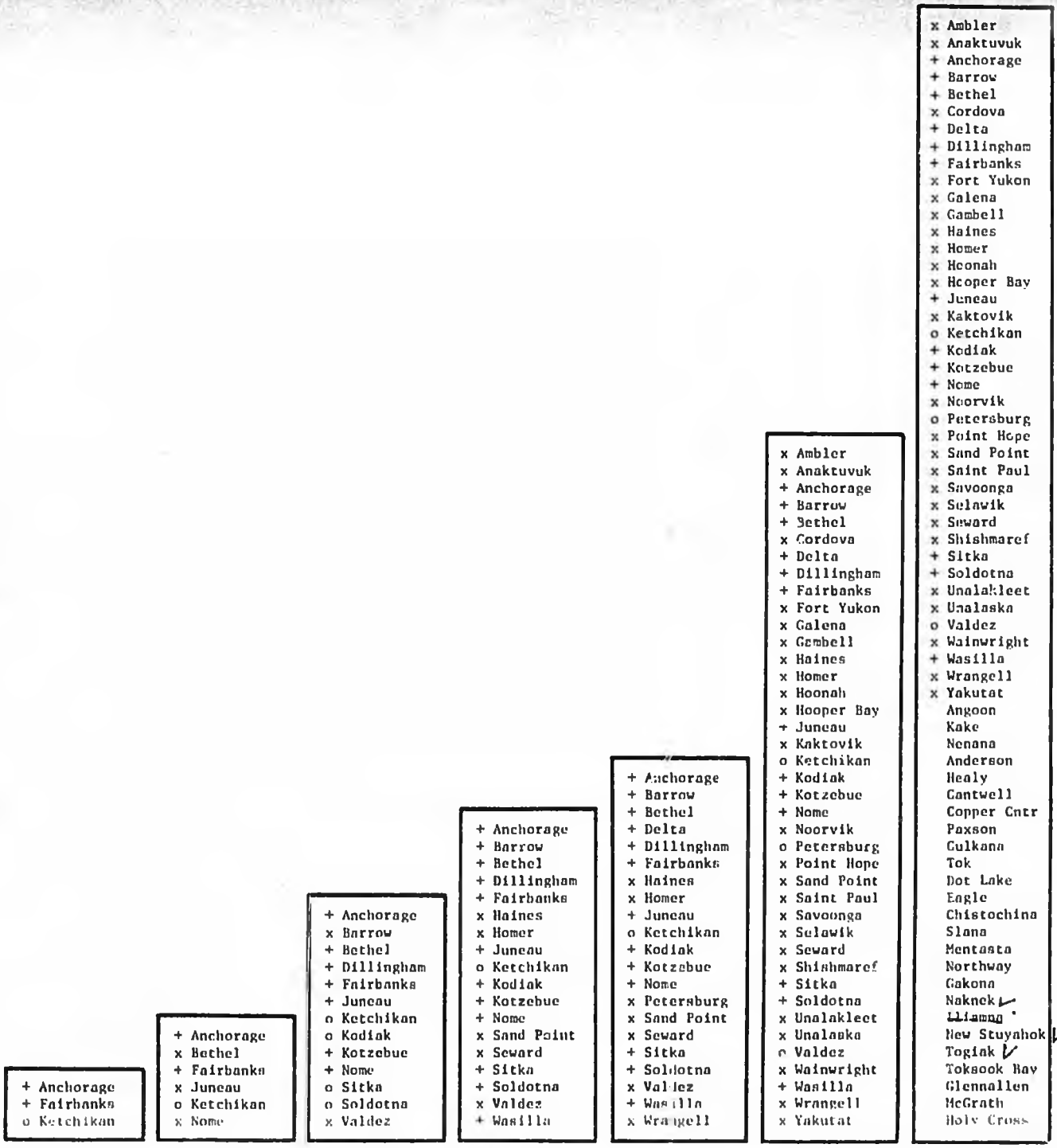
The Committee on State Affairs has had House Bill 193 under consideration, and the Committee recommends that the bill be replaced by Committee Substitute for House Bill 193, and that the Committee Substitute (CSHB 193) do pass.

The State Affairs Committee intends to reflect, through CSHB 193, a commitment to the Legislative Information & Teleconference Network and recognizes the importance of linking the government of Alaska to her people.

Testimony before the committee has clearly established that Alaska's legislative telecommunications system is unique in providing for the vital interchange of thoughts and opinions throughout our vast and diverse land.

Respectfully submitted,

Rep. Mitch Abood
Chairman



Legislative Affairs Agency

DIVISION OF PUBLIC SERVICES

LEGISLATIVE TELECONFERENCE NETWORK activated February 1978
DIVISION OF PUBLIC SERVICES established May 1979

\+ Full-time Legislative Information Office
o Part-time or session-only Legislative Information Office
x Teleconference Center

Unfunded sites requested for teleconferences in a recent four-week period: Pelican (2); Tenakee (2); Boys' Club, Anchorage; Whittier (2); North Pole (7); Adak (2); Seldovia (4); Palmer; Talkeetna (2); Craig; Pioneers' Home, Anchorage; Susitna Valley High School; Brevig Mission; Teller; Wales; Girdwood; Metlakatla; Port Alexander; Chester Valley. Nine simultaneous teleconferences held during February 1983.

3-15-83

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C
JUNEAU, ALASKA 99811
PHONE: (907) 465-2041

DIVISION OF TELECOMMUNICATIONS SERVICES

March 14, 1983

Honorable Adelheid Herrmann
Alaska State Legislature
Pouch V
Room 212, Behrends Bldg.
Juneau, Alaska 99811

Dear Representative Herrmann:

Re: HB193

It has come to my attention that New Stuyahok, one of the four proposed Legislative Teleconference Network sites in HB193, does not presently have the technical capability to adequately accomodate that service.

The Division of Telecommunications Services has recently sent inquiries to all Alaskan telephone companies requesting information regarding existing or planned exchange service in Alaska's communities. Response from Bristol Bay Telephone Cooperative indicates that the certification process to extend exchange service to eight Bristol Bay area communities has begun. If certified, Bristol Bay intends to provide exchange service to New Stuyahok, but not until the last quarter of 1984. The other three communities in HB193 presently have exchange service.

I hope this information is useful. Please contact me if the Division staff or I can provide further help.

Sincerely,

Sioux Plummer

Sioux Plummer, Director

Thru: Lisa Rudd

Lisa Rudd, Commissioner

SP/bb

02-822LH

Bristol Bay Borough
BOX 189 • NAKNEK, ALASKA 99633

J.W D. CLARK
MAYOR

TELEPHONE
(907) 246-4224

January 14, 1983

Rep. Adelheid Herrmann
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Adelheid:

Enclosed is a Resolution from the Borough Assembly requesting a legislative office with teleconference capabilities within the Borough.

We believe this office will better link us to the State Capital and keep us better informed about issues and items that affect us. We would appreciate any help you can give us.

Please call me if you have any questions or need more information.

Sincerely,

Francis W. Mandeville
Borough Manager

FWM:bjt

Enclosure:

Bristol Bay Borough
BOX 189 • NAKNEK, ALASKA 99633

RESOLUTION NO. 82-21

A RESOLUTION REQUESTING A LEGISLATIVE OFFICE WITH A TELECONFERENCE CAPABILITY IN THE BOROUGH.

WHEREAS, important items which affect the lives of citizens in Bristol Bay Borough are introduced and debated each year in the legislature, and

WHEREAS, public input is difficult to provide due to the long distance from the Borough and the State Capital, and

WHEREAS, infromation about legislative affairs often arrives after the decision has been made, and

WHEREAS, a Legislative Office with a teleconference line would greatly improve the information flow between the Borough and State capital and the legislators and their constituents.

NOW THEREFORE BE IT RESOLVED, that the Assembly of Bristol Bay Borough request the legislature to establish an office with teleconference capability in the Borough.

Passed this 20th day of December, 1982.

Jim L. Clark
Mayor

ATTEST:

Borough Clerk

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

DIVISION OF PUBLIC SERVICES
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-8518

January 5, 1983

Senator Bob Mulcahy
Box 246
Kodiak, Alaska 99615

Dear Senator Mulcahy:

As you requested, we have developed cost figures for session-only Legislative Information Offices and for Legislative Teleconference Centers in Iliamna and Naknek.

The attached worksheets show both one-time and recurring costs for each type of facility. We have based FY 83 recurring costs on a March 1, 1983 startup date. If it is your intent to seek funding to establish the facilities in FY 84, rather than for the balance of FY 83, the funding request should include both both the one-time costs and the coming year recurring costs.

The funding requirements would be as follows:

Iliamna - information office, 3-1-83 startup	27,605	one-time
	46,894	recurring
	74,499	
7-1-83 startup	27,605	one-time
	115,873	recurring
	143,478	
Iliamna - teleconference center, 3-1-83 startup	8,315	one-time
	11,249	recurring
	19,564	
7-1-83 startup	8,315	one-time
	31,027	recurring
	39,342	
Naknek - information office, 3-1-83 startup	27,585	one-time
	45,434	recurring
	73,019	
7-1-83 startup	27,585	one-time
	111,493	recurring
	139,078	

Naknek - teleconference center, 3-1-83 startup	8,315	one-time
	11,249	recurring
	19,564	
7-1-83 startup	8,315	one-time
	31,027	recurring
	39,342	

If we can provide further information, please let us know.

Very truly yours,

Judy D. Hopkins
Operations Coordinator

c: Representative-elect Adelheid Herrmann
M. R. Charney
Wally Harrison
Charity Kadow
Carol Dickason
Kathi Baltes

FACILITY DEVELOPMENT QUOTE

NAKNEK

Establish and operate a Legislative Teleconference Center
March 1 through June 30, 1983

Requestor: Mulcahy/Herrmann
Prepared: 1/5/83

		ONE-TIME COSTS	RECURRING COSTS for period 3/1 thru 6/30/83	TOTAL	AMOUNT AVAILABLE FROM CURRENT YEAR FUNDS	CURRENT YEAR FUNDING REQUIREMENT	RECURRING COSTS, COMING YEAR
100	Personal Services	-0-	3272	3272	-0-	3272	9815
200	Transportation, Per Diem	1655	1900	3555	-0-	3555	1900
300	Contractual Services	480	5177	5657	-0-	5657	15532
400	Commodities	300	100	400	-0-	400	300
500	Equipment	5880	-0-	5880	-0-	5880	1080
	Space	-0-	800	800	-0-	800	2400
	Data Communications	-0-	-0-	0	-0-	0	-0-
	Totals	8315	11249	19564	0	19564	31027

See category breakdowns, attached

If funding is sought to establish and operate facility during the current fiscal year, use Current Year Funding Requirement figure. The Division of Public Services will request funds required for continuation in the coming fiscal year if current-year funding is approved.

If funding is sought to establish facility in the coming fiscal year, rather than for the balance of the current fiscal year, funding request should include One-Time Costs and Recurring Costs, Coming Year.

Category Breakdowns
LEGISLATIVE TELECONFERENCE CENTER

ONE TIME COSTS

Transportation and Per diem - Administrative travel to site for interview, arrangements; staff travel to major center for training.

Contractual Services - Telephone installation; freight for initial supplies; signs, rubber stamps, notary seals.

Commodities - Initial, "staple" office supplies; maps, flags.

Equipment - Teleconference equipment, file cabinet and equipment stand, typewriter, telecopier, answering machine, tape recorder, and associated freight.

RECURRING COSTS

Personal Services - On-call moderator; includes cost of living differential where applicable and percentage for employer costs/benefits.

Transportation and Per Diem - Staff travel to major center for orientation and training, administrative travel to site for supplemental training.

Contractual Services - Telephone service, postage and mailing, pouch service, off-net tolls and bridge services, required printed materials, funds for local advertising and newspaper subscriptions; equipment repair and maintenance, freight.

Commodities - Stationery and supplies, duplicating supplies, computer commodities, library supplies.

Equipment - Routine recurring requirements for office furniture and equipment and for teleconference equipment.

Space - Funds to reimburse donor of space for janitorial and/or utilities costs if required.

H I S T O R Y

ESTABLISHMENT OF ALASKA'S LEGISLATIVE INFORMATION FACILITIES

DIVISION OF PUBLIC SERVICES — May 15, 1979

Establishment of the Division of Public Services was approved by Legislative Council May 15, 1979.

Funds for operation of the Division were transferred from the Division of Administrative Services and session funds.

Appointment of Director approved May 15, 1979.

JUNEAU INFORMATION CENTER/LEGISLATIVE INFORMATION NETWORK — May, 1979

Juneau Information Center/Legislative Information Network were established with the transfer of services to the Division of Public Services.

Legislative Information Network (LIN) staffperson hired May 18, 1979.

Prior to transfer of the Juneau information facility, information support services were provided to regional facilities under the auspices of the Division of Administrative Services, Legislative Affairs Agency.

LEGISLATIVE TELECONFERENCE NETWORK — February 2, 1978

LR 93, 1977, directed establishment of a Legislative Teleconference Network (LTN) to be operational in January, 1978, and to include Anchorage, Bethel, Fairbanks, Ketchikan, Juneau, and Nome. The LTN was operational February 2, 1978.

CH 161, SLA 78, Sec. 7 funded expansion and maintenance of the LTN. Expansion included addition of teleconference centers in Barrow, Kotzebue, Kodiak, Soldotna and Sitka in 1979.

==========

REGIONAL FACILITIES

ANCHORAGE LEGISLATIVE INFORMATION OFFICE 1972

Established by the Seventh State Legislature in 1972.
Included as initial teleconference center under LR 93, 1978.

FAIRBANKS LEGISLATIVE INFORMATION OFFICE 1975

Established by the Ninth State Legislature in 1975.

Included as initial teleconference site under LR 93, 1978.

KETCHIKAN LEGISLATIVE INFORMATION OFFICE (SESSION-ONLY) January, 1978

Legislative Council minutes, 6-17-77: "Mr. Charney noted there was evidence that the House Finance Committee had approved an in-session information office for Ketchikan and approved $8,000 for that purpose. The FCC kept the intent, but failed to provide the funds. Motion by Ray that project be carried forward within the limitations of the session funds." FY 79
Explanation of LAA/budget during 1-7-78 Council meeting notes inclusion of funds for Ketchikan office that it was "authorized for 1978 but not funded."
Included as initial teleconference site under LR 93, 1978. Information Officer hired 12-4-77.

NOME LEGISLATIVE INFORMATION OFFICE July 1, 1979

Teleconference center established under LR 93, 1978.
Legislative Council approved $22,500 from Council contingency funds to establish session-only office, at request of Sen. Ferguson, 12-6-78.
LAA's FY 80 budget included funds for a year-round office (per 5-15-79 review of Agency's budget before Legislative Council).
On-call moderator hired 1-15-79; status changed to full-time Information Officer when full-time Nome LIO opened 7-1-79.

BETHEL LEGISLATIVE INFORMATION OFFICE July 6, 1979

Teleconference Center established in 1978 under LR 93.
Information Officer hired 7-6-79; Bethel LIO opened for business 7-6-79.

DILLINGHAM LEGISLATIVE INFORMATION OFFICE August 6, 1979

Information Officer hired 7-25-79; Dillingham LIO opened 8-6-79.

LAA's FY 80 budget included funds for year-round office.

KENAI PENINSULA LEGISLATIVE INFORMATION OFFICE September 7, 1979

Teleconference center established by CH 161 SLA 78.
LAA's FY 80 budget included funds for session-only office.
Opened as session-only 9-7-79. On-call moderator hired 1-15-79; became Information Office 9-7-79.
Division's FY 81 base budget request increased by $25,000 full-time Soldotna office by action of Legislative Council 6-2-80.

KOTZEBUE LEGISLATIVE INFORMATION OFFICE — September 24, 1979

Teleconference Center established in 1979 by CH 161 SLA 78.
Information Officer hired when full-time LIO opened 9-24-79.
LAA's FY 80 budget included funds for full-time office.

VALDEZ TELECONFERENCE CENTER — October 10, 1979

Cost figures for various configuration prepared at request of Representative Branson 7-12-79.
Legislative Council approved $6,172 for establishment of teleconference center 10-10-79, from balance of uncommited funds previously appropriated for the Agency's Research Services Division.
Cost figures for upgrade provided to Representative Cato 2-81.
$85,300 authorized by Sec. 80, CH 101 SLA 1982 to operate Valdez as part-time LIO during FY 83.

KODIAK LEGISLATIVE INFORMATION OFFICE — December 15, 1979

Teleconference Center established by CH 161 SLA 78.
Opened as session only 12-15-79.
Cost figures to upgrade to full-time provided at request of Representative Zharoff 1-25-79.
$25,000 included in CH 50 SLA 80 to upgrade Kodiak from session-only to full-time.
LAA's FY 80 budget included funds for session-only office.

SITKA LEGISLATIVE INFORMATION OFFICE — December 17, 1979

Teleconference Center established by CH 161 SLA 1979.
Session-only office opened 12-17-79; information officer Charles Bickenheuser originally hired as on-call moderator 2-26-79.
Cost figures to upgrade to full-time prepared at request of Representative Eliason 4-15-80. Rep. Eliason requested at 4-18-80 meeting of the Council that upgrade funds be included as an addendum to the Division's FY 81 budget.
LAA's FY 80 budget included funds for session-only office.
Division's FY 81 base budget request increased by $25,000 for full-time Sitka office by action of Legislative Council 6-2-80.

MATANUSKA-SUSITNA LEGISLATIVE INFORMATION OFFICE — January 28, 1980

Cost figures for teleconference center prepared at request of Senator Kerttula 11-5-79.
Cost figures for various configurations prepared at request of Representative Meekins 1-3-80.
Cost figures of "modified" information office (no data equipment) prepared at request of Representative Meekins' staff 1-20-80.
News clip dated 1-29-80: "...Carney has obtained a commitment from the Legislature to establish an information office in Wasilla."
$34,000 included in CH 50 SLA 80 to cover establishment of Mat-Su facility and operation through FY 80.
Cost figures of upgrading to full-time prepared at the request of Representative Carney and provided to Representative Carney and Senator Kerttula 4-3-80.

Division's FY 81 base budget request increased by $80,000 for full-time Mat-Su office by action of Legislative Council 6-2-80.
CRT equipment installed late June 1980; BASIS October 1980.
Information Officer hired 1-28-80; office opened 1-28-80.

BARROW LEGISLATIVE INFORMATION OFFICE — May 1, 1980

Teleconference center established by CH 161 SLA 78, Sec. 7.
Information Officer hired 4-7-80. Barrow LIO opened 5-1-80.

HAINES TELECONFERENCE CENTER — June 19, 1980

Cost figures prepared at request of Senator Ray 4-8-80.
$21,100 included in CH 50 SLA 80 to cover establishment and operation through FY 80.
Teleconference drop active 6-19-80.
Moderator hired 10-15-80.

HOMER TELECONFERENCE CENTER — July 21, 1980

Cost figures prepared at request of Representative Malone 2-8-80.
$14,000 included in CH 50 SLA 80 to cover establishment of Homer and Seward teleconference centers and operation through FY 80.
Teleconference drop active 7-21-80. Moderator hired, 4-29-80.
At request of Rep. Malone, $3,500 authorized by Legislative Council 3-16-81, to rent and furnish space.

SEWARD TELECONFERENCE CENTER — September 8, 1980

Cost figures prepared at request of Representative Malone 2-8-80.
$14,000 included in CH 50 SLA 80 to cover establishment of Homer and Seward facilities and operation through FY 80.
Moderator hired 8-27-80; news release on facility opening dated 9-8-80.
$13,510 included in CH 50 SLA 80 to cover establishment and operation through FY 80.

SAND POINT TELECONFERENCE CENTER — Spring, 1981

Cost figures prepared at request of Representative Osterback 2-7-80. $13,510 included in CH 50 SLA 80 to cover establishment and operation through FY 80.

DELTA JUNCTION LEGISLATIVE INFORMATION OFFICE — January 26, 1981

Cost figures prepared at request of Representative Pappy Moss 10-9-80.
Legislative Council approved $20,000 "for establishment of a teleconference/information office" 1-10-81. Moderator hired 1-14-81; office opened 1-26-81.

PETERSBURG TELECONFERENCE CENTER — March, 1981

At request of Representative Haugen, $3,000 authorized by Legislative Council 3-16-81 for operation as off-net teleconference site for balance of FY 81. Moderator hired 3-19-81. First usage - constituent meeting 3-23-81.

Cost figures for upgrade to session-only LIO prepared at the request of Senators Ziegler and Eliason 12-2-82. $30,000 from session funds authorized by Council 12-8-82 for operation as session-only LIO for the balance of FY 83. Dial-up data pilot.

WRANGELL TELECONFERENCE CENTER — March, 1981

At request of Representative Haugen, $3,100 authorized by Legislative Council 3-16-81 for operation as off-net teleconference site for balance of FY 81. Moderator hired 3-19-81. First usage - constituent meeting 3-23-81.

CORDOVA TELECONFERENCE CENTER — July, 1982

$22,500 authorized by Sec. 80 CH 101 SLA 1982 to establish and operate Teleconference Center during FY 83.

AMBLER, ANAKTUVUK PASS, FORT YUKON, GALENA, GAMBELL, HOONAH, HOOPER BAY, KAKTOVIK, NOORVIK, PT. HOPE, ST. PAUL, SAVOONGA, SELAWIK, SHISHMAREF, UNALASKA, UNALAKLEET, WAINWRIGHT AND YAKUTAT TELECONFERENCE CENTERS — July, 1982

$741,300 authorized by Sec. 173 CH 141 SLA 1982 to establish, operate and provide administrative support for teleconference centers during FY 83. At request of Senator Eliason, Legislative Council approved substitution of Hoonah for Kake 10-1-82. At request of Senator Ferguson, Legislative Council approved deletion of ANS/Anchorage and addition of Ambler and Selawik 12-8-82. Original funding had been adequate to provide for dial-up data on a pilot reduced to three - Fort Yukon, Unalakleet, Unalaska. Overall funding adequate for centers to maintain minimal regular "office hours" for provision of limited information services.

Notes: Information prior to the establishment of the Division of Public Services (5-15-79) is not maintained in the Division files. The FY 80 budget for public information services was prepared and presented by the Division of Administrative Services. The first budget written under the Division of Public Services was the FY 81 budget.

At the end of 1979, the Division was operating 13 sites Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Juneau, Kenai Peninsula, Ketchikan, Kodiak, Kotzebue, Nome, Sitka and Valdez.

Five sites were added in 1980 - Haines, Homer, Mat-Su, Sand Point and Seward. Three sites were added in 1981 - Delta Junction, Petersburg and Wrangell. Nineteen sites were added in 1982 - Ambler, Anaktuvuk Pass, Cordova, Fort Yukon, Galena, Gambell, Hoonah, Hooper Bay, Kaktovik, Noorvik, Point Hope, St. Paul, Savoonga, Selawik, Shishmaref, Unalaska, Unalakleet, Wainwright and Yakutat.

At the end of 1982, the Division was operating 40 sites - 13 full-time LIO's, 3 part-time or session-only LIO's, and 24 teleconference centers.

Routine procedure has been that new facilities are created by legislative initiative. Once a facility has been initially funded, it is carried ahead in the Division's budget as originally established; upgrades also are dependent on legislative initiative. The Division of Public Services budgets to maintain a facility at the level established by the Legislature.

References:

LR 93 1977
CH 161 SLA 78 e.d. 10-10-78
CH 50 SLA 80 e.d. 5-31-80
CH 101 SLA 1982
CH 141 SLA 1982
Legislative Council Minutes

HOUSE COMMITTEE ON STATE AFFAIRS
LETTER OF INTENT
FOR
CSHB 193 (STATE AFFAIRS)

Mr. Speaker:

The Committee on State Affairs has had House Bill 193 under consideration, and the Committee recommends that the bill be replaced by Committee Substitute for House Bill 193, and that the Committee Substitute (CSHB 193) do pass.

The State Affairs Committee intends to reflect, through CSHB 193, a commitment to the Legislative Information & Teleconference Network and recognizes the importance of linking the government of Alaska to her people.

Testimony before the committee has clearly established that Alaska's legislative telecommunications system is unique in providing for the vital interchange of thoughts and opinions throughout our vast and diverse land.

Respectfully submitted,

Rep. Mitch Abood
Chairman

HB 193

1. How long has the Legislative Information & Teleconference network been in existence?

2. When we hold teleconferences both for the committee and also for our constitutent meetings, we see the network operate only on the surface. Could you tell us a little about about what happens outside the meeting room?

3. How many other states have this kind of operation?

4. It comes as no surprise to any legislator or committee that wants to schedule a teleconference, that the teleconference service is booked solid at least 1-2 weeks in advance. I don't recall it being this busy last year. Has the demand increased?

5. Has you staff also increased with this demand?

6. How will the additional sites contained in HB 193 affect your present operation?

REPRESENTATIVE
ADELHEID HERRMANN
P.O. BOX 63
NAKNEK, ALASKA 99633
(907) 246-4495

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4942, 465-4943

Alaska State Legislature

House of Representatives

CHAIRMAN
SPECIAL COMMITTEE
ON FISHERIES

MEMBER
TRANSPORTATION
COMMITTEE

DISTRICT 26

ADAK
AKUTAN
ALEKNAGIK
ATKA
BELKOFSKI
CLARK'S POINT
COLD BAY
DILLINGHAM
DUTCH HARBOR
EGEGIK
EKUK
EKWOK
FALSE PASS
IGIUGIG
ILIAMNA
KING COVE
KING SALMON
KOKHANOK
KOLIGANEK
LEVELOCK
MANOKOTAK
NAKNEK
NELSON LAGOON
NEWHALEN
NEW STUYAHOK
NIKOLSKI
NONDALTON
PEDRO BAY
PILOT POINT
PORT ALSWORTH
PORT HEIDEN
PORT MOLLER
PORTAGE CREEK
SAND POINT
SOUTH NAKNEK
SQUAW HARBOR
ST. GEORGE
ST. PAUL
TOGIAK
TWIN HILLS
UGASHIK
UNALASKA

MEMORANDUM:

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Representative Adelheid Herrmann

DATE: March 17, 1983

SUBJECT: Amendments to HB 193

This is to inform you that I intend to request tomorrow that a Committee Substitute be adopted for HB 193 incorporating the following changes:

Line 11, change $157,368 to $118,026

Line 13, delete "Iliamna," add "Newhalen"

Line 13, delete "New Stuyahok,"

I will explain the proposed amendments during my oral testimony on March 18, 1983. I wanted to notify you in advance of this request.

AH/hc

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C
JUNEAU, ALASKA 99811
PHONE: (907) 465-2041

DIVISION OF TELECOMMUNICATIONS SERVICES

March 14, 1983

Honorable Adelheid Herrmann
Alaska State Legislature
Pouch V
Room 212, Behrends Bldg.
Juneau, Alaska 99811

Dear Representative Herrmann:

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I hope this information is useful. Please contact me if the Division staff or I can provide further help.

Sincerely,

Sioux Plummer

Sioux Plummer, Director

Thru: Lisa Rudd, Commissioner

SP/bb

02-222LH

Bristol Bay Borough
BOX 189 • NAKNEK, ALASKA 99633

JIM D. CLARK
MAYOR

TELEPHONE
(907) 246-4224

January 14, 1983

Rep. Adelheid Herrmann
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Adelheid:

Enclosed is a Resolution from the Borough Assembly requesting a legislative office with teleconference capabilities within the Borough.

We believe this office will better link us to the State Capital and keep us better informed about issues and items that affect us. We would appreciate any help you can give us.

Please call me if you have any questions or need more information.

Sincerely,

Francis W. Mandeville
Borough Manager

FWM:bjt

Enclosure:

Bristol Bay Borough

Box 189 • Naknek, Alaska 99633

RESOLUTION NO. 82-21

A RESOLUTION REQUESTING A LEGISLATIVE OFFICE WITH A TELECONFERENCE CAPABILITY IN THE BOROUGH.

WHEREAS, important items which affect the lives of citizens in Bristol Bay Borough are introduced and debated each year in the legislature, and

WHEREAS, public input is difficult to provide due to the long distance from the Borough and the State Capital, and

WHEREAS, infromation about legislative affairs often arrives after the decision has been made, and

WHEREAS, a Legislative Office with a teleconference line would greatly improve the information flow between the Borough and State capital and the legislators and their constituents.

NOW THEREFORE BE IT RESOLVED, that the Assembly of Bristol Bay Borough request the legislature to establish an office with teleconference capability in the Borough.

Passed this 20th day of December, 1982.

Jim L. Clark
Mayor

ATTEST:

Borough Clerk

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

DIVISION OF PUBLIC SERVICES
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-8518

January 5, 1983

Senator Bob Mulcahy
Box 246
Kodiak, Alaska 99615

Dear Senator Mulcahy:

As you requested, we have developed cost figures for session-only Legislative Information Offices and for Legislative Teleconference Centers in Iliamna and Naknek.

The attached worksheets show both one-time and recurring costs for each type of facility. We have based FY 83 recurring costs on a March 1, 1983 startup date. If it is your intent to seek funding to establish the facilities in FY 84, rather than for the balance of FY 83, the funding request should include both both the one-time costs and the coming year recurring costs.

The funding requirements would be as follows:

Iliamna - information office, 3-1-83 startup	27,605	one-time
	46,894	recurring
	74,499	
7-1-83	27,605	one-time
	115,873	recurring
	143,478	
~~Iliamna - teleconference center, 3-1-83 startup~~	~~8,315~~	~~one-time~~
	~~11,249~~	~~recurring~~
	~~19,564~~	
7-1-83 startup	8,315	one-time
	31,027	recurring
	39,342	
Naknek - information office, 3-1-83 startup	27,585	one-time
	45,434	recurring
	73,019	
7-1-83 startup	27,585	one-time
	111,493	recurring
	139,078	

Naknek - teleconference center, 3-1-83 startup	8,315	one-time
	11,249	recurring
	19,564	
7-1-83 startup	8,315	one-time
	31,027	recurring
	39,342	

If we can provide further information, please let us know.

Very truly yours,

Judy D. Hopkins
Operations Coordinator

c: Representative-elect Adelheid Herrmann
M. R. Charney
Wally Harrison
Charity Kadow
Carol Dickason
Kathi Baltes

FACILITY DEVELOPMENT QUOTE

MAINEK

Establish and operate a Legislative Teleconference Center
March 1 through June 30, 1983

Requestor: Mulcahy/Herrmann
Prepared: 1/5/83

		ONE-TIME COSTS	RECURRING COSTS for period 3/1 thru 6/30/83	TOTAL	AMOUNT AVAILABLE FROM CURRENT YEAR FUNDS	CURRENT YEAR FUNDING REQUIREMENT	RECURRING COSTS, COMING YEAR
100	Personal Services	-0-	3272	3272	-0-	3272	9815
200	Transportation, Per Diem	1655	1900	3555	-0-	3555	1900
300	Contractual Services	480	5177	5657	-0-	5657	15532
400	Commodities	300	100	400	-0-	400	300
500	Equipment	5880	-0-	5880	-0-	5880	1080
	Space	-0-	800	800	-0-	800	2400
	Data Communications	-0-	-0-	0	-0-	0	-0-
	Totals	8315	11249	19564	0	19564	31027

See category breakdowns, attached

If funding is sought to establish and operate facility during the current fiscal year, use Current Year Funding Requirement figure. The Division of Public Services will request funds required for continuation in the coming fiscal year if current-year funding is approved.

If funding is sought to establish facility in the coming fiscal year, rather than for the balance of the current fiscal year, funding request should include One-Time Costs and Recurring Costs, Coming Year.

Category Breakdown
LEGISLATIVE TELECONFERENCE CENTER

ONE TIME COSTS

Transportation and Per diem - Administrative travel to site for interview, arrangements; staff travel to major center for training.

Contractual Services - Telephone installation; freight for initial supplies; signs, rubber stamps, notary seals.

Commodities - Initial, "staple" office supplies; maps, flags.

Equipment - Teleconference equipment, file cabinet and equipment stand, typewriter, telecopier, answering machine, tape recorder, and associated freight.

RECURRING COSTS

Personal Services - On-call moderator; includes cost of living differential where applicable and percentage for employer costs/benefits.

Transportation and Per Diem - Staff travel to major center for orientation and training, administrative travel to site for supplemental training.

Contractual Services - Telephone service, postage and mailing, pouch service, off-net tolls and bridge services, required printed materials, funds for local advertising and newspaper subscriptions; equipment repair and maintenance, freight.

Commodities - Stationery and supplies, duplicating supplies, computer commodities, library supplies.

Equipment - Routine recurring requirements for office furniture and equipment and for teleconference equipment.

Space - Funds to reimburse donor of space for janitorial and/or utilities costs if required.

12/82

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ESTABLISHMENT OF ALASKA'S LEGISLATIVE INFORMATION FACILITIES

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Notes: Information prior to the establishment of the Division of Public Services (5-15-79) is not maintained in the Division files. The FY 80 budget for public information services was prepared and presented by the Division of Administrative Services. The first budget written under the Division of Public Services was the FY 81 budget.

At the end of 1979, the Division was operating 13 sites Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Juneau, Kenai Peninsula, Ketchikan, Kodiak, Kotzebue, Nome, Sitka and Valdez.

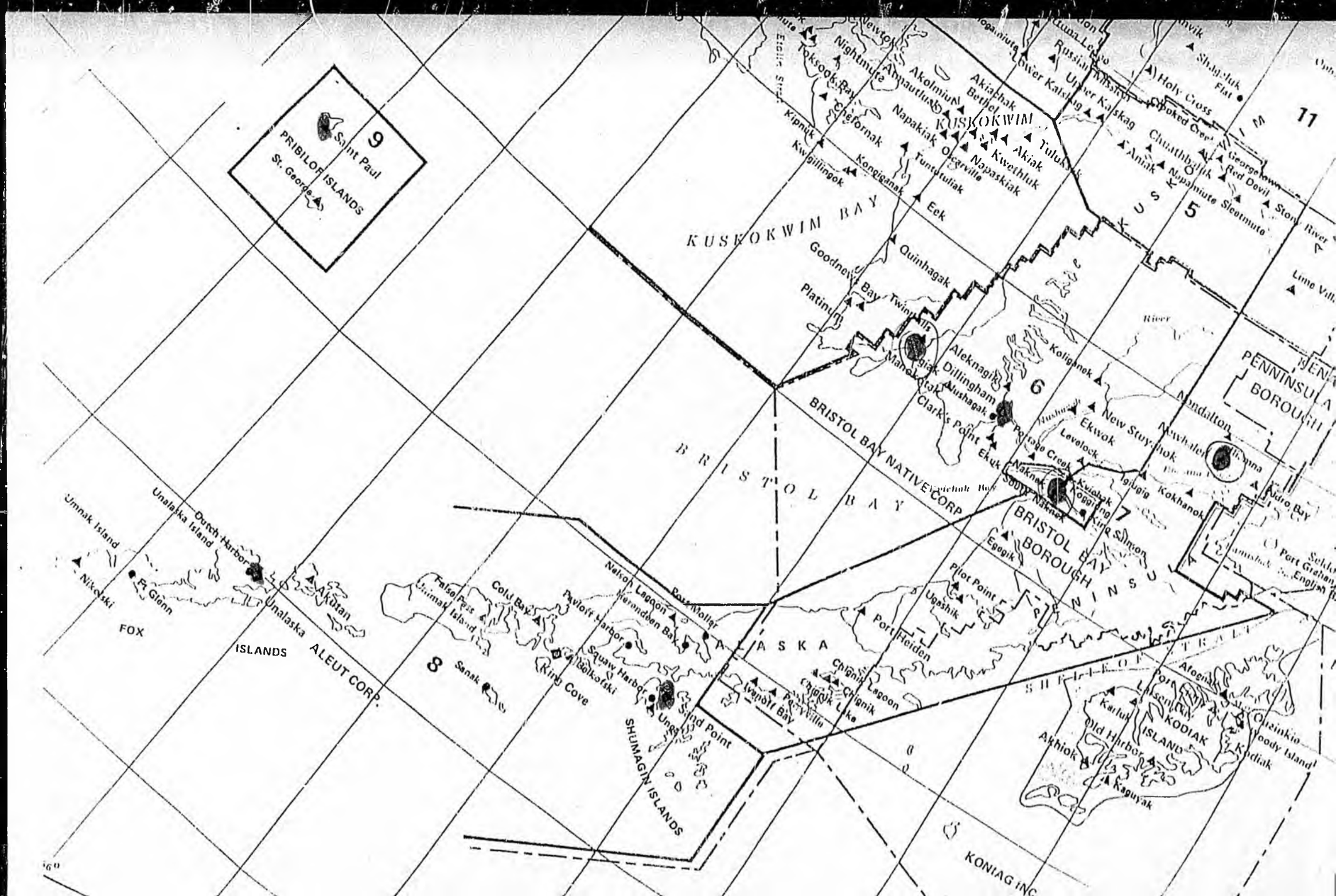
Five sites were added in 1980 - Haines, Homer, Mat-Su, Sand Point and Seward. Three sites were added in 1981 - Delta Junction, Petersburg and Wrangell. Nineteen sites were added in 1982 - Ambler, Anaktuvuk Pass, Cordova, Fort Yukon, Galena, Gambell, Hoonah, Hooper Bay, Kaktovik, Noorvik, Point Hope, St. Paul, Savoonga, Selawik, Shishmaref, Unalaska, Unalakleet, Wainwright and Yakutat.

At the end of 1982, the Division was operating 40 sites - 13 full-time LIO's, 3 part-time or session-only LIO's, and 24 teleconference centers.

Routine procedure has been that new facilities are created by legislative initiative. Once a facility has been initially funded, it is carried ahead in the Division's budget as originally established; upgrades also are dependent on legislative initiative. The Division of Public Services budgets to maintain a facility at the level established by the Legislature.

References:

LR 93 1977
CH 161 SLA 78 e.d. 10-10-78
CH 50 SLA 80 e.d. 5-31-80
CH 101 SLA 1982
CH 141 SLA 1982
Legislative Council Minutes



9
Saint Paul
PRIBILOF ISLANDS
St. George
KUSKOKWIM BAY
KUSKOKWIM
Nightmute
Toksook Bay
Chefornak
Kipnuk
Kwigillingok
Kongiganak
Napakiak
Akolmiut
Akiachak
Bethel
Akiak
Kwethluk
Napaskiak
Oscarville
Tuntutuliak
Eek
Quinhagak
Goodnews Bay
Platinum
Twin Hills
Manokotak
Aleknagik
Dillingham
Nushagak
Clark's Point
Ekuk
Koliganek
New Stuyahok
Ekwok
Levelock
Portage Creek
Naknek
South Naknek
Kvichak
Koggiung
King Salmon
Igiugig
Kokhanok
Newhalen
Nondalton
Holy Cross
Shageluk
Flat
Upper Kalskag
Lower Kalskag
Chuathbaluk
Aniak
Napamiute
Sleetmute
Red Devil
Georgetown
Stony River
Lime Vill
Eagle
Egegik
Pilot Point
Ugashik
Port Heiden
Chignik Lagoon
Chignik
Chignik Lake
Ivanoff Bay
Port Moller
Nelson Lagoon
Herendeen Bay
Cold Bay
False Pass
Unimak Island
Pavloff Harbor
Squaw Harbor
Belkofski
King Cove
Sanak
Sand Point
Unga
SHUMAGIN ISLANDS
Umnak Island
Unalaska Island
Dutch Harbor
Akutan
Unalaska
Nikolski
Ft Glenn
FOX
ISLANDS
ALEUT CORP.
BRISTOL BAY NATIVE CORP
BRISTOL BAY
BRISTOL BAY BOROUGH
PENNINSULA BOROUGH
PENNINSULA
ALASKA
SHELIKOF STRAIT
Afognak
Karluk
Old Harbor
Akhiok
Kaguyak
KODIAK ISLAND
Kodiak
Woody Island
Ouzinkie
KONIAG INC
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HB 193
File

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Notes: Information prior to the establishment of the Division of Public Services (5-15-79) is not maintained in the Division files. The FY 80 budget for public information services was prepared and presented by the Division of Administrative Services. The first budget written under the Division of Public Services was the FY 81 budget.

At the end of 1979, the Division was operating 13 sites Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Juneau, Kenai Peninsula, Ketchikan, Kodiak, Kotzebue, Nome, Sitka and Valdez.

Five sites were added in 1980 - Haines, Homer, Mat-Su, Sand Point and Seward. Three sites were added in 1981 - Delta Junction, Petersburg and Wrangell. Nineteen sites were added in 1982 - Ambler, Anaktuvuk Pass, Cordova, Fort Yukon, Galena, Gambell, Hoonah, Hooper Bay, Kaktovik, Noorvik, Point Hope, St. Paul, Savoonga, Selawik, Shishmaref, Unalaska, Unalakleet, Wainwright and Yakutat.

At the end of 1982, the Division was operating 40 sites - 13 full-time LIO's, 3 part-time or session-only LIO's, and 24 teleconference centers.

Routine procedure has been that new facilities are created by legislative initiative. Once a facility has been initially funded, it is carried ahead in the Division's budget as originally established; upgrades also are dependent on legislative initiative. The Division of Public Services budgets to maintain a facility at the level established by the Legislature.

References:

LR 93 1977
CH 161 SLA 78 e.d. 10-10-78
CH 50 SLA 80 e.d. 5-31-80
CH 101 SLA 1982
CH 141 SLA 1982
Legislative Council Minutes

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M March 11, 1983

SUBJECT: Dedication of liquor tax receipts to alcohol rehabilitation programs (Work Order No. 13-1017)

TO: Representative Mitchell E. Abood, Jr.
Chairman, House State Affairs Committee

FROM: Russ Josephson
Legislative Counsel

You have asked whether liquor tax receipts may be retained in the communities where they are collected and be used there for funding alcohol rehabilitation programs.

The "earmarking" of revenues in this way creates a dedicated fund. Under the Alaska Constitution, Article IX, section 7, as interpreted by the Alaska Supreme Court in State v. Alex, 646 P.2d 203 (Alaska 1982), the prohibition against dedicated funds extends to all sources of public revenues and not just "proceeds of any state tax or license". The attorney general recently rendered an opinion (Op. Atty. Gen. File Nos. J66-785-81 and J66-649-80) clarifying what the Supreme Court holding might be with regard to several specific funds and accounts and declared that certain exceptions might be implied by the Alaska Supreme Court. However, none of those implied exceptions includes liquor tax receipts. Therefore, liquor tax receipts may not be dedicated constitutionally and the question of retention of liquor tax receipts in the communities where they are collected need not be addressed here.

Although a dedicated fund is prohibited constitutionally, there is another way to assure that there is a relationship between the liquor tax and the alcohol rehabilitation programs. The same attorney general's opinion mentioned above outlines a method of appropriating in this type of situation that ensures effective legislative control over state finances while providing for budgeting flexibility for programs like this with needs that are unpredictable. That

method involves an appropriation to a separate fund in an amount to be ascertained by reference to receipts from a specified source (e.g., liquor tax receipts) during a definite period (annually or for the two fiscal years over which the present legislature has control).

RJ:ljb
1/034

Liquor Tax
(increasing)

HOUSE BILL NO. 202, by Reps. Adams and Liska. Would increase the state liquor tax in the following manner: malt beverages from 25 cents a gallon to 32-1/2 cents a gallon; wine or

other beverages of 21 percent alcohol by volume or less from 60 cents a gallon to $1 a gallon; other beverages having a content of more than 21 percent alcohol by volume from $4 a gallon to $5.75 a gallon. Changes wording in AS 43.60 from "intoxicating liquors" to "alcoholic beverages". Provides the increase takes effect on the first day of the month after the month in which the law takes effect. Provides Act takes effect immediately.

Introduced February 15 and referred to State Affairs, then to Finance.

STATEMENT BY W.L. KUBLEY

STATE AFFAIRS COMMITTEE
MARCH 9, 1983

- ALASKA DOES NOT NEED THE REVENUE THAT WOULD BE GENERATED FROM AN INCREASE IN THE EXCISE TAX ON SPIRITS BECAUSE WE HAVE SURPLUS IN OUR STATE BUDGET. OUR PRESENT TAX RATE IS THE FOURTH HIGHEST AMONG ALL LICENSE STATES, 44% ABOVE THE NATIONAL AVERAGE, WITH TAXES ACCOUNTING FOR 29% OF THE TYPICAL RETAIL BOTTLE PRICE OF SPIRITS.

- THE ALCOHOL BEVERAGE INDUSTRY YIELDED $9 MILLION TO THE ALASKA TREASURY (EXCLUDING LOCAL TAXES) IN 1981, 56.9% FROM SPIRITS ALONE.

- THE FULL-TIME EQUIVALENT OF 2,888 PERSONS WERE EMPLOYED BY ALASKA'S BEVERAGE ALCOHOL INDUSTRY IN 1980.

- THE BEVERAGE ALCOHOL INDUSTRY CONTRIBUTES $50 MILLION IN PAYROLL AND PROFITS, AND $269 MILLION IN RETAIL SALES TO THE ALASKA ECONOMY.

MR. CHAIRMAN, I WAS A MEMBER OF THIS BODY IN 1961 WHEN THE LEGISLATURE VOTED TO INCREASE ALL EXCISE TAXES. WE NEEDED THESE INCREASES TO FUND OUR ENORMOUS BUDGET OF $55,734,040. I DON'T THINK WE NEED THIS INCREASE NOW TO HELP OUR BUDGET. SINCE THAT TIME, WE HAVE REPEALED THE INCOME TAX AND THERE ARE NOW BILLS IN YOUR COMMITTEES TO DECREASE THE MOTOR FUEL TAX BY 5 CENTS A GALLON, TO REPEAL THE MOTOR AND MARINE FUEL TAX, SO WHY INCREASE THIS EXCISE TAX?

MR. CHAIRMAN, H.B. 202 IS A PUNITIVE TAX BILL. I KNOW THE REASON HAS AND WILL BE GIVEN THAT IT IS TO HELP THE TREATMENT AND CUT DOWN ON ALCOHOLISM. THEN WHY NOT RAISE THE MOTOR AND MARINE FUEL TAX TO HELP OUR OVERCROWDED AND REPAIR-NEEDED HIGHWAYS AND BOAT HARBORS - AS I SAID, IT IS A PUNITIVE TAX AND NOT NEEDED.

YES, I KNOW ALASKA HAS A PROBLEM WITH ALCOHOLISM - AS DO ALL OTHER STATES - IT IS A DISEASE AND NEEDS A CURE. WHOLESALERS AND RETAILERS HAVE A FULL-TIME TEAM WORKING ON THIS PROBLEM. YOU HAVE PROBABLY HEARD ABOUT AND READ THE MANY FAVORABLE ARTICLES AND EDITORIALS ABOUT THE LIQUOR INDUSTRY GETTING WITH THE PROGRAM. THERE IS THE "KNOW YOUR LIMIT" AND THE ABBEI PROGRAM, WHICH YOU WILL HEAR MORE ABOUT FROM OTHER WITNESSES WHO WILL BE BEFORE YOU.

THE LEGISLATORS BEFORE YOU, IN A FEW SHORT YEARS, HAVE INCREASED THE APPROPRIATION FROM 4 TO 15 MILLIONS OF DOLLARS TO THE ALCOHOLISM PROGRAM. IF ALCOHOLISM IS GROWING, I THINK YOU SHOULD LOOK AT THEIR PROGRAMS.

FIGURES VARY ON THE NUMBER OF ALCOHOLICS IN ALASKA FROM 5 TO 10%. WHAT ABOUT THE OTHER 90 TO 95% OF PEOPLE - THE MANY WHO ENJOY HAVING A DRINK, GOING TO SOMEONE'S HOME, ENTERTAINING IN THEIR HOME, GOING OUT FOR AN EVENING OF DINING AND DANCING? THE LARGE PERCENTAGE WHO DO NOT HAVE A PROBLEM WILL HAVE TO PAY THE BILL, AS IN ALL TAX INCREASES THE CONSUMER ENDS UP PAYING THE INCREASE.

- THE DISTILLED SPIRITS INDUSTRY IS NOT RECESSION PROOF. THE INDUSTRY HAS BEEN EXPERIENCING DECLINING SALES BECAUSE OF THE RECESSION AND COMPETITION FROM ALCOHOL BEVERAGES THAT HAVE MUCH LOWER TAXES AND THEREFORE COMPARATIVELY LOWER PRICES.

- SPIRIT CONSUMPTION IN ALASKA DECLINED 1.4 PERCENT IN THE FIRST NINE MONTHS OF 1982 COMPARED WITH THE SAME PERIOD OF 1981. INCREASED TAXES WILL CONTRIBUTE TO FURTHER DECLINES OF CONSUMPTION AND REDUCE THE VOLUME SUBJECT TO TAXATION AND THEREFORE REDUCE REVENUES.

- ALASKA EXPECTS A SUBSTANTIAL BUDGET SURPLUS AGAIN IN 1984 AND PROBABLY 1985. REVENUES ARE MORE THAN AMPLE WITHOUT A NEW TAX ON SPIRITS.

- THE BEVERAGE ALCOHOL INDUSTRY IN ALASKA PROVIDES AN ESTIMATED 2,888 FULL-TIME EQUIVALENT JOBS. ALCOHOL BEVERAGE LICENSES ISSUED IN 1980 NUMBERED 1,210 BEING INDICATIVE OF THE NUMBER OF LICENSED FIRMS DEPENDING ON ALCOHOL BEVERAGES FOR A LIVELIHOOD. THERE WERE 440 OFF-PREMISE OUTLETS AND 750 RESTAURANTS, BARS, AND OTHER RETAILERS OF SPIRITS, BEER AND WINE.

- THE ALASKAN SPIRITS INDUSTRY IS MADE UP OF MANY SMALL BUSINESSES WHICH COULD BE HURT BY TAX INCREASES, ESPECIALLY DURING THE CURRENT RECESSION. OVER 47 PERCENT OF DRINKING ESTABLISHMENTS HAVE ONLY 1-4 EMPLOYEES;

APPROXIMATELY 71 PERCENT OF LIQUOR STORES HAVE ONLY 1-4 EMPLOYEES.

- INCREASED TAXATION OF SPIRITS WOULD INCREASE THE DIFFICULTIES FACED BY THESE ESTABLISHMENTS AND EMPLOYEES IN THE CURRENT RECESSION. THEY ARE VERY SENSITIVE TO CHANGES OF PROFITABILITY AND LOSSES AND COULD BE FORCED OUT OF BUSINESS BY HIGHER TAXES. HIGHER TAXES COULD CAUSE UNEMPLOYMENT IN THE INDUSTRY AND ADD TO THE ALREADY HIGH OVERALL UNEMPLOYMENT RATE OF 12.3 PERCENT IN ALASKA.

- THE ALCOHOL ABUSER IS LEAST LIKELY TO REDUCE CONSUMPTION BECAUSE OF PRICE INCREASES. ALCOHOLISM IS AN ILLNESS AND THE COST OF ALCOHOL DOES NOT DETER CONSUMPTION BY THE ALCOHOLIC. ON THE CONTRARY, HEALTH EXPERTS AGREE THAT INCREASING THE PRICE OF BEVERAGE ALCOHOL ADDS TO THE PROBLEMS OF ALCOHOLICS WITHOUT DOING ANYTHING ABOUT THEIR ILLNESS.

- DR. MORRIS E. CHAFETZ, A LEADING EXPERT ON ALCOHOLISM AND FORMER DIRECTOR OF THE NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM, HAS NOTED THAT HIGHER EXCISE TAXES WILL REDUCE DRINKING AMONG PEOPLE "WHO CAN TAKE ALCOHOL OR LEAVE IT ... LEAVING UNHEALTHY DRINKING AS THE CHIEF ROLE MODEL FOR THE YOUNG."

- USE OF THE TAXING POWER OF THE STATE TO IMPOSE SECTARIAN MORAL STANDARDS OF ONE SECTION OF THE COMMUNITY ON OTHER SECTIONS IS INAPPROPRIATE IN OUR DEMOCRATIC FORM OF

GOVERNMENT. THE INSTITUTE FOR RESEARCH ON THE ECONOMICS OF TAXATION STATES, "THE TAX CODE IS HARDLY A PLACE TO DICTATE MORALITY OR PERSONAL TASTES TO THE AMERICAN POPULACE." PROPOSALS TO RAISE TAXES ON SPIRITS OFTEN HAVE SUCH OBJECTIVES.

CONSEQUENTLY, WHILE THE TAX WILL CURTAIL CONSUMPTION BY INDIVIDUALS WHO DRINK RESPONSIBLY, THE INCREASED TAX WILL HAVE LITTLE OR NO EFFECT ON CONSUMPTION AMONG THOSE WHO ABUSE ALCOHOL, ALTHOUGH THEY MAY SHIFT TO LESS EXPENSIVE (AND IN SOME CASES LESS PURE) FORMS OF ALCOHOL. INDEED, THE STATE MIGHT EVEN MISLEAD CONSUMERS WHO, SEEING THAT SPIRITS ARE TAXED FAR HEAVIER PER SERVING THAN BEER OR WINE, CONCLUDE INCORRECTLY THAT THE ALCOHOL CONTENT IS GREATER IN A COCKTAIL THAN A CAN OF BEER OF GLASS OF WINE. MAJOR SPIRITS PRICE INCREASES WILL INCREASE AN ALREADY EXISTING SHIFT TOWARD BEER AND WINE CONSUMPTION, WHICH HAS GROWN BY 20% AND 30%, RESPECTIVELY, COMPARED TO SPIRITS CONSUMPTION GROWTH OF 6 PERCENT BETWEEN 1975 AND 1980.

NOR SHOULD ANYONE DELUDE HIMSELF BY THINKING THAT INCREASING THE EXCISE TAX WILL CURE THE ALCOHOLIC. FOR THOSE WHO SUFFER FROM THE ILLNESS OF ALCOHOLISM, RATIONAL DECISION MAKING ASSUMED IN TRADITIONAL ECONOMIC THEORY HAS NO APPLICABILITY. THE PROBLEM DRINKER SIMPLY WILL HAVE TO FIND ADDITIONAL MONEY TO PAY THE INCREASED COST OF THE PRODUCT.

NOR IS THERE ANY EVIDENCE TO SUPPORT THE CONTENTION THAT SPIRITS IS THE DRINK OF THE RICH AND THEREFORE THAT INCREASES IN SPIRITS TAXES WILL BE BORNE PRIMARILY BY THOSE BETTER ABLE TO PAY. INDEED, A RECENT STUDY HAS SHOWN THAT ROUGHLY HALF OF THOSE WHO USE DISTILLED SPIRITS HAVE INCOMES OF $10,000-$20,000 AND LESS THAN $10,000. FURTHER, USE OF SPIRITS IS AS PREVALENT AMONG LOWER-INCOME GROUPS AS IS USE OF BEER; BOTH THE WORKING CLASS AND HIGH-INCOME WORKERS USE SPIRITS. CONSEQUENTLY, SPIRITS TAX INCREASES WILL BE FELT BY BOTH HIGH-INCOME AND LOW-INCOME FAMILIES. HOWEVER, IT IS THE LOWER-INCOME WORKERS WHO WILL BE LESS ABLE TO PAY FOR THE INCREASED COST OF THE BEVERAGE OF CHOICE.

THE BEVERAGE ALCOHOL INDUSTRY IS NOT ASKING FOR A SPECIAL FAVOR OR A TAX BREAK. WE ARE ASKING FOR A FAIR, EQUITABLE TREATMENT. THE DISTILLED SPIRITS INDUSTRY ALREADY FINDS ITSELF IN A SITUATION WHERE AN ASTOUNDING 44 PERCENT OF THE RETAIL PRICE OF OUR PRODUCT IS TAXES, OF WHICH 19 PERCENT ARE STATE AND LOCAL TAXES. SURELY, THIS IS A GREAT ENOUGH BURDEN FOR ANY PRODUCT OR INDUSTRY TO BEAR. THE ALASKAN CONSUMERS WHO USE OUR PRODUCT IN MODERATION ALSO WILL BE DISCRIMINATED AGAINST AND PENALIZED BY FURTHER STATE TAX INCREASES. PRICES COULD GO UP SIGNIFICANTLY AND HIT LOW AND MIDDLE INCOME FAMILIES IN A MOST REGRESSIVE FASHION.

SOME HAVE THOUGHT TO DEFEND TAXING THE BEVERAGE ALCOHOL INDUSTRY IN TERMS OF MAKING "SIN" EXPENSIVE. YET IT IS NOT SOUND PUBLIC POLICY TO USE THE TAX CODE IN THIS MANNER. THE INSTITUTE FOR RESEARCH ON THE ECONOMICS OF TAXATION STUDY

MAKES THIS POINT BY NOTING "... THE TAX CODE IS HARDLY A PLACE TO DICTATE MORALITY OR PERSONAL TASTES TO THE AMERICAN POPULACE." MANY ALASKANS USE BEVERAGE ALCOHOL RESPONSIBLY AND THEY SHOULD NOT BE PENALIZED FOR THE ENJOYMENT THEY DERIVE FROM DRINKING THEIR FAVORITE BEVERAGE IN A VAIN ATTEMPT TO DISCOURAGE THE PROBLEMS ASSOCIATED WITH ABUSIVE DRINKING.

CONSEQUENTLY, LEGISLATORS AND POLICY MAKERS NEED TO BE AWARE THAT THE TAX CODE CANNOT CURE THE PROBLEMS ASSOCIATED WITH ALCOHOLISM AND ALCOHOL ABUSE; AND THAT THE TAX CODE SHOULD NOT BE USED TO SUPERSEDE THE CRIMINAL CODE NOR DICTATE SOCIAL POLICY AS SOME WOULD LIKE TO CONTEND.

YOU HAVE BEFORE YOU A PACKET SHOWING THE PRESENT TAXES AND INFORMATION SHOWING THAT THE LIQUOR INDUSTRY IS CONCERNED ABOUT ALCOHOLISM AND THE ADVERTISING THEY ARE DOING NATIONALLY TO COMBAT THE PROBLEM.

MR. CHAIRMAN AND COMMITTEE MEMBERS, AS I HAVE STATED BEFORE, THIS IS A PUNITIVE TAX AND IS NOT NEEDED. THANK YOU FOR YOUR ATTENTION.

EXCISE TAX RATES ON SPECIFIED ALCOHOLIC BEVERAGES

LEVIED BY 32 LICENSE STATES AND THE DISTRICT OF COLUMBIA

RANKED ACCORDING TO MAGNITUDE AND BY THE FEDERAL GOVERNMENT[1]

January 1983

Distilled Spirits		Table Wine		Dessert Wine		Beer	
State	Rate per Gallon	State	Rate per Gallon	State	Rate per Gallon	State	Rate per Gallon
1	2	3	4	5	6	7	8
Florida	$4.75	Florida	$1.75	Georgia	$2.54	South Carolina	.768
South Carolina	4.59[2]	Georgia	1.51	Florida	2.43	Florida	.400
Minnesota	4.39[2]	Tennessee	1.10[5]	South Dakota	1.40	Georgia	.322
Massachusetts	4.05	South Carolina	1.08[5]	Nebraska	1.25	Louisiana	.322
Alaska	4.00	South Dakota	.90	Tennessee	1.10[5]	Oklahoma	.322
Oklahoma	4.00	Arkansas	.75	South Carolina	1.08[5]	South Dakota	.267
Tennessee	4.00	Nebraska	.65	Oklahoma	1.00	Alaska	.250
South Dakota	3.80	Alaska	.60	Minnesota	.79	Arkansas	.234
Georgia	3.79[6]	Massachusetts	.55	Arkansas	.75	Kansas	.180
New York	3.25[6]	Kentucky	.50	Kansas	.75	Texas	.165
Wisconsin	3.25	North Dakota	.50	Alaska	.60	North Dakota	.160
New Jersey	2.80	Oklahoma	.50	Illinois	.60	Nebraska	.140
Nebraska	2.75	Indiana	.47	North Dakota	.60	Minnesota	.129
Indiana	2.68	New Mexico	.45	Massachusetts	.55	Tennessee	.126
Arizona	2.50	Arizona	.42	Kentucky	.50	Indiana	.115
Arkansas	2.50	Delaware	.40	Nevada	.50	Massachusetts	.106
Connecticut	2.50	Maryland	.40	Indiana	.47	New Mexico	.090
Kansas	2.50	Rhode Island	.40	Wisconsin	.45	Maryland	.090
Louisiana	2.50	Kansas	.30	New Mexico	.45	Connecticut	.081
North Dakota	2.50	Missouri	.30	Arizona	.42	Kentucky	.081
Rhode Island	2.50	Nevada	.30	Delaware	.40	Arizona	.080
Colorado	2.28	New Jersey	.30	Maryland	.40	Colorado	.080
Delaware	2.25	Colorado	.28	Rhode Island	.40	D.C.	.073
Nevada	2.05	Minnesota	.27	Texas	.34	Illinois	.070
California	2.00	Connecticut	.25	D.C.	.33	Delaware	.065
Illinois	2.00	Wisconsin	.25	Missouri	.30	Rhode Island	.065
Missouri	2.00	Illinois	.23	New Jersey	.30	Wisconsin	.065
Texas	2.00	Texas	.17	Colorado	.28	Missouri	.060
Kentucky	1.92	D.C.	.15	Connecticut	.25	Nevada	.060[6]
New Mexico	1.63	Louisiana	.11	Louisiana	.23	New York	.044
D.C.	1.50	New York	.10	New York	.10	California	.040
Maryland	1.50	California	.01	California	.02	New Jersey	.033
Median of State Taxes	2.50	Median of State Taxes	.40	Median of State Taxes	.485	Median of State Taxes	.098
Average of State Taxes	2.84	Average of State Taxes	.498	Average of State Taxes	.674	Average of State Taxes	.159
Federal Tax	10.50[3]	Federal Tax	.17	Federal Tax	.67	Federal Tax	.29[4]

[1] Hawaii, the only other license state, levies an excise tax on alcoholic beverages of 20 percent of the wholesale price.

[2] Based on one three-gallon case of spirits and including all "additional" taxes.

[3] Per proof gallon

[4] Actual rate of $9 per 31 gallon barrel.

[5] Includes additional tax 18¢/gal.

[6] New york City has an additional tax $1.00/gal. on distilled spirits and 12¢/gal. on beer

Source: Economics & Statistics Division, DISCUS

U.S. PER CAPITA CONSUMPTION
WINE
1981

RANK IN CONSUMPTION	STATE OR DISTRICT	GALLONAGE PER CAPITA
1	District of Columbia	6.94
2	Nevada	4.98
3	California	4.50
4	New Hampshire	3.68
5	Rhode Island	3.33
6	Washington	3.3[illegible]
7	Alaska	3.27
8	New Jersey	3.17
9	Massachusetts	3.10
10	Oregon	3.09
11	Vermont	3.06
12	New York	3.00
13	Connecticut	2.78
14	Hawaii	2.68
15	Colorado	2.65
16	Arizona	2.55
17	Florida	2.[illegible]7
18	Maryland	2.18
19	Illinois	2.17
20	Delaware	2.01
21	Montana	1.98
22	Wisconsin	1.94
23	Idaho	1.92
24	Maine	1.88
25	New Mexico	1.87
26	Michigan	1.77
27	Minnesota	1.67
28	Virginia	1.66
29	Louisiana	1.62
30	Texas	1.45
31	Pennsylvania	1.43
32	Wyoming	1.41
33	Ohio	1.34
34	Missouri	1.32
35	North Carolina	1.28
36	Nebraska	1.24
37	Georgia	1.23
38	South Carolina	1.16
39	South Dakota	1.15
40	Alabama	1.12
41	Indiana	1.10
42	North Dakota	1.08
43	Oklahoma	0.95
44	West Virginia	0.84
45	Iowa	0.83
46	Tennessee	0.79
47	Utah	0.78
48	Kansas	0.76
49	Arkansas	0.74
50	Kentucky	0.64
51	Mississippi	0.63

ALL AGES PER CAPITA

Source: Economic Research Department
Wine Institute

U.S. PER CAPITA CONSUMPTION
MALT BEVERAGES
1981

RANK IN CONSUMPTION	STATE OR DISTRICT	GALLONAGE PER CAPITA
1	Nevada	37.1
2	Wisconsin	34.3
3	New Hampshire	33.4
4	Montana	32.8
5	Wyoming	32.0
6	Texas	31.9
7	Arizona	31.3
8	Hawaii	30.2
9	District of Columbia	29.1
10	New Mexico	28.8
11	Colorado	28.6
12	Alaska	28.4
13	Florida	28.3
14	Nebraska	27.7
15	North Dakota	27.0
16	Delaware	26.9
17	Massachusetts	26.7
18	Vermont	26.2
19	California	25.7
20	Pennsylvania	25.6
21	Idaho	25.5
22	Illinois	25.2
23	Louisiana	25.1
24	Iowa	24.9
25	Maryland	24.8
25	Missouri	24.8
27	Rhode Island	24.7
28	Minnesota	24.5
29	Washington	24.4
30	Oregon	24.2
31	Ohio	23.6
32	Michigan	23.2
33	Maine	23.1
34	South Dakota	22.7
35	New York	22.5
36	Indiana	22.4
37	New Jersey	22.2
38	Virginia	21.9
39	Kansas	21.8
40	South Carolina	21.6
41	Oklahoma	20.8
42	Georgia	20.1
42	Mississippi	20.1
42	Tennessee	20.1
45	Kentucky	19.6
46	North Carolina	19.4
47	Connecticut	19.0
48	Arkansas	18.4
48	West Virginia	18.4
50	Alabama	17.5
51	Utah	15.6

Based on 18 years of age and older

Source: United States Brewers Association, Inc.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

RECEIVED
MAR 1 1983

Bill No: HB 202 Date on Bill: 2/15/83
Title: An act increasing the liquor tax.
Sponsor: Adams
Requestor: House State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total								

b. Revenues:

Revenue			-0-	2.1 mill	3.9 mill			

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

The analysis assumes the new tax rates become effective July 1, 1983.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Marcy Rehfeld Phone: 465-2300
Division: Comm. Office Date: 2/28/83

Approved by Commissioner: Robt C Heath Date: 2/28/83
Department: Revenue

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Ketchikan, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

Official Business

RECEIVED
MAR 4 1983

March 2, 1983

MEMORANDUM

TO: Representative Mitch Abood, Chairman
House State Affairs

FROM: Representative Al Adams AA

SUBJECT: House Bill 202 - Increasing the Liquor Tax

I appreciate your prompt scheduling of House Bill 202 and wanted to take this opportunity to provide you with a few explanatory details.

HB 202 increases the state liquor tax, which has not been raised since 1964, as follows:

- malt beverages from 25¢ per gallon to 32½¢ (a 30% increase amounting to approximately a 4¢ increase per six pack of beer);
- wine from 60¢ to $1.00 (a 66% increase which will amount to approximately 32¢ per three liter of bottle of wine); and
- hard liquor from $4.00 per gallon to $5.75 (a 44% increase amounting to about 23¢ on a half liter of whiskey).

According to the Department of Revenue, the additional taxes generated from this legislation is estimated at $2,100,000 in FY 84 and $3,900,000 in FY 85, resulting in total revenues of $14,600,000 and $16,900,000 respectively.

General Fund Unrestricted Revenues

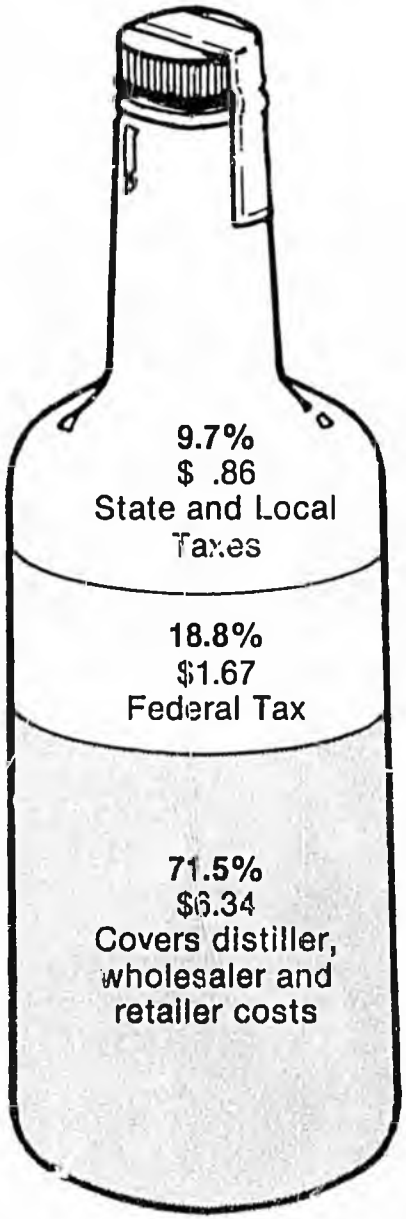
In Thousands of Current Dollars

	FY 1982 Actual January	FY 1983 Estimate January	FY 1984 Estimate January	FY 1985 Estimate January
Taxes				
Income				
Corporate-General	34,800	-0-	-0-	-0-
Corporate-Petroleum	668,900	-0-	-0-	-0-
Corporate (1)	-0-	235,000	272,000	295,000
Gross Receipts				
Alaska Business License	5,500	5,800	6,000	6,300
Fish-Canned Salmon	8,600	5,000	5,000	5,000
Fish-Shorebased	8,700	9,000	9,000	9,000
Fish-Floating	5,500	5,500	5,500	5,500
Seafood Marketing (2)	-0-	1,000	1,000	1,000
Salmon Enhancement	2,400	2,400	2,400	2,400
Insurance Companies	12,500	14,500	17,000	20,000
Electric and Telephone Co-ops	1,200	1,300	1,300	1,300
Mining License Tax	200	200	200	300
Severance				
Oil & Gas Production(3)(4)	1,581,100	1,528,800	1,197,300	1,219,700
Oil & Gas Conservation	600	800	700	700
Property				
Oil & Gas(5)(6)	142,700	148,600	153,200	158,000
Sale/Use				
Alcoholic Beverages	9,000	12,000	12,500	13,000
Fuel Taxes-Aviation	6,300	5,100	5,400	5,500
Fuel Taxes-Highway	20,300	21,000	22,000	23,000
Fuel Taxes-Marine	3,700	3,800	4,000	4,200
Tobacco Products	1,900	2,000	2,000	2,000
Other				
Estate	300	500	500	500
Total Taxes	2,514,200	2,002,300	1,717,000	1,772,400
Licenses & Permits				
Business	10,800	11,000	12,000	12,500
Non-Business	13,000	13,000	13,500	14,000
Total Licenses & Permits	23,800	24,000	25,500	26,500
Intergovernmental Receipts				
Federal Shared Revenues(7)(8)(9)	21,700	26,600	10,000	10,000
State Resource Revenue				
Sale/Use				
Bonus Sales(7)(10)(11)	5,000	26,100	-0-	-0-
Investment Earnings(12)	324,700	300,000	100,000	100,000
Rents(7)(10)(11)	3,500	4,000	4,000	4,000
Royalties(4)(7)(13)	1,157,300	1,119,400	883,500	912,000
Sale of State Property	5,200	5,500	5,500	5,500
Gravel, Timber, etc.(14)	1,200	5,500	2,000	2,000

Excessive Tax Burden

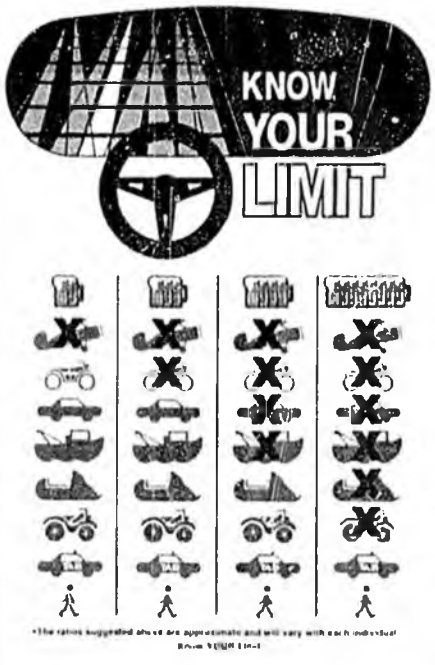
Alaska

Out of the typical 1982 retail price of $8.87 for a bottle of distilled spirits in Alaska . . .



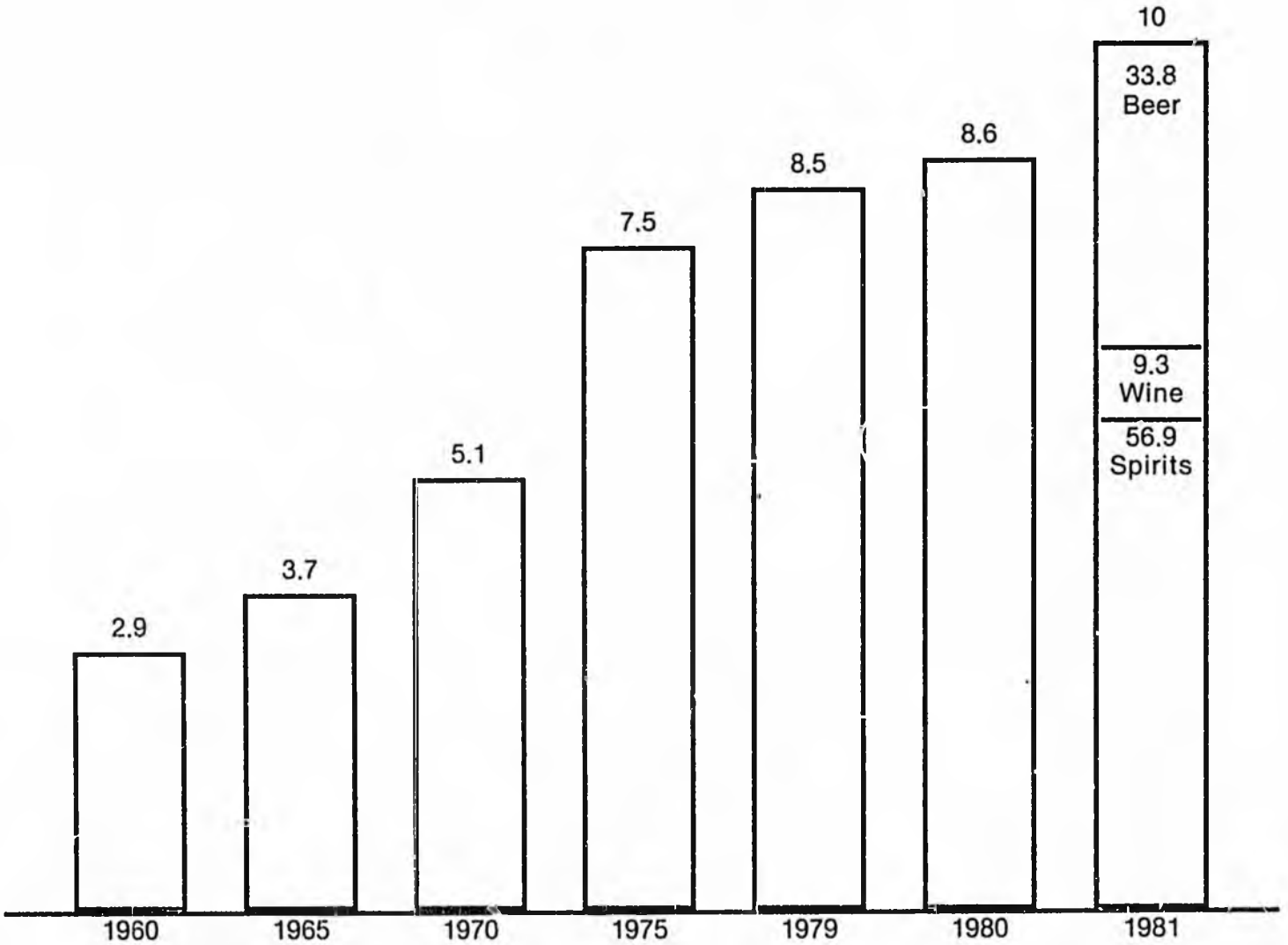
28.5% ($2.53) goes to taxes

750 ml. bottle, 80 proof



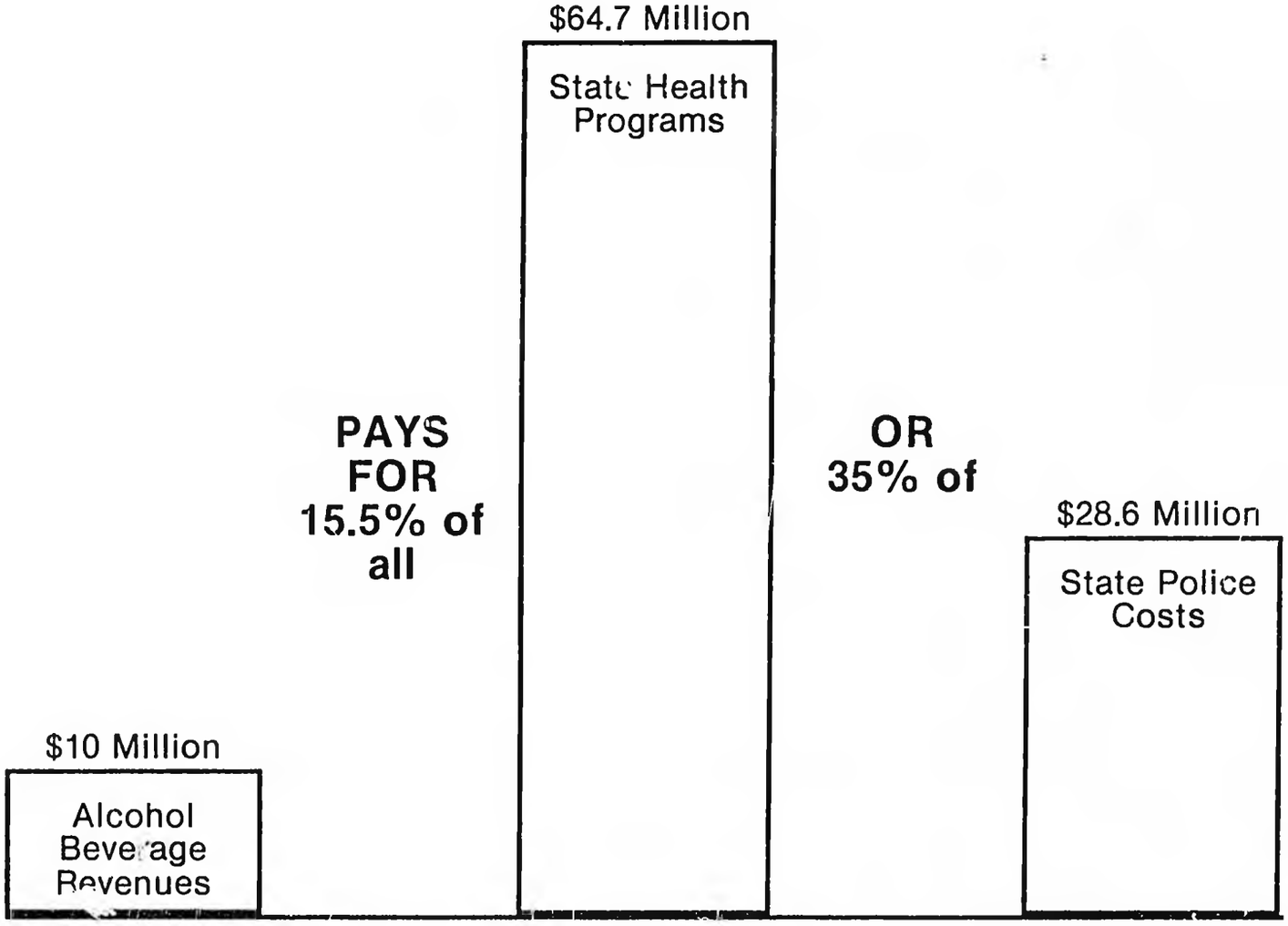
State and Local Revenues from Alcohol Beverages
[Millions of Dollars]

Alcohol beverages are an important revenue source in Alaska.
Of alcohol beverage revenues in Alaska, 56.9% comes from distilled spirits.



1981 State and Local Revenues From Alcohol Beverages Significant

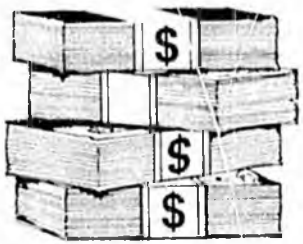
[Alaska]



Alcohol Beverage Industry Contributes:

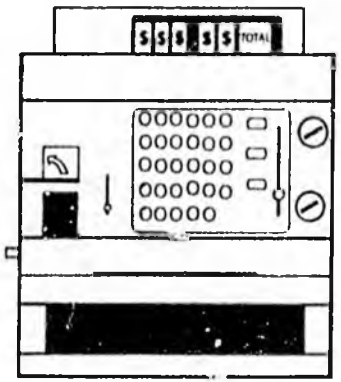
[To Alaska]

1981	1980	1980	1980
Revenues to State & Local Governments	Jobs	Payrolls & Profits	Retail Sales
$10 Million	**2,888**	**$49.9 Million**	**$268.5 Million**



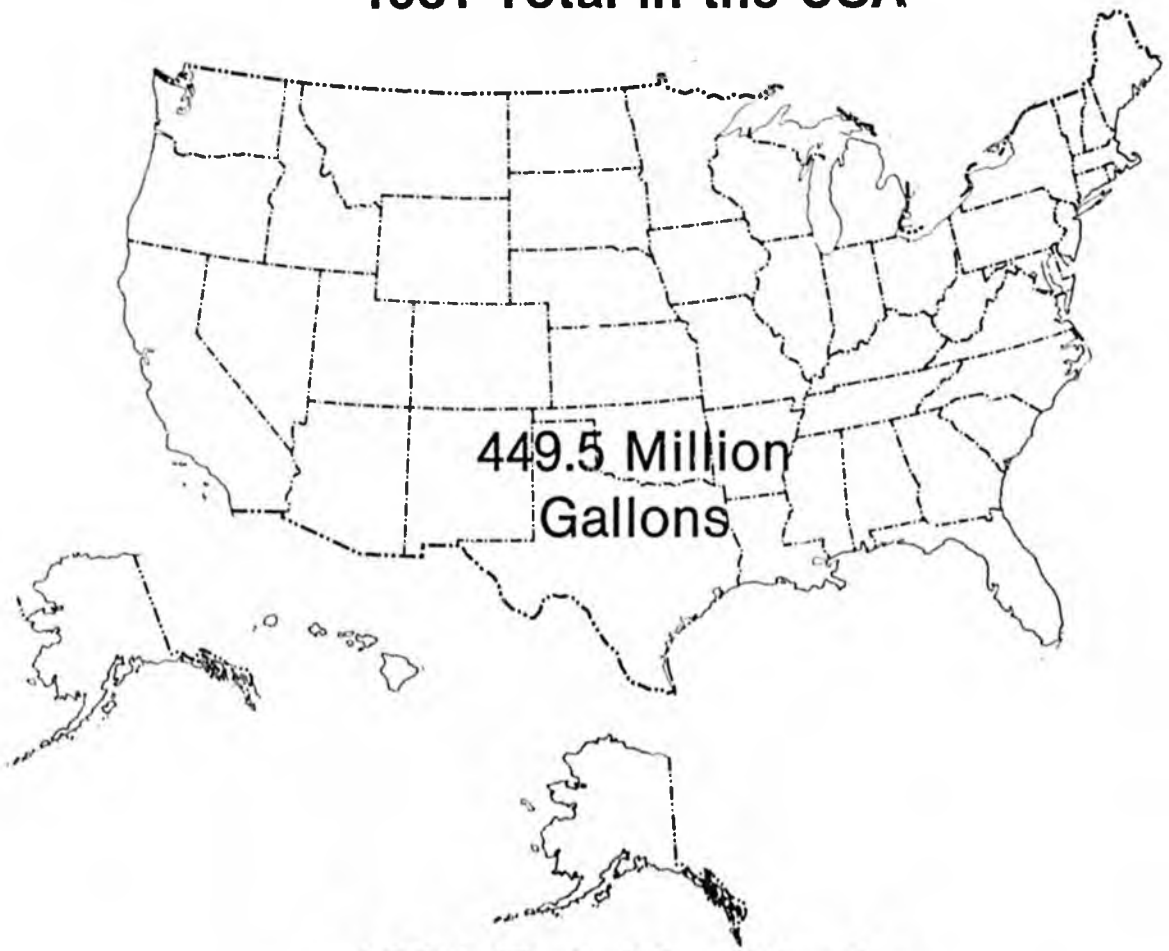






Distilled Spirits Consumption

1981 Total in the USA

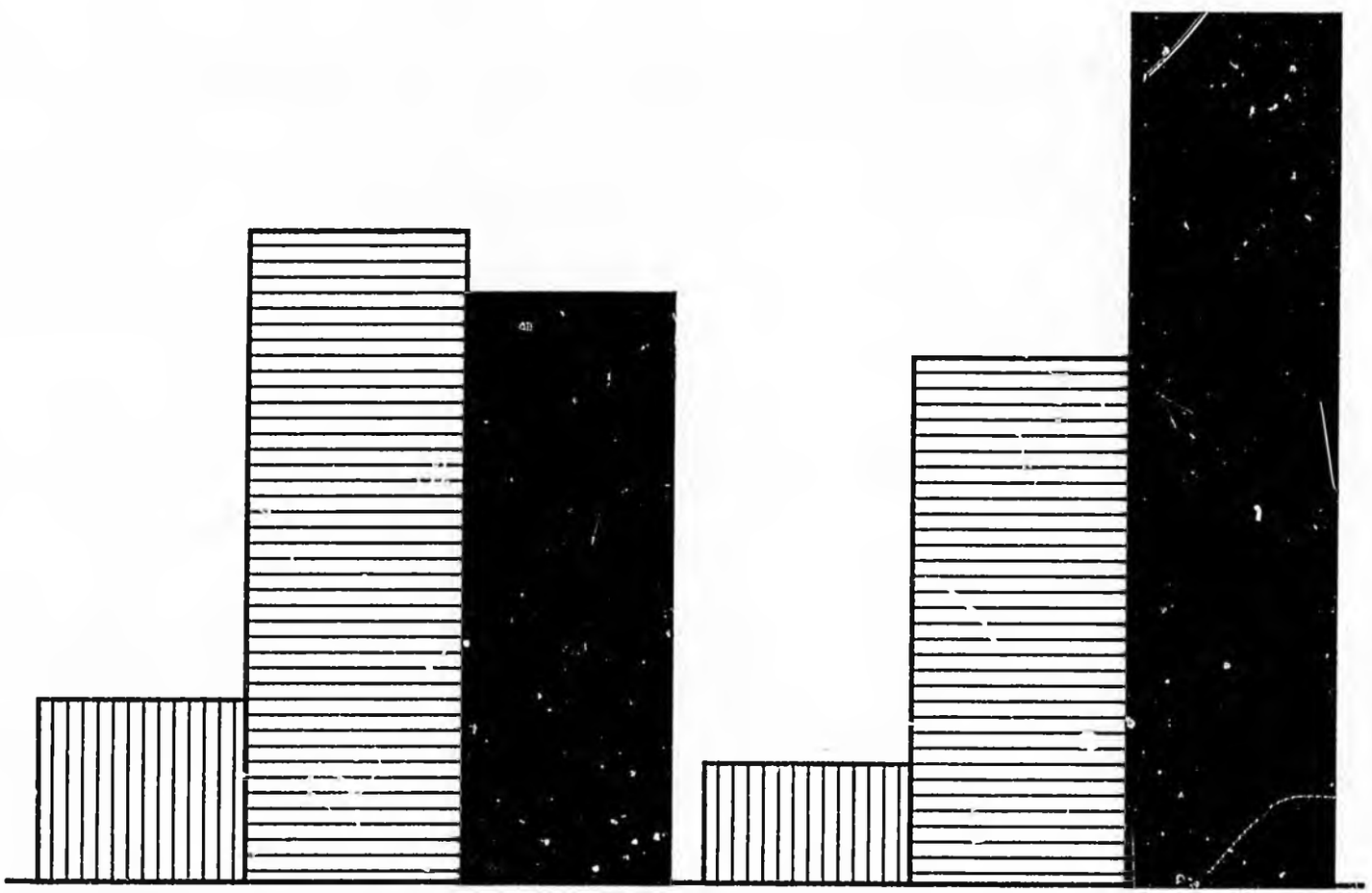


1981 Total in Alaska
1.36 Million Gallons

In **Alaska, 44.6%** of pure alcohol consumed in spirits
Yet distilled spirits paid **57.1%** of state and local revenues
from alcohol beverages in 1980

Pure Alcohol Consumption by Product

State and Local Tax Collections by Product



Wine	Beer	Spirits	Wine	Beer	Spirits
12.6%	42.8%	44.6%	8.2%	34.7%	57.1%

Inequity of Alcohol Beverage Tax

[Alaska]



=



=



=

Same Amount of Pure Alcohol

1.5 oz. spirits or
0.6 oz. alcohol

12 oz. beer or
0.6 oz. alcohol

5 oz. table wine or
0.6 oz. alcohol

Revenue from one cocktail = **1.7 times the revenue from one can of beer** = **2 times the revenue from one glass of table wine**

Key Points

- Alaska does not need the revenue that would be generated from an increase in the excise tax on spirits because they have a huge surplus in their state budget. Their present tax rate is the fourth highest among all License states, 44% above the national average, with taxes accounting for 29% of the typical retail bottle price of spirits.
- The alcohol beverage industry yielded $10 million to the Alaska treasury (excluding local taxes) in 1981, 56.9% from spirits alone.
- Spirits sales generate 7 times more revenue than wine sales do even though by volume, spirits sales are only 6% higher than wine sales.
- The full-time equivalent of 2,888 persons were employed by Alaska's beverage alcohol industry in 1980.
- The beverage alcohol industry contributes $50 million in payroll & profits, and $269 million in retail sales to the Alaska economy.
- The revenue per gallon of pure alcohol from spirits, $9.93, is almost twice the amount of revenue per gallon of pure alcohol from wine and 58% greater than that from beer.
- The Federal government has granted licenses for 13 small fuel-alcohol plants in Alaska; each is capable of producing up to 10,000 proof gallons annually. The potential exists that the alcohol might be diverted to produce illegal, non-taxed spirits.

CONTRIBUTION TO ALASKA TAX REVENUES

	Excise Tax Revenues ($000)		As % of All Excises		Sales Tax & License Fees ($000)		Total Tax Revenue from ($000)		As % of Total Tax Revenues	
Year	Spirits	All Bev. Alcohol	Spirits	All Bev. Alcohol	Spirits	All Bev. Alcohol	Spirits	All Bev. Alcohol	Spirits	All Bev. Alcohol
1977	5,037	7,909	7.6%	12.0%	489	949	5,526	8,858	0.7%	1.1%
1978	4,735	7,610	6.9	11.1	507	1,006	5,242	8,616	0.9	1.5
1979	4,535	7,443	6.1	10.0	487	1,053	5,022	8,496	0.6	1.0
1980	4,517	7,601	8.3	14.0	462	1,029	4,979	8,630	0.3	0.6
1981	5,025	8,482	9.4	15.9	655	1,494	5,680	9,976	0.2	0.4

ALL BEVERAGE ALCOHOL CONTRIBUTION TO ALASKA ECONOMY

Year	Licenses Issued*	Employment**	Payroll** & Profits ($000)	Retail Sales ($000)
1972	1,004	1,506	14,677	82,474
1977	1,149	2,505	32,624	187,364
1978E	1,167	2,518	34,742	198,618
1979E	1,210	2,674	40,292	227,777
1980E	1,210	2,888	49,930	268,510

*Approximates number of establishments. Due to duplication, number of establishments may be less than number of licenses issued. Includes manufacturing, wholesale and retail.
**Includes full-time equivalent employees and payroll at retail.

Sources: Available upon request. E - Estimated.

AABEI Alaska Alcohol Beverage Education Institute

PRESENTATION: ALASKA STATE LEGISLATURE 1983

Mr. Chairman, Distinguished Members of this Committee, Ladies and Gentlemen. My name is Ralph W. Kopansky. I represent the Alaska Alcohol Beverage Education Institute. Previously, I held federal appointments for ten years as a consultant to the National Institute of Alcohol Abuse and Alcoholism and the U.S. Public Health Service. I also served as coordinator of education and prevention and acting clinical director of the Regional Center for Alcohol and other Addictions in Fairbanks.

I will limit my remarks to the subject of increasing the control of comsumption theory of which excise tax on alcoholic beverages is an objective.

The State Office of Alcohol and Drug Abuse, according to their 1980-81 Alcoholism Plan, and according to a more recent released document prepared by the Division of Legislative Audit entitled

A Special Performance Report On
The Department of Health and
Social Services State Office Of
Alcoholism and Drug Abuse
July 1982 - December 1982

endorses a Public Health Eperdemiological Model for dealing with alcohol abuse and alcoholism. One phase of that model is to appropriate funds to promote reduction of alcohol consumption. Increased taxation

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on alcoholic beverages is an example. The rationale presented in support of legislative taxation to reduce consumption is based on a theory that by making alcoholic beverages more expensive fewer people will drink or people will drink less and this will reduce alcohol abuse and alcoholism. The basis of the control of consumption theory was the work of S. Ledermann (1950's) in France. Critics of the Lederman study and subsequent control of consumption theories point to the fact that the theory predicted a relationship in change of alcohol consumption to Homogeneous Populations (never defined in his work). Homogeneous populations do not exist in complex industrial societies including Alaska.

A more recent effort to promote the control of consumption theory was made by W. Schmidt and R. Popham (1978). Their work and other studies rely on two major factors: (1) Apparent beverage alcohol consumption in various societies, and (2) Various health problems, with the greatest emphasis on liver cirrhosis mortality. The control of consumption model is non-sociological and non-cultural. There is no attention paid to drinking customs, attitudes, norms, and behaviors of various cultural groups or sub-populations by age, sex, race, ethnicity, etc. within a mixed or heterogeneous society. Furthermore, the disease concept of alcoholism is never linked to the model, although alcoholism is recognized as a definable clinical disease entity by a large proportion of the medical and scientific community.

Supporters of the control of consumption theory deal with aggregate statistics. They treat populations as a single entity. They fail to account for individual and sub-group differences such as changes in drinking patterns over time. Where "self-reporting" studies are used there are methodological flaws that threaten their reliability and validity.[1] We are far from dealing with an exact or even approaching exact science. Public policy should not be based on highly questionable arguments or a very inexact science.

Speaking specifically to the concept of increased taxation on beverage alcohol as a social policy to deter alcohol abuse and alcoholism, we again face the absence of valid research to support the position. While proponents of increased taxation argue that alcohol consumption will be reduced, they cannot identify a pricing level that statistically proves reduction. For example, the notion of matching the taxation increase to the Consumer Price Index on a year-to-year basis does not account for the increasing proportion of total income that must be paid in federal, state and local taxes. We would, if we increase taxes on beverage alcohol, be penalizing the overwhelming majority of

---

1. Methodological issues not accurately measured: (1) Changes in drinking patterns, (2) Under and over-reporting in self-reports, (3) Translation of self-reports into statistical reports having serious errors of measurement.

moderate and light drinkers. We would also create a black market environment associated with organized crime and the illicit production of alcoholic beverages. For the hardcore alcoholic, there would be an increase in the use of non-beverage alcohol with all of the health dangers, including death.

There is a second point. It is argued that another reason for increasing the excise tax is to financially support alcoholism programs and other services associated with alcohol abuse problems. Currently, revenues generated from the excise tax on beverage alcohol are placed in the State's General Fund. There are no dedicated funds. When the excise tax rate was first established it was one of the highest rates in the United States. In subsequent years other states have increased their rates to proximate Alaska. The issue, and this is strikingly pointed out in the Legislative Audit Report I cited earlier, is cost and programatic effectiveness and accountability of State-funded alcoholism programs. There should be some return on the investment of tax dollars. Moreover, what is an appropriate level of services and at what rate should alcoholism programs be funded and at what point should there be a return on the investment. There are several issues that the legislature needs to consider:

1. What justification is being used to fund programs? What statistics are being used? What are they based on? Are they adjusted to Alaska? Is there a valid method for demonstrating a reduction in the problem as the direct

result of a program?

The Legislative Audit Report raises these same issues. Before program priorities can be set there needs to be agreement on what the problem is and how one can measure changes. I bring this point up in differentiating between alcohol abuse and alcoholism. Extensive research into the causation of alcohol abuse suggests that at least for some populations, notably rural, ethnic societies, alcohol abuse patterns are associated with such factors as lack of employment, hours of unmanaged time, cultural conflict, a lack of meaningful participation in family, school, and community, a breakdown in spiritual or belief systems. If there is a remedy it lies with the individual attaining a legitimate outlet for higher needs. Alcoholism is not the problem, finding a job is. If we wish to treat alcohol abuse perhaps we should develop a jobs program. The point is that the solution to alcohol abuse problems exist outside traditional prevention and treatment programs.

Before we increase taxation based at least in part on support of alcoholsim services, we need, as the Legislative Audit Report recommends, to have fund's priorities established. They need to be specific and measurable.

Alcoholism program funding is established at an artificial level. The current level is directly related to Alaska oil profits and is in no

way related to need. The attempt is being made to justify that inflated level rather than being based on needs assesed prior to oil profit income levels. This artifical level of funding demonstrates labeling theory of deviency. Society identifies a social problem. Society establishes a bureaucracy to deal with the problem. The primary purpose is then partially set aside and replaced by a need to sustain the bureaucracy. In order to accomplish this goal of survival a representation of the original problem must be manipulated to gain public awareness and support.

In conclusion, there are alcohol abuse and alcoholism problems in Alaska. The assumption that increasing a tax will reduce those problems is not supported scientifically and the by-product may be socially less desirable. The assumption that a tax increase is needed to support alcoholism services is offered at a time when the legislature itself, through its auditing process, raises questions of program accountability and cost effectiveness

Before we pass laws that may have little or no relevence to the problem, I would hope that a careful examination of need, resources and desired outcomes be established. I would hope that this examination would be guided by the established fact that there is no single definition of what alcohol abuse and alcoholism are, their causes or even the best treatment strategies. The control of consumption model is presented as a panacea for reduction of problems lacking scientific validity

and has the potential for doing irrepairable damage. Our awareness level about alcohol abuse is high and matched by our frustration at finding acceptable solutions. This frustration is costing the tax payer, this year, over fifteen million dollars without any guaranties of success.

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P.O. Box 4-1260 Anchorage, Alaska 99509

AABEI Alaska Alcohol Beverage Education Institute

PRESENTATION

Opposing House Bill 202,
"An Act to increase the Liquor Tax."

Prepared by: Ralph W. Kopansky representing the Alaska Alcohol Beverage Education Institute. Previously, Consultant to the National Institute on Alcohol Abuse and Alcoholism, and former coordinator of Prevention and Education and Acting Clinical Director in Fairbanks.

Proponent of HB 202 present two arguments in its support:

1. By increasing the cost of beverage alcohol consumption will decrease and this will reduce alcohol abuse and alcoholism

2. By increasing the cost of beverage alcohol the user will pay for alcoholism services. There is an increased financial need, according to supporters of this bill.

I. SOADA Policy to Reduce the Availability of Alcohol.

1. SOADA has interpreted the State Statutes and a 1960 Supreme Court decision, Boehl vs Sabre Jet Room, Inc., as having the authority to promote measures to reduce the availability of alcohol in Alaska. The Boehl decision applied only to the ABC Board and not other agencies of government.

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Presentation - Opposing House Bill 202

2. SOADA has adopted the Public Health Epidemiological Model for treating alcohol abuse and alcoholism.

3. One provision of the Public Health Model is to reduce consumption.
   a. Reducing beverage alcohol consumption will reduce alcohol abuse and alcoholism.

   b. Proposed Methods of reducion of consumption of beverage alcohol include:
      1. Reducing bar and liquor store hours.
      2. State ownership of package liquor stores.
      3. Raising the drinking age
      4. Increase the tax on beverage alcchol.

4. The Consumption Control Theory is based on statistical modesl that predict the relatiionship between consumption levels and health problems, notably cirrhosis of the liver mortality.

   a. The primary research was completed by S. Lederman in France in the 1950's. This study predicted the relationship of change in alcohol consumption on Homogeneous Populations.

      Critics of Lederman's work point out that homogeneous populations (people with same backgrounds) do not exist in complex western societies or societies with mexed ethnic and racial backgrounds.

Presentation - Opposing House Bill 202

b. Later research, including work in 1978 by Schmidt and Popham, relied on only two factors: (1) apparent beverage alcohol consumption in various societies, and various health problems.

c. Major scientific criticism of the Control of Consumption Theory:

1. It is not sociological or cultural. No attention is paid to drinking customs, attitudes, norms, and behaviors of various cultural groups or sub-populations by age, sex, race, ethnicity, within a given society.

2. It deals only with an aggregate, Homogeneous population assuming that everybody is the same.

3. The disease concept of alcoholism is never linked to the Control of Consumption Theory, although alcoholism is recognized as a definable clinical disease entity.

4. Clinical experience demonstrates that the alcoholic, with addictive behaviors, will obtain alcohol regardless of method or in spite of controls.

5. Differentiate between Alcoholism, a disease characterized by loss of control of drinking, and alcohol abuse. One does not necessarily relate to the other.

d. Criticism of Taxation on beverage alcohol as a method of controlling consumption.

1. There is no justification or formula that relates increase of cost to reduction of consumption.

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2. There is no statistical experience that predicts changes in consumer buying practices that could be used to establish a tax or pricing rate at which point consumption would decline.

3. The notion, suggested by some proponents of taxation that the rate be matched to the Consumer Price Index, is not justified because the CPI does not account for the increasing proportion of total income that must be paid in federal, state and local taxes.

4. We would, if we increase taxes on beverage alcohol:

   a. Be penalizing the overwhelming majority of moderate and light drinkers.

   b. Be creating a potential black market associated with organized crime and illict production of alcoholic beverages.

   c. Be observing increase in serious injury and death among the hardcore alcoholic who would turn to other than beverage alcohol

II. By increasing the tax on beverage alcohol, the user will pay an increasing amount of money to support the cost of services required by increased alcohol abuse.

   1. Criticisms:

      a. Taxes on beverage alcohol go into the General Fund. There are no dedicated funds.

      b. The funded level of support for Alcoholism services was based on

available oil revenues, not need. Statistical needs were made on the basis of funds available.

c. The Division of Legislative Audit, in its report entitled:

A Special Performance Report on the Department of Health and Social Services State Office of Alcoholism and Drug Abuse, July 1981-December 1982

Makes five recommendations that underscore a need to:
"(1) better document, define, and catalogue information, (2) improve fiscal review over grantees by having more responsibility for directing audit efforts and following up on audit results, (3) closely evaluate administrative costs of proposals from grantees with multiple-funding sources to assure State funds are being used in an efficient, effective and appropriate manner, (4) identify areas where grantees may accomplish tangible needed objectives in a relatively short period of time, (5) consider passage of a resolution to provide SOADA with priorities for grant funding."

2. We recommend that the recommendations be implemented prior to any tax increase. We also recommend that the funding level be based on actual need, direct delivery of services with measurable outcomes.

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

A SPECIAL PERFORMANCE REPORT ON THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES STATE OFFICE OF ALCOHOLISM AND DRUG ABUSE

July 1981 - December 1982

Audit Control Number

06-4143-83-S

Commissioner, Department of Health and Social Services	Dr. Robert L. Smith, Ph.D.
Deputy Commissioners, Department of Health and Social Services:	
Social Services	John Pugh, (Acting)
Health Services	Philip Hardie, MD.

STATE OF ALASKA

DIVISION OF LEGISLATIVE AUDIT

HB

205

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB205/210
Title: Relating to Payment of Interest
Sponsor: Duncan/Shultz by State
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: All
Program Category Affected: All
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
TOTAL OPERATING	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No source identified by the Legislature.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Tom Haas, Acting Director — Phone: 465-2240
Division: Finance — Date: 3/17/83

Approved by Commissioner: Lisa Rudd — Date: 3/17/83
Department: Administration

Distribution:
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3/8/8

IV. ANALYSIS

The Department of Administration is opposed to this Legislation, not because we disagree with the idea of the State paying its bill in a timely manner, but because we feel there are better ways to address this problem. In determining the fiscal impact on mandatory payment of interest, it is impossible to place a definite dollar amount for the cost. Many items must be taken into consideration.

First, in order to calculate what the interest cost would be, a detailed analysis would be necessary to determine what the dollar amount of bills paid in excess of 30 days might be. Readily available information does not exist. However, to show what the potential impact might be, we offer this example, making a number of assumptions.

On the assumption that the State annual budget is $3.0 billion and that 50% of that budget represents vendor payments effected by this legislation. Further we assume that 5% of the vendor payments might be subject to penalty as defined in the Legislation. Based on these assumptions, the interest penalty could be as high as $1,125,000.00.

Calculated as follows:

$3,000,000,000.00	Annual Budget
X 50%	
$1,500,000,000.00	Potential Vendor Payments
X %	
$ 75,000,000.00	5% Subject to Penalty
X 0.15%	
$ 1,125,000.00	Interest Penalty for Bills Paid in Excess of 30 Days.

The preferrable way to avoid penalty payments is to pay vendors within the 30 day period. This is and always has been the goal of the Department of Administration. The only effective way of doing this is either to divert current staff of the various State agencies to the effort of paying bills timely or to develop the agencies internal procedures and the Department of Administration's automated systems in order to address the payment problem. The cost to the State in providing additional staff or a bill paying effort that would pay all bills within 30 days using the current system has not be determined. The Department of Administration is currently in the process of

redesigning the statewide accounting system which will include features that will improve the bill paying and tracking capabilities of the State.

While we recognize the problem of paying vendors in a timely manner is a serious matter, we should point out that for the most part, vendors are paid timely. For a 12 month period, the State paid on the average of 70,200 invoices a month. During that time, the average payment time was 29 days. The high monthly average was 33 days while the low monthly average was 24 days. During this period, only two months exceeded 30 days payment time.

In addition to the costs of attempting to improve the payment time and the potential interest penalties, we should also consider the cost of increased bureaucracy that would be involved in determining what payments would be subject to penalty, what period of time would be covered, as well as the logistics of making the interest payments, all of these would be costs to the State in time and effort.

Lastly, it should be noted that the funding of the interest payments would need to be 100% State funds. We have been advised by the U.S. Office of Management and Budget that the Prompt Payment Act (P.L. 970177) prohibits the use of Federal grant funds for the agencies that are primarily federally funded. (Copy of OMB letter attached)

Again, we are not opposed to timely payment of vendor bills but are concerned with the method of achieving that goal.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 14, 1982

MEMORANDUM

SUBJECT: Payment Practices

It has come to our attention that several States have laws, or are considering legislation, that requires the payment of interest penalties to contractors when bills are paid late.

This is to alert you to the fact that the Prompt Payment Act (P.L. 97-177) prohibits the use of Federal grant funds for the payment of such interest penalties. The act says

> "(A) in no case shall an obligation to pay such interest penalties be construed to be an obligation of the United States, and
>
> "(B) any payment of such interest penalties shall not be made from funds provided to the grant recipient by a Federal agency, nor shall any non-Federal funds expended for such interest penalties be counted toward any matching requirement applicable to that grant."

We would appreciate your alerting your staff to this prohibition to assure that the Federal Government is not charged improperly for interest penalty costs.

John J. Lordan
Deputy Associate Director
for Financial Management

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 205 Date on Bill: 2/16/83
Title: "An Act providing f. ayment of interest by state agencies..."
Sponsor: Duncan
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total				-0-	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

No fiscal impact is anticipated.

3. Assumptions:

That administrative staffing will remain adequate to avoid delays in bill payment processing such that no interest expenses are incurred.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Marcia Lynn McKenzie Phone: 465-4349
Division: Administrative Services Date:

Approved by Commissioner: Date: 3/8/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
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2/15/83

File
MAR 0 9 1983
HB 205

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 205 Date on Bill: 2-16-83
Title: "Act providing for payment of interest by state agencies on obligations..."
Sponsor: Duncan
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating				99.2	104.2	109.4		
Total				99.2	104.2	109.4		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Not specified by sponsor.

3. Assumptions:
Currently there is no method within the system to identify invoices that have not been paid within 30 days from receipt. The department average payment time from the date of invoice to date of payment is less than 30 days. However, we can assume there are invoices that are not processed within 30 days of receipt. The interest payments that may be required should be nominal. Additional staff would be required to investigate each inquiry, make a determination as to whether interest is due, calculate the interest due and process the payment. The designated employee in each region should be at the Accounting Technician I or higher level of responsibility.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Jim Slocum Phone: 465-3911
Division: Financial Management Date: 3/4/83

Approved by Commissioner: Donna Page for Ron B. Lund Date: 3-7-83
Department: Transportation & Public Facilities

5. Distribution:
Original to Legislative Finance
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2/15/83

File HB 205

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 205 Date on Bill: 2/16/83
Title: "An Act providing for payment of interest by state agencies..."
Sponsor: Duncan
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total				-0-	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

No fiscal impact is anticipated.

MAR 09 1983

3. Assumptions:

That administrative staffing will remain adequate to avoid delays in bill payment processing such that no interest expenses are incurred.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Marcia Lynn Mckenzie Phone: 465-4349
Division: Administrative Services Date:

Approved by Commissioner: [signature] Date: 3/8/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

Chart of States with Prompt Payment Statutes or Regulations

STATE	STATUTE/ REGULATION	YEAR ENACTED	CONTRACTS COVERED	STANDARD OF PAYMENT	INTEREST	APPLICATION OF STATUTE/REGULATION
ALASKA	STATUTE	1982	construction	30-day	10.5% annually	Any state or political subdivision of the state
ARIZONA	STATUTE	1982	ALL	30-day	10.0% annually	Any state agency, school district, or office or agency established by a county
CALIFORNIA	STATUTE	1982	ALL	30-day	.25% per day	All state agencies
FLORIDA	STATUTE	1974	ALL	45-day	1% per month	All state agencies
HAWAII	STATUTE	1977	ALL	60-day	1% per month	Any agency of the state or any county
ILLINOIS	STATUTE	1975	ALL	60-day	1% per month	Any state official or agency authorized to provide payment from state funds
INDIANA	STATUTE	1933	highway	180-day	1% per month	State Highway Department
MARYLAND	REGULATION		ALL	35-day construction 45-day non-construction	NONE	All state agencies
MASSACHUSETTS	STATUTE	1977 ..... 1961	utility ..... construction	55-day 65-day	NONE **	State, city, town or political subdivision
NEBRASKA*	STATUTE	1975	ALL	30-day	NONE	All state agencies
NORTH CAROLINA	STATUTE	1931	ALL	30-day	NONE	All state agencies
OREGON	STATUTE	1979	ALL	45-day	.67% per month	All state agencies
SOUTH CAROLINA	STATUTE	1981	ALL	30 day	15.0% annually	All agencies and institutions of the state
VIRGINIA	REGULATION	1979	ALL	60-day	1% per month	All state agencies
WASHINGTON	STATUTE	1981	ALL	30-day	1% per month	Every state agency and unit of local government
WEST VIRGINIA	REGULATION		ALL	90-day	6.0% annually	All state agencies
LOUISIANA	STATUTE	1982	ALL	30-day***	.5% per day	All state agencies

* Later found to be unconstitutional.

** Construction statute provides for payment of interest penalties on late payments at a daily rate of three percentage points above the rediscount rate then charged by the Federal Bank of Boston.

*** Except, a 45-day standard of payment for Entitlement Programs

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MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: December 10, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of November, it has been determined that it took the State an average of 25 days to pay its bills during this month. This is the same number of days as November of of last year. The schedule below shows the payment time for each agency.

Calendar days *

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	20
Fiscal - Anchorage	33
Administration	
Fiscal - Juneau	31
Fiscal - Anchorage	10
Employee Housing	34
Public Defender	19
Leasing & Facilities	16
Telecom Systems - Anch.	26
Alaska Broadcasting Comm.	13
Older Alaskan Comm.	13
Law	23
Revenue	
Fiscal	13
Garnishments	5
Education	
Fiscal	25
Vocational Rehabilitation	42
Council of the Arts	21
Health & Social Services	
Fiscal	26
Public Assistance	2
Social Services	14
Handicapped Child Prog.	44
Labor	
Fiscal	25

Agency	Payment Days
Commerce and Economic Development	
Fiscal	17
Small Business Loans	14
Energy & Power	29
AK Power Authority	17
Military Affairs	39
Natural Resources	37
Fish and Game	65
Public Safety	15
Environmental Conservation	16
Community & Regional Affairs	
Fiscal	11
CETA Division	12
Municipal Grants	18
Transportation and Public Facilities	
Fiscal	37
Anchorage	22
Fairbanks	24
Anchorage Airport	16
Southeast	25
Ombudsman	4
Legislative Affairs	36
Legislative Finance	5
Legislative Audit	5
Alaska Court System	31

MSA/gyr
14D1/1209-1/F26

* From date of Invoice To date of Payment.

02-001A(Rev.10/79)

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: November 10, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of October, it has been determined that it took the State an average of 25 days to pay its bills during this month. This is a three day increase over October of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	20
Fiscal - Anchorage	32
Administration	
Fiscal - Juneau	26
Fiscal - Anchorage	15
Employee Housing	25
Public Defender	19
Leasing & Facilities	8
Telecom Systems - Anch.	24
Alaska Broadcasting Comm.	6
Older Alaskan Comm.	14
Law	23
Revenue	
Fiscal	11
Garnishments	5
Education	
Fiscal	17
Vocational Rehabilitation	40
Council of the Arts	27
Health & Social Services	
Fiscal	28
Public Assistance	8
Social Services	15
Handicapped Child Prog.	50
Labor	
Fiscal	46

Agency:	Payment Days
Commerce and Economic Development	
Fiscal	17
Small Business Loans	13
Energy & Power	22
AK Power Authority	13
Military Affairs	35
Natural Resources	34
Fish and Game	63
Public Safety	18
Environmental Conservation	21
Community & Regional Affairs	
Fiscal	14
CETA Division	13
Municipal Grants	19
Transportation and Public Facilities	
Fiscal	31
Anchorage	22
Fairbanks	26
Anchorage Airport	20
Southeast	28
Ombudsman	9
Legislative Affairs	42
Legislative Finance	1
Legislative Audit	7
Alaska Court System	30

27

MSA/cjk
44F1/0614-1

02-001A(Rev.10/79)

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: October 4, 1982

FILE NO:

TELEPHONE NO: 465-2260

FROM: Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

SUBJECT: Payment Time

After reviewing the Vendor Analysis for the month of September, it has been determined that it took the State an average of 33 days to pay its bills during this month. This is a five day increase over September of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	36
Fiscal - Anchorage	37
Administration	
Fiscal - Juneau	37
Fiscal - Anchorage	15
Employee Housing	20
Public Defender	25
Leasing & Facilities	12
Telecom Systems - Anch.	49
Alaska Broadcasting Comm.	25
Older Alaskan Comm.	4
Law	25
Revenue	
Fiscal	22
Garnishments	5
Education	
Fiscal	34
Vocational Rehabilitation	38
Council of the Arts	19
Health & Social Services	
Fiscal	33
Public Assistance	7
Social Services	21
Handicapped Child Prog.	58
Labor	
Fiscal	44
Commerce and Economic Development	
Fiscal	31
Small Business Loans	9
Energy & Power	44
AK Power Authority	0
Military Affairs	31
Natural Resources	30
Fish and Game	57
Public Safety	28
Environmental Conservation	45
Community & Regional Affairs	
Fiscal	22
CETA Division	14
Municipal Grants	22
Transportation and Public Facilities	
Fiscal	53
Anchorage	26
Fairbanks	32
Anchorage Airport	26
Southeast	33
Ombudsman	5
Legislative Affairs	38
Legislative Finance	7
Legislative Audit	9
Alaska Court System	35

MSA/cjk
44F1/0614-1

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: September 13, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of August, it has been determined that it took the State an average of 28 days to pay its bills during this month. This is a seven day decrease over August of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	24
Fiscal - Anchorage	26
Administration	
Fiscal - Juneau	48
Fiscal - Anchorage	35
Employee Housing	36
Public Defender	28
Leasing & Facilities	9
Telecom Systems - Anch.	27
Alaska Broadcasting Comm.	
Older Alaskan Comm.	14
Law	29
Revenue	
Fiscal	20
Garnishments	5
Education	
Fiscal	26
Vocational Rehabilitation	41
District School Support	
Council of the Arts	34
Health & Social Services	
Fiscal	34
Public Assistance	6
Social Services	19
Handicapped Child Prog.	39
Labor	
Fiscal	22

Agency:	Payment Days
Commerce and Economic Development	
Fiscal	~~50~~ 20
Small Business Loans	13 → 50
AK Power Authority	15
Military Affairs	38
Natural Resources	38
Fish and Game	72
Public Safety	23
Environmental Conservation	27
Community & Regional Affairs	
Fiscal	20
CETA Division	21
Municipal Grants	15
Transportation and Public Facilities	
Fiscal	32
Anchorage	26
Fairbanks	27
Anchorage Airport	19
Southeast	32
Ombudsman	15
Legislative Affairs	37
Legislative Finance	9
Legislative Audit	7
Alaska Court System	40

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44F1/0614-1

02-001A(Rev.10/79)

MEMORANDUM

State of Alaska

TO Administrative Officers
All Agencies

DATE: August 11, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of July, it has been determined that it took the State an average of 29 days to pay its bills during this month. This is a one day increase over July of last year. The schedule below shows the payment time for each agency.

Agency:	Days
Office of the Governor	
Fiscal - Juneau	33
Fiscal - Anchorage	30
Administration	
Fiscal - Juneau	27
Fiscal - Anchorage	19
Employee Housing	34
Public Defender	20
Leasing & Facilities	14
Telecom Systems - Anch.	28
Alaska Broadcasting Comm.	58
Older Alaskan Comm.	
Law	27
Revenue	
Fiscal	18
Garnishments	4
Education	
Fiscal	36
Vocational Rehabilitation	37
Council of the Arts	32
Health & Social Services	
Fiscal	28
Public Assistance	
Social Services	19
Handicapped Child Prog.	65
Labor	
Fiscal	24

Agency:	Days
Commerce and Economic Development	
Fiscal	23
Small Business Loans	15
Energy & Power	
AK Power Authority	48
Military Affairs	32
Natural Resources	29
Fish and Game	66
Public Safety	18
Environmental Conservation	32
Community & Regional Affairs	
Fiscal	22
CETA Division	34
Municipal Grants	23
Transportation and Public Facilities	
Fiscal	32
Anchorage	23
Fairbanks	29
Anchorage Airport	18
Southeast	26
Ombudsman	9
Legislative Affairs	25
Legislative Finance	9
Legislative Audit	9
Alaska Court System	19

MSA/cjk
44F1/0614-1-2

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: June 14, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of May, it has been determined that it took the State an average of 24 days to pay its bills during this month. This is a two day decrease over May of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	30
Fiscal - Anchorage	26
Administration	
Fiscal - Juneau	24
Fiscal - Anchorage	37
Employee Housing	32
Public Defender	19
Leasing & Facilities	11
Telecom Systems - Anch.	26
Alaska Broadcasting Comm.	16
Older Alaskan Comm.	17
Law	25
Revenue	
Fiscal	11
Garnishments	5
Education	
Fiscal	23
Vocational Rehabilitation	38
District School Support	18
Council of the Arts	31
Health & Social Services	
Fiscal	24
Public Assistance	65
Social Services	16
Handicapped Child Prog.	43
Labor	
Fiscal	24

Agency	Payment Days
Commerce and Economic Development	
Fiscal	24
Small Business Loans	23
Energy & Power	21
AK Power Authority	27
Military Affairs	34
Natural Resources	31
Fish and Game	66
Public Safety	9
Environmental Conservation	31
Community & Regional Affairs	
Fiscal	19
CETA Division	18
Municipal Grants	17
Transportation and Public Facilities	
Fiscal	36
Anchorage	22
Fairbanks	21
Anchorage Airport	18
Southeast	21
Ombudsman	7
Legislative Affairs	13
Legislative Finance	4
Legislative Audit	10
Alaska Court System	27

MSA/cjk
44F1/0614-1

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: May 14, 1982

FILE NO.

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of April, it has been determined that it took the State an average of 25 days to pay its bills during this month. This is the same number of days as April of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	29
Fiscal - Anchorage	27
Administration	
Fiscal - Juneau	27
Fiscal - Anchorage	18
Employee Housing	42
Public Defender	20
Public Broadcasting	
Law	25
Revenue	
Fiscal	15
Garnishments	6
Education	
Fiscal	25
Vocational Rehabilitation	37
District School Support	17
Health & Social Services	
Fiscal	22
Public Assistance	78
Social Services	19
Labor	
Fiscal	20

Agency	Payment Days
Commerce and Economic Development	22
Military Affairs	32
Natural Resources	37
Fish and Game	60
Public Safety	12
Environmental Conservation	25
Community & Regional Affairs	
Fiscal	16
CETA Division	23
Municipal Grants	18
Transportation and Public Facilities	
Fiscal	39
Anchorage	~~13~~
Fairbanks	23
Anchorage Airport	17
Southeast	25
Ombudsman	7
Legislative Affairs	1
Legislative Finance	1
Legislative Audit	8
Alaska Court System	24

MSA/kw
4F1/0514-3/26

02-001A(Rev.10/79)

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: April 2, 1982

FILE NO:

TELEPHONE NO: 465-2260

FROM: M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

SUBJECT: Payment Time

Just file - Do Not Distribute

After reviewing the Vendor Analysis for the month of March, it has been determined that it took the State an average of 27 days to pay its bills during this month. This is the same number of days as March of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	35
Fiscal - Anchorage	41
Administration	
Fiscal - Juneau	30
Fiscal - Anchorage	22
Employee Housing	49
Public Defender	25
Public Broadcasting	24
Law	22
Revenue	12
Fiscal	12
Garnishments	
Education	
Fiscal	42
Vocational Rehabilitation	37
District School Support	21
Health & Social Services	
Fiscal	26
Public Assistance	1
Social Services	17
Labor	
Fiscal	22
Anchorage Support Service	1

Agency	Payment Days
Commerce and Economic Development	23
Military Affairs	33
Natural Resources	30
Fish and Game	60
Public Safety	12
Environmental Conservation	27
Community & Regional Affairs	
Fiscal	15
CETA Division	21
Municipal Grants	23
Transportation and Public Facilities	
Fiscal	26
Anchorage	32
Fairbanks	32
Anchorage Airport	19
Southeast	30
Ombudsman	3
Legislative Affairs	8
Legislative Finance	2
Legislative Audit	11
Alaska Court System	25

MSA/kw
4F1/0408-20/26

02-001A(Rev.10/79)

MEMORANDUM

State of Alaska

TO: Administrative Officers
All Agencies

DATE: March 9, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of February, it has been determined that it took the State an average of 30 days to pay its bills during this month. This is a 2 day decrease over February of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	29
Fiscal - Anchorage	35
Administration	
Fiscal - Juneau	40
Fiscal - Anchorage	34
Employee Housing	37
Public Defender	26
Public Broadcasting	7
Law	25
Revenue	
Fiscal	15
Garnishments	8
Education	
Fiscal	36
Vocational Rehabilitation	41
District School Support	33
Health & Social Services	
Fiscal	36
Public Assistance	53
Social Services	8
Labor	
Fiscal	31
Anchorage Support Service	15

Agency	Payment Days
Commerce and Economic Development	26
Military Affairs	36
Natural Resources	41
Fish and Game	78
Public Safety	27
Environmental Conservation	28
Community & Regional Affairs	
Fiscal	20
CETA Division	31
Municipal Grants	26
Transportation and Public Facilities	
Fiscal	27
Anchorage	33
Fairbanks	39
Anchorage Airport	30
Southeast	41
Ombudsman	7
Legislative Affairs	12
Legislative Finance	3
Legislative Audit	7
Alaska Court System	25

MSA/kw
4F1/0308-4-1/26

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: February 8, 1982

FILE NO:

TELEPHONE NO: 465-2260

FROM: Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

SUBJECT: Payment Time

After reviewing the Vendor Analysis for the month of January, it has been determined that it took the State an average of 31 days to pay its bills during this month. The schedule below shows the payment time for each agency.

Agency	Payment Days
Office of the Governor	
Fiscal - Juneau	36
Fiscal - Anchorage	80
Administration	
Fiscal - Juneau	34
Fiscal - Anchorage	47
Employee Housing	49
Public Defender	33
Public Broadcasting	6
Law	29
Revenue	
Fiscal	17
Garnishments	8
Education	
Fiscal	37
Vocational Rehabilitation	39
District School Support	36
Health & Social Services	
Fiscal	36
Public Assistance	10
Social Services	8
Labor	
Fiscal	26
Anchorage Support Service	16

Agency	Payment Days
Commerce and Economic Development	23
Military Affairs	40
Natural Resources	34
Fish and Game	62
Public Safety	17
Environmental Conservation	30
Community & Regional Affairs	
Fiscal	16
CETA Division	24
Municipal Grants	17
Transportation and Public Facilities	26
Fiscal	37
Anchorage	44
Fairbanks	27
Anchorage Airport	42
Southeast	25
Ombudsman	25
Legislative Affairs	7
Legislative Finance	10
Legislative Audit	7
Alaska Court System	40

FINFPM/020882-6/32

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: December 8, 1981

FILE NO:

TELEPHONE NO: 465-2260

FROM: Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

SUBJECT: Payment Time

After reviewing the Vendor Analysis for the month of November, it has been determined that it took the State an average of 26 days to pay its bills during this month. This is a four day decrease over November of last year. The schedule below shows the payment time for each agency.

Agency	Payment Days
Office of the Governor	
Fiscal - Juneau	26
Administration	
Fiscal - Juneau	26
Fiscal - Anchorage	34
Employee Housing	29
Public Defender	35
Public Broadcasting	79
Law	26
Revenue	
Fiscal	27
Garnishments	7
Education	
Fiscal	28
Vocational Rehabilitation	38
District School Support	17
Health & Social Services	
Fiscal	30
Public Assistance	7
Social Services	7
Labor	
Fiscal	20
Anchorage Support Service	25

Agency	Payment Days
Commerce and Economic Development	29
Military Affairs	40
Natural Resources	33
Fish and Game	55
Public Safety	21
Environmental Conservation	29
Community & Regional Affairs	
Fiscal	21
CETA Division	25
Municipal Grants	4
Transportation and Public Facilities	34
Fiscal	36
Anchorage	38
Fairbanks	29
Anchorage Airport	47
Southeast	
Ombudsman	8
Legislative Affairs	6
Legislative Finance	2
Legislative Audit	7
Alaska Court System	21

FINFRN1/120781-5/32

HB

2091

Introduced: 2/17/83
Referred: State Affairs and
Finance

IN THE HOUSE BY BUSSELL

HOUSE BILL NO. 209

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act placing emergency guards employed by the department of public safety in the partially exempt service."

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

* Section 1. AS 39.25.~~110~~ 120 is amended by adding a new paragraph to read:

(~~22~~ 19) emergency guards employed by the Department of Public Safety.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

February 24, 1983

TO: Members of the House State Affairs Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: House Bill 207 - Placing Emergency Guards Employed by the Department of Public Safety in the Exempt Service

The Blue Ribbon Commission is recommending that emergency guards employed by the Department of Public Safety be moved from the classified service to the exempt service. In 1979, the coommission sponsored legislation to place greater restraints on the employment of both nonpermanent and emergency classified state workers. These restrictions have created some difficulties for the Department of Public Safety because of the large number of emergency guards they hire. In 1982 the department hired 495 emergency guards. There were only 112 other emergency appointments in the state.

An emergency employee is defined as "an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest". AS 39.25.200(3). Departments are required to report the reason for hiring an emergency employee within 15 working days of the appointment. Personnel practices require that departments prepare Personnel Action forms at the beginning and ending of an emergency appointment. Departments are not required to report as extensively for an appointment to an exempt position.

According to the Division of Personnel's "Report on Nonpermanent and Emergency Employment 1982", the Department of Public Safety made 495 emergency guard hires in 1982. These employees guard prisoners or seized property in rural areas where a one- or two-person post prevents a trooper from maintaining 24-hour per day watch. The period required for the emergency service is between arrest and either arraignment or transportation to a correctional facility or until other arrangements are made to maintain custody of the seized property. According to the Department of Public Safety, typical appointments last from two to four days.

In its report, the Division of Personnel states that the conditions for making emergency appointments place a significant paperwork burden on the Department of Public Safety, and on the Divisions of Personnel, Finance, and Retirement and Benefits in the Department of Administration. The division and the department recommend that emergency guards working for the Department of Public Safety be placed in the exempt service. The division points out that there are similarities between these positions and emergency firefighters in the department, who are already included in the exempt service by statute. AS 39.25.110(19).

The Blue Ribbon Commission agrees with the recommendation. Emergency guards are typically employed repeatedly in the locations which need them, but for short times each time. The paperwork burden on the department would be substantially greater than the effect on the employee because the appointments are of such short duration. (The protections for emergency appointments are not much greater, if at all, than for exempt employees.) The continuing need for these appointments has been adequately documented.

The problem for the Department of Public Safety derives from the large number of emergency guards which they must hire. The following table shows the five job classes in which emergency appointments were most frequently made in 1982.

JOB CLASSIFICATION	DEPARTMENT	NUMBER OF APPOINTMENTS
Guards	Public Safety	495
Fish Culturist I	Fish and Game	30
Fish & Game Tech II	Fish and Game	17
Psychiatric Nurses Ass't I	Health & Social Services	12
Fish & Game Tech III	Fish and Game	9

Bill Analysis

Section 1 adds emergency guards employed by the Department of Public Safety to the section of the State Personnel Act which lists exempt positions.

TBC:lmk

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 209 Date on Bill: 2-17-83
Title: "An Act placing emergency guards..."
Sponsor: Bussel
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures: No fiscal impact is anticipated.

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: 2-23-83

Approved by Commissioner: Date: 2-1-83
Department: Department of Public Safety

5. Distribution:
Original to Legislative Finance
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2/15/83

ination unless the questions are to be used in future examinations. (§ 18 ch 144 SLA 1960; am § 5 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, substituted the present provisions of this section for the provisions set out in the main pamphlet.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Article 2. Coverage of Personnel.

Section
90. Coverage of chapter
110. Exempt service
120. Partially exempt service
130. Extension of partially exempt and classified services

Sec. 39.25.090. Coverage of chapter. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the exempt and partially exempt service as specifically provided. (§ 3 ch 144 SLA 1960; am § 6 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, inserted "exempt and" in item (2).

Sec. 39.25.110. Exempt service. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices, judges, magistrates, and employees of the judicial branch including employees of the Judicial Council;

(3) employees of the state legislature and its agencies;

(4) the head of each principal department in the executive branch;

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 — 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(7) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Department of Education;

(8) patients and inmates employed in state institutions;

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;

(10) members of boards, commissions, or authorities;

(11) the officers and employees of the following boards, commissions, and authorities:

(A) Alaska Gas Pipeline Financing Authority;

(B) Alaska Permanent Fund Corporation;

(C) Alaska Energy Center;

(D) Alaska Industrial Development Authority;

(E) Alaska Commercial Fisheries Entry Commission;

(F) Alaska Commission on Postsecondary Education;

(12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(13) licensed physicians, as defined in AS 47.30.340(9), employed by the state;

(14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission, except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;

(15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) firefighters employed by the Department of Natural Resources for a fire emergency;

(20) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(21) [Repealed June 30, 1988] Employees of the Citizens' Advisory Commission on Federal Areas in Alaska (AS 41.37.010). (§ 5 ch 144 SLA 1960; am § 1 ch 48 SLA 1961; am § 1 ch 133 SLA 1961; am § 3 ch 93 SLA 1962; am § 3 ch 24 SLA 1966; am § 31 ch 46 SLA 1970; am § 65 ch 69 SLA 1970; am § 13 ch 113 SLA 1970; am § 3 ch 78 SLA 1971; am § 18 ch 78 SLA 1974; am § 42 ch 127 SLA 1974; am § 2 ch 32 SLA 1975; am § 2 ch 79 SLA 1975; am § 37 ch 124 SLA 1975; am § 1 ch 157 SLA 1976; am § 3 ch 90 SLA 1978; am § 7 ch 18 SLA 1980; am § 43 ch 106 SLA 1980; am § 10 ch 131 SLA 1980; am § 4 ch 148 SLA 1980; am § 4 ch 100 SLA 1981; am §§ 2, 3 ch 37 SLA 1982; am § 7 ch 112 SLA 1982)

Effect of amendments. — The 1981 amendment added a paragraph (26), relating to employees of the Alaska Seafood Marketing Institute. These provisions are now contained in paragraph (18) of this section as amended by ch. 112, SLA 1982.

Section 2 of the first 1982 amendatory

Sec. 39.25.195. Appointment of nonpermanent employees.

Cross references. — For local hiring exception, see AS 39.25.196

Sec. 39.25.196. Local hiring exception. (a) Notwithstanding the provisions of AS 39.25.195, a hiring department or agency may grant a preference to local residents in the appointment of nonpermanent employees or in the appointment of permanent employees to perform seasonal work assignments of 180 calendar days or less in a 12-month period. If there are no local residents on the applicable eligible list for a nonpermanent or a permanent seasonal position or if the local residents on the applicable eligible list are unavailable, the hiring department or agency may obtain referrals of qualified job applicants for these positions from the job service office of the Department of Labor serving the area and from those applicants select a qualified person who is a local resident for the position.

(b) Appointment of a nonpermanent employee in accordance with (a) of this section does not require the prior written approval of the director under AS 39.25.195. (§ 3 ch 89 SLA 1982; AS 39.25.181)

Effective dates. — Section 4, ch. 89, SLA 1982, makes this section effective June 5, 1982, in accordance with AS 01.10.070(c).

Editor's notes. — This section was enacted as AS 39.25.181 but was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 39.25.200. Definitions. In AS 39.25.195 — 39.25.200

(1) "certified" means signed by the head of a department or agency or by a responsible person designated by him;

(2) "director" means the director of the division of personnel;

(3) "emergency employee" means an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest;

(4) "nonpermanent employee" means a person who is employed in state service in a position which is not in the exempt or partially exempt service and who is not a permanent or an emergency employee;

(5) "permanent employee" means an employee who has been appointed to an authorized, permanent full-time or part-time or permanent seasonal position in the classified service and who is in the process of completing or has successfully completed the required probationary service in that position;

(6) "program or project employee" means a nonpermanent employee, including a student intern, who is employed in state service with prior written understanding that employment in that position will continue for at most the duration of a specified program or project which is not a regular and continuing function of a department or agency and which

has an established probable date of termination. (§ 4 ch 67 SLA 1979; am § 79 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment, effective May 28, 1982, deleted "and labor relations" following "division of personnel" in paragraph (2).

Chapter 27. Pay Plan for State Employees.

Section
11. Salary schedule

Sec. 39.27.011. Salary schedule. (a) The following monthly basic salary schedule is approved as the pay plan for classified and partially exempt employees in the executive branch of the state government who are not members of a collective bargaining unit established under the authority of the Public Employment Relations Act:

Range No.	Step A	Step B	Step C	Step D	Step E	Step F
05	1,258	1,292	1,330	1,367	1,408	1,445
06	1,330	1,367	1,408	1,445	1,487	1,530
07	1,408	1,445	1,487	1,530	1,578	1,627
08	1,487	1,530	1,578	1,627	1,673	1,726
09	1,578	1,627	1,673	1,726	1,782	1,832
10	1,673	1,726	1,782	1,832	1,889	1,946
11	1,782	1,832	1,889	1,946	2,010	2,073
12	1,889	1,946	2,010	2,073	2,145	2,218
13	2,010	2,073	2,145	2,218	2,295	2,379
14	2,145	2,218	2,295	2,379	2,463	2,556
15	2,295	2,379	2,463	2,556	2,639	2,739
16	2,463	2,556	2,639	2,739	2,838	2,941
17	2,639	2,739	2,838	2,941	3,041	3,146
18	2,838	2,941	3,041	3,146	3,249	3,371
19	3,041	3,146	3,249	3,371	3,475	3,605
20	3,249	3,371	3,475	3,605	3,714	3,851
21	3,475	3,605	3,714	3,851	3,971	4,115
22	3,714	3,851	3,971	4,115	4,251	4,408
23	3,971	4,115	4,251	4,408	4,554	4,725
24	4,251	4,408	4,554	4,725	4,885	5,050
25	4,554	4,725	4,885	5,050	5,236	5,433
26	4,725	4,885	5,050	5,236	5,433	5,629
27	4,885	5,050	5,236	5,433	5,629	5,843
28	5,050	5,236	5,433	5,629	5,843	6,047
29	5,236	5,433	5,629	5,843	6,047	6,259
30	5,433	5,629	5,843	6,047	6,259	6,480

(b) Repealed by § 38 ch 3 SLA 1980.

(c) If a state officer or employee is appointed a deputy department head or a division director and, at the time of appointment, the officer

Chapter 89

AN ACT

Authorizing preference for hiring local residents for positions in the state service; and providing for an effective date.

Section 1. AS 39.25.150(6) is amended to read:

(6) the procedure for certifying eligibles, including the granting of employment preference to local residents in accordance with AS 39.25.181 or under appropriate circumstances;

Sec. 2. AS 39.25.150(9) is amended to read:

(9) nonpermanent appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200, including the granting of employment preference to local residents in accordance with AS 39.25.181;

Sec. 3. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.181. LOCAL HIRING EXCEPTION. (a) Notwithstanding the provisions of AS 39.25.195, a hiring department or agency may grant a preference to local residents in the appointment of nonpermanent employees or in the appointment of permanent employees to perform seasonal work assignments of 180 calendar days or less in a 12-month period. If there are no local residents on the applicable eligible list for a nonpermanent or a permanent seasonal position or if the local residents on the applicable eligible list are unavailable, the hiring department or agency may obtain referrals of qualified job applicants for these positions from the job service office of the Department of Labor serving

the area and from those applicants select a qualified person who is a local resident for the position.

(b) Appointment of a nonpermanent employee in accordance with (a) of this section does not require the prior written approval of the director under AS 39.25.195.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.070(c).

Source

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A Report on Nonpermanent and Emergency Employment 1982

Prepared by the
Division of Personnel

January, 1983

NONPERMANENT EMPLOYMENT

FOURTH ANNUAL REPORT

January 1, 1983

PURPOSE:

The purpose of this report is to be in compliance with AS 39.25.195 (Ch. 67, SLA 1979). That statute in pertinent part requires:

> The director shall present a report on nonpermanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. . . . The report shall include information on the number of nonpermanent employees authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of nonpermanent employees, and any recommendations for legislation required to implement the intent of this section. (AS 39.25.295 (h))

The statute became effective January 1, 1980. This report covers the third full calendar year of activity. The format has been expanded to report on the effect of local preference in nonpermanent appointments which became effective June 5, 1982 (Ch. 89, SLA 1982).

The Number of Nonpermanent Employees Authorized:

AS 39.25.195-200 provides for four types of nonpermanent appointments: program, project, substitute, and (for lack of a specific statutory label) normal. During calendar year 1982, departments had submitted formal requests to establish 126 program, 197 project, and 101 normal nonpermanent positions. One hundred eighty-seven nonpermanent positions authorized in prior years continued into 1982. The departments also indicated their intent to fill 203 permanent positions with nonpermanent substitutes. Table 1 compares 1980, 1981 and 1982 figures.

Table 1

Nonpermanent Positions Requested

	1980	1981	1982
Program	254	149	126
Project	237	198	197
Normal	225	71	101
Subtotal	716	418	424
Permanent Positions to be filled with substitutes	179	229	203

The Legislative Findings and Intent connected with AS 39.25.195-200 included the intent to unmask poor planning. The schedule established by the Division of Personnel for identifying the need for a nonpermanent position places two and one-half months advance notice as the criterion to call a position planned. Of the 424 program, project and normal nonpermanent positions identified by departments, one meets the two and one-half month criterion for planning and 423 do not. Table 2 compares these figures to 1980 and 1981.

Table 2

Nonpermanent Positions - Planned Versus Unplanned

	1980	1981	1982
Planned	58	4	1
Unplanned	658	414	423
Total	716	418	424

As of December 15, 1982, there were 165 program, project and normal nonpermanent employees on the State payroll. Table 3 provides a comparison with the previous three years. Summary data by department of program, project and normal nonpermanent employees is presented in Addendum A.

Table 3

Nonpermanent Employees as of December 15

1979*	1980	1981	1982
425	99	130	165

*Temporary employees in agencies subject to AS 39.25.195-200

Since June 5, 1982, (the effective date of Ch. 89, SLA 1982) 59 program, project and normal nonpermanent appointments were made based on eligible lists issued by the Division. Ten of the 59 appointments were of qualified applicants referred by Job Service. The locations of the positions and the local referrals are shown in Table 4.

Table 4

Location of Nonpermanent Positions Filled by Local Preference Job Service Referral, June 5 to December 31, 1982

Juneau	8
Anchorage	1
Ketchikan	1
	10

The Number of Emergency Employees Hired:

AS 39.25.195-200 incorporated provisions of the Personnel Rules regarding emergency employees. While little change was required to implement this portion of the law for most agencies, the most frequent use of emergency appointments - guarding prisoners and protecting seized property - has been significantly impacted. The Department of Public Safety hires emergency employees to guard prisoners or seized property in rural areas where a one or two person post prevents a Trooper from maintaining 24-hour per day watch. The period required for emergency service is between arrest and either arraignment or transportation to a correctional facility or until other arrangements are made to maintain custody of the seized property. It is not possible to predict the situations requiring those services with sufficient detail to make regular nonpermanent appointments. For each appointment all of the paperwork to hire an emergency Guard, document the emergency, and separate the employee must be completed. The Department of Public Safety made 495 such emergency appointments in 1982.

Departments made 114 emergency appointments, other than emergency Guards, during 1982. Table 5 shows that number of emergency appointments by Division and Department ranked according to the number of such appointments. Addendum B provides details on these appointments.

Table 5

Emergency Appointments[1] 1982

Department	Division		
Fish & Game	F.R.E.D.	38	
	Commercial Fisheries	19	
	Game	11	
	Subsistence	4	
	Sport Fish	2	
			74
Health & Social Services	Mental Health	14	
	Corrections	6	
	Public Health	2	
			22
Law	Criminal	5	
	Civil	1	
			6
Education	Adult & Continuing Education	3	
			3
Transportation & Public Facilities	Interior Region, Maintenance & Operations	3	
			3
Public Safety	State Troopers	3	
			3
Military Affairs	Military Affairs	2	
			2
Natural Resources	Admin. & Management	1	
			1
			114

[1]Other than guarding of prisoners.

A Description of Procedures Used in Authorizing the Hiring of Nonpermanent Employees:

The initial procedures to implement the nonpermanent law were attached to the first annual report. Amendments were made in 1980 and the updated procedures were attached to the second annual report. No changes in procedures were made during 1981. Ch. 89, SLA 1982, "An Act authorizing preference for hiring local residents for positions in the state service; and providing for an effective date," became effective June 5, 1982. Personnel Rule amendments incorporating local preference became effective on June 30. On August 25, the changes in the law and Rules were incorporated in the procedures for hiring nonpermanent employees. The procedures are 32 pages in length. Ten copies have been supplied to Legislative Affairs with this report. Additional copies are available by contacting the Division office at:

Division of Personnel
Pouch C-0201
Juneau, AK 99811-0201

or calling (907) 465-4430.

Recommendation for Legislation Required to Implement the Intent of this Section:

Prior to the effective date of the nonpermanent law the Personnel Rules provide flexibility in the emergency hiring of guards for prisoners. The definition of "emergency employee" in AS 39.25.200(3) is less flexible and presents a significant paperwork burden on the Department of Public Safety, and consequently the Divisions of Personnel, Finance, and Retirement and Benefits. As indicated under "The Number of Emergency Employees Hired," the Department of Public Safety made 495 emergency guard hires in 1982. However, only 136 different employees were hired. Several potential solutions to the situation have been discussed with the management of the Department. We and they have concluded that the best long-range solution is to place these positions in the exempt service. There are many similarities between these positions and emergency firefighters of the Department of Natural Resources, which are already placed in the exempt service (AS 39.25.110(19)). We therefore recommend the adoption of an additional subsection as follows: "AS 39.25.110(22) emergency guards employed by the Department of Public Safety."

ADDENDUM A

Program, Project, and Normal Employees by Department

December 15

Department	Program			Project			Normal			Department Total		
	1980	1981	1982	1980	1981	1982	1980	1981	1982	1980	1981	1982
Administration	1	2	4	1	14	6	1	0	1	3	16	11
Law	6	3	4	0	1	2	0	0	0	6	4	6
Revenue	0	4	13	22	8	25	0	0	0	22	12	38
Education	5	13	20	1	1	2	0	0	0	6	14	22
Health & Social Services	0	0	1	0	7	19	0	0	0	0	7	20
Labor	15	3	0	1	1	1	0	0	0	16	4	1
Commerce & Economic Development	0	0	0	0	6	0	0	0	0	0	6	0
Military Affairs	0	0	0	0	0	0	0	0	0	0	0	0
Natural Resources	15	38	49	1	15	4	4	1	1	34	54	54
Fish and Game	1	1	4	0	10	2	5	1	0	6	12	6
Public Safety	0	0	0	0	0	3	1	0	3	1	0	6
Environmental Conservation	0	0	0	0	0	0	0	0	0	0	0	0
Community & Regional Affairs	5	0	0	0	1	1	0	0	0	5	1	1
Transportation & Public Facilities	0	0	0	0	0	0	0	0	0	0	0	0
TOTALS	48	64	95	40	64	65	11	2	5	99	130	165

ADDENDUM B
Emergency Employees By Department and Division, 1982

Fish and Game
F.R.E.D.

NAME	Job Class	Appt. Date	Sep. Date	Reason
Cole, Dale A.	Fish Culturist I	05/10/82	05/12/82	No Interest People Off Register
Rhodes, James M.	Fish Culturist I	05/17/82	05/31/82	No Interested People Off Register
McMichael, Deborah K.	Fish Culturist I	04/08/82	04/30/82	Replace Permanent Employee
Hayward, Thomas B.	Fish Culturist I	06/07/82	06/30/82	Replace EM Hire
Ness, Edward R., Jr.	Fish Culturist I	05/25/82	06/23/82	Replace Permanent Employee
Monrich, Clark S.	Fish Culturist I	05/26/82	06/18/82	Replace Permanent Employee
Peratrovich, Corrine	Fish Culturist I	05/27/82	06/07/82	Replace Permanent Employees
Heacock, Marta L.	Fish Culturist I	05/17/82	06/07/82	Replace Permanent Employees
Hamilton, Lori E.	Fish Culturist I	05/17/82	06/15/82	Replace Permanent Employee
Brannen, Jennifer	Fish Culturist I	05/19/82	06/15/82	Replace Permanent Employee
Morrison, Ann E.	Fish Culturist I	05/17/82	06/01/82	Replace Permanent Employee
Lalik, Heather E.	Fish Culturist I	05/17/82	06/15/82	Replace Permanent Employee
Birnbaum, Molly K.	Fish Culturist I	05/19/82	06/15/82	Replace Permanent Employee
Link, Gerald	Fish Culturist I	06/07/82	07/02/82	Replace Permanent Employee
Tremblay, Ryan R.	Fish Culturist I	09/08/82	09/17/82	Take care of work backlog
Collins, Donna	Fish Culturist I	06/21/82	06/21/82	Replace Permanent Employee
Murphy, Marjorie K.	Fish Culturist I	05/03/82	05/26/82	Help with work overload
Thompson, Carol L.	Fish Culturist I	08/02/82	08/13/82	Take care of backlog
Rosenbalm, Glenda M.	Fish Culturist I	08/02/82	08/31/82	Take care of backlog
Kunkler, Carol L.	Fish & Game Technician II	08/02/82	08/24/82	Take care of work backlog
Sullivan, Sharon A.	Fish & Game Technician II	08/10/82	08/24/82	Replaced Permanent Employee
Jacobs, Laura L.	Fish & Game Technician II	07/30/82	08/24/82	Replaced Permanent Employee
Jacobs, Laura L.	Fish Culturist I	08/31/82	09/23/82	Replace Permanent Employee
Sugita, Brent T.	Fish & Game Technician II	07/01/82	07/01/82	Replaces Permanent Employee
Souze, Victoria	Fish Culturist I	07/15/82	07/29/82	Take care of work backlog
Patton, Ellie	Fish Culturist I	07/15/82	07/29/82	Take care of work backlog
Kaneshiro, Stuart K.	Fish Culturist I	07/15/82	08/13/82	More work than expect
Elston, David L.	Fish Culturist I	07/15/82	07/29/82	Take care of work backlog
Henry, Charles B.	Fish Culturist I	09/01/82	09/30/82	Replace Permanent Employee
Goodwin, John, Sr.	Fish Culturist I	09/01/82	09/30/82	Replace Permanent Employee
Goodwin, Pearl	Fish Culturist I	09/07/82	09/30/82	Replace Permanent Employee
Foster, Amos, Sr.	Fish Culturist I	09/01/82	09/03/82	Take care of work backlog
Nelson, Gary S.	Trades Helper VII	05/19/82	05/25/82	Repair Water Line
Stalcup, Richard B.	Maintenance Worker I	05/19/82	05/26/82	Replace Permanent Employee, Repair Waterline
Bowling, Robert D.	Trades Helper VII	02/16/82	03/12/82	Repair Water System
McCracken, Kenneth	Trades Helper VII	02/16/82	03/01/82	Repair Water System
Burnett, Robert C.	Fish Culturist I	06/15/82	07/14/82	Take care of work backlog
Mann, Paul A.	Fish & Game Technician II	06/15/82	06/30/82	Replace Permanent Employee

Fish and Game
Commercial Fisheries

NAME	Job Class	Appt. Date	Sep. Date	Reason
Echols, Catherine	Fish & Game Technician II	06/24/82	07/17/82	Replace Permanent Employee
McNatt, JoAnn	Clerk Typist III	11/30/82	12/28/82	Replace Permanent Employee
Harman, Kathy	Fish & Game Technician II	06/28/82	07/28/82	Replaces Permanent Employee
Mangiardi, Joseph L.	Fishery Biologist I	06/06/82	07/16/82	Replace Permanent Employee
Smoker, Frances	Fish & Game Technician II	07/06/82	07/16/82	Replace Permanent Employee
Harrison, Robert	Fish & Game Technician III	05/18/82	06/08/82	Replace Permanent Employee
Peters, William F.	Fish & Game Technician III	07/16/82	08/13/82	Replaced Permanent Employee
Boyle, Donald	Fish & Game Technician II	11/10/82	11/23/82	Replace Permanent Employee
Fillingham, Philip H., Jr.	Fish & Game Technician III	07/16/82	07/23/82	Replaced Permanent Employee
Tranfro, Peter	Fishery Biologist I	07/02/82	07/20/82	Replace Permanent Employee
Burt, Emily	Fish & Game Technician II	07/04/82	07/20/82	Replace Permanent Employee
Eubanks, Elizabeth	Fish & Game Technician III	07/16/82	08/02/82	Replaced Permanent Employee
Palmer, Stephen F.	Fish & Game Technician III	07/22/82	08/17/82	Take care of work backlog
Alexan, Danny T., Sr.	Fish & Game Technician I	05/17/82	06/23/82	Obtain harvest data
Puckett, Donnie R.	Fish & Game Technician I	05/17/82	06/11/82	Obtain harvest data
Kumaek, Susan K.	Fish & Game Technician II	06/23/82	07/01/82	Replace Permanent Employee
Constantine, Michael	Fish & Game Technician I	05/17/82	05/21/82	Obtain harvest information
Lance, Todd E.	Fish Culturist I	06/02/82	07/01/82	No Interested People Off Register
Ashworth, Karen	Data Entry Clerk I	07/16/82	07/29/82	Work backlog

Fish and Game
Game

NAME	Job Class	Appt. Date	Sep. Date	Reason
Bibb, Aimee	Clerk Typist III	08/05/82	09/03/82	Replaced Permanent Employee
Ferguson, Norris	Secretary I	02/19/82	03/08/82	Replace Permanent Employee
Yaska, Vincent	Fish & Game Technician II	03/01/82	03/11/82	Replace Permanent Employee
Hogarth, Keith	Fish & Game Technician II	08/10/82	09/09/82	To assist with bison depredation control
Honea, James S.	Fish & Game Technician III	09/01/82	09/27/82	Take care of work backlog
Yasha, Vincent	Fish & Game Technician II	09/01/82	09/26/82	Take care of work backlog
Gillaspie, Sheree L.	Fish & Game Technician II	08/26/82	09/24/82	Take care of work backlog
Huntington, Gilbert	Fish & Game Technician II	09/03/82	09/26/82	Take care of work backlog
Holbrook, Janet L.	Fish & Game Technician III	09/11/82	09/26/82	Take care of work backlog
Henry, Arthur , Jr.	Fish & Game Technician III	09/15/82	09/20/82	Take care of work backlog
Rogers, Phyllis H.	Clerk Typist III	02/01/82	03/02/82	Replace Permanent Employee

Fish and Game
Subsistance

NAME	Job Class	Appt. Date	Sep. Date	Reason
Peel, Janet C.	Clerk Typist III	01/04/82	01/10/92	Replace Permanent Employee
Sumida, Valerie A.	Secretary I	01/25/82	02/23/82	Fill Permanent Position
Thomas, Daniel	Fish & Game Resource Spec. II	01/11/82	02/05/82	Complete Report
Dindinger, Carole	Administrative Assistant II	11/16/82	12/15/82	Help with budget preparation

Fish and Game
Sport Fish

NAME	Job Class	Appt. Date	Sep. Date	Reason
Jensen, Kathleen A.	Fish & Game Technician III	08/10/82	09/02/82	Take care of work backlog
Virgin, David H.	Fish & Game Technician II	06/19/82	07/04/82	Replace Permanent Employee

Health & Social Services
Mental Health

NAME	Job Class	Appt. Date	Sep. Date	Reason
Anderson, David	Food Services Worker I	03/11/82	04/09/82	Provide meals to patients
Wilson, Jubal	Psychiatric Nurse Asst. I	07/12/82	07/18/82	Replaces Permanent Employee
Maxwell, Audra	Psychiatric Nurse Asst. I	07/07/82	07/12/82	Increased patient load
Schmitt, Kelcy V.	Psychiatric Nurse Asst. I	07/07/82	07/12/82	Increased patient load
Nelson, Mark W.	Psychiatric Nurse Asst. I	07/07/82	07/12/82	Increased Patient Load
Schoenberg, Marc C.	Psychiatric Nurse Asst. I	07/07/82	07/12/82	Increased Patient Load
Anshutz, Robert G.	Psychiatric Nurse Asst. I	07/07/82	07/12/82	Increased Patient Load
Harley, Keith R.	Psychiatric Nurse Asst. I	07/07/82	07/12/82	Increased Patient Load
Conn, John A., II	Psychiatric Nurse Asst. I	07/07/82	07/12/82	Increased Patient Load
Eastlake, Steven R.	Psychiatric Nurse Asst. I	07/07/82	07/12/82	Increased Patient Load
King, James G.	Psychiatric Nurse Asst. I	07/07/82	07/12/82	Increased Patient Load
Olsen, Jeffrey W.	Psychiatric Nurse Asst. I	07/07/82	07/12/82	Increased Patient Load
Taylor, Diane	Clerk II	11/03/82	12/02/82	Replace Permanent Employee
French, Judith L.	Psychiatric Nurse Asst. I	07/21/82	08/03/82	Replaced Permanent Employee

Health & Social Services
Corrections

NAME	Job Class	Appt. Date	Sep. Date	Reason
McCollister, Gary L.	Correctional Officer I	08/16/82	10/04/82	Take care of work backlog
Hanson, Gregory	Correctional Officer I	08/18/82	09/29/82	Take care of work backlog
Storms, Donald	Correctional Officer I	12/03/82		Maintain adequate security
Lyon, Tabitha	Correctional Officer I	06/07/82	06/30/82	Replace Permanent Employee
Lyon, Tamitha A.	Correctional Officer I	02/15/82	03/15/82	Replace Permanent Employee
Conidi-Voltz, Julie A.	Correctional Officer I	06/08/82	07/08/82	Facility Short Staffed

Health & Social Services
Public Health

NAME	Job Class	Appt. Date	Sep. Date	Reason
Morrison, Linda D.	Clerk Typist II	02/16/82	02/25/82	Provide Clerical Support to P.H.N.
McLane, Margaret D.	Clerk Typist II	04/13/82	04/30/82	Replace Permanent Employee

Law
Criminal

NAME	Job Class	Appt. Date	Sep. Date	Reason
Mayer, Laurie A.	Legal Secretary I	03/04/82 20 days	03/24/82	Replace Permanent Employee
Unerti, Roberta A.	Clerk Typist III	06/07/82 3 days	07/07/82	Replace Permanent Employee
Dentler, Georgeanne	Clerk Typist III	08/09/82 3 days	09/10/82	Replaced Permanent Employee
Hoadley, Marion C.	Legal Secretary II	09/21/82 — — —	09/21/82	Replace Permanent Employee
Smithson, Kim M.	Clerk Typist III	03/11/82 5 days	03/16/82	Replace Permanent Employee on Annual Leave

Law
Civil

NAME	Job Class	Appt. Date	Sep. Date	Reason
Skurla, Karen L.	Clerk Typist III	05/28/82 (w/k)	06/04/82	Replace Permanent Employee

Education
Adult & Cont. Education

NAME	Job Class	Appt. Date	Sep. Date	Reason
Tippit, Michael	Laborer VIII	08/11/82	08/12/82	To help clean up fire damage
Svabik, Mark	Laborer VIII	08/11/82	08/12/82	To help clean up fire damage
Ronne, Mark S.	Laborer VIII	08/11/82	08/12/82	To help clean up fire damage

(2 days)

Transportation & Public Facilities
Interior Region H & O

NAME	Job Class	Appt. Date	Sep. Date	Reason
Dodge, Larry T.	Security Guard I	02/11/82	03/18/82	Replace Permanent Employee
Dodge, Larry	Security Guard I	01/09/82	01/23/82	Replace Permanent Employee
Kaiser, Kendall	Building Management Spec. II	09/01/82	09/16/82	Replace Permanent Employee

Military Affairs
Military Affairs

NAME	Job Class	Apot. Date	Sep. Date	Reason
Brown, Randall	Laborer VIII	01/20/82	01/20/82	Prevent Float from Sinking
Price, Frank	Laborer VIII	01/20/82	01/20/82	Prevent Float from Sinking

(1 day)

Public Safety
State Troopers

NAME	Job Class	Appt. Date	Sep. Date	Reason
Stirn, Andrea	Data Entry Clerk I	05/17/82	06/11/82	Take care of work backlog
O'Bleness, Barbara	Data Entry Clerk I	05/17/82	06/11/82	Take care of work backlog
Allen, Hazel	Data Entry Clerk I	05/17/82	06/11/82	Take care of work backlog

Natural Resources
Admin. & Management

NAME	Job Class	Appt. Date	Sep. Date	Reason
Foster, Robin	Administrative Officer III	03/30/82	05/01/82	Assume duties of Citizens Advisory Commission

1 Month

State of ALASKA

MEMORANDUM

TO: All Personnel Officers

DATE: January 31, 1980

FILE NO:

TELEPHONE NO:

SUBJECT: Nonpermanent Appointment Procedures: Appendix J

FROM: Bruce Cummings
Director
Division of Personnel
Department of Administration

With this memorandum I am sending the procedures to follow in establishing and filling nonpermanent positions through the Department of Labor, WIN (work incentive) program. These procedures are explained in "Appendix J".

Please distribute "Appendix J" and the new "Appendix Contents" to those employees in your departments who earlier received copies of "Nonpermanent Appointment Procedures."

BC/nl
Attachments
M9/R

WORK INCENTIVE (WIN) PROGRAM PUBLIC SERVICE EMPLOYMENT POSITIONS BY CONTRACT WITH DEPARTMENT OF LABOR

The following actions are necessary for the establishment and filling of nonpermanent positions established as a condition of a contract with the Department of Labor, Employment Security Division, WIN Program.

ESTABLISHMENT OF POSITIONS

The employing department shall establish the position(s) in accordance with steps A through C of "Nonpermanent Appointment Procedures." The position shall be identified as a program position funded under WIN contract with the Department of Labor. The ending date of the position shall be consistent with the contract and may be changed as the contract is amended or renewed.

FILLING OF THE POSITION

A. WIN funded PSE positions will be developed for program registrants by an authorized representative of the local WIN office. The WIN representative will contact an appropriate department when they have a WIN eligible registrant who meets the State's minimum qualifications for the intended job class. The referral need not be on the corresponding state register to be held in consideration for the position. If the department has good and sufficient reason to participate in the WIN PSE program, the WIN office will refer the eligible registrant(s) for an interview. The employing department will make the final decision on all hiring.

B. Determination for eligibility for WIN PSE positions rests with the local WIN office and not the employing department; only WIN registrants meeting the appropriate PSE criteria and the State minimum qualifications for the job class will be referred to the hiring department. The WIN office will send the following form with the registrant being considered for employment:

   Completed State of Alaska Employment Application (02-250)

C. Should employing department decide to appoint the WIN registrant(s), it shall notify the local WIN office.

D. Upon appointment, personnel action shall be completed by the employing department and attached to the employee's State Application.

E. The employing department shall then proceed with the Steps E and F of "Nonpermanent Appointment Procedures."

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The following actions are necessary for the establishment and filling of nonpermanent positions established as a condition of a contract with the Department of Labor, Employment Security Division, WIN Program.

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C. Should employing department decide to appoint the WIN registrant(s), it shall notify the local WIN office.

D. Upon appointment, personnel action shall be completed by the employing department and attached to the employee's State Application.

E. The employing department shall then proceed with the Steps E and F of "Nonpermanent Appointment Procedures."

5 03.9 Preference in State Employment for Alaskans

Preference shall be provided for Alaskans wherein Alaskans shall be certified in rank order ahead of any non-Alaskans on the eligible list.

5 04.0 Position Must Be Classified Before Being Filled

No appointment can be made except to a position that has been classified, or a nonpermanent position that has been approved, and where minimum qualifications have been established and a salary range assigned.

5 04.1 No commitment of appointment or salary rate may be made to a prospective employee until a position has been established, or a nonpermanent position has been approved, and the classification action has been completed, and the proper procedures for filling the vacancy have been followed.

5 05.0 Permanent Appointments

All vacancies in positions in the classified service having an expected duration in excess of the probationary period established for the positions shall be filled by appointment from certification from eligible lists except as otherwise provided in these Rules.

5 06.0 Nonpermanent Appointments

Except when otherwise stated, this Rule shall apply to regular nonpermanent appointments and to nonpermanent program or project appointments.

Requests for authorization to hire a nonpermanent employee require prior written approval of the Director.

The hiring department or agency must certify the following to the Director when seeking authorization for nonpermanent hire: 1) that the Legislature appropriated money for the work in question knowing that it is to be performed by a nonpermanent employee; or 2) that there is an immediate need to fill an authorized, permanent position and it is impractical either to establish the position or to make certification within a reasonable time; or 3) that they could not reasonably have been expected to anticipate the need; or 4) that a program or project exists; (this requirement is necessary only when a department or agency is seeking approval to hire program or project employees); and 5) adequate money is available for the duration of the appointment. A person who make a false certification is personally liable in a civil action to an individual terminated under AS 39.25.197 for any resultant damages and for punitive damages of an amount not to exceed three times the gross monthly salary at which the nonpermanent employee was appointed.

Nonpermanent appointments shall be made from eligible lists in accordance with Rule 4, unless in appropriate circumstances the Director has waived this requirement, or unless a Job Service referral is appointed under Rule 5 03.2.

Nonpermanent employees may not be placed on the State payroll unless the Director has first approved the personnel action for the employee's department, unless the appointment is made under Rule 5 03.2.

A department or agency may not employ any individual as a nonpermanent employee for more than 120 calendar days in a 12-month period unless the Director authorizes an extension. This limitation does not apply to program or project employees.

A department or agency may not use nonpermanent employees to perform a given work assignment for more than 120 calendar days in a 12-month period. This limitation does not apply to program or project employees.

Appointments of program or project employees require prior approval of the Director who must agree a program or project exists.

With prior approval of the Director, an appointing authority may appoint a nonpermanent employee to perform the work of a permanent employee when the permanent employee is on medical, personal or military leave, or in other situations in which the Director determines the appointment of an emergency or permanent employee would be inappropriate or when delay in making a temporary replacement would cause serious disruption. Such employees are not limited to the 120 calendar day limitation. Nonpermanent employees appointed under the provisions of this Rule do not have the rights of employees who hold substitute appointments.

5 07.0 Emergency Appointments

An emergency appointment is an appointment for a period not to exceed thirty (30) calendar days, made under conditions necessitating immediate action to provide for carrying on work that must be continued in the public interest.

An emergency appointment and the circumstances which required it shall be reported to the Director within fifteen days after it is made on a form prescribed by the Director.

In any case in which the need for action for filling a vacancy shall have been known, or could have been known by the exercise of due diligence, far enough in advance to afford opportunity for appropriate action under some other provisions of the Act and these Rules, no emergency shall be deemed to exist and no emergency appointment shall be made.

5 08.0 Provisional Appointments

5 08.1 When authorized by the Director and in the absence of an appropriate eligible list, a provisional appointment of a

MEMORANDUM State of Alaska

TO: All Personnel Officers

DATE: August 25, 1982

FILE NO:

TELEPHONE NO:

Received 8/31/82

FROM: Kenneth L. Kareen
Director
Division of Personnel & Labor Relations
Department of Administration

SUBJECT: Procedures; Nonpermanent Employees

Attached please find revised Nonpermanent Procedures which incorporates procedures to accommodate AS 39.25.196, Local Hiring Exception.

If you have any questions concerning the revised procedures, please feel free to call Mike McMullen, Carolyn DeBerry or myself.

KLK/dm

NONPERMANENT APPOINTMENT PROCEDURES

There are four types of nonpermanent appointments. They are: 1) substitute; 2) program; 3) project; and 4) normal. There is also a not permanent, not nonpermanent type of appointment: emergency.

All nonpermanent appointments require that a position be established prior to the appointment.

Nonpermanent appointments made via Job Service referral in accordance with AS 39.25.181 do not require approval of the appointing Personnel Action in order to be placed on the State payroll. In all other nonpermanent appointments, the employee may NOT be placed on the State payroll unless the appointing Personnel Action is approved by the Director of Personnel.

The procedures for emergency appointments differ from the procedures for nonpermanent appointments; they are addressed separately in Section G.

The types of nonpermanent appointments are addressed in the normal sequence of actions which is:

A - Identification of Need for Nonpermanent Employee
B - Certification of Conditions and Funds
C - Position Approval
D - Selection of Employee
E - Appointment
F - Follow Up on Time Restrictions

A. IDENTIFICATION OF NEED FOR NONPERMANENT EMPLOYEE.

Normal, Program, and Project Appointments.

Two and one-half months prior to the anticipated month of hire the hiring department must submit a completed "Nonpermanent Employee Need Identification" card (02-256) to the Division of Personnel. If a nonpermanent position has already been established and is available for filling, the department does not need to submit a new card.

Illustration II shows the reporting time frame.

Appendix C is a sample of the form including the instructions for completing it.

Nonpermanent Substitute Appointments

To request authority to make a nonpermanent substitute appointment, the hiring department must submit a partially completed "Nonpermanent Employee Need Identification" card along with a "Request for Certification" (02-254). When a department wishes to employ a substitute for more than one position in the same class all position control numbers shall be listed in the Comments. Such a nonpermanent substitute may be called to work during any leave of any of the incumbents. The nonpermanent substitute may not fill in for a vacant position nor do nonpermanent substitute work when all incumbents are present, i.e.; a nonpermanent substitute may not be used to increase the total workforce.

Those portions of the "Nonpermanent Employee Need Identification" card which must be completed are:

1. (a) Department
   (b) Division
   (d) Geographical Code
   (e) Beginning Date

2. (b) Ending Date

Comments:

Identify the position control number or numbers being filled on a substitute basis and state if the incumbent(s) of record is/are on medical, personal or annual leave. If the incumbent(s) is/are on some other type of leave, specify the type.

6. Signature of individual filing this report.

7. (a) Date of report.

The form "Request for Nonpermanent Position and/or Authority to Appoint Nonpermanent Employee" (02-230) is not required for substitute appointments.

B. CERTIFICATION OF CONDITIONS AND FUNDS

The form titled "Request for Nonpermanent Position and/or Authority to Appoint Nonpermanent Employee" constitutes certification by the employing agency that funds are available for the requested position, and that conditions exist in the agency which justify the appointment of a nonpermanent employee in accordance with AS 39.25.200(1).

If a "Nonpermanent Employee Need Identification" form has not been previously submitted, the department must submit a completed card along with the request. If one has been previously submitted, only the request form is required.

This form is to be completed in duplicate. The hiring department must send the form with original signatures to the Director of Personnel. The department Personnel Officer should retain the second copy of the forms.

C. POSITION APPROVAL

The Director of Personnel will indicate approval of the position requested and authority to proceed with an appointment in "Section E -- Approval" of the request form.

Before proceeding with the appointment, the hiring department should note if the approval is "as requested" or "with qualifications stated."

If the request is for a nonpermanent substitute appointment, the authority for the department to make an appointment will be issued by "Section B -- Certification or Authorization" of the "Request for Certification."

D. SELECTION OF EMPLOYEE

The selection of an employee to fill the position by union dispatch, from the appropriate eligible list, or by referral from Job Service must be consistent with collective bargaining agreements, Personnel Rules and statutes. The appointment shall be via union dispatch for Labor, Trades and Crafts positions and an eligible list for other positions (except where other procedures apply as explained below). If, in working an eligible list, NO local residents are interested in or available for the nonpermanent position, the hiring department may obtain referrals of and make appointment from among qualified local job applicants from the Job Service office of the Department of Labor serving the area, or may continue working the eligible list.

In some instances another procedure for selecting an employee may be authorized (such as intern hiring procedures). When another procedure is authorized, the approval will indicate "with qualifications as stated" and instructions shall be detailed in the comments portion of the Approval Section. (Section E of "Request for Nonpermanent Position and/or Authority to Appoint Nonpermanent Employee.")

If there are any questions about the instructions, the department Personnel Officer must obtain clarification from the Division of Personnel before proceeding.

E. APPOINTMENT

The appointment of a nonpermanent employee shall follow established department procedures. Nonpermanent employees appointed as a result of a Job Service referral as provided for in AS 39.25.181 will NOT require Director of Personnel approval of the appointing Personnel Action (02-023) prior to placing the employee on the State payroll. These Personnel Actions, with a notation in the comments section indicating the appointment was made from a Job Service referral in accordance with Local Hire procedures, and with an employment application (02-250) and copy of the Job Service referral card attached, should be processed and distributed according to normal established procedures as applied to permanent appointments.

In all other nonpermanent appointments, the nonpermanent employee may NOT be placed on the State payroll unless the appointing Personnel Action has been approved by the Director of Personnel. After the Personnel Action has been completed, signed and is ready for Payroll, the department must send at least the central Payroll copy and the central Personnel copy (the

entire P.A. is acceptable) directly to the Division of Personnel for approval. For a nonpermanent substitute for more than one position in the same class, the position control number for the first position cited should be used.

Those actions approved by the Division of Personnel will be forwarded to central Payroll. Actions not approved will be returned to the originating agency.

F. FOLLOW UP ON TIME RESTRICTIONS

All nonpermanent employees are time restricted. The normal restriction is 120 days in a 12 month period. Project and program employees are limited by the duration of the specific program or project. Substitute appointments are restricted by the department's identified ending date or the return of the permanent employee, whichever occurs first.

It is the employing department's responsibility to monitor all nonpermanent appointments and originate timely separating Personnel Actions on or before the date that the employment authority has expired.

G. EMERGENCY APPOINTMENTS

Emergency appointments do not require prior approval, eligible list certification or dispatch, or the Director's approval of the Personnel Action. However, use of an eligible list or a dispatch is not precluded.

An emergency employee is:

> . . . an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest. AS 39.25.200(3)

Once an agency has determined that an emergency exists, the agency is not bound by the minimum qualifications for a job class. Prudent management dictates that every effort should be made to find a qualified person including the use of existing eligible lists where time permits. However, given the emergency condition, employees who would not otherwise be qualified may, by necessity, be hired. This Division will not review emergency appointments for minimum qualifications, therefore, a State of Alaska application will not be necessary with the appointing documents.

The preceding paragraph does not relieve the appointing authority from the requirements of other State statues. For example; statutes requiring licensure in order to perform certain activities in this State, as in nursing, must be satisfied.

Within 15 days following an emergency appointment, the employing department shall certify the reasons for the appointment to the Director of Personnel. There is not a prescribed form for this purpose. The certification shall be in the format of a letter or memorandum and must address the following subjects:

1. The reasons for appointing an emergency employee, including description of the work requiring continuance in the public interest and the location of the work.

2. What alternative actions to the appointment were considered or taken, such as:

   a. Reassignment of other employees.

   b. Authorized overtime.

   c. Request for assistance from other government agencies.

3. The name of the emergency employees appointed.

4. The statement: "I hereby certify that the reported facts and statements are correct and that the emergency appointment is justified in accordance with AS 39.25.200(3).

_____ _____

Date Signature of Appointing Authority

This report must be certified by the Commissioner or person designated by the Commissioner under AS 39.25.020(2) as the appointing authority and must be received by the Director of Personnel within 15 working-days of the appointment.

TYPE OF NONPERMANENT OR EMERGENCY	FORMS REQUIRED		STATUS CODE	NORMAL APPOINTMENTS FROM	DURATION OF APPOINTMENT
	ID CARD (02-256)	CERTIFICATIONS (02-230)			
EMERGENCY: Appointment made under conditions requiring immediate action to carry on work required in the public interest; appointments limited to 30 days.	NO	NO[1]	EM		UP TO 30 DAYS
PROGRAM: Appointments to nonpermanent positions created primarily to help the employee; appointment limited to duration of the program.	YES	YES	NG	DISPATCH/ELIGIBLE LIST/JOB SERVICE REFERRAL	DURATION OF PROGRAM
PROJECT: Appointments to complete specific work which is not a regular and continuing function of the department, but which requires more than 120 days to complete; appointments limited to duration of project.	YES	YES	NJ	DISPATCH/ELIGIBLE LIST/JOB SERVICE REFERRAL	DURATION OF PROJECT
NORMAL: Appointment to complete a given work assignment which does not exceed 120 calendar days in a 12 month period in one department.	YES	YES	NT	DISPATCH/ELIGIBLE LIST/JOB SERVICE REFERRAL	UP TO 120 DAYS
SUBSTITUTE: A nonpermanent appointment to a position or group of positions in the same job class which is temporarily vacated by a permanent employee(s) on leave. Appointment limited to duration of the incumbent's leave or an earlier date specified by the department.	YES[2]	NO	NS	DISPATCH/ELIGIBLE LIST/JOB SERVICE REFERRAL	DURATION PER PRIOR LIMIT OF DEPARTMENT OR RETURN OF PERMANENT EMPLOYEE(S)

1. THE FORM IS NOT REQUIRED. CERTIFICATION IN FORM OF LETTER OR MEMORANDUM IS REQUIRED.
2. PARTIALLY COMPLETED CARD REQUIRED.

Planned Appointment	Need Identification Due*	Certifications Due*	Expect Approval*
January	October 15	November 5	December 1
February	November 15	December 5	January 1
March	December 15	January 5	February 1
April	January 15	February 5	March 1
May	February 15	March 5	April 1
June	March 15	April 5	May 1
July	April 15	May 5	June 1
August	May 15	June 5	July 1
September	June 15	July 5	August 1
October	July 15	August 5	September 1
November	August 15	September 5	October 1
December	September 15	October 5	November 1

* If the listed date is a Saturday, Sunday or holiday then the first working day following the date indicated shall be considered appropriate.

APPENDIX CONTENTS

APPENDIX	SUBJECT
A	Ch. 67 SLA 1979.
B	"Certifying Officer Affidavit" AS 39.25.195-200 (02-1271), with memorandum of instructions.
C	"Nonpermanent Employee Need Identification" (02-256).
D	Nonpermanent Positions Intended and Authorized (R 01).
E	"Request for Nonpermanent Position and/or Authority to Appoint Nonpermanent Employee" (02-230) with instructions.
F	"Request for Certification" (02-254) for Nonpermanent Eligibles.
G	Prior memorandums on subject not already included (two memorandums dated August 21, 1979, and September 14, 1979).
H	WIN positions by Contract with the Department of Labor.
I	1982 revisions to Nonpermanent Law AS 39.25.196.
J	Personnel Rules 5 03.2 and 5 06.0 as amended July 1, 1982.

APPENDIX B

MEMORANDUM

TO: All Personnel Officers

DATE: November 19, 1979

FILE NO:

TELEPHONE NO:

FROM: Sandra Withers
Director
Division of Personnel & Labor Relations
Department of Administration

SUBJECT: Certifying Officer's Affidavit - AS 39.25.195(c)

Amendments to AS 39.25 which become effective January 1, 1980. require approval from the Director of Personnel and Labor Relations before a department may hire a nonpermanent employee. Before approving such a request, the Director must have certification from the hiring department that the conditions specified in AS 39.25.195 exist. Under the law, the Certifying Officer is personally liable for false certification.

The law specifies that the Certifying Officer is the head of a department or agency, unless this person delegates the authority to someone else. To delegate this authority, the Commissioner should sign a Certifying Officer's Affidavit and obtain a signature from the person to whom the authority is delegated.

You should distribute copies of the affidavit according to the distribution list on the form, providing original signatures as requested. New affidavits should be submitted whenever there is a change in Certifying Officers.

SW/nl
MJ1/C1

STATE OF ALASKA

CERTIFYING OFFICER'S AFFIDAVIT

AS 39.25.195-200

I hereby designate_____ to certify documents in accordance with AS 39.25.200(1).

This designation is for a period of twelve months beginning from the date of the Department Head's signature. The designation is automatically ended at the time that the employee designated separates from employment with this department. This designation is subject to being revoked at any time by the Department Head notifying the Director of Personnel and Labor Relations in writing of such revocation.

_____ _____

DEPARTMENT SIGNATURE OF DEPARTMENT HEAD

_____

DATE

I have read and understand AS 39.25.195 - AS 39.25.200. The use of my signature stamp in exercising this designation shall be the same as if I personally sign the document and does not in any way diminish my responsibility.

_____

Signature

_____

Date

Distribution:

Director of Personnel & Labor Relations*
Director of Finance
Employing Agency*
Employee Concerned

* Must have original signatures.

02

APPENDIX C

MEMORANDUM

TO: All Personnel Officers

DATE: September 19, 1979

FILE NO:

TELEPHONE NO:

FROM: Sandra Withers, Director
Division of Personnel &
Labor Relations
Department of Administration

SUBJECT: Nonpermanent Employee
Need Identification
January-March 1980

The enclosed forms are for your use in planning for nonpermanent positions needed during the first quarter of 1980. The requested information will be used to identify recruitment needs and to develop the procedures necessary to assure compliance with Chapter 67, SLA 1979.

Please ask those in your department responsible for projecting employment needs to complete one form for each nonpermanent appointment you plan to make during the period January 1, through March 31, 1980. You will be asked to project your needs for the second quarter later.

The completed forms must be submitted to the Division of Personnel and Labor Relations by close of business October 3, 1979.

SW/ja

APPENDIX C

STATE OF ALASKA

DIVISION OF PERSONNEL & LABOR RELATIONS

NONPERMANENT EMPLOYEE NEED IDENTIFICATION

1. a) Dept. b) Div. c) Class Code d) Geo. Code e) Beginning Date: Mo. Day Year

2. a) Supervisor's Social Security Number b) Ending Date: Mo. Day Year

3. Supervisor's Name: Last First M.

4. Class Title of Nonpermanent Position

5. Location of Nonpermanent Position

COMMENTS:

Div. of Personnel & Labor Relations
Received
Recorded
Verified
Reported

6. Signature of Individual Filing This Report

7. a) Date b) Social Security Number

B/U Identification

C2-256(9/79) Per AS39.25.195-200

INSTRUCTIONS

This form is a planning tool to be used in identifying future needs for nonpermanent employees. It is not a formal request for hire. This information will allow the Division of Personnel & Labor Relations to anticipate your needs and direct its recruitment efforts accordingly.

Please complete a separate form for each nonpermanent position following the instructions below. Use the space for comments to provide additional information or explanation.

Line 1:
a) Department code
b) Division code for the division the nonpermanent position will be assigned to.
c) Class code. Most will have four digits, but some classes with more than one eligible list will have a letter in addition.
d) Geographic code for the location of the nonpermanent position.
e) Beginning date. That date the nonpermanent employee will report for work.

Line 2:
a) Social security number of person who will be assigned to supervise the nonpermanent employee.
b) Ending date. When will the work of the nonpermanent employee be completed?

Line 3: Name of the supervisor of the nonpermanent employee.

Line 4: Include the complete class title from the classification outline.

Line 5: Location of nonpermanent position. If there is more than one location, explain in the comments section.

Line 6: Signature of the person who by filing this report verifies the probable need for this nonpermanent position.

Line 7:
a) Date of report
b) Social security number of person filing the report.

12/79

APPENDIX D

12/19/79 NONPERMANENT POSITIONS INTENDED AND AUTHORIZED PAGE 1
MASTER RECORD (RPT#R01-ANP-R01)

11 FISH AND GAME

PCN	SIS	DIV	TYP	CLASS	CODE	LOCATION	CODE	BEGIN	END	AVB	DEPT TOTAL
[illegible]		05		FISH & GAME TECH I	6112	ANCHORAGE	EBA	01-01-80	03-31-80	NO	
[illegible]		05		CLERK TYPIST III	1123	DILLINGHAM	DAA	01-01-80	04-30-80	NO	
[illegible]		05		FISH & GAME TECH III	6114	SOLDOTNA	DQD	01-01-80	03-31-80	NO	
[illegible]		05		FISH & GAME TECH I	6112	HALIBUT COVE	CYO	01-01-80	04-30-80	NO	
[illegible]		05		FISH & GAME TECH I	6112	HALIBUT COVE	CYO	01-01-80	04-30-80	NO	
[illegible]		05		FISH CULTURIST II	6124	TUTKA LAGOON	CYO	03-15-80	07-15-80	NO	
[illegible]		05		FISH CULTURIST II	6124	SOLDOTNA	DQD	01-01-80	03-31-80	NO	
[illegible]		05		FISH CULTURIST II	6124	CORDOVA	DWA	03-01-80	06-01-80	NO	
[illegible]		06		FISH CULTURIST I	6123	DILLINGHAM	DAA	02-01-80	06-01-80	NO	
[illegible]		06		FISH CULTURIST I	6123	CLEAR	JDO	01-01-80	03-31-80	NO	
[illegible]		05		DRAFTING TECH I	8423	ANCHORAGE	EBA	01-01-80	01-31-80	NO	
[illegible]		05		FISH BIOLOGIST I	5150	FAIRBANKS	JBA	02-01-80	05-01-80	NO	
[illegible]		07		INFORMATION OFF I	5613	JUNEAU	AWA	05-16-80	06-30-80	NO	
[illegible]		07		CLERK TYPIST II	1122	JUNEAU	AWA	03-01-80	06-30-80	NO	
[illegible]		07		PUBLICATIONS SPEC I	3606	JUNEAU	AWA	05-16-80	06-30-80	NO	
[illegible]		09		CLERK TYPIST III	1123	ANCHORAGE	EBA	01-01-80	04-30-80	NO	
[illegible]		09		FISH & GAME TECH II	6113	ANCHORAGE	EBA	01-01-80	04-30-80	NO	
[illegible]		09		FISH & GAME TECH II	6113	ANCHORAGE	EBA	01-01-80	04-30-80	NO	
[illegible]		09		CLERK TYPIST III	1123	ANCHORAGE	EBA	01-01-80	03-31-80	NO	
[illegible]		09		HABITAT BIOLOGIST I	6165	ANCHORAGE	EBA	01-01-80	03-31-80	NO	
[illegible]		09		HABITAT BIOLOGIST I	6165	ANCHORAGE	EBA	01-01-80	03-31-80	NO	
[illegible]		09		HABITAT BIOLOGIST I	6165	ANCHORAGE	EBA	01-01-80	03-31-80	NO	
[illegible]		09		HABITAT BIOLOGIST I	6165	ANCHORAGE	EBA	01-01-80	03-31-80	NO	
[illegible]		09		HABITAT BIOLOGIST II	6166	ANCHORAGE	EBA	01-01-80	09-30-80	NO	
[illegible]		09		HABITAT BIOLOGIST II	6166	ANCHORAGE	EBA	01-01-80	04-30-80	NO	
[illegible]		09		HABITAT BIOLOGIST II	6166	ANCHORAGE	EBA	01-01-80	04-30-80	NO	
[illegible]		09		HABITAT BIOLOGIST II	6166	ANCHORAGE	EBA	01-01-80	04-30-80	NO	
[illegible]		09		HABITAT BIOLOGIST I	6165	SITKA	ABA	03-01-80	06-30-80	NO	

DEPT 20

12/79

STS: STATUS CODES

I Indicates an intended position.

A Indicates an authorized position.

D Indicates a position that has been filled and the work has been completed.

E Indicates a position for which the authorization or the intended dates have passed.

TYPE

G Indicates program

J Indicates project

T Indicates normal

E Indicates emergency

APPENDIX E

Request for Nonpermanent Position
and/or
Authority to Appoint Nonpermanent Employees
(02-230)

INSTRUCTIONS

Section A - Identification

1) Fill in the six character identification established for the position.

or

If no prior identification has been assigned complete a "Nonpermanent Employee Need Identification" card. Attach this card to the form and check (✓) the box indicating that it is attached.

2) Job Class: Indicate the class title of the position being requested.

3) Indicate if the position being requested is "normal" or "program" or "project." If the request is for a project position, statement 4 of Section C must be certified. If the request is for a program position, statement 5 of Section C must be certified. The distinction between program and project exists in the purpose of the employment. If the employment is to assist the individual employed such as CETA, student interns, and apprentices, the position is a program position and the employee must be appointed as such. If an additional position is being requested to complete a specific work project which is not a regular and continuing function of the department or agency, but will exceed 120 days, the position is a project position and the employee must be appointed as such.

4) Indicate if the position will be filled from a certification of eligibles or union dispatch or by other means consistent with AS 39.25.195-200 and the applicable collective bargaining agreement. If "other" is indicated sufficient explanation must be given.

Section B - Funds Certified

This section must be signed by the Commissioner of the department or by a person designated by the Commissioner as a Certifying Officer in accordance with AS 39.25.200 (1).

Section C - Reason Certified

The reason or reasons for the nonpermanent employee are indicated in this section. Not less than one of the five indicated reasons must be certified by the Commissioner or his designee per AS 39.25.200 (1). If more than one statement is appropriate each statement that is a correct description of the circumstances should be signed.

APPENDIX F

STATE OF ALASKA
REQUEST FOR NONPERMANENT POSITION AND/OR AUTHORITY TO APPOINT NONPERMANENT EMPLOYEE

SECTION A - IDENTIFICATION

1) [ ][ ][ ][ ][ ][ ] Position Control Number — OR — [ ] Nonpermanent employee need identification card (02-256) is attached.

2) Job Class

3) This request is for a nonpermanent position as indicated: [ ] Normal (120 day appt.) [ ] Program [ ] Project

4) If approved appointment will be made from: [ ] Eligible List Certification [ ] Union Dispatch [ ] Other: _____

SECTION B – FUNDS CERTIFIED

I certify that adequate money is available for the anticipated duration of this appointment

Signature of Certifying Officer	Date

SECTION C – REASON CERTIFIED

SIGN WHICHEVER OPTION APPLIES TO YOUR SITUATION

1) I certify that the legislature has appropriated money for the position proposed knowing that it is to be performed by a nonpermanent employee. The appropriation code and budget page reference is cited in Section D.

Signature of Certifying Officer	Date

2) I certify that there is an immediate need to fill an authorized, permanent position and it is impractical to establish the position or to make certification within a reasonable time. The authority, position and circumstances are explained in detail in Section D.

Signature of Certifying Officer	Date

3) I certify that an immediate need exists which this agency could not have reasonably anticipated and met through the creation of a permanent position. The circumstances and the reasons we could not anticipate this need are explained in Section D.

Signature of Certifying Officer	Date

4) I certify that a project exists and the need for an employee can be most appropriately met through the use of a project employee. The project and our needs are described in Section D.

Signature of Certifying Officer	Date

5) I certify that a program exists and the need for an employee can be most appropriately met through the use of a program employee. The program and our needs are described in Section D.

Signature of Certifying Officer	Date

SECTION D – EXPLANATION

1) REASON FOR REQUEST

CONTINUE ON REVERSE IF NECESSARY

SECTION D (2) FUNDING SOURCE

SECTION D (3) DESCRIPTION OF DUTIES (P402 Optional)

CONTINUE ON REVERSE IF NECESSARY

SECTION E – APPROVAL

Approved as Requested Approved with Qualifications as Stated on Reverse in Comment	Director of Personnel & Labor Relations	Date

SECTION E: COMMENTS

SECTION D (1) Reason for Request - Continued

SECTION D (3) Description of Duties - Continued

It is not necessary that sections B and C be signed by the same person. The person certifying Section C is also certifying the correctness of the explanations contained in Section D.

Section D - Explanation

This section is for detailed explanation of: 1) the reason for the request 2) identification of the funding source by sufficient codes so that the Division of Budget and Management can identify the source of the funds without additional information and 3) sufficient explanation of the duties assigned to this position so that proper class allocation can be verified.

DIVISION OF PERSONNEL
Request for Certification

Section A. To: Department of Administration, Division of Personnel

Request Date: 7/1/82

FROM: Department Name: Fish and Game
Department No.: 11

DIVISION USE ONLY
CL INDEX
TCLC
TCSL
TCDP
TCERTL
Date / Operato

Employee Replaced: n/a
Date of Separation: n/a
Date CLS Action: Auth 6/6/82

Position Title: Fish Culturist II
Position Control No.: 11B016
Class Code: 6124

Position Location: Karluk B0704
Location Code: CBA

TYPE LIST
- ☐ O Open Competitive
- ☐ D Departmental
- ☐ I Interdepartmental
- ☒ N Non Permanent
- ☐ L Layoff

TYPE EMPLOYMENT
- ☐ A Permanent Full time
- ☐ B Permanent Part time
- ☐ C Permanent Seasonal
- ☒ N Non Permanent

- ☐ Flexed Position
- ☐ Related List Requested
- ☐ Subfill Requested
- ☐ Coupled Class

Class Title / Cod
Class Title / Cod

Special Request: _____

Signature of Appointing Authority: Signature
Title: Personnel Officer

Section B. Certification Authorization

Date _____

The following Certification is hereby issued pursuant to your request:

☐ Complete Certification ☐ Agency Lay Off List

☐ Incomplete Certification (May be declined per Rule 5 03.5) ☐ Other _____

☐ ATTACHED MASTER LIST NO. (_____) FOR (_____) CONSTITUTES THE CERTIFICATION OF ELIGIBLES TO FILL THIS POSITION.

☐ ATTACHED MASTER LIST NO.'S (_____) FOR (_____) AND (_____) FOR (_____) CONSTITUTE THE CERTIFICATION OF ELIGIBLES TO FILL OR SUBFILL THIS POSITION RESPECTIVELY.

☐ ATTACHED MASTER LIST NO.'S (_____) FOR (_____) AND (_____) FOR (_____) CONSTITUTE THE CERTIFICATION OF ELIGIBLES TO FILL THIS POSITION.

THE ELIGIBILE LIST FOR (_____) HAS BEEN AUGMENTED FROM THE ELIGIBLE LIST FOR (_____).

ANY APPOINTMENT SHOULD BE MADE TO THE CLASS OF (_____).

The following Authorization is hereby issued in response to your request:

☐ Provisional Appointment (If no selection has been reported by _____ this authority is automatically rescinded.)

☐ In absence of appropriate eligible list ☐ Incomplete eligible list ☐ Subfilling with _____ class

☐ Non-permanent Appointment ☐ Other _____

By _____
for Director of Personnel

Section C. Action of Appointing Authority - Return to Department of Administration Division of Personnel as soon as you have made your selection. If not from the eligible list, attach application.

DIVISION USE ONLY
THIR
TLIS
TINA
Date / Operato

Appointee
Social Security Number

Effective Date of Appointment | Rank | Bargaining Unit | Range

TYPE APPOINTMENT

☐ Probationary ☐ Non permanent ☐ Subfill ☐ Substitute ☐ Provisional

☐ No Appointment Made Reason _____

Signature of Appointing Authority | Title | Date

02-0018 (Rev. 10/76)

STATE of ALASKA

MEMORANDUM

APPENDIX G

TO: All Personnel Officers
All Administrative Directors

DATE: August 21, 1979

FILE NO:

TELEPHONE NO:

FROM: Sandra Withers, Director
Division of Personnel and Labor Relations
Department of Administration

SUBJECT: Non-permanent Employees

Effective January 1, 1980, Chapter 67, SLA 1979, goes into effect. This new law will substantially change procedures governing the hire and retention of non-permanent (temporary) employees.

We are preparing draft regulations to administer the law, and plan to hold personnel council meetings to review the draft and solicit recommendations. The first meeting is scheduled at 10:00 a.m. on September 4, 1979, in the testing room of the Division of Personnel and Labor Relations, 10th floor, State Office Building. The meeting should be attended by each department Personnel Officer and their immediate supervisors, if desired. This meeting will address principles, general needs and the changes which must be made in how we handle non-permanent employment. Of particular concern is that we be prepared to comply with this law on January 1, 1980. We must have procedures ready at that time to:

1) Expedite the processing of requests for non-permanent hire;

2) Provide for certification of eligible lists; and

3) Know the specific numbers, job classes and locations of prospective non-permanent positions.

In the near future, we will be asking for you to identify non-permanent employment needs, and we will request that the information be provided for each department for the first quarter of calendar year 1980. This information will be part of the data base for reports to the Legislature and will direct recruiting efforts to assure that projected employment needs can be met.

Temporary appointments made up to the close of business on December 31, 1979, may last for 120 days from January 1, 1980 or six months from the date of appointment, whichever is less. After that time, the 120 day limit on non-permanent appointments will be in effect. Please note that the law requires prior approval for all non-permanent appointments. It is imperative that you inform all program managers within your department of these new limitations immediately so they may begin planning for what amounts to a substantial change in the way we do business.

If these changes are going to necessitate the establishment of permanent positions in the absence of temporaries to meet your program needs, we strongly suggest that you begin immediately to develop position descriptions and secure necessary budget approval.

HB

210

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB205/210
Title: Relating to Payment of Interest
Sponsor: Duncan/Shultz by State
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: All
Program Category Affected: All
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
TOTAL OPERATING	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No source identified by the Legislature.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Tom Haas, Acting Director — Phone: 465-2240
Division: Finance — Date: 3/17/83

Approved by Commissioner: Lisa Rudd — Date: 3/17/83
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
(if different from Sponsor)

3/8/83

IV. ANALYSIS

The Department of Administration is opposed to this Legislation, not because we disagree with the idea of the State paying its bill in a timely manner, but because we feel there are better ways to address this problem. In determining the fiscal impact on mandatory payment of interest, it is impossible to place a definite dollar amount for the cost. Many items must be taken into consideration.

First, in order to calculate what the interest cost would be, a detailed analysis would be necessary to determine what the dollar amount of bills paid in excess of 30 days might be. Readily available information does not exist. However, to show what the potential impact might be, we offer this example, making a number of assumptions.

On the assumption that the State annual budget is $3.0 billion and that 50% of that budget represents vendor payments effected by this legislation. Further we assume that 5% of the vendor payments might be subject to penalty as defined in the Legislation. Based on these assumptions, the interest penalty could be as high as $1,125,000.00.

Calculated as follows:

$3,000,000,000.00	Annual Budget
X 50%	
$1,500,000,000.00	Potential Vendor Payments
X 5%	
$ 75,000,000.00	5% Subject to Penalty
X 0.15%	
$ 1,125,000.00	Interest Penalty for Bills Paid in Excess of 30 Days.

The preferrable way to avoid penalty payments is to pay vendors within the 30 day period. This is and always has been the goal of the Department of Administration. The only effective way of doing this is either to divert current staff of the various State agencies to the effort of paying bills timely or to develop the agencies internal procedures and the Department of Administration's automated systems in order to address the payment problem. The cost to the State in providing additional staff or a bill paying effort that would pay all bills within 30 days using the current system has not be determined. The Department of Administration is currently in the process of

redesigning the statewide accounting system which will include features that will improve the bill paying and tracking capabilities of the State.

While we recognize the problem of paying vendors in a timely manner is a serious matter, we should point out that for the most part, vendors are paid timely. For a 12 month period, the State paid on the average of 70,200 invoices a month. During that time, the average payment time was 29 days. The high monthly average was 33 days while the low monthly average was 24 days. During this period, only two months exceeded 30 days payment time.

In addition to the costs of attempting to improve the payment time and the potential interest penalties, we should also consider the cost of increased bureaucracy that would be involved in determining what payments would be subject to penalty, what period of time would be covered, as well as the logistics of making the interest payments, all of these would be costs to the State in time and effort.

Lastly, it should be noted that the funding of the interest payments would need to be 100% State funds. We have been advised by the U S. Office of Management and Budget that the Prompt Payment Act (P.L. 970177) prohibits the use of Federal grant funds for the agencies that are primarily federally funded. (Copy of OMB letter attached)

Again, we are not opposed to timely payment of vendor bills but are concerned with the method of achieving that goal.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 14, 1982

MEMORANDUM

SUBJECT: Payment Practices

It has come to our attention that several States have laws, or are considering legislation, that requires the payment of interest penalties to contractors when bills are paid late.

This is to alert you to the fact that the Prompt Payment Act (P.L. 97-177) prohibits the use of Federal grant funds for the payment of such interest penalties. The act says

> "(A) in no case shall an obligation to pay such interest penalties be construed to be an obligation of the United States, and
>
> "(B) any payment of such interest penalties shall not be made from funds provided to the grant recipient by a Federal agency, nor shall any non-Federal funds expended for such interest penalties be counted toward any matching requirement applicable to that grant."

We would appreciate your alerting your staff to this prohibition to assure that the Federal Government is not charged improperly for interest penalty costs.

John J. Lordan

John J. Lordan
Deputy Associate Director
for Financial Management

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 14, 1982

MEMORANDUM

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[illegible] 83
ADMINISTRATION

John J. Lordan

John J. Lordan
Deputy Associate Director
for Financial Management

United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
CONTRACT & GRANT OPERATIONS
800 N. QUINCY ST., ROOM 401
ARLINGTON, VIRGINIA 22217

RECEIVED
MAR 7 1983
Fish and Game
Admin

JAN 6 1983

Memorandum

To: All Bureau and Agency Heads

From: Chief, Contract & Grant Operations

Subject: Payment Practices

I am attaching a memorandum dated December 14, 1982, from the Office of Management and Budget concerning the use of Federal grant funds for the payment of interest penalties. The memorandum cites the Prompt Payment Act which prohibits this practice.

Your program officials and staff should be alerted concerning this prohibition.

Andrew H. Payne

Andrew H. Payne

cc: Cecile Coleman w/copy of incoming

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4965

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

AGENDA

DATE: 3/17

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY. AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

HB 205 - AN ACT PROVIDING FOR PYAMENT OF INTEREST BY STATE AGENCIES ON OBLIGATIONS NOT TIMELY PAID. Jim Duncan is Sponsor

HB 210 AN ACT RELATING TO PYAMENT FO PURCHASES BY THE STATE. Dick Shultz SPONSOR

COMMENTS FROM ELAINE ON HB 205: AS A FORMER STATE EMPLOYEE WITH DEPT. OF NATURAL RESOURCES, WHO APPROVED INVOICES FOR PAYMENT IN A TIMELY MANNER I AM OPPOSED TO THIS BILL BECAUSE:

1) AFTER YOU APPROVE AN INVOICE AND SEND IT TO JUNEAU FOR A CHECK TO BE ISSUED, EVEN IF YOU SEND IT THE VERY DAY YOU RECEIVE THE INVOICE, IT TAKES APPROX. 6 WEEKS FOR THE VENDOR TO RECEIVE IT. IF THERE IS A PENALTY OR INT. FOR LATE PAYMENTS, THE INDIVIDUAL DIV. WITHIN THE DEPT. WOULD BE PENALIZED RATHER THAN THE ADMINISTRATIVE SECTION WHO IS RESPONSIBLE FOR ISSUING THE CHECKS IN THE FIRST PLACE. THEREFORE, IF THERE IS INT. TO BE PAID IT SHOULD COME OUT OF THE ADM. BUDGET AND NOT THE IND. DEPT. OR DIV.'S

OTHER NOTES OR REMINDERS:

2) PRIVATE INDUSTRY IS MAKING A LOT OF MONEY FROM STATE PURCHASES. IF NOT FOR THE STATE, MOST PRIVATE CO. WOULD NOT BE AROUND TODAY- SO AFFLUENT. THEREFORE, SIX WEEKS IS NOT TOO LONG TO WAIT WHEN THE STATE BUYS 2MILLION DOLLARS WORTH OF XEROX PAPER ALONE, EACH YEAR, FROM YOS JUST IN ONE EXAMPLE. (PLEASE MAKE THESE POINTS AT THE MEETING IN YOUR OWN IRISH WAY) I THINK THEY ARE VERY VALID

MAR 0 9 1983

HB 205

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 205 Date on Bill: 2-16-83
Title: "Act providing for payment of interest by state agencies on obligations..."
Sponsor: Duncan
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating				99.2	104.2	109.4		
Total				99.2	104.2	109.4		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Not specified by sponsor.

3. Assumptions:

Currently there is no method within the system to identify invoices that have not been paid within 30 days from receipt. The department average payment time from the date of invoice to date of payment is less than 30 days. However, we can assume there are invoices that are not processed within 30 days of receipt. The interest payments that may be required should be nominal. Additional staff would be required to investigate each inquiry, make a determination as to whether interest is due, calculate the interest due and process the payment. The designated employee in each region should be at the Accounting Technician I or higher level of responsibility.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Jim Slocum Phone: 465-3911
Division: Financial Management Date: 3/4/83

Approved by Commissioner: [signature] Date: 3-7-83
Department: Transportation & Public Facilities

5. Distribution:

Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: December 8, 1981

FILE NO.:

TELEPHONE NO.: 465-2260

FROM: Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

SUBJECT: Payment Time

After reviewing the Vendor Analysis for the month of November, it has been determined that it took the State an average of 26 days to pay its bills during this month. This is a four day decrease over November of last year. The schedule below shows the payment time for each agency.

Agency	Payment Days
Office of the Governor	
Fiscal - Juneau	26
Administration	
Fiscal - Juneau	26
Fiscal - Anchorage	34
Employee Housing	29
Public Defender	35
Public Broadcasting	79
Law	26
Revenue	
Fiscal	27
Garnishments	7
Education	
Fiscal	28
Vocational Rehabilitation	38
District School Support	17
Health & Social Services	
Fiscal	30
Public Assistance	7
Social Services	7
Labor	
Fiscal	20
Anchorage Support Service	25
Commerce and Economic Development	29
Military Affairs	40
Natural Resources	33
Fish and Game	55
Public Safety	21
Environmental Conservation	29
Community & Regional Affairs	
Fiscal	21
CETA Division	25
Municipal Grants	4
Transportation and Public Facilities	34
Fiscal	36
Anchorage	38
Fairbanks	29
Anchorage Airport	47
Southeast	
Ombudsman	8
Legislative Affairs	6
Legislative Finance	2
Legislative Audit	7
Alaska Court System	21

FINFRH/120781-5/32

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: December 10, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of November, it has been determined that it took the State an average of 25 days to pay its bills during this month. This is the same number of days as November of of last year. The schedule below shows the payment time for each agency.

Calendar days *

Agency:	Payment Days	Agency	Payment Days
Office of the Governor		Commerce and Economic Development	
Fiscal - Juneau	20	Fiscal	17
Fiscal - Anchorage	33	Small Business Loans	14
Administration		Energy & Power	29
Fiscal - Juneau	31	AK Power Authority	17
Fiscal - Anchorage	10	Military Affairs	39
Employee Housing	34	Natural Resources	37
Public Defender	19	Fish and Game	65
Leasing & Facilities	16	Public Safety	15
Telecom Systems - Anch.	26	Environmental Conservation	16
Alaska Broadcasting Comm.	13	Community & Regional Affairs	
Older Alaskan Comm.	13	Fiscal	11
Law	23	CETA Division	12
Revenue		Municipal Grants	18
Fiscal	13	Transportation and Public Facilities	
Garnishments	5	Fiscal	37
Education		Anchorage	22
Fiscal	25	Fairbanks	24
Vocational Rehabilitation	42	Anchorage Airport	16
Council of the Arts	21	Southeast	25
Health & Social Services		Ombudsman	4
Fiscal	26	Legislative Affairs	36
Public Assistance	2	Legislative Finance	5
Social Services	14	Legislative Audit	5
Handicapped Child Prog.	44	Alaska Court System	31
Labor			
Fiscal	25		

MSA/gyr
14D1/1209-1/F26

* From date of Invoice To date of Payment.

02-001A(Rev.10/79)

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: November 10, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of October, it has been determined that it took the State an average of 25 days to pay its bills during this month. This is a three day increase over October of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	20
Fiscal - Anchorage	32
Administration	
Fiscal - Juneau	26
Fiscal - Anchorage	15
Employee Housing	25
Public Defender	19
Leasing & Facilities	8
Telecom Systems - Anch.	24
Alaska Broadcasting Comm.	6
Older Alaskan Comm.	14
Law	23
Revenue	
Fiscal	11
Garnishments	5
Education	
Fiscal	17
Vocational Rehabilitation	40
Council of the Arts	27
Health & Social Services	
Fiscal	28
Public Assistance	8
Social Services	15
Handicapped Child Prog.	50
Labor	
Fiscal	45

Agency:	Payment Days
Commerce and Economic Development	
Fiscal	17
Small Business Loans	13
Energy & Power	22
AK Power Authority	13
Military Affairs	35
Natural Resources	34
Fish and Game	63
Public Safety	18
Environmental Conservation	21
Community & Regional Affairs	
Fiscal	14
CETA Division	13
Municipal Grants	19
Transportation and Public Facilities	
Fiscal	31
Anchorage	22
Fairbanks	26
Anchorage Airport	20
Southeast	28
Ombudsman	9
Legislative Affairs	42
Legislative Finance	1
Legislative Audit	7
Alaska Court System	30

27

MSA/cjk
44F1/0614-1

02-001A(Rev.10/79)

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: October 4, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of September, it has been determined that it took the State an average of 33 days to pay its bills during this month. This is a five day increase over September of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	36
Fiscal - Anchorage	37
Administration	
Fiscal - Juneau	37
Fiscal - Anchorage	15
Employee Housing	20
Public Defender	25
Leasing & Facilities	12
Telecom Systems - Anch.	49
Alaska Broadcasting Comm.	25
Older Alaskan Comm.	4
Law	25
Revenue	
Fiscal	22
Garnishments	5
Education	
Fiscal	34
Vocational Rehabilitation	38
Council of the Arts	19
Health & Social Services	
Fiscal	33
Public Assistance	7
Social Services	21
Handicapped Child Prog.	58
Labor	
Fiscal	44
Commerce and Economic Development	
Fiscal	31
Small Business Loans	9
Energy & Power	44
AK Power Authority	0
Military Affairs	31
Natural Resources	30
Fish and Game	57
Public Safety	28
Environmental Conservation	45
Community & Regional Affairs	
Fiscal	22
CETA Division	14
Municipal Grants	22
Transportation and Public Facilities	
Fiscal	53
Anchorage	26
Fairbanks	32
Anchorage Airport	26
Southeast	33
Ombudsman	5
Legislative Affairs	38
Legislative Finance	7
Legislative Audit	9
Alaska Court System	35

MSA/cjk
44F1/0614-1

MEMORANDUM State of Alaska

TO Administrative Officers
All Agencies

DATE: September 13, 1982

FILE NO.

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of August, it has been determined that it took the State an average of 28 days to pay its bills during this month. This is a seven day decrease over August of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	24
Fiscal - Anchorage	26
Administration	
Fiscal - Juneau	48
Fiscal - Anchorage	35
Employee Housing	36
Public Defender	28
Leasing & Facilities	9
Telecom Systems - Anch.	27
Alaska Broadcasting Comm.	
Older Alaskan Comm.	14
Law	29
Revenue	
Fiscal	20
Garnishments	5
Education	
Fiscal	26
Vocational Rehabilitation	41
District School Support	
Council of the Arts	34
Health & Social Services	
Fiscal	34
Public Assistance	6
Social Services	19
Handicapped Child Prog.	39
Labor	
Fiscal	22

Agency:	Payment Days
Commerce and Economic Development	
Fiscal	~~50~~ 20
E&P → Small Business Loans	13 → 50
AK Power Authority	15
Military Affairs	38
Natural Resources	38
Fish and Game	72
Public Safety	23
Environmental Conservation	27
Community & Regional Affairs	
Fiscal	20
CETA Division	21
Municipal Grants	15
Transportation and Public Facilities	
Fiscal	32
Anchorage	26
Fairbanks	27
Anchorage Airport	19
Southeast	32
Ombudsman	15
Legislative Affairs	37
Legislative Finance	9
Legislative Audit	7
Alaska Court System	40

MSA/cjk
44F1/0614-1

02-001A(Rev.10/79)

MEMORANDUM — State of Alaska

TO: Administrative Officers
All Agencies

DATE: August 11, 1982

FILE NO:

TELEPHONE NO: 465-2250

SUBJECT: Payment Time

FROM: Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of July, it has been determined that it took the State an average of 29 days to pay its bills during this month. This is a one day increase over July of last year. The schedule below shows the payment time for each agency.

Agency:	Days
Office of the Governor	
Fiscal - Juneau	33
Fiscal - Anchorage	50
Administration	
Fiscal - Juneau	27
Fiscal - Anchorage	19
Employee Housing	34
Public Defender	20
Leasing & Facilities	14
Telecom Systems - Anch.	28
Alaska Broadcasting Comm.	58
Older Alaskan Comm.	
Law	27
Revenue	
Fiscal	18
Garnishments	4
Education	
Fiscal	36
Vocational Rehabilitation	37
Council of the Arts	32
Health & Social Services	
Fiscal	28
Public Assistance	
Social Services	19
Handicapped Child Prog.	65
Labor	
Fiscal	24

Agency:	Days
Commerce and Economic Development	
Fiscal	23
Small Business Loans	15
Energy & Power	
AK Power Authority	48
Military Affairs	32
Natural Resources	29
Fish and Game	66
Public Safety	18
Environmental Conservation	32
Community & Regional Affairs	
Fiscal	22
CETA Division	34
Municipal Grants	23
Transportation and Public Facilities	
Fiscal	32
Anchorage	23
Fairbanks	29
Anchorage Airport	18
Southeast	26
Ombudsman	9
Legislative Affairs	25
Legislative Finance	9
Legislative Audit	9
Alaska Court System	19

MSA/cgk
44F1/0614-1-2

MEMORANDUM State of Alaska

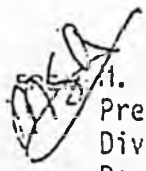
TO: Administrative Officers
All Agencies

DATE: June 14, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time



M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of M , it has been determined that it took the State an average of 24 days to pay its bills during this month. This is a two day decrease over May of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	30
Fiscal - Anchorage	26
Administration	
Fiscal - Juneau	24
Fiscal - Anchorage	37
Employee Housing	32
Public Defender	19
Leasing & Facilities	11
Telecom Systems - Ancn.	26
Alaska Broadcasting Comm.	16
Older Alaskan Comm.	17
Law	25
Revenue	
Fiscal	11
Garnishments	5
Education	
Fiscal	23
Vocational Rehabilitation	38
District School Support	18
Council of the Arts	31
Health & Social Services	
Fiscal	24
Public Assistance	65
Social Services	16
Handicapped Child Prog.	43
Labor	
Fiscal	24

Agency	Payment Days
Commerce and Economic Development	
Fiscal	24
Small Business Loans	23
Energy & Power	21
AK Power Authority	27
Military Affairs	34
Natural Resources	31
Fish and Game	66
Public Safety	9
Environmental Conservation	31
Community & Regional Affairs	
Fiscal	19
CETA Division	18
Municipal Grants	17
Transportation and Public Facilities	
Fiscal	36
Anchorage	22
Fairbanks	21
Anchorage Airport	18
Southeast	21
Ombudsman	7
Legislative Affairs	13
Legislative Finance	4
Legislative Audit	10
Alaska Court System	27

MSA/cjk
44F1/0614-1

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: May 14, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of April, it has been determined that it took the State an average of 25 days to pay its bills during this month. This is the same number of days as April of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	29
Fiscal - Anchorage	27
Administration	
Fiscal - Juneau	27
Fiscal - Anchorage	18
Employee Housing	42
Public Defender	20
Public Broadcasting	
Law	25
Revenue	
Fiscal	15
Garnishments	6
Education	
Fiscal	25
Vocational Rehabilitation	37
District School Support	17
Health & Social Services	
Fiscal	22
Public Assistance	78
Social Services	19
Labor	
Fiscal	20

Agency	Payment Days
Commerce and Economic Development	22
Military Affairs	32
Natural Resources	37
Fish and Game	60
Public Safety	12
Environmental Conservation	25
Community & Regional Affairs	
Fiscal	16
CETA Division	23
Municipal Grants	18
Transportation and Public Facilities	
Fiscal	39
Anchorage	~~13~~
Fairbanks	23
Anchorage Airport	17
Southeast	25
Ombudsman	7
Legislative Affairs	4
Legislative Finance	7
Legislative Audit	8
Alaska Court System	24

MSA/kw
4F1/0514-3/26

02-001A(Rev.10/79)

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: April 2, 1982

FILE NO:

TELEPHONE NO: 465-2260

FROM: M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

SUBJECT: Payment Time

Just File / Do Not Distribute

After reviewing the Vendor Analysis for the month of March, it has been determined that it took the State an average of 27 days to pay its bills during this month. This is the same number of days as March of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	35
Fiscal - Anchorage	41
Administration	
Fiscal - Juneau	30
Fiscal - Anchorage	22
Employee Housing	49
Public Defender	25
Public Broadcasting	24
Law	22
Revenue	12
Fiscal	12
Garnishments	
Education	
Fiscal	42
Vocational Rehabilitation	37
District School Support	21
Health & Social Services	
Fiscal	26
Public Assistance	1
Social Services	17
Labor	
Fiscal	22
Anchorage Support Service	1

Agency	Payment Days
Commerce and Economic Development	23
Military Affairs	33
Natural Resources	30
Fish and Game	60
Public Safety	12
Environmental Conservation	27
Community & Regional Affairs	
Fiscal	15
CETA Division	21
Municipal Grants	23
Transportation and Public Facilities	
Fiscal	26
Anchorage	32
Fairbanks	32
Anchorage Airport	19
Southeast	30
Ombudsman	3
Legislative Affairs	8
Legislative Finance	2
Legislative Audit	11
Alaska Court System	25

MSA/kw
4F1/0408-20/26

02-001A(Rev.10/79)

MEMORANDUM

State of Alaska

TO: Administrative Officers
All Agencies

DATE: March 9, 1982

FILE NO:

TELEPHONE NO: 465-2260

SUBJECT: Payment Time

FROM: M. Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

After reviewing the Vendor Analysis for the month of February, it has been determined that it took the State an average of 30 days to pay its bills during this month. This is a 2 day decrease over February of last year. The schedule below shows the payment time for each agency.

Agency:	Payment Days
Office of the Governor	
Fiscal - Juneau	29
Fiscal - Anchorage	35
Administration	
Fiscal - Juneau	40
Fiscal - Anchorage	34
Employee Housing	37
Public Defender	26
Public Broadcasting	7
Law	25
Revenue	
Fiscal	15
Garnishments	8
Education	
Fiscal	36
Vocational Rehabilitation	41
District School Support	33
Health & Social Services	
Fiscal	36
Public Assistance	33
Social Services	8
Labor	
Fiscal	31
Anchorage Support Service	15

Agency	Payment Days
Commerce and Economic Development	26
Military Affairs	36
Natural Resources	41
Fish and Game	78
Public Safety	27
Environmental Conservation	28
Community & Regional Affairs	
Fiscal	20
CETA Division	31
Municipal Grants	26
Transportation and Public Facilities	
Fiscal	27
Anchorage	33
Fairbanks	39
Anchorage Airport	30
Southeast	41
Ombudsman	7
Legislative Affairs	12
Legislative Finance	3
Legislative Audit	7
Alaska Court System	25

MSA/kw
4F1/0308-4-1/26

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: February 8, 1982

FILE NO:

TELEPHONE NO: 465-2260

FROM: Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

SUBJECT: Payment Time

After reviewing the Vendor Analysis for the month of January, it has been determined that it took the State an average of 31 days to pay its bills during this month. The schedule below shows the payment time for each agency.

Agency	Payment Days
Office of the Governor	
Fiscal - Juneau	36
Fiscal - Anchorage	80
Administration	
Fiscal - Juneau	34
Fiscal - Anchorage	47
Employee Housing	49
Public Defender	33
Public Broadcasting	6
Law	29
Revenue	
Fiscal	17
Garnishments	8
Education	
Fiscal	37
Vocational Rehabilitation	39
District School Support	36
Health & Social Services	
Fiscal	36
Public Assistance	10
Social Services	8
Labor	
Fiscal	26
Anchorage Support Service	16

Agency	Payment Days
Commerce and Economic Development	23
Military Affairs	40
Natural Resources	34
Fish and Game	62
Public Safety	17
Environmental Conservation	30
Community & Regional Affairs	
Fiscal	16
CETA Division	24
Municipal Grants	17
Transportation and Public Facilities	26
Fiscal	37
Anchorage	44
Fairbanks	27
Anchorage Airport	42
Southeast	25
Ombudsman	25
Legislative Affairs	7
Legislative Finance	10
Legislative Audit	7
Alaska Court System	40

FINFRM/020882-6/32

02-001A(Rev.10/79)

MEMORANDUM State of Alaska

TO: Administrative Officers
All Agencies

DATE: December 8, 1981

FILE NO:

TELEPHONE NO: 465-2260

FROM: Sue Alexander
Pre-Audit Supervisor
Division of Finance
Department of Administration

SUBJECT: Payment Time

After reviewing the Vendor Analysis for the month of November, it has been determined that it took the State an average of 26 days to pay its bills during this month. This is a four day decrease over November of last year. The schedule below shows the payment time for each agency.

Agency	Payment Days
Office of the Governor	
Fiscal - Juneau	26
Administration	
Fiscal - Juneau	26
Fiscal - Anchorage	34
Employee Housing	29
Public Defender	35
Public Broadcasting	79
Law	26
Revenue	
Fiscal	27
Garnishments	7
Education	
Fiscal	28
Vocational Rehabilitation	38
District School Support	17
Health & Social Services	
Fiscal	30
Public Assistance	7
Social Services	7
Labor	
Fiscal	20
Anchorage Support Service	25
Commerce and Economic Development	29
Military Affairs	40
Natural Resources	33
Fish and Game	55
Public Safety	21
Environmental Conservation	29
Community & Regional Affairs	
Fiscal	21
CETA Division	25
Municipal Grants	4
Transportation and Public Facilities	34
Fiscal	36
Anchorage	38
Fairbanks	29
Anchorage Airport	47
Southeast	
Ombudsman	8
Legislative Affairs	6
Legislative Finance	2
Legislative Audit	7
Alaska Court System	21

FINFRM/120781-5/32

02-001A(Rev.10/79)

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 205 Date on Bill: 2/16/83
Title: "An Act providing for payment of interest by state agencies..."
Sponsor: Duncan
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total				-0-	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

No fiscal impact is anticipated.

3. Assumptions:

That administrative staffing will remain adequate to avoid delays in bill payment processing such that no interest expenses are incurred.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Marcia Lynn McKenzie Phone: 465-4349
Division: Administrative Services Date:

Approved by Commissioner: [signature] Date: 3/8/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

File
HB 205

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 205 Date on Bill: 2/16/83
Title: "An Act providing for payment of interest by state agencies..."
Sponsor: Duncan
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total				-0-	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

No fiscal impact is anticipated.

MAR 09 1983

3. Assumptions:

That administrative staffing will remain adequate to avoid delays in bill payment processing such that no interest expenses are incurred.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Marcia Lynn McKenzie Phone: 465-4349
Division: Administrative Services Date:

Approved by Commissioner: [signature] Date: 3/8/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

Chart of States with Prompt Payment Statutes or Regulations

STATE	STATUTE/ REGULATION	YEAR ENACTED	CONTRACTS COVERED	STANDARD OF PAYMENT	INTEREST	APPLICATION OF STATUTE/REGULATION
ALASKA	STATUTE	1982	construction	30-day	10.5% annually	Any state or political subdivision of the state
ARIZONA	STATUTE	1982	ALL	30-day	10.0% annually	Any state agency, school district, or office or agency established by a county
CALIFORNIA	STATUTE	1982	ALL	30-day	.25% per day	All state agencies
FLORIDA	STATUTE	1974	ALL	45-day	1% per month	All state agencies
HAWAII	STATUTE	1977	ALL	60-day	1% per month	Any agency of the state or any county
ILLINOIS	STATUTE	1975	ALL	60-day	1% per month	Any state official or agency authorized to provide payment from state funds
INDIANA	STATUTE	1983	highway	180-day	1% per month	State Highway Department
MARYLAND	REGULATION		ALL	35-day construction 45-day non-construction	NONE	All state agencies
MASSACHUSETTS	STATUTE	1977 ..... 1961	utility ..... construction	55-day 65-day	NONE **	State, city, town or political subdivision
NEBRASKA*	STATUTE	1975	ALL	30-day	NONE	All state agencies
NORTH CAROLINA	STATUTE	1981	ALL	30-day	NONE	All state agencies
OREGON	STATUTE	1979	ALL	45-day	.67% per month	All state agencies
SOUTH CAROLINA	STATUTE	1981	ALL	30-day	15.0% annually	All agencies and institutions of the state
VIRGINIA	REGULATION	1979	ALL	60-day	1% per month	All state agencies
WASHINGTON	STATUTE	1981	ALL	30-day	1% per month	Every state agency and unit of local government
WEST VIRGINIA	REGULATION		ALL	90-day	6.0% annually	All state agencies
LOUISIANA	STATUTE	1982	ALL	30-day***	.5% per day	All state agencies

* Later found to be unconstitutional.

** Construction statute provides for payment of interest penalties on late payments at a daily rate of three percentage points above the rediscount rate then charged by the Federal Bank of Boston.

*** Except, a 45-day standard of payment for Entitlement Programs

Prepared and distributed by the National Audio Visual Association, 3150 Spring St., Fairfax, Virginia 22031; 703/273-7200.

CSHB 210

BACKGROUND ON CSHB 210

This bill has been requested by numerous vendors that do business with the State of Alaska. The State has become notorious for late payment of invoices, forcing many private vendors to borrow money to supplement their cash flow. This reduces their profit, and in some cases even eliminates it as the profit on articles is very marginal.

The bill is patterned after a federal law entitled "The Prompt Payment Act - Public Law 97-177." The Prompt Payment Act became effective October 1, 1982 and when it was introduced in Congress, it carried 133 sponsors.

Mr. Leonard Lemon, Comptroller of the U.S. Army at Ft. Greely advised that the Prompt Payment Act has improved their payment scheduling and the payment of their accounts payable has become prompt and very routine. The U.S. Army has incorporated it in their Army Regulations.

The State has put an amount of more than $1.2 million annual cost on its fiscal note, which should be a good indication of how much money is involved in overdue accounts. The agencies further claim that they will have to reorganize their payment system in order to fulfill the requirements of this bill. If this is so, then it should be done. This should be an indication that their method of paying accounts payable is presently ineffecient and needs modifying.

The bill is needed in Alaska and will be a great help to the average small businessman that does business with state government.

Analysis of SSHB 210

"An Act relating to payment for purchase by the State; and providing for an effective date."

Section 1 (a) requires the agency to pay on a required payment date as defined under terms of a contract or 30 days after receipt of proper invoice.

Subsection (b) provides for the State to take advantage of any discounts offered by a vendor and if invoice is paid in time, the State agency will deduct the amount of the discount offered from the total amount of the invoice.

Subsection (c) establishes the rate of interest at 1.5% per month that must be paid by the State for a past due balance - also provides for the exclusion of interest in the event that the seller and the State have a mutual agreement.

Subsection (d) 1. exempts purchases of more than $500,000 from the provisions of the bill.

Subsection (d) 2. provides for an exception in the event the State notifies the vendor or seller of a dispute in the invoice.

Subsection (e) provides that any interest incurred by lack of prompt payment will be charged to the budget of the department involved.

Subsection (f) defines "dispute" as noncompliance, in performance or price, with the terms of the contract, as determined by administering State officier.

Section 2. Exempts any contracts entered into before the effective date from this Act's provisions.

Section 3. Provides an effective date of July 1, 1983.

PROMPT PAYMENT ACT

For Legislative History of Act, see p. 111

An Act to require the Federal Government to pay interest on overdue payments, and for other purposes.

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

Prompt Payment Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Prompt Payment Act". 31 USC 1801 note.

INTEREST PENALTIES ON LATE PAYMENTS

SEC. 2. (a)(1) In accordance with regulations prescribed by the Director of the Office of Management and Budget, each Federal agency which acquires property or services from a business concern but which does not make payment for each such complete delivered item of property or service by the required payment date shall pay an interest penalty to such business concern in accordance with this section on the amount of the payment which is due. 31 USC 1801.

(2) Such regulations—

(A) shall specify that the required payment date shall be—

(i) the date on which payment is due under the terms of the contract for the provision of such property or service; or

(ii) thirty days after receipt of a proper invoice for the amount of the payment due, if a specific date on which payment is due is not established by contract;

(B)(i) in the case of any acquisition of meat or of a meat food product, as defined in section 2(a)(3) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(3)), shall specify a required payment date which is not later than seven days after the date of delivery of such meat or meat food product; and

(ii) in the case of any acquisition of a perishable agricultural commodity, as defined in section 1(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(4)), shall specify a required payment date consistent with requirements imposed pursuant to such Act;

(C) shall specify separate required payment dates for contracts under which property or services are provided in a series of partial executions or deliveries, to the extent that such contract provides for separate payment for such partial execution or delivery; and

(D) shall require that, within fifteen days after the date on which any invoice is received, Federal agencies notify the business concern of any defect or impropriety in such invoice which would prevent the running of the time period specified in subparagraph (A)(ii).

(b)(1) Interest penalties on amounts due to a business concern under this Act shall be paid to the business concern for the period

beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, except that no interest penalty shall be paid if payment for the complete delivered item of property or service concerned is made on or before (A) the third day after the required payment date, in the case of meat or a meat food product described in subsection (a)(2)(B)(i); (B) the fifth day after the required payment date, in the case of an agricultural commodity described in subsection (a)(2)(B)(ii); or (C) the fifteenth day after the required payment date, in the case of any other item. Interest shall be computed at the rate determined by the Secretary of the Treasury for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611). The Secretary of the Treasury shall publish each such rate in the Federal Register.

Interest rate computation.

Publication in Federal Register.

(2) Any amount of an interest penalty which remains unpaid at the end of any thirty-day period shall be added to the principle amount of the debt and thereafter interest penalties shall accrue on such added amount.

Unpaid interest penalty.

(c) This section does not authorize the appropriation of additional funds for the payment of interest penalties required by this section. A Federal agency shall pay any interest penalties required by this section out of funds made available for the administration or operation of the program for which the penalty was incurred.

(d)(1) Any recipient of a grant from a Federal agency may provide in a contract for acquisition of property or services from a business concern for the payment of interest penalties on amounts overdue under such contract, except that—

Interest penalty payments.

(A) in no case shall an obligation to pay such interest penalties be construed to be an obligation of the United States, and

(B) any payment of such interest penalties shall not be made from funds provided to the grant recipient by a Federal agency, nor shall any non-Federal funds expended for such interest penalties be counted toward any matching requirement applicable to that grant.

(2) Such interest penalty payments shall be made under such terms and conditions as agreed to by the grant recipient and the business concern, consistent with the grant recipient's usual business practices and applicable State and local law.

LIMITATION ON DISCOUNT PAYMENTS

31 USC 1802.

SEC. 3. (a) If a business concern offers a Federal agency a discount from the amount otherwise due under a contract for property or services in exchange for payment within a specified period of time, the Federal agency may make payment in an amount equal to the discounted price only if payment is made within such specified period of time.

(b) Each agency which violates subsection (a) shall pay an interest penalty on any amount which remains unpaid in violation of such subsection. Such interest penalty shall accrue on such unpaid amount in accordance with the regulations prescribed pursuant to section 2, except that the required payment date with respect to such unpaid amount shall be the last day of the specified period of time described in subsection (a).

SEC. 4. (a)(1) Claims for interest penalties which a Federal agency has failed to pay in accordance with the requirements of section 2 or 3 of this Act may be filed under section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605). 31 USC 1802.

(2) Interest penalties under this Act shall not continue to accrue (A) after the filing of a claim for such penalties under the Contract Disputes Act of 1978, or (B) for more than one year. 41 USC 601 note.

(3) Paragraph (2) shall not be construed to preclude the accrual of interest pursuant to section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) after interest penalties have ceased accruing under this Act, and interest pursuant to such section may accrue on both any unpaid contract payment and on the unpaid interest penalty required by this Act.

(b) Except as provided in section 3 with respect to disputes concerning discounts, this Act shall not be construed to require interest penalties on payments which are not made by the required payment date by reason of a dispute between a Federal agency and a business concern over the amount of that payment or other allegations concerning compliance with a contract. Claims concerning any such dispute, and any interest which may be payable with respect to the period while the dispute is being resolved, shall be subject to the Contract Disputes Act of 1978.

CONGRESSIONAL OVERSIGHT

SEC. 5. (a) Each Federal agency shall file with the Director of the Office of Management and Budget a detailed report on any interest penalty payments made under this Act during the preceding fiscal year. Report, filing with OMB. 31 USC 1804.

(b) Such report shall include the number, amounts, and frequency of interest penalty payments, and the reasons such payments were not avoided by prompt payment, and shall be delivered to the Director within sixty days after the conclusion of each fiscal year. Contents.

(c) The Director shall submit to the Committee on Governmental Affairs, the Committee on Appropriations, and the Committee on Small Business of the Senate and to the Committee on Government Operations, the Committee on Appropriations, and the Committee on Small Business of the House of Representatives within one hundred and twenty days after the conclusion of each fiscal year a report on Federal agency compliance with the requirements of this Act. Such report shall include a summary of the report submitted by each Federal agency under subsection (b) and an analysis of the progress made in reducing interest penalty payments by that agency from previous years. Federal agency compliance; submittal to congressional committees.

DEFINITIONS

SEC. 6. For the purposes of this Act— 31 USC 1805.

(1) the term "Federal agency" has the same meaning as the term "agency" in section 551(1) of title 5, United States Code, but also includes any entity (A) which is operated exclusively as an instrumentality of such an agency for the purpose of administering one or more programs of that agency, and (B)

which is so identified for this purpose by the head of such agency;

(2) the term "business concern" means any person engaged in a trade or business and nonprofit entities operating as contractors;

(3) an invoice shall be considered a "proper invoice" when it contains or is accompanied by such substantiating documentation (A) as the Director of the Office of Management and Budget may require by regulation, and (B) as the Federal agency involved may require by regulation or contract;

(4) an invoice shall be deemed to have been received by an agency on the later of—

(A) the date on which the agency's designated payment office or finance center actually receives a proper invoice; or

(B) the date on which such agency accepts the property or service concerned;

(5) a payment shall be considered made on the date on which a check for such payment is dated; and

(6) a contract for the rental of real or personal property is a contract for the acquisition of that property.

EFFECTIVE DATE

31 USC 1801 note.

SEC. 7. (a) This Act applies to the acquisition of property or services on or after the beginning of the first calendar quarter which begins more than ninety days after the date of enactment of this Act.

31 USC 1801 note.

(b) The provisions of this Act requiring the promulgation of regulations shall be effective upon enactment, and such regulations shall be promulgated not later than ninety days after the date of enactment of this Act.

31 USC 1806.

(c) The provisions of this Act shall apply to the Tennessee Valley Authority, but any regulations promulgated under the authority of this Act shall not be applicable to the Tennessee Valley Authority, which shall be solely responsible for implementing the provisions of this Act with respect to its contracts.

Approved May 21, 1982.

LEGISLATIVE HISTORY—S. 1131 (H.R. 4709):

HOUSE REPORT No. 97-461 accompanying H.R. 4709 (Comm. on Government Operations).
SENATE REPORT No. 97-302 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 127 (1981): Dec. 15, considered and passed Senate.
Vol. 128 (1982): Mar. 23, H.R. 4709 considered and passed House, proceedings vacated and S. 1131, amended, passed in lieu.
May 11, Senate concurred in House amendments.

PUBLIC LAW

AMELIA EA

Joint Resolution to authorize and
Earhart Day".

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Approved May 21, 198

LEGISLATIVE HISTORY—H

CONGRESSIONAL RECORD,
May 18, considered and
May 19, considered and

Berrier
3/31/83

IN THE HOUSE BY SHULTZ AND LISKA

SPONSOR SUBSTITUTE FOR [illegible] BILL NO. 210

IN THE LEGISLATURE OF TH[illegible] STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to payment for purchases by the state; and providing for an effective date."

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

* Section 1. AS 37.05 is amended by adding a new section to read:

Sec. 37.05.275. PAYMENT FOR STATE PURCHASES. (a) Payment for purchases of goods or services provided a state agency must be made on a required payment date that is

(1) the date on which payment is due under the terms of a contract; or

(2) 30 days after receipt of a proper invoice for the amount of the payment due, if a specific date on which payment is due is not established by contract and if the invoice contains or is accompanied by documents required by regulations adopted by the Office of Budget and Management.

(b) If a seller offers a discount from the amount otherwise due for property or services in exchange for payment within a specified period of time, the state agency may make payment in an amount equal to the discounted price only if payment is made within the specified period of time.

(c) If payment for goods or services purchased by the state is not made within 30 days of a required payment date, the state shall pay interest on the unpaid balance at the rate of one and one-half percent a month or portion of a month unless an agreement exists between the seller and the state that precludes the charging of interest.

(d) This section does not apply

(1) if the cost of the goods or services purchased exceeds $500,000; or

(2) after a seller of goods or services receives notice from the state officer responsible for administering the contract that the amount of the invoice or quality of the goods or services is in dispute and stating the reasons for the dispute.

(e) Interest paid under (c) of this section shall be charged to the budget of the state agency incurring the interest.

(f) In this section "dispute" means a determination by the state officer responsible for administering a contract for the purchase of goods or services that the performance or price charged is not in compliance with the terms of the contract.

* Sec. 2. This Act does not apply to contracts entered into before the effective date of this Act.

* Sec. 3. This Act takes effect July 1, 1983.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB205/210
Title: Relating to Payment of Interest
Sponsor: Duncan/Shultz by State
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: All
Program Category Affected: All
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
TOTAL OPERATING	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No source identified by the Legislature.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Tom Haas, Acting Director Phone: 465-2240
Division: Finance Date: 3/17/83

Approved by Commissioner: Lisa Rudd Date: 3/17/83
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

The Department of Administration is opposed to this Legislation, not because we disagree with the idea of the State paying its bill in a timely manner, but because we feel there are better ways to address this problem. In determining the fiscal impact on mandatory payment of interest, it is impossible to place a definite dollar amount for the cost. Many items must be taken into consideration.

First, in order to calculate what the interest cost would be, a detailed analysis would be necessary to determine what the dollar amount of bills paid in excess of 30 days might be. Readily available information does not exist. However, to show what the potential impact might be, we offer this example, making a number of assumptions.

On the assumption that the State annual budget is $3.0 billion and that 50% of that budget represents vendor payments effected by this legislation. Further we assume that 5% of the vendor payments might be subject to penalty as defined in the Legislation. Based on these assumptions, the interest penalty could be as high as $1,125,000.00.

Calculated as follows:

$3,000,000,000.00	Annual Budget
X 50%	
$1,500,000,000.00	Potential Vendor Payments
X 5%	
$ 75,000,000.00	5% Subject to Penalty
X 0.15%	
$ 1,125,000.00	Interest Penalty for Bills Paid in Excess of 30 Days.

The preferrable way to avoid penalty payments is to pay vendors within the 30 day period. This is and always has been the goal of the Department of Administration. The only effective way of doing this is either to divert current staff of the various State agencies to the effort of paying bills timely or to develop the agencies internal procedures and the Department of Administration's automated systems in order to address the payment problem. The cost to the State in providing additional staff or a bill paying effort that would pay all bills within 30 days using the current system has not be determined. The Department of Administration is currently in the process of

redesigning the statewide accounting system which will include features that will improve the bill paying and tracking capabilities of the State.

While we recognize the problem of paying vendors in a timely manner is a serious matter, we should point out that for the most part, vendors are paid timely. For a 12 month period, the State paid on the average of 70,200 invoices a month. During that time, the average payment time was 29 days. The high monthly average was 33 days while the low monthly average was 24 days. During this period, only two months exceeded 30 days payment time.

In addition to the costs of attempting to improve the payment time and the potential interest penalties, we should also consider the cost of increased bureaucracy that would be involved in determining what payments would be subject to penalty, what period of time would be covered, as well as the logistics of making the interest payments, all of these would be costs to the State in time and effort.

Lastly, it should be noted that the funding of the interest payments would need to be 100% State funds. We have been advised by the U.S. Office of Management and Budget that the Prompt Payment Act (P.L. 970177) prohibits the use of Federal grant funds for the agencies that are primarily federally funded. (Copy of OMB letter attached)

Again, we are not opposed to timely payment of vendor bills but are concerned with the method of achieving that goal.

HB

213

The Teachers' Retirement System (TRS) was established in an attempt to encourage teachers to come to Alaska. A liberal system which required only 20 years of service in order to retire with full benefits was necessary in order to convince teachers to remain in the state. Times have changed. School Districts no longer have to go begging to obtain qualified teachers. In fact, many districts have long lists of eligible tachers waiting to apply for positions.

Under current law only peace officers, firefighters, and teachers may retire after only 20 years of service. Peace officers and firefighters are acknowledged as hazardous occupations. Youth and good physical condition are required to safely perform these duties. Teachers are not subject to the same hazardous conditions and life-threatening situations.

The Teachers' Retirement System is one of the most generous provided by the State. Teachers receive credit for unused sick leave while other public employees do not. Teachers serve only 172 days each school year but receive credit for an entire year's service. Teachers' salaries are among the highest received by any public employees.

The circumstances have changed since the Teachers' Retirement System was first enacted. It is no longer necessary to allow teachers to retire after serving only 20 years. The state can no longer afford to allow teachers to retire with full benefits while only 40 to 45 years of age. Teachers, like other public employees, should not be eligilbe to retire with full benefits until they have served 30 years or reached age 55.

Other states are not so generous. Below is a summation of the requirements some states impose on teachers to retire with full benefits:

COLORADO

Teachers may retire at age 55 after 30 years of service.
Teachers may retire at age 60 after 20 years of service.
Teachers may retire at age 65 if vested.

CALIFORNIA

Teachers may retire before age 55 after 30 years of service.
Teachers may retire at age 55 if vested.

IDAHO

Teachers may retire at age 60 after 30 years of service.
Teachers may retire at age 65 if vested.

Teachers may retire at any time after age 55 if the total years of service plus age is greater than 90.

TEXAS

Teachers may retire at age 65 after 10 years of service.
Teachers may retire at age 60 after 20 years of service.
Teachers may retire at any age after 30 years of service.
Teacher may retire at any time before age 60 if the total years of service plus age is greater than 95.

WASHINGTON

Teachers may retire at age 55 after 25 years of service.
Teachers may retire at any age after 30 years of service.
Teachers may retire at age 60 if vested.

COMPARISONS

	PERS	TRS
Employee Contributions	4 1/4%	7%
Employer Contributions	13.66%	15.74% (State pays half)
Earnings on Contributions	4 1/2%	4 1/2%
Other Creditable Service	Military (5 yr max), Territorial (No max) & Certain Temporary (No max)	Outside Service (10 yr max)*, Military (5 yr max)*, Alaska BIA (15 or 5 yr max)* & Territorial (5 yr max)
Salary Used to Compute Indebtedness for Military	5th Year Salary**	Entrance Salary
Vest (Membership Service)	5 Years (paid-up)	8 Years (paid-up)(can be 3 yrs BIA)
Retirement Age	50 Early & 55 Normal Exceptions: (1) 20 yrs Peace Officers-any age (2) 30 yrs PERS-any age	50 Early & 55 Normal Exceptions: (1) 20 yrs membership service-any a (2) 25 yrs combined membership and outside service-any age
Benefit Formula	2% x Years of Service***	2% x Years of Service
Benefit is Based on a % of	Average of Three Highest Consecutive Calendar Years	Average of the Three Highest Contract Salaries
Additional Benefits	Free Medical (80%) plus Optional Audio-Dental-Visual	Free Medical (80%) plus Optional Audio-Dental-Visual
Cost of Living Adjustments	Ad Hoc PRPA's (max 4%)	Ad Hoc PRPA's (max 4%)
Year of Service Credit	365 Days	172 Days
Funded	Actuarially	Actuarially
Number of People on Retirement	2,688	1,374
Average Monthly Benefit	$620.00	$1130.00
Eligibility for Disability	5 Years of Membership	1 School Year (172 Days)
Reduced Benefits for Indebtedness	Yes	Yes
Credit for Unused Sick Leave	No	Yes
Survivor Benefits	75, 66, 50% with a reduced benefit	Pay 1% of earnings--full benefit and spouse receives 50%

* Total of these cannot exceed 15 years

** Must be vested to claim

*** Peace officers receive 2½% x all service over 10 years

STATE OF ALASKA
FISCAL NOTE

(Revised 2-22-83)
Revision Date: March 22, 1983

I. REQUEST
Bill/Resolution No.: House Bill 213
Title: An act relating to PERS, TRS & JRS
Sponsor: M. M. Miller
Requestor:

II. FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Admin. Svcs.
BRU, Program of Subprogram(s) Affected: Retirement & Benefits

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES			51,523.6	67,556.8	83,433.6	90,103.1
200 TRAVEL						
300 CONTRACTUAL		80.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC			33,102.8	44,299.4	53,800.9	58,104.9
TOTAL OPERATING		80.0	84,626.4	111,856.2	137,234.5	148,208.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND			80,335.4	106,225.0	130,249.3	140,664.0
FEDERAL FUNDS			2,056.1	2,698.3	3,347.1	3,614.8
*OTHER (Specify Source)			2,234.9	2,932.9	3,638.1	3,929.2
PERS/TRS		80.0				

*4% Veterans; 12% Fish & Game; 26% Highways; 58% Airport

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: J. K. Humphreys, Director
Phone: 465-4460
Division: Retirement & Benefits
Date: 03/22/83

Approved by Commissioner: Lisa Rudd, Commissioner
Date: 03/22/83
Department: Administration

Distribution:
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3/8/83

JKH/JB/ld
5/FORMS/0322-4

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. - House Bill 213
Title An Act Relating to Public Employees', Judicial, and Teachers' Benefits
Requested by Date

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
100 RETIREMENT BENEFITS			5,930.5	7,936.3	9,638.6	10,409.7
200 TRAVEL						
300 CONTRACTUAL		40.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
700 STATE TRS MATCHING			33,102.8	44,299.4	53,800.9	58,104.9
TOTAL		40.0	39,033.3	52,235.7	63,439.5	68,514.6

FUNDING (Thousands of Dollars)

GENERAL FUND			39,033.3	52,235.7	63,439.5	68,514.6
FEDERAL FUNDS						
*OTHER FUNDS:						
PERS						
TRS						

* 4% Veterans; 12% Fish & Game; hway; 58% Airport

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

1. The TRS contribution rate must be increased by 15.97% in FY 85; 21.03% in FY 86; and 23.66% in FY 87. The TRS contribution rate is split 50/50 between the state and the school districts.

2. Estimate the FY 85 TRS payroll to be $389,904,000.

3. The cost to school districts is estimated to be $27,172,400 in FY 85; $36,363,000 in FY 86; and $44,162,400 in FY 87.

INFORMATION PURPOSES ONLY

(Revised)

(revised)

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 213
Title An Act relating to Public Employees', Judicial, and Teacher's Benefits
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement & Benefits
Program Category Affected Centralized Administrative Services
BRU, Program, or Subprogram(s) Affected Retirement & Benefits
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
100 RETIREMENT BENEFITS			44,698.3	58,658.6	72,761.0	78,581.9
200 TRAVEL		40.0				
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
700 STATE TRS MATCHING						
TOTAL		40.0	44,698.3	58,658.6	72,761.0	78,581.9

FUNDING (Thousands of Dollars)

GENERAL FUND			40,407.3	53,027.4	65,775.8	71,037.9
FEDERAL FUNDS			2,056.1	2,698.3	3,347.1	3,614.8
*OTHER FUNDS:			2,234.9	2,932.9	3,638.1	3,929.2
PERS		40.0				
TRS						

* 4% Veterans; 12% Fish & Game; 26% Highway; 58% Airport

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

1. The state PERS payroll contribution rate must be increased by 9.53% in FY 85; 11.58% in FY 86; and 13.30% in FY 87.

2. Estimate the FY 85 state PERS payroll to be $469,028,800.

3. The cost to political subdivisions is estimated to be $32,894,300 in FY 85; $43,167,900 in FY 86; and $53,546,000 in FY 87.

INFORMATION PURPOSES ONLY

(Revised)

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 213
Title An Act Relating to Public Employees', Judicial, and Teachers' Benefits
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement & Benefits
Program Category Affected Centralized Administrative Services
BRU, Program, or Subprogram(s) Affected Retirement and Benefits (JRS)
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
100 RETIREMENT BENEFITS			894.8	961.9	1,034.0	1,111.5
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
700 STATE TRS MATCHING						
TOTAL			894.8	961.9	1,034.0	1,111.5

FUNDING (Thousands of Dollars)

GENERAL FUND			894.8	961.9	1,034.0	1,111.5
FEDERAL FUNDS						
OTHER FUNDS						
PERS						
TRS						

* 4% Veterans; 12% Fish & Game; 26% Highway; 58% Airport

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

1. The JRS contribution rate must be increased by 23.76% in FY 85.

2. Estimate the FY 85 JRS payroll to be $3,766,000.

INFORMATION PURPOSES ONLY

(Revised)

HB 213

HB 213

AS 14.20.345

Education.
CHAPTER 20.
Teachers and School Officials.
ARTICLE 4.
Sabbatical Leave.
CITATION Sec. 14.20.345.
CATCH LINE
LEAVE OF ABSENCE WITHOUT PAY.
TEXT (a) A teacher may be granted a leave of absence without pay for the purposes which may be approved by the governing body of the district if

(1) the teacher's application is approved by the governing body of the district; and

(2) the teacher agrees to return to employment in a public school not later than the beginning of the school year following termination of the period for which the leave of absence was granted.

(b) A leave of absence is not an interruption of the continuous service necessary to attain or retain retirement or tenure rights according to AS 14.20.150, 14.20.155, or 14.20.160. However, the time spent on leave of absence may not be counted in determining when a teacher has sufficient service to enable the teacher to acquire retirement or tenure rights.

(c) The leave of absence is not a break in service for retirement purposes.

(d) The governing body of the district may agree to continue the teacher's retirement contributions if the teacher agrees to pay the required seven per cent of the salary the teacher would have received during the leave of absence and reimburse the district for the district's required retirement contribution. Each year of leave of absence then would count as a year of retirement service.

(e) The governing body of the district may advance the teacher on the district salary schedule when the teacher returns to employment if the governing body determines that the teacher's leave of absence was educationally or professionally beneficial to the teacher or the district.

(f) A teacher may make contributions to the retirement fund for each year or portion of a year of leave of absence taken. The contribution shall include the required per cent of the salary the teacher would have received had the leave of absence not been taken, plus the required employer and state contributions that would have been made. Compound interest at the rate prescribed by regulation shall be added as computed from the beginning date of the leave of absence to the date the

teacher pays the contribution.

HISTORY (Sec. 5 ch 104 SLA 1965; am secs. 33, 34 ch 98 SLA 1966; am sec. 1 ch 44 SLA 1971; am sec. 1 ch 184 SLA 1972; am sec. 2 ch 99 SLA

AS 14.25.050

Education.

CHAPTER 25.

Teachers' Retirement.

CITATION Sec. 14.25.050.

CATCH LINE

CONTRIBUTIONS BY TEACHERS.

TEXT (a) Beginning July 1, 1970, each teacher shall contribute to the retirement fund an amount equal to seven per cent of the teacher's base salary accrued from July 1 to the following June 30. The contribution shall be deducted by the employer at the end of each payroll period.

(b) Each teacher is entitled to receive credit for unrefunded contributions paid into the retirement fund of 1945.

HISTORY (Sec. 6 ch 145 SLA 1955; am sec. 4 ch 89 SLA 1960; am sec. 3 ch 78 SLA 1962; am sec. 1 ch 84 SLA 1969; am sec. 1 ch 138 SLA 1970; am sec. 1 ch 128 SLA 1977)

AS 14.25.060

Education.
CHAPTER 25.
Teachers' Retirement.
CITATION Sec. 14.25.060.
CATCH LINE
ARREARAGE INDEBTEDNESS.
TEXT (a) If a member has military service or Alaska Bureau of Indian Affairs (BIA) service, or if a member joined the system before July 1, 1978, and has creditable outside service, the member is indebted to the retirement fund as follows:

(1) At the time of first becoming a member of the system, the arrearage indebtedness is seven percent of the base salary multiplied by the total number of years of creditable outside, military and Alaska BIA service. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning July 1, 1963, or at the time of first becoming employed as a member, whichever is later, to the date of payment or the date of retirement, whichever occurs first.

(2) If a member terminates from the system and is subsequently reemployed as a member, the arrearage indebtedness to the retirement fund for outside, military, or Alaska BIA service accumulated in the interim is seven percent of the base salary upon reentering membership service, multiplied by the number of years of interim outside, military, and Alaska BIA service. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning July 1, 1963, or the date of reemployment as a member, whichever is later, to the date of payment or the date of retirement, whichever occurs first.

(b) If a member joins the system on or after July 1, 1978, and has creditable outside service, the member may claim this service. If claimed, the member is indebted to the retirement fund as follows:

(1) The arrearage indebtedness is the full actuarial cost of providing benefits for the service being claimed. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning the date the actuarial cost is established to the date of payment or the date of retirement, whichever occurs first.

(2) If a member terminates from the system and is subsequently reemployed as a member, the arrearage indebtedness for outside service during the interim is the full actuarial cost of providing benefits for the interim service being claimed. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning the date the actuarial cost is established to the date of payment or the date of retirement, whichever occurs first.

(3) Repealed by sec. 75 ch 137 SLA 1982.

(c) The total military service claimed may not exceed five years. The combined total of outside and military service may

not exceed 10 years, except that, if entry into the armed forces is immediately preceded by membership service and within one year after discharge is continued by membership service, that service will not be counted for purposes of determining the applicability of the 10-year limitation on the combined total of outside and military service.

HISTORY (Sec. 7 ch 145 SLA 1955; am sec. 3 ch 142 SLA 1957; am sec. 5 ch 89 SLA 1960; am sec. 2 ch 86 SLA 1963; am sec. 11 ch 70 SLA 1964; am secs. 3, 4 ch 151 SLA 1966; am sec. 2 ch 76 SLA 1968; am secs. 3, 4 ch 138 SLA 1970; am sec. 3 ch 66 SLA 1973; am sec. 3 ch 128 SLA 1977; am sec. 14 ch 136 SLA 1978; am secs. 6, 7 ch 13 SLA 1980; am secs. 5, 75 ch 137 SLA 1982)

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

AS 14.25.110

Education.
CHAPTER 25.
Teachers' Retirement.
CITATION Sec. 14.25.110.
CATCH LINE
RETIREMENT BENEFITS.
TEXT (a) A member is eligible for a normal retirement benefit if the member

(1) was first hired before July 1, 1975, has attained the age of 55 years, and has at least 15 years of credited service, the last five of which have been membership service;

(2) has attained the age of 55 years and has at least eight years of membership service;

(3) has attained the age of 55 years, has at least five years of membership service, and has at least three years of Alaska BIA service;

(4) has at least 25 years of credited service, the last five of which have been membership service;

(5) has at least 20 years of membership service; or

(6) has at least 20 years of combined membership service and Alaska BIA service, the last five of which have been membership service.

(b) A member is eligible for an early retirement benefit upon completing any one of the service requirements in (a)(1), (2), or (3) of this section and attaining the age of 50 years.

(c) The burden is on the applicant to prove eligibility for retirement benefits to the full satisfaction of the administrator.

(d) The monthly amount of a retirement benefit for a member who has paid the full amount of any indebtedness is two percent of the member's average base salary during any three school years of membership service times the years of credited service,

including credited fractional years, divided by 12. An actuarial adjustment must be made for early retirement.

(e) The monthly amount of a retirement benefit must be determined in accordance with (d) of this section as it is in effect on the date of termination of the retiring member's last segment of employment.

(f) The annual amount of retirement benefits for a retiring member who was a member of the retirement system established by the Retirement Act of 1945 may not be less than $975 plus 10 percent of the total contribution made by the member to the retirement fund of 1945.

(g) A member who is eligible for a service retirement salary under this chapter or under the Retirement Act of 1945 is entitled to a benefit of at least $25 per month for each year of credited service, excluding adjustments made under AS 14.25.142 or 14.25.143. If the member elected option two under AS 14.25.063(b)(2) for payment of any indebtedness when the member initially applied for a retirement benefit, or if the member elected to receive an early retirement benefit under (b) of this section, the resulting benefit reduction continues in effect.

(h) The monthly retirement benefit for a member who was receiving a retirement benefit on July 1, 1955, is $50 a month if the member was at least 55 years of age on July 1, 1955.

(i) Benefits payable under this section accrue from the first day of the month after which all of the following requirements are met: (1) the member meets the eligibility requirements of this section; (2) the member terminates employment; and (3) the member applies for retirement. Benefits are not payable under this section during a school year in which credit for a full year of service is granted. The benefits are payable the last day of the month. If payment is delayed, a retroactive payment must be made for the month in which a benefit is payable under this section. The last payment shall be for the month in which the member dies or is no longer eligible for a benefit under this section.

HISTORY (Sec. 12 ch 145 SLA 1955; am sec. 4 ch 142 SLA 1957; am sec. 9 ch 89 SLA 1960; am sec. 4 ch 86 SLA 1963; am sec. 6 ch 151 SLA 1966; am sec. 2 ch 85 SLA 1971; am sec. 8 ch 66 SLA 1973; am sec. 1 ch 77 SLA 1973; am sec. 2 ch 57 SLA 1974; am secs. 1 - 3 ch 173 SLA 1975; am sec. 5 ch 169 SLA 1976; am sec. 14 ch 13 SLA 1980; am sec. 2 ch 146 SLA 1980; am sec. 9 ch 137 SLA 1982)

AS 14.25.125

Education.
CHAPTER 25.
Teachers' Retirement.

CITATION Sec. 14.25.125.

CATCH LINE
CONDITIONAL SERVICE RETIREMENT BENEFITS.

TEXT (a) A member is eligible for a normal retirement salary at age 55 with at least two years membership service if the member also is eligible for a normal retirement benefit under the public

employees' retirement system (AS 39.35).

(b) A member is eligible for an early retirement salary at age 50 with at least two years of membership service if the member also is eligible for an early retirement benefit under the public employees' retirement system (AS 39.35).

(c) Membership service for which contributions were refunded is not creditable under this section unless the refunded contributions have been repaid. For purposes of this section, a member or former member does not have to be reemployed under this system in order to repay refunded contributions. Compound interest at the rate prescribed by regulation must be added to the reinstatement indebtedness from the date of the refund to the date of repayment.

(d) The monthly amount of a conditional service retirement benefit shall be calculated on the years of credited service in accordance with AS 14.25.110(d), except that a member may irrevocably elect to substitute "average monthly compensation" as defined in AS 39.35.680(4) in place of the member's average base salary divided by 12.

(e) Benefits payable under this section accrue from the first day of the month (1) in which the member meets the eligibility requirements of this section, (2) following the date of termination, and (3) following application for retirement, and are payable the last day of the month. If payment is delayed, a retroactive payment shall be made to cover the period of deferment. The last payment shall be made for the month in which the member dies or is no longer eligible for a benefit under this section.

HISTORY (Sec. 2 ch 174 SLA 1978; am sec. 15 ch 13 SLA 1980; am sec. 11 ch 137 SLA 1982)

AS 14.25.143

Education.
CHAPTER 25.
Teachers' Retirement.

CITATION Sec. 14.25.143.

CATCH LINE
POST RETIREMENT PENSION ADJUSTMENT.

TEXT (a) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, the administrator shall increase benefit payments to persons receiving benefits under this system.

(b) The amount of the increase in benefit payments may not exceed the lesser of

(1) the increase in the cost of living since the date of retirement; or

(2) four percent of the retirement benefit compounded for each year of retirement.

(c) The administrator shall implement this section by regulation.

(d) A person receiving benefits under this chapter shall be granted a 10 per cent increase in the current base benefit if the

person was receiving benefits on July 1, 1976. The increase shall be effective July 1, 1977.

(e) If at the time of first receiving a retirement benefit a member was receiving a disability benefit, the administrator shall include the time during which the member received the disability benefit in determining the number of years of retirement under this section.

(f) An increase in benefit payments under this section is effective July 1 of the year for which the increase is granted.

HISTORY (Sec. 11 ch 151 SLA 1966; am sec. 5 ch 86 SLA 1971; am sec. 19 ch 66 SLA 1973; am sec. 3 ch 99 SLA 1974; am sec. 7 ch 128 SLA 1977; am sec. 17 ch 13 SLA 1980; am secs. 3 - 6 ch 146 SLA 1980; am sec. 13 ch 137 SLA 1982)

AS 22.25.010

Judiciary.
CHAPTER 25.
Retirement and Death Benefits.
ARTICLE 1.
Justices and Judges.

CITATION Sec 22.25.010.

CATCH LINE
RETIREMENT OF JUSTICES AND JUDGES.

TEXT (a) A justice or judge shall be retired on the date that the justice or judge reaches the age of 70. A justice or judge is eligible for retirement pay with five or more years of service at the time of retirement as a justice or judge.

(b) A justice or judge may be retired for incapacity as provided by law. A justice or judge is eligible for retirement pay with two or more years of service at the time of retirement for incapacity. The effective date of retirement under this subsection is the first day of the month coinciding with or after the date upon which the governor with respect to a justice, or the supreme court with respect to a judge files with the commissioner of administration a written declaration to the effect that a designated justice or judge was retired for incapacity. A duplicate copy of the declaration shall be filed with the Judicial Council.

(c) A justice or judge who served for a period of five years may file with the governor a written application for retirement which contains a sworn statement of service and a sworn statement of the incapacity of the justice or judge to efficiently perform the judicial duties. When an application is filed, the governor shall appoint a board of three persons to inquire into the circumstances, and may, upon the board's recommendation, retire the justice or judge. The effective date of the retirement shall be as provided in (b) of this section.

(d) A justice or judge may voluntarily retire at any time and shall have a vested right to accrued retirement pay if the justice or judge has served five or more years. Retirement pay shall not commence until the justice or judge has reached age 60; except that an actuarially equivalent retirement pay may be

commenced after the justice or judge has reached age 55 or upon 20 years' service as a justice or judge. The provisions of (b) of this section are an exception to this rule. A justice or judge desiring to retire under this subsection shall file with the governor a notice of that desire, together with a sworn statement of the facts establishing eligibility to retire. The governor shall certify those facts to the commissioner of administration and declare, in writing, the eligibility or ineligibility for retirement of the justice or judge. If a justice or judge is eligible to receive retirement pay at the time of retirement, the retirement pay shall commence on the first day of the month coinciding with or after the date the written declaration of the governor is filed with the commissioner of administration. If a justice or judge is not eligible to receive retirement pay at the time of retirement, the retirement pay shall commence on the first day of the month the justice or judge reaches age 60 or the month the justice or judge becomes eligible for an actuarial equivalent if application was made for this option.

(e) Repealed by sec. 16 ch 83 SLA 1967.

(f) In the computation of service for retirement under AS 22.25.010 - 22.25.070, the time served by a justice or judge of any court is added to the time served, if any, on any other court. All service rendered by a justice or judge, including service as a magistrate or deputy magistrate, before July 1, 1967 shall be included in the computation.

(g) The word "justice" means a supreme court justice, and the word "judge," unless the context clearly indicates otherwise, means a judge of the court of appeals, a superior court judge or district court judge.

HISTORY (Sec. 1 ch 102 SLA 1963; am secs. 6 - 10, 16 ch 83 SLA 1967; am sec. 1 ch 160 SLA 1972; am sec. 2 ch 196 SLA 1976; am sec. 18 ch 12 SLA 1980)

AS 39.35.340

Public Officers and Employees.
CHAPTER 35.
Public Employees' Retirement System of Alaska.
ARTICLE 5.
Service.

CITATION Sec. 39.35.340.

CATCH LINE

MILITARY SERVICE.

TEXT (a) A vested employee is entitled to credited service for active military service in the armed forces of the United States, either by enlistment or induction, if the employee did not receive a dishonorable discharge. The credited service allowed may not exceed an aggregate period of five years. Benefits are not payable on credited service for military service unless the employee makes retroactive contributions to the system for the period of time that service credit is claimed. However, if the employee was in the employ of an employer on the date of entry

into the armed forces and returned to the employ of an employer within 90 days after the date of his discharge from military service, he is not required to make retroactive contributions under this system for the period of credited service.

(b) In order to obtain credited service under this section, an employee shall make an election to do so and shall verify his period of military service. When eligibility for credited service for military service has been established, an indebtedness shall be determined as follows: (1) the employee's actual compensation, or the calculated annual compensation for those employees working less than 12 months, during the calendar year 1976 or the year in which an employee first becomes vested under this chapter, whichever is later, multiplied by (2) six percent, this product multiplied by (3) the number of years of military service credited under this section. Interest as prescribed by regulation accrues on this indebtedness commencing on July 1, 1977, or one year following the date a person first becomes vested, whichever is later. Any outstanding indebtedness which exists at the time a person is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based upon that military service.

(c) A retired employee on July 1, 1976, is eligible to receive increased benefits based upon military service as described in (a) of this section. To receive credited service for military service, a retired employee must verify his military service. When verified, a retired employee is entitled to receive an increased benefit which shall be actuarially adjusted to reflect his indebtedness for that credit. The indebtedness shall be calculated in the same manner as described in (b) of this section except that it shall be based on the average monthly compensation used in calculating the benefit. The effective date of this increased benefit is the beginning of the month following that in which eligibility has been established.

(d) The credited service granted under this section may not be used to satisfy the credited service requirements for normal retirement.

(e) A deferred vested employee on July 1, 1976, is eligible to claim credited service under (a) of this section. In order to obtain credited service under this section, such an employee must

make an election to do so and must verify his period of military service. When eligibility for military service has been established, an indebtedness shall be determined as follows: the employee's actual compensation, or the calculated annual compensation for those employees working less than 12 months, during the calendar year the employee terminated, shall be multiplied by six percent; this product shall then be multiplied by the number of years of military service credit under this section. Interest as prescribed by regulation accrues on this indebtedness commencing July 1, 1978. Any outstanding indebtedness which exists at the time a person is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based upon that military service.

(f) An employee cannot be credited with a period of active military service in the armed forces of the United States under this section if credit for that military service was granted under AS 14.25.

(g) A surviving spouse receiving or entitled to receive benefits under AS 39.35.420(b), 39.35.430, or 39.35.440 or benefits under a joint and survivor option filed under AS

39.35.450 is eligible to receive increased benefits based on military service as described in (a) of this section. To receive credited service for military service, the surviving spouse must verify the employee's military service. When verified, the surviving spouse is entitled to receive an increased benefit which shall be actuarially adjusted to reflect the indebtedness for that credit. The indebtedness shall be calculated in the same manner as described in (b) of this section except that it shall be based on the average monthly compensation used in calculating the benefit. Benefits payable under this subsection are effective the first day of the month following that in which eligibility has been established.

(h) The combined period of military service claimed under this section and under AS 14.25 may not exceed five years.

HISTORY (Sec. 15 ch 143 SLA 1960; am sec. 1 ch 123 SLA 1976; am sec. 29 ch 128 SLA 1977; am sec. 6 ch 174 SLA 1978; am secs. 31 - 36 ch 13 SLA 1980; am sec. 46 ch 137 SLA 1982)

AS 39.35.385

Public Officers and Employees.
CHAPTER 35.
Public Employees' Retirement System of Alaska.
ARTICLE 6.
Benefits.

CITATION Sec. 39.35.385.

CATCH LINE

CONDITIONAL SERVICE RETIREMENT BENEFITS.

TEXT (a) An employee is eligible for a normal retirement benefit at age 55 with at least two years of credited service if the employee also is eligible for a normal retirement salary under the teachers' retirement system (AS 14.25).

(b) An employee is eligible for an early retirement benefit at age 50 with at least two years of credited service if the employee also is eligible for an early retirement salary under the teachers' retirement system (AS 14.25).

(c) Credited service for which contributions were refunded is not creditable under this section unless the refunded contributions have been repaid. For purposes of (a) and (b) of this section, a member or former member does not have to be reemployed under this system in order to pay refunded contributions. Compound interest at the rate prescribed by regulation must be added to the reinstatement indebtedness from the date of the refund to the date of repayment.

(d) The monthly amount of a conditional service retirement benefit shall be calculated on the years of fully paid credited service in accordance with AS 39.35.370(c), except that the member may irrevocably elect to substitute one-twelfth of the "average base salary" as defined in AS 14.25.220(5) in place of average monthly compensation.

(e) Benefits payable under this section accrue from the first day of the month (1) in which the member meets the eligibility requirements of this section, (2) following the date

of termination, and (3) following application for retirement, and are payable the last day of the month. If payment is delayed, a retroactive payment shall be made to cover the period of deferment. The last payment shall be made for the month in which the member dies or is no longer eligible for a benefit under this section.

(f) An employee is eligible for a normal retirement benefit at age 55 or an early retirement benefit at age 50 if he has at least 60 days of credited service as a temporary employee of the legislature during each of five legislative sessions.

HISTORY (Sec. 3 ch 174 SLA 1978; am sec. 11 ch 82 SLA 1979; am sec. 37 ch 13 SLA 1980; am secs. 50, 51 ch 137 SLA 1982)

AS 39.35.370

Public Officers and Employees.
CHAPTER 35.
Public Employees' Retirement System of Alaska.
ARTICLE 6.
Benefits.

CITATION Sec. 39.35.370.

CATCH LINE
RETIREMENT BENEFITS.

TEXT (a) A terminated employee is eligible for a normal retirement benefit (1) at age 55 with at least five years credited service, or (2) with at least 20 years of credited service as a peace officer or fireman, or (3) with at least 30 years of credited service for all other employees.

(b) A terminated employee is eligible for an early retirement benefit at age 50 with at least five years credited service.

(c) The monthly amount of a retirement benefit for a peace officer or fireman is two per cent of the average monthly compensation times the years of credited service up through 10 years, plus two and one-half per cent of the average monthly compensation times the years of service over 10 years. For all other employees it is two per cent of the average monthly compensation times the years of service. An actuarial adjustment must be made for an early retirement benefit.

(d) The monthly amount of a retirement benefit for a deferred vested member shall be determined in accordance with (c) of this section as it was in effect on the date of the employee's termination of employment.

(e) Benefits payable under this section accrue from the first day of the month after which all of the following requirements are met: (1) The member meets the eligibility requirements of this section; (2) he terminates his employment; and (3) he applies for retirement. The benefits are payable the last day of the month. If payment is delayed, a retroactive

payment shall be made to cover the period of deferment. The last payment shall be made for the month in which a benefit is payable under this section.

(f) A member who is vested in the system as a peace officer or fireman at the time he incurs a permanent disability of at least 33-1/3 per cent under workers' compensation and who (1) undergoes retraining because of the disability; and (2) is subsequently employed with the state or other employer in a position other than peace officer or fireman, is eligible for a normal retirement benefit as a peace officer or fireman under (a) and (c) of this section when he has completed 20 years of credited service.

HISTORY (Sec. 18 ch 143 SLA 1960; am sec. 2 ch 102 SLA 1963; am sec. 7 ch 155 SLA 1966; am sec. 5 ch 235 SLA 1968; am sec. 6 ch 109 SLA 1970; am secs. 6, 7 ch 159 SLA 1972; am sec. 15 ch 47 SLA 1974; am sec. 34 ch 128 SLA 1977; am sec. 33 ch 146 SLA 1980)

AS 39.35.475

Public Officers and Employees.
CHAPTER 35.
Public Employees' Retirement System of Alaska.
ARTICLE 6.
Benefits.

CITATION Sec. 39.35.475.

CATCH LINE

POST-RETIREMENT PENSION ADJUSTMENT.

TEXT (a) When the administrator determines that the cost of living has increased and the financial condition of the retirement fund permits, he shall increase benefit payments to persons receiving benefits under this system.

(b) The amount of the increase in benefit payments may not exceed the lesser of

(1) the increase in the cost of living since the date of retirement; or

(2) four percent of the retirement benefit compounded for each year of retirement.

(c) If at the time of first receiving a retirement benefit a member was receiving a disability benefit under this system, the administrator shall include the time during which the member received the disability benefit in determining the number of years of retirement under this section.

(d) An increase in benefit payments under this section is effective July 1 of the year for which the increase is granted.

(e) The administrator shall implement this section by regulation.

HISTORY (Sec. 9 ch 235 SLA 1968; am sec. 14 ch 159 SLA 1972; am sec. 34 ch 146 SLA 1980; am sec. 57 ch 137 SLA 1982)

State Retirement Programs

HOUSE BILL NO. 213, by Reps. M.M. Miller, Duncan and Larson. Identical to SB 110, page 116, however does not include Sec. 22 of that bill relating to the Elected Public Officers' Retirement program.

Introduced February 17 and referred to State Affairs and Finance.

State Retirement Programs

SENATE BILL NO. 110, by Senator V. Fischer. Makes changes to statutes governing the teachers', public employees, judicial and elected public officers' retirement systems.

Increases member contributions for teachers' and public employees' retirement. Under the bill teacher contributions would be increased from seven to nine percent of base salary (AS 14.25.050), and public employee contributions would be raised from four and one-quarter to six and one-quarter percent of base salary (AS 39.25.160). The rate of contribution for peace officers and firemen would be increased from five percent to seven percent. All increases would be effective July 1, 1984.

For Teachers' Retirement (TRS), the bill amends sections relating to payment of arrearage indebtedness for prior military, outside or B.I.A. service to reflect increase in contribution rates (AS 14.25.060). For Public Employees' Retirement (PERS), bill similarly amends section on payment of indebtedness for prior military service (AS 39.35.340).

Increases monthly benefit amounts for TRS and PERS, as follows. Currently, under both programs the monthly benefit amount is 2% of an average of the member's salary, times the years of credited service (for teachers, an average of yearly salary for any three years divided by twelve, and for public employees a straight average of member's monthly compensation). The bill would allow those who retire with a greater number of credited years of service to receive a higher benefit than those who retire with the minimum, thus providing a disincentive to early retirement.

The benefit for those who retire with less than 10 years of credited service would be 2% of average monthly base salary, times years of credited service. The percentage for those who retire with at least 10 but less than 20 years of credited service would be 2.25%, and for those who retire with at least 20 years in, the percentage would be 2.5%. Also amends sections on conditional service retirement benefits to reflect change in calculation of benefits. (Amends AS 14.25.110(d) & 14.25.125(d) for TRS, and AS 39.25.370(c) & 39.35.385(d) for PERS.) Increases would be effective July 1, 1984.

Rewrites Post-Retirement Pension Adjustment (PRPA) provisions for TRS and PERS. Under current law, increases in benefit amounts are not automatic and may be made by the administrators of the

SB 110 (cont'd)

retirement funds when they deem necessary.

The bill sets up a graduated program for PRPA granting automatic cost-of-living increases over a three-year period to retired members. Effective July 1, 1984, the administrators must increase benefit payments to eligible persons 65 or older who received benefits during the preceding calendar year. Effective July 1, 1985, the cost-of-living increases would be granted to eligible disabled members or those 60 or older, and effective July 1, 1986 to eligible disabled members or those 55 or older. The younger retirees would receive less of an increase.

PRPA increases would be calculated based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage during the previous calendar year as determined by the U. S. Bureau of Labor Statistics. Increases would be the lesser of a percentage of the rise in the cost of living or a set percentage (a maximum of 9% increase for those over 65 to a minimum of 3% for those over 55). Amends AS 14.25.143 for TRS, and AS 39.25.475 for PERS.

Amends Judicial retirement provisions to allow judges to begin receiving retirement pay at age 55 instead of 60 for a normal retirement. Would allow retired judge or justice who has reached age 50 (currently 55) or put in 20 years to receive an actuarially equivalent benefit. Adds: "A justice or judge may elect to receive full retirement benefits with no actuarial reduction upon attaining 20 years of creditable service if, beginning the first day of the month following an election made under this subsection, the justice or judge contributes to the retirement system two percent of the base annual salary. The contribution is in addition to any contribution required under AS 22.25.011 and must be made even if the justice or judge is not required to contribute under AS 22.25.011. An election under this subsection is irrevocable and must be made in writing to the commissioner of administration not later than December 31, 1983, or within 18 months after appointment for a justice or judge appointed after July 1, 1983." (Amends AS 22.25.010, Retirement of Justices and Judges.) Effective July 1, 1984.

Sec. 22 of bill states: "Notwithstanding the provisions of former AS 39.37.040(a) and (c), an elected public officer eligible for retirement benefits under former AS 39.37 [Elected Public Officers' Retirement System - rejected at referendum] is eligible to receive retirement pay under former AS 39.37 after the officer has reached age 55 or an actuarially reduced equivalent retirement pay after the officer has reached age 50 or upon attaining 20 years of creditable service." An elected public officer eligible for benefits under former AS 39.37 could elect to receive full retirement benefits with no reduction upon attaining 20 years of credited service if, beginning the first day of the month following an election made under the bill, the elected public officer contributes to the retirement system 2% of his compensation in addition to the contribution required under former AS 39.37.070(a).

HB

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STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: House Bill #155
Title: "An Act continuing the AK Com. on the S.O. Status of Women Commission
Sponsor: By Rules Committee by request of the Governor
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Office of the Governo
Program Category Affected:
BRU, Program of Subprogram(s) Affected:
W.;& providing an effective date.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		175.9	186.5	197.7		
200 TRAVEL		47.0	49.8	5[illegible].8		
300 CONTRACTUAL		116.8	123.8	131.2		
400 COMMODITIES		3.0	3.2	3.4		
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		342.7	363.3	385.1		
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		342.7	363.3	385.1		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		4	4	4		
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Fiscal impact will be incurred. Funding to be continued and provided for in the Governor's FY 84, 85 and 86 budgets.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael A. Nizich, Director Phone: 465-3616
Division: Administrative Services Date: 3/21/83

Approved by Commissioner: [signature] Date: 3/22/83
Department: Office of the Governor

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3/8/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 231 Date on Bill: February 28, 1983
Title: "An Act Relating to the Alaska Commission on the Status of Women"
Sponsor: House Rules Committee
Requestor: David, Koponen, Clocksin, Duncan, Fuller, Goil, Grussendorf, Lacher, Larson, Malone, McBride, M.M. Miller, Phillips, Szymanski, Vaska, Wendte & Zharoff.

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating			-0-	342.7	372.3	385.1		
Total			-0-	342.7	372.3	385.1		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Fiscal impact will be incurred. Funding to be continued and provided for in the Governor's FY 84, 85 and 86 budgets.

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Michael A. Nizich Phone: 465-4616
Division: Administrative Services/Executive Office Date: 3/03/83

Approved by Commissioner: Laura J. Herman Date: 3/0/383
Department: Office of the Governor

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

FY 86

Status of Women Budget Summary

01	Personal Services	197.7
02	Travel	52.8
03	Contractual	131.2
04	Commodities	3.4
05	Equipment	
06	Lands/Buildings	
07	Grants, Clms	
08	Miscellaneous	
** Total **		385.1

Full-Time Position Recap -

PCN	Classification Title	Annual Salary
01-0079	Policy & Prog Spec II	52,896
01-0080	Secretary I	22,668
01-0081	Research Analyst II	35,292
01-0091	Information Officer II	35,292

FY 85

Status of Women - Budget Summary

01	Personal Services	186.5
02	Travel	49.8
03	Contractual	123.8
04	Commodities	3.2
05	Equipment	
06	Lands/Buildings	
07	Grants, Clms	
08	Miscellaneous	
** Total **		372.3

Full-Time Position Recap -

PCN	Classification Title	Annual Salary
01-0079	Policy & Prog Spec II	51,012
01-0080	Secretary I	21,984
01-0081	Research Analyst II	34,056
01-0091	Information Officer II	34,056

Status of Women - Budget Summary

01 Personal Services	175.9
02 Travel	47.0
03 Contractual	116.8
04 Commodities	3.0
05 Equipment	
06 Lands/Buildings	
07 Grants, Clms	
08 Miscellaneous	
** Total **	342.7

Full-Time Position Recap -

PCN	Classification Title	Annual Salary
01-0079	Policy & Prog Spec II	49,380
01-0080	Secretary I	21,384
01-0081	Research Analyst II	32,868
01-0082	Information Officer II	32,868

FM knowledge

I attended the AK COTSOA conf. last yr. Overall the mtgs were fine. However, I noted that they were interviewing gubernatorial candidates (which I opposed a state funded agency doing) & propoganda against Rep Barnes was passed out

to all tables

MSG 83-00002416 PRTY 1 03/22/83 13:18:08 ORIG: LF05 IN= 0003 OUT= 0033
FROM: LYNDA/FBX TO: ALL
TARGET: LJHZ SUBJ: CMSN/STATUS/WOMEN T/C 3/22

FBX #2

has time constraint

TO TESTIFY:
2. VALERIE THERRIEN, FBX N.O.W., 779 8TH AVE., FBX. #456-8113

has to leave in 10 minutes

---EOM

MSG 83-00002456 PRTY 1 03/22/83 13:58:06 ORIG: LS00 IN= 0012 OUT= 0013
FROM: FALEENE, SITKA TO: MODERATORS
TARGET: LJH1 SUBJ: (H) S.A./COMM. ON STATUS OF WOMEN T/C

OMNI #1

WITNESS

1. MARCIA JOHNSON
SR, 111 CEDAR BEACH SMC
SITKA, AK 99835

Affiliated with
Federal Women's Programs
Sitkian's Against Family Violence
Business & Professional Women
NOW

UNDER TIME CONSTRAINT

would like to testify ASAP

You have to convince us that this commission is a needed asset to this State!

The way to do this is to get elected by the Majority of the People

She has managed to use up most of our time without giving us any concrete evidence of need for this Commission

HB 230 (cont'd)

AS 08.64.110, "Per Diem and Expenses," which provides "The members of the board are entitled to per diem and expenses authorized by law."

AS 08.64.140, "Annual Report to Governor." Included in new section listing duties of the Board (see Sec. 4).

AS 08.64.200(1), "Qualifications of Physician Applicants." Repeals requirement that applicant "be of good moral character."

AS 08.64.380(3), definition of "unprofessional or dishonorable conduct."

Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced February 28 and referred to HESS, Labor & Commerce.

In his message transmitting the bill to the House for consideration, Governor Sheffield stated:

> Under the authority of art III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to licensing for and regulation of the practice of medicine. The bill would revise and clarify the statutes relating to licensing for the practice of medicine, and the powers and duties of the State Medical Board. The bill also would clarify the grounds for disciplinary action by the board and the types of disciplinary action which it may take.
>
> Further, the bill would revise the definition of the practice of medicine to include more modern views of what constitutes medical practice. The new language also expands the definition of the practice of medicine to encompass types of activity not clearly regulated under existing law, including the treatment of a person who does not clearly fall within the definition of a person who is 'sick or injured.'

Commission on the Status of Women

HOUSE BILL NO. 231, by Reps. Davis, Koponen, Clocksin, Duncan, Fuller, Goll, Grussendorf, Lacher, Larson, Malone, McBride, M.M. Miller, Phillips, Szymanski, Vaska, Wendte and Zharoff. See SB 63, page 21, identical.

Introduced February 28 and referred to State Affairs and Finance.

Chester Lake Hydro Project (authorizing)

HOUSE BILL NO. 232, by Reps. McBride and Wendte. Would authorize the Chester Lake Hydroelectric project and approves a construction cost of $13,200,000 under the provisions of AS 44.83.185(c) (Alaska Power Authority. Submission to legislature--requires the APA to submit a feasibility study and plan of finance for a proposed new project to the legislature. Subsection (c) states that the legislature shall consider and must approve all proposed new projects by enacting law authorizing and approving the project and construction costs). Provides Act takes effect immediately.

Introduced March 2 and referred to Resources and Finance.

Drunk Driving (chemical breath tests)

SENATE BILL NO. 61, by Senators Josephson and Kelly. Identical to HB 6, page

Introduced January 19 and referred to State Affairs and Judiciary.

Appropriation (Copper River Basin natural gas)

SENATE BILL NO. 62, by Moss. Would appropriate $1 million to the Alaska Power Authority for a feasibility study of using Copper River Basin natural gas for generation of electrical power for local utilities. Effective July 1, 1983.

Introduced January 20 and referred to Resources and Finance.

Commission on the Status of Women

SENATE BILL NO. 63, by Senators V. Fischer and Rodey. Changes name to the Alaska Women's Commission. Adds to list powers and duties in AS 44.19.175 the duty to "encourage the development of regional and municipal women's councils or commissions." Changes section on annual report to require a report on the proceedings for the previous fiscal year rather than the previous calendar year. Repeals termination date of June 30, 1983 which was included in the legislation creating the commission (Sec. 2, Ch. 120, SLA 1978), and extends the life of the commission to January 30, 1987. Does not provide for an effective date (effective 90 days after the Governor's signature).

Introduced January 20 and referred to State Affairs. January 21, Sen. Sturgulewski added as a co-sponsor.

Physicians Employed by the State (exempt service)

SENATE BILL NO. 64, by the Rules Committee by request of of the Legislative Council (for the Blue Ribbon Commission on the State Personnel Act). Would include in state exempt service only those licensed physicians employed by the Division of Mental Health and Developmental Disabilities, Dept. of Health and Social Services. Currently, under AS 39.25.110(13), any licensed physician employed by the state would be placed in the exempt service. Does not provide for an effective date (effective 90 days after Governor's signature). Identical to HB 108.

Introduced January 21 and referred to Labor & Commerce.

Municipal Property Tax (optional exemption)

SENATE BILL NO. 65, by Senators P. Fischer and Moss. Would allow municipalities to exclude or exempt or partially exempt residential property from taxation, up to $100,000 for any one residence. Currently the law only allows up to $10,000 per residence for this optional exemption (amends AS 29.53.025(a)). Amends current law effective January 1, 1984 and amends the appropriate section of the new municipal code (AS 29.45.050(a)) effective on the effective date of the new code.

Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced January 21 and referred to Community & Regional Affairs and Finance.

BILLS PASSED IN THE HOUSE (cont'd)

Bd. of Marine Pilots (continuing existence)

CS FOR HOUSE BILL NO. 218, (see pages 215;301;310). March 14 the Finance CS was adopted and the bill passed the House, 34-0-2-4. Excused: Koponen, McBride. Absent: Bettisworth, Davis, Fuller, Grussendorf. The effective date was adopted.

Elected Atty. General (const. amendment)

CS FOR SS FOR HOUSE JOINT RESOLUTION NO. 7 (JUDICIARY), (see pages 62;159;259). Before the House on March 16. The Judiciary CS was adopted by unanimous consent. Passed, 27-12-1-0. Nays: Clocksin, Davis, Duncan, Grussendorf, Koponen, Malone, McBride, M.M. Miller, Phillips, Vaska, Wendte, Zharoff. Excused: Szymanski. Rep. Clocksin gave notice of reconsideration of his vote.

March 18 the reconsideration was brought up by Clocksin and the resolution was held in third reading until March 23.

OTHER ACTION IN THE HOUSE

AK Bidder Preference

HOUSE BILL NO. 106, (see pages 60;300). On March 18 Rep. Szymanski was added as a co-sponsor.

Citizen Adv. Boards (U of A)

HOUSE BILL NO. 219, (see page 218). On March 18 Rep. Pestinger requested that his name be removed as a co-sponsor.

State Employees (executive/ legis./judic. & U of A) (pay raise)

HOUSE BILL NO. 226, (see page 223). On March 18 the Speaker removed the bill from Finance and sent it to Community & Regional Affairs. It will go to Finance after Community & Regional Affairs.

Commission on the Status of Women

HOUSE BILL NO. 231, (see page 250). On March 18 Rep. Furnace was added as a co-sponsor.

Governor & Lt. Governor (election of) (const. amend.)

HOUSE JOINT RESOLUTION NO. 9, (see page 63). On March 18 the Finance referral was waived. Now in Judiciary, then to Rules.

Alaska Time Zones

HOUSE JOINT RESOLUTION NO. 25, (see pages 130;227;230;302; 310;311). On March 14, at the request of Rep. Furnace, the reconsideration was held until March 16. On March 16 the reconsideration was not acted on, so the bill was sent to the Senate.

Legis. Confirmation of Judges (const. am.)

HOUSE JOINT RESOLUTION NO. 36, (see page 294). On March 14 Rep. Tischer was added as a co-sponsor.

(4) submit annually to the legislature, not later than the 10th day of each regular session, the portion of the coastal management program approved or amended by the council during the preceding year. (§ 3 ch 84 SLA 1977)

Editor's note. — This section derives from AS 44.19.893 and was renumbered by the revisor under 01.05.031.

Sec. 44.19.162. Council staff. The council shall utilize the staff of the office of coastal management within the division of policy development and planning in discharging its powers and duties. The coordinator of the office, with the concurrence of the council, may contract with or employ personnel or consultants he considers necessary to carry out the powers and duties of the council. (§ 3 ch 84 SLA 1977)

Editor's note. — This section derives from AS 44.19.894 and was renumbered by the revisor under 01.05.031.

Article 14. Alaska Commission on the Status of Women.

Section	Section
165. Creation of commission	170. Compensation
166. Composition	171. Purpose
167. Appointment	175. Powers and duties
168. Meetings	180. Annual report
169. Terms of office	

Editor's note. — Section 2, ch. 120, SLA 1978, provides: "The Alaska Commission on the Status of Women created under AS 44.19.960 shall terminate on June 30, 1983."

Sec. 44.19.165. Creation of commission. There is created in the Office of the Governor the Alaska Commission on the Status of Women. (§ 1 ch 120 SLA 1978)

Editor's note. — This section derives from AS 44.19.956 and was renumbered by the revisor under 01.05.031.

Sec. 44.19.166. Composition. The commission consists of nine members and an ex officio member representing the office of the attorney general who shall serve at the pleasure of the governor. (§ 1 ch 120 SLA 1978)

Editor's note. — This section derives from AS 44.19.957 and was renumbered by the revisor under 01.05.031.

Sec. 44.19.167. Appointment. (a) The members shall be appointed on a nonpartisan and nondiscriminatory basis by the governor within 60 days of October 6, 1978. The members shall be residents of the state. At least one member shall be a homemaker who is not otherwise employed. In making the appointments, due consideration shall be given to

(1) the recommendations made by civic organizations, women's organizations, educational and vocational groups, employer groups, labor unions, church groups, homemakers' clubs and organizations, and other groups having an interest in the status of women;

(2) statewide geographical representation of the commission; and

(3) minority and low-income representation.

(b) The commission shall elect one of its members as chairperson and may select other commission officers as it considers necessary. (§ 1 ch 120 SLA 1978)

Editor's note. — This section derives from AS 44.19.958 and was renumbered by the revisor under 01.05.031.

Sec. 44.19.168. Meetings. Within 60 days after the appointment of all the members of the commission, the governor shall call the first meeting of the commission. A majority of the members constitutes a quorum for conducting business and exercising the powers of the commission. The commission shall meet at the call of the chairperson, at the request of a majority of the members, or at a regularly scheduled time as determined by a majority of the members. (§ 1 ch 120 SLA 1978)

Editor's note. — This section derives from AS 44.19.959 and was renumbered by the revisor under 01.05.031.

Sec. 44.19.169. Terms of office. The term of office of each member is five years. Terms shall be staggered. Initial terms shall be three members serving for one year, three members serving for three years, and three members serving for five years. A vacancy shall be filled for the balance of the unexpired term in the same manner as original appointments. (§ 1 ch 120 SLA 1978)

Editor's note. — This section derives from AS 44.19.961 and was renumbered by the revisor under 01.05.031.

and travel allowances authorized by law for other boards and commissions. (§ 1 ch 120 SLA 1978)

Editor's note. — This section derives from AS 44.19.962 and was renumbered by the revisor under 01.05.031.

The provisions formerly contained in AS 44.19.170 are now contained in AS 44.99.008.

Sec. 44.19.171. Purpose. The purpose of the commission is to implement the recommendations contained in the preliminary study on the status of women in Alaska which was mandated by the Ninth Legislature, Second Session, under ch. 99 SLA 1976, and improve the status of women in Alaska by conducting further research and by making and implementing additional recommendations on the opportunities, needs, problems, and contributions of women in Alaska including, but not limited to,

(1) education,

(2) homemaking,

(3) civil and legal rights,

(4) labor and employment. (§ 1 ch 120 SLA 1978)

Editor's note. — This section derives from AS 44.19.963 and was renumbered by the revisor under 01.05.031.

The provisions formerly contained in AS 44.19.171 are now contained in AS 44.19.048.

Sec. 44.19.175. Powers and duties. To accomplish its purpose, the commission may

(1) hire an executive director and additional administrative staff as may be necessary to the commission's function;

(2) act as a clearinghouse and coordinating body for governmental and nongovernmental information relating to the status of women;

(3) cooperate with public and private agencies in joint efforts to study and resolve problems relating to the status of women in Alaska;

(4) accumulate and compile information concerning discrimination against women;

(5) disseminate the results of research and compilation of data acquired under (4) of this section by publication and other methods such as public hearings, conferences, and seminars;

(6) study and analyze all facts relating to Alaska laws, regulations and guidelines with respect to equal protection for women under the state constitution;

(7) recommend legislative and administrative action on equal treatment and opportunities for women;

(8) select and retain the services of consultants whose advice is considered necessary to assist the commission in obtaining information;

(10) establish standing committees among the members to investigate and make recommendations on various areas of concern;

(11) create task forces composed of commission members and other experts as needed;

(12) accept monetary gifts or grants from the federal government or an agency of it, from any charitable foundation or professional association or from any other reputable sources for implementation of any program necessary or desirable for carrying out the general purposes of the commission. (§ 1 ch 120 SLA 1978)

Editor's note. — This section derives from AS 44.19.964 and was renumbered by the revisor under 01.05.031.

The provisions formerly contained in AS 44.19.175 are now contained in AS 44.19.050.

Sec. 44 19.180. Annual report. Each year the commission shall file a report with the governor and the legislature of its proceedings for the previous calendar year and shall submit recommendations for legislative and administrative action. Reports and recommendations required under this section shall be prepared no later than the convening of the legislature. (§ 1 ch 120 SLA 1978)

Editor's note. — This section derives from AS 44.19.966 and was renumbered by the revisor under 01.05.031.

Article 15. Yukon-Taiya Commission.

Section

181. Yukon-Taiya Commission established
182. Duties of the commission
183. Composition of commission
184. Term of membership
185. Administration
186. Acceptance of grants and other aid
187. Expenditures
188. Reports

Sec. 44.19.181. Yukon-Taiya Commission established. There is created in the Office of the Governor the Yukon-Taiya Commission. (§ 1 ch 85 SLA 1967)

Editor's note. — This section derives from AS 44.20.010 and was renumbered by the revisor under 01.05.031.

Sec. 44.19.182. Duties of the commission. The commission shall seek the initiation of a joint United States-Canada study of the Yukon-Taiya hydroelectric project and related resources development. The commission is authorized to conduct studies, compile and publish information, and provide the good offices of the state for encouraging the development. (§ 1 ch 85 SLA 1967; am § 1 ch 131 SLA 1968)

ALASKA STATE LEGISLATURE

INTERIM OFFICE:
P.O. BOX 81435
FAIRBANKS, ALASKA 99708

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4930/4941

CHAIRMAN
1983 INTERIOR DELEGATION

MEMBER
TRANSPORTATION
HEALTH, EDUCATION AND SOCIAL SERVICES
LABOR SUBCOMMITTEE
JOINT OIL AND GAS
RURAL EDUCATION ATTENDANCE AREAS

Representative Mike Davis
House District 19

March 18, 1983

To: House State Affairs Committee Members

From: Rep. Mike Davis

RE: HB 231- An Act relating to the Alaska Commission on the Status of Women.

The following items are attached as backup material for HB 231:

1. A listing of Commission Members
2. A position paper from the Commission on the subject of moving from the Office of the Governor to the Dept. of Health & Social Services (submitted for companion bill SB 63).
3. A list of the accomplishments of the Commission.
4. A partial list of accomplishments of the Commission by Carla Timpone (Submitted for companion bill SB 63).
5. A paper from the Commission listing their activities and advocacy for Alaska's Native Women.
6. Summary of persons testifying at a 9/29/82 teleconference on the Commission on the Status of Women. Select testimony is also attached.
7. A letter from the Alaska Women's Political Caucus in support of the Alaska Women's Commission.
8. A legislative platform from the Alaska Commission on the Status of Women.

HB

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 7, 1983

BUDGET REVIEW

FEB 8 1983

MANAGEMENT & BUDGET
OFFICE OF

Gene Dusek, Director of Budget
Office of Management & Budget
Pouch AM
Juneau, AK 99811

Re: Appropriation limit questions
Our file: 366-374-83

Dear Mr. Dusek:

You have asked for our opinion concerning issues relating to the appropriation limit imposed by Alaska Constitution, article IX, section 16. These issues are as follows:

(1) Are appropriations to reimburse a municipality for payment of the principal and interest on general obligation school construction bonds subject to the appropriation limit? We believe they are not.

(2) If the permanent fund dividend law (AS 43.23) is amended or repealed and another plan for the distribution of permanent fund income is enacted, will appropriations to finance the new distribution program be included in the appropriation limit or will those appropriations be outside the limit? Generally, we believe that other distribution plans could qualify as dividends. However, certain limitations should be observed to make sure that the new plan satisfies the intent of the appropriation limit.

(3) How will the appropriation limit be implemented if

anticipated state revenues are less than the limit for a fiscal year? We assume that the appropriation limit will be applied with common sense to empower the legislature to act without regard to allocations imposed by the appropriation limit when economic conditions deplete the state treasury.

(4) How will multi-year appropriations be counted for purposes of the appropriation limit? We believe a multi-year appropriation will be counted against the appropriation limit for the first year in which it could be expended.

(5) What is the definition of "capital project" as that term is used in the appropriation limit? There is some history which supports a liberal interpretation of the term "capital project."

I. BACKGROUND

The appropriation limit, Alaska Const. art. IX, sec. 16, was drafted during a period of anticipated high revenue yields from oil and gas production. In June 1981, the Alaska Department of Revenue forecast that the state would earn approximately $4,895,300,000 during FY 82. Revenue Sources, Alaska Department of Revenue (June 1981). That forecast did not include the revenue dedicated to the Alaska permanent fund under AS 37.-13.010. The revenue actually earned by the state during FY 82, less the permanent fund contribution, was $4,108,400,000. Reve-

nue Sources, Alaska Department of Revenue (Jan. 1983). The legislature had exhibited a proclivity for appropriating all available revenue and more. 1/ Former Governor Jay S. Hammond introduced SJR 4 during the first session of the Twelfth Alaska Legislature. However, the legislature failed to enact a version of SJR 4 during the first regular session and on June 25, 1981, Governor Hammond called a special session of the legislature to consider SJR 4. In his address to the legislature, Governor Hammond cited the following circumstances which required the enactment of SJR 4:

(1) the FY 82 operating budget increased 32 percent over the FY 81 operating budget;

(2) the FY 82 capital budget increased 127 percent over the FY 81 capital budget; and,

(3) for FY 82, the legislature appropriated an amount equal to 59 percent of the total spent for capital projects since statehood. 1981 S. Jour., FSS Jour. Supp. No. 1, p. 3.

A second free conference committee (FCC) initially appointed during the regular session met to continue consideration of SJR 4 during the special session. 1981 S. Jour., p. 1744. A

1/ The $1.8 billion contribution to the Alaska permanent fund (sec. 2, ch. 61, SLA 1981 as amended by sec. 68, ch. 92, SLA 1981 and sec. 16, ch. 101, SLA 1982) is a continuing operating appropriation which literally causes total unobligated appropriations to exceed available state revenues for each fiscal year since enactment.

transcript of the open meetings of the FCC exists and forms a part of the history of the appropriation amendment (the transcript). However, it is evident from review of the transcript that other discussions concerning the intent of the amendment were conducted outside of open committee meetings. While the transcript is helpful, it presents only a partial record of the deliberations of the drafters of the amendment.

The FCC purported to adopt a letter of intent to accompany its report to the house and senate. 1981 S. Jour., FSS, p. 5. However, the letter of intent is not set out in the journal. A search of the bill files of the Department of Law yielded a copy of the missing letter of intent. See Ex. 1.

The campaigns for and against adoption of the appropriation limit began in September of 1982. The Anchorage Daily News criticized the proposed amendment for the following reasons:

(1) the ceiling is too high, revenues will exceed the limit only once before the year 2000; and

(2) the one-third reservation for capital projects and loan appropriations was included because the legislature "failed to make the distinction between a wise public agenda -- on which capital projects and loans surely would appear -- and an effectively timeless state constitution -- in which no such spending demands should be dictated.

Anchorage Daily News, Sept. 3, 1982, at A14, "opinion." The

Daily News based its opinion concerning revenue forecasts on a report made public by the legislative finance division of the Legislative Budget and Audit Committee. Anchorage Daily News, Sept. 2, 1982, at 1. On September 17, 1982, the Daily News urged Governor Hammond to oppose the adoption of the appropriation limit. The Anchorage Times basically took no position on the amendment. However, on October 19, 1982, the Times reported the results of a poll sponsored by supporters of the amendment. The poll, conducted the week of September 16-23, 1982, showed that the amendment was recognized and favored by the public as a "spending limit." The pollsters asked if the respondents had heard of the proposed amendment to the state constitution which sets a limit on increases on state appropriations. By a three-to-one margin, respondents said they were not familiar with the amendment when it was described as an "appropriation limit." Anchorage Times, Oct. 19, 1982, at A-4. On October 26, 1982, the Juneau Empire editorialized in favor of adoption of the amendment. Juneau Empire, Oct. 26, 1982, at 4.

During the week of October 24, 1982, the major dailies of the state published articles on the amendment. Governor Hammond received coverage in most of those stories by saying "It [the adoption of the appropriation limit] may be our last chance to control the juggernaut which otherwise will likely crush us into bankruptcy." Anchorage Daily News, Oct. 29, 1982, at B3.

On Sunday, October 31, 1982, the Daily News in its forum section, published an article by Governor Hammond in which he again strongly advocated adoption of the amendment because revenue projections and the growing vulnerability of the permanent fund compelled him to plead for the support of the people. Anchorage Daily News, Oct. 31, 1982, at K3. On the preceding Friday, the Daily News quoted Governor Hammond as follows: "Don't let anyone tell you that passage of Proposition 4 won't limit spending." Under recently revised revenue estimates, passage of the ballot issue would bar the legislature from appropriating between $80 million and $380 million in fiscal 1984 alone. Anchorage Daily News, Oct. 29, 1982, at B3.

At the 1982 general election, the voters approved the adoption of SJR 4 by a vote of 110,669 for the amendment and 70,831 opposed to the amendment. State of Alaska Official Returns by Election Precinct General Election Nov. 2, 1982, Div. of Elections, Office of the Governor.

II. EXCEPTIONS FROM THE LIMIT

The appropriation limit contains seven express exceptions. Five of those exceptions are for appropriations which are completely outside the limit and do not require voter approval. They include:

(1) an appropriation for Alaska permanent fund divi-

dends;

(2) an appropriation of revenue bond proceeds;

(3) an appropriation to pay principal and interest on general obligation bonds;

(4) an appropriation of money received from nonstate sources in trust for a specific purpose, including revenues of a public corporation that issues revenue bonds; and

(5) an appropriation to meet a state of disaster declared by the governor.

You have requested our interpretation of exceptions (1) and (3) set out above.

A. Alaska Permanent Fund Dividend Exception

The appropriation limit provides: "Except for appropriations for Alaska permanent fund dividends ... appropriations from the state treasury made for a fiscal year shall not exceed $2,500,000,000...." A question obviously arises as to whether "Alaska permanent fund dividends" means only those cash payments provided to individuals under AS 43.23 or if the word "dividend" encompasses other concepts for the distribution of income earned by the Alaska permanent fund.

We believe the answer to your question concerning appropriations for permanent fund dividends depends on whether the exceptions will be construed strictly or liberally. Usually,

provisions in a state constitution are construed liberally using the same rules of construction prescribed for other laws with regard given to the broader object and scope of the constitution as a charter of popular government. Eghert v. Dunseith, 24 N.W.2d 907 (N.D. 1946); 168 A.L.R. 621. Professor Sutherland explains the modern view for construing express exceptions as follows:

> The older rule strictly interpreted both exceptions and provisos but today the prevailing view favors determining the effects of such provisions according to the usual criteria of decision applicable to other kinds of provisions as well without the use of any artificial presumptions to the effect that qualifying language should be strictly construed.

SUTHERLAND STATUTORY CONSTRUCTION § 47.11 (4th ed. 1974)(footnotes omitted). The FCC did not express an intent to limit this exception to only appropriations to finance cash payments to individuals under AS 43.23.

The appropriation limit must be interpreted consistently with the permanent fund amendment contained in article IX, section 15. Section 15 provides that the legislature may dispose of the income of the Alaska permanent fund "as provided by law." Each legislature may reexamine existing law and enact different laws providing for the use of income earned by the Alaska permanent fund. If section 16 were interpreted so that the exception to permanent fund dividends applied only to appropriations to finance cash dividends under AS 43.23, the legislature would essentially be denied the flexibility to adjust to changing philoso-

phies concerning the propriety of making cash payments directly to residents which section 15 expressly reserves to it. 2/ In interpreting and applying the constitution, it must be remembered that the constitution is not a lifeless or static instrument whose interpretation is confined to conditions and outlooks which prevailed at the time of its adoption. Yakus v. United States, 321 U.S. 414 (1944); Warwick v. State, 548 P.2d 384 (Alaska 1976).

The word "dividend" has no precise legal meaning. Trustees of University v. North Carolina R. Co., 13 WORDS AND PHRASES 107 (Permanent ed.); 22 Am. Rep. 671. Webster defines "dividend" as follows: "an individual share of something distributed among a number of recipients." We are not aware of any legal principle which would preclude the characterization of other distribution programs as "dividends." Rather, the words used

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2/ The Thirteenth Legislature may reject direct cash distribution in favor of a plan which it determines will promote public purposes more effectively. During the period of consideration and adoption of the appropriation limit, the permanent fund dividend law was undergoing considerable scrutiny and change by both the legislature and the courts. The legislature adopted the proposed appropriation limit amendment on July 15, 1981. At that time the question of the constitutionality of the permanent fund dividend program as it was then structured was on appeal to the United States Supreme Court. On June 14, 1982, the United States Supreme Court issued an opinion which found the method established for determining the amount of dividends under that program void because the method promoted discrimination based on length of residence in the state. On August 13, 1982, amendments to the dividend law took effect. The people were undoubtedly aware that the dividend law in effect on election day in 1982 was not chiseled in marble.

by the drafters of the amendment afford broad latitude to the legislature to enact new distribution programs which will not be impaired by the appropriation limit.

It is well-settled law that a provision of a state's constitution must receive a liberal, practical construction to meet changed conditions and growing needs of the people. County of Alameda v. Sweeney, 312 P.2d 419, 424 (Cal. 1957). Under the permanent fund amendment, the discretion granted to the legislature to enact, amend, or repeal the present dividend program under AS 43.23 to meet the growing needs of the people is unfettered. However, the operation of exceptions from the appropriation limit must be interpreted consistent with the intent of the framers of the organic law and of the people adopting it. State v. Lewis, 559 P.2d 630, 637 (Alaska 1977).

One important consideration should be carefully observed. The Alaska Supreme Court has found that the purpose of the existing dividend program is to force the legislature to consider the reimposition of taxes when the decline of oil revenue encourages resort to permanent fund income to finance state government. Williams v. Zobel, 619 P.2d 448, 454 (Alaska 1981), rev'd 451 U.S. 905 (1982). The people can be expected to vigilantly protect their dividends by forcing the legislature to seek sources other than the permanent fund to finance state government. If a substitute distribution program accomplishes the same

purpose, it will more likely qualify under the exception in section 16 than if it fails to achieve that purpose. If the constituency benefitted by a dividend is narrow, the dividend may not be a dividend in the sense intended by the drafters of section 16 and the people who adopted it. Proposals soon to be considered by the legislature include replacing the existing distribution to all residents with a distribution of part of the permanent fund income to municipalities and as a substitute for the existing longevity bonus, and use of a part of the income to finance large capital projects.

A vast majority of the population of the state resides in or is served by municipal governments. It is also a fact that we all seek security for our "golden years." The constituents of these proposals seem broad enough to satisfy the purpose of the current dividend law. The use of permanent fund income to finance large capital projects presents a closer question. The character of each project must be considered to determine if it serves a state public purpose, rather than a local special purpose. Additionally, if the project is viewed as merely an alternate way of financing state government operations, the basic intent of the dividend law might not be served.

We cannot advise with certainty whether the financing of large capital projects with permanent fund income would constitute a dividend of the Alaska permanent fund for purposes of

the appropriation limit. Some may argue that the benefits provided by "public works" projects are too localized to approximate the benefits provided by the existing dividend law. However, in State v. Lewis, 559 P.2d 630 (Alaska 1977), the Alaska Supreme Court decided that "[l]egislation need not operate evenly in all parts of the state to avoid being classified as local or special." Lewis at 643. A definite answer will come only when the courts interpret article IX, section 16 of the Alaska Constitution. However, we believe that if the legislature enacts a distribution program which is consistent with the intent of the permanent fund dividend law, any appropriation to implement that program will be exempt from the appropriation limit.

B. Appropriations Required to Pay the Principal and Interest on General Obligation Bonds

Under AS 43.18.100 -- 43.18.135 the state, subject to available appropriations, reimburses municipalities for the payment of a percentage of principal and interest to retire general obligation bonds issued by the municipality to finance school construction costs. Although they have been amended from time to time, these statutes have been in effect since 1971. You have asked whether appropriations to retire municipal general obligation debt are within the exception stated to the appropriation limit.

The exception reads as follows: "Except for ... appro-

priations required to pay the principal and interest on general obligation bonds...." The wording of the exception does not specify whether the bonds must be issued by the state to qualify. Later in section 16, the drafters carefully identified "appropriations of money received from a nonstate source...." Since the drafters could easily have expressly limited this exception to state general obligation bonds, an implication can be drawn that a strict construction limiting the exception to state general obligation bonds was not intended.

The purpose of the exception recognizes that appropriations to retire general obligation bonds may be to the state's "great advantage." Governor's transmittal letter, 1981 FSS S. Jour., p. 16. Presumably the advantage accrues from the state's enhanced credit rating which results in lower debt service charges for subsequent bond issues. It is probable that the existence of the school construction debt assistance provisions of AS 43.18 have the same effect upon the bond rating assigned to municipalities. The identical purpose is achieved by appropriations made to finance the reimbursement program. Less state assistance will be necessary in the future if local bond ratings remain favorable.

There are some considerations which weigh against this construction. Debt service for general obligation bonds is financed by a continuing appropriation. AS 37.15.012. General

obligation bonds are debts of the state secured by contracts (trust indentures); the impairment of contracts is prohibited by the state and federal constitutions. The reimbursement program under AS 43.18 does not transform municipal general obligation bonds into debts of the state. AS 43.18.130(a). However, the financial burden imposed on municipalities, if their local tax effort were increased to compensate for the loss of assistance under AS 43.18, could be devastating to the local taxpayer. According to the Department of Education, for fiscal year 1984 the estimated total entitlement for school debt retirement is $36,900,000. This total is estimated to increase to $44,300,000 by fiscal year 1988.

Accordingly, we believe that appropriations to retire municipal general obligation school bond indebtedness under AS 43.18 are "required" and qualify as an exception to the spending limit. We believe that the appropriation for school bond indebtedness can be represented as a moral obligation of the state for the following reasons:

(1) the appropriation is made under a statute of general application;

(2) the statute has been in effect since 1971; and

(3) the reimbursement program is heavily relied upon by municipalities when they establish the local tax effort necessary to support local bonded indebtedness.

III. REVENUE SHORTFALL

You have also asked how to interpret the appropriation limit if the amount of state revenues subject to the limit is less than the amount determined to be the limit for a fiscal year, as provided in section 16. You wish to know specifically how the allocations within the limit for operating expenses and capital projects would be interpreted. As we have indicated, section 16 imposes an appropriation limit rather than a spending limit. We have earlier advised that the legislature may make appropriations which exceed available revenues. 1981 Inf. Op. Att'y Gen. (June 24; J77-159-81). However, obligations may not be paid under those appropriations unless there is enough surplus money available in the treasury.

Theoretically, the amount of anticipated state revenue should have no effect on the operation of the appropriation limit. However, under AS 37.07.020(c), the governor's proposed budget may not exceed estimated revenues for the succeeding fiscal year. Also, the amount of surplus revenues anticipated to be received by the state was an issue hotly publicly debated before adoption of section 16. The newspaper articles written about the appropriation limit before the election commonly referred to the amendment as a "spending limit." These articles were undoubtedly instrumental in forming the voters' understanding of the effect of the proposed amendment.

Section 16 provides, in part: "Within this limit, at least one-third shall be reserved for capital projects and loan appropriations." This wording is ambiguous when applied for a year in which revenue available for appropriations falls short of the adjusted limit for that year. Under those circumstances, it is not clear whether the reservation for capital projects and loan appropriations is calculated based on the total amount actually appropriated for that fiscal year (i.e., less than the limit) or on the limit amount ($2.5 billion for that fiscal year) adjusted for population and inflation. Apparent ambiguities contained in the state constitution may be resolved by the contemporaneous construction by law or by the administrative agency charged with implementation of the provision. Amador Valley Joint Union High School District v. State Board of Equalization, 583 P.2d 1281 (Cal. 1978).

A review of the FCC transcript reveals no discussion of the intention of the drafters when they used the phrase "within this limit." Revenue projections at the time painted a rosy picture for the future. No history is available to indicate that the FCC even considered the effect of the amendment if the state suffers a sharp decline in revenue. Former Governor Hammond was clearly concerned by the possibility of a spendthrift legislature with an overflowing treasury at its disposal.

Under the circumstances, we believe it would be unwise

to blindly apply the allocations imposed by the appropriation limit when conditions impose an even more stringent limit than intended by the FCC. 3/ The appropriation limit drastically alters the most significant power of the legislature: the power to appropriate. The power to enact general law is largely nullified unless the money to finance enforcement or implementation of the law is appropriated. Consequently, we believe that an interpretation which restricts the legislature's power to respond to the needs of the state during unanticipated periods of revenue decline will not be endorsed by the courts. See State ex rel. Columbus v. Keterer, 189 N.E. 252 (Ohio 1934). Rather, we believe that the courts will recognize that the evil which the appropriation limit was designed to remedy does not exist when revenues are below the limit. Under those circumstances, a court would probably affirm an interpretation that restores the full lawmaking powers of the legislature to make appropriations in the best interests of the state. We believe the best way to resolve the ambiguity is to disregard the one-third allocation reserved for

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3/ The reservation for capital projects and loan appropriation effectively restricts appropriations to finance the operating budget without restricting the relative share for capital projects. The operating budget finances all manner of essential programs for the preservation of the public health, safety, and welfare. Some of these expenditures are for so-called entitlement programs (aid for families with dependent children, for example) which for fiscal year 1982 comprised 42 percent of the operating budget.

capital projects and loan appropriations when economic conditions impose a limit which is more restrictive than that set out in section 16. 4/ The literal language of the constitution may be disregarded to avoid absurd results and to fulfill the apparent intent of the framers. Sturges v. Crowninshield, 17 U.S. 122, 202 (1819). Where the general welfare is involved, constitutional questions should be approached from the pragmatic, rather than from a legalistic point of view. State v. Board of Administration, 25 So. 2d 880 (Fla. 1946).

IV. ATTRIBUTION OF CAPITAL APPROPRIATION TO A FISCAL YEAR

Another question you have raised is how the words "appropriation ... made for a fiscal year" should be applied to appropriations for capital projects. AS 37.25.020 provides "An appropriation made for a capital project is valid for the life of the project and the unexpended balance shall be carried forward to subsequent fiscal years." This provision recognizes that capital projects often span more than one fiscal year before completion. The balance of the appropriation remains available in sub-

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4/ Another possible interpretation would limit the operating budget allocation for a fiscal year to two-thirds of the total limit ($2.5 billion) adjusted for inflation and population. This interpretation is consistent with our earlier observation that there may be no relationship between appropriations and revenue. However, even under this interpretation, in a fiscal year with depressed revenues, the one-third reservation for capital projects is meaningless.

sequent fiscal years and is carried forward to those succeeding fiscal years. According to the Department of Administration, as of June 30, 1982, the total of all "carry forward" capital appropriations was: approximately $1,591,000,000, and the total of all "carry forward" operating appropriations was $1,862,000,000.

The FCC debated the intent of the limit concerning this issue. Transcript at 47-55. It is clear that the FCC was aware that multi-year appropriations are made. There was an attempt by Representative Hugh Malone to amend the proposal so that a legislature could not appropriate for a fiscal year subsequent to the upcoming fiscal year. This amendment was not adopted. Senator Bill Ray observed that the intent of the amendment was to include only those appropriations which are expended during the fiscal year. According to Senator Ray, appropriations which remain unexpended at the end of a fiscal year should lapse. Transcript at 52. Representative Rick Halford interpreted the proposed amendment to make multi-year appropriations count against the limit each year because each succeeding legislature could amend or repeal these appropriations at will. During all of these discussions, no distinction was made between operating and capital appropriations. However, these comments probably referred only to multi-year operating appropriations. See Transcript at 65-66.

The debate on this issue discloses that the FCC was confused about the operation of carry forward appropriations.

They formulated the $2.5 billion base by taking the fiscal year 1982 appropriation total and reducing that amount by $60 million. Transcript at 2-5. However, 1982 appropriations were made based on forecasts of anticipated surplus for that fiscal year, reduced by expected expenditures for "carry forward" appropriations. We assume, therefore, that the drafters did not intend to count carry forward appropriations in the limit established for each fiscal year.

We believe that a commonsense way to interpret the appropriation limit, which is supported by past practice, is to count appropriations that are available for expenditure in a fiscal year only against the limit for the first fiscal year during which they could be completely expended. This should be done even if an unexpended balance is carried forward into the next fiscal year. That balance must be considered obligated for the purposes of the appropriation limit. Unexpended balances of a prior year appropriation should not be counted with the current year appropriations in complying with the limit for the current year. If the legislature provides that an appropriation may not be expended until a later fiscal year, the appropriation should be counted only against the limit for that later fiscal year.

V. DEFINITION OF THE TERM "CAPITAL PROJECT"

The appropriation limit amendment introduces the term

"capital project" to the glossary of words used in the Alaska Constitution. This new term causes some concern because a similar term, "capital improvement," is used in other sections of article IX setting out the general obligation bonding authority for local governments and the state. There are two Alaska Supreme Court cases which address the meaning of "capital improvement." See City of Juneau v. Hixon, 373 P.2d 743 (Alaska 1962); Wright v. City of Palmer, 468 P.2d 326 (Alaska 1970). The supreme court did not adopt an all-inclusive definition of capital improvement in those cases. Rather, the court concluded that there was nothing in the history of municipal bonding in Alaska or in the minutes of the constitutional convention that indicates that the term "capital improvement" was intended to denote projects radically different than those for which municipalities had been permitted to incur bonded indebtedness in the past.

When former Governor Hammond first introduced SJR 4, the proposed amendment consistently used the term "capital improvement." It was not until the second FCC took up consideration of the proposal that the term capital project was used. Senator Ray defined capital projects to be "what the definitive judgment of a majority of the legislature determines they are." Transcript at 22. This was in response to an observation by Representative Malone that many appropriations designated as capital differ little from items set out in the operating budget. Tran-

script at 21. Former assistant attorney general Rodger W. Pegues explained to the FCC that "we're using the term capital project which pretty much means the capital budget - areas where you are dealing with capital investment or long-term financing and the bulk of your spending. That's a broader term than 'capital improvement.'"

There appears to be support in the history for an interpretation of "capital project" which includes more objects of expenditure than "capital improvement," which traditionally has been limited to public works of a permanent nature. 5/ It is possible, though, that the two terms will be construed to have the same meaning. The supreme court left room for the term "capital improvements" to acquire new meanings to accommodate the changing activities of state government. However, the appropriation limit implies that a general obligation bond may be issued for capital projects. 6/ It is probable that a court would find that not all capital improvements may be characterized as capital

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5/ In recent years, opinions of the attorney general have somewhat broadened this interpretation to permit the use of bond proceeds to finance some unique activities under the Village Safe Water Act, see Inf. Op. Att'y Gen. (April 2; J-99-078-81); and to rehabilitate a leased jail facility. See Inf. Op. Att'y Gen. (Mar. 19; A66-398-78).

6/ Article IX, section 16 provides: "The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations in capital projects, whether of bond proceeds or otherwise, ..." (Emphasis added.)

projects. A distinguishing factor may be that the constitution requires some permanent thing of value to show for the public debt incurred. A more liberal construction may be warranted when public debt is not incurred.

VI. CONCLUSION

The wording of the appropriation limit does not begin to live up to the high standards of clarity and simplicity adopted by the original framers of the Alaska Constitution. There are many who will regard this opinion as mere justification to exploit "loopholes" woven into the fabric of the amendment. However, we hope this opinion will provide the impetus to either adopt amendments to clarify the ambiguities noted or to enact legislation which interprets the amendment so that the ambiguities are avoided. We hope this opinion has answered your questions.

Sincerely yours,

Norman C. Gorsuch
Attorney General

James L. Baldwin
Assistant Attorney General

JLB:NCG:pjg

LETTER OF INTENT

2nd Free Conference Committee on SJR 4

The basic problem faced by Alaska is runaway growth in spending for state government operations and for capital projects. This growth is generated by revenues from resources which are nonrenewable and finite. Some limitation is therefore essential. The constitutional amendment proposed by the 2nd Free Conference Committee will provide a realistic limitation and yet allow, by popular approval, for expenditures in excess of the limitation for capital projects and for contributions to the permanent fund. Those who favor such expenditures can have no reasonable objection to the voters determining which capital projects and contributions are worthwhile and which are not.

The term "capital project" is used rather than the term "capital improvement" in order to have a broader reach. Capital improvements are pretty much limited to public facilities having a more or less permanent nature. Highways, airports, buildings, and ferries are examples. Capital projects include capital improvements and also other expenditures which require a multi-year investment or otherwise tend to fall into the category of capital costs as opposed to day-to-day expenses. Computers, large-scale resources inventories, and high-cost special equipment and instruments for libraries, schools, and museums are some examples.

In addition to limiting the excess appropriations to capital projects and contributions to the permanent fund, the proposed amendment requires bills for capital projects to be confined to capital projects of the same type. This is somewhat more narrow than the single-subject rule. It will require projects in a bill to be parts of an overall system. This will inhibit the packaging of diverse projects into one bill. As a further restraint on logrolling, the bills for excess appropriations are subject to the item veto, including the appropriation of general obligation bond proceeds which are in excess of the limit. Bond proceeds which are not in excess of the limit are not subject to an item veto.

There are three exclusions from the limitation. Debt service is necessarily excluded. An additional exclusion is provided for appropriations for permanent fund dividends. Non-state money, that is, money received from the United States or others to be used for specific purposes, is also excluded. This exclusion includes revenue bond proceeds, the revenues generated by the international airports, and other public enterprises which operate on revenue bonds. The first exclusion is required by the federal constitution's prohibition against impairing contracts. The other exclusions are provided because the use of the money for those purposes is not a part of the problem.

The proposed amendment requires the governor to cause any unexpended and unappropriated balance to be invested

so as to yield competitive rates to the treasury. The words "as prescribed by law" were not included so that the clause will be self-executing. However, the governor performs all executive functions in the manner prescribed by law, and the statutes on loan programs and investments will control here so long as they are consistent with the constitution s requirements.

Additionally, so as to eliminate any reasonable grounds for opposition by those who wish to relocate the capital, the resolution includes a transitional measure to exclude relocation costs, if they are approved at the 1982 general election, from the requirement of additional voter approval under the amendment. Another transitional measure provides for the amendment to take effect beginning with the budget for fiscal year 1984.

Finally, still another transitional measure places the amendment on the ballot again at the 1986 general election to allow it to be repealed by the electorate should it prove to be unworkable. If it is unworkable, the people will repeal it. If it works, they will not.

Sen. Bill Ray	Rep. Richard W. Halford
Sen. Donald E. Gilman	Rep. Robert H. Bettisworth
Sen. Frank R. Ferguson	Rep. Hugh Malone

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 245 Date on Bill: 3/9/83
Title: advisory vote on continuation of permanent fund dividend distribution prgm
Sponsor: M.M. Miller, Malone et al
Requestor: House State Affairs Committee 3/24/83 1pm Rm. 102

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating				-0-	-0-			
Total								

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions: The cost to count the results of one ballot question is small compared to the overall costs of the General Election.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: TPThoma, Information Officer Phone: 4611
Division: Elections Date: 3/23/83

Approved by Commissioner: Date:
Department:

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor

3/23/83

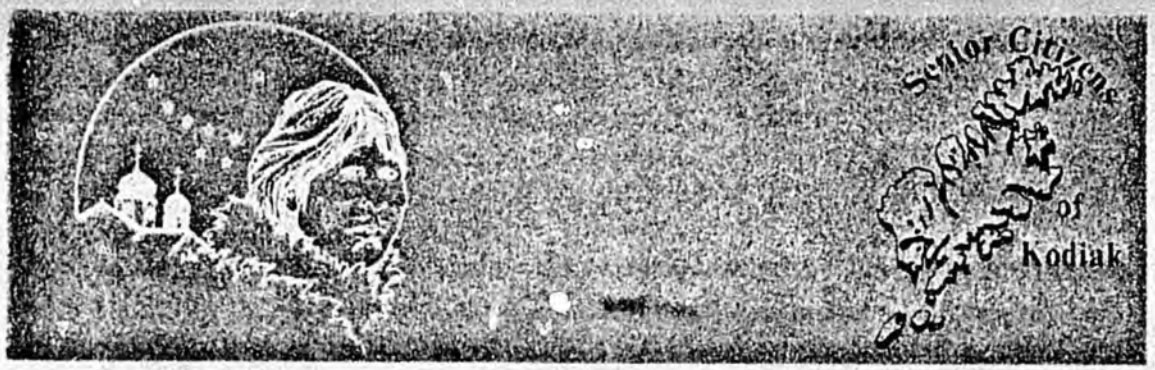
HB

249

BACKGROUND INFORMATION
ON PROPOSED
PIONEER HOME

FOR

KODIAK, ALASKA



Box 315
Kodiak, Alaska
99615
Dennis Murray
Project Director
Tel. 486-6181

4-18-83

Rep. Mitch Abood, Chairperson
House State Affairs
Pouch V
Juneau, Ak. 99811

Re: Testimony of HB 268--Pioneer Home

REPRESENTATIVE ABOOD, MEMBERS OF THE COMMITTEE:

I AM MARIANE FITZGERALD. I AM A LIFELONG RESIDENT OF THE STATE OF ALASKA. I WAS BORN ON FEBRUARY 29 SO I HAVEN'T CELEBRATED MANY BIRTHDAYS. I GUESS THE ONLY WAY YOU WILL KNOW THAT I AM A OLDTIMER IS BY MY GRAY HAIR.

I AM HERE TODAY TO TESTIFY IN FAVOR OF THE PASSAGE OF HB 268, THE DEVELOPMENT OF A PIONEER HOME IN KODIAK. AS I MAY OF POINTED OUT IN MY TESTIMONY RELATIVE TO THE SENIOR CENTER BILL, KODIAK HAS EXAMINED THE NEED FOR RESIDENTIAL CARE FACILITIES. OUR FOCUS WAS ON A UNIT WHICH WOULD BE ADJACENT TO OUR SENIOR HOUSING, AND WOULD ACCOMODATE 15-20 RESIDENTS. DURING THE COURSE OF OUR EXAMINATION WE DETERMINED THAT FUNDING FOR THE OPERATION FOR SUCH A FACILITY WAS NOT AVAILABLE. THE ONLY MECHANISM WHICH THE STATE FULLY FUNDS IS THE OPERATION OF ITS PIONEER HOMES. WE THEREFORE ASKED REPRESENTATIVE ZHAROFF TO INTRODUCE LEGISLATION FOR A HOME.

THERE ARE SEVERAL REASONS WHY THE STATE SHOULD LOOK AT KODIAK FOR A PIONEER HOME. THEY ARE:

1) OUR STUDY DETERMINED THAT IN THE KODIAK AREA ALONE THERE ARE 15-20 PERSONS DESIROUS OF RESIDENTIAL CARE.

2) CURRENTLY, KODIAK DOES HAVE A 19 BED INTERMEDIATE CARE FACILITY ATTACHED TO THE KODIAK ISLAND HOSPITAL. HOWEVER, THE KODIAK ISLAND BOROUGH HAS IDENTIFIED SEVERAL DEFICIENCIES WITH THE FACILITY AND IS EXAMINING THE PROS AND CONS OF REMODELING OR NEW CONSTRUCTION. (I HAVE A HANDOUT WHICH INCLUDES DATA FROM THE BOROUGH STUDY, AND OTHER INFORMATION HELPFUL TO OUR DISCUSSION OF THIS SUBJECT. LET ME PASS IT OUT AT THIS TIME.)
SHOULD THE DECISION BE MADE TO CONSTRUCT A NEW FACILITY, THE EXISTING FACILITY WOULD BE AVAILABLE AND ADAPTABLE TO A PIONEER HOME.

3) AS I HAVE STATED, KODIAK DOES HAVE AN INTERMEDIATE CARE FACILITY. HOWEVER, THE COST TO PERSONS WHO ARE NOT ELIGIBLE FOR MEDICAID IS $156/DAY. IN A PIONEER HOME THE COST TO THE RESIDENT IS $225 IN RESIDENTIAL CARE AND $275 FOR NURSING SERVICES. A PIONEER HOME WOULD CERTAINLY BE OF GREAT BENEFIT TO MANY KODIAK RESIDENTS.

4) KODIAK CAN OFFER A RURAL SETTING WITH A STRONG SUPPORT SYSTEM FOR ALASKAN NATIVES. MANY OF THE ALASKAN NATIVES FROM THE ALEUTIAN ISLANDS, ALASKA PENNINSULA AND BRISTOL BAY AREA ARE OF THE RUSSIAN ORTHODOX FAITH. KODIAK OFFERS A VERY STRONG RUSSIAN ORTHODOX COMMUNITY. (IT IS ASSUMED THAT THIS FACILITY WOULD HAVE A CATCHMENT AREA OF SOUTHWEST ALASKA, ALEUTIAN ISLANDS, ALASKA PENNINSULA AND KODIAK ISLAND) MOST OF THE EXISTING PIONEER HOMES ARE IN URBAN AREAS. I FEEL KODIAK OFFERS AN ALTERNATIVE.

4) TO SOME EXTENT I HAVE ALREADY IDENTIFIED NEED. I WOULD LIKE TO DRAW THE COMMITTEE'S ATTENTION

4) CONTINUED.....
TO A LETTER WHICH OUR ORGANIZATION RECEIVED FROM THE DIVISION OF PIONEER BENEFITS REGARDING THE WAITING LIST FOR ADMITTANCE TO THE EXISTING PIONEER HOMES. YOU WILL NOTE THAT THERE WAS A WAITING LIST FOR EACH OF THE FACILITIES. IT APPEARS THAT EVEN WITH THE CONSTRUCTION OF THE FACILITY IN KETCHIKAN THERE CONTINUES TO BE A DEMAND FOR MORE BEDS. KODIAK WOULD OFFER THE OPPORTUNITY TO EXPAND THE SYSTEM TO ACCOMODATE THE DEMAND.

I BELIEVE I HAVE TRIED TO DENOTE REASONS WHY KODIAK IS THE LOGICAL SITE FOR THE NEXT PIONEER HOME. THE FACT THAT KODIAK MAY HAVE A FACILITY, I.E. OUR EXISTING HOSPITAL AVAILABLE IN THE NEAR FUTURE, CERTAINLY IS ENOUGH INCENTIVE FOR THE STATE OF ALASKA AND YOUR COMMITTEE TO EXAMINE OUR REQUEST IN A THOROUGH MANNER.

THANK YOU FOR THE OPPORTUNITY TO HAVE INPUT ON THIS IMPORTANT QUESTION.

_____

MARIANE FITZGERALD

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

POUCH H-05
JUNEAU, ALASKA 99811
PHONE: (907) 465-3170

August 30, 1982

Ms. Mariane Fitzgerald
Steering Committee Chairperson
Senior Citizens of Kodiak
Box 315
Kodiak, Alaska 99615

Dear Ms. Fitzgerald:

This is in reply to your letter of July 20, 1982. I apologize for the delay in responding to you. I am enclosing the Adult Residential Care Licensing Regulations and the General Relief Adult Residential Care Assistance Regulations for your use. It is permissable for adult residential care facilities to specialize in the type of care they provide, e.g., care for the mentally ill, care for the mentally retarded, or care for the frail elderly.

Eligibility for funding through the Division of Family and Youth Services' Adult Residential Care Program depends on the need statewide and the availability of funding. There are no funds available for funding any additional adult residential care facilities during the current fiscal year. Only licensed adult residential care facilities may be considered for funding.

I suggest you contact Gwen McAlpin, Community Care Licensing Specialist for our Southcentral Regional Office, located at 338 Denali Street, 9th Floor (telephone: 274-5686), for any additional information regarding licensing requirements.

If I can be of any further assistance, please feel free to contact me again.

Sincerely,

Elizabeth Muktarian

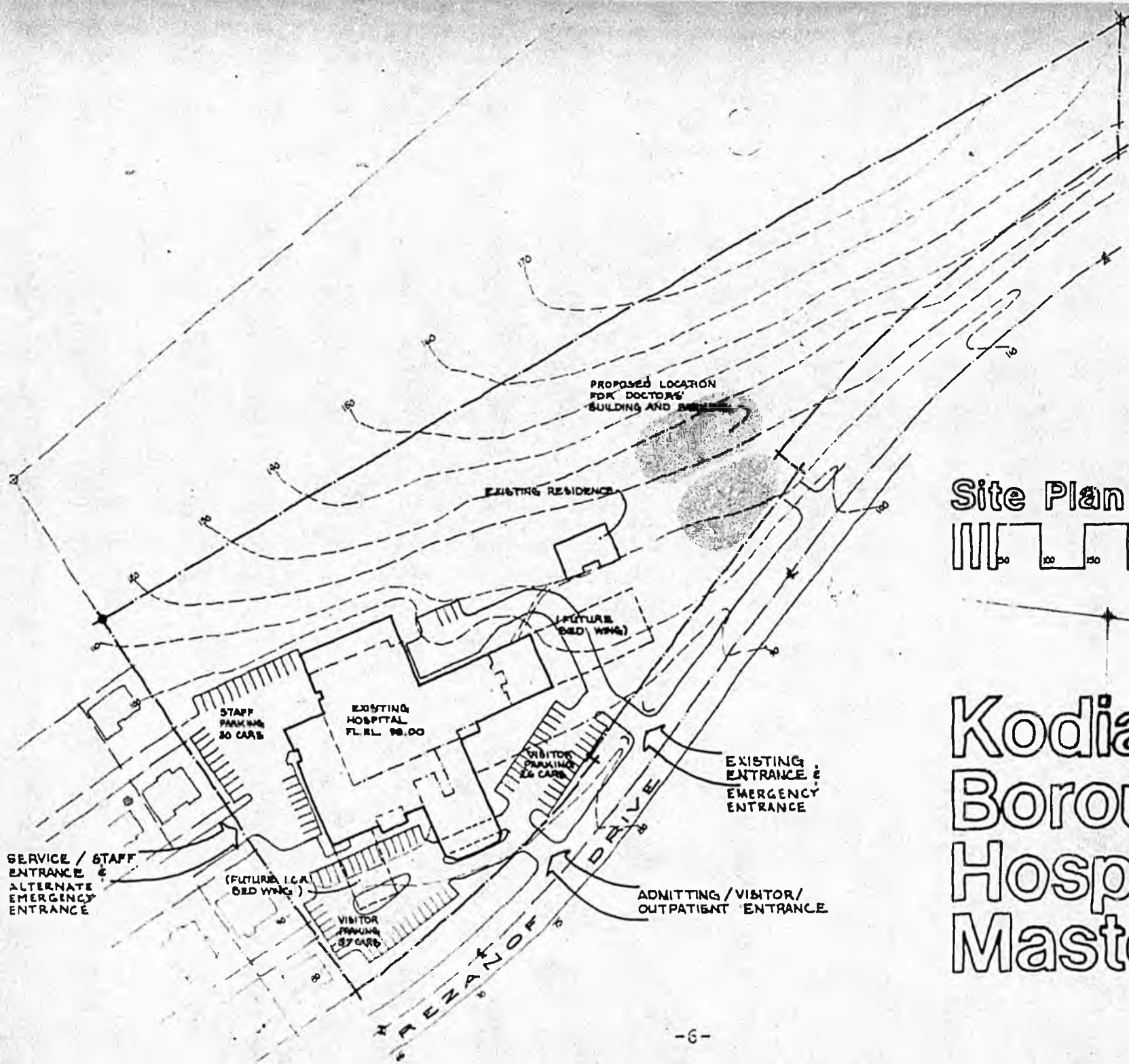
Elizabeth Muktarian
Adult Services Field
Administrator

Enclosures

cc: Frank Dalley
RSSM, SCRO

Gwen McAlpin
CCLS, SCRO

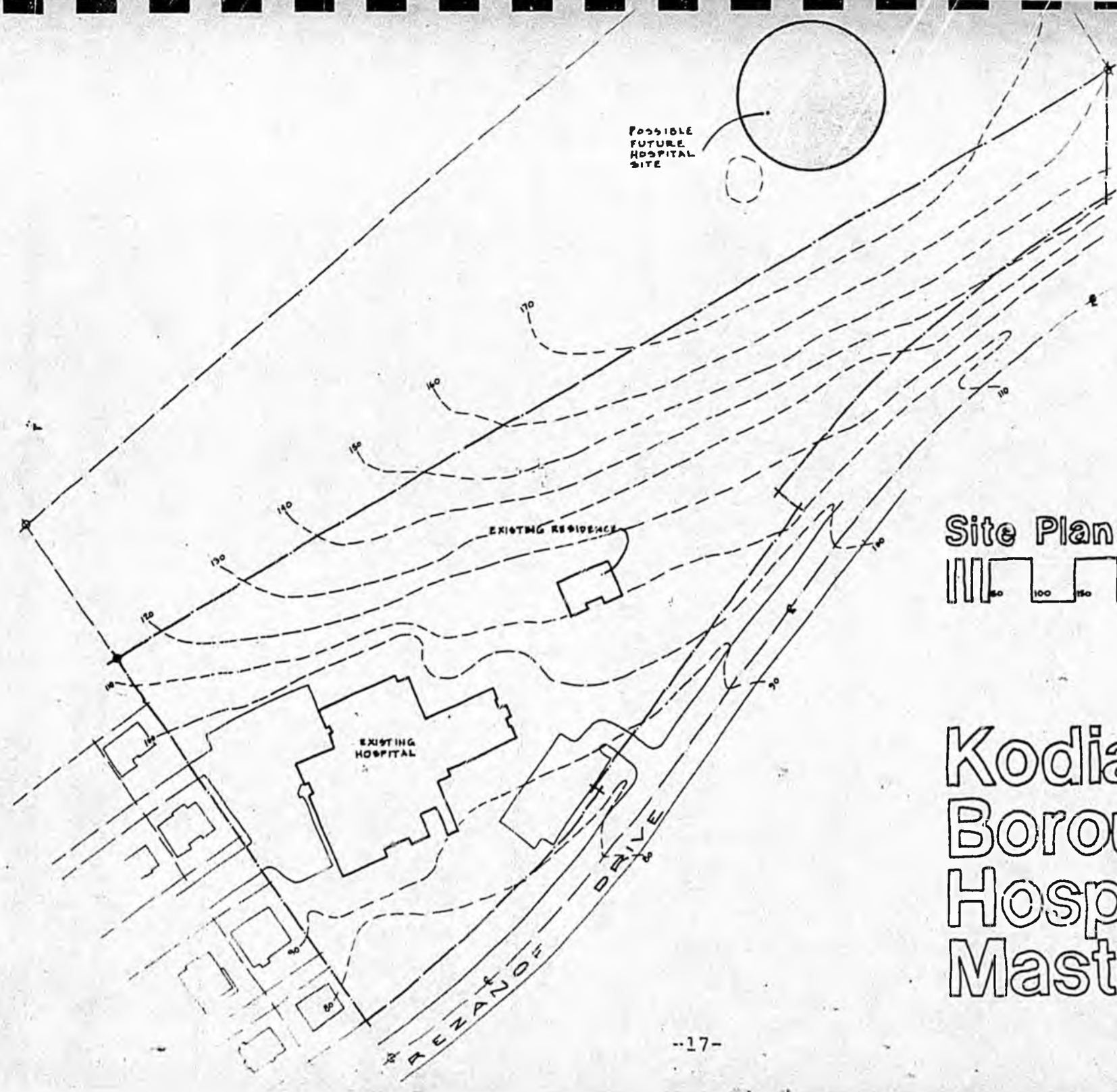
EM:JM:kk



Site Plan METHOD 1

50 100 150 200 FT N

Kodiak Borough Hospital Master Plan



Kodiak Borough Hospital Master Plan

November 11, 1982

Kodiak Island Hospital
Kodiak Island Borough
P. O. Box 1246
Kodiak, AK 99615

ATTN: Mr. Dave Waldron, Facilities Coordinator

RE Hospital Long Range Plan Implementation Study

Ladies & Gentlemen:

Your hospital prepared a "Long Range Plan" dated December, 1981. It has been formally adopted as the guide for developing the physical plant at the Kodiak Island Hospital.

The information included herein studies two methods of implementing that plan:

1. Method I - Renovate and add to the existing structure.
2. Method II - Build a new building.

The following pages discuss the details of each method and compare costs. See the "Summary" section for a one page comparison.

We at CTA appreciate the opportunity to work with you on this project. If there are questions, please contact us.

Sincerely,

CTA ARCHITECTS ENGINEERS

R. Martin Anderson, AIA, PE

James G. Shepard, AIA

LONG RANGE PLAN, DATED DECEMBER, 1981

The Long Range Plan is the culmination of the efforts of many individuals and agencies in Kodiak. It was formally adopted by the Kodiak Borough Assembly in the first part of 1982.

PURPOSE OF THIS STUDY

This planning effort is to determine how to implement the Long Range Plan. (It is not a re-examination of that plan or its background data).

In meetings with Borough Hospital personnel in Kodiak it has been further determined that this study should compare two general methods of accomplishing the Long Range Plan:

Method I

Renovate and add to the existing building.

Method II

Construct an entirely new facility.

GIVENS AND/OR ASSUMPTIONS

1. For the purposes of this study the new facility would be considered to be on the same general site. (It is recognized that the final site selection has not been made and that the above assumption is not a position for or against this site.).

2. This analysis is to include the 10 additional acute care beds. See. Table XXIV b. following page 75 in the Long Range Plan.

3. The completed facility resulting from either Method I or Method II should be "state of the art" on the day that it is completed. The renovation, Method I, must be extensive enough so as not to compromise this requirement. All mechanical and electrical systems must also meet this condition.

4. Basing the cost comparisons on a life cycle cost considering first cost as well as life time owning and operating costs was considered. Life cycle costing was decided to be of only limited relevance and probably detrimental because:
   a) As stated in paragraph #3 preceeding the completed projects are to be functionally as equal as possible thereby making staffing and operating costs equal.
   b) Life time operating costs are much, much larger than first costs and will distort the importance and impact of first costs. As they would be equal it was decided to eliminate this irrelevant distortion.

5. All departments in the hospital must continue to function, and must function in the hospital, during a renovation project. This necessitates some additional phasing but is considered essential. ICU is a possible exception to this paragraph.

6. Costs are projected forward to a Spring 1984 construction bid date. It is assumed that costs will escalate at 5% from June, 1982 to June, 1983 plus 7% from June, 1983 to April, 198[illegible].

7. During a renovation project hospitals lose a certain amount of revenue from operations. These items are loses of revenue and not costs as are building materials. They are real and must be considered but should not be additive to costs. Our estimates (guesses) as to these amounts are shown in the following pages as separate items from costs. Both must be considered in your decisions.

ANALYSIS PROCEDURES

The following documents were furnished by the Borough and Hospital and were used in this study.

1. Kodiak Island Hospital, Long Range Plan, December, 1981.

2. Review of financial operations of the Kodiak Island Hospital, March, 1982.

3. Financial statement Kodiak Island Hospital December 31, 1981.

4. Drawings of existing building and site (partial).

5. Inventory and Evaluation, Kodiak Island Hospital by ECI-Hyer, February 12, 1982.

During the course of this effort the study team met at least one time with the following individuals or groups. Minutes of those meetings are included as Appendix 5 of this report.

Kodiak Island Borough Assembly
Hospital Advisory Board
Public
Dan Van Wieringen, Administrator
Dave Waldron, Facilities Coordinator
Phil Shealy, Borough Manager
Tom Mengen, Lutheran Hospitals and Homes
Charles Olson, Lutheran Hospitals and Homes
Laboratory
Medical Records
Respiratory Therapy
Dietary
Business Office
Purchasing
Physical Therapy
Housekeeping/Laundry
Administration
Pharmacy
Radiology
Physicians
Maintenance
Surgical Suite
Nursing Staff

METHOD I

This approach involves a 5 phase renovation and addition project in the existing building. The goal is to implement the needs of the Long Range Plan plus bring all mechanical and electrical systems up to current standards.

The phases are fully described on a following drawing sheet but are generally:

Phase	I	- Construct Additions
Phase	II	- Renovate new Lab and ICU
Phase	III	Renovate new Radiology and Pharmacy
Phase	IV	Renovate new Emergency
Phase	V	- Any remaining renovation

The multiple phases are required to keep all departments in operation and to require each department to move only once from its existing location directly to its new one.

Concurrently with all phases listed above mechanical and electrical renovation will be proceeding. Every room in the hospital will be disturbed to some degree at some time during the project to accommodate these system changes. These systems will necessarily be almost entirely replaced. See Appendix 2, Mechanical and Appendix 3, Electrical.

On completion of this phased program the departmental locations and functional relationships are as shown on Main Level and Entrance Level (lower level) Schematic Floor Plans on following sheets.

Costs for Method I are itemized in a following section. They are based on square foot prices applicable to the Kodiak construction market.

METHOD II

This alternative builds an entirely new facility. For pricing purposes it is assmed that the new structure will be on the existing site. The existing building will be renovated to other less demanding uses.

It is beyond the scope of this study to schematically lay-out the new facility. Pricing is based on the programmed building areas as listed in Appendix 1. Square foot prices applicable to the Kodiak construction market are then applied.

SUMMARY
COSTS AND TIME
Revised 15 Nov.'82

METHOD I - RENOVATION AND ADDITIONS

Estimated Construction Project Cost	$8,885,100.00	
Renovate ICF	674,200.00	
Estimated Total Project Cost - See pages 11 thru 16		$12,345,300.00
Possible Loss of Income	$ 377,900.00	
Project Construction Time		28 Months

METHOD II - NEW BUILDING

Estimated Construction Cost	$10,337,000.00	
Replace ICF (same size)	1,633,900.00	
Estimated Total Project Cost - See pages 20 thru 21		$15,070,900.00
Loss of Income	None	
Project Construction Time (See Sheet 21 for existing building renovation costs)		18 Months

NOTES: 1. Estimates assume bidding in April, 1984.

F. NONCONSTRUCTION COSTS

The "Nonconstruction Costs" and "Loss of Income" items as listed for Method I will not be present in Method II.

G. SALVAGE VALUE

Moving to the new facility leaves the existing one vacant. This can be a positive or a negative factor depending on the demand, or lack of it, for the space.

Four possible conditions are considered following:

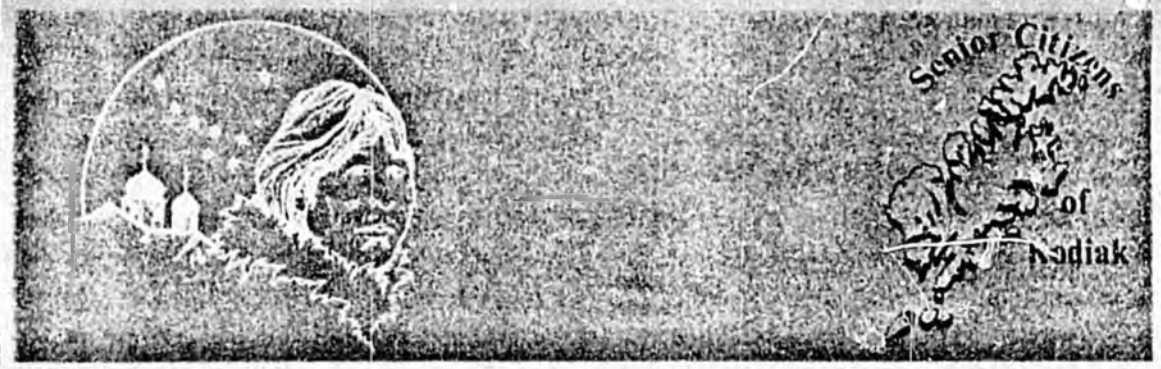
1) Demolition
2) Renovation for uses probably medical in nature, but not requiring overnight occupancy. Examples: Offices, Counseling Spaces, Day Care or other day time uses.
3) Renovation for uses requiring overnight occupancy. Example: Nursing Home.
4) Sale of the property.

Please be aware that scenarios 1 thru 4 are somewhat idealized in that again the existing ICF beds are not accommodated. Conditions 2 and 3 can accommodate them and in that case some renovation would then need to be done. Condition 1 (and possibly 4) obviously requires provision of those services some place else in the community.

Condition 4 is possible only if a willing buyer can be found. There is doubt that one would be available and sale price would have to depend on circumstances known only then. All that can be said here is that some funds would be realized by the Borough and the necessity to give the building further attention would disappear.

H. COSTS

1)	Demolition Lump Sum	=	$ 100,000.00
2)	Renovate for Day Type Use 25,300 s.f. @ $125	=	$3,160,000.00
3)	Renovate for Nursing Home Type Use 25,300 s.f. @ $190	=	$4,810,000.00



Box 315
Kodiak, Alaska
99615
Dennis Murray
Project Director
Tel. 486-6181

Elder Population to be Served by Pioneer Home in Kodiak

Analysis of that population:

The Senior Citizens of Kodiak, Inc. recently held a Valentine's Day Party to honor those over the age of 80 years in the community. The center identified 39 persons over the age of 80 years. Of that number, 24 attended the party. An interesting observation was that 10 of those over 80 years attend the senior center on a daily basis.

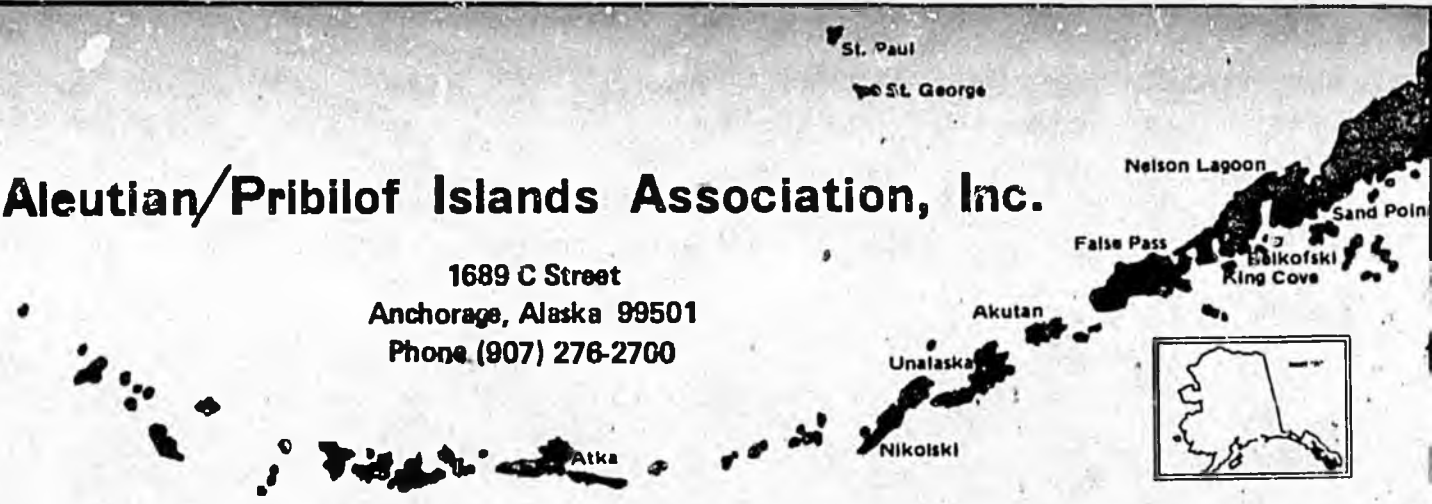
Another interesting fact is that the elderly population over 65 years increased dramatically since 1970. The census then indicated that there were 210 persons over the age of 65. In 1980 the census has the population at 254. That represents a 20% increase.

The proposed facility would hopefully serve Southwest Alaska including some of the Bethel region, Bristol Bay, the Alaska Penninsula, the Aleutian Chain and Kodiak. Please find attached the census information for the State of Alaska.

Kodiak---	254
Dillingham---	169
Bristol Bay---	25
Lower Kuskokwin ---	379
Total	827*

*There are no figures for the Aleutian Chain or the Alaska Penninsula available for this report.

CENSUS AREA	Median Age	Total Population	Total Over 60	% Over 60	% 60-64 to total over 60	%65 & Over to total over 62	% M 65+	% F 65+	% White 65+	% Native 65+	% Other 65+
Aleutian Islands	24.5	7768	188	2.42	81 43.1%	107 56.1%	55 51.4%	52 48.5%	12 11.2%	92 86.0%	3 2.8%
Anchorage	26.3	174431	6590	3.8	3070 46.6	3520 53.4	1550 44.0	1970 36.0	3067 87.1	194 5.5	250 7.4
Aniak	22.7	1301	81	6.23	29 35.8	52 64.2	32 61.5	20 38.5	2 3.8	50 96.2	-
Lower Kuskokwim	21.9	9698	603	6.22	224 37.1	379 62.9	203 53.6	176 46.4	11 2.9	368 97.1	-
Bristol Bay	26.6	1094	47	4.30	22 46.8	25 53.2	12 48.0	13 52.0	12 48.0	13 52.0	-
Dillingham	23.3	4616	265	5.74	96 36.2	169 63.8	107 63.3	62 36.7	23 16.6	146 86.4	-
Eielson Reservation	21.9	5320	10	.19	3 30.0	7 70.0	2 28.6	5 71.4	6 85.7	1 14.3	-
Fairbanks North Star	26.3	48663	2255	4.63	986 43.7	1269 56.3	649 51.1	620 48.9	1068 84.2	116 9.1	85 6.7
Haines	28.8	1680	143	8.51	65 45.5	78 54.5	43 55.1	35 44.9	65 83.3	12 15.4	1 1.3
Juneau	28.1	19528	1274	6.52	503 39.5	771 60.5	354 45.9	417 54.1	636 82.5	77 10.0	58 7.5
Kenai - Cook Inlet	26.7	22473	1211	5.39	557 46.0	654 54.0	364 55.7	290 44.3	602 92.0	41 6.3	11 1.7
Seward	27.6	2809	269	9.58	96 35.7	173 64.3	92 53.2	81 46.8	145 83.8	26 15.0	2 1.2
Ketchikan	27.9	11316	990	8.75	348 35.2	642 64.8	314 48.9	328 51.1	523 81.5	93 14.5	26 4.0
Kobuk	21.6	4831	343	7.10	94 27.4	249 72.6	127 51.0	122 49.0	16 6.0	234 94.0	-
Kodiak Island	26.8	8569	449	5.24	195 43.4	254 56.6	133 52.4	121 47.6	140 55.1	87 34.3	27 10.6
Kodiak Station	22.2	1370	3	.22	2 66.7	1 33.3	1 100.0	-	1 100.0	-	-
Matanuska - Susitna	26.9	17816	1172	6.58	442 37.7	730 62.3	371 50.8	359 49.2	700 95.9	26 3.6	4 .5
Nome	23.4	6537	477	7.30	138 28.9	339 71.1	177 52.2	162 47.8	42 12.4	296 87.6	-
Barrow - Point Hope	23.6	3784	203	5.36	62 30.5	141 69.5	77 54.6	64 45.4	5 3.5	136 96.5	-



Aleutian/Pribilof Islands Association, Inc.

1689 C Street
Anchorage, Alaska 99501
Phone (907) 276-2700

December 3, 1982

Joseph F. Terry, President
Senior Citizens of Kodiak, Inc.
Box 315
Kodiak, Alaska 99651

Dear Mr. Terry,

We have received and hereby acknowledge your inquiry regarding the establishment of a Pioneer home type nursing facility in Kodiak. Although we are presently assessing the need for housing independent senior citizens on St. Paul Island, we do see a general need for a facility of this type as a regional resource and alternative to Anchorage for senior citizens in our region in need of nursing home care.

Having been unsuccessful for years in efforts to obtain state support for organized senior citizens programs and services in our region, we would view such a facility as a second-best means of providing care options to our widely scattered and remotely located senior population.

Due in part to the lack of funds cited above, we have little substantive data to offer you on the needs of senior citizen population in the Aleutian-Pribilof region.

Please be assured however of our support for a nursing type facility in Kodiak, provided it will be available to senior citizens from the Aleutian-Pribilof region.

If you have further questions please do not hesitate to contact either Arlene Patton or Bill Arterburn of Aleutian Housing Authority at 276-2700.

Sincerely,

Gregg Brelsford
Executive Director



BRISTOL BAY NATIVE ASSOCIATION
P. O. BOX 189
DILLINGHAM, ALASKA 99576
PHONE (907) 842-5257 — 842-5258

December 13, 1982

Joseph Terry
President of Senior Citizens of Kodiak, Inc.
P.O. Box 315
Kodiak, Alaska 99615

Dear Joseph,

Thank you for your letter of November 29, 1982 addressing possibly needs of our seniors relative to a Pioneer Home in Kodiak.

While the seniors around the Dillingham and Bristol Bay area would prefer a home here there are some that come to mind that would benefit from such a care facility in Kodiak. The area I'm thinking of would be the Peninsula area.

We do not have an active Senior Citizens Service Program at BBNA due to State budget cuts. It is therefore extremely difficult to access our immediate area's needs. We have some counts as to the number of Elders in the communities but they are out-dated and not accurate. I would make an educated guess that there could possibly be some 50 elders in the Peninsula area. How many needing special care we cannot guess, but we are certain there are some as to whether they would prefer Kodiak to Anchorage we would say probably Kodiak as it is nearer their home and less costly for family members to travel to visit.

I hope this has been some help to you. We think this project would definitely help some Elders in the area and hope that we will see it come about.

Sincerely,

Judi Batt

Judi Batt
Program Director
Elderly Program

JB:jb



STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF PIONEERS' BENEFITS
PIONEERS' HOME–LONGEVITY BONUS

JAY S. HAMMOND, GOVERNOR

POUCH CL (MS 0211)
JUNEAU, ALASKA 99811
PHONE: (907) 465-4416

November 10, 1982



Ms. Susan Stubbe
Senior Citizens of Kodiak
P.O. Box 315
Kodiak, AK 99615

Dear Ms. Stubbe:

The information on the rate of occupancy and the waiting lists for the Pioneers Homes using the September figures which are representative of recent experience follows:

	Sitka	Fairbanks	Palmer	Anchorage	Kotzebue	Ketchikan
Available bed:						
Residential	100	65	41	128	16	19
Nursing	50	54	55	95	0	28
Vacancies:						
Residential	26	9	0	33	0	0
Nursing	3	2	1	55	0	3
Waiting Lists:						
Residential	8	1	7	76	0	27
Nursing	8	4	12	64	0	15
Inactive	15	35	70	120	0	0
Admittances:	2	5	2	0	0	1
Discharges:	0	1	0	0	0	0
Deaths:	1	0	2	1	0	1

Thank you for the invitation to visit Kodiak. Due to the fact that I will be going on leave for ten days starting tomorrow as well as the uncertainty of job status connected with the change of administration I do not know at this time when or if I will be able to visit your great community. I will contact you as soon as I know.

Sincerely,

Vern L. Perry
Director

VLP/dlr
2/1110-09/LB1

12-83LH

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION

DIVISION OF PIONEERS' BENEFITS
PIONEERS' HOME–LONGEVITY BONUS

JAY S. HAMMOND, GOVERNOR

POUCH CL (MS 0211)
JUNEAU, ALASKA 99811
PHONE: (907) 465-4416

October 13, 1982



Ms. Susan Stubbe
Research Assistant for the
Housing Study
Senior Citizens of Kodiak
P.O. Box 315
Kodiak, AK 99615

Dear Ms. Stubbe:

This is in reply to your very interesting October 1, 1982 letter regarding a Pioneers' Home in Kodiak.

Pioneers' Homes are financed either by a direct appropriation by the Legislature or by a vote on a bond issue. Of course, in either case, a bill has to be introduced and passed. Your group will need to show a need so urgent that your Legislators will be able to get a favorable action on such legislation.

Need must be shown as to numbers of people that are not being served and are in need of the services offered by the Pioneers' Homes. Unless there is a need for a Home of at least fifty beds, the cost per resident cared for is too high. In this case, other means to care for the people need to be explored.

If a Pioneers' Home is to be utilized by the elderly in the southwestern part of Alaska, it might be a feasible project. These people have been used to going to Anchorage for care. The big question is, would they stop at Kodiak for this type of service?

These types of questions need to be answered ... mographic study done by experts in the field for your use in convincing the Legislature that a Pioneers' Home in Kodiak is justified. We do not have any budget for this purpose, but your Legislator may be able to get an appropriation.

Thank you for your interest in the Pioneers' Homes Program and feel free to again contact me.

Sincerely,

Vernon L. Perry
Director

VLP/bab
4/1012-12/PB1

12-83LH

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF PIONEERS' BENEFITS

ANCHORAGE PIONEERS' HOME
923 W. 11TH STREET
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3414

June 14, 1982

Susan Stubbe
Box 315
Kodiak, AK 99615

Dear Ms. Stubbe

I have received your letter of 2 June 82 requesting stastical information.

Financially, I don't think I can be of much help. The Pioneers' Homes are state funded facilities. Residents make only one token payment per month for all services except medications and private physician services. For 135 residents who are all over 65 and who range from being capable of total independent living to those requiring skilled nursing care, our FY 82 budget was approximately 3.4 million.

Our nursing staff is based on 3.5 hours per day per patient "hands on" care. To this must be added supervisory staff, numbers depending on total staff size. Housekeeping revolves around two housekeepers per 40 rooms plus weekend, laundry, janitorial and supervisory personnel. For three meals a day, seven days a week plus medically necessary snack service, our staff is 12 full time and seven part time personnel for a central dining room, waitress attended meal service. Maintenance staff really depends on type and age of your facility. We have one social worker and four recreational personnel. These latter two services are considerably augmented by a volunteer service. Administratively, you should have a manager/administrator plus secretarial, bookeeping, filing, and equipment and supplies personnel on a part or full time basis depending on size and scope of operation.

I hope the above information is helpful. Please don't hesitate to write or call if I can be of further help.

Good luck on your project.

Sincerely,

David H. Herndon
Manager
Anchorage Pioneers' Home

DHH/jmt

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF PIONEERS' BENEFITS
SITKA PIONEERS' HOME

P. O. BOX 198
SITKA, ALASKA 99835

June 7, 1982

Received
6/9/82

Susan Stubbe
Research Assistant
Senior Citizens of Kodiak
P. O. Box 315
Kodiak, Alaska 99615

Dear Ms. Stubbe:

I have received your inquiry of June 2, 1982 about our financing, staffing and management plans. All Pioneers' Homes are State owned and operated. As such we do not maintain the type of information you have requested. However, we have 84 employees currently caring for 122 residents, 45 of which are nursing care. Our total capacity would be 150 residents, 50 of which would need nursing care. Our operating budget for FY82 is $3,029,900. Of this amount, Personnel Services or salary and fringe benefits are about 80% of the budget or $2,412.400.

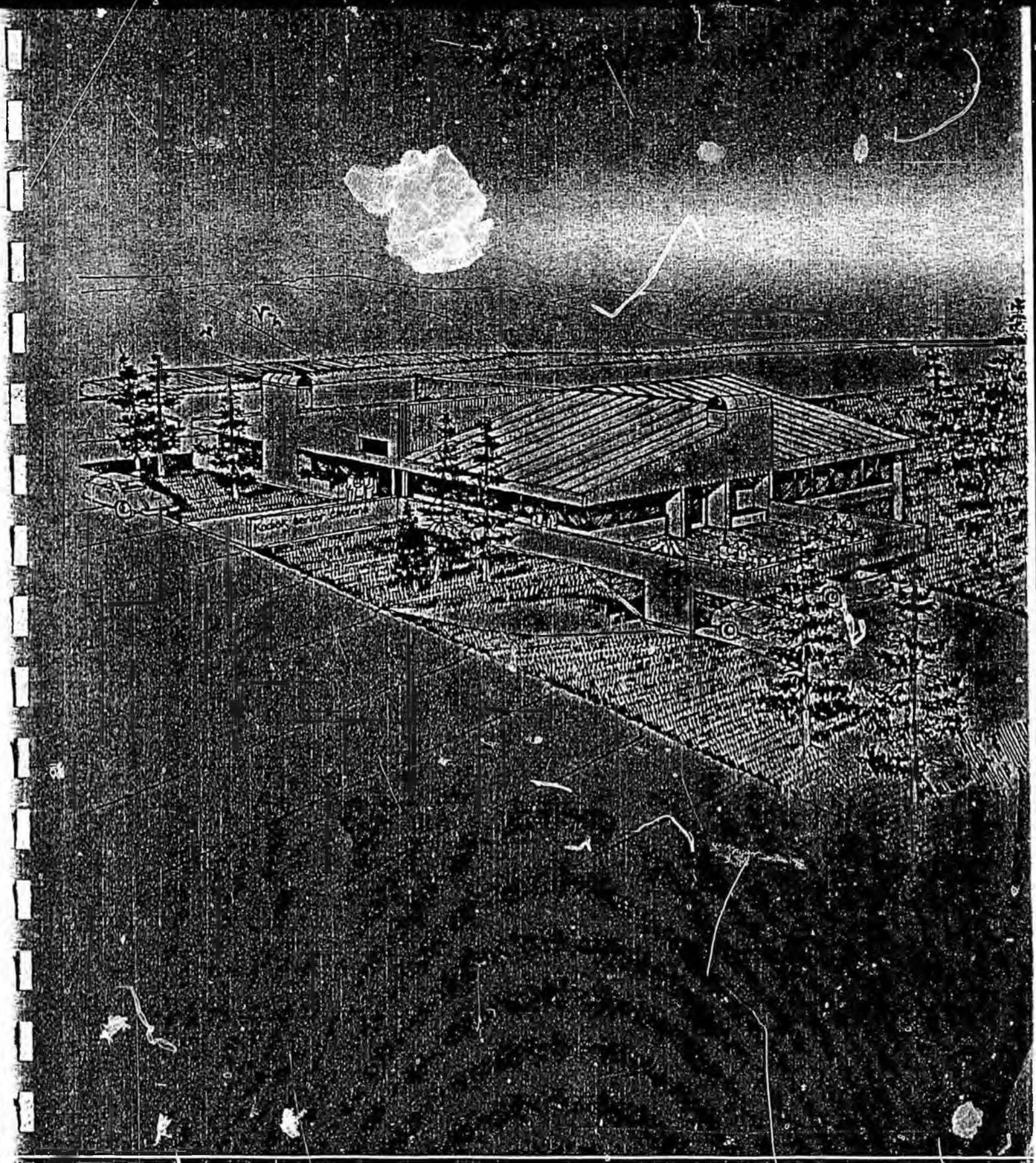
Of course, other Pioneers' Homes operating expenses would differ dependent upon number of employees, number of residents and size of their facility. If you wish additional information I suggest you contact George Michael, Administrative Officer, Division of Pioneers' Benefits, Department of Administration, Pouch C, Juneau, Alaska 99811.

Sincerely,

Frank C. Sisson

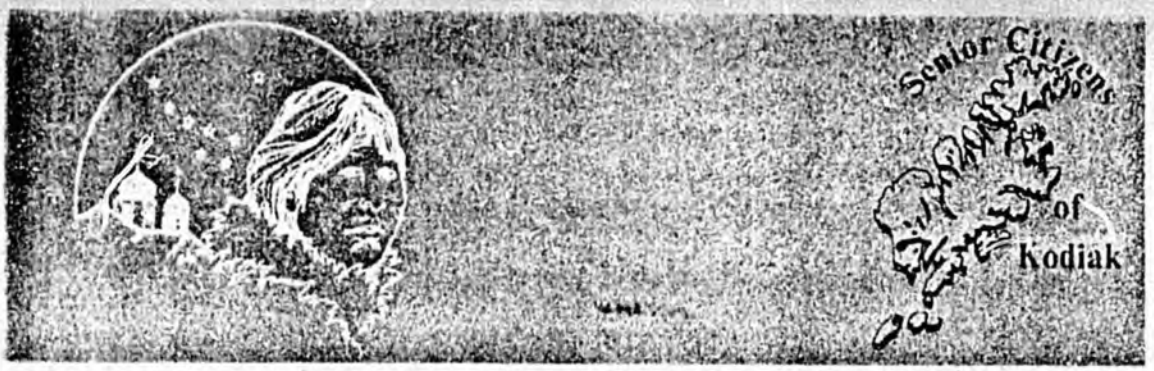
Frank C. Sisson, LNHA
Manager, Sitka Pioneers' Home

02-B1LH



KODIAK SENIOR CENTER

Galen Grant & Associates Architecture Planning



Box 315
Kodiak, Alaska
99615
Dennis Murray
Project Director
Tel. 486-6181

4-18-83

Rep. Mitch Abood, Chairman
House State Affairs Committee
Pouch V,
Juneau, Ak. 99811

Re: Testimony for HB 249

REPRESENTATIVE ABOOD, MEMBERS OF THE COMMITTEE:

MY NAME IS MARIANE FITZGERALD. I AM HERE TODAY TO TESTIFY IN FAVOR OF THE PASSAGE OF HB 249. CURRENTLY I AM A MEMBER OF THE BOARD OF DIRECTORS OF THE SENIOR CITIZENS OF KODIAK, INC. AND THE CHAIRPERSON OF THE STEERING COMMITTEE ON HOUSING. I HAVE BEEN ACTIVE WITH SENIOR AFFAIRS IN KODIAK FOR THE PAST 7 YEARS, SERVING AS PRESIDENT OF THE CORPORATION 1979-81. I FEEL THAT THE CONSTRUCTION OF A SENIOR CENTER WOULD BE VERY BENEFICIAL TO THE ELDERLY OF OUR COMMUNITY.

OUR COMMUNITY HAS RECENTLY COMPLETED A PLANNING EFFORT WHICH INCLUDED AN EXAMINATION OF RESIDENTIAL CARE HOUSING. I WOULD LIKE TO PROVIDE THE COMMITTEE MEMBERS A BRIEF REVIEW OF THAT EFFORT. ENCLOSED IN EACH PACKET IS A ANALYSIS OF NEED, SCHEMATIC DRAWINGS AND COST ESTIMATE AND MANAGEMENT PLAN FOR THE PROPOSED CENTER. IN THE COURSE OF OUR STUDY IT WAS DETERMINED THAT OPERATIONAL FUNDS FOR RESIDENTIAL CARE WERE NOT AVAILABLE. CONSEQUENTLY, THE GROUP FOCUSED ON THE CONSTRUCTION OF A SENIOR CENTER WITH THE PLANNING FUNDS, AND HAVE APPROACHED THE DIVISION OF PIONEER BENEFITS RELATIVE TO A PIONEER HOME.

THERE ARE MANY REASONS TO SUPPORT THE CONSTRUCTION OF A NEW CENTER. ONE OF THE MOST IMPORTANT CONSIDERATIONS WAS THE LACK OF ADEQUATE SPACE IN THE EXISTING FACILITY FOR THE GROWTH IN OUR PROGRAMS. WE ARE CURRENTLY HAVING

TO RENT SPACE FOR OUR INDIVIDUAL COUNSELING OFFICES AND ADMINISTRATIVE SUPPORT. OUR CENTER IS ONE MULTI-PURPOSE ROOM WHICH WILL ACCOMODATE ONLY 40-50 PERSONS. MANY TIMES WE HAVE STANDING ROOM ONLY ACTIVITIES. THIS LIMITED SPACE ALSO MEANS WE AVOID LARGE GATHERINGS. THIS IS UNFORTUNATE AS WE WOULD LIKE TO ENCOURAGE MORE PARTICIPATION IN SENIOR ACTIVITIES.

ANOTHER AREA WHICH IS VERY IMPORTANT TO ME IS THAT OF IN-HOME SUPPORT SERVICES. THE CENTER HAS SPONSORED THIS PROGRAM FOR THAT LAST 3 YEARS. I HAVE WITNESSED FIRST HAND THE BENEFITS OF PROVIDING SERVICES TO THE ELDERLY IN THEIR OWN HOMES AND APARTMENTS. I BELIEVE THAT THE SENIOR CENTER IS THE MOST APPROPRIATE MECHANISM FOR THE DELIVERY OF THIS SERVICE TO THE ELDERLY. IN MANY CASES, IT MEANS THE DIFFERENCE TO INSTITUTIONALIZATION. A NEW CENTER WILL ALLOW FOR THE EXPANSION OF THIS EFFORT AS IT WILL PROVIDE SPECIFIC SPACE FOR THE PROGRAM AND FOR OTHER PREVENTIVE HEALTH CARE ACTIVITIES.

I KNOW THAT THE STATE IS CONCERNED ABOUT THE CONSTRUCTION OF FACILITIES IN A COMMUNITY WHERE THERE IS NO ANALSIS OF THE ABILITY OF THE COMMUNITY TO OPERATE SUCH FACILITIES. IF YOU WILL TURN TO MANAGEMENT PLAN IN YOUR PACKET, THE BOARD HAS ATTEMPTED TO ADDRESS THAT QUESTION. IT IS ANTICIPATED THAT THIS FACILITY WOULD INCREASE OUR COST OF DOING BUSINESS BY 8-10% ANNUALLY. THIS REPRESENTS $15,000--$20,000. IT WOULD BE OUR INTENT TO GENERATE 50% OF THAT COST FROM LOCAL SOURCES INCLUDING THE RENTING OF THE FACILITY FOR COMMUNITY USE.

FINALLY, YOU WILL NOTE THAT OUR FACILITY WILL BE LOCATED ADJACENT TO OUR 54 UNIT ELDERLY AND HANDICAPPED HOUSING. THE BOARD AND I FEEL THIS WILL MAKE OUR FACILITY VERY ACCESSABLE TO THE ELDERLY OF THE COMMUNITY.

I THANK YOU FOR THE OPPORTUNITY TO HAVE INPUT ON THIS BILL. IF YOU HAVE QUESTIONS???

RESOLUTION

SUBJECT: A resolution of the Older Alaskans Commission concerning support for the construction of a multi-purpose SENIOR CENTER in Kodiak, Alaska.

WHEREAS: The Senior Citizens of Kodiak, Inc. has presented a proposal for the construction of a multi-purpose SENIOR CENTER in Kodiak, Alaska to the Commission at their March 16-18, 1983 meeting in Anchorage, And

WHEREAS: The Older Alaskans Commission is responsible for much of the allocation of resources for the support of senior centers throughout Alaska, and

WHEREAS: It is the desire of the Commission and the current Administration that capitol construction projects be presented through the appropriate agency, and

WHEREAS: In the Commission's judgement the proposal is a comprehensive and thorough examination of the need for facilities in Kodiak to provide a wide range of services which enhance the independence and dignity of its elderly citizens, and

WHEREAS: The Honorable Fred Zharoff, Representative from the Kodiak area, has introduced HB 249, "An Act Relating to the Construction of a SENIOR CENTER in Kodiak...."

Therefore Be It Resolved That:

The Older Alaskans Commission formally accepts this proposal from Kodiak and respectfully requests favorable funding consideration in the amount of $1.6 Million Dollars from the following Concerned Parties:

The Honorable Bill Sheffield, Governor of the State of Alaska
The Honorable Jalmar Kerttula, President of the Senate
The Honorable Joe Hayes, Speaker of the House of Representatives

Adopted this 18th Day of March, 1983 by unanimous consent of the Membership of the Older Alaskans Commission.

Attest: Hazel Heath Chairperson



KODIAK ISLAND BOROUGH

Telephones 486-5736 - 486-5737 — Box 1246
KODIAK, ALASKA 99615

April 14, 1983

Joseph Terry, President
Senior Citizens of Kodiak
Box 315
Kodiak, Alaska 99615

Dear Mr. Terry:

The Kodiak Island Borough Assembly at the regular meeting held Thursday, April 7, 1983 unanimously adopted Resolution No. 83-42-R supporting a multi-purpose senior citizens center in Kodiak. This project has been identified in the adopted Capital Improvement Program and is a definite need in the Kodiak area.

If you have any further questions regarding this matter, kindly contact me at your convenience.

Sincerely,

KODIAK ISLAND BOROUGH

Phil Shealy

Phil C. Shealy
Borough Manager

Enclosure (Res. 83-42-R)

mdd



KODIAK ISLAND BOROUGH
RESOLUTION NO. 83-42-R

A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY SUPPORTING HB 249, "AN ACT RELATING TO THE CONSTRUCTION OF A SENIOR CENTER IN KODIAK."

WHEREAS, the Kodiak Island Borough Assembly has recognized the need for a Multi-Purpose Senior Center and has included the project in its CIP for FY 85, and

WHEREAS, Representative Fred Zharoff has introduced HB 249, "An Act relating to the construction of a Senior Center in Kodiak...", and

WHEREAS, the Assembly finds that there is strong support for such a facility in the community to act as a focal point for elderly affairs with opportunities for the elderly to gather for meals, social activities, health screening, information and referral, recreation, etc., and

WHEREAS, the existing facility for the senior program does not provide adequate space for the many activities sponsored by the center, and

WHEREAS, the Assembly understands that many other communities in Alaska have received grants through the Alaska State Legislature for the construction of Multi-Purpose Senior Centers.

NOW, THEREFORE, BE IT RESOLVED that the Assembly strongly endorses and supports the efforts of the Senior Citizens of Kodiak, Inc. in obtaining funding in the amount of $1.6 million for the construction of a senior center.

BE IT FURTHER RESOLVED, that copies be sent to:

The Honorable Bill Sheffield, Governor
The Honorable Jay Kerttula, President of the Senate
The Honorable Bob Mulcahy, Senator from Kodiak
The Honorable Fred Zharoff, Representative from Kodiak
Members of the Senate and House

PASSED AND APPROVED this 7th day of April, 1983.

KODIAK ISLAND BOROUGH

By _____
Borough Mayor

ATTEST:

By _____
Borough Manager

PLANNING STUDY FOR THE CONSTRUCTION OF A MULTI-PURPOSE SENIOR CITIZENS CENTER IN KODIAK, ALASKA

*** ***

MARCH, 1983

Prepared For and with Financial Assistance of:

The Division of Housing
Dept. of Community and Regional Affairs
Ms. Barbara Morse-Quinn, Director

Prepared By:

The Senior Citizens of Kodiak, Inc.
Galen Grant and Associates, Architect

A) Analysis of Need:

The Senior Citizens of Kodiak Inc. have pursued the development of comprehensive services and facilities for the elderly of Kodiak Island since the inception of the organization in 1973. In working through these various projects, it became apparent to the board that there still exists in the community gaps in services and facilities. In the Spring of 1981, the board invited representatives of the Department of Administration, Department of Health and Social Services and Community and Regional Affairs to meet with them and members of the Kodiak commuinity to discuss the options Kodiak may have in addressing the needs of the elderly citizens. The representatives from the various departments of State government felt that more information was necessary to document the gaps; and, it was decided that the Senior Citizens should apply for a planning grant from the Department of Commuity and Regional Affairs.

As provided in the procedures of the Division of Housing, the organization circulated survey questionnaires to the elderly population of Kodiak Island. A summary of this information is attached. After this grant was submitted and approved, the Senior Citizens' Board of Directors appointed a 10 person Steering Committee to study the need for residential care and ancillary facilities. A research Assistant was hired to carry out the day to day activities of the grant and to coordinate the efforts of the Steering Committee. At this point, the Senior Citizens who had originally filled out the survey were contacted to see if they were still interested in housing. Of the original 77, only 12 to 15 could be counted as certain residents. Three operational budgets were submitted for consideration to the Steering Committee for approval; and these budgets and a cover letter were sent to the Department of Health and Social Services to determine the availability and access to funds once the project was constructed. The uncertainty of funding once the project was constructed led the Steering Committee to explore other avenues of residential care for the Seniors on Kodiak Island. At this point, the Seniors are pursuing the feasibility of a Pioneers Home. Since this resource is not appropriate to the constraints of this planning grant, the Seniors asked for clarification from Community and Regional Affairs concerning the parameters of the grant. The Seniors were granted an exception to the housing planning because it was apparent that at the present time there was no further need for housing. Kodiak Island Housing Authority had just begun the construction of a 48 unit low income housing complex with designated areas for Seniors and Disabled. Bayview Terrace, the existing Senior subsidized housing had vacancies. Furthermore, in the six villages on

Kodiak Island, there were vacancies in the existing H.U.D. housing. With the housing issue at a standstill, the Senior Citizens Steering Committee was able to study other options that would concentrate on the merits of providing the necessary ancillary services to the Seniors in need.

In order to understand the necessity of an independent facility to house the Senior Citizens of Kodiak, it must be realized that this organization has been functioning for ten years. It started as a grass roots project with a desk in the donated space of the Koniag Regional Corp. office. After four months, it moved to a back room in the Kodiak Baptist Church. This space was completely inaccessible to the Seniors because of the number of steps and lack of privacy. Again the Seniors moved; this time to a three bedroom apartment in subsidized housing where the Senior Citizens of Kodiak Inc. paid fair market price for the rent of such space. The organization remained there until Bayview Terrace was constructed in 1979. The Seniors have occupied the Community Room in Bayview Terrace (a Senior subsidized 55 unit housing complex) since then. Of course the fact that the Center occupying the present space is secondary to the facility poses a real problem to the program because it is not visibly seen to the Seniors who live in the Community.

The constraints of the program in its present location are space, privacy and access. The space factor has been a large concern for some time. A small apartment which serves as the office area for four staff members is cramped and limited. The reception area is in the middle of the dining area as is the transportaiton desk, craft area and exercise area. The kitchen is family size and serves over 30 Seniors daily. Other than a small storage area which is on another floor in the Senior Housing complex, this comprises the area available to the Senior Citizens of Kodiak Inc. (all of it under 2000 sq. ft.). Where space is limited, there is no privacy. For many Seniors, this poses a real concern. They often feel that to share their problems behind a screened wall is to tell the world. No doubt, there is need to be concerned about their privacy. Access is difficult for Seniors in the Community who do not live in Bayview Terrace. The entrance to the building does not access itself directly to the area used by the Senior Citizens of Kodiak Inc. This inconvenience is small only to those who use it regularly. To a shy Senior in the Community, it presents a real obstacle to a regular use.

In the examination of the need for residential care facilities, it was learned that there are several members in the community who ideally would benefit from such a facility. However, as has been previously noted, operational costs were the problem. One of the most important aspects of the proposed SENIOR CENTER will be the delivery of In-Home Support Services and potentially adult

day care services. These two programs will certainly fill the gap and allow Kodiak to assist its elderly in remaining in their own homes near their family and friends. The new facility will provide space for the homemaker/supervisor to administer this program. The exercise/health screening room will support this activity and enhance it. Should adult day care be determined a priority, space could be provided for that activity. It is important to note the cost of various levels of assistance to elderly persons. Such a comparison can give insight into the desirability of senior programs in general and particularly in-home support services.

Various Costs:

In Kodiak	Cost
1 day in a semi-private room at the Hospital with routine ancillary services	$1,000
1 day as a resident in the Intermediate Care Facility attached to the Hospital	156
4 hours of assistance in the home by a licensed home health aide under the direction of a public health nurse	80*
4 hours of assistance in the home by a homemaker under the direction of a homemaker supervisor	54

*$20/hr is an estimate as administrative-supervisory expenses are not identified. Many times, elderly and disabled need only limited assistance in order to maintain their independence. However, without this support available in the community, the potential institutionalization is greatly increased.

Other services including nutritious meals, transportation, etc. facilitate and enhance an elderly person's opportunity to remain in the community. It is interesting to note that at a recent Valentine's Day Party, the center honored seniors over the age of 80 years. The Kodiak area has 39 octogenarians. Of that number, 10 elders are daily participants in the activities and services of the Senior Center. Further, a breakdown of the living arrangements for these elders is as follows:

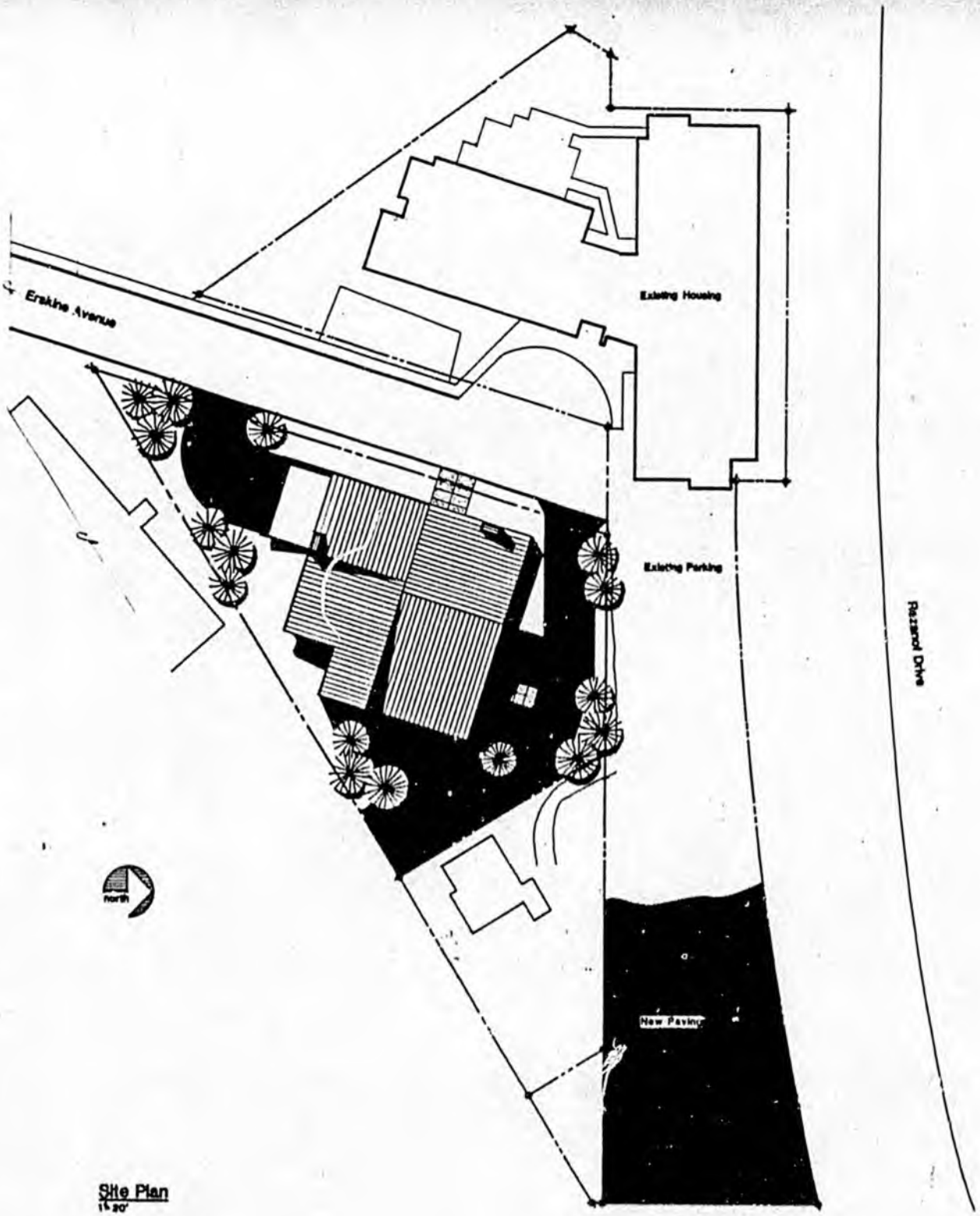
A) Those Living Alone	
In their own homes	4
In apartments	4
B) Those Living with spouse/family	
In their own homes	20
In apartment	4
C) Those living in ICF (nursing home)	7
	19

The percentage of those residing in an institution is 18% of this age group. As was noted above, 10 elders are daily participants at the center representing 25% of the population.

B) Input by Seniors and Community Leaders to the Project

Throughout the planning process, the Senior Citizens of Kodiak Inc. has sought and utilized input from members of the community, and specifically Seniors in the community. The very first communication was the housing survey. After the initial response, the community was publicly and Seniors were individually invited to all Steering Committee and Board meetings which were specifically related to the issue of housing or a proposed Senior Center. There have been public service announcements to remind members of the community to public hearings concerning the new facility. There have been newspaper articles to update the community as to the progress of this project. There have been regular articles in the Senior Citizens newsletter to keep the Seniors informed and to invite them to future meetings. All of this publicity has been designed to actively seek input from those interested in the project. Fortunately, it has worked. The Senior Citizens feel this project has been supported widely from the community as well as Seniors on the Island.

A questionnaire was sent to all Seniors in the community and on the Island to elicit input into the design of the proposed Senior Center. There was a large response to the questionnaire. From the feedback, the architect had a definite idea of the areas considered important to the Seniors who would be using the facility. There have been three meetings with the architect since the initial visit. Each meeting has been a forum for Seniors to refine their priorities in the proposed Senior Center. With this in mind, one must realize that a practical, but independent facility is the primary goal of the Senior Citizens of Kodiak Inc.



Site Plan
1"=20'

KODIAK SENIOR CENTER

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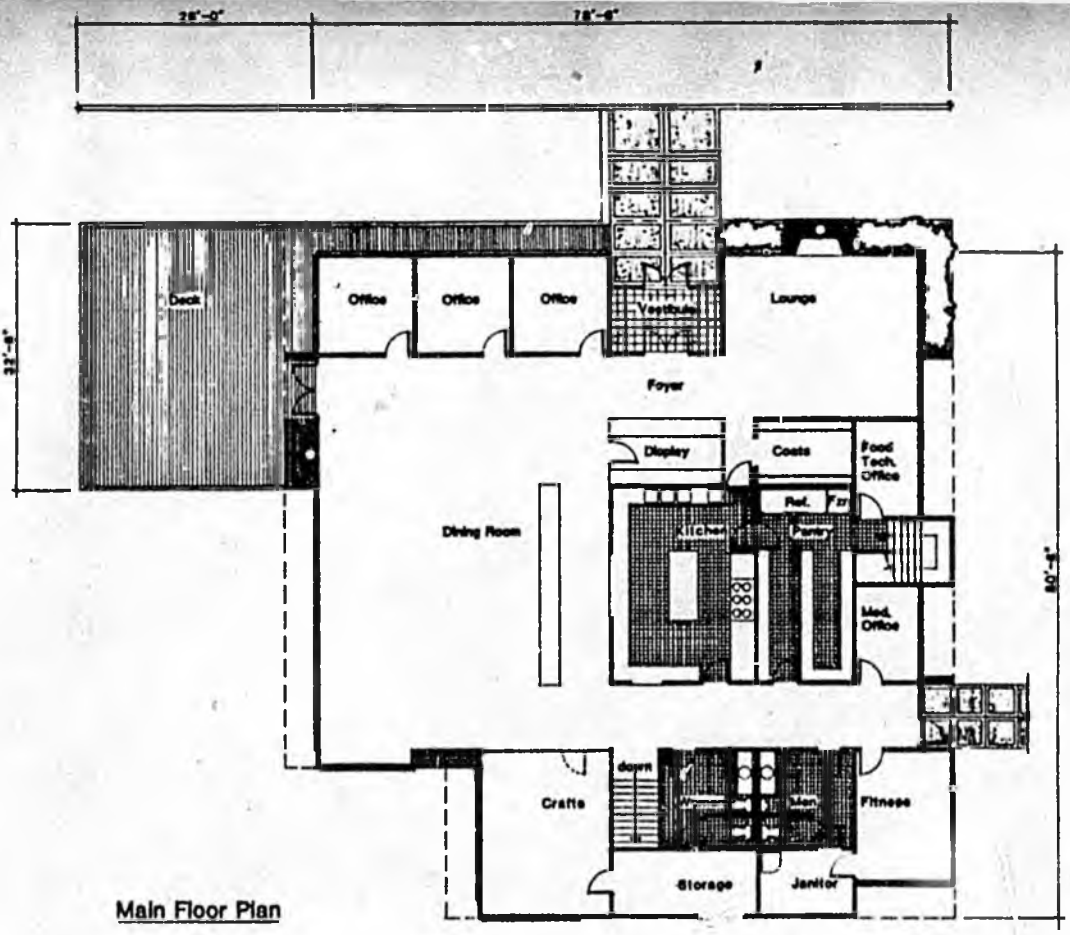
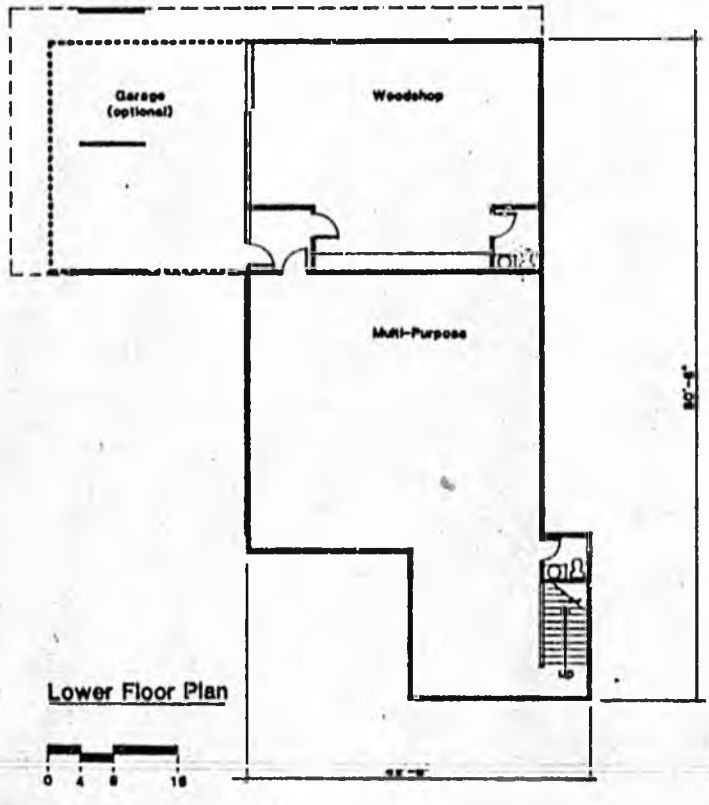


Main Floor Plan



Lower Floor Plan

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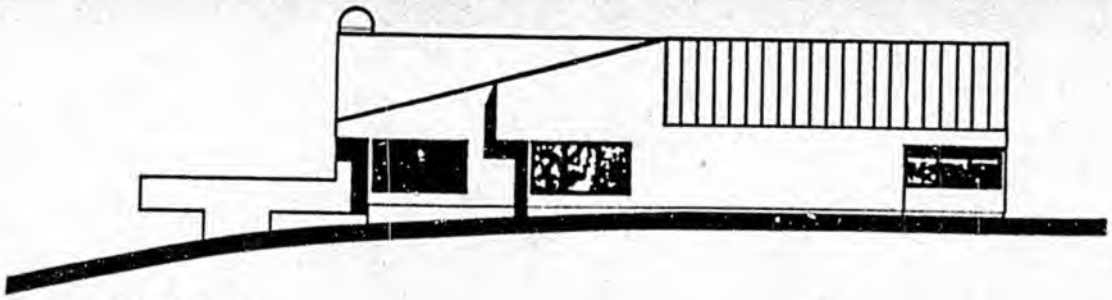
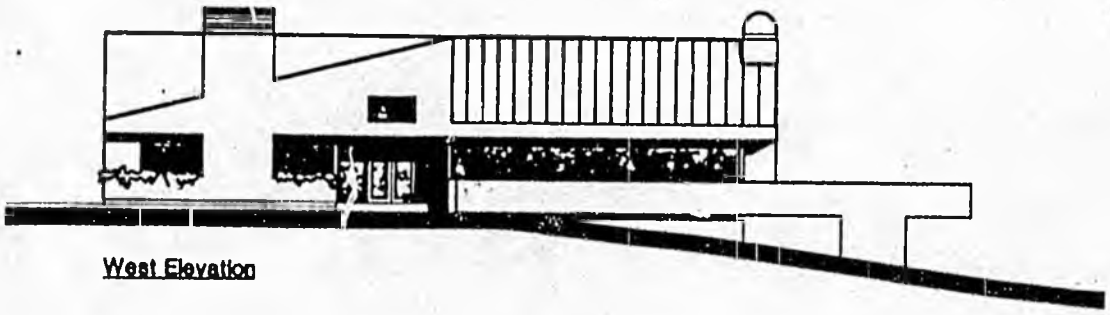


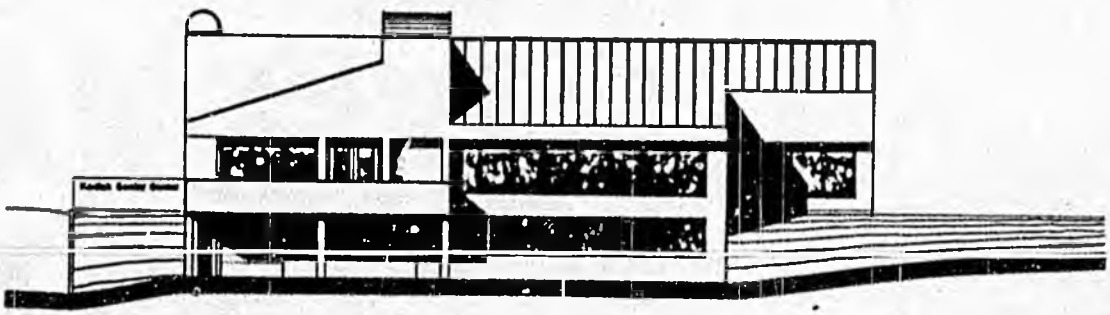
East Elevation



North Elevation



West Elevation



South Elevation



KODIAK SENIOR CENTER

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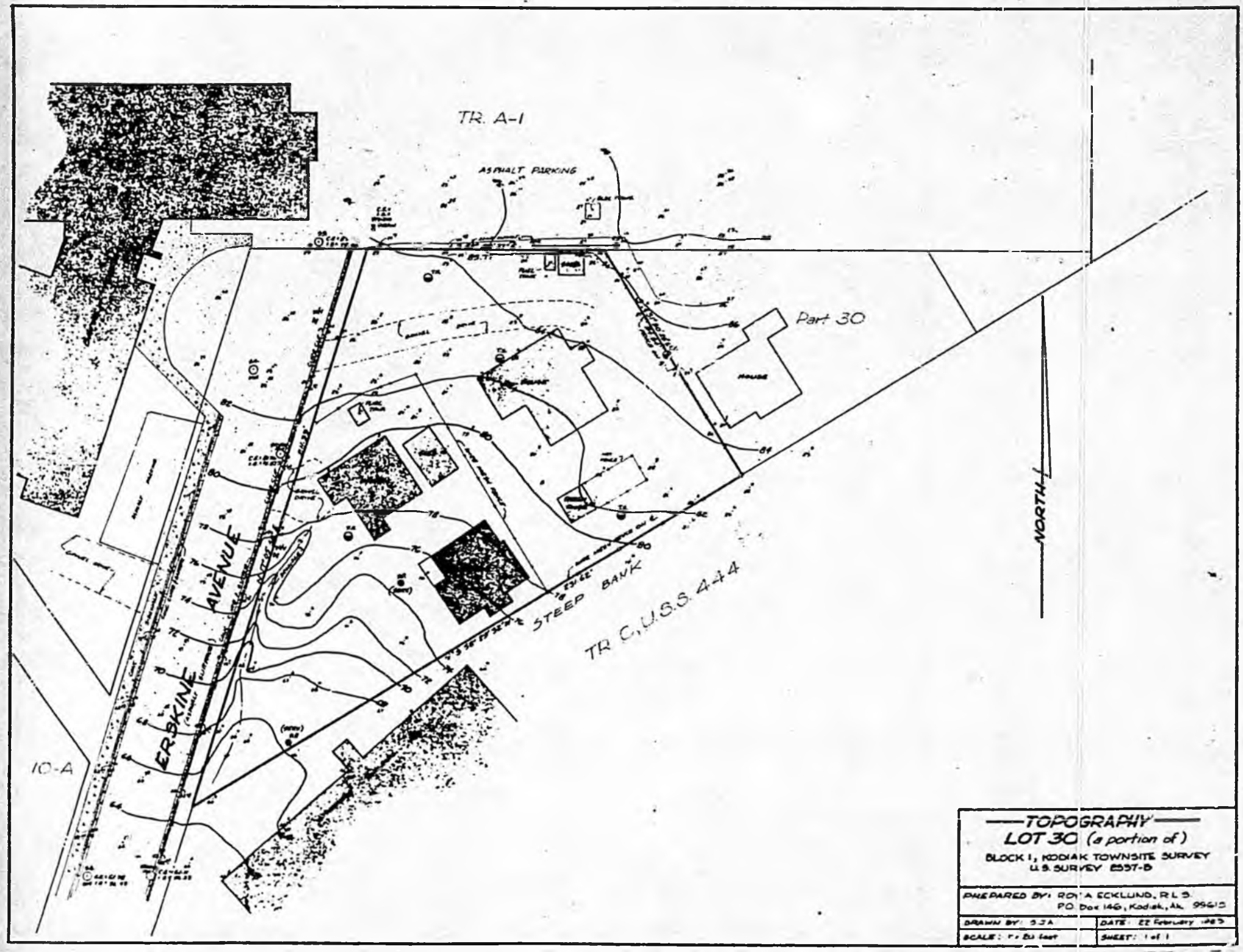

TR. A-1
ASPHALT PARKING
Part 30
HOUSE
NORTH
ERSKINE AVENUE
STEEP BANK
TR C, U.S.S. 444
10-A
TOPOGRAPHY
LOT 30 (a portion of)
BLOCK 1, KODIAK TOWNSITE SURVEY
U.S. SURVEY 6597-B
PREPARED BY: ROY A ECKLUND, R.L.S.
P.O. Box 146, Kodiak, AK. 99615
DRAWN BY: S.J.A.
DATE: 22 February 1983
SCALE: 1" = 50 feet
SHEET: 1 of 1

KODIAK SENIOR CITIZENS CENTER
BUILDING PROGRAM

1. **DINING ROOM**
   - Lunches served 5 days per week: 30-35 persons
   - Special occasions: 55-60 persons
   - Designed for maximum of 120 persons using adjacent area separated from main room with folding walls
   - Includes provision for entertainment
   - May be rented by Community groups (including kitchen)
   - Window Wall
   - Outdoor deck for 40 persons
   - Fireplace
   - Area 1600 SF

2. **KITCHEN**
   - Commercial equipment - stainless steel
   - Equipment list:
     - 3 bay sink
     - Scullery Sink
     - Gas Range W/6-8 burners
     - 2 Ovens
     - Upright Refrigerator, approximately 32 CF
     - Upright Freezer, approximately 16 CF
     - Dishwasher
     - Garbage Disposal
     - Serving Window
     - Busing Window
   - Area: 430 SF

3. **PANTRY**
   - Complete with shelving
   - Area 300 SF

4. **VESTIBULE**
   - Security
   - Area 180 SF

5. **OFFICES (5)**
   - One administrative office including files, secretary
   - One office for Director/Administration
   - One office for reception/craft sales
   - One office for meals planning/food education
   - One office for medical records/counseling
   - Locate on outside wall for natural light and ventilation
   - Area for all offices: 620 SF

6. **LOUNGE/READING ROOM**
   - Located near entry to serve as a waiting area
   - Window Wall
   - Designed for: 2 couches
     4 overstuffed chairs
     3 coffee tables
     3 end tables
     bookshelf wall
   - Area: 480 SF

7. **CRAFTS ROOM**
   - Adjacent to Dining Room to provide expanded dining area. Separate by folding wall
   - Window Wall
   - Desiged for linear tables/chairs
   - Storage closet plus access to bulk storage area for tables and chairs
   - Hard floor surfacing for dancing
   - Area: 320 SF

8. **JANITOR**
   - Janitor's sink
   - Supplies
   - Maintenance equipment storage
   - Area: 100 SF

9. **RESTROOMS**
   - Men: 2 water closets
     1 Urinal
     2 Lavatories
   - Women: 3 Water Closets
     2 Lavatories
   - Area: 370 SF

10. **GENERAL STORAGE ROOM/COATS**
    - Area: 240 SF

11. **MECHANICAL/ELECTRICAL/JANITOR**
    - Boiler Room
    - Electrical Panels
    - Telephone Equipment
    - Area: 600 SF

12. **WOODSHOP**
    - Full length workbench
    - Vestibule to outside
    - Overhead door to exterior
    - Designed for: Radial Arm
      Band Saw
      Table Saw
      Joiner
      Planer

Layout Table
Work Benches

- Wood Storage
- Tool Storage
- Window Wall
- Area: 900 SF

13. MULTI-PURPOSE
    - Window Wall
    - Vestibule to outside
    - Area: 1510 SF

14. CIRCULATION
    - Area: 460 SF

TOTAL ESTIMATED AREA	8100 SF
DECK	900 SF
GARAGE (Optional) • Vehicle maintenance • Security	670 SF

B) Total Estimated Project Costs

General Summary:

Construction Costs:		$1,245,000
Project Overhead and Other Costs:		
Administrative Costs	7.25%	$87,000
Design Costs	8.00%	$96,000
Reimbursable Expenses	2.00%	$25,000
Furnishings and Equipment	5.00%	$60,000
Art in Public Places	1.00%	$12,000
Subtotal:		$1,525,000
Project Contingency	5.00%	$75,000
Total Estimated Project Cost:		**$1,600,000**

C) Construction Costs Estimate

Construction Cost Summary:

01 - Site Work	$ 60,250
02 - Substructure	$126,100
03 - Structure	$ 56,500
04 - Exterior Closure	$ 90,250
05 - Roofing	$ 62,100
06 - Interior Construction	$140)00
07 - Conveying	$ ------
08 - Mechanical	$233,000
09 - Electrical	$ 85,000
10 - Equipment	$100,000
11 - General Requirements and Profit	$190,000
12 - Contingency	$100,000
Total Estimated Construction Cost	**$1,245,000**

D) Energy Considerations

The design intent shall be to minimize operating costs by reducing utility consumption. We propose to accomplish this energy goal by implementing the following:

1) Optimum R Values: R-19 walls
   R-38 ceilings
2) Optimum U Values: U-47 glass
3) Roof Overhangs
4) Heat Recovery Systems
5) Fuel Efficient Primary Heating Plant

Galen Grant & Associates
Architecture · Planning · Interiors

April 12, 1983

Mr. Dennis Murray, Director
Senior Citizens of Kodiak
P. O. Box 315
Kodiak, Alaska 99615

Re: Senior Center Proposal

Dear Dennis:

This letter is in response to your question regarding the estimated total cost for the senior center.

I have reviewed the total area, the estimated construction cost and the other costs and offer the following reasons why the building may cost $150 per SF for constricton:

1. **Economy of Scale:** The limited building size does not require large material quantities, consequently there will be limited unit price discounts.

2. **Parking Lot Paving:** Funds for paving 3 parking areas are included in the cost estimate.

3. **Stainless Steel Commercial Kitchen**

4. **Retaining Wall:** The site slope requires a retaining wall along the western side at the carport/shop entrance.

5. **Air Handling System:** The dining room (assembly) requires an air handling system for effective air exchange.

6. **Fireplace:**

7. **Finishes:** The senior center is a public building and requires finishes which are low maintenance and durable. Their initial cost is higher but the life cycle cost is lower, i.e. quarry tile @ kitchen floor and base; ceramic tile @ bathroom walls and floors.

625 W 5th Ave, Suite G · Anchorage AK 99501 907/279-9606

8. **1984 Construction:** The 1984 bid market is unpredictable, consequently the estimate includes an 8% inflation factor from 1983 costs.

Dennis, we feel quite confident that this is a responsible estimate considering the schematic stage of the project and the above factors.

Please advise if we can be of further service.

Thank you very much.

Sincerely,

Galen Grant

GG:sr



A) Management Plan

As mentioned in Chapter I, the Senior Citizens of Kodiak is a not-for-profit tax exempt corporation. It was incorporated in November of 1973 under the laws of the State of Alaska. Article II of the incorporation papers states:

PURPOSES

This corporation is organized for the purpose of forming a society of elderly persons, 60 years of age or older, whose objective is to fulfill the promise of the Older Americans Comprehensive Services Amendments of 1973. This Act is known as Public Law 93-29, and it became Law on May 3, 1983.

(1) Make available comprehensive programs which include a full range of health, education, and social services to our older citizens who need them.

(2) Give full and special consideration to older citizens with special needs in planning such programs, and, pending the availability of such programs for all older citizens, give priority to the elderly with the greatest economic and social need.

(3) Provide comprehensive programs which will assure the coordinated delivery of a full range of essential services to our older citizens, and, where applicable, also furnish meaningful employment opportunities for many individuals including older persons, young persons, and volunteers from the community, and

(4) insure that the planning and operation of such programs will be undertaken as a partnership of older citizens, community agencies, and state and local government, with the appropriate assistance from the federal government.

a) Organizational Structure

With this in mind, the corporation would propose to manage the proposed Senior Citizens Center. The organization has had 10 years of management experience in this field. A copy of its organizational structure is Appendix A of this chapter. The day-to-day management of the facility would be delegated to the project director who is responsible for administering the various grants which the board approves. As the corporation received title to the site for the proposed center from the City of Kodiak, there were conditions which the city placed on that conveyance. Please find those conditions defined in Appendix B of this chapter. It would be the intent of the board of directors to make the center available to community groups on a

periodic basis. The board would propose to develop a fee schedule dependent upon the nature of the use. In all cases, the cost of utilities and custodial work would have to be incorporated in such a schedule. The board would hope to generate some financial support for the operational costs of the center in this manner. To some extent, this use has been considered in the determination of the best design of space in the facility.

The Senior Citizens of Kodiak Inc. contracts with Keith Bryan, CPA, for professional accounting services. Mr. Bryan presently uses a Burroughs computer to generate the monthly financial statement. He is in the process of purchasing and installing an IBM system which will greatly expand the services which his office can provide. With the present grants, the cost of this service is $19,404/year. This represents 6% of a total budget of $321,267.00.

b) Current Level of Operations

The January Financial Statement for the Senior Citizens of Kodiak Inc. provides information about the assets, liabilities and a statement of income and expenditures for all programs currently funded. (Please find this information in Appendix C of this Chapter.) A brief recap of the funding for the corporation for the past four years is as follows:

BUDGET YEAR	FY 79/80	FY 80/81	FY 81/82	FY 82/83
	$119,015	$232,090	$258,147	$321,267
				-52,500
				$268,767

It is noted that there was a significant increase beginning with FY 80/81. This was due in part to a special legislative appropriation for the establishment of an In-Home Support Services program in Kodiak. The increased funding in FY 81/82 was due in part to the passage of AS 47.65 which has provided continued funding for the In-Home Support program and the development of a crafts coop at the center. Much of the increase in funding for the current year's operation is due to the receipt and expenditure of the planning funds from the Department of Community and Regional Affairs. It would be helpful to subtract $52,500 from the FY 82/83 budget to get a better picture of the continued operational support for this program. It is recognized that these funds were for planning purposes only.

A breakdown of the various fuinding sources for this year's budget may be helpful in understanding the operation of the Senior Center. That breakdown is as follows:

Federal Funds		State Funds	
a)	$ 94,370 (Title III)	a)	$ 65,243 (AS 47.65)
b)	33,144 (Title V)	b)	52,500 (CR&A Planning)
c)	4,800 (Title VI)		
	$132,314		$117,743

Municipal Funds		In-Kind/Other	
a)	$ 20,000 (Kodiak Island Borough)	a)	$ 14,616 (Space Donation)
	7,500 (City of Kodiak)		9,000 (Project Income)
	$ 27,500		4,253 (USDA)
			1,225 (Misc.)
			$29,094

The center continues to rely on the availability of federal funding under the Older American's Act for the majority of its annual operating budget. This source has been reduced in the past couple of years. However, at the same time, the center has aggressively pursued funding made available by the State of Alaska under AS 47.65.

c) Project budget for Operation of New Senior Center

There are several assumptions which have to be addressed before it is possible to determine the impact of the construction and operation of a NEW SENIOR CENTER. Those assumptions are:

1) The sources for funding of senior programs remain relatively stable for the foreseeable future.
2) The cost of utilities does not escalate out of proportion to other costs.
   a) The current cost of electricity is .19 cents/kilowatt hr in Kodiak. Some stabilization is expected with the construction of the Terror Lake Hydro-Electric project.
   b) The cost of #1 fuel oil is currently $1.27/gal.
3) The new facility will require only the addition of one permanent part-time custodian to the current staff.

With these assumptions in mind, the cost of operating a new facility would impact three principle areas:

1) Personnel:
It is anticipated that the current staff could handle all of the requirements of a new building exclusive of major maintenance on various systems. This can be accomplished by bringing one of the Title V enrollees back to the center as a work site. Currently one of the positions is assigned to the Baranof Museum. As the priority is serving the elderly, this position can be deleted, and a second custodial position in the center created. Over time, it may be necessary to employ a part-time maintenance person. However, this would probably not be required during the first 5 years of operation.

2) Facilities:

Rent--The center currently budgets $14,616 for the use of the community room. This is an in-kind donation by the building, and is used to match federal and state funds. The center plans to continue to use this space in some manner, but would loose the benefit of a portion of the in-kind donation at the new center. The center currently rents a 1-bedroom apartment at a cost of $800/month. This would not be necessary with a new building, and these monies could be used to pay utilities.

Tele--The center sees no increase in this cost with a new facility. The center currently pays $230/month for this service. The only additional expense would be the intitial installation of the system.

Elec--It is difficult to determine this cost at this time. Using data from the existing building, it is estimated to cost $400-500/month.

Fuel--This cost is estimated to be also $400-500/month.

As we noted above, the cost of rent in the existing facility will offset the cost of electricity and fuel in the new building to a great extent. However, it would be safe to estimate that the cost of facilities would increase by $3,000-4,000/year in a new building.

3) Supplies:
The only anticipated increase in cost for supplies would be in the area of cleaning. There would be more space to maintain, and this would mean additional supplies. This cost would be $1,000-2,000/year in additional expenses.

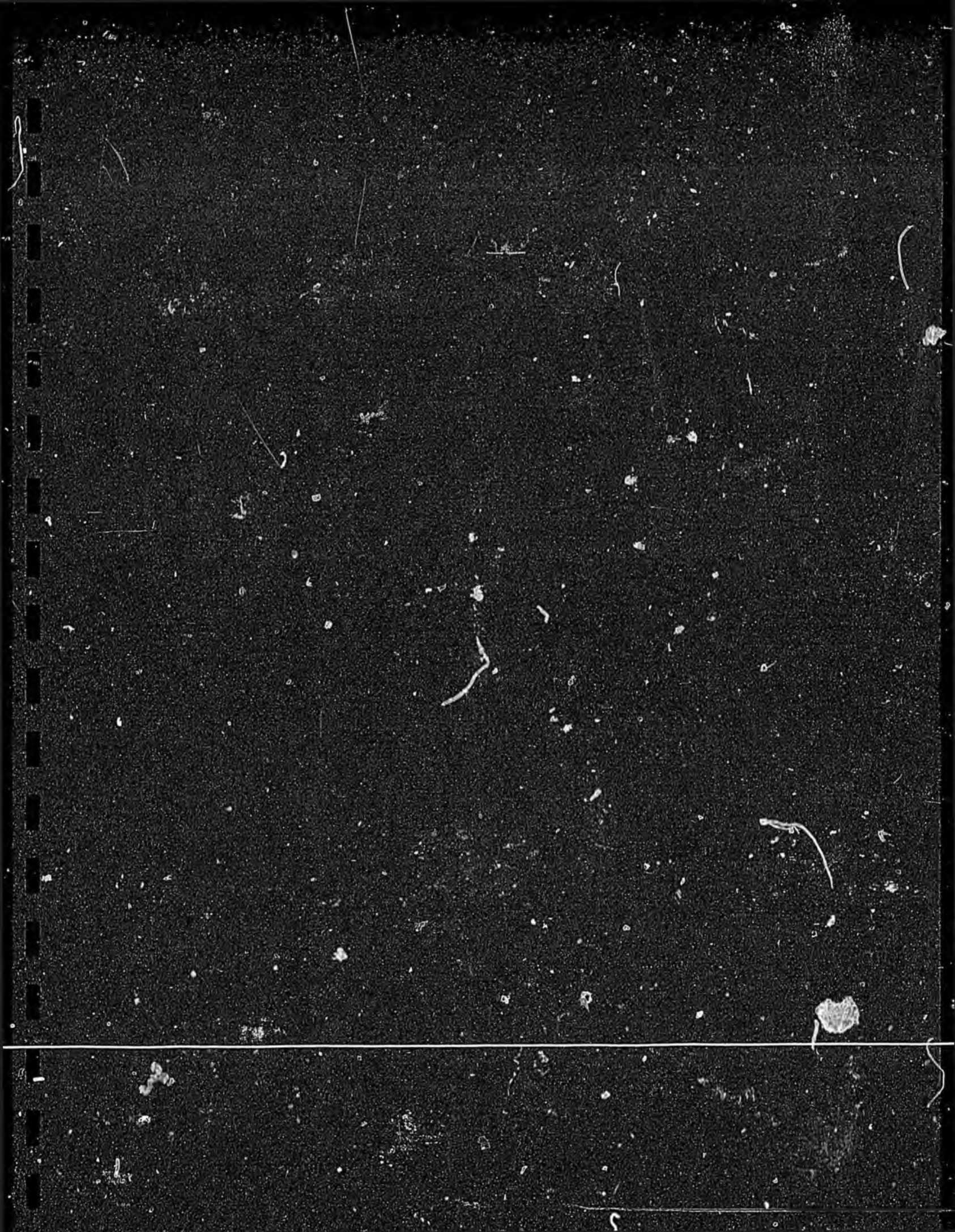
4) Other Expense:
This is an aea which will have a significant increase in operational cost. A new building will require fire insurance and additional insurance for the contents. The following estimate has been given by a local insurance broker.

Fire Ins. on Building	.43 cents per $100	Sprinkled
	$1.79 per $100	Unsprinkled
Contents Insurance	.43 cents per $100	Sprinkled
	$1.89 per $100	Unsprinkled
General Liability	$900/year	Sprinkled
	$900/year	Unsprinkled

If we can assume that the building is worth $1 million, the contents are worth $100,000 and the building is sprinkled; the annual operating cost for Insurance would be $5,000.

If the building is not sprinkled, the annual cost would be $20,000.

It has been the intent of this chapter to show what the impact of the construction and operation of a new Senior Center would be on the present operating budget of the Senior Citizens of Kodiak. It appears that the most significant impact would be in the area of insurance. In general, the additional cost of the facility would be approximately $12,000/year. This represents a 10% increase in the cost of doing business. The organization would hope to be able to generate these monies from a variety of sources including local fund raising, rental fees by other groups on the building.



Dove M. Kull
Testimony on HB 249
to
House State Affairs Committee
April 20, 1983

As Legislative Chairman of the Older Alaskans Commission, I address you in the interests of our older Alaskans in Kodiak, in the region of Kodiak Island.

In bringing this project through the Older Alaskans Commission, Kodiak has followed the request of Governor Bill Sheffield that such projects be initiated through the proper agency. No other capital project for senior centers has done so. We ask your thorough consideration of HB 249.

The philosophy behind this center is summed up in recommendation 422-A of the 1981 White House Conference on Aging:

> "Inasmuch as the social and physical well-being of older persons is enriched through activities such as recreation, education, nutrition, outreach, information and referral and voluntary opportunities, it is recommended that focal points such as senior centers which provide these activities be designated and funded. Be it resolved that a multi-purpose senior center...funded by pooling federal, state and local funds...be located in each community."

The Older Alaskans Commission has reviewed the planning study of the Kodiak Senior Center and has evaluated the research, detailed documentation, and participation of Kodiak's seniors. Kodiak's plan includes gerontological features. The center is planned not for the average citizen of Kodiak, but for its seniors. It is adjusted to their needs.

I have been in Kodiak several times to attend senior events and recognize the need for this special facility. Kodiak and Juneau have a mutual need for a multi-purpose senior center. As Chairman of the Senior Citizen Advisory Board to the Mayor and Assembly of Juneau, I have worked with the seniors of Juneau, the Borough, Community and Regional Affairs, ASHA and HUD to plan and construct a facility soon to be completed and to be dedicated in Juneau.

From my own experience and my knowledge as an older Alaskan, I consider this an excellent plan, to meet a ten-year need.

I recommend that HB 249 be approved.

Thank you.

Dove M. Kull

Dove M. Kull
Legislative Chair
Older Alaskans Commission

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 249
Title: Kodiak Multipurpose Senior Center
Sponsor: Representative Zharoff
Requestor: Representative Zharoff

II. FISCAL DETAIL

Agency Affected: Dept. of Administration
Program Category Affected: Asst. for the Aged
BRU, Program of Subprogram(s) Affected: Older Alaskans Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	
700 GRANTS, CLAIMS, ETC	-0-	-0-	6.0	6.0	6.0	
TOTAL OPERATING	-0-	-0-	6.0	6.0	6.0	
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	6.0	6.0	6.0	
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: [signature] Phone: 465-3250
Division: Older Alaskans Commission Date: 4/15/83

Approved by Commissioner: [signature] Date: 4/20/83
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor



STATE OF ALASKA
FISCAL NOTE
HB 249

IV. ANALYSIS

The management plan of the planning study prepared for the construction of the multipurpose senior citizens center in Kodiak indicates the additional operational cost generated by the proposed center would be approximately $12.0 a year. This is broken out as follows:

- $5.0 for increased electricity and fuel costs
- $2.0 for cleaning supplies
- $5.0 for fire insurance, contents insurance and general liability

Kodiak Senior Citizens, Inc. assumes it will be able to generate one half the additional cost from local fund raising activities and renting the center to other community groups. The remaining $6.0 will be sought as a grant from the Older Alaskans Commission. The Senior Citizens of Kodiak, Inc. is currently the recipient of the following three grants funded and administered by the Older Alaskans Commission:

- $94,370 Title III Federal Funds to provide nutrition, transportation, information, referral and outreach services to the Kodiak elderly

- $65,243 AS 47.65 State Funds to provide homemaker services to the elderly and to assist the Senior Coop become self-supporting. The Coop was started to channel the handiwork and craft items of the local elderly into income for both the seniors and the elderly program.

- $33,144 Title V Federal Funds to employ part-time five low income seniors.

OLDER ALASKANS COMMISSION
POSITION PAPER

Bill Number: HB 249 Date: April 14, 1983

Title: "An Act making a special appropriation for payment as a grant to the City of Kodiak for the construction of a multipurpose senior citizens center in Kodiak; and providing an effective date."

HB 249 will provide funds to construct a senior center to serve as the community focal point for the delivery of aging services in Kodiak. The proposed senior center will house activities such as recreation, education, nutrition, outreach, information, and referral and volunteer opportunities which support the independence and dignity of the senior citizens in Kodiak. It is anticipated that the new center will also provide in-home support and adult day care services to assist the Kodiak elderly to remain in their own homes.

Therefor , the Older Alaskans Commission supports the passage of HB 249.

Barbara McPherson for
Jon B. Wolfe, Executive Director Date
Older Alaskans Commission

Lisa Rudd 4/20/83
Lisa Rudd, Commissioner Date
Department of Administration

Senior Citizens of Kodiak
Box 315
Kodiak, Alaska
99615
Dennis Murray
Project Director
Tel. 486-6181

RECEIVED
MAR 28 1983

3-24-83

Rep. ~~Richard~~ Mitch Abood, Chairman
State Affairs Committee
Pouch V, MS 3100
Juneau, Ak. 99811

Re: HB 249

Dear Rep. Abood:

The Senior Citizens of Kodiak, Inc. would like to inquire about the status of HB 249, "An Act Relating to the Construction of a Senior Center in Kodiak...." It is our understanding that the bill has been referred to your committee for consideration. The membership of the Senior Citizens would like to know if you have any questions concerning the bill, and when you plan to schedule a hearing on its passage.

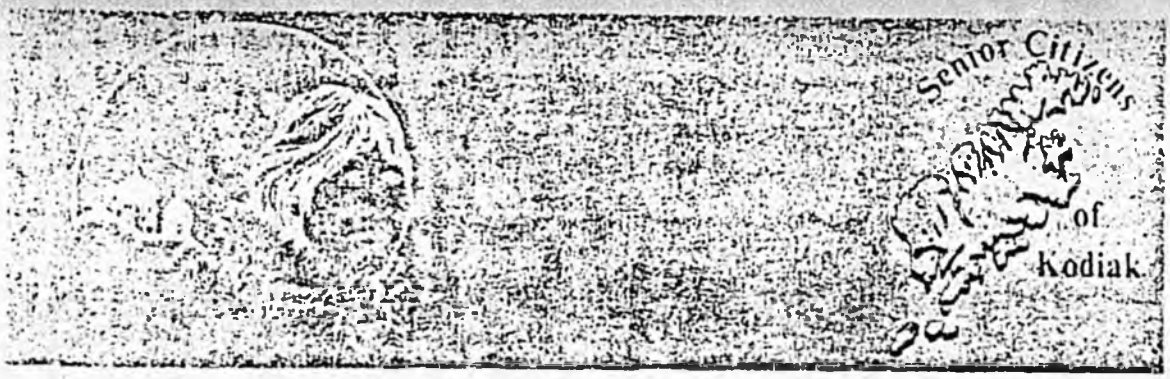
Please advise.

Sincerely,

Joseph F. Terry

Mr. Joseph Terry, Pres.

cc. Rep. Fred Zharoff
Senator Bob Mulcahy
Mr. Jon Wolfe, Executive Director
Older Alaskans Commission



Box 315
Kodiak, Alaska
99615
Dennis Murray
Project Director
Tel. 486-6181

1-12-83

JAN 17 1983

Mr. Phil Shealy, Manager
Kodiak Island Borough
Box 1246
Kodiak, Ak. 99615

Re: Narrative for Proposed Senior Citizen Construction Project--Senior Center

Dear Mr. Shealy:

It is my understanding that the Kodiak Island Borough Assembly has included the construction of a Senior Center in your Capital Improvements Program. Further, you are desirous of additional information about the status of our project, some preliminary cost estimates, etc. I have asked staff to prepare a brief summary of the project. It is as follows:

PROJECT: Construction of a Multi-Purpose Senior Center

COST: $1,600,000 (This is a cost projection)

SPONSOR: State of Alaska in cooperation with local Municipalities and Senior Citizens of Kodiak, Inc.

Background: Senior Citizens of Kodiak incorporated in November 1973. The organization has used office space with Koniag, Inc., a room in the Baptist Church, a 3-bedroom apartment in Kashevaroff Villa and currently occupies the community room and adjacent apartment (for administrative offices) at Bayview Terrace Apartments. The community room space is donated by the owner of the building, Sunset Development Corporation; and the apartment is rented at a cost of $800.00/month. It is the desire of the board and membership to obtain a permanent facility for senior activities which will allow a varied program including space for nutrition services, crafts/coop, reading/lounge, administrative offices, counseling, health screening, etc.

Status of Project: The City of Kodiak received $50,000 from HUD "small cities" for senior center land acquisition in 1981. In June of 1982 the Alaska Legislature approved an additional $150,000 for land acquisition. 24,000 sq. ft. of adjacent property to Bayview Terrace has been purchased for $175,000. This is the proposed site. Further, the Senior Citizens have a contract with Galen Grant and Associates for a schematic drawing, building cost estimate and projected operational costs in

Status of Project: the amount of $19,600. [This funding was made possible by a planning grant from the Housing Division of the Dept. of Community and Regional Affairs.] It is anticipated that the schematics will be available by March-April, 1983.

Goal of Project: Assuming that the schematic design is completed by March-April, 83, The Senior Citizens would be requesting a grant for ~~$1,000,000~~ $ 1,600,000 during this legislative session. Ideally, construction could begin in late summer, 1983.

I hope this gives you the necessary information to accompany your borough CIP. Should you desire any additional information, do not hesitate to contact me.

Sincerely,

Joseph Terry

Joseph Terry, Pres.

cc. Ms. Hazel Heath, Chairperson, Older Alaskans Commission
Mr. Dick Pryor, Housing Division of CR&A
Mayor and Council, City of Kodiak
The Honorable Bob Mulcahy, State Senator
The Honorable Fred Zharoff, State Representative
Mr. Jon Wolfe, Executive Director--OAC
Mr. Leon "Ole" Johnson, OAC member

Dear Dud:

Unfortunately, the board didn't get a chance to sit down with you concerning their plans. I will try to keep you informed of their progress on the matter. Hope you're + family are getting settled in your Trailer.

Leon

FACT SHEET

Date: 2-19-83

Subj: Kodiak Senior Citizens Center
Status Report

Background: The Senior Citizens of Kodiak, Inc. have been actively pursuing the development of housing alternatives/senior center for the past three years. In April of 1982 the corporation signed a planning grant with the Housing Assistance Division of the Dept. of Community and Regional Affairs for a planning effort. The sum of $52,500 was made available for that effort.

The first step in this process was the acquisition of suitable property for the structure. The Dept. of Housing and Urban Development provided $50,000 to the City of Kodiak to assist in this effort. After examination of the possible sites negotiations were entered into between the City and owners of property adjacent to the existing senior housing. It was determined that the cost would be in excess of $150,000. Consequently, the board requested financial participation from the state. Through the efforts of Senator Mulcahy and Rep. Zharoff $150,000 was made available and the property was acquired. The City of Kodiak formally transferred the title of this property to the Senior Citizens of Kodiak in early January, 1983.

In October of 1982 the Senior Corporation entered into a contract with Galen Grant and Associates for a Schematic Design and Cost Estimate for the project.

Current Activity: The architect has made three visits to Kodiak to obtain input and critique from the seniors on the preliminary plan. The plan has undergone one revision and is again on the drawing board for incorporation of the last input of the seniors and staff of the center. Further, the architect will be developing a cost estimate for construction and energy operating costs.
In a separate sub-contract the architect will be providing a soils analysis and topography map. This information wi[illegible] be helpful in determining building construction and plac[illegible] on the site.
It is anticipated that the schematic design will be completed by March 10, 1983.

Estimated Costs: This project is estimated to cost $1 to 1.2 million dollars for construction and site improvements

April 19, 1983

Senator Jalmar Kertulla
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Kertulla:

The development and construction of senior centers in Alaska has been sporadic and marked by too little local planning. The Older Alaskans Commission has been presented with a plan for senior center construction in Kodiak which reverses that trend. For this reason the attached resolution in support of Kodiak's efforts was passed by the Commission in March. Kodiak's plans include an architectural design which recognizes the special needs of the older population. Also the Senior Citizens of Kodiak have projected future costs for operations and maintenance for the facility. We know of few similar projects which have done this research in advance of an appropriation.

This study was possible due to the assistance of the Division of Housing, Community and Regional Affairs. The Commission appreciates the efforts of Barbara Morse-Quinn and her staff in this regard.

In bringing this project through the Older Alaskans Commission, Kodiak has followed the Governor's request that such projects be initiated through the appropriate line agency. As no other capital project for senior centers has done so we request your thorough consideration of HB 249.

Sincerely,

Jon B. Wolfe
Executive Director

cc: Leon "Ole" Johnson, Commissioner
Older Alaskans Commission

Dennis Murray, Project Director
Senior Citizens of Kodiak, Inc.

RESOLUTION

SUBJECT: A resolution of the Older Alaskans Commission concerning support for the construction of a multi-purpose SENIOR CENTER in Kodiak, Alaska.

WHEREAS: The Senior Citizens of Kodiak, Inc. has presented a proposal for the construction of a multi-purpose SENIOR CENTER in Kodiak, Alaska to the Commission at their March 16-18, 1983 meeting in Anchorage, And

WHEREAS: The Older Alaskans Commission is responsible for much of the allocation of resources for the support of senior centers throughout Alaska, and

WHEREAS: It is the desire of the Commission and the current Administration that capitol construction projects be presented through the appropriate agency, and

WHEREAS: In the Commission's judgement the proposal is a comprehensive and thorough examination of the need for facilities in Kodiak to provide a wide range of services which enhance the independence and dignity of its elderly citizens, and

WHEREAS: The Honorable Fred Zharoff, Representative from the Kodiak area, has introduced HB 249, "An Act Relating to the Construction of a SENIOR CENTER in Kodiak...."

Therefore Be It Resolved That:

The Older Alaskans Commission formally accepts this proposal from Kodiak and respectfully requests favorable funding consideration in the amount of $1.6 Million Dollars from the following Concerned Parties:

The Honorable Bill Sheffield, Governor of the State of Alaska
The Honorable Jalmar Kerttula, President of the Senate
The Honorable Joe Hayes, Speaker of the House of Representatives

Adopted this 18th Day of March, 1983 by unanimous consent of the Membership of the Older Alaskans Commission.

Attest: Hazel Heath Chairperson

HB

2268

STATE OF ALASKA
FISCAL NOTE

I. REQUEST
Bill/Resolution No.: HB 268
Title: Pioneer Home in Kodiak
Sponsor: Zharoff
Requestor:

II. FISCAL DETAIL
Agency Affected: DOP&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING						
CAPITAL		8,750.0	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		8,750.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not Identified.

IV. ANALYSIS: Attached.

Prepared By: Riley Snell Phone: 562-2142
Division: Facilities Planning, Central Region, DOT&PF Date:

Approved by Commissioner: Riley Snell, Acting Deputy Date: 3/30/83
Department: Transportation & Public Facilities

Distribution:
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3/8/83

KODIAK PIONEER HOME
COST ESTIMATE SUMMARY

Number of occupants - 50 (approximately)

* Required covered area per occupant - 700 sq. ft.

Total sq. ft. = 35,000 sq. ft. (excluding outside areas such as parking lots and emergency vehicles area)

Cost/sq. ft. = $250 ft.

Total cost for 50 occupants = $8,750,000 (in '84 $ value)

Cost/occupant = $175,000

* A. Please note: It includes kitchen, activity rooms, storage, lockers, and other miscellaneous spances such as mechanical, electrical, bathrooms, etc.

B. Covered area/occupant is based on Palmer and Anchorage Pioneer Homes.

C. Please note: (approximiately) 40 beds can be bought with $7,000,000.

Assumptions:

1. It doesn't include land cost.
2. Utilities are available and accessible.
3. Operating cost estimates required from the Dept. of Administration.

H.B. 268
POSITION PAPER

House Bill 268 would appropriate $7,000,000 from the general fund to the Department of Transportation & Public Facilities for the construction of a Pioneers' Home in Kodiak.

This legislation came about as the result of public interest in having a place for seniors of the Kodiak area to live when they become too debilitated to live independently.

The Pioneers' Home system now consists of Homes at Anchorage, Fairbanks, Ketchikan, Palmer and Sitka, and the Senior and Cultural Center at Kotzebue.

Part of the appeal of Pioneers' Homes is that they allow oldsters to be cared for near their loved ones for frequent visitation and continued contact with the younger generations. Construction of a Home at Kodiak would extend this privileges to this island community.

However, construction of yet another Pioneers' Home raises a number of questions which have serious financial and sociological ramifications:

1. Should additional Pioneers' Homes be built? With increased operating costs each year due to inflation, and costs for maintenance and repairs mounting each year due to aging and accelerated deterioration of the buildings, it is an appropriate time to consider whether the state should invest in more Pioneers' Homes. A substantial portion of the state is served by a nearby Pioneers' Home. It is a questionable luxury to build an additional Pioneers' Home in Kodiak at a time when oil revenues are beginning to wane, without the promise of other revenues to support the additional expenditures which will be incurred.

   Kodiak has several state and/or federal funded senior programs including senior housing, nutrition, transportation, information and referral, recreation and social activities, and outreach programs. The Kodiak Island Hospital also serves seniors utilizing Title VIII federal funds, Medicaid and Medicare. There appears to be no shortage of facilities or services for seniors in Kodiak.

2. If a decision is reached to build another Pioneers' Home in South-central Alaska, would another location be more suitable?

   Several requests have been received for construction of a Pioneers' Home on the Kenai Peninsula, particularly at Homer. The Kenai Peninsula does not have the multitude of senior services available to the people of Kodiak.

   Establishment of a Pioneers' Home on the peninsula would make it accessible by automobile for those on the mainland without the expense and delays of the ferry system, and would make it more economical than air travel.

7/0325-03-1/BDGSF1

3. Would the money be better spent on other senior services than on another new Pioneers' Home? This question does not yet have an answer, but the Older Alaskans Commission is surveying the needs of the elderly, and a decision will be easier to make when that survey is complete.

4. Should the state encourage seniors to be more self-reliant, and for families to become more involved in caring for their elderly, rather than continue increases in state spending?

   With state revenues on the wane it is an appropriate time to allow people to regain their sense of independence to the greatest extent possible without sacrificing quality of life.

   Therefore it would be wise to decide whether the state should extend benefits to those who could care for themselves.

5. Are there other alternatives which should be explored?

   There are some alternatives for care of the elderly which need to be explored and existing programs which can be modified or expanded. For instance, day care for the elderly is needed in many communities. This would allow elders who need assistance to remain in the home of loved ones if day care were provided while the younger generations are away at work and school. This would delay institutionalization for many years in some cases.

   It is recommended that the Older Alaskans Commission undertake a study of day care needs, as well as other alternatives.

Because the need for a Pioneers' Home at Kodiak has not been clearly established, and because there are numerous unanswered questions about care of the elderly, the Department of Administration is opposed to the construction of this new facility at this time.

Director
Division of Pioneers' Benefits

4-6-83
Date

Commissioner
Department of Administration

4/7/83
Date

7/0325-03-2/BDGSF1

STATE OF ALASKA
FISCAL NOTE

I. REQUEST
Bill/Resolution No.: HB 268
Title: Pioneer Home in Kodiak
Sponsor: Zharoff
Requestor:

II. FISCAL DETAIL
Agency Affected: DOP&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING						
CAPITAL		8,750.0	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		8,750.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not Identified.

IV. ANALYSIS: Attached.

Prepared By: Riley Snell Phone: 562-2142
Division: Facilities Planning, Central Region, DOT&PF Date:

Approved by Commissioner: Riley Snell, Acting Deputy Date: 3/30/83
Department: Transportation & Public Facilities

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3/8/83

KODIAK PIONEER HOME
COST ESTIMATE SUMMARY

Number of occupants - 50 (approximately)

* Required covered area per occupant - 700 sq. ft.

Total sq. ft. = 35,000 sq. ft. (excluding outside areas such as parking lots and emergency vehicles area)

Cost/sq. ft. = $250 ft.

Total cost for 50 occupants = $8,750,000 (in '84 $ value)

Cost/occupant = $175,000

* A. Please note: It includes kitchen, activity rooms, storage, lockers, and other miscellaneous spances such as mechanical, electrical, bathrooms, etc.

B. Covered area/occupant is based on Palmer and Anchorage Pioneer Homes.

C. Please note: (approximiately) 40 beds can be bought with $7, ,000.

Assumptions:

1. It doesn't include land cost.
2. Utilities are available and accessible.
3. Operating cost estimates required from the Dept. of Administration.

for 6-7 per ft

Introduced: 3/16/83
Referred: State Affairs
and Finance

Funding Information	
General Fund	$7,000,000
Other Funds	-0-
	$7,000,000

IN THE HOUSE BY ZHAROFF

HOUSE BILL NO. 268

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for the construction of a pioneers' home in Kodiak; and providing for an effective date."

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

* Section 1. The sum of $7,000,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for the construction of a pioneers' home in Kodiak.

* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Bureau Assembly supports both
Hernandez
Bill - 268 Support
24a

STATE OF ALASKA
FISCAL NOTE | Revision Date: , 1983

I. REQUEST
Bill/Resolution No.: H.B. 268
Title: Kodiak Pioneers' Home
Sponsor: Rep. Zharoff
Requestor:

II. FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Social Services
BRU, Program of Subprogram(s) Affected: Pioneers' Homes

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						1,459.7
200 TRAVEL						3.8
300 CONTRACTUAL						630.7
400 COMMODITIES						202.0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						1.3
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	2,297.5
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	2,297.5
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	37
PART-TIME	-0-	-0-	-0-	-0-	-0-	8
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: ~~George~~ T. Michael; Admin. Officer
Phone: 465-4401
Division: Pioneers' Benefits
Date: March 25, 1983

Approved by Commissioner: Lisa Rudd
Date: 4/7/83
Department: ADMINISTRATION

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3/8/83

7/0325-01-1/BDGSF1

IV. ANALYSIS:

It will be the responsibility of the Department of Administration to operate the Home when completed. Operating costs are based on construction of a 36-bed facility, which DOT/PF estimated could be build with $7,000,000. The Home would be completed and ready for operation at the beginning of FY88.

BUDGET RECAP (FY88)

Personal Services

37 full time and 8 part-time positions based on same staffing pattern as other Pioneers' Homes. (Salary and benefits costs computed at 1983 levels.) $1,459.7

Permanent Full Time Positions

TITLE	RANGE	ANNUAL SALARY AND BENEFITS
Manager	20A	$57,743
Administrative Assistant	14A	39,359
Clerk-typist	8B	28,540
Accounting Clerk III	10B	31,843
Nurse IV	17A	47,976
Nurse III	15A	42,075
Nurse III	15A	42,075
Nurse II	14A	39,359
Nurse II	14A	39,359
Nurse I	13B	38,082
Nurse I	13B	38,082
Nursing Aide	7B	27,087
Nursing Aide	7B	27,087
Nursing Aide	7B	27,087
Nursing Aide	7B	27,087
Nursing Aide	7B	27,087
Social Worker II	14A	39,359
Physical Therapist II	14A	39,359
Rec. Therapist II	14A	39,359
Pioneers' Home Aid	6B	25,677
Maintenance Mechanic WG II	52B	50,907
Janitor WG IX	59B	34,246
Janitor WG IX	59B	34,246
Janitor WG IX	59B	34,246
Groundsman WG VII	57B	38,372
Housekeeping Supervisor WG V	55B	42,929
Housekeeping Supervisor WG X	60B	32,600
Housekeeping Supervisor WG X	60B	32,600
Housekeeping Supervisor WG X	60B	32,600
Laundry Supervisor WG VII	57B	38,372
Laundry Worker WG X	60B	32,600
Cook WG VII	57B	38,372
Cook WG IX	59B	34,246
Cook WG IX	59B	34,246

TITLE	RANGE	ANNUAL SALARY AND BENEFITS
Food Service Worker WG X	60B	32,600
Food Service Worker WG X	60B	32,600
Food Service Worker WG X	60B	32,600
Total S & B		$1,323,064

Permanent Part Time Positions (6 months)

Nurse I	13B	$19,041
Nurse I	13B	19,041
Nursing Aide	7B	13,543
Nursing Aide	7B	13,543
Nursing Aide	7B	13,543
Janitor WG IX	60B	16,300
Food Service Worker WG X	60B	16,300
Food Service worker WG X	60B	16,300
Total S & B		$127,611

Travel	3.8
Contractual Services	630.7
Commodities	202.0
Grants, Claims	1.3
Total	$2,297.5

WILLIAM A EGAN

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

December 27, 1973

Mr. Dennis Murray
Director, Senior Citizens
of Kodiak
P. O. Box 315
Kodiak, Alaska 99615

Dear Mr. Murray:

I received today your letter and the attached copy of a petition circulated in the Kodiak area regarding use of the former dormitory complex as a Pioneers Home.

Alaska, as you know, is unique among the fifty states in the provisions made for care of the elderly through our Pioneer Home System. Decisions made regarding the construction and location of Pioneer Homes is one which involves private citizens, the Pioneers' Home Advisory Board, the Departments of Health and Social Services and Administration and, ultimately, the Legislature which appropriates necessary funding.

Copies of the material provided me with your recent letter have been made available to the above-named with a request to provide comment to me about the suitability of a detailed study on your proposal. In addition, the Department of Administration has been asked to review again a study completed recently regarding the need for further expansion of our Pioneers Home System.

I want you to know how much I appreciate your personal efforts on behalf of our senior citizens and to assure you that your idea will receive careful attention.

Warmest personal regards,

William A. Egan

William A. Egan
Governor

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF PUBLIC WORKS

DIVISION OF BUILDINGS / POUCH P — JUNEAU 99801

October 4, 1973

Re: Future Work Program Planning
131-3-01

Mr. Dennis Murray, Director
Senior Citizens of Kodiak
Box 315
Kodiak, Alaska 99615

Dear Mr. Murray:

We received your letter September 27, 1973, requesting our assistance in estimating the cost of renovation of the B.I.A. Dormitory Complex in Kodiak which the Senior Citizens would like to utilize as a retirement home.

This unit is under the control of the Department of Education and should be cleared with them for use.

In estimating a cost for renovation many factors are involved, such as, handrails, door width to accommodate wheelchairs, facilities for a nursing station, etc. The kitchen at this time is a separate facility. It appears the most costly item would be plumbing to provide adequate restrooms. Code for a Senior Citizen Facility requires one restroom for every two rooms. At present, the dormitories have a central restroom and bathing facilities on each floor. It would appear at this time the complete renovation would be quite costly.

In conclusion, the Department of Education would have to give the approval to any programmed use of this facility and this office feels the renovation costs would be extremely high, thus be a deterren. factor in the use of the facility.

Very truly yours,

John E. Benson

John E. Benson
Director

cc: Department of Education

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER / POUCH F — ALASKA OFFICE BUILDING
JUNEAU 99801

October 25, 1973

Mr. Dennis Murray, Director
Senior Citizens of Kodiak
P. O. Box 315
Kodiak, Alaska 99615

Re: B.I.A. Dorm Complex

Dear Mr. Murray:

There have been a number of expressions of interest in use of the Kodiak Dormitory, the latest being today by Mr. Ross Wood, Borough Chairman of Kodiak.

Because of the diversity of proposals it will take some time to arrive at a compromise which provides the best and fullest use of the facilities and still meets any legal constraints that might be applicable.

Your proposal certainly has merit and will be included in the review of planning possible uses.

Sincerely,

Marshall L. Lind
Commissioner of Education

cc: William Thomson

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS:
Commanding Officer
U. S. Coast Guard Base
Box 14
FPO Seattle 98790

11011
1 AUG 1973

Mr. Dennis Murray, Director
Senior Citizens of Kodiak
Box 315
Kodiak, Alaska 99615

Dear Mr. Murray:

Your letter of July 16, 1973, seeking a building suitable for the Kodiak Senior Citizens Organization has received my attention.

At the present time, Base Kodiak has not received authority to dispose of any buildings which would be appropriate for your use. We have recommended that Building No. C-28, a single story wooden building, 70 feet by 50 feet, be classified as excess. Along with this recommendation, we forwarded a copy of your letter request of January 17, 1973, as a possible means of disposition. No notice of final action has as yet been received on this recommendation.

I must caution you not to place too much reliance upon your chances to obtain a structure from the Coast Guard. Most of the buildings disposed of aboard this Base are in poor condition. In addition, the Base's recommendation is not always the same as the disposition directed by higher authority. The time before an appropriate building becomes available may be more than your group is able to wait.

As I indicated in my last letter, your request will be retained on file, and as soon as a suitable building becomes available, you will be notified. If, after inspection of the building, you indicate an interest in obtaining it, further acquisition details will be provided at that time.

Sincerely,

R. G. PARKS
Captain, U. S. Coast Guard
Commanding Officer
U. S. Coast Guard Base Kodiak

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER / POUCH C — JUNEAU 99801

January 3, 1974

Mr. Dennis Murray
Director
Senior Citizens of Kodiak
Box 315
Kodiak, Alaska 99615

Dear Mr. Murray:

Thank you for your letter of recent date suggesting use of the B.I.A. Dorm Complex as a Pioneers' Home for the Kodiak area.

At the present time we are not considering any additional Pioneers' Homes. Until such time as the financial position of the State can assure the adequate and continued funding of costs of operation and debt service of these Homes, we feel new commitments must be deferred. This time would appear to be several years away.

I am hopeful that the new Home in Anchorage and expansion of the Homes in Palmer and Fairbanks will provide an attractive alternative for some of our deserving senior citizens in Kodiak.

Very truly yours,

Richard W. Freer
Deputy Commissioner

RWF/mjc

CC: Ed Dodd
Warren Wiley
Commissioner Frederick McGinnis
Commissioner Marshall Lind

WILLIAM A. EGAN
GOVERNOR

H. A. BOUCHER
LIEUTENANT GOVERNOR

STATE OF ALASKA
LIEUTENANT GOVERNOR
JUNEAU

January 9, 1974

Hazel Nixon
Erdmans Trailer Court No. 9
Kodiak, Alaska

Dear Hazel:

I hope that the New Year is treating you fairly thus far. I am sorry to be so long in replying to your letter, but of course the Christmas season slowed me up a little.

I was very glad that you brought the possibility of having a Pioneer's Home in Kodiak to my attention. I have felt for a long time that a Pioneer's Home for the western part of Alaska has been badly needed. With the possibility of the old B.I.A. Dorm Complex being available, new hope may be had.

I certainly will offer my strongest efforts in this project, and will make some inquiries to both the B.I.A. and the Department of Education as to its availability and potential use for such a project. I will be reporting back to you as soon as I find out more information, meanwhile keep your fingers crossed.

Thanks again for bringing this to my attention, and best wishes for 1974.

Sincerely yours,

H. A. Boucher
Lieutenant Governor

at the present time the Department of Administration has indicated that they are not considering additional homes, due to present budgetary commitments.

The Fairbanks Home is being expanded and should begin receiving new guests approximately March 15, 1974. The Palmer Home is scheduled for expansion and the new home planned for Anchorage, will hopefully provide our Senior Citizens in Kodiak with the care so essential to them.

For your information, I am also enclosing a copy of the Alaska Statute which pertains to the Pioneers' Home.

Sincerely,

Frederick McGinnis

Frederick McGinnis
Commissioner

FM: GS: bal
enc: as stated
cc: Division of Family and Children Services

Alaska State Legislature

SENATOR
KAY POLAND
DISTRICT L
P.O. BOX 45
KODIAK, ALASKA 99615

Senate

KODIAK-ALEUTIAN
DISTRICT

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811

January 25, 1977

Mr. Dennis Murray
Kodiak Senior Citizens
P. O. Box 315
Kodiak, Alaska 99615

Dear Dennis:

I have contacted Commissioner McAnerney at Community and Regional Affairs, and she assures me that a public hearing will be held in Kodiak on elderly housing.

Commissioner McAnerney further stated that the Juneau and Ketchikan situations were an emergency inasmuch as the bids had already been placed, and rather than risk an approximate 12% increase they took action at this time.

Please give my greetings to everyone at the center; with every best wish,

Sincerely,

Kay Poland
State Senator
Kodiak-Aleutian District

KP:ss

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER / POUCH C – JUNEAU 99811

January 12, 1976

Mr. Dennis Murray
Director
Senior Citizens of Kodiak
Box 315
Kodiak, Alaska 99615

Dear Dennis:

I am sending a copy of the statute covering the Pioneers' Homes as requested in your letter of January 2.

My next trip North will be in connection with the opening of the new nursing wing at the Palmer Home but, unfortunately, I do not have a definite date when it will be as the delivery of some of the equipment has been delayed.

I am looking forward to again visiting Kodiak and will let you know the exact date as soon as it is firmed up.

Your interest in the Pioneers' Homes program is appreciated.

Sincerely,

Vernon L. Perry
Director
Division of Pioneers' Benefits

VLP/mjc
Attachment

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

November 25, 1975

Mr. Dennis Murray, Director
Senior Citizens of Kodiak, Inc.
Box 315
Kodiak, Alaska 99615

Dear Mr. Murray:

Thank you for your letter regarding the programs for the senior citizens of Kodiak. I am very pleased to learn of the progress being made toward providing for the needs of the elderly in your community.

I am sure that funds can be found for Mr. Perry to visit your community in connection with one of his trips to the Anchorage or Palmer Pioneers' Homes. Since both are under construction it is necessary to make final inspections at the completion of each phase. He will notify you directly of the exact date that he will be able to visit Kodiak.

Since the Longevity Bonus is one of the programs in his division perhaps the senior citizens will have some questions about this as well as the Pioneers' Homes program when you meet with Mr. Perry.

Be assured that I am concerned with the problems of the elderly citizens of Alaska and I appreciate your efforts in their behalf in your community.

Sincerely,

Jay S. Hammond
Governor

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER / *POUCH C — JUNEAU 99811*

October 24, 1975

Mr. Dennis Murray
Director
Senior Citizens of Kodiak
Box 315
Kodiak, Alaska 99615

Dear Dennis:

Thank you for sending the results of your research regarding the needs for a Pioneers' Home in your community.

Unfortunately, due to budgetary restrictions, it appears that I will not be able to visit Kodiak at least during this fiscal year which ends June 30. However, if you have need for any more information regarding the Pioneers' Homes program, please feel free to contact me. Whenever you are in Juneau you are welcome to visit the Division of Pioneers' Benefits offices to discuss the Longevity Bonus and the Pioneers' Homes programs.

Sincerely,

Vernon L. Perry
Director
Division of Pioneers' Benefits

VLP/mjc

CAREAGE HOUSE CONVALESCENT CENTER

[illegible] ALASKA

[illegible] 272-9483

7 August 1975

Senior Citizens of Kodiak
Box 315
Kodiak, AK 99615

Dear Mr. Murray:

Your letter regarding the possibility of a Pioneer Home in Kodiak was referred to me for reply. I have listed the patients that we have from your area. Good luck in your venture. It would be nice if patients did not have to be moved so far from their homes for nursing home care. All of these people require only intermediate care.

If I can be of further help, let me know.

Sincerely,

Cindy Garthwait MSW

P.S. Please pardon the handwritten letter

Dennis Murray, Director
Senior Citizens of Kodiak
Box 315
Kodiak, Ak. 99615

July 16, 1975

Mr. Eric Johnston, Adm.
The Careage House Convalescent Center
2200 E. 42nd Ave.
Anchorage, Ak. 99504

RECEIVED
JUL 18 1975
Careage House

Dear Mr. Johnston:

Our organization is interested in exploring the possibility of the development of a Pioneer's home in Kodiak. To this end we have been in contact with Mr. Vern Perry, director of the pioneer home system for the State of Alaska. Mr. Perry suggested that our group contact the various pioneer homes, nursing homes and residences to determine the number of persons from the Kodiak area and Aleutian chain who currently reside there. He felt this information would be valuable in determining the need for such a facility in the Kodiak area.

If you have anyone from the above mentioned areas living at your residence, I would appreciate your listing their names on the spaces provided. I have enclosed a self-addressed envelope for your response.

Thank you for your cooperation.

Sincerely yours,

Dennis Murray

Dennis Murray

	NAME	PREVIOUS ADDRESS
1.	Roy Malutin	Afognak
2.	Natalia Kuchenoff	Chignik Lake
3.	Fedosia Laktoren	Karluk
4.	Peter Ashonwak	Old Harbor
5.	Marsha Nekeffer	Old Harbor

Dennis Murray, Director
Senior Citizens of Kodiak
Box 315
Kodiak, Ak. 99615

July 16, 1975

Ms. Stella Muckenthaler, _Adm. Officer II
Fairbanks Pioneers Home
2221 Eagan
Fairbanks, Ak. 99701

[How is Emil doing? I hope everything is fine with him.]

Dear Ms. Muckenthaler:

Doing fine! [illegible] on rides etc, - [illegible] but doing the [illegible]

Our organization is interested in exploring the possibility of the development of a Pioneer's home in Kodiak. To this end we have been in contact with Mr. Vern Perry, director of the pioneer home system for the State of Alaska. Mr. Perry suggested that our group contact the various pioneer homes, nursing homes and residences to determine the number of persons from the Kodiak area and Aleutian chain who currently reside there. He felt this information would be valuable in determining the need for such a facility in the Kodiak area.

If you have anyone from the above mentioned areas living at your residence, I would appreciate your listing their names on the spaces provided. I have enclosed a self-addressed envelope for your response.

Thank you for your cooperation.

Sincerely yours,

Dennis Murray

Dennis Murray

	NAME	PREVIOUS ADDRESS
1.	Emil Olsen	Kodiak
2.	Einar Petterson	Kodiak
3.		
4.		
5.		

Charlotte says we have never had applications or residents from that area. [illegible] Stella

Dennis Murray, Director
Senior Citizens of Kodiak
Box 315
Kodiak, Ak. 99615

July 16, 1975

Ms. Charlotee Thompson, Office Manager
Glenmore
4895 Cordova St.
Anchorage, Ak. 99503

Dear Ms. Thompson:

Our organization is interested in exploring the possibility of the development of a Pioneer's home in Kodiak. To this end we have been in contact with Mr. Vern Perry, director of the pioneer home system for the State of Alaska. Mr. Perry suggested that our group contact the various pioneer homes, nursing homes and residences to determine the number of persons from the Kodiak area and Aleutian chain who currently reside there. He felt this information would be valuable in determining the need for such a facility in the Kodiak area.

If you have anyone from the above mentioned areas living at your residence, I would appreciate your listing their names on the spaces provided. I have enclosed a self-addressed envelope for your response.

Thank you for your cooperation.

Sincerely yours,

Dennis Murray

	NAME	PREVIOUS ADDRESS
1.	Prokopeuff Marie	Atka
2.	Panamaroff, Mary	Chignik
3.		
4.		
5.		

Dennis Murray, Director
Senior Citizens of Kodiak
Box 315
Kodiak, Ak. 99615

July 16, 1975

Mr. Marvin Samuelson, Adm.
The Salvation Army Susitna Lodge
Box 4
Palmer, Ak. 99645

Dear Mr. Samuelson:

Our organization is interested in exploring the possibility of the development of a Pioneer's home in Kodiak. To this end we have been in contact with Mr. Vern Perry, director of the pioneer home system for the State of Alaska. Mr. Perry suggested that our group contact the various pioneer homes, nursing homes and residences to determine the number of persons from the Kodiak area and Aleutian chain who currently reside there. He felt this information would be valuable in determining the need for such a facility in the Kodiak area.

If you have anyone from the above mentioned areas living at your residence, I would appreciate your listing their names on the spaces provided. I have enclosed a self-addressed envelope for your response.

Thank you for your cooperation.

Sincerely yours,

Dennis Murray

Dennis Murray

	NAME	PREVIOUS ADDRESS
1.	Florence Duncan	Kodiak
2.		
3.		
4.		
5.		

Dennis Murray, Director
Senior Citizens of Kodiak
Box 315
Kodiak, Ak. 99615

July 16, 1975

Mr. Roberley Potter, Acting Home Manager
Sitka Pioneers Home
Box 198
Sitka, Ak. 99835

Dear Mr. Potter:

Our organization is interested in exploring the possibility of the development of a Pioneer's home in Kodiak. To this end we have been in contact with Mr. Vern Perry, director of the pioneer home system for the State of Alaska. Mr. Perry suggested that our group contact the various pioneer homes, nursing homes and residences to determine the number of persons from the Kodiak area and Aleutian chain who currently reside there. He felt this information would be valuable in determining the need for such a facility in the Kodiak area.

If you have anyone from the above mentioned areas living at your residence, I would appreciate your listing their names on the spaces provided. I have enclosed a self-addressed envelope for your response.

Thank you for your cooperation.

Sincerely yours,

Dennis Murray

Dennis Murray

	NAME	PREVIOUS ADDRESS
1.	Sorry....We have no residents or applicants from the Kodiak area.	
2.		
3.		
4.		
5.		

KODIAK ISLAND BOROUGH

Telephones 486-5736 - 486-5737 — Box 1246
KODIAK, ALASKA 99615

May 20, 1975

Mr. Dennis Murray, Director
Senior Citizens of Kodiak
Box 315
Kodiak, Alaska 99615

Dear Dennis:

I have a copy of Mr. Perry's letter of April 28, advising of his delayed trip to Kodiak.

In the second paragraph Mr. Perry suggests that a Pioneer's Home on the Kenai Penninsula might be agreeable to our local senior citizens. Have you had an opportunity to discuss this with your group and if so what are the comments. I would very much like to hear from you regarding this matter. Do you see any conflict with the extended care and the pioneer home? Is there any way that the Borough can be of assistance in obtaining this much needed facility for Kodiak?

Sincerely,

N. Holt

Norma L. Holt
Borough Clerk

Dennis Murray, Director
Senior Citizens of Kodiak
Box 315
Kodiak, Ak. 99615

January 6, 1975

Mr. Tolbert Elliot, Acting Director
Alaska State Housing Authority
Box 80
Anchorage, Ak. 99510

Re: Elderly Housing
in Kodiak, AK.

Dear Mr. Elliot:

Since my initial letter of October 14 regarding the need for an elderly housing complex, I have received several additional questionaires in my office. Please add the following figures to the initial statistics.

Age of respondants	Monthly Income	Need Housing
55-59.... 5persons	100-250....7 persons	22 persons....yes
60-65....10 persons	250-400....9 persons	5 persons ...no
66-70.... 5 persons	400-600....3 persons	
71-75.... 3 persons	600-1,000..1 person	
76-above, 4 persons	1,000-above 3 persons	
Total 27		

Those currently employed	Those owning a home
6 persons	14 persons

Housing Location	Ownership of a car	Preference of type of housing
Downtown....19 persons	20 persons.....No	
Fringe..... 3 persons	3 persons.....Y	Multiple Housing...5 (4plex--6plex)

Type of Housing continued,,

Highrise Apart,
efficiency,, 1 person
One-bedroom,10 persons
two-bedroom, 6 persons
other..... 0 persons

**persons refer to individuals and families

New totals would be:

Total # of respondants.....103 persons

Total # needing Apts..... 74 persons

The development of this project is at a standstill at the present time. Both the organization and the developer are awaiting the implementation of the Housing and Community Development Act of 1974.

Sincerely yours,

Dennis Murray

Dennis Murray

cc, Mrs. B.E. Nachtweih, pres. of senior citizens
Kay Poland, State Senator from the Kodiak District
Ed Naughton, Representative from the Kodiak District
Fred Brechan, Brechan Enterprises
Henry Eaton, Director of Economic Development, Koniag Inc.
Jack Smody, Federal Housing Administration

August 5, 1974

Mr. Tolbert Elliot, Acting Director
Alaska State Housing Aughority
P.O. Box 80
Anchorage, Alaska 99510

Dear Mr. Elliot:

I have received a copy of a letter sent to you by Mr. Murray, Director of the Senior Citizens of Kodiak. I wish to go on record in support of Mr. Murray's contention that the housing situation in Kodiak is critical especially for senior citizens.

The conditions under which our senior citizens must live are deplorable. Some of the quarters should be condemned, most are poorly located for easy acess to the shopping areas and medical facilities. Several of our senior citizens are living in conditions so substandard that they suffer from the ravages of the cold in the winter and are subject to health conditions for which they are unable to financially cope with.

I urge you to give your strongest consideration to the letter from Mr. Murray regarding the need for senior citizen housing in the City of Kodiak. In all my many years in municipal government, I have never seen a community with a problem quite as drastic as those problems faced by the elderly here in Kodiak.

Should you wish further information or detailed statistics, I shall be happy to provide them for you.

Very truly yours,

CITY OF KODIAK

John F. "Jack" Isadore
City Manager

JFI/lp

Alaska State Legislature

SENATOR
KAY POLAND
DISTRICT G.
P.O. BOX 45
KODIAK, ALASKA 99615

KODIAK-ALEUTIAN
DISTRICT

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99801

Senate

March 22, 1974

Mr. Dennis Murray, Director
Senior Citizens of Kodiak
Box 315
Kodiak, Alaska 99615

Dear Dennis:

I was certainly pleased to receive your letter telling me that things are looking well regarding your Title III grant for next year. I am sure that the problem of the first year grant will be dissolved, but if you continue to have any trouble please let me know and I will see what I can do to help.

I am hoping to add an amendment to the Pioneer Home bonding proposal which should be going before the Senate soon. Already I have heard some objection though, because I have been reminded that Kodiak is going to have a wing added to the hospital for intermediate care. However, I will continue my efforts for a Pioneer Home for Kodiak and also plan on looking into the possibility of a special apartment-type complex with HUD. I still have a lot of research to do on this one though.

With every best regard to all at the Center.

Sincerely,

Kay

Kay Poland

Alaska State Legislature

JACOB LAKTONEN
LARSEN BAY,
ALASKA 99624

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99801

REPRESENTING DISTRICT 13
WESTERN GULF

MEMBER:
RESOURCES
LOCAL GOVERNMENT
LEGISLATIVE COUNCIL

House of Representatives

January 17, 1974

Mr. Dennis Murray
Director
Senior Citizens Center
Box 315
Kodiak, Alaska 99615

Dear Dennis:

I am forwarding to you under same cover some information related to Pioneer's home which I hope will be of some help to you, altho I suspect this will not help or add to what you already know about the program.

I urge you to contact me on any matters I could be of some assistance to you in improving the care of the aged.

Best regards,

Sincerely yours,
Jacob Laktonen
Jacob Laktonen

REPORT FOR O.E.D.P.

Senior Citizens of KOdiak Inc.

This program has grown substantially during its first year of operation. The group now boasts a membership of 260 persons from the communities of Kodiak, Old Harbor, Port Lions, Ouzinkie, Larsen Bay, Akhiok, and Karluk. The emphasis of the program continues to be two fold:

A. To provide supportive services which include a monthly newsletter, transportation on a request basis to keep medical appointments, shop, participate in social activities, information and referral, etc.

B. To provide a luncheon at the center for members and their guests. A donation of $.75 is contributed by the participants toward the cost of the meal.

Our priorities for 1974-75 are:

1. To obtain local matching funds to continue the present operation Possible sources of funds include (a.) Senior Citizen Fund raising projects (b) City of Kodiak (c) Kodiak Island Borough (d) Other social Service Organizations (e) Private donations from individual citizens.

2. Housing - One of the critical needs for the elderly is adequate housing designed for them, and suited to fit their financial resources. It will be one of the primary goals of the group to secure commitments from the various Federal & State Agencies to construct housing ofr the elderly. Included in this will be the construction of a Pioneer's Home on Kodiak Island.

3. Expansion of Services to the Elderly in the Surrounding Communities of Old Harbor, Karluk, Akhiok, Port Lions, Ouzinkie, and Larsen Bay. If approved and funded the Center would hope to sponsor luncheons in these communities. An arrangement with the Kodiak Island Borough School District is anticipated in helping the elderly of these communities.

4. A Permanent Senior Citizen Center
The present facility has already proved to be inadequate for many of the monthly Social functions of the group. It is also a financial burden on the program. In obtaining permanent Center (either owned by the Senior Citizens of some local governmental body) would facilitate the expansion of the group. and lend stability to the total program activities. A location near the Central business district would be most desirable.

(B continued)
Mr. Jones further stated that Tryck, Nyman & Hayes has some alternative plans, any of these alternatives can be changed any way the community feels it should be. He did bring some plans with to present to the assembly and audience. Plan "A" was basically R-1, R-3, tourist commerical, public institutions, dedicated park land and undeveloped areas and finally marine oriented districts. Plan "B" was composed of public institutions, marine research, basically the same as Plan "A". Plan"C" was basically low density residential and Plan "D" was left basically as Parks. This type of plan is not zoning, but Land use planning needed for comprehensive planning. Mrs. Holt stated that Planning and Zoning had a meeting today and submitted the following recommendation, which was not unanimous by those present at the meeting. Following is a summary of the reoommendation: That they use public institutional from Plan "B" and "Tourist Commercial" and"Med Density" and Boat Harbor from Plan "A" with an addition of more "Marine/Industrial" on the southwesterly end of Near Island. This plan should include an area for grids in or near the boat harbor. It should be noted that the recommendation was made in order for planning to be expediated. This will allow for a public hearing on the proposed land use as scheduled. Mr. Jones stated that the money could come from a variety of sources, Federal monies, EPA monies, Revenue Sharing, State and local monies. He then stated that he will be back in six weeks with more on the economic study and also a plan recommended by P&Z for another public hearing. He indicated he needed public response as to the needs and desires of the community, what direction the plan should take. Mrs. Wallin stated that she goes along with P&Z's recommendation, Mr. Powell agreed also. Mr. Jones further stated that the plan is not a definite one, in that it can be changed along the way and is a guideline for twenty years or more. The assemblyconcurred with P&Z's recommendation.

There was a five minute recess at 8:35 p.m.

C. Letter from Corps of Engineers - Public Notice NPA 74-022 - Request from Whitney Fidalgo to Construct mooring dolphins, freshwater intake, pipeline and wastæffluent line on the North Shore of Kempff Bay off Alitak Bay. Mr. Powell entertained a motion of non-objection. Mr. Nelson moved that the Borough express no objection. Seconded by Mrs Wallin. Mr. Nelson asked about the set net sites located out in this area. Mr. Powell stated that this goes to the Fish and Game for their comments also. Motion passed by unanimous roll call vote.

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER / POUCH H–JUNEAU 99801

January 14, 1974

The Honorable Jacob Laktonen
Alaska State Legislature
House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Mr. Laktonen:

Thank you for your interest in the operation of the Alaska Pioneer's Homes.

The Alaska Pioneer's Homes are primarily operated by State funds, although they do derive some participation from the Federal Government which evolves around the Social Services offered to the guests in the homes. Donations are sometimes received, and guests also contribute to their care if they are able.

The operational program is presently under the jurisdiction of the Department of Health and Social Services, Division of Family and Children Services. The Pioneer's Homes Services office is located in Juneau, with this agency, and is at your disposal.

The Alaska Pioneer's Home Brochure, which gives more detail of the program, and an insight into the individual home facilities that are available, is presently being revised. The brochure will be completed in the near future, and will be available upon request.

The BIA dorm complex in Kodiak, would appear to be an excellent facility which could possibly be converted to a Pioneer's Home. Although,

HB

277

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

AGENDA

DATE: March 13, 1984

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY. AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

HB 277: Credit for unused sick leave

PLEASE CANCEL

HB 443 Decreasing motor vehicle registration fees.

OTHER NOTES OR REMINDERS:

Please announce thatHB 443 will be cancelled at request of the sponsor

Testimony for:
House State Affairs Committee

Re: H.B. 277 entitled "An Act allowing retirement credit for the unused sick leave of an employee of a political subdivision or public organization participating in the public employees' retirement system."

It is generally known by members of the legislature that most public employees have some means by which to favorably dispose of unused accumulated sick leave upon retirement or termination. However, not many people, legislators included, know that there is a group of about 4,000 to 5,000 public employees who serve school districts across the state of Alaska who are not allowed any means by which to favorably disburse their unused accumulated sick leave upon termination or retirement. This group of public servants is known as classified or non-certificated employees of school districts. They are the employees who are hired to support the educational endeavors. (Mechanics, custodians, secretaries, nurses, librarians, etc.) Inequity abounds in this climate because these employees are not statutorily recognized for collective bargaining purposes, but teachers are. Many of these employees are required, indirectly by law, to work the same work year as teachers, but are not afforded a full year's retirement, but teachers are. The issue H.B. 277 addresses, unused accumulated sick leave credited to the individual's retirement account, leaves us with a third area where equity is absent. Teachers are, by law, allowed to credit their individual retirement accounts with their accumulated unused sick leave at retirement or termination, while all unused accumulated sick leave a non-certificated employee has accrued at retirement or termina-

tion is totally lost to the employee. We believe the legislature made a wise decision in enacting legislation which accommodated this issue for teachers and would request the same treatment be afforded non-certificated employees. It is not unusual for a retiring employee to lose from 50 to 150 days of sick leave at retirement or termination. There is no incentive for an employee to "stay well"; the contrary is evident. When an employee loses this accumulated sick leave, the employee is being penalized for his/her prudent use of his/her sick leave.

If we had to single one issue which draws the most concern among the non-certificated employees of the Fairbanks North Star Borough School District, this is it. These employees have been surveyed four times in the last five years and this issue is always the number one priority. We are very pleased that a hearing is being held to hear the concerns. We feel strongly that this proposed legislation addresses a profound need. We are addressing a serious and demoralizing problem that exists among non-certificated employees of school districts. This group of employees is asking through this proposed legislation that equitable treatment be provided.

The need for equitable treatment can be further demonstrated by comparing the plight of non-certificated school district employees with state, borough and municipal employees. State employees

and most municipal and borough employees have the provisions of the personal leave statute or collective bargaining agreements which allow for the disbursement of sick leave accumulation upon termination or retirement. Again we must state that non-certificated employees of school districts have neither statutory recognition for bargaining or a procedure equitable to other public employees and teachers for disposing of accumulated unused sick leave upon termination or retirement. We ask that you deliberate the issue, give it a favorable recommendation and pass it out and on to the House Finance Committee for their consideration.

Alaska Public
Employees Association APEA
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

MEMORANDUM

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Cherie Shelley
Executive Director

SUBJECT: HB 277

DATE: March 13, 1984

The Alaska Public Employees Association supports HB 277 which will allow public employees to receive retirement credit for unused sick leave. We believe HB 277 should be amended to allow this credit for all public employees not just the employees of political subdivisions or public organizations.

We recommend the following as substitutes for paragraphs "a" and "b" of the proposed AS 39.35.315.

> Sec. 39.35.315. CREDIT FOR UNUSED SICK LEAVE. (a) An employee who is employed on or after July 1, 1982, and who retires after July 1, 1983, may elect to add unused sick leave credit to the total number of years of credited service under AS 39.35.370(c). Unused sick leave shall be credited on a day-for-day basis. Employee contributions may not be required for credited unused sick leave.
>
> (b) An employee retiring before July 1, 1983, who returns to membership service on or after July 1, 1983, and who subsequently retires is eligible for unused sick leave credit only with respect to sick leave accrued during membership service on or after July 1, 1983.

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 277
Title: "An a allowing retirement credit"..
Sponsor: Kaponen
Requestor:

II. FISCAL DETAIL

Agency Affected: No state agencies are affecte
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: J.K. Humphreys — J.K. Humphreys, Director — Phone: 465-4460
Division: Retirement & Benefits — Date: 4-21-83

Approved by Commissioner: Commissioner Lisa Rudd — Date: 4-21-83
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

State of Alaska

Fiscal Note

HB 277

IV Analysis:

The cost of this bill will be borne entirely by the PERS employers. The individual employer contribution rates will increase on an average of .24% of their PERS payroll.

The total costs to employers who are participating in PERS is expected to be as follows:

FY 84	FY 85	FY 86	FY 87	FY 88
$767.0	$828.4	$894.7	$966.3	$1,043.6

If this bill becomes law, the funding ratio in PERS will decrease by .2%.

The total actuarial present value of cost of this bill is $1,854,000.

Feb. 5, 1984

PO Box 1683
Soldotna, Alaska 99669

Sick leave bill

Mitchell E. Abood Jr.
3102 Northwood
Anchorage, Alaska 99503

Subject: House Bill 277

Problem: Getting this bill out of House and onto the floor for passage.

Dear Mitchell Abood:

I am a custodian for the Kenai Peninsula School District, at Redoubt Elementary School. In a few years I shall retire from the working class. I have some 80 days of accumulated sick leave coming to me. The way things are now I shall loose this sick leave when I retire. Borough administrators and school administrator and teachers, including my wife, Eunice, who is retired from teaching now, they all will get or have gotten credit into their retirement for their accumulated sick leave, yet we, the classified people of our Borough will not get this, Bill 277 will give this to us.

I would like to ask that you do all you can to get this bill out of committee and moving onto the floor for passage by vote.

Anything you can do along this line will be appreciated.

Might I hear from you on the above matter.

Thank you.

Sincerely,

Roy J. Gordon

Roy J. Gordon

Alaska State Legislature

Representative Niilo Koponen

FAIRBANKS
Box 252
Fairbanks, Alaska 99707
479-6782

JUNEAU
Pouch V
Juneau, Alaska 99811
465-4992

MEMORANDUM

TO: Rep. Abood
FROM: Rep. Koponen
DATE: 3 March, 1984
RE: HB 277 "Retirement Credit for Unused Sick Leave"

Enclosed is a petition by forty-four residents of the Kenai peninsula requesting that HB 277 be heard in committee and moved on to the House floor. I beleive that HB 277 is a fair and equitable way to deal with public employees who still have unused sick leave at retirement. I hope tnat the bill can be calnedared soon in your committee.

cc. Rep. Milo Fritz
Rep. Hugh Malone
Sen Don Gilman

WE, THE UNDERSIGNED SUPPORT AND STRONGLY RECOMMEND THAT HOUSE BILL #277, "AN ACT ALLOWING RETIREMENT CREDIT FOR THE UNUSED SICK LEAVE OF AN EMPLOYEE OF A POLITICAL SUBDIVISION OR PUBLIC ORGANIZATION PARTICIPATING IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM" BE MOVED FROM COMMITTEE AND SENT TO THE FLOOR OF THE SENATE AND HOUSE FOR PASSAGE.

Name (Please Print)	Signature	Address	Date
M. Katherine Prince	M. Katherine Prince	166 W Corral Ave Soldotna Ak	2/16/84
Ellen J Thompson	Ellen J Thompson	P.O. Box 1357 Soldotna AK 99669	2/16/84
Sasha M. Lindgren	Sasha M. Lindgren	265 Katmai Soldotna Ak 99669	2-16-84
A. Katheryn Gauthier	A. Katheryn Gauthier	Box 1375 Soldotna Ak.	2-17-84
Helen Sibson	Helen Sibson	Box 681 Soldotna Ak	2/17/84
Judy C. Carmichael	Judy C. Carmichael	Box 4101 Soldotna, AK	2/17/84
Sally E. Tachick	Sally E. Tachick	Box 275, Soldotna	2/17/84
Kathie Painter	Kathie Painter	Box 615 - Soldotna	2/17/84
Sharon Parker	Sharon Parker	Box 1137 - Kenai	2/22/84
Pam Skinner	Pamela R. Skinner	Box 1274 Soldotna	2/22/84
Jessie Conn	Jessie Conn	219 Marcus Soldotna	2/22/84
Marilyn Kemis	Marilyn Kemis	Box 5003, Kenai, AK	2/22/84
Bonnie Clouston	Bonnie Clouston	Box 266 Kenai	2/22/84
Suzanne Tignor	Suzanne Tignor	Box 3432 Kenai	2/22/84
Molly Jacobs	Molly Jacobs	Box 1531, Soldotna	2/22/84
Connie Jung	Connie Jung	Box 3977, Kenai	2/22/84
Penny Little	Penny Little	Box 162, Kenai	2/22/84
Barbara Knutson	Barbara Knutson	Box 4372, Soldotna	2/22/84
Betsy Staley	Betsy Staley	Box 96, Soldotna	2/24/84
Marcia King	Marcia King	St Rt 2 Box 850 Sold.	2/24/84
Elaine Davis Holland	Elaine Davis Holland	Box 93 Kasilof, AK 99610	2/24/84
Inez Evans	Inez Evans	Box 226 Kenai	2/24/84

WE, THE UNDERSIGNED SUPPORT AND STRONGLY RECOMMEND THAT HOUSE BILL #277, "AN ACT ALLOWING RETIREMENT CREDIT FOR THE UNUSED SICK LEAVE OF AN EMPLOYEE OF A POLITICAL SUBDIVISION OR PUBLIC ORGANIZATION PARTICIPATING IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM" BE MOVED FROM COMMITTEE AND SENT TO THE FLOOR OF THE SENATE AND HOUSE FOR PASSAGE.

Name (Please Print)	Signature	Address	Date
Marlene) Frates	Marlene Frates	Box 2258, Kenai	2/14/84
Bill SCHRIER	Bill Schrier	Box 1051 Soldotna	2/14/84
Ruth H. Murdock	[illegible]	[illegible]	2/14/84
Ruth Ann McMillan	Ruth Ann McMill	Box 3568 Kenai	2/14/84
Tommye Jo Carr	Tommye Jo Carr	Box 153 Soldotna	2/14/84
Connie M Wheat	Connie M Wheat	Box 2914 Soldotna	2/14/84
James E. Gelz	[illegible]	Box 324 Soldotna	2/14/84
Cindy L Cockroft	Cindy L Cockroft	Box 1465 Soldotna	2-14-84
Pam White	Pam White	P.O. Box 410 - Kenai	2-14-84
Dave Donahue	Dave Donahue	P.O Box 485 - Sterling, AK	2-14-84
Diane Newman	Diane Newman	Box 2517 Kenai	2-14-84
Charlie S...	[illegible]	P.O. Box 412 Kenai	2-14-84
John Andrews	John Andrews	P.O. Box 4550 Kenai	2-14-84
Lorraine Rudy	Lorraine Rudy	P.O. Box 1806 Kenai	2-14-84
Kathy Hews	Kathy Hews	Box 211 Kenai	2-14-84
Sharon Brewer	Sharon Brewer	S.R.1 Box 845 - Kenai	2-14-84
Edward Colsen	Edward Colsen	PH2 Box 935 Soldotna	2-14-84
LEE STALKER	Lee Stalker	P.O. Box 3141 Kenai	2-14-84
Robin Velure-Tansey	Robin Velure-Tansey	P.O. Box 1053 Soldotna	2-14-84
Douglas Emery	Doug Emery	P O Box 374 Kasilof	2-14-84
~~PATRICIA GRINDER~~	Patricia Grinder	Box 4013 Kenai	2-14-84
Ada Marie Marrs	Ada Marie Marrs	P.O. Box 4281 Kenai	2-14-84

WE, THE UNDERSIGNED SUPPORT AND STRONGLY RECOMMEND THAT HOUSE BILL #277, "AN ACT ALLOWING RETIREMENT CREDIT FOR THE UNUSED SICK LEAVE OF AN EMPLOYEE OF A POLITICAL SUBDIVISION OR PUBLIC ORGANIZATION PARTICIPATING IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM" BE MOVED FROM COMMITTEE AND SENT TO THE FLOOR OF THE SENATE AND HOUSE FOR PASSAGE.

Name (Please Print)	Signature	Address	Date
WILLIAM H HAYWOOD	William H Haywood	P.O.Box 239 KENAI, AK	2-13-84
EDNA F. EVANS	Edna F. Evans	P.O. Box 584 Soldotna	2-13-84
John M. Gordon	John M. Gordon	P.O. Box 1683 Soldotna	2-13-84
David R. Bishop	David R. Bishop	Box 3624 Soldotna AK	13 Feb. 1984
Robert E Brown	Robert E Brown	Box 3448, Soldotna AK	2-14-84
Veloris E. Hickel	Veloris Hickel	Box 2783 Kenai AK	2-14-84
Lawrence L. Large, Jr.	Lawrence L Large	Box 1177 Soldotna, AK	2-14-84
JIM R. GIESLER	Jim R Giesler	Box 615 KENAI AK	2-14-84
Larry L Ruckel	Larry L Ruckel	Rt 1 Box 1346 Kenai	2-14-84
Mike Hadden	Mike Hadden	Box 3865 KENAI	2-14-84
C.A. Schmelzenbach	C.A. Schmelzenbach	Box 974 Soldotna	2-14-84
Susan Bacon	Susan Bacon	Box 4146 Kenai	2-14-84
MARY S. HANSON	Mary S Hanson	Box 3228, KENAI	2-14-84
Mary E Summer	Mary E. Summer	256 Crest Soldotna	2-14-84
Dale E Moon	Dale E Moon	POB 4117 Kenai	2-14-84
William M Hatch	William M. Hatch	P.O. Box 4827 Kenai	2/14/84
HARRIET M. SEIBERT	Harriet M. Seibert	P.O. Box 3183 Kenai	2/14/84
Jean KENT MATTSON	Jean Kent Mattson	Box 2990 Kenai	2/14/84
Roberta Beauchamp	Roberta Beauchamp	Box 851 Kenai	2-14-84
Cathleen Rolph	Cathleen Rolph	Box 2943 Soldotna	2-14-84
Scott Turner	Scott Turner	Box 4192 Kenai	2-14-84
MARY C. Schmelzenbach	Mary C Schmelzenbach	43645 Spurs Rd Soldotna	2-14-84

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Name (Please Print)	Signature	Address	Date
Saterene Haywood-Jackson	Saterene Haywood-Jackson	PO Box 2715 Kenai	2-14-84
Nina Jean STRAHMANN	Nina Strahmann	Box 1223 Kena	2-15-84
HELEN M METCALF	Helen M. Metcalf	Rt 1 Box 1277 Kenai	2-15-84
JoAnn M. Perkins	JoAnn M. Perkins	P.O. Box 4259 Kenai	2-15-84
Janie Bauman	Janie Bauman	P.O. Box 8052 N.R.B.	2-15-84
Joan L. Kimball	Joan L. Kimball	Box 8066 Nikish.	2-15-84
Linda S Langston	Linda S Langston	P.O. Box 7123 Nikiski	2-15-84
Ruth Anne Johnson	Ruth Anne Johnson	Rt 1 Box 1282 Kenai	2-15-84
Randy Reeve	Randy Reeve	Rt 1 Box 1295-2 Kenai	2-15-84
ALEX B White	Alex B White	8551 Nikishka AK	2-15-84
Diana S. White	Diana S White	Box 8017 Nikishka AK	2-15-84
PRISCILLA CAREY	Priscilla Carey	Box 946 Rt 1 Kenai AK	2-15-84
JANICE KING	Janice King	Rt 1 Box 1271 Kenai AK	2/15/84
Tina Stamos	Tina Stamos	Box 3570 Kenai AK	2/15/84
Darla Herrin	Darla Herrin	Box 476 Kenai AK	2-16-84
LINDA STEWART	Linda Stewart	Rt 1 Box 803 Kenai	2-16-84
Stanley J. Hahnstadt	Stanley J. Hahnstadt	Box 8014 N R B. Kenai	2-16-84
Mary D. Rounds	Mary D. Rounds	Box 7048 Nikishka AK	2/16/84
Kevin M. Dee	Kevin Dee	Box 4267 Soldotna AK	2-16-84
Sandra Miller	Sandra Miller	Box 4004 Kenai AK	2-16-84
Patricia A Severe	PATRICIA H SEVERE	Box 2922 KENAI	2-16-84
TIM PETERSEN	Tim Petersen	Box 1287 Kenai	2-16-84

WE, THE UNDERSIGNED SUPPORT AND STRONGLY RECOMMEND THAT HOUSE BILL #277, "AN ACT ALLOWING RETIREMENT CREDIT FOR THE UNUSED SICK LEAVE OF AN EMPLOYEE OF A POLITICAL SUBDIVISION OR PUBLIC ORGANIZATION PARTICIPATING IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM" BE MOVED FROM COMMITTEE AND SENT TO THE FLOOR OF THE SENATE AND HOUSE FOR PASSAGE.

Name (Please Print)	Signature	Address	Date
Marla J. Huss	Marla J. Huss	Box 2053 Kenai	2-15-84
Kathy Gardner	Kathy Gardner	Box 3756 Soldotna	2-15-84
Mae Alice Hopkins	Mae Alice Hopkins	P.O. Box 2191, Soldotna 99669	2-15-84
Patricia G See	Patricia G See	P.O. Box 1412 Kenai	2-15-84
Patricia DeBusschere	Pat DeBusschere	PO Box 182 Soldotna AK	2-15-84
MILLY E. GIBSON	Mary E. Gibson	P.O. Box 3207 Sold. AK	2-18-84
LEONAH SMALLEY	Leonah Smalley	Box 3081 Kenai AK	2/18/84
Margaret McCubbin	Margaret McCubbin	RT 1 Box 5 Kenai AK	2-18-84
BETTY L. THLENT	Betty L. Talent	Box 3638 Kenai	2-18-84
ROBERT SEIBERT	[illegible]	560 Kenai	2-18-84
[illegible]	[illegible]	RT 1 Box 150	2-18-84
Jan Pipeline	[illegible]	Box 8004	2-18-84
ELAINE M. WARDELL	Elaine M. Wardell	Box 451 Kenai	2-18-84
MARY L. ESTES	Mary L. Estes	Box 2377 Soldotna	2-18-84
Krela Thompson	Krela Thompson	Box 1245 Kenai	2-18-84
Tommy Thompson	Tommy Thompson	Box 1245 Kenai	2-18-84
NINA BLOECHER	NINA BLOECHER	Box 1702 Kenai	2/18/84
Violet Spec	Violet Spec	Box 5195 Kenai	2/18/84
Flonie Turner	Flonie Turner	Box 4192 Kenai	2/18/84
Alyce Johnson	Alyce Johnson	P.O. Box 1611 Kenai	2/18/84
ALVIN W RUNSTETLER	Alvin W Runstetler	KENAI, AK 99611 Rt 3 Beaverloop Rd	2/18/84
Jenny RUNSTETLER	Jenny Runstetler	KENAI AK 99611	2/18/84

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Name (Please Print)	Signature	Address	Date
Jack L Kennedy	Jack L Kennedy	Box 2175 Soldotna	2/27/84
Mike Methvin	Mike Methvin	Box 472 Soldotna	2/22/84
Gary Jefferson	Gary Jefferson	378 Bonna Soldotna	2/24/84
Jean Warrick	Jean Warrick	P.O. Box 162 Soldotna	2/27/84
Jacqueline A. Dillon	Jacqueline A. Dillon	P.O. Box 462 Sterling	2/27/84
LORIN BLAKE	Lorin Blake	Box 4543 Kenai	2/27/84
RICHARD SKINNER	Richard Skinner	Box 1274 Soldotna	2/27/84
Stephen Beeson	Stephen L Beeson	231 Marcus Soldotna	2/27/84
John Beckman	John Beckman	Rt 1 Box 150 Kenai	2/27/84
Karen Koester	Karen Koester	Box 1967 Kenai	2-27-84
Andrew P Griebel	Andrew Griebel	Box 7099 NEB Kenai	2/27/84
John Heath	John Heath	RT 1 Box 855 Kenai	2-27-84
Joe Thirlwell	Joe Thirlwell	Box 2033 Nikiski	2-27-84
John Pierson	John E. Pierson	Box 3148 Kenai	2-27-84
Randy L Willis	Randy L Willis	Box 192, Sold	2-27-84
Richard J. Hill	Richard J Hill	122 Mary Dale Apt 16 Sold.	2-27-84
Gary M Kincaid	Gary M Kincaid	Box 1491 Soldotna	2-27-84
Joseph R Carrico	Joseph R. Carrico	Box 444 Soldotna	2-27-84
Roy E Wright	Roy E Wright	Box 95 KENAI	2-27-84
Claudine Wright	Claudine Wright	Box 95 Kenai	2/27/84
SATOE HAYWOOD	Satoe Haywood	Box 239 Kenai	2/27/84
Kirby Haywood	Kirby Haywood	Box 239 Kenai	2/27/84

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Name (Please Print)	Signature	Address	Date
Robert L Miller	Robert L Miller	Box 841 Sterling Alaska	2-16-84
Rev. C. S. Duncan, II	Rev. C S Duncan, II	Box 8021 Nikiski 99635	16 Feb 84
Frederick G. Jones	Frederick G. Jones	P.O. Box 3446 Soldotna AK 99669	2-16-84
Charles L. Gallien	Charles L. Gallien	P.O. Box 3243 Kenai, AK 99611	2-16-84
Kenneth Tyler	Kenneth Tyler	P.O. Box 4018 Kenai AK	2-16-84
Jon Gifford	Jon Gifford	Sxor Rt 3 Kenai	2-17-84
Fran Kelsch	FRANCES KELSCH	P.O Box 791 Sold	2-17-84
Terry Tipton	Terry Tipton	Box 4143, Sol, At.	2-17-84
Thomas M. Ackerly	Thomas M. Ackerly	Box 577 Kenai	2-17-84
Thomas T. Burck	Thomas T. Burck	PO 4101 Kenai	2-17/84
Brad Jacot	Brad Jacot	135 Trumpeter St. Sold.	2-17-84
Don Oberg	Don Oberg	1084 Kenai	2/17/84
Nora Satathites	Nora Satathites	Rt 1 Box 1208 Kenai	2/20/84
John K. Dahlgren	John K. Dahlgren	Box 1202 Soldotna	2/20/84
Richard M. Hallmark	Richard M Hallmark	Box 523 Kenai	2/20/84
Thomas A. Murphy	Thomas A. Murphy	Box 436 Kenai	2/20/84
Faith W. Chase	Faith W Chase	Box 1359 Kenai	2/20/84
Bud Crawford	Bud Crawford	Box 1501 Kenai	2/20/84
Jon Lillevik	Jon Lillevik	Box 1982 Kenai	2/20/84
William Freeman	William Freeman	Box 2178 NRB Kenai	2-21-84
Lois Massie	Lois Massie	Box 856 Kenai	2-22-84
Richard Hultberg	Richard Hultberg	Box 4188 Kenai	2-21-84

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Name (Please Print)	Signature	Address	Date
K. Hy Pickson	Kitty Pierson	Bx 3648	Feb 15 84
Pam White	Pam White	Bx 412 Kenai	2-15-84
PAT RODGERS	Pat Rodgers	Box 2854 Kenai	2-15-84
Helen Magsayo	Helen Magsayo	Box 2547 Soldotna	2-15-84
LORNA WHITAKER	Lorna Whitaker	Box 173 Soldotna	2-15-84
Ruth Sipes	Ruth Sipes	Box 4472 Soldotna	2-15-84
Jeanette Payment	Jeanette Payment	PO Box 1106 Kenai	2-15-84
Dave Donahue	Dave Donahue	P.O. Box 485 Sterling AK	2-15-84
WANDA BONILLAS	Wanda Bonillas	Box 7177 NRB, Kenai	2-15 84
F. DeWayne Craig	F. DeWayne Craig	Box 4513 Kenai	2-15-84
Katherine Lucky	Katherine Lucky	Box 935 Soldotna	2-15-84
Jeanette K. Rodgers	Jeanette K. Rodgers	Box 2036 Soldotna	2-15-84
CHUCK CHAVKA	Chuck Chavka	BOX 3476 Soldotna	2/15/84
LINDA L. JARVI	Linda L. Jarvi	Box 3568 KENAI	2/15/84
Harold V. Smalley	Harold V. Smalley	Box 3239 Kenai	2/15/84
Phyllis L. Kaufman	Phyllis L. Kaufman	Box 4055 Kenai	2/15/84
Joyce Taylor	Joyce Taylor	Box 386 Soldotna	2/15/84
Iris G. Barton	Iris G. Barton	309 Riverside Dr. Soldotna	2/15/84
Marsha McGillivray	Marsha McGilliv	Box 1751 Kenai. AK	2/15/84
Robert M. Gille	Robert M. Gille	Box 173, Trumpeter Ave. Soldotna AK. 99669	2-16-84
Edward L. Pearson	Edward L. Pearson	Box 2713 Soldotna AK 99669	2-16-84
SAWANG SMITH	Sawang Smith	Box 1682 Soldotna, AK 99669	2-16-84

WE, THE UNDERSIGNED SUPPORT AND STRONGLY RECOMMEND THAT HOUSE BILL #277, "AN ACT ALLOWING RETIREMENT CREDIT FOR THE UNUSED SICK LEAVE OF AN EMPLOYEE OF A POLITICAL SUBDIVISION OR PUBLIC ORGANIZATION PARTICIPATING IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM" BE MOVED FROM COMMITTEE AND SENT TO THE FLOOR OF THE SENATE AND HOUSE FOR PASSAGE.

Name (Please Print)	Signature	Address	Date
Elizabeth Mize	E. MIZE	P.O. BOX 447 SOLDOTNA	2/20/84
KATHRYN CASILIE	Kathryn Casilie	P.O. Box 788 Soldotna AK 99669	20 February 1984
Joan Lahndt	Joan Lahndt	PO Box 1115 Kasilof	2/22/84
Tim Jacobson	Tim Jacobson	PO Box 4185 Soldotna AK	2/22/84
Gary Shriver	Gary Shriver	P.O. 381 Kenai, AK	2/22/84
Jeanne Jackinsky	Jeanne Jackinsky	P.O. Box 2, Kasilof	2/22/84
Dale T. Judge	Dale T. Judge	253 Redwood Ct Soldotna	2/22/84
Andy A. Walk	Andy A. Walk	Box 3452 Soldotna AK	2-22-84.
Alfred W. Hermansen	Alfred W. Hermansen	Rt 2 Box 564 Kasilof	2-22-84
June M Waltrip	June M Waltrip	PO Box 1914 Soldotna	2/22/84
David Landry	David S Landry	Box 8142 NRB, Kenai	2-23-84
Marla A Hopkins	Marla A Hopkins	Box 3172 Sold	2-23-84
Lutitia Schwemley	Lutitia Schwemley	POB 2925 Kenai	2/23/84
Michael J Schwemley	Michael J Schwemley	" "	2/23/84
David L. Goggin	David Goggin	Box 1116 Kenai	2-23-84
Harry R. Ketschull	Harry R. Ketschull	Box 3262 Kenai	2/23/84
Judith M. Lane	Judith M. Lane	Box 8142 NRB Kenai AK	2/23/84
Tod McGillivray	Tod McGillivray	Box 1751 Kenai AK	2/23/84
STEVE DEYHERMUS	Steve Deyhermus	BOX 132 KCN AK	2/23/84
H. R. Jackson Jr.	H. R. Jackson Jr.	P.O. Box 3136 Kenai AK	2-23-84
S. L. Leploznick	S L Leploznick	Box 3038 Ken. AK	2/23/84

WE, THE UNDERSIGNED SUPPORT AND STRONGLY RECOMMEND THAT HOUSE BILL #277, "AN ACT ALLOWING RETIREMENT CREDIT FOR THE UNUSED SICK LEAVE OF AN EMPLOYEE OF A POLITICAL SUBDIVISION OR PUBLIC ORGANIZATION PARTICIPATING IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM" BE MOVED FROM COMMITTEE AND SENT TO THE FLOOR OF THE SENATE AND HOUSE FOR PASSAGE.

Name (Please Print)	Signature	Address	Date
Richmond Ross	Richmond Ross	Box 4006 Kenai	2/21/84
Micheal Awastny	Micheal Awastny	Box 4046 Kenai	2/22/84
Vecta Leigh	Vecta Leigh	[illegible]	
MAVIS A. PEARSON	Mavis Pearson	Box 3017 Kenai	2/22/84
Gene Backstrom	Gene Backstrom	Box 1562 Kenai	2-22-84
Sherri D. Morrison	Sherri D Morrison	Box 241 Kenai	2-22-84
JASON A. ELSON	Jason A Elson	Box 2712 Kenai	2-22-84
Rodney Fisher	Rodney Fisher	Box 1410 Kenai	2-22-84
WALTER WINSTON	Walter Winston	PO Box 268 Kenai	2-22-84
Richard McCord	Richard McCord	RT 1 Box 160-3	2/22/84
DAVID C. BURNETT	David C. Burnett	Box 1131 Kenai	2-22-84
DONALD R MORGAN	Donald R Morgan	Box 3798 Kenai	2-22-84
ROGER J HARRISON	Roger J Harrison	Box 4103 Kenai Ak	2-22-84
Ronald L Williams	Ronald L Williams	RT 2 Box 869C-Soldotna	2-23-84
David E. Vroman	David E Vroman	Box 2081, Kenai AK	2-24-84
Doyle L. OLDHAM	Doyle L Oldham	Box 1107 Kenai	2-24-84
Donnet L. DuBois	Donnet L DuBois	Box 3678 Kenai	2/24/84
SATOE HAYWOOD	Satoe Haywood	Box 239 Kenai	2-25-84
MD GILMORE	MD Gilmore	Box 3666 Kenai	2-25-84
Jeanie Gilmore	Jeanie Gilmore	Box 3666 Kenai	2-25-84
QUINDELL QUEEN	Quindell Queen	DRAWER 4170 KENAI, AK	2-26-84
LORRAINE QUEEN	Lorraine Queen	DRAWER 4170 KENAI, AK	2-26-84

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Name (Please Print)	Signature	Address	Date
Karen Mathurin	Karen J. Mathurin	Box 1073 Kenai	2/14/84
Yolanda Schrader	Yolanda Schrader	Box 3158 Kenai	2/14/84
Karen Gonzalez	Karen J. Gonzalez	Box 3567 Kenai	2/14/84
Jean Wykis	Jean Wykis	Box 4041 Soldotna	2/14/84
Laurie Weglage	Laurie L. Weglage	PO Box 4117 Kenai	2/14/84
Nina Knight	Nina Knight	Box 3877 Soldotna	2/14/84
Don Weller	Don Weller	Box 1947 Kenai	2/14/84
Donna Dixon	Donna Dixon	Box 1967 Kenai	2/14/84
Nancy Shepler	Nancy Shepler	174 Trumpeter Soldotna	2/14/84
Helen L. Darrow	Helen L. Darrow	P.O. Box 3889 Kenai	2-14-84
Jeanette Payment	Jeanetta Payment	PO Box 1106 Kenai	2-14-84
Maggie Kreder	Maggie Kreder	P.O. Box 375 Kenai	2-14-84
Sara K. Beach	Sara K. Beach	P.O. BOX 8401 Kenai	2-14-84
Cam Cusack	Cam Cusack	385 Grainhaven Soldotna	2-14-84
Lorraine Hanson	Lorraine Hanson	Box 2991 Kenai	2-14-84
Connie Willard	Connie Willard	193 Trumpeter	2-14-84
Jane Mattson	Jane J. Mattson	Box 2790 Kenai	2-14-84
Virginia Hallmark	Virginia Hallmark	Box 523 Kenai	2-14-84
Jim Rideout	Jim Rideout	Box 4542 Kenai 99611	2-14-84
Gladys Stalker	Gladys Stalker	P.O. Box 3141 Kenai	2-15-84
Susan L. Schwartz	Susan L. Schwartz	Star Rt 3 Kenai	2-15-84
Duncan J. Kishbaugh	Duncan J. Kishbaugh	Box [illegible] Soldotna AK	2-15-84

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Name (Please Print)	Signature	Address	Date
[illegible] Tourneau-Ernst	[illegible] Tourneau-Ernst	Box 7042 Nikiski Ak	2.14.84
JESSE L Evans	Jesse L Evans	PO Box 2251 Sol Ak	2/14/84
DAVE PAUL	Dave Paul	PO Box 4661 Soldotna	2/14/84
Tom Atkinson	Tom Atkinson	Box 371, Kenai	2/14/84
Lawrence Snyder	Lawrence Snyder	Box 1194 Kenai	2/14/84
George Waldrip Jr	George Waldrip Jr.	Box 1061 Soldotna	2-15-84
Boyd M. HOLLAND	Boyd M. Holland	P.O. Box 423 Kenai	2-15-84
Gary Horwath	Gary Horwath	Box 4136 Soldotna	2/15/84
Dean R. OTTESON	Dean R Otteson	Box 1705 Kenai	2/15/84
Sandra J. Habel	Sandra J Habel	Box 537 Kenai 9961	2/15/84
Marlene S Keene	Marlene S Keene	Box 1394 Kenai, Ak	2/15/84
JAMES C GATES	James C Gates	Box 4409 Kenai, Ak	2-15-84
Nancy F. Cranston	Nancy F. Cranston	Rt 2 Box 756 Soldotna, Ak	2-15-84
JOHN A KEEN	John A Keen	363 ASPIN Soldotna	2-15-84
Larry A Schweigert	Larry A Schweigert	Box 2575 Soldotna	2-15-84
Susan Stephan	Susan Stephan	Box 931 Soldotna	2-15-84
Lorrel Ludy	Lorrel Ludy	297 Marydale CT Soldotna	2-15-84
ANNA Ludy	Anna Ludy	297 Marydale Ct Soldotna	2-15.84
EDWARD MASSEY	Edward Massey	Box 2917 Soldotna	2-15 84
Rob Cockroft	Rob Cockroft	Box 1463 Soldotna	2-16/84
Irene Fandel	Irene Fandel	Box 915 Kenai	2-16/84
Dorothy Wagoner	Dorothy Wagoner	Box 3969, Kenai	2-16-84

FILE COPY

for HB 277

P. O. Box 239
Kenai, Alaska 99611
February 27, 1984

The Honorable Miilo Koponen
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Koponen:

Here are approximately 220 signatures in support of HB277. We urge you to push these committees to move this bill onto the floor for a vote.

We want this bill to pass. As you can see, quite a large number of people want this bill passed. You will be receiving other petitions and letters in favor of passage of HB277.

Copies of signatures supporting HB277 are being mailed to other legislators.

Thank you very much,

Bill Haywood

Bill Haywood

HB

2 19

STATE OF ALA

DEPARTMENT OF ADMINISTRATION
DIVISION OF RETIREMENT & BENEFITS
POUCH CR
JUNEAU, ALASKA 99811

Public Employees' Retirement System
Teachers' Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees' Voluntary Dental-Vision-Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

Bill Sheffield, Governor

(907) 465-4460

April 22, 1983

Honorable Mitchell Abood, Jr.
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Abood.

As requested, I am providing information on judicial retirement plans in other states which I gathered in 1979. The attached compilation of summary information for 46 states was completed by the American Judicature Society in December, 1975.

The following ten plans are among the most attractive in terms of basic benefits provided. The selection process was necessarily somewhat subjective since there is a lack of comparability among the various plans, but concentrating attention on those ten plans should be a useful point of departure. I relied on the information in the compilation except in cases where I felt clarification was needed.

The ten plans chosen with some brief summary comments on their basic benefit provisions are as follows.

1) Alabama. Provides benefits for judges of higher courts that closely approximate those provided in Alaska. Retirement at age 60 with 17 years' service yields a benefit of 75 percent of the current salary for the office. Contributions are 4.5 percent of salary.

2) Alaska. Full benefits available at age 60. Benefit is 5 percent of current salary of the office for eacy year of service to a maximum of 75 percent. Contributions are 7 percent of salary for judges appointed after July 1, 1978.

3) Georgia. Optional benefit program for higher court judges provides 75 percent of current salary of office at age 65 with 10 years' service. Contributions are 7.5 percent of salary.

4) Illinois. Judges of courts of record are eligible to receive benefits at age 60 with 10 years' service or at age 62 with 6 years' service. Benefit is based on final salary; credit is 3.5 percent for the first 10 years of service and 5 percent

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

per year thereafter to a maximum of 85 percent. An automatic post-retirement adjustment of 2 percent of the basic benefit per year is provided. Contributions are 8.5 percent or, if married, 11 percent.

5) Kentucky. Judges' benefit is 5 percent of average salary for the last five years for each year of service to a maximum of 100 percent. Full benefits are available at age 65 with 8 years of service. Contributions are 3 percent of salary per year.

6) Maine. Judges may retire at 70 with 7 years' service or at 65 with 12 years' service. Benefit is 75 percent of current salary of office. No contributions required of judges.

7) Massachusetts. Judges may retire with 75 percent of salary at the time of retirement with 15 years' continuous service or at age 70 with 7.5 percent of final salary per year of service to a maximum of 75 percent. Contributions are 7 percent. If the cost of living increases by at least 3 percent, a court determines an appropriate pension adjustment, but the adjustment applies to a maximum of $6,000 of the pension.

8) Rhode Island. Full pay at the time of retirement for life is provided to judges with 20 years' service at age 65 or 15 years' service at age 70. Seventy-five percent salary is provided for early retirement. No contributions are required.

9) South Carolina. Provides two-thirds of the current salary of the office to judges at age 70 with 15 years of service, at age 65 with 20 years, or at any age with 25 years' service. Judges' contributions are set at 4 percent.

10) Tennessee. Judges may retire at age 54 with 8 years' service or at age 65 with less service. Benefit is 3.75 percent of the current salary of the office per year of service to a maximum of 75 percent. Contributions by judges are 8 percent of salary.

An actuarial consideration in evaluating benefits is the age at which they become available. At the time this information was compiled typical costs for providing an annuity of $1 per month at various ages were

age 55	-	$141.33
age 60	-	127.10
age 65	-	111.22
age 70	-	94.75

This means that, other factors being equal, a 75 percent benefit available at age 65 (as in Georgia) would be worth only 88 percent as much as a 75 percent benefit at age 60 (as in Alaska).

Another consideration is the level of the salary upon which the benefit is

based. For example, at the time this information was compiled, Supreme Court justices received $33,500 in Alabama and $52,992 in Alaska (see attached table on judicial compensation). So, while the benefit structures are otherwise quite similar, a Supreme Court justice retired in Alabama would be receiving $25,125 and his Alaskan counterpart $39,744 -- 58 percent more. This difference might be approximately offset by differences in the cost of living provided the retired Alaskan judge chooses to remain in Alaska.

Clearly the Alaska Judicial Retirement System provides a basic benefit structure which is generous when compared with the vast majority of other states.

Sincerely,

J.K. Humphreys

J.K. Humphreys
Director

JKH/sd
cc: Members of the House State Affairs Committee
Eleanor Andrews
Rebecca Burch

1976

ALABAMA

RETIREMENT PLAN

Judges Covered: A. Justices and judges of the supreme court, courts of civil or criminal appeal and circuit court (effective September 18 1973).

B. and C. District and probate court judges (provisions herein effective January 1, 1977).

D. Probate court supernumerary system. (Old supernumerary system for supreme court, courts of either criminal or civil appeals and circuit court still in effect but not reported here. See Recompiled Code of Alabama, Tit. 13, art. 2. Supernumerary Justices, §§31, 33; ch. 3A Court of Criminal Appeals and Court of Civil Appeals, §§.11(22) - (23); Tit. 13, art. 4A Supernumerary Circuit Court Judges, §§195(1) - (9). (1973 Supp.).

Age and Service Requirements: A., B. and C. 1) 12 years service and age 65; 2) 15 years and 62 less one year for each year's service over 15; 3) 10 years service (must be continuous for circuit, district and probate court judges), age 70; 4) 18 years or three full terms or time equal to three full terms (for district and probate, at least age 60). Mandatory retirement at end of term in which judge turns 70, or forfeiture of benefits, not including return of contributions. Credit for military service.

D. 15 years and age 65, or if continuous service in excess of 15 years, less one year for each year over 15; 2) 18 years service as county official, the last 10 years continuously as probate judge, and age 60.

Contribution to Retirement Fund: A., B. and C. Individual judges contribute 4.5 percent of salary.

D. 4.5 percent of state-paid salary.

Effective February 1977, contribution will be 6 percent. State contributes 38.5 percent of each judge's salary. Relative contributions to retirement fund from judges and state: 10% / 90%. Total yearly contribution from all judges--$85,823; from state--$771,773.

Retirement Benefits: A. 75 percent current state-paid salary of office from which retired.

B. 90 percent of retirement benefits payable by state to circuit judges on date of retirement.

C. 65 percent current salary.

D. $450 per month.

ALABAMA

Continued

Death Benefits: A. If judge had 5 years service, surviving spouse entitled to 3 percent current salary, times years of service, to maximum of 30 percent, for life or until remarriage.

B. and C. If judge had 5 years service, surviving spouse receives. (B) $550 or (C) $480, times number of years service, not to exceed 10, for life or until remarriage.

D. 50 percent contributions returned to estate.

Disability Benefits: A., B. and C. With 10 years, 75 percent current state-paid salary; with 5 years, 25 percent, plus 10 percent for each year over 5; in no case (excluding probate judges) less than 30 percent.

D. 50 percent contributions returned if not qualified for normal retirement.

Service after Retirement: A. Retired judges serve at request of governor, chief justice, presiding judge of either court of appeals. Serving supreme court or a court of appeals, judge shall perform duties prescribed by presiding judge. Appellate judge's salary is difference between benefits and $250 less than monthly salary of office from which retired. Circuit judges serving on higher court receive current salary of office from which retired; if serving on a circuit court, may receive current salary of office from which retired, or of office to which appointed, whichever greater, not to exceed $1,000 less than salary of an active judge in office from which retired.

B. May be called by chief justice to temporary active duty in any court. Salary is that of office from which retired or to which assigned whichever greater.

C. May be called to active duty status as probate judge. Reimbursement for expenses.

D. If vacancy occurs in office of judge of probate in county in which supernumerary probate judge holds commission, he presides until successor appointed.

Citation: Recompiled Code of Alabama, Tit. 13, art. 2 Supernumerary Probate Judges, §§312(1)-312(7), and ch. 10, Judicial Retirement §§522-530 (1973 Supp.).

ALASKA

RETIREMENT PLAN

Judges Covered: Supreme, superior and district judges.

Age and Service Requirements: Vested after five years service; retirement pay deferred to age 60, except actuarially equivalent retirement pay may commence at age 55 or after serving 20 years as justice or judge. Retirement mandatory at age 70.

Contribution to Retirement Fund: State totally funds program. Judges do not contribute.

Retirement Benefits: Five percent per year of service to a maximum of 75 percent of current salary (at time each retirement payment made) of office from which retired.

Death Benefits: If deceased served two years, widow receives 50 percent of benefits deceased judge would have been entitled to had deceased retired at time of death; minimum death benefit is 30 percent of current salary of office. Surviving spouse must have been married at least two years immediately prior to deceased's death; benefits continue until remarriage. If no eligible surviving spouse, or upon remarriage or death of spouse, surviving dependent children of deceased receive, in equal shares 50 percent of available benefits. Dependent is defined as a minor under the laws of Alaska, or under the age of 23 and a full-time student, or someone incapable of self-care. If both an eligible spouse and surviving dependent children living in separate households exist, they share benefits equally.

Disability Retirement: After two years service, normal retirement benefits if supreme court justice is retired for disability by governor or if other judges are retired for disability by supreme court. After five years service, judge may request a disability retirement and be granted regular retirement benefits by the governor on recommendation of a three-member commission.

Service after Retirement: Special assignments by court rule, such as ch. 15. §22.15.170, "The presiding judge of the superior court in each judicial district may appoint acting district judges as needed to serve at his pleasure for a term of no longer than 12 months or until succeeded by (a permanent) appointment."

Citation: Alaska Stat., 1962 ch. 25 Retirement and Death Benefits, art. 1 Justices and Judges, §§22.25.010-.030, 22.25.045 as amended (1973 Supp.) and Const., art. IV, §11.

ARIZONA

RETIREMENT PLAN

Judges Covered: Judges of supreme court, court of appeals and superior court.

Age and Service Requirements: Minimum is 65 with 20 years experience; with 12 years service, deferred benefits at 65.

Contribution to Retirement Fund: Individual judge contributes 5.5 percent of salary. State's contribution includes 25 percent of filing fees from supreme court, court of appeals and superior courts. Relative percentage and dollar contributions of judges and state not available.

Retirement Benefits: Normal benefits: 66 percent of salary at time of retirement; if 12-20 years, ratio of years served divided by 20, times salary at time of retirement, to a maximum of 66 percent salary at time of retirement.

Death Benefits: If deceased served 12 years, 33 percent of retirement benefits, calculated as though judge had served to age 65, to surviving spouse if age 62 or was married to deceased for 10 years.

Disability Benefits: Any age with 10 years service, 66 percent of salary at time of retirement; with 5 years service, 33 percent salary at time of retirement; between 5 and 10 years, proportionate amount.

Service after Retirement: Subject to call of supreme court, any retired judge may assist any of three courts, supreme, court of appeals and superior, in all duties prior to final disposition. Receives retirement pay plus differential to equal salary of active judge.

Citation: 12 Ariz. Rev. Stat. Ann. 1974, Tit. 38, ch. 5, art. 3, "Retirement of Judges," §§38-801 through 38-807, pp. 269-277.

ARKANSAS

RETIREMENT PLAN

Judges Covered: A. Supreme, circuit and chancery courts.

B. Municipal courts.

Age and Service Requirements: A. 65 or over after 10 years service and still serving; 65 with 14; any age after 20.

B. 68 after 7 years service and still serving; 50 with 16; any age after 20. Constitution forbids compulsory retirement but judge or justice forfeits all benefits is he doesn't retire at age 70 (Act 407).

Contribution to Retirement Fund: Individual judge contributes 4 percent of salary. Relative contributions of judges and state: 26% / 74%. Total yearly contribution from all judges: $77,000; from state: $215,000. (FY 1975).

Retirement Benefits: A. Supreme court chief justice--$16,125 (fiscal 1976), $17,012 (1977); associate justices--$14,781 (1976), $15,595 (1977); circuit and chancery judges--$13,750 (1976), $14,502 (1977). Retirement benefits are 50 percent of current salary at time of retirement.

B. 50 percent of salary at time of retirement.

Death Benefits: 50 percent of retirement pay to widow, if married to judge at least 5 years prior to death and living together at the time of death; paid until remarriage or to minor children if there is no widow. If both widow and minor children, each get half the death benefit.

Disability Benefits: A. A judge may retire for disability regardless of age or length of service if disability occurs during term to which elected. Benefits the same as retirement benefits (above).

B. 50 percent of last salary if incapacitating illness occurs during term to which elected.

Service after Retirement: A. Chief justice may recall any retired judge, except those retired for disability, for temporary service with the consent of the judge, who is paid the salary of the office in addition to the recalled judge's retirement benefits.

B. No provision.

Citation: 3 Ark. Stat. Ann., 1947, Tit. 22 §§22-901 through 22-913 (1975 Supp.).

B. Tit. 22 §22-914 through 22-948 (1975 Supp.).

CALIFORNIA

RETIREMENT PLAN

Judges Covered: Supreme court, court of appeal, superior courts, municipal courts.

Age and Service Requirements: 70 after 10 years of service within the preceding 15, 69 with 12, 68 with 14, 67 with 16, 66 with 18, or 65 with 20; all withmaximum service interruptions of 4 years; 70 with 20 years service, the last 5 of which immediately precede retirement, or 60 after 20 years of service. With 5 years, deferred benefits availabe at eligible retirement age; not earlier than 63, except after 20 years service, payments may begin at 60. Credit is granted for service in courts not included under the plan, provided back contributions are paid and for service in the armed forces during war or national emergency. Benefits reduced if judge or justice does not retire at 70, unless in office on September 18, 1959, in which case age provisions differ (§§75070-75072).

Contribution to Retirement Fund: Individual judge contributes 8 percent of salary. Relative contributions to fund: judges--29.7% / state--46.3% / filing fees, investment income, and miscellaneous--24%. Total yearly contribution from all judges--$3,329,980; from state--$5,184,351 (includes appropriation of $1,750,000 from general fund to make up deficit); from filing fees, investments and miscellaneous--$2,685,692.

Retirement Benefits: 65 percent or 75 percent of current salary of office from which retired depending on plan chosen if judge retires before age 70; otherwise, 50 percent. Four optional, supplemental plans available. If removed from office, loses all benefits. Early retirement allowance; with 12 or more years service, 3.75 percent current salary of office from which retired times years service, not exceeding 20; but if 5-12 years service, 3.75 percent base is reduced by .25 percent for each year less than 12, this new base times years service.

Death Benefits: Early retirement provisions: if judge dies after eligible for retirement, surviving spouse receives 50 percent available benefits; if dies before eligible for retirement, surviving spouse receives 50 percent deferred benefits. Normal provisions: (A) If judge dies in active service while eligible for retirement or dies retired, widow receives 25 percent of current salary of deceased's office. Div. 4, §3201 Labor Code death benefits deducted from allowance. (B) If dies in office with 10 years service and less than 20, but before he is eligible to retire, widow may receive 1.625 percent of current salary times years of service to a maximum of 37.5 percent of current salary. This is contingent upon the judge paying $2 per month to the retirement fund. The above widow benefits terminate upon remarriage. Alternatively, if a judge dies in office before eligible to retire, widow may elect to receive 25 percent of current salary. Surviving children under 18 or under 22 and full-time students (if no surviving spouse or if surviving spouse dies) receive

benefits (A) or (B) depending on whether death before or after retirement. These benefits also contingent upon judge paying $2 per month to the retirement fund. If the judge dies before retired and is not survived by a widow, heirs may receive an amount up to 50 percent his annual salary and refund of his contributions.

Disability Benefits: A judge retired for disability is entitled to the same allowances provided in case of retirement for age and service. No minimum service required. Judge does not forfeit his disability retirement benefits on conviction and suspension or removal from office. Willens v. Commission on Judicial Qualifications (1973) 110 Cal. Reptr. 713, 516 P. 2d 1, 10 C. 3d 451.

Service after Retirement: May be assigned with consent to any court. He is paid the difference between retirement benefits and the compensation of an active judge. When serving in a county outside his residence, he receives necessary expenses.

Citation: West's Annotated California Codes, Government Code, Vol. 37A, Tit. 8, ch. 11, §§75000-75110 and 1973 Supp. Deering's California Codes, Government Code Annotated, Cal. Const., art. VI, §§6, 18 and 20.

COLORADO

RETIREMENT PLAN

Judges Covered: Supreme court, court of appeals, district court, county court.

Age and Service Requirements: 65 with 5 years' service; mandatory retirement at 72.

Contribution to Retirement Fund: Individual judge contributes 7 percent of salary. Relative contributions of judges and state: 37% / 63%. Total yearly contribution from all judges--$325,508; from state--$558,014.

Retirement Benefits: A. 65 with 10-16 years service: 40 percent of average of highest 5 consecutive years' salary.

B. 65 with 16 or more years; 50 percent of average of highest 5 consecutive years salary.

C. 60 with 20 years; 50 percent of average of highest 5 consecutive years salary.

D. One percent more for each additional year after 20 years, to maximum of 70 percent.

Death Benefits: A. Widow receives 25 percent of average of highest 5 consecutive years salary of judge, age 60, 1-10 years service; age 55, 10-15 years service; age 50, 15 or more years service.

B. Widow with one minor child (18-23) attending accredited school, or with two minor children attending accredited schools, receives 40 percent, and 50 percent, respectively, of average of highest 5 consecutive years' salary.

Disability Benefits: A. Judge with less than 10 years service, 2.5 percent for each year of service at 65.

B. 10 years' service, 40 percent of average salary for last 5 years.

C. 16 or more years service, 50 percent of average salary for last 5 years.

Service after Retirement: Chief justice may assign any retired, willing judge to perform judicial duties in any court. Receives same salary, for each day's service, as judge being replaced, plus expenses.

Citation: Court of record: Colo. Rev. Stat. Ann. 1963, ch. 111, §111-6-1 through §111-6-13. Supreme court: id., ch. 37, §37-2-14, Colo. Const., art. VI, §5(3).

CONNECTICUT

RETIREMENT PLAN

Judges Covered: A. Judges of supreme, superior, common pleas, (former) circuit and juvenile courts.

B. Probate.

Age and Service Requirements: A. Minimum is 65 after no minimum length of service, but proportional reduction of benefits if fewer than 10 years' service; no age with 25 years.

B. 65 or 12 years, whichever is later; with 12 years service, actuarial equivalent.

Contribution to Retirement Fund: Individual judge contributes 5 percent of salary if appointed after May 20, 1967; those appointed earlier make no contribution. Relative contributions of judges and state: 9% / 91%. Total yearly contribution from all judges--$85,926; from state--$845,161.

Retirement Benefits: For judges or justices who retired while holding judicial office, 66 percent of current salary at time of retirement.

B. If ineligible for Old Age and Survivors Insurance System, 1/12 of 2 percent of average final salary for each year of credited service; if eligible, 1/12 of 1 percent of average final salary up to $4,800 and 2 percent of average final salary in excess of $4,800--maximum of 66 percent final salary, minimum of $360 annually. If re-employed after retirement for more than 90 days, no retirement allowance.

Disability Benefits: A. Normal benefits.

B. With 12 years, normal benefits.

Death Benefits: A. Widow receives 33 percent of current salary of the office the judge held. If the judge is not survived by a widow, the pension is payable to the judge's children until they reach age 18.

B. Husband and wife retirement income option; or refund of contributions to beneficiaries or executors or administrators.

Service after Retirement: Senior judges of supreme, superior and common pleas courts and circuit and juvenile courts, who have not reached the age of 70 may be assigned by the chief justice or court administrator such judicial duties as the senior judge is willing to undertake. Senior judges who have reached age 70 shall become state referee for life.

B. If judge accepts appointment after retirement for services for more than 90 working days in any year, no retirement allowance is dispensed while so employed.

CONNECTICUT

Continued

Citation: 21 Conn. Gen. Stat., Tit. 45, ch. 774, Probate Courts and Procedure, §§45-29a through 45-29t (1975-76 Supp.); 51 Conn. Gen. Stat., Tit. 51, ch. 872, Judges, §§51-49 through 51-51 (1975-76 Supp.).

DELAWARE

RETIREMENT PLAN

Judges Covered: A. Judges of supreme, superior, chancery courts, common pleas, and family court.

B. Justices of the peace.

Age and Service Requirements: A. Any age with 24 years service, or 65 with 12 years service.

B. 65 with 5 years, 60 with 15 years, any age with 30 years service.

Contribution to Retirement Fund: A. Individual judge contributes $500 per year; state contributes balance required. Relative percentage and dollar contributions of judges and state not available.

B. 5 percent of salary above $500 monthly; maximum annual contribution $900; no contributions required after $1,000 monthly pension has accrued.

Retirement Benefits: A. 3 percent of average final salary (highest paid 5 consecutive years) times total number of years service; maximum, 75 percent average final salary, minimum 50 percent average final salary.

B. 1/60 of the average final salary (average compensation paid per month, up to a maximum of $2,000, during the period of 70 consecutive months in which the compensation was highest) times years service; maximum pension is $1,000 per month, minimum depends on years served and whether any service prior to June 1970.

Death Benefits: A. Death in office or after 12 years service, widow receives 66 percent of pension payable to judge (as though had lived to 65) until widow's death or remarriage, then to each dependent child, until he becomes independent or dies.

B. With 15 years service eligible survivor receives 50 percent of pension received at time of death or 50 percent of pension calculated as though judge had been 60.

Disability Benefits: A. Any age with no minimum service requirement, same as retirement benefit.

B. Eligible with 15 years service, normal benefits, but if disability ceases before his 60th birthday, he is no longer eligible for benefits.

Service after Retirement: A. Any judge retired from a statutorily created court and receiving a judicial pension may be designated by the chief justice of the supreme court to perform such judicial duties in any court where such retired judge could serve if he still held the judicial position

from which he retired; retired judge must consent and must not be actively engaged in the practice of law; compensation is $100 per day, but per diem compensation plus retirement benefits not to exceed the then current annual salary of the judicial position from which such judge has retired.

B. Limited to $2,000 annually for temporary employment or complete waiver of pension if fully employed by state or state agency.

Citation: 12 Del. Code Ann., Tit. 29, ch. 56, "Pensions for Members of the State Judiciary." §§5601 through 5611; id., ch. 55, "State Employees' Pension Plan," §§5501 et. seq.

DISTRICT OF COLUMBIA

RETIREMENT PLAN

Judges Covered: Any judge of the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, the former Juvenile Court of the District of Columbia; District of Columbia Tax Court, police court, municipal court, Municipal Court of Appeals, District of Columbia Court of General Sessions.

Age and Service Requirements: 10 years of service whether continuous or not, or upon mandatory retirement at age 70.

Contribution to Retirement Plan: Individual judge contributes 3.5 percent of salary. Relative contributions of judges and states not available.

Retirement Benefits: Retirement salary paid annually in equal monthly installments during remainder of life; bears ratio to basic salary immediately prior to date of retirement.

Death Benefits: Survivor annuity may be elected; contribution is equal to 3 percent of salary.

Disability Benefits: Retirement salary shall not be reduced because of age at the time of retirement for disability; in no event is retirement salary less than 50 percent or more than 80 percent of basic salary immediately prior to date of retirement.

Service after Retirement: A judge, retired for reasons other than disability may perform, upon designation of a chief judge, those judicial duties which he is willing and able to undertake.

Citation: District of Columbia Code, §11-1501 through 1571.

FLORIDA

RETIREMENT PLAN

Judges Covered: Supreme court, district court of appeal, and circuit court judges assuming office after July 1, 1972, and county court judges assuming office after October 1, 1974. (Old retirement systems under ch. 122 and 123 in effect for those assuming duties prior to July 1, 1972).

Age and Service Requirements: 60 after 10 years' service, or 55 after 10 with reduced benefits; 72 after 8 for judges assuming office or wishing to transfer to public employees' retirement system after July 1, 1972. Credit for military service and service as state or county officer. Mandatory retirement at 70 for all judges of state except those in office on November 1, 1956.

Contribution to Retirement Fund: Individual judge contributes 8 percent of salary. Relative contributions of judges and state: 50% / 50%. Judge and state each contribute $2,720 per year per judge.

Retirement Benefits: 2 percent (1.5 percent with Social Security benefits) of average final compensation (best 5 of last 10 years) for each year of service; for judges assuming office after July 1, 1972, 3.3 percent of average final compensation times years of service, not to exceed final average salary. Cost-of-living adjustment (1974 Laws, ch. 74-302; 121.101(s)).

Death Benefits: With 10 years service, optional reduced annuities provide pension for surviving spouse or other dependent; alternatively, return of contributions.

Disability Benefits: Any age with 10 years service, last 5 of which are continuous; minimum benefits are 50 percent of average final compensation, but do not apply if judge is 60 or receives Social Security disability benefits; with 10 years service, for all but county judges, minimum benefit is 66 percent of monthly compensation as of disability retirement date.

Service after Retirement: Any retired justice or judge may be assigned, with consent, to any court by chief justice; compensation equates difference between retirement benefits and salary of the office.

Citation: Fla. Stat. Ann. 971, ch. 121, Florida Retirement System, §§121.011 through 121.191. 1974 Laws: 74-215, 74-302, 74-328.

GEORGIA

RETIREMENT PLAN

Judges Covered: A. Supreme Court.

B. Court of appeals.

C. Supreme court and court of appeals judges who elect optional benefits under Ga. Code Ann. §40-2535.

D. Superior court.

E. Ordinaries (probate jurisdiction).

F. Supreme court and court of appeals judges elected after April 1, 1964, who do not select special optional benefits.

G. Trial judges elected after June 30, 1968, and juvenile court judges included pursuant to Act of March 27, 1972.

Age and Service Requirements: A. 70 with 10 consecutive years on appellate and trial courts of general jurisdiction, or 65 with 20 consecutive years, additionally including service as district attorney or attorney general.

B. 70 with 10 years on appellate courts or trial courts of general jurisdiction, or 65 with 20 years on appellate courts, trial courts of general jurisdiction, or city courts.

C. 65 with 10 years as appellate judge, retiring prior to 70 (each 2 years' service on trial courts of general jurisdiction may substitute for one year appellate service.)

D. Any age after 18 years service, at least 4 on superior court; credit for military and certain state offices; judge must be 60 to retire if elects to extend benefits to spouse.

E. 60 with 4 years service.

F. 60 with 30 years service, or any age with 35 years.

G. 65 with 10 years, including inferior courts.

Contribution to Retirement Fund: Individual contributions: A and B. None.

C. 7.5 percent of salary.

D. 5 percent of salary up to $12,000, additional 2 percent if spouse's benefits selected.

GEORGIA

Continued

E. 20 percent of all marriage license charges.

F. 3 percent first $350 of monthly earnings, plus 5 percent of that in excess of $350.

G. 10 percent monthly salary up to $1,200.

Relative contributions of judges and state: 50% / 50%. Total yearly contributions from all judges--$173,550; from state--$173,550.

Retirement Benefits: A. and B. 66 percent current salary, limited to $12,000 per year.

C. 75 percent current salary.

D. 66 percent current salary; if retiring at 70 after 10 years' service, benefits are 50 percent of current salary.

E. 10 percent average monthly earnings first 4 years, plus 2.5 percent average monthly earnings each additional year not to exceed 20 years.

F. Actuarially computed based on age and contributions.

G. Actuarial equivalent of contributions.

Death Benefits: A. and B. No specific provisions.

C. Group term life insurance protection.

D. Contributions refunded to estate; is widow's benefits selected, 2/3 current salary continues to widow.

E. May choose monthly benefit to continue to spouse. (Ga. Code Ann., §24-1710a as amdended.)

F. Based actuarially on age and contributions, subject to options with payment to spouse.

G. Death before retirement, contributions and interest paid to beneficiary or member's estate. After retirement, depends on option elected under B. Code Ann., ch. 78-13.

Disability Benefits: A. and B. No specific provision.

C. 10 percent full service retirement benefits of each year of service as appellate court judge.

D. 50 percent current salary, if 62 and 10 years service.

E. No specific provisions.

F. Equivalent of service retirement if 60; 75 percent service retirement if 15 years service; if 20 years service, full retirement allowance payable at 60; if 25 years service, full retirement payable at 65.

G. After 10 years service, actuarial equivalent of accumulated contributions, plus employer matching contributions at time of disability.

Service after Retirement: A. and B. Serve as member of advisory appellate council.

C. No specific provisions.

D. Serve on judicial council, consult with appellate court judges and attorney general, and called to sit on some cases as judge of superior court.

E., F. and G. No specific provisions.

Citation: A. Ga. Code Ann., §§4601-4613 as amended.

B. Ga. Code Ann., §§3601A-3610A as amended.

C. Ga. Code Ann., §40-2535 as amended.

D. Ga. Code Ann., ch. 24-26A as amended.

E. Ga. Code Ann., ch. 24-17A as amended.

F. Ga. Code Ann., ch. 40-25 as amended.

G. Ga. Code Ann., ch. 78-13 as amended.

HAWAII

RETIREMENT PLAN

Judges Covered: Supreme, circuit and district court judges under public employees retirement system.

Age and Service Requirements: 55 with 5 years service, or any age after 25 years creditable service, or 10 years of credited service if that service included service as a circuit judge or supreme court justice. Retirement compulsory at age 70. Credit for other state service.

Contribution to Retirement Fund: Individual judge contributes 7.8 percent of salary. Relative contributions to fund: judges, 48% / state, 40% / county, 12%. Total yearly contribution of all judges--$123,030; from state--$102,517; from counties--$30,755.

Retirement Benefits: Supreme and circuit court judges: for each year credited service as judge or elective officer, 3.5 percent average final salary; in addition to annuity which is actuarial equivalent of accumulated contributions allocable to period of such service. Other credited service can supplement base benefit to maximum of 75 percent average final compensation.

District court judges: If at least age 55, 1/50 average final compensation times years credited service. If under 55, allowance computed as though age 55, reduced in accordance with factors of actuarial equivalence.

Death Benefits: Non-occupational death, accumulated contributions plus, if one year service completed, 50 percent salary for year preceding death, that amount increased by 5 percent for each full year of service in excess of 10 years. Occupational death, accumulated benefits plus pension of 50 percent average final compensation paid to widow.

Disability Benefits: Non-occupational, retirement benefits if age 55; otherwise benefits equal 25 percent of average final salary plus one percent for each year of service above 15. Occupational, actuarial equivalent of accumulated contributions plus pension of 66 percent average final salary.

Service after Retirement: Retired supreme court justices may serve on supreme court whenever a sitting judge disqualifies self, if the retired judge is not 70 and not actively engaged in the practice of law.

Citation: Hawaii Revised Statutes, ch. 88, "Pension and Retirement Systems," §§45-84, pp. 97-110 (1973 Supp.).

IDAHO

RETIREMENT PLAN

Judges Covered: A. Supreme court justices and district court judges.

B. Magistrates under public employees' retirement system.

Age and Service Requirements: A. 65 with 4 years service; any age after 20. Retirement mandatory at age 70 or at end of current term.

B. 65 with 5 years service; early retirement, 55 with 5 years. Mandatory retirement at age 70.

Contribution to Retirement Program: A. Individual judge contributes 6 percent of salary.

B. 4.5 percent of salary.

Relative contributions: judges - 17% / state - 20% / civil case filing fees - 63%. Total yearly contribution from all judges--$52,200; from state--$60,900; from filing fees--$195,711.

Retirement Benefits: A. 2.5 percent times current compensation of office, times years service, up to 25 years.

B. 1.66 percent of average monthly salary. (Average monthly salary: 1/60 of salary during any base period in which salary is the greatest. Base period 60 consecutive months during which member makes like number of contributions according to law.) Early retirement allowance is actuarial equivalent of contributions, or accrued retirement allowance at age 60 with 30 years service. Cost-of-living adjustment: H.B. #409, 1974 Laws, ch. 57ss 59-1319A.

Death Benefits: A. If judge dies before retirement, widow receives 30 percent of allowance judge would have received at 65; if judge dies after retirement, widow receives 30 percent of allowance.

B. Optional retirement allowance, if ineligible for retirement allowance but has 10 years service.

Service after Retirement: A. Retired judge may act as supreme court justice or district court judge at request of chief justice; any retired district judge, on request of a district judge with approval of chief justice, may hear and determine civil actions.

B. Member who is eligible for retirement may serve thereafter with approval of the chief justice.

Citation: Idaho Code 1947, Vol. 2, Tit. 1, §§2001-2008;

B. Idaho Session Laws 1974, ch. 57, H.B. #409 as amended.

ILLINOIS

RETIREMENT PLAN

Judges Covered: All judges of courts of record and the administrative director of the courts if previously a participant as a judge.

Age and Service Requirements: 60 with 10 years service; 62 with 6 years; or any age with permanent disability. Credit for legislative service.

Contribution to Retirement Fund: Individual judge contributes 8 1/2 percent of salary if unmarried; 11 percent if married, to cover survivor's pension. Relative contributions to fund (FY - 1975): judges--38% / state--37% / investment income--25%. Total yearly contribution (FY - 1975) from all judges--$2,517,474; from state--$2,465,500; from investment income--$1,619,419.

Retirement Benefits: 3.5 percent for each year of first 10 years, plus 5 percent for each year over 10 based on final salary; maximum of 85 percent of final salary. Automatic increase in retirement annuity of 2 percent per year of base annuity.

Death Benefits: If judge dies after retirement, spouse receives 66 percent of pension. If judge served 1.5 years, spouse receives 66 percent of pension judge would have received, or 7.5 percent of last salary, whichever is greater. If spouse has minor children, benefit is greater of 75 percent of pension or 20 percent of salary. With minor children, benefits paid regardless of age of spouse; otherwise when spouse reaches 50.

Disability Benefits: Judge may be retired after 10 years service with full retirement benefits for disability.

Service after Retirement: Retired judges may be assigned with their consent. Paid applicable salary and pension is suspended.

Citation: Smith-Hurd Ill. Ann. Stat., "Pensions", ch. 108.5, §§18-101 to 18-166 (1974 Supp.), as amended 1975; Const., art. VI, §18.

INDIANA

RETIREMENT PLAN

Judges Covered: Judges of all courts except city court, county court, magistrate court and justices of the peace.

Age and Service Requirements: 65 after 12 years service; reduced benefits after 8 years (2/3 normal benefit), provided contributions to fund are continued to reach equivalent 16 years' contribution.

Contribution to Retirement Fund: Individual judge contributes 5 percent of monthly salary up to $500. State's contribution to fund varies according to fluctuations of other resources including docket fees and interest. 1974-75 allotment of state--$280,000. Relative contributions 1974-75, judges, 16% / state, 55% / other resources, 29%.

Retirement Benefits: 50 percent current state-paid salary up to $10,000. (State pays $17,000 of judges' salaries for circuit, superior, probate, criminal, juvenile and municipal courts, remainder paid by county).

Death Benefits: Widow receives 50 percent of amount to which judge would have been entitled.

Disability Benefits: Judges must have donated equivalent of 16 years' contributions if served less than 16 years; otherwise full retirement benefits for disability.

Service after Retirement: No specific provisions.

Citation: Burns' Ann. Ind. Stat., 1933, 1968 Replacement, Vol. 2, Part 4, Tit. 4, ch. 70, §§4-7001 to 4-7024.

IOWA

RETIREMENT PLAN

Judges Covered: Supreme court, district court and district associate judges.

Age and Service Requirements: 65 after 6 years' service, any age after 25 consecutive years. Mandatory retirement at 72 for supreme and district court judges appointed after July 1, 1965; otherwise at 75. District judges and magistrates mandatory at 72.

Contribution to Retirement Fund: Individual judge contributes 4 percent of salary. Relative contributions: Judges, 35% / state, 65%. Total yearly contribution from all judges--$132,106; from state--$245,112. Magistrates covered by Iowa Public Employees' Retirement System: employee contribution 3.5 percent; employer contribution 4.75 percent on first $20,000 annual wage.

Retirement Benefits: 3 percent average annual salary for last three years timesservice as judge, not to exceed 50 percent salary at retirement.

Death Benefits: If judge dies while eligible for retirement, or while retired, survivor receives 50 percent annuity judge entitled to or receiving; or if dies before 65, then 50 percent annuity judge would have been entitled to at 65 based on years of service. Survivor's annuity begins on date judge dies, or date judge would have been 65, or when survivor reaches 60, whichever later; continues until remarriage; must have been married at least 5 years. If no survivor estate receives credit in retirement fund. Amount remaining on survivor's death is paid to survivor's estate.

Disability Benefits: Receives retirement benefits based on years of service, if served aggregate of 6 years prior to disability.

Service after Retirement: Retired judge subject to temporary assignment, with judge's consent, in any court except supreme court; retired supreme court justices may be assigned to supreme court. Receive compensation, no retirement benefits.

Citation: 605A Iowa Code Ann. (1974-75 Supp.); Laws 65th GA, ch. 282.

KANSAS

RETIREMENT PLAN

Judges Covered: Justices, commissioners, and judges of the supreme and district courts.

Age and Service Requirements: No minimum length of service. Retirement mandatory at 70 or at end of current term. May retire at 65 or 62 with actuarially reduced benefits.

Contribution to Retirement Fund: Individual judge contributes 6 percent of salary. Relative contributions of judges and state, 24% / 76%. Total yearly contribution from all judges--$122,913; from state--$399,468 (FY-1976).

Retirement Benefits: 3.33 percent of last monthly salary, times number of years of service. Total benefits not to exceed 65 percent of last monthly salary without dimunition by Social Security benefits.

Death Benefits: Judge may elect to receive reduced benefits to provide benefits to joint annuitant. 50 percent of reduced benefits option available to widow of judge who died in office who was elegible for retirement.

Disability Retirement: Judge permanently disabled may retire with full benefits.

Service after Retirement: Retired suoreme court justice or district judge may sit as judge pro tem of district court, commissioner of the supreme court, or in any pending original action by request of chief justice of supreme court, or by departmental justice in relevant judicial district. Judge acts in advisory capacity only in supreme court matters. Reimbursement for expenses only, no compensation.

Citation: 2 Kan. Stat., ch. 20, §§2610-2617 as amended.

KENTUCKY

RETIREMENT PLAN

Judges Covered: A. Judges of the supreme court, court of appeals, circuit court, and present incumbant supreme court commissioners and court administrators.

B. Police court judges, under local individual city plans (if city enacts such legislation).

Age and Service Requirements: A. 8 years service. Actuarially reduced benefits on retirement under age 65.

B. 55 with 8 years service.

Contribution to Retirement Fund: Individual judge contributes (A) 3 percent and (B) 5 percent of salary (1974-75). Relative contributions of judges and state: 6% / 94%. Total yearly contributions (1974-75) from all judges--$77,000; from the state--$1,166,000.

Retirement Benefits: A. 5 percent of average salary for preceeding 5 years, times years of service; up to 100 percent of final compensation.

B. $200 per year times years of service.

Death Benefits: A. 50 percent of member's potential or actual retirement benefit to widow or dependent children.

B. 50 percent potential or actual retirement or disability benefits to widow or dependent children.

Disability Benefits: A. No minimum age or service requirement. Disabled judge receives 50 percent of normal retirement allowance at age 65.

B. None.

Service after Retirement: No specific provisions.

Citation: 2, 3, Ky. Rev. Stat., ch. 21, 26 (1972 Supp.).

LOUISIANA

RETIREMENT PLAN

Judges Covered: Judges of record and juvenile and family courts, and the judicial administrator.

Age and Service Requirements: A. 70 with 20 years service, 65 with 25 consecutive years.

B. 75 with 20 years, or any age with 23, with reduced benefits.

Retirement mandatory at 75 with 20 years service; but if 75 without 20 years service, judge may serve until age 80 or until 20 years service, whichever comes first. Credit for service on any court of record.

Contribution to Retirement Fund: State funds 100 percent of retirement program; total yearly contribution--$1,500,000. Judge does not make contribution.

Retirement Benefits: A. Full salary (last salary received) if 70 with 20 years service, or if appellate judge age 65 with 25 consecutive years.

B. If 75 with 20 years, or any age with 23 years, benefits are 66 percent of last salary. Proportionate reduction if 65 with less than 20 years, or 70 with less than 20.

Death Benefits: 33 percent of last salary, or 50 percent of eligible retirement benefits to widow, whichever is greater.

Disability Benefits: Any age with no minimum service; receives retirement benefits entitled to at age 70; minimum 66 percent last salary.

Service after Retirement: May sit on any court of record by assignment of supreme court; additional compensation to equate benefits with judicial salary in that court plus expenses.

Citation: La. Rev. Stat., Const., Vol. 2, art. 7, §8; La. Rev. Stat., Tit. 13, "Judicial Officers--Employees", §§5, 6.

MAINE

RETIREMENT PLAN

Judges Covered: A. Judges of supreme, superior and district courts.

B. Probate (assuming county selects State Employees Retirement System).

Age and Service Requirements: A. 70 with 7 years' service; 65 with 12 years. Benefits forfeited if judge does not retire by 71.

B. 60 with 10 years' service.

Contribution to Retirement Fund: A. State funds 100 percent of retirement program; total yearly contribution--$250,607.50. (Judge does not contribute.)

B. Judge contributes 5 percent of salary plus .25 percent to survivor fund.

Retirement Benefits: A. 75 percent of current salary i: :tive retired justice" (maximum of 14 years in such status); otherwi... 75 percent of salary at time of retirement.

B. 50 percent of average for highest salaried 5 years.

Death Benefits: A. 3/8 current salary, to widow until death or remarriage, then to children until age 18. If judge retired, 50 percent benefits to spouse at age 60.

B. Formula at Tit. 5, §1001 et. seq.

Disability Benefits: A. Any age, no minimum service, same as retirement.

B. Maximum: 90 percent of 1/50 average final compensation, times number of years creditable if judge had served toage 60. Minimum: 25 percent average final compensation.

Service after Retirement: May be appointed by governor for 7-year term as "active retired judge" to serve on any court by assignment of chief justice; 7-year term renewable.

Citation: 2 Me. Rev. Stat. Ann., Tit. 4, §§5, 6, 103, 104, 157 as amended; P. & S., 1974, ch. 209; Public Laws 1974, ch. 724, 788; Tit. 5, §§1001 et. seq.

MASSACHUSETTS

RETIREMENT PLAN

Judges Covered: All judges except judges of Housing Court of City of Boston.

Age and Service Requirements: 65 with 15 continuous years service. Credit for war-time service.

Contributions to Retirement Fund: Individual judges appointed after January 1, 1975, contribute 7 percent of salary; judges appointed prior to that date make no contribution. FY - 1974, state funded entire program: $812,791.

Retirement Benefits: 75 percent salary at time of retirement. For judges who do not meet age and service requirements, 10 percent of 75 percent of salary at time of retirement times number of years service. Supplemented by a cost-of-living clause, §102.

Death Benefits: Judge may choose alternative pension at a reduced rate which will give his widow an annuity of 66 percent the alternative pension after his death. If a judge age 45 or over who had not retired but was eligible to do so or would have been had he lived to 65, dies, the widow (must be living with spouse or separated for justifiable cause) receives 66 percent of the alternative pension, reduced by 1 percent per year for each year under minimum service. Contributions plus interest returned if above provisions inapplicable.

Disability Benefits: No age or service requirement; same as retirement benefits.

Service after Retirement: Probate judge recall: ch. 820, Acts of 1975 (amending G.L. c. §65; G.L. c. 217 §3A; G.L. c. 32, §91(a).). Superior court judge recall: ch. 361, Acts of 1975 (amending G.L. c. 32, §65E; G.L. c. 212, §14F).

Citation: Ann. Laws of Mass., Tit. 4, Ch. 32, §§3, 65A-D, 102; Const., pt. 2, ch. 3, art. 1, Amendments, art. XCVIII; ch. 1211, Acts of 1973.

MICHIGAN

RETIREMENT PLAN

Judges Covered: A. Judges of the supreme court, court of appeals, circuit court, district court, recorder's court and common pleas court of Detroit, and the court administrator.

B. Judges of the probate court.

Age and Service Requirements: A. Age 60 with 16 years' service; 65 with 12 years; 25 with no age requirement.

B. Age 60 with 8 years' service credit, of which last 6 continuous.

Contribution to Retirement Fund: A. Individual judge contributes 3.5 percent of salary. Trial court filing fees contribute 80 percent of program. Total yearly contribution from all judges--$342,947; from trial court filing fees, $1,360,805 (FY 1974-75); relative contributions from judges and filing fees: 20% / 80%.

B. Judge contributes 7 percent salary, $980 maximum.

Retirement Benefits A. 50 percent of salary at time of retirement for first 12 years service plus 2 1/2 percent for each year up to 4 additional years, maximum of 70 percent of salary.

B. 3 percent of final salary times the number of years, not to exceed 24 years. Maximum annuity not to exceed $12,500 per year.

Death Benefits: A. If judge has served 8 years, spouse eligible for 1/2 judge's annuity for life. If no spouse, children under 19 eligible; benefit until age 22 if school attendance full-time.

B. Spouse of member who dies in office or in retirement with 8 or more years' service, has been spouse of judge for at least 8 years during judicial service, and has reached age 55, entitled to 50 percent of annuity provided judge, until remarriage. If less than 55 but otherwise entitled, may receive 50 percent of annuity as long as dependent children under 19.

Disability Benefits: A. With 8 years' service, same as regular retirement.

B. Regular retirement for members with 8 or more years' service who becomes totally and permanently incapacitated, physically or mentally, to perform judicial duties.

Service after Retirement: Supreme court may authorize performance of judicial duties for limited periods or specific assignments. Const., art. VI, §23, as amended.

MICHIGAN

Continued

Citation: A. Mich. Compiled Laws Ann., 1967 Revised, Vol. §§38.801-38.830 (1974 Supp.).

B. Id., §§38.901 et. seq.

MINNESOTA

RETIREMENT PLAN

Judges Covered: A. Supreme court has option of plan A or B if held office on or before January 1, 1974.

B. All others except justices of the peace.

Age and Service Requirements: A. 70 years (or disability) with 2 terms as supreme court justice or as judge of district court for 15 years.

B. 65 with 10 years; early retirement at 62 with 10; deferred benefits available. Retirement mandatory at 70 with limited exceptions, §490.125.

Contribution to Retirement Fund: A. None.

B. Sum equal to individual's salary multiplied by rate of employee tax under Federal Insurance Contributions Act, §355.01, sub. 9. Relative percentage contributions and dollar amounts, of judges and state are not available.

Retirement Benefits: A. Full pay to end of term, then 50 percent current salary, plus 2.5 percent current salary for each year in excess of minimum (maximum 10).

B. 2.5 percent judge's average final salary (average of 5 highest salaries) times years' service; maximum 60 percent judge's annual salary immediately preceeding retirement. Early retirement: normal benefits reduced by 1/15 for each year or fraction of year from normal retirement date.

Death Benefits: A. 50 percent allowance judge received, or would have received, if widow is 40 and married 3 years.

B. Death before retirement: spouse or dependent children receive annuity equal to 70 percent of normal benefits computed as though date of death were normal retirement date; minimum of 25 percent judge's final average salary. Death after retirement: lifetime or joint and survivor annuities available; or refund of contributions with interest.

Disability Benefits: A. Any age plus two terms service, full pay to end of term, same as retirement thereafter; any age plus one term receives full pay to end of term.

B. Full salary for two full years, thereafter a disability retirement annuity computed according to normal retirement benefits; minimum benefit of 25 percent final average salary.

Service after Retirement: Chief justice may assign retired judge, with judge's consent, to act as judge of any court of which jurisdiction not greater

MISSISSIPPI

RETIREMENT PLAN

Judges Covered: All judges.

Age and Service Requirements: 65 with 10 years service, any age with 30, or any age with benefits deferred to 60, except benefits commence at 55 with 30 years service; service credit for state and military service. Retirement is voluntary for judges elected to constitutional office. For others it is mandatory at 65 unless continued service is authorized by retirement board for one year periods to 70.

Contribution to Retirement Fund: Individual judges contribute 5 percent of salary. Relative contributions of judges and state: 46% / 54%. Total yearly contribution from all judges--$112,105; from state--$131,169.

Retirement Benefits: 1 5/8 percent of highest average salary (not to exceed $35,000) for 5 years of service times years of membership, plus 1 5/8 percent of average salary for each year prior to membership. 3 percent reduction for each year less than age 65, except for those qualifying under provisions of no age with 30.

Death Benefits: Options to provide benefits to widows or designated heirs available with reduced retirement allowance, widow (married to member 5 years immediately prior to death) of judge who dies in office after 20 years or 60 with 10, presumed to have chosen option to provide benefits from age 45 (until she becomes eligible for social security at 62); alternatively, refund of contributions with interest.

Disability Benefits: 60 with 10 years service, same as retirement; any age with 10, 75 percent of retirement benefits he would receive at 60 plus actuarial equivalent of members' contributions reduced by workmen's compensation benefits.

Service after Retirement: Any retired judge under age 70 may be employed on an emergency basis for 60 days and continue to draw retirement benefits.

Citation: 7 Miss. Code Ann. 1972, Tit. 25, ch. 11, Social Security and Public Employees Retirement and Disability Benefits, §§25-11-1 through 25-11-139.

than that which retired from. $50 per diem plus expenses.

Citation: Minn. Stat. Ann., Vol. 27, ch. 490, pp. 1114-1121, (1974 Supp.), 1974 Acts, ch. 417.

MISSOURI

RETIREMENT PLAN

Two plans: Plan A open to judges and commissioners listed below. Plan B open to those in office on or after September 3, 1970. To retire under Plan A, judge eligible under Plan B must have filed irrevocable election of Plan A, with State Controller before November 27, 1971.

Judges Covered: Judges of supreme court, court of appeals, circuit courts, courts of criminal corrections, courts of common pleas, probate and magistrate's courts and commissioners of the supreme courts and justices of the peace.

Age and Service Requirements: Plan A and B: 65 with 12 years' service. Mandatory retirement at 70 for judges under non-partisan merit plan; no mandatory age for other judges. Early retirement at 65 with no service requirement.

Contribution to Retirement Fund: Plan A: no contribution by judges. Plan B; individual judge contributes 5 percent of salary. Relative contributions of judges and state: 36% / 64%. Total yearly contributions from all judges--$374,400; from state--$659,777 (FY-1976 estimate).

Retirement Benefits: A. 33 percent current salary.

B. 50 percent salary of highest office held, serving full-time. Proportional reduction of benefits with early retirement.

Death Benefits: A. None.

B. Surviving, unremarried spouse or minor children receive 25 percent of salary of highest office held.

Disability Benefits: Plans A and B. 50 percent current salary of office until end of term of office.

Service after Retirement: A. Subject to assignment by supreme court to temporary duty as special commissioner or referee.

B. None.

Citation: 27 Vernon's Mo. Ann. Stat., Tit. 32, ch. 476, §§476.400 through 476.510, 476.515 through 476.570 (1971); Const. art. 5, §§25, 27, 30.

MONTANA

RETIREMENT PLAN

Judges Covered: A. Supreme court justices, district court judges.

B. Judges of courts of limited jurisdiction.

Age and Service Requirements: A. Minimum is age 65 with 5 years' service, with proportional benefits. Compulsory retirement at age 70. Benefits forfeited if judge does not retire at age 70.

B. Minimum is age 55 with 10 years' service with reduced benefits. Normal is age 70 with 10; but 65 with no minimum service or any age with 30.

Contribution to Retirement Fund: Individual judge contributes (A) 6 percent or (B) 5.75 percent of salary. Relative contributions: judges, 12% / state, 12% / district court fees, 76%. Total yearly contributions from all judges--$14,471; from state--$14,471; from court fees--$95,543.

Retirement Benefits: A. 3.3 percent of annual salary times first 15 years and 1 percent for each additional year of service.

B. 1/65 of average of three highest consecutive years salary for each year of service. Minimum guarantee at age 70 is 50 percent final compensation or $480 per month, whichever is less. Early retirement: actuarial equivalent of service retirement at 60.

Death Benefits: A. Before retirement the beneficiary has choice of a lump sum payment consisting of the judges' contributions with interest, or an actuarially determined monthly allowance which is based on the age, service and salary of the judge at the time of death. After retirement the beneficiary will receive any balance remaining of the present value of his retirement.

B. Before retirement with less than 10 years of service the beneficiary will receive a lump sum payment consisting of the member's contributions with interest and an amount equal to one month of salary for each year of service up to and including 6 years. Before retirement with 10 or more years of service the beneficiary will have a choice of the lump sum defined above or an actuarially determined monthly allowance based on the member's age, service and salary. After retirement the amount the beneficiary receives is determined by the option elected by the member at the time of retirement.

Disability Benefits: A. If permanent and duty-related: a minimum of 50 percent of final salary or the normal retirement benefits, whichever is greater. If not duty-related: benefits deferred to age 60, when the maximum monthly payment is the normal retirement allowance. If involuntary retirement

after 5 years' service: actuarial equivalent of judge's and the state's contributions or full return of contributions.

B. If duty-related; no minimum service, benefits are 50 percent of final compensation (i.e., highest 3-year salary average), but only 25 percent while receiving workmen's compensation; all benefits reduced by earnings if disability is not permanent and member is working in addition to receiving benefits. If non-duty related: with 10 years service, the lesser of: 1. 25 percent of final compensation; or 2. 90 percent of 1/65 of final compensation times years service.

Service after Retirement: Subject to call for service on supreme and district courts, reimbursement for expenses.

Citation: Rev. Code Mont., 1947, 93-1107-93 through 1132; 68-1501 et. seq., (1975 Supp.).

NEBRASKA

RETIREMENT PLAN

Judges Covered: Judges of supreme, district, workmen's compensation, county, separate juvenile and municipal courts, and full-time associate judges of county courts.

Age and Service Requirements: 65 with no minimum service. Mandatory retirement at 72, except any judge holding office on September 2, 1973, may complete his term. Credit for service in any of the above courts or armed forces during war.

Contributions to Retirement Fund: Individual judge contributes 4 percent of salary, or 6 percent of salary if assumed office after December 25, 1969. Relative contributions (FY - 1974-75): judges--27% / state--18% / court fees--52% / municipal appropriations--3%. Total yearly contributions: judges--$189,494; state--$129,264; court fees--$358,180; municipalities--$19,026.

Retirement Benefits: Two plans, original member plan covering judges currently serving and future member plan covering judges taking office after December 25, 1969. Original member's plan benefits equal 3 1/3 percent of final average salary over last 4 years of service times his years of service. Total benefits received by judge cannot exceed 65 percent of final average salary. Future member's monthly benefits is 1/12 of 2.5 percent total salary earned by judge for performance of his duties between the time he started making contributions to the fund and the date of his retirement.

Death Benefits: In event of death of judge before or after retirement, his beneficiary is repaid total or balance of his contributions to the fund if judge has not elected to participate in beneficiary annuity program.

Disability Benefits: No minimum age or service requirement, same as retirement benefits.

Service after Retirement: Retired supreme and district court judges, with their consent, may be assigned by supreme court to serve any court on a temporary basis; in addition to retirement benefits, they are paid a per diem equivalent to 1/20 the regular monthly salary of the judge of the court which they are temporarily serving.

Citation: 2 Neb. Rev. Stat., ch. 24, art. 7, as amended, Judges Retirement.

NEVADA

RETIREMENT PLAN

Judges Covered: A. Supreme and district court judges.

B. All courts under Public Employees Retirement System.

Age and Service Requirements: A. Minimum age 60 with 12 to 20 years service at different rates of benefits. Credit for federal service and military service.

B. 60 after 10 years' service, 55 after 30 years' continuous service. Deferred benefits available.

Contribution to Retirement Fund: A. Judges do not contribute.

B. Judges individually contribute 8-12 percent of salary, depending on age and time of entering system. Relative contributions of judges and state not available.

Retirement Benefits: A. Age 60 and 20 years or more, 66 percent final salary; age 60 and 12-20 years, 33 percent final salary plus 4.1 percent of last salary for each year beyond 12, up to 20.

B. With 20 years, 50 percent average salary for 3 consecutive highest salaried years during last 10 years service. More than 20 years, additional 1.5 percent of average salary for each additional year up to 10. Minimum guarantee $125 month. At 60 with 10-20 years, proportional benefits; minimum guarantee $75 month. Additional post-retirement allowances of 1.5 percent for those receiving service or disability allowances on or after June 30, 1963. §286.575.

Death Benefits: A. Spouse of any judge eligible for pension receives, at age 65, $400 per month.

B. Members may select one of five optional plans. If member dies in office, contributions to fund returned to heirs. With 2 years contributions: $75 per month to each dependent child, $210 maximum. Surviving spouse with one or more children under 18 may receive $100 monthly unless earns more than $5,000 annually. If judge leaves service before retirement, may withdraw contribution; but if judge is a member of 25 years, may leave contribution in fund and receive benefits when minimum age reached; 20-year member may do same and receive proportionately smaller benefits.

Disability Benefits: A. No specific provision.

B. Any age, 10 years' service, same as retirement.

NEVADA

Continued

Service after Retirement: No specific provision.

Citation: 1 Nev. Rev. Stat., Tit. 1, ch. 2, §§2.060, 2.070; ch. 3, §§3.090, 3.095 as amended; ch. 286, §§286.10 through 286.80.

NEW HAMPSHIRE

RETIREMENT PLAN

Judges Covered: A. All courts under State Employee's Retirement System.

B. Supreme and superior court judges.

Age and Service Requirements: A. 60 with no minimum length of service. Mandatory retirement at 70.

B. None.

Contribution to Retirement Fund: A. Actuarially determined.

B. Judge does not contribute. State funds entire program. Total yearly dollar amount is unavailable; it varies according to number in retirement.

Retirement Benefits: A. 1/60 average final salary (average 3 highest salaried years) times number of years of service under 30, plus 1/120 of additional years. Guaranteed 50 percent average final salary, or if less than 30 years completed a proportionate amount. Reduced compensation on reaching age 65.

B. Age 70 and 7 years' service, or 65 and 10, 75 percent final salary.

Death Benefits: A. Annuity of 50 percent of average final salary to widow.

B. Annuity of 50 percent of last salary to widow until remarriage or death, then to children under 18.

Disability Benefits: If 60 years old with 10 years service, regular retirement allowance. Under 60, maximum 90 percent regular retirement, minimum 20 percent average final salary. If ineligible for retirement, $3,600 or annuable earnable compensation, whichever greater.

B. Permanent disability: any age, same benefits as if reached full retirement age.

Service after Retirement: Retired judges must perform such duties as may be assigned by chief justice. Supreme and superior court judges with 10 years' service become judicial referees at 75 percent of current salary.

Citation: N.H. Const., Pt. II, art. 78; R.S.A. 100-A; 491:2, 493-A:1 to 493-A:2 (1975 Supp.).

NEW JERSEY

RETIREMENT PLAN

Judges Covered: Supreme, superior, county court, juvenile and domestic relations courts, and county district courts.

Age and Service Requirements: A. 70 with 10 years' judicial service; 65 with 15; or 60 with 20.

B. 65 with 5 years' judicial service and 15 years aggregate N.J. public service; 60 with 5 judicial and 20 aggregate. (Deferred benefits available, but no death benefit if dies before 60.)

C. 60 with 5 judicial and 15 aggregate.

D. Age 60.

E. Early retirement with 5 judicial and 15 aggregate, but actuarially reduced to age 60. Mandatory retirement at 70.

Contribution to Retirement Fund: Judges do not contribute. Relative contributions of state and county, 62.95% / 37.05%. Total yearly contribution from state--$2,743,727; from county--$1,614,692.

Retirement Benefits: A. 75 percent final salary (average of last 12 months).

B. 50 percent of final salary.

C. 2 percent final salary times number of years service up to 25, plus one percent final salary times number of years service over 25.

D. 2 percent final salary times years judicial service up to 25, plus 1 percent years of judicial service over 25.

Disability Benefits: 75 percent final salary. If member on disability dies before age 60, beneficiary receives group insurance in one sum, equal to 1.5 percent times final salary; if dies after 60, 25 percent of final salary paid in one sum.

Death Benefits: Before retirement: Surviving spouse receives pension of 25 percent of salary, plus 10 percent for one surviving child, 15 percent for 2 or more. If no spouse, or spouse remarries or dies, 15 percent of salary paid to one surviving child, 20 percent to two, 30 percent to three or more. If no surviving spouse or children, 20 percent final salary payable to one surviving dependent parent, 30 percent to two dependent parents. Beneficiary also receives group insurance in one sum, equal to 1.5 times judge's final salary.

After retirement: Surviving spouse receives 25 percent final salary, plus

10 percent for one surviving child, 15 percent for two or more. If no spouse, or spouse remarries or dies, 15 percent final salary paid to one surviving child, 20 percent to two, 30 percent to three or more. Beneficiary of all retired members, except those on deferred retirement plans, receives group insurance in one sum equal to 25 percent final salary.

Service after Retirement: Judges, except municipal judges, may with their consent, serve at the request of the chief justice and receive a per diem allowance ($75 plus reasonable expenses). Benefits plus per diem not to exceed current salary of office from which retired. Ch. 14, P.L. 1975.

Citation: Laws of 1973, ch. 140, as supplemented by ch. 304; 43 New Jersey Stat. Ann., ch. 6A, Judicial Retirement System (New), §§43:6A-1 et. seq. (1974 Supp.), P.L. 1974, ch. 14, P.L. 1975.

NEW YORK

RETIREMENT PLAN

Judges Covered: A. Judges paid by state.

B. Judges paid by city of New York.

Age and Service Requirements: A. Age 55, no minimum service. Post - July 1, 1973 member, 5-year minimum service. Mandatory retirement at 70.

B. No minimum age or service. Mandatory retirement at 70.

Contribution to Retirement Fund: A. State contributes 100 percent of retirement program; judge does not contribute.

B. Contributions by judges actuarially determined according to New Career Pension Plan.

Retirement Benefits: A. 1/50 - 1/60 of final average salary (average of 3 highest consecutive years) per year of service. Post - July 1, 1973, members: full benefits at age 62, reduced benefits at 55-62; if 20 years or more service, full pension of 1/50 of final average salary per year of service; 1/60 of final average salary per year of service if less than 20 years. Maximum pension of 60 percent of first $12,000 of final average salary, and 50 percent of any final average salary over $12,000.

B. Selection of Option A (25 or more years' service) or Option B (less than 25 years) upon joining system. Benefits under Option A, 55 percent salary after 25 years plus 1.7 percent salary and annuity for each additional year. Option B benefits are 1.2 percent of final year's salary for each year service plus annuity.

Death Benefits: A. If occupational: no minimum service; 50 percent final average salary annually to widow until death or remarriage; if no widow, to children until 18. If neither widow nor children, to dependent parents for life. If non-occupational: beneficiary receives benefits according to plan selected, usually not to exceed 3 years' salary.

B. If occupational, same as A, except pension based on average of last 5 years' salary. If non-occupational, 6-month minimum, many benefit plans.

Disability Benefits: A. If occupational before age 60, no minimum service: If member before July 1, 1973, 75 percent final average salary plus annuity. Post - July 1, 1973, members, 60 percent of first $12,000 final average salary, 50 percent of that is excess of $12,000. If non-occupational, 10-year minimum: if in government service before 40, 1/60 final average salary for each year service plus annuity, minimum 1/3 final average salary. If entered government service after 40, 1/60 final average salary for each year member would have worked before 60, plus annuity.

B. If occupational, under 60, 75 percent final 5-year average; no minimum service. If non-occupational, 10-year minimum, benefits according to various factors.

Service after Retirement: Judges of court of appeals and supreme court who reach age 70 may serve as retired justices of supreme court for up to three 2-year terms; certification by administrative board of judicial conference. Compensated as supreme court justice, but retirement benefits suspended. If certificated, subject to assignment by appellate division of the supreme court of the judicial department in which judge resides. If supreme court justice served in appellate division immediately prior to reaching 70, eligible for designation by governor as temporary or additional justice of appellate divisions.

Citation: A. McKinney's Consol. Laws of N.Y., Book 50 1/2, "Retirement and Social Security Laws", §§2-119, pp. 4-260. Service after retirement: N.Y. Const., art. 6, §25b; McKinney's Consol. Laws of N.Y., Book 29, "Judiciary Law", §§114-115, pp. 260-263.

B. New York City Charter and Administrative Code Ann., Tit. B., §§B3-1.0 to B3-71.0.

NORTH CAROLINA

RETIREMENT PLAN

Judges Covered: All justices and judges of the general court of justice.

Age and Service Requirements: 50 with 5 years' service, any age with 24, or 65 with no minimum. If early retirement, benefits reduced by .025 percent per month for each month prior to meeting the relevant minimum requirement. Retirement mandatory for appellate judges at 72, trial judges at 70.

Contribution to Retirement Fund: Individual judge contributes 6 percent of salary. Relative contributions of judges and state: 16% / 84%. Total yearly contribution of all judges--$312,120; state--$1,560,600.

Retirement Benefits: Retiring judge receives percentage of final annual compensation rate most recently applicable, based upon 4 percent per year for each year's service in appellate division; 3.5 percent per year for each year's service as superior or court judge or court administrative officer, and 3 percent per year for each year's service as a district court judge. Maximum allowance 75 percent final annual compensation. Post-retirement increases. (§135-65).

Death Benefits: Before retirement, surviving spouse receives one year's salary and benefits for life or until remarriage (about 50 percent retirement benefits deceased would have been entitled to). After retirement, no salary, but spouse receives 50 percent retirement benefits deceased was receiving.

Disability Benefits: With 5 years' service, normal retirement benefits as one reaching 65 in present court division.

Service after Retirement: Appellate judges up to age 72, and superior court judges up to 70, subject to recall for temporary service on bench which previously served. Receives retirement benefits, expenses and $100 per week.

Citation: N.C. Gen. Stat., ch. 7A, art. 6 and 8, 7A-39.1 through 7A-39.12 7A-50 through 7A;56; ch. 135, Uniform Judicial Retirement Act of 1973, art. 4, §§135-50 through 135-71.

NORTH DAKOTA

RETIREMENT PLAN

Judges Covered: A. Supreme and district court judges.

B. All judges appointed or elected after July 1, 1973.

Age and Service Requirements: A. 65 with 20, 66 with 18, 67 with 16, 68 with 14, 69 with 12, 70 with 10.

B. 100 percent vested at 65, or with 20 years, or with permanent disability. Partial vesting after 3 years. Mandatory forfeiture of benefits (except salary contributions plus interest) at 73 if continuing to hold office, unless served less than 10 years and retires at end of term.

Contribution to Retirement Fund: Individual judge contributes 5 percent of salary. Relative contributions of judges and state not available.

Retirement Benefits: A. 50 percent current salary, or 3 options listed under death benefits.

B. Upon voluntary or involuntary termination of employment, percentage of employee's vested interest in "vesting fund" is determined by number of years of service ranging from 0 percent for 0 through 3 years, to 100 percent plus credited earnings for over 20 years. Latter (100 percent vesting) shall be vested and nonforfeitable when employee reaches 65, or is permanently disabled; shall be vested in beneficiary of employee in case of employee's death. At age 65, or less, as determined by the board, all interests vested in an employee shall be available to him for payment of retirement benefits.

Death Benefits: A. 75 percent retirement benefits until judge dies, then 50 percent to unmarried widow until 62; 2/3 retirement benefits until judge dies, then 2/3 to widow until 62; or 50 percent retirement until judge dies and 50 percent to wife at 62 even if judge is alive.

B. Vested at death, depending on years served.

Disability Benefits: A. and B. May be appointed commissioner by supreme court; eligible to serve as referee in civil action in any court, or as legal counsel in any state agency; no provision regarding payment.

Citation: A. 5A N.D. Century Code Ann. 1960, Tit. 27, §§27-17-01 through 27-17-06;

B. N.D. Century Code Ann. 1960, Tit. 54, §§54-32-01 through 54-52-11 (1973 Supp.).

OHIO

RETIREMENT PLAN

Judges Covered: All judges, at their option.

Age and Service Requirements: 60 with 5 years service, 55 with 25, or any age with 32. Credit for military service, elective office and comparable service out of state.

Contribution to Retirement Fund: Individual judge contributes 8 percent of salary. State contributes 12 percent of each judge's salary. Relative percentage and dollar contributions of judges and state not available.

Retirement Benefits: Allowance up to 90 percent of average salary for highest 3 years of service. Formula is 2 percent times average final salary times years served. Additional allowance tied to consumer price index.

Death Benefits: Widow with dependent children or heirs of a member with 18 months service may receive monthly allowance up to 60 percent of highest average salary. Widow alone receives 25 percent of final salary.

Disability Benefits: Up to age 70 with 5 years minimum service, benefits include annuity equal to contribution plus normal pension based on projected service credit; maximum of 75 percent of average salary for highest 3 years of service.

Service after Retirement: May serve and draw per diem in addition to retirement benefits. Any voluntarily retired judge, or one retired under Ohio Constitution Article IV, §6, may be assigned with his consent by the chief justice or acting chief justice of supreme court to active duty as judge. Receives retirement benefits plus compensation of temporary office computed on a per diem basis.

Citation: Baldwin's Ohio Rev. Code and Service 1971, Vol. 1, Tit. 1, §§145.01 through 145.99 (1973 Supp.).

OKLAHOMA

RETIREMENT PLAN

Judges Covered: Supreme court, court of criminal appeals, industrial, intermediate appellate and district courts, and administrative director.

Age and Service Requirements: 60 after 20 years' service, 65 after 10, 70 after 8, disability at 55 with 15 continuous years. Credit for prior service in courts of record. Retirement mandatory at end of term in which requirements met.

Contribution to Retirement Fund: Individual judge contributes 4 percent of first 75 percent of salary; if opts to provide for surviving spouse, 7 percent of first 75 percent of salary (salary based on June 1971 compensation levels). Relative contributions of judges and state, 24.3% / 75.7%. Total yearly (1974-75) contribution from judges--$160,612; from state--$500,000.

Retirement Benefits: 4.5 percent final salary times years of service up to 75 percent of salary based on June 1971 compensation levels.

Death Benefits: If deceased judge served 10 years, surviving spouse at age 60 paid 50 percent benefits judge receiving at death, or 40 percent benefits judge would have been receiving at death whether or not at minimum retirement age. Spouse disqualified if remarriage before 60. Surviving spouse must have been married to deceased at time of, and year prior to judge's death.

Disability Benefits: Disabled judge must be 55 with 15 continuous years of service. Receives 4.5 percent highest monthly salary times number of years served, benefits not to exceed 75 percent of highest salary earned.

Service after Retirement: May serve by assignment of supreme court, provided such assignment does not constitute creation of a public office.

Citation: 20 Okla. Stat., Uniform Retirement System for Justices and Judges, ch. 16, §§1101-1109 (1975 Supp.).

OREGON

RETIREMENT PLAN

Judges Covered: Judges of supreme court, court of appeals, circuit and tax court; and district court judges appointed after June 4, 1969.

Age and Service Requirements: 65 after 16 years service or 70 after 12. Retirement compulsory at 75. Any judge who holds office for 12 years and contributes to fund for 16 years will receive benefits at 65 even though he ceases to hold office before 65. No judge has to contribute for more than 16 years.

Contribution to Retirement Fund: Individual judge contributes 7 percent of salary. Relative contributions of judges and state: 32% / 68%. Total yearly contribution for all judges--$275,000; from state--$572,000.

Retirement Benefits: 45 percent of highest average salary for 5 out of last 10 years.

Death Benefits: Widow's pension is determined by percent of basic amount (22.5 percent of final average pay of judge) scaled from 100 percent to 20 percent depending upon years of service of judge. If, prior to death, they have been married 10 years, no adjustment is made in widow's pension, but if married less than 10 years and more than 3 years younger, she receives an actuarial amount.

Disability Benefits: A judge who is involuntarily retired because of disability, receives regular retirement allowance if otherwise fully qualified. A judge who voluntarily retires because of permanent incapacity after 6 years service receives regular retirement allowance.

Service after Retirement: Retired judges may be appointed by the supreme court to sit temporarily as senior judges on the courts from which they retired.

Citation: 1 Ore. Rev. Stat., Retirement of Judges, ch. 1, §§1.310-1.390, pp. 8-14 (1972); Const., art. VII, §1a (amend. November 8, 1960).

PENNSYLVANIA

RETIREMENT PLAN

Judges Covered: All judges who are paid by the state.

Age and Service Requirements: If elected or appointed before October 7, 1975: age 60 or 10 years of state service at any age. If under age 60, reduction factor applied based upon age and service at retirement. If elected or appointed on or after October 7, 1975: age 60 with 3 years of state service or 10 years of state service at any age. If under age 60, reduction factor applied based upon age and service at retirement. (This reduction factor is waived if member has more than 35 years of state service.) Up to a maximum of 5 years credit allowed for military service.

Contribution to Retirement Fund: Individual judge in office before March 1, 1974, contributes 7.5 percent salary for first 10 years service, 5.6 percent for years over 10; in office after March 1, 1974, 5 percent of salary. Relative contribution (FY - 1975) from judges and state: 37% / 63%. Total yearly contribution from all judges--$1,261,910; from state--$2,147,287.

Retirement Benefits: If elected or appointed before March 1, 1974: 3 percent of final average salary (average of three highest non-overlapping groups of four consecutive calendar quarters) times first 10 years of service plus 2.25 percent of final average salary for each subsequent year of judicial service. Additional 2 percent of average non-covered state-paid earnings since 1956 (earnings which exceeded Social Security Wage Base) times years of participation in this optional program. If elected or appointed on or after March 1, 1974: 2 percent of final average salary times all years of state service. Optional program allowing additional contributions for earnings over the Social Security Wage Base not available to members joining system after March 1, 1974. If applicable, 2 percent of final average salary for each year of military service purchased. Annual retirement annuity cannot exceed highest annual compensation received as an active member. Retirement allowance and payments to beneficiaries may be modified by one of four pre-designed options. Members may, at retirement, withdraw in lump sum all of their contributions plus earned interest. (Interest earned at 4 percent per annum, compounded annually) or any lesser amount. Such withdrawal will require an actuarial reduction of annuity proportional to the amount withdrawn. Individual retirement plan can be designed by the member; acceptance of such plan requires approval of actuary.

Death Benefits: Death in office while ineligible for retirement: payment to beneficiary of member's contributions plus earned interest. Death in office while eligible for retirement: payment to beneficiary of the present value of member's retirement account. (Present value is the total value of a lifetime annuity, combining the member's accumulated deductions and the state reserves required to pay such an annuity.) Additional death benefits for active members available through fully state-paid life insurance program: $20,000 if under age 65; $10,000 if over age 65.

PENNSYLVANIA

Continued

Disability Benefits: Minimum of 5 years of service to qualify. Military service may be purchased to reach minimum service requirement. Member receives lesser of: 1) 1/3 final average salary, or 2) 2 percent per year of service projected to age 60 times final average salary times multiplier applicable to member's class and years of service; plus additional benefits from optional programs elected prior to disability.

Citation: Act 31 of 1974 (Purdon's Pennsylvania Legislative Service, No. 1, pp. 94-133.) Act 101 of 1975 (Purdon's Pennsylvania Legislative Service, No. 2, pp. 265-279.)

RHODE ISLAND

RETIREMENT PLAN

Judges Covered: Supreme, superior, family and district court judges.

Age and Service Requirements: 65 after 20 years' service, 70 after 15. If justice of supreme, superior or family court on May 15, 1969, may retire at any age after 25 years' service. Early retirement at 65 with 10 years' service, any age with 20.

Contribution to Retirement Fund: State funds program entirely as needed to pay benefits. Total yearly dollar amount not available. Judges do not contribute.

Retirement Benefits: Salary at time of retirement. Early retirement, 75 percent salary at time of retirement.

Death Benefits: Death after retirement or during active service while eligible for retirement: widow receives 1/3 judge's salary at time of death until remarriage. If judge ineligible for retirement but served at least 10 years, widow receives 25 percent salary at time of death. Any judge may elect to draw only 75 percent retirement pay, thus increasing widow's benefit to 50 percent judge's retirement pay.

Disability Benefits: No specific provision.

Service after Retirement: Chief justice may assign retired judges to temporary duty as associate justice of superior court or judge of family or district court. Judge retired on full pay has obligation to serve; judge on 75 percent may decline. Service after retirement is without additional pay.

Citation: 8 General Laws of Rhode Island 1956 (1969 Reenactment), Justice of Supreme and Superior Court, ch. 3, §§8-3-7, 8-3-8, 8-3-9, 8-3-11, (1973 Supp.).

SOUTH CAROLINA

RETIREMENT PLAN

Judges Covered: A. Mandatory judicial retirement plan for supreme and circuit court judges.

B. Limited and special court judges may participate in South Carolina Retirement System.

Age and Service Requirements: A. 70 with 15 years' service, 65 with 20, or any age with 25; mandatory at 72, or if elected prior to July 1, 1945, on expiration of that term.

B. 65 with no maximum service or 35 years of service at any age; mandatory at 72, unless elected to judicial office.

Contribution to Retirement Fund: Individual judge contributes 4 percent of salary. Relative contributions (FY-1975-76) of judges and state: 18% / 82%. Total yearly amount contributed (FY-1975-76) from judges--$31,942; from state--$143,863.

Retirement Benefits: A. 2/3 current active salary of office.

B. Definitions: Class 1, those electing to stay in retirement program effective prior to June 30, 1964 (B1); Class 2, those electing coverage under the amended July 1, 1964, system (B2); Average Final Salary (applies to those retiring after July 1, 1970): average annual earnable compensation during the 3 consecutive fiscal years producing the highest such average. B1 - actuarial equivalent of employee contributions plus employer annuity equal to employee annuity at age 65 or age of retirement, whichever is less; B2 - 65 or after 35 years, 1.25 percent of average final salary below $4,800 plus 1.65 percent average final salary above $4,800 times number of years service; if before 65 or before 35 years, computed as in B1 above but reduced by 14 percent times number of months short of 65; if service began before July 1, 1964, minimum benefits = B1 above; options available for reduced benefits/death benefits package; supplemental payments available if retired after 65 or after 35 years service so that minimum monthly payment is $150 plus $1 month for each month over 20 years service; Consumer Price index adjustments; increases allowed if retired before July 1, 1966, or July 1, 1967.

Disability Benefits: A. Any age with 7 years service, same as retirement.

B. Any age with 5 years; service benefits as follows: B1 - if 65, as in B1 retirement benefits above; if not employee actuarial equivalent of accumulated contributions plus employer annuity as though member had retired at 65; B2 - If 65, as in B2 retirement above; if not, B2 retirement above reduced by actuarial equivalent of contributions he would have made until age 65.

SOUTH CAROLINA

Continued

Service after Retirement: Any retired judge or justice may serve as associate justice or special circuit judge at the request of the chief justice, reimbursement for expenses only, except difference between full pay and retirement pay awarded to those retired judges performing full judicial duties for at least three consecutive months.

Citation: 12 S.C. Code Ann., Tit. 71, ch. 5, Retirement of Supreme Court Justices and Circuit Court Judges, §§251-258; Tit. 61, ch. 1, art. 7, Retirement and Retirement Benefits (under South Carolina Retirement System), §§61-03 to 71-128; Tit. 61, ch. 2, Supplemental Allowances for Certain Members of South Carolina Retirement System, §§61-211 to 71-213; pp. 150-166 (1973 Supp.).

SOUTH DAKOTA

RETIREMENT PLAN

Judges Covered: All justices, judges and law-trained magistrates.

Age and Service Requirements: 65; reduced benefits at 55. Retirement mandatory at 70.

Contribution to Retirement Fund: Individual [illegible]e contributes 6 percent of salary; state matches that amount. Tota[illegible]y (FY - 1976) contributions from all judges--$61,000; from state--$6

Retirement Benefits: 50 percent average final salary (highest average paid in consecutive 3-year period) times ratio of years served to 15; ratio not to exceed 15/15; plus 2 percent average final salary times years in excess of 15; plus 2 percent increase per year (improvement factor).

Death Benefits: Benefits base: highest compensation earned by member in any of last 3 years. Spouse with children receives 50 percent benefit base, plus 10 percent of such base for each child up to a maximum of 5 children. If no spouse, guardian receives 10 percent of benefit base on behalf of each child to a maximum of 5 children. If more than 5 children, benefits are divided equally among the children. Unremarried spouse, without children, at age 65, receives 50 percent deceased's benefits based on projected service and projected compensation; benefits increased by improvement factor. (See retirement benefits sections above.)

Disability Benefits: Must have 3 years service immediately prior to disability, be ineligible for early retirement and have at least 1 year of anticipated disability. Allowance amounts to 50 percent of highest annual compensation earned in any of the 3 years immediately preceding disability, increased by 10 percent of such salary for each child to a maximum of 4 such children.

Service after Retirement: Retired justices and judges, with their consent, may be authorized by chief justice to act in place of disqualified justices or to preside over any circuit court action. Expenses reimbursed.

Citation: 2 S.D. Compiled Laws Ann., ch. 3-12, South Dakota Retirement Systems, §§3-12-46 through 3-12-128 (Special 1974 Supp.), pp. 81-112; 7 S.D. Compiled Laws Ann., ch. 16-1, the Supreme Court, §§16-1-4.1 and 16-1-5, and ch. 16-6, Circuit Courts, §§16-6-32, (1974 Supp.).

TENNESSEE

RETIREMENT PLAN

Judges Covered: A. All judges of courts of record.

B. Limited and special courts, excluding municipal courts' judges.

Age and Service Requirements: A. Minimum age 54 with 8 years' service, or 65 with less than 8. Credit for up to 4 years in armed forces or certain elected offices if continued contributions to fund.

B. 65, no minimum service; or 55 with 24 years. Credit for military service. Early retirement with reduced benefits at 55 with no minimum service.

Contribution to Retirement Fund: Individual judge contributes 8 percent of salary. State apportions balance, including portion of court filing fees, sufficient to pay benefits. Relative percentage and dollar contributions of judges and state not available.

Retirement Benefits: Benefit base: current salary of office from which retired.

A. With 20 years' service, 75 percent benefit base; otherwise, 3.75 percent benefit base times years served; not to exceed 75 percent benefit base.

B. 2.5 percent average final salary (average 5 highest salaried years, or all years if fewer than 5) times years service, reduced by Social Security factor; not to exceed 75 percent average final salary. Consumer price index augmentation.

Death Benefits: A. Options to provide for continuation of reduced benefits to surviving beneficiary.

B. Options as in A; or 70 with 10 years or no age with 30, spouse receives 50 percent benefits entitled had deceased retired at time of death; or contributions returned to estate.

Disability Benefits: A. Any age with 5 years' service, normal retirement benefits.

B. With 8 years service, normal retirement benefits, reduced by percentage of Social Security disability payments if applicable.

Service after Retirement: May be assigned by chief justice to sit to relieve congestion or to act as substitute. Receives benefits, plus amount to equal active judge's salary.

Citation: Tenn. Code Ann., Tit. 8, ch. 39, Consolidated Retirement System, §§8-3901 through 8-3944 (1973 Supp.).

TEXAS

RETIREMENT PLAN

Judges Covered: Judges of supreme court, criminal, civil appeals and district courts.

Age and Service Requirements: Any age with 12 years' service, with benefits deferred to age 65; or 65 with 10; or 60 with reduced benefits (40 percent base salary). Credit for legislative and military service.

Contribution to Retirement Fund: Individual judge contributes 6 percent of state salary. State apportions revenue sufficient to operate system; yearly sum total from state--$2,100,000.

Retirement Benefits: Judges who retire at or before 70 receive 50 percent current salary of office plus annuity of 10 percent of pay.

Death Benefits: Prior to retirement, contributing member with 10 years' service and non-contributing member with 12 years, may name person to receive reduced monthly annuity either for life or a 10-year guaranteed period upon member's death, in lieu of refunded contributions. Plan void upon member's retirement. Upon retirement member may take reduced annuity and provide for benefits to widow on actuarial basis. If no such election, balance of contributions refunded at death.

Disability Benefits: Any age after 7 years' service. Same as regular retirement allowance including option for reduced benefits/death benefits package.

Service after Retirement: Supreme court may assign retired judge, with judge's consent, to sit on any court of same or lower jurisdiction than that which retired from; receives difference between pension and active judge's salary.

Citation: 17.5 Vernon's Ann. Civ. Stat., art. 6227b, Retirement of Justices, Judges and Commissioners of Appellate and District Court, §§1-10 as amended (1974 Supp.).

UTAH

RETIREMENT PLAN

Judges Covered: Supreme, district, full-time city courts and juvenile court judges.

Age and Service Requirements: 70 with 6 years' service: 65 with 10. Mandatory retirement for trial judges at 70, supreme court justices at 72; except, any judges serving on a term on May 13, 1969 may complete the term.

Contribution to Retirement Fund: Judges of supreme, district and juvenile courts do not contribute; state makes entire contribution. Cities may contribute on behalf of their city-court judges. All contribute 2 percent to cover one-half of cost-of-living increment. Total state contribution figure not available.

Retirement Benefits: 1. If 65 with 10 years of judicial service, 3 percent of average final salary (computed from highest 3-year period) times years' service (limited to 10) plus 2 percent average final salary times years greater than 10 but less than 20 plus 1 percent of average final salary times years greater than 20, with actuarial reduction.

2. If 70 with 6, same but no actuarial reduction. In either case, reduced by Social Security payments, limited to a maximum reduction of $120 per month, with 2 percent average final salary minimum allowance safeguard if number of years served is less than 10. Cost-of-living adjustment to a maximum of 4 percent; can be reduced if index falls; base: July 1, 1973.

3. In lieu of the above benefits, if a judge has reached age 65 and has 10 or more years of judical service credit, may elect to receive a monthly retirement allowance equal to 2.5 percent of final average monthly salary times the number of years of judicial service credit (not to exceed 10 years) plus 2 percent of his final average monthly salary times the number of years of judicial service credited over 20 years.

Death Benefits: Prior to retirement either 1. A refund of contributions, including interest, plus 50 percent average final salary (see Retirement Benefits).

2. Monthly widow's allowance equal to 50 percent normal retirement benefits, not to exceed amount paid had judge lived to be 70; after retirement widow receives 50 percent judge's pension unless she is younger than the judge, then annuity shall be an actuarial equivalent.

Disability Benefits: Line-of-duty: 50 percent average final salary (see Retirement Benefits), less 50 percent Social Security disability payments; Ordinary: Service retirement formula - disregarding minimum years and early retirement deductions - less 50 percent any Social Security disability

payments; with at least 5 years' service, then benefits shall not be less than 20 percent average final salary less Social Security disability payments.

Service after Retirement: Chief justice, assignment justice of supreme court, or presiding judge of city court may request service on supreme court, district court and city court; respectively on a case by case basis, from retired members with 10 years' service; reimbursement is an active judge's per diem rate less pension, plus travel and subsistence allowances. The court administrator, with the consent of the chief judge and with the consent of retired justices of the supreme court, or retired judges of the district, juvenile or city courts, may call judge to serve temporarily as a district judge. The supreme court also possesses the power to call a retired district judge to sit on the supreme court to hear a particular case.

Citation: 5B Utah Code Ann., Tit. 49, ch. 7a, Utah Judge's Retirement Act, §§1-30, (1973 Supp. and 1974 Interim Supp.); Court Administrator Act (78-3-18); House Bill #19.

VERMONT

RETIREMENT PLAN

Judges Covered: All judges whose salaries are paid by state.

Age and Service Requirements: Normal; 65 with any length service or 62 with 30 years service. Early retirement, with reduced benefits: 55 with 13 or any age after 30 years. Credit given for military and state service. Mandatory retirement at 70.

Contribution to Retirement Fund: Individual judge contributes 5 percent salary. Relative contributions of judges and state: 40% / 60%. Total yearly contribution from all judges--$40,170; from state--$58,808.

Retirement Benefits: Supreme, superior, district, and probate judges receive allowance according to their years of service: from 40 percent of salary at retirement to full salary, with 12 to 30 years' service respectively. For each year of service after 12, 3.3 percent of salary at retirement is added. With less than 12, 1.66 percent times average final salary (i.e., average of 5 highest salaries years) times years' service.

Death Benefits: A choice of 4 optional modifications is available with additional benefits accruing to designated heirs. If death occurs before retirement and after judge has completed 12 years' service, dependent beneficiary is entitled to a monthly benefit for life.

Disability Benefits: Accidental and occupationally related disability retirement: normal retirement allowance if normal retirement reached. Otherwise, computed on basis of compensation at time of retirement and number years would have completed had he remained in service to normal retirement, times ratio of years served to years would have served. Minimum of 25 percent of average final compensation, or, if larger, the benefit accrued to date of disability plus the additional allowance in the case of supreme, superior, district and probate judges.

Service after Retirement: No specific provision.

Citation: 1 Vt. Stat. Ann., Tit. 3, ch. 16, Vermont Employees Retirement System, §§455-477, (1973 Supp.).

VIRGINIA

RETIREMENT PLAN

Judges Covered: Justices and judges of courts of record, district court judges, and executive secretary of the supreme court (if such secretary assumed position after July 1, 1974).

Age and Service Requirements: Normal retirement at 65; early retirement at 60. Deferred retirement after 5 years' service for members honorably terminating service. Credit for legislative, military, and in some cases, service as substitute district judge. Mandatory retirement for judges is age 70.

Contribution to Retirement Fund: Individual judge contributes 5 percent of salary (effective July 1, 1974). If member of another system prior to July 1, 1970, contribution rate of that system applicable. Relative contributions from judges and state: 9.6% / 90.4%. Total yearly contribution from all judges--$355,070; from state--$3,122,864.

Retirement Benefits: Definition. Average Final Salary: average annual creditable compensation of member during his 36 highest consecutive months of actual service. Benefits are the larger of:

1. 1.5 percent average final salary times number of years' service, or

2. 1.65 percent average final salary minus $1,200 times number of years' service; maximum provisos: 1) for those retiring after July 1, 1974, benefits (i.e., retirement plus 50 percent primary Social Security benefits at 65) not to exceed average final salary and 2) total benefits not to exceed 75 percent average final salary.

Early retirement: same as normal retirement (years and compensation computed on basis of date of retirement) except actuarially reduced if under 30 years' service, maximum 75 percent average final salary. Options available: straight life, actuarial equivalent, Social Security and joint and last survivor. Cost-of-living increases approved in relation to consumer price movements and are reviewed biannually.

Death Benefits: Before retirement and compensation under Virginia's Workmen's Compensation Act: Total benefits (includes death allowance, 50 percent Social Security allowance and Workmen's Compensation) must equal 50 percent average final salary; payable to widow, children under 18 or to surviving parents. Before retirement but not covered by Workmen's Compensation:

1. Benefits payable to spouse or parent.

2a. If 30 years' service or age 60, 50 percent eligible benefits (if dies before 65) to spouse, mother or father for their lifetime.

2b. If dies before 60 and with 30 years' service, benefits are actuarially reduced and payable to spouse or parents.

2c. If dies before 60 without 30 years' service, contributions refunded to beneficiaries.

2d. If dies after 65, spouse or parents eligible for 100 percent survivor annuity; death after retirement: excess of contributions returned to designated person or to estate unless relevant survivor option was elected.

Disability Benefits: With 5 years' service, the larger of 1) 1.5 percent average final salary or 2) 1.65 percent minus $1,200, times the smaller of 1) twice number of years of service or 2) the number of year's service had disabled member worked to age 60; reduced by amount of Workmen's Compensation benefits. Minimum guarantee for normal disability, benefits (allowance plus 50 percent primary Social Security) must equal 25 percent average final salary; minimum guarantee for Workmen's Compensation disability, benefits (allowance plus 50 percent primary Social Security) must equal 2/3 average final salary.

Service after Retirement: Chief justice may authorize retired judge to undertake judicial duties, with judge's consent, in court of record for period not greater than 90 days at any one time. Reimbursed for expense, plus per diem of $75.

Citation: 7A Code of Virginia, ch. 7, §§51-160 through 51-180.

WASHINGTON

RETIREMENT PLAN

Judges Covered: All judges of courts of record.

Age and Service Requirements: Normal retirement, age 60 with 15 years service; early retirement with 10 years. Reduced benefits after involuntary retirement with 12 years service. Benefits do not commence until age 60 and 15 years after beginning judicial service. Mandatory retirement at 75.

Contribution to Retirement Fund: Individual judge contributes 7.5 percent of salary. Relative contributions from judges and state: 50% / 50%. Total yearly contribution from all judges--$275,736; from state--$275.736.

Retirement Benefits: With 15 years service, 3.5 percent average final salary times years' service; with 10 years, 3 percent average final salary times years of service. Maximum 75 percent average final salary excepting cost-of-living increase. (Average final salary: 1) for judge in same court minimum 2 consecutive months preceding retirement, judge's salary at retirement; 2) for other judges, average monthly salary over highest 24-month period in last 10 years service.) Must serve 12 years for partial retirement: ratio of years served per 18, times normal retirement allowance. Cost-of-living adjustments. Judges who serve more than 18 years receive additional 1/18 salary for each year over 18, maximum 75 percent of salary at time of retirement.

Death Benefits: Death before retirement: If 10 years service, 50 percent benefits entitled to as if retired at time of death; minimum guarantee 25 percent average final salary. Death after retirement: 50 percent retirement allowance. If spouse works and earns more than 50 percent of allowance, benefits reduced by excess. Benefits cease if spouse remarries.

Disability Benefits: Any age with 10 years' service; benefits 50 percent average final salary.

Service after Retirement: Majority of supreme court may appoint retired judge as judge pro tem of supreme court. Compensation: travel costs and allowance plus salary of last court served reduced by retirement benefits. Chief justice of supreme court may appoint retired judge as judge pro tem of court of appeals, not to serve more than 90 days per year. Compensation: travel and living expenses, plus 60 percent of 1/250 salary of court of appeals judge; salary and retirement benefits not to exceed annual salary of full-time judge. Retired judges pro tem of superior court receive 60 percent of 1/250 salary of superior court judge.

Citation: Revised Code of Wash., Tit. 2, ch. 2.10, Judicial Retirement System, §§2.10-2.10220 (1973 Supp.).

WISCONSIN

RETIREMENT PLAN

Judges Covered: Supreme circuit and county courts.

Age and Service Requirements: Minimum age is 55 provided member has enough credits to provide an annuity of $10 per month. Normal retirement date is 62. Compulsory retirement for supreme, circuit and county court judges is no later than July 31 following attainment of age 70. Credit for service as elected official; all service for which retirement contributions have been made; plus creditable service not to exceed four years for service in the armed forces for any participant with creditable state service of more than 20 years, exclusive of period in the armed forces.

Contributions to Retirement Fund: Individual judge contributes 5.5 percent of salary. Relative contributions for the fund by judges and state: 12% / 88%. Total yearly contribution from all judges--$59,700; from state--$431,282.

Retirement Benefits: Definition. Formula final earnings: average of three highest salaried years; or 1/12 of the annual salary payable to participant during last completed month is not prohibited by law from receiving an increase in such salary during his term of office. Normal benefits, if judge elected by vote of the people, 1.6 percent of formula final rate of earnings times years' service, plus .2 percent of his final excess OASDHI earnings times years' service. Cost-of-living retirement-benefits-increase-study report to be made to 1975 legislature. (Ch. 336, §9).

Death Benefits: Option for 75 percent of deceased's annuity to be payable to judge's widow or minor children if the amount of the benefit is sufficient to provide an annuity of $25 per month; payable as annuity or single sum payment.

Disability Benefits: Any age prior to age 62 with 5 years participation in the retirement program or immediately if disability is occupationally incurred. Benefits are greater if:

1. Disability annuity computed like normal retirement benefit except service credit computed as though disabled member had served until age 62.

2. Less of 50 percent of average monthly earnings during the 3 highest salaried years or 1.8 percent of formula final rate of earnings times years creditable service computed as though member has reached age 72. Disable may receive Social Security benefits if he does not earn more than $2,000 annually.

Service after Retirement: Retired supreme, circuit and county judges may serve as circuit judges upon assignment by chief justice; compensation is $90 per day plus expenses.

WISCONSIN

Continued

Citation: 6 West's Wis. Stat. Ann., Tit. VI-A, §§41.01-41-47 (1974-75 Supp.); ch. 337 1973-75 Biennial Session Law; ch. 288, 1973-75 Biennial Session Laws.

WYOMING

RETIREMENT PLAN

Judges Covered: Supreme and district court.

Age and Service Requirements: A. 18 years; service.

B. Age 65 with 15.

C. Age 70 with 12.

D. 65 with 6 consecutive years on either or both supreme court and district courts at reduced pension. Benefits void if judge doesn't resign at 70.

Contribution to Retirement Fund: Retirement benefits paid wholly from state's general fund. Judges do not contribute.

Retirement Benefits: 50 percent current salary of office from which judge retires, except that judges retiring pursuant to D above will receive a pension computed by multiplying 1/2 their salary times a ratio of number of years service to 18.

Death Benefits: None.

Disability Benefits: None.

Service after Retirement: Any retired justice or retired district judge not practicing law may, with his consent, be assigned by a district ocurt judge to serve on any court.

Citation: Wyo. Stat. 1957, Tit. 5, ch. 1, §5-4 as amended through laws 1973, ch. 5, §5-47.

Personal

On HB 279 --"An Act authorizing participation by magistrates in the judicial retirement system; and providing for an effective date."

FOR REP. MITCH ABOOD, Chairman, State Affairs, ONLY

1--Attached to your copy (not to others) is a letter to Rep. Bussell from Barbara McFarland, Magistrate at Healy for many years and now also a magistrate at Nenana, giving her full-time status.

She points out some favorable reasons, in a very general way.

2--Next is fiscal note prepared by Rick Barrier, fiscal officer for court system. Seems to me $625,000 is a bit high, but then I did not prepare it--and considering medical and insurance benefits plus what state pays into system--I won't quibble with it.

3--Next is letter from Linda Hartshorn, a full-time Magistrate at Wrangell, until recently the secretary-treasurer of the Magistrates Association, I think.

She wrote Senator Zeigler, who introduced SB 20, companion to HB 279. Her delineation is good, of case law, statutes and rules showing Magistrates have equal jurisdiction with District Court Judges, with the exception of the final statute that excludes them from participation in retirement system.

Of course, there are sometimes "bad apples" appointed, but that's true in any system and if a Magistrate just doesn't work out he/she is fired. Unlike all other judicial officers, the 53 or so Magistrates are NOT appointed by the Governor, but by the presiding judge of the judicial district, in each of the four judicial district (That's Superior Court Judges Tom Schultz, Ketchikan, frst Distirct; Chas. Tunley, Nome, 2nd Dist.; Mark Rowland, Anchorage, 3rd Dist. and Gerald J. VanHoomisen, Fairbanks, Fourth District).

4--Next is a Supreme Court order of 1982 setting forth Magistrate pay levels.

5--Next, letter from Linda Hartshorn to all Magistrates, seeking support.

6--Next is a couple of pages naming magistrates (I think it's all there).

7--Finally, a list of current (?) officers of Association of Alaska Magistrates.

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all in all, I think it's a good bill. There are about 20 full-time Magistrates in the State and about 33 part-time. These latter would surely not constitute much of an impact. Even the full-time ones are hardly over-paid.

Their duties are about the same as District Court judges, in all respects as to criminal law...as to civil (Jurisdiction up to $10,000 they have jurisdiction in SMall Claims (up to $2,000) and in claims larger (generally cited as "large claims) if if the parties litigant in court permit the magistrate to hear the case. The parties litigan can request a District Judge instead, if they choose.

Reason for this is that Magistrates generally are not graduates of

Bill - on part time full time pay & benefits

some law school. However, they do participate in periodic training conferences,or seminars, somewhere in the state, like the one just finished in Anchorage, when the Senate Judiciary held a teleconference on SB20.

Historically, the Court System has been opposed, for only two reasons I've ever run across:

(1) It would be too costly; (??) and
(2) They aren't really "judges"--

As to (2), well, if one wears a black robe like a judge, walks like a judge, talks like judge, marries people like a judge does, sends criminals to jail like a judge does, conducts court like a judge, settles disputes like a judge---chances are, that one is a judge, even if the Court System doesn't like to admit it!!! (Specifically, even if the Magistrate has NOT attended law school

Actually, many of the Magistrates, particularly the full-time ones, do as good a job as do some of the District Judges who have been to law school! THey DO do their homework and know what they're about when interpreting, administering and working with the laws they have to work with.

In later years, there have been a number of persons appointed as Magistrates who are graduates of law school. (All five in Anchorage, for example==particularly Paul Crowe, not a member of the Alaska Bar, but practiced law in Oklahoma for 30 years as a District Attorney and sent quite a number of convicts to the electric chair!. Then there are law graduates as Magistrates in Seward and Palmer at Least, I think in Kotzebue, in Kodiak (Brigitta McBride there went to law school inGermany before coming here, I understand).

AsLinda's letter points out, Magistrates in one-judge locations are Masters of the Superior Court. (The Magistrate is the only judge in that location). As such, they hear children's proceedings, family court matters including divorces, and can be assigned other Superior Court functions. When that happens, the Magistrate does not make a formal decision, but rather, draw up tentative Findings of Fact and Conclusions of Law (just lik,e any trial "judge" of other designation), and then the SUperior Court Judge does the formal signature on the paperwork. That's a fairly heavy responsibility...In the days before so many created judgeships, when I traveled a lot, I've sat as a Master for the Superior Court in Kodiak, Cordova, and a few other places...I know from experience what Magistrates do when they are so assigned..I did it, and I was not a Magistrate, but a District Judge.

Magistrates are just as subject to harrassment and/or public approbation or dissatisfaction as are District Judges and Superior Court Judges. (Except they don't have to run for re-election; they just have to keep the Presiding Judge from getting angry enough at 'em to fire 'em!!)--Of course, Magistrates are responsible for filing land transactions (in recording districts) not all locations are recording districts), serving as coroner, issuing death certificates, marrying people or even issuing birth certificates or terminating parental relationship(as a Special Masterof Superior Court), if required.--A GOOD bill !!x

Judiciary Referral

District Court

State of Alaska

at Healy, ALASKA

April 4, 1983

APR 1983
RECEIVED

Representative Charlie Bussell, Chairperson
House Judiciary
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Bussell:

Thank you for your time and efforts with reference to our teleconference hearing on March 25th in Anchorage on Senate Bill 20 and House Bill 279, Judicial Retirement for Magistrates.

As you are well aware, we are all concerned and anxious for this bill to pass. We outlined a number of reasons at this hearing and I wish to again reiterate several items.

#1. We are Judicial Officers of the Alaska Court System, I don't believe anyone can deny that.

#2. We are dedicated to the State of Alaska and the Court System in that we work all hours of the day or night, meaning we are on call 24 hours of the day. No other State employee has this requirement, to my knowledge.

#3. Because of our Judicial positions and the areas we serve, we and our families are set apart from others, meaning that we (and our families) are threatened, expected to be different and are not allowed in many cases the normal family life other people are able to enjoy.

I am sure that each of you are familiar with the Magistrate duties. However, if you haven't taken time to know at least one personally, I recommend you get to know them and how the system works and then you will be more aware of our situations.

Again, thank you for hearing us and hopefully you will support these bills.

Sincerely yours,

Barbara Macfarlane
Magistrate
Healy and Nenana

BM/mh
cc: Rep. John J. Liska, Vice-Chair
Rep. Joe L. Hayes
Rep. Ramona L. Barnes
Rep. Hugh Malone
Rep. Donald E. Clocksin
Rep. Ron Wendte

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 279
Title: Magistrate Retirement
Sponsor:
Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Alaska Court System
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected: Alaska Court System

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		625.2	625.2	625.2	625.2	625.2
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		625.2	625.2	625.2	625.2	625.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		625.2	625.2	625.2	625.2	625.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard P. Barrier, Deputy Admin. Director Phone: 264-0545
Division: Alaska Court System, Administration Date: 3/22/83

Approved by Commissioner: Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

ANALYSIS: HB 279

TITLE: Magistrate Retirement

The estimated fiscal impact of this bill was developed by the Division of Retirement & Benefits. While the Court System does not have the actuarial expertise to closely estimate the cost of this bill, the estimated costs appear reasonable based upon our experience with similar retirement programs. Furthermore, the Court System provided the information on the magistrates on which the actuarial computations were based.





Trial Courts
State of Alaska

FIRST JUDICIAL DISTRICT
P. O. BOX 869
WRANGELL, ALASKA
99929

March 10, 1983

Senator Robert H. Ziegler, Sr.
pouch V
Juneau, Alaska 99811

Dear Senator Ziegler:

Enclosed are copies of a letter and Senate Bill 20 which were sent to each magistrate in the state. I am also enclosing copies of the information received from Alaska Court System fiscal officer Bob Fisher and Supreme Court Order No. 544 relating to magistrate salaries.

It seems the lack of enthusiasm for this bill is based on the thought that magistrates are not judges, per se, and an aversion to the administrative paperwork which would inevitably follow passage of the bill. We feel we are judges and would hazard a guess that most persons who have come before us would be of the same opinion. In support of our stand we offer the following:

Buckalew v Holloway 604 P2d 240 (1979)
Alaska Supreme Court determination that magistrates are "judges" within the meaning of Article IV, Section 4 of the Alaska Constitution.

AS 22.15.020
Number of district court judges and magistrates listed for the district court of each judicial district.

AS 22.15.100 and 22.15.110
Lists functions, powers and additional duties of district court judges and magistrates.

AS 22.15.120
Limitations on proceedings which a magistrate may hear.

AS 22.15.220(c)
Requirement that district judges and magistrates must file an affidavit monthly to receive salary.

AS 22.15.240
Appeals from magistrate judgments are handled the same as those from a district court judge judgment.

AS 22.20.010
Judicial officer defined. "The term 'judicial officer' means a supreme court justice, including the chief justice, a judge of the court of appeals, a judge of the superior court, a district court judge and a magistrate."

Criminal Rule 56(b)
Definitions. "Magistrate" includes magistrates, district court judges, superior court judges and any other judicial officer authorized by law to conduct a preliminary examination of a person accused of a crime.

Administrative Rule 21(b)
Requirement of magistrate to wear black judicial robe as do all other judges.

Administrative Rule 24(f)
Assignment of Judicial Officer. "In this rule, 'judicial officer' means a superior court judge, district court judge or magistrate."

Administrative Rule 28(b)
Judicial vacations and leave outlined for district court judges and magistrates.

AS 22.25.010(g)
Magistrates not included as "judges" under the judicial retirement system.

The last citation is the only one which excludes magistrates as judges. We feel the duties we perform are those of a district court judge with some jurisdictional limitations. We are on 24-hour call, as required by statute and rule, to perform "judicial" functions. Many of us sit as masters in superior court matters and are standing masters in children's cases.

I have copied those sections of the statutes and rules pertaining to jurisdiction, duties, etc,, and would make these available to you if you so desire.

Mr. Van Doran has agreed to supply me with a copy of the fiscal note on this bill as soon as your office receives it. I spoke with Bob Fisher yesterday and he said the fiscal note should be in Juneau by tomorrow.

Thank you for you continued support of the magistrates.

Sincerely,

Linda Hartshorn

Linda Hartshorn
Magistrate

THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 544

Relating to Magistrate Salaries.

IT IS ORDERED:

Supreme Court Order No. 451 is rescinded and the following is adopted as the magistrate salary schedule:

1. There are established six salary levels for magistrate posts. The base annual salary for each level is as follows:

Magistrate I	$10,161
Magistrate II	$14,335
Magistrate III	$20,430
Magistrate IV	$31,291
Magistrate V	$39,832
Magistrate VI	$46,476

Geographic cost of living adjustments shall be provided in accordance with applicable statutes.

2. Each magistrate location has been assigned to a salary level based on the number of hours which the court system expects the magistrate at that location to work in order to accomplish the estimated court workload at that location. The minimum number of hours of work required of the magistrates in each salary level are as follows:

Salary Level	Hours Per Week (annual average)
Magistrate I	15
Magistrate II	20
Magistrate III	27.5
Magistrate IV	37.5
Magistrate V	37.5
Magistrate VI	37.5

This is an annual average of the weekly work hours. Seasonal variations in workload at certain locations will require the magistrates at those locations to work longer hours during some parts of the year and shorter hours during other parts of the year.

The salaries listed in section 1. above are for the number of hours per week listed in section 2. plus 24-hour on-call availability for emergencies. These salaries also include compensation for full-time attendance at all required training courses.

3. Magistrate positions are allocated to the salary levels as follows:

Magistrate VI

Kenai Kodiak Palmer

Magistrate V

Glennallen Seward Sitka

Magistrate IV

Barrow	Haines	Tok
Bethel	Kotzebue	Unalaska
Cordova	Nenana/Healy	Wrangell
Craig	Nome	
Dillingham	Petersburg	

Magistrate III

Cold Bay	Hoonah
Ft. Yukon	Naknek
Galena	Yakutat

Magistrate II

Aniak	Selawik	Skagway
Delta Jct.	Soldovia	

Magistrate I

Angoon	Kiana	Pt. Hope	Shungnak
Emmonak	McGrath	Sand Point	Tununak
Gambell	Mekoryuk	Savoonga	Unalakleet
Hooper Bay	Mt. Village	St. Mary	Whittier
Kake	Noo[illegible]	St. Paul Island	

4. Step increases.

A. Frequency and amount.

All magistrates are eligible for step increases of 3.5% annually for the first five years of their service. The procedure for granting step increases shall be patterned after that which applies to classified employees except that part-time magistrates will not be required to work 1,950 hours before being eligible to receive an annual raise. There will be a total of five steps of annual increases followed by longevity steps after the seventh, ninth, fourteenth and eighteenth years of continuous employment at one salary level.

If a magistrate's salary level is raised, the magistrate's salary step within the higher level will be determined by the same method used for classified employees (see Personnel Rule 6.02.03).

B. Criteria for receiving step increases.

1. Tenure - one year.
2. Written approval by presiding judge stating that the magistrate is performing adequately.
3. Passing scores on all correspondence courses required, for that level in that region of the state (required by either the presiding judge or the administrative director).

4. For Magistrates I through V: written verification by the presiding judge that the following are being adequately maintained:
   a. dockets
   b. indexes
   c. library books (that is, that the Statutes, Administrative Code and Rules are kept up to date)
   d. case files and the case numbering system
   e. tape recordings of formal hearings and the binder for duplicate copies of all log notes
   f. accounting records (receipts, revenue deposits, trust deposits, trust checks and proper recording of all accounting data on the case dockets)

C. Implementation.

All magistrates who are in office on January 1, 1981 will start at Step A of their designated salary level. The anniversary date for all such magistrates will be January 16. The anniversary date of all magistrates hired or promoted after January 1, 1981 will be the 16th of the month following their date of hire or promotion.

5. Review of Classification.

All magistrate positions shall be reviewed annually by the director of personnel to assure correct classification. These reviews shall be based on statistical evaluation of duties accomplished by each magistrate. The magistrate salary at every location must be re-evaluated by the director of personnel whenever a vacancy occurs. Vacancies may not be advertised until the salary for that position has been re-evaluated and any recommended changes for reclassification of the position have been approved by the chief justice.

6. Change in Classification.

The director of personnel shall recommend to the chief justice salary increases based upon reclassification of magistrate positions after first conferring with the area court administrator and the presiding judge of the judicial district in which the magistrate is located. The director of personnel shall recommend to the chief justice that a magistrate position be refilled at a lower level upon the position becoming vacant, after first conferring with the area court administrator and presiding judge for that judicial district.

7. Compensation for part-time magistrates asked to do extra work.

If a part-time magistrate (Levels I, II and III) is asked to serve in another court location to replace another magistrate or a district court judge for a period of time, the part-time magistrate must receive compensation for the additional hours worked.

DATED: September 24, 1982

EFFECTIVE DATE: March 16, 1982

Chief Justice

Justice

Justice

Justice

Justice

March 9, 1983

Dear Fellow Magistrates:

As most of you know, the Association of Alaska Magistrates has had a bill in the legislature the past several years to include magistrates in the Judicial Retirement System. Senator Robert Ziegler has introduced Senate Bill 20 in the thirteenth legislature on our behalf. A copy of that bill is enclosed for your information.

The contribution rate under the Judicial Retirement System (JRS) is 7% as compared to the 4.25% we currently pay under the Public Employees Retirement System (PERS). Under SB 20, to receive credit for service as a magistrate prior to July 1, 1983, the magistrate must:

1) withdraw from PERS
2) receive a refund of contributions under PERS
3) elect to receive credit for service prior to July 1, 1983, and
4) make retroactive contributions for service as a magistrate after January 3, 1959.

Retroactive contributions may be set up as a payroll deduction over a reasonable period of time.

Following is my understanding of the differences between PERS as outlined in AS 39.35 and JRS as outlined in AS 22.25:

PERS - Contribution rate is 4.25% of base salary
Benefits paid:
1) Age 55 with 5 years of service; or
2) 30 years of service; or
3) Early retirement at 50 years of age and 5 years of service with adjustment for early retirement

Computation of benefits:
2% of average monthly wage for 3 high years times years of service
PLUS COLA (if remain in Alaska) of $50.00 or 10% of the benefit, whichever is greater
PLUS medical insurance coverage

JRS - Contribution rate is 7% of base salary
Benefits paid:
1) Mandatory retirement at 70 years of age
2) Age 60 with 5 years of service
3) Early retirement at 55 years of age or 20 years of service with adjustment for early retirement

Computation of benefits:
5% for each year of service (up to 15 years or 75%) times base monthly wage paid incumbents at the time of the benefit payment
PLUS medical insurance coverage

Please read the statutes cited above for further information on the two plans.

Examples of approximate monthly retirement benefits based on 5 years of service and current base monthly salaries are:

		PERS	JRS
Magistrate I	(15 hours/week)	$ 84.60	$211.50
Magistrate II	(20 hours/week)	119.40	298.50
Magistrate III	(27.5 hours/week)	170.20	425.50
Magistrate IV	(37.5 hours/week)	260.70	651.75
Magistrate V	(37.5 hours/week)	331.90	829.75
Magistrate VI	(37.5 hours/week)	387.30	968.25

The information provided to me indicates that the average age of the magistrates is 42 years with an average length of service of 6.83 years. There are 49 positions authorized by Supreme Court Order No. 544 and they are distributed as follows:

Magistrate I	19
Magistrate II	5
Magistrate III	6
Magistrate IV	13
Magistrate V	3
Magistrate VI	3

The Senate Judiciary Committee has set up a teleconference with the magistrates at 11:30 A.M. on March 25, 1983 in Anchorage. They will hear testimony at that time from one or two magistrates but we ask that everyone attend, if possible. This was coordinated at our request and will determine if Senate Bill 20 goes from the Judiciary to the Finance Committee with a "do pass" recommendation.

We will have a meeting of the Association of Alaska Magistrates in the early part of the conference week and can discuss the issue further at that time. Please jot down any other issues you wish to discuss.

I look forward to seeing all of you at the conference. It promises to be a good experience with varied topics and beneficial discussion periods.

Sincerely,

Linda Hartshorn

Linda Hartshorn
Secretary/Treasurer
Association of Alaska Magistrates

PCN	CLASS	COUNTY					
418109	X017	AKA	MAGISTRATE IV	HANSON	2,793	33,516	9.50
418111	X019	AKD	MAGISTRATE IV	HARTSHORN	2,793	33,516	10.00
418110	X017	AKA	MAGISTRATE IV	REDEKER	2,793	33,516	5.70
418101	X018	AEA	MAGISTRATE III	DENNIS	1,702	21,144	4.50
418102	X019	CKB	MAGISTRATE IV	HEINMILLER	2,687	34,644	14.70
418103	X018	AWA	MAGISTRATE III	SAVLAND	1,885	22,620	11.50
418104	X018	AKR	MAGISTRATE I	CHENEY	907	10,884	2.50
418105	X018	AKK	MAGISTRATE I	VACANT	907	10,884	
418106	X017	CKA	MAGISTRATE II	WORLEY	1,322	15,864	3.10
418107	X017	CSA	MAGISTRATE II	GALLAGHER	1,322	15,864	4.30
418108	X018	AKD	MAGISTRATE I	HOWARD	907	10,884	2.10
412015	X017	HIA	MAGISTRATE IV	VACANT	3,105	37,260	
418201	X019	MEA	MAGISTRATE IV	CROSS	3,429	41,148	.50
418202	X019	KAA	MAGISTRATE IV	SINKEY	3,429	41,148	50
418203	X018	JWB	MAGISTRATE I	VACANT	1,152	13,824	
418204	X018	EWC	MAGISTRATE I	KAMERUFF	1,121	13,452	11.50
418205	X018	HSA	MAGISTRATE I	APANGALOOK	1,152	13,824	15.10
418206	X018	ESA	MAGISTRATE I	~~NAPOLEON~~ Nanemg	1,152	13,824	7.60
418207	X018	KBD	MAGISTRATE I	HENRY	1,113	13,356	1.10
418208	X018	KBC	MAGISTRATE I	HARVEY	1,113	13,356	2.40
418209	X018	KYA	MAGISTRATE I	LISBOURNE	1,152	13,824	3.30
418210	X018	EWG	MAGISTRATE I	ANDREWS	1,121	13,452	5.90
418211	X018	HSB	MAGISTRATE I	GOLOGERGEN	1,152	13,824	9.20
418212	X017	KBA	MAGISTRATE II	BALLOT	1,570	18,840	.90
418214	X018	HUA	MAGISTRATE I	ANAGICK	1,152	13,824	15.30
418215	X018	CXA	MAGISTRATE I	~~VACANT~~ Greist	1,152	13,824	
418217	X018	EWD	MAGISTRATE I	BEANS	1,121	13,452	11.20
418218	X018	KCA	MAGISTRATE I	DOUGLAS	1,152	13,824	1.10
418318	X019	CAA	MAGISTRATE VI	MCBRIDE	4,289	51,468	1.90
418302	X019	DRA	MAGISTRATE VI	NICHOLAS	4,289	51,468	23.90
418303	X019	ECF	MAGISTRATE VI	JOHNSON	4,148	49,776	3.70
418304	X020	DSA	MAGISTRATE V	PECK	3,070	44,112	7.50
418309	X019	DAA	MAGISTRATE IV	ASHMAN	3,246	39,952	90
418307	X018	DIA	MAGISTRATE III	HEIKER	2,193	26,316	10.50
418308	X019	DWA	MAGISTRATE IV	WENTWORTH	3,070	36,912	7.10
418310	X020	HCE	MAGISTRATE V	SPRECKER	3,916	46,992	11.90
418312	X018	EKA	MAGISTRATE III	SHANBACK	2,193	26,315	2.90
418313	X018	CEC	MAGISTRATE I	RUKUVISHNIKUFF	1,091	13,092	6.30
418314	X019	HSD	MAGISTRATE IV	HAKALA	1,091	13,092	4.30
418315	X018	CYA	MAGISTRATE I	KASHEVAROF	1,332	15,984	2.10
418317	X018	DSH	MAGISTRATE I	~~HARRIS~~ Vacant	905	11,580	
418319	X020	DBC	MAGISTRATE I	VACANT	1,091	13,092	
418316	X018	BKA	MAGISTRATE III	Dozier	3 360	40 320	4.50

CN	CLASS	COURT	TITLE	INCUMBENT	RANGE/ STEP	MONTHLY SALARY	ANNUAL SALARY	SERVICE
402	X016	HJI	MAGISTRATE IV	MACFARLANE		3,429	41,148	8,50
414	X019	HFB	MAGISTRATE IV	LATHROP		3,076	36,912	9.40
404	X016	KJA	MAGISTRATE III	SMYTH		2,317	27.804	3.50
405	X016	HYC	MAGISTRATE III	JACKSON		2.238	26.856	.40
403	X017	JJB	MAGISTRATE II	HARDING		2,518	30,216	9,50
8401	X017	EQB	MAGISTRATE II	MCMAHON		1,625	19,500	5.00
8406	X016	JRC	MAGISTRATE I	VACANT		1,113	13,356	
8407	X016	EZA	MAGISTRATE I	VACANT		1,113	13,356	
8408	X016	DHB	MAGISTRATE I	SMITH		1,121	13,452	5.80
8411	X016	DJA	MAGISTRATE I	VACANT		1,083	12,996	
8412	X016	JKD	MAGISTRATE I	VACANT		1,113	13,356	
8415	X016	DHD	MAGISTRATE I	LINCOLN		1,121	13,452	1.20
8423	X016	JKA	MAGISTRATE I	VACANT		1,113	13,356	

$1,315,424 6.82 year average

Average age - 42 ye

ASSOCIATION OF ALASKA MAGISTRATES

BOARD MEMBERS

First District

Linda Hartshorn, Secretary/Treasurer
Box 869
Wrangell, Alaska 99929 — 874-2311 or 874-3989

Marilyn Hanson
P.O. Box 910
Sitka, Alaska 99835 — 747-6271

Second District

Marie Beans
Box 211
Mt. Village, Alaska 99632 — 591-2149

Lowell Anagick
Box 185
Unalakleet, Alaska 99684 — 624-3015

Third District

Jess Nicholas
Pouch I
Kenai, Alaska 99611 — 283-3110

Sheldon Sprecker, President
Box 86
Glennallen, Alaska 99588 — 822-3405 or 822-3726

Brian Johnson
Box 860
Palmer, Alaska 99645 — 745-4284

Fourth District

Alice Lathrop
Box 187
Tok, Alaska 99780 — 883-5171

Barbara Macfarlane
Box 41
Healy, Alaska 99743 — 683-2213 or 683-2589

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 279
Title: An Act Amending JRS and PERS
Sponsor: Bussell
Requestor:

II. FISCAL DETAIL

Agency Affected: Alaska Court System
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		625.2	675.2	729.2	787.5	850.5
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		625.2	675.2	729.2	787.5	850.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		625.2	675.2	729.2	787.5	850.5
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: J.K. Humphreys, Director J.K. Humphreys Phone: 465-4460
Division: Retirement & Benefits Date: 4-8-83

Approved by Commissioner: Liss Rudd, Commissioner Date: 4-8-83
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/23

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 279
Title An Act Authorizing Participation by Magistrates in the Judicial Retirement System
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Alaska Court System
Program Category Affected _____
BRU, Program, or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
100 RETIREMENT BENEFITS		781.7	844.2	911.7	984.6	1,063.3
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
700 STATE TRS MATCHING						
TOTAL		781.7	844.2	911.7	984.6	1,063.3

FUNDING (Thousands of Dollars)

GENERAL FUND		781.7	844.2	911.7	984.6	1,063.3
FEDERAL FUNDS						
*OTHER FUNDS:						
PERS						
TRS						

* 4% Veterans; 12% Fish & Game; 26% Highway; 58% Airport

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

1. To fund this bill, the state cost would be 65.82% of the FY 84 covered payroll for magistrates.

2. Estimate the FY 84 covered payroll of magistrates to be $1,187,720.

3. Estimate 46 magistrates with an average of 6.5 years service per member would be affected.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 279
Title An Act Authorizing Participation by Magistrates in the Judicial Retirement System
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Alaska Court System
Program Category Affected _____
BRU, Program, or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
100 RETIREMENT BENEFITS		(156.5)	(169.0)	(182.5)	(197.1)	(212.9)
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
700 STATE TRS MATCHING						
TOTAL		(156.5)	(169.0)	(182.5)	(197.1)	(212.9)

FUNDING (Thousands of Dollars)

GENERAL FUND		(156.5)	(169.0)	(182.5)	(197.1)	(212.9)
FEDERAL FUNDS						
*OTHER FUNDS:						
PERS						
TRS						

* 4% Veterans; 12% Fish & Game; 26% Highway; 58% Airport

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

1. This bill would reduce the state cost to PERS by 13.18% of covered payroll for magistrates.

2. Estimate the FY 84 covered payroll of magistrates to be $1,187,720.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF RETIREMENT & BENEFITS
POUCH CR
JUNEAU, ALASKA 99811

Public Employees' Retirement System
Teachers' Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees' Voluntary Dental-Vision-Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

Bill Sheffield, Governor
(907) 465-4460

April 20, 1983

Honorable Mitchell Abood, Jr.
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Abood

You have asked that I present an overview of the Public Employees' Retirement System (PERS) and the Judicial Retirement System (JRS) to the House State Affairs Committee on Thursday, April 21. I am writing this letter to provide some information to the committee in advance and to serve as a reference at the meeting. The attached chart shows the major differences between the two systems but some discussion is in order.

General Overview

The PERS and JRS are both "defined benefit" plans; that is, the benefits to be provided are defined in statute and do not directly depend on the amount of contributions made by or on behalf of the employee. This is in contrast to a "defined contribution" plan such as the state's Supplemental Annuity Program (SBS) where the amount of the benefit an employee may receive at any given time is completely dependent on the balance in that employee's individual benefit account.

Both the PERS and the JRS are actuarially funded. Each year the actuary computes the amount, in addition to employee contributions, that will be required from the state to pay for benefits in the system. This is in contrast to pay-as-you-go systems such as social security where no real attempt is made to balance assets and liabilities; current benefits are paid out of current revenues on a year to year basis. Even if pay-as-you-go systems do not find themselves in real financial difficulty because of accumulating unfunded liabilities, they certainly pass the buck to future generations and often present a misleading picture of the costs. The object of actuarial funding is to pay for benefits as they accrue at a stable percentage of payroll and avoid the necessity of cutting benefits for future members or, in some cases, a bankrupt system which defaults on obligations.

The most significant differences between the PERS and JRS from a cost standpoint lie in post-retirement pension adjustments and benefit multipliers.

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

Benefit Multiplier

The application of a benefit multiplier in determining a benefit is fairly straightforward. In the case of an "all other" member of the PERS, the monetary benefit is found by multiplying average monthly compensation times the number of years of credited service times 2%. For JRS members the multiplier is 5% instead of 2%, credited service is limited to 15 years, and, instead of a retiree's own average compensation, the benefit is based upon the current salary of office. For example, a PERS retiree with 10 years credited service would receive a monetary benefit equal to 20 percent of his average compensation and a JRS retiree with that same service would receive 50 percent of the current judicial salary.

Vesting

Vesting describes the amount of service required to gain entitlement to a benefit. The vesting requirement in both the JRS and PERS is 5 years.

Normal Retirement

PERS "all other" members who are vested may begin receiving normal retirement benefits at age 55 or at any age with 30 years of service. Vested JRS members must be 60 years old for normal retirement. In the PERS, a vested member may elect to receive an early retirement benefit at age 50; in the JRS a vested member may also elect to receive an early retirement benefit at age 55 or upon completing 20 years service as a justice or judge. In all of these cases, the benefit is actuarially reduced to reflect the longer period it will be received.

Employee Contributions

Statutes require that PERS members contribute 4.25% (5% for police and fire) of their compensation to the retirement fund. JRS members hired after July 1, 1978 contribute 7% while those hired before that date are not required to contribute at all. Employee contributions earn a modest (4.5%) interest and are refundable to terminated employees.

Employer Contributions

In FY 83 the state is contributing 104.78% of payroll to fund the JRS, 22.36% for PERS police and fire members, and 12.71% for "all other" PERS members. As mentioned earlier, this rate is determined by our actuary based on the assets, liabilities, membership and assumptions in each system. This is the amount required in addition to employee contributions to fund the benefits in the system. These rates are designed to fund not only the benefits of existing employees as they accrue, but also to amortize any unfunded liability in the system. Ideally, a system would be 100% funded and the assets would cover the liabilities if the system were discontinued. The high contribution rate in the JRS is a result of very generous benefits and also the fact that, prior to FY 82, the system was not actuarially funded.

Nonmembership Service

Up to five years of military service may be claimed in the PERS (not in JRS) if the employee is vested and makes contributions of 6% of his current annual salary for each year claimed. JRS members are entitled to credit for service as a magistrate prior to July 1, 1967; contributions are not required for this service.

Post-retirement Pension Adjustments (PRPA's)

In the JRS, PRPA's are automatic; any time judicial salaries are increased, the benefits of retired judges increase. In the PERS, adjustments are granted when the cost of living has increased and the condition of the fund permits. PRPA's in the PERS may not exceed the lesser of the increase in the cost of living or 4%.

Granting full, automatic cost of living increases is very expensive and, as mentioned before, is one of the main reasons the JRS is so much more costly than the PERS.

Health Insurance

Both PERS and JRS benefit recipients automatically receive major medical coverage for themselves and their dependents. This is an important benefit which will cost the systems $156.07 per month for each benefit recipient in FY 84. In addition, both PERS and JRS benefit recipients may elect group audio, visual and dental insurance on a self-pay basis.

Summary

The benefits provided in the PERS are outstanding; however, as you can see, JRS benefits are far more generous and costly. The cost to the state for benefits that are accruing in the JRS is four to five times as great as it is in the PERS as a percentage of payroll. If one considers that average salaries in the JRS are more than double those in the PERS, the dollar cost for the average JRS member is at least eight to ten times as high.

There is no question that generous retirement benefits are desirable from an employee's viewpoint. They are a key element in total compensation. But it is important to strike a balance, realizing that the state as an employer must achieve its objectives of attracting and retaining qualified employees and be able to justify the cost.

I look forward to our meeting and will attempt to answer any questions you or the members of your committee may have at that time.

Sincerely,

J.K. Humphreys

J.K. Humphreys
Director

JKH/sd
Attachment
cc: Members of the House State Affairs Committee
Eleanor Andrews
Rebecca Burch

State of Alaska

Public Employees' Retirement System/Judicial Retirement System

A Comparison - April, 1983

	PERS		JRS
	PO/F	All Other	
Benefit Multiplier	2% on years 1-10 2½% on years over 10	2%	5%
Vesting	5 years	5 years	5 years
Normal Retirement Age	55 w/5 years Service or 20 years PO/F	55 w/5 years Service Or 30 years	60 w/5 years Service
Employee Contributions	5%	4½%	7% for Judges Hired After 07/01/78 0% Judges Hired Before 7/01/78
Employer Contributions FY 83	22.36%	12.71%	104.78%
Nonmembership Service	Military (Max of 5 years)	Military (Max of 5 years)	Magistrate Pre-7/01/67
Post Retirement Pension Adjustments	Ad Hoc	Ad Hoc	Benefits Increase With Salaries
Health Insurance Coverage After Retirement	Yes	Yes	Yes

HB 279

Alaska Public
Employees Association APEA
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

MEMORANDUM

RECEIVED
APR 1 3 1983

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Cherie Shelley, Executive Director
Alaska Public Employees Association

Jean Krause, President
National Education Association-Alaska

SUBJECT: SB 20

DATE: April 11, 1983

At a time when the cost of the various state-sponsored retirement systems is being closely scrutinized, the Alaska Public Employees Association and the National Education Association-Alaska cannot support legislation which will add another group of employees t the most lucrative retirement system available.

Unlike judges, magistrates seldom leave a high paying professional practice to serve in the courts. In fact, the qualifications of magistrates are quite simple:

> A magistrate shall be a citizen of the United States and of the state, at least 21 years of age, and a resident of the state for at least six months immediately proceeding appointment. The supreme court may prescribe additional qualifications. (AS.22.15.160.(b))

This bill is particularly expensive as the employer's rate of contribution will rise to 109.14% of covered payroll. The estimated additional cost of this legislation is $625,000 in FY 84, $675,000 in FY 85, and $729,000 in FY 86.

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305

Not only are the mandatory contributions to this system particularly high, the retirement benefits are equally generous.

> A retired justice or judge eligible for retirement pay shall receive from the date of eligibility until death monthly compensation equal to five percent per year of service, to a maximum of 75 percent, of the monthly salary authorized for justices and judges respectively, at the time each retirement payment is made. (AS 22.25.020)

William M. Mercer, Inc., in an actuarial valuation of the Public Employees' Retirement System, estimated the unfunded liability owed by the State of Alaska to be $75,563,548. as of June 30, 1981.

The inclusion of a small group of individuals in JRS at such high cost cannot be justified when other retirement systems have very large, unfunded liabilities.

CS/rb

HB279--"An Act authorizing participation by magistrates in the judicial retirement system; and providng for an effective date."

ANALYSIS

Sections 1 & 2--Simply add magistrates to the list that exists in those statutes now (Supreme Court Justice, Superior Court Judge and District Court Judge).

Section 3-------Permits magistrates to withdraw from present retirement system that covers all state employees (Title 39) and be reimbursed for what they've paid in, to date.

Section 4-------IF the magistrate then withdraws and receives such reimbursement, the magistrate can then get credit for all time previously served and come under the judicial retirement system PROVIDED the magistrate pays fully--that is, makes retroactive contribution to the system at the going rate. (Would pay 7% rather than 4.2% under TItle 39). So, while the magistrate would receive a better retirement, he/she would have to pay the going rate of contributions.

(It would appear a magistrate could opt to continue under the regular state employees retirement system as set forth in Title 39).

The magistrate would have until June 30, 1984 to make that decision.

Section 5-------It appears the magistrate could opt to not receive the reimbursement by withdrawing and then coming under judicial retirement; rather he/she could choose to to have the regular retirement under which magistrates are now covered, up to July 1, 1983, and <u>then</u> come under the judicial retirement system.

(Some magistrates may not want to pay for back years at the higher contribution rate, presumably).

Section 6-------Does not permit Magistrates who have already retired or who retire before June 30th of this year to come under the judicial retirement system.

Section 7-------Effective date clause.

(From Judge Brewer)

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 279
Title: Magistrate Retirement
Sponsor:
Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Alaska Court System
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected: Alaska Court System

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		625.2	625.2	625.2	625.2	625.2
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		625.2	625.2	625.2	625.2	625.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		625.2	625.2	625.2	625.2	625.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard P. Barrier, Deputy Admin. Director Phone: 264-0545
Division: Alaska Court System, Administration Date: 3/22/83

Approved by Commissioner: Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

ANALYSIS: HB 279

TITLE: Magistrate Retirement

The estimated fiscal impact of this bill was developed by the Division of Retirement & Benefits. While the Court System does not have the actuarial expertise to closely estimate the cost of this bill, the estimated costs appear reasonable based upon our experience with similar retirement programs. Furthermore, the Court System provided the information on the magistrates on which the actuarial computations were based.

CHAPTER = 22.15
SECTION = 22.15.100
TITLE = 22
EADINGS TITLE 22.
JUDICIARY.
CHAPTER 15.
DISTRICT COURTS.
ARTICLE 1.
DISTRICT JUDGES AND MAGISTRATES.
ITATION SEC. 22.15.100.
ATCH LINE
FUNCTIONS AND POWERS OF DISTRICT JUDGE AND MAGISTRATE.
EXT EACH DISTRICT JUDGE AND MAGISTRATE HAS THE POWER
(1) TO ISSUE WRITS OF HABEAS CORPUS FOR THE PURPOSE OF INQUIRING INTO THE CAUSE OF RESTRAINT OF LIBERTY, RETURNABLE BEFORE A JUDGE OF THE SUPERIOR COURT, AND THE SAME PROCEEDINGS SHALL BE HAD ON THE WRIT AS IF IT HAD BEEN GRANTED BY THE SUPERIOR COURT JUDGE UNDER THE LAWS OF THE STATE IN SUCH CASES;
(2) OF A NOTARY PUBLIC;

(3) TO ISSUE MARRIAGE LICENSES AND TO SOLEMNIZE MARRIAGES;
(4) TO ISSUE WARRANTS OF ARREST, SUMMONS AND SEARCH WARRANTS ACCORDING TO MANNER AND PROCEDURE PRESCRIBED BY LAW AND THE SUPREME COURT;
(5) TO ACT AS AN EXAMINING JUDGE OR MAGISTRATE IN PRELIMINARY EXAMINATIONS IN CRIMINAL PROCEEDINGS; TO SET, RECEIVE AND FORFEIT BAIL AND TO ORDER THE RELEASE OF DEFENDANTS UNDER BAIL;
(6) TO ACT AS A REFEREE IN MATTERS AND ACTIONS REFERRED TO THE JUDGE OR MAGISTRATE BY THE SUPERIOR COURT, WITH ALL POWERS CONFERRED UPON REFEREES BY LAWS;
(7) OF THE SUPERIOR COURT IN ALL RESPECTS INCLUDING BUT NOT LIMITED TO CONTEMPTS, ATTENDANCE OF WITNESSES AND BENCH WARRANTS;
(8) TO ORDER THE TEMPORARY DETENTION OF A MINOR, OR TAKE OTHER ACTION AUTHORIZED BY LAW OR RULES OF PROCEDURE, IN CASES ARISING UNDER AS 47.10, WHEN THE MINOR IS IN A CONDITION OR SURROUNDING DANGEROUS OR INJURIOUS TO THE WELFARE OF THE MINOR OR OTHERS WHICH REQUIRES IMMEDIATE

ACTION; THE ACTION MAY BE CONTINUED IN EFFECT UNTIL REVIEWED BY THE SUPERIOR COURT IN ACCORDANCE WITH RULES OF PROCEDURE GOVERNING THESE CASES.
(9) TO ISSUE A TEMPORARY ORDER FOR EMERGENCY INJUNCTIVE RELIEF IN CASES INVOLVING DOMESTIC VIOLENCE AS PROVIDED IN AS 09.55.610.

STORY (SEC. 8(1) CH 184 SLA 1959; AM SEC. 1 CH 5 SLA 1960; AM SEC. 3 CH 24 SLA 1966; AM SEC. 6 CH 110 SLA 1967; AM SEC. 4 CH 139 SLA 1980)

601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

CHAPTER = 22.15
SECTION = 22.15.110
TITLE = 22

EADINGS TITLE 22.
JUDICIARY.
CHAPTER 15.
DISTRICT COURTS.
ARTICLE 1.
DISTRICT JUDGES AND MAGISTRATES.

ITATION SEC. 22.15.110.

ATCH LINE
ADDITIONAL DUTIES OF DISTRICT JUDGE AND MAGISTRATE.

EXT EACH DISTRICT JUDGE AND MAGISTRATE SHALL

(1) PERFORM THE DUTIES AND EXERCISE THE AUTHORITY OF CORONER AS PRESCRIBED BY LAW;

(2) RECORD BIRTH, DEATH AND MARRIAGE CERTIFICATES PRESENTED TO THEM FOR RECORD IN THE MANNER PRESCRIBED BY LAW;

(3) TAKE CUSTODY AND CONTROL OF AND PRESERVE THE PROPERTY AND ESTATE OF DECEASED PERSONS UNTIL A LEGAL CUSTODIAN IS APPOINTED;

(4) FILE WITH THE COMMISSIONER OF COMMERCE AND ECOMONIC DEVELOPMENT A COPY OF EACH CONVEYANCE RECORDED WHICH CONTAINS A STATEMENT THAT PROPERTY IS CONVEYED TO A NONRESIDENT ALIEN OR FOR THE BENEFIT OF A NONRESIDENT ALIEN.

ISTORY (SEC. 8(2) CH 184 SLA 1959; AM SEC. 4 CH 5 SLA 1960; AM SEC. 3 CH 24 SLA 1966; AM SEC. 8 CH 145 SLA 1975)

0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

CHAPTER = 22.15
SECTION = 22.15.120
TITLE = 22

HEADINGS TITLE 22.
JUDICIARY.
CHAPTER 15.
DISTRICT COURTS.
ARTICLE 1.
DISTRICT JUDGES AND MAGISTRATES.

CITATION SEC. 22.15.120.

CATCH LINE
LIMITATIONS ON PROCEEDINGS WHICH MAGISTRATE MAY HEAR.

TEXT A MAGISTRATE SHALL PRESIDE ONLY IN CASES AND PROCEEDINGS UNDER AS 22.15.040, 22.15.100, AND 22.15.110, AND AS FOLLOWS,

(1) FOR THE RECOVERY OF MONEY OR DAMAGES ONLY WHEN THE AMOUNT CLAIMED, EXCLUSIVE OF COSTS, INTEREST, AND ATTORNEY FEES, DOES NOT EXCEED $1,000;

22.15.040 small claims $2,000

(2) FOR THE RECOVERY OF SPECIFIC PERSONAL PROPERTY WHEN THE VALUE OF THE PROPERTY CLAIMED AND THE DAMAGES FOR THE DETENTION DO NOT EXCEED $1,000;

(3) FOR THE RECOVERY OF A PENALTY OR FORFEITURE, WHETHER GIVEN BY STATUTE OR ARISING OUT OF CONTRACT, NOT EXCEEDING $1,000;

(4) TO GIVE JUDGMENT WITHOUT ACTION UPON THE CONFESSION OF THE DEFENDANT FOR ANY OF THE CASES SPECIFIED IN THIS SECTION, EXCEPT FOR A PENALTY OR FORFEITURE IMPOSED BY STATUTE;

(5) TO GIVE JUDGMENT OF CONVICTION UPON A PLEA OF GUILTY BY THE DEFENDANT IN A CRIMINAL PROCEEDING WITHIN THE JURISDICTION OF THE DISTRICT COURT;

(6) TO HEAR, TRY, AND ENTER JUDGMENTS IN ALL CASES INVOLVING MISDEMEANORS, IF THE DEFENDANT CONSENTS IN WRITING THAT THE MAGISTRATE MAY TRY THE CASE;

(7) TO HEAR, TRY AND ENTER JUDGMENTS IN ALL CASES INVOLVING INFRACTIONS UNDER AS 28 AND VIOLATIONS OF ORDINANCES OF POLITICAL SUBDIVISIONS;

(8) REPEALED BY SEC. 8 CH 110 SLA 1967.

HISTORY (SEC. 19 CH 184 SLA 1959; AM SEC. 5 CH 5 SLA 1960; AM SEC. 1 CH 85 SLA 1961; AM SEC. 2 CH 91 SLA 1961; AM SEC. 12 CH 70 SLA 1964; AM SEC. 3 CH 24 SLA 1966; AM SEC. 8 CH 110 SLA 1967; AM SECS. 18

- 20 CH 71 SLA 1972; AM SEC. 1 CH 65 SLA 1978)

001 * END OF DOCUMENTS IN LIST - ENTER RE URN OR ANOTHER COMMAND.

A?22.20.010 DOCUMENT= 1 OF 1 PAGE = 1 OF 1

CHAPTER = 22.20
SECTION = 22.20.010
TITLE = 22

HEADINGS TITLE 22.
JUDICIARY.
CHAPTER 20.
OFFICERS AND EMPLOYEES.
ARTICLE 1.
JUDICIAL OFFICERS.

CITATION SEC. 22.20.010.

CATCH LINE
JUDICIAL OFFICER DEFINED.

TEXT THE TERM "JUDICIAL OFFICER" MEANS A SUPREME COURT JUSTICE, INCLUDING THE CHIEF JUSTICE, A JUDGE OF THE COURT OF APPEALS, A JUDGE OF THE SUPERIOR COURT, A DISTRICT JUDGE AND A MAGISTRATE.

HISTORY (SEC. 54-2-1 ACLA 1949; AM SEC. 3 CH 24 SLA 1966; AM SEC. 16 CH 12 SLA 1980)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.







Trial Courts
State of Alaska

FIRST JUDICIAL DISTRICT
P. O. BOX 869
WRANGELL, ALASKA
99929

March 10, 1983

Senator Robert H. Ziegler, Sr.
pouch V
Juneau, Alaska 99811

Dear Senator Ziegler:

Enclosed are copies of a letter and Senate Bill 20 which were sent to each magistrate in the state. I am also enclosing copies of the information received from Alaska Court System fiscal officer Bob Fisher and Supreme Court Order No. 544 relating to magistrate salaries.

It seems the lack of enthusiasm for this bill is based on the thought that magistrates are not judges, per se, and an aversion to the administrative paperwork which would inevitably follow passage of the bill. We feel we are judges and would hazard a guess that most persons who have come before us would be of the same opinion. In support of our stand we offer the following:

Buckalew v Holloway 604 P2d 240 (1979)
Alaska Supreme Court determination that magistrates are "judges" within the meaning of Article IV, Section 4 of the Alaska Constitution.

AS 22.15.020
Number of district court judges and magistrates listed for the district court of each judicial district.

AS 22.15.100 and 22.15.110
Lists functions, powers and additional duties of district court judges and magistrates.

AS 22.15.120
Limitations on proceedings which a magistrate may hear.

AS 22.15.220(c)
Requirement that district judges and magistrates must file an affidavit monthly to receive salary.

AS 22.15.240
Appeals from magistrate judgments are handled the same as those from a district court judge judgment.

AS 22.20.010
Judicial officer defined. "The term 'judicial officer' means a supreme court justice, including the chief justice, a judge of the court of appeals, a judge of the superior court, a district court judge and a magistrate."

Criminal Rule 56(b)
Definitions. "Magistrate" includes magistrates, district court judges, superior court judges and any other judicial officer authorized by law to conduct a preliminary examination of a person accused of a crime.

Administrative Rule 21(b)
Requirement of magistrate to wear black judicial robe as do all other judges.

Administrative Rule 24(f)
Assignment of Judicial Officer. "In this rule, 'judicial officer' means a superior court judge, district court judge or magistrate."

Administrative Rule 28(b)
Judicial vacations and leave outlined for district court judges and magistrates.

AS 22.25.010(g)
Magistrates not included as "judges" under the judicial retirement system.

The last citation is the only one which excludes magistrates as judges. We feel the duties we perform are those of a district court judge with some jurisdictional limitations. We are on 24-hour call, as required by statute and rule, to perform "judicial" functions. Many of us sit as masters in superior court matters and are standing masters in children's cases.

I have copied those sections of the statutes and rules pertaining to jurisdiction, duties, etc,, and would make these vailable to you if you so desire.

Mr. Van Doran has agreed to supply me with a copy of the fiscal note on this bill as soon as your office receives it. I spoke with Bob Fisher yesterday and he said the fiscal note should be in Juneau by tomorrow.

Thank you for you continued support of the magistrates.

Sincerely,

Linda Hartshorn

Linda Hartshorn
Magistrate

THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 544

Relating to Magistrate Salaries.

IT IS ORDERED:

Supreme Court Order No. 451 is rescinded and the following is adopted as the magistrate salary schedule:

1. There are established six salary levels for magistrate posts. The base annual salary for each level is as follows:

Magistrate I	$10,161
Magistrate II	$14,335
Magistrate III	$20,430
Magistrate IV	$31,291
Magistrate V	$39,832
Magistrate VI	$46,476

Geographic cost of living adjustments shall be provided in accordance with applicable statutes.

2. Each magistrate location has been assigned to a salary level based on the number of hours which the court system expects the magistrate at that location to work in order to accomplish the estimated court workload at that location. The minimum number of hours of work required of the magistrates in each salary level are as follows:

Salary Level	Hours Per Week (annual average)
Magistrate I	15
Magistrate II	20
Magistrate III	27.5
Magistrate IV	37.5
Magistrate V	37.5
Magistrate VI	37.5

This is an annual average of the weekly work hours. Seasonal variations in workload at certain locations will require the magistrates at those locations to work longer hours during some parts of the year and shorter hours during other parts of the year.

The salaries listed in section 1. above are for the number of hours per week listed in section 2. plus 24-hour on-call availability for emergencies. These salaries also include compensation for full-time attendance at all required training courses.

3. Magistrate positions are allocated to the salary levels as follows:

Magistrate V:

Kenai Kodiak Palmer

Magistrate V

Glennallen Seward Sitka

Magistrate IV

Barrow	Haines	Tok
Bethel	Kotzebue	Unalaska
Cordova	Nenana/Healy	Wrangell
Craig	Nome	
Dillingham	Petersburg	

Magistrate III

Cold Bay	Hoonah
Ft. Yukon	Naknek
Galena	Yakutat

Magistrate II

Aniak	Selawik	Skagway
Delta Jct.	Seldovia	

Magistrate I

Angoon	Kiana	Pt. Hope	Shungnak
Emmonak	McGrath	Sand Point	Tununak
Gambell	Nekoryuk	Savoonga	Unalakleet
Hooper Bay	Mt. Village	St. Mary	Whittier
Kake	Noorvik	St. Paul Island	

4. Step increases.

A. Frequency and amount.

All magistrates are eligible for step increases of 3.5% annually for the first five years of their service. The procedure for granting step increases shall be patterned after that which applies to classified employees except that part-time magistrates will not be required to work 1,950 hours before being eligible to receive an annual raise. There will be a total of five steps of annual increases followed by longevity steps after the seventh, ninth, fourteenth and eighteenth years of continuous employment at one salary level.

If a magistrate's salary level is raised, the magistrate's salary step within the higher level will be determined by the same method used for classified employees (see Personnel Rule 6.02.03).

B. Criteria for receiving step increases.

1. Tenure - one year.
2. Written approval by presiding judge stating that the magistrate is performing adequately.
3. Passing scores on all correspondence courses required, for that level in that region of the state (required by either the presiding judge or the administrative director).

4. For Magistrates I through V: written verification by the presiding judge that the following are being adequately maintained:
   a. dockets
   b. indexes
   c. library books (that is, that the Statutes, Administrative Code and Rules are kept up to date)
   d. case files and the case numbering system
   e. tape recordings of formal hearings and the binder for duplicate copies of all log notes
   f. accounting records (receipts, revenue deposits, trust deposits, trust checks and proper recording of all accounting data on the case dockets)

C. Implementation.

All magistrates who are in office on January 1, 1981 will start at Step A of their designated salary level. The anniversary date for all such magistrates will be January 16. The anniversary date of all magistrates hired or promoted after January 1, 1981 will be the 16th of the month following their date of hire or promotion.

5. Review of Classification.

All magistrate positions shall be reviewed annually by the director of personnel to assure correct classification. These reviews shall be based on statistical evaluation of duties accomplished by each magistrate. The magistrate salary at every location must be re-evaluated by the director of personnel whenever a vacancy occurs. Vacancies may not be advertised until the salary for that position has been re-evaluated and any recommended changes for reclassification of the position have been approved by the chief justice.

6. Change in Classification.

The director of personnel shall recommend to the chief justice salary increases based upon reclassification of magistrate positions after first conferring with the area court administrator and the presiding judge of the judicial district in which the magistrate is located. The director of personnel shall recommend to the chief justice that a magistrate position be refilled at a lower level upon the position becoming vacant, after first conferring with the area court administrator and presiding judge for that judicial district.

7. Compensation for part-time magistrates asked to do extra work.

If a part-time magistrate (Levels I, II and III) is asked to serve in another court location to replace another magistrate or a district court judge for a period of time, the part-time magistrate must receive compensation for the additional hours worked.

DATED: September 24, 1982

EFFECTIVE DATE: March 16, 1982

Chief Justice

Justice

Justice

Justice

Justice

March 9, 1983

Dear Fellow Magistrates:

As most of you know, the Association of Alaska Magistrates has had a bill in the legislature the past several years to include magistrates in the Judicial Retirement System. Senator Robert Ziegler has introduced Senate Bill 20 in the thirteenth legislature on our behalf. A copy of that bill is enclosed for your information.

The contribution rate under the Judicial Retirement System (JRS) is 7% as compared to the 4.25% we currently pay under the Public Employees Retirement System (PERS). Under SB 20, to receive credit for service as a magistrate prior to July 1, 1983, the magistrate must:

1) withdraw from PERS
2) receive a refund of contributions under PERS
3) elect to receive credit for service prior to July 1, 1983, and
4) make retroactive contributions for service as a magistrate after January 3, 1959.

Retroactive contributions may be set up as a payroll deduction over a reasonable period of time.

Following is my understanding of the differences between PERS as outlined in AS 39.35 and JRS as outlined in AS 22.25:

PERS - Contribution rate is 4.25% of base salary

Benefits paid:

1) Age 55 with 5 years of service; or
2) 30 years of service; or
3) Early retirement at 50 years of age and 5 years of service with adjustment for early retirement

Computation of benefits:

2% of average monthly wage for 3 high years times years of service
PLUS COLA (if remain in Alaska) of $50.00 or 10% of the benefit, whichever is greater
PLUS medical insurance coverage

JRS - Contribution rate is 7% of base salary

Benefits paid:

1) Mandatory retirement at 70 years of age
2) Age 60 with 5 years of service
3) Early retirement at 55 years of age or 20 years of service with adjustment for early retirement

Computation of benefits:

5% for each year of service (up to 15 years or 75%) times base monthly wage paid incumbents at the time of the benefit payment
PLUS medical insurance coverage

Please read the statutes cited above for further information on the two plans.

Examples of approximate monthly retirement benefits based on 5 years of service and current base monthly salaries are:

		PERS	JRS
Magistrate I	(15 hours/week)	$ 84.60	$211.50
Magistrate II	(2[illegible] hours/week)	119.40	298.50
Magistrate III	(27.5 hours, eek)	170.20	425.50
Magistrate IV	(37.5 hours/week)	260.70	651.75
Magistrate V	(37.5 hours/week)	33[illegible].90	829.75
Magistrate VI	(37.5 hours/week)	387.30	968.25

The information provided to me indicates that the average age of the magistrates is 42 years with an average length of service of 6.83 years. There are 49 positions authorized by Supreme Court Order No. 544 and they are distributed as follows:

Magistrate I	19
Magistrate II	5
Magistrate III	6
Magistrate IV	13
Magistrate V	3
Magistrate VI	3

The Senate Judiciary Committee has set up a teleconference with the magistrates at 11:30 A.M. on March 25, 1983 in Anchorage. They will hear testimony at that time from one or two magistrates but we ask that everyone attend, if possible. This was coordinated at our request and will determine if Senate Bill 20 goes from the Judiciary to the Finance Committee with a "do pass" recommendation.

We will have a meeting of the Association of Alaska Magistrates in the early part of the conference week and can discuss the issue further at that time. Please jot down any other issues you wish to discuss.

I look forward to seeing all of you at the conference. It promises to be a good experience with varied topics and beneficial discussion periods.

Sincerely,

Linda Hartshorn

Linda Hartshorn
Secretary/Treasurer
Association of Alaska Magistrates

PCN	CLASS	COUNT					
418109	X017	AKA	MAGISTRATE IV	HANSON	2,793	33,516	9.50
418111	X019	AKD	MAGISTRATE IV	HARTSHORN	2,793	33,516	10.00
418110	X017	AKA	MAGISTRATE IV	REDEKER	2,193	33,516	5.70
418101	X016	AEA	MAGISTRATE III	DENNIS	1,762	21,144	4.50
418102	X019	CKD	MAGISTRATE IV	HEINMILLER	2,687	,644	14.70
418103	X016	AWA	MAGISTRATE III	SAVLAND	1,885	,620	11.50
418104	X016	AKR	MAGISTRATE I	CHENEY	907	,884	2.50
418105	X016	ARK	MAGISTRATE I	VACANT	907	10,884	
418106	X017	CKA	MAGISTRATE II	WURLEY	1,322	15,864	3.10
418107	X017	CSA	MAGISTRATE II	GALLAGHER	1,322	15,864	4.30
418108	X016	ARD	MAGISTRATE I	HOWARD	907	10,884	2.30
412015	X017	HIA	MAGISTRATE IV	VACANT	3,105	37,260	
418201	X019	MEA	MAGISTRATE IV	CROSS	3,429	41,148	.50
418202	X019	KAA	MAGISTRATE IV	SINKEY	3,429	41,148	
418203	X016	JWB	MAGISTRATE I	VACANT	1,152	13,824	
418204	X016	EWC	MAGISTRATE I	KAMEROFF	1,121	13,452	11.50
418205	X016	MSA	MAGISTRATE I	APANGALOOK	1,152	13,824	15.10
418206	X016	ESA	MAGISTRATE I	~~NAPOLEON~~ Nanenq	1,152	13,824	7.60
418207	X016	KBD	MAGISTRATE I	HENRY	1,113	13,356	1.10
418208	X016	KBC	MAGISTRATE I	HARVEY	1,113	13,356	2.40
418209	X016	KYA	MAGISTRATE I	LISBOURNE	1,152	13,824	3.30
418210	X016	EWG	MAGISTRATE I	ANDREWS	1,121	13,452	8.90
418211	X016	HSB	MAGISTRATE I	GOLOGERGEN	1,152	13,824	4.00
418212	X017	KBA	MAGISTRATE II	BALLOT	1,570	18,840	.90
418214	X016	HUA	MAGISTRATE I	ANAGICK	1,152	13,824	15.30
418215	X016	LXA	MAGISTRATE I	~~VACANT~~ Greist	1,152	13,824	
418217	X016	EWD	MAGISTRATE I	BEANS	1,121	13,452	11.20
418218	X016	KCA	MAGISTRATE I	DOUGLAS	1,152	13,824	1.10
418316	X015	CAA	MAGISTRATE VI	MCBRIDE	4,269	51,468	1.90
418302	X015	DNA	MAGISTRATE VI	NICHOLAS	4,269	51,468	23.00
418303	X015	ECF	MAGISTRATE VI	JOHNSON	4,148	49,776	3.70
418304	X020	USA	MAGISTRATE V	PECK	3,076	44,112	7.50
418309	X019	DAA	MAGISTRATE IV	ASHMAN	3,246	39,952	90
418307	X016	DIA	MAGISTRATE III	HEIKER	2,193	26,316	10.50
418308	X015	DWA	MAGISTRATE IV	WENTWORTH	3,076	36,912	7.00
418310	X020	HCE	MAGISTRATE V	SPRECKER	3,916	46,992	11.90
418312	X016	CKA	MAGISTRATE III	SHANBACK	2,193	26,316	2.90
418313	X016	CEC	MAGISTRATE I	RUKUVISHNIKOFF	1,091	13,092	2.30
418314	X015	HSD	MAGISTRATE IV	HAKALA	1,091	13,092	4.30
418315	X016	CYA	MAGISTRATE I	KASHEVAROF	1,332	15,984	1.30
418317	X016	DSH	MAGISTRATE I	~~HARRIS~~ Vacant	905	11,580	2.10
418319	X020	DBC	MAGISTRATE I	VACANT	1,091	13,092	
418316	X015	BKA	MAGISTRATE III	Dozier	3 360	40 320	.50

ASSOCIATION OF ALASKA MAGISTRATES

BOARD MEMBERS

First District

Linda Hartshorn, Secretary/Treasurer
Box 869
Wrangell, Alaska 99929 — 874-2311 or 874-3989

Marilyn Hanson
P.O. Box 910
Sitka, Alaska 99835 — 747-6271

Second District

Marie Beans
Box 211
Mt. Village, Alaska 99632 — 591-2149

Lowell Anagick
Box 185
Unalakleet, Alaska 99684 — 624-3015

Third District

Jess Nicholas
Pouch I
Kenai, Alaska 99611 — 283-3110

Sheldon Sprecker, President
Box 86
Glennallen, Alaska 99588 — 822-3405 or 822-3726

Brian Johnson
Box 860
Palmer, Alaska 99645 — 745-4284

Fourth District

Alice Lathrop
Box 187
Tok, Alaska 99780 — 883-5171

Barbara Macfarlane
Box 41
Healy, Alaska 99743 — 683-2213 or 683-2589

HB

2824

Introduced: 3/21/83
Referred: State Affairs and Resources

IN THE HOUSE BY FULLER AND M.M.MILLER

HOUSE BILL NO. 284

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act designating the bowhead whale as the state marine mammal."

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

* Section 1. LEGISLATIVE INTENT. By recognizing the bowhead whale as the state marine mammal, the legislature intends to give recognition not only to the grace, strength, and beauty of this inhabitant of the arctic but also to the respectful hunting practices of the residents of the north coast of Alaska, whose wise use of the bowhead whale for generations is an example of conservation for all Alaskans.

* Sec. 2. AS 44.09 is amended by adding a new section to read:

Sec. ~~4~~ ~~09.120.~~ STATE MARINE MAMMAL. The bowhead whale is the state marine mammal.

change to 44.09.095

HB 284

"An Act designating the bowhead whale as the state marine mammal"

PROPOSED AMENDMENT

Line 16 - Delete Sec. 44.09.120 (comes after State mineral)
Add: Sec. 44.09.075 (comes after State tree and before State fish)

Also:

Ask Guy Oliver about harvesting practices regarding line 12 and line 13

Alaska's flag. May it mean to you
The blue of the sea, the evening sky,
The mountain lakes, and the flow'rs nearby;
The gold of the early sourdough's dreams,
The precious gold of the hills and streams;
The brilliant stars in the northern sky,
The "Bear" — the "Dipper" — and, shining high,
The great North Star with its steady light,
Over land and sea a beacon bright.
Alaska's flag — to Alaskans dear,
The simple flag of a last frontier.

(§ 1 ch 6 SLA 1955)

Sec. 44.09.045. State motto. The official motto of the State of Alaska is: North to the Future. (§ 1 ch 36 SLA 1967)

Sec. 44.09.050. State flower. The wild native forget-me-not is the state flower and floral emblem. (§ 1-1-5 ACLA 1949)

Sec. 44.09.060. State bird. The Alaska Willow Ptarmigan (Lagopus lagopus alascensis Swarth) is the official bird of the state. (§ 1 ch 1 SLA 1955)

Sec. 44.09.070. State tree. The Sitka spruce (picea sitchenensis), which is recognized as the most valuable tree species in Alaska and which is found in both national forests of the state, is the official tree of the state. (§ 1 ch 12 SLA 1962)

Add: Sec. 44.09.075

Sec. 44.09.080. State fish. The king salmon (Oncorhynchus tshawytscha) is the official fish of the state. (§ 1 ch 20 SLA 1963)

Sec. 44.09.085. State sport. Dog mushing is the official sport of Alaska. (§ 1 ch 38 SLA 1972)

Sec. 44.09.090. State medal for heroism. (a) The governor is authorized to award a state medal for heroism directly or posthumously to any citizen of the state in recognition of a valorous and heroic deed performed by him in the saving of a life or for injury or death or threat of injury or death incurred by him in the service of the state or his community or on behalf of the health, welfare or safety of other persons. The medal shall be awarded by the governor with an appropriate ceremony.

(b) The governor shall make arrangements for the designing of the medal for heroism through a statewide design competition participated in by the school children of the state. (§ 1 ch 12 SLA 1965)

Sec. 44.09.100. State gem. Jade is the official state gem. (§ 1 ch 51 SLA 1968)

Sec. 44.09.110. State mineral. Gold is the official state mineral. (§ 1 ch 50 SLA 1968)

HB

288

HB 288

"An Act making a supplemental appropriation to the Older Alaskans Commission; and providing for an effective date"

QUESTION:

This bill provides for any unexpended monies to lapse into the gen l fund. Have they ever done this?

OR

Have they ever had to ask for supplemental funding during a fiscal year?



Dillingham Senior Citizens' Center

TO: Representative Mitch Abood
Chairman
House State Affairs Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

FROM: City of Dillingham
Dillingham Senior Citizens Center
Senior Citizens' Advisory Board

Members: David B. Carlson, Chairman David B. Carlson
Joe Scandura
Olaf T. Hansen, Sr.
Mary Shade
John Nicholson
Dr. John Libby

RE: House Bill 288 for $600,000 Supplemental Appropriation to the Older Alaskans Commission

DATE: April 5, 1983

We urge you to support the supplemental approprintion request from the Older Alaskans Commission. We wish to continue our services to the elders of Dillingham and surrounding Bristol Bay villages at the current level of operation. We support HB 288 because the Older Alaskans Commission did not have funds in their budget to continue the Dillingham Senior Citizens Center programs at their current level. The legislative appropriation that the Dillingham Senior Citizens Center received last year was not continued. Thank you for support on this important matter.

cc. Sen. Mulcahy
Rep. Herrmann

STATE OF ALASKA
FISCAL NOTE

Revision Date . 1983

I. REQUEST

Bill/Resolution No.: HB 288
Title: "An Act making a supplemental approp. to the OAC.."
Sponsor: Furnace
Requestor: Furnace

II. FISCAL DETAIL

Agency Affected: ADMINISTRATION
Program Category Affected: Social Economic Assist for the ag
BRU, Program of Subprogram(s) Affected: Older Alaskans Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	-0-	$600.0				
TOTAL OPERATING	-0-	$600.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	$600.0				
FEDERAL FUNDS						
OTHER (Specify Source)	-0-	$600.0				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Jon B. Wolfe Phone: 465-3250
Division: Older Alaskans Commission Date: April 6, 1983

Approved by Commissioner: Date:
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor

IV ANALYSIS

The proposed supplement would be used entirely as grants for services. No additional state administrative costs are budgeted. Legislative intent programs were funded through the Division of Adult and Aging Services (now Older Alaskans Commission) in SFY 82. Continuation of these programs had been sought but the Commissions continuation level was cut in SFY 83. Therefore, the 1982 programs have not been continued with the exception of those that did not expend their funds in SFY 82 and one which received an F.B.I.F. award. Our estimate of the awards based upon the amount of the original intent grants is as follows:

Dillingham Senior Center	$298,458
Older Persons Action Group (statewide)	53,745
City of Tanana Residential Care Program	247,797
	$600,000

These amounts will be subject to local match and may not represent the total operating or services budgets. It is expected that the agencies request for continued operation will exceed the above amounts and that actual award will be contingent upon acceptance of each budget and scope of proposed services.

HB 288

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

OLDER ALASKANS COMMISSION

BILL SHEFFIELD, GOVERNOR

POUCH C, M.S. 0209
JUNEAU, ALASKA 99811
PHONE: (907) 465-3250

March 4, 1983

Mr. Bob Speed
Office of Rep. Mike M. Miller
Pouch V
Juneau, Alaska 99811

Dear Mr. Speed:

I am writing in the attempt to answer your questions concerning the Commissions budget. The Older Alaskans Commission determined the need for $600,000 in supplemental funds to meet service needs in SFY 83. At this time it would be very difficult to expend these funds by June 30. Because of this and due to the fact that our grants are awarded on a calendar year basis, any supplemental should be either carried over into SFY 84 or divided into two supplements over the two fiscal years. The amount to be divided varies as we approach the end of the current year.

By any analysis or criteria this supplement and more can be justified. The following may assist in this regard.

1. Federal funds to the Commission were cut in SFY 82 by $84,307. Notification of this cut came only three short months prior to the end of the fiscal year upon which grants were awarded. Therefore, aging services had to "absorb" this cut in a short period of time rather than spread it throughout the grant year.

2. Legislative intent programs were funded in SFY '81, '82 and '83 (listed separately). Continuation of these funds has been requested in the Commission's budgets, but have not been approved. For example, continuation level was cut $4[illegible]5,000 (a cut of 16.5% of state general funds) in SFY 83. Therefore, the '81 and '82 programs have not been continued with the exception of those that did not expend their funds in SFY 82. These awards were encumbered permitting programs to operate through June 30, 1983. However, the Commission budget still does not contain these funds nor does it contain funds awarded in FBIF grants. Continuation of these programs in SFY 84 can only come at the further expense of other operating programs unless additional resources are made available.

   For example, the Older Alaskans Commission received an unsolicited request for funds on February 28 from the City of Tanana to continue the SFY 1982 legislative intent of $225,000. The current request is for $279,461. In the current year ending June 30, state furds awarded to five programs in the entire Interior region totalled only $156,27[illegible].

At the current continuation level this amount will increase to $165,646 (6%). Tanana's request can not be met even if all other programs in the interior were eliminated.

3. The amount of requested funds for services has exceeded the amount available to the Commission by nearly $2.4 million just in the past seven months!

   Funds requested in the Anchorage area alone during the past seven months exceeded the amount awarded by $155,229. This amount does not include statewide programs located in Anchorage (OPAG and Alaska Legal Services). These would add an additional "shortfall" of $228,748.

4. The Older Alaskans Commission programs are cost effective. In the most recent quarter (October - December 1982) reported to the Commission 10,445 persons were served by one or more Commission funded projects. This represents 53% of the 19,643 Alaskans 60 and older (1980 Census). Of those served; 29.7% were minority, 74.8% economically needy, and 86% socially needy. In SFY '82 the average annual cost of services (other than Senior Employment) per person served was $350 including state administrative costs!

5. Local cash and in-kind funds including public and private resources currently provide significant support to aging services. In SFY '82 local match represented contributions of $1,656,269. Seniors themselves contributed an additional $187,636.

6. The Commission applied for FBIF funds for Title III programs in the amount of $303,945. $100,000 was awarded. However we have been informed that the attorney general has issued an opinion that FFY 82 was to be used as the base year. Funds lost in FFY '83 only can be applied. Therefore, we must return the $100,000 in spite of the previously mentioned loss in FFY '82 of $84,307.

7. Since 1978 our analysis shows that the state has committed $11.5 million in bonds and legislative appropriations for the construction of senior centers and equipment acquisitions. These expenditures have resulted in increased demand for grants for operations, maintenance, and services which has never been considered in the Commission's budget. Over eleven new centers are or will become operational this year and more are being proposed. Every new center represents an average annual fiscal impact upon the OAC of $250,000.

8. Thorough analysis of the Older Alaskans Commission budget should go beyond the actual budget to look at operating level. Due to the carryover of federal funds in the past the Commission, then Adult and Aging Services, had built up a considerable amount of funds. These were expended in SFY 82. This impacted the Commission in its first year of existence by creating an operating level shortfall of $307,120.

By any measure a $600,000 supplement is conservative for it alone will not prevent a further tightening of the belt. If granted we trust that means may be employed to assure continuation. If that is not done we will continue to have operating level problems.

Please let me know if this does not answer your questions.

Sincerely,

Dove M. Kull

Dove M. Kull
Legislative Chair
Older Alaskans Commission

STATE OF ALASKA
BILL SHEFFIELD, GOVERNOR
Legislative Intents
DEPARTMENT OF ADMINISTRATION
POUCH C, M.S. 0209
JUNEAU, ALASKA 99811
PHONE: (907) 465-3250

SFY 81

OLDER ALASKANS COMMISSION

Kodiak	Homemaker	$ 32,000
Anchorage	O.P.A.G.	30,000
Anchorage	Senior Voice	30,000
Anchorage	Med Alert	70,000
	Total	~~$ 132,000~~ $162,000

White House Conference on Aging (one time award - next conference in 1991) $100,000

SFY 82

Dillingham	Start Up	$271,000
Anchorage	O.P.A.G. (operations)	48,800
Tanana	Residential Care	225,000
Tok	Rent	6,000
	Total	$550,800

SFY 83

Legislative Intents to OAC -	- 0 -
RSA from DHSS (Anchorage Med Alert)	$144,000
FBIF - Title III *	100,000
FBIF - Title V Senior Employment	92,400
FBIF - O.P.A.G.	60,900
Total	$397,300

* Will probably not be awarded. See item 6 in letter.

OLDER ALASKANS COMMISSION
Requests and Awarded Grants for 1982/83

	7/1/82 - 6/30/83 AS 47.65		1/1/83 - 12/31/83 Title III	
	Requested	Funded	Requested	Funded
tatewide Applications:				
oster Grandparents/Sr.Comp.	$131,750	$33,000		
.P.A.G. (Anchorage)	197,410	64,680		
.P.A.G. I & R			$46,094	$27,878
.P.A.G. Directory			45,675	- 0 -
.laska Legal Services	111,646	79,419		
niversity of Alaska	27,582	- 0 -		
. of A. - Aging Together in AK		9,113		
.nchorage Area:				
hugiak, Chugiak Senior Citizens	$54,200	54,200	$182,776	$150,100
.nchorage Com.Mental Health Cent.	51,880	47,098		
.nchorage Multipurpose Sr.Cent.	61,934	44,278	26,933	17,977
.nchorage, Salvation Army	50,000	- 0 -	795,898	759,139
label T. Caverly Sr. Center			129,17[illegible]	124,770
nterior Region:				
ity of Galena			$15,000	- 0 -
elta Junction, Delta Seniors			36,295	$18,148
linto Village Council			55,102	26,561
lenana Tortella Council on Aging	$51,312	$44,020	13,048	11,103
airbanks, N.Star Council on Ag.	47,943	47,943	229,498	201,562
ok, Upper Tanana Dev. Corp.	43,000	35,000	204,820	193,015
airbanks Native Association	12,975	12,975		
cGrath/Anvik	16,332	16,332		
outhwest Region:				
illingham, B.B.N.A.	$99,209	- 0 -*	73,599	50,376
and Point, Shumagin Corporation	6,969	- 0 -		
ity of Bethel	162,609	41,348	112,298	106,325
leutian-Pribilof Islands	100,000	- 0 -		
ity of Dillingham			155,269	- 0 -
Reserved:				$78,000
outhcentral Region:				
ity of Kenai	$9,710	$5,086	130,607	120,300
omer, Homer Senior Citizens	60,824	35,000	68,318	21,879
ity of Cordova	24,228	20,000	70,639	65,039
eward, Seward Senior Citizens	30,743	14,000	8,146	- 0 -
inilchik, Ninilchik Sr.Citizens	27,452	- 0 -		
orth Pacific Rim Native Assn.	66,649	- 0 -		
odiak, Sr.Citizens of Kodiak	96,739	65,243	100,000	94,370
almer, Palmer Senior Citizens	93,874	57,188	176,214	124,537
asilla, Wasilla Area Services	141,371	36,468	146,091	98,517
.nchorage, C.I.N.A.	173,517	- 0 -		
opper River, C.R.N.A.	19,758	- 0 -	129,249	122,545

* Funded $50,000 under Title III 6-month continuation ending 12/31/82

	AS 47.65 Requested	AS 47.65 Funded	Title III Requested	Title III Funded
Southeast Region:				
S.E. AK Regional Health Corp.	$179,999	$102,645		
Catholic Community Services	322,201	150,000	1,096,706	934,504
City of Skagway			34,122	- 0 -
Metlakatla Indian Community	6,500	6,500	111,268	82,467
S.E. AK Community Action Program	40,000	- 0 -		
Juneau, Alaska Legal Services	75,688	- 0 -		
J.A.J.			33,525	- 0 -
Northwestern Region:				
Stebbins	$16,634	$16,634		
Nome Community Center			110,720	88,620
North Slope Borough			130,202	- 0 -
St. George's-in-the-Arctic (Maniilaq Assn) $30,000 of AS 47.65 transferred		30,000	22,214	- 0 -
	$2,612,638	$1,068,170	$4,489,396	$3,439,732

Legislative Intent:

Fairbanks, Tanana Chiefs Conference	$225,000
City of Dillingham	271,000

Transfer of Title III - 7/1/82:

City of Dillingham	$38,408

Title III Reserves - 1/1/83:

$129,035 held in reserve for the Northwest Region

$78,000 held in reserve for Dillingham

OLDER ALASKANS COMMISSION
Title III 6-month Continuation Awards
July 1, 1982 - December 31, 1982

Anchorage Area:	
Mabel I. Caverly	$37,595
Municipality of Anchorage	70,490
O.P.A.G. - I & R	16,500
Salvation Army - Wasilla	38,304
Salvation Army - Anchorage	353,082
Chugiak Senior Citizens	76,316
Northwest Region:	
Barrow Senior Citizens	$65,101
Kotzebue - St. George's	11,206
Nome Community Center	66,258
Southwest Region:	
City of Bethel	$23,334
Dillingham - B.B.N.A.	50,000
City of Dillingham	38,408
Southcentral Region:	
Copper River Native Assn.	$61,037
City of Cordova	31,401
Homer Senior Citizens	13,300
City of Kenai	66,930
Kodiak Senior Citizens	46,459
Palmer Senior Citizens	66,675
Seward Senior Citizens	8,335
Interior Region:	
Delta Junction - Delta Seniors	$6,238
Fairbanks, N.Star Council on Ag.	106,658
Minto Village Council	27,551
Nenana Tortella Council on Aging	5,217
Tok - Upper Tanana Dev. Corp.	102,409
Southeast Region:	
Juneau - Catholic Comm. Services	$462,399
Metlakatla Indian Community	52,879
Total	$1,905,082

HB

2891

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

March 31, 1983

To: House State Affairs

From: Ginny Chitwood, Executive Director

Re: HB 289 - Opening Polls at 7:00 a.m.

The Alaska Municipal League opposes HB 289 based on recommendations from the municipal clerks who say that experience has shown that extension of polling hours has not increased voter turnout and has been costly. We are presently checking with clerks who are meeting this week in Anchorage to find out which municipalities have tried poll hour extensions and the individual results.

Table 6
POLLING HOURS: GENERAL ELECTIONS

State or other jurisdiction	Polls open	Polls close	Notes on hours
Alabama	8 a.m.	6 p.m.	Opening and closing times not mandatory: polls must be open at least 10 consecutive hours.
Alaska	8 a.m.	8 p.m.	.....
Arizona	6 a.m.	7 p.m.	.....
Arkansas	8 a.m.	7:30 p.m.	Polls may open at 7 a.m.
California	7 a.m.	8 p.m.	Charter cities may set different hours for municipal elections.
Colorado	7 a.m.	7 p.m.	.....
Connecticut	6 a.m.	8 p.m.	.....
Delaware	7 a.m.	8 p.m.	.....
Florida	7 a.m.	7 p.m.	.....
Georgia	7 a.m.	7 p.m.	In cities of 300,000 or more, polls remain open until 8 p.m.
Hawaii	7 a.m.	6 p.m.	Voters standing in line at 6 p.m. may vote. No one may join line after 6 p.m.
Idaho	8 a.m.	8 p.m.	Polls close 8 p.m. or earlier when all registered electors of the precinct have appeared and voted. County clerk has option of opening polls at 7 a.m.
Illinois	6 a.m.	7 p.m.	.....
Indiana	6 a.m.	6 p.m.	.....
Iowa	7 a.m.	9 p.m.	.....
Kansas	7 a.m.	7 p.m.	Hours may be changed by election authorities, but polls must be kept open at least 12 consecutive hours between 6 a.m. and 8 p.m.
Kentucky	6 a.m.	6 p.m.	Persons in line may vote until 7 p.m.
Louisiana	6 a.m.	8 p.m.	Persons in line at 8 p.m. are entitled to vote.
Maine	Between 6 a.m. & 10 a.m.	Between 8 p.m. & 9 p.m.	Only municipalities using voting machines have the option of staying open until 9 p.m.
Maryland	7 a.m.	8 p.m.	.....
Massachusetts	May open as early as 5:00 a.m.; must be opened by 10 a.m.	8 p.m.	In cities and towns, the polls shall be kept open at least 10 hours.
Michigan	7 a.m.	8 p.m.	.....
Minnesota	7 a.m.	8 p.m.	Municipalities of less than 1,000 may establish hours of 9 a.m. to 8 p.m.
Mississippi	7 a.m.	6 p.m.	.....
Missouri	6 a.m.	7 p.m.	.....
Montana	8 a.m. 12 p.m.	8 p.m. 8 p.m. or earlier when all registered in any precinct have voted.	..... In precincts of less than 100 registered voters.
Nebraska	7 a.m. 8 a.m.	7 p.m. 8 p.m.	Mountain Time Zone. Central Time Zone.
Nevada	7 a.m.	7 p.m.	.....
New Hampshire	Varies	Varies	Cities: Polls open not less than 4 hours and may be opened not earlier than 6 a.m. nor later than 8 p.m. Small towns: In towns of less than 700 population the polls shall be open not less than 5 consecutive hours. On written request of 7 registered voters the polls shall be kept open until 6 p.m. In towns of less than 100 population, the polls shall close if all on the checklist have voted. Other towns: Polls shall open not later than 10 a.m. and close not earlier than 6 p.m. On written request of 10 registered voters the polls shall be kept open until 7 p.m.
New Jersey	7 a.m.	8 p.m.	.....
New Mexico	7 a.m.	7 p.m.	.....
New York	6 a.m.	9 p.m.	.....
North Carolina	6:30 a.m.	7:30 p.m.	In voting precincts where voting machines are used, county board of elections may permit closing at 8:30 p.m.
North Dakota	Between 7 a.m. & 9 a.m.	Between 7 p.m. & 9 p.m.	.....
Ohio	6:30 a.m.	7:30 p.m.	.....
Oklahoma	7 a.m.	7 p.m.	.....
Oregon	8 a.m.	8 p.m.	.....
Pennsylvania	7 a.m.	8 p.m.	.....
Rhode Island	Between 7 a.m. & 12 noon	9 p.m.	.....
South Carolina			
South Dakota			
Tennessee			
Texas			
Utah			
Vermont			
Virginia			
Washington			
West Virginia			
Wisconsin			
Wyoming			
Dist. of Col.			
American Samoa			
Guam			
Puerto Rico			

State or other jurisdiction	Polls open	Polls close	Notes on hours
South Carolina	8 a.m.	7 p.m.	Lancaster County is allowed to keep polls open until 8 p.m.
South Dakota	7 a.m. 8 a.m.	7 p.m. 8 p.m.	Mountain Time Zone. Central Time Zone.
Tennessee	Varies.	8 p.m. EST 7 p.m. CST	Polls must be open minimum of 10 and maximum of 13 continuous hours.
Texas	7 a.m.	7 p.m.	In counties of more than one million population the polls may be opened at 6 a.m.
Utah	7 a.m.	8 p.m.	.....
Vermont	Between 6 a.m. & 10 a.m.	Not later than 7 p.m.	Polls must be open at least 9 consecutive hours during the day.
Virginia	6 a.m.	7 p.m.	.....
Washington	7 a.m.	8 p.m.	.....
West Virginia	6:30 a.m.	7:30 p.m.	.....
Wisconsin	7 a.m. 9 a.m.	8 p.m. 8 p.m.	1st, 2nd and 3rd class cities. 4th class cities, villages and towns. Opening hours extendable by governing body to not earlier than 7 a.m.
Wyoming	8 a.m.	7 p.m.	.....
Dist. of Col.	7 a.m.	8 p.m.	.....
American Samoa	6 a.m.	6 p.m.	.....
Guam	8 a.m.	8 p.m.	.....
Puerto Rico	9 a.m.	3 p.m.	.....

HB

301

STATE AFFAIRS COMMITTEE SIGN-IN SHEET DATE OF HEARING: 4/11

HB 284; 301, 164, 279

NAME (PRINTED)	ADDRESS (MUST BE INCLUDED)	REPRESENTING	PHONE	TESTIFYING? YES/NO WHICH BILL?
BREWER, Joseph J	Pouch V, Juneau	Rep. Bassett	465-4990	YES - HB 279
Hemmiller, CARL	Dawn D Haines	Magistrate Ass	766-2801	Yes - HB 279
Ken Humphreys	~~Dep~~ Pouch C R	Dept. of Admin.	5-4460	HB 279, if needed
AL ADAMS	Psuch V. Juneau	Rep District 22	3706	HB 301

HSA FORM #002

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

AGENDA

DATE: 4/11

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY, AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

4 HB 279 - AN ACT AUTHORIZING PARTICIPATION BY MAGISTRATES IN THE JUDICIAL RETIREMENT SYSTEM.

1 HB 301 AN ACTMAKING A SPECIALL APPROPRIATION FOR PAYMENT OF 83 PERMANENT FUND DIVIDENDS

3 HB 164 AN ACT PROVIDING FOR THE DISTRIBUTION OF ALASKA PERMANENT FUND INCOME TO MUNICIPALITIES AND UNINCORPATED COMMUNITIES; REPEALING THE PERMANENT FUND DIVIDEND PROGRAM

OTHER NOTES OR REMINDERS:

2 DRAFT CS ON HB 284, RE; BOWHEAD WHALE READY!!!! (PLEASE HEAR ~~FIRST) NOT ON CALENDAR.~~ OLD BUSINESS HB 164.

FISCAL NOTE A Revision Date , 1983

I. REQUEST
Bill/Resolution No: HB 301
Title: Appropriation for 1983 PFD's
Sponsor: Adams
Requestor:

II. FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: General Govt.
BRU, Program of Subprogram(s) Affected: Admin. Svc., Enforcement, Public Services, Treasury

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
	OPERATING						
100	PERSONAL SERVICES	-0-	1,666.8	-0-	-0-	-0-	-0-
200	TRAVEL	-0-	116.7	-0-	-0-	-0-	-0-
300	CONTRACTUAL	-0-	1,061.5	-0-	-0-	-0-	-0-
400	COMMODITIES	-0-	13.7	-0-	-0-	-0-	-0-
500	EQUIPMENT	-0-	125.0	-0-	-0-	-0-	-0-
600	LANDS & STRUCTURES	-	-	-	-	-	
700	GRANTS, CLAIMS, ETC.	-0-	180,881.3	-0-	-0-	-0-	-0-
	TOTAL OPERATING	-0-	183,865.0	-0-	-0-	-0-	-0-
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	GENERAL FUND	-	-	-	-	-	-
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER(Specify Source)PFD-F	-0-	183,865.0	-0-	-0-	-0-	-0-
		-	-	-	-	-	-

POSITIONS:

	FULL-TIME	-0-	34	-0-	-0-	-0-	-0-
	PART-TIME	-0-	31	-0-	-0-	-0-	-0-
	TEMPORARY	-	-	-	-	-	-
		-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The assumption is that the operating costs for the Permanent Fund Dividend distribution is an allocation of the $183,865.0 appropriation.

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: William E. Jacobi Phone: 465-2336
Division: Administrative Services Date: 4/7/83

Approved by Commissioner: Date:
Department: Revenue

Distribution: COPY TO REQUESTOR
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor

Alaska Department of Revenue

Fiscal Notes to HB 301

Fiscal note A assumes that the operating costs for the Permanent Fund Dividend payments will be an allocation from the $183,865,000 appropriated by HB 301.

Fiscal note B assumes that the operating costs will be an appropriation from the General Fund to be added to the BRU's involved in the distribution program and that the Dividends will be paid out of the $183,865,000.

The back up information for the two fiscal notes is identical.

IV. ANALYSIS

An allocation to Department of Health and Social Services should also be considered to fund payments of "hold harmless" for Public Assistance recipients.

ADMINISTRATIVE SERVICES

	Col. 1 FY 84 EBB 1 VERSION	Col. 2 PFD RESIDUAL[1]	Col. 3 SUBTOTAL (COL. 1 LESS COL. 2)[2]	Col. 4 CONTINGENT PFD OPERATING[3]	Col. 5 TOTAL FY 84 CONTINGENT REQUEST
FUNDING					
100 Personal Services	1,506.0	(80.0)	1,426.0	677.2	2,103.2
200 Travel	19.4		19.4		19.4
300 Contractual	1,181.5		1,181.5	447.8	1,629.3
400 Commodities	17.5		17.5	2.2	19.7
500 Equipment	5.0		5.0	125.0	130.0
TOTAL	2,729.4	(80.0)	2,649.4	1,252.2	3,901.6
STAFFING					
PFT			34	6	40
PPT			5	14	19
TEMPORARY			17		17
MM			526	174.8	700.8

1 Denotes the balance left by OMB in the operating budget to handle the completion of the FY 82 distribution and the trust accounting in FY 84, assuming repeal

2 This column represents the BRU operating budget request with neither funds nor positions for PFD

3 This column represents the contingent funding and positions considered necessary for administering the PFD program in FY 84, assuming an on-going program

PUBLIC SERVICE

	Col. 1 FY 84 EBB 1 VERSION	Col. 2 PFD RESIDUAL[1]	Col. 3 SUBTOTAL (COL. 1 LESS COL. 2)[2]	Col. 4 CONTINGENT PFD OPERATING[3]	Col. 5 TOTAL FY 84 CONTINGENT REQUEST
FUNDING					
100 Personal Service	838.0	(60.0)	778.0	425.7	1,203.7
200 Travel	60.2		60.2	68.9	129.1
300 Contractual	712.6		712.6	360.6	1,073.2
400 Commodities	11.1		11.1	3.2	14.3
500 Equipment					
TOTAL	1,621.9	(60.0)	1,561.9	858.4	2,420.3
STAFFING					
PFT			27	6	33
PPT			1	16	17
MM			328	166	494

1 Denotes the balance left by OMB in the EBB 1 to handle the completion of the FY 82 distribution program in FY 84, assuming repeal

2 This column represents the BRU operating budget request with neither funds nor positions for PFD

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ENFORCEMENT

	Col. 1 FY 84 EBB 1 VERSION	Col. 2 PFD RESIDUAL[1]	Col. 3 SUBTOTAL COL. 1 LESS COL. 2)[2]	Col. 4 CONTINGENT PFD OPERATING[3]	Col. 5 TOTAL FY 84 CONTINGENT REQUEST
FUNDING					
100 Personal Services	1,068.0	(80.0)	988.0	724.6	1,712.6
200 Travel	54.9		54.9	43.5	98.4
300 Contractual	116.2		116.2	157.7	273.9
400 Commodities	7.1		7.1	5.1	12.2
500 Equipment					
TOTAL	1,246.2	(80.0)	1,166.2	930.9	2,097.1
STAFFING					
PFT			35	21	56
MM			420	252	672

1 Denotes the balance left by OMB in the EBB 1 to handle the completion of the FY 82 distribution program, assuming repeal

2 This column represents the BRU operating budget request with neither funds nor positions for PFD

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TREASURY MANAGEMENT

	Col. 1 FY 84 EBB 1 VERSION	Col. 2 PFD RESIDUAL[1]	Col. 3 SUBTOTAL (COL. 1 LESS COL. 2)[2]	Col. 4 CONTINGENT PFD OPERATING[3]	Col. 5 TOTAL FY 84 CONTINGENT REQUEST
FUNDING					
100 Personal Services	969.3		969.3	59.3	1,028.6
200 Travel	30.7		30.7	4.3	35.0
300 Contractual	1,157.8		1,157.8	95.4	1,253.2
400 Commodities	8.0		8.0	3.2	11.2
500 Equipment					
TOTAL	2,165.8		2,165.8	162.2	2,328.0
STAFFING					
PFT			22	1	23
PPT				1	1
MM			264	18	282

1 Denotes the balance left by OMB in the EBB 1 to handle the completion of the FY 82 distribution program in FY 84, assuming repeal

2 This column represents the BRU operating budget request with neither funds nor positions for PFD

3 This column represents the contingent funding and positions considered necessary for administering the PFD program in FY 84, assuming an on-going program

STATE OF ALASKA
FISCAL NOTE 8 Revision Date , 1983

I. REQUEST
BILL/Resolution No: HB 301
Title: Appropriation for 1983 PFD's
Sponsor: Adams
Requestor:

II. FISCAL DETAIL
Agency Affected: Revenue
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BRU, Program of Subprogram(s) Affected: Admin. Svc., Enforcement, Public Services, Treasury

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-0-	1,666.8	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	116.7	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	1,061.5	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	13.7	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	125.0	-0-	-0-	-0-	-0-
600 LANDS & STRUCTURES	-	-	-	-	-	
700 GRANTS, CLAIMS, ETC.	-0-	183,865.0	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	186,848.7	-0-	-0-	-0-	-0-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	2,983.7	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER(Specify Source)PFD-F	-0-	183,865.0	-0-	-0-	-0-	-0-
	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-0-	34	-0-	-0-	-0-	-0-
PART-TIME	-0-	31	-0-	-0-	-0-	-0-
TEMPORARY	-	-	-	-	-	-
	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The assumption is that the operating costs for the Permanent Fund Dividend distribution woul be an appropriation from the General Fund to be added back to the BRU's budgets reflected in the Executive Budget Book 1.

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: William E. Jack Phone: 465-3336
Division: Administrative Services Date: 4/7/83

Approved by Commissioner: Joseph K. Anderson Date: 4/7/83
Department: Revenue

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
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Copy to Requestor (if different from Sponsor)

Alaska Dep.. .ment of Revenue

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PPT			5	14	19
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PUBLIC SERVICE

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	FY 84 EBB 1 VERSION	PFD RESIDUAL[1]	SUBTOTAL (COL. 1 LESS COL. 2)[2]	CONTINGENT PFD OPERATING[3]	TOTAL FY 84 CONTINGENT REQUEST
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Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

Official Business

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

UT OF SESSION
P.O. Box 333
..ebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

April 11, 1983

MEMORANDUM

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Representative Al Adams AAA

SUBJECT: HB 301 - Special Appropriation for the Payment of 1983 Permanent Fund Dividends

House Bill 301 appropriates $183,865,000 for payment of 1983 permanent fund dividends. This figure is based on an estimate by the Department of Revenue of the balance in the Dividend Account, plus estimates on the earnings of the Permanent Fund itself, the total of which would be available for payment of dividends. These amounts are explained on the attached page.

1983 PERMANENT FUND DIVIDEND APPROPRIATION

Dividend fund balance available for payment of dividends	$ 78,730,526
Earnings from investment of the Permanent Fund (50% based on five year average)	107,134,474
Total of funds available for dividends	$185,865,000

Based on a population of 470,000 in 1983, each dividend would be $395.46.

HB

307

Introduced: 3/30/83
Referred: State Affairs
and Finance

IN THE HOUSE BY FLOOD

HOUSE BILL NO. 307

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the powers, duties and organization of the Alaska Public Broadcasting Commission; restricting the use of state money for public broadcasting; and requiring competitive bidding as a condition for state grants to public broadcasters."

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

* Section 1. AS 44.21.258 is amended by adding new subsections to read:

(c) An employee of a public broadcasting station may not be appointed to membership on the commission.

(d) A member of the commission may not serve more than one full term.

* Sec. 2. AS 44.21.268(a)(3) is amended to read:

(3) except as provided in AS 44.21.269, make [PROVIDE] grants to locally controlled non-profit telecommunications entities which lease, purchase, construct, own, operate and manage and are the licensees of public broadcasting stations, production centers, and other related equipment and facilities for the production and transmission of open circuit, closed circuit, 2,500 megahertz, and other transmission means necessary to provide fully effective public broadcasting in the state;

* Sec. 3. AS 44.21 is amended by adding a new section to read:

Sec. 44.21.269. LIMITATIONS ON THE USE OF STATE MONEY FOR GRANTS. (a) The commission may not use state money to make a grant under AS 44.21.268(a)(3) if the grant applicant

(1) broadcasts commercial advertising; don't do anyway

83 84 reg

6,300 6,755,2

grants

(2) allows any persons to rent or use equipment for profit or personal benefits;

(3) employs, as paid employees, more than twice as many full-time or full-time equivalent employees as are employed by the largest commercial broadcasting station, if any, located in the service area of the grant applicant;

(4) pays more than twice as much for employee salaries and contract labor services than is paid by the largest commercial broadcasting station, if any, located in the service area of the grant applicant;

(5) duplicates programming or broadcasting services available from other sources in the service area of the grant applicant;

(6) does not use sealed bid competitive bidding to obtain products or services that cost more than $3,000 annually, accepting the lowest bid from a qualified bidder; or

(7) fails to maintain a register of qualified bidders for the purposes of (6) of this subsection or fails to provide written notice of a bid proposal at least 30 days before the bids are opened to the qualified bidders on the register.

(b) In this section

(1) "commercial advertising" means a broadcast endorsement or description of a product, service, or business enterprise other than the naming of a business enterprise as the sponsor or underwriter of a public broadcast;

(2) "service area" means an area in which the broadcast signals of a public broadcasting station can normally be received.

[* Sec. 4. AS 44.21.268(b) is repealed.]

Not ok

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 307
Title: AK Pub. Broadcast. Comm./Restr. St. Mon
Sponsor: Flood
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Telecommunications
BRU, Program of Subprogram(s) Affected:
Alaska Public Broadcasting Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		124.6	130.8	137.3	144.2	151.4
200 TRAVEL	0	12.3	12.9	13.6	14.2	15.0
300 CONTRACTUAL	0	28.1	29.5	31.0	32.5	34.0
400 COMMODITIES	0	3.4	3.6	3.8	4.0	4.2
500 EQUIPMENT	0	19.8	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC	0	36.0	37.8	39.7	41.7	43.8
TOTAL OPERATING	0	224.2	214.6	225.4	236.6	248.4
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	224.2	214.6	225.4	236.6	248.4
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	3	3	3	3	3
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

APBC has not been notified by the Sponsor or the Committee as to where reductions will occur that will allow the above expenditures.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Charles M. Northrip (for Julianna Lacy, Deputy Comm, Telecommunications)
Phone: 465-2846
Division: Alaska Public Broadcasting Commission
Date: April 15, 1983

Approved by Commissioner: Lisa Rudd
Date: 4/19/83
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

APBC ANALYSIS OF FISCAL DATA
ON HB307
April 15, 1983

ASSUMPTIONS

All assumptions relate to various subparagraphs of proposed new section: AS 44.21.269, which would require the APBC to monitor certain public and commercial station activities.

(3) and (4) lead to the assumption that APBC would gather workforce, salary, and other data from all public and commercial stations in markets where both public and commercial stations exist.

(5) leads to the assumption that the APBC would monitor the programming activities of all public and commercial stations in the above markets.

(6) and (7) lead to the assumption that the APBC would monitor all purchases in excess of $3,000 by all public stations and that public stations would incur some increased costs in maintaining a bid register.

PROGRAM SUMMARY

1. Positions: One Accounting Clerk II - for activities listed under assumptions resulting from (3), (4), (6), and (7) above; One Broadcast Programming Specialist - for activities listed under assumption resulting from (5) above; and one Clerk Typist II - to provide clerical support to the first two positions.

2. Other expenditures: Travel - Broadcast Programming Specialist would have to visit all public/commercial markets and monitor actual on-air programming in order to verify that duplicative programming is or is not being presented by public stations; Contractual - rent for additional office space for new personnel; Commodities - additional office supplies for new positions; Grants - estimate of total cost of maintaining registers of qualified bidders at all public stations (2,000 per year per grantee).

3. Funding: All funding would be from the State's General Fund. No federal or other funds are available for these purposes.

COMPUTATIONS

The costs for the fiscal years beyond FY'84 are estimated to rise at 5% per year. Salaries may vary due to negotiated contracts.

ECONOMIC IMPACT

None expected on the general economy.

LOCAL GOVERNMENT IMPACT

None expected.

ATTACHMENTS

APBC comments on this bill are attached.

1.	POSITION TITLE (Broadcast Programming Specialist)			RANGE/STEP 21	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPRO.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		

3.	CONTINUATION LEVEL	ADDITION	X

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	41,700	
6.	Benefits	12,910	
7.	Supplemental Benefits	2,240	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	59,730
10.	Travel	02	12,300
11.	Contractual	03	9,360
12.	Commodities	04	1,133
13.	Equipment	05	3,230
14.	Other		
15.	TOTAL COST		85,753

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	85,753
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

In order for the APBC to ascertain that public stations are not duplicating programming or broadcasting services "available from other sources" (proposed new section AS 44.21.269 (5)), actual monitoring of commercial and public signals will be necessary in all communities where public and commercial stations are located.

This position would perform the monitoring, compare program listings, investigate allegations of duplicative programming, etc. Extensive travel would be required in order to actually verify that stations are programming as their schedules indicate.

13 REQUEST FOR NEW POSITION

AGENCY Administration

PROGRAM Telecommunications

BRU Alaska Public Broadcasting Commis.

COMPONENT APBC

Revised Date

FY 84

0-1136 (7/82) - 13

1.	POSITION TITLE Accounting Technician II			RANGE/STEP 14	BARG. UNIT G	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL		ADDITION X						

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	25,740	
6.	Benefits	7,969	
7.	Supplemental Benefits	1,578	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	38,167
10.	Travel	02	0
11.	Contractual	03	9,360
12.	Commodities	04	1,134
13.	Equipment	05	3,430
14.	Other		
15.	TOTAL COST		52,091

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	52,091
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

In order for the APBC to enforce the proposed new section, AS 41.21.269.(2), (3), (4), (5), and (7), extensive fiscal monitoring of all commercial and public stations in communities where both public and commercial stations are located would be necessary (a total of over 40 stations, without considering local Cable TV outlets).

This position would collect rental income data from public stations; staff, salary, and contractual data from all stations; and bid procedure information from public stations and analyze the data to assure compliance with the provisions of the proposed new section.

13 REQUEST FOR NEW POSITION

AGENCY Administration

PROGRAM Telecommunications

BRU AK Public Broadcasting Commission

COMPONENT APBC

Revised Date

FY 84

01-1136 (7/82) - 13

1.	POSITION TITLE Clerk Typist II				RANGE/STEP 7	BARG. UNIT G	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	FCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		

3.	CONTINUATION LEVEL		ADDITION	
4.	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
	PERSONAL SERVICES			
5.	Salary		17,340	
6.	Benefits		5,368	
7.	Supplemental Benefits		1,068	
8.	Fixed Benefits		2,880	
9.	TOTAL PERSONAL SERVICES	01		26,656
10.	Travel	02		0
11.	Contractual	03		9,360
12.	Commodities	04		1,133
13.	Equipment	05		13,150
14.	Other			
15.	TOTAL COST			50,299

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	50,299
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position would provide necessary clerical support for the Broadcast Programming Specialist and the Accounting Technician II.

13 REQUEST FOR NEW POSITION

01-1136 (7/82) - 13

AGENCY Administration

PROGRAM Telecommunications

BRU AK Public Broadcasting Commission

COMPONENT APBC

Revised Date

FY 84

HB 307
POSITION PAPER

HB 307 would place two additional restrictions on Alaska Public Broadcasting Commission appointees, delete the section of the statutes that prohibits the APBC from exercising control over program content and place seven limitations on grantees (stations) receiving State funds.

The Department of Administration opposes this bill because significant portions of it are unnecessary, and contrary to existing Federal and State policy relating to public broadcasting.

However, the Department can support new subsections (c) and (d) which amend AS 44.21.258.

Subsection (c), which prohibits a public station employee from attaining a Commission appointment, is supportable because it merely formalizes a practice presently in place. To date, there has never been a public station employee appointed to the APBC. Certain safeguards already exist in that the APBC does not make the appointments; appointments are made by the Governor and confirmed by the legislature. Further, AS 42.21.258(a) states "In making appointments the Governor shall give due consideration to representation from such fields as higher education, elementary and secondary education, communications, commercial broadcasting, public health, public works, labor, comme[illegible] and the professions."

The Department supports subsection (d) with minor modification, by inserting the word "full" before "term". This prevents a member from serving more than one full (5-year) term, but does not prevent a member from serving a partial term and then one full term.

The Department opposes the repeal of AS 42.21.268(b) because this section provides the necessary insulation from State interference or control over program content. This insulation from even the appearance of State control was felt to be so important that language was inserted four times in AS 42.21.300 (telecommunications divisions) as well as in the APBC statute in 1981. 44.21.305 requires the Deputy Commissioner for Telecommunications to "assure that division activities in no way constitute an influence on the content or airing of programming" and to report any activity of this nature to the Governor, Commissioner of Administration and the APBC. Similar language appears in 44.21.310(5) (c), 44.21.315(7)(g) and 44.21.320(2)(d). The first two subsections prohibit either telecommunications division from making programming decisions and the last subsection references the Television Project and the role of the RATNET Council.

The proposed new section 44.21.269 would require the APBC grantees (stations or other entities) to comply with seven new stipulations in order to qualify for State funding. A grantee will not qualify for State funds if it:

(1) "broadcasts commercial advertising"

Public stations do not presently broadcast commercials and although underwriting guidelines have been relaxed, do not plan to air commercials in the future. Existing APBC statutes and Federal restrictions prohibit commercial advertising; therefore, this provision is unnecessary.

(2) "...rent or use equipment for profit or personal benefits"

Federal NTIA-funded equipment use restrictions have been relaxed to encourage less dependency of Federal support. Although Alaskan public stations have taken advantage of this opportunity, most have policies stating that equipment can only be rented if no other vendor source is available. Finally, the APBC can place restrictions on funds it distributes, but cannot impose these restrictions on funds received by the stations from other sources.

(3) "employs...more than twice as many...employees as are employed by the largest commercial broadcasting station..."

This section would not effect single market stations or those located in major urban areas. However, there are five stations that share small town audiences with commercial radio stations. In Petersburg the commercial station provides religious programming with an all-volunteer staff. In all cases, a comparison of staff at stations in these locations would be difficult because the types of programming and duties of personnel are quite dissimilar. Public stations have a commitment to local programming which requires a different and larger staff than is dictated by commercial stations' formats. This local commitment (10% must be locally produced programs other than "record shows") requires staff to produce the programs or coordinate and train local volunteer programmers.

(4) "pays more than twice as much...than is paid by the largest commercial broadcasting station..."

If enacted, this section would require the APBC to inquire into commercial stations' financial information. Commercial stations are not required to make this information public; therefore, it would be unlikely that the APBC could comply with this section.

(5) "duplicates programming or broadcast services..."

The Department feels that the language in this section is ambiguous and that the intent is unclear. It may be intended as a replacement for AS 42.21.268(b) which relates to programming control and would be repealed if this bill becomes law. If so, this section would be illegal as AS 42.21.305 requires the Deputy Commissioner for Telecommunications to report all occurrences of program control to the Governor,

Commissioner of Administration and the APBC. Also, a concern for freedom of the press is raised as well as very practical monitoring considerations.

(6) "does not use...competitive bidding to obtain products or services that cost more than $3,000 annually, accepting the lowest bid..."

Competitive bidding for equipment purchases is presently a common practice at public stations. Federal PTFP equipment grants require competitive bidding and the APBC Engineer provides advice and information to stations about technological advances and equipment vendors. The requirement to accept the lowest bid would not provide the quality and durability necessary for broadcast equipment. Ultimately, it would be more expensive for stations to replace equipment frequently and would limit the flexibility stations have now to tailor their purchases to fit some rather unusual, Alaskan situations.

Some items, such as dues, subscriptions and programming, are not biddable. A large part of stations' program schedules come from PBS or NPR, both of which must be sole source procurements and both of which cost considerably more than $3,000 per year.

(7) "fails to maintain a register of qualified bidders...or fails to provide written notice of a bid proposal at least 30 days before the bids opened..."

In order to comply with this section public stations would require additional personnel. If, however, the previous section is not required due to present practices of the APBC and public stations, this section is also unnecessary.

Julianna Guy Julianna Guy 4-18-83
Deputy Commissioner for Telecommunications Date
Department of Administration

Lisa Rudd Lisa S Rudd 4/19/83
Commissioner Date
Department of Administration

HB 307
POSITION PAPER
Developed by the Alaska Broadcasting Commission

HB 307 proposes additional restrictions on the use of State money for public broadcasting and would require competitive bidding as a condition for state grants to public broadcasters. It would accomplish both these purposes by amending the enabling statute of the Alaska Public Broadcasting Commission, AS 44.21.

The first section of the bill amends AS 44.21.258 by adding two new subsections, one of which would prohibit an employee of a public broadcasting station from being appointed to membership on the APBC and the other would limit members of the Commission to serving only one term. The APBC has no objection to the first addition. It should be noted, however, that in the 13 year history of the APBC, an employee of a public broadcasting station has never served as a member of the Commission. The Commission's current enabling statute, AS 44.21.258, empowers the Governor to appoint the members of the Commission after giving due consideration to representation from such fields as higher education, elementary and secondary education, communications, commercial broadcasting, public health, public works, labor and commerce and the professions. There is, therefore, no requirement in the current statute for public broadcasting employees to be appointed to the Commission, and none have been so appointed. In two instances over the last 13 years, Commission members have resigned their seats on the Commission in order to apply for positions at public broadcasting stations. A prohibition against employees of public broadcasting stations serving as members of the Commission may be unnecessary since such membership would clearly violate common law provisions with regard to conflict of interest.

The proposed provision to limit a member of the Commission to serving no more than one term leaves unanswered the possibility of serving a portion of an unexpired term and then serving a full term. This problem could be addressed by adding the word "full" between the words "one" and "term" on line 15 of page 1 of the bill. In point of fact, 38 different Alaskans have served as members of the APBC over the Commission's thirteen year history. Of that group, only three have served for more than five years (the length of one term on the Commission.) It would appear that normal attrition and the regular exercise of the Governor's appointing power has assured adequate turnover of the Commission's membership. Nevertheless, the Commission would not oppose either of the first two provisions of the bill.

HB 307, in Section 4, purposes to repeal AS 44.21.268(b). That provision prohibits any APBC control over the specific content or airing of any program material. The Commission opposes any repeal of that provision. The basic premise on which State support for public broadcasting has been based in Alaska, is the local control of broadcast programming by the independent non-profit corporations which serve as the licensees of the various public stations. This funding approach has a firm basis under the freedom of press and speech provisions of the First Amendment to the U.S. Constitution and avoids any possibility of government control of broadcast programming. Previous legislatures have felt so strongly about confirming this principle

that it is enunciated in three other locations in Alaska Statutes (AS 44.21.305(b)(2); AS 44.21.310(c); AS 44.21.315(g)). Even if Section 4 of HB 307 were to become law, the other provisions of the statute cited above would still prohibit the APBC from engaging in program control activity.

Section 3 of HB 307 proposes to add a new section to the APBC enabling statute which would cause the APBC to deny State grant funds to any station or other grant applicant, if the applicant:

(1) "Broadcasts commercial advertising." The Commission feels that this provision is unnecessary since its current statute and own regulations allow it to make grants only to non-profit telecommunications entities which lease, purchase, construct, own, operate, and manage and are the licensees of public broadcasting stations, etc. By definition, these entities are licensed by the Federal Communications Commission as non-commercial, educational stations. They are already prohibited by law from broadcasting commercial advertising. In addition, the Articles of Incorporation or basic institutional framework of each APBC grantee must state that the station will broadcast only non-commercial material.

(2) "Allows any person to rent or use equipment for profit or personal benefits." Current federal law allows any public station to rent its facilities in order to supplement its income, and therefore, become less dependent on federal and other governmental funding. Such an approach assures a broader base of support for each public station and has the potential for lessening the dependence of each station on government funds. In Alaska, each station which makes its facilities available for rent or contract use has established policies limiting those uses only to instances where potential users cannot procure those services elsewhere in the local area. The APBC opposes the blanket restriction proposed in HB 307. The APBC already prohibits grantees from using their facilities for the production of commercial messages or political announcements.

(3) "Employs, as paid employees, more than twice as many full-time or full-time equivalent employees as are employed by the largest commercial broadcasting station, if any, located in the service area of the grant applicant." While the APBC could probably support the spirit of this proposed provision, its practical enforcement would be confusing and vague at best. In one community where a public station and a commercial station are co-located, the commercial station is staffed entirely by volunteers of a particular religious persuasion. In other locations, the commercial radio "station" is simply a repeater of a larger commercial station in a distant urban market, or is an automated operation playing music tapes purchased from a syndicated music service. In communities of this sort, the public station may be the only source of local news, public affairs, emergency announcements and the like. Even a minimum full time staff at the public station would, however, violate the requirements of this proposed provision.

(4) "Pays more than twice as much for employees salaries and contract labor services than is paid by the largest commercial broadcasting station, if any, located in the service area of the grant applicant." The APBC opposes this provision because it would be impossible to enforce. In order to enforce the provision, the Commission would have to have detailed salary and contractual employment data from all commercial stations in markets

where public stations exist. The FCC does not require that financial information from commercial stations and it is highly unlikely that the commercial stations would provide it to the APBC on a voluntary basis. The same objections raised to (3) above would also apply to this provision.

(5) "Duplicates programming or broadcasting services available from other sources in the service area of the grant applicant." This provision would violate the other three provisions in Alaska Statutes which require government agencies to refrain from exercising control over program services of broadcast stations, even if AS 44.21.268(b) is repealed. The APBC opposes this provision on the philosophical grounds discussed above relating to freedom of speech and press and in view of the difficulties envisioned in enforcing the provision. What, for example, is duplicate programming? If a local commercial station provides weather information, must the APBC require its grantee station not to broadcast weather information? If a local commercial television station broadcasts network-provided feature films, must the APBC require the local public television station to refrain from the broadcast of a classic film series? The list of such judgmental difficulties is endless.

(6) "Does not use sealed bid competitive bidding to obtain products or services that cost more than $3,000 annually, accepting the lowest bid from a qualified bidder." This provision appears, at first glance, to be a practical and prudent way of conserving State funds. In fact, all APBC grantees do use competitive bidding for procurement of major items of equipment and facilities. There are some items, however, many of which cost more than $3,000, that stations simply could not procure through competitive bidding. Each public television station, for example, must pay its share of the cost of the nationally produced programs that make up its Public Broadcasting Service (PBS) schedule. Such programs as Masterpiece Theatre, Nova, Sesame Street, Over Easy, and The McNeal/Lehrer Report are part of a joint purchase made by all public television stations in the country each year. That purchase costs each station in excess of $100,000. There is no way to make the PBS schedule a competitively-procured item. The fact that the total cost to all stations for all PBS programs is less than one-tenth the cost of the schedule of one of the three national commercial networks would indicate that the public stations are already exercising commendable budget restraint in such procurements. A similar situation exists with regard to public radio stations and the services received from National Public Radio which include All Things Considered and Morning Edition. In addition, in the procuring of less expensive items, public stations often provide a local or Alaska dealer preference in their purchasing procedures which would be prohibited by this proposed provision. For all of the above reasons, the APBC opposes this provision.

(7) "Fails to maintain a register of qualified bidders for purposes of (6) of this subsection or fails to provide written notice of a bid proposal at least 30 days before the bids are opened to qualified bidders on the register." The APBC would oppose this provision since it is totally dependent on (6) above. In addition, stations having to comply with this provision would require at least some additional funding assistance in order to provide the clerical support necessary to comply with this provision.

In conclusion, while the APBC has only minor or no objections to one or two provisions of HB 307, the Commission finds the vast majority of the provisions in the bill either unnecessary, contrary to First Amendment guarantees of free speech and press, or unenforceable. For those reasons, the APBC would recommend that the bill not be enacted.

4/15/83
DATE

Charles M. Northrip
Executive Director
Alaska Public Broadcasting Commission
465-2846

4/18/83
DATE

Lisa Rudd, Commissioner
Department of Administration

REPRESENTATIVE
JOE FLOOD
3423 WEST 79TH
ANCHORAGE, ALASKA 99502
(907) 243-7511

MEMBER
FINANCE COMMITTEE

DISTRICT 9
SOUTHWEST ANCHORAGE

Alaska State Legislature

House of Representatives

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811
(907) 465-4937

STAFF COUNSEL
MARK K. JOHNSON

APRIL 13, 1983

MEMORANDUM

FROM: REPRESENTATIVE JOE FLOOD
TO: ALL MEMBERS OF THE STATE AFFAIRS COMMITTEE

SUBJECT: SPONSOR AMENDMENT TO HB 307, AN ACT RELATING TO THE POWERS, DUTIES AND ORGANIZATION OF THE ALASKA PUBLIC BROADCASTING COMMISSION, RESTRICTING THE USE OF STATE MONEY FOR PUBLIC BROADCASTING; AND REQUIRING COMPETITIVE BIDDING AS A CONDITION FOR STATE GRANTS TO PUBLIC BROADCASTERS."

SPONSOR AMENDMENT # 1

PAGE 2, LINE 12
END OF LINE 12, DELETE ";" AND INSERT "FOR PROFIT;"

Raven Radio
KCAW • 104.7 FM
Post Office Box 520 • Sitka, Alaska 99835 • (907) 747-5877

April 1, 1983

Joe: Take attack at This — HB 307

Representative Ben Grussendorf
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Ben,

I hope the session is going well for you. I have not been able to follow it as closely as in years past, because I have been either hospitalized or convalescing since mid-January. I am doing much better, and have been back at work full-time for about a week.

Yesterday a copy of House Bill 307 darkened my desk. The bill was introduced by Representative Joe Flood. If it becomes law, it will pose some real problems for KCAW and Public Radio in general. There is very little about the bill which I like, but I will focus on just a few points which I believe are particularly disastrous.

On page 2 line 1 is language which would prohibit anyone from using equipment for profit or personal purposes. There are times when it is in the best interest of Raven Radio and Sitka to allow such personal uses. Recently, for example, a producer received a contract from Alaska Arts Southeast to produce some radio spots for commercial stations promoting the Sitka Summer Fine Arts Camp around the State. Raven had the only facilities in Sitka suitable for producing and duplicating the tapes. The producer did benefit personally, but so did Raven Radio, Alaska Arts Southeast, and the community at large.

Of greater long-term concern, however, is the prohibition against the use of equipment for profit making purposes. The Federal Government has recently lifted that restriction, and has encouraged us to use our facilities to earn money which will make up for the Federal shortfall. National Public Radio has taken this admonition to heart and has plans to be completely off federal funds by 1986, (off the fix by '86 is the

Partially funded by the Alaska Broadcasting Commission

slogan at NPR). In order to do this, NPR needs to be able to use the satellite downlinks at stations and the station's sub-carriers to distribute information for it's profit making ventures. This law would preclude Alaska's participation in these ventures, and would not only harm local stations, but weaken National Public Radio. I have asked N.P.R. to send you information about their plans. I hope you will be getting that soon.

Language on page 2, lines 3 - 10, would limit employment and overall salaries at public radio stations to twice the level at the largest commercial station in the service area. On the surface this seems generous, but there are some problems. This section first assumes that the commercial stations will release that data. Further, according to people at KIFW, salaries and contracts are only a small portion of employee compensation. There are commissions on advertising sales, bonuses, incentives and tradeouts which would not be listed under salaries and not available to non-commercial employees. This makes the provision less generous. The real question, however, is "what is the station trying to do?" Raven Radio has elected to put a heavy emphasis on local news, which I believe has raised the overall level of coverage of events, elections, and government in Sitka. KIFW does not choose to do that, because it is not profitable. KCAW has elected to become a regional station, serving outlying villages. This will raise our engineering personnel and contract costs, and will, hopefully, necessitate our paying some part-time news stringers in the villages served to phone in local news which would be of interest to both their communities and to people in Sitka. Must we limit the service we provide by what a local commercial station chooses to do? The real issue should be: What services should public radio deliver, and how can that be done most efficiently? not, What is commercial radio doing?

The most dangerous section of this bill, however, is on page two, lines 11 and 12. It would prohibit Public Radio from duplicating services already available in the service area. Marine Weather is available on KIFW and the NOAA weather radio; does that mean that KCAW cannot also read the marine forecast? That is admittedly a picky point, but what about news? KIFW and Cable News Network provide national news; does that mean that we cannot broadcast <u>All Things Considered</u> or <u>Morning Edition</u>? The Sentinel covers legislative elections; does that prohibit Raven from doing the same? If this bill is passed, the arbiter becomes a State Agency, the Alaska Public Broadcasting Commission. This is a dangerous power, one which is ripe with the possibility of abuse, and could leave us with a public radio system limited to classical music and Korean temple bells.

Finally, the section on page 2 lines 13 through 20 requiring sealed bids for purchases over $3,000.00 will increase the costs for many of our purchases. Frankly, we do better in getting bids on the telephone and playing vendors off against each other. Raven Radio has one of the finest public radio facilities in the state for no more money than was spent on other stations because we used that system rather than the sealed bids. Also, there are times when we do not give the business to the lowest bidder. If a Sitka vendor, or an Alaska supplier gives us a bid within a few percentage points of a Seattle company, we will try to give the business to the local bidder. As much as possible, I believe we should spend money appropriated to a district in that district, and the extra few dollars we spend to, say, have the program guide printed in Sitka, pays off on other ways throughout the year.

Well, Ben, I have used up probably more paper than you really want to read, but this bill is just plain bad news. I hope you agree, and help us bury it very deep.

Sincerely,

Rich McClear

REPRESENTATIVE
JOE FLOOD
3423 WEST 79TH
ANCHORAGE, ALASKA 99502
(907) 243-7511

MEMBER
FINANCE COMMITTEE

DISTRICT 9
SOUTHWEST ANCHORAGE

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99811
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STAFF COUNSEL
MARK K. JOHNSON

House of Representatives

April 7, 1983

Mr. Rich McClear
RAVEN RADIO - KCAW
P.O. Box 520
Sitka, Alaska 99835

Dear Mr. McClear,

I would like to take this opportunity to respond to your letter addressed to your Representative Ben Grussendorf concerning HB 307, legislation concerning the Public Broadcast Commission; legislation which I introduced.

If I may, I would like to address the issues singled out in your letter. You made reference to "page 2, line 1", the prohibition of a public broadcast facility receiving state grants if they allow persons to rent or use their equipment for profit or personal benefit. The instance you site as your argument against this provision is fortified by your statement, "Raven had the only facility in Sitka suitable for producing and duplicating the tapes.". Does that mean that KCAW is the only station in Sitka that is capable of producting radio spots? It would occur to me that KIFW, being a commercial broadcast facility would be able to produce radio spots suitable for broadcast. Correct me if I'm wrong, but, most commercial broadcast stations will produce and/or duplicate public service announcements, and air them free of charge. I find no conflict in the area of P.S.A.s or the exchange of P.S.A. tape production or distribution of those tapes. Sub-section A (2) directs the members of the Public Broadcasting Commission to disallow the profitable use of Alaska P.B.S equipment and consider that when reviewing applications for state grants.

Addressing your second concern about the prohibition of using your equipment for profit making. That statute has been and is currently in effect. Title 44, Chapter 21, Section 264 of the Alaska Statutes clearly

prohibits such commercial use of Alaska P.B.S. equipment.
"Sec. 44.21.264. PURPOSE OF THE COMMISSION. The commission is created to encourage and supervise the development of an integrated public broadcasting system for the state and for the coordination of all public broadcasting stations. The primary purpose of the commission is the encouragement and support of noncommercial public broadcasting in the state through the provision of operating and capital grants in support of the delivery of noncommercial programs intended for a general audience by locally controlled nonprofit broadcast stations or telecommunications entities. The commission may support stations and entities which also engage in the delivery of instructional, for-credit programs, and the commission may provide funds for those purposes, but the primary purpose of commission funds is the support of activities that result in the delivery of general audience, noncommercial material."

Thirdly, the employee and employee salary limitations are not based on a need for "generosity". The F.C.C. has strong requirements for commercial broadcast stations to provide for their service areas. Such as news, weather, sports, public awareness programming, as well as public service announcements. To provide these requirements they must employ and pay a staff sufficient to provide these services, along with an administrative, technical, engineering and sales staff to generate the amount of income needed in the commercial marketplace to guarantee the on-going financial survival of that station. How then can any P.B.S. station justify more than twice the number of employees and/or twice the salaries of those employees of any commercial broadcast station, when the operating costs are underwritten by state and federal grants? You quote, This makes this provision less than generous.". When are state and federal grants issued on the basis of "generosity"? These grants are not provided or intended to produce a P.B.S. facility capable of competition in the free enterprise marketplace with non-subsidized commercial broadcast entities. In effect, you have private business competing against their own federal tax dollars and funds from their state government! I think that you can see this is not equitable.

As to your argument concerning the duplication of available broadcast services, I will concede that this is vague and not clearly worded, and should be looked at closely. This section (Sub-section A (5)) is not intended to prevent such broadcast services as you pointed out and I appreciate you bringing this misunderstanding to light. Thank you.

In closing, Mr. McClear, this legislation is designed to assist the Public Broadcasting Commission in their scrutiny of state grant applications and is

not intended to "do in" any public broadcast entity. I'm sure that we agree that KCAW fits the existing and proposed guidelines and shall continue to be eligible for state and federal grants and will also continue to provide quality P.B.S. programming to Sitka and the state of Alaska.

Respectfully yours,

Joe Flood
State Representative

HB 306, (cont'd)

amendment). Does not provide for an effective date (becomes law 90 days after Governor's approval).

Introduced March 30 and referred to State Affairs, Finance.

AK Public Broadcasting Commission (membership/ use of funds/) edit. control)

HOUSE BILL NO. 307, by Rep. Flood. Relates to the Alaska Public Broadcasting Commission. Amends AS 44.21.258 (Membership and Term of Office) by adding language stating that an employee of a public broadcasting station may not be appointed to a membership on the commission, and that a member of the commission may not serve for more than one term.

Adds a new section setting limits on the use of state money for grants made by the Commission. The Commission may not make a grant if the grant applicant broadcasts commercial advertising; allows rental or use of equipment for profit or personal benefits; employs, as paid employees, more than twice as many full-time or full-time equivalent employees as are employed by the largest commercial broadcasting station located in the service area of the applicant; pays more than twice as much for employee salaries and contract labor services than is paid by the largest commercial broadcasting station in the service area of the applicant, duplicates programming or broadcasting services available from other sources in the service area of the applicant; does not use sealed competitive bidding to obtain products or services that cost more than $3,000 annually, accepting the lowest bid from a qualified bidder; or fails to maintain a register of qualified bidders or fails to provide written notice of a bid proposal at least 30 days before the bids are opened to the qualified bidders on the register.

Repeals AS 44.21.268(b) (Powers of the Commission. "(b) In performing its duties and exercising its authority under AS 44.21.010 - 44.21.330, the commission may not exercise control over the specific content or airing of any program material."

Does not provide for an effective date (becomes law 90 days after Governor's approval).

Introduced March 30 and referred to State Affairs, Finance.

Workers' Compensation (municipal self-insur.)

HOUSE BILL NO. 308, by the Labor & Commerce Committee. See the Labor & Commerce substitute for Senate Bill No. 66, page 407, identical.

Introduced March 30 and referred to Labor & Commerce.

Appropriations (reapprops., transfers)

HOUSE BILL NO. 309, by the Finance Committee. Makes reappropriations and transfers among appropriations (resulting in a zero fiscal impact):

--repeals a $50,000 1981 appropriation to Mary's Igloo for design of an energy efficient community in conjunction with relocation, and appropriates $37,000 for payment as a grant to the City of

HB 301

AS44.21.258 DOCUMENT

CHAPTER = 44.21
SECTION = 44.21.258
TITLE = 44
HEADINGS TITLE 44.
State Government.
CHAPTER 21.
Department of Administration.
ARTICLE 6.
Alaska Public Broadcasting Commission.
CITATION Sec. 44.21.258.
CATCH LINE
MEMBERSHIP AND TERM OF OFFICE.
TEXT (a) The commission consists of nine members appointed by the governor, without regard to political affiliation, subject to confirmation by a majority of the members of the legislature in joint session. In making appointments to the commission, the governor shall give due consideration to representation from such fields as higher education, elementary and secondary education, communications, commercial broadcasting, public health, public works, labor, commerce and the professions. Members may be removed only for cause.

(b) The members of the commission shall serve staggered terms of five years, with the initial terms determined by lot.
HISTORY (Sec. 1 ch 153 SLA 1970; am sec. 2 ch 87 SLA 1976; AS 14.58.020)

AS44.21.268 DOCUMENT

CHAPTER = 44.21
SECTION = 44.21.268
TITLE = 44
HEADINGS TITLE 44.
State Government.
CHAPTER 21.
Department of Administration.
ARTICLE 6.
Alaska Public Broadcasting Commission.
CITATION Sec. 44.21.268.
CATCH LINE
POWERS OF THE COMMISSION.
TEXT (a) The commission may

(1) employ all consultative, technical and clerical personnel necessary for the implementation of AS 44.21.010 - 44.21.330, within the limits of available funds;

(2) employ a director, who shall be directly responsible to the commission in financial and administrative matters;

(3) provide grants to locally controlled non-profit telecommunications entities which lease, purchase, construct, own, operate and manage and are the licensees of public broadcasting stations, production centers, and other related

equipment and facilities for the production and transmission of open circuit, closed circuit, 2,500 megahertz, and other transmission means necessary to provide fully effective public broadcasting in the state;

(4) appoint unpaid advisory committees to assist in development of programs for public television broadcasts;

(5) provide assistance to licensed commercial broadcasting stations for the broadcast of public affairs programming.

(b) In performing its duties and exercising its authority under AS 44.21.010 - 44.21.330, the commission may not exercise control over the specific content or airing of any program material.

HISTORY (Sec. 1 ch 153 SLA 1970; am sec. 5 ch 87 SLA 1976; AS 14.58.070; am Executive Order No. 50, sec. 5 (1981))

AS44.21.268 DOCUMENT

CHAPTER = 44.21
SECTION = 44.21.268
TITLE = 44

HEADINGS TITLE 44.
State Government.
CHAPTER 21.
Department of Administration.
ARTICLE 6.
Alaska Public Broadcasting Commission.

CITATION Sec. 44.21.268.

CATCH LINE
POWERS OF THE COMMISSION.

TEXT (a) The commission may

(1) employ all consultative, technical and clerical personnel necessary for the implementation of AS 44.21.010 - 44.21.330, within the limits of available funds;

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(3) provide grants to locally controlled non-profit telecommunications entities which lease, purchase, construct, own, operate and manage and are the licensees of public broadcasting stations, production centers, and other related equipment and facilities for the production and transmission of open circuit, closed circuit, 2,500 megahertz, and other transmission means necessary to provide fully effective public broadcasting in the state;

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HB

323

FISCAL NOTE Revision Date 6/14, 1983

I. REQUEST
Bill/Resolution No: SCSCSHB 323 (SA)
Title: Residency and residency requirements
Sponsor: State Affairs Committee
Requestor: Senate Judiciary

II. FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: Coll. & Mgmt.

BRU, Program of Subprogram(s) Affected: Administration & Support

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
	OPERATING						
100	PERSONAL SERVICES	-	-	-	-	-	-
200	TRAVEL	0	1.0	-	-	-	-
300	CONTRACTUAL	-	-	-	-	-	-
400	COMMODITIES	0	3.0	1.3	1.4	1.5	-
500	EQUIPMENT	0	2.0	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
	TOTAL OPERATING	0	6.0	1.3	1.4	1.5	-
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	GENERAL FUND	0	6.0	1.3	1.4	1.5	-
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER (Specify Source)	-	-	-	-	-	-
	Sport Fish Fund	0	(18.2)	(38.5)	(40.8)	(43.4)	-
	Game Fund	0	(14.1)	(30.0)	(31.8)	(33.6)	-

POSITIONS:

	FULL-TIME	-	-	-	-	-	-
	PART-TIME	-	-	-	-	-	-
	TEMPORARY	-	-	-	-	-	-
		-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Cecilia A. Wagoner Phone: 465-2376
Division: Revenue - Fish and Game Date: 6/13/83

Approved by Commissioner: Joseph E. Donahue Date: 6/14/83
Department: Revenue

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

IV. Analysis of SCSCSHB 323 (State Affairs)

Three thousand is needed to initially design and print applications and the permanent I.D. card and to order enough laminating jackets for the fiscal year. Each subsequent fiscal year we will have the cost of additional laminating jackets. The equipment cost is for three laminating machines; one for the Public Services Counter in Anchorage, one for Fairbanks, and one for Juneau. The travel expenditure is for the Records & Licensing Supervisor to go to Anchorage and Fairbanks and instruct the counter employees.

According to data received from the Department of Labor and the Committee for Older Alaskans, the percentage rate of senior citizens in our state is fairly stable from year to year.

Using FY 82 as the base, it is estimated that there will be a six percent increase in resident sales every year. It is also estimated that three percent of the resident sales are sold to residents sixty years or older.

We are recommending that this bill be amended to include an effective date of January 1, 1984, because license changes traditionally take place at the beginning of a calendar year. If implemented in the middle of the year, some licensees who could be eligible would have already purchased their license and it wouldn't be fair to them. Middle of the year implementation would also require special printing and mailing costs. Time is also needed to properly inform the public of the new law so that all who are eligible can apply.

Assuming that the bill goes into effect 1/1/84, there will be no effect in FY 83. There will be losses to both the Sport Fish and Game Funds in each subsequent fiscal year. FY 84 has a much smaller loss because only half of the fiscal year will be effected.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C (MS 0200)
JUNEAU, ALASKA 99811
PHONE: (907) 465-2200

OFFICE OF THE COMMISSIONER

RECEIVED
APR 26 1984

April 19, 1983

Representative John Lindauer
Chairman, House Subcommittee on Dept. of Administration's Budget
Pouch V
Juneau, Alaska 99811

Re: Classification Study

Dear Rep. Lindauer,

This is in response to an inquiry regarding the need for a classification study. Currently the state sets salary ranges for various job classifications on the traditional system of classification. This means that the goal is to set salaries on the basis of market wages and internal equity by comparing similar classifications.

The Problems

There are many problems with this system. It was established over 40 years ago and is administered manually by classifiers who try to properly match some 13,000 positions to some 1,200 definitions of classifications ("class specifications"). The matching is based on written job descriptions usually prepared by the employees. Our present system is too easily manipulated by the way position descriptions are creatively written and too readily influenced by subjective evaluations and fluctuating market values. The result has been that the state cannot now respond to complaints filed by women and minorities who demand to know for example, why carpenters are paid more than secretaries.

Liability

The traditional system of classification which the state now uses does not have the ability to respond to these questions of "comparable worth". At the present time the Public Health Nurses have a complaint filed against the state with a current liability of approximately one million dollars because they claim they should be paid the same as physicians assistants. We do not even have a classification system which can tell if this claim is justified. Since all physicians assistants are men and the overwhelming majority of public health nurses are women,

02-09LH

the claim is made that the state is intentionally discriminating against women. Other groups of employees stand ready to challenge our present classification system on the same or similar bases. Therefore, we must obtain a new state-of-the-art classification system which can adequately respond to these charges of discrimination and which will allow employees salary ranges to be set on a more objective basis.

Necessary Legislative Action

What is needed is the necessary funds in order to publish a request for proposals to obtain a modern classification system. Many private companies have such systems which can be implemented by the state. Both unions and management should be involved in the selection process and agree ahead of time on the method to resolve disputes which will result from a new system. All positions in the state must be reevaluated and assigned to appropriate classifications as a result of implementing the new, more objective system. This system would be automated and accessible and the classification process would become an open process.

In order to know the approximate cost of such a large project, three private firms were contacted to obtain an unofficial estimate. The average was approximately $500,000.00. This is a large amount of money and if we could obtain the new system for less, we would lapse the remaining funds. While this figure is high, it is small in comparison to our liability in the face of continuing complaints.

I will be glad to answer any questions you have on this subject.

Sincerely,

Lisa Rudd
Commissioner

LR/FR/gmw

~~R~~ .500

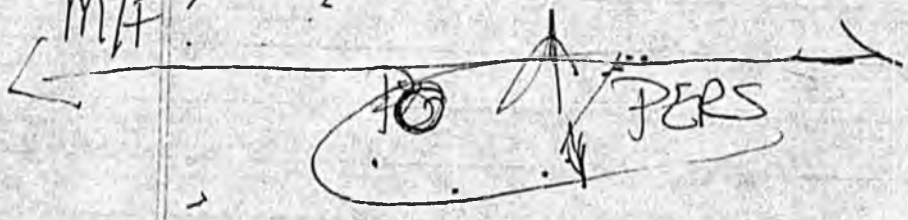
2500
-1500

How job classif. vary from Dept & Div. for different ranges

What skills are needed for low paying jobs?
Range 7-10

How many have college degrees?
How many overqualified, just to get into system?

M/F?



JRS

JRS

Bills

Court Adm REMOVED from SRS

Teachers go back to 30 yr. Retirement

Open Registry System

Amend PA

Bargaining Unit Members by Range & Step
Supervisors

Effective May 1, 1983

	A	B	C	D	E	F	J	K	L	M
9	0	0	0	0	0	0	0	0	0	0
10	0	0	0	0	1	0	0	0	0	0
11	0	2	0	0	0	1	0	0	0	0
12	2	7	2	3	4	1	4	2	0	0
13	0	0	1	1	0	2	0	0	0	0
14	9	5	10	3	3	7	3	0	0	0
15	0	5	2	3	4	3	0	1	0	0
16	6	9	5	3	5	6	1	4	1	0
17	3	5	3	2	3	6	4	4	2	0
18	20	27	19	9	19	18	11	18	2	2
19	6	8	5	12	11	20	8	7	2	0
20	23	27	26	28	25	42	31	39	10	3
21	12	11	13	10	12	15	19	18	7	1
22	17	13	17	13	24	25	14	25	5	1
23	7	10	11	8	7	16	10	12	4	1
24	0	5	4	4	4	6	5	6	0	0
25	1	0	1	0	2	0	3	1	0	0
26	0	0	0	0	0	1	0	1	1	0
27	0	0	0	0	0	1	1	0	1	0

154
56
34

Bargaining Unit Members by Range & Step
GGU

Effective May 1, 1983

	A	B	C	D	E	F	J	K	L	M	
5	48	0	0	0	0	0	0	0	0	0	
6	35	4	11	5	2	4	0	1	0	0	
7	255	156	51	28	12	25	2	14	3	1	
8	259	299	155	66	43	69	32	28	8	1	
9	265	156	73	36	23	37	8	17	6	3	
10	116	28	75	46	43	52	23	17	6	0	
11	228	134	54	26	18	20	9	9	4	0	
12	170	131	99	77	45	39	33	25	3	0	
13	140	208	68	40	47	75	17	25	8	1	
14	227	155	104	73	43	62	33	19	3	0	
15	55	32	26	26	34	32	23	26	8	1	
16	270	214	146	97	65	87	31	47	6	2	
17	62	50	26	15	4	17	7	2	1	0	
18	112	131	90	80	57	77	49	66	16	4	
19	62	38	49	34	30	37	15	20	4	0	
20	16	30	20	20	20	23	11	6	1	2	
21	25	16	28	15	16	29	9	15	1	1	309
22	1	2	6	3	5	6	2	6	0	0	31
23	2	0	0	0	0	0	0	0	0	0	2
24	1	0	1	0	0	0	0	4	0	0	6
25	0	0	0	0	0	0	0	0	0	0	
26	0	0	0	0	0	0	0	0	0	0	
27	0	0	0	0	0	1	0	0	0	0	

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT IN THE ALASKA STATE ARCHIVES

STATE OF ALASKA

Survey

Salaries & Benefits

KENNETH L. KAREEN
DIRECTOR of PERSONNEL

DECEMBER
1982

analyses

problem w/ % of COLA increases. lower ranges hit hardest. yet COLA is based on % of your salary rather than a flat rate. Should be more equitable

what determines range w/ job title. How can it be adjusted? Does APEA have a say in structure as it is set-up currently?
doesn't believe to say a supv to say best 4-5 - most ed, most exp.
understand that Dir, Commr only have Sec I & I numerous CT II & III's, few IV. Yet, secretarial/admin work done by III's primarily, but they are not classified higher than Range 8.

Classi

Adm Officers

- budget process, new comparable study - classification

- House budget 1/2 million -

Lindau

~~grade~~ salary schedule integrated
7 1/2 % 3 3/4 %

changing - last

Kaye Hogan Labor Relations Guy Frank Kaye ~~[illegible]~~

Sorry my good

4403 4430 ~~[illegible]~~

percentage of emp in range 8-12 classes M/F

range 13 ~~[illegible]~~ - 18

19 - 24

start w/ range 8 - 2 25-27

broke down in groups & sep cat.

give all back-up on job titles disc that falling under those ~~[illegible]~~ titles (use Cuch [illegible]) 37.5 w/

Range 7A CL TII

Range 8A 1,487 CLERK III

9A 1,578.00 CLERK IV

10A 1,673.00 Sec. I.

11A 1,782.00 Sec II

Sec III

12A 1889.00 Adm Adm Asst

what determines ~~class~~ range w/ job classification

percentage that increase on raises vs. % of salaries.

can ~~[illegible]~~ job titles be raised, how

YOS
[illegible]

Personnel Rules - in law + rules

Title 34 — Exa Gov off.
DEC, were partially exempt. No waiver —
classified open to public
political appointees. 1 yr to get on list
or get fired

Mt w/ Bert go thru rules
ranking fine
open list you could have more women an minority
than on top 5.

~~average $100 range~~ average for State
average for Adm $1,000 range alloc 13+

special appro of. or amend ~~Title 18~~ 34 chapter 2 PA
~~for comparable worth~~ 39.25

to require a class
system to speak to
comparable worth

HB

362

Introduced: 4/15/83
Referred: State Affairs,
Judiciary and Finance

BY THE RULES COMMITTEE
BY REQUEST OF THE
SPECIAL COMMITTEE ON
LEGISLATIVE REFORM

IN THE HOUSE

HOUSE BILL NO. 362

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to standards of conduct of legislators and legislative employees and establishing a Legislative Ethics Commission; and providing for an effective date."

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

* Section 1. AS 24 is amended by adding a new chapter to read:

CHAPTER 60. STANDARDS OF CONDUCT.

Sec. 24.60.010. LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds that it is essential in the conduct of public business that legislators hold the respect and confidence of the people. Legislators must avoid conduct that even appears to violate the trust the people have placed in them. To ensure and preserve public confidence, legislators should have the benefit of specific standards to guide their conduct. Article II, sec. 12, Constitution of the State of Alaska grants to each house of the legislature the power to judge the qualifications of its members. It is the purpose of this Act to establish standards of conduct for state legislators and legislative employees and to establish the Legislative Ethics Commission to consider alleged violations of this chapter and to render advisory opinions to persons affected by this chapter.

Sec. 24.60.020. APPLICABILITY. (a) This chapter applies to a member of the legislature, to a person employed by a member of the legislature, and to a permanent or temporary employee of an agency of the legislature. This chapter does not apply to

(1) a former member of the legislature or to a person formerly employed by a member of the legislature or an agency of the legislature unless the provision specifically states that it so applies;

(2) a person elected to the legislature who at the time of election is not a member of the legislature;

(3) a person employed by a member of the legislature or an employee of an agency of the legislature whose compensation is below Step A, Range 18 of the state salary schedule established in AS 39.-27.011(c).

II A (b) The provisions of this chapter specifically repeal the provisions of the common law relating to legislative conflict of interest that may apply to a member of the legislature, a person employed by a member of the legislature, or to a permanent or tempo- II B rary employee of an agency of the legislature. They do not supersede or repeal provisions of the criminal laws of the state.

III A Sec. 24.60.030. CONFLICTS OF INTEREST. (a) A person to whom this chapter applies may not use public office for private advancement or gain.

(b) A conflict of interest exists when a person to whom this chapter applies has discretion to take or withhold official action or exert influence which could substantially benefit or harm a financial matter in which the person has a direct or indirect private interest.

(c) Conflicts of interest are prohibited but there is not a conflict of interest if, as to a specific matter, there is no substantial impropriety or appearance of impropriety because

(1) the person's interest is relatively insignificant;

(2) the person's authority is relatively far removed from any official action that could reasonably be affected by the potential

conflict of interest, provided that no attempt has been made to remove the appearance of impropriety by delegating responsibility for official action.

(d) A conflict does not exist if no benefit or detriment accrues to a person to whom this chapter applies beyond that which accrues uniformly to members of the profession, occupation or group to which the person belongs, or to the public at large.

Sec. 24.60.040. CONTRACTS. (a) A person to whom this chapter applies may not be a party to or have an interest in a state contract unless the contract is let by competitive bidding under AS 37.05.230 or the total annual amount of the state contract is $1000 or less. A person has an interest in a state contract under this section if the person receives direct or indirect financial benefits. A person has an interest in a state contract under this section if the contract is awarded to

(1) a firm, corporation, or association that has assets in excess of $5,000,000 and in which the person has an ownership interest greater than 10 percent or that has assets of ~~$5,000,000 or less and in which the person has an ownership interest greater than 25 percent; or~~

(2) a partnership in which the person is a partner.

(b) In this section, "direct or indirect financial benefits" means income, profits or other financial benefits under a state contract, without regard to whether the person is a party to the contract, and without regard to whether the income, profits or other financial benefits inure to the person as a partner, shareholder, investor, agent, employee, consultant, or joint venturer of the contractor.

Sec. 24.60.050. STATE LOANS. (a) It is not a conflict of

interest for a person to whom this chapter applies to participate in a state program or to receive a loan from the state if the program or loan is generally available to members of the public, is subject to fixed eligibility standards, and minimal discretion is exercised in determining qualification.

(b) In determining whether a conflict of interest exists with respect to a state program or to a state loan other than those described in (a) of this section, because a legislator may be in a position to influence the loan agency, the ethics commission must consider, but is not limited to, the adequacy of existing administrative procedures for granting and reviewing loans to legislators.

(c) Upon application for a state loan by a person to whom this chapter applies, other than loans described in (a) of this section, the lending agency must send a copy of the application to the Alaska Public Offices Commission, which will incorporate the material into the applicant's financial disclosure statement, if the applicant is required to file a disclosure statement. All records relating to a state loan to a person to whom this chapter applies may be disclosed to the ethics commission.

(d) Each February 1st, each loan agency must publish a listing of all outstanding loans to persons to whom this chapter applies, except for loans described in (a) of this section. The list shall include the name of the person, the date of issuance and current status of the loan.

(e) State agencies that have authority to grant loans shall adopt regulations that establish separate procedures for granting and reviewing loans to a person to whom this chapter applies. However, the regulations need not govern loans described in (a) of this section.

(f) The division of legislative audit shall annually review state loans granted to or held by persons to whom this chapter applies to determine whether appropriate procedures were observed in granting or reviewing the loans. The division shall report its findings to the ethics commission by April 1.

(g) For purposes of this section "state program" means a program in which tangible assets of the state or a right to use tangible assets of the state are transferred from the state to a private person.

Sec. 24.60.060. CONFIDENTIAL INFORMATION. It is a conflict of interest if a person to whom this chapter applies discloses or uses for personal gain or for the personal gain of another, information that by law is not available to the public and that the person acquired in the course of official duties.

Sec. 24.60.070. INTERESTS BETWEEN PUBLIC OFFICIALS. (a) A person to whom this chapter applies shall disclose to the commission the formation or maintenance of a close economic association involving a substantial financial matter with

(1) a supervisor who has responsibility or authority, either directly or indirectly, over the person's employment, including preparing or reviewing performance evaluations, or granting or approving pay raises or promotions;

(2) legislators;

(3) a public official in another branch, if the public official is required to file a financial disclosure statement under AS 39.50.

(b) It is a prohibited conflict of interest for a person to whom this chapter applies to form or maintain a close economic association involving a substantial financial matter with a lobbyist who is not a

Replace

member of the immediate family of the person.

Sec. 24.60.080. GIFTS. (a) A person to whom this chapter applies may not solicit a gift in any amount, or accept or receive, directly or indirectly, a gift in excess of $100, whether in the form of money, services, a loan, travel, entertainment, hospitality, or other form, under circumstances in which it may reasonably be inferred that the gift is intended to influence the person in the performance of the duties of the person or is intended as a reward for an official action by the person.

(b) It is not a conflict of interest under this section if a person to whom this chapter applies accepts

(1) hospitality at another person's residence, including meals, lodging or ground or water transportation;

(2) discounts that are generally available to the public or a large class of persons to which the person belongs;

(3) an invitation to attend a meal or social event that does not exceed $100 in value received by the person for each meal or event and that does not in the aggregate exceed $250 in value during the calendar year from one person; or

(4) gifts from the person's immediate family.

(c) The commission may establish policies that limit the extent to which persons to whom this chapter applies may accept the benefits set out in (b)(2) of this section, or that require public officials to turn over the benefits to the agency.

Sec. 24.60.090. NEPOTISM. (a) An individual who is related to a member of the legislature may not be employed in the house in which the legislator is a member, by an agency of the legislature established under AS 24.20, or in the other house during the interim between sessions. An individual who is related to an employee of the

legislature may not be employed in a position over which the employee has supervisory authority. In this subsection, "an individual who is related to" means a child, husband, wife, mother, father, sister, brother, or a permanent member of the legislator's household.

(b) An individual is not employed if no compensation is received from the state for the services provided.

Sec. 24.60.100. REPRESENTATION BY LEGISLATORS. (a) Except as provided in this section, a member of the legislature or a person employed by an agency of the legislature established under AS 24.20 may not represent another person for compensation before an agency, board, or commission of the state.

(b) A member of the legislature may represent a client in

(1) an action before a court of the state; or

(2) a matter which was pending at the time a person to whom this chapter applies assumes office or is employed.

(c) A legislator cannot avoid a conflict of interest under this section by waiving compensation for representing another person under circumstances where compensation would ordinarily be expected.

Sec. 24.60.110. ACTION ON A CONFLICT OF INTEREST. A legislator who has a conflict of interest shall immediately

(1) resign the position;

(2) divest the interest that has resulted in the conflict or potential conflict; or

(3) disclose the conflict of interest in the journal of the appropriate body or if the legislature is not in session to the commission which shall maintain a public record of the disclosure and forward the disclosure to the respective house for inclusion in the journal for the first day of the session.

Sec. 24.60.120. STATE PROPERTY AND FUNDS. A person to whom this

chapter applies may not use state property or funds for private gain or campaign purposes.

Sec. 24.60.130. LEGISLATIVE ETHICS COMMISSION. (a) There is established within the legislative branch of the state government the Legislative Ethics Commission.

(b) The commission consists of seven members appointed as follows:

(1) the president of the senate shall appoint one member to the commission from the senate with the concurrence by roll call vote of three-fourths of the full membership of the senate;

(2) the speaker of the house of representatives shall appoint one member to the commission from the house of representatives with the concurrence by roll call vote of three-fourths of the full membership of the house;

(3) the president of the senate shall appoint to the commission two persons who are citizens of the United States and residents of the state with the concurrence by roll call vote of two-thirds of the full membership of the senate;

(4) the speaker of the house of representatives shall appoint to the commission two persons who are citizens of the United States and residents of the state with the concurrence by roll call vote of two-thirds of the full membership of the house;

(5) one member of the commission shall be a former legislator of the state who is appointed by the other members of the commission.

(c) No more than four members of the commission may be members of the same political party or residents of the same borough or of the unorganized borough.

(d) The members of the commission shall elect a chair and vice-

chair and may elect other officers. Those members of the commission who are members of the legislature may not serve as chair or vice-chair.

(e) The term of office of a public member of the commission is four years from February 1 of the year of appointment and until a successor is appointed and qualifies. A legislator appointed to the commission may not serve beyond the expiration of the legislative term of office. A commission member may not serve more than one full term.

(f) A member of the commission may not

(1) hold or seek elective office; founder non party

(2) be an officer of a political party, political committee, or group; or

(3) lobby. defined by statute? + Legislative adm 24.45

(g) The provisions of (f) of this section do not apply to the members of the commission appointed under (b)(1) and (2) of this section.

(h) A vacancy on the commission shall be filled under (b) of this section for the balance of the term.

(i) The commission may contract for professional services and may employ staff as it considers necessary. A member of the commission may not serve on the staff of the commission.

(j) A member of the commission receives no compensation for service on the commission. Members of the commission are entitled to travel expenses and per diem authorized by law for members of boards and commissions under AS 39.20.180, but a member of the commission who is a legislator is not entitled to travel expenses and per diem from the commission if the legislator is receiving travel expenses and per diem as a legislator.

Sec. 24.60.140. DUTIES OF THE COMMISSION. The commission shall

(1) adopt regulations to facilitate the receipt of inquiries and prompt rendition of its opinions;

(2) recommend legislation to the legislature the commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government;

(3) subpoena witnesses, administer oaths, and take testimony relating to matters before the commission, and may require the production for examination of any books or papers relating to any matter under investigation before the commission;

(4) publish semi-annual summaries of decisions, advisory opinions and informal advisory opinions, with sufficient deletions in the summaries to prevent disclosing the identity of the persons involved in the decisions or opinions which have remained confidential.

Sec. 24.60.150. ADVISORY OPINIONS. The commission shall issue an advisory opinion on the request of a person to whom the chapter applies as to whether the facts and circumstances of a particular case constitute a violation of ethical standards. If an advisory opinion is not issued within 30 days after the request is filed with the commission, the facts and circumstances of the particular case do not constitute a violation of the ethical standards. The opinion issued or considered issued is binding on the commission and in any subsequent proceedings concerning the facts and circumstances of the particular case unless material facts were omitted or misstated in the request for the advisory opinion. Except as provided in this chapter an advisory opinion is confidential but may be made public if a written request by the person who requested the opinion is filed with the commission.

Sec. 24.60.160. COMPLAINTS. (a) The commission may initiate, receive and consider complaints alleging a violation of this chapter.

(b) Before the commission may exercise power authorized in (c) of this section, the commission shall by resolution, supported by a vote of three members of the commission, define the nature and scope of the inquiry.

(c) The commission may investigate a violation of this chapter in a proceeding begun within four years after the alleged violation occurs and within one year after termination of state service. Nothing in this subsection bars proceedings against a person who by fraud prevents discovery of a violation of this chapter. A proceeding is commenced by the filing of a complaint with the commission. No complaint, other than a complaint initiated by five or more members of the commission may be received within a period of 60 days preceding a state primary or general election. Nov Gen Elect

(d) A complaint shall be in writing and signed under oath by the person making the complaint. A complaint may also be initiated by three or more members of the commission. The commission shall notify in writing each person against whom a complaint is received and afford the person an opportunity to explain the conduct alleged to be a violation of this chapter. If the commission determines that a complaint does not contain allegations of facts sufficient, if the alleged facts are treated as true, to constitute a violation of this chapter the commission shall summarily dismiss the complaint.

(e) The commission shall investigate the charges filed under this section and issue an advisory opinion to the person alleged to have violated a provision of this chapter. The commission shall investigate all complaints on a confidential basis. If the advisory opinion indicates a probable violation, the person against whom the complaint was made may request a formal opinion or comply with the advisory opinion. If the person fails to comply with the advisory

opinion or if a majority of the members of the commission determine that there is probable cause for belief that a violation of this chapter has occurred, the commission shall file a complaint against the person charged with a violation of this chapter and the complaint and statement of the alleged violation shall be personally served on the person charged. The alleged violator has 20 days after service of the complaint and statement to respond in writing to the commission.

(f) The commission may set a time and place for a hearing with notice to the complainant, if any, and to the person charged with a violation of this chapter. A representative of the commission and the person charged with a violation of this chapter shall have an opportunity to be heard, to subpoena witnesses and require the production of books or papers relating to the proceedings, to be represented by counsel, and to have the right of cross-examination. Each witness shall testify under oath. The hearings are closed to the public unless the person charged with a violation of this chapter requests an open hearing. The commission is not bound by the rules of evidence but the commission's findings must be based upon competent and substantial evidence. The testimony taken at the hearing shall be recorded and evidence shall be maintained. The testimony and evidence is available only to the staff of the commission and to the person charged with a violation of this chapter. If the person charged with the violation of a provision of this chapter requests a copy of the transcript of testimony, the copy shall be furnished by the commission without charge.

(g) A decision of the commission shall be in writing and signed by four or more members of the commission. Each decision of the commission must be accompanied by a written order of the commission determining that a violation of this chapter exists or does not exist.

The order is confined to this determination. This order is a public record.

(h) If the commission issues a decision that a member of the legislature has violated a provision of this chapter or that a legislator has declined or failed to cooperate with the commission, it shall refer the decision to the presiding officers of the legislature. The decision shall contain a statement of the facts determined to constitute the violation or the failure to cooperate and may contain recommendations concerning any penalties the legislature may lawfully impose including imposition of civil penalties in an amount not to exceed $25,000, divestment of the interest, repaying profits, censure, removal from committee assignments, termination of legislative privileges, or expulsion. The commission shall make the decision public 30 days after the referral. Days during which the legislature is not in session may not be counted in determining the 30-day period. The legislature shall act on the decision as it considers appropriate.

(i) If four members of the commission agree to a decision that a former member of the legislature or an employee or a former employee of a legislator or of an agency of the legislature has violated a provision of this chapter, the commission shall issue a public statement of its decision 30 days after the date of the decision. The legislature shall act on the decision as it considers appropriate. In the case of an employee the action may include suspension, demotion, or dismissal.

(j) A commission member or individual who divulges information concerning a charge before the filing of a complaint by the commission, except as permitted by this chapter, is guilty of misuse of confidential information under AS 11.56.860. divulges opinions confidentially

Sec. 24.60.170. DEFINITION. In this chapter, "commission" means

the Legislative Ethics Commission.

* Sec. 2. Section 24.60.130 and Sec. 24.60.140 enacted in sec. 1 of this Act take effect immediately in accordance with AS 01.10.070(c).

Berrier
5-4-83

AMENDMENT

Offered in the SENATE By the State Affairs Committee

TO: CSSB 257 (State Affairs)

Page 12, line 10 through page 15, line 11:

Delete all material and insert

"Sec. 24.60.180. PROCEEDINGS BEFORE THE COMMISSION. (a) The commission may initiate, receive and consider complaints alleging a violation of this chapter.

(b) The commission may investigate a violation of this chapter in a proceeding begun within four years after the alleged violation occurs and within one year after termination of state service. Nothing in this subsection bars proceedings against a person who by fraud prevents discovery of a violation of this chapter.

(c) Before the commission may exercise power authorized in this section, the commission shall by resolution, supported by a majority vote of the full membership of the commission, define the nature and scope of the inquiry. The commission shall investigate all complaints on a confidential basis.

(d) A proceeding is commenced by the filing of a complaint with the commission. A complaint may be initiated by a private person or by three or more members of the commission. A complaint shall be in writing and signed under oath by the person making the complaint. No complaint, other than a complaint initiated by five or more members of the commission may be received within a period of 60 days preceding a state primary or general election.

(e) The commission shall notify in writing each person against whom a complaint is received and afford the person an opportunity to explain the conduct alleged to be a violation of this chapter. If the commission determines that a complaint does not contain allegations of facts sufficient, if the alleged facts are treated as true, to constitute a violation of this chapter the commission may summarily dismiss the complaint.

(f) The commission shall investigate the charges filed under this section and issue an advisory opinion to the person alleged to have violated a provision of this chapter.

(g) If the commission determines that a probable violation exists that may be corrected by action of the person and that does not warrant sanctions other than correction, the advisory opinion shall recommend corrective action. The person against whom the complaint was made may comply with the opinion or may request a hearing before the commission. After the hearing the commission may amend or affirm the advisory opinion.

(h) If the person fails to comply with the advisory opinion or if a majority of the members of the commission determine that there is probable cause for belief that a violation of this chapter that may not be corrected under (g) of this section has occurred, the commission shall formally charge the person. The charge and statement of the alleged violation shall be personally served on the person charged. The alleged violator has 20 days after service of the charge and statement to respond in writing to the commission.

(i) The commission may set a time and place for a hearing before

the commission with notice to the complainant, if any, and to the person charged with a violation of this chapter. A representative of the commission and the person charged with a violation of this chapter shall have an opportunity to be heard, to subpoena witnesses and require the production of books or papers relating to the proceedings, to be represented by counsel, and to have the right of cross-examination. Each witness shall testify under oath. Hearings are closed to the public unless the person charged with a violation of this chapter requests an open hearing. The commission is not bound by the rules of evidence but the commission's findings must be based upon competent and substantial evidence. Testimony taken at the hearing shall be recorded and evidence shall be maintained. The testimony and evidence is available only to the commission and its staff and to the person charged with a violation of this chapter. If the person charged with the violation of a provision of this chapter requests a copy of the transcript of testimony, the copy shall be furnished by the commission without charge.

(j) A decision of the commission shall be in writing and signed by four or more members of the commission. Each decision of the commission must be accompanied by a written order of the commission determining that a violation of this chapter exists or does not exist. The order is confined to this determination. This order is a public record.

(k) If the commission issues a decision finding that a member of the legislature has violated a provision of this chapter or that a legislator has declined or failed to cooperate with the commission, it

shall refer the decision to the presiding officers of the legislature. The decision shall contain a statement of the facts determined to constitute the violation or the failure to cooperate and may contain recommendations concerning any penalties the legislature may lawfully impose including imposition of civil penalties in an amount not to exceed $25,000, required divesture of the interest, repaying profits, censure, removal from committee assignments, termination of legislative privileges, or expulsion. The commission shall make the decision public 30 days after the referral. Days during which the legislature is not in session may not be counted in determining the 30-day period. The legislature shall act on the decision as it considers appropriate.

(l) If four members of the commission agree to a decision that a former member of the legislature or an employee or a former employee of a legislator or of an agency of the legislature has violated a provision of this chapter, the commission shall issue a public statement of its decision 30 days after the date of the decision. The legislature shall act on the decision as it considers appropriate. In the case of an employee the action may include suspension, demotion, or dismissal. The employee is entitled to a hearing before final action is taken.

(m) A commission member or member of the commission staff who divulges information concerning a proceeding, except as permitted by this chapter, is guilty of a class A misdemeanor.

SB 257: ANALYSIS BY SECTION

BY MARK HIGGINS
APRIL 24, 1983

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SB 257: Analysis by Section

By Mark Higgins
April 24, 1983

I Sec. 24.60.010 LEGISLATIVE FINDINGS AND PURPOSE

Commentary: The language in this section is generally good. However, as the new chapter will apply to employees of the legislature as well as legislators, I would amend it as follows:

a) Lines 15-19 are amended to read: Legislators and legislative employees must avoid conduct that even appears to violate the trust the people have placed in them. To ensure and preserve public confidence, legislators and legislative employees should have the benefit of specific standards to guide their conduct.

adopted

b) Further Amendment: To the end of this section add the following sentence: This chapter shall be liberally construed to promote high standards of ethical conduct in the legislature."

The addition of this sentence would provide the commission and courts latitude in interpreting whether or not a situation violates the intent of the law, even if it does not specifically violate the letter of the law.

Traditionally, ethics laws are defined broadly to allow reasonable application of general principles to specific situations. This clause is designed for that purpose and has proven to be a valuable aid to the application and enforcement of ethics legislation. It is especially useful to the courts when a commission decision is appealed based on the language of the law.

II Sec. 24.60.020 APPLICABILITY

a) Sub. Sec. (b) is amended to read: {Lines 11-12}

The provisions of this chapter {specifically repeal} supercede the provisions of the common law relating to legislative conflict of . . .

b) {Lines 15-16}: {They do not...} Nothing in this chapter shall exempt any person from applicable provisions of any other laws of this state.

Commentary: It is not possible to repeal common law. In addition, this subsection, (b), is probably unnecessary as specific law always supercedes general law.

III Sec. 24.60.030 CONFLICTS OF INTEREST

a) Sub. Sec. (a) is amended to read: A person to whom this chapter applies may not use public office for private advancement or gain, or for the advancement or gain of the person's immediate family, or an organization with which the person is associated.

b) Sub. Sec. (b) is amended to read: A conflict of interest is deemed to exist (exists) when a person to whom this chapter applies has discretion to take or withhold official action or exist influence which could substantially benefit or harm a financial matter which the person, the person's immediate family, or an organization with which the person is associated with has a direct or indirect private interest.

c) Sub. Sec. (c) is repealed and replaced with: (c) A person to whom this chapter applies shall not acquire financial interests in any business or other undertaking which the person has reason to believe may be directly involved in official action to be taken by the person.

d) Sub. Sec. (d) is repealed and replaced with: (c) from the bill as written.

c) Need to add (e): (d) as bill is written.

Commentary: The proposed amendments are fairly self explanatory. The suggested added provision (c) is common to ethics legislation and is intended to prohibit self-dealing conduct such as was possibly demonstrated in the Isabelle Pass situation of last session. This clause is intended to draw a distinction between existing conflicts which, in a state with as small a population as Alaska, often can not be avoided and the intentional establishment of a conflict by a public official for the purpose of private gain.

The key phrases in this clause are "directly involved" and "official action". These should and can be carefully defined. A legislator would not as a result of this clause be prohibited from acquiring a business or financial interest which at some point in the future may be affected by the legislators vote. A vote would not constitute "direct involvement" or "official action" as intended by the clause.

However, a legislator could not, if this clause is adopted, acquire a financial interest and then as a function of his or her official position direct the state to transact with that business interest.

IV Sec. 24.60.040 CONTRACTS

Commentary: The wording of the prohibitions established in this section is good and most areas are sufficiently covered to prevent self-dealing by public officials. The requirement of open-competitive bidding on substantiative contracts should substantially enhance the public perception of legislative integrity.

Further, because of these specific guidelines, public officials will enjoy the same privileges as the general public in regard to State contracts. This is an important consideration given the part time nature of Alaska's "citizen" legislature and given the level of State involvement in the economy.

Other comments on Sec. 24.60.040:

a) Does the definition of "contract" include leases? Some states specifically reference leases as well as contracts (eg - Wisconsin).

b) Does a person have an interest "indirectly" if an immediate family member or associated organization qualifies under Subsection (A)? If not, perhaps wording should be added similar to suggested amendments to Sec. 24.60.030 (CONFLICTS OF INTEREST).

c) The definition of "an interest in a state contract" as defined in (a) is perhaps to generous. Maybe a straight 10% figure should be adopted.

Some states, like Hawaii for example, qualify restrictions on state contracts based on a "controlling interest" which is defined as: "an interest in a business or other undertaking which is sufficinet in fact to control, whether the interest be greater or less than fifty percent."

d) Sole Source Contracts: the bill as written does not include a provision allowing the State to circumvent the open-bidding requirement when it is in the best interest of the State to do so. Sole source contracting, is an important consideration in Alaska, where conditions often dictate special requirements or time limitations.

Recommended Wording: (From Hawaii Statute 84-15(a))

"A State agency shall not enter into any contract with a legislator or an employee or with a business in which a legislator or an employee has a controlling interest, involving services or property of a value in excess of $1,000 unless the contract has been awarded through an open, public process. A State agency may, however, enter into such contract without resort to a competitive

bidding process when, in the judgement of the agency, the property or services should not, in the public interest, be acquired through competitive bidding; provided that written justification for the non-competitive award of such contract shall be made a matter of public record and shall be filed with the state ethics commission at least ten days before such contract is entered into." (emphasis added).

c) Need Section on Contract Voidability:

The bill as written has no provision for voiding contracts joined in violation of this chapter. Contract voidability is an important provision and I would recommend the following wording (from: Hawaii 84-16):

"In addition to any other penality provided by law, any contract entered into by the State in violation of this chapter is voidable on behalf of the state; provided that in any action to avoid a contract pursuant to this section the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within sixty days after the determination of a violation under this chapter. The Attorney General shall have the authority to enforce this provision.

V Sec. 24.60.050 STATE LOANS

There are several questions regarding this section which will be addressed in relation to the subsection they fall under.

A) Sub. Sec. (C): Requires lending agencies to send a copy of any application for loan not covered by (a) of the section to the Alaska Public Offices Commission. the APOC is to incorporate the material into the applicant's financial disclosure statement. The material may be disclosed to the ethics commission.

Commentary: This subsection raises several considerations:

1) What type of loan would not be subject to procedures outlined in (a) of this section? If there are such loans, is it desirable that state officials have access to them?

2) The bill as written states no time frame/limit within which the lending agency must submit the application to APOC. while this could probably be handled by regulation, it would be better to state it clearly in the statute.

3) Legislative employees are not required to file disclosure statements. Yet this chapter will apply to them as well as to legislators. What procedure is to be followed when they apply for a loan covered by this section?

4) APOC as receptor of loan application: A major problem relates to the assignment of APOC as receptor of the loan application. Financial disclosure statements required by AS 39.50.120 are not nearly as revealing as most loan applications. Individuals covered by this chapter would undoubtedly protest that their privacy would be jeopardized if the APOC had access to more intimate personal financial date than is currently required under present disclosure laws.

Further, records maintained by the APOC are open to public inspection. Given the requirement of confidentiality of investigation under all sections of this chapter, it would be contradictory to allow public inspection of official's loan applications, as would be the case if they were filed with the APOC.

Proposed Solution:

Given that most loans, if not all, would fall into sub category (a) of this section and realizing that any that did not should be carefully scrutinized if they involve a public official, I would recommend that the APOC not be assigned receptor of loan applications as defined in (C). The APOC has no jurisdiction in any other section of this chapter and would perform no function other than storage of the loan applications. Given the privacy issue which would be raised if the APOC is included, I would offer the following amendment to subsection (C).

Require that:

a) each loan which falls into category (C) be reviewed by the division of legislative audit before it is approved;

b) in reviewing the loan application, the division of legislative audit could request from the APOC any financial disclosure data contained in the applicant's file;

c) If after reviewing the loan application, the division of legislative audit found cause to suspect that the loan would violate the intent of the chapter, it would refer the application and all relevant documentation to the ethics commission for review;

d) The ethics commission would be required to render an opinion regarding the appropriateness of the loan within a specified time. If no opinion was rendered within the specified time, it would be deemed that the application did not violate the intent of the chapter.

If adopted, this amendment would further assure the public that legislators and legislative employees would be carefully scrutinized when applying for state funds were discretion is exercised in determining qualifications. Given the small size of Alaska's legislature and given that few loans would fall into such a "discretionary" category, the above suggested procedure would not prove unjustifiably burdensome.

B) Sub. Sec. (d): states that loan agencies shall annually publish a listing of all outstanding loans except for loans described in (a).

Question: Where do they publish the list? Shouldn't they be required to send a copy of the list to either the division of legislative audit or the ethics commission, or both?

C) Sub. Sec. (e): Given the fact that the ethics commission will be the ultimate judge of conflicts involving state loans to persons covered by this chapter, wouldn't it be advisable to require state agencies to submit a proposed regulation for commission review or approval before it is implemented. Such a procedure would ensure the establishment of adequate administrative procedures and would limit commission rulings to whether or not these procedures were followed.

D) Sub. Sec. (F): What action is to be taken by the commission if the loans are in violation of the chapter? Are they voidable? Can the state sue for recovery of funds and damages? What about innocent third parties?

VI Sec. 24.60.060 CONFIDENTIAL INFORMATION

Amend to: It is a conflict of interest if a person to whom this chapter applies discloses or uses for personal gain or for the personal gain of another person or organization, information that by law or practice is not available to the public and that the person acquired in the course of official duties.

Commentary: These amendments are fairly self-explanatory. By adding the words "or practice", the law would be substantially tightened. Such wording was strongly recommended by the executive director of Hawaii's Ethics Commission.

VII Sec. 24.60.070 INTERESTS BETWEEN PUBLIC OFFICIALS

This section as written is less restrictive than many state's statutes regarding financial dealings between public officials. But given the special conditions in Alaska, it is probably sufficient. I would, however, offer the following amendments:

1) Amend (a) to: A person to whom this chapter applies shall disclose in writing to the commission . . .

2) Amend (a)2 to: {legislators} another person to whom this chapter applies.

3) Amend (b) to: . . . involving a substantial financial matter with a lobbyist, as defined by AS 24.45.181, who is not a member of the immediate family of the person.

VIII Sec. 24.60.080 GIFTS

A) Amend (a) to: A person to whom this chapter applies may not solicit a gift in any amount, or accept or receive, directly or indirectly, a gift having an aggregate value in excess of one hundred dollars ($100) in any calendar year from any person or organization, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, under circumstances in which it may reasonably be inferred that the gift is intended to influence the person in the performance of the duties of the person or is intended as a reward for an official action ,or inaction, by the person.

Commentary: This amendment would prevent a person or organization from giving an official several gifts, each of an individual value less than $100, but with a combined value in excess of $100.

B) Amend Sub. Sec. (b), to read: hospitality from another person at {another} that person's residence, including meals, lodging or ground or water transportation;

Commentary: This amendment would tighten the wording of this clause and would prevent a person or organization from skirting the intent of the gift provision by offering an official "hospitality" at a commercial lodge or guide service, etc.

For example, if this subsection is adopted as written, a person or organization could pay for a public officials trip or stay ("hospitality") at a commercial lodge, if the owner of the lodge ("another person") resided there, even though the person or organization funding the trip had no association with the residence. This amendment would prevent that.

C) Amend (b)3 to read: an invitation to attend a meal or social event that does not exceed $100 in value received by the person for each meal or event and that does not in the aggregate exceed $250 in value during the calendar year form one person or organization; or

D) Sub. Sec. needed: (d) No person or organization may offer or give to a public official to whom this chapter applies, directly or indirectly, any gift which the public official is prohibited from accepting pursuant to subsection (a) of this section.

Commentary: The addition of this clause, which is contained in many state's gift provisions, would make the giver or offerer of an illegal gift equally liable with the official who accepts it.

VIX Sec. 24.60.090 NEPOTISM

Question: What is the definition of "a permanent member of the legislators household"? Is this legally definable?

Most states are grapling with the problem of how to include "live-in lovers" in their laws. But will this clause accomplish that adequately? Would renters be considered "permanent members"?

X Sec. 24.60.100 REPRESENTATION BY LEGISLATORS

Amend subsection (a) to read: Except as provided in th s section, a member of the legislature or a person employed by an agency of the legislature established under AS 24.20 may not represent another person or organization for compensation before an agency, board, or commission of the State.

Commentary on sub. sec. (b):

1) How does sub. sec. (b) interface with AS 39.50.090(C)? Are they mutually compatible?

2) Are Alaskan courts considered State agencies? If not, then (b) is unnecessary, as the usual rule in ethics legislation is that courts are not generally considered to be agencies of the State. Consequently, this section would implicitly not have representation before a court by a person covered by this chapter.

3) Subsection needed? (d) This section does not apply to representation by a person covered by this chapter if that person is acting in his or her official capacity.

XI Sec. 24.60.110 ACTION ON A CONFLICT OF INTEREST

Commentary: This section seems unusually brief and fails to address employees of the legislature who are faced with a conflict of interest. As this section is extremely important to the chapter, I would recommend that it be re-written as follows:

a) A person covered by this chapter, who in the discharge of official duties, is involved or about to be involved in any matter that could result in a conflict of interests on his or her part shall:

1) Divest the interest that has resulted in the conflict or potential conflict; or

2) Prepare a written statement describing such matter and the nature of the possible conflict of interest and

a) in the case of a legislator, deliver copies of the statement to the commission and the presiding officer of the appropriate body of the legislature, who shall cause such statement to be printed in the journal of the appropriate body or if the legislature is not in session, shall request that the commission maintain a public record of such statement which shall subsequently be included in the journal for the first day of the following session. Upon request of the legislator, the presiding officer of the appropriate body, shall excuse the legislator from votes, deliberations and other actions in regard to such matter; or

b) in the case of an employee of the legislature covered by this chapter, deliver a copy of the statement to the commission and to his or her immediate superior, if any, who shall assign the matter to another, or if the employee has no immediate superior, he or she shall take such steps as the commission shall prescribe or advise to remove himself or herself from influence over actions and decisions on the matter.

XII Sec. 24.60.120 STATE PROPERTY AND FUNDS

Amend to read: A person to whom this chapter applies may not use state property or funds for private gain or for the gain of others or for campaign purposes.

XIII Sec. 24.60.130 LEGISLATIVE ETHICS COMMISSION

Commentary: This section looks pretty good. A few questions:

A) Sub. Sec. (e) states: "A commission member may not serve more than one full term." Does this mean four years, or a term "unit"? In other words, could someone who was appointed to fill a vacancy, serve the remainder of the term of the person who's vacancy they were filling, plus another full term, or could they just serve for the remainder of the term?

B) There is no provision for staggering the terms of the initial appointees to the commission. Such a practice is common when forming a commission and is intended to provide continuity on the commission and also prevent any one member from dominating the commission for a long periods of time.

Recommended Wording: e) the term of office of a public member of the commission is five {four} years from February 1 of the year of appointment and until a successor is appointed and qualifies, except that the members first appointed shall be appointed for terms of office of one, two, three, four, and five years, respectively, and until their successors have been appointed and have qualified.

I suggested increasing the term of service to five years so that no commission member's term of office would coincide with a legislator who appointed him or her, as could be the case with Senate approval and a four year term.

XIV Sec. 24.60.140 DUTIES OF THE COMMISSION

No comments other than that I would recommend that the commission be required to publish annual rather than semi-annual summaries of its decisions and opinions. Annual publications would be consistent with most states and would reduce the bureaucratic requirements of the commission.

XV Sec. 24.60.150 ADVISORY OPINIONS

Amend to read: {Lines 19-20} The opinion issued or considered issued, until amended or revoked, is binding on the commission and in any . . .

Commentary: This amendment would allow the commission to change or revise a decision if facts are brought to light, which in good faith were not known at the issuance or non-issuance of the opinion.

XVI Sec. 24.60.160 COMPLAINTS

Questions:

1) How long will evidence be maintained?

2) Should not the evidence gathered be available to the Attorney General as well as staff and the commission in the event a referal is recommended?

3) Is a referal to the Attorney General possible, desirable for legislators who violate this chapter? employees of the legislature?

XVII Sec. 24.60.170 DEFINITIONS

Commentary: The definitions sections is an essential component of any ethics statute, both for citizen comprehension and court interpretation. This bill's definition section is grossly inadequate.

The following terms need to be defined:

"official action", "relatively insignificant", "relatively far removed", "close economic association", "substantial financial matters", "campaign purposes", "competent and substantial evidence", "state agency", and "organization" (if suggested amendments are adopted).

XVIII OTHER SECTIONS NOT INCLUDED WHICH COULD BE CONSIDERED

1) Joint and Several Liability: eg - "If two or more persons are responsible for any violation, they shall be jointly and severally liable." (Calif. statute).

2) Referal to the AG: eg - "The commission shall refer to the Attorney General violations of the law which in its opinion merit prosecution. The Attorney General shall have responsibility for all prosecutions under the law and may request from the commission all evidence cllected in its investigation."

3) Severability of Chapter: eg - "If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more if its applications, the part remains in effect in all valid applications that are severable from the valid applications."

4) Honorariums and Fees Section

M. Matthew Higgins

Proposed Amendments to:

Sec. 24.60.030 CONFLICTS OF INTEREST by Mark Higgins

a) Sub. Sec. (b) [Lines 20-23] is amended to read:

B

A conflict of interest exists when a person to whom this chapter applies has discretion to take or withhold official action or exert influence which would [substantially] benefit or harm a [financial] matter which the person has a substantial direct or indirect [private] financial interest. A person has a substantial financial interest in a matter if

1) The person is associated with a business, directly or indirectly, as an officer, director, owner, partner, employee or owner of more than ten percent (10%) of the fair market value of such business; or

2) receives an aggregate annual income of more than five thousand dollars ($5,000.00) from such business.

b) Sub. Sec. (c) is repealed and replaced with (d) from the bill as written.

c) Add new Sub. Sec. (d):

In this section "business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, self-employed individual, joint stock company, receivorship, trust or other legal entity or undertaking organizes for economic gain, whether or not for profit.

d) Add new Sub. Sec. (d):

In this section "official action" means a decision, recommendation, approval, disapproval, or other action, including inaction, which involves use of discretionary authority.

adopted

Suggested Amendments to HB 362

by Rep. M.M. Miller

1 Pg. 1, L-18, after "legislators" add "and legislative employees". adopt

2. Pg. 1, L-25, add the following sentence, "This chapter shall be liberally construed to promote high standards of ethical conduct in the legislature." adopt

3. Pg. 1, L-29, after legislature. add, "Except for AS 24.60.090," adopted.

4. Pg. 2, L-11, delete "specifically repeal" and add "supercede". adopt

5. Pg.3, L-7, add a new subsection(e) as follows:

(e) If a member of the legislature determines that an actual conflict of interest exists, or receives an advisory opinion finding that a conflict of interest exists, the member of the legislature shall declare the interest on the floor or in committee, ask to be permitted not to vote, and file a written statement of the conflict of interest with the ethics commission within 48 hours of the determination that a conflict of interest exists. If a person employed by a member of the legislature determines thatan actual conflict of interest exists, the person shall file a written statement with the ethics commission within 48 hours of the determination that a conflict of interest exists and may not participate further in the matter. 15t workaround

6. Pg. 3, delete lines 16-20 and add the following:

(1) a firm, corporation, or association that the person has an interest in which is in fact sufficient to control, whether the interest is greater or less than fifty percent, or an ownership interest greater than 10 percent in a firm, corporation, or association that has assets in excess of $5,000,000 or that has assets of $5,000,000 or less and in which the person has an ownership interest greater than 25 percent; or

7. Pg. 3, L-11, after "less." add "except as set forth in subsection (c)." adopted

Pg. 3, L-28, add the following subsections:

(c) A state agency may enter into a contract without resort to the competitive bidding process under AS 37.05.230 when, in the judgment of the agency, the property or services should not, in the public interest, be acquired through competitive bidding. Written justification for the noncompetitive award of such contract shall be made a matter of public record and shall be filed with the ethics commission at least ten days before such contract is entered into. adopted

(d) In addition to any other penalty provided by law, any contract entered into by the state in violation of this chapter is voidable on behalf of the state; provided that in any action to avoid a contract pursuant to this section, the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within sixty days after the determination of a violation under this chapter. The Attorney General shall have the authority to enforce this provision. adopted

8. Pg. 5, L-16, after "disclose" add "in writing".

9. Pg. 5, L-23, delete "legislators" and insert "another person to whom this chaper applies;".

10. Pg. 5, L-29, after "lobbyist" add "as defined by AS 24.45.171,".

11. Pg. 6, L-4, after "gift" delete "in excess of $100," and insert "having an aggregate value in excess of $100 in any calendar year from any person or organization,".

12. Pg. 6 L-9, after"action" insert "or inaction".

13. Pg. 6 L-12, delete line and reinsert the following:

(1) hospitality from another person at that person's residence, including

14. Pg. 7, L-19, delete the entire section and reinsert as follows:

A person covered by this chapter who in the discharge of official duties is involved or about to be involved in any matter that could result in a conflict of interest on his or her part shall:

(1) Divest the interest that has resulted in the conflict or potential conflict; or

(2) Prepare a written statement describing such matter and the nature of the possible conflict of interest and

(A) in the case of a legislator, deliver copies of the statement to the presiding officer of the respective body of the legislator, who shall cause such statement to be printed in the journal or if the legislature is not in session such statement shall be printed in the first journal of the next session; or

(B) in the case of an employee of the legislature covered by this chapter, deliver a copy of the statement to the commission and to his or her immediate superior, if any, who shall assign the matter to another, or if the employee has no immdiate superior, he or she shall take such steps as the commission shall prescribe or advise to remove the employee from influence over actions or decisions on the matter.

15. Pg. 10, L-24, after "opinion" insert "until amended or revoked by the commission."

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3900

M E M O R A N D U M

May 6, 1983

SUBJECT: Standards of conduct and establishment of an ethics commission (HB 362)

TO: Representative Mitchell E. Abood, Jr.
Chairman, House State Affairs Committee

FROM: Billy G. Berrier BGB
Director
Division of Legal Services

You have requested a sectional analysis of HB 362.

Sec. 24.60.010. This is a general introduction which establishes the context in which the operative provisions of the bill will be considered. The first four sentences which end on line 21 are determinations by the legislature of facts which support the need for the bill and the remainder states the purpose the bill is intended to accomplish.

Sec. 24.60.020. (a) establishes the scope of the bill. It applies to legislators and relatively high ranking legislative employees over Step A, Range 18. It does not apply to former legislators or employees except where a specific provision explicitly states that it applies. (For instance, in Sec. 24.60.160(c) the commission may investigate complaints if the complaint is filed within one year after leaving state service.) It does not apply to persons elected to the legislature until they become members.

(b) provides this chapter supersedes the common law of conflict of interest as to persons covered by the bill. It expressly does not change any criminal laws of the state.

Sec. 24.60.030. This section prohibits conflict of interest and establishes broad categories. Use of public office for private advancement or gain is prohibited. A conflict of interest exists under (b) where the person has discretion to act in a matter in which the person has a private interest. Under (c) no conflict exists where the interest is small or the authority is remote. Under (d) there is no conflict if

the person's interest is not specific to the person but is a general interest shared with others.

Sec. 24.60.040. This section prohibits being a party to or having an interest in a contract not let by competitive bidding if it is over $1,000. It then establishes that a person has an interest if the person has a direct or indirect financial interest which is broadly defined in (b). It specifies that there is an interest if the person has an ownership interest in a partnership or an ownership interest in other forms of business organizations based on the asset value of the organization and the percentage of ownership.

Sec. 24.60.050. This section establishes two classes of state programs and loans for purposes of this chapter. If a program or loan has fixed eligibility standards, minimal discretion in determining qualifications and is generally available to the public, no different standards are imposed on persons to whom the bill applies. For other loans and programs special procedures apply. These are:

> (b) In determining whether a conflict of interest exists with respect to a state program or to a state loan, because a legislator may be in a position to influence the loan agency, the ethics commission must consider, but is not limited to, the adequacy of existing administrative procedures for granting and reviewing loans to legislators.
>
> (c) Upon application for a state loan by a person to whom this chapter applies, the lending agency must send a copy of the application to the Alaska Public Offices Commission, which will incorporate the material into the applicant's financial disclosure statement, if the applicant is required to file a disclosure statement. All records relating to a state loan to a person to whom this chapter applies may be disclosed to the commission
>
> (d) Each February 1st, each loan agency must publish a listing of all outstanding loans to persons to whom this chapter applies. The list must include the name of the person, the date of issuance and current status of the loan.
>
> (e) State agencies that have authority to grant loans shall adopt regulations that establish separate

procedures for granting and reviewing loans to a person to whom this chapter applies.

In addition to these requirements the section provides in

> (f) The division of legislative audit shall annually review state loans granted to or held by persons to whom this chapter applies to determine whether appropriate procedures were observed in granting or reviewing the loans. The division shall report its findings to the ethics commission by April 1.

and in

> (g) For purposes of this section "state program" means a program in which tangible assets of the state or a right to use tangible assets of the state are transferred from the state to a private person.

Sec. 24.60.060. This section provides that use of confidential information gained in the course of official duties for private gain is a conflict of interest.

Sec. 24.60.070. This section requires disclosure to the ethics commission of a close economic association involving a substantial financial matter with a supervisor, a legislator or a public official in another branch who is required to file a financial disclosure statement. It prohibits such an association with a lobbyist who is not a member of the immediate family.

Sec 24.60.080. This section prohibits gifts under circumstances where it may be reasonably inferred that the purpose of the gift is to influence performance of duties or as a reward for official action. Soliciting a gift in any amount in the circumstances is prohibited. A gift of $100 or less may be accepted.

In (b) certain types of gifts are excepted. These are hospitality at a person's home, generally available discounts, meals or social events not exceeding $100 or$250 a year from one person and gifts from the immediate family.

Under (c) the commission may limit the discounts or require the benefits to be turned over to the state.

Sec. 24.60.090. This section restricts employment of relatives. A relative may not be employed by the house in which a legislator is a member during the session or by either house during the interim. A relative may not be employed in a position over which an employee to which he is related has supervisory authority. A relative is defined as a child, spouse, parent, brother or sister, or permanent member of a person's household.

Sec. 24.60.100. This section is a general prohibition of representation of another person for compensation before an agency, board or commission of the state. A legislator may represent a client in court or in a matter pending at the time of election or employment. Waiving compensation in circumstances where compensation is normally expected does not avoid a conflict of interest.

Sec. 24.60.110. This section provides that a legislator who has a conflict of interest shall resign, divest the interest or disclose the interest in the journal or to the commission of the legislature is not in session.

Sec. 24.60.120. This section prohibits use of state property or funds for private gain or campaign purposes.

Sec. 24.60.130. (a) establishes a seven member ethics commission.

(b) provides that the commission consists of two senators and two other persons appointed by the president of the senate; two representatives and two other persons appointed by the speaker of the house; and a former legislator appointed by the other members of the commission. The appointments of the speaker and president of legislative members must be approved by three-fourths of the full membership of the house and the others must be approved by two-thirds.

(c) provides that not more than four members of the commission may be of the same political party or residents of the same borough or the unorganized borough.

(d) requires election of a chair and vice-chair of the commission and allows selection of other officers.

(e) establishes four year terms for the public members and provides that legislative members may not serve beyond the end of their term.

(f) prohibits a member of the commission from holding elective office, from being an officer of a political party, committee or group and from lobbying.

(g) excepts legislative members from these prohibitions.

(h) provides vacancies are filled in the same manner as original appointments.

(j) provides commission members receive no compensation for service on the commission but may receive SALARY???? or per diem.

Sec. 24.60.140. This section provides that the commission shall

(1) adopt regulations to facilitate the receipt of inquiries and prompt rendition of its opinions;

(2) recommend legislation to the legislature considers necessary;

(3) subpoena witnesses, administer oaths, and take testimony and allows requiring production of documents; and

(4) publish semi-annual reports with deletions to prevent disclosure of confidential material.

Sec. 24.60.150. This section provides for issuance of advisory opinions on the request of a person to whom this chapter applies, makes these opinions binding on the commission unless material facts are misstated or omitted and provides these opinions are confidential unless the person who requested the opinion makes a written request that they be public.

Sec. 24.60.160. This section provides for complaints and procedures for their consideration. A proceeding is commenced by filing of a complaint which may be done by a member of the public or three members of the commission. The complaint must be in writing and under oath.

Before the commission may investigate the complaint, it must define the scope of the inquiry by resolution. The commission must notify a person against whom a complaint is received and afford an opportunity to explain the conduct.

If the commission determines that the facts alleged in the complain even if true would not constitute a violation, it must summarily dismiss the complaint.

The commission is limited to investigating violations that occurred within four years of the complaint and the proceeding must commence within one year after termination of state service.

The commission shall investigate the complaint on a confidential basis and issue an advisory opinion to the alleged violator

If the advisory opinion indicates a probable violation, the person may comply with the advisory opinion or request a formal opinion.

If there is non-compliance with the advisory opinion or if the commission determines a violation has occurred the commission shall file a complaint and the person has 20 days after service to respond in writing.

The commission may set a time and place for the hearing with notice to the complainant, if any, and to the person charged. The commission and the person charged each have the right to be heard, to compulsory process, to be represented by counsel and to cross-examine witnesses. Witnesses shall testify on oath. The rules of evidence do not apply but the findings must be based on competent and substantial evidence. The testimony shall be recorded and the evidence retained.

The hearings are closed to the public unless the person charged requests they be open. The testimony and evidence are available only to the commission staff and to the person charged. If the person charged requests a transcript, it shall be furnished him without charge.

The decision shall be in writing and signed by four or more members of the commission. Each decision is accompanied by an order which is public. The order is limited to a determination that a violation does or does not exist.

If the commission decides that a member of the legislature has violated a provision of this bill or has not cooperated, it shall refer the decision to the appropriate presiding officer. The decision shall contain a statement of facts and may recommend any penalties the legislature may lawfully impose. The commission shall make the decision public 30 days after referral but days the legislature is not in session are not counted.

The legislature shall act on the decision as it considers appropriate.

If the commission determines an employee or former member has violated a provision of the bill, it shall make the decision public 30 days after the date of the decision. The legislature shall act on the decision as it considers appropriate. Action may include suspension, demotion or dismissal.

A person who divulges information concerning a charge except as permitted by the bill is guilty of misuse of confidential information (which is a class A misdemeanor under AS 11.56.860).

BGB:ljb
15/028

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

December 3, 1982

Hon. Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, AK 99811

Re: Conflict of interests.
Our files: 366-255-83, 366-286-83,
A66-393-81, J66-457-81

Dear Governor Hammond:

I. INTRODUCTION

Seven situations have been brought to our attention which require analysis of the law of conflict of interests. We address this opinion to you because of the statewide importance of these questions and because of the profound implications of our remarks for all officers and employees of state government.

At the outset we must emphasize our key theme. The fact that there may be no conflict of interests statute that makes a particular course of conduct criminal or otherwise improper does not mean that it is legal. A transaction may not violate Alaska's criminal conflict of interests law, AS 39.50.-090; it may not even violate any one of a dozen civil statutes which prohibit conflicts of interests in specific agencies; yet it may still be illegal. By this opinion, we hope to make state officers and employees aware of an ethical code which is not in

the Alaska Statutes but which is in force in Alaska: the common law. Unless and until the legislature puts a different body of enacted law in its place, the common law of conflict of interests, as declared by the courts, prescribes the standards of conduct which must be followed by all state officers and employees.

The common law provides, generally, that public officers and employees are trustees of the people, and as such they are forbidden to have outside interests which conflict with that trust; they not only may not, as public officers, make decisions to benefit their own private businesses (or influence other public officers to do so), but they must avoid even the appearance that they have engaged in self-dealing or attempts to influence official decision-making for their private advantage. Where there is the fact or appearance of impropriety, the courts will declare the contract, transaction, or decision void unless a statute permits the action in question, and this result cannot be avoided by the expedient of letting a "disinterested" colleague or subordinate make the decision.

The questions which prompted this opinion are related below. Our analysis follows thereafter.

First, may a legislator, or his or her company, contract with the state to provide the state with goods or services? The answer is no.

Second, may a legislator, state officer, or state em-

ployee receive a loan from the state? The answer with respect to educational and residential loans is a qualified yes. Because educational and residential loan programs have relatively rigid requirements and loan ceilings, there is much less opportunity for improper influence; thus, state legislators, officers, and employees may receive such loans. However, it would be incumbent upon the applicant/lendee to insure that no one takes any step which might be viewed as an attempt to influence the administrators of the program in their evaluation of the applicant/lendee's application and their administration of the loan. Commercial loans are much more questionable transactions which we will discuss below.

Third, may a legislator vote on a bill which will inure to the financial benefit of the legislator? The answer is yes, unless the legislator's interest is peculiarly personal, such as when the bill benefits only a tiny class of which the legislator is a member, or when the bill concerns a project on which the legislator, or the legislator's company, is a contractor.

Fourth, may a director of a state corporation, board, or commission which is governed by no specific conflict of interests statute hold that position if he or she is also an officer, manager, or large stockholder of a private company which has entered into contracts to provide the state with goods or services? If the director's company has a contract with an agency of state

government different from the agency in which the director serves, and if the likelihood that the two agencies will interact on other than routine, ministerial matters is small, there would be no conflict. If, however, the director's company has contracts with the agency in which the director serves, the director must divest himself of his private holdings or resign his directorship; otherwise, any contracts his company executes with that agency would be void.

Fifth, may an officer of the Division of Minerals and Energy Management of the Department of Natural Resources (DMEM) own a mineral claim, an interest in a mine, or an interest in the products of a mine on land under state jurisdiction? Ownership of such interests is not prohibited under AS 27.05.010 unless DMEM is engaged in an "investigation" described in AS 27.05.010 -- 27.05.070. However, the common law does prohibit the ownership of such interests: A conflict of interests would exist because the officer (or the officer's subordinates) would be required to review and approve the officer's filings with DMEM concerning the officer's mining interests. In addition, the officer would have a substantial voice in the department's land use classifications, which could inure very much to the officer's benefit were he an actual or potential investor in mineral claims on land subject to state regulation.

Sixth, may an inspector in a state regulatory agency

sell the right to use a process the inspector developed and patented to companies whose plants he inspects? The answer is no. Neither may that inspector obtain a state grant to test the process in plants which he inspects.

Seventh, may a person with an interest in a business that has a contract with the state be a member of the board of the Alaska Resources Corporation (ARC)? The answer is a qualified yes. A member is forbidden to acquire any conflicting interest after joining the board. AS 37.12.065(b). Concerning interests which a member holds and held before joining the board, there are two answers: First, if the contract is with an agency other than ARC, and if that other agency has only routine, ministerial contacts with ARC, there is no conflict. Second, if the contract is with ARC, the board member must abstain from voting and take no formal or informal part in discussions of ARC's policies or actions toward the business in which the member has an interest. Id.

II. THE ROLE OF THE ATTORNEY GENERAL

The attorney general is the chief legal officer of the state and "the legal advisor of the governor and other state officers." AS 44.23.020(a). As such, he is duty bound to assist the governor in "the faithful execution of the laws." Alaska Const., art. III, § 16. These laws include the common law of

conflict of interest, see AS 01.10.010; the constitutional requirements that "[no] appropriation of public money [be] made ... except for a public purpose," and that "[n]o obligation for the payment of money shall be incurred except as authorized by law." Alaska Const., art. IX, §§ 6, 13; and AS 39.50 concerning conflicts of interests.

The attorney general performs this function by prosecuting legal actions, AS 44.23.020(b)(1), and furnishing written legal opinions. AS 44.23.020(b)(4). The attorney general is also empowered to bring an action to recover state funds which were illegally paid or paid to a person not authorized to receive them. AS 37.10.090. Short of court action, the attorney general may advise against an agency course of action which he believes is against the public interest. See Mobil Oil Corp. v. Kelley, 353 F. Supp. 582, 586 (S.D. Ala. 1973), aff'd 493 F.2d 784 (5th Cir. 1974). Indeed, the attorney general is duty bound, in the service of the public interest, to give such advice, even in the face of objections from client agencies, officers, or legislators. D'Amico v. Board of Medical Examiners, 520 P.2d 10, 20 (Cal. 1974)(In Bank); Commonwealth ex rel. Hancock v. Paxton, 516 S.W.2d 865 (Ky. 1974). The first allegiance of the attorney general is to the public interest. Id.

In this opinion, we advise on various courses of action. This advice is based upon our best reading of the case law

and our conviction that, were the specific situations presented to a court in a lawsuit, particular outcomes would follow. This is not a certain prospect: as will be made clearer below, we are, with few exceptions, dealing not with specific statutes but with the common law, a general and changing body of principles developed and applied by courts over the centuries. Our conclusions are based upon what we believe a court would do given those general principles, prevailing public policy, the public interest, and the continuing silence of the legislature in this area generally. Thus, this memorandum is a prescription for agency action in the face of conflicts of interests not addressed by statute, and a guide for legislative action should the agency or court resolution be unsatisfactory to the legislature.

... State agencies, officers, and employees should heed advice in this memorandum until ordered to do otherwise by a court. See Gray v. Main, 309 F. Supp. 207, 220 (M.D. Ala. 1968); State v. District Court of Mayes County, 440 P.2d 700, 707 (Okla. 1968).

III. STATUTES AND COMMON LAW PRINCIPLES

There are more than a dozen provisions dealing with conflict of interests scattered through the Alaska Statutes. Only AS 39.50 applies to state officers generally. One of that chapter's purposes is "to discourage public officials from acting

upon a private or business interest in the performance of a public duty," AS 39.50.010(a)(1), and it declares that "public office is a public trust which should be free from the danger of conflict of interest." AS 39.50.010(b)(1). Its main feature is its disclosure requirements. E.g., AS 39.50.020. The chapter's only prohibitions are contained in AS 39.50.090, subsection (a) of which provides:

> No public official may use his official position or office for the primary purpose of obtaining financial gain for himself, or his spouse, child, mother, or father, or business with which he is associated or owns stock.

Violation of this subsection is a crime. AS 39.50.090(d).

Other Alaska conflict statutes incorporate AS 39.50 by reference, 1/ or impose other limitations. 2/ The other limitations range from a simple prohibition on the employment of close relatives, AS 14.14.140, to a duty to divest oneself of the conflicting interest or suffer forfeiture of one's office. AS 42.07.061.

The statutes mentioned above speak only to a relative handful of government agencies, boards, corporations, and commissions. 3/ In some cases, the statutes prescribe rules of conduct

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1/ AS 24.55.310; AS 46.12.090.

2/ AS 06.88.391; AS 14.14.140; AS 18.55.080; 18.55.500; AS 21.06.040; AS 24.20.291; AS 27.05.020; AS 37.12.065(b); AS 38.06.035; AS 42.07.061; AS 44.07.330; and AS 44.88.180.

3/ See nn.1, 2. supra.

for officers of state agencies, but offer no guidance for employees. 4/ There remain hundreds of conflict situations to which no Alaska conflict legislation 5/ pertains except as AS 39.50. 6/

It is well-settled in the federal courts, particularly with regard to criminal sanctions for bribery and fraud, that the existence of criminal statutes (such as AS 39.50.090) does not extinguish the common law rights and remedies which would ordinarily exist. United States v. Kearns, 595 F.2d 729, 732-733 (D.C. Cir 1978); Continental Management, Inc. v. United States, 527 F.2d 613, 620 (Ct. Cl. 1975), and cases cited therein. We believe that the same rule would apply in Alaska: AS 39.50 will not be held to repeal, amend, or preempt the common law of conflict of interests which will apply "unless and until the Alaska legislature acts to modify it." Surina v. Buckalew, 629 P.2d

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4/ Compare AS 21.06.040, AS 27.05.020, and AS 44.07.330 with AS 44.88.180, AS 46.12.090, and AS 48.55.500.

5/ Personnel Rules 13 12.0 and 13 16.0 apply to most executive branch personnel and prohibit conflicts of interests in terms which essentially incorporate the standards of the common law.

6/ AS 39.50 governs the conduct of very few persons. AS 39.50.200(a)(1) limits the chapter's scope by excluding officers or employees below the director level from the coverage of the provision. There remain outside the coverage of the Act deputy directors in the executive branch, assistant attorneys general, appointive officers of the legislative branch (including legislative assistants), non-judicial officers of the court system, and all subordinate employees of these agencies. Thus, fully 90 percent of state officers and employees are beyond the reach of the criminal sanctions in AS 39.50.090(a).

969, 973 (Alaska 1981). Thus, a person may act illegally without violating the criminal law, and serious non-penal consequences may follow.

Neither is it possible to formulate a rule of administrative decision for a given situation by analogy, based upon legislative pronouncements with respect to other agencies, for no consistent policy is apparent from an examination of the various statutes. One statute lays down no other rule than that school boards may not hire close relatives of the board members, AS 14.-14.140, and even that rule may be waived by the commissioner of education. Id. Thus, on local school boards, were it not for the common law rule and AS 39.50.090(a), a board member could let a contract to himself. 7/ In another agency, the law provides that a board member may not vote on a contract with his own firm or one in which he holds a "direct" ownership interest, but he need not divest himself of the interest. AS 44.88.180. In still other agencies, such interests are prohibited and the officer must dispose of the interest or forfeit the office. AS 42.07.-061. See AS 21.06.040; AS 24.20.291; AS 27.05.020; AS 38.06.035. From this range of solutions, no overriding general policy prescription is apparent for the guidance of public officers and employees.

7/ A stricter rule applies to regional school boards. AS 14.-08.131.

* * * *

Most conflict of interests situations in Alaska are covered not by statute but by the common law. Judge Wickersham described the common law in In Re Burkell, 2 Alaska 108 (D. Alaska 1903):

> The common law includes those principles, usages, and rules of action applicable to the government and security of person and property which do not rest for their authority on any express and positive declaration of the will of the Legislature (1 Kent's Com. 533), a system of elementary principles and of general judicial truths which are continually expanding with the progress of society, and adapting themselves to the gradual changes of trade and commerce and the mechanic arts and the exigencies and usages of the country (Pierce v. Props. Swan Point Cemetery, 10 R.I. 227, 14 Am. Rep. 667).

Id. at 117. See Howard v. Pfeifer, 443 P.2d 39, 44 (Alaska 1968). In Alaska, the common law controls judicial decision-making "unless and until the Alaska legislature acts to modify it." Surina v. Buckalew. See AS 01.10.010.

The common law of conflict of interests is clearest in the case of a contract made by a public officer who will, as a private person, benefit from the contract. The most comprehensive discussion of the typical situation, the controlling rule, and the underlying public policy is found in Beebe v. Supervisors of Sullivan County, 19 N.Y.S. 329 (App. Div. 1892), aff'd 37 N.E. 566 (N.Y. 1894):

> At the time of his employment [by the board of supervisors as the board's attorney in several

> collection matters], the defendant Anderson was a member of the board of supervisors. They were the agents of the county of Sullivan, and as such had no right to enter into contracts for their own benefit with their principal, the county of Sullivan. They are trustees, and have no right to enter into contracts with each other at the expense of those for whom they are acting, and whose interests they are bound to guard and protect. The illegality of such contracts does not depend upon statutory enactments. They are illegal at common law. It is contrary to good morals and public policy to permit municipal officers of any kind to enter into contractual relations with the municipality of which they are officers; and this principle applies with particular force to members of a board like the board of supervisors, which not only makes the contract, but subsequently audits the bill.
>
> But it is said that in the case before us the supervisor who was employed did not vote on the question of his own employment, or upon the audit of his bill. That does not cure the evil. The influence upon fellow members is the same. His constituents are entitled to his judgment in making contracts, to his scrutiny in passing upon accounts, and to his unbiased and disinterested efforts in both; and he cannot make the violation or neglect of the duties he owes to his constituents the means of validating an otherwise illegal act. He cannot put on and off the garb of a public official, and discharge or refuse to discharge the duties of his trust, at will, and as best subserve his private interests. He is a part of the board of supervisors. Its act is his act; and he cannot, as a supervisor, make a contract with himself as a private citizen.

Id. at 630 (citations omitted).

IV. THE PROCESS OF COMMON LAW ADJUDICATION

In the absence of legislation, it is the task of the courts, with the assistance of the attorney general, other mem-

bers of the bar, litigants, and amici curiae, to apply common law principles and policies articulated by the Beebe court and hundreds of other courts and commentators before and since. The task is a difficult one because, with the exception of the self-dealing public officer situation just described, the law is not settled; the courts must reason from the situations already addressed by the courts to solutions for new questions presented.

For this undertaking the common law is well-suited, as Chief Justice Lemuel Shaw noted in his classic description of the process:

> It is one of the great merits and advantages of the common law, that, instead of a series of detailed practical rules, established by positive provisions, and adopted to the precise circumstances of particular cases, which would become obsolete and fail, when the practice and course of business, to which they apply, should cease or change, the common law consists of a few broad and comprehensive principles founded on reason, natural justice, and enlightened public policy modified and adapted to the circumstances of all the particular cases which fall within it.
>
> ....
>
> Another consequence of this expansive character of the common law is, that when new practices spring up, new combinations of facts arise, and cases are presented for which there is no precedent in judicial decision, they must be governed by the general principle, applicable to cases most nearly analogous, but modified and adapted to new circumstances by considerations of fitness and propriety, of reason and justice, which grow out of those circumstances.

Norway Plains Co. v. Boston & Main Railroad, 1 Gray (67 Mass.)

263 (1854), reprinted in Hart and Sacks, The Legal Process: Basic Problems In The Making And Application Of Law (1958) 386-395. 8/

It is our task to begin with the legislative solutions to determine if any statute answers any of the conflict questions posed. Failing that, we must turn to the common law and, beginning with the first principles, reason to the conclusion the courts would likely reach given the facts, judicial precedent in analogous cases, and prevailing public policy.

V. LEGISLATOR CONFLICTS

Two questions are presented concerning potential legislator conflicts: First, may a legislator, or his or her firm or business, contract with the state to provide the state with goods or services? Second, may a legislator receive a state loan?

The first question does not concern classic self-dealing, the letting of contracts by an official to himself or his relatives, associates or company. It is a different problem described in the following terms:

> There is a great possibility that an official who has no immediate administrative connection with

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8/ Thus, even if there is no statute and not one case addressing the situation before a court, that court may, by the process of common law adjudication, formulate a wholly new answer to settle the dispute which gave rise to the lawsuit. See Howard v. Pfeifer, 443 P.2d at 44.

> the contract may be sufficiently motivated by his personal interest to exert whatever influence his position allows to pressure the public official who in fact has a direct responsibility concerning the contract to favor that personal interest. In this way, an official without a personal interest in the contract acquires a conflicting interest in the sense that he must choose between appeasing the pressuring official and properly discharging his duties in the matter.
>
> Experience indicates the harm that may flow from [this situation]. Contracts may be awarded that are over-priced or unnecessary, or the performance rendered under the contract may be inferior, all because of official favoritism, compromise or intentional oversight. Even if the abuse is nothing more than partiality in awarding a contract, it may import an aspect of unfairness into public administration, engendering popular disrespect for government.

Note, Conflict-of-Interests of Government Personnel: An Appraisal of the Philadelphia Situation, 107 U. Pa. L. Rev. 985, 987-988 (1959). See Eisenberg, Conflict of Interest Situations And Remedies, 13 Rutgers L. Rev. 666, 686 (1959).

There are no cases which squarely hold, as a matter of common law, that a legislator, having no formal, institutional connection with the letting or oversight of a contract, can or cannot contract with the state. The archetypical situation arises in the municipal context where principles of separation of powers do not apply and assemblymen or councilmen act administratively as well as legislatively. Thus, an assemblyman might, in a private contractor capacity, offer goods or services to the city, which goods or services are accepted, inspected, super-

vised, and compensated by the assembly on which the contractor sits. It is the virtually universal rule at common law that such a transaction is illegal, even if the assemblyman-contractor abstains and takes no part in the review and compensation of the performance. E.g., Beebe v. Supervisors of Sullivan County, quoted supra. While some commentators have declared that the common law rule has been extended to bar such transactions if any public officer or employee, regardless of their official connection with the transaction, is the private contractor, 9/ a close analysis of the cases decided to date and due regard for the difference between holding and dicta belie the claim. 10/

Many states have statutes or constitutional provisions which prohibit legislators or other public officers from contracting with the state. A number of cases have declared that such provisions are declaratory of the common law, i.e., even if there were no statute, the same rule would apply by force of the common law. One case is Schultze v. City of New York, 136 N.Y.S.

9/ E.g., Note, Conflict of Interests: State Government Employees, 47 Va. L. Rev. 1034, 1039 (1961).

10/ Kaplan and Lillich, Municipal Conflicts of Interest: Inconsistencies and Patchwork Prohibitions, 58 Col. L. Rev. 157, 158-174 (1958). We were guilty of uncritically accepting the conclusion of the Virginia Law Review note writer in our formal opinion of August 8, 1979; fortunately, it made no difference in the result in that opinion since the individual in question was an officer with authority to vote on the award of contracts and review the contractor's performance.

715 (App. Div. 1912), aff'd 106 N.E. 1042 (N.Y. 1914). Schultze was a duly appointed coroner's physician whose duty it was to perform autopsies and give evidence at coroners' inquests. He was called upon to assist the district attorney in a homicide case involving a decedent whom Schultze had not examined; he acted as an expert consultant. He submitted a bill which was disapproved under a charter provision which forbade officers to become interested, directly or indirectly, in performance of any contract or work to be paid for from the city treasury; a violation was a misdemeanor, the violator forfeited his office, and the contract was voidable. The court held that the city was not required to pay the bill, and observed that "[t]hese prohibitions are merely declaratory of the common law." Id. at 718. Accord, Mariohn Realty Co. v. City of Long Beach, 204 N.Y.S. 53, 55 (Sup. Ct. 1924), aff'd 206 N.Y.S. 933 (App. Div. 1924).

The case of Norbeck & Nicholson Co. v. State, 142 N.W. 847 (S.D. 1913), involved a legislator who contracted with the state to drill a well. The contract was voided on the basis of a constitutional provision which prohibited legislators to be directly or indirectly interested in any state contract. However, there followed extremely broad dicta:

> A member of the state Legislature, by virtue of his office, stands in a fiduciary and trust relation towards the state; in other words, he is the confidential agent of the state for the purpose of appropriating the state's money in payment of the lawful contractual obligations of the

> state, and it seems to be almost universally held that it is against sound public policy to permit such an agent, or any agent occupying a like position, to himself be directly or indirectly interested in any contract with the state or other municipality, during the period of time of the existence of such trust and confidential relationship. The private interest of such an agent should not become antagonistic to his public duty.

Id. at 849.

On the other hand, at least two courts have described statutory prohibitions of such contracts as new legislative rules foreign to the common law. In re Opinion of Justices, 82 A. 90, 93 (Me. 1911); Lindberg v. Benson, 70 N.W.2d 42, 45 (N.D. 1955). However, the Lindberg court went on to state in forceful terms the very public policy considerations which militate in favor of a common law rule in the absence of legislative action:

> The purpose of the enactment was to extend the ancient common-law rule that no state officer may be interested in any contract which he has a voice in letting (which rule is expressed in many statutes of this state) by providing a more comprehensive legislative rule, founded in public policy, which would take away from legislators as a class any personal incentive to increase their opportunities to make profitable contracts by their votes in the legislature or to use their influence as legislators in securing contracts or the approval of the work done under them. The members of the Legislative Assembly exercise a high degree of control over the fiscal affairs of the State and its subdivisions. They regulate assessments and tax levy limits. They authorize bond issues and, for the State, they make all appropriations. By enacting this initiated measure the people have attempted to remove from the legislators temptation to venality in the exercise of their legislative functions. Many states have constitutional or legislative provisions which are similar in

> nature and which have remained in force unchallenged for many years.

Id. at 45-46.

In two recent cases, courts have held that legislator attorneys may not represent persons in litigation against their city or state. In Georgia Department of Human Resources v. Sistrunk, 291 S.E.2d 524 (Ga. 1982), the Sistrunks were represented by Hill, a state legislator. The department invoked fiduciary principles and a Georgia constitutional provision which declared that "[p]ublic officers are the trustees and servants of the people, and at all times are amenable to them." The court expressly noted that this was not analogous to the classic self-dealing situation, since Hill was not representing both the Sistrunks and the state. Id. at 526.

The Sistrunk court framed the issued in the following terms:

> All public officers, within whatever branch and at whatever level of our government, and whatever be their private vocations, are trustees of the people, and do accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from the discharge of their trusts.
>
> ...
>
> May one trustee of the people, as attorney and for his own financial gain, negotiate on behalf of another for a favorable official dispensation at the hands of another trustee of the people?
>
> Specifically concerning legislators, may one

> trustee of the people -- in whose office are vested the powers of enhancement, diminution, and destruction of the office of another trustee of the people -- as attorney and for his own financial gain act in a manner to hinder or frustrate the discharge by such other trustee of the duties of their common trust?
>
> No.

Id. at 528.

It bears noting that the court in Sistrunk based its decision on a Georgia constitutional provision and not on the common law. However, that provision is so general in its terms and was analyzed with such close attention to common law trust principles that the Sistrunk holding has significance independent of the constitutional language. A similar provision appears in Alaska law. 11/

In a California case, People v. Municipal Court of San Diego Judicial District, 138 Cal. Rptr. 235, 238 (Cal. App. 1977), the court barred a city councilman-attorney from representing a defendant being prosecuted by the city. The decision appears to rest primarily on the ethical standards of, and trust reposed in, members of the bar, rather than on any statutory or constitutional provision. 12/

11/ Compare the Georgia constitutional provision quoted in the text with AS 39.50.010(b)(1), which provides "public office is a public trust which should be free from the danger of conflict of interest."

12/ However, the court did, in passing, compare the councilman's

A legislator contract also raises novel and troubling questions of separation of powers. The federal courts have, in perhaps a dozen cases, condemned the practice of interference by individual legislators or committees in executive branch decision-making. The leading case is Pillsbury Co. v. Federal Trade Commission, 354 F.2d 952 (5th Cir. 1966). In Pillsbury, a decision of the FTC in its quasi-judicial capacity was invalidated because of intense Congressional committee pressure while the decision was pending.

Much less pressure was required to invalidate the decision at issue in Koniag, Inc. v. Andrus, 580 F.2d 601 (D.C. Cir. 1978), cert. denied 439 U.S. 1052 (1978). The court ruled that a letter sent by Congressman Dingell to the Secretary of the Interior, in effect urging him to deny several applications for "native village" status, compromised the Secretary's impartiality in quasi-judicial proceeding; the court ordered reconsideration of the applications by the new Secretary. In other cases, however, explicit and extreme threats were said to be required before invalidation would occur. E.g., D.C. Federation v. Volpe, 459 F.2d 1231 (D.C. Cir. 1972)(threat of loss of appropriation for unrelated project); Texas Medical Association v. Mathews, 408 F.

12/ cont. . . .
representation to conduct by "[a] local agency officer or employee" which is statutorily proscribed as "incompatible." Id. at 238.

Supp. 303 (W.D. Tex. 1976)(threat of loss of job).

Here, as in the federal legislator influence cases, the legislators would be placing themselves in a non-legislative, i.e., administrative or quasi-judicial, arena. But the kind of legislator pressure which caused the court in Pillsbury to invalidate the FTC decision is not involved here. Still, the federal legislator interference cases lead us to conclude that a court would not require a showing of direct threats where a legislator acted on behalf of himself rather than on behalf of a constituent.

The remarks of the Alaska Supreme Court in two opinions bear on this inquiry. Both cases, Begich v. Jefferson, 441 P.2d 27 (Alaska 1968), and Warwick v. State ex rel. Chance, 548 P.2d 384 (Alaska 1976), involved legislators who held or wished to hold an office of state government outside the legislative branch.

In Begich, the court observed generally:

> Alaska's constitutional prohibition against members of our three separate branches of state government holding any other positions of profit under the State of Alaska reflects the intent to guard against conflicts of interest, self-aggrandizement, concentration of power, and dilution of separation of powers in regard to the exercise by these governmental officials of the executive, judicial, and legislative functions of our state government. The rationale underlying such prohibitions can be attributed to the desire to encourage and preserve independence and integrity of action and decision on the part of individual members of our state government.

441 P.2d at 35.

In Warwick, the court considered Alaska Constitution, article II, section 5, which forbids a person to accept a government post which was created, or the salary for which was increased, while that person served in the legislature. The court observed:

> There is little disagreement as to the purpose of the type of constitutional provision under consideration here. Although the exact language varies from state to state, all such provisions are aimed at a common goal: to remove improper motives from considerations of legislators in voting for increased salaries or the creation of new offices. In one often-cited quotation, Justice Story, commenting upon a like provision in the Constitution of the United States, said:
>
> > The reasons for excluding persons from offices who have been concerned in creating them, or increasing their emoluments, are to take away, as far as possible, any improper bias in the vote of the representative, and to secure to the constituents some solemn pledge of his disinterestedness.
>
> This type of constitutional provision is designed not only to stop overt trafficking in offices, but also to prevent less obvious influences on a legislator's actions:
>
> > [T]his constitutional provision was enacted through fear that a legislator might be, either consciously or unconsciously, influenced by selfish motives when voting for or against a bill.
>
> Another purpose has been said to be the elimination of even the suspicion that legislators were acting with improper motives. As in the case of the judiciary, it is important that the legislature not only avoid impropriety, but also the appearance of impropriety.

548 P.2d at 387-388 (emphasis added by the court, footnotes omitted).

Both the Alaska Constitution and AS 39.50 were adopted by popular vote. From these electoral expressions it is clear that Alaskans view as morally opprobrious public officials who use public office for private gain. Indeed, even the appearance of impropriety is a circumstance to be avoided. Warwick at 388, quoted supra; Falcon v. A.P.O.C., 570 P.2d 469, 477 (Alaska 1977). See AS 39.50.010(b)(1)("public office is a public trust which should be free from the danger of conflict of interest").

The size of the legislature and the executive branch is also an important consideration. There are only 60 legislators, all of whom are likely well-known to the relatively few departmental commissioners, deputy commissioners and directors. Most of these persons work together in close proximity in Juneau for five months of the year.

Our legislators have a keen interest in the budget process. Those legislators who sit on the finance committees are usually familiar with the thousands of pages of budget documents in the minutest detail and make allocations in multi-billion dollar budgets in increments of thousands of dollars. Any legislator, and especially a member of the finance committees or the free conference committee on the budget, can have an enormous impact on the budget of a state agency. Recent legislative ses-

sions have seen both the creation and destruction of agencies at the behest of single or a few legislators who took the initiative to bless or gut the agencies. In recent years, the legislature has also taken to designating its own non-governmental agents to carry out state programs. E.g., p. 25, § 51, ch. 120, SLA 1980.

Alaska is a very small state, with a small pool of talented people from which to draw its leaders. Many of the most talented have extensive commercial enterprises which may do business with the state. Unreasonable barriers should not be placed before these most promising aspirants to public service. Yet, with the legislature tending toward a half-time profession, and with the great potential for conflicts of interests with multi-billion dollar budgets and pervasive government involvement in private commerce, the courts might well be convinced that the only solution in the public interest is a common law prohibition. This would be all the more compelling in the absence of evidence that aspirants to public service are being dissuaded by a common law rule prohibiting legislator contracts, and in the absence of legislative action in this area. Indeed, such a common law prohibition might be a telling experiment for the information of the courts and the legislature.

As we have already noted, there is no case authority directly on point pro or con, but the foundation is there, in Beebe and its progeny, in Begich, in Warwick, and in AS 39.50,

upon which a common law rule against legislator contracts could be constructed. Any voter could bring an action to void such contracts 13/ and we would likely support that result in the absence of a compelling contrary justification. 14/

It is therefore our conclusion that a contract between a state agency, 15/ on the one hand, and a legislator, a business owned or operated by a legislator, or a business in which the legislator is an officer, manager, or large stockholder, on the other hand, would be illegal under the common law. 16/

* * * *

The second legislator conflict situation concerns legislators (and some state officers and employees) who apply to re-

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13/ See AS 39.50.100.

14/ Were a legislator contractor the only possible source for particular goods or services, we might support an exception. Similarly, an exception might be justifiable if a legislator proposed to provide non-unique, "off-the-shelf" goods (e.g., office supplies, motor oil) where price would be virtually the only variable. Exceptions are not supportable where the transaction requires the exercise of judgment by an administrator or an extended period of performance by the legislator. See State v. Yoakum, quoted infra.

15/ A court might well go further and say that legislators may not, as private contractors, do business with any entities (state agencies, municipalities, nonprofit corporations) whose projects are financed with state funds.

16/ At this time, we offer no opinion on situations where the legislator is an employee of the contracting firm, or where a close relative of a legislator is an officer, manager, large stockholder or employee of the contracting firm.

ceive loans from the state. The only case which offers even brief analysis of the public policy considerations which would underlie an exception to the common law rule is State v. Yoakum, 306 S.W.2d 39 (Tenn. App. 1957). In explaining why a loan to a school board of which the president of the lender bank was a member did not violate a statutory prohibition of a direct or indirect interest in a public contract, the court impliedly undercut any common law prohibition:

> A loan of money, however, is unlike a contract for goods or services involved in all our reported decisions. Because they involve questions of value, contracts relating to goods and services provide opportunity for imposition upon the public. In the loan of money the law fixes the maximum rate of interest and no question of value is involved. Only a rate of interest below the maximum fixed by law can be the subject of negotiation. In the loan here involved it is not insisted that such a short term loan could have been made elsewhere at a lower rate of interest and, as we have seen, the loan actually resulted in a loss to the Bank. To apply the statutes to such a situation, it seems to us, would be going beyond their meaning and purpose and result in great inconvenience in small communities where bank officers and stockholders frequently occupy positions of public trust and authority.

Id. at 40.

While the analysis is terse, Yoakum provides a basis for distinguishing the loan situation from other contracts between the state and legislators. However, we can say this with confidence only in the cases of loans for tuition or personal residences, where loan ceilings are relatively low, eligibility

standards are fixed, and the range of administrator discretion subject to influence and abuse is small. 17/ Commercial loan programs, where ceilings are much higher and where evaluation of credit-worthiness is more subjective, may yet present conflicts of interests where the loans are made to legislators.

However, there is potential for influence or abuse in any loan program, especially when foreclosure or other enforcement actions must be considered. Thus, whether the loan is educational, residential, or commercial, a conflict of interests may arise, and state legislators (and some state officers and employees) and their agents, must act with the greatest circumspection and propriety in dealing with the agency concerning the loan or any other matter. The agency, in order to maintain public confidence in the fairness of its program, should brook not even a hint of interference and should report questionable communications to the attorney general.

* * * *

We view the third question, concerning the propriety of a legislator voting on a bill which will financially advantage the legislator, in a different light. It is clear in the case law that, when a legislator acts in a legislative capacity, that

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17/ Even a competitive bidding procedure is subject to greater influence and abuse where the contracting officer has discretion in evaluating the responsibility of the bidders. AS 39.05.230. See AS 36.98.040 -- 36.98.050.

action can be challenged only when the legislator's conduct is "tainted with fraud, or palpably not in the service of the public interest, or otherwise a clear perversion of power." Rollins v. Carter, 69 A. 777 (N.H. 1908); Pyatt v. Mayor of Dunellen, 89 A.2d 1, 3 (N.J. 1952); MASON'S MANUAL OF LEGISLATIVE PROCEDURE, § 522. However, when a legislator acts outside the legislative sphere, with respect to a particular transaction or adjudication in which the legislator is interested, a challenge may be sustained if there is found a "private interest at variance with the impartial performance of ... public duty." Pyatt; Rollins. See Burton v. United States, 202 U.S. 344, 366-367 (1906); Pillsbury Co. v. Federal Trade Commission, 354 F.2d 952, 964 (5th Cir. 1966); Note, Conflicts of Interest of State Legislators, 76 Harv. L. Rev. 1209, 1214, n.38 (1963)("[I]mproper activities in other capacities should not be protected merely because the impropriety arises from the fact that the actor is also a legislator.").

Therefore, where a legislator votes on a bill which will financially benefit the legislator as a member of the public generally, e.g., personal income tax repeal, or where a legislator votes on a bill which will financially benefit the legislator as a member of a numerous though limited class of Alaskans, e.g., bank deregulation or corporate income tax repeal which will benefit shareholders, the legislator's vote may not be challenged. See the memorandum opinion from Kenneth E. Vassar to Wilson L.

Condon dated April 1, 1982.

Where, however, the class of beneficiaries of the legislation is tiny, especially where the bill relates to a project for which the legislator is a private contractor or affiliated with a private contractor, the legislator must disclose the conflict of interests and the legislative body should bar the legislator from voting. See MASON'S MANUAL OF LEGISLATIVE PROCEDURE, § 522 (1979).

VI. OFFICER CONFLICTS

Four potential conflicts of interests by executive branch officers have been presented for our review. We will treat them in turn.

It is first asked whether a director of a state corporation, board, or commission which is governed by no specific conflict of interests statute has a conflict if he or she is an officer employee, or large stockholder of a company or firm which has contracts with the state to provide goods or services. If there is a conflict, what remedial steps need be taken?

The question is answered by the Beebe case, quoted supra, and the accompanying discussion: a conflict clearly does exist if the person with the potential conflict is associated with both parties to the contract, i.e., the state agency procuring the goods or services and the private contractor providing

them. 18/ If, however, the person with the potential conflict works for a state agency with no contracts with the private contractor with which the person is associated, there would be no conflict. 19/

The Beebe case makes it clear that public service demands total fidelity to the public interest at all times. A public servant, faced with a conflict of interests by reason of private financial associations may not pass official decision-making responsibility on to a colleague or subordinate who may share the same prejudice or be subject to influence. "He cannot put on and off the garb of a public official, and discharge or refuse to discharge the duties of his trust, at will, and as best subserve his private interests." Id. at 630. Faced with a conflict, the person must either resign his or her position, or forego the private opportunity to do business with the state.

18/ If the person is only an employee, there may not be a conflict. Those situations must be addressed on a case-by-case basis.

19/ We must qualify this last mentioned conclusion by noting that a conflict might arise even if the person was not an official in the contracting state agency if the person nevertheless has extensive contacts with the contracting state agency. For example, certain officers of the Department of Law and the Office of the Governor, though not within the Department of Administration, may have extensive contacts with, and considerable influence in, the Department of Administration. A person with similar "interdepartmental" duties might be in a conflict situation if he or she entered into an agreement as a private contractor with the other department.

* * * *

It is next asked whether an officer of the Division of Minerals and Energy Management (DMEM) may hold a mining claim, an interest in a mine, or an interest in the products of a mine on land under state jurisdiction. AS 27.05.020 provides:

> In conducting the inquiries and investigations authorized by AS 27.05.010 -- 27.05.070, no officer or employee of the department may have any personal or private interest in a mine or the products of a mine under investigation, or accept employment from a private party for services in the examination of private mineral property. Nothing in this section prevents employment by the department, in a consulting capacity or in the investigation of special subjects, of an engineer or other expert whose principal professional practice is outside his employment by the department.

The syntax of AS 27.05.020 is not an aid to understanding. A thoughtful reading of the provision reveals that it is not any officer or employee of the department who is prohibited from holding an interest in a mine under investigation; only officers and employees "conducting the inquiries and investigations authorized by AS 27.05.010 -- 27.05.070" are so restricted. We are informed by the director of DMEM that that division conducts virtually none of the "investigations" in question; those matters are within the jurisdiction of the Division of Geological and Geophysical Surveys. However, there is still the common law.

DMEM is the state agency which regulates the acquisition of mining claims and leases on lands under state jurisdiction, see AS 38.05.185 -- 38.05.280; 11 AAC 86, and issues mis-

cellaneous land use permits. See 11 AAC 96. DMEM also has a representative on the regional planning teams which make recommendations to the commissioner on state land use classifications. See AS 38.04.065; 11 AAC 55.

As the regulatory agency for mining claims, DMEM receives the filings of persons who stake mineral claims. See AS 38.05.195. It must review the filings to verify that there has been a discovery, see 11 AAC 86.105, and that the claim has been properly staked. See 11 AAC 86.205 -- 11 AAC 86.215. On an annual basis, DMEM receives additional filings from each claim owner attesting to the performance of statutorily-required annual labor on the claim, see AS 38.05.210; 11 AAC 86.220, and must verify that the claimed labor meets prescribed requirements. Id. A major component of the DMEM mining section's effort and budget is devoted to this "adjudication" of mineral claims.

In this light, we believe that an ownership interest in mineral claims (or in a company which owns mineral claims) on lands under state jurisdiction creates a common law conflict of interests on the part of officers and employees of DMEM. Given the size of the mining section of DMEM (25 persons) and the likely close working association of all the officers and employees, it is probable that a court, as a matter of common law, would forbid any person in DMEM to own a mineral claim on lands under state jurisdiction since the opportunity for influence is so evi-

dent. It is even clearer that a court would forbid a supervisory officer to own such a mineral claim since it would be that person's subordinate who would review the sufficiency of the claim and the annual labor affidavit. 20/ And, as we noted, supra, at page 31, the conflict is not cured by removing oneself from the review of one's own filings: the public has the right to demand that a state officer bring his or her skills to bear in all matters which the office calls upon him or her to consider.

DMEM is one of only three agencies principally responsible for overseeing mineral exploration and mining activities on lands under state jurisdiction. DMEM personnel cannot be both regulators and regulated. If they wish to serve in DMEM, they must forego this relatively narrow range of investment opportunities. The common law requires officers and employees in DMEM who have interests in mining claims to dispose of those interests with all deliberate speed, or resign. 21/

20/ DMEM officers and employees also have access to confidential geological, geochemical, geophysical, and airborne surveys. See AS 38.05.240. Were they permitted to own mineral claims, they might have a distinct advantage over other prospectors, miners, and investors. This is another aspect of the conflict of interests inherent in the situation.

21/ The Department of Law has had the full cooperation of DMEM officers and employees in this inquiry; indeed, it was a DMEM officer with an interest in mineral claims who first asked our advice on this matter. At that time, we informally advised him that there was no conflict, and he ordered his affairs accordingly. Thus, it was our erroneous advice, and no wrongdoing by the DMEM officer, that allowed the conflict situation to develop.

* * * *

It is next inquired whether a Department of Environmental Conservation (DEC) inspector of seafood processing plants may sell the right to use a process he developed and patented to companies whose plants he inspects. The answer is clearly no.

The evil of such an arrangement is patent: seafood processors might feel compelled to purchase the right to use the process or suffer the wrath of the seller when next he inspects their plants.

We hasten to add that there is not the slightest suggestion that the particular inspector involved has ever acted improperly; it is the appearance of impropriety which condemns these proposed transactions. If the inspector wishes to market his process, he must resign or sell his rights in the process to another who may market it. 22/

The same inspector also wishes to apply to the Department of Commerce and Economic Development (DCED) for a grant to test his process. Because the grant project would likely involve one or more seafood processors in a cooperative effort to test the process, a conflict of interests on the inspector's part

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22/ If the inspector chooses the latter course, he may not reserve any right to receive royalties or license fees; were he to do so, the spectre of influence would again appear since, though he is not personally marketing the process, each seafood processor that used the process would be paying the inspector indirectly.

would almost certainly arise. In that case, the grant would be illegal. See Newton v. Demas, 253 A.2d 376 (N.J. App. 1969)(municipal engineer had an outside contract with a developer to design a water system; the contract was void because the engineer would have had to review his own design in his official capacity).

* * * *

It is last asked whether a member of the board of the Alaska Resources Corporation (ARC) has a conflict of interests if he or she is associated with a company that has a contract with the state. AS 37.12.065 provides:

> (a) Members of the board are subject to the provisions of AS 39.50.
>
> (b) No member or employee of the board may acquire an interest, direct or indirect, in a corporation, company, association, or project owned, controlled, or invested in by the corporation. If a member or employee owns or controls such an interest, he shall immediately disclose the interest in writing to the board and refrain from participating in any manner in any activity relating to that interest.

Subsection (b) modifies the common law as it would apply to ARC. Under the common law, the member could neither acquire a new interest nor keep an old interest in a company doing business with ARC, and this disability could not be cured by abstaining on votes and taking no part in deliberations. Under AS 37.12.065, acquisition is forbidden, but interests owned upon appointment may be retained, so long as the member abstains from

voting and has no contact, formal or informal, with other members concerning ARC's policies or actions toward the firm in which the member has an interest. This departure from the common law applies only to members and employees of ARC. 23/

VII. CONCLUSION

The common law of conflict of interests is uncharted water for most public officials, including government attorneys. They err when they believe that a public official's conflict can be cured if the official takes no part in the decision in which he or she is interested. They err when they believe that a court will not invalidate a contract if, though a party to the contract has a conflict, it is still a fair price.

The courts take the view that officials have a duty to the public to participate in all the decisions they were elected or appointed to make. The courts ordinarily will not allow an

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23/ It was also inquired whether an ARC board member may also be a member of the Alaska Historical Commission. AS 44.27.061, et seq. In view of the clear prohibition on holding "any other state or federal office, position, or employment . . . . ," AS 37.-12.045(b), we believe the board member must resign from either ARC or the Alaska Historical Commission. This prohibition goes further than the common law; indeed, as applied in this situation, it appears to advance no laudable goal. But it is within the legislature's power, and it does prevent the appearance of conflict of interests in many other situations. If a more refined provision is to be substituted, one which is better able to discriminate between real and imagined potential for abuse, the legislature alone has the power to do it.

official to decline to make a decision in order that he or she might be free to have the benefit of that decision.

The courts will not allow an official to make a contract with his agency and, when challenged, assert as a defense that the contract was more advantageous to the state than any other offer received.

The common law of conflict of interests aims not only to prevent officials from actually taking unfair advantage of their office. It also aims to eliminate the potential for abuse and the appearance to the public that officials are subject to temptation. For these reasons, the courts have dealt sternly with officials in conflict situations, and they will continue to do so. Unless the legislature formulates another means to sustain the public's confidence that public officials are not benefitting in private from their positions in public, we, and all public officials, must abide by the common law.

Sincerely yours,

Wilson L. Condon
Attorney General

WLC/pjg

MEMORANDUM State of Alaska

TO: Heads of All Departments, Boards, Commissions, and Authorities

DATE: December 28, 1982

FILE NO:

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Implementation of Conflict of Interests Opinion

By now I hope you have had the opportunity to review the opinion issued by this office on December 3, 1982 concerning conflicts of interest. All supervisors should be aware of, and sensitive to, the concerns addressed in that opinion.

I recognize the opinion sets out principles which are, in large part, new to virtually all state officers and employees. As a practical result, therefore, persons with the kinds of conflicts addressed in the opinion may find it difficult to immediately eliminate them. Also, as recognized in the opinion, the common law rules relating to conflicts of interest may be modified or even rejected by the legislature through the enactment of general laws dealing with the subject. Obviously, the legislature has not yet had an opportunity to consider the rules set out in the opinion and determine whether, or to what extent, it may wish to alter them in Alaska.

Consequently, given the potentially harsh consequences (e.g. termination of employment, cancellation of contracts, and forced divestiture of various business and property interests), I believe it appropriate to exercise the discretion which I have by deferring, except in more serious circumstances (e.g. where an official's public duties may directly advantage his or her private business interests or where the conflict violates express civil or criminal statutes), any "enforcement" action until after the close of the upcoming legislative session. By doing so, the legislature will have the opportunity to address the common law rules set out in the opinion and make whatever changes to them it considers appropriate.

I suggest that you ask your officers and employees to examine their private business interests and dealings to determine if there are interests which might be viewed as causing divided loyalty. If there are such interests, then you should consider how, in the coming months, either their duties or their business interests might be changed to eliminate the conflict.

Additionally, I believe it would be helpful to the legislature in addressing conflicts problems if it had as complete a listing of the kinds of potential conflicts which may exist as possible. In this regard, I would appreciate it if you would advise me of any situations which you identify as potentially coming within the proscriptions of the conflicts opinion.

cc: Representative Joe Hayes
Speaker of the House

Senator Jalmar Kerttula
Senate President

CONFLICTS OF INTEREST OF STATE AND LOCAL LEGISLATORS

As government at all levels continues to grow and play a more important role in the economy of the country and private life of the individual citizen, concern for honesty on the part of elected government officials becomes increasingly important. This concern for the integrity of elected public officials is manifested by various codes and standards of conduct which have been adopted by state legislatures.[1] Nevertheless, the proper standard of conduct for elected public officials is not easily defined or enforced.

In public life there is a growing need for qualified men and women, especially those who are peculiarly qualified for public service because of their commercial or professional experience. But because the pay scale for most elected public officials on the state and local level is inadequate to attract many full-time employees,[2] these persons may be unwilling to divest themselves of their private business and professional interests in order to enter public life. A strict rule prohibiting persons from holding public office while retaining these private interests would be unacceptable since it would deter those qualified people from entering public service.[3] Such dual allegiances on the part of public officials, therefore, are nearly inevitable on the state and local levels of government, and raise the problem of how to cope with actual and potential conflicts of interest.

Any attempt to control conflicts of interest must balance the need for unquestionable integrity in government with the need for competent personnel. Thus, it is imperative that a system be devised so that competent people can become active in governmental affairs without jeopardizing society's interest in prohibiting the inevitable evils of representing two masters; that is, the legislator's personal interests and his constituents' interests. Unquestionably, it is in the public interest

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[1] *See* MONT. CONST. art. V, § 44; ARIZ. REV. STAT. ANN. § 38-446 (1966); KAN. STAT. ANN. § 46-132 (1964); MINN. STAT. §§ 3.87-.90 (1967); N.Y. PUB. OFFICERS LAW §§ 73, 74 (McKinney Supp. 1969).

[2] *See* W. Gribben, *Structures and Procedures*, COUNCIL OF STATE GOVERNMENTS, THE BOOK OF STATES 1968-69, at 44-45 (1968); Kaplan, Book Review, 68 HARV. L. REV. 1097, 1101 (1955). Since elected public office at this level is thus part-time, usually only those occupational classes which are flexible enough to allow part-time participation in legislative activity are usually represented. As a result most state legislatures are composed of farmers, lawyers, merchants or insurance and real estate brokers. All of these may frequently have a direct personal interest in state legislation. *See* C. AUERBACH, L. GARRISON, W. HURST & S. MERMIN, THE LEGAL PROCESS 583 (1961).

[3] *See* Kaufman and Widiss, *The California Conflict of Interest Laws*, 36 S. CAL. L. REV. 186, 203 (1963); Note, *Conflict-of-Interests of Government Personnel: An Appraisal of the Philadelphia Situation*, 107 U. PENN. L. REV. 985, 986 (1959); Legislation Notes, 16 DEPAUL L. REV. 453, 456 (1967).

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I. THE NATURE OF A DIS

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to promote integrity and public confidence in government[4] without discouraging potential public servants from entering public life.[5]

This Note will discuss the general nature of conflicting interests, the various methods that have been employed to prevent conflicts of interests from arising, and the procedures by which legislation tainted with conflicts of interest may be avoided.

I. The Nature of a Disqualifying Conflict of Interest

Generally, a conflict of interest arises when a legislator has a personal or private interest in legislative action under consideration that is not shared in common with the general community.[6] These distinct interests are deemed to endanger the proper functioning of government. In public life the spectrum of conflicts of interest may include either a direct division of loyalties or only potential conflicts which may undermine public confidence in government. In attempting to define what actions, actual or potential, constitute conflicting interests courts have articulated a general standard; namely, any actions that are irreconcilable with the public welfare.[7] These actions are usually ones that permit the public official opportunity for private gain at public expense.[8] This private benefit, however, usually must consist of a present, personal, and pecuniary interest before a conflict of interest arises.[9]

Since this general test is rather broad, it is often difficult to determine precisely what is and what is not a conflicting interest. Typically, no conflict would arise if the legislator voted upon legislation establishing tax rates, utility rates, or licensing fees. Although this type of legislation would affect the individual legislator personally, it would affect him in the same manner as the entire community and hence would not be an illegal conflict of interest.[10]

Even some interests which are distinct have been found not to be prohibited conflicts of interest. A prime example involves legislation

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[4] *See* Note, *Conflicts of Interests of State Legislators*, 76 Harv. L. Rev. 1209 (1963) [hereinafter cited as 76 Harv. L. Rev.].

> "Involved and needed, therefore, is a careful regulatory scheme that effectively restrains official conflicts of interest without generating pernicious side effects on recruitment of both regular staff, and talents or capabilities on an occasional or temporary basis, for performance of governmental functions and responsibilities." [1961-62] Nev. Op. Att'y. Gen. 112.

[5] *See* Eisenberg, *Conflicts of Interest Situations and Remedies*, 13 Rutgers L. Rev. 666, 668 (1959); 76 Harv. L. Rev. 1209.

[6] *See* Piggott v. Borough of Hopewell, 22 N.J. Super. 106, 111-12, 91 A.2d 667, 670 (1952); Erie City v. Grant, 24 Pa. Super. 109, 112-13 (1904).

[7] *See* Note, *Conflict of Interests: State Government Employees*, 47 Va. L. Rev. 1034, 1045 (1961).

[8] *See, e.g.*, People v. Elliott, 115 Cal. App. 2d 410, 417, 252 P.2d 661, 665 (1953); Watson v. New Smyrna Beach, 85 So. 2d 548, 549-50 (Fla. 1958); Note, *Conflict of Interests: State Government Employees*, 47 Va. L. Rev. 1034, 1045 (1961).

[9] *See* Note, *Conflict of Interests: State Government Employees*, 47 Va. L. Rev., 1034, 1045 (1961).

[10] *See* Piggott v. Borough of Hopewell, 22 N.J. Super. 106, 111-12, 91 A.2d 667, 670 (1952); Erie City v. Grant, 24 Pa. Super. 109, 112-13 (1904).

that will affect the legislator's or councilman's private employer. If the legislator's or councilman's personal interest in this particular legislation is only to the extent of his natural concern for the welfare of his employer's business enterprise, he is not prohibited from voting upon the legislation. On the other hand, if the legislator's or councilman's salary is based on a percentage of his employer's profits, a conflict of interest may arise if he participates in the enactment of such legislation.

A conflict of interest may also arise in cases where an elected board or city council votes on the letting of contracts, granting of variances to zoning ordinances, or granting of licenses to competitors. An example is the case of *Younkers Bus, Inc.* v. *Maltbie*.[11] There the New York court held that an alderman who was the president of a bus company had a disqualifying interest in an ordinance granting a certificate of convenience and necessity to a third party, rival bus company.

Conflicts of interest may also arise indirectly when a city councilman has vested interests in social or community organizations. It appears that an interest in the general welfare of the community is not a disqualifying interest, but an interest in the improvement of a civic organization of which the councilman is a member may be disqualifying. For example, in the case of *Batchelor* v. *Avon-by-the-Sea*,[12] the New Jersey court held that the signing of a petition addressed to the city council seeking improvements of certain streets did not disqualify petitioner from acting as commissioner of assessment, since this was an interest which applied to the entire community affected by the assessment. In *Wiesmenthal* v. *Atlantic City*,[13] however, the court held that a councilman who was a member of the volunteer fire department could not vote on the purchase by the city of property from the fire department. These cases indicate that the general, imprecise test articulated by the courts makes it extremely difficult to determine what is a conflicting interest. This in itself breeds uncertainty and may discourage qualified persons from becoming active in public service. It is thus desirable for communities to attempt to further clarify what activities present prohibited conflicts of interest and to develop devices designed to control such activities.

II. Devices Designed To Prevent Conflicts of Interests

Many devices have been employed to prevent conflicts of interest from arising and resolve them once they do arise. Although practical solutions have as yet to be developed, several statutory and non-statutory approaches have been attempted. Such devices have been either in the form of checks on the individual legislator or sanctions upon legislation tainted with conflicting interests.

A. *Checks Upon the Individual Legislator*

1. *Nonstatutory Devices*

At least four non-statutory approaches can be used to prevent individual legislators from participating in potentially harmful conflicts

[11] 23 N.Y.S.2d 87 (1940), *aff'd* 260 App. Div. 893, 23 N.Y.S.2d 91 (1940).

[12] 78 N.J.L. 503, 74 A. 561 (1909).

[13] 73 N.J.L. 245, 63 A. 759 (1906).

of interest situations. Generally, all four are incomplete if not totally ineffective.

a. *Legislative Rules of Ethics*

In many states, legislative bodies have adopted codes of conduct that serve as internal checks to deter improper conduct on the part of their members.[14] These checks generally take the form of promulgated standards by which the legislator should abide.[15] If a conflict of interest is discovered before legislation is enacted the code may disqualify the legislator from participation in pending legislation.[16] If the improper conduct is discovered after the legislation is enacted, censure or expulsion for conduct unbecoming a member of the legislative body may be employed.[17] There are, however, several defects in these legislative codes. Since the standards in these codes are usually phrased in rather general terms, an individual legislator is often uncertain as to what specific action constitutes improper conduct. In such a system, even though bi-partisan political motives of individual legislators should serve to expose any conflict of interest issue, there is also an inherent and ever-present temptation to exploit such checks for political gain by fellow legislators. Moreover, independent and objective judgment is easily ignored when the standards are enforced by fellow members.[18] Most important, unless there is a persistent external stimulus for reform from the press or the electorate, enforcement of internal checks or codes may be only sporadic.[19] Thus, legislative codes of conduct and self-policing activity, though partially remedial to the extent that they may prevent blatant abuses, are ineffective in coping with most conflicts of interest problems.

b. *Sanctions From the Mayor's or Governor's Office*

Conflict of interest problems may also be controlled by sanctions from the executive department. Nearly every governor, and many mayors, have sources of political power that will enable them to attack a legislator's conflict of interest. One such power is that of the governor or mayor to withdraw political support from any legislator of his party who fails to meet acceptable standards.[20] Another power is the governor's ability to suggest that the executive department withhold lucrative government contracts from certain legislators or their firms until they comply with acceptable standards.[21] Moreover, investiga-

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[14] *See* MONT. CONST. art. V, § 44; ARIZ. REV. STAT. ANN. § 38-446 (1966); KAN. STAT. ANN. § 46-132 (1964); MINN. STAT. §§ 3.87-.90 (1967); N.Y. PUB. OFFICERS LAW §§ 73, 74 (McKinney Supp. 1969).

[15] *See, e.g.*, MASS. GEN. LAWS ANN. ch. 268A, § 23 (Supp. 1969); MINN. STAT. ANN. §§ 3.87-.90 (1967); TEX. REV. CIV. STAT. ANN. art. 6252-9 (1962).

[16] *See* N.Y. PUB. OFFICERS LAW § 74 (McKinney Supp. 1969); TEX. REV. CIV. STAT. art. 6252-9 (1962); 76 HARV. L. REV. 1211-12.

[17] *See* N.Y. PUB. OFFICERS LAW § 74 (McKinney Supp. 1969); TEX. REV. CIV. STAT. art. 6252-9 (1962); 76 HARV. L. REV. 1211-12.

[18] *See* 76 HARV. L. REV. 1230-31.

[19] *Id.* at 1231.

[20] *Id.* at 1218.

[21] *Id.* at 1219.

tions of a legislator's appearances before state agencies or involvement with the allocating of government contracts may be instituted by an executive committee,[22] or more specifically, the comptroller general.[23] The fear of the possible public exposure connected with such an investigation alone may deter any further questionable activity.

Political considerations, however, may limit the use of these executive attacks on unethical practices.[24] Furthermore, these checks of the executive branch lack uniform standards because they may be invoked only at the discretion of the individual executive officer. It is quite possible, therefore, that use of these devices may readily vary from individual to individual and situation to situation. As such, they are ineffective checks because they may not be imposed in an equal manner in all cases.

Despite some of its shortcomings, the executive branch can, nevertheless, play an ancillary role in defining harmful conflicts of interest by rendering advisory opinions from the attorney general's office. Upon request from a legislator, the propriety of future action may be decided by the attorney general's office.[25] Such an approach has the advantage of taking the promulgation of standards from the legislative body. However, enforcement under this approach may be sporadic because this device is not implemented until the respective legislator requests an opinion. Moreover, every legislator may not be aware that there may be problems of questionable ethics involved in some of his actions, and even if he is aware of such problems, he may decline to request an advisory opinion on the problems. Hence, this approach may not be an effective device for preventing harmful conflicts of interest.

Finally, on the state level, the chief executive may employ the veto power[26] if members of a legislative body fail to comply with minimal standards of ethical conduct. This sanction may be extremely instrumental in directing public attention to the problem of improper lobbying[27] or vested private interests of particular legislators. However, in effect, the veto power is an "over-kill" approach because it not only deters the undesired conduct, but also nullifies the entire legislative bill.

c. *Exposure in Election Campaigns*

The fact that legislators must periodically submit their records to the voting public so as to be re-elected may serve as another check on legislative misconduct. Theoretically, the voting public will receive complete information concerning past violations of a legislator's public

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[22] *See* LA. REV. STAT. § 42:1119 (1965); N.Y. EXEC. LAW § 63 (McKinney Supp. 1969).

[23] *See* N.Y. EXEC. LAW § 63 (McKinney Supp. 1969).

[24] *See* 76 HARV. L. REV. 1219.

[25] *See* 26 ORE. ATT'Y GEN. BIENNIAL REP. AND OP. 114 (1952-1954).

[26] IOWA CONST. art III, § 16. In 1956 President Eisenhower vetoed a bill because of improper lobbying. *See* PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES, Dwight D. Eisenhower 1956, at 256.

[27] *See* PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES, Dwight D. Eisenhower 1956, at 256.

trust through the self-motivated revelations of each candidate's opponents. By means of the ballot the ethical standards of the electorate will then be imposed upon its legislative representatives.[28] As a practical matter, however, the electorate may be an ineffective check. Local legislative races are seldom hard fought and in such races party affiliation may be highly determinative of the outcome.[29] Moreover, subtle ethical problems inherent in the conflict of interest area may be all but impossible to communicate to the voting public in a campaign where issues must be simple and easily understood.[30] Indeed, an opposing candidate may be reluctant to raise a subtle conflict of interest charge because he may be misunderstood or politically embarrassed by false charges of his own misconduct.[31]

Although it might be urged that the need for popularity before an election will deter improper conduct by an incumbent, political realities may dictate a different result. The financial realities of a campaign may force an incumbent to become dependent upon funds raised through private contributions.[32] This may create distinct personal obligations which conflict with his public duties as a legislator. It is also possible that a self-interested legislator could realize the benefit of his actions before the next elected legislative body would be able to enact corrective measures.[33] Moreover, such corrective measures might be ineffective against citizens who relied upon the prior action or extremely detrimental for those who had.[34] Even if the power of the electorate could operate efficiently, it is an unpredictable sanction lacking uniform standards by which legislators can determine what constitutes acceptable conduct.

d. *The Federal Government*

The growth of the federal government's involvement in nearly every aspect of state and local government enables it to serve as another source of control on conflicts of interest problems. The multiplying use of federal funds for state and local government projects in education, road construction, urban renewal, and other public works provides the federal government with a lever by which a code of ethical conduct can be imposed upon officials of governmental bodies receiving and dispensing such aid.[35] For example, federal grants-in-aid to state and local governments may be conditioned on requirements prescribing standards of conduct as a prerequisite to receiving this

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[28] THE ASS'N OF THE BAR OF THE CITY OF NEW YORK, CONFLICT OF INTEREST AND FEDERAL SERVICE 15 (1960) [hereinafter cited as ASS'N OF THE N.Y. BAR]; 76 HARV. L. REV. 1213.

[29] *See* W. ANDERSON, AMERICAN CITY GOVERNMENT 207 (1925).

[30] 76 HARV. L. REV. 1213.

[31] *See id.*

[32] *See* Eisenberg, *supra* note 5, at 667.

[33] *See* 57 MICH. L. REV. 423, 425 (1959). *Cf.* A. McQUILLIN, MUNICIPAL CORPORATIONS § 25.181, at 12 (3d ed. 1957).

[34] *See* 57 MICH. L. REV. 423, 425 (1959).

[35] *See* 76 HARV. L. REV. 1220. *See generally* 23 U.S.C.A. §§ 105, 140, 141 (Supp. 1969).

aid.[36] Dispersal of federal funds also raises the possibility of employing Congressional investigations to expose legislative misconduct where federal money is being used.[37] Adverse publicity engendered by these investigations may serve as an additional deterrent to misconduct in the handling of federal funds.[38] This publicity, however, may produce undesired results because the effect of such publicity may be to destroy the political careers of a few while accomplishing little in solving the problem in the future.[39] Furthermore, attention given to blatant criminal aspects of misconduct exposed by Congressional investigations may gloss over the more subtle problems of conflict of interests.

The self-imposed rules of legislative bodies, the public eye of the electorate, the chief executive's position of influence, and the power of the purse and investigation that the federal government possesses can all be employed to prevent conflicts of interest from tainting state and local legislation. Their utility in coping with the problem is, however, limited because in many instances they are only a partial and sporadic solution to the problem. Moreover, the employment of several of these devices can result in a situation in which the remedy is more deleterious than the problem being resolved. For these reasons some commentators believe that stringent statutory devices are needed to cope with the conflicts of interest problems.[40]

2. *Statutory Devices*

Some states have attempted to control conflicts of interest by statute.[41] Statutory controls usually resemble a code of ethics either with or without criminal sanctions.[42] Those without criminal sanctions attempt to define certain conflicts of interest and prohibit such in specific situations where the distinction between proper and improper activity is not clear.

Where the conflict can be specifically and objectively defined and determined, statutes with criminal sanctions are most appropriate. Where it is usually difficult to objectively define what conflicts of

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[36] *See* 23 U.S.C. § 112(c) (1964).

[37] *Cf. Hearings Before the Special Subcomm. on Federal-Aid Highway Programs of the House Comm. on Public Works*, 87th Cong., 2d Sess. pts. 1 & 2 (1962); *Hearings Before the Subcomm. to Study Senate Concurrent Resolution 21 of the Senate Comm. on Labor and Public Welfare*, 82d Cong., 1st Sess. (1951). *See generally* ASS'N OF THE N.Y. BAR. 123-30.

[38] 76 HARV. L. REV. 1221.

[39] *Id.*

[40] *See* Note, *State Conflict of Interest Laws: A Panacea for Better Government?*, 16 DEPAUL L. REV. 453, 464 (1967); Note, *Conflict of Interests: State Government Employees*, 47 VA. L. REV. 1034, 1076 (1961); Comment, *Criminal Law—Official Misconduct—The Need for Legislative Reform*, 57 KY. L.J. 598, 604-05 (1969).

[41] *See, e.g.*, ARIZ. REV. STAT. ANN. § 38-446 (1956); ILL. REV. STAT. ch. 102, § 3 (Supp. 1969); IND. ANN. STAT. § 10-3713 (1956); KAN. STAT. ANN. § 46-132 (1964); KY. REV. STAT. §§ 61.092-.096 (1969); MINN. STAT. §§ 3.87-.90 (1967); N.M. STAT. ANN. §§ 2-1-4 to 1-7 (1954); N.Y. PUB. OFFICERS LAW §§ 73, 74 (McKinney Supp. 1968); N.D. CENT. CODE § 54-03-21 (1960).

[42] *See, e.g.*, KY. REV. STAT. §§ 61.092-.096 (1969); MASS. GEN. LAWS ANN. ch. 268A § 23 (Supp. (1969); MINN. STAT. § 3.88 (1967).

interest are or should be illegal, criminal sanctions may have an undesirable effect because the fear of being accused of criminal misconduct may discourage competent men and women from seeking public office.

The most common statutory provisions are those which prohibit some or all public contracts with public officers.[43] Some states forbid the awarding of state government contracts to members of the legislature unless the contract is procured through public notice and competitive bidding.[44] Others categorically forbid such contracts.[45] Most states, however, have a de minimis exception allowing a limited fractional interest in the contract.[46]

When such contracts are permitted, the statutes usually require that the public officer's conflicting interest be disclosed. In New York the requirement is that the disclosure be accessible to the public.[47] Texas[48] and Washington[49] require that a report of the officer's interest be filed with the Secretary of State and be accessible only to those officials awarding the contract. Other statutes provide that disclosure be made to the body of which the officer is a member.[50] The Texas and Washington plans seem to be most desirable because their disclosure provisions safeguard the public from undesirable conduct without indiscriminately invading the legislator's privacy.

Another statutory approach to the conflicts of interest problem is the establishment of a committee, independent of the legislative body, which could promulgate and administer a code of ethics.[51] Upon request, this committee could conduct administrative hearings and make official determinations on the propriety of a specific legislator's activities. In order to protect the legislator, a private preliminary hearing could be conducted to determine whether there is merit to charges against the legislator. If the charges have sufficient merit, the committee could then conduct a formal public hearing. The findings of the committee in this hearing could be publicized and referred to the appropriate agency for further action. Upon its own initiative or upon request of any interested party the committee could also render advisory opinions which would be made public. These opinions would form a collection of the ethical principles applicable to specific cases.

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[43] *See, e.g.*, ILL. REV. STAT. ch. 102, § 3 (Supp. 1969); NEV. REV. STAT. § 218.580 (1967); N.D. CENT. CODE § 54-03-21 (1960).

[44] *See, e.g.*, KY. REV. STAT. § 61.090(6) (1969); N.Y. PUB. OFFICERS LAW § 73(4) (McKinney Supp. 1969); OHIO REV. CODE ANN. § 2919.09 (Page 1954).

[45] *See, e.g.*, ARIZ. REV. STAT. ANN. § 38-446 (1956); ILL. REV. STAT. ch. 102, § 3 (Supp. 1969); KY. REV. STAT. § 61.096 (1969).

[46] *See, e.g.*, KY. REV. STAT. § 61.096(6) (1969) (limited to contracts exceeding $25); N.Y. PUB. OFFICERS LAW § 73(4) (McKinney Supp. 1969) (limited to contracts exceeding $25); OHIO REV. CODE ANN. § 2919.09 (Page 1954) (limited to contracts exceeding $50).

[47] *See* N.Y. PUB. OFFICERS LAWS § 74 (4).

[48] *See* TEX. REV. CIV. STAT. ANN. art. 6252-9, § 3(b) (1962).

[49] *See* WASH. REV. CODE ANN. § 42.22.050 (1961).

[50] *See* CAL. GOV'T. CODE § 1091 (West 1966); IOWA CODE ANN. § 403.16 (Supp. 1969); NEV. REV. STAT. § 315.400(1) (1967).

[51] *See* LA. REV. STAT. §§ 42:1144, 42:1145 (1965).

This plan has several advantages over the traditional statutory and non-statutory approaches. Since rulings would develop as a result of specific cases, this system could deal with the more subtle conflicts of interest problems that cannot be dealt with by drafters of legislative criminal codes. Because the committee would be independent of the legislature, this plan would also be unfettered by the inherent defects of political considerations or legislative inertia which thwart most constructive action in this area.[52] Furthermore, if the committee commanded sufficient prestige, publication of its rulings without further action might serve as an adequate deterrence to undesirable conduct.[53]

These various statutory devices that have been employed may effectively deter certain conflicts of interest from arising. These devices do not, however, completely resolve many conflict of interest problems. In many situations the subtle and subjective characteristics of these problems can seldom be sufficiently defined so as to be effectively prohibited by statute without creating considerable confusion as to what is prohibited and what is not. More importantly, these various statutory devices do not solve the problem of what to do with legislation which may have been affected by a conflict of interest.

B. *Sanctions upon Legislation Tainted with Conflicts of Interest*

1. Judicial Invalidation

Despite present attempts to curb conflicts of interests, certain conflicts of interest will almost inevitably arise in the legislative process. When this happens, most courts not only disqualify the interested legislator from participating, but hold that legislative action tainted by participation of a member having a conflicting interest is invalid.[54] However, the courts' intervention in the conflicts of interest area has been so sporadic and unpredictable that it is difficult to determine exactly what action will be invalidated by the courts.[55] For this reason alone courts are ineffective in controlling conflicts of interest.

On the state level most courts are reluctant to review actions involving conflicting interests of state legislative officials.[56] There may be two explanations for judicial restraint in this area: It is difficult if not altogether impossible for the court to consider rights of innocent third parties not before the court;[57] and it is nearly impossible for a court to ascertain and describe legislative misconduct.[58] This attitude of judicial restraint is reinforced by provisions in many state constitutions which contain ambiguous clauses limiting judicial intervention in legislative matters. The most common provision is a clause which

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[52] *See* text accompanying note 18 *supra*.

[53] *See* 76 HARV. L. REV. 1232.

[54] *See, e.g.*, Wilson v. City of Iowa City, 165 N.W.2d 813, 825 (Iowa 1969); Baker v. Marley, 8 N.Y.2d 365, 367, 170 N.E.2d 900, 901 (1960); Piggott v. Borough of Hopewell, 22 N.J. Super. 106, 117, 91 A.2d 667, 670 (1952).

[55] *Compare* Piggott v. Borough of Hopewell, 22 N.J.Super. 106, 91 A.2d 667 (1952) *with* Gardner v. City of Bluffton, 173 Ind. 454, 460, 89 N.E. 853, 855 (1909).

[56] *See* 76 HARV. L. REV. 1214.

[57] *See* Fletcher v. Peck, 10 U.S. 87, 130 (1810).

[58] *Id.*

establishes a separation of powers between the executive and judicial branches without defining the extent to which the legislative and judicial branches should interact.[59] Hence, judicial restaint and the court's role as interpreter of the constitution are apparently partially responsible for judicial inaction in this area.

At the state level of government, however, the need for intensive checks is perhaps less urgent than on the municipal level because the problem is less likely to arise. In state government the need to acquire a majority in the legislative process produces concessions and compromises among colliding interests to such an extent that it is highly improbable that any single interest will acquire everything it desires,[60] especially in a body as large as most bi-cameral state legislatures. Further, since a disqualifying interest is usually defined as one that is unique to the official, most state legislation will enlarge the benefited group to the extent that such a distinct personal interest will seldom arise.[61] This is the case, for example, when a farmer-legislator votes for an increase in the level of parity.

Thus, at the state level of government, statutes embodying criminal sanctions for gross misconduct that can readily be determined by applying objective standards, and the promulgation and interpretation of a code of conduct by an independent body are needed to clarify the problems and questions in the conflict of interest area. In the less easily defined area where objective standards cannot be readily applied, strict rules and judicial intervention should be prohibited. Here the tribunal of the electorate, not the courts, is the most qualified body to judge whether their representatives have violated these standards. For it is consistent with the agency position which a legislator holds that his constituents, the electorate, rather than an independent and unrelated court, determine whether he has gone beyond the discretionary duties his constituents have entrusted in him.

On the local level courts avoid these problems by characterizing the activity as being judicial or quasi-judicial rather than legislative.[62] The rationale underlying this distinction is probably based upon the reasoning that if the prohibited activity can be characterized as legislative, the courts lack power to review the problem because it may encompass elements of discretion on the part of the individual councilman that are exclusively his as a legislative member. A recent example of such judicial intervention on the local level occurred in the case of *Wilson* v. *City of Iowa City*.[63] There the Iowa Supreme Court invalidated a resolution of the city council defining the boundaries of a proposed urban renewal district because certain members of the city council either owned property within the proposed district or were officials of an institution that owned property within that district. The

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[59] *See, e.g.*, CALIF. CONST. art. III, § 1; ILL. CONST. art. III; OKLA. CONST. art. IV, § 1.

[60] 75 HARV. L. REV. 423, 424 (1961).

[61] *Id.*

[62] *See, e.g.*, City of Miami Beach v. Schauer, 104 So.2d 129, 131 (Fla. 1958); Gardner v. City of Bluffton, 173 Ind. 454, 460, 89 N.E. 853, 855 (1909); Piggott v. Borough of Hopewell, 22 N.J. Super. 106, 110, 91 A.2d 667, 669 (1952).

[63] 165 N.W.2d 813 (Iowa 1969).

Iowa court indicated that not only an actual but also a potential conflict of interest on the part of any councilman would result in invalidation of the specific legislation even though the disqualified councilman's vote would not alter the result.

The ramifications of such a strict ruling are devasting. In invalidating the city council's resolution because of certain councilmen's conflicting interests the Iowa court very effectively prevented the city of Iowa City from initiating an urban renewal program. Such a decision may also deprive a municipality of the services of highly qualified and duly elected or appointed officials.[64] Therefore, because of the consequences of such a rule, it is imperative that the voters choose to represent them a man or woman who possesses neither an actual nor potential conflict of interest. Otherwise, if a conflict does arise, important municipal improvements such as improvements of utility service, street maintenance, or slum clearance may be abrogated or at least impeded until a subsequent election. Even then a disinterested minority may deliberately re-elect a disqualified member so as to effectively thwart the legitimate will of the majority. Moreover, a candidate for public office may intentionally declare no conflicts of interest with proposed municipal improvements only to acquire a conflicting interest before the proposal is enacted as an ordinance or to reveal a conflict after the ordinance is enacted.

2. *Alternatives to Complete Judicial Invalidation*

Some courts, cognizant of the ramifications of complete invalidation, have upheld the legislative action and simply disqualified the legislator where the result would have been the same despite his disqualification.[65] This approach is advantageous because it deters improper conduct on the part of individual councilmen by nullifying their votes without preventing city government from enacting measures clearly within its defined powers.

In approval of this approach, the Iowa General Assembly recently enacted a law which sharply limits the occasions for invalidating a council resolution or ordinance.[66] Under the new Iowa law a city council's ordinance or resolution is valid unless the vote of the councilman with the conflicting interest was decisive in the passage or re-

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[64] *See* Van Italie v. Borough of Franklin Lakes, 28 N.J. 258, 269, 146 A.2d 111, 116 (1958).

> Local governments would be seriously handicapped if every possible interest, no matter how remote and speculative, would serve as a disqualification of an official. If this were so, it would discourage capable men and women from holding public office. Of course, courts should scrutinize the circumstances with great care and should condemn anything which indicates the likelihood of corruption or favoritism. But in doing so they must also be mindful that to abrogate a municipal action at the suggestion that some remote and nebulous interest is present, would be to unjustifiably deprive a municipality in many important instances of the services of its duly elected or appointed officials. *Id.*

[65] *See* Singewald v. Minneapolis Gas Co., 274 Minn. 556, 558, 142 N.W.2d 739, 740 (1960).

[66] *See* ACTS OF 63RD IOWA GEN. ASSEMBLY, House File 733 (1969 IOWA LEGISLATIVE SERVICE 42).

jection of the measure.[67] This law recognizes that, except in the area where his personal interest alone is the subject of proposed legislation, it is extremely difficult, if not impossible, to determine when a legislator's discretionary action is beyond the scope of his agency as a representative of his constituents. As such, this law reflects the view that a representative's constituents are more qualified than the courts to determine whether a legislator has violated the public trust invested in him.

Even with the Iowa statute in force important city ordinances might be unnecessarily invalidated. Situations may arise where disqualification of a legislator's vote will change the outcome because the council would then be without a quorum. In such situations provisions should be made whereby the instruments of direct participation of the voters could be employed as an alternative to invalidation of the proceedings.[68] These direct participatory devices enable voters to vote a representative out of office at times other than the regular scheduled elections and directly enact certain legislative proposals without operating through the orthodox channels of the city council. Therefore, instruments of direct participation such as the recall, initiative or referendum should be used as an alternative to invalidating ordinances.

Recall is the power of a given percentage of the voters to require the holding of a special election upon the question of whether a city councilman should be removed from office before the end of his term.[69] If a councilman who has a conflicting interest casts the decisive vote, refuses to disqualify himself, and thereby subjects the council's entire action to invalidation, the councilman could be recalled. The recall is premised upon the assumption that an incumbent is unfit to continue to hold his official position.[70] The petitioners for recall promulgate a statement of their objections to the officer's continuance in his post and then proceed to elicit the requisite number of signers for the petition demanding an election for recall.[71] If enough signatures are valid, the petition goes to the city council which is then required to call a special election within a period of time specified by law.[72] To effectuate the recall a majority of those voting must affirmatively request recall of

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[67] *Id.*

[68] Recall is the legal power of a given percentage of the voters to call an election upon the question of removing some public official, usually an elected official, from office before the end of his term. The initiative is essentially a device whereby a given percentage of the electorate is given the legal power to draft and submit measures for adoption as ordinances requiring a public referendum thereon in case the council fails to or is not empowered to enact them.

The referendum is basically a device whereby voters specifically voice their opinions on a particular item of legislation in an election by voting approval of or disagreement with a specific item of proposed legislation. In certain forms it is merely a consensus measuring device; in others it is a device whereby the lawmaking power is placed in the hands of the electorate.

[69] *See* W. Anderson, American City Government 268 (1925); W. Munro, The Government of American Cities 350-51 (1912); J. Pate, Local Government and Administration 148-49 (1954).

[70] *See* authorities cited note 69 *supra*.

[71] *See* authorities cited note 69 *supra*.

the elected official.[73] In addition, threat of a recall may be used to indicate citizen disapproval of a councilman's conduct and, thus, persuade him to refrain from participating in municipal action in which he may have a conflicting interest. This can be employed to force a councilman who intends to invalidate municipal action by deliberately voting to either disqualify himself or be subject to removal from office.

Although it is an alternative to complete invalidation of proceedings tainted with conflicting interests, there are many reasons why use of the recall is an inappropriate substitute to judicial invalidation. The recall is often expensive, time consuming, confusing, and ineffective.[74] In situations where it is important that an ordinance be enacted as rapidly as feasible, postponement of action on the proposed legislation because of the time consumed in implementing the recall may effectively block this legislation in the critical period in which it may be vitally needed. Furthermore, the fear of having to account for every public act at the expense of early removal from office may inhibit legitimate conduct or deter qualified persons from entering public life.

Another alternative to avoid invalidation of proposed ordinances is the use of the initiative. This is a device whereby a given percentage of the electorate is given the legal power to draft and submit measures for adoption as ordinances. A public referendum is required on them if the council fails to or is not empowered to enact them.[75] With the initiative as the enacting device, the ordinance enacted and the elected councilman are totally unrelated. Hence, this device allows voters to elect whomever they desire and still enact desired ordinances untainted with conflicts of interest.

A third alternative to judicial invalidation of proposed legislation is the use of the referendum. Although found in several different forms, in its most fundamental form a referendum is a method by which important legislation is submitted to a direct vote of all the people.[76] It may be employed to obtain the opinion of the voting public on important ordinances that determine general policies of a municipality. Hence, the decision whether to initiate urban reedvelopment in a proposed district would be a good example of what would be the proper subject of a referendum.[77]

The required number of signers is usually high, generally at least 25 percent of the number of electors who cast ballots in the previous general election. When the required number of signers is attained, a city clerk or other appointed official verifies the validity of the signatures. W. ANDERSON, AMERICAN CITY GOVERNMENT 268 (1925).

[73] W. ANDERSON, AMERICAN CITY GOVERNMENT 268 (1925).

[74] *See* id. at 270.

[75] *See* W. ANDERSON, AMERICAN CITY GOVERNMENT 265 (1925); W. MUNRO, THE GOVERNMENT OF AMERICAN CITIES 321 (1912); J. PATE, LOCAL GOVERNMENT AND ADMINISTRATION 148 (1954).

[76] *See* W. ANDERSON, AMERICAN CITY GOVERNMENT 265 (1925).

[77] *See generally* W. ANDERSON, AMERICAN CITY GOVERNMENT 266-68 (1952); MUNRO, THE GOVERNMENT OF AMERICAN CITIES 321-50 (1912).

[77] At the present time use of the referendum to approve urban renewal projects would be limited, since some states provide that it can only be approved by a resolution by the city council. *See* IOWA CODE ANN § 403.5 (Supp. 1969).

Generally, there are three types of referenda. In the first type, certain categories of legislative matters such as charters, charter amendments, and bond issues are required to be submitted to the vote of the electorate.[78] A referendum of this nature is intended to give the voters a check upon municipal government in matters concerning important public interests. The second form of referendum is similar to a consensus measuring device. It is used when a municipal charter confers exclusive ordinance-making power upon the city council, and the council, in order to determine the opinion of the people on a specific question, submits the question to a vote of the people.[79] This type of referendum confers no lawmaking power upon the electorate,[80] and, therefore, is ineffective in avoiding invalidation of conflict of interest legislation. The third and most common form of referendum is a device by which a given percentage of the voters are given the legal power to prevent the enforcement of a newly enacted ordinance and to require a public referendum on the question of whether it shall become law.[81] If an ordinance is suspended by the petition, the city council may call a special election to decide the question. However, the expense of a special election will usually forestall any action until the next general election.

Under the third type of referendum a councilman could be re-elected without jeopardizing the enactment of an ordinance that is in the public interest. Such a plan would not force the electorate to choose between a proposed ordinance and an incumbent who may be especially qualified in all respects except for a specific disqualifying interest. If an ordinance which was voted upon by a councilman with an apparent conflict of interest is later approved by the referendum that ordinance would be valid despite the disqualifying interest of a specific councilman. The referendum would indicate that the apparent self-interest of the disqualified councilman was actually in accord with the public will. Therefore, the reason for invalidating such an ordinance would no longer exist. By referendum the electorate became the legislating body.[82]

Since it is highly impractical, because of expense and confusion, for all municipal action to be subject to referral, it is necessary to limit local referenda to items concerning only important policy considerations. However, a provision specifically requiring referral when a measure is subject to potential invalidation because of conflicting interests seems essential even though there may be some extra expense and possible delay. Such a system would allow the machinery of a democratic government to operate while deterring violations of the public trust by corrupt and indiscreet public officials.

Theoretically, at the state level, the initiative, referendum, and recall are viable checks upon legislation that is the product of official misconduct. In reality, however, because of the size of nearly every state and the remoteness of legislators from their constituents, these de-

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[78] *See* W. Anderson, American City Government 266 (1925).

[79] *Id.* at 266-67.

[80] *Id.* at 267.

[81] *Id.*

[82] 75 Harv. L. Rev. 423, 424 (1961).

vices are extremely impractical as checks upon legislative misconduct and as alternatives to judicial invalidation.

III. Conclusion

In the conflict of interest area there is a basic need to define by what standards a conflict of interest is to be determined. Once certain conflicts of interest are ascertained, attention must then be directed toward implementing devices that will, if possible, effectively prevent individual legislators from acquiring such conflicts. This may entail bringing direct sanctions against the individual concerned or simply calling it to his attention. When a conflict of interest arises in specific legislation, the crucial issue of the legislation's legitimacy arises. The traditional approach of invalidating this legislation is extremely harmful because it may effectively impede the legislative process. Hence, the Iowa rule which permits invalidation only where the conflict of interest may have been decisive in enacting the legislation is a viable solution to the problem. However, where the Iowa rule sanctions invalidation, conflicts of interest legislation could then be saved and circumvented by one of several devices of direct voter participation. Under direct participation, the voters could then, either in a subsequent election or by referendum, decide whether the legislation he voted upon is in accord with their interests. This approach recognizes the need for clarifying and controlling conflicts of interest problems while enabling the people a legislator represents, not the courts, to determine when he has violated the public trust invested in him.

CONFLICTS OF INTEREST OF STATE LEGISLATORS*

I. The Problem

State legislators continue to be governed in their choice of nonlegislative occupations primarily by their own consciences and by the occasional voice of the electorate, despite the fact that almost every state legislature has considered the general area of public servants' conflicts of interest and has attempted at least partial statutory controls.[1] Certain acts constituting a violation of the legislator's ethical responsibilities — bribery, blackmail, and dishonest election practices, for example — are easily delineated and proscribed; however, serious problems of definition arise in the more subtle area of conflicts of interest.[2] The conflict may involve actual division of loyalties as in cases in which the official acts in his public capacity on matters which affect him in his private capacity.[3] Often the conflict is only potential or the problem centers around the appearance of misconduct which itself undermines public confidence in government.[4] There is also the possibility of unfair advantage accruing to the legislator who deals with state agencies. It should be the aim of any attempt to deal with public servants' conflicts of interest to promote both the actual practice and the public appearance of impartiality and objectivity in government operations without disqualifying present and potential capable public servants through excessively stringent restrictions.[5]

To be effective, the guidelines expressing this balance must be closely tailored to the circumstances of those whose behavior is to be governed. The position of the legislator in most states is unique in that his job is customarily part-time only[6] and he receives regular compensation from

* Acknowledgement is made of the kind cooperation of the attorneys general and the legislative reference services who provided source materials and personal information otherwise unavailable. Over 65 communications were received from 38 states. Recent statutory history and other references not otherwise documented are taken from these sources.

[1] See Note, *Conflict of Interests: State Government Employees*, 47 Va. L. Rev. 1034, 1042 n.26 (1961). See generally Eisenberg, *Conflicts of Interest Situations and Remedies*, 13 Rutgers L. Rev. 666 (1955).

[2] See N.J. Legislative Comm'n on Conflicts of Interest, Report to the Senate and General Assembly 15 (1957) [hereinafter cited as N.J. Report].

[3] Similar problems arise when the legislator in another capacity acts for a party whose interests are adverse to those of the state and when, in discharging obligations of a private nature, the legislator is required to apply knowledge gained exclusively for use in his official capacity.

[4] See Special Comm'n on the Federal Conflict of Interest Laws, Ass'n of the Bar of the City of New York, Conflict of Interest and Federal Service 17 (1960) [hereinafter cited as Bar Association Report].

[5] "In the long run, the objective is a policy which neither sacrifices governmental integrity for opportunism, nor drowns practical staffing needs in a sterile moralism." [1961–1962] Nev. Ops. Att'y Gen. 112.

[6] Regular sessions are convened only biennially in all but twenty states and are subject to specific time limitations in all but sixteen. In Wyoming, for example, the biennial session is limited to forty calendar days. Council of State Governments, The Book of the States 1962–1963, at 42–43 (1962).

sources other than the state.[7] Few occupations are sufficiently flexible to permit time off for legislative participation: statistics indicate that most of the legislators are lawyers, farmers, merchants, or insurance or real estate brokers.[8] Of these, all except lawyers frequently have a direct personal interest in state legislation, while lawyers may have similar interests in a representative capacity.[9] The prevalence of these outside occupations with a natural proclivity toward government involvement militates toward stringent regulation of legislators' outside activities; yet it would seem undesirable for the imposition of such restrictions to result in a further narrowing of the occupational classes from which legislators will be drawn. Furthermore, in all states there is hardly an item of concern to any state employee or officer which does not fall under the aegis of the legislature. Included are many subjects perennially under its scrutiny which affect every legislator no matter what his occupation, such as tax rates, auto license fees, and utility rates; [10] other concerns such as "blue sky" laws, teachers' qualifications, or barbers' licenses are likely to affect certain lawmakers in their chosen fields.

The fact that the legislator holds office by virtue of public election may variously affect his susceptibility to conflicts of interest. On the one hand, the importance of popularity may deter conduct which is potentially unpalatable to the public; [11] conversely, the need for campaign funds raised through private contribution may create personal obligations generative of conflicts. In acting as representative of a particular geographical group, the legislator may be faced frequently with situations in which his personal judgment would lead him to action contrary to the interests of his electors. While such a conflict is inherent in the structure of representative democracy,[12] a resolution in favor of his electors may raise ethical issues when the particular constituents concerned are major campaign contributors, employers, clients, or associates.[13]

In many states there has persisted in this area a reluctance to legislate, which is variously explained by constitutional limitations,[14] the notion

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[7] See Kaplan, Book Review, 68 HARV. L. REV. 1097, 1101 (1955). The same is true of the British Parliament, some of whose members are supported by outside organizations, particularly trade unions. N.J. LAW REVISION AND LEGISLATIVE SERVICES COMM'N, MEMORANDUM: IN RE: CONFLICTS OF INTEREST AMONG GOVERNMENT OFFICERS AND EMPLOYEES IN GREAT BRITAIN 2–3 (1957). For current levels of legislative salaries, see COUNCIL OF STATE GOVERNMENTS, *op. cit. supra* note 6, at 44–45.

[8] See AUERBACH, GARRISON, HURST & MERMIN, THE LEGAL PROCESS 583 (1961); COMM. ON AMERICAN LEGISLATURES, AMERICAN POLITICAL SCIENCE ASS'N, AMERICAN STATE LEGISLATURES 70–73 (1954).

[9] See State v. Foord, 142 Conn. 285, 113 A.2d 591 (1955) (bribery conviction of legislator who had accepted "legal services" fee upon award of monopoly to client). Compare Stillwell, *Texas: Owned by Oil and Interlocking Directorates*, in OUR SOVEREIGN STATE 330–31 (Allen ed. 1949) (hereinafter cited as ALLEN).

[10] See Reilly v. Ozzard, 33 N.J. 529, 541–50, 166 A.2d 360, 370 (1960).

[11] *But see* note 31 *infra*.

[12] BAR ASSOCIATION REPORT, *op. cit. supra* note 4, at 14–15.

[13] "When a member of the General Assembly fails to vote his honest convictions for fear of losing a client, then the cause of democracy suffers." Special Message on Conflict of Interest by Governor DiSalle to the 104th General Assembly of Ohio, Jan. 30, 1961, at 6.

[14] See pp. 1214–15 & note 163 *infra*.

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[18] See Rule 22(7), Official Rules of
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that "morality cannot be legislated," [15] and denials that the problem is of importance.[16] In reconsidering these arguments this Note, after reviewing the effectiveness of the existing nonstatutory tools, will proceed to discuss the form, scope, and content of possible enactments in the light of experience with existing legislation. It must be emphasized at the outset that the preliminary inclusion of any class of behavior within the area to be controlled does not mean that such behavior is improper. The classification imports only an awareness that conduct within the area is — or may appear to be — peculiarly susceptible to corrupting pressures and that ethical guidelines may be necessary to instruct the legislator in protecting himself from such forces and from an unsavory public appearance.

II. Nonstatutory Solutions to the Problem

A. The Legislators

To the extent that an individual legislator is able to perceive the threat of a conflict of interest and his personal sense of responsibility compels him to take remedial or precautionary measures, no external stimulus is necessary. In practice, however, the effectiveness of internal checks may depend on the likelihood of an external challenge; moreover, there will undoubtedly be areas in which individual perception is incomplete.[17] The existence of a formal or informal system of checks within the legislature itself would provide both the threat of external challenge and the advantage of pooled perception. If the challenge were personal, informal, and before the fact, the legislator could accede to the challenger's standards by a private decision to eliminate the cause of the conflict or, alternatively, submit his problem to his fellow legislators. If the conflict were publicly imminent or already existed, however, the challenge would take overt institutionalized form: compulsory disqualification, by ruling [18] or resolution,[19] from participation in a pend-

[15] See, e.g., Mass. Legislative Research Council, Report Relative to Conflict of Interest 11 (1961) [hereinafter cited as Mass. Report].

[16] Correspondents in two states have characterized the problem as "little" or nonexistent. Letter From S.D. Director of Legislative Research to the *Harvard Law Review*, Feb. 2, 1962; Letter From an Assistant Attorney General of Va. to the *Harvard Law Review*, March 15, 1962.

[17] Mont. Const. art. V, § 44 provides that "a member who has a professional or private interest in any measure or bill . . . shall disclose the fact to the house of which he is a member, and shall not vote thereon."

"In the two sessions that I have observed, no legislator to my knowledge has ever passed a vote because of a conflict of interest; yet it is quite obvious that real conflicts exist in some instances. The problem, of course, lies in definition and the broad language in the constitutional provision has never been narrowed by statute or court interpretation." Letter From Executive Director of Mont. Legislative Council to the *Harvard Law Review*, Feb. 6, 1962.

[18] See Rule 22(7), Official Rules of Procedure Adopted by the House of Representatives, State of Hawaii, First State Legislature, General Session, 1961, providing for disclosure of interests by the legislator and a ruling on the disqualifying effect of such interests by the speaker of the house. *But see* Conn. State Journal, Nov. 1960, p. 10: "Any outward testing . . . in this connection usually ends up with the presiding officer . . . and the ruling of the chair usually leaves it to the conscience of the individual legislator."

[19] Compare the now unusual approach of Kan. Senate Rule 19: "Any Senator, who is directly interested in a question, may be excused from voting . . . . [after

ing legislative matter; [20] censure by his house for past improprieties based on existing rules or on an *ad hoc* majority determination; [21] or, finally, expulsion for conduct unbecoming a member.

That a challenge to interested voting made before the fact, even on the floor, normally can be handled amicably and without any invidious implications may be illustrated by the following excerpt from the *Wisconsin Senate Journal for 1937*:

> Senator Callan rose to the point of order that Senator Leverich . . . was not entitled to vote on the bill as it contains appropriations to [the Agricultural Authority, of which he is an incorporator] . . . .
>
> The president held that as a matter of propriety and to remove the possibility that this bill might on this ground be invalidated if enacted into law [the senator] . . . should refrain from voting . . . .[22]

Even this mild sanction may be resisted if pressed, however:

> Senator Duel rose to the point of order that . . . Senator Leverich might be the beneficiary of lucrative offices or appointments [in the Authority] . . . and under the rule of Jefferson's Manual . . . should retire when the bill is under consideration.
>
> The president held the point of order not well taken and . . . [since the] Authority was a . . . non-profit corporation [and] no profits could accrue to any of the incorporators thereof [he] . . . therefore reversed his ruling on the [earlier] point of order . . . .[23]

The most serious limitations on the efficacy of after-the-fact checks in the legislature stem from considerations of political reality — especially where egregious defalcations are suspected. Two recent examples, almost simultaneous but unconnected, demonstrated this fact. In both cases, individual legislators made public charges of improper activities by fellow legislators.[24] The merits of the two allegations are less relevant than the animus with which the two legislatures received them. In New York the Assembly Committee on Ethics and Guidance devoted a significant portion of its report on conflict charges against the Speaker of the Assembly to biting innuendo and outright accusations of bad faith and misrepresentation on the part of the accuser.[25] Said a leading editorial, "within the terms of its title of Committee on Ethics and Guidance it is incomprehensible to us that this bipartisan body could find no single word of unfavorable comment to utter on . . . [the accused's] judgment, taste or candor as to his relationships . . . ." [26] Neverthe-

stating his reasons, by] a two-thirds majority of those voting . . . ." Letter From Fiscal Analyst of Kan. Legislative Research Council to Director, N.M. Legislative Council, Dec. 28, 1961.

[20] See, *e.g.*, MASS. REPORT, *op. cit. supra* note 15, at 16: "Any member . . . has the right to demand disqualification of another member for violation of . . . rules [forbidding members to act on matters concerning their private interests]. And this procedure has been exercised, though rarely."

[21] See, *e.g.*, p. 1213 & articles cited note 28 *infra*.

[22] P. 137, quoted in Letter From Chief of Wis. Legislative Reference Library to the *Harvard Law Review*, Feb. 2, 1962.

[23] *Id.* at 138.

[24] See N.Y. Times, Feb. 22, 1962, p. 1, col. 5; Boston Herald, Feb. 22, 1962, p. 1, col. 1.

[25] *E.g.*, COMM. ON ETHICS AND GUIDANCE, N.Y. STATE ASSEMBLY, REPORT 26 28 (1962) [hereinafter cited as ETHICS COMM. REPORT].

[26] N.Y. Times, Feb. 22, 1962, p. 24, col. 1. The paper did admit that the accuser "in his zeal had overstated the case." *Ibid.*

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[27] N.Y. Times, Feb. 22,
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less the Assembly accepted that report by a vote of 143 to 1, since the entire affair had been converted into a political test of confidence in the Speaker.[27] In Massachusetts the rebuke was even more direct: the committee was called not to investigate the charges made but specifically to challenge the accuser to substantiate them or face a recommendation of censure. The report recommending censure was described as "one of the most vitriolic condemnations ever handed a legislator by a body of his fellows." [28]

Such evidence suggests that reliance on internal *ad hoc* sanctions after the fact is unrewarding. The effective role for the legislators themselves is that of establishing in advance and without reference to any particular case a general set of ground rules and an external mechanism to implement them. Before a legislature could be persuaded to delegate such powers, however, there probably would have to be a showing that existing institutions are inadequate for the task of guiding and policing members' conflicts of interests.

B. The Electorate

A stock answer to the demands for controls on legislators' ethics is that lawmakers must periodically subject their records to voter scrutiny.[29] The public, it is said, will receive complete information through the self-interested revelations of each candidate's opponents, and by means of the ballot the ethical standards of the voter will be imposed on his legislative representative.[30] However accurate this description may be as applied to national and statewide elections, it is unlikely to be meaningful in local legislative races, where the campaigns seldom are hard-fought and the results may depend more upon party affiliation than upon substantive issues.[31] Moreover, the conflict-of-interest area encompasses subtle ethical problems — situations in which the behavioral norms are not self-evident; campaign issues are, by contrast, normally gross and easily understood. Indeed, the candidate who raises a narrow charge based on conflicts of interest without clear statutory support runs the risk of being misunderstood or perhaps being politically embarrassed through revelations of some facet of his own connections, possibly innocent, which would provide material for a return attack vitiating the utility of the original charges. And success in a campaign

[27] N.Y. Times, Feb. 22, 1962, p. 1, col. 5. The absence of support from even the accuser's own party may have been due to the "club" atmosphere of most legislatures which causes any attack on an individual legislator to be viewed as an attack on the entire body. In Congress this attitude is reflected in a "rule of congressional courtesy" that no member may make a personal criticism of another on the floor of either House. See Time, March 8, 1963, p. 26.

[28] Boston Herald, Feb. 21, 1962, p. 5, col. 3. See also *id.*, p. 28, col. 8.

[29] See, *e.g.*, ETHICS COMM. REPORT, *op. cit. supra* note 25, at 34: "The legislator goes back to his constituency every two years where his work is reviewed by his constituency and subjected to criticism and attack by the opposition."

[30] "Self-discipline and the voters must be the ultimate reliance for discouraging or correcting . . . abuses." Tenney v. Brandhove, 341 U.S. 367, 378 (1951); *cf.* Election and Election Privileges Comm., Report to the 58th General Assembly of Iowa 39 (1958): [T]he chief hope . . . is based on . . . the power of the voter to defeat any party or candidate who does not live up to the highest standards."

[31] Even in the face of active opposition and his own inability to campaign, a Massachusetts legislator was elected easily while serving a jail sentence for defrauding the state. See Boston Herald, Dec. 3, 1962, p. 42, col. 4.

despite the establishment of conflicts charges may be interpreted as public approval of the suspect connections.[32] The primary objection, however, to relying upon the voters to police conflicts of interest is that such control — even if it operates efficiently — provides an inconsistent and sporadic sanction without any rational set of primary standards by which legislators can measure a projected action before the fact.

C. The Courts

The state judiciary, as the traditional arbiter of legislative actions and as the constitutional articulator of the public conscience, would seem to be the most appropriate branch of the government to provide an independent check on legislators' ethics. Yet the courts have in fact taken little responsibility. Judicial hesitancy to enter the field appears unwarranted in light of analysis of state constitutions and judicial precedents which reveals that neither necessarily prohibits the judiciary from exercising some degree of supervision.

1. Constitutional Aspects. — The typical state constitution contains three provisions relevant to judicial supervision of legislative ethics. The first establishes a separation of powers but does not define the extent to which the legislative and judicial departments should interact.[33] Some explicit guidance is provided in the second typical provision: "Each House shall . . . be the judge of the elections, returns and qualifications of its own members."[34] Cases under the identical portion of the federal constitution, which may be of assistance by analogy, establish that such language does not strip the judiciary of power to act in this area,[35] and some state courts have taken a stronger view.[36] The most formidable obstacle to judicial initiative is the third type of provision, asserting the power of each house to "determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member . . . ."[37] The narrow language of such articles would not seem to preclude courts from considering aspects of legislators' ethics manifested by activities off the floor of the legislature.[38] The Supreme Court, construing the equivalent clause in the

[32] See BAR ASSOCIATION REPORT, *op. cit. supra* note 4, at 15: "[I]f the constituency continues to elect a man in spite of improprieties, some leeway must be left for the principle that the people get the kind of government they deserve."

[33] *E.g.*, OKLA. CONST. art. IV, § 1; see Kilbourn v. Thompson, 103 U.S. 168, 190–91 (1881).

[34] *E.g.*, N.Y. CONST. art. III, § 9.

[35] See Burton v. United States, 202 U.S. 344, 366–67 (1906) (construing statute to proscribe receipt of compensation for services rendered by a congressman before a department).

[36] See State *ex rel.* Jones v. Lockhart, 76 Ariz. 390, 265 P.2d 447 (1953) (applying quo warranto to a state legislator); State *ex rel.* Benton v. Elder, 31 Neb. 169, 47 N.W. 710 (1891) (ordering house speaker to open returns despite contrary resolution of both houses); People *ex rel.* Myers v. Haas, 145 Ill. App. 283 (1908) (ordering clerk to notify governor of legislator's improper dual office holding); People *ex rel.* Sherwood v. State Bd. of Canvassers, 129 N.Y. 360, 29 N.E. 345 (1891) (refusing to order certification of dual-office-holding senator).

[37] *E.g.*, TEX. CONST. art. 3, § 11.

[38] The notion of legislative privilege may provide separate protection for actions directly connected with legislative functions. See Tenney v. Brandhove, 341 U.S. 367, 372–75 (1951). But improper activities in other capacities should not be protected merely because the impropriety arises from the fact that the actor is also a legislator. See Burton v. United States, 202 U.S. 344, 366–67 (1906); Reilly v. Ozzard, 33 N.J. 529, 545, 166 A.2d 360, 368 (1960).

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[39] United States v. Ballin, 144
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[40] See Tool Co. v. Norris, 69 U.S

[41] *Cf.* United States v. Smith, 2
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[43] PA. CONST. art. 3, § 33. See al
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[45] *E.g.*, NEB. CONST. art. III, § 9;

[46] See, *e.g.*, Briggs v. Neville, 10
1952] NEB. ATT'Y GEN. REP. 378;
Nicholson Co. v. State, 32 S.D. 18
corporation void because legislator
and stockholder of the company).

[47] 10 U.S. (6 Cranch) 87 (1810)

[48] *Id.* at 131.

federal constitution, has indicated that the legislature's freedom to control even intramural affairs may be limited.[39] If the right to be governed by representatives whose judgments are untrammelled by the temptation of personal gain may be considered fundamental,[40] even the constitutional establishment of exclusive jurisdiction in the legislature over matters of legislative procedure should not absolutely bar the judiciary from taking a hand.[41]

A number of state constitutions contain provisions which may tend to facilitate rather than impede judicial control. The Pennsylvania constitution, noted for its "inherent distrust of the legislature," [42] is one of several which require legislators with personal interests in proposed bills to disclose that fact and refrain from voting.[43] No cases in Pennsylvania, however, appear to have asserted duties under this clause. Since Pennsylvania courts have construed related constitutional provisions as matters of internal procedure which the legislature could waive at will,[44] the disclosure and disqualification rule might be similarly devitalized. Explicit constitutional limitations upon legislators' contracts with the state have proved more successful.[45] In Nebraska, for example, both the courts and the attorney general have enforced this and related prohibitions strictly without supportive legislation.[46]

2. *Judicial Abstention.* — The frequent statement that a court will not inquire into the motives of a legislative body or assume them to be wrongful is traceable to the landmark case of *Fletcher v. Peck*.[47] However, examination of Chief Justice Marshall's opinion reveals that it does not support such a broad statement of the rule. The plaintiff alleged breach of title covenants by his vendor, claiming that the original grant of the land in question was defective because of the flagrant corruption of the legislature which had made it as part of a sale of thirty-five million acres of state land to speculators for half a million dollars. In holding that an attack on the grant could not be grounded on the supposedly improper interests of the legislators, Marshall specifically noted that grave questions of ethical impropriety should not be forced upon the Court in the attenuated and collateral form of a suit between two private litigants far removed from the original enactment.[48] Where the remoteness element is absent, Marshall indicated in dictum two ad-

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[39] United States v. Ballin, 144 U.S. 1, 5 (1892). Nor could the Nebraska legislature vote a member compensation for his services to a legislative investigating committee in the face of a constitutional provision that members receive no pay other than salary. Wilkins v. State, 116 Neb. 748, 219 N.W. 9 (1928).

[40] See Tool Co. v. Norris, 69 U.S. (2 Wall.) 45, 54–55 (1865).

[41] *Cf.* United States v. Smith, 286 U.S. 6 (1932) (court may interpret Senate rule).

[42] Note, 100 U. PA. L. REV. 1217 (1952).

[43] PA. CONST. art. 3, § 33. See also, *e.g.*, OKLA. CONST. art. V, § 24; TEX. CONST. art. 3, § 22.

[44] See Note, *supra* note 42, at 1219.

[45] *E.g.*, NEB. CONST. art. III, § 9; OKLA. CONST. art. V, § 23.

[46] See, *e.g.*, Briggs v. Neville, 103 Neb. 1, 3, 170 N.W. 188, 189 (1918); [1951–1952] NEB. ATT'Y GEN. REP. 378; [1949–1950] *id.* at 220. See also Norbeck & Nicholson Co. v. State, 32 S.D. 185, 142 N.W. 847 (1913) (state contract with corporation void because legislator voting for the authorizing act was president and stockholder of the company).

[47] 10 U.S. (6 Cranch) 87 (1810).

[48] *Id.* at 131.

ditional qualifications on judicial intervention: consideration of the rights of innocent third parties not before the courts, and the practical difficulties of defining legislative misconduct.[49]

The cases in which courts have asserted a wide rule of presumptive judicial nonintervention typically involve situations within one or more of Marshall's three reservations. The exceptional situation occurs in the context of small sublegislative bodies like municipal councils and zoning boards, where the attacks are direct and immediate and the practical difficulties of clearly identifying a conflict of interest are removed by the directness of effect of the body's action on a small group. Courts that have recognized the need for judicial intervention in such cases have achieved the result not by creating rational and workable exceptions to the rule, but by describing the action of the sublegislative body as "quasi-judicial" and therefore outside the protection assumedly afforded "legislative" actions.[50] In two recent New Jersey cases,[51] for example, the "quasi-judicial" nature of the local council was found in the fact that it took testimony and weighed "conflicting public considerations" as to zoning ordinances. The classification appears arbitrary; the decisions could equally have been made by a "purely legislative" body.[52] Perhaps the judiciary should admit that the classification is artificial and conclusory, and look instead to the clarity of the conflict and the effect of a judicial remedy.[53] Such pragmatic criteria — similar to those set up by Marshall for the state bodies — tend to be met more frequently in the local body cases, where the scope of the actions is narrow, the number of votes small, and the identification of improper interests less difficult.[54]

3. Political Questions. — Another potential impediment to judicial remedy in the area of legislative conflicts of interest is the "political question" doctrine.[55] Mr. Justice Brennan, writing for the majority in *Baker v. Carr*,[56] has provided a useful list of conditions for invoking the doctrine, any one of which is sufficient. Relevant to the current problem are:

> a lack of judicially discoverable and manageable standards for resolving . . . [an issue]; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government . . . .[57]

[49] *Id.* at 230.

[50] See, e.g., Low v. Town of Madison, 135 Conn. 1, 60 A.2d 774 (1948).

[51] McNamara v. Borough of Saddle River, 64 N.J. Super. 426, 166 A.2d 391 (App. Div. 1960); Aldom v. Borough of Roseland, 42 N.J. Super. 495, 127 A.2d 190 (App. Div. 1956).

[52] Compare City of Miami Beach v. Schauer, 104 So. 2d 129 (Fla. Dist. Ct. App. 1958), classifying amendatory zoning ordinance as a "legislative act" and upholding ordinance resulting in half a million dollars benefit to board member.

[53] See 57 MICH. L. REV. 423 (1959); *cf.* Zell v. Borough of Roseland, 42 N.J. Super. 75, 125 A.2d 890 (App. Div. 1956) (dictum) (literal reading of statute precludes classification of function).

[54] Compare Wilkins v. State, 116 Neb. 748, 219 N.W. 9 (1928); Norbeck & Nicholson Co. v. State, 32 S.D. 189, 142 N.W. 847 (1913).

[55] See generally Finkelstein, *Judicial Self-Limitation*, 37 HARV. L. REV. 338 (1924); Weston, *Political Questions*, 38 HARV. L. REV. 296 (1925); Finkelstein, *Further Notes on Judicial Self-Limitation*, 39 HARV. L. REV. 221 (1925).

[56] 369 U.S. 186 (1962).

[57] *Id.* at 217.

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Admittedly the courts have had little experience discovering and applying standards in the specific context of legislators' conflicts of interest,[58] but criteria of improper conduct may be drawn from such analogous areas as conflicts of interest of fiduciaries,[59] corporate officers, judges, local legislators,[60] and nonlegislative public servants.[61] Courts have transplanted remedies from the nongovernmental to the governmental sphere for other public servants but not for the legislator.[62] Justice Brennan's "discretion" condition is merely a variant of Marshall's concern for clarity of the ethical issue. As for the third condition, the meaning of the "respect due" the legislature is not clear. It might assume the nature of an intragovernmental "comity," aimed at assuring the smooth functioning of each branch in the areas in which it is most competent, without unnecessary intervention from other branches.[63] This principle should not apply where a court realizes that the legislature is unlikely to fulfill its obligations in the area of its primary competence.

Perhaps another type of respect may be contemplated: deference to a superior power. A court should be wary of taking any action which threatens its independent capacity to deal with its normal judicial business. State judges generally do not have the protected tenure provided their federal counterparts,[64] and legislators may be in a position to nullify judicial reforms in a variety of ways.[65] The harm done by any such legislative reaction might outweigh the benefit accruing from the exercise of control over a single case of conflicts. Thus state judges would have to consider matters of practical politics and the state of public opinion to be certain their decisions would not cause adverse repercussions. Even if such factors were proper for judicial consideration, they seldom could be assessed with certainty. Courts would be likely to run the risk of legislative retaliation only in the most important cases. State courts have on occasion confidently approached related matters of legislative behavior, indicating that the scales can balance toward

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[58] *But see*, e.g., cases cited note 54 *supra*.

[59] See generally Haggerty, *Conflicting Interests of Estate Fiduciaries in New York and the "No Further Inquiry" Rule*, 18 FORDHAM L. REV. 1 (1949).

[60] See, e.g., Griggs v. Borough of Princeton, 33 N.J. 207, 162 A.2d 862 (1960).

[61] See, e.g., Clarke v. Town of Russia, 283 N.Y. 272, 28 N.E.2d 833 (1940) (town board member could not have contract with town).

[62] For a suggested reform, see Lenhoff, *The Constructive Trust as a Remedy for Corruption in Public Office*, 54 COLUM. L. REV. 214 (1954).

[63] It is true, however, that the disposition of a case on the voluntary basis of "comity" implies an affirmation of power to decide the merits and, as such, may stimulate the legislature to act. *Cf.* Gomillion v. Lightfoot, 364 U.S. 339, 346 n.7 (1960).

[64] See, e.g., ALA. CONST. art. 6, § 155 (judges elected every six years).

[65] Recent developments in two states emphasize this possibility. In Oregon the attorney general ruled that common law principles prohibited contracts between legislators and the state. [1953–1954] 26 ORE. ATT'Y GEN. BIENNIAL REP. AND OPS. 114. In response the legislature enacted provisions prohibiting only self-dealing and "own-body" contracts, casting one section in the form "an officer . . . may contract with the state . . . if . . . ." ORE. REV. STAT. §§ 279.360, 279.362 (1961). In Washington, the 1959 code of ethics for public officers, violations of which were a misdemeanor, did not include legislators as such, but the term "other public official" could be so construed. WASH. REV. CODE § 42.22.030 (1959). See MASS. REPORT, *op. cit. supra* note 15, at 27, listing Washington among states whose codes cover legislators. See also State *ex rel.* Jones v. Lockhart, 76 Ariz. 390, 394–95, 265 P.2d 447, 450 (1953). In 1961 the statute was amended to delete the ambiguous term. WASH. REV. CODE ANN. § 42.22.030 (1961). A similar term remains, however, in other parts of the code, e.g., WASH. REV. CODE § 42.22.040 (1959).

action.[66] Moreover, when legislators attempt to use the courts affirmatively to enforce improperly secured rights, judicial inaction may produce a desirable result.[67] In general, however, judicial control supplies only a random check on legislators' improprieties in a limited class of cases.

D. The Executive Department

In dealing with legislators' conflicts of interests, the executive department of each state has several tools of amelioration available to it, but only in a few states have any of them been utilized. Almost every governor has some degree of political power providing him a unique opportunity for direct action; he may withdraw political support from any legislator of his party found deficient in meeting the standards of the office and campaign for more honorable candidates and incumbents. Except in extreme cases, however, such direct action would seem less productive than measures which set advance standards and secure adherence by incumbent legislators. At two points individual legislators may personally come into contact with the executive department and thus provide a basis for assertion of executive initiative: appearances by members of the legislature before administrative agencies or offices representatively or individually, and awards of state contracts to firms with which they are connected. Investigations with regard to these matters, informational or accusatory, may be instituted by a governor's committee,[68] the comptroller general,[69] or others. When investigation reveals patent abuses, such as easing of licensing or bidding requirements, sanctions may be invoked against the executive personnel who facilitate such abuses and proceedings initiated to revoke the license or invalidate the contract. Often, however, no obvious wrongdoing will appear. A statistical study might show, for example, that on certain road projects the difference between the original offer made by the state and the ultimate award in land condemnations was invariably greater for the clients of legislators than for those of private lawyers.[70] For

[66] See, *e.g.*, cases cited note 36 *supra*; Hall v. Blan, 227 Ala. 64, 148 So. 601 (1933) (statute granting legislators expense allowance contravenes constitutional fixing of remuneration).

[67] See, *e.g.*, Wilkins v. State, 116 Neb. 748, 219 N.W. 9 (1928) (legislator suing for additional compensation); People *ex rel.* Sherwood v. State Bd. of Canvassers, 129 N.Y. 360, 29 N.E. 345 (1891) (legislator seeking to compel board to grant certificate of election); Norbeck & Nicholson Co. v. State, 32 S.D. 189, 142 N.W. 847 (1913) (legislator's corporation suing on state contract); *cf.* Tenney v. Brandhove, 341 U.S. 367, 378 (1951), differentiating cases of privilege "in which the defendants are members of a legislature" from those in which "the legislature seeks the affirmative aid of the courts to assert a privilege."

The Board of Tax Appeals applied an imaginative means of controlling legislative ethics when it disallowed deductions claimed by a gravel company for commissions paid to a state senator on sales of sand and gravel to the state, although the sales were by competitive bid and no state law prohibited such a relationship. Alexandria Gravel Co. v. Commissioner, 35 B.T.A. 223 (1937). The Fifth Circuit reversed, stating that the "revenue laws of the United States are not oversqueamish." 95 F.2d 615, 616 (1938).

[68] See, *e.g.*, MINN. GOVERNOR'S COMM. ON ETHICS IN GOVERNMENT, ETHICS IN GOVERNMENT (1959).

[69] The New York State Comptroller, for example, conducted "Conferences on Competitive Bidding and Conflicts of Interest" throughout the state in January and February 1962.

[70] Compare the information developed as to appraisers in *Right-of-Way Acquisition Practices in Massachusetts, Federal-Aid Highway Programs of* [illegible] Cong., 2d Sess., pts. 1 & 2 (1962).

such cases, it may be sufficient to basis and periodically publicize r order to appropriate department the form of limitations on ex par legislators' appearances before officials,[71] and, where there is ex maximum permissible formalities tors are in any way involved.[72] attorney general may provide statutory enactments.[73]

Political considerations may tacks on allegedly unethical legi any specific type or range of ticularities of the local situatio which the executive department ventiveness without risking p honestly concerned with the p frequently seek guidance from past such offices have generally constitutional and statutory pr which the typically conservative to be controlling.[74] It seems de

[71] *Compare* 17 C.F.R. § 201.2(e) standards of those appearing befo BIENNIAL REP. 70 (ruling that legisl fore agencies whose personnel was Nev. Attorney General's Office to th

[72] The problem of legislators' ope withholding legislative and finan public agencies and officials adver interests, is also a quite common volved a delicate balancing of int public responsibilities impartially of required legislation and finance to carry on present official func . . . new . . . functions, in the p

[73] See Code of Ethics Proposal, Study Commission to the *Harvard* tried to gain an improper advantage ment, this act would come under sc partment employees are covered. In one is covered by this proposal."

[74] See, *e.g.*, Special Message by of Ohio, Jan. 30, 1961, at 5–6; TE STATE OFFICERS AND EMPLOYEES 2,

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[75] See Davis, *The Federal Con* 896 & nn.15, 16 (1954). *But see* T those who may apply for opinions other than committee chairmen.

[76] See, *e.g.*, [1956–1958] 28 O that the constitutional provision

such cases, it may be sufficient to put the investigation on a continuing basis and periodically publicize relevant findings. Perhaps an executive order to appropriate department members could provide guidelines in the form of limitations on ex parte contacts, procedural rules governing legislators' appearances before certain decision-making groups and officials,[71] and, where there is executive discretion, orders requiring the maximum permissible formalities in letting state contracts when legislators are in any way involved.[72] Finally, both the governor and the attorney general may provide objectively considered suggestions for statutory enactments.[73]

Political considerations may dictate circumspection in executive attacks on allegedly unethical legislative practices;[74] the advisability of any specific type or range of action ultimately depends on the particularities of the local situation. There is, however, one context in which the executive department can exercise a certain amount of inventiveness without risking political conflict. A legislator who is honestly concerned with the propriety of some proposed action may frequently seek guidance from the attorney general's office.[75] In the past such offices have generally written opinions construing the relevant constitutional and statutory provisions narrowly, assuming the bounds which the typically conservative state courts would set on the legislator to be controlling.[76] It seems desirable, however, that attorneys general

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quisition Practices in Massachusetts, Hearings Before the Special Subcommittee on Federal-Aid Highway Programs of the House Committee on Public Works, 87th Cong., 2d Sess., pts. 1 & 2 (1962)).

[71] *Compare* 17 C.F.R. § 201.2(e)(2) (1962) (SEC rules controlling the ethical standards of those appearing before it) *with* [1947–1949] Conn. Att'y Gen. Biennial Rep. 10 (ruling that legislators could, in absence of statute, practice before agencies whose personnel was chosen by legislature). See also Letter From Nev. Attorney General's Office to the *Harvard Law Review*, Feb. 21, 1962:

> The problem of legislators' openly attacking public agencies and officials or withholding legislative and financial support thereof, when the functions of public agencies and officials adversely impinge upon their personal or political interests, is also a quite common and general matter. Manifestly, there is involved a delicate balancing of interests . . . : discharge by agencies of official public responsibilities impartially and in conscientious fashion *versus* support of required legislation and finances through legislative appropriations effectively to carry on present official functions or to establish and implement desired . . . new . . . functions, in the public interest.

[72] See Code of Ethics Proposal, quoted in Letter From La. Reorganizational Study Commission to the *Harvard Law Review*, Feb. 12, 1962: "[I]f a legislator tried to gain an improper advantage in a transaction with, say the highway department, this act would come under scrutiny of the Commission since all highway department employees are covered. In other words, it takes two to collude and at least one is covered by this proposal."

[73] See, *e.g.*, Special Message by Governor DiSalle to the 104th General Assembly of Ohio, Jan. 30, 1961, at 5–6; Tex. Legislative Council, A Code of Ethics for State Officers and Employees 2, 53 (1956) (attorney general's proposal).

[74] "After some rather heated discussion among the members of the committee, a majority . . . felt that it would not be politic for this office to recommend to the legislature that they adopt a code of ethics covering members of the state legislature." Letter From Wash. Attorney General's Office to the *Harvard Law Review*, April 12, 1962, quoting report of attorney general's legislative committee.

[75] See Davis, *The Federal Conflict of Interest Laws*, 54 Colum. L. Rev. 893, 896 & nn.15, 16 (1954). *But see* Tex. Rev. Civ. Stat. art. 4399 (1948), enumerating those who may apply for opinions of the attorney general but omitting legislators other than committee chairmen.

[76] See, *e.g.*, [1956–1958] 28 Ore. Att'y Gen. Biennial Rep. and Ops. 163, ruling that the constitutional provision barring legislators from acting as attorneys in

take a wider view of their function. Once the legislator has shown the initiative and conscientiousness to seek an opinion, the opinion writer could consider "whether, aside from strict legal minima, the . . . activity . . . is such that it would, even though it is not a breach of the law, lessen the confidence of the general public in . . . or otherwise tend to reflect unfavorably on all government services." [77] Such opinions could serve to set new standards, the effectiveness of which is governed more by consensual validation of their logic over time than by the deterrent effect of threatened sanctions.[78] In fact, since they would be the result of an accretion of careful thought on discrete factual situations, such standards might well be found more realistic and acceptable than an ethical code drawn in the abstract at a fixed point in time.[79]

Finally, the executive possesses the extraordinary tool of the veto to impel the legislature towards the adoption or observation of ethical standards. This sanction might be useful at least in calling attention to the problem where the governor feels that a particular piece of legislation reflects the initiative and support of lawmakers with too great a private interest in its outcome.[80]

E. Other Institutions

1. The Federal Government. — The increasing use of federal funds for state-run projects in education, road building, hospitals, urban redevelopment, and other public works provides not only a broad field for potential contacts between legislators and state agencies, but also supplies a linkage through which the federal government might impose its standards of ethical conduct upon those who are dispensing and receiving its funds. It would be preferable for these standards to be imposed before the fact, carefully outlining the permissible and impermissible procedures in such areas as condemnation, construction bidding, supply contracts, and staffing. But such programs generally operate through the normal state channels once the long-range plans and technical criteria of the federal program have been met.[81] Thus in

prosecution of any claim against the state did not prevent a legislator from representing a "defendant" in a condemnation proceeding. Note the earlier attitude of the same office on the occasion cited in note 65 *supra*.

[77] Honolulu Corporation Counsel, Opinion No. 61-117, Aug. 10, 1961. Compare the Massachusetts attorney general's opinion construing the legal disclosure rule narrowly but adding:

> [W]hile not legally required, it is desirable that a public servant supply such information as is necessary to indicate whether or not a conflict of interest exists . . . .

Letter From Mass. Attorney General to Mass. Secretary of State, Nov. 20, 1961. For an opportunity missed, see opinion cited note 71 *supra*.

[78] The attorney general does have certain sanctions available: threat of prosecution (see attorney general's ruling on illegality of testimonial dinner for appointed official, resulting in its cancellation two days before scheduled, Boston Herald, Jan. 20, 1963, p. 1, col. 7); prevention of routine processing of claims against the state (see Ariz. Attorney General, Opinion No. 53-20, Feb. 2, 1953); rejection of proposed contracts or leases as illegal (see [1953-1954] 26 ORE. ATT'Y GEN. BIENNIAL REP. AND OPS. 114).

[79] See pp. 1230-32 *infra*, attempting to combine the advantages of definite standards with continuing, flexible enforcement.

[80] *Cf.* President Eisenhower's veto of a bill because of improper lobbying. PUBLIC PAPERS OF THE PRESIDENT 1956, at 256 (Natural Gas Bill).

[81] See, *e.g.*, 23 U.S.C. §§ 106, 112, 114(a) (1958).

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[85] ABA, *op. cit. supra* not

practice it is only after the fact that the federal authorities take cognizance of the problems. These authorities may discover deficiencies in construction or supplies, shortages of funds, overpayments, bribery, collusion, or criminal fraud which involve state officials or state legislators, but it is only in passing that the question arises of the propriety of legislators' contracts with or appearances before the state. Perhaps the conflict-of-interest problems might be most effectively exposed to public discussion through the congressional investigation.[82] The range of subject matter open to analysis, the opportunity to investigate past occurrences in detail with a power of subpoena, and the duty to consider proposals for future ameliorative measures allow a committee both to capture the public eye with exposure of the blatant abuses and to provoke consideration of the subtleties of setting standards for the legislator who would be willing to comply with sufficiently definitive rules. The value of committee investigation as a solution to the problem is limited, however; the blatant criminal aspects may be so shocking that more subtle ethical points are obscured. On the other hand, publicity concerning the innocent involvement of a few may be so exaggerated as to ruin them politically while doing little to solve the problem which they faced originally in deciding upon the propriety of their activities.

2. Professional and Other Private Associations. — The lawyer-legislator, although subject only to sporadic guidance from governmental sources, comes under the constant scrutiny of his bar association. Canon 26 of the American Bar Association Canons of Professional Ethics provides that a lawyer appearing

> before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government [must do so] upon the same principles of ethics which justify his appearance before the Courts . . . [and must not] employ secret personal solicitations, or . . . use means other than those addressed to the reason and understanding, to influence action.[83]

One commentator has observed that "the Canon is either so strict as to be impossible, or so vague as to be useless." [84] Canon 32 proscribes "disloyalty to the law whose ministers we are" and "corruption of any person . . . exercising a public office or private trust, or deception or betrayal of the public." [85] On the basis of these two canons, the Committee on Professional Ethics of the ABA has ruled that

> a law firm could not accept employment to appear before a legislative committee while a member of the firm is serving in the Legislature, ... [and that] a full disclosure before the committee would not alter

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[82] *Cf., e.g., Right-of-Way Acquisition Practices in Massachusetts, Hearings Before the Special Subcommittee on Federal-Aid Highway Programs of the House Committee on Public Works*, 87th Cong., 2d Sess., pts. 1 & 2 (1962); *Hearings Before a Subcommittee to Study Senate Concurrent Resolution 21 of the Senate Committee on Labor and Public Welfare*, 82d Cong., 1st Sess. (1951).

[83] ABA, CANONS OF PROFESSIONAL ETHICS 22 (1957). See also *id.* at 11 (Canon 6); Sharpless, *The Lawyer-Legislator and the Canons of Ethics*, Hawaii B.J., Jan. 1959, p. 11.

[84] HORSKY, THE WASHINGTON LAWYER 56 (1952).

[85] ABA, *op. cit. supra* note 83, at 27.

this ruling nor would it be changed by the fact that the member of the Legislature would not share in the fee received thereby.[86]

The advantage of such rulings, particularly those of local units,[87] is that to a large extent they can be promulgated without reference to any specific parties and can be tailored by the local group to its special circumstances, while carrying the ultimate force of professional sanctions.[88]

Additionally, the bar associations and other private groups may be able to undertake studies of the situation from the public's viewpoint, publicizing significant findings and marshalling public opinion in favor of reforms. For instance, the Association of the Bar of the City of New York, recognizing the need for information and reform in federal conflict-of-interest control, undertook to study the problem and published its analysis and proposals.[89] The Committee on American Legislatures of the American Political Science Association conducted a four-year study of state legislatures,[90] finding serious structural and procedural defects in the existing bodies. The latter study's chapter on the nature of the legislative membership[91] could be a starting point for a more thorough analysis of the conflict-of-interest problem from the political scientists' point of view.

Finally, there are myriad possibilities for direct local action. A network television program documenting bookmaking operations in Massachusetts shocked the citizenry into violent dispute over a subtle conflict problem — lawyer-legislators' representation of criminal defendants — when one legislator appearing on the show charged "that some legislators are 'actively involved' with bookies."[92] Less spectacular would be nonpartisan preelection reports on the outside interests of all candidates by such service groups as the League of Women Voters and the Citizens Union, as well as efforts by journalists to promote public attitudes which might induce candidates and incumbents to sever conflict-prone connections — at least where great sacrifice is not involved.

[86] Opinion 296, Aug. 1, 1959, 45 A.B.A.J. 1272 (1959). See also ABA, *op. cit. supra* note 83, at 30 (Canon 36 relating to retired public officials). *But see* N.Y. Pub. Officers Law § 73(6), allowing legislator's firm to appear before agencies if he does not share in the fee.

[87] See, *e.g.*, the Hawaii Bar Association ruling that legislators and their associates could not appear before legislative committees, nor, in the case of senators, before agency personnel whose appointments are subject to senate confirmation, quoted in Sharpless, *supra* note 83, at 16.

[88] Here exists an additional mode of judicial control through each court's supervisory powers over the legal profession. See *In re* Becker, 16 Ill. 2d 488, 158 N.E.2d 753 (1959). Compare Honolulu Corporation Counsel, Opinion No. 61-82, June 13, 1961, ruling on the basis of *Becker* that a councilman could not appear as a lawyer before the zoning board.

[89] Bar Association Report, *op. cit. supra* note 4. The recent federal legislation relies heavily on the report's suggestions. See Perkins, *The New Federal Conflict-of-Interest Law*, 76 Harv. L. Rev. 1113, 1116–17 (1963).

[90] *Op. cit. supra* note 8.

[91] *Id.* at 61–88.

[92] See Boston Herald, Feb. 21, 1962, p. 1, col. 1. Ultimately the code of ethics commission decided not to recommend specific legislation on the particular problem. Mass. Special Comm'n on Code of Ethics, Report to the General Court 11–12, March 31, 1962 [hereinafter cited as Mass. Comm'n]. In Tennessee it was recommended that legislators be enjoined from appearing before the parole board for any inmate whom they had not represented in the committing court. [1959–1960] Legislative Council Comm., 81st General Assembly of Tenn., Final Report 48. The legislature did not pass the proposed provision. Letter From the Committee to the *Harvard Law Review*, Feb. 1, 1962.

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[100] See N.Y. Report, *op.*
[101] See Mass. Report, *op.*

III. Statutory Controls

A. Types of Statutes and Means of Instigation

Although the nonlegislative approaches suggested thus far present considerable potential for some control of legislative ethics, it seems clear that they cannot provide the necessary guidance and deterrence. The remaining solution — statutory control — appears more promising. In terms of their attempts to control their members' conflicts of interest by statute, state legislatures may be classified as follows: (1) those which have no legislation on the subject; [93] (2) those with recent and comprehensive conflicts enactments which exempt legislators; [94] (3) those with old unenforced or rarely enforced miscellaneous provisions; [95] (4) those with fairly recent comprehensive legislation with inadequately designed or enforced provisions as to legislators; [96] and (5) those which have seriously considered the problem of legislators' conflicts but have failed to enact suggested legislation.[97] The overall record of the states does not encourage optimism; the limited progress in a few, however, indicates a recognition of and willingness to consider the problem despite its political sensitivity and a concerted and thoughtful attack based on particular local needs.

The impetus for legislative action may come from varied sources. In New York, it was the executive that took the lead. Governor Dewey delineated the nature of the general conflicts problem to the state legislature in 1954 and included recommendations specifically concerning the lawmakers themselves.[98] By the end of 1954 a comprehensive landmark statute [99] had been enacted, with the reservation that it was just a beginning from which refinements would be made.[100] There have, however, been no amendments or additions since 1954. The impetus to action in Massachusetts came from aroused public opinion after startling revelations of "widespread improprieties and defalcations" in one state body.[101] The Legislative Research Council presented a comprehensive report on strong bills filed by the governor and the senate president late in the 1961 legislative session, but as it was impractical to attempt to draft

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[93] *E.g.*, Iowa and Virginia.

[94] See, *e.g.*, the situation in Washington described in note 65 *supra*.

[95] Some cover a wide range of public servants. *E.g.*, Ill. Rev. Stat. ch. 102, § 3 (1961); Ind. Ann. Stat. § 10-3713 (1956); Ohio Rev. Code Ann. § 2919.69 (Page 1954). Others cover legislators specifically. *E.g.*, Ariz. Rev. Stat. Ann. § 38-446 (1956); Kan. Gen. Stat. Ann. § 46-132 (Supp. 1961); N.M. Stat. Ann. §§ 4-1-4 to 1-7 (1953); N.D. Cent. Code § 54-03-21 (1960).

[96] Criminal provisions but no code of ethics: Ky. Rev. Stat. §§ 61.092-.096 (1962). Code of ethics but enforced by legislative committee: Minn. Stat. § 3.87-.90 (1961); N.Y. Pub. Officers Law §§ 73, 74; N.Y. Sen. Res. No. 131, March 20, 1954.

[97] See, *e.g.*, Fla. House Bill No. 737 (1961) (criminal provisions); Hawaii H.B. No. 1005, 1st Legislature (1961) (code of ethics); N.H. House Bill No. 316 (1957), N.H. House Bill No. 316 (New Draft) (1957), N.H. House Bill No. 15 (1959) (progressively weaker versions); Ohio Sub. H.B. No. 279, 104th Gen. Assembly, Reg. Sess. (1961-1962) (code of ethics and criminal provisions); New Jersey bills discussed *infra* p. 1224.

[98] See N.Y. Special Legislative Comm. Report on Integrity and Ethical Standards in Government 11-14 (1954) [hereinafter cited as N.Y. Report].

[99] N.Y. Pub. Officers Law §§ 73, 74; N.Y. Pen. Law § 1878.

[100] See N.Y. Report, *op. cit. supra* note 98, at 31-33.

[101] See Mass. Report, *op. cit. supra* note 15, at 7, 14.

and pass adequate penal legislation at the time, the political necessity for some legislation in the area was satisfied by a perfunctory adaptation of the nonpenal New York code of ethics.[102] Nevertheless, the legislature reaffirmed its intentions to produce more than merely token legislation by providing for an unpaid special commission to study the problem further and recommend amendments to the next session.[103] In March 1962 the commission proposed a draft of stringent penal legislation based largely on pending federal legislation,[104] explicitly covering legislators, but with subtle limitations so as not to cut too deeply into their legitimate outside sources of income.[105] After minor changes in committee the bill was passed to take effect on May 1, 1963.[106]

In New Jersey, despite continuous pressure from the state bar association,[107] progress has been slow. The legislature created a commission in 1956 "to make a study of the subject of conflicts in the performance of public duties by persons holding public office, position or employment, with their personal, business or professional interests."[108] The commission spent a major part of its four public hearings considering a bill aimed directly at legislators,[109] and developed a remarkably useful published record detailing the views of capable witnesses as to the pragmatic difficulties of designing legislation in the field.[110] In subsequent sessions of the legislature three bills — the commission bill,[111] a slightly less stringent bill,[112] and one significantly less so[113] — have been repeatedly introduced, but none has been enacted.[114] A similar situation has prevailed in Rhode Island since 1955.[115]

B. Criminal Provisions

Most attempts at comprehensive conflict-of-interest legislation have borrowed heavily from the New York statute of 1954,[116] although the provisions of that act were designed as a mere starting point and they have not produced satisfactory results.[117] The New York formulation

[102] Mass. Acts and Resolves 1961, ch. 610. There was a criminal penalty for noncompliance with the disclosure provision. § 1(4)(j).

[103] § 2.

[104] 18 U.S.C. §§ 201–18 (Supp. IV, 1963).

[105] See pp. 1225–30 *infra*.

[106] MASS. GEN. LAWS ANN. ch. 268A (Supp. 1962).

[107] See 80 N.J.L.J. 227, 561 (1957); 81 *id.* 254, 562 (1958); 82 *id.* 243, 573 (1959); 83 *id.* 265 (1960); 84 *id.* 260 (1961).

[108] See N.J. REPORT, *op. cit. supra* note 2, at 37.

[109] See 80 N.J.L.J. 227 (1957).

[110] See *Hearings Before the Commission To Study the Subject of Conflicts in the Performance of Public Duties by Persons Holding Public Office, Position or Employment, With Their Personal, Business or Professional Interests*, N.J. Legislature (1957) (4 vols. and app.).

[111] See N.J. REPORT, *op. cit. supra* note 2, at 24–33; N.J. Senate No. 35, N.J. Assembly No. 72 (1961).

[112] N.J. Assembly No. 24 (1962); N.J. Assembly No. 1 (1961).

[113] N.J. Senate No. 140 (1962); N.J. Senate No. 78 (1961).

[114] The assembly adopted a code of ethics on the last day of the 1958 session applying only to that one day. Letter From Head of Bureau of Law and Legislative Reference, N.J. Department of Education to the *Harvard Law Review*, Feb. 2, 1962, quoting Assembly Minutes 1958, at 1090.

[115] See, *e.g.*, H. 1157 (1959); H. 1435 (1960).

[116] N.Y. PUB. OFFICERS LAW §§ 73, 74; N.Y. PEN. LAW § 1878.

[117] See the incident described pp. 1212–13 *supra*, and the characterization of the legislature's ethics committee as "dormant" since its establishment. N.Y. Times, Feb. 7, 1962, p. 26, col. 4.

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1. Contracts. — Constitut some or all state contracts w among the oldest and most field.[119] The designs of thes ever. Some states prohibit ment itself, no matter how p any state agency unless proc bidding,[121] a procedure thou contractir officers who migh legislator-contractor. But m and even after a competitiv considerable area of discretic personnel regarding routine standards, and contract qua payment withholding penali The new Massachusetts s key provisions at work in th minimum:[124] he may hold "if his direct and indirect i in the corporation . . . with aggregate amount to ten per in, *and* the contract is mad with the state secretary a terest . . . ."[125] Possessior these conditions subjects th or two years imprisonment c cancellation of the contract state of contract profits or fi

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[119] *E.g.*, ILL. REV. STAT. ch. 1961); N.D. CENT. CODE § 54–0

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[121] *E.g.*, KY. REV. STAT. § 61 OHIO REV. CODE ANN. § 2919.09

[122] *E.g.*, N.Y. PUB. OFFICERS CENT. CODE § 54–03–21 (1960) with state); OHIO REV. CODE 2919.21 (5% or $500 ownership.

[123] See Note, 47 VA. L. R available under a "lowest respo

[124] Compare NEV. REV. STA with the state for all officers, 1960).

[125] MASS. GEN. LAWS ANN.

[126] § 7. A stock interest of

did suggest a valid design, however. To the extent that a standard proscribing specific, objectively defined conduct is desired, criminal sanctions are appropriate. More subjective standards must be contained in a "code of ethics" with initial guidance supplied by a nonjudicial definitional body.[118]

1. Contracts. — Constitutional or statutory provisions prohibiting some or all state contracts with state officers, including legislators, rank among the oldest and most common efforts in the conflict-of-interest field.[119] The designs of these provisions vary in several respects, however. Some states prohibit only contracts with the legislative department itself, no matter how procured.[120] Others prohibit contracts with any state agency unless procured through public notice and competitive bidding,[121] a procedure thought to leave minimum discretion among the contracting officers who might otherwise be subject to pressure from the legislator-contractor. But most states have a *de minimis* exception,[122] and even after a competitively awarded contract, there is normally a considerable area of discretion entrusted to the state contract-enforcing personnel regarding routine maintenance of time schedules, quality standards, and contract quantities, as well as initiatives in preventing payment, withholding penalities, or instituting suit in case of breach.[123]

The new Massachusetts statute presents a useful illustration of the key provisions at work in the field. The act allows the legislator a bare minimum: [124] he may hold a contract, other than with the legislature, "if his direct and indirect interests and those of his immediate family in the corporation . . . with which the contract is made do not in the aggregate amount to ten per cent of the total proprietary interests therein, *and* the contract is made through competitive bidding *and* he files with the state secretary a statement making full disclosure of his interest . . . ." [125] Possession of any financial interest other than under these conditions subjects the legislator to a three thousand dollar fine or two years imprisonment or both.[126] Additional remedies available are cancellation of the contract if actual influence is shown, recovery by the state of contract profits or five hundred dollars, whichever is greater, and

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[118] Unfortunately New York picked an intramural entity to provide this guidance for legislators. Sen. Res. No. 131, March 20, 1954.

[119] *E.g.*, ILL. REV. STAT. ch. 102, § 3 (1961); NEV. REV. STAT. § 218.580 (Supp. 1961); N.D. CENT. CODE § 54-03-21 (1960).

[120] *E.g.*, ARIZ. REV. STAT. ANN. § 38-446 (1956). The statute also prohibits in terms contracts made by the legislator in his official capacity. Some states also proscribe contracts on which the legislator may merely be called upon to vote or act. *E.g.*, KY. REV. STAT. § 61.096(2) (1962). The underlying policy assumption of these acts is that the legislator's influence is most easily felt in his own body and as to contracts over which he has some official control.

[121] *E.g.*, KY. REV. STAT. § 61.096(6) (1962); N.Y. PUB. OFFICERS LAW § 73(3); OHIO REV. CODE ANN. § 2919.09 (Page 1954).

[122] *E.g.*, N.Y. PUB. OFFICERS LAW § 73(3) ($25 contract; 10% ownership); N.D. CENT. CODE § 54-03-21 (1960) (5% ownership; $10,000 annual limit on contracts with state); OHIO REV. CODE ANN. § 2919.09 (Page 1954) ($50 contract); § 2910.11 (5% or $500 ownership, unless officer or director or conspiracy to defraud).

[123] See Note, 47 VA. L. REV. 1034, 1055 (1961), pointing out the discretion available under a "lowest responsible bidder" system.

[124] Compare NEV. REV. STAT. § 281.220 (Supp. 1960), prohibiting all contracts with the state for all officers, defined to include legislators in § 281.010 (Supp. 1960).

[125] MASS. GEN. LAWS ANN. ch. 268A, § 7(c) (Supp. 1962). (Emphasis added.)

[126] § 7. A stock interest of less than one per cent is exempted.

additional civil damages up to twice the profit if there has been no final conviction or acquittal in the criminal action.[127] The stringency of the penalties is relieved somewhat by the requirement of knowledge or reason to know of the financial interests and by provision for exculpating disclosure and divestiture.[128] The attorney general is charged with institution of suit for civil damages and penalties,[129] and is aided by the act's provision for a general prohibition of any financial interest and placing of the burden on the defendant to prove himself within one of the specified exceptions.[130]

The Massachusetts rule may be a surprisingly harsh reaction to past abuses, but in states where passage is politically feasible, where the ineligibility of a number of business firms would not hinder the state's procurement processes, and where the elimination of a number of prospective legislative candidates would not cause a serious shortage, the disqualification of legislators as state contractors seems a desirable prophylactic measure and in some states may be a necessary step to the elimination of present or apparent conflicts.[131] The Massachusetts statute is weaker than it might be in one aspect: the end of the legislator's term ends the contract prohibition, although other parts of that act extend their prohibitions beyond the cessation of duties.[132] Moreover, violative contracts are voidable, at the state's option, only if actual influence is shown. The prophylactic effect might have been increased by declaring voidable any contract made by a party who knew of the legislator's prohibited interest at the time of the contract, regardless of the legislator's knowledge or later disclosure and disposal.[133] In addition, the Massachusetts sanctions are more limited than those in several states, where conviction under the conflict-of-interest prohibitions carries with it disqualification from office.[134] It is conceivable that removal from office might be made an independent sanction invoked without regard to criminal proceedings, but there has been little disposition so to utilize the tool of judicial removal.[135]

The Massachusetts statute also seems deficient in that it leaves un-

[127] § 9. The additional damage verdict bars criminal prosecution.

[128] § 7.

[129] § 9.

[130] See Mass. Comm'n, *op. cit. supra* note 92, at 13.

[131] Some regard should of course be shown for established interests. *Compare* N.Y. Unconsol. Laws § 8052(4) (McKinney 1961), excepting interests held at a given date if disposed of within one year of effective date of the act, *with* § 8052(7), excepting any racing license if the licensee was qualified to hold it on a certain date.

[132] Mass. Gen. Laws Ann. ch. 268A, § 5 (Supp. 1962). Legislators may also hold contracts with counties, § 14(b), and municipalities, see § 26.

[133] Compare Cal. Gov't Code § 1091(d). Provisions rendering violative contracts void *ab initio* would seem to give the contracting party an undeserved option to escape. See, *e.g.*, Ky. Rev. Stat. § 61.096(2) (1962).

[134] Compare Ariz. Rev. Stat. Ann. § 38-447 (1956) (fine or imprisonment and permanent disqualification from office); Cal. Gov't Code § 1097 (same); Ind. Ann. Stat. § 10-3713 (1956) (fine, imprisonment, and temporary disenfranchisement and ineligibility for office).

[135] Some statutes might be read to permit such an independent remedy: Ill. Rev. Stat. ch. 102, § 4 (1961) (contracts: "may be" imprisoned or fined and also "any office . . . held by any person so convicted shall become vacant, and shall be so declared as part of the judgment of the court."); Nev. Rev. Stat. § 281.220(4) (Supp. 1960) (contracts: "any person violating . . . this section, directly or indirectly, shall forfeit his office" and be subject to fine and imprisonment); N.Y. Unconsol. Laws § 8052(2) (McKinney 1961) (interests in parimutuel racing: "a

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clear the meanings of "financial interests" and "directly or indirectly." [136] Is there a financial interest in a contract with the state when a legislator agrees to a valuation of his land in a condemnation proceeding, or applies for emergency state loans or crop aid, or when his son receives a state scholarship? Perhaps a listing or general description of desirable exceptions,[137] or a procedure for exempting them, is necessary to assure that narrow judicial interpretation of the general terms will not dilute the prohibition. Even where the financial interest of a business entity is clear, there is a serious question as to the degree of association necessary to impute such interest to the individual legislator.[138] California attempts to provide a limited exception, after disclosure and ratification, for a "remote interest," [139] unless actual influence is shown. It is arguable that a process which would allow a legislator's tenant, client, or customer to receive a state contract without restrictions lacks sufficient deterrent effect; although the legislator may have had no power over the letting of the contract, the recipient may well think he did, and may feel obligated to the legislator on its account.[140] Yet extending the harsh prohibitions to this level might interfere with the professional capacity of the legislator or with the state's ease of procurement. Perhaps a satisfactory solution lies in a mechanism which would except those cases where alternative sources of supply are not readily available and where the legislator's indirect interest is not easily severed or is clearly significant in relation to his livelihood though remote as to the contract.

2. Representation of Interests Adverse to State or Before State Agencies. — The same dangers inherent in permitting legislators to contract with the state — influence-peddling by the legislator or at least a competitive advantage due to imagined influences and partiality on the

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knowing and wilful violation . . . shall be cause for removal . . . by appropriate authority having the power . . . or at the suit of the attorney-general").

Because of the supposedly exclusive control of each house over members, some courts have been reluctant to assert similar powers, which may constitute the sole sanction, under incompatible-office statutes, but other courts have not withheld such relief. See, *e.g.*, People *ex rel.* Myers v. Haas, 145 Ill. App. 283 (1908).

If a dependent sanction of removal is within judicial competence, there would seem to be no constitutional or logical reason why the mere omission of additional criminal sanctions should destroy that competence. *But see* TEX. LEGISLATIVE COUNCIL, *op. cit. supra* note 73, at 48.

[136] For a discussion of these terms in related contexts see BAR ASSOCIATION REPORT, *op. cit. supra* note 4, at 200–02; Kaplan & Lillich, *Municipal Conflicts of Interest: Inconsistencies and Patchwork Prohibitions*, 58 COLUM. L. REV. 157, 174–81 (1958); Note, *supra* note 123, at 1042–44, 1048–56.

[137] Compare CAL. GOV'T CODE § 1091.5(c); MASS. GEN. LAWS ANN. ch. 268A, § 4 (Supp. 1962). The New York statute is limited to the sale of goods or services to the state. N.Y. PUB. OFFICERS LAW § 73(3).

[138] Should the entity's interest be imputed to its salaried and nonsalaried officers and directors, employees, landlord, tenant, attorney, accountant, insurance broker, subcontractor, supplier, partners, members or relations of any of these or of the owners? Compare N.Y. UNCONSOL. LAWS § 8052(2) (McKinney 1961), noted pp. 1229–30 *infra*.

[139] CAL. GOV'T CODE § 1091. Note that MASS. GEN. LAWS ANN. ch. 268A, § 7 (Supp. 1962), implies that there is no violation if the legislator's brother owns 100% of a contracting corporation, but there is if the brother owns 9% and the legislator 1½%.

[140] Compare NEV. REV. STAT. § 281.230(1) (Supp. 1960):

> no state . . . officer . . . shall in any manner, directly or indirectly receive any commission, personal profit, or compensation of any kind or nature, inconsistent with loyal service to the people, resulting from any contract or other transaction in which the state . . . is in any way interested or affected.

part of the agency personnel — also appear when legislators represent parties before state agencies. Since historically a legitimate function of the legislator has been assistance to his constituents in their dealings with the state government,[141] use of influence may be impossible to prevent in these informal administrative contacts. Thus the lines generally have been drawn on the basis of the type of agency involved, the type of state interest, and whether the legislator receives compensation. In New York, for example, the legislator may not receive for services before a state agency compensation which is contingent on any action by that agency.[142] However, the statute permits fees based on the reasonable value of the service rendered. New York supplements its rule by requiring a number of regulatory agencies to maintain a public record of all compensated appearances before them.[143] In Massachusetts the proscription is against receipt of or request for compensation "in relation to a particular matter [a defined term] in which the commonwealth or a state agency has a direct and substantial financial interest other than collection of taxes, criminal fines or penalties, and fees or charges for permits or licenses, and corporation fees."[144] Nor may the legislator act even without compensation as agent or attorney in connection with any such matter, nor for anyone prosecuting any claim against the commonwealth.[145] Thus the legislator appears barred from receiving any fees for assistance in procurement of a contract, for advice on any negotiation or claim, for appearing as a character or expert witness,[146] or from appearing *at all* as official representative of a party unless the state's interest is slight, except that the legislator-lawyer's tax and criminal practice remain intact, as well as his routine processing of license applications.[147] Such exceptions, especially when valuable interests are involved and abuses likely — for example, in procurement of racing and liquor licenses[148] — would seem to dilute seriously the purpose of the general rule, both because of the adverse positions of the legislator and the state government and because of the opportunity for or appearance of influence or partiality in the course of prosecution or settlement.

Massachusetts complements the penalties against legislators with sanctions directed at would-be clients to deter them from hiring legislators with a view to using their supposed influence. The statute penalizes one

[141] See BAR ASSOCIATION REPORT, *op. cit. supra* note 4, at 16. A legislator opposed to the new Massachusetts act reportedly objected that legislators "with a heart" would no longer be able to convince department heads and the "administration and finance people" to give constituents 30-day jobs in state agencies, or to intercede with the motor vehicle registry for a father of five who faces license suspension but needs his car for work. Boston Herald, Jan. 30, 1963, p. 29, cols. 5–6.

[142] N.Y. PUB. OFFICERS LAW § 73(2).

[143] N.Y. EXECUTIVE LAW § 166. Texas, which does not prohibit appearances of any kind, requires full public disclosure of compensated appearances before or contacts with all agencies, unless solely to obtain information with no attempt to influence action. TEX. PEN. CODE art. 183–2 (Supp. 1962).

[144] MASS. GEN. LAWS ANN. ch. 268A, § 4 (Supp. 1962).

[145] § 4(c). Compare 18 U.S.C. § 205 (Supp. IV, 1963).

[146] Unless testifying under oath. MASS. GEN. LAWS ANN. ch. 268A, § 4 (Supp. 1962). KY. REV. STAT. § 61.096(3) (1962) specifically covers expert witness appearances.

[147] See Mass. Comm'n, *supra* note 92, at 16–17. Other exceptions are set out in § 4.

[148] See N.J. REPORT, *op. cit. supra* note 127, at 18.

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[149] MASS. GEN. LAWS
[150] § 3(k).
[151] See § 3(b).
[152] See p. 1230 *infra*.

who knowingly directly or indirectly gives, promises, or offers compensation in cases in which the legislator cannot legally receive it,[149] but it does not punish a client whose legislative agent or attorney is acting gratuitously.

Few clear generalizations can be made about the legislator's agency-appearance problem. Probably in some of the smaller states in which state agency practice is a significant part of the legislator-lawyer's practice, a major readjustment would be necessary in the legislative personnel or in their professional practices to secure the desired prophylaxis. In a few of these states such an upheaval might in fact be desirable, not only as a prophylactic but as a curative measure.

In delineating the "particular matters" concerning which the legislator may not act as agent or receive compensation, the Massachusetts act specifically excludes any legislative enactment.[150] Thus a legislator may act as consultant or adviser to a person or firm seeking legislative action, or even to a lobbyist, so long as he could not be proved to have been influenced in his own action as legislator by the fee received.[151] In addition, if the state has no "substantial financial interest" in a matter before a legislative committee or if the committee is concerned with "general legislation," a legislator may appear as attorney for a witness called before that committee. These two types of activity are disapproved by most "codes of ethics" applicable to legislators,[152] but they are sufficiently well defined for application of criminal penalties, and there appear to be no strong reasons for excluding them from general prophylactic measures.

In controlling noncontractual legislator-state contacts, it must be noted that the legislator may be involved as a principal in any activity subject to state regulation. Appearances as principal before an agency or against the state would present at least as much appearance, temptation, and risk of undue influence and unfair advantage as do representative appearances. Yet a total prohibition on legislators' appearances would seem unwarranted. Although legislators might be prohibited from seeking licenses or franchises for new businesses, especially when these are scarce and therefore valuable, they probably should be permitted to appear as principals to maintain their *status quo*. All land condemnations involving legislators could be preceded by full court proceedings with the burden on the legislator to show value over the assessment. As for legislators' personal injury or other claims, either a full litigation requirement or a provision suspending the running of the statute of limitations until the end of the legislator's term might provide a just solution.

Two other devices for coping with problems of legislators' interests should be considered. Where egregious misbehavior is likely, whole areas of activity might be precluded to legislators. In New York, for example, legislators may not hold licenses from the racing commission or have any interest in, be an employee or officer of, or sell any goods or services to parimutuel racing licensees, firms licensed to do business at

[149] MASS. GEN. LAWS ANN. ch. 268A, § 4(b) (Supp. 1962).
[150] § 2(k).
[151] See § 3(b).
[152] See p. 1230 *infra*.

racetracks, or lessors of tracks.[153] California prohibits legislators from accepting "any commission for the placement of insurance on behalf of the State."[154] Another mode of attack has been to require general disclosure. New York and Texas require, as formerly did Massachusetts, filing with the secretary of state of a statement of interest in regulated activities. The New York and Massachusetts formulations cover only financial interests exceeding ten thousand dollars in value, and explicitly make these disclosures public.[155] The scope of the Texas reports is wider; it includes officers, agents, members, and controlling owners of any corporation, firm, partnership, or other business entity, but public access or release is not specifically required.[156] The Massachusetts Special Commission on Code of Ethics[157] rejected general disclosure as "unnecessary" and recommended that it be required only where "it is meaningful and essential." However, the information developed from general mandatory disclosure would be a useful tool in the enforcement of many of the conflict-of-interest rules and would, especially under the former Massachusetts version which included "any business entity which does business with the commonwealth," provide contracting agencies with a list of possibly ineligible firms.

C. Enforcement of a "Code of Ethics"

There exist other serious violations of conflict-of-interest standards which might lend themselves to criminal sanctions, but which no state has seen fit to outlaw.[159] In this area foreknowledge, intent, and appearances may be determinative, and may in turn depend on the existence of some warning or on the public's rising ethical expectations. Thus the reaction of several states has been to provide a nonjudicial, nonpenal mechanism for communicating such warnings and reflecting such varying expectations, usually in the form of a "code of ethics."[160] The codes of ethics set forth general rules proscribing "substantial conflicts" and enumerate standards in more specific areas of concern such as independence of judgment, use of confidential information, favoritism, unwarranted privileges and exemptions, actions creating public suspicion of violations of trust, gifts, interested voting, and receipt of compensation for official services.

The task of interpreting, applying and expanding this groundwork for legislative ethics is difficult and politically sensitive; independence

[153] N.Y. UNCONSOL. LAWS § 8052(2) (McKinney 1961).

[154] CAL. GOV'T CODE § 1000.1.

[155] N.Y. PUB. OFFICERS LAW § 74(j); Mass. Acts and Resolves 1961, ch. 610, § 1(4)(j). The latter was greatly weakened even before its repeal in 1962 when the attorney general found the following statement sufficient:

> In compliance with [this section] . . . I herewith file my name with you, being subject to jurisdiction by state regulatory agencies.

Letter From Mass. Attorney General to Mass. Secretary of State, Nov. 20, 1961.

[156] TEX. REV. CIV. STAT. art. 6252-9, § 3(b) (Supp. 1958).

[157] Mass. Comm'n, *op. cit. supra* note 92, at 11.

[158] For example, voting when there is a direct, substantial financial interest in the outcome. Sanctions here may present constitutional questions of privilege.

[159] Except perhaps NEV. REV. STAT. § 281.230(1) (Supp. 1960), quoted note 140 *supra*, which might be construed to cover a wide range of ethical improprieties.

[160] *E.g.*, MASS. GEN. LAWS ANN. ch. 268A, § 23 (Supp. 1962); MINN. STAT. §§ 3.87-.90 (1961); N.Y. PUB. OFFICERS LAW § 74; TEX. REV. CIV. STAT. art. 6252-9 (Supp. 1958).

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[161] *E.g.*, MINN. STAT. § 3.89 (

[162] Compare the results in
legislature-enforced codes, pp. 12

[163] It follows from the discus
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[164] Compare Massachusetts
ch. 610, § 2); proposed Loui
Resolution to Amend Article X
Study Commission to the *Harv*
sole commission (*supra* note 163

and objectivity are the prime requisites of the agency responsible for this task. Therefore the choice by many states of legislative committees to perform these functions [101] could hardly have been expected to produce satisfactory results.[102] Regularized intramural enforcement of statutory restrictions would suffer from the same inadequacies as do intramural sanctions on an *ad hoc* basis. Just as the criminal provisions to check the legislature place the initiative in the hands of the executive and the remedy in those of the judiciary, the implementing mechanism of the code of ethics should be located outside the legislature. No existing institution seems satisfactory, however, for executing the subtle mandates of such a code. Perhaps a special government agency, such as a Legislative Ethics Commission, should be established by the legislature and then severed from further control.[103] Appointment of members should be on a nonpartisan, nonrepresentative basis, but it would seem desirable that the attorney general be a member ex officio and that the governor have an appointee. Other appointing parties might include the legislative majority and minority leaders, the state bar association, the judicial conference, deans of law schools, presidents of universities, the labor council, and the chamber of commerce. Insofar as possible the appointees should be persons with sufficient independence and prestige in the community to make decisions without regard to the identity or power of those affected.[104] In addition the attorney general might institute the practice of giving formal opinions at the request of a legislator applying the code standards to actual or hypothetical facts. While the contents of such opinions should be made public, the identity of the addressee could be kept confidential on request. The Commission then could undertake promulgation of a general regulation or of a specific opinion based on its investigation of the topic to supplement or modify the opinion of the attorney general. It might also institute a

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[101] *E.g.*, MINN. STAT. § 3.89 (1961); N.Y. Sen. Res. 131, March 20, 1954.

[102] Compare the results in Massachusetts and New York, both states with legislature-enforced codes, pp. 1212–13 *supra*.

[103] It follows from the discussion of the absence of restraints on judicial powers, pp. 1214–15 *supra*, that there is no insuperable constitutional objection to the legislature's investing power in nonlegislative agencies to control the relationship between each member's official and private activities. The legislative committee which considered the problem in New York assumed that "disciplinary action or even review or referring would necessarily involve the question of 'qualification.'" N.Y. REPORT, *op. cit. supra* note 98, at 16. The Texas attorney general was of the opposite opinion, suggesting an independent agency to receive complaints, hold hearings, and refer conclusions to the legislature for final action to be taken within thirty days, after which the complaint and evaluation would be made public. TEX. LEGISLATIVE COUNCIL, *op. cit. supra* note 73, at 53. The Legislative Council's report, while noting the New York position at length, concluded only that "the possibility that the validity of such an agency might be questioned on constitutional grounds does exist." *Id.* at 54. It is noteworthy that a comprehensive statute with an independent agency has been introduced in Minnesota, which has had a legislative ethics committee since 1961. A Bill for an Act Relating to Public Service Ethics, in Letter From Minn. Assistant Attorney General to the *Harvard Law Review*, March 9, 1962. Moreover, in New Jersey a bill with an independent agency has passed the assembly at least twice. Assembly No. 2 (1960), Assembly No. 1 (1961).

[104] Compare Massachusetts special commission (Mass. Acts and Resolves 1961, ch. 610, § 2); proposed Louisiana commission (La. Legislative Council, Joint Resolution to Amend Article XIX, at 11–15, in Letter From La. Reorganizational Study Commission to the *Harvard Law Review*, Feb. 12, 1962); proposed Minnesota commission (*supra* note 163).

general study of a range of problems and publish general regulations when needed. The final duty of the Commission would be to assess asserted violations of the code and to invoke sanctions against violators. If the Commission had sufficient prestige, if its pronouncements were adequately publicized, and if its decisions did not adopt unrealistic standards, then the mere publication of a finding that a particular legislator had committed, or continued to commit, a violation might be enough of a sanction to deter offenders. An additional sanction would lie in the Commission's implied power to make recommendations of suitable action in the legislature — disqualification, censure, or removal. In some cases it might be necessary or desirable to give the Commission the power to issue orders enforceable by injunction in the courts. In cases of particularly pernicious conflicts — not susceptible of remedy by publicity or injunction — a more potent sanction might be necessary. By analogy to the device employed by certain other governmental agencies[165] the Commission might be empowered to promulgate specific regulations which would become assimilated into the criminal provisions of the act. The criminal sanctions could be designed to take effect after a specified time absent disapproving action by a two-thirds vote of the legislature.[166] Thus, for example, if the Commission found that the sale by legislators of insurance to contractors on state highway projects was not otherwise proscribed but that such sales invariably tended to invite serious abuses and to produce an unsavory public appearance then it might prohibit such sales generally by placing them in the special category. After the failure of the legislature to veto the criminality recommendation, any violator would be subject to the statutory penalties for any such sale.

The suggested commission is merely one possible method of formally placing the initiative and responsibility for policing legislative ethics outside the legislature. It would take advantage of a temporary peak in the legislature's reforming spirit by permanently entrusting this spirit to a body less likely to let it die. It would allow the legislators themselves to set out the basic topics of concern, and the nonlegislators to apply them flexibly and usefully, providing a clearer guide to behavior and a deterrent to misbehavior. It may be that no legislature would institute such a system without provocation, but such provocation in state politics is not unknown.[167]

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[165] See Securities Act of 1933, 48 Stat. 85 (1933), as amended, 15 U.S.C. § 77a (1958); 48 Stat. 87 (1933), as amended, 15 U.S.C. § 77 yyy (1958).

[166] Compare 28 U.S.C. § 2072 (1958) (method of adopting rules of procedure in federal courts).

[167] For example, passage of the Massachusetts conflict-of-interest law, covering both state and local legislators, was attributed to "a clamor in the towns for a cleanup of corruption and conflict of interest." Boston Herald, Feb. 1, 1963, p. 7, col. 7.

National Conference of State Legislatures

Headquarters Office
(303) 292-6600

1125 Seventeenth Street
Suite 1500
Denver, Colorado
80202

President
William F. Passannante
Speaker Pro Tem
New York State Assembly

Executive Director
Earl S. Mackey

MEMORANDUM

TO: Alaska Legislature--Special Joint Committee on Legislative Reform

FROM: Ken Wonstolen, Esq., consultant to NCSL
Candace Romig, Staff Associate, NCSL

DATE: March 15, 1983

RE: Legislative Ethics

This memorandum is organized as follows:

I. Background
--NCSL assistance
--purpose of memo

II. Introduction and Overview
--public trust doctrine
--appearance of impropriety
--practical code of ethics
- public pressure/Attorney General's Opinion
- policy rationale

--Alaska situation

III. Control Mechanisms
--elective process
--public exposure
--partisanship
--executive branch
--judiciary
--legislative commission
- intramural
- independent

IV. Selected Issues
--personal gain
--conflict of interest
- nature of duty
- disclosure and abstinence
- disclosure and excuse

--voting/vested interest
--state loans

--state contracts
--agency appearances

V. Legislative Guidance
--courses of action
- legislative ethics bill
- comprehensive legislation
- interim study

--policy questions

I. Background

NCSL has been commissioned to assist the Committee in its deliberations. Three general areas have been identified for study: Legislative rules and procedures; the legislative budget process; and legislative ethics. Ethics have been identified as the area of most immediate and pressing concern, and this memo is part of NCSL's response. The purpose of this memo is to stimulate the thinking of interested legislators and staff and provide a vehicle for discussion by and guidance from the committee. NCSL is also preparing a detailed analysis that reviews current legislative initiatives on ethics vis-a-vis other state and model codes. In addition, NCSL staff will visit Alaska during the week of March 21 to communicate directly with the Committee, as well as other interested legislators and staff. The Committee's discussion of this memorandum on March 21 and a subsequent working session with Alaska legislative staff on March 22 are designed to result in a specific ethics proposal.

II. Introduction and Overview

Both the American political tradition and Alaska's statutes hold that "public office is a public trust" (see footnote #1) in which independent judgement must be exercised to further the public welfare. The United States Supreme Court has recognized as fundamental the right to be governed by representatives whose judgements are untrammelled by considerations of personal gain. (See footnote #2)

This trust responsibility is imposed on legislators not just to safeguard the public welfare, but also to maintain public confidence in the system of government. Instances of corruption, influence peddling and personal gain-seeking undermine public faith in institutions. This means that even the appearance of impropriety and the "danger of conflict of interest" (see footnote #3) must be avoided. Legislators are held to a high standard, commensurate with their positions of influence and responsibility.

Recognizing these basic tenets, the next step is to devise and implement a practical code of ethics to govern day-to-day legislative affairs. This is a difficult and complex task. The goal should be to develop a set of guiding principles, supplemented by specific rules for recurring, clearly-defined situations. This must be coupled with a process whereby these principles and rules may be extended to novel situations. Finally, provision must be made for enforcement.

The Alaska legislature has engaged this challenge. Cases of actual or perceived misconduct have led to public pressure for reform. The

Attorney General has issued an opinion indicating the applicability of common law standards absent statutory controls. Since the common law is not well settled on the majority of ethical issues, confusion and uncertainty persist. The common law does have a role to play in guiding the practical application of statutory ethics, however. Almost all statutes acquire a judicial gloss over time, whereby the common law is created or supplemented. The advisory opinions of an enforcement body would be a valuable "common law" adjunct to an ethical statute.

Nevertheless, legislative enactment of an ethical code is a worthy goal. It would provide more definitive guidance than the common law. Public desires for reform would be accommodated. Most importantly, a process would be established for applying, extending and enforcing ethical provisions.

Alaska's special situation must be kept in mind in developing such legislation. That is, the state has a relatively small population and pool of potential legislators. The legislature itself is a compact body. Further, members are part-time legislators, retaining their varied outside business interests. Finally, state government is heavily involved in Alaska's economy. These factors call for sensitivity to the possibility of discouraging the pursuit of political office by capable, commercially active citizens.

III. Control Mechanisms

The fundamental control over legislative conduct is, of course, the elective process. Ironically, the elective process may also generate those personal obligations which tend to create potential conflicts. In addition, state legislative elections are more likely to turn on local issues or party affiliation than on subtle questions of ethics. Therefore, the elective process is an unreliable and unpredictable control mechanism.

Associated with the elective process is the effect of the light of publicity. Its power is dependent on open processes, active media and interested citizens. Alaska has disclosure requirements for certain public officials, including legislators (see footnote #4). It has also made provision for public notice and participation in its legislative processes. Any ethical control method adopted by the legislature must balance individual rights to privacy against the public right to know.

It has also been suggested that partisan considerations may operate as a control over legislative ethics. While it is true that disclosure of ethical violations might occur due to partisan motives, there are objections to relying on partisanship as an ethical control. First, there may be a temptation to use knowledge of a violation for partisan advantage, rather than disclosing the problem. Second, considerations of comity dictate against reliance on a mechanism which would tend to exacerbate partisan divisions. Finally, public accountability is minimal.

The executive branch may also exert some control over legislative ethics. The Attorney General is currently occupying the field. He asserts the right to advise on ethical issues and bring legal actions for ethical violations. The Governor might, by executive order, establish

ethical parameters for agency actions, including dealings with legislators. Conversely, the legislature may exert its authority over executive branch ethics by enacting a statute.

Courts are probably the ultimate arbiters of legislative ethics. For constitutional reasons (see footnote #5) plus a disinclination to deal with "political questions", courts play this role with reluctance. However, legal precedent indicates that legislative authority over intramural affairs may be limited by the public trust doctrine. (See footnote #6.) Nevertheless, statutory guidance is important to the judicial process as well.

Courts are less likely to assert jurisdiction over legislative ethics in the presence of some formal control mechanism established by statute. There is a natural desire to preserve legislative autonomy in this regard. The legislature has the constitutional authority to judge its members, and peer review is an accepted means of establishing ethical standards in many professions. An internal policing body may be taken more seriously by legislative members and has certain advantages in the advisory or consultative process involved in ambiguous or unclear ethical situations. However, exercising this prerogative is unlikely to assuage judicial or public concerns over legislative ethics. Practical difficulties are raised as to majority, minority and factional representation, as well as the small pool of legislators available. Partisanship would be a troubling element. Finally, the record of such intramural bodies is mixed. (See footnote #7.)

An independent legislative ethics commission is a concept worthy of consideration. It would have enhanced credibility vis-a-vis the other branches of government, the media and the public. It would minimize the practical and partisan concerns raised by intramural bodies. And, it would isolate the ethical arena from the vagaries of legislative attention. Members of such an independent commission might include former legislators, retired judges, university deans and corporate directors. The Attorney General might be an ex-officio member. Appointments might be made by the majority and minority leadership of each house, as well as the Governor, State Bar Association and Chamber of Commerce.

IV. Selected Issues

Whatever the control mechanism adopted, substantive statutory guidance will be essential. Several major issues will be considered here. Additional points will be covered in NCSL's detailed comparative analysis.

Ethical concerns may, perhaps, be summed up by two basic proscriptions. First, public office should not be used for personal gain. This includes such violations as accepting bribes or kickbacks, exerting improper influence, using or disclosing confidential information, and using state property for personal purposes. Second, office holders should not conduct outside business which conflicts with the conscientious performance of duties or the independent exercise of judgment. Conflict of interest implies an interest which is present and personal, and not shared by the general community. It includes the notion of vested interest, as well as the notion of division of loyalty.

Disclosure and abstinence are the proper courses of action regarding conflicts of interest. A higher duty is imposed, however. Legislators are elected to exercise their judgment on matters of public concern and should strive to conduct their outside business so as to minimize conflict situations (see footnote #8). Indeed, a legislator may not receive a personal benefit by declaring a conflict, abstaining and letting a "disinterested colleague" make the decision. (See footnote #9.)

This raises a concern relating to the current Alaska practice of allowing a single vote to prevent a legislator from abstaining on a decision after declaring a conflict. The possibilities for collusion and abuse are apparent. It is unlikely that the common law would excuse an ethical violation on this basis. Similarly, full disclosure and a sworn statement that independent judgment will be exercised may be insufficient to excuse a conflict. Quorum considerations are the only justification for such practices. They should be used with restraint and should be specifically covered in a statute.

The Attorney General's opinion raises three specific issues. One relates to the notion of vested interest. That is, a legislator may vote on a bill by which he benefits, as long as the benefit is not peculiarly personal. If the legislator is one of a small class of beneficiaries or if the bill affects a venture with which he is commercially connected, he must abstain.

A second issue relates to state loans to legislators. Here the relevant factors involve the size, availability and discretionary aspect of the loan in question. Loans with standard criteria as to qualification, amount, security and repayment, and general availability, are acceptable. Large commercial loans involving discretion in determining creditworthiness, terms and administration, and which are of limited availability, are more problematic.

A third issue relates to legislators contracting with the state. The Attorney General finds the common law to prohibit such contracts, with limited exceptions (see footnote #10). Some states allow legislator/state contracts which are "de minimus" (small in value or legislator has fractional interest). Others allow competitive contracting. The latter exception is problematic, raising concerns over improper influence, use of confidential information and discretion in the awarding and administration of such contracts. The course of action most consistent with the duty of legislators to avoid even the appearance of conflict would be a prohibition.

A final issue, not raised by the Attorney General's opinion, relates to legislator appearances before state agencies. While it is a traditional legislative function to intercede with state bureaucracies on behalf of constituents, this must be distinguished from appearing as a principal or in a representative capacity. Some states allow appearance as a principal to maintain the status quo regarding a business interest, but not to obtain a new franchise. Some allow representation of a client, even for compensation, if such compensation is disclosed and is not contingent on the agency action. Public perceptions should be considered in this regard.

V. Legislative Guidance

Three courses of action are suggested for legislative consideration:

- Enact a legislative ethics bill during the 1983 session. NCSL assistance, including this memo and a detailed comparative analysis, as well as on-site consultation is being provided under NCSL's contract with the Committee. Senator Fischer has prepared a working draft which could form the basis of a bill.

- Enact a companion bill for other state officers and employees, or a comprehensive statute covering all public officials. HB 20 (by Rep. Miller, et al) could serve as the basis for a comprehensive approach.

- Defer action on one or both of the above areas (legislators/other public officials) until the next session and conduct additional study during the interim. Such an interim study could be organized and staffed by NCSL as a follow-on to its existing contract, consistent with its commission to assist the enhancement of Alaska's legislative process.

If immediate action is chosen as a course of action, legislative guidance would be useful on a number of specific policy areas:

- What kind of control mechanism or policing body is preferred?
  --intramural/independent
  --publicity of proceedings, remedies
  --advisory/enforcement function

- How broadly or narrowly should conflict of interest be construed?
  --nature of duty
  --role of disclosure
  --excuses: collegial; sworn statement; quorum issues
  --vested interests: peculiar benefit; degree of connection

- How should state loans be dealt with in legislation?
  --specific consideration of existing programs
  --general principles/advisory opinions

- How should legislator contracts with the state be handled?
  --prohibition/allowance
  --exceptions: de minimus; only source; common goods
  --competitive processes: role of disclosure

- To what extent should legislator appearances before state agences be regulated?
  --for constituents

--as principal
--as client

- What additional or related ethical issues should be addressed?
  --lobbyist controls
  --open meetings
  --campaign finance

These areas all call for the exercise of legislative policy judgment, in the light of the ethical principles and concerns raised in this memo. Specific guidance will be essential to staff in drafting legislation.

FOOTNOTES

1. AS 39.50.010 (b)(1)
2. Tool Co. v. Norris, 69 U.S. 45, 54-55 (1865)
3. AS 39.50.010 (b)(1)
4. AS 39.50.030
5. Alaska Constitution Article II, Section 12
6. U.S. v. Ballin, 144 U.S. 1, 5 (1892); ct. U.S. v. Smith 286 U.S. 6 (1932)
7. See 76 Harv. Law Rev. 1209 (1963)
8. See AG Opinion pp. 37-38
9. See AG Opinion p.2
10. See footnote 14, p. 26 of AG Opinion

OUTLINE OF MAIN FEATURES AND POLICY CONSIDERATIONS FOR PROPOSED CONFLICT OF INTEREST/ETHICS LEGISLATION

1. Prohibited Conduct
2. Disclosure
3. Ethics Agency

1. PROHIBITED CONDUCT

In general, a conflict of interest exists if a public official must take official action which would beneficially or detrimentally affect a business, property, contract, venture, or transaction in which the public official has a financial interest, or for which he acts as legal counsel, advisor, consultant, agent, or representative. Financial interests which create a conflict of interests are prohibited, unless the financial interest is so small or so removed from the impact of official action that a reasonable person's official action could not be influenced by the financial interest.

WHAT IS SPECIFICALLY PROHIBITED? (Amend AS 39.50.090)

1. Contracts with state (or local) gov't involving an agency that could be influenced by person, including sole source contracts and including contracts w/in twelve months of termination

2. Representation for compensation before gov't agencies
   Exception for representation in courts (or quasi-judicial agencies) where the opposing party is not a gov't agency

3. Assisting a person or business for compensation, within twelve months of termination, on any matter upon which the public official took action.

4. Receiving state loans
   Except land lottery, student loans, housing loans

5. Use of gov't property, equipment, or services for non-gov't purposes unless reimbursement system established (i.e. xerox copies)

6. Receipt (or solicitation) of gifts from persons who deal with the state, including discounts or other benefits which could be used to advantage by the state.

7. Substantial financial dealings between employees and supervisors, between representatives from different branches of gov't,

8. Use of confidential information for non-gov't purposes

9. Nepotism

10. Financial interest in a business or industry regulated or influenced by the public official

11. Action that may affect any investment, property or other financial matter

2. DISCLOSURE

a. DISCLOSURE OF CONFLICT

Disclosure must be made to: supervisor, legislature, court, or municipal assembly, as appropriate, and either (1) immediately eliminate the conflict (i.e. divest interest), or (2) refrain from taking any action that creates an appearance of conflict, including delegating responsibility for the decision, and immediately seek advisory opinion from ethics agency.

b. FINANCIAL DISCLOSURE

WHO DOES IT APPLY TO? (Amend AS 39.50.020 and 200)

In addition to the persons covered by AS 39.50, consideration should be given to requiring the following persons to file disclosure statements with the appropriate ethics agency:

Ethics Agency	
APOC	Executive Branch: All employees above Salary Range _____ plus other employee classifications by regulation plus all nominees for appointed positions to boards, commissions, department and division heads
APOC or Legislative Ethics Committee	Legislative Branch: Employees of an agency of the Legislature above Range _____ plus individual and committee Legislative staff above Range _____ plus other employees by regulation or rule
APOC or Supreme Court/ Judicial Council or Judicial Qual. Comm.	Judicial Branch: Administrative personnel above Range _____ plus other employees by regulation or rule
APOC or Municipal Assembly	Municipal Bodies: Lower ranking employees

HOW COMPLETE MUST FINANCIAL DISCLOSURE BE? (Amend AS 39.50.030)

In addition to the information required by AS 39.50.030, consideration should be given to requiring disclosure of the following information which is required to be disclosed in some states:

Federal Income Tax Returns
Any gift received or given greater than $100
All trusts of which person is a trustee
Transactions with employees or supervisors

3. ETHICS AGENCY

All public employees are answerable to an ethics agency, even if they were not required to file financial disclosure statements.

WHAT IS THE FUNCTION OF THE ETHICS AGENCY?

Advisory opinions - to public officials, employees and to members of the public

Handle complaints - from public officials, employees and from members of the public

Preliminary Inquiry: preliminary factual determination by staff of the agency as to whether there is any reasonable possibility to believe the facts may be true
-and- a preliminary legal determination as to whether the alleged facts, if true, would constitute a violation.
-if either can be answered in the negative, the matter will remain confidential
-if both can be answered yes:

Investigation: as extensive as necessary to allow the committee to determine whether further agency action is needed.

Hearing: to determine facts, make legal conclusions and, if necessary, impose sanctions under an appropriate standard of proof, and through defined procedures.

WHAT ARE THE POWERS OF THE ETHICS AGENCY?

Investigative powers:
- subpoena
- contempt sanctions
- note: legislative immunity problems may may exists unless the ethics agency is within the legislature
- note: testimonial immunity problems exist

Sanctions available:
- contracts voidable
- private or public reprimand
- legislative censure (take away privileges)
- legislative expulsion
- termination of employment
- levy fines
- forfeiture of gifts to the state
- order restitution, enforceable in court
- suspend sanctions on certain conditions
- recommend prosecution
- recommend sanction to employer/legislature/court

H

TO: Joint Special Committee on Legislative Reform

FROM: Connie Halford, Concerned Citizen

SUBJECT: Make-up of proposed committee

DATE: March 28, 1983

The legislature has the opportunity to show some leadership and help to alleviate the conflict of interest problem that exists, not just for legislators themselves, but for the administration and whomever else may be affected by such conflict questions. Having everyone police their own will look like a whitewash to the public and shows that the legislature will only respond as far as it is forced to in dealing with this question. A committee made up of legislators and two commissioners will not have the public trust. Commissioners must be confirmed by the legislature, present their budgets, and are subject to conflict of interest charges themselves, as we have seen lately when the Commissioner of Commerce, the Commissioner of Natural Resources, as well as the Attorney General and the Governor themselves have come under scrutiny. Who will rule on the Governor, AG, & Commissioner of Natural Resources, who are involved in the same incident? The AG ruled on the Commissioner of Commerce--can the AG rule credibly on possible conflicts of other members of his boss' cabinet?

I see the best solution as one "Conflict of Interest Board" that would deal with everyone. It would need to draw from a wide spectrum of viewpoints in order to have maximum credibility. It is essential that the officials themselves, as well as the public, be able to have confidence in the rulings of the Board. The Board would decide whether conflicts did exist and whether conflicts would exist, the latter in response to a request from someone prior to undertaking certain action. If a determination of nonconflict was gained from the Board, the individual must be able to have confidence that he will not later be prosecuted or persecuted for following that determination. That can only be the case if the Board has the credibility that would be gained from careful structuring. If a credible Board is established, the legislation should provide that an individual following the determination of the Board can't get in trouble for it as long as no evidence was misrepresented by him before the Board.

Possible make-up of the Board might be a member from the Attorney General's office, a member from APOC, a few legislators, some members of the public (chosen some way other than appointment by legislative leadership or the Governor).

REPRESENTATIVE DON CLOCKSIN

Alaska House of Representatives

ASSISTANT MINORITY LEADER

1527 H STREET
ANCHORAGE, ALASKA 99501
(907) 278-4188

WHILE IN JUNEAU:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3704

J

TO: Members, Special Committee on Legislative Reform

FROM: Rep. Don Clocksin

DATE: April 4, 1983

Thank you for the opportunity to testify before you on Thursday, March 31, 1983, regarding the "Speech and Debate Clause" of the Alaska Constitution. I have now received the legal opinion I requested on the immunity of a legislator from punishment for his or her activities during a legislative session.

That opinion, which is attached, appears to indicate it is difficult to hold legislators responsible for actions taken during a session, even if they are unethical. This is consistent with the recent ruling in State v. Dankworth, also attached.

I encourage you to carefully review this problem. If it is not addressed, we run the risk of passing legislation which exceeds our authority and which may be viewed by the public as a facade.

Several specific points should be addressed regarding our "speech and debate clause". That provision provides as follows:

> Legislators may not be held to answer before any tribunal for any statement made in the exercise of their legislative duties while the legislature is in session....

First, does the language "may not be held to answer" prohibit even an investigation with subpoena powers? The Dankworth opinion addresses this on page 9.

Second, does the language "before any other tribunal" allow a legislative committee to investigate a legislator? What if some members of that committee were not legislators?

Third, does the language "for any statement made in the exercise of their legislative duties" protect actions taken in committees or in the budget process? See the discussion in the Dankworth opinion at pp. 6-8.

Fourth and most important, can the Legislature waive the constitutional immunity? It would seem that a waiver may not be possible. See the Dankworth opinion, at pp. 9-13. Even if it is, substantial policy reasons exist for protecting legislators from politically motivated harassment which interferes with their ability to represent their constituents. The issue is where the line is drawn between the public's right to expect honest legislators and the voters' right to have their legislator free to act in their interests. The history of this constitutional immunity, and the federal counterpart, is replete with examples of politically motivated interference with honest legislators and illegal actions by dishonest legislators.

Good luck with your work!

enclosures:

National Conference of State Legislatures

Headquarters Office
(303) 292-6600

1125 Seventeenth Street Suite 1500 Denver, Colorado 80202

President
William F. Passannante
Speaker Pro Tem
New York State Assembly

Executive Director
Earl S. Mackey

I

TO: Special Joint Committee on Legislative Reform

FROM: The National Conference of State Legislatures

RE: Preliminary Report on Work on Conflict of Interest Legislation

DATE: April 1, 1983

As required under the contractual agreement between the Alaska Legislature and the National Conference of State Legislatures, this report is submitted to the Joint Special Committee on Legislative Reform and will recap the work and findings to date in the NCSL's work on the issue of conflict of interest.

SUMMARY OF ACTIVITIES TO DATE

Following an initial on-site visit by NCSL staff to Juneau to determine the priorities and parameters of the overall project, the NCSL staff has devoted most of its efforts to the immediate concern over the development of conflict of interest legislation during the 1983 legislative session. To assist the Joint Special Committee on Legislative Reform in its deliberations on this issue, the NCSL staff has completed the following tasks:

- a detailed search and analysis of statutory provisions dealing with conflict of interest and related legislative ethics issues in the other 49 states;
- a review and analysis of legislative rules provisions dealing with voting procedures and conflict of interest in the other 49 state legislatures;
- in-depth telephone interviews with legislative staff nd ethics authorities in four states where similar legislative characteristics or ethics problems have been addressed;
- analyses of current Alaska ethics statutes and four legislative proposals currently pending before the Alaska Legislature;
- on-site interviews with legislators, legislative staff and others;
- presentations before the Joint Special Committee on Legislative Reform on fundamental ethics questions, and
- participation in a decision-making workshop designed to facilitate the committee's consideration of ethics legislation.

Attached are the background documents, bill analyses and research memoranda prepared by the NCSL staff for the committee.

DISCUSSION OF THE PROJECT TO DATE

Ethics issues are complex, requiring great balance between personal liberties, public service obligations and institutional legislative needs. The job of drafting appropriate legislation on this issue currently is complicated in Alaska by pressures of time in the current legislative session.

The NCSL staff has attempted to provide the Joint Special Committee on Legislative Reform with information which will further the understanding and discussion of legislative ethics issues. In addition, the NCSL staff has tried to help facilitate the process by identifying the major policy decisions which must be addressed in legislation. (The attached workshop summary from March 22,1983, reflects the outline of decisions facing the committee.) In terms of these major policy decisions, the NCSL staff offers the following comments and findings on the process of developing a legislative ethics bill thus far.

Scope of Coverage

The legislature has before it proposals which would deal with only legislators and ones which would cover all public officials. There is no consensus on this issue.

Comment: Given th constraints of the legislative session, a bill covering only legislators and legislative staff persons is probably more realistic and feasible at this time. Conflict of interest statutes covering only legislators and legislative staff persons are in force in 33 states, and the separation of powers doctrine makes it appropriate for the legislature to deal with ethics issues for itself, independent of other government officials.

Control Mechanism/Policing Body

1. There seems to be a consensus that a legislative committee with public citizen members should be established to oversee and enforce provisions of a legislative conflict of interest or ethics bill.

Comment: The separation of powers doctrine and constitutional bases give credence to the concept of an internal legislative ethics committee. At the same time, the involvement of independent citizen members mitigates some of the difficult dynamics which legislative members face when judging and penalizing their peers. A selection process controlled by the presiding legislative officers is appropriate with safeguards for minority representation. To insure a balance of independence, citizen members probably should be appointed by some independent process, e.g., selection by the state judiciary or nominees by the state judiciary or the governor and selection by lottery.

2. The staffing of an ethics committee must be adequate to the powers assigned to do it.

Comment: If the powers of an ethics committee are primarily advisory and the principal enforcement strategy is for full and early disclosure, a limited legal and administrative staff may be adequate to serve the

committee. If, however, an ethics committee is vested with investigatory responsibilities, then a more substantial staff is required.

3. There seems to be a consensus that the proceedings of an ethics committee should be confidential until such time as findings and rulings are concluded and published.

Comment: Confidentiality in the preliminary stages of an investigation and in an advisory process is appropriate.

Conflict of Interest

1. There seems to be a consensus that early disclosure of potential conflicts of interest is essential, and that a legislator is obliged to report a potential conflict as soon as he or she is aware of such a conflict.

Comment: This approach is fundamental and appropriate.

2. A legislator must represent constituents and vote on matters before the legislative body.

Comment: Most state legislative rules prohibit members from voting on matters in which they have a direct personal or pecuniary interest, and the most common practice is to allow the member to state the reasons for not voting and then, without debate, to have the rest of the membership vote by simple majority to excuse the member. It is valid to balance quorum considerations with the process of minimizing potential conflicts of interests, however, Alaska's rules which require unanimous consent of the body to excuse a member from voting are among the most stringent. Ony three other legislative bodies require unanimous consent to excuse a member. In a small legislative body, abstaining from a vote and legislative action may contribute to the conflict of interest. Consequently, the most equitable method to resolve these situations is by early and full disclosure of the potential conflict. Particularly in light of the unanimous consent provision, the NCSL staff suggests that disclosure include a sworn statement that independent judgment will be exercised.

Loans

1. Legislators should be eligible for non-discretionary state loans.

Comment: This is appropriate and reflects a consensus among the legislators.

2. There is no consensus on the question of whether state legislators should be eligible for discretionary loans.

Comment: Alaska represents a unique situation for which there is no parallel in other states. The dominant role of the state in the commercial loan market is not evident in other jurisdictions. At a minimum, a conflict of interest statute dealing with state loans should require full and early public disclosure of loans and loan applications by public officials.

Contracts

1. There seems to be consensus that legislators should be eligible for contracts with the state under competitive bidding procedures.

Comment: In 31 states, public official face some restrictions on entering into public leases or contracts. Fourteen states allow public officials to enter into contracts through a competitive bidding process. Again, as a minimum standard, the NCSL suggests that early and full disclosure be required of legislator bids on contracts and contract awards to lawmakers.

Appearances

1. There seems to be consensus that some restrictions would be appropriate on legislators representing constituents or themselves for compensation before state agencies.

Comment: Nineteen states require disclosure of compensation received by public officials who represent clients or constituents before state agencies, and 28 states restrict appearances by public officials. Disclosure is imperative in these instances, and public perceptions of undue influence may require more stringent safeguards.

CONCLUSION

To date, no specific piece of legislation before the legislature reflects a consensus view on conflict of interest. Opinions remain divided on major policy questions. Fundamental decisions must be addressed by the Joint Special Committee on Legislative Reform and by the legislature as a whole on this question. Given the time constraints of the legislative session, resolution at this time may not be possible, however, inaction on the part of the legislature must be balanced with public perceptions of the immediacy of this question.

PROVISION	ALASKA LAW (Chapter 50)	HOUSE BILL 20	SENATOR FISCHER'S MEMORANDUM	OTHER STATES
Scope of Statutes	The statute covers: • All legislators • Judicial officials • All candidates for state and municipal elective offices • The governor, lieutenant governor, and selected state agency officers.	The legislation would cover: • All legislators and legislative employers • All municipal officers and employers • The governor and lieutenant governor.	Legislation would apply to: • All legislators • Legislative staff working with committees and legislators • Legislative members-elect • Former legislative members.	• Idaho, Vermont, and West Virginia have no disclosure laws or restricted activities • Public officials, including legislators (14 states) • Specific legislation for legislators (33 states)
Disclosure Requirements	Requires disclosure of: • All income over $100 by official or family • Business interests and ownership • Real property • Trusts • Loans or loan guarantees, and • Contracts or offers to contract with the state. Assets or liabilities under $500 need not be disclosed Disclosure statement filed annually; sworn statements required of some officials. Blind trusts are acceptable but must be reported.	Requires disclosure of: • All items required under AS 39.50.020 • Specific conflicts require preparation of a separate statement by certain state executive officials and municipal officers • Other public officials required to state a conflict at the time of official action.	Legislation would require disclosure of the following: • Direct interest in an enterprise affected by a vote on proposed legislation • Financial benefit derived from a close economic association with an individual with direct interest in an enterprise affected by a vote on proposed legislation • Financial benefit derived from a close economic association with a person lobbying, or who hires a lobbyist, to propose legislation or to influence legislators' votes • Gifts, loans, or payments in the aggregate amount of $100 or more from anyone with an interest in an enterprise affected by a vote on proposed legislation • Fees and honorariums received in excess of $100 • Financial transactions involving legislators and staff in excess of $1000 • All contracts with the state	States require disclosure for: • Source of income (34) • Income of business if partnership or shareholder (23) • Investments (29) • Real estate interests (33) • Offices and/or directorships (31) • Creditor indebtedness (24) • Leases or contracts with public agencies (14) • Gifts (19) • Compensated representation before state agencies (19) • Fees or honorariums (23) • Reimbursement of travel expenses by private sources (10) • Professional or occupational licenses held (8) • Deposits in financial institutions (10) • Retainers (4) • Cash surrender value of insurance (5) • Nature of outside employment (22)

PROVISION	ALASKA LAW (Chapter 50)	HOUSE BILL 20	SENATOR FISCHER'S MEMORANDUM	OTHER STATES
Disclosure Requirements (continued)			Recommended procedures for disclosure: • Legislator declares conflict of interest on the floor of the legislative body and requests to be disqualified from voting • A written statement submitted to the committee describing conflict bars legislator or staff from further action on the legislation in question, unless the statement asserts to the satisfaction of the committee the objective ability of the party to participate in the legislative action.	• Professional services rendered (11) • Identification of trusts by trustee (11) • Identification of trusts by beneficiary (10) • Financial interests of official's spouse and dependents (33) Reports and statements are generally required to be filed within a specified time period.
Conflicts of Interest: General	The statutes prohibit public officials from: • Using his office for financial gain to himself, business or family • Soliciting money for legislative advice or other assistance relating to his public employment • Representing a client before a state agency for a fee (Municipal officers similarly are barred from representing a client before their municipal body.).	The bill would prohibit public officials from: • Soliciting gifts to influence or reward an official action • Using public office to seek employment, contracts or compensation benefiting the official or his household • Using public time, equipment or facilities for private or political purposes • Soliciting financial transactions in businesses an offical supervises • Using confidential information for personal gain • Participating in actions affecting a business or property in which a public offical has a personal financial interest • Representing a person before a state agency for compensation (legislators and staff)	Legislation would proscribe the following as conflicts of interest: • Undue influence exerted as a result of public office • Participation in outside business or professional activity inconsistent or in conflict with official duties • Misuse of state property or funds • Owning capital stock in a corporation in excess of $1000 • Acting as an officer, director, or agent of a corporation • Representation for pay of a client before any state or local agency • Nepotism, excepting unpaid relatives • Confidential information not available to general public and obtained in the course of official duties used for personal benefit.	States have restrictions on the following: • Use of public position to obtain personal benefits (40) • Giving benefits to influence public officials and/or public employees (3 • Use of confidential information (37) • Post-governmental employment (22) • Receipt of gifts (31) • Public officials representing clients before public bodies (28) • Receipt of fees and honorariums (23) • Nepotism (15) • Public official's outside employment or business activity (28)

PROVISION	ALASKA LAW (Chapter 50)	HOUSE BILL 20	SENATOR FISCHER'S MEMORANDUM	OTHER STATES
Conflicts of Interest: General (continued)		• Assisting persons for compensation to pass or defeat legislation or secure a contract, claim or transaction before the legislature, a state or municipal agency. Former officials would be prohibited from: • Using confidential information for personal gain • Representing persons in transactions in which the official was involved. (12 mos. time period)		
Conflicts of Interest: Contracts and Loans	The statutes do <u>not</u> prohibit public officials from receiving state loans or contracts.	The bill would <u>not</u> prohibit public officials from receiving state loans or contracts. The bill would prohibit public officials from assisting for compensation other persons who are seeking to obtain contracts, claims, etc.	Legislation would proscribe the following activities with regard to contracts and loans: • Contracts made with state and local government without public competitive bid process; non-bid contracts may be awarded at the discretion of the committee provided no undue influence is exerted to obtain the contract and it does not conflict with the conscientious performance of official duties • Discretionary state benefits not available to the general public such as loans and land disposals in which the decision-making process does not safeguard against the appearance of improper influence.	Specific restrictions pertaining to contracts and loans: • Public officials entering into public leases or contracts (31) • Competitive bidding (14)
Activities Not Restricted	No unrestricted activities are specifically identified.	No unrestricted activities are specifically identified.	Proposed legislation specifically allows: • Outside employment and business opportunities, provided an advisory opinion of the committee is sought in cases of potential conflict	• Kansas, Maine, and Missouri are three states which allow a state officer to contract with the state in a process of competitive bidding or for which the price or rate is fixed by law

PROVISION	ALASKA LAW (Chapter 50)	HOUSE BILL 20	SENATOR FISCHER'S MEMORANDUM	OTHER STATES
Activities Not Restricted (continued)			• Former legislators and staff may lobby or work for state agencies immediately upon leaving the legislature subject to the constitutional ban on legislators taking a position with a salary increase created while the legislator was a member.	• In Maine, legislators may serve on public boards, commissions or other authority created by the legislature provided no consideration is paid.
Control Authority	The statute is administered by the Alaska Public Offices Commission, an independent commission within the Department of Administration. The commission duties and powers include a provision to: • Maintain records, reports and disclosure statements and establish reporting procedures The commission is not authorized to initiate or conduct investigations relative to violations. All disclosure statements and reports are public records.	The bill would assign new duties to the already existing Alaska Public Offices Commission, an independent commission within the Department of Administration. The commission duties and powers would include to: • Issue advisory opinions and publish edited versions of opinions to maintain confidentiality • Accept, initiate and investigate complaints • Subpoena witnesses, take testimony and hold hearings on complaints • Maintain necessary records, reports, forms and establish reporting procedures • Make determinations of appropriate action • Assess civil penalties for violations • Refer impeachable offenses to other state officials for subsequent action • Refer determinations warranting removal to the appropriate appointing authority. Advisory opinions may be edited for confidentiality. Complaints and a determination by the commission are public record.	Proposed legislation provides: • Creation of a standing ethics committee in each house • Duties --investigate complaints of ethics violations --issue findings --issue advisory opinions and statements of policy --make reports to the legislature and the public • Powers --initiate complaint alleging ethics violation --hold hearings --subpoena witnesses and documents --take testimony under oath --appoint special investigator when needed --issue a private reprimand --make recommendations to the legislative body for remedies. Advisory opinions may be made public at any time by agreement of the committee and the person requesting the opinion.	• 8 states have standing legislative ethics committees • No state has a joint legislative ethics committee • 28 states have external commissions, agencies or boards with responsibility for conflict of interest. It is uncertain what jurisdiction over the legislature all of the agencies have • All external agencies but three were created by statute.

PROVISION	ALASKA LAW (Chapter 50)	HOUSE BILL 20	SENATOR FISCHER'S MEMORANDUM	OTHER STATES
Penalties	Penalties for violation of reporting requirements include: • Fines, imprisonment or both for false or misleading reports • Fines for late filings • Removal from office for failure to file • Barring a candidate from assuming office for failure to file. Penalties for violation of conflict of interest requirements include: o A misdemeanor punishable by fine and/or imprisonment.	Penalties would include: • Impeachment • Removal from office • Fines not to exceed twice the economic benefit derived by the official or a fine of not more than $2000 where no benefit is received • Contracts entered into in violation of these provisions are voidable by the state or a municipality.	Legislation provides the following penalties: • Violations are subject to private written reprimand from the committee • Upon the recommendation from the committee the legislative body may act to censure or expel the member or may recommend that the attorney general prosecute under criminal statutes • Attorney general may bring a civil action to recover compensation for damages • Members of the committee or their staff found guilty of disclosing the identity of anyone requesting an advisory opinion may have a civil action brought against them for damages • Staff found guilty of violating these provisions are terminated from employment • Any agreement contracted illegally is voidable • It is a violation of law to take any punitive or retaliatory action against a person who has initiated or assisted in the investigation of an ethics violation subject to the specified penalties of this legislation.	Information is not available for all states, however: • Maine provides that anyone convicted of filing a false charge of conflict of interest with the commission will be guilty of a Class E crime. • Maryland provides that the legislature may, by resolution, require compliance, issue a reprimand, or censure the guilty member • Wisconsin provides that the ethics board can make a recommendation to the district attorney in whose jurisdiction the violation occurred to commence criminal prosecution.
Other	The statutes allows a "qualified Alaska voter" to bring a civil action to enforce the provision.	The bill would allow legislators and other public officials to participate in an action or decision even in the case of a conflict if: • Participation is necessary to constitute a quorum • The official has filed a disclosure statement	Other features of the proposed legislation are: • Transferrable promotional benefits resulting from official business become the property of the state • When circumstances prevent the divesture of property or contracts to meet the requirements of law, disclosure must be made and an advisory opinion requested of the committee	• California defines financial interest as having an investment or interest of over $1000, having any source of income over $250 within 12 months or being employed as management in a business entity.

PROVISION	ALASKA LAW (Chapter 50)	HOUSE BILL 20	SENATOR FISCHER'S MEMORANDUM	OTHER STATES
Other (continued)		• The official announces the nature of the conflict when action is taken. The attorney general is counsel to the commission, but the chief justice of the supreme court may appoint a special counsel if requested by the commission.	• Meetings of the committee are covered by the open meetings law, but any meeting which may tend to prejudice the reputation and character of any person may be closed. Privacy of anyone mentioned in a committee opinion will be protected. • Specific definitions prescribed: household, business associate, compensation, personal financial interest.	• Kansas provides that legislators cannot be litigants in legal proceedings involving constitutionality of law enacted while he or she was a legislator. • In Maryland legislators may participate in legislative action provided their vote is needed to obtain a quorum and they have submitted a signed statement identifying conflict; the commission is required to compile a list of business entities doing business with the states. • Missouri and Oklahoma restrict the sale, rent or lease of property to the state. • Montana legislators are prohibited from participating on legislation affecting a business competitive with their own. • Nevada legislators are prohibited from suppressing documents and disclosing confidential information for money. • All New York legislators must receive, read, and understand the ethics code.

PROVISION	ALASKA LAW (Chapter 50)	HOUSE BILL 20	SENATOR FISCHER'S MEMORANDUM	OTHER STATES
Other (continued)				• South Carolina legislators must put assets in a blind trust to avoid conflicts of interest and may not appear before a board on rate- or price-fixing matters; statement declaring a conflict of interest delivered to presiding officer within 24 hours of action or decision is in compliance with the law. • The Wisconsin ethics board must report the identity of person seeking information from a statement of economic interests to the person who filed the information; no orders become effective until 20 days after it is issued.

Called Back
2-24-83

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

STATE OF ALASKA,

Plaintiff,

vs.

MILTON EDWARD DANKWORTH,

Defendant.

(C)

No. 1JU-S82-1705 CR

MEMORANDUM OF DECISION
AND ORDER RE MOTION TO
DISMISS INDICTMENT

Defendant has moved to dismiss both counts of a two count misdemeanor [1/] indictment on the grounds that neither count is supported by sufficient evidence as required by Crim. R. 6(q). Defendant's motion regarding Count II is combined with an attack on the admissibility of most if not all of the evidence presented to the grand jury in support of Count II. For the reasons set out below, [2/] the motion to dismiss as to Count I will be denied and the motion to dismiss as to Count II will be granted.

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1. The State notes in passing that "the defendant is probably not entitled to a judicial review of the evidence presented to a grand jury which returned an indictment for misdemeanor offenses," State's Memorandum in Opposition to Motion to Dismiss Indictment [hereinafter "Opposition Memo"] 37. Nonetheless, it declines to rely on that point. Id.

2. Especially as to Count I, the reasons for the court's decision are not set out in great detail. There has been insufficient time to do so. Oral argument was held on February 4, 1983 and, at the request of counsel (who need to know whether to prepare for an estimated three-week trial with more than 50 witnesses), a decision was promised by February 11. In fact, this decision will issue on February 14. Every court day between argument and decision has been entirely consumed by other matters. Hence, review of the memoranda, authorities cited by counsel, transcript and exhibits has been relegated to other times, and the time remaining for the written decision necessarily has been quite brief.

COUNT I

Sufficiency of the Evidence

Crim. R. 6(q) provides in relevant part:

> The grand jury shall find an indictment when all the evidence taken together, if unexplained or uncontradicted, would warrant a conviction of the defendant.

Upon a challenge to an indictment, the State must show that it has presented admissible evidence supporting each of the elements of the offense, Adams v. State, 598 P.2d 503, 508 (Alaska 1979), which is "adequate to persuade reasonable minded persons that if unexplained or uncontradicted it would warrant a conviction of the person charged." State v. Parks, 437 P.2d 642, 644 (Alaska 1968). Because there is a presumption that a grand jury "acted on sufficient evidence," State v. Shelton, 368 P.2d 817, 819 (Alaska 1962), and because a motion to dismiss tests sufficiency of evidence reviewed on a cold record, all reasonable inferences from the evidence must be drawn in favor of the non-moving party.[3]

Count I of the indictment charges that the defendant used his official position as a State senator for the primary purpose of obtaining financial gain for himself, in several ways:

(1) by receiving information from Alyeska Pipeline Services Company that Isabel Pass Pipeline Camp was available for purchase by the State;

(2) by communicating to Alyeska that the State was most probably not interested in purchasing the camp;

(3) by promoting an interest in the purchase of the camp by the State from him for approximately $3,000,000, knowing at the time that the camp was still available for purchase by the State directly from Alyeska;

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3. Defendant conceded this standard of review at oral argument.

(4) by participating in the subsequent purchase of the camp for $900,000, knowing at the time that the camp was still available for purchase by the State directly from Alyeska; and

(5) by further promoting the sale of the camp to the State for approximately $3,000,000.

Defendant concedes that he was a public official at the time in question and that his activities concerning his purchase of and attempted sale of Isabel Camp were undertaken primarily to obtain financial gain for himself. He vigorously disputes, however, that he used his office in any way in undertaking these activities. He analyzes, in close detail, each of the allegations of use of office. The State responds with a similar analysis.

This court has reviewed the evidence. Drawing all reasonable inferences in a light most favorable to the State, the evidence would be adequate to persuade a reasonable minded person that, if unexplained or uncontradicted, it would warrant a conviction of the defendant. That of couse is not to say that there are not other, reasonable inferences which might be drawn which would be favorable to the defendant. Indeed, counsel for the defendant have drawn such inferences and presented them in their memoranda. But it is not for this court to decide which view of the evidence is correct. It can only determine if, at this stage, the evidence is sufficient to go forward. [4/] In the view of this court, it is.

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4. Specific examples of relevant and probative evidence which support this conclusion are not provided, for the reason that the trier of fact should not be potentially exposed to the court's specific drawing of inferences -- this case has received intensive pretrial publicity -- nor does the exposure of the court's weighing process to counsel serve any apparently useful purpose. Generally, the evidence and inference urged by the State (Opposition Memo 8-21, 31-34) appear sufficient to defeat the motion to dismiss.

Requirement of Consciousness of Wrongdoing

In his Reply to State's Opposition to Motion to Dismiss [hereinafter Reply Memo], defendant raises the issue whether a person, to be convicted, must be shown to have committed acts proscribed by law with some consciousness of wrongdoing. (Reply Memo 4) He argues forcefully that unless such a scienter requirement is an element of the crime of conflict of interest, the statute would be unconstitutionally void for vagueness.

The argument appears well-founded, and the State at oral argument, in arguing that the record contained much evidence from which the defendant's consciousness of guilt could be inferred, appears to have accepted the defendant's thesis that a consciousness of guilt must be shown. (Additionally, the State argues that this scienter requirement is satisfied by a showing that a conflict of interest defendant used his office for the primary purpose of realizing personal gain.) At any event, taking all reasonable inferences arising from the evidence in a light most favorable to the State, there is sufficient evidence to conclude that the defendant acted with a consciousness of wrongdoing. Again, this conclusion merely tests the sufficiency of the evidence, not its final effect on the trier of fact.

COUNT II

Defendant has moved for dismissal of Count II of the indictment on alternate grounds He argues first that the evidence presented to the grand jury was insufficient as a matter of law to support the indictment. Alternatively, he contends that "the very allegations of Count [II] of the indictment, together with all of the evidence put forth to prove these allegations[,] are barred by the speech [or] debate clause". (Defendant's Memo 58, emphasis in original) For the reasons discussed below, this court concludes that what both parties refer to as the "speech or debate clause" of the Alaska

Constitution prohibits prosecution of Count II. For this reason, Count II must be dismissed.

Legislator Immunity Under Art. II, § 6

Art. II, § 6 of the Alaska Constitution reads in relevant part as follows:

> Legislators may not be held to answer before any other tribunal for any statement made in the exercise of their legislative duties while the legislature is in session.

The parties agree that this is a case of first impression [5/] in Alaska. (Defendant's Memo 40, Opposition Memo 63) They therefore frame their arguments around federal decisions outlining the contours of the federal constitution's "speech or debate clause" -- the defendant arguing that the immunity resulting from the Alaska Constitution should be identical to the immunity provided by the federal constitution, while the state argues that the Alaska Constitution provides a much narrower grant of immunity.

The federal constitutional provision is similar but by no means identical to the Alaska provision set out above. It reads:

> [F]or any speech or debate in either house, [members of Congress] shall not be questioned in any other place.

U. S. Const., Art. I, § 7. The most striking difference between the two provisions is the activity which is protected: Alaska protects "any statement made in the exercise of . . .

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5. The term "first impression" is used in the sense that the Alaska Supreme Court has not had the application of Art. II, § 6 before it in the context of a criminal case. The only prior judicial expression on Art II, § 6 located by the parties was the set of instructions to the grand jury in State v. Hohman, No. 1JU-81-464 CR, given by Judge Thomas B. Stewart. The parties vigorously dispute the proper interpretation of those instructions and their application to this case. No appellate decision, much less a trial court decision, concerning Art. II, § 6 has been brought to this court's attention.

legislative duties," while the federal provision, textually at least, [6/] covers only "speech or debate in either house."

Although the parties have not argued it, this difference appears to be important. The development of federal law under the federal speech or debate clause has largely been the process of defining the concept of "legislative acts" so as to accommodate the Supreme Court's concern that the literal statement of the immunity found in the text was too narrow to serve the great historical purposes of the framers. While that development may well support the result reached herein (see the defendant's arguments at Defendant's Memo 31-40, Reply Memo 18-19 and the analysis below at 15-19), it is not strictly necessary to the interpretation of the Alaska constitutional provision which protects "any statement made in the exercise of . . . legislative duties." It seems beyond question that the proper function of this court is to examine the acts charged in the indictment and the evidence of those acts, and determine if the defendant is, by virtue of this prosecution, being held to answer for any statement made in the exercise of his legislative duties. If the answer is in the affirmative, Count II cannot stand.

The indictment charges, in Count II, that the defendant used his position for the primary purpose of obtaining financial gain for himself "by taking action to assure that an appropriation source was enacted during the 1982 session of the Alaska State Legislature" from which a pipeline camp owned by defendant could be purchased by the State of Alaska. That is, the action which is the subject of the indictment is that of taking steps

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6. It is true that the federal cases have expanded the immunity to cover acts necessary to the legislative function. But, as the U.S. Supreme Court has noted, and as the State emphasizes, "The heart of the Clause is speech or debate in either House." Hutchinson v. Proxmire, 443 U.S. 111, 126, 61 L. Ed. 2d 411, 426 (1979), quoting Gravel v. United States, 408 U.S. 606, 625, 33 L. Ed. 2d 583, 602 (1972).

to create a legislative appropriation (for a particular, and allegedly unlawful, purpose).

The evidence of those acts largely consisted of telephone calls. One was made by the defendant to Jerry Reinwand, executive assistant to the governor, concerning language in the governor's budget. The others were with William Hudson, Commissioner of the Department of Administration, concerning language in the budget allowing for the purchase of a pipeline camp and concerning alternate sources of funding for other Department of Administration expenses (which sources might free other Department of Administration appropriations to purchase a pipeline camp).

In comparing the indictment and the evidence under it with the provisions of Art. II, § 6, the first inquiry is whether the act of assuring (or creating) a funding source is a legislative duty. The answer is yes. Art. IX, § 13 of the Alaska Constitution provides in relevant part:

> No money shall be withdrawn from the treasury except in accordance with appropriations made by law.

It has been said that the power to control the expenditure of state monies is the supreme legislative power. A classic statement is found in Colbert v. State, 39 So. 65, 66 (Miss. 1905):

> Under all constitutional governments recognizing three distinct and independent magistracies, the control of the purse strings of government is a legislative function. Indeed, it is the supreme legislative prerogative, indispensable to the independence and integrity of the Legislature, and not to be surrendered or bridged, save by the Constitution itself, without disturbing the balance of this system and endangering the liberties of the people. The right of the Legislature to . . . determine . . . the objects upon which [public revenue] shall be expended . . . is firmly and inexpugnably established in our political system.

No one could seriously contend that activity related to the creation of the budget is not legislative activity.

Not only was the formulation of the budget clearly legislative business, but the defendant's role in the process was central: He was co-chair of the Finance Committee in the Senate. While his role as Finance co-chair is not critical to this analysis, it serves to reinforce the conclusion that his participation in putting together the budget was a part of his legislative duties.

The next inquiry is whether any statements of the defendant which were made in the performance of these duties are at issue. There is no question of this. At oral argument counsel for the State was asked what evidence would remain under Count II if the defendant's interpretation of the Alaska "speech or debate clause" were applied. In a supplemental pleading filed after the argument, the State has conceded that "if . . . evidence of the defendant's phone conversations with Jerry Reinwand and William Hudson is suppressed, there will not be sufficient evidence to uphold Count II of the indictment." (State Supplemental 3, emphasis in original)

The next inquiry is whether this prosecution is tantamount to holding legislators "to answer before any other tribunal". The answer is clearly yes. A grand jury and a court are "other tribunal[s]" as the Alaska Constitution uses that term. Every U.S. Supreme Court case construing similar language in the federal speech or debate clause, ("[members of Congress] shall not be questioned in any other place") has dealt either with a grand jury proceeding, e.g., Gravel v. United States, supra, 408 U.S. at 615, 33 L. Ed. 2d at 597, [grand jury subpoena at issue, held: Senator protected from criminal or civil liability or from questioning "elsewhere than in the Senate"], or a trial, e.g., United States v. Johnson, 383 U.S. 169, 173, 15 L. Ed. 2d 681,

684 (1966) [conviction at issue, held: certain evidence utilized at trial barred by speech or debate clause]. Likewise, it is clear that the defendant legislator is "held to answer" by the instigation of charges (and perhaps by the mere investigation by the grand jury), and that there need not literally be the putting of questions to him or her.

The final inquiry is whether the constitutional injunction against holding legislators to answer in any other tribunal may have been (or may be) waived in this case. The State offers two theories of waiver. Neither is persuasive.

The State first argues that AS 39.50.090(a) waives legislative immunity. The argument is based on a similar argument made by the government in United States v. Helstoski, 442 U.S. 477, 61 L. Ed. 2d 12 (1979). The defendant there was a congressman accused of bribery, a violation of 18 U.S.C. § 201. The Court set out, and dispatched, the government's argument as follows:

> The Government also argues that there has been a sort of institutional waiver by Congress in enacting § 201. According to the Government, § 201 represents a collective decision to enlist the aid of the Executive Branch and the courts in the exercise of Congress' powers under Art. I, § 5 to discipline its Members. This Court has twice declined to decide whether a Congressman could, consistent with the Clause, be prosecuted for a legislative act as such, provided the prosecution were "founded upon a narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members." Johnson, supra, at 185, 15 L Ed 2d 681, 86 S Ct 749. United States v. Brewster, 408 US, at 529 n 18, 33 L Ed 2d 507, 92 S Ct 2531. We see no occasion to resolve that important question. We hold only that § 201 does not amount to a congressional waiver of the protection of the Clause for individual Members.

Id. at 492, 61 L. Ed. 2d at 28. Significantly, the Court noted that there was a question whether the Congress had the power at all, even if acting through a "narrowly drawn statute", to strip

members of the protection of the speech or debate clause. It quoted from Coffin v. Coffin, 4 Mass. 1, 27 (1808), to the effect that "the privilege . . . is not so much the privilege of the house . . . as of each individual member composing it, who is entitled to this privilege even against the declared will of the house." Id. The Court concluded that even "[a]ssuming [for the purpose of argument] that the Congress could constitutionally waive the protection of the Clause for individual Members, such waiver could be shown only by an explicit and unequivocal expression." Id. at 493, 61 L. Ed. 2d at 26 (emphasis added). The statute in the instant case is no stronger for the prosecution here than were the federal statues involved in Helstoski, Brewster and Johnson. AS 39.50.090(a) contains no explicit and unequivocal waiver of Art. II, § 6 of the Alaska Constitution (again assuming for the sake of argument that the Legislature had the power to do that). Indeed, it contains no waiver language whatsoever. It is clearly insufficient to accomplish the "institutional waiver" which the State urges this court to find. 7/

The State next argues that the defendant waived his protection under the Alaska speech or debate clause by voluntarily testifying before the grand jury. 8/ The defendant responds

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7. The State's primary argument in regard to its theory that AS 39.50.090(a) waives speech or debate clause protection is based on its perception of what is good policy. (Opposition Memo 73-78) Thus, the State argues extensively that there are sound reasons not to apply legislative immunity to criminal cases, that at the least the level of immunity protection should be less in criminal than in civil cases, that the need for honest government requires that speech or debate immunity be limited, etc. While these arguments may have merit, this court is not free to construe the Alaska Constitution according to what it believes to be good policy. It must read and apply the words of that document in an attempt to carry out the intent of its authors.

8. The State contends that this waiver makes admissible the defendant's grand jury testimony and any other testimony concerning it, though the State concedes that the waiver would not extend to trial.

that, under the applicable law, no waiver occurred here.

The facts in this regard were as follows: The defendant voluntarily appeared before the grand jury, was given a "target warning", [9/] and was represented by counsel. He was not

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9. The warning read as follows:

GRAND JURY TARGET WARNING

To: M. E. Dankworth

1. You are and have been the subject of an investigation conducted by the State of Alaska and by a grand jury sitting in Juneau, Alaska, investigating allegations of criminal misconduct in connection with the acquisition of the Isabel Pass Pipeline Camp by a business entity in which you are a principal and efforts to sell the camp to the State of Alaska. There is at this time probable cause to believe that your role in the acquisition of the camp and in efforts to sell it to the State of Alaska constituted a criminal offense and there exists the possibility at the conclusion of the Grand Jury proceedings that sufficient evidence may have been presented upon which criminal charges could be returned.

2. In addition, in accordance with prior communications made to your attorney, you should be aware that the Grand Jury may consider charges other than that included within the conflict of interest provision contained in AS 39.50.090(a). Evidence before the Grand Jury may support other criminal charges, including felony offenses.

3. You have agreed to appear and testify before the Grand Jury without a subpoena upon the conditions that you are afforded an opportunity at the conclusion of your testimony to give a brief statement to the Grand Jury and that your attorney be afforded an opportunity after the presentation of evidence to review that evidence with prosecuting attorneys and to set forth reasons why an indictment should not be returned prior to the final presentation of this matter to the Grand Jury.

4. You have the right to refuse to answer any question put to you before the grand jury that might inciminate you. (continued)

advised of his privilege under the speech or debate clause, and he did not make any statement waiving the protection of that provision. Under these facts no waiver has been shown.

As noted by the defendant, the situation in United States v. Helstoski, supra, was much stronger for the government, yet the court there rejected the government's claim of waiver. In Helstoski the defendant congressman had appeared voluntarily ten times before the grand jury, each time being warned of his fifth amendment privilege against self-incrimination. At his ninth appearance, the congressman for the first time mentioned his speech or debate clause privilege and declined to answer a

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9. (continued)

> 5. You have the right to be represented by an attorney before the grand jury, and while an attorney may not enter the grand jury room with you, he may be present immediately outside the grand jury room and you have the right to interrupt the proceedings at any point in time to confer with your attorney and obtain his advice.
>
> 6. If you cannot afford an attorney to represent you, you may apply to the Superior Court of the State of Alaska to request the court to appoint an attorney to represent you. If the court finds you cannot afford an attorney it will appoint an attorney for you.
>
> I have read the above Grand Jury Target Warning and understand the rights set out therein.
>
> DATED at Juneau, Alaska, this 26th day of October, 1982.
>
> /s/ M. E. Dankworth
>
> /s/ Avrum M. Gross
> Witness
> Attorney for M. E. Dankworth
> Oct. 26, 1982

question on the basis of it. The trial court found, however, that he was aware of the privilege from before his first appearance: He had recently concluded litigation in which he had relied on the speech or debate clause, and the attorney who represented him in that case was the same attorney who represented him before the grand jury. Nonetheless, the Supreme Court held that "waiver can be found only after explicit and unequivocal renunciation of the protection." [10] 442 U.S. at 491, 61 L. Ed. 2d at 24. Finding no such renunciation, it rejected the waiver theory. In the instant case, the defendant did not even talk about his speech or debate privilege, and there is no showing that he was even aware of it. Certainly there was no "explicit and unequivocal renunciation" of it. Under these circumstances, there can be no finding that the defendant waived his protection under the Alaska Constitution.

The conclusion of this analysis of the scope and effect of Art. II, § 6 of the Alaska Constitution is that it bars prosecution of Count II of the indictment, both because the indictment itself attempts to hold the defendant to answer before a court for statements made in the exercise of his legislative duties and because the evidence presented to the grand jury in support of the indictment is barred by Art. II, § 6. Because the constitutional language seems clear on its face, it is not strictly necessary to address the following issues. However, both because the parties disputed them at length and because they serve to lend additional support to this court's conclusion,

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10. Significantly, the Court found that the standard for waiver of speech or debate clause protection is even higher than the ordinary standard for determining waiver of a constitutional right set out in Johnson v. Zerbst, 304 U.S. 458, 464, 82 L. Ed. 2d 1461, 1464 (1938): "intentional relinquishment or abandonment of a known right or privilege." 442 U.S. at 491, 61 L. Ed. 2d at 24. This is of significance because this court does not believe even the Johnson v. Zerbst standard could be satisfied on the facts of this case.

they are considered here, at least briefly. They include: (1) the significance of drafting changes made at the Constitutional Convention concerning Art. II, § 6 and comments by the convention delegates concerning that section; (2) the instructions given to the grand jury in State v. Hohman, 1JU-81-464 CR; and (3) federal case law developed under the speech or debate clause of the federal constitution.

The Alaska Constitutional Convention. The State places great significance on the fact that Art. II, § 6 originally provided that no legislator should be held to answer "for any statement made or action taken" in the exercise of his legislative functions. The underlined language was later deleted, and the State urges that this deletion suggests a narrowing of the protection. Whether such an inference is properly drawn, it is not important in the context of this case. The defendant does not seek immunity for "actions" he has taken, but for statements which he has made.

The State also argues that the Alaska provision "is narrower because its protection applies only 'while the legislature is in session.'" (Opposition Memo 62) Again, even if the inference is warranted, it is not relevant here: All of the statements of the defendant which concern Count II occurred while the legislature was in session.

The State relies on a statement made by Delegate McCutcheon, who was the chair of the Committee on the Legislative Branch. Delegate McCutcheon said:

> There is also an immunity clause which provides a legislator will not be held liable for anything he says during a session.

Alaska Constitutional Convention Proceedings 1099. The State reads this comment (and one made concerning the privilege from arrest, which is not relevant to this case) as suggesting that "the protection in Alaska was intended to apply only to the type

of conduct that the United States Supreme Court refers to as 'pure speech or debate.'" (Opposition Memo 61) This court can draw no such conclusion from the discussion referred to. "[A]nything [a legislator] says" is clearly broader than "pure speech or debate". There is simply no basis for concluding, as the State attempts to do, that the history of the Alaska Constitutional Convention supports the conclusion that the Alaska constitutional protection for legislators is as narrow as the State would find it.

Instructions Given in State v. Hohman. The State contends that the instructions given by Judge Thomas B. Stewart in State v. Hohman, supra, support its view of the proper scope and effect to be given to Art. II, § 6 of the Alaska Constitution This court cannot agree, and adopts the analysis of the defendant concerning the Hohman instructions, which is found at Reply 22-23

Federal Cases Interpreting the Federal Constitution. At the outset, it should be remembered that there are relatively few United States Supreme Court cases interpreting the speech or debate clause of the federal constitution. ("The Speech or Debate Clause has been directly passed on by the Court relatively few times in 190 years." Hutchinson v. Proxmire, supra n.6, 443 U.S. at 124, 61 L. Ed. 2d at 424.) There are, of course, an almost limitless number of factual situations in which the speech or debate clause could be implicated. Therefore, there is a substantial amount of extrapolation required in attempting to find guidance from the federal cases. With this caveat in mind, certain general principles can be drawn from the cases.

The first is that, contrary to the State's assertion that the clause properly has more to do with protecting legislators against civil liabilities, the great historical purpose of the speech or debate clause was to protect legislators against the executive and the judiciary:

> There is little doubt that the instigation of criminal charges against critical or disfavored legislators by the executive in a judicial forum was the chief fear prompting the long struggle for parliamentary privilege in England and, in the context of the American system of separation of powers, is the predominate thrust of the Speech or Debate Clause.

United States v. Johnson, 383 U.S. 169, 182, 15 L. Ed. 2d 681, 689 (1966). It is true that the Court retreated slightly from this position in United States v. Brewster, 408 U.S. 501, 508, 33 L. Ed. 2d 507, 515-16 (1972), when it noted that "the English system differs from ours in that the Parliament is the supreme authority not a coordinate branch", and suggesting that "our history does not reflect a catalog of abuses at the hand of the Executive that gave rise to the privilege in England." Nonetheless, it cannot be denied that the primary purpose of the clause was "to prevent intimidation by the executive and accountability before a possibly hostile judiciary". Johnson, supra, 383 U.S. at 181.

From the earliest decisions, the scope of the privilege has been found to be broader than speech or debate on the floor of the Congress. Kilbourn v. Thompson, 13 Otto. 168, 26 L. Ed. 377 (1881), quoted approvingly from Coffin v. Coffin, 4 Mass. 1 (1808), which it referred to as "the most authoritative case in this country on the construction of the provision". 26 L. Ed. at 391. In Coffin, Chief Justice Parsons stated:

> [T]he article ought not to be construed strictly, but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate, but will extend it to the giving of a vote, to the making of a written report, and to <u>every other act resulting from the nature and the execution of the office</u>. And I would define the article as securing to every member exemption from prosecution for <u>everything said or done by him as a representative, in the exercise of the functions of that office</u>, without inquiring whether the exercise was regular according to the rules of the House, or irregular and against

those rules.

4 Mass. 1, 27 (emphasis added). After quoting extensively from Coffin, the Supreme Court in Kilbourn concluded that "[i]t would be a narrow view of the constitutional provision to limit it to words spoken in debate. The reason of the rule is as forceable in its application to [various actions]. In short, to things generally done in a session of the House by one of its members in relation to the business before it." 26 L. Ed. at 391-92.

Later cases have refined the standard, but have not retreated from it. Thus, in Tenney v. Brandhove, 341 U.S. 367, 95 L. Ed. 1019 (1950) the Court said, against the argument that the state legislative committee involved was acting improperly, that "[t]he claim of an unworthy purpose does not destroy the privilege." 341 U.S. at 377, 95 L. Ed. at 1027. The Court in Tenney emphasized that a court may not "inquire into the motives of legislators", a holding which has remained unquestioned in this country from earliest times.

In United States v. Johnson, supra, the Court affirmed the reversal of a conspiracy conviction of a member of Congress, because the prosecution had inquired into the defendant's motive in making a particular speech:

> The essence of such a charge in this context is that the Congressman's conduct was improperly motivated, and as will appear that is precisely what the Speech or Debate Clause generally forecloses from executive and judicial inquiry.

Id. at 180, 15 L. Ed. 2d at 688.

In United States v. Brewster, supra, the Court denied a speech or debate clause challenge to a bribery indictment. Its reasoning, while perhaps not totally consonant with its earlier decisions, lends no support to the State's position here. The Court distinguished Johnson on the ground that it held that the privilege "protected Members from inquiry into legislative acts

or the motivation for actual performance of legislative acts", 408 U.S. at 509, 33 L. Ed. 2d at 516, whereas the taking (or agreeing to take) money for a promise to act in a certain way is not a legislative act. Moreover, since the illegal conduct is shown by proof of taking or agreeing to take money for a promise to act in a certain way, there is no need for the government to show that the defendant actually fulfilled the alleged illegal bargain. Thus, there is no need to inquire into any legislative act or the motivation for any legislative act. While the exception carved out by Brewster was vigorously disputed by the three dissenters in that case, it does not affect the analysis here. The case does, however, provide another definition for "legislative act", which is of assistance in the instant case:

> A legislative act has consistently been defined as an act generally done in Congress in relation to the business before it. In sum the Speech or Debate Clause prohibits inquiry only into those things generally said or done in the house or the senate in the performance of official duties and into the motivation for those acts.

408 U.S. at 512, 33 L. Ed. 2d at 517-18.

Gravel v. United States, 408 U.S. 606, 33 L. Ed. 2d 583 (1972) was decided the same day as Brewster. It concerns primarily whether a legislative aide is protected by the speech or debate clause. However, it contains the following language describing legislative acts:

> Legislative acts are not all-encompassing. The heart of the Clause is speech or debate in either House. Insofar as the Clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House.

408 U.S. at 625, 33 L. Ed. at 602.

As noted above, this court views the Alaska "speech or debate

clause" as being different from and, in regard to the scope of the acts protected, broader than its federal counterpart. Nonetheless, review of the approach which the United States Supreme Court has taken to interpreting the federal speech or debate clause is instructive. Under that general approach, and under the specific definitions of "legislative acts" which the Court has established, it appears that the actions of the defendant in the instant case would be protected.

CONCLUSION

For the reasons discussed above, defendant's motion to dismiss Count I is denied, and defendant's motion to dismiss Count II is granted.

DONE at Juneau, Alaska, this 14th day of February, 1983.

Walter L. Carpeneti
Superior Court Judge

CERTIFICATE

This is to certify that on the above date I provided a copy of the above Memorandum of Decision and Order to:

Daniel W. Hickey, Esq.
Patrick J. Gullufsen, Esq.
Dean J. Guaneli, Esq.
Avrum M. Gross, Esq.
Susan A. Burke, Esq.
Clifford J. Groh, Esq.

Secretary to the Judge

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3600

M E M O R A N D U M March 31, 1983

SUBJECT: Waiver of rights under the Speech and Debate Clause, Article II, section 6, Alaska Constitution (Work Order No. 13-0981)

TO: Representative Don Clocksin

FROM: Richard A. Bradley
Legislative Counsel

You have requested an analysis of Judge Carpeneti's February 14, 1983, decision in State v. Dankworth. Your request suggests that Judge Carpeneti ruled that a legislator is immune from prosecution under the conflict of interest statute. You suggest that Judge Carpeneti implied that a narrowly defined waiver might be permissible.

You ask that I draft such a waiver and predict its constitutionality. A bill is enclosed that is responsive to this request.

The area of the opinion that concerns you is apparently derived from that portion of the opinion, at page 9, that addresses the question whether AS 39.50.090(a) waives legislative immunity under the state equivalent of the Speech and Debate Clause of the United States Constitution: Article II, section 6 of the Alaska Constitution:

> Legislators may not be held to answer before any other tribunal for any statement made in the exercise of their legislative duties while the legislature is in session. * * *

That argument was made by the state in the Dankworth case and is based on a similar consideration argued in United States v. Helstoski, 442 U.S. 477 (1979).

In the Helstoski case, the argument was made that a "narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members" could

constitute a waiver by Congress of the immunity of a member of the Congress from being held to answer in any other tribunal.

The Helstoski case accordingly merits analysis. Mr. Helstoski was a member of Congress. He was investigated by a grand jury on his introduction of numerous private immigration bills, allegedly for compensation. During the investigation, he voluntarily cooperated with the grand jury, appearing before it on ten occasions. Initially, he made no claim of privilege under the Fifth Amendment but eventually claimed the privileges of it and of the Speech and Debate Clause.

Congressman Helstoski was indicted on the charge of accepting money for the performance of official acts; he sought dismissal of the indictment on the ground that it violated the Speech and Debate Clause.

The District Court denied the motion to dismiss but held that the Government was precluded from introducing "evidence of a past legislative act" in any form.

In taking its appeal to the Court of Appeals, the Government argued that the Speech and Debate Clause does not prohibit the introduction of all evidence relating to legislative acts. It conceded that, absent a waiver, it could not introduce evidence of the bills or Acts themselves. And it used several theories to rationalize its requested use of evidence of discussions and correspondence which relate or describe legislative acts if the discussions or correspondence did not themselves occur during the legislative process (none of which the court accepted).

But it is also argued that "by enacting 18 U.S.C. 201 (1966), Congress has shared its authority with the Executive and the Judiciary by express delegation authorizing the indictment and trial of Members who violate that section -- in short an institutional decision to waive the privilege of the Clause." 47 U.S.L.W. 4713.

The U. S. Court of Appeals affirmed the evidentiary holding, stating that legislative acts could not be introduced to show motive, since otherwise the protection of the Speech and Debate Clause would be negated and that Mr. Helstoski has not waived the protection of the Clause during the grand

jury proceedings. United States v. Helstoski, 576 F.2d 511 (3d Cir. 1978).

The United States Supreme Court affirmed. United States v. Helstoski, 442 U.S. 478, 47 U.S.L.W. 4710 (1979).

The Court stated that its holdings in United States v. Johnson, 383 U.S. 169 (1966) and United States v. Brewster, 408 U.S. 501 (1972) "leave no doubt that evidence of a legislative act of a Member may not be introduced by the Government in a prosecution under sec. 201." 47 U.S.L.W. 4713. It explained its decision in the Brewster case:

> Johnson thus stands as a unanimous holding that a Member of Congress may be prosecuted under a criminal statute provided that the Government's case does not rely on legislative acts or the motivation for legislative acts. A legislative act has consistently been defined as an act generally done in Congress in relation to the business before it. In sum, the Speech and Debate Clause prohibits inquiry only into those things generally said or done in the House or the Senate in the performance of official duties and into the motivation for those acts. 408 U.S., at 512.

The Government argued that the interpretation of the Court of Appeals would make the prosecution of members of Congress more difficult; the Court agreed. "Indeed, the Speech and Debate Clause was designed to preclude prosecution of Members for legislative acts." 47 U.S.L.W. 4713. But, the Court said, "Promises by a Member to perform an act in the future are not legislative acts. Brewster makes clear that the compact may be shown without impinging on the legislative function." 47 U.S.L.W. at 4713.

With this as background, it is possible to reach your question: Can a narrowly drafted statute constitute "a sort of institutional waiver" by the legislative branch of the immunity of an individual member of the legislature?

In my view, the portion of Helstoski not quoted by Judge Carpeneti forces a negative response to your question; Judge Carpeneti reaches these issues at page 10 of his opinion with intimations of a similar conclusion.

Some measurable quotes from the Helstoski opinion are necessary to make these points.

In both the Johnson and the Brewster opinions, the Court declined an invitation to decide whether "a Congressman could, consistent with the [Speech and Debate] Clause, be prosecuted for a legislative act as such, provided the prosecution were 'founded upon a narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members'. * * * We see no occasion to resolve that important question. We hold only that sec. 201 does not amount to a congressional waiver of the protection of the Clause for individual members."

But the Court then went on, presumably in dicta, to suggest its views on that question.

> "We recognize that an argument can be made from precedent and history that Congress, as a body, should not be free to strip individual Members of the protection guaranteed by the Clause from being 'questioned' by the executive in the courts. The controversy over the Alien and Sedition Acts reminds us how one political party in control of both the Legislative and Executive Branches sought to use the courts to destroy political opponents.
>
> "The Supreme Judicial Court of Massachusetts noted in Coffin, 'the privilege secured . . . is not so much the privilege of the House as an organized body, as of each individual member composing it, who is entitled to this privilege, even against the declared will of the house.' 4 Mass., at 27 (emphasis added [in original]). In a similar vein in Brewster we stated:
>
> > "'The immunities of the Speech or Debate Clause were not written into the Constitution simply for the private or personal benefit of Members of Congress, but to protect the integrity of the legislative process by insuring the independence of individual legislators.' 408 U.S., at 507 (emphasis added [in original]).
>
> "See also id., at 524. We perceive no reason to undertake, in this case, consideration of the Clause in terms of separating the Members' rights from the rights of the body.
>
> "Assuming, arguendo, that the Congress could constitutionally waive the protection of the Clause for individual members, such waiver could be shown only by an

> explicit and unequivocal expression. There is no evidence of such a waiver in the language or the legislative history of sec. 201 or any of its predecessors. [Bracketed materials added]."

As I suggested, these quotes would undoubtedly be characterized as dicta either by the Court or a commentator. But even agreeing that it is dicta and therefore not controlling in future cases before the Court, it seems that the Court has signalled adequate reasons founded in constitutional policy for concluding that such a waiver by a legislature would probably violate the privileges of an individual member of that legislature to be free from the pressures of a legislative majority or of executive pressures exerted through the courts.

I take the Court's emphasis on "explicit and unequivocal language" to mean simply that in any such statute, the statute itself must state that the legislature does not intend that the Speech and Debate Clause be a defense to a charge under the statute and, perhaps, that the legislature intends the statute to stand as a waiver by the legislature of those rights.

But, as suggested, even in such premises, I believe that the privileges of the individual members of the legislature would be protected.

You will find a bill attached to this memorandum.

Because the language of AS 39.50.090 is so awkward and also because it will need revision the next time AS 39 is printed because of the policies stated in Chapter 58, SLA 1982, I considered it appropriate to put these changes before the legislature for its ratification, particularly because the provisions of this section affect members of the legislature so intimately. Except for the change to the penalty provisions in moving to the more standard penalty style (the imprisonment possible is unchanged; the fine moves from a maximum $2,000 to a maximum $5,000), the provisions of sec. 90 are substantively unchanged. And these provisions may be deleted if you believe that they confuse the basic thrust of your bill.

The material responsive to your request appears in new sec. 39.50.091.

If I may be of further assistance, please advise.

RAB:ljb

Enclosure
12/045

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

BILL SHEFFIELD, GOVERNOR

REPLY TO:

☑ 610 C STREET, SUITE 211
ANCHORAGE, ALASKA 99501-3598
(907) 276-4176

☐ JUNEAU BRANCH OFFICE
POUCH CO
JUNEAU, ALASKA 99811-0222
(907) 465-4864

April 24, 1983

The Honorable Vic Fischer, Chairman
Alaska State Senate
State Affairs Committee
Pouch V
Juneau, AK 99811

Dear Senator Fischer:

As I indicated Wednesday evening at the teleconference, I expect that the Commission's comments on SB 257 will be largely confined to those specific sections which involve the APOC; I understand you discussed Section 24.60.050 on disclosure of loan applications in committee on Thursday and indications were that you anticipated the APOC would develop an appropriate form for deleting confidential information and monetary amounts from the loan applications prior to including them in the AS 39.50 files. That perspective on intent started a small chain reaction as you'll see below.

While I appreciate the expression of confidence in our ability to develop a "good" form, I would hope for a good understanding of Legislative intent about the items to be deleted if the Commission is to do the deleting. In addition, I tried to do a little research on Friday and was told that there are over 100 loan programs involving state funds (that for $250 one can buy a private publication which summarizes those programs!) and that pinpointing whether a given program is "other than those described in (a) of this section...." may be moot because lending laws include the concept of "prudent lending" in which eligibility standards and criteria are always necessary. It appears that the lending agencies will decide which applications must be sent to the Commission, but the Commission may find itself receiving records (subject to provisions of confidentiality) for which it has no need and which may require special handling -- unlike all the existing disclosure material.

Loans or loan guarantees are already required to be included on Conflict of Interest Statements by AS 39.50.030(6), but in cases where banks are administering a program of loans based on state funding, often only the name of the bank appears. If your desire is to make that requirement include specific reference to the state funding in the case of other than subsection (a) loans that should be easy enough. Beyond that, if the summary of Thursday's Committee meeting I had was adequate, it sounded like you would not wish to include the purpose of the loan, the amount, and the interest rate as well. (Bill White of the Anchorage Times did an article last fall on Legislative loan-holders which you may recall, listing that kind of information based on a study by the House Research Agency.)

Application to a state loan program appears to be the only additional information that SB 257 would include in a AS 39.50 file. Since the present requirement in AS 39.50.030(6) specifies only any loan or loan guarantee made to the reporting official, "...his spouse or dependent child of his or nondependent child of his who is living with him...," loans to businesses other than sole proprietorships are not required to be listed and it appears that Sec. 24.60.050 does not change that situation.

Those items seem to me to cover the "disclosure" aspect of section 24.60.050; my apologies if these are things you've already taken into account or that were discussed by the Joint Committee.

Finally, as I indicated on the teleconference, I am pursuing some analysis of the SB 257 language even though the APOC's mention in it is peripheral because of my feeling that it will be helpful in reviewing any subsequent proposals in the ethics arena which might involve the APOC. (As you recall from previous years some ethics bills have created entirely separate commissions while others proposed the APOC as the administering agency.) As you expressed interest in the outcome of that effort, enclosed is the material which has been prepared by Mark Higgins as background for the Commission. While the document doesn't represent recommendations to the committee, you are, of course, more than welcome to use it if you feel it might be helpful. I expect to present it to the Commission members at their regular meeting next Thursday and will convey whatever remarks they wish to make about the filing of loan applications to you or other committees if you have moved the bill by then.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

THEDA S. PITTMAN
Executive Director

cc: APOC Members
Rebecca Burch, Dept. of Administration

ALASKA STATE LEGISLATURE HKOOD

SENATE STATE AFFAIRS COMMITTEE POUCH V, JUNEAU 99811

SENATOR VIC FISCHER, CHAIRMAN (907) 465-4954

April 29, 1983

MEMORANDUM

TO: All Senators
FROM: Vic Fischer, Chairman
RE: SB 257, Legislative Standards of Conduct
FOR YOUR INFORMATION

Attached is the State Affairs committee substitute for SB 257 and a sectional analysis of the bill.

We are distributing this bill to you now to inform all members of the progress of this important legislation and to permit your review of the bill pending further committee consideration in the Senate next week.

The State Affairs CS provides for a legislative ethics commission as recommended by the Joint Legislative Reform Committee. Also attached is alternative language providing for separate ethics committees within each house of the legislature with only legislative members.

SECTIONAL ANALYSIS OF SB 257

Sec 010 FINDINGS

Refers to Constitutional basis for legislative enforcement of legislative ethics. States that legislators and staff should avoid conduct that even appears to violate the public trust.

Sec. 020 APPLICABILITY

The bill applies to legislators (once sworn in), legislative staff Range 18A and over, and former legislators in limited cases. Employees under Range 18 should be covered in the general ethics bill expected from the Attorney General next week. This bill specifically supersedes the common law in this area.

Sec. 030 CONFLICTS OF INTEREST

A conflict is defined as when a person takes or withholds official action or exerts influence which could substantially benefit or harm a financial matter in which the person has a direct or indirect private interest. Situations are defined where no conflict exists because of the person's distance from either benefits or influence.

Sec. 040 CONTRACTS

Persons covered by this bill may not be a party to a contract or lease with the state not let by competitive bid unless the contract is for $1,000 or less. Legislators may not have an interest in a non-competitive contract with the state (interest defined by percentage of ownership and size of company) and staff may not be a party to a non-competitive contract. The ethics commission may allow exceptions to this provision if it is satisfied that no misuse of influence has occurred. The existence of all contracts between people covered by this bill and state and local governments is published in the Journal.

Sec. 050 STATE LOANS

Legislators and staff are not prohibited from receiving state loans if the program is widely available and minimal discretion is exercised. Examples of these kinds of loans are student and AHFC home loans.

For other types of loans extensive provisions are made for special review of loans to people covered by this bill. The existence and status of all state loans held by people covered by this bill will be published in the Journal yearly.

Sec. 060 CONFIDENTIAL INFORMATION

Confidential information acquired in the course of official duties may not be knowingly disclosed or willfully used for personal gain of the gain of another.

Sec. 070 INTERESTS BETWEEN PUBLIC OFFICIALS

People covered by the bill must disclose to the commission any economic associations valued at over $1,000 between legislators, supervisors and employees, and public officials in another branch who are required to file APOC statements. Economic associations may not be formed with lobbyists.

Sec. 080 GIFTS

Persons covered may not solicit or receive gifts with a cumulative annual value of over $100 from one source under circumstances in which it may be reasonably inferred that the gift is intended to influence the person in the performance of official duties. Specifically excluded is hospitality within the state, including meals, lodging or transportation and invitations to meals or social events.

Sec. 090 NEPOTISM

People related to members of the legislature may not be employed in the house in which the legislator is a member or by a legislative agency. Relatives may be employed in the other house during the session only. Employees may not supervise relatives. Employees who are not on state payroll are exempt from these limitations.

Sec. 100 REPRESENTATION BY LEGISLATORS

Legislators and employees may not represent another person for compensation before any court or agency of the state. Lawyer-legislators may represent clients before state courts in criminal actions and in civil cases where the state is not a party. The ethics commission may waive these restrictions if it determines that the representation will not involve improper influences..

Sec. 110 ACTION ON A CONFLICT OF INTEREST

If a legislator knows or has been notified that a conflict exists shall immediately resign the position, divest the interest, or disclose the conflict for inclusion in the Journal.

Sec. 120 RETALIATION

Retaliation for filing an ethics complaint or providing truthful testimony to the commission is, in itself, a violation of legislative ethics..

Sec. 130 EMPLOYMENT OF FORMER MEMBERS AND EMPLOYEES

To the extent not prohibited by the Constitution, former members may accept employment with state agencies upon leaving office. Former members may lobby upon leaving office. Neither former members nor former employees may use confidential information obtained in the course of official duties except for the benefit of the state.

Sec. 140 STATE PROPERTY AND FUNDS

State property and funds may not be used for private gain.

Sec 150 LEGISLATIVE ETHICS COMMISSION

The seven-member Commission is established within the legislative branch. The presiding officers of of the house and senate

each appoint one of their members with the concurrence of three-fourths of the full membership of the respective house. Each presiding officer also appoints two public members who are confirmed by the same method. The other members of the Commission then appoint the seventh member who must be a former legislator. Not more than four members of the Commission may be members of the same political party or reside in the same borough or the unorganized borough. Public members serve staggered three-year terms. The Commission may hire or contract for staff. Commission members receive no compensation beyond expenses and per diem.

Sec. 160 DUTIES OF THE COMMISSION

The Commission may recommend additional legislation and, with the concurrence of the president or the speaker subpoena witnesses and documents. The Commission shall adopt formal procedures and publish annual reports.

Sec. 170 ADVISORY OPINIONS

Summarized below.

Sec. 180 COMPLAINTS

Summarized below.

EFFECTIVE DATES

The Commission comes into effect upon passage. The rules of ethics and other enforcement and notice sections take effect in the normal 90 days.

SB 257: THE PROCESS OF ADJUDICATION

NOTE: SB 257 uses some labels for the different documents in this process that are confusing. Legal Services is in the process of clarifying the adjudication section of this bill and it is likely that new labels will be used for the different steps.

ADVISORY OPINION

--requested by person covered by bill
--must be issued in 30-days unless Commission extends time
--must be in writing and sworn
--if complete disclosure made is binding on Commission for further action under this section
--is confidential if publication not requested by person requesting. Summary of opinion published yearly
--if the terms of the advisory opinion complied with ===NO FURTHER ACTION===
--if advisory opinion not followed complaint may be filed

COMPLAINT

--may come from anyone, must be in writing signed under oath
--allegations must have occurred within four years or within one year of termination of state service unless discovery prevented by fraud
--no complaints may be received within 60 days of an election unless initiated by five or more members of the Commission
--commission determines if all allegations, when taken as true, constitute a violation of complaint. If not ===DISMISS===
--person against whom made is notified and afforded an opportunity to explain
--commission defines nature and scope of investigation
--commission makes confidential investigation, may subpoena witnesses, take oaths, and require production of books and papers. Subpoena powers derived through legislature.
--if no violation is found ===NO FURTHER ACTION, OPINION MAY BE MADE PUBLIC===

"COMMISSION" ADVISORY OPINION (P13 L4)

--if a violation is found, the person may be offered a recommended course of action; person may comply with the recommendation of the preliminary opinion or may request a FORMAL OPINION.
--if a majority of the members determine there is probable cause for belief that there has been a violation of the chapter the commission shall file a complaint against the person charged

CHARGES (a complaint)

--must be personally served on person
--person has 20 days to respond in writing to the commission
--commission sets time and place for hearing

--person charged has right to be heard, subpoena witnesses and documents, be represented by counsel and have the right to cross examine witnesses testifying under oath.
--hearings closed to public unless requested by person accused
--no formal rules of evidence, evidence must be competent and substantial, Commission evidence rules will be set out in Commission Procedures
--testimony only available to commission and staff and person charged; is recorded and preserved. Transcripts available to person charged

DECISION
--shall be in writing and signed by four or more members
--accompanied by a written (summary) order which is made public at once
--decision is referred to the presiding officer of person's body
--contains statement of the facts making up the violation and recommendations concerning penalties
--penalties for legislators may include
-fine up to $25,000
-required divestiture
-repaying profits
-censure
-removal from committee assignments
-termination of legislative privileges
-expulsion from the legislature
--Penalties for staff may include
-suspension
-demotion
-dismissal
--made public 30 days after referral. Days in which the legislature is not in session are not counted

ALTERNATIVE LANGUAGE SETTING UP SEPARATE ETHICS COMMITTEES

ARTICLE . ETHICS COMMITTEES.

Sec. 24.60.200. ETHICS COMMITTEES ESTABLISHED. (a) An ethics committee of the senate and an ethics committee of the house of representatives are established as permanen committees of the legislature.

(b Each ethics committee sr all provide the particular house of the legislature and its members with guidance on legislative standards of conduct through the establishment of substantive and procedural guidelines,

the issuance of advisory opinions, and the investigation of complaints of violations of legislative standards of conduct by members of the legislature and by persons employed by a member of the legislature.

(c) Nothing in this chapter authorizes the referral by the presiding officer of legislation to an ethics committee at a regular or special session of the legislature.

Sec. 24.60.210. MEMBERSHIP. The ethics committee of the senate is composed of three members of the senate appointed by the president of the senate and the ethics committee of the house of representatives is composed of five members of the house of representatives appointed by the speaker of the house. The membership of each committee shall include at least one member from each of the two major political parties represented in that house. The appointing authority in each house shall announce the appointment of members of each committee within 15 days after the convening of the first regular session of each legislature.

Sec. 24.60.220. TERM OF MEMBERSHIP. A member serves for the duration of the legislature in which the member is appointed and a member reelected to office or serving a term of office extending into the next succeeding legislature may continue to serve until a successor is appointed.

Sec. 24.60.230. VACANCIES. If a vacancy occurs in the membership of an ethics committee the presiding officer shall fill the vacancy within 30 days. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy occurs among the appointed member of a committee, the remaining committee members shall appoint a new member. A member of the legislature appointed to fill a vacancy shall be a member of the same political party as the member vacating the seat, if possible.

Sec. 24.60.240. STAFF. (a) Each ethics committee may hire and determine the compensation of staff of the committee. Staff members serve at the direction and at the pleasure of the ethics committee.

(b) Staff shall maintain the integrity of the functions and services of each ethics committee by refraining from joining or supporting any partisan political organization, faction or activity that would tend to undermine the essential nonpartisan nature of their functions and services. The provisions of this section do

not restrict staff from expressing private opinion, registering or voting.

Sec. 24.60.250. MEETING OF THE ETHICS COMMITTEE. Each ethics committee shall meet as necessary during a legislative session and during the interim and it may meet at the request of its chair or of three members of the committee.

Sec. 24.60.260. QUORUM. A quorum of the ethics committee consists of three members and the vote of three members is required to adopt a motion, determination, or advisory opinion of the ethics committee.

ARTICLE . DEFINITIONS.

Sec. 24.60.900. DEFINITIONS. In this chapter,

(2) "ethics committee" means the ethics committee of the house of the legislature to which the member of the legislature or the member employing a person belongs.

Prepared by Mark Higgins, N.P.O.C.

COMPONENTS OF A MODEL ETHICS LAW

The following is an overview of the essential components of an enforceable ethics law.

1) LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSE:

This section emphasizes the necessity for the avoidance of conflicts between the private financial interests of public officials and employees and their responsibilities to the public and to the government that employs them.

2) APPLICABILITY SECTION:

This section names the official positions to which the law applies.

3) DEFINITION OF TERMS:

A careful definition of terms used in the law is crucial to a good and legally enforceable ethics statute. Sections containing undefined ambiguities are often subject to unfavorable judicial interpretation.

4) ESTABLISHMENT OF A STATE ETHICS COMMISSION:

a) Members' 'Staff: Outlines whether the commission is to be composed of citizens, legislators or a combination of citizens and public officials.

b) Powers and Duties: This section authorizes the Commission to carry out its routine housekeeping functions. It also grants the Commission authority to make rules consistent with the law, and it provides the Commission with the necessary powers to conduct investigations, hold hearings and determine cases.

c) Complaints; Hearings: Outlines procedures for the Commission to follow when investigating complaints and when holding hearings. This provision is designed not only to ensure prompt action by the Commission, but also to make sure that cases will be dealt with impartially and not buried or delayed for political reasons.

d) Advisory Opinions: The power of the Commission to issue advisory opinions is intended to provide protection to persons who seek advance determination as to whether particular activities will violate the law. If a person submits a true and complete statement of facts to the Commission, and if the person follows the Commission's opinion in good faith, then the person will be protected against civil and criminal penalties.

5) CONFLICTS OF INTEREST:

a) Gifts: This section commonly prohibits public officials from soliciting or accepting anything of value which might reasonably be assumed to impair the officials' impartial judgement. Sometimes dollar limits are stated, under which a gift is acceptable (usually $100). This provision does not include gifts from family.

b) Confidential Information: This section prohibits the use of confidential information gained in the course of official action or position. Such information cannot be used for the financial gain of the public official or anyone or organization financially associated with the official.

c) Representation Before State Agencies: This section puts restrictions on appearances before State agencies by public officials on behalf of any individual or private organization if the appearance is for a fee or other compensation. Restrictions are usually limited to agencies over which the official has influence.

d) Post Employment: This section addresses the so-called "revolving door" problem where State officials and employees leave public office to work in the private sector and then use confidential information and close contacts gained during public employment for the advantage of their private employers' customers or clients. Usually the prohibition lasts between 1 and 2 years and is limited to matters with which the former State official or employee had any direct influence or contact.

e) Contracts: The intent behind restricting public officials' participation in State contracts is to prevent self-dealing on the part of the official while still allowing the State to take advantage of business opportunities with public officials, if they are in the best interest of the State. The normal requirement is that any contract involving a public official and involving more than $1,000 must be let through a competitive bidding process.

f) State Loans: The intent is the same as in contract restrictions - to prevent self-dealing by public officials. Guidelines vary from state to state, but the usual practice is to require that any loan involving discretion as to requirements be carefully scrutinized.

g) Nepotism: This section prohibits the employment of close relatives within the same agency or department if their official responsibilities overlap. In the legislative branch relatives are prohibited from working in the same body during session.

h) Financial Dealings Between Public Officials: This section either prohibits or closely monitors financial associations between public officials themselves and between lobbyists and public officials.

i) Honorariums and Fees: Requires that any compensation paid to public officials for official engagements which resulted from the officials' position with the State, be turned over to the State.

6) PENALTIES:

a) Criminal Prosecution: Matters may be referred to the Attorney General for criminal prosecution if it is determined that there was a knowing and willful violation of a conflict of interest law. Commonly such violations are classified as misdomeanors subject to varying fines and imprisonments, usually not exceeding one year per offense.

b) Civil Action; Injunctions; Civil Penalties: This section authorizes the Commission to bring civil action for two purposes. First, to serve injunctions against violation of the Act, or to compel compliance with its provisions and, second to sue for the collection of civil penalities under the Act.

Civil action and civil penalities imposed at the Commission level is preferred approach to ethics legislation enforcement. This is because it is usually much easier to arrive at a Commission decision and imposition of civil penality than it is to get an Attorney General action leading to a conviction on criminal charges.

Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4949

BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips

HOUSE DISTRICT 15

MEMORANDUM

TO: REPRESENTATIVE MITCH ABOOD
CHAIRMAN, HOUSE STATE AFFAIRS

FROM: REPRESENTATIVE RANDY PHILLIPS

DATE: APRIL 22, 1983

RE: HOUSE BILL 362

Your office has requested backup documentation regarding House Bill 362. While most of the "documentation" is contained in discussions held before the Joint Special Committee on Legislative Reform, I am sending to you the following for your committee's consideration:

1. December 3, 1982 letter from the Attorney General to Governor Jay Hammond. Letter deals with conflict of interest.

2. Memorandum dated December 28, 1982, from the Attorney General to Governor Bill Sheffield. Memorandum is entitled, "Implementation of Conflict of Interests Opinion."

3. Harvard Law Review article entitled "Conflicts of Interest of State Legislators."

4. Iowa Law Review article entitled "Conflicts of Interest of State and Local Legislators." (NOTE: Items 3 and 4 were forwarded to the Special Committee by Rep. Joe Flood under lated dated Feb. 28, 1983.)

5. Memorandum from NCSL dated March 15, 1983.

6. Undated, unsigned memorandum entitled "Outline of Main Features and Policy Considerations for Proposed Conflict of Interest/Ethics Legislation." This was presented to the Special Committee by the Department of Law and was submitted in March of 1983. It is my recollection that Assistant Attorney Generals Dean Guaneli (Criminal Division, 465-3460) and Dianne Colvin (Civil Division, 465-3600) presented this to the Special Committee.

7. March 28 Memorandum from Connie Halford concerning makeup of the committee.

8. April 1, 1983, NCSL "Preliminary Report on Work on Conflict of Interest Legislation."

9. April 4, 1983 Memorandum from Rep. Don Clocksin

I realize this is quite a group of material for the committee to review in a relatively short time. I do plan on being at your committee meetings when this bill is considered and I will be happy to answer any questions you might have. In addition, Representative Mike Miller was a member of the Special Committee and is also a member of the State Affairs Committee.

Thank you for your consideration and assistance.

RP:jss
Enclosures: As Above

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB No. 362
Title An act relating to standards of conduct of legislators and legislative employees and establishing a Legislative ~~EXXX~~ Ethics Commission
Requested by: House State Affairs Date: April 19, 1983

II. FISCAL DETAIL
Agency Affected Legislative Affairs Agency
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Legislative Affairs Agency
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		-0-				
200 TRAVEL		44.1				
300 CONTRACTUAL		50.0				
400 COMMODITIES		-0-				
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES		-0-				
700 GRANTS,CLAIMS,ETC.		-0-				
TOTAL		94.1				

FUNDING. (Thousands of Dollars)

GENERAL FUND		94.1				
FEDERAL FUNDS		-0-				
OTHER (Specify Source)		-0-				

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

SEE ATTACHMENT

IV. DATE April 20, 1983 PREPARED BY Wally Harrison, Director, Admin. Svcs.
AGENCY Legislative Affairs Agency
PHONE 465-3850

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

33-001 (Rev. 12/82)

ATTACHMENT

Fiscal Note for House Bill No. 362:

III ANALYSIS:

There are no guidelines in the bill for amount or level of staff or for amounts of travel and per diem. It is necessary, therefore, to establish a set of assumptions on which to build a fiscal note.
Using input from various legislators who worked on the bill, I have made the following assumptions:

Assumption 1: There will be no permanent staff at this time. Personal services and professional services will be contracted as needed; therefore, no office space or equipment will be needed. The commission will determine how the central files are to be kept.

Personal Services Contracts	20.0
Professional Services Contracts	20.0
Other Contractual Services	10.0
	50.0

Assumption 2: To establish a good average for travel costs, I have hypothetically assumed that the Commission is to be made up of members living in Nome, Bethel, Fairbanks, Anchorage, Kodiak, Juneau, Ketchikan, and will travel coach fare: 3 roundtrips to Juneau; 4 roundtrips to Anchorage; and 5 roundtrips to Fairbanks for meetings. There will be no more than an average of three days per month of travel and per diem for meetings. There be no more than an average of one meeting per month.

Per Diem ----------	$18,720
Travel ----------	$25,385
TOTAL Trvl/PD	$44,105

Assumption 3: Additional costs, if any, for reports or copies made by other agencies for the Commission will be absorbed in that agency's operation budget.

Assumption 4: The Legislative Affairs Agency print shop can print the semi-annual summaries of decisions and advisory opinions.

HB

369

Official Business

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

April 28, 1983

MEMORANDUM

TO: House State Affairs Committee Members

FROM: Al Adams, Prime Sponsor APA

SUBJ: HB 369, An Act relating to credited service under the Public Employees' Retirement System; and providing for an effective date.

Introduction

Last year the legislature passed legislation allowing BIA school teachers to participate in the state teachers' retirement system. HB 369 would provide a similar option to other school staff of BIA schools that are being transferred to the state. These employees would be able to participate in the state public employees' retirement system.

Sectional Analysis

SECTION 1 adds a new classification to the kinds of previous employment that can be used to calculate retirement benefits under the state's Public Employees Retirement System. After completing three years of service, an employee could then apply any years of earlier service as a noncertificated BIA employee towards PERS benefits. A noncertificated BIA employee is a non-teaching employee of a BIA day schools. The rate of the employee's contributions may not be less than the rate in effect on January 1, 1961. Interest on contributions begins to accrue on the date the employee first claims service with the BIA day school. Benefits will be reduced by an amount equal to any retirement paid to the employee by the US government for the same service.

SECTION 2 provides for an immediate effective date.

Fiscal Impact

As of today, the Division of Retirement Benefits has not yet determined the fiscal impact of passage of this bill. However, I understand that a fiscal note will be presented to you at the hearing on April 29th.

P.O. Box 264
Kotzebue High School
Kotzebue, AK 99752
February 22, 1983

Representative Al Adams
Alaska State Legislature
Pouch V
State Capital
Juneau, AK 99811

Dear Al:

My primary concern in regards to retirement deals with our instructional aides. A number of the aides are working toward teacher certification. Once accomplished and the aide makes the transition to a teaching position, that aide will also transfer retirement systems from PERS to TRS. At this transfer time, I believe that a person should be allowed to bring in a significant portion of their classroom years (including Alaskan B.I.A.) into TRS that would be counted as membership years for retirement purposes.

I realize we have to look closely at cost on any type of retirement legislation. I don't believe it would be that significant, especially if we look at the long range benefits for the children. This approach would provide incentives for our aides and local young people to become classroom teachers. At time of transfer, they could have the option of arrearage indebtedness like teachers have presently, or possibly a system where a PERS/TRS rollover could take place.

I have discussed this concept with NEA-Alaska, and they have been receptive. They also let me know how much they appreciated your leadership in raising the shortfall funding levels recently; the teachers appreciate your efforts.

If I can help you more on the retirement, please let me know.

Sincerely,

NORTHWEST ARCTIC EDUCATION ASSOCIATION

Dennis

Dennis Johnson, President

enclosure

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

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1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

Official Business

February 8, 1983

Dennis Johnson
Post Office Box 635
Kotzebue, Alaska 99752

Dear Dennis:

I wanted to follow-up on our conversation we had last year concerning retirement credit for BIA service for non-teaching positions. I'm still interested in introducing legislation but if my memory serves me, you were going to put together some ideas.

Let me know if you've been able to come up with a proposal, or if you have thought of another approach.

Thanks.

Sincerely,

Al Adams
Representative

AA/cf

from the date of the refund until
whichever occurs first. Paymen
and then to principal.

(c) Any outstanding indebte
employee is appointed to retir
adjustment to the benefits paya
this section. (§ 16 ch 143 SLA 1
ch 31 SLA 1976; am § 30 ch 12
am § 47 ch 137 SLA 1982)

Effect of amendments. — The fir
1982 amendment, effective May 28, 198
inserted "credited" in subsection (a).
The second 1982 amendment, effective
out in the main pamphlet.

Sec. 39.35.360. Earlier service. (a) An employee employed before January 1, 1980, who completes three years of credited service with the state after January 1, 1961, for which the employee makes contributions required by this chapter is entitled to credited service for service rendered (1) before January 1, 1961, as an employee of the state and former Territory of Alaska; (2) before January 1, 1961, as an employee of the United States government in Alaska, excluding service in the armed forces of the United States; or (3) after January 1, 1961, as a peace officer, correctional officer, or fireman of a participating political subdivision of the state if the employee is vested and is an active peace officer, correctional officer, or fireman in the system as of July 1, 1980. The retirement benefits payable to an employee under this section shall be reduced by the amount of the retirement pension benefits paid to the employee by the United States government for the same period of service.

(b) An employee who, under (a) of this section, is entitled to credited service for employment before January 1, 1961, is not required to make retroactive contributions under this chapter.

(c) Repealed by § 41 ch 146 SLA 1980.

(d) Repealed by § 2 ch 26 SLA 1974.

(e) An employee of a detention facility provided by a local government unit to the territorial or state government under AS 33.30.060, who continues in state employment upon transfer of the facility to the state, is entitled to credited service for his prior service with the facility if the employee remains in continuous employment with the state until July 1, 1976. To obtain credited service the employee is required to make retroactive contributions for the period of service between January 1, 1961 and the effective date of the transfer of the facility to the state.

(f) A surviving spouse receiving or entitled to receive a surviving spouse's pension under AS 39.35.440 or benefits under a joint and survivor option filed under AS 39.35.450 is eligible for increased bene-

fits for any service credit authorized under (a) of this section, but not claimed or authorized by law before the employee's death.

(g) An employee is eligible to receive up to 10 years of credited service for service rendered before July 1, 1979, as a temporary employee of the legislature of the state or territory during legislative sessions. To receive retroactive credited service under this subsection, an employee must claim the service before July 1, 1980. When the employee claims the service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate these contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on this indebtedness beginning July 1, 1980. Any outstanding indebtedness which exists at the time the employee retires will require an actuarial adjustment to the benefits which are based upon retroactive credited service under this subsection.

(h) An employee of the state is eligible to receive credited service as provided under AS 39.35.300(b) for service rendered as a permanent part-time employee before January 1, 1976. To receive retroactive credited service under this subsection, the employee must claim the service before July 1, 1981. When the employee claims retroactive credited service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate the contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on the indebtedness beginning July 1, 1981. Any outstanding indebtedness which exists at the time the employee retires will require an actuarial adjustment to the benefits which are based on retroactive credited service under this subsection. (§ 17 ch 143 SLA 1960; am § 4 ch 80 SLA 1964; am §§ 5, 6 ch 155 SLA 1966; am § 4 ch 235 SLA 1968; am § 1 ch 55 SLA 1973; am §§ 1, 2 ch 26 SLA 1974; am §§ 1, 2 ch 245 SLA 1976; am §§ 31 — 33 ch 128 SLA 1977; am §§ 1, 7 ch 174 SLA 1978; am § 3 ch 81 SLA 1979; am § 10 ch 82 SLA 1979; am §§ 31, 32, 41 ch 146 SLA 1980; am §§ 48, 49 ch 137 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, in the first sentence of item (3) of subsection (a), deleted "or" preceding "correctional officer" and inserted "or fireman" preceding "of a participating political subdivision" and "correctional officer, or fireman" preceding "in the system." In subsection (b), the amendment inserted "under (a) of this section."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982

Vested benefits.
Public Employees' Ret
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Ct. Op. No. 2345 (File
1052 (1981).

The vested benefits
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payable, but the requ
ity as well. Hammond

Section
385. Conditional benefits
420. Nonoccupation
430. Occupational
440. Death after o
460. Level income
470. [Repealed]
475. Post-retireme
485. Minimum ben
490. Designation o

Sec. 39.35.38
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STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 369
Title: An Act Allowing BIA Service in PERS
Sponsor: Representative Adams
Requestor:

II. FISCAL DETAIL

Agency Affected: None
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		2301.7	2301.7	2301.7	2301.7	2301.7
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		2301.7	2301.7	2301.7	2301.7	2301.7
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		2080.7	2080.7	2080.7	2080.7	2080.7
FEDERAL FUNDS		105.9	105.9	105.9	105.9	105.9
* OTHER (Specify Source)		115.1	115.1	115.1	115.1	115.1

*4% Veterans; 12% Fish & Game; 26% Highway; 58% Airport

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: J.K. Humphreys, Director — Phone: 465-4460
Division: Retirement & Benefits — Date: 4-29-83

Approved by Commissioner: Lisa Rudd — Date: 4-29-83
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

State of Alaska

Fiscal Note

HB 369

IV Analysis: The cost of this bill will be borne by all PERS employers, Political Subdivisions as well as the State. The individual employer contribution will increase on an average of .53%. The total cost to the Political Subdivision employers will be as follows:

FY 84	FY 85	FY 86	FY 87	FY 88
1693.9	1693.9	1693.9	1693.9	1693.9

The total present value of the costs of this bill to all employers is $44.4 million.

This bill would reduce the PERS funding ratio by 4.3%.

HB

374

Offered: 5/10/83
Referred: State Affairs
and Judiciary

Original sponsor: Shultz

IN THE HOUSE BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 374 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the establishment of maximum security prison facilities at Anderson and Palmer/-Sutton."

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

* Section 1. AS 33.30.020 is amended to read:

Sec. 33.30.020. COMMISSIONER TO ESTABLISH AND ADMINISTER PRISON FACILITIES. Subject to the provisions of AS 33.30.025, the [THE] commissioner shall establish prison facilities and classify the prisoners in prison facilities. The commissioner shall provide for the safety, subsistence, proper government, and discipline of prisoners. The commissioner shall establish programs for the treatment, care, rehabilitation and reformation of prisoners.

* Sec. 2. AS 33.30 is amended by adding a new section to read:

Sec. 33.30.025. LOCATION OF FACILITIES. After July 1, 1983, the commissioner shall locate within the vicinity of Anderson and Palmer/-Sutton ~~all new~~ the next maximum security prison facilities that contain 200 or more beds.

Hess wants it — typo! on revisor

White Paper

+ + + + +

A Consideration For Location of Maximum Security Prison In Anderson

Developed In Cooperation With
GARY COPUS, Ph.D
Criminal Justice Division
University of Alaska
Fairbanks

Credentials Brief

GARY COPUS, PH.D

Currently serving the Thirteenth Alaska Legislature as a consultant in Corrections, Dr. Copus has also assisted the Mayor and Council of the City of Anderson in determining its viability for siting a Maximum Security Prison.

He received his Doctorate in Sociology at the University of Missouri-Columbia.

From 1970 until 1979, he was instructor in Criminal Justice in the graduate school at Sam Houston University, Huntsville, Texas.

From 1980 to the present he served in the Criminal Justice program in which he has published and lectured in all areas of corrections and its alternates.

We are very proud to have the assistance of Dr. Copus in developing our position.

THE SMALLER THE BETTER

Testimony given before the Senate H.E.S.S. Committee
on prison facility construction, April 21, 1983
Given by : Gary D. Dopus, Ph.D.

The State of Alaska faces the need of building additional prison facilities in the immediate future. Each of the state's units are at or above capacity with expectation by 1987 the population count will reach 2000.[1] Among the types of facilities needed is a maximum security unit. This paper specifically addresses the issue of the maximum desirable size of any one max unit. The issue is examined by citing disadvantages and advantages of building two 200-bed units versus one 400-bed unit.

Disadvantage of Two Small Units: The only disadvantage is one of economics. Although no cost figures were readily available for comparing the two-prison model against the single unit model, various professional opinions were solicited regarding capital cost and operational cost differences. Jim Austin of the National Council on Crime and Delinquency, administrators of the Fairbanks Correctional Facility, and Stuart Shadbolt, Administrator of the North Carolina Department of Corrections each contributed to the question of cost differentials. All agreed on two points. First, it was inevitable that the two-unit model would be more expensive both for initial construction and for continued operational costs;

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[1] Adult Corrections In Alaska: Current Issues In Administration and Management, pp.1 and 14, House Research Agency Report 82-E, 1983.

however, the increase was not seen to be exorbitant. They further agreed that these expenses were well worth the accrued advantages.[2]

The California Department of Corrections also addressed this issue.[3] In part they concluded despite the apparent administrative and financial benefits associated with larger institution size, smaller institutions than size 400 may be preferable when the cost and administrative problems associated with the increased tension, hostility, and likelihood of violence associated with larger size are assessed.

The North Carolina system in particular has adopted the smaller unit, decentralized model. There are 81 different facilities to house a current population of 17,200 inmates. The general philosophy shared by Stuart Shadbolt was "smaller the better." Their new max unit dedicated this year houses 350. This system then follows the stance of John Conrad advocating the replacement of larger units with a network of smaller, more humane units.[4]

Advantages of Two Small Units

- Management Flexibility -- As stated by Roger Endell, Director, Division of Corrections, an intrinsic problem in the construction of any institutional space, and particularly those that

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[2]Personal Communication, April, 1983.

[3]Moyer, F.D., "Some Essentials of Facility Planning," 1978, California Department of Corrections, Sacramento, Ca. 95814.

[4]John Conrad, "Which Way To The Revolution," in Should We Build More Prisons?, (National Council on Crime and Delinquency, 1977).

have substantial security specifications, is that its construction generally commits the State to a fixed kind of space limited in function. Should Alaska's correctional needs change in the future its ability to adapt will be shaped by the kind of space that has already been constructed.[5] The construction of two units would allay this commitment. For example, suppose the State's max needs halved over a period of time, one unit could be more easily converted to serve some other purpose.

- Transfer of Inmates -- An undesirable possibility in corrections is the formation of cliques and organizations among the inmate population for purposes of disruption. The most efficacious action by management is transferring key inmates, preferably to a different unit. This, obviously, can only be accomplished if there is another unit available.

- Control of the Institution -- From administrators contacted there was unanimous agreement that the smaller the institution the easier it is to control the inmate population, even where the same staff to inmate ratio existed. The main reason was due to the ability of staff to establish rapport with the inmates and diffuse quickly and efficiently potentially dangerous situations. In larger institutions the mere number of interactions which occur tends to inhibit this important function.

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[5]Adult Corrections In Alaska, p. 41.

- Smaller Prisons Are More Humane and Safer For Staff and Community -- Conrad sees prisons as inevitable in modern society, but advocates they need not be inhumane, dehumanizing, brutal holding tanks for inmates. Rather, the solution lies in designing and building smaller institutions that would reduce the inhumanity that breeds in the larger institutions. Conrad argues that continued use of brutal maximum security prisons not only affects the inmates, but degrades all of society. This argument is supported in a study which established the inmate's perception of density was directly related to rate of assaultive behaviors by inmates on other inmates and staff. It is likely that perception of density is directly related to the size of the institution.

As Roger Endell noted, other states have found that the larger the facility the higher the incidence of prison violence. He further attributed the relative absence of violence in Alaska's prisons to its small prison capacities. Dana Fabe, head of the Public Defenders in Alaska, also concurs and stresses the need to establish several small maximum security facilities. "Ms. Fabe believes that this approach would also strengthen the Division's ability to separate dissimilar groups of maximum security prisoners; e.g., sex offenders could be housed apart from other classes of prisoners."

- Other Institutional Advantages -- In an interview with many of the staff at the Fairbanks Office of Adult Probation and parole, several additional advantages were cited. Staff and inmate attitudes would be much more positive in smaller prisons. The reasons given for positive inmate attitudes was that in smaller prisons the inmate retains his sense of individuality as opposed to simply being a nameless face and number among many. As for positive staff attitudes these would occur because of the ability among small staffs to "get to know each other" and form supportive relationships. Higher levels of face-to-face communication would also reduce the possibility of inmate manipulation of one staff member against another.

EXECUTIVE SUMMARY
FOR THE LEGISLATURE

The Anderson Case
for a
Maximum Security Prison
April 26, 1983

We'd like to be taken seriously.

Now that the attention-getting phase of our program has concluded, we'd like to firmly establish our position on maximum security prisons by briefly re-stating it:

1. The Legislature should decide on the location of any correctional facility such as this one. The impacts on a community are enormous and of long-term economic and social importance. It is the kind of decision that determines which part of the State will or will not grow. This is the kind of decision Legislatures should be making. Legislatures prevail, over time. Commissioners come and go, and policies with them. It is obvious that you and your colleagues must make this decision. It is just as obvious that the management decisions belong to the professionals.

2. It is decision time. Information we have developed during our research tells us that the State of Alaska is at peril if a decision is not reached during this Session of the Thirteenth! We have mentioned this to no one up to now, but, we'll appreciate being able to fill you in during the coming week. Please let us have a couple of minutes to do so. Thank you.

3. Two small prisons, not one large one. Our research among Alaska prison managers, those in the Lesser-48, and throughout the professional literature support the validity of this concept, and it may actually cost less to operate two smaller, than one large. Costs to construct two will be only about 22% more than to build the single larger unit, we have been told by prison architects.

4. Palmer and Anderson are appropriate locations to serve the north and south of the State since about 46% of all inmates resided in the Greater Anchorage area and about 41% came from Fairbanks and the Bush before their placement in institutions.

5. And finally, Anderson has the same kind of locational advantages as any other site, except one--and that's where we have it all over everybody--our citizens voted for it in a legal Referendum. To this time, no other city has done that!

Very respectfully,

THE CITY OF ANDERSON

C. W. Mueller
Mayor

White Paper

+ + + + +

A Consideration For Location of Maximum Security Prison In Anderson

CONSIDERATIONS ABOUT ANDERSON AND MAXIMUM SECURITY PRISONS

- o Purpose of maximum facilities is LESS REHABILATATION AND MORE WAREHOUSING. Lessens the necessity to establish facilities in urban, or near urban, areas.

- o Availability of the Anderson Site for VISITATION is enhanced by the TRAIN STOP and HIGHWAY connecting Alaska's two largest cities.

- o There is no other prison system in Anderson. The modern trend is to keep prison facilities: less than 500 bed capacity, and GEOGRAPHICALLY SEPARATE, so as NOT TO CREATE A "PRISON MEGALOPOLIS." This latter characteristic allows for 1) distribution of the economic advantages and 2) the flexability for prison management to have access to a variety of resources from the land and the community.

- o Anderson is in the middle of a growth/development corridor of Alaska. Remembering that given the prison facility will last many generations to come the Anderson site makes an excellent choice given the emerging DEVELOPMENT PATTERNS ALONG THE RAIL-BELT.

- o The facility, if a 400 bed one as currently proposed, will employ between 175 and 250 persons. The City of Anderson looks forward to the advantages new citizens afford and to the opportunity for current and future citizens to obtain correctional employment.

- o With OVERWHELMING COMMUNITY SUPPORT any deficit Anderson may have will be overcome or lessened. No matter where a site is located, there will be positive and negative factors to be dealt with. It is emphasized that where Anderson differs is the community spirit so necessary for what successes prisons can achieve.

- o IN SUMMARY, Prisons need four things to operate: a physical facility, personnel to staff and administer, offenders to be located there, and supplies. Anderson can provide a location whereby the state can satisfy these needs efficiently, economically, and continually.

COMMUNITY SUPPORT

- Referendum on March 29, 1983 supported prison by 2-to-1.
- 61% voter turnout
- Five public meetings informed citizens
- Reasons Anderson wants prison are community expansion and employment opportunities in future generations.

LAND AVAILABILITY

- Multiple sites for selection
- Sites are available by State Land Selection Process from Cook Inlet Region, Incorporated; or, Federal Lands

ELEMENTS OF PHYSICAL ENVIRONMENT

- Water - pure, unlimited, and without fee via prison's own wells and distribution facilities.
- Sewage - Cost saving from construction/operation of on-site treatment system.
- Power - Optional excess power available from Clear AFB or, Golden Valley Electric Association and potential Anchorage-Fairbanks intertie.
- Heating - Coal from Usibelli Mines 50 miles away, and/or fuel from North Pole Refinery 100 miles away.
- Transportation available by highway, rail, and air.

ELEMENTS OF HUMAN ENIVRONMENT

- Recreational areas and activities plentiful in Anderson area.
- Modern elementary and high school expandable to accomodate increased student body.
- Medical facilities currently 80 miles north in Fairbanks via highway, but, with increased population expect Anderson facility.
- Fire protection supported by Anderson and Clear AFB.
- The prison will attract quality personnel to work there and live in Anderson. Precedent in support is Clear AFB personnel educational level and technical skill level in Anderson for 20+ years. AFB also offers supply of potential quality employees from those retired or wishing a job change.

White Paper

+ + + + +

A Consideration For Location of Maximum Security Prison In Anderson

MODERN PRISONS DESCRIBED

1. In modern penal systems the purpose of maximum security units has changed little since the inception of the first prison in our nation. The purpose is simply to provide for the safe keeping of those individual offenders who have shown themselves incapable of co-existing with others, or are deemed a danger to themselves or others, or are in danger from others.

Individuals are assigned to maximum units via a thorough process called classification and end up "max-rated" only as a last resort. Given these considerations, experts argue that "max units" are simply warehousing units, with less emphasis on rehabilitation.

Less Rehabilitation

Rehabilitation is attempted in minimum or medium security units -- an assignment available to max inmates through re-classification. Thus

> FOR SITE SELECTION OF A MAXIMUM SECURITY UNIT THE AVAILABILITY OF REHABILITATION SERVICES SHOULD NOT BE A MAJOR FACTOR OF CONSIDERATION.

EASY TRAVEL

2. An Anderson site would be ideal for friends and relatives wishing to visit inmates because of its accessibility by highway and rail. The train is a particularly good ticket for families not having access to automobile transportation and during most of the year the frequency of the local runs is such that persons visiting the prison could make convienient connections. Additionally, for persons visiting from Fairbanks, Anderson is a short, scenic drive.

NO PLACE PERFECT

3. With the numerous points to consider, no matter which site the State selects, all points will not be positive relative to other sites, For example, one might argue that Haines would have been more positively effected economically than a Palmer area site, but Palmer is nearest the largest city. Anderson may have transportation and utility advantages over Palmer. Given that no one site will score relatively higher than other sites on all points, what becomes important is how to handle the deficits and then the community becomes an indispensable part of site consideration.

Positive Community Attitude

A positive community outlook supports the goals of the prison in many direct and subtle ways. For example, a positive community attitude attracts, in part, quality personnel to staff the prison; assists those families moving to the area because a friend or relative is incarcerated and thus eliminates worry on part of the inmate; works with the prison administration to provide for staff housing, supplies, and emergency labor needs thus resulting in an efficient institution with a high morale.

ANDERSON IS A CITY WHICH HAS PUBLICLY ANNOUNCED, ON THE BASIS OF INFORMED DECISION MAKING, THAT IT WILLINGLY ACCEPTS THE COMMUNITY RESPONSIBILITY.

LONG USEFUL LIFE

4. Prisons last for many years, a conservative estimate being a useful life of between 60 to 90 years. A good many prisons operating today are "centenarians". Thus when considering a site, the future of the area must be carefully taken into account. Any points negative with respect to Anderson should be assessed with the question, "What will the Anderson area be like 5, 10, 20, 50 years from now?" The current projections are that Anderson will be part of a rapidly developing area along the rail belt which could make it a center point of population in the next 20 years. This, accompanied by projected increases in transportation facilities demotes any current concerns about "out-of-the-wayness" to only temporal concerns at best.

MAJOR PRISON PROBLEMS

5. Many of the major problems in prisons today are in part related to their mere magnitude in terms of numbers of persons locked up under one roof. Recent national recommendations stress the importance of keeping newly constructed units less than 500 bed capacity, and the physical separation of units. In other words, the recommendations could be interpreted as "do not build a prison megalopolis" be it under one roof or by building multiple adjacent structures. Separation of facilities, geographically, has several advantages.

Physical Separation

First from the standpoint of the state the economic advantages are spread as well as any disadvantages which communities might accrue. For example, suppose the presence of a facility attracts inmate families which have children who in turn have learning problems, behavior problems in school, and relatively high delinquency rates. Why concentrate these traits versus spreading them out and subject them to strong positive community influence (like Anderson can provide)?

Second building a facility geographically separate from other current institutions makes good sense from a management point of view. Take the hopefully unlikely and extreme case of a major earthquake in the vicinity of a prison creating the need for evacuation. Would it not be better to evacuate only one facility than several too closely juxtaposed? Further, physical separation enhances identification by staff with "their" facility and increases pride, morale, and dedication as opposed to "working in a large network of prisons." Management also has a variety of land and community resources, the variety offering the opportunity to install new programs and ideas which may not be acceptable in just any one location. <u>These are only a few of the reasons not to build prisons in the same geographical locale</u>.

Other Advantages

Gary Copus

Gary Copus, Ph.D

INTRODUCTION TO ANDERSON

Anderson, Alaska thinks it would be a good place for a Maximum Security Prison--But only a Maximum Security Prison! The people of Anderson are pretty outspoken on that point. They have talked it over.

You say you've never heard of Anderson-- and haven't the foggiest notion of where it is?

Touche!

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During the meetings, material used to guide informative discussion was used from the American Correctional Association, The Federal Bureau of Prisons and the Criminal Justice Institute at Hemlock Hill, New York. In addition, at the March 18th Town Hall meeting, professionals in the correctional area were invited to address the citizentry. Invited and accepting were Captains Douglas Nowak and Lawrence Jackson of the U.S. Air Force, and Dr. Gary Copus.

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The resulting 2-to-1 vote was based on 61% of the registered voters. Voting was done in an official manner in all precincts, locked ballot boxes and election judges. Noteworthy is that the prison issue was the only item on the ballot so that the largest turnout in Anderson's voting history was due to the community interest which was overwhelmingly positive.

An informal assessment was made as to the reasons the community obviously wanted a maximum security prison.

First the community sees the prison as an employment opportunity for its future generations. Correctional employment was seen as not only an opportunity for young adults to have the alternative of remaining in Anderson as productive citizens, but the community also recognized modern corrections as providing a desirable career opportunity. Present employment was of lesser concern. Anderson is not currently impacted by any economic crisis which might sway a community's opinion to be only temporally positive. Anderson is in a reasonably good economic and employment status.

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ECONOMIC ADVANTAGES OF ANDERSON

The economical advantages of an Anderson site could vastly outweigh those of many other potential sites if life cycle economics is considered.

Life cycle economics center upon options available for essential operating utilities, such as:

heating/air conditioning
electric power
water
sewage treatment
transportation

HEATING Healy coal, transported by the Alaska Railroad, powers the generators and boilers at the Anderson-located Clear Air Force Station. Three Anderson sites are located immediately adjacent to the Alaska Railroad. Options for heating and power generation include both coal and/or diesel transported by the Alaska Railroad:

- o Coal: Usibelli Mines, Inc.
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SEWAGE TREATMENT Another cost saving advantage of an Anderson site is that the prison would construct and operate its own small, self-contained treatment system, just as does the Clear Air Force Station for its 500+ military and civilian personnel forces. The State may wish to acquire slightly more than the proposed 100-acre-reservation for these purposes. Everywhere at all Anderson sites, land is available to the State for its purposes and needs.

TRANSPORTATION The advantages of prisoner transfer transportation has been earlier addressed. In this section, logistical transportation is discussed.

The locational advantage of an inter-modal transportation network must not be under-estimated, either for the construction phase or the ultimate operational life of the prison.

Construction materials can be boarded on rail cars at any point in the Lower-48 or the Orient and off-loaded near any of the potential Anderson sites. This same transportation system will greatly reduce costs of consumable supplies for the operation phases through use of the rail-barge-rail-truck-road inter-modal matrix available only at Anderson, while utilizing the state-owned Alaska Railroad utility. The air link to Anderson sites has been prior addressed.

CULTURAL-SOCIAL-RECREATIONAL ADVANTAGES OF ANDERSON

Since Anderson is just 90 minutes driving time from the main campus of the University of Alaska/Fairbanks, and the university's Nenana Valley Rural Education Center presents credit-courses at Anderson and throughout the region, opportunities to take or teach graduate and under-graduate courses are readily available, as are symphony, drama, music and art, sports and popular music. The Fairbanks Regional Medical Center is only 30 air minutes from Anderson and provides a wide range of modern medical procedures.

In Anderson itself, there is an opportunity to participate in social and fraternal clubs and organizations as well as sports and educational activities. Anderson's new and modern elementary and High School can absorb a hundred or more students with only the addition of a few staff positions. By adding new rooms to the architecturally expandable complex, up to 250 additional students could be responsibly accommodated.

A new gun club and indoor shooting range will be completed next year in Anderson and, cross-country ski, snowmachine and ATV trails criss-cross the area and sport fishing and hunting are very nearby. Youth and large all-family parks are popular and in use. All roads and water removal ditching will have been completed prior to commencement of major construction.

Anderson is a Second Class City with an experienced, stable government and Council. There is no property tax. Except for educators and government employees, most adults work at Anderson's Clear Air Force Station as technical or management personnel. While Anderson has obvious employment stability, second and eventually third generation citizens face chronic unemployment and welcome the opportunity to train and to qualify for positions at the prison, now, and into its future life cycle.

LAND AVAILABILITY
IN ANDERSON

Anderson is surrounded on both sides by land available to the State through the State land selection process. Most specifically, from removal from the Cook Inlet Region, Incorporated selection pool, or from other federally owned land from which it may select. The State itself owns land which should be considered, and will soon receive numerous Sections of land in Township 7 South, Range 7 West, F.M. which affords a number of site potentials. The City of Anderson recommend sites in Sections 15, 14, 10, 11 of T7S, R7W FM be studied; then, section 8 or 4 of T7S, R7W FM; finally sections 13, 23, 26, 27 and 34 T7S, R7W FM.

MEMO

To: Senator J. Josephson

From: Gary D. Copus, City Of Anderson

Re.: Cost Differentials of Two-Prison Model

Per your request in HESS Committee, I am providing information on initial construction costs between one 400 bed facility vs. two 200 bed facilities.

Source: Mr. James Austin, National Council on Crime and Delinquency, contacted several architects experienced in prison construction. Based on lack of design decisions total $ amounts were not developed, but, for any design it was estimated the % difference will be 22%.

Implications: Assume that cost for a 400 bed unit is $100,000/bed or $40,000,000. The two facility differential would be 22% x $40,000,000 = $8.8 million difference.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

House Bill No. 374

"An Act relating to the establishment of maximum security prison facilities at Anderson and Palmer/Sutton."

House Bill No. 374 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate all newly constructed maximum security prison facilities that contain 200 or more beds within the vicinity of Anderson and Palmer/Sutton.

The Department of Health and Social Services and the Division of Adult Corrections totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: Roger C. Large for
Roger V. Endell, Director
Division of Adult Corrections

Date: 4/21/83

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date: 4/26/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: House Bill No. 374
Title: Act relating to estab. of max pris fac
Sponsor: Shultz
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Adm. of Just.
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: April 21, 1983

Approved by Commissioner: Robert London Smith Date: 4/26/83
Department Health & Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate all newly constructed maximum security prison facilities within the vicinity of Anderson and Palmer/Sutton.

CITY OF ANDERSON
P.O. Box 40011 • Clear, Alaska 99704 • Phone (907) 832-5566

In Reply
Refer To:
April 12, 1983
LEG 100

RECEIVED
APR 13 1983

Honorable Mitch Abood
THE STATE CAPITOL
Pouch "V" (MS 3100)
Juneau, Alaska 99811

Dear Representative Abood:

When Mayor Gerald W. Mueller and I visited Juneau last week, we missed getting in to see you, and we are very sorry that had to happen.

We stressed to the 20-some Legislators we did see, that Anderson desires to be considered a serious potential location for Alaska's soon-to-be-built maximum security prison.

In a few days we will provide you and your staff with a White Paper and supporting documentation outlining our position. Until that time we would like you to have the basic information your colleague Legislators now have.

In this letter we re-emphasize three themes of great importance in our program:

(1) Anderson is the only City among those expressing interest, to conduct a bona fide Voter Referendum on the prison question. That Referendum had a 61% voter turn-out and was 2-to-1 in favor of an Anderson location.

(2) We contend that the costs to construct and operate, including costs of transportation and services for inmates, must be viewed in terms of life cycle economics - the 60-to-100 year expected life of the prison. Anderson is in a growth corridor and 50 years from today will prove to have been a very wise decision.

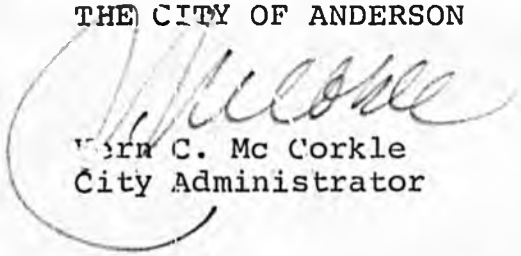
(3) Only Anderson offers a rare combination of economic factors which must be seriously considered:

- o Alaska Railroad adjacency;
- o Availability of North Pole diesel/heating oil, or Healy coal via the Alaska Railway;
- o Abundant land at no cost to the State if selected or traded with the Cook Inlet Regional Corporation;
- o Water service and sewage treatment on-site which dramatically reduces cost compared to municipally-furnished services.

We will provide the continuing information we have promised, but, if you or your staff require additional information, please call the above number, or my home telephone, below listed.

Very truly yours,

THE CITY OF ANDERSON



Norm C. Mc Corkle
City Administrator

NCM/ww
832-5810, residence

Attachment: News Item

ALASKA

Anderson ready for tou

By DAVID RAMSEUR
News-Miner Bureau

JUNEAU—City Manager Vern McCorkle likens it to David and Goliath. Others say it's more like the impossible dream.

The tiny town of Anderson, about 75 miles south of Fairbanks on the Parks Highway, has tossed its hat in the ring for a new maximum security state prison.

Even though state officials have all but narrowed the prison site to two other locations, Anderson is not giving up. In fact, Anderson officials say they've just now begun to fight.

"It's definately uphill," city Manager McCorkle admitted Wednesday between appointments with legislators. "We just know it's not going to be an easy fight."

He and Mayor Gerald Mueller are here for the week trying to convince enough lawmakers that their community of 550 is the best spot to house 300 hardened criminals.

"Our position is it's all well and good for the president of the Senate to want the prison in his backyard but we'd like equal consideration," McCorkle said.

Politicizing the issue with statements like that is part strategy. City officials counting noses in case prison site falls to the

They hope to rec chairmen of the powe nance Committee and appear to stand a goo Don Bennett is from banks and Sen. John Sa resented Anderson.

But state officials ideas. Three areas—S and the Matanuska-S probably Sutton—are ning for the prison est

Alaska State Legislature

COMMITTEES

Co-Chairman — House Resources Committee

Chairman — REAA Budget Oversight Committee

Member — House State Affairs

DOT — Finance Sub Committee



While In Session:

Pouch V
State Capitol
Juneau, Alaska 99811
Phone (907) 465-4851
465-4940

Home - P.O. Box 355
Delta Junction, Alaska 99737

House of Representatives

Dick Shultz

RECEIVED
APR 14 1983

I would appreciate your appraisal of this report.

It concerns the proposed location of the maximum prison in Anderson.

Thank you...

Dick Shultz

White Paper

+ + + + +

A Consideration For Location of Maximum Security Prison In Anderson

Developed In Cooperation With
GARY COPUS, Ph.D
Criminal Justice Division
University of Alaska
Fairbanks

Credentials Brief

GARY COPUS, PH.D

Currently serving the Thirteenth Alaska Legislature as a consultant in Corrections, Dr. Copus has also assisted the Mayor and Council of the City of Anderson in determining its viability for siting a Maximum Security Prison.

He received his Doctorate in Sociology at the University of Missouri-Columbia.

From 1970 until 1979, he was instructor in Criminal Justice in the graduate school at Sam Houston University, Huntsville, Texas.

From 1980 to the present he served in the Criminal Justice program in which he has published and lectured in all areas of corrections and its alternates.

We are very proud to have the assistance of Dr. Copus in developing our position.

White Paper

+ + + + +

A Consideration For Location of Maximum Security Prison In Anderson

CONSIDERATIONS ABOUT ANDERSON AND MAXIMUM SECURITY PRISONS

- Purpose of maximum facilities is LESS REHABILATATION AND MORE WAREHOUSING. Lessens the necessity to establish facilities in urban, or near urban, areas.

- Availability of the Anderson Site for VISITATION is enhanced by the TRAIN STOP and HIGHWAY connecting Alaska's two largest cities.

- There is no other prison system in Anderson. The modern trend is to keep prison facilities: less than 500 bed capacity, and GEOGRAPHICALLY SEPARATE, so as NOT TO CREATE A "PRISON MEGALOPOLIS." This latter characteristic allows for 1) distribution of the economic advantages and 2) the flexability for prison management to have access to a variety of resources from the land and the community.

- Anderson is in the middle of a growth/development corridor of Alaska. Remembering that given the prison facility will last many generations to come the Anderson site makes an excellent choice given the emerging DEVELOPMENT PATTERNS ALONG THE RAIL-BELT.

- The facility, if a 400 bed one as currently proposed, will employ between 175 and 250 persons. The City of Anderson looks forward to the advantages new citizens afford and to the opportunity for current and future citizens to obtain correctional employment.

- With OVERWHELMING COMMUNITY SUPPORT any deficit Anderson may have will be overcome or lessened. No matter where a site is located, there will be positive and negative factors to be dealt with. It is emphasized that where Anderson differs is the community spirit so necessary for what successes prisons can achieve.

- IN SUMMARY, Prisons need four things to operate: a physical facility, personnel to staff and administer, offenders to be located there, and supplies. Anderson can provide a location whereby the state can satisfy these needs efficiently, economically, and continually.

COMMUNITY SUPPORT

- Referendum on February 29, 1983 supported prison by 2-to-1.
- 61% voter turnout
- Five public meetings informed citizens
- Reasons Anderson wants prison are community expansion and employment opportunities in future generations.

LAND AVAILABILITY

- Multiple sites for selection
- Sites are available by State Land Selection Process from Cook Inlet Region, Incorporated; or, Federal Lands

ELEMENTS OF PHYSICAL ENVIRONMENT

- Water - pure, unlimited, and without fee via prison's own wells and distribution facilities.
- Sewage - Cost saving from construction/operation of on-site treatment system.
- Power - Optional excess power available from Clear AFB or, Golden Valley Electric Association and potential Anchorage-Fairbanks intertie.
- Heating - Coal from Usibelli Mines 50 miles away, and/or fuel from North Pole Refinery 100 miles away.
- Transportation available by highway, rail, and air.

ELEMENTS OF HUMAN ENVIRONMENT

- Recreational areas and activities plentiful in Anderson area.
- Modern elementary and high school expandable to accomodate increased student body.
- Medical facilities currently 80 miles north in Fairbanks via highway, but, with increased population expect Anderson facility.
- Fire protection supported by Anderson and Clear AFB.
- The prison will attract quality personnel to work there and live in Anderson. Precedent in support is Clear AFB personnel educational level and technical skill level in Anderson for 20+ years. AFB also offers supply of potential quality employees from those retired or wishing a job change.

White Paper

+ + + + +

A Consideration For Location of Maximum Security Prison In Anderson

MODERN PRISONS DESCRIBED

1. In modern penal systems the purpose of maximum security units has changed little since the inception of the first prison in our nation. The purpose is simply to provide for the safe keeping of those individual offenders who have shown themselves incapable of co-existing with others, or are deemed a danger to themselves or others, or are in danger from others.

Individuals are assigned to maximum units via a thorough process called classification and end up "max-rated" only as a last resort. Given these considerations, experts argue that "max units" are simply warehousing units, with less emphasis on rehabilitation.

Less Rehabilitation

Rehabilitation is attempted in minimum or medium security units -- an assignment available to max inmates through re-classification. Thus

FOR SITE SELECTION OF A MAXIMUM SECURITY UNIT THE AVAILABILITY OF REHABILITATION SERVICES SHOULD NOT BE A MAJOR FACTOR OF CONSIDERATION.

EASY TRAVEL

2. An Anderson site would be ideal for friends and relatives wishing to visit inmates because of its accessibility by highway and rail. The train is a particularly good asset for families not having access to automobile transportation and during most of the year the frequency of the local runs is such that persons visiting the prison could make convienient connections. Additionally, for persons visiting from Fairbanks, Anderson is a short, scenic drive.

NO PLACE PERFECT

3. With the numerous points to consider, no matter which site the State selects, all points will not be positive relative to other sites, For example, one might argue that Haines would have been more positively effected economically than a Palmer area site, but Palmer is nearest the largest city. Anderson may have transportation and utility advantages over Palmer. Given that no one site will score relatively higher than other sites on all points, what becomes important is how to handle the deficits and then the community becomes an indispensable part of site consideration.

Positive Community Attitude

A positive community outlook supports the goals of the prison in many direct and subtle ways. For example, a positive community attitude attracts, in part, quality personnel to staff the prison; assists those families moving to the area because a friend or relative is incarcerated and thus eliminates worry on part of the inmate; works with the prison administration to provide for staff housing, supplies, and emergency labor needs thus resulting in an efficient institution with a high morale.

ANDERSON IS A CITY WHICH HAS PUBLICLY ANNOUNCED, ON THE BASIS OF INFORMED DECISION MAKING, THAT IT WILLINGLY ACCEPTS THE COMMUNITY RESPONSIBILITY.

LONG USEFUL LIFE

4. Prisons last for many years, a conservative estimate being a useful life of between 60 to 90 years. A good many prisons operating today are "centenarians". Thus when considering a site, the future of the area must be carefully taken into account. Any points negative with respect to Anderson should be assessed with the question, "What will the Anderson area be like 5, 10, 20, 50 years from now?" The current projections are that Anderson will be part of a rapidly developing area along the rail belt which could make it a center point of population in the next 20 years. This, accompanied by projected increases in transportation facilities demotes any current concerns about "out-of-the-wayness" to only temporal concerns at best.

MAJOR PRISON PROBLEMS

5. Many of the major problems in prisons today are in part related to their mere magnitude in terms of numbers of persons locked up under one roof. Recent national recommendations stress the importance of keeping newly constructed units less than 500 bed capacity, and the physical separation of units. In other words, the recommendations could be interpreted as "do not build a prison megalopolis" be it under one roof or by building multiple adjacent structures. Separation of facilities, geographically, has several advantages.

Physical Separation

First from the standpoint of the state the economic advantages are spread as well as any disadvantages which communities might accrue. For example, suppose the presence of a facility attracts inmate families which have children who in turn have learning problems, behavior problems in school, and relatively high delinquency rates. Why concentrate these traits versus spreading them out and subject them to strong positive community influence (like Anderson can provide)?

Second building a facility geographically separate from other current institutions makes good sense from a management point of view. Take the hopefully unlikely and extreme case of a major earthquake in the vicinity of a prison creating the need for evacuation. Would it not be better to evacuate only one facility than several too closely juxtaposed? Further, physical separation enhances identification by staff with "their" facility and increases pride, morale, and dedication as opposed to "working in a large network of prisons." Management also has a variety of land and community resources, the variety offering the opportunity to install new programs and ideas which may not be acceptable in just any one location. <u>These are only a few of the reasons not to build prisons in the same geographical locale</u>.

Other Advantages

Gary Copus, Ph.D

INTRODUCTION TO ANDERSON

Anderson, Alaska thinks it would be a good place for a Maximum Security Prison--But only a Maximum Security Prison! The people of Anderson are pretty outspoken on that point. They have talked it over.

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TRANSPORTATION — The advantages of prisoner transfer transportation has been earlier addressed. In this section, logistical transportation is discussed.

The locational advantage of an inter-modal transportation network must not be under-estimated, either for the construction phase or the ultimate operational life of the prison.

Construction materials can be boarded on rail cars at any point in the Lower-48 or the Orient and off-loaded near any of the potential Anderson sites. This same transportation system will greatly reduce costs of consumable supplies for the operation phases through use of the rail-barge-rail-truck-road inter-modal matrix available only at Anderson, while utilizing the state-owned Alaska Railroad utility. The air link to Anderson sites has been prior addressed.

CULTURAL-SOCIAL-RECREATIONAL
ADVANTAGES OF ANDERSON

Since Anderson is just 90 minutes driving time from the main campus of the University of Alaska/Fairbanks, and the university's Nenana Valley Rural Education Center presents credit-courses at Anderson and throughout the region, opportunities to take or teach graduate and under-graduate courses are readily available, as are symphony, drama, music and art, sports and popular music. The Fairbanks Regional Medical Center is only 30 air minutes from Anderson and provides a wide range of modern medical procedures.

In Anderson itself, there is an opportunity to participate in social and fraternal clubs and organizations as well as sports and educational activities. Anderson's new and modern elementary and High School can absorb a hundred or more students with only the addition of a few staff positions. By adding new rooms to the architecturally expandable complex, up to 250 additional students could be responsibly accommodated.

A new gun club and indoor shooting range will be completed next year in Anderson and, cross-country ski, snowmachine and ATV trails criss-cross the area and sport fishing and hunting are very nearby. Youth and large all-family parks are popular and in use. All roads and water removal ditching will have been completed prior to commencement of major construction.

Anderson is a Second Class City with an experienced, stable government and Council. There is no property tax. Except for educators and government employees, most adults work at Anderson's Clear Air Force Station as technical or management personnel. While Anderson has obvious employment stability, second and eventually third generation citizens face chronic unemployment and welcome the opportunity to train and to qualify for positions at the prison, now, and into its future life cycle.

LAND AVAILABILITY
IN ANDERSON

Anderson is surrounded on both sides by land available to the State through the State land selection process. Most specifically, from removal from the Cook Inlet Region, Incorporated selection pool, or from other federally owned land from which it may select. The State itself owns land which should be considered, and will soon receive numerous Sections of land in Township 7 South, Range 7 West, F.M. which affords a number of site potentials. The City of Anderson recommend sites in Sections 15, 14, 10, 11 of T7S, R7W FM be studied; then, section 8 or 4 of T7S, R7W FM; finally sections 13, 23, 26, 27 and 34 T7S, R7W FM.

HB

3915

State-Owned Salmon Hatcheries (transfer of)

HOUSE BILL NO. 393, by Rep. Bettisworth. Would transfer operation of state-owned salmon hatcheries by lease to qualified regional associations (AS 16.10.380 created regional associations for the purpose of enhancing salmon production), or to local nonprofit hatchery corporations approved by a qualified regional association. The bill's "findings" section states: "The legislature finds that declining state revenues and the newly imposed constitutional spending limit require a reduction in expenditures for state-operated salmon hatcheries. This reduction is likely to result in the closure of many, if not all, state hatcheries. State hatcheries play an important role in the conservation and management of the state's fisheries resources and benefit all fishermen - commercial, subsistence, and sport - who depend on salmon stocks. Therefore, it is in the public interest to provide for the transfer of operation of the hatcheries by lease to private nonprofit operators."

A lease to operate a state-owned hatchery shall make the lessee solely responsible for the operation and maintenenace of the hatchery and shall indemnify the state against liability for harm or loss arising from the operation during the period of the lease. Application for the transfer of the operation of a state-owned hatchery shall be made on a form provided by the Department of Fish and Game.

Does not provide for an effective date (becomes law 90 days after Governor's approval).

Introduced May 2 and referred to the House Special Committee on Fisheries, Resources, and Finance.

State Retirement System (fireman/ peace officer status)

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 394, by Rep. Hayes. See Sponsor Substitute for Senate Bill 277, page 614, identical.

Introduced May 4 and referred to State Affairs, Finance.

Presidential Party Primary Elections

HOUSE BILL NO. 395, by Reps. M. M. Miller, Duncan, & Vaska. Would limit presidential party primary elections in Alaska to those voters who have publicly declared a preference for a particular political party. A person voting in the presidential party preference primary election could only be given the ballot of the political party he has declared a preference for. Repeals AS 15.25.270: "The lieutenant governor may not schedule another state election on the date scheduled for the presidential party primary election." Provides for an immediate effective date.

Introduced May 3 and referred to State Affairs and Judiciary.

State Audit of Local Governments

HOUSE BILL NO. 396, by the Community and Regional Affairs Committee. Amends AS 29.48.220 (Post Audit). Current law requires the assembly or council to provide for an annual independent audit of the accounts and financial transactions of the municipality or, in the case of a second class city, an audit or statement of annual income and expenditures. Amended so that only second class cities that had received less than $100,000 in total

HBS 393 & 394 1

PRESIDENTIAL PRIMARIES

Sixteen states responded to the questionnaire by indicating that they hold "true" presidential primaries (sometimes called delegate selection primaries) in which voters choose individuals or a slate of persons to serve as delegates to the national party conventions at which party candidates for president are chosen. Thirteen of the states responded by saying they hold presidential preference primaries at which candidates for president appear on the ballot and are voted for directly. One state indicated that either kind of primary was permissible under state law, and the choice of which kind to hold was left to the parties. Another state said that both kinds of primaries are held. Sixteen states do not hold presidential primaries; their delegates to the national conventions are selected at state conventions or caucuses. The remaining three states hold some kind of primary, but the information available does not permit us to ascertain the type of primary utilized.

Presidential Primaries

	"True" Primary	Preference Primary	Caucus/ Convention	Administration	Finance	Date
ALABAMA	✓			parties	state	2nd Tues./March
ALASKA		✓		state	state	3rd Tues./April
ARIZONA			✓			
ARKANSAS	✓			parties	parties	
CALIFORNIA	✓			county	county	Tues. after 1st Mon./June
COLORADO			✓			
CONNECTICUT	✓			state	state	Tues. after 4th Mon./March
DELAWARE			✓			
FLORIDA	✓			county	county	2nd Tues./March
GEORGIA	✓			parties	parties	
HAWAII			✓			
IDAHO		✓		state/county	state-25%/county-75%	4th Tues./May
ILLINOIS	✓			state/county	county	3rd Tues./March
INDIANA	✓			state	county	Tues. after 1st Mon./May
IOWA			✓			
KANSAS			✓			
KENTUCKY		✓		state	state/county	
LOUISIANA		✓		county	state	1st Sat./April
MAINE			✓			
MARYLAND	✓			state	local	2nd Tues./May in Pres. yrs.
MASSACHUSETTS		✓		state	state	1st Tues./March
MICHIGAN	†	†		state	state	3rd Tues./May

* No data available
† depends on party rule

Presidential Primaries (cont.)

	"True" Primary	Preference Primary	Caucus/ Convention	Administration	Finance	Date
MINNESOTA			✓			
MISSISSIPPI		✓		parties	counties	1st Tues./Sept.
MISSOURI			✓			
MONTANA	✓	✓		county/state	county/state	Tues. after 1st Mon./June
NEBRASKA				county	county	
NEVADA	✓		✓			
NEW HAMPSHIRE	✓			state	state	2nd Tues./March
NEW JERSEY						1st Tues. after 1st Mon./June
NEW MEXICO		✓		state	state	1st Tues. June in Pres. yrs.
NEW YORK*						
NORTH CAROLINA		✓		state	state	Tues. after 1st Mon./May
NORTH DAKOTA	✓	✓		county	county	
OHIO				state	state	Tues. after 1st Mon./June
OKLAHOMA			✓			
OREGON	✓	✓		state	county	3rd Tues./May
PENNSYLVANIA	✓			state	state	4th Tues./April
RHODE ISLAND				state	state	
SOUTH CAROLINA	✓		✓			
SOUTH DAKOTA	✓			state/county	county	1st Tues./June
TENNESSEE		✓		state/county	county	1st Tues./May
TEXAS		✓		parties	state	1st Sat./May
UTAH			✓			
VERMONT		✓		state	state	1st Tues./March
VIRGINIA			✓			
WASHINGTON			✓			
WEST VIRGINIA*						
WISCONSIN*				state	state/county	1st Tues./April
WYOMING			✓			

* No data available

† depends on party rule

HBS 395 & 397

CHAPTER TWO
PRIMARIES

REQUIREMENTS FOR HOLDING A PRIMARY

The most commonly utilized requirement for qualifying to hold a primary election is that the party in question wins a statewide race in the last general election or receives a specific percentage of the total vote cast in the most recent general election for governor. However, some states have requirements which do not follow this format. Specific exceptions to this format are noted in the footnote to the table entitled "Primary Nominations."

At least two states have provisions for continuing parties' eligibility for primaries without regard to their turnout performance, while others link the requirements to the turnout percentage in the race for Secretary of State, Congressional offices, or even the total number of votes cast in races for the State Legislature.

This data was obtained both from the Election Codes of the various states and from the questionnaires which were completed by the Offices of the several Secretaries of State.

Primary Nominations

% Vote in Last Statewide Election
Required to Hold Primary Election

ALABAMA	•
ALASKA	3
ARIZONA	1
ARKANSAS	3
CALIFORNIA†	1
COLORADO	10
CONNECTICUT	20
DELAWARE†	
FLORIDA	3
GEORGIA	•
HAWAII	•
IDAHO	3
ILLINOIS	5
INDIANA†	10
IOWA	2
KANSAS†	5
KENTUCKY†	20
LOUISIANA	5
MAINE	5
MARYLAND	3
MASSACHUSETTS	3
MICHIGAN†	5
MINNESOTA	5
MISSISSIPPI	•
MISSOURI	•
MONTANA	5
NEBRASKA	5
NEVADA†	5
NEW HAMPSHIRE	3
NEW JERSEY†	10
NEW MEXICO	15
NEW YORK	5
NORTH CAROLINA	10
NORTH DAKOTA	•
OHIO	5
OKLAHOMA†	
OREGON	20
PENNSYLVANIA	2
RHODE ISLAND	5
SOUTH CAROLINA†	
SOUTH DAKOTA	10
TENNESSEE	5
TEXAS	2
UTAH†	2
VERMONT	5
VIRGINIA	10
WASHINGTON	5
WEST VIRGINIA	1
WISCONSIN	1
WYOMING	10

• No Data Available

% vote applies to gubernatorial elections unless otherwise noted.

† California—obtain number of registered voters equivalent to 1% of last gubernatorial vote
Delaware—number of registrants must equal 5/100 of 1% of total registration
Indiana—10% of vote in last Secretary of State election
Kansas—5% of vote in last Secretary of State election
Kentucky—20% of last Presidential vote
Michigan—5% of vote in last Secretary of State election
Nevada—5% of last congressional vote
New Jersey—10% of last General Assembly vote
Oklahoma—new parties formed with 5% of total registration; old parties remain
South Carolina—new parties formed with petition of 10,000 signatures; old parties remain
Utah—2% of last congressional vote

GAINING BALLOT STATUS: THE INDEPENDENT CANDIDATES

The most commonly used format for running as an Independent candidate includes filing a declaration of intent to run by a specified date, collecting the required number of signatures of registered voters, and filing a formal petition with the designated Chief Election Officer in the state, usually the Secretary of State. As in the case for qualifying parties to hold a primary elections, the number of signatures may be either a percentage of turnout for a certain office or a specified number of signatures of registered voters, depending on the state. Many states require the signatures to be those of registered persons who did not participate in either party's primary election.

Most states indicated that access to the ballot by independent candidates is relatively easy, while only two states said that it is difficult. Some states (e.g., Michigan) have no provision for ballot access by independent candidates. It is important to remember that these measures are subjective and are based on different characteristics in each state.

All data in this section was obtained from the questionnaires which were completed by the Offices of the Secretaries of State.

Primary Ballot Access in Statewide Races

	Payment of Fee	Signature Petition	Choice of Fee or Petition	Both Fee and Petition
ALABAMA			✓	
ALASKA	✓			
ARIZONA		✓		
ARKANSAS			✓	
CALIFORNIA			✓	
COLORADO		✓		
CONNECTICUT		✓		
DELAWARE	✓			
FLORIDA			✓	
GEORGIA			✓	
HAWAII				✓
IDAHO				✓
ILLINOIS		✓		
INDIANA		✓		
IOWA		✓		
KANSAS			✓	
KENTUCKY			✓	
LOUISIANA			✓	
MAINE		✓		
MARYLAND				✓
MASSACHUSETTS		✓		
MICHIGAN		✓		
MINNESOTA			✓	
MISSISSIPPI	✓			
MISSOURI			✓	

	Payment of Fee	Signature Petition	Choice of Fee or Petition	Both Fee and Petition
MONTANA			✓	
NEBRASKA	✓			
NEVADA			✓	
NEW HAMPSHIRE			✓	
NEW JERSEY		✓		
NEW MEXICO			✓	
NEW YORK			✓	
NORTH CAROLINA			✓	
NORTH DAKOTA		✓		
OHIO				✓
OKLAHOMA			✓	
OREGON			✓	
PENNSYLVANIA				✓
RHODE ISLAND		✓		
SOUTH CAROLINA	✓			
SOUTH DAKOTA		✓		
TENNESSEE		✓		
TEXAS			✓	
UTAH	✓			
VERMONT		✓		
VIRGINIA	✓			
WASHINGTON	✓			
WEST VIRGINIA	✓			
WISCONSIN		✓		
WYOMING	✓			

MINOR PARTY ACCESS TO THE BALLOT

A majority of the responses to the questionnaire indicated that it is relatively easy among the states for minor parties to access the ballot. One common requirement for partisan access to the general election ballot includes a petition with voter signatures equal in number to a specified percentage of the turnout in the most recent general election. Another commonly utilized requirement is that of requiring a number of signatures equal to a specified percentage of the total vote cast in the most recent gubernatorial election.

Another means of accessing the ballot is by requiring conventions to be held in several counties and for them to be attended by a certain proportion of the electorate. This approach usually culminates in a state convention which nominates candidates for the general election ballot. Some states also charge a filing fee, however, this requirement is not an exclusive characteristic of either of the above mentioned methods of accessing the ballot.

The statutes of many states distinguish between minor parties and parties which are seeking ballot status for the first time by specifying different requirements for gaining ballot status. For example, minor parties may be required only to obtain a percentage of the signatures of voters who voted in the last general election, while new parties seeking ballot status may be required to obtain a minimal number of signatures.

Ballot Access for Minor Parties and Independent Candidates

	Minor Party		Independent Candidate	
	Easy	Difficult	Easy	Difficult
ALABAMA		✓		✓
ALASKA	✓		✓	
ARIZONA*				
ARKANSAS		✓		
CALIFORNIA		✓		✓
COLORADO	✓		✓	
CONNECTICUT			✓	
DELAWARE	✓		✓	
FLORIDA	✓		✓	
GEORGIA		✓		✓
HAWAII	✓		✓	
IDAHO		✓	✓	
ILLINOIS	✓		✓	
INDIANA*				
IOWA	✓		✓	
KANSAS*				
KENTUCKY	✓		✓	
LOUISIANA	✓		✓	
MAINE	✓		✓	
MARYLAND*				
MASSACHUSETTS	✓		✓	
MICHIGAN	✓			✓
MINNESOTA	✓		✓	
MISSISSIPPI	✓		✓	
MISSOURI	✓		✓	
MONTANA*				
NEBRASKA	✓		✓	
NEVADA	✓		✓	
NEW HAMPSHIRE			✓	
NEW JERSEY	✓		✓	
NEW MEXICO	✓		✓	
NEW YORK	✓		✓	
NORTH CAROLINA*				
NORTH DAKOTA*				
OHIO			✓	
OKLAHOMA	✓		✓	
OREGON	✓		✓	
PENNSYLVANIA*				
RHODE ISLAND	✓		✓	
SOUTH CAROLINA		✓		
SOUTH DAKOTA	✓		✓	
TENNESSEE			✓	
TEXAS	N.C.	N.C.	N.C.	N.C.
UTAH	✓		✓	
VERMONT	✓		✓	
VIRGINIA	✓		✓	
WASHINGTON	✓		✓	
WEST VIRGINIA*				
WISCONSIN	✓		✓	
WYOMING*				

* No Data Available

N.C. No Comment—Involved in Litigation

WRITE-IN VOTES ALLOWED ON PRIMARY BALLOTS

A majority of states allow write-in votes on primary ballots. It should be noted, however, that a wide variety of requirements are placed on the format of write-in votes and the names of persons who are eligible as write-in candidates.

Most states do allow write-in votes on primary ballots. At least one state (Kansas) does not permit write-in votes in primaries except in those cases where there are no nominees on the ballot for a specific office.

This data was obtained both from the Election Codes of the various states and from the questionnaires which were completed by the Offices of the Secretaries of State.

Write-Ins Allowed on Primary Ballots

	Yes	No
ALABAMA	✓	
ALASKA		✓
ARIZONA		✓
ARKANSAS		✓
CALIFORNIA	✓	
COLORADO	✓	
CONNECTICUT		✓
DELAWARE	✓	
FLORIDA	✓	
GEORGIA	✓	
HAWAII		✓
IDAHO	✓	
ILLINOIS	✓	
INDIANA		✓
IOWA	✓	
KANSAS		✓
KENTUCKY	✓	
LOUISIANA		✓
MAINE	✓	
MARYLAND	✓	
MASSACHUSETTS	✓	
MICHIGAN	✓	
MINNESOTA	✓	
MISSISSIPPI	✓	
MISSOURI	✓	
MONTANA	✓	
NEBRASKA	✓	
NEVADA		✓
NEW HAMPSHIRE	✓	
NEW JERSEY	✓	
NEW MEXICO	✓	
NEW YORK	✓	
NORTH CAROLINA	✓	
NORTH DAKOTA	✓	
OHIO	✓	
OKLAHOMA		✓
OREGON	✓	
PENNSYLVANIA	✓	
RHODE ISLAND*		
SOUTH CAROLINA	✓	
SOUTH DAKOTA		✓
TENNESSEE	✓	
TEXAS†	✓	
UTAH	✓	
VERMONT	✓	
VIRGINIA	✓	
WASHINGTON	✓	
WEST VIRGINIA	✓	
WISCONSIN		✓
WYOMING	✓	

* No Data Available

†only for party offices

THE UNITARY PRIMARY

Texas is only one of four states in which the political parties hold separate primaries with separate election workers for each party. Of those four states (Texas, Connecticut, Mississippi, and South Carolina), only in Texas and Connecticut do the parties use separate polling places. Mississippi and South Carolina hold their primaries in the same locations on the same days, but each party uses separate election personnel. The remaining forty-six states use some form of unitary primary.

Thirty-five states hold a closed unitary primary. In a closed unitary primary, the parties share polling places and election workers, but each party has a separate ballot. A voter must disclose his party preference to the election officials before he is given a ballot.

Idaho, Michigan, Minnesota, Montana, North Dakota, Utah, Vermont, and Wisconsin hold regular open unitary primaries. In a regular open unitary primary, all parties' candidates are listed on one ballot, or the voter receives a ballot for each party. The voter never publicly discloses his party preference. If he receives multiple ballots, he marks the ballot of one party and discards the others. If he receives a combined ballot, he must vote for the candidates of only one party, or his ballot will be discounted.

Alaska, Louisiana, and Washington hold blanket open primaries. All candidates are placed on one ballot. The ballot is divided by political office, and not by political party. Candidates are listed in random order under the office they are seeking. Each candidate's party affiliation is indicated beside his name. A voter may vote for candidates of one party or more than one party. In Alaska and Washington each party's top vote-getter in the primary race advances to the general election. However in Louisiana, the top two vote-getters, regardless of party, advance to the general election.

The Unitary Primary

	Unitary Primary	Types of Unitary Primaries			Non-Unitary Primary
		Closed	Regular Open	Blanket Open	
ALABAMA	✓	✓			
ALASKA	✓			✓	
ARIZONA	✓	✓			
ARKANSAS	✓	✓			
CALIFORNIA	✓	✓			
COLORADO	✓	✓			
CONNECTICUT					✓
DELAWARE	✓	✓			
FLORIDA	✓	✓			
GEORGIA	✓	✓			
HAWAII	✓	✓			
IDAHO	✓		✓		
ILLINOIS	✓	✓			
INDIANA	✓	✓			
IOWA	✓	✓			
KANSAS	✓	✓			
KENTUCKY	✓	✓			
LOUISIANA	✓			✓	
MAINE	✓	✓			
MARYLAND	✓	✓			
MASSACHUSETTS	✓	✓			
MICHIGAN	✓		✓		
MINNESOTA	✓		✓		
MISSISSIPPI*					✓
MISSOURI	✓	✓			
MONTANA	✓		✓		
NEBRASKA	✓	✓			
NEVADA	✓	✓			
NEW HAMPSHIRE	✓	✓			
NEW JERSEY	✓	✓			
NEW MEXICO	✓	✓			
NEW YORK	✓	✓			
NORTH CAROLINA	✓	✓			
NORTH DAKOTA	✓		✓		
OHIO	✓	✓			
OKLAHOMA	✓	✓			
OREGON	✓	✓			
PENNSYLVANIA	✓	✓			
RHODE ISLAND	✓	✓			
SOUTH CAROLINA*					✓
SOUTH DAKOTA	✓	✓			
TENNESSEE	✓	✓			
TEXAS					✓
UTAH	✓		✓		
VERMONT	✓		✓		
VIRGINIA	✓	✓			
WASHINGTON	✓			✓	
WEST VIRGINIA	✓	✓			
WISCONSIN	✓		✓		
WYOMING	✓	✓			

* Mississippi and South Carolina hold their primaries in the same locations on the same days but use separate election personnel for the different parties. Mississippi has elected the Louisiana unitary primary plan but has had difficulty with preclearance under the Voting Rights Act.

Source: *Party Primary Election Systems in the United States: An Interim Report* by the Lyndon B. Johnson School of Public Affairs to the Texas House Committee on Elections, 63rd Legislature, May 1974, and Texas Secretary of State's Office, Elections Division, June 1982.

STATE OF ALASKA
FISCAL NOTE

Revision Date . 1983

I. REQUEST

Bill/Resolution No.: HB 395
Title: Presidential Party Primary Election
Sponsor: M M Miller
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Office of the Governor
Program Category Affected: Exec Operations
BRU, Program of Subprogram(s) Affected: Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		7.3				9.1
300 CONTRACTUAL		87.9				108.9
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		95.2	-0-	-0-	-0-	118.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		95.2				118.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not Provided

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dana C. Coffman, Deputy Director
Phone: 586-6181
Division: Division of Elections
Date: May 10, 1983

Approved by Commissioner:
Date: May 11 1983
Department: Lieutenant Governor

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

HB 395

"An Act relating to presidential party primary elections"

ASSUMPTIONS:

1. The passage of this legislation will initially affect the 1984 Presidential Party Primary Election.

2. Extensive travel to larger population centers required in order to educate the voter about the closed primary system.

3. Advertising expenses, (34.6) including radio, tv, and newspapers, required for an adequate voter outreach program.

4. The redesign of instructions, forms, and posters will be required.

5. Following the passage of this legislation, approximately 10% of Alaska's non-partisan voters will change their political party affiliation, resulting in a moderate increase in registrar activity.

HB

397

HB 396 (cont'd)

state aid for the year could submit the simpler report of income and expenses.

Amends AS 37.05.318 to allow the state to require an independent audit of a capital improvement project for which over $100,000 has been provided as a state grant. Does not provide for an effective date (becomes law 90 days after Governor's signature).

Introduced May 3 and referred to Community & Regional Affairs and Finance.

Primary Elections

HOUSE BILL NO. 397, by Rep. Bettisworth. Would call for a form of closed primary elections in Alaska. Requires that the primary election ballot be prepared with the names of the candidates grouped according to political party. A person could only vote for candidates in one party, and a ballot cast with votes for candidates in more than one party could not be counted. Does not provide for an effective date (becomes law 90 days after Governor's signature).

Introduced May 4 and referred to State Affairs and Judiciary.

AK Indust. Development Authority (multifamily housing)

HOUSE BILL NO. 398, by the Rules Committee by request of the Governor. Would amend a 1982 appropriation to the Alaska Industrial Development Authority to allow use of the money to to establish capital reserve funds to secure bonds issued in connection with the financing of multi-family housing projects. Effective immediately.

Introduced May 4 and referred to the House Special Committee on Loans and Finance.

In his message transmitting the bill to the House for consideration, Governor Sheffield stated:

> Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to an appropriation to the Alaska Industrial Development Authority (AS 44.88).
>
> The bill amends a prior appropriation to the authority, sec. 9, ch. 114, SLA 1982, to enable the authority to obtain greater utility from the multifamily housing loans security fund. Under the proposed amendment, assets of the security fund would also be available to establish capital reserve funds to secure bonds issued in connection with the financing of multifamily housing projects.
>
> I urge your prompt consideration and approval of this legislation.

Anchorage Streets (renaming)

HOUSE BILL NO. 399, by Reps. Hayes and Martin. Would rename A and C Streets in Anchorage as Wickersham Boulevard and Eisenhower Boulevard. Does not provide for an effective date (becomes law 90 days after Governor's signature).

Introduced May 5 and referred to Transportation.

FISCAL NOTE | Revision Date 1983

I. REQUEST

Bill/Resolution No.: HB 397
Title: Relating to Primary Elections
Sponsor: Rep. Bettisworth
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Office of the Governor
Program Category Affected: Exec Operations
BRU, Program or Subprogram(s) Affected: Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL			7.3		8.2	
300 CONTRACTUAL			54.0		60.5	
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	61.3	-0-	68.7	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	61.3	-0-	68.7	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not Provided

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dana C. Coffman, Deputy Director
Phone: 586-6181
Division: Division of Elections
Date: May 10, 1983

Approved by Commissioner:
Date: May 11, 1983
Department: Lieutenant Governor

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

HB 397

"An Act Relating to Primary Elections"

ASSUMPTIONS:

1. The passage of this legislation will initially affect the 1984 Primary Election.

2. Additional 12% inflation for each of the subsequent election years.

3. Extensive travel to larger population centers required in order to educate the voter about the closed primary system.

4. Advertising expenses, (34.6) including radio, tv, and newspapers, required for an adequate voter outreach program.

5. The redesign of instructions, forms, and posters will be required.

6. Following the passage of this legislation, approximately 10% of Alaska's non-partisan voters will change their political party affiliation, resulting in a moderate increase in registrar activity.

HB

415

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

MEMORANDUM

TO: Representative Mitch Abood, Chairman House State Affairs

FROM: Representative Barb Lacher BL

DATE: February 20, 1984

RE: HB 415

Dear Mitch,

HB 415, an Act relating to Bidder Preference is currently in State Affairs awaiting action. I respectfully request that this bill be scheduled for hearing as soon as possible. Thank you.

HB 415

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
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House of Representatives

M E M O R A N D U M

TO: Representative Lacher

FROM: Sarah Robinson

DATE: May 13, 1983

RE: HB 415

HB 415 amends AS 37.05 by adding a preface stating the intent of the Alaska Bidder's Preference Law. The purpose of this preface (AS 37.05.225 new Section) is to protect the existing Alaskan Bidder's Preference Law from imminent constitutional challenge. Research has indicated that an amendment to add a preface with intent will provide the necessary protection by providing other grounds than "residency" for the Bidder's Preference Law. An examination of bidder's preference laws in other states tends to support this view.

The bill adds a new subparagraph to AS 37.05.230 (5), D. to require all parties of a joint venture to comply with the requirements for an Alaskan bidder under the same Section. This amendment has been found necessary in light of the recent Alaskan Supreme Court Decision on the Irby-Northface contract award from the Alaska Power Authority.

There is strong evidence to support the view that the Alaskan Bidder's Preference Law should remain at 5% and not be raised to 15%, as suggested by HB 106, due to clear constitutional challenges that would result from such an increase.

HB 415

M E M O R A N D U M

TO: Representative Barbara Lacher
FROM: Sarah Robinson
SUBJECT: ALaska Bidder's Preference
DATE: March 26, 1983

T A B L E O F C O N T E N T S

I The Application of Joint Venture to Alaska Bidders Preference Laws

II Nonresponsive Bidders

III Discussion of Current APA Policy and Recent Challenges to the Bid to Irby-Northface, A Joint Venture

IV Questions

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Attachments: Reference in the following Memorandum to attachments are indicated with the use of "[]" indicating the attachment number.

1. 2/17/83 telegram from IBEW to Yould of APA.
2. 1/25/83 letter from Attorney General Gorsuch's office to Perkins of APA.
3. 9/25/81 Memorandum Decision and Order Denying Injunctive Relief, Judge Shortell (3AN-81-6291).
4. Alaska Statutes concerning Joint Ventures, AS 08.18.011.
5. Earlier Attorney General's Opinions concerning the responsiveness of bids and the time at which a business license is obtained, 7/16/63, 7/15/66, and 2/24/67.
6. Alaska Statutes concerning Alaska Bidder's Preference and Supplements, includes 1982 amendment from 1982 SCS CSHB 156 (Rules), AS 37.05.230, AS 37.05.240.
7. 2/25/83 letter to Eberle of APA from Attorney's Wagg and Davis concerning nonresponsive bids.
8. 2/23/83 certification from DOL concerning Irby Construction, Inc.'s out-of-state license and no registered Electrical Administrator, and attached list of 47 cease and desist orders issued in AK between 7/80 and 1/83 for the absence of an Electrical Contractor's license.
9. 2/23/83 cease and desist orders issued to Northface Construction, Inc., and Irby Construction, Inc. for the absence of a licensed Electrical Administrator, and supporting documents.
10. 2/23/83 cease and desist order issued to Shirley Schinderline for operating as an Electrical Administrator for two companies, at once, and supporting documents.
11. Alaska Statutes regarding electrical administrators and their license requirements, AS 08.40.130, and cease and desist orders, AS 08.40.175.
12. 2/16/83 letter to APA from Irby and Northface stating intent to form a joint venture for the purpose of bidding on the Anchorage-Fairbanks Intertie, and supporting documents.
13. 1/10/83 memorandum to Commissioner Robinson, of the Department of Labor, regarding discussions between APA and others concerning the

use of joint venture within the Alaska Bidder's preference for the bid evaluation on the Anchorage-Fairbanks Intertie, and supporting documents.

14. 3/10/83 letter to Oczkus of IBEW, from Attorney Cohen of Ely, Guess and Rudd Law Firm, regarding the application of joint venture to Alaska Bidder's Preference Laws.
15. 3/1/83 certification that Irby Construction, Inc. has no Alaska business license, from the Department of Revenue (AS 37.05.230 (5) (B).
16. 3/1/83 certification that Irby Construction, Inc. has not filed with Alaska under AS 10.05.597, as a foreign corporation.
17. 2/22/83 letter to Kennedy, President of Northface Construction, Inc. requesting a copy of the joint venture agreement with Irby, and attached documents from IBEW.
18. Alaska Statutes and Supplements concerning the formation of APA and the duties and regulations of APA. Note that the statutes clearly require APA to call for, evaluate, and award bids, and do not authorize APA to contract consultants for this purpose.
19. Current status of 1983 House Bill 106, "An Act relating to Bidder's Preference," which raises the 5% advantage for Alaskan bidders to 15%.

I JOINT VENTURES

The IBEW sent a telegram, on February 17, 1983, to Eric Yould, Executive Director of the APA, protesting the bid contract award to Irby Construction, Inc. and Northface Construction, Inc., a joint venture, hereafter referred to as Irby/Northface, for the Anchorage-Fairbanks Intertie. The telegram lists six factors which make Irby/Northface a nonresponsive[1] bidder and which should disqualify them from having been awarded the bid [1].

It is difficult to piece together the full sequence of events between the opening for bids and the final award to Irby/Northface, but the cease and desist orders dated February 23, 1983 seem to have followed the award to Irby/Northface and the orders were overridden by the Attorney General's office between February 23 and 25, 1983. Irby/Northface had been granted the contract again by February 25, 1983.[2]

On February 25, 1983, Perkins of APA received a letter from the Attorney General's office, from Richard P. Kerns, Assistant Attorney General, Transportation Section. This letter specifically addressed all six reasons listed in the IBEW telegram that were cited as evidence that Irby/Northface is a nonresponsive bidder.

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1. nonresponsive bidder refers specifically to bid contract violations. To be responsive a bid must comply with all meaningful (or material) aspects with the instructions to bidders in terms of the method and timeliness of bid submission and in terms of the substance of any resulting contract. All bidders stand on equal footing and the integrity of the formal advertising system is maintained. See Section II below.
2. Further investigation is required to fully document this sequence of events and the full role of Attorney General Gorsuch's office.

Two of the six examples of nonresponsiveness in the Irby/Northface bid listed in the IBEW telegram are concerned with the applicability of the joint venture statutes to the Alaska Bidder's Preference Laws. The other four instances of nonresponsiveness listed are more directly related to nonresponsiveness as defined in footnote 1. I will address the joint venture issue in this first section and then turn to the issue of nonresponsiveness in section II of this memorandum.

The applicability of the joint venture statute [4] to the Alaska Bidder's Preference Law has been raised in this recent challenge to the Irby/Northface bid contract award, and in an earlier case [3].

Attorney General Gorsuch's office addressed all six issues raised in the IBEW telegram [2], the two most directly related to joint venture are 1) Irby/Northface should not qualify for Alaska Bidder's Preference because neither contractor has performed similar work within the state (AS 37.05.230 (1)(B), and supplement AS 37.05.230 (5)(C)). The 1982 amendment to this statute specifically states that:

> An Alaska bidder, for the purpose of bid awards under (1)(B) of this section [A bid shall be awarded to an Alaska bidder if his bid is not more than five percent higher[3] than the lowest nonresident bidder's], is a person who (5) has maintained a place of business within the state for a period of six months immediately preceding the date of this bid.

And, 2) IBEW points out that Irby/Northface does not have an Alaska business license listed in the name of the firm as a joint venture.

APA and Attorney General Gorsuch argue that the license need only be in the name of one of the parties of a joint venture and that the "business license requirement does not take effect at the time of the bid, but at some later time," ([2], page 2). This position is in direct contrast to that taken by earlier Attorney Generals Hayes (Opinion No. 14, 7/16/63); Colver (Opinion No. 4,7/15/66), and Benesch (Opinion No. 3, 2/24/67), [5] where it is repeatedly argued that it is unlawful for a bidder to submit a bid without a license unless it is clearly stated as such in the bid at its initial submission. Furthermore, Attorney General Gorsuch's argument directly contradicts the requirements stated in the Alaska Bidder's Preference Statutes. Which state that "the bidder must submit a bid for goods and services under the name as appearing on his current Alaska business license," (AS 37.05.230 (5)(B). [6]

Two conflicting interpretations of the applicability of joint venture to Alaska Bidder's Preference are represented in the current challenge to the APA bid contract award to Irby/Northface. APA, and the Attorney General's office argue that joint venture applies to the Alaska Bidder's Preference Law, while the IBEW argues that the Bidder's Preference statutes are quite clear in their use of the English language and that a joint venture is not the same as a business, unless the bidder has a license under that name, as a joint venture, and has been operating as a business in the State under that name for a period of at

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3. House Bill 106, sponsored by Ward, would amend this statute to award a 15% preference to Alaska bidders.

least six months prior to the bid. If a joint venture had filled these requirements, which are stipulated in the Bidder's Preference statutes [6] then they would qualify for preference as Alaska bidders. The APA and Attorney General Gorsuch's office, on the other hand, argue by analogy that a joint venture and a business are the same entitiy, and further that only one of the members of a joint venture need fill the Alaska residency requirements or license requirements in order to qualify for preference as an Alaskan bidder.

Attorney General Gorsuch's response to this "statute violation,"[4] argued by the IBEW, is in keeping with an earlier bidder's challenge [3]. This is 3AN-81-6291, Pacific Ventures, Inc., Plaintiff, Dillingham Corporation, Plaintiff in intervention, v.s. APA, Defendants, Southeast-Harrison Western, a joint venture, defendant in intervention. The Attorney General's office argues, in the February 25, 1983 letter to the APA, that this statute "does not require the bidder to have performed similar work within the state...(but) simply to have maintained a place of business within the state." This is the same conclusion drawn by Judge Brian Shortell in the 1981 Memorandum Decision and Order Denying Injunctive Relief (p.7).

> In determining that Southeast-Harrison Western was qualified for an Alaska bidder preference persuant to AS 37.05.230 the APA consulted with and relied upon the interpretation of the senior purchasing agent in the Anchorage office of the Division of General Services and Supply, Alaska Department of Administration, that in this situation the joint venture would be entitled to the Alaska bidder preference so long as one of the partners satisfied the requirements. (3AN-81-6291:7 emphasis added)

The difference between the Attorney General's argument and Judge Shortell's is that the former implies this application of joint venture while the latter explicitly states it.[5] These two positions endorse APA's policy interpretation of the Bidder's Preference which includes the use of joint venture, and implicitly endorse APA's use of a consulting firm to derive that interpretation.

In both the 1981 litigation and in the present pending hearing for a bidder's challenge, the plaintiffs have argued, with IBEW, that joint venture does not apply to the Alaska Bidders Preference statutes. The crux of the argument is therefore the acceptability of the analogy used between a joint venture and an Alaska business, as it is applied in APA policy. The constitutionality of this interpretation could be challenged.

IBEW has argued that there is a legal difference between a business license and a joint venture license.[6]

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4. It should be noted that the letter from Gorsuch's office (2/25/83) cites AS 37.05.230 (1)(B) with an unusual typographic error, as AS 17.04.230 (1)(B); AS 17 is concerned with food and drugs!

5. AS 08.18.011 specifies a joint venture, see [4].

6. These two kinds of licenses have different contexts. A business license is regulatory of fiscal responsibility for a legal business entity, while a joint venture license is a form of tax revenue. Preference statutes state, in plain English, "business license" and not "joint venture license."

Clearly the APA has been operating under their current interpretation of the Alaska Bidder's Preference law and the applicability of the joint venture statutes to this law in evaluating bids since 1980,[7] and they will continue to do so until either the statutes are explicitly amended to read, in even clearer English, or until a bidder's challenge goes beyond a memorandum from the Superior Court, as in the 1981 challenge.

II NONRESPONSIVENESS

A second area of challenge to APA's recent contract award to Irby/Northface is in terms of contractual errors and irregularities in the bidding process. These issues of nonresponsiveness are raised in the IBEW telegram to the APA and are a reiteration, in part, of an earlier challenge on the grounds of "nonresponsiveness" in the 1981 case 3AN-81-6291 [5].

Attorneys for HW-Newberry, Wagg and Davis of Faulkner, Banfield, Doogan and Holmes Law Offices of Anchorage, sent a letter to Eberle, of the APA, on February 25, 1983, which directly addresses the legal arguments for the nonresponsiveness of Irby/Northface's bid. [7] It is pointed out, in this letter, that Irby/Northface did not follow the instructions contained in paragraph 4.1.4 of the bid price form in filling out the bid. This resulted in Irby/Northface's failure to attribute its indirect costs (supervision, overhead and profit) only to sub-item (a) as required by the instructions in the solicitation for bids.

> The reason unit prices are used in bids is that quantities, for many reasons, can overrun or underrun. Irby/Northface, by not following the instructions for placement of indirect cost by bidding both sub-items equally, will be paid the sub-item (b) price for any overruns instead of the sub-item (a) price minus indirect costs. This must be contrasted with the situation where a bid is correctly submitted. A correct bid would have all indirect costs in sub-item (a) (for example at $100.00 per unit), and only direct costs in sub-item (b) (for example at 75.00 per unit). Obviously any overrun on the job will be paid by the owner at the sub-item (b) rate, which logically will be lower than the sub-item (a) rate, if the bid

****

7. Ross Kopperrud, (personal communication in a phone conversation on March 18, 1983), of the Anchorage office of the Attorney General's Office, stated that APA went to an outside consultant in 1980 to derive this "legal" interpretation of the statutes in regard to the use of joint ventures in evaluating Alaska bidders.

> instructions are followed. Thus, the State would obtain the benefit of a lower charge for overruns. However, Irby's bid, in effect, has made both (a) and (b) unit prices at $100.00. Any overruns would be charged to the State at $100.00 per unit instead of $75.00 per unit as set out above. The possibility of additional cost resulting from Irby's improper bidding practices is obvious, and more importantly, goes directly to price. Thus in an overrun, the public, who are the people competitive bids are designed to protect, can and will pay substantially more. The failure of Irby/Northface to conform to the instructions "could" effect the price and therefore their bid is nonresponsive.
>
> ([7], pages 3, 5)

The second area of nonresponsiveness that Wagg and Davis point out is the presence of line item changes in the bid (crossed out lines and altered figures) that have no signature, such that it is impossible to determine who made the changes and when. The bidder instructions stipulate that (paragraph 11, p2-9):

> a bid shall be rejected for the following reasons:
> (e) the bid contains a material alteration or erasure which is not initialed by the signer of the bid.
>
> (ibid)

There are twelve (12) instances where quantities were changed without a signature or initial in the Irby/Northface bid.

Pacific Venture's motion as plaintiff in 3AN-81-6291, as cited in section I of this memorandum, was based upon a similar argument of nonresponsive bidding. The court argued in that case that:

> the law with regard to an agency finding of nonresponsiveness in bidding situations does not favor the unsuccessful bidder,

and further argued in that case that the plaintiff:

> needs to show reasonable basis for nonresponsiveness in order to qualify for judicial review of agency actions. (3AN-81-6291, p.6)

The defendant in the 1981 case was Southeast-Harrison Western, a joint venture, and (perhaps) ironically they are the plaintiff in the current bidder's challenge to be heard in Archorage next week, against Irby/Northface. It should be obvious, therefore that joint venture firms, such as Southeast-Harrison Western and Irby/Northface seem more concerned with submitting a successful bid than any constitutional question concerning APA's bid evaluation procedures or with the responsiveness of their own bids. This is clearly illustrated by the above joint venture taking both sides of the fence in this argument.

While I have yet to have access to the legal briefs from the 1981 bidder's challenge, it would seem that there is a more substantial case nonresponsiveness in the present bidder's challenge against APA and Irby/Northface, than in the 1981 case.

The IBEW telegram points out that, at the time of bid submission, Irby/Northface had no electrical administrator. On February 23, 1983 the Licensing Examiner (AK Dept. of CED) certified that Irby/Northface had no licensed electrical administrator [8]. Attached to this certification are 4 cease and desist orders issued to contractors for the same bid violations, issued by DOL. The cease and desist orders [9] issued to Irby and Northface (February 23, 1983) were overridden by the Attorney General's Office, in contrast to the previous 47 cease and desist orders issued between 7/80 and 1/83, why? This is the intervention of the Attorney General's Office that are constituent mail refers to and protests.

A cease and desist order was issued to Irby/Northface on February 23, 1983 was accompanied by a cease and desist order to Shirley Schinderline of Eide Construction Co. for serving as an electrical administrator for two companies at the same time [10]. Attached to this is the certification from the licensing examiner of the same date, which certifies that she had sent a letter to the Division of Occupational Licensing, dated February 10, 1983, and received February 16, 1983[8], which states her intention of serving as electrical administrator for two construction companies at the same time. DOL rejected this, on the grounds covered in AS 08.40.130 and AS 08.40175 [11].

It should be pointed out here that upon initial inquiry into this matter, as a part of routine investigation to answer constituent mail, I was directed to Ross Kopperrud of the Attorney Generals' Office who gave me only the APA side of the story and made no mention of any of these documents or of the IBEW investigations. He further provided me with the case number for the 1983 bidder's challenge, but gave me the wrong number, when I was unsuccessful in obtaining a copy of the case from the clerk's office of the Anchorage Superior Court, I called him back. At which time he stated that "that's the number on his copy and he couldn't help me." Needless to say, did not mention any other documents or investigations or involved parties. It was not until I contacted IBEW that I was able to obtain the other side of the story, and the correct case number, etc.

On February 16, 1983, Kennedy and Davis of Irby/Northface sent a letter to Eberle of the APA, to notify them of their joint venture formed for the purpose of bidding and constructing the Intertie (APA-83-0015). [12]

The evidence for nonresponsiveness in the bidding contract of Irby/Northface seems strongest in terms of 1) the double licensing of Shirley Schinderline as Electrical Administrator, 2) in terms of the erasures, etc., on the bid and 3) in terms of their failure to comply with the bid instructions in the sub-item unit prices in their actual bid.

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8. Note the suggestion of backdating in the Schinderline letters to DOL, compare the documents in [10].

IBEW suggests that Irby/Northface is also nonresponsive in their lack of demonstrated work experience within the state, and therefore their noncompliance with the EEO plan in hiring within the state.

It is not clear that these nonresponsive arguments would hold up in court, given the earlier failure of a bidder's challenge on similar grounds. Further research is required at this stage, into the grounds for the 1981 challenge of nonresponsive bidding.

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III D I S C U S S I O N

It does seem that a court case could be made for the constitutionality of APA policy interpretation of the Alaska Bidder's Preference Law, which employs the use of joint venture, by analogy, to refer to Alaska business.

Clearly APA has blatently chosen to operate with their own interpretation of the Alaska Bidder's Preference Law. To date I have been unable to examine the minutes of the Committee meetings which resulted in the final form of CSHB 156, sponsored by the Rules Committee, in 1982 and which was enacted into law. This bill amended the Bidder's Preference statutes AS 37.05.230 and AS 37.05.240. It would be interesting to see if there was any discussion at that time of the joint venture statutes in relation to the Bidder's Preference statutes, and if so, why did the resulting amendment not address this problem?

Attorney Charles M. Cohen, of Ely, Guess and Rudd Law Offices, sent a letter of March 10, 1983, to Oczkus of IBEW, which argues that there is a legal case to be made for the unconstitutionality of applying joint ventures to the Bidder's Preference statutes [14].
If we were to read the Alaska statutes AS 37.05.230 (5)(B) in their literal sense, the bid contract award to Irby/Northface is not in compliance with Alaska State Law. Furthermore, Irby Construction Co.,Inc. does not have an Alaska Business license [15], nor do they have a foreign corporation license, as required by Alaska State Law, under AS10.05.597 [16]. Finally no license is registered for Irby/Northface, as a joint venture. In other words, the APA has accepted Northface's license as the legal ("business") license in compliance with AS 37.05.230 (5)(B), even though the contract has been awarded to the joint venture and not the smaller Alaskan firm.

Out of a very real concern for Alaskan hire, the IBEW has been most active in their attempts to get an investigation underway. First, in their own attempt to investigate the contract awarded to Irby/Northface [17], and later in terms of the telegram to APA, the IBEW has encountered obstacles that could be interpreted as obstruction of justice.

IV Q U E S T I O N S

1. What is the intent of the Alaska Bidder's Preference Law?
   a) To protect Alaskan firms
   b) To protect Alaskan workers

c) To promote the development of Alaskan firms qualified to handle large contracts
d) To protect the Alaskan public from overspending on large State contracts
e) To allow small Alaskan firms to enter into larger contracts by allowing for larger out-of-state firms to piggy-back on them in a joint venture and thereby compete in bids

2. Why has there been no legislative attempt to amend the Alaskan Bidder's Preference Law in terms of the question of joint venture and its applicability (or non-applicability) to this law? Witness pending legislation in the 1983 Session which does not address this and 1982 legislation which did not, why?

3. Who will profit from the passage of HB 106 this year?
a) Large out-of-state firms in ALaskan joint venture firms
b) And/or smaller Alaskan firms
c) Alaskan workers
d) The Alaskan people
e) The APA

4. Is there some unforseen harm to Alaskan businesses if we were to amend the Alaska Bidder's Preference to include joint ventures explicitly? If we were to exclude it?

5. Should we draft legislation to amend the Bidder's Preference Law, or should we leave it to the courts and eventual executive order?

6. Is there sufficient evidence for obstruction of justice, in the current bidder's challenge, on the part of the office of the Attorney General?

7. Has the APA acted irregularly or illegally in its use of a consultant in the bidding process?

8. Has the APA acted irregularly or illegally in its policy interpretation of the Alaska Bidder's Preference Law?

9. What restrictions for Alaska hire apply to joint venture bidders who have received a Alaska Bidder's Preference contract? How does this compare to a fully Alaskan firm who has received a contract under an Alaska business license?

HB

430

House Bills 430, 459, 460 - Repeal of March 13 Presidential Primary Election.

A timely repeal of this primary could save considerable monies. The dates and activities noted in each block are deadlines for the fraction of monies committed. By February 12, approximately ½ of the funds to be expended will be committed. Any bill to repeal must have an immediate effective date incorporated. February 20th, when ballots have been shipped by certified mail and final notices are committed to advertising seems to be a date, admittedly arbitrary, when the election should proceed.

JANUARY 9
1/8 funds

Travel/Training election board wkrs (ongoing)

initial ordering of:
- -special forms
- -posters, other materials
- -voter ID cards
- -voter registeration forms

program costs for party affiliation & precinct registration changes

temporary staff hired

JANUARY 24
1/4 funds

Travel/Training election board wkrs

order all ballots

sign program contract

initial advertising (print & video contracted)

purchase supplies & postage to all precincts

40 day notices sent out

mass mailings

FEBRUARY 12
1/2 funds

Travel/Training election board wkrs

airmail all remaining material

contract for communications (election returns cable hoodups, sites

ballots separated & shipped from printer

FEBRUARY 20
3/4 funds

Travel/Training election board wkrs

10 day notices sent out

secondary advertising contracted (print, radio, video)

certify-mail all ballots to precincts

MARCH 13
Total funds

payment of all election workers, including:
- tally teams
- counting teams
- canvass boards

rents for halls

transportation of ballots, troopers

polling place set-ups by contractors

MEMORANDUM
January 16, 1984

TO: Rep. Miller

FROM: Denise Zachary dz

SUBJECT: Dates/ Presidential Primaries - Republican and Democrat

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	Presidential Primary	Candidate Filing Deadline
Alabama	March 13	January 14, 1984
Arkansas	March 13	December 28, 1983
Alaska	March 13	December 28, 1983
California	June 5	March 23, 1984
Connecticut	March 27	February 20, 1984
Florida	March 13	January 16, 1984
Georgia	March 13	February 20, 1984
Idaho	May 22	April 23, 1984
Illinois	March 20	December 30, 1983
Indiana	May 8	March 9, 1984
Louisianna	April 7	March 2, 1984
Maryland	May 8	February 27, 1984
Massachusetts	March 13	January 6, 1984
Montana	June 5	March 17, 1984
Nebraska	May 15	March 16, 1984
New Hamshire	February 28	January 3, 1984
New Jersey	June 5	April 26, 1984
New Mexico	June 5	March 16, 1984
New York	April 3	February 16, 1984
North Carolina	May 8	February 7, 1984
North Dakota	June 12	April 18, 1984
Ohio	May 8	February 23
Oregon	May 15	March 6, 1984
Pennsylvania	April 10	January 31, 1984
Rhode Island	March 13	January 6, 1984
South Dakota	June 5	April 3, 1984
Tennessee	May 1	March 6, 1984
Texas	May 5	February 6, 1984
Vermont	March 6	January 16, 1984
West Virginia	June 5	March 31, 1984
Wisconsin	April 3	March 1, 1984
Washington D.C.	May 1	March 2, 1984
Puerto Rico	March 18	February 9, 1984

This information from NCSL this date.

****

MSNG 3230 1/13/84 MARY/MATSU

TO: REP. HAYES, ABOOD, WARD, COWDERY, SHULTZ, M.M. MILLER, LARSON
LACHER

FR: ERNEST E. LINE, DISTRICT CHAIRMAN
DISTRICT 16 REPUBLICANS
SR BOX 5014
WASILLA 99687 PHONE: 376-6709

"ALASKA PRESIDENTIAL PREFERENCE PRIMARY HAS NO PRACTICAL WORTH. PLEASE RESCIND THE PRESIDENTIAL PRIMARY LEGISLATION. SUPPORT AND PASS HB 460." THIS ACTION TAKEN BY THE DISTRICT COMMITTEE, DISTRICT 16 REPUBLICANS.

EOM

MSG 04-00003338 PRTY 1 01/13/04 16:28:52 ORIG: LM00 IN= 0011 OUT= 0084
FROM: MATSU TO: JNU INFO
TARGET: LJHK SUBJ: P.O.M

TO: REPS. ABOOD, WARD, COWDERY, SHULTZ, MM MILLER, LARSON AND LACHER

FROM: LEROY AND MARY GEIST
PO BOX 31
. SUTTON 99674
745 5444

PLEASE ACT QUICKLY TO STOP THE IUNNECESSARY EXPENSE OF THE PRESIDENTIAL PRIMARY

THIS YEAR.

****

****

MSNG 3259 MARTIE/MATSU 1/13/84

TO: REP. ABOOD, REP. WARD, REP. COWDERY, REP. SHULTZ, REP. M.M. MILLER, REP. LARSON, REP. LACHER

FROM: MR. AND MRS. GUS SCHEELE
PO BOX 870330
WASILLA 99687
892 6338

WE ARE OPPOSED TO THE PRESIDENTIAL PRIMARY.

MSNG NO 3259 MARTIE/MATSU 1/13/84
TO: REP. ABOOD, REP. WARD, REP. COWDERY, REP. SHULTZ, REP. M.M. MILLER,
REP. LARSON, REP. LACHER

FROM: NEIL A. JR. AND JANE BROWNE
BOX 870350
WASILLA 99687
376 5577

WE ARE OPPOSED TO THE PRESIDENTIAL PRIMARY.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 430, 459-60
Title: repeal of Presidential Party Primary statutes
Sponsor: Gov., Lacher, Ward
Requestor: (H) State Affairs
Date of Request: 1/10/84

FISCAL DETAIL
Agency Affected: Division of Elections
Program Category Affected:

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES	(222.0)					
200 TRAVEL	(15.3)					
300 CONTRACTUAL	(562.7)					
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	(800.0)					
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	1,000.0					
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: By January 24, 1984 $200.0 of the $1,000.0 special fund established by Ch. 70, SLA 1983 will be expended, reflecting a savings of $800.0 by the repeal of AS 15.25.220 - AS 15.25 280.

ANALYSIS: Attach a separate page for analysis

Prepared By: T.P. Thoma
Phone:
Division: Division of Elections
Date: 1/16/84

Approved by Commissioner:
Date: 1/16/84
Agency:

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

1. HB 430 is the first presidential primary election repeal bill received by the State Affairs Committee in the closing days of last session. This will be the first public hearing for the bill which was sponsored by request of the governor.

2. The Lt. Governor is scheduled to testify along with the Division of Elections (if they are needed). Since Mc Alpine technically heads the Division, they may choose to defer to him.

** Difference between HB 430 and the two other primary repeal bills**

HB 430 is a technically clean bill. The other bills have an unnecessary section in them (section 2). Dick Bradley, the attorney who drafted the bill will be on hand to explain the section. I've also asked that he supply the committee with a written explanation.

Prepared by the Division of Elections.

PRESIDENTIAL PARTY PRIMARY ELECTION
March 13, 1984

Background

In the 1980 legislative session, members of the state House and Senate were successful in getting statutory authority for Alaska's first Presidential party primary. AS 15.25.220-280 authorizes this primary for 1984. The primary was approved chiefly because of the argument that candidates would come to Alaska, campaign, and learn more about the state. This primary election was to be binding on the delegate selection process by the terms of the statute.

In May 1983, the U.S. Supreme Court issued its opinion in LaFollette vs. U.S., concluding that in order for a presidential primary election to be binding on political parties in the delegate selection process, the conduct of the election must comply with party rules. Both Democratic and Republican party rules require a CLOSED primary election before the results can bind the delegate selection process. In order to comply, the Division of Elections had hoped that a voter's party preference could be declared without physically changing his or her registration. This plan was rejected by both of the parties because it failed to comply with national party rules.

The Division of Elections then adopted what is known as the Massachusetts plan for presidential primaries. This requires registered party members to vote their party's ballot while non-partisans may choose which party to join on election day. As a result, only those voters who declare a party preference and are willing to have their voter registration changed will be allowed to vote on March 13 in Alaska.

Since 58% (151,500) of Alaska's voters are non-partisan or registered "other", a procedure was adopted to accommodate all voters; by allowing this 58% and the 1,017 registered Libertarians (who chose not to appear on the ballot) to declare a party affiliation up to and including election day, while requiring any Democrats or Republicans that wish to change their party affiliation to do so no less than 30 days prior to March 13.

Reasons for Repeal

1) Approximately $.8 million would be saved by repeal of AS 15.25.220-280.

2) The method of voting is both objectionable and confusing to voters. Every letter and communication received on this issue has been vehemently opposed to the method of conducting the primary. Alaskans seem satisfied with the present, "blanket," open primary system of voting; they pride themselves on their status as informed independents.

3) The primary is an undue administrative burden on the many citizens that serve Alaska's polling places. In addition to the many hours of new training necessary to explain the primary to these workers, the sharp change in the regular rules of voting will focus undeserved criticism on the poll workers for a one-time method of primary election. Confusion over voter eligibility will also tend to discourage voters from casting a primary ballot. This problem is exacerbated in the absentee-by-mail voting process.

4) Only one of the nine major Presidential candidates have traveled to Alaska to campaign. It appears that the chief argument for the primary has not occurred. (Nine other states are also having primaries on this date.)

5) Alaska's delegate strength to the two major party conventions is so small, .4 of 1% of delegate votes, that spending up to $1 million on such an election could easily be viewed as a waste of money by the majority of the electorate.

6) Since only one candidate will appear on each the Republican and Alaska Independence Party ballots, the secrecy of the vote is compromised.

7) If the primary is repealed, the political parties will return to the traditional methods of apportioning delegates by caucus and convention.

COPY

chapter. The question of exemption from the requirements of this chapter may be submitted by the city council or borough assembly by ordinance or by initiative ordinance. Nothing in this chapter prohibits a municipality from regulating by ordinance campaign contributions and expenditures.

(b) Except as otherwise provided, this chapter applies to contributions, expenditures and communications made by a candidate, group, municipality or individual for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate. (§ 1 ch 76 SLA 1974; am §§ 1, 2 ch 189 SLA 1975)

NOTES TO DECISIONS

Constitutionality. — In the case of First Nat'l Bank v. Bellotti, 435 U.S. 765, 98 S. Ct. 1407, 55 L. Ed. 2d 707, rehearing denied, 438 U.S. 907, 98 S. Ct. 3126, 57 L. Ed. 2d 1150 (1978), the supreme court of the United States has indicated in unmistakable terms that state disclosure laws pertaining to ballot issues are constitutional. Messerli v. State, Sup. Ct. Op. No. 2236 (File No. 4326), 626 P.2d 81 (1980).

When there is no showing that an individual must remain anonymous with respect to advertising as to ballot propositions because of the possibility of being subject to reprisals, economic or otherwise, the state campaign disclosure laws are not unconstitutional as applied to a contributor hoping to influence the outcome of a ballot issue because the objective of an informed electorate is sufficiently compelling to overcome an interest in anonymous political expression. Messerli v. State, Sup. Ct. Op. No. 2236 (File No. 4326), 626 P.2d 81 (1980).

Initiative substantially similar to ch. 76, SLA 1974, correctly withheld from ballot. — Substantial similarity existed between ch. 76, SLA 1974, which enacted this chapter, relating to election campaigns, and an initiative relating to campaign contributions and expenditures, which was filed with the lieutenant governor prior to the regular 1974 session of the legislature. The act effectively displaced the initiative, and the lieutenant governor was correct in withholding the initiative from the ballot. Warren v. Boucher, Sup. Ct. Op. No. 1205 (File No. 2315), 543 P.2d 731 (1975).

For comparison of ch. 76, SLA 1974, and the initiative, see Warren v. Boucher, Sup. Ct. Op. No. 1205 (File No. 2315), 543 P.2d 731 (1975).

Sec. 15.13.011. Inapplicability to presidential primary. The provisions of this chapter do not apply to a presidential primary election conducted under AS 15.25.220 — 15.25.280. (§ 3 ch 20 SLA 1980)

Sec. 15.13.020. Alaska Public Offices Commission. (a) There is created in the Department of Administration the Alaska Public Offices Commission consisting of five members.

(b) The governor shall appoint two members of each of the two political parties whose candidate for governor received the highest number of votes in the most recent preceding general election at which a governor was elected. The two appointees from each of these two parties shall be chosen from a list of four names to be submitted by the central committee of each party.

(c) The four members selected under (b) of this section shall, by a majority vote, appoint the remaining fifth member of the commission.

Effect of amendments. — The 1980 amendment substituted "director" for "lieutenant governor" where it appears at the beginning of the first sentence and near the beginning of the third sentence, deleted "the same rate of" preceding "compensation" near the middle of the second sentence, and substituted "as provided in AS 15.15.380" for "paid elections judges" at the end of the second sentence.

The 1982 amendment, effective May 28, 1982, substituted "state ballot counting review" for "canvassing of the vote" in the first sentence and for "canvassing" in the fifth sentence

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

NOTES TO DECISIONS

Applied in Silides v. Thomas, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Chapter 13. State Election Campaigns.

Section

10. Applicability
11. Inapplicability to presidential primary
20. Alaska Public Offices Commission
30. Duties of the commission
40. Contributions, expenditures and supplying of services to be reported
45. Investigations, hearings
50. Groups
60. Campaign treasurers
70. Contributions and expenditures; amount and form of payment
80. Statement by contributor
90. Identification of communication
100. Expenditures before filing
110. Filing of reports
120. Penalty; limitations on actions
122. Legal counsel
125. Civil penalty; late filing of required reports
130. Definitions

Collateral references. — 25 Am. Jur. 2d, Elections, §§ 4-7, 10, 280-290.

29 C.J.S., Elections, §§ 2-4, 6, 118(7), 216(1)-216(5).

Sec. 15.13.010. Applicability. (a) This chapter applies in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking electoral confirmation. It also applies to every candidate for election to a municipal office in a city or borough with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs. A municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at any regular election, as defined by AS 29.78.010(14), or a special municipality-wide election called for that purpose, vote to exempt its elected municipal officers from the requirements of this

HB 460

(9) that the subscribers are qualified voters of the state or election or senate district in which the candidate resides,

(10) that the subscribers intend to vote for the candidate at the general election,

(11) that the subscribers request that the candidate's name be placed on the ballot,

(12) that the proposed candidate accepts the nomination and will serve if elected, with the statement signed by the proposed candidate,

(13) if the candidacy is for the office of the governor, the name of the candidate for lieutenant governor running jointly with him,

(14) the name of the candidate as he wishes it to appear on the ballot, and

(15) that the candidate is not a candidate for any other office to be voted on at the primary or general election and that he has not filed another nominating petition or declaration of candidacy for the office for which this petition is filed. (§ 5.55 ch 83 SLA 1960; am § 22 ch 80 SLA 1963; am § 140 ch 100 SLA 1980)

Effect of amendments. — The 1980 amendment added paragraphs (14) and (15).

Sec. 15.25.190. Placement of names on general election ballot. The director shall place the names and the political group affiliation of persons who have been properly nominated by petition on the general election ballot. (§ 5.56 ch 83 SLA 1960; am § 141 ch 100 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "director" for "lieutenant governor" at the beginning of the section.

Sec. 15.25.200. Withdrawal of candidate's name. If a candidate nominated by petition dies or withdraws after the petition has been filed and before September 1 of the election year, the director shall not place the name of the candidate on the general election ballot. (§ 5.57 ch 83 SLA 1960; am § 142 ch 100 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "director" for "lieutenant governor" near the middle of the section.

Article 3. Presidential Party Primary Election.

Section		Section	
220.	Presidential party primary election	250.	Selection of delegates
230.	Placing recognized names on the ballot	260.	Delegates pledged
240.	Petition for presidential candidate	270.	No other elections on the same date
		280.	Procedures for conduct of election

Article repealed effective July 1, 1985. — Section 4, ch. 20, SLA 1980, provides that this article is repealed on July 1, 1985.

Collateral references. — 25 Am. Jur. 2d, Elections, §§ 128-143, 152, 179. 29 C.J.S., Elections, §§ 89-105. 111(1)-148.

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

(b) The lieutenant governor may conduct the presidential party primary election on a date different from the date set in (a) of this section if he sets the different date in a proclamation issued by September 1 of the year preceding the presidential election.

(c) The ballot shall be prepared and distributed by the lieutenant governor in the manner prescribed by AS 15.25.060. (§ 2 ch 20 SLA 1980)

Editor's notes. — For repeal of this section, see note following article analysis.

Sec. 15.25.230. Placing recognized names on the ballot. (a) The lieutenant governor shall place on the ballot the name of each candidate generally recognized throughout the United States as a candidate for nomination for President of the United States.

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

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

(d) If the lieutenant governor calls the presidential party primary election for a date different from the date set under AS 15.25.220(a),

(1) the announcement required by (b) of this section shall be made no later than the Tuesday that is 11 weeks before the date of the election; and

(2) the statement required by (c) of this section shall be filed no later than the Tuesday that is seven weeks before the election. (§ 2 ch 20 SLA 1980)

Editor's notes. — For repeal of this section, see note following article analysis.

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

(b) The lieutenant governor shall notify a candidate of the filing of a petition under this section and advise that he may withdraw his name from the ballot by filing with the lieutenant governor no later than the first Tuesday in March of a presidential election year a statement that he is not now nor does he intend to become a candidate for the office of President of the United States at that presidential election and requesting the removal of his name. The name of a candidate withdrawing under this subsection may not appear on the ballot.

(c) If the lieutenant governor calls the presidential party primary election for a date different from the date set under AS 15.25.220(a),

(1) the petition required by (a) of this section shall be filed no later than the Tuesday that is seven weeks before the date of the election; and

(2) the statement required by (b) of this section shall be filed no later than the Tuesday that is six weeks before the election. (§ 2 ch 20 SLA 1980)

Editor's notes. — For repeal of this section, see note following article analysis.

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

(b) Each candidate who receives more than 15 percent of the votes cast in that party's primary is entitled to receive a proportionate number of delegate votes equal to the proportionate number of votes the candidate received in the primary after excluding the number of votes cast for candidates of his party who each received less than 15 percent of the votes in that party's primary. The proportions of delegate votes shall be expressed as fractional delegate votes or the nearest whole number of delegate votes as the rules of the particular national party or convention may provide. (§ 2 ch 20 SLA 1980)

Editor's notes. — For repeal of this section, see note following article analysis.

Sec. 15.25.260. Delegates pledged. A delegate selected under AS 15.25.250 must cast his vote to secure the nomination for the candidate to whom he is pledged until that candidate is nominated by the convention, receives less than 30 percent of the delegate votes for nomination by the convention, releases the delegates from the pledge, or until two convention nominating ballots have been taken. (§ 2 ch 20 SLA 1980)

Editor's notes. — For repeal of this section, see note following article analysis.

Sec. 15.25.270. No other elections on the same date. The lieutenant governor may not schedule another state election on the date scheduled for the presidential party primary election. (§ 2 ch 20 SLA 1980)

Editor's notes. — For repeal of this section, see note following article analysis.

Sec. 15.25.280. Procedures for conduct of election. The provisions of this title regarding the conduct of a general election govern the conduct of the presidential party primary election, except to the extent that the provisions of AS 15.25.220 — 15.25.280 are inconsistent with those provisions. (§ 2 ch 20 SLA 1980)

Editor's notes. — For repeal of this section, see note following article analysis.

Chapter 30. National Elections.

Article

1. President (§§ 15.30.010—15.30.100)
2. United States Congress (§§ 15.30.110—15.30.120)

Chapter 19

out charge

LAWS OF ALASKA

1980

Source: 2d SCS CSHB 28 am S

Chapter No.: 20

AN ACT

Providing for presidential party primary elections; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: April 10, 1980
Actual Effective Date: January 1, 1981

Chapter 20

AN ACT

Providing for presidential party primary elections; and providing for an effective date.

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* Section 1. AS 15.25.010 is amended to read:

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

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

ARTICLE 3. PRESIDENTIAL PARTY PRIMARY ELECTIONS.

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

(b) The lieutenant governor may conduct the presidential party primary election on a date different from the date set in (a) of this section if he sets the different date in a proclamation issued by September 1 of the year preceding the presidential election.

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

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

(b) The lieutenant governor shall announce on the last Tuesday in

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

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

(d) If the lieutenant governor calls the presidential party primary election for a date different from the date set under AS 15.25.-220(a),

(1) the announcement required by (b) of this section shall be made no later than the Tuesday that is 11 weeks before the date of the election; and

(2) the statement required by (c) of this section shall be filed no later than the Tuesday that is seven weeks before the election.

Sec. 15.25.240. PETITION FOR PRESIDENTIAL CANDIDATE. (a) Supporters of a candidate for nomination for President of the United States may file a petition to have the name of the candidate of their choice on the ballot. A petition under this section must be filed by the last Tuesday in February of a presidential election year and must contain the signatures of qualified voters residing in no less than two-thirds of the election districts of the state equal in number to five percent of the number of votes cast for the candidates for governor in the preceding election for governor. A petition under this section shall include

(1) the full name of the candidate; (2) the name of the political group supporting the candidate; (3) the name of the political party in which the candidate is registered; (4) a statement that the subscribers are qualified voters of the state; and (5) a statement that the subscribers request that the candidate's name be placed on the ballot. The signature sheets shall also contain the printed name and residence address of each qualified voter whose signature appears on the petition.

(b) The lieutenant governor shall notify a candidate of the filing of a petition under this section and advise that he may withdraw his name from the ballot by filing with the lieutenant governor no later than the first Tuesday in March of a presidential election year a statement that he is not now nor does he intend to become a candidate for the office of President of the United States at that presidential election and requesting the removal of his name. The name of a candidate withdrawing under this subsection may not appear on the ballot.

(c) If the lieutenant governor calls the presidential party primary election for a date different from the date set under AS 15.25.-220(a),

(1) the petition required by (a) of this section shall be filed no later than the Tuesday that is seven weeks before the date of the election; and

(2) the statement required by (b) of this section shall be filed no later than the Tuesday that is six weeks before the election.

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

(b) Each candidate who receives more than 15 percent of the votes

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

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

Sec. 15.25.270. NO OTHER ELECTIONS ON THE SAME DATE. The lieutenant governor may not schedule another state election on the date scheduled for the presidential party primary election.

Sec. 15.25.280. PROCEDURES FOR CONDUCT OF ELECTION. The provisions of this title regarding the conduct of a general election govern the conduct of the presidential party primary election, except to the extent that the provisions of AS 15.25.220 - 15.25.280 are inconsistent with those provisions.

* Sec. 3. AS 15.13 is amended by adding a new section to read:

Sec. 15.13.011. INAPPLICABILITY TO PRESIDENTIAL PRIMARY. The provisions of this chapter do not apply to a presidential primary election conducted under AS 15.25.220 - 15.25.280.

* Sec. 4. AS 15.25.220 - 15.25.280 are repealed on July 1, 1985.

* Sec. 5. This Act takes effect January 1, 1981.

LAWS OF ALASKA

1980

Source

FCCSSB 122

Chapter No.

21

AN ACT

Providing for the payment of Alaska permanent fund income to state residents; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

Approved by the Governor: April 15, 1980
Actual Effective Date: April 16, 1980 with Sections 1 and 2 retroactive to January 1, 1979.

HB

448

AMENDMENT

OFFERED IN THE HOUSE: BY: Szymanski

TO: SS HOUSE BILL No. 448

SENATE BILL No. _____

PAGE: _____ LINE: _____

Page 1, line 7, amend the title to delete [building[and add complex.

Page 1, line 17, delete [transportation and public facilities[and add the Department of Administration

Page 1, line 19, delete [building] and add complex

Page 1, line 21, delete [transportation and public facilities] and add the Department of Administration

Page 1, line 29, delete [building] and add complex

Page 2, line 11, delete [building] and add complex

350,000 90,500

175

AMENDMENT

OFFERED IN THE HOUSE: BY: _____

TO: SS HOUSE BILL No. SSB 448

SENATE BILL No. _____

PAGE: _____ LINE: _____

(1) Page 1, line 7, amend the title to delete [building] and add complex.

(2) Page 1, line 17, delete [transportation and public facilities] and add the Department of Administration

(3) Page 1, line 19, delete [building] and add complex

(4) Page 1, line 21, delete [transportation and public facilities] and add the Department of Administration

(5) Page 1, line 29, delete [building] and add complex

(6) Page 2, line 11, delete [building] and add complex

AMENDMENT

FILE COPY

OFFERED IN THE HOUSE: BY: _____

TO: _____ HOUSE BILL No. 448

SENATE BILL No. _____

PAGE: _____ LINE: _____

(1) Page 1, line 7, amend the title to delete [building] and add complex (ALSO: AMEND THE title. "COMPLEX"

(2) Page 1, line 17, delete [transportation and public facilities] and add the Department of Administration

(3) Page 1, line 19, delete [building] and add complex

(4) Page 1, line 21, delete [transportation and public facilities] and add the Department of Administration

(5) Page 1, line 23, delete [building] and add complex

(6) Page 2, line 11, delete [building] and add complex

Position Paper

HB 448

This bill would cause the Department of Administration to increase the size of the Anchorage Office Complex by 175,000 square feet in order to accommodate legislative activity. The stated intention is that the space be available for other use when not used by the legislature. If this were the case, there would be minimal or no savings since executive branch activities cannot maintain continuous efficient service if required to move every 6 months.

The Department of Administration is opposed to this bill. Considering the significant fiscal impact caused for duplicating space which already exists for such purposes, the passage of the bill would be a costly set aside of space for limited use.

If the Bill is to be passed it should incorporate the following changes:

Line 17 [TRANSPORTATION AND PUBLIC FACILITIES] The Department of Administration
Line 18 directed to [ALLOCATE] lease approximately
Line 19 Office [BUILDING] complex
Line 21 [TRANSPORTATION AND PUBLIC FACILITIES] The Department of Administration

Robert J. Link
Director
Division of General Services & Supply

2/3/84
Date

Commissioner Lisa Rudd
Department of Administration

2/3/84
Date

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 448
Title: Use by Legislature of space in Anchorage and session location.
Sponsor: Szymanski
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: General Services and Supply
BRU, Program of Subprogram(s) Affected: Leasing and Facilities

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	0	0	0	3,150.0	6,615.0	6,945.8
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	3,150.0	6,615.0	6,945.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	3,150.0	6,615.0	6,945.8
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	3,150.0	6,615.0	6,945.8
POSITIONS:	0	0	0	0	0	0
FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Robert Link
Division: General Services & Supply
Phone: 465-2250
Date: February 3, 1984

Approved by Commissioner: Lisa Rudd
Agency: DEPARTMENT OF ADMINISTRATION
Date: 2/3/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

House Bill 448
Fiscal Note Analysis
Prepared by Division of General Services & Supply
Department of Administration
February 3, 1984

This bill would cause the Department of Administration to increase the size of the Anchorage Office Complex by 175,000 square feet in order to accommodate legislative activity.

Assumptions: Occupancy would begin January 1, 1987. (The addition of 175,000 square feet is expected to delay occupancy of all tenants by six months at least.)

Lease cost would start at $3.00 per square foot per month and escalate 5% per year.

The Legislature would bear all costs for furnishings, moving, phone and other special equipment.

There would be no significant savings made by having the space available for other use 6 months a year.

Calculation FY 87: $3.00 x 175,000 x 6 (months) = $3,150.0 (Thousands)

Calculation FY 88 and beyond: previous year rental x 1.05.

Introduced: 1/13/84
Referred: State Affairs
and Finance

BY SZYMANSKI, BETTISWORTH, SHULTZ, FURNACE, HURLBERT, HERRMANN, WARD, LACHER AND LARSON

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 448

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the use by the legislature of space within the state office ~~building~~ in Anchorage and to the location of legislative sessions; and providing for an effective date."

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

* Section 1. PURPOSE. The purpose of this Act is to relocate the legislature and the legislative process to Anchorage and thereby provide the vast majority of Alaskan people with access to the legislature. The relocation of the legislature will facilitate and encourage greater public participation in the legislative process and thereby achieve a truly representative government as mandated by the Alaskan constitution.

* Sec. 2. The commissioner of ~~transportation and public facilities~~ is directed to allocate approximately ~~175,000~~ 90,000 square feet within the state office ~~building~~ complex constructed in Anchorage for the use by the legislature as a meeting hall and for office and support space. The commissioner of transportation and public facilities is directed to design the space allocated to the legislature so that it may be used by other agencies of the state when the space is not required for legislative use. The legislature intends that space used by it and facilities established for its use be shared with other agencies of the state to the maximum extent possible and not allocated exclusively to the legislature.

* Sec. 3. AS 24.05.090 is amended to read:

Sec. 24.05.090. REGULAR SESSIONS. The legislature shall convene at the state office building in Anchorage [CAPITAL] each year on the

second Monday in January at 10:00 a.m. [PACIFIC STANDARD TIME]; however, following a gubernatorial election year the legislature shall convene on the third Monday in January at 10:00 a.m. [PACIFIC STANDARD TIME]. Except as provided in this section, each legislature shall have a duration of two years and shall consist of a "First Regular Session" which shall meet in the odd-numbered years and a "Second Regular Session" which shall meet in the even-numbered years and any special session or sessions which the governor or legislature may find necessary to call.

* Sec. 4. AS 44.06.010 is amended by adding a new subsection to read:

(b) The legislature shall convene at the state office building in Anchorage.

* Sec. 5. Section 2 of this Act takes effect immediately in accordance with AS 01.10.070(c).

* Sec. 6. Sections 3 and 4 of this Act take effect January 1, 1987.

STATE OF ALASKA
Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES

DEPUTY COMMISSIONER - CENTRAL REGION

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)
PHONE: 266-1441

August 25, 1983

The Honorable Mitchell E. Abood, Jr.
4504 Spenard Road
Anchorage, Alaska 99503

Dear Representative Abood:

RE. Legislative Building in Anchorage

The enclosed Fiscal Note and analysis for HB 448 are forwarded in response to your verbal request.

I trust the information included will satisfy your needs. However, if I can be of further assistance please let me know.

Sincerely,

David W. Haugen
Deputy Commissioner
Central Region

cc: Daniel A. Casey, Commissioner, DOT&PF

STATE OF ALASKA
FISCAL NOTE | Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB #448
Title: Legislative Building in Anchorage
Sponsor: Szymanski, Bettisworth, et al
Requestor: Rep. Abood

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected: Public Facilit
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES					Unknown	Unknown
200 TRAVEL					Unknown	Unknown
300 CONTRACTUAL					Unknown	Unknown
400 COMMODITIES					Unknown	Unknown
500 EQUIPMENT					Unknown	Unknown
600 LAND & STRUCTURES					Unknown	Unknown
700 GRANTS, CLAIMS, ETC.					Unknown	Unknown
TOTAL OPERATING					Unknown	Unknown
CAPITAL					Unknown	Unknown
REVENUE					Unknown	Unknown

FUNDING: (Thousands of Dollars)

			Design	Construction		
GENERAL FUND			$3,500*	$32,300**		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL TIME					Unknown	Unknown
PART TIME					Unknown	Unknown
TEMPORARY					Unknown	Unknown

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

*Unknown funds for land acquisition would also be required in FY 85.

**Balance of appropriation would be required from the 1985 legislative session for site preparation and construction.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell, Director Phone: 266-1440
Division: Planning & Programming Date: 8/25/83

Approved by Commissioner: David W. Haugen Date: 8/25/83
Department: Deputy Commissioner, Central Region

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

Analysis of the Fiscal Note for HB 448

Representatives Szymanski, Bettisworth, Shultz, Furnace, Hurlbert, and Herrmann introduced legislation which would move the Legislature to Anchorage. As part of the move, a new Legislative Hall would be built in Anchorage to provide space for the legislature, its staff, and the Governor's office. The Department of Transportation and Public Facilities (DOT&PF) prepared the fiscal note for the cost of constructing a Legislative Hall in Anchorage.

HB 448 calls for 25 acres in the Campbell airstrip area or other area within the Municipality of Anchorage deemed suitable by the Municipality for those purposes. Whether or not the Municipality would donate land is questionable since land is at a premium in the Anchorage Bowl. If the Municipality would identify and sell land to the State or if it were necessary to purchase private land, the State could expect to pay at least $1,000,000 per acre. Most State-owned parcels within the Municipality of Anchorage have already been identified for a particular use. However, DNR can provide information regarding State-owned parcels.

The fiscal note only includes the cost of design and construction of the new building. The bill calls for the land on which to build the new hall to be donated. However, the site preparation costs are not included, but will be an expense. The $170.00 per square foot construction cost estimate used in the fiscal note is the standard DOT&PF construction cost estimate for work to be done in FY 86. The cost estimate does not include provision for any special use space such as assembly chambers or legislative lounges, etc. There is no definite scope established for a combined Legislative/Governor's Office building. (However, Steinman and Associates is currently doing a study to determine space requirements for a Juneau legislative facility.) The sample for this analysis includes 150,000 sq. ft. for the Legislature, 50,000 sq. ft. for the Governor's Office, and parking for up to 400 vehicles. Also included are costs per square foot which could be applied to future refinements of the actual requirements. None of the estimates include costs of land acquisition or site preparation (utilities, roads, site improvements, etc.).

Other factors, which will involve major additional costs to the State in moving the Legislature to Anchorage include travel expense, productivity and follow on renovation costs. Most of the commissioners and key staff personnel involved in the legislative process are located in Juneau. Considerable time and support is provided to the Legislature by State agencies during the Legislative session. If the State had to pay the travel and per diem costs for Juneau agency personnel to conduct legislative business in Anchorage, the costs would be considerable. Also, if the Governor were located in Anchorage yearround, the Juneau based commissioners would have to travel to Anchorage for the Cabinet meetings. Moving the Legislature to Anchorage would also involve considerable one-time costs such as moving expenses for the Juneau based legislative staff, cost to renovate the State Capitol Building for other use and the expense of moving the State agencies into the renovated space. These items are only discussed in general terms because determining the costs for the expenses involved would require considerable time and effort.

Legislative Offices

150,000 sq. ft. @ $170/sq. ft. = $25,500,000 *

* Does not include land or site preparation costs.

Governor's Offices

50,000 sq. ft. @ $170/sq. ft. = $8,500,000 *

* Does not include land or site preparation costs.

Parking

The total parking capacity needed for this facility is estimated to be 400 vehicles. This capacity should accommodate 226 legislative employees, legislators, the Governor and his staff, lobbyists and visitors. The surface area required would be 3.67 acres or 160,000 sq. ft.

Parking lot: @ $ 1.50/sq. ft. for 3.67A = $ 240,000 *
Parking garage: @ $40.00/sq. ft. for 160,000 sq. ft. = $6,400,000 *

* Does not include land or site preparation costs.

State Office Building

Another option is to add the needs for this space to the Anchorage State Office Building now being planned. Costs per square foot would remain about the same. Additional height would undoubtedly be required. Parking capacity would have to be expanded which could, in turn, add height to the building. The total added height may or may not be feasible for the seismic condition of the site. Such an engineering analysis is beyond the scope of this analysis. Site acquisition and preparation costs already necessary for the State Office Building should not be appreciably affected by adding this space.

Required Completion Date

Section 8 of HB 448 establishes January 1, 1987 as the date the building is to be ready for occupancy. Completion of design and construction is dependent upon:

1. Legislative authorization and funding.
2. Planning and programming being complete.
3. Site being selected and owned by the State.

Assuming completion of the above items:

Design will take 8 - 12 months.

Construction will take 18 - 24 months, depending on the site and soil conditions.

If the building is to be ready January 1, 1987, the design phase should begin as early as July 1, 1984.

Summary

Land costs: at least $ 1,000,000 per acre if not donated
Office space: $ 170/sq. ft.
Parking garage: $ 40/sq. ft.
Parking lot: $ 1.50/sq. ft. for surface work

Minimum land requirements vary depending on the number of floors to be built and if a parking lot, a parking garage or a combination is desired. Additional land for landscaping and beautification has not been addressed.

Variations for a 200,000 sq. ft
Legislative/Governor's Office Building
in Anchorage

No. of Office Stories	400-Vehicle Capacity Parking - Garage	Lot	Minimum Acres Required*	Remarks
1	No	Yes	8.3	* Does not include land for landscaping or beautification.
	1-level	Not Required	4.6	
2	No	Yes	6.0	
	1-level	Yes	3.7	
	2-level	Not Required	2.3	
3	No	Yes	5.2	
	1-level	Yes	3.7	
	2-level	Yes	2.2	
	3-level	Not Required	1.6	
4	No	Yes	4.9	
	1-level	Yes	3.7	
	2-level	Yes	2.6	
	3-level	Yes	1.4	
	4-level	Not Required	1.2	

Cost Estimate Samples:

a. 4-story office building with 2-level parking garage

1) Parking garage (100,000 sq. ft.) - $ 4,000,000
2) Office space (200,000 sq. ft.) - $34,000,000
3) Parking lot surface (1.4 acres) - $ 90,000

Funds available $55,000,000
1) Less estimate - 38,090,000

2) Remainder for land acquisition and site preparation costs $16,910,000

b. 3-story office building without a parking garage

1)	Office space (200,000 sq. ft.)	- $34,000,000
2)	Parking lot surface (160,000 sq. ft.)	- $ 240,000
	Funds available	$55,000,000
1)	Less estimate	- 34,240,000
2)	Remainder for land acquisition and site preparation costs	$20,760,000

NOTE: Land acquisition and site preparation costs will dictate how much land can be purchased within the $55,000,000 limit.

POSITION PAPER

SSHB 448, relating to the relocation of the Legislature

SSHB 448 proposes to permanently relocate the Legislature to Anchorage. It is not intended, and should not be construed, as a capital move bill. Nowhere in the bill is it suggested that the permanent seat of the executive branch should be moved from Juneau.

The sole intent of SSHB 448 is to facilitate greater public participation in the legislative process and thereby achieve the representative government that is mandated by the Alaska Constitution. It is my belief that the best way to encourage public involvement in the legislative process is to ensure that the Legislature be accessible to the citizens it serves.

At the heart of the democratic system is the expression of the will of the majority. If that will is stifled in any manner, the democratic process breaks down. It follows that for a government to be truly representative, its citizens must have access to their elected representatives.

It is undeniable that the city of Juneau is not reasonably accessible to the vast majority of Alaskans. Located more than 800 miles from the State's population centers, without connecting road or railways, it is indeed isolated. During session, face-to-face interaction between the people and their representatives is possible only at great expense to the individual. As a result, most Alaskans are essentially denied their right to inter-personal participation in the decision making process that shapes Alaska's future. Legislators are also denied the valuable insights that often can only be provided by informed constituents.

HB 448 will make the legislative process readily accessible to the more than 80% of the Alaskan population who live along the rail corridor and in rural Alaska.

However, the advantages of the move will not be noticed merely in terms of better government. In real dollar terms, moving the Legislature to Anchorage will save the State millions of dollars.

First, the bill requires that the Legislature be housed in the new State Office Building planned for Anchorage. According to DOT/PF estimates, the additional required space could be added to the new building at a cost of approximately $30 million. That figure is significantly lower ($30 million) than the latest estimates of over $60 million for a new legislative hall in Juneau. Further, if the Anchorage building were constructed by private enterprise and leased to the State under a lease/purchase agreement, no legislative appropriation would be required, and the State would save the entire $60 million to be spent on the Juneau hall.

Additional annual savings to the State would also be realized in the form of reductions in:

a. Legislator and staff travel expenses (over $1 million-Figure provided by Legislative Affairs. Does not include travel charged to committee or leadership accounts);

b. Legislative support staff travel (over $200.0 - includes travel for House Research Agency, Leg. Affairs, and Legislative Budget & Audit);

c. Long distance telephone charges ($270.0-includes all instate long distance charges);

d. Legislative office space rental fees (over $500.0-rental fees paid in FY 82-83)

for a total annual savings of around $2 million. Thus, a relocation of the Legislature would not only be advantageous politically but also fiscally.

Some have argued that it is not feasible to separate the Legislature from the Executive Branch. I disagree. The Legislature is autonomous from the Executive Branch and functions independently. While it is true that consultation between the two branches is often required, it is also true that the majority of such consultation could be accomplished by utilizing the State's advanced telecommunications network. In this sophisticated age of instantaneous communications and multi-national corporations, there is no reason why Alaska's separate branches of government need to be physically located together in order to function properly.

Also, the total cost of any required Executive Branch travel to Anchorage to testify or meet with legislators would be much less than the current cost of all legislative travel to and from Juneau.

In conclusion, there are many good reasons for relocating the Legislature to Anchorage. There is no doubt that a centrally located, accessible legislative process would encourage greater public awareness of and participation in the legislative process. It would also render the prospect of legislative service more desirable to many qualified individuals who cannot afford the personal/professional sacrifices that distant legislative office demands. And rather than costing the State money, relocating the Legislature to Anchorage would result in initial savings in the tens of millions of dollars and additional millions in annual savings during a period of declining revenues.

But the best argument for relocating the Legislature to a place readily accessible to the people can be found in our State's constitution; for, it was the stated intention of the designers of that document that the Alaskan Legislature should represent foremost the interest of the people of Alaska. I am convinced that a Legislature which operates in an environment of seclusion and

secrecy, inaccessible to all but a few, cannot possibly fulfill that mandate.

Representative Mike Szymanski

HB

456

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ALASKA BAR ASSOCIATION
P.O. BOX 100279
ANCHORAGE, ALASKA 99510
AREA CODE 907/272-7469

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February 3, 1984

The Honorable Mitch Abood
Chairperson
State Affairs Committee
Alaska House of Representatives
1024 West Sixth Avenue
Anchorage, AK 99501

RE: House Bill 456

Dear Representative Abood:

I understand that the House State Affairs Committee is holding hearings this afternoon on HB 456 which would authorize an advisory vote by the citizens of the State of Alaska concerning the wisdom of electing the State's Attorney General.

In that regard, I request that the attached letter be submitted as a part of the Committee's record of testimony on HB 456. The attached letter, sent by then Alaska Bar President Karen Hunt to Representative Barnes, details the results of an advisory poll conducted by the Bar Association of its members concerning not only the election of the Attorney General, but the election of district attorneys and judges as well.

I ask that the members of your Committee, during its deliberations, consider the findings of that poll and the many reasons given for finding that the election of the Attorney General does not serve the public interest.

Should you have any questions, please do not hesitate to contact me. I have provided you with a sufficient number of copies for each member of your Committee. Let me thank you in advance for your consideration of the attached information.

Respectfully yours,

ALASKA BAR ASSOCIATION

Randall P. Burns

Randall P. Burns
Executive Director

Attachment

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P.O. BOX 279
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AREA CODE 907/272-7469

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WILLIAM B. ROZELL
RICHARD D. SAVELL
HUGH G. WADE

March 4, 1982

Representative Ramona Barnes
Chairperson
House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Re: Election of Attorney General, District Attorneys and Judges

Dear Mrs. Barnes:

The Board of Governors of the Alaska Bar Association limits its legislative activities to those issues which impact on the administration of justice and the delivery of legal services to the public. One set of such issues is whether the present system should be changed to provide for the election of the Attorney-General, District Attorneys and/or judges. Below is a very brief discussion of the results of a February poll taken of the members of the Alaska Bar Association on those issues. The Board has directed that I communicate these results to you for your information. Thirty-five percent (35%) of the attorneys responded as follows:

1)	elect Attorney General :	No 71 %, Yes 29 %
2)	elect District Attorney:	No 79 %, Yes 21 %
3)	elect Judges:	No 82½%, Yes 17½%

Each respondent was given an opportunity to comment and repeatedly the following concepts were discussed.

The judicial branch of government in Alaska was deliberately not made a representative, elected body. It is an integral part of a three-branch, checks and balance

system of government. Further, judges should not interpret the law because of a temporary, single, explosive political issue: the need for predictibility and uniformity in our laws is too vital to the welfare of Alaskans. Likewise, judges should be able to uphold "unpopular laws" which safeguard the rights of individuals or groups who are not a part of the electorate who supported the people elected.

Of equal concern to the respondents was the realization that special interest groups could unduly influence court decisions and District Attorney prosecutions because of the amount of compaign contributions they could raise or the "party machinery" they could control. Likewise, concern was expressed about the backlog and system slowdown that would occur while judges and district attorneys planned for, solicited funds for and conducted an election campaign. This could be particularly harmful in small communities which have only one judge or District Attorney. Additionally, concern was expressed about the lack of uniformity of law enforcement that would result because district attorneys would be elected on different "platforms".

The concerns expressed about election of the Attorney General included possibility (in Alaska perhaps probability) of the Attorney General and Governor being of two different parties thereby introducing non-productive dissention in the administrative branch. The Attorney General's office becoming primarily a stepping stone to running for Governor was also mentioned as a disruptive possibility.

The confirmation by the legislature was viewed by some respondents as encouraging scrutinty of the Attorney General by elected representatives thereby giving the voters final say about the Governor's selection. Likewise, the retention election of judges provides voter acceptance or rejection of the performance of judges. This process was viewed as a good balance and check on the initial appointment process.

Of particular interest are the uniform comments from attorneys who have practiced law and lived in states where judges and/or district attorneys and/or the Attorney

General are elected. Each respondent who so indictated such experience was opposed to changing our present system. The states of California, Illinois, Florida, Idaho and Oregon were specifically mentioned.

One example was emphasized where (in Florida) a new law school graduate entered the race for a judgeship at the last minute raising substantial campaign funds by attacking the judge's decision which had upheld a statute of the state legislature. He won thereby removing a judge with much experience and a solid reputation for fairness and efficiency on the the bench. He was thereby committed to a particular interpretation of a statute regardless of the facts of the case that might come before him. This result is contrary to the genius of our Anglo-Saxon system of justice which begins with the unalterable proposition that each party before the court has an absolute right to have his case decided solely upon the facts before the court.

The most repeated concept expressed by respondents who said judges, district attorneys and the Attorney General should be elected was that governmental decision makers should be elected by the voters.

We will try to provide such additional information or further discussion you may desire to the extent that we know or can ascertain the views of our members.

Yours very truly,

Karen L. Hunt
President

KLH:et

cc: Members of House

FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 456
Title: "...advisory vote...election of the Attorney General
Sponsor: Rep. Ward
Requestor: House State Affairs
Date of Request:

FISCAL DETAIL
Agency Affected: Department of Law
Program Category Affected: Admin. of Justice, Public Protection
BRU, Program or Subprogram(s) Affected: Legal Services, Prosecution, Consumer Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard L. Pegues, Director — Phone: 465-3672
Division: Administrative Services — Date: 1-18-84
Approved by Commissioner: Norman C. Gorsuch — Date: 1-18-84
Agency: Department of Law

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Fiscal Note
Analysis
HB 456

January 18, 1984

This bill authorizes an advisory vote, at the next general or special election, whether the legislature should propose a constitutional amendment that, if approved by the qualified voters of the state, would permit the election of the attorney general. Because this bill only authorizes an advisory vote, its enactment will not have a fiscal impact on the department's operations.

HOUSE BILL NO. 456

Early last session Representative Uehling and Representative Ward sponsored HJR 7 which proposed amendments to the Constitution of the State of Alaska relating to the election of the Attorney General. The legislation passed the House but failed to pass the Senate.

Subsequently, HB 456 has been introduced which would authorize an advisory vote by the registered voters of the State. This would allow the legislature to gauge the feelings of the public and act accordingly.

HB 456

Grants Pass, Oregon
February 19, 1983

TO MY FRIENDS IN THE ALASKA LEGISLATURE:

Almost thirty years ago I proposed that the state of Alaska elect its attorney general. Although my proposal was finally rejected by the Constitutional Convention in 1956, I have never abandoned my conviction that the attorney general should be "the people's attorney," elected by and responsible to the citizens of Alaska.

For that reason, I am pleased to support House Joint Resolution 7, which proposes an amendment to the state constitution providing for the election of the attorney general. HJR 7, if approved by both houses, would allow the electorate to determine the nature of the state's highest law enforcement officer.

I urge every legislator to fully consider this important bill. If you decide that your constituents deserve a truly impartial attorney general who is ultimately responsible to the people, then I encourage you to support the passage of HJR 7.

Thank you for your attention.

Respectfully,

Frank Barr

FRANK BARR
Delegate, Alaska Constitutional
Convention (1955-56)

Extracted from: Powers, Duties and Operations of State Attorneys General (1977) (study by National Assoc. of A.G.s)

6. SELECTION, TERM AND REMOVAL

This chapter examines the important issues of how the Attorney General is selected, how long he serves, how he can be removed, and how a vacancy in the office can be filled. Some of these issues, particularly that of election or appointment, have been subject to controversy since the first state governments were established. This report discusses existing practices and presents the arguments on both sides of these issues.

Method of Selection

Table 6 shows methods of selecting the Attorney General. He is popularly elected in forty-two states. He is appointed by the Governor in six states (Alaska, Hawaii, New Hampshire, New Jersey, Pennsylvania, and Wyoming), the three territories (Guam, Samoa and the Virgin Islands), and the Commonwealth of Puerto Rico. In Maine, he is selected by the Legislature and in Tennessee, by the Supreme Court.

Now elected

The Attorney General is the most prevalent elective official in state governments except for the Governor, who is elected in all jurisdictions. The Treasurer is elected in thirty-nine jurisdictions, the Secretary of State in thirty-eight, the Auditor in twenty-five, and the Superintendent of Public Instruction in nineteen, compared to forty-two states in which the Attorney General is elected.[87] The 1970s witnessed a marked acceleration of the trend toward election of the Governor and Lieutenant Governor on a single ballot and such a practice is now followed in twenty-two jurisdictions. Thus, the Attorney General is actually the most common official who is elected on a single ballot. Where very few, but more than one, state executive officials are elected, the Attorney General is usually included among these few. He is, for example, among the three executive officials elected in Virginia, among the four elected in Maryland, Michigan and New York, and among the five elected in Rhode Island, Colorado, and Utah. However, he is not one of the two elected officers in Alaska, Hawaii, Guam, and the Virgin Islands, the four in Pennsylvania, nor the five in Wyoming.

Historically, the Attorney General has been an appointive, rather than elective, official. In England, he was appointed by the Crown and only incidentally acquired elective status through a seat in Parliament. In Colonial America, Attorneys General were usually appointed by the Governor of the Colony. The Attorney General of the United States still serves at the pleasure of the President with the advice and consent of the Senate.

Most of the first state constitutions specified that the legislature would choose the Attorney General. The concept of universal suffrage had not yet taken hold, nor had the idea of direct election of many officials.

87. Council of State Governments, THE BOOK OF THE STATES, 114-115, 121-122 (1976-77).

TABLE 6: SELECTION AND TERM OF ATTORNEYS GENERAL

	Elected	Appointed by	With Co nt Of	Length of Term	May succeed Himself
Alabama	x			4	Yes
Alaska		Governor	Legislature	4	Yes
Arizona	x			4	Yes
Arkansas	x			2	Yes
California	x			4	Yes
Colorado	x			4	Yes
Connecticut	x			4	Yes
Delaware	x			4	Yes
Florida	x			4	Yes
Georgia	x			4	Yes
Guam		Governor	Legislature	Indefinite	Yes
Hawaii		Governor	Senate	4	Yes
Idaho	x			4	Yes
Illinois	x			4	Yes
Indiana	x			4	Yes
Iowa	x			4	Yes
Kansas	x			4	Yes
Kentucky	x			4	No
Louisiana	x			4	Yes
Maine		Legislature		2	Yes
Maryland	x			4	Yes
Massachusetts	x			4	Yes
Michigan	x			4	Yes
Minnesota	x			4	Yes
Mississippi	x			4	Yes
Missouri	x			4	Yes
Montana	x			4	Yes
Nebraska	x			4	Yes
Nevada	x			4	Yes
New Hampshire		Governor	Exec. Council	5	Yes
New Jersey		Governor	Senate	4	Yes
New Mexico	x			4	Yes
New York	x			4	Yes
North Carolina	x			4	Yes
North Dakota	x			4	Yes
Ohi	x			4	Yes
Oklahoma	x			4	Yes
Oregon	x			4	Yes
Pennsylvania	X	~~Governor~~	~~Senate~~	4	Yes
Puerto Rico		Governor	Senate	Indefinite	Yes
Rhode Island	x			2	Yes
Samoa		Governor		Indefinite	Yes
South Carolina	x			4	Yes
South Dakota	x			4	Yes
Tennessee		Sup. Court		8	Yes
Texas	x			4	Yes
Utah	x			4	Yes
Vermont	x			2	Yes
Virgin Islands		Governor	Senate	Indefinite	Yes
Virginia	x			4	Yes
Washington	x			4	Yes
West Virginia	x			4	Yes
Wisconsin	x			4	Yes
Wyoming		Governor	Senate	4	Yes

Andrew Jackson's administration brought a new ethic to American government. The common man was considered competent to vote and to hold office, and direct election of officials became the rule. State constitutions provided for election of numerous officials, usually including the Attorney General.

A study published in the Law Library Journal[88] showed how methods of selecting Attorneys General developed in nineteen states; of these, eight provided for legislative selection prior to 1843, but none finally retained this method. Prior to 1845, twelve states provided by constitution or legislation for the appointment of an Attorney General by the Governor, the legislature, or other authority. The trend then turned toward election. For example, North Carolina's 1776 Constitution provided for appointment by the legislature; its 1868 Constitution provided for election. Louisiana's 1812 Constitution provided for appointment by the Governor; its 1852 Constitution provided for election. Michigan's 1835 Constitution provided for appointment by the Governor; the 1850 Constitution provided for election. Virginia's 1776 Constitution provided for selection by the legislature; its 1902 Constitution provided for election. Kentucky's 1792 Constitution provided that the Governor would appoint the Attorney General, with the consent of the Senate; the 1850 Constitution made the office elective.

Wyoming, in 1899, became the first "new" state to provide for appointment of the Attorney General, thereby ending the trend toward popular election. Alaska's 1959 Constitution and Hawaii's of 1960 provided for Gubernatorial appointment, following the policy set by their territorial conventions in 1950 and 1956.

Strong arguments can be advanced for either system of selection. There is not necessarily a correlation between the selection process and the extent of the Attorney General's actual powers. For example, the Attorney General is elected in Delaware and appointed in Alaska, but in both jurisdictions he has control over all legal and prosecutorial functions. In some states, the Attorney General is independently elected, but he exercises little power at either the state or local level. Thus, a "strong" department of justice can be developed under either system of selection, but is not guaranteed by either.

Proponents of an appointive Attorney General usually base their arguments primarily on the need to strengthen the executive. As one view, the commentary on the Model State Constitution developed by the National Municipal League says that:

> All authorities on executive organization agree with the position embraced by the Model State Constitution for more than 40 years that administrative power and responsibility should be concentrated in a single popularly elected chief executive. There is growing recognition that the governor, as the representative of all the people,

88. Lewis Morse, Historical Outline and Bibliography of Attorneys General Reports and Opinions, 30 LAW LIBRARY JOURNAL 39-245 (1937).

should be equipped with the constitutional status necessary to exercise constructive leadership as the chief lawmaker and political head of his state.[89]

The Model Executive Article for state constitutions recommended by the Committee on Suggested State Legislation of the Council of State Governments limits statewide elective officials to the Governor and Lieutenant Governor, who are elected jointly. This article was developed by the Committee on Constitutional Revision of the National Governor's Conference.[90] Studies on administrative reorganization usually argue that fragmentation leads to irresponsibility, but a single chief executive can be held accountable through the electoral system and, as a consequence, can make the administration more responsive. Proponents of an appointive Attorney General argue that his function is to advise the Governor, who should be permitted to choose his advisors. They believe that the two officials are more likely to maintain the close and harmonious relationship that is necessary for effective liaison if the Attorney General is appointed.

Advocates of appointment also contend that the elective process may not assure professional competence. The pressures of politics and the time involved in campaigning limit an Attorney General's abilities to serve effectively, and many highly competent people would not be willing to undergo the election process. They also argue that the Attorney General's primary function is to interpret the law, which is a technical task and should not involve the political process.

The arguments for an elective Attorney General were cogently summarized by Attorney General Louis J. Lefkowitz in a position paper submitted to the New York Constitutional Convention in 1967. General Lefkowitz reviewed the Attorney General's duties in some detail, pointing out they were predicated upon his role as an independent official, and concluded that:

> To sum it up-- an elected Attorney General has a measure of independence and a sense of personal and direct responsibility to the public. The elected official has a natural and compelling desire to be creative and to exercise broader initiative in the service of the public. He is free of the fear of dismissal by any superior official if he should exercise contrary independent judgment. He is in the best position to render maximum service to the People and impartial advice to the Governor, the Legislature and State departments and agencies. He can appear in Court without fear or favor-- an attorney in the fullest and finest sense of the word.[91]

89. National Municipal League, MODEL STATE CONSTITUTION (6th ed.) 65-66 (1963).

90. The Council of State Governments, 1970 SUGGESTED STATE LEGISLATION, 3-4.

91. Attorney General Louis J. Lefkowitz, Position Paper of Louis J. Lefkowitz Attorney General, to Constitutional Convention, Committee on the Executive Branch, June 1, 1967, Albany, N. Y.

An equally strong position in favor of election was taken by Attorney General William J. Scott before an Illinois Constitutional Convention; he stressed that the Attorney General's roles of "government watchdog" and "attorney for the people" required independence from the Governor.[92]

The primary argument for an elective Attorney General is that he is an attorney for all the people, and should be chosen by them. He is the Governor's advisor, but not exclusively; the Governor is merely one among many clients. By making the Attorney General directly responsible to the electorate, he remains subject to the ultimate source of power and will be more responsive to public needs. As discussed elsewhere in this report, the courts increasingly recognize that the Attorney General is responsible to the people, not just to the government. It is further argued that the Attorney General has important administrative and legal functions, such as programs in consumer protection and environmental control. In executing these functions, an Attorney General is acting as an advocate for the people, not as agent of the executive branch. His duties usually include prosecution of election violations, collection of debts, and bringing of suits in the name of the people; these responsibilities are outside the scope of the Governor's duties.

Many arguments for election center around the fact that the Attorney General's duties are of the highest order and he should enjoy the same independence as a member of the judiciary. He should not be a creature of the Governor, but should render opinions solely on the basis of law. He should not be the advocate for a particular administration, but should be free to oppose policies which he considers inconsistent with the law and to investigate apparent wrongdoing.[93]

In reference to the argument that an appointed Attorney General is a non-political technician, it should be noted that appointment does not necessarily remove the office from politics. Some appointed Attorneys General have been politically active as potential candidates for other office or on behalf of the Governors they serve. At the federal level, Presidents have frequently named as Attorneys General persons who had been active in their campaigns. This has also been true in some states.

In his remarks to a legislative committee which was considering a constitutional amendment to make the office appointive, former Attorney General Meyer of Nebraska mentioned several arguments in addition to those usually advanced by proponents of election. These included the following points: the Governor can appoint men with legal training to his staff if he feels he needs lawyers of his own choosing. Much of the Attorney General's work is in areas in which the Governor has little or no interest,

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92. News from William J. Scott, Attorney General, State of Illinois, Feb. 16, 1970.

93. See summary of arguments presented to New York's constitutional conventions in Robert H. Gordon, The Relationship Between the Attorney General and Agency Counsels in New York State, (Unpublished Ph.D. Dissertation, Syracuse U.), Ch. 1 (1966).

such as advising county attorneys and handling routine criminal appeals. The Governor is only one of many state officials whom the Attorney General advises.[94]

Confirmation of Appointment

In all six states where the Governor appoints the Attorney General on a regular basis, the appointment is confirmed by either the Senate (Hawaii, New Jersey, Pennsylvania, Wyoming), both houses of the Legislature (Alaska), or by the Council (New Hampshire). Confirmation in Pennsylvania requires a two-thirds vote of all the members of the Senate.

In Puerto Rico and the Virgin Islands confirmation is also by the Senate. In Guam, appointments are made with the "advice and consent" of the legislature, but in Samoa appointment is by the Governor with no requirement for confirmation. Although all Pennsylvania Attorneys General of recent years have been in the same political party as the Governor, the requirement of approval of two-thirds of all elected members of the Senate for confirmation of the Attorney General gives the minority party considerable leverage over appointments. However, there has been no indication that this has caused problems.

The various model constitutional provisions that have been proposed differ on the need for confirmation. The Advisory Commission on Intergovernmental Relations' suggested constitutional provision for a short ballot for state officials provides for Senatorial confirmation of gubernatorial appointments. The Model State Constitution of the National Municipal League does not mention confirmation. There is no extensive literature on the precise manner in which appointments are to be confirmed.

Length of Term and Succession

Forty-four states presently provide a 4-year term for the Attorney General and four states a 2-year term. Tennessee sets the term at 8 years and New Hampshire at 5. In Guam, Puerto Rico, and the Virgin Islands, the Attorney General is appointed for an indefinite term. In Samoa the term is also of an indefinite length, although there is a minimum of 2 years for an initial appointment. Table 6 indicates the length of Attorneys General's terms and the statutory or constitutional rules on succession.

The trend is clearly toward longer terms. Most states initially limited terms of officals to 1 or 2 years, on the theory that frequent elections kept government closer to the people and prevented the accretion of power by elected officials. Many states prohibited successive terms on the grounds that official power must be limited. These arguments may have been cogent at a time when Attorneys General had relatively few duties to

94. Letter from Attorney General Clarence A. H. Meyer to Patton G. Wheeler, November 24, 1970.

perform, and those duties were relatively well-defined. Present Attorneys General, however, cannot effectively operate with a 2-year term, which does not allow time to master the duties and responsibilities of the office. Neither should they be subjected to the continuing campaign requirements imposed by an election every 2 years. For these reasons, NAAG has recommended that the Attorney General should be elected or appointed for a minimum term of 4 years and should be allowed to succeed himself.

The number of Attorneys General serving 2-year terms has declined drastically in recent decades. In 1937 there were twenty-one, but this number fell to nine by 1970, and then to four by 1976. Arizona went from 2 to 4 years in 1970, and Wisconsin and New Mexico in 1971. The 1972-73 legislative biennium saw four more states-- Iowa, Kansas, South Dakota, and Texas-- shift to a 4-year term for the Attorney General. Apparently only one jurisdiction has ever gone from a 4-year to a 2-year term; this occurred under Missouri's 1865 Constitution, which was adopted during Reconstruction; its 1875 Constitution later restored the 4-year term. Voters in Rhode Island, however, rejected a 1972 proposal which would have extended from 2 to 4 years the terms of all executive officers, including the Attorney General.

Succession to Office

There are few restrictions on Attorneys General serving successive terms. There are restrictions on Attorneys General succeeding themselves in only three states: Kentucky, New Mexico, and Alabama. Only Kentucky absolutely prohibits immediate succession by the Attorney General. Until 1968 Alabama allowed only one term, but an amendment that year permitted the limited succession. New Mexico restricts the Attorney General to two terms of 2 years each.

The Model State Constitution permits succession in the office of Governor because:

> The main argument favoring restriction in the term of the governor is fear of bossism or perpetuation through use of the powers of the office. This is always a possibility but the better argument seems against any form of restriction. Limitations of this kind restrict the right of the people to pass judgment upon the quality of the gubernatorial service performed for them and thus eliminates from the field the one candidate about whom the voters usually know the most. From a program policy point of view, a restriction on service in office affects the governor's ability to develop and implement a long-range plan.[95]

These arguments apply with equal validity to the office of Attorney General.

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95. National Municipal League, MODEL STATE CONSTITUTION (6th ed.) 66 (1963).

Removal from Office

There are several mechanisms for removing Attorneys General: impeachment, recall, or removal by the Governor, the legislature, or the courts. Information is not available on how often these methods have been used or how well they operated.

Of the fifty-four jurisdictions, thirty-six provide for impeachment. It is the only method of removal provided in twenty-one of these jurisdictions. Impeachment processes vary, but proceedings are usually instituted by the lower house and, if it votes to impeach, the charges are tried by the upper house. In New York, the judges of the court of appeals, the state's highest court, sit with the members of the Senate as a court of impeachment. In Nebraska, impeachment charges are proferred by the unicameral Legislature and tried before the state supreme court. In Missouri, impeachments are tried before the supreme court after charges are filed by the House of Representatives.

An impeachment proceeding is rare, and is used only under the most extraordinary circumstances. Apparently, the last impeachment trial of an Attorney General was Kansas in 1934. That action resulted in an acquittal.[96] Whatever grounds are prescribed grounds for impeachment, the method is not a common means of removing officials. It can be utilized only when the legislature is in session and is quite time-consuming.

Fifteen states which provide for impeachment also provide alternative removal processes. In the ten jurisdictions where the Governor appoints the Attorney General, he may also remove him. In Hawaii, the Senate must consent to such removal. In New Jersey, the Attorney General can be removed by the Governor for cause only after an opportunity to be heard has been granted. In New Hampshire, the Governor and the Council may remove the Attorney General on address of both branches of the legislature. Five other states provide for Gubernatorial removal of the Attorney General. In Maine, the Governor and Council may remove on address of both branches of the legislature. In New York, removal is by the Governor and the Senate. The Governor of Arkansas, upon address of two-thirds of the members of each house of the legislature, may for good cause remove the Attorney General. In Michigan and West Virginia, the Governor may remove him without the consent of another authority.

The legislature stands alone as a removing authority in proceedings other than impeachment in seven states. Recall may be used to remove the Attorney General in Arizona, Colorado, Louisiana, North Dakota, Oregon, Washington, and Wisconsin; he is an elective officer in all of these states. Louisiana reports that the district court may remove the Attorney General, and Maryland indicates that removal is attendant to any conviction in a court of law.

As a result of a court decision, an Arizona Attorney General was removed from office in 1947, having been adjudged guilty of conspiring to violate the gambling laws of the state. The Governor considered the office

96. New York Times, February 7, 1942, at 17.

vacant and appointed a new Attorney General. The former Attorney General, however, refused to vacate his office. Subsequent court action affirmed the validity of an act which provided that an office would be vacant if its incumbent was convicted of a felony. The court reasoned that the powers of impeachment were an added protection for the public, not the sole protection.[97]

Filling Vacancies

Vacancies in the office of Attorney General may be filled by appointment of the Governor, the legislature, or the supreme court. An overwhelming majority of the jurisdictions indicate that the Governor fills vacancies as soon as they occur. In Maine, Massachusetts, New York and Virginia, the legislature fills vacancies; however, if it is not in session, the Governor makes the appointment. In Maine, he must have the approval of the Council. Tennessee provides that the Supreme Court will fill vacancies, since it normally appoints the Attorney General. In two states, Louisiana and New Jersey, the First Assistant or Deputy Attorney General becomes Attorney General until a successor is elected or appointed.

Where the Attorney General is appointed, it would seem proper that the appointing agent also fill vacancies, as is the case in all such jurisdictions. The rationale for filling vacancies when the office is elective is less clear. All but four of the states which have an elective Attorney General permit the Governor to make appointments. Three permit the legislature to name an Attorney General, and in one the deputy is promoted. Allowing the Governor to fill vacancies in an elective office seems contrary to the chief arguments for election, those concerning independence from the executive. It is also questionable whether a Governor of one party should be allowed to fill a vacancy in an office which was held by a member of the opposite party.

An Assistant or Deputy Attorney General is often promoted to fill a vacancy, even if this is not required by law. If the Deputy Attorney General is promoted to fill a vacancy, the chances of continuity in office programs are greater; however, the Attorney General may select his chief deputy according to different criteria from those he would use in selecting his own replacement.

Vacancy appointments for elective offices usually are valid only until the next general or next biennial election. At that time, if the original term has not elapsed, a short-term Attorney General is elected. This point was litigated in Oregon.[98] The statute creating the Oregon office in 1891 provided that the Attorney General would be elected for a full 4-year

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97. State ex rel. De Concini v. Sullivan, 66 Ariz. 348, 188 P.2d 592 (1948).

98. State ex rel. Baker v. Payne, County Clerk, 22 Ore. 335, 29 Pac. 787 (1892).

term in 1894. Further, it mentioned that vacancies would be filled by Gubernatorial appointment until the next general election, when an Attorney General would be chosen to fill out the term or commence a new term. The Governor appointed an Attorney General in 1891. The question of the case was whether there was to be an election to fill out the first "quasi-term" in the general election of 1892. The court ruled that there was to be such an election.

The Supreme Court of Georgia reached the opposite conclusion in a 1939 case.[99] It held that the office of Attorney General was created under the judicial article, hence the rule that provisions for elections to fill vacancies in executive positions did not apply to it. The Gubernatorial appointee to fill a vacancy created by a resignation was to serve out the full 4-year term of office without standing for election.

99. Wood v. Arnall, 189 Ga. 362, 6 S.E.2d 722 (1939).

POSITION PAPER

of

LOUIS J. LEFKOWITZ

ATTORNEY GENERAL

to

CONSTITUTIONAL CONVENTION,

COMMITTEE ON THE

EXECUTIVE BRANCH

in support of

PROPOSITION THAT THE PRESENT

CONSTITUTIONAL PROVISION FOR

THE ELECTION OF THE ATTORNEY

GENERAL SHOULD BE RETAINED

POSITION PAPER

Submitted to the Constitutional Convention,
Committee on the Executive Branch,
at hearing hald on June 1, 1967
at the State Capitol, Albany, New York

PROPOSITION

THE PRESENT CONSTITUTIONAL PROVISION FOR THE ELECTION OF THE ATTORNEY GENERAL SHOULD BE RETAINED.

HISTORICAL BACKGROUND AND COMPARATIVE ANALYSIS

In the early years of the Colony of New York (17t' century), the Attorney General was an appointee of the Royal Governor who was, himself, an appointee of the English Crown. About 1700 the intermediary was dropped and appointment of the Attorney General was vested directly in the Crown.

In 1777 the first Constitutional Convention established the State of New York, appointed all the State officers deemed necessary in the establishment of the new state, and provided for a Council of Appointment to make future appointments. Under this system, appointment of State officers was the rule rather than the exception. The Attorney General could be removed at any time and frequently was removed. There was neither difficulty nor hesitancy in removing him when a majority of the Council was of the opposite political faith. The fact of the matter is that under this system the average tenure was less than 2-1/2 years.

At the Constitutional Convention of 1821 a proposal was made that the Attorney General be appointed by the Governor with the consent of the Senate. This was rejected by the Convention and, instead, provision was made that the Attorney General, together with other important State officials, be elected by the Legislature.

By 1846 there was an overwhelming demand for the popular election of the Attorney General. This was recognized by the Constitutional Convention of 1846 and made a part of our Constitution.

Historically, traditionally, and as a matter of basic constitutional mandate, we have continued to elect our Attorneys General in New York State for the past 121 years. This is not to say that the question has not been raised or the problem re-assessed from time to time in the light of vastly changed conditions. As a matter of fact, at every Constitutional Convention since 1846 the question was reconsidered and in each instance the Convention adhered to the elective system.

Comparatively considered, and without going into the historical background of each case, it may be noted that in forty-two of the fifty States the Attorneys General are elected by the people. Interestingly, included among the States which follow the elective system are many of the most populous states in the Union (for examples: New York, California, Illinois, Ohio, Michigan and Massachusetts).

POINTS IN SUPPORT OF AN ELECTED ATTORNEY GENERAL

1. Independence.

While the history of the office of the Attorney General of New York includes efforts to make the Attorney General an appointed officer, it is significant that for upwards of one hundred years without interruption that office has survived as one to be filled by the elective process. Thus, retaining the Attorney General as an independent constitutional officer to be elected by the People of the State not only reserves to the People their traditional right to select a candidate of their choice as the State's highest ranking legal official, but has the added advantage characteristic of a democratic government of greater assurance that the laws of the State will be construed and applied objectively and without favor.

Exactly 100 years ago, at the Constitutional Convention of 1867, when that issue was considered, the report of the discussion states in part:

"The Attorney General holds a dignified position; he has important functions and acts on his own judgment and responsibility" and further, "It was not the Governor alone, but the people who wanted an Attorney General. He was to look after the interest of the people in the State and take care of their money so far as action in the courts was concerned * * *," and again, "If he (the Attorney General) does his duty it matters little to the people whether he is

in accord with the Governor or not." "Indeed," observed a delegate, "it may be to the interest of the people that the Attorney General should not always be in accord with the Governor," and more, "that he should be a man who could not be ordered by anybody. His opinions should be above any fear of the loss of his office. His duties are of the highest order * * * as high as those of any judicial officer; and he should be as independent as any judge. The Governor should have no more power to remove the Attorney General than he has to remove the Chief Judge of the Court of Appeals. His opinions are upon great questions, affecting the great questions of the State. He ought not be a mere creature of the Governor to supervise his vetoes and obey his dictation."

This independence of action and expression is particularly significant with respect to opinions of the Attorney General concerning the construction of statutes and the validity and propriety of acts thereunder by other departments and agencies of the State.

All of the various departments and agencies of government turn to the Attorney General for legal advice and for the rendering of Official Opinions. Such opinions are acted upon daily and a great deal of the operation of the State government depends upon the nature of the advice that is so rendered. These Opinions are rendered to all departments of the State government, those under the direction

and supervision of the Governor and those under the direction of other elected officials. It is important to note that the Opinions have a direct and significant impact upon the People in their daily life. Here is a compelling reason why the Attorney General should continue to be independently elected. If the Attorney General is appointed by the Governor, then of necessity his opinions must reflect the philosophy of that Governor or the relationship would not be a compatible one.

An Attorney General does not give partisan advice; he gives legal advice. There is no such thing as "Democratic" law, "Republican" law, "Conservative" law or "Liberal" law. There is simply "law" — and the Attorney General, with the same degree of impartiality and objectivity as a Judge, calls it as he sees it.

The independent status of the Attorney General — the fact that he is the People's choice and is accountable to no one else — is implicit in the wide range of his official activities and duties which are based on the concept of his independence. Thus, he is, ex officio, a member of several boards and commissions, the other members of which are usually representatives of the administration. Thus, it is his duty to defend in Court the constitutionality of an act of the Legislature regardless of whether the current administration, as a matter of policy, supports it or not. And thus, with regard to proposed legislation, it is his duty impartially

to consider its constitutional validity and statutory interpretation and advise the Governor accordingly, regardless of the latter's policy consideration of such bills. If the Attorney General were an appointee of the Governor such functions may be rendered anomalous because the objectivity and impartiality inherent in his independence would necessarily fall with the destruction of his independence.

Furthermore, the responsibility for the effective protection of the consumer and the investor entrusted to the Attorney General (the prototype for similar authority in the Attorney General in many states in the Union) is predicated upon the existence of an independently elected Attorney General who will not be deterred (as during my tenure) in taking the initiative for affirmative action by the opposition of other governmental departments or agencies, the heads of which are appointed by the Executive. My own experience in the past ten years as Attorney General is illustrative of this fact. Thus, the creation in 1957 of the Consumer Frauds and Protection Bureau in the Department of Law was resisted on the ground that there would be duplication of some of the functions of the Banking Department. Similarly, the establishment of the Real Estate Syndication Bureau in the Department of Law was effected despite executive resistance on the ground that the Attorney General would thereby be performing a function in an area presumably

policed by the State Division of Housing. The creation of the Civil Rights Bureau in 1957 was opposed on the ground that it overlapped and duplicated existing functions of the State Commission Against Discrimination. These three bureaus were created by an elected Attorney General who acted on his own initiative in behalf of the people The important fact is that they were created without clearance from the Executive.

The basic statutes (Executive Law § 63[12] and Business Corporations Law §§ 109 and 1101) confer authority upon the Attorney General to investigate and secure judicial disposition restraining any illegal and fraudulent acts. This power is not circumscribed or qualified by the existence of concurrent jurisdiction in a limited area by other government officials. Such authority of the Attorney General obviously bespeaks an independent Attorney General.

Similar independence is called for in the invocation and enforcement of the State's anti-trust law. The vigorous enforcement in the last ten years of this statute, aided by the expanded powers authorized by the Legislature, has been so singularly impressive as to receive national attention and commendation. The intensity of such activity should not, as is the case elsewhere, be made subject to the decision of a Governor who may be influenced by many factors alien to proper anti-trust considerations. Such enforcement must be left to an independent Attorney General responsible only to

the People for the implementation of the State's anti-trust policy.

My views are based on ten years of close affiliation with all branches of State Government — with the Governor and his Counsel, with the Legislature and its Committees, leaders and members, with the executive departments and agencies and their counsel, with the Judiciary, and with Authorities and local subdivisions and their officers and counsel. The activities of the State are so vast in magnitude, so varied and complex in character — the actions of its constituent elements being occasionally at cross-purposes — that, in the best interests of the People of the State there must necessarily be premised as greater assurance of independence, impartiality and objectivity, an Attorney General who is elected.

In West Virginia, where the Attorney General is elected, the incumbent Attorney General said:

> "I've been an elected Attorney General for two terms, and in the exercise of my duties I could not have fairly represented the agencies of government or the citizens of this State had I been subject to the whims of the executive or subject to political pressures other than the voters.
>
> "* * * In every occasion wherein one would have the authority of appointment, he also would have the 'hammer' on tough questions of policy. No Attorney General should be forced to operate under such an

> arrangement. The mere fact that it would be possible should be precluded."*

The overwhelming weight of opinion in favor of the elective process, predicated on the concept of the independence of the office, is exemplified by expressions of official views throughout the United States. Thus, at the Constitutional Convention of the State of Michigan, held as recently as 1963, in adhering to the elective process, it was said:

> "We favor election of the attorney general, the chief law enforcement officer of the state. In a representative government, appointment of the chief law enforcement officer would place him in a position of obligation which would make his duties more difficult. If the attorney general were appointed, he could be subjected to the influences of the appointing authority. Presently, he is able to make an independent legal judgment which might differ from the political decisions of other members of the executive branch. * * * [T]he governor has to make many decisions. Many of them are political decisions. I don't think that the best interests of the state can be served if the attorney general is appointed so that he must confirm the political decision of the governor. I think that the people of the state of Michigan have a right to the service of an attorney general who can say no, when the law and the interpretation of the law demands that he say no."

The Attorney General of Maine, who is appointed by the Legislature, said:

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* At my invitation the Attorneys General of virtually all of the States have stated their positions on the proposal here under discussion. Copies of their replies have been submitted to your Committee.

> "[I]f the Attorney General is appointed by the Governor, there is always the question of whether or not he becomes in the nature of a legal rubber stamp and convenient oracle of the law for the Governor's purposes."

Oregon's Attorney General states that "the elected Attorney General is the people's best guarantee of vigorous and impartial interpretation and administration of state law."

Perhaps the most forthright statement of all has come from the Attorney General of Nevada:

> "When you place the chief legal office of the state under the appointing power of the Governor you rob him of the complete independence that is his when elected by the people.
>
> "It is this very independence which results in the fearless and efficient administration of justice."

Although no elective Attorney General has favored an appointive process, it is interesting to note that two appointive Attorneys General are in favor of the elective system. Maine's Attorney General, appointed by the Legislature, has said:

> "I think I am of those who would like to see the Attorney General in Maine elected at large by the people * * *."

And the Attorney General of Alaska, who is appointed by the Governor, has said:

> "Again, from my own experience, if I were given the choice I would be inclined to favor the elective position over the appointive for the simple reason that I believe that a lawyer can function more

effectively if he has freedom of action
in his own specialized field."

It has been argued that the elective process may result in a Governor of one political party and an Attorney General of another, with possible resultant disharmony and friction in the running of the State government. Of course, as a matter of abstract theory, implicit in the concept of independence is the concept of potential disagreement. And it is always possible that incumbents who are influenced solely by political motivations are capable of disruptive tactics. But experience has shown that men who have the knowledge, experience, character and maturity to have attained the high office of Attorney General can be relied on to have a sufficient sense of responsibility and responsiveness to the public need to make such accommodations as the law will permit.

It should be noted that in those jurisdictions in which the Attorney General is appointed, because it is believed that the Governor and the Attorney General should be of the same political faith, the Attorney General is merely a part of the Executive branch of the state. An elected Attorney General, as in New York, is more than merely a part of the Executive branch.

While harmonious relations between the Governor and the Attorney General are unquestionably desirable, it seems that harmony merely for its own sake is too high a price to pay for the loss of the independence which gives greater assurance of effective government in the public interest.

It has been said that the Governor should at all times have an Attorney General with whom confidential matters can be transacted; that the Governor should not be compelled to retain his own counsel. But this is based on the erroneous concept that the Attorney General is the Governor's counsel. He is not the Governor's counsel in the normal sense of the term; he is the People's counsel. This is recognized even in States, like New Jersey, where there is Counsel to the Governor despite the fact that the Attorney General is appointed by the Governor.

The diverse functions of the Attorney General and the Governor's counsel may be succinctly summarized as follows:

(a) Attorney General

1. Litigation in all courts.

(a) Court of Claims - Representing the State and its agencies and officials in all claims based on contracts, torts and appropriations.

(b) All other Courts - Representing the State, the Governor, State Departments, Agencies and Authorities, the Judiciary, and the Legislature.

(c) Defending the validity of statutes which are attacked as unconstitutional.

(d) Habeas corpus matters - criminal and civil.

(e) Affirmative actions in all courts on behalf of the People in such matters as consumer frauds, anti-trust, civil rights, security frauds, realty investment frauds, and theatrical financing and charity frauds.

2. Renders opinions and advises the State, the Governor, the Legislature, and all State departments, agencies and officials.

3. Submits memoranda to the Governor on bills passed by the Legislature.

4. Renders advice on an informal basis to political subdivisions of the State.

5. Exercises criminal jurisdiction under the Executive Law and other statutes.

6. Supersedes District Attorneys when directed by the Governor.

7. (a) Administers registration of brokers, dealers and salesmen who deal in securities, and exercises enforcement powers.

   (b) Supervises public offerings of real estate (syndication, investment trusts condominiums, and cooperatives) and theatrical financing, and exercises enforcement powers.

   (c) Administers registration of theatre box office ticket-selling personnel, and exercises enforcement powers.

   (d) Administers registration of charitable foundations and trusts, and exercises enforcement powers.

   (e) In dealing, in court or otherwise, with estates and trusts in which the People are possible beneficiaries, he appears on behalf of the People.

(b) Counsel to the Governor

1. Advisor to the Governor.
2. Prepares annual message and special messages of the Governor.
3. Prepares Governor's legislative program.
4. Assists in the preparation of the departmental legislative programs.
5. Handles complaints against officials.
6. Extradition.
7. Clemency.

A further distinction in function between the Attorney General and Governor's counsel resides in the affirmative work of the Attorney General on behalf of the People which is constitutionally and statutorily imposed upon him. Thus, to name but a few of his functions, some of which have been mentioned, he acts affirmatively in matters of consumer protection, civil rights, anti-trust matters and charity frauds. Constitutionally, he acts under Article I § 6 of the Constitution against public officers and employees who refuse to waive immunity or testify in grand jury investigations. There are other statutory provisions, too numerous to mention, under which the Attorney General is required to take affirmative action. The most recent of those provisions, as an example, is the new Public Employees' Fair Employment Act (Laws of 1967, Chap. 392) under

which the Attorney General is now placed in the highly important field of public labor relations.

Obviously, because of the overriding primary allegiance of the Attorney General to the People, rather than to the Governor, the basis of the independence which is the hallmark of the office of the Attorney General, it is perfectly proper that the Governor have his own counsel. There is no antipathy between the two offices. Despite some unavoidable duality of operation, they complement each other.

That the existence of both positions does not create a problem of unavoidable friction is attested to by actual experience in our own State when we had a Democratic Governor with Counsel of his political persuasion and a Republican Attorney General. Dean Daniel Gutman, former Counsel to Governor Harriman, wrote to me as follows:

> "During the four years in which I served as Counsel to the Governor, I enjoyed a compatible and co-operative relationship with the Attorneys General, - first, the present Senator Javits and then yourself.
>
> "On occasions we found ourselves in disagreement. This occurred very rarely, and it served to reinforce my opinions on the more numerous occasions when we were in complete accord.
>
> * * *
>
> "In my opinion the broad scope of the Attorney General's activity, his

> great and varied responsibilities and the volume of business, particularly in a State such as ours, requires that this official be elected rather than appointed. I see nothing worthwhile that can come from a change in the present system that has been in existence here as in most other States, for so many years."

Judge Samuel I. Rosenman, who was counsel to Governor Roosevelt, observed that perhaps ten per cent of his time was devoted to legal matters. He added:

> "Neither the Counsel to the Governor nor Counsel to the President can render any official opinion. Official opinions can come only from the Attorney General; so it is not quite accurate to say that the Counsel takes the place of the Attorney General in serving the Chief Executive."

Although Judge Rosenman leaned toward the appointive method, he conceded:

> "Having said all the above, presenting the pros and cons, I don't think I am completely convinced on either side. It is as Oscar Hammerstein said in THE KING AND I a 'puzzlement.'"

Governor Poletti, who was counsel to Governor Lehman, observed:

> "I do not favor the discontinuance of the Attorney General as an elected official and his appointment by the Governor."

Pointing out that, since the Governor and the Lieutenant Governor are elected as one, the only two remaining statewide officials who are elected are the Attorney General

and the Comptroller. With perspicacity born of a lifetime of experience Governor Poletti added:

> "The people are smart enough to vote for each of these officials, and there is serious danger in reducing the scope of participation by the people in their government.
>
> * * *
>
> "* * * In all events, I believe the State greatly benefits from the independence of the Attorney General and Comptroller."

2. Separation of Powers - Checks and Balances.

As a corollary to the concept of the independence of the office is the fundamental concept of a democracy respecting the separation of powers--the system of checks and balances. "Appointment" of the Attorney General is incompatible with the doctrine of the separation of powers. There is nothing intrinsically wrong with the concept of a Governor of one political party and an Attorney General from another. They can and do often act as a "check" upon one another and if, as a result, there is occasional friction, this is a healthy phenomenon which a viable and dynamic political society can survive and, indeed, probably be the better for it. In certain situations, given a weak or ineffectual Legislature and a strong and forceful Governor, the only effective balancing and checking power may come

from an Attorney General who publicly espouses a responsible opposing point of view.

The Attorney General of Kansas expressed the point well:

> "[T]he elected attorney general is a further extension of the system of checks and balances which was incorporated into the form of government initiated by our founding fathers and which has flourished in the United States since its beginning."

To the same effect is the statement of the Attorney General of Minnesota:

> "[T]he office of Attorney General has developed in state government in a unique way. State legislatures do not have the broad investigative power that the Federal Congress has. In most states -- one of the most important statewide investigative officials is the Attorney General. If an Attorney General was to be appointed by the administration he then becomes solely dependent upon it and tends to overlook problems which develop within that administration.
>
> * * *
>
> "* * * [U]ntil there is some alternative form of check and balance on state government, a broadly based elected Attorney General is preferable to one appointed by the Governor."

The Attorney General of the State of Washington, an elected official, has said:

> "The reason I would like to see the Auditor and Attorney General elected by the people is because I believe in

> government there are two necessary ingredients--money and law. These are so important that I think an official personally responsible to the electorate should be chosen by the people to provide the necessary check and balance.
>
> * * *
>
> "The law is the whole touchstone of our Democratic form of government. The man or woman who says the law is or is not being followed should be, in my belief, directly responsible to the people."

Vermont's Attorney General has stated:

> "Having an independent Attorney General, elected by the people of the state as a whole, is but another check and balance in state government that in the all important realm of legal and constitutional interpretations is essential to the sound functioning of state government, * * *."

The Ohio Attorney General believes that the elective status of the office "constitutes one of the more effective balances of the Executive Department of the State." He adds:

> "The Attorney General's office should be run as a law office, with a completely objective approach to the legal problems of an administration, and should not be relegated to a position of house counsel finding ways and means to support executive policy. By being elected the Attorney General is responsible only to the people of the state and this, to my way of thinking, is as it should be."

Maryland's Attorney General summarized the situation very succinctly:

> "From a historical point of view Maryland's system of electing both the Governor and the Attorney General appears to have effectively served the best interests of the people of this State. That system is but another example of the checks and balances so carefully written in the Constitution of Maryland. It is my opinion that to take away from our citizens the right to elect the Chief Legal Officer of the State is to lessen their direct participation in affairs of government, and I vigorously oppose any such change in our traditional practices."

Election results, both on the State level and in the City of New York, reveal that our sophisticated electorate does not always choose a straight party ticket. At the level of Governor and Attorney General, the people should have the right to split their ticket and choose the best candidates even though they are not necessarily of the same political party. Indeed, the split ballot is proof positive that the people, themselves, are not concerned with whether the Attorney General is of the same political persuasion as the Governor.

3. <u>The elected Attorney General has a direct responsibility to the People</u>.

Also as a facet of the "checks and balances" concept and a further corollary of the "independent" status of the

office is the underlying premise, which has historical, traditional and logical validity, that only the People should be in a position to command the Attorney General's undeviating allegiance and loyalty. The correlative of this concept is that the Attorney General's prime and direct responsibility is to the People.

An elected Attorney General is imbued with a deeper sense of direct responsibility to the public from whom he has received a mandate than is the appointed official whose authority springs singularly from one individual. The elected official innately senses this strong personal and direct responsibility to the People and is thereby inspired to a greater degree of creativity, a broadened initiative and an increased desire to innovate in their behalf. The reaction is almost intuitive. As a result, he is free to act without clearing a matter with the executive hierarchy or obtaining the Governor's approval. I have already detailed my experience in this regard when I established the Consumer Frauds and Protection Bureau, the Real Estate Syndication Bureau and the Civil Rights Bureau in the Department of Law. Also, in this connection, I wish to point out that the Department of Law prepared and had introduced during my tenure, without executive clearance, our own legislative program, in the public interest, to protect

the consumer, the investor and the legitimate business man, as well as bills to reinforce civil rights.

The Attorney General of Wisconsin expressed the concept well:

> "An Attorney General also performs numerous functions independently of any state agency. I refer particularly to his activity in such fields as consumer protection and anti-trust enforcement. I believe that an Attorney General who is responsive to the needs of the people can better fulfill these duties which have been entrusted to him by the people.
>
> "It is my firm opinion that a State Attorney General should be an elected official. He should represent and be responsive to all of the people of the state. I believe that the activity of the Attorney General in the field of consumer protection alone is an outstanding example of the way in which elected Attorneys General respond to the needs of their constituents. Appointed officials who are not directly responsible to the voters are not nearly as sensitive nor as responsive to their needs."

Virtually all of the Attorneys General stress "accountability" to the People, rather than to the appointing officer; that the Attorney General should be clothed with an independency of action in protecting the public interest; that, even at the expense of potential lack of harmony, he should enjoy a freedom that is unfettered by any domination whatsoever; and that as a lawyer he should not be an employee, but rather should be allowed freely to exercise his proper

functions both as an officer of the court and as an attorney, bound only by the ethics of his profession and his oath of office.

4. People's right of recall.

Because of the fact that an elected Attorney General bears the burden of direct responsibility to the electorate which give him their mandate, he is subject to the "recall" prerogatives of the electorate. If they are dissatisfied with the performance of their elected Attorney General, they can replace him at the ensuing election. An appointed Attorney General would deprive the electorate of this substantial and salutary power.

The correlative of the right to recall an incompetent incumbent is the right to retain a competent incumbent. This is lost in the case of an appointed Attorney General because, no matter how efficient, competent or successful an appointed Attorney General may be, upon a change of administration he is usually turned out of office.

CONCEPT OF A "DEPARTMENT OF JUSTICE"

I am aware of Proposition No. 49 (introduced by Mr. Hull) which provides for the appointment of the Attorney General by the Governor and for a Department of Justice to be headed by the Attorney General and which further provides that "the legislature shall pass appropriate legislation for the implementation of this department." I am also aware of Resolution No. 24 (introduced by Mr. Sand) to direct the Committee on the Executive Branch to prepare and present a proposition to establish a Department of Justice, "into which shall be consolidated all of the functions, powers, duties and responsibilities of state government in connection with or relating to law enforcement, including, but not limited to, the prevention and investigation of crime, and the detection, identification, apprehension, prosecution, custody and rehabilitation of persons accused or convicted of crime."

Proposition No. 49 is too general and, therefore, difficult for present comment because it leaves everything to legislative implementation. Resolution No. 24 seems to indicate that all police departments, local as well as State, all Sheriffs and District Attorneys, all Correctional, Reform and Prison facilities, as well as the State Division of Parole, shall be under the jurisdiction of the proposed Department of

Justice. It does not define the projected department with sufficient particularity nor reflect the magnitude or complexity of the proposal. Nothing is said of the existing broad civil jurisdiction of the Department of Law.

However, I do have some recommendations which are more appropriate for legislative action:

(1) I am in favor of the greatest coordination and cooperation in the field of law enforcement — in a program such as is conceived under the recently created Crime Control Council (Laws of 1967, Chap. 167), under which Governor Rockefeller has provided an impressive and extensive program. Ex officio, the Attorney General or his designee should be a member of the Crime Control Council.

(2) Another area of interest is the relationship of the Attorney General and the District Attorneys. I am not in favor of appointed District Attorneys under the jurisdiction of the Attorney General. I believe that the District Attorneys should continue to be elected public officials.

However, I am of the opinion that there is room for a closer relationship between the Attorney General and the District Attorneys; this would result in better enforcement of the criminal laws. The Attorney General could be authorized to provide a forum for inter-county cooperation between District Attorneys. Periodic meetings could be mandated at

which attendance by District Attorneys or their representatives would be required. The Attorney General could prepare and disseminate information of common interest and bring law enforcement to new peaks of efficiency and excellence.

(3) Some local prosecutors are ill-equipped to handle complex criminal appeals because of a limited staff. The prosecutors should be permitted to call on the Attorney General for advice, cooperation and aid in appellate matters. To this end, provision could be made for the handling of criminal appeals by the Attorney General if requested to do so by the District Attorneys.

When specific and concrete provisions defining the jurisdiction and powers of a "Department of Justice" are presented, I shall be pleased to submit another Position Paper in which I shall make comments on the proposals.

CONCLUSION

In the interest of uniformity and consistency, the Attorney General should be <u>constitutionally</u> designated as the sole and exclusive representative of his public clients in all courts. In this connection I strongly support Proposition No. 365 (introduced by Mr. Reidy), which provides that -

> "The attorney-general shall be required and it shall be his duty to represent and appear for the state and all branches of the state government and all state departments, agencies, bureaus, officers and authorities in all litigation in which they shall be involved in all courts, and they shall be represented in the courts by no other persons than the attorney-general or a member of his staff."

The basic duties and powers of the Attorney General should remain intact with the addition set forth in Proposition No. 365. The Attorney General's activities as the State's chief legal officer are vital to the Legislature, to the various departments and agencies of State Government and, above all, to the People of the State of New York.

All can be accomplished, however, only if the Attorney General has the independence of an elected public official. That the elective status is productive of the best results is attested to by my immediate predecessors in the office of Attorney General. Our tenure covers the period of the past thirty-five years, during which we have experienced the deepest economic recession in our history as well as the longest period of economic well-being, during which we have had global conflicts, and during which we have come into the nuclear and the space age. Attendant upon these vast and fundamental changes have come a myriad of noval problems with which the Attorneys General have had to cope and for the most part they have successfully and vigorously responded

to the challenges. During these past thirty-five years, the Attorneys General of New York State have been John J. Bennett, Nathaniel L. Goldstein, Jacob K. Javits and I. My three immediate predecessors have authorized me to state that they favor the retention of the office on an elective basis. And so do I.

To sum it up - an elected Attorney General has a measure of independence and a sense of personal and direct responsibility to the public. The elected official has a natural and impelling desire to be creative and to exercise broader initiative in the service of the public. He is free of the fear of dismissal by any superior official if he should exercise contrary independent judgment. He is in the best position to render maximum service to the People and impartial advice to the Governor, the Legislature and State departments and agencies. He can appear in Court without fear or favor - an attorney in the fullest and finest sense of the word.

Dated: Albany, New York, June 1, 1967

Respectfully submitted,

LOUIS J. LEFKOWITZ
Attorney General

ADDENDUM

Former Attorney General Nathaniel L. Goldstein, after declaring that he is for an elective Attorney General, stated:

> "During my tenure as Attorney General, I did render opinions in opposition to the wishes of the Administration when, in due conscience, I felt that my interpretation was the legal and proper one. Had I been subject to the Governor's appointive and removal powers, I might have found myself in a very difficult and awkward position."

EDITORIAL PAGE

The Anchorage Times

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
Associate Editor
And General Manager

FRED DICKEY
Executive Editor

Another good reason

ONE WAY for Alaska to avoid having legislative lawyers sue administration lawyers is to elect an attorney general who is beholden to neither..

Add that to a long list of reasons to make the attorney general one of the very limited number of elected officials in the State of Alaska. As a matter of fact, there are only two — the governor and the lieutenant governor. Commissioners who head the various administrative departments are appointed by the governor.

This extremely restricted opportunity for the people to elect the public officials who presumably serve them is a unique provision of the Alaska Constitution. It was deliberately adopted, for the reason that those who were here at the time the new state was created wanted a powerful chief executive.

They wanted leadership and accountability. When it came to steering this new ship of state, those Alaskans back in the middle '50s wanted a single captain on the bridge.

IT WAS a good idea. There was need for a powerful hand at the helm of a state with little income, a small population and a million needs. The governor had marching orders to assemble a team and get the show on the road — with the concurrence, of course, of the legislative branch.

It had a fine beginning. For the most part, the executive and legislative branches worked in concert toward a common goal during years of economic struggle.

But not even the visionary constitutional delegates, and the voters who applauded their work in those dimming last days of the territory, could have perceived the day when Alaska would be rolling in money and a single field could produce a trillion dollars worth of oil.

The coming of that wealth produced a Mount St. Helens eruption in the Juneau bureaucracy. Not only did executive agencies swell in size and number, the legislature ballooned as well. It added offices and staffs and interim agencies and even went so far as to hire its own legal counsel, separate from the attorney general's office.

OVER THE YEARS, the attorney general became more the lawyer of the governor than of the state government as a whole. That produced an adversary situation with the legislators who often wanted a different legal opinion than they could expect from the Department of Law.

Their answer was to hire lawyers who would provide opinions supporting the legislature's interests. The result is that public funds are used to finance one set of state lawyers doing battle with another set.

An independent attorney general's office, headed by an elected chief not beholden either to the governor or the legislature, could provide both with unbiased and unfettered legal guidance. The people, as well as state officials, would be better served.

EDITORIAL PAGE

The Anchorage Times

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
Associate Editor
and General Manager

FRED DICKEY
Executive Editor

Page A-10 Sunday, March 29, 1981

Let the voters decide

IN FORTY of the 50 states, the attorney general is elected to his post.

It is a system that obviously works well, because the people are the ones who decide who should fill this high office. And an attorney general answerable to the people is one who is responsive and responsible.

It's strange, therefore, to see the burning vigor that marks the opposition to letting the people of Alaska choose their attorney general. Yet there are those who apparently fear the people.

For example:

"I can think of no single change that would be more damaging, more harmful, more dangerous to the character of government."

THAT'S THE astonishing view of Superior Court Judge Thomas Stewart of Juneau, who testified the other day before a legislative hearing on a proposed constitutional amendment that would require the election of Alaska's attorney general, who is now an appointee of the governor and answerable only to him.

More damaging? More harmful? More dangerous?

How can this be? What is being proposed is part and parcel of the democratic form of government in which the people have the right to elect their leaders. Are elections damaging, harmful and dangerous to the character of our government?

We confess to lacking the judicial wisdom that graces members of Alaska's Superior Court. But all along we thought the character of our government was rooted in the elective process.

There are many Alaskans — and we're among them — who believe the present system of having the attorney general appointed, rather than elected, has proved less than satisfactory.

We don't buy the argument of former Attorney General Norm Gorsuch that "legal competence and electablity are not necessarily equal." The statement is incomplete. The rest of it is that "legal competence and appointability are not necessarily equal, either."

IT'S QUITE POSSIBLE that an incompetent lawyer might be elected attorney general. But his shortcomings would be readily evident and it's a sure thing that he would serve only a single term.

It's also quite possible — in fact, very likely — that some extremely capable men and women would seek election to the office, were it up to the people to decide. An elected attorney general would be his or her own person, with his or her reputation on the line. And he or she would be no lackey to any governor, or any legislature.

There's no doubt that were the office an elected position, it would be used by many as a stepping stone to higher office — the governorship, for example, or a seat in the U.S. House or U.S. Senate. But what's wrong with that?

Rep. Fred Brown, the Fairbanks Democrat who heads the House Judiciary Committee sponsoring this constitutional change, sees this as a means of strengthening government. So do we. And we hope he prevails so that this matter can be brought to the ballot for a vote of the people.

EDITORIAL PAGE

The Anchorage Times

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
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And General Manager

FRED DICKEY
Executive Editor

The better way

IT'S TOO BAD that former Attorney General Avrum Gross doesn't think it's a good idea for Alaskans to elect their attorney general. But just because he feels that way detracts not one iota from the merit of the proposal.

It would be astonishing were Mr. Gross, who now teaches a couple of courses at Stanford University law school, to come out for an elected attorney general. His public career has been as an appointed legal spokesman for Gov. Jay Hammond.

Fortunately, there are other legal experts — whose qualifications and public service careers are are least as good as those of Mr. Gross — who feel precisely the opposite. They offered testimony contrary to that of Mr. Gross by satellite communication facilities in a hearing last week before the House Judiciary Committee.

The attorneys general of Pennsylvania and Colorado and the assistant attorney general of California told the committee that an elected attorney general is more independent of the governor and administration and thus less vulnerable to political repercussions from decisions.

FORTY of the nation's 50 states elect their attorney general. Alaska is one of only five states where the office is filled by appointment of the governor. In the other five the selection is made in a variety of ways, including legislative appointment.

Mr. Gross, however, thinks the Alaska way is best. Were it otherwise, he contended, the governor would attempt to shift blame for administration failures onto the attorney general rather than have a clear responsibility himself.

That's a pretty feeble defense of the present system.

If anything goes wrong in the administration of any program, regardless of the attorney general, any governor is going to be politically adept enough to dance out of the line of responsibility.

THE ATTORNEY general of Pennsylvania told members of the Judiciary Committee that Pennsylvanians voted overwhelmingly in favor of a constitutional amendment to make the office elective because they felt the attorney general was "not responsive to public needs" and that there was a "cozy arrangement" between the attorney general and the governor.

Colorado's attorney general said an elected attorney general carries "at least the aura of having an independent political base" and can say no to the governor "when the governor ought to be said 'no' to."

An assistant California attorney general said an elective attorney general is more efficient than an appointive one and "is not necessarily a threat to the functioning of the governor."

Those comments make sense for Alaska. And the legislature should take steps to bring this constitutional change to the ballot.

There seems little doubt that the amendment would be approved, if the legislature would only give the people a chance to vote.

EDITORIAL PAGE

The Anchorage Times

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
Associate Editor
And General Manager

DREX HEIKES
Managing Editor

Page A-10 Thursday, July 2, 1981

Memo to politicians

STATE OFFICIALS who depend on votes of Alaskans for their public offices would be wise to arrange for the attorney general to be elected. A statewide poll by Dittman shows that public support is overwhelming.

In response to the simple question "Should the attorney general be elected?" 61 percent responded affirmatively and 27 percent preferred appointment.

That was the quick reaction from Alaskans scattered far and wide. The idea of electing that important official was favored by 73 percent of those in rural areas, 63 percent in Central Alaska (Fairbanks), 56 percent in Southcentral, 67 percent in Anchorage.

Only in Southeast Alaska was the response different. There it was 41 percent for appointment and 42 percent for election.

A SECOND QUESTION put to the same respondents built up still more the case in favor of the elective process.

It cited some of the powers that go with the office of attorney general. Upon hearing them the respondents were 71 percent for and only 21 percent against.

That question put it this way: "If you knew that the attorney general of Alaska, who is appointed, also appoints all state prosecutors and district attorneys throughout the state, would you support having the attorney general remain an appointed position or would you support the attorney general becoming an elected position?"

Those favoring election gained 10 points while those for appointment lost 6 points.

TWO MESSAGES are handed to the politicians in that poll. The first is that a substantial majority of Alaskans want their attorney general elected, not appointed. The second is that the proposal gains strength when Alaskans are reminded of the power that lies in the office.

A politician can readily see the significance. He is disappointing his constituents if he ignores the proposal and he may discover his reelection in jeopardy if the day comes when a candidate campaigns against him on that issue.

In rural areas the final lineup was 85 percent for election. In Central Alaska 75 percent. In Southcentral 71 percent and in Anchorage 74 percent. Even in Southeast Alaska many voters changed their minds on the second question. The final tally there was 54 percent for election and only 34 percent for appointment.

No matter how you cut it

THE UNIVERSAL preference of the majority of Alaskans for electing the state's attorney general was pointed up in many different ways in a Dittman poll that showed 71 percent in support and only 21 percent opposed.

Dittman reported that the election proposal has overwhelming support in almost every bracket of the population, be it based on age, sex, income, educational attainment, party registration.

AMONG ALASKANS who have registered as Democrats or Republicans, 72 and 73 percent, respectively, favor election. Non-partisans were 69 percent in favor. Alaskans aged 18 to 24 are 77 percent in favor, those 56 and over, 75 percent and those in between range from 68 to 72 percent. . .

The poll showed 76 percent of the women and 66 percent of the men favor election. Homemakers are 75 percent for it. Private and public sector employees as a whole favor it 71 to 74 percent. Among state employees, however, the idea is not so popular. Yet more than half (56 percent) are for it.

Support of the election proposal declines as family incomes increase but the majority in all categories favor it. In low income groups 77 percent favor it while in higher income households 67 percent do.

Curiously, the idea of electing the attorney general is more popular among those who don't bother to register, and hence probably don't vote, than among those who do. Those not registered showed 73 percent for election while registered voters were 71 percent favorable.

THE RESULTS of that Dittman survey will be engraved on the minds of those who plan political campaigns.. And Dittman's final analysis might inspire some of them to get on the bandwagon to amend the constitution so as to give the people the elective power they want.

That analysis was, "Presenting information regarding the attorney general's powers and responsibilities causes a strong shift to the elected option — especially among the 'undecided' respondents. In total, the undecided percentage declines from 12 to 7½ and more than 5 percent of those who favored the current appointed status changed their minds to support the elected provision when it was learned that the attorney general has broad appointive powers of his own."

The Anchorage Times

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
Associate Editor
And General Manager

DREX HEIKES
Managing Editor

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Weak arguments

RIGHT OFF THE BAT, there was a loud objection to the Anchorage Crime Commission's proposal that Alaska's attorney general and the local prosecuting attorneys should be elected. The complaints came from the appointed attorney general and one of his appointed district attorneys.

The flaws they see in the proposal are worthy of public review.

For one thing, they said, electing such officials would bring the justice system into politics. They would become subject to pressure from members of the public with axes to grind.

For another, they argue, lawyers would run for attorney general and district attorney in hopes of using the positions as stepping stones to higher political office.

BUT THOSE aren't necessarily flaws. On the contrary, it's possible to argue that those prospects would offer an enormous improvement in the way things are done in Alaska.

Take the second objection first. Under the Alaska constitution, only two state government officials are elected statewide — the governor and the lieutenant governor. Everybody else in the system, including the judges, is appointed by the governor or by department heads appointed by him.

The only other elected officials in Alaska are the city or borough mayors, elected locally; 60 members of the legislature, elected in local districts, and the three members of the state's congressional delegation, elected statewide. Not much of a stepladder on which people interested in public service can climb toward higher office.

An elected attorney general naturally would be looked upon as a potential candidate for governor or U.S. senator or congressman. What's wrong with that? It might be a powerful incentive for the one occupying that spot to do an outstanding job.

AS TO THE COMPLAINT that an elected attorney general might be subject to public pressure, again the advantages are compelling.

Why shouldn't the attorney general have to dance on a hot public griddle if the people become alarmed over deficiencies in the administration of justice?

The system as it now exists makes the attorney general the personal lawyer of the governor, his political defender and his legal arm in waging political warfare against the legislature and the public.

So long as he remains protected by the governor's skirts, the attorney general is immune from public pressure. All kinds of policies can be legitimatized, even though they might infuriate wide segments of the public and frustrate the aspirations of the people.

Legal opinions issued by the attorney general bind state agencies. They can be tools of the governor to guide, maneuver, control and stop all kinds of enterprises — economic and otherwise.

An attorney general answering to the public through the political process would have the freedom to respond to public concerns in ways that are not possible now.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 456
Title: advisory vote for the election of Attorney General
Sponsor: Ward
Requestor: (H) State Affairs
Date of Request: 1/19/84

FISCAL DETAIL
Agency Affected: Elections
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		-0-				
200 TRAVEL		-0-				
300 CONTRACTUAL		1.0				
400 SUPPLIES		-0-				
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		-0-				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING		1.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: This proposed advisory vote would necessitate the inclusion of the issue in the Official Election Pamphlet. This Pamphlet is sent to all registered voters, statewide. The printing cost is approximately $1,000. per page. The Official Election Pamphlet cost has been included in the Division of Election's FY 85 budget.

ANALYSIS: Attach a separate page for analysis

Prepared By: T P Thoma, Information Off. Phone: 4611
Division: Elections Date: 1/19/84

Approved by Commissioner: [signature] Date: 1/19/84
Agency:

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HOUSE BILL NO. 456

COPY

Early last session Representative Uehling and Representative Ward sponsored HJR 7 which proposed amendments to the Constitution of the State of Alaska relating to the election of the Attorney General. The legislation passed the House but failed to pass the Senate.

Subsequently, HB 456 has been introduced which would authorize an advisory vote by the registered voters of the State. This would allow the legislature to gauge the feelings of the public and act accordingly.

Submitted by Rep. Jerry Ward's Office

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

January 19, 1984

The Honorable Mitchell Abood
Chairman, House State
Affairs Committee
Alaska State House of
Representatives
Pouch V
Juneau, AK 99811

Re: Elected AG
House Bill 456

Dear Representative Abood:

I do not oppose the concept of having the people express their opinion to the Legislature in an advisory vote on the issue of whether or not the attorney general should be elected. However, I would like to comment on the merits of the underlying question of whether or not we should elect the attorney general.

I have lived and practiced law in our state for most of my adult life. I am absolutely convinced that the needs of all Alaskans are best served by having an appointed attorney general. Election of one cabinet level official makes no more sense than the election of some or all other commissioners.

Historically, the Attorney General has been an appointive, rather than elective, official. In England, the Attorney General was appointed by the Crown and only incidentally acquired elective status through a seat in Parliament. In Colonial America, Attorneys General were usually appointed by the Governor of the colony. The Attorney General of the United States still serve at the pleasure of the President with the advice and consent of the Senate. 1/

1/ Our research indicates that the Attorney General is popularly elected in forty-three states. The Attorney General is appointed by the Governor in five states (New Hampshire, Alaska, Hawaii, New Jersey and Wyoming), three territories and the Commonwealth of Puerto Rico. In Maine, the Attorney General is a "constitutional officer" selected by the Legislature while Tennessee's Attorney General is selected every eight years by the Supreme Court of that state.

The governor, as the state's principal executive officer, needs to have a responsive and reliable Department of Law. I think good management requires an appointed attorney general, but more importantly common sense suggests that the attorney general selection be made by appointment. The delegates to our Constitutional Convention recognized a quarter century ago that, in our vast state with its disparate interests and citizens, the administration of state government requires a strong governor. This still holds true today. The last thing our state needs is an elected attorney general who may have a personal or political agenda which varies from the position of the governor. The friction between the two elected administrative officials can lead to a less responsive state bureaucracy and an unclear accountability of the executive branch to the electorate.

I could relate anecdotes which illustrate this from other jurisdictions having elected attorneys general. Instead, I would rather provide a quotation from the National Municipal League:

> All authorities on executive organization agree with the position embraced by the Model State Constitution for more than 40 years that administrative power and responsibility should be concentrated in a single popularly elected chief executive. There is growing recognition that the governor, as the representative of all the people, should be equipped with the constitutional status necessary to exercise constructive leadership as the chief lawmaker and political head of his state. 2/

Studies on administrative reorganization usually argue that fragmentation leads to irresponsibility, but that a single chief executive can be held accountable through the electoral system and, as a consequence, can make the administration more responsive. In my opinion, the Governor of Alaska needs the flexibility and discretion that is implied in an appointed attorney general. Anything less will inevitably drive a wedge between the Governor and the Department of Law to the detriment of the citizens of our state.

2/ National Municipal Leagues, MODEL STATE CONSTITUTION (6th ed.) 65-66 (1963).

In addition to the practical problems caused by an elected attorney general, experience in other states with an elected attorney general suggests that the Governor's office will incur substantial costs with respect to the use of separate and additional counsel for the Governor. I am of the opinion that this use (and cost) depends on the relationship between the Governor and the elected Attorney General. In a situation where an elected Attorney General and Governor are cooperative, cordial and share a similar political philosophy, the need for additional Governor's counsel will be reduced. Regrettably, this is not always the situation. A 1976 study by the National Governors' Conference explored the role of Governors' legal advisors. The study, which was based primarily on a questionnaire to these counsel, found problems in this relationship:

> In many states, the relationship between the Governor and the Attorney General is not a smooth one. In addition to whatever political differences there may be between them, there are several operational areas of potential conflict. These include conflicts over the extent to which the legal talent employed by state agencies should report to the Attorney General or to the agencies; concern that the Governor cannot easily deal with the Attorney General because the Attorney General normally provides "yes-no" answers rather than discussions of the legal risk of various options; and the possible frictions that may normally occur in an attorney-client situation. 3/

While I cannot estimate the actual use and cost of additional counsel to oversee the elected Attorney General on behalf of the Governor, I am convinced there will be some extra cost incurred by the Governor's office to hire and use legal counsel even in the best of times. I sadly regret that the citizens of our state will be required to pay for this additional layer of legal bureaucracy.

In addition, in states where the attorney general is elected, the heads of executive departments often hire their own attorneys. In jurisdictions with elected attorneys general, there is often a proliferation of house counsel on the staff of major departments. Historically, such counsel have been employed

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3/ National Governors' Conference, Center for Policy Research and Analysis, LEGAL ADVICE FOR THE GOVERNOR, 7 (November, 1976).

by executive branch agencies to give department heads "second" opinion in controversial matters in states having an elected attorney general. Such counsel usually do not have the authority to litigate, but they do provide legal advice to department heads. Without centralized legal service and advice, each agency will rely on advice from its own lawyers. Therefore, agencies will receive differing interpretations as they raise legal issues. This in turn will make consensus among different agencies on issues more difficult to achieve. The result is that public policy decisions in the executive branch will be delayed to the detriment of the public and the legislature. In addition, these house counsel frequently submit amicus briefs in litigation affecting their department's programs. It is not unusual in states with an elected attorney general to see four or five separate briefs filed in a single matter, representing the varying viewpoints of different agencies, in addition to the attorney general's brief. If nothing else, this needless duplication insures that the courts and the public will be confused about state policy on many issues.

In my estimation, the cost for such additional counsel in Alaska could easily exceed $1.0 million annually, within a few years. This cost is simply not warranted by any rational criteria and should be further questioned in light of diminishing revenues. We have many more basic needs in Alaska which command the state government's immediate attention. Surely we do not want a needless layer of extra lawyers embedded in state agencies.

In summary, it is my opinion that electing the Attorney General will split administrative responsibility and executive authority, diffuse the political accountability of the executive branch to the public, add more attorneys to state government, contribute to more intense bureaucratic infighting among agencies, delay the resolution of executive branch policy decisions, and create a higher rate of growth in the state operating budget.

Please call upon me at your earliest convenience if I can provide additional information on this matter.

Sincerely,

Norman C. Gorsuch
Attorney General

NCG:vrb

HB

459

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

January 16, 1984

SUBJECT: Presidential party primary election (HB 460) ~~SB 50~~ HB 459

TO: Representative Mitch Abood
Chairman, House State Affairs Committee

FROM: Richard A. Bradley
Legislative Counsel

I have been asked to comment on the significance of sec. 2 of the bill.

The section provides that if "the effective date of the Act occurs before March 13, 1984, it is the intent of the legislature that the presidential party primary election scheduled for March 13, 1984 be cancelled and not be held in 1984."

The section, as suggested in its language, is an "intent" section. As with almost all intent sections, it is unnecessary to the effectiveness of the law and, if it were deleted from the bill, the bill would have an identical effect.

Since March 13 is the date on which the election is scheduled to occur, a repeal after that date has the effect of repealing the provisions of law stated in section 1 of the bill.

Note however, that if the Act does not have an effective date before March 13, 1984, there is not need to enact the bill to avoid a presidential party primary election in 1988 because present law (sec. 4, ch. 20, SLA 1980) provides for a repeal of the provisions of the law on July 1, 1985.

If I may be of further assistance, please advise.

RAB:ojb
J2/037

House Bills 430, 459, 460 - Repeal of March 13 Presidential Primary Election.

A timely repeal of this primary could save considerable monies. The dates and activities noted in each block are deadlines for the fraction of monies committed. By February 12, approximately ½ of the funds to be expended will be committed. Any bill to repeal must have an immediate effective date incorporated. February 20th, when ballots have been shipped by certified mail and final notices are committed to advertising seems to be a date, admittedly arbitrary, when the election should proceed.

JANUARY 9
1/8 funds

Travel/Training election board wkrs (ongoing)

initial ordering of:
- -special forms
- -posters, other materials
- -voter ID cards
- -voter registeration forms

program costs for party affiliation & precinct registration changes

temporary staff hired

JANUARY 24
1/4 funds

Travel/Training election board wkrs

order all ballots

sign program contract

initial advertising (print & video contracted)

purchase supplies & postage to all precincts

40 day notices sent out

mass mailings

FEBRUARY 12
1/2 funds

Travel/Training election board wkrs

airmail all remaining material

contract for communications (election returns cable hoodups, sites)

ballots separated & shipped from printer

FEBRUARY 20
3/4 funds

Travel/Training election board wkrs

10 day notices sent out

secondary advertising contracted (print, radio, video)

certify-mail all ballots to precincts

MARCH 13
Total funds

payment of all election workers, including:
- tally teams
- counting teams
- canvass boards

rents for halls

transportation of ballots, troopers

polling place set-ups by contractors

HOUSE BILL NO. 459

To vote in the Presidential Primary, a voter must be registered as a Democrat or Republican. According to a recent poll, Independents make up approximately 60% of registered voters in the State.

As well as compelling Alaskan citizens to register with an official party in order to vote, the primary will cost in excess of $1 million in public funds to finance what is essentially a political party function.

Alaskans obviously value the ability to remain independent of party affiliation and using $1 million in State funds to force them to register with a Party is a misuse of public funds

For these reasons, I have introduced HB 459, proposing a repeal of the provisions of law relating to the Presidential Primary in the State of Alaska.

Submitted by Rep. Ward's office.

HB

471

Alaska State Legislature

Representative Milo Fritz
District 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MILO FRITZ

MEMORANDUM

DATE: February 17, 1984

TO: Representative Mitch Abood
Chairman, House State Affairs

FROM: Representative Milo H. Fritz, M.D. MHF

SUBJECT: Changing HB 471 to SSHB 471 as follows:

I would like to change section 1. to read The Department of Administration instead of The Department of Transportation and Public Facilities. On line #12 it should read West Kenai Peninsula instead of Kenai Peninsula because the need and requests are from the people in West Kenai.

Mr. Lou Keller of the Department of Administration suggested the first change for two reasons: first, if the project went through DOT/PF there would be 30 to 40 percent taken off our funds for administrative costs. Secondly, the DOA has a Division of Pioneer Benefits existing which means our monies would go further.

jh

PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED

David Maltman-Director
Jeff Jessee-Staff Attorney
Annely Germaine-Coordinator
325 East 3rd, 2nd Floor
Anchorage, AK 99501
(907) 274-3658

Jan Maas-Advocate
419 6th St., Rm. 232
Juneau, AK 99801
(907) 586-1627

Patricia Pennella-Advocate
763 7th Ave.
Fairbanks, AK 99701
(907) 456-1070

January 18, 1984

Important

Representative Milo H. Fritz
Pouch V
Mail Stop 3100
Juneau, Alaska 99811

Dear Representative Fritz:

This letter is to ask you to consider amending HB471 to reflect the need to provide a pioneers' home on the Kenai Peninsula.

Please consider the following amendment:

> SECTION - The appropriations made by Section of this act are subject to the Architectural Barriers Act (AS 35.10.015 17 ACC 50.010) and the States Public Accommodation Law (AS 18.06.010 et seq.).

Thank you for your concern to provide a pioneer home which will be accessible to people with handicaps.

Sincerely,

David F. Maltman
Executive Director

DFM:bk

HB 421

CITY OF KENAI

~~P.O. BOX 580~~ · KENAI, ALASKA · PHONE ~~283-7535~~
361 SENIOR COURT 283-4156

TO: Representative Milo Fritz

FROM: Pat Porter

DATE 2/24/84 REFERENCE Pioneer Home Information

MESSAGE

Dear Representative Fritz;

The enclosed information is based on the 1980 Peninsula Borough Census information gathered through the Federal Census. These figures are not current ones. I was able to obtain some information about the number of clients receiving Longevity Bonus checks through the Longevity Bonus office.

If I can be of any other assistance please feel free to call on my.

Pat Porter

Pat

CITY OF KENAI FOUNDED 1791

REPLY

SIGNED _____ DATE _____

CITY OF KENAI

KENAI PIONEER HOME REQUEST

Size of facility	50-60 beds
Skilled Nursing	30-40 beds
Resident Care	20 beds
Cost of facility *	50 beds ($8,500,000) 60 beds ($10,200,000)
Yearly operating budget *	50 beds ($1,400,000) 60 beds ($1,680,000)

* These costs figured with cost of construction of the new Juneau Pioneer Home and the Palmer Pioneer Home operation budget for 1982-83. They are estimates only.

ELDERLY HOMES

Anchorage

resident: 138
nursing : 95
waiting : 119

Palmer

resident: 40
nursing : 55
waiting : 90

Sitka

resident: 100
nursing : 50
waiting : 5

Ketchikan

resident: 17
nursing : 30
waiting : 51

Fairbanks

resident: 78
nursing : 30
waiting : 43

AREA SENIOR CITIZENS LOCATED OUTSIDE OUR PENINSULA

Nakoyia Nursing Home	15	
Palmer Pioneer Home	5	
Anchorage Pioneer Home	10	
Seward Nursing Home	4	(from Kenai-Soldotna)
Detente	2	

LONGEVITY BONUS PROGRAM RECIPIENT'S (65 years old, 25 years here)

Kenai	158
Soldotna	109
Sterling	14
Kasilof	16
Coopers Landing	15
Ninilchick	22

POPULATION COUNT OF ELDERLY IN KENAI SENIOR CENTER SERVICE AREA

Kenai, Nikishka	537
Soldotna, Ridgeway, Cohoe	240
Sterling	83
Kasilof	33
Clam Gulch	29
Coopers Landing	23
Total	945

LETTERS OF SUPPORT

Kenai Chamber of Commerce
Byron McCord, M.D.
Joseph A. Sangster, M.D.
Elmer E. Gaede, M.D.
Marcus C. Deede, M.D.
George F. Garnett, M.D.
Paul G. Isaak, M.D.
Kenai Native Association, Inc.
Central Peninsula Mental Health Center

NUMBER OF CLIENTS RECOMMENDED BY PHYSICIAN FOR NURSING CARE (30)

HB

473

1/18/84

Permanent Fund Bills Background

HB 473 by Martin
&
HB 478 by Adams

These two bills are identical-- but just in case Mr. Miller wants to give you a hard time by arguing in favor of the lowest bill number; please note that Rep. Adams has worked closely during the interim with the Department of Revenue on this legislation. (for your personal info: Bob Heath is supposed to testify in favor of Adams' bill.)

HB 478 also has a companion appropriation bill which is HB 516 (the one you tried to waive the 5-day rule on). HB 516 is scheduled for a hearing on Monday the 23rd.

Both Reps. Adams and Martin are expected to testify at today's hearing. Commissioner Heath will then give an overview of the extended filing situation. The Department of Revenue's bill analysis which is behind the fiscal note, is extremely well done and worthy of a stroke or two.

As of yesterday (1/17), neither the Department nor the sponsor anticipated any amendments.

Committee Action: Hold the bills over to Friday so that the committee may hear additional testimony from the sponsors of two other permanent fund extension bills: HB 483, by Mr. Miller (Juneau) and HB 490, by Rep. McBride (this is your 'early in the session olive branch.')

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 6
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465-2873



3940 REKA DRIVE—86
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3764

To: House State Affairs Committee

From: Representative Terry Martin TM.

Date: January 16, 1984

Re: HB 473
"An Act relating to the permanent fund dividend distribution program; and providing for an effective date."

Because of the short period for filing this year, there seems to be legitimate concern on the part of constituents supporting extension of the filing deadline.

The most often expressed concern was on behalf of children, especially children born after the deadline. In one instance, a woman did not file on behalf of her unborn child, who was not due to be born until after the deadline. However, the child was born earlier than expected, but not early enough for the parents to file on its behalf. Because of these concerns, I feel justified in attempting to extend the deadline.

It is my understanding that another bill may be used as the vehicle by which to accomplish this extension. I have no objection to another bill being used. If the committee is interested, my preference would be to move Representative Adams's bill, HB 478, which may be more appropriate.

If you have any further questions or concerns, please contact me.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST
Bill/Resolution No: HB 473
Title: An act relating to the Permanent Fund Dividend program
Sponsor: Martin
Requestor: State Affairs
Date of Request: 1/9/84

FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: General Government
BRU, Program of Subprogram(s) Affected: Permanent Fund Dividend

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
	OPERATING						
100	PERSONAL SERVICES	-	-	-	-	-	-
200	TRAVEL	-	-	-	-	-	-
300	CONTRACTUAL	-	-	-	-	-	-
400	SUPPLIES	-	-	-	-	-	-
500	EQUIPMENT	-	-	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS	-	-	-	-	-	-
800	MISCELLANEOUS	-	-	-	-	-	-
	TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	GENERAL FUND	-	-	-	-	-	-
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER	-	-	-	-	-	-
	TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

	FULL-TIME	-	-	-	-	-	-
	PART-TIME	-	-	-	-	-	-
	TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: See attached.

Prepared By: Ervin B. Jones
Division: Administrative Services Division
Phone: 465-2313
Date: 1/16/84

Approved by Commissioner:
Agency: Revenue
Date: 1/16/84

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Analysis

Since the majority of the expenditures for the reopening of the filing period would be in FY 84, a fiscal note which would be effective July 1, 1984 would be inappropriate. Rather, a special appropriation with a June 30, 1985 lapse date would allow the funds to be expended in FY 84 and early FY 85 as the legislation would require.

The following schedule presents the total special appropriation required, with an allocation for dividends and a second allocation to cover the administrative expense of the Department of Revenue for administering the reopening. This summary schedule and the detailed schedules presented for each of the three specified divisions involved in the PFD program, are based on the following key assumptions:

1) The legislation and the special appropriation is signed into law by the end of February, 1984.

2) The Department of Revenue is to pay or deny all applicants filing during the extended period by November 30, 1984. The expanded filing period specified overlaps the 1984 PFD filing period (June 1 - September 30, 1984). The resultant confusion to the public and increased difficulties for the Department of Revenue in keeping the separation of programs will unfortunately result in additional administrative costs and perhaps more importantly, delays in payment and greater frustration among the very public which the bill is designed to help.

3) It is assumed that the Legislature would wish to maintain the same eligibility period for those applicants filing in the extended 1983 filing period as applied for the majority of Alaska residents who filed within the original filing period. The original eligibility period for the 1983 PFD program was October 3, 1982 through March 31, 1983. If, in fact, the Legislature wishes to change the eligibility period to the six month period ending October 15, 1983, the Department would request additional time in which to estimate the number of new-comers to the state who would qualify under the later eligibility period.

4) All estimates are based on a conservative estimate of the potential late filers of 30,000, roughly the difference between the number of 1982 applicants and the number of timely-filed 1983 applicants. If, in fact the total applicants turns out to be less, some costs, such as personal services in Administrative Services and Enforcement and data processing will be less. Other expenditures, such as forms cost, rural assistance and advertising will have already been made. It is the intention of the Department that all administrative costs appropriated be separately accounted for and any balances lapsed when the program is completed.

HB 473
Extension of 1983 PFD Filing Period
PFD BRU
Summary of estimated additional cost
January 16, 1984

Direct costs of additional dividends (Estimated 30,000 applicants X $386.15) =		$11,584,500
Administrative costs of reopening and expedited processing:		
Administrative Services Division (Application processing, data processing)	$209,610	
Public Services Division (Rural assistance outreach program, statewide advertising, Service Center assistance, telephone assistance)	$231,700	
Enforcement Division (Review and investigation of potential fraudulent/erroneously filed applications)	$243,635	
TOTAL administrative costs		$684,945
TOTAL estimated additional cost of reopening 1983 filing period		$12,269,445

HB 473
Extension of 1983 PFD Filing Period
PFD BRU Estimated Additional Cost
Administrative Services Division
January 16, 1984

The Administrative Services Division is responsible for the physical processing of PFD applications, from opening the incoming mail to releasing the actual checks. This includes batching, microfilming, date-stamping, affixing a document locator number for later retrieval, reviewing for errors and completeness and coding for data capture. The division is also responsible for forms production and management, designing, creating, modifying and maintaining the myriad data processing programs that make up the PFD data processing system and for processing, balancing and certifying the actual check runs, including all accounting functions, and cancellation and subsequent reissue of returned warrants.

Although the majority of the extra processing effort would be absorbed by existing staff, there are certain direct costs that are unavoidable such as forms cost and postage. Also, since this represents an additional demand on the Department of Administration's mainframe computer, the Department of Revenue would be billed for the additional CPU run time. This amount of $141,264 would be transferred to the Department of Administration by a reimbursable services agreement based on actual use.

To expedite the processing, so that all applications would be on file, reviewed, and either paid or denied by November 30, 1984, three part-time employees are needed from approximately March 1 through November 30, 1984 at a total cost of $48,046.

The schedule below details the estimated costs.

Personal Services

3 Revenue Scanners, R9, @ $1,649/Month plus $130.50/Month in benefits for 9 months	$48,046
For mail opening, distribution, affixing document locator number, batching, scanning for errors, missing information, correspondence with applicants for missing information, identifying potential Enforcement investigation cases based on predetermined criteria, data-capture, verification of data captured, maintaining accounting controls on payment runs, balancing runs, retrieval and filing of applications.	
Travel	1,000
Arranging for expedited printing of various forms, coordination of processing new applications with Anchorage field office.	

Contractual

Data Processing (Inter-agency transfer to Department of Administration):
Estimated additional CPU run time for update and payment runs, as well as special runs to assist Enforcement Investigations review these late-filed applications, 1,800 CPU sec/Week @ $2.18/CPU sec. for additional 36 weeks.

		$141,264	
Forms Printing			
30,000 Application Booklets	$4,000		
15,000 Receipts @ $20/M	300		
2,000 Scan letters @ $30/M	60		
TOTAL Printing		4,500	
Postage			
30,000 checks @ 18¢/ea.	$5,400		
15,000 Receipts @ 20¢/ea.	3,000		
2,000 Scan letters @ 20¢/ea.	400		
5,000 General correspondence @ 20¢/ea.	1,000		
TOTAL Postage		9,800	
Telephone (LD.)		4,000	
TOTAL Contractual			159,564
Supplies			1,000
TOTAL Administrative Services cost			$209,610

HB 473
Extension of 1983 PFD Filing Period
PFD BRU
Estimated Additional Cost
Public Services Division Component

The Public Services Division is charged with assisting the public in meeting the application requirements of the PFD program. This assistance comes in several forms; a) walk-in assistance at three service centers in the state, b) toll free telephone service, c) assistance provided at selected shopping malls on weekends, and d) scheduled assistance in selected rural communities throughout the state.

This Division will conduct an advertising campaign aimed at reaching those eligible individuals that were unable to file during the original filing period. It is anticipated that this campaign will rely heavily on public service announcements coupled with eye-catching posters throughout the state. Approximately half of the advertsing exposure will be used for local advertising just prior to the scheduled visits to the rural communities.

During the filing period and prior to payment this Division attempts to resolve any problems the applicants may encounter with the program including a change of address.

Below please find a breakdown of the estimated costs:

Personal Services		
3 Tax Examiners I/II (Range 10/12) for 8 months 2 Tax Examiners I/II (Range 10/12) for 3 months This staff will be used for augmenting the service centers (30 months @ $2,400)	$72,000	
4 Tax Examiner I/II (Range 10/12) for 2 months This staff will be used for the rural assistance program (8 months @ $2,400)	19,200	
		$ 91,200
Travel		
Transportation	$26,000	
Per Diem	6,500	
		32,500
Contractual Services		
Advertising - additional advertising is needed to dispel confusion with overlapping filing periods. (Radio, T.V., Newspaper and Posters)	$28,000	
Telephone (Toll Free Zenith Numbers - approximately $10,000 a month)	80,000	
		108,000
Total Public Services Division Costs		$231,700

HB 473
Extension of the 1983 PFD Filing Period
PFD BRU
Estimated Additional Cost for the Enforcement Division
January 13, 1984

Program Analysis

The impact of this bill on the Enforcement Division is strictly dependent on the number of applications flied under the extended deadline and the corresponding number of investigations which are likely to be necessary. If, as a matter of policy, we choose not to investigate any of the applications filed under the extended dealine, we could probably absorb the incidential increased workload in stop payment requests and garnishments with current staff. However, this policy would likely result in a substantial number of fraudulent or erroneous filings being paid. Therefore, for the overall integrity of the program it is essential some investigative effort be focused on applications filed under the extended deadline.

The most positions we would likely be able to efficiently absorb would be five Investigators, one in Anchorage and four in Juneau. With the supplemental clerical support, one Clerk Typist each in Anchorage and Juneau, we would likely be able to have our investigators complete 20 investigations per week.

Clerical staff is needed to answer incoming telephone calls, requisition supplies, enter updated information on PFD files, file cases, type correspondence, including denial letters and inquiries for information, provide general support for our investigative staff.

Assuming we can hire personnel and have equipment installed by the second week of March, 1984, this leaves a little over 35 weeks of review time prior to the November 21 data entry deadline required by the payment deadline of November 30, 1984. If each of the five investigators can complete investigations on 20 applications per week for 35 weeks, 3500 applications would be reviewed. Our denial rate is estimated to be 30% of those selected for review. If 3500 were reviewed, then approximately 1,050 would be denied. We would estimate a 10-11% appeal rate, resulting in 105-115 appeals.

Once the investigations are complete, we would keep the two PFD Investigator II positions for up to four months each, with the clerical support, in order to help resolve appeals at the informal conference level.

The Enforcement Division review process is the only part of the current program which generates actual overall cost savings to the PFD program. The monies saved by identifying invalid or fraudulent applications have historically exceeded the cost of the reviews. In this case, given the scenario described above, the potential savings to the PFD program would be $386.15 x 1,050 = $405,458 or 166% of the following budget of $243,635.

Computations

Personal Services (100)

PFD Investigator II	(R13)	2 for 13 months @ $2,800/mo.	$ 72,800
PFD Investigator I	(R12)	3 for 9 months @ $2,645/mo.	71,415
Clerk Typist III	(R08)	2 for 13 months @ $2,130/mo.	55,380
Total Personal Services (100)			199,595

Contractual Service (300)

Telephone

Telephone purchase		4 phones @ $ 60	240
Installation -	Juneau	4 phones @ $ 90	360
Local Centrex -	Juneau	4 for 9 months @ $ 46/mo.	1,656
	Juneau	1 for 4 months @ $ 46/mo.	184
Long Distance -	Anchorage	13 months @ $1,000/mo.	13,000
Long Distance -	Juneau	9 months @ $2,000/mo.	18,000
Long Distance -	Juneau	4 months @ $1,000/mo.	4,000

Computer Terminals

Installation		1 terminal @ $2,000	2,000
Rental	1 terminal	for 13 months @ $ 200/mo.	2,600
Total Contractual Services (300)			42,040

Supplies (400)

Stationery, envelopes, and office supplies	2,000
Total Enforcement Division	$243,635

HB

478

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST
Bill/Resolution No: HB 478
Title: An act relating to the Permanent Fund Dividend program
Sponsor: Adams/MM.Miller/Duncan/Grussendorf
Requestor: State Affairs and Finance
Date of Request: 1/9/84

FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: General Government
BRU, Program of Subprogram(s) Affected: Permanent Fund Dividend

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
	OPERATING						
100	PERSONAL SERVICES	-	-	-	-	-	-
200	TRAVEL	-	-	-	-	-	-
300	CONTRACTUAL	-	-	-	-	-	-
400	SUPPLIES	-	-	-	-	-	-
500	EQUIPMENT	-	-	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS	-	-	-	-	-	-
800	MISCELLANEOUS	-	-	-	-	-	-
	TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	GENERAL FUND	-	-	-	-	-	-
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER	-	-	-	-	-	-
	TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

	FULL-TIME	-	-	-	-	-	-
	PART-TIME	-	-	-	-	-	-
	TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: See attached

Prepared By: Ervin B. Jones
Division: Administrative Services Division
Phone: 465-2313
Date: 1/16/84

Approved by Commissioner:
Agency: Revenue
Date: 1/16/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

1/16/84
PFD
HB 478

Analysis

Since the majority of the expenditures for the reopening of the filing period would be in FY 84, a fiscal note which would be effective July 1, 1984 would be inappropriate. Rather, a special appropriation with a June 30, 1985 lapse date would allow the funds to be expended in FY 84 and early FY 85 as the legislation would require.

The attached schedule presents the total special appropriation required, with an allocation for dividends and a second allocation to cover the administrative expense of the Department of Revenue for administering the reopening. This summary schedule and the detailed schedules presented for each of the three operational divisions involved in the PFD program are based on the following key assumptions:

1) The legislation and the special appropriation is signed into law by the end of February, 1984.

2) The Department of Revenue is to pay or deny all applicants filing during the extended period by June 30, 1984. This expedited processing minimizes the possibility of public confusion between the 1983 reopening and the 1984 PFD filing requirement. The 1984 filing period is from June 1 through September 30, 1984. Any overlap of these two periods is going to create a great deal of unnecessary confusion and resultant additional costs to the program.

3) All estimates are based on a conservative estimate of the potential late filers of 30,000, roughly the difference between the number of 1982 applicants and the number of timely-filed 1983 applicants. If, in fact the total applicants turns out to be less, some costs, such as personal services in Administrative Services and Enforcement and data processing will be less. Other expenditures, such as forms cost, rural assistance and advertising will have already been made. It is the intention of the Department that all administrative costs appropriated be separately accounted for and any balances lapsed when the program is completed.

HB 478
Extension of 1983 PFD Filing Period
PFD BRU
Summary of estimated additional cost
January 16, 1984

Direct costs of additional dividends (Estimated 30,000 applicants X $386.15) =		$11,584,500
Administrative costs of reopening and expedited processing:		
Administrative Services Division (Application processing, data processing)	$102,438	
Public Services Division (Rural assistance outreach program, statewide advertising, Service Center assistance, telephone assistance)	$132,300	
Enforcement Division (Review and investigation of potential fraudulent/erroneously filed applications)	$112,896	
TOTAL administrative costs		$347,634
TOTAL estimated additional cost of reopening 1983 filing period		$11,932,134

HB 478
Extension of 1983 PFD Filing Period
PFD BRU Estimated Additional Cost
Administrative Services Division
January 16, 1984

The Administrative Services Division is responsible for the physical processing of PFD applications, from opening the incoming mail to releasing the actual checks. This includes batching, microfilming, date-stamping, affixing a document locator number for later retrieval, reviewing for errors and completeness and coding for data capture. The division is also responsible for forms production and management, designing, creating, modifying and maintaining the myriad data processing programs that make up the PFD data processing system and for processing, balancing and certifying the actual check runs, including all accounting functions, and cancellation and subsequent reissue of returned warrants.

Although the majority of the extra processing effort would be absorbed by existing staff, there are certain direct costs that are unavoidable such as forms cost and postage. Also, since this represents an additional demand on the Department of Administration's mainframe computer, the Department of Revenue would be billed for the additional CPU run time. This amount of $62,784 would be transferred to the Department of Administration by a reimbursable services agreement based on actual use.

To expedite the processing, so that all applications would be on file, reviewed, and either paid or denied by June 30, 1984, three part-time employees are needed from approximately March 1 through June 30, 1984 at a total cost of $21,354.

The schedule below details the estimated costs.

Personal Services	
3 Revenue Scanners, R9, @ $1,649/Month plus $130.50/Month in benefits for 4 months	$21,354
For mail opening, distribution, affixing document locator number, batching, scanning for errors, missing information, correspondence with applicants for missing information, identifying potential Enforcement investigation cases based on predetermined criteria, data-capture, verification of data capture, maintaining accounting controls on payment runs, balancing runs, retrieval and filing of applications.	
Travel	1,000
Arranging for expedited printing of various forms, coordination of processing new applications with Anchorage field office.	

Contractual

Data Processing (Interagency transfer to Department of Administration):
Estimated additional CPU run time for update and payment runs, as well as special runs to assist Enforcement Investigations review these late-filed applications, 1,800 CPU sec/Week @ $2.18/CPU sec. for additional 16 weeks.

$62,784

Forms Printing

30,000 Application Booklets	$4,000	
15,000 Receipts @ $20/M	300	
2,000 Scan letters @ $30/M	60	
TOTAL Printing		4,500

Postage

30,000 checks @ 18¢/ea.	$5,400	
15,000 Receipts @ 20¢/ea.	3,000	
2,000 Scan letters @ 20¢/ea.	400	
5,000 General correspondence @ 20¢/ea.	1,000	
TOTAL Postage		9,800

Telephone (LD.) 2,000

TOTAL Contractual 79,084

Supplies 1,000

TOTAL Administrative Services cost $102,438

HB 478
Extension of 1983 PFD Filing Period
PFD BRU
Estimated Additional Cost
Public Services Division Component

The Public Services Division is charged with assisting the public in meeting the application requirements of the PFD program. This assistance comes in several forms; a) walk-in assistance at three service centers in the state, b) toll free telephone service, c) assistance provided at selected shopping malls on weekends, and d) scheduled assistance in selected rural communities throughout the state.

This Division will conduct an advertising campaign aimed at reaching those eligible individuals that were unable to file during the original filing period. It is anticipated that this campaign will rely heavily on public service announcements coupled with eye-catching posters throughout the state. Approximately half of the advertsing exposure will be used for local advertising just prior to the scheduled visits to the rural communities.

During the filing period and prior to payment this Division attempts to resolve any problems the applicants may encounter with the program including a change of address.

Below please find a breakdown of the estimated costs:

Personal Services		
5 Tax Examiners I/II (Range 10/12) for 3 months This staff will be used for augmenting the service centers (15 months @ $2,400)	$36,000	
4 Tax Examiner I/II (Range 10/12) for 2 months This staff will be used for the rural assistance program (8 months @ $2,400)	19,200	
		$ 55,200
Travel		
Transportation	$26,000	
Per Diem	6,500	
		32,500
Contractual Services		
Advertising (Radio, T.V., Newspaper and Posters)	$14,600	
Telephone (Toll Free Zenith Numbers - approximately $10,000 a month)	30,000	
		44,600
Total Public Services Division Costs		$132,300

HB 478
Extension of the 1983 PFD Filing Period
PFD Bkg
Estimated Additional Cost for the Enforcement Division
January 13, 1984

Program Analysis

The impact of this bill on the Enforcement Division is strictly dependent on the number of applications flied under the extended deadline and the corresponding number of investigations which are likely to be necessary. If, as a matter of policy, we choose not to investigate any of the applications filed under the extended dealine, we could probably absorb the incidential increased workload in stop payment requests and garnishments with current staff. However, this policy would likely result in a substantial number of fraudulent or erroneous filings being paid. Therefore, for the overall integrity of the program it is essential some investigative effort be focused on applications filed under the extended deadline.

The most positions we would likely be able to efficiently absorb would be five Investigators, one in Anchorage and four in Juneau. With the supplemental clerical support, one Clerk Typist each in Anchorage and Juneau, we would likely be able to have our investigators complete 20 investigations per week.

Clerical staff is needed to answer incoming telephone calls, requisition supplies, enter updated information on PFD files, file cases, type correspondence, including denial letters and inquiries for information, provide general support for our investigative staff.

Assuming we can hire personnel and have equipment installed by the second week of March, 1984, this leaves a little over 14 weeks of review time prior to the June 21 data entry deadline required by the payment deadline of June 30, 1984. If each of the five investigators can complete investigations on 20 applications per week for 14 weeks, 1400 applications would be reviewed. Our denial rate is estimated to be 40% of those selected for review. If 1400 were reviewed, then approximately 560 would be denied. We would estimate a 10-11% appeal rate, resulting in 55-60 appeals.

Once the investigations are complete, we would keep the two PFD Investigator II positions for up to two months each, with the clerical support, in order to help resolve appeals at the informal conference level.

The Enforcement Division review process is the only part of the current program which generates actual overall cost savings to the PFD program. The monies saved by identifying invalid or fraudulent applications have historically exceeded the cost of the reviews. In this case, given the scenario described above, the potential savings to the PFD program would be $386.15 x 560 = $216,244 or 192% of the requested budget of $112,896.

Computations

Personal Services (100)

PFD Investigator II	(R13)	2 for 5 months @ $2,800/mo.	$ 33,600
PFD Investigator I	(R12)	3 for 4 months @ $2,645/mo.	31,740
Clerk Typist III	(R08)	2 for 6 months @ $2,130/mo.	25,560
Total Personal Services (100)			90,900

Contractual Service (300)

Telephone

Telephone purchase	4 phones @ $ 60	240
Installation - Juneau	4 phones @ $ 90	360
Local Centrex - Juneau	4 for 6 months @ $ 46/mo.	1,104
Juneau	1 for 2 months @ $ 46/mo.	92
Long Distance - Anchorage	6 months @ $1,000/mo.	6,000
Long Distance - Juneau	4 months @ $2,000/mo.	8,000
Long Distance - Juneau	2 months @ $1,000/mo.	2,000

Computer Terminals

Installation	1 terminal @ $2,000	2,000
Rental	1 terminal for 6 months @ $ 200/mo.	1,200
Total Contractual Services (300)		20,996

Supplies (400)

Stationery, envelopes, and office supplies	1,000
Total Enforcement Division	$112,896

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

Official Business

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

January 16, 1984

MEMORANDUM

TO: Members of the House State Affairs Committee

FROM: Representative Al Adams AAA

SUBJ: HBs 478 and 516: Extension of application period for 1983 permanent fund dividends

I have introduced the above captioned bills because many of my constituents contacted me during the interim to let me know that they were unable to file for their 1983 dividend checks because of the nature of their seasonal employment. Because the original deadline was June 30th, many of my constituents were out fishing or otherwise involved with activities away from home in isolated areas, and therefore they were not aware of the deadline.

Since I have worked closely with the Department of Revenue in the development of this legislation, I do not anticipate that this problem will occur every year, necessitating similar legislation each session. I am confidant that the Department will make every effort to insure that Alaskans who leave home for work for part or all of the summer will have adequate opportunity to file for their yearly dividend check.

HB 478

HB 478 is the bill that actually changes the language of the statute to extend the deadline to May 15, 1984. However, an applicant must have been a resident of the state for six months before March 31, 1983, the date that establishes residency for those who have already received a 1983 dividend. Thus, the application period is extended but not the period for establishing residency in 1983.

The bill also provides that only funding appropriated or allocated for 1983 dividends can be used to pay the

dividend checks of new applicants. Further, it states that dividends will not be paid out until after March 1, 1984 (so as not to conflict with the schedule for paying dividends for other years) and gives the Department the authority to promulgate regulations to implement the bill. The bill has an immediate effective date.

HB 516

HB 516 makes the necessary appropriations to pay 1983 dividends to late filers. The funding provided comes from interest earned on the permanent fund principal during FY 83. This is the source of funding established in statute for payment of permanent fund dividends (see AS 43.23.045(b)). As you know, 50% of the interest earned on the permanent fund each year is earmarked for payment of permanent fund dividends. This past year, the Department of Revenue underestimated how much the interest earnings would be. Therefore, the legislature appropriated approximately $19 million less for dividends than what has actually turned out to be 50% of interest earnings. The funding provided in this bill comes from that $19 million.

$11,584,500 is the amount estimated as necessary to pay the dividends of late filers. Obviously, it is difficult for the Department to estimate exactly how many people will file during the extended deadline period. This represents their best guess at this time. Any funding not used for this purpose would lapse at the end of FY 85.

$347,600 is appropriated for processing the dividend applications. I have instructed the Division of Legislative Finance to review the Department's cost estimates for processing and plan to look very carefully at this figure if the bill passes from your committee to the House Finance Committee. Again, the caveat regarding estimating the number of late filers applies here. And again, any funding not used would lapse at the end of FY 85.

The bill would become effective on the same date that a bill extending the deadline becomes effective.

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

Official Business

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
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OUT OF SESSION
P.O. Box 333
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1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

January 16, 1984

MEMORANDUM

TO: Members of the House State Affairs Committee

FROM: Representative Al Adams AAA

SUBJ: HBs 478 and 516: Extension of application period for 1983 permanent fund dividends

I have introduced the above captioned bills because many of my constituents contacted me during the interim to let me know that they were unable to file for their 1983 dividend checks because of the nature of their seasonal employment. Because the original deadline was June 30th, many of my constituents were out fishing or otherwise involved with activities away from home in isolated areas, and therefore they were not aware of the deadline.

Since I have worked closely with the Department of Revenue in the development of this legislation, I do not anticipate that this problem will occur every year, necessitating similar legislation each session. I am confidant that the Department will make every effort to insure that Alaskans who leave home for work for part or all of the summer will have adequate opportunity to file for their yearly dividend check.

HB 478

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The bill also provides that only funding appropriated or allocated for 1983 dividends can be used to pay the

dividend checks of new applicants. Further, it states that dividends will not be paid out until after March 1, 1984 (so as not to conflict with the schedule for paying dividends for other years) and gives the Department the authority to promulgate regulations to implement the bill. The bill has an immediate effective date.

HB 516

HB 516 makes the necessary appropriations to pay 1983 dividends to late filers. The funding provided comes from interest earned on the permanent fund principal during FY 83. This is the source of funding established in statute for payment of permanent fund dividends (see AS 43.23.045(b)). As you know, 50% of the interest earned on the permanent fund each year is earmarked for payment of permanent fund dividends. This past year, the Department of Revenue underestimated how much the interest earnings would be. Therefore, the legislature appropriated approximately $19 million less for dividends than what has actually turned out to be 50% of interest earnings. The funding provided in this bill comes from that $19 million.

$11,584,500 is the amount estimated as necessary to pay the dividends of late filers. Obviously, it is difficult for the Department to estimate exactly how many people will file during the extended deadline period. This represents their best guess at this time. Any funding not used for this purpose would lapse at the end of FY 85.

$347,600 is appropriated for processing the dividend applications. I have instructed the Division of Legislative Finance to review the Department's cost estimates for processing and plan to look very carefully at this figure if the bill passes from your committee to the House Finance Committee. Again, the caveat regarding estimating the number of late filers applies here. And again, any funding not used would lapse at the end of FY 85.

The bill would become effective on the same date that a bill extending the deadline becomes effective.

HB

480

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 480
Title: Relating to adoption & expiration of regulations
Sponsor: Bettisworth & Liska
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Natural Resources
Program Category Affected: Management and Administration
BRU, Program or Subprogram(s) Affected: Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		42.8	44.4	45.7	47.0	48.5
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES		.3	.3	.3	.3	.3
500 EQUIPMENT		1.6				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		44.7	44.7	46.0	47.3	48.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		44.7	44.7	46.0	47.3	48.8
FEDERAL FUNDS						
OTHER						
TOTAL		44.7	44.7	46.0	47.3	48.8

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: David Creekman
Phone: 265-4135
Division: Office of the Commissioner
Date: February 8, 1984

Approved by Commissioner:
Date:
Agency:

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB 480

This fiscal note assumes one full time employee at salary range 16. The new employee will be needed beginning in FY 85. The FY 85 costs include not only personal services for the new employee but also supply costs and the one time cost of a desk and chair for the new employee. Costs in subsequent fiscal years are for personal services and supplies only.

All funding would come from the general fund. The position is not one which will generate additional revenue to the state.

FY 84 LEGISLATION/REGULATION IMPLEMENTATION TASKS

DAVID CREEKMAN
DEPT. NAT. RES.
— WORKSHEET
REQUESTED BY
REP. WARD DERR.

PRIORITY

TASKS UNDERWAY

2 Delegations of Authority

1 Pipeline right-of-way fees, eggs, UCC and Office of the Recorder, Forest Practices

3 Seed regulations (adopted but still with AG's office)

4 Instream flow (adopted but still with AG's office)

HB0 480 testimony

PENDING TASKS AFFECTING MORE THAN ONE DIVISION

3 Uniform procedural regulations affecting OMB, OCM, ADF&G, DEC, and DNR (to be drafted by AG's Office)

2 DNR's permit regulations (11 AAC 65)

~~1~~ Land Exchange regulations

4 Record-keeping, reconsiderations, appeals (in first draft as a result of Permit Refor contract, Hawley Resource Group, Inc.)

5 Possible amendments to land planning and classification regulations

User fees

PENDING TASKS AFFECTING ONE DIVISION

DLWM

3 Homestead Bill

2 Remote Cabin amendments

5 Shore fisheries

Trespass

AGRICULTURE

6 Bee disease

ARLF (Agricultural Revolving Loan Fund)

8 Fertilizer quality

PARKS

1 All regulations of the Division of Parks and Outdoor Recreation

FORESTRY

4 Regulations establishing DNP's firefighting obligations/responsibilities

DMEM

7 Minor amendments to mining regulations to assure their compatibility with land planning and classification regulations.

O&G Mng. → Handled separately in Oil & Gas & Mining

Alaska State Legislature

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

POUCH V
JUNEAU, ALASKA 99811

211 CUSHMAN STREET
FAIRBANKS, ALASKA 99701

MEMORANDUM

To: Representative Mitch Abood, Chairman, House State Affairs Committee

RAB From: Representative Bob Bettisworth

Subject: House Bill 480, "An Act relating to adoption and expiration of a regulation.....".

There has been an ongoing conflict, in Alaska and the U.S. as a whole, between legislative entities and executive branches over legislative powers to annul regulations. While this bill does not specifically address legislative annulment, it does provide for expiration of a regulation should certain proposed requirements not be met. Alaska has a statutory provision AS 44.62.320 (a), contained below, that provides for annulment by concurrent resolution adopted by both bodies of the legislature. This statute has been held to be constitutionally invalid by the courts.*

> **Sec. 44.62.320. Legislative annulment of regulations and review.** (a) The legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department.
>
> (b) At the same time a regulation is filed by the lieutenant governor, the lieutenant governor shall submit the regulation to the chairman and all members of the Administrative Regulation Review Committee for review under AS 24.20.400 — 24.20.460 together with the fiscal information required to be prepared under AS 44.62.195. (§ 1 art VII (ch 1) ch 143 SLA 1959; am § 3 ch 149 SLA 1962; am § 2 ch 72 SLA 1963; am § 2 ch 27 SLA 1975; am § 5 ch 64 SLA 1978; am § 3 ch 16 SLA 1980)
>
> **Effect of amendments.** — The 1978 amendment substituted "At the same time" for "Within 45 days after" at the beginning of subsection (b).
>
> The 1980 amendment inserted "and all members" following "chairman" near the middle of subsection (b), and added "together with the fiscal information required to be prepared under AS 44.62.195" at the end of subsection (b).
>
> **Constitutionality of legislative veto.** — The legislative veto contained in subsection (a), which provides that the "legislature, by a concurrent resolution adopted by a vote of both houses may annul a regulation of an agency or department," violates art. II of the state constitution. State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980). But see Alaska Const., art. II, § 22, which was proposed by the 11th legislature's Legislative Resolve No. 5 and will be voted on at the next general election in November, 1980.
>
> No implied general power to veto agency regulations by informal legislative action exists. State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Section 1 seeks to improve this situation by imposing two new informational requirements on administrative rules makers when proposing

adoption, amendment, or repeal of regulations. These two new requirements which would be added to those already contained in AS 44.62.200(a)(1) through (5) are the reasons for the proposed regulation and a general statement of anticipated impacts in cost terms on those to be affected. The statement of cost impacts would not impose a strict quantification standard as a fiscal note does and would be much easier to generate.

Section 2 provides for the expiration of regulations not proposed for amendment, continuance or administrative repeal every three years or earlier if so specified in the regulation. Section 2 also provides for the continuance of existing regulations with no changes if a supporting reason is filed for public inspection including:

a. reasoned justification,
b. summary of comments received from interested parties,
c. statement of factual bases,
d. reasons for disagreement with opposing comments,
e. statement of statutory basis for adoption and and reasons statutory provisions authorize the regulation.

The requirements for continuing a regulation are less stringent than those imposed for amending, adopting or repealing a regulation. It should be noted that the requirements of this legislation are certainly more substantive than those currently imposed.

In summary this bill would impose two new requirement for <u>adoption</u> of a new regulation and provide for administrative repeal of regulations that are not reviewed every three years according to statutory provisions contained in Section 2. Legislative legal counsel anticipates no constitutional problems with this draft legislation. Section 3 provides for an immediate effective date.

* It has been opined by various attorneys working for the AG's office and the Legislature that the legislative branch can annul regulations through passage of a law rather than a resolution based on the decision in <u>State v. A.L.I.V.E. Voluntary</u>, 606 P.2d 769 (Alaska 1980).

Bill No. House Bill 480 Date March 1, 1984

Title "An Act relating to adoption and expiration of a regulation; and providing for an effective date." Contact: Eileen Plate, 465-2700
Robert Landau, 465-2700

House Bill No. 480 contains a number of provisions which are of considerable concern to the Department of Labor, as follows:

1. Section 1 requires that a notice of proposed adoption, amendment, or repeal of a regulation must include a statement concerning the costs of compliance by the persons, industries, and businesses affected by the regulation. The Department presently does not have the expertise to develop sound cost proposals in this regard. The public hearing process used when a regulation is promulgated is viewed by the department as an information/data gathering forum; and historically, we have looked to the public, industry and business to use this forum to relate to the department their concerns with respect to a specific proposal - whether the concern is from a financial, procedural or other aspect. In fact, the department feels that the persons actually affected by a regulation are the best sources of information in this regard.

2. Section 2 prescribes that a regulation automatically expires after three years if the adopting agency does not review the regulation and either amend, repeal or continue it.

   In addition to increasing the Department's regulation workload by one-third each year, there are other factors which must be considered with respect to this requirement. First of all, while the bill does anticipate repeal of a regulation only in accordance with the Administrative Procedure Act, the provisions for automatic expiration of a regulation after three years conflict with this by providing opportunity for an agency to let a regulation simply expire instead of formally proposing it for repeal and otherwise adhering to the statutory promulgation procedure. Although it is true that the expiration of a given regulation may relieve affected parties of certain responsibilities, it cannot be overlooked that there are also regulations which serve to exempt certain parties, industries, etc. from certain responsibilities. The automatic expiration provisions of House Bill No. 480 wherein such a regulation could be permitted to "die" by an agency without public notice certainly would not be in the best interest of anyone.

   Also to be considered are the consequences of a regulation expiring because an agency, through oversight or other inadvertence, failed to timely review and continue it. The Department of Labor operates under a number of statutes which are fairly broad and which specifically contemplate the promulgation of regulations for program implementation/operation. For example, under AS 18.60.030(6), the department is required to "establish and enforce occupational safety and health standards..." for the protection of Alaska's workers. Our implementation of the state occupational safety and health program has involved the adoption of 15 separate safety and health codes, ranging from general type standards to industry specific standards (logging, sawmills, explosives, etc.). An oversight by the department in properly reviewing and continuing a regulation could, therefore, cause a needed regulation to expire and leave a large segment of Alaska's workers unprotected. No doubt there are literally hundreds of examples of this type which could be cited by state agencies.

POSITION PAPER/Department of Labor

Further, there are presently a number of "safeguards" already in place with respect to the promulgation of administrative regulations, as follows:

- The notification and hearing process required under AS 44.62.190, as well as the publication of all notices of proposed changes in regulations in the Administrative Journal.

- The provisions of AS 44.62.220 and AS 44.62.300 which provide for interested persons to petition an agency for the adoption or repeal of a regulation, or to petition the Superior Court for a determination on the validity of a regulation.

- The provisions of AS 44.62.125(b)(3) which require the Department of Law to "continually review administrative regulations, make recommendations to the respective agencies concerning deficiencies, conflicts and obsolete provisions..."

Perhaps a campaign to educate the public on these existing safeguards would be more appropriate and more effective in protecting the public interest.

3. Section 2 also provides for the Department to include in the supporting reason for continuation of a regulation a summary of comments received on the regulation since it was adopted. This requirement raises a question with respect to what constitutes a "comment" on a specific regulation. Would this be only when someone writes in and specifically complains about or praises a regulation? When a comment is made about a procedure or requirement in the course of an appeal hearing? Or a comment made as an aside in the course of a telephone conversation? Maintenance of a system to track and report on such "comments" over a period of three years would be a tremendous job. This particular provision is not sufficiently clear to make a determination on its impact.

While the Department of Labor certainly takes the promulgation of regulations very seriously and feels the intent of House Bill No. 480 is commendable, the above-described problems, as well as the costs associated with implementation, are of concern to the department.

APPROVED:

Jim Robison
Commissioner

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

March 1, 1984

The Honorable Mitch Abood, Chairman
State Affairs Committee
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Re: HB 480 (adoption and expiration of regulations)

Dear Representative Abood:

The Department of Law would like to offer some comments on this bill, which you have scheduled for hearing before your committee today. Essentially, we oppose the bill.

In a bill such as this, one can detect a general dissatisfaction with government regulation. However, it is difficult to pinpoint the precise problem that this bill is tailored to address.

The basic idea of providing information on proposed regulations is good, as is the basic idea of continual agency review of regulations. Most agencies work with their regulations on a daily basis and do a good job in these respects. The consequences or negative aspects of this bill outweigh any benefits.

SECTION 1.

Section 1 requires two additional elements in the public notices for regulations: a statement of reasons and a statement of costs. In most instances, the reason for an agency to adopt regulations is a statutory or judicial requirement that the agency do so. The reason that a particular regulation is adopted is that the agency believes that it will best serve the purposes of the program that the agency is charged with administering.

For example, a particular commercial fish regulation setting a particular opening date is adopted because the agency

believes that that will best protect the resource and the economics of the fishery; a regulation requiring a fire escape on a day-care center is for the purpose of protecting the children and adults using the center. It seems unlikely that the public is unaware of these basic reasons for the regulations being adopted. It simply is not feasible for an agency to include in its public notice a detailed explanation of each provision of every regulation. Publication costs would be prohibitive.

Certainly, an agency should carefully consider the reasons for adoption of any regulation. But a requirement that the public notice include a statement of the reasons does not appear to accomplish anything.

As to the statement of anticipated costs, again, the agency certainly should be thinking about costs when it adopts a regulation. But it is unlikely that the agency will be able to predict with any accuracy what the costs on a particular person or industry would be. In fact, it is often the testimony at a public hearing held after notice is published that produces cost information. Also, it is obvious that the efficiency of any person or group covered by a regulation will vary. For example, cost overruns in the construction business are a common experience. It is not evident that this requirement in the bill would produce information of much value to the public generally.

SECTION 2.

Section 2, providing for the automatic expiration of regulations every three years, will require a tremendous amount of work on the part of all agencies, including the Department of Law. The benefit that it will produce for the public is not readily apparent. Additional staff will clearly be required for many agencies. This has been set out in fiscal notes by the Department of Law and several other departments, copies of which, I understand, have been furnished to your committee.

The consequence of an inadvertent failure to go through the steps of filing a continuation statement for a regulation and of stating the "adequate supporting reason" for its continuation could be substantial -- the shutdown of a worthwhile program. This affects not only the agency involved (which might thus have less work to do), but also the members of the public who have been relying on that regulation.

The surest way to avoid this sort of consequence would be for each agency to take a "boilerplate" approach to this requirement. However, if a thoughtful analysis of an agency's

entire set of regulations every three years, or one-third of its regulations every year, is undertaken, a great amount of staff time would be required. Obviously, the amount of time will vary with the complexity and quantity of an agency's regulations.

In addition, the requirement for stating an "adequate reason" appears certain to inspire litigation. This will further increase costs and give the courts an even greater role in the implementation of statutory programs.

One further point: the bill does not provide for public participation, as the current statutes on regulation adoption and repeal do. Thus, a provision could be "continued" without publication of notice or opportunity for public comment, and it could be allowed to "expire" without publication of notice or opportunity for public comment.

It must be remembered that regulations are not all "bad" or burdensome. Although many of them impose obligations on individuals, there are usually other individuals who benefit from those provisions. Many regulations govern the relationship between competing interests and between different segments of the public. And, of course, many regulations specify the procedures for getting some benefit from the state. The automatic and silent expiration of such regulations cannot be said to be for the public good.

Section 2 leaves other questions unanswered and results unclear. For example, if one part of a regulation is amended, is the three-year life of the whole regulation renewed? What are the consequences of filing a notice of continuation but having an inadequate statement of supporting reasons. To what sort of "comments" -- written or oral, developed or off-the-cuff -- does proposed AS 44.62.025(b)(2) refer? Why is a regulation "sunset" system necessary when it would duplicate much of the work undertaken in the sunset review of certain agencies (e.g., occupational licensing boards) under existing statutes?

CONCLUSION.

While we agree that it is a good idea to provide information on regulations and to review them regularly, we believe that the present statutes set out adequate procedures and requirements to achieve those purposes. For that reason, and because of the costs and potential litigation and other consequences that HB 480 would entail, we must oppose it.

Thank you for this opportunity to comment.

Yours truly,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Arthur H. Peterson
Arthur H. Peterson
Assistant Attorney General

AHP/jb

cc: Hon. Bob Bettisworth
Alaska House of Representatives

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB480
Title: ...adoption and expiration of regulation...
Sponsor: Bettisworth and Liska
Requestor: Governor's Office
Date of Request:

FISCAL DETAIL
Agency Affected: Fish and Game
Program Category Affected: NRMEC
BRU, Program or Subprogram(s) Affected: Boards of Fisheries and Game

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		54.0	56.7	59.5	62.5	65.6
200 TRAVEL		341.4	358.5	376.4	395.2	415.0
300 CONTRACTUAL		20.0	21.0	22.1	23.2	24.3
400 SUPPLIES		5.0	5.3	5.5	5.8	6.1
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		420.0	441.5	463.5	486.7	511.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		420.0	441.5	463.5	486.7	511.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME		1	1	1	1	1
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor of bill

ANALYSIS: Attach a separate page for analysis

Prepared By: Kristin Wright Phone: 465-4110
Division: Boards of Fisheries and Game Date: 2/29/84

Approved by Commissioner: Date: 2-29-84
Agency:

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Fiscal Impact Statement for Implementing
House Bill No. 480: Expiration of Regulations

Board of Fisheries Meeting

Assume:
- 7 Board members with travel and per diem
- 1 meeting per year, 30 days
- travel at $400 per ticket, average
- per diem at the rate of $150 per day

Calculation:
- travel: 7 x $400 = $ 2,800
- per diem: 7 x 30 x $150 = 31,500

$ 34,300

Board of Game Meeting

Assume:
- 7 Board members with travel and per diem
- 1 meeting per year, 30 days
- travel at $400 per ticket, average
- per diem at the rate of $150 per day

Calculation:
- travel: 7 x $400 = $ 2,800
- per diem: 7 x 30 x $150 = 31,500

34,300

Advisory Committees

Assume:
- 72 Advisory Committee chairmen
- 2 meetings (Board of Fisheries, Board of Game)
- 15 day duration including travel days
- travel at $500 per ticket, average
- per diem at $80 per day

Calculation:
- travel: 72 x 2 x $500 = $ 72,000
- per diem: 72 x 2 x 15 x $80 = 172,800

244,800

Board Staff

Assume:
- 5 staff with travel and per diem
- 2 meetings (Board of Fisheries, Board of Game), 30 days each
- travel at $400 per ticket, average
- per diem at the rate of $80 per day
- an additional Regulations Specialist II, Range 16 A
- an additional part-time Clerk Typist III, Range 8 A

Calculation:

- travel: 5 x 2 x $400	= $ 4,000	
- per diem: 5 x 60 x $80	= 24,000	
- Salary and Benefits of Regulations Specialist II	= 34,000	
- Salary and Benefits of Clerk Typist III	= 20,000	
		82,000

Commodity Expenditures

Assume and Calculation:

- $25,000 for printing, advertising and supply costs	= $25,000	25,000

TOTAL $420,400

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/28/84

REQUEST
Bill/Resolution No.: HB 480
Title: "An Act relating to regulations"
Sponsor: Reps. Bettisworth&Liska
Requestor: State Affairs Comm.
Date of Request: 1/9/84

FISCAL DETAIL
Agency Affected: Commerce & Economic Dev.
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		40.5	43.3	46.4	49.7	53.2
200 TRAVEL		10.1	10.8	11.5	12.3	13.2
300 CONTRACTUAL		27.1	29.0	43.5	46.6	49.8
400 SUPPLIES		0.4	0.4	0.5	0.5	0.5
500 EQUIPMENT		3.5	0.0	0.0	0.0	0.0
600 LAND & STRUCTURES		0.0	0.0	0.0	0.0	0.0
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	81.6	83.5	101.9	109.1	116.7
CAPITAL						
REVENUE	0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	81.6	83.5	101.9	109.1	116.7
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	1	1	1	1	1
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the sponsors

ANALYSIS: Attach a separate page for analysis (see attached)

Prepared By: Darrell Miller Phone: 465-2535
Division: Occupational Licensing Date: 2/28/84

Approved by Commissioner: Richard A. Lyon Date: 2/29/84
Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HOUSE BILL NO. 480

FISCAL ANALYSIS:

Assumptions: This bill impacts the Division of Occupational Licensing regulatory process for 17 State licensing boards and four individual State licensing functions, as provided for under the Centralized Licensing Act, AS 08.01. The division also has been assigned the licensing function for the State Athletic Commission (AS 05) by the Governor's Office and the division has regulations in place governing prorating of licensing fees, as provided for under AS 08.01.

Section 1 of this bill provides for the immediate expansion of public notices issued for any regulation being proposed for amendment, repeal or adoption. Section 2 of the bill mandates full review of all regulations in effect as of the effective date of the bill within a three year period and subsequent action to amend, repeal or retention of those regulations, and for any regulation adopted after the effective date of the bill.

This places an additional burden on the division staff that would require additional personnel to implement the requirements of the bill. The scope of activity required by this bill would necessitate that the additional personnel be an experienced Regulations Specialist, not one at the entry level.

In order to meet the three year mandatory review of existing regulations, it would be necessary to undertake the review commencing in FY '85 to ensure compliance with the provisions of this bill. The scope of this activity would require the full time services of one REgulations Specialist as the various boards and licensing functions currently have in excess of 2,200 regulations, including subdivisions, in effect. An estimated 300 regulations are currently in the process of amendment or repeal, or adoption as new regulations.

HOUSE BILL NO. 480

FISCAL IMPACT:

100 PERSONAL SERVICES

1 Regulation Specialist II, Range 16A, General Goverment, 12 months, to be located in Juneau.	$40.538.95

200 TRAVEL (based on current per-diem allowances with a 7% inflation factor projected for transportation costs)

1 person, 18 meetings annually, to meet and consult with individual boards and commissions for review of all regulations with possible repeal, amendment or retention of those regulations to meet the three year mandatory review provision of section 2 of this bill.

18 meetings annually (2 days each @ $80.00 per day per diem = $160.00 X 18)	$ 2,880.00
Transportation costs, including miscellaneous items such as taxi fares, baggage handling, etc. 18 meetings annually: Estimated ($400.00 X 18)	$ 7,200.00
Total	$10,080.00

300 CONTRACTUAL

Section I of this bill would require immediate expansion of public notices. It is estimated that the expanded public notices would increase advertising costs approximately 50% in FY '85, and it is estimated that the mandated three year review would escalate advertising costs an additional 50% with the potential for all esisting regulations to be public noticed for amendment or repeal. The mandatory three year review would become a continous operation.

Postage, telephone, printing, advertising and general operating costs: (Estimated)	$27,100.00

400 COMMODITIES

Stationery, typewriter ribbons, pens, pencils, and other miscellaneous desk top supplies.	$ 400.00

500 EQUIPMENT (One time cost FY '85 only - based on estimated 1985 costs)

1 Desk, double pedestal, 60" x 30"	$ 568.22
1 Chair, Executive Swivel, woth arms	313.50
1 Typewriter, Correcting Selectric, with dual pitch, 15.5 inch paper capacity	1,369.36
1 Typewriter table	135.65
1 Chair, side, without arms (Contour Style)	126.66
1 Calculator, desk, printing & display, 12 digit	364.66
1 Bookcase, with 3 adjustable shelves	164.69
1 File Cabinet, 5 drawer legal, with lock	406.91
	$ 3,449.65

One position total: $81,568.60

	POSITION TITLE			RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
1.	Regulations Specialist II			16 A	GGU				
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER	BRU PRIORITY	LOCATION: AWA	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL		ADDITION						

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	30,876.00	
6.	Benefits	5,042.05	
7.	Supplemental Benefits	1,892.70	
8.	Fixed Benefits	2,728.20	
9.	TOTAL PERSONAL SERVICES	01	40,538.95
10.	Travel	02	10,080.00
11.	Contractual	03	27,100.00
12.	Commodities	04	400.00
13.	Equipment	05	3,449.65
14.	Other		0
15.	TOTAL COST		81,568.60

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	81,568.60
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position would be required in FY '85 for the immediate implementation of the provisions of Sections 1 and 2 of HB No. 480, which mandates a complete review within three years, and subsequent action to amend, repeal or retention, of all regulations in effect as of the effective date of the bill and for any regulation adopted after the effective date of the bill.

The scope of activity required would be of such nature as to require an experienced person in the regulatory process to effectively implement the provisions of HB No. 480.

13 REQUEST FOR NEW POSITION

01-1136 (7/82) - 13

AGENCY: Commerce & Economic Development

PROGRAM: Public Protection

BRU: Occupational Licensing

COMPONENT: Administration

Revised Date

FY 84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 480
Title: Adoption and expiration of regulations
Sponsor: Rep. Bettisworth
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Commerce & Economic Development
Program Category Affected: Economic Development
BRU, Program or Subprogram(s) Affected: Investments

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	-0-	5.0	5.0	5.0	5.0	5.0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	5.0	5.0	5.0	5.0	5.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	5.0	5.0	5.0	5.0	5.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY		1-mo.	1-mo.	1-mo.	1-mo.	1-mo.

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Due to the intermittent and short duration that would be required to implement HB 480, the division would probably contract for these services on an "as-needed" basis.

ANALYSIS: Attach a separate page for analysis

Paul B. Arnoldt

Prepared By: Paul B. Arnoldt, Director Phone: 465-2510
Division: Investments & Veterans' Affairs Date:

Approved by Commissioner: Richard A. Lyon Date: 12/29/83
Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: February 29, 1984

REQUEST
Bill/Resolution No.: HB 480
Title: An act relating to adoption and expiration of regulations.
Sponsor: Bettisworth and Liska
Requestor:
Date of Request: 1/9/84

FISCAL DETAIL
Agency Affected: Commerce and Economic Dev.
Program Category Affected: Consumer Protection
BRU, Program or Subprogram(s) Affected: Banking, Securities and Corporations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	- 0 -	56.1	58.2	61.1	64.2	67.4
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
* TOTAL OPERATING	- 0 -	56.1	58.2	61.1	64.2	67.4
CAPITAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

FUNDING: (Thousands of Dollars)

GENERAL FUND	- 0 -	56.1	58.2	61.1	64.2	67.4
FEDERAL FUNDS						
OTHER						
* TOTAL	- 0 -	56.1	58.2	61.1	64.2	67.4

POSITIONS:

FULL-TIME	- 0 -	1	1	1	1	1
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

* - See attached Fiscal Note Analysis

ANALYSIS: Attach a separate page for analysis

Prepared By: Willis F. Kirkpatrick, Director Phone: 465-2521
Division: Banking, Securities and Corporations Date: 2/29/84

Approved by Commissioner: Richard A. Lyon Date: 3/1/84
Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Fiscal Note Analysis
HB 480

Most of our regulations are required by statute and deal with public protection and to provide rules to obtain safety and soundness in financial institutions. In this recent period of deregulation, our agency has spent a great deal of time reducing regulatory limits by promulgating more liberal regulations. To increase this activity by Sunset provisions, would require much more manpower than our agency has.

To reduce the cost of our financial institution budget, the Bank Examiner II position was dropped from the FY '85 budget. The responsibility of this position was, in part, to develop new financial institution regulations. To accomplish the provisions of this bill, it will be necessary to reestablish the Bank Examiner II position.

WFK/mc3/9
22984b

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB480
Title: "...adoption & expiration of a regulation."
Sponsor: Rep. Bettisworth
Requestor: Off. of the Gov.-OMB
Date of Request:

FISCAL DETAIL
Agency Affected: Department of Health & Social Serv
Program Category Affected: Administration & Support
BRU, Program or Subprogram(s) Affected: DHSS- Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		33.6	35.6	37.8	40.0	42.4
200 TRAVEL						
300 CONTRACTUAL		4.5	4.7	5.1	5.4	5.7
400 SUPPLIES		2.6	1.4	1.5	1.6	1.7
500 EQUIPMENT		6.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		47.2	41.7	44.4	47.0	49.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		47.2	41.7	44.4	47.0	49.8
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME 6 mon.						
PART-TIME	0	2	2	2	2	2
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor.

ANALYSIS: Attach a separate page for analysis

Prepared By: Danny W. Burton
Division: Office of the Commissioner
Phone: 465-3030
Date:

cc

Approved by Commissioner: Robert London Smith
Agency: Department of Health & Social Services
Date: 3/1/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Fiscal Analysis - HB 480

The positions required for the Department of Health and Social Services to review one-third of the Health and Social Services regulations contained in the state's administrative code each year are one half of one Administrative Assistant III position and one-half of one Clerk Typist III. All of the positions will be located in Juneau. The first year of the fiscal analysis is FY 85. The costs beyond FY 85 include a 6% inflation factor.

1st Year (FY 850)

	Admin. Assist. III	Clerk Typist III	Total
Personal Services	20.3	13.4	33.7
Contractual Communications	1.5	1.5	3.0
& Copying WP/Document Product		1.5	1.5
Commodities - Ongoing			
Office Expendables	.9	.9	1.8
Commodities - single time			
New Position Supplies	.8	.8	1.6
Equipment - single time	.8	.8	1.6
Word Processor		5.0	5.0
	29.3	23.9	48.2

FIscal Note
Analysis
HB 480

February 29, 1984

The new Act would create additional administrative burdens, and the new requirements will require specialized knowledge and training. This increased burden and need for specialized knowledge could be met at the division level through training of staff, and expansion of staff at that level, or it could be met by supplementation of staff at the division level by assistance at the central offices. Existing staff could not carry out the new duties without giving up some present duties.

For the sake of simplicity, this fiscal note treats the burden as being met by positions in the central office, which would provide expertise, and would coordinate and systematize periodic reviews of regulations.

Because of the relatively technical nature of the work, the position would need to be at least an Administrative Assistant III. This position would need fairly intensive secretarial support. The department presently is directed by statute to maintain regulations in about 45 different areas, Some of these requirements are presently met by a single section in the Administrative Code. Others such as Medicaid, or licensing of medical facilities require extensive blocks of regulations. On average, each would require between 1 1/2 and 2 weeks of work to meet requirements for continuation. This would mean that the position would have about 30 weeks of work a year, plus the continuing collection and collation of comments on regulations and continuing monitoring of division staff to ensure that regulations would not be allowed to lapse.

The above assumes that the Department of Law would have more professional staff to provide closer support and supervision than is currently available for regulations.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 480

" An Act relating to adoption and expiration of regulations; and providing for an effective date."

House Bill 480 amends the Administrative Procedures Act and particularly those portions relating to adoption, amendment and repeal of administrative regulations. Section one of the bill has the effect of expanding the kinds of information presently required in a public notice of proposed adoption, amendment or repeal of a regulation. The new notice would include a statement of reasons for the proposed regulation and a statement of "anticipated impact regarding costs of compliance by the persons, industries and businesses directly affected by the proposed regulation." Section two of the bill would create a new section to the Alaska statutes. This new section would require a review of all state agency regulations at least once every three years. At least once every three years each state agency would be required to amend, repeal or continue each regulation it has adopted. Procedures for amendment or repeal of regulations would not change. If agency continued a regulation, the agency would be required to file a notice with Lieutenant Governor which would include; (1) justification; (2) a summary of comments received after the adoption of the regulation; (3) a statement of the regulations factual basis; (4) a statement of reasons for the agency's disagreement with comments that oppose the regulation; (5) a statement explaining the statutory authorization for the regulation. Regulations not continued or awarded would lapse.

The Alaska statutes direct the Department of Health and Social Services to adopt regulations in over forty different places. The Department has adopted regulations dealing with approximately forty separate and distinct areas of concern. (See attached exhibit one.)

At present, the Department of Law is assisting the Department of Health and Social Services with approximately twenty projects related to the adoption or amendment of regulations (see attached exhibit two). The process of adopting regulations is somewhat time consuming. It is not unusual for a period of more than a year to elapse between the first proposal of regulations and the final adoption of regulations. The procedural regularity of the adoption of regulations has been the grounds for challenge of regulations in the public assistance area several times. Note for example ACM v. Smith case number 3-AN-83-8115 presently pending in the Superior Court in Anchorage. The proposed additions to a AS 44.62.200(a) are worded very generally. The Department would, until the Alaska Supreme Court had determined the extent of those new requirements, be concerned about disruptive and costly litigation which would cast into doubt properly adopted regulations. Similarly, under the new

AS 44.62.025, the Department might be subject to challenges of continued regulations, based on the efficacy of it's compliance with subsections (b)(1),(b)(2),(b)(3),(b)(4) and (b)(5), of that section. The new sections do not establish a procedure for soliciting comments about adopting regulations. Thus the Department would need to establish internal systems of control to make sure that all such comments, whenever received and from whatever source, were collected and collated. The new section also requires a demonstration of factual bases of the regulation being continued and the agencies reasons for disagreeing with adverse public comments. The nature and extent of evidence required is unclear. Until the courts have ruled upon challenges to continued regulations based on the lack of sufficient evidence as to the factual bases of regulations, or the lack of rational basis for disagreement with comments, the department will be unsure of the sufficiency of its compliance. The new statute would add considerable administrative delay and uncertainty, to the state's public assistance and public health programs.

A review of the subject matter of the Department of Health and Social Services regulations demonstrates that they are primarily concerned with public assistance programs, and public health programs. Very few of DHSS's regulations directly affect a wide spectrum of industries and businesses. Instead, the Department of Health and Social Services regulations mainly affect indigent, ill and disabled persons. The Department works closely on a day to day basis with those affected by its regulations. The three year review process would add little that is new in making the department aware of the burdens which its regulations may place on the public. Further, many of the department's programs, particularly public assistance programs, are joint programs of the state and of the federal government. The Department often has no choice but to accept federal requirements for those programs. The Department must, as a condition of federal funding meet all federal requirements. Again, the three year review process would be superfluous.

Last, though the Department does not anticipate that such a situation would be allowed to arise in Health and Social Services, if public assistance or public health regulations were allowed to lapse, and the

POSITION PAPER/Department of Health & Social Services

department lost its authority to run a program such as Medicaid, the affects on the indigent and on public health might be devastating. For all the above reasons, the Department of Health and Social Services opposes this bill.

RECOMMENDED: Dan Burton

Dan Burton, Special Assistant

DATE: 3/1/84

APPROVED BY: Robert London Smith

ROBERT LONDON SMITH, Ph.D.
COMMISSIONER

DATE: 3/1/84

SUBJECT	STATUTE	REGULATIONS
Vital Statistics (Birth/Death Certificates)	AS 18.50.020	7AAC Ch. 5
Certificate of Need	AS 18.07.101	7AAC Ch. 7
Design & Construction of Medical Facilities	AS 18.20.080	7AAC Ch. 9
Licensing, Maintenance & Operation of Medical Facilities	AS 18.20.060	7AAC Ch. 12
Occupational Health	AS 18.05.040(1)	7AAC Ch. 20
Infant Learning Programs	AS 47.20.010(b)	7AAC Ch. 23
Compressed Oxygen	AS 18.05.040(18)	7AAC Ch. 25
Emergency Medical Services	AS 18.08.080	7AAC Ch. 26
Control of Diseases of Public Significance	AS 18.05.040(1)	7AAC 27.005-7AAC 27.080
Tuberculous Control	AS 18.05.120	no regs
Venereal Disease Control	AS 18.05.040	7AAC 27.111
Physical Examination of Children	AS 14.30 065	7AAC 27.213
Prenatal Blood Tests	AS 18.15.160	7AAC 27.360
Premarital Testing	AS 25.05.105	7AAC 27.360
Screening for Metabolic Diseases	AS 18.15.200	7AAC 27.510.560
Designation of Isolated Areas for Dentistry Licensing	AS 08.36.271	7AAC 27.370
Assistance to Hospital & Health Facilities	AS 18.25.100	
Advertising of Drugs	AS 17.20.170	
Adulterated & Mishandled Drugs	AS 17.20.180	
Radiation Protection	AS 18.60.475	18 AAC Ch.85
Community Alcoholism Grants	AS 47.30.477	7AAC Ch.28
(Alcohol) Breath Analysis & Blood Analysis	AS 28.35.033(d)	7AAC Ch.30
Methadone Programs	AS 18.05.040	7AAC Ch.33
Embalming	AS 18.05.040(7)	7AAC Ch.35
Confidentiality of Client Records (Children)	AS 47.10.250 AS 47.05.020 AS 47.17.040	7AAC Ch.36
Confidentiality of Client Records (Public Assistance)	AS 47.05.020 AS 47.05.010	7AAC 37.010-140
DHSS Personnel Systems	AS 47.05.010(3)	7ACC 37.170
Appointment of DHSS Agents	AS 47.05.010(13)	7AAC 37.180
Effects of Permanent Fund on Public Assistance	AS 43.23.075	7AAC Ch.38
Adult Public Assistance	AS 47.05.010(1) AS 47.25.430	7AAC Ch.40
Medicaid Assistance	AS 47.05.010(1) AS 47.07.010	7AAC Ch.43

*Requires concurrence of Department of Public Assistance

SUBJECT	STATUTE	REGULATIONS
Energy Assistance	AS 47.05.010	7AAC Ch.44
Aid to Families with Dependent Children	AS 47.25.330	7AAC Ch.45
Food Stamps	AS 47.25.980	7AAC Ch.46
General Relief Assistance	AS 47.25.120	7AAC Ch.47
Catastrophic Illness Assistance	AS 47.08.130	7AAC Ch.48
Public Assistance Fair Hearings	AS 47.05.010(10)	7AAC Ch.49
Residential Child Care Facilities (Day Care, & Foster Care, Standards & Licensing)	AS 47.35.030	7AAC 50.001-620 7AAC 50.119
Foster Home Care Payments	AS 47.10.150(8) *AS 47.10.250 AS 47.40.010	7AAC 50.710-850
Design, Construction, Repair, Maintenance, & Operation Juvenile Correctional Facilities & Juvenile Detention Facilities	AS 47.10.150(3)	7AAC Ch.52
Adult Residential Care Facilities	AS 47.80.130 AS 47.35.030	7AAC Ch.55
Community Mental Health Services	AS 47.30.540(a)	7AAC Ch.71

*Section 2, Chapter 138 SLA 1982
Suspended the effects of this section until 6/30/84

STATE OF ALASKA - DEPARTMENT OF LAW

CASE MANAGEMENT / TIME REPORTING SYSTEM

REPORT: CASES FOR H&SS/OTHER BY WORK TYPE BY WORK MANAGEMENT NUMBER FROM TO

HAPPY NEW YEAR

ATTORNEY	WORK TYPE	WMNO	R	CASE TITLE
MUNSON, MYRA	AID TO AGENCY	566-188-83		CONFIDENTIALITY OF H&SS RECORDS SEX ABUSE CASES
SNOW, REBECCA	AID TO AGENCY	566-056-84		SEC 109 AGREEMENT/CROW BAND
SNOW, REBECCA	AID TO AGENCY	566-057-84		TRANSP EXP FOR WITNESSES
SNOW, REBECCA	AID TO AGENCY	566-071-84		DAY CARE LICENSING--MILITARY BASES
SNOW, REBECCA	AID TO AGENCY	566-072-84		BARROW-ICWA & TEXAS HOMESTUDY
MUNSON, MYRA	AID TO AGENCY	566-125-84		PL 96-272 HEARING REQUIREMENTS & FORMS REVISION
CERRO, LINDA	AID TO AGENCY	366-399-83		AUTHORITY FOR JOB PROGRAMS UNDER AFDC
SCOCCIA, LINDA	AID TO AGENCY	366-022-84		KETCHIKAN YOUTH FACILITY LEASE REVIEW
SHAW, ELIZABETH	AID TO AGENCY	366-023-84		RVW OF COMMUNITY MENTAL HEALTH CLINIC GRANT PROCESS--SEARCH
FROEHLICH, PETE	AID TO AGENCY	366-082-84		FEDERAL OFFER TO FUND NEW MEDICAID FRAUD UNIT IN AGO
CERRO, LINDA	AID TO AGENCY	366-197-84		MEDICAID UPPER LIMITS AND RESTRICTED GRANTS
SHAW, ELIZABETH	AID TO AGENCY	366-216-84		ALCOHOL COMMITMENT PROCEDURES (JUNEAU)
CERRO, LINDA	AID TO AGENCY	366-235-84		RVW PUBLIC ASSISTANCE APPLICATION FORM
SHAW, ELIZABETH	AID TO AGENCY	366-302-84		SLIDING SCALE FEE SYSTEM HOME HEALTH NURSING
ROBERTSON, RICK	AID TO AGENCY	366-304-84		CTI LIBRARY SYSTEMS INC--SECURITY INTEREST
SHAW, ELIZABETH	AID TO AGENCY	366-324-84		AAFSA--EMBALMING REGS
TALLY WORK TYPE: 24				
ROBERTSON, RICK	LEGISLATIVE DRAFTING	377-077-84		CONTRACTING W/SOC SERV ADMIN TO ADMINISTER ADULT PUB ASSIST
HORETSKI GAYLE	LEGISLATIVE DRAFTING	377-083-84		FOOD STAMP FRAUD
TALLY WORK TYPE: 2				
SCOCCIA, LINDA	REGULATION REVIEW	399-041-81		PLACEMENT AGENCY
ROBERTSON, RICK	REGULATION REVIEW	399-099-82		(7 AAC 43, 47 & 48)G.R., G.R./MED, MEDICAID, CATAS
CERRO, LINDA	REGULATION REVIEW	399-108-82		(7 AAC 45) AFDC REGS
SHAW, ELIZABETH	REGULATION REVIEW	399-001-83		DAY CARE (7 AAC 50.120--275)
SHAW, ELIZABETH	REGULATION REVIEW	399-077-83		MEDICAID "S17" (7 AAC 43.005,020,035,090,770,780)
CERRO, LINDA	REGULATION REVIEW	399-105-83		AFDC/INCOME ELIGIBLTY STANDRDS & MAXIMUM PMTS (7 AAC 45.140)
SHAW, ELIZABETH	REGULATION REVIEW	399-123-83		MEDICAID (7AAC 43.115--7 AAC 43.730)
SHAW, ELIZABETH	REGULATION REVIEW	399-137-83		RESIDENT CHILD CARE FACILITY (7 AAC 50.001--114)
ROBERTSON, RICK	REGULATION REVIEW	399-139-83		DISEASE REPORTING REGS (7 AAC 20.340--410 & 27.005--020)
CERRO, LINDA	REGULATION REVIEW	399-145-83		MED ASSIST: PROSPECTIVE PAYMENTS (7 AAC 43.710, 715 & 720)
SCOCCIA, LINDA	REGULATION REVIEW	399-003-84		CERT OF NEED AMS (7 AAC 07)
SHAW, ELIZABETH	REGULATION REVIEW	399-004-84		ADULT PA CFEC PERMITS (7 AAC 40.230)
SHAW, ELIZABETH	REGULATION REVIEW	399-013-84		AMS TO EMT REGS (7 AAC 26.010--130)
SCOCCIA, LINDA	REGULATION REVIEW	399-023-84		AMS DESIGN/CONSTR HOSP FACIL (7 AAC 9)
SCOCCIA, LINDA	REGULATION REVIEW	399-028-84		TIME OF USE GRANT INCOME (7 AAC 78.210)
SHAW, ELIZABETH	REGULATION REVIEW	399-032-84		CURRENT H&SS ORGANIZATION IN AAC
ROBERTSON, RICK	REGULATION REVIEW	399-034-84		ENERGY ASST PROG--7 AAC 44.040 ETC.
SHAW, ELIZABETH	REGULATION REVIEW	399-057-84		ASSISTANCE FOR COMMUNITY HEALTH FACILITY
ROBERTSON, RICK	REGULATION REVIEW	399-062-84		AMOUNT OF ENERGY ASSISTANCE (7 AAC 44.080)
SHAW, ELIZABETH	REGULATION REVIEW	399-073-84		EMT CERTIFICATION--7 AAC 26.100
TALLY WORK TYPE: 20				

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 480
Title: "An act relating to adoption and expiration of a regulation..."
Sponsor: Bettisworth and Liska
Requestor: State Affairs
Date of Request: 2-21-84

FISCAL DETAIL
Agency Affected: Labor
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Occupational Safety and Health BRU, Occupational Safety and Health Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		131.6	139.5	147.9	156.8	166.2
200 TRAVEL		7.4	7.9	8.3	8.8	9.4
300 CONTRACTUAL		38.9	41.2	43.7	46.3	49.1
400 SUPPLIES		2.0	2.1	2.2	2.4	2.5
500 EQUIPMENT		14.8				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		194.7	190.7	202.1	214.3	227.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		194.7	190.7	202.1	214.3	227.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3	3	3	3	3
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert J. Bacolas Phone: 465-4870
Division: Labor Standards and Safety Date:
Approved by Commissioner: Jim Robison Date: 2/29/84
Agency: Labor 465-2700
LEG:B:B
Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Reviewing and revising regulations on a three-year cycle will be a large task for the Occupational Safety and Health BRU. There are thousands of regulations which currently impact Occupational Safety and Health. To accomplish this will require the following three new positions plus a micro-computer:

An Administrative Officer II will supervise and coordinate the Occupational Safety and Health regulations development and review program. The incumbent will develop a system to keep track of the thousands of standards and regulations currently enforced by the Occupational Safety and Health Section to assure that these regulations and standards are reviewed every three years. The tracking of these regulations will require a person who is familiar with data processing as it will take an automated tracking system to accomplish this task. The incumbent will also assure that comments recieved on various regulations are kept so that a summary of such comments as required under AS 44.62.025(b)(2) can be prepared and will prepare the cost estimates for proposed regulations.

An Occupational Safety Compliance Officer will provide the technical expertise necessary to determine if an Occupational Safety and Health regulation is still necessary or should be revised or revoked. The incumbent will also do technical research necessary to come up with meaningful cost estimates of compliance of proposed standards by persons, industries, and businesses directly affected by the proposed regulation.

A Clerk Typist III is necessary to provide clerical support for the administrative officer and compliance offficer. The incumbent will provide clerical support for the tracking system that will be used to review regulations on a three-year cycle and to keep track of the comments received on various regulations. The incumbent will also provide the clerical support that will be required to prepare fiscal impact statements and supporting statements for retention of regulations.

A special cost will be the purchase of a personal computer to track the regulations. Purchase of the computer, software, and necessary accessories will require a one-time expense of approximately $10,000. Another cost of $5,000 per year will be for printing regulations.

The following assumptions were made in preparing this fiscal note:

1. An effective date of July 1, 1984.
2. Each provision contained in the 15 OSHA codes currently in effect is considered as a separate regulation. This assumption is being used as it is now necessary to go through the entire promulgation process to change each provison.
3. An inflation rate of 6% for FY's 1986-1989.

LEG:B:8

Title	Range/Step	Barg. Unit	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
nal Safety Compliance Officer	50B	LTC				

osition	Staff Months	RP Number	PCN Number	BRU Priority	Location	Election District	LEG.		
	12				Anch.				

TINUATION LEVEL		ADDITION	
e of Expenditure			Amount
1		2	3
L SERVICES			
3492		41,904	
		6,998	
tal Benefits		2,550	
efits		2,724	
ERSONAL SERVICES	01		54,176
	02		3,471
al	03		10,628
es	04		500
	05		1,600
OST			70,375

CODE	FUNDING SOURCE		
	Federal Receipts	1002	
	G.F. Match	1003	
	General Funds	1004	70,375
	I-A Receipts	1005	
	Program Receipts	1028	
	Other		

Only

__ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION This position will provide the technical expertise necessary to determine if an occupational safety and health regulation is still necessary or should be revised or revoked. The incumbent will do technical research necessary to come up with meaningful cost estimates of compliance of proposed standards by persons, industries, and businesses directly affected by the proposed regulation. Also, this position will respond to technical questions about the regulations from the public.

Other costs associated with this postion are as follows:

Travel consists of three trips to Anchorage and two to Fairbanks (three days each).

Contractual: Rent $3,600, Indirect $5,028 and basic operating costs of $2,000.

Commodities: Basic operating supplies.

Equipment: Desk, chair and filing cabinet (one-time cost)

FOR NEW POSITION

AGENCY Labor

FY 85

PROGRAM Worker Protection

BRU Occupational Safety and Health

COMPONENT Occupational Safety and Health

Revised Date

LEG:F:26

	Position Title				Range/Step	Barg. Unit	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
1	Administrtive Officer II				19B	GGU				
	Type of Position	Staff Months	RP Number	PCN Number	BRU Priority	Location	Election District	LEG.		
2	PFT	12				Juneau				

3	CONTINUATION LEVEL		ADDITION
4	Type of Expenditure		Amount
	1	2	3
	PERSONAL SERVICES		
5	Salary 3287	39,444	
6	Benefits	6,587	
7	Supplemental Benefits	2,418	
8	Fixed Benefits	2,724	
9	TOTAL PERSONAL SERVICES	01	51,173
10	Travel	02	3,953
11	Contractual	03	10,333
12	Commodities	04	500
13	Equipment	05	1,600
14	Other		
15	TOTAL COST		67,559

	RECEIPT CODE	FUNDING SOURCE		
16		Federal Receipts	1002	
17		G.F. Match	1003	
18		General Funds	1004	67,559
19		I-A Receipts	1005	
20		Program Receipts	1028	
21		Other		

For M&B Use Only
4A Key Number __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION This position will supervise and coordinate the Occupational Safety and Health regulations development and review program. The incumbent will develop a system to keep track of the thousands of standards and regulations currently enforced by the Occupational Safety and Health Section to assure that these regulations and standards are reviewed every three years. The tracking of these regulations will require a person who is familiar with data processing as it will take an automated tracking system to accomplish this task. The incumbent will also assure that comments received on various regulations are kept so that a summary of such comments as required under AS 44.62.-025(b)(2) can be prepared. The Administrative Officer will assure that meaningful supportive reasons are given for the continuation or the revocation of existing standards.

Other costs associated with this position are as follows:

Travel consisting of five trips to Anchorage (3 days each).

Contractual: Rent at $3,600, Indirect costs $4,733, and basic operating costs of $2,000.

Commodities: Basic operating supplies.

Equipment: Desk, chair and filing cabinet (one-time cost).

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Occupational Safety & Health

COMPONENT Occupational Safety & Health

FY 85

Revised Date

LEG:F:27

	Position Title				Range/Step	Barg. Unit	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
1	Clerk Typist III				8B	GGU				
	Type of Position	Staff Months	RP Number	PCN Number	BRU Priority	Location	Election District	LEG.		
2	PFT	12				Juneau				

3	CONTINUATION LEVEL		ADDITION	
4	Type of Expenditure		Amount	
	1		2	3
	PERSONAL SERVICES			
5	Salary 1598		19,176	
6	Benefits		3,202	
7	Supplemental Benefits		1,175	
8	Fixed Benefits		2,724	
9	TOTAL PERSONAL SERVICES	01		26,277
10	Travel	02		-0-
11	Contractual	03		12,901
12	Commodities	04		1,000
13	Equipment	05		1,600
14	Other			
15	TOTAL COST			41,778

	RECEIPT CODE	FUNDING SOURCE		
16		Federal Receipts	1002	
17		G.F. Match	1003	
18		General Funds	1004	41,778
19		I-A Receipts	1005	
20		Program Receipts	1028	
21		Other		

For M&B Use Only
4A Key Number __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION This position is necessary to provide clerical support for the administrative officer and consultant. The incumbent will provide clerical support for the tracking system that will be used to reveiw regulations on a three-year cycle and to keep track of the comments received on various regulations. The incumbent will also provide the clerical support that will be required to prepare fiscal impact statements and supporting statements for retention of regulations.

Other costs assoicated with this position are as follows:

Contractual: Rent $3,600, Indirect cost $2,301, and basic operating costs $7,000.

Commodities: Basic operating supplies.

Equipment: Desk, chair, and filing cabinet (one-time cost).

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Occupational Safety & Health

COMPONENT Occupational Safety & Health

FY 85

Revised Date

LEG:F:28

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 480
Title: "An act relating to adoption and expiration of a regulation"
Sponsor: Bettisworth and Liska
Requestor: State Affairs
Date of Request: 2-21-84

FISCAL DETAIL
Agency Affected: Labor
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Labor Standards and Safety
Wage and Hour and Mechanical Inspection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		60.9	64.6	68.5	72.6	76.9
200 TRAVEL		3.5	3.7	3.9	4.1	4.4
300 CONTRACTUAL		26.9	28.5	30.2	32.1	34.0
400 SUPPLIES		1.5	1.6	1.7	1.8	1.9
500 EQUIPMENT		3.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	96.0	98.4	104.3	110.6	117.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	96.0	98.4	104.3	110.6	117.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert J. Bacolas
Division: Labor Standards and Safety
Phone: 465-4870
Date: 2-22-84

Approved by Commissioner: Jim Robison
Date: 2-22-84
Agency: Labor

LEG:B:7
Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE
BILL/RESOLUTION NO: HB 480
TITLE: "An Act relating to adoption and expiration of a regulation"
AGENCY AFFECTED: Department of Labor

Reviewing and revising regulations on a three year basis would require an increase of the following two new positions:

Regulations Specialist I -

This position will assure that the three year review of Labor Standards & Safety regulations is properly conducted and that comments received on these regulations are tracked and compiled. The incumbent will work with the Administrative Officer and Compliance Officer in the Occupational Safety & Health BRU and prepare the required fiscal impact statements when a new or revised Wage and Hour or Mechanical Inspection regulation is proposed. The Labor Standards & Safety BRU administers 11 separate sets of regulations within the Administrative Code. These regulations cover subjects ranging from union election processes to public employment agency licensing to public safety inspections of boilers and electrical systems.

Clerk Typist III -

This position will provide the clerical support required to keep track of regulations and comments, and provide the usual typing support that will be required to prepare the fiscal impact statements and justification for retaining a regulation.

One-time item of $3,200 is for equipment.

LEG:B:7

	Position Title				Range/Step	Barg. Unit	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
1	Regulation Specialist I				13	GGU				
	Type of Position	Staff Months	RP Number	PCN Number	BRU Priority	Location	Election District	LEG.		
2	PFT	12				Anchorage				

3	CONTINUATION LEVEL		ADDITION
4	Type of Expenditure		Amount
	1	2	3
	PERSONAL SERVICES		
5	Salary 2166	25,992	
6	Benefits	4,508	
7	Supplemental Benefits	1,593	
8	Fixed Benefits	2,724	
9	TOTAL PERSONAL SERVICES	01	34,817
10	Travel	02	3,458
11	Contractual	03	9,021
12	Commodities	04	500
13	Equipment	05	1,600
14	Other		
15	TOTAL COST		49,396

	RECEIPT CODE	FUNDING SOURCE		
16		Federal Receipts	1002	
17		G.F. Match	1003	
18	100	General Funds	1004	49,396
19		I-A Receipts	1005	
20		Program Receipts	1028	
21		Other		

For M&B Use Only
4A Key Number __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

The Regulation Specialist will assure that the three year review of LS&S regulations is properly conducted and that comments received on these regulations are tracked and compiled. The incumbent will work with the Administrative Officer and Compliance Officer in the OSH BRU to prepare the required fiscal impact statements when a new or revised Wage and Hour or Mechanical Inspection regulation is proposed. The LS&S BRU administers 11 separate sets of regulations within the Administrative Code. These regulations cover subjects ranging from union election processes to public employment agency licensing to public safety inspections of boilers and electrical systems.

Other costs associated with this position:

Travel: Travel consists of three trips to Juneau and three trips to Fairbanks.

Contractual: Rent $3,600, Indirect cost $3,421 and $2,000 basic operating costs.

Commodities: Basic operating supplies.

Equipment: Desk, chair, and filing cabinet are one-time costs.

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Public Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

FY 85

Page 1 of 2

Revised Date

LEG:F:24

	Position Title				Range/Step	Barg. Unit	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
1	Clerk Typist III				8B	GGU				
	Type of Position	Staff Months	RP Number	PCN Number	BRU Priority	Location	Election District	LEG.		
2	PFT	12				Anchorage				

3	CONTINUATION LEVEL		ADDITION	
4	Type of Expenditure			Amount
	1		2	3
	PERSONAL SERVICES			
5	Salary 1598		19,176	
6	Benefits		3,202	
7	Supplemental Benefits		1,175	
8	Fixed Benefits		2,724	
9	TOTAL PERSONAL SERVICES		01	26,277
10	Travel		02	-0-
11	Contractual		03	12,901
12	Commodities		04	1,000
13	Equipment		05	1,600
14	Other			
15	TOTAL COST			41,778

	RECEIPT CODE	FUNDING SOURCE		
16		Federal Receipts	1002	
17		G.F. Match	1003	
18	100	General Funds	1004	41,778
19		1-A Receipts	1005	
20		Program Receipts	1028	
21		Other		

For M&B Use Only
4A Key Number __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION The Clerk Typist III will provide the clerical support required to keep track of regulations and comments, and provide the usual typing support that will be required to prepare the fiscal impact statements and justification for retaining a regulation.

Contractual: Rent 3,600, indirect 2,301 and 7,000 basic operating cost.

Commodities: Basic operating supplies.

Equipment: Desk, chair, and filing cabinet.

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Public Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

FY 85

Page 2 of 2

Revised Date

LEG:F:25

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 480
Title: "An act relating to adoption and expiration of a regulation"
Sponsor: Bettisworth and Liska
Requestor: State Affairs
Date of Request: 2-21-84

FISCAL DETAIL
Agency Affected: Labor
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Workers' Compensation
Second Injury

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		12.8	13.6	14.4	15.3	16.2
200 TRAVEL		6.4	6.8	7.2	7.6	8.1
300 CONTRACTUAL		73.2	77.6	82.3	87.2	92.4
400 SUPPLIES		1.0	1.1	1.1	1.2	1.3
500 EQUIPMENT		1.6	-0-			
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	95.0	99.1	105.0	111.3	118.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	95.0	99.1	105.0	111.3	118.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME		1	1	1	1	1
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Jacquelyn McClintock Phone: 465-2790
Division: Workers' Compensation Date: 2-23-84

Approved by Commissioner: Jim Robison Date: 2-22-84
Agency: Department of Labor
LEG:B:9

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE
BILL/RESOLUTION NO: HB 480
TITLE: "An Act relating to adoption and expiration of a regulation..."
AGENCY AFFECTED: Department of Labor

The reviewing and revising of regulations on a three-year cycle would require contracting an attorney and one part-time clerk typist.

A professional attorney's services would be needed for approximately 640 hours a year to maintain an on-going annual review of regulations affecting the Workers' Compensation Board. The Workers' Compensation Board is a quasi-judical body and, as such, its regulations on Workers' Compensation administration, self-insurance, Second Injury Fund and Vocational Rehabilitation involve highly complex and technical legal processes and procedures similar to those in the Administrative Procedures Act. Therefore, the services of an attorney are required to perform the legal research and writing that is necessary in the regulation review process proposed under HB 480. The estimated cost is $48,000 for the attorney's fees.

One part-time clerk typist would be required to type the regulations, distribute draft regulations to various parties for their review, maintain a comprehensive file of the regulations, and handle correspondence concerning the review process.

Other special costs associated with this bill would be $12,000 for printing and mailing costs. Revised Workers' Compensation regulations will need to be reviewed by labor and employer representation groups, insurers, medical and vocational rehabilitation providers, and various attorneys. This wide distribution warrants this extra printing and mailing expense.

Also, one additional board session would be required annually to review and approve the proposed changes of regulations. Estimated cost is $6,400.

Assumptions: A 6% inflation rate is used from 1985 thru 1989.

One-time cost includes equipment of desk, chair, and file cabinet.

	Position Title			Range/Step	Barg. Unit	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
1	Clerk Typist III			8A	GGU				
	Type of Position	Staff Months	RP Number	PCN Number	BRU Priority	Location	Election District	LEG.		
2	PPT	6				Juneau				

3	CONTINUATION LEVEL		ADDITION	
4	Type of Expenditure			Amount
	1		2	3
	PERSONAL SERVICES			
5	Salary	1553	9,318	
6	Benefits		1,556	
7	Supplemental Benefits		571	
8	Fixed Benefits		1,362	
9	TOTAL PERSONAL SERVICES		01	12,807
10	Travel		02	-0-
11	Contractual		03	13,218
12	Commodities		04	1,000
13	Equipment		05	1,600
14	Other			
15	TOTAL COST			23,625

	RECEIPT CODE	FUNDING SOURCE		
16		Federal Receipts	1002	
17		G.F. Match	1003	
18		General Funds	1004	28,625
19		I-A Receipts	1005	
20		Program Receipts	1028	
21		Other		

For M&B Use Only
4A Key Number __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION This position located in Juneau would type the revised regulations, distribute draft regulations to various parties for their review, maintain a comprehensive file of the regulations, and handle correspondence concerning the review process.

Other costs associated with this position would include:

Contractual: Rent $3,600, basic operating costs $7,000, indirect $1,118.

Commodities: Basic operating supplies.

Equipment: Desk, chair, filing cabinet (one-time items).

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Public Protection

BRU Workers' Compensation

COMPONENT Workers' Compensation

FY 85

Page 1 of 1

Revised Date

LEG:F:30

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 480
Title: "An act relating to adoption and expiration of a regulation..."
Sponsor: Bettisworth and Liska
Requestor: State Affairs
Date of Request: 2-21-84

FISCAL DETAIL
Agency Affected: Labor
Program Category Affected: Social Services
BRU, Program or Subprogram(s) Affected: Commissioner's Office
Commissioner's Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		40.6	43.1	45.7	48.4	51.3
200 TRAVEL						
300 CONTRACTUAL		9.3	9.9	10.5	11.1	11.7
400 SUPPLIES		.5	.5	.6	.6	.6
500 EQUIPMENT		1.6	--	--	--	--
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		52.0	53.5	56.8	60.1	63.6
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		52.0	53.5	56.8	60.1	63.6
FEDERAL FUNDS						
OTHER						
TOTAL		52.0	53.5	56.8	60.1	63.6

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: NB Jim Robison
Division: Commissioner's Office
Phone: 465-2700
Date:

Approved by Commissioner: NB Jim Robison
Agency: Department of Labor
Date: 2/28/84

LEG:B:10
Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE
BILL/RESOLUTION NO: HB 480
TITLE: "An Act relating to adoption and expiration of a regulation..."
AGENCY AFFECTED: Department of Labor
Page 2

One position would be required in the Commissioner's Office to coordinate the department's regulation review process. This position will act as the interface between the various divisions' reviewers and the Commissioner's staff. The positon will also interface with other State offices in gathering information concerning regulations.

The position would be classified as a Regulation Specialist II and located in Juneau. No special costs would occur with this position other than normal expenses.

Inflation is assumed to be six percent for fiscal years 1985-1989.

LEG:B:10

	Position Title				Range/Step	Barg. Unit	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
1	Regulation Specialist II				16A	GGU				
	Type of Position	Staff Months	RP Number	PCN Number	BRU Priority	Location	Election District	LEG.		
2	PFT	12				Juneau				

	CONTINUATION LEVEL		ADDITION	
3				
4	Type of Expenditure		Amount	
	1		2	3
	PERSONAL SERVICES			
5	Salary 2573		30,876	
6	Benefits		5,156	
7	Supplemental Benefits		1,893	
8	Fixed Benefits		2,724	
9	TOTAL PERSONAL SERVICES	01		40,649
10	Travel	02		-0-
11	Contractual	03		9,305
12	Commodities	04		500
13	Equipment	05		1,600
14	Other			
15	TOTAL COST			52,054

	RECEIPT CODE	FUNDING SOURCE		
16		Federal Receipts	1002	
17		G.F. Match	1003	
18		General Funds	1004	52,054
19		I-A Receipts	1005	
20		Program Receipts	1028	
21		Other		

For M&B Use Only
4A Key Number __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION This position will coordinate the department's review process. The position will act as an interface between the various divisions reviewers and the commissioner's staff. The person will monitor all regulations to ensure they are updated in a timely manner.

Other operating costs associated with this position are as follows:

Contractual: Rent 3,600, indirect cost 3,705, basic operating cost 2,000.

Commodities: Regular operating supplies.

Equipment: Desk, chair, and filing cabinet (one-time items).

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Social Services

BRU Commissioner's Office

COMPONENT Commissioner's Office

FY 85

Page 1 of 1

Revised Date

LEG:F:29

MF

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: , 1984
Page 1 of 1

REQUEST
Bill/Resolution No.: HB 480
Title: An Act relating to adoption and expiration of a regulation, and providing for an effective date
Sponsor: Bettisworth and Liska
Requestor: House State Affairs
Date of Request:

FISCAL DETAIL
Agency Affected: All
Program Category Affected: All
BRU, Program of Subprogram(s) Affected: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC	0	0	0	0	0	0
800 MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Kenneth R. Ryals Ken Ryals
Division: Administrative Services
Phone: 465-2277
Date: February 14, 1984

Approved by Commissioner: Lisa Rudd
Agency: DEPARTMENT OF ADMINISTRATION
Date: 2/15/84

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

5/2D2/0214-01/1

MF

Position Paper

HB 480

Section 1 of this bill would add two additional criteria that must be placed in the notice of proposed adoption, amendment, etc. The first proposed addition, (6), appears to be reasonable and should be included. The second proposed addition to AS 44.62.200(a), which is (7), is material which will normally become known and be generated by public hearing and is not necessarily known prior to said hearing. The Department would support the adoption of Section 1 if it were amended to drop the proposed inclusion of (7).

Section 2 would cause all regulations promulgated under the Administrative Procedures Act to become null and void by default if positive steps are not taken to continue, in some form, those regulations. We believe the intent of Section 2 is to cause departments to periodically review their regulations to keep them current as well as cull those regulations which are no longer appropriate. We would applaud that purpose. We do not believe the abolishment of regulations by inactivity is the appropriate means to that end. We believe one result which would be accomplished by passage of Section 2 is to perpetuate a body of regulations in the Administrative Code which all parties believe is in effect but in reality may no longer have legal standing. The only way, under the proposed legislation, to determine if a regulation is still in effect is to check with the Lt. Governor's office to determine if the appropriate papers have been filed to assure its continuation. Additionally, this section would provide means to abolish regulations much needed for protection of the public, etc., without public hearing by merely remaining silent on the issue. This department cannot support Section 2 as proposed.

The Department of Administration opposes this bill in its current form.

Kenneth R Ryals — 2-14-84

Kenneth R. Ryals — Date
Director
Division of Administrative Services

Lisa Rudd — 2/15/84

Commissioner Lisa Rudd — Date
Department of Administration

5/2D2/0214-01/2

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 480
Title: .....adoption and of a regulation....
Sponsor: Rep. Robert H. Bettisworth
Requestor: State Affairs
Date of Request:

FISCAL DETAIL
Agency Affected: Education
Program Category Affected: Elementary and Secondary Education
BRU, Program or Subprogram(s) Affected: Executive Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		25.7	27.0	28.4	29.8	31.3
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		25.7	27.0	28.4	29.8	31.3
CAPITAL		0				
REVENUE		0				

FUNDING: (Thousands of Dollars)

GENERAL FUND		25.7	27.0	28.4	29.8	31.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Bill will require addition of one Clerk Typist III.

ANALYSIS: Attach a separate page for analysis

Prepared By: Steve Hole Phone: 465-2800
Division: Commissioner's Office Date:

Approved by Commissioner: Harold Raynolds, Jr. Date: 2/10/83
Agency: Education

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Revision Date: February 9, 1984

REQUEST
Bill/Resolution No.: HB 480
Title: "An Act Relating to Adoption & Expiration of a Regulation"
Sponsor: Bettisworth & Liska
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: AK. Dept. of Env. Cons
Program Category Affected: All 14 programs
BRU, Program or Subprogram(s) Affected: All 5 divisions

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		100.0	100.0	110.0	110.0	120.0
200 TRAVEL		5.0	5.0	5.0	5.0	5.0
300 CONTRACTUAL		25.0	25.0	35.0	35.0	35.0
400 SUPPLIES		5.0	5.0	5.0	5.0	5.0
500 EQUIPMENT		10.0	10.0	10.0	15.0	15.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		145.0	145.0	165.0	165.0	175.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		145.0	145.0	165.0	165.0	175.0
FEDERAL FUNDS						
OTHER						
TOTAL		145.0	145.0	165.0	165.0	175.0

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Joe Cladouhos Phone: 465-2640
Division: Environmental Quality Management Date: February 9, 1984

Approved by Commissioner: Richard A. Neve' Date: February 10, 1984
Agency: Alaska Dept. Environmental Conservation

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

POSITION PAPER ON HB 480

FEBRUARY 9, 1984

The Department of Environmental Conservation supports the amendments proposed in Section 1.

DEC opposes the requirements that would be imposed by Section 2 regarding expiration and review of regulations. At present the department administers regulations in Title 18 of the Alaska Administrative Code, a total of 320 pages. Most of these regulations have been developed or amended as necessary since 1976. HB 480 would require either "sunset" or a burdensome review of all these regulations, if enacted. The Litter Reduction and Recycling statute specifically included a sunset provision; this statute expires July 30, 1984. It is felt that this type of statutory comment is more appropriate than the proposed costly review exercise covering all existing or future regulations.

At present it takes from one to two years to develop regulations, have public hearings, redraft and promulgate the regulations. The requirements of Section 2 would virtually shut down all other efforts of our Central Office program managers for several months a year. In addition it is anticipated that we would need two professional staff and a clerk typist to assist these people in doing a meaningful review pursuant to the detail in Section 2. It is felt that this proposal would be very time intensive and not cost effective for the general public, regulated community, or the department.

FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 480
Title: "...adoption and expiration of a regulation."
Sponsor: Rep. Bettisworth
Requestor: Off. of the Gov. - OMB
Date of Request:

FISCAL DETAIL
Agency Affected: Department of Law
Program Category Affected: General Government
BRU, Program or Subprogram(s) Affected: Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		182.9	193.9	205.5	217.8	230.9
200 TRAVEL		9.0	9.5	10.1	10.7	11.3
300 CONTRACTUAL		15.0	15.9	16.9	17.9	19.0
400 SUPPLIES		16.8	11.4	12.1	12.8	13.6
500 EQUIPMENT		16.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	239.7	230.7	244.6	259.2	274.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	239.7	230.7	244.6	259.2	274.8
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	4	4	4	4	4
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor.

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Rogues, Director (Richard I. Rogues) Phone: 465-3672
Division: Administrative Services Date: 1-26-84
Approved by Commissioner: Norman C. Gorsuch (Richard I. Rogues) Date: 1-26-84
Agency: Department of Law

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Fiscal Note
Analysis
HB 480

January 26, 1984

Enactment of this bill will have a significant impact on the department's operations and it will, at the very least, double the considerable amount of time that the Department of Law's attorneys and other legal staff already devote to regulations review and regulations drafting. On an annual basis, the bill would require review of one-third of the state's entire administrative code. The department already spends a substantial amount of time reviewing regulations as they are adopted to see to it that they serve the statutory purpose for which they are intended. This task, which includes ensuring that regulations are legal, clear, understandable, and workable, would have to be expanded to insure that the supporting reasons that agencies provide for continuing regulations meet the new justification requirements, contained in the bill, in a substantive fashion.

In addition to the necessity to undertake the massive and perpetual review process, which would be mandated by the enactment of this bill, the state would also be exposed to interruptive and costly litigation whenever a department fails to timely continue regulations that are required for the operation of an ongoing state program. Such events are not susceptible to measurement in advance; however, they are bound to occur. No cost estimate is included for this latter eventuality. A consequence of an inadvertent failure to "continue" a set of regulations could be the complete shutdown of a program that everybody (agency, legislature, and public) agrees is a good one--a very high price to pay to assure periodic review of regulations.

Based upon the department's current regulations work, and based upon the substantial body of the state's administrative code, we estimate that the department will need one Attorney IV, one Associate Attorney II, and one Legal Secretary I to handle the increased regulation review workload that will be required by enactment of this bill. The department will also need one Paralegal Assistant II to monitor the three year review process and to coordinate and track the line-agency review activities of other departments to prevent the unintended expiration of regulations that are required for the lawful operation of state provided services.

Other departments that have responsibility for administering state regulations will have corresponding fiscal impact implementing the three-year review process, depending upon the number and complexity of the regulations they administer. If the review and the five-part "statement of an adequate supporting reason" are to be thoughtful and worthwhile, a considerable amount of work and additional personnel will be required by those agencies that administer regulations.

Fiscal Analysis - HB 480

The positions required for the Department of Law to review one-third of the regulations contained in the state's administrative code each year are one Attorney IV, one Associate Attorney II, one Paralegal Assistant II, and one Legal Secretary I. All of the positions will be located in Juneau. The first year of the fiscal analysis is FY 85. The costs beyond FY 85 include a 6% inflation factor.

1st Year (FY 85)

	Atty IV	Assoc. Atty II	Paralegal Asst II	Leg. Sec. I	Total
Personal Services	63.5	49.6	40.6	29.2	182.9
Travel	3.5	3.5	2.0		9.0
Contractual					
Communications & Copying	3.0	3.0	3.0	3.0	
WP/Document Product.				3.0	15.0
Commodities - Ongoing					
Office Expendables	1.8	1.8	1.8	1.8	
Library	1.2	1.2	1.2		10.8
Commodities - single time					
New Position Supplies	1.5	1.5	1.5	1.5	6.0
Equipment - single time					
New Position Equip.	1.5	1.5	1.5	1.5	
Word Processor				10.0	16.0
	76.0	62.1	51.6	50.0	239.7

1.	POSITION TITLE Attorney IV			RANGE/STEP 24A	BARG. UNIT PX	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		

3.	CONTINUATION LEVEL		ADDITION	
4.	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
	PERSONAL SERVICES			
5.	Salary		53,568	
6.	Benefits		8,785	
7.	Supplemental Benefits		2,550	
8.	Fixed Benefits		2,640	
9.	TOTAL PERSONAL SERVICES	01		63,543
10.	Travel	02		3,500
11.	Contractual	03		3,000
12.	Commodities	04		4,500
13.	Equipment	05		1,500
14.	Other			
15.	TOTAL COST			76,043

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	76,043
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position is needed to handle the legal review of the existing body of regulations in the state's Administrative Code, one-third of which must be reviewed each year. The supporting reasons for continuing regulations beyond three years will also be reviewed to ensure that the justification provided by agencies has, in fact , a substantive basis. An Attorney IV level position will be necessary because many of the state's regulations, such as those dealing with mental health, finance and commerce, and transportation and public utilities, are very complex and often highly technical.

13 REQUEST FOR NEW POSITION

AGENCY DEPARTMENT OF LAW

PROGRAM GENERAL GOVERNMENT

BRU LEGAL SERVICES

COMPONENT LEGAL SERVICES OPERATIONS

Page of

Revised Date

FY 85

1.	POSITION TITLE Associate Attorney II				RANGE/STEP 19A	BARG. UNIT PX	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL		ADDITION							

	4. TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	38,316	
6.	Benefits	6,284	
7.	Supplemental Benefits	2,349	
8.	Fixed Benefits	2,640	
9.	TOTAL PERSONAL SERVICES	01	49,589
10.	Travel	02	3,500
11.	Contractual	03	3,000
12.	Commodities	04	4,500
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		62,089

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
10.		General Funds 1004	62.089
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR O&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position is needed to assist the Attorney IV handling the three year review of regulations contained in the state's Administrative Code. The position will handle the review of routine, less complex regulations, independently, and assist the attorney reviewer with more complex, lengthy regulations. Use of this advance level paralegal is appropriate for this work and more cost effective and efficient than adding two licensed attorneys to handle the three year review of regulations.

13 REQUEST FOR NEW POSITION

AGENCY DEPARTMENT OF LAW

PROGRAM GENERAL GOVERNMENT

BRU LEGAL SERVICES

COMPONENT LEGAL SERVICES OPERATIONS

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Revised Date

FY 85

1.	POSITION TITLE Paralegal Assistant II			RANGE/STEP 16A	BARG. UNIT CGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL		ADDITION						

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	30,876	
6.	Benefits	5,064	
7.	Supplemental Benefits	1,893	
8.	Fixed Benefits	2,736	
9.	TOTAL PERSONAL SERVICES	01	40,569
10.	Travel	02	2,000
11.	Contractual	03	3,000
12.	Commodities	04	4,500
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		51,569

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	51,569
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&H USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position is needed to coordinate the efforts of other departments in the three year review of the entire body of regulations contained in the Alaska Administrative Code. The position will monitor and track review activities in departments responsible for administering state regulations to ensure that regulations that are lawfully required for the operation of state service programs do not unintentionally expire. This level of work is ideally suited for a paralegal assistant, given the large body of code, up to one-third of the state's existing regulations, which must be reviewed each year.

13 REQUEST FOR NEW POSITION

AGENCY DEPARTMENT OF LAW

PROGRAM GENERAL GOVERNMENT

BRU LEGAL SERVICES

COMPONENT LEGAL SERVICES OPERATIONS

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Revised Date

FY 85

1.	POSITION TITLE: Legal Secretary I			RANGE/STEP: 10B	BARG. UNIT: GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION: Juneau	ELECTION DISTRICT: 4	LEG.		
3.	CONTINUATION LEVEL		ADDITION						

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	21,636	
6.	Benefits	3,548	
7.	Supplemental Benefits	1,326	
8.	Fixed Benefits	2,736	
9.	TOTAL PERSONAL SERVICES	01	29,246
10.	Travel	02	-0-
11.	Contractual	03	6,000
12.	Commodities	04	3,300
13.	Equipment	05	11,500
14.	Other		
15.	TOTAL COST		50,046

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	50,046
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position is needed to provide legal secretarial services for the attorney, associate attorney and the paralegal assistant who will handle the three year review of regulations. The position will be responsible for producing a very large amount of legal documentation needed for continuing, repealing or amending the state's existing regulations, one-third of which must be reviewed each year.

13 REQUEST FOR NEW POSITION

AGENCY DEPARTMENT OF LAW

PROGRAM GENERAL GOVERNMENT

BRU LEGAL SERVICES

COMPONENT LEGAL SERVICES OPERATIONS

Page of

Revised Date

FY 85

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST
Bill/Resolution No: HB 480
Title: . . . Adoption and expiration of a regulation.
Sponsor: Bettisworth
Requestor: House State Affairs
Date of Request:

FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected:

BRU, Program of Subprogram(s) Affected: Commissioner's Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
	OPERATING						
100	PERSONAL SERVICES	-	15.8	16.74	17.74	18.80	19.92
200	TRAVEL	-	2.0	2.12	2.24	2.37	2.51
300	CONTRACTUAL	-	13.0	13.78	14.60	15.47	16.39
400	SUPPLIES	-	.2	.21	.22	.23	.24
500	EQUIPMENT	-	.8	.84	.89	.94	.99
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS	-	-	-	-	-	-
800	MISCELLANEOUS	-	-	-	-	-	-
	TOTAL OPERATING	-	31.80	33.69	35.69	37.81	40.05
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	GENERAL FUND	-	31.80	33.69	35.69	37.81	40.05
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER	-	-	-	-	-	-
	TOTAL	-	31.80	33.69	35.69	37.81	40.05

POSITIONS:

	FULL-TIME	-	-	-	-	-	-
	PART-TIME	-	-	-	-	-	-
	TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis.

Prepared By: Bruce M. Botelho
Division: Commissioner's Office
Phone: 465-2300
Date: 02/27/84

Approved by Commissioner: Robert O'Keefe
Agency: Revenue
Date: 2/29/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Analysis for HB 480

House Bill 480 imposes two new and significant requirements on Alaska's regulation process: Section 1 would require that notices of adoption include justification and impact statements. Section 2 would require an agency to review each regulation within three years of its effective date. The agency may either continue, amend or repeal the regulation.

The notice requirement has two impacts: (1) it will dramatically increase the actual costs of publication; and (2) it will increase the exposure to litigation. Presumably the failure to precisely set forth the justification or the estimated impact could form a basis for challenging any regulation under AS 44.62.300.

The process of continuing, amending or repealing a regulation is one that should be occurring in every agency. Nevertheless, this bill would likewise invite litigation since continuation would require "an adequate supporting reason"--thus suggesting that this determination is ultimately up to the courts. Deletion of the term "adequate" might avoid some of this problem.

It should be noted that the review process itself is not subject to public notice. This is implied in proposed AS 44.62.025(b). Proposed AS 44.62.025(b)(3) largely appears to be duplicative of AS 44.62.025(b)(1), (2), and (4) and could be deleted. Proposed AS 44.62.025(b)(5) is not necessary as AS 44.62.040 already requires that the statutory authority be set forth in the regulations and AS 44.62.060 requires that the Department of Law review all proposed regulations with regard to legality, constitutionality, and consistency with other regulations and existence of statutory authority to support the regulation.

FY 85

I.	Personal Services	
	1 PPT Administrative Assistant I (R 10); 12 months, half time; salary and benefits of $1,313/mo.	15.8
II.	Travel	
	Two trips to Anchorage for 1 week per trip would be required for review of regulations in our two Anchorage divisions.	2.0
III.	Contractual	
	Publication costs for regulations as well as telephone charges.	13.0
IV.	Supplies and Equipment	
	A new desk, chair, file cabinet, calculator, etc. Office supplies will be needed for the new position.	1.0
		31.80

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 480
Title: An Act relating to adoption and expiration of a regulation
Sponsor: Bettisworth
Requestor: House State Affairs
Date of Request: 2-21-84

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Life and Property Protection
BRU, Program or Subprogram(s) Affected: Division of Motor Vehicles

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Charles R. Hosack
Division: Motor Vehicles
Phone: 269-5551
Date: 2-17-84

Approved by Commissioner:
Agency: Public Safety
Date: 2/21/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB

484

Introduced: 1/9/84
Referred: State Affairs and Finance

IN THE HOUSE BY FRITZ BY REQUEST

HOUSE BILL NO. 484

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the creation of the World War II History Commission; and providing for an effective date."

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

* Section 1. WORLD WAR II HISTORY COMMISSION ESTABLISHED. There is created in the Office of the Governor the World War II History Commission. The purpose of the commission is to gather and make available to the public films, documents, and other materials commemorating the participation of Alaska in World War II.

How about representing different regions of the State?

* Sec. 2. MEMBERSHIP AND TERM OF OFFICE. The commission consists of five Alaskans who are veterans of World War II. Members of the commission are appointed by and serve at the pleasure of the governor.

* Sec. 3. COMPENSATION. Members of the commission receive no compensation for their services but are entitled to per diem and travel allowances authorized by law for other boards and commissions.

* Sec. 4. DUTIES. The commission shall

(1) cooperate with public and private agencies to gather information and documents concerning the participation of Alaska in World War II;

(2) preserve the materials gathered and make them available to the public; How?

(3) expend the funds appropriated to the commission to carry out the purposes of this Act;

(4) report annually to the legislature and the governor the

activities of the commission; and

(5) perform all acts necessary to carry out the purposes of this Act.

* Sec 5. DEFINITION. In this act "commission" means the World War II History Commission.

* Sec. 6. This Act is repealed June 30, 1986.

* Sec. 7. This Act takes effect July 1, 1984.

Editor's note. — This section derives from AS 44.19.942 and was renumbered by the revisor under 01.05.031.

Article 3. Alaska Historical Commission.

Section
61. Creation
62. Composition
63. Appointment
64. Terms of office
65. Compensation
70. Duties of the commission
72. Reports
74. Executive director
76. Gifts and income

Editor's note. — Alaska Statutes 44.27.061 — 44.27.076 derive from AS 44.19.461 — 44.19.501, which were repealed by § 2 of Executive Order No. 43 (1980).

Section 5, Executive Order No. 43 (1980) provides: "Contracts and proceedings entered into by the commission are not affected by the relocation made by this order."

Sec. 44.27.061. Creation. There is created in the Department of Education the Alaska Historical Commission. (Executive Order No. 43 § 3 (1980))

Sec. 44.27.062. Composition. The Alaska Historical Commission consists of four members appointed by the governor, ex officio the lieutenant governor, and ex officio the executive director who may not vote. The lieutenant governor shall serve as chairman. (Executive Order No. 43 § 3 (1980))

Sec. 44.27.063. Appointment. The governor shall make his appointments from a list of recommended nominees submitted to him each year by the Alaska Historical Society. In the first year of the commission the list of nominees shall contain at least eight names and in each subsequent year the list shall contain at least four names. A person who has served on the commission may be renominated. (Executive Order No. 43 § 3 (1980))

Sec. 44.27.064. Terms of office. The term of office for each appointed member of the commission is two years; however, of the members first appointed, two shall serve for one year and two shall serve for two years. When a member's term has expired and a replacement has not been appointed, the member shall continue to serve until a replacement is appointed. (Executive Order No. 43 § 3 (1980))

Sec. 44.27.065. Compensation. The members of the commission are not entitled to receive compensation for their services, but they are entitled to receive the same travel pay and per diem as state officials and employees. (Executive Order No. 43 § 3 (1980))

Sec. 44.27.070. Duties of the commission. The duties of the commission are to

(1) survey, evaluate, and catalog Alaska prehistory and history materials now in print;

(2) ascertain and register what Alaska prehistory and history work is now in progress;

(3) identify the existing gaps in the coverage of Alaska's past in presently available published works and establish priorities for bridging them;

(4) prepare a thematic study of Alaska's history for historic preservation;

(5) identify the sources of Alaska's history;

(6) coordinate the production and publication of works that will adequately present all aspects of Alaska's past; and

(7) cooperate with the federal government in programs relating to history and archaeology. (Executive Order No. 43 § 3 (1980))

Sec. 44.27.072. Reports. The commission shall make an annual report to the governor. (Executive Order No. 43 § 3 (1980))

Sec. 44.27.074. Executive director. The commission shall appoint, subject to approval by the governor, an executive director who is to be in the partially exempt service as set out in AS 39.25.120. The executive director shall serve as the executive officer of the commission in the accomplishment of its functions. He serves at the direction and at the pleasure of the governor. (Executive Order No. 43 § 3 (1980))

Sec. 44.27.076. Gifts and income. (a) There is established in the state general fund a special Alaska Historical Commission receipts account into which shall be paid:

(1) all monetary gifts, grants, and bequests received by the commission;

(2) all royalties and other income which the commission receives from its projects.

(b) The legislature may appropriate funds from this account for commission projects. (Executive Order No. 43 § 3 (1980))

Chapter 29. Department of Health and Social Services.

Article
1. Organization (§§ 44.29.010 — 44.29.020)
2. Advisory Board on Alcoholism (Repealed)
3. Advisory Board on Drug Abuse (§§ 44.29.100 — 44.29.150)

Editor's note. — Section 6, ch. 104, SLA 1971, as amended by § 56, ch. 71, SLA 1972, provides: "Wherever the title 'Department of Health and Welfare' appears in the law of this state, it shall be read as the 'Department of Health and

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 484
Title: WW II History Commission

Sponsor: State Affairs
Requestor: Fritz
Date of Request: 1/9/84

FISCAL DETAIL
Agency Affected: Office of the Governor
Program Category Affected: General Government

BRU, Program or Subprogram(s) Affected:
Executive Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		62,205	64,000	65,500		
200 TRAVEL		12,344	14,344	15,000		
300 CONTRACTUAL		10,427	12,427	13,500		
400 SUPPLIES						
500 EQUIPMENT		13,122	2,000	3,500		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		98,098	92,771	97,500		
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		2.0	2.0	2.0		
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Michael A. Nizich Phone: 465-3616
Division: Admin. Services/Executive Office Date: 1/31/84

Approved by Commissioner: Laura J. Herman Date: 2-1-84
Agency:

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Fiscal Note on HB 484

The fiscal impact on the Office of the Governor is as follows:

Personal Services: 62,205.00

	Mo. Sal.	Yearly	25% Bene	Total
Administrative Assist., Range 16	2,586.00	31,032.00	7,758.00	38,790.00
Clerk Typist, Range 8	1,561.00	18,732.00	4,683.00	23,415.00
				62,205.00

Administrative personnel are required to gather information and documents from public & private agencies concerning the participation of Alaska in WW II. Also to preserve and index materials gathered in order to make them readily available to the public. In addition, support positions are required to ensure minutes of the meetings are taken and the preparation of the annual report is compiled for the Legislature and Governor.

Travel: 12,344

Travel consists of four meetings annually, to be conducted in Anchorage, Fairbanks, Juneau and Kotzebue. This would entail travel costs for airline tickets for each member of the Commission plus the appropriate per diem rate. Meetings are estimated to be approximately two days in length in each location.

5 Member Commission
$80. per day Per Diem
2 Day Meetings

Meetings Held	Transp	Per/ Diem	Minimum Total
Anchorage	1,422	1,200	2,622
Juneau	1,618	1,200	2,818
Fairbanks	1,634	1,520	3,154
Kotzebue	2,230	1,520	3,750
	6,904	5,440	12,344

Contractual Services: $10,427.00

Office Space	4,170.00
Conference Room Space	4,500.00
Phone (rental)	1,096.00/yr.
Work Station (30 x 60)	250.00
Stationery	90.00
Office Supplies (approx.)	300.00
Business Cards	21.00
	$10,427.00

Equipment: $13,122.00

Displaywriter, diskette & printer	9,296.00
Typewriter, Sel. III	789.00
Calculator	190.00
2 file cabinets (4 drawer, ltr) 203. ea.	406.00
1 desk - double pedestal	397.50
1 desk - sec. w/return	505.00
1 chair - exec.	306.00
1 chair - sec.	250.00
2 chairs - side	300.00
1 bookcase - 4 shelf	150.00
2 partitions - 4 x 5 266. ea.	532.00
	$13,122.00

TOTAL: 98,098.00

Paul Faulkner chairman of United Veterans phoned to advise us of his request for the commission make-up. What he wants is the commission to consist of three former Aleutian campaign veterans. These are people who actually participated in repeling the Japanese invasion in the Aleutians during World War II. He believes that from a historical position these members would be able to best inform the commission on where the most important places are located and what buildings should become historical monuments.

WW II History Commission (establishing)

HOUSE BILL NO. 484, by Rep. Fritz by Request. Would establish the World War II History Commission in the Office of the Governor. The purpose of the Commission is to ". . .gather and make available to the public films, documents, and other materials commemorating the participation of Alaska in World War II."

The Commission would consist of five Alaskans who are WW II veterans. Members would be appointed by and serve at the pleasure of the Governor. Members would receive no compensation but would be entitled to per diem and travel allowances. The Commission would terminate June 30, 1986. Provides Act takes effect July 1, 1984.

Introduced January 9 and referred to State Affairs, Finance.

State Budget (establishing bi nial)

HOUSE BILL NO. 485, by Reps. Bettisworth & Pestinger. Would establish a biennial state budget (currently drafted on an annual basis). The "Intent" section of the bill states: "It is the intent of the legislature that the planning and preparation of the state budget be on a biennial basis. The biennial budget shall contain appropriations for the succeeding two fiscal years and state agencies shall prepare their budgets on this basis. However, the legislature further intends that reporting and auditing required of state agencies by law remain on an annual basis, for each fiscal year of the biennial budget."

Would require the governor to prepare and submit to the legislature before the fourth legislative day of each second regular legislative session a budget for the succeeding two fiscal years. Would allow the governor to propose adjustments to the biennial budget during each first regular session, including special and supplemental appropriations. Changes all applicable statute references to reflect the change from "annual" to "biennial". Provides Act takes effect on the effective date of an amendment to the state constitution providing for a biennial state budget (see HJR 52, page 55).

Introduced January 9 and referred to State Affairs, Finance.

State Park Facilities (fees for use of)

HOUSE BILL NO. 486, by Rep. Bettisworth. Authorizes the Department of Natural Resources to establish and collect fees for the use of recreational and educational facilities established under AS 41.21 (Parks and Recreational Facilities). In adopting fees the Department is to consider the cost to the state of operating the facility, fees charged for the use of a similar facility by the private sector, the cost of administering a fee collection program at the facility, and the public interest. The Department is to submit a report to the legislature within the first 10 days of a regular session indicating the revenue generated, the cost of administering the fees and public comment on the fees. Provides Act takes effect immediately.

Introduced January 9 and referred to Resources, Finance.

(No 2 (

I suggest you read attached Draft of Suggested Format

3601 Cumberland St. N.W.
Washington, D. C. 20008
22 October 1983

Colonel Evan J. Griffith, Jr.
Commanding Officer
21st Tactical Fighter Wing
Elmendorf Air Force Base
Alaska 99510

Dear Colonel Griffith:

This is to pass to you my thoughts and action following the conference in your office on September 21st, and to give you a suggested format for our visual documentary of WWII in Alaska.

I agree with you that it will cost more than $100,000, and believe we should make the sort of production we feel ought to be made, get the funds to pay for it and do the thing right. I also believe this is feasible.

It is suggested that the final production be under the direction of professionals and the story be narrated by personnel from the three services--veterans who are identifiable with what it is all about. To this end, I am enclosing a draft of a format covering the introduction to the production which I have called a "Prologue". It sets the stage for what is to follow.

In addition to what I have mentioned in the enclosure, I will call attention to film and stills which were made in recent years, as for example, the 11th Air Force film made at the reunion in 1980, and some film and video tape which can be put on film, taken on the occasion of the dedication of the Memorial at Unalaska in 1982. From these and the WWII film and stills from WWII, we can select most of what we need. Then comes the chore of editing it, putting it together in the sequence we want and adding to it coverage of the Aleutians at the present time, possibly including under water shots in the bay at Kiska.

Dr. Milo Fritz was our guest at dinner here last Sunday night, and he is serious about getting Alaskan support. He needs an estimate of the cost and a draft of proposed legislation by mid-December. We should be able to give these to him. General Necrason can help line up political support for it. Also, we should not wait until then to get the support of the Alaska Historical Commission. The Chairman is, I believe, a close friend of Milo's. (Milo said the Commission was short of money. That did not cause me to weep.)

I discussed this project with LGEN Joseph Bratton, Chief of Engineers, and told him of the Corps film at the National Archives and that money would be required to get a copy of it. He indicated that funds could be found for it and that he would get in touch with BG James W. Van Loben Sels, Division Engineer, North Pacific Division, Corps of Engineers, Portland, Oregon, Col. Neil Saling's immediate commander. Accordingly, there is enclosed a letter to Col. Saling which I wish you to pass to him.

Early on, meaning by mid-December, we should have an estimate of cost--money we need to get the job done. We ought to find separately funds to carry us to January.

I will do what I can to help the project and am willing to return to Anchorage in December to help put this thing together. I should be able to come Space A and hopefully can stay at VOQ at Elmendorf and not reopen our house at Anchor Point. I would like for Virginia to be there also to help draft the legislation while the legislators are still in Anchorage. She knows most of them and has worked with them before on capital relocation legislation. However, we need to find a way to cover her transportation. It is essential to have this legislation ready before the legislature convenes.

Should you wish to get in touch with me, call our Washington, D. C. telephone number, 202 - 362-4219. We will be here until 3 November when we must go to New York, to return on Sunday, 6 November. We should be here from then until about 17 November when we must go on business to Peoria, Illinois, and to St. Louis, to be gone for 10 days to two weeks. Save for routine engagements, we should be home from the time of our return from the Peoria/St. Louis trip until Christmas.

Should need arise, I would like to call you. What is the best hour, Alaska time, to call you? What number should I call?

I know Admiral Russell quite well and can ask for his assistance. In any event, I must call or write him to tell him what has happened.

We send our kindest regards to you and to your lovely lady.

Most sincerely,

B. B. Talley
Brig. Gen. USA-Ret.

(201 (

Read #s 1 thru 3 of "Preliminary Proposal" attached and thumb the remainder.

Star Route Box 600
Anchor Point, AK 99556
23 September 1983

Colonel Joe Griffith
21st Tactical Fighter Wing
Elmendorf AFB, AK 99506

Dear Joe:

With reference to our discussion regarding a visual documentary covering WWII in Alaska, I have prepared a Preliminary Proposal for the preparation of a Comprehensive Visual History of WWII in Alaska which is enclosed.

I am sending this to you in the hope that we may get the show on the road and have it completed by the time of the commemorative ceremony you mentioned for 1984. It is a big order, but it can be done.

I will not go into this proposal here except to request that we have a meeting of key personnel on Tuesday, 3 October, at 1400 hours. See paragraph 3, page 1 of proposal. I suggest a small group of key personnel attend the meeting; say under 10. I suggest that you set up the meeting and invite those who are to attend.

Virginia and I must be in Washington by 10 October, and if the meeting can be held on Tuesday the 4th, we will come to Elmendorf on Monday the 3rd and leave for Washington later in the week, hopefully on Space A.

I talked with John Clute this morning, and his secretary notified your office that I would telephone you around 0730 Monday 26 September, which will be before you receive this. Should I fail to talk with you, it would be appreciated if you would telephone me (235-7473) when you have read this.

It was a grand party over last weekend - one we shall remember for a long time.

Most sincerely,

B. B. Talley
BG, USA-Ret.

Preliminary Proposal
23 September 1983

WORLD WAR II IN ALASKA
A Comprehensive Visual History
Prepared by
B. B. Talley, BG - USA - Ret.

The following is an outline, preliminary in nature, showing what may be involved in the preparation of a comprehensive documentary film of the principal military operations during World War II in Alaska.

1. Objective: The preparation of a comprehensive visual military history of World War II in Alaska.

There is a wide variety of World War II photographs, motion picture film, etc., prepared by, and in the possession of the military services and other organizations and individuals. It should be readily available.

A consolidation of the best of these would make an invaluable historic document.

2. Participants. It is proposed that the US Army, Navy and Air Force, the State of Alaska, pertinent US civic organizations and individuals, and the Royal Canadian Air Force join together and prepare a comprehensive visual history of World War II in Alaska. The Japanese might be invited to participate in such a production, if deemed to be appropriate.

3. Organizational Structure. Realization of such a project requires the support of the government agencies involved, primarily by permitting the usage of existing records in such a visual history, and possibly by helping finance the final production which should be done by professionals. The work should be carried out under the guidance of an Executive Committee or board comprised of people from all the participating agencies. It is suggested that an Executive Committee or board be established for this purpose, and that the nucleus of such a group meet at Elmendorf Air Force Base at 1400 hours, October 4, 1983, with

Colonel Joe Griffith as Chairman pro tempore.

A small group of individuals invited to attend this meeting may be selected from those listed under "Participating Agencies and Key Personnel" which follows. Aside from the organization of the Executive Committee, the principal immediate duty is the adoption of a schedule leading to the completion of the project.

4. Participating Agencies and Key Personnel.

(a) United States Government

(1) US Army

BG Gerald H. Bethke, CG 172d Infantry Brigade, Ft. Richardson, AK 99505

LCOL Brandon Weathers, Public Affairs Officer, HQ 172d Inf. Brigade (AK). Correspondence: Attn: AFZT-PO, Ft. Richardson, AK 99505

COL Neil E. Saling, Corps of Engineers, District Engineer, Alaska District, Elmendorf AFB. Correspondence: P.O. Box 7002, Anchorage, AK 99510. (907) 279-1132/862-8110

Mr. Bruce T. Batten, Public Affairs Officer, Alaska District, Corps of Engineers, Elmendorf AFB. Correspondence: P.O. Box 7002, Anchorage, AK 99510

BG B. B. Talley, US Army, Retired
March through September: Star Route Box 600, Anchor Point, AK 99556. (907) 235-7473
October through February: 3601 Cumberland St. N.W., Washington, D. C. 20008. (202) 362-4219

Mrs. Virginia M. Talley, legal adviser, address as above

(2) US Navy

ADM James S. Russell, USN-Ret., 7734 Walnut Ave. S.W., Tacoma, Wash. 99498. (206) 588-9356

Other representatives as may be proposed by Admiral Russell

RADM John D. H. Kane, Director of the Naval Historical Center, Director of Naval History, Washington Navy Yard, Washington, D. C. 20374. (202) 433-2210

Commodore Theodore E. Lewin, USN, Commander, Naval Base, Seattle, Wash. 98115. (206) 527-3281

(3) US Air Force

LTG Bruce K. Brown, CG, Alaska Air Command, Elmendorf AFB, AK 99506

COL Joe Griffith, 21st Tactical Fighter Wing, Elmendorf AFB, AK 99506. (907) 552-2121

COL Lash G. Sanford, Director of Public Affairs, Elmendorf AFB, AK 99506

Mr. John H. Cloe, Command Historian, Office of History, Elmendorf AFB, AK 99506. (907) 552-4763

GEN R. J. Reeves, USAF-Ret., 510 L Street, Anchorage, AK 99501. (907) 276-1178

MG C. F. Necrason, USAF-Ret., 2094 Enquire Drive, Anchorage, AK 99503. (907) 274-0848

(4) Alaska Congressional Delegation

Honorable Ted Stevens, United States Senate, 260 Russell Office Bldg., Washington, D. C. 20510

Honorable Frank Murkowski, United States Senate, 15 B Russell Office Bldg., Washington, D.C. 20510

Honorable Donald E. Young, 1210 Longworth House Office Bldg., Washington, D. C. 20515

(b) State of Alaska

Governor Bill Sheffield, Pouch A, Juneau, AK 99811

Senator Jalmar Kerttula, President of the Senate, Box Z, Palmer, AK 99645

Representative Joe L. Hayes, Speaker of the House, 515 D St., Anchorage, AK 99501, (907) 272-8222/ 278-9363

Dr. Milo Fritz, State Representative, P. O. Box 158, Anchor Point, AK 99556. (907) 235-8366

(c) Other Organizations and Individuals Which May Be Helpful

(1) Alaska Natives

Mr. Phil Tutiakoff, Chairman, Aleutian/Pribilof Island Association, Unalaska, AK 99685. (907) 581-1275

(2) Air Force Association

COL T. L. Jenne, USAF-Ret., President, Air Force Association, P. O. Box 4-2579, Anchorage, AK 99509. (907) 265-8403

Mr. Adam D. Johnson, Jr., Past President, Air Force Association, P. O. Box 4-2579, Anchorage, AK 99509. (907) 333-6766

Mr. William E. Brooks, 9610 Victor Road, Anchorage, AK 99502. (907) 349-3795 (res.) 344/0213 (bus.)

(3) 11th Air Force Association

COL Charles Pinney USAF-Ret., 304 Esplanade, Apt. 401, Redondo Beach, CA 90277. (213) 540-8160

Mr. Raiford Perry, P.O. Box 396, Whitehorse, TX 75791. (214) 839-2507

LCOL Laurence Reineke, USAF-Ret., 112 North Street, Middletown, N.Y. 10940. (914) 343-3000
Mr. Don Cooley, 200 Skydrivevue, Gainesville, GA 30501
COL Joe E. Schneider, 1850 Vista del Lago, Fallbrook, CA 92028. (619) 723-4497

(4) Other Individuals
Mr. Robert Atwood, Publisher and Editor, The Anchorage Times, 820 West Fourth Ave., Anchorage, AK 99501. (907) 279-5622
LCOL Lyman L. Woodman, USAF-Ret., 117 East Cook Ave., Anchorage, AK 99501. (907) 277-0764
Mr. Roger Graves, Armed Services YMCA, 609 F Street, Anchorage, AK 99501. (907) 277-8522

(d) Royal Canadian Air Force

6. Schedule of Completion.

Completion of Project: May 1984.

In the meantime:

(a) Assemble and review all existing material such as motion picture film, photographs, video tapes made 1980 and later. Select material to be used. Complete by November 30, 1983.

(b) Assist in drafting legislation for obtaining financial and other assistance from the State of Alaska. This will include provision of back-up data necessary to insure political backing in the legislature. Complete by December 1983.

(c) Choose a professional agency to convert selected data into a completed product. January 1984

(d) Award contract for preparation of the visual history and for furnishing X-number of copies thereof. Award: February 1984. Complete 1 May 1984.

7. Cost. An accurate estimate of cost cannot be prepared until the scope of the project and thee requirements for its accomplishment are established.

In the meantime certain costs will be entailed in obtaining the required material from the organizations possessing such material. It is hoped that most of these costs can be met by the military services and other agencies concerned. For example, the several reels of motion picture film made by the Corps of Engineers during WWII which have just been renovated at the National Archives will be released, but we will have to pay for it. Perhaps this cost may be paid by the Corps of Engineers. Similarly, it may be possible for some of the services to assist in the payment of other expenses, providing they are within the purview of their other work.

The State of Alaska has a vested interest in such a production, since it was the scene of the action portrayed, and of all the states it was most affected by it. It should be requested to join in the project. The suggested timing of the work takes this into account.

In addition, certain individuals will of necessity incur expenses and should be reimbursed. Initially at least, such reimbursement may have to come from voluntary contributions.

The final production should be by contract with professionals who are qualified to do this sort of work. This may well be the greatest item of cost.

10-22-83

A COMPREHENSIVE VISUAL DOCUMENTARY
OF
WORLD WAR II IN ALASKA

A joint production by the Alaska Veterans of World War II, assisted by contributions by the US Army, Navy and Air Force, together with the State of Alaska, the Air Force Association, et al.

Draft of Suggested Format
Prepared by B. B. Talley

Background music.

Title and accreditation (Producer, Narrators, Contributors, etc.)

PROLOGUE with voice off camera. On the screen flashes of motion pictures and projected stills, changing every 3 to 5 seconds.

Voice off camera:

"ALASKA. A land of inestimable beauty...Its Mountains (McKinley)..Its Rivers...Forests...Lakes: _____ of them...Farms in the Matanuska Valley...A Coastline of _____ miles..."he Sea with its abundance of seafood: 35 million salmon alone caught in 1983...The Inside Passage (map) from Seattle to Skagway and to Haines...Its Cities (flash of Fairbanks, Anchorage, and perhaps Juneau)...Its vast natural resources: Oil...Coal... Timber...Gold and other rare metals...Its Industry: Mining.., Forestry...Fishing...Construction...Its People (Indians... Eskimos...Aleuts...Sourdoughs...Business Men and Women. Truly a Great Land." (Total time from 3 to 5 minutes.)

On the screen: A map of Alaska superimposed on a map to the same scale, of the South 48 States, with Ketchikan over Jacksonville, FL, and Attu over (vicinity of) San Diego.

As the map is projected, a veteran walks on stage and speaks:

"When the United States purchased Russia's interests in Alaska in 1867, the American people called it 'Seward's Ice Box' or

'Seward's Folly'. The natives called it 'Denali'--the Great Land. A land so vast that if Ketchikan (turns and points) were at Jacksonville, Florida, Attu--one of the Near Islands--would be at San Diego, and the oil fields at Prudhoe Bay would be in North Dakota and Minnesota.

"The Near Islands?" Near to what? _____ miles to Soviet Komandorskiye Islands, _____ miles from the Kamchatka Peninsula in Asia.

"Further north, Soviet Big Diomede Island is 5 miles from American Little Diomede. Until recently the Eskimos on these islands visited back and forth, but no more. The inhabitants of Russia's Big Diomede have been evacuated.

"But this is not a history of Alaska, which was governed as a Military District under the Department of California until it attained Territorial status in 1912, or until it became our 49th state in 1958.

"Rather, we present to you the story of World War II in Alaska as experienced by veterans of that war. Too often it is called 'The Forgotten War' or 'The Thousand Mile War'. A war that few Americans knew much about even while it was taking place; and fewer know now that during that war American territory was seized by the Japanese armed forces and occupied for 15 months before we were able to again bring it under the American flag.

"This is a story told by men who took part in that war and by natives who suffered because of it. It is a story the American people ought to know, to see for themselves pictures made at the time the action took place. They should see for themselves the tremendous effort required to build the bases from which our airmen, our soldiers and our navy operated in the defense of Alaska. They should see what those bases look like more than 40 years after the action took place.

"It is important that we do this. History not only tells us what has already happened, but if we are attentive, it will indicate what could occur in the future."

# # #

Here continue with a brief statement of the situation in Alaska just before we entered the war, including an account of Captain Streit's visit, General Arnold's photographic mission, an account of the passage of the Around the World Flyers in 1924, the statement of Billy Mitchell regarding the strategic importance of Alaska, etc.

This situation is partially covered in my talk at the EAFB on 17 September. Data covering the other items mentioned are readily available.

For the production, we must review the motion pictures and selected stills made by the three services, and by the Japanese as may be appropriate, and as can be obtained.

The foregoing material should be assembled at the EAFB for review by carefully selected personnel of the three services, and from these select what is needed for the documentary. At the same time we should determine what additional photographic coverage is needed both of the bases on the mainland and in the Aleutians. When this is done, we are well on our way to having the documentary we want.

Hopefully, we can assemble these data before the end of the year. As a starter, I spoke to the Chief of Engineers about the Corps film at the National Archives, and of our plans for this documentary. His reaction was expressed in a few words: "What can I do to help?" Action is being taken to get this film.

Note: your staff should be cognizant of this memo

28 October 1983

MEMORANDUM

Subject: Notes of Meeting re Comprehensive Film Documentary of WWII in Alaska, held at 2:00 P.M. October 4, 1983, in the office of Col. Griffith, Commander, 21st Tactical Fighter Wing, EAFB, Alaska

Prepared by: Virginia M. Talley

Present: From Elmendorf: Col. Evan J. Griffith, Jr.
Sgt. Bruce
Maj. R. J. Hayes, PAO
Mike Wassail, Exec.
From Ft. Richardson: Chuck Canterbury
Other: B. B. Talley
Virginia M. Talley

/Identification of speakers may be in error in some instances, since notes did not always identify the particular person./

I concur

Griffith: This should be a State project. Cannot have active duty personnel in charge of the project and have credibility in the state. KTVA or Alaska Historical Society might be involved. Griffith will act as interested party on part of the armed forces, to ensure access. Doesn't expect problems.

He will look in Anchorage area, contact Channel 7 and Historical Society and look for someone to hire.

BBT: Concurs that centralized place of contact should be at Elmendorf. It is more than an individual can do. Must have backing of the three services.

There should be an individual whose major duty is realization of the project. Must be someone who knows it, preferably someone who is familiar with the Aleutians. The individual should have liaison and be point of contact with the three services and have enough backing behind him so that he can speak for the project.

Agrees with feeling about the State. Rep. Fritz has said he will be glad to back any legislation that may be required. He and Necrason can get legislative support.

It might be a project for the Alaska Historical Commission.

The Corps of Engineers has about 1,000 feet of film which has been renovated by the National Archives. We should determine what film may be available from the Seventh Division at Ft. Ord. The unit should have a full time historical person.

BBT will go to the National Archives. Lyman Woodman is a good contact.

Griffith: More concerned in getting the project off the ground in terms of management. It is not proper for the active military to head the whole thing. There should be a Board of Directors--three or

four people such as BBT and Necrason as an advisory group for quality control on production. Need to select a chief executive officer--a person who will bear the brunt of seeing that the thing is done; also a secretary and treasurer.

Pro Tem, Griffith is willing to serve.

Whoever funds it will want a say in it also.

BBT: By end of November we should have in possession the bulk of information that the three services have. Hopes that the Corps of Engineers will be able to provide funds for obtaining the Corps' film from the Archives.

If possible, all film should be reviewed at the source, before purchase is made. However, we should review all material which is available. The committee should review the film and say what to discard. As an alternative, the CEO might do it.

Can the Historical Commission respond quickly? Rep. Fritz is a good contact with the Commission.

Priorities: (1) Get organization together. (2) Get material and review it by December. BBT is willing to come back to Alaska. (3) Choose a professional /agency(?)/ to transform selected data into a project. (4) Award contract for preparation of visual history. Complete by 1 May 1984. This may be optimistic, depending on whether or not we complete assembly of existing material, review it and determine exactly what we want in December and January. (5) Decide in January and February what additional shots we want--in the Aleutians and on the mainland.

Hayes (?): Could take copy to people like Roger Craves and see what his thoughts are. Enough material is on hand.

BBT: Where start? May, 1940. Army, Navy joint team made survey of situation. Elmendorf was #1, Ladd #2, Kodiak for Navy, with station at Dutch Harbor.

Elmendorf made the winning of the war possible in the Aleutians because it was in operation at the time of Pearl Harbor. Cold Bay - Air Corps bombers. Umnak. Through Attu and Kiska. There are many things under water at Kiska. Underwater photography is possible.

Length - 1 hour, or possibly 2-3 hours.

Scenario: Need outline before we can search for film.

Griffith: Cloe has sequential list of events as they happened.

BBT: Pinney has contact with California motion picture industry. He was active in the 11th Air Force; also Cooley, Perry and Reineke.

Hayes (?): In Anchorage, August (Augie) Hiebert, Channel 11, is a person who would be interested. He notified Gen. Buckner of Pearl Harbor.

Griffith: We have enough information to propose a method of doing business and put it out to the State. Necrason has indicated he will help. Must have an individual who is the project officer. Will talk to state firms and to Channel 7 (Hiebert and Roger Graves).

Hayes: Shocked by the proposed time frame. Must have a good outline. Don't undersell the project.

We don't have a good feeling for the cost. $250,000? $100,000 may be a realistic figure plus the salary of the CEO.

May be able to get a TV station to help assemble. A technical advisor is needed for review.

BBT: For BBT, out of pocket expenses are enough.

Get the project organized before we decide who will put the film together. Necrason might have a suggestion on personnel. Can be a retired individual.

If government is on the sidelines urging it on, we can request official help and get support and film, etc.

The Department of Defense audio-visual office may have to charge a small amount for film.

Hayes: Has friends, retired officers, who are film makers, audio-visual people. One particular individual, retired O6, comes to mind. We should not be satisfied with doing less than the best.

How long? Can make three segments; show an entire 60-minutes in a synopsized version.

Bruce: What about "Project Warrior"?

Griffith(?): Can support, but needs more resources. Need to go to Pentagon and ask for support. Once we have Pentagon backing, we can go to Archives and get anything we want instantly.

BBT: Should we seek help from Senator Ted Stevens?

Griffith or Hayes(?): You don't need him. If written up and spelled out, there will be no problem.

What is ultimate goal? Historic? Should be made available to the service academies, to services and to additional institutions, such as ROTC. Not to make money.

Hayes: Ted Turner could provide production capability and might do it on a non-profit basis.

BBT: Fact that Aleutian war was won at Elmendorf has never been known.

Hayes: Has WCBH been approached? They might be willing to help.

There was a touch about the Alaskan campaign in "Victory at Sea".

BBT: There is a story in Brown's relief by Landrum.

Hayes: Air Force can make their material available. Might also get some Japanese film.

Griffith: Agrees to talk with Air Force Association.

BBT: Alaska Film Studios have enough for a good short clip.

Is there anything you want me to do when I get to Washington?

Griffith: Not yet.

We must get some kind of management arrangement worked out. Working with Hayes, Griffith will pull it together and sell it to the Pentagon. Must find a source of money.

BBT: Col. Neil Saling will probably pay for getting Corps' film out of the Archives. On 17th October, BBT will see Chief of Engineers. Will talk with him and tell him that Griffith will get in touch with him.

Griffith: Hayes and Griffith will get material to BBT about whom he should see.

Don't want to let target dates lead us astray. Someone has to be manager, for a year or two.

The 25th Statehood Anniversary may be a good handle. Griffith will write to Sheffield.

3 Dec. 1983

Col. Evan J. Griffith Jr.
4-305 Williwaw Way
Elmendorf ABF, Alaska 99506

Dear ColGriffith:-

E few days ago I submitted an appropriation bill for $250,000 to be used for the collection and collation of films, photographs, diaries, and other examples of the written word that could be sed in the production of a documentary film commemorating Alaska's part in WWII. I will pre-file this Bill so that it will be introduced and assigned to committees on the first day of the second session of the Thirteenth State Legislature that opens up for business on 9 Jan. 1984.

When I received the Bill which will have been put in proper legal form by the Legislative Affairs Agency I will forward a copy of it to you as well as to Gen. Talley.

As you know the fate of any piece of legislation depends almost entirely on the interest in it on the part of the sponsors and their friends. To this end letters, phone calls, attendance of interested parties at Committee hearings, face-to-face meetings with the Governor and Legislators are very important and must be continued until the bill is signed by the Governor. It is a wearing business, but it is the only way.

I personally feel that Alaska's part in WW II is little known and deserves to be immortalized by gathering pertinent material in one place and making a documentary film about it that will interest the general public as well as students and scholars. I served as a medical officer in the Air Force in WWII much of it on the Aleutians. So I have a personal interest in having this bill passed. I will do all in my power to see that it is accomplished, but hope that all other interested people will do all that they can too.

Thank you for your letter and the polished up version of the bill will be forthcoming soon.

Dear Ben: I saw the brass plate on the Talley Room when I visited Cal Sahlin a few days ago.

Yours sincerely,

Milo

3601 Cumberland St. N.W.
Washington, D. C. 20008
27 November 1983

Dear Col. Griffith:

Thanks for your note of 22 November and its inclosures.

I believe we should send the proposal to the following additional individuals for the reasons stated.

The addresses of the following individuals are in my Preliminary Proposal of 23 September which you have.

Admiral James S. Russell, USN-Ret. He is interested in this project and is our best Navy contact. He knows who has the Navy film and how to get it. We can count on him.

11th Air Force Association:

Col. Charles Pinney, USAF-Ret. He spearheaded the 1980 11th AF Reunion, is a former movie actor, presently does commercials, is a doer and can help us in our contacts with professionals, cost estimates, etc.

Mr. Raiford Perry. I believe he was a co-pilot, maybe a pilot, in the Aleutians. He is one of the principal financial backers of the Confederate Air Force. Was a <u>generous</u> contributor to the 1980 11th AF Reunion. I am advised he paid for the procurement of some of the planes of the Confederate Air Force. Although a junior officer in WWII, his interest and support should benefit the project.

LCol. Laurence Peineke, USAF-Ret. He remains active in USAF activities and volunteered to contribute to cost of processing 11th AF Reunion film.

Mr. Don Cooley. An enlisted man in the Air Corps, probably one of the two wealthiest men at the 11th AF Reunion. I believe he will help us.

Col. Joe Schneider, USAF-Ret. Joe was a pilot for AAL prior to WWII. He is a close friend of Chuck Pinney and will help us.

Others whose addresses I do not have:

Col. Wayne K. Beckwith, USAF-Ret. I'm sure John Cloe, Col. Sanford and Major Hayes know or should know him well. We should solicit his help. I believe he is now an executive of the Anchorage Chamber of Commerce.

Senator Tim Kelley, whom you know.

There is a retired Admiral in the Coast Guard living in the Anchorage area. He is well recommended, and we should include him. He should be one of our best Coast Guard contacts, and we will need CG help as well as any film footage the CG may have. Coast Guard officers here speak very highly of him.

- - - - -

The time is ripe for us to commence assembling the film, etc., of the other services. I'm sure Major Hayes and John Cloe know how to get it, and I suggest that the officer of the Air Force Command Historian be the focal point for its assembly. We should try to get this without cost to us. I am confident that the Corps of Engineers can get what is at the National Archives--contact Col. Saling.

- - - - -

I talked to Milo Fritz yesterday, and he is drafting legislation calling for the State to furnish $250,000 for the project. He plans to complete this package in early December. We should back him and also at the proper time see if we can get an advance from the State through Milo (or maybe Tim Kelley) from the State Historical Commission.

As Little Abner said: "Time's a-wastin'."

We shall have to follow up with personal contacts to insure proper response from those we ask to help us.

Kindest regards to all.

Most sincerely,

B. B. Talley

22 Nov

21ST TACTICAL FIGHTER WING (AAC)
COMMANDER

Gen Talley,

Sorry it took so long to get this out. My time has been limited recently. Next step is to finalize the cost estimate (nearly done) and prepare a statement of work which can be used to bid/describe the effort. On the basis of response & in consonance with Br Fritz & Gen Dick, I'll petition the Historical Commission for funding. Should have this done by mid-Dec.

For your info, the included went out and to others. Please let me know if I'm missing anyone or any steps. Regards. Jim Griffith

WW II Documentary Proposal

Sent to:

Col Neil Saling
Mr Robert B Atwood
Mr Wm E. Brooks
MGen C.F. Necrason
BGen G.H. Bethke
Mr A.H. Fleetwood
Mr A.H. Hiebert
Mr E.A. Sackett
Mr F.G. Turpin
Mr G.M. Sullivan
Mr G.N. Nelson
Mr H. Heinze
Mr F.H. Jones
Mr R.K. Graves
Mr Jay Kortella
Mr P. Tutiakoff
Dr. M. Fritz
Mayor T. Knowles
Mr. J.S. Hammond
Ms. H. Flynn
Mr. Joe L. Hayes
Mr. T.L. Jenne
Gen. R.J. Reeves

4-305 Williwaw Way
Elmendorf AFB, AK 99506

November 18, 1983

Dear

Recent discussions with individuals who participated in (or are interested in) World War II in Alaska indicate strong interest in producing a film or videotape documentary of this important period in Alaska's history. On the basis of this interest, and at the urging of one of the architects of Alaska's WW II contributions, BGEN B.B. Talley, USA, Retired, I have drafted a proposal which might be used as a vehicle to kick off the effort and have agreed to act as the point-of-contact/facilitator for the effort until a responsible agent can be identified.

As you are among Alaska's leading figures, I solicit your thoughts on this undertaking and welcome your ideas as to its relevance and proposed conduct. Thank you for your consideration.

Sincerely,

EVAN J. GRIFFITH, JR., Colonel, USAF

1 Atch
Proposal

PROPOSAL TO DEVELOP A COMPREHENSIVE VISUAL DOCUMENTARY ON WORLD WAR II IN ALASKA

There exist several books and papers which purport to document WW II in Alaska; however, there does not appear to be a comprehensive visual documentary of the principal military operations of the war. As this is an important portion of Alaska's history, it would be appropriate to undertake such a project. In view of the advancing age of the still living participants, delay in production may preclude participation in filming by those who were there.

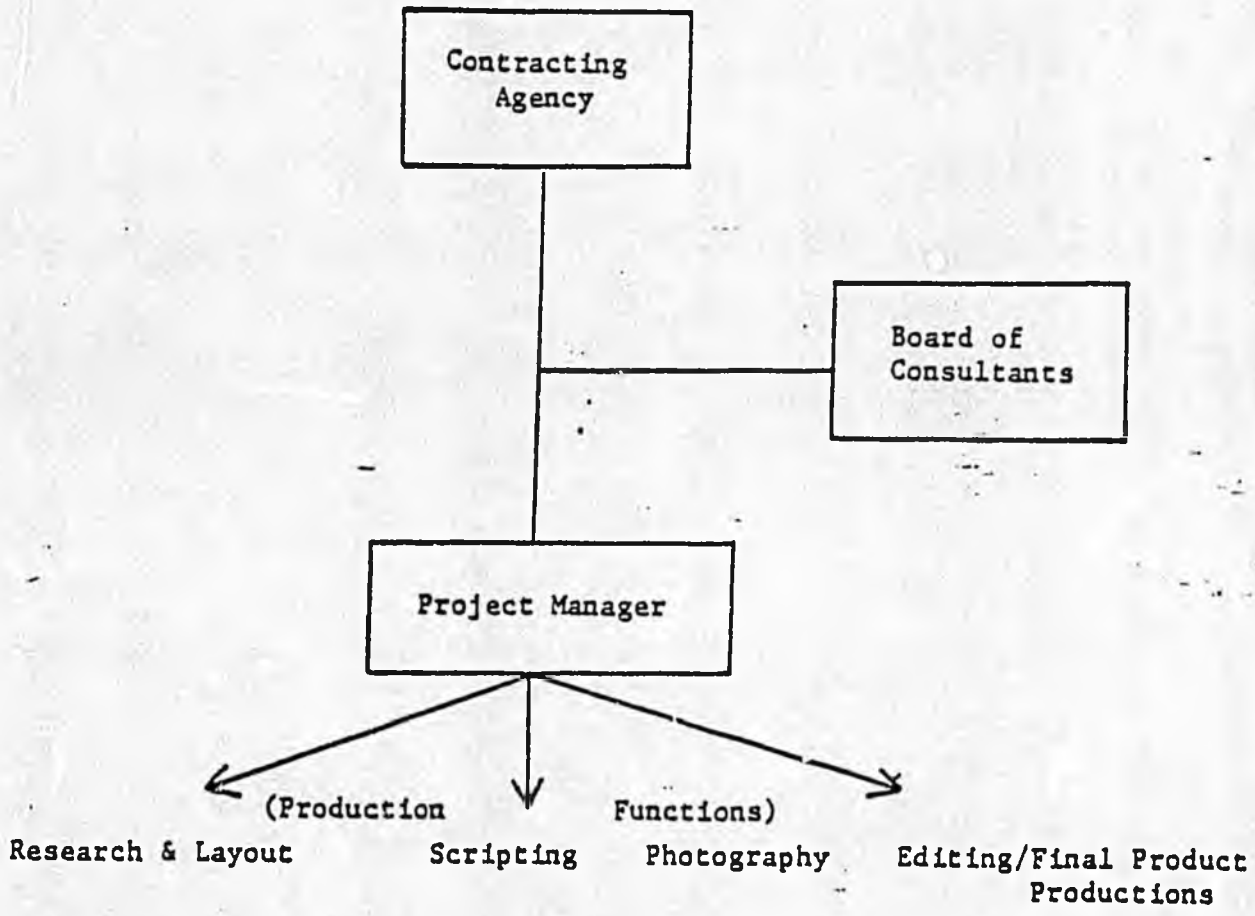
No single agency exists which has the wherewithal to conduct such an effort; therefore, the first activity in this effort should be to identify an organization to sponsor the work.

As the project envisions documentation of WW II in Alaska, it follows that the State will be the primary beneficiary (Historical Commission, Department of Education) of the effort; thus, should be the major sponsor. It is conceivable that public television sponsorship could be obtained as well. Some civic organizations may be interested in backing the activity and will be contacted for support and backing. Indications are that major government sources of historical information will make their libraries and repositories available.

Funding will be necessary to produce the documentary. A preliminary cost estimate is being prepared at this time. Duration of the project (from start to finish) is estimated to be one year. No Federal Government funding is anticipated.

If the State becomes the responsible agent, it seems appropriate that the project be conducted on a quasi-contractual basis; i.e., with the project group acting as an entity, reporting to the State contract monitor/project officer. Consultants to the project group would be several of the individuals who participated in WW-II in Alaska. These members of the project consultants board would be renumerated for direct expenses of advising the project manager. See Atch 1 for a diagram of the proposed organizational structure.

In the interim period before identification of cognizant agencies and source of funds, Col E.J. Griffith Jr. (4-305 Williwaw Way, Elmendorf AFB, AK 99506) will act as point-of-contact for the effort. Other interested parties are as listed at Atch 2.


Contracting Agency
Board of Consultants
Project Manager
(Production Functions)
Research & Layout
Scripting
Photography
Editing/Final Product Productions

Atch 1

Brig Gen B. B. Talley, U. S. Army, Retired

Maj Gen C. F. Necrason, USAF, Retired

Col T. L. Jenne, USAF, Retired - President, Anchorage Chapter of Air Force Associatio

Mr. W. E. Brooks, Anchorage Contractor, Past President, Anchorage Chapter of Air Forc Association

Dr. Milo Fritz, State Representative

Col Neil E. Saling, U. S. Army Corps of Engineers, Alaska District Engineer

Col Charles Pinney, USAF, Retired, 11th Air Force Association

Atch 2

PHOTO CREDITS

AAHS	American Aviation Historical Society - California
ADGM	Allison Division, GM - California
ATRC	Admiral James Russell Collection - Tacoma
BAT	Bell Aerospace Textron Collection - Buffalo, NY
BC	Boeing Company - Seattle
BN	Bob Nelson Collection
CAP	Collect-Air Photos - Wisconsin
CAS	Charles A. Simenstad Collection
COE	Corps of Engineers, US Army - Anchorage
DSB	DS Braden Collection - Anchorage
GFP	GF Petrov - Finland
JD	Jay Demming Collection - Florida
MFC	Mark Fuerstenau Collection - Nome
NAA	North American Aircraft Collection
PMB	Peter M. Bowre Collection - Fairbanks
PPL	Pilot Press Ltd. Collection
RWH	RW Harrison COllection - Massachusetts
TPL	Taylor Picture Library
TS	Thomas Spitler - Adak
USA	US Army Archives - Washington
USAF	US Air Force Archives - Washington
USCG	US Coast Guard - Kodiak

AIRCRAFT WRECKS SHOWN ON MAP

WRECK NUMBER	DATE OF CRASH	TYPE OF AIRCRAFT	POSITION OF WRECK
1 ✓	WWII	B–24	CAPE KIGUN, ATKA
2 ✓	WWII	B–24	ILAK ISLAND, WRECKAGE INTACT
3 ✓	28 OCT 46	P–38	TANAGA BAY, POOR CONDITION
4 ✓	28 OCT 46	OA–10	TANAGA BAY
5 ✓	31 AUG 51	PB 4Y–2	NW TIP OF LITTLE TANAGA, 500–FOOT LEVEL
6 ✓	WWII	B–24	SEMISOPOCHNOI, EAST SIDE OF DERRET RIDGE
7 ✓	WWII	B–24	BECHEVIN BAY, ATKA, VERY GOOD CONDITION
8 ✓	WWII	A–20	KISKA, EAST END OF LANDING STRIP
9 ✓	WWII	B–24	GREAT SITKIN, FUSELAGE INTACT, WINGS FOLDED BACK
10 ✓	WWII	PBY	NE SIDE OF KISKA VOLCANO
11 ✓	WWII	PBY	CLIFF ON KASATOCHI ISLAND
12 ✓	WWII	OA–10	ATKA, NORTH SIDE OF KOROVIN BAY
13 ✓	WWII	P–38	NW POINT OF BULDIR ISLAND. POOR CONDITION
14 ✓	5 SEP 46	PV–1	AGATTU ISLAND, PRETTY GOOD CONDITION
15 ✓	WWII	P–38	ALAID ISLAND, VERY POOR CONDITION
16 ✓	5 SEP 46	C–47	ATTU
17 ✓	WWII	P–38	ATTU, TEMNAC BAY, POOR CONDITION
18 ✓	WWII	P–40	SW END OF UMNAK ISLAND, CAPE STARR
19 ✓	WWII	PBY	UNALASKA ISLAND DEBRIS SCATTERED FROM 300 TO 900 FOOT LEVELS
20 ✓	WWII	P–40	UNALASKA, BADLY SCATTERED
21 ✓	WWII	OA–10	UNALASKA, BADLY SCATTERED
22	WWII	ZERO	AKUTAN, VERY POOR CONDITION
23 ✓	11 DEC 73	C–118	GREAT SITKIN, TEN PERSONS ON BOARD, NO SURVIVORS

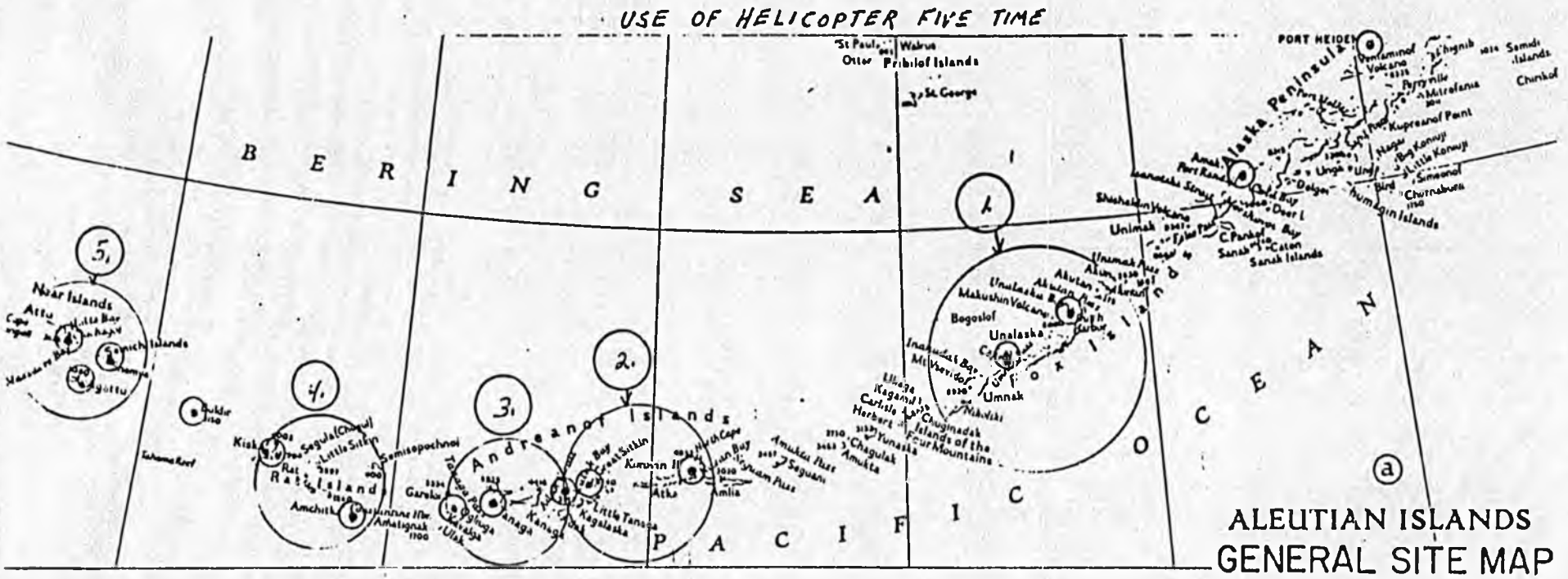
REFERENCE: 5

FIGURE 1–14

DOWNED AIRCRAFT OF POTENTIAL HISTORIC VALUE

The Historical Remains of Aleutians
1941-1944

1. Kodiak - Ft. Greely - Airfield
2. Port Heiden - Port Morrow - Airfield
3. Cold Bay - Port Randall - Airfield
4. Dutch Harbor - Fort Mears - Airfield
5. Unalaska - Chernofski
6. Umnak Island - Fort Glenn - Airfield
7. Atka Island - Atka Landing Field
8. Great Sitkin Island
9. Adak Island - Adak - Airfield
10. Tanago Island - Airfield (Ogliuga Island)
11. Amchitka Island - Amchitka - Airfield
12. Kiska Island - Kiska
13. Little Kiska Island
14. Buldir Island
15. Shemya Island - Shemya - Airfield
16. Agattu Island
17. Attu Island - Attu



General Site Map

NORTH STAR CHAPTER

3605 Arctic Boulevard
Anchorage, Alaska 99503

"There Are Some Days You Can't Forget".

(907) ~~344-4647~~ 277-7472 (907) 272-0365

Use of C-130 Hercules	Use of Helicopter	Dates	Codes	Points of Interest
A.		Day 1.	A.	Kodiak - Ft Greely - Airfield - Fixed Harbor Defense - Naval Base - Army Garrison Airfield at Cape Chinak
B.		Day 2 - 3	B.	Port Heiden - Fort Morrow - Airfield Docking Facilities (Air Defence of the Naval Base at Dutch Harbor) one downed aircraft
C.		Day 3.	C.	Cold Bay - Fort Randall - Airfield - Docking Facility (Air Defense of the Naval Base at Dutch Harbor)
D.	1.	Day 5 - 7	D.1.	From SW Umnak Island to NE Akutan Island Dutch Harbor - Fort Mears (Bombing of Dutch Harbor June 3, 1942) Unmak Island - Fort Glenn (Two Satellite Airfields) 17 Downed Aircraft
E.	2.	Day 8 - 10	E-2	From Adak to West of Atka Island Adak - Great Sitkin Island Atka Island 7 Downed Aircraft
F.	3.	Day 8 - 10	F-3	From Adak to South of Ogliuga Island Tanaga Island 3 Downed Aircraft
G.	4.	Day 11-13	G-4	From Amchitka Island to West of Kiska Amchitka Island Kiska (Battle of the Kiska Islands) Little Kiska 3 Downed Aircraft 3 Japanese 2-man submarines
H.	5.	Day 14-16	H-5	From East of Shemya Island To North of Attu Island Shemya Attu (Battle of Attu) Agattu Island 6 Downed Aircraft

Keep America Strong —— Remember Pearl Harbor

NORTH STAR CHAPTER

3605 Arctic Boulevard
Anchorage, Alaska 99503

"There Are Some Days You Can't Forget".

(907) [redacted] 277-7472 (907) 272-0365

Milo H. Fritz, M.D.
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Doctor:

The Pearl Harbor Survivors has been involved in the preservation, through film of what often has been titled, "The Forgotten War" - the World War II campaign in the Aleutians. For the past two years we have, with the aid of many others, researched the areas, the people, the survivors and the locations.

In order to comply with governmental regulations, we have contacted the Village Corporation Leaders and received their permission to visit and film those localities that played such a dominant role in Alaska's involvement in World War II.

Our goal is to do documentary film of the Aleutians to be used in the public school system in Alaska and in the Lower 48 and for public television. This filming of the Aleutian Campaign is a follow-up to our film on Pearl Harbor, "There Are Some Days You Can't Forget." Our records indicate that effective December 20, 1983, that film has been viewed by over 4,300 Anchorage school children and about 130,000 Alaskans.

A total of fourteen men will assist in the production including the film crew, Aleutian Survivors and support personnel.

Our history and war efforts in the Aleutians are rapidly being lost. Through your cooperation, your position can start the wheel rolling to help our country preserve what is left of our heritage and war effort.

PAUL FAULKNER, President

cc: Rep. Liska, Col. Griffith, Rep. Furnace

encl: Information packet

THE HISTORICAL

REMAINS

FJ HB 470 & 484

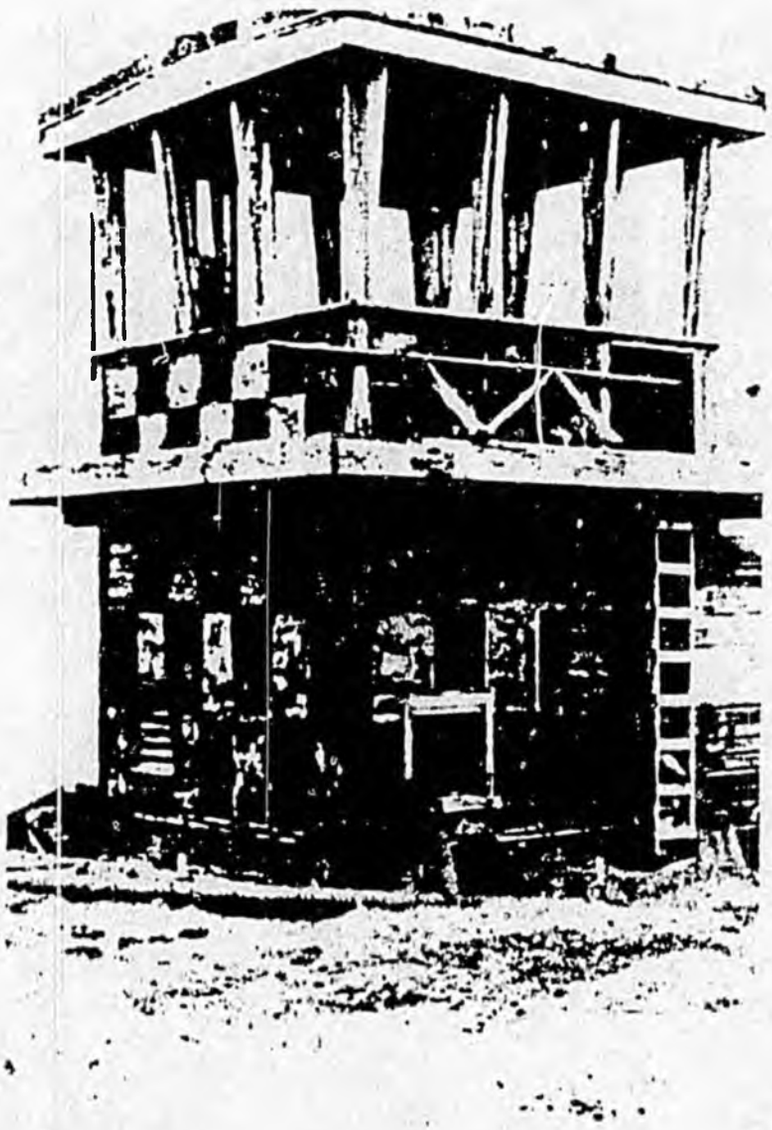


KISKA

U.S. ARMY RETAKE -- 1943

"In honor and memory of the men of the North Pacific Theatre who died so that a continent might be free."

CPL Dashiell Hammett
The Battle of the Aleutians (1944)

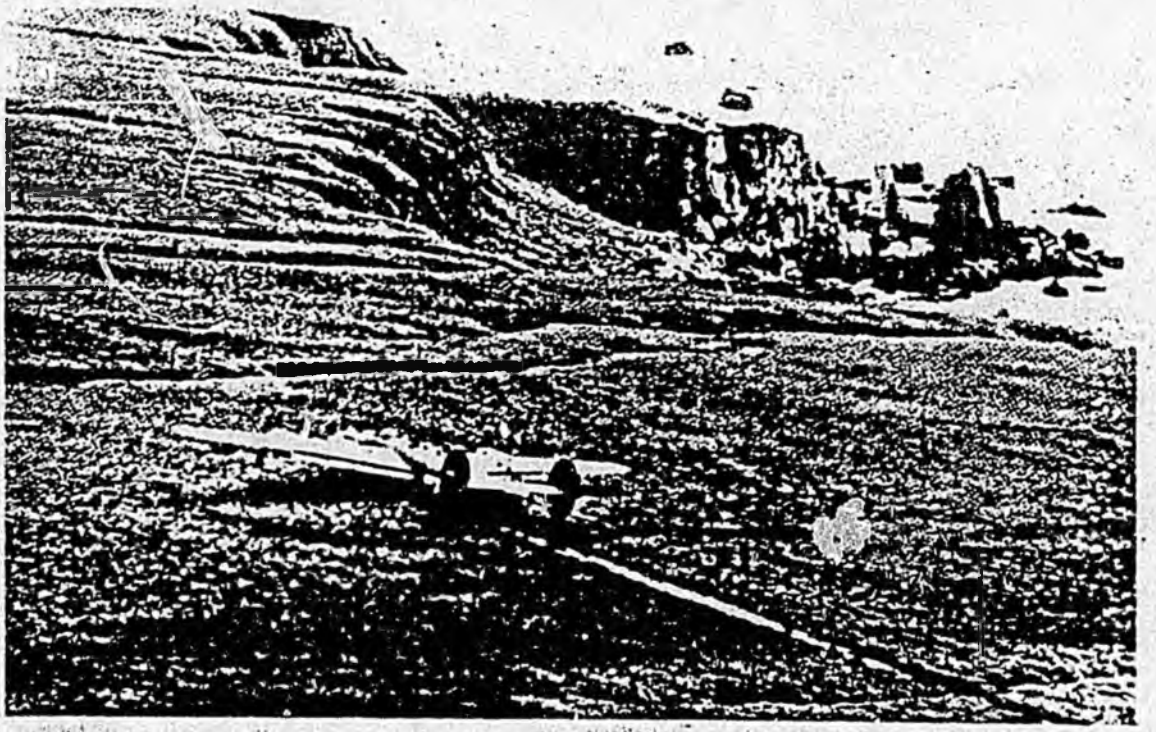


There are several aircraft control towers like this one in the photo that still remain in the Aleutians.

COE

"The loyal courage, vigorous energy and determined fortitude of our armed forces in Alaska, on land, in the air and on the water - have turned back the tide of Japanese invasion, ejected the enemy from our shores and [illegible] a fortress of our last frontier. But this is only the beginning. We have opened the road to Tokoyo: the shortest, most direct and most devastating to our enemies. May we soon travel the raod to victory."

Simon Bolivar Buckner, Jr.
Licutenant General, U.S.A.

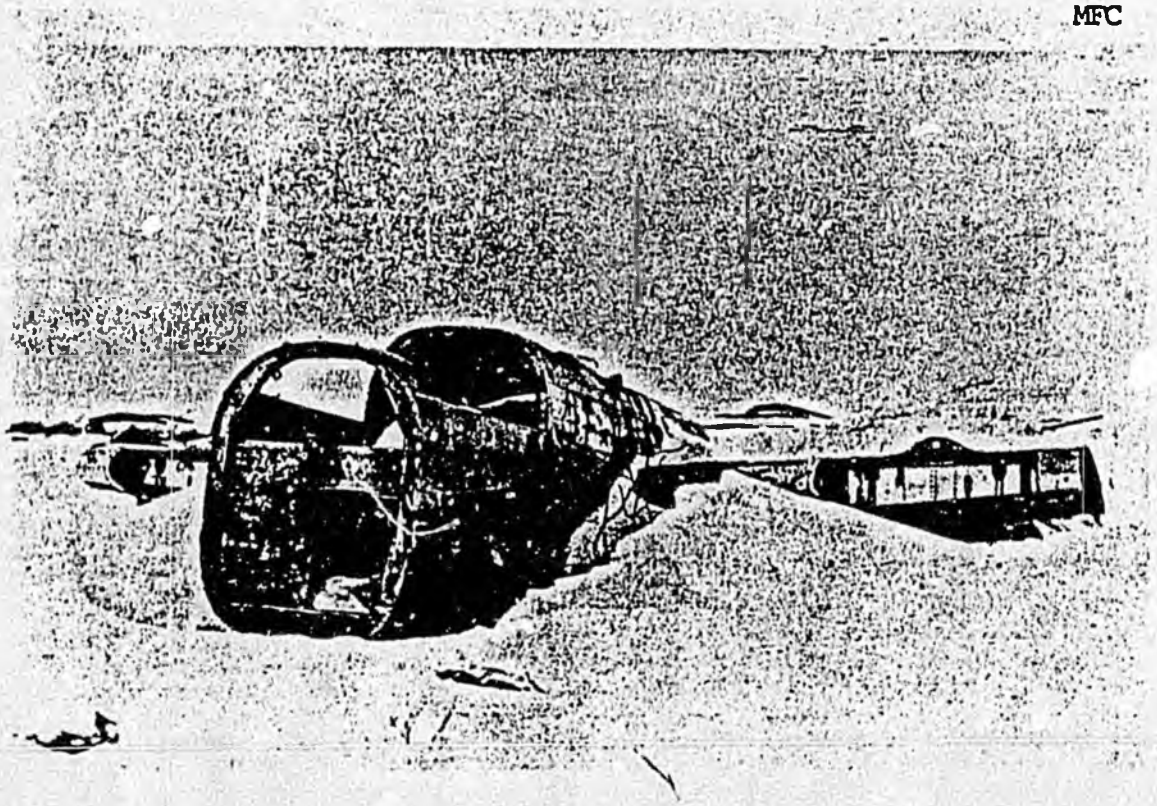


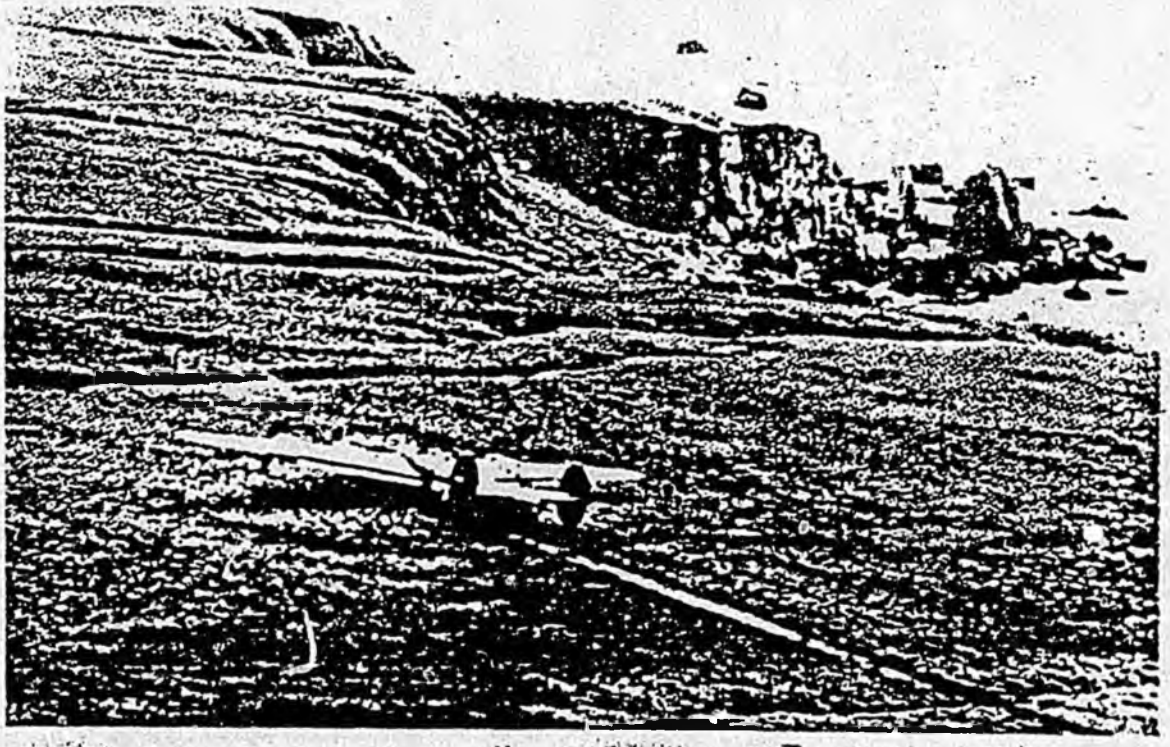
The last report on this B-24 Liberator is that somebody attempted to dismantle its wings and engines then abandoned removing them because of the Preservation Laws. The aircraft still sits there today in an Aleutian Islands.

USAF

This is a Lend Lease B-25 sitting at a dump area in the Interior.

MFC





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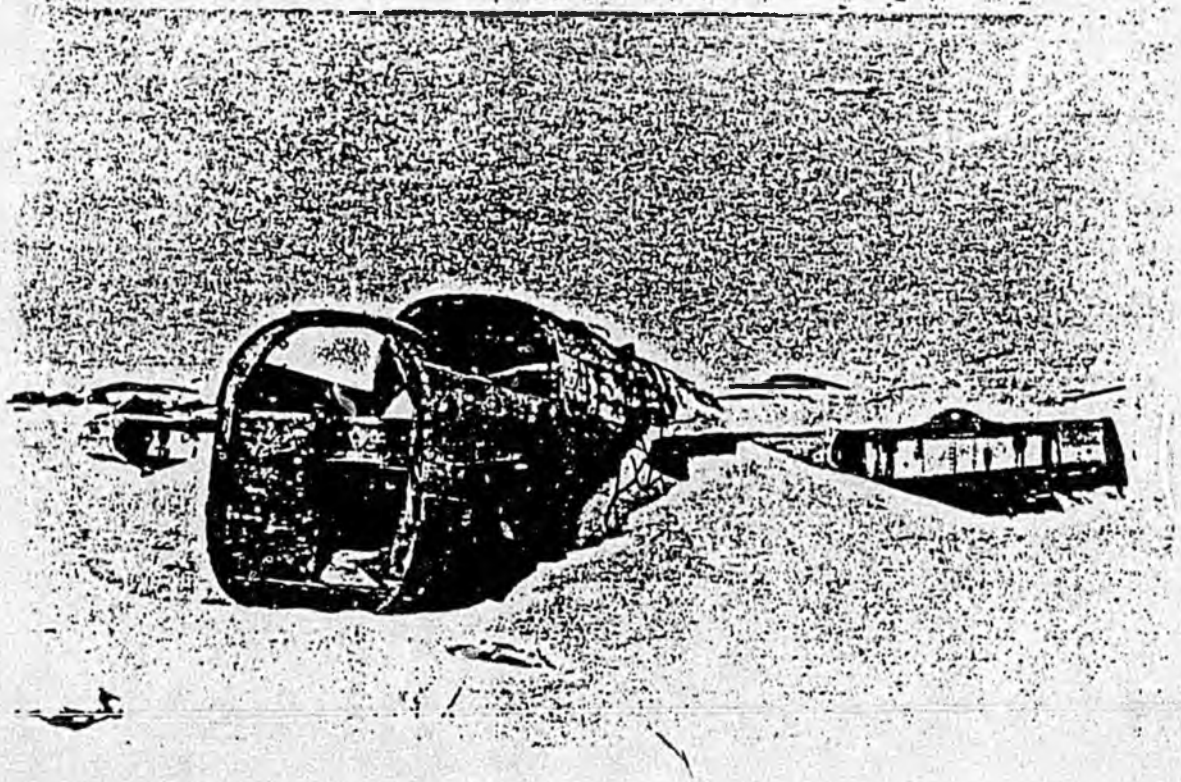
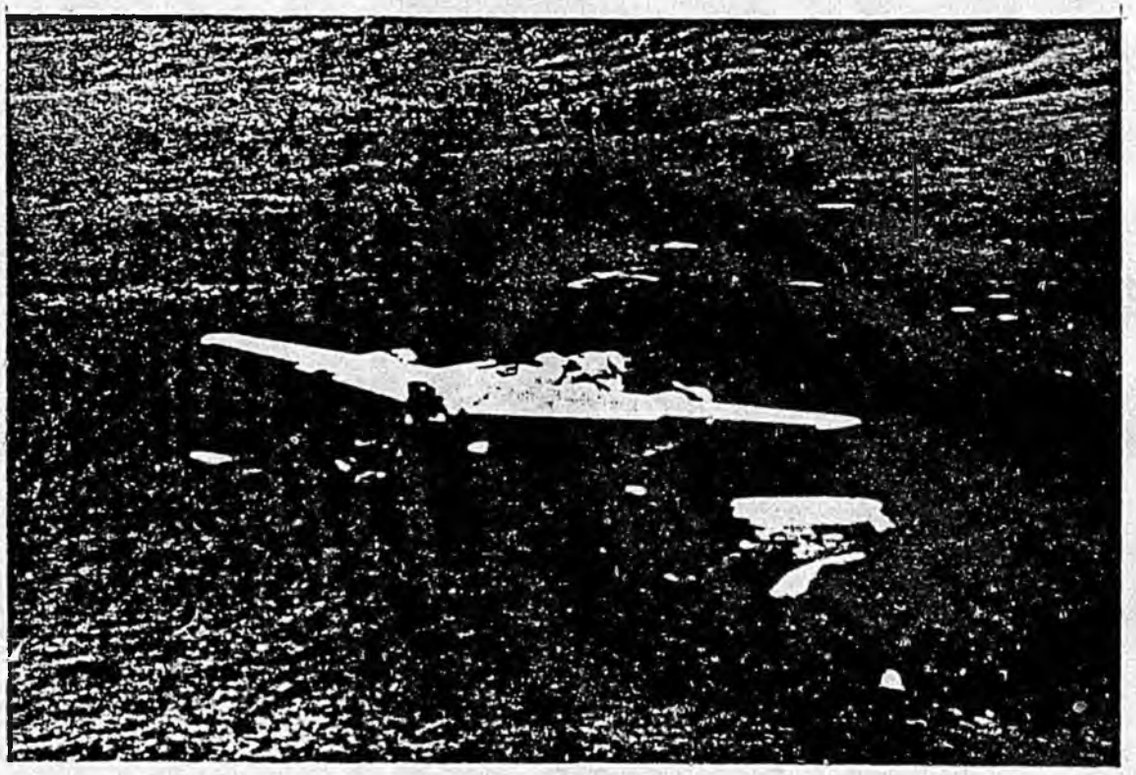
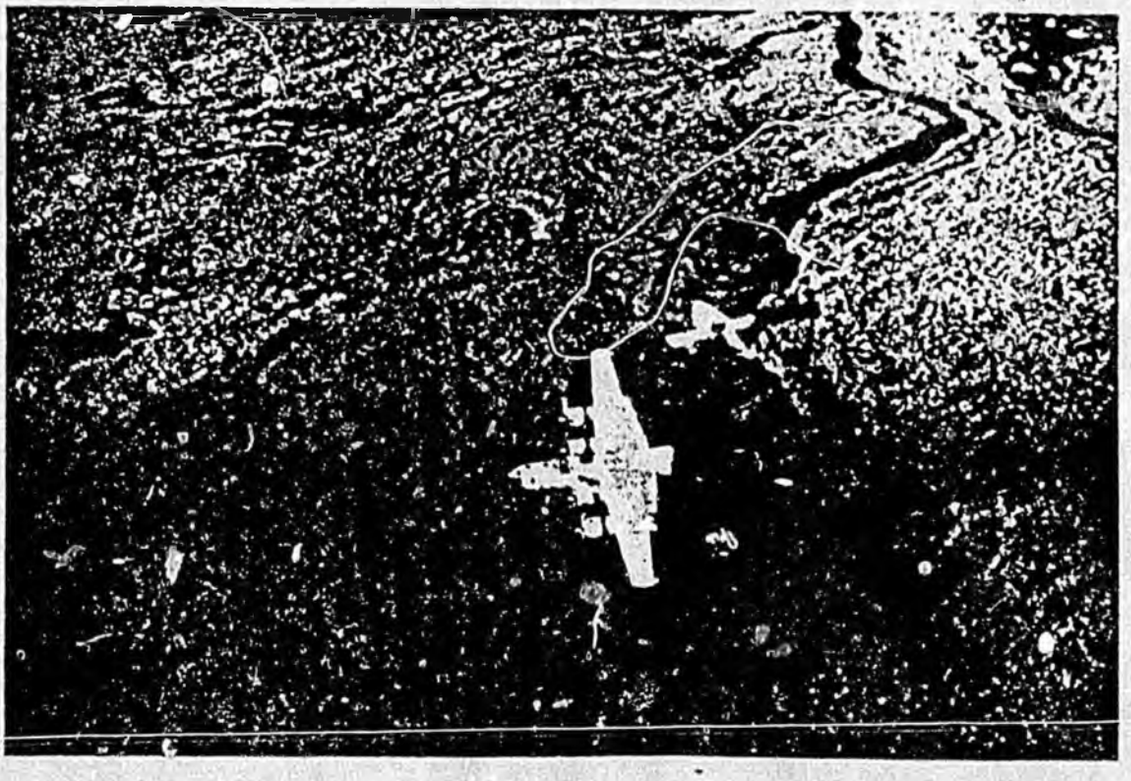
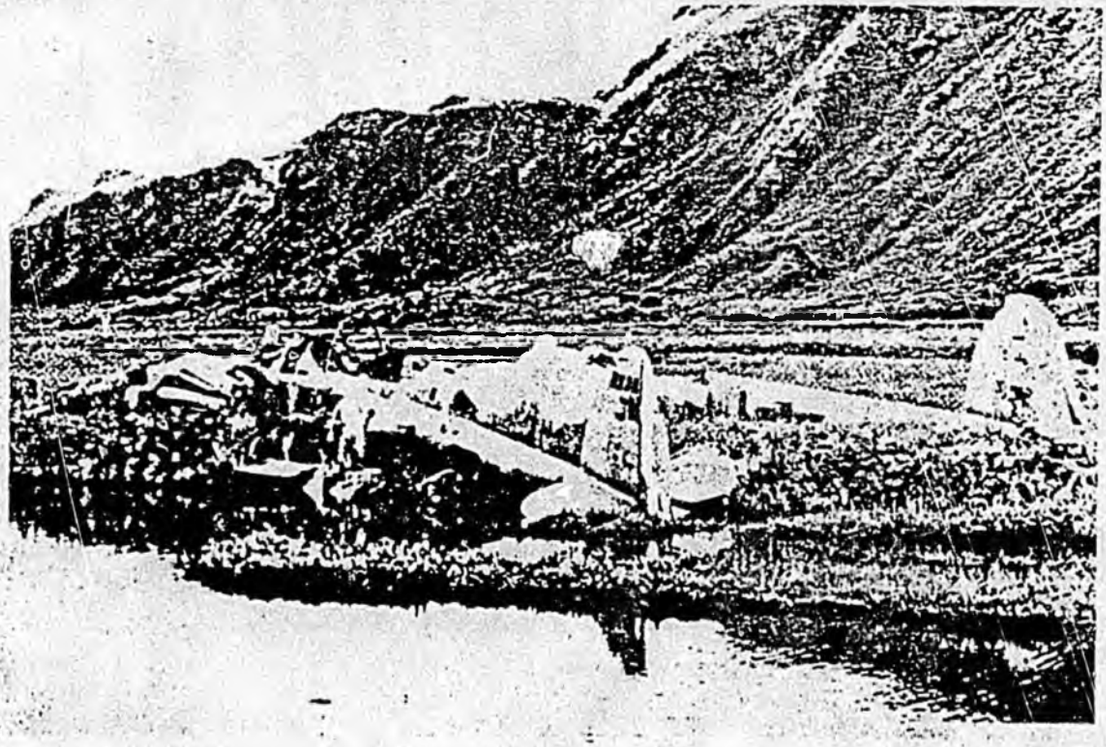




This B-24 Liberator bellied in on an Aleutian Island. Few years ago the U.S. Coast Guard went into the area and removed its machine guns.

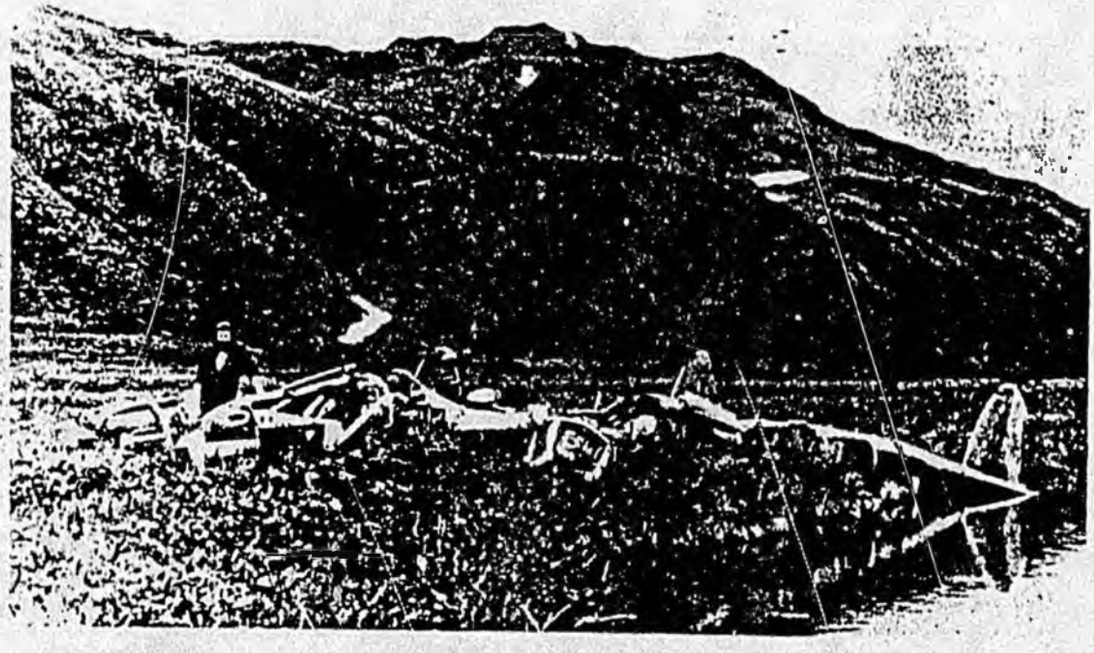
USCG

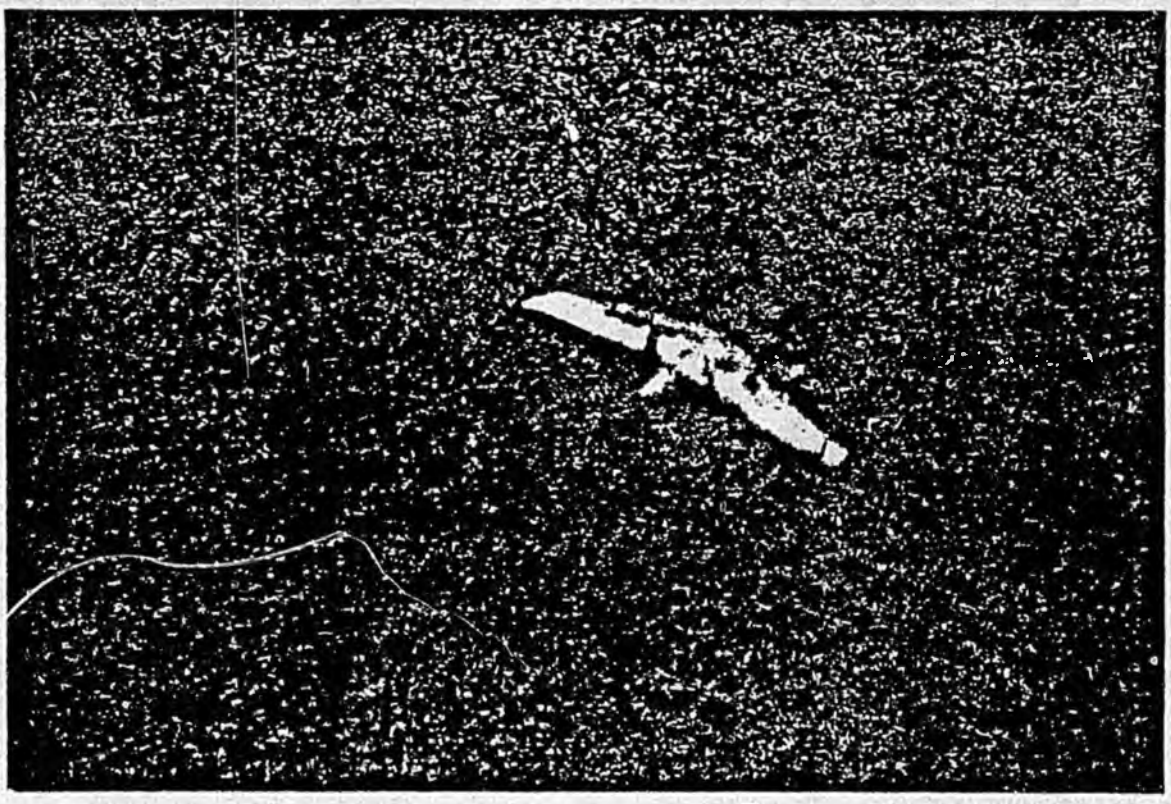




A P-38 that bellied in because of bad weather condition sits on a deserted island in the Aleutians. The aircraft is intact.

USFWS



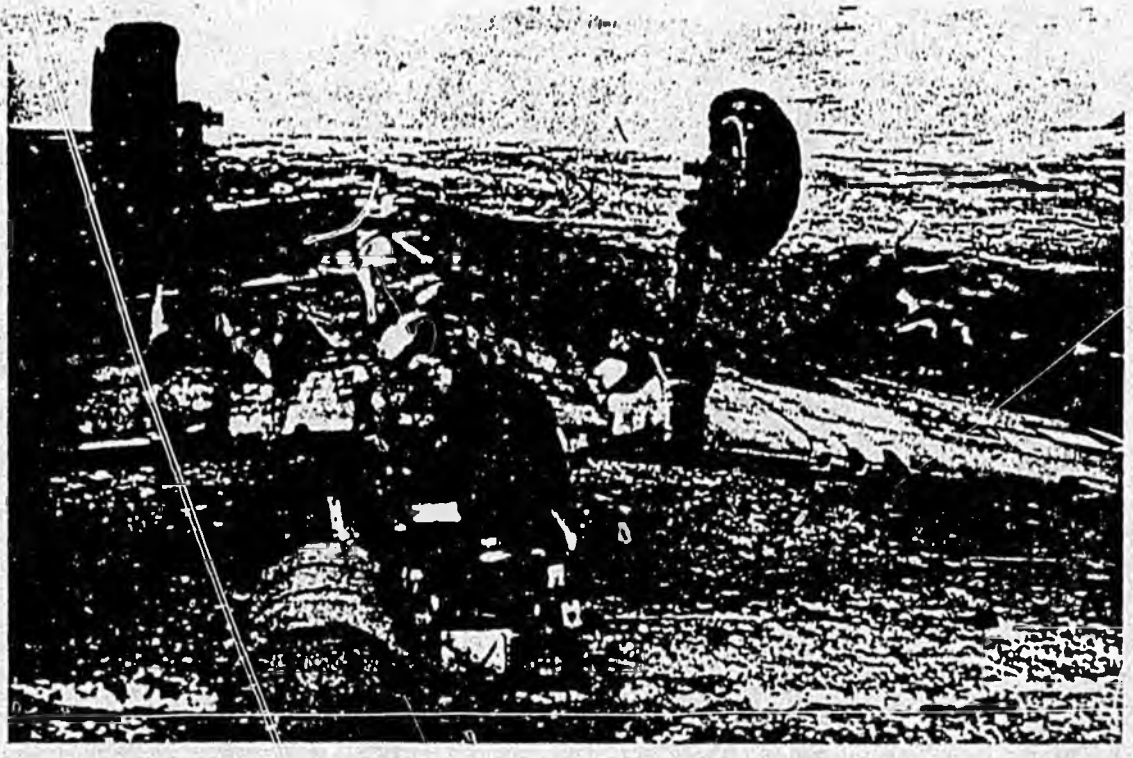


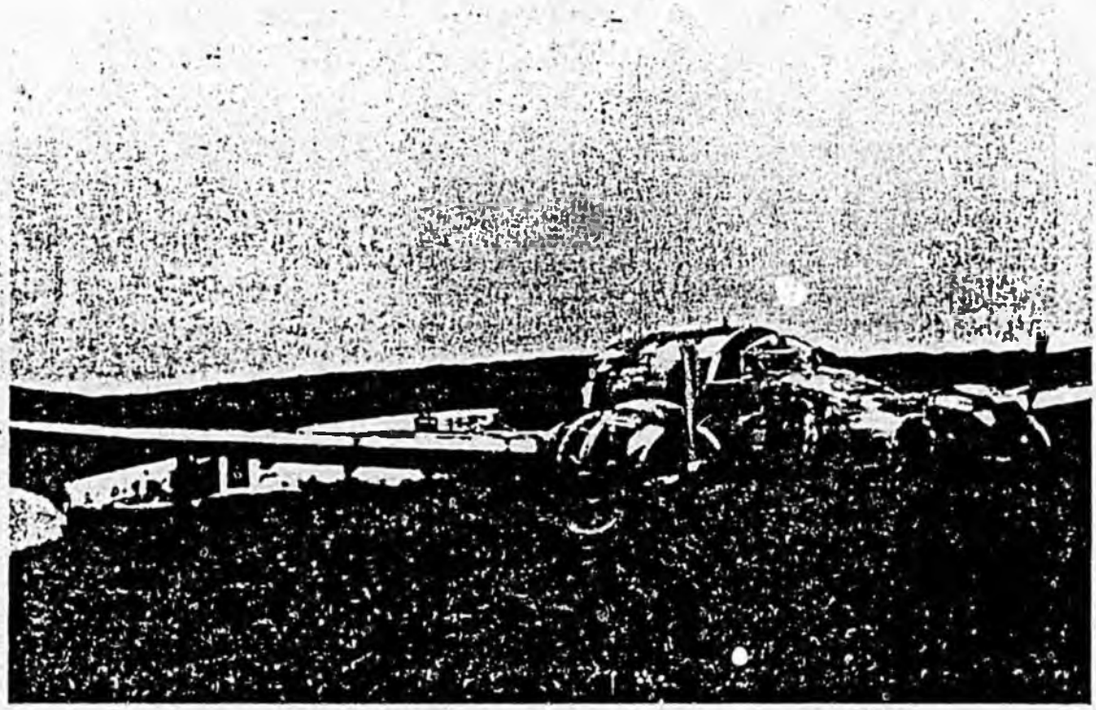
An aerial view of a P-40 that landed on an island in the Aleutians. Its tail section was removed by illegal salvagers.

USHAPM

Five of these Curtiss P-40's are sitting in the Aleutians today with their engines removed.

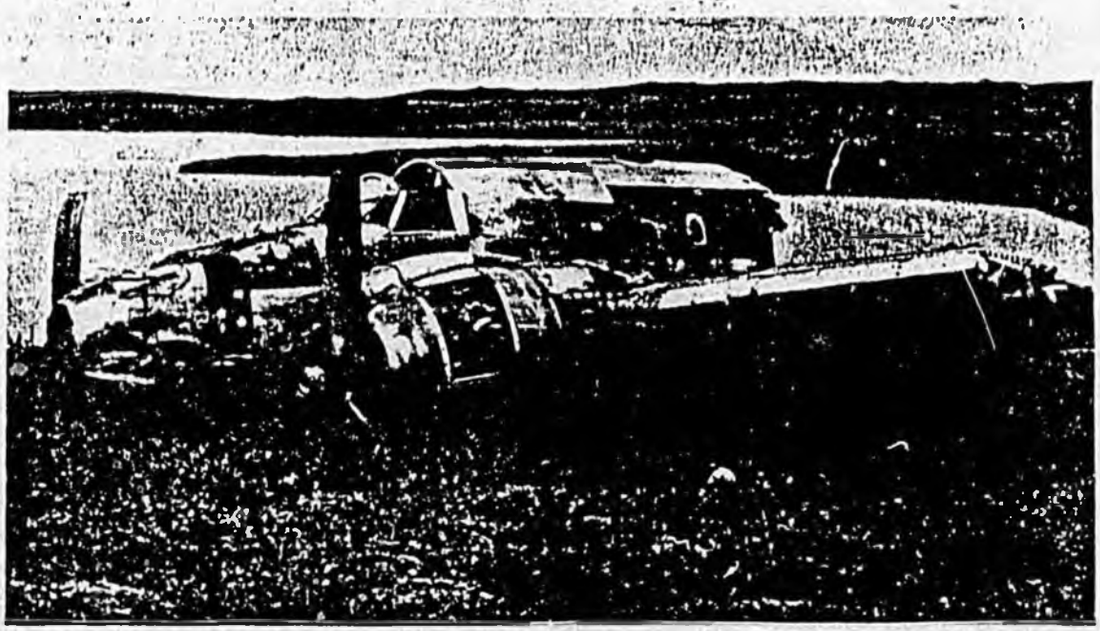
USA

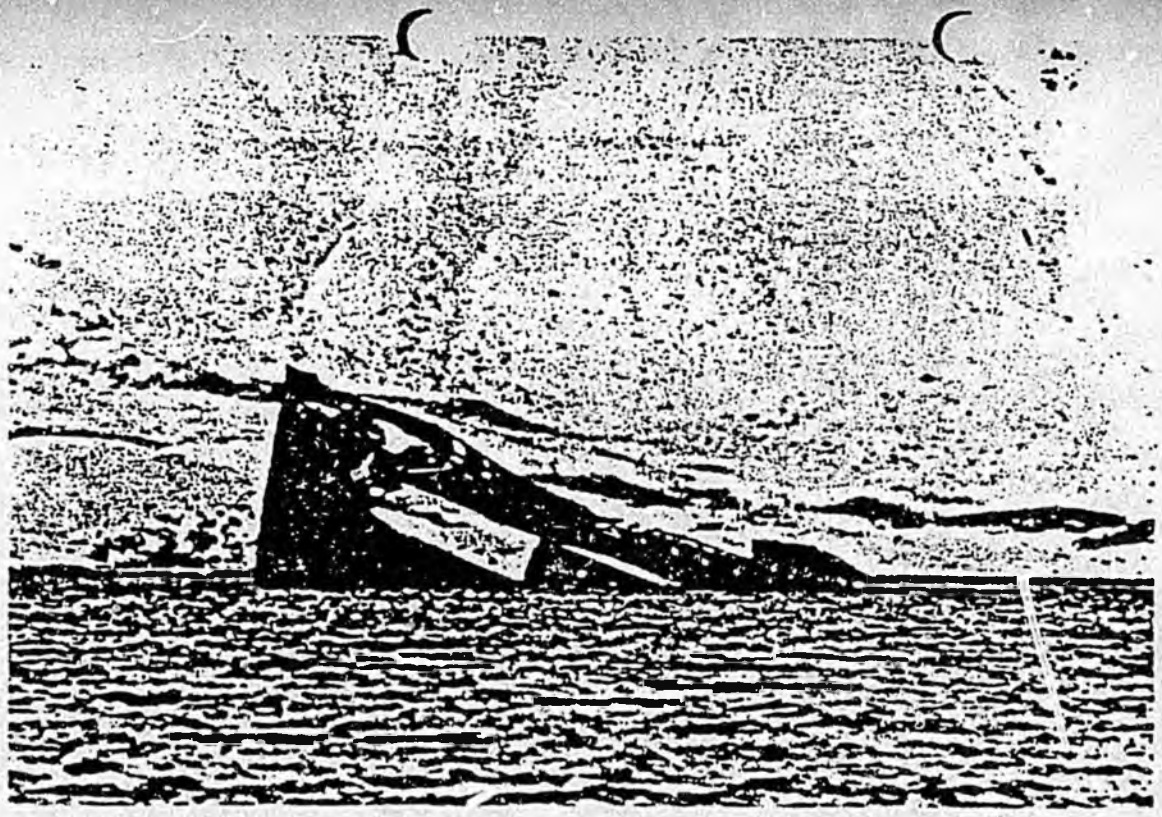




This PV-1 Ventura went down on a remote island in the Aleutians. ANother PV-1, which is in a better condition than this, sits on another island.

USFWS



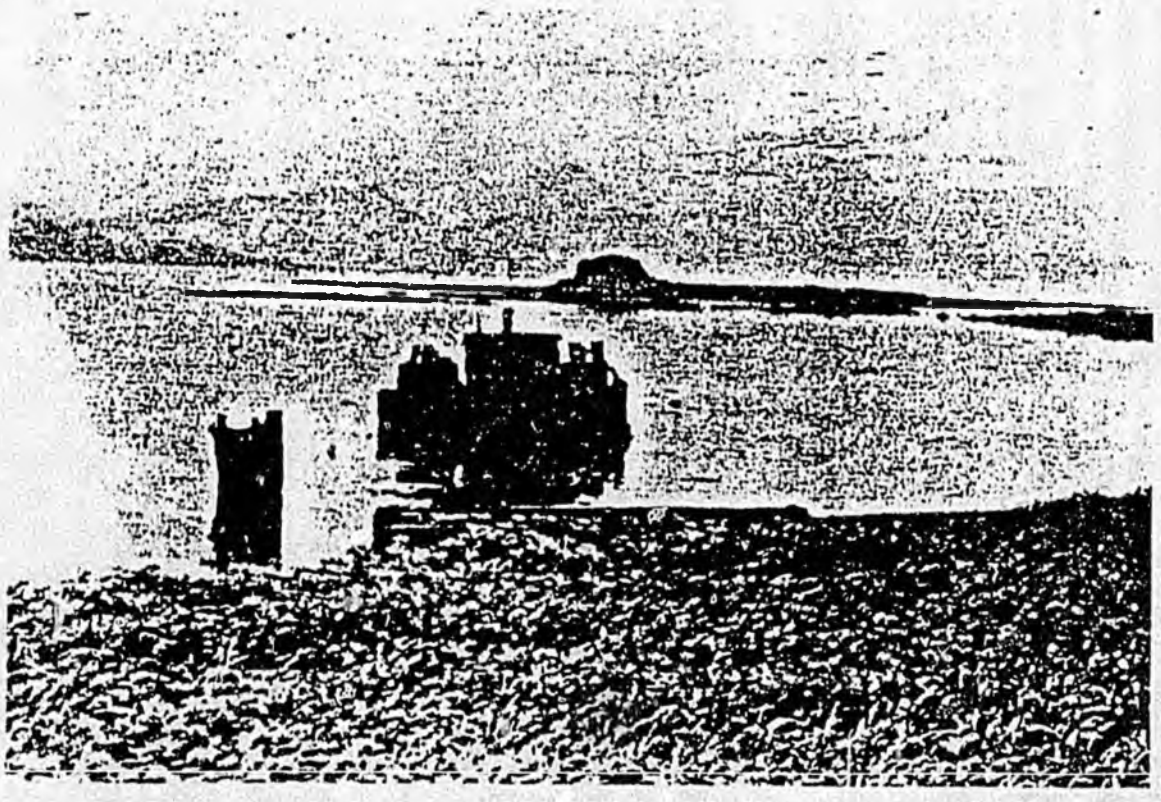


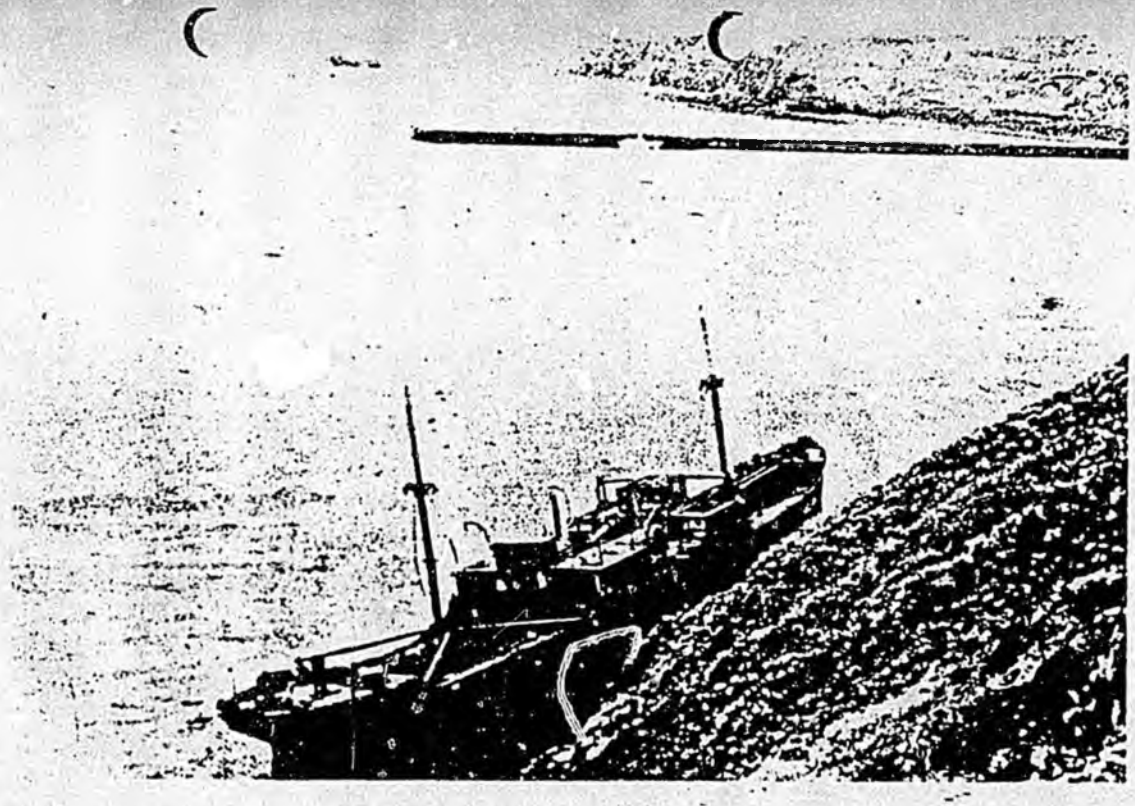
The USS Northwestern, which served as barrack and power plant, was destroyed by a direct hit by a Japanese Fighter plane on June 4, 1942.

BN

Sunken American LCI (Landing Craft Infantry).

COE



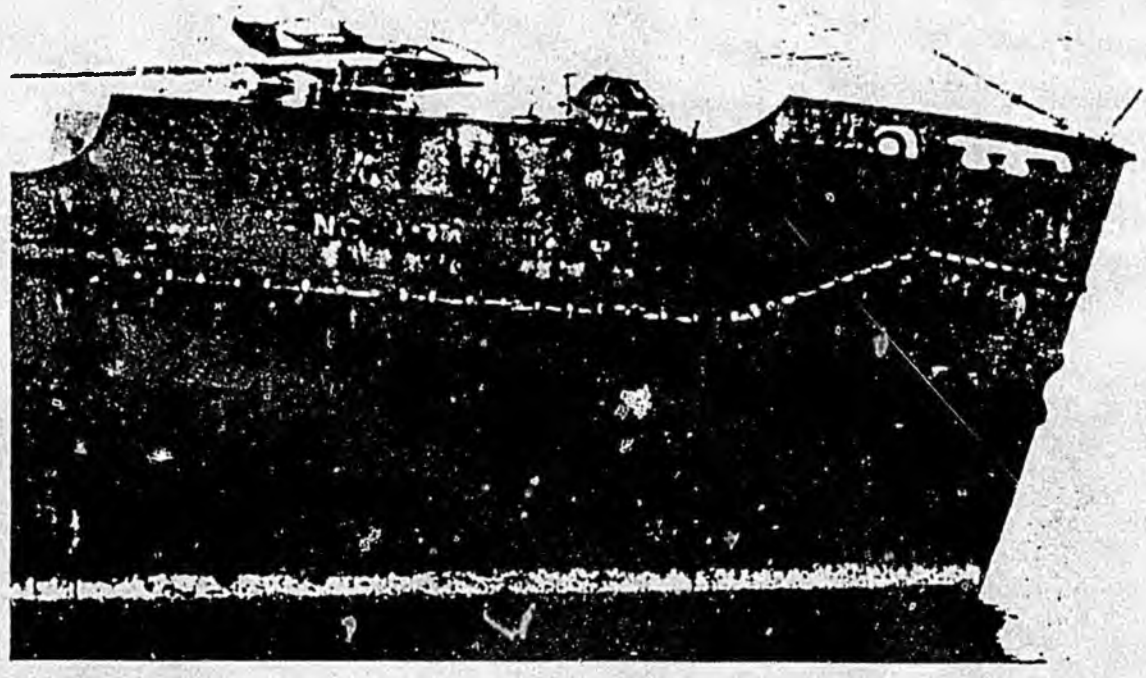


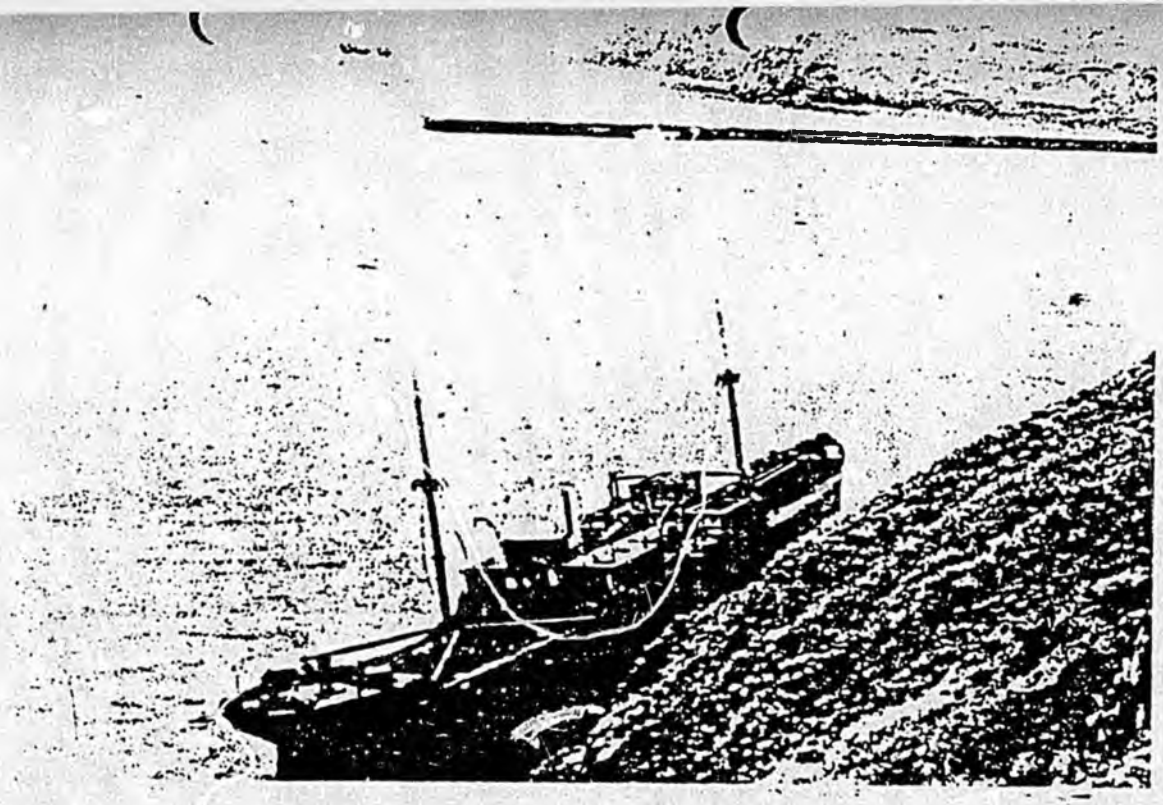
Bomb-out Japanese Freighter.

USFWS

Remains of a Bygone Era. The Bombed-out Japanese Freighter Nozine Maru. Note the Large Gun Mount on the Bow.

COE





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USFWS

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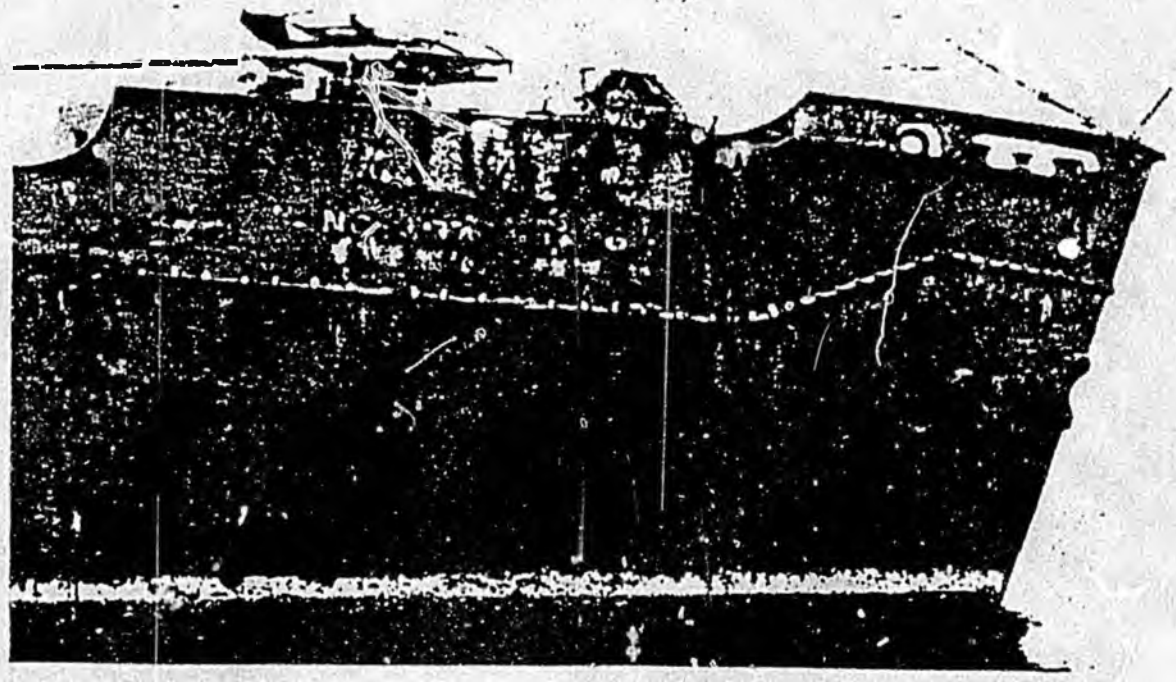
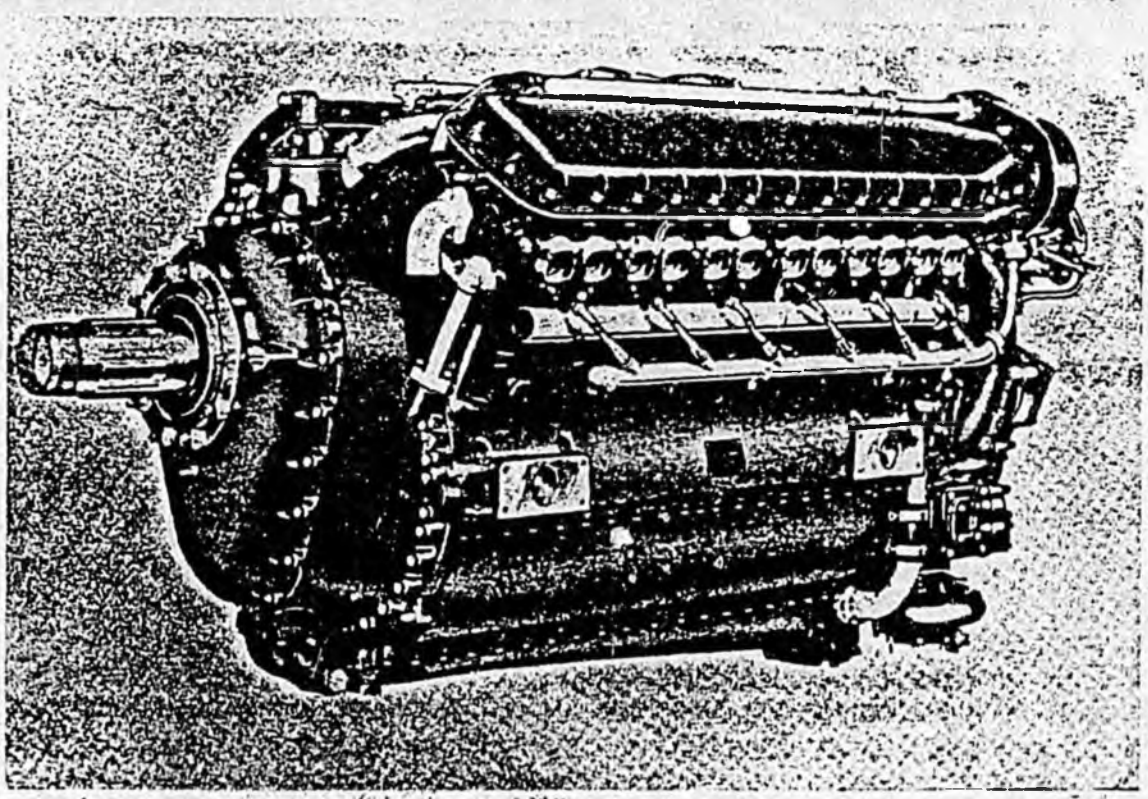
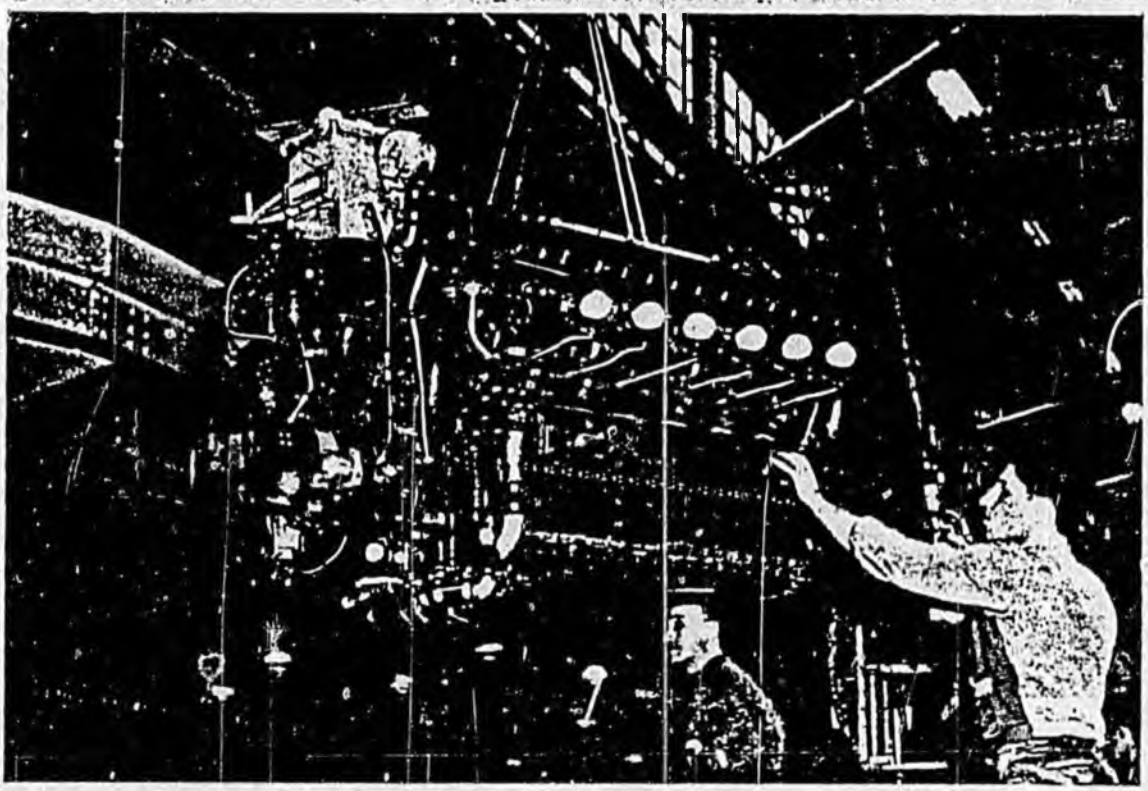
COE



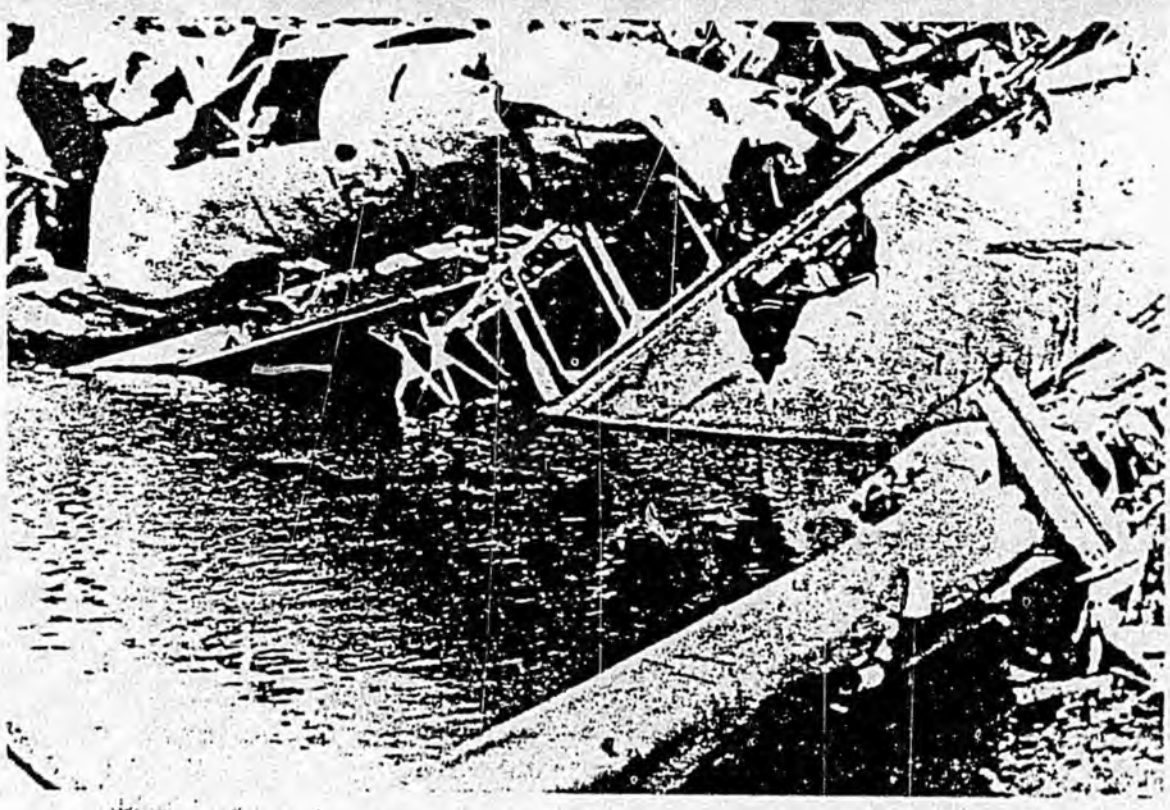


This is a P-38 Allison V-1710F series engine. Four dump areas were located in which these type of engines were buried in packing cylinders.
ADGM

This P-39 Allison engine is being lowered down into the aircraft. In four dump areas, they had buried brand new Allison engines of this type.
BAT

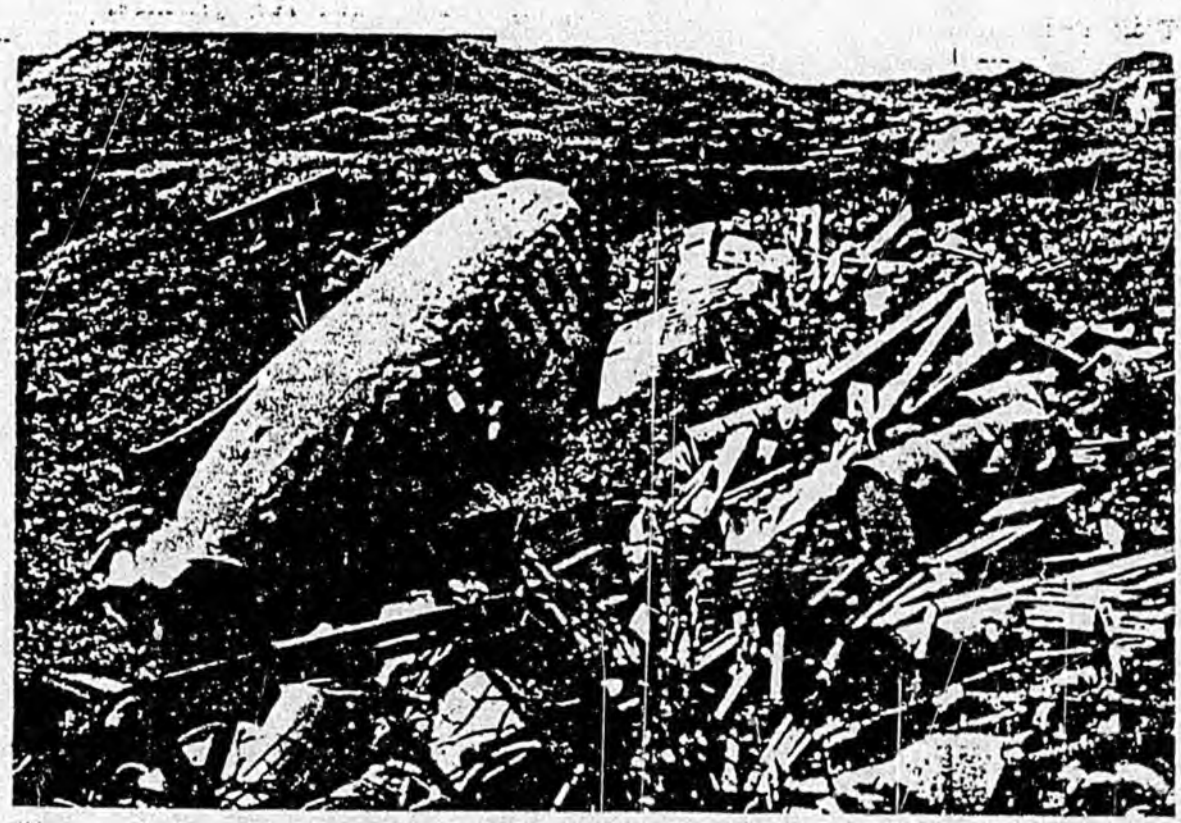


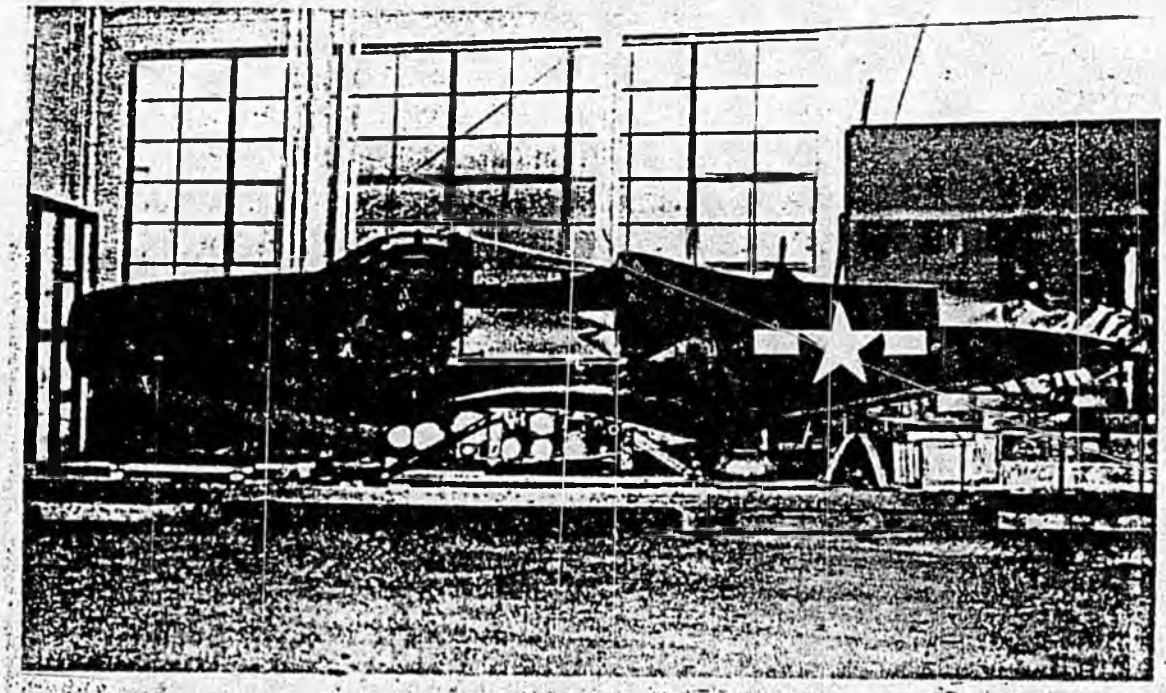
A Grumman D[illegible] fuselage and a T-6 Trainer s[illegible] in a dump area next to a fresh water lake in the Aleutians. TS



This C-47 fuselage was located in an Aleutian dump area.

USFWS



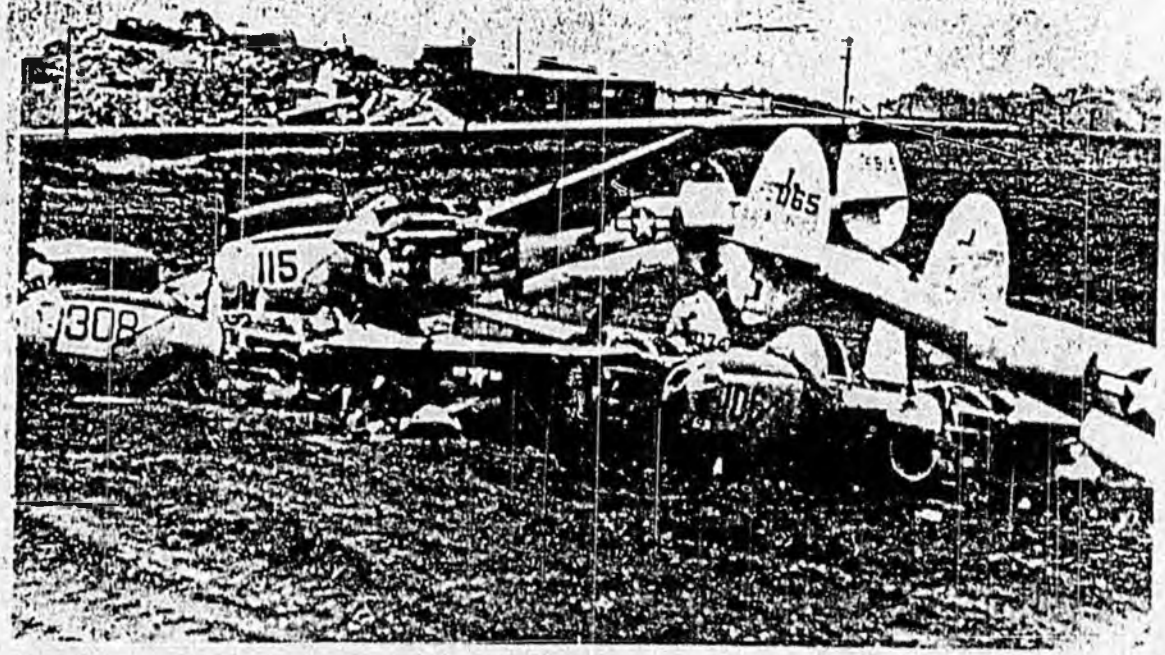


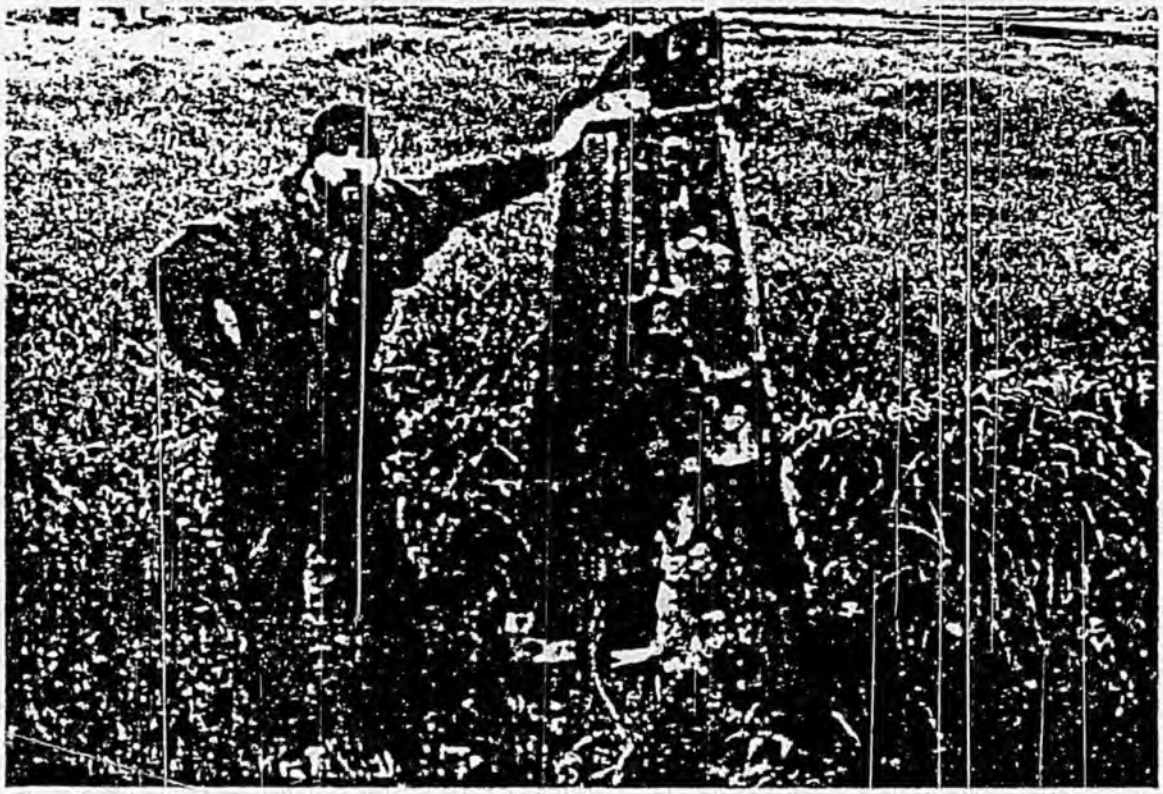
A P-63 King Cobra is shown in a packing crate to be shipped to Russia. Two dump areas in the Aleutians were located that have a P-39's and P-40's buried in the similar crates.

BAT

After WW II the P-38 Lightning fuselages were buried alongside the runways of many of the Aleutian Islands.

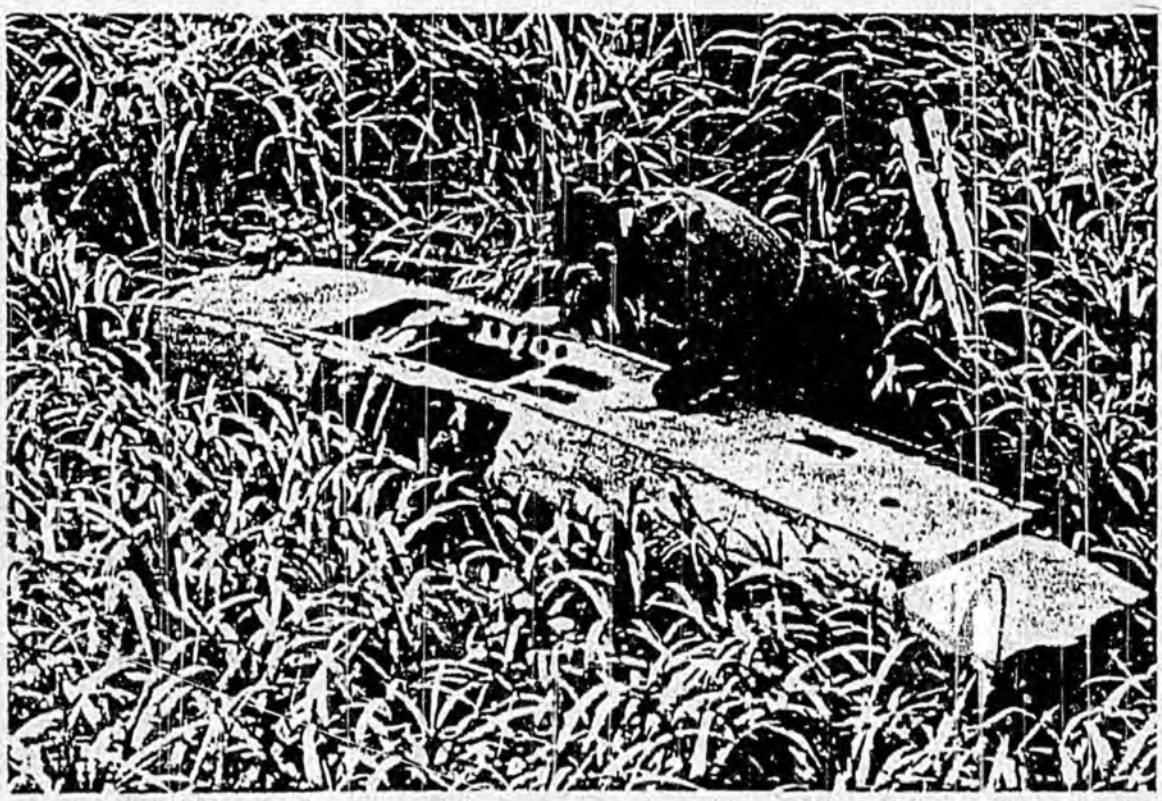
USAF

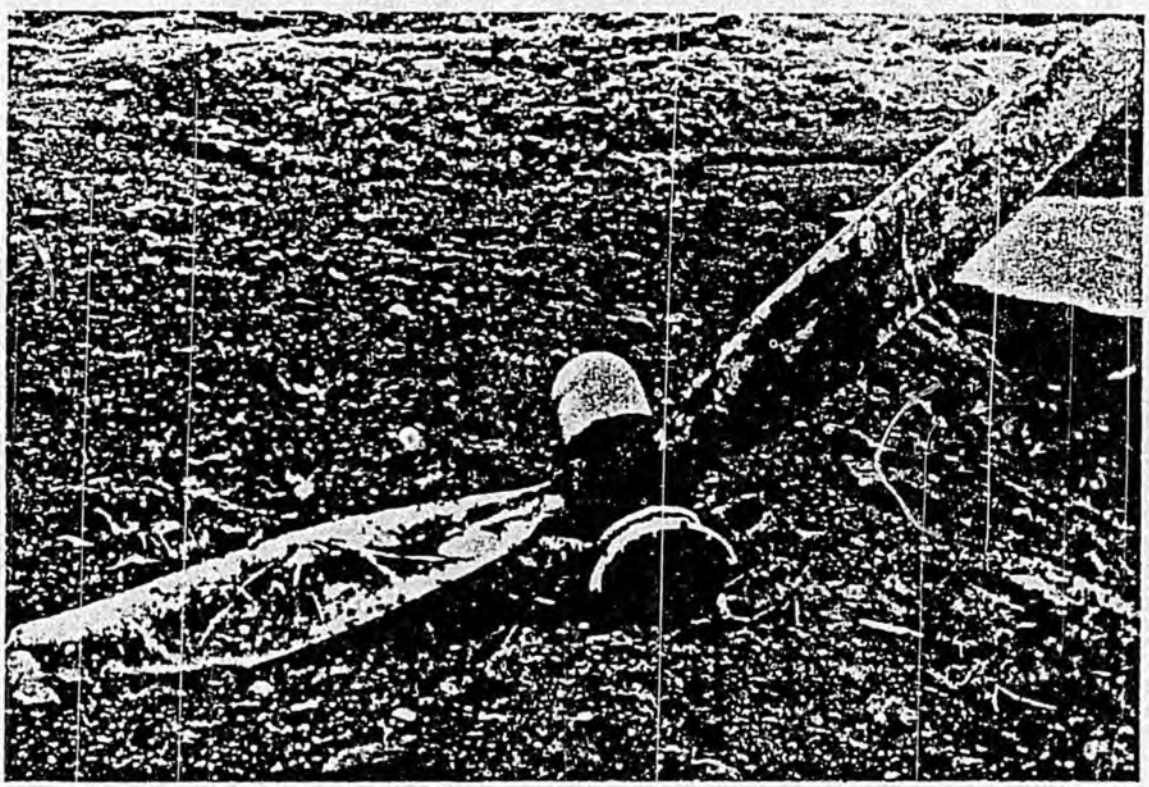




Shown in the photos are a Japanese stabilizer and a Japanese float which are some of the aircraft parts that are just lying on the Aleutian Islands.

USFWS





A propeller of a B-24 Libertor is one of the many items that are still lying around in the Aleutians.

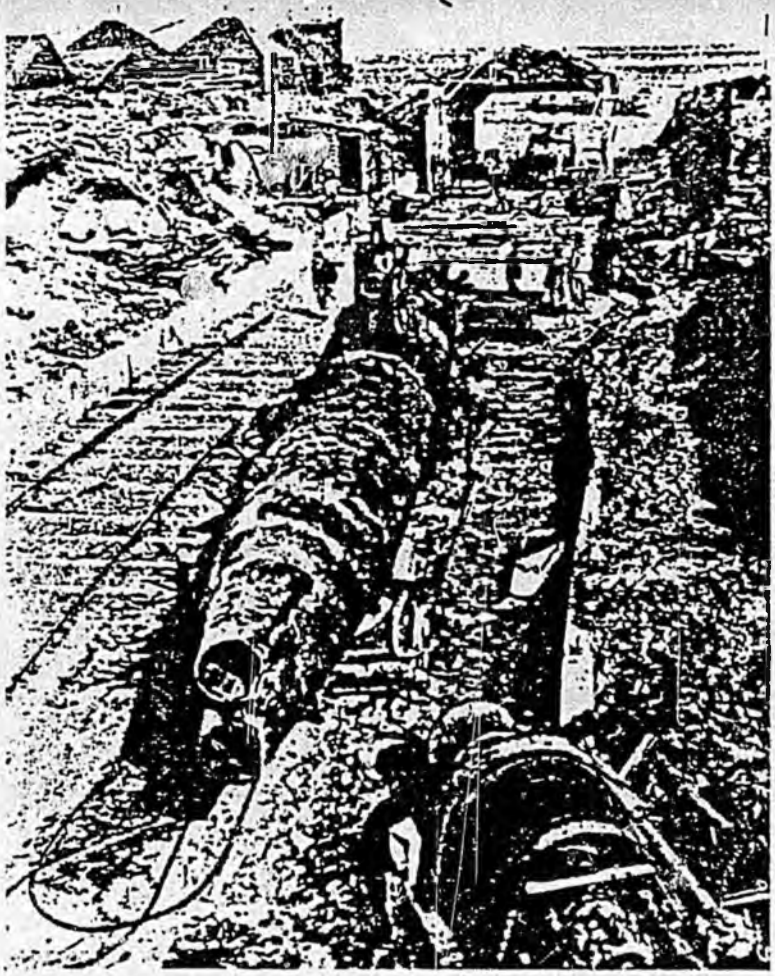
USAFWS

WW II pinups and drawings are in many of the quonset huts in the Aleutians Islands.

CAS







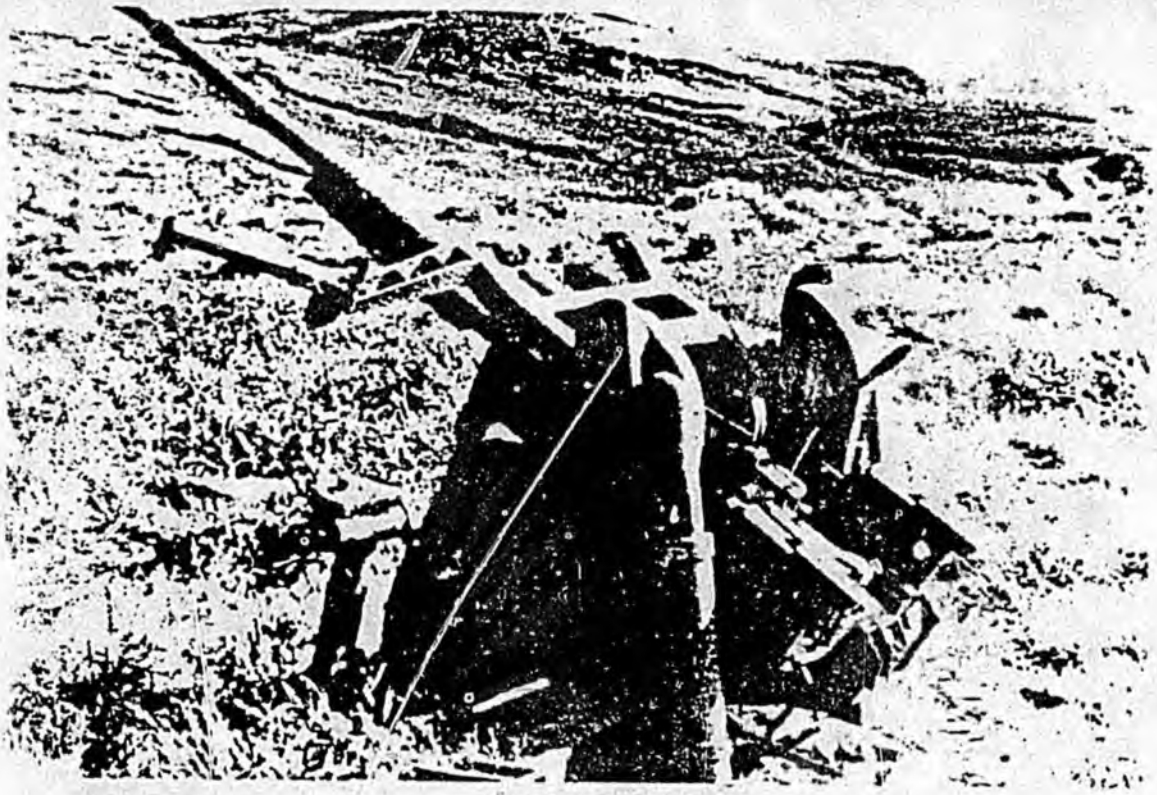
Shown in the picture is a Japanese mini sub in 1943.

USA

The same Japanese submarine sits today in the Aleutians.

USFWS



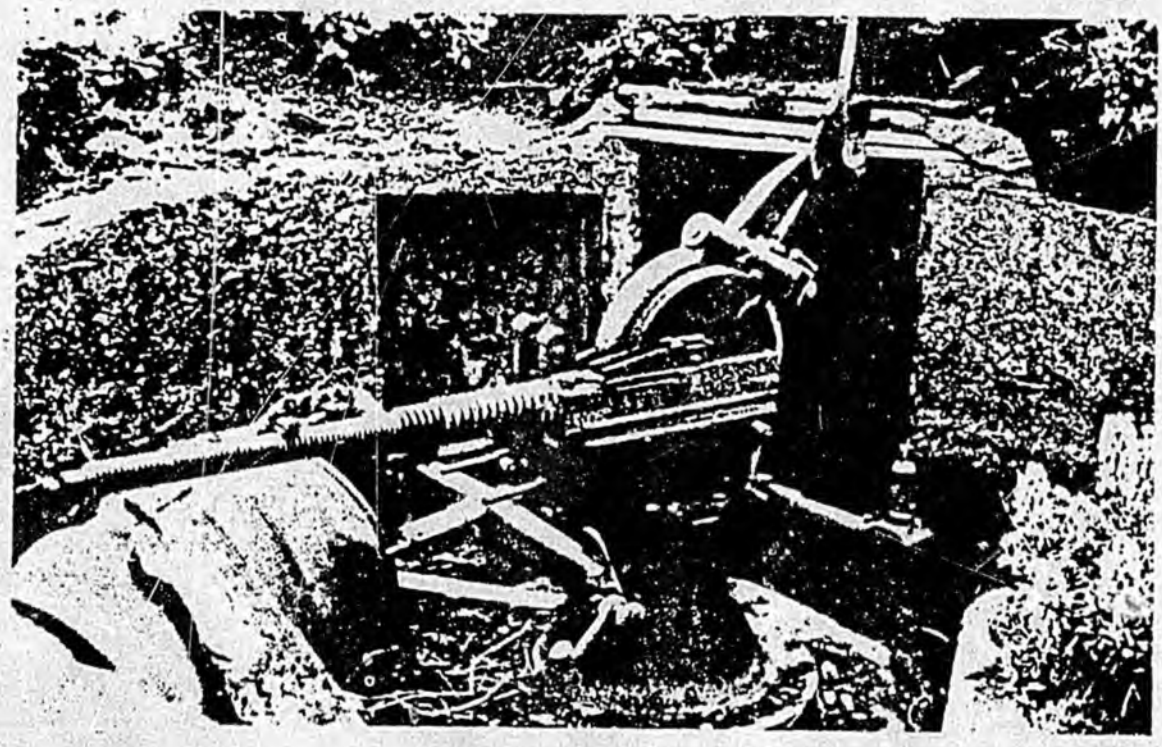


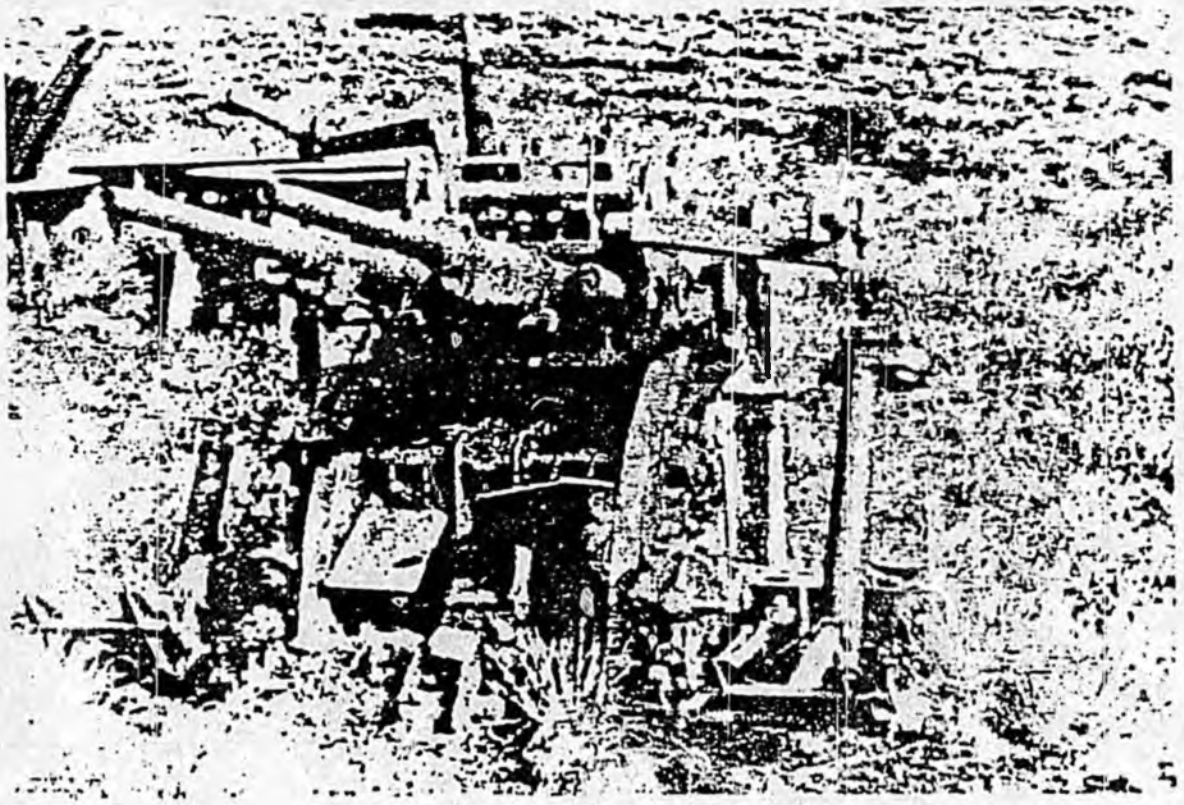
Japanese Model 96 (1936), Type 2, 25 mm Anti-aircraft Gun and Mount. This gun is very rare and was not extensively used by the Japanese.

COE

Japanese Model 93 Heavy Machine Gun, 13.3 mm on an Anti-Aircraft Mount.

USFWS



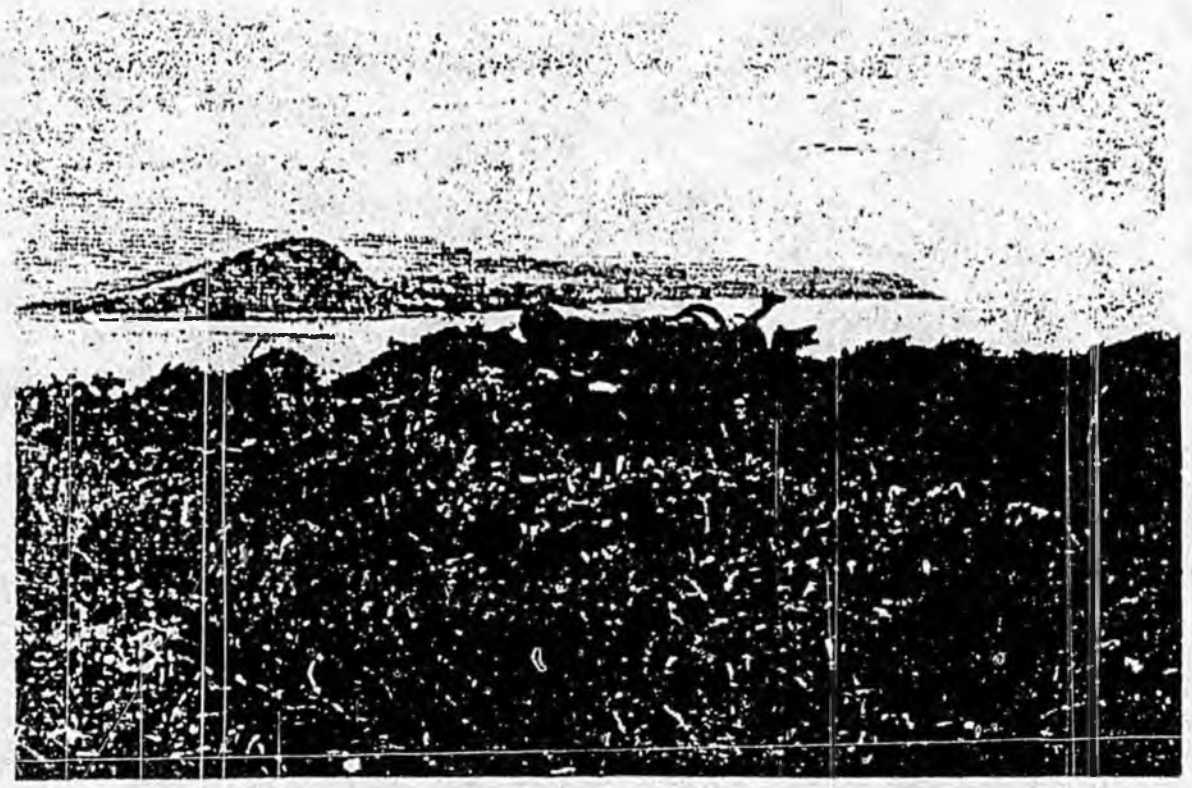


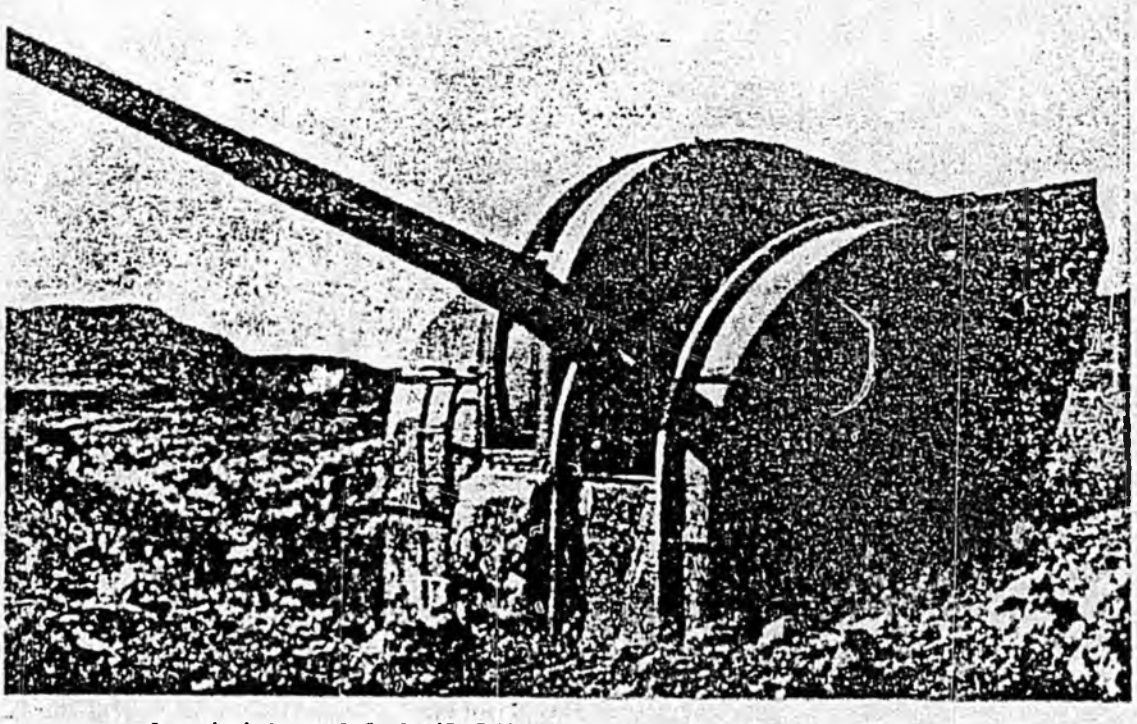
Japanese Anti-Aircraft Battery Featuring Model 93 (1933), 13.2 mm Dual Machine Guns.

COE

The largest of the Japanese Anti-Aircraft Guns were the 90 mm Models.

COE



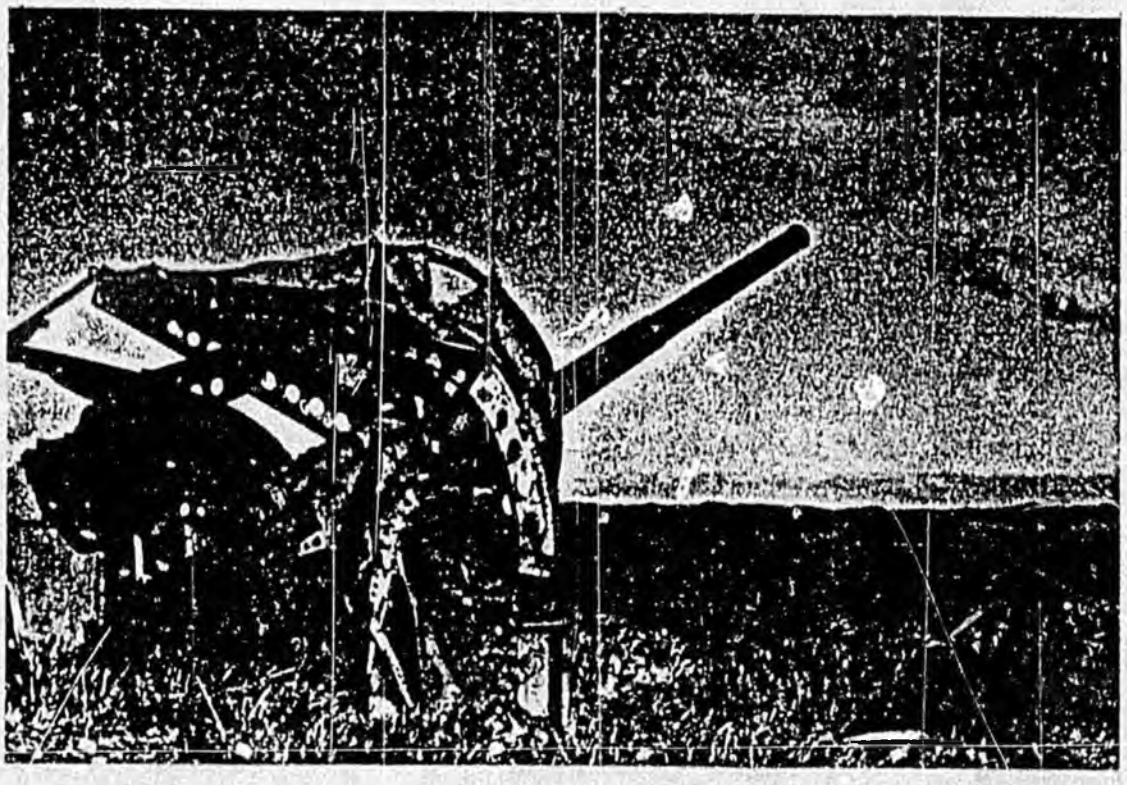


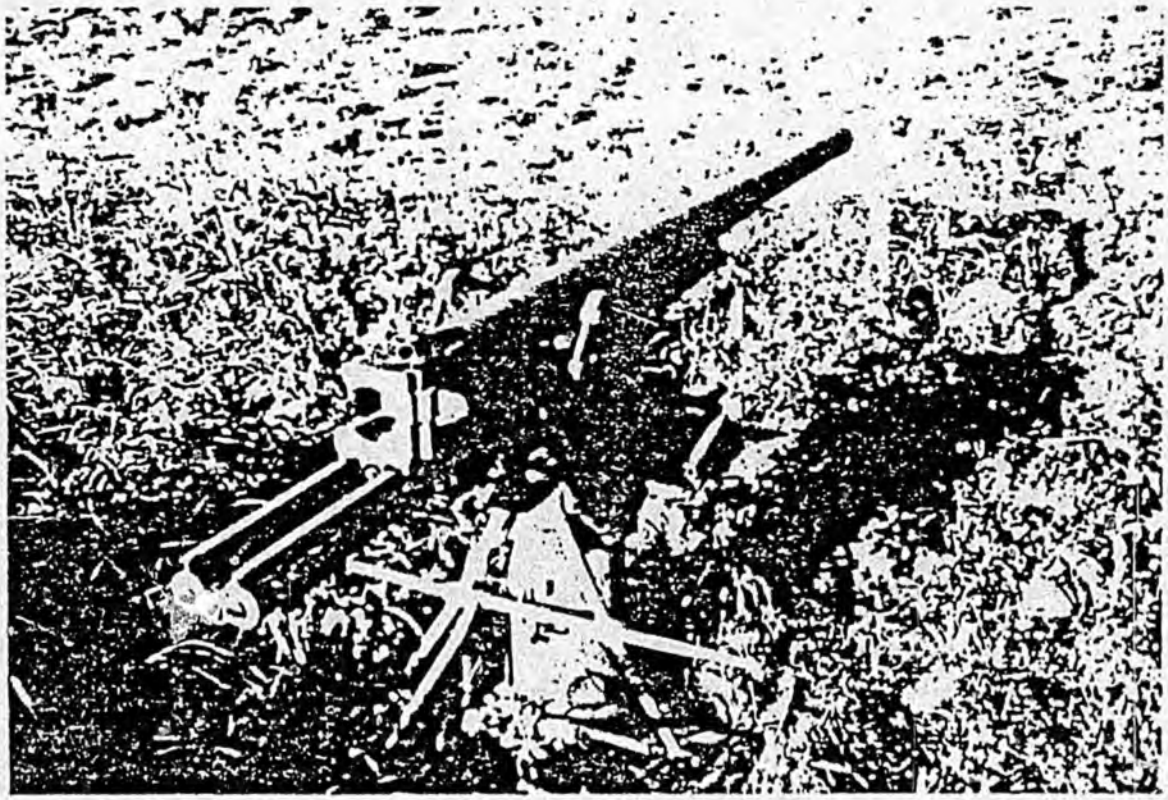
A captured British Model 3 (1914), 12 cm naval Gun used by the Japanese in defense of an Aleutian.

COE

A British Model 14 cm Coastal Gun.

COE



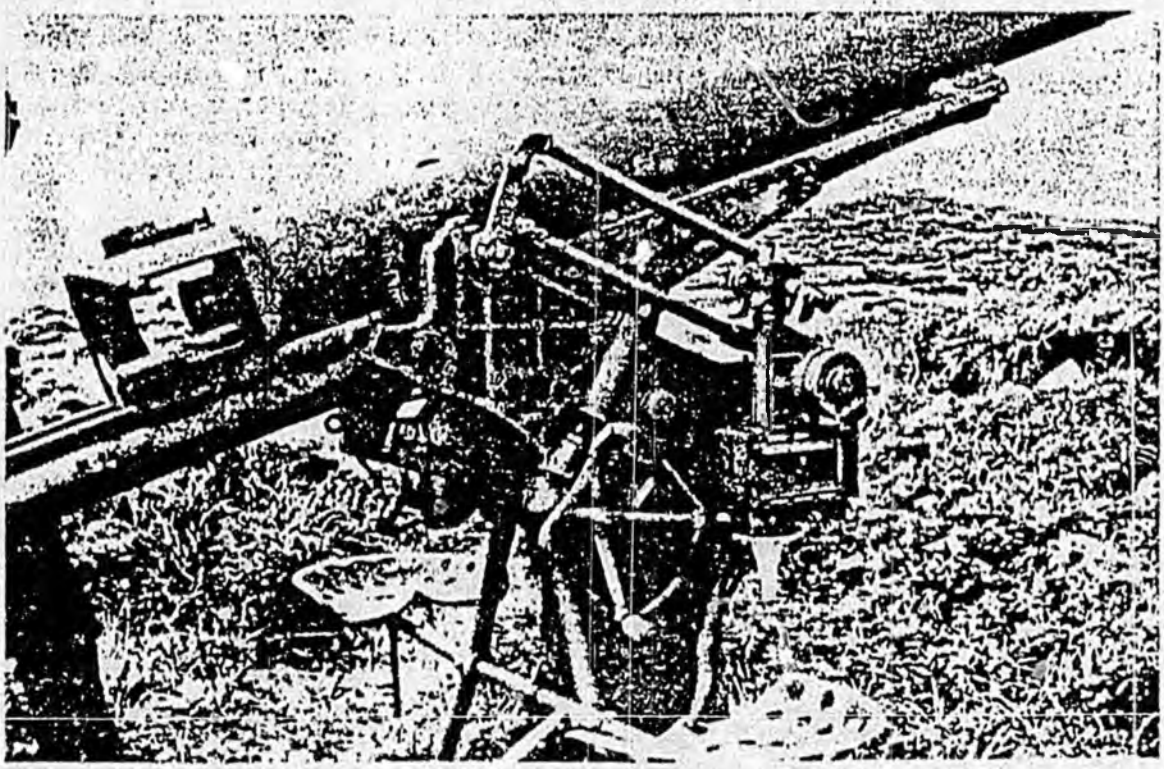


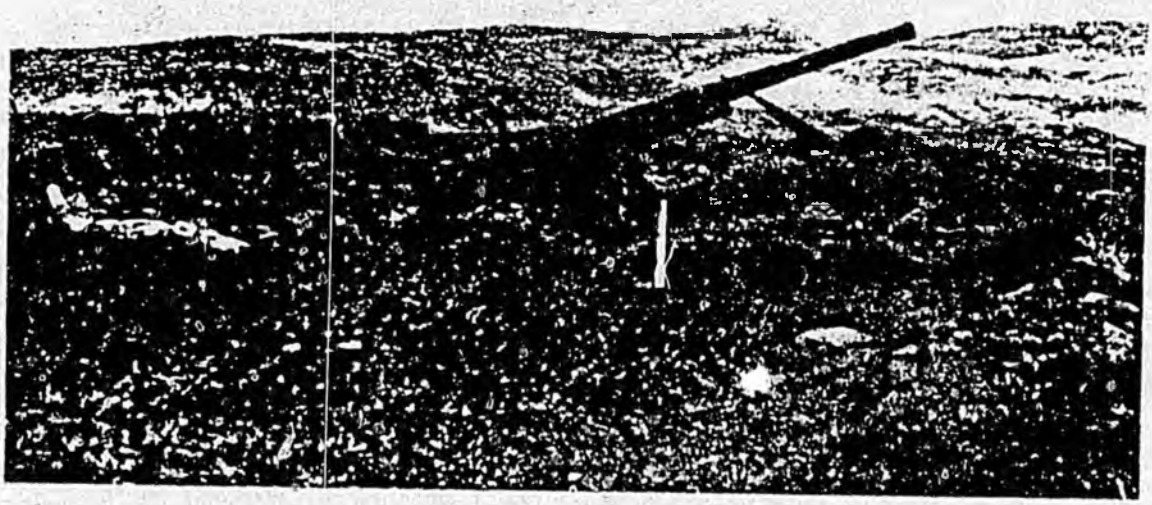
A Japanese Anti-Aircraft F Gun 75 mm.

COE

A Japanese Model 88 (1928), 75 mm Anti-Aircraft Gun.

COE



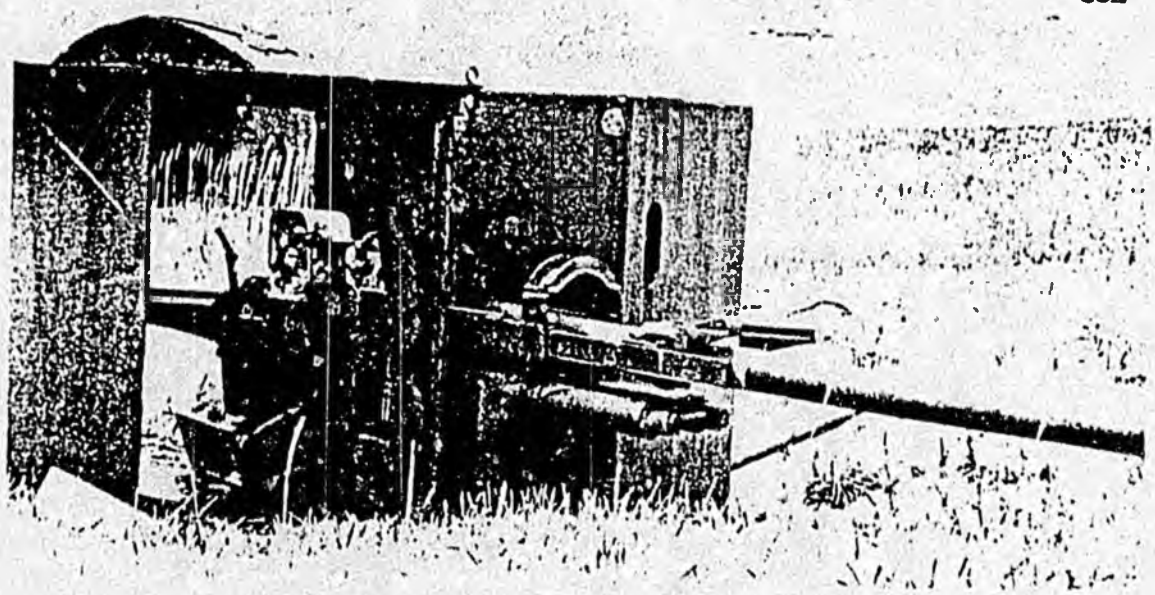


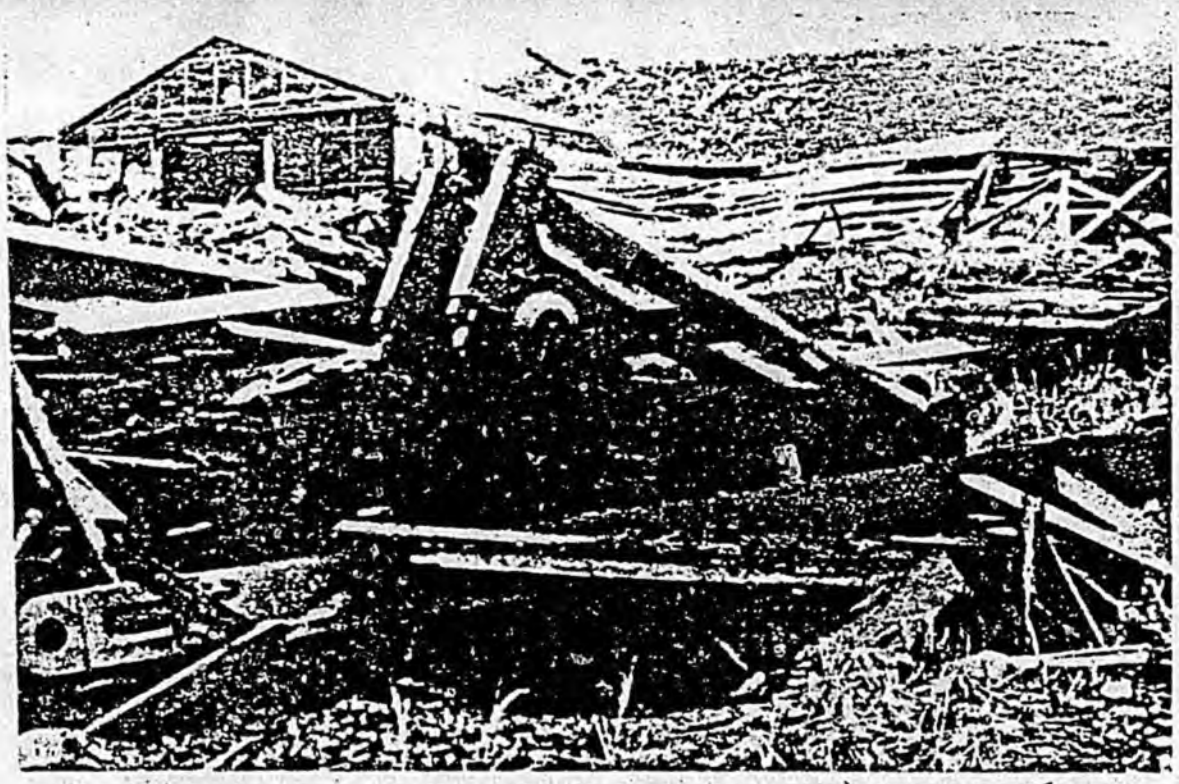
Japanese 75 mm Anti-Aircraft Guns still in position.

COE

An American 3-inch Coastal Gun.

COE



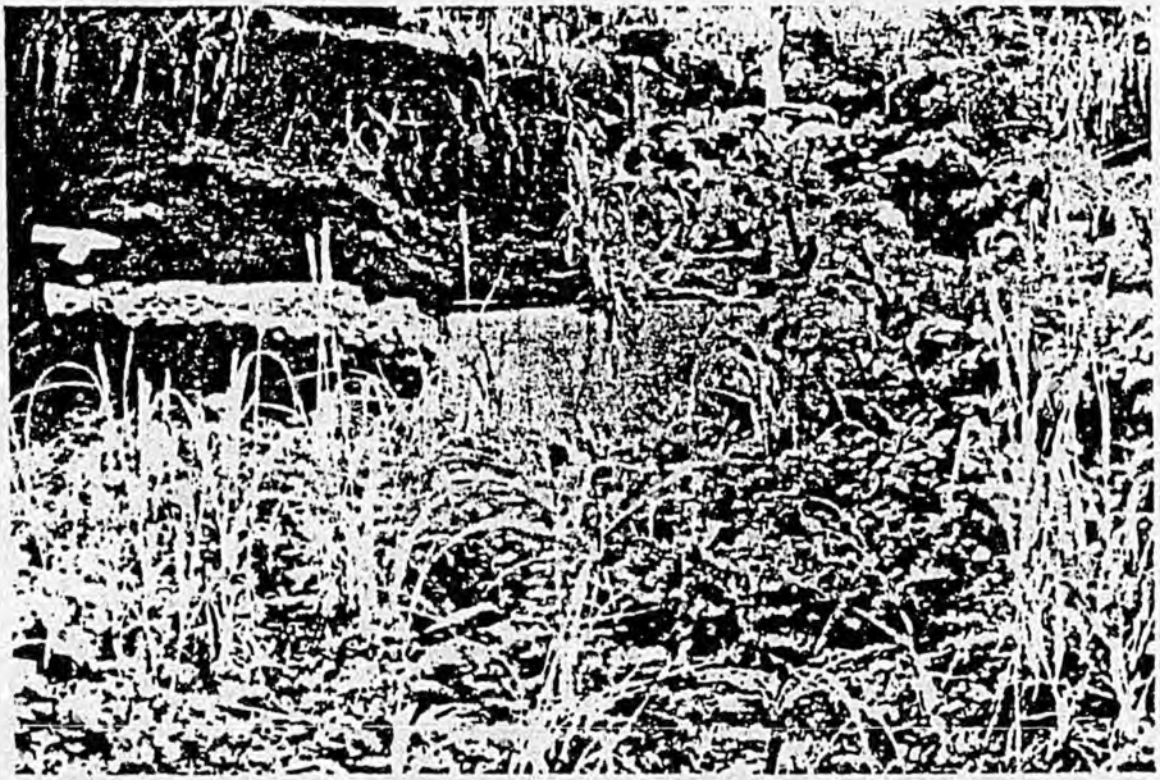


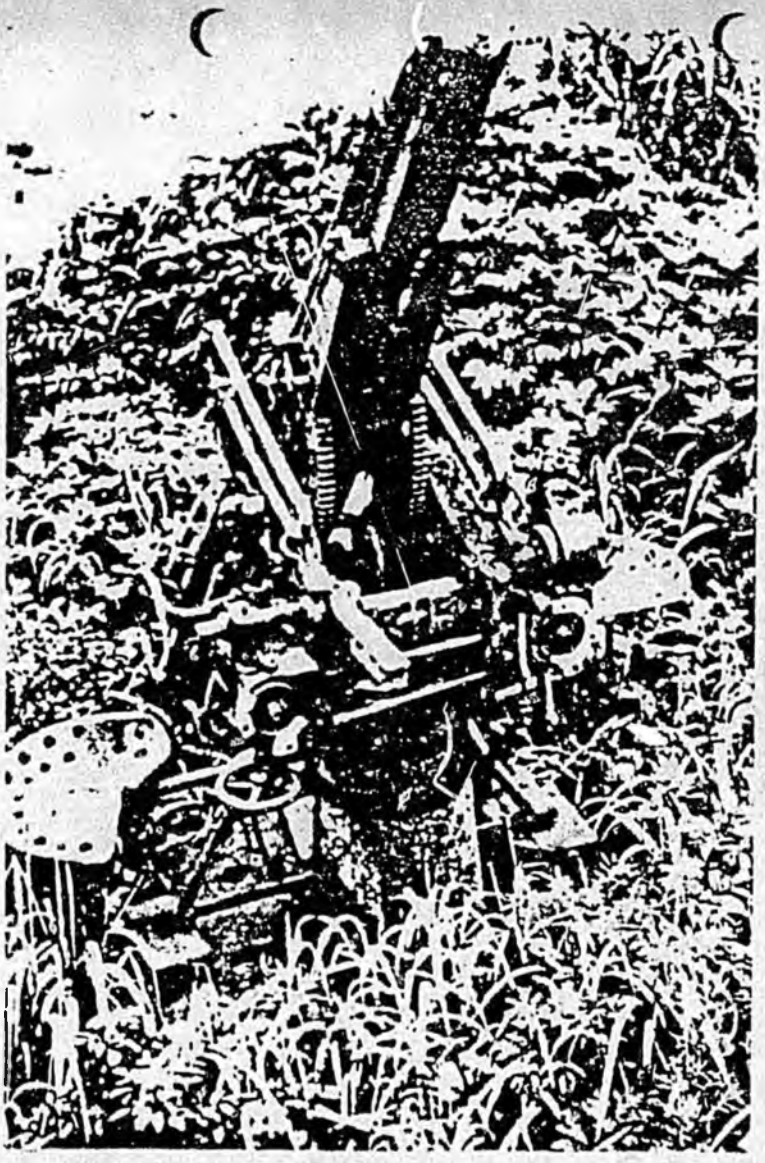
Present Dock Area and Remains of 155 mm Gun Carriage.

COE

This lush vegetation has practically hidden this Japanese 75 mm battery.

COE



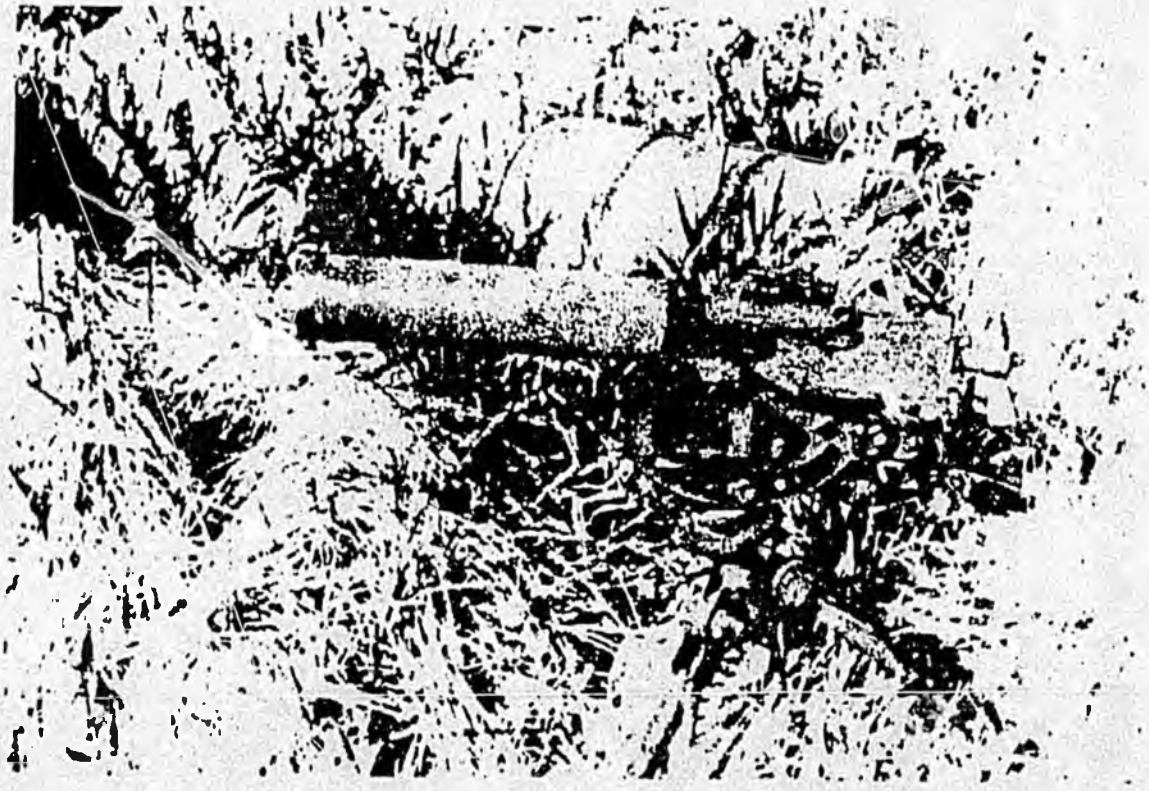


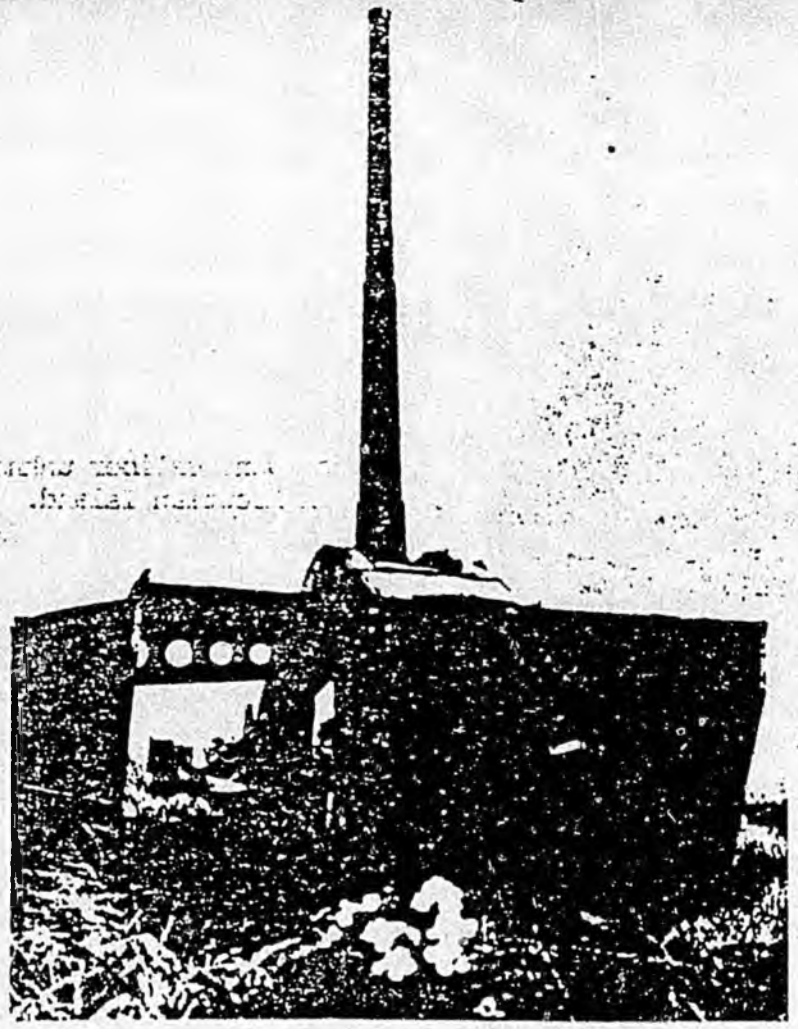
A Japanese gun, caliber unknown, sits on an Aleutian Island.

USFW

A Browning M1917A1, .30 mm water-cooled machine gun.

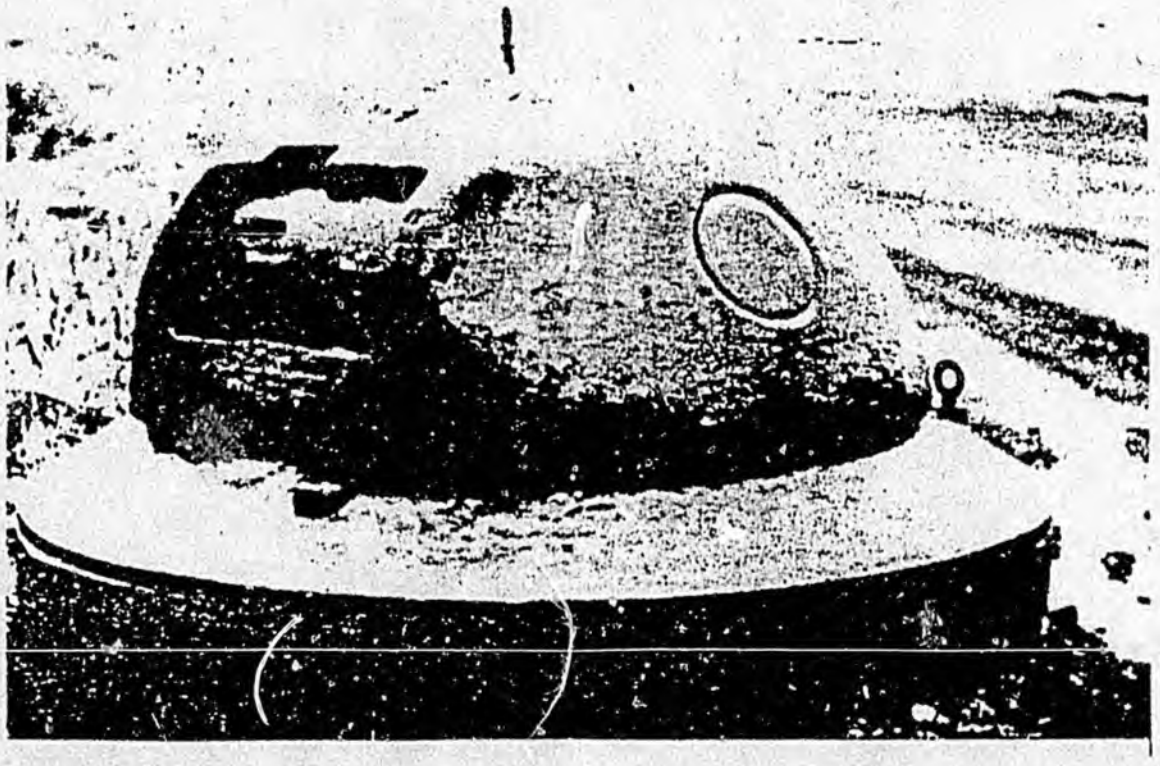
USFWS





A 14 cm Coastal Gun, believed to be from the British Fortress at Singapore, Vintage 1900.

COE

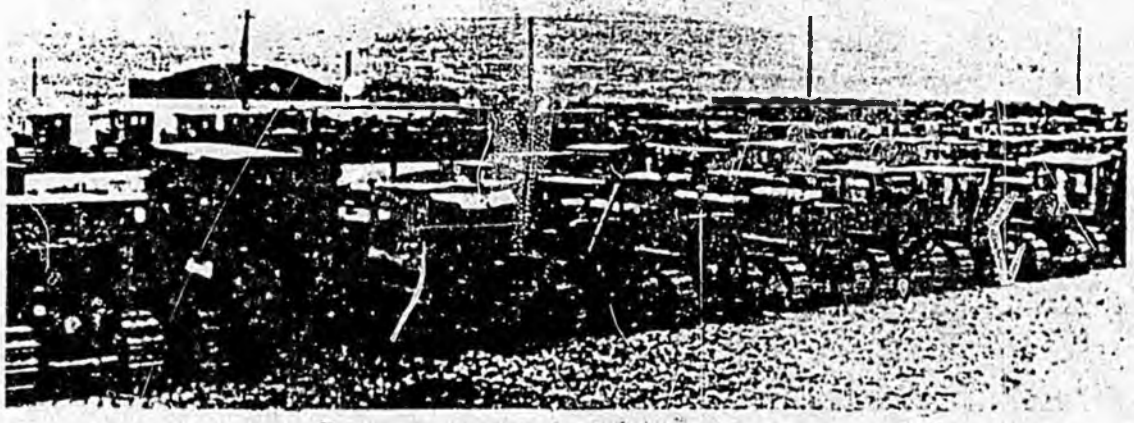


The Renault Tank Turret was used for airfield defense.

COE

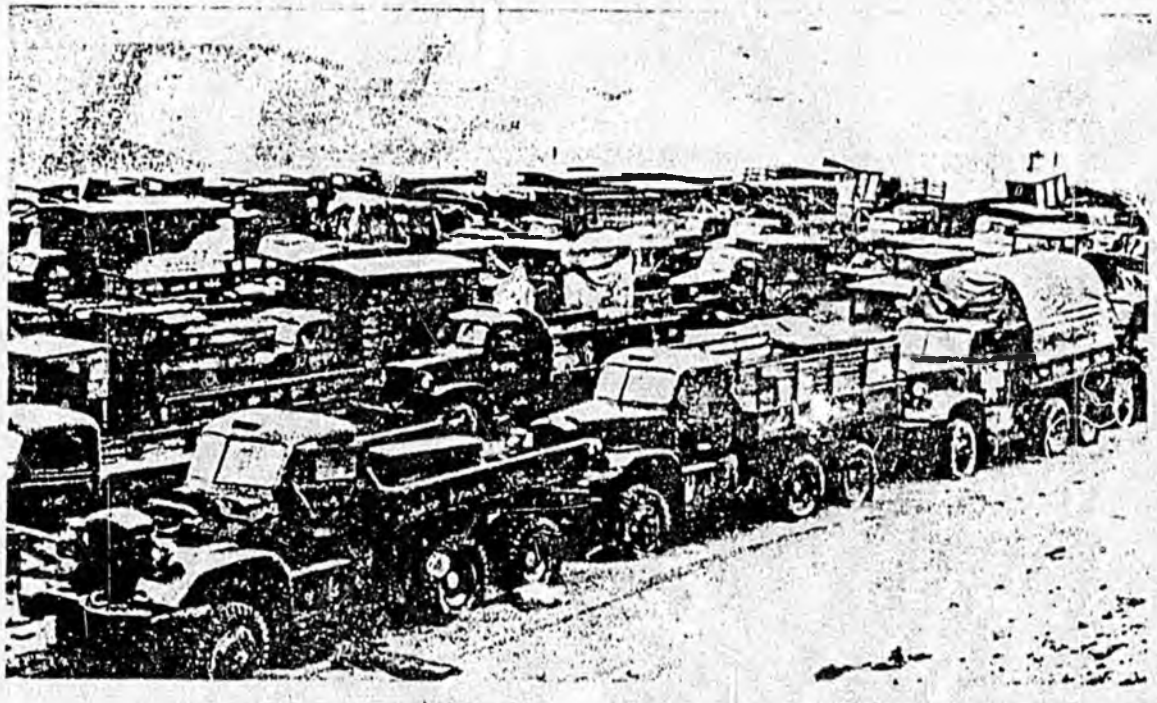
Heavy equipment (such as bulldozers and Cats) and vehicles (such as trucks) were all buried in the Aleutian Island.

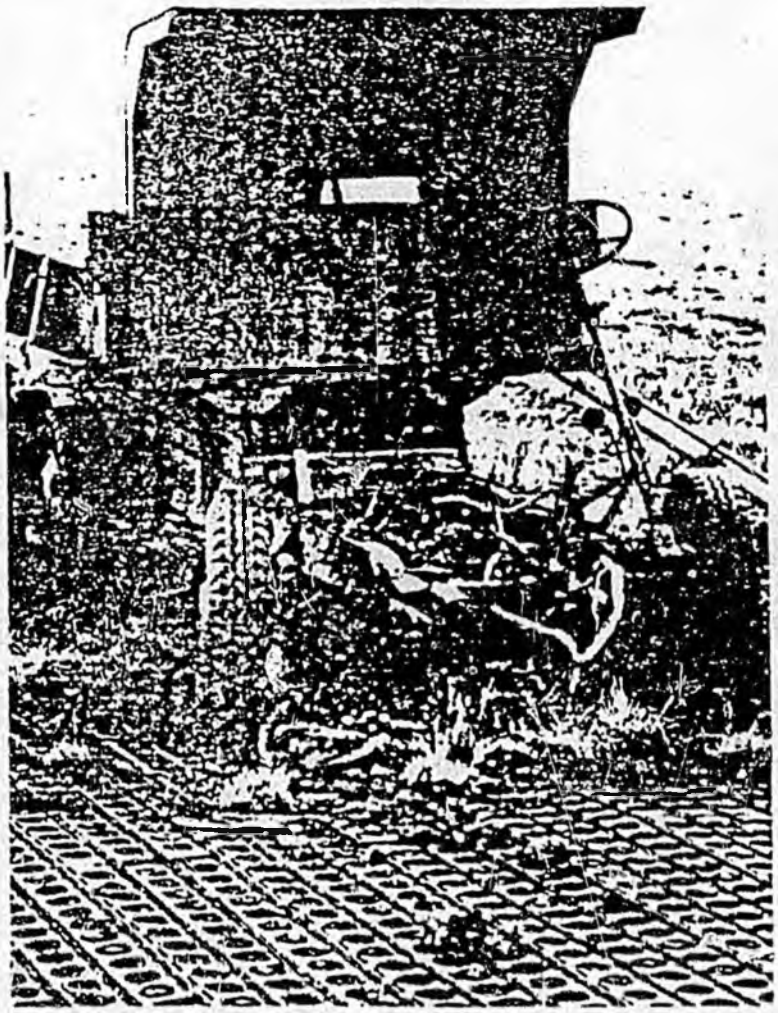
USA



In closing the air bases in the Aleutians Islands after WW II, trenches were dug. Trucks and jeeps like these and staff cars were driven into the trenches and then completely were buried.

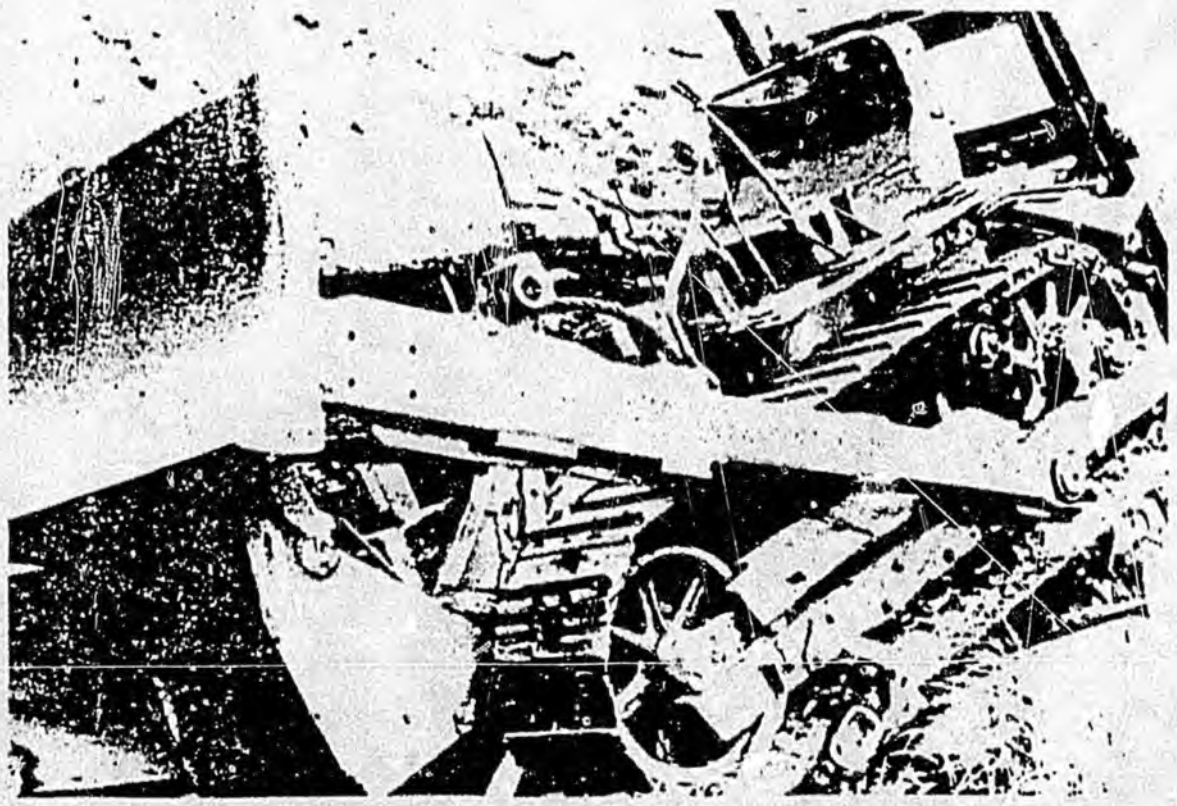
USAF





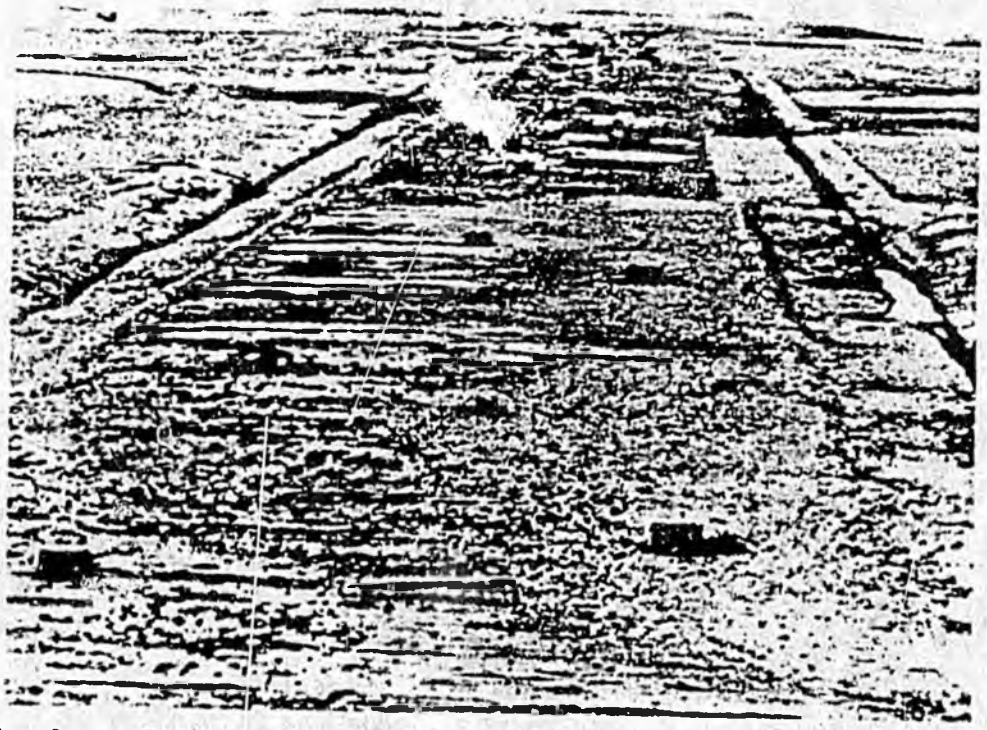
American 5CY Dump Truck on Runway Matting.

USN



Typical Remains of an Engineer Bulldozer.

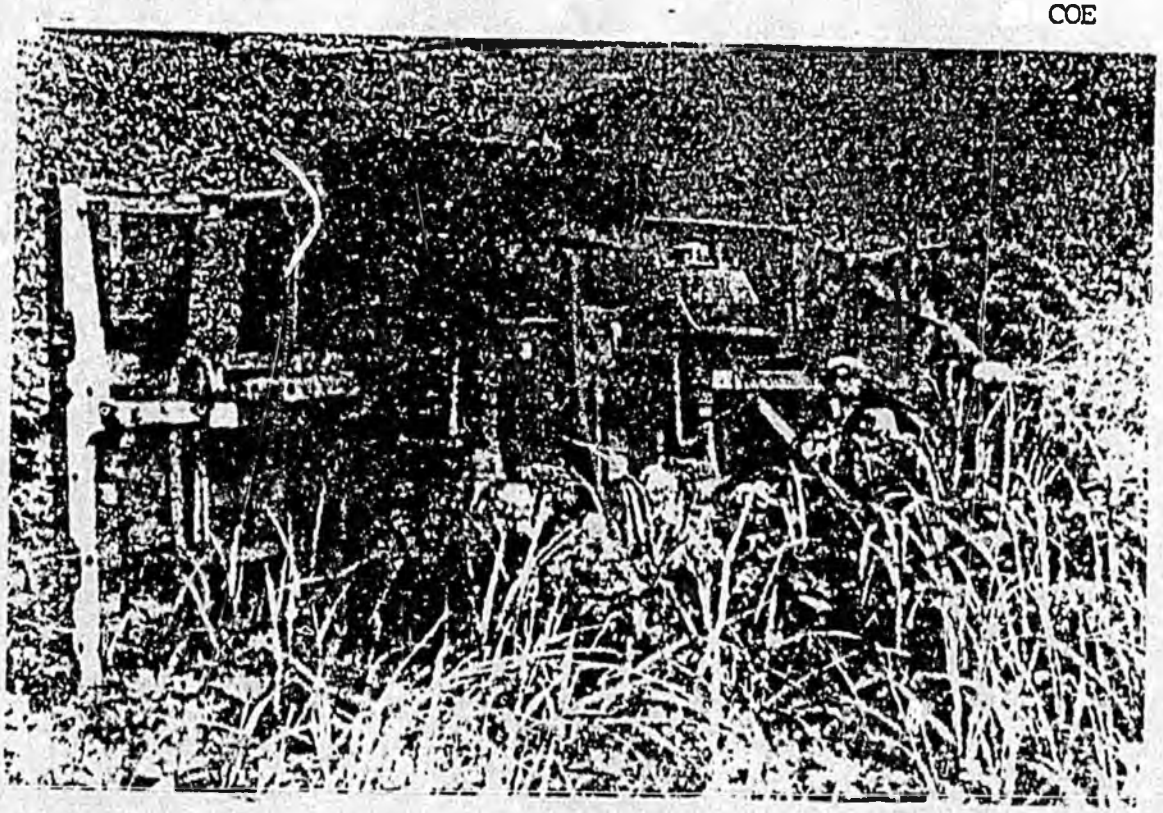
COE

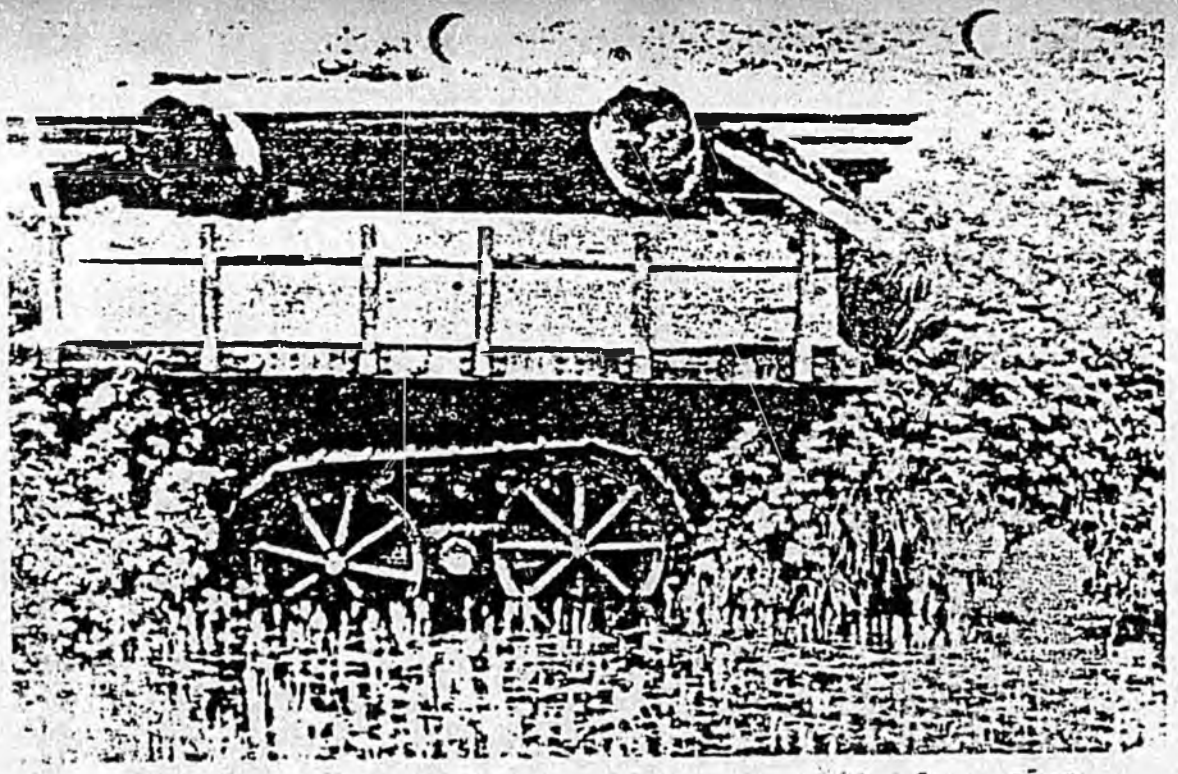


Abandoned Engineer Construction Vehicles on Steel Matting Runway.
USN

Japanese Model 94 (1934) 6 X 4 Utility Truck.

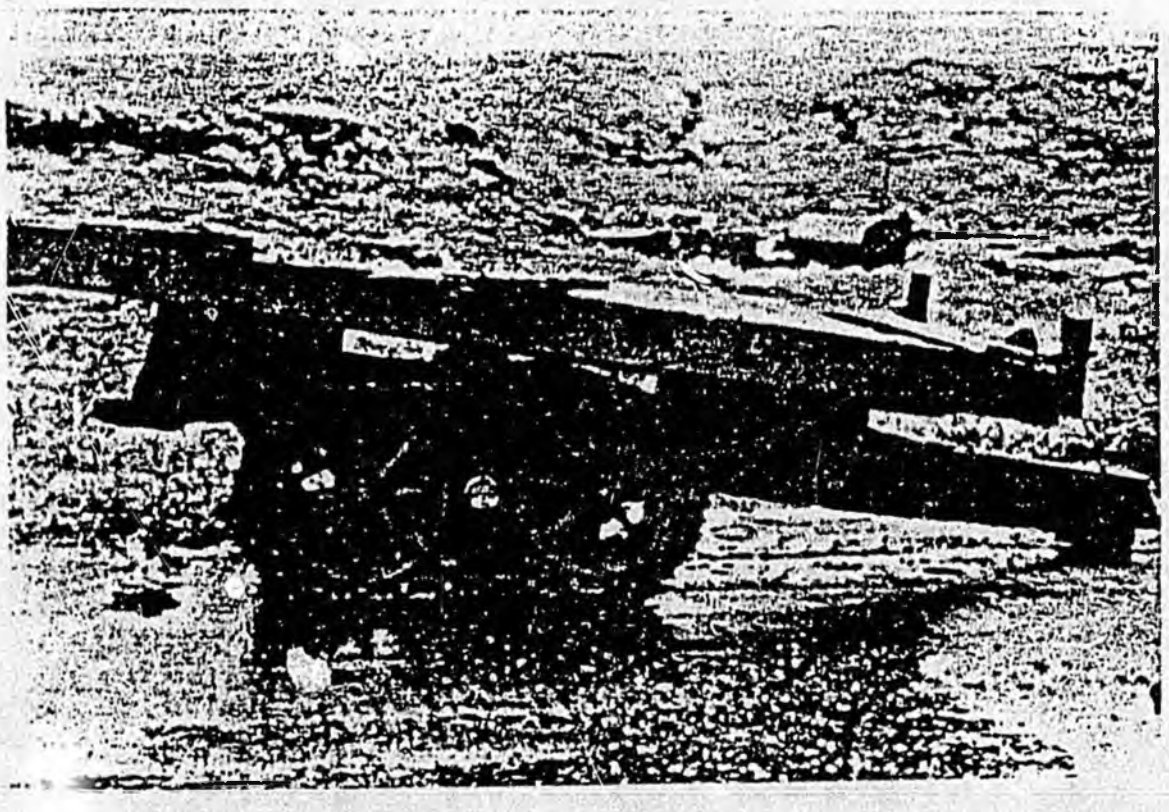
COE

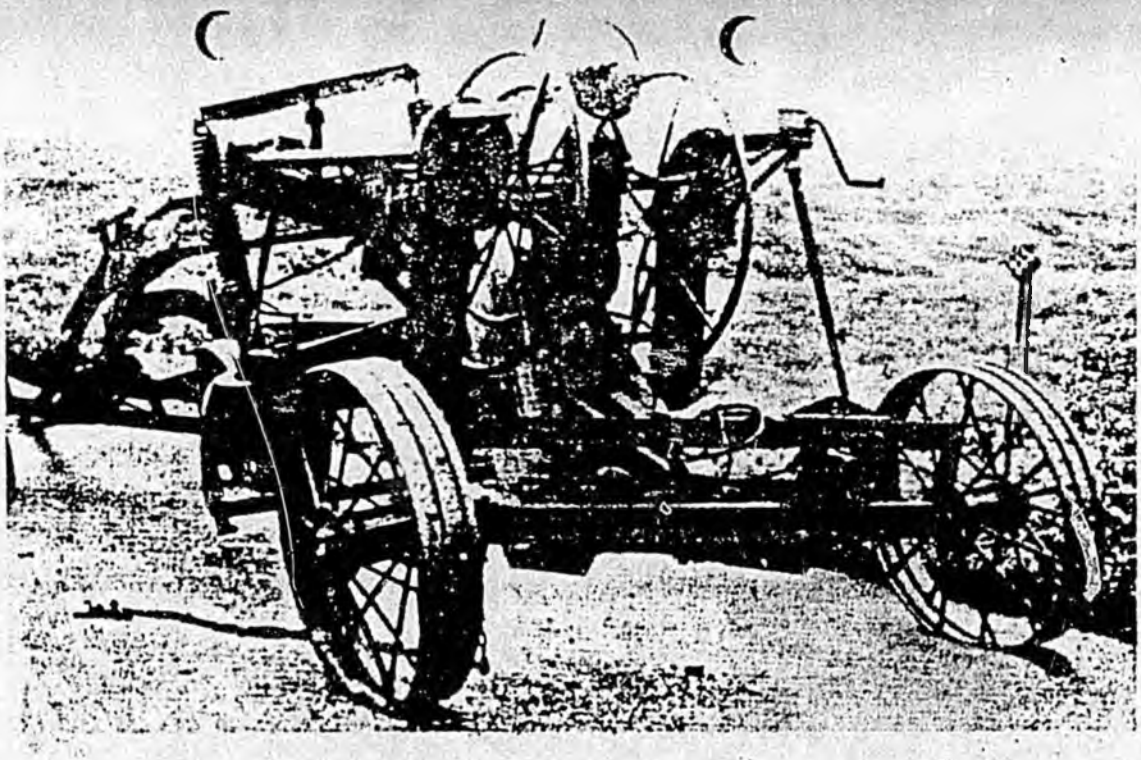




American Bulldozer-Pulled ATHEY Vehicle.

COE

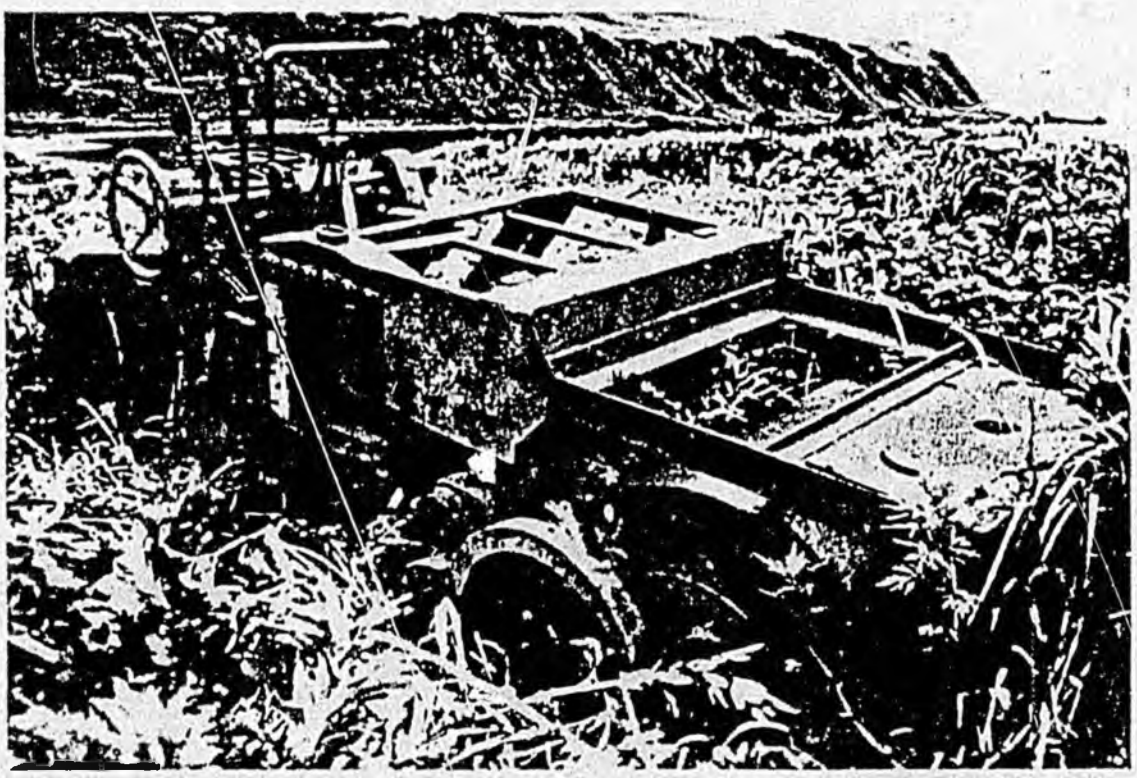


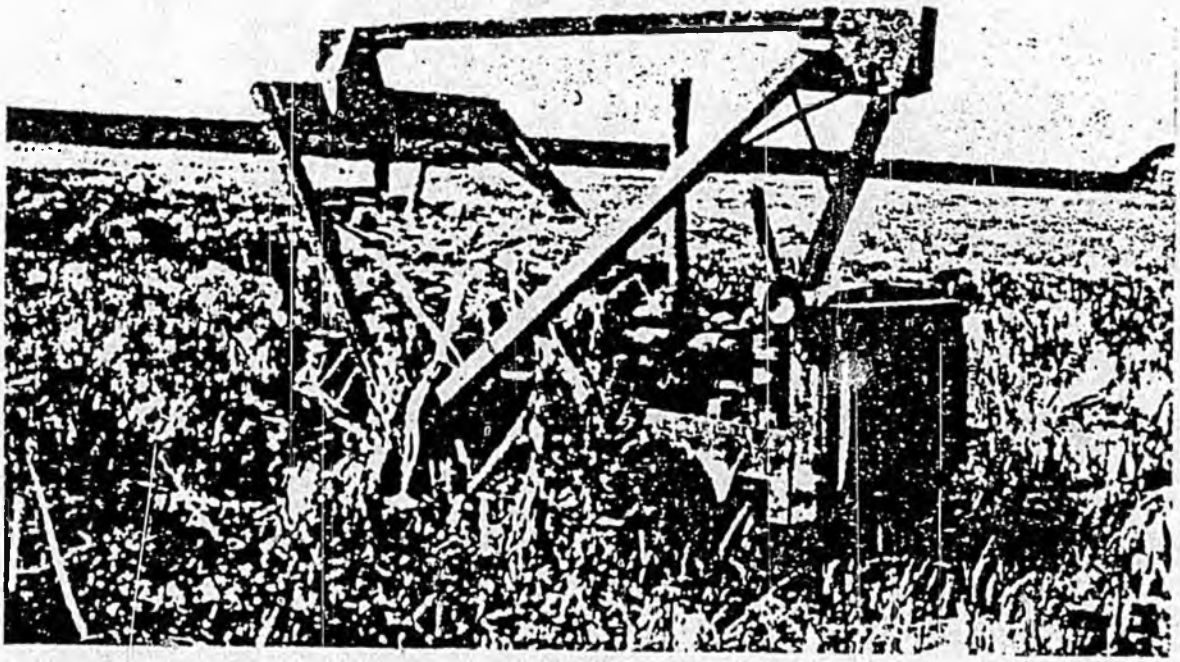


American Tractor-Pulled Scraper for Airfield and Road Construction.
USFWS

A steam Roller, which was used in a construction of runways and roads, is sitting in an Aleutian island.

USFWS





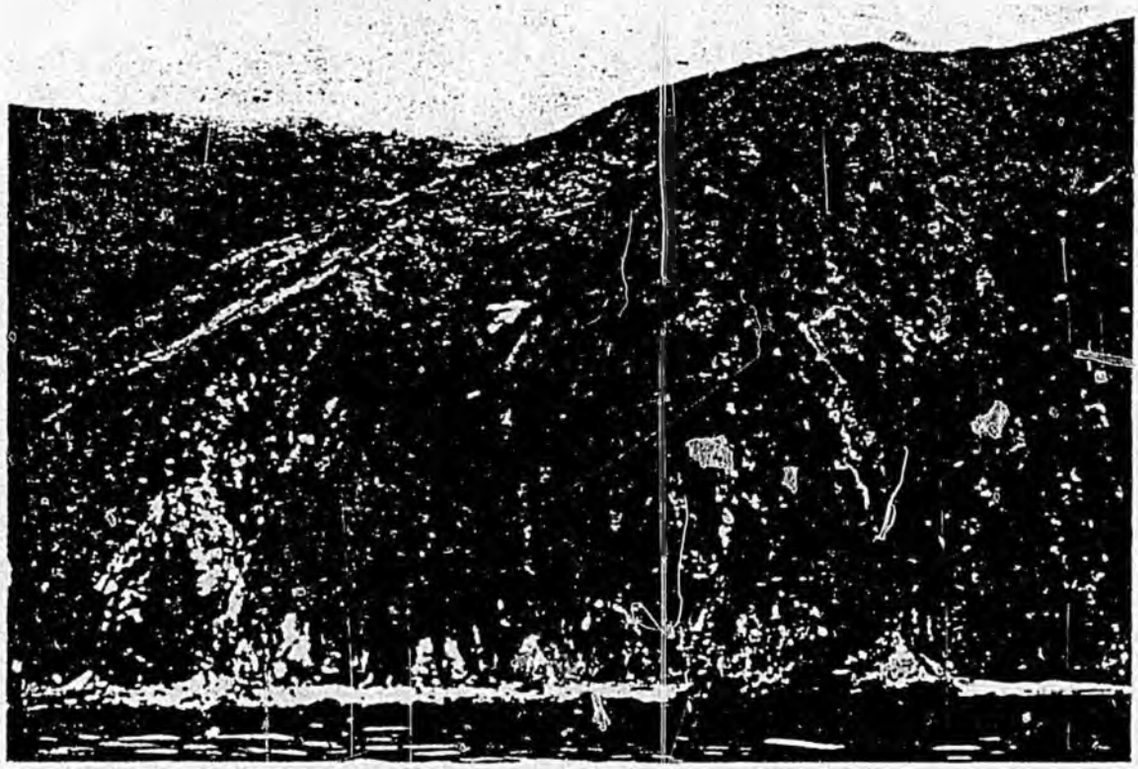
American D4 Caterpillar bulldozer.

USFWS

Floats for American Anti-Submarine Nets.

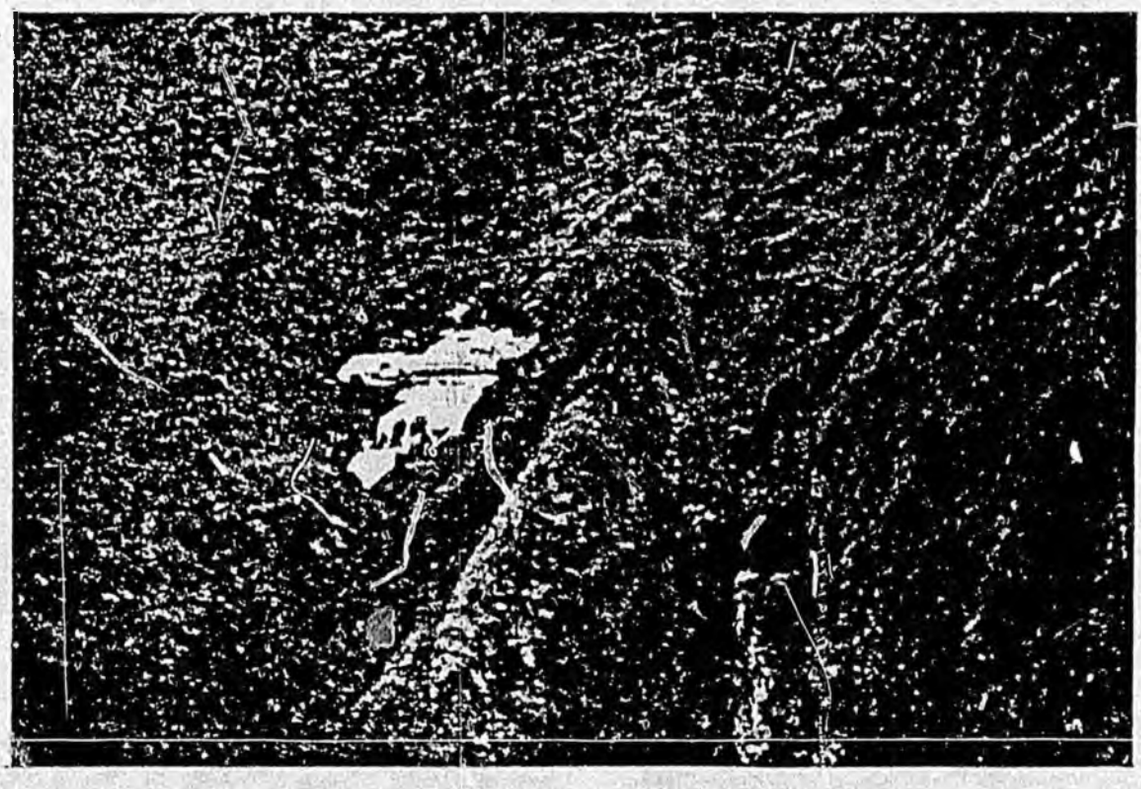
COE

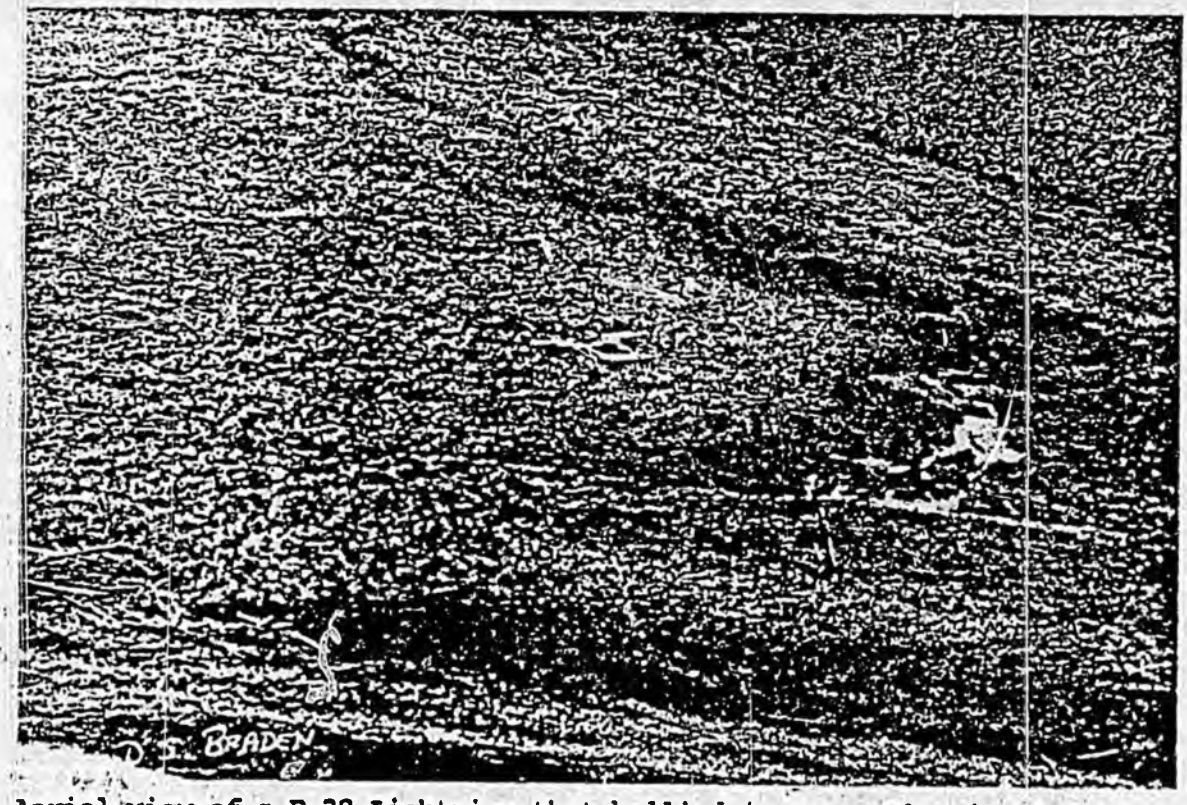




This B-25 Mitchell went down on a hillside in the Aleutians some time during the Aleutian Campaign.

USFWS



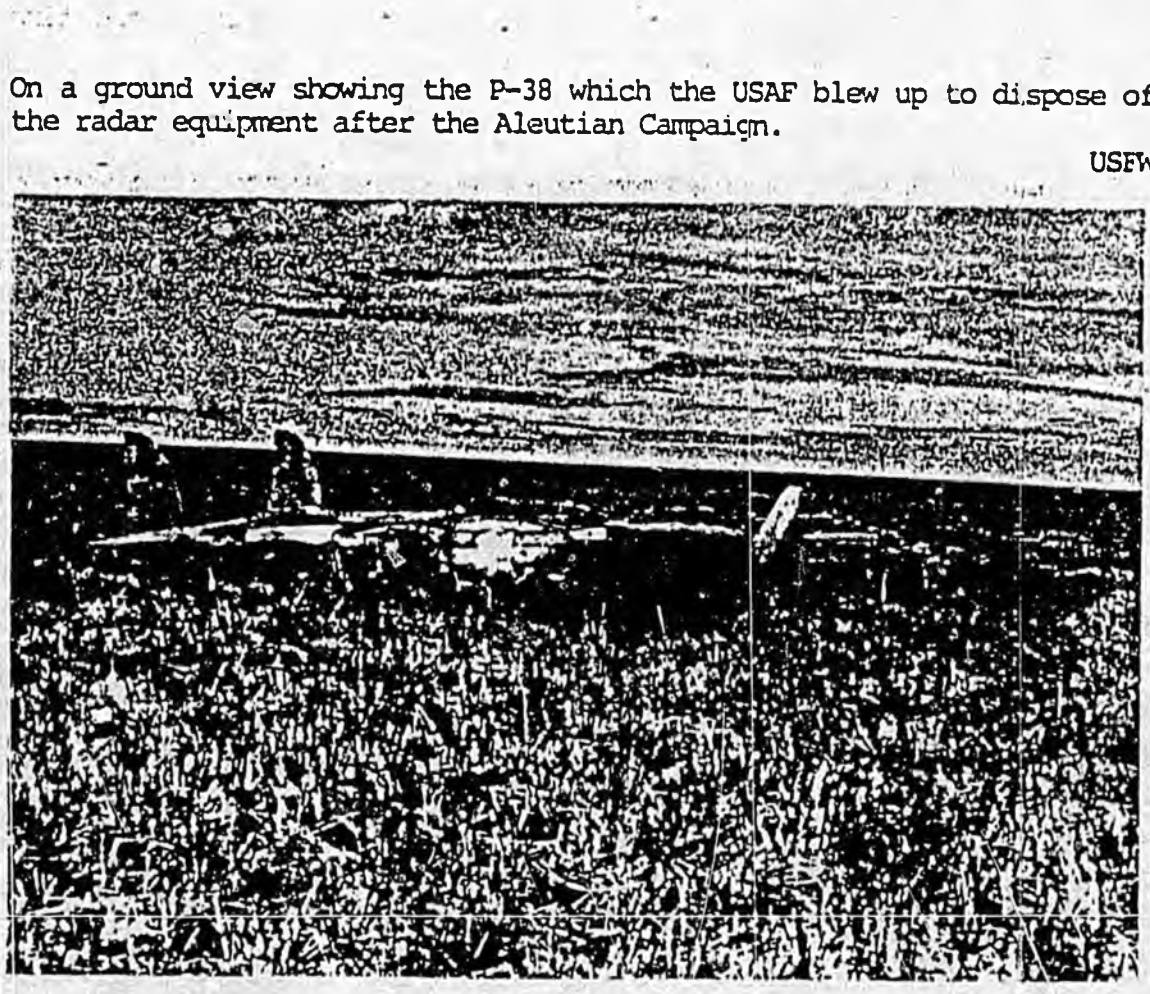


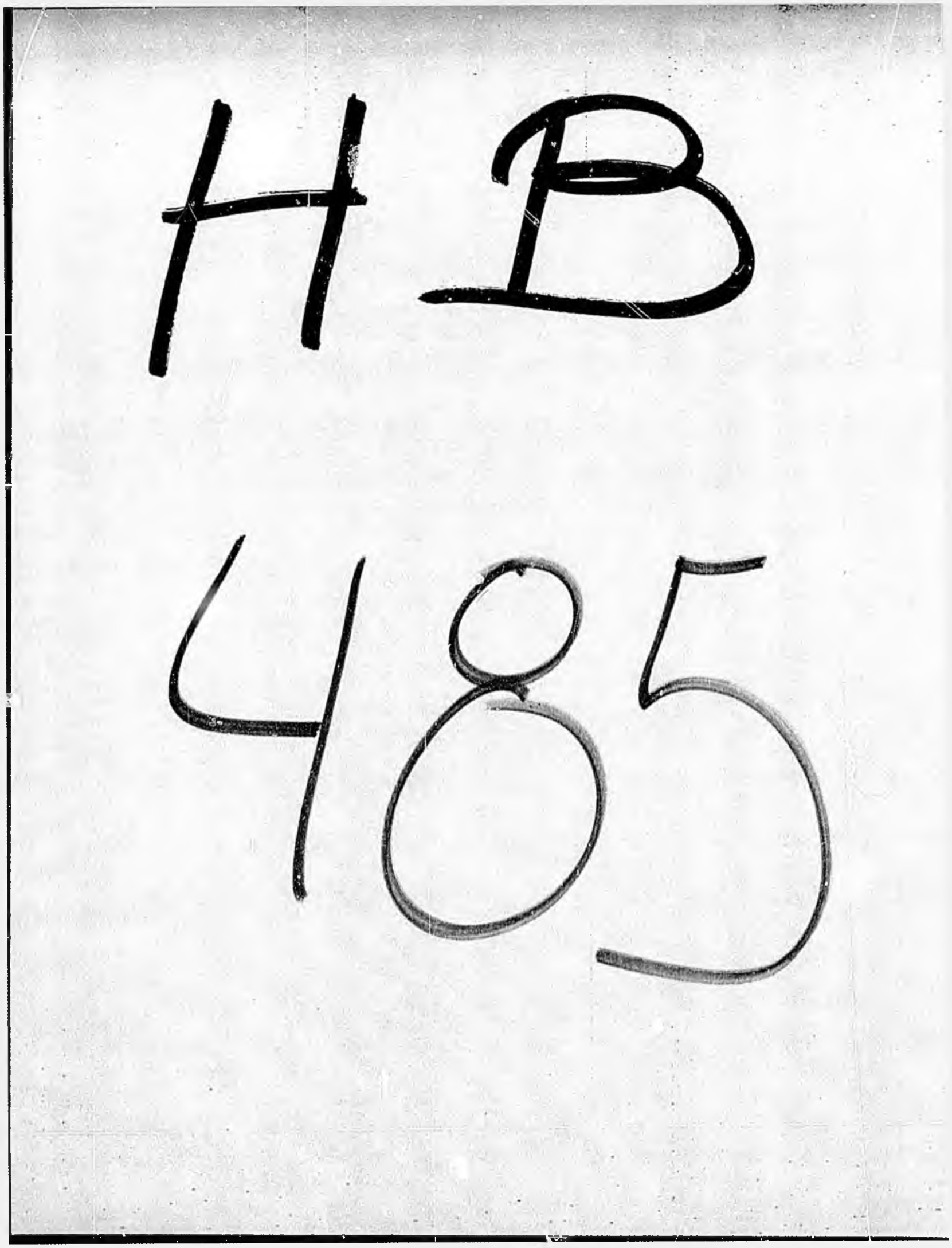
Aerial view of a P-38 Lightning that bellied in on an Aleutian Island.

DSB

On a ground view showing the P-38 which the USAF blew up to dispose off the radar equipment after the Aleutian Campaign.

USFWS




HB
485

Alaska State Legislature

A

POUCH V
JUNEAU, ALASKA 99811

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

211 CU[illegible]
FARBANKS, A[illegible] 99701

March 2, 1984

M E M O R A N D U M

To: Representative Mitch Abood, Chairman, House State Affairs

From: Representative Bob Bettisworth

RHB

Subject: HB485 "An Act establishing a biennial budget; and providing for an effective date."

This bill is companion legislation to HJR52 which would amend the Constitution of the State of Alaska to provide for a biennial budget cycle. The acceptance by the voters of the ballot proposition contained in HJR 52 would trigger the changes to statute contained in the subject bill.

Essentially this bill will require the Governor to prepare and submit a budget for two succeeding fiscal years to the legislature by the fourth day of each second legislative session. The legislation basically inventories all existing sections of current statute for references to annual budgeting and changes them to conform to biennial budget format. Section 20 on page 7 is a new section providing for annual adjustments to the biennial budget including special and supplemental appropriations.

Sectional Analysis:

Section 1: Intent language expressing the legislative mandate to change to biennial budget with annual reporting and auditing to remain on an annual basis by fiscal year.

Section 2: Changes public school foundation account language to biennial format.

Section 3: Changes average daily membership language to biennial format.

Section 4: Changes annual language to biennial budget format for approved school food service programs.

Section 5: Changes the Alaska court system to conform with a biennial budget format by removing the word annual.

Section 6: Changes appropriations for "special officers" to a biennial format.

Section 7: Changes appropriations for "members of state boards and commissions" to a biennial format.

Section 8: Changes estimates of annual legislative operating expenses by the Legislative Council to a biennial budget for submission to the house and senate finance committees.

Section 9: Changes Legislative Council's budget submission from annual to biennial format

Section 10: Changes informational requirement that the Ombudsman submit an estimated budget for informational purposes to the governor from annual to biennially.

Section 11: Changes the annual format for contributions to the Alaska National Guard and Naval Militia retirement systems to a biennial budget time frame within the Department of Military Affairs budget.

Section 12: Removes references to annual with regard to operating budget amounts forming the basis for community disaster loans but leaves in fiscal year for determining when the disaster occurred.

Section 13: Under the Correctional Industries Commission statutes removes annual from budget review function to comply with proposed biennial budget format.

Section 14: Under statutes for the legally questionable "Reserve for Capital Outlay Account" the word annual is removed from the section dealing with appropriation of the proceeds of the account to put the language in conformation with a biennieal budget format.

Section 15: Would put the proceeds of the legally questionable "Reserve for Energy Facilities Development Account" into conformity with biennial appropriation.

Section 16: Changes definition section of the "Public Finance" title to conform to a biennial budget cycle by removing budget year from the list of defined terms.

Section 17: Inserts the word biennial into the Statement of Policy section of title 37 (Public Finance) to bring it into conformity with a biennial budget format.

Section 18: Changes the responsibilities of the Governor under the Public Finance statutes from annual budget submission to the Legislature before the fourth legislative day to biennial budget submission before the fourth legislative day of each second regular legislative session. Section 18 also replaces fiscal year with two fiscal years to conform to a biennial budget format.

Section 19: Changes succeeding fiscal year to succeeding two fiscal years where proposed expenditures may not exceed estimated revenues.

Section 20: Adds a new subsection (AS 37.07.020 (e)) which empowers the governor to propose biennial budget adjustments, including special and supplemental appropriations during the first year of legislative sessions.

Section 21: Changes the responsibilities of the legislature under the Public Finance statutes to reflect a biennial budget format including estimates or receipts required to balance the budget over a biennial cycle etc.

Section 22: Makes comprehensive changes to the language related to the Office of Management and Budget within Title 37 to conform to a biennial budget cycle.

Section 23: Makes comprehensive changes to the Section on agency program and financial plans section of Title 37 to conform to a biennial budget cycle. This section deals with what level of detail is required in budget submissions, goals and objectives, implementation of goals and objectives, a budget, receipts from the past cycle, estimated current year receipts and the year to come, a statement of required legislation, etc.

Section 24: Brings the budget requests of boards and commissions generally under a biennial budget format.

Section 25: Makes changes to the section of statute regarding the Governor's recommendation to the legislature to conform to a

biennial budget format. The governor would be required to submit for the succeeding two fiscal years and the governor would present the comprehensive budget message to the joint session of the legislature before the fourth legislative day following the convening of the legislature in each second regular session instead of every regular session. The accompanying report required would contain operating and capital budget recommendations for the succeeding two fiscal years, a summary of state receipts in the last two fiscal years, and an estimate of state receipts for the succeeding two years. Expenditures would be summarized for the last two fiscal years and estimated for the succeeding two fiscal years as well.

Section 26: Would bring the possibly unconstitutional Alaska Renewable Resources Development Fund under the biennial budget format within the governor's budget presentation and in accordance with the Executive Budget Act in general (AS37.07).

Section 27: Again, with regard to the Alaska Renewable Resources Development Fund, expenditure plans for the income from the fund shall be prepared cooperatively and presented in the Governor's biennial budget presentation and not less than 80% of the fund plan for expenditure over the biennium must be spent on direct capital expenditures.

Section 28: Brings the Alaska Resources Corp. into the biennial budget format for preparation of their biennial budget and long range operating and financial plans.

Section 29: Changes the language under the section dealing with the Permanent Fund Corporation's budget to biennial operating budget instead of annual operating budget.

Section 30: Puts the Land Disposal Bank into conformity with a biennial budget cycle by mandating that the commissioner submit an appropriation request for land disposal by fiscal year but for the biennium.

Section 31: Would bring the chapter on Old Age and Survivors Insurance and specifically the section on administrative costs and rates of assessment on political subdivisions for the FICA administration fund into compliance with a biennial budget cycle.

Section 32: Brings the Outdoor Recreational, Open Space, and Historic Properties Development Fund within DNR into compliance with a biennial budget cycle with respect to plans for expenditure from the fund.

Section 33: Requires DOT/PF to submit a biennial budget to the legislature for their consideration and approval to include all money collected or anticipated to be collected under the motor fuel tax chapter. (note: Dept. of Public Works may be an error)

Section 34: Changes the requirement that a qualified regional aquaculture assoc. requesting state assistance submit an annual budget to commerce to submission of a biennial budget.

Section 35: Changes the statutes governing the Capital city development oversight committee to conform to a biennial budget cycle.

Section 36: Puts the working capital fund within DOT/PF into a biennial budget cycle with respect to legislative appropriations and executive budget detail.

Section 37: Would require that when the Alaska Power Authority permits a power project to be operated by a qualified utility under a contract or lease the authority must review a biennial budget for operation and maintenance of the project instead of an annual O&M budget.

Section 38: Changes the Municipal Bond Bank from an annual budget submission to a biennial budget format for preparation and submission under the Executive Budget Act.

Section 39: This section may be unnecessary since the CETA program no longer exists and apparently has been replaced with the JTPA program (Job Training Partnership Act). Karen Perdue, Director, Division of Community Development, C & RA, says that this may still be the authority for the new federal program.

Section 40: Deals with appropriations from the "oil spill mitigation account". The effect of removing the word annually where the sub-section dealing with legislative appropriations just makes it clear that the intention is not that the fund is to be tapped every year.

Section 41: Mandates that the annual interdepartmental program budget submission by the Governor's council on handicapped and gifted to the Department of Health and Social Services, as an informational supplement to the regular department budgets be done biennially.

Section 42: Effective date section making the effective date the effective date of HJR52 proposing an amendment to the Constitution of the State of Alaska to provide for a biennial budget.

All personal pronouns that relate to the sexes have been rendered neutral in this legislation where they previously existed.

rob

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 17, 1984

MEMORANDUM

TO: Representative Bob Bettisworth
Attention: Ralph Bennett

FROM: O. Alexander Hoke
Legislative Analyst

RE: Impact of Biennial Budgeting on Cash-Based Budgeting
Research Request 84-040

As you requested, this memorandum addresses the impact of legislation which initiates biennial budgeting (HJR 52 and HB 485) on the proposal to institute cash-based budgeting in the state (CS HJR 39).

Multiple Interpretations of Biennial Budgeting

The implications of having both biennial budgeting and cash-based budgeting approved by the voters in the upcoming general election depends substantially on the ultimate legislative interpretation of these budgeting concepts. As discussed in David Teal's November 25, 1983 memorandum to you, biennial budgeting has different meanings in the states in which it is practiced. Nine states have both biennial sessions with biennial budgets and special provisions for amending the budget on an annual basis. Twelve states have annual sessions with biennial budget cycles, and provide for full legislative review of the budget each year. Of the 21 states with a biennial budget, all but four make separate appropriations for each year of the biennium. Biennial budgeting practices among the states range from systems almost indistinguishable from annual budgeting to true two-year budgets with allowances for only minor (or emergency) amendments.

Biennial budgeting under HJR 52 and HB 485 seems to qualify as a true two-year budget and appropriation cycle. Biennial budgeting in HJR 52 calls upon the governor to submit "a budget for the next two fiscal years setting forth all proposed expenditures and anticipated income ...with a general appropriation bill to authorize the proposed expenditures..." The companion bill (HB 485) states that "the biennial budget shall contain appropriations for the succeeding two fiscal years and state agencies shall prepare their budgets on this basis."

The Intent of Cash-Based Budgeting

The intent of cash-based budgeting (as defined by HJR 39) is to eliminate "revenue uncertainty" by restricting appropriations for a given fiscal year to the level of total General Fund unrestricted revenues for the preceding calendar year. HJR 39 provides for a cash reserve equal to 1.5 times the appropriations of the fiscal year preceding the start of cash-based budgeting. With this cash reserve, the legislature can be certain that funds are available to cover expenditures through the balance of the current fiscal year (6 months) and the coming fiscal year (12 months).[1]

Revenue Certainty Under A Biennial Budget

An 18-month revenue reserve is needed when cash-based budgeting applies to a 12-month budgeting period. If the State adopted a two-year (24-month) budget period through biennial budgeting, cash-based budgeting would require a 30-month cash reserve in order to provide full certainty that available funds are sufficient to offset expenditures over the budget period. With a 30-month reserve, the legislature would know at the beginning of the session that funds were available to cover expenditures through the remainder of the current budget period (6 months) as well as the coming budget period (24 months).

Table 1 shows the fiscal impact of combining the concepts of biennial budgeting and cash-based budgeting (as defined by HJR 39) for a 30th percentile revenue projection. The fiscal impact of these two proposals is the requirement of annual contributions (column 7) of general funds of between $267 and $358 million for a 12-year period, totaling $3.686 billion. The underlying assumption of this calculation is that the legislature intends to prepare a two-year budget and wants to be certain that funds will be available to cover the total appropriation for the two-year budget.

In comparison with a two-year budget cycle, the cost of cash-based budgeting as defined in CS HJR 39 is $2.866 billion (sum of contributions shown in Table 2), or $820 million less than the cost of cash-based budgeting under a true biennial budget cycle.

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[1]See House Research Agency report 83-A; Cash-Based Budgeting: A Response to Revenue Uncertainty.

Table 1

THE GENERAL FUND AS A REVENUE SOURCE FOR CASH-BASED BUDGETING
Based on a 30th Percentile Revenue Projection
(millions of dollars)

Fiscal Year	DOR Revenue Forecast	Revenue Under CBB	Potential Expenditure Level	General Fund Earnings	General Fund Balance	....Cash-Based Budgeting Reserve Fund.... Contributions	Earnings	Balance
1981	3,769		3,769	201	2,010			
1982	4,174		4,174	254	2,540			
1983	3,624		3,624	266	2,660			
1984	3,233		3,233	300	3,000			
1985	3,219		3,219	250	2,500			
1986	3,365	3,069	3,069	259	2,590	296.1	14	310
1987	3,729	3,401	3,401	288	2,880	328.2	48	686
1988	3,711	3,384	3,384	288	2,880	326.6	87	1,109
1989	4,068	3,710	3,710	318	3,180	358.0	132	1,590
1990	3,880	3,539	3,539	301	3,010	341.4	183	2,114
1991	3,582	3,267	3,267	275	2,750	315.2	236	2,665
1992	3,536	3,225	3,225	270	2,700	311.2	294	3,270
1993	3,405	3,105	3,105	258	2,580	299.6	357	3,927
1994	3,290	3,000	3,000	247	2,470	289.5	425	4,641
1995	3,195	2,914	2,914	236	2,360	281.2	499	5,421
1996	3,033	2,766	2,766	222	2,220	266.9	580	6,269
1997	3,092	2,820	2,820	225	2,250	272.1	669	7,210
1998	3,159	3,890	3,063	960	10,327			
1999	3,213	3,989	3,491	1,007	10,845			
2000	3,245	4,029	3,939	1,016	10,945			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

col.

2 Department of Revenue January, 1984 revenue projection.

3 Revenues after effects of cash-based budgeting program. During the CBB reserve contribution period, revenues (column 3) are equal to DOR projections minus annual CBB contributions. Starting with the first cash-based budgeting year, revenues (column 3) are equal to DOR projections plus additional earnings which accrue to the general fund as a result of transferring the CBB reserve fund balance to the general fund.

4 Expenditure levels are presently limited to projected revenues (ignoring the Constitutional appropriation limit). Beginning with the first cash-based budgeting year, expenditures will be limited to the revenues collected in the previous calendar year.

5 General fund earnings are DOR projections up to the start of cash-based budgeting, at which point the general fund earnings will be augmented due to the increased earnings capacity of the general fund from that point on into the future.

6 Beginning with the first cash-based budgeting year, the general fund balance is substantially increased by the transfer of the CBB reserve fund.

8 Reserve fund earnings are calculated at a 10 percent annual interest rate compounded monthly.

9 The earnings rate of the CBB reserve fund is compounded monthly using a 10% annual interest rate.

This projection is based on a general fund unrestricted revenue contribution of 8.8 percent.

Table 2

THE GENERAL FUND AS A REVENUE SOURCE FOR CASH-BASED BUDGETING
Based on a 30th Percentile Revenue Projection
(millions of dollars)

Fiscal Year	DOR Revenue Forecast	Revenue Under CBB	Potential Expenditure Level	General Fund Earnings	General Fund Balance	....Cash-Based Budgeting Reserve Fund.... Contributions	Earnings	Balance
1981	3,769		3,769	201	2,010			
1982	4,174		4,174	234	2,340			
1983	3,624		3,624	266	2,660			
1984	3,233		3,233	300	3,000			
1985	3,219		3,219	250	2,500			
1986	3,365	3,069	3,069	259	2,590	296.1	14	310
1987	3,729	3,401	3,401	288	2,880	328.2	48	686
1988	3,711	3,384	3,384	288	2,880	326.6	87	1,100
1989	4,068	3,710	3,710	318	3,180	358.0	132	1,590
1990	3,880	3,539	3,539	301	3,010	341.4	183	2,114
1991	3,582	3,267	3,267	275	2,750	315.2	236	2,665
1992	3,536	3,225	3,225	270	2,700	311.2	294	3,270
1993	3,405	3,105	3,105	258	2,580	299.6	357	3,927
1994	3,290	3,000	3,000	247	2,470	289.5	425	4,641
1995	3,195	3,644	3,348	685	7,297			
1996	3,033	3,483	3,467	672	7,174			
1997	3,092	3,540	3,564	673	7,180			
1998	3,159	3,617	3,512	687	7,325			
1999	3,213	3,680	3,578	698	7,447			
2000	3,245	3,718	3,648	705	7,527			
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

col.

2 Department of Revenue January, 1984 revenue projection.

3 Revenues after effects of cash-based budgeting program. During the CBB reserve contribution period, revenues (column 3) are equal to DOR projections minus annual CBB contributions. Starting with the first cash-based budgeting year, revenues (column 3) are equal to DOR projections plus additional earnings which accrue to the general fund as a result of transferring the CBB reserve fund balance to the general fund.

4 Expenditure levels are presently limited to projected revenues (ignoring the Constitutional appropriation limit). Beginning with the first cash-based budgeting year, expenditures will be limited to the revenues collected in the previous calendar year.

5 General fund earnings are DOR projections up to the start of cash-based budgeting, at which point the general fund earnings will be augmented due to the increased earnings capacity of the general fund from that point on into the future.

6 Beginning with the first cash-based budgeting year, the general fund balance is substantially increased by the transfer of the CBB reserve fund.

8 Reserve fund earnings are calculated at a 10 percent annual interest rate compounded monthly.

9 The earnings rate of the CBB reserve fund is compounded monthly using a 10% annual interest rate.

This projection is based on a general fund unrestricted revenue contribution of 8.8 percent.

Biennial Budgeting With Annual Review

If the State of Alaska budgeted biennially but with full legislative review annually, the effect would be little different from annual budgeting. Consequently, the impact of this type of biennial budgeting on cash-based budgeting would be negligible.

We hope that this information is helpful in your deliberations on biennial budgeting. If you have further questions regarding the relationship of biennial budgeting to cash-based budgeting, please give the agency a call.

OAH

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

211 CUSHMAN STREET
FAIRBANKS, ALASKA 99701

March 5, 1984

M E M O R A N D U M

To: Representative Mitch Abood, Chairman, House State Affairs Committee and committee members

From: Representative Bob Bettisworth

RHB

Subject: Expanded statute references for HB485

The following statutes are related to sections identified by number that appear in the original version of HB485, " An Act establishing a biennial state budget; and providing for an effective date." These expanded statutes are provided to help the committee see changes in context where sections and sub-sections may be too short for clarity. Where no additional material from statute is provided the subject of the statute to be amended is cited for clarity.

Section 1: Legislative intent.

Section 2: Public School Foundation Account

Section 3: Average daily membership allotment supplemental account.

Sec. 14.17.215. State aid to districts affected by state activities. Repealed by § 20 ch 26 SLA 1980.

Editor's notes. — The repealed section derived from § 7, ch. 95, SLA 1969.

Section 4: State aid to districts operating approved school food service programs

Sec. 14.17.205. State aid to districts operating approved school food service programs. A school district that qualifies for and provides free and reduced-price lunches to students who qualify under the Federal Nutrition Act shall receive state aid in an amount for each free or reduced-price meal equal to the federal allowances multiplied by the school district's area differential in AS 14.17.051. (§ 11 ch 90 SLA 1977)

Section 5: Alaska Court System

Section 6: Special officers as employees.

Sec. 23.30.241. Special officers as employees. (a) A special officer appointed under AS 18.65.010(a) is considered an employee under this chapter only when he is actually traveling or working as a special officer. The weekly wage earned in the special officer's regular employment shall be used in computing the amount of compensation to be awarded. If a special officer has no regular employment, the minimum wage paid a full-time state trooper shall be used in computing the amount of compensation to be awarded.

(b) Annual appropriations to fund the coverage provided for in (a) of this section shall be provided for in the budget of the Department of Public Safety. (§ 1 ch 6 SLA 1978)

Section 7: Members of state boards and commissions as state employees.

Sec. 23.30.242. Members of state boards and commissions as employees. (a) A member of a state board or commission is considered an employee under this chapter only while he is actually traveling or working as a member of the board or commission. The maximum weekly wage shall be used in computing the amount of compensation to be awarded.

(b) Annual appropriations to fund the coverage provided for in (a) of this section shall be provided for in the budget of the Office of the Governor. (§ 1 ch 105 SLA 1969; am § 54 ch 69 SLA 1970)

NOTES TO DECISIONS

Stated in Laborers & Hod Carriers Local 341 v. Groothuis, Sup. Ct. Op. No. 773 (File Nos. 1435, 1459), 494 P.2d 808 (1972).

Collateral references. — Public officers as within statute. 5 ALR2d 415.

Section 8: Legislative operating expenses.

Section 9: Legislative Council.

Section 10: Ombudsman

Section 11: Alaska National Guard and Alaska Naval Militia retirement systems

Sec. 26.05.226. Contributions. (a) The Department of Military Affairs shall contribute to the Alaska National Guard and Alaska Naval Militia retirement system the amounts determined by the commissioner of administration as necessary to

(1) fund the system based on the actuarial requirements of the system as established by the commissioner of administration; and

(2) administer the system.

(b) The amount required for contributions from the Department of Military Affairs under (a) of this section shall be included in the annual appropriations made to the Department of Military Affairs. (§ 17 ch 159 SLA 1972; am § 14 ch 146 SLA 1980; am § 34 ch 137 SLA 1982)

Effect of amendments. — The 1980 amendment rewrote the section.

The 1982 amendment, effective July 1, 1982, inserted "and Alaska Naval Militia" in the introductory paragraph of subsection (a).

Section 12: Community Disaster Loans.

Section 13: Correctional Industries Commission & correctional industries program.

Section 14: Reserve for capital outlay account.

Sec. 37.05.157. Reserve for capital outlay account. (a) There is created within the general fund the reserve for capital outlay account.

(b) Twenty-five per cent of the annual receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be allocated to the reserve for capital outlay account.

(c) The proceeds of the reserve for capital outlay account are subject to annual appropriation by the general appropriation act. (§ 10 ch 168 SLA 1978)

Opinions of Attorney General. — This fund appears to be an unconstitutional dedication under § 7, art. IX, of the state constitution to the extent that it restricts the purpose for which money may be spent. November 30, 1982, Op. Att'y Gen.

Section 15: Reserve for energy facilities development account.

Sec 37.05.158. Reserve for energy facilities development account. (a) There is created within the general fund the reserve for energy facilities development account.

(b) Five per cent of the annual receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be allocated to the reserve for energy facilities development account.

(c) The proceeds of the reserve for energy facilities development account shall be subject to annual appropriation by the legislature. Plans for expenditures from the account shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of the governor's annual budget presentation. (§ 11 ch 168 SLA 1978)

Opinions of Attorney General. — This fund appears to be an unconstitutional dedication under § 7, art. IX, of the state constitution to the extent that it restricts the purpose for which money may be spent. November 30, 1982, Op. Att'y Gen.

Section 16: Public Finance title definitions

Sec. 37.05.400. Definitions for chapter. In this chapter

(1) "fiscal year," "budget year," "accounting year," or similar term means a year beginning on July 1 of one calendar year and ending on June 30 of the following calendar year;

(2) "handicapped individual" means an individual under a physical or mental disability which constitutes a substantial handicap to employment;

(3) "sheltered workshop" means a place where manufacture or handiwork is carried on, and which is operated for the primary purpose of providing remunerative employment to handicapped individuals.

Section 16 continued:

(4) "state agency," "agency," "department," or similar term means a department, office, institution, board, commission, bureau, division, or other administrative unit forming the state government, and includes the Alaska Pioneers' Home and the University of Alaska. (§ 3 art I ch 82 SLA 1955; am § 1 ch 186 SLA 1957; am § 2 ch 92 SLA 1975; am § 6 ch 46 SLA 1977)

Revisor's notes. — Formerly AS 37.05.320. Renumbered in 1983 and reorganized to alphabetize the defined terms.

NOTES TO DECISIONS

Cited in Carter v. Alaska Pub. Employees Ass'n, Sup. Ct. Op. No. 2657 (File No. 6586), P.2d (1983).

Section 17: State financial management--Statement of Policy.

Section 18: Public Finance Title--Responsibilities of the Governor; budget submission to the legislature.

Section 19 Public Finance Title--Responsibilities of the Governor; expenditures may not exceed revenues.

Section 20 AS 37.07.020 amended to add new section allowing for adjustments to biennial budget in off years.

Section 21: Public Finance Title--Responsibilities of the Legislature

Section 22: Public Finance Title--Office of Management & Budget; responsibilities.

Section 23: Public Finance Title--Agency program and financial plans; responsibilities of line agencies.

Section 24: Public Finance Title--Agency program and financial plans; responsibilities of boards and commissions.

Section 25: Public Finance Title--Governor's recommendation regarding operating and capital improvement programs to the legislature after consideration of state agency proposals

Section 26: Alaska Renewable Resources Development Fund

Chapter 11. Renewable Resources Funds.

Article
1. Alaska Renewable Resources Development Fund (§§ 37.11.010 — 37.11.040)
2. Alaska Renewable Resources Investment Fund (§§ 37.11.050 — 37.11.090)

Article 1. Alaska Renewable Resources Development Fund.

Section
10. Alaska renewable resources development fund
20. Fund authorization level
30. Fund utilization
40. Fund balances

Section 26 continued:

Editor's notes. — This article may be unconstitutional under the rationale of State v. Alex, Sup. Ct. Op. No. 2488 (File Nos. 5065, 5068, 5142), P.2d (1982), which held that the assessment provisions of the Fisheries Enhancement balance in the Alaska renewable resources permanent fund (AS 37.11.050) reaches the sum of $250,000,000, AS 37.11.010 — 37.11.040 are repealed and the unexpended and unobligated balance in the Alaska renewable resources Loan Program Act (AS 16.10.530) dedicated the proceeds of a state tax or license to a special purpose in contravention of Alaska Const., art. IX, § 7.

Section 2, ch. 130, SLA 1974, provides: "On June 30 of the fiscal year in which the development fund (AS 37.11.010) lapses into the general fund." To date, no money has been paid into the Alaska renewable resources permanent fund, and consequently, there is no balance in that fund.

Sec. 37.11.010. Alaska renewable resources development fund. There is established as a separate fund the Alaska renewable resources development fund. Funds apportioned by AS 37.11.020 for deposit in the Alaska renewable resources development fund are to guarantee the enhancement and development of the state's renewable resources. (§ 1 ch 130 SLA 1974)

Sec. 37.11.020. Fund authorization level. Not less than five per cent of the receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be deposited in the Alaska renewable resources development fund. These deposits shall be invested in accordance with AS 37.10.070 (investment of surplus state funds) and the resulting interest shall accrue to the fund. (§ 1 ch 130 SLA 1974)

Sec. 37.11.030. Fund utilization. Appropriations from this fund shall provide funding for capital and operating expenditures for the rehabilitation, enhancement and development of renewable resources programs. Plans for expenditures from this fund shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of the governor's annual budget presentation to the legislature. (§ 1 ch 130 SLA 1974)

Sec. 37.11.040. Fund balances. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be transferred to the Alaska renewable resources investment fund. (§ 1 ch 130 SLA 1974; am § 4 ch 179 SLA 1978)

Article 2. Alaska Renewable Resources Investment Fund.

Section
50. Alaska renewable resources investment fund
60. Fund principal
70. Utilization of fund income
80. Protection of principal
90. Investments

Cross references. — For the Alaska Resources Corporation, see AS 37.12.

Legislative history reports. — For letter of intent on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Section 26 continued:

Sec. 37.11.050. Alaska renewable resources investment fund. There is established as a separate fund the Alaska renewable resources investment fund. Funds apportioned by AS 37.11.060 for deposit in the investment fund are to be held perpetually in trust for the benefit of both present and future generations of Alaskans. (§ 1 ch 130 SLA 1974; am § 5 ch 179 SLA 1978)

Sec. 37.11.060. Fund principal. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be deposited in the investment fund. These deposits shall be considered fund principal and shall be invested in perpetuity in accordance with AS 37.11.090. (§ 1 ch 130 SLA 1974; am § 6 ch 179 SLA 1978)

Section 27: Renewable resources investment fund--Utilization of fund income.

Sec. 37.11.070. Utilization of fund income. (a) Income received from investment or investment fund principal shall not be held in trust, but shall be used to provide funding for capital and operating appropriations for the rehabilitation, enhancement and development of renewable resources programs. The primary purpose of the programs shall be to restore the renewable resources of the state for common beneficial uses.

(b) Plans for expenditures from fund income shall be prepared in detail by the cooperative efforts of the Departments of Natural Resources, Fish and Game, Environmental Conservation, and Commerce and Economic Development, and shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of the governor's annual budget presentation to the legislature. Not less than 80 per cent of the total plan submitted each year shall be apportioned for direct capital expenditures or investments. (§ 1 ch 130 SLA 1974; am § 7 ch 179 SLA 1978)

Sec. 37.11.080. Protection of principal. A transaction involving investment fund principal which results in an actual dollar loss of principal shall be reimbursed in full from fund income before any additional income is expended. (§ 1 ch 130 SLA 1974; am § 8 ch 179 SLA 1978)

Sec. 37.11.090. Investments. Investment responsibility for the Alaska renewable resources investment fund shall reside with the treasury division of the Department of Revenue. The treasury division may invest the Alaska renewable resources investment fund in any investments authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule. (§ 9 ch 179 SLA 1978)

Sec. 37.11.100. [Repealed, § 72 ch 113 SLA 1982.]

Section 28: Alaska Resources Corporation--Duties; long range operating and financial plans and budget.

Chapter 12. Alaska Resources Corporation.

Section
10. Alaska Resources Corporation created
15. Purposes
22. Development capital fund
25. Board of directors
30. Composition of the board of directors
35. Term of office
45. Qualifications of board members
50. Quorum and transaction of business
55. Compensation of board members
60. Executive director; staff
65. Conflicts of interest
70. Powers
75. Duties
80. Financial assistance
85. Eligibility for financial assistance
90. Reports and publications
95. Operating budget
100. Annual audit
105. Cooperation with other agencies
110. Tax exemption
120. Public access to information
125. Definitions

Legislative history reports. — For letter of intent on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Sec. 37.12.010. Alaska Resources Corporation created. There is created the Alaska Resources Corporation to carry out the purposes of this chapter. The corporation is a public corporation of the state and an instrumentality of the state within the Department of Commerce and Economic Development, but has a legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential function of the state. (§ 3 ch 179 SLA 1978; am § 1 ch 142 SLA 1982)

Cross references. — For Forest Products Producers Assistance Fund within corporation, see § 1, ch. 92, SLA 1980, Temporary and Special Acts; for expiration date of corporation, see AS 44.66.010(a)(7).

Effect of amendments. — The 1982 amendment substituted "Alaska Resources Corporation" for "Alaska Renewable Resources Corporation" in the first sentence and "Department of Commerce and Economic Development" for "Department of Revenue" in the second sentence.

Sec. 37.12.015. Purposes. The purposes of the corporation are to

(1) facilitate the rehabilitation, enhancement, and development of the state's resources so as to strengthen and diversify the state economy;

(2) provide development capital for the establishment and expansion of small enterprises in resource industries in the state in ways that enhance private capital investment; and

(3) strengthen and diversify the state's economy by the establishment and expansion of small enterprises that are self-supporting and that may

Section 28 continued: Alaska Resources Corp.

(A) develop underutilized state resources and reduce the state's dependence on oil and gas;

(B) reduce the seasonality of employment in the state;

(C) offer employment opportunities for unemployed state residents;

(D) provide additional tax revenues to the state government and to local governments;

(E) increase exports from the state or reduce imports into the state; or

(F) provide new products or services not previously available in the state. (§ 3 ch 179 SLA 1978; am § 2 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Sec. 37.12.020. Allocation. [Repealed, § 33 ch 142 SLA 1982.]

Sec. 37.12.022. Development capital fund. The development capital fund is established in the corporation, consisting of money or assets appropriated or transferred to the corporation, and payments of principal and interest on loans and equity investments made by the corporation. The development capital fund shall be used to finance projects that qualify for assistance under this chapter, and to pay the operating expenses of the corporation. If money remains in the development capital fund after financing projects that qualify for assistance under this chapter and after paying the operating expenses of the corporation, the money shall be invested by the corporation under AS 37.10.070(a). (§ 3 ch 142 SLA 1982)

Sec. 37.12.025. Board of directors. A board of director corporation is established as its governing body. (§ 3 ch 179 SL am § 4 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "directors" for "trustees."

Sec. 37.12.030. Composition of the board of directors. The board consists of four members with business, lending, or investment experience appointed by the governor and the commissioner of commerce and economic development or the commissioner's designee. The board shall annually elect a chairman from among its members. (§ 3 ch 179 SLA 1978; am § 5 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Editor's notes. — Section 34, ch. 142, SLA 1982, provides: "The initial terms of members of the Board of Directors of the Alaska Resources Corporation appointed by the governor under AS 37.12.030 as amended in sec. 5 of this Act shall be one member serving one year, one member serving two years, one member serving three years, and one member serving four years. Initial members of the Board of

Section 28 continued: Alaska Resources Corp.

Directors of the Alaska Resources Corporation shall be appointed within 30 days from the effective date of this Act [July 1, 1982]. The Board of Trustees of the Alaska Renewable Resources Corporation serves as an interim Board of Directors of the Alaska Resources Corporation until the initial Board of Directors of the Alaska Resources Corporation is appointed by the governor. The Board of Trustees of the Alaska Renewable Resources Corporation is dissolved on appointment of the initial Board of Directors of the Alaska Resources Corporation."

Sec. 37.12.035. Term of office. The members of the board shall be appointed for terms of four years, and they may be reappointed. Terms of members appointed by the governor shall be staggered. The governor shall immediately appoint a member to fill a vacancy in the membership of the board for the unexpired term. (§ 3 ch 179 SLA 1978; am § 6 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment deleted "of trustees" following "board" in the first sentence, inserted "of members appointed by the governor" in the second sentence, and rewrote the third sentence, which formerly read, "The initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years."

Sec. 37.12.040. Removal and vacancies. [Repealed, § 33 ch 142 SLA 1982.]

Sec. 37.12.045. Qualifications of board members. (a) No person may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position, or employment, whether elective or appointive, except as a member of the armed forces of the United States or the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.050. Quorum and transaction of business. (a) Three members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

(b) The board may meet and transact business by electronic media if (1) public notice of the time and locations where the meeting will be held by electronic media has been given in the same manner as if the meeting were held in a single location; (2) participants and members of the public in attendance can hear and have the same right to participate in the meeting as if the meeting were conducted in person; and (3) copies of pertinent reference materials, statutes, regulations, and audio-visual materials are reasonably available to participants and to the public. A meeting by electronic media as provided in this subsection has the same legal effect as a meeting in person. (§ 3 ch 179 SLA 1978; am § 7 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment designated the former provisions of this section as subsection (a), substituted "Three members" for "Two members" at the beginning of that subsection, and added subsection (b).

Sec. 37.12.055. Compensation of board members. Members of the board receive $200 for each day spent on official business of the corporation, and are entitled to per diem and travel expenses authorized by law for state boards and commissions under AS 39.20.180. (§ 3 ch 179 SLA 1978; am § 8 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Sec. 37.12.060. Executive director; staff. (a) The board shall employ an executive director to administer the corporation in accordance with this chapter, and to perform other duties that the board may prescribe. The executive director serves at the pleasure of the board and may not be a member of the board. The board determines the salary of the executive director.

(b) The executive director may, with the approval of the board, select and employ staff. The executive director and staff are in the exempt service under AS 39.25. (§ 3 ch 179 SLA 1978; am § 9 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote the provisions of the former first sentence as subsection (a), designated the former second and third sentences as subsection (b), deleted "additional" preceding "staff" and "as necessary" following "staff" in the first sentence of present subsection (b), and substituted "staff" for "all employees of the board" in the second sentence of subsection (b).

Sec. 37.12.065. Conflicts of interest. (a) Members of the board are subject to the provisions of AS 39.50.

(b) No member or employee of the board may acquire an interest, direct or indirect, in a corporation, company, association, or project owned, controlled, or invested in by the corporation. If a member or employee owns or controls such an interest, the member or employee shall immediately disclose the interest in writing to the board and refrain from participating in any manner in any activity relating to that interest. (§ 3 ch 179 SLA 1978; am § 10 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment deleted "of trustees" following "board" in subsection (a).

Sec. 37.12.070. Powers. In carrying out the corporate powers of the corporation, the board may

(1) adopt, alter, and use a corporate seal;

(2) prescribe, adopt, amend, and repeal bylaws;

(3) sue and be sued in the name of the corporation;

(4) enter into any agreements necessary to the exercise of its powers and functions;

Section 28 Continued: Alaska Resources Corp.

(5) accept grants from and contract with the federal government and the state or its political subdivisions and to that end comply with the provisions of federal, state, or local programs where necessary, except that it may not enter into any agreements whereby any permanent state or local government position is funded or partially funded in connection with a project;

(6) accept grants and loans from other sources than those in (5) of this section to be held and used for the purposes of the corporation;

(7) appear in behalf of the corporation before boards, commissions, departments, or other agencies of municipal, state, or federal government;

(8) acquire, hold, use, lease, sell, or otherwise dispose of property of any kind, real, personal, or mixed, or any interest in it;

(9) hold, as a means of securing the providing of financial assistance, patents, copyrights, trademarks, royalties, or any other evidences of protection or exclusivity issued under the laws of the United States or any state or nation;

(10) prepare, publish, and distribute technical studies, reports, bulletins and other materials it considers appropriate;

(11) invest in projects that are economically viable and are or are expected to become income-producing by buying stock or other equity, by purchasing secured and unsecured debt of any priority, and debt with flexible repayment schedules and royalty and profit sharing agreements, but investments may not be made at below market rates;

(12) *[Repealed, § 33 ch 142 SLA 1982.]*

(13) adopt regulations governing the exercise of its corporate powers;

(14) *[Repealed, § 33 ch 142 SLA 1982.]*

(15) do all acts and things necessary or desirable to carry out the purposes of the corporation.

(16) **[Repealed effective June 30, 1984]** provide funds to the Alaska Council on Science and Technology, to be awarded and administered in the manner prescribed by AS 44.21.241 — 44.21.255 when the funds are to be expended to accomplish a corporate purpose under AS 37.12.015. (§ 3 ch 179 SLA 1978; am §§ 2, 8 ch 56 SLA 1979; am Executive Order No. 48, § 2 (1981); am §§ 11, 33 ch 142 SLA 1982)

Effect of amendments. — The 1979 amendment added paragraph (16).

The 1981 amendment substituted "AS 44.21.241 — 44.21.255" for "AS 44.19.181 — 44.19.189" in paragraph (16).

The 1982 amendment rewrote paragraph (11) which formerly read: "invest, in such form as it considers appropriate, in projects which are economically viable and income-producing," and repealed paragraphs (12) and (14), which read, respectively: "provide grants for projects having broad public application which do not have direct income-producing potential" and "deposit funds, or invest surplus funds through the treasury division of the Department of Revenue which may invest in any investment authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule."

Section 28 continued: Alaska Resources Corp.

Sec. 37.12.075. Duties. In carrying out the purposes of this chapter the board shall

(1) provide financial assistance for resource projects that the board finds will accomplish the purposes of the corporation as set out in AS 37.12.015;

(2) keep minutes of each meeting of the board and send a certified copy of the minutes to the governor and the Legislative Budget and Audit Committee;

(3) annually prepare long-range operating and financial plans and the budget for the next fiscal year;

(4) monitor approved projects for compliance with this chapter and provide operational and performance evaluations of projects receiving financial assistance;

(5) before an investment is made in a resource project by the corporation, prepare written findings on the project that include a consideration of the expectation of return from the project and the risk involved in undertaking the project. (§ 3 ch 179 SLA 1978; am § 12 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Sec. 37.12.080. Financial assistance. (a) In providing financial assistance, the board shall

(1) consider the proposals of qualified applicants only after the applicant has submitted a detailed proposal in the form prescribed by the board; no assistance may be approved by the board unless it finds, in writing, that

(A) the proposed project, if successful, will further the purposes of the corporation as set out in AS 37.12.015;

(B) the application contains an adequate plan for project implementation, including, when applicable, a complete business, financial and marketing plan for commercial activities;

(C) sufficient capital is not available from other sources on reasonable terms;

(D) *[Repealed, § 33 ch 142 SLA 1982.]*

(E) the applicant demonstrates that sufficient technical and business expertise to accomplish the objectives of the proposed project is available;

(F) all costs, including additional governmental cost, associated with and ancillary to the project and future obligations generated by the project have been identified, including any necessary operating, maintenance, or other support costs for the life of the project;

(G) *[Repealed, § 33 ch 142 SLA 1982.]*

(2) use the financial mechanism most appropriate to the conditions of the applicant and the proposed resource project and which will most effectively utilize the funds available;

Section 29: Permanent Fund Corporation--Corporation Budget

Section 30: Land Disposal Bank--submission by commissioner of an appropriation necessary for disposal of state land contained in the governor's request to the legislature.

Article 2. Land Availability for Private Use.

Section	Section
20. Land disposal bank	35. Criteria for program selection
21. Disposal of municipal grant land entitlements	40. Availability of university land
25. Variety of uses	45. Survey and subdivision
30. Land availability programs	50. Access to private use areas
	55. Access through private use areas

Sec. 38.04.020. Land disposal bank. (a) The commissioner shall establish a land disposal bank containing state land classified for disposal into private ownership.

(b) The land disposal bank does not include

(1) land nominated for selection or selected by a municipality to satisfy a general grant land entitlement under AS 29.18.201 — 29.18.213;

(2) land retained in state ownership for multiple-use management;

(3) land where less than a fee simple title has been conveyed;

(4) land retained in state ownership under an enactment of the legislature or by the governor or a state agency under authority of law.

(c) Land to be retained in state ownership may be classified by the commissioner into multiple-use management categories under AS 38.05.300. Land outside a municipality to be retained in state ownership consists of land classified for retention in state ownership by the commissioner by July 1, 1985. Land conveyed to the state by the federal government that is to be retained in state ownership consists of land classified by the commissioner within two years of receipt of tentative approval or patent, whichever occurs first. State land not classified for retention in state ownership or selected by the municipality under this section shall be classified and included in the land disposal bank. The commissioner shall ensure that the bank includes at least 500,000 acres.

(d) On January 15 of each year, the commissioner shall report to the legislature on the status of land in the land disposal bank under the following categories:

(1) [**Effective July 1, 1984**] land suitable for homestead disposal;

(2) land suitable for subdivision disposal;

(3) land suitable for agricultural, commercial, or industrial disposal; and

(4) land suitable for other purposes.

(e) The commissioner shall annually submit to the governor an appropriation request necessary for the disposal of state land in the land disposal bank that shall be included in the budget submitted to the legislature by the governor. For each fiscal year, the request shall include an estimate of the amount necessary

(1) [**Effective July 1, 1984**] for survey and disposal of land proposed to be made available for homestead staking, with the general location of the land;

(2) for survey and disposal of land to be offered as agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the general location of the land;

(3) for the survey and disposal of land proposed to be offered as subdivisions, with the general location of the land;

(4) for preliminary feasibility studies, engineering design work, and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the platting board under AS 29.33.150; if an accurate determination of the amounts necessary for access roads or capital improvements cannot be made at the time the estimate is submitted, a schedule for obtaining the estimates, constructing the access roads or capital improvements, and disposing of the land shall be submitted;

(5) for identification of land that will be proposed for disposal under this subsection in future fiscal years.

(f) The request of the commissioner under (e) of this section shall be based on an annual written assessment by the commissioner of the market for state land in the different regions of the state. If the state land is in or adjacent to municipalities or unincorporated communities, the assessment shall be developed in consultation with the municipalities or unincorporated communities. The assessment must include a survey of the supply of privately owned land offered for sale, municipal land for which a disposal plan has been completed, and federal land available for sale, lease, or permit for specific activities. The assessment of the market for state land shall be based on an analysis of the amount of private, municipal, and federal land available for disposal on terms equivalent to those used in comparable state land disposal programs and shall include the length of time land remains on the market before it is sold. The assessment must include findings regarding the amount and general location of state land, in addition to land offered by private landowners or available from a municipal government or the federal government, that is necessary to meet the statewide demand for at least five fiscal years immediately after the year in which the assessment is made. The assessment must also state the general location of land proposed for disposal in the next fiscal year and recommendations for the method of disposal under which the land will be offered to the public.

(g) After July 1 of each year, the commissioner shall direct the expenditure of money appropriated for the disposal of land in response to requests made under (e) and (f) of this section for the following:

(1) [Effective July 1, 1984] Land designated as suitable for homestead disposal shall be classified and surveyed under this chapter and AS 38.05 and made available for staking and lease under AS 38.09.

(2) Land designated as suitable for subdivision disposal shall be surveyed, subdivided, classified, and disposed of as follows:

(A) up to 80 percent of the parcels shall be sold under the lottery sale procedures established in AS 38.05.057 and 38.05.065;

(B) at least 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120; and

(C) at least an additional 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120 except that, notwithstanding AS 38.08.040(b), parcels offered under this subparagraph shall be offered by lottery under AS 38.05.057.

(3) Land designated agricultural, commercial, industrial, or suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057.

(h) Individual parcels disposed of in subdivisions may not exceed five acres unless the commissioner determines that a larger size is necessary to comply with zoning ordinances or to permit the design of a viable subdivision because of topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations that are unique to the subdivision.

(i) Nothing in this section prevents the disposal of other land by the commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of remote cabin permits under AS 38.05.079, AS 38.08.010 — 38.08.120, or other law.

(j) A person or an agency of the state may nominate land retained in state ownership for inclusion in the land disposal bank or may nominate land in the land disposal bank for retention in state ownership. The commissioner shall hold public hearings semiannually to take nominations under this subsection. A transfer of land from retention in state ownership to the land disposal bank or from the land disposal bank to retention in state ownership shall be accomplished through a classification order under AS 38.05.300 and with notice under AS 38.05.345. The commissioner shall make a written determination within six months after receipt of a nomination if he determines that land nominated will not be classified or reclassified as requested.

(k) The commissioner may withdraw from the land disposal bank state land that has been offered for disposal but not conveyed within five years after inclusion in the land disposal bank. State land withdrawn from the land disposal bank under this section must be reclassified under AS 38.04.065. (§ 5 ch 181 SLA 1978; am § 11 ch 85 SLA 1979; am § 4 ch 113 SLA 1981; am § 2 ch 90 SLA 1983; am §§ 2 — 4 ch 103 SLA 1983)

Revisor's notes. — In the first sentence of subsection (g), the words "(e) and" were added preceding "(f) of this section" and in the third sentence of subsection (j), the word "with" was added preceding "notice under" by the revisor of statutes pursuant to AS 01.05.031.

Effect of amendments. — The 1979 amendment rewrote this section.

The 1981 amendment rewrote this section.

The first 1983 amendment, effective July 23, 1983, in subsection (c), deleted the former second sentence and substituted "July 1, 1985" for "July 1, 1983" at the end of the present second sentence.

The second 1983 amendment, effective July 1, 1984, substituted "homestead" for "remote parcel" in paragraphs (d)(1), (e)(1), and (g)(1) and substituted "AS 38.09" for "AS 38.05.077" at the end of paragraph (g)(1).

Editor's notes. — See Editor's notes following the chapter analysis.

Until July 1, 1984, subsections (d), (e) and (g) read as follows: "(d) On January 15 of each year, the commissioner shall report to the legislature on the status of land in the land disposal bank under the following categories:

"(1) land suitable for remote parcel disposal;

"(2) land suitable for subdivision disposal;

"(3) land suitable for agricultural, commercial, or industrial disposal; and

"(4) land suitable for other purposes.

"(e) The commissioner shall annually submit to the governor an appropriation request necessary for the disposal of state land in the land disposal bank that shall be included in the budget submitted to the legislature by the governor. For each fiscal year, the request shall include an estimate of the amount necessary

"(1) for survey and disposal of land proposed to be made available for remote parcel staking, with the general location of the land;

"(2) for survey and disposal of land to be offered as agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the general location of the land;

"(3) for the survey and disposal of land proposed to be offered as subdivisions, with the general location of the land;

"(4) for preliminary feasibility studies, engineering design work, and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the platting board under AS 29.33.150; if an accurate determination of the amounts necessary for access roads or capital improvements cannot be made at the time the estimate is submitted, a schedule for obtaining the estimates, constructing the access roads or capital improvements, and disposing of the land shall be submitted;

"(5) for identification of land that will be proposed for disposal under this subsection in future fiscal years.

"(g) After July 1 of each year, the commissioner shall direct the expenditure of money appropriated for the disposal of land in response to requests made under (e) and (f) of this section for the following:

"(1) Land designated as suitable for remote parcel disposal shall be classified and surveyed under AS 38.04.005 — 38.04.910 and AS 38.05.005 — 38.05.370 and made available for staking and lease under AS 38.05.077.

"(2) Land designated as suitable for subdivision disposal shall be surveyed, subdivided, classified, and disposed of as follows:

"(A) up to 80 percent of the parcels shall be sold under the lottery sale procedures established in AS 38.05.057 and 30.05.065;

"(B) at least 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120; and

"(C) at least an additional 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120 except that, notwithstanding AS 38.08.040(b), parcels offered under this subparagraph shall be offered by lottery under AS 38.05.057.

"(3) Land designated agricultural, commercial, industrial, or suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057."

Legislative history reports. — For adoption of the Free Conference Committee letter of intent on AS 38.04.020(a) as repealed and reenacted in House Bill No. 66 (ch. 85, SLA 1979), see 1979 House Journal, pp. 1330 — 1333, 1355; 1979 Senate Journal, pp. 1120 — 1124.

Section 31: Old Age & Survivors Insurance--Federal territorial agreement; political subdivision pro rata shares.

Chapter 30. Insurance and Supplemental Employee Benefits.

Article
1. Old Age and Survivors Insurance (§§ 39.30.010 — 39.30.080)
2. Group Life and Health Insurance (§§ 39.30.090 — 39.30.100)
3. Special Hazard Insurance (§ 39.30.130)
4. Supplemental Employee Benefits on Withdrawal from Social Security (§§ 39.30.150 — 39.30.180)

Article 1. Old Age and Survivors Insurance.

Section
10. Federal territorial agreement
20. Contributions by employees
30. Plans for coverage of employees of political subdivisions
40. Deposits and withdrawals
50. Administrative costs
60. Rules and regulations
70. Studies and reports
80. Definitions

Sec. 39.30.010. Federal territorial agreement. (a) The director of finance, with the approval of the governor, may on behalf of the territory enter into an agreement with the Federal Security Administrator, consistent with AS 39.30.010 — 39.30.080, for the purpose of extending the benefits of the federal old age and survivors insurance system to employees of the territory or a political subdivision with respect to services specified in the agreement which constitute employment.

(b) The agreement may contain provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions which the parties agree upon, but, except as may be otherwise required under the Social Security Act as to the services to be covered, the agreement shall provide in effect that

(1) benefits will be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though the services constituted employment within the meaning of Title II of the Social Security Act;

(2) the territory will pay to the Secretary of the Treasury, as may be prescribed under the Social Security Act, contributions with respect to wages equal to the sum of the taxes which would be imposed by §§ 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act;

(3) the agreement shall be effective with respect to services in employment covered by the agreement performed from the date specified in it or, as to services to which the agreement is extended by a modification to it, from the date specified in the modification;

(4) all services which constitute employment and are performed in the employ of the territory by employees of the territory shall be covered by the agreement; and

(5) all services which (A) constitute employment, (B) are performed in the employ of a political subdivision of the territory, and (C) are covered by a plan which conforms to the agreement and is approved as set out in AS 39.30.030 shall be covered by the agreement. (§ 3 ch 95 SLA 1951; am § 1 ch 125 SLA 1951; am § 1 ch 89 SLA 1957)

Revisor's note. — This section gave the territory the legal authority to enter into an agreement extending the coverage of the federal Social Security Act to employees of the territory. The agreement was entered into on September 26, 1951, and is continued in effect by § 2, art. XV of the state constitution continuing contracts of the territory and making the state legal successor to the territory. Since the agreement is in effect, the term "territory" has not been changed to "state" in this section. However, in the following sections which relate to the continuing coverage of the agreement, the change from "territory" to "state" has been made.

Section 7, Chapter 58, SLA 1979, provided for an election to decide if the state should withdraw from the federal Social Security System. The election was held in September, 1979, and the state employees voted to withdraw. Withdrawal from the federal Social Security System was subsequently accomplished. Consequently, the agreement in this section no longer has any application to employees of the state.

Cross reference. — For the supplemental benefits program which replaces Social Security for state employees, see 39.30.150 — 39.30.180.

Am. Jur. 2d and ALR references. — 70 Am. Jur. 2d, Social Security and Medicare, § 1 et seq.

Judicial questions regarding federal Social Security Act and state legislation adopted to set up "state plan" contemplated by it, 100 ALR 697; 106 ALR 243; 108 ALR 613; 109 ALR 1346; 118 ALR 1220; 121 ALR 1002.

Construction and application of state social security or unemployment compensation act as affected by terms of a federal act or judicial or administrative rulings thereunder, 139 ALR 892.

Sec. 39.30.020. Contributions by employees. (a) An employee whose services are covered by an agreement under AS 39.30.010 shall pay for the period of coverage, into the state treasury, contributions equal to the amount of tax which would be imposed by sec. 1400 of the Federal Insurance Contributions Act if the services constituted employment within the meaning of that act.

(b) The contribution shall be collected by deducting the amount of the contribution from wages. Failure to make deduction does not relieve the employee from liability for the contribution.

(c) If more or less than the correct amount of the contribution is paid or deducted, an adjustment or, if adjustment is impracticable, a refund shall be made without interest, in the manner prescribed by the department. (§ 4 ch 95 SLA 1951; am § 1 ch 64 SLA 1968; am § 80 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "an" for "a state" at the beginning of subsection (a), and, deleted the former second sentence of that subsection as it appears in the main pamphlet.

Editor's notes. — Section 1400 of the Federal Insurance Contribution Act is presently contained in 26 U.S.C. § 3101.

Sec. 39.30.030. Plans for coverage of employees of political subdivisions. (a) A political subdivision of the state may submit for approval by the department a plan for extending the benefits of Title II of the Social Security Act to its employees. A plan and an amendment to the plan shall be approved by the department if it finds that the plan or amendment

(1) conforms with the requirements prescribed in regulations of the department;

(2) conforms with the requirements of the Social Security Act and with the agreement entered into under AS 39.30.010;

(3) provides that services which constitute employment and are performed in the employ of the political subdivision by employees are covered by it;

(4) specifies the source from which the funds necessary to make the

payments required by (d) and (e) of this section are expected to be derived and contains reasonable assurance that the source will be adequate for the purpose;

(5) provides for those methods of administration of the plan by the political subdivision which the department finds are necessary for the proper and efficient administration of the plan;

(6) provides that the political subdivision will make reports which the department requires, and will comply with requirements of the department or the Federal Security Administrator to assure the correctness and verification of the reports; and

(7) authorizes the department to terminate the plan in its entirety in its discretion if it finds that there is a failure to comply substantially with a provision in the plan at the time and upon the notice and conditions provided by regulations of the department which are consistent with the Social Security Act.

(b) The department may not refuse to approve a plan submitted by a political subdivision under (a) of this section, and may not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected.

(c) A political subdivision which has an approved plan shall pay contributions into the state treasury at the rates specified in the agreement and at the time which the department prescribes by regulation.

(d) A political subdivision required to make payments under (c) of this section may, in consideration of the employee's retention in, or entry into, employment after March 23, 1951, impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages, not exceeding the amount of tax which would be imposed by § 1400 of the Federal Insurance Contributions Act if the services constituted employment within the meaning of that act, and may deduct the amount of this contribution from his wages. Contributions so collected shall be paid into the state treasury in partial discharge of the liability of the political subdivision or instrumentality under (1) of this section. Failure to deduct the contribution does not relieve the employee or employer of liability for it.

(e) A delinquent payment due under subsection (c) of this section, with interest at the rate of six per cent a year, may be recovered by action against the political subdivision liable for it or may, at the request of the department, be deducted from any other money payable to the political subdivision by a department or agency of the state. (§ 5 ch 95 SLA 1951; am §§ 2, 3 ch 64 SLA 1968)

Sec. 39.30.040. Deposits and withdrawals. (a) Unless otherwise provided by law, there shall be deposited in the state treasury in trust all contributions collected under AS 39.30.010 — 39.03.080.

(b) The department has power, authority and jurisdiction over this trust and may perform all acts whether or not specifically designated which are necessary to the administration of this trust.

(c) This trust shall be used and administered exclusively for the

purpose of AS 39.03.010 — 39.30.080 of this chapter. Withdrawals may be made only for (1) payment of amounts required to be paid to the secretary of the treasury by an agreement entered into under AS 39.30.010; (2) payment of the refunds provided for in AS 39.30.020 (c); and (3) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality. (§ 6 ch 95 SLA 1951; am § 4 ch 64 SLA 1968)

Sec. 39.30.050. Administrative costs. The department shall collect from each participating political subdivision its respective pro rata share of the expenses incurred in the administration of AS 39.30.010 — 39.30.080. The amounts collected from participating political subdivisions, together with money appropriated by the state for covering the state's share of administrative costs, shall be deposited in an FICA administration fund and are not allocable to any other purpose. Expenditures from the FICA administration fund shall be included in the governor's budget for each fiscal year and are subject to appropriation by the legislature. At the time of preparation of the governor's annual budget the department shall review the FICA administration fund and adjust the rate of assessment on political subdivisions so as to prevent the accumulation of more money than is needed to administer AS 39.30.010 — 39.30.080. (§ 7 ch 95 SLA 1951; am § 1 ch 13 SLA 1960)

Cross reference. — For provisions as to special funds, see AS 37.05.155.

Sec. 39.30.060. Rules and regulations. The department shall adopt and publish the rules and regulations not inconsistent with AS 39.30.010 — 39.30.080 which it finds necessary or appropriate to the efficient administration of its functions under AS 39.30.010 — 39.30.080. (§ 8 ch 95 SLA 1951)

Sec. 39.30.070. Studies and reports. The department shall make studies concerning the problem of old age and survivors insurance protection for employees of [THE STATE AND] local governments and their instrumentalities and concerning the operation of agreements made and plans approved under AS 39.30.010 — 39.30.080 and shall submit a report to the legislature at the beginning of each regular session covering the administration and operation of AS 39.30.010 — 39.30.080 during the preceding year, including recommendations for amendments to AS 39.30.010 — 39.30.080 which it considers proper. (§ 9 ch 95 SLA 1951; am § 61 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment deleted "the state and" preceding "local governments" near the beginning of the section.

Sec. 39.30.080. Definitions. In AS 39.30.010 — 39.30.080

(1) "department" means the Department of Administration;

(2) "employee" includes an officer of a political subdivision of the state;

Section 31 continued: Old Age & Survivors Insurance

(3) "employment" means any service performed by an employee of a political subdivision of the state, except (A) service which in the absence of an agreement entered into under AS 39.30.010 — 39.30.080 would constitute "employment" as defined in the Social Security Act; or (B) service which under the Social Security Act may not be included in an agreement between the state and the Federal Security Administrator entered into under AS 39.30.010 — 39.30.080;

(4) "Federal Insurance Contributions Act" means subchapter A of chapter 9 of the Federal Internal Revenue Code as amended;

(5) "Federal Security Administrator" includes an individual to whom the Federal Security Administrator has delegated any of his functions under the Social Security Act with respect to coverage under that act of employees of states and territories and their political subdivisions;

(6) "political subdivision" includes an instrumentality of the state or of a political subdivision, or of the state and a political subdivision, but only if the instrumentality is a juristic entity legally separate and distinct from the state or the political subdivision and only if its employees are not, by virtue of their relation to the juristic entity, employees of the state or the political subdivision;

(7) "Social Security Act" means the Act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620, cited as the "Social Security Act," (including regulations and requirements issued under it), and its amendments;

(8) "wages" means remuneration for employment, including the cash value of remuneration paid in any medium other than cash, except that "wages" does not include that part of remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act. (§ 2 ch 95 SLA 1951; am §§ 82, 83 ch 59 SLA 1982)

Effect of amendments. -- The 1982 amendment substituted "a" for "the state or" in paragraph (2), and, deleted "the state, or" preceding "a political subdivision" in paragraph (3).

Section 32: Outdoor Recreational, Open Space, and Historic Properties Development Fund. Plans for expeditures from the fund.

Section 33: Motor Fuel Tax--Tax on transfers or consumption of motor fuel and expenditure of proceeds.

Chapter 40. Motor Fuel Tax.

Section

10. Tax on transfers or consumption of motor fuel and expenditure of proceeds
30. Refund for nonhighway use
35. Other refunds and credits
50. Refund claim by affidavit
60. Separate invoices
70. Refund warrants
80. Examination of books and records
85. Preservation of books and records
100. Definitions

Collateral references. — 71 Am. Jur. 2d, State and Local Taxation, §§ 616 — 634; 53 Am. Jur. 2d, Licenses, §§ 30, 46 — 58.

State tax on or in respect of goods shipped in interstate commerce to consignee for sale on consignor's account without previous sale or order for purchase, 4 ALR2d 244.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as interstate commerce as regards local taxation, 10 ALR2d 651.

State taxation of motor carriers as affected by commerce clause, 17 ALR2d 421.

Power of legislature to remit, release, or compromise tax claim, 28 ALR2d 1425.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax, 65 ALR2d 550.

Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the department by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by the user during each month. If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of $100, may be deducted and retained to cover the expense of accounting and filing the monthly tax return. At the time the remittance is made, each dealer or user shall submit a statement to the department showing all fuel which the dealer or user has distributed or used during the month.

(d) *[Repealed, § 3 ch 166 SLA 1976.]*

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f) and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Transportation and Public Facilities directly or as matched with available federal-aid highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by this chapter shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of transportation and public facilities may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Transportation and Public Facilities shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under AS 43.40.040, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Transportation and Public Facilities for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas.

(l) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The department may not collect the motor fuel tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. A certificate of use is not required for fuel for any domestic purpose in a single or multiple unit private dwelling, including mobile homes, or for fuel which is at least

10 percent alcohol by volume. An annual certificate of use is required for all other exemptions listed under AS 43.40.100(2), except certificate of use needs under AS 43.40.100(2)(K) will be determined by the department. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the department. The form of a certificate of use may be prescribed by

regulation adopted by the department. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § 1 ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1 — 3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 216 SLA 1968; am §§ 1 — 3 ch 158 SLA 1970; am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3 ch 125 SLA 1971; am §§ 1 — 3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977; am § 4 ch 82 SLA 1982; am §§ 1, 2 ch 87 SLA 1983)

Cross references. — For civil penalty imposed for failure to file a return or report, or pay the full amount of a tax, or a portion or a deficiency of the tax, see AS 43.05.220.

Effect of amendments. — The 1982 amendment added subsection (*l*).

The 1983 amendment, in subsection (c), added the present third sentence and deleted "motor" preceding "fuel" in the last sentence, and in subsection (*l*), added the present fourth and fifth sentences.

OPINIONS OF ATTORNEY GENERAL

The purpose of the dedication of the taxes on motor fuels contained in subsection (g) of this section is public highways. 1959 Op. Att'y Gen., No. 9.

A proposed alteration going to the geographical area of expenditure rather than to the special purpose of a dedication, does not contravene the constitution. 1959 Op. Att'y Gen., No. 9.

The 1957 amendment to this section, which reduced the tax on motor fuel used in commercial fishing crafts for purposes of commercial fishing from five cents to two cents per gallon, effected no change in the dedication inasmuch as the reduction in the tax was coupled with an exemption from the refund of three cents per gallon formerly allowed to users of fuel in commercial fishing craft for commercial purposes. Nothing has been done which increased or decreased the dedication. 1959 Op. Att'y Gen., No. 14.

The Civil Air Patrol is exempt from taxation under the Alaska Motor Fuel Oil Tax Act because it is an instrumentality of the federal government, but volunteer members of Civil Air Patrol are not exempt. 1961 Op. Att'y Gen., No. 26.

Section 34: Accounting of financing received as a result of the salmon enhancement tax.

Section 35: Capital city development oversight committee est. Annual budget.

Article 3. Capital City Development Oversight Committee.

Section		Section	
220.	Capital city development oversight committee established	260.	Meetings
230.	Membership	270.	Powers
240.	Term of membership	280.	Staff
250.	Vacancies	290.	Duties

Sec. 44.07.220. Capital city development oversight committee established. The Capital City Development Oversight Committee is established as a permanent interim committee of the legislature beginning with the Eleventh Legislature. The establishment of the committee recognizes the need of the legislature for review and oversight of the development of the new capital city. (§ 2 ch 143 SLA 1978)

Sec. 44.07.230. Membership. The committee is composed of eight members: the president of the senate, the speaker of the house, the chairmen of the finance committees, the chairmen of the state affairs committees, and one member appointed from each house by the respective presiding officer. The membership from each house shall include at least one member from each of the two major political parties. The committee shall select its own chairman. (§ 2 ch 143 SLA 1978)

Sec. 44.07.240. Term of membership. (a) The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If a member is reelected or his term of office extends into the next succeeding legislature, he continues to serve until reappointed or the appointment of his successor.

(b) When a member of the committee files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and he has not resigned from membership on the committee, his committee membership terminates on the date of filing. (§ 2 ch 143 SLA 1978)

Sec. 44.07.250. Vacancies. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member. (§ 2 ch 143 SLA 1978)

Sec. 44.07.260. Meetings. The committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature. (§ 2 ch 143 SLA 1978)

Sec. 44.07.270. Powers. The committee has the power to

(1) organize and adopt rules for the conduct of its business;

(2) hold public hearings;

(3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information;

(4) prepare and distribute reports, memoranda, or other materials;

(5) review all reports of the corporation and of the Legislative Budget and Audit Committee relating to the corporation;

(6) make recommendations for legislative action relating to the capital relocation and planning and development of the new capital city. (§ 2 ch 143 SLA 1978)

Sec. 44.07.280. Staff. The legislative audit division and the legislative finance division shall provide audits, reports and analyses requested by the committee. The committee may hire and determine the salary of the staff it considers necessary within the limit of the budget approved by the legislature. (§ 2 ch 143 SLA 1978)

Sec. 44.07.290. Duties. The committee shall report to the legislature annually. The report shall include any considerations the committee considers relevant to the planning and development of the new capital city and to the performance of the capital city development corporation. (§ 2 ch 143 SLA 1978)

Article 4. General Provisions.

Section	Section
300. Executive Budget Act	340. Limitation of liability
310. Annual budget	350. Termination of corporation
320. Annual report	360. Definitions
330. Conflicts of interest	

Sec. 44.07.300. Executive Budget Act. The corporation is subject to the provisions of the Executive Budget Act (AS 37.07). (§ 2 ch 143 SLA 1978)

Sec. 44.07.310. Annual budget. The board of directors shall review and approve, by a two-thirds vote of members of the board, the annual operational and capital program and budget for the corporation and may, by two-thirds vote, and in accordance with AS 37.07 amend the program and budget. No corporate funds may be expended or money borrowed except in accordance with appropriations. (§ 2 ch 143 SLA 1978)

Sec. 44.07.320. Annual report. The corporation shall submit to the governor and the Legislative Budget and Audit Committee, within three months after the end of the corporation's fiscal year, a complete financial report audited by a certified public accountant or firm of certified public accountants, which shows

(1) its receipts and expenditures during its fiscal year;

(2) its assets and liabilities at the end of its fiscal year, including a schedule of its leases and mortgages and the status of reserve, special and other funds;

(3) the progress of fulfillment of the financial and economic projections contained in the general development and specific development plans; and

(4) its operations and accomplishments and any material problems encountered in implementing the development plan. (§ 2 ch 143 SLA 1978)

Sec. 44.07.330. Conflicts of interest. (a) No director or employee of the corporation or member of the advisory board may participate in any decision of the corporation in which he has a direct or indirect financial interest.

(b) The executive director and members of the board of directors are subject to AS 39.50. (§ 2 ch 143 SLA 1978)

Sec. 44.07.340. Limitation of liability. No person executing a note of the corporation is liable personally on such obligations by reason of their issuance. (§ 2 ch 143 SLA 1978)

Sec. 44.07.350. Termination of corporation. (a) Unless a determination is made under (b) of this section to extend the existence of the corporation, the existence of the corporation shall terminate upon the occurrence of any of the following events: (1) the board's determination that the general development plan has been substantially implemented; (2) the attainment by the capital city of a population of 37,500 as certified by the Department of Community and Regional Affairs; or (3) the arrival of the year 1994.

(b) Not later than one year before the anticipated occurrence of any of the events in (a) of this section, the board of directors shall recommend to the legislature and the legislature shall determine whether the corporation shall continue in existence beyond the occurrence of the event. (§ 2 ch 143 SLA 1978)

Sec. 44.07.360. Definitions. In this chapter, unless the context requires otherwise,

(1) "capital city area" or "capital city site" means the area specified in AS 29.18.520;

(2) "capital city" means the municipality created under AS 29.18.510;

(3) "corporation" means the Alaska Capital City Development Corporation created by AS 44.07.010,

(4) "advisory board" means the Development Advisory Board created under AS 44.07.100;

(5) "development program" means one or more works, undertakings or improvements (surface, subsurface, or overhead) or buildings constructed, reconstructed, or improved or to be constructed, reconstructed, or improved by the corporation within the capital city area, under one or more specific development plans, as the corporation considers necessary or appropriate;

(6) "facility" means any utility or infra-structure plant and any system or improvement, whether used or useful for residential, educational, commercial, institutional, community, private, semi-private or public purposes, including, without limitation, facilities such as roads and public transportation systems, parks and recreational facilities, water, sewer and drainage systems, electric, telephone and other energy or communications systems or utilities and health, educational and community facilities, and private facilities such as housing, commercial and industrial enterprises, in each case of whatever kind or character and under whatever form of ownership, and all necessary real or personal property;

Section 35 continued: Capital city development oversight comm.

(7) "general development plan" means a general land use and land development plan for the capital city area which contains the elements set out in AS 44.07.120;

(8) "municipality" means a home rule or general law city or borough including but not limited to the capital city and a unified municipality organized under AS 29.68.240 — 29.68.440;

(9) "private firm" means any private person, partnership, corporation, foundation, trust, or other business entity whether organized for profit or not for profit;

(10) "public agency" means any officer, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state, the United States, or any municipality;

(11) "specific development plans" means the various plans for the implementation of each phase or segment of the general development plan. (§ 2 ch 143 SLA 1978)

Section 36: Working capital fund.

Chapter 74. Management and Disposition.

Article
1. Equipment Maintenance and Operation of Supply Depots (§§ 44.74.010, 44.74.040)
2. Transfer to Political Subdivisions (§ 44.74.070)

Article 1. Equipment Maintenance and Operation of Supply Depots.

Section
10. Working capital fund
40. Records of working capital fund

Sec. 44.74.010. Working capital fund. A working capital fund is established in the state treasury for the use of the Department of Transportation and Public Facilities. (§ 1 ch 120 SLA 1960; am § 13 ch 49 SLA 1963; am Executive Order No. 39, § 11 (1977))

Effect of amendments. — The 1977 amendment substituted "Department of Transportation and Public Facilities" for "Department of Highways."

Sec. 44.74.020. Use of fund. The department shall use the fund for necessary expenses resulting from the centralization of equipment maintenance and for the operation of supply depots. (§ 1 ch 120 SLA 1960)

Sec. 44.74.030. Revenues for equipment rental, repairs, and supplies. Receipts from rental fees and surcharges to the various departments for equipment rental, repair and supplies shall be deposited in the working capital fund. The departments of the state government shall include in their annual budgets the rental fees, equipment repairs and supplies. (§ 2 ch 120 SLA 1960)

Sec. 44.74.040. Records of working capital fund. The Department of Transportation and Public Facilities shall maintain cost accounting records showing the income and expenses of the fund. The department shall submit a report on the operation of the fund to the governor and the legislature at the time of submission of the departmental budget. (§ 3 ch 120 SLA 1960; am § 14 ch 49 SLA 1963; am Executive Order No. 39, § 11 (1977))

Effect of amendments. — The 1977 amendment substituted "Department of Transportation and Public Facilities" for "Department of Highways."

Sec. 44.74.050. Additions and replacements to fund. Additions to capital equipment, replacements of capital equipment or improvements paid from the working capital fund are subject to annual appropriation by the legislature and shall be detailed in the executive budget. (§ 3 ch 120 SLA 1960)

Sec. 44.74.060. Governor's approval of rates. Rental and surcharge rates charged by the department are subject to annual review and approval by the governor. (§ 3 ch 120 SLA 1960)

Article 2. Transfer to Political Subdivisions.

Section	Section
70. Transfer of equipment to political subdivisions	80. Unsaleable period
	90. Transfer of civil defense property

Article 2. Transfer to Political Subdivisions.

Section

70. Transfer of equipment to political subdivisions

Sec. 44.74.070. Transfer of equipment to political subdivisions. (a) The commissioner of transportation and public facilities may transfer directly to a political subdivision of the state, including a village organized under Federal Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), the title to automotive and construction equipment which can be used in the maintenance or construction of roads and airports.

(b) No equipment may be transferred unless it is in excess of known state requirements in the major senatorial district and is intended for use, to some extent, to maintain and construct airports or roads.

(c) The commissioner may transfer equipment which in the commissioner's judgment is not economically repairable or is obsolete, without regard to (b) of this section.

(d) The commissioner shall determine how the equipment is to be allocated in the best interests of the state. The commissioner may adopt necessary regulations to implement AS 44.74.070 and 44.74.080. (§ 1 ch 106 SLA 1962; am §§ 102 — 104 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "commissioner of transportation and public facilities" for "commissioners of the department of public works and the department of highways" in subsection (a). The amendment also substituted "commissioner" for "commissioners" once in subsection (c) and twice in subsection (d), substituted "his" for "their" in subsection (c), and substituted "adopt" for "promulgate" in subsection (d).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Section 36 continued: Working capital fund

Sec. 44.74.080. Unsaleable period. A political subdivision which receives title to automotive and construction equipment may not sell it for a period of two years after the date title is transferred. (§ 2 ch 106 SLA 1962)

Sec. 44.74.090. Transfer of civil defense property. (a) Title to personal property received by the state from the federal government for civil defense purposes may be transferred to political subdivisions of the state which have qualified civil defense organizations by the Department of Public Safety with the approval of the state director of civil defense and the approval of the Department of Administration. This section is applicable only when title to the property is held by the Department of Public Safety.

(b) As a condition of title transfer, the political subdivision is responsible for compliance with the federal and state restrictions on the property.

(c) No transfer of title to property shall be made which is not in compliance with federal law and with the terms of the agreement under which the property has been made available to the state by the federal government. (§ 1 ch 39 SLA 1965)

Section 37: Alaska Power Authority

Section 38: Alaska Municipal Bond Bank

Section 39: Comprehensive Employment and Training Act

Sec. 44.99.009. Governor as prime sponsor. (a) The governor is authorized to participate as a prime sponsor in the Comprehensive Employment and Training Act of 1973 (P.L. 93-203) as amended. He may delegate his functions as a prime sponsor to such other state agency as, in the exercise of his discretion, he sees fit.

(b) The governor, or the state agency to which he has delegated his functions, may adopt regulations necessary to carry out the functions as a prime sponsor.

(c) The governor shall submit as part of the annual budget submission to the legislature a complete program budget for state participation in the Comprehensive Employment and Training Act of 1973 (P.L. 93-203) as amended. (§ 1 ch 174 SLA 1975)

Editor's note. — This section derives from AS 44.19.581 and was renumbered by the revisor under AS 01.05.031.

Section 40: Civil penalties for discharges of oil.

Sec. 46.03.758. Civil penalties for discharges of oil. (a) The legislature finds that

(1) recent information discloses that the discharge of oil may cause significant short and long-term damage to the state's environment. Even minute quantities of oil released to the environment may cause high mortalities among larval and juvenile forms of important commercial species, may affect salmon migration patterns, and may otherwise degrade and diminish the renewable resources of the state;

(2) the exact nature and extent of oil pollution can be neither documented with certainty nor precisely quantified on a spill-by-spill basis; however, in light of the magnitude of harm which may be caused by oil discharges, and the vital importance of commercial, sport and subsistence fishing, tourism, and Alaska's natural abundance and beauty to the economic future of the state, and its quality of life, it is the judgment of the legislature that substantial civil penalties should be imposed for the discharge of oil, in order to provide a meaningful incentive for the safe handling of oil and to insure that the public does not bear substantial losses from oil pollution for which, because of its subtle, long-term or unquantifiable nature, compensation would not otherwise be received; and

(3) the handling of oil in large quantities is a hazardous undertaking which poses a significant threat to the economy and environment of the state, which can be substantially reduced only by the taking of rigorous safety precautions involving considerable expense; conversely, persons handling oil in smaller amounts pose a correspondingly lower risk to the economy and environment of the state, and are capable of safe oil handling practices at correspondingly lower costs; in order to provide an incentive which is effective, but not punitive, it is necessary and appropriate that the assessment of civil penalties for discharges of small quantities of oil be left for case-by-case judicial determination, while insuring, through the penalty provisions of this section, that the handling of oil in large quantities occurs in a manner which will not impair the renewable resources of the state.

(b) No later than the 10th day after the convening of the Second Session of the Tenth Alaska Legislature, the department shall submit to the legislature regulations establishing the following schedule of fixed penalties for discharges of oil:

(1) Subject to (3) of this subsection, the penalties for the following categories of receiving environments may not exceed

(A) $10 per gallon of oil which enters an anadromous stream or other freshwater environment with significant aquatic resources;

(B) $2.50 per gallon of oil which enters an estuarine, intertidal or confined saltwater environment; and

(C) $1 per gallon of oil which enters an unconfined saltwater environment, public land or freshwater environment without significant aquatic resources.

(2) For discharges of oil which are caused by the gross negligence or intentional act of the discharger, or when the court finds that the discharger did not take reasonable measures to contain and clean up the discharged oil, the penalty shall be determined by multiplying the penalty established under (1) of this subsection by a factor of five.

(c) Regulations adopted under (b) of this section shall become effective 60 days after submission to the legislature, unless disapproved by a special concurrent resolution introduced in either house, and concurred in by a majority of the members in joint session within 60 days of the submission of the regulations. The department may periodically revise regulations adopted under (b) of this section. Revised regulations shall be submitted to the legislature no later than 10 days after the convening of the appropriate regular session of the legislature, and are subject to disapproval as specified in this subsection.

Section 40 continued: Civil penalties for discharges of oil.

(d) The schedule shall vary according to the toxicity, degradability and dispersal characteristics of the oil. The schedule shall also vary according to the sensitivity and productivity of the receiving environment. Variations under this subsection may be by subcategories of receiving environments, specific receiving environments, or both. The maximum penalties established in (b) of this section shall apply to discharges in the most sensitive and productive of receiving environments within each category of receiving environment, and the penalty shall decrease for less productive or sensitive receiving environments.

(e) Upon the effective date of regulations adopted under (b) of this section, if a discharge of oil in excess of 18,000 gallons not permitted under applicable state and federal law occurs within the territorial jurisdiction of the state, or into or upon the adjacent outer continental shelf of the state, the following persons, in addition to the person causing or permitting the discharge, are jointly and severally liable to the state, in a civil action, for the full amount of penalties established in the regulations, or $100,000,000, whichever is less,

(1) if the discharge occurs from any commercial or industrial facility other than a vessel or offshore platform, the owner, lessee (or permittee), and operator of the facility;

(2) if the discharge occurs from a vessel,

(A) the owner and operator of the vessel; and

(B) the owner of the oil carried as cargo on the vessel at the time the vessel was loaded, if the loading occurred within the territorial jurisdiction of the state, or at a deepwater port or other offshore storage facility adjacent to the state; however, if the owner of the oil temporarily transfers ownership of the oil to another person, and the transfer has the purpose or effect of evading the vicarious liability imposed by this section, the transferor will be considered the owner of the oil for the purposes of this subsection; and

(3) if the discharge occurs from an offshore platform, the lessee (or permittee) of the tract or acreage upon which the platform is situated, and the operator of the platform.

(f) The court shall deduct from the penalties for which the person charged is liable under (e) of this section that amount of oil which was removed from the environment as a result of a cleanup operation undertaken in conformity with applicable state and federal law, unless the oil was removed by an agency of state, local or federal government. The dispersal of oil through the use of chemical agents or other means is not considered removal for the purposes of this subsection. The court may estimate the amount of oil removed.

(g) Except as provided in (f) and (j) of this section, the entire penalty specified in the regulations shall be imposed, except that a person who discharges oil into a receiving environment may demonstrate, by a preponderance of evidence, that mitigating circumstances relating to the effects of the discharge would make imposition of the full penalty inappropriate. In determining whether mitigating circumstances exist, the court shall recognize that scientific knowledge pertaining to oil spills is very limited and if there is insufficient knowledge either to predict a base case or to show mitigating circumstances varying from that base case, the administratively established schedule of penalties shall apply. If mitigating circumstances are proven by a preponderance of the evidence, the court may reduce or totally eliminate the penalty, in accordance with the purposes of this section.

Section 40 continued: Civil penalties for discharges of oil.

(h) A person otherwise liable for penalties under (e) of this section is not liable if he demonstrates, by a preponderance of the vidence, that the discharge occurred solely as a result of

(1) an act of God;

(2) an act of a third person with intent to cause a discharge, unless the third person is a person with whom the person charged is made jointly and severally liable under (e)(1) — (3) of this section;

(3) a negligent or intentional act of the State of Alaska or the United States; or

(4) an act of war.

(i) Notwithstanding AS 46.03.875, a person liable under this section is not also liable for the discharge of oil under AS 46.03.760(a). A person causing or permitting a discharge of oil of 18,000 gallons or less not permitted under applicable state or federal law is liable for that discharge under the penalty provisions of AS 46.03.760(a); however, the court may impose a penalty of less than $500 for the discharge.

(j) The court may reduce the penalty imposed under this section if the person charged demonstrates, by a preponderance of the evidence, that the discharge was caused solely by a negligent act of a third person, unless the third person is a person with whom the person charged is made jointly and severally liable under (e)(1) — (3) of this section.

(k) Penalties received by the state under this section shall be deposited in the general fund and credited to a special account called the "oil spill mitigation account". The legislature may annually appropriate from the oil spill mitigation account a sum equivalent to the amount of penalties received under this section for the calendar year preceding the legislative session in which the appropriation is made, the appropriations to be made for the purpose of restoring and enhancing environments affected by oil pollution, including but not limited to the funding of aquaculture projects.

(l) As used in this section,

(1) "adjacent outer continental shelf" means that portion of the outer continental shelf which would be within the territorial jurisdiction of the state if its boundaries were extended seaward to the outer margin of the outer continental shelf;

(2) "confined saltwater environment" means a bay, sound or other partially enclosed saltwater body in which flushing through tidal or current action is significantly restricted;

(3) "discharge of oil" means the entry of oil into or upon the water or public land of the state (except oil discharges into an enclosed and impervious oil spill containment area), regardless of causation;

(4) "intertidal" means the ocean area between highest high water and lowest low water of tidal action;

(5) "offshore platform" means an offshore structure, whether floating or temporarily or permanently secured to the floor of the ocean or other water body, which is used primarily for the exploration for or production of oil or natural gas;

(6) "oil" means petroleum, crude oil, and any substance refined from petroleum or crude oil;

Section 40 continued: Civil penalties for discharges of oil.

(7) "operator" means the person who, through contract, lease, sublease or otherwise, exerts general supervision and control of activities at the facility; the term includes, by way of example and not limitation, prime or general contractors, the master of a vessel (and his employer), or any other person who, through himself, his agents, or contractors, undertakes the general functioning of the facility;

(8) "vessel" means any form or manner of watercraft, whether or not capable of self-propulsion, except offshore platforms. (§ 1 ch 129 SLA 1977; am §§ 1-3 ch 128 SLA 1978; am § 110 ch 59 SLA 1982)

Cross references. — For provision that actions brought under this section may be brought directly against insurers or other persons providing evidence of financial responsibility, see AS 46.04.040(e).

Effect of amendments. — The 1978 amendment substituted the language beginning "and appropriate that the assessment of civil penalties" for "that the civil penalties imposed reflect a balance between the gravity of the discharge, the magnitude of risk, and the level of incentive necessary to induce safe operations" at the end of paragraph (3) of subsection (a), inserted "in excess of 18,000 gallons" near the beginning of the introductory paragraph of subsection (e), and added the second sentence of subsection (i).

The 1982 amendment, effective May 28, 1982, deleted "notwithstanding AS 30.25.20(b)" preceding "penalties" at the beginning of subsection (k).

Editor's notes. — Section 3, ch. 129, SLA 1977, provides: "If the application of AS 46.03.758 to discharges of oil solely into and upon the adjacent outer continental shelf of the state is held invalid, the application of that section to discharges of oil into and upon the water or public land within the territorial jurisdiction of the state is not affected by that holding. This severability provision is intended to clarify and not limit the severability provision of AS 01.10.030."

The schedule of civil penalties required by (b) of this section may be found at 18 AAC 510 — 18 AAC 600. The effective date (referred to in (e) of this section) of the regulation adopting the schedules is April 19, 1978.

AS 30.25.220, referred to in subsection (k), was repealed by § 11, ch. 116, SLA 1980. For provisions concerning oil pollution control, see AS 46.04.

Section 41: Governor's council for the handicapped and gifted.

Section 42: Effective date= date of amendment to the Constitution of Alaska providing for a biennial budget.

HB 485

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY



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

HB 485

MEMORANDUM August 15, 1983

SUBJECT: Biennial state budget
(Work Order No. 13-1508)

TO: Representative Robert H. Bettisworth

FROM: Keith B. Levy KBL
Legislative Counsel

In drafting your bill request establishing a biennial e budget, I neglected to point out to you that Article L Section 12 of the Constitution of the State of Alaska requires an annual budget:

> The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

Thus, your bill is technically in violation of this constitutional provision since it requires the governor to submit a budget every two years rather than annually.

This problem can be resolved in one of two ways. The first would be to amend Article IX, Section 12 of the constitution to provide for a biennial budget rather than an annual one. A more simple solution would be to redraft your bill to provide for a biennial budget, but require the governor to submit an amended budget every other year covering the second fiscal year of the biennial budget. In that way, the constitutional requirement would be met since the governor would be submitting a budget annually, but the bulk of the budget process would be completed biennially.

If you have any questions or if you would like a redraft of your bill, please feel free to contact me.

KBL:lmb
L2/049

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

November 25, 1983

MEMORANDUM

TO: Representative Bob Bettisworth

FROM: David Teal
Legislative Analyst

RE: Biennial Budgeting
Research Request 83-239

This memorandum responds to your request for information on states that have a budget cycle longer than one year. The Council of State Governments (CSG) and the National Conference of State Legislatures (NCSL) provided much of the information required to fulfill your request. Because the information received from these sources is concise and limited to the question at hand, only the highlights are reviewed in this memorandum. Material provided by the CSG and NCSL are attached.

In the early 1940s, only four states had annual legislative sessions. There are now only nine states with legislatures that do not convene annually. The budget process is the primary reason that many states have converted to annual sessions.

Attachment A classifies states according to the length of their budget cycle and the time between legislative sessions. As noted above, nine states have biennial sessions and operate under a two-year budget cycle. Of the 41 states with annual legislative sessions, 29 have a one-year budget cycle. The remaining 12 states are on a two-year budget cycle. No state has a budget cycle longer than two years. The 12 states that have annual sessions and biennial budgets have the potential for full legislative review of the budget each year. All of the nine states with biennial sessions have some procedure for amending the budget during the biennium. Procedures for amending the budget include special legislative action, delegation of authority to a legislative committee or emergency board, and executive branch transfers between agencies or programs.

The Council of State Governments and the Public Affairs Research Council of Louisiana surveyed states to obtain their views on annual versus biennial budgeting. Highlights from those surveys are listed below and the published survey results are attached to this memorandum.

Another factor complicating the analysis is that one cannot simply look at the constitution or statutes of the states to determine what actually occurs. For example, the Minnesota constitution specifies biennial legislative sessions and a biennial budget cycle. In practice, the Minnesota legislature meets annually and only a few appropriations are made for the biennium. In Vermont, an annual or biennial budget cycle is at the discretion of the governor. These complicating factors and the resultant difficulty in classifying certain states accounts for the inconsistent presentation of data in Attachments A, B and D.

I have attached applicable statutes from Florida, Montana, North Dakota and Oregon. According to the Book of the States, these are the four states with a biennial budget cycle that do not make separate appropriations for each year of the biennium.[1] The statutes specify information required by the legislature. Sections 291.322-336 of the Oregon statutes discuss that state's method of amending the budget during the biennium.

* * *

I hope you find this information useful and informative. If you would like additional information on a particular state or particular system of budgeting, please contact the agency.

DT

Atachments
A) Biennial and Annual Budgeting (NCSL)
B) Results of PAR survey on Annual vs. Biennial State
C) Annual or Biennial Budgets? (CSG)
D) 1982-83 Book of the States (pages 276-279)
E) State Statutes
Florida: Chapter 216, 1982 Supplement
Montana: Chapter 666, 1983 Session Laws
North Dakota: Chapter 54-44
Oregon: Chapter 291.208-385

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[1]Texas is classified by the NCSL (in Attachment A) as making appropriations for the biennium. Texas statutes on the budget process are lengthy and are not attached to this memorandum.

ATTACHMENT A

BIENNIAL AND ANNUAL BUDGETING

Prepared by Fiscal Affairs Program
NATIONAL CONFERENCE OF STATE LEGISLATURES
1125 17TH Street Suite 1500 Denver, CO 80202
303/292-6600

Since 1969, ten states have changed their budgeting cycle. Hawaii, Vermont and, most recently, Florida, have all changed from annual to biennial budgets. In that same time, Connecticut, Idaho, Illinois, Missouri and Nebraska have all gone from biennial to annual budgets. Indiana experimented with annual operating budgets in fiscal years 1975-76 and 1976-77, but operated with a biennial capital and highway budget. It returned to full biennial budgeting in 1977.

Currently, 29 states have annual budgets and, of course, annual legislative sessions. Another nine states have biennial budgets with biennial sessions, and thus lack any opportunity for annual changes or revisions. (The exception is Oregon, whose joint Ways and Means committees meet during the interim as the Emergency Board, a constitutional board with authority over supplemental appropriations, federal funds, and transfers.) The remaining twelve states have biennial budgets, but meet annually. This last group has some review of the budget annually, but it varies from full reviews to occasional amendments. Only North Carolina, North Dakota, Oregon, Texas, Washington and Wyoming actually make appropriations for the full biennium rather than by fiscal year, and North Carolina, Washington and Wyoming review the budget for possible changes annually.

ANNUAL LEGISLATIVE SESSIONS AND ANNUAL BUDGETS

Alabama	Delaware	Maryland	New Jersey	South Carolina
Alaska	Georgia	Massachusetts	New Mexico	South Dakota
Arizona	Idaho	Michigan	New York	Tennessee[1]
California	Illinois	Mississippi	Oklahoma	Utah
Colorado	Kansas	Missouri	Pennsylvania	West Virginia
Connecticut	Louisiana	Nebraska	Rhode Island	

BIENNIAL LEGISLATIVE SESSIONS AND BIENNIAL BUDGETS

Arkansas	Nevada	North Dakota[3]
Kentucky	New Hampshire	Oregon[3]
Montana	North Carolina[2]	Texas[3]

ANNUAL LEGISLATIVE SESSIONS AND BIENNIAL BUDGETS

Florida	Maine	Virginia
Hawaii	Minnesota[1]	Washington[2]
Indiana	Ohio	Wisconsin
Iowa	Vermont[1]	Wyoming[2]

All state fiscal years begin on July 1 except for Alabama (October 1), Michigan (October 1), New York (April 1) and Texas (September 1).

Footnotes

[1]Technically a biennial session, but in practice meets annually.

[2]Appropriations are made for the biennium, but reviewed annually.

[3]Appropriations are made for the biennium.

NOTE: Unless otherwise noted, biennial budget states make appropriations for each fiscal year separately.

ATTACHMENT B

PUBLIC AFFAIRS RESEARCH COUNCIL OF LOUISIANA, INC.

300 Louisiana Avenue • P O Box 3118 • Baton Rouge, Louisiana 70821 • Phone (504) 343-9204

April 22, 1982

MEMO TO: Respondents of PAR Survey

FROM: Brian Davie, Research Analyst

RE: Results of PAR Survey on Annual vs. Biennial State Budgeting

Research Council of Louisiana, Inc. (PAR) is a nonpartisan, nonprofit organization which conducts research on state and local government issues in Louisiana. PAR surveyed all states (excluding Louisiana) in early 1982 to obtain the most current information available on the experience and views concerning the issue of annual vs. biennial state budgets. This paper is a tabulation of the results of that survey.

Louisiana Policy

Louisiana's state government has annual legislative sessions (limited to 60 legislative days during an 85 calendar day period) and an annual budget. New or increased tax levies are not permitted during regular legislative sessions in odd-numbered years. The state has not changed its annual budget cycle and is not considering a change at this time.

Response Rate from Other 49 States

PAR sent the enclosed questionnaire to state budget officers and legislative chairmen of the budget committees in each house. One followup letter was sent and at least one response was received from all 49 states. The maximum number of responses (3) was received from 23 states (47%), two responses were received from 18 states (37%), and one response was received from 8 states (16%). Budget officers or their representatives responded from 45 states (92%) and legislative chairmen responded from 44 states (90%). The overall response rate was 77%. Following are results of the survey.

States That Have Changed

The remaining survey questions concerned only the 13 states that changed their budget cycles since 1970; results were inconclusive. For the states that changed twice since 1970, the primary reason appeared to be political -- depending on which party controlled the legislature or which cycle the governor strongly advocated and enforced.

PAR classified responses on effects of the change (Question #8) according to whether the comments were positive, negative or indicated no difference. Respondents from the eight states that changed to annual budgets were almost equally divided between the positive and negative effects of the change and several stated there was no difference. The positive effects most often cited for changing to annual budgets were increased evaluation, legislative scrutiny and more accurate revenue estimates; however, an almost equal number of respondents cited the same factors as having a negative effect, mainly because of the compressed time schedule for reviewing an annual budget.

Respondents from the two states that changed to biennial budgets cited no negative effects, but two of the six respondents in those states said there was no difference. The positive effects mentioned included opportunities for increased planning, evaluation and legislative scrutiny.

It is difficult, if not impossible, to determine what effect a change in budget cycles has on increased state spending (Question #9) since so many other factors intervene such as inflation and major policy changes in state programs. Most respondents acknowledged this and qualified their response. The change had no effect on the rate of increased state spending according to 55% of the respondents. The remaining responses were equally divided between those who thought the change did increase state spending and those who did not know.

Similarly, respondents were almost evenly divided about whether the change affected the accuracy of revenue estimates and accumulation of surplus funds (Question #10).

Which Type Favored by Respondents?

The final survey question provided an opportunity for respondents to comment in general on the issue of annual vs. biennial budgets. Table 2 shows the results of classifying the comments according to which type budget the respondent appeared to favor; again responses were almost equally divided.

TABLE 2. Preferences of Respondents

Preference	Budget Officers	Legislative Leaders	Total
Favor annual budget	5	5	10
Favor biennial budget	6	5	11
Neutral	2	7	9

ATTACHMENT C

Annual

Or

Biennial

Budgets ?

The Council of State Governments

ANNUAL OR BIENNIAL BUDGETS?

August 1972
RM-491
Price: $2.00

The Council of State Governments
Iron Works Pike
Lexington, Kentucky 40505

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FOREWORD

Recent changes in budget procedures in some States have brought renewed attention to the question of whether the process should be an annual or biennial one. The Research Committee of the National Association of State Budget Officers, therefore requested the Council of State Governments to ascertain the reaction of state officials to these changes.

The survey was conducted by means of a questionnaire to ten key executive and legislative officials in each of eleven States. The Council is most grateful to the responding officials for their cooperation and assistance. The report was prepared by Paul Hibberd, Research Associate, under the direction of George A. Bell, Director of Research.

Brevard Crihfield
Executive Director
The Council of State
Governments
Iron Works Pike
Lexington, Kentucky 40505

Introduction

The increasing complexity and mounting problems of state government have triggered many changes in state operations, among these being the shift of legislative sessions to an annual basis rather than biennial. There are now (1972) 33 annual session states plus 3 more whose unlimited biennial sessions extend into the second year, compared with 18 States ten years ago, 10 States twenty years ago, and only 4 States in the early 1940's.

One reason advanced in support of annual sessions has been that state financial and budgetary policies must be reviewed more often than once every two years. This was a predominant factor leading toward annual sessions, as shown by the fact that 9 of the 13 States having annual sessions in 1962 restricted one session every two years primarily to fiscal matters. However, there has been a reversal in this trend, and now a much lower proportion of States - 5 of 33 annual session States, place such limits on sessions.

The felt need for making fiscal decisions annually is still strongly apparent, since most States which have adopted annual sessions have also shifted to annual budgets. However, a few States with annual sessions have not shifted to annual budgets. A further surprising development in view of the trend was the action of Hawaii, which in 1971 shifted to a biennial budget while retaining annual sessions, after having had annual budgets throughout its statehood.

The Hawaii move is one event that has triggered interest among state officials everywhere concerning the advantages and disadvantages of annual versus biennial budgeting, leading to this survey of States which have

made recent shifts. The following questions were asked:

1. What effect has changing from a biennial to an annual budget in your State had on the following:
   (a) Workload of the budget agency:
      1. Has there been a change in the duties or type of work performed by budget staff?
      2. Has there been a commensurate change in size of budget staff?
   (b) Workload of other executive agencies (operating agencies; Governor's Office, etc.)
   (c) Workload of the legislative staff:
      1. Has there been a change in the duties or type of work performed by legislative staff?
      2. Has there been a commensurate change in size of legislative staff?
   (d) Ability or willingness to undertake planning beyond the budget period:
   (e) Accuracy of revenue estimates:
   (f) Ability to meet matching requirements for federal grants in aid:
   (g) Ability to fully finance programs to carry out the program level the appropriation was designed to meet?
   (h) On the rate of annual increase in state expenditures

2. When you were on a biennial budget, what procedures (such as use of transfers, emergency appropriation, allotment adjustments, etc.) existed for taking care of changing financial requirements for programs or agencies?

3. What are you able to do under annual budgeting in providing for year to year changes that you could not do under biennial budgets?

4. If the opportunity arose to switch back to biennial budgets, would you favor doing so? Please state reasons.

5. If the switch to biennial budgeting were to be made, what recommendations would you make to assure that legislative and executive controls over program plans and expenditure are not weakened?

The survey covers most States which have recently switched from biennial to annual budgets and have had at least one full biennium under the annual budget system - Florida, Idaho, Illinois, Missouri, Oklahoma, Tennessee, Utah and Vermont. Other States moving to annual budgets such as Connecticut, Nebraska [illegible] had not experienced the annual cycle at the time the questionnaire was mailed (fall, 1971.)

Iowa and Georgia have instituted annual legislative sessions while retaining a type of biennial budget and were also surveyed. Indiana's similar shift has occurred too recently for coverage. Hawaii was surveyed

for its shift from annual to biennial budgets. Wisconsin was subsequently added; that State now has annual sessions, and in 1972 completed its first formal off-year budget review process in lieu of an annual budget.

In each of the eight States surveyed which switched from a biennial to an annual budget (above), a questionnaire was sent to ten officials - the Governor, President of the Senate, Speaker of the House, administration/finance officials, budget officers, legislative research directors, legislative fiscal review officers, planning officials, and the chairmen of the appropriations committees. There was, therefore, a possibility for 80 responses. The number of actual responses received was 35, with at least two from each State: two from Tennessee, two from Utah, five from Illinois, six from Idaho, three from Florida, five from Missouri, six from Vermont, and six from Oklahoma. In terms of responding officials the breakdown of answers was: Governors, one; Presidents of Senates, four; Speakers of Houses, four; legislative fiscal review officials, four; chairmen of appropriations committees, six; planning officials, six; administration/finance officials, one; budget officers, six; legislative research directors, three. For purposes of narrating the reported opinions the sole responding administration/finance official was included among the budget officers, and the responses of the Presidents of the Senate and the Speakers of the House were combined and treated as the opinions of legislative leaders.

The questionnaire was also sent to the identical officials in Georgia and Iowa, which changed to annual legislative sessions while retaining biennial budget approaches. These officials were requested to provide their opinions on advantages and disadvantages of not switching to an annual budget cycle.

Finally, the questionnaire was also sent to the same officials in Hawaii, which switched from annual to biennial budgeting. These officials were requested to provide their comments and opinions on the effects of the reverse change from an annual to a biennial cycle. Limiting the usefulness of the original Hawaii responses, according to several officials of the State, was the fact that a full biennium had not yet passed under the new procedure. A followup request to the Hawaiian respondents was sent in June, 1972 to seek further reactions after experience with the new approach during the 1972 session.

In view of the delay in analyzing the responses, the questionnaire was also sent to Wisconsin officials in June, 1972 to ascertain reactions to the budget review process first used in the 1972 session.

Opinions in States Recently Switching to Annual Budgets

The responses of officials in the States which have recently changed from biennial to annual budgets are analyzed in this section. The responses are organized in accordance with the questions asked.

Effect on Workload and Size of the Budget Staff

Budget officers should be in the best position to know whether there has been a change in staff size. According to the seven budget officials who responded, the budget staff was increased in size in three States and remained the same in four. The perception of other officials did not always fit these facts, for in four of the seven States one or more other officials thought the staff had increased when the budget official said it had not (two States) or thought it has not increased when the budget

chief said it had (two States). (See table 1 for summary tabulation).

1. Effect on the size of the Budget Agency:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	1		6		1	8
Legislative Fiscal Review	1		3			4
Chairmen Appropriations Committees	3		2		1	6
Planners	1		1	4		6
Budget Department	3		4			7
Legislative Research	2			1		3
	11		17	5	2	35

In at least one State reporting an increase in staff size, this change was due only in part to annual sessions. Annual sessions were begun at the same time that a major change in budget procedures occurred, including establishment of an analytical staff . the Governor's office and development of program analysis procedures.

With the above indications of a different opinion concerning a factual situation, a difference of opinion is to be expected on the less factual questions which follow.

Legislative leaders expressed doubt whether the workload of the budget agency had increased significantly and whether additional staff was necessary. However, chairmen of the various appropriations committees believed that there was a significant increase in the duties of the budget agency, but not to the point that staff members need be added. One suggestion was that the "off-year" was often not very productive and that the solution to the increased workload was a more concentrated effort each

year. In addition to the above positions, several legislative officials contended that there were insufficient funds to employ additional budget staff members.

Although several executive officials expressed the opinion that there was no change in the duties of the budget agencies, a few budget administrators expounded the adverse effects of the change. Their primary contention was that the switch to an annual budget had left little time to perform various studies for the improvement of organization and operations. For example, one budget director remarked, "the increased workload in terms of budget preparation has left less time to explore substantive issues, and has necessitated restrictions on all other activities." When commenting upon the increased workload of his agency and the inability to add new staff members, another budget official remarked, "instead of additions to staff, such activities as analysis, studies, management services, etc., have been drastically reduced if not altogether eliminated."

2. Effect on the workload of the Budget Agency:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		2	1		4
Chairmen Appropriations Committees	4		1		1	6
Planners	1		1	4		6
Budget Department	4		3			7
Legislative Research	3					3
	16		12	5	2	35

Effect on the Workload of other Executive Agencies

An overwhelming majority of officials responding were of the opinion that the change to an annual budget significantly increased the workload of other executive agencies. In a few instances it was noted that budget operations in all the executive agencies were operating throughout most of the year. One budget official reported that with demands on the individual agencies for program information that was not previously requested, "budgeting has become a full time activity and the days when part time budgeting was possible are gone."

Recognition of this increased workload was not limited to executive officials. Three out of every four legislative officials reported an increased burden on the executive agencies in submitting a budget for their programs annually. One legislative council director remarked that, "probably the most significant aspect of the change (to an annual budget) is an awareness that budgeting is a continuous process the year round, and not just something that takes place at session time."

3. Effect on the workload of other Executive Agencies:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	5		2		1	8
Legislative Fiscal Review	2		1	1		4
Chairmen Appropriations Committees	5		1			6
Planners	1		2	3		6
Budget Department	6		1			7
Legislative Research	3					3
	22		8	4	1	35

Effect on the Workload and Size of the Legislative Staff

The majority of legislative officials felt that the change to an annual budget had no significant effect upon the size or workload of legislative budget staffs already in operation. In two States the statement of the legislative fiscal staff director, who should know, concerning increase in staff was not unanimously supported in the opinions of others. In some States the legislative budget staffs were virtually non-existent under a biennial budget. For example, Vermont had no legislative budget staff until 1970, when an analyst was hired to serve the appropriations committees. Other States in which legislative budget analysis agencies were created at the time of the change to an annual budget cycle attributed those creations directly to other sources, naming the budget change as only an indirect cause.

Most executive officials asserted that they were in no position to express an opinion on the effect of the change to an annual budget upon legislative staffs. Among those who did express an opinion, two out of every three felt that the change had no significant effect upon the size or workload of the staffs.

4. Effect on the Size of the Legislative Staff:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		3			4
Chairmen Appropriations Committees	2		3	1		6
Planners			6			6
Budget Department	2		3	2		7
Legislative Research	2		1			3
	10		21	3	1	35

Effect on Ability or Willingness to Undertake Planning beyond the Budget Period

The opinions expressed on this issue were widely varied among both legislative and executive officials. Two out of every three budget officials took the position that an annual budget cycle had an adverse effect upon the willingness to undertake planning beyond the budget period. Other respondents noted that agencies and departments were reluctant to engage in advance planning to begin with, but that the switch to an annual budget left less incentive to plan beyond the budget period. Some legislative leaders said that legislative desire for long range planning was not shared by executive agencies. One executive official, explaining the slowness of agencies to plan ahead, noted that program planning is an activity "which must be fostered by the Chief Executive as a basic management tool for a reasonable length of time before agencies are even interested in performing the activity."

5. Effect on the workload of the Legislative Staff:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		3			4
Chairman Appropriations Committees	3		2	1		6
Planners				6		6
Budget Department	2		3	2		7
Legislative Research	1		2			3
	10		15	9	1	35

A few officials expressed the opinion that longer range planning was one advantage of annual budgeting, but failed to explain the reasoning behind this statement. Some other officials noted that longer range planning was being instituted under planning programming budgeting systems (PPBS) independently of the effect of annual versus biennial cycles.

Also, in two States the answers revealed differences of opinion among officials. For instance, in one State the Speaker, the legislative fiscal officer and the planning official felt that there was an increase in willingness to undertake planning beyond the budget period, while the budget officer thought there was a decrease in that willingness and both the President of the Senate and a committee chairman reported no change, attributing any difference to a recent emphasis on program planning.

6. Effect on the ability or willingness to undertake planning beyond the budget period:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	2	1	3	1	1	8
Legislative Fiscal Review	2		2			4
Chairmen Appropriations Committees	2	1	3			6
Planners	2		1	3		6
Budget Department	3	4				7
Legislative Research	1		1	1		3
	12	7	10	5	1	35

Effect on Accuracy of Revenue Estimates

A majority of the officials felt that a change to an annual budget cycle should, or did, increase the accuracy of revenue estimates. This opinion was held by 16 reporting officials, compared to 4 who thought that accuracy decreased and 10 who felt that there was no change.

Accuracy was presumed to increase because of increased frequency of compiling estimates, and the shorter time interval between making the estimate and realizing the revenue.

7. Effect on the accuracy of Revenue Estimates:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	1	1	2			4
Chairmen Appropriations Committees	6					6
Planners			3	3		6
Budget Department	3	1	2	1		7
Legislative Research	1		2			3
	16	4	10	4	1	35

Effect on Ability to meet Matching Requirements for Federal Grants in Aid

A majority of the state officials took the position that the change to an annual budget increased the ability to meet matching requirements for federal grants in aid. The chief reason for this opinion was the time factor, especially when the federal government is often tardy in appropriating and allocating grants. An annual budget is thought to allow considerably more flexibility if the federal government should significantly alter the amount of money available. One budget director noted that the construction of an annual budget helps avoid the possibility of a special session of the legislature which, when called for fiscal matters, often generates "political stress."

8. Effect on the ability to meet matching requirements for federal grants in aid:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	4					4
Chairmen Appropriations Committees	3		3			6
Planners			3	3		6
Budget Department	5	1	1			7
Legislative Research	1				2	3
	18	3	8	3	3	35

Effect on Ability to Fully Finance Programs to Carry Out the Program Level the Appropriation was Designed to Meet

The majority opinion was that the ability to fully finance programs had been increased by the change to an annual budget. An annual budget, as stated before, appears to be more accurate in predicting revenues. The increased accuracy of estimates increased the ability to fully finance programs, thereby carrying out the program level the appropriations were designed to meet.

Some officials felt that the ability to fully finance programs was not necessarily related to annual or biennial budgets. Their position, as one budget director noted, was that the ability to fully finance programs "speaks to the quality of program projection and revenue estimating and not necessarily for the period during which these events occur."

Some officials recognized the disadvantage of predicting program finance and revenue two years in advance, as opposed to one, but felt that biennial budgeting had other overriding advantages. They suggested

that any problems encountered in fully financing programs during the second year of the biennium could be mitigated by annual sessions where emergency appropriations, transfers, etc., could be enacted.

9. Effect on the ability to fully finance programs to carry out the program level the appropriation was designed to meet:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor	1					1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	3		1			4
Chairmen Appropriations Committees	3		2	1		6
Planners	2		1	3		6
Budget Department	4		2	1		7
Legislative Research	1		1	1		3
	19	1	8	6	1	35

Effect on the Rate of Annual Increase in State Expenditures

There is no evident consensus on what effect, if any, the change to an annual budget might have had on the rate of annual increase in expenditures: 16 thought it would result in greater increases than biennial budgets while 12 indicated there would be no change.

One budget director who believed increases would result observed, "biennial budgeting tends to lock the second year in close proximity to the level of the first fiscal year. Annual budgeting permits the entire lobby and pressure effort of the various special interests to come into play." Some indicated that as inflation, program alterations, salary adjustments, etc., are considered annually, the rate of increase must necessarily be greater. One budget director introduced a formula: "the rate of annual increase in state expenditures is inversely proportional to the length of the budgetary period."

Those officials who took the position that the change to an annual budget had no effect on the rate of annual increase in expenditures felt that the rate of increase is dependent upon revenue. They noted that if revenue should increase beyond expectations in the second year of the biennium, alterations in appropriations could be made at that session of the legislature. These increases in appropriations would essentially be equal with any changes that might have been made if there were a new budget in the process of formulation under an annual cycle.

10. Effect on the rate of annual increase in state expenditures:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor	1					1
President Senate/Speaker House	4		3		1	8
Legislative Fiscal Review	3		1			4
Chairmen Appropriations Committees	2		3	1		6
Planners			3	3		6
Budget Department	4		2	1		7
Legislative Research	1			2		3
	15		12	7	1	35

Procedures under Biennial Budgets for Fiscal Adjustments

Operations under biennial budgets had not prevented most States from changing their fiscal plans where necessary. In some cases this was done through legislative action in special session or otherwise, such as emergency, deficiency or supplemental appropriations.

An additional method which was often mentioned as a means of combatting unforeseen conditions was the transfer of appropriations from one agency, unit or program to another. Five States reported the utilization

of intra-agency transfer, with three of them additionally inter-agency transfers.

Finally, three States noted the existence of an emergency board which had the power to appropriate from a special account in cases when the legislature was not accessible.

A Switch back from Annual to Biennial Budgets?

Among those States which changed to an annual budget, 75 percent of the legislative officials and 70 percent of the executive officials, (but only 50 percent of the budget officers are included in this majority) were satisfied with the new system, while the remainder in each group favored a return to the biennial budget.

Some of the following reasons were cited by legislative officers for remaining with the new system:

(1) fewer emergency appropriations;

(2) "annual budgets tend to strengthen the legislator's role in setting the policy of the state."

Two other reasons, cited by some executive officials, are:

(1) annual budgeting permits the Governor a more frequent review of agency programs and requires state agencies to develop tighter administrative controls over the spending of public funds,

(2) "In biennial budgeting immediate correction of the State's budget is not possible, and waiting until the legislature meets 'next time' is the only alternative. When corrections are eventually made the legislature in its alarm may accuse the Governor of mismanagement and the Governor in turn accuse the legislature of irresponsibility."

One legislative official who favored returning to a biennial budget system noted that with annual budgeting there was a tendency to focus legislative attention on the details, which should be the concern of the executive.

Among the executive officials who were dissatisfied with the annual budget cycle some of the reasons cited were the following:

(1) an annual budget system results in a narrow viewpoint, short time spans for accomplishment, and a vast increase in staff work;

(2) a biennial budget provides more time for program planning activities;

(3) "with annual budgets, the top talent of the executive branch is tied up preparing, defending and implementing budgets. This creates a continuous and overlapping cycle which requires preparations for next year's budget to start before information on the operation of the current year's budget can be collected and evaluated."

Expenditure Controls under Biennial Budgets

Since a switch to biennial budgeting would allow the various state agencies to operate for two years without their programs being subjected to fiscal change, respondents were asked what measures should be introduced to assure that legislative and executive controls were not weakened. Among those suggested by legislative officials were these:

(1) a strong post-audit division for the evaluation of programs,

(2) the existence of an interim committee or emergency board to act upon requests to cover deficiencies or emergencies.

Executive officials, especially budget officials, made other suggestions for assuring control, including the following:

(1) legislative willingness to attend special sessions if a significant imbalance in the budget should arise,

(2) a requirement that each fiscal year in the biennium should stand alone, and no appropriations be carried forward from one year to the next,

(3) "greater emphasis be placed upon program evaluation and review in terms of definition or objectives, method of operation and intended results,"

(4) rather than becoming concerned with details, the legislative fiscal staff "should develop information for policy decisions and directions so that the legislators can decide what services the State should render and determine whether the service is worth the dollars that are required....the legislative branch should give the necessary attention to establishing the goals and policies that will set the directions and shape the future of the government."

Annual Session States with Biennial Budgets

Officials from both Iowa and Georgia pointed out that neither State operates on a strict biennial budget. Rather, the systems in those States might be described as 'modified annual' or 'modified biennial' budgets.

The Georgia constitution provides that a General Appropriations Act shall be passed the first year of the legislative term to cover the next two fiscal years. Any excess funds not expended during the first fiscal year shall lapse and revert to the fund from which they were appropriated. In practice, however, the money provided for the second year of the biennium by the appropriations act is merely a 'dummy appropriation' since it duplicates the first year. At the legislative session in the second year of the term amendments are made to the General Appropriations Act to authorize realistic appropriations for the second fiscal year. Since the executive departments are nevertheless required to present their requests on a two-year basis and the Governor must make his recommendations on a two-year basis, the General Assembly has access to the information to make a reasonable prediction of what funds will be necessary in the second fiscal year.

Prior to 1971, Iowa operated on almost a strictly biennial budget. During those years appropriation bills were drawn which authorized an

identical amount for each year of the biennium. Any departmental appropriations which were not expended during the first fiscal year of the biennium could be carried over and expended during the second fiscal year.

In 1971 a new procedure was put into effect through adoption of a law providing that if the appropriated funds of an agency were not expended during the first fiscal year, the balance would 'revert to the state treasury and to the credit of the fund from which appropriated.' If an agency felt that the funds which would normally have reverted to the state treasury were essential to that agency, an application could be made to the appropriations committees for a hearing.

One legislative official expressed the opinion that the most significant factor in preventing Iowa from changing to an annual budget was the added burden of repeating the entire budget process each year. Although several bills had been introduced in the State which would provide for an annual budget, this time factor seems to have been the foremost cause of defeat.

Questionnaire responses from the two States totalled six, but only three were susceptible to tabulation for any one question. Thus, the following discussion is based on limited responses.

Among both Georgia and Iowa officials there were differing opinions whether a change to an annual budget cycle would have any effect on the workload or size of executive budget agencies. One budget officer noted that the only alteration might be less emphasis on analysis work and more on projection. It was suggested that the workload of other executive agencies would increase as budget preparation became a 'full-time' project.

Additionally, officials from both these States expressed the opinion that the workload of legislative fiscal staffs would be affected by a change to an annual budget. They felt that such a change would require greater detail, greater analysis of budget requests, and overall greater control being exercised by the general assembly. There was a difference of opinion, however, concerning whether the altered workload would necessitate a larger staff.

Regarding the State's willingness to undertake planning beyond the budget period when operating on an annual cycle, Georgia and Iowa respondents indicated that the proclivity to look beyond one year would either be reduced or unaffected. While they felt that annual budgets would lead to more accuracy of revenue estimates, they indicated that inaccuracies resulting from biennial budgets could be remedied in the annual legislative sessions. Georgia and Iowa officials contended that the rate of increase in budgets is more controllable in a biennial cycle. The primary argument in Iowa was that the pressure for increase is reduced during the second session when additional appropriations will be made only in the case of emergencies or unforeseeable changes. One Iowa official summarized as follows: "It seems to us that really we have the 'best of both worlds' 1) less time consumed in preparation/hearings, yet 2) the ability to review and make changes in the second session."

The Switch from Annual to Biennial Budgets – Hawaii

Hawaii abandoned an annual system in favor of a biennial one, effective July 1, 1971. Since this change was so recent, few definite results or effects were available for analysis at the time the questionnaire was sent out. In addition to the change to biennial budgeting, it would

was in the process of implementing a planning-programming-budget system. The combination of these changes resulted in a change of focus from more detailed management control to an emphasis on planning and analysis. This new approach was intended to allow the state legislature to devote more attention during the second year of the biennium to an examination of the progress and effectiveness of various programs. In fact, under the new budget act annual reports to the legislature are required "reflecting the deviations of actual from planned levels of program effectiveness, program size, and program expenditures."

As far as could be determined, the change to a biennial budget had alleviated the burden of the executive budget staff and freed the staff members for more analytical assignment on the PPBS implementation project. In addition, it was predicted that the budget workload of other executive agencies and the legislative fiscal staff would be reduced substantially.

Although Hawaiian officials admitted that revenue estimates for the biennium period would probably be less accurate than on an annual cycle, they apparently felt that the difference would not cause significant problems. The officials also recognized that additional problems could arise in projecting matching requirements for federal grants and aid, but were hopeful that the legislature would be amenable to supplemental budget requests for this purpose during the second year of the biennium. Some hoped also that the rate of annual increase in state expenditures would be less under the biennial system.

Responses to the followup request reiterated the difficulty involved in determining the effect of the switch to biennial budgeting, because that switch was made coincidentally with a change to a planning-programming

budget. One official, commenting on the budget agency workload, pointed out that a change to a biennial budget might have substantially decreased the time spent in budget preparation, yet the amount of time allotted to this function actually increased due to the demands of the planning-programming budget.

One legislator noted that the change afforded committees the opportunity to scrutinize more closely various program accomplishments and problems, "the point being that there was 'extra' time to review programmatic matters and accomplishments because the committee was not straddled with the urgency or necessity of passing an annual budget."

A legislator also noted that the 1971-73 budget could have been legislatively reduced to realign expenditures with anticipated revenues. However, he added that such action deserves careful scrutiny when the effect would impose a restrictive ceiling for expenditures while the possibility of an upturn in revenues remains.

Despite the fact that the second legislative session under Hawaii's biennial budget is now history, the general feeling is that the State has not as yet experienced the full impact of the switch from an annual to a biennial budget.

Annual Budget Review — Wisconsin

Responses concerning the Wisconsin annual review process for the second year of the biennium were received from six officials — two executive, three legislators and one legislative staff. According to a 1971 joint resolution the Governor was to submit to the Legislature by January 18, 1972 any budget changes he deemed desirable for the second year of the biennium. An executive respondent estimated that the amount of work this

entailed for the central budget office was approximately one-third of that associated with full budget preparation. This additional work was absorbed by existing staff, at the expense of fewer daily agency contacts and policy development and management improvement work. On the legislative side, one respondent hailed the process as allowing legislative review of selected programs without waiting for a full budget cycle to elapse. The budget change also altered the duties of administrative agencies which respond only to specific questions raised by the budget staff rather than being required to submit new budgets.

In discussing any change in ability to meet matching requirements for federal grants in aid, one respondent noted that most agencies more than adequately budgeted to cover any such requirements. However, he cited one instance where the annual review remedied a situation of underestimation and was subsequently the cause of critical comment from some legislators because the review allowed agencies to be "bailed out" of their errors. The respondent also predicted that the annual review process would accelerate the rate of increase in state expenditures. This position was contradicted, however, by another respondent, who reported that the rate of increase was substantially lower in 1971-73 than in the previous three biennia.

Five of the six responding Wisconsin officials expressed satisfaction with the annual review process, because it possessed the advantages of both the annual and biennial budget. The only dissatisfied official expressed the fear that the second year budget bill would consistently become "a grab-bag for everyone's pet project with considerable log-rolling."

One factor preventing a full trial of the annual review process was that the 1972 budget was not adopted until November 1971, over five months

after the beginning of the fiscal year. Thus there was little time under the first year's budget before recommendations had to be made on the second. Partly for this reason most respondents felt that it is too soon for a full evaluation of the annual review process.

Conclusion: Which way to go?

It is not surprising that most respondents from States which have shifted from biennial to annual budgets support the change. This support among most categories of officials is strong, ranging from 75 percent for legislators to 100 percent for executive officials outside of the budget office. Only budget officers made a contest of the issue - three favored retention of annual budgets and three favored returning to biennial budgets. In no case were all respondents from a State unanimous in favoring a return to biennial budgeting.

The difference in point of view can occur because of differences in conception of the budget process and differences in experience undergone by each participant in the budget process in each State. In reality, a State can develop a good system of executive and legislative fiscal and program planning and controls under either an annual or biennial budget. The system would work differently with the alternate time-spans, but could be effective under either approach.

To illustrate the contention just stated, let us examine the major selling points of both annual and biennial budgets.

Annual budgets permit more frequent and probably more accurate estimating of revenues and financial requirements of state programs. Corrections on both the expenditure and revenue sides of the balance sheet can more readily be made. Adjustments because of sudden availability or loss of federal funds can be made sooner.

Annual budgeting assures that action will be taken which reflects the above occurrences. Yet action can be taken under biennial budgeting too, if the Legislature meets annually. The Wisconsin budget review process was established for this purpose, and there appears to be nothing in the Wisconsin procedure that could not be adapted to the needs of any other State.

A fundamental reason why most responding legislators favor annual budgeting is that legislative control over spending is more easily attained; the Legislature can more frequently review the spending programs it previously authorized and ascertain whether legislative intent is being carried out.

This review is a basic function of the legislature, and any system should contain built-in procedures to accomplish it. It can be done with biennial budgets as well as annual. Of course, certain conditions must be met. If the legislature meets annually, if the legislature and its committees are continuing bodies throughout the biennium, if legislators are adequately paid and staffed so that they can devote time to the task and make productive use of their time, then the task of review can be carried out effectively, and corrective actions can be taken.

Now let us look at reasons in support of biennial budgeting. Biennial budgets force a longer range planning than annual budgets simply because appropriations must be made for a longer time span; they provide more time for long range planning; and they save the time of agencies, Governor, budget staff, legislature and legislative staff in compiling, presenting, explaining and defending the myriad details that go into the making of a budget. This would allow more time for program review and evaluation.

But these activities are not excluded under annual budgeting. Most budget procedures as established by budget offices require submission and analysis of much detail, but a number of States have been struggling with ways to reduce this burden. Many details, such as replacement of equipment, are better handled through concentration on good management as part of budget execution rather than as items to be spelled out in budgets. Detailed budget items imply a specific knowledge of needs that cannot be that accurately estimated months in advance of expenditure. Concentration on management analysis and program evaluation would be more productive in the long run, and can be fitted in with annual budgets as well as biennial.

Nor, simply because appropriations must be made annually, must legislatures necessarily examine the fine print in every budget every year. Legislatures can find time for program evaluation if they adjust their procedures accordingly, such as concentrating on major issues and unusual changes along with a periodic careful review of all other programs. This is a variation of a suggestion made by one respondent that major programs such as education and welfare be budgeted annually, while lesser and more routine ones such as civil defense and licensing boards be budgeted biennially.

Good decision-making encompasses, among other things, defining state program needs, determining the most effective method of accomplishing the program, providing the resources to get the job done, and evaluating the operation of the program to see whether its aims were accomplished. The budget process is but one aspect, although a most crucial one, of this larger process.

Both executive and legislative officials in many States are seeking ways to accomplish this decision-making task more effectively. The job can be done with either an annual or biennial budget. Which way a State goes depends on its existing system of budget decision-making and a realistic assessment of what can be done soon to fashion the budget process to better serve its purpose. If institutions such as the budget cycle get in the way, then a decision must be made on whether to change the institution, find a way around it, or adjust it to better accomplish the job to be done.

ATTACHMENT D

Table 1
STATE BUDGETARY PRACTICES

State or other jurisdiction	Budget-making authority	Official or agency preparing budget	Date estimates must be submitted by dept. or agencies	Date submitted to legislature	Power of legislature to change budget*	Power of item veto by governor	Fiscal year begins	Frequency of budget
Alabama	Governor	Div. of the Budget, Dept. of Finance	Oct. 15 for Jan. session; Nov. 15 for Feb. session	By the 5th day regular business session	Unlimited	Yes	Oct. 1	Annual
Alaska	Governor	Div. of Budget & Management, Office of the Governor	Oct. 1	3rd legislative day of session	Unlimited	Yes	July 1	Annual
Arizona	Governor	Finance Div., Dept. of Administration	Sept. 1 each year	By the 5th day of regular session	Unlimited	Yes	July 1	Annual
Arkansas	Governor	Office of Budget, Dept. of Finance & Administration	Sept. 1 in even years	Date of convening session	Unlimited	Yes	July 1	Biennial, odd yr.(a)
California	Governor	Dept. of Finance	Specific date for each agency set by Dept. of Finance	Jan 10	Unlimited	Yes	July 1	Annual
Colorado	Governor	Executive Director, Office of State Planning & Budgeting	Aug. 1-15	Dept. budgets submitted Nov. 1; governor's full recommendation submitted within first 10 days of legislative session	Unlimited	Yes	July 1	Annual
Connecticut	Governor	Div. of Budget & Financial Management, Office of Policy & Management	Sept. 1	1st session day after third of Feb. in odd years, except if change in governor; then 1st session day after Feb. 14. In even years, on the Wed. following the 1st Mon. in Feb.	Unlimited	Yes	July 1	Annual
Delaware	Governor	Office of Budget Director, Office of the Governor	Sept. 15; schools, Oct. 15	By Feb. 1	Unlimited	Yes	July 1	Annual
Florida	Governor	Office of Planning & Budget, Office of the Governor	Nov. 1 each year	45 days prior to regular	Unlimited	Yes	July1	Biennial
Georgia	Governor	Office of Planning & Budget	Sept. 1	By 5th day of session or sooner	Unlimited	Yes	July 1	Annual
Hawaii	Governor(b)	Budget, Planning & Management Div., Dept. of Budget & Finance	Aug. 31	20 days prior to convening of session on 3rd Wed. in Jan.	Unlimited	Yes	July 1	Biennial, odd yr.(a,c)
Idaho	Governor	Office of the Governor	Sept. 1 before Jan. session	Not later than 5th day of session	Unlimited	Yes	July 1	Annual
Illinois	Governor	Bureau of the Budget, Office of the Governor	Specific date for each agency set by Bureau of the Budget	First Wed. in March	Unlimited	Yes	July 1	Annual
Indiana	Governor	Budget Agency(d)	Sept. 1 in even years, flexible policy	Within the 1st two weeks after the session convenes(e)	Unlimited	No	July 1	Biennial, odd yr.(a)
Iowa	Governor	Comptroller	Sept. 1	Feb. 1 or before	Unlimited	Yes	July 1	Biennial, odd yr.(a)
Kansas	Governor	Div. of the Budget, Dept. of Administration	Not later than Oct. 1	Within 3 weeks after convening of session in odd years and within 2 days after convening of session in even years	Unlimited	Yes	July 1	Annual
Kentucky	Governor	Office for Policy & Management, Dept. of Finance	Specific date set by administrative action but may not be later than Nov. 15 of each	As governor desires	Unlimited	Yes	July 1	Biennial, even yr.(a)

Louisiana	Governor	State Executive Budget Director, Div. of Administration	Dec. 15	Not later than 1st day of each regular session	Unlimited	Yes	July 1	Annual
Maine	Governor	Bureau of the Budget, Dept. of Finance & Administration	Sept. 1 in even years	Not later than the Fri. following the first Mon. in Jan. of the 1st regular legislative session. Governor-elect to 1st term, not later than Fri. following 1st Mon. in Feb. of 1st regular legislative session	Unlimited	No	July 1	Biennial, odd yr.(a)
Maryland	Governor	Secretary, Dept. of Budget & Fiscal Planning	Sept. 1	3rd Wed. of Jan. annually	Limited: legislature may decrease but not increase, except appropriations for legislature and judiciary	No	July 1	Annual
Massachusetts	Governor	Budget Director, Div. of Fiscal Affairs, Executive Office for Administration & Finance	Set by administrative action	Within 3 weeks after convening of the legislature	Unlimited	Yes	July 1	Annual
Michigan	Governor	Office of the Budget, Dept. of Management & Budget	Set by administrative action	10th day of session	Unlimited	Yes	Oct. 1	Annual
Minnesota	Governor	Budget Div., Dept. of Finance	Oct. 1 preceding convening of legislature	Within 3 weeks after the 1st Mon. in Jan. in each odd year	Unlimited	Yes	July 1	Biennial, odd yr.(a)
Mississippi	Commission of Budget & Accounting(f)	Commission of Budget & Accounting	Aug. 1 preceding convening of legislature	Dec. 15	Unlimited	Yes	July 1	Annual
Missouri	Governor	Div. of Budget & Planning, Office of Administration	Oct. 1	By the 30th day	Unlimited	Yes	July 1	Annual
Montana	Governor	Director, Office of Budget & Program Planning, Governor's Office	Sept. 1 of year before each session	1st day of session	Unlimited	Yes	July 1	Biennial, odd yr.
Nebraska	Governor	Budget Div., Dept. of Administrative Services	Not later than Sept. 15	Jan. 15	Limited: three-fifths vote required to increase governor's recommendations; majority vote required to reject or decrease such items	Yes	July 1	Annual
Nevada	Governor	Budget Director, Budget Div., Dept. of Administration	Sept. 1	10th day of session or before	Unlimited	No	July 1	Biennial, odd yr.(a)
New Hampshire	Governor	Comptroller, Dept. of Administration & Control	Oct. 1 in even years	Feb. 15 in odd years	Unlimited	No	July 1	Biennial, odd yr.(a)
New Jersey	Governor	Director, Div. of Budget & Accounting, Dept. of the Treasury	Oct. 1	Third Tues. after opening of session	Unlimited	Yes	July 1	Annual
New Mexico	Governor	Budget Div. Dept. of Finance & Administration	Sept. 1	On or before 25th day of regular session	Unlimited	Yes	July 1	Annual
New York	Governor	Div. of Budget, Executive Dept.	Early in Sept.	Second Tuesday following the first day of the annual session, except on or before Feb. 1 in years following gubernatorial election	Limited: may strike out items, reduce items, or add separate items of expenditure	Yes	April 1	Annual

State or other jurisdiction	Budget-making authority	Official or agency preparing budget	Date estimates must be submitted by dept. or agencies	Date submitted to legislature	Power of legislature to change budget*	Power of item veto by governor	Fiscal year begins	Frequency of budget
North Carolina	Governor	Office of State Budget	Sept. 1 preceding session	1st week of session	Unlimited	No	July 1	Biennial, odd yr.(a)
North Dakota	Governor	Office of Management & Budget	July 15 in even years; may extend 45 days	Dec. 1, prior to biennial session	Unlimited	Yes	July 1	Biennial, odd yr.
Ohio	Governor	Office of Budget & Management	Nov. 1; Dec. 1 when new governor is elected	Within four weeks of convening in odd years unless change in governor; then March 15	Unlimited	Yes	July 1	Biennial, odd yr.(a)
Oklahoma	Governor	Director of State Finance, Div. of Budget	Sept. 1	Immediately after convening of regular legislative session; an incoming governor, following inaugural	Unlimited	Yes	July 1	Annual
Oregon	Governor	Budget & Management Div., Executive Dept.	Sept. 1 in even year preceding legislative year	Dec. 1 in even year preceding legislative year	Unlimited	Yes	July 1	Biennial, odd yr.
Pennsylvania	Governor	Secretary of Budget & Administration, Governor's Office of Budget & Administration	Nov. 1 each year	As soon as possible after organization of legislature, but no later than 1st full week in Feb. Governor-elect to 1st term, no later than 1st week in March	Unlimited	Yes	July 1	Annual
Rhode Island	Governor	Div. of Budget, Dept. of Administration	Oct. 1	24th day of session	Unlimited	No	July 1	Annual
South Carolina	State Budget & Control Board(g)	Finance Div., State Budget & Control Board	Sept. 15 or discretion of board	2nd Tues. in Jan.	Unlimited	Yes	July 1	Annual
South Dakota	Governor	Commissioner, Bureau of Finance & Management, Dept. of Executive Management	Sept. 1	1st Tues. after 1st Mon. in Dec.	Unlimited	Yes	July 1	Annual
Tennessee	Governor	Budget Div., Dept. of Finance & Administration	Oct. 1	Prior to Feb. 1, except prior to March 1 in first year of governor's term	Unlimited	Yes	July 1	Annual
Texas	Governor, Legislative Budget Board	Budget & Planning Office, Office of Governor; Legislative Budget Board	Date set by budget director and legislative board	7th day of sesion or before	Unlimited	Yes	Sept. 1	Biennial, odd yr.(a)
Utah	Governor	State Budget Office	Sept. 1-30(h)	After convening of legislature, 3 days regular session; 1 day budget session	Unlimited	Yes	July 1	Annual
Vermont	Governor	Commissioner, Dept. of Budget & Management; Agency for Administration	Sept. 1	3rd Tues. in Jan.	Unlimited	No	July 1	(i)
Virginia	Governor	Director, Dept. of Planning & Budget, Office of Administration & Finance	1st-Sept. in odd years	Within 5 days after convening of regular session on 2nd Wed. in Jan. in even years	Unlimited	Yes	July 1	Biennial, even yr.(a)
Washington	Governor	Director, Office of Financial Management	Date set by governor	20th day of Dec. prior to session	Unlimited	Yes	July 1	Biennial, odd yr.(a)

West Virginia	Governor	Planning Div. & Div. of Budget, Dept. of Finance & Administration	Aug. 15	1st day of session except for 1st year of new gov. when it may be submitted 1 month after convening of session	Limited: may not increase items of budget bill except appropriations for legislature and judiciary	Yes	July 1	Annual
Wisconsin	Governor	Div. of State Executive Budget & Planning, Dept. of Administration	Dates as set by secretary, Department of Administration	On or before the last Tues. in Jan. in odd-numbered years	Unlimited	Yes	July 1	Biennial, odd yr.(a)
Wyoming	Governor	Budget Div., Dept. of Administration & Fiscal Control	Sept. 15 preceding session in Feb.	Jan. 1	Unlimited	Yes	July 1	Biennial, even yr.(a)
Dist. of Col.	Mayor	Office of Budget & Management Systems	Date set by mayor	(j)	Unlimited	Yes	Oct. 1	Annual
American Samoa(k)	Governor	Planning & Budget Office	July 1	August	Unlimited (local funds)	Yes	Oct. 1	Annual
Guam	Governor	Bureau of Budget & Management Research	Date set by director, Bureau of Budget & Management Research. Usually not later than Feb. 15	By April 30	Unlimited	Yes	Oct. 1	Annual
Puerto Rico	Governor	Bureau of the Budget, Office of the Governor	Oct. 15	2nd Mon. in Jan.; opening day of regular session	Unlimited	Yes	July 1	Annual
Virgin Islands	Governor	Director of the Budget, Office of the Governor	Dec. 30	Upon convening	Unlimited	Yes	Oct. 1	Annual

*Limitations listed in this column relate to legislative power to increase or decrease budget items generally. Specific limitations, such as constitutionally earmarked funds or requirement to enact revenue measures to cover new expenditure items, are not included.

(a) Budget is adopted biennially, but appropriations are made for each year of the biennium separately. Maine—budget is reviewed annually. Minnesota and Wisconsin—a few appropriations are made for the biennium. Virginia—amendments to current budget can be made in any year, but there is no formal provision for annual review of the entire biennial appropriation. North Carolina, Washington and Wyoming—biennial appropriations with annual review. Wisconsin—statutes authorize an annual budget review, and the governor may in even years recommend changes.

(b) Governor has budget-making authority for executive branch only. Judiciary and legislative branch budgets are the responsibility of the respective branches, and the governor may only veto the budget bills as a whole, not by item.

(c) Increases or decreases may be made in even-year sessions.

(d) Budget Committee serves in advisory capacity.

(e) Convenes on first Thursday after first Monday in January in odd years.

(f) Composition of commission: governor as ex officio chairman, lieutenant governor, chairman House Ways and Means Committee, chairman House Appropriations Committee, chairman Senate Finance Committee, president pro tem of senate, chairman Senate Appropriations Committee, one member of senate appointed by lieutenant governor, speaker of house, two house members appointed by the speaker.

(g) Composition of board: governor as chairman, treasurer, comptroller general, chairman Senate Finance committee, chairman House Ways and Means Committee.

(h) Thirty days prior to each department or agency hearing before the governor.

(i) 1981 legislature authorized annual or biennial budget at governor's discretion. Submission of annual budget began with fiscal 1982.

(j) Budget submitted to both council and Congress. Council sets date of submission for its review; the Office of Management and Budget, Executive Office of the President, sets the date for submission to Congress.

(k) Information from 1980-81 *Book of the States*.

electronic or other medium approved for such purpose by the governing board or officer having jurisdiction or control of such public funds.

(5) PROCEDURES FOR WIRE TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the governing board or officer of any local government who has the authority to deposit or withdraw funds is authorized to transfer fur 's from one depository to another or within a depository or to another institution, and may transfer funds wherein the transfer does not represent an expenditure, advance, or reduction of cash assets. Such transfer may be made by electronic, telephonic, or other medium; and each transfer shall be confirmed in writing and signed by the designee of the governing board or officer of the local government.

(6) INVESTMENT OF PUBLIC FUNDS.—Notwithstanding any other provision of law, the governing board or officer of any local government who has the authority to invest funds is authorized to transfer funds by electronic or other medium for purposes of investment to any depository authorized by law to receive funds or in the Local Government Surplus Funds Trust Fund. A written record shall be kept of all transfers made pursuant to this section.

History.—ss. 1, 2, 3, 4, 5, ch. 78-406; s. 3, ch. 82-104.

215.96 Coordinating council.—[Repealed effective October 1, 1989, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

CHAPTER 216

PLANNING AND BUDGETING

216.031 Budgets for operational expenditures.

216.031 Budgets for operational expenditures.—The legislative budget requests submitted by the head of each state agency, showing the amounts requested for operational expenditures during the next biennium, shall contain the following:

(1) For each budget entity, a summary exhibit showing, for each appropriation category, for each fund, 2 prior years' appropriations for general revenue, 1 prior year's actual and 1 current year's estimated expenditures, and the requested expenditures for each year of the next biennium. The total number of positions for the budget entity shall be shown for each fiscal year of data for which positions are authorized, fixed, or requested. However, the agency budget request for the State Univ sity System shall be expressed in terms of the amount for the various programs as prescribed in s. 240.27, and in terms of the specified appropriation categories, including the special units' budgets, prescribed in the prior appropriations act.

(2) For each program component within the budget entity, an exhibit showing, for each appropriation category, the summary explanation of expenditures for each detail issue describing the amounts and positions for each year of the next biennium to continue current programs, for improved programs, and for new programs, with a summary showing totals by fund for each year of the biennium.

(3) For each trust fund within the budget entity, a schedule showing the trust funds available, providing the source of receipts, detail of nonoperating disbursements, operating disbursements, fixed capital outlay, and unencumbered cash balances, for 2 prior years' actual, the current year's estimated, and the request for each year of the biennium.

(4) For each budget entity, a schedule showing detail of positions, providing for each class of positions within discrete organizational activities, by the collective bargaining unit and program component for each year of the next biennium, the number of full-time equivalent positions, the estimated rate of salary, the number of months to be employed, the amounts requested for new positions, and the number of new positions requested.

(5) Detailed information for each year of the biennium necessary for the Legislature and the Governor to evaluate:

(a) The effectiveness of current programs, including justification for those programs.

(b) The justification for increasing costs to continue the operations of current programs.

(c) The justification for proposed improvements in existing programs.

(d) The justification for proposed new programs.

(6) Additional information providing a detailed description of the agency's request and the corresponding calculations needed to support the request.

(7) A schedule and other such detailed information as may be necessary to identify the federal grants-in-aid portion of the agency's legislative budget request, as may be prescribed by the Executive Office of the Governor, in consultation with the appropriations committees of the Legislature.

(8) Workload and other performance indicators, as prescribed by the Executive Office of the Governor pursuant to s. 216.023.

(9) The sum of money actually expended for contractual services, as defined in s. 287.012, by the agency for the previous year.

(10) A schedule listing each committee, however created; council; coordinating council; commission; and board of trustees that is adjunct to the executive agency. The schedule shall show the name, number of meetings held in the past fiscal year, number of members, and expenses of each committee, council, coordinating council, commission, or board of trustees. The schedule shall further state the purpose of each committee, council, coordinating council, commission, or board of trustees and the statutory basis for each one's creation.

The legislative appropriations committees and the Executive Office of the Governor may require the agency to address major issues for inclusion in the agency's requests. The issues shall be submitted to the agency no later than August 30 of each even-numbered year and shall be displayed in the agency's requests as provided in the budget instructions.

History.—s. 11, ch. 69-106; s. 7, ch. 71-354; s. 1, ch. 77-452; s. 40, ch. [illegible]; s. 3, ch. 80-45; s. 3, ch. 82-10; s. 11, ch. 82-186.

[illegible]Note.—As amended by s. 3, ch. 80-45, paragraph (e) is added to subsection (5) effective July 1, 1983, to read:

(e) The projected cost of the requested [illegible] budget cycle.

CHAPTER 21

FINANCIAL MATTERS PE
POLITICAL SUBDIV

PART II REVENUE SHA
OF 1972

PART III LOCAL FIN
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PART IV INVESTMENT
GOVERNMENT SURPL

PART VI PARTICIPATION I
SALES TAX PROCI

PART II

REVENUE SHARING AC

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218.23 Revenue sharing w
government.—

(1) To be eligible to participa
ing beyond th minimum entitle
year, a unit of local government is

(a) Reported its finances for
completed fiscal year to the Depa
and Finance, pursuant to s. 218.3

(b) Made provisions for annu
financial accounts in accordance
law.

(c) Levied, as shown on its m
report pursuant to s. 218.32, ad va
ive of taxes levied for debt servi
millages authorized by the voters,
enue equivalent to a millage rate
dollar based on the 1973 taxable
by the property appraiser purs
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CHAPTER NO. 666

AN ACT TO CLARIFY THE INFORMATION REQUIRED TO BE SUBMITTED TO THE BUDGET DIRECTOR AND THE LEGISLATIVE FISCAL ANALYST FOR THE PREPARATION OF AGENCY BUDGET ESTIMATES; PROVIDING A DATE BY WHICH THE BUDGET OFFICE WILL PREPARE AN AGENCY REQUEST; AND SPECIFICALLY INCLUDING THE UNIVERSITY SYSTEM UNDER THE BUDGET REQUIREMENTS; AMENDING SECTIONS 17-7-111 AND 17-7-112, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-111, MCA, is amended to read:

"17-7-111. Agency program budgets — form distribution and contents. *(1)* In the preparation of a state budget, the budget director shall, not later than July 1 in the year preceding the convening of the legislature, distribute to all state offices and departments, including the judicial branch and the legislative branch, the proper *forms* necessary for the preparation of budget estimates. These *forms* shall be prescribed by the budget director to procure *the* information *required by subsection (2).*

(2) The agency budget requests, when completed by the budget office, must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary for current level expenditures and for each modification request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget in such manner as to show a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress. The consolidated budget summary must be supported by schedules classifying receipts and disbursements contained therein by fund and, where applicable, organizational unit.

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each accounting entity within each fund for the current and subsequent biennium;

(c) a detailed schedule of receipts, by accounting entity within each fund, indicating classification and source of funds;

(d) an agency schedule summarizing past and proposed spending plans and the means of financing the proposed plan. Information presented shall include the following:

(i) a statement of agency goals and objectives and a statement of goals and objectives for each program of the agency;

(ii) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program; and

(iii) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and agency's recommendations for the ensuing biennium, by disbursement category;

(e) any other information the budget director feels is necessary for the preparation of a budget.

(3) The budget director must also prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

(a) detailed recommendations for the state long-range building program. Each recommendation shall be presented by department, institution, agency, or branch by funding source, with a description of each proposed project; and

(b) the proposed pay plan schedule for all executive branch employees with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401."

Section 2. Section 17-7-112, MCA, is amended to read:

"17-7-112. Submission deadline. (1) It shall be the duty of each department, agency, and office, *including the Montana university system,* to submit *the* information *required under 17-7-111 to* the budget director on or before September 1 in the even year preceding the convening of the legislature.

(2) Between August 15 and September 30 in the year preceding the convening of the legislature, the director must submit each state agency's budget request required under 17-7-111(2) to the legislative fiscal analyst. The transfer of budget information shall be done on a schedule mutually agreed to by the budget director and the legislative fiscal analyst in a manner that facilitates an even transfer of budget information during the month of September and which allows each office to maintain a reasonable staff workflow.

(3) If any department, institution, *university unit,* or agency shall fail to present such information within the time herein specified, the budget director shall note that fact in the budget submitted to the governor and the budget director shall prepare *and submit to the legislative fiscal analyst and the governor by October 30* a budget request on behalf of such department, institution, *university unit,* or agency, based upon his studies of the operations, plans, and needs thereof.

(4) The proposed pay plan schedule required by 17-7-111(3) must be submitted to the legislative fiscal analyst no later than November 15 in the year preceding the convening of the legislature."

Approved April 28, 1983.

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AN ACT TO COUPLE
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PURPOSES OF THE
SECTIONS 15-31-201
15-31-205 THROUGH
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Be it enacted by the Leg

Section 1. Section 15

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(2) For purposes of t
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Section 2. Section 15-

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(3) An election under
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(5) Every electing co
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54-42-07. Transfer of records and other materials. The North Dakota merit system council as created by agreement of the social service board of North Dakota, the North Dakota unemployment compensation division, the North Dakota state employment service, and North Dakota state department of health shall transfer all records and other material to the possession of the North Dakota merit system council as created by this chapter.

Source: S.L. 1957, ch. 332, § 7; R.C. 1943, 1957 Supp., § 54-4207.

Cross-References.

Records of council transferred to central personnel division, see § 54-44.3-27.

54-42-08. Transfer of employees under merit system. All employed personnel having status under the merit system as created by agreement of the social service board of North Dakota, the North Dakota unemployment compensation division, the North Dakota state employment service, the North Dakota merit system council, and the North Dakota state department of health, shall have like status and pay under the North Dakota merit system council as created by this chapter.

Source: S.L. 1957, ch. 332, § 8; R.C. 1943, 1957 Supp., § 54-4208.

CHAPTER 54-43

THEODORE ROOSEVELT CENTENNIAL COMMISSION

[Omitted as a statute not of a general and permanent nature]

Note.

Not repealed but omitted as a chapter not of a general and permanent nature. For the provisions of this chapter, see S.L. 1957, ch. 333, §§ 1, 2.

CHAPTER 54-44

OFFICE OF MANAGEMENT AND BUDGET

Section

54-44-01. Responsibility of the office of management and budget.
54-44-02. State office of management and budget.
54-44-03. Director of the office of management and budget.
54-44-04. Powers and duties of the director of the office of management and budget.
54-44-04.1. The director of the office of management and budget shall have authority to withhold or deduct certain amounts from employees' compensation.
54-44-04.2. Unemployment compensation assessments to departments and institutions.
54-44-04.3. Appropriation of unemployment compensation assessments.
54-44-04.4. Payment of unemployment compensation claims.
54-44-04.5. Federal surplus property — Office of management and budget responsible for distribution — Powers and duties of director.
54-44-04.6. State surplus property — Department heads to inform director — Disposition of property — Proceeds — Exchange of property.
54-44-04.7. Responsibility to administer unassigned statutory functions of state government.
54-44-05. Warrants — Numbered — Show funds on which drawn — Not drawn unless authorized.
54-44-06. Duties as to school fund.
54-44-07. Office to set up account against person who fails to render account.
54-44-08. Director to institute suits in name of state.

54-44-09. Supplies for institutions under contr
54-44-10. Legislative inspection of books of off
54-44-11. Office's operating funds creation.
54-44-12. Deposit and disbursement of fund Appropriation.
54-44-13. Failure of political subdivisions to of management and budget authc

54-44-01 Responsibility of the off office of management and budget is t the control and supervision of the fi branch of the government, and is dire office of the state auditor has the pr true independent post audit of all the The responsibility of collecting additi in the office of the state tax commissio

This chapter shall be liberally cons ment this section.

Source: S.L. 1959, ch. 372, § 1; 1981, ch. 534, § 5.

Note.

Section 1, chapter 534, S.L. 1981, provides: "Wherever the terms department of accounts and purchases, director of the department of accounts and purchases, director of the state department of accounts and purchases, director of accounts and purchases, and department when referring to the department of accounts and purchases, appear in this code, the term office of management and budget, director of the office of management and budget, director of the state office of management and budget, or office, as the case may be, shall be substituted therefor. The director of the

54-44-02. State office of manage office of management and budget veste sibilities necessary to supervise and the various state departments, agenci

Source: S.L. 1959, ch. 372, § 1.

54-44-03. Director of the office shall be a director of the office of m appointed by and serve at the will of t shall be set by the governor within t for salaries by the legislative assemb ees of the office shall be reimbursed the duties of their office at the same state officials. The director shall be en ent with law or rules established by of the office of management and bud

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54-44-09. Supplies for institutions under control of the office of management and budget.
54-44-10. Legislative inspection of books of office of management and budget.
54-44-11. Office's operating funds creation.
54-44-12. Deposit and disbursement of funds of occupational and professional boards — Appropriation.
54-44-13. Failure of political subdivisions to repay natural disaster overpayments — Office of management and budget authorized to withhold funds.

54-44-01. Responsibility of the office of management and budget. The office of management and budget is to be a central authority, vested with the control and supervision of the fiscal administration of the executive branch of the government, and is directly responsible to the governor. The office of the state auditor has the primary responsibility of conducting a true independent post audit of all the executive departments and agencies. The responsibility of collecting additional taxes is consolidated and vested in the office of the state tax commissioner.

This chapter shall be liberally construed in a manner which will implement this section.

Source: S.L. 1959, ch. 372, § 1; 1981, ch. 534, § 5.

Note.

Section 1, chapter 534, S.L. 1981 provides: "Wherever the terms department of accounts and purchases, director of the department of accounts and purchases, director of the state department of accounts and purchases, director of accounts and purchases, and department when referring to the department of accounts and purchases, appear in this code, the term office of management and budget, director of the office of management and budget, director of the state office of management and budget, or office, as the case may be, shall be substituted therefor. The director of the office of management and budget is to be substituted for, and take any action previously to be taken by, and shall perform any duties previously to be performed by the director of the department of accounts and purchases".

Cross-References.

Federal aid coordinator office created in office of management and budget, see § 54-27.1-01.

Collateral References.

States ⇨ 85, 121, 122, 136.

72 Am. Jur. 2d, States, Territories, and Dependencies, §§ 75-77.

81A C. J. S. States, §§ 145, 146, 223 to 229, 242.

54-44-02. State office of management and budget. There shall be an office of management and budget vested with the duties, powers, and responsibilities necessary to supervise and administer the fiscal transactions of the various state departments, agencies, boards, and commissions.

Source: S.L. 1959, ch. 372, § 1.

54-44-03. Director of the office of management and budget. There shall be a director of the office of management and budget who shall be appointed by and serve at the will of the governor. The salary of the director shall be set by the governor within the limits of the amount appropriated for salaries by the legislative assembly, and the director and other employees of the office shall be reimbursed for expenses incurred in carrying out the duties of their office at the same rate and in the same manner as other state officials. The director shall be empowered to adopt rules, not inconsistent with law or rules established by the governor, for the administration of the office of management and budget, the conduct of its employees, the

distribution and performance of its business, and the custody, use, and preservation of the records, documents, and property pertaining thereto. He shall be empowered to set up such divisions or other internal organization within the office that he shall deem necessary in order to efficiently carry out the duties, powers, and responsibilities of the office.

The director of the office of management and budget shall execute an official bond in the sum of one hundred thousand dollars.

Source: S.L. 1959, ch. 372, § 1; 1981, ch. 535, § 16.

54-44-04. Powers and duties of the director of the office of management and budget. The director of the office of management and budget, or such subordinate officer as he shall designate:

1 to 4. Repealed by S.L. 1965, ch. 358, § 20.

5. Shall examine the budget affecting the legislative and judicial branches of the state government, but only for the purpose of determining the sufficiency of funds to meet the contemplated expenditures of these branches of state government or their officers or agencies.

6 and 7. Repealed by S.L. 1965, ch. 358, § 20.

8. Shall keep the general accounts, reflecting for each fund the resources and balance, together with current revenues and expenditures, and shall provide for an accrual accounting system.

9. Shall, acting as director of the office of the budget, process all claims for submittal to the office of management and budget, which may conduct the preaudit of all claims from the executive branch of the government before payment and the director shall conduct the current audit of all revenues, which shall include the supervision of the collection of all moneys due the state.

10. Repealed by S.L. 1979, ch. 541, § 2.

11. Except as otherwise provided by law, shall prepare warrants for payment of all claims from the executive branch of government, when approved by the office of the budget, and for payment of all claims from the judicial and legislative branches.

12. Shall be vested with the duties, powers, and responsibilities involved in the development and installation of financial records and procedures for all state departments and agencies.

12.1. Shall coordinate the development of accounting and financial related systems.

12.2. Shall create an accounting manual and provide sufficient training of current and potential users concerning the functions and use of a statewide accounting and reporting system.

13. Shall conduct such interval audits of accounts in the several departments of the state as he shall deem necessary.

14. Shall issue current reports to administrative officials concerning the status of revenue, expenditures, and appropriation accounts, and shall make periodic financial reports to the governor, administrative officials, the legislative assembly, and the public.

14.1. Shall prepare on an annual basis comprehensive financial statements of the state of North Dakota.

15. Shall submit a bienn
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16. Shall accompany his
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Source: S.L. 1959, ch. 372, § 1
346, § 67; 1965, ch. 358, § 20; 1969,
1973, ch. 403, § 51; 1975, ch. 466, § 5
541, §§ 1, 2; 1979, ch. 560, § 1; 19
§ 10; 1981, ch. 1, §§ 9, 10; 1981, ch. 53

Cross-References.

Communications advisory comm
bership of director, see § 54-23.1-03.

Departmental payrolls exer
requirements of subdivision
§ 54-14-04.2.

Director of office of managemen
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§ 54-44.1-02.

15. Shall submit a biennial report as prescribed by section 54-06-04 to the governor and the office of management and budget covering the activities of all the divisions of the office. In addition to any requirements established pursuant to section 54-06-04, the report shall include a statement of the funds of the state, the revenues of the state, and public expenditures during the two preceding fiscal years.
16. Shall accompany his biennial report with tabular statements showing the amount of each appropriation for the two preceding fiscal years, the amount expended, and the balance, if any, and also the amount of revenue chargeable to each county for such years, the amount paid, and the amount unpaid or due therefrom.
17. Shall, when requested, give information in writing to either house of the legislative assembly relating to the fiscal affairs of the state or to the administration of his office.
18. Shall submit to the governor at the close of each business day, or at such times as the governor may request, a report showing the current condition of each fund and appropriation.
19. Shall keep an account with each organized county of the state in which each county shall be charged with the amount of delinquent taxes due to the state, and with all sums levied in such county for state purposes, and shall be credited with all sums paid into the state treasury on account of such taxes.
20. Shall keep an account between the state and state treasurer, and charge the state treasurer therein with the balance in the treasury when he came into office, and with all moneys received by the state treasurer, and credit him with all warrants drawn on and paid by him.
21. Shall be vested with the duties, powers, and responsibilities involved in the operation of a centralized purchasing service.
22. Shall maintain and operate such supply rooms as may be found desirable to supply the several departments with office supplies and other commonly used commodities; however, this subsection shall not be construed as authorizing the establishment of a warehousing system.
22.1. Shall distribute federal and state surplus property pursuant to sections 54-44-04.5 and 54-44-04.6.
23. Shall establish and operate a central duplicating service and central mechanical or electronic data processing facilities.
24. Shall perform such other duties as are or may be prescribed by law.

Source: S.L. 1959, ch. 372, § 1; 1963, ch. 346, § 67; 1965, ch. 358, § 20; 1969, ch. 452, § 1; 1973, ch. 403, § 51; 1975, ch. 466, § 54; 1979, ch. 541, §§ 1, 2; 1979, ch. 560, § 1; 1979, ch. 568, § 10; 1981, ch. 1, §§ 9, 10; 1981, ch. 537, § 1.

Cross-References.

Communications advisory committee membership of director, see § 54-23.1-03.

Departmental payrolls exempt from requirements of subdivision 11, see § 54-14-04.2.

Director of office of management and budget ex officio director of the budget, see § 54-44.1-02.

State purchasing practices, see ch. 54-44.4.

Institutions under Board of Administration.

This chapter did not relieve the board of administration (predecessor to director of institutions) of all responsibility for overseeing accounts and purchases of institutions under its control; rather, the department of accounts and purchases (predecessor to office of management and budget) is to work through the board of administration with respect to such institutions. State ex rel. Joos v. Guy (1963) 125 NW 2d 468.

54-44-04.1. The director of the office of management and budget shall have authority to withhold or deduct certain amounts from employees' compensation. The director of the office of management and budget, in addition to other deductions or withholdings authorized or permitted by law, shall be authorized to withhold or deduct from the employees' monetary compensation such amounts as may be determined by the employer and employees to participate in tax-favored or tax-sheltered annuity programs which are authorized by the federal Internal Revenue Code.

Source: S.L. 1969, ch. 453, § 1.

54-44-04.2. Unemployment compensation assessments to departments and institutions. Beginning July 1, 1979, all departments and institutions of the state of North Dakota shall pay to the office of management and budget one percent of the first six thousand dollars of each employee's earnings. Such assessments shall be paid to the office of management and budget in accordance with guidelines established by the office of the budget, from the general fund and special funds appropriated for salaries and wages to the individual departments and institutions. The moneys received from such assessments shall be deposited by the office of management and budget into a fund for the purpose of paying unemployment compensation claims. The director of the office of management and budget may decrease or suspend the assessments provided for in this section upon determination that the funds deposited pursuant to this section are sufficient to offset anticipated obligations.

Source: S.L. 1979, ch. 582, § 2; N.D.C.C., § 54-44-04.3.

54-44-04.3. Appropriation of unemployment compensation assessments. All assessments received by the office of management and budget and deposited into the fund for unemployment compensation claims are hereby appropriated.

Source: S.L. 1979, ch. 58, § 3; N.D.C.C., § 54-44-04.4; S.L. 1981, ch. 536, § 1.

54-44-04.4. Payment of unemployment compensation claims. The office of management and budget from the appropriations made in section 54-44-04.3 shall quarterly reimburse the job service North Dakota for the amount of actual claims paid by the job service North Dakota to eligible recipients previously employed by state departments and institutions. It shall be the responsibility of each department and institution to verify and certify the validity of each unemployment claim prior to the reimbursement of funds to the job service North Dakota.

Source: S.L. 1979, ch. 58, § 4; N.D.C.C., § 54-44-04.5.

54-44-04.5. Federal surplus property — Office of management and budget responsible for distribution — Powers and duties of director.

1. The office of managemen equitable distribution, th erty transferred to the st and Administrative Serv 40 U.S.C. 484 (j)], hereinaf
2. The director of the office nate officer as the director
   a. May receive, investiga tions for federal surpl
   b. May acquire any feder under the federal Act.
   c. May distribute any fed Act to:
      (1) Any public agenc the residents of a purposes; or
      (2) Nonprofit educati or organizations w 501 of the federal cation or public he
   d. May store the federal s
   e. Shall develop, submit, distribution of federal eral Act and rules an the director may cont by the department of p
   f. May cooperate and ent erty agencies and fed property and exchange
   g. May provide informati plus property to entitie
   h. May assess and collec ents to cover direct an tion. The service charg in a surplus property s Act. The state treasu if the director request the fund.
   i. Adopt rules and take surplus property pursu

Source: S.L. 1981, ch. 537, § 2.

54-44-04.6. State surplus p director — Disposition of pro erty.

1. The person in charge of a state shall inform the dire whenever that departmer property, whether origina

1. The office of management and budget is responsible for the fair and equitable distribution, through donation, of all federal surplus property transferred to the state in accordance with the Federal Property and Administrative Services Act of 1949, as amended [63 Stat. 378; 40 U.S.C. 484 (j)], hereinafter referred to as the federal Act.
2. The director of the office of management and budget, or such subordinate officer as the director shall designate:
   a. May receive, investigate, and make recommendations on applications for federal surplus property available under the federal Act.
   b. May acquire any federal surplus property transferred to the state under the federal Act.
   c. May distribute any federal surplus property pursuant to the federal Act to:
      (1) Any public agency for use in carrying out or promoting for the residents of a given political subdivision one or more public purposes; or
      (2) Nonprofit educational institutions, public health institutions, or organizations which are exempt from taxation under section 501 of the federal Internal Revenue Code, for purposes of education or public health or research for those purposes.
   d. May store the federal surplus property.
   e. Shall develop, submit, and implement a state plan of operation for distribution of federal surplus property and comply with the federal Act and rules and regulations adopted thereunder. Provided, the director may continue the state plan of operation developed by the department of public instruction.
   f. May cooperate and enter into agreements with other surplus property agencies and federal agencies to screen and acquire surplus property and exchange property, facilities, personnel, and services.
   g. May provide information and assistance for acquiring federal surplus property to entities listed in subdivision c.
   h. May assess and collect service charges from participating recipients to cover direct and reasonable cost of services under this section. The service charges shall be deposited with the state treasurer in a surplus property special fund and used pursuant to the federal Act. The state treasurer shall credit all interest earned to the fund if the director requests the state treasurer to invest portions of the fund.
   i. Adopt rules and take other action necessary to distribute federal surplus property pursuant to the federal Act.

Source: S.L. 1981, ch. 537, § 2.

54-44-04.6. State surplus property — Department heads to inform director — Disposition of property — Proceeds — Exchange of property.

1. The person in charge of any department, agency, or institution of the state shall inform the director of the office of management and budget whenever that department, agency, or institution possesses surplus property, whether originally obtained with state or federal funds, and

the person in charge believes that the state surplus property may be used by any other department, agency, institution, or political subdivision of the state.

2. The director of the office of management and budget shall dispose of the state surplus property in the following manner:
   a. By transferring it to other state departments, institutions, or agencies without cost other than transportation expenses which shall be paid by the receiving agency. Provided, when the state surplus property was originally purchased pursuant to an appropriation other than from the general fund of the state, the agency receiving that state surplus property shall pay an amount equal to the fair market value of the property. Moneys received pursuant to this subdivision shall be deposited in the fund from which the original purchases were made.
   b. If not disposed of under subdivision a, then by sale on sealed bids or at public auction to the highest and best bid for property valued at more than three thousand dollars, with no money deposit required prior to sale, or by sealed bids, public auction, or negotiation at fair value for property valued at less than three thousand dollars.
   c. If not disposed of under subdivision a or b, title to the property shall be transferred to political subdivisions without cost, except transportation expenses.
3. All proceeds of property sold under this section, less sales costs, shall be deposited in the general fund except as provided in subdivision a of subsection 2.
4. No department, agency, or institution may exchange items as part of a purchase price of new items until a detailed statement of the value of the items to be exchanged and request for approval have been submitted to the director of the office of management and budget. The director shall approve the exchange only if the director has determined that the item has been valued at fair value.

Source: S.L. 1981, ch. 537, § 3.

54-44-04.7. Responsibility to administer unassigned statutory functions of state government. The office of management and budget shall administer all statutory functions assigned to the executive branch of state government but not statutorily placed with any specific state entity.

Source: S.L. 1981, ch. 534, § 6.

54-44-05. Warrants — Numbered — Show funds on which drawn — Not drawn unless authorized. Warrants drawn by the office of management and budget and signed by the state auditor on the state treasurer shall be numbered consecutively in the order in which they are drawn. Every warrant shall be drawn upon the fund out of which it is payable. A warrant shall not be drawn by the office of management and budget and signed by the state auditor unless authorized by law, and unless there are funds in the treasury applicable to the payment thereof to meet the same. In case of an emergency, and in anticipation of taxes already levied and

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pare warrants to be sig
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Source: S.L. 1959, ch. 37
345, § 2.

54-44-06. Duties as
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Source: S.L. 1959, ch. 372,

54-44-07. Office to s
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Source: S.L. 1959, ch. 372,

54-44-08. Director
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of the state against:
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2. Persons who by a
   or property and wh
3. All persons indebt

Source: S.L. 1959, ch. 372,

54-44-09. Supplies f
agement and budget.

in the process of collection, the office of management and budget may prepare warrants to be signed by the state auditor in payment of duly authorized vouchers even though funds at such time do not exist to honor the warrants. Warrants so issued shall be payable by the state treasurer out of any funds in his hands other than sinking funds, or funds dedicated by the Constitution of North Dakota for other purposes.

Source: S.L. 1959, ch. 372, § 1; 1965, ch. 345, § 2.

54-44-06. Duties as to school fund. The office of management and budget shall keep a separate account of the school fund and of the interest and income thereof, together with such moneys as may be raised by special tax or otherwise for school purposes. The office shall perform such duties with reference to the apportionment of such fund as are described in title 15.

Source: S.L. 1959, ch. 372, § 1.

54-44-07. Office to set up account against person who fails to render account. Whenever any person has received moneys or has moneys or other personal property which belongs to the state by escheat or otherwise, or has been entrusted with the collection, management, or disbursement of any moneys, bonds, or interest accruing therefrom, belonging to or held in trust by the state, and fails to render an account thereof to and make settlement with the office of management and budget within the time prescribed by law, or when no particular time is specified, fails to render such account and make such settlement, or fails, within twenty days after request by the office of management and budget to pay into the state treasury any money belonging to the state, the office of management and budget must state an account with such person, charging interest at the rate of twelve percent per annum from the time of the failure. A copy of such account shall be prima facie evidence in any suit of the things therein stated. If the office of management and budget, for want of information, cannot state an account, that fact may be alleged and the amount of money or other property which is due or which belongs to the state may be stated generally.

Source: S.L. 1959, ch. 372, § 1.

54-44-08. Director to institute suits in name of state. The director of the office of management and budget shall institute suit in the name of the state against:

1. Officials for all official delinquencies in relation to the assessment, collection, and payment of the revenue.
2. Persons who by any means have become possessed of public moneys or property and who fail or neglect to pay for or deliver the same.
3. All persons indebted to the state.

Source: S.L. 1959, ch. 372, § 1.

54-44-09. Supplies for institutions under control of the office of management and budget. The office of management and budget shall make

all purchases of goods and materials on behalf of the various state institutions, departments, and agencies in accordance with the standards and specifications of the United States bureau of standards.

Source: S.L. 1959, ch. 372, § 1.

54-44-10. Legislative inspection of books of office of management and budget. Whenever required the office of management and budget shall submit its books, accounts, and vouchers to the inspection of the legislative assembly, or any committee thereof authorized to request such documents.

Source: S.L. 1959, ch. 372, § 1.

54-44-11. Office's operating funds creation.

1. The office of management and budget shall establish a state purchasing operating fund to be used for the procurement and maintenance of an inventory of equipment and supplies for the state departments and agencies. Any surplus in this fund in excess of one hundred thousand dollars on June thirtieth of each year shall be transferred to the state general fund.
2. The office of management and budget shall establish a state printing operating fund to be used for the procurement and maintenance of an inventory of printing equipment and supplies for the state departments and agencies.
3. The office of management and budget shall establish a state central data processing operating fund to be used for the procurement and maintenance of data processing equipment and supplies and for providing data processing services to state departments and agencies.
4. Each office, agency, or institution provided with purchasing, printing, or data processing services, unless exempted by law, shall pay to the office of management and budget a proportionate share of the cost of such service as determined by the director of the office of management and budget, based on actual costs and actual usage. The amounts paid to the office of management and budget by the various offices, agencies, and institutions shall be deposited in the appropriate operating fund and shall be expended in accordance with legislative appropriations.

Source: S.L. 1959, ch. 214, § 2; 1967, ch. 392, § 1; 1969, ch. 454, § 7; 1975, ch. 486, § 1; 1979, ch. 561, § 1; 1981, ch. 534, § 7; 1981, ch. 538, § 1.

Note.

Section 54-44-11 was amended twice by the 1981 Legislative Assembly. Section 7 of chapter 534, S.L. 1981, changed the name of the department of accounts and purchases to the office of management and budget in subsection 1. Section 1 of chapter 538, S.L. 1981, deleted language concerning transfer of surplus funds in subsections 2 and 3. Pursuant to section 1-02-09.1, the section is printed above to harmonize and give effect to the changes made by both acts.

54-44-12. Deposit and disbursement of funds of occupational and professional boards — Appropriation. All occupational and professional boards, associations, and commissions created by law shall deposit all fees and other moneys received in any bank selected by the majority vote of the governing body of the board, association, or commission. Checks may

be drawn against the bar
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Source: S.L. 1971, ch. 510, § 1-

54-44-13. Failure of p
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Source: S.L. 1971, ch. 511, § 1.

Note.

The Disaster Relief Act of 1974

Section
54-44.1-01. Definition.
54-44.1-02. Office of the budget —
54-44.1-03. Powers and duties of
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54-44.1-06. Preparation of the bu
54-44.1-07. Presentation of budg
54-44.1-08. Budget report — Con
54-44.1-09. All expenditures mus
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they may continue.
54-44.1-12. Control over rate of e
54-44.1-13. Budget requests for le
54-44.1-14. Biennial report to leg

54-44.1-01. Definition.
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board, commission, agency,
or distinct appropriations a

Source: S.L. 1965, ch. 358, § 1.

Collateral References.

States ⇨ 121.

be drawn against the bank account, opened pursuant to this section, for the authorized expenditures of the board, association, or commission on the signature or signatures of the person or persons authorized to so act by the governing body. All moneys in accounts opened pursuant to this section are hereby appropriated for the use of the occupational or professional board, association, or commission opening the account.

Source: S.L. 1971, ch. 510, § 14.

54-44-13. Failure of political subdivisions to repay natural disaster overpayments — Office of management and budget authorized to withhold funds. Whenever an overpayment made to any state political subdivision under the Disaster Relief Act of 1970 [Pub. L. 91-606; 84 Stat. 1744], and all acts amendatory and supplemental thereto, is not repaid by the following July first, the state office of management and budget shall:

1. Upon certification from the governor's natural disaster representative that a political subdivision is delinquent in repaying such overpayment, withhold all funds, grants-in-aid, tax shares, and other similar moneys due the subdivision from the state until the subdivision repays either the federal or state government.
2. Cease to withhold funds when the governor's natural disaster representative certifies that the subdivision has repaid the overpayment.

Source: S.L. 1971, ch. 511, § 1.

Note.

The Disaster Relief Act of 1974 (P.L. 93-288, 88 Stat. 143, 42 U.S.C. § 5121 et seq.) substantially repealed the Disaster Relief Act of 1970 referred to in this section.

CHAPTER 54-44.1

OFFICE OF THE BUDGET

Section
54-44.1-01. Definition.
54-44.1-02. Office of the budget — Director — Employees — Powers.
54-44.1-03. Powers and duties of the director of the budget.
54-44.1-04. Budget estimates of budget units filed with the office of the budget — Deadline.
54-44.1-05. Federal aid budget requests — Filed with the office of the budget.
54-44.1-06. Preparation of the budget data — Contents.
54-44.1-07. Presentation of budget data — How presented to the legislative assembly.
54-44.1-08. Budget report — Contents — When submitted to legislative assembly.
54-44.1-09. All expenditures must be appropriated.
54-44.1-10. Payments made pursuant to law only.
54-44.1-11. Office of management and budget to cancel unexpended appropriations — When they may continue.
54-44.1-12. Control over rate of expenditures.
54-44.1-13. Budget requests for legislative and judicial branches.
54-44.1-14. Biennial report to legislative assembly.

54-44.1-01. Definition. As used in this chapter, unless the context otherwise requires, the term "budget unit" means a department, institution, board, commission, agency, or other unit of government for which separate or distinct appropriations are made.

Source: S.L. 1965, ch. 358, § 1.

Collateral References.

States ⇦ 72 Am. Jur. 2d, States, Territories, and Dependencies, § 75.
81A C. J. S. States, § 203.

54-44.1-02. Office of the budget — Director — Employees — Powers. The office of the budget is hereby established in the office of management and budget, for the purpose of promoting economy and efficiency in the fiscal management of the state government. The director of the office of management and budget shall be ex officio director of the budget.

The director of the budget shall appoint a budget analyst who shall hold a baccalaureate degree from a recognized institution of higher learning and such appointment shall be based upon the qualifications of eligible persons, without reference to partisan politics. Special consideration shall be given to persons who hold a degree in law, political science, business administration, or a combination thereof and who are experienced in governmental processes. The budget analyst shall serve at the pleasure of the director of the budget. The budget director shall employ such other professional, technical, and clerical personnel as he may deem necessary to carry out the duties prescribed in this chapter and shall fix the salary of all employees within the office of the budget and within the limits of the legislative appropriations. All personnel within the office of the budget shall be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

Source: S.L. 1965, ch. 358, § 2.

Cross-References.

Claims against state, budget office to assume functions of auditing board, see § 54-14-01.1.

54-44.1-03. Powers and duties of the director of the budget. The director of the budget, or such subordinate officer as he shall designate shall:

1. Be vested with the duties, powers, and responsibilities involved in securing budget estimates and work programs from the several departments and agencies of the state government.
2. Be vested with the duties, powers, and responsibilities involved in the preparation of revenue and fixed expense estimates.
3. Develop financial policies and plans as the basis for budget recommendations to the legislative assembly, and prepare detailed documents in accordance with such financial policies and plans for presentation to the legislative assembly.
4. Coordinate the fiscal affairs and procedures of the state to assure the carrying out of the financial plans and policies approved by the legislative assembly.
5. Exercise continual control over the execution of the budget affecting the departments, institutions, and agencies of the executive branch of the state government involving approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and control of the rate of expenditures through a system of semiannual, quarterly, or monthly allotments.
6. Investigate, examine, and make exhaustive studies:
   a. Of the structure and operation of the entire executive branch of government and of every office, institution, and agency thereof.
   b. Of all the functions, duties, and services of all executive branch offices, departments, institutions, industries, boards, bureaus, and commissions.
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   designees.
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Source: S.L. 1965, ch. 358, § 110, § 10.

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Source: S.L. 1965, ch. 358, § 539, § 1.

Cross-References.

Budget of North Dakota firemen tion, see § 18-03-05.

Budget of state highway depart § 24-02-09.

54-44.1-05. Federal aid
the budget. Every agency o

c. Of all the books, records, and methods of accounting of each office or agency of the executive branch to ascertain and determine whether their policies, practices, and systems of accounting are sound, necessary, practical, and efficient.

7. Develop a long-term capital improvements budget for consideration by the legislative assembly.
8. Have the authority to procure from the various officers, departments, agencies, and employees such information as may be necessary for the preparation and execution of the budget.
9. Provide such assistance as the legislative assembly may request and be available to assist its appropriations committees with any needed information or material and make its records and information available at all times to the legislative assembly and its committees and designees.
10. Perform all other necessary duties to carry out the provisions of this chapter and of chapter 54-14.

Source: S.L. 1965, ch. 358, § 3; 1973, ch. 110, § 10.

54-44.1-04. Budget estimates of budget units filed with the office of the budget — Deadline. The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget, estimates of financial requirements of his budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The estimates so submitted shall bear the approval of the board or commission of each budget unit for which a board or commission is constituted. The director of the budget in his discretion may extend the filing date for any budget unit if he finds there is some circumstance which makes it advantageous to authorize the extension. If a budget unit has not submitted its estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the budget shall prepare such budget unit's estimate of financial requirements except such estimate shall not exceed ninety percent of such budget unit's previous biennial appropriation. The director of the budget or such subordinate officer as he shall designate shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which shall be open to the public.

Source: S.L. 1965, ch. 358, § 4; 1981, ch. 539, § 1.

Cross-References.

Budget of North Dakota firemen's association, see § 18-03-05.

Budget of state highway department, see § 24-02-09.

Decisions under Prior Law.

Heads of state hail insurance fund, state bonding fund, state fire and tornado fund, and workmen's compensation fund had duty of filing statements of funds needed as prescribed by former section 54-15-05. Langer v. State (1939) 69 ND 129, 284 NW 238.

54-44.1-05. Federal aid budget requests — Filed with the office of the budget. Every agency of the state government when making requests

for budgets to be submitted to the federal government for funds, equipment, material, or services shall have such request or budget filed in the office of the budget before submitting it to the proper federal authority. When such federal authority has approved the request or budget, in whole or in part, the agency of the state government shall resubmit it to the office of the budget for recording before any allotment or encumbrance of the federal funds can be made.

Source: S.L. 1965, ch. 358, § 5.

from treasurer of agricultural college, see § 15-12-06.1.

Cross-References.

Budget director to receive quarterly reports

54-44.1-06. Preparation of the budget data — Contents. The director of the budget, through the office of the budget, shall prepare budget data which shall contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by such detailed schedules of assets and liabilities as the director of the budget deems desirable, which shall include, but not be limited to, the following:
   a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
   b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

   Summary statements may include, but not be limited to, a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.
2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statements of revenue and estimated revenue shall be classified by sources and by budget unit collecting them. Existing sources of revenue shall be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue shall be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the

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8. Such other information
or as is required by law.

Source: S.L. 1965, ch. 358, § 6; 562, § 1.

54-44.1-07. Presentation
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prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there shall be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with such descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there shall be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.

5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of a proposed general appropriations act and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium, and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit shall be specified in a separate section of the general appropriations act.
8. Such other information as the director of the budget deems desirable or as is required by law.

Source: S.L. 1965, ch. 358, § 6; 1979, ch. 562, § 1.

54-44.1-07. Presentation of budget data — How presented to the legislative assembly. The director of the budget or his designated subordinate shall present the budget data information in section 54-44.1-06, including the budget and revenue proposals recommended by the governor, and make available sufficient copies thereof to the budget section of the legislative council. The budget data shall be completed and made available to the budget section of the legislative council, or its designee, in such form as may be acceptable to it by December first of each year next preceding the session of the legislative assembly, or at such later date as may be set by the budget

section chairman. The chairman of the budget section shall set the time and place at which such budget data is to be presented.

Source: S.L. 1965, ch. 358, § 7; 1969, ch. 448, § 26; 1981, ch. 540, § 1.

Decisions under Prior Law.

The budget of appropriations prepared by the auditor was an official record of which the courts would take judicial notice. State ex rel. Wallace v. Jorgenson (1916) 33 ND 527, 159 NW 35.

54-44.1-08. Budget report — Contents — When submitted to legislative assembly. The official budget report shall be transmitted by the governor to all holdover legislators and legislators-elect not later than three days after the commencement of the session of the legislative assembly. Such report is not a third-class item under section 46-02-05. The budget director shall provide for the duplication or other satisfactory reproduction or printing of the official budget report, so as to ensure delivery of same as provided in this section. Such reports shall contain the budget and revenue proposals recommended by the governor and the information required in subsections 1, 2, 3, 5, and 6 of section 54-44.1-06 and all other data and information as the governor shall decide. The budget director shall make available any and all information regarding budget data to the governor, the legislative assembly and its designees, legislators, and to the governor-elect as may be requested. The governor may present any additional budget information in any manner to the legislative assembly as he may desire.

Source: S.L. 1965, ch. 358, § 8; 1967, ch. 393, § 1; 1973, ch. 430, § 1.

54-44.1-09. All expenditures must be appropriated. All expenditures of the state and of its budget units of moneys drawn from the state treasury shall be made under authority of biennial appropriations acts, which shall be based upon a budget as provided by law, and no money shall be drawn from the treasury, except by appropriation made by law as required by section 12 of article X of the Constitution of North Dakota.

Source: S.L. 1965, ch. 358, § 9.

54-44.1-10. Payments made pursuant to law only. No payment shall be made and no obligation shall be incurred against any appropriation unless such payment or obligation has been authorized as provided by law. Every official authorizing payments in violation of this chapter shall be subject to the penalties and provisions of chapter 12.1-23.

Source: S.L. 1965, ch. 358, § 10; 1977, ch. 496, § 1.

54-44.1-11. Office of management and budget to cancel unexpended appropriations — When they may continue. The office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations, which shall have remained undrawn after the expiration of the biennial period during which they became available under the law. The chairman of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations

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Source: S.L. 1965, ch. 358, § 11;
563, § 1.

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Source: S.L. 1965, ch. 358, § 12;
394, § 1.

54-44.1-13. Budget reque
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Source: S.L. 1965, ch. 358, § 13.

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or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase where the total purchase price is within the authorized appropriation.

Source: S.L. 1965, ch. 358, § 11; 1979, ch. 563, § 1.

54-44.1-12. Control over rate of expenditures. The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of the executive branch of the state government. Execution shall mean the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of semiannual, quarterly, or monthly allotments. Before an allotment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director must find one or more of the following circumstances to exist:

1. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.
2. The payment or the obligation incurred is not authorized by law.
3. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, documents, or other reliable evidence available.
4. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of the purpose of the appropriation at a lesser amount than that appropriated.

Source: S.L. 1965, ch. 358, § 12; 1967, ch. 394, § 1.

54-44.1-13. Budget requests for legislative and judicial branches. The budget requests and expenditures for the legislative and judicial branches of this state shall not be subject to the provisions of this chapter and such budget requests shall be submitted directly to the legislative assembly with informational copies of such budgets provided to the director of the budget not later than November fifteenth in each year preceding a session of the legislative assembly.

Source: S.L. 1965, ch. 358, § 13.

54-44.1-14. Biennial report to legislative assembly. The director of the budget or such member of that office as he shall designate may prepare

and transmit to the governor and upon approval by him may transmit to the members of the legislative assembly at least sixty days prior to the commencement of an ensuing legislative session a report which shall contain definite and specific proposals and recommendations to accomplish the following purposes:

1. To simplify the governmental structure of the state so as to render it more economical and efficient.
2. To eliminate all obsolete and unnecessary offices, departments, institutions, boards, bureaus, and commissions of the state.
3. To consolidate the functions, services, and activities of state offices and agencies thereof so as to eliminate duplication of service and expense wherever it exists.
4. To correlate the functions and services of the several offices and agencies of the state government.
5. To eliminate obsolete methods, unnecessary functions and services carried on by the state government and to render those functions and services which are determined to be absolutely essential and more economical and efficient.

Source: S.L. 1965, ch. 358, § 14.

CHAPTER 54-44.2

OFFICE OF CENTRAL DATA PROCESSING

Section

54-44.2-00.1. Definitions.
54-44.2-01. Office of central data processing — Creation.
54-44.2-02. Office of central data processing — Powers and duties.
54-44.2-03. Acquisition of data processing equipment.
54-44.2-04. Appointment of data processing coordinators.
54-44.2-05. Repealed by S.L. 1979, ch. 565, § 1.
54-44.2-06. Secrecy provision.

54-44.2-00.1. Definitions. As used in this chapter:

1. "Data processing" or "electronic data processing" means the systematic sequencing of operations performed by data processing equipment or programs, or both, upon data stored or entered in alphabetic, numeric, or alphanumeric format.
2. "Data processing equipment" means an electronic device or associated devices, except calculators and stand-alone noncommunicating word processors, which perform logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all compiling and related input, output, and storage, equipment, programs and procedures, and data processing communications facilities.
3. "Word processing" means the textual formatting, correcting, editing, and rearranging of language elements, designed to convey full messages in English syntax, through manipulation of electronic or magnetic impulses. "Word processors" are devices on which word processing can be carried out.

Source: S.L. 1981, ch. 539, § 2.

54-44.2-01. Office of c
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Source: S.L. 1969, ch. 454, §
539, § 3.

54-44.2-02. Office of c
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condition and results of operation of the State of Oregon in accordance with current, generally accepted accounting principles and such other financial and statistical information as may be necessary to completely and accurately disclose the financial condition and financial operations of the state and its various agencies. The financial statements shall include, but not be limited to, such information as may be found in a balance sheet, a statement of changes in fund balances, statement comparing budgeted and actual revenues and expenditures, statement of changes in financial position and a statement of operations. The financial statements shall compare the current fiscal year and, if it is the second year of the biennium, the first year thereof, and each fiscal year of the preceding biennium.

(2) As used in subsection (1) of this section, generally accepted accounting principles shall mean those accounting principles sanctioned by recognized authoritative bodies such as the National Council on Governmental Accounting, the American Institute of Certified Public Accountants, the Financial Accounting Standards Board or their successors.

(3) The first financial report required by subsection (1) of this section shall be prepared for the biennium ending June 30, 1979. [1977 c.897 §1]

Note: 291.040 and 291.042 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

291.042 Use of data processing programs, information and materials; approval by legislature. (1) Subject to the approval of the Joint Legislative Committee on Data Processing, the Data Systems Division of the Executive Department:

(a) May obtain copyrights and patents on copyrightable or patentable data processing programs, information or materials developed, published or produced by state agency staff.

(b) May cause to have sold, leased, or otherwise made available such data processing programs, information or materials to any agency or legislative body of any state or the Federal Government under such terms and conditions as may be agreed to by the committee and the agencies.

(2) Moneys collected under this section shall be credited to the General Fund and are available for general governmental purposes. [1979 c.740 §3]

Note: See note under 291.040.

STATE BUDGET; BUDGET REPORT

291.202 Budget report of Governor; department to assist Governor in preparation. Except as otherwise provided in ORS 291.222, the Governor shall prepare in each even-numbered year a budget report for the biennium beginning July 1 of the following year. The Executive Department shall advise and assist the Governor in the preparation of his budget report and shall perform such duties in connection therewith as the Governor requires. [Amended by 1969 c.464 §2]

291.204 Prescribing forms for submitting budget estimates and requests for appropriations; furnishing budget forms to agencies. The department, by July 1 of each even-numbered year, shall furnish every state agency with a sufficient number of forms for its use in preparing for submission to the Governor the information required by the Governor in the preparation of his budget report. The Governor shall prescribe the forms to be used by the agencies in submitting their budget estimates and requests for appropriations as required by ORS 291.208.

291.206 Guidance of agencies in completing budget forms. (1) The Governor shall prescribe such rules and regulations as he deems necessary for the guidance of agencies in the preparation of the budget estimates and requests. The Governor, with the approval of the Secretary of State, shall prepare and prescribe classifications of expenditures and revenue for the purpose of budget-making and accounting.

(2) In so far as practicable, agency budget estimates and requests and appropriation measures shall be prepared in a manner that reflects state governmental organization and state agency duties, functions and powers under the law in effect on January 1 of the following year. The Executive Department shall maintain agency budget estimates and requests in the form in which they are submitted. [Amended by 1969 c.173 §1]

291.208 Filing budget forms with department; preparing requests for agencies failing to file. Each state agency shall file with the department, before September 1 in each even-numbered year, on the form and in the manner required, its budget forms

containing the information required. The department shall prepare budget estimates and requests for appropriations for all agencies that fail to file requests.

291.210 Preparing tentative budget plan. The department, in connection with its direct studies of the operations, plans and needs of state agencies and of the existing and prospective sources of income, shall prepare a tentative budget plan for the two fiscal years for which a budget report is required to be prepared.

291.212 Revising budget plan; transmitting budget forms and tentative budget report to Governor. Upon receipt of the budget forms, the department shall check the agencies' estimates in the light of the tentative budget plan and shall make such further inquiries and investigations as the Governor requires and revise its tentative budget plan accordingly. The department then shall transmit to the Governor the budget forms filed with it by the state agencies and the revised tentative budget report.

291.214 Governor to examine budget forms and revise tentative budget report. The Governor, during the preparation of the budget report and before its submission to the Legislative Assembly, shall examine the budget forms filed by the various agencies. He may make or cause to be made such further investigations by the department, with such hearings before him or any state agency, as he deems advisable, and may make such changes or revisions in policy and program and in specific details of the tentative budget report as he finds warranted.

291.216 Governor's budget report. (1) Not later than November 10 of each even-numbered year the Governor shall cause the budget report to be compiled and prepared for printing.

(2) The budget report shall include a budget message prepared by the Governor, including his recommendations with reference to the fiscal policy of the state government for the coming biennium, describing the important features of the budget plan, embracing a general budget summary setting forth the aggregate figures of the budget report so as to show a balanced relation between the total proposed expenditures and the total anticipated income, with the basis and factors on which the estimates are made, the amount to be borrowed, and other means of financing the estimated expenditures for the ensuing biennium, compared with the corresponding figures for at least the last completed biennium and the current biennium.

(3) The budget plan shall be supported by explanatory schedules or statements, classifying the expenditures reported therein, both past and proposed, by organization units, objects and funds, and the income by organization units, sources and funds, and the proposed amount of new borrowing as well as proposed new tax or revenue sources.

(4) The budget plan shall be submitted for all dedicated funds, as well as the state General Fund, and shall include the estimated amounts of federal and other aids or grants to state agencies or activities provided for any purpose whatever, together with estimated expenditures therefrom.

(5) The budget report shall embrace the detailed estimates of expenditures and revenues. It shall include statements of the bonded indebtedness of the state government, showing the actual amount of the debt service for at least the past biennium, and the estimated amount for the current biennium and the ensuing biennium, the debt authorized and unissued, the condition of the sinking funds and the borrowing capacity. It shall also contain any statements relative to the financial plan which the Governor may deem desirable or which may be required by the legislature.

291.218 Printing budget report; transmitting to members of legislature; distribution. Except when the Governor under whose supervision the budget report has been prepared will be succeeded in office in January next following:

(1) The department shall have as many copies of the approved budget report printed as the Governor directs.

(2) Not later than December 1 of each even-numbered year, the Governor shall transmit a copy thereof to each member of the legislature who is to serve during the next session.

(3) Upon request, the Governor shall distribute copies free of charge, under such regulations as he may establish, to public libraries, schools and state officials. He shall make copies available to the general public at a reasonable charge for each copy. [Amended by 1959 c.140 §1; 1967 c.302 §1]

291.220 Furnishing information and assistance to legislature. The Governor, upon request, shall furnish the Legislative Assembly any further information required concerning the budget report. The department, upon request, shall furnish a representative to assist the Legislative Assembly, its Joint Committee on Ways and Means, appointed under ORS 171.555, and the Legislative Revenue Officer in the consideration of the budget report and any accompanying measures. [Amended by 1969 c.173 §2; 1975 c.789 §8]

291.222 Furnishing information and assistance to Governor-elect; revision of budget report. If the Governor under whose supervision the budget report has been prepared will be succeeded in office in January next following:

(1) The department shall make available to the Governor-elect so much as he requests of the information upon which the tentative budget report is based, and upon completion of the tentative budget report shall supply him with a copy thereof but shall not cause the tentative budget report to be printed and distributed. The department shall also make available to him all facilities of the department reasonably necessary to permit him to review and familiarize himself with the tentative budget report.

(2) After a review of the tentative budget the Governor-elect may prepare revisions and additions thereto. The department shall assist, upon request, in the preparation of such revisions or additions.

(3) The department shall have as many copies of the revised budget report printed as the Governor-elect requests.

(4) Not later than the convening of the next Legislative Assembly the department shall transmit a copy of a summary of the revised budget report containing the revenue and expenditure recommendations of the Governor-elect and not later than February 1 shall transmit a copy of the revised budget report to each member of the Legislative Assembly.

(5) Upon request, the department shall distribute copies of the revised budget report free of charge, under such regulations as it may establish, to public libraries, schools and state officials. It shall make copies of the revised budget report available to the general public at a reasonable charge for each copy. [Amended by 1967 c.302 §2; 1969 c.464 §3]

291.223 Furnishing agency budget estimates to Legislative Fiscal Officer and Legislative Revenue Officer; confidentiality of estimates. (1) Not later than November 10 of each even-numbered year the Governor shall cause the agency budget estimates and requests as described in ORS 291.206 to be made available to the Legislative Fiscal Officer and to the Legislative Revenue Officer.

(2) Before December 1 of the year in which they were made available under subsection (1) of this section, the Legislative Fiscal Officer or his staff and the Legislative Revenue Officer or his staff shall not reveal to any other person the contents or nature of the budget reports and other materials, except with the written consent of the Governor. [1969 c.173 §4; 1975 c.789 §9]

291.224 Capital construction program to be included in budget report; recommendation of Capitol Planning Commission. (1) A capital construction program containing estimated capital construction needs, irrespective of how financed, shall be included with the budget report required by ORS 291.216. The capital construction program shall contain the estimated physical construction requirements for each biennium of a period to be determined by the Governor, which period shall not be less than six years. The department shall assist the Governor in the preparation of the capital construction program.

(2) Except as otherwise provided in subsection (3) of this section and in accordance with regulations prescribed by the department, state agencies shall submit to the department their anticipated capital construction requirements for the period specified by the Governor. The department shall prescribe the basic assumptions relating to population changes, economic trends and other factors which might generally affect capital construction requirements and these basic assumptions shall be used by the state agencies in preparing their anticipated capital construction requirements. Each state agency is responsible for the basic assumptions which affect only its own program. The department shall prepare estimated capital construction requirements for any necessary capital construction not covered by the capital construction requirements submitted by the state agencies under this section.

(3) Each state agency, including the department, required under subsection (2) of

this section to submit or prepare anticipated or estimated capital construction requirements, shall submit a copy of such requirements that relate to construction or improvements within the areas described in ORS 276.028 to the Capitol Planning Commission at a time specified by the Capitol Planning Commission, but not later than August 1 of each even-numbered year. The Capitol Planning Commission shall review capital construction requirements submitted as required by this subsection and, not later than November 1 of each even-numbered year, make recommendations to the department with respect to such capital construction proposals.

(4) In accordance with regulations prescribed by the department, each state agency shall separately submit its estimated office space requirements for the period specified by the Governor; and the department shall consolidate those needs and make an estimate for all state office buildings to be included in the capital construction program.

(5) The Governor shall consolidate the estimates, review all of them and make such revisions as he finds warranted.

(6) The budget report shall include the proposed expenditures for the capital construction program for the ensuing biennium and the proposed expenditures for preliminary planning of the construction projects included in the capital construction program for the biennium following the ensuing biennium. The budget report shall also include dollar estimates of the cost of the capital construction projects included in the capital construction program for the succeeding years of the period determined by the Governor under subsection (1) of this section and the recommendations submitted to the department pursuant to subsection (3) of this section.

(7) As used in this section, "capital construction program" does not include the acquisition, repair, improvement, enlargement, construction or maintenance of highways and highway bridges, or park improvements, by the Department of Transportation. [1959 c.500 §1; 1973 c.129 §5]

291.226 Budget item to replace lost and unrecovered public funds or property. When there has been a failure to recover a loss of public funds or property pursuant to ORS 297.120, the state agency sustaining the loss shall include the amount of the loss in its budget estimate and request for the following biennium clearly marked as to purpose, and the Governor shall include such item in his budget report for the consideration of the Legislative Assembly. [1963 c.617 §3]

ALLOTMENTS

291.232 Declaration of policy. It is declared to be the policy and intent of the Legislative Assembly that the total appropriations made by it, or the total of any budget approved by it, for any state agency, shall be deemed to be the maximum amount necessary to meet the requirements of such agency for the biennium, excepting as may otherwise be provided by law, and that the Governor and the Executive Department are given the powers granted by ORS 291.202 to 291.222 and 291.232 to 291.260 in order that savings may be effected by careful supervision throughout each biennium, with due regard to changing conditions, and by promoting more economic and efficient management of state agencies.

291.234 Department to make allotments to state officers and agencies of appropriations and funds; allotment period. (1) The department shall make allotments to state officers and agencies of appropriations and funds pursuant to the allotment system provided for in ORS 291.234 to 291.260.

(2) For the purposes of the allotment system, each fiscal year shall be divided into four quarterly allotment periods, beginning, respectively, on the first days of July, October, January and April. However, in any case where the quarterly allotment period is impracticable, the department may prescribe a different period suited to the circumstances, not exceeding six months nor extending beyond the end of the biennium.

291.236 Allotment system applicable to all appropriations; controlling expenditures and encumbering of emergency, contingent, revolving and trust funds. (1) The provisions of ORS 291.234 to 291.260 relating to the allotment system shall apply to all appropriations for state officers and agencies. For this purpose "appropriation" includes standing, continuing and annual appropriations, and dedicated funds. In those cases where periodical allotments are impracticable, the department may dispense therewith and prescribe such regulations as will insure proper application and encumbering of funds.

(2) Subject to ORS 291.238, emergency or contingent funds, revolving funds and trust funds shall be subject to such regulations as

the department may prescribe for controlling the expenditures and encumbering of such funds.

291.238 Expenditures without allotment prohibited; expenditures from dedicated, revolving and trust funds. (1) Except as expressly authorized in this section or ORS 291.236, no person shall incur, or order or vote to incur, any obligation against the state in excess of, or make or order or vote to make any expenditure not authorized by, an allotment. Any such obligation so incurred shall not be binding against the state, but where the obligation violates this section only for having been made in excess of an allotment, the department may authorize payment thereof from unallotted funds.

(2) Excepting as to administrative expenditures from dedicated, revolving and trust funds and to revolving funds established to provide services rendered by any state agency to other state agencies or to any body politic of the State of Oregon, expenditures from dedicated funds, revolving funds and trust funds may be made by any state agency without appropriation or allotment.

(3) No person shall make or order or vote to make any expenditure from or chargeable to a revolving fund or trust fund in excess of the amount standing to the credit of such fund or for any purpose for which such fund may not lawfully be expended.

291.240 [Repealed by 1953 c.168 §4]

291.242 Allotment required before expenditure of appropriation; submitting estimates. No appropriation to which the allotment system is applicable shall become available to any state agency for expenditure thereby during any allotment period until:

(1) The agency submits to the department an estimate, in such form as the department prescribes, for such allotment period, of the amount required for each activity to be carried on during that period; and

(2) The estimate is approved, increased or decreased by the department and funds allotted therefor.

291.244 Department action on estimates. The department shall act promptly upon all estimates required by ORS 291.242. If the estimate is within the terms of the appropriation as to amount and purposes, having due regard for the probable further needs of the agency for the remainder of the term for which the appropriation was made, and if the department determines that there is a need for the estimated amount for the allotment period, the department shall approve the estimate and allot the estimated amount for expenditures. Otherwise the department shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the agency, and shall reduce the amount allotted accordingly.

291.246 Allotments to be made for purpose or classification of expenditure prescribed in appropriation measure. Allotments shall be made according to purpose and classification of expenditures prescribed in the appropriation measure as enacted by the Legislative Assembly; provided, however, that the department may make allotments for agencies by purposes or by other classification of expenditures of amounts appropriated or authorized to be expended in appropriation measures enacted by the Legislative Assembly, whether or not such measures establish classification of expenditures. In making allotments, the department shall not authorize the expenditure of moneys for any purpose not authorized by the Act appropriating the money or authorizing it to be expended, and the funds allotted for each purpose or classification of expenditure shall be used for no other purpose or classification of expenditure. [Amended by 1963 c.182 §7]

291.248 Notice of allotment. Upon the granting of any allotment, the department shall transmit a notice of the allotment to the agency concerned.

291.250 Claims and encumbrances limited by amount and purpose of allotment. The agency shall not create any claim or encumbrance for the future disbursement of appropriated moneys unless the proposed expenditure as estimated, together with expenses theretofore paid from or encumbered against such allotment, is within the total amount and for the purposes specified in the notice of allotment transmitted to such agency.

291.252 Modifying allotment previously made. The department may at any time modify or amend any allotment previously made by it, upon application of, or upon notice to, the agency concerned, but no such modification or amendment shall reduce an allotment below the amount required to meet

valid obligations or commitments previously incurred against the allotted funds.

291.254 Reducing allotment to prevent deficit. If the department determines at any time that the probable receipts from taxes or any other sources for any appropriation will be less than was anticipated, and that consequently the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor, the department shall, with the approval of the Governor, and after notice to the agency or agencies concerned, reduce the amount allotted or to be allotted so as to prevent a deficit.

291.256 [Repealed by 1959 c.608 §1]

291.258 Approval of department required for establishment of new personnel position or classification. A new personnel position or classification, not provided in the budget of an agency upon which appropriations have been based, shall not be established without prior approval of the department.

291.260 Approving, modifying or disapproving requests and budgets to be submitted to the Federal Government. Every state agency, when making requests or preparing budgets to be submitted to the Federal Government for funds, equipment, materials or services, other than for highway purposes, and purposes for which the state was legally committed on August 2, 1951, shall, upon completion of such request or budget, first submit it to the department. The department shall have authority to approve, disapprove, modify or amend any such request or budget before it is submitted to the proper federal authority.

291.262 [1963 c.182 §6; 1965 c.111 §1; repealed by 1969 c.488 §3]

ALLOCATION OF GOVERNMENTAL SERVICE EXPENSES

291.272 Definitions for ORS 291.272 to 291.280. As used in ORS 291.272 to 291.280, unless the context requires otherwise:

(1) "Administrative expenses" has the meaning defined by ORS 291.305.

(2) "Department" means the Executive Department

(3) "Governmental service expenses" means the expenses of state government that are attributable to the operation, maintenance, administration and support of state government generally, and includes the following:

(a) Expenditures of the State Treasurer supported out of the General Fund incurred in the administration of the duties of his office, but not including the Inheritance and Gift Tax Divisions.

(b) Expenditures of the Department of Justice incurred in the administration of its duties, other than those of the Support Enforcement Division.

(c) Administrative expenses of the Executive Department supported out of the General Fund.

(d) One-half of the expenditures of the Legislative Assembly out of moneys appropriated from the General Fund, and all of the expenditures incurred in the administration of the duties of the Emergency Board.

(e) One-half of the expenditures incurred in the administration of the duties of the Joint Committee on Ways and Means and the Emergency Board.

(f) One-half of the expenditures incurred out of moneys appropriated from the General Fund in the administration of the duties of the Legislative Counsel Committee.

(g) Expenditures of the Secretary of State in the administration of the office of the State Archivist.

(4) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, and includes the Legislative Assembly, the courts and their officers and committees. [1967 c.637 §2; 1973 c.439 §9]

291.274 Determination of funds and appropriations to be assessed. The department shall determine and may at any time redetermine which state funds or appropriations shall be assessed a reasonable share of governmental service expenses. In determining or redetermining the funds that shall be so assessed:

(1) A fund consisting of moneys the use of which is restricted by the Oregon Constitution shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes set forth in the Oregon Constitution.

(2) Trust funds shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes for which the trust fund was established. [1967 c.637 §3]

291.276 Department to allocate governmental service expenses among state agencies. (1) With respect to each biennium beginning on July 1 of an odd-numbered year, commencing July 1, 1971, the department shall allocate among all state agencies the governmental service expenses, as determined by the department in accordance with ORS 291.272, for the biennium ending two years prior to the beginning of the biennium for which the allocation is made.

(2) The department, in accordance with the procedures and methods prescribed under subsection (3) of this section, shall determine and may at any time redetermine the reasonable share of governmental service expenses to be assessed against any fund or appropriation. Such expenses shall be a charge against any fund so designated and be considered an administrative expense of the agency administering the fund or appropriation.

(3) The department, with the approval of the Governor, shall prepare and prescribe the procedures and methods used in determining and redetermining the reasonable share of governmental service expenses assessed against any fund or appropriation.

(4) The department, with the approval of the Governor, may make rules necessary or proper to carry out the duties imposed upon it by ORS 291.272 to 291.280.

(5) The computation required by subsection (1) of this section shall be made by the department in advance of the biennium with respect to which the allocation is to be made. [1967 c.637 §4; 1969 c.105 §1]

291.278 Transfer of allocated amounts to General Fund. (1) Upon completion of the determination by the department under ORS 291.274 and 291.276, the department shall transfer to the General Fund, with appropriate notice to the State Treasurer, out of moneys appropriated to each state agency, the amount of governmental service expenses so certified for the agency.

(2) In the case of a state agency that collects or receives moneys for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes, if moneys available to such state agency are not sufficient to permit the transfer under subsection (1) of this section, the department shall notify the state agency of the amount certified with respect to the state agency under ORS 291.274 and 291.276, less any amount transferred out of moneys appropriated to such state agency under subsection (1) of this section. Thereafter, until such balance has been paid into the General Fund, 10 percent of all moneys collected or received by the state agency for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes shall be:

(a) Transferred by the department to and made a part of the General Fund available for general governmental purposes if such moneys are paid to the State Treasurer by the state agency; or

(b) Paid to the State Treasurer by the state agency receiving such moneys at the time when they are received by the state agency if such moneys are authorized by law to be kept and disbursed other than by and through the State Treasurer, and be credited by the State Treasurer to and made a part of the General Fund available for general governmental purposes.

(3) The transfer and payment to the General Fund required by this section shall be made notwithstanding any law that appropriates such moneys or any of them to any other purposes, and such portion so paid and transferred is not subject to any special uses thereby provided. [1967 c.637 §5]

291.280 Receipts by State Treasurer for transferred moneys. In receipting for moneys paid and transferred under ORS 291.278 (2), the State Treasurer shall make his receipt in duplicate, showing the amount credited to the General Fund available for general governmental purposes as well as the amount credited to any special fund or account. He shall file one of the duplicate receipts with the department. [1967 c.637 §6]

291.302 [Repealed by 1953 c.386 §9]

291.304 [Repealed by 1953 c.386 §9]

ACTS APPROPRIATING MONEY OR LIMITING EXPENDITURES

291.305 Meaning of "administrative expenses" in law appropriating money or limiting expenditures; limitation not ap-

propriation of money otherwise unavailable to agency. (1) As used in the laws enacted by the Legislative Assembly appropriating money or limiting expenditures, the term "administrative expenses" means, unless the context requires otherwise, those expenditures that are included under the classifications of expenditures, except debt service and special payments expenditure categories, which are prepared and prescribed, pursuant to ORS 291.206, for the purpose of budget-making and accounting during the biennium for which such laws appropriating money or limiting expenditures are enacted.

(2) In the laws enacted by the Legislative Assembly, the establishment of maximum limits for expenditures from, or for the payment of administrative expenses from, fees, moneys or other revenues collected or received by any agency is not intended as an appropriation of moneys not otherwise available to such agency. [1963 c.182 §§1, 3]

291.306 [Repealed by 1953 c.386 §9]

291.307 Appropriation from General Fund to constitute a credit only. An appropriation of any sum of money from the General Fund by any law shall not be considered as segregating or setting aside the amount of such appropriation from the moneys constituting the General Fund, but shall be considered and construed as constituting a credit in favor of the appropriation for the amount stated in the law making the appropriation, subject to allotment as provided in ORS 291.232 to 291.260. [Formerly 291.376]

291.308 [Repealed by 1953 c.386 §9]

291.310 [Repealed by 1953 c.386 §9]

EMERGENCY EXPENDITURES; EMERGENCY BOARD

291.322 Definitions for ORS 291.322 to 291.334. As used in ORS 291.322 to 291.334:

(1) "Emergency" means any catastrophe, disaster or unforeseen or unanticipated condition or circumstance, or abnormal change of conditions or circumstances, affecting the functions of a state agency and the expenditure requirements for the performance of these functions.

(2) "State agency" means any elected or appointed officer, board, commission, department, institution, branch or other agency of the state government. [1953 c.386 §1]

291.324 Emergency Board created. There hereby is created a joint committee composed of members of both houses of the Legislative Assembly, to be known as the Emergency Board. [1953 c.386 §2]

291.326 Powers of board concerning expenditures by state agencies. (1) The Emergency Board, during the interim between sessions of the Legislative Assembly, may exercise the following powers:

(a) Where an emergency exists, to allocate to any state agency, out of any emergency fund that may be appropriated to the Emergency Board for that purpose, additional funds beyond the amount appropriated to the agency by the Legislative Assembly, or funds to carry on an activity required by law for which an appropriation was not made.

(b) Where an emergency exists, to authorize any state agency to expend, from funds dedicated or continuously appropriated for the uses and purposes of the agency, sums in excess of the amount of the budget of the agency as approved in accordance with law.

(c) In the case of a new activity coming into existence at such a time as to preclude the possibility of submitting a budget to the Legislative Assembly for approval, to approve, or revise and approve, a budget of the money appropriated for such new activity.

(d) Where an emergency exists, to revise or amend the budgets of state agencies to the extent of authorizing transfers between expenditure classifications within the budget of an agency.

(2) No allocation, authorization or approval under paragraph (a), (b) or (c) of subsection (1) of this section shall be effective unless made at a meeting at which 10 members of the board were present.

(3) The laws enacted by the Legislative Assembly making appropriations and limiting expenditures, or either, are not intended to limit the powers of the Emergency Board. [1953 c.386 §3; subsection (3) enacted as 1963 c.182 §2; 1973 c.201 §2]

291.328 Board may require presentation of evidence to support requests for action; board to report its action to agencies concerned. Before the Emergency Board makes any allocation, grants any authorization or approves any budget under ORS 291.326, it may require the state agency in question to submit written evidence to justify the allocation, authorization or approval and

may require the head of the agency to appear before it in support thereof. The Emergency Board may also require the Director of the Executive Department to submit a written report as to the need and justification for the allocation, authorization or approval. Upon making an allocation, granting an authorization or approving a budget, the Emergency Board shall file with the department, the Secretary of State and the state agency in question a copy of the order of allocation, grant of authorization or approved budget. [1953 c.386 §4]

291.330 Members of board; confirmation. The Emergency Board shall be composed of the President of the Senate, the Speaker of the House of Representatives, the chairmen of the Senate and House Ways and Means Committees, six members of the Senate, at least three of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the President of the Senate and confirmed by a majority of all the members elected to the Senate, and seven members of the House, at least four of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the Speaker and confirmed by a majority of all the members elected to the House. [1953 c.386 §5; 1973 c.201 §1; 1979 c.324 §1]

291.332 Meetings of board; terms of members; filling vacancies on board. (1) The Emergency Board shall meet immediately upon adjournment of each Legislative Assembly and elect a chairman from their number. The board shall meet thereafter at such times as it may determine.

(2) The term of members of the board shall run from the adjournment of one regular session to the organization of the next regular session.

(3) If a vacancy occurs in the board, either the Speaker, if the legislator previously filling the position was a member of the House, or the President, if the legislator previously filling the position was a member of the Senate, shall fill such vacancy by an appointment for the unexpired term. However, such appointment, before becoming effective, shall be confirmed by the remaining members of the board, sitting as such board. [1953 c.386 §6]

291.334 Board authorized to secure assistance; payment of board expenses. (1) The Director of the Executive Department, upon request of the board, shall furnish necessary assistance to the board, or the board may employ such assistance as they may deem necessary.

(2) The expenses of the board, the cost of employed assistance, and other necessary expenses of the board shall be paid out of funds appropriated to the board specially for such purpose or, if no such appropriation is made, out of any emergency fund that may be appropriated to the board. All claims for those expenses and cost shall be approved by the chairman or other person authorized to approve claims, and warrants shall be drawn on the State Treasurer for the payment thereof in the same manner as other expenses are paid. [1953 c.386 §7; 1967 c.454 §96; 1975 c.530 §7]

291.336 Appropriation bills requiring approval of board before project commenced or contract let; how requirement met. (1) As used in this section, "appropriation bill" means a legislative Act which appropriates money or authorizes the expenditure of dedicated or continuously appropriated moneys or otherwise makes moneys available for expenditure.

(2) In all cases where an appropriation bill heretofore or hereafter passed provides that a state agency shall not commence any project or allow any contract to be let for any project without having the approval of the Emergency Board, such requirement may be met:

(a) During any period when the Legislative Assembly is in session, by the adoption of a resolution by each house approving the proposed action; or

(b) During any period when the Legislative Assembly is not in session, either by approval of the Emergency Board as provided in the appropriation bill, or by the elapse of 45 days without adverse action of the Emergency Board after notice of the proposed action has been given to each member of the Emergency Board at his last-known address. [1957 c.382 §1]

ESTIMATES OF STATE REVENUES

291.342 Annual estimation of state revenues; apportionment among counties of any state property tax levy necessary to make up deficiency; quarterly estimates. (1) By August 15 of each year, but not earlier than 90 days from the end of the regular session, if any, of the Legislative Assembly held in that calendar year, the Executive

Department, with the assistance of the Department of Revenue, shall:

(a) Ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year; and

(b) Apportion the state tax levy on property, if any, among the several counties in the manner provided in ORS 291.344.

(2) In addition to the requirement in subsection (1) of this section, the Executive Department with the assistance of the Department of Revenue shall for each calendar quarter of the year ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year, as well as the amount of revenue received quarterly, cumulated throughout the biennium, and report its estimate to the Legislative Revenue Officer and to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee on Ways and Means.

(3) In carrying out its duties under subsection (2) of this section, the Executive Department shall issue quarterly a statement setting forth the methodology and assumptions used in making the revenue estimate. Nothing in this subsection requires the statement to set forth procedures used or methods used to determine either the methodology or the assumptions. [Formerly 309.510; 1971 s.s. c.5 §3; 1975 c.789 §10; 1980 c.11 §1]

291.344 Procedure for computation, levy, offset and apportionment of state property tax levy. (1) The department shall proceed as prescribed in this section.

(2) The department shall prepare a statement, summarizing:

(a) All the items of expense or deficiency, including interest on unpaid warrants left over from the previous year, to which the state will be subject under existing laws for the fiscal year next after that year or period for which the last preceding levy of state revenues was computed and declared; and

(b) When the levy is made on the assessment of an even year, the estimated expense of one biennial session of the Legislative Assembly.

(3) There shall be segregated from the total of the items tabulated in accordance with subsection (2) of this section the amount necessary for the payment of bonded indebtedness and interest thereon, and this amount shall constitute the state tax levy on property.

(4) From the total of the items summarized in accordance with subsection (2) of this section, after the amounts segregated pursuant to subsection (3) of this section have been deducted, there shall be deducted, in the order listed in subsection (5) of this section, all miscellaneous receipts, including any surplus remaining in the State Treasury from all funds, however derived, excepting only the following:

(a) Funds whose use is restricted to particular purposes by the Constitution of Oregon.

(b) Funds whose use is restricted to particular purposes by federal law.

(c) All trust funds, as defined in ORS 291.002.

(5) (a) The department shall deduct first those miscellaneous receipts not excluded by paragraphs (a), (b) and (c) of subsection (4) of this section and not includable in the definitions of dedicated or revolving funds in ORS 291.002.

(b) If necessary, in order to provide revenue for all of the items summarized in subsection (2) of this section, the department shall then deduct as much as is necessary or available from any fund remaining in the State Treasury and not excluded by subsection (4) of this section. The department shall list these deductions in its records.

(6) The state tax levy on property segregated and levied pursuant to subsection (3) of this section shall be offset first by the application of miscellaneous receipts to the extent that they are not applied in accordance with subsection (4) of this section. Subject to the limitations of ORS 311.660, the amount of the state tax levy on property not offset by the foregoing application shall be apportioned among and charged to the several counties in that proportion which the total assessed value of all the taxable property in each county bears to the total assessed value of all the taxable property of the state as equalized.

(7) Immediately after the department has completed the computation, levy, offset and apportionment of the state tax levy on property in accordance with this section, a certificate thereof, signed by the director of the department, shall be filed in the office of the department. [Formerly 309.520; 1967 c.454 §97; 1981 c.804 §83]

291.348 Biennial estimate of General Fund revenues; certification to Secretary of State. (1) The department, with the assis-

tance of the Secretary of State, as soon as possible after June 30, 1966, and each even-numbered year thereafter, shall ascertain the total of General Fund revenues obtained from all sources during the preceding fiscal year, so far as is practicable.

(2) The Director of the Executive Department shall certify to the total of General Fund revenues during the preceding fiscal year as determined under subsection (1) of this section.

(3) As used in this section, "General Fund revenues" means all payments of money credited to the State Treasury that are placed or to be placed by the State Treasurer to the credit of the General Fund of the State of Oregon for general governmental purposes. [1965 c.615 §12; 1967 c.454 §98]

291.349 Revenue estimate; effect of revenue in excess of estimate. (1) As soon as practicable after adjournment sine die of the regular session of the Legislative Assembly, the Executive Department shall report to the Emergency Board the estimate as of July 1 of the first year of the biennium of General Fund revenues that will be received by the state during that biennium. The Executive Department shall base its estimate on the last forecast given to the Legislative Assembly before adjournment sine die of the regular session on which the printed, adopted budget prepared in the Executive Department is based, adjusted only in so far as necessary to reflect changes in laws adopted at that session. The report shall contain the estimated revenues from corporate income and excise taxes separately from the estimated revenues from other General Fund sources. The Executive Department may revise the estimate if necessary following adjournment sine die of any special or emergency session of the Legislative Assembly but any revision does not affect the basis of the computation described in subsection (3) or (4) of this section.

(2) As soon as practicable after the end of the biennium, the Executive Department shall report to the Emergency Board or the Legislative Assembly if it is in session, the amount of General Fund revenues collected as of the last June 30 of the preceding biennium. The report shall contain the collections from corporate income and excise taxes separately from collections from other sources.

(3) If the revenues received from the corporate income and excise taxes during the biennium exceed the amounts estimated to be received from such taxes for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, the total amount of that excess shall be credited to corporate income and excise taxpayers in a percentage amount of corporate excise and income tax liability as determined under subsection (5) of this section. However, no credit shall be allowed against tax liability imposed by ORS 317.090.

(4) If the revenues received from General Fund revenue sources, exclusive of those described in subsection (3) of this section, during the biennium exceed the amounts estimated to be received from such sources for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, the total amount of that excess shall be credited in a percentage amount of income tax liability as determined under subsection (5) of this section.

(5) If there is an excess to be credited under either subsection (3) or (4) of this section, or both, on or before October 1, following the end of each biennium, the Executive Department shall determine and certify to the Department of Revenue the percentage amount of credit for purposes of subsection (3) or (4) of this section. The percentage amount determined shall be a percentage amount to the nearest one-tenth of a percent that will distribute the excess to be credited to either the corporate excise and income taxpayers or personal income taxpayers for taxable years beginning in the calendar year during which such excess is determined. The credit shall be computed after the allowance of any credit allowed or allowable under ORS chapter 316, 317 or 318, whichever may be applicable, and before the application of estimated tax payments, withholding or other advance tax payments. [1979 c.241 §30; 1981 c.885 §1]

Note: 291.349 and 291.355 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the preface to Oregon Revised Statutes for further explanation.

291.350 [1965 c.615 §13; repealed by 1971 c.544 §7]

291.352 [Renumbered 293.105]

291.354 [Amended by 1959 c.273 §7; 1961 c.280 §3; 1961 c.308 §2; renumbered 293.110]

RATE OF GROWTH OF APPROPRIATIONS

291.355 Rate of growth of appropriations for general governmental purposes. (1) Each biennium, growth of state governmental appropriations for general governmental purposes shall be no greater than the rate of growth of personal income in Oregon in the two preceding calendar years. The rate of growth shall be computed based on the U.S. Department of Commerce reports for the two preceding calendar years.

(2) For the 1979-1981 biennium, the base to which the rate of growth applies shall equal state governmental appropriations for general governmental purposes in the 1977-1979 biennium plus expenditures from non-General Fund sources that are to be funded in 1979-1981 out of the General Fund and less any General Fund expenditures in 1977-1979 that are to be funded in 1979-1981 from non-General Fund sources.

(3) In bienniums subsequent to the 1979-1981 biennium, the base shall be adjusted as necessary to reflect transfer of funding sources between General Fund sources and non-General Fund sources in order to maintain a base used for general governmental purposes.

(4) Debt service and tax relief other than that provided under ORS 310.630 to 310.690 shall not be considered appropriations for general governmental purposes. [1979 c.241 §29]

Note: See note under 291.349.

291.356 [Amended by 1963 c.333 §2; renumbered 293.115]

291.358 [Renumbered 293.120]

291.360 [Renumbered 293.125]

291.362 [Renumbered 293.130]

291.364 [Renumbered 293.135]

291.366 [Renumbered 293.140]

291.368 [Renumbered 293.145]

291.370 [Renumbered 293.150]

FISCAL MATTERS; LEGISLATIVE REVIEW

291.371 Approval of salary plan changes and unbudgeted new positions by legislative review agency required. (1) As used in this section, "legislative review agency" means the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session and the Emergency Board during the interim period between sessions.

(2) Prior to making any changes in a salary plan, establishing any new positions specifically not provided for in the budget of the affected agency or reclassifying any positions specifically provided for in the budget of the affected agency, the Executive Department shall submit the proposed changes to the legislative review agency. The proposed change shall only be approved and take effect if the legislative review agency finds that the affected agency can finance the proposed change within the limits of its biennial budget and that the proposed change conforms to legislatively approved salary policies. The effective date of the change shall be the date prescribed by the Personnel Division. [1973 c.49 §1]

291.372 [Renumbered 293.155]

291.374 [Amended by 1955 c.133 §1; 1955 c.672 §1; 1957 c.460 §1; 1959 c.686 §39; 1961 c.268 §13; 1961 c.485 §27; renumbered 293.160]

291.375 Legislative review of applications for federal financial assistance; submission, approval required; exemptions. (1) Prior to the submission of any application for financial assistance or grants from the United States or any agency thereof by or on behalf of any agency of this state, the application must be submitted for legislative review in the following manner:

(a) If the application is to be submitted to the Federal Government when the Legislative Assembly is in session, the application shall be submitted to the Joint Committee on Ways and Means for review.

(b) If the application is to be submitted to the Federal Government when the Legislative Assembly is not in session, the application shall be submitted to the Emergency Board for review.

(2) If the legislative agency authorized under subsection (1) of this section to review applications described therein approves the application, it may be submitted to the appropriate federal agency. If the legislative agency disapproves of the application, it shall not be submitted to any federal agency unless it is or can be modified to meet the objections of the legislative agency.

(3) Notwithstanding subsection (1) of this section, the Joint Committee on Ways and

Means and the Emergency Board may exempt any state agency from the requirements of this section. Project grants for departmental research, organized activities related to instruction, sponsored research or other sponsored programs carried on within the Department of Higher Education, for which no biennial expenditure limitations have been established, are exempt from the requirements of this section.

(4) The review required by this section is in addition to and not in lieu of the requirements of ORS 293.550. [1973 c.44 §1]

291.376 [Renumbered 291.307]

291.378 [Amended by 1961 c.590 §1; renumbered 293.165]

291.380 [Amended by 1961 c.590 §2; renumbered 293.170]

291.385 Use of certain federal moneys for employment; legislative approval. Expenditures of moneys available to this state or any agency thereof under the Comprehensive Employment and Training Act (Public Law 93-203, 87 Stat. 839) and (Public Law 95-524, 92 Stat. 1909), the Emergency Job and Unemployment Assistance Act of 1974 (Public Law 93-567), and the Emergency Jobs Program Extension Act of 1976 (Public Law 94-444), as amended, are not limited by fixed sum appropriations or expenditure limitations imposed for the biennium beginning July 1, 1977, if authorized by the Joint Committee on Ways and Means after March 1, 1979. However, positions added under the provisions of the federal enabling legislation are subject to approval of the Emergency Board during the interim between sessions of the Legislative Assembly and by the Joint Committee on Ways and Means during a session of the Legislative Assembly. [1977 c.85 §1; 1979 c.93 §1]

Note: 291.385 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

COMMISSION ON OREGON STATE MANAGEMENT AND ORGANIZATION

Note: Sections 1 to 8, 10 and 12 of chapter 795, Oregon Laws 1979, provide:

Sec. 1. It is the purpose of this Act to improve the responsiveness and manage the growth of Oregon state government.

Sec. 2. (1) There is created a Commission on Oregon State Management and Organization consisting of nine members and four ex officio members.

(2) The Governor shall appoint four members of the commission; the President of the Senate and the Speaker of the House of Representatives shall each appoint two members of the commission; the Chief Justice of the Supreme Court shall appoint one member of the commission.

(3) The Governor, President of the Senate, Speaker of the House and Chief Justice of the Supreme Court shall serve as ex officio, nonvoting members of the commission.

(4) No person shall be eligible for appointment to the commission who is an elected or appointed official, or who has not been seven years a resident of the State of Oregon, nor shall any person be eligible for appointment to the commission who has not demonstrated excellent leadership or managerial ability prior to the person's appointment.

(5) Each member shall be appointed to serve for a term of two years and may be reappointed for one additional term.

(6) In case of a vacancy for any cause, the Governor, President of the Senate, Speaker of the House or Chief Justice of the Supreme Court, according to the position vacated, shall make an appointment to become effective immediately for the unexpired term.

Sec. 3. (1) The purpose of the Commission on Oregon State Management and Organization shall be to provide the greatest effectiveness of state government at the lowest possible cost.

(2) The commission shall advise and assist within the limits of its resources the legislative and executive branches of state government, including state agencies, to improve the responsiveness and manage the growth of Oregon state government through proposals for legislation or changes in administrative rules or policy.

(3) The commission shall select one or more comprehensive tasks to undertake each year from priority lists submitted to the commission by the Governor, President of the Senate, Speaker of the House and Chief Justice of the Supreme Court on or before July 1 of each year.

(4) In performing its duties, the commission within the limits of available funds may:

(a) Conduct hearings and conferences to ascertain facts, to comprehend state programs and activities and to obtain qualified opinions;

(b) Appoint subcommittees consisting of members of the commission and public members, if desired, and pay the reasonable and actual expenses thereof as provided in section 4 of this Act;

(c) Obtain from any state agency necessary assistance and data; and

(d) Perform all other necessary functions to carry out the purposes of the commission and this Act.

Sec. 4. A member of the Commission on Oregon State Management and Organization shall receive no

House Research Agency
Pouch Y
Juneau, Alaska 99811
465-3991

KEY WORD: _____

Research Request Number: _____

RESEARCH EVALUATION

TO: [illegible]

FROM: Susan Brody, Director

RE: Evaluation of Research Products

To assist us in improving the quality of our research services, we would appreciate your response to the following questions.

- Was the information unbiased?

- Did it provide answers to (or, at least, useful information on) all the questions you posed?

- Was the research completed and delivered to you in a timely manner?

- Was it clearly written?

- May we release this information to the public?

  |___| I approve the release of this information.

  |___| I approve the release of this information, but please remove my name.

  |___| I do not approve the release of this information; maintain confidentiality.

_____ _____

Date Signature

Please be assured that we will take your comments seriously in performing future research for you.

Please return to House Research Agency, Mail Stop 3100.

Thank you.

HB

481

(Please note: This bill was heard by State Affairs in January 1983.)

Funding Information	
General Fund	$ 8,100,000
Other Funds	-0-
	$ 8,100,000

IN THE HOUSE BY FURNACE

HOUSE BILL NO. 33

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Public Safety for a state trooper facility in Anchorage; and providing for an effective date."

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

* Section 1. The sum of $8,100,000 is appropriated from the general fund to the Department of Public Safety for construction of a state trooper crime laboratory and office facility in Anchorage.

* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect July 1, 1983.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

Support

Passage of this bill will result in an increase in the number and quality of arrests and convictions in felony cases statewide. Construction of this Capital Project will mark a major shift in direction for the State Troopers from a limited service Crime Lab to a full service professional Forensic Laboratory designated to serve all law enforcement agencies statewide. This project will consist of 17,000 square feet of space for testing and analysis, and equipment to establish a full-service Statewide Crime Laboratory.

Within the last decade a series of Supreme Court decisions relative to search and seizure, interrogation and confessions has had the effect of limiting the scope of permissible investigative activities by law enforcement agencies. This situation, in turn, has resulted in the increased attention to the use of physical evidence in criminal investigations, and the subsequent development of crime laboratories to analyze this evidence throughout the nation.

The application of the technologies and techniques of the natural and physical sciences to items of evidence found at a crime scene is an increasing part of modern investigations and courtroom trials. The expectation that these sciences are devoid of prejudice makes the results of crime laboratory tests and analyses an often critical part of judicial proceedings. It also confers upon crime laboratories the responsibility for the highest degree of professionalism in their work. The availability of physical facilities is the essential first step in making these services available to Alaska's state & local law enforcement agencies. All services performed will be at no cost to the Troopers and the 25 or so local departments throughout the state.

Beyond establishing drug identification and fingerprint comparisons within the existing limited Laboratory, Alaska has no crime laboratory with the broad capabilities needed to analyze clothing from a rape, compare shell casings to bullets found at a homicide, analyze carbon residue from a suspected arson fire for traces of accelerants, compare blood characteristics of blood on an assault victim to the blood of a suspect, compare pry marks on a window casing with a tire iron found in possession of a suspect, and the many additional tests required for modern, effective law enforcement investigations. The existing "crime lab" is located in crowded quarters in the basement of the State Troopers headquarters building in Anchorage.

Lack of additional personnel and physical limitations prevent its expansion. Alaska is the only state that does not yet have a full service lab to assist its local, as well as state, law enforcement agencies.

The greatest reason to develop a full service Crime Lab in Alaska is the increasingly longer time required to receive results of tests now routinely being sent to the FBI laboratory in Washington, D.C. The time required for laboratory tests of a routine nature from the FBI now require from four to six months. The reasons for this situation are a general budget tightening among federal agencies and an ever increasing number of requests nationwide for tests by the FBI laboratory. The problem of long turn-around sometimes conflicts with the Alaska Supreme Court Rule, which requires that the trial begin within 120 days following arrest, barring any delays by the judge as may be requested by either side. This problem is expected to increase in the future. Increasing turn-around time is also occurring with the very limited capabilities of the existing Trooper laboratory. Currently the average time required for test results is several weeks for just drug-related tests. No room for expansion within current facilities is available or practical.

During the 1983 Legislative session the legislative appropriated $402.0 to cover the design and engineering costs of this project (Chapter 28, SLA 83). This stage of the project has proceeded on schedule and current cost estimates by the architects have confirmed our original estimate of $5,603.0.

An extensive study was made during FY 82 and FY 83 concerning the needs for a Statewide Crime Laboratory by the Department of Public Safety personnel. This study is too exhaustive to be made part of this bill analysis, however, copies may be obtained by contacting Colonel Michael C. Kolivosky, Division of Alaska State Troopers, P.O. Box 6188 Annex, Anchorage, AK 99502 (269-5646), or through the Commissioner's office in Juneau.

Robert J. Sundberg
Commissioner

Background

The proper name for this bill is: "the second sponsor substitute for HB 487." The original sponsor substitute incorrectly gave Public Safety the responsibility for the construction of the crime lab. This was corrected by Rep. Furnace on January 12th in the bill before the committee today.

Last session State Affairs passed out HB 33, which called for an $8.1 million dollar appropriation for the crime lab in Anchorage. I asked Commissioner Sundberg on your behalf, to explain the reasons why the bill is before the committee again -- and why HB 487 now calls for an an adjusted appropriation of $5.842 million. The Commissioner's response is in your file (and the members' files).

The Department of Public Safety is understandably anxious to see this bill greased through the system. It's a clean bill and no one expects any amendments.

Introduced: 1/9/84 Dated
Referred: Transportation,
Judiciary and Finance

Funding Information

General Fund	$5,842,400
Other Funds	-0-
	$5,842,400

BY FURNACE, BARNES AND SZYMANSKI

IN THE HOUSE SS H B 487

HOUSE BILL NO. 487

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making appropriations to the Department of Transportation and Public Facilities for a statewide crime lab facility in Anchorage; and providing for an effective date."

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

* Section 1. The sum of $5,603,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for construction of a statewide crime lab facility in Anchorage.

* Sec. 2. The sum of $239,400 is appropriated from the general fund to the Department of Transportation and Public Facilities for operating expenses of the statewide crime lab facility in Anchorage for fiscal year 1985.

* Sec. 3. The appropriation made by sec. 1 of this Act is for a capital project and is subject to AS 37.25.020.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

SSHB 487

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

POUCH N
JUNEAU, ALASKA 99811
PHONE:

January 12, 1984

The Honorable Mitch Abood
Alaska State House
Chairman
House State Affairs
Pouch V
Juneau, AK 99811

Dear Representative Abood:

This letter will respond to your question about why HB-33 last year requested $8.1 million, whereas HB 487 this year only requests $5.603 million for construction of the Crime Lab.

HB-33 originally requested $8.1 million for a Combined Facility to include office space for the local Posts of Alaska State Troopers, Fish and Wildlife Protection, Anchorage Metropolitan Drug Enforcement Unit and the Crime Lab. The former totaling about $ 2 million, and the Crime Lab about $6.1 million. Confusion because of the combined nature of the facility resulted in my decision to drop all non-lab costs leaving $6.1 million for just the Crime Lab. Of that amount, we received $402,000 for architectural and engineering costs. The remaining cost of construction is approximately $5.6 million as in SSHB 487.

The Sponsor Substitute added $239,400 at our request, so that we could staff the lab beginning in FY'85, for a total of $5.842 million.

Please contact me if further information is needed.

Sincerely,

Robert J. Sundberg
Commissioner

12-L2LH

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SSHB487
Title: Statewide Forensic Sciences Lab
Sponsor: Rep. Furnace
Requestor: House State Affairs
Date of Request: 1-12-84

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		195.4	353.0	374.2	396.7	420.5
200 TRAVEL		7.5	10.6	11.2	11.9	12.6
300 CONTRACTUAL		22.5	71.8	76.1	80.7	85.5
400 SUPPLIES		14.0	14.8	15.7	16.6	17.6
500 EQUIPMENT					150.0	150.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL		239.4	450.2	477.2	655.9	686.2
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		239.4	450.2	477.2	655.9	686.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		7	7	7	7	7
PART-TIME						
TEMPORARY		7	7	7	7	7

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan F.C.A. Phone: 269-5691
Division: Alaska State Troopers Date: 01/06/84

Approved by Commissioner: Robert J. Sundberg Date: 1/13/84
Agency: Public Safety

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL NOTE

SECTION IV ANALYSIS

This legislation provides funds for the construction of a 17,000 square foot Statewide Crime Laboratory in Anchorage. The attached Schedule I details the Capital Cost and Schedule II details the Operating Costs. The vast majority of the Operating Costs represents a shift in direction for the Crime Lab from a limited service A.S.T. facility to becoming a full-service operation designed to meet the needs of all law enforcement agencies in the state. Personal Services costs for FY'85 reflect the hiring of the seven new staff members at various dates throughout the year. (See supporting schedules.) and other costs at 75% of a full years' cost.

FY'86 and each subsequent year reflect an anticipated 6% inflation rate and the cost of maintenance contracts on the new equipment.

By FY'88 it is anticipated that advances in technology will require replacement or new equipment to meet court evidence requirements each year.

SCHEDULE I

ANCHORAGE COMBINED FACILITY

CAPITAL COSTS

1) Construction Costs			
Crime Lab - 17,000 sq. ft.		$3,825.0	
DOT/PF Overhead, Architect, Planning Contingency, etc.	$1,147.0		
CS SS HB 33	(402.0)	745.0	
Subtotal			$4,570.0
2) Equipment			962.0
3) Commodities - Initial Stock			71.0
TOTAL			$5,603.0

SCHEDULE II

ANCHORAGE COMBINED FACILITY

FY'85 OPERATING COSTS

100 Personnel Services			
See attached schedule			$195,403
200 Travel			
In-state & out-of-state travel needed to attain and maintain professional expertise			
$10,000 per full year x 75% =			7,500
300 Contractual Services			
Telephone	$ 12,500		
Electricity	9,100		
Other Utilities	3,500		
Building Repairs & Maintenance	4,900		
Subtotal	30,000	X 75%	22,500
(Note: Costs of maintenance agreements of an estimated $40,000 yearly will begin in FY'86.)			
400 Commodities			
Heating Fuel	$ 17,600		
Miscellaneous	1,100		
Subtotal	18,700	X 75%	14,025
TOTAL			$239,428

FISCAL YEAR 1985

100 Personal Services Increased Staff

Job Class Range	Trace Evidence Specialist Range 19	Firearms & Tool Marks Specialist Range 19	Forensic Chemist Range 19	Serologist Range 19	Fingerprint ID Specialist Range 17	Admin Ass't II Range 14	Questioned Documents Examiner Range 19	Total
Annual Salary	$38,124	$38,124	$19,062	$19,062	$16,542	$ 6,723	$ 9,531	$147,168
Overtime	-0-	-0-	-0-	-0-	-0-	1,552	-0-	1,552
Sub total	$38,124	$38,124	$19,062	$19,062	$16,542	$ 8,275	$ 9,531	$148,720
Benefits	6,833	6,833	3,416	3,416	2,965	1,483	1,708	26,654
SBS	2,337	2,337	1,169	1,169	1,014	507	584	9,117
Health Insurance	2,728	2,728	1,364	1,364	1,364	682	682	10,912
Total	$50,022	$50,022	$25,011	$25,011	$21,885	$10,947	$12,505	$195,403
Starting Date	7/1/84	7/1/84	1/1/85	1/1/85	1/1/85	4/1/85	4/1/85	

BASE YEAR

100 Personal Services Increased Staff

Job Class Range	Trace Evidence Specialist Range 19	Firearms & Tool Marks Specialist Range 19	Forensic Chemist Range 19	Serologist Range 19	Fingerprint ID Specialist Range 17	Admin Ass't II Range 14	Questioned Documents Examiner Range 19	Total
Annual Salary	$38,124	$38,124	$38,124	$38,124	$33,084	$26,892	$38,124	$250,596
Overtime	-0-	-0-	-0-	-0-	-0-	2,483	-0-	2,483
Sub total	$38,124	$38,124	$38,124	$38,124	$33,084	$29,375	$38,124	$253,079
Benefits	6,833	6,833	6,833	6,833	5,930	5,265	6,833	45,360
SBS	2,337	2,337	2,337	2,337	2,028	1,801	2,337	15,514
Health Insurance	2,728	2,728	2,728	2,728	2,728	2,728	2,728	19,096
Total	$50,022	$50,022	$50,022	$50,022	$43,770	$39,169	$50,022	$333,049

FISCAL YEAR 1986

100 Personal Services Increased Staff

Job Class Range	Trace Evidence Specialist Range 19	Firearms & Tool Marks Specialist Range 19	Forensic Chemist Range 19	Serologist Range 19	Fingerprint ID Specialist Range 17	Admin Ass't II Range 14	Questioned Documents Examiner Range 19	Total
Annual Salary	$40,411	$40,411	$40,411	$40,411	$35,069	$28,506	$40,411	$265,632
Overtime	-0-	-0-	-0-	-0-	-0-	2,632	-0-	2,632
Sub total	$40,411	$40,411	$40,411	$40,411	$35,069	$31,138	$40,411	$268,264
Benefits	7,243	7,243	7,243	7,243	6,286	5,581	7,243	48,082
SBS	2,477	2,477	2,477	2,477	2,150	1,909	2,477	16,444
Health Insurance	2,892	2,892	2,892	2,892	2,892	2,892	2,892	20,242
Total	$53,023	$53,023	$53,023	$53,023	$46,397	$41,520	$53,023	$353,032

1.	POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
	Trace Evidence Specialist*				19/A	GGU				
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	PFT	12.0			1 of 7	Anchorage	99			

3.	CONTINUATION LEVEL		ADDITION	X
4.	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
	PERSONAL SERVICES			
5.	Salary		38,124	
6.	Benefits		6,833	
7.	Supplemental Benefits		2,337	
8.	Fixed Benefits		2,728	
9.	TOTAL PERSONAL SERVICES	01		50.0
10.	Travel	02		
11.	Contractual	03		
12.	Commodities	04		
13.	Equipment	05		
14.	Other			
15.	TOTAL COST			50.0

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	50.0
18.		General Funds	1004	
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER ___ - ___ - ___ - ___ - ___

JUSTIFICATION

The Trace Evidence Examiner can narrow the orgin of minute bits of evidence such as human hair and fibers, that are exchanged during fight or rape, to a group that includes (or excludes) the suspect. The paint chips and broken headlights of a hit and run fatality may be analyzed to determine if they match the paint and headlight of thesuspects car.

The position will function in the new expanded Statewide Forensic Science Laboratory and provide a new expertise capability which will expand the level of service that can be provided to law enforcement agencies in Alaska

* New classification pending.

13 REQUEST FOR NEW POSITION

01-1136 (7/82) - 15

AGENCY Department of Public Safety

PROGRAM Crime ID & Apprehension

BRU Alaska State Troopers/S&S

COMPONENT Laboratory Services

Revised Date

FY 85

1.	POSITION TITLE: Firearms & Tool Marks Specialist*			RANGE/STEP: 19	BARG. UNIT: GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12.0	RP NUMBER	PCN NUMBER	BRU PRIORITY: 2 of 7	LOCATION: Anchorage	ELECTION DISTRICT: 99	LEG.		

3.	CONTINUATION LEVEL		ADDITION: X
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	38,124	
6.	Benefits	6,833	
7.	Supplemental Benefits	2,337	
8.	Fixed Benefits	2,728	
9.	TOTAL PERSONAL SERVICES	01	50.0
10.	Travel	02	
11.	Contractual	03	
12.	Commodities	04	
13.	Equipment	05	
14.	Other		
15.	TOTAL COST		50.0

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

The Firearms & Tool Marks Specialist can match a spent bullet to the gun that fired it by examination of the microscopic markings on the bullet caused by the irregularities on the inner surface of the gun barrel, among other capabilities. As a Tool Marks Specialist, he can identify the tire iron or other implement found in the suspect's car as the one that did or did not pry open the window or door of the victim's home by using a microscope to compare and match the nicks on the blade of the tire iron to the impressions left in the window sill.

The position will function in the new expanded Statewide Forensic Science Laboratory and provide a new expertise capability which will expand the level of service that can be provided to law enforcement agencies in Alaska.

* New classification pending.

13 REQUEST FOR NEW POSITION

AGENCY: Department of Public Safety
PROGRAM: Crime ID & Apprehension
BRU: Alaska State Troopers/S&S
COMPONENT: Laboratory Services

Revised Date

FY 85

01-1156 (7/82) - 13

1.	POSITION TITLE	RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
	Forensic Chemist*	19	GGU				
2.	TYPE OF POSITION / STAFF MONTHS / RP NUMBER / PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	PFT / 6.0 / /	3 of 7	Anchorage	99			

3.	CONTINUATION LEVEL		ADDITION	X

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	19,062	
6.	Benefits	3,416	
7.	Supplemental Benefits	1,169	
8.	Fixed Benefits	1,364	
9.	TOTAL PERSONAL SERVICES 01		25.0
10.	Travel 02		
11.	Contractual 03		
12.	Commodities 04		
13.	Equipment 05		
14.	Other		
15.	TOTAL COST		25.0

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	25.0
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

The Forensic Chemist tests and analyzes unknown substances. By testing substances thought to be illegal drugs, he can determine the type drug, its relative purity and the substances that may be mixed with the drug. He can also identify small amounts of accelerants from a suspected arson fire by testing charred and burned materials found at the fire, as well as other tasks requiring chemical analysis.

The position will function in the new expanded Statewide Forensic Science Laboratory and provide an additional expertise capability which will expand the level of service that can be provided to law enforcement agencies in Alaska.

* New classification pending.

13 REQUEST FOR NEW POSITION

AGENCY Department of Public Safety

PROGRAM Crime ID & Apprehension

BRU Alaska State Troopers/S&S

COMPONENT Laboratory Services

Revised Date

FY 85

01-1136 (7/82) - 13

1.	POSITION TITLE Serologist/Toxicologist*			RANGE/STEP 19	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 6.0	RP NUMBER	PCN NUMBER	BRU PRIORITY 4 of 7	LOCATION Anchorage	ELECTION DISTRICT 99	LEG.		

3.	CONTINUATION LEVEL		ADDITION	X
4.	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
	PERSONAL SERVICES			
5.	Salary		19,062	
6.	Benefits		3,416	
7.	Supplemental Benefits		1,169	
8.	Fixed Benefits		1,364	
9.	TOTAL PERSONAL SERVICES	01		25.0
10.	Travel	02		
11.	Contractual	03		
12.	Commodities	04		
13.	Equipment	05		
14.	Other			
15.	TOTAL COST			25.0

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	25.0
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

The Forensic Serologist/Toxicologist analyses of body fluids found at the crime scene, can limit the population group of the assailant to those within certain blood groups, thus elminating persons with other blood groups and characteristics as suspects in a given crime. Toxicology detects and identifies the presence of drugs or poisions in body tissues, fluids and organs. These tests are used in determining the presence and extent of alcohol that may have contributed to a death, as one example.

The position will function in the new expanded Statewide Forensic Science Laboratory and provide an additional expertise capability which will expand the level of service that can be provided to law enforcement agencies in Alaska.

* New classification pending.

13 REQUEST FOR NEW POSITION

AGENCY Department of Public Safety

PROGRAM Crime ID & Apprehension

BRU Alaska State Troopers/S&S

COMPONENT Laboratory Services

Revised Date

FY 85

01-1136 (7/82) - 13

1.	POSITION TITLE			RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
	Fingerprint ID Specialist*			17	GGU				
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER / PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	PFT	6.0		5 of 7	Anchorage	99			

3.	CONTINUATION LEVEL		ADDITION	X

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	16,542	
6.	Benefits	2,965	
7.	Supplemental Benefits	1,014	
8.	Fixed Benefits	1,364	
9.	TOTAL PERSONAL SERVICES 01		21.9
10.	Travel 02		
11.	Contractual 03		
12.	Commodities 04		
13.	Equipment 05		
14.	Other		
15.	TOTAL COST		21.9

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	21.9
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

The Fingerprint Examiner can compare fingerprints found on a gun or some other surface to those of the suspect based upon the matching of the characteristics of the fingerprint ridges that are unique to each individual. (The Automated Fingerprint Identification System, funded during the 1982 session of the legislature is now being developed and installed).

The position will function in the new expanded Statewide Forensic Science Laboratory and provide an additional expertise capability which will expand the level of service that can be provided to law enforcement agencies in Alaska.

* Rewrite of class specification in progress.

13 REQUEST FOR NEW POSITION

AGENCY Department of Public Safety

PROGRAM Crime ID & Apprehension

BRU Alaska State Troopers/S&S

COMPONENT Laboratory Services

Revised Date

FY 85

01-1130 (7/82) - 13

1.	POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
	Questioned Document Examiner*				19/A	GGU				
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	PFT	3.0			6 of 7	Anchorage	99			

3.	CONTINUATION LEVEL		ADDITION	X

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	9,531	
6.	Benefits	1,708	
7.	Supplemental Benefits	584	
8.	Fixed Benefits	682	
9.	TOTAL PERSONAL SERVICES	01	12.5
10.	Travel	02	
11.	Contractual	03	
12.	Commodities	04	
13.	Equipment	05	
14.	Other		
15.	TOTAL COST		12.5

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	12.5
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

The Questioned Documents Examiner can ascertain the source or authenticity of a document through the many characteristics of an individual's handwritting, as well as through the variations in typewriter letters as a function of the use and wear to the machine's moving parts, and through the analyses of inks and different types of paper.

* New classification pending.

13 REQUEST FOR NEW POSITION

01-1136 (7/82) - 13

ACENCY Department of Public Safety

PROGRAM Crime ID & Apprehension

BRU Alaska State Troopers/S&S

COMPONENT Laboratory Services

Revised Date

FY 85

1.	POSITION TITLE: Administrative Assistant II			RANGE/STEP: 14/A	BARG. UNIT: SUPV.	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 3.0	RP NUMBER	PCN NUMBER	BRU PRIORITY: 7 of 7	LOCATION: Anchorage	ELECTION DISTRICT: 99	LEG.		

3.	CONTINUATION LEVEL	ADDITION X	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary inc O/T	8,275	
6.	Benefits	1,483	
7.	Supplemental Benefits	507	
8.	Fixed Benefits	682	
9.	TOTAL PERSONAL SERVICES 01		11.0
10.	Travel 02		
11.	Contractual 03		
12.	Commodities 04		
13.	Equipment 05		
14.	Other		
15.	TOTAL COST		11.0

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

This position is needed to support the six new professional positions being requested and part of this Capital Project and the two new additional professional positions added to the Crime Lab during FY'83 and FY'84 through RP. Without this additional administrative support the professional staff will loose much of its productive capacity performing administrative tasks that could more economically be done by this position.

This position will supervise the other clerks presently employeed in the Crime Lab including those in the O/L Photo section.

13 REQUEST FOR NEW POSITION

AGENCY: Department of Public Safety
PROGRAM: Crime ID & Apprehension
BRU: Alaska State Troopers/S&S
COMPONENT: Laboratory Services

Revised Date

FY 85

01-1136 (7/82) - 13

HB 487

Alaska Association Chiefs of Police

RECEIVED
JAN 9 1984

January 4, 1984

Honorable Mitch Abood
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Abood,

The membership of the Alaska Association of Chiefs of Police has voted unanimously that establishment of a State Crime Lab is a priority for the State of Alaska.

Attached is a copy of the resolution passed in support of this project. We are requesting your assistance in the passage of a bill that would result in construction of a State Lab.

Richard A. Ross
Secretary/Treasurer

RAR/lo

ALASKA ASSOCIATION CHIEFS OF POLICE

RESOLUTION 84-1

WHEREAS, State and Federal Court decisions have required higher standards of evidence over the years, standards that require examination and testing of available physical evidence; and

WHEREAS, Alaska, the only State without its own crime laboratory, relies on the F.B.I. laboratory to process and analyze evidence; and

WHEREAS, increasing delays have been experienced in receiving results from the F.B.I. laboratory resulting in follow-up investigation and case prosecution delays; and

WHEREAS, it would be a waste of tax dollars for each law enforcement entity in the State of Alaska to attempt to provide its own laboratory resources, and would indeed be prohibitive for all but the very largest agencies to do so; and

WHEREAS, the 1983 legislature appropriated funding for the engineering and architectural designing of a State Crime Laboratory, which work is presently underway; and

WHEREAS, Representative Walt Furnace has prefiled an Appropriations Bill that would fund a full service crime laboratory that would provide for testing and analysis of crime scene evidence for all law enforcement agencies in the State of Alaska; NOW THEREFORE BE IT RESOLVED that,

The Alaska Association of Chiefs of Police requests that all legislators give their support to the passage of an appropriations bill that would provide for construction of a full-service crime laboratory to serve all law enforcement agencies in the State of Alaska.

HB 48C

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 24, 1983

MEMORANDUM

To: Representative Walt Furnace

From: Leonard Steinberg, Research Staff L. S.

Re: FBI Examination of Legal Evidence
Research Request 83-11

Steve Levi of your office requested the following information:

1) The number of Alaska criminal cases which made use of the FBI crime lab in Washington D.C.;

2) How many legal cases went to court with FBI assistance;

3) How often the FBI's time for analysis exceeded Alaska's 120 day limitation for court appearances; and

4) What specific evidence has been sent to the FBI for analysis.

Our attempts to answer these questions involved contacting: the Federal Bureau of Investigation in Anchorage and in Washington D.C.; the State of Alaska's Chief Prosecuter and the Anchorage District Attorney; the Alaska State Troopers; and the municipal police in Anchorage and Fairbanks.

Number of Alaska Criminal Cases Involving the FBI's Crime Lab

The table below lists the number of Alaska cases and the number of different examinations of Alaska evidence that were performed by the FBI's crime lab in federal fiscal years 1980, 1981, and 1982. (The federal fiscal year runs from October 1 to September 30; FY 80, for example began began October 1, 1979 and ended September 30, 1980.) This information was obtained from Manuel Marquez, of the Federal Bureau of Investigation in Washington D.C.

The number of examinations performed is many times larger than the number of cases because each case often includes many different items and each item may undergo numerous different examinations.

Year	Number of Cases	Number of Examinations
1980	181	10,744
1981	209	13,531
1982	236	19,510

Number of Legal Cases Which Went to Court With FBI Assistance

There are no records of the number of times the FBI's crime lab analysis has actually been used in court. Though FBI crime lab examiners frequently travel to Alaska to testify in criminal proceedings, only rough estimates of the number of visits are avialable.

According to Larry Nelson, the FBI's chief agent in Alaska, not a month goes by without one of the FBI's crime lab examiners traveling to Alaska to make a court appearance. Captain Smith, of the Anchorage Police Department, said he knew of at least 6 FBI crime lab examiners that visited Alaska during the last year.

The FBI in Washington D.C. may maintain records on number of visits examiners make to testify in Alaska courts, but the FBI declined to make that information available to us. The use of FBI examiners or laboratory analysis could be reconstructed by reviewing all the criminal files of the District Attorneys in Alaska, but doing so would require a substantial amount of time.

Excessive Time Required For FBI Analysis

Law enforcement authorities in Alaska are concerned that the FBI's crime lab will not analyze and return the evidence to Alaska in time to meet the requirement, unless waived by the defendent, that criminal trials take place within 120 days of an arrest.

There is little evidence of the FBI's laboratory analysis failing to arrive in time for a trial. The State Troopers have described one case (Alaska vs. Lewis, 1981) in which the trial court suppressed use of the FBI's lab report received the morning of the trial, but that case was complicated by other factors and the suppression was overturned on appeal.[1]

No other specific cases of laboratory analysis too late for use in court have been cited. However, Fairbanks Police Chief Matthew Kiernan estimated that perhaps in one percent of his cases he was unable to use the

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[1] Department of Public Safety. The Development of a Full Service Forensic Laboratory for Law Enforcement in Alaska. September 1982. Page 11.

FBI's laboratory analysis in court because of delays. Other Alaska law enforcement authorities indicated that, to their knowledge, evidence has always arrived in time, but not without the use of personal contacts between the law enforcement authorities in Alaska and FBI examiners in Washington D.C. Estimates of amount of time normally required for an FBI analysis ranged from two to six months.[2]

Specific Evidence Sent To The FBI For Analysis

It was not possible to obtain a list of the specific legal evidence which has been sent from Alaska to the FBI for analysis in the time available to complete this research request. All law enforcement authorities were contacted but regular records of what has been submitted for analysis have not been maintained.

The FBI crime lab in Washington D.C. may maintain records of what it has analyzed for Alaska, but this information was not made available to us. A list of the specific evidence sent to the FBI for analysis could be reconstructed by going through all the criminal files of the law enforcement authorities in Alaska, but doing so would require a substantial amount of time.

The FBI's crime lab conducts all known types of criminal analysis. Examples of Alaskan criminal evidence currently analyzed by the FBI include: questioned documents, body fluids, firearms, trace metals, voice prints, hair, fibers, and fingerprints.

Additional Information

Currently, all FBI service (analysis and expert witnesses) are available free of charge. The FBI crime lab's work is well respected and the examiners make excellent witnesses. However, many of Alaska's law enforcement officials spoke of the federal government's intention to cease providing lab services for state and local police.

The FBI, while supporting the development of regional criminal analysis laboratories, denies any intention of reducing services to state and local law enforcement authorities.

* * * * *

We hope this information is useful to you. Please let us know if we can be of any further assistance.

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[2] Captain Smith of the Anchorage Police Department estimated normal FBI turnaround time at two months while Major Korhonen of the Alaska State Troopers estimated normal turnaround times of five to six months.

HB

488

ADMINISTRATION COMPROMISE PROPOSAL

Olympic Trust Fund

Overall - The Olympic Committee would establish a private fund at private institutions for private contributions.

State - State would act as collector for employee contributions (voluntary). State would pass these on to Olympic Committee (like Share campaign).

State would establish a reserve account in the general fund to account for employee contributions. Payments could be made to the Olympic Committee on a scheduled basis (annual, semi-annual, quarterly).

State Match - State would make a direct appropriation (to named recipient Olympic Committee for a not to exceed amount).

10.0 cost of Administration - fiscal note on file.

Labor Relations - Voluntary contributions are no problem.

MF

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: , 198
Page 1 of 2

REQUEST
Bill/Resolution No.: HB 488
Title: An act creating the Alaska-US Olympic Trust Fund
Sponsor: Bettisworth/Hayes/Martin
Requestor: State Affairs and Finance
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: General Government Centralized Administrative Services/Finance
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		10.0				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
800 MISCELLANEOUS						
TOTAL OPERATING		10.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		10.0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Kenneth E. Bischoff KEB
Division: Finance
Phone: 465-2240
Date: February 10, 1984

Approved by Commissioner/ Lisa Rudd [signature]
Agency: DEPARTMENT OF ADMINISTRATION
Date: 2/10/84

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill 488
Fiscal Note Analysis
Prepared by Division of Finance
Department of Administration
February 10, 1984

This analysis does not attempt to address the cost of matching private donations or contribution of State employees.

The estimated cost of producing the payroll deduction authorization forms and administering the program is $10,000.

5/3D1/0210-08

MF

Position Paper

HB 488

The Department of Administration supports the bill in its intent, however, caution is advised concerning the open-ended appropriation to match all contributions. The salary deduction contribution from State employees, assuming a 20% participation, is estimated at $45,000. The real concern, however, is that the potential amount of private donations is unlimited. Large donations from multi-national corporations could conceivably require the State to match millions of dollars. For this reason it is recommended that a "not-to-exceed" amount be inserted in Section 2(c).

The intent of House Bill 488 would not pose a major accounting difficulty. Contributions deducted from employee salaries would be accumulated in a miscellaneous deduction account and transferred to an agency trust account established for the Office of the Governor. Private donations would be deposited directly to the trust account. The Office of the Governor would periodically draw a warrant on the trust account, payable to the United States Olympic Committee in Alaska.

Although the payroll system has the ability to automatically deduct authorized contributions from employees' salaries it does have a limit as to the number of deductions that can be made for an employee. When the limit is exceeded for an employee the Payroll Section is required to manually intervene in order to properly apply the deductions.

Currently few employees have reached the deduction limit of the system. House Bill 488 will not severely increase the manual payroll effort required at this time. Caution must be used when considering additional legislation of this nature in order to assure that the automated deduction limits of the payroll system are not exceeded and the Payroll Section is not forced to a largely manual effort to properly account for and distribute the payroll deductions.

Based on our reading of this bill, its provisions are effective for FY 85 only and will cease June 30, 1985.

Kenneth E Bischoff 2/10/84

Kenneth E. Bischoff
Division of Finance

for Eleanor Andrews

Commissioner Lisa Rudd
Department of Administration
5/3D1/0210-02

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 11, 1984

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

Re: Sponsor Substitute for Senate Bill No. 350 am (An Act creating the Alasks-United States Olympic Trust Fund; and providing for an effective date.)

Dear Representative Hayes:

Today I have vetoed SSSB 350 am, (creating the Alaska-United States Olympic Trust Fund.) My review of this bill has indicated that the problems associated with the implementation of this legislation outweigh the intended benefits.

This bill would authorize the State to withhold a part of an employee's pay as a contribution to the Olympic Trust Fund without direct authorization by the employee. This involuntary deduction violates the spirit of the current negotiated contracts which enables employees to request deductions or payments from their pay checks - even union dues cannot be deducted unless the employee signs a form authorizing the deduction ahead of time. In addition, as a matter of public policy, it is imprudent to make deductions from an employee's pay without the employee's consent. Charitable donations are a prerogative of the giver based on the giver's fundamental right of association.

This bill ~~will~~ would also create an unnecessary administrative burden. The Department of Administration ~~will~~ would have to notify all employees of the deduction and provide them with a form excluding them from the program.

would

Finally, the creation of a trust fund raises some implementation and policy questions. The Office of the Governor ~~will~~ receive employee contributions, private donations and State match money and then transfer that money to a private organization. I do not believe a State agency should perform that kind of "banking" function on behalf of a private concern.

I do support the concept of an Olympic Trust Fund, but believe this proposed mechanism for obtaining contributions is unsuitable. I trust that a solution can be found which would allow voluntary contributions.

Sincerely,

Bill Sheffield

Bill Sheffield
Governor

MF

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: , 1984

REQUEST
Bill/Resolution No.: HB 488
Title: An act creating the Alaska-US Olympic Trust Fund
Sponsor: Bettisworth/Hayes/Martin
Requestor: State Affairs and Finance
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: General Government
Centralized Administrative Services/Finance
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		10.0				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
800 MISCELLANEOUS						
TOTAL OPERATING		10.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		10.0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Kenneth E. Bischoff KEB
Division: Finance
Phone: 465-2240
Date: February 10, 1984

Approved by Commissioner: Lisa Rudd for Melanie Christian
Agency: DEPARTMENT OF ADMINISTRATION
Date: 2 lo 184

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill 488
Fiscal Note Analysis
Prepared by Division of Finance
Department of Administration
February 10, 1984

This analysis does not attempt to address the cost of matching private donations or contribution of State employees.

The estimated cost of producing the payroll deduction authorization forms and administering the program is $10,000.

5/301/0210-08

MF

Position Paper

HB 488

The Department of Administration supports the bill in its intent, however, caution is advised concerning the open-ended appropriation to match all contributions. The salary deduction contribution from State employees, assuming a 20% participation, is estimated at $45,000. The real concern, however, is that the potential amount of private donations is unlimited. Large donations from multi-national corporations could conceivably require the State to match millions of dollars. For this reason it is recommended that a "not-to-exceed" amount be inserted in Section 2(c).

The intent of House Bill 488 would not pose a major accounting difficulty. Contributions deducted from employee salaries would be accumulated in a miscellaneous deduction account and transferred to an agency trust account established for the Office of the Governor. Private donations would be deposited directly to the trust account. The Office of the Governor would periodically draw a warrant on the trust account, payable to the United States Olympic Committee in Alaska.

Although the payroll system has the ability to automatically deduct authorized contributions from employees' salaries it does have a limit as to the number of deductions that can be made for an employee. When the limit is exceeded for an employee the Payroll Section is required to manually intervene in order to properly apply the deductions.

Currently few employees have reached the deduction limit of the system. House Bill 488 will not severely increase the manual payroll effort required at this time. Caution must be used when considering additional legislation of this nature in order to assure that the automated deduction limits of the payroll system are not exceeded and the Payroll Section is not forced to a largely manual effort to properly account for and distribute the payroll deductions.

Based on our reading of this bill, its provisions are effective for FY 85 only and will cease June 30, 1985.

Kenneth E Bischoff 2/10/84

Kenneth E. Bischoff
Division of Finance

for Eleanor Andrews

Commissioner Lisa Rudd
Department of Administration
5/3D1/0210-02

AMENDED TITLE: SSSB 350 AM
AN ACT CREATING THE ALASKA-UNITED STATES OLYMPIC TRUST FUND; AND PROVIDING FOR AN EFFECTIVE DATE

GENERAL DOLLARS: $1,123,000 (F. NOTE)

PRIME SPONSOR: FERGUSON.

OTHER DOLLARS: $0

CO-SPONSORS: FAHRENKAMP, BENNETT, FAIKS.
CURRENT STATUS: 5/11/84 VETOED BY GOVERNOR

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/20/84	01	2124	FIRST READING -- COMMITTEE REPORTS
02/20/84	02	2124	FIN -- DP04
02/20/84	03	2124	FIN F/NOTE SEN SUPPL #55
02/24/84	04	2168	RLS -- OTHER04
			TAKEN UP IMMEDIATELY
02/24/84	05	2169	SECOND READING
02/24/84	06	2170	AM01 NOT ADOPTED BY DIV 06-10-04
02/24/84	07	2170	AM02 ADOPTED BY UNAN CONSENT
02/24/84	08	2170	ADVANCED TO 3RD READING BY UNAN CONSENT
02/24/84	11	2176	AM03 ADOPTED BY UNAN CONSENT
02/24/84	12	0000	ADVANCED TO 3RD READING BY UNAN CONSENT
02/24/84	09	2170	THIRD READING
02/24/84	10	2170	RETURNED TO 2ND READING BY UNAN CONSENT
02/24/84	13	2171	PASSED BY DIV 14-02-04
02/24/84	14	2171	EFF DATE SAME SECTION 4 UNAN CONSENT
02/24/84	15	2171	EFF DATE SAME SECTION 5 UNAN CONSENT
04/05/84	34	2645	FAILD TO CONC IN (H) AMS BY DIV 01-18-01
04/05/84	35	2645	CC -- BENNETT FAHRENKAMP KELLY
04/25/84	38	2827	TRANSMITTED TO GOVERNOR
05/11/84	39	3070	VETOED BY GOVERNOR

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/27/84	16	2716	FIRST READING --- COMMITTEE REPORTS
03/06/84	17	2821	S.A. -- DP02, NR03, OTHER01
03/06/84	18	2821	S.A. F/NOTE HSE SUPPL #103
03/23/84	19	3032	FIN --- CS05, NR04
03/23/84	20	3033	FIN F/NOTE HSE SUPPL #113
03/30/84	21	3146	POSTPONED UNTIL 04/02/84 BY UNAN CONSENT
/02/84	22	3167	SECOND READING
/02/84	23	3167	FIN CS ADOPTED BY UNAN CONSENT
04/02/84	24	3168	AM01 ADOPTED BY DIV 21-14-05
04/02/84	25	3169	AM02 ADOPTED BY DIV 21-16-03
04/02/84	26	3169	ADVANCED TO 3RD READING BY UNAN CONSENT
04/02/84	27	3169	THIRD READING
04/02/84	28	3170	PASSED BY DIV 27-10-03
04/02/84	29	3170	EFFECTIVE DATE VOTE SAME AS PASSAGE
04/02/84	30	3170	NOTICE OF RECONSIDERATION GIVEN
04/03/84	31	3192	POSTPONED UNTIL 04/04/84 BY UNAN CONSENT
04/04/84	32	3212	PASSED ON RECONSIDERATN BY DIV 26-11-03
04/04/84	33	3213	EFFECTIVE DATE PASSED BY DIV 36-01-03
04/24/84	36	3146	RECEDED FROM AMS BY DIV 25-14-01
04/24/84	37	3447	EFF DATE ADOPTED BY DIV 28-11-01

Josephson
2/11/84

Original sponsors: Bettisworth, Hayes and Martin

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 488 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act creating the Alaska-United States Olympic Trust Fund; and providing for an effective date."

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

* Section 1. LEGISLATIVE INTENT. The legislature finds that it is beneficial to support and encourage the spirit of dedication and excellence symbolic of olympic athletes and to register wholehearted support of the ~~1984~~ Winter & Summer Olympic Games ~~in Yugoslavia and the 1984 Summer Olympic Games in Los Angeles, California~~. Therefore, the legislature shall establish an Alaska-United States Olympic Trust Fund.

* Sec. 2. ALASKA-UNITED STATES OLYMPIC TRUST FUND. (a) There is created in the Office of the Governor the Alaska-United States Olympic Trust Fund. The fund shall be made available to the official United States Olympic Committee in Alaska. The Alaska-United States Olympic Trust Fund shall consist of money obtained from salary deduction contributions of officers and employees of the state and employees of the University of Alaska, from private donations, and from state matching contributions.

(b) During the 1984 - 1985 fiscal year, one dollar a month shall be withdrawn from the salary of each state officer and each state or University of Alaska employee who requests involvement in the program under (d) of this section. Salary deduction contributions shall be deposited into the Alaska-United States Olympic Trust Fund.

(c) The state shall appropriate to the Alaska-United States Olympic Trust Fund an amount equal to the amount of

(1) all private donations; and

(2) the salary deduction contributions made by all state officers and by all state and University of Alaska employees during fiscal year 1984 - 1985.

(d) The Department of Administration shall, before July 1, 1984

(1) inform all state officers and all state and University of Alaska employees about the deduction program; and

(2) provide all state officers and all state and University of Alaska employees with a postage-paid form, addressed to the governor or the governor's designee, on which the intention to participate in the Alaska-United States Olympic Trust Fund may be indicated.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

* Sec. 4. This Act is repealed June 30, 1985.

Alaska Public
Employees Association APEA
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Cherie Shelley CS
APEA Executive Director

SUBJECT: HB 488
Olympic Games Contirbutions

DATE: February 20, 1984

APEA does not object to the solicitation of funds from its members to further the aims and goals of the Olympic games, through the Administration's procedure of payroll deduction.

APEA will encourage its members to contribute with promotional material in the monthly newsletter, the "Reporter."

CS/rb

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: , 1984

REQUEST
Bill/Resolution No.: HB 488
Title: An act creating the Alaska-US Olympic Trust Fund
Sponsor: Bettisworth/Hayes/Martin
Requestor: State Affairs and Finance
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: General Government
Centralized Administrative Services/Finance
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		10.0				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
800 MISCELLANEOUS						
TOTAL OPERATING		10.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		10.0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Kenneth E. Bischoff KEB
Division: Finance
Phone: 465-2240
Date: February 10, 1984

Approved by Commissioner: Lisa Rudd for Lisa Rudd
Agency: DEPARTMENT OF ADMINISTRATION
Date: 2/10/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

5/3D1/0210.06/1

House Bill 488
Fiscal Note Analysis
Prepared by Division of Finance
Department of Administration
February 10, 1984

This analysis does not attempt to address the cost of matching private donations or contribution of State employees.

The estimated cost of producing the payroll deduction authorization forms and administering the program is $10,000.

5/3D1/0210-08

Mitch—

without an effective date, shouldn't you delete specific references to the GAMES in YUGOSLAVIA + CALIFORNIA (p. 1 lines 12+13)

and ~~[illegible]~~ insert

support of the ~~[illegible]~~ Winter AND Summer Olympic GAMES.

Also -

You'll need to delete the reference "During the 1984-1985 fiscal year." p. 1 line 22 p2 line 2+3

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

211 [illegible]
FAIRBANKS [illegible]

DATE: March 2, 1984

TO: Rep. Mitch Abood, Chairman
House State Affairs Committee

From: Rep. Robert Bettisworth

SUBJECT: HB 488 - Olympic Trust Fund

As you know Sponsor Substitute for Senate Bill 350 by Ferguson, Fahrenkamp, Bennett and Faiks has passed out of the Senate and has been referred to your Committee. As this bill is substantially the same as my HB 488, I am asking that your Committee pass out SB 350 without amendment.

In addition, I have addressed below some of the concerns expressed by members of your Committee during hearings on my version of the bill:

1. The State Chairman of the Alaska/United States Olympic Trust Fund is appointed by the U.S. Olympic Committee. The State Chairman then appoints the members of the Alaska Committee.

2. An estimate of the private donations is very hard to make. The Committee expects to have fundraisers and auctions, etc. with a one million dollar goal. The State match for private donations is limited though, because SB 350 has a match cap of one million for private donations.

3. The revenue of the fund will be used as summarized below (see full details in February 23, 1984 letter from USOC State Chairman):

a)	Encourage cross country skiing facilities upgrade	- 20%
b)	Encourage alpine skiing facilities upgrade	- 20%
c)	Provide seed money to start new olympic sports	- 50%
d)	Remain in the fund for contingency and encouragement of other olympic programs	- 10%
	TOTAL	- 100%

4. There will be no risk of endangering the amateur status of any of our olympic athletes, because no money will go to athletes.

5. According to Russ Josephson, the bill drafter with Legislative Legal Services, no "dedicated funds issue" question exists, because there is no tax or license fee involved.

6. A more accurate fiscal note would probably be somewhere in the neighborhood of $180,000.00 for State employee match, and a maximum of $1,000,000.00 for the private match, depending on the contributions of the private sector. This would mean a maximum of $1,180,000.00.

Thank you very much for your consideration of this legislation.

BOYS' CLUBS OF FAIRBANKS, INC.

P.O. BOX 1154
FAIRBANKS, ALASKA 99707

DON DENNIS
Executive Director

BOB HARDIN
President

ELMER "CHUCK" SMITH
Vice President

CARROLL BARBER
Secretary-Treasurer

CHARLES CLUTTS
Coordinator of Official

DON KLEPPER
Legion Baseball Liaison

BOB HINMAN
Babe Ruth Baseball Liaison

KEN RANKIN
Little League Baseball Liaison

DICK ENGEBRETSON
Youth Football Liaison

JIM WILLIAMS
Little Dribblers Liaison

February 23, 1984

RECEIVED
2-28-84

Hon. Bob Bettisworth
Vice Chairman, House Finance Committee
and Chairman, Budget & Audit Committee
Pouch V
Juneau, Ak. 99811

Re: Alaska-United States Olympic Trust Fund HB488 & SB350

Dear Bob:

This will confirm and constitute a follow-through to Steve Frank's Feb. 21st call to me re: the above. Steve requested me as State Olympic Chairman to provide back-up information for the legislature re: passage of HB488 and SB350. As you know the original form of these bills were identical. Basically they provide the opportunity for state officers and employees to contribute $1 a month for FY '84-'85 only from their salaries to further the Olympic cause both nationally and in-state. When legislation passes and the governor signs the same Alaska and the state employees will get national recognition from all persons who respect and support the Olympic cause. The bill provides that each dollar of contribution by state employees and those from the private sector will be matched dollar-for-dollar by the state legislature.

Since last contacting you Sen. Ferguson called me and advised that Sponsor Substitute for Senate Bill 350 cleared the Senate Finance Committee unanimously. Frank advised me that he feels the bill will pass the Senate shortly. Please note that in SB350, as revised, a copy of which is enclosed, the Senate changed it to an "opt-out" rather than keeping the "opt-in" language that was in the original bill. As you know HB488 is an "opt-out" bill. Bob, it would seem to me, having some legislative experience myself, that since the Senate version will pass first and be sent over to the House in the "opt-out" form that it would be adviseable for the House to take action on SB350 rather than acting on HB488 and duplicating legislative work.

During our phone conversation Steve advised me that Mitch Abood's State Affairs Committee wanted basic back-up information on the anticipated manner in which the revenues in the fund will be expended to further the Olympic cause in Alaska. As you know all private donations the committee raises--state employee contributions under the bill are ir this category--are sent to the USOC Training Center in Colorado Springs for the direct support to our Olympic athletes.

BOYS' CLUBS OF FAIRBANKS, INC.
P.O. BOX 1154
FAIRBANKS, ALASKA 99707

DON DENNIS
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President

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Vice President

CARROLL BARBER
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Little League Baseball Liaison

DICK ENGEBRETSON
Youth Football Liaison

JIM WILLIAMS
Little Dribblers Liaison

The legislative matching contributions on the other hand are "public funds". Under USOC rules these can remain in the state of origin for promoting the Olympic cause in that state. It is these matching funds and their proposed use for Olympic purposes in Alaska which will be discussed hereafter.

Since the Olympic Trust Fund concept is a creative approach to encouraging participation in the Olympic sports by Alaskans and the first time it has been used in any state, it is apparent that the committee's projected use of the same must be flexible enough to meet the reality of Alaska's arctic and coastal conditions in the promotion of Olympic sports. In that context and spirit here is our initial plan to utilize the revenues in the Trust Fund.

1. To encourage local cross-country skiing enthusiasts and groups to build new and up-grade existing cross-country skiing trails in communities, both rural and urban, throughout the state. Trust Fund monies will be used as "seed" money to encourage such groups and communities to undertake the expansion and awareness of the sport at the earliest possible age for Alaskan youth. Working with such groups and individuals our goal is to have Alaska excel in excellence and over-all public participation in this sport even beyond that experienced in the Scandavian countries.....20%

2. The same encouragement and upgrading for alpine skiing..20%

3. Encourage local community groups both within and without the public and private school systems to start new Olympic sports in their communities, which they locally select. We have in mind here such official Olympic sports as: archery; air pistol shooting; biathlon; fencing; handball, and similar Olympic sports. The Trust Fund will provide "seed" money to start such programs and thereby encourage local groups to provide "sweat equity" and in-kind donations.....50%

4. The remaining 10% will be preserved in the fund as a contingency for unexpected occurrences and to encourage other Olympic programs. The committee has no intention of hiring any full-time staff. Everything will be volunteer. Private donations of the in-kind variety will be used in the state in furtherance of the above programs.

Finally, Steve asked who appointed the state Olympic chairman. It is a US Olympic Committee in Colorado Springs who appoints the 50 state chairman for indefinite terms. The state chairman then appoints his own committee.

Sincerely yours,

Edward A. Merdes, USOC State Chairman

Position Paper

HB 488

The Department of Administration supports the bill in its intent, however, caution is advised concerning the open-ended appropriation to match all contributions. The salary deduction contribution from State employees, assuming a 20% participation, is estimated at $45,000. The real concern, however, is that the potential amount of private donations is unlimited. Large donations from multi-national corporations could conceivably require the State to match millions of dollars. For this reason it is recommended that a "not-to-exceed" amount be inserted in Section 2(c).

The intent of House Bill 488 would not pose a major accounting difficulty. Contributions deducted from employee salaries would be accumulated in a miscellaneous deduction account and transferred to an agency trust account established for the Office of the Governor. Private donations would be deposited directly to the trust account. The Office of the Governor would periodically draw a warrant on the trust account, payable to the United States Olympic Committee in Alaska.

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Currently few employees have reached the deduction limit of the system. House Bill 488 will not severely increase the manual payroll effort required at this time. Caution must be used when considering additional legislation of this nature in order to assure that the automated deduction limits of the payroll system are not exceeded and the Payroll Section is not forced to a largely manual effort to properly account for and distribute the payroll deductions.

Based on our reading of this bill, its provisions are effective for FY 85 only and will cease June 30, 1985.

Kenneth E Bischoff 2/10/84

Kenneth E. Bischoff
Division of Finance

for Eleanor Andrews

Commissioner Lisa Rudd
Department of Administration
5/3D1/0210-02

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

AGENDA

DATE: Monday, Feb. 20

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY. AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

CSSB 3]0: Bob Barlett Day

CSSB 3]]: Ernest Gruening Day

HCR 48:]6th Annual Girls' State

HCR 49:]8th ANnual Boy's State

HB 494: Lease or construction of state office facilities used for a st. ca

HB 495: POW special license plates

HB 488: Creting the AK-United States Olympic Trust Fund

(never heard (NSA)) HB 556: Compalints alleging retaliation before the State Comm. on Human Rights.

OTHER NOTES OR REMINDERS:

Please get SB's & HCRs out of the way first. (1st & up) Since we have so many bills, please go in order. Thank you.

HB

494

Introduced: 1/9/84
Referred: State Affairs and
Finance

IN THE HOUSE BY LISKA

HOUSE BILL NO. 494

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to lease or construction of state office facilities used for a state capitol; and providing for an effective date."

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

* Section 1. AS 35.10 is amended by adding a new section to read:

Sec. 35.10.017. CONSTRUCTION OF CERTAIN FACILITIES. Funds of the state may not be used for the lease or construction of a new public facility if the public facility is intended for use as legislative chambers, ~~as offices for members of the legislature, for staff of members of the legislature,~~ or for an agency of the legislature ~~or as offices for the governor and the immediate staff of the governor~~, unless the proposal for the lease or construction is approved by a ~~vote of the qualified voters of the state at a general election or at a special election called for that purpose.~~

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Rep. Liska
would like to
speak again.

Alaska State Legislature

House of Representatives

John J. Liska

Official Business

While in Session
Pouch V
Juneau, Alaska 99811
(907) 465-3733

Home - District 15
P.O. Box 421
Eagle River, Alaska 99577
(907) 688-2526

January 10, 1984

MEMO

FROM: Rep. John J. Liska

HOUSE BILL 494 "An Act relating to lease or construction of the state office facilities used for a state capitol; and providing for an effective date."

The purpose of this act is to require any major changes in the housing of the State Capitol, to go before the Voters of the State of Alaska.

The voters of the State voted not to build a new capitol in Willow in the 1982 election.

If there is to be a new Capitol building or legislative hall the Voters of the State should decide if they want their money spent in this manner.

This bill is not a regional bill, it pretains to all locations of the State. In addition the bill includes the concept of "lease or construction" because it might be considered to build a new legislative hall and lease it to the State. In either case, the voter should have the right to decide if this State needs a new Capitol.



Associated Press

...United States as Poland's top banking official but was in fact a high-level spy, The New York Times reported today.

CIA spokesman Dale Peterson, asked if he knew anything about the defector, said, "We have been asked that question several times today and have no comment on it."

The Times quoted unidentified government and intelligence sources as saying the defector, Andrzej Treumann, and his wife and daughter were in protective custody in the Washington area while he is being interviewed by CIA and FBI agents.

Justice Department spokesman Tom Stewart said in Washington that he could not reach anyone who had information about Treumann.

The Times said Treumann came to New York in 1979 to open ...

The Times said U.S. government officials confirmed the defection and said it was particularly significant because Treumann was a highly placed spy for the Polish intelligence service.

Treumann's espionage activities and the reasons for his defection were tightly guarded secrets, the Times said, quoting officials as saying they could not discuss the case on the record because it involved intelligence matters.

However, based on interviews with government officials, the newspaper said it learned that Treumann stopped going to his Park Avenue office in late July and reports began circulating in the banking community that he had vanished. He had told friends that he had been scheduled to return to Poland in August, the Times said.

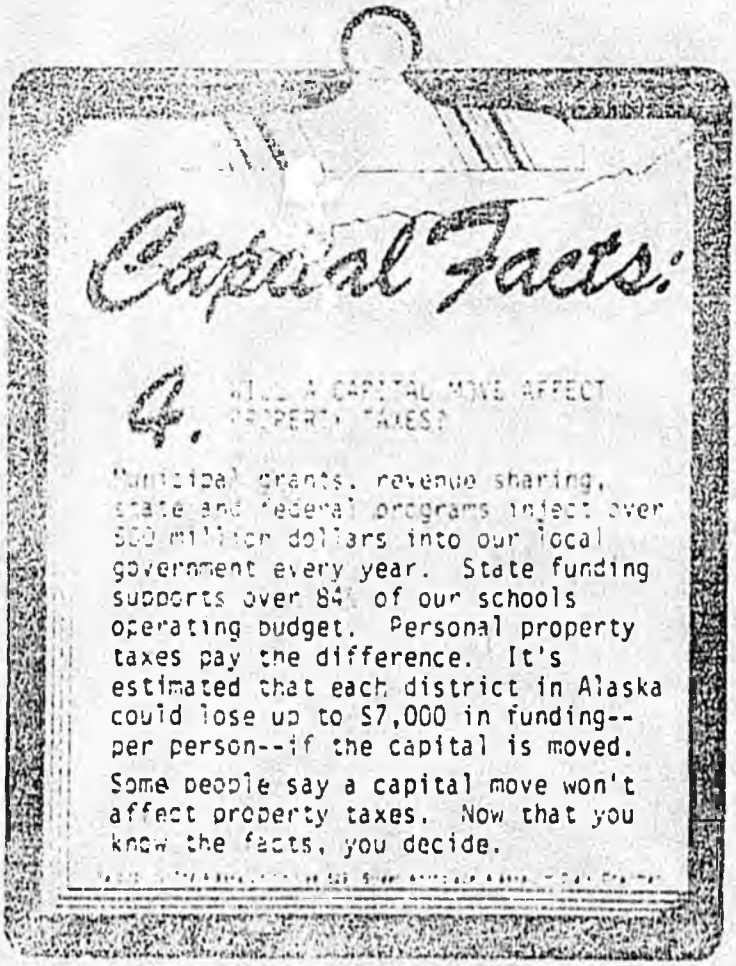
...g for the late-season

...l subs

... government, which ...at the height of the sub ...ointed former Foreign ...en Andersson to head ... investigation commis-

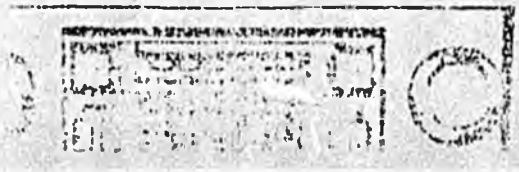
... Minister Borj Anders... ...he commission would ...nizational and other ...o prevent similar disap... ...sults in future intru... ...fused to elaborate.

... Sweden, wary of its ...oviet neighbor on the ...of the Baltic Sea, has ...singly sensitive to for... ...rines lurking in its wa... ...ast October when a So... ...ortedly armed with nu... ... torpedoes beached ...rlskrona Naval Base. ...urces said it a ritual for ... captains to earn their ... missions penetrating ... the rocky Swedish ...rs. Other military ex... ...that the deep harbors ...ong Swedish coast ... launch pads to ... from the East ... wartime.


Capital Facts:
4. WILL A CAPITAL MOVE AFFECT PROPERTY TAXES?
Municipal grants, revenue sharing, state and federal programs inject over 500 million dollars into our local government every year. State funding supports over 84% of our schools operating budget. Personal property taxes pay the difference. It's estimated that each district in Alaska could lose up to $7,000 in funding--per person--if the capital is moved.
Some people say a capital move won't affect property taxes. Now that you know the facts, you decide.

...member the difference. We service what we sell

AUDIOVOX CLASSIC



AM-FM-Stereo Cassette Player w/Power Amp & 5 Band Graphic Equalizer • 45 watts power • "Audiolok" tuning • 4-way ... • FM Mute • Mono Stereo • Locking F... • "Flex" inst.

The suits list... below are jus... few of the ma... suits on sale... day only. October 23.

Sale $16...

Orig. $320. The time i... to invest in a classic a... to your wardrobe. Ou... piece suit in 100% wo... you timeless styling. ... fully lined jacket and ... traditionally tailored ... Get down to business... check out our entire ... selection of stripes, ... herringbones and pla...

Sale $28...

Reg. $360. Our 3-piec... a comfortable blend o... polyester/45% wool g... you timeless styling. W... lined two-button jacke... pocket vest and tradit... tailored slacks. Get do... business and check o... great selection of soli... pinstripes, plaids and ... Men's sizes.

Sale $16...

Reg. $245. This Gentr... piece classic has ever... you look for in a suit. ... trimmer fit. And super... tailoring in a tradition... of polyester/wool wo... Solids, stripes or fanc...

Sale $18...



A capital movement or capital improvements?

/e can't have everything.

$2,843,000,000.00. That's what the proposed capital move would cost all of Alaska, including the Anchorage area. A lot of people think we have better things to do with our money. State construction engineers have identified nearly $1 billion in improvements needed all over the Anchorage area, among them:

Minnesota Drive	Phase II (International to O'Malley)	$75 Million
Northside Corridor	Extend A & C Couplet	$50 Million
Anchorage Int. Airport	Parking & terminal expansion	$65 Million
Seward Highway	Rebuild 36th Ave. to Northside	$100 Million
Glenn Highway	Rebuild 29.8 Miles	$25 Million
UA-Anchorage	Lab/Classroom/Office Building	$25.3 Million

These are just a few of the positive things that could be accomplished with $2.843 billion. Can't you think of more? Let's vote against Proposition 8 and use the money for things we really need — right here at home.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

Notice to Creditors 193

NOTICE OF DEFAULT

Notice to Creditors 193

Notice to Creditors 193

Absent Spouses 194

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA AT ANCHORAGE

NOTICE TO ABSENT SPOUSE

Notice to Creditors 193

NOTICE TO CREDITORS

NOTICE IS HEREBY GIVEN that the undersigned, GLENN M. McKEE is the personal representative of the above named estate. All persons having claims against the said deceased are required to present their claims within four months

Pub. Sept. 29, Oct. 6, 13, 20, 1982

RITE BODIES

NION

ill hold their Fall
23rd, 1982, in the

0 and 7:00 p.m.
2nd
e 4th. to the 32nd.
r 22nd and 23rd

Ball will be held
at 7:00 p.m. Tick-
e music for your
their friends invit-

7 or 274-8051


Capital Facts:
2. WHAT IS THE CONDITION OF GOVERNMENT OFFICES IN JUNEAU?
During the last eight years, two major office buildings within a block of the Capitol Building have been built by the state. These state-owned buildings have been supplemented more recently by privately constructed office complexes in the downtown area. The Capitol Building itself, although showing normal signs of age after 50 years of service, has been restored and modernized almost completely.
Some advertisements have claimed that office space in Juneau is "horrible." Now that you know the facts, you decide.




Save Time on Refills
Your time is valuabl
When you need a presc
refill, simply call ahea
the necessary informa
We can contact your d
and have your prescri
waiting for you.
The Pay 'n Save phar
The better part of an
RAINBOW CRE
QUILTING
• Each kit contains polye
with a special inter loc
100% polyester battin

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

JUNEAU CITY-BOROUGH ASSEMBLY MEETING
JUNEAU CITY CITY-BOROUGH ASSEMBLY CHAMBERS
FEBRUARY 1, 1984

(Considering construction of new Legislative Assembly Hall.)

Meeting called to order by Mayor Ulmer; brief introductory remarks.

First order of business: new Legislative Hall.

City Manager Teague: Staff has been "working with certain people at the state level" in planning efforts, etc.

Mr. Sam Granberg Financial Consultant of Seattle Northwest Securities, Investment Bankers:

"Good to be here after the third try" (note: at least one failure due to weather). "Want to avoid legal and political problems as much as possible; avoid financial exposure for Juneau. Noted that bond underwriters will have major concerns about possible legal problems. Reference to January 6th letter regarding financial services. Listed some services:

Development of lease;
agreement between city/borough and state;
pricing arrangements;
selection of underwriter.

Reference to January 25th letter listing areas of concern for contracts. noted that underwriter needs to be selected immediately and Requests For Proposals (RFP's) should be sent soon.

Lease would involve the Juneau Assembly and "certain state agencies."

Granberg noted that Juneau assumes essentially no risk for his services, as his fees were contingent on the bond sale.

John Scribner, Deputy Commissioner, DOT/PF: Noted three areas/phases of concern.

1. Obtaining land
2. Design
3. Construction

Land: Legislature appropriated $4.5 million last session for land acquisition for this project. Work on acquisition began in July; Telephone Hill site was selected. There are a total of 12 or 13 properties; one being contested on main footprint and one on the rim. People contesting only want more money. Land acquisition is on track.

Design: Have gone nationwide for RFP's and have received 12 responses; all from top architectural firms. These have been narrowed to 5, and are preparing to hold a design competition. This will begin this month and take about 5 weeks. A jury will then select a firm. Noted they have an advisor on the staff with State Department (DOT?) experience. By the end of March, they should have the design consultant, and design of the project will take about a year. Construction will be in 2 phases: site work and building construction.

Site work will begin late fall this year, and final construction will begin spring/summer 1985 and take about 2 years.

For planning and design work, Scribner noted that part of the $4.5 million land acquisition money could be used for desin and that they can use other planning funds available to the State. Stated they have enough design money to continue to late fall (this year.)

Bond Counsel Don Holmar (Attorney from law firm specializing in bonds): Noted they have "been working for some period of time"; have enough drafts of: land lease, facility, construction contract.

Noted that Juneau would "act as a conduit for finances, since the State can't obtain them without a statewide vote." Cautioned that leases and contracts "have to be structured very carefully so courts won't interpret the arrangement as a state debt." Noted that "city would, in effect, loan their bonding authority to the state." Stated that one area of concern was whether bonds could be marketed with a "subject to legislative appropriation" clause standard in current state lease contracts. The lease would have to be constructed so that courts would not construe it as a subterfuge to get around constitutional provisions for legislative appropriations. Stated that he believes they can be properly structured in this regard. Commented on the possibility of litigation; noted they might advise bringing a test suit at the appropriate time.

Said, "risks were extremely small to Juneau; the state will act as Juneau's agent and assume obligations and risks; provide defense against court suits, etc." Advised that an underwriter was needed immediately so that "underwriter and state can make decisions" before doing much more. Recommended revenue bonds be utilized as they are a cheaper means than certificates of participation. Mr. Holman completed his prepared testimony by stating that the total security of the project would be tied to the state's credit.

An assemblyperson: asked for an explanation of what a bond counsel and an underwriter do.

Holman responded that a bond counsel is an attorney who specializes in bonds, and that an underwriter is an investment banker who watches bond market and markets bonds.

Assemblyman Poor: asked if the Legislature didn't have to act; stating he thought legislative approval was needed for leases of over $12,000. Holman responded that the Legislature has traditionally made lump sum appropriations for leases and the task is to structure arrangements so legislative approval was not required for this concern.

Mayor Ulmer noted that there were numerous precedents for the state leasing property, and that most state offices at present are leased.

Another assemblyman asked whether Holman had looked at the lease arrangement for the new state office building planned for Anchorage. Holman said yes, but noted that the arrangement was different as private capital was being used to develop it.

In answering another question from Assembly members, Holman stated that the bonds to be sold would have to disclose the political situation. He, also, noted that they would need the lease signed before they could market the bonds. He said the best time for this is immediately after receiving bids for construction.

One public (?) person (unknown) testified urging that two underwriters be used instead of one, with one specializing in retail bonds, and one in institutional bonds. He stated that bond sales were now about 70 percent retail and 30 percent institutional, where a few years ago, it was 60/40 institutional/public.

Assembly unanimously passed resolutions to press ahead with obtaining an underwriter; voted $10,000 for "out of pocket" incidental expenses.

Position Paper
HB 494

This bill impacts the operations of the Department of Administration in that elections would be required prior to leasing space for the Governor's office. The Governor's office presently has ten leases in various locations in the state. There would have to be an election prior to renewing or replacing these leases.

The department is opposed to this bill as it would unnecessarily cause restrictions and delays in day-to-day operations and would make space management excessively complex.

Robert J. Link
Director
Division of General Services & Supply
Department of Administration

1/26/84
Date

Commissioner Lisa Rudd
Department of Administration

1/26/84
Date

16/11D3/0124-03

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: , 1984

REQUEST
Bill/Resolution No.: HB 494
Title: Lease or construction of State facilities.
Sponsor: Liska
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Leasing and and Facilities - General Services & Supply
BRU, Program or Subprogram(s) Affected: Leasing and Facilities

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0
POSITIONS:	0	0	0	0	0	0
FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Robert Link Phone: 465-2250
Division: General Services & Supply Date: 2/1/84

Approved by Commissioner: Lisa Rudd Date: 2/3/84
Agency: DEPARTMENT OF ADMINISTRATION

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

7/711FI/0201-03A

Prepared by Division of General Services & Supply
Department of Administration
Date: February 1, 1984

This bill would require an election prior to leasing or constructing offices for the Governor or the Governor's immediate staff. This fiscal note reflects only the impact on Department of Administration. It does not address the impact on the Division of Elections.

7/11FL/0201-03-2

COMMITTEES
Vice Chairman — Judiciary
Vice Chairman — Legislative Regulations Review
Resources
Finance Sub Committee on Labor

Alaska State Legislature

While in Session
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3733

Home · District 15
Star Route Box 421
Eagle River, Alaska 99577
(907) 688-2526

House of Representatives

John J. Liska

MEMORANDUM

February 3, 1984

FROM: Representative John J. Liska

REF: HB 494, "An Act relating to lease or construction of the state office facilities used for a state capital; and providing for an effective date.

1. The purpose of this act is to require any major changes in the housing of the State Capital, to go before the Voters of the State of Alaska.

2. The following is submitted for your consideration:

   a. Representative's Speech.

   b. Copy of HB 494.

   c. Copy of City of Juneau Resolution to build a new capital.

   d. State of Alaska Dept. of Transportation invitation to negotiate a professional services for the design of the Alaska Legislative Hall.

   e. Partial Report of studies of the New Capital site planning commission - State of Alaska.

   f. News clippings.

JJL/tm

FEBRUARY 2, 1984

THE PURPOSE OF THIS ACT IS TO REQUIRE ANY MAJOR CHANGES IN THE HOUSING OF THE STATE CAPITAL, TO GO BEFORE THE VOTERS OF THE STATE OF ALASKA.

I AM GENUINELY CONCERNED ABOUT A NEW CAPITOL BEING BUILT - WHETHER IN JUNEAU OR ANYWHERE ELSE IN THE STATE - WITHOUT THE VOTERS APPROVAL.

I HAVE HERE A COPY OF THE VOTERS PAMPHLET.
IN NOVEMBER 1982 WE DIDN'T VOTE ON WHETHER OR NOT TO BUILD A NEW CAPITOL - WE VOTED SPECIFICALLY ON WHETHER IF WE SHOULD SPEND $2,843,147,000 ON A NEW STATE CAPITOL AT WILLOW, ALASKA.

WHO HAS ASKED FOR A NEW CAPITOL?
I HAVE NOT SEEN ONE PETITION OR ONE LETTER FROM A CONSTITUENT TELLING US WE NEED TO BUILD A NEW CAPITOL.

WHO SAYS WE ARE BUILDING A NEW STATE CAPITOL?

THERE IS NO DOUBT IN MY MIND THERE ARE PLANS AFOOT TO BUILD A NEW CAPITOL.

IN AN INTERVIEW BETWEEN MARY LOU SPARTZ AND GOV. SHEFFIELD THE NEW LEGISLATIVE HALL IS REFERRED TO AS A NEW CAPITOL AND I CAN QUOTE FROM THAT INTERVIEW "GETTING THE LEGISLATIVE HALL BUILT, A NEW CAPITOL, WILL BE UP TO THE MUNICIPALITY OF JUNEAU TO GET IT FINANCED. SHEFFIELD

IS GOING FORWARD WITH THE IDEA OF LEASING THE FACILITY FROM THE MUNICIPALITY ON A LONG TERM BASIS.

SHEFFIELD SAID, "WE HAVE ENOUGH MONEY FROM LAST YEAR TO SECURE THE LAND ON THE HILLSIDE FOR THE BUILDING - AS WE SEE IT NOW THE CITY AND BOROUGH OF JUNEAU WILL FINANCE THE BUILDING - AND SO WE DON'T NEED ANY MORE MONEY - THEY WILL FUND AND BUILD THE BUILDING AND THE STATE WILL LEASE THE BUILDING ON A LONG TERM LEASE WITH OPTION TO PURCHASE.

SURE SOUNDS LIKE A NEW CAPITAL TO ME - HERE IS THE TAPE IF YOU ARE INTERESTED IN PLAYING IT.

I HAVE IN FRONT OF ME A COPY OF RESOLUTION # 972 FROM THE CITY AND BOROUGH OF JUNEAU INTRODUCED 8/18/83.

THE FIRST LINE STATES, "IN 1982 THE PEOPLE OF ALASKA AFFIRMED THAT JUNEAU IS THEIR CAPITAL CITY".

I MUST REPEAT, I DON'T FEEL THAT IS WHAT WAS VOTED ON IN 1982.

THE SECOND LINE SAYS, "THE FORMER FEDERAL AND TERRITORIAL BUILDING NOW SERVING AS ALASKA'S CAPITOL IS NO LONGER ADEQUATE TO SERVE OR REPRESENT THE LEGISLATURE AND PEOPLE OF ALASKA".

I MUST ASK WHO MADE THESE DETERMINATIONS? SURELY NOT MY CONSTITUENTS!

PARAGRAPH NO 4 RELATES TO A VOTE TAKEN ON MAY, 1960 - THAT IS 24 YEARS AGO! HOW MANY OF THE CURRENT RESIDENTS HAVE LIVED IN JUNEAU FOR 24 YEARS?

THEY DON'T EVEN SEEM TO WANT THE JUNEAU FOLKS TO VOTE ON WHETHER THEY WANT THE CAPITOL ON TELEPHONE HILL OF IF THEY WANT SOMETHING ELSE IN THAT LOCATION. THIS ENTIRE RESOLUTION REPEATEDLY REFERS TO "A NEW CAPITOL"

IS THERE ANY DOUBT AS TO WHAT IS BEING BUILT?

AND LASTLY, THE PROJECT IS REPEATEDLY REFERRED TO AS A "NEW CAPITOL" IN THIS RESOLUTION.

IN A RECENT JUNEAU NEWS ARTICLE, SENATOR RAY REFERRED TO THE "MORE RABID CAPITOL MOVERS". I DON'T KNOW WHO THIS IS REFERRING TO BUT I, FOR ONE, DO NOT AGREE AS HE DOES THAT "IT'S AN ISSUE THE PEOPLE VOTED TO PUT TO REST".

CLEARLY IF THERE ARE ANY DESIGNS ON BUILDING A NEW CAPITOL, SENATOR RAY AND THE CITY AND BOROUGH OF JUNEAU HAVE BEEN CAUGHT WITH THEIR HANDS, ELBOW DEEP IN THE PORK BARREL. WHICH ELECTED OFFICIALS ARE IN THERE HELPING THEM!

I WOULD LIKE TO HEAR HOW THE VOTERS FEEL -

1. DO YOU WANT A NEW CAPITOL?

2. WHERE DO YOU WANT A NEW CAPITOL?

3. HOW MUCH MONEY SHOULD BE SPENT ON A NEW CAPITOL?

I DO FEEL IF THE NEW CAPITOL IS BUILT IN JUNEAU THE REMAINDER OF THE STATE WILL GO ON RECEIVING THE "RAY AND KERTTULA STYLE OF POLITICS", WHICH GAVE US ONE SENATOR CONVICTED OF BRIBERY AND ANOTHER SENATOR WHO IS CURRENTLY UNDER CONSIDERATION FOR PROSECUTION OF MISUSE OF HIS LEGISLATIVE INFLUENCE.

IS THIS WHAT THE STATE REALLY WANTS - A GOVERNMENT NOT ACCESSIBLE TO THE PEOPLE AND QUITE OFTEN NOT REPRESENTATIVE OF THE VOTERS OF THE STATE?

MY SECOND AREA OF CONCERN IS ONE I SHARE WITH MANY OTHERS HERE IN THE HOUSE AND OVER IN THE SENATE.

THE ADMINISTRATION IS APPARENTLY ABLE TO ENTER INTO LONG TERM LEASE AGREEMENT - WITHOUT LEGISLATIVE APPROVAL.

THE RESULT BECOMES A BY PASS OF THE LEGISLATIVE PROCESS.

BY ELIMINATING THE PROCESS OF GOING TO THE LEGISLATURE FOR APPROPRIATIONS FOR MAJOR PROJECTS - PUBLIC INPUT IS ELIMINATED AND THE

STATE CAN BE COMMITTED TO PAY EXPENSIVE LEASE AGREEMENTS FOR SEVERAL YEARS.

MANY OF US IN THE HOUSE WOULD LIKE TO SEE THE ISSUE DISCUSSED - BECAUSE WE FEEL THE PUBLIC WANTS SOME ACCOUNTABILITY ABOUT HOW PUBLIC FUNDS ARE SPENT IN THIS AREA.

IT APPEARS A SIGNIFICANT AMOUNT OF MONEY IS BEING COMMITTED BY ADMINISTRATIONS LEASING PRACTICES AND WE FEEL THIS DESERVES PUBLIC DEBATE.

THIS BILL IS A STEP IN MAKING THE STATE ACCOUNTABLE TO THE PUBLIC ON HOW A LARGE AMOUNT OF MONEY WILL BE SPENT.

BALLOT MEASURE NO. 8 (cont.)

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

The FRANK Initiative was amended by the Legislature in 1981 to permit the expenditure of state money for the relocation of the state capital from its present location to the new capital site at Willow only if a majority of those voting at the 1982 General Election on a proposition relating to the relocation of the state capital approve a ballot proposition that includes the total cost to the State of providing for the relocation of a functional state capital at the new capital site at Willow.

The 1981 law further provides that if the ballot proposition is adopted by a majority of those voting on the proposition, then the State shall relocate the capital and to achieve that goal may expend an amount equal to the estimate of the total costs of relocating the Capital as determined by the New Capital Site Planning Commission. If the ballot proposition is rejected by a majority of those voting on the proposition, then the Capital remains in Juneau and the following laws are repealed: the Capital Relocation Initiative; the "FRANK Initiative" as amended; the laws establishing the New Capital Site Planning Commission; and the Relocation Indemnification Act.

The law provides that the New Capital Site Planning Commission will prepare a report on a number of issues specified in the law. The issues and the results of the study on these issues by the Commission are:

(1) the estimated total cost to the State through 1994 of providing for the relocation of a functional state capital at the new capital site at Willow: $2,843,147,000;

(2) the amount of the total cost that the Commission estimates may be defrayed from the net proceeds from disposal of land in the new capital site at Willow: $384,122,000;

(3) the estimated cost, through the relocation completion date, of providing for new or expanded facilities in Juneau and Anchorage to accommodate estimated growth in state government if the Capital is not relocated: $341,741,000;

(4) an estimate of the number of central state employees who are reasonably expected to be relocated from existing locations to the new capital site at Willow by the relocation completion date:

from Anchorage	1,092 employees
from Fairbanks	6 employees
from Juneau	2,832 employees

(5) an estimate of the population reasonably expected to reside at the new capital site at Willow on the relocation completion date of 1994: 15,000 persons

(6) the estimated total cost to the State of providing for the relocation of the Capital at the new capital site at Willow through the completion date of 1994 includes the following components:

(A) the cost to the State of capital improvements in the new capital site at Willow: $1,286,327,000;

(B) the cost to the State of relocation of employees, dependents, and households to the new capital site at Willow: $ 44,875,000;

(C) the cost to the State of relocation of equipment and office contents to the new capital site at Willow: $ 1,894,000;

(D) the cost to the State of indemnification of Juneau residents under the Relocation Indemnification Act: $ 589,323,000;

(E) other costs to the State, including financing costs, subsidies, and payments deferred beyond the relocation completion date of 1994: $ 920,728,000

On the ballot, a vote "YES" adopts the proposition and a vote "NO" rejects the proposition.

Presented by: The Manager
Introduced: 08/18/83
Drafted by: J.R.C.

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 972

A RESOLUTION IDENTIFYING TELEPHONE HILL AS AN AREA SUITABLE FOR THE PROPOSED LEGISLATIVE HALL.

WHEREAS, in 1982 the people of Alaska affirmed that Juneau is their capital city, and

WHEREAS, the former Federal and Territorial Building, now serving as Alaska's capitol, is no longer adequate to serve or represent the legislature and people of Alaska, and

WHEREAS, the Telephone Hill area, generally bounded by Main Street, Egan Drive and Willoughby Avenue is adjacent to existing government buildings, dominates the geography of downtown Juneau, and features a noble view of Gastineau Channel and Admiralty Island, and

WHEREAS, on May 10, 1960 pursuant to City of Juneau Resolution No. 49, the people of Juneau voted at a ratio of 7 to 1 in favor of acquiring Telephone Hill for the purpose of constructing a capitol which, in the words of the ballot proposition, would be "convenient in location, adequate in size, and practical in operating economy", and

WHEREAS, Telephone Hill presents the best available balance between benefits to the public and the inevitable damages to individuals caused by construction of a capitol center at any useful location in Juneau, and

WHEREAS, the current and proposed comprehensive plans of the City and Borough of Juneau designate Telephone Hill as the site for a new capitol center;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

1. That the area known as Telephone Hill is identified as the best site for construction of a new capitol and related state offices.

2. That the governor and legislature of the State of Alaska are urged to proceed with all deliberate speed in the acquisition and development of said area.

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

Division of Design & Construction, Buildings Section
Southeast Region

INVITATION FOR STATEMENT OF INTEREST FOR PROFESSIONAL PLANNING SERVICES

ALASKA LEGISLATIVE HALL

The State of Alaska, Department of Transportation and Public Facilities, Division of Design & Construction, Buildings Section, Southeast Region, intends to negotiate a Professional Services Agreement for the purpose of performing a site analysis to determine an optimum site, developing detailed architectural and engineering programs and establishing a design determinants statement for the Alaska Legislative Hall.

It is anticipated that the building will be in excess of 100,000 square feet and will house the Legislature, the Governor's Office, and other related functions.

Work elements which may be required are:

1. DETERMINATION OF THE OPTIMUM LEGISLATIVE HALL SITE

   A. The optimum site analysis shall take into consideration the site configuration, topography, view potential, solar exposure, wind exposure, public access, access to services, facilities access, National Historic Register properties, community enhancement and assimilation, and site preparation costs. A minimum of three sites have been identified. Additional sites may be identified by the State or the Consultant.

   B. The Consultants findings shall be summarized in a "Site Selection Report". The Report shall include but not limited to the following information: Number of sites investigated; an analytical and written description of each site; a summary lending to the selection of the optimum site; maps; and photos.

2. DEVELOPMENT OF DETAILED ARCHITECTURAL AND ENGINEERING PROGRAMS

   A. Discussion of design standards and guidelines applicable to the project;

   B. Recommendations for design of specialized component spaces;

   C. Detailed listing of all spatial requirements and recommendations, including exterior spaces and grounds, and their relationships to one another (by bubble and adjacency diagrams);

   D. Detailed requirements and recommendations for all environmental systems (including HVAC systems and their controls), electrical

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

EXPRESSION OF INTEREST
QUESTIONNAIRE

(PART A)

PROJECT NUMBER: R-10181 PROJECT TITLE: Alaska Legislative Hall Facility Design

CONTRACTING AGENCY: Department of Transportation and Public Facilities, Division of Design and Construction, S. E. Region, Buildings Section

EVALUATION COMMITTEE CHAIRPERSON AND PHONE NO: Neil L. Atkinson (907) 364-4314

THE PURPOSE OF THIS QUESTIONNAIRE IS TO ENABLE THE CONTRACTING AGENCY TO MAKE A FAIR EVALUATION OF CAPABILITIES FOR PROVIDING SPECIFIC PROFESSIONAL OR SPECIALITY SERVICES RESULTING IN A SHORT LIST OF FIRMS TO BE CONSIDERED FOR CONTRACT NEGOTIATIONS IN THE ORDER LISTED AND/OR FROM WHICH TECHNICAL AND/OR PRICED PROPOSALS MAY BE SOLICITED.

STANDARD INFORMATION AND INSTRUCTIONS ARE CONTAINED IN PART A AND CONTRACT SPECIFIC QUESTIONS IN PART B.

SUMMARY OF PROJECT AND TYPES OF SERVICES REQUIRED: The State of Alaska intends to negotiate a Professional Services Agreement for the purpose of obtaining the full range of Architectural and Engineering Services for the design of the Alaska Legislative Hall. Current program documents have identified space requirements of 200,000 to 250,000 square feet.

ANTICIPATED PERIOD OF CONTRACT PERFORMANCE: December 15, 1983 thru December 31, 1987

FUNDING (ONE SIGNIFICANT FIGURE): $ 2,500,000.00

FUNDING SOURCE: 24-88-3-685

SUBMITTAL DEADLINE (MONTH, DAY, YEAR, PREVAILING TIME): September 30, 1983, 5:00PM

SUBMIT TO (ADDRESS): Neil L. Atkinson, Design Manager
Division of Design & Construction, Buildings Section
P. O. Box 1467
Juneau, Alaska 99802

NUMBER OF COPIES REQUIRED: 6 SUBMITTALS WILL NOT BE RETURNED TO CONTRACTORS.

APPROXIMATE DATE SHORT LIST WILL BE MAILED TO ALL RESPONDENTS: October 15, 1983

TECHNICAL PROPOSALS ( ) WILL (XX) WILL NOT BE SOLICITED. PRICED PROPOSALS ( ) WILL (XX) WILL NOT BE SOLICITED.

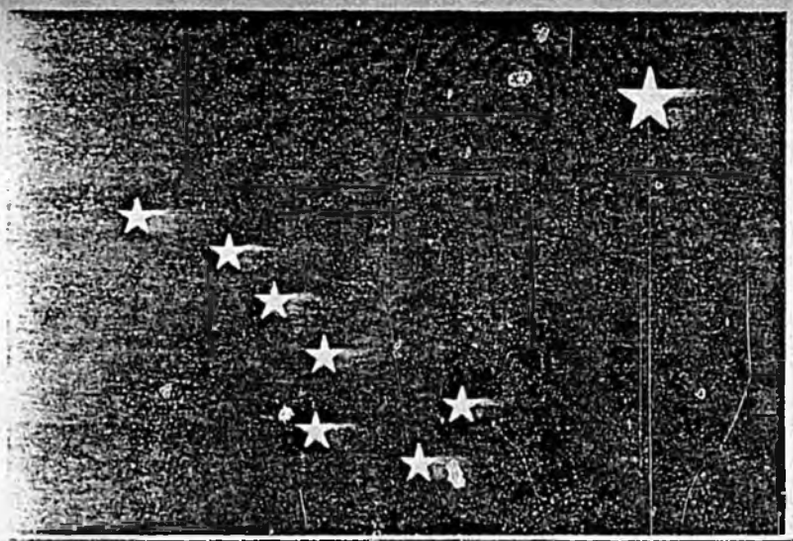
AFFIRMATIVE ACTION REQUIREMENTS ( ) ARE (XX) ARE NOT ATTACHED, FOR: ( ) EQUAL EMPLOYMENT OPPORTUNITY, ( ) FEMALE BUSINESS ENTERPRISES, ( ) MINORITY BUSINESS ENTERPRISES.

AS 36.10.010 (XX) DOES ( ) DOES NOT APPLY TO THIS CONTRACT. IF APPLICABLE, NINETY PERCENT ALASKA RESIDENTS SHALL BE EMPLOYED UNDER THE CONTRACT WHERE THEY ARE AVAILABLE AND QUALIFIED (NINETY-FIVE PERCENT IF MORE THAN TEN PERSONS EMPLOYED). FIRMS WHICH CANNOT COMPLY MUST BE DISQUALIFIED.

PROFESSIONAL LIABILITY INSURANCE WILL BE REQUIRED IN THE AMOUNT OF $

FAILURE TO HAVE OR OBTAIN SUCH INSURANCE AT NO DIRECT EXPENSE TO THE CONTRACTING AGENCY SHALL PRECLUDE EXECUTION OF A CONTRACT.

(OVER)



PLANS, COSTS AND IMPACTS

Relating to Relocation of The State Capital



STUDIES OF THE NEW CAPITAL SITE PLANNING COMMISSION
STATE OF ALASKA

1982

The No-Move Case

The Commission also prepared a "plan" or set of development assumptions for expansion in government in Juneau and Anchorage through the relocation completion date, if the capital is not moved. This is referred to as the "No-Move" case or study, and is documented in Technical Report No. 7. The cost figure identified as the "No-Move cost" in Chapter 3 is based upon the assumptions on pages 28 and 29. The Commission did not, however, estimate the total costs to the state if the capital remains in Juneau. Additional improvements and repairs to existing buildings--also discussed in Technical Report No. 7--would probably be necessary; but the 1981 legislation does not call for these costs to be included on the ballot proposition.

The No-Move case summarized below addresses government expansion in both Juneau and Anchorage. It uses the same assumptions for government growth and for employee space requirements which are used for the Move case. It also identifies other public facilities necessary to serve an expanded population created by government growth. Schools, libraries, roads, airport and utility improvements are examples of public facilities for which some state funding is expected.

Also summarized are the improvements to existing buildings which would probably be necessary if the capital remains in Juneau.

Anchorage facility improvements	New elementary school Junior high school expansion High school expansion Parks additions Library expansion	
Housing to receive AHFC mortgage financing	Juneau	878 units
	Anchorage	510 units
	TOTAL	1388 units

Additional Improvements in Juneau if Capital is Not Moved
(NOT included in No-Move cost estimates)
(For detail, see Technical Report No. 7)

Possible additional improvements not related to expansion--not included in No-Move costs:	
Current space shortage	23,000 square feet*
New office space to replace some state and leased buildings	191,000 square feet
New special facilities	119,000 square feet
Total net space to construct	333,000 square feet
Space to remodel	196,000 square feet

*All square footage requirements rounded

The Commission estimates that completion of relocation of a functional state capital at the Willow capital site will total 2.84 billion dollars in escalated state costs by 1994. About $384 million of this cost may be defrayed by sale of land by 1994.

The estimated state cost of the No-Move case totals about $342 million (escalated) during the same period (this figure does not include additional costs which would be likely for improvements to existing space in Juneau).

Figure 13 Total State Cost Estimates

(In Thousands of Escalated Dollars)

COST COMPONENT	NEW CAPITAL CITY	"NO-MOVE"		
		Juneau	Anchorage	Total
Construction Cost				
Basic Construction	$1,220,889			
Construction Administration	63,192			
Planning, Permits, etc.	2,246			
Sub-total	$1,286,327	43,903	37,478	81,381
Financing				
Interest	$ 440,484	31,564	26,945	58,509
Bond Costs	18,380	1,317	1,124	2,441
Municipal Surplus	(13,549)			
Enterprise Surplus	(29,280)			
Leases and Sale of Assets	(69,074)	91,756		91,756
Sub-total	$ 346,961	124,637	28,069	152,706
Other State Programs				
Municipal Grants		16,053	11,719	27,772
AHFC Subsidies	$ 198,875	25,381	13,924	39,305
ASHA Assistance	5,631			
School Construction	369,261	10,914	29,663	40,577
Sub-total	$ 573,767	52,348	55,306	107,654
Indemnification/Relocation				
Indemnification	$ 589,323			
Relocation	46,769			
Sub-total	$ 636,092			
Opportunity Cost	0			
TOTAL COST	**$2,843,147**	$220,888	$120,853	$341,741
Net Land Sale Proceeds				
Sales Revenues	$ 402,371			
Less Sales Cost	(18,249)			
Sub-total	$ 384,122			
Less Current Value	0			
Total	$ 384,122			

Legislative move bill criticized

Feb 1st, 1984
Juneau Emp.

By DEBBIE REINWAND ROSE
The Juneau Empire

House and Senate lawmakers, anxious to restore harmony and "their tarnished image" among the public, will deal themselves a negative blow by promoting a measure to move the Legisature to Anchorage, Sen. Bill Ray, D-Juneau, said today.

"The majority of the people in this state voted against the capital move in 1982 and realize full well this is a back-door attempt," said Ray. "They do not appreciate such shenanigans by their elected officials. It seems to me that those who are trying to restore their image will only succeed in blowing it apart."

The senator's remarks were in response to a Tuesday subcommittee meeting of the Anchorage caucus where House and Senate lawmakers met to discuss their position on a bill to relocate the Legislature to Anchorage.

"Some of the people in my district are tired of us getting pushed around by two or three Juneau legislators and they tell me to stand up for my district. They tell me Bill Ray isn't writing the capital budget or legislation for Anchorage," said bill sponsor Rep. Mike Szymanski, D-Anchorage.

During the 45-minute meeting, Ray's name was mentioned often as subcommittee chairman Rep. Jerry Ward, R-Anchorage, threatened to block Juneau capital projects in order to force Senate agreement with the legislative move bills.

"Sen. Ray's gonna have to come over to the House for his projects — for the jetfoil ... I know how to play the game," said Ward.

Ray agreed a strong push by Anchorage legislators could hurt the Juneau capital

Continued on Page 12

Move...

Continued from Page 1

budget, but argued the members are taking the wrong approach by threatening Senate members who are against the move.

"Naturally with the sheer numbers of the Anchorage delegation, they could make it very uncomfortable for the smaller districts, but I feel sure that good sense will prevail in some of the more rabid capital movers," said Ray.

"Their approach to this whole issue reminds me of the man and his wife who get in a fight, then one of them runs across the street and sets fire to the neighbor's house," said the senator. "This only promotes dissension in the Legislature and it's an issue the people voted to put to rest."

At the close of last session, Szymanski introduced a bill to make Anchorage the Legislature's home. That measure garnered little public support during the interim when the House conducted hearings on the bill.

His most recent bill would house the Legislature in a new state office building planned for construction in Anchorage. That move would take place in 1987.

The House State Affairs Committee has planned teleconference hearings in Anchorage Saturday on the Szymanski legislation and, the Anchorage caucus' Move the Legislature subcommittee said it will wait until after those hearings to make recommendations on the bill.

Assembly considers financing new hall

Feb. 2, 1984 Juneau Emp.

By DEBBIE REINWAND ROSE
The Juneau Empire

The Juneau City-Borough and its advisers have begun laying the groundwork for possible municipal funding for a new capitol on Telephone Hill, but it won't be easy, the assembly was told Wednesday night.

A representative of Seattle Northwest Securities Corp. outlined to assembly members the steps city-borough and state officials will have to take if the proposed hall is to become a reality.

"We're here to help the city avoid any legal problems and any political problems that might be associated with this," said Seattle Northwest Vice President Sam Granberg. The firm has been advising the city on financial matters since 1971.

The first step for the city will be hammering out a lease with the state and bringing on board a team of bond underwriters who will begin working on a bond proposal to secure financing for the hall, he said.

In order to market the bonds, city officials will need to have a lease in hand, but will "not necessarily" be required to have the hall's final design complete, except as a guide for the amount of money needed, said Granberg.

A design competition among five architectural firms will begin later this month, and a winner will be declared near the end of March, said Transportation Department Deputy Commissioner Jon Scribner.

The firm selected for the project will then have a year to design the new capitol.

Construction will be in two phases, Scribner said, with site preparation taking place this fall and the construction contract slated to be awarded in the spring or summer of 1985.

Barring any unforeseen delays, the hall would be ready for its tenants — the Legislature and governor — sometime in 1987.

There are several potential legal problems that city officials could face, however, said Don Holman of the law firm Preston, Thorgrimson, Ellis and Holman.

Among the problems is the question of "whether an underwriter would want to market bonds with the possibility of the state" changing its mind on leasing the structure due to a possible capital move threat, said Holman.

There is also the potential for legal challenge of the planned city-state lease, Holman told the assembly, as well as the possibility the Legislature would have to approve any lease over $12,000 per year.

"However, it's our opinion that the executive branch has the authority to enter into the transaction," said Holman.

Currently, over half of all state office space in Anchorage, Fairbanks and Juneau is leased by the state, Mayor Fran Ulmer said.

"This is very similar to the construction

Continued on Page 14

Assembly

Continued from Page 1

and financing of the state office building in Anchorage by the private sector," she said. "The difference is the city is financing this operation."

The city of Juneau will be acting as a "conduit" for the financing, and under provisions proposed by legal advisers, would not be liable should the lease go into default, Holman said.

Anchorage Times
1-18-84

Juneau to pay for Capitol building

by Andy Ryan
Times Juneau Bureau

Juneau — Gov. Bill Sheffield said Tuesday his administration will not seek funds to build a new state Capitol building in Juneau.

There is plenty of money remaining in the state's 1984 construction budget, he said, to buy land for the building in downtown Juneau.

The state is in the process of acquiring about five acres for the building on Juneau's Telephone Hill, two blocks from the current Capitol.

Lawmakers appropriated $4.5 million last year as start-up money for the planned $60 million, 250,000-square-foot building.

"As we see it now, the city and borough of Juneau will finance the (construction of the) building, and we don't need any more (money)," Sheffield said at his weekly press conference.

He said plans call for the state to lease the new Capitol building from the city.

On another subject, Sheffield said the administration probably will not push the legislature to write a new longevity bonus program this session.

The governor said he has become increasingly confident that the state Supreme Court will overturn last month's ruling by a Superior Court judge, who said the program is unconstitutional and must be ended.

Judge Walter Carpeneti on Friday issued a permanent stay of his order canceling the program. As a result, no action will be taken in the case until the administration's appeal has been decided by the Supreme Court.

Sheffield said Tuesday the appeal process could take as long as a year. He said he has become more and more confident the state will win the appeal.

"I don't think the jury's in on that yet," Sheffield said when asked if he would push the legislature to adopt a backup longevity program this session.

If the Supreme Court upholds Carpeneti's ruling, he said, he would consider calling a special session of the legislature to deal with that subject alone, or waiting for the next regularly-scheduled session of the lawmakers next January.

NOV 17 1983

The Anchorage Times

Editoria

Wayward senators

NOW IT COMES to light that the controversial effort to build a legislative hall at Juneau would not be going forward if two senators from Anchorage and one from Palmer had voted against it last June. They voted for it.

Sens. Vic Fischer and Joe Josephson of Anchorage and Jay Kertulla of Palmer voted against an amendment proposed by Sen. Rick Halford that would have killed the $4.5 million appropriation.

The three separated themselves from the rest of the Southcentral delegation. The other eight senators voted to kill the appropriation. They were: Jan Faiks, Paul Fischer, Ron Gilman, Halford, Tim Kelly, Fritz Pettyjohn, Pat Rodey and Arliss Sturgulewski.

Sen. Halford's amendment was defeated 8 to 12. If the three wayward senators had voted with the others, the amendment would have carried 11 to 9.

DURING DEBATE on Mr. Halford's amendment, Sen. Bill Ray was on his feet in opposition every time he had a chance. He had the temerity to tell the Senate that he was "not aware of any plan for a new legislative hall." And he vowed that he knew of all the plans there were.

It has become obvious since then that the project was one of Juneau's best-kept secrets. Twenty days after the legislature adjourned the state called for bids and set up a program that called for three reports to be completed within 124 days. The whole project was to be in the hands of the Department of Transportation.

Obviously, the 1984 legislature will be asked for more money because the building will cost almost $43 million.

Southcentral's 11 senators, whose constituencies have voted strongly in favor of relocating the state capital, should be expected to stand against the appropriation, but that requires a change in attitude of the three who were backsliders in 1983.

APPARENTLY Sen. Ray — who has been criticized in the past in these columns as having a view of Alaska extending only as far as he can see from the Juneau-Douglas bridge — is putting all his men and all his horses to work.

Even the attorney general is helping. He issued an opinion that applies innovative and amusing rationalization as a basis for declaring it legal for the state to build the legislative hall without further legislative action, despite the fact that the law says otherwise.

The opinion is so far out that the attorney general felt obligated to tack on an extraordinary paragraph at the end to caution state officials that the courts might overturn it.

That's [illegible] saying, "Go [illegible] your thing [illegible] law, [illegible] warned [illegible]

Position Paper
HB 494

This bill impacts the operations of the Department of Administration in that elections would be required prior to leasing space for the Governor's office. The Governor's office presently has ten leases in various locations in the state. There would have to be an election prior to renewing or replacing these leases.

The department is opposed to this bill as it would unnecessarily cause restrictions and delays in day-to-day operations and would make space management excessively complex.

Robert J. Link
Director
Division of General Services & Supply
Department of Administration

1/26/84
Date

Commissioner Lisa Rudd
Department of Administration

1/26/84
Date

16/11D3/0124-03

HB

498

MF

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST

Bill/Resolution No.: HB 498

Title: An act relating to Military Benefits

Sponsor: Fuller and Martin

Requestor:

Date of Request:

FISCAL DETAIL

Agency Affected: Dept. of Military Affairs

Program Category Affected: NGRS

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts		79.3	79.3	79.3	79.3	79.3
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	79.3	79.3	79.3	79.3	79.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund	-0-	79.3	79.3	79.3	79.3	79.3
Federal Funds						
Other						
Total						

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J K Humphreys J.K. Humphreys Phone: 465-4460

Division: Retirement & Benefits Date: 1-16-84

Approved by Commissioner: Lisa Rudd Date:

Agency: Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Fiscal Note/Admin 1/16/84

House Bill 498
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

January 16, 1984

IV Analysis: The passage of this bill will provide for a lump-sum death benefit in the Alaska National Guard and Alaska Naval Militia for those members having five or more years of service. The passage of this bill will increase the cost of the National Guard Retirement System by $79,309.00 each year over the next 25 years. The present value of the unfunded liability is $441,396.00.

Position Paper

HB 498

The passage of this bill would provide for a lump-sum death benefit in the Alaska National Guard and Alaska Naval Militia Retirement System (NGRS) for those members having five or more years of service. The Department of Administration, like the Department of Military Affairs, supports this bill. This bill would help to eleviate an inequity in the system without a substantial fiscal impact.

J. K. Humphreys 1/23/84

J.K. Humphreys, Director, Division of Retirement & Benefits Date

Lisa S Rudd 1/24/84

Lisa Rudd, Commissioner, Department of Administration Date

Position Paper/Admin 1/24/84

HB 496, (cont'd)

Does not provide for an effective date (becomes law 90 days following Governor's signature).

Introduced January 9 and referred to Health, Education & Social Services, Judiciary.

School Boards (labor negotiations)

HOUSE BILL NO. 497, by Rep. Flood. Amends current law relating to labor negotiations by school boards with certificated employees (AS 14.20.550) to read: "Each city, borough and regional school board, shall negotiate with its certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties, including class size, teacher load, and pupil-teacher ratios." (underlined language added by Flood's bill). Does not provide for an effective date (becomes effective 90 days following Governor's signature).

Introduced January 9 and referred to Labor & Commerce, Finance.

Military Retirement (benefits)

HOUSE BILL NO. 498, by Reps. Fuller and Martin. Amends section of the Military Code of Alaska relating to retirement benefits. Provides an active member of the Alaska National Guard, or a former member who was active on or after 1/1/69, or a member of the Alaska Naval Militia on or after July 1, 1980 is eligible for a retirement pension ". . . (2) upon involuntary separation [retirement] because of federal standards imposed on the Alaska National Guard or Alaska Naval Militia, regardless of length of service, unless the separation occurs as a result of the member's own misconduct, misrepresentation, or unwillingness to satisfy established standards for continued participation." (underlined language added, bracketed language deleted).

Also adds a new section relating to retirement benefits stating: "(e) Upon the death of an active member of the Alaska National Guard or Alaska Naval Militia, that member's designated beneficiary is entitled to a lump sum payment in accordance with (b) and (d) of this section if the member has served at least five years in the Alaska National Guard or Alaska Naval Militia or in a combination of these two components, but has served fewer than 20 years in the armed forces of the United States."

Provides Act takes effect July 1, 1984.

Introduced January 9 and referred to State Affairs, Finance.

Nat. Guard Retirement Benefits (amounts)

HOUSE BILL NO. 499, by Reps. Fuller and Martin. Would raise the retirment pension for Alaska National Guard and Naval Militia members to $200 a month, payable for the same number of months that the member participated satisfactorily. Adds language stating that the pension for a member who was an officer in the U.S. armed forces with a grade of 07 or above as of July 1, 1983, or who had 20 years or more of active duty service with the armed forces of the U.S. before June 2, 1983, is $100 a month, payable for the same number of months that the member participated satisfactorily in the Guard or Militia. Provides Act takes effect July 1, 1984.

Excerpt HB 498

DRAFT

PROPOSED CSHB 498

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

CS HOUSE BILL NO. 498

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to military retirement benefits."

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

* Section 1. AS 26.05.224(a)(2) is amended to read: (Same as Original Bill)

(2) upon involuntary separation [RETIREMENT] because of federal standards imposed on the Alaska National Guard or Alaska Naval Militia, regardless of length of service, unless the involuntary separation is the direct result of the member's own misconduct, misrepresentation, or unwillingness to satisfy known standards for continued participation.

* Sec. 2. AS 26.05.224(d) is amended to read: (Same provisions as original bill, but put into existing section(d))

(d) Upon the death of an active member who has at least five years' service in the Alaska National Guard or Alaska Naval Militia or a combination of these components, the member's designated beneficiary is entitled to a lump sum benefit calculated in accordance with (b) of this section. Upon the death of a former member who has at least 20 years' service, the former member's designated beneficiary is entitled to a lump sum benefit calculated in accordance with (b) of this section less any retirement benefits previously paid. [A RETIREMENT BENEFIT PAYABLE TO A MEMBER AT THE TIME OF THE DEATH OF THE MEMBER SHALL BE PAID IN A LUMP SUM TO THE DESIGNATED BENEFICIARY OF THE MEMBER.] The member may change or revoke the designation of a beneficiary without notice to the beneficiary at any time. If a member

beneficiary and a change or revocation of a beneficiary shall be made on a form provided by the Department of Military Affairs and is not effective until filed with the Department of Military Affairs. If a member fails to designate a beneficiary or if no designated beneficiary survives the member, the death benefit under this subsection shall be paid to that person's [HIS] estate.

HB

499

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

1 of 2

REQUEST
Bill/Resolution No.: HB 499
Title: "An act relating to the Alaska National Guard
Sponsor: Fuller
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Dept. of Military Affairs
Program Category Affected: NGRS
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	1,339.0	1,339.0	1,339.0	1,339.0	1,339.0
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	1,339.0	1,339.0	1,339.0	1,339.0	1,339.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund	-0-	1,339.0	1,339.0	1,339.0	1,339.0	1,339.0
Federal Funds						
Other						
Total						

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys J. K. Humphreys Phone: 465-4460
Division: Retirement & Benefits Date: 1-23-84

Approved by Commissioner: Lisa Rudd Date:
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

House Bill 499
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

IV Analysis: The passage of this bill would double the benefits provided under the Alaska National Guard and Alaska Naval Militia Retirement Systems. Correspondingly, this bill would double the current costs of the system by $1,339,963.00 per year for the next 25 years. The present value of the unfunded liability is $10,833,243.00.

Position Paper

HB 499

The passage of this bill would double the benefits provided under the Alaska National Guard and Alaska Naval Militia Retirement System (NGRS) and would approximately double the necessary contributions by the Department of Military Affairs. The Department of Administration maintains a neutral position on this bill. It is questionable whether the public purpose served would justify the large increase in employer contributions.

J. K. Humphreys 1/23/84

J.K. Humphreys, Director, Division of Retirement & Benefits Date

Lisa Rudd, Commissioner, Department of Administration Date

HB

503

Hein
2/9/84

Original sponsors: Uehling, Furnace,
Ringstad, et al

DRAFT

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 503 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Pioneers' Home."

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

* Section 1. AS 47.25.020(b) is amended to read:

(b) Every person admitted to the Pioneers' Home, except a person admitted under AS 47.25.030, who receives income from any source in excess of $100 per [$35 A] month may be required by the Department of Administration to pay the excess to the Department of Administration immediately upon receipt of the money in payment, or part payment, of the cost of the person's [HIS] maintenance.

* Sec. 2. AS 47.25.020(c) is amended to read:

(c) At the end of each month the payments made under (b) of this section shall be transmitted to the commissioner of revenue together with the names of the persons making them and the amount paid by each. The Department of Administration may pay [THE SUM OF $35 A MONTH] to a resident without funds the sum of $100 per month.

* Sec. 3. AS 47.25.030 is amended by adding new subsections to read:

(b) The Department of Administration shall adopt regulations establishing a daily or monthly rate for the compensation a resident is to be charged under (a) of this section. The commissioner of administration shall review the rate each year.

(c) The Department of Administration shall provide to all residents of the Pioneers' Home written notice of any proposed increase in the rate charged for care and support of persons at the home. Notice under this section shall be given not less than 60 days before an

before an increase is adopted. The notice shall include the time, date, and place of a hearing to be held by the Department of Administration under (d) of this section.

(d) Not less than 30 days before a proposed rate increase is adopted, the Department of Administration shall conduct a hearing at which interested persons shall be given the opportunity to submit written or oral testimony, statements, arguments or contentions relating to the proposed rate increase. The department shall consider all relevant matter presented to it before adopting a rate increase.

* Sec. 4. AS 47.25.070 is repealed and reenacted to read:

Sec. 47.25.070. INDEBTEDNESS OF PIONEERS' HOME RESIDENT TO STATE. (a) The following expenses incurred for a pioneers' home resident under AS 47.25.010 - 47.25.110 are a debt to the state and may be recovered during the life of the resident:

(1) costs of standard or nursing care provided in the Pioneers' Home each month to the resident not exceeding the rate established by the Department of Administration under AS 47.25.030, with credit given for any amounts paid by or collected from the resident;

(2) allowances paid under AS 47.25.020(c);

(3) costs of hospitalization and medical treatment provided outside the Pioneers' Home; LESS MEDICARE recovery,

(4) personal arrearages in fees for ~~personal~~ television and ~~personal~~ telephone services provided in the Pioneers' Home;

(5) prescription medicine; and

(6) burial and related expenses.

(b) The debt is a first, prior and preferred claim against the estate of the Pioneers' Home resident after the resident's death, and after all claims for food, clothing, fuel, shelter, medical aid, or

burial expenses are paid. Heirlooms without regard to value are exempt from a claim by the state under this section.

(c) Money left in charge of the Department of Administration by a deceased resident of the Pioneers' Home may be used for the burial and funeral expenses of the resident and for the improvement of the burial plot of the Pioneers' Home.

(d) The clothing and other personal effects left by a deceased Pioneers' Home resident may be used for the benefit of other residents, or may be given to relatives or to persons designated by the resident, or sold and the proceeds applied in the manner provided for money left by a deceased resident.

(e) In this section, "heirloom" means personal property of sentimental value to a Pioneers' Home resident that has been in the possession of the resident's family for 10 years or more or was a gift to the resident.

110 - and not recoverable from a collateral source or

CHAIRMAN
HOUSE SPECIAL COMMITTEE
ON STATE LOANS

VICE-CHAIRMAN
HOUSE RESOURCES COMMITTEE
HOUSE LABOR AND COMMERCE COMMITTEE

MEMBER
JOINT OIL & GAS COMMITTEE
HOUSE FINANCE SUBCOMMITTEE ON
ADMINISTRATION, REVENUE
AND THE GOVERNOR'S OFFICE

Alaska State Legislature

House of Representatives

Representative
RICK UEHLING

ANCHORAGE
DISTRICT 12-SEAT A

1634 JUNEAU DRIVE
ANCHORAGE, ALASKA 99501
(907) 274-4256

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4821

Date: February 10, 1984

To: Rep. Mitch Abood
Chair, State Affairs Committee

From: Rep. Rick Uehling

Subject: CS HB503 (State Affairs)

The Committee Substitute addresses the two major concerns of the original bill:

1. Raising the monthly allowance from $35.00 to $100.00.

2. Allows personal property of the resident to be passed on to the family in the event the resident incurrs a debt to the state. The Committee Substitute deletes the $10,000 exemption and replaces it with an exemption for heirlooms without regard to value, and defines heirlooms as personal property of sentimental value to a Pioneer resident that has been in the family for ten years or more, or was a gift to the resident.

Additionally, the Committee Substitute addresses several concerns of the Pioneer Home residents and attempts to clarify in statute, procedures for establishing and raising of rates, and specifies which expenses the state is allowed to recover as debts to the state. Furthermore, the Committee Substitute makes technical changes to clarify whom the statute pertains to. The Committee Substitute also addresses a request by the residents to allow them to designate a person, other than a relative, to handle their clothing and other personal effects after they are deceased.

Introduced: 1/10/84
Referred: State Affairs and Finance

70 - medicade rental agreement -

BY UEHLING, FURNACE, RINGSTAD AND BARNES

IN THE HOUSE

HOUSE BILL NO. 503

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to income, allowances and debts of residents of the Alaska Pioneers' Home."

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

17 Alaska Pioneer

* Section 1. AS 47.25.020(b) is amended to read:

(b) Every person admitted to the Pioneers' Home, except a person admitted under AS 47.25.030, who receives income from any source in excess of $100 per [$35 A] month may be required by the Department of Administration to pay the excess to the Department of Administration immediately upon receipt of the money in payment, or part payment, of the cost of the person's [HIS] maintenance.

* Sec. 2. AS 47.25.020(c) is amended to read:

(c) At the end of each month the payments made under (b) of this section shall be transmitted to the commissioner of revenue together with the names of the persons making them and the amount paid by each. The Department of Administration may pay the sum of $100 per [$35 A] month to a resident without funds. SUFFICIENT (Blankenship)

* Sec. 3. AS 47.25.070(a) is amended to read:

(a) An expense incurred for a person under AS 47.25.010 - 47.25. [WITH INTEREST AT A RATE OF SIX PERCENT A YEAR FROM DATE OF PAYMENT,] is a debt to the state and may be recovered during the life of the beneficiary. The debt is a first, prior and preferred claim against the estate of the beneficiary after the beneficiary's [HIS] death, and after all claims for food, clothing, fuel, shelter, medical aid or burial expenses are paid. Personal property of the beneficiary

Certain types of Pers Prop not monetary

having a total fair market value of not more than $10,000 is exempt from a claim by the state under this section.

CHAIRMAN
HOUSE SPECIAL COMMITTEE
ON STATE LOANS

VICE-CHAIRMAN
HOUSE RESOURCES COMMITTEE
HOUSE LABOR AND COMMERCE COMMITTEE

MEMBER
JOINT OIL & GAS COMMITTEE
HOUSE FINANCE SUBCOMMITTEE ON
ADMINISTRATION, REVENUE
AND THE GOVERNOR'S OFFICE

Alaska State Legislature

House of Representatives

Representative
RICK UEHLING

ANCHORAGE
DISTRICT 12-SEAT A
1634 JUNEAU DRIVE
ANCHORAGE, ALASKA 99501
(907) 274-4256

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4821

FILE COPY

Date: January 17, 1984

To: Representative Mitch Abood
Chairman, State Affairs Committee

From: Representative Rick Uehling

Subject: HB503 - An Act relating to income, allowances and debts of residents of the Alaska Pioneers' Home.

The purposes of HB503 are twofold:

During the last session the Legislature, in a letter of intent to last years' budget, required that the Department of Administration raise the fees charged to the residents of the Pioneer Home.

These rent increases were from $225.00 to $425.00 for regular residents and from $275.00 to $525.00 for residents who receive skilled nursing care.

At the time of the rent increase the residents met with members of the Legislature and representatives of the Department of Administration to request, first, that the increase be delayed, and secondly, that the amount of the monthly stipend (discretionary income) allowed residents be increased from $35.00 to $100.00.

Needless to say the rent increase was not delayed. However, the increase in rent, from $225.00 to $425.00, took up what additional money many of the residents had left each month leaving them to receive only the $35.00 monthly allowance.

There had not been an increase in the stipend in thirteen years. I do not believe that $35.00 a month is sufficient for the residents of the Pioneer Home to purchase necessities such as prescription drugs, clothing, and personal items like shampoo, and toothpaste as well as an occasional splurge for a trip to the barber or beauty shop. Therefore, this legislation increases the allowance amount from $35.00 to $100.00 a month.

The second portion of the bill addresses a large concern of many of the elderly at the Pioneer Home.

When a person cannot afford to pay the full amount of their rent to the Pioneer Home and also receives a stipend, they incur a debt to the State, which accrues six percent interest. This debt is then recovered by the State from the estate of the individual.

The residents of the Pioneer Home worry that they will be unable to pass on to their children personal possessions, such as wedding rings, coin collections, and other heirlooms which might have special meaning to the family.

In reality, this clause is seldom if ever used, because when a resident dies and owes a debt to the State, he rarely has an estate from which the debt may be recovered.

However, with the large increase in rents, many residents are concerned that they will in the future incur a debt to the State and therefore be unable to pass to their families personal possessions.

This legislation deletes the interest charge from the debt owed to the State, and allows for up to $10,000 worth of personal possessions to be passed on to the family.

It is important to remember that this section is currently almost never used, and that the changes are primarily for the peace of mind of the residents of the Pioneer Home.

HB 502, (cont'd)

14.20.584. Provides for the confirmation by the Court of the arbitrator's award, and provides for Court vacation of an award in certain circumstances similar to those applicable under the Alaska Arbitration Act.

14.20.585. Provides for modification or correction of an award, under circumstances similar to those applicable in the Alaska Arbitration Act where modification or correction is provided for.

14.20.590. Requires grievance procedures and a definition of "grievances" in all agreements. Requires each agreement to provide a method for the selection of an arbitrator to resolve grievances.

14.20.600. Requires the educational employees labor relations agency to set forth procedures to safeguard the rights of "nonassociation" of employees having "bona fide religious convictions".

14.20.605. Establishes the educational employees labor relations agency, as explained above. Members of the agency receive no compensation, but are entitled to per diem and travel expenses. The agency may employ staff to implement the provisions of the chapter.

14.20.606. Functions set out in AS 23.40.120 - 23.40.180 are to be performed by the educational employees labor relations agency, as well as specific functions set out in this chapter.

The school board and the employee organization alike are prohibited from "unfair labor practices", as described in AS 23.40.110.

14.20.610. Reiterates the power of school boards to "make final decisions on educational policies".

Sec. 13. (Temporary Provision). School Boards must make their initial local option decision between last best offer mediated arbitration and the right-to-strike within 90 days after enactment of the chapter.

Sec. 14. (Temporary Provision). "Grandfather" clause for existing negotiating units and negotiating agreements.

Sec. 15. (Temporary Provision). The effective date is to be immediate.

Pioneers' Home Residents (income & debts)

HOUSE BILL NO. 503, by Reps. Uehling, Furnace, Ringstad, Barnes and Goll. Would raise the amount a resident of the Alaska Pioneers' Home is allowed to keep to $100 (currently $35). A resident without funds would be paid $100 a month by the Dept. of Administration (currently $35).

Amends AS 47.25.070(a) (Indebtedness of Beneficiary to State) by deleting reference to six percent interest on expenses incurred for a resident of the Pioneers' Home: "An expense incurred for a person under AS 47.25.010 - 47.25.110 [with interest at a rate of six percent a year from date of payment,] is a debt to the state and may be recovered during the life of the beneficiary. . . .". Adds language stating that personal property of the beneficiary having a total fair market value of not more than $10,000 is exempt from a claim by the state.

Does not provide for an effective date (becomes effective 90 days following Governor's signature).

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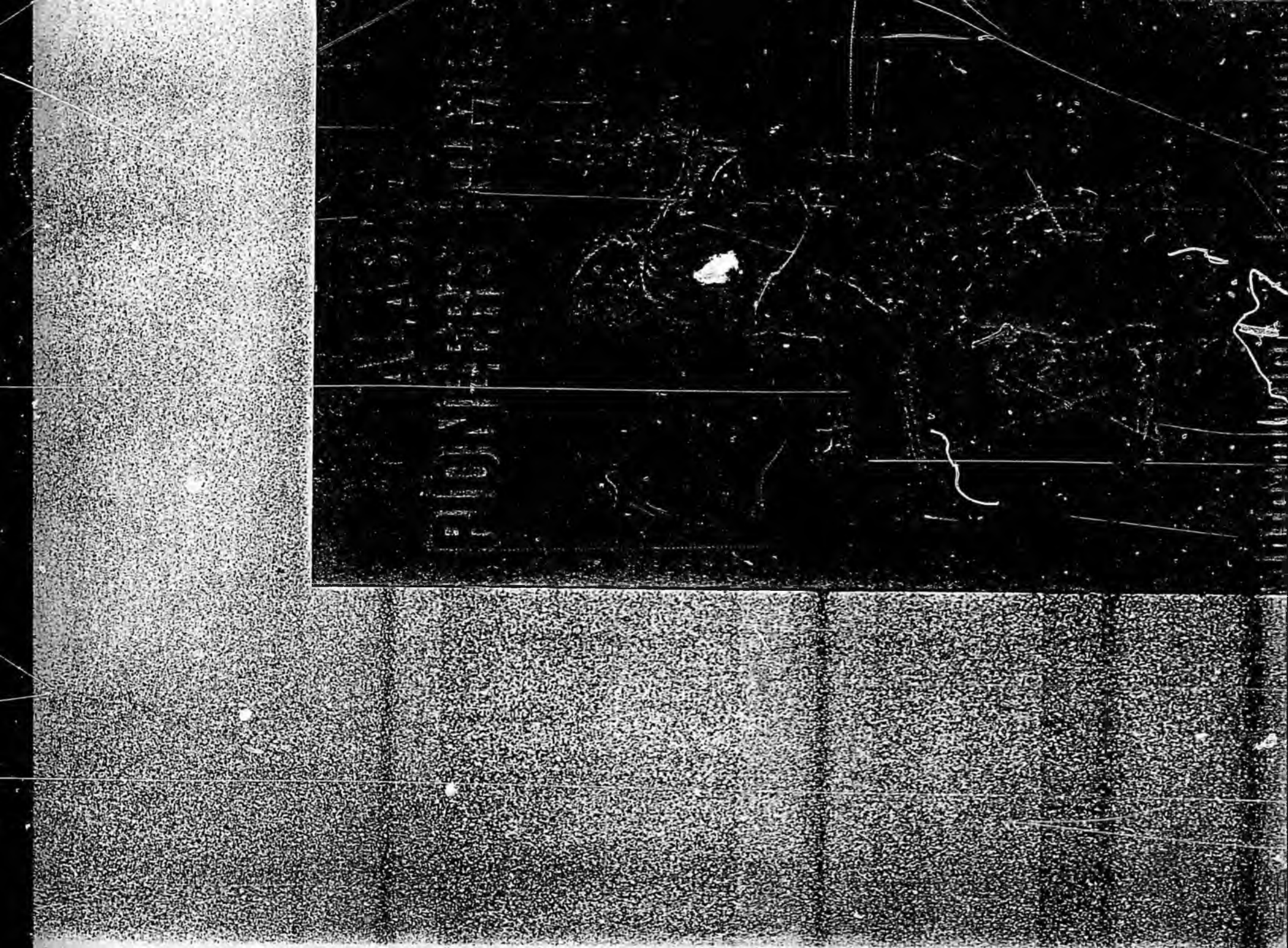

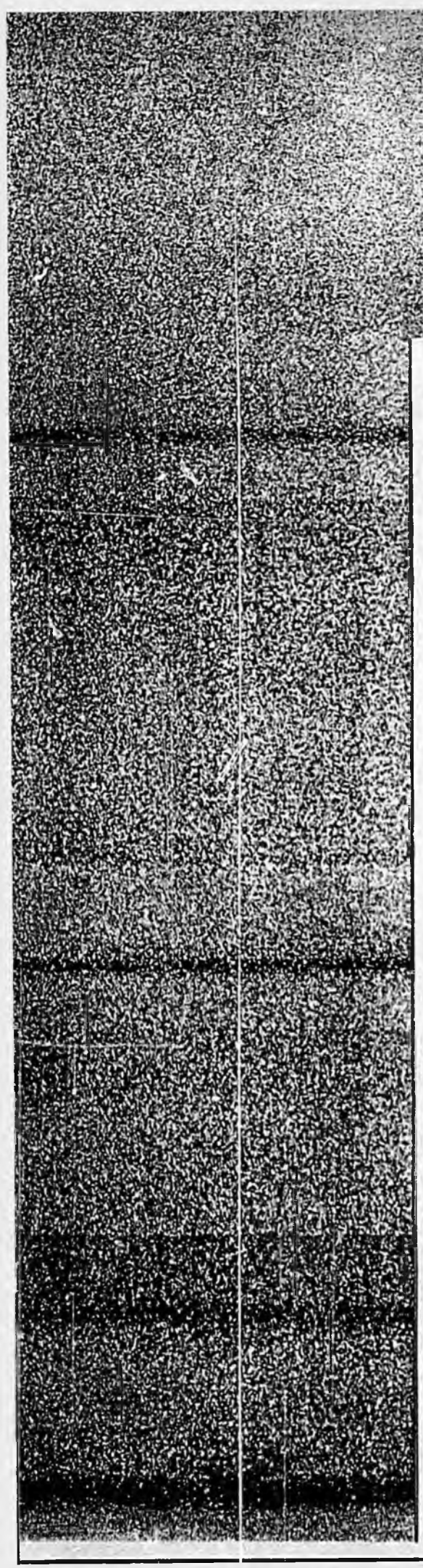

This handbook is designed to answer many questions about eligibility, application procedures, finances and life in the Pioneers' Homes. Additional information and applications may be secured at the addresses on the last page of this booklet.

Applicable laws governing the Pioneers' Homes in the State of Alaska are included for your information.

State of Alaska
Bill Sheffield, Governor

Lisa Rudd, Commissioner
Department of Administration

E. Louis Keller, Director
Division of Pioneers' Benefits

December 1983

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

HB

506

ANALYSIS OF HB 506

"An Act relating to payment for purchase by the State; and providing for an effective date".

Section 1 (a) Requires the agency to pay on a required payment date as defined under terms of a contract or 30 days after receipt of proper invoice.

Subsection (b) Provides for the State to take advantage of any discounts offered by a vendor and if invoice is paid on time, the State agency will deduct the amount of the discount offered from the total amount of the invoice.

Subsection (c) Establishes the rate of interest at 1.5% per month that must be paid by the State for past due balance -- also provides for the exclusion of interest in the event the seller and the State have mutual agreement.

Subsection (d) 1. Exempts purchases of more than $500,000 from the provisions of the bill.

Subsection (d) 2. Provides for an exemption in the event the State notifies the vendor or seller of a dispute in the invoice.

Subsection (e) Provides that any interest incurred by lack of prompt payment will be charged to the budget of the department involved.

Subsection (f) 1. Defines dispute as non-compliance, in performance or price, with the terms of the contract, as determined by administering State Officer.

Subsection (f) 2. Defines when payment is made.

Subsection (f) 3. Defines a state agency

Section 2. Exempts and contracts entered into before the effective date from this Act's provisions.

Section 3. Provides an effective date of July 31, 1983.

Analysis/HB506

BACKGROUND ON HB 506

This bill has been supported by 92% of the 3600 Alaskan members of the National Federation of Independent Business. The State of Alaska is notorious for late payment of it's invoices and statements. This neglect by State agencies has caused many small business' to borrow money to supplement their normal cash flow. Since the products or merchandise were purchased on a bid basis the profit margin was probably wiped out by the high interest rate charged by the loan institution.

Mr. Leonard Lemon, Comptroller of the U.S. Army at Fort Greely advised that their paying of invoices has become more routine and simplified since their compliance with the Prompt Payment Act--Public Law 97-177. This public law is now incorporated in Army regulations. The Prompt Payment Act carried 133 sponsors when it was introduced in Congress.

An argument put forth by the Administration is that only a small percentage of vendors are victims of this inattention but regardless of whether the bill is $1000 or $10000--if it is past due 60,90 or 120 days the financial position of that business caused by this lack of good faith can be devastating. The State has put a high annual fiscal cost to this bill-- this is just a good indication of what the vendors are carrying in past due accounts. There are many Alaskan business' that will not give our State agencies credit because of its poor paying habits.

This bill is needed in Alaska and it is supported by a large majority of Alaskan and other businesspersons.

NFIB®/ALASKA
STATE REPORT

The National Federation of Independent Business prepared this report on the activities of its State Governmental Relations Department as a special service for its members.

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NFIB STATE OFFICE:
P.O. BOX 194, AUKE BAY, AK 99821

GOVERNOR VETOES KEY SMALL BUSINESS LEGISLATION

Without any advanced indication of his intent, Governor Sheffield vetoed the most important small business legislation to come out of the 1983 Legislative Session. HB 210, originally drafted and actively supported as NFIB/Alaska's key legislation, would have required the state of Alaska to pay interest on invoices not paid within 30 days of receipt.

On the 1982 NFIB/Alaska State Ballot an overwhelming 92% of the Alaska voting membership gave support to the issue of requiring the state to pay interest on their overdue accounts. HB 210 was written primarily for small businesses who contract with the state since it specifically excludes any purchase orders or contracts in excess of $500,000. The bill had provided that state agencies initiating an order or contract be required to pay interest of 1½¢ per month if a proper invoice were not paid within 30 days of receipt of invoice. If the invoice is not paid within the 30-day period, interest would be charged from the date of receipt by the agency until the date of payment.

The only exclusion from the requirement to pay interest would be on specific items in dispute, i.e., an item sent was not the exact item ordered. The state agency would be required to notify the vendor within 30 days regarding those items in dispute and would be required to pay for the undisputed items of that same period to avoid paying interest on the undisputed items. Once the problems are resolved on the items in dispute, those items would also be subject to payment of interest if not paid for within 30 days of the resolution of the problems.

This bill would not have passed the Legislature without the strong support of Rep. Richard Schultz of Delta Junction and the assistance of Rep. Jim Duncan of Juneau. Rep. Schultz also had this bill designated as one of the House priority bills which helped to assure its passage.

All is not lost, however, from the Governor's veto; it is merely delayed. It is probable that the Legislature will override the veto. This is not a sure thing even though the bill passed both the House and Senate by nearly unanimous votes. It is suggested that particularly those members who do business or even contemplate doing business with the state should contact both their state senator and state representative to request their support of an override of the Governor's veto. Interest penalties will encourage prompt payment of the state's purchasing obligations, which in turn can help the involved small businesses conserve working capital and improve profit margins.



Gary Jenkins (right), director of Governmental Relations/Alaska and Rep. Richard Schultz (Delta Junction) are shown during one of their many discussions regarding key NFIB/ Alaska legislation on payment of interest by state agencies on past due accounts.

OVERVIEW

The pace of the snail best characterizes the 1983 Legislative Session (particularly significant since the leadership in both the Senate and House was basically the same in the previous session.) This should have resulted in a more efficient and relatively shorter session. Instead it was the longest session in Alaska's history with the Senate finally adjourning on June 27th.

The length of the session was also difficult to understand since there were no major critical issues to delay the session. With revenues declining, the most critical issue appeared to be how much money there would be to fund the operating budget, and more importantly to many, the two capital projects budgets. The intent is not to belittle the money issue; however, it did occupy an inordinate amount of the legislature's time. This issue will become more critical in subsequent years as state oil revenues continue to decline.

In an effort to encourage the development of other oil, gas or mineral resources in the state, the Legislature passed a bill authorizing a special investment tax credit. HB 258 provides for a credit which may be taken on the Alaska corporate income tax return for investments in either a gas processing project or for exploration, drilling of wells, development, or mining of natural resources in Alaska. The credit allowed is the full amount of the federal investment credit computed on the first $250,000 of qualified investment during each tax year. If this measure is successful in stimulating development in Alaska, it may prompt other legislation designed to stimulate additional economic development in the state.

The Legislature also dealt with such diverse issues as requiring all motor vehicles to have liability insurance before being licensed to operate on Alaska highways, returning the drinking age to 21 years, and allowing voters to determine whether the Legislature should have authority to annul regulations issued by various state agencies.

The bill requiring vehicle liability insurance passed both the House and Senate; however, each chamber passed a slightly different version of the bill. This required the appointment of a conference committee to resolve the differences. The bill, still in the conference committee when the Legislature adjourned, is expected to pass early next session.

The bills to change the drinking age and to give the Legislature authority to annul regulations are issues which have had considerable attention in recent years. The legal drinking age was lowered several years ago, due to reducing the "Age of Majority" to 19 years and in support of the argument that if someone was old enough to serve in the armed forces they should be old enough to drink. Records show however that an inordinately high percentage of fatal automobile accidents involve the 19 - 21 age group. There has also been a significant increase in the amount of liquor available to individuals 18 years and under, primarily purchased by 19 - 21 year olds.

The Legislature's authority to annul regulations has also been an on-going issue the past several years. Until seven years ago, the Legislature had taken the position that they could annul regulations by means of a concurrent resolution. However, when the Hammond Administration challenged this in court, the court ruled that the Legislature had no such authority. A resolution was then passed proposing a change in the Alaska State Constitution, which put the issue on the statewide ballot; but voters turned it down. As the result of a similar resolution this year, the issue will again be on the general election ballot in 1984.

It is generally contended that all too frequently administrative regulations go far beyond legislative intent, placing undue burden on either the business sector or the general public. Governors usually oppose legislatures gaining this authority on the basis that it breaches the separation of powers. By a vote of 54% favoring, 25% opposing and 21% with no opinion, the voting NFIB/AK members in 1981 supported a constitutional amendment to allow the Legislature to annul administrative regulations by concurrent resolution.

SMALL BUSINESS ISSUES

Various issues which could affect small business were also introduced this session. Most of those receiving favorable action were issues supported by NFIB/ Alaska.

Exemption of Business Inventories from Local Property Taxes - SB 53: Permits local cities and boroughs to exempt business inventories from local property taxation. The Legislature would not consider a complete exemption, which NFIB/Alaska strongly supported. On the 1983 Alaska State Ballot, 88% of the voting members supported the exemption of business inventories from property taxes. Most local governments, when contacted by NFIB/ Alaska, stated that they would exempt business inventories. It is suggested that concerned NFIB members contact their local governing body immediately and push for them to act now to exempt the taxation of business inventories in future years.

Limitation of Length of Legislative Session - HJR 2: Provides that the Legislature shall meet for a regular session of not more than 120 days. The session may be extended for up to ten calendar days by a vote of two-thirds of the membership of each house. Because this will require a change in the Alaska constitution, it must be voted on in the 1984 General Election. This issue has been a key concern to NFIB/ Alaska members for several years. On the 1983 NFIB State Ballot, 86% of voting Alaska members favored a limit on legislative sessions (58% favored a 90-day session). While this legislation does not place as short a limit as many members desired, it should definitely prevent marathon sessions such as this year's which lasted in excess of 160 days.

Wage Base Changed for Computing Workers Compensation Benefits - HB 311: Provides for workers compensation benefit payments to be based on an employee's spendable weekly wage, which is computed by subtracting payroll taxes from the gross weekly earnings. Gross weekly earnings are computed by dividing by 100 the worker's earnings for the past two years.

This provision should reduce workers compensation insurance premiums over the next few years. This bill also provides for an increase in benefits for a permanent partial disability. However, the effect of this increase should not totally offset the benefits derived

from the change in the computation of the wage base.

While NFIB/Alaska expressed serious concern about the effect of the increase in benefits on premiums, we strongly supported the change in the computation of the wage base. Since the bill originated from an independent committee representing business and organized labor, the Legislature would not consider passing one part of the bill without the other. On the current Alaska State Ballot 72% of the voting NFIB members favored the change to spendable weekly wage in the determination of workers compensation benefits.

Small Business Development Loan Program - HB 208: Establishes a small business development loan program in which loans of up to $100,000 would be available to qualified borrowers at an interest rate equal to the federal discount rate plus 3%. At present, with the federal discount rate at 8½¢, the interest rate for the program, if enacted, would be 11½¢.

NFIB/Alaska has been unsuccessful to date in gaining serious consideration of this measure by the Legislature because of the confusion regarding numerous other existing loan programs, though none of them adequately address the needs of small businesses requiring long-term loans of $100,000 or less. To get this bill moving, NFIB/Alaska needs your assistance in providing specific examples of business expansions that would take place if funding was available at reasonable interest rates. It would also be helpful to know if such expansion would create any additional jobs. On the current Alaska State Ballot, 67% of the voting members favored the concept of this legislation.

Alaska Administrative Journal - SB 132: Provides for the state to publish, on a bi-weekly basis, a journal which will include such items as notification of the publication of regulations; notices of state agency meetings, invitations to bid, state agency requests for proposals; and, the text or summary of the text of regulations which a state agency has adopted. The journal will not be published in written form and will only be available through the legislative data processing system. Access to this information will be through one of the legislative information offices. Since the legislation was just signed, it will be some time before the system is operational. It is understood that the system will be designed so that a printout can be obtained of any desired information.

Toxic and Hazardous Substances - SB 79: Provides that if an employee works with a substance which OSHA has classified as toxic or hazardous, the employer will be required to make the employee aware of the substance and provide the employee, on request, with a copy of the information published by OSHA which explains the hazards of the substance.

THE CHALLENGE AHEAD

The long-range outlook regarding the financing of state operations is not good. Already the prospects of funding future state government operations and education in Alaska look bleak. Unless additional sources of revenue are found within the next three to four years, we will probably face significant increases in taxes to make up for declining oil-related revenues. NFIB/Alaska will be watching this closely and will keep you informed.

Many bills, introduced this year and carried into the 1984 session, would have either a positive or negative impact on the small business community. For example, HB 208, the small business loan program, is one of major interest to many NFIB/Alaska members. Additionally, the vote to override the Governor's veto of HB 210, requiring interest payment by the state on overdue accounts, will be brought to a vote early in the session.

One bill, HB 246, would have an adverse impact on small business. This bill provides for repeal of all interest rate limitations, and applies to interest rates charged by banks on loans to either individuals or businesses and to interest rates on credit extended by businesses, credit card companies, small loan companies, and credit unions. Because of the potential effect on various small businesses, the repeal of interest rate ceilings will be one of the key issues on the 1983-84 Alaska State Ballot. HB 246 has already been passed by the House and is presently in the Senate Labor and Commerce Committee.

Legislation is also pending to modify the Alaska Bidder Preference Law by granting Alaska bidders on state contracts a 5% price advantage over nonresident bidders. HB 106 would further protect Alaskan bidders by requiring that if a bid is a joint venture, all parties must be qualified Alaska businesses. This bill has also been passed by the House and is awaiting action in the Senate.

The equal access to justice issue will be a prime target for next year. Passage of this legislation would require state agencies to reimburse reasonable attorney fees and court costs to small businesses who are successful in civil cases involving state agencies. Such reimbursement should be retrieved from an agency's regular administrative budget to encourage fair and more efficient regulation and to avoid additional expense for state government. Such legislation, through NFIB member support throughout the country, has been passed at the federal level and in certain states. **Note:** To substantiate the need for this legislation in Alaska, NFIB/ Alaska would appreciate hearing from members of their experiences when an unwarranted state fine/citation has been paid to avoid the time and cost of litigation.

Your NFIB will also be following through on other issues that you have strongly endorsed through your votes and comments on previous Alaska State Ballots. Some of these issues include increasing the percentage of employment security tax paid by employees, reducing state competition with the private sector, increasing the dollar amount for jurisdiction in a small claims court, and regulatory flexibility legislation.

Your continued support and active involvement in voting the NFIB/Alaska State Ballot is appreciated, as are your comments on the ballots and your response to alerts during the session. There is no substitute for the individual opinions of persons who can speak from their own experience about the impact of proposed legislation on their business operations.

THE RECORD

So you may know how your state senator and representative voted on selected issues of interest to independent

business, the following recorded votes are provided. It is recognized that this is not a perfect method of rating legislators since it does not give all the elements considered by lawmakers before a vote is cast on an issue, nor does it reflect individual voting patterns as members of various committees. Nevertheless, the voting record shown does indicate the general attitude of each legislator in regard to small business issues.

THE ISSUES

1. Limitation Of Length Of Legislative Session (HJR 2) - This measure provides that the Legislature meet for a regular session of not more than 120 days. (The session may be extended for up to ten calendar days by a vote of two-thirds of the membership of each house.) The recorded vote shown is on final passage in the Senate (18 Yes, 2 No) and the House concurrance (33 Yes, 6 No, 1 Absent) to the resolution as amended in the Senate. A "Yes" vote supports the position of NFIB/Alaska

2. Exemption Of Business Inventories From Local Property Taxes (SB 53) - This measure permits the local cities and boroughs to exempt business inventories from local property taxation. The recorded vote shown is on final passage in both the Senate and the House. Senate: 14 Yes, 6 Excused; House: 38 Yes, 2 No. A "Yes" vote supports the position of NFIB/Alaska.

3. State Payment of Interest On Overdue Bills (HB 210) - This measure requires state agencies to pay interest of 1½% per month on bills not paid in within 30 days of receipt of an invoice. The recorded vote shown is on final passage in the Senate (18 Yes, 2 No) and the House concurrance (38 Yes, 2 No) to the bill as amended in the Senate. A "Yes" vote supports the position of NFIB/Alaska.

4. Wage Base Changed For Computing Workmen"s Compensation (HB 311) - This measure provides for payment to be based on a worker's spendable weekly wage and provides for an increase in the benefits for a permanent partial disability. The recorded vote shown is on final passage in the Senate (17 Yes, 2 No, 1 Excused) and the House concurrance (35 Yes, 3 No, 2 Absent) to the bill as amended in the Senate. A "Yes" vote supports the position of NFIB/Alaska.

KEY: Y = Yes
N = No
— = Absent or not voting

SENATE	1.	2.	3.	4.
Bennett, Don (Fairbanks)	Y	Y	Y	Y
Eliason, Richard (Sitka)	Y	Y	Y	Y
Fahrenkamp, Bettye (Fairbanks)	Y	Y	Y	N
Faiks, Jan (Anchorage)	Y	—	Y	Y
Ferguson, Frank (Kotzebue)	Y	Y	Y	Y
Fischer, Paul (Soldotna)	Y	Y	Y	Y
Fischer, Vic (Anchorage)	Y	Y	Y	N
Gilman, Don (Kenai)	Y	Y	Y	Y
Halford, Rick (Chugiak)	Y	—	Y	—
Josephson, Joe (Anchorage)	Y	Y	Y	Y
Kelly, Tim (Anchorage)	Y	Y	Y	Y
Kerttula, Jalmar (Palmer)	Y	Y	N	Y
Moss, H. Pappy (Delta Junction)	Y	—	N	Y
Mulcahy, Bob (Kodiak)	N	Y	Y	Y
Pettyjohn, Fritz (Anchorage)	Y	—	Y	Y
Ray, Bill (Juneau)	Y	Y	Y	Y
Rodey, Pat (Anchorage)	Y	Y	Y	Y
Sackett, John (Ruby)	Y	Y	Y	Y
Sturgulewski, Arliss (Anchorage)	Y	—	Y	Y
Ziegler, Robert E. (Ketchikan)	N	—	Y	Y

HOUSE	1.	2.	3.	4.
Abood, Mitch (Anchorage)	Y	Y	Y	Y
Adams, Al (Kotzebue)	Y	Y	Y	Y
Barnes, Ramona L. (Anchorage)	Y	Y	Y	Y
Bettisworth, Bob (College)	Y	Y	Y	Y
Bussell, Charlie (Anchorage)	Y	Y	Y	Y
Cato, Bette (Valdez)	Y	Y	Y	Y
Clocksin, Don (Anchorage)	Y	Y	Y	Y
Cowdery, John (Anchorage)	Y	Y	Y	Y
Davis, Mike (College)	Y	Y	Y	N

HOUSE	1.	2.	3.	4.
Duncan, Jim (Juneau)	N	Y	Y	Y
Flood, Joe (Anchorage)	Y	Y	Y	Y
Fritz, Milo H. (Anchor Point)	Y	Y	Y	Y
Fuller, Jack (Nome)	Y	Y	Y	Y
Furnace, Walt (Anchorage)	Y	Y	Y	Y
Goll, Peter (Haines)	—	Y	Y	—
Grussendorf, Ben (Sitka)	Y	Y	Y	Y
Hayes, Joe L. (Anchorage)	Y	Y	Y	Y
Herrmann, Adelheid (Naknek)	Y	Y	Y	Y
Hurlbert, Vern (Sleetmute)	Y	Y	Y	Y
Koponen, Niilo (Fairbanks)	N	N	Y	N
Lacher, Barbara (Wasilla)	Y	Y	Y	Y
Larson, Ronald L. (Palmer)	Y	Y	N	Y
Lindauer, John (Anchorage)	Y	Y	Y	Y
Liska, John J. (Eagle River)	Y	Y	Y	Y
Malone, Hugh (Kenai)	N	N	Y	N
Martin, Terry (Anchorage)	Y	Y	Y	Y
McBride, Jack (Ketchikan)	N	Y	N	Y
Miller, Mike M. (Juneau)	N	Y	Y	Y
Miller, Mike W. (North Pole)	Y	Y	Y	Y
Pestinger, Sam (Anchorage)	Y	Y	Y	Y
Phillips, Randy (Eagle River)	Y	Y	Y	Y
Ringstad, John (Fairbanks)	Y	Y	Y	Y
Shultz, Richard (Delta Junction)	Y	Y	Y	Y
Szymanski, Mike (Anchorage)	Y	Y	Y	Y
Tischer, Mae (Anchorage)	Y	Y	Y	Y
Uehling, Rick (Anchorage)	Y	Y	Y	Y
Vaska, Tony (Bethel)	N	Y	Y	Y
Ward, Jerry (Anchorage)	Y	Y	Y	Y
Wendte, Ron (Ketchikan)	Y	Y	Y	—
Zharoff, Fred (Kodiak)	Y	Y	Y	Y

TABULATED RESULTS — 1983 ALASKA STATE BALLOT

TAXES/FISCAL

1. QUESTION

Should the portion of the Alaska Employment Security Tax paid by the employee be increased?

Favor	Oppose	Undecided	
82% (1)	14% (2)	4% (3)	11

2. QUESTION

Should the state provide funding for a new program to provide small business loans at moderate (12%) interest rates to stimulate small business development throughout the state?

Favor	Oppose	Undecided	
67% (1)	25% (2)	8% (3)	12

3. QUESTION

Assuming a new, small business loan program is created, should the program be administered by local banks rather than a state agency such as the Division of Business Loans?

Favor	Oppose	Undecided	
71% (1)	21% (2)	8% (3)	13

4. QUESTION

Should business inventories be exempted from local property taxes?

Favor	Oppose	Undecided	
88% (1)	9% (2)	3% (3)	14

5. QUESTION

Should the funds appropriated for the Permanent Fund Dividend Program be used for new harbors, airports and roads throughout Alaska instead of the individual grants to residents?

Favor	Oppose	Undecided	
61% (1)	31% (2)	8% (3)	15

LABOR

6. QUESTION

Should all primary corporate officers be given the option of exemption from the Alaska Employment Security Act?

Favor	Oppose	Undecided	
73% (1)	19% (2)	8% (3)	16

7. QUESTION

Should the wage base for computing workmen's compensation benefits be changed from the current average weekly wage to the spendable weekly wage?

Favor	Oppose	Undecided	
72% (1)	16% (2)	12% (3)	17

8. QUESTION

Should the maximum benefit paid under workmen's compensation for a permanent partial disability be increased?

Favor	Oppose	Undecided	
17% (1)	65% (2)	18% (3)	18

8A. If you favor an increase, indicate what maximum percentage increase you prefer.

10%	20%	35%	Undecided	
26% (1)	26% (2)	11% (3)	37% (4)	19

CONSTITUTIONAL AMENDMENT

9. QUESTION

Should legislation sessions be limited to a specified number of days with a maximum of two 15-day extensions, provided that each extension is approved by two-thirds of both chambers?

Favor	Oppose	Undecided	
86% (1)	11% (2)	3% (3)	20

9A. If you favor a limitation, indicate the maximum number of days you believe the Legislature should be in session, excluding any permitted extensions. (If you prefer no limitation, then mark "Oppose.")

90 days	58% (1)	
105 days	21% (2)	
120 days	16% (3)	21
Oppose	3% (4)	
Undecided	2% (5)	

GOVERNMENT

10. QUESTION

Should the Legislature authorize an analysis to determine what present activities of state government could be more effectively, efficiently, and less expensively performed by private enterprise?

Favor	Oppose	Undecided	
84% (1)	13% (2)	3% (3)	22

ANALYSIS OF HB 506

"An Act relating to payment for purchase by the State; and providing an effective date".

Section 1 (a) Requires the agency to pay on a required payment date as defined under terms of a contract or 30 days after receipt of proper invoice.

Subsection (b) Provides for the State to take advantage of any discounts offered by a vendor and if invoice is paid on time, the State agency will deduct the amount of the discount offered from the total amount of the invoice.

Subsection (c) Establishes the rate of interest at 1.5% per month that must be paid by the State for past due balance -- also provides for the exclusion of interest in the event the seller and the State have mutual agreement.

Subsection (d) 1. Exempts purchases of more than $500,000 from the provisions of the bill.

Subsection (d) 2. Provides for an exemption in the event the State notifies the vendor or seller of a dispute in the invoice.

Subsection (e) Provides that any interest incurred by lack of prompt payment will be charged to the budget of the department involved.

Subsection (f) 1. Defines dispute as non-compliance, in performance or price, with the terms of the contract, as determined by administering State Officer.

Subsection (f) 2. Defines when payment is made.

Subsection (f) 3. Defines a state agency

Section 2. Exempts and contracts entered into before the effective date from this Act's provisions.

Section 3. Provides an effective date of July 31, 1983.

Analysis HB506

BACKGROUND ON HB 506

This bill has been supported by 92% of the 3600 Alaskan members of the National Federation of Independent Business. The State of Alaska is notorious for late payment of it's invoices and statements. This neglect by State agencies has caused many small business' to borrow money to supplement their normal cash flow. Since the products or merchandise were purchased on a bid basis the profit margin was probably wiped out by the high interest rate charged by the loan institution.

Mr. Leonard Lemon, Comptroller of the U.S. Army at Fort Greely advised that their paying of invoices has become more routine and simplified since their compliance with the Prompt Payment Act--Public Law 97-177. This public law is now incorporated in Army regulations. The Prompt Payment Act carried 133 sponsors when it was introduced in Congress.

An argument put forth by the Administration is that only a small percentage of vendors are victims of this inattention but regardless of whether the bill is $1000 or $10000--if it is past due 60,90 or 120 days the financial position of that business caused by this lack of good faith can be devastating. The State has put a high annual fiscal cost to this bill-- this is just a good indication of what the vendors are carrying in past due accounts. There are many Alaskan business' that will not give our State agencies credit because of its poor paying habits.

This bill is needed in Alaska and it is supported by a large majority of Alaskan and other businesspersons.

Background/HB 506

HB

516

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

Official Business

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

January 16, 1984

MEMORANDUM

TO: Members of the House State Affairs Committee

FROM: Representative Al Adams AAA

SUBJ: HBs 478 and 516: Extension of application period for 1983 permanent fund dividends

I have introduced the above captioned bills because many of my constituents contacted me during the interim to let me know that they were unable to file for their 1983 dividend checks because of the nature of their seasonal employment. Because the original deadline was June 30th, many of my constituents were out fishing or otherwise involved with activities away from home in isolated areas, and therefore they were not aware of the deadline.

Since I have worked closely with the Department of Revenue in the development of this legislation, I do not anticipate that this problem will occur every year, necessitating similar legislation each session. I am confidant that the Department will make every effort to insure that Alaskans who leave home for work for part or all of the summer will have adequate opportunity to file for their yearly dividend check.

HB 478

HB 478 is the bill that actually changes the language of the statute to extend the deadline to May 1?, 1984. However, an applicant must have been a resident of the state for six months before March 31, 1983, the date that establishes residency for those who have already received a 1983 dividend. Thus, the application period is extended but not the period for establishing residency in 1983.

The bill also provides that only funding appropriated or allocated for 1983 dividends can be used to pay the

dividend checks of new applicants. Further, it states that dividends will not be paid out until after March 1, 1984 (so as not to conflict with the schedule for paying dividends for other years) and gives the Department the authority to promulgate regulations to implement the bill. The bill has an immediate effective date.

HB 516

HB 516 makes the necessary appropriations to pay 1983 dividends to late filers. The funding provided comes from interest earned on the permanent fund principal during FY 83. This is the source of funding established in statute for payment of permanent fund dividends (see AS 43.23.045(b)). As you know, 50% of the interest earned on the permanent fund each year is earmarked for payment of permanent fund dividends. This past year, the Department of Revenue underestimated how much the interest earnings would be. Therefore, the legislature appropriated approximately $19 million less for dividends than what has actually turned out to be 50% of interest earnings. The funding provided in this bill comes from that $19 million.

$11,584,500 is the amount estimated as necessary to pay the dividends of late filers. Obviously, it is difficult for the Department to estimate exactly how many people will file during the extended deadline period. This represents their best guess at this time. Any funding not used for this purpose would lapse at the end of FY 85.

$347,600 is appropriated for processing the dividend applications. I have instructed the Division of Legislative Finance to review the Department's cost estimates for processing and plan to look very carefully at this figure if the bill passes from your committee to the House Finance Committee. Again, the caveat regarding estimating the number of late filers applies here. And again, any funding not used would lapse at the end of FY 85.

The bill would become effective on the same date that a bill extending the deadline becomes effective.

HB

517

Position Paper

HB 517

This bill would remove employment applications from the listing of confidential personnel records. It would include not only employment applications, but resumes and other information submitted by an applicant to demonstrate qualifications and prior employment history as information available for public inspection.

This bill would force disclosure of applications and resumes of appointees and even applicants for positions below the Cabinet level, i.e., beyond those currently subject to Legislative confirmation. In doing so, it goes far beyond a reasonable distinction implicit in the Alaska Supreme Court decision in City of Kenai v. Kenai Peninsula Newspapers, Inc. In that case, the Supreme Court used terms such as "high public officials," "substantial discretionary power," "substantial discretionary authority," "high government position" and "high public office" to distinguish which applications should be subject to public inspection. The court implied that an individual's right to privacy, as guaranteed by Article I Paragraph 22 of the Alaska Constitution, was an overriding interest for other public employees. The bill in its present form would subject the 40,000 applications received annually by the Division of Personnel to public inspection. It would also subject applications and resumes submitted to the Governor's Office and all Commissioners, whether solicited or not, to public inspection.

The Department of Administration opposes this bill in its current form.

If public inspection of applications for "high public office" is to be required of the State, as it is for the State's political subdivisions, the bill should be amended to specifically identify the appropriate group of positions that would be covered. While there are several approaches that would accomplish this, we recommend the following as a basis for discussion:

* Section 1. AS 39.25.080(a) is amended to read:

(a) State personnel records, including employment applications for classified positions and examination materials, are confidential and are not open to public inspection except as provided in this section.

* Section 2. AS 39.25.080(b) is amended to read:

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all State employees;

(2) the position held by a State employees;

(3) prior positions held by a State employee;

(4) whether a State employee is in the classified, partially exempt, or exempt service;

(5) the dates of appointment and separation of a State employee; [AND]

(6) the compensation authorized for a State employee; and

(7) employment histories and educational background submitted by an applicant for an exempt or partially exempt position.

for Frank Raye, Director of Personnel

Jan. 23, 1984
Date

Commissioner Lisa Rudd
Department of Administration

1/23/84
Date

16/4D2/0118-02-2

POUCH V
JUNEAU, ALASKA 99811
465-4990

P.O. BOX 4-1325
ANCHORAGE, ALASKA 99509
248-1515

COPY

CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE

Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

Roger
resolved
m

M E M O R A N D U M

TO: Representative Mitch Abood
Chairman, House State Affairs Committee

FROM: Representative Charlie Bussell

RE: SS HB 517 - "An Act relating to the confidentiality of state personnel records."

DATE: March 14, 1984

As sponsor of this legislation, I am respectfully requesting that you complete hearings and move this bill from committee. As I understand the present status, there has been very little opposition to the idea that persons who seek state positions should be willing that their background and qualifications for the position they seek be open to scrutiny. The lack of such openness has resulted in situations where applicants have been able to gain an unfair advantage in their attempt to be hired by either misrepresenting their experience and background or even fraudulently misstating such information.

The State Ombudsman, Mr. Chenoweth, has suggested adding language that would enable his office to have access to certification lists and registers to aid in investigations of improper hire allegations. Although I certainly support the concept of the Ombudsman being able to do this, it is my opinion that such an amendment in HB 517 would mix up the addressing of a function of one of the agencies of state government with the addressing of an issue of confidentiality that relates to access by the public at large and newspapers in particular to a portion of the personnel files. Said another way, there is quite a difference between the important considerations concerned when dealing with the right of the public to know and when dealing with the right of one department of government to have access to another department's records. In addition, the problem is addressed in Section 5 of SB 321, which adds a subsection to AS 24.55.160 allowing the Ombudsman access to records of state agencies.

The Department of Administration, through the Personnel Director, Mr. Frank Raye, opposes this bill in its present form. As I understand it, the basis of this opposition is twofold: (1) that access to information submitted by applicants as to their background and experience should be limited to those who apply for unclassified positions because the requirements for classified positions are already public knowledge and because the right of access only needs to be available where high

public officials who would be in a position to set policy are concerned; and (2) that including the actual application for state employment as one of the items open to inspection would allow access to information required by other laws to be held confidential.

With regard to the first basis for opposition, the fact that standards are set forth with which an applicant must comply does not provide information as to how a particular applicant meets that standard. For example, if the requirement is for two years of college education, just knowing of the requirement would not enable an interested person to determine which college and at which time a person supposedly attended. That information would be in his resume or on the application for employment. Therefore, I don't see why classified applicants background and experience should not also be available. Likewise, I don't believe that the public interest in knowing what an applicant's background and experience and qualification for state employment may be, is any less strong for so-called non-high office than it is for those who hold high public office. Often times those who are in positions that don't formally involve the making of policy decisions nevertheless exert a strong influence on those who do make such decisions. It should be obvious that such decisions are based on input from staff and the quality of that input will determine how valid or knowledgeable the policy decision will be.

With regard to the contention that making the application available would allow access to information required to be held confidential by other laws, there is nothing magic about the format of the application. These forms are changed and up-dated whenever necessary and if there is certain information the state needs but should not be disclosed because the Federal Government or some other policy-making body so desires, then that part of the application can be deliberated and held confidential. Frankly, I really can't see why there is any need for such information. Does the question of race or religion really go to qualification for state employment? Isn't such information usually asked for on a voluntary basis only?

Based on these considerations, I would like the committee to take action on the bill as originally submitted.

Thank you.

JR Brown for Rep Russell

cc: Mr. Frank Raye
Mr. Jack Chenoweth

HF

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SSHB 517
Title: An act relating to confidentiality of State personnel records
Sponsor: Bussell
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Centralized Administrative Services
BRU, Program of Subprogram(s) Affected: Personnel

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	43.6	174.4	174.4	174.4	174.4	174.4
200 TRAVEL						
300 CONTRACTUAL	29.7	43.9	43.9	43.9	43.9	43.9
400 SUPPLIES	1.1	4.2	4.2	4.2	4.2	4.2
500 EQUIPMENT	62.6					
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	137.0	222.5	222.5	222.5	222.5	222.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	137.0	222.5	222.5	222.5	222.5	222.5
FEDERAL FUNDS						
OTHER						
TOTAL	137.0	222.5	222.5	222.5	222.5	222.5

POSITIONS:

FULL-TIME	6 (18)	6 (72)	6 (72)	6 (72)	6 (72)	6 (72)
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

None identified.

ANALYSIS: Attach a separate page for any analysis

Prepared By: Frank Raye Frank Raye Ltr
Division: Personnel
Phone: 465-4430
Date: February 6, 1984

Approved by Commissioner: Lisa Rudd
Department: ADMINISTRATION
Date: 2/10/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

5/4D1/0203-07/1

1.	POSITION TITLE Clerk III			RANGE/STEP 8B	BARG. UNIT K	FORM 12 PACE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION FT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION AWA	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL		ADDITION XX						

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	19,284	
6.	Benefits	3,300	
7.	Supplemental Benefits	1,182	
8.	Fixed Benefits	2,789	
9.	TOTAL PERSONAL SERVICES	01	26.6
10.	Travel	02	0.
11.	Contractual	03	1.8
12.	Commodities	04	.3
13.	Equipment	05	.8
14.	Other		
15.	TOTAL COST		29.5

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		C.F. Match	1003	
18.		General Funds	1004	29.5
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

Opening applicant and employee records that have been confidential to public inspection will require staff to receive requests and to locate, copy and refile the requested material. Four full time positions are projected in order to copy 100,000 pages of of documents per month through our three offices. Two positions will be located in Juneau (which is the sole location of employee files) and one in each regional office in Anchorage and Fairbanks.

5/4D1/0203-08/1

13 REQUEST FOR NEW POSITION

AGENCY Administration

PROGRAM Centralized Admin. Services

BRU Personnel

COMPONENT

Revised Date

FY 85

01-1136 (7/82) - 13

House Bill 517
Fiscal Note Analysis
Prepared by Division of Personnel
Department of Administration
February 6, 1984

Analysis: This bill will make employment applications, resumes, and other applicant information public. Currently this information is confidential under AS 39.25.080. To implement the proposed change the Division of Personnel will be required to revise and reprint the State Employment Application form at a cost of $7,000. All persons currently on eligible lists will be notified by letter of the change and given the opportunity to withdraw their eligibility. The cost of the letter, envelope and mailing is approximately $9,000. The cost to create the letters from the Division's computer files is approximately $270. A similar letter to all State employees will cost $2,400. In addition, newspaper ads will be placed statewide to notify current and prospective applicants of the change. The ads will cost approximately $1450. These are all one time costs.

Finally, staff will need to be added in each Division office to respond to requests from the public for applicant information. The Division maintains files on approximately 11,000 current employees and 40,000 former employees. The Division also maintains files on nearly 200,000 applications (50,000 per year for four years). Requests for records can be expected regarding high public officials and potentially any employee by anyone and everyone who is dissatisfied or just curious about qualifications. Applicants can be expected to request copies of applications submitted by their competition. Employees, directly, or through their union representative, can be expected to request copies of applications submitted by others. This access to information about others will likely raise questions on how one's own application was evaluated. We estimate the need for four full time clerical positions to respond to requests for copies of applications and two technical positions to answer ensuing questions on how applications were evaluated. Photocopy equipment and supplies will also be needed, as well as envelopes and postage beyond what is budgeted in Central Mailroom.

This fiscal note assumes an effective date of April 1. It also assumes no inflation in future years.

1.	POSITION TITLE Clerk III			RANGE/STEP 8B	BARG. UNIT K	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION FT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT 7-15	LEG.		

3.	CONTINUATION LEVEL	ADDITION	XX

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	19,284	
6.	Benefits	3,300	
7.	Supplemental Benefits	1,182	
8.	Fixed Benefits	2,789	
9.	TOTAL PERSONAL SERVICES	01	26.6
10.	Travel	02	0.
11.	Contractual	03	1.8
12.	Commodities	04	.3
13.	Equipment	05	.8
14.	Other		
15.	TOTAL COST		29.5

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	29.5
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR BSM USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

Opening applicant and employee records that have been confidential to public inspection will require staff to receive requests and to locate, copy and refile the requested material. Four full time positions are projected in order to copy 100,000 pages of of documents per month through our three offices. Two positions will be located in Juneau (which is the sole location of employee files) and one in each regional office in Anchorage and Fairbanks.

5/4D1/0203-08/2

13 REQUEST FOR NEW POSITION

AGENCY Administration

PROGRAM Centralized Admin. Services

BRU Personnel

COMPONENT

Revised Date

FY 85

01-1136 (7/82) - 15

1.	POSITION TITLE Clerk III			RANGE/STEP 8B	BARG. UNIT K	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION FT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION JBA	ELECTION DISTRICT 18-21	LEG.		
3.	CONTINUATION LEVEL		ADDITION XX						

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	21,744	
6.	Benefits	3,721	
7.	Supplemental Benefits	1,333	
8.	Fixed Benefits	2,789	
9.	TOTAL PERSONAL SERVICES	01	29.6
10.	Travel	02	0.
11.	Contractual	03	1.8
12.	Commodities	04	.3
13.	Equipment	05	.8
14.	Other		
15.	TOTAL COST		32.5

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	32.5
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

Opening applicant and employee records that have been confidential to public inspection will require staff to receive requests and to locate, copy and refile the requested material. Four full time positions are projected in order to copy 100,000 pages of of documents per month through our three offices. Two positions will be located in Juneau (which is the sole location of employee files) and one in each regional office in Anchorage and Fairbanks.

5/4D1/0203-08/3

13 REQUEST FOR NEW POSITION

AGENCY Administration

PROGRAM Centralized Admin. Services

BRU Personnel

COMPONENT

Revised Date

FY 85

01 113617 021-13

1.	POSITION TITLE: Clerk III			RANGE/STEP: 8B	BARG. UNIT: K	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION: FT	STAFF MONTHS: 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION: AHA	ELECTION DISTRICT: 4	LEG.		
3.	CONTINUATION LEVEL		ADDITION: XX						

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	19,284	
6.	Benefits	3,300	
7.	Supplemental Benefits	1,182	
8.	Fixed Benefits	2,789	
9.	TOTAL PERSONAL SERVICES	01	26.6
10.	Travel	02	0.
11.	Contractual	03	1.8
12.	Commodities	04	.3
13.	Equipment	05	.8
14.	Other		
15.	TOTAL COST		29.5

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	29.5
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR BSM USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

Opening applicant and employee records that have been confidential to public inspection will require staff to receive requests and to locate, copy and refile the requested material. Four full time positions are projected in o der to copy 100,000 pages of of documents per month through our three offices. Two positions will be located in Juneau (which is the sole location of employee files) and one in each regional office in Anchorage and Fairbanks.

5/4D1/0203-08/4

13 REQUEST FOR NEW POSITION

AGENCY Administration

PROGRAM Centralized Admin. Services

BRU Personnel

COMPONENT

Revised Date

FY 85

01 1156 (7/82) - 15

1.	POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
	Personnel Technician I				12B	K				
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	FT	12				AVA	4			
3.	CONTINUATION LEVEL		ADDITION	XX						

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	24,516	
6.	Benefits	4,196	
7.	Supplemental Benefits	1,503	
8.	Fixed Benefits	2,789	
9.	TOTAL PERSONAL SERVICES 01		32.5
10.	Travel 02		0
11.	Contractual 03		1.8
12.	Commodities 04		3
13.	Equipment 05		.8
14.	Other		
15.	TOTAL COST		35.4

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	35.4
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

Applicant access to copies of applications of competitors is expected to increase the number of requests to explain how individual applications were evaluated. One additional technical staff will be added in the two largest offices--Juneau and Anchorage--to answer these inquiries.

5/4D1/0203-08/5

13 REQUEST FOR NEW POSITION

AGENCY Administration

PROGRAM Centralized Admin. Services

BRU Personnel

COMPONENT

Revised Date

FY 85

01-1156 17/82I - 15

1.	POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
	Personnel Technician I				12B	K				
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	FT	12				FBA	7-15			
3.	CONTINUATION LEVEL		ADDITION	XX						
4.	TYPE OF EXPENDITURE			AMOUNT						
	1		2	3						
	PERSONAL SERVICES									
5.	Salary		24,516							
6.	Benefits		4,196							
7.	Supplemental Benefits		1,503							
8.	Fixed Benefits		2,789							
9.	TOTAL PERSONAL SERVICES	01		32.5						
10.	Travel	02		0						
11.	Contractual	03		1.8						
12.	Commodities	04		.3						
13.	Equipment	05		.8						
14.	Other									
15.	TOTAL COST			35.4						

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	35.4
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

Applicant access to copies of applications of competitors is expected to increase the number of requests to explain how individual applications were evaluated. One additional technical staff will be added in the two largest offices--Juneau and Anchorage--to answer these inquiries.

5/4D1/0203-08/6

13 REQUEST FOR NEW POSITION

AGENCY Administration

PROGRAM Centralized Admin. Services

BRU Personnel

COMPONENT

Revised Date

FY 85

01-1136 (7-82)-15

Alaska Public
Employees Association APEA
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Cherie Shelley CS
Executive Director

SUBJECT: HB 517

DATE: March 21, 1984

The Alaska Public Employees Association opposes HB 517 as it applies to the classified employees of the State of Alaska. The Division of Personnel is responsible for the review and certification of employment applications, resumes, and other evidence of education or experience for the classified service. The Division examines all materials and verifies the qualifications of prospective employees before they are listed on the employment registers.

We believe this legislation would be appropriate for all exempt and partially-exempt personnel. These positions are filled by political appointees not subject to the review or jurisdiction of the Division of Personnel. The applications and resumes of exempt and partially exempt employees are not subject to the scrutiny of anyone but the appointing authority.

This legislation is inappropriate for the classified service because the positions are filled by competitive evaluation of the candidate's education and experience. The personnel system establishes minimum requirements for each position and ranks all applicants according to ability.

Public access to employment applications would be detrimental to the merit system by allowing job candidates to inspect the applications of other candidates. This would provide an unfair advantage to new applicants who could phrase their resumes to outscore other job candidates. In addition, some persons may be unwilling to write letters of recommendation if the letters would be made public.

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305

would be public under bill

The Associated Press

JUNEAU — Rep. Charlie Bussell on Monday introduced a bill in the House to make the personnel records of state employees available for public scrutiny.

Bussell said he was prompted by the difficulties lawmakers had last year obtaining the personnel records of Sheffield administration employees.

"With this law, the public will have the ability to get the information it needs," Bussell, R-Anchorage, said in a press release.

Anchorage Reps. Mae Tischer, Mitch Abood, Jerry Ward and Terry Martin are co-sponsors of the measure (HB 517).

If approved, the bill would require salaries of state employees to be disclosed. Resumes, job applications and state employment histories would also be available for citizens to examine, he said.

Alaska Attorney General Norm Gorsuch in November said it is up to the employee to decide whether to honor requests for job information. Only an employee's name, job, salary, employment history and union status were matters of public record, he said.

Sheffield later urged employees to make the information avaible to the public, press and lawmakers. But the governor said state employees would not be required to make the information available, and they would not be punished for witholding their records.

"NEVER CRY WO
IF YOU HAVE RE[illegible] THE BOOK,
SEEN THE MOVI[illegible]R SIMPLY
HAVE AN INTEREST IN

Open records bill would violate privacy — official

The Associated Press

Only the state's "high officials and policy-makers" should have their employee records scrutinized by the press and public, a House committee was told Monday.

A legislative proposal which would make all state employee records accessible to the public violates the privacy rights of the majority of state workers not in policy-making positions, said Cherie Shelley, executive director of the Alaska Public Employees Association.

Shelley's comments were made at a House State Affairs hearing on a proposal by Rep. Charlie Bussell to make open records of the resumes, job applications and employment histories of all state workers.

An alternative proposal, recommended by the state Department of Administration, would strike resumes and applications from the information which could be reviewed. Only an employee's past jobs and education are pertinent to whether they are qualified for their positions, said Frank Raye, director of the state division of personnel.

But one of the bill's sponsors disagrees. "The bill provides the bare minimium" of information which needs to be provided to

Continued on Page 10

Juneau Empire 1/24/84
HB 517

Records...

Continued from Page 1

make sure hiring is based on merit, said Rep. Jerry Ward, R-Anchorage.

Ward said it is not as easy as Raye suggets to distinguish between who makes policy and who carries it out.

"Who makes policy? It's the people who promulgate regulations who have been around since (former Gov.) Egan," Ward said.

Raye proposes only exempt and partially-exempt state employees be covered by the law. Classified employees should be exempt, he said.

Exempt employees are appointed to their jobs. They are commissioners and their deputies, and a few others in policy-making positions, Raye said. Classified employees compete with others through the state personnel system, with jobs supposedly going to those with the highest ranking.



Alaska Public
Employees Association APEA
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

MEMORANDUM

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Cherie Shelley CS
Executive Director

SUBJECT: HB 517

DATE: January 23, 1984

APEA opposes HB 517 as it applies to the classified employees of the State of Alaska. The Division of Personnel is responsible for the review and verification of employment applications, resumes, and other evidence of education or experience for the classified service. The Division examines all materials and verifies the qualifications of prospective employees before they are listed on the employment registers.

Persons filling exempt and partially exempt positions are political appointees not under the review or jurisdiction of the Division of Personnel. HB 517 could properly be applied to these employees because their applications and resumes are not subject to the review and scrutiny of anyone but the appointing authority.

CS/rm

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305

Sec. 39.25.070. Powers and duties of personnel board. In addition to the other duties imposed by this chapter, the personnel board shall

(1) approve or disapprove amendments to the personnel rules in accordance with AS 39.25.140;

(2) consider and act upon recommendations for the extension of the partially exempt service and the classified service as provided in AS 39.25.130;

(3) hear and determine appeals by employees in the classified service as provided in AS 39.25.170;

(4) establish its own rules of procedure (two members constitute a quorum for the transaction of business and two affirmative votes are required for final action on matters acted upon by the board);

(5) elect a chairman from its membership;

(6) have the power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to a hearing authorized by this chapter.

(7) employ staff members, who shall be in the classified service. (§ 15 ch 144 SLA 1960; am §§ 3, 4 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote paragraph (1), which formerly read "approve or disapprove the original rules or a part of them within 60 days of their submission to the board and approve or disapprove amendment to the rules within 30 days of submission to the board, and in carrying out this duty, the board, if requested, may hold the public hearings it considers necessary," and added paragraph (7).

Sec. 39.25.080. Public records. — (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all state employees;

(2) the position held by a state employee;

(3) prior positions held by a state employee;

(4) whether a state employee is in the classified, partially exempt, or exempt service;

(5) the dates of appointment and separation of a state employee; and

(6) the compensation authorized for a state employee.

(c) A state employee has the right to examine the employee's own personnel files and may authorize others to examine those files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations. (§ 18 ch 144 SLA 1960; am § 5 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment substituted the present provisions of this section for the provisions set out in the main pamphlet.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Article 2. Coverage of Personnel.

Section
90. Coverage of chapter
110. Exempt service
120. Partially exempt service
130. Extension of partially exempt and classified services

Sec. 39.25.090. Coverage of chapter. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the exempt and partially exempt service as specifically provided. (§ 3 ch 144 SLA 1960; am § 6 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment inserted "exempt and" in item (2).

Sec. 39.25.110. Exempt service. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices, judges, magistrates, and employees of the judicial branch including employees of the Judicial Council;

(3) employees of the state legislature and its agencies;

(4) the head of each principal department in the executive branch;

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 — 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(7) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Department of Education;

(8) patients and inmates employed in state institutions;

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;

(10) members of boards, commissions, or authorities;

(11) the officers and employees of the following boards, commissions, and authorities:

(A) Alaska Gas Pipeline Financing Authority;

(B) Alaska Permanent Fund Corporation;
(C) Alaska Energy Center;
(D) Alaska Industrial Development Authority;
(E) Alaska Commercial Fisheries Entry Commission;
(F) Alaska Commission on Postsecondary Education;

(12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(13) Physicians licensed to practice in this state and employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

(14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission, except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;

(15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) firefighters employed by the Department of Natural Resources for a fire emergency;

(20) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(21) **[Repealed June 30, 1988]** Employees of the Citizens' Advisory Commission on Federal Areas in Alaska (AS 41.37.010). (§ 5 ch 144 SLA 1960; am § 1 ch 48 SLA 1961; am § 1 ch 133 SLA 1961; am § 3 ch 93 SLA 1962; am § 3 ch 24 SLA 1966; am § 31 ch 46 SLA 1970; am § 65 ch 69 SLA 1970; am § 13 ch 113 SLA 1970; am § 3 ch 78 SLA 1971; am § 18 ch 78 SLA 1974; am § 42 ch 127 SLA 1974; am § 2 ch 32 SLA 1975; am § 2 ch 79 SLA 1975; am § 37 ch 124 SLA 1975; am § 1 ch 157 SLA 1976; am § 3 ch 90 SLA 1978; am § 7 ch 18 SLA 1980; am § 43 ch 106 SLA 1980; am § 10 ch 131 SLA 1980; am § 4 ch 148 SLA 1980; am § 4 ch 106 SLA 1981; am §§ 2, 3 ch 37 SLA 1982; am § 7 ch 112 SLA 1982; am § 1 ch 11 SLA 1983)

Effect of amendments. — The 1981 amendment added a paragraph (26), relating to employees of the Alaska Seafood Marketing Institute. These provisions are now contained in paragraph (18) of this section as amended by ch. 112, SLA 1982.

Section 2 of the first 1982 amendatory act, ch. 37, SLA 1982 added a paragraph (27), relating to employees of the Citizens' Advisory Commission on Federal Areas in Alaska. Section 3 of chapter 37, effective June 30, 1988, repealed paragraph (27). These provisions are now contained in

paragraph (21) of this section as amended by ch. 112, SLA 1982.

The second 1982 amendment rewrote this section.

The 1983 amendment rewrote paragraph (13).

Editor's notes. — AS 17.30.340, referred to in paragraph (13) was repealed by § 7, ch. 84, SLA 1981.

Sec. 39.25.120. Partially exempt service. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) — (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of councils, boards, or commissions established by statute in the Office of the Governor or the office of the lieutenant governor, unless a different classification is provided by statute;

(6) the executive director, deputy director, hearing officers, and administrative law judges of the Alaska Public Utilities Commission;

(7) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(8) not more than two special assistants to the commissioner of each of the principal departments of the executive branch, but the number may be increased if the partially exempt service is extended under AS 39.25.130 to include the additional special assistants;

(9) the principal executive officer of the following boards, councils, or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory Board;
(G) Alaska Historical Commission;
(H) Alaska State Council on the Arts;
(I) Alaska Police Standards Council;
(J) Council on Science and Technology;
(K) Older Alaskans Commission;
(10) Alaska Pioneers' Home managers;
(11) hearing examiners in the Department of Revenue;
(12) the comptroller in the division of treasury, Department of Revenue;
(13) investment officers in the Department of Revenue;
(14) airport managers in the Department of Transportation and Public Facilities employed at the Anchorage and Fairbanks International Airports;
(15) the deputy director of the division of tourism and the deputy director of the division of insurance in the Department of Commerce and Economic Development;
(16) the executive director and staff of the Alaska Public Offices Commission;
(17) the director, deputy director, personnel analysts II, labor relations analysts I, labor relations analysts II, senior negotiators, and research directors of the division of labor relations in the Department of Administration;
(18) the rehabilitation administrator of the Workers' Compensation Board. (§ 6 ch 144 SLA 1960; am § 2 ch 48 SLA 1961; am § 2 ch 133 SLA 1961; am § 4 ch 5 SLA 1966; am § 3 ch 104 SLA 1969; am § 2 ch 109 SLA 1969; am § 4 ch 78 SLA 1971; am § 9 ch 47 SLA 1974; am § 4 ch 82 SLA 1975; am § 10 ch 207 SLA 1975; am § 2 ch 157 SLA 1976; am § 19 ch 263 SLA 1976; am Executive Order No. 39 § 6 (1977); am § 1 ch 103 SLA 1978; am § 2 ch 108 SLA 1978; am Executive Order No. 41 § 3 (1980); am Executive Order No. 42 §§ 3, 4 (1980); am Executive Order No. 43 § 4 (1980); am Executive Order No. 44 § 5 (1980); am Executive Order No. 45 § 3 (1980); am Executive Order No. 46 § 4 (1980); am § 18 ch 115 SLA 1980; am § 3 ch 79 SLA 1981; am § 4 ch 110 SLA 1981; am Executive Order No. 48 § 3 (1981); am § 4 ch 50 SLA 1982; am § 26 ch 93 SLA 1982; am § 8 ch 112 SLA 1982)

Effect of amendments. — The first 1981 amendment added a paragraph (19) to this section as it existed prior to the third 1982 amendment. These provisions are now contained in subparagraph (c)(9)(K).

The second 1981 amendment substituted a comma for "and" preceding "deputy director" and added "hearing officers, and administrative law judges" following "deputy director" in present paragraph (c)(6).

The third 1981 amendment substituted "Department of Administration" for "Department of Environmental Conservation" in paragraph (17) of this section as it existed prior to the third 1982 amendment of this section. The provisions of that paragraph are now contained in subparagraph (c)(9)(J).

The first 1982 amendment added paragraph (c)(17).

The second 1982 amendment added paragraph (c)(18).

The third 1982 amendment rewrote this section.

Sec. 39.25.130. Extension of partially exempt and classified services. (a) The personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position in the classified service which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

(b) No positions may be included in the partially exempt service under this section if the inclusion is inconsistent with federal requirements for state agencies supported in whole or in part by federal funds.

(c) The personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position in the partially exempt service. (§ 7 ch 144 SLA 1960; am §§ 9, 10 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment "After June 30, 1961" from the beginning of subsections (a) and (c); deleted "which was" following "include any position" both in the introductory paragraph of subsection (a) and in subsection (c); and deleted "on April 19, 1960" following "in the classified service" in the introductory paragraph of subsection (a) and following "partially exempt service" in subsection (c).

Article 3. Personnel Rules.

Section	Section
140. Amendment of personnel rules	153. Departmental personnel officers
150. Scope of the rules	155. Vocational substitution program

Sec. 39.25.140. Amendment of personnel rules. (a) The director of personnel shall prepare and submit to the commissioner of administration any proposed amendments to the personnel rules for all positions and employees subject to this chapter.

(b) The commissioner of administration shall review the amendments and submit them to the personnel board.

(c) At least 30 days before the adoption, amendment, or repeal of a personnel rule, the secretary to the personnel board shall provide notice that the personnel board has the proposed action under consideration. The notice shall be

(1) posted in public buildings throughout the state;

(2) published in one or more newspapers of general circulation throughout the state;

(3) mailed to each person or group that filed a request for notice of proposed action with the secretary to the personnel board;

Alaska's Only Morning Newspaper • Founded in 1946 by Norman C. Brown

Decision denies the public interest

Alaskans have seen a long string of court cases in recent years establish the principle that the public has a right to examine the credentials and qualifications of applicants for public employment, and so there is more than a little consternation behind an attorney general's interpretation saying that a state employee's resume should be kept confidential unless the employee grants permission to release it. That interpretation flies in the face of both public accountability and legal precedent; if the governor persists with such a view he surely will be challenged, in court and in the public forum.

The case from which the interpretation arose is not an appealing one. The employee in question — Lennie Boston, a special assistant in the governor's office responsible for policy advice concerning natural resources issues — was one of several targets of a shameful, anonymous accusatory memorandum from inside the legislature. The instigator of the attack, later revealed to be state Rep. John Cowdery, is one of those who requested Ms. Boston's resume. In refusing to provide it, the governor probably aims to prevent an irrelevant and politically shabby campaign of harassment against an apparently honorable, competent employee — and, by proxy, against the governor himself. It is an understandable impulse.

Still, there are important public values at stake here. Alaskans have a right to know the qualifications of those who serve in public office, particularly those in sensitive roles so close to the governor himself. And there have been more than enough examples in recent years to support the value of that claim: at the municipal level in Anchorage, a police chief applicant was found to have been dismissed from previous posts for serious indiscretions, while at the state level only this summer, Gov. Sheffield's communications director was found to have falsified his job history.

The issue in this case is accountability to the public, not bad decorum or irresponsibility by legislative actors. The fact that the circumstances of one request are distasteful, at best, does not remove the obligation of openness and accountability from the administration -- and it surely does not justify the blanket extension of confidentiality, against legal precedent, to the resumes of all state employees. The public interest here is in keeping the professional resumes of state employees open for all to see.

The Anchorage Times

Editoria

The right to know

ANYTIME the press — or anyone, for that matter — is denied information or documents from a public office or official, the door is open to strong suspicion that there's something to hide.

Such is the case with efforts by an Anchorage legislator and members of the Alaska press corps who have been trying for months to obtain the personnel records of a member of the governor's staff.

The matter came to light during the last session of the legislature. Rep. John Cowdery, a freshman lawmaker from Anchorage, is chairman of the House Oil and Gas Committee. He requested the resume of the governor's special assistant for natural resources issues. His request was denied.

THE INCIDENT aroused the curiosity of the press, whose request to see the resume was also turned down. Since that time, the attorney general has advised the governor's office that a state statute requires an employee's permission before such information can be made public.

If that law gets in the way of proper performance of duty by legislators and reporters, then legislators have the prerogative to change or eliminate it.

Regardless of the law, it would appear that common sense would prevail in the matter. What might at one time have been mere public curiosity about the employee's background has grown to serious concern that a person close to the governor, who gives him advice in the critical area of natural resources, has something to hide.

ALREADY, one member of the governor's staff has been found to have lied about his credentials. It's not too uncommon for that to happen in Alaska, with its geographical distance from the rest of the country. There are those who think they can come here and get away with putting false information on their job applications.

Perhaps the special assistant's credentials are sound. Perhaps she has no dark side. Perhaps she is the most qualified person in the state to fill the job she holds.

But she will remain a mysterious figure in the governor's inner circle until she voluntarily tells the people she serves and the people who pay her salary — all Alaskans — who she is and what her qualifications are.

Legislator says request for resume not answered

10-23-83 News

The Associated Press

Despite administration claims to the contrary, an Anchorage lawmaker says he never received the resume of one of Gov. Bill Sheffield's top assistants.

A recent letter to the editor in an Anchorage newspaper suggested that Republican Rep. John Cowdery was due an apology after another administration official had to resign because he had fabricated his resume.

Last March, Cowdery requested the resume of Lennie Boston, a special assistant to the governor. He was turned down by the governor's chief of staff, Larry Crawford, who said because special assistants are not policy makers, the administration thought it unnecessary to release the information.

Crawf[illegible] Tuesday the reason t[illegible] ministration hesitated [illegible]ease Boston's resume wa[illegible]at it contained "personal information like her telephone number."

The current Juneau telephone directory lists Boston's home telephone number and address.

Crawford said Tuesday the staff prepared a summary of Boston's professional qualifications and gave it to Cowdery before the legislative session ended.

"I think he got it. I think we made those available," Crawford said.

"That's not true," Cowdery said Wednesday. "I have never received a resume for Lennie Boston."

Cowdery said he sought the resume because of a constituent request. He co-chairs the Joint Oil and Gas Committee. Boston is listed as the governor's special assistant in charge of oil and gas matters.

Cowdery did not identify the constituent who sought the information, but said he was not in the petroleum industry.

NEWS - 11-17-83

For a "policy" practically guaranteed to be both politically damaging and substantively counterproductive, look no further than Gov. Sheffield's exhortations to state employe s this week to provide their resumes voluntarily to members of the press or public who ask for them.

The governor stood by an attorney general's interpretation that resumes should be considered confidential — which is actually to say that the public has no right to inspect them — but this week encouraged employees to release resumes on their own. This is cant, and no one should be taken in by it.

The governor says he believes the public has a right to know that individuals hired in public jobs are qualified, but his policy belies the words. If the public has such a right, then the employees themselves have no discretion over release of their resumes. If the employees hold the power of decision — as the governor and attorney general maintain — then the public has no guarantee of accountability. The administration cannot have it both ways.

What the Sheffield administration apparently wants is for the press and public to gain resume information about employees who are willing to have it released. Since such information can be expected to be positive, on the whole, the administration might reasonably hope to bask in a favorable light for making it known.

What the Sheffield administration apparently does *not* want, however, is to be forced by law to release information that employees — or the administration — would rather have kept quiet. The employees themselves could have any number of reasons for preferring privacy, but it is a sure bet that those with something to hide — such as falsifications on their resume — will be most likely to stand firm against releasing their resumes.

Thus we are left with a policy that refuses to require release of important public information, but encourages voluntary selectivity by those most directly affected. What it means is that those with an attitude of openness will be subject to scrutiny — or political harassment — even as those with something to hide gain a hitherto unrecognized shield in state law.

That is ludicrous. The point of the exercise is to allow independent public verification of the qualifications of state employees — but that would be highly unlikely under this setup. The governor's encouragement is no substitute for state law. The attorney general's interpretation is no service to public accountability.

What's needed is a recognition by this administration similar to that consistently provided by Alaska courts, including the Supreme Court of Alaska: that the names, backgrounds and qualifications of applicants for important public jobs are to be considered public records.

Governor urges staff to make resumes public

By JOHN LINDBACK
Daily News reporter

JUNEAU — Gov. Bill Sheffield Tuesday encouraged his employees to furnish their resumes to members of the public or press who request them.

At his Tuesday morning cabinet meeting, the governor said his employee request should not be viewed as a "change of heart" on the legal stand Attorney General Norman Gorsuch took last week, regarding the confidentiality of state employee resumes.

The state will continue to follow Gorsuch's advice that the decision on whether to honor a request for a resume still rests with the employee, Sheffield said. Anyone who refuses to furnish their resume to the press and other members of the public will not suffer any retribution for the decision, he said.

The governor said he was asking his employees to honor requests for resumes because he believes the public has a right to know that individuals hired for public jobs are qualified.

"I am proud of the people who work for me and I have no fear of controversy if your resumes a made public," Sheffield told his employees in a Monday memo. The notice said he would announce the new policy at the Tuesday morning cabinet meeting.

The resume issue first surfaced during this year's legislative session. Rep. John Cowdery, R-Anchorage and co-chairman of a joint House-Senate Committee on Oil and Gas, complained that the governor's office would not furnish him with a resume for Lennie Boston, a special assistant to Sheffield on natural resource issues.

Gorsuch, in response last week to a request by The Daily News for the resumes of special assistants to the governor, advised Sheffield that only the employees themselves can decide whether that information should be released.

Tom Jahnke, an assistant attorney general who prepared Gorsuch's memo on the issue, interprets the state statute governing the confidentiality of state personnel records as saying that only an employees name, job, salary, union or non-union status and employment history with the state are a matter of public record.

The statute is written more vaguely than Jahnke interprets it, in regards to employment history. According to Alaska Statute 39.25.080, "prior positions held by a state employee" are public. Jahnke interprets that passage to mean that only the employee's job history with the state is open to public scrutiny.

The statute states that employment applications and examination materials are among the state personnel records that should be considered confidential. Jahnke said he interprets that passage to mean that resumes would be included.

Both Boston, the special assistant whose resume is sought by Cowdery, and another assistant to the governor, Carol Derfner, said Tuesday they would furnish The Daily News with copies of their resumes.

Boston also said she would give her resume to Cowdery if he requests it.

Both Derfner and Boston said the issue was a source of concern to governor's office employees during the fight last session with the legislature over confirmation of Sheffield's appointees. Mass requests for resumes were made by legislators and there was a fear that witchhunts would be conducted because anonymous lists of state employees considered unacceptable to the oil industry were floating around the Capitol, they said.

Derfner said she will ask people who want a resume for this purpose behind their request.

"I was surprised when I started working in state government at how public everything was," she said.

Gorsuch said after the cabinet meeting that his legal position is not changed by the governor's announcement. The administration is attempting to balance the "public's right to know" that qualified people are hired for public jobs with the employee's right to privacy, he said.

Cowdery said he is encouraged and hopes Boston will send him her resume in accordance with what he considers an unanswered request.

He also said he will research the possibility of pressing for a change in the statute during the next legislative session to make it clear that employee resumes are public.

During the last few years, Alaska newspapers have won several court decisions, including one from the state Supreme Court, stipulating that the names, backgrounds and qualifications of applicants for important public jobs are to be considered public records.

Jahnke said last week that since those suits were lodged by newspapers against municipalities, there is nothing to suggest that they apply to state employees and the statute that governs their personnel records.

Governor's office told to reject requests for resumes

By JOHN LINDBACK
Daily News reporter

JUNEAU — Attorney General Norm Gorsuch told the governor's office Wednesday to deny requests from the press and other members of the public for resumes of state employees.

In a memorandum forwarded to the governor's office, Gorsuch said a statute governing state personnel records prohibits release of resumes to the public without the employee's permission.

The attorney general's office interprets the statute as saying a resume, which is submitted by an applicant before being hired, is part of a state employee's confidential personnel file, said Tom Jahnke, an assistant attorney general who prepared the memorandum.

Gorsuch's advice to the governor's office was prompted by a request from The Daily News for the resumes of some of the employees of the governor's office. The request was filed to test state freedom-of-information regulations.

The matter was first raised during the last legislative session by Rep. John Cowdery, R-Anchorage and a co-chairman of the legislative Oil and Gas Committee. The governor's office denied Cowdery's request for the resume of Lennie Boston, a special assistant to the governor on natural resource issues.

The Daily News last summer asked for the resume of Victor Jorge, Gov. Sheffield's former communications director, and the request was denied. Jorge voluntarily gave his resume to the paper, and a subsequent investigation revealed that he had lied about his job history.

Jorge resigned his $68,000-a-year post when the paper challenged the accuracy of his resume.

The statute on which the Department of Law based its decision says "state personnel records, including employment applicatons and examination materials, are confidential and are not open to public inspection . . ."

Anyone who argues that resumes are not covered by the statute is guilty of splitting hairs, Jahnke said.

Information available to the public about a person hired for a job in the governor's office or elsewhere in state government is limited by the statute to the employee's name, job, previous jobs with the state, their union or non-union status, the length of employment with the state and their salary, Jahnke said.

"The person seeking the information should be informed that it is the employee alone who has the right to allow public or press access to their personnel records; if the employee permits it, resumes or employment applications may be disclosed," according to the memo.

Cowdery said Wednesday that any member of the public ought to be able to reques background information about a state employee, even if the employee doesn't want it released.

He asked for Boston's resume because he was interested in her professional background. Cowdery said the request prompted charges from the administration that he was fishing for information to engage in "greenbashing," a term that refers to an effort to discredit someone because of an environmentalist background.

Alaska newspapers during the past few years have won a series of court cases against municipal governments that refused to disclose the names, backgrounds and qualifications of applicants for important public jobs.

The courts ruled it was in the public interest to know that qualified persons are hired for public jobs.

Bill would open personnel records

The Associated Press

Rep. Charlie Bussell has introduced a bill in the House to make the personnel records of state employees available for public scrutiny.

Bussell said Monday he was prompted by the difficulties lawmakers had last year obtaining the personnel records of Sheffield administration employees.

"With this law, the public will have the ability to get the information it needs," Bussell, R-Anchorage, said in a press release.

Anchorage Reps. Mae Tischer, Mitch Abood, Jerry Ward and Terry Martin are co-sponsors of the measure (HB 517).

If approved, the bill would require salaries of state employees to be disclosed. Resumes, job applications and state employment histories would also be available for citizens to examine, he said.

Alaska Attorney General Norm Gorsuch in November said it is up to the employee to decide whether to honor requests for job information. Only an employee's name, job, salary, employment history and union status were matters of public record, he said.

Sheffield later urged employees to make the information available to the public, press, and lawmakers. But the governor said state employees would not be required to make the information available, and they would not be punished for witholding their records.

Alaska's newspapers in recent years have won several court cases stipulating that the names and qualifications of applicants for public jobs are public records.

The attorney general argued that the court rulings involved municipalities and therefore shouldn't be interpreted to apply to the state.

To support his decision to submit the bill, Bussell cited the case of a Sheffield appointee who resigned last year after newspaper disclosures that he falsified his resume.

Daily News Jan. 18, 1984

Privacy, accountability

Having argued firmly — and sometimes without sufficient legal support — that state employees' job resumes must be open to public inspection, we feel compelled now to support efforts by Rep. John Cowdery, R-Anchorage, to modify state law for that purpose.

The state's open-records law currently provides that resumes of employees and prospective employees of local governments must be open to public inspection, but privacy statutes adopted in 1982 apparently exempt state employees from that requirement. Rep. Cowdery and four other legislators have introduced a bill requiring that resumes, job applications and state employment histories be made available for public inspection — so that the fitness and credentials of public employees can be verified forthrightly.

The legislature, of course, must examine Rep. Cowdery's measure carefully, and craft it carefully to define the balance between employees' privacy and public accountability. But as a matter of policy, job resumes and professional qualifications surely belong in the realm of public information. Gov. Bill Sheffield, among others, has supported that policy in the past, and plenty of Alaska experience proves its worth. The legislature should act accordingly.

Opinion

JUNEAU EMPIRE

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State, local governments should be open

Rep. Charlie Bussell, R-Anchorage, is leading the charge in the House to open the personnel records of state employees. He and the co-sponsors of his bill say the public has a right to know who is working for it.

We agree, as far as policy-making employees are concerned, but we can't really say there's a legitimate interest in every clerk-typist's background.

A parallel major concern for the public is openness in municipal government. We urge Rep. Bussell to assure that high municipal employees are included in his disclosure bill. During the past five years, there has been a spree of problems with applicants for high municipal post being less than accurate in recounting their job histories and qualifications. One such case happened in Rep. Bussell's home district when a police chief applicant failed to mention he had been let go.

Not only that, but the folks in charge of the hiring failed to do their homework. It wasn't until the public — through their local newspapers — did a little checking that the truth was discovered.

In the meantime, newspapers in Anchorage, Kenai, Ketchikan and Juneau all found themselves in court, pointing to a state law that says the papers of "state agencies" are public record. The municipalities unsuccessfully argued they weren't state agencies under the legal definition. The outcome: applications for top municipal office — city manager, police chief and fire chief — are public record.

Last year, Rep. Bussell and others got the urge to do a little poking around checking the qualifications of top administration officials. We're not sure of his motives, but in our mind such questions were within his rights, as a matter of policy, if not law.

The state attorney general says they are not, and the governor has compromised, saying that while he encourages the folks in his administration to tell their qualifications, they are not required to under law.

We're no lawyers, but it just seems that the public has a legitimate right to know the background of who is working for it, whether as a city manager of a municipality or as a top staffer in the governor's office — or, for that matter, as a staffer for the legislature.

Any persons in a policy-making position, in state or municipal government, should be required to disclose their qualifications and educational background.

MEMO: DATE : March 28, 1983

TO: Rep. Cowdery

FROM: J.J..Brewer

TOPIC: City of Kenai v. Kenai Peninsula Newspapers, Inc., 642 P.2d 1316 (1982)
(See pages 1323 + 24)

This opinion was issued in March, 1982. The City of Kenai was seeking a city manager in 1979 and had many applicants. The City of Anchorage was seeking applicants for CHief of Police in 1980 and had some 80 or 90 applicants. The two cases were consolidated for hearing before the Supreme Court.

In Kenai, the newspapers wanted the information on applicants and so did a newspaperman in Anchorage (Daily News) want the information from the City of ANchorage on who was applying for police chief. (If you recall, one of them withdrew, after Sullivan had appointed him, because o some bad things in the record back east somewhere--after that, Sullivan appointed Brian Porter, which he should have done in the first place!)

Anyway, this decision goes on at length as to whether the state statutes apply to city ordinances and finally concludes that they do. Much of the decision (Attached) is concerned with the history of the developmentof the statutes (two attached) that we have today. Also, it is wound up with AS 42.62.310, the state's "open-meeting statute", so-cal which incidentally sets forth also the circumstances of executive session

While the statues go to the copying and release of public records involving real estate, tec. (and to a lesser extent, reference to other stautes as to medical records, for example), the statutes themselves do not specify personnel records. So, the cities involved were aware of that and, I 'spect, arguing that personnel records were not in the category of "public records" as if one were abstracting a title to real property, for example. However, the court decision seems to knock down such arguments and indicate that the reporters should have been able to obtain the information. Thus, it would certainly seem that a Legislator could obtain the information !!!!!

Armed with these statutes and the case law, I think you should get somewhere in your request !! (My humble opinion--it's impact is neglible, compared with Dept. of Law and all the attorneys they have there!)

CITY OF KENAI, Charles A. Brown, Acting City Manager, Sue C. Peters, City Clerk, and all current members of the council of the City of Kenai, incent O'Reilly, Edward Ambarian, Ronald A. Malston, Betty Glick, Phillip Aber, Charles Bailie and Michael Seaman, Appellants,

v.

KENAI PENINSULA NEWSPAPERS, INC., Appellee.

The MUNICIPALITY OF ANCHORAGE, George M. Sullivan, Mayor, Ruby Smith, Municipal Clerk, Jane Angvik, Paul Baer, Fred Chiei, Ben Marsh, Carol Masser, Rick Mystrom, Gerry O'Connor, Dave Rose, Lydia Selkregg, Don Smith, and Dave Walsh, all current members of the Anchorage Municipal Assembly, Appellants,

v.

ANCHORAGE DAILY NEWS, INC., Appellee.

Nos. 1954, 5133.

Supreme Court of Alaska.

March 26, 1982.

Appeals were taken from decisions of the Superior Court, Third Judicial District, Kenai and Anchorage, James A. Hanson and Karl S. Johnstone, JJ., which, inter alia, ordered the municipalities involved to disclose information concerning the applicants for positions of city manager and police chief. After consolidation, the Supreme Court, Matthews, J., held that: (1) records in possession of municipalities are available for public inspection, subject to exceptions based on need; (2) with the exception of those who withdrew their applications rather than have them disclosed, employment applications for positions of city manager and police chief were subject to disclosure pursuant to public records disclosure statute; (3) to extent that city's public records ordinance prohibited disclosure of applications of those seeking position of police chief, it was in irreconcilable conflict with public records disclosure statute and could not be accorded substantive effect; however, remainder of the ordinance was valid; and (4) city council was authorized by public meetings law to meet in executive session while discussing personal characteristics of the applicants for city manager position.

Order in Anchorage case affirmed; order in Kenai case affirmed in part and reversed in part.

Connor, J., filed separate opinion dissenting in part.

1. Records ⇐30

Records in possession of municipalities are available for public inspection, subject to exceptions based on need. AS 09.25.110, 09.25.120.

2. Records ⇐54

With the exception of those who withdrew their applications rather than have them disclosed, employment applications for positions of city manager and police chief were subject to disclosure pursuant to public records disclosure statute. AS 09.25.110, 09.25.120.

3. Municipal Corporations ⇐111(4), 592(1)

To extent that city's public records ordinance prohibited disclosure of applications of those seeking position of police chief, it was in irreconcilable conflict with public records disclosure statute and could not be accorded substantive effect; however, remainder of the ordinance was valid since those provisions of the ordinance were plainly meant to be severable and since existing state law was neither so detailed nor comprehensive as to permit an inference that the legislature intends to occupy the field to the exclusion of municipalities. AS 09.25.110, 09.25.120.

4. Municipal Corporations ⇐92

City council was authorized by public meetings law to meet in executive session while discussing personal characteristics of the applicants for city manager position. AS 44.62.310(c)(2).

Richard W. Garnett, III, Garnett, Klinkner & Bendell, Anchorage, for appellant, City of Kenai.

Steven H. Morrissett, Julie A. Garfield, Asst. Municipal Attys., Theodore D. Berns, Municipal Atty., Anchorage, for appellants, Municipality of Anchorage.

C. R. Baldwin, Kenai, for appellee, Kenai Peninsula Newspapers.

A. Robert Hahn, Jr., Kevin F. McCoy, Hahn, Jewell & Stanfill, Anchorage, for appellee, Anchorage Daily News.

Before RABINOWITZ, C. J., CONNOR and MATTHEWS, JJ., and VAN HOOMISSEN and TAYLOR, Superior Court Judges.*

OPINION

MATTHEWS, Justice.

These consolidated cases have as their common issue the question whether our public records disclosure statute, AS 09.25.110–.120, applies to municipalities. In both cases the superior court ruled that the statute does apply and, for the reasons expressed below, we agree. Each case also raises issues not present in the other, and these will be separately discussed.

CITY OF KENAI

During June of 1979, the City of Kenai began soliciting applications for city manager. Subsequently, the City Council met, without notice to the public and without keeping minutes, to review applications and interview applicants. Max Swearingen, the publisher of the Peninsula Clarion, a daily publication of Kenai Peninsula Newspapers, Inc., asked the City to release a list of names and a summary of credentials of the applicants. This request was considered by the City Council on August 2, 1979, and rejected. In a letter written to Swearingen, the mayor voiced a concern that such disclosures would jeopardize the applicants' personal privacy, deter future applications from qualified people concerned about public exposure, and compromise the council's moral obligation to respect the privacy interests of individual applicants.

Kenai Peninsula Newspapers filed suit to require the City to allow inspection of the applications and to enjoin the City Council from further review and action upon the applications except at a public meeting. The superior court issued a temporary restraining order enjoining "further deliberations toward the appointment of a City Manager for the City of Kenai from which the public is excluded. . . ." After briefing and a second hearing, the superior court entered a decision which concluded that the applications were public records and that the deliberations of the city council concerning appointment of a city manager must be held in public meetings. The court thereupon ordered the city to permit the inspection and copying of the applications and to refrain from any closed deliberations concerning the selection of the new city manager.

The superior court stayed, pending appeal, that portion of its order requiring the immediate release of the applications for employment. The parties then stipulated that the order should be considered a final judgment and that the city would "deliver over to the Plaintiff copies of all resumes and applications of all applicants for city manager who do not choose to withdraw their application upon being notified of the [city's] agreement to release the same." The agreed upon release was made without prejudice to the city's right to appeal the order requiring it. Ten of the thirty-two applicants for the position withdrew their applications upon learning of the possibility of disclosure. Kenai Peninsula Newspapers subsequently moved for disclosure of the names and information concerning the withdrawn applicants. This motion was denied.

MUNICIPALITY OF ANCHORAGE

In February of 1980, the Municipality of Anchorage began soliciting applications for

* Van Hoomissen and Taylor, Superior Court Judges, sitting by assignment made pursuant to article IV, section 16 of the Constitution of Alaska.

police chief. The nationwide search was conducted through written advertisements which promised that applications would be held in confidence.

From June 1, 1980, through July 8, 1980, Don G. Hunter, a reporter for the Anchorage Daily News, sought access to the names and qualifications of the applicants. The Municipality refused to honor these requests on the grounds that disclosure was prohibited by municipal ordinance, and because confidentiality had been promised to all applicants. The Anchorage Daily News filed suit on July 9, 1980 alleging that the applications and resumes were public documents subject to disclosure and requesting injunctive relief and a temporary restraining order restraining the Municipality from appointing a police chief until a hearing on the merits. Mayor Sullivan appointed a new police chief the next day before the hearing on the temporary restraining order. After the hearing, the court ordered the Municipality to refrain from any action confirming the appointment until a hearing on the merits. The appointee subsequently declined the appointment after disclosures reflecting adversely on his qualifications were made.

The Daily News then learned that Mayor Sullivan had appointed a review committee to assist in evaluating the eighty-nine applications received by the Municipality. The review committee was comprised of local citizens and several municipal employees. The Daily News amended its complaint to allege that the selection process was in violation of Alaska's open meeting law, AS 44.62.310-.312. Following a hearing, the court entered an order for preliminary injunction, supported by findings of fact and conclusions of law, requiring the Municipality to provide the Daily News with the applicants' names and resumes.

Subsequently, the preliminary injunction was modified by stipulation of the parties to provide that the Municipality would contact all applicants to determine whether they wished to withdraw their applications rather than have them made public. The names and information concerning those applicants choosing to withdraw their applications would remain confidential. The parties also stipulated that the preliminary injunction would be considered as a final judgment so that an appeal could be taken to this court. Of the 89 original applicants, 8 withdrew their names. An additional 19 could not be reached within the time frame prescribed by the stipulation and their names were also considered to have been withdrawn.

APPLICATION OF THE PUBLIC RECORDS DISCLOSURE STATUTE TO MUNICIPALITIES

[1] The first question is whether the provisions of AS 09.25.110[1] and AS 09.25.120[2] are applicable to municipalities.

1. AS 09.25.110 provides:

   Inspection and copies of public records. Unless specifically provided otherwise the books, records, papers, files, accounts, writings, and transactions of all agencies and departments are public records and are open to inspection by the public under reasonable rules during regular office hours. The public officer having the custody of public records shall give on request and payment of costs a certified copy of the public record.

2. AS 09.25.120 provides:

   Inspection and copying of public records. Every person has a right to inspect a public writing or record in the state, including public writings and records in recorders' offices except (1) records of vital statistics and adoption proceedings which shall be treated in the manner required by AS 18.50.010-18.50.380; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by a federal law or regulation or by state law. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the original. Recorders shall permit memoranda, transcripts, and copies of the public writings and records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public writings and records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants; and shall furnish proper and reasonable facilities to persons having lawful occasion for access to the public writings and records for those pur-

A. The parties' arguments focus on the terms of the statute without regard to its historical context. That historical context is illuminating.

At common law, every interested person was entitled to the inspection of public records, including those of municipal corporations. *Mushet v. Department of Public Service of City of Los Angeles*, 35 Cal.App. 630, 170 P. 653 (1917); *Clement v. Graham*, 78 Vt. 290, 63 A. 146, 153 (1906); *State ex rel. Wellford v. Williams*, 110 Tenn. 549, 75 S.W. 948 (1903); *State ex rel. Colescott v. King*, 154 Ind. 62, 57 N.E. 535 (1900).

The history of §§ .110 and .120 demonstrates that the coverage of the common law has consistently been accepted by the legislators of this state. The operative language of § .120 was first enacted by Congress for the District of Alaska as section 1039 of the Act of June 6, 1900, 31 Stat. 321. It read:

> Every person has a right to inspect any public writing or record in said district, and every public officer having the custody thereof is bound to permit such inspection, and to give on demand and on payment of the legal fees therefor, a certified copy of such writing or record, and such copy shall in all cases be evidence of the original.[3]

The language of this section was similar to two sections in the laws of Oregon[4] which in turn had counterparts in the laws of California,[5] Montana,[6] Utah,[7] and Idaho.[8] Decisions in these jurisdictions construing their acts indicate that it has never been doubted that such acts cover municipal as well as state officials.[9]

Enactment of § 1039 seems to have been meant as a codification of the common law rule with the added intent, perhaps, of eliminating the requirement that the person

poses, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for the protection of the writings and records and to prevent interference with the regular discharge of the duties of the recorders and their employees.

3. § 1039, pt. IV (Code of Civil Procedure), Carter's Ann. Alaska Code (1900)

4. The two sections were §§ 717 and 718 Hill's, Title V Ann. Laws of Oregon which read:

Section 717. Every citizen of this state has a right to inspect any public writing of this state, except as otherwise expressly provided by this code or some other statute.

Section 718. Every public officer having the custody of a public writing which a citizen has a right to inspect is bound to give him, on demand, a certified copy of it, on payment of the legal fees therefor, and such copy is primary evidence of the original writing.

The Oregon statute also contained four other sections which were not enacted by Congress for the District of Alaska. These sections are: Title IV

714. Writings are of two kinds:—(1) public; and (2) private.

715. Public writings are:—(1) the written acts, or records of the acts, of the sovereign authority of official bodies and tribunals and of public officers, legislative, judicial, and executive, whether of this state, of the United States, or a sister state, or of foreign country.

716. All other writings are private.

Title V

719. Public writings are divided into four classes:—(1) Laws; (2) Judicial records; (3) Other official documents; (4) Public records kept in this state, of private writings.

5. California Code of Civil Procedure §§ 1892, 1893 (Deerings California Codes, 1967).

6. Montana R.C. § 10541; 3170-3182 Code of Civil Procedure of 1895, now codified as §§ 2 6 101, 2 6 102 Montana Revised Statutes.

7. Utah Code Section 78-26-1 through 3.

8. Idaho C.C.P. of 1881 §§ 902, 903, currently 9 301, 9 302 Idaho Code (1979).

9. *Gallagher v. Boller*, 231 Cal.App.2d 482, 41 Cal.Rptr. 880 (1964); *Whelan v. Superior Court*, 114 Cal. 548, 46 P. 468 (1896); *Mushet v. Dept. of Public Service of City of Los Angeles*, 35 Cal.App. 630, 170 P. 653 (1917); *Harrison v. Powers*, 19 Cal.App. 762, 127 P. 818 (1912); *San Francisco v. Superior Court*, 38 Cal.2d 156, 238 P.2d 581 (1951); *Coldwell v. Board of Public Works*, 187 Cal. 510, 202 P. 879 (1921); *Miller v. Murphy*, 78 Cal.App. 751, 248 P. 934 (1926); *Jessup v. Superior Court*, 151 Cal.App.2d 102, 311 P.2d 177 (1957); *Santa Monica v. Superior Court*, 204 Cal.App.2d 68, 21 Cal.Rptr. 896 (1962); *Connover v. Board of Education of Nebo School Distr ct*, 1 Utah 2d 375, 267 P.2d 768 (1954); *State v. Keller*, 143 Or. 589, 21 P.2d 807 (1933); *State ex rel. Halloran v. McGrath*, 104 Mont. 490, 67 P.2d 838 (1937).

seeking inspection have an interest. When Congress imposed a statutory duty of disclosure in § 1039 on "*every* public officer" it clearly intended to encompass both district and municipal officials; any contention that municipal officials were meant to be relieved of their pre-statutory disclosure duties would plainly be frivolous in view of this language.

Section 1039 continued in effect until 1962, unchanged except for two additions. In 1955 the reference to public writings in recorders' offices was added,[10] followed in 1957 by the addition of the exceptions relating to medical records, those of juveniles, and those records required to be kept confidential by federal or territorial law.[11]

By 1931 the District of Alaska had become an organized territory. In that year the territorial legislature enacted the forerunner of § .110. This enactment, Ch. 107, § 2 SLA 1931,[12] provided:

> The books, records, papers, files, accounts and transactions of every officer, board or institution in the territory are public records, and subject to such reasonable rules as the officer in charge may prescribe, shall be open to inspection by the public during all the time the respective offices shall be open for business.

Except for the addition of language not relevant here, this section, too, remained unchanged until 1962.[13] Since it can hardly be questioned that municipal officers were encompassed within the meaning of the language "every officer . . . in this territory," municipalities were included within the provisions of the predecessor of § .110.

In 1959 Alaska became a state. By that time the predecessors of §§ .110 and .120 had been recodified respectively as §§ 58–1-1 and 58-1-2 ACLA 1949. In 1962 these sections were repealed and re-enacted in their present form. Ch. 101, §§ 3.22, 3.23, SLA 1962. The 1962 re-enactment was accomplished as a part of a comprehensive revision of the entire territorial statutory code of civil procedure. This process was necessitated by statehood. The primary objective of the legislature was to delete procedural provisions from the Alaska statutes in deference to this court's power under the state constitution to promulgate rules of procedure governing proceedings in all courts.[14]

10. Ch. 32, § 1, SLA 1955.

11. Ch. 54, § 1, SLA 1957.

12. Codified initially as § 2935, CLA 1933.

13. In 1947, language concerning information in the possession of the tax commissioner was adopted. Also added at that time was the phrase "except where otherwise specified or declared." Ch. 46, § 1, SLA 1947. As a result the statute read:

> WHAT ARE PUBLIC RECORDS: INSPECTION.
>
> Except where otherwise specified or declared, the books, records, papers, files, accounts, writings and transactions of every officer, board or institution in this Territory are public records and subject to such reasonable rules as the officer in charge may prescribe, and shall be open to inspection by the public during all the time the respective offices shall be open for business. Any information in the possession of the Tax Commissioner which discloses the particulars of the business or affairs of a taxpayer, or other person, is not matter of public record, except for purposes of law enforcement and the investigation by any person of law compliance, and shall be kept confidential except when production thereof is required in an official investigation or court proceeding; provided, that nothing herein shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports and items thereof, or of the publication of delinquent lists showing the names of taxpayers who have failed to pay their taxes at the time and in the manner provided by law, together with any relevant information which may assist in the collection of such delinquent taxes.

14. Alaska Const. Art. IV, § 15 provides:

> *Rule-Making Power.* The supreme court shall make and promulgate rules governing the administration of all courts. It shall make and promulgate rules governing practice and procedure in civil and criminal cases in all courts. These rules may be changed by the legislature by two-thirds vote of the members elected to each house.

The process of revision is alluded to in *Silverton v. Marler*, 389 P.2d 3, 5 (Alaska 1964) and is fully described in the Forward to the Alaska Rules of Court, Volume 1, pp. i-vi.

The report of the Alaska House Judiciary Committee [15] makes it clear that no substantive changes in pre-existing law were intended, except in certain enumerated areas not including the inspection and copying of public records.[16] In fact the House Judiciary Committee corrected an error in the Senate Bill concerning the right to inspect records. Existing law read:

> Every person has a right to inspect any public writing or record in said Territory, including public writings and records in recorders' offices....

§ 58-1-2 ACLA (Supp.1958). The initial Senate Bill revised this to read:

> Every person has the right to inspect any public writing or record in the office of any recorder....

SB 105 § 3.25, p. 18, 2d Leg., 1st Sess. (1961). The House Committee changed this to its present form:

> Every person has a right to inspect any public writing or record in the state, including public writings and records in recorders' offices....

§ 3.22 HCS SB 105, p. 18, 2d Leg., 1st Sess. (1961) which differs from preexisting law only in that the term "the state" is substituted for "said Territory." The House Committee noted concerning this change: "Material re inspection and copying of public records is restored because incorrectly revised." [17]

It is therefore evident that the legislature had no intention of changing the scope of the public records law in the 1962 recodification. The common law view that municipalities are required to make their records available to the public was adopted by statute in 1900 and has not been changed.

B. Even without the evidence provided by legislative history, the municipalities' arguments on the language of the statutes could not prevail.

In arguing that §§ .110 and .120 are not applicable, appellants focus on the phrase "all agencies and departments" in the first sentence of § .110. They contend, first, that this phrase refers only to agencies and departments of the state government. There is no language in §§ .110 or .120 so limiting "agencies and departments." We will not read such a limitation into this language without evidence that it was intended.

Appellants also argue that a municipality as such is not an agency or department and is therefore not covered by § .110. This argument, too, has little to commend it. Conceding, for the purposes of argument, that the legislature would not describe a municipality as an agency or department, it is equally true that the legislature would not describe the state government taken as a whole by using those terms. Municipal governments, as well as the government of the state, encompass agencies and departments. The "agencies and departments" language used in § .110 must be read as referring to the agencies and departments of the governments to which the statute applies, but that language itself does not define what the applicable level of government is.

The adjective used in §§ .110 and .120 which does define the levels of government to which these sections apply is the word "public." Thus, § .110 commands "the public officer" to make available certified copies on request. Similarly, § .120 directs "every public officer" to make unexcepted records available for inspection and copying. We construe the word public as used in these sections to refer both to state and local officials. This construction is in accordance with the ordinary meaning of the term "public" which is that the word refers to all levels of government:

> Having a civil, or official, character, authority, status, or the like; authoritatively serving or representing the public; as, a *public* official, prosecutor, or legislative body; to hold *public* office; also, as in titles of departments, agencies, etc., of the civic or state government; as, *public*

15. 62 House Journal 390-397 (1962).

16. *Ibid.* at 393-397.

17. 62 House Journal 395 (1962).

health, relief, welfare or safety.[18] [Emphasis in original]

It would be a corruption of the generally accepted meaning of the term "public" to argue, for example, that the mayor of the municipality of Anchorage is not a public officer. Again, the dictionary agrees, defining the term "public office" as

An office or position in the service of a nation, state, city, etc.[19]

The first sentence of § .120 provides that:

Every person has a right to inspect a public writing or record *in* the state.... [Emphasis added].

The legislature chose to say "in the state," not "of the state." The boundaries of a statute are commonly sought and found within its terms. We think that the legislature was conscious of the fact that it was defining scope here. Had the legislature intended to limit the application of § .120 to state agencies and departments, it could easily and clearly have done so.

A more recent legislature's reading of §§ .110 and .120 is apparent in the enactment in 1977 of AS 39.51.020, which provides that no public employee may be disciplined "for communicating matters of public record or information under AS 09.25.110 and AS 09.25.120." "Public employee" was defined in Section (b) of that enactment to include any employee of any state or local government.[20]

The municipalities argue that this section was enacted not because of any legislative belief that AS 09.25.110 and .120 applied to local governments but because local government employees often come into possession of state records which are public and may wish to allow the inspection of these records and need protection from discipline by their employers in so doing. We find this to be a very strained and unnatural reading of the statute. It is far more logical to conclude that the 1977 legislature assumed that §§ .110 and .120 apply to municipalities as well as to the state and concluded that municipal as well as state employees were deserving of protection.

The strongest argument made by the appellants is that the inclusion of municipalities would lead to absurd results since there is no exception for records required to be kept confidential under a municipal ordinance while such an exception does exist for state law.[21] This exception, added by the territorial legislature in 1957, must be viewed in context. The public records disclosure statute had existed without *any* expressed exceptions for more than 50 years. There was no basis under the statute for distinguishing its application between territorial and municipal governments. As discussed *supra*, prior to the enactment of the statute the common law also required disclosure of public records at both the state and municipal levels. However, under the statute prior to the 1957 amendment, as under the common law, exceptions would have been permitted where there was a good reason for them.[22] While it is possible that the 1957 legislature may have committed an oversight in not including an express exception for municipal ordinances, the failure to include such an exception can hardly

18. Webster's New International Dictionary (2d ed. 1960).

19. *Id.*

20. AS 39.51.020 provides:

Obstruction of access to public information. (a) No public employee may be dismissed, demoted or suspended, laid off or otherwise made subject to any disciplinary action for communicating matters of public record or information under AS 09.25.110 and 09.25.120.

(b) As used in this section, "public employee" means any employee receiving compensation for services provided to the state (including the University of Alaska) or any political subdivision of the state.

(c) A violation of this section is a misdemeanor.

21. AS 09.25.120(4) excepts from the disclosure requirement "records required to be kept confidential by a federal law or regulation or by state law."

22. *See State ex rel. Wellford v. Williams*, 110 Tenn. 549, 75 S.W. 948 (1903); *cf. State ex rel. Colescott v. King*, 154 Ind. 621, 57 N.E. 535 (1900); *Clement v. Graham*, 78 Vt. 290, 63 A. 146 (1906).

mean that the legislature intended to exclude, by implication, municipalities from the basic disclosure requirement. If that had been the legislature's intent, it would, at the least, have changed the words "public officer" in §§ 58-1-1 and 58-1-2 ACLA 1949 to "territorial officer."

In light of the common law rule, legislative history, and our reading of the sections, we will construe §§ .110 and .120, as we would have construed them prior to 1957, as a strong legislative declaration that records in the possession of municipalities shall be available for public inspection, subject to exceptions based on need.

ARE EMPLOYMENT APPLICATIONS OPEN TO INSPECTION?

[2] We turn next to the question whether the appellants were justified in refusing to disclose the employment applications involved in these cases. In general, questions such as these require a balance to be struck between the public interest in disclosure on the one hand and the privacy and reputation interests of the affected individuals and the government's interest in confidentiality, on the other. The process of balancing has been described as follows:

> In determining whether the records should be made available for inspection in any particular instance, the court must balance the interest of the citizen in knowing what the servants of government are doing and the citizen's proprietary interest in public property, against the interest of the public in having the business of government carried on efficiently and without undue interference. The initial decision as to whether inspection will be permitted must, of course, rest with the custodian of the records. And since the justification for a refusal to permit inspection will depend upon the circumstances of the particular case, we can offer no specific guide for that administrative decision.
>
> In balancing the interests referred to above, the scales must reflect the fundamental right of a citizen to have access to the public records as contrasted with the incidental right of the agency to be free from unreasonable interference. The citizen's predominant interest may be expressed in terms of the burden of proof which is applicable in this class of cases; the burden is cast upon the agency to explain why the records sought should not be furnished. Ultimately, of course, it is for the courts to decide whether the explanation is reasonable and to weigh the benefits accruing to the agency from non-disclosure against the harm which may result to the public if such records are not made available for inspection. [Citation omitted].

MacEwan v. Holm, 226 Or. 27, 359 P.2d 413, 421-22 (1961) (In Banc).

In striking a proper balance the custodian of the records in the first instance, and the court in the next, should bear in mind that the legislature has expressed a bias in favor of public disclosure. Doubtful cases should be resolved by permitting public inspection.

Appellants argue that they have an interest in "attracting the largest and most qualified applicant pool . . ." and that this can best be accomplished by not disclosing the names and resumes of applicants. Further, they argue that applicants have a constitutionally protected privacy interest[23] in keeping confidential the fact that they have applied, and the contents of their applications. They argue that this interest is especially strong under the circumstances of these cases where the applications were made with the expectation that they would remain confidential.

There is a strong public interest in disclosure of the affairs of government generally, and in an open selection process for high public officials in particular. AS 44.62.-312(a) powerfully expresses the philosophy underlying this:

23. Art. 1, § 22 of the Alaska Const. states in part: "The right of the people to privacy is recognized and shall not be infringed."

It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies which serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created.

In addition, §§ .110 and .120 articulate a broad policy of open records.

Public officials such as City Managers, and Chiefs of Police have substantial discretionary authority. The qualifications of the occupants of such offices are of legitimate public concern. Disclosing the names and applications of applicants allows interested members of the public, such as the newspapers here, to verify the accuracy of the representations made by the applicants, and to seek additional information which may be relevant to the selection process.

The applicants' claim that revealing the names and applications of office seekers will narrow the field of applicants and ultimately prejudice the interests of good government is not sufficiently compelling to overcome the public's interest in disclosure. In each of these cases a majority of the applicants did not seek to withdraw their applications rather than make them public. It is not intuitively obvious that most well qualified potential applicants for positions of authority in municipal governments will be deterred from applying by a public selection process, and we have been referred to no studies tending to prove that point.

The applicants' individual privacy interests in having their names and applications not revealed are also not of an order sufficient to overcome the public's interest. The applicants are seeking high government positions. "Public officials must recognize their official capacities often expose their private lives to public scrutiny."[24] Further, the information sought is that which has been voluntarily provided by the applicants to the municipalities. It is unlikely to be particularly embarrassing if publicly revealed.[25]

It may be that in some cases an individual will not wish his current employer to know that he has applied for another job. That desire is one which cannot be accommodated where the job sought is a high public office. Even if the law did not compel disclosure of each application, at some point before the final selection, as both appellants acknowledge, prudence would require the municipality to contact the employers of those applicants whose applications are being seriously considered.

Nonetheless, in *Anchorage*, the applicants were promised confidentiality, and in *Kenai* several applicants at least assumed that their names and applications would not be divulged. Since the law does not permit a confidential application, we believe that both courts acted properly in allowing those applicants who desired confidentiality to withdraw their applications without public disclosure. There is little or no public interest in the names of withdrawn candidates. On the other hand, those candidates obviously believed that public disclosure would prejudice them in their current positions. With respect to the applicants who withdrew their names, the balance was properly struck in favor of non-disclosure.

24. Advisory Opinion on Constitutionality of 1975 PA 227, 242 N.W.2d 3, 19 (Mich.1976); quoted in *Falcon v. Alaska Public Offices Com'n*, 570 P.2d 469, 474 n.15 (Alaska 1977).

25. *Cf. Falcon v. APOC*, 570 P.2d at 479-80, where we noted that the mere fact that a named private individual had visited a doctor was not protected private information, but protection did attach if there was a basis for an inference that the person had a potentially embarrassing mental or medical condition.

THE ANCHORAGE ORDINANCE

[3] The Municipality of Anchorage has a public records ordinance codified in § 3.90 of the Anchorage Municipal Code. The ordinance announces a general policy of "the fullest and most rapid access to municipal records and information" requiring "full disclosure of all public records ... except those specifically exempted under § 3.90.040...." AMC § 3.90.010. Part (B) of § 3.90.040 exempts from the requirement of disclosure "personnel ... files ... the release of which would constitute an unwarranted invasion of privacy." Another section of the Code includes an employee's application for employment as a part of his personnel file. AMC § 3.30.016A.1.

The trial court held that to the extent that the Anchorage public records ordinance prohibits disclosure of the applications of those seeking the position of Chief of Police it was in irreconcilable conflict with AS 09.25.110 and .120. We agree with this determination.

As we have explained above, state law permits municipalities to make exceptions to the rule of disclosure only on the basis of need. Evaluation of the question of need necessarily involves a balancing process which in the case of applications for a post having substantial discretionary authority results in the balance being struck in favor of public disclosure. To the extent that the Anchorage ordinance prohibits such disclosure it is directly inconsistent with state law and cannot be accorded substantive effect. It is therefore invalid.[26]

This does not mean that the remainder of AMC § 3.90 must fall. That result would be unwarranted, for the provisions of the ordinance are plainly meant to be severable.[27] Nor does this conclusion call into question the power of Anchorage to enact an ordinance dealing with the disclosure of public records which is consistent with state law. Existing state law is neither so detailed nor comprehensive as to permit an inference that the legislature intended to occupy this field to the exclusion of municipalities. *See Webster v. Bechtel, Inc.*, 621 P.2d 890, 897 (Alaska 1980). *Alaska Board of Fish & Game v. Thomas*, 635 P.2d 1191 (Alaska 1981).

DELIBERATIONS IN EXECUTIVE SESSION

[4] In *Kenai* the court enjoined the City from "any deliberations toward appointment of a city manager unless those deliberations are held in compliance" with the public meetings law, AS 44.62.310-.312.[28] The court held that such deliberations "are not within any of the exemptions of AS

26. *See* City of *Kodiak v. Jackson*, 584 P.2d 1130, 1132 (Alaska 1978).

27. AMC § 1.05.040 provides:

> The sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

28. AS 44.62.310 provides:

> *Agency meetings public.* (a) All meetings of a legislative body, of a board of regents, or of an administrative body, board, commission, committee, subcommittee, authority, council, agency, or other organization, including subordinate units of the above groups, of the state or any of its political subdivisions, including but not limited to municipalities, boroughs, school boards, and all other boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions or organizations, advisory or otherwise, of the state or local government supported in whole or in part by public money or authorized to spend public money, are open to the public except as otherwise provided by this section. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. This section does not apply to any votes required to be taken to organize the afore-mentioned bodies.
>
> (b) If excepted subjects are to be discussed at a meeting, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that come within the exceptions contained in (c) of this section shall be determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at the executive session.
>
> (c) The following excepted subjects may be discussed in an executive session:

44.62.310(c)" relating to subjects which may be discussed in executive session. The City of Kenai appeals from this ruling, contending that § .310(c)(2) which permits the discussion in executive session of "subjects that tend to prejudice the reputation and character of any person" is applicable.

The appellee does not contend that the City Council may never go into executive session when discussing city manager applicants. It argues that generally such discussions do not have a tendency to damage the reputation of the applicants, and that the City erred in routinely convening executive sessions.

Appellee's reading of the statute is not without a degree of merit. Ordinarily an applicant's reputation will not be damaged by a public discussion of his or her qualifications relating to experience, education and background or by a comparison of them with those of other candidates. However, a discussion of personal characteristics and habits may well carry a risk that the applicant's reputation will be compromised. Such a risk is especially acute where the qualities of several applicants are being compared. We believe therefore that the City Council was authorized by § .310(c)(2) to meet in executive session while discussing the personal characteristics of the applicants.[29] To the extent that the order of the court prohibits this, it must be reversed.[30]

Accordingly, in *Anchorage*, the order of the superior court is AFFIRMED; in *Kenai*, the order of the superior court is AFFIRMED in part and REVERSED in part.

CONNOR, J., dissents in part.

BURKE and COMPTON, JJ., not participating.

CONNOR, Justice, dissenting in part.

I dissent from the majority opinion. In my view the phrase "all agencies and departments" does not encompass municipal agencies.

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;

(2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;

(3) matters which by law, municipal charter, or ordinance are required to be confidential.

(d) This section does not apply to

(1) judicial or quasi-judicial bodies when holding a meeting solely to make a decision in an adjudicatory proceeding;

(2) juries;

(3) parole or pardon boards;

(4) meetings of a hospital medical staff; or

(5) meetings of the governing body of any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline.

(e) Reasonable public notice shall be given for all meetings required to be open under this section.

(f) Action taken contrary to this section is void.

AS 44.62.312 provides:

State policy regarding meetings. (a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies which serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created.

(b) AS 44.62.310(c)(1) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and avoid unnecessary executive sessions.

29. Care should be taken, of course, to observe the procedures for convening executive sessions set out in § .310(b): The meeting must first be convened as public; the question of holding an executive session concerning excepted subjects must be determined by majority vote; only excepted subjects, and only those mentioned in the motion calling for the executive session, may be considered in the executive session; and no action may be taken at the executive session.

30. In *Anchorage* we are asked to review the trial court's conclusion that the selection committee of the mayor was a committee covered by AS 44.62.310. We decline to do so because no part of the order issued by the court was based on that conclusion and review would be merely advisory.

MEMORANDUM State of Alaska

TO: Pete Spivey, Press Secretary
Office of the Governor

DATE: November 9, 1983

FILE NO: 366-250-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Disclosure of resumes of state officers and employees

By: Thomas M. Jahnke
Assistant Attorney General
Governmental Affairs-Juneau

You have inquired whether the Governor's Office is authorized to release copies of resumes of its officers and employees upon request of a private citizen or a member of the press. The answer is no.

AS 39.25.080 provides:

> PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.
>
> (b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:
>
> (1) the names and position titles of all state employees;
>
> (2) the position held by a state employee;
>
> (3) prior positions held by a state employee;
>
> (4) whether a state employee is in the classified, partially exempt, or exempt service;
>
> (5) the dates of appointment and separation of a state employee; and
>
> (6) the compensation authorized for a state employee.
>
> (c) A state employee has the right to examine the employee's own personnel files and may authorize others to examine those files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

Thus, from the records your office maintains on employees, you may disclose only the items enumerated in AS 39.25.080(b).

You should note that AS 39.25.080(c) provides that the employee may choose to disclose personnel records pertaining to him or her. The person seeking the information should be informed that it is the employee alone who has the right to allow public or press access to their personnel records; if the employee permits it, resumes or employment applications may be disclosed.

TMJ/pjg

HB

519

funds from individuals, foundations, corporations, and other organizations or institutions for the purpose of furthering the educational objectives of the council's programs; to make and sign agreements and to do and perform any acts necessary to carry out the purposes of AS 44.27.040 — 44.27.058. The council may request and is entitled to receive from any department, division, board, bureau, commission, or agency of the state the assistance and data which will enable it properly to carry out its powers and duties. The council is authorized to receive state funds made available for its purposes. (Executive Order No. 44 § 4 (1980))

Sec. 44.27.054. Powers of chairman. Subject to available appropriations the chairman may, with the concurrence of a majority of the council, employ necessary personnel and may contract for the services of experts and other persons who may be needed. (Executive Order No. 44 § 4 (1980))

Sec. 44.27.056. Reports. The council shall report to the governor and the legislature not later than November 1, 1966, and from time to time thereafter. (Executive Order No. 44 § 4 (1980))

Sec. 44.27.058. National endowment funds. The council is the official agency of this state to receive and disburse funds made available by the National Endowment for the Arts. (Executive Order No. 44 § 4 (1980))

Sec. 44.27.060. Art in public places fund. (a) The art in public places fund is established. The council shall manage the fund.

(b) The commissioner of a department responsible for the design and construction of a building or facility shall deposit into the art in public places fund one percent of the construction cost of a building or facility which is exempt from the requirements of AS 35.27 and the exemption is because

(1) the estimated construction cost of the building or facility is less than $250,000; or

(2) the building or facility is not designed for substantial public use.

(c) The council may use the money in the art in public places fund

(1) to commission or purchase a work of art which is to be made a permanent part of, or placed on loan in, a building or facility owned or leased by the state which has substantial public use; and

(2) to meet expenses for a commissioned work of art for a building or facility which has substantial public use if the cost of the work of art exceeds the amount reserved under AS 35.27.020(c).

(d) In (c) of this section, "building" or "facility" means

(1) a building or facility of the state, as defined by AS 35.27.030(2), which is designed for and which is subject to substantial public use; and

(2) a building or facility which is leased by the state and subject to substantial public use. (§ 8 ch 176 SLA 1980)

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs
AGENDA

DATE: 1/24/84 TUES

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY. AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

HB 519: AN ACT relating to art works in schools & P.F.

OTHER NOTES OR REMINDERS:

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 519
Title: Art work in public buildings
Sponsor: Adams, Ward, Szymanski
Requestor: House State Affairs
Date of Request: 1-23-84

FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL		-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: R. Snell
Phone: 266-1462
Division: Director, P&P - Central Region
Date: 1-24-83

Approved by Commissioner:
Date: 1-24-83
Agency: Acting Deputy Commissioner - Statewide

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL NOTE BACKUP
TO
HB 519

Under AS 35.27.020, the Department of Transportation and Public Facilities is required to allocate either one half of one percent of construction costs for artwork in the case of school construction, or one percent of construction costs for all other facilities.

Under AS 44.27.060, the Department of Transportation and Public Facilities is required to deposit in the Art In Public Places Fund, either one half of one percent, or one percent of construction costs, to the fund in the event a facility is exempt from artwork under AS 35.27.

SECTION 13 - ARTWORK FOR PUBLIC BUILDINGS AND FACILITIES

NOTE: The following section is based on DOT/PF Policy and Procedure #28-8002 entitled "Procurement of Artwork for Public Buildings and Facilities". Copies of his Policy and Procedure are available upon request.

13.0 PURPOSE

13.0.1 To promulgate standard departmental procedures for the selection of Artists and Artwork for public buildings and facilities.

13.2 POLICY

13.2.1 To select Artists and Artwork for public buildings and facilities in an objective manner resulting in the acquisition of Artwork consistent with A.S. 35.27, and 44.27.

13.3 DISTRIBUTION

13.3.1 All holders of the Policy and Procedures Manual and the Alaska State Council on the Arts (ASCA).

13.4 DEFINITIONS

13.4.1 Artwork - All original forms of visual art objects created by an artist which may include paintings, drawings, ceramics, fiberwork, sculpture, graphics (not signage), murals, photographs, metalwork, mixed media work, limited edition original prints (not reproductions) and Native crafts objects.

13.4.2 Artist - A practitioner in the visual arts, generally recognized by critics and peers. A project Architect or member of the Architect's firm will not be considered an eligible artist.

13.4.3 Agreement - A legal document that prescribes legal, regulatory and administrative provisions affecting the rights and obligations of the parties and the work or services (eg Artwork) to be provided.

13.4.4 Architect - The project designer engaged by DOT/PF.

13.4.5 Project Manager - DOT/PF representative and Artist's primary point of contact with DOT/PF.

13.4.6 Client Agency - The Department, Division, School District, Municipality, etc., that generated the project for which funds are designated for Artwork.

13.4.7 Construction Cost - The cost of building or facility construction approved by the State legislature, exclusive of the cost of land acquisition, site investigation, design services, administration, equipment and any other costs not specifically incurred within

the construction contract. Participatory construction funding by a Federal Agency of by the Division of Risk Management is not included in such cost as used within this procedure.

13.4.8 Public Buildings and Facilities - Schools, office buildings, court buildings, and other facilities designed for substantial public use and vessels of the State ferry system.

13.5 DIAGRAM OF PROCEDURE

13.5.1 Page 6 contains a summary diagram of this procedure. Each activity is identified by two numbers (eg 19-20) which are referenced in the procedural discussion herein.

13.6 PROCEDURE

13.6.1 (Activity 1-2) Following each legislative session, DOT/PF (Planning and Programming) provides ASCA with an informal summary of capital projects which identifies proposed buildings and facilities for which Artwork may be required.

13.6.2 (Activity 2-3) DOT/PF (Design and Construction Regions) assigns a Project Manager for each building and facility, who will concurrently initiate this procedure for procurement of Artwork and the selection procedure (P & P 28-8000) for architectural services.

13.6.3 (Activity 3-4) Project Manager and the designated Client's representative for the project decide if a percentage (amount) for public Artwork is required in accordance with A35.17.020 and 44.27.060. The amount for public Artwork shall be at least one percent of the construction cost.

A. If a project consists of new construction or remodel/renovation of existing building or facility, the amount for public Artwork is required. However, remodel/renovation does not include maintenance, repair, code upgrade, heating renovation, etc.

B. If the estimated construction cost is $250,000 or less or if the building or facility is not for substantial public use, the amount for public Artwork shall be deposited in the Art in Public Places Fund after final acceptance of the facility (paragraph 6.14).

C. If the estimated construction cost is greater than $250,000, the amount for public Artwork shall be expended only for the actual costs of design (which may include engineering for the Artwork itself, exclusive of the architectural engineering design of the facility or site where the Artwork will be displayed), production and mounting of Artwork and direct administrative costs of Artists. Administrative costs of DOT/PF, ASCA and the Architect related to Artwork, costs related to a dedication or "unveiling" of Artwork, and

the Client Agency's maintenance and recurring operational utility costs shall not be charged to the amount for public Artwork.

13.6.4 (Activity 4-5) Project Manager establishes in writing an Artwork Selection Committee consisting of the Project Manager (Chairperson) and a designated Individual fro ASCA, the Client and the Architect. If the amount for public Artwork exceeds $50,000 for a building or facility, the Commissioner may appoint one additional member and the five designated persons may elect to add one community representative to the Committee. Project Manager must notify the Commissioner if Artwork will exceed $50,000 to determine if such additional committee members will be designated. These individuals may receive assistance from facility users, community representatives, public art panel members or the ASCA Visual Arts Council; however, the Artwork Selection Committee shall consist only of the designated (4-6) individuals.

13.6.5 (Activity 5-6) Architect (or Committee if an Architect is not engaged) develops Artwork criteria (architectural and engineering constraints) during schematic and design development phases, in coordination with the Committee, and includes provisions in the Construction Documents to intergrate selected Artwork.

A. The Architect's agreement with DOT/PF may require the above services only or it may include additional provisions for the Architect to manage Artwork procurement by directly entering into contracts with Artists approved by the Committee; the latter is preferred.

B. The Architect's compensation should be a negotiated fixed fee or fixed hourly rates for the Architect's direct labor plus any allowable reimbursable expenses plus the Architect's direct cost of any approved subcontracts with Artists. If an amount equal to 110% of the amount for public Artwork plus an estimated amount for associated reimbursable expenses is established in the Architect's Agreement, an Amendment to the Architect's Agreement (reference paragraph 6.10) may not be necessary after Artwork is selected.

13.6.6 (Activity 10-11) Option for purchase of existing Artwork. Committee may, without or after soliciting and evaluation Artist's' proposals, select existing Artwork for the project. In such cases, the Project Manager shall arrange for procurement, delivery and installation. Purchase shall not be made prior to award of a construction contract for the facility.

13.6.7 (Activity 6-7) If existing Artwork is not selected, Project Manager prepares an advertisement for Artist's proposals incorporating the Architect's criteria and the desires of the Committee. ASCA distributes the advertisement, receives all Artist's proposals, eliminates inappropriate submittals to the Selection Committee. Each advertisement must include the following:

A. Instructions for submittal (format, content, time, date, place) and an explanation of the selection process to be used (eg Design Construction - paragraph 6.8A)

B. Identification of the project, generally desired form of Artwork, architectural and engineering constraints, anticipated engineering support (eg structural analysis of a sculpture) which the Artist may be required to obtain and insurance coverages which will be required.

C. Any information and/or assistance to be furnished by others and by whom.

D. Maximum amount of funding for Artwork with a statement that actual price to be paid the Artist(s) shall be negotiated.

E. Information for obtaining a copy of the Agreement to be used.

13.6.8 (Activities 8-13 & 9-12) Following review and evaluation of Artist's proposals, the Committee may select existing Artworks (paragraph 6.6), select Artist(s) or elect to conduct a Design Competition among several designated Artists based on their conceptual design submitted with proposals.

A. If a Design Competitions if to be held, the Architect or the Project Manger shall contract with each designated Artist in accordance with paragraph 6.10 and shall include a provision addressing the Design Competition and stating that the Agreement given a Notice to Proceed for production of the Artwork contingent upon the results of the Design Competition. The Selection Committee shall establish requirements and procedures for the Design Competition.

B. Alaska resident Artists shall be selected where they are available and qualified, in accordance with AS.35.020(g) and 36.10.010.

13.6.9 (Activity 13-14) Project Manager shall obtain Negotiation Authority for the selected Artist(s) in accordance with Delegation of Authority P & P 10-0017. Approval for Negotiations (AFN), DOT/PF Form 25A251, shall be used.

13.6.10 (Activities 14-15 & 16-17) If existing Artwork is not selected, the Architect or Project Manager shall contract with designated Artist(s). Architect-Artist Agreements must contain provisions required by the Selection Committee and must contain provisions required by the Selection Committee and must be approved by the Project Manager prior to execution. DOT/PF - Artist Agreements must be executed using DOT/PF standard forms consisting of the Basic Agreement (Form 25A261), Appendix A - General Conditions for Artwork (Form 24A263), Appendix B - Statement of Services for Artwork (From 25A264), Appendix C - Basis of Compensation for Artwork (Form 25A265) and Appendix D - Catalogue Worksheet (Form 25A266).

13.6.11 (Activity 17-18) Project Manager shall withhold Notice to Proceed to the Architect of the Artist(s) for Artwork production until a construction contract for the building or facility is awarded and shall attempt to insure that Artwork design is completed and approved by the Committee prior to bidding for the construction contract.

13.6.12 (Activity 18-19) Following receipt of Notice to Proceed, Artist(s) will produce, deliver and install Artwork in accordance with Agreement(s). The Architect or Project Manager shall coordinate delivery/installation with construction progress of the building or facility.

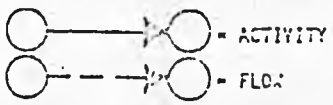
13.6.13 (Activity 19-20) Committee or its designated representative shall view the completed Artwork(s) installed within the building or facility and provide written approval and acceptance to the Project Manager. The Artist(s) may then receive final payment contingent upon receipt by the Project Manger of the documentation required for the public Artwork program in accordance with the Artwork Agreement(s). Client Agency owns Artwork after installation and final acceptance of the building or facility.

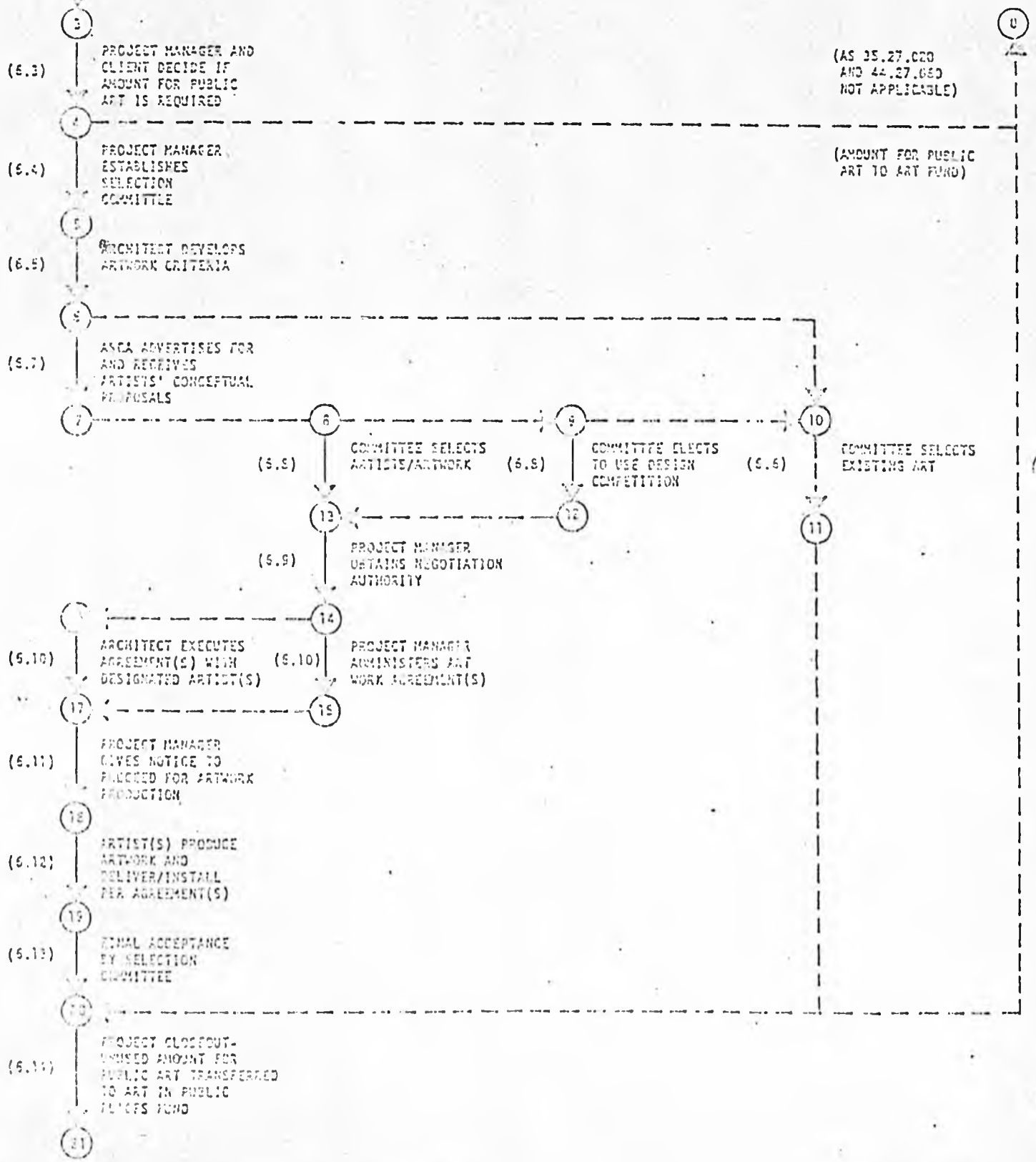
13.6.14 (Activity 20-21) Upon final acceptance of the building or facility, the unused amount for public Artwork shall be placed in the Art in Public Places Fund (amount not to exceed one percent of the sum of the original construction contract plus construction contingency, unless construction change orders changed the original program of the major activities for which the building or facility was constructed in which case the amount shall equal one percent of the construction contract plus the applicable change orders.)

13.7 IMPLEMENTATION

13.7.1 Regional Directors are responsible for coordinating with ASCA and establishing any supplementary procedures necessary to augment this Department procedure as applicable to each region's functions.

SUMMARY DIAGRAM OF PROCEDURE
(Figures in parentheses refer to paragraphs of procedure)





1.0 PURPOSE

1.1 To promulgate standard departmental procedures for the selection of Artists and Artwork for public buildings and facilities.

2.0 POLICY

2.1 To select Artists and Artwork for public buildings and facilities in an objective manner resulting in the acquisition of Artwork consistent with A.S. 35.27, and 44.27.

3.0 DISTRIBUTION

3.1 All holders of the Policy and Procedures Manual and the Alaska State Council on the Arts (ASCA).

4.0 DEFINITIONS

4.1 Artwork - All original forms of visual art objects created by an Artist which may include paintings, drawings, ceramics, fiberwork, sculpture, graphics (not signage), murals, photographs, metalwork, mixed media work, limited edition original prints (not reproductions) and Native crafts objects.

4.2 Artist - A practitioner in the visual arts, generally recognized by critics and peers. A project Architect or a member of the Architect's firm will not be considered an eligible artist.

4.3 Agreement - A legal document that prescribes legal, regulatory and administrative provisions affecting the rights and obligations of the parties and the work or services (eg Artwork) to be provided.

4.4 Architect - The project designer engaged by DOT/PF.

4.5 Project Manager - DOT/PF representative and Artist's primary point of contact with DOT/PF.

4.6 Client Agency - The Department, Division, School District, Municipality, etc., that generated the project for which funds are designated for Artwork.

4.7 Construction Cost - The cost of building or facility construction approved by the State legislature, exclusive of the cost of land acquisition, site investigation, design services, administration, equipment and any other costs not specifically incurred within the construction contract. Participatory construction funding by a Federal Agency or by the Division of Risk Management is not included in such cost as used within this procedure.

4.8 Public Buildings and Facilities - Schools, office buildings, court buildings and other facilities designed for substantial public use and vessels of the State ferry system.

5.0 DIAGRAM OF PROCEDURE

5.1 Page 6 contains a summary diagram of this procedure. Each activity is identified by two numbers (eg 19-20) which are referenced in the procedural discussion herein.

6.0 PROCEDURE

6.1 (Activity 1-2) Following each legislative session, DOT/PF (Planning and Programming) provides ASCA with an informal summary of capital projects which identifies proposed buildings and facilities for which Artwork may be required.

6.2 (Activity 2-3) DOT/PF (Design and Construction Regions) assigns a Project Manager for each building and facility, who will concurrently initiate this procedure for procurement of Artwork and the selection procedure (P&P 28-8000) for architectural services.

6.3 (Activity 3-4) Project Manager and the designated Client's representative for the project decide if a percentage (amount) for public Artwork is required in accordance with A35.17.020 and 44.27.060. The amount for public Artwork shall be at least one percent of the construction cost.

A. If a project consists of new construction or remodel/renovation of existing building or facility, the amount for public Artwork is required. However, remodel/renovation does not include maintenance, repair, code upgrade, heating renovation, etc.

B. If the estimated construction cost is $250,000 or less or if the building or facility is not for substantial public use, the amount for public Artwork shall be deposited in the Art in Public Places Fund after final acceptance of the facility (paragraph 6.14).

C. If the estimated construction cost is greater than $250,000, the amount for public Artwork shall be expended only for the actual costs of design (which may include engineering for the Artwork itself, exclusive of the architectural engineering design of the facility or site where the Artwork will be displayed), production and mounting of Artwork and direct administrative costs of Artists. Administrative costs of DOT/PF, ASCA and the Architect related to Artwork, costs related to a dedication or "unveiling" of Artwork, and the Client Agency's maintenance and recurring operational utility costs shall not be charged to the amount for public Artwork.

6.4 (Activity 4-5) Project Manager establishes in writing an Artwork Selection Committee consisting of the Project Manager (Chairperson) and a designated Individual from ASCA, the Client and the Architect. If the amount for public Artwork exceeds $50,000 for a building or facility, the Commissioner may appoint one additional member and the five designated persons may elect to add one community representative to the Committee. Project Manager must notify the Commissioner if Artwork will exceed $50,000 to determine if such additional committee members will be designated. These individuals may receive assistance from facility users, community representatives, public art panel members or the ASCA Visual Arts Council; however, the Artwork Selection Committee shall consist only of the designated (4-6) individuals.

6.5 (Activity 5-6) Architect (or Committee if an Architect is not engaged) develops Artwork criteria (architectural and engineering constraints) during schematic and design development phases, in coordination with the Committee, and includes provisions in the Construction Documents to integrate selected Artwork.

A. The Architect's agreement with DOT/PF may require the above services only or it may include additional provisions for the Architect to manage Artwork procurement by directly entering into contracts with Artists approved by the Committee; the latter is preferred.

B. The Architect's compensation should be a negotiated fixed fee or fixed hourly rates for the Architect's direct labor plus any allowable reimbursable expenses plus the Architect's direct cost of any approved subcontracts with Artists. If an amount equal to 110% of the amount for public Artwork plus an estimated amount for associated reimbursable expenses is established in the Architect's Agreement, an Amendment to the Architect's Agreement (reference paragraph 6.10) may not be necessary after Artwork is selected.

6.6 (Activity 10-11) Option for purchase of existing Artwork. Committee may, without or after soliciting and evaluating Artists' proposals, select existing Artwork for the project. In such cases, the Project Manager shall arrange for procurement, delivery and installation. Purchase shall not be made prior to award of a construction contract for the facility.

6.7 (Activity 6-7) If existing Artwork is not selected, Project Manager prepares an advertisement for Artist's proposals incorporating the Architect's criteria and the desires of the Committee. ASCA distributes the advertisement, receives all Artist's proposals, eliminates inappropriate submittals and presents acceptable proposals and a summary of the eliminated submittals to the Selection Committee. Each advertisement must include the following:

A. Instructions for submittal (format, content, time, date, place) and an explanation of the selection process to be used (e.g Design Competition - paragraph 6.8A).

B. Identification of the project, generally desired form of Artwork, architectural and engineering constraints, anticipated engineering support (eg. structural analysis of a sculpture) which the Artist may be required to obtain and insurance coverages which will be required.

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6.8 (Activities 8-13 & 9-12) Following review and evaluation of Artists' proposals, the Committee may select existing Artworks (paragraph 6.6), select Artist(s) or elect to conduct a Design Competition among several designated Artists based on their conceptual design submitted with proposals.

A. If a Design Competition is to be held, the Architect or the Project Manager shall contract with each designated Artist in accordance with paragraph 6.10 and shall include a provision addressing the Design Competition and stating that the Agreement may be terminated following completion of the design phase or the Artist given a Notice to Proceed for production of the Artwork contingent upon the results of the Design Competition. The Selection Committee shall establish requirements and procedures for the Design Competition.

B. Alaska resident Artists shall be selected where they are available and qualified, in accordance with AS.35.27.020(g) and 36.10.010.

6.9 (Activity 13-14) Project Manager shall obtain Negotiation Authority for the selected Artist(s) in accordance with Delegation of Authority P&P '0-0017. Approval for Negotiations (AFN), DOT/PF Form 25A251, shall be used.

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6.13 (Activity 19-20) Committee or its designated representative shall view the completed Artwork(s) installed within the building or facility and provide written approval and acceptance to the Project Manager. The Artist(s) may then receive final payment contingent upon receipt by the Project Manager of the documentation required for the public Artwork program in accordance with the Artwork Agreement(s). Client Agency owns Artwork after installation and final acceptance of the building or facility.

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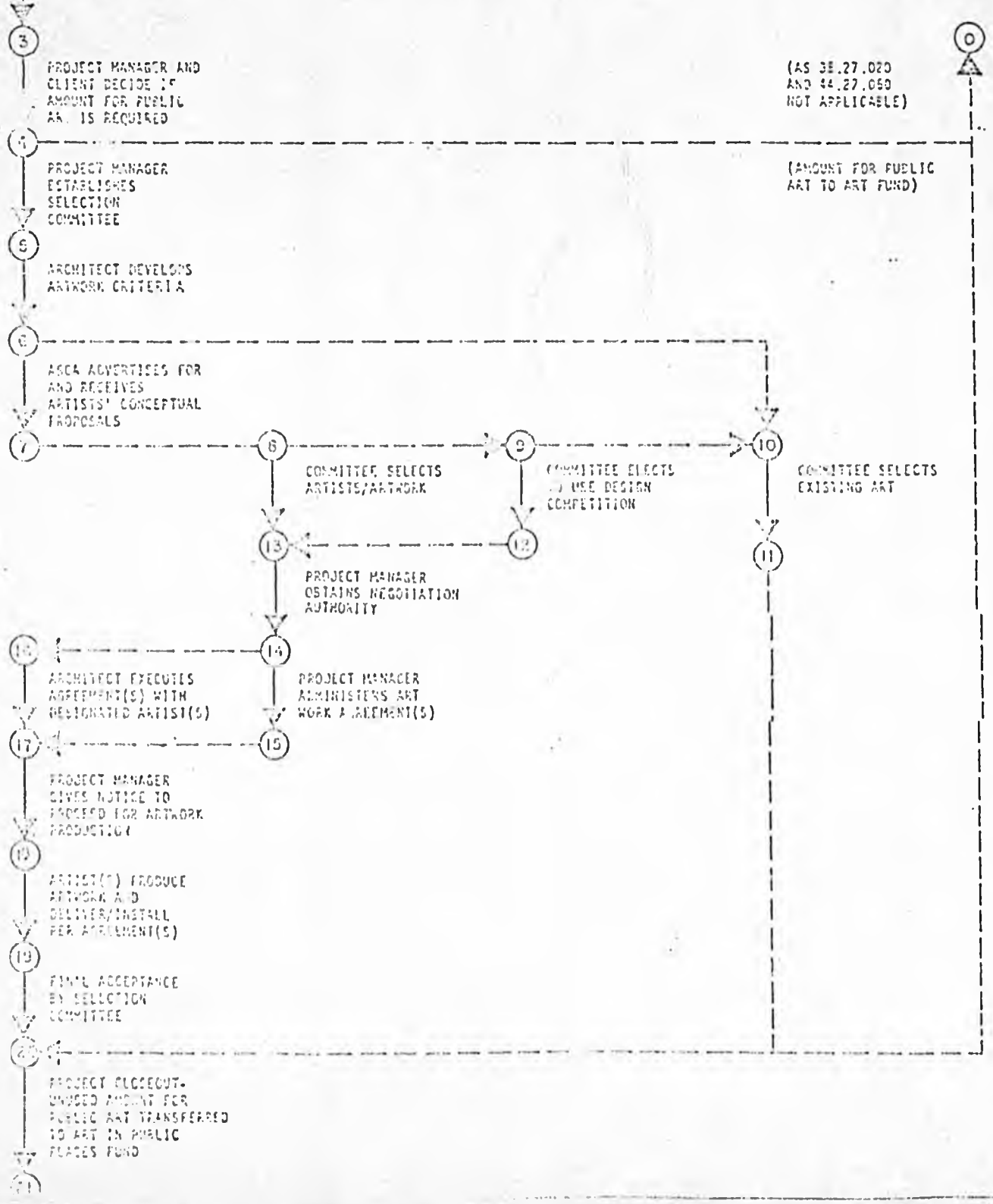
7.0 IMPLEMENTATION

7.1 Regional Directors are responsible for coordinating with ASCA and establishing any supplementary procedures necessary to augment this Department procedure as applicable to each region's functions.

SUMMARY DIAGRAM OF PROCEDURE
(Figures in parentheses refer to paragraphs of procedure)





MEMORANDUM State of Alaska

TO: The Honorable Marshall L. Lind
Commissioner
Department of Education

DATE: September 22, 1982

FILE NO: J66-511-82

TELEPHONE NO: 465-3603

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Applicability of AS 35.27 to Public Schools

By: TLR
Thomas H. Robertson
Assistant Attorney General

You have asked whether AS 35.27, which mandates the acquisition of art works for use in state buildings and facilities, applies to the following school facilities: (1) school facilities financed and constructed by the State of Alaska, but owned by school districts; (2) school facilities financed by the State of Alaska, but constructed and owned by school districts; (3) school facilities financed, constructed and owned by municipalities; and (4) school facilities constructed and owned by municipalities, but partially financed under AS 43.18.105-135.

The answer to your question is readily apparent from the relevant statutes. Although AS 35.27.010 broadly refers to the use of "a portion of appropriations for capital expenditures", the operative language of AS 35.27.020 and AS 35.27.030 is more limited. AS 35.27.020 provides:

> Sec. 35.27.020. ART REQUIREMENTS FOR PUBLIC BUILDINGS AND FACILITIES. (a) A building or facility constructed after June 30, 1975, shall include works of art, including but not limited to sculptures, paintings, murals or objects relating to Native art.
>
> (b) The department, before preparing plans and specifications for buildings and facilities, shall consult with the Alaska State Council on the Arts regarding the desirability of inclusion of works of art.
>
> (c) At least one percent or, in the case of a rural school facility, at least one-half of one percent of the construction cost of a building or facility approved for construction by the legislature after September 1, 1977, will be reserved for the following purposes: the design, construction, mounting and administration of works of art in a

school, office building, vessel of the marine highway system, or other building or facility which is subject to substantial public use.

(d) A building or facility with an estimated construction cost of less than $250,000 is exempt from the requirements of this chapter unless inclusion of works of art in the design and construction of the building or facility is specifically authorized by the department.

(e) The artist who executes these works of art shall be selected by the architect for the department with the approval of the department, after consultation with the Alaska State Council on the Arts and the principal user of the public buildings or facilities.

(f) The artist who executes these works of art in the public schools shall be selected by the superintendent of a school district in which a public school is to be built with the approval of the school board. Should the department find in the best interest of the state that the selection of the artist who executes these works of art by the superintendent may result in a cost overrun to the state or delay of construction, the department sha l make the selection of the artist in consultation with the superintendent.

(g) The architect, superintendent, department, and the Alaska State Council on the Arts shall encourage the use of state cultural resources in these art works and the selection of Alaska resident artists for the commission of these art works.

AS 35.27.030 provides, in relevant part:

Sec. 35.27.030. DEFINITIONS. In this chapter

(1) "department" means the Department of Transportation and Public Facilities;

(2) "building" or "facility" means a permanent improvement constructed by the department; the term

(A) includes, but is not limited to,

(i) schools, office buildings, and court buildings;

(ii) other buildings which the commissioner determines are designed for substantial public use;

(iii) boats and vessels of the marine highway system;

(iv) transportation facilities which accommodate traveling passengers;

(B) excludes other transportation facilities.

The first statute addresses the acquisition of art works for state "buildings" and "facilities". The second limits the scope of those terms to improvements "constructed by" the Department of Transportation and Public Facilities.

In light of the foregoing, we conclude that AS 35.27 applies only to school facilities constructed by the Department of Transportation and Public Facilities. We wish to emphasize, however, that nothing in AS 35.27 precludes the acquisition of art works for use in other structures. Incorporating art works into schools not constructed by the Department of Transportation and Public Facilities would, moreover, appear to promote the policy articulated in AS 35.27.010.

If you have any questions, or wish to seek amendment of AS 35.27, please do not hesitate to contact this office.

THR/jal

cc: Alaska State Council
on the Arts

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

November 10, 1983

MEMORANDUM

TO: Representative Al Adams

FROM: Nancy Pease *Nancy Pease*
Legislative Analyst

RE: Art in Public Places Program
Research Request 83-228

Louann Cutler of your staff requested that we provide records of the artwork purchased by the State under its Percent for Art in Public Places Program. She asked for a description of each individual work of art, the building and city where it is located, the cost, and the name of the artist.

As you may know, the Art in Public Places Program originated in 1975 with the State requirement that a percent of State capital expenditures for public buildings and facilities be set aside for the acquisition of works of art to be displayed in those facilities (AS 35.27.). The percent reserved must be at least one percent of the facility's cost of construction as approved by the State Legislature, or in the case of rural school facilities, at least one-half of one percent. If the facility will cost less than $250,000 or will not receive substantial public use, the amount for art is deposited in the Art in Public Places Fund. Since the program's inception, the State has spent at least $1,811,659.20 on art for public places.

We forwarded to you on November 7 a record of individual art acquisitions provided to us by Christine D'Arcy, Executive Director of the Alaska State Council on the Arts. This list, categorizing individual acquisitions by the school district or city where each is displayed, appears to be the most current and complete information available. The State agency responsible for administering the program (the Department of Transportation and Public Facilities) provided us with identical information on non-school facilities along with a copy of departmental procedures for approving and selecting acquisitions under the program (see attachment).

You may notice that the list doesn't mention any artwork acquired for the Juneau or Sitka School Districts or for Municipal public facilities in Anchorage. According to Ms. D'Arcy, the Juneau and Sitka School Districts have apparently not complied with the State requirement. On

the other hand, the Municipality of Anchorage is very active in promoting art in public places under its own Municipal percent for art program. This program is similar to the State's, requiring that one percent of the cost of public facilities go to the purchase of artworks, but the city's selection procedure is designed to incorporate a high level of community participation. Molly Jones, Director of Fine Arts for the Municipality of Anchorage, can provide more information on the operation of the program or its acquisitions, if you are interested.

I hope this information is useful. Please let us know if you have any questions or if we can be of further assistance.

NP
Attachment

Artwork in Public Facilities Constructed or Renovated by
the Department of Transportation and Public Facilities

Central Region

Location Project Name/Project Number	Artwork	Artist/Address	Contract Price
Anchorage:			
Anchorage Int'l Terminal/ H60004	Descending Flight Plane, sculpture	Gary Marx, Anchorage	$46,000
	Sculpture	Seth Seiderman, San Francisco	$46,000
	Fiber	Dana Boussard, Montana	$46,000
Anchorage Oil & Gas Addition H60001	Painting	Marvin Mangus, Anchorage	$3,950
Cook Inlet Pre-Trial Facility H90619	Ceramic Sculpture	Alex Combs, Halibut Cove	$55,000
	Supergraphics	Clark Mishler, Anchorage/ Mark Hoffman, Seattle	$30,000
	Ceramic Relief	Michelle Corder, Joint Venture w/Michael Sheppard, Soldotna	$19,786
	Wall Painting	Gary O. Utermohle, College	$20,000
Fort Richardson Fish Hatchery/H80364	Limestone Relief	Keith Appel, Anchorage	$18,000
	Carved Panels	Jim Schoppert, Carnation, WA	$20,000
McLaughlin Youth Center Gym H90626	Wall Sculpture	Allan Crawford, San Francisco	$13,000
Pioneer Home Nursing Wing H90629	Fireweed, fiber	Jeanne Leffingwell, Anchorage	$15,000
	Wildflowers, Painting	Gail Parsons, Homer	$15,000
	Tapestry	Charlotte Van Zant, Fairbanks	$10,000
	Stained Glass	Michael Kennedy, Seattle	$10,000
	Wood Panels	Victor Hiles, Homer	$10,000
	Photo Piece	Tony Rubey, Anchorage	$10,000
	Portable Works Collection	Susan Ogle, Anchorage Majorie Leavens, Anchorage Nancy Taylor, Idaho Arthur Higgins, Wasilla Clark Mishler, Anchorage Ed Nolde, Anchorage Janis Carty Neill, Eagle River Marvin Mangus, Anchorage Lynn Saupe, Kodiak M.A. Mullins, Anchorage Gary Lyon, Homer	$7,700

Artwork continued

Central Region

Location Project Name/Project Number	Artwork	Artist/Address	Contract Price
Eagle River:			
Alaska Women's Facility H60043	Parrotgrass, fiber	Jeanne Leffingwell, Anchorage	$8,000
	untitled, bronze	Karen Olanna, Shishmaref	$10,000
	Mountain Pod, welded, sculpture	Arthur Higgins, Wasilla	$10,000
Hiland Mountain Correctional Center/H60076	An Eagles View,	Celia Anderson, Eagle River	$17,500
	Fiber, assemblage	Lorraine Alba, Anchorage	$5,000
	Aluminum Panels	Ike Hay, Pennsylvania	$12,400
	Porcelain enamel on steel panels	Keith Appel, Anchorage	$7,500
Kasilof:			
Kasilof Fish Hatchery H60052	Crooked Creek Allegory, limestone	Keith Appel, Anchorage	$25,000
Kenai/Soldotna:			
Soldotna Public Safety H90621	Tapestry	Charlotte Van Zant, Anchorage	$9,300
	Copper Panels	Harold Balazs, Washington	$2,000
Trail Lake Fish Hatchery H80331	Steel Sculpture	Carson Boyson, Petersburg	$30,000
	Enamel on Steel	Harold Balazs, Washington	$30,000
Palmer:			
Palmer Correctional Center H60084	Carpet (collage)	Nancy Stonington, Idaho	$14,400
	Sculpture	Harold Balazs, Washington	$20,000
	Enamel on Steel	Harold Balazs, Washington	$4,500
	Wall Graphics	Kay Slusarenko, Oregon	$4,475
Seward:			
Seward Armory Reconstruction H60077	Fiber Art	Carolyn Strand, Anchorage	$4,000

Artwork continued

Northern Region

Location Project Name/Project Number	Artwork	Artist/Address	Contract Price
Fairbanks:			
Fairbanks Airport/Customs H79028	Ceramic Tile Canvas	Polly Lee, Petersburg Jane Brodrick, Fairbanks	$4,000 $5,000
Fairbanks Airport Expansion H79352	Camera Photomural Exterior	Ron Klein, Juneau 4 finalists - no award	$27,000 $80,000
Fairbanks Correctional Center Expansion/H60071	Sculpture Fiber Wall Painting	Melvin Olanna, Shishmaref Carolyn Strand, Anchorage Kay Slusarenko, Oregon	$30,000 $10,000 $15,000
Fairbanks Int'l Airport H80053	Fibers Fiber Panels	Charlotte Van Zant, Fairbanks Jeanne Leffingwell, Anchorage	$8,285 $4,152
Fairbanks Public Safety Building/H90620	Sculpture Watercolor Series Canvas Series Works Collection	Gerald, Conaway, Anchorage Dot Bardarson, Seward William Kimura, Anchorage Fairbanks Artists	$20,000 $5,250 $5,250 $5,000
Fairbanks Youth Facility H90624	Tapestry Wood/Copper Relief Cedar Relief Panels (Batik) Portable Works	Charlotte Van Zant, Fairbanks Robert Harper, Washington James Schoppert, Fairbanks Jennifer Bellingher, Idaho (formerly Ketchikan) Fairbanks Artists	$6,000 $6,000 $3,500 $2,400 $2,500
Kotzebue:			
Kotzebue Court Facility H60011	Carved Panels	Sandra Stolle, Selawik	$1,200
Nome:			
Nome Youth Facility/H90627	Drawing Series	Bill Ray, Juneau	$8,000
Tok:			
Tok Facility Upgrade/H60114		Wanda Chin, Fairbanks	$8,250
Valdez:			
Harborview Developmental Center/H79359	Sculpture	Lloyd Hamrol, California	$34,000

Southeastern Region

Location Project Name/Project Number	Artwork	Artist/Address	Contract Price
Alaska Marine Highway:			
M/V Matanuska (ferry)	Collected Works	Various Artists	$10,000
M/V Taku (ferry)	Collected Works	Various Artists	$14,000
Juneau:			
Auke Bay Marine Terminal H78002	Alaska Seascape	Nancy Stonington, Idaho	$5,300
Juneau Data Processing Ctr. H60115	Sculpture	Paul Sisko, New Jersy	$4,200
Juneau Woman/Child Detention H80340	Tapestry	Bridgette Cooper, Palmer	$2,400
Ketchikan:			
Ketchikan Regional Jail H90628	Northern Harmony	Judith Aiello, Oregon	$10,000
	Bronze Panels	Nathan Jackson, Ketchikan	$16,000
	Wall Piece	Polly Lee, Petersburg	$5,000
	"To the Oyster/ Pearl Remains a Grain of Sand"	James Schoppert, Fairbanks	$4,000
	Arctic Sentinels	Carolyn Strand, Anchorage	$4,000
Ketchikan Poineer Home H90630	Wall Hanging	Jennifer Bellinger, Idaho	$5,000
	Painting	Kenneth DeRoux, Juneau	$5,000
	Stained Glass	Michael Kennedy, Washington	$5,000
	Wood Carving	James Schoppert, Washington	$5,000
	Tapestry	Charlotte Van Zant, Fairbanks	$9,000
Petersburg:			
Petersburg Marine Terminal H78004	Devils Thumb	Polly Lee, Petersburg	$1,700
Skagway:			
Skagway Marine Terminal H78016	Chilkoot Pass	Carson Boyson, Petersburg	$6,000

SECTION 13 - ARTWORK FOR PUBLIC BUILDINGS AND FACILITIES

NOTE: The following section is based on DOT/PF Policy and Procedure #28-8002 entitled "Procurement of Artwork for Public Buildings and Facilities". Copies of this Policy and Procedure are available upon request.

13.0 PURPOSE

13.0.1 To promulgate standard departmental procedures for the selection of Artists and Artwork for public buildings and facilities.

13.2 POLICY

13.2.1 To select Artists and Artwork for public buildings and facilities in an objective manner resulting in the acquisition of Artwork consistent with A.S. 35.27, and 44.27.

13.3 DISTRIBUTION

13.3.1 All holders of the Policy and Procedures Manual and the Alaska State Council on the Arts (ASCA).

13.4 DEFINITIONS

13.4.1 Artwork - All original forms of visual art objects created by an Artist which may include paintings, drawings, ceramics, fiberwork, sculpture, graphics (not signage), murals, photographs, metalwork, mixed media work, limited edition original prints (not reproductions) and Native crafts objects.

13.4.2 Artist - A practitioner in the visual arts, generally recognized by critics and peers. A project Architect or member of the Architect's firm will not be considered an eligible artist.

13.4.3 Agreement - A legal document that prescribes legal, regulatory and administrative provisions affecting the rights and obligations of the parties and the work or services (eg Artwork) to be provided.

13.4.4 Architect - The project designer engaged by DOT/PF.

13.4.5 Project Manager - DOT/PF representative and Artist's primary point of contact with DOT/PF.

13.4.6 Client Agency - The Department, Division, School District, Municipality, etc., that generated the project for which funds are designated for Artwork.

13.4.7 Construction Cost - The cost of building or facility construction approved by the State legislature, exclusive of the cost of land acquisition, site investigation, design services, administration, equipment and any other costs not specifically incurred within

the construction contract. Participatory construction funding by a Federal Agency of by the Division of Risk Management is not included in such cost as used within this procedure.

13.4.8 Public Buildings and Facilities - Schools, office buildings, court buildings, and other facilities designed for substantial public use and vessels of the State ferry system.

13.5 DIAGRAM OF PROCEDURE

13.5.1 Page 6 contains a summary diagram of this procedure. Each activity is identified by two numbers (eg 19-20) which are referenced in the procedural discussion herein.

13.6 PROCEDURE

13.6.1 (Activity 1-2) Following each legislative session, DOT/PF (Planning and Programming) provides ASCA with an informal summary of capital projects which identifies proposed buildings and facilities for which Artwork may be required.

13.6.2 (Activity 2-3) DOT/PF (Design and Construction Regions) assigns a Project Manager for each building and facility, who will concurrently initiate this procedure for procurement of Artwork and the selection procedure (P & P 28-8000) for architectural services.

13.6.3 (Activity 3-4) Project Manager and the designated Client's representative for the project decide if a percentage (amount) for public Artwork is required in accordance with A35.17.020 and 44.27.060. The amount for public Artwork shall be at least one percent of the construction cost.

A. If a project consists of new construction or remodel/renovation of existing building or facility, the amount for public Artwork is required. However, remodel/renovation does not include maintenance, repair, code upgrade, heating renovation, etc.

B. If the estimated construction cost is $250,000 or less or if the building or facility is not for substantial public use, the amount for public Artwork shall be deposited in the Art in Public Places Fund after final acceptance of the facility (paragraph 6.14).

C. If the estimated construction cost is greater than $250,000, the amount for public Artwork shall be expended only for the actual costs of design (which may include engineering for the Artwork itself, exclusive of the architectural engineering design of the facility or site where the Artwork will be displayed), production and mounting of Artwork and direct administrative costs of Artists. Administrative costs of DOT/PF, ASCA and the Architect related to Artwork, costs related to a dedication or "unveiling" of Artwork, and

the Client Agency's maintenance and recurring operational utility costs shall not be charged to the amount for public Artwork.

13.6.4 (Activity 4-5) Project Manager establishes in writing an Artwork Selection Committee consisting of the Project Manager (Chairperson) and a designated Individual fro ASCA, the Client and the Architect. If the amount for public Artwork exceeds $50,000 for a building or facility, the Commissioner may appoint one additional member and the five designated persons may elect to add one community representative to the Committee. Project Manager must notify the Commissioner if Artwork will exceed $50,000 to determine if such additional committee members will be designated. These individuals may receive assistance from facility users, community representatives, public art panel members or the ASCA Visual Arts Council; however, the Artwork Selection Committee shall consist only of the designated (4-6) individuals.

13.6.5 (Activity 5-6) Architect (or Committee if an Architect is not engaged) develops Artwork criteria (architectural and engineering constraints) during schematic and design development phases, in coordination with the Committee, and includes provisions in the Construction Documents to intergrate selected Artwork.

A. The Architect's agreement with DOT/PF may require the above services only or it may include additional provisions for the Architect to manage Artwork procurement by directly entering into contracts with Artists approved by the Committee; the latter is preferred.

B. The Architect's compensation should be a negotiated fixed fee or fixed hourly rates for the Architect's direct labor plus any allowable reimbursable expenses plus the Architect's direct cost of any approved subcontracts with Artists. If an amount equal to 110% of the amount for public Artwork plus an estimated amount for associated reimbursable expenses is established in the Architect's Agreement, an Amendment to the Architect's Agreement (reference paragraph 6.10) may not be necessary after Artwork is selected.

13.6.6 (Activity 10-11) Option for purchase of existing Artwork. Committee may, without or after soliciting and evaluation Artists' proposals, select existing Artwork for the project. In such cases, the Project Manager shall arrange for procurement, delivery and installation. Purchase shall not be made prior to award of a construction contract for the facility.

13.6.7 (Activity 6-7) If existing Artwork is not selected, Project Manager prepares an advertisement for Artist's proposals incorporating the Architect's criteria and the desires of the Committee. ASCA distributes the advertisement, receives all Artist's proposals, eliminates inappropriate submittals to the Selection Committee. Each advertisement must include the following:

A. Instructions for submittal (format, content, time, date, place) and an explanation of the selection process to be used (eg Design Construction - paragraph 6.8A)

B. Identification of the project, generally desired form of Artwork, architectural and engineering constraints, anticipated engineering support (eg structural analysis of a sculpture) which the Artist may be required to obtain and insurance coverages which will be required.

C. Any information and/or assistance to be furnished by others and by whom.

D. Maximum amount of funding for Artwork with a statement that actual price to be paid the Artist(s) shall be negotiated.

E. Information for obtaining a copy of the Agreement to be used.

13.6.8 (Activities 8-13 & 9-12) Following review and evaluation of Artist's proposals, the Committee may select existing Artworks (paragraph 6.6), select Artist(s) or elect to conduct a Design Competition among several designated Artists based on their conceptual design submitted with proposals.

A. If a Design Competitions if to be held, the Architect or the Project Manger shall contract with each designated Artist in accordance with paragraph 6.10 and shall include a provision addressing the Design Competition and stating that the Agreement given a Notice to Proceed for production of the Artwork contingent upon the results of the Design Competition. The Selection Committee shall establish requirements and procedures for the Design Competition.

B. Alaska resident Artists shall be selected where they are available and qualified, in accordance with AS.35.020(g) and 36.10.010.

13.6.9 (Activity 13-14) Project Manager shall obtain Negotiation Authority for the selected Artist(s) in accordance with Delegation of Authority P & P 10-0017. Approval for Negotiations (AFN), DOT/PF Form 25A251, shall be used.

13.6.10 (Activities 14-15 & 16-17) If existing Artwork is not selected, the Architect or Project Manager shall contract with designated Artist(s). Architect-Artist Agreements must contain provisions required by the Selection Committee and must contain provisions required by the Selection Committee and must be approved by the Project Manager prior to execution. DOT/PF - Artist Agreements must be executed using DOT/PF standard forms consisting of the Basic Agreement (Form 25A261), Appendix A - General Conditions for Artwork (Form 24A263), Appendix B - Statement of Services for Artwork (From 25A264), Appendix C - Basis of Compensation for Artwork (Form 25A265) and Appendix D - Catalogue Worksheet (Form 25A266).

13.6.11 (Activity 17-18) Project Manager shall withhold Notice to Proceed to the Architect of the Artist(s) for Artwork production until a construction contract for the building or facility is awarded and shall attempt to insure that Artwork design is completed and approved by the Committee prior to bidding for the construction contract.

13.6.12 (Activity 18-19) Following receipt of Notice to Proceed, Artist(s) will produce, deliver and install Artwork in accordance with Agreement(s). The Architect or Project Manager shall coordinate delivery/installation with construction progress of the building or facility.

13.6.13 (Activity 19-20) Committee or its designated representative shall view the completed Artwork(s) installed within the building or facility and provide written approval and acceptance to the Project Manager. The Artist(s) may then receive final payment contingent upon receipt by the Project Manger of the documentation required for the public Artwork program in accordance with the Artwork Agreement(s). Client Agency owns Artwork after installation and final acceptance of the building or facility.

13.6.14 (Activity 20-21) Upon final acceptance of the building or facility, the unused amount for public Artwork shall be placed in the Art in Public Places Fund (amount not to exceed one percent of the sum of the original construction contract plus construction contingency, unless construction change orders changed the original program of the major activities for which the building or facility was constructed in which case the amount shall equal one percent of the construction contract plus the applicable change orders.)

13.7 IMPLEMENTATION

13.7.1 Regional Directors are responsible for coordinating with ASCA and establishing any supplementary procedures necessary to augment this Department procedure as applicable to each region's functions.

SUMMARY DIAGRAM OF PROCEDURE
(Figures in parentheses refer to paragraphs of procedure)



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
POLICY AND PROCEDURES

28-0002

Effective Date: December 1, 1981

SUBJECT: Procurement of Artwork for Public Buildings and Facilities

Supersedes P & P No.: N/A

Dated: N/A

APPROVED BY: John C. Bates Jr.

DIVISION	SECTION	CHAPTER TITLE
Support Services	Contracts Administration	Procedure

1.0 PURPOSE

1.1 To promulgate standard departmental procedures for the selection of Artists and Artwork for public buildings and facilities.

2.0 POLICY

2.1 To select Artists and Artwork for public buildings and facilities in an objective manner resulting in the acquisition of Artwork consistent with A.S. 35.27, and 44.27.

3.0 DISTRIBUTION

3.1 All holders of the Policy and Procedures Manual and the Alaska State Council on the Arts (ASCA).

4.0 DEFINITIONS

4.1 Artwork - All original forms of visual art objects created by an Artist which may include paintings, drawings, ceramics, fiberwork, sculpture, graphics (not signage), murals, photographs, metalwork, mixed media work, limited edition original prints (not reproductions) and Native crafts objects.

4.2 Artist - A practitioner in the visual arts, generally recognized by critics and peers. A project Architect or a member of the Architect's firm will not be considered an eligible artist.

4.3 Agreement - A legal document that prescribes legal, regulatory and administrative provisions affecting the rights and obligations of the parties and the work or services (eg Artwork) to be provided.

4.4 Architect - The project designer engaged by DOT/PF.

4.5 Project Manager - DOT/PF representative and Artist's primary point of contact with DOT/PF.

4.6 Client Agency - The Department, Division, School District, Municipality, etc., that generated the project for which funds are designated for Artwork.

4.7 Construction Cost - The cost of building or facility construction approved by the State legislature, exclusive of the cost of land acquisition, site investigation, design services, administration, equipment and any other costs not specifically incurred within the construction contract. Participatory construction funding by a Federal Agency or by the Division of Risk Management is not included in such cost as used within this procedure.

4.8 Public Buildings and Facilities - Schools, office buildings, court buildings and other facilities designed for substantial public use and vessels of the State ferry system.

5.0 DIAGRAM OF PROCEDURE

5.1 Page 6 contains a summary diagram of this procedure. Each activity is identified by two numbers (eg 19-20) which are referenced in the procedural discussion herein.

6.0 PROCEDURE

6.1 (Activity 1-2) Following each legislative session, DOT/PF (Planning and Programming) provides ASCA with an informal summary of capital projects which identifies proposed buildings and facilities for which Artwork may be required.

6.2 (Activity 2-3) DOT/PF (Design and Construction Regions) assigns a Project Manager for each building and facility, who will concurrently initiate this procedure for procurement of Artwork and the selection procedure (P&P 28-8000) for architectural services.

6.3 (Activity 3-4) Project Manager and the designated Client's representative for the project decide if a percentage (amount) for public Artwork is required in accordance with A35.17.020 and 44.27.060. The amount for public Artwork shall be at least one percent of the construction cost.

A. If a project consists of new construction or remodel/renovation of existing building or facility, the amount for public Artwork is required. However, remodel/renovation does not include maintenance, repair, code upgrade, heating renovation, etc.

B. If the estimated construction cost is $250,000 or less or if the building or facility is not for substantial public use, the amount for public Artwork shall be deposited in the Art in Public Places Fund after final acceptance of the facility (paragraph 6.14).

C. If the estimated construction cost is greater than $250,000, the amount for public Artwork shall be expended only for the actual costs of design (which may include engineering for the Artwork itself, exclusive of the architectural engineering design of the facility or site where the Artwork will be displayed), production and mounting of Artwork and direct administrative costs of Artists. Administrative costs of DOT/PF, ASCA and the Architect related to Artwork, costs related to a dedication or "unveiling" of Artwork, and the Client Agency's maintenance and recurring operational utility costs shall not be charged to the amount for public Artwork.

6.4 (Activity 4-5) Project Manager establishes in writing an Artwork Selection Committee consisting of the Project Manager (Chairperson) and a designated Individual from ASCA, the Client and the Architect. If the amount for public Artwork exceeds $50,000 for a building or facility, the Commissioner may appoint one additional member and the five designated persons may elect to add one community representative to the Committee. Project Manager must notify the Commissioner if Artwork will exceed $50,000 to determine if such additional committee members will be designated. These individuals may receive assistance from facility users, community representatives, public art panel members or the ASCA Visual Arts Council; however, the Artwork Selection Committee shall consist only of the designated (4-6) individuals.

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A. The Architect's agreement with DOT/PF may require the above services only or it may include additional provisions for the Architect to manage Artwork procurement by directly entering into contracts with Artists approved by the Committee; the latter is preferred.

B. The Architect's compensation should be a negotiated fixed fee or fixed hourly rates for the Architect's direct labor plus any allowable reimbursable expenses plus the Architect's direct cost of any approved subcontracts with Artists. If an amount equal to 110% of the amount for public Artwork plus an estimated amount for associated reimbursable expenses is established in the Architect's Agreement, an Amendment to the Architect's Agreement (reference paragraph 6.10) may not be necessary after Artwork is selected.

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A. Instructions for submittal (format, content, time, date, place) and an explanation of the selection process to be used (eg Design Competition - paragraph 6.8A).

B. Identification of the project, generally desired form of Artwork, architectural and engineering constraints, anticipated engineering support (eg structural analysis of a sculpture) which the Artist may be required to obtain and insurance coverages which will be required.

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A. If a Design Competition is to be held, the Architect or the Project Manager shall contract with each designated Artist in accordance with paragraph 6.10 and shall include a provision addressing the Design Competition and stating that the Agreement may be terminated following completion of the design phase or the Artist given a Notice to Proceed for production of the Artwork contingent upon the results of the Design Competition. The Selection Committee shall establish requirements and procedures for the Design Competition.

B. Alaska resident Artists shall be selected where they are available and qualified, in accordance with AS.35.27.020(g) and 36.10.010.

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7.0 IMPLEMENTATION

7.1 Regional Directors are responsible for coordinating with ASCA and establishing any supplementary procedures necessary to augment this Department procedure as applicable to each region's functions.

POLICY AND PROCEDURES

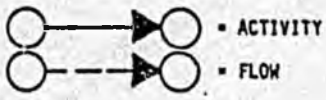
December 1, 1981

SUBJECT	Superseded P & P No.	Dated
Procurement of Artwork for Public Buildings and Facilities	N/A	N/A

APPROVED BY

DIVISION	SECTION	CHAPTER TITLE
Support Services	Contracts Administration	Procedure

SUMMARY DIAGRAM OF PROCEDURE
(Figures in parentheses refer to paragraphs of procedure)



(1) P & P ROVIDES ASC WITH SUMMARY OF LEGISLATIVE CAPITAL BUDGET

(2) D & C ASSIGNS PROJECT MANAGER

(3) PROJECT MANAGER AND CLIENT DECIDE IF AMOUNT FOR PUBLIC ART IS REQUIRED

(0) (AS 35.27.020 AND 44.27.060 NOT APPLICABLE)

(4) PROJECT MANAGER ESTABLISHES SELECTION COMMITTEE

(AMOUNT FOR PUBLIC ART TO ART FUND)

(5) ARCHITECT DEVELOPS ARTWORK CRITERIA

(6) ASCA ADVERTISES FOR AND RECEIVES ARTISTS' CONCEPTUAL PROPOSALS

(7) (8) COMMITTEE SELECTS ARTISTS/ARTWORK

(9) COMMITTEE ELECTS TO USE DESIGN COMPETITION

(10) COMMITTEE SELECTS EXISTING ART

(11)

(12)

(13) PROJECT MANAGER OBTAINS NEGOTIATION AUTHORITY

(14) PROJECT MANAGER ADMINISTERS ART WORK AGREEMENT(S)

(15)

(16) ARCHITECT EXECUTES AGREEMENT(S) WITH DESIGNATED ARTIST(S)

(17) PROJECT MANAGER GIVES NOTICE TO PROCEED FOR ARTWORK PRODUCTION

(18) ARTIST(S) PRODUCE ARTWORK AND DELIVER/INSTALL PER AGREEMENT(S)

(19) FINAL ACCEPTANCE BY SELECTION COMMITTEE

(20) PROJECT CLOSEOUT- UNUSED AMOUNT FOR PUBLIC ART TRANSFERRED TO ART IN PUBLIC PLACES FUND

(21)

PERCENT FOR ART IN RURAL SCHOOLS

ADAK REGION SCHOOL DISTRICT

District Central Office:	
Work by Joanna P. Veerman, oil	450.00
Work by Joanna P. Veerman, oil	350.00
Bob Reeve High School:	
Work by Charles Gause	150.00
Work by Joanna P. Veerman, 1980	350.00
Carved ivory walrus rookery by Joe Kunnuk, 1979	72.00
Work by Charles Gause, 1975	105.00
Work by Joanna P. Veerman, 1980	400.00
Work by Charles Gause, 1980	150.00
Work by Charles Gause, 1977	120.00
Ann C. Stevens Elementary School:	
Work by Joanna Veerman, 1980	195.00
Ivory Muskox, 2"x3", artist unknown	54.00
Skin-faced doll in ceremonial raincoat purchased from Jayne Martin	300.00
Three oil paintings by Joan Kickbush	750.00
Two whales in walnut frame, Gary Lyons, 1977	120.00
Seven killer whales in walnut frame, Gary Lyons, 1978	120.00
Two sperm whales in walnut frame, Gary Lyons, 1978	120.00
Bowhead whale, Gary Lyons, 1977	120.00
Work in pastel, Jean Matayas, 1980	350.00
Work in acrylic, Bill Cross, 1980	275.00
Oil painting, Scot McDaniel	725.00
Native carved ivory duck, artist unknown	40.50
Three Eskimo dancers, carved ivory on bed of rock, Bobby Koezuna	126.00
Polar bear and cub, ivory, Gidean K.	72.00
Whale bone mask, 7" tall, artist unknown	112.00
Caribou mask, 13", purchased from Juneau Lil's Gifted Emporium	53.00
Ivory goose, 4" tall, artist unknown	31.00
Alaskan king crab, ivory, Bobby Koezuna	112.00
Ivory seal with baleen eyes, Paul Omiak	40.50
Work in acrylic, Keith Appel	275.00
Work by Johanna Veerman	225.00
Painted wood mask, Willie Marks	157.50
Thlinget Mask, Willie Marks	70.20
Basket, 2½" x 2½", Lydia Dirks	200.00

ANNETTE ISLANDS SCHOOL DISTRICT

Lepquinum Recreation-Vocational Building:	
Seven banners, Debra Frasier	7,100.00
14' totem pole, David Boxley (base cost $4,100)	9,800.00
Eagle wall piece, 6'x6', Jack Hudson, red cedar	3,600.00
Junior High School:	
Killer whale, red cedar carving, 6'x6', Jack Hudson	3,600.00

BERING STRAIT SCHOOL DISTRICT

Bering Strait School District Office Building:	
Seal skin painting, Florence Melowotuk, 1970	8,500.00
White Mountain:	
Two portraits of elders, Moses Wassilie, 1983	2,270.00
Koyuk High School:	
Eight portraits of elders, Moses Wassilie, 1983	6,698.00
Savoonga High School:	
Mural, Judy Pelowouck, 1983	3,130.00
Gambell High School:	
Walrus tusks mount, Bert Oozevaseuk, 1982	4,600.00
Stebbins High School:	
Quspaq, Rita Johnson, 1982	75.00
Golovin High School:	
2 village scene drawings, Richard Nassuk, 1982	600.00
James C. Isabell, Teller:	
Ivory bear, Russel Soolook, 1982	300.00
St. Michael High School:	
9 wooden Eskimo masks, Elia Abruska, 1982	5,280.00
Shaktoolik High School:	
Three paintings, Rie Munoz, 1983	4,430.00
James C. Isabell, Teller:	
Fish trap, Peter Kakaruk, 1982	600.00
Seal Skin Dog, Sarah Kakaruk, 1982	125.00
Ivory Caribou and Moose, James Okpealuk, 1982	350.00
Ivory Walrus, Roger Menadelook, 1982	125.00
Tableau/Wooman Scraping Skins, Justina Kunayak, 1982	500.00
Large Skin Medicine Ball.Sophie Okpealuk, 1982	125.00
Scrimshaw tusk, Frank Miller, 1982	800.00
Ivory birds, Alvin Koyoukpuk, 1982	500.00
Ivory necklace, Frank Topsekok, 1982	170.00
Ivory cribbage board, Alvin Topsekok, 1982	200.00
Ivory pickle forks, Margaret Soolook	175.00
Seal Skin Medicine Ball, Theresa Soolook, 1982	125.00
Eskimo Doll and Seal Skin Hat, Marie Omiak, 1982	150.00
Ivory Bears with Seal on Base, Andrew J. Kunayak, Sr.	200.00
Ivory necklace, James Omiak, 1982	250.00
Ivory bead necklace, Sig Wein Omiak, 1982	200.00
Ivory Engraved Pin Cushion, Jim Pushruk, 1982	100.00
Seal Skin Mittens, Cecilia Topsekok, 1982	80.00

BERING STRAIT SCHOOL DISTRICT (continued)

White Mountain High School:	
Seal Skin Drawing, Ralph Kowshee, 1982	1,000.00
Golovin High School:	
Two acrylic paintings, Moses Wassilie	2,300.00
Stebbins High School:	
Fish trap, Andrew Foxiw, 1982	300.00
Pupuaq Container, Winifred Otten, 1982	300.00
Grass basket, Anna Kirk, 1982	150.00
Grass Basket, Dorothy Rivers, 1982	150.00
Oluaq, Oswald Washington, 1982	100.00
Seal Skin Etching, Margaret Marlin, 1982	1,000.00
Eskimo Drum and Dance Stick, Lewis Steve, 1982	700.00
Seal Skin Boots, Marie Pete, 1982	250.00
Grass Basket, Minnie Katcheak, 1982	150.00
Eskimo Dance Mask, Peter Martin, 1982	300.00
Eskimo Mask, Charlie Steve	300.00
Bleached Seal Skin, Christine Steve, 1982	150.00
Skin Boat, Charlie Steve, 1982	1,500.00
Intestine Rain Coat, Alice Pete, 1982	1,000.00
Bow and Arrow, Xavier Pete, 1982	200.00
Elim High School:	
Lithograph, Dorothy Francis, 1982	265.00
" " "	135.00
" " "	135.00
" " "	175.00
" " "	175.00
Lithograph, Carolee Pollock, 1982	85.00
Oil painting, Ken Lisbourne, 1982	210.00
" " "	210.00
Print, Konilee Lynch, 1982	195.00
" " "	195.00
" " "	185.00
" " "	165.00
Print, Stonington, 1982	54.00
Print, Kimura, 1982	137.00
Print, Stedman, 1982	106.00
Print, St. Amand, 1982	88.00
Print, Ellis, 1982	111.00
Print, Lavalee, 1982	79.00
Print, Pitcher, 1982	169.00
" "	140.00
"	111.00
Print, Birdsall, 1982	84.00
Print, Lisbourne, 1982	59.00
Print, Lavalee, 1982	99.00
Print, Lisbourne, 1982	59.00
Oil painting, Bill Ray, Jr., 1982	1,240.00

BERING STRAIT SCHOOL DISTRICT (continued)

Brevig Mission High School:	
Two seal skin drawings, Reggie Barr, 1982	500.00
Two seal skin drawings, Delberg Seetot, 1982	500.00
Wall Mural, Judy Pelewouk, 1982	4,475.00
Golovin High School:	
Portrait, Ralph Kowchee, 1982	1,000.00
Koyuk High School:	
Ink drawing, Richard Nassuk, 1982	400.00

BRISTOL BAY BOROUGH

No projects confirmed to date.

CHATHAM SCHOOLS

Gustavus:
Art committee formed for new school

Angoon:
Wall carving, Wayne Price

CHUGACH

Whittier:
Mural/pictures, Huong, 1982 — 5,600

CRAIG CITY SCHOOLS

Craig Elementary School:	
Photographic Mural, Patty Bipus, 1983	6,600.00
Faceted Glass Panel, Todd Lance, 1983	6,800.00
Batik Whales, Jennifer Bellinger, 1983	6,600.00

FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

Two Rivers Elementary:	
Seeds and Memory, tapestry, Sara Baker, 1983	300.00
Halibut Cove, silkscreen, Sharon Scramstad Merrell, 1983	255.00
Tidal Flats Near Portage, oil, Michelle Corder, 1983	900.00
Ride a Wild Horse, 2-plate color etching, Lynn Wiley	125.00
Moose Torn, pencil and oil crayon, Lynn Wiley	200.00
Divers, pastel, Sherry Leedy	700.00
Frosty Fantasy in Red, color photo, Don W. Murphy	125.00

DILLINGHAM CITY SCHOOL DISTRICT

Dillingham High School New Gym:	
Rectangular wall piece with beaver mask, wood and ivory carving, Sam Fox	10,000.00

DILLINGHAM CITY SCHOOL DISTRICT (continued)

Dillingham Elementary School:

Ceramic tile wall mural, Julie Matthews, Anchorage	7,000.00
Ceramic tile wall mural, Michelle Griffoul, California	10,000.00

Dillingham High School Phase I and Ii Renovation:
Work not commissioned to date

GALENA CITY SCHOOL DISTRICT

Galena School

Wall murals, Bill Cawthon, 1978	20,000.00

HAINES BOROUGH SCHOOL DISTRICT

Haines High School:

Wall mural for swimming pool, Jack VanHoesen	5,000.00
Stained glass window, 4x8 ft., Linnus Barlow	2,500.00
Metal sculpture, metal/plexiglas, 14', Geraldine Marquardt and Eugene Zimbrich	3,500.00

HOONAH PUBLIC SCHOOLS

Hoonah Public Schools:

Wall graphics, Jim Tilly, 1981	6,000.00

IDITAROD AREA SCHOOL DISTRICT

Nikolai:
Two murals, John Van Zyle, Artist-in-the-School

Shageluk:

Traditional masks, Fluska John, 1978, Artist-in-the-school	2,550 ASCA 1,700 district cont. 1,120 in-kind

Holy Cross:
Reproduction/enlargement/mounting of 20 old photographs Jimmie Froehlich, Artist-in-the-school

Takotna:

Exterior mural, Jimmie Froehlich, 1978/79	1,500.00 district cont.

Grayling:
Flying Eagle, bronze casting, Jacque and Mary Regat

KENAI PENINSULA BOROUGH SCHOOL DISTRICT

No artworks have been commissioned.

KING COVE CITY SCHOOL DISTRICT

King Cove City School	
Mural, Leigh Hyams, 1981	3,000.00

LOWER YUKON SCHOOL DISTRICT, REAA #3

Marshall School, Fortuna Ledge:	
Works by Jack VanHoesen, 1980 and 1982	9,923.00
Pilot Station Schools:	
Lithographs and 3 paintings of village life, J. VanHoesen, 1982	5,641.00
Pitkas Point High School:	
Painting on plywood, Pat Minnok, 3 works	5,476.00
Sheldon Point Schools:	
Mukluks, bought in Anchorage	
Dolls, bought in Anchorage	
Baskets, bought in Anchorage	
Ivory carvings, bought in Anchorage, one is a dog team by Frank Prince	
Pictures, bought in Anchorage	
Painting on gym wall, Andrew Covlasky, 1983	6,920.00 for all works
Spring Water Middle School of Mountain Village:	
Five wall works, Milo Minock, 1980	5,250.00
Russian Mission High School:	
Five paintings, acrylic, Dan Fruits, 1981	5,037.00
Russian Mission Elementary School:	
Weaving, fiber, Paula Dickey, 1982	1,200.00
Scammon Bay High School:	
3 murals, Milo and Pat Minock, painted on plywood	6,508.00

MAT-SU

Susitna Valley High School:	
Landscape-Mt. McKinley, painting, Kurt Wagoner	7,500.00

NENANA CITY SCHOOLS

None.

NORTH SLOPE BOROUGH SCHOOL DISTRICT

Kaktovik	
Mural, Gloria Rankin, 1980	6,000.00
Masks, Mildred Rexford, 1980	1,000.00
Soapstone carving and baleen baskets, Archie Brower	2,000.00
Baleen etching, Eddie Rexford	1,000.00

PETERSBURG

None.

RAILBELT SCHOOL DISTRICT

Tri-Valley School:	
Caribou Migration, fiber, Ree Nancarrow	3,400.00
Anderson Elementary:	
Grizzly Bear Country, wood carving, Doyle Carter	2,000.00
Alaskan Kaleidoscope, cork and painted mural, Mary Erickson	3,250.00
Stained Glass Windows, Gary Worby	875.00
Grizzly bear, mounted and stuffed, Ted Meyer	1,500.00
Cantwell School:	
Spring at Mt. McKinley, stained glass, Ann Ernst	2,520.00
Denali, oil, Ruth Travers	950.00
Goshawk, sculpture, Ruth Travers	750.00
Athabascan Mittens and Moccasins, nandsewn moosehide, trimmed in fur, Lily Tansy, 1981	160.00
Dog Hair Basket, Pam Gilbertson	150.00
Friends, needlework picture in dog hair, Pam Gilbertson	250.00
Squirrel hat and purse, handsewn, Carol Resnick	60.00
Clowns, wood and fabric dolls, Carol Resnick	335.00
The Trouble with Reindeer, ink drawing, Diane L. Drashner	300.00
Legend of Denali, mural and legend, Velta Steinberg	2,850.00
Hawks, set of four photographs, Leonard Rue, III	80.00
Midsummer Fantasy, photograph, Mikki Grable, 1978	100.00
Autumn Magic, photograph, Mikki Grable, 1980	100.00
Swan Elegante, photograph, Mikki Grable, 1979	100.00
Sunseasons, fiber wall hanging, Brigitte Cooper, 1983	8,500.00

SKAGWAY CITY SCHOOL DISTRICT

No recent school construction. New school planned; commissioning art work in approximately two years.

SOUTHWEST REGION SCHOOLS

Ekwok:	
Acrylic on Canvas Panels, 2-4'x8'; 1-4'x16', Moses Wassilie	7,267.00
Manokotak:	
Murals, acrylic panels, Moses Wassilie, 1982	4,500.00
Twin Hills:	
Acrylic panel, Chris Davis, 4'x7'	3,000.00
Togiak:	
Acrylic murals, Brian Morgan, 6 paintings	4,457.00
District Office:	
Berry Picker, acrylic, Moses Wassilie	313.00

SOUTHWEST REGION SCHOOLS (continued)

Koliganek:
Two acrylic panels (4'x'8' and 8'x8'), Chris Davis, 1982 — 8,600.00

New Stuyahok:
Three redwood carved panels, 3x8, Richard Cook — 9,756.00

Levelock:
Photography, Don W. Murphy, 1982 — 2,862.00

WRANGELL

Intermediate 4-6:
Native relief carving, wall hung. Art Nelson, 1981 — 6,000.00
Relief carving, forest scene, Kurt Ryll, 1981 — 2,500.00
Native design building frieze, exterior, Kurt Ryll, 1981 — 3,500.00

Primary K-3:
Ceramic kaleidoscope mural, Polly Lee, 1983 — 6,000.00
Fabric banners, Lynn Wiley, 1983 — 8,000.00

YAKUTAT CITY SCHOOL DISTRICT

Yakutat Elementary School:
Tlingit clan designs, 4'x6', Fred Bemis — 1,545.00
Tlingit eagle wall mural, Fred Bemis, 1982 — 1,800.00
Alaska mural, Julie Purdy, 1982 — 2,800.00
Tlingit animal carvings, Fred Bemis — 2,000.00

YUKON-KUSKOKWIM SCHOOL DISTRICT

Akula Elitnarvik High School, Kasigluk:
Subsistance Scenes at Kasigluk, three panels, 2 are 4x8, one is 4x15'9", Jack VanHoesen — 13,300.00

Kipnuk High School:
Migrational Waterfowl and Subsistance Animals of Kipnuk, murals in entry and gymnasium, Jack Van Hoesen — 5,000.00

Kwethluk:
Kwethluk and Three Step, acrylic painting, Arthur Higgins, 1980 — 5,200.00

Mekoryuk High School:
Loon Mask, ivory, George Williams, Sr. — 300.00
Double Walrus Ivory Mask, George Williams, Sr. — 300.00
Look Mask, driftwood, Peter Smith, Sr., 1981 — 1,600.00
Loon Mask, driftwood, Walter Amos, 1981 — 800.00
Musk Oxen Mask, driftwood, Andrew Noatak, 1981 — 260.00
IRCIQ, Andrew Noatak, 1981 — 260.00
Grass Basket, Helen Noatak, 1981 — 560.00
Harpoon, driftwood and ivory, Dale T. Smith, Sr., 1982 — 325.00
Mask, ivory/reindeer horn/baleen, Dale T. Smith, Sr. — 475.00

YUKON-KUSKOKWIM SCHOOL DISTRICT

Napaskiak High School Gym:	
1. Woman Ice Fishing, 4'x8' plywood panels	4,000.
2. Tope of Orthodox Church in Napaskiak	
3. Man in Boar on the Kuskokwim River	
4. Two Boys Playing Basketball, by Susan Ogle, 1982	
Newtok High School:	
Newtok Memories, three 4-foot square panels, Jimmie Froehlich	3,280.00
Platinum High School:	
Untitled frieze of five carved and painted wood panels of local landmarks, Dan Fruits, 1980	1,000.00
Quinhagak	
Life in Quinhagak, the Old and the New, painting, Jon Van Zyle, 1981	3,300.00
Tuluksak High School	
Yup'ik Guides, mural, Jimmie Forehlich, 1982	5,150.00
Tununak High School	
Four Seasons Two Times, acrylic on canvas, 6'x14' John Kailukiak	3,500.00
Tuntituliak	
Tundra, carved relief wood panel, Richard Brogan 1981	4,300.00
Nunapitchuk High School	
Painting of subsistance activity, Moses Wassilie, (Uksook), 1981	4,000.00
Aliachuk High School	
Canada Goose, oil on canvas, Alvin Amason	6,250.00
Lower Kuskokwim School District Administration Offices:	
Early Eskimo Education, mural, Jack VanHoesen	3,000.00
Bethel Regional High School	
Alaskan Wildlife, acrylic on mounted wood panels, Dan Fruits, 1981	5,300.00
Kilbuck School:	
Mural (in library), 4'h x 20'l, Moses Wassilie	3,500.00
Kwigilingok	
Walrus, oil, Alvin Amason	6,250.00
Nightmute High School	
Village scene, acrylic on canvas, 3½'x14', John Kailukaik, 1982	3,800.00

YUKON-KUSKOKWIM SCHOOL DISTRICT

Eek School:
Past and present lifestyles, 4'h x 9'l, Moses Wassilie
1982 — 3,500.00

Chefornak High School:
Seal Hunters, stylized painting from old photograph ('30s) of 4 seal hunters with kayaks, oil base sign paint, Jimmie Froehlich — 3,875.00

Goodnews Bay High School:
Ten carved and painted wood panels of local landmarks, Dan Fruits, 1980 — 5,000.00

Akiak School:
Musher and dogs, acrylic, Alvin Amason, 1981 — 6,250.00

Atmautluak School:
Race Day, Atmautluak Village, acrylic, 8'x2', Gail E. Niebrugge — 3,350.00

ASCA:db
10.13.83

PERCENT FOR ART (Commissions awarded as of October 14, 1983)

Alaska Marine Highway

M/V Matanuska (ferry)

$10,000	collected works	various artists

M/V Taku

$14,000	collected works	various artists

Anchorage

Anchorage Community College/Aviation Complex

$30,000	sculpture	O.B. Simonis, Portland, Oregon
$10,000	untitled acrylic on canvas	Jo Walters, Oakland, California
$10,000	Prop, stainless steel mobile	Bruce Johnson, Cazadero, California

Anchorage Community College/Building C

$ 4,000	fiber	Brigitte Cooper, Palmer
2,000	clay	Al Tennant, Anchorage

Anchorage International Terminal

$46,000	Descending Flight Plane, sculpture	Gary Marx, Anchorage
46,000	sculpture	Seth Seiderman, San Francisco
46,000	fiber	Dana Boussard, Montana

Anchorage Oil & Gas Addition

$ 3,950	painting	Marvin Mangus, Anchorage

Cook Inlet Pre-Trial Facility

$55,000	ceramic sculptures	Alex Combs, Halibut Cove
30,000	supergraphics	Clark Mishler, Anchorage/Mark Hoffman Seattle
20,000	ceramic relief	Michelle Corder/Michael Sheppard, Soldot

Fort Richardson Fish Hatchery

$18,000	Quiet Home Reunion, limestone relief	Keith Appel, Anchorage
$20,000	carved panels	Jim Schoppert, Carnation, Washington

McLaughlin Youth Center Gym

$13,800	wall sculpture	Allan Crawford, San Francisco

Pioneer Home Nursing Wing

$15,000	Fireweed, fiber	Jeanne Leffingwell, Anchorage
$15,000	Wildflowers, painting	Gail Parsons, Homer
$10,000	untitled, tapestry	Charlotte Van Zant, Fairbanks
$10,000	stained glass	Michael Kennedy, Seattle

Anchorage Pioneer Home Nursing Wing (continued)

$10,000	Bore Tide, wood panels	Victor Hiles, Homer
$10,000	photo piece	Tony Rubey, Anchorage
7,700	portable works collection	Susan Ogle, Anchorage
		Marjorie Leavens, Anchorage
		Nancy Taylor Stonington, Ketchum, Idaho
		Arthur Higgins, Wasilla
		Clark Mishler, Anchorage
		Ed Nolde, Anchorage
		Janis Carty Neill, Eagle River
		Marvin Mangus, Anchorage
		Lynn Saupe, Kodiak
		M A Mullins, Anchorage
		Gar" Lyon, Homer

University of Alaska, Classroom Office Building

$30,000	hanging sculpture	Larry Kirkland, Portland
8,000	painting	Joan Kimura, Anchorage

UAA/Health Occupations

$ 6,500	enamel on steel	Harold Balazs

UAA/Student Center

$25,000	fountain sculpture	William Kimura, Anchorage

Bethel

Kuskokwim Community College

$10,000	untitled enamel on plywood, exterior mural	Lynn Wiley, Kenai

Delta

Delta Rural Extension Center

$ 7,000	untitled fiber	Carolyn Strand, Anchorage

Dillingham

Bristol Bay Rural Education Center

$ 4,200	stained glass	Michael Kennedy, Seattle

Eagle River

Alaska Women's Facility

$ 8,000	Parrotgrass, fiber	Jeanne Leffingwell, Anchorage
$10,000	[illegible]itled, bronze	Karen Jenkins Olanna, Shishmaref
10,000	Mountain Pod, welded aluminum sculpture	Arthur Higgins, Wasilla

Eagle River (continued)

Hiland Mountain Correctional Center

$17,500	An Eagle's View, batik	Celia Carl Anderson, Eagle River
5,000	fiber assemblage	Lorraine Alba, Anchorage
12,400	Sunrise Four, aluminum panels	Ike Hay, Pennsylvania
7,500	porcelain enamel on steel panels	Keith Appel, Anchorage

Fairbanks

Constitution Park, University of Alaska

$21,800	welded copper sculpture	Harold Balazs, Mead, Washington

Customs Addition, Fairbanks Airport

$ 5,000	Sky with Cumulus, ceramic tile	Polly Lee, Petersburg
5,000	Nunivak, acrylic on canvas	Jane Brodrick, Fairbanks

Fairbanks Airport Expansion

$27,000	panoramic cirkut camera photomural	Ron Klein, Juneau

Fairbanks Correctional Center Expansion

$30,000	cast bronze exterior sculpture	Melvin Olanna, Shishmaref
10,000	tufted fiber	Carolyn Strand, Anchorage
15,000	wall painting	Kay Slusarenko, Lake Oswego, Oregon

Fairbanks International Airport

$ 8,000	mixed fibers	Charlotte Van Zant, Fairbanks
4,000	fiber applique panels	Jeanne Leffingwell, Anchorage

Fairbanks Public Safety Building

$25,000	exterior sculpture	Gerald Conaway, Anchorage
5,000	watercolor series	Dot Bardarson, Seward
5,000	acrylic on canvas series	William Kimura, Anchorage
5,000	portable works collection	Fairbanks artists

Fairbanks Youth Facility

$ 6,000	tapestry	Charlotte Van Zant, Fairbanks
6,000	wood/copper relief	Robert Harper, Bothell, Washington
3,500	Popsicles, cedar relief	James Schoppert, (then) Fairbanks
2,400	batik panels, Golden Plovers	Jennifer Bellinger, Ketchum, Idaho (formerly Ketchikan)
2,500	portable works	Fairbanks artists

Fairbanks (continued)

Patty Ice Rink, University of Alaska

$10,000	fiber, banner series	Heidi Snow, Juneau

University of Alaska Museum

$40,000	exterior sculpture	Christiane Martens, Illinois
4,000	interior sculpture	Fred Anderson, Naknek

Fort Yukon

Fort Yukon Rural Education Center

$ 4,000	stained glass window	Michael Kennedy, Seattle (born Fairbanks)
1,500	woodcuts of Gwich'in people	Alix Denzler, Seattle

Haines

Chilkat Center for the Arts

$ 6,600	totem pole	Alaska Indian Arts, Inc.

Juneau

Hendrickson Building, University of Alaska, Auke Lake

$ 7,000	carved panels	Nathan Jackson, Ketchikan

Juneau Data Center

$ 4,200	aluminum panels	Paul Sisko, New Jersey

Women's and Children's Dentention Center

$ 8,000	fiber, Interdependence	Brigitte Cooper, Palmer
3,000	supergraphics	_____

Kasilof

Kasilof Fish Hatchery

$22,000	Crooked Creek Allegory, dolomite limestone	Keith Appel, Anchorage

Kenai/Soldotna

Kenai Peninsula Community College

$ 1,500	acrylic on canvas	James Evenson, Kenai
1,500	oil on canvas	Michelle Corder, Sterling
1,000	lithograph series: Alaska: The Land	six artists

Kenai/Soldotna (continued)

Kenai Peninsula Community College, Soldotna

$15,000	anodized titanium suspended work	Jane Meyer, Girdwood/Deborah Nore, Eagle Riv
10,000	porcelain enamle on steel panels	Keith Appel, Anchorage
13,000	carved/painted wood panels	James Schoppert, Carnation, Washington

Soldotna Public Safety Building

$ 9,000	Going Home, tapestry	Charlotte Van Zant, Fairbanks
2,000	untitled copper panels	Harold Balazs, Mead, Washington

Trail Lake Fish Hatchery, Kenai Peninsula

$30,000	C-Wave, corten steel sculpture	Carson Boysen, Petersburg
30,000	enamel on steel	Harold Balazs, Mead, Washington

Ketchikan

Ketchikan Pioneer Home

$ 9,000	First Set, fiber	Charlotte Van Zant, Fairbanks
5,000	Southeastern Rain Forest, acrylic on linen	Kenneth DeRoux, Juneau
5,000	Bear Panel, redwood	Jim Schoppert, Carnation, Washington
5,000	Fish Ladder, stained glass	Michael Kennedy, Seattle
5,000	Ketchikan Blue Herons, batik	Jennifer Bellinger, Ketchum, Idaho

Ketchikan Regional Jail

$10,000	untitled, wall graphics	Judith Aiello, Portland, Oregon
4,000	Sun Rising, ceramic tile	Polly Lee, Petersburg

Kodiak

Kodiak Community College, Adult Learning Center

$10,000	suspended soft sculpture	Ken Speiring, Spokane, Washington
6,000	bronze exterior panel	Don Eckland, Bellingham, Washington

Kodiak Community College, Library/Classroom Addition

$ 6,000	untitled, painted steel sculpture	Charles Smith, Bellevue, Washington
2,000	ceramic relief	Lorena Christie, Kodiak
1,000	individual works from Kodiak	

Kotzebue

Kotzebue Court Facility

$ 4,000	Niulan, basswood carved panels	Sandra Stolle

Metlakatla

Lepquinum Activity Center

$ 7,100	untitled banners	Debra Frasier, Minneapolis
13,900	exterior sculpture	David Boxley, Metlakatla

Nome

Northwest Community College

$ 15,000	untitled batik panels	Jennifer Bellinger
8,000	enamel on steel	Harold Balazs
3,000	print series	Bernard Katexac, Nome

Nome Youth Facility

$ 7,000	drawing series	Bill C. Ray, Juneau

Palmer

Hiland Mountain Correctional Center

$17,500	An Eagle's View, batik	Celia Carl Anderson, Eagle River
5,000	fiber assemblage	Lorraine Alba, Anchorage
12,400	Sunrise Four, aluminum panels	Ike Hay, Pennsylvania
7,500	porcelain enamel on steel panels	Keith Appel, Anchorage

Mat-Su Community College

$ 3,750	sculpture	Arthur Higgins, Wasilla
3,750	fiber	Victoria Cole, Wasilla

Mat-Su Community College Library

$25,000	tapestry	Charlotte Van Zant, Fairbanks

Palmer Correctional Center

$14,400	carpet collage	Nancy Taylor Stonington, Ketchum
20,000	copper sculpture	Harold Balazs
4,500	porcelain enamel on steel panel	Harold Balazs
4,475	untitled, wall graphics	Kay Slusarenko, Oregon

Petersburg

Petersburg Ferry Terminal

$ 1,700	Devil's Thumb, ceramic tile	Polly Lee, Petersburg

Seward

AVTEC (renovation of old high school)

$ 7,000	acrylic on panels (series)	Gail Neibrugge, Glennallen

AVTEC (additions/remodeling)

$ 5,000	Choreography in Red and Green, batik	Celia Carl Anderson, Eagle River
$ 5,000	untitled fiber	Carolyn Strand, Anchorage
?	portable works collection	

AVTEC (food service remodel)

$ 5,000	wall graphics, untitled	Kay Slusarenko, Lake Oswego, Oregon
	stained glass	Seward

University of Alaska Marine Education Center

$ 7,000	advertised - not awarded	

Skagway

Skagway Ferry Terminal

$ 6,000	Chilkoot Trail, welded bronze	Carson Boysen, Petersburg

Valdez

Harborview Developmental Center

$34,000	environmental work/ sculpture	Lloyd Hamrol, Venice, California

HB

535

HB 535

2/14/84

Bill – Re: HB 535

Per our discussion... a temporary section such as the enclosed could be added to HB 535 to eliminate any question as to the treatment of retirees other than those currently carrying the optional life coverage.

Please call if I can be of any further assistance –

Mike Coughlin
Retirement & Benefits
4460

Retirees who were previously unable to enroll in optional life coverage because they were over 65 years of age at retirement or whose coverage was terminated when they reached age 65 shall be given an opportunity to enroll on a one time basis.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M March 5, 1984

SUBJECT: State group life insurance
(HB 535)

TO: Representative Mitch Abood
Chairman, House State Affairs Committee

FROM: Edward H. Hein EH
Legislative Counsel

In response to requests from your aides, Carol Horos and Roger Poppy, I have reviewed language submitted by Ken Humphreys of the division of retirement and benefits for addition to HB 535. The apparent purpose of the suggested amendment is to allow persons who previously were prohibited from continuing coverage of state group life insurance when they turned 65 to get back in the program.

I suggest that if the committee wishes to add this concept to the bill that the following language, or language substantially similar, be added at page 3, after line 16 of the bill.:

> (11) A person who, prior to the effective date of this Act, was ineligible to continue life insurance coverage under this section because the person was 65 years of age or older, or whose coverage under this section was terminated because the person reached age 65 before the effective date of this Act, is entitled to enroll for coverage under this section if the person applies for enrollment within one year after the effective date of this Act.

The committee may also wish to address the question of whether a person must elect to continue coverage at the time of terminating employment or whether the person is allowed to have a gap in coverage after leaving state employment and still get back in later. This issue may affect former employees who voluntarily discontinued coverage before reaching age 65.

EHH:ojb
J4/037

ANALYSIS

HB 535

"An Act relating to the purchase of group life insurance by former state employees and others."

Page 1, Lines 10-15

Provides that the state may obtain group insurance for state employees: the reference to AS 14.25.168 concerns educational employees; the reference to AS 22.25.090 concerns judicial employees; the reference to AS 39.35.535 concerns peace officers and firefighters; and the reference to AS 39.37.145 concerns elected public officers. Under this section, this legislation would apply to each of these classifications.

Page 1, Lines 16-20

Lists the types of coverage available (same as current law).

Page 1, Lines 21-25

Lists who is eligible for coverage (includes dependents) and (same as current law).

Page 1. Lines 26-29 and Page 2, Lines 1-4

Provides that governmental units, such as local school districts, the University of Alaska and local governments may participate in the state program (same as current law).

Page 2, Lines 5-6

Removes sections previously repealed (to clean up the statutes).

Page 2, Line 7-9

Provides that the state must do business with an insurer licensed to conduct business in the State (same as current law).

Page 2, Line 10-17

Provides that the state must bid its' insurance coverage (same as current law).

Page 2, Line 18-21

Provides that governmental units must pay any costs in excess of those paid by the state for its' own employees (same as current law).

Page 2, Lines 22-26

AMENDS current law to remove the exclusion of persons over the age of 65 for participation in the program.

Page 2, Lines 27-28

Removes sections previously repealed (to clean up the statutes).

THE
UNIVERSITY
OF ALASKA,
JUNEAU

11120 GLACIER HIGHWAY
JUNEAU, ALASKA 99801
907-789-2101

February 23, 1984

The Honorable Richard Schultz
House of Representatives
State of Alaska
Pouch V
Juneau, AK 99811

Dear Representative Schultz:

After talking with you on the phone the other day, I asked the University of Alaska Risk Manager to review HB 535 as it relates to University employees. After reviewing the proposed legislation he stated that this is a desirable bill because of the limited insurance opportunities available to retired employees. Therefore, the University of Alaska is happy to support HB 535.

Thank you for introducing this important legislation.

Sincerely yours,

W. Russell Jones
Special Assistant
for Legislative Affairs

mlf

cc: Honorable Mitch Abood, Chairman
House State Affairs Committee
Honorable John Cowdery, Chairman
House Labor and Commerce Committee
Honorable Albert P. Adams, Chairman
House Finance Committee

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 535
Title: An Act relating to purchase of group life insurance by retirees.
Sponsor: Shultz
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: All State Agencies
Program Category Affected: Health Insurance
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Ptmnt & Bnfts						
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund						
Federal Funds						
Other						
Total	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys J.K. Humphreys Phone: 465 4460
Division: Retirement & Benefits Date: 2-3-84

Approved by Commissioner: Lisa Rudd Date: 2/8/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

House Bill 535
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

February 3, 1984

IV Analysis: This bill would allow retirees age 65 and older to continue to purchase optional group life insurance. Currently, retirees are ineligible to purchase this insurance after age 65.

There is no cost to the State. Premiums for this insurance would be paid by the retiree.

Position Paper

HB 535

The Department of Administration supports this bill. It offers retirees the choice of continuing to purchase optional group life insurance coverage beyond the current limit of age 65. This flexibility can be achieved with no cost to the state. Favorable premium rates would benefit the retiree.

J.K. Humphreys _____ 2-3-84

J.K. Humphreys, Director, Division of Retirement & Benefits Date

Eleanor Andrews _____ 2/8/84

for Lisa Rudd, Commissioner, Department of Administration Date

STATE OF ALASKA

OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Administration	Shultz	HB 535

Department Position

The department supports this bill.

Division Director	Date	Commissioner's Signature	Date
J.K. Humphreys J.K. Humphreys	2-3-84	Lisa Rudd [signature]	2/8/84

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
none	
2. a) Organizational Support for Bill	**2. b) Organizational Opposition to Bill**
Unknown	Unknown

3. Program Effects of Bill

This bill would allow retirees to continue to purchase optional life insuran erage beyond the current age limit of 65.

4. Fiscal Impact: ☐ None ☒ Fiscal Note Attached

5. Amendments Proposed:

6. Comments:

If this bill becomes law retirees who became ineligible in the past because of age and those who retired after reaching age 65 and were never eligible, would be given the opportunity to re-enroll in this coverage without evidence of insurability.

HB 535

Alaska Public
Employees Association APEA
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

MEMORANDUM

COPY FOR YOUR
INFORMATION

TO: Representative John Cowdery, Chairman
House Labor and Commerce Committee

FROM: Cherie Shelley
Executive Director

SUBJECT: HB 535

DATE: February 7, 1984

The Alaska Public Employees Association fully supports the provisions of HB 535 allowing all former public employees to continue to purchase group life insurance regardless of age.

This legislation will remove discriminatory language from state statute and make insurance coverage available at a time when people need it the most.

Cost to the state will be minimal since the premium will be paid by the former employees.

CS/rb

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305

HB 535

BACKGROUND

HB 535

House Bill 535 is a single purpose piece of legislation designed to allowed retired state employees to continue their group life insurance after age 65. They would be required to pay the premiums on this coverage.

HB 535 arose from complaints from a constituent in House District 17 who is a retired state employee. At the time of her retirement, the group life insurance policy with the state was her only life coverage. By the time she was informed that she was no longer covered, her age made it impossible to purchase life insurance on the open market at a reasonable rate.

Cost of funerals in small, interior communities is very high. This is primarily due to the fact that graves cannot be dug in the winter, and bodies must therefore either be cremated or held in cold storage until after break-up.

Traffic Signals (disobeying)

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 500, (see page 46). Would make disobeying a traffic sign or signal an infraction under the Motor Vehicle Code, punishable by a fine of not less than $50 (original bill would have made it punishable by a fine of note more than $50). Does not provide for an effective date (becomes law 90 days after Governor signs bill).

Introduced January 24 and referred to State Affairs, Judiciary.

Kindergarten Program (mandatory)

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 522, by Rep. Duncan. Adds one new section to the original bill, amending section of the law relating to public schools by addition of language stating that there is no minimal day in session requirement for a kindergarten program. Remaining sections are identical to original bill (see page 87).

Introduced January 27 and referred to Health, Education & Social Services, Finance.

Life Insurance (former/retired state employees)

HOUSE BILL NO. 535, by Rep. Shultz. Would allow former or retired state employees to continue the group life insurance coverage that was in effect at the time the person terminated employment with the state, providing the person pays the cost of the insurance (currently the life insurance benefits end when the employee quits or retires). Does not provide for an effective date (becomes law 90 days after Governor signs bill).

Introduced January 23 and referred to Labor & Commerce, State Affairs, and Finance.

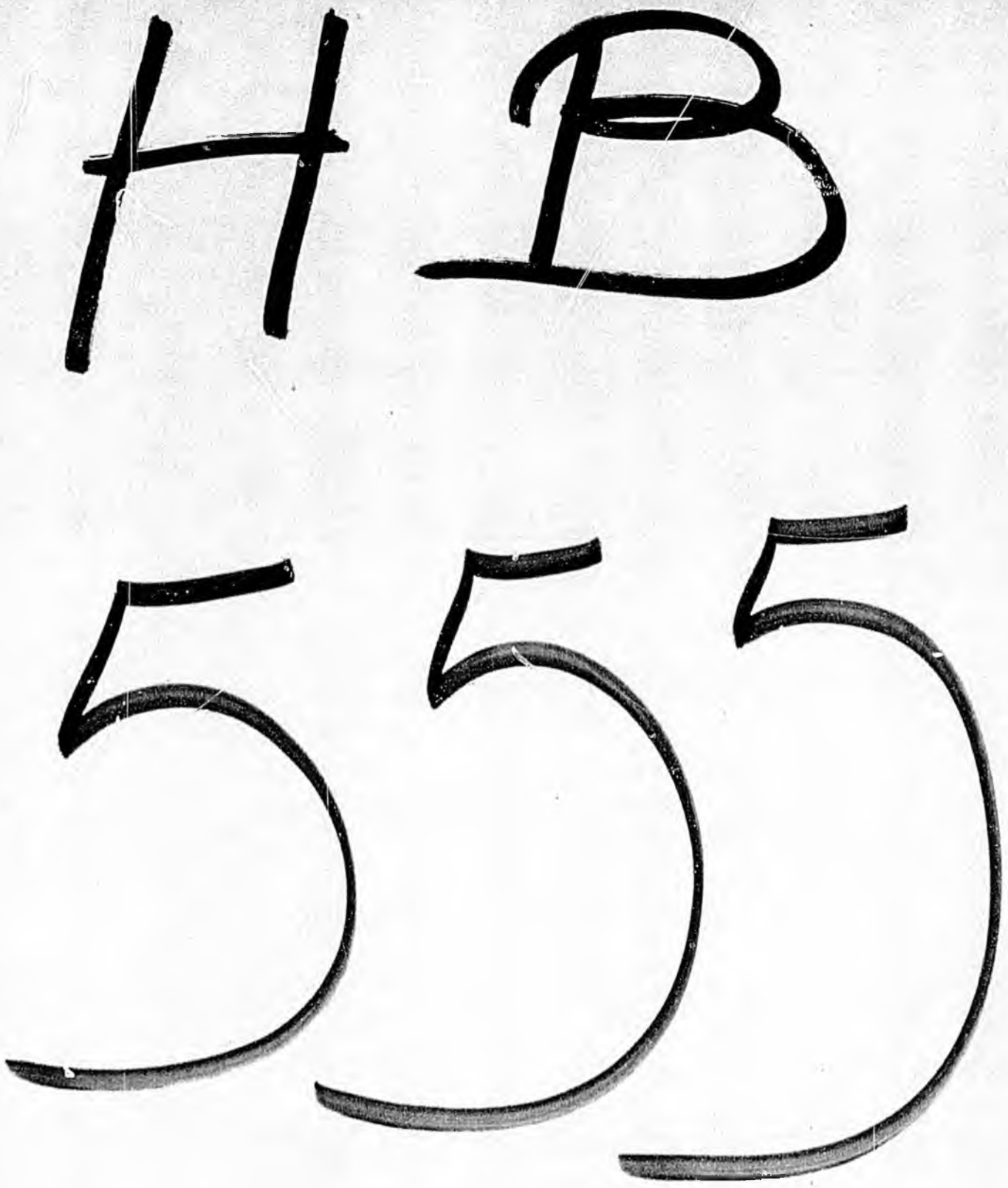
Appropriations (bond debt service/ lapsed loan funds)

HOUSE BILL NO. 536, by the Rules Committee by Request of the Governor. Adds a new section to the Alaska Housing Finance Corporation (AHFC) guaranteeing that the amounts required annually to pay the principal and interest on all issued and outstanding state-guaranteed bonds issued by AHFC will be appropriated each fiscal year from the general fund to make all payments by the state required under its guarantee for principal and interest.

Amends the State Bonding Act (AS 37.15) by requiring the state to pay the principal, interest and redemption premium on all general obligation bonds each fiscal year (currently the state must pay by July 1 of each year). Adds a new section guaranteeing that the amounts required annually to pay the principal, interest, and redemption premium on all issued and outstanding international airports revenue bonds are appropriated each fiscal year.

Appropriates $200,000 from the cash balance of the Tourism Revolving Fund and $200,000 from the cash balance of the Small Business Revolving Loan Fund for the necessary expenses incurred in collecting loans made by that fund. See accompanying letter from the Governor.

Provides Act takes effect immediately.


HB
555

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST
Bill/Resolution No: HB 555
Title: An act relating to permanent fund dividends
Sponsor: Cowdery, Bettisworth, Liska
Requestor: House State Affairs
Date of Request: 2/2/84

FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: General Government
BRU, Program of Subprogram(s) Affected: Permanent Fund Dividend

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
	OPERATING						
100	PERSONAL SERVICES	-	-	-	-	-	-
200	TRAVEL	-	-	-	-	-	-
300	CONTRACTUAL	-	-	-	-	-	-
400	SUPPLIES	-	-	-	-	-	-
500	EQUIPMENT	-	-	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS	-	-	-	-	-	-
800	MISCELLANEOUS	-	-	-	-	-	-
	TOTAL OPERATING	-	-0-	-	-	-	-
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	-0-	-	-	-	-

FUNDING: (Thousands of Dollars)

	GENERAL FUND	-	-	-	-	-	-
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER	-	-	-	-	-	-
	TOTAL	-	-0-	-	-	-	-

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: See attached.

Prepared By: Ervin B. Jones
Division: Administrative Services
Phone: 465-2313
Date: 2/2/84

Approved by Commissioner: Bruce M. Botelho
Agency: Revenue
Date: 2/4/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Analysis

Section 1 provides for payment of permanent fund dividends to "legal aliens" who are otherwise qualified.

The proposed change would codify the existing administrative regulation 15 AAC 23.020(c) which makes the same provision. The department requires aliens to identify themselves and provide proof of legal status before making payments.

I see no effect, fiscal or otherwise, on the department from this legislation.

CHAPTER 23.
ALASKA PERMANENT FUND DIVIDEND

Article

1. Permanent Fund Dividend Program (15 AAC 23.010–15 AAC 23.300)
2. 1982 Permanent Fund Dividend Distribution (15 AAC 23.400–15 AAC 23.600)
3. Permanent Fund Dividend Distribution: 1983 and Subsequent Years (15 AAC 23.605–15 AAC 23.795)

ARTICLE 1.
PERMANENT FUND DIVIDEND PROGRAM

Section

10. Application procedure
20. Eligibility
30. Definition of state resident
40. Allowable absences
50. Proof of eligibility
60. Calculation of amount of a dividend payment
70. Method of receiving payment
80. Disallowance of claims and assessments of overpayments
90. Assignment and attachment of dividends
300. Definitions

15 AAC 23.010. APPLICATION PROCEDURE. (a) An individual may apply annually for a dividend payment calculated in accordance with 15 AAC 23.060 based on years of residency in the state after December 31, 1958.

(b) An application for a 1979 dividend payment must be filed by November 15, 1980. An application with a postmark of November 15 or earlier will be considered timely filed. All other applications will be rejected.

(c) For applications filed for 1980 and years following, an application for a dividend payment must be filed by September 1, of the year following the year for which the dividend is claimed. An application with a postmark of September 1 or earlier will be considered timely filed. When September 1 falls on a Saturday, Sunday, or other legal holiday as defined in AS 44.12.010, the filing will be considered timely if it is filed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday.

(d) An individual who fails to file a timely application under this section is not entitled to a dividend payment for the preceding year. The individual may include that year of residency in applications for dividends in future years if the individual is otherwise eligible. (Eff. 4/30/80, Reg. 74; am 7/25/80, Reg. 75; am 8/20/81, Reg. 79)

Authority: AS 43.23.010
AS 43.23.060

15 AAC 23.020. ELIGIBILITY. (a) In order to qualify for a dividend, an individual must be a state resident as defined in 15 AAC 23.030 during all or part of the year for which the dividend is claimed. The individual must also be a state resident on the date of the application for the dividend, and the individual must be 18 years of age or older during all or part of the year for which the dividend is claimed. The year in which a person is born does not count towards the computation of a dividend payment; all other full years of residency in the state before reaching age 18 may be counted toward the computation of a dividend payment.

(b) The individual applying for a dividend payment must personally sign the certification of residency and eligibility contained on the application form. However, (1) in the case of an incapacitated applicant, the application may be signed by a parent or other relative or by an official in charge of a public or private agency having custody of that applicant; (2) in the case of an applicant who is not incapacitated, the application may, upon a showing of good cause, be signed by a legal guardian or other authorized representative having a power of attorney. In each case in which the application is not signed by the individual claimant, evidence of the authority of the person signing on behalf of the claimant must be attached to the application and the circumstances requiring the signature by someone other than the applicant must be clearly set out. An application may not be made on behalf of a deceased state resident. A personal representative may redeem a dividend payment already applied for and process it as part of the estate of the deceased individual.

(c) An alien, with resident alien status, otherwise qualifying under this chapter is eligible. (Eff. 4/30/80, Reg. 74; am 7/25/80, Reg. 75; am 8/20/81, Reg. 79)

Authority: AS 43.23.010
AS 43.23.100

15 AAC 23.030. DEFINITION OF STATE RESIDENT. (a) A state resident is an individual physically present in the state who intends to remain permanently in the state, or if not physically present in the state, was a resident immediately before departure from the state, intends to return to the state and is absent for one or more of the allowable reasons set forth in 15 AAC 23.040. Calendar years during which an absence not allowed by 15 AAC 23.040 occurs may not be claimed by the individual or counted toward the computation of a dividend payment.

(b) An individual's intent to remain permanently in the state, or to return permanently to the state, will be assessed on the basis of the totality of the relevant circumstances. A calendar year during which an individual claimed residence in any other state for purposes of exercising or obtaining significant local rights or benefits including, but not limited to, voting in a state or local election, qualifying for resident tuition at a college or university, may not be claimed by that individual. (Eff. 4/30/80, Reg. 74; am 7/25/80, Reg. 75)

Authority: AS 43.23.010
AS 43.23.100

15 AAC 23.040. ALLOWABLE ABSENCES. (a) Absence for purposes of pursuing postsecondary education is an allowable absence. "Postsecondary education" means enrollment in good standing as a full-time or part-time student as defined in AS 14.40.806(2) and (3) at a college, university, or junior or community college accredited by the accreditation association for the region in which the college or university is located for purposes of pursuing an associate, baccalaureate or graduate degree program.

(b) Absence from the state for active service in a branch of the armed forces of the United States by one who was a state resident immediately before the absence is allowable if the person demonstrates at all times during that service an intent to return to the state and remain permanently. For purposes of the preceding sentence, it is rebuttably presumed

(1) that a state resident who is drafted into military service has the requisite intent to return to the state and remain permanently, during the initial period of enlistment and one additional period of enlistment;

(2) that a state resident who volunteers for military service has the requisite intent to return to the state and remain permanently, during the first five years of that service;

(3) that a person who, before departing, had lived in the state only as a member of the armed forces of the United States does not have the requisite intent to return to the state and remain permanently, except that if that person served in the state for at least one full standard tour of duty before departing, then the person is presumed to have the requisite intent during the first five years after departing;

(4) that if, at the end of a period in which a person is presumed to have the requisite intent to return to the state and remain permanently, the United States is engaged in war or similar military hostilities, then the person continues to have that intent until such a time, after the war or military hostilities have ended or an armistice declared, as the person is discharged or could be honorably discharged without reenlisting or otherwise voluntarily extending his or her term of military service.

(c) Service in the United States Congress as a Representative or Senator for the State of Alaska is an allowable absence. Service in Congress includes an absence by an individual while serving on the staff of a Representative or Senator for the State of Alaska, if the individual was a state resident immediately before departure.

(d) Absence from the state for purposes of employment by the Alaska State Government, including employment in a field office, is an allowable absence if the individual was a resident of the state immediately before departure.

(e) Absence for purposes of receiving medical treatment is an allowable absence. "Medical

Agents arrest aliens

FEB. 18, 1984

By TOM KIZZIA
Daily News reporter

The arrest here Thursday of a brother and sister from Yugoslavia is the latest incident in what immigration officials say is a new wave of immigration from Macedonia to Alaska.

Mefail Aliu, 29, and Safije Zekiri, 28, were arrested Thursday at a Government Hill residence and charged with being in the United States illegally. The arrests bring to seven the number of Yugoslav-Albanians arrested as illegal aliens in Anchorage in the past five months.

Several of those arrested have applied for political asylum, saying they don't want to return to live under communism in the land of the Winter Olympics.

"Everyone says that," said Robert Eddy, deputy district director of the Immigration and Naturalization Service. "But a person has to establish a well-founded fear of persecution for political or religious reasons."

The recent arrests have been of Yugoslavs of Albanian extraction, whose land was incorporated into Yugoslavia when that country was formed after World War I.

A growing community of these Yugoslav-Albanians lives in Anchorage and Bethel. While most are legal immigrants, some have entered illegally through Mexico, officials said.

The Yugoslav-Albanians who have been arrested are all from the province of Kosovo, where an active separatist movement is under way, officials said. They claim they face persecution at home because of their minority status as Albanians.

Eddy said that the State Department had recommended against political asylum on the few requests from Alaska so far involving Yugoslav emigres. The State Department Bureau of Human Rights and Humanitarian Affairs is required to make a recommendation in each case.

"The general premise is

See Page B-2, ILLEGAL

Illegal aliens from Yugoslavia arrested by INS agents

Continued from Page B-1

that if they come from an Iron Curtain country there is a prima facie case in their favor, but they still must establish that if they returned they would be worse off than others in their society," Eddy said.

It is generally more difficult to make a claim for asylum against Yugoslavia, an autonomous country which in some ways straddles the Iron Curtain, Eddy said.

A deportation hearing for Aliu and Zekiri has been set for Feb. 28.

"They said their reason for leaving Yugoslavia was they were tired of living under communist rule," investigator John Gerardo said.

Aliu has been freed on a $2,500 bond and Zekiri was freed on her own recognizance.

The current wave of arrests began Sept. 29, 1983, when Ajdin Kadriu, Rasim Kadriu, Saip Kadriu and Nesat Redzepi were picked up in one night. Nedzat Miftari was arrested Jan. 4, and Mehmed Limanoski turned himself in Feb. 10, Gerardo said.

Mefail Celikoski, a Yugoslav-Albanian who left his family behind in a mountain village in 1980, faces a deportation hearing after he finishes a prison term for bootlegging and escape. He escaped last March from the minimum-security prison in Palmer, where he was serving a two-year sentence for selling alcohol in Bethel. He was sentenced Dec. 23 to three additional years in prison for the escape.

Celikoski applied for political asylum, claiming he had been jailed in Yugoslavia for participating in demonstrations against the government. But Immigration officials said Celikoski had gone to prison in Europe because of felony convictions involving narcotics, theft and assault.

His request for asylum was denied.

FEB. 18, 1984

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His request for asylum was denied.

HB 556

Elizabeth I. Johnson
Counsellor and Attorney at Law

540 "L" Street Suite 304
Anchorage, Alaska 99501
(907) 277-3025

February 29, 1984

Representative Abood
Capital Room 102
Pouch V
Juneau, Alaska 99811

Roger - include

Re: House Bill 556

Dear Rep. Abood:

Enclosed please find a resolution from the Employment Law Section of the Alaska Bar Association concerning the substance and proposed amendments to HB 556. We would ask that these comments be inserted in the public record as written testimony on this bill.

Please contact me if you have further questions.

Sincerely,

Elizabeth I. Johnson
Member
Employment Law Section
Alaska Bar Association

2/29/84 Ltr. frm AK Bar Assoc. / Resolution & Comments

ALASKA BAR ASSOCIATION

EMPLOYMENT LAW SECTION

RESOLUTION & COMMENTS ON H.B. 556

Resolved: That the Employment Law Section of the Alaska Bar Association supports the intention of HB 556 but recommends that the first sentence of the bill be amended in the following manner:

1. That the word "cases" in line 12 be changed to "complaints".
2. That the word "prior" be inserted before the word "complaint" in line 13.
3. That the word "retaliation" be inserted before both words "complaint" in line 15.

Some members of the employment law section had a serious concern that the second sentence of the proposed amendment -- stating that the commission shall file a petition for appropriate temporary relief -- is inconsistent with the powers of the commission as presently granted by statute. Some members also felt that the phrase "in cases where it is necessary" might pose a problem for the Commission by implying that there be some sort of preliminary finding of "necessity" prior to taking court action.

Therefore, the employment law section recommends that if the second sentence is left in the bill it be amended to read as follows:

4. That the word "shall" in line 16 be changed to "may".
5. That the word "retaliation" be inserted before the word "complaint" in line 19.

THIS WILL BE THE ONLY ANCHORAGE PARTICIPANT.

MSG 84-00015765 PRTY 1 02/21/84 13:58:54 ORIG: LA08 IN= 0006 OUT= 0001
FROM: CANDY/ANCHORAGE TO: DORIS
TARGET: LJH7 SUBJ: H. STATE AFFAIRS T/C 2/21

OMNI # 1

TO PARTICIPATE:

1. JANET BRADLEY/EX. DIRECTOR OF THE HUMAN RIGHTS COMMISSION

Introduced: 2/1/84
Referred: State Affairs

IN THE HOUSE BY WARD, LINDAUER AND MALONE

HOUSE BILL NO. 556

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to complaints alleging retaliation before the State Commission for Human Rights; and providing for an effective date."

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

* Section 1. AS 18.80.110 is amended by adding a new subsection to read:

(b) The commission shall grant priority status to cases that allege that retaliation has occurred for having filed a complaint alleging a violation of AS 18.80.220 and shall complete its investigation of that complaint within 90 days from the date that the complaint was filed with the commission. The commission shall file a petition for appropriate temporary relief against a respondent in cases where it is necessary to protect the employment rights of the complainant.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

February 20, 1984

TO: JOHN LINDAUER

FROM: MARY BETH HILBURN Mary Beth

I have reviewed the budgets of both the Human Rights Commission and the Office of the Ombudsman, and find that there would appear to be no need for an fiscal note for the Human Rights Commission to carry out the mandate of HB 556. This bill would merely mandate priorities of the agency. The requirement that a complaint investigation be completed within 90 days should cause no hardship as this is one of the stated performance measures the agency has committed to this year.

February 20, 1984

TO: JOHN LINDAUER

RE: OMBUDSMAN/HUMAN RIGHTS

HUMAN RIGHTS COMMISSION	OFFICE OF THE OMBUDSMAN
Calender 1982 cases	Cases
opened 292	4,648
closed 319	4,704
Calender 1983	
left 1982 360 Cases	Cases
opened 292	5,229
closed 309	5,263
remain 397	
BUDGET COMPARISON	
1983 actual	
1,440,200 total	1,319,800
56,700 travel	40,000
26 positions	22
1984 adj. base	
1,480,800	1,552,800
25 positions	23
1985 Governor's request	
1,329,000	1,885,200
23 full time	26 full time
1 part time	1 part time

GOAL: The goal of the Human Rights Commission is to eliminate and prevent discrimination in employment, in credit and financing practices, in places of public accommodation, in the sale, lease, or rental of real property and in the services by the state or its political subdivision because of race, religion, color, national origin, sex, age, marital status, changes in marital status, pregnancy, parenthood, or physical handicap.

OBJECTIVES	SERVICES	PERFORMANCE MEASURES
Reduce the loss of personal income, loss of fair housing costs, loss of goods and services denied as a result of unlawful discrimination by the private sector or by state and local governments.	1. Provide prompt resolution of complaints decreasing losses by persons aggrieved under Human Rights Law.	1. Total case resolutions in FY 85 2. Percentage of negotiated settlements 3. Dollar value of settlements 4. Resolution in 90 days or less 5. Pending cases over 180 days in process
	2. Conduct a public education program for all Alaskans increasing the public's knowledge of legal rights and responsibilities and promoting voluntary compliance with Human Rights Law.	6. Hearings conducted 7. Systemic projects in process 1. Training sessions conducted 2. Agency publications distributed 3. Media presentations 4. Responses to public inquiries

B-2 BRU STRATEGY SUMMARY

AGENCY Office of the Governor

PROGRAM Due Process

BRU Human Rights Commission

Revised Date

FY85

HB 556

Alaska State Legislature
House of Representatives

P.O. BOX 2716
ANCHORAGE, ALASKA 99510
(907) 276-4506
WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4939

REPRESENTATIVE JERRY WARD
DISTRICT 13
MEMBER FINANCE COMMITTEE
CHAIRMAN OF SUBCOMMITTEE ON
COMMERCE & ECONOMIC DEVELOPMENT
CHAIRMAN OF SUBCOMMITTEE ON LABOR
MEMBER OF SUBCOMMITTEE ON STATE LOANS

MEMORANDUM

DATE: February 14, 1984

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Representative Jerry Ward

RE: HB 556 "An Act relating to complaints alleging retaliation before the State Commission for Human Rights; and providing for an effective date."

I attach the following materials supporting HB 556:

1. News release explaining effect of bill.
2. Letter dated 8-24-83 from Janet L. Bradley, Executive Director of State Human Rights Commission, stating that retaliation cases are not given any priority.
3. Resolution from National Organization for Women supporting passage of bill.
4. Petitions signed by 120 persons supporting passage of bill.

Attachments

Alaska State Legislature
House of Representatives

P.O. BOX 2716
ANCHORAGE, ALASKA 99510
(907) 276-4506
WHILE IN JUNEAU
POUCH V
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(907) 465-4939

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CHAIRMAN OF SUBCOMMITTEE ON LABOR
MEMBER OF SUBCOMMITTEE ON STATE LOANS

FOR IMMEDIATE RELEASE
January 31, 1984

Contact: Rep. Jerry Ward
465-4939

WARD INTRODUCES BILL TO SPEED UP HANDLING OF RETALIATION COMPLAINTS TO HUMAN RIGHTS COMMISSION

It's against Alaska state law to fire an employee for making a complaint of discrimination to the State Human Rights Commission. But, according to Rep. Jerry Ward, it might take a year or more before that Commission could do anything about such a firing. HB 556, introduced today by Ward, would require that the Commission give priority to retaliation complaints and would also require that the Commission petition the court for a temporary restraining order where necessary to protect the employment rights of the complainant.

"The problem is that retaliation complaints are treated the same as any other complaint to the Commission and have to take their [illegible]," Ward explained. "Attorneys representing employers use delaying tactics to freeze out a complaining employee who can't afford to be very long without a job. I just don't think that it's fair that an employee could be intimidated into dropping a complaint because an employer knows they can get away with firing them if they complain of discrimination. I know of one retaliation complaint that has been dragging along for almost two years now. By the time the Commission has made a determination, the employee could be forced to move away to find employment, or drop the complaint because of the stress and financial burden."

WHEREAS, the National Organization for Women is dedicated to supporting laws mandating equality in the workplace; and

WHEREAS, a bill is to introduced into the THIRTEENTH LEGISLATURE of the State of Alaska to amend Section 1 of Alaska Statute 18.80 by adding a new paragraph to prohibit retribution by an employer against an employee who files a complaint or testifies in behalf of a complainant who has filed a complaint with the Human Rights Commission;

NOW THEREFORE, be it resolved that Alaska NOW, acting at its annual statewide convention, endorse and support the above bill's intent to assist in its passage by the Legislature

Cindy Bousquet

Cindy Bousquet
President
National Organization for Women
State of Alaska

PETITION

The undersigned petitioners support passage of an act to prohibit retribution for complaints to the State of Alaska Human Rights Commission.

NAME	ADDRESS
Kathleen James	2812 Leighton Anchorage
Barry McKean	7307 Hennings Way Anchorage
[illegible]	3351 Montrose Ct Anch
Susan J Webber	2221 Muldoon #62 Anch 99504
Phyllis [illegible]	5820 Yukon Anch 99507
Laura Houghton-Olson	714 Strawberry #1 Anch 99502
Christine A Byerly	3401 W. 88th A-12 99502
Helen R. [illegible]	P.O. Box 403 Anch. Ak. 99510
N. J. Mein	1701 Greendale Anch AK 99504
Mary C. Bise	249 FALL LEAF CIR. 99504
Jane R. Wilson	5624 E 40th D201 Anch AK 99504
Sherry L. Darielle	806 Wild Rose Ct Anch. Ak
Alice L Smith	2440 E. Tudor Rd. Suite #175 99503
[illegible]	1300 W 7th Ave #206 99502
Cheryl Miller	1000 Fairwood Dr. 99502
Mary Ann Morgan	901 S Hoyt #D Anch AK 99508
[illegible]	6204 Prospect Dr. Anchorage 99504
Betty Tennison	6204 Prospect Dr. Anchorage 99504
[illegible]	SRA Box 4136 Anch AK 99504
[illegible] Frey	1741 Westview Circle, Anch 9950
	NETWORK ALASKA 12/14/83

PETITION

The undersigned petitioners support passage of an act to prohibit retribution for complaints to the State of Alaska Human Rights Commission.

NAME	ADDRESS
Sharon L. Gillespie	1941 Rebel Ridge, Anch., Ak
Helen J. Tomlin	7550 B Forfeiture Way Anc. Ak
Kara Victor	8714 Blackberry St Anch
Lima B. Baldwin	3127 Cottonwood
Nevin Diet-Cook	6736 Lunar Dr. Anch Ak 99504
Richard J. Hettich	104 Firedved Drive #3 Anch AK 99502
Ann Brazier	4131 Laurel Anch. AK 99503
Eileen Brewer	SRA 1302-F Anch. 99505
Marge Campbell	2518 Cottonwood Anch. 99508
Donna Shouse	9599 Brayton Dr. 99507
Dana Fogg-Ericsen	8000 Roveuka Anch AK 99502
Corinne Caplanis	Box 102856 Anch. AK 99510-2856
Carol Lewis	7302 Huntsman Ct-A Anch Ak 99502
Eleanor Seltzer	1627 W 32 #56 Anchg 99503

WOMEN IN MNGT - ACC.

PETITION

The undersigned petitioners support passage of an act to prohibit retribution for complaints to the State of Alaska Human Rights Commission.

NAME	ADDRESS
Mary A Buckley	1710 Rosemary St - Anchorage AK 99504
Sharon F Kaniho	7132 Peck Ave. - Anchorage, Ak. 99504
BARBARA JENNINGS	6920 E. 12th AVE ANCH. AK 99504
Jamie Bouwer	1961 Olympia Dr. Anch AK 99502
Clara L. Thompson	3510 Orbit Circle Anchorage 9950[illegible]
Priscilla L. Duffy	501 Fredrick J, Anchorage 9950[illegible]
Beverly Beaumont	1919 Beaver Place, Anch., Ak. 99504
Michele Ann Gen	705 Muldoon Rd #25 Anch AK 99508
Delores A. Lambert, CPS	413 Bunnell, Anchorage, AK 99508
Becky Piesch	P.O. Box 111951, Anchorage, AK 99511

WOMEN IN MNGT - ACC

(10)

PETITION

The undersigned petitioners support passage of an act to prohibit retribution for complaints to the State of Alaska Human Rights Commission.

NAME	ADDRESS
Shirley Nelson	505 E. 12th Anchorage 99501
Sandra Thiel	8516 Hartzell Rd Cnty 99507
Pamela Sullivan	200 E. Dimond #164 Anchorage Alk 99502
Carolyn Synstelien	2141 Newton St Anchorage Ak 99503
Elizabeth Warner	3601 C ST. SUITE 431 ANCH.
Virginia Fleming	#752 200 W. 34th Anchorage
Phillip Wrigado	2205 Boniface #63 Anchorage 99504
Vikki Hoffman	3732 Peterkin St, Anch, AK 99508
Maria Gonzalez	1620 George Bell Circle, Anc 99515
Phyllis Hosler	5820 Yukon, Anchorage 99518
Diana Passero	834 E. 78 ANCHORAGE 99507
Claire Dietz	6736 Luna Dr. Anchorage
Kathryn Reidt Finney	3809 W 76 #6 Anchorage 99502
Barbara Sinner	3101 Delta Dr., Anch 99502
Margie Ennis	22221 Muldoon Rd, SP585 Anch
Laura Doughty-Olson	714 Strawberry Rd Anch AK 99502
Jean van Ackeren	1405 41st Anch AK 99501
Loretta D Yuhas	941 E. 20th Apt B 99501
Deanna M Whitten	3530 W. 84th #2 Anch. 99502
Linda M. Stewart	8345 Jewel Lake #1 Anch 99502
Bobbie Hayes	Box 3-422 Anchorage 99501
Mary L Turner	8200 Eunice 99504
Betty A Cassell	4238 Charing Cross Cir 99504
Jesi Bloom	8300 Henry Circle Anch. AK 99504

PETITION

The undersigned petitioners support passage of an act to prohibit retribution for complaints to the State of Alaska Human Rights Commission.

NAME	ADDRESS
Marie McNelles	3214 Muriel Place Anchorage, AK
[illegible]	SRA 1302-F Anch, AK 99515
[illegible]	PO Box 112047 Anch 99511
Vicki Swarek	PO Box 103393 Anch. 99510
[illegible]	SRA Box 372C Anch 99507
Marilyn Moreno	3954 Apollo Dr Anch 99504
CHRISTINA MAE OLSEN	705 Maldoon Anch. AK. 99508
Edith Tyler	941 E. 20th Apt. B 99501
[illegible] Eicher	1011 Friendly LN. Apt. A Anch
[illegible]	SRA Box 1503A 12910 Jack's Circle Anchorage 99507
Mary Ann Moseley	8671 Kuskaka Anchorage 99504
[illegible]	200 W 34th Box 168 Anchorage AK 9950
Dianna Baffin	2805 Wisconsin St. Anch. AK
[illegible]	SRA BX 87E ANC 99516
[illegible]	2434 AK Dr ANC 99508

NETWORK ALASKA

PETITION

The undersigned petitioners support passage of an act to prohibit retribution for complaints to the State of Alaska Human Rights Commission.

NAME	ADDRESS
Ruth Meridew	4704 Kauai, Anchorage 99504
F. M. Dennis Sr. Peterson	6520 Linda Dr. Anchorage 99502 243-0209
"Fanny" E Ellis	2034 E 3rd Ave. 272-1159
Pauline M. Morganmore	411-E 10th 99501 277-1369
Elena Lange	3533 Richmond #6 Anch. 99504
Susan Schomburg	4430 Thompson #3 Anch A 99508
Marilyn Carpenter	3037 Westminster, Anch 99503
Irma Rivas	Box 4-48 Anchorage 99509
Ella M. Davis	7512 E. 4th Anch. AK 99504
Lloyd Parker	716 ½ N Pine Anch AK 99501
Dale Jewett	3923 Deborah Dr. Anch AK 99504
Lisa Rosenberg	3923 Deborah Dr Anch AK 99504
Dorothy M Keene	2304 Tennessee Plum Anchorage, AK 99503
Kelly Ann Frank	3006 EUREKA, ANCHORAGE, AK 99503
Brenda Bailey	SRA 877, Anch, AK 99502
Neal Zell	SRA 1950 13741 Vern Dr. Anch. 99507
Jean Hug	Kenai AK 99611
Sally Dutton	508 E 27th Ave - Anchorage, AK 99508
Marilyn Peddle	SRA Box 5005 Willow AK 99688
Pipo Kaumeyer	P.O. Box 100302 Anchorage 99510
Rita Sisco	1040 E 6th Ave. #4 Cht
Jon Davis	4426 E 5th ANCHORAGE
Peggy Cowden	3605 Arctic Blvd (#1227 Anch AK 503
Felix Dodds	310 8TH AVENUE / ANCH. / AK
Anthony J. Correia	2211 W. 1ST AVE, ANCH. 99503
Mary Romero	272-7163 P.O. BOX 102152 Anch. 9951
James E. Krause	8500 DAGNY ST. ANCH. AK. 99502
Robert Toyon	P.O. Box 3130 Anchorage AK 99510
William Brinkmeyer	Box 102178 ANCHORAGE AK 99510
Mark A. Werner	2301-E-52nd Ave #22 Anch 995
LOUIS BLAKE	Box 1834-15 Anch AK - 99+051
Frances Reeves	PO Box 101978 - Anchorage AK 99510
Ella Davis	Box 100447 Anchorage AK 99510
Harriet Zagmont	6520 East 9th ave anch 99502
Preston Devillier	P.O. Box 104621 ANCHORAGE AK 99510
Kathleen Dell	1340 Arctic Blvd #15 Anch 99508
Marie Schlosser	3741 Richmond Apt 3 - Anchorage 99508

HB

5654

Mitch

THIS FINAL VERSION (Leg. COUNSEL)
BY ASPER IS DIFFERENT
ONLY IN STYLE TO (DEPT. OF DEFENSE)
COLVIN'S VERSION, NOT
SUBSTANCE. IT JUST
NOW CAME IN.

HB 563 (cont'd)

(2) for entering into cooperative agreements with educational institutions and state, federal or other agencies to promote fish research, management, education and information and to train persons for fish management; and (3) as provided under AS 16.10.125 (relating to the use of a termination device on shell fish and bottom fish pots), 16.10.190 (regulation of taking of migratory fish & shellfish), 16.10.440(b) (relating to regulation of hatcheries), 16.20.240 (taking of fish and game in critical habitat areas), and 41.21.616 (regulation governing fish and game management in the Alaska Chilkat Bald Eagle Preserve).

Allows the Master Board, under certain conditions, to amend or veto regulations adopted by a regional board.

Directs the Governor to make initial appointments to the regional boards and designate chairmen within 90 days after the effective date of the Act. Directs the Master Board to adopt regulations establishing the specific boundaries for the four regions within six months after the completion of initial appointments to the regional boards. Current Board of Fisheries regulations remain in effect until amendment or repeal by a regional board of fisheries or by the Master Board. Repeals AS 16.05.221(a) which creates the existing Board of Fisheries. Effective immediately.

Introduced February 1 and referred to the House Special Committee on Fisheries, Resources and Finance.

Perm. Fund Dividends (use to pay debts to state)

HOUSE BILL NO. 564, by Rep. Nettisworth. Would allow the the state to attach all of a person's Permanent Fund dividend to satify debts owed to the state. Applies to dividends issued in 1984 and subsequent years. Effective immediately. Amends AS 43.23.065, "Exemption of Permanent Fund Dividends," to eliminate the 50% exemption for dividends if money is withheld from the dividend to satisfy "a debt owned by an eligible individual to an agency of the state."

Introduced February 1 and referred to State Affairs and Finance.

Sexual Abuse of a Minor (hearsay evidence)

HOUSE BILL NO. 565, by Reps. Lacher, Phillips, Flood and Larson. Would allow hearsay evidence of a statement made by a child under 10 describing an act of sexual contact with the child. Such evidence could be admitted in a prosecution for the crime of sexual abuse of a minor in any degree if "(1) the court determines in a hearing outside the presence of the jury that the circumstances of the statement indicate its reliability; and (2) the child (A) testifies at the proceeding; or (B) is unavailable as a witness and there is additional evidence introduced to corroborate the statement." Has the effect of amending Rules 803 and 804, Alaska Rules of Evidence, by adding hearsay ovidence of certain statements made by a certain victim of sexual abuse of a minor to the list of exceptions to the hearsay rule. Does not provide for an effective date (becomes law 90 days after Governor's signature).

Mitch...

(1) HB 564 by Bettisworth "An act relating to the use of permanent fund dividendds to satisfy debts owed to the state; and providng for eff. date."

This bill was held over from previous hearings in order to see about the feasibility of combining it with a similar bill relating to the permanent fund, that of HB 632 by Cowdery titled the same. It appears that there will not be too much problem with this. A committee substitute for HB 564 is in the files combining the two bills, and we have a fiscal note on the CS fro Revenue.

Bettisworth will probably not be here to testify, as he testified earlier on it, but his office said that Tom Williams, legislative lieason from Revenue may be here to testify.

Cowdery will be here to testify on it of course.

Commissioner Robert Heath of Revenue will be here to testify on this bill and would like to testify on it early, as he has to go testify at a Judiciary committee hearing and then wishes to come back to State Affairs in order to provide testimony on the other two bills being heard today in State Affairs, which also affect Revenue.

(2) HB 572 by Duncan, Mike Miller, Larson, etc. "An Act making an apprproiation to the Alaska permanent fund from state revenues in excess ofthe state spending limits; and providing for an effective date."

Combine?

(3) HB 544 by Rules Committee at the request of the Governor, "An Act amending an appropriation made to the Alaska permanent fund; and effe. date."

Because these two bills are direct appropriations, they do not have a fiscal note. Both bills were held over to see if they could be combined into one bill, if there was no objection. It appears there may be some from Duncan et alli. but probably none from the Governor or the Dept . of Admin.

Duncan or someone from his office will probably be here to testify on HB 572.

Commissioner Bob Heath will be here to testify on these as well.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 3/ /84

I. REQUEST

Bill/Resolution No: CSHB 564 (SA)
Title: An Act relating to use of permanent fund dividends to satisfy debts owed to the state
Original Sponsors: Bettisworth & Cowdery
Requestor: House State Affairs Committee
Date of Request:

FISCAL DETAIL

Agency Affected: Revenue
Program Category Affected: Revenue Management and Collections

BRU, Program of Subprogram(s) Affected: Enforcement

II. EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
	OPERATING						
100	PERSONAL SERVICES	-	-	-	-	-	-
200	TRAVEL	-	-	-	-	-	-
300	CONTRACTUAL	-	-	-	-	-	-
400	SUPPLIES	-	-	-	-	-	-
500	EQUIPMENT	-	-	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS	-	-	-	-	-	-
800	MISCELLANEOUS	-	-	-	-	-	-
	TOTAL OPERATING	-	-	-	-	-	-
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	45.0	49.1	28.8	15.8	8.9

FUNDING: (Thousands of Dollars)

	GENERAL FUND	-	-	-	-	-	-
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER	-	-	-	-	-	-
	TOTAL	-	-	-	-	-	-

POSITIONS:

	FULL-TIME	-	-	-	-	-	-
	PART-TIME	-	-	-	-	-	-
	TEMPORARY	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No increased expenditures are anticipated.

IV. ANALYSIS: See attached narrative.

Prepared By: Thomas C. Williams, Director — Phone: 465-2366
Division: Enforcement — Date: March 1, 1984

Approved by Commissioner: Bruce M. Botelho — Date: 3/2/84
Agency: Revenue

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget

Enforcement Division
Analysis of CSHB 564 (SA)
March 1, 1984

A. Assumptions

1. The PFD program is retained and there are no substantive changes to the current program.

2. Individual dividend payments over the next five years are as follows:

Dividend Year	84	85	86	87	88
Paid in FY	85	86	87	88	89
Dividend Amount	$357	$431	$514	$564	$606

3. The average accounts receivable (a/r) attachment is estimated to amount to 84-88% of the value of an attached dividend. Currently 1982 PFD a/r attachments average approximately 44% of the value of dividends attached while 1983 PFD a/r attachments average approximately 48%. Accordingly, we could expect an increase of approximately 40% of each dividend attached.

4. The number of a/r attachments on PFD applications is likely to decrease 10% per year until FY '86 and then by 50% per year. This change will result largely from the lapsing of the 6 year statute of limitations on the repeal of income taxes in 1978. Under this scenario the number of attachments would likely be as follows:

Fiscal Year	84	85	86	87	88	89
Est. Attachments	350	315	285	140	70	35

B. Program Summary

This bill requires no significant program changes.

C. Computations

Dividend Year	Fiscal Year	A (2) Dividend Amount	x	A (3) Average Increase	x	A (4) Est a/r Attachment	=	Income in Revenue (x 1000)
84	85	$357	x	.40	x	315	=	$ 45.0
85	86	431	x	.40	x	285	=	49.1
86	87	514	x	.40	x	140	=	28.8
87	88	564	x	.40	x	70	=	15.8
88	89	606	x	.40	x	35	=	8.9
Total Amount of Increase Over 5 Years								$147.6

D. Economic Impact

This bill has no significant impact on the State's economy.

E. Impact on Local Governments

This bill has no impact on Local Governments.

Enforcement Division
Analysis of CSHB 564 (SA)
March 1, 1984

Impact of 100% Accounts Receivable Offset on Enforcement Division Collection Activities:

Although the additional revenue collected by Enforcement is relatively small, the impact on our collection efforts may be more significant. The additional offset provision will likely allow us to close more cases with a minimal amount of collection effort when the tax liability is small. This would allow more of our current resources to be devoted to more difficult cases where the tax liability is larger.

Alaska HOUSING FINANCE CORPORATION

February 28, 1984

The Honorable Bob Bettisworth
House of Representatives
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Bettisworth:

An inquiry has been made by your office as to how HB 564 would affect AHFC.

The Corporation has not in the past utilized the option to attach permanent fund dividends. AHFC most frequently uses a summary foreclosure process and deficiency judgements are prohibited.

Although we currently do not pursue judicial foreclosure (under which a deficiency judgement could be obtained) that does not mean we would not in the future. That decision, however, would be based on the amount of the dividend that could be attached.

Sincerely,

Michael S. Lynch
Executive Director

MSL:sel

Telephone (907) 276-5599
235 East 8th Avenue
Third Floor
P.O. Box 101020
Anchorage, Alaska 99510

HB

5688

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

House Bill 568

"An Act making a special appropriation to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a public awareness program".

The Council on Domestic Violence and Sexual Assault supports House Bill 568 to appropriate funds for a public awareness program relating to the sexual abuse of minors. The Council and most of the Council funded programs have taken an active role in prevention/education, advocacy and/or treatment of child sexual assault.

Of the nineteen programs the Council funds, fourteen work with victims directly, conduct prevention/education programs in the schools and communities and/or are involved in child sexual assault coordination efforts. However, most of the programs do not have adequate resources to address the issue and there is no statewide effort to provide information to communities without sexual assault programs. Rural areas are of prime consideration in media efforts because there are so few resources in rural communities.

Child sexual assault reportings have drastically increased in the past few years. From FY 1980 to FY 1983 the reportings to the Division of Family and Youth Services in the Department of Health and Social Services has increased four times. Yet we know that this does not represent the actual number of incidences. Children must know that they have a right to be safe and protected. Adults need to know physical and behavioral symptoms of child sexual assault. Adults also need to know how to talk to a child who has disclosed sexual abuse and where to report it. These funds could assist the Council in providing information to the communities.

Robert J. Sundberg
Commissioner

INTENT OF LEGISLATION

HB 568 - "An Act making a special appropriation to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a public awareness program; and providing for an effective date."

The purpose of this legislation is to raise the public consciousness of the issue of sexual abuse of minors. We must teach adults and children alike to recognize the early warning signs of possible abuse. Children must be encouraged to speak out and share their concerns; adults must be taught to listen, believe, and offer assistance to these children. It is time for Alaskans to make a public statement that we will no longer stand by while our children are subjected to such a heinous crime.

ATTACHMENT A

SEX OFFENSES AGAINST JUVENILES[1]
Number of Reported Incidents

Law Enforcement Agency	1980	1981	1982
Alaska State Troopers	48	109	177
Bethel Police Dept.	4	3	1
Cordova Police Dept.	4	--	3
Craig Police Dept.	--	--	--
Dillingham Police Dept.	--	1	1
Fairbanks Police Dept.	25	13	18
Homer Police Dept.	1	3	6
Hoonah Police Dept.	--	--	--
Juneau Police Dept.	10	16	17
Kenai Police Dept.	3	5	11
Ketchikan Police Dept.	15	15	20
Klawock Police Dept.	1	--	--
Kodiak Police Dept.	8	2	13
Kotzebue Police Dept.	--	1	6
Nome Police Dept.	--	1	10
North Pole Police Dept.	3	2	2
North Slope Borough Police Dept.	9	4	2
Palmer Police Dept.	3	4	1
Petersburg Police Dept.	--	1	1
Seldovia Police Dept.	--	--	1
Seward Police Dept.	2	2	2
Sitka Police Dept.	--	12	17
Skagway Police Dept.	2	--	--
Soldotna Police Dept.	5	5	1
Unalaska Police Dept.	--	1	--
Valdez Police Dept.	--	1	--
Whitter Police Dept.	--	--	--
Wrangell Police Dept.	--	--	1
ALASKA SUBTOTAL (excluding Anchorage Police Dept.)	142	201	293
Anchorage Police Dept. (sexual assault[2] victims of all ages)	117	173	158

[1]Data provided by the Unified Crime Reports Section of the Alaska Department of Public Safety and the Anchorage Police Department.

[2]Forcible rape, assault with attempt to rape and statutory rape.

Prepared by House Research Agency, January 1984.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES
REPORTED PHYSICAL AND SEXUAL ABUSE CASES
FY 83

Definitions

1. Substantiated: Cases where there was sufficient evidence to support a child in need of aid determination and/or criminal action;
2. Unsubstantiated: Cases where the social worker believes that an incident occurred; however, the child was too young to have a provable case, there was insufficient evidence, or the child's safety was ensured;
3. Unconfirmed: Cases where there was insufficient evidence to determine the incident occurred.

Sexual Abuse

Region	Substantiated		Unsubstantiated		Unconfirmed		Total
	#	%	#	%	#	%	#
Southcentral	146	60%	56	23%	41	17%	243
Northern	42	34%	57	47%	23	19%	122
Northwestern	7	46%	4	27%	4	27%	15
Southeastern	68	72%	19	20%	7	8%	94
Western	29	60%	15	31%	4	9%	48
Grand Total	292	56%*	151	29%*	79	15%	522

* Substantiated and unsubstantiated reports total 85%.

Physical Abuse

Region	Substantiated		Unsubstantiated		Unconfirmed		Total
	#	%	#	%	#	%	#
Southcentral	149	55%	89	33%	33	12%	271
Northern	36	25%	88	61%	21	14%	145
Northwestern	5	42%	7	58%	-0-	-0-	12
Southeastern	63	50%	34	27%	29	23%	126
Western	13	65%	6	30%	1	5%	20
Grand Total	266	46%*	224	39%*	84	15%	574

*Substantiated and unsubstantiated reports total 85%.

FRONTIERSMAN 1/12/84

Wake up about sexual abuse

SPECIAL EDITORIAL

During the past year, the Frontiersman has reported sexual abuse and assault cases involving children as young as 2 and as old as 15.

Sexual crimes against children are the most prevalent and serious of felony crimes in the Matanuska-Susitna Valley.

According to Alaska State Trooper statistics, 45 Valley children were the victims of reported sexual crimes in 1983.

Most sexual abuse remains unreported for months, years, sometimes forever.

National statistics indicate that one in four people will be sexually abused or assaulted in their lifetime.

Our children are being attacked by thieves who steal sexual gratification, who plunder innocence, who leave behind pain. Sometimes the thieves are the children's own parents, sometimes a friend of the family or a relative.

The pain remains far longer than the actual memory. Different children handle it in different ways. Some may appear to be unaffected by an adult's intrusion of their bodies; 20 years later they may awaken to a screaming nightmare of childhood.

Other children may fear adults, or men, or women. Incest victims may engage in lengthy internal battles, vacillating between love and loathing, trying to separate affection from humiliation, anger from hate, forgiveness from martyrdom.

We are shocked when we hear of the violation of a child. We want to think of the perpetrators as "animals" or "psychos." We want to believe that the friend, neighbor, relative or member of the community who's convicted of sexual abuse or assault is some kind of aberrant human being. But there's only one thing that seems to commonly set "them" apart from "us."

Many of the perpetrators of sexual crimes against children were victims themselves. It's no excuse for their crime. But it indicates a pattern that must be broken now.

It's not enough that the Valley has one of the best teams in the state for dealing with sexual assaults.

We are educating ourselves and each other. We share the outrage and hurt when we learn of abused children. But why have we left the potential victims in the dark?

We need a system for the early identification of sexual abuse. Now.

Children must know that sexual abuse is most often perpetrated by someone they know, not a stranger in a sedan offering candy.

An enlightened approach by the school district would help.

Children need to know what abuse is. They should be encouraged to report it, no matter who the perpetrator is. They deserve the right to have a safe place to go, a safe person to tell.

It has nothing to do with "sex education."

It has to do with the knowledge that could save them. Children have a right in our society to be educated. When that education could save them, the right becomes an imperative.

Deborah Heidecker

ALASKA NETWORK ON DOMESTIC
VIOLENCE AND SEXUAL ASSAULT
110 SEWARD #13 JUNEAU ALASKA 99801
(907)586-3650

POSITION PAPER

HB 568: An Act making a special appropriation to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a public awareness program.

The Alaska Network on Domestic Violence and Sexual Assault, representing 20 programs statewide that provide services to victims of domestic violence and sexual assault, supports HB568, which will provide funding to the Council to develop a public awareness program relating to the sexual abuse of minors.

Fifteen of the Network's 20 member programs are currently addressing the issue of child sexual assault by providing direct services to child victims and non-offending parents; conducting community education and awareness campaigns; developing and presenting curricula on child sexual assault prevention to students and educators in school settings; and coordination of efforts, including development and implementation of inter-agency protocols, in dealing with cases of child sexual assault. Programs have implemented these components in response to increased requests for services; however, funding to these programs to address this issue is not currently available on a statewide basis, nor are there sufficient resources or support services in many communities to address this issue.

The Network feels that there is a crucial need to educate the general public, with particular emphasis on rural areas where few services exist, regarding the high incidence of child sexual assault; the availability of agencies and other resources to deal with child sexual assault; the laws requiring reporting of child sexual assault by educators, medical personnel, and other professionals; and appropriate responses to a child who has disclosed sexual assault.

A coordinated statewide effort (either by use of Public Service Announcements, production of an Alaska-specific film, a statewide conference, or other educational program) providing such information on child sexual assault will serve to heighten the awareness of the general public and promote concerted efforts to effectively respond to this most serious problem.

HB

577

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3/22/84

REQUEST CS S/A
Bill/Resolution No.: HB 577
Title: Awards for Superior Accomplishment
Sponsor: Ward
Requestor: House State Affairs
Date of Request: March 9, 1984

FISCAL DETAIL
Agency Affected: All Agencies
Program Category Affected: All
BRU, Program or Subprogram(s) Affected: Office of Management and Budget

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		47.5	-	-	-	-
300 CONTRACTUAL						
400 SUPPLIES		2.5	-	-	-	-
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		100.0	-	-	-	-
800 MISCELLANEOUS						
TOTAL OPERATING		150.0	-	-	-	-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		50.0	*	*	*	*
FEDERAL FUNDS						
OTHER		100.0	*	*	*	*
TOTAL						

POSITIONS:

FULL-TIME		0.0	0.0	0.0	0.0	0.0
PART-TIME		0.0	0.0	0.0	0.0	0.0
TEMPORARY		0.0	0.0	0.0	0.0	0.0

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:
*Sources are really the benefits or justified savings achieved by implementing the employees' recommendations.

ANALYSIS: Attach a separate page for analysis

Prepared By: Frank Wheeler, Associate Director Phone: 465-3568
Division: Office of Management & Budget-Management Date: 3/22/84

Approved by Commissioner: Peter McDowell, Director Date: 3/22/84
Agency: Office of Management and Budget

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Fiscal Note -- HB 577
Analysis

Purpose

This bill encourages productivity by offering incentive compensation when worthwhile suggestions are submitted by State employees. The bill proposed two levels of awards:

- Up to $10,000 for superior accomplishments
- Up to $25,000 for unusally outstanding accomplishments

It is uncertain whether such a program could be offered without increasing the operating budget, unless the identified benefits actually occur. This analysis assumes such a program can be offered and administered with little initial cost.

Assumptions

1. For objectivity the Office of Management and Budget would be excluded from the proposed award system.

2. Many potential benefits are possible, and little cost is likely.

   In any case the benefits accruing to the State would be verified, documented and ideally amount to many times more than the cost of the awards. The following is assumed for first year program award expense:

Category	Total Awards Paid/Agency	Number of Agencies	Annual Total
Superior	$ 5,000 X	15	$75,000
Outstanding	$25,000 X	Unknown	$25,000
Total Award			$100,000

3. Other than the awards, little other expense is assumed. Again, the proven benefits should always exceed the costs of the program.

   - An award banquet with the Governor, award checks and plaques.

   - Travel Cost to Anchorage

	Recipients	Estimate
"Superior" awards	85 @$500	$42,500
"Unusually Outstanding"	10 @$500	5,000
		$47,500

   - Publicity via APEA and other newsletters $ 2,500

   Total out-of-pocket costs $50,000

4. No new positions are assumed. Staffing needs for the development of regulations and the preparation of benefit calculation guidelines could be absorbed by Office of Management and Budget.

   Other expenditures are possible but they are not likely to occur soon. For example, the costs to verify benefits may result in other costs such as the cost for a detailed benefit/cost analysis or "audit" of the proposed benefits.

Funding

The awards could be based on one-time savings, the recurring annual savings or a percentage of the recurring annual savings, perhaps on a sliding scale. Thus, the awards paid would be valued in terms of the annual benefits the State receives. $150,000 is assumed as the minimum required to launch the program and fund the awards.

Position Paper

HB 577

This bill would amend Chapter 20 of Title 39 of the Alaska Statutes by adding a new Section 410.

This proposal would require the Director of the Office of Management and Budget to adopt regulations to implement a program to provide awards for superior accomplishments in State government. Under HB 577 all State of Alaska employees would be eligible to receive an award. The awards would be made available to employees who make contributions to the "efficiency, economy, or other improvement of the operations of the state" or who perform some "special act or service in the public interest in connection with or related to the employment of the employee."

Under this bill cash awards or other means of recognition could be furnished by the head of the employee's agency or by the Governor. The head of an agency and the Governor could each make cash awards of up to $10,000, and any award made by the Governor could be in addition to any award made by an agency head. An additional provision would allow a cash award of up to $25,000 upon certification by the Agency head that the employee's accomplishment was "highly exceptional and unusually outstanding . . . ."

The Department of Administration supports the concept of recognizing employees and awarding them for superior achievement.

It is this Department's view that the availability of a mechanism for awarding employees for superior achievement, such as is proposed in HB 577, is frequently instrumental in obtaining employee suggestions which result in substantial cost savings to the State. We believe, therefore, that the utility of this proposal could be enhanced by requiring that the amount of any award bear some relationship to savings realized by the State as a result of the employees contribution.

It is noted that this proposal would make cash awards available to all employees, including those covered by collective bargaining agreements. As such, a benefit would be gratuitously bestowed on members of the various collective bargaining units, outside the normal bargaining process. This benefit could, however, be bargained away through the collective bargaining process. Therefore, it is suggested that HB 577 be amended by adding a provision which would prohibit the award program from being a subject of collective bargaining.

Such a provision would eliminate the possibility of the program being bargained away, in exchange for some other monetary benefit, thus defeating the intent of the Legislation, and avoiding its potential for benefit to the State. Suggested wording is: (i) the program under this section is not subject to collective bargaining under the Public Employment Relations Act (AS 23.40.070 - 225).

Frank Raye — 3/21/84

Frank Raye
Director
Division of Personnel
Department of Administration

Lisa Rudd — 3/22/84

Commissioner Lisa Rudd
Department of Administration

Frank Wheeler, Associate Director
Office of Management and Budget
Division of Management

March 20, 1984

165A

274-3528

Greg Moyer, Senior Analyst
Office of Management and Budget
Division of Management

Evaluation of HB 577
Cash Awards System

We evaluated HB 577 which was introduced by Representative Jerry Ward on February 6, 1984. The bill proposes an awards system for superior accomplishments in state government. This memorandum shows that the state currently lacks a system for recognizing accomplishments of its employees. A cash award, as proposed in HB 577, is one method to provide this recognition. Cash awards, however, should only be given if cost-saving benefits are realized. Other methods should also be included in any awards system. In addition, the awards system needs a centralized administration.

STATE LACKS AN AWARDS SYSTEM

The State does not have an awards system to recognize its employees for their contributions to improving the efficiency productivity, economy, and effectiveness of state operations and delivery of services to the general public. State employees currently receive pay range and/or step increases based on periodic performance evaluations, but there is no system to reward employees for the following categories:

1. Outstanding performance - performance beyond the normal job duties and responsibilities that has reduced costs, improved service to the public, increased productivity or improved efficiencies.

2. Safety/Accident Prevention - significant safety contributions that resulted in reducing the State's exposure to unsafe conditions or that prevented accidents.

3. Training Achievement - recognition and rewards to individuals who completed a formal education or professional certification in a job-related field.

4. Humanitarian - performance of an act on or off duty, the result of which potentially saved or minimized injury or prevented loss of life or property.

5. Community Service - participation in community organizations or non-profit charitable activities that contributed to community improvement.

6. Suggestions/Inventions - providing original and constructive suggestions/inventions which are adopted by the State.

7. Length of Service - number of consecutive years' service in state government.

HB 5?? PROPOSES A CASH AWARDS SYSTEM

Representative Ward's bill proposes a system to recognize state employees for many of the above categories by awarding cash to those who:

1. contribute to the efficiency, economy, or other improvement of the operations of the state by a suggestion, invention, superior accomplishment, or other personal effort; or

2. perform a special act or service in the public interest in connection with or related to their employment.

Proposed cash awards may not exceed $10,000; or $25,000 for "highly exceptional" and "unusually outstanding" contributions.

ONLY COST-SAVING BENEFITS REALIZED WARRANT CASH AWARDS

In our opinion, cash awards should only be given to those employees whose contributions resulted in cost-saving benefits to the State. These benefits would include:

1. Tangible benefits - actual material or resources saved. The amount of cash awarded for these benefits should be based on guidelines similar to those used by the Municipality of Anchorage. These guidelines are shown below.

Benefits Realized	Award
$250 to $1,000	$25.00 for the first $250.00 in benefits for each additional $50.00 or fraction thereof.
$1,001 to $10,000	$100.00 for the first $1,000.00 in benefits, plus $5.00 for each additional $100.00 or fraction thereof.
$10,001 to $20,000	$550.00 for the first $10,000.00 in benefits, plus $5.00 for each additional $200.00 or fraction thereof.
$20,001 to $100,000	$800.00 for the first $20,000.00 in benefits, plus $5.00 for each additional $1,000.00 or fraction thereof.
$100,001 or more	$1,200 for the first $100,00 in benefits plus $5.00 for each additional $5,000.00 or fraction thereof.

2. Intangible benefits - cost savings based on judgement rather than precise facts and provable calculations. The amount of cash awarded for these benefits would have to be based on their inherent merit and all relevant precedents.

OTHER AWARD METHODS SHOULD BE INCLUDED

Awards other than cash should also be included in any state awards system. Depending upon the merit of a contribution and the benefits derived, other types of awards should be given. These types of awards should include:

1. Letters of Commendation.
2. Certificates.
3. Plaques.
4. Service pins.

The awards system should also include Employee of the Year awards. Plaques and/or cash awards should be given annually to employees who successfully enhance the state's public image or perform in work situations above and beyond normal job duties. Emphasis should be given to employees who have made contributions in one or more of the following areas:

1. Cost savings to state operations.
2. Cost reductions to the taxpayer.
3. Innovation.
4. Initiative
5. Public image.
6. Public service.

AWARDS SYSTEM NEEDS
A CENTRALIZED
ADMINISTRATION

HB 577 does not address the administration of its proposed awards system. The bill simply states that the head of an agency or the Governor may pay cash awards to employees.

We feel that a state awards system needs to be administered by a central Employee Incentive Committee. Committee members should be appointed by the Governor and should represent a broad cross-section of state agencies. Committee responsibilities should include:

1. Developing and administering a budget for cash awards, plaques, etc.;
2. Ruling on eligibility questions;
3. Recommending adoption or non-adoption of eligible nominations;
4. Recommending the type and amount of award appropriate for any adopted nomination
5. Conducting a continuing review of the awards system and recommending changes in guidelines and/or budgetary needs to the Governor.

CONCLUSION

A state awards system is long overdue. Governor Sheffield recognizes the important role state employees have in achieving his goals and objectives. The Governor must also recognize that employees should be rewarded for their contributions.

HB 577 proposes one method of recognizing state employees. We feel, however, that this bill does not provide an overall state system of various types of awards and a centralized administration.

GMM/jw

ORGANIZATION STATE OF ALASKA

WORK LEVEL PROGRAM - INCENTIVE PROGRAMS

GENERAL PURPOSE GANTT CHART

DATE 3-19-84

PAGE 1 OF 1

	RESPONSIBILITIES		MONTHS → 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
1-	LEGISLATION - HB 577	*																														
	- INTENT, FUNDING & DELEGATION OF AUTHORITY																															
2-	PROGRAM DEVELOP. & TRAINING																															
	- STEERING COMMITTEE																															
	- POLICY DEVELOPMENT APPR.																															
	- COMMISSIONERS APPR.																															
	- DOCUMENT APPR. & PRINT																															
	@ 6 MOS. ? SEMI-																															
	@ 12 MOS. ? ANNUAL ?																															
3-	ACCESS SIMPLIFICATION																															
4-	REPORT TO LEGISLATURE																															
5-	REVISE POLICIES, PROCEDURES AND LEVELS OF AWARDS																															
6-	ACCESS CONTINUATION AFTER AT LEAST 3 CONTINUATION CYCLES																															
7-	OVERRIDE SUNSET PROVISION																															
8-	MAKE FUTURE CHANGES WITH STEERING COMMITTEE APPR.																															

PREPARED BY [signature]

APPROVED BY

* CONSIDERED TO "SUNSET" IN 24 MONTHS, UNLESS OVERRIDDEN.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 577
Title: Awards for Superior Accomplishment
Sponsor: Ward
Requestor: House State Affairs
Date of Request: March 9, 1984

FISCAL DETAIL
Agency Affected: All Agencies
Program Category Affected: All
BRU, Program or Subprogram(s) Affected: Office of Management and Budget

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		42.0	45.0	48.0	52.0	55.0
300 CONTRACTUAL						
400 SUPPLIES		2.5	2.5	2.5	2.5	2.5
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		225.0	250.0	300.0	350.0	400.0
800 MISCELLANEOUS						
TOTAL OPERATING		269.5	297.5	350.5	404.5	457.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		44.5	47.5	50.5	54.5	57.5
FEDERAL FUNDS						
OTHER *		225.0	250.0	300.0	350.0	400.0
TOTAL						

POSITIONS:

FULL-TIME		0.0	0.0	0.0	0.0	0.0
PART-TIME		0.0	0.0	0.0	0.0	0.0
TEMPORARY		0.0	0.0	0.0	0.0	0.0

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

*Sources are really the benefits or justified savings achieved by implementing the employees recommendation.

ANALYSIS: Attach a separate page for analysis

Prepared By: Frank Wheeler, Associate Director FW Phone: 465-3568
Division: Office of Management & Budget-Management Date: 3/12/84

Approved by Commissioner: Walter McDowell, Director Date: 3/12/84
Agency: Office of Management & Budget

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Fiscal Note -- H.B. 577
Analysis

This bill encourages productivity by offering incentive compensation when worthwhile suggestions are submitted by State employees. The bill proposed two levels of awards:

$10,000 for superior accomplishments
$25,000 for unusally outstanding accomplishments

It is uncertain whether such a program could be offered without increasing the operating budget. This analysis assumes the program can be offered and administered with little additional cost.

Assumptions

1. For objectivity the Office of Management and Budget would be excluded from the proposed award system.

2. Many potential costs and many levels of benefits are possible. The following is assumed for first year program expenses:

Category	Total Awards Paid/Agency		Number of Agencies	Annual Total
Superior	$10,000	X	15	$150,000
Outstanding	$25,000	X	3	$ 75,000
				$225,000

3. Other than the awards few other expenses are assumed.

An award banquet with the Governor, awarding checks and plaques

	Travel costs to Anchorage		
"Superior" Recipients	75	@ $500	$37,500
"Unusually Outstanding"	9	@ $500	4,500
			$42,000

4. Publicity via APEA newsletters, etc. estimated at $2,500 annually

Program Summary:

1. Positions: No new positions are required. Staffing needs could be absorbed by Office of Management and Budget.

2. Other Expenditures: The cost of the award process not the actual awards could be the total program costs.

Funding:

The awards could be based upon the recurring annual savings (or a percentage of the recurring annual savings). Thus, the awards paid would be valued in terms of the annual benefits the State receives.

Summary:

Annual benefits =	Annual Awards
Awards -- Travel	$42,000 or unknown
Publicity	2,500
	$44,500

If not restricted to a target "pool of money," program costs could be enormous, especially if each award did not have to be justified on the basis of benefits received -- perhaps $1,000,000 annually or more.

The bill should be more specific, even before planning award policies and procedures.

ems/1733

Alaska State Legislature
House of Representatives

P.O. BOX 2716
ANCHORAGE, ALASKA 99510
(907) 276-4506

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4939

REPRESENTATIVE JERRY WARD
DISTRICT 13

MEMBER FINANCE COMMITTEE
CHAIRMAN OF SUBCOMMITTEE ON
COMMERCE & ECONOMIC DEVELOPMENT
CHAIRMAN OF SUBCOMMITTEE ON LABOR
MEMBER OF SUBCOMMITTEE ON STATE LOANS

MEMORANDUM

DATE: March 8, 1984

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Representative Jerry Ward JW

RE: HB 577

In support of HB 577, I enclose the following materials:

1. House Research report 83-193 regarding Employee Incentive Systems.
2. Materials describing Federal Incentive System.
3. Materials describing California Incentive System.
4. News item describing Air Force Incentive System.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

September 13, 1983

MEMORANDUM

TO: Representative Jerry Ward

FROM: David Teal
Legislative Analyst

RE: Employee Incentive Systems
Research Request 83-193

You asked this agency to provide information on the federal employee incentive plan. Rosalie Howse, of the federal Office of Personnel Management, sent a package of material describing the program. I have enclosed that material, as well as material received from other sources, with this memorandum. The information is summarized below.

The Federal Employee Incentive Awards Program

The Federal Incentive Awards Program was established by Congress in 1954. Although the incentive program is sometimes referred to as a suggestion system, the program offers other incentives in addition to cash awards for suggestions. Incentives such as presidential awards, merit pay increases and other monetary and honorary awards are granted through the program in recognition of sustained superior performance or special acts or services substantially beyond normal job requirements. These awards are described in the attached federal personnel manual; this memorandum focuses on awards for employee suggestions.[1]

According to the attached report on the federal incentive awards program, public recognition of outstanding contributions by federal employees encourages other federal employees to perform in a similar manner. The government gains both tangible and intangible benefits from the program. Some employee ideas allow the government to direct staff, time, space and materials to other uses. Other ideas produce benefits that are less easy to measure, but which represent advancements in fields such as medical research, national security and environmental protection.

---

[1]Appendix A of the personnel manual offers a summary of awards and the requirements for obtaining them.

Each federal agency is allowed to set its own scale of awards for suggestions. Appendix C of the attached federal personnel manual provides an award scale offered as guidance to agencies in determining the size of award to be granted. For contributions with tangible benefits, the scale suggests that the award be 10 percent of the first $10,000 saved, 3% of the next $90,000, and .5% of savings in excess of $100,000, to a maximum cash award of $35,000. All awards refer to savings realized during the first year a suggestion is implemented. Awards are to be based on tangible benefits when possible, and awards based on intangible benefits are to be comparable with awards granted for suggestions with measurable benefits. An honor award may be granted in addition to, or instead of, a cash award.

A suggestion must be constructive and be submitted in writing in order to be eligible for an award. A suggestion must generally be outside the job responsibilities of the person or persons who submit the suggestion, and cannot concern employee services or benefits, working conditions, housekeeping, routine safety practices or maintenance of building and grounds. Once an award is made, the suggestion becomes the property of the government.

The reports on the Federal Incentive Awards Program focus on financial aspects of the program. The 1981 report states that the $54.4 million in cash awards paid in 1981 were associated with $1.9 billion in measurable benefits, for an average return of $36 in savings for every dollar awarded. Longer-term data show benefits of over $12 for every dollar paid in awards.

State Employee Suggestion Systems

California also reported a ratio of about $12 in benefits for every dollar awarded by the State Merit Award Board. Ms. Louise Williams, an assistant administrator of the program, sent a letter and attachments describing the California incentive system. Like the federal system, the California Merit Award Program is more than a suggestion system; the Board rewards employee acts of heroism and superior accomplishment. The material sent by California is attached.

The California program is run by a staff of five. California has about 160,000 state employees eligible for awards (managers are ineligible) and received over 3,000 suggestions during fiscal year 1982. Twelve percent of suggestions resulted in cash awards by the Merit Board in 1982. A five member board settles any disputes that arise.

Several other states have incentive systems. Nebraska is currently surveying all states to determine the range of incentive programs that exist. A copy of results of that survey will be sent to us when the review process is completed.

The National Association of Suggestion Systems (NASS) publishes a membership directory as part of its member services. I contacted that organization in an attempt to obtain a listing of states with incentive programs. They did not send a directory, but did send a package describing member services. The material sent by NASS is attached.

NASS has published a set of legal guidelines for establishing a suggestion system and also hosts seminars and conferences on the subject. Although the organization appears to be oriented toward serving the private sector, government agencies are encouraged to join.

* * *

I hope this memorandum is useful. I will forward the results of the Nebraska survey when we receive them. If you have further questions, please contact us.

DT

Attachments

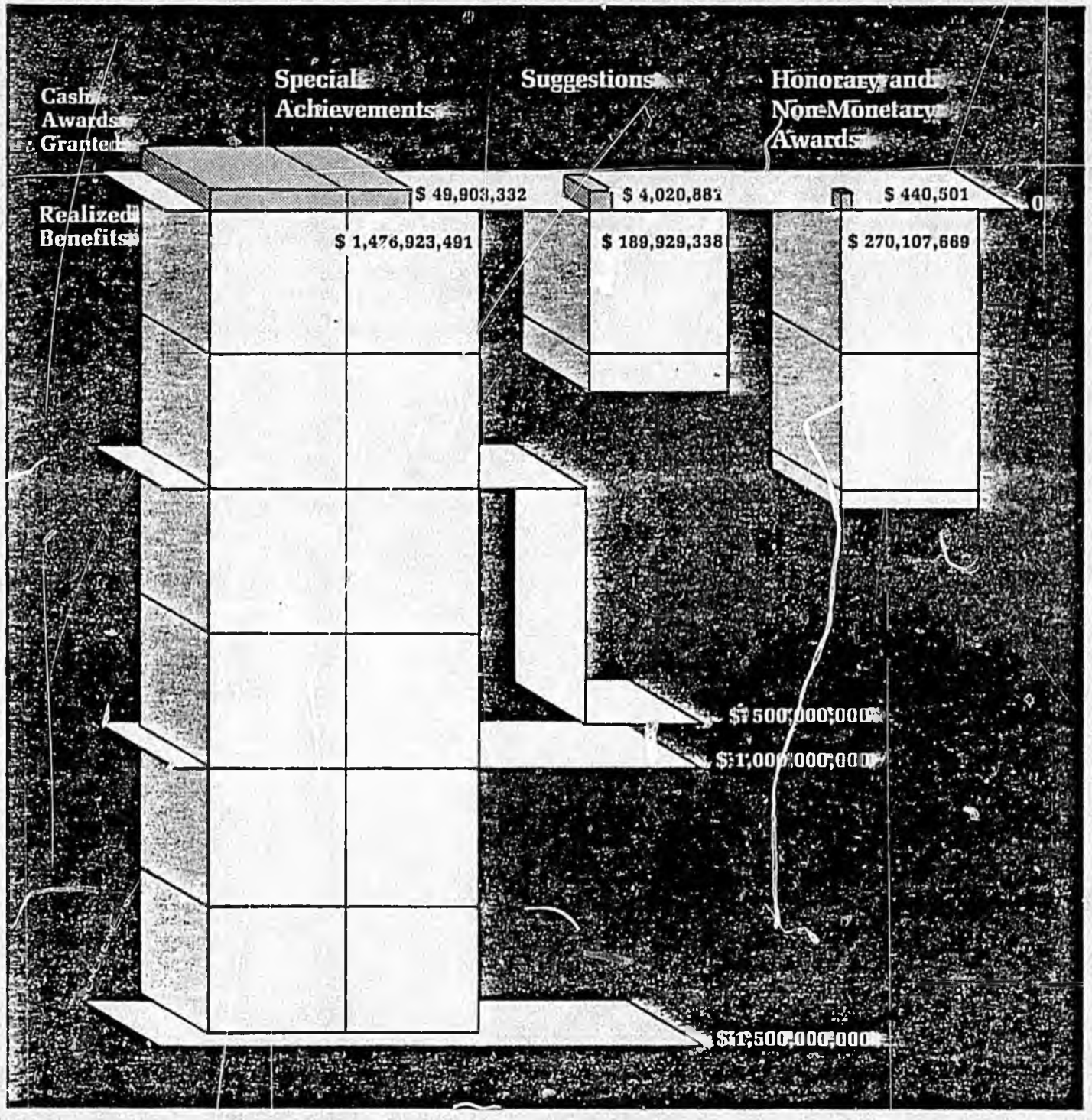
Federal Office of Personnel Management
"Achievements" 1980 and 1981
Chapter 451, Federal Personnel Manual
New Incentive Awards Regulations
Fed Facts #1
California Merit Awards Board
Administrative Manual
Code and Board of Control Rules
Financial Recapitulation
miscellaneous forms
National Association of Suggestion Systems
Member Services Package

A. Benefit/Cost Data

Federal Investment in the Incentive Awards Program

These statistics indicate that about $36 in tangible benefits are realized for each dollar of awards cost incurred. Benefits from suggestions continue, on the average, for more than three years.

Less than 1/10 of 1% of Federal payroll costs was paid in awards and provided recognition for one in nine employees through honorary awards, non-cash awards, or lump-sum cash awards.



Summary of Fiscal Year 1981 Statistical Results

(Figures in Parentheses Reflect Fiscal Year 1980 Results)

Suggestions

Ideas submitted by employees and adopted either in whole or partially by management.

Measurable Benefits	$189,929,338 ($146,296,989)	Average Benefits	$4,803 ($3,506)
Amount Paid in Awards	$4,020,881 ($3,921,223)	Average Award	$137.23 ($133.33)
Number Submitted	150,408 (160,855)	Participation Rate (Per 100 Employees)	5.8 (6.2)
Number Adopted	39,543 (41,733)	Adoption Rate	26.1 (27.2)
Benefit/Award Ratio	**47.2:1**		

Special Achievements

Recognition in the form of cash awards for sustained superior performance over a specified period, or for a special act or service.

Measurable Benefits	$1,476,923,491 ($405,984,266)	Average Benefits	$10,321 ($2,602)
Amount of Awards	$49,903,332 ($40,499,409)	Average Award	$349.09 ($332.05)
Number Granted	145,069 (156,058)*	Rate Per 100 Employees	5.6 (5.9)
Benefit/Award Ratio	**29.5:1**		

Honorary and Non-Monetary Awards

Recognition in the form of a medal, plaque, certificate or other item in recognition of significant employee accomplishments, or a certificate/letter of appreciation for a job well done.

Measurable Benefits	$270,107,669	Number of Honor Awards Granted	17,427
Amount Paid in Cash Honoraria	$440,501	Number of Non-Monetary Awards Granted	38,922

Quality Step Increases

Recognition in the form of an additional within-grade increase granted to General Schedule employees for sustained superior performance.

Estimated First-Year Cost	$4,131,956 ($36,649,237)	Average First-Year Cost	$624 ($677)
Number Granted	54,657** (54,152)	Rate Per 100 Employees	3.9 (3.0)

*FY 1980 total includes honorary and non-monetary awards granted for performance contributions.

**Previous years' reporting has included Quality Increase equivalents granted to employees of the U.S. Postal Service. The number of QSI equivalents will no longer be counted in the Quality Increase data.

The Government will pay up to $35,000 to any employee who proposes a suggestion, develops an invention, or makes a contribution beyond the expected scope of his or her job, which significantly reduces costs or improves Government operations or services. Employees can also earn honorary recognition such as a medal or personal letter from the President.

The Incentive Awards Program was established because the Government believes that employees who exceed job standards deserve special recognition. It's a program that benefits everyone—employees, taxpayers, and the Government. As an employee you may benefit through earning extra cash, being recognized by co-workers and supervisors, and having the satisfaction of knowing that your ideas and efforts are welcome and useful. Also, you have a better chance of getting ahead because these awards are part of promotion consideration. As a taxpayer you benefit through better Government at less cost. And the Government benefits through increased efficiency, lower costs, and a better motivated and more productive and responsive work force.

How to Earn an Award

You may earn awards for suggestions, inventions, or special achievements, as long as they benefit the Government and are outside your normal job responsibilities and standards. Awards may be paid to an individual employee or shared by a group.

For a Suggestion or Invention...

Employees who have had the most suggestions adopted tell us that the way to succeed is to be sure that your suggestion promises solid improvements such as saving time, materials, or paperwork; simplifying procedures or processes; or improving services. They recommend the following systematic approach:

- Concentrate on what you know best within your organization and work area
- Pick a situation that needs improvement
- Write it down
- Include all the facts (what—where—when—who—how)
- Analyze these facts (ask why?)
- Think up a variety of possible improvements
- Choose the best
- Persuade others it is an improvement by explaining the benefits.

If you need help with your idea, talk to your supervisor or your incentive awards officer. They will be glad to help you, or to arrange for someone else to do so. Your personnel office can tell you the name of the incentive awards officer for your organization.

For Performance...

Special achievement awards for exceptional accomplishments also are an important part of the program, and high-level performance or a significant achievement can earn you one.

Examples of the kind of performance that can earn special achievement awards are: exemplary performance or courageous handling of an emergency connected with official employment, or creative efforts that make important contributions to scientific research.

And, for employees in the General Schedule, continuing high-level performance of your job could earn you an additional pay increase.

How Cash Awards Are Calculated

When benefits to the Government can be measured in dollars—such as reduction in production time, staff-hours, supplies, equipment, and space—awards are based on money saved during the first year the improvement is in effect. When benefits to the Government can't be measured in dollars, the amount of award is determined by the importance of the program affected and the impact of the contribution on the mission of the organization.

If your contribution benefits other organizations beyond your own, your award may be increased proportionately.

These Are the Benefits

More than one out of four suggestions is adopted. The average suggestion award is $133 and the average measurable benefit per adopted suggestion is $3,506. In recent years, total measurable benefits from suggestions have averaged $147 million a year. The highest award for a suggestion was $22,090, and for an invention, $25,000.

Each year over 100,000 employees receive special achievement awards. The average cash award for a special achievement is $122, and, in recent years, total measurable benefits from special achievement contributions have averaged $228 million a year.

Combined results show that, each year, about one out of every eleven Federal employees receives an award for a suggestion, invention, or special achievement. And the American taxpayer and the Government realize about $12 in benefits for every $1 paid in awards to employees, as well as benefits that can't be measured, such as scientific achievements and improved service.

Thus, a modest investment in the awards program enables the Government to operate more efficiently—to do more, produce more, provide more services to the public with the same work force, redirect personnel and materiel to other priorities, and conserve resources.

Supervisors Have a Special Role

All supervisors are responsible for using the program to increase individual and organizational productivity. And, as a result of the Civil Service Reform Act, monetary recognition will be linked directly to job performance and results.

Supervisors at all levels should encourage constructive thinking by their employees, help get good ideas adopted, and recommend awards for adopted ideas and superior accomplishments. In doing so, they gain the respect and confidence of the people they supervise, and benefit from more efficient operations and better employee morale and employee-supervisor relations. This contributes to a well-run organization that reflects credit on the supervisor concerned. Specifically, you can:

- Take a few minutes regularly to talk with your employees about work problems and invite their ideas for better methods, lowered costs, and increased production
- Act promptly on suggestions you receive for consideration (you can answer most inquiries in three days, so why "sit" on potential savings?)
- Recommend awards or other recognition for

employee performance substantially beyond job standards and for special achievements by individuals or groups.

Two booklets to help you fulfill your Incentive Awards Program responsibilities are: For first-line supervisors—*A Supervisor's (15-Minute) Guide to the Federal Incentive Awards Program*, and for managers and executives—*Plain Talk About Employee Incentives—A Manager's Guide to the Federal Incentive Awards Program*. These may be obtained from your personnel office, or at a modest cost from the Government Printing Office.

It's Up to You

There are opportunities for improvement at all levels of Government. By using fully your skills and abilities, you can take advantage of these opportunities. Recent examples include people like the Federal Aviation Administration employee who, using extra initiative, assumed added job responsibilities, thus assuring flight safety; and the engineer who designed an inexpensive device to better drain condensed water from pressurized steam lines, saving the Navy $10 million a year in reduced fuel consumption and repair costs.

As a Federal employee, you reap twofold benefits from the Incentive Awards Program—in rewards and recognition as a participant, and in better Government as a taxpayer. You can make specific and direct contributions to improve Government. The opportunity and challenge are yours!

FED FACTS Pamphlets

FED FACTS 1	The Incentive Awards Program
FED FACTS 2	Political Activity of Federal Employees
FED FACTS 3	The Civil Service Retirement System
FED FACTS 4	Financial Protection for Federal Employees
FED FACTS 5	The Federal Merit Promotion Policy
FED FACTS 6	Serving the Public The Extra Step
FED FACTS 7	The Federal Wage System
FED FACTS 8	Meeting Your Financial Obligations
FED FACTS 9	Maternity Benefits for Federal Employees
FED FACTS 11	Actions for Unacceptable Performance and Adverse Actions
FED FACTS 12	The Displaced Employee Program
FED FACTS 13	Reductions in Force in Federal Agencies
FED FACTS 14	Reemployment (Restoration) Rights of Federal Employees Who Perform Duty in the Armed Services
FED FACTS 15	Federal Labor Relations
FED FACTS 16	Pay Under the General Schedule
FED FACTS 17	The Cost of Living Allowance for Federal Employees
FED FACTS 18	The Intergovernmental Mobility Program
FED FACTS 19	How Your GS Job Is Classified
FED FACTS 20	Merit System Principles and Prohibited Personnel Practices
FED FACTS 22	Reduction in Force Benefits Guide

U.S. GOVERNMENT PRINTING OFFICE : 1981—O-347-353

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

United States Office of Personnel Management

FED FACTS

The Incentive Awards Program

1

Appendix A

Criteria for Various Types of Recognition (See Subchapter 6 of this Chapter)

Type	*Who May Receive*	*Nature of Contribution*	*Requirements Which Must Be Met*	*Description*
Honor (Federal, Department, Agency or Bureau)	an individual or group [1], a former employee, or the estate of a deceased employee, provided the contribution was made while the person was a Government employee.	a suggestion, invention, special achievement, or other personal effort that contributed to efficiency, economy, or improved Government operations; or for clearly significant achievements in fostering equal employment opportunity, energy conservation, scientific research, improved communications with the public, public service, etc.	As contained in appropriate announcement inviting nominations or in Department and Agency regulations.	Usually takes the form of a medal, plaque, or certificate.
Special Achievement				
a) for sustained superior performance	an individual,[2] a former employee, or the estate of a deceased employee, provided the performance took place while the person was a government employee.	superior performance of duties and responsibilities of the employee's assigned position, sustained over a significant period	•The employee's most recent performance appraisal must support the conclusion that overall performance substantially exceeds an acceptable level of competence so that, when viewed as a whole, the employee's performance is at a high level of quality, and, for employees covered by an appraisal system established under 5 CFR Part 430, performance of all critical elements must have been at least fully satisfactory. •Supervisors and managers must have demonstrated effective use of incentive awards to motivate their employees, and receptivity to and encouragement of employee suggestions, to the extent that they had opportunity.	Cash Award. The amount normally is based on a percentage of the rate of basic pay. An honor award may be granted in addition to, or instead of, a cash award, if it better serves the purpose of matching the award to both the contribution and the employee.

Type	*Who May Receive*	*Nature of Contribution*	*Requirements Which Must Be Met*	*Description*
			•The contribution has been described in writing and submitted within locally-specified time limit (a current performance appraisal may be used, if it contains the required information).	
b) for special act or service	an individual or group[1], a former employee, or the estate of a deceased employee, provided the special act or service took place while the person was a Government employee.	performance which has exceeded job requirements as a one-time occurrence, for example, a particular project or assignment which involved overcoming unusual difficulties, performance of assigned duties with special effort or innovation that resulted in significant economies or other highly desirable benefits, creative efforts that made important contributions to science or research or exemplary or courageous handling of an emergency situation related to official employment.	Provided that the contribution has been described in writing and submitted within any locally-specified time limit. Must be in the public interest and connected with or related to, official employment.	Cash award from $25 to $35,000. The amount is in proportion to the benefits realized by the Government. When the award is for a group, all members of the group should share in the recognition. The amount may be shared equally or the total may be divided in proportion to the individual contributions to the group effort. However, the total amount of the award may not exceed the amount authorized for that type of contribution if it were being awarded to an individual. An exception may be made by an agency authorized official, if individual award amounts would be too small to be motivating. An honor award may be granted in addition to, or instead of, a cash award, if it better serves the purpose of matching the award to both the contribution and the employee.

Type	Who May Receive	Nature of Contribution	Requirements Which Must Be Met	Description
Quality Step Increase	an individual employee paid under the General Schedule (Does not include Merit Pay (GM) or Senior Executive Services (SES) personnel).	sustained high quality performance at a level that substantially exceeds an acceptable level of competence for a period of time sufficient to conclude that such a level is characteristic of the employee's performance and is expected to continue in the future.	Provided: •The recommendation is supported by the employee's most recent performance appraisal.[1] •Overall performance must have substantially exceeded an acceptable level of competence so that, when viewed as a whole, the employee's performance is at a high level of quality, and, for employees covered by an appraisal system established under 5 CFR Part 430, performance of all critical elements must have been at least fully satisfactory. •Performance must have been sustained at this level for a sufficient time that it is considered characteristic of the individual's performance and is, therefore, expected to continue in the future. •The employee has not received a quality-step increase during the past 52 weeks. •The employee is not at the top rate for the grade on the pay schedule.	An additional within-grade increase which indefinitely raises the employee's rate of basic pay. An honor or cash award may be granted in addition to a quality step increase.

Type	*Who May Receive*	*Nature of Contribution*	*Requirements Which Must Be Met*	*Description*
Suggestion	an individual or group[1], a former employee or the estate of a deceased employee provided the contribution was made while the person was a government employee.	an adopted suggestion, whether adopted as submitted or in part, that directly contributes to economy or efficiency, or directly increases effectiveness of Government operations.	Provided the suggestion: •Is outside the suggester's job responsibilities or, if within them, so superior that it warrants special recognition. •Has been submitted in writing either before adoption or within any locally-specified time thereafter. •Does not concern employee services or benefits, working conditions, or housekeeping, (except for suggestions concerning improved use or conservation of energy resources which result in tangible benefits).	Cash award from $25 to $35,000. The amount is in proportion to the benefits realized by the Government. An honor award may be granted in addition to, or instead of, a cash award, if it better serves the purpose of matching the recognition to both the contribution and the employee.

[1] Includes: (a) Senior Executives (SES, Non-SES, and Others); (b) Under separate authority, Merit Pay (GM) employees, for other than pay-for-performance related awards.
[2] Includes Senior Executives (SES, non-SES, and Others). Merit Pay (GM) employees are eligible for pay-for-performance related awards under separate authority—see agency regulations. Methods of processing awards, awards scales, criteria, and level of approval for awards vary. Check local regulations or contract your Incentive Awards Program Administrator for additional guidance.
[3] If appraisal is more than 60 days old, a written statement of reasons for granting the recognition must accompany the appraisal.

Appendix C.

Determining Award Amounts

C–1. GENERAL

The following award scales are offered as guidance to agencies in making decisions on employee contributions (a suggestion, invention, superior performance of assigned job responsibilities, or a special act or service) that benefit the Government. Further guidance appears in subchapter 2, "Payment of Awards."

C–2. FOR SUGGESTIONS, INVENTIONS, AND SPECIAL ACTS OR SERVICES

Table 1a. Contributions With Tangible Benefits

Estimated First-Year Benefits to Government	*Amount of Award*
Up to $10,000	10% of benefits
$10,001–$100,000	$1,000 for the first $10,000, plus 3% of benefits over $10,000
$100,001 or more	$3,700 for the first $100,000 plus .5% of benefits over $100,000

Table 1b. Quick Guide for Calculating Awards Based on Tangible Benefits

Benefits	*Award*	*Benefits*	*Award*	*Benefits*	*Award*	*Benefits*	*Award*	*Benefits*	*Award*
Up to $10,000	10%	50,000	2,200	90,000	3,400	170,000	4,050	1,800,000	12,200
11,000	1,030	51,000	2,230	91,000	3,430	175,000	4,075	1,900,000	12,700
12,000	1,060	52,000	2,260	92,000	3,460	180,000	4,100	2,000,000	13,200
13,000	1,090	53,000	2,290	93,000	3,490	185,000	4,125	2,100,000	13,700
14,000	1,120	54,000	2,320	94,000	3,520	190,000	4,150	2,200,000	14,200
15,000	1,150	55,000	2,350	95,000	3,550	195,000	4,175	2,300,000	14,700
16,000	1,180	56,000	2,380	96,000	3,580	200,000	4,200	2,400,000	15,200
17,000	1,210	57,000	2,410	97,000	3,610	225,000	4,325	2,500,000	15,700
18,000	1,240	58,000	2,440	98,000	3,640	250,000	4,450	2,600,000	16,200
19,000	1,270	59,000	2,470	99,000	3,670	275,000	4,575	2,700,000	16,700
20,000	1,300	60,000	2,500	100,000	3,700	300,000	4,700	2,800,000	17,200
21,000	1,330	61,000	2,530	101,000	3,705	325,000	4,825	2,900,000	17,700
22,000	1,360	62,000	2,560	102,000	3,710	350,000	4,950	3,000,000	18,200
23,000	1,390	63,000	2,590	103,000	3,715	375,000	5,075	3,100,000	18,700
24,000	1,420	64,000	2,620	104,000	3,720	400,000	5,200	3,200,000	19,200
25,000	1,450	65,000	2,650	105,000	3,725	425,000	5,325	3,300,000	19,700
26,000	1,480	66,000	2,680	106,000	3,730	450,000	5,450	3,400,000	20,200
27,000	1,510	67,000	2,710	107,000	3,735	475,000	5,575	3,500,000	20,700
28,000	1,540	68,000	2,740	108,000	3,740	500,000	5,700	3,600,000	21,200
29,000	1,570	69,000	2,770	109,000	3,745	550,000	5,950	3,7000,000	21,700
30,000	1,600	70,000	2,800	110,000	3,750	600,000	6,200	3,800,000	22,200
31,000	1,630	71,000	2,830	111,000	3,755	650,000	6,450	3,900,000	22,700
32,000	1,660	72,000	2,860	112,000	3,760	700,000	6,700	4,000,000	23,200
33,000	1,690	73,000	2,890	113,000	3,765	750,000	6,950	4,100,000	23,700
34,000	1,720	74,000	2,920	114,000	3,770	800,000	7,200	4,200,000	24,200
35,000	1,750	75,000	2,950	115,000	3,775	850,000	7,450	4,300,000	24,700
36,000	1,780	76,000	2,980	116,000	3,780	900,000	7,700	4,360,000	25,000**
37,000	1,810	77,000	3,010	117,000	3,785	950,000	7,950		
38,000	1,840	78,000	3,040	118,000	3,790	1,000,000	8,200		
39,000	1,870	79,000	3,070	119,000	3,795	1,050,000	8,450		
40,000	1,900	80,000	3,100	120,000	3,800	1,100,000	8,700		
41,000	1,930	81,000	3,130	125,000	3,825	1,150,000	8,950		
42,000	1,960	82,000	3,160	130,000	3,850	1,200,000	9,200		
43,000	1,990	83,000	3,190	135,000	3,875	1,250,000	9,450		
44,000	2,020	84,000	3,220	140,000	3,900	1,300,000	9,700		
45,000	2,050	85,000	3,250	145,000	3,925	1,350,000	9,950		
46,000	2,080	86,000	3,280	150,000	3,950	1,400,000	10,200*		
47,000	2,110	87,000	3,310	155,000	3,975	1,500,000	10,700		
48,000	2,140	88,000	3,340	160,000	4,000	1,600,000	11,200		
49,000	2,170	89,000	3,370	165,000	4,025	1,700,000	11,700		

* Awards over $10,000 require the approval of the Office of Personnel Management.

** Maximum award authorized by the Office of Personnel Management. A presidential Award of up to $10,000 may be paid in addition to the $25,000.

Table 2. Scale of Awards Based on Intangible Benefits

Value of Benefit	Extent of Application			
	Limited	*Extended*	*Broad*	*General*
	Affects functions, mission, or personnel of one office, facility, installation, or an organizational element of a headquarters. Affects a small area of science or technology.	Affects functions, mission, or personnel of several offices, facilities, or installations. Affects an important area of science or technology.	Affects functions, mission, or personnel of an entire regional area of command. May be applicable to all of an independent agency or a large bureau. Affects a broad area of science or technology.	Affects functions, mission, or personnel of several regional areas or commands, or an entire department or large independent agency, or is in the public interest throughout the Nation or beyond.
MODERATE VALUE—Change or modification of an operating principle or procedure which has moderate value sufficient to meet the minimum standard for a cash award; an improvement of rather limited value of a product, activity, program, or service to the public.	$25–100 (compare w/$250–1,000 tangible benefits)	$100–250 (compare w/$1,000–2,500 tangible benefits)	$250–500 (compare w/$2,500–5,000 tangible benefits)	$500–1,000 (compare w/$5,000–10,000 tangible benefits)
SUBSTANTIAL VALUE—Substantial change or modification of an operating principle or procedure; an important improvement to the value of a product, activity, program, or service to the public.	$100–250	$250–500	$500–1,000 (compare w/$10,000–60,000 tangible benefits)	$1,000–2,500 (compare w/$60,000–360,000 tangible benefits)
HIGH VALUE—Complete revision of a basic principle or procedure; a highly significant improvement to the value of a product, major activity, or program, or service to the public.	$250–500	$500–1,000	$1,000–2,500 (compare w/$360,000–1,360,000 tangible benefits)	$2,500–5,000
EXCEPTIONAL VALUE—Initiation of a new principle or major procedure; a superior improvement to the quality of a critical product, activity, program, or service to the public.	$500–1,000	$1,000–2,500	$2,500–5,000 (compare w/$1,360,000–5,360,000 tangible benefits)	$5,000–10,000 (compare w/$5,360,000–13,360,000 tangible benefits)

(1) The minimum award for tangible benefits may be granted only when the benefits reach or exceed $250 or an agency-determined minimum. The minimum award for intangible benefits should require a comparably high standard.

(2) Contributions recognized by cash awards based on intangible benefits must be comparable, in value to the Government, with those based on tangible benefits. Comparisons are shown, in parenthesis, below the award amounts in table 2.

(3) When a contribution has both tangible benefits and intangible benefits, the amount of award is based on the total value of the contribution to the Government, i.e., a combination of the award amount based on tangible and the award amount based on intangible benefits.

C–3. FOR SUSTAINED SUPERIOR PERFORMANCE

Table 3. Special Achievement Awards for Sustained Superior Performance

- Up to 15% of base salary -

An agency may establish a fixed percentage rate for all personnel covered under chapter 451, or a range of percentages. When a range is used, OPM suggests that the amount granted reflect the degree to which the individual employee's performance exceeded the standards of performance for the job. These awards must be based upon a current performance appraisal. The full amount for a sustained superior performance award may be granted only once in any 52-week period.

STATE OF CALIFORNIA—DEPARTMENT OF PERSONNEL ADMINISTRATION

George Deukmejian, Governor

STATE MERIT AWARD BOARD
1115 11TH STREET
SACRAMENTO, CALIFORNIA 95814
(916) 324-0522/ATSS 454-0522

July 20, 1983

RECEIVED
JUL 25 1983
HOUSE RESEARCH AGENCY

David Teal
Alaska Legislature
House Research Agency
Pouch Y
Juneau, Alaska 99811

Dear Mr. Teal:

You recently requested information about the State's Merit Award Program.

The program was established in 1950 to encourage employees to submit their ideas for improving procedures and reduce expenditures. Our office reviews all the new suggestions and refers all eligible ideas to the appropriate department for evaluation. Department reports are reviewed by staff of the Merit Award Board to ensure that a fair and impartial report has been prepared. Employees are notified of the decision of the department if adopted and the Merit Award Board recommends approval of an award. If a suggestion cannot be adopted, the employee receives a copy of the department's decision.

In addition to our suggestion program, we also recognize State employees for acts of heroism and for superior accomplishments. The awards for heroism are honorary, consisting of a certificate and a medal of valor which is presented by the Governor. This action is defined under a Special Act category as an extraordinary act of heroism by a State employee performed at great risk to his own safety or life in an effort to save human life. The Special Service category is defined as an act of heroism by a State employee performed at personal risk to save property. These awards are intended to be "prestige" awards and are made on a highly selective basis.

We have two categories for the Superior Accomplishment awards. One is the Sustained Superior Accomplishment which is defined as an act of superior job performance resulting in an exceptional contribution to the efficiency of State Government. The other is a Superior Accomplishment which is defined as an act which results in an outstanding and superior achievement of a non-recurring nature as an important contribution to science or research or improvement in an agency's operation. For your information, I am enclosing copies of the law; regulations; form letters; and application form; and the SAM which thoroughly explains our operation.

We believe this program is a vital program which has resulted in savings of millions of dollars for California, as well as improved operations. If I can provide any further information, please let me know.

Sincerely,

Louise J. Williams

Louise J. Williams
Assistant Merit Award Administrator

LJW:sm

RECAPITULATION OF AWARDS AND SAVINGS

MERIT AWARD BOARD

FISCAL YEAR	SUGG. REC'D	NO. OF CERTS AWARDED	NO. OF CASH AWARDS	TOTAL AWARDS	AMT. OF CASH AWARDS	FIRST YEAR'S SAVINGS	ADOPT RATE %
50/51	784	23	24	47	$ 1,831	$ 41,396	6.0
51/52	1,642	65	87	152	3,812	108,250	9.3
52/53	1,537	68	96	164	4,290	121,601	10.7
53/54	2,157	125	292	417	7,558	273,014	19.3
54/55	3,000	87	183	270	13,211	204,953	9.0
55/56	2,799	146	191	337	7,821	224,220	12.0
56/57	2,483	97	210	307	9,016	190,458	12.4
57/58	3,073	151	300	451	18,266	341,302	14.7
58/59	3,468	132	296	428	10,367	219,031	12.3
59/60	2,998	193	276	469	11,712	246,784	15.6
60/61	4,403	225	314	539	24,548	307,806	12.2
61/62	3,231	206	327	533	24,596	477,778	16.5
62/63	2,852	187	352	539	32,614	370,025	18.9
63/64	3,522	155	263	418	16,546	238,200	11.9
64/65	2,663	164	215	379	10,013	306,946	14.2
65/66	3,094	166	337	503	29,907	160,973	16.3
66/67	3,641	183	342	525	16,92[illegible]	329,163	14.4
67/68	3,394	180	346	526	66,70[illegible]	542,028	15.5
68/69	2,752	130	322	452	15,213	373,290	16.4
69/70	2,546	163	309	472	38,211	329,442	18.5
70/71	2,732	132	353	485	28,700	964,553	17.8
71/72	2,283	162	327	489	66,346	716,083	21.4
72/73	2,186	97	254	351	105,679	1,224,234	16.1
73/74	2,503	69	299	368	51,821	1,659,318	14.7
74/75	2,967	66	387	453	106,604	2,297,221	15.3
75/76	3,649	84	394	478	162,439	1,628,387	13.1
76/77*	3,413	44	406	450	139,493	1,647,230	13.2
77/78*	2,921	0	535	535	168,627	752,070	18.3
78/79	2,467	0	452	452	87,465	745,759	18.3
79/80	2,969	0	461	461	96,731	791,567	15.5
80/81	2,404	0	350	350	95,725	852,129	14.6
81/82	3,220	0	390	390	225,147	2,499,043	12.1
Total	89,753	3,500	9,690	13,190	1,697,930	21,184,254	14.6

* Refer to Schedule 1B 77/78 Legislative Report

Section 19823. The Department may make awards to current or retired state employees who:

(a) Propose procedures or ideas which hereafter have been adopted and which will result in eliminating or reducing state expenditures or improving operations; provided, such proposals are placed in effect; or

(b) Perform special acts or special services in the public interest; or

(c) By their superior accomplishments, make exceptional contributions to the efficiency, economy or other improvement in the operations of the State Government.

Awards for superior accomplishments shall be made in accordance with procedures and standards established by the Department.

Any award made by the Department under the provisions of this section may be paid from the appropriation available to the state agency affected by the award.

The director may adopt rules and regulations to carry out the provisions of this section, and may appoint merit award boards made up of state officers, employees, or citizens to consider employee proposals, special acts, special services, or superior accomplishments, and to make recommendations to the department as to the merits of the proposals, special acts, special services, or superior accomplishments. and whether or not the proposals, special acts, special services, or superior accomplishments justify an award.

Any award granted under the provisions of this section shall be limited to three thousand dollars ($3,000) unless a larger award is approved by concurrent resolution of the Legislature.

Any expenditures made or costs incurred heretofore or hereafter by the director for the purposes of this section may be paid from funds available for the support of the Department.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provision shall not become effective unless approved by the Legislature in the annual Budget Act.

STATE OF CALIFORNIA - MERIT AWARD BOARD

DO NOT WRITE IN THIS SPACE

EMPLOYEE SUGGESTION

STD 645 (2/79)

Please type or print with pen in black or dark blue ink only -- Do not use pencil

NAME OF EMPLOYEE(S) (LAST, FIRST, MIDDLE INITIAL)

☐ MISS
☐ MRS.
☐ MS.
☐ MR.

DEPARTMENT (INCLUDE ADDRESS OF WORK LOCATION)

CIVIL SERVICE TITLE

WORKING TITLE

RESIDENCE ADDRESS (NO., STREET)

(CITY ZIP)

OFFICE PHONE PUBLIC NO. ( )

ATSS NO.

SUBJECT TITLE - DESCRIPTION IN A FEW WORDS

IF MORE SPACE NEEDED, ATTACH ADDITIONAL SHEETS

THE WAY IT IS NOW

THE WAY I SUGGEST IT SHOULD BE

ADVANTAGES OF MY IDEA

IN CONSIDERING MY SUGGESTION (CHECK ONE)

☐ YOU MAY DISCLOSE MY NAME

☐ DO NOT DISCLOSE MY NAME UNLESS SUGGESTION IS ADOPTED

The use by the State of California of my suggestion shall not form the basis of a further claim of any nature upon the State of California by me, my heirs or assigns.

SIGNATURE EACH SUGGESTER *(NOT ACCEPTABLE IF UNSIGNED)* ▶

DATE

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(Continued)

THE STATE MERIT AWARD BOARD (New 12/74) 4702.2

Receiving and promptly referring to the agencies concerned with the subject matter all suggestions qualifying under Board of Control Rules and these guidelines.

Insuring prompt evaluation of suggestions by the agencies and keeping suggesters informed as to the progress of the evaluation.

Notifying suggesters of awards approved or reasons for nonadoption of their suggestions.

Distributing promotional information to Merit Award Coordinators and, occasionally, to all state employees.

THE STATE AGENCY (DEPARTMENT) HEAD (Revised and Renumbered from 4760 12/74) /4702.3/

Each department head is responsible for:

Establishing an administrative atmosphere in which employees are free to offer constructive ideas for improvement.

Encouraging, through all management levels, the submission of constructive suggestions through the Merit Award Program.

Keeping abreast of Merit Award activity in his agency.

Participating, when possible, in the presentation of awards.

Appointing a Merit Award Coordinator who is authorized to represent the views of the agency to the Merit Award Board on suggestions and other awards, and for notifying the Merit Award Board as to the person so designated.

Insuring sufficient staff time is available for prompt and thorough evaluation of all suggestions affecting the agency.

THE MERIT AWARD COORDINATOR (Revised and Renumbered from 4762 12/74) 4702.4

Each Departmental Merit Award Coordinator is responsible for:

Insuring that all agency employees are informed about the program through orientation packets and meetings, publications, posters, and publicity about award recipients.

Insuring that suggestion forms are readily available to all employees at all times.

Interpreting the program policy and procedures for all agency personnel.

Insuring agency-wide distribution of posters, forms, or other promotional material received from the Merit Award Board.

Assigning qualified personnel to investigate and report upon suggestions referred by the Merit Award Board for evaluation.

Insuring that evaluations are factual, promptly made, courteously drafted, and represent the best interests of the agency and of the program.

Informing the head of the agency, periodically, of the status of the agency program; i.e., experience, successes, problems, and needs.

Coordinating the receipt and presentation, at suitable ceremonies, of award letters, certificates, and checks.

THE SUGGESTION EVALUATOR (Revised and Renumbered from 4764 12/74) 4702.5

Each suggestion evaluator is responsible for:

Approaching the evaluation of suggestions with an open mind, insuring that the ultimate decision on the suggestion is in the best interests of the agency and the State.

Completing the evaluation as promptly as possible and keeping the agency Merit Award Coordinator apprised of the estimated date of completion where a delay is unavoidable.

Writing suggestion evaluations:
(a) with sufficient information on the adoption thereof and the benefits arising therefrom on which to calculate an appropriate award, or (b) with the reasons for nonadoption stated in a factual and impersonal format, keeping in mind that the employee is to be encouraged to submit other ideas. Suggesters will be furnished with a copy of nonadoption evaluations by the Board.

THE SUPERVISOR (Revised and Renumbered from 4763 12/74) 4702.6

Each supervisor is responsible for:

Encouraging employees to offer constructive suggestions through the Merit Award Program.

Assisting employees in the development and presentation of their suggestions.

Making suggestion forms available at all times.

Participating in award-presentation ceremonies with the employees supervised.

MERIT AWARD CALENDAR (Revised and Renumbered from 4701 12/74) 4703

Upon request by the Merit Award Coordinator, the Board will forward, seven days prior to the monthly meetings of the Board, either a full copy of the Board calendar or only that part which contains suggestions adopted by the agency. This will permit the agency to review the subject matter and to present views to the Board prior to or at the meeting on calendared matters. When receiving a full calendar, it also permits the agency to consider all adopted suggestions for application to its own operations.

The closing date for placing recommendations of approval or disapproval on the calendar of the Board is the 20th of the month. Recommendations received after the closing date will be delayed until the next regular meeting of the Board.

ELIGIBILITY FOR PARTICIPATION (Revised 1/79) 4704

Except as stated in Board of Control Rules, amended effective February 1, 1979, all State employees are eligible to participate in and submit suggestions through the Merit Award Program. Eligibility for awards is discussed in SAM Section 4711.

Temporary, casual and emergency employees may not submit suggestions for an award unless their suggestions are submitted while they are actually employed by the State.

Retired state employees may not submit suggestions for an award.

ELIGIBILITY FOR AWARDS (Revised and Renumbered from 4710 12/74) 4711

Employee eligibility for awards offered by the Merit Award Program shall be measured in terms of assigned or expected job responsibilities.

It is the policy of the Board to make an award commensurate with the contribution of the employee to the results obtained from his efforts and his suggestion. A suggester is not precluded from a proportionate award in those situations where the solution adopted differs from that proposed in his suggestion.

When there is reason to believe that a suggestion is within the scope of the suggester's assigned duties, the employing agency will be asked to provide a copy of the duty statement showing the actual duties performed by the suggester at the time the suggestion was submitted to the Board.

Except as provided elsewhere in this chapter, a suggestion which describes a specific problem, offers a workable solution, and is intended to be of benefit to the operations of the State of California will be accepted for possible implementation. The idea need not be original with the suggestor, but the Board will carefully weigh all facts and opinions where there is a dispute as to its origin before granting an award for the adopted suggestion.

UNACCEPTABLE SUGGESTIONS (Revised 1/79) 4712

The Board will not accept for evaluation suggestions which:

Involve personal grievances.

Recommend increased taxes or license fees.

Recommend additional revenues at the expense of a segment of taxpayers and which can be classified as unjust or inequitable.

Recommend a change in the pay or classification of a position or a class, or the establishment of new positions. This area is held to be the continuing responsibility of the agency and the State Personnel Board.

Recommend a "study", "survey", or "review" with the course of action to be taken in accordance with the findings.

CONDITIONAL ACCEPTABILITY (Revised and Renumbered from 4720-4731 12/74) 4713

The following types of suggestions may be accepted for evaluation and awards, subject to the conditions stated:

1. Implementation of organization and methods studies conducted by state agencies or private consultants, for five years after the original date of completion or submission of the report of such studies. Thereafter, the Board may consider such suggestions for an award but may use a reduced formula upon which to make the award.

(Continued)

(Continued)
CONDITIONAL ACCEPTABILITY (Revised and Renumbered from 4720-4731 12/74) 4713

2. Increase penalties or assessments. An award may be made only when it is proven conclusively that the agency involved would suffer a monetary loss by the continuation of the lower, existing penalty or assessment.

3. Impose a penalty for the nonpayment of a fee or tax not previously assessed. An award may be made only when it is proven conclusivaly that such nonpayment either causes additional costs to the affected agency or affords the delinquent taxpayer an unfair advantage over other taxpayers.

4. Increase collection of monies legally due to the State. An award may be made to a suggester who is not normally responsible for such collection activity.

5. Impose a charge for state publications distributed to the general public without charge. An award will not be made for such a suggestion unless it is shown that the publication had been printed at the request of a special group, at the expense of the general taxpayers.

6. Transfer a function from the State to another governmental jurisdiction. An award for such a suggestion will be computed on the net savings to California taxpayers, i.e., the difference in costs of performing the function. Where net savings cannot be measured, a modified award may be made when it is clearly proven there are other benefits to the taxpayers by transferring the function.

7. Transfer funds between the State and its political subdivisions or between the State and the Federal Government. An award for such a suggestion will be computed on the net savings or income to California taxpayers. Where such net savings or income cannot be measured, a modified award may be made where it is clearly proven the benefits from such transfer is a marked improvement in procedures and benefits will inure to the taxpayers or the government of the State of California.

SUBMITTING SUGGESTIONS (Revised and Renumbered from 4761 12/74) 4720

Suggestions shall be submitted by the employee, on Merit Award Board Employee Suggestion Std. Form 645, directly to the Board by mail or messenger service.

Agencies will not require that their employees submit suggestions through agency channels nor screen them before they are presented to the Board.

The identity of the suggester will not be revealed to the evaluator during the initial evaluation if the suggester has checked "Do Not Disclose My Name", on the suggestion form. The identity will be revealed when the idea has been adopted, the suggester's job responsibility must be assessed in relation to the suggestion and an award is indicated.

EVALUATING SUGGESTIONS (Revised and Renumbered from 4764 12/74) 4730

1. All suggestions accepted by the Merit Award Board as qualifying under acceptability standards will be referred immediately to one or more agencies having responsibility for the subject matter or application in their operations.

2. Sufficient copies of the suggestion and evaluation forms will be provided in accordance with the needs of the agency.

3. It is the responsibility of the agency to evaluate all suggestions referred to it within 30 days of receipt. Reasons for delays in the completion of the evaluation shall be reported to the Board. This will permit informing the suggester as to the status of his suggestion.

(Continued)
EVALUATING SUGGESTIONS (Revised and Renumbered from 4764 12/74) 4730

4. Unreasonable delays in completing evaluations, without a prompt and sufficient explanation therefor shall be called to the attention of the agency head by the Board.

5. Agency suggestion evaluators are encouraged to discuss the suggestions with their authors on points which require further detail or explanation.

6. Evaluations prepared by the person having immediate responsibility for the subject matter shall be reviewed at least by his supervisor and by the designated agency suggestion coordinator.

7. The Board will forward to the suggester a copy of all tracers or letters regarding the status of a suggestion which has not been evaluated promptly or where additional data is required. Suggesters also will receive a copy of the evaluation which sets forth the reasons for nonadoptions. Therefore, it is incumbent on evaluators to couch such reports in factual terms, rather than personal ones.

8. The identity of the evaluator will not be disclosed to the suggester, as the position adopted is presumed to be that of the agency, rather than that of the evaluator.

9. The Board may request that agencies which reject a suggestion, for the reason it is under active consideration by the agency, support the position by copies of records, correspondence, reports, or other evidence satisfactory to the Board.

10. Suggestions requiring legislative action before they can be placed into effect will be referred to the agency concerned. Each agency receiving such a suggestion will include, in its evaluation report, a recommendation either for or against such legislative changes and will give the reasons for the position taken.

If an agency advises that necessary legislation will be introduced, the suggestion will be placed in a deferred consideration status until the end of the next session of the Legislature. The employee and the agency will be notified as to the action taken on the suggestion and there will be no further follow-up to the agency until final action has been taken on the legislation.

Each evaluation report containing a recommendation against the introduction of legislation will be reviewed by the Merit Award Board, at one of its regular meetings. The Board may refer the proposal for final decision to the affected Agency Secretary, or to the Department of Finance where appropriate.

The Merit Award Board will not sponsor any legislation without the specific approval of the Board of Control.

AWARDS (Revised 1/79) 4740

Awards shall be calculated in accordance with Board of Control rules, except as provided in the following formulae for suggestions achieving a one-time saving or based upon improved procedures or safety.

Whenever possible, awards shall be based on savings or earnings realized by the State in the first year following the date the suggestion is placed in effect.

If the net benefits realized or expected during the first year following implementation are not fairly representative, a different period of time may be substituted if, by so doing, a more representative benefit and award will ensue. Significant costs of implementation of a suggestion may be deducted from the benefits realized but should be prorated over the expected life of the suggestion benefit.

(Continued)
AWARDS (Revised 1/79) 4740

Agency Merit Award Coordinators are encouraged to recommend to the Board the amount of the cash award they feel is appropriate for an adopted suggestion. Amounts in excess of $150 must bear the signed approval of management at least the equivalent of the chief administrative officer or a Deputy Director."

In recognition of the role of the State Legislature in the approval of awards exceeding $1,000 listed in the annual concurrent resolution, as of February 1, 1979, it is the policy of the Merit Award Board not to recommend to the Board of Control awards exceeding monetary limits the Legislature has indicated, by its concurrent resolution, willingness to approve.

The judgment of the Merit Award Board and the Board of Control shall be final, except as to those awards included in the annual legislative concurrent resolution.

ONE-TIME AWARD SCALE (Revised 1/79) 4740.1

Under circumstances described in the applicable Rules and Regulations of the State Board of Control, the Merit Award Board will recommend to the Board of Control an award not to exceed 5% of savings or increased revenues which are not annually reoccurring. It is not considered equitable to award employees 10% of one-time savings or increased revenue and a like percentage to employees achieving savings or increased revenue over a period of years.

IMPROVED PROCEDURES SCALE (Revised 1/79) 4740.2

"Improved procedures" are those which propose improvements in working conditions, changes in procedures, revision of forms, improvements in employee morale or health, etc , for which the monetary value cannot be determined readily.

In making recommendations to the Board of Control, the Merit Award Board will apply the following scale to calculate awards for adopted suggestions resulting in improved procedures:

Degree or Nature of Benefit		Points
	EITHER	
1.	Marked improvement in methods, forms, facilities, equipment, etc.	15
2.	Moderate improvement in same	10
3.	Minor improvement in same	5
	OR	
4.	Improved employee relations, working conditions, service to the public or public attitude	10
Distribution of the Value		
1.	Statewide application and acceptance by at least one department	25
2.	A majority of the facilities or employees of at least one department	20
3.	Several operations or facilities or some of the employees	15
4.	Single operation or facility	5

IMPROVED SAFETY SCALE (Revised 1/79) 4740.3

"Improved safety" suggestions are those which propose improvements in practices or facilities to eliminate or reduce injury to state employees or to the public, and for which the monetary value cannot be determined readily.

In making recommendations to the Board of Control, the Merit Award Board will apply the following scale to calculate awards for adopted suggestions resulting in improved safety:

Degree of Hazard	Points
Included defects or lack of safeguards which ordinarily might have resulted in accidents causing:	
1. (Extreme) - a fatality or permanent injury and/or extensive property damage	25
2. (Major) - disabling injuries and/or heavy property damage	15
3. (Minor) - nondisabling injuries and/or slight property damage	10
Probability Before Improvement	
1. Considerable exposure with probable occurrence of accident	20
2. Appreciable exposure with likely occurrence of accident	15
3. Slight exposure with possible occurrence of accident	10
Extent of Application	
1. Departmentwide or statewide	25
2. Several locations	15
3. One office or area of operation	10
Effectiveness of Improvement	
1. Eliminates the hazard or possibility of disabling injury, or extensive property damage	30
2. Appreciably limits the hazard or effects of the hazard	20
3. Slightly reduces the hazard	10
Bonus Points	
Suggestion was directly responsible for full or substantial compliance with existing Safety Orders of the Division of Industrial Safety	10

AWARD SCALE

Points	Award
Below 40	None
40	$25
45 - 60	$30 - $40
65 - 80	$45 - $75
85 - 100	$80 - $100

SUPPLEMENTAL AND ADDITIONAL AWARDS (Revised and Renumbered from 4742, 4743 12/74) 4740.4

A preliminary award may be recommended for a suggestion upon its being placed in effect. The amount shall be calculated upon the net benefits expected during the first full year following its implementation, if the benefits can be reasonably calculated. If they cannot be reasonably calculated, a modest award may be granted with a review at the end of the year following implementation to ascertain the total net benefits. At that time, a supplemental award may be recommended, based on the benefits actually realized during the first year following implementation.

Additional awards, requiring legislative approval, will be calculated only after the adopted suggestion has been in effect for a full year, or is based upon an act or circumstance which is not subject to change during the first year following adoption and implementation.

AWARDS FOR SAME IDEA (Revised and Renumbered from 4743 12/74) 4740.5

When an idea has been adopted and an award has been granted therefor, any employee is eligible for further award consideration for a subsequent proposal which is a marked improvement over the original suggestion and effects further economies in time, material, or manpower. The change, improvement, or modification must be marked and easily recognizable as a distinct improvement over the original adopted proposal.

Whenever an agency adopts an employee suggestion, places it into effect, and the Merit Award Board authorizes an award, it then becomes incumbent upon top management to assure full complete utilization of the idea on an agency-wide basis. However, if a suggestion does not receive statewide or agency-wide acceptance and utilization within three years of the date of the original award, then the Board, in its discretion, may make a second award. In making its decision, the Board will consider the lapse of time since adoption of the original idea, whether the idea is a direct application or an adaptation, and the completeness of presentation of the idea.

PAYMENT OF AWARDS (Revised and Renumbered from 4748 12/74) 4740.6

Payment of merit awards will be made by submission of the Board of Control Certificate to the State Controller's District Disbursing Office which makes regular salary payments to the employees. Attached to the certificate will be Payroll Adjustment Notices, Std. Form 674, properly certified by the agency and identifying each employee and the position he holds. The Controller's Office will issue a payroll warrant in the net amount payable to the employee after deducting withholding tax. The amount of the award and the tax withheld will be included on the Withholding Statement, Form W-2, issued to the employee by the Controller's Office at the end of the calendar year.

Should the payment of these awards cause a shortage in the salary and wage category from which paid, a budget revision is required to transfer the amount of the awards from the category which derived savings from the suggestion. Should the award be payable from the appropriation of another agency or fund, the agency paying the award will bill the agency or fund benefiting from the award for the amount so paid.

NONADOPTED SUGGESTIONS (Revised and Renumbered from 4749 12/74) 4750

A copy of the agency's evaluation, explaining the reasons for nonadoption, will be furnished to the suggester by the Board.

The Board will not grant an award in instances where a suggestion has not been adopted but subsequently put into effect as a result of an action which is not occasioned by, nor resulting from the suggestion, but is solely the result of: independent legislative enactment, requirement of the Federal or other governmental agency; Executive Order; or by recommendation of a legislative committee.

APPEAL AND RECONSIDERATION (Revised and Renumbered from 4750, 4751 12/74) 4750.1

An employee's rights to a suggestion will expire one year following the date of the Board's letter of rejection.

If an employee is dissatisfied with a rejection, he may ask for reconsideration of the previous decision provided he submits additional or supplemental information which was not covered in his original proposal or which points out an error in the evaluation report. Request for reconsideration or appeal will not be considered if the employee simply states, "I disagree with the report and conclusions of the agency", without giving additional reasons.

Such appeal or request for reconsideration may be renewed annually for a period not to exceed three (3) years from the date of the original rejection letter, provided he submits additional or supplemental information which was not covered in his original proposal or prior appeals.

If the suggestion is placed in effect during this three-year period, an employee may request an award for his suggestion, provided such request is filed within six (6) months of the date the idea was placed in effect.

The submission of a suggestion, or the refiling during the three years following its rejection, does not in itself assure that an employee automatically will be eligible for an award if the idea is adopted. In case of a dispute the Board may request evidence that such original submission, subsequent reconsideration requests or refilings, etc., either did, or did not, contribute to the post-rejection action in adopting the proposal.

SPECIAL ACTS AND SERVICES (Renumbered from 4770 12/74) 4760

"A Special Act" is defined as "an extraordinary act of heroism by a state employee extending far above and beyond the normal call of duty or service performed at great risk to his own safety or life in an effort to save human life."

"A Special Service" is defined as "an act of heroism by a state employee extending above and beyond the normal call of duty or service performed at personal risk to save property."

The awards granted for special acts and special services are intended to be "prestige" awards and will be made on a highly selective basis.

MERIT AWARD PROGRAM

RECOMMENDATION FOR AWARD (Renumbered from 4771 12/74) 4760.1

A recommendation for an award for a special act must be made on Special Act Award Recommendation MAB Form 277. A recommendation for an award for a special service must be made on Special Service Award Recommendation, MAB Form 277. The recommendation, in either instance, must include all pertinent factual information requested in the instructional portion of the applicable form. Forms may be obtained from the Merit Award Board.

It is necessary to explain the specific nature of the emergency, the unusual difficulties imposed by it and a description of the way the employee solved the problem or acted in the emergency. This explanation should clearly outline the manner and the extent to which the employee jeopardized his life or personal safety and indicate the extent to which the act surpassed normal job expectancy.

In order to afford prompt recognition for a special act or service, the award recommendation should be submitted immediately after the performance of the act. The immediate supervisor may initiate the recommendation for award, but it must be signed by the agency head.

HONORARY AWARDS (Renumbered from 4772 12/74) 4760.2

The awards for a special act or a special service are primarily honorary ones, each consisting of a certificate and a medal.

The medal for a special act is of 10-K gold and enamel embossed with laurel leaves, the name of "California" and an outline of the State with three beams of light radiating from a diamond star. Below, in raised gold, is the word, "Valor".

The medal for a special service is identical except that it does not contain a diamond.

PRESENTATION CEREMONIES (Revised 1/79) 4760.3

These awards will be presented at suitable ceremonies arranged and publicized by the employing department. The Merit Award Office will prepare the citations and certificates and will be available for advice and assistance on the ceremonies.

SUPERIOR ACCOMPLISHMENTS (New 1/75) 4780

A Superior Accomplishment is an act by an individual employee or group of employees which makes an exceptional contribution to the efficiency or economy of the State Government or an exceptional improvement in its operation. Such acts may be categorized as follows:

Superior Accomplishments of a Nonrecurring Nature

Acts which result in an outstanding and superior achievement of a nonrecurring nature such as an important contribution to science or research or improvement in an agency's operation. Unequaled personal efforts resulting in overcoming unusual difficulties or obstacles also may be recognized under this category.

Sustained Superior Accomplishments

The sustained act of superior job performance resulting in an exceptional contribution to the efficiency of State Government.

SUPERIOR ACCOMPLISHMENTS OF A NONRECURRING NATURE (New 1/75) 4781

The objective of this award is to give state departments the opportunity to recognize employees who have made significant contributions to the economy or efficiency of State Government and which are clearly beyond ordinary job expectations.

MERIT AWARD PROGRAM

DEFINITION (New 1/75) 4781.1

Superior Accomplishments of a nonrecurring nature may include, but are not limited to:

An important contribution to science, research or development.

Unequaled personal efforts in overcoming unusual difficulties or obstacles in the completion of a major project or task with substantial benefits to the State as a result thereof.

Completion of a major project or task in a significantly shorter period of time with substantial benefits to the State as a result thereof.

REQUIREMENTS (Revised and renumbered from 4781 and 4781.1 1/75) 4781.2

Recommendations for the award must include:

A clear and concise description of the achievement which forms the basis for the award.

Detail which conclusively proves, or measures, the benefits to the State as a direct result of the efforts of the nominee.

A statement as to the results which would have been considered acceptable but for the noninee's efforts.

Data clearly showing the degree to which the nominee unquestionably performed beyond normal job requirements and expectations.

Any other pertinent information; such as, amount of overtime, research done, dedication to the task, etc.

RECOMMENDATION (New 1/75) 4781.3

Submit the recommendation to the State Merit Award Board on Std. Form 278, obtained from the Merit Award Board.

Specify whether the nominee is recommended for the Silver Award or the Gold Award.

The recommendation must be signed by the agency or department head.

TIME (Revised and renumbered from 4781.2 1/75) 4781.4

Recommendations should be submitted to the State Merit Award Board as soon as is reasonable after the accomplishment to insure that the nominee receives prompt credit. All supporting data required by these sections, however, must accompany the recommendations.

AWARD (Revised 1/79) 4781.5

The primary award for a superior accomplishment of a nonrecurring nature is a certificate of commendation.

Two classifications of awards are available. The final judgment as to the appropriate award for the accomplishment is reserved for the State Merit Award Board.

Silver Award

The certificate is printed in silver and encased in a folder appropriate for presentation. An attractive, engraved desk set, with two silver pens, accompanies the certificate.

The Silver Award will be granted for those accomplishments which, in the judgment of the State Merit Award Board, fully meet all of the requirements of these sections.

MERIT AWARD PROGRAM

(Continued)
AWARD (Revised 1/79) 4781.5

Gold Award

The certificate is printed in gold and encased in a folder appropriate for presentation. An engraved gold wrist watch accompanies the certificate.

The Gold Award will be granted for those accomplishments which, in the judgment of the State Merit Award Board, not only meets all of the requirements of these sections but is of such outstanding degree that it merits recognition of the highest order.

COSTS (New 1/75) 4781.6

The purchase and engraving of the desk sets and watches will be arranged for by the State Merit Award Board. The invoices for these will be directed to the department or agency making the award.

PUBLICITY (New 1/75) 4781.7

It is essential that, wherever possible, the widest publicity be obtained for the award, with emphasis on the benefits obtained for the taxpayers. As no announcement of the granting of such an award will be made by the State Merit Award Board, the department or agency may select the appropriate time and media for release of the news.

SUSTAINED SUPERIOR ACCOMPLISHMENTS (New 1/75) 4782

The objective of the Sustained Superior Accomplishment Award is to give state departments the opportunity to recognize employees who have made a significant contribution to the department by virtue of their exceptional job performance, sustained over a period of not less than 24 months.

DEFINITION (New 1/75) 4782.1

The Sustained Superior Accomplishment Award is a management tool for recognizing sustained achievement on the job by state employees.

PROGRAM APPROVAL (New 1/75) 4782.2

Department directors who wish to participate in the program shall develop a Sustained Superior Accomplishment Award Program within their departments, which details an appropriate nomination process and applicable standards for nomination. A copy of the program will be filed with the State Merit Award Board prior to submission of nominations for the award. The board may make suggestions for changes in such programs to insure adherence to a statewide uniformity.

STANDARDS (New 1/75) 4782.3

The following constitute broad statewide standards for such program:

Awards must recognize sustained superior accomplishment significantly above normal job requirements, and not length of service, per se.

The departmental plan will set forth in detail the process by which performance will be measured so as to select those nominees who will receive the award.

ELIGIBILITY (Revised 1/79) 4782.4

An employee may be eligible for this award, other than: (1) an agency head, or (2) an elective constitutional officer.

An employee may not receive an additional award based upon sustained superior performance during a three-year period following the receipt of such an award.

NUMBER OF NOMINATIONS (New 1/75). 4782.5

The following parameters establish the maximum number of award nominations which can be made by participating departments:

Employee Population	Maximum Annual Nominations
Less than 200	1
Over 200	1 per 200

This is a maximum standard. Departments may nominate fewer individuals as they see fit.

TIME FOR NOMINATION (New 1/75) 4782.6

Nominations will be submitted by March 1 of each year to the State Merit Award Board, on Std. Form 278.

DESCRIPTION OF ACCOMPLISHMENT (New 1/75) 4782.7

The nomination will contain a concise description of the nominee's accomplishments, summarizing how performance over the 24 months significantly exceeded normal job requirements.

EVALUATION (New 1/76) 4782.8

The Merit Award Board shall evaluate each recommendation for sustained superior accomplishment award, taking into consideration staff recommendations, the objectives of the program, and the terms of the department's program previously approved. For each such sustained superior accomplishment recommendation found eligible for an award the Merit Award Board shall formulate an official recommendation to the State Board of Control as to an authorized award.

AWARD (Renumbered from 4782.8 1/76) 4782.9

The award for Sustained Superior Accomplishment shall be $150 payable by the employing department; approval of the State Board of Control is required. The department shall also provide a certificate.

SERVICE AWARDS (New 1/77) 4790

As authorized by Government Code Section 19259, any appointing power may present to an employee who has completed 25 or more years of state service a certificate, plaque or other memento. Certificates and mementos suitable for 25- and 40-year service awards are available from the Office of Procurement, Documents Section, Department of General Services.

(Continued)
SPECIFIC USES AND REQUIRED SUPPORTING DATA (Revised 5/79) 6232

D. Salary Savings Revision

Periodic revision of Estimated Salary Savings is required in order that this minus allotment reflect recent experience and current employment trends. Failure to review during the fiscal year could result in overdrawing the appropriation or Salaries and Wages category. At the beginning of each fiscal year a revision may be required to adjust salaries and wages allotments to the budget.

Failure to realize salary savings estimated results from two factors: (a) less turnover, and (b) shorter vacancies. Reduction in time lost through vacancies and time required to train new employees (both employee and supervisor) increases the effective manpower above that authorized in the Final Budget. If a review of savings from vacancies and additional turnover during the Current Year indicates a deficit, consideration must be given the following:

1. The need for all vacant positions should be thoroughly reviewed. If there is any doubt about the need for any position, it should be abolished with the understanding that it can be reestablished if and when the need becomes definite, consistent with the provision of Sections 20 and 31 of the Budget Act. If it is possible to postpone the filling of vacant positions which cannot be abolished, this should be done. Positions coming under the vacancy provisions of the Budget Act represent only a part of this problem.

2. Consideration should be given to possible delay in filling authorized new positions which have not been established.

3. Vacation relief, overlaps for lump sum payments or training, and temporary help should be held to a minimum.

4. Appointments should be at the minimum of the salary range.

Consideration will be given to funding of deficiencies in salary savings only when the agency demonstrates that necessary workload requirements cannot be fulfilled or definite policy items will be endangered if vacancies are enforced.

Unexpended balances of allotments for salaries and wages must be transferred to Estimated Salary Savings at the end of each quarter, season or other applicable period of availability. (See SAM Section 6212.) Transfers from Estimated Salary Savings for reclassification or additional positions will be permitted only when financing is shown to be on a sound basis. It is basically an agency's responsibility to control Salary and Wage expenditures so that the balance available in this category is adequate to meet all remaining payrolls.

E. Realization of Merit Award Board Suggestion Savings

Pursuant to Board of Control Rule 831(i) no award will be made in the event of savings of $10,000 or more unless the affected department identifies such savings as reduced expenditures or increased revenue and submits documentation to the Board of Control specifying how savings recovery will be accomplished.

After board of Control action, such reports will be forwarded to the Department of Finance for realization of the savings. In general, the Department of Finance will request that the savings to be recovered be transferred to unalloted balances by use of a budget revision. Any number of Merit Award Board savings can be transferred on the same budget revision each year provided that the suggestion number and the amount of savings are identified on the form. Budget revisions will be used each year as long as the net amount after payment of the award to the suggestor varies from year to year. As soon as the amount becomes constant from year to year, a planning estimate adjustment will be initiated by the staff of the Department of Finance to reduce the level of support.

Air Force incentives fuel cost-saving ideas



Flightline

S. Sgt. Frank Singleton

Elmendorf Air Force Base — Saving money in the Air Force is a hot topic.

Spiraling costs, austere budgets and spending restraints from Congress have all combined to make money the most important factor in getting the military's mission accomplished.

Every time an F-15 flies overhead en route to a training area, each time a replacement part is purchased from a contractor, whenever a blue-suiter does his or her job, money is spent.

If you pay attention to the news, it must seem as if the government doesn't try very hard to get its money's worth out of a business deal. This just isn't the case. A civilian company can pass along the cost of a price increase, real or created, to the consumer. The Air Force, with a defense as its "product," can't very well do that.

For that reason, at least a half dozen programs exist in the Air Force bureaucracy to combat overpricing, waste of money and fraud.

Probably the most tangible of these programs comes from the days during World War II, when every effort was needed to improve the speed and efficiency of government operations and conserve money, materials and people. Called the Suggestions Program, the plan offered cash incentives to employees who came up with a good idea. During two years of wartime operations the suggestion program saved more than $100 million, not to mention the priceless savings in production time and manpower.

With military spending under the gun, the suggestion program has realized its full potential in the last couple of years. An idea as simple as Staff Sgt. William Woodward's rewriting of a technical manual to incorporate new procedures netted the Air Force $123,073 in savings, eliminating contractor costs and giving the sergeant more than $3,000 for his innovation.

"The statistics speak for themselves," said Nona Renn, the civilian manager of the Alaskan Air Command Suggestion Program. "Suggestions save money — money that can be put to use in some other areas."

With an F-15 costing more than $20 million, a few suggestions can go a long way. In the second quarter of fiscal year 1983, the Air Force received 43,260 suggestions, adopted 7,200, doled out $852,339 in cash awards, and saved more than $44 million . . . in just one quarter. In Alaska Air Command, 1,288 suggestions came in, and 253 were adopted, saving the Air Force $707,219. Lots of money — your money, in fact.

Suggestions go through the channels, starting at the working level and making their way up the chain. A person with an idea writes it on a form letter, sends it to his or her supervisor, who looks at the plan, determines its merit and forwards it to Renn.

Ideas aren't always accepted — people resist change. For that reason, safeguards in the system require the ranking manager of a particular section make the final decision, ultimately taking the responsibility for the suggestion.

Recently a sergeant in California had an idea rejected by co-workers and a supervisor, only to have it approved at Air Force headquarters. The idea, suggesting a change of a rocket motor fin to a non-corrosive metal, saved wear on the rocket to the tune of $3,549,082. For five minutes of thought, the sergeant is $20,950 richer.

We've all heard the story of the $3 bolt the government purchases for $55 or more. An Air Force program heartily endorsed by Secretary of Defense Caspar Weinberger, is called Zero Overpricing, and is designed to combat overcharges at the Air Force's expense.

If an item which usually costs a few dollars suddenly jumps to several hundred, Zero Overpricing prompts the Air Force to look for cheaper contractors and cheaper replacements. Criminal charges have resulted from the program's investigative process.

The Fraud, Waste and Abuse Program fits right in with Zero Overpricing, singling out questionable and suspicious situations such as overcharges, computer error or an out-and-out attempted theft. Fraud cases amounting to $13 million were closed in fiscal year 1980, compared to a budget of $51 billion. An Air Force Hotline has been established locally and in Washington to weed out dishonesty or inadvertent waste — every call is investigated, and the identity of the caller is protected.

A program called Self Help enables Air Force members to make improvements in their duty sections, with management approval, for efficiency's sake. Since the expense of an outside contractor (or civil engineering) is eliminated, the section saves a large percentage of the cost by making improvements themselves.

Air Force Capital Investment Funds enable duty sections to make suggestions and procure items necessary for their jobs, the bottom line being increased efficiency or cost reduction. The idea must pay for itself in an allotted time period (according to the amount spent), thus saving money during peacetime and wartime, and reducing dependence on scarce resources. Already the Air Force Capital Investment Fund has used available money to pay for self-supporting programs, saving Elmendorf enough to buy three F-15s.

Those are just a few of the ways we're trying to save. The Air Force knows money is tight — we feel the crunch in reduced operating funds, and we all pay taxes too. And we're always open for "suggestions."

S. Sgt. Frank Singleton is in the public affairs division of the 21st Tactical Fighter Wing at Elmendorf Air Force Base.

HB

578

HB578

Alaska State Legislature

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 7, 1984

FOR IMMEDIATE RELEASE
CONTACT: REP. JERRY WARD
465-4939

REP. WARD INTRODUCES BILL TO PROTECT STATE EMPLOYEES WHO REVEAL STATE GOVERNMENT VIOLATIONS

JUNEAU - Rep. Jerry Ward has introduced a bill which would protect state employees who help reveal fraud, waste of funds or mismanagement in the state government.

Ward, R-Anchorage, also introduced legislation which would establish an employee "incentive plan" to reward employees for suggestions which improve the efficiency or economy of state operations.

Both bills are modeled after federal laws, which Ward said have proven to be highly successful nationwide.

Ward said House Bill 578 would "protect whistleblowers" who report violations of law, mismanagement, waste of funds, or abuse of authority.

"We need this law to help end the illegal activities that sometimes happen in the realm of state government," Ward said. "Sexual harrassment, embezzlement and like items must not go unreported. Unfortunately, many employees are afraid to

report these activities for fear of losing their jobs. I want all of our state employees to know that we'll protect them if they report these illegal activities."

Ward said House Bill 577 would establish an incentive plan which would reward state employees who help improve the efficiency or economy of state operations.

"We're not listening to the people who really know what's going on," Ward said. "Every state employee knows what is right and wrong with their department. But most are not coming forward as much as they could because they have no incentive to, and some have many good reasons not to.

"We have had some serious problems lately with morale in many departments and I'm confident that if these bills become law, those problems would have not escalated into such major fiascos.

"In a nutshell, both of these bills will encourage employees to enthusiastically improve the way the state government works," Ward said.

As an example for the need for this legislation, Ward cited a recent case where a tip from a state employee resulted in a legislative audit which disclosed that three airplanes were missing from the Department of Public Safety.

"An employee who puts his neck out on the line like this should be praised and deserves the protection of the government," Ward said. "However, in many similar cases, the employee ends up worrying about job security."

# # # # # #

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

June 25, 1983

MEMORANDUM

TO: Representative Jerry Ward

FROM: Betty Barton
Legislative Analyst

RE: Employee Protection Laws
Research Request No. 83-163

You have asked for information about state and federal statutes that provide protection to employees who disclose information regarding an employer's violation of federal, state, or local laws. During the 1970s, there was growing public concern regarding the need for improved ethical and professional standards, including support for public disclosure of any unethical or illegal practices of governmental and private organizations. Individuals increasingly called for measures which would ensure the protection from reprisal of those employees, known as "whistle blowers," who publicly criticize their organizations for perceived wrongdoing.

Legal Background

American case law traditionally has provided some limited protections from administrative punishment to whistle blowers in public employment. According to a report prepared by the Congressional Research Service, the law generally was shaped in 1892 by Judge Wendell Holmes who ruled in McAuliffe v. Mayor of New Bedford (155 Mass. 216: 29 N.E. 519) that while there is a constitutional right to free speech, there is no constitutional right to public employment.[1] This position was modified in 1968 in Pickering v. Bd. of Ed. (391 U.S. 563) when the U.S. Supreme Court held that a public worker cannot be deprived of his or her constitutional rights as a condition of employment.

Some statutory protections are also found at the federal level. For example, federal employees may testify before Congress about the agencies in which they work. The right to petition Congress is established in 5 U.S.C. 7102; and 18 U.S.C. 1505 prohibits interfering with a worker who is giving testimony to Congress. However, the law does not extend to employees who disclose information to bodies other than Congress.

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[1] Judith H. Parris, Government Division, Congressional Research Service, The Library of Congress, Major Issues System, " 'Whistle Blowers' in the Executive Branch," Issue Brief Number IB78006, January 26, 1978.

There are also several notable limitations placed on an employee's freedom to disclose information. Federal officials, for example, may not disclose classified data unless specifically authorized by the Freedom of Information Act or other U.S. statutes.

Federal Legislation Establishing Employee Protection

In 1978, Senate Bill 2640 was enacted.[2] This bill, which was the culmination of President Carter's Personnel Management Project, provided an extensive reorganization of the U.S.Civil Service Commission. Included in the bill was an employee protection provision; the primary purpose of which was to " safeguard employees, tenured and nontenured, who 'blew the whistle' on illegal or improper official conduct."

As the bill was initially introduced, it prohibited Civil Service employers from dispensing any sanctions against employees who publicly disclosed a violation of a law, rule, or regulation (assuming that the disclosure in itself did not constitute a violation of the law). The bill was subsequently broadened so that an employee would be protected in disclosing any information that reflected significant mismanagement, flagrant waste of funds, abuse of authority, or a substantial and specific danger to the health and safety of the public.[3] The bill was also modified so that agencies would not be encouraged to establish unwarranted internal "rules or regulations" against disclosure. As amended, only those disclosures that are specifically exempted by statute, e.g., substantive data pertaining to national intelligence, are prohibited.

Under the statute, the head of each executive branch agency has responsibility for overseeing compliance with relevant civil service laws.

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2 Public Law 95-454. A copy of the statute is located in Appendix A.

3 According to the legislative history of the bill, the intent of Congress was to limit protection to specific and significant impairment of public safety. As an example, the legislative history states that a general criticism by an employee that the Environmental Protection Agency is inadequately protecting the environment would not be protected under the statute; however, an employee's disclosure regarding the unsafe design of the cooling system of a Nuclear Regulatory Commission reactor would presumably be protected.

State Legislation Protecting Whistle Blowers

Essentially, there are two approaches available for states in establishing protection for whistle blowers: 1) through administrative rules and procedures -- as exemplied in the federal statute -- and 2) through the courts.

Professional opinion is divided as to whether or not a state statute is necessary if an administrative approach is utilized. By some interpretations, administrative protections can be effectively established through executive orders or regulations. Several administrative mechanisms are available for processing whistle blowing grievances, including establishing an independent personnel board to review employee grievances and establishing an inspector general or ombudsman. In addition, the federal government and some states have considered establishing incentives for employees who produce innovative or noteworthy work as well as penalties for those responsible for inefficiency or unfavorable practices.

To establish remedies through the court system, there are also several available options that have been considered at both the state and federal level. Of these, the most commonly utilized approach is to provide for civil penalties against an agency when an employer has unduly retaliated against an employee. However, legislation can also be drafted to impose civil penalties on the individual who was responsible for the retaliation. Another option, which was presented for congressional consideration, is to establish a legal defense fund to be made available to employees with alleged greivances.

Colorado has enacted legislation that provides for protection through the administrative approach, while Michigan has established remedies through the courts.

Colorado State Employee Protection Law - Colorado enacted a whistleblower protection law in the fall of 1979.[4] Included in the statute's legislative declaration is the following statement:

> The general assembly...declares that employees of the state of Colorado are citizens first and have a right and a responsibility to behave as good citizens in our common efforts to provide sound management of governmental affairs. To help achieve [this and other objectives], the general assembly declares that state employees should be encouraged to disclose information on actions of state agencies that are not in the public interest and that legislation is needed to ensure that any employee making such disclosures shall not be subject to disciplinary measures or harassment by any public official.

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[4] A copy of the Colorado statute is in Appendix B.

As enacted, the statute prohibits a state employer or supervisor from initiating a disciplinary action against an employee due to his or her disclosure of information. However, protection does not extend to an employee who knowingly discloses false information or who discloses information that is legally required to be held confidential. Under the provisions of the statute, an employee "who wishes to disclose information" is obligated to "make a good faith effort" to provide the employer or the general assembly with the information to be disclosed prior to the time of its disclosure.

The law enables any employee in the state personnel system to file a written complaint with the state personnel board if an alleged retaliatory measure has been directed against him. If upon review the charges appear to have a reasonable basis, the state personnel director is required to notify the employer of the findings. The employer may then petition the board for a hearing on the matter.

If the board determines that a violation against an employee has occurred, the board is required to order compensation to the employee for any costs incurred in the proceeding. The board also is required to order relief including, but not limited to, reinstatement, back pay, restoration of any loss in credited service, and expungement of any damaging personnel records of the employee. If a specific employer or supervisor is found to have personally initiated the retaliation initiated against the employee, a description of the offense is to be placed within the employer's personnel records.

The administrative approach is generally established in order to provide a means of resolving disputes internally. Under the Colorado law, an employer or employee who is dissatisfied with the findings of the board may take the case to district court.

According to Marilyn Heckel, who administers the employee protection law in Colorado, the statute has been used infrequently since its enactment. Only three or four cases have been filed since the program's inception in 1979. While this may be attributable in part to an absence of complaints, Ms. Heckel observed that there are also some weaknesses in the statute that may be deterring employees from utilizing it.

Ms. Heckel noted that the most significant problem is that the review and hearing process is not timely. The first case filed under the law took almost three years for a determination to be made. The board ruled against the employee, and the employee then filed a complaint in the district court. The judge dismissed the case on a technicality. According to Ms. Heckel, the employee, who presumably believed enough in the legitimacy of his complaint to pursue it for three years, was left with no available recourse and abundant legal bills.

Ms. Heckel also noted that several provisions of the statute were drafted with overly broad potential applications. As an example, Ms. Heckel noted that there is no statute of limitations included within the law. Conceivably, an employee could choose to disclose information pertaining to a violation that occurred ten years ago.

According to Ms. Heckel, staff have discussed the need for revision of the law, but the need is viewed to be a relatively low priority.

Michigan Whistleblowers' Protection Act - No state law offers as extensive protection to employees as that afforded through the Michigan statute.[5] Enacted in 1980, this law may apply to any employee, including individuals within both the public and private sectors of employment. Under the law's provisions, an employer shall not "discharge, threaten, or otherwise discriminate against an employee" for reporting a violation, or suspected violation, of a law, rule, or regulation.

Unlike the Colorado law, the Michigan statute establishes civil action for injunctive relief or damages in the county circuit court as the first measure of recourse for employees who have experienced an alleged violation. The burden of proof is placed on an employee to "show by clear and convincing evidence" that at the time of conflict with his employer, the employee was about to report a suspected violation.

The statute also establishes remedies to be ordered as the judge considers appropriate. In rendering a judgment, a court shall order the reinstatement of the employee, the payment in the employee's favor of back wages, full reinstatement of fringe benefits and seniority, actual damages, or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including both attorney and witness fees.

According to Lee Schwartz, a legislative aide to Michigan Senator James Barcia who was instrumental in the law's enactment, a determination was made to use the court approach in order to make certain that employee protection was not used "frivolously" and would only be used for serious and significant cases.

Mr. Schwartz stated that there are have been 10 known cases filed since the law was passed. Of these, the majority have been filed against public agencies; however, several pertain to private sector employers. According to Mr. Schwartz, his office has found no means of evaluating the effectiveness of the law or determining the extent to which the statute is being utilized. All cases are initially filed within Michigan circuit courts, which have no available system of tracking specific categories of cases.

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[5] A copy of the Michigan statute is located in Appendix C.

The U.S. Supreme Court recently ruled on a naval case pertaining to whistle blowing. To date, our research sources have been unable to obtain detailed information regarding the implications of the decision. When we are provided this information, we will transmit it to your office.

We hope this information has assisted you. Please do not hesitate to contact us if you have additional research questions.

bb

Attachments

Attachment A:

Civil Service Reform Act of 1978
(excerpted portions pertaining to whistle blowing)

under an administrative interpretative regulation approved by the district court as reasonable and not challenged on appeal, it did not constitute "active duty" within the meaning of this section, defining who is a "preference eligible" veteran. Brousgard v. U. S. Postal Service, C.A.Tex.1982, 674 F.2d 1103.

§ 2100. Air traffic controller; Secretary

For the purpose of this title—

(1) "air traffic controller" or "controller" means an employee of the Department of Transportation or the Department of Defense who, as determined under regulations prescribed by the Secretary, is actively engaged in the separation and control of air traffic, or is the immediate supervisor of an employee actively engaged in the separation and control of air traffic, in an air traffic control facility; and

(2) "Secretary", when used in connection with "air traffic controller" or "controller", means the Secretary of Transportation with respect to controllers in the Department of Transportation, and the Secretary of Defense with respect to controllers in the Department of Defense.

As amended Pub.L. 96–347, § 1(a), Sept. 12, 1980, 94 Stat. 1150.

1980 Amendment. Pub.L. 96-347 substituted in section catchline "controller; Secretary" for "controller" and in section included employees of the Department of Defense within the meaning of air traffic controller or controller and defined the term "Secretary" to mean Secretary of Transportation with respect to controllers in the Department of Transportation and Secretary of Defense with respect to controllers in the Department of Defense.

Effective Date of 1980 Amendment. Section 3 of Pub.L. 96-347 provided that: "This Act [amending sections 2109, 3307, 3381 to 3385, and 8335 of this title and enacting a provision set out as a note under section 8335 of this title] shall take effect on the later of—

"(1) October 1, 1980, or

"(2) the ninetieth day after the date of the enactment of this Act [Sept. 12, 1980]."

Legislative History. For legislative history and purpose of Pub.L. 96-347, see 1980 U. S. Code Cong. and Adm. News, p. 2714.

CHAPTER 23—MERIT SYSTEM PRINCIPLES

Sec.
2301. Merit system principles.
2302. Prohibited personnel practices.
2303. Prohibited personnel practices in the Federal Bureau of Investigation.
2304. Responsibility of the General Accounting Office.
2305. Coordination with certain other provisions of law.

§ 2301. Merit system principles

(a) This section shall apply to—

(1) an Executive agency;

(2) the Administrative Office of the United States Courts; and

(3) the Government Printing Office.

(b) Federal personnel management should be implemented consistent with the following merit system principles:

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

(5) The Federal work force should be used efficiently and effectively.

(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(8) Employees should be—

(A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

(B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

(A) a violation of any law, rule, or regulation, or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) In administering the provisions of this chapter—

(1) with respect to any agency (as defined in section 2302(a)(2)(C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and

(2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives;

which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles.

Added Pub.L. 95–454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1113.

Effective Date. Section effective 90 days after Oct. 13, 1978, see section 907 of Pub.L. 95-454, set out as a note under section 1101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-454, see 1978 U.S.Code Cong. and Adm.News, p. 2723.

Cross References

Principles included in personnel management system of General Accounting office, see section 732 of Title 31, Money and Finance.

Library References

Officers ⇐11.
United States ⇐50.
C.J.S. Officers and Public Employees §§ 40 to 51, 53 to 55.
C.J.S. United States §§ 36, 37, 62 to 64.

1. Purpose

Primary purpose of this chapter was to safeguard employees, tenured and nontenured, who "blew the whistle" on illegal or improper official conduct. Wren v. Merit Systems Protection Bd., C.A.D.C. 1982, 681 F.2d 867.

§ 2302. Prohibited personnel practices

(a)(1) For the purpose of this title, "prohibited personnel practice" means any action described in subsection (b) of this section.

(2) For the purpose of this section—

(A) "personnel action" means—

(i) an appointment;

(ii) a promotion;

(iii) an action under chapter 75 of this title or other disciplinary or corrective action;

(iv) a detail, transfer, or reassignment;

(v) a reinstatement;

(vii) a reemployment;

(viii) a performance evaluation under chapter 43 of this title;

(ix) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in this paragraph; and

(x) any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level with respect to an employee in, or applicant for, a covered position in an agency;

(B) "covered position" means any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include—

(i) a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

(ii) any position excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration.

(C) "agency" means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

(i) a Government corporation;

(ii) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or

(iii) the General Accounting Office.

(b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—

(1) discriminate for or against any employee or applicant for employment—

(A) on the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

(B) on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

(C) on the basis of sex, as prohibited under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

(D) on the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or

(E) on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation;

(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

(B) an evaluation of the character, loyalty, or suitability

(3) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

(4) deceive or willfully obstruct any person with respect to such person's right to compete for employment;

(5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

(6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

(7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in section 3110(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official;

(8) take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for—

(A) a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(9) take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation;

(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States; or

(11) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title.

This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action

(c) The head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

(d) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;

(3) under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

(4) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), prohibiting discrimination on the basis of handicapping condition; or

(5) the provisions of any law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

Added Pub.L. 95–454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1114.

References in Text. Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), referred to in subsecs. (b) and (d), is classified to section 2000e–16 of Title 42, The Public Health and Welfare.

Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), referred to in subsecs. (b) and (d), are classified to sections 631 and 633a of Title 29, Labor.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), referred to in subsecs. (b) and (d), is classified to section 206(d) of Title 29.

Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), referred to in subsecs. (b) and (d), is classified to section 791 of Title 29.

The civil service laws, referred to in subsec. (c), are set out in this title. See, particularly, section 3301 et seq. of this title.

Effective Date. Section effective 90 days after Oct. 13, 1978, see section 907 of Pub.L. 95–454, set out as a note under section 1101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95–454, see 1978 U.S.Code Cong. and Adm.News, p. 2723.

Cross References

Personnel practices prohibited by personnel management system of General Accounting Office, see section 732 of Title 31, Money and Finance.

Index to Notes

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1. Retaliation

In proceeding concerning job demotion of employee of Veterans Administration, United States Merit Systems Protection Board was not required to prove by a preponderance of the evidence that the demotion was a reprisal for "whistleblowing." Alley v. Veterans Admin. Medical Center, C.A.8, 1982, 690 F.2d 153.

In case in which special counsel contended in effect that four deputy marshals' transfers to different duty stations were in retaliation for engaging in protected activities, Board, which upheld transfers of three deputies, had not violated principle to effect that knowledge of employees' protected activities on part of one with ultimate responsibility for a personnel action could support inference of retaliatory intent where Board had determined that those who effected the transfers had no knowledge of the protected activities and that those with knowledge had no effect. Frazier v. Merit Systems Protection Bd., 1982, 672 F.2d 150, 217 U.S.App.D.C. 207.

2. Standards

To establish that agency action utilizing unapproved performance criteria was "based on" a prohibited personnel practice, petitioners would have to show that their performance, while failing the "unacceptable performance" standard, was satisfactory under other applicable statutory standards. Darby v. Internal Revenue Service, 1982, 672 F.2d 192, 217 U.S. App.D.C. 330.

3. Whistle-blowing protections—Generally

"Whistleblowing" provisions of this chapter work only as a defense to disciplinary action. Martin v. Lauer, C.A.D.C.1982, 680 F.2d 24.

4. —— Disclosure of protected information

In regard to a government employee deciding whether to "blow the whistle" on government fraud, waste, abuse or illegality, the legal question of whether disclosure is prohibited by law is of critical importance to the whistleblower, and he must be allowed to consult his attorney for an answer to that question abroad some strong governmental interest in limiting such communications. Martin v. Lauer, C.A.D.C.1982, 686 F.2d 24.

5. Right of action

In enacting this section Congress did not take away from probationary employees their preexisting right to seek redress of constitutional violations in district court actions, and limit of statutory remedy provided probationary employees governing adverse personnel action based on "whistleblowing" does not preclude resort to independent action alleging violation of rights under U.S.C.A.Const. Amend. 1 in adverse personnel action based on criticism of agency practices and/or procedures. Borrell v. U. S. International Communications Agency, C.A.D.C. 1982, 682 F.2d 981.

A purported whistle blower has no private right of action under this section prohibiting an official from taking adverse personnel action against an employee as reprisal for "whistleblowing" on official violations of law, waste and abuse of authority, and in case of probationary employee, the office of special counsel is the exclusive avenue of relief for alleged prohibited personnel practices under this section. Id.

§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

(a) Any employee of the Federal Bureau of Investigation who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau as a reprisal for a disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose) which the employee or applicant reasonably believes evidences—

(1) a violation of any law, rule, or regulation, or

(2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

For the purpose of this subsection, "personnel action" means any action described in clauses (i) through (x) of section 2302(a)(2)(A) of this title with respect to an employee in, or applicant for, a position in the Bureau (other than a position of a confidential, policy-determining, policy-making, or policy-advocating character).

(b) The Attorney General shall prescribe regulations to ensure that such a personnel action shall not be taken against an employee of the Bureau as a reprisal for any disclosure of information described in subsection (a) of this section.

(c) The President shall provide for the enforcement of this section in a manner consistent with the provisions of section 1206 of this title.

Added Pub.L. 95–454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1117.

Effective Date. Section effective 90 days after Oct. 13, 1978, see section 907 of Pub.L. 95–454, set out as a note under section 1101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95–454, see 1978 U.S.Code Cong. and Adm.News, p. 2723.

§ 2304. Responsibility of the General Accounting Office

(a) If requested by either House of the Congress (or any committee thereof), or if considered necessary by the Comptroller General, the General Accounting Office shall conduct audits and reviews to assure compliance with the laws, rules, and regulations governing employment in the executive branch and in the competitive service and to assess the effectiveness and soundness of Federal personnel management.

(b) [1] The General Accounting Office shall prepare and submit an annual report to the President and the Congress on the activities of the Merit Systems Protection Board and the Office of Personnel Management. The report shall include a description of—

(1) significant actions taken by the Board to carry out its functions under this title; and

(2) significant actions of the Office of Personnel Management, including an analysis of whether or not the actions of the Office are in accord with merit system principles and free from prohibited personnel practices.

Added Pub.L. 95–454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1118.

[1] So in original.

Effective Date. Section effective 90 days after Oct. 13, 1978, see section 907 of

Legislative History. For legislative history and purpose of

Attachment B:

Colorado Employee Protection Law

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63, § 26-2-2; L. 73, p. 426,

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Fleming, 183 Colo. 71, 514 P.2d
cert. denied, 415 U.S. 977, 94 S.
.. Ed. 2d 873 (1974).
ment contingent upon returning
ter service. Reinstatement is con-
the employee returning to state
within one year after the period
vice or additional service imposed
: Civil Serv. Comm'n v. Fleming,
1, 514 P.2d 1135 (1973), cert.
J.S. 977, 94 S. Ct. 1564, 39 L. Ed.

guard. (1) The provisions
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1, § 26-2-3.

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HOURS

fices in the executive and
l be and remain open for

business daily, except on Saturdays, Sundays, and legal holidays, from the hour of 8:30 a.m. until the hour of 5:00 p.m.; except that nothing in this section shall affect the validity of any act performed by either of said departments before or after the hours specified in this section.

(2) Notwithstanding the provisions of subsection (1) of this section, when a city or city and county and the suburban area within a ten-mile radius of the boundaries thereof have a population in excess of fifty thousand inhabitants, the offices of any executive department of the state government located therein may vary its business hours from those indicated in subsection (1) of this section whenever the executive director of the principal department, with the approval of the governor, determines that such adjustment of hours will help alleviate peak traffic conditions and provide a more even flow of traffic for the purpose of creating safer highway conditions.

(3) Written notice of the variance permitted under subsection (2) of this section shall be given to the local news media of such cities or cities and counties not less than two weeks preceding the effective date of such variance.

Source: R & RE, L. 72, p. 180, § 1; C.R.S. 1963, § 26-3-1.

24-50-402. Appointment by outgoing officers prohibited. No state, county, or city appointive office, the term of which expires on or after the time fixed by law for the qualification of the officer having the authority to make such appointment, shall be filled by the outgoing appointing officer.

Source: R & RE, L. 72, p. 180, § 1; C.R.S. 1963, § 26-3-2.

ARTICLE 50.5

State Employee Protection

24-50.5-101.	Legislative declaration.	24-50.5-105.	Civil action.
24-50.5-102.	Definitions.	24-50.5-106.	Notice to state auditor.
24-50.5-103.	Retaliation prohibited.	24-50.5-107.	Reports to general assembly and governor.
24-50.5-104.	Complaints by state personnel system employees.		

24-50.5-101. Legislative declaration. The general assembly hereby declares that the people of Colorado are entitled to information about the workings of state government in order to reduce the waste and mismanagement of public funds, to reduce abuses in government authority, and to prevent illegal and unethical practices. The general assembly further declares that employees of the state of Colorado are citizens first and have a right and a responsibility to behave as good citizens in our common efforts to provide sound management of governmental affairs. To help achieve these objectives, the general assembly declares that state employees should be encouraged to disclose information on actions of state agencies that are not in the public interest

and that legislation is needed to ensure that any employee making such disclosures shall not be subject to disciplinary measures or harassment by any public official.

Source: L. 79, p. 965, § 1.

24-50.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Disciplinary action" means any direct or indirect form of discipline or penalty, including, but not limited to, dismissal, demotion, transfer, reassignment, suspension, corrective action, reprimand, admonishment, unsatisfactory or below standard performance evaluation, reduction in force, or withholding of work, or the threat of any such discipline or penalty.

(2) "Disclosure of information" means the written provision of evidence to any person, or the testimony before any committee of the general assembly, regarding any action, policy, regulation, practice, or procedure, including, but not limited to, the waste of public funds, abuse of authority, or mismanagement of any state agency.

(3) "Employee" means any person employed by a state agency.

(4) "State agency" means any board, commission, department, division, section, or other agency of the executive, legislative, or judicial branch of state government.

(5) "Supervisor" means any board, commission, department head, division head, or other person who supervises or is responsible for the work of one or more employees.

Source: L. 79, p. 965, § 1.

24-50.5-103. Retaliation prohibited. (1) Except as provided in subsection (2) of this section, no appointing authority or supervisor shall initiate or administer any disciplinary action against an employee on account of the employee's disclosure of information. This section shall not apply to:

(a) An employee who discloses information that he knows to be false or who discloses information with disregard for the truth or falsity thereof;

(b) An employee who discloses information from public records which are closed to public inspection pursuant to section 24-72-204;

(c) An employee who discloses information which is confidential under any other provision of law.

(2) It shall be the obligation of an employee who wishes to disclose information under the protection of this article to make a good faith effort to provide to his supervisor or appointing authority or member of the general assembly the information to be disclosed prior to the time of its disclosure.

Source: L. 79, p. 966, § 1.

24-50.5-104. Complaints by state personnel system employees. (1) Any employee in the state personnel system may file a written complaint with the state personnel board alleging a violation of section 24-50.5-103 if the employee demonstrates that reasonable communication to his supervisor, appointing authority, or member of the general assembly has occurred in regard to the alleged violation. The state personnel board shall cause an investigation of the charges to be made by the state personnel director. If the investigation establishes that there is a reasonable basis for the charges, the appointing authority or supervisor shall be given written notice thereof. Within ten days after he receives such notice, the appointing authority or supervisor may petition the board for a hearing on the matter, and the board shall grant such hearing.

(2) If the state personnel board after hearing determines that a violation of section 24-50.5-103 has occurred, or if the investigation establishes a reasonable basis for the charges and no hearing is requested, the board shall order the appropriate relief, including, but not limited to, reinstatement, back pay, restoration of lost service credit, and expungement of the records of the employee who disclosed information, and, in addition, the state personnel board shall order that the employee filing the complaint be reimbursed for any costs incurred in the proceeding. Such reimbursement shall be made out of moneys appropriated to the agency which employs such employee. Judicial review of any determination by the state personnel board under this subsection (2) may be had in accordance with section 24-4-106.

(3) It shall be a defense in any disciplinary proceeding against an employee under section 24-50-125 that such proceeding was initiated in violation of section 24-50.5-103, and the issue of the violation of section 24-50.5-103 shall be determined by the state personnel board as a part of the disciplinary proceeding.

(4) Whenever the state personnel board determines that an appointing authority or supervisor has violated section 24-50.5-103, it shall cause an entry to that effect to be made in the supervisor's personnel records.

Source: L. 79, p. 966, § 1.

24-50.5-105. Civil action. Any employee not in the state personnel system, or any employee in the state personnel system who has filed a complaint under section 24-50.5-104 (1) but no reasonable basis was found for the charges, may bring a civil action in the district court alleging a violation of section 24-50.5-103. If the employee prevails, the employee may recover damages, together with court costs, and the court may order such other relief as it deems appropriate.

Source: L. 79, p. 967, § 1.

24-50.5-106. Notice to state auditor. Whenever the state personnel board finds that a violation of section 24-50.5-103 involving the disclosure of information concerning waste of public funds or mismanagement of a state agency has occurred, it shall transmit a copy of the investigation report to the state auditor, who shall proceed in accordance with section 2-3-101 (3) (c), C.R.S. 1973.

Source: L. 79, p. 967, § 1.

24-50.5-107. Reports to general assembly and governor. The state personnel board shall report annually to the general assembly and the governor concerning the complaints filed, hearings held, and actions taken pursuant to this article.

Source: L. 79, p. 967, § 1.

PUBLIC EMPLOYEES' RETIREMENT SYSTEMS

ARTICLE 51

Public Employees' Retirement Systems

PART 1

STATE EMPLOYEES

24-51-101. Definitions.
24-51-102. Public employees' retirement association.
24-51-103. Retirement board — officers — group life insurance.
24-51-104. Members' contributions.
24-51-105. State contributions.
24-51-106. Retirement fund defined — state treasurer custodian — disbursements.
24-51-107. Board to direct investments of retirement fund.
24-51-108. Legal adviser.
24-51-109. Refunds, when made — deferred retirement annuity.
24-51-110. Members may be reinstated.
24-51-111. Retirement for superannuation.
24-51-112. Optional forms of annuities.
24-51-113. Military service — waiver of payments — service credit.
24-51-114. Colorado state patrol.
24-51-115. Disability retirement — annuity.
24-51-116. Medical examination for disability.
24-51-117. Heirs to receive payment, when.
24-51-118. Annuities to be paid monthly.
24-51-119. Minimum contribution time — rights.
24-51-120. Funds not subject to process.
24-51-121. Insurance, banking laws not to apply.
24-51-122. Gifts and bequests.
24-51-125. Members remaining in public service — election of option.
24-51-126. Colorado state university — U. S. department of agriculture employees.
24-51-127. Division of wildlife and the division of parks and outdoor recreation.
24-51-128. Members of the general assembly.
24-51-129. Persons eligible.
24-51-130. Applications.
24-51-131. When emeritus retirement benefits commence.
24-51-132. State employees' emeritus retirement fund — limitation on pension.
24-51-133. Funds not subject to process.
24-51-134. Retired state members — employment in position covered by association — when.
24-51-135. Redetermination of benefits.
24-51-136. Increase in public employees' benefits — stabilization fund — creation.
24-51-137. Colorado association of school boards and high school activities association.
24-51-138. Reserve fund credits.
24-51-138.5. Fire and police pension association.
24-51-138.6. Special districts association.
24-51-139. Credited service in excess of twenty years prior to July 1, 1969.
24-51-140. Prorating clause.
24-51-141. District attorneys covered under public employees'

24-51-143. Salary deductions.
24-51-144. State payments.
24-51-145. Retirement of district attorneys.
24-51-146. Benefits not considered compensation or increase in emoluments.
24-51-147. Effective date — retroactive application limited.

PART 2

PUBLIC EMPLOYEES

24-51-200.5. Definitions.
24-51-201. Extension of coverage.
24-51-202. Exemption by state subdivisions.
24-51-203. Exemption of present employees of covered subdivisions.
24-51-204. Duties of public employers.
24-51-205. Public employee deductions.
24-51-206. Public employer payments.
24-51-207. Municipal employees' reserve fund.
24-51-208. School district employees' reserve fund.
24-51-209. Administration and management.
24-51-210. Retirement of municipal employee members.
24-51-211. Retirement of school district employee members.
24-51-212. Optional forms of annuities.
24-51-213. Disability retirement — annuity.
24-51-214. Medical examination for disability retirement.
24-51-215. General provisions.
24-51-216. Military service — waiver of payments — service credit.
24-51-217. Heirs to receive amount due member.
24-51-218. Annuities paid in installments.
24-51-219. Funds not subject to process.
24-51-220. Insurance and banking laws not to apply.
24-51-221. May receive gifts and bequests.
24-51-222. Rules and regulations.
24-51-223. Retired school district members — employment in position covered by association — when.
24-51-224. (Repealed).
24-51-225. Redetermination of benefits.
24-51-226. Regional library districts.
24-51-227. City council or other governing authority of
24-51-229. (Repealed).

PART 3

COUNTY OR DISTRICT HEALTH DEPARTMENTS

24-51-301. Coverage to employees of health departments — application.
24-51-302. Disposition of funds.
24-51-303. Employees in unorganized counties.

PART 4

HOUSING AUTHORITIES

24-51-401. Housing authorities covered.
24-51-402. Funds, how credited.

PART 5

SCHOOL EMPLOYEES

24-51-501. Legislative declaration.
24-51-502. School employees covered.
24-51-503. Arrears in payments.
24-51-504. Penalty for arrears.
24-51-505. Reciprocity of retirement systems.

PART 6

JUDGES OF COURTS OF RECORD

24-51-601. Courts covered under public employees' retirement association.
24-51-602. Exemption for present judges.
24-51-603. Salary deductions.
24-51-604. State payments.
24-51-605. Investment of judges' retirement fund.
24-51-606. Administration and management.
24-51-607. Retirement of judges.
24-51-608. Optional forms of annuities.
24-51-609. Disability retirement.
24-51-610. Medical examination for retirement.
24-51-611. Refunds — retention.
24-51-612. Heirs to receive payments — when.
24-51-613. Annuities paid monthly.
24-51-614. Redetermination of benefits.

PART 7

PUBLIC EMPLOYEES' SOCIAL

Attachment C:

Michigan Whistle Blower Protection Act

(4) When a recommendation to an appointing authority is made by the board concerning an unclassified employee or appointee, the appointing authority shall take appropriate disciplinary action which may include dismissal.

P.A.1973, No. 196, § 5, Imd. Eff. Jan. 8, 1974.

Library References

States ⇐67, 73. C.J.S. States §§ 120, 121, 130 to 138, 140.

Notes of Decisions

In general 1
Closed sessions 2

1. In general

The son of a member of the barrier free design board may be employed by the board without violation of the ethical standards of § 15.341 et seq., although a member of the barrier free design board may not participate in any case in which his or her son appears on behalf of the agency. Op.Atty.Gen.1980, No. 5640.

2. Closed sessions

The state board of ethics is subject to the Open Meetings Act, § 15.261, and when it meets in closed session for the protection of individual rights, it must comply with the provisions of said act, with respect to the calling and holding of the closed session. Op.Atty.Gen. 1980, No. 5760.

15.346 Rules

Sec. 6. The board may promulgate rules governing its own procedures pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. For a period of 1 year following the effective date of this act the board shall have full authority to exercise all of its functions in accordance with temporary rules of procedure promulgated by the board. Both the temporary and permanent rules of the board shall provide that:

(a) The board may request the attendance of any witness whose testimony, in the judgment of the board, will aid in the conduct of its investigations.

(b) A person appearing before the board shall submit either sworn or unsworn testimony as the board may decide and may at all times be represented and accompanied by counsel.

(c) A record of testimony taken before the board or a hearing officer designated by it shall be made in the manner prescribed by the board.

(d) The board may, when it appears necessary for the protection of individual rights, hold its meetings and hearings in private. All other meetings and hearings shall be open to the public.

P.A.1973, No. 196, § 6, Imd. Eff. Jan. 8, 1974.

Notes of Decisions

1. In general

Records and files concerning any dismissed complaint or terminated investigation by the state board of ethics may be suppressed to protect an individual's privacy, but may only be disposed of by the state board of ethics in accordance with § 18.13c. Op.Atty.Gen. 1980, No. 5760.

15.347 Appropriation

Sec. 7. There is appropriated from the general fund of the state an amount necessary to implement this act but not to exceed $10,000.00 for the fiscal year ending June 30, 1974.

P.A.1973, No. 196, § 7, Imd. Eff. Jan. 8, 1974.

Library References

States ⇐131. C.J.S. States § 230, 234 to 239.

15.348 Effect on other acts

Sec. 8. The provisions of this act shall not supersede the provisions of any other acts heretofore or hereinafter enacted and shall be interpreted and administered to the extent not inconsistent with other acts.

P.A.1973, No. 196, § 8, Imd. Eff. Jan. 8, 1974.

M.S.L.A.

WHISTLEBLOWERS' PROTECTION ACT

Caption editorially supplied

Library References

M.L.P. Employment §§ 1, 23, 131. M.L.P. State § 6.

P.A.1980, No. 469, Eff. March 31, 1981

AN ACT to provide protection to employees who report a violation or suspected violation of state, local, or federal law; to provide protection to employees who participate in hearings, investigations, legislative inquiries, or court actions; and to prescribe remedies and penalties.

The People of the State of Michigan enact:

15.361 Definitions

Sec. 1. As used in this act:

(a) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, ex-

press or implied. Employee includes a person employed by the state or a political subdivision of the state except state classified civil service.

(b) "Employer" means a person who has 1 or more employees. Employer includes an agent of an employer and the state or a political subdivision of the state.

(c) "Person" means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity.

(d) "Public body" means all of the following:

(i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.

(ii) An agency, board, commission, council, member, or employee of the legislative branch of state government.

(iii) A county, city, township, village, intercounty, intercity, or regional governing body, a council, school district, special district, or municipal corporation, or a board, department, commission, council, agency, or any member or employee thereof.

(iv) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority, or any member or employee of that body.

(v) A law enforcement agency or any member or employee of a law enforcement agency.

(vi) The judiciary and any member or employee of the judiciary.

P.A.1980, No. 469, § 1, Eff. March 31, 1981.

15.362 Discharge of, threats to or discrimination against employee for reporting violations of law

Sec. 2. An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action.

P.A.1980, No. 469, § 2, Eff. March 31, 1981.

Library References

Labor Relations ⇐7. C.J.S. Labor Relations § 2 et seq.

15.363 Civil actions for injunctive relief or damages

Sec. 3. (1) A person who alleges a violation of this act may bring a civil action for appropriate injunctive relief, or actual damages, or both within 90 days after the occurrence of the alleged violation of this act.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has their principal place of business.

(3) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of this act, including reasonable attorney fees.

(4) An employee shall show by clear and convincing evidence that they or a person acting on their behalf was about to report, verbally or in writing, a violation or a suspected violation of a law of this state, a political subdivision of this state, or the United States to a public body.

P.A.1980, No. 469, § 3, Eff. March 31, 1981.

Library References

Action ⇐3. C.J.S. Actions § 9.
Injunction ⇐25. C.J.S. Injunctions §§ 41, 42, 54.

15.364 Remedies ordered by court

Sec. 4. A court, in rendering a judgment in an action brought pursuant to this act, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, if the court determines that the award is appropriate.

P.A.1980, No. 469, § 4, Eff. March 31, 1981.

Library References

Officers ⇐76. C.J.S. Officers and Public Employees §§ 114 to 116, 221.

15.365 Penalties for violations

Sec. 5. (1) A person who violates this act shall be liable for a civil fine of not more than $500.00.

(2) A civil fine which is ordered pursuant to this act shall be submitted to the state treasurer for deposit in the general fund.

P.A.1980, No. 469, § 5, Eff. March 31, 1981.

Library References

Labor Relations ⇨1056. C.J.S. Labor Relations § 1011.

15.366 Collective bargaining rights

Sec. 6. This act shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement.

P.A.1980, No. 469, § 6, Eff. March 31, 1981.

Library References

Labor Relations ⇨257. C.J.S. Labor Relations §§ 239 to 250.

15.367 Compensation for employee participation in investigation, hearing or inquiry

Sec. 7. This act shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing or inquiry held by a public body in accordance with section 2 [1] of this act.

P.A.1980, No. 469, § 7, Eff. March 31, 1981.

[1] Section 15.362.

15.368 Notices of employee protections and obligations

Sec. 8. An employer shall post notices and use other appropriate means to keep his or her employees informed of their protections and obligations under this act.

P.A.1980, No. 469, § 8, Eff. March 31, 1981.

Library References

Labor Relations ⇨7. C.J.S. Labor Relations § 2 et seq.

15.369 Short title

Sec. 9. This act shall be known and may be cited as "the whistleblowers' protection act".

P.A.1980, No. 469, § 9, Eff. March 31, 1981.

POLITICAL ACTIVITIES OF PUBLIC EMPLOYEES

Caption editorially supplied

Library References

M.L.P. State § 6.

P.A.1976, No. 169, Imd. Eff. June 25

AN ACT to regulate certain political activities by certain public employees; to prescribe the powers and duties of certain state agencies; and to provide penalties. Amended by P.A.1979, No. 15, § 1, Imd. Eff. May 24.

The People of the State of Michigan enact:

15.401 Public employee defined

Sec. 1. As used in this act, "public employee" means an employee of the state classified civil service, or an employee of a political subdivision of the state who is not an elected official.

P.A.1976, No. 169, § 1, Imd. Eff. June 25.

Library References

Elections ⇐311. C.J.S. Elections § 324.

Notes of Decisions

In general 1
Civil service commission 2
Job performance 5
Public employees 3
Rules and regulations 6
Volunteers 4

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1. In general

Legislature of state is empowered to enact laws to promote and regulate political campaigns and candidacies, Council No. 11, Am. Federation of State, County and Municipal Emp. (AFSCME), AFL-CIO v. Michigan Civil Service Commission (1980) 202 N.W.2d 442, 408 Mich. 385.

There is no provision in State Constitution which plainly, or by fair implication, empowers the state civil service commission to regulate the off-duty political activity of classified civil servants or which in any manner preemptively conflicts with power of legislature to enact statute providing that employee of state classified civil service may engage in certain political activities. Id.

The Political Freedom Act was enacted to permit civil service employees and employees of political subdivisions of the state to engage in certain political activities. Council 11, Am. Federation of State, County and Municipal Emp. (AFSCME), AFL-CIO v. Michigan Civil Service Commission (1978) 274 N.W.2d 804, 87 Mich.App. 420, affirmed 292 N.W.2d 442, 408 Mich. 385.

State cannot require individual to relinquish rights guaranteed him or her by U.S.C.A.Const. Amend. 1 as a condition of public employment, and when political activities of public employee are unrelated to his or her job responsibilities, the employee must be treated as a member of the general public for purpose of adjudicating U.S.C.A.Const. Amend. rights. Id.

HB

5986

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF RETIREMENT & BENEFITS
POUCH CR
JUNEAU, ALASKA 99811
(907) 465-4463

Public Employees Retirement System
Teachers' Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees' Voluntary Dental Vision Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

Bill Sheffield, Governor

January 24, 1984

Mr. Fred Brechan
P.O. Box 1275
Kodiak, AK 99615

Dear Mr. Brechan:

This is in reply to your request for information on claiming your nine prior years service as an elected official with Kodiak Island Borough and the Kodiak City Council before January of 1974.

At this time, the PERS statutes do not allow retroactive credit for service prior to January 1, 1981. This was possible if you had made your claim and paid the contributions prior to February 1, 1983. Unfortunately, you missed that deadline and prior elected official service is not currently creditable.

Sincerely,

Sue Palmer

Sue Palmer
Retirement Field Representative

SP/je
20/001/0123-01
Enclosure

Fred C. Brechan
BOX 1275
KODIAK, ALASKA 99615
(907) 486-3215

HB 550

December 23, 1983

State of Alaska
Dept. of Administration
Division of Retirement Benefits
Pouch CR
Juneau, Alaska 99811

Attention: Ms. Sue Palmer

Dear Ms. Palmer:

To answer your letter of December 19, 1983, I am not an elected official at present. I am interested in prior service. Enclosed are letters pertaining to my years of service in Borough and City government.

I served two three-year terms on the City Council and one three-year term on Kodiak Island Borough.

Sincerely yours,

Fred C. Brechan
SS#557-10-0239

FCB:njm
Enclosure

Position Paper

HB 586

This bill would remove the deadline of February, 1983 for elected officials to claim credit for service as an elected official prior to January 1, 1981.

The Division of Retirement and Benefits publicized the original change in the law which made it possible to claim such service but it was not possible to identify and positively notify all members who were eligible to claim credit before the deadline. There are currently 20 eligible members who have applied for service after the current deadline and we estimate that there are an additional 20 eligible members who have not yet applied . The department supports this bill.

J.K. Humphreys, Director, Division of Retirement & Benefits — Date 2/22/84

Lisa Rudd, Commissioner, Department of Administration — Date 2/22/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 586
Title: "An Act relating to PERS"

Sponsor: Zharoff
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: All State Agencies
Program Category Affected: PERS

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	47.0	50.7	54.8	59.2	63.9
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	47.0	50.7	54.8	59.2	63.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund		42.5	45.9	49.6	53.5	57.8
Federal Funds		2.2	2.4	2.6	2.8	3.0
Other		2.3	2.4	2.6	2.9	3.1
Total		47.0	50.7	54.8	59.2	63.9

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director J.K. Humphreys Phone: 465-4460
Division: Retirement & Benefits Date: 2-22-84

Approved by Commissioner: Lisa Rudd Date: 2/22/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill 586
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

February 17, 1984

IV Analysis: Passage of this bill would remove the time limit for elected officials to claim service as an elected official prior to January 1, 1981 under the Public Employees' Retirement System (PERS). This bill would also impose a date when interest would begin accruing on the cost of that service.

There are currently 20 eligible members who have applied for service after the current deadline and we estimate that there are an additional 20 eligible members who have not yet applied. This is estimated to result in a .01% increase in the PERS employer contribution rate. The PERS state salaries are estimated to be $469,898,512.00 for FY 85.

The present value of this benefit increase is $1,260,00; this would produce a .1% decrease in the PERS funding ratio.

Alaska State Legislature

House Committee on State Affairs

Representative Mitch Alvood
CHAIRMAN

PLEASE SIGN-IN AS A WITNESS OR AN OBSERVER. YOUR ADDRESS AND PHONE NUMBER MUST BE INCLUDED IN THE DESIGNATED BLOCK.

HEARING DATE: _____ MTWTF

BILLS TO BE HEARD: _____

NAME (PRINT PLEASE)	ADDRESS, CITY, STATE, ZIP	REPRESENTING	PHONE	ARE YOU A WITNESS OR AN OBSERVER? IF YOU ARE TESTIFYING, WHICH BILL?
Ken Humphreys	Pouch CR	D.O.A.	5-4460	W- HB 535 & 586
Cherie Shelley	340 W Franklin Juneau	APEA	6-2334	W HB535

Position Paper

HB 586

This bill would remove the deadline of February, 1983 for elected officials to claim credit for service as an elected official prior to January 1, 1981.

The Division of Retirement and Benefits publicized the original change in the law which made it possible to claim such service but it was not possible to identify and positively notify all members who were eligible to claim credit before the deadline. There are currently 20 eligible members who have applied for service after the current deadline and we estimate that there are an additional 20 eligible members who have not yet applied . The department supports this bill.

J.K. Humphreys, Director, Division of Retirement & Benefits — Date 2/22/84

Lisa Rudd, Commissioner, Department of Administration — Date 2/22/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 586
Title: "An Act relating to PERS"

Sponsor: Zharoff
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: All State Agencies
Program Category Affected: PERS

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	47.0	50.7	54.8	59.2	63.9
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	47.0	50.7	54.8	59.2	63.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund		42.5	45.9	49.6	53.5	57.8
Federal Funds		2.2	2.4	2.6	2.8	3.0
Other		2.3	2.4	2.6	2.9	3.1
Total		47.0	50.7	54.8	59.2	63.9

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director J.K. Humphreys Phone: 465-4460
Division: Retirement & Benefits Date: 2-22-84

Approved by Commissioner: Lisa Rudd Date: 2/22/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill 586
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

February 17, 1984

IV Analysis: Passage of this bill would remove the time limit for elected officials to claim service as an elected official prior to January 1, 1981 under the Public Employees' Retirement System (PERS). This bill would also impose a date when interest would begin accruing on the cost of that service.

There are currently 20 eligible members who have applied for service after the current deadline and we estimate that there are an additional 20 eligible members who have not yet applied. This is estimated to result in a .01% increase in the PERS employer contribution rate. The PERS state salaries are estimated to be $469,898,512.00 for FY 85.

The present value of this benefit increase is $1,260,00; this would produce a .1% decrease in the PERS funding ratio.

HB 580

Fred C. Brechan
BOX 1275
KODIAK, ALASKA 99615
(907) 486-3215

January 26, 1984

Mr. Fred Zharoff
State Representative for
13th District
Juneau, Alaska 99811

Dear Fred:

Enclosed is a copy of my most recent correspondence regarding the nine years service in Borough and City government.

I would have paid contributions and made my claim if I had ever been notified of my eligibility.

I feel that I am entitled to participate in the Public Employees Retirement program; or is this just a program for the chosen few.

I appreciate anything you can do in this regard.

Sincerely yours,

Fred C. Brechan

FCB:njm
Enclosures

HB

597

Questioned Baliot Oath and Affidavit

Dist. _____

Prec. _____

Name _____

Previous Name (if registered to vote under that name) _____

Residence Address _____

_____

Mailing Address _____

_____

Phone _____

Provide at least one of the following for identification:

Voter No. _____ S.S.N. _____

Birthdate _____

FOR OFFICIAL USE

Voter No.
Dist/Prec.
Not Microfiche
Not Card File
Not Research File
Not Pending File
Purged _____
Delete _____

C / NC

I do hereby certify that I am a citizen of the United States, am 18 years of age or older as of this election, am not a felon involving moral turpitude, am currently a qualified voter of the State of Alaska, or have been to the best of my knowledge a registered voter some time during the previous four years, and have not voted in any other manner at this election.

_____
SIGNATURE OF VOTER

TO BE COMPLETED BY PERSON QUESTIONING BALLOT:

Reason:

☐ 1. Incorrect Polling Place _____

☐ 2. Unknown, Not Proper I.D. _____

☐ 3. Name not on precinct register_____ Give any details _____

☐ 4. Suspect Qualifications: _____

_____ a. Not U.S. Citizen.

_____ b. Not 18 years of age.

_____ c. Convicted Felon: If yes, give date of restoration of civil rights. _____ If not in Alaska, give state _____

_____ d. Not resident of election district.

If #4d is checked, complete: Previous Residence _____

Length of time _____

Signature of person questioning ballot _____

If other than member of election board, provide:

Mailing Address _____

Phone Number _____

Form 01-3086 (Rev. 3/82)

Introduced: 2/9/84
Referred: State Affairs and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 597

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act amending the election laws of the state; and providing for an effective date."

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

* Section 1. AS 15.05.030 is amended to read:

Sec. 15.05.030. LOSS AND RESTORATION OF VOTING RIGHTS. (a) A person convicted of a crime that constitutes a felony involving moral turpitude under state law may not vote in a state or a municipal election from the date of the conviction through the date of the restoration of voting rights under this section. The right to vote withdrawn under this section is automatically restored upon the unconditional discharge of the person. However, before voting, the person must register under AS 15.07.

(b) The commissioner of health and social services shall establish procedures by which a person unconditionally discharged is advised of the restoration of voting rights withdrawn by a conviction and of the voter registration requirements and procedures.

* Sec. 2. AS 15.07.135 is amended to read:

Sec. 15.07.135. CANCELLATION [SUSPENSION] OF REGISTRATION OF CONVICTED PERSONS. The director shall make reasonable efforts to obtain the names of persons convicted of a felony involving moral turpitude. [THE DIRECTOR SHALL ALSO MAKE REASONABLE EFFORTS TO OBTAIN THE NAMES OF PERSONS UNCONDITIONALLY DISCHARGED FROM CUSTODY.] The director shall cancel [SUSPEND] the registration of a person convicted of a felony involving moral turpitude. Upon presenting proof that [UNTIL]

the person is unconditionally discharged from custody, the person may register. The director may also make reasonable efforts to verify the unconditional discharge of persons applying for registration under this section.

* Sec. 3. AS 15.07.160 is amended to read:

Sec. 15.07.160. UNLAWFUL ACTION. (a) Except as provided in AS 15.07.135, it [IT] is unlawful for a registration official to refuse to register a person who is qualified to vote under provisions of AS 15.05.010(1) -- (4).

(b) It is unlawful for a person to register who knows he is not qualified to vote under provisions of AS 15.05.010(1) -- (4) or 15.05.030.

(c) (Repealed)

* Sec. 4. AS 15.15.198(b) and AS 15.20.207(b)(2) are repealed.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.070(c).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 597
Title: amending the election laws of the state
Sponsor: Rules
Requestor: Governor
Date of Request: 2/23/84

FISCAL DETAIL
Agency Affected: ELECTIONS
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		-0-				
200 TRAVEL		-0-				
300 CONTRACTUAL		-0-				
400 SUPPLIES		-0-				
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		-0-				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING		-0-				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis : HB 597 addresses small

Prepared By: T.P.Thoma, Information Officer Phone: 4611
Division: Elections Date: 2/23/84

Approved by Commissioner: [signature] Date: 2/27/84
Agency:

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB 596, (cont d)

-- AS 35.27.020, "Art Requirements for Public Buildings and Facilities," in which subsec. (c) refers to "schools;" and
-- AS 35.27.030, "Definitions," in which para. (2) refers to "schools."

Section 4 amends the definition of "department" in the chapter on art works in public buildings and facilities. AS 35.27.030(1). Reference to the school districts is added to the definition for the same reasons as mentioned in connection with sec. 3, above. The definition of "building" or "facility" in AS 35.27.030(2)(A)(i) is not being amended because there is no intent to delete the requirement for art work in public buildings -- just to make the responsibility for it clear in conjunction with ch. 92, SLA 1982.

Section 5 makes a similar amendment in the definition section -- AS 35.30.040 -- for the chapter on consistency with local government plans and ordinances.

These amendments do not include references to the court system because, although ch. 160, SLA 1980 transferred construction responsibility for court facilities from DOT/PF to the supreme court (see AS 22.05.025 and AS 35.05.010), sec. 3 of that Act, as amended by sec. 2, ch. 70, SLA 1982, terminates that transfer as of June 30, 1984.

Section 6 gives this bill an immediate effective date since these amendments simply seek to complete the job of the 1982 amendments.

I urge your favorable action to preserve the intent of ch. 92, SLA 1982 and eliminate, for the benefit of the public, cluttered, inconsistent provisions.

State Election Laws (amending)

HOUSE BILL NO. 597, by the Rules Committee by Request of the Governor. Amends state election laws (see Governor's letter). Provides Act takes effect immediately.

Introduced February 9 and referred to State Affairs, Finance.

In his message transmitting the bill, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which amends or repeals several provisions of the state's election law.

Sections 1 and 2 of the bill remove from the division of elections the burden of identifying and automatically reinstating the voter registration of certain felons who have been unconditionally discharged. Instead of suspending the registration of a person convicted of a felony involving moral turpitude, the division will cancel the registration until the person provides proof of unconditional discharge. Section 3 of the bill amends AS 15.07.160, concerning unlawful acts, to conform to the changes made by secs. 1 and 2 of the bill.

Section 4 of the bill repeals AS 15.15.198(b), which allows to be counted certain questioned votes of voters whose names have been purged from the registration lists. As a result of the repeal, voters whose registrations have been cancelled under AS 15.07.130(b) will have to reregister in order to have their votes counted. Since AS 15.07.130(b) requires the division to mail a notice of imminent registration cancellation to the affected voter, and AS 15.07.125 requires the division to post the list of registered voters 40 days before an election, a voter has adequate opportunity to preserve his or her voting rights.

Section 4 also repeals AS 15.20.207(b)(2), removing the requirement that, in order for a questioned ballot to be counted, the voter's certificate must be attested by an election official. This requirement prevents an otherwise valid ballot from being counted when the voter has complied with all procedures but a harried election worker fails to countersign the voter's certificate.

Sincerely,

/s/ Bill Sheffield

Bill Sheffield
Governor"

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

PHONE (907) 586-6181

DATE: February 27, 1984

TO: House State Affairs Committee

FROM: Mary Lou Meiners
Director
Division of Elections

SUBJECT: HB 597, Canceling the Voter Registration of Some Felons and Two Housekeeping Measures

HB 597 would place the burden of re-registering to vote on the ex-felon who can verify his unconditional discharge.

Present state law requires suspension of "felons convicted of crimes of moral turpitude." By the use of suspension, we feel that a special class of voter has been created. No other voter is "suspended."

With the enactment of HB 597, we could cancel the registration of these felons without use of a suspension file. This would clarify for not only this agency, but all agencies dealing with felons, that the obligation to re-register should be on the ex-felon. This would eliminate the uncertainty and misconception of the ex-felon that, even though his voting rights are restored, he is not "automatically" restored to the voter rolls.

The two other housekeeping measures are referenced in Section 4, Page 2, line 14.

The repeal of AS 15.15.198(b) would give us a strict, two year purge, as is defined in AS 15.07.130.

Under 15.15.198(b), each questioned ballot not found on the state voter rolls must be further researched to see if the voter was registered in the last 4 years, "the two most recent general elections."

If so, the vote is counted, although this voter was previously purged. The repeal of this section would enforce a two-year purge and speed up vote counting.

The last measure is the repeal of 15.20.207(b)(2):

Repeal would remove the statute which says that questioned ballots must be disqualified if the outside affidavit envelope is not signed by a voter official.

With this repeal, we would then count all questioned ballots of voters who are properly registered. These voters performed their duty and should not be disfranchised by an error on the part of an election worker who inadvertently neglected to sign the envelope.

HB 547

MEMORANDUM

State of Alaska

RECEIVED
NOV 10 1980
DIRECTOR OF ELECTIONS

TO: Hon. Terry Miller
Lieutenant Governor

ATTN: Patty Ann Polley, Director
Division of Elections

DATE: November 7, 1980

FILE NO: J-66-001-81

TELEPHONE NO: 465-3665

FROM: WILSON L. CONDON
ATTORNEY GENERAL

By:
Laura L. Davis
Assistant Attorney General

SUBJECT: Restoration of voting rights to convicted felons

You have requested that we respond to an inquiry by Akeela House of Anchorage regarding the scope of the disqualification of convicted felons from voting. We discuss the applicable provisions of the 1980 Election Code below. We will send copies of this memo and the attached information to Akeela House.

Attached is our memorandum dated August 14, 1968 on this subject. It provides background on the disqualification of convicted felons from voting in Alaska. The 1980 Election Code revised AS 15.05.030 to provide as follows:

> LOSS AND RESTORATION OF VOTING RIGHTS. (a) A person convicted of a crime that constitutes a felony involving moral turpitude under state law may not vote in a state or municipal election from the date of his conviction through the date of the restoration of voting rights under this section. The right to vote withdrawn under this section is automatically restored upon the unconditional discharge of the person.
>
> (b) The commissioner of health and social services shall establish procedures by which a person unconditionally discharged is advised of the restoration of voting rights withdrawn by a conviction. § 4, ch. 100, SLA 1980.

The new Election Code also amends AS 15.60.010 to include the following definitions of terms used in AS 15.05.030:

> (8) "felony involving moral turpitude" includes those crimes which are immoral or wrong in themselves such as murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery; . . .

8UE1

(32) "unconditional discharge" means that a person is released from all disability arising under a conviction and sentence, including probation and parole. § 207, ch. 100, SLA 1980.

In our opinion, the new code has not changed the date upon which a voting disability or a felony conviction is imposed, but it has extended the disability to persons receiving suspended sentences. The disqualification attaches at the time of final judgment of conviction. A person is not disqualified from voting pending an appeal of a conviction. However, absent an appeal, a person who receives a suspended sentence, or a suspended imposition of sentence is disqualified until his or her unconditional discharge. Under the former law, such persons would not have been disqualified.

Under the new code, the definition of felony involving moral turpitude has been revised. The statutory definition mentions several specific crimes, and includes all crimes which are "immoral or wrong in themselves." The Criminal Division of the Department of Law in cooperation with the Division of Corrections of the Department of Health & Social Services, has developed a list of crimes contained in the revised Criminal Code which constitute the felonies involving moral turpitude. This list is attached for your guidance.

We hope that this answers your questions.

LLD/pjg

Enc.

cc w/enc.: Mike Dunham, Outreach Counselor
Akeela House - Anchorage

FELONIES INVOLVING MORAL TURPITUDE

Murder in the First Degree
Murder in the Second Degree
Manslaughter
Assault in the First Degree
Assault in the Second Degree
Kidnapping
Sexual Assault in the First Degree
Sexual Assault in the Second Degree
Sexual Assault in the Third Degree
Incest
Unlawful Exploitation of a Minor
Robbery in the First Degree
Robbery in the Second Degree
Extortion
Coercion
Theft in the First Degree
Theft in the Second Degree
Burglary in the First Degree
Burglary in the Second Degree
Arson in the First Degree
Arson in the Second Degree
Criminal Mischief in the First Degree
Criminal Mischief in the Second Degree
Forgery in the First Degree
Forgery in the Second Degree
Criminal Possession of a Forgery Device
Offering a False Instrument for Recording
Scheme to Defraud
Falsifying Business Records
Commercial Bribe Receiving
Commercial Bribery
Endangering the Welfare of a Minor
Bribery
Receiving a Bribe
Perjury
Perjury by Inconsistent Statements
Escape in the First Degree
Escape in the Second Degree
Promoting Contraband in the First Degree
Interference with Official Proceedings
Receiving a Bribe by a Witness or Juror
Jury Tampering
Misconduct by a Juror
Tampering with Physical Evidence
Hindering Prosecution in the First Degree
Terroristic Threatening
Riot
Criminal Possession of Explosives
Unlawful Furnishing of Explosives
Promoting Prostitution in the First Degree

August 14, 1968

M E M O R A N D U M

TO: Office of the Governor

Attn: Thelma Cutler
Director of Elections

FROM: G. Kent Edwards
Attorney General

By: Robert J. Mahoney
Assistant Attorney General

RE: Voting qualifications of convicted felon - AS 15.05.030.

You have requested our opinion concerning the eligibility of persons convicted of a felony to vote in Alaska. The pertinent constitutional provision is found in Article V, § 2 of the Alaska Constitution which states in part:

> DISQUALIFICATIONS. No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored.

That provision was supplemented by AS 15.05.030 which provides:

> No person may vote who has been convicted either by the state courts of Alaska, by the courts of another state or by the federal courts of a felony under Alaska law involving moral turpitude under Alaska law unless his civil rights have been restored by law or by the proper authority in the jurisdiction in which the person was convicted. Felonies involving moral turpitude include, but are not limited to, the crimes of murder, abortion, rape, robbery, kidnapping, burglary, incest, and other crimes which are punishable by imprisonment in the penitentiary under Alaska law and which involve conduct contrary to justice, honesty, modesty or good morals. [emphasis added.]

As set forth in the statute and constitutional provision, the first prerequisite to disqualification is conviction. Concerning the meaning of "conviction" as used in this type of statute, it has been said:

> The word conviction . . . must mean a final judgment of conviction. A judgment is not final if there still remains some legal means of setting it aside. There may be ways to avoid its execution, such as general pardon, but a judgment in an ordinary criminal case . . . becomes final when all available means to avoid its effect have been exhausted.

Stephens v. Toomey, 51 Cal.2d 864, 338 P.2d 182 (1959). It is thus apparent that the disability would not attach prior to the period for appeal or during the pendency of an appeal. The disqualification would likewise not attach to an individual who has been convicted on his plea of guilty and who has received a deferred imposition of sentence. In the latter case a sentence is not inflicted and after successful completion of the period of probation that is usually imposed the defendant can be discharged without imprisonment.

The conviction must be for a crime which constitutes a felony involving moral turpitude under Alaska law. Since the statute provides an adequate guide in determining which crimes involve moral turpitude, further elaboration of this requirement is not necessary.

The most difficult of the criteria relates to the imposition of disability until such time as the civil rights of the convicted individual are restored by law or the proper authority. It should be noted that the restoration of civil rights depends on the law of jurisdiction in which the person was convicted. Thus, in the case of convicted felons from other states, their eligibility to vote depends on the laws of that state.

Two statutory provisions are pertinent in considering the qualifications of persons convicted in Alaska. The first, AS 11.05.070 provides:

> EFFECT OF JUDGMENT OF IMPRISONMENT IN PENITENTIARY. A judgment of imprisonment in a penitentiary for a term less than life suspends the civil rights of the person sentenced, and forfeits all public offices and all private trusts, authority, or power during the term of duration of imprisonment. [Emphasis added]

AS 33.15.190 provides that a person on parole remains in the custody of the parole board and is subject to the disability imposed by AS 11.05.070. It is thus clear that a person convicted in Alaska of a felony involving moral turpitude may not vote during any period of incarceration or parole.

electing a candidate for the office of President, Vice-President, presidential elector, United States senator or United States representative;

(8) "felony involving moral turpitude" includes those crimes which are immoral or wrong in themselves such as murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery;

(9) "general election" means the election held on the Tuesday after the first Monday in November of even-numbered years;

(10) "hand-marked ballot" means a ballot designated to be marked by hand with a pen or pencil;

(11) "lieutenant governor" includes an appointed lieutenant governor, governor, or acting governor if a vacancy has occurred in the office of lieutenant governor or governor;

(12) "limited political party" means a political group which organizes for the purpose of selecting candidates for electors for President and Vice-President;

(13) "local election" means a regular or special election held by a borough, city, school district, or regional educational attendance area;

(14) "master register" means the list of all registered voters in the state which is maintained by the director of elections;

(15) "member of a political party" means a person who supports the political program of a party;

(16) "oath" includes affirmation; "sworn" includes affirmed;

(17) "official registration list" means the list of all voters qualified to vote at a particular election compiled in accordance with AS 15.07.125;

(18) "party district committee" means the political party committee that performs the executive function for a region representing an area larger than a precinct and smaller than the state;

(19) "political group" means a group of organized voters which represents a political program and which does not qualify as a political party;

(20) "political party" means a group of organized voters which represents a political program and which nominated a candidate for governor who received at least 10 percent of the total vote cast at the preceding general election for governor;

(21) "precinct" means the territory within which resident voters may cast votes at one polling place;

(22) "presidential election year" means a year in which the presidential electors are elected;

(23) "proposition" means an initiative, referendum, or constitutional amendment submitted at an election to the public for vote;

(24) "punch-card ballot" means a ballot designed to be punched by a machine and counted by automatic data processing equipment;

(25) "qualified voter" means a person who has the qualification of a voter and is not disqualified as provided by art. V, § 2, of the state constitution and AS 15.05.030;

(26) "question" means an issue placed on the ballot to determine whether a judge or justice shall be accepted or rejected, whether a constitutional convention shall be called, whether a state debt shall be contracted, or whether a state official shall be recalled;

(27) "registration official" includes an employee of the division of elections when performing the task of voter registration and a person appointed to serve as a registration official in accordance with AS 15.07.081 or 15.07.190;

(28) "senate district" means the territory included in the election districts as designated under art. XIV, § 2, of the state constitution, as may be modified under art. [illegible] of the state constitution;

(29) "signature" or "subscription" includes a mark intended as a signature or subscription;

(30) "special election" means an election held at a time other than when the general or party primary election is held and an election called to be held with, and at the time of, the general or party primary election;

(31) "state chairman" means the party official elected as the highest ranking statewide party executive;

(32) "unconditional discharge" means that a person is released from all disability arising under a conviction and sentence, including probation and parole;

(33) "vacancy" exists in an office when the person elected or appointed to the office resigns, retires, dies, is recalled, is rejected by majority vote on the question at an election, is convicted of a corrupt practice, is removed by impeachment, or is expelled;

(34) "voter" means a person who presents himself for the purpose of voting either in person or by absentee ballot. (§ 12.01 ch 83 SLA 1960; am § 11 ch 71 SLA 1972; am § 13 ch 38 SLA 1974; am § 29 ch 197 SLA 1975; am § 9 ch 208 SLA 1975; am § 207 ch 100 SLA 1980)

Revisor's notes. — The word "as" was added following "themselves such" in paragraph (8) by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1980 amendment rewrote the section.

Legislative history reports. — For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

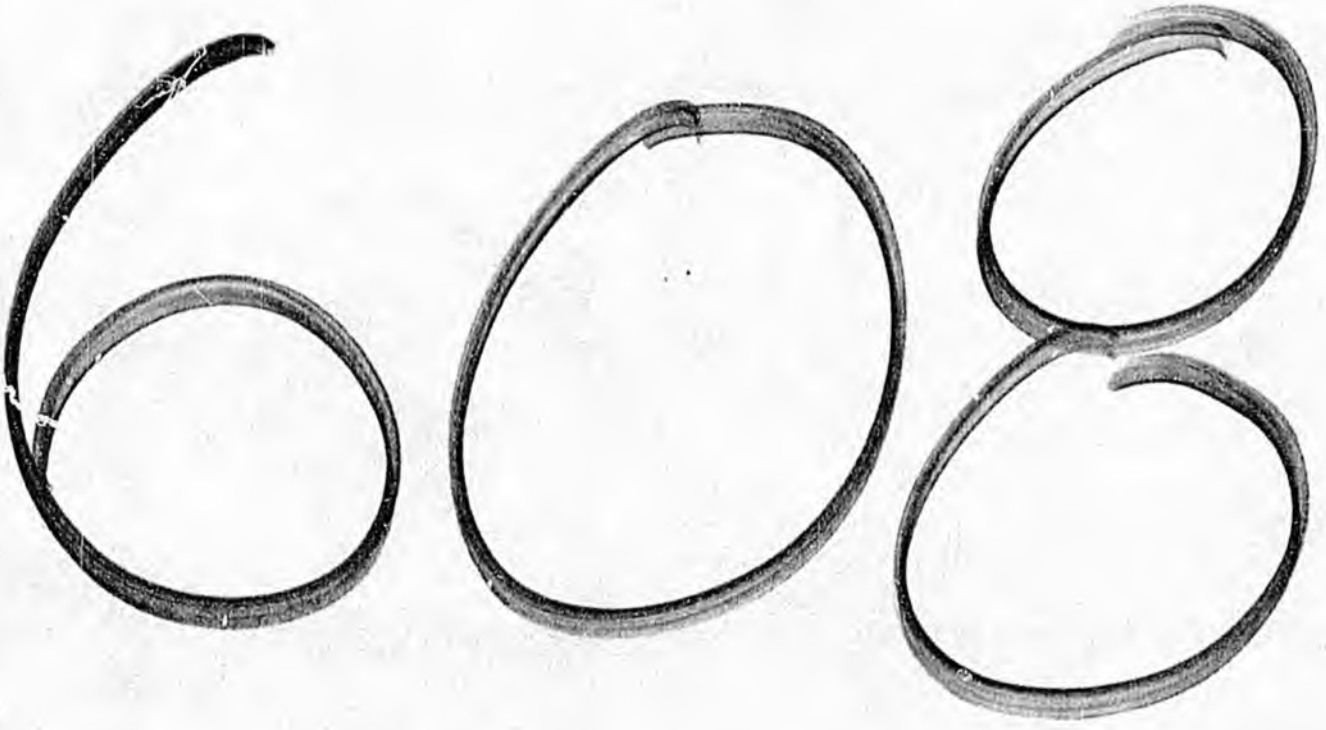
NOTES TO DECISIONS

Opinions of attorney general. — For a list of crimes which constitute felonies involving moral turpitude. Nov. 7, 1980, Op. Att'y Gen.

Quoted in Turkington v. City of Kachemak, Sup. Ct. Op. No. 141 (File No. 177), 380 P.2d 583 (1963).

Sec. 15.60.020. Short title. AS 15.05.010 — 15.60.020 may be cited as the Alaska Election Code. (§ 12.02 ch 83 SLA 1960)


HB


6008

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 608
Title: An Act relating to the operation of the legislature; e.f. date
Sponsor: Speaker Joe Hayes
Requestor: House State Affairs
Date of Request: 2/22/84

FISCAL DETAIL Page 1 of 2 pages
Agency Affected: Legislative Affairs Agency
Program Category Affected: General Government
BRU, Program or Subprogram(s) Affected: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		31.8	31.8	31.8	31.8	31.8
200 TRAVEL						
300 CONTRACTUAL		98.6				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		130.4	31.8	31.8	31.8	31.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		130.4	31.8	31.8	31.8	31.8
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Lauren Smith Manager L Smith Phone: 465-3850
Division: Administrative Services Date: 02-22-84

Approved by Exec. Director: M. R. Charney Date: 02-22-84
Agency: Legislative Affairs Agency

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

House Bill No. 608: An Act relating to the Operation of the Legislature; and providing for an effective date

ANALYSIS:

Personal Services

One permanent full-time entry clerk	
Range 12 - Salary	$23,796
Benefits	7,963
Total	$31,759

Contractual

Computer software package for governmental accounting and payroll	$98,592
TOTAL Cost	$130,351

Contractual costs for software are a one-time non-reoccuring charge.

MEMORANDUM State of Alaska

TO: All Agencies
Directors
Payroll Supervisors
Personnel Officers

DATE: February 16, 1984

FILE NO:

TELEPHONE NO: 465-2235

FROM: Kenneth E. Bischoff
Director
Division of Finance
Department of Administration

SUBJECT: Clarification of Time Reporting Policy defined in our February 2, 1984 memorandum.

We have had several inquiries concerning how verified pay shortages are to be treated.

Certainly we do not want to create an unreasonable hardship on our employees. It is our intent (via procedures outlined in the February 2, 1984 memorandum) to reaffirm policy that in large part has always existed. The issue concerning treatment of verified pay shortages is the only one that has been brought to this Division's attention as an agency concern and as a result of our prior memorandum.

This Division has two and at times, seemingly opposing, responsibilities with respect to administrating the State payroll function:

1. We need to meet the payroll timely and in accordance with applicable labor agreements.

2. We need to control the process to achieve accuracy and to comply with federal and other legal reporting requirements and to do so as efficiently as possible.

It is our intention to strike a reasonable balance in the workload required of the employer to meet the payroll needs of the employee.

Interim Policy for Verified Payroll Shortages and Late Payments

1. Verified payroll shortages and late payments of significant amounts which cannot be paid on subsequent regular payrolls can be paid via supplemental warrant requests.

2. Verified payroll shortages and late payments of lesser or nominal amounts should be paid as an adjustment to the next regular payroll.

3. You should ask the employee to indicate at the time of request if deferring payment to the next regular payroll would impose an unreasonable hardship. It is our understanding that most agencies are already doing this now.

We are working through Labor Relations to determine what a significant dollar amount for pay shortages and late pay would be so that uniform cutoff amounts can be established.

KEB/EC/jr
4/3D1/0216-02

MEMORANDUM State of Alaska

TO: All Agencies
Directors,
Payroll Supervisors,
Personnel Officers

DATE: February 2, 1984

FILE NO:

TELEPHONE NO. 465-2235

FROM: Kenneth E. Bischoff KEB
Director
Division of Finance
Department of Administration

SUBJECT: Time Reporting Policy

Thru: Anselm C. Staack A
Deputy Commissioner
Administrative Management
Department of Administration

As explained in my memorandum dated November 17, 1983, Time Reporting Policy, we are attempting to reduce costs and calculate federal tax withholding properly. In addition, prepays are no longer written to replace a reissued payroll warrant. This procedure causes a by-pass of all edits relating to the warrant recon file and also increases the workload. I would like to add that the subject "Time Reporting" encompasses all types of compensation that is not paid timely.

Effective Date: The following procedures are effective beginning with the first hourly payroll of March 1984.

Listed below are the types of payments which must be paid on a supplemental warrant or on a prepaid check.

A. Supplemental Warrant

1. Leave cash-in.
2. Annual leave payments (i.e.: donations).
3. Termination pay (final salary and terminal leave).
4. Unpaid compensation to beneficiaries of deceased employees.
5. Tool allowance.
6. Major retro's.
7. Penalty pay.
8. Grievance awards.

B. Prepaid Checks

1. Two-department employees (a prepay will be written for one department).
2. Payments which cannot be properly calculated through the system on either a supplemental or major payroll (i.e.: some grievance awards).
3. Calculate proof errors (i.e.: insufficient net to cover deductions).

All other types of compensation must be paid on the two major payrolls each month. Agencies are required to meet the published payroll cutoffs. Compensation changes will be reflected in the next regular payroll for which published cutoffs are met.

Merit increases are not considered due until the date they are authorized and will be paid on the next regular payroll for which the cutoff is met. Personnel actions and the plus gross adjustments for any retroactive pay caused by the increase must be reported by the published cutoff of the payroll immediately following the authorization in order to be included with the next regular payroll.

Mid-month draws are not considered due until authorized and will be written with the next first hourly payroll for which published cutoffs are met. Mid-month draws will be paid on the first hourly payroll only.

KEB/EC/rmm
5/53D1/0202-05

MEMORANDUM State of Alaska

TO: All Agencies
Directors
Payroll Supervisor
Personnel Officers

DATE: November 17, 1983

FILE NO:

TELEPHONE NO: 465-2240

SUBJECT: Time Reporting Policy

FROM: Kenneth E. Bischoff
Director
Division of Finance
Department of Administration

THRU: Anselm C. Staack
Deputy Commissioner
Administrative Management

EFFECTIVE IMMEDIATELY:

The payroll section in this division is constantly writing supplemental warrants and prepaid checks for late time being reported by the agencies. The late time being reported consists of overtime, pay shortages, appointments, regular hours, mid-month draws and other late pay such as merit increases.

The writing of additional payroll warrants and prepays has steadily increased and the cost to this department has increased in comparison. In addition, when an employee is scheduled as monthly, semi-monthly or bi-weekly for purposes of pay and we write more warrants than are scheduled, we are under-withholding the federal income tax. This, in turn, will impact the employee at the time of tax reporting. The reissue of payroll warrants on prepaid checks also creates a problem, when prepaid, we by-pass the latest edit checks built into our system. This, in turn, can allow a double payment to the employee when both payments are cashed and/or the bank demands payment as the holder in due course. These salary overpayments increase the work load and collection effort and are sometimes uncollectable.

In order to rectify these situations the following will take effect immediately:

1. Agencies will have to make a greater effort to abide by the department cut-off schedule for all time reports in order to pay all time on the scheduled pay warrant. All late time submitted on supplementals must be signed by a director within each agency.

2. Administration-Payroll will be allowed two working days to deliver the supplemental warrant to the agencies when late time is reported. These will be prepaid only in those cases that would otherwise exceed the time frame of two working days.

3. Time will not be paid early except in cases of emergency or by special approval of the Director of Finance. These requests must also be approved by a director in the agency.

4. Reissued payroll warrants will not be prepaid and/or telecopy prepaid. They will be reissued through the payroll system as in #2 above.

5. Administration Payroll does not assume responsibility for any penalty pay that may result from late time reports, terminations or lay-offs, if the time reports or final papers are not submitted to Administration Payroll at least two working days prior to the payment due date.

KEB/EC/mm
6/3D4/1114-05

HB

630

Special Instructions for
Acknowledgments and Sworn Instruments

ALABAMA Code of Ala., Title 47, Sec. 27.

1. Acknowledgments. Commissioned officers may take acknowledgments of any person, military or otherwise, at any place outside of the State of Alabama.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

ALASKA Alas. Stat. 9.65.010; 34.15.160.

1. No local statutory authority exists for commissioned officers to take acknowledgments, oaths, or sworn instruments, except a commanding officer of a Coast Guard vessel, who may take oaths or affirmation at any place.

ARIZONA Ariz. Rev. Stats., Sec. 33-511.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) U.S. Armed Forces members and their dependents at any place, (b) merchant seamen outside the limits of the 50 States and the District of Columbia at any time; and (c) others serving outside said limits by permission, assignment, or direction of any department or official of the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for dependents of persons in (b) and (c) above.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

ARKANSAS Ark. Stat. Ann., Secs. 49-111 and 40-108.

1. Acknowledgments. Commissioned officers may take acknowledgments for persons serving in or with the Armed Forces of the United States or their dependents at any place.

2. Oaths and Sworn Instruments. Any person in the Armed Forces may take oath to any affidavit before any commissioned officer of any branch of service.

CALIFORNIA Calif. Civil Code, Sec. 1183.5.

1. Acknowledgments. Officers on active duty, commissioned in or assigned or detailed to duty with the Judge Advocate General's Department or Corps, any staff judge advocate or acting staff judge advocate, and the adjutant, assistant adjutant, personnel adjutant, or commanding officer of any command may take acknowledgments of any person serving in or with the US Armed Forces, or the spouse of any US Armed Forces member, at any place. *Note:* California statutes do not specifically authorize administrative services officers to take acknowledgments. Although the Air Force considers them to be "adjutants" within the meaning of the California statute, this State may not recognize such acknowledgments.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

CANAL ZONE 4 C.Z.Code, Sec. 725.

1. Acknowledgments. Commissioned officers on active duty with the Judge Advocate General's Department, any staff judge advocate or acting staff judge advocate, and the adjutant, assistant adjutant, personnel adjutant, or commanding officer of a command may take acknowledgments of any person serving in or with the US Armed Forces, or the spouse of any US Armed Forces member, at any place. NOTE: The Canal Zone Code does not specifically authorize administrative services officers to take acknowledgments. Although the Air Force considers them to be "adjutants" within the meaning of the Canal Zone Code, this jurisdiction may not recognize such acknowledgments.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

COLORADO Colo. Rev. Stat. (1963), Secs. 98-1-1 and 118-1-27.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) US Armed Forces members at any place; (b) merchant seamen outside limits of the 50 States and the District of Columbia; and (c) of any person who is outside said limits by permission, assignment, or direction of any department or official of the United States Government in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

ATCH 1

CONNECTICUT Conn. Gen. Stat., Sec. 27–137.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or with US Armed Forces at any place. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. No local authority is granted for commissioned officers to take oaths or sworn instruments.

DELAWARE Del. Code Ann., Title 25, Sec. 130.

1. Acknowledgments. Commissioned officers may take acknowledgements of (a) US Armed Forces members at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia at any time; and (c) other persons outside the above limits by permission, assignment, or direction of any department or official of the United States Government, in connection with any activity pertaining to the prosecution of a war in which the United States is then engaged. No provisions are made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

DISTRICT OF COLUMBIA

*The following persons on active duty are authorized to exercise the general powers of a notary public for members of any of the Armed Forces and for persons employed by or accompanying Air Force in certain places outside the US: All judge advocates of the Army and Air Force, law specialists, summary courts-martial, adjutants, assistant adjutants, acting adjutants, personnel adjutants, commanding officers of the Navy, Marine Corps, and Coast Guard, staff judge advocates and legal officers, acting or assistant staff judge advocates and legal officers, and all other persons designated by the regulation of the Air Force or by statute (10 U.S C. 936).

FLORIDA Fla. Stat. Secs. 90.011 and 6950 31.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or with US Armed Forces, and for spouses of US Armed Forces members, at any place. No provision is made for spouses of persons serving with the US Armed Forces. No provision is made for dependents other than spouses of US Armed Forces members.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

GEORGIA Ga. Code Ann., Title 71, Secs. 401 and 404.

1. Acknowledgments:

a. Section 401 provides that all commissioned officers are ex officio notaries public for the purpose of taking acknowledgments of any person, at any place, concerning Georgia property only.

b. Section 4 04 provides that commissioned officers may take acknowledgments generally of (a) US Armed Forces members at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia; and (c) other persons outside said limits by permission, assignment, or direction of any department or official the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments.

a. Section 401 requisites are the same as for acknowledgments when oaths and sworn instruments concern Georgia property only.

b. Section 404 requisites are the same as for acknowledgments.

GUAM Govt. Code, Sec.2 2200.

1. Acknowledgments. Commissioned officers on active duty authorized by the UCMJ to administer oaths may take acknowledgments of any person on active duty.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

HAWAII Rev. Laws, Sec. 343–31.

1. Acknowledgments. Any US Armed Forces officer authorized by Congress to perform duties of a notary public may take acknowledgment for any US Armed Forces member, at any place, and for any person while outside the United States. (See paragraph 2a of this regulation for Federal authority to perform these functions.)

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

IDAHO Idaho Code, Sec. 55-705.

1. Acknowledgments. "Any officer of any component of any branch of the Armed Forces of the United States as may be designated to take a deposition. . ." may take the acknowledgment at any place of persons in any of the Armed Forces or otherwise subject to military law, and their wives and dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

ILLINOIS Illinois Ann. Stat., Secs. 3 0-19 and 101-2.

1. Acknowledgments. Commissioned officers may take acknowledgments, at any place, for those serving in or with the US Armed Forces and for their spouses or former spouses. No provision is made for dependents other than spouses or former spouses.

2. Oaths and Sworn Statements. Commissioned officers may take all oaths or sworn instruments, at any place, from any person whether or not connected with the US Armed Forces.

INDIANA Burns Ind. Stat., Sec. 56-130a.

1. Acknowledgments. Commissioned officers may take acknowledgments for (a) those serving in or with US Armed Forces at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia; and (c) any person who is outside said limits by permission, assignment, or direction of any department or official of the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

IOWA Iowa Code Ann., Sec. 558.26; Rules for Civil Procedure, Sec. 153.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or with US Armed Forces at any place. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Depositions may be taken by any commissioned officer under whose command the person giving the deposition is serving, or by any commissioned officer of the Judge Advocate General's Department or Corps. No local authority is granted for any US Armed Forces member to take other oaths or sworn instruments.

KANSAS Kan. Stat. Ann., Sec. 58-2216c.

1. Acknowledgments. Commissioned officers may take acknowledgments of any person, or his spouse or dependents, if such person is either (a) a member of the Armed Forces of the United States; (b) a merchant seaman outside the limits of the United States and the District of Columbia; or (c) is outside said limits by permission, assignment, or direction of any department or official of the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

KENTUCKY Ky. Rev. Stat., Sec. 384.080.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) US Armed Forces members at any place; (b) merchant seamen outside the limits of the United States; and (c) others outside said limits by permission, assignment, or direction of any department or official of the United States Government, at any time. No provision is made for spouses or dependents by the terms of the statute itself. Note, however, that the Attorney General of Kentucky has stated that the statute also applies to dependents of military personnel and to civilian employees of the Armed Forces and their dependents who are outside the limits of the United States (OAG 63-86).

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

LOUISIANA La. Rev. Stats., Sec. 35.7.

1. Acknowledgments. Commissioned officers may take acknowledgments of persons serving in or with the US Armed Forces, at any place; acknowledgments are authorized for others, including spouses, only outside the United States and the District of Columbia.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

Note: Sec. 35.11 provides as follows:

"Whenever notaries pass any acts they shall give the marital status of all parties to the act, viz:

If either or any party or parties are men, they shall be described as single, married, or widower. If married or a widower, the Christian and family name of the wife shall be given. If either or any party or parties are women they shall be described as single, married, or widow. If married or widow, their Christian and family name shall be given, adding that she is the wife of or widow of....the husband's name."

MAINE Title 33, Maine Rev. Stat. Ann., Sec. 203.

1. Acknowledgments. Commissioned officers may take acknowledgments, at any place, for US Armed Forces members. No provision is made for any other acknowledgments.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

MARYLAND Md. Code Ann., Art. 18, Secs. 11 and 15.

1. Acknowledgments. Commissioned officers in active service of the Armed Forces of the United States may take acknowledgments of (a) any persons serving in or with the Armed Forces of the United States, and their spouses or dependents, at any place: (b) any persons serving as merchant seamen outside the United States and the District of Columbia; or (c) any persons outside the United States and the District of Columbia; or (c) any persons outside the United States and District of Columbia by permission, assignment, or direction of any department or official of the United States Government in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for acknowledgments of spouses or dependents of persons described in (b) or (c) of this paragraph.

2. Oaths and Sworn Instruments. Any commissioned officer in active service of the Armed Forces of the United States may take oaths and sworn instruments for (a) any member of the Armed Forces of the United States; (b) any persons serving as merchant seamen outside the United States and the District of Columbia; or (c) any person outside the United States and the District of Columbia by permission, assignment, or direction of any department of official of the United States Government in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.

MASSACHUSETTS Mass. Ann. Laws, Vol. 7A, Ch.2 22, Sec.1 1.

1. Acknowledgments. Commissioned officers may take acknowledgments of persons serving in or with the Armed Forces of the United States and their dependents at any place. In case of dependents, the officer's certificate must state name and SSAN/serial number of the person serving in the Armed Forces on whom the person is dependent.

2. Oaths and Sworn Instruments. No local authority exists for any US Armed Forces member to take oaths or sworn instruments.

MICHIGAN Mich. Stat. Ann., Secs. 26.601(1) and 27A1440.

1. Acknowledgments. Commissioned officers may take acknowledgments, at any place, for persons serving in or with the Armed Forces of the United States or civilian employees thereof, or, in each case, their spouses and dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments, except that here the statute uses the word "dependents," instead of the words "spouses and dependents" which occur in the statute relating to acknowledgments. *Note:* The oath prescribed is more extensive than the jurat prescribed in attachment 1 and is more in the nature of a verification; it should contain, in addition to the matter prescribed in attachment 1, the following: "made oath that he or she knows the contents thereof and the same is true of his own knowledge except as to matter stated therein to be on information and belief, and as to those matters he or she believes is to be true."

MINNESOTA Minn. Stat. Ann., Secs 358.09 and 358.27.

*1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or employed by the US Armed Forces, and their spouses, at any place. Certificates must state status of persons acknowledging and of officers taking acknowledgments. No seal or authentication is required.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

MISSISSIPPI Miss. Code Ann., Sec. 4025-01.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) members of the US Armed Forces or their spouses at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia; and (c) persons outside said limits by permission, assignment, or direction of any department or official of the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. *Note:* No provision is made for the spouses of persons in (b) and (c).

2. Oaths and Sworn Instruments. Requisites same as for acknowledgements.

MISSOURI Vernon's Ann. Stat., Secs. 442.160 and 492.070.

1. Acknowledgments. Commissioned officers may take acknowledgments for US Armed Forces members on active duty, and their spouses, when joint or separate acknowledgment to the same instrument is required. No local authority is granted for any other acknowledgment.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments, except that there is no provision for taking oaths of spouses.

MONTANA Mont. Rev. Code (1961), Sec. 39-106.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) US Armed Forces members at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia; and (c) persons outside the limits of the United States of America by permission, assignment, or direction of any department or official of the United States Government in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

NEBRASKA Neb. Rev. Stat. (Reissue 1966), Sec. 76-227.

*1. Acknowledgments. Commissioned officers may take acknowledgments of any persons, at any place. The certificate must show signature and rank of the officer and branch of service. No authentication is required.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

NEVADA Nev. Rev. Stat., Sec. 111.305.

1. Acknowledgments. Commissioned officers may take acknowledgments for any person serving in or with the US Armed Forces, or any person whose duties require his presence with the US Armed Forces, at any place. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

NEW HAMPSHIRE N.H. Rev. Stat. Ann., Ch. 456.12.

1. Acknowledgments. Commissioned officers may take acknowledgments of those serving in or with the Armed Forces of the United States or their dependents, wherever located.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

NEW JERSEY N.J. Stats. Ann., Secs. 38:23A-1; 46:2B-1, 2, 3; and 46:2C-1, 2, and 5.

*1. Acknowledgments. Commissioned officers of the US Armed Forces may take an oath, affidavit, acknowledgment, or proof of a person in military service, merchant marine, or one who is outside the US by authority of the US Government during war or in time of emergency. The officer must certify his own rank and official designation and that such person is in military service or is outside the US by authority of the US Government.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

NEW MEXICO N.M. Stat. Ann., Sec. 43-1-7.

*1. Acknowledgments. Commissioned officers of the Armed Forces may perform notarial acts for any members of the Armed Forces.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

NEW YORK Real Property Law, Sec. 300; CPLR, Secs. 2309 and 4538.

1. Acknowledgments. Commissioned officers may take acknowledgments of persons serving in or with the Armed Forces of the United States or of any dependent of any such persons, wherever located, or of any person attached to or accompanying the Armed Forces, wherever located. No authentication is now required.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments. *Note:* Where an oath of acknowledgment is by a member of the Armed Forces or by a dependent of such member, the SSAN/serial number of the member must appear.

NORTH CAROLINA N.C. Gen. Stat., Sec. 47-2.

1. Acknowledgments. Any warrant officer or other officer of higher rank may take acknowledgments of any persons, at any place.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

NORTH DAKOTA Century Code, Title 47, Secs. 19-17 and 19-17.1.

1. Acknowledgments. Sergeants, warrant officers, and other officers of higher rank may take acknowledgments for those serving in or with the US Armed Forces, at any place. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

OHIO Ohio Rev. Code Ann., Sec. 147.38.

1. Acknowledgments. Commissioned officers may take acknowledgments, at any place, for US Armed Forces members and their dependents, and of persons serving with, employed by, or accompanying the Armed Forces outside the United States, and their dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

OKLAHOMA Okla. Stat. Ann., Title 72, Secs. 50.1 and 50.2.

1. Acknowledgments. Sergeants, warrant officers, and other officers of higher rank may take acknowledgments for US Armed Forces members on active duty, and their spouses, when joint or separate acknowledgment to the same instrument is required. No local authority is granted for any other acknowledgments.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

OREGON Ore. Rev. Stat., Secs. 194.410, 194.420, and 194.430.

1. Acknowledgments. Commissioned officers may take acknowledgments of members of the US Armed Forces or US Merchant Marine, and the spouses of such members, and civilian employees of the US and their spouses, so long as any of the above are serving outside the boundaries of any of the 50 States and the District of Columbia.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

PENNSYLVANIA Purdon's Pa. Stat. Ann., Title 21, Sec. 291.10a, and Title 57, Secs. 54b to 54f.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) Armed Forces members and their spouses and dependents at any place; (b) persons serving with the Armed Forces and their dependents at any place; (c) merchant seamen outside the limits of the United States and the District of Columbia; and (d) persons outside said limits by permission, assignment, or direction of any department or official of the United States Government in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for the spouses and dependents of persons in (c) and (d), above. Further, any person having powers of a notary public under Title 50, United States Code, Section 732 (now Title 10, United States Code, Section 936, or Article 136, UCMJ), may take acknowledgments of any US Armed Forces member on active duty.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments except that the word "and dependents" are omitted from (a), as it appears in paragraph 1 above, and there is no provision for personnel described in 1b above.

PUERTO RICO

No local statutory authority exists for any US Armed Forces member to take acknowledg-

ments, oaths, or sworn instruments. (See paragraph 2a of this regulation for Federal authority to perform these functions.)

RHODE ISLAND Gen. Laws, Sec. 34-12-5.

★1. Acknowledgments. Commissioned officers may take acknowledgments of any person outside the limits of the United States. Any commissioned officer may also take acknowledgments from any person acknowledging who is a member of the Armed Forces within the limits of the US, and also their lawful dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

SOUTH CAROLINA Code of Laws, 60-51.

1. Acknowledgments. The affidavit of one subscribing witness (see paragraphs 2 and 3 below) takes the place of an acknowledgment by a person executing the instrument.

2. Oaths and Sworn Instruments. Commissioned officers may administer oaths, and take affidavits and sworn statements, for a US Armed Forces member on active duty outside of the State of South Carolina, and for any US Armed Forces civilian employee on active duty outside the continental confines of the United States. No provision is made for spouses or dependents.

3. Affidavit for Recording Deeds and Other Instruments. All instruments to be recorded must be witnessed by two or more persons, and one of these subscribing witnesses must make an affidavit as to the proper execution of such instrument. The following format may be used for the venue and body of the affidavit, and the jurat (see figure 2) must be added.

With the US Armed Forces
At *(location)*

Personally appeared before me *(name of witness making affidavit)* and made oath that he saw the within named *(name of person executing the attached instrument)* sign, seal, as his act and deed, and deliver the attached written instrument for the uses and purposes therein mentioned, and that he, with *(name of other witness or witnesses)*, witnessed the execution thereof.

(Signature of witness making affidavit)

SOUTH DAKOTA S.D. 1960 Supp., Secs. 48.0801-1 and 51.1608.1.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or with the US Armed Forces at any place. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments, except that no provision is made for persons serving with the US Armed Forces other than officers of the Public Health Service.

TENNESSEE Tenn. Code Ann., Title 7, Secs. 305-307.

1. Acknowledgments. Commissioned officers may take acknowledgments of US Armed Forces members on active duty, and their spouses, if they are accompanying their husbands in such service, at any place.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

TEXAS Vernon's Civil Stat., Title 1, Art. 26; and Title 115, Ch. 2, Arts. 6602 and 6607.

1. Acknowledgments. Commissioned officers may take acknowledgments of US Armed Forces members, auxiliaries thereto, or their spouses, at any place.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments, but are limited to US Armed Forces members and auxiliaries thereto.

UTAH Utah Code Ann., Title 57-2-1.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or with the US Armed Forces at any place. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

VERMONT Vt. Stat. Ann., Title 12, Sec. 5855.

1. Acknowledgments. Commissioned officers with the rank of captain in the Army or Air Force, or higher rank, or any officer with equivalent rank in other branches of the US Armed Forces, may take acknowledgments of any person, at any place.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

VIRGINIA Va. Code, Secs. 55-114.1 and 55-115.

1. Acknowledgments. Commissioned officers and commissioned officers of any State National

Guard that is federally recognized may take the acknowledgment of US Armed Forces members on active duty and their spouses, at any place. Additionally, persons who are authorized to take acknowledgments under Title 10, United States Code, Section 936 (Art. 136, UMCJ), as that section existed on 30 October 1963, may take acknowledgments of (a) members of the Armed Forces at any place; (b) of persons employed by or accompanying such Armed Forces outside the United States and outside the Canal Zone, Guam, and the Virgin Islands; and (c) of any person subject to the Uniform Code of Military Justice outside the United States.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

VIRGIN ISLANDS 5 V.I. Code 694 and 28 V.I. Code 91.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or with the US Armed Forces at any place. No provision is made for spouses or dependents. (See paragraph 2a of this regulation for Federal authority to perform these functions.)

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

WASHINGTON Rev. Code of Wash., 73.20.010.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) US Armed Forces members at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia, at any time; and (c) persons outside said limits by permission, assignment, or direction of any department or official of the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

WEST VIRGINIA W. Va. Code, Secs. 39-1-4a and 57-5-9.

1. Acknowledgments. Commissioned officers may take acknowledgments of US Armed Forces members, and their spouses, at any place.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments, except no provision is made for spouses. However, the body of the sworn instrument (see figure 2) must contain the statement: "I am a member of the US Armed Forces."

WISCONSIN Wisc. Stat., Secs. 235.19(11) and SS7.01(3).

1. Acknowledgments. Commissioned officers may take acknowledgments of persons serving in or with the US Armed Forces, or their dependents, wherever located.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

WYOMING Wy. Stat., Sec. 19-5.

1. Acknowledgments. Commissioned officers may take acknowledgments of persons serving in or with the Armed Forces, or their dependents, wherever located.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

JAY S. HAMMOND
GOVERNOR

TERRY MILLER
LIEUTENANT GOVERNOR

1030

STATE OF ALASKA
LIEUTENANT GOVERNOR
JUNEAU

March 16, 1981

The Honorable Brad Bradley
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Brad:

Your administrative assistant, Frank Lee, contacted my office for comments regarding proposed legislation to authorize commissioned officers of the armed forces of the United States to perform the function of a notary within the State of Alaska. I appreciate your staff bringing this to my office's attention, and we look forward to working with you on this issue

I support the general intent of the proposal; I believe commissioned officers of the armed forces should be able to perform the function of a notary in the State of Alaska for military personnel, spouses, and dependents. It is my judgment, however, that commissioned officers should not perform notary functions for all other citizens. It is my understanding that most states have adopted the rule which I am advocating here.

Should you have any further questions concerning the development of your proposed legislation, please feel free to contact me or members of my staff.

Sincerely yours,

Terry Miller
Lieutenant Governor

25 2

JAY S. HAMMOND
GOVERNOR

TERRY MILLER
LIEUTENANT GOVERNOR

STATE OF ALASKA
LIEUTENANT GOVERNOR
JUNEAU

May 7, 1981

The Honorable Brad Bradley
State Senator
Pouch V
Juneau, Alaska 99811

Dear Brad:

This is to express my support for SSSB 375, an act authorizing commissioned officers and commanders of units of the armed forces of the United States to perform the functions of a notary public in the State of Alaska. The passage of this bill will provide a needed service for the military personnel stationed in Alaska and will make the daily conduct of business more convenient for them.

Sincerely yours,

Terry Miller
Lieutenant Governor

HB 63C

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS ALASKAN AIR COMMAND
ELMENDORF AIR FORCE BASE, ALASKA 99506

23 FEB 1981

Honorable W. E. Bradley
Alaska Senate
Pouch V
Juneau AK 99811

Dear Mr Bradley

Alaska is the only state which does not recognize acknowledgement, oath, or sworn statement by a commissioned officer. This poses a hardship on those military members who are stationed at remote sites both in Alaska and overseas where no notary public is available. Every other state allows a commissioned officer to perform the above acts for all active duty members and quite often for their spouses and dependents. Many states also allow commissioned officers to take sworn instruments from those civilian employees serving with the Armed Services while outside the United States. A few states even allow commissioned officers to perform all the above functions for anyone, anywhere. I have attached a summary of the laws of the various states so you can have a feel for what the other states have done in this area.

I request your assistance in correcting this impediment in the Alaska law. Attached is my proposal which would allow any commissioned officer or commander of any military unit to take acknowledgements and sworn instruments. Commanders are included because at some of our remote installations a noncommissioned officer can be the commander.

Let me know if I can provide any more information or assistance in this matter. Any assistance you can provide will be appreciated.

Sincerely

WILLIAM B. WIRIN
Colonel, USAF
Staff Judge Advocate

2 Atch
1. Summary of State Laws
2. Proposed Law

COL. WILLIAM B. WIRIN
STAFF JUDGE ADVOCATE
ALASKAN AIR COMMAND
ELMENDORF A.F.B.
ALASKA 99506

907/752-3451

19. —— Exhaustion of administrative remedies

Requirement that Army enlisted man, whose active duty enlistment had expired while he had been "lost" by the Army, stay at Army fort, at which he had requested discharge papers, pending processing did not constitute a "confinement" of such magnitude as to warrant habeas corpus relief, in nature of order excusing him from any confinement or duty that regulations or Army practice would otherwise impose, pending exhaustion of administrative remedies; to grant such relief as "pendent" to proceedings, basic thrust of which was premature, could only place a premium on premature litigation, an unwarranted burden on the Army as well as on the courts. Emma v. Armstrong, C.A.Mass. 1973, 473 F.2d 656. Certiorari denied 94 S.Ct. 87, 414 U.S. 870, 38 L.Ed.2d 88.

Until his status was formally changed, Army enlisted man, whose four-year active enlistment had expired during time he was "lost" by the Army, should have reported, as requested, to Fort Devens, Massachusetts, at which he had requested discharge papers, to stay pending initial determination by the Army whether he was truthful in disclaiming knowledge of orders to report to Fort Bliss, Texas, following expiration of one month's leave in Rhode Island, and whether by twice contacting recruiting station, he had acted reasonably thereafter; such request was not outside the Army's powers; thus, enlisted man, who sought discharge by way of habeas corpus, had not exhausted Army administrative remedies. Id.

Serviceman alleging that he had wrongly been required to make up lost time was not barred from resort to habeas corpus for failure to exhaust administrative remedies, in not appealing to Board for Correction of Army Records, where similar kinds of cases were infrequent, where it was unlikely that favorable recommendation by Board would be followed, where serviceman's extended service time was near termination, where issues involved were essentially legal, involving statutory interpretation, and where decision was explicitly restricted to the facts involved. Beaty v. Kenan, C.A.Cal.1969, 420 F.2d 55.

Where petitioner knew that a sergeant of special processing detachment was investigating his absence from assigned base and therefore had reason to believe that decision to extend his estimated termination of service was to be made by commanding officer of special processing detachment and petitioner could have applied to commanding officer to oppose extension of estimated termination of service date, Inspector General's erroneously advising him that the termination had been extended by post custodian of records did not entitle petitioner to writ of habeas corpus. U.S. ex rel. Gaston v. Cassidy, D.C.N.Y.1969, 296 F.Supp. 286.

Soldier, who, after being found guilty of absence without leave for period extending beyond date of expiration of his period of enlistment, was required to serve balance of enlistment period, under this section, authorizing Army to add to soldier's term of enlistment so-called "bad time", was not entitled to habeas corpus release upon claim that he had been denied procedural due process in Army's refusal to consider his good faith belief that he had been discharged, in absence of his having availed himself of administrative appeal provided in such cases. U.S. ex rel. Parsley v. Moses, D.C.N.J.1956, 138 F.Supp. 799.

20. Subrogation

Former sections 629 and 847a of this title, former section 751 et seq. of Title 5 and former section 421 et seq. of Title 38 indicate that Congress did not intend that, for tortious injuries to soldier in time of war, the government should be subrogated to the soldier's claim for damages. Standard Oil Co. of Cal. v. U.S., C.C.A.Cal.1946, 153 F.2d 958, affirmed 67 S.Ct. 1604, 332 U.S. 301, 91 L.Ed. 2067.

§ 973. Duties: officers on active duty; performance of civil functions restricted

(a) No officer of an armed force on active duty may accept employment if that employment requires him to be separated from his organization, branch, or unit, or interferes with the performance of his military duties.

(b) Except as otherwise provided by law, no regular officer of an armed force on active duty may hold a civil office by election or appointment, whether under the United States, a Territory or possession, or a State. The

acceptance of such a civil office or the exercise
officer terminates his military appointment.

(Added Pub.L. 90–235, § 4(a)(5)(A), Jan. 2, 1968, 81
96–513, Title I, § 116, Dec. 12, 1980, 94 Stat. 2878.

Historical Note

1980 Amendment. Pub.L. 96–513, § 116(c), substituted "officers on active duty" for "regular officers" in the catchline.

Subsec. (a). Pub.L. 96–513, § 116(a), substituted "of an armed force on active duty" for "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard".

Subsec. (b). Pub.L. 96–513, § 116(b), substituted "regular officer of an armed force on active duty" for "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard".

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Cross References

Performance of duties of Secretaries of Air Force, Army, o
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Chief of Staff or Air Force officers, see section 8017 o
Chief of Staff or Army officers, see section 3017 of thi
Chief of Naval Operations, Vice Chief of Naval Opera
officers, see section 5036 of this title.
Reduction in retired or retirement pay during term of emplo
Government Organization and Employees.

Library References

Armed Services ⇐15. C.J.S. Arm

Notes of Decisions

Civil office 1
Persons entitled to maintain action 2

1. Civil office

Term "civil office" as used in this section providing that no officer on active list of armed forces may hold civil office by election or appointment does not include commission as state notary public; military appointment of Navy lieutenant was therefore not terminated when he accepted appointment as California notary public. Riddle v. Warner, C.A. Cal.1975, 522 F.2d 882.

2. Persons entitled to maintain action

Plaintiff could not successfully claim standing to sue on basis of his status as a citizen in action challenging legality of defendant serving simultaneously as an assistant to President of the United States and as an officer of

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Where petitioner knew that a sergeant of special processing detachment was investigating his absence from assigned base and therefore had reason to believe that decision to extend his estimated termination of service was to be made by commanding officer of special processing detachment and petitioner could have applied to commanding officer to oppose extension of estimated termination of service date, Inspector General's erroneously advising him that the termination had been extended by post custodian of records did not entitle petitioner to writ of habeas corpus. U.S. ex rel. Gaston v. Cassidy, D.C.N.Y.1969, 296 F.Supp. 986.

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20. Subrogation

Former sections 629 and 847a of this title, former section 751 et seq. of Title 5 and former section 421 et seq. of Title 38 indicate that Congress did not intend that, for tortious injuries to soldier in time of war, the government should be subrogated to the soldier's claim for damages. Standard Oil Co. of Cal. v. U.S., C.C.A.Cal.1946, 153 F.2d 958, affirmed 67 S.Ct. 1604, 332 U.S. 301, 91 L.Ed. 2067.

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acceptance of such a civil office or the exercise of its functions by such an officer terminates his military appointment.

(Added Pub.L. 90–235, § 4(a)(5)(A), Jan. 2, 1968 81 Stat. 759, and amended Pub.L. 96–513, Title I, § 116, Dec. 12, 1980, 94 Stat. 2878.)

Historical Note

1980 Amendment. Pub.L. 96–513, § 116(c), substituted "officers on active duty" for "regular officers" in the catchline.

Subsec. (a). Pub.L. 96–513, § 116(a), substituted "of an armed force on active duty" for "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard".

Subsec. (b). Pub.L. 96–513, § 116(b), substituted "regular officer of an armed force on active duty" for "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard".

Effective Date of 1980 Amendment. Amendment by Pub.L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub.L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub.L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 90–235, see 1967 U.S. Code Cong. and Adm.News, p. 2635. See, also, Pub.L. 96–513, 1980 U.S.Code Cong. and Adm.News, p. 6333.

Cross References

Performance of duties of Secretaries of Air Force, Army, or Navy not considered as holding civil office within meaning of this section—
Chief of Staff or Air Force officers, see section 8017 of this title.
Chief of Staff or Army officers, see section 3017 of this title.
Chief of Naval Operations, Vice Chief of Naval Operations, or Naval or Marine Corps officers, see section 5036 of this title.
Reduction in retired or retirement pay during term of employment, see section 5532 of Title 5, Government Organization and Employees

Library References

Armed Services ⇐15.

C.J.S. Armed Services §§ 5, 28, 31, 33.

Notes of Decisions

Civil office 1
Persons entitled to maintain action 2

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1. Civil office

Term "civil office" as used in this section providing that no officer on active list of armed forces may hold civil office by election or appointment does not include commission as state notary public; military appointment of Navy lieutenant was therefore not terminated when he accepted appointment as California notary public. Riddle v. Warner, C.A.Cal.1975, 522 F.2d 882.

2. Persons entitled to maintain action

Plaintiff could not successfully claim standing to sue on basis of his status as a citizen in action challenging legality of defendant serving simultaneously as an assistant to President of the United States and as an officer of the Army holding the rank of General, since plaintiff did not rely on the precise self-operative provision of U.S.C.A. Const. Art. I, § 6, cl. 2, seeking to maintain independence among governmental branches but rather on a congressional enactment seeking to guard against potential for undue influence. Morrison v. Callaway, D.C.D.C.1974, 369 F.Supp. 1160.

Plaintiff did not have standing as taxpayer to bring action challenging legality of defendant's simultaneous service as an assistant to the President of the United States and as an officer of the Army holding the rank of General under provision of this section stating that no officer on active list of regular Army may hold civil office under United States and that acceptance of civil office or exercise of its functions terminates military appointment. Id.

HB

652

Sec. 05.15.810. Definitions. In this chapter

(1) "bingo" means a game of chance of, and restricted to, the selling of rights to participate, and the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, five or more in one line, the holder covering numbers when objects similarly numbered are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on the card;

(2) "charitable organization" means an organization, not for pecuniary profit, which is operated for the relief of poverty, distress, or other condition of public concern in the state, and which has been so engaged for five years before applying for a permit under this chapter;

(3) "civic or service organization" means any branch or lodge or chapter of a national or state organization which is a civic or service organization, not for pecuniary profit, and authorized by its written constitution, charter, or articles of incorporation, or bylaws to engage in a fraternal, civic or service purpose in the state and which has been so engaged for five years before applying for a license under this chapter;

(4) "contest of skill" means a contest or game in which prizes are awarded for the demonstration of human skills in marksmanship, races, and other athletic events;

(5) "dog mushers' association" means a civic, service or charitable organization in the state, not for pecuniary profit, formed exclusively to promote interest in the breeding and training of dog teams for work or recreational and racing purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(6) "dog mushers' contest" means a contest in which prizes are awarded for the correct guess of the racing time of a dog team or of team position in the race, including prizes to the race contestants;

(7) "educational organization" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction and which has been in existence for five years before applying for a license under this chapter;

(8) "fishing-derby association" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(10) "fraternal organization" means a civic, service or charitable organization in the state, except a college and high school fraternity, not for pecuniary profit, which is a branch or lodge or chapter, of a national or state organization and exists for the common business, brotherhood, or other interest of its members and which has so existed for five years before applying for a license;

(11) "gross receipts" means receipts from the sale of shares, tickets or rights connected with participation in any activity permitted under this chapter or the right to participate, including admission, fee or charge, sale of equipment or supplies, and all other miscellaneous receipts;

(12) "ice classic" means a game of chance in which a prize of money is awarded for the closest guess of the time the ice moves in a body of water or watercourse in the state and is limited to the Nenana and Chena Ice Pools in the same manner as they were conducted in 1959 and previous years;

(13) "net proceeds" means the gross receipts less expenses, prizes, duties, or charges, fees, and deductions which are specifically authorized under this chapter;

(14) "police or fire department and company" means a civic, service or charitable organization in the state, not for pecuniary profit, established by the state or a political subdivision of the state which has been in existence for five years before applying for a license under this chapter;

(15) "qualified organization" means a bona fide civic or service organization or a bona fide religious, charitable, fraternal, labor, political, or educational organization, police or fire department company, dog mushers' association, or fishing-derby association in the state, which operates without profits to its members and which has been in existence continually for a period of five years immediately before applying for a license; the organization may be a firm, corporation, company, association or partnership;

(16) "raffle and lottery" means the selling of rights to participate and the awarding of prizes, in the specified kind of game of chance sometimes known as a raffle or lottery, conducted by the drawing for prizes by chance;

(17) "religious organization" means an organization, church, body of communicants, or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society, not for pecuniary profit, of individuals united for religious purposes at a definite place and which has been so gathered or united for five years before applying for a license and is recognized as a religious organization under the federal income tax laws and the selective service law;

(18) "veterans organization" means a civic, service or charitable organization in the state, or a branch or lodge or chapter of a national or state organization in the state, not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has been in existence for five years before applying for a license under this chapter;

(19) "labor organization" means an organization, not for pecuniary profit, constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees;

(20) "rain classic" means a game of chance in which a prize is awarded for the closest guess of the amount of precipitation which is recorded at a certain location during a certain length of time;

(21) "political organization" means an organization or club organized under or formally affiliated with a political party as defined in AS 15.60.010. (§ 1 ch 27 SLA 1960; am §§ 4, 5 ch 66 SLA 1976)

Revisor's notes. — A semicolon was substituted for a comma and the word "and" following "license" in paragraph (15) by the revisor of statutes pursuant to AS 01.05.031(b).

Opinions of attorney general. — Under AS 05.15.210 a permit may be issued which gives a qualified organization the privilege of conducting any of the designated activities. AS 05.15.040 limits the activities that may be conducted to those activities specified in the permit. Under AS 05.15.060 the commissioner has authority to further limit the number of activities which may be conducted pursuant to any permit. Therefore, absent any regulation to the contrary, a permit could be issued for more than one activity to a qualified organization. 1960 Op. Att'y Gen., No. 8.

Item (16) of this section authorizes certain raffles and lotteries, but limits the raffle or lottery to that type conducted by a drawing for prizes. 1960 Op. Att'y Gen., No. 8.

That the term "lottery" as used in item (16) of this section does not include an ice pool is indicated by the express provisions of item (12). 1960 Op. Att'y Gen., No. 8.

While the conduct of an ice pool might come within the definition of a lottery, by the language in item (16) of this section, the legislature has limited a lottery to a game conducted by a drawing for prizes. 1960 Op. Att'y Gen., No. 8.

If the term lottery in item (16) of this section was meant to include an ice classic, then item (12) would be meaningless. 1960 Op. Att'y Gen., No. 8.

While there may have been other ice pools conducted prior to the date of this section, the language of item (12) shows that the legislature intended to authorize only two pools, the Nenana and Chena, and none other. 1960 Op. Att'y Gen., No. 8.

NOTES TO DECISIONS

Cited in State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 2/21/84

REQUEST
Bill/Resolution No: HB 652
Title: An act relating to permits for games of chance and contests of skill
Sponsor: Shultz
Requestor: House State Affairs & Finance Committee
Date of Request: 2/21/84

FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: Revenue Collection & Management
BRU, Program or Subprogram(s) Affected: Public Services Division BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
	OPERATING						
100	PERSONAL SERVICES	-	14.1	14.6	15.1	15.6	16.1
200	TRAVEL	-	-	-	-	-	-
300	CONTRACTUAL	-	-	-	-	-	-
400	SUPPLIES	-	.7	.8	.9	1.0	1.1
500	EQUIPMENT	-	1.0	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS	-	-	-	-	-	-
800	MISCELLANEOUS	-	-	-	-	-	-
	TOTAL OPERATING	-	19.8	15.4	16.0	16.6	17.2
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	38.5	40.5	42.5	44.6	46.9

FUNDING: (Thousands of Dollars)

	GENERAL FUND	-	19.8	15.4	16.0	16.6	17.2
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER	-	-	-	-	-	-
	TOTAL	-	19.8	15.4	16.0	16.6	17.2

POSITIONS:

	FULL-TIME	-	.5	.5	.5	.5	.5
	PART-TIME	-	-	-	-	-	-
	TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attached.

Prepared By: Martin J. Richard Phone: 465-2392
Division: Public Services Date: 2/21/84

Approved by Commissioner: Date: 2/22/84
Agency: DOR

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HB 652 ANALYSIS
PUBLIC SERVICES DIVISION BRU

EXPENDITURES

1. Passage of HB 652 will require a seasonal, (6 months) Tax Examiner to handle a minimum of 227 new applications. Each application and attendant Financial Statement requires 1.5 to 2.0 hours of processing and in addition, clerical time of approximately one hour per application is required.

2. The personal service costs include the total for insurance and various other benefits. Annual increases for personal services are based on 3.5% rate, reflecting average contractual salary and merit increases.

3. The supplies and commodities include new forms, mail outs and miscellaneous clerical supplies. All instructions and forms will require immediate revision and reprint for FY85. Figures for FY86-89 reflect additonal forms costs for increased number of permittees.

   Equipment money required in FY85 is for furniture and office equipment for the seasonal Tax Examiner.

REVENUE

Figures in this area are based on 227 new applications remitting an annual permit fee of $20.00 each. Additionally the required 1% of gross receipts be remitted with annual financial statement. An average of the 1% fee is $150.00 per permittee.

BACKGROUND

HB 652

"An Act relating to permits for games of chance and contests of skill; and providing for an effective date."

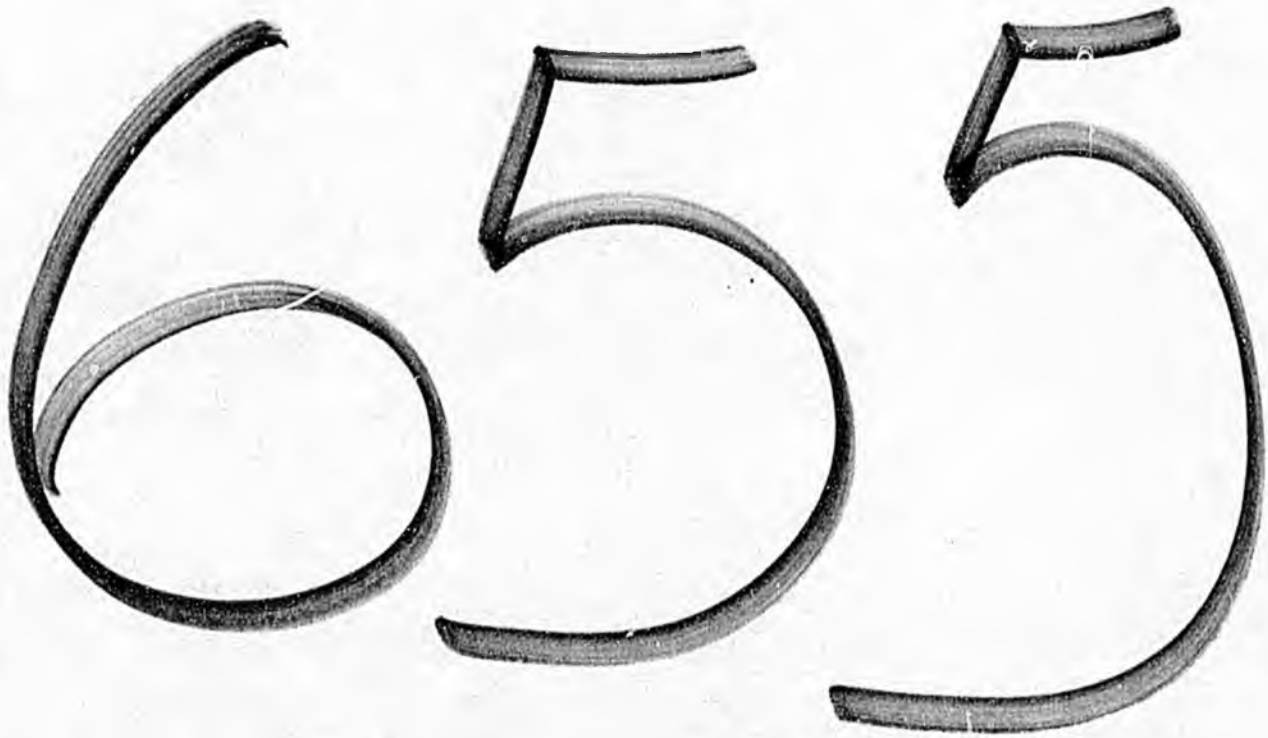
Throughout the state, and especially in smaller communities and suburbs, new chapters of existing organizations are being formed. These organizations include the American Legion, Kiwanis, the Lions Club, the Veterans of Foreign Wars, Rotary Clubs, historical societies, the Pioneers of Alaska, dog musher's associations, religious organizations, Elks, Eagles, labor organizations, political organizations, rifle clubs, sportsmen's groups, etc. This growth can be attributed directly to the simple fact that the state is growing.

Since most of these organizations do not operate with public funds they must generate operating monies independently. Games of chance, such as bingo and raffles; as well as contests of skill, where prizes are awarded for the demonstration of human skills in marksmanship, races and other athletic events have proven to be an effective fund-raising tool for these groups.

Under current law, these new organizations cannot apply for a license to conduct games of chance or contests of skill until they have been in existence for five years. This is an unnecessary delay to these organizations, most of whom perform a valuable public service, especially in smaller communities. This Act would allow for the Commissioner of the Department of Revenue to adopt regulations whereby the five year waiting period could be reduced to one year, provided that the organization is a chapter of an existing organization that has been in operation for five years.

from Rep Stutes


HB


655

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

AGENDA

DATE: 2/27/84

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY. AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

HB 655 LONGEVITY BONUS PROGRAM

OTHER NOTES OR REMINDERS:

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: , 1984

REQUEST
Bill/Resolution No.: HB 655
Title: Longevity Bonus Program

Sponsor: Hayes
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Social Services

BRU, Program of Subprogram(s) Affected:
Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		85.2	28.7	28.7	28.7	28.7
200 TRAVEL						
300 CONTRACTUAL		85.0	85.5	86.0	86.5	87.0
400 SUPPLIES		1.5	1.0	1.0	1.0	1.0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		55,368.0	18,456.0	18,456.0	18,456.0	18,456.0
800 MISCELLANEOUS						
TOTAL OPERATING	0	55,539.7	18,571.2	18,571.7	18,572.2	18,572.7
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND		55,539.7	18,571.2	18,571.7	18,572.2	18,572.7
FEDERAL FUNDS						
OTHER						
TOTAL	0	55,539.7	18,571.2	18,571.7	18,572.2	18,572.7

POSITIONS:

FULL-TIME	0	1.0	1.0	1.0	1.0	1.0
PART-TIME	0	2.7	0	0	0	0
TEMPORARY	0	0	0	0	0	0

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor.

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: E. Louis Kelley, Director
Division: Pioneers' Benefits
Phone: 465-4400
Date: 2/16/84

Approved by Commissioner: Lisa Rudd
Agency: DEPARTMENT OF ADMINISTRATION
Date: 2/22/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

12/7D1/0216 08/14

HB 655
Fiscal Note Analysis
Prepared by Division of Pioneers' Benefits
Department of Administration
February 16, 1984

This bill will change eligibility requirements for the Longevity Bonus Program to allow all one-year residents of Alaska who are age 65 or older to participate. In 1990 the age for eligibility will be advanced to 66 years, and each year thereafter it will be increased one additional year.

Assumptions

a. All persons who are age 65 and older who have been residents of Alaska for at least one year will be eligible for payments in FY 85-90. On July 1, 1990, the age for eligibility will be increased to 66 years, and each year thereafter on July 1, it will be increased one year.

b. It is believed that there are approximately 16,500 persons now living in Alaska who will qualify under new eligibility requirements, and that there will be approximately 10,348 persons on the program by July 1, 1984. Therefore, it is assumed that an additional 6,152 persons will be enrolled on the program in FY 85 under the bill.

c. The amount of the bonus will be $250 per month.

d. The program will continue to grow at the rate of approximately 50 per month, after the initial group of persons are enrolled who will be made eligible by the one-year residency requirement.

e. Retroactive payments in the amount of $250 per month will be made to persons who would have been eligible as of July 1, 1982.

f. All costs will be paid from the State General Fund.

g. An increase in the Longevity Bonus staff will be needed to process the flood of new applications.

h. The Act takes effect 30 days after a final decision by the Alaska Supreme Court if that decision affirms the findings of the Superior Court in the existing law suit by Rodney Vest. For lack of a definite date, it is assumed for the purposes of computing this fiscal note, that the effective date will be July 1, 1984.

12/7D1/0216-08/2

MEMORANDUM State of Alaska

TO: Ray Gillespie
Director
Legislative Relations

DATE: February 16, 1984

FILE NO:

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: SB 474, HB 655, HB 656
Longevity Bonus
Stairstep Bills

By: Deborah Vogt DV
Assistant Attorney General

Deputy Commissioner of Administration Eleanor Andrews has asked that I pass on to you my comments on the legal issues implicated by the bills proposing the stair-stepping approach to the longevity bonus program. These bills (the three are identical) propose that the program be opened to all who are 65 and have lived in the state one year, and that starting in 1990 the requisite age for eligibility be raised one year each year. The bills have the effect of allowing any person who reaches the age of 65 by 1990 to participate in the program for the rest of his or her life (if the residency requirement is met) and excluding every person who has not reached age 65 by 1990 from ever participating in the program.

The basic concept of stair-stepping will be subject to an equal protection challenge. The bills remove any right-to-travel questions raised by the present program and some suggested alternatives: a person who moves to the state will be eligible (after one year) so long as that person meets the age requirement. But the bills do discriminate between those persons who are 65 or older in 1990 and those who are not. The question will be whether there is a legitimate, rational basis for making the distinction. The legislature certainly may end a program which it has begun; the question will be whether it can end it by continuing to benefit a closed class. An argument can be made that when the fiscal concerns of the state are balanced against the reliance interest of those who have planned their lives around receiving the bonus, this approach is a legitimate means to deal with those competing objectives. But the bills do describe a closed class: those who reach 65 by 1990.

The drafters of the bills have apparently looked to the recent amendments of the Social Security Act as authority for the stair-stepping approach. Those amendments provide that "retirement age" will go up in the years to come. But those amendments cannot be viewed as direct authority for these bills.

The eligibility age under social security goes up about six months every seven years. Thus, although younger people wait a little longer for benefits, no one is foreclosed. The proposed bills would completely exclude anyone who had not reached 65 by 1990. On the other hand, the bonus program is clearly a mere grant, while social security is based on individual payments into the program. In sum, it is not clear whether a stair-step approach which completely excluded those who were not 65 in 1990 would survive an equal protection challenge. The approach would be much more clearly valid if the stair-stepping were slower - for example if the age requirement went up one year every two years - so that people would have to wait longer, but would not be excluded entirely.

The one year residency requirement can probably be successfully defended. The purpose of the requirement would be to separate bona-fide residents from visitors, and since the program does not deal with fundamental rights (like voting) or with basic necessities of life (like welfare), a one year period would seem to be a rational short-hand for distinguishing between those who actually are Alaska residents and those who are not. Retired persons often spend months at a time away from their primary place of residence, and a shorter period undoubtedly would result in some persons receiving benefits who are not actually residents.

Any longevity bonus bill should be sensitive to the interplay between the bonus program and Alaska's adult public assistance program. Adult public assistance benefits are granted on the basis of available income, and income is defined under federal regulations (since federal money is involved in the program). Benefits under the present bonus program are exempt under a federal statute, which does not count as income any payments made by a state on a regular basis to persons "solely on attainment of age 65 and duration of residence in such state." (Another section exempts benefits under a program which bases benefits on income, but, of course, that exemption would have no application to these bills.) Thus, presently a person can receive full adult public assistance benefits plus the longevity bonus. Without the exemption, adult public assistance would be reduced by the amount of the bonus.

Since the bills would change, beginning in 1990, the age of eligibility from 65 to 66 and then 67 and so on, it would appear that the proposed program would not come within the exemption. It is possible that the existing statute could be interpreted to mean "at least 65," and apparently Senator Stevens has expressed the opinion that this might be the case.

Alternatively, it would be possible to change the federal statute. Finally, it would also be possible, if neither of the first two alternatives were to succeed, for our legislature to separately provide needy persons with the lost benefits from state funds.

I was surprised to note that the bills contain a provision that benefits are retroactive to July 1, 1982. Last year, when the lawsuit was stayed through the legislative session, there was an agreement between the state and counsel for Vest that a bill with retroactive benefits to that date would settle the lawsuit. Since no bill was passed, the settlement, in effect, fell apart. The state had agreed to seek retroactive legislation to that date, and Vest and his class had agreed not to seek benefits between the time the original act was passed (1972) and that date. Since the settlement was not accomplished, neither side is bound by that agreement. Thus, retroactive payments this year will have no effect on the lawsuit.

Finally, it would be a good idea, in any longevity bill, to include a provision to the effect that any person who is presently qualified to receive the bonus is automatically qualified under the new program. Since, once qualified, a person may spend up to 180 days per year out of the state, it is possible that some presently qualified recipients would have trouble meeting the one year continuous residence requirement, notwithstanding that they are bona-fide residents.

cc: Eleanor Andrews



Alaska State Legislature

K

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

February 22, 1984

MEMORANDUM

TO: Members of the House State Affairs Committee

FROM: Representative Joe Hayes, Speaker
House of Representatives

Representative Adams, Chair
House Finance Committee

SUBJ: HB 655, "An act relating to the longevity bonus program and providing for an effective date"

Today you will be considering HB 655, the "stair stepping" proposal for the longevity bonus program that we have sponsored. Since most of you have joined us as co-sponsors, you are familiar with the legislation. We will, however, review the main issues at hand, for your information.

HB 655 accomplishes the following:

1. Makes the longevity bonus program constitutionally defensible by opening it up to all persons 65 and over with one year of Alaskan residency.

2. Increases the age of eligibility for the program by one year, each year, beginning in July, 1990.

3. Provides one time retroactive payments back to July 1, 1982, for all members of Mr. Vest's class; i.e. those who were residents of at least one year in July, 1982. This one time check would be up to $6,000 ($250 x 24 months of retroactive monthly payments) for each person in the class.

4. Includes a backstop clause making the new stair-stepping program effective only if the Alaska Supreme Court rules the present program unconstitutional.

We introduced HB 655 for the following reasons:

1. We feel it is the best option available to the legislature to protect the present recipients. A look at the legislative history of the longevity bonus program shows that it is the present recipients, i.e. long time Alaskans who were born or came here before statehood, who the program was originally designed for.

2. The concept of increasing the age of eligibility over time is constitutionally defensible. A similiar approach was taken recently in federal social security legislation. Under the federal amendments, the age of eligibility increases by six months every seven years.

3. Stair-stepping is not a needs based, welfare-type program. The authors of the original program fought long and hard for a program without any income constraints and we wish to continue their objective because we believe this is what the majority of today's elders want. In our conversations with seniors, individually and in organized groups, and in our constituent mail, we detect a strong feeling against a needs based program. Our seniors wish to be rewarded because of their contribution to Alaska, not because of how much income they bring in each year.

4. The costs of the program parallel the State's revenue curve, i.e. the costs increase during the years revenues are up and decrease when revenues are expected to go down. Because we do not start increasing the age of eligibility until the start of FY 91 (July, 1990), all seniors who have lived in Alaska for at least one year and who are 60 or older in 1984 will receive a longevity bonus check each month for the rest of their lives. We can afford to do this because our revenues are predicted to be fairly high until 1990. After that time, we decrease the number of new entrants to the program by increasing the entrance age. Thus, the program is affordable as well as fair to our current elders --- those whom the program was originally designed for.

Some additional comments on the program's fiscal impact are in order. We have commissioned the House Research Agency to work with our own staff to develop cost estimates for our proposal that are independent of the administration's fiscal note process. Our current estimates range from $48 to $62 million in total costs (including administration) each year for the years before stair stepping begins. After that time, the cost decreases $3 to $5 million each year. Additionally, our estimate for the cost of the retroactive payments is $30 million.

Our cost estimates will probably differ slightly from the administration estimates because of slightly different assumptions about the total number of elders and their mortality and migration patterns. However, we use the same administrative cost percentages as the executive branch.

In conclusion, we urge you to favorably consider HB 655 since we believe that it provides the best option for the future of the longevity bonus program given the fact of constitutional constraints.

Attachments

(3) "department" means the Department of Health and Social Services. (§ 1 ch 136 SLA 1970; am § 2 ch 210 SLA 1970; am § 55 ch 71 SLA 1972)

Legislative history report. — For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

Chapter 45. Alaska Longevity Bonus.

Section

10. Persons who may qualify for longevity bonus
20. Commencement; eligibility procedures
30. Absence from the state
40. Disqualification
50. Department hearing
60. Legal remedy
70. Unqualified persons
80. Accrual of bonuses
90. Alaska longevity bonus fund
100. Powers and duties of the administrator
110. Custody of funds
120. Exemption from taxation and process
130. Death or cessation of residency
140. Penalty for false statements
150. Definitions
160. Applicability of Administrative Procedure Act
170. Purpose

Editor's note. — Section 2, ch. 205, SLA 1972, provides: "AS 01.10.030 does not apply to this Act. If any provision of this Act, or the application of a provision of this Act to any person or circumstance is held invalid, this entire Act shall be considered invalid."

Legislative history report. — For report on ch. 205, SLA 1972 (FCCS HCS CSSB 211), see 1972 House Journal, p. 751.

Sec. 47.45.010. Persons who may qualify for longevity bonus. (a) A person who is 65 years of age or over, who was domiciled in the territory on or before January 3, 1959 and who has maintained a continuous domicile in the territory or state for 25 years may apply to the commissioner of administration for qualification to receive a monthly bonus of $150.

(b) When the commissioner of administration determines that an applicant qualifies under this chapter he shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in this chapter may continue to do so only as long as he continuously retains a domicile in the state. (§ 1 ch 205 SLA 1972; am § 1 ch 33 SLA 1976; am § 1 ch 89 SLA 1978)

Effect of amendments. — The 1976 amendment increased the monthly bonus in subsection (a) from $100.00 to $125.00.

The 1978 amendment increased the monthly bonus in subsection (a) from $125.00 to $150.00.

Legislative history report. — For report on ch. 33, SLA 1976 (SB 476 am), see 1976 Senate Journal, p. 160.

Sec. 47.45.020. Continuous eligibility procedures. After qualification, monthly applications for bonuses may be made in person to any office of the Department of Administration. Mailed monthly applications shall also be considered by the Department of Administration. In-person or mailed applications shall be made on forms provided by the Department of Administration and shall conform to the conditions as provided by regulation. The commissioner may make exceptions for those residents who are isolated in rural areas and cannot mail a monthly application; however, they shall mail an application at least once every six months. (§ 1 ch 205 SLA 1972)

Sec. 47.45.030. Absence from the state. A recipient shall notify the commissioner of administration when he expects to be absent from the state if the absence is for a continuous period tha. exceeds 30 days. After that notification, the recipient shall no longer receive bonuses from the Department of Administration after his last regularly approved monthly application. Upon his return to the state he may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after his return to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, he may not be disqualified, if he still otherwise qualifies upon his return to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification. (§ 1 ch 205 SLA 1972)

Sec. 47.45.040. Disqualification. Disqualification under this chapter shall rest solely with the commissioner of administration and shall be outlined in the regulations promulgated under AS 47.45.100(1). (§ 1 ch 205 SLA 1972)

Sec. 47.45.050. Department hearing. The Department of Administration may hold a departmental hearing upon the request of an applicant or recipient who has been disqualified. Previous to this hearing the department shall by certified mail notify an applicant or recipient in plain and comprehensive language the exact reason for his disqualification. Form letters using only referral to state statutes or department regulations, or otherwise vague in detail, shall not be considered compliance by the department with this section. (§ 1 ch 205 SLA 1972)

Sec. 47.45.060. Legal remedy. Legal remedy from disqualification may be sought by an applicant or recipient in any court of competent jurisdiction in the state. The burden of proof shall rest solely upon the applicant or recipient and any costs related to a disqualification verdict determined against the applicant or recipient may be recoverable by the attorney general from that person, or from any agency representing that person supported in whole, or in part, with state appropriations. (§ 1 ch 205 SLA 1972)

Sec. 47.45.070. Unqualified persons. An unqualified person is one who

(1) does not meet the age or residence requirements as provided for under this chapter;

(2) meets the age and residence requirements of this chapter but is confined in a state or federal mental health institution or facility and is certified by the state as unable to manage his own affairs; however, if that person, at the time of his commitment, provided the principal support of a spouse, the commissioner of administration may determine to pay the confined person's bonus to his spouse until the spouse is qualified for a bonus;

(3) is otherwise qualified but confined in a penal or correctional institution or facility; upon completion of sentence or upon the conferral of a pardon, parole or probation, the person may make application; confinement outside the state shall be considered as residence in the state if a person was convicted and sentenced from a court in Alaska; revocation of parole or probation shall be cause for immediate disqualification until release from confinement is again effected;

(4) leaves the state of his own volition and remains absent from the state for a continuous period of more than 180 days. (§ 1 ch 205 SLA 1972)

Sec. 47.45.080. Accrual of bonuses. No recipient may, for any reason, receive an accrual of bonuses in excess of two monthly payments. No interest may be paid on accrued bonuses. Upon the death of a recipient the commissioner of administration shall pay to the beneficiary of the recipient any accrued bonuses not to exceed two monthly payments. (§ 1 ch 205 SLA 1972)

Sec. 47.45.090. Alaska longevity bonus fund. (a) There is the Alaska longevity bonus fund created for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of all money made available by appropriations of the state legislature, and from other appropriated funds, all contributions from whatever source, and income and interest derived from the investment of money.

(b) The commissioner of administration is the administrator of the fund. (§ 1 ch 205 SLA 1972)

Sec. 47.45.100. Powers and duties of the administrator. The commissioner of administration shall

(1) promulgate regulations necessary to carry out the provisions of this chapter;

(2) make expenditures from the fund necessary to administer this chapter;

(3) establish and maintain an adequate system of accounts for the fund;

(4) publish annually a report showing the financial condition of the fund. (§ 1 ch 205 SLA 1972)

Sec. 47.45.110. Custody of funds. The commissioner of revenue is the treasurer of the system and has powers and duties for this purpose including but not limited to the following:

(1) to act as official custodian of the cash and securities belonging to the fund;

(2) to receive all items of cash belonging to the fund. (§ 1 ch 205 SLA 1972)

Sec. 47.45.120. Exemption from taxation and process. Bonuses received under this chapter are exempt from all state and political subdivision taxes except sales and use taxes and are not subject to execution, attachment, garnishment or other process. No bonus received under this chapter may be exempt from a federal tax requirement. (§ 1 ch 205 SLA 1972)

Sec. 47.45.130. Death or cessation of residency. The commissioner of administration shall establish procedures to stop a bonus when a recipient under this chapter no longer qualifies. When a recipient dies or discontinues his residency in the state his qualification for a bonus shall stop at the time of his last approved monthly application. (§ 1 ch 205 SLA 1972)

Sec. 47.45.140. Penalty for false statements. A person who wilfully or knowingly makes a false statement, or falsifies or permits to be falsified any record required by this chapter, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $500, or by imprisonment for not more than six months, or by both, forfeits all rights under this chapter, and shall make adequate restitution for any bonuses illegally received. (§ 1 ch 205 SLA 1972)

Sec. 47.45.150. Definitions. In this chapter

(1) "bonus" means a monthly Alaska longevity bonus payment made to a person or his beneficiary who qualifies under this chapter;

(2) "domicile" means the place with which a person has a settled connection for determination of his civil status or other legal purposes because it is actually or legally his permanent and principal home. (§ 1 ch 205 SLA 1972)

Sec. 47.45.160. Applicability of Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) does not apply to this chapter. (§ 1 ch 205 SLA 1972)

Sec. 47.45.170. Purpose. The sole purpose of this chapter is to offer and provide all law-abiding Alaskans capable of managing their own affairs who have maintained a domicile in the state for at least 25 years and have reached a retirement age of 65, an incentive to continue uninterrupted residency in the state. Under no circumstances shall this chapter be considered a form, type, or manner, of public relief. Bonuses made under this chapter are not predicated on need even though they

may appear to provide supplemental income to some qualified persons who would otherwise be forced to become responsibilities of the state. The legislature further finds and states that this legislation recognizes the economic hardships suffered by many elderly Alaskans, Alaskans who through their tenacity and perseverance molded Alaska as we know it through skillful application of their talents. These pioneers are the same Alaskans, who in the prime of their life were in effect treated as second-class citizens by the federal government and who paid much of their hard-earned income to a government in which they did not have the right to participate through the power of the ballot. The legislature also is aware of the fact that many of these pioneers have been forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationship with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans of the benefits of their wisdom and experience. This legislation hopefully will provide our pioneers with the economic means to remain in and continue to serve their state and to enjoy the opportunity of aiding the new Alaskan in making this state truly "The Great Land." (§ 1 ch 205 SLA 1972)

Chapter 50. Office of Child Advocacy.

Section		Section	
10.	Office of Child Advocacy	40.	Powers and duties of board and director
20.	Board of directors for the Office of Child Advocacy	50.	Departments to assist Office of Child Advocacy
30.	Compensation and expenses		

Editor's note. — For legislative findings, see § 1, ch. 189, SLA 1972, in the 1972 Temporary and Special Acts.

Sec. 47.50.010. Office of Child Advocacy. There is created in the Office of the Governor the Office of Child Advocacy to act as a coordinating body for services for children from prenatal to age 18. The Office of Child Advocacy is administered by a director appointed by the board of directors with the approval of the governor. Staff may be employed in accordance with appropriate budgets. (§ 2 ch 189 SLA 1972)

Sec. 47.50.020. Board of directors for the Office of Child Advocacy. There is created a board of directors for the Office of Child Advocacy. The board consists of the Alaska State Council on the Coordination of Community Child Care plus four members not more than 18 years of age appointed by the governor for a term of two years each, or until the youthful member attains the age of 19 years. (§ 2 ch 189 SLA 1972)

From: (Mrs.) Vivian G. Ayerst
1220 East 16th, #6
Anchorage, Alaska 99501
Phone - 279-5330

Senator Pat Rodey AND OTHERS INTERESTED
Pouch V, Mail 3100
Juneau, Alaska 99811

REF: LONGEVITY BONUS PROGRAM

Dear Senator and other Friends:

I very positively favor the continuation of the Longevity Bonus Program; however I am NOT IN FAVOR of discriminating in favor of the "needy". To determine a TRUE and HONEST qualification of "needy" would be judgmental, often inaccurate and practically impossible. It would also discriminate against those who have worked hard all their lives in order to retain independence and not become a burden on family, city, state or government. Compare these folks with those who have been content to sit back and take it easy, let relatives or governmental agencies foot their bills and who--of course--would be first in line to secure money being "needy". This concept would be totally unfair to the aforementioned thrifty, hard working, conservative seniors.

To give up this Program entirely would spell TRAGEDY. Many seniors have managed to take care of themselves due to the bonus. Now if the rug is suddenly jerked out from under them with no bonus coming they would no longer be able to care for themselves. If you think the "street people" in our larger cities is a problem, that's MINIMAL compared to the necessity of finding food, clothing and shelter for all those seniors no longer able to be independent and function WITHOUT the Longevity Bonus.

I know a lady who has worked and brought in a modest income all her life--the last 30 years in Alaska. She will be 77 next birthday and continues working. When securing a mortgage to purchase their home, this couple listed their joint Soc.Security and Longevity Bonus funds as dependable income. The husband has since died, and the wife continues to work and live at home though she no longer has his Soc. Security nor Longevity Bonus income. Imagine her predicament should the Bonus be terminated? She'd become another statistic on official Welfare Rolls!!!!! By retaining the Bonus Program, however, she can manage until death.

How to pay for this program? According to law, residency must not enter into the picture. Some say money is available...some say NO MONEY is available...others say a NEW SOURCE OF REVENUE must be found. If the latter is true, I suggest that you raise the retirement age by ONE YEAR. Yes, this is discriminatory towards those of age 65, but so is the age cut-off on drivers, fishermen, drinkers, voters, school students and countless others whose licenses require that you be a certain age to qualify. By making only seniors AGE 66 AND OVER (proven by birth certificates or other legal means) eligible for the Longevity Bonus might help make the Program more palatable to some and more financially feasible to others.

WHATEVER you do, please do not scrap the LONGEVITY BONUS PROGRAM!!!!!!!!

Respectfully, and sincerely,

Vivian G. Ayerst.

Copies enclosed.

P

MSG 84-00012784 PRTY 1 02/13/84 10:57:28 ORIG: LA09 IN= 0005 OUT= 0047
FROM: PAT/ANCH LIO TO: JUNEAU INFO/POM
TARGET: LJHK SUBJ:

TO: SENATORS BENNETT, ELIASON, FAHRENKAMP, FAIKS, FERGUSON, V. FISCHER, JOSEPHSON, KERTTULA, MOSS, RODEY, AND SACKETT;
AND REPRESENTATIVES ABOOD, ADAMS, BUSSELL, CATO, COWDERY, FULLER, FURNACE, M.M. MILLER, RINGSTAD, TISCHER, AND UEHLING
FROM: ROSE PALMQUIST; 2805 DAWSON; ANCHORAGE, AK 99503
(H)376-2274 (W)561-5280

AT MEETING AND TELECONFERENCE LAST FRIDAY NIGHT OF MORE THAN 65 PERSONS, ALL BUT TWO INDICATED SUPPORT FOR THE PROPOSED BILL INITIATED BY SENATORS RODEY, FISCHER, FAIKS, AND OTHERS, REGARDING LONGEVITY BONUS. THIS POSITION MAY BE BASED ON BELIEF THAT BILL SPONSORED BY MIKE MILLER MAY NOT FLY.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

August 31, 1983

MEMORANDUM

TO: Representative Hugh Malone

FROM: Gretchen Keiser
Legislative Analyst

RE: Basic Information on Alaska's Elderly Population
Research Request 83-203

Cliff Groh, on your behalf, requested that we answer a number of questions regarding Alaska's aged population. The information requested can be subdivided into the following four topics:

I. Alaska's Elderly Population: Present and Future
II. Elderly Public Assistance and Social Security Recipients
III. Longevity Bonus Program Recipients
IV. Life Expectancies of Alaska's Elderly

This memorandum presents the information we obtained regarding older Alaskans. We initially provide a summary of findings then present detailed information on each of the above topics in four separate sections. Specific questions you asked are reiterated at the beginning of each section.

SUMMARY OF FINDINGS

The number of older persons residing in Alaska cannot be definitely estimated because of the inherent biases and limitations of the population data available from [illegible] sources: the Alaska Department of Labor and the Permanent Fund Dividend Program. We conclude that the elderly population [illegible] as of July 1, 1983 probably falls between [illegible] and 15,500. Estimates in this range are higher than the 13,500 population figure used by Senate supporters of the proposed modification to the Longevity Bonus Program under CSSB 215 but lower than the 16,500 figure used by the Department of Administration in its preparation of fiscal notes for a modified Longevity Bonus Program earlier this year (pages 4 - 8).

On the basis of rather limited data, we suggest that approximately 96 to 98 percent of older Alaskans have resided in the state more than one year. The available data indicate that in recent years at least 2 to 4 percent of the elderly, on an annual basis, are new entrants with less than one year of residency. Therefore, assuming that 2 percent migrated to the state within the last year, we estimate that between 14,915 and 15,580 older Alaskans are residents of at least one year. If we assume a greater in-migration of 4 percent annually, between 14,620 and 15,265 elderly would be eligible for a longevity bonus under a one year residency requirement (pages 5 and 6).

During the period 1970 - 1982, the elderly population grew at a rate (5.6 percent average annual growth) was considerably greater than that of the total population in Alaska (3.4 percent), mirroring a nationwide pattern. In 1982, the elderly represented approximately 3 percent of Alaska's population. The elderly population is expected to continue growing between 4 and 6 percent annually, while the total population growth rate is projected to rise to between 1 and 2 percent annually through the remainder of this century (pages 9 and 10).

We projected Alaska's elderly population in the year 2000 under a series of average annual growth rates. If we assume a 1983 population of 15,250 (midpoint of the 14,600 to 15,900 range previously discussed), the elderly population in the year 2000 would equal 30,100 (at 4.0 percent average annual growth), 32,170 (4.5 percent), 35,680 (5.0 percent), 38,845 (5.5 percent), and 42,290 (6.0 percent) in the year 2000. By the turn of the century, Alaska's elderly population will probably be between 2 to 3 times its present size. At 5 percent growth per year, the elderly would represent approximately 6 percent of the state's population in the year 2000, as projected by ISER's MAP model base case forecast (pages 10 - 13).

Available information on elderly interstate migration, historical patterns of older Alaskans' migration, socioeconomic characteristics, and lifestyle preferences of aged persons suggest that a significant increase in Alaska's elderly population solely on the basis of a monthly [illegible] of Alaska's elderly [illegible] state as a result of a cash payment program would be those who already live in the state (pages 13 - 16).

The major sources of cash benefits to elderly public assistance recipients are federally funded Supplemental Security Income (SSI) and State-funded Old Age Assistance (OAA), which average $238 per month for 900 SSI recipients and $236 per month for 2,300 OAA recipients. Approximately 18 percent of elderly Alaskans were SSI and/or OAA recipients in October 1982. In comparison, approximately 9 percent of the total population [illegible] monthly public assistance of all types (pages 17 - 19).

In 1982, 10,210 older Alaskans received Social Security payments under the retirees, survivors, and disability programs. Nationally in 1982, monthly payments averaged: $408 (retired worker), $700 (aged couple both receiving payments), and $378 (aged widow or widower) (page 17).

A total of 9,776 older Alaskans, representing approximately 61 to 67 percent of Alaska's elderly were qualified to receive longevity bonus payments in July 1983. On the average, 90 percent of the qualified recipients received bonus payments each month during 1983, with the remainder being ineligible due to absences of more than 30 days. The number of qualified recipients grew about 7 percent in the last year (pages 19 - 20).

Over two-thirds of the bonus recipients in January 1983 were 65 to 74 years old. Approximately one-quarter of the qualified recipients currently live in Southeast, roughly 42 percent live in the Anchorage/Southcentral area, 18 percent in the Interior, and the remaining 15 percent reside in Northern and Western Alaska. Ethnic data are not currently required of bonus applicants, but a 1978 survey indicates that 56 percent of the recipients were Native and 44 percent were non-Native at that time (pages 20 - 22).

Income data are also not required of current bonus recipients. In 1976, an overwhelming majority of recipients surveyed had monthly incomes (including their spouse's) under $1,000. A 1981 survey reported a marked regional difference in the dependency of older Alaskans (60 years and older) on the bonus payments as the major source of income. Only 3 percent of those surveyed in Southeast and Southcentral indicated that the bonus payments were their major source of income, while 41 and 66 percent of those surveyed in Southwest and Northwest Alaska indicated a primary dependency on the longevity bonus payments (page 22).

Rough estimates from the Department of Health and Social Services suggest that 20 percent of the aged currently receiving public assistance also participate in the longevity bonus program. Information from the 1976 survey indicates that 7 percent of the recipients of OAA Age Assistance also received bonus payments. Overall, about 25 percent of the bonus recipients also received OAA (page 23).

The life expectancies of older Alaskans are similar to those of the elderly nationwide. A 60-year old female participant in the longevity bonus program might expect, on the average, to receive monthly payments for about 22 years. A qualified 68-year old male could enjoy cash payments for roughly 14 years (pages 23 and 24).

I. Alaska's Elderly Population: Present and Future

Questions: How many persons 65 or over are there in Alaska? How many have resided in the state one year or more? How fast is the elderly population growing relative to the entire state population? What are the most likely projections for the number of aged in Alaska in the next 20 years (with and without a reasonable adjustment for the effects of a program which makes cash payments to all elderly one-year residents)?

According to the Alaska Department of Labor (DOL), there were 13,921 Alaskans 65 years and older on July 1, 1982. This estimate is benchmarked to the 1980 Census, revised upward by DOL for estimated undercounting, and adjusted seasonally to a July 1st rather than April 1st date. Persons by age and sex were as follows:

AGE	MALE	FEMALE	TOTAL
65 - 69 years	3,113	3,197	6,310
70 - 74 years	1,818	2,003	3,821
75 years and over	1,652	2,138	3,790
TOTAL	6,583 (47.3%)	7,338 (52.7%)	13,921

In the absence of a DOL population estimate for July 1, 1983, we projected the number of senior citizens based on a review of the annual DOL population data for the period 1970 to 1982 (Attachment A). The older age group grew at an average annual rate of about 5.6 percent over the 12-year period. Looking at the past five years since completion of the TransAlaska Pipeline (1977-1982), the elderly population increased 4.8 percent annually, on the average. More recently between 1980 and 1982, the aged population grew on an average of 6.8 percent annually. On the basis of these recent historical growth rates, we projected the July 1, 1983 elderly population to be: 14,605 (4.8 percent annual growth), 14,725 (5.6 percent), or 14,900 (6.8 percent). We caution you that these are only rough projections based solely on recent annual growth rates.

The 1982 Permanent Fund Dividend (PFD) program provides another source of aged population figures which have been used by the Department of Administration in its review of the Senate's proposed legislative changes to the Alaska Longevity Bonus Program (CSSB 215). In May 1983, the Department of Revenue estimated that at least 16,500 applicants born in 1918 or earlier would ultimately be paid a PFD[1]. It

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1 A July 22, 1983 status report on 1982 PFD applicants born in 1918 or earlier does not dramatically change the earlier May estimate from the Department of Revenue.

is crucial to note that approximately 1,700 of these applicants were born in 1918 and were therefore 64 years old in 1982. Consequently, the successful PFD applicants 65 years and older in 1982 numbered approximately 14,800. This understates the total elderly population in 1982, however, because in-migrants after April 15, 1982 did not qualify for a PFD. We address this issue later in this section of the report.

In order to employ the successful 1982 PFD applicant total as a basis for estimating the 1983 elderly population, one must account for deaths among aged Alaskans. In 1981, 572 deaths were recorded among Alaskans 65 years and older, representing a death rate of 4.4 percent per year[2]. In addition, 29 deaths occurred among 64-year olds (1.7 percent annually). Therefore, of the 16,500 1982 PFD applicants, approximately 15,900 are now 65 years and older and still alive today. This is, at best, a rough estimate of the 1983 elderly population because it does not account for the out-migration of aged Alaskans since at least October 1982 (8 months) and the in-migration of elderly since April 1982 (14 months).

Usable information regarding the 1982-1983 migration patterns of older Alaskans simply does not exist. Historical trends between 1970 and 1980 and earlier indicate, however, that older age groups in Alaska undergo a net out-migration. In other words, more older persons left the state than migrated to the state during a given period of time. The pattern of elderly net out-migration, although lessening somewhat as the state matures and better services become more commonplace, will probably continue[3]. It appears reasonable to assume that more aged persons left Alaska than moved into the state between 1982 and 1983. Therefore, we suggest that the 15,900 PFD estimate be viewed as the high estimate of the total elderly population in 1983.

Residency

The overwhelming majority of older Alaskans have been residents for a considerable length of time. A statewide survey of 467 Alaskans 60 years and over conducted by the University of Alaska in 1981 indicates that approximately 90 percent had resided in Alaska for 11 years or

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[2]Alaska Vital Statistics, Annual Report 1981, Department of Health and Social Services, 1982.

[3]Mr. Dave Swanson, State Demographer, Alaska Department of Labor, Personal Communication, July 16, 1983.

more[4]. Similarly, about 90 percent of the 1979 PFD applicants (65 years and older) reported being residents for at least 11 years, with 75 percent indicating they had been residents for at least 21 years[5]. In a survey conducted by the U.S. Bureau of the Census in 1976, the average residency among civilian Alaskans 65 years and over was 33 years for non-Natives and 71 years for Natives.

Available information indicates that a small percentage of older Alaskans are recent in-migrants. Only 1.5 percent of the respondents to the 1981 University of Alaska survey (60 years and older) had lived in the State less than one year. This is probably a somewhat low estimate because elderly whites, who tend to be the more mobile persons among elderly Alaskans, were underrepresented in the University survey. The PFD program provides additional data on recent migration of older persons. Approximately 1 percent of the 1979 PFD applicants and over 3 percent of the 1980 PFD applicants 65 years and older were Alaska residents for less than one year. These estimates could also be conservative because some recent in-migrants in 1979 and 1980 might not have known of the program or have chosen not to file because they would receive only a fraction of the $50 per year dividend. Residency data from the 1982 PFD applications useful for determining recent in-migrant estimates of the elderly population are not available at this time. Furthermore, the 1980 Census data, once it becomes available, will only address 5-year interstate migration during the period 1976-1980.

On the basis of rather limited data, we suggest that at least 2 to 4 percent of the older Alaskan population in any given year are recent in-migrants with less than one year of residency. Conversely, 96 to 98 percent of the elderly appear to be longer term residents of Alaska.

Table 1 summarizes the total elderly population figures for 1982 and 1983 which we have discussed above. At this time, we conclude that the number of older persons residing in Alaska cannot be definitively estimated. Given the inherent biases and limitations of the available data, we prefer to identify the aged population as a range, encompassing what we believe to be reasonable low and high numbers. The 1983 total elderly population probably falls between 14,605 and 15,900. Assuming that 2 percent migrated to the state within the last year, we estimate that between 14,315 and 15,580 older Alaskans are residents of at least one year. Alternatively, if we assume a greater annual in-migration of elderly at 4 percent, between 14,020 and 15,265 elderly

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4 An Assessment of the Status and Needs of Alaska's Elderly, Charles Hines, Department of Sociology, University of Alaska, 1981.

5 1979 Permanent Fund Dividend Applicant Profile, Alaska Department of Revenue, 1981, Table 18.

would currently be eligible for longevity bonus payments under a one-year residency requirement.

The following factors may account for the differences between the high and low population estimates shown in Table 1:

1) Unlike the PFD program estimate, the Department of Labor 1982 estimate is benchmarked to the 1980 U.S. Census. Although Census numbers were revised upward by DOL, any residual undercounting would consistently lower annual estimates in later years, such as 1982. Similarly, the House Research Agency 1983 projections would incorporate the same undercounting biases.

2) For the purposes of the U.S. Census, individuals who live in Alaska only part of the year may have chosen to identify themselves as residents of another state. This could contribute to a lower Census count of older Alaskans, some of whom may spend a portion of the year elsewhere. On the other hand, the $1,000 cash payment of the 1982 PFD program provided a great incentive to individuals to identify themselves as Alaska residents. People had a much greater incentive to be "counted" in the 1982 PFD population than during the 1980 Census.

The population estimates in Table 1 fall between the estimates used earlier this year as the basis for proposed changes to the Alaska Longevity Bonus Program. The Senate's estimate of 13,500 eligible persons in FY 84 under CSSB 215 ranges from 4 to 15 percent lower than our estimates, depending upon the growth rate and in-migration assumptions one uses for the elderly. The Senate used a 1983 elderly population forecast made by DOL in 1981 which has been superceded by a higher DOL 1982 estimate. Estimates are more accurate than forecasts because they are based on more adequate population information. In addition, it appears that the Senate figure incorporates a relatively low estimation of annual in-migration by elderly (about 1.3 percent).

On the other hand, the Department of Revenue estimate of 16,500 1982 PFD successful applicants has been used by the Department of Administration as its estimate of eligible recipients for CSSB 215 fiscal calculations. This estimate overstates those eligible in 1983 because it fails to take into account approximately 600 deaths which probably occurred among elderly applicants since the October 15, 1982 deadline. In addition, available data suggest that out-migration among elderly probably offsets in-migration during the 1982-1983 period since filing of the 1982 PFD applications.

TABLE 1. ESTIMATES OF THE ELDERLY POPULATION OF ALASKA IN 1982 AND 1983

Year	Alaska Dept. of Labor[a]	Permanent Fund Dividend Program[b]	House Research Agency[c]
Total Elderly Population			
1982	13,920	14,800[d]	--
1983	NA	15,900	14,605 (4.8 % growth) 14,725 (5.6 % ") 14,900 (6.8 % ")
Elderly Population With At Least One-Year Residency			
Assumption: 2 percent annual in-migrants			
1982	13,645	14,650[e]	--
1983	NA	15,580	14,315 (4.8 % growth) 14,430 (5.6 % ") 14,600 (6.8 % ")
Assumption: 4 percent annual in-migrants			
1982	13,365	14,500[e]	--
1983	NA	15,265	14,025 (4.8 % growth) 14,135 (5.6 % ") 14,305 (6.8 % ")

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a Alaska Population Overview 1982. Alaska Department of Labor, 1983.

b Source: Alaska Department of Revenue, Research Section.

c The projections are based on a series of average annual growth rates computed from the Department of Labor's annual population data from 1970 - 1982. The average rates correspond with the following periods: 1977 - 1982 (5 percent), 1970-1982 (6 percent), and 1980-1982 (7 percent).

d This figure represents the estimated number of successful 1982 applicants who were 6-month residents as of October 15, 1982.

e These estimates assume that one-half of the annual in-migrants have been captured by the dividend program under the 6-month residency requirement.

Alaska's Elderly Population Growth Rate

In 1982, Alaskans 65 years and older represented 3.0 percent of the state's total population, an increase from 2.3 percent in 1970. There are relatively few older persons in Alaska compared with the elderly nationwide (11.3 percent of the U.S. population in 1980). While Alaska's total population increased by roughly 50 percent during the period 1970 - 1982, the elderly ranks almost doubled. The state's population grew at an average annual rate of 3.4 percent, whereas the elderly segment increased an average of 6.0 percent each year. Furthermore, the growth rate of Alaska's elderly population between 1970 and 1980 was more than double the nationwide rate for the elderly.

A number of factors probably contributed to the rather dramatic increase in Alaska's aged population over the past 12 years:

1) A relatively large group of persons 55 - 64 years old has aged over the past decade, swelling the elderly ranks. Many of these people probably migrated to Alaska in earlier decades when they were in their 20's, 30's and 40's.

2) Death rates among middle-aged and older Alaskans have decreased due, in part, to improved health services in the state.

3) The historical out-migration of older Alaskans, particularly whites, has decreased as the state matures and greater social and health care amenities become available in-state.

4) The in-migration of older persons may have increased during the period. Not surprisingly, the major motivating factor for interstate migration of persons 55 years and older nationwide is to be closer to relatives [6]. Common sense suggests that the most likely reason for an aged couple or individual to move north to Alaska would be in order to live near or with their children or siblings.

The elderly population in Alaska is expected to sustain its healthy growth rate of the past decade into the future. Projections vary between approximately 4 and 6 percent annual growth through the remainder of this century[7]. On the other hand, growth projections for Alaska's total population to the year 2000 suggest annual growth rates between 1 and 2 percent, much lower than the average of over 3 percent

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[6] Reasons for Interstate Migration. U.S. Department of Commerce, Bureau of the Census, Special Studies Series P-23, No. 81, March 1979.

[7] Mr. Dave Swanson, State Demographer, Alaska Department of Labor, Personal Communication, July 26, 1983 and Dr. Scott Goldsmith, Economist, Institute of Social and Economic Research, University of Alaska, Personal Communication, July 16, 1983.

during the period 1970 to 1982[8]. In light of the above projections, it is apparent that Alaska's elderly will probably represent at least 5 percent of the state's population by the year 2000. For instance, if annual growth rates of 5.0 percent (elderly population) and 1.5 percent (total population) are assumed, the elderly would represent 5.7 percent of Alaska's population in the year 2000, based on DOL's 1982 population estimates. The anticipated increase in Alaska's aged as a percentage of the total population mirrors national projections in which the elderly will increase to over 13 percent of the nation's population at the turn of the century.

Alaska's Elderly Population in the Future

Generating long-range population projections requires considerable understanding of Alaska's demographic and economic conditions which influence population levels. Underlying assumptions are crucial and often lead to quite different projections. Below we analyze some long-range projections of Alaska's population.

1. The U.S. Bureau of the Census presents a series of projections based on three patterns of age-specific migration: actual 1965-1975 migration, actual 1970-1975 migration, and hypothetical zero net migration[9]. The projections are based on Census data up to 1975; the 1980 Census data are not included[10]. The migration pattern of the elderly during the period 1965-1975 generates low growth in the elderly population, elderly migration during 1970-1975 produces moderate growth, and the zero net migration scenario shows high growth in the elderly

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[8] Mr. Tom Chester, Division of Strategic Planning, Office of Budget and Management, Personal Communication, August 3, 1983, and Man-in-the Arctic Program Economic Modelling System Technical Documentation Report, Inst. for Social and Economic Research, University of Alaska, June 1983.

[9] Hypothetical zero net migration implies that the number of persons who left the state equaled the number who moved to the state in a given period of time, resulting in zero change due to migration.

[10] Illustrative Projections of State Populations by Age, Race and Sex: 1975 to 2000, U.S. Bureau of the Census, Current Population Reports, Series p-25, No. 796, March 1979.

population. The U.S. Bureau of the Census projections for the year 2000 are as follows:

Elderly Growth Scenario	65 and Older Population	Elderly as a % of Total	Total Population
Low ('65-'75 migration)	20,500	4.3 %	474,200
Moderate ('70 - '75 migration)	25,300	4.7 %	544,086
High (zero net migration)	40,500	7.6 %	534,300

We consider the elderly population projections under the low and moderate growth scenarios to be low given the tendency for Census data to be conservative and the fact that elderly migration patterns in the late 1960s and early 1970s probably overstate current out-migration. On the other hand, the projection of 40,500 elderly in the year 2000 (high growth scenario) may be high; out-migration will proabably continue to exceed in-migration among older Alaskans.

2. The Department of Revenue developed projections of Alaska's population primarily to estimate the future number of Permanent Fund Dividend recipients over the short term (to FY85)[11]. Revenue's projections are based on the actual growth in the number of adult PFD applicants between 1978 and 1979 (4.5 percent growth) and general assumptions regarding the juvenile population under 18 at the time. The total population was projected to be approximately 832,000 in the year 2000, implying an average growth rate of about 3.1 percent annually. As mentioned earlier, the future growth in Alaska is projected to be much lower, between 1 and 2 percent per year until the turn of the century. Given the intended short-range purposes and the limited nature of the data base, we recommend that Revenue's population projections not be used for the purpose of estimating the number of Alaskans eligible for the Longevity Bonus Program.

Revenue's population projection has formed the basis of the elderly population figures under CSSB 215. The 832,000 population figure for the year 2000 was used and three growth scenarios were developed to forecast the number of elderly in the population at that time[12].

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[11] Ms. Mary Ellen Frank, Research Section, Alaska Department of Revenue Personal Communication, August 1, 1983.

[12] Mr. Bob Richardson, Actuary, Wm. Mercer, Inc. Personal Communication, July 29, 1983.

The following elderly population projections were generated for the year 2000:

Elderly Growth Scenario	Elderly as a % of Total	65 and Older Population	Total Population
Low	3.10 %	25,791	832,000
Moderate	4.55	37,854	832,000
High	6.00	49,918	832,000

Under the inflated total population projection, the Senate supporters of CSSB 215 chose to adopt the low growth scenario elderly population of 25,791 in the year 2000. In order for this projection to be accurate, the elderly growth rate would have to decline to about 3.4 percent annually from a current annual growth of approximately 6 percent and the total population would have to maintain a 3.1 percent annual growth rate, close to its recent 3.4 percent annual rate of growth. Both of these conditions would run counter to future projected growth. The elderly population, in fact, is projected to grow approximately 3 times faster than Alaska's overall population between now and the year 2000.

3. The Institute of Social and Economic Research (ISER) of the University of Alaska recently published a series of computer simulations forecasting the state's total population to the year 2010[13]. ISER's Man-in-the-Arctic (MAP) model forecasts are based on common underlying assumptions regarding future economic conditions in Alaska and differing assumptions regarding the levels of State petroleum revenues. Population forecasts range between approximately 578,000 and 688,000 in the year 2000. The base case simulation, which assumes a level of revenues consistent with the Department of Revenue's 50 percentile revenue projections for royalties and severance taxes, projects a population of 593,612 in the year 2000 (see Attachment B). This reflects an average annual growth rate of approximately 1.5 percent, which falls within the 1 to 2 percent range previously mentioned as the likely annual growth rate for the state's population until the turn of the century. Unfortunately, the ISER documentation does not provide age-specific population forecasts so there are no elderly population projections.

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[13]Man-in-the-Arctic (MAP) Economic Modeling System Technical Documentation Report, Appendix N, ISER, University of Alaska. Prepared for Harza-Ebasco Susitna Joint Venture. June 1983.

In conclusion, we project Alaska's elderly population in the year 2000 under a series of average annual growth rates. Elderly growth rates between 4 and 6 percent per year are assumed, based on conversations with Mr. Dave Swanson, State demographer, and Dr. Scott Goldsmith of ISER. We assume a 1983 elderly population of 15,250, which is the midpoint of the 14,600 - 15,900 range we estimated earlier. Calculations of the elderly as a percentage of the total population are based on ISER's MAP model base case forecast of the total population in the year 2000 as we believe that this is the most reasonable projection of those reviewed.

Average Annual Elderly Growth	65 and Older Population	MAP Model Total Population	Elderly as a % of Total
4.0	30,100	593,612	5.1 %
4.5	32,170	593,612	5.5
5.0	35,680	593,612	6.0
5.5	38,845	593,612	6.5
6.0	42,290	593,612	7.1

It appears that Alaska's elderly population in the year 2000 will probably be 2 to 3 times its present size. With 5 percent annual growth, the midpoint of elderly growth rate projections, older Alaskans will number approximately 35,680 at the turn of the century. Elderly would represent 6 percent of the state's projected population, whereas today they represent only 3 percent of the population.

Elderly Population Increase Under the Longevity Bonus Program

Projecting the aged population in Alaska if a program existed which provided monthly cash payments to all elderly residents of at least one year rests upon an understanding of the migration patterns among elderly persons. While some Census data exist on a national level, relatively little information is available specifically about recent elderly Alaskan emigrants and immigrants. We present a number of factors which should be considered in a discussion of possible population increases due to the influence of a monthly cash payment program.

1) The elderly, as a group, are nonmovers. Census data between March 1975 and March 1980 indicate that less than 1 percent of persons 65 years and over moved across interstate lines into western states[14].

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[14]Geographical Mobility: March 1975 to March 1980, U.S. Bureau of the Census. Current Population Reports, Series P-20, No. 368, 1981.

Similarly, less than 1 percent of persons, aged 55 - 64 years, moved to or among the western states. In fact, 79 percent of elderly (65 and over) did not move at all during this 5-year period; 75 percent of persons 55 - 64 years old also did not move.

2) Major reasons cited by persons 55 and older for interstate migration in another Census Bureau national study were:[15]

To be closer to relatives	22.2 percent
Retirement	19.8 "
Change of climate	12.1 "
Other family reasons	11.2 "
Job transfer	6.0 "
New job or looking for work	4.9 "

3) A national study reports that older migrants tend to be separated or divorced, of low income, less educated, renters, in better health, and have earlier histories of mobility[16]

4) Historically, middle-aged and elderly age groups in Alaska have shown a net out-migration. During the period 1965 - 1970, three times as many persons 65 years and older left the state as in-migrated[17]. Between 1970 and 1980, more whites 45 years and older left the state than entered[18]. Nonwhites of the same ages experienced a net in-migration, perhaps reflecting as has been suggested an increased pride of heritage among Alaska Natives and the settlement of the Alaska Native Claims which may have encouraged Natives to return to Alaska .

5) Despite existing incentives to encourage the elderly to remain in Alaska (e.g., Longevity Bonus Program, Property/Sales Tax Exemptions, and Pioneers' Home Program), many have continued to leave after retirement. Many probably seek places with a lower cost of living or a less severe climate. Others may chose to return to an area where they were born and may still have family.

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[15] Reasons for Interstate Migration. U.S. Bureau of the Census, Special Studies Series P-23, No.8, March 1979.

[16] Handbook of the Pyschology of Aging, J.E. Birren and K.W. Schaie, Eds, New York: Van Nostrand Reinhold Co, 1977.

[17] Interstate Migration in Alaska, Matthew Berman, ISER, University of Alaska. November 1982. Table 2.

[18] The Demand for the Juneau Pioneers' Home, Alaska Economics, Inc., December 1982.

6) As Alaska matures from a "frontier" area to a more established state, the migration patterns may change. The Alaska Department of Labor has developed a series of age-sex specific net migration patterns to be used when forecasting Alaska's future population. In general, the patterns suggest that a smaller net out-migration will occur among older age groups as the state continues to become more established. In other words, as more health services and social amenities become available in-state, more older Alaskans may chose to remain in Alaska after retirement.

7) According to a 1976 survey of Longevity Bonus and Old Age Assistance (OAA) recipients conducted by the Alaska Department of Health and Social Services, the bonus payment positively influenced some of the recipients' plans to remain in the state at that time[19]. Of those surveyed who received only the bonus, nearly one-third indicated that the bonus positively affected their decision to remain. About 5 percent of those surveyed who were dual recipients of the bonus and OAA stated that the bonus had a positive effect on their decision to stay. The Longevity Bonus had the greatest effect on those with a higher household income (at least $1,000 per month) because the bonus provided enough additional money to enable them to maintain their present standard of living without leaving the state.

8) The high cost of living and cost of relocation are considerable disincentives for in-migration of older persons to Alaska, particularly for those who are retired and living on a relatively low fixed income. Substantial costs could be incurred prior to establishing the one-year residency required under a modified longevity bonus program. Table 2 shows the U.S. Bureau of Labor Statistics (BLS) data for Autumn 1981 comparing annual expenditures for a retired couple under three standards of living: low, intermediate, and high budgets. The table shows budgets for Anchorage and a U.S. average.

TABLE 2. ANNUAL BUDGET FOR A RETIRED COUPLE (Autumn 1981)

	LOW	INTERMEDIATE	HIGH
Anchorage	$9,774	$12,900	$18,354
U.S. Average	$7,226	$10,226	$15,078
Difference (% of U.S. average)	$2,548 (35%)	$ 2,674 (26%)	$ 3,276 (22%)

Source: U.S. Department of Labor, Bureau of Labor Statistcs.

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[19]Alaska Longevity Bonus Impact Survey 1976, Alaska Department of Health and Social Services, Division of Public Assistance, 1976.

The annual budgets in Anchorage range from 22 to 35 percent above the U.S. averages, with the percentage difference highest for a low budget couple. BLS data are not available for other Alaska communities, but evidence from in-state cost differentials indicates that the gap between the U.S. averages and most other Alaska communities is even greater.

Census data for 1980 indicates that 36 percent of aged family units have household incomes below $9,999, which approximates the above BLS data for a retired couple on a low annual budget in Anchorage in 1981. Nearly 50 percent fall below $12,499, which roughly equals the BLS intermediate budget of $12,900 in Anchorage. Additional information from the U.S. Department of Labor indicates that a Lower Living Standard for one person in Anchorage was $8,260 in June 1982. Approximately 74 percent of elderly unrelated individuals reported an income below this figure in the 1980 Census. Therefore, it appears reasonable to assume that the cost of living in Alaska will, to some degree, act as a deterrent to many aged couples and individuals who might otherwise consider moving to Alaska in order to participate in a monthly cash payment program for the elderly.

In conclusion, we believe that the aged most likely to migrate to Alaska as a result of a cash payment program would be those with relatives already in the state. Living with relatives, either siblings or children, would certainly defray some of the initial and longer term costs involved. However, we do not foresee a dramatic influx of aged persons into established Alaska households under the stimulus of a cash payment program. In general, elderly prefer to live in their own households as long as possible and change their living arrangements primarily when their self-care capacity declines. Furthermore, aged persons may prefer to live with siblings or children closer to their familiar surroundings rather than uproot themselves to a, perhaps, quite foreign Alaskan environment.

A cash payment program widely available to elderly with one-year residency may very well reduce out-migration and may somewhat enhance in-migration of aged persons into Alaska. Available information on interstate migration, historical patterns of Alaska migration, socioeconomic characteristics, and living preferences of aged persons suggest, however, that dramatic population increases solely on the basis of a cash payment program are unlikely. A considerable degree of speculation will surround this issue until, at the very least, a survey of recent older Alaskan emigrants and immigrants is conducted. Survey questions specifically addressing the reasons for their recent move would provide valuable information on this issue.

II. ELDERLY PUBLIC ASSISTANCE AND SOCIAL SECURITY RECIPIENTS

Questions: How many persons 65 and over in Alaska receive public assistance or Social Security? On the average, how much in public assistance or Social Security do the elderly receive per person? How does the percentage of elderly receiving public assistance compare with the percentage of the entire population receiving public assistance?

There are a number of public assistance programs available to older Alaskans. Table 3 provides a summary of the different programs, number of elderly recipients, and average benefits. Supplemental Security Income (SSI) and Old Age Assistance (OAA) are the major sources of monthly cash benefits to those receiving public assistance. Approximately 900 receive federally funded SSI and 2300 receive State-funded OAA. Monthly benefits currently average $238 (SSI) and $236 (OAA). While SSI, with its lower income limits, provides a first source of public assistance to the truly needy, 700 aged SSI recipients also receive OAA benefits.

According to the Department of Health and Social Services, approximately two-thirds of the OAA recipients in October 1982 were rural residents and one-third lived in Anchorage, Fairbanks or Juneau. Approximately 64 percent of the OAA recipients were Native, 28 percent White, 2 percent Black, and 6 percent other or unknown.

In 1982, 10,210 Alaskans 65 years and older received Social Security payments under the retirees, survivors, and disability programs. Although current information regarding average benefits received by Alaskans is not available, monthly payments nationally in 1982 averaged: $408 (retired worker), $700 (aged couple both receiving payments), and $378 (aged widow or widower)[20].

The percentage of older Alaskans receiving public assistance cannot be determined exactly as the degree of overlap among aged recipients on all forms of public assistance is not readily identifiable. One approximate estimate is that the 2,500 recipients of SSI and/or OAA represent 18 percent of the 13,921 population estimate of the Department of Labor in 1982. In comparison, approximately 40,000 Alaskans (9 percent of Labor's 1982 total population estimate) receive monthly

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[20]Ms. Norma Eubanks, Service Rep, Social Security Administration, Juneau, Personal Communication, August 8, 1983.

TABLE 3. A SUMMARY OF PUBLIC ASSISTANCE PROGRAMS FOR ELDERLY RECIPIENTS IN ALASKA

Program Name	Program Description	Type of Benefit	Income Limit (Number of Persons) 1	2	3	4	Number of Elderly Alaskans	Average Benefit
Old Age Assistance	State payments to needy	monthly cash	$546	802	n/a	n/a	approx. 2,300	$236.70/mo.
Food Stamp	Federal funds designed to promote health & nutrition among low income homes	Food coupons	$490 (net monthly income)	650	810	9,	1,700	$32/person (random sample of 10 elderly cases.)
Supplemental Security Income	federal funds to needy aged or disabled	Monthly cash	$304	436	n/a	n/a	approx. 900	$238/mo.
Energy Assistance	Federal block grant monies to low income households	Vendor home energy credit	$851 (net monthly income)	1113	1375	1637	approx. 1,400	$475
General Relief Medical	State funds for medical assistance, primarily drugs for Medicaid eligible elderly	Vendor payment	$300 (or same as SSI or OAA)	400	n/a	n/a	2,750 eligibles, approx. 30% use benefits	$50/mo.
Medicaid-Nursing Home[1]	Cost of care payments for needy in nursing home 52% - state 48% - federal	Vendor payment	$852.9	n/a	n/a	n/a	approx. 300	$3,600/mo
Medicaid-Regular	Medical care payments for OAA recipients 52% - federal 48% - state	Vendor payment	$546	802	n/a	n/a	approx. 2,300 eligible, approx. 940 use benefits each month	$1,027/usage

[1] Excludes Alaska Psychiatric Institute and Harborview Developmental Center.

Source: Alaska Department of Health and Social Service, Division of Public Assistance. July 1983.

public assistance of all types[21]. The percentage of elderly Alaskans receiving OAA has declined since 1960 when 28.5 percent were recipients[22]. Nevertheless, the percentage of older Alaskans receiving public assistance is higher than the 10 percent aged nationwide who received public assistance in 1980[23].

III. LONGEVITY BONUS PROGRAM RECIPIENTS

Questions: What is the income distribution, ethnic composition, and geographic distribution of bonus recipients? What percentage are below the poverty line? What percentage of bonus recipients are receiving public assistance, and vice versa?

A total of 9,776 older Alaskans were qualified for longevity bonus payments in July 1983, with 96 percent actually receiving payments. As shown in Table 4, approximately 95 percent of the qualified recipients, on the average, received bonus payments each month in FY83. The percentage who receive payments varies seasonally, with the percentage dropping during the winter and early spring months--when some elderly spend time in warmer places--and peaking in the summer and fall.

The number of qualified recipients of the longevity bonus program grew about 7 percent in the past year. As Table 4 shows, the program witnessed an average net growth of 50 recipients per month last year. On the basis of reasonable 1983 population estimates considered in Section one of this report, somewhere between 61 percent (15,900 estimate) and 67 percent (14,605 estimate) of the aged Alaskans currently are qualified for bonus payments.

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[21] Mr. Gordon Landes, Division of Public Assistance, Alaska Department of Health and Social Services, Personal Communication, August 8, 1983.

[22] Old Age Assistance Study, Alaska Department of Health and Social Services, May 1966.

[23] "Relative Importance of Various Income Sources of the Aged, 1980", Melinda Upp, Social Security Bulletin 36(1), January 1983.

TABLE 4. LONGEVITY BONUS RECIPIENTS: JULY 1982 - JULY 1983

Month/Year	Qualified Recipients	Net Monthly Growth	Number Receiving Bonus	Percent of Total
7/82	9124	--	8930	97.9 %
8/82	9191	67 persons	8960	97.5
9/82	9247	56	9006	97.4
10/82	9317	70	9020	96.8
11/82	9372	55	8987	95.9
12/82	9425	53	8896	94.4
1/83	9481	56	8843	93.3
2/83	9486	5	8741	92.2
3/83	9528	42	8750	91.8
4/83	9577	49	8895	92.9
5/83	9659	82	9144	94.7
6/83	9731	72	9352	96.1
7/83	9776	45	9426	96.4

Average Net Monthly Growth: 50 persons

FY83 Average: 95.1 %

Source: Longevity Bonus Program, Alaska Department of Administration

Unfortunately, current information about bonus recipients is rather limited. Applicants are required to provide their age and a mailing address; no data on income or race are collected. Table 5 presents an age distribution of bonus recipients in January 1983. Recipients range between 65 and 116 years old, with over two-thirds aged 65 - 74.

The geographic distribution of program recipients in June 1983 is summarized in Table 6. Approximately one-quarter of the qualified recipients live in Southeast, roughly 42 percent live in the Anchorage/Southcentral region, 18 percent in the Interior, and the remaining 15 percent reside in Northern and Western Alaska.

TABLE 5. AGE DISTRIBUTION OF LONGEVITY BONUS PROGRAM RECIPIENTS
(January 7, 1983)

Years	Number of Recipients	Percent of Total
65-69	3,606	40.1 %
70-74	2,570	28.6
75-79	1,597	17.7
80-84	786	8.7
85-89	293	3.3
90-94	111	1.2
95 and older	37	0.4

Source: Longevity Bonus Program, Alaska Department of Administration

TABLE 6. GEOGRAPHIC DISTRIBUTION OF LONGEVITY BONUS RECIPIENTS
(June 28, 1983)

Region	House Districts	Number of Qualified Recipients	Percent of Total
Southeast	1-4	2,395	24.5 %
Southcentral/ East Peninsula	5,6,16,27	1,559	15.9 %
Anchorage vinicity	7-15	2,540	26.0 %
Interior	11-21,24	1,781	18.2 %
Northern	22	380	3.9 %
Western	23,25,26	1,121	11.5 %
TOTAL		9,776	100.0 %

Source: Longevity Bonus Program, Alaska Department of Administration

Detailed summaries of longevity bonus program recipients by age and House District are presented in Attachment C.

The previously mentioned 1976 survey of recipients of the Longevity Bonus (LB) and Old Age Assistance (OAA) provides the only available information about the racial composition and income of bonus recipients[24]. The survey targeted three groups of recipients: OAA-only, dual OAA/LB, and LB-only. At that time, 56 percent of all bonus recipients surveyed were Native and 44 percent were non-Native. Nearly 76 percent of the dual OAA/LB recipients surveyed had incomes (including their spouse's) below $420 per month[25]. In addition, the overwhelming majority (83 percent) of the LB-only recipients surveyed had monthly incomes (including their spouse's) under $1,000. It appears that, at least in 1976, the incomes of the majority of bonus recipients were certainly not high.

An additional survey of bonus recipients conducted by the Department of Law in 1982 cannot be considered representative of all the program's recipients because the survey specifically targeted needy recipients. Furthermore, preliminary results of the survey with regard to income are confusing because some respondents included their spouse's income while others did not.

We were unable to accurately determine the percentage of current bonus recipients who are below the poverty line because of the lack of income data for program participants. The Census data provide a frame of reference, indicating that 13 percent of older Alaskans lived below the federal poverty level in 1980. However, there were considerable regional differences in elderly income within Alaska. Less than 11 percent of Alaskans (60 years and older) in Southeast, Interior and Anchorage lived below the poverty level, whereas approximately 28 and 34 percent had incomes below the poverty level in Northwest and Southwest Alaska, respectively[26]. In comparison, about 15 percent of the elderly nationally had incomes below the poverty level in 1980. One is cautioned, however, about making definite statements with respect to income as an absolute measure of poverty status in Alaska because of the reliance on a subsistence (non-cash) economy, to a considerable degree, in rural Alaska.

The previously mentioned 1981 University of Alaska survey of Alaskans 60 years and over provides a measure of the degree of importance the longevity bonus holds as an income source for the elderly. This survey

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[24] Alaska Longevity Bonus Impact Survey, Alaska Department of Health and Social Services, 1976

[25] The income limit for an aged couple receiving Old Age Assistance in 1975 was $420 per month.

[26] A New Beginning for Older Alaskans: A Comprehensive Statewide Plan and Management Information System, Segment One, Hall & Associates, Inc., 1982.

reports a marked regional difference in the dependency of older persons on the bonus payments as their major source of income. Three percent of those surveyed in Southeast and Southcentral relied on the bonus payment as their major income source. On the other hand, 41 and 66 percent of the persons surveyed in Southwest and Northwest respectively indicated a primary dependency on the monthly bonus payments. These percentages should be viewed as only rough approximations because the survey included individuals aged 60 to 64 years who are more likely to still be employed. Also, the survey sample overrepresented women and Natives; elders of these groups characteristically have lower incomes than either men or Whites.

Rough estimates by the Department of Health and Social Services suggest that between 50 and 70 percent of the aged currently receiving public assistance also receive longevity bonus payments[27]. Longevity bonus information is not consistently collected on Old Age Assistance applications because the bonus is not considered income for the purposes of OAA eligibility. Information from the 1976 longevity bonus impact survey indicates that about 77 percent of the OAA recipients received bonus payments at that time. Conversely, about 28 percent of the bonus recipients received OAA payments in 1976. The Longevity Bonus Program within the Department of Administration is not able to provide this sort of information about dual recipients because income data are not requested of applicants.

IV. LIFE EXPECTANCIES OF OLDER ALASKANS

Question: What are the life expectancies of Alaska's elderly?

Life expectancy data for older persons in Alaska are presented in Table 7. The life expectancies of older Alaskans are generally similar to those of the elderly nationwide. Aged females enjoy a longer life expectancy than aged males in Alaska and nationally. This difference in death rates between the sexes is expected to continue although it probably will not increase in the future.

Table 7 indicates that elderly Alaska males appear to have a lower life expectancy in all five-year age groups in 1980 when compared with 1970 data. The lower life expectancies shown for 1980 may, in part, be a result of larger numbers of elderly males remaining in Alaska or partially an artifact of the small population numbers. At this time,

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[27]Mr. Gordon Landes, Division of Public Assistance, Alaska Department of Health and Social Service, Personal Communication, July 8, 1983.

we do not believe that there is a significant trend toward lower life expectancy peculiar to older Alaska males.

TABLE 7. LIFE EXPECTANCY in YEARS of OLDER ALASKANS by AGE and SEX

Age	1970 Total	1970 Male	1970 Female	1980 Total	1980 Male	1980 Female
55-59	23.27	20.73	27.37	23.97	20.58	29.70
60-64	19.53	17.23	23.48	20.14	16.82	25.72
65-69	16.53	14.51	19.98	16.17	13.66	21.79
70-74	14.20	12.48	17.06	14.14	11.16	19.02
75 and over	11.49	10.13	13.77	11.35	8.41	16.08

Source: Alaska Population Overview 1982. Alaska Department of Labor, 1983.

Based on the life expectancy data for 1980 and the method of calculating life expectancies in five-year cycles, we estimated the approximate number of years that qualified individuals of certain ages might expect to receive longevity bonus payments. A 65-year old female might expect about 22 years of bonus payments, a 70-year old female 19 years of payments, and a 75 year old female, on the average, could expect payments for 16 more years. A male 65-years old might expect payments for about 14 years, a 70-year old man 11 years of payments, and a 75-year old man, on average, would enjoy 8 more years of longevity bonus payments.

In closing, we hope that this information will be useful. If we can provide any further assistance on this subject, please let us know. A separate Research Request (No. 83-204) will address the annual costs of various proposed modifications to the existing longevity bonus program.

GK

Attachments

ATTACHMENT A. ANNUAL ALASKA POPULATION DATA, 1970 - 1982

(Source: Alaska Population Overview 1982. Alaska Department of Labor)

Table II.1

PERSONS BY AGE AND SEX FOR
ALASKA, EACH YEAR: 1970 to 1982

Alaska

	July 1												
	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982
TOTAL PERSONS	308500	319600	329800	336400	348100	384100	409800	418000	411600	413700	419700	435200	460800
Under 5 years	32700	33570	34360	34720	35640	38800	41120	41600	40610	40510	40790	41980	44075
5 to 14 years	72290	72640	72690	71890	72160	76950	79570	78790	75330	73510	72390	72860	74830
15 to 64 years	196400	205890	214840	221540	231920	258700	278700	286650	284470	288050	294370	307420	327975
65 years & over	7110	7500	7910	8250	8730	9570	10410	10960	11190	11630	12150	12940	13920
FEMALES	139960	145540	150780	154340	160320	177520	190680	194640	192480	194190	197730	206030	219160
Under 5 years	15900	16370	16750	16910	17350	18930	20020	20260	19760	19710	19830	20430	21400
5 to 14 years	35330	35530	35520	35120	35210	37550	39280	38370	36660	35770	35210	35440	36400
15 to 64 years	85640	90310	94960	98540	103740	116530	126380	130720	130580	132920	136590	143510	154020
65 years & over	3090	3330	3550	3770	4020	4510	5000	5290	5480	5790	6100	6650	7340

ATTACHMENT B. MAN-IN-THE-ARCTIC (MAP) MODEL POPULATION PROJECTIONS TO THE YEAR 2010 UNDER A BASE CASE SCENARIO

(Institute of Social and Economic Research,
University of Alaska. June 1983)

TABLE N.8. SIMULATION CASE: DEPARTMENT OF REVENUE 50%
Part D
Population
(thousands)

	State	Railbelt	Greater Anchorage	Greater Fairbanks
1982	437.175	307.105	239.830	67.277
1983	457.836	319.767	251.057	68.711
1984	473.750	330.199	259.677	70.523
1985	486.327	339.204	267.539	71.666
1986	499.149	346.988	274.031	72.957
1987	508.054	352.021	277.833	74.190
1988	516.259	356.992	281.952	75.041
1989	523.255	363.345	287.469	75.877
1990	533.184	371.539	294.078	77.461
1991	535.306	372.958	295.108	77.850
1992	550.842	382.528	303.978	78.551
1993	557.199	385.835	306.233	79.602
1994	559.519	389.212	308.219	80.994
1995	563.529	391.838	310.628	81.210
1996	569.216	395.991	314.124	81.868
1997	575.498	401.438	318.628	82.810
1998	581.204	406.133	322.491	83.642
1999	587.213	411.184	326.660	84.524
2000	593.612	416.622	331.082	85.540
2001	599.998	422.232	335.608	86.625
2002	606.741	428.069	340.351	87.718
2003	614.511	434.441	345.608	88.834
2004	622.832	441.222	351.177	90.045
2005	631.699	448.422	357.087	91.336
2006	641.101	456.103	363.376	92.727
2007	651.071	464.117	369.933	94.184
2008	661.676	472.628	376.894	95.735
2009	672.544	481.306	383.955	97.352
2010	684.180	490.620	391.560	99.060

SOURCE: MAP MODEL OUTPUT FILES HE.9 AND HER.9
VARIABLES: POP, P.IR, P.AG, AND P.FG

DATE 06/28/83

NAME OF HOUSE DISTRICT	HOUSE DIST NO.	TOTAL WARRANTS FOR MONTH NO.	QUALIFIED RECIPIENTS NO.	%	BONUS PAYMENTS FOR THIS MONTH NO.	%	QUALIFIED RECEIVING PAYMENTS %	BONUS PAYMENTS THIS FISCAL YEAR NO.	AMOUNT	%	BONUS PAYMENTS SINCE INCEPTION AMOUNT	%
KETCH-WRANG-PETERS	01	901	939	9.61	891	9.45	94.89	2,027	225,250.00	9.34	2,524,350.00	2.8
INSIDE PASSAGE-CORDOVA	02	361	363	3.71	351	3.72	96.69	812	90,250.00	3.74	4,795,075.00	5.3
BARANOF-CHICHAGOF	03	378	383	3.92	372	3.95	97.13	850	94,500.00	3.92	5,567,750.00	6.2
JUNEAU	04	698	710	7.26	683	7.25	96.20	1,570	174,500.00	7.23	8,589,000.00	9.5
KENAI-COOK-INLET	05	487	496	5.07	482	5.11	97.18	1,095	121,750.00	5.05	5,446,325.00	6.0
NORTH KENAI-SOUTH COAST	06	224	226	2.31	216	2.29	95.58	504	56,000.00	2.32	2,817,750.00	3.1
ANCHORAGE-SOUTH	07	68	64	.65	62	.66	96.83	153	17,000.00	.70	792,300.00	.8
ANCHORAGE-HILLSIDE	08	139	140	1.43	139	1.47	99.29	312	34,750.00	1.44	1,433,650.00	1.6
ANCHORAGE-SAND LAKE	09	127	129	1.32	122	1.29	94.57	285	31,750.00	1.32	1,271,525.00	1.4
ANCHORAGE-MIDTOWN	10	315	319	3.26	310	3.29	97.18	708	78,750.00	3.26	3,525,025.00	3.9
ANCHORAGE-WEST SIDE	11	383	391	4.00	369	3.91	94.37	861	95,750.00	3.97	4,085,100.00	4.5
ANCHORAGE-DOWNTOWN	12	964	983	10.06	940	9.97	95.63	2,169	241,000.00	9.99	2,035,500.00	2.2
ANCHORAGE-MT.VIEW-UNIV.	13	241	236	2.41	232	2.46	98.31	542	60,250.00	2.50	2,509,525.00	2.8
MULDOON	14	134	139	1.42	130	1.38	93.53	301	33,500.00	1.39	1,228,300.00	1.3
CHUGIAK-EAGLE RIVER	15	135	139	1.42	131	1.39	96.24	303	33,750.00	1.40	1,466,450.00	1.5
MATANUSKA-SUSITNA	16	601	605	6.19	587	6.23	97.02	1,352	150,250.00	6.23	7,345,950.00	8.2
ANCHORAGE-INT.HIGHWAYS	17	271	270	2.76	264	2.80	97.78	609	67,750.00	2.81	3,304,650.00	3.6
SOUTHEAST NORTH STAR	18	27	28	.29	27	.29	96.43	60	6,750.00	.28	366,050.00	.4
OUTER FAIRBANKS	19	36	38	.39	36	.38	94.74	81	9,000.00	.37	595,325.00	.6
FAIRBANKS CITY	20	967	989	10.12	955	10.13	96.56	2,175	241,750.00	10.02	1,502,625.00	1.6
WEST FAIRBANKS	21	50	50	.51	50	.53	100.00	112	12,500.00	.52	579,375.00	.6
NORTH SLOPE-KOTZEBUE	22	379	380	3.89	375	3.98	98.68	852	94,750.00	3.93	5,282,700.00	5.9
NORTON SOUND	23	455	449	4.59	436	4.63	97.10	1,023	113,750.00	4.72	6,065,250.00	6.7
INTERIOR RIVERS	24	407	406	4.15	394	4.18	97.04	915	101,750.00	4.22	5,283,125.00	5.9
LOWER KUSKOKWIM	25	398	390	3.99	380	4.03	97.44	895	99,500.00	4.12	4,524,625.00	5.0
BRISTOL BAY-ALEUTIANS	26	277	282	2.88	269	2.85	95.74	623	69,250.00	2.87	3,658,475.00	4.0
KODIAK-EAST ALASKA	27	227	232	2.37	223	2.37	96.12	510	56,750.00	2.35	2,989,625.00	3.3
TOTAL		9,650	9,776	100.00	9,426	100.00	96.43	21,699	2,412,500.00	100.00	89,525,400.00	100.0

ALBS RECIPIENT AGE BREAK DOWN

AGES	NUMBER
65	682
66	732
67	771
68	736
69	685
70	596
71	566
72	538
73	460
74	410
75	389
76	342
77	350
78	291
79	225
80	220
81	187
82	168
83	104
84	107
85	76
86	68
87	53
88	56
89	40
90	46
91	26
92	19
93	16
94	4
95	7
96	6
97	6
98	4
99	6
100	2
101	1
102	2
103	1
104	0
105	0
106	0
107	0
108	0
109	0
110	0
111	0
112	1
113	0
114	0
115	0
116	1

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y. State Capitol
Juneau, Alaska 99811
(907) 465-3991

September 14, 1983

MEMORANDUM

TO: Representative Hugh Malone

FROM: Gretchen Keiser, Legislative Analyst G. Keiser

RE: Basic Information on Alaska's Elderly Population
Research Request 83-203 (Additional Information)

Two additional pieces of information have come to my attention regarding Alaska's elderly population since submitting Research Request No. 83-203 on August 31, 1983:

1) Following her review of our August 31, 1983 memorandum, Ms. Marion Shafer (Administrator of the Longevity Bonus Program) informed me that 1979 data exist which document the ethnic composition of bonus recipients. Approximately 30 percent of the recipients were Native and 70 percent were non-Native at that time. This differs quite markedly from the 1976 information (56 percent Native and 44 percent non-Native) reported in the August 31, 1983 memorandum. The 1979 data were obtained by comparing the names of qualified bonus recipients with a BIA tape of Native enrollees, as a result of a case filed with the Alaska Human Rights Commission. Although no current ethnic data exist, Ms. Shafer estimates that the majority of the bonus recipients are non-Native at this time.

2) We just received a set of provisional population projections for 1990 and the year 2000 recently published by the U.S. Bureau of the Census (July 1983). The projections are based on preliminary estimates of net migration between 1970 and 1980. If these estimated rates of net migration (computed by age and sex) for the 1970 to 1980 period were to continue unchanged, Alaska's elderly population is projected to be 24,700 in the year 2000. This projection approximates closely the Bureau's earlier moderate growth projection of 25,300 elderly by the year 2000 discussed in our August 31, 1983 memorandum (pages 10 and 11). We continue to consider this to be a low projection of Alaska's future elderly population given the undercounting bias of the 1980 Census data upon which this is based. Furthermore, using estimates of migration patterns among elderly to and from Alaska between 1970 and 1980 to project population probably overstates elderly migration out of Alaska in the future.

We hope that this information will prove useful to you. We will continue to keep you informed of any additional data regarding Alaska's elderly which become available.

HB

659

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 2/21/84

REQUEST
Bill/Resolution No: HB 659
Title: An act authorizing certain municipalities to conduct limited historic gambling enterprises; and providing for an effective date.
Sponsor: McBride
Requestor: House State Affairs Committee
Date of Request: 2/17/84

FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: Revenue Collection & Management

BRU, Program or Subprogram(s) Affected:
Public Services Division BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
	OPERATING						
100	PERSONAL SERVICES	-	-	-	-	-	-
200	TRAVEL	-	-	-	-	-	-
300	CONTRACTUAL	-	-	-	-	-	-
400	SUPPLIES	-	-	-	-	-	-
500	EQUIPMENT	-	-	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS	-	-	-	-		-
800	MISCELLANEOUS	-	-	-	-	-	-
	TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	GENERAL FUND	-	-	-	-	-	-
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER		-	-	-	-	-
	TOTAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

POSITIONS:

	FULL-TIME	-	-	-	-	-	-
	PART-TIME	-	-	-	-	-	-
	TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: No impact.

Prepared By: Martin J. Richard
Division: Public Services Division
Phone: 465-2392
Date: 2/23/84

Approved by Commissioner:
Agency: Revenue
Date: 2/24/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

A

CITY OF SKAGWAY

GATEWAY TO THE GOLD RUSH OF "98"
P. O. BOX 415 SKAGWAY, ALASKA 99840

A PROPOSAL

FOR

A LIMITED FORM OF GAMBLING

IN

SKAGWAY, ALASKA

(REVISED)



BY THE SKAGWAY CONVENTION AND VISITORS BUREAU

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THE DAYS OF '98

> "Life itself was a gamble. Settlers crossing the plains faced death from indians, starvation, thirst, and cholera, as well as each other. Everyday chores - prospecting, mining,...hunting - were likely to injure or accidentally kill a person. Violent changes of fortune, for better or for worse, were part of the...experience."
>
> Richard Erdoes - Saloons of the Old West

SUBSTITUTE THE PASSES FOR THE PLAINS, AVALANCHES FOR INDIANS, FREEZING BLIZZARDS FOR THIRST, SPINAL MENENGITIS FOR CHOLERA, AND YOU HAVE SKAGWAY AND THE KLONDIKE IN 1898.

THE THRILL OF FORTUNES WON AND LOST WAS JUST AS GREAT ON BROADWAY, IN SKAGWAY, AS IT WAS ON ELDORADO CREEK IN THE YUKON. THIS DISCOVERY OF A NEW, ROUGH AND READY FRONTIER, LONG AFTER THE WESTERN FRONTIER HAD FADED INTO SETTLED TRANQUILITY, LURED THOUSANDS OF PEOPLE NORTHWARD IN THE "LAST GREAT ADVENTURE".

THE EVER-PRESENT SHELL GAME, FARO, POKER, DICE, AND THREE CARD MONTE WERE DIVERSIONS FROM THE GREATER GAMBLE OF LIVES AND FORTUNES IN THE BLOWING SNOWS OF THE PASSES AND THE FROZEN MUCK OF THE GOLD FIELDS. THE SALOONS AND GAMING PARLORS OF SKAGWAY WERE AN EQUAL PART OF AN IMAGE THAT WAS BEING REKINDLED THROUGHOUT THE WORLD. IT WAS THE IMAGE OF A FALSE FRONTED TOWN ON THE EDGE OF THE WILDERNESS WHERE MEN LIVED BY THEIR WITS. IT WAS AN IMAGE ROMANTICIZED BY ROBERT SERVICE AND JACK LONDON, WHERE ONLY THE FIT SURVIVED. IT WAS A CHANCE FOR MEN TO PIT THEMSELVES AGAINST THE WORST AND TOUGHEST THAT MANKIND AND NATURE COULD MUSTER, AND SEE WHO WON. IT WAS THE IMAGE THAT HAD DRAWN CIVILIZATIONS ACROSS UNCHARTED OCEANS, THROUGH HOSTILE

FORESTS, OVER SCORCHED DESERTS, AND FINALLY, IN THIS LAST GREAT GOLD RUSH, TO THE FROZEN NORTH. IT WAS THE KLONDIKE.

WHAT ABOUT DAWSON'S GAMBLING?

WITH THE DISCOVERY OF GOLD ON THE BEACHES OF NOME IN 1899, DAWSON SOON BECAME A VIRTUAL GHOST TOWN. OVER THE YEARS THE ABANDONED BUILDINGS FELL INTO DISREPAIR. DAWSON, AT THE SAME TIME BEGAN TO REALIZE IT'S HISTORICAL POTENTIAL AS A TOURIST ATTRACTION. DAWSON ALSO DISCOVERED THAT THE DETERIORATION OF THE BUILDINGS AND THEIR REMOTE LOCATION WERE MAJOR HANDICAPS TO THE DEVELOPMENT OF A VIABLE TOURISM INDUSTRY.

IN ORDER TO AID IN THE RESOLUTION OF BOTH OF THESE CONCERNS, IN 1971 THE CANADIAN FEDERAL GOVERNMENT PASSED A WAIVER TO EXISTING LEGISLATION THAT ALLOWED THE KLONDIKE VISITORS ASSOCIATION TO RUN A GAMBLING OPERATION IN A CENTRAL LOCATION - DIAMOND TOOTH GERTIE'S. THE PRODEEDS FROM THIS OPERATION WERE TO GO TO THE ENHANCEMENT OF DAWSON'S TOURISM INDUSTRY.

DIAMOND TOOTH GERTIE'S IS THE ONLY ESTABLISHMENT IN CANADA THAT HAS GAMBLING, LIQUOR, AND ENTERTAINMENT UNDER ONE ROOF, AND HAS BECOME THE MAINSTAY OF THE DAWSON ECONOMY. HOWEVER, GERTIE'S WAS NOT WITHOUT PROBLEMS IN HER FIRST YEAR. INEXPERIENCE IN RUNNING A GAMING OPERATION, ON THE PART OF THE K.V.A., AND A LOSS OF BUSINESS TO LOCAL BARS AS PATRONS FLOCKED TO THE CASINO RESULTED IN A NET LOSS FOR SEVERAL BUSINESSES, INCLUDING THE K.V.A..

AFTER THE FIRST YEAR, THE R.C.M.P. SELECTED A PROFESSIONAL PIT BOSS TO MANAGE THE OPERATION AND THE K.V.A. ESTABLISHED A VOLUNTEER GAMBLING SQUAD TO OVERSEE GAMING AND TO REPORT ON ITS PROBLEMS AND BENEFITS. THE RESULT WAS A SMOOTHER, PROFITABLE OPERATION FOR ALL OF DAWSON.

GAMES PLAYED AT GERTIE'S ARE BLACK JACK, CROWN AND ANCHOR, ROULETTE, AND POKER. THE MAXIMUM BET IS $5. THE K.V.A. EMPLOYS 45 PEOPLE TO RUN THE OPERATION WITH EMPHASIS PLACED ON MAI AINING AN ATMOSPHERE OF FUN AS WELL AS PROFESSIONALISM. IN 1982 THE .ET PROFITS TO THE K.V.A. WERE $25,000.

FUTURE PLANS ARE TO EXPAND GERTIE'S TO ACCOMMODATE MORE VISITORS, AND TO RAISE THE BET LIMIT TO COVER INCREASED COSTS.

SOUNDS GOOD - BUT AREN'T THERE PROBLEMS ASSOCIATED WITH GAMBLING?

WHENEVER ONE MENTIONS GAMBLING, SEVERAL POTENTIAL SOCIAL PROBLEMS COME TO MIND. GIOVANNI CASTELLARIN OF DAWSON'S K.V.A. WAS QUESTIONED ABOUT THESE PROBLEMS. HIS RESPONSES ARE AS FOLLOWS:

GIOVANNI CASTELLARIN, PRESIDENT OF THE KLONDIKE VISITORS ASSOCIATION SAID THAT THERE HAVE BEEN A FEW PEOPLE WHO HAVE BECOME ADDICTED TO BAMBLING BUT THAT WELFARE PROVIDES A FACILITY FOR TREATMENT. CASTELLARIN FELT IT WAS A SMALL PROBLEM AND THAT IN A SMALL COMMUNITY THE SIZE OF DAWSON (400-500 PEOPLE), IT CAN BE PREVENTED BECAUSE PEOPLE KNOW EACH OTHER AND KNOW WHO IS HAVING A PROBLEM. REFUSING TO ACCEPT CHECKS OR GIVE PEOPLE CREDIT IS ONE OF THE WAYS OF KEEPING PEOPLE WITH A PROBLEM FROM SPNDING ALL OF THEIR MONEY. OVERALL, ONLY A VERY SMALL NUMBER OF LOCALS GAMBLE AT ALL; EVERYONE IS SO BUSY DURING THE BRIEF SUMMER SEASON. (GERTIE'S IS ONLY OPEN DURING THE SUMMER) CASTELLARIN SAID THAT MOST EVERYONE FEELS THAT THE POSITIVE EFFECT ON THE COMMUNITY IS 100 TIMES GREATER THAN THE NEGATIVE EFFECT. EVEN THE LOCAL PRIEST APPROVES OF GAMBLING, "IF IT IS CONTROLLED AND DONE RIGHT."

CASTELLARIN ALSO SAID,"WE DO NOT KNOW WHAT CRIME MEANS IN DAWSON."

SKAGWAY TODAY

ON THE AFTERNOON OF JANUARY 14, 1983, ECONOMIC DISASTER STRUCK SKAGWAY. ON THAT DATE THE WHITE PASS CORPORATION ANNOUNCED THAT THE WP&YR NARROW GUAGE "SCENI C RAILWAY OF THE WORLD" WOULD CEASE TO OPERATE UNTIL THE MINES IN THE YUKON REOPENED. THE EARLIEST THAT WHITE PASS COULD SPECULATE ON THE REOPENING OF THE RAILROAD WOULD BE THE SECOND QUARTER OF 1984. THE LOSS OF THE RAILROAD MEANT THE D DEMISE OF SKAGWAY'S PRIMARY INDUSTRY. THIS LEFT THE TOWN TOTALLY DEPENDENT UPON ITS SECOND INDUSTRY, TOURISM, FOR AT LEAST THE NEAR FUTURE. THE SITUATION IS NOT DISSIMILAR TO THAT OF DAWSON.

WHAT IS DIFFERENT IS THE ADVANTAGE THAT SKAGWAY ALREADY HAS AS A WELL KNOWN POPULAR TOURIST DESTINATION. THE KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK, THE CHILKOOT TRAIL, BROADWAY, SOAPY SMITH, A.B. HALL, THE GOLDEN NORTH HOTEL, THE PACK TRAIN, THE RED ONION SALOON, AND ALL THE OTHER AUTHENTIC ATTRACTIONS THAT SKAGWAY OFFERS CONJURE UP THAT GOLD RUSH IMAGE OF THE ADVENTURE OF 1898. SKAGWAY OFFERS A GOLD RUSH EXPERIENCE UNEQUALLED ANYWHERE IN THE KLONDIKE REGION

TO ENHANCE THAT WELL KNOWN IMAGE, WHILE AT THE SAME TIME REAPING THE BENEFITS OF INCREASED VISITATION, INCREASLD EMPLOYMENT, AND INCREASED REVENUES EXPERIENCED IN DAWSON, SKAGWAY NEEDS TO CONSIDER A LEGALIZED LIMITED FORM OF GAMBLING SCENARIO THAT WOULD INCORPORATE THE BEST ASPECTS OF THE DAWSON PROGRAM AND ACCOMODATE LOCAL CONCERNS. WITH

STRICT HISTORIC GUIDELINES AND CITY OF SKAGWAY CONTROL, THE TOURISM INDUSTRY IN SKAGWAY CAN BE MAINTAINED AND EXPANDED TO GUARANTEE A STABLE SECOND INDUSTRY TO SEE THE CITY THROUGH CURRENT AND FUTURE ECONOMIC DIFFICULTY. A LIMITED FORM OF LEGALIZED GAMBLING WOULD ADD TO SKAGWAY'S PRE-EMINENCE AS THE KLONDIKE GOLD RUSH ATTRACTION OF ALASKA.

WHAT COULD LIMITED GAMBLING LOOK LIKE IN SKAGWAY?

OF THE UPMOST CONCERN TO THE CITY OF SKAGWAY IS THAT ANY GAMBLING IN SKAGWAY BE CONTROLLED BY THE CITY GOVERNMENT. THE CITY COUNCIL WOULD ESTABLISH REQUIREMENTS FOR THE OPERATION OF GAMING TABLES, THE TYPES OF GAMES ALLOWED, THE LIMITS PLACED UPON BETS, AND THE HISTORIC CRITERIA. PROCEEDS FROM GAMBLING WOULD GO TO THE CITY, WITH 50% OF THOSE PROCEEDS TO BE USED FOR HISTORIC PRESERVATION.

ANOTHER MAJOR CONCERN IS THAT ANY GAMBLING OPERATION MAINTAIN AN HISTORIC CHARACTER. THE INTENT IS TO RECREATE THE ADVENTURESOME ATMOSPHERE OF 1898, NOT TO CREATE THE GLITTER AND STYLE OF A MODERN DAY LAS VEGAS. MAINTAINING THE HISTORIC FLAVOR OF SKAGWAY, AND THE APPEAL OF HAVING FUN, IS IMPERATIVE FOR THE COMMUNITY AS WELL AS THE TOURISM INDUSTRY.

A FINAL CONCERN IS THAT GAMBLING IN SKAGWAY NOT BECOME THE MAJOR ATTRACTION FOR THE COMMUNITY, BUT SIMPLY ANOTHER ASPECT OF OUR HISTORIC ATMOSPHERE. WE DO NOT WANT TO BE VIEWED AS THE TOWN IN ALASKA WITH GAMBLING BUT AS THE GOLD RUSH ATTRACTION OF ALASKA THAT INCLUDES GAMBLING. THIS IS THE DIRECTION OF OUR TOURISM DEVELOPMENT AND BETTER MEETS THE CONCERNS OF THE COMMUNITY OF SKAGWAY.

WITH THESE CONCERNS IN MIND, THE CITY OF SKAGWAY WOULD OPERATE A SINGLE CASINO IN THE ARCTIC BROTHERHOOD HALL. THERE WOULD BE A LIMITED FLOOR SHOW TO ENHANCE THE HISTORIC FLAVOR, BUT NO LIQUOR LICENSE WOULD BE SOUGHT. THE AMOUNT OF BETS WOULD INITIALLY BE LIMITED TO $5.00 TO MAINTAIN THE SOCIAL, ENTERTAINMENT GAMBLING ATMOSPHERE.

THE AB HALL WOULD ACCOMMODATE ABOUT 84 PEOPLE AT ANY GIVEN TIME. THIS IS A VERY SMALL PORTION OF THE VISITOR POPULATION ON MOST DAYS DURING THE SUMMER SEASON. THE REMAINING VISITORS WOULD BE ENJOYING THE OTHER HISTORIC ATTRACTIONS OF THE COMMUNITY.

INFORMATION PROVIDED BY THE PUBLIC GAMING RESEARCH INSTITUTE INDICATES THAT SUCH AN OPERATION WOULD EMPLOY 34 PERSONS PER 8 HOUR SHIFT WITH POTENTIAL GROSS REVENUES OF $5,880 PER SHIFT. POTENTIAL NET REVENUE TO THE CITY COULD BE IN THE AREA OF $200,000 FOR THE SEASON.

THIS LIMITED FORM OF GAMBLING WOULD ENHANCE OUR HISTORIC IMAGE WHILE MAINTAINING A STABLE SUPPORT INDUSTRY. IT WOULD PROVIDE VISITORS WITH THE OPPORTUNITY TO ENJOY A FUN AND EXCITING GLIMPSE OF LIFE IN THE "DAYS OF '98". WITH THESE LIMITATIONS AND CRITERIA, GAMBLING IN SKAGWAY COULD BE CONDUCTED WITH THE LEAST SOCIAL COST AND THE GREATEST ECONOMIC BENEFIT.

SPECIFIC RECOMMENDATIONS

. RECOMMENDATION - THAT THE CITY OF SKAGWAY CONTRACT WITH THE PUBLIC GAMING RESEARCH INSTITUTE TO ANALYZE OUR PROPOSAL IN TERMS OF SOCIAL IMPACTS, OPERATIONAL PROBLEMS, AND POTENTIAL REVENUES.

. RECOMMENDATION - ANY OR ALL GAMBLING ESTABLISHMENTS BE LICENSED AND OPERATED BY THE CITY.

- CRITERIA FOR THE NUMBER AND LOCATION OF GAMES, TYPES OF GAMES, HOURS, LIMITS OF BETS AND PROMOTION SHOULD BE SET BY THE CITY COUNCIL.
- PROCEEDS FROM THE GAMBLING GO DIRECTLY AND EXCLUSIVELY TO THE CITY OF SKAGWAY, WITH 50% OF THOSE FUNDS GOING TO HISTORIC PRESERVATION.
- THAT A LOCAL GAMING COMMISSION BE ESTABLISHED TO MONITOR THE THE GAMING OPERATION.

. RECOMMENDATION - THAT A LIMITED NUMBER OF HISTORIC GAMES BE ALLOWED.

. RECOMMENDATION - THAT THE ALASKA STATE DEPARTMENT OF REVENUE REVIEW SKAGWAY'S OPERATION ON AN ANNUAL BASIS AND REPORT THOSE FINDINGS TO THE STATE LEGISLATURE.

. RECOMMENDATION - THAT GAMBLING ONLY BE CONDUCTED DURING THE SUMMER, WITH POSSIBLE LIMITED WINTER OPERATION.

. RECOMMENDATION - THAT THE CITY COUNCIL HOLD A PUBLIC HEARING ON THIS PROPOSAL.

. RECOMMENDATION - THAT THE PROPOSED LEGISLATION NOT EFFECT THE

STATUS OF ANY CURRENT LIQUOR LICENSE.

. RECOMMENDATION - THAT THE CITY OF SKAGWAY WRITE TO THE REGIONAL DIRECTOR OF THE NATIONAL PARK SERVICE REQUESTING AN OPINION ON THE LEGALITY OF GAMBLING WITHIN THE PARK.

B

ALASKA VISITORS ASSOCIATION

P.O. BOX 10-2220
ANCHORAGE, AK 99510
(907) 276-6663

Telex:
Within Alaska 25-147
Lower U.S 090-25-147
Canada 0305-25-147
International 314-25-147

1983-84
EXECUTIVE OFFICERS
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ROBERT H. BRENNAN
Princess Tours
Seattle, Washington
Vice President/
Administration
RAL WEST-HARDWICK
Alaska West Associates
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Westours, Inc.
Seattle, Washington
Executive Director
DALE FOX

PAST PRESIDENTS
GEORGE SUNDBORG
1950
ROBERT E. ELLIS
1951-1952
EDWARD D. COFFEY
1952-1955
MARSHALL CRUTCHER
1955-1956
BEN CRAWFORD
1956-1957
EVERETT PATTON
1957-1959
ROBERT A. BAKER
1959-1960
ROBERT E. ELLIS
1960-1962
ROBERT GIERSDORF
1962-1963
E.E. SWOFFORD
1963-1964
H. JACK MUSIEL
1964-1966
JAMES JOHNSON
1966-1967
FRANK DOWNEY
1967-1968
BILL SHEFFIELD
1968-1969
JOHN MONROE
1969-1970
RONALD LATIMORE
1970-1971
JOHN STEVENS
1971-1972
LEN LAURANCE
1972-1973
E. AL PARRISH
1973-1974
A E. "BUD" HAGBERG
1974-1975
CHUCK WEST
1975-1977
CHARLES CONWAY
1977-1978
JIM BINKLEY
1978-1979
MARTHA EDWARDS
1979-1980
ROLF KLUG
1980-1981
DAVE PALMER
1981-1982
CHRIS VON IMHOF
1982-1983

A RESOLUTION IN SUPPORT

OF LIMITED HISTORIC GAMBLING

IN ALASKA

Whereas, Alaska's Gold Rush History is an attractive and integral part of our tourism appeal; and,

Whereas, the colorful gambling halls and characters of the gold rush era continue to provide a spirited reminder of Alaska's history; and,

Whereas, the recreation of historic gambling in Alaska would enhance Alaska's tourism industry;

Be it therefore resolved that the Alaska Visitors Association supports legislation that would allow local option for municipally-controlled limited historic gambling in communities with a substantial history of gambling during Alaska's gold rush.

Passed by AVA Membership, October 6, 1983, Valdez, Alaska

structure to develop, promote, and produce Alaska timber products.

The Southeast Conference strongly supports the provision of P.L. 96-487 which will assure an adequate timber supply to provide employment and enable the continued development of transportation systems, corridors, and recreational access to the Tongass National Forest in Alaska.

The Southeast Conference requests the Governor and the Legislature approve funding for an Alaska state forest management plan in all State-approved forests.

MINING

The Southeast Conference supports the prompt, expeditious handling of all permits and work-plan approvals by State and Federal agencies necessary for development of mining projects, including reasonable access; and requests that these agencies offer active technical assistance in obtaining such approval.

The Southeast Conference strongly supports the granting of requests for minor boundary adjustments for mineral production to assure maximum utilization of this natural resource.

WATER, SEWER, AND SOLID WASTE GRANTS

The Southeast Conference continues to support the increase in water, sewer, and solid waste grants and to provide adequate funding for the program.

The conference supports the granting of waivers by EPA from secondary sewage treatment for small communities located along the ocean, as well as waivers requested by Southeast pulp mills.

TOURISM

The Southeast Conference supports the Southeast Alaska Tourism Council (S.A.T.C.) and their goals in establishing and marketing Southeast Alaska as a regional travel destination. The Conference urges the continued and expanded cooperation among communities in furthering the goals of S.A.T.C.

The Southeast Conference feels the present level of funding provided to the Division of Tourism is insufficient to properly promote the State of Alaska as a whole. The Conference requests the State appropriate additional funding for the Division which is more commensurate with the level of marketing required.

The Conference recognizes the value of local development of attractions and visitor facilities and advocates the expansion of the State of Alaska, Division of Tourism's local community

matching grant program by increasing the present $2,000 funding limit to a minimum of $5,000.

The Southeast Conference requests that the Legislature enact legislation to allow a limited form of historic gambling to local governments that have had a history of gambling in their communities during the Klondike and Alaska Gold Rush era.

The Conference supports the traditional use of Glacier Bay as a cruise ship destination and encourages the National Park Service to recognize the importance of this to the Southeast communities by adopting regulations allowing such use.

The Southeast Conference further urges the Legislature to provide additional funding to the Division of Tourism; Department of Transportation and Public Facilities; the Division of Parks; and other appropriate agencies to develop facilities and services with demonstrated visitor value (i.e., information centers, parks, marine facilities, and cruise ship berthing areas).

PUBLIC SAFETY

The Southeast Conference endorses the establishment of a treatment-detention center serving Southeast Alaska juveniles facing drug- and alcohol-related problems. It requests an appropriation of State funds to implement this program. The Conference urges the State law enforcement agencies and court system to step up its efforts in enforcing drug laws, with mandatory penalties implemented for convicted violators. It encourages municipalities in Southeast Alaska to support funding positions of family counseling on drugs and alcohol programs as a support for the existing juvenile probation system. The Conference also urges the Department of Education to formulate a drug and alcohol abuse curriculum for Alaska schools.

STATE LAND DISPOSALS

The Southeast Conference believes that all State land disposals within the corporate boundaries of a city or borough should comply with all local planning and development ordinances.

The Southeast Conference requests the State of Alaska to take immediate steps to assure the transfer of lands granted under the Native Lands Entitlement Act of 1906 to the Native applicants. These allotments have been pending for as many as sixty years without approval from the U.S. Department of Interior. Further, the Conference requests that legislation be adopted granting the authority to the Commissioner of the Department of Natural Resources to quitclaim land to the Federal Government for transfer back to Native allotment holders.

LAW OFFICES

BROWN, MICHAEL & FROELICH

14 SOUTH CALIFORNIA AVENUE
ATLANTIC CITY, NEW JERSEY 08401
609 344-6445

SUITE 1700
GATEWAY I
NEWARK, NEW JERSEY 07102
201 623-7441

SUITE 1500
FIRST NATIONAL BANK TOWER
2 PEACHTREE STREET
ATLANTA, GEORGIA 30383
404 659-7105

REPLY TO Atlantic City Office

April 20, 1983

Mr. Robert W. Ward, Jr., Director
Skagway Convention & Visitors Bureau
City of Skagway
7th & Spring Streets
P. O. Box 415
Skagway, AK 99840

Re: Casino Gambling

Dear Mr. Ward:

Enclosed please find an analysis of the casino proposal prepared by the Skagway Covnention and Visitors Bureau, with particular emphasis on the seven questions you posed. This analysis was performed by this firm in conjunction with Duane Burke and the Public Gaming Research Institute.

We and Mr. Burke stand ready to provide any further assistance you may need in this connection or respond to any further inquiries you may have. Thank you.

Very truly yours,

Guy S. Michael

GSM/cp

Enclosures

cc: Mr. Duane Burke

1. <u>What would our personnel requirements be to accommodate 300 gamblers, dispersed among the six sites, at the hours listed on the fact sheet?</u>

It is assumed that the purpose of this inquiry is to determine necessary staffing levels for casino games as they might be necessary in a casino proposal for Skagway. In particular, in connection with staffing levels, it is assumed issues of cost and recruitment are critical. In this connection, there is an assumption implicit in the phrasing of the question which might be misleading and might not best be the way to approach the matter. This assumption is that staffing levels should be geared to any specifically anticipated number of gamblers. Although patron size is a factor, staffing levels are best developed by ratio to the number of games offered. It is the determination of the number of games to offer which is contingent on the estimate of anticipated patron demand.

Given this method of personnel calculation, the following is offered as a sound beginning point from which to estimate potential staffing needs.

Any blackjack table would require, at all times while in operation, one dealer. In addition, at the first level of supervision, there must be one floor person for, at least, every four blackjack tables. That first level supervisor should be required to oversee no more than that number. The

second level supervisor, or pit boss, may be assigned the handling of no more than 12 blackjack tables.

These ratios are based on staffing levels utilized in casino operations of some size. Given the dimensions of the operations proposed on your Fact Sheet, those ratios can be slightly modified. In particular, the tables proposed for the Red Onion Saloon, Moe's Frontier Bar, and the Golden North Hotel could be efficiently staffed with one dealer per table and one supervisor overseeing those two dealers. This assumes, in addition, that there would be overall management, such as a casino manager, to whom the blackjack supervisor would report. In the case of the Golden North Hotel, the single supervisor could handle all four tables.

With respect to the Klondike Hotel, its six tables would probably require, in the ideal, a single dealer at each table, two first level supervisors for each set of three tables and one overall supervisor. Application of similar ratios to the Eagle Hall would require a dealer at each table, three first level supervisors, and one second level supervisor. Finally, at A.B. Hall, there would need to be employed one dealer for each table, three first level supervisors and one second level supervisor.

To reiterate, the levels of supervision and the staffing noted here are required to be in place during all operational periods. Obviously, no single dealer can man a table for the entire proposed gaming day. Dealers typically are on the floor for forty minutes out of each hour. Accordingly, the facilities with two tables would require staffing for thirty-six man/hours of dealer time, or, approximately five dealers working 8-hour shifts per day, or, 252 man-hours per seven day week. A similar formula can be appliced to the proposed table configurations at the other facilities. This means 504 man-hours per 7 day week at the Golden North Hotel; 756 man-hours at the Klondike Hotel; 1,260 man-hours at the Eagle's Hall; and, with 12 tables for 8-hour days at the A.B. Hall, 1,008 man-hours.

These calculations and estimates have been done on the basis of utilization of the game of blackjack. Obviously, as different games are utilized, the personnel requirements would change. Blackjack has been used here since that is the game you have proposed on your fact sheet. As different games are proposed, we will be happy to supply you with personnel estimates for each

In addition, for your review and analysis, we attach a typical staffing chart outline for dealers and supervision in the games of Craps, Roulette, Baccarat and Big Six Wheel as well as Blackjack.

RELIEF FACTORS

PIT BOSSES		RELIEF FACTOR
BJ	1 PIT BOSS/12 TABLES	1.25
CRAPS	1 PIT BOSS/8 TABLES	1.25
RO	1 PIT BOSS/12 TABLES	1.25
BAC	1 PIT BOSS/12 TABLES	1.25
BIG SIX	1 PIT BOSS/12 TABLES	1.25
FLOORPERSONS		
BJ	1 FLOOR/4 TABLES	1.25
*CRAPS	1 FLOOR/2 TABLES	1.25
RO	1 FLOOR/4 TABLES	1.25
BAC	1 FLOOR/1 TABLE	1.25
BIG SIX	1 FLOOR/4 TABLES	1.25
BOXPERSONS		
*CRAPS	1 BOX/1 TABLE	1.25
DEALERS		
BJ		1.33
CRAPS		4.00
BAC		4.00
RO		2.67
BIG SIX		2.67

* 2 supervisors required per 1 craps table (box or floor)

Craps - Box - 1 per table

Floor - 1 per every 2 tables
Plus
(usually) half the number of craps tables

ex: 12 craps tables=
6 box stations plus
3 floor stations + 3 supers. = 6

2. <u>What should an organizational chart of these personnel look like to insure the greatest degree of control and audit capability?</u>

As stated in the response to Question 1, and also, in part, in the response to Question 3, levels of supervision and organization of casino operations are essential components in the control of the casino games. Organizational charts in large casinos look very similar to the kinds of tables of organization one might see in any large corporation. They include, for example, critical elements of function segregation to insure that incompatible duties are not performed by individuals within the same or similar departments This eliminates, as far as practicable, the possibility that an employee is in a position to both perpetrate and conceal errors or irregularities in the normal course of his duties.

Departments typically found within a large scale casino operation would include:

1. A Surveillance Department, whose responsibility it would be to conduct clandestine surveillance of the operation and conduct of the casino. This department would report directly to the Board of Directors.
2. An Internal Audit Department, whose responsibility it would be to review and appraise the adequacy of internal controls. This department would also report directly to a Board of Directors.

3. A Casino Department who would be responsible to a Director of Casino Operations and, in turn, to a Chief Executive Officer. This department would be responsible for the operation and the conduct of the games.
4. A Slot Department, supervised by a Slot Department Manager, who would report to the Director of Casino Operations and, in turn, to the Chief Executive Officer. This department would be responsible for the operation of the slot machines.
5. A Credit Department, supervised by a Credit Manager, responsible to the Director of Casino Operations. This department would handle the credit function including verification of credit references and the establishment of patron credit limits.
6. A Security Department, supervised by a Director of Security, and responsible to the Chief Executive Officer. This department would perform physical safety functions.
7. A Casino Accounting Department, supervised by a Casino Controller and responsible, in turn, to the Chief Financial Officer. This department would handle all recordation of casino transactions.

Clearly, casino operations of the size contemplated in Skagway would not require the elaborate kinds of casino organization outlined above. Some variation of that organization would be necessary in order to insure that the

games in question are properly run. The level and extent of that organization would depend, in large measure, on not only the size of the operation but also the types of games offered and the method of play. For example, no credit department and a more limited accounting department and function would be required if credit were forbidden. In addition, elaborate systems of surveillance, such as closed circuit television cameras and the like, would appear superfluous in a situation in which but two table games are allowed in a given facility.

Therefore, although it cannot be determined at present with specificity what particular levels of organization would be necessary in casino operations in Skagway, it can generally be said that the organizational structure should insure sufficient levels of supervision to permit of adequate control by segregation of function and sufficient diversity of organization to similarly segregate duties and responsibilities which arise from the opration of casino games.

3. What is the best means of hiring personnel, especially supervisory personnel, to assure professionalism and integrity?

Before any discussion of the methods for recruitment and hiring of personnel in a casino is undertaken, it is necessary to understand the critical importance of the identity of those personnel in the overall context of the security of the casino itself. In a casino, unlike the situation prevalent in virtually every other business of any kind, sales transactions are unrecorded. Although elaborate internal and accounting controls can be applied to exchanges of cash for chips and other representatives of value used in the course of casino games, there is no written account kept of the actual wagers themselves. As a result, the real business transaction of the casino is not reflected in any book or record.

For these reasons, the basic control that is used to make sure that casino business is run properly must rest with the integrity of the people involved. In ways which can be described in more detail as necessary, systems of supervision are utilized which insure that a variety of people must concur with the conduct of each individual casino transaction. Misconduct in the course of these transactions, therefore, requires collusion of a variety of employees. The more people involved in those transactions whose integrity can be reasonably insured, the more

confidence there can be that the transactions themselves are conducted in an honest fashion.

Choices in the hiring of personnel must be the result of a diligent screening process. That process must be undertaken in both the public and private sector. On the public side, a government agency should be provided the authority to issue licenses to casino personnel. All persons involved in any way in the conduct of the games or the supporting accounting functions involved in casino operations should be required to be licensed. In a casino business as small as that proposed in Skagway, the creation of a new agency to perform this function would seem unnecessary. An existing law enforcement agency could be given that authority. It is essential, however, that whatever agency is delegated the authority to conduct the licensing process, that agency be an authorized and credible law enforcement body. It will be expected that persons will attempt to become employed in Skagway casino operations from a variety of jurisdictions. In order to develop the most thorough and efficient summary of those persons' backgrounds, the investigating agency must be able to obtain information from law enforcement authorities literally throughout the world. The receipt of that information is greatly facilitated if the requesting agents have some established relationship with the bodies from whom the information is sought.

Statutory criteria should be established within which the licensing agency can evaluate the qualifications of each applicant for an employee license. Those criteria should be broad enough to permit the consideration of all relevant information, but they should also be specific enough to both survive any constitutional challenge and, of equal importance, establish certain specific qualifications about which the licensing agency has no discretion. For example, general standards of good character, honesty, financial responsibility and casinc experience should be included. Information received in the course of the investigation of each applicant can be evaluated in accordance with these standards. In addition, the statutory criteria may provide that persons with a specific type of criminal history not be permitted licensure in any case.

No person should be permitted to work unless and until he has received an appropriate license.

On the private side, casino employers should exercise caution and responsibility in both the hiring and the retention of sensitive casino employees. The license screening process administered by the government serves one purpose, but maintenance of the integrity of the casino games must also come from a coupling of that process with private sector responsibility. Even a suspicion of cheating should be

cause for dismissal. Casino personnel should be sufficiently well paid to ensure that quality people are recruited and retained. Since increased employment in the area does not seem to a significant goal of the Skagway proposal, it seems unnecessary to implement any procedures which would give preference to local residents in casino employment. This would be advantageous in recruiting experienced people from other jurisdictions.

4. What types of games would have been common at the turn of the century, and which of these would be the best in terms of economic gain to the City of Skagway, ease of control and audit, and provide the greatest visitor appeal?

The question of the type of games to be offered in any authorized casino is, to be sure, an important one, and one on which we offer thoughts below. However, at the outset, it should be noted that specific designation of particular games is not necessarily essential at this stage of a casino proposal. What is a necessary component in this context in any beginning casino proposal is the recognition that only those games authorized by the regulatory authority empowered to control the casino operation will be allowed to be played in that casino operation. Once this power is established, the public can be assured that the games offered will be fair and in keeping with the general atmosphere intended by the enabling legislation. There is some significant value in leaving open the possibility to introduce new games or remove existing games from play as experience and time dictate success and failure.

For example, New Jersey found it necessary to amend its casino law to broaden the discretion vested in the regulatory authority to authorize new types of games as market demands demonstrated the necessity for modifications and as new games were developed and created. In recent legislation, authorizing casino gambling in Queensland, Australia, the nature and types

of games to be played was left to the discretion of the casino operator to propose and to the governmental apparatus to approve.

With respect to any particular games that might be contemplated and the advantages and disadvantages of them, the game which would probably prove the most popular and be in keeping with the historical ambiance intended is the game of Blackjack. You appear to have contemplated the introduction of this game by virture of your reference to it in your fact sheet. Blackjack is a game regularly played in casinos throughout the world, it is familiar to virtually all casino patrons and has proven successful and profitable as a general rule. Supervision and control of Blackjack has been explained, in part, in other sections of this report. There are other specific dealing rules and procedures which may be implemented which can further insure the integrity of the game. For example, Blackjack should be dealt from a dealing shoe and not out of the dealers' hand. Patrons should not be permitted to touch the cards which they are dealt. Specific shuffling and discard procedures should be followed and specific gaming rules can be implemented which can counteract card counters who might otherwise gain the edge in the probabilities of the game.

Another game that might be considered is the game of poker.

Although poker provides an increased possibility for patron cheating, by virtue of the players' handling of their own cards and their playing against one another, poker also presents a virtual certain profit for the house since the casinos' win comes as a price for dealing the game. The house does not gamble at all in casino poker.

A third game for consideration is the game of craps. This is a very American game which would probably be well known to those who would patronize the Skagway facilities. Craps fits well into the barroom sort of atmosphere which Skagway would be creating. It generates a great deal of player interest and excitement in the course of its play. The house advantage in craps depends on the type of wager placed, but, overall it can be expected that the casino would win between 15% and 20% of all chips purchased at the table.

To reiterate, the listed games above are provided only as suggestions. As also noted above, the initial proposal can include discretionary authority to identify, modify, and eliminate authorized games.

5. What would be an initial cost for equipment and operation to get the program started?

Costs of development are, obviously, a function of the nature of the development itself. The Skagway Proposal eliminates what, in other jurisdictions, has been the most expensive element of casino industry development - construction. The Skagway Proposal, as we understand it, intends to place casino games within existing facilities. As a result, capital costs would be limited to whatever minor alterations to the facility might be necessary for aesthetic, logistic reasons. It is premature to speculate at this point on what types of internal rearrangement might be necessary within any existing facility and, accordingly, the cost of that rearrangement must wait for another day.

However, what can be surmised within some general range is the cost of equipment. We have included in our report for this purpose a brochure prepared by the Paul-Son Dice and Card Company. This brochure is intended for your review as an example of the types of expense that could be anticipated in the purchase of casino equipment.

As one can see from a perusal of the brochure, these costs are not small. In addition, there must be included costs of the equipment which might not typically be realized. For example,

for the game of Blackjack, one must not only purchase the table itself, but the felt layout which covers the table, the locking tray and cover which secures the chip inventory, the drop boxes into which cash received for the purchase of chips is placed, and other similar ancillary apparatus.

One should also carefully consider the significance of items like chips and cards and their associated costs. One takes for granted that chips and cards are an essential element of any casino operation. However, it must be understood that the security over and the integrity of each of those items is critical to the overall honesty of the casino game. Therefore, chips which, in effect, serve as money in a casino, must be specially manufactured to prevent, as far as possible, counterfeiting. In addition, cards must be carefully designed to avoid patterns which lend themselves to easy marking. Cards, and to a lesser degree, dice as well are regularly destroyed and replaced when they have developed any sign of use or wear that might compromise the integrity of that piece of equipment.

6. What kind of revenue could the city expect to receive?

Speculation on projected revenue is just as difficult in the casino field as it is in any other area, and probably more so. A wide variety of factors must be considered before any specific figure could be deduced. Typically, an analysis of general economic conditions is undertaken as is an analysis of site, location, and supply and demand. Without that kind of information available at the present time, the best projections we might be able to offer can be based in the general experience of existing jurisdictions.

In this connection, we offer you the following experience from Atlantic City, New Jersey. The industry there has estimated that the game of Blackjack typically generates income as follows:

1. A table with a $2 minimum bet will win (gross profit) between $68 and $80 per seat per day.
2. A table with a $5 minimum bet will win (gross profit) between $170 to $200 per seat per day.
3. A table with a $25 minimum bet will win (gross profit) between $850 and $1,000 per seat per day.
4. A table with a $100 minimum bet will win between $3,400 and $4,000 per seat per day.

As another means of comparison, during February of 1983 in Atlantic City, a casino of average performance won approximately $2,500 per day per craps table, $1,700 per day per roulette table, $2,500 per day per big six wheel, and $6,000 per day per baccarat table.

As has been said previously during the course of this report, the experience of any one jurisdiction will not necessarily coincide with the experience of another. The casino performance figures of Atlantic City provided herein are not those on which Skagway should rely or expect in its situation. There were 21,000,000 visitors to Atlantic City last year. Skagway will experience no such influx. The above figures are provided only so that you have some point of comparison into which you should calculate the variable factors of geography, size, scope, market and the like. As those factors are studied, a clearer picture of expected profitability in Skagway will take shape.

7. Under this proposal, what kind of social problems should we expect?

One lesson we have learned in the course of our having viewed various existing and proposed casino jurisdictions is that each casino environment is distinct. It is impossible to transpose any casino situation from one geographical area to another and assume that precisely the same set of circumstances will apply to each. The economic, sociological and demographic features of a particular region dictate the affect of the introduction of casinos into that region just as surely as they dictate the social effect of any other phenomenon that that region may experience. There are, however, two general categories of lessons which can be learned from the experience of other jurisdictions. On the one hand, certain social impacts can be expected as a general rule, and anticipation of these impacts can greatly enhance the value of the introduction of the casino experience. Secondly, there is a host of misinformation and mythology which surrounds the casino industry and which can be dispelled by a review of what has happened in other parts of the world.

First of all, the most frequent social effect mentioned in connection with the introduction of casinos is the growth of crime in the area. As a general proposition, it can be said that the introduction of casinos on any large scale has, in the past, increased crime rates. However, what must be

clearly understood about this observation is that the associated increase in the crime rate is, in very large measure, not the result of the introduction of casinos per se, but, rather, the result of the resultant enormous increase in the numbers of visitors to the area. For example, the increase in the crime rate in Atlantic City, New Jersey, after the introduction of casinos to that area was no greater and, to some extent, less than the increase in the crime rate in Orlando, Florida which resulted from the introduction of Disney World to that city.

To be sure, there are certain crimes which have typically been linked to casinos themselves. Prostitution and loan sharking are frequently mentioned in this category. However, what must be understood in evaluating the Skagway proposal in this context is the scale of casino operation therein proposed. The kinds of prostitution and loan sharking activity which may tend to arise in 30,000 to 100,000 square foot, million dollar a day casino operations in Las Vegas or Atlantic City will simply not be spawned in the infinitely more subdued and limited casino atmosphere contained in your proposal. For example, one casino activity which has caused some of the most severe law enforcement and social problems in large scale casino operations has been the area of credit. Questions of untaxed casino proceeds, patron fraud, and compulsive

gambling have arisen from the issuance of credit to gamblers. However, in casino enterprises of the size you propose, it would be both unnecessary and inappropriate for credit to be available. This factor alone eliminates many of the social effects which have been criticized in other jurisdictions.

Another issue often linked with casinos, as mentioned briefly above, is complusive gambling. The specter of the food money being gambled away at the tables haunts those who propose and support casino legalization. Again, there is an element of validity to this fear. Certainly, the availability of casino gambling, or any form of gambling for that matter, increases the possibility that persons will succumb to whatever psychological factors create the compuslive personality where they might not otherwise succumb if the opportunity to gamble had not been made readily accessible. However, here, too, this problem must be viewed in terms of scope and scale. The more limited the opportunity, the more limited the problem.

Other jurisdictions have dealt with this social effect in different ways. For example, in Great Britain, all casino gambling is conducted in facilities in the nature of private clubs. Patron access is limited to members. One may not become a member, or gamble in the facility, for a forty-eight hour period following application. This

practice is in keeping with the overall British policy that gaming not exist to meet any but unstimulated demand. Another practice in keeping with this policy is the prohibition of advertising by any English casino.

In the Bahamas, they have taken the policy a few steps further. In that country, no member of the local population is permitted to gamble. This clearly limits patron categories to visitors and tourists and severely limits any economic effects which may accrue to Bahamians as a result of the existence of casinos in their country.

Finally, in Malaysia, Malaysian citizens are required to deposit $200 Malaysian (approximately $85 American dollars) with a cashier on entering the casino. They are given a receipt for the money. When they leave the casino, on showing their receipt, their money is returned to them. This practice insures that, first of all, persons of some means are those who are gambling and, second of all, no one can gamble away their last dollar.

We do not mention these practices to suggest your adoption of all or any of them. We only note them for your consideration in evaluating the methods which can be utilized to limit what might be perceived as negative social impacts which result from casino gambling.

Finally, there is the axiom that where casinos go, organized crime will follow. Clearly, this impression arises from a combination of both historical fact and media reinforcement. The origins of casino gambling in the United States did have connections with organized criminal activity. The State of Nevada would be the first to admit that the first major casino in Las Vegas, the Flamingo, was owned and operated by Bugsy Siegel, a gangster of significant notoriety.

But history, after all, is history. There is nothing inherent in the conduct of a casino game that makes any association between it and organized crime inevitable. Careful review and oversight in the gaming area can, for all intents and purposes virtually eliminate organized crime infiltration in the ownership and the operation of casino enterprises. This is especially so under the circumstances you propose. Again, one must look first to the size and scope of the casinos envisioned. Skagway is not intended to be Las Vegas; it is not intended to be Atlantic City. Rather, Skagway as we understand it, intends to offer a small, quaint casino atmosphere with limited play and limited patronage. These are not circumstances ripe for any substantial criminal incursion.

ALASKA VISITORS ASSOCIATION

Tourism
is everybody's
business.

Please reply to:

FEB 27 [illegible]

AVA
Fairbanks Chapter
SRB 70762
Fairbanks, Alaska 99701

February 22 1984

Senator Bettye FahrenKamp
Alaska State Legislature
Pouch V (MS 3100)
Juneau AK 99811

Dear Senator FahrenKamp:

At our February meeting two important items pertaining to tourism were brought to our attention.

ONE

H.B. 659 and S.B. 476 on Historical Gamoling

The Fairbanks Chapter of AVA unanimously supports this concept.

TWO

It was called to our attention that funding for the ARR Employment Program has fallen through the cracks due to the various plans to take over the Alaskan Railroad. Our Chapter feels that this program should stay in the Department of Education budget regardless of what happens to the railroad.

Thank you for addressing our concerns.

Sincerely,

Carl Heidenreich
President, AVA Fairbanks Chapter

"CITIZENS FOR SKAGWAY"
BOX 384
SKAGWAY, ALASKA 99840

February 22, 1984

Dear Senators and Representatives,

"Citizens for Skagway" is an organization of concerned Skagway residents who have pooled their resources in effort to keep a Limited Form of Historic Gambling from being legalized in Skagway. Until this year our efforts have been concentrated in Skagway, but with the introduction of House Bill No. 659 and Senate Bill No. 467 "An Act Authorizing Certain Municipalities to Conduct Limited Historic Gambling Enterprises", we are compelled to broaden our fight to the state level.

The "Citizens for Skagway" represent a typical cross section of American life, from independent businessmen and women, clergy, members of organized labor, business executives, and a most valued resource, our retired senior citizens. We have one thing in common that puts aside all other differences--We feel that a limited form of gambling is definately not in the best interest of Skagway or the state of Alaska.

The objections to gambling as proposed by these bills are as diverse as the opponents themselves, ranging from strong moral objections; fear of the city owned gambling enterprises competing with private enterprise; doubts that the city could properly manage a gambling enterprise; questions concerning the great monetary gains promised the city; fear that the eventual eroding of limitations placed on the gambling enterprise would attract an undesirable element into our community; and a fear of further splitting the citizens of this community and of the state.

Our community is split, our city council is split and bitterness is already evident.

We ask you to consider this issue from within. It is an issue to take home with you, an issue to consider when dining with your family. Our actions and decisions of today must be lived with tomorrow.

For the good of Alaska, today and tomorrow, we urge you to oppose Senate Bill No. 467 and House Bill No. 659, and other legislation which will broaden the scope of legalized gambling in Alaska.

Thank you for your time and consideration.

Respectfully,

Michael D. Colyer

Michael D. Colyer, Chairman

Approx
150
signatures
Opposed

Proposition No. 1 or any revised proposal.

We further petition the City Council of Skagway to reconsider the use of public funds on the gambling issue, including lobbying efforts and other related expenditures.

We urge City Council to find a solution that would provide year round employment or enterprises that have the support of the community.

SIGNATURE OF REGISTERED VOTER	DATE	RESIDENT'S ADDRESS
M. Paul Taylor	May 23, 1983	15th Ave and Main Street
Lloyd L. Matthews	May 23, 1983	2nd and Main Street
Gerald W. Smith	May 23, 1983	21st and Main Street
Charlotte S Burr	05/23/83	7th btwn State & Main
Carl Mitchell	05-23-83	4th Main
Corton H. Pochron	5-23-83	1st main
J. D. True	5-23-83	10th + main
[illegible] Mehle	5/24/83	18th + State
O. S. Selmer (Stan)	May 24, '83	6th & Main
Thomas C Mason	May 24, 83	6th & STATE
Denise Taylor	May 25, 1983	15th & Main
Ella Sullivan	May 25 1983	12th + State
Anne Lingle	May 25/83	7th & Alaska
Penny R. Sullivan	5/25/83	15th & State
Lloyd Sullivan	5/25/83	17th + Broadway
[illegible]	5/30/83	7th + Alaska
Beryl Hosford	5/31/83	Mile 10, Dyea Rd.
Marvin P. Taylor	5/31/83	18th & Main
Evangeline H Taylor	5/31/83	18th + Main
El Hassan	6/15/83	15th & State
Allene Rohlf	6/18/83	8th + Broadway
Chris Rohlf	6/18/83	8th + Broadway
Dorothy Dennis	6/18/83	4th & [illegible]
Copies to: Governor		
Legislators	6/18/83	4th + Alaska
Silas P. Deering Sr.		
Bob Rapuzzi	6/18/83	2nd + Alaska
Randy D. Feero	6/28/83	3rd + Alaska

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We urge City Council to find a solution that would provide year round employment or enterprises that have the support of the community.

	SIGNATURE OF REGISTERED VOTER	DATE	RESIDENT'S ADDRESS
1.	Maxine K. Selmer	5-31-83	6th and Main, Skagway
2.	Peggy White	5-31-83	6th & Main, Skagway
3.	Oscar Selmer (Stan)	5-31-83	6th & Main Skagway
4.	Sharon Ackerson	5-31-83	6th & State Skagway
5	Stan Seago	5-31-83	4th & ALASKA SKAGWAY
6.	Violet Conard	6-1-83	4th and Main
7.	Brenda Easthom	6-1-83	2 and State, Skagway
8.	George Rapuzzi	6-1-83	2 and State
9.	Edna Rapuzzi	6-1-83	2nd State Skagway
10.	Alberta Kaler	6-1-83	3rd & main Skagway
11.	Elizabeth K. Albrecht	6-1-83	3rd & Broadway, Skagway
12	Gerald E Becker	6-1-83	3rd & State Skagway
13.	Pamela K. Becker	6-1-83	3rd & State Skagway
14.	Blodwen Reed	6-1-83	18th & Main Skagway
15.	Morgan Reed	6-1-83	18th & Main
16.	Roger Speel	6-1-83	5th & Spring Skagway
17.	Marcia C Berry	6-1-83	5th & Alaska Skagway.
18.	Jim Spencer	6-1-83	3rd & main, Skagway
19.	Linda Thiel	6/1/83	2nd & Alaska
20.	Virginia Cochran	6/1/83	1st Ave
21.	Thomas F. Easthom	6/2/83	2nd & State, Skagway

Copies to: Governor

Legislators

[illegible] of any revised proposal.

We further petition the City Council of Skagway to reconsider the use of public funds on the gambling issue, including lobbying efforts and other related expenditures.

We urge City Council to find a solution that would provide year round employment or enterprises that have the support of the community.

SIGNATURE OF REGISTERED VOTER	DATE	RESIDENT'S ADDRESS
1. Jeanne Knorr	5/30/83	P.O. Box 256 - 8th & Brd 3 mile Dyea Rd.
2. Marilyn Burgy	5/30/83	P.O. Box 217
3. Chausse L. Mielke	5/30/83	Box 112 - 21st & Main
4. Joanne Hamme	5/30/83	P.O. Box 324 - 8th Btwn Brdwy & Stat
5. Terrell C. Hamme	5/30/83	P.O. Box 324 - 8th & Brdwy
6. Bruce Boynton	5/30/83	" " 163 - 9th & Brdwy
7. Evelyn Boynton	5/30/83	PO Box 163 - 9th & Brdwy
8. Emily M. Olson	5/30/83	PO Box 336 9th & Spring
9. Dan McAgee	5/30/83	PO Box 22
10 John R Thorwood	5/30/83	P.O. BOX 41, SKAGWAY
11. Frances Hosford	5/30/80	P.O. Box 452 - 9th & Brdwy
12. Goldie Hurkill	5/30/83	Box 383 - 10th & Stat
13 Barbara A. Moore	5/30/83	Box 313 - 9th & Main
14. Pamela G. Therriault	5/30/83	Box 404 - 22nd & Main
15. Randy Wentz	5/30/83	Box 128 - 11th Btwn. Stat & Main
16. Rodney A. Burgy	5/30/83	BOX 217 - 3 mi. Dyea Rd
17. Terry A. Meroney	5-30-83	PO Box 191 - 22 & Main
18. Thomas E. Hixon	5-30-83	PO Box 272 - 16th & Stat
19. Robert D. Caylor	5/30/83	Box 397 - 8th & Main

Copies to: Governor

Legislators

Proposition No. 1 or any revised proposal.

We further petition the City Council of Skagway to reconsider the use of public funds on the gambling issue, including lobbying efforts and other related expenditures.

We urge City Council to find a solution that would provide year round employment or enterprises that have the support of the community.

	SIGNATURE OF REGISTERED VOTER	DATE	RESIDENT'S ADDRESS
1.	Richard Dick	5-26-83	7th & Main P.O.B 226
2.	Alta M. Dick	5-26-83	7th & Main P.O.B 226
3.	William B Barger	5-26-83	8th & MAIN P.O. Box 83
4.	[illegible]	26 May 83	5th & Spring P.O. Box 138
5.	Nancy Nolan	26 May 83	5th & Main P.O. Box 139
6.	Mark Allen Kallstrom	28 May 83	4th & Broadway - Skagway
7.	[illegible]	30 - May 83	3rd & Main - Skagway
8.	[illegible]	30 - May 83	10th & [illegible]
9.	[illegible]	30 - May 83	9th & Main Box 261
10.	[illegible]	30 - " 83	3rd & Main
11.	Penny Spencer	5-30-83	5th & Broadway
12.	Chas A. Nelson	5-30-83	5th & Broadway
13.	[illegible]	5-30-83	5th & Broadway
14.	[illegible]	5-30-83	5th and Broadway
15.	[illegible]	5-30 83	8th & Broadway
16.	Margaret Gordon	5-30-83	7th & Broadway
17.	[illegible]	5-30-83	Mission
18.	[illegible]	5-30-83	9th & Alaska
19.	[illegible]	6-2-83	14th & Broadway
20	[illegible]	6/2/83	11th & Broadway
21	[illegible]	6/2/83	14th & Main
22.	Gip A. Mooney	6-2-83	10th & Alaska
23.	[illegible]	6-2-83	10th & Alaska
24.	[illegible]	6-2-83	13th & Alaska State
25.	Malcolm A. Moe	6-2-83	13th & State
26.	[illegible]	6-2-83	
27.			
28			

Copies to: Governor
Legislators

Proposition No. 1 or any revised proposal.

We further petition the City Council of Skagway to reconsider the use of public funds on the gambling issue, including lobbying efforts and other related expenditures.

We urge City Council to find a solution that would provide year round employment or enterprises that have the support of the community.

SIGNATURE OF REGISTERED VOTER	DATE	RESIDENT'S ADDRESS
1. Andrew Bierly	May 30-83	1st and Main -
2. Joanne Bierly	May 30, 1983	1st and Main
3. Joy E Cable	May 30, 1983	1st and Main
4. Charlotte A. Cable	May 30, 1983	1st & Main
5 Marion A. Kelm	May 31 1983	6th and Alaska
6. Margaret J. Katzeck X	May 31, 1983	6th and Alaska
7. Diane Jolley	May 31/83	22 / main
8. Vickie Lynde	MAY 31/83	6th and Alaska
9. Dennis Lundy	May 31/83	6TH & MAIN
10. John Meath	May 31/83	21st & Main
11. Gary Ackerman	May 31. 83	575 State St.
12. Allan Reed	May 31. 83	4th + Main
13. Barbara Sperl	May 31-83	5th + Spring
14. Inez Knarr	May 31-83	5th Btwn State & Main
15. Lauri Diago	May 31-83	4th + Alaska
16. Edith Lee	May 31-83	4th & main
17. Mark H. Lee	May 31-83	4th & Main
18. Ellis L. Hubbard	May 31, 1983	4th & Broadway
19. Elma K. McMillen	May 31, 1983	4th + Main

Copies to: Governor

Legislators

20. E. Wanetta Coring	May 31, 1983	4th & main
21. Pearl Bristow	May 31 1983	4 + main

of Skagway to prohibit gambling as proposed on the ballot of May 10, 1983, Proposition No. 1 or any revised proposal.

We further petition the City Council of Skagway to reconsider the use of public funds on the gambling issue, including lobbying efforts and other related expenditures.

We urge City Council to find a solution that would provide year round employment or enterprises that have the support of the community.

SIGNATURE OF REGISTERED VOTER	DATE	RESIDENT'S ADDRESS
1. Dorothy M. Barry	5-31-83	Ivory Lodge
2. Sandra Westfall	5-31-83	15th Broadway
3. Nancy B. Ewine	5-31-83	15th + State
4. Eugene M. Ewine	5-31-83	15th + State
5. Mary Rhoe	5-31-83	15th + State
6. Lola Sullivan	5-31.83	3 & Main
7. Brian Blanchard	5-31-83	20th & Alaska
8. Mona S. Casselman	5/31/83	18th & Alaska State
9. William S. Casselman	5/31/83	18th & State
10. Ginny Holmes	5/31/83	20th & Alaska
11. John Reed	6/2/83	18th & Main
12. Dean L. Cannon	6/2/83	22nd + Main
13. Ross Sifton	6/2/83	22nd. & Main
14. Robin Hayton	6/2/83	" "
15. Lillian M. Sidmore	6/3/83	2nd & Alaska

Copies to: Governor
Legislators

[illegible] of any revised proposal.

We further petition the City Council of Skagway to reconsider the use of public funds on the gambling issue, including lobbying efforts and other related expenditures.

We urge City Council to find a solution that would provide year round employment or enterprises that have the support of the community.

SIGNATURE OF REGISTERED VOTER	DATE	RESIDENT'S ADDRESS
1. Debra L. Meroney	5/30/83	Box 191 23rd + Main
2. William Selmer	5/30/83	Box 532 2nd + Alaska
3. Dorothy B. Mayo	5/31/83	Box 413 - 11th + Alaska
4. Wanda J. Self	5-31-83	Box 325 - 11th + Alaska
5. Guy W. Self	5-31-83	Box 325 - 11th + Alaska
6. J. M. Fry	5-31-83	Box 206 - 19th + Sta
7. Kristin L. Jacquot	5-31-83	Box 282 - 9th + Ala
8. Jolla Blanchard	5-31-83	Box 162 - 8th + Ala
9. [illegible]	5-31-83	Box 155 - 3 mile Dyea
10. Deborah E. Cogburn	5-31-83	P.O. Box 397 - 8th + Main
11. J. M. Matthews	6-1-83	Box 364 - 9th + Brdwy.
12. Ann Ray	6-1-83	Box 275 - 11th + Brdwy.
13. Teresa Wentzel	6-1-83	Box 128 - 11th Btwn State Main
14. Susan D. Meroney	6-1-83	14th + Main
15. Mildred E. Meroney	6/1/83	14th + Main
16. Elizabeth Selmer	6/2/83	11th + Main

Copies to: Governor
Legislators

Proposition No. 1 or any revised proposal.

We further petition the City Council of Skagway to reconsider the use of public funds on the gambling issue, including lobbying efforts and other related expenditures.

We urge City Council to find a solution that would provide year round employment or enterprises that have the support of the community.

	SIGNATURE OF REGISTERED VOTER	DATE	RESIDENT'S ADDRESS
1.	Gordon S. Blanchard	5/23/83	8TH & ALASKA
2.	Michael D. Colyer	5/23/83	13th & MAIN
3.	Oscar Selmer	5/23/83	7TH Broadway.
4.	Winton M Yates	6/1/83	18TH & ALASKA.
5.	Sherrie M. Colyer	6/1/83	13th & Main
6.	Joan Warner	7/29/83	13th betw State + main
7.	Wanda Warner	7-29-83	13th " "
8.	Larry Jaequet	7-29-83	9th & ALASKA
9.	Cecilia Matthews	7/30/83	2d & Main

Copies to: Governor
Legislators

HB

678

(HJR 66)

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4968

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

MEMO

To: Representative Mitch Abood, Chairman
House State Affairs Committee

From: Representative Ron Larson, Member R.L.
House State Affairs Committee, and Chairman
Subcommittee for drafting CSSSHB 678

Date: March 19, 1984

Subject: Subcommittee report for CSSSHB 678

On Wednesday, March 7, 1984, you appointed me to Chair a subcommittee to develop a committee substitute for House Bill 678. Attached is the proposed Committee substitute.

The Subcommittee decided that the intent of the sponsor and the Committee could best be met by writing a CS for the SS rather than for the original bill. This was done by deleting in the SS the phrase "instruments used to wage any war and," thus limiting the bill's intent to just WW II and not other wars, while also removing potentially abrasive language.

By placing the CS in the same place as the SS under AS 41.35 (The Alaskan Historic Preservation Act) rather than with the original bill under a miscellaneous section of the criminal code in 11.76, we make the bill more than just a punitive one. The Alaska Historic Preservation Act not only provides stiffer penalties than the 11.76 section, but also includes language that would provide penalties for destruction of artifacts as well as for their removal. Further, the Act also speaks to preservation, and has enforcement procedures for removal, destruction, and preservation of artifacts already in place.

I respectfully submit to you as Chairman the attached CS for SSHB 678.

Alaska State Legislature

COMMITTEES

Vice Chairman — Judiciary

Vice Chairman — Legislative Regulations Review

Resources

Finance Sub Committee on Labor

While in Session

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3733

Home - District 15
Star Route Box 421
Eagle River, Alaska 99577
(907) 688-2526

House of Representatives

John J. Liska

March 5, 1984

M E M O R A N D U M

FROM: Representative John J. Liska

REFERENCE: HJR 66, relating to removal of WW II artifacts from the State.

The purpose of this Joint Resolution to request the Federal Government not to remove World War II artifacts from the State of Alaska, unless the removal is authorized by the Federal or State Government or if the Federal or State Government determines the artifacts to be hazardous to human or animal life.

The problem of removal of World War II artifacts has been and is an ongoing problem in our State.

Your packets contain:

A. Pages 30, 31 and 32 from a publication entitled "The Historical "Battle of Alaska" remains". These pages refer to various types of aircraft that crashed in Alaska and where they have been removed to:

1. Douglas - O - 38F - removed to Air Force Base Museum in Dayton Ohio in 1968.

2. Stinson - A Trimotor - to Wisconsin in 1972 by J.D. Berry.

3. P - 51H and P - 40 - Steve Myers, Washington

4. U.S. Navy Vough OS 2U King Fisher - removed to the Smithsonian Institute.

5. P - 39 Airacobras, on display in Seattle.

Additionally, page 73 shows Japanese artifacts from World War II.

In addition in your packets, but not nearly as interesting, are letters from CAVPAC supporting HJR 66 and HB 678 and a copy of a letter from General Talley who was involved in the Alutian Campaign.

Another piece of back up material has been submitted by the North Star Chapter Pearl Harbor Survivors Association. I have made copies of the first three pages - which may or may not be the same artifacts as previously submitted in your packet.

JJL/tm

Besides the public museums such as the Smithsonian Institute and the Anchorage Historical and Fine Arts Museums, there are many small or private collections which display items of Alaskan history. Unfortunately, in many cases, Alaskans have no say in how the collections are handled.

History is repeating itself in the area of aviation history. It is seen in many examples of aircraft downed during World War II which are leaving the state.

A Douglas 0-38F had engine problems and crashed in 1941. It was removed to the Air Force Museum in Dayton, Ohio in 1968.

In 1972 a Stinson 'A' Trimotor which crashed in 1947 was removed to Wisconsin by J.D. Berry. Berry wrote to Wien Air Alaska and followed it up with a phone call to try and get the airline to purchase the plane for the cost of its removal, but there was no interest, so it was sent Outside in order to pay the costs for its removal.

Two P-51H's were pulled out near Stevens Village. Two more were found near Kotzebue, and three were removed from across Cook Inlet. One P-40 was removed from Amchitka Island in the Aleutians. All of these aircraft were removed by Steve Myers of Washington.

Another P-40 was removed from a site near Fairbanks in 1977 and was sold to a buyer at an unknown Lower 48 destination.

A United States Navy Vough OS2U Kingfisher which crashed during WW II on one of the small islands near Kodiak, was removed in the early summer months of 1979 for removal to the Smithsonian.

There have been numerous other cases. An ad in Flying Magazine's June '80 issue states that sale of "P-39 Airacobras. Recently recovered from a fresh water lake in the Alaskan Peninsula. Russian armament, 117 hour totals hours each. Make offer, would like aviation museum or same to purchase...Yakima, Washington..." A call from the United States Historical Aircraft Preservation Museum in Anchorage brought no response.

Three B-25 Mitchell bombers have left the state in the past two years, in flyable condition, headed for the Outside.

The United States Historical Aircraft Preservation Museum has been trying for several years to open a museum facility located at Merrill Field, but has been blocked from doing so because it has no planes to put into the facility. At the same time, the Planes of Fame Museum from Chino, California has been soliciting donations of Alaska aircraft on a a promise of opening an alaskan branch museum at some undetermined later date.

It has successfully acquired an A-26 from Dr. Donald Rogers, an H-21 helicopter from Bill Swift to help in removing aircraft downed in Alaska, a B-25 from Fairbanks. A wing insignia was donated to the Air Force Museum by Ted Spencer - the insignia coming from the wing on an

aircraft downed at Nome which was to have been used in reconstructing a P-63 Airacobra.

The Committee contends that Planes of Fame has an established reputation for flying, crashing and destroying one-of-a-kind aircraft, and of selling aircraft and aircraft parts in the Lower 48 and abroad in order to keep itself solvent.

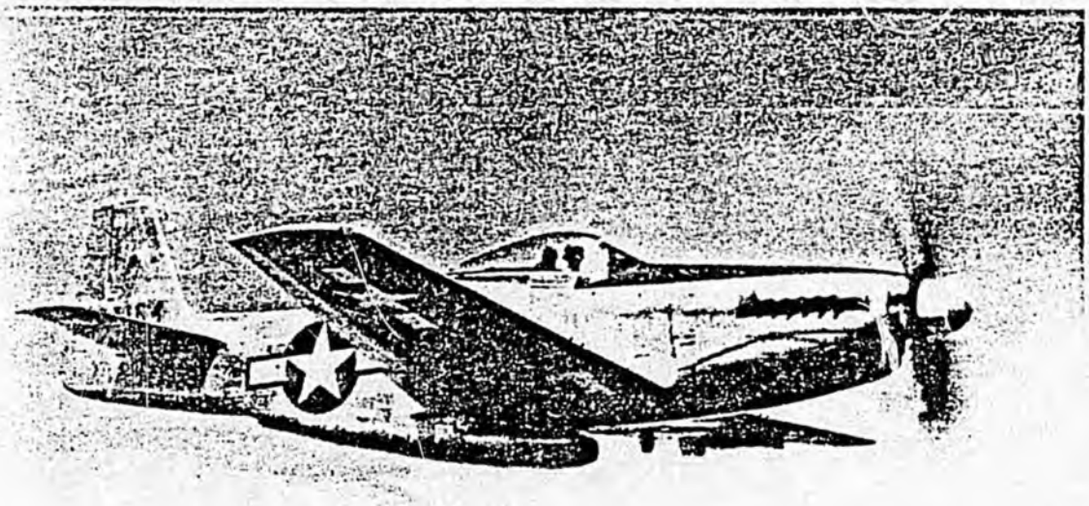
Flying in races and demonstrations for trophies and prize money has taken its toll on the vintage military aircraft.

The Committee feels that if it can adhere to those goals, Alaska will have one of the finest aviation museums in the U.S., preserving that part of Alaskan history.

The United States Historical Aircraft Preservation Museum is currently conducting negotiations for several planes of significant historical value, as well as parts of planes to be retrieved from bush areas.

Access to battlefields in the Aleutians is difficult because of the expense and weather conditions involved, but the area promises to be a fertile area to search.

If the museum has had a difficult time collecting actual aircraft for its displays, there has been no shortage of donations of other treasures. Photographs, blue prints from the Bell Factory which

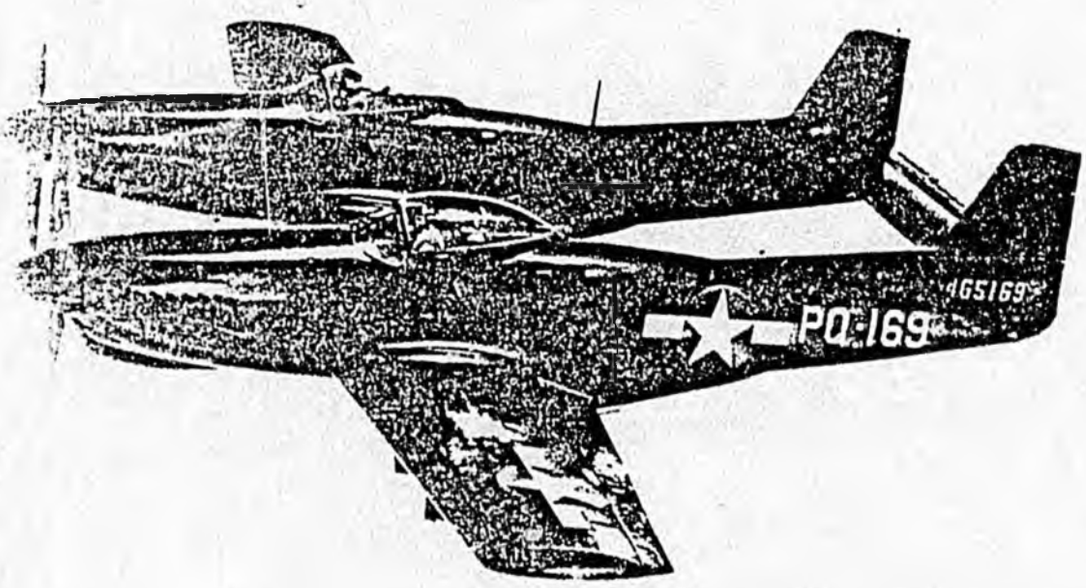


These fighters, P-51's Mustang, were used toward the end of WW II i. Alaska. They did not see combat in the Aleutian Campaign. Three downed P-51's were located.

AAHS

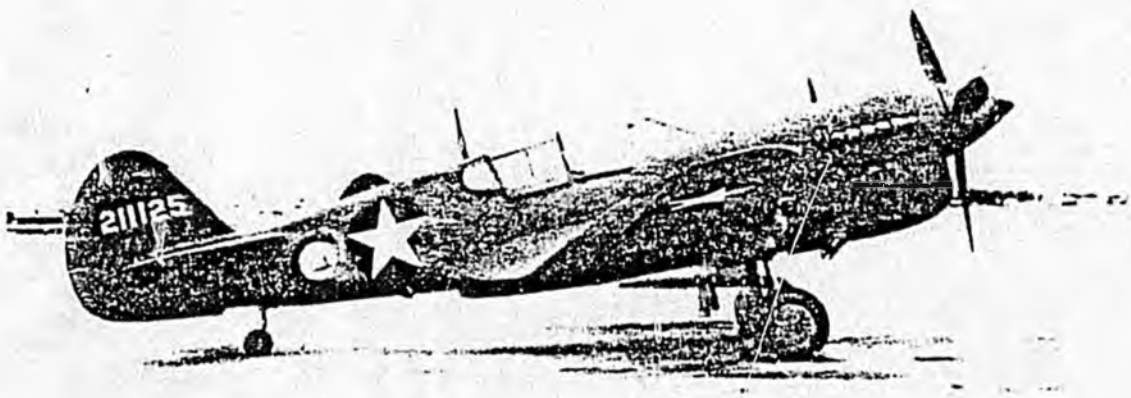
The P-82 Twin Mustang was based in Alaska after WW II. One was located that bellied in and is intact in the Interior.

USAF



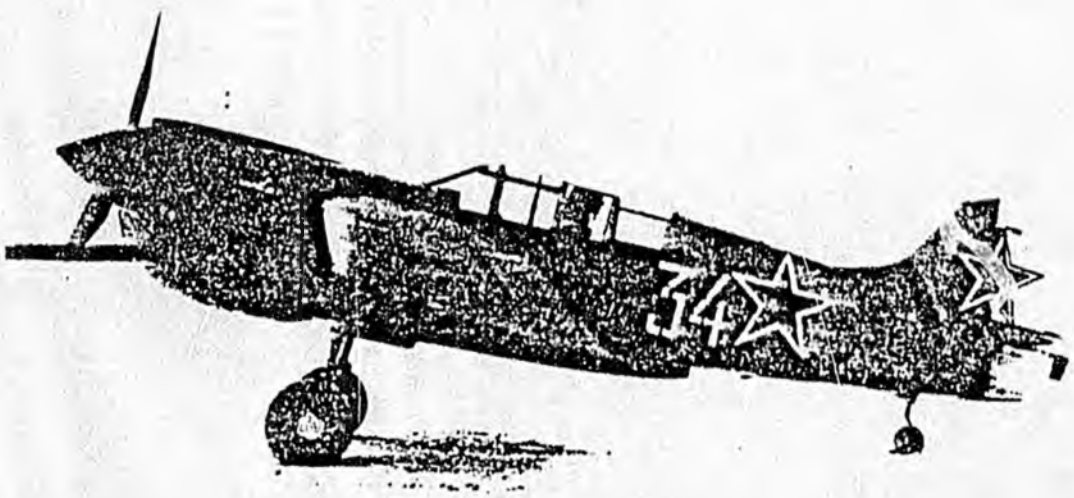
Curtiss P-40 was used by the USAF during the Aleutian Campaign. Eight P-40's were located: Five of them were abandoned, two were downed, and one is in the bottom of a fresh water lake. Also several brand new P-40's were buried in crates in the Aleutians.

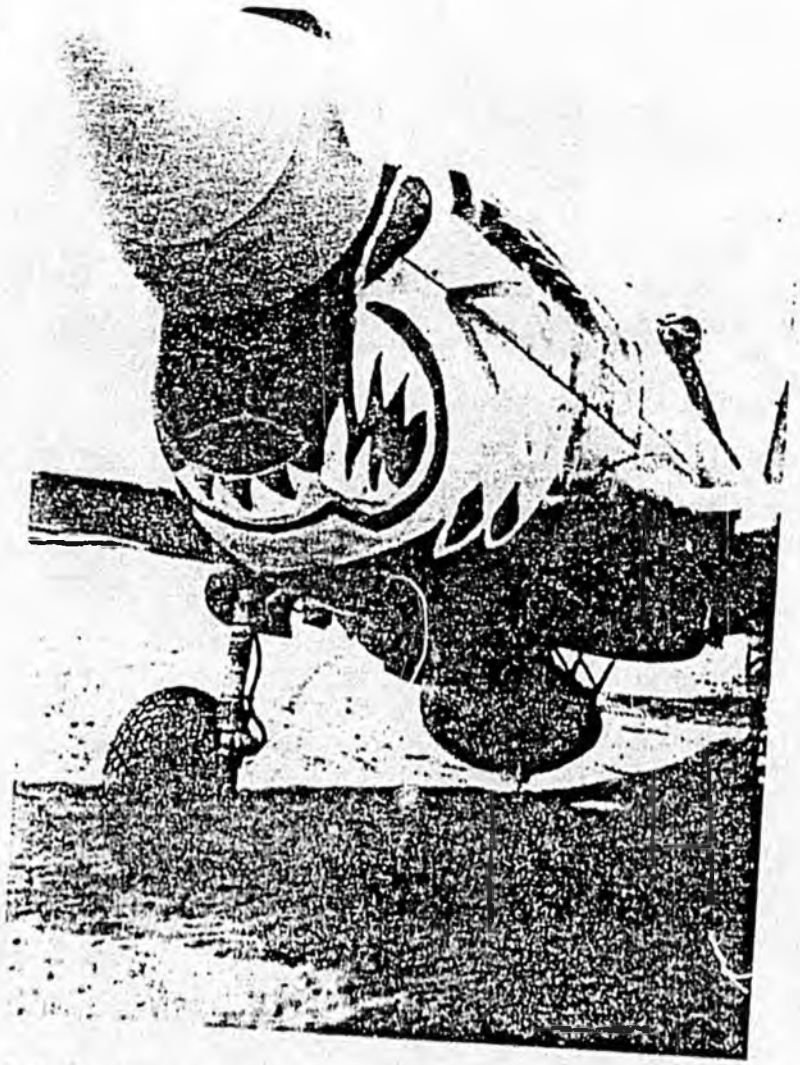
RWT



Approximately 48 Lend Lease P-40's came through Alaska on their way to Siberia. At present Moscow is the only place in the world that has one of the Lend Lease P-40's. Two more were located in the Interior.

GFP





This is a Curtiss P-40 called the "Aleutian Tiger." It was used in combat by the United States during the Aleutian Campaign. Four of them were located.

USAF

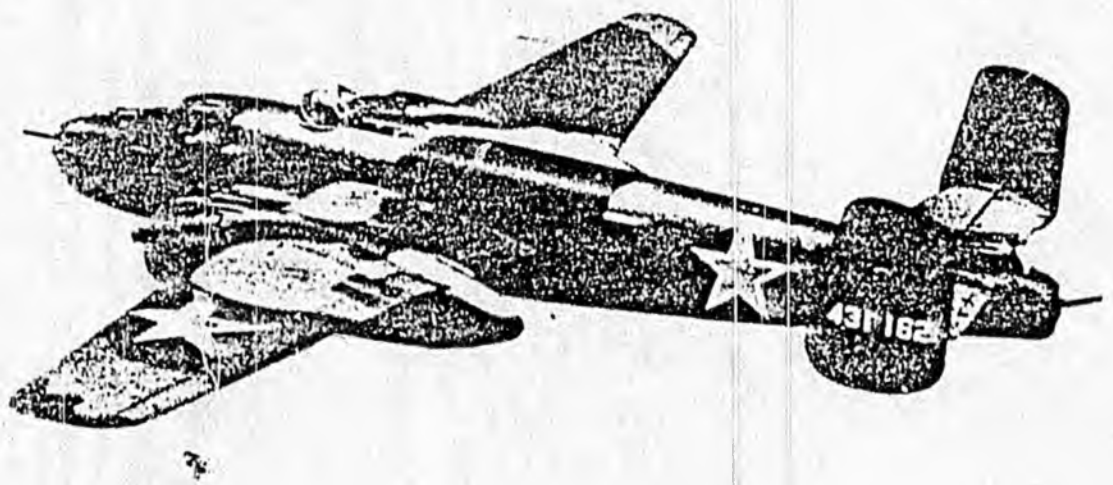


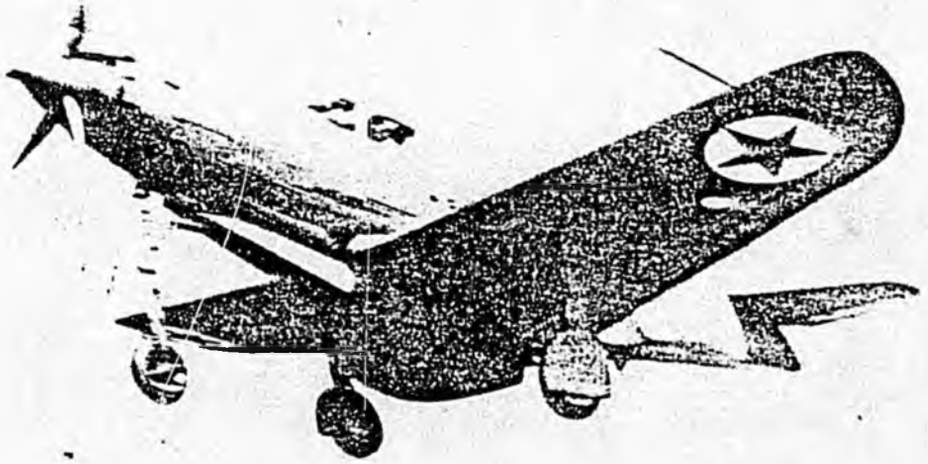
Two of these B-25 Medium Bombers went down in the Aleutians during the Aleutian Campaign.

USAF

Approximately 732 of these Lend Lease B-25 Mitchell Bombers were ferried from Great Falls, Montana, Whitehorse to Fairbanks to Siberia, Russia to be used against the Germans during WW II. Three of these aircraft went down in the Interior Alaska.

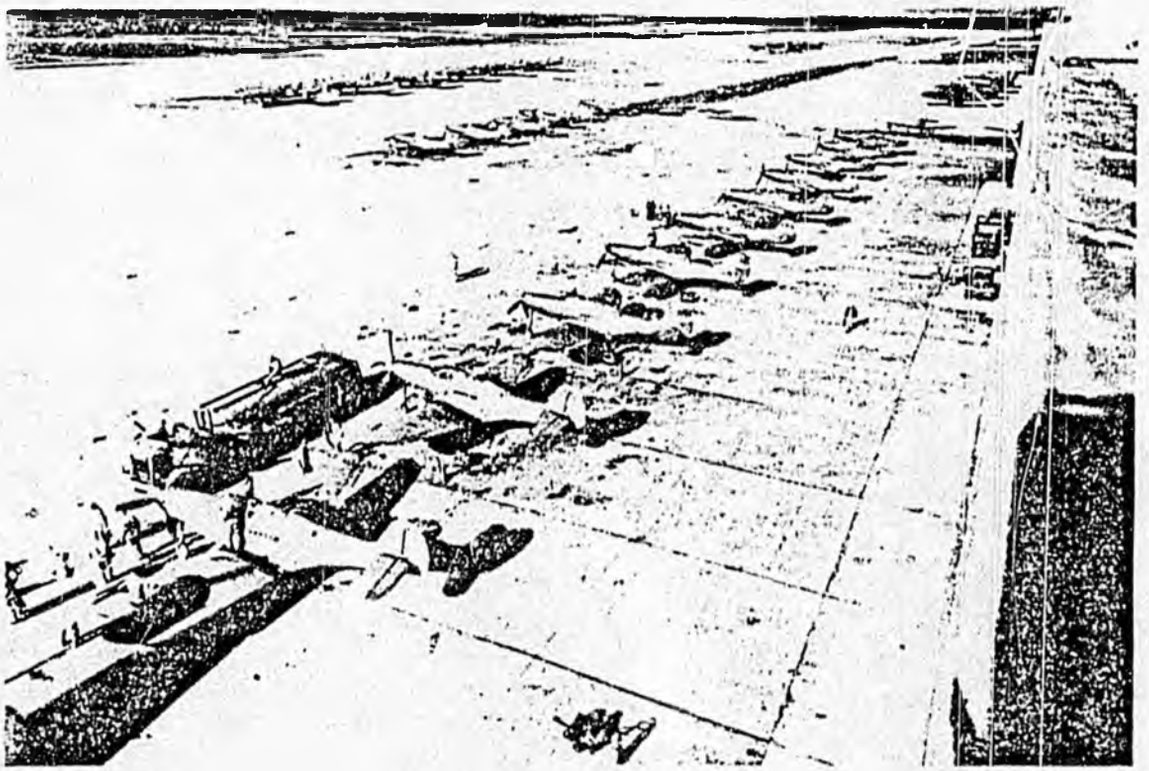
NAA

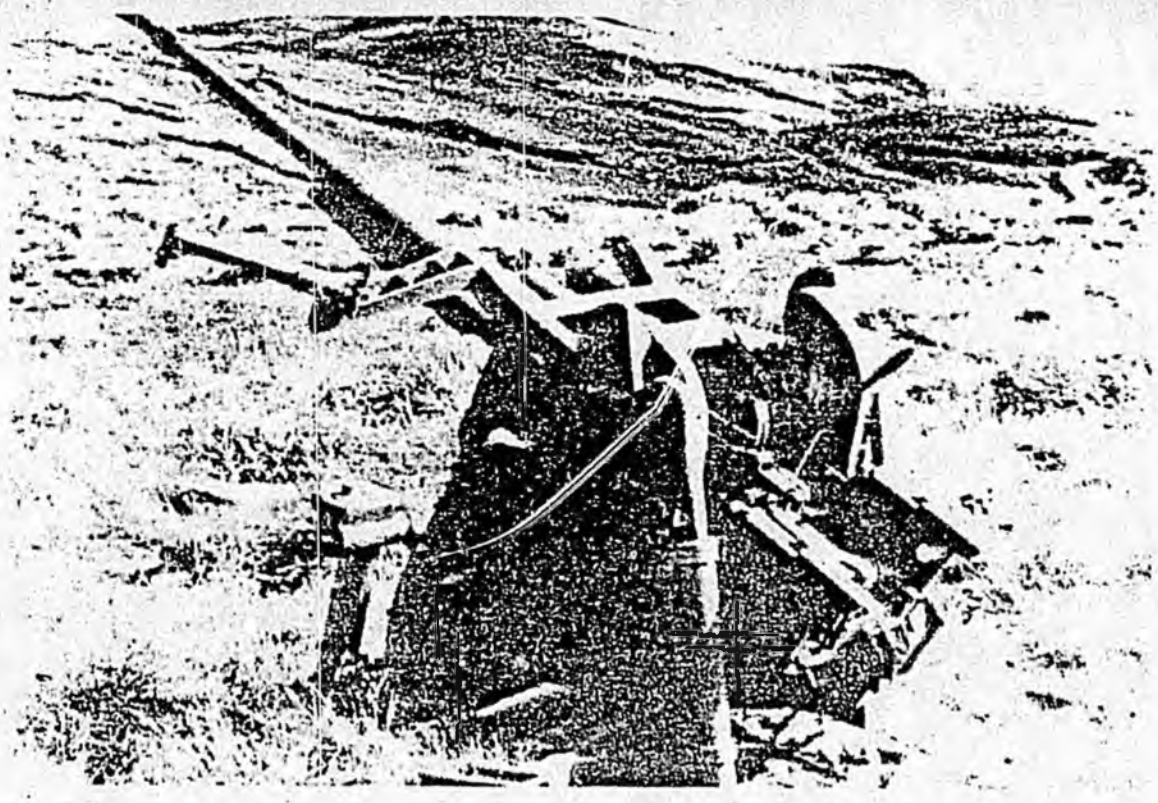




Approximately 2,618 P-39 Airacobra came through Alaska on their way to Siberia under the Lend Lease Program. Eleven of the P-39's went down in the Interior, and six of these are in fresh water lakes.

USAF



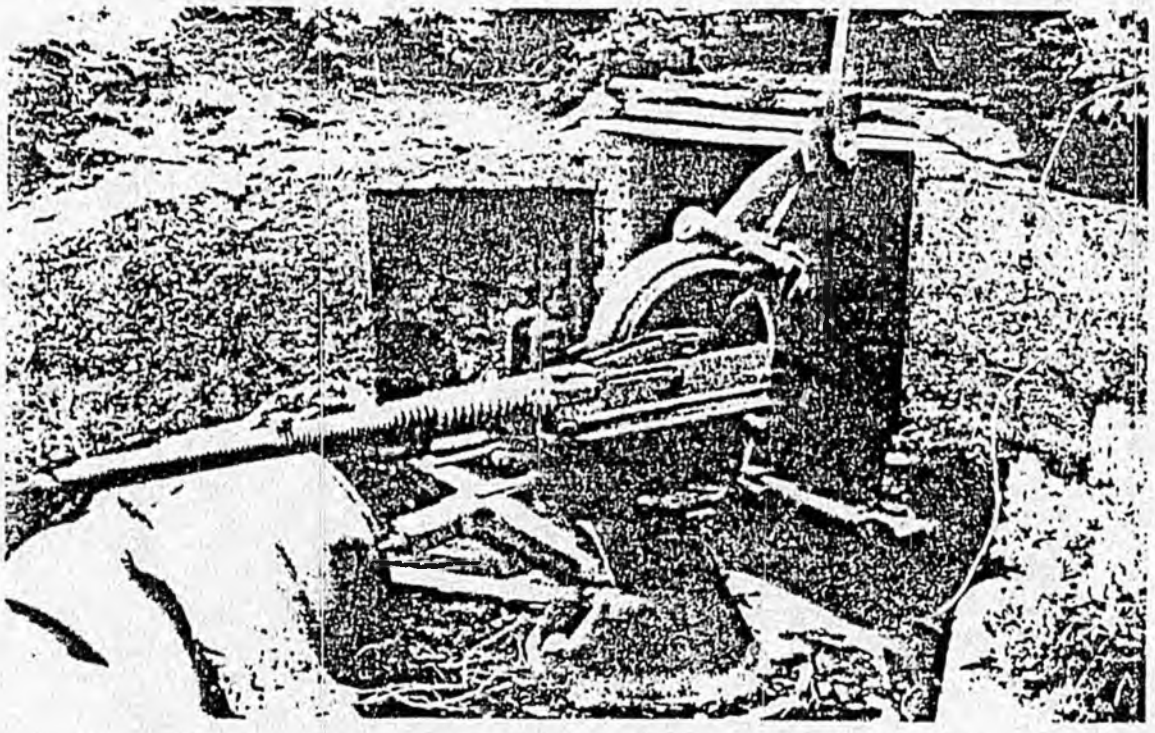


Japanese Model 96 (1936), Type 2, 25 mm Anti-aircraft Gun and Mount. This gun is very rare and was not extensively used by the Japanese.

COE

Japanese Model 93 Heavy Machine Gun, 13.3 mm on an Anti-Aircraft Mount.

USFWS



CAVPAC, P.O. Box 8-901

Anchorage, Alaska 99508

CAV
COALITION OF AMERICAN VETERANS
POLITICAL ACTION COMMITTEE

HJR66 and HB678 BACKUP INFORMATION

The Alaska Historical and Transportation Museum and other interested non-government organizations are focusing on long range planning, development, and preservation of pioneer, transportation and military history throughout the State and especially on the Aleutian Island Chain.

The projects of the organizing committees are to: (1) Survey and inventory significant relics, artifacts, and related historical material pertaining to transportation (surface, maritime, and with major emphasis on aviation); (2) Develop plans for the historic preservation and interpretation of these artifacts; (3) Recommend an appropriate museum site(s); (4) Coordinate with other public and private sector museums to insure that all groups interested in aircraft recovery can participate in recovery and restoration of aircraft, and that the restored aircraft will remain in Alaska; and (5) Prepare a presentation for submittal to the Governor and the Legislature in 1985 on a statewide program of cultural and historical preservation, including programs on pioneer, transportation, military, and the historically related areas, which are either not currently included in existing museum services or are inadequate in scope.

These projects and assessments will supplement the existing Statewide Museum Plan and will include recommendations for future museum development in the State of Alaska.

There has been no comprehensive statewide assessment or inventory of Alaska's historical artifacts that are constantly being removed from the State. Although many agencies have worked with each other on various aspects of preservation, an overall coordinated appraisal of the most critical needs in this area has never been possible.

Alaska's military history covers a wide range of topics: the Alaska Purchase to World War II era, aviation, maritime, World War II Aleutian campaign, DEW Line, and post-WW II history, etc. A number of agencies have shown an interest and have done limited statewide planning to locate historical Alaskan artifacts, but have discovered that big money in the lower 48 is stealing many of our WW II aircraft from federal and state land without any interference and are selling them to museums and making a fortune. It's big business. Many of these U.S. and Japanese aircraft have been salvaged almost intact.

It is hoped that HJR66 and HB678 will assist, when implemented, to retain valuable artifacts in Alaska and in 1985 some funds can be made available to improve our historical museums. The Army, Air Force, and National Guard have already assisted in salvaging and restoring some of these artifacts.

CAV Needs You And You Need CAV
for
VETERAN POWER

Army Navy Air Force Marines Coast Guard National Guard Reserves

Paid for by CAVPAC, P.O. Box 8-901, Anchorage, Alaska 99508

The historically significant relics, artifacts and other materials are part of Alaska's history and should be preserved before it is too late. Many WWII aircraft, both friendly and enemy, have been literally stolen from the Aleutian Chain and are now in museums in the States of Ohio, Tennessee, Washington and California that we know of. They are a part of Alaska's wartime history and should remain here. They will also be of tourist interest.

Draft prepared by B. B. Talley
with contribution by
Col. Evan J. Griffith, USAF

BACKGROUND MATERIAL IN SUPPORT OF HB _____
APPROPRIATING FUNDS FOR A COMPREHENSIVE DOCUMENTARY FILM
OF WWII IN ALASKA

There exist several books and papers, some official, which purport to document the history of WWII in Alaska. In addition, the military services have extensive motion pictures of their operations in Alaska. In recent years there has been a rebirth of interest on the part of individuals and organizations, particularly veterans organizations, in this part of Alaska's history. These individuals and groups have many important visual records which can be obtained for a comprehensive documentary film of WWII in Alaska.

In 1980, on the 40th anniversary of its arrival in Alaska, the veterans of the 11th US AF held a reunion in Alaska. It included a visit to the Aleutians as far out as Shemya. Weather prohibited their going to Attu. Extensive motion pictures and video tapes were made of this celebration, including interviews and oral history from many of the veterans present.

In 1982 extensive motion pictures and video tapes were made by individuals, organizations and by TV stations of the ceremony in dedication of a memorial on Unalaska Island to all those who lost their lives in the Aleutians during WWII. This included the Armed Forces of the United States and Canada, the Aleuts, and the Japanese Armed Forces. The two Japanese officers, now retired, who led the first and second waves of bombers in the attack on Dutch Harbor on 4 June 1942 participated in this dedication. The dedication was preceded by a flight from Unalaska Island to the Umnak Air Base, and to the position of the Japanese carrier from which the attack was launched, thence following the course of the planes to the rendezvous point and returning to Dutch Harbor. The plane was piloted by the Japanese officer who led the attack, flying

in reverse the course flown in the attack. From the rendezvous point, the plane flew the course at the same altitude flown in the actual attack. In the plane were Admiral James S. Russell, USN-Ret. who commanded the US Navy Catalinas in Alaska during WWII, BG B. B. Talley, Corps of Engineers, retired, who was responsible for building the secret air base on Umnak Island from which the US AF P-40s broke up the Japanese aerial attack on Dutch Harbor, and Admiral Hiroichi Samejima, JMSDF (Ret.) who led the first wave of Japanese bombers, and Colonel Zenji Abe, JMSDF (Ret.) who led the second wave which consisted of dive bombers. (Then Lieutenant Commander Abe later transferred to the army, as the reconstituted Naval defense force did not have dive bombers.) Also in the plane were Mr. Ted Spencer who arranged the dedication ceremony and the aerial flight here described. There was also a motion picture camera crew aboard who recorded the flight on film.

In view of the advancing age of the still living participants in WWII in Alaska, delay in the production of this visual history might preclude their participation in this important chapter in Alaska's history.

Inasmuch as the State of Alaska would be the primary beneficiary, the State should be the primary sponsor of the project. Such a project is within the purview of the Alaska Historical Commission of the Department of Education.

The project would include, but not necessarily be limited to, bringing together into a single compilation the best of the existing film, editing it into a single comprehensive historical document. There should be included in this compilation such additional footage as may be appropriate, with commentary by selected veterans who took part in the action.

Upon being instructed to carry out this project and being provided with the necessary funds for its accomplishment, the Alaska Historical Commission formed by AS Title 44, Article 3,

would have power to prepare or to authorize and coordinate the preparation and production by others of a documentary film covering this important portion of Alaska's history. Such a history should include but not be limited to the stills and motion pictures already in existance, but should include additional visual components as may be appropriate. Such a project should be completed by June 30, 1986.

A conceptual organization structure for executing this project is shown in Figure 1.

C O N T E N T S

Part I. Facts of Aircraft and Aircraft Parts, Flyable and Non-Flyable, that Left the State of Alaska.

Page 1. Douglas O-38F Aircraft that left the state of Alaska in 1968.

Page 2. Flying Magazine add in June 1980 regarding the removal of two P-39 Airacobras from Alaska. Six years ago two P-39 Airacobras were located at Minchumina Lake. In 1982 approximately $10,000 were spent by a company to retrieve these aircraft. The group found out these were no longer there. We suspected that the aircraft mentioned in the Flying Magazine add are the same ones that were in Minchumina Lake.

Page 3. A letter to Mr. Aldrich in California who sells vintage airplane parts. He sent to the USHAPM the original letter of Mr. Steve Matthews of Fairbanks who illegally removed airplane parts from state land and was attempting to sell them. The present whereabouts of the parts are unknown.

Page 4. Photographs of two P-39 Airacobras on state land near Fairbanks. For the past four years illegal salvagings had been done to these.

Page 5. Alaska Magazine Jan. 1981 two articles about a Stinson aircraft that was removed from the dump at Merrill Field, Anchorage and which is now on display at Seattle. The man who removed the aircraft, J. Berry, also removed in the early 1970's a P-40 aircraft from the Alaskan bush which was later transported to the Lower 48.

Page 6 and 7. An article from a vintage/WW II aircraft book regarding the removal of a P-40 from the Aleutians.

Page 8 thru 12. A Flying Magazine article regarding the removal of one P-40, four P-51 Mustangs, and three other P-50 Mustangs that were just removed for parts out of the state of Alaska.

Page 13. Photographs of the P-40 that was removed from the Aleutians.

Page 14. Oct. 1978 Alaska Magazine article on donation of a P-39 Airacobra's wing portion to the Lower 48.

Page 15. Air Classics Magazine 1979 article with photographs of mutilation of a Lend Lease Russian aircraft's wing which is now in Ohio.

Page 16. A letter from Dept. of Interior regarding the unlawful removal of aircraft parts from Amchitka Island. The two individuals who were involved in this unlawful act were fined $500 each.

Page 17 and 18. A letter from the Smithsonian Institution about the removal of a Navy OS2U Kingfisher from Afognak Island. The aircraft is now on loan from Smithsonian to Bradley Museum in Connecticut.

C O N T E N T S

Part I. Continued

Page 19. A Douglas SBD-5 Dauntless wing which was in the Aleutian but is now in California.

Page 20. Four photographs of helicopter parts and aircraft parts being shipped by Sealand from Anchorage to California.

Page 21. B-25 aircraft engines that were donated to an aviation group in Alaska and are now in California.

Page 22. A letter to Paul Caulkett regarding two B-25 aircraft that were to be used as static display within the state of Alaska.

Page 23 and 24. A letter from the Alaska Department of Transportation in Fairbanks showing that one of the B-25 aircraft (paragraph 4) was sold to Mr. John C. Morgan by one of the aviation societies in Anchorage.

Page 25. Two photographs of the B-25 that one of them was sold to Calif.

Page 26. Alaska Magazine Dec. 1980 article on a Stearman that was in Alaska and is now in the Lower 48. (If interested, a copy of the article can be provided.)

Page 27. Three photographs of P-38 Lightning which was removed from Alaska and is now in California.

Page 28. A letter from State of Alaska, Dept. of Natural Resources regarding the attempts of Castle AFB in California to remove the remains of a P-38 from the Aleutians.

Page 29. Air Classics Magazine April 1981 article on A-26 Invader that was given to California as a donation.

Page 30. Two photos of the A-26 flyable aircraft that was donated to Calif.

Page 31. Top - photo of the three B-25's which two of them left the state of Alaska. Destination unknown. Bottom - another photo of the A-26 that was donated to California.

Page 32. Picture of a B-25 flyable aircraft that is now in California.

Page 33. A Lockheed Constellation that was donated to City of Kenai, later was sold for $30,000 and is now in Florida.

Part II. Aircraft and artifacts that had left the state of Alaska which cannot be stated as illegally been salvaged. Records at the Air Force Rescue Coordination Center at Elmendorf AFB show these WW II aircraft are no longer in their crash sites, there are no indication of their present whereabouts, or who retrieved them. Reports from bush pilots, who spotted the aircraft earlier, show that the same aircraft are no longer in their crash sites.

CONTENTS

Part II. Continued

1. Buldir Island in the Aleutians: The crashed P-38 Lightning's complete booms (two) and vertical stabilizer were removed two years ago. Can be verified thru Dept. of Fish and Wildlife.

2. A Lend Lease P-40, which crashed in 1944 in Nome area, was found in 1978. The aircraft was no longer there in 1982. Verified through bush pilots.

3. A Canadian P-40 that was located in 1960 was not there in 1976. The aircraft was completely removed. Only a few remaining parts are there. Verified through bush pilots.

4. P-51 Mustang, which crashed in 1944 at Broad Pass, was removed in early 1970's by an Anchorage resident couple and was shipped to the Lower 48. Also the husband removed P-40 parts of four aircraft that are on Unalaska in the Aleutians. This can be verified through U.S. Hist. Aircraft Preservation Museum.

5. WW II aircraft parts from Nome, Fairbanks and Northway that were removed three years ago and are now in Lower 48. Can be verified through USHAPM.

6. A vintage aircraft that crashed in Ketchikan: Its parts were removed for souvenier and are still in Alaska. Can be verified through USHAPM.

7. There are numerous stories told by state agencies, the local military, bush pilots and individuals that know, had seen, and have been involved in the removal of WW II aircraft, aircraft parts, and artifacts out of the state of Alaska.

   If at the present time there were laws protecting the WW II aircraft and artifacts, these individuals and groups of people in the state of Alaska can be checked out and their residences be searched to prove the statements. The USHAPM knows several of these people.

   It is difficult to prove that there is illegal salvaging of WW II aircraft, aircraft parts, and artifacts because the individuals who are involved are never caught. The only way we can prove that such a thing is happening is when these aircraft and aircraft parts come to surface in private hands and/or in the Lower 48 when the serial numbers and tail numbers can be verified that they came out of the state of Alaska. This takes time of hours and years. Alaska is slowly being stripped of its WW II aircraft, aircraft parts and materials that the average persons do not realize it till they are actually involved in the research of the WW II artifacts and materials in the state and in the Aleutians.

41.30.070. Repayment to general fund. All money made ... to the fund from the general fund or a special fund is a loan ... general fund or the special fund. All surplus at the end of a ... over amounts made available to the fund from the general ... from any special fund shall be repaid to the general fund or the ... fund until the loan is repaid in full. Repayments need not begin ... the first five complete fiscal years after the fund is created. (§ 3 SLA 1964)

41.30.080. Transfer of funds upon discontinuance of program of area redevelopment assistance. If the federal ... of area redevelopment assistance is discontinued for any ... or if this chapter is repealed, the money within the area ... opment revolving loan fund shall revert to any special fund ... which money was made available, in the amount that was made ..., and the remainder to the general fund. (§ 1 ch 83 SLA 1964)

Chapter 35. Alaska Historic Preservation Act.

Section

... of policy
... to historic, prehistoric and ... logical resources; local ... lay
... ation of monuments and ... ric sites
... istration and financial support ... numents and historic sites
... ions
... to acquire historic, prehistoric ... eological properties
... tion of historic, prehistoric ... archeological resources ... ed by public construction
... required of private persons
... tion and removal of historic, prehistoric or archeological remains on private land
110. Historic sites advisory committee
120. Composition of committee
130. Appointment of members
140. Term of membership
150. Compensation
160. Officers
170. Meetings and quorum
180. Duties of committee
190. Powers of chairman
200. Unlawful acts
210. Penalties
220. Enforcement authority
230. Definitions
240. Title of chapter

... references. — 72 Am. Jur. ... Territories and Dependencies, ... C. 56.
... States, §§ 138, 145 — 148.

Validity and construction of statute or ordinance protecting historical landmarks, 18 ALR4th 990.

41.35.010. Declaration of policy. It is the policy of the state ... and protect the historic, prehistoric and archeological ... of Alaska from loss, desecration and destruction so that the ... historic and cultural heritage embodied in these resources ... diminished to future generations. To this end, the legisla- ... and declares that the historic, prehistoric and archeological

...s of experts and other persons who may be needed. (§ 1 ch 130 SLA 1971)

Sec. 41.35.200. Unlawful acts. (a) A person may not appropriate, excavate, remove, injure, or destroy, without a permit from the commissioner, any historic, prehistoric or archeological resources of the state.

(b) A person may not possess, sell, buy or transport within the state, or offer to sell, buy or transport within the state, historic, prehistoric or archeological resources taken or acquired in violation of this section or 16 U.S.C. 433.

(c) A person may not unlawfully destroy, mutilate, deface, injure, remove or excavate a gravesite or a tomb, monument, gravestone or other structure or object at a gravesite, even though the gravesite appears to be abandoned, lost or neglected.

(d) An historic, prehistoric or archeological resource which is taken in violation of this section shall be seized by any person designated in AS 41.35.220 wherever found and at any time. Objects seized may be disposed of as the commissioner determines by deposit in the proper public depository. (§ 1 ch 130 SLA 1971; am § 8 ch 112 SLA 1974)

Sec. 41.35.210. Penalties. A person who violates a provision of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of $1,000, or by imprisonment for not more than six months, or by both. (§ 1 ch 130 SLA 1971)

Sec. 41.35.220. Enforcement authority. The following persons are peace officers of the state and shall enforce this chapter:

(1) an employee of the department authorized by the commissioner;

(2) a peace officer in the state;

(3) any other person authorized by the commissioner. (§ 1 ch 130 SLA 1971)

Cross references. — For definition of "peace officer," see AS 01.10.060(6).

Sec. 41.35.230. Definitions. In this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of natural resources;

(2) "committee" means the Historic Sites Advisory Committee;

(3) "department" means the Department of Natural Resources;

(4) "historic, prehistoric and archeological resources" includes artifacts, structures, ruins, sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information pertaining to the historical or prehistorical culture of people in the state as well as to the natural history of the state. (§ 1 ch 130 SLA 1971)

COMMITTEES
Vice Chairman — Judiciary
Vice Chairman — Legislative Regulations Review
Resources
Finance Sub Committee on Labor

Alaska State Legislature

While in Session
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3733

Home - District 15
Star Route Box 421
Eagle River, Alaska 99577
(907) 688-2526

House of Representatives

John J. Liska

February 23, 1984

M E M O R A N D U M

FROM: Representative John J. Liska

REFERENCE: HJR 66, relating to removal of WW II artifacts from the State.

The purpose of this Joint Resolution to request the Federal Government not to remove World War II artifacts from the State of Alaska.

Unless the removal is authorized by the Federal or State Government or if the Federal or State Government determines the artifacts to be hazardous to human or animal life.

The problem of removal of World War II artifacts has been and is an ongoing problem in our State.

Your packets contain:

A. Pages 30, 31 and 32 from a publication entitled "The Historical "Battle of Alaska" remains". These pages refer to various types of aircraft that crashed in Alaska and where they were removed to:

1. Douglas - O - 38F - removed to Air Force Base Museum in Dayton Ohio in 1965.

2. Stinson - A Trimotor - to Wisconsin in 1972 by J.D. Berry.

3. P - 51H and P - 40 - Steve Myers, Washington

4. U.S. Navy Vough OS 2U King Fisher - removed to the Smithsonian Institute.

5. B - 25 Mitchell Bombers

6. P - 39 Airacobras

Additionally, page 73 shows Japanese artifacts from World War II.

In addition in your packets, but not nearly as interesting, are letters from CAVPAC supporting HJR 66 and HB 678 and a copy of a letter from General Talley who was involved in the Alutian Campaign.

Another piece of back up material has been submitted by the North Star Chapter Pearl Harbor Survivors Association. I have made copies of the first three pages - which may or may not be the same artifacts as previously submitted in your packet.

JJL/tm

Besides the public museums such as the Smithsonian Institute and the Anchorage Historical and Fine Arts Museums, there are many small or private collections which display items of Alaskan history. Unfortunately, in many cases, Alaskans have no say in how the collections are handled.

History is repeating itself in the area of aviation history. It is seen in many examples of aircraft downed during World War II which are leaving the state.

A Douglas O-38F had engine problems and crashed in 1941. It was removed to the Air Force Museum in Dayton, Ohio in 1968.

In 1972 a Stinson 'A' Trimotor which crashed in 1947 was removed to Wisconsin by J.D. Berry. Berry wrote to Wien Air Alaska and followed it up with a phone call to try and get the airline to purchase the plane for the cost of its removal, but there was no interest, so it was sent Outside in order to pay the costs for its removal.

Two P-51H's were pulled out near Stevens Village. Two more were found near Kotzebue, and three were removed from across Cook Inlet. One P-40 was removed from Amchitka Island in the Aleutians. All of these aircraft were removed by Steve Myers of Washington.

Another P-40 was removed from a site near Fairbanks in 1977 and was sold to a buyer at an unknown Lower 48 destination.

A United States Navy Vough OS2U Kingfisher which crashed during WW II on one of the small islands near Kodiak, was removed in the early summer months of 1979 for removal to the Smithsonian.

There have been numerous other cases. An ad in Flying Magazine's June '80 issue states that sale of "P-39 Airacobras. Recently recovered from a fresh water lake in the Alaskan Peninsula. Russian armament, 117 hour totals hours each. Make offer, would like aviation museum or same to purchase...Yakima, Washington..." A call from the United States Historical Aircraft Preservation Museum in Anchorage brought no response.

Three B-25 Mitchell bombers have left the state in the past two years, in flyable condition, headed for the Outside.

The United States Historical Aircraft Preservation Museum has been trying for several years to open a museum facility located at Merrill Field, but has been blocked from doing so because it has no planes to put into the facility. At the same time, the Planes of Fame Museum from Chino, California has been soliciting donations of Alaska aircraft on a a promise of opening an alaskan branch museum at some undetermined later date.

It has successfully acquired an A-26 from Dr. Donald Rogers, an H-21 helicopter from Bill Swift to help in removing aircraft downed in Alaska, a B-25 from Fairbanks. A wing insignia was donated to the Air Force Museum by Ted Spencer - the insignia coming from the wing on an

aircraft downed at Nome which was to have been used in reconstructing a P-63 Airacobra.

The Committee contends that Planes of Fame has an established reputation for flying, crashing and destroying one-of-a-kind aircraft, and of selling aircraft and aircraft parts in the Lower 48 and abroad in order to keep itself solvent.

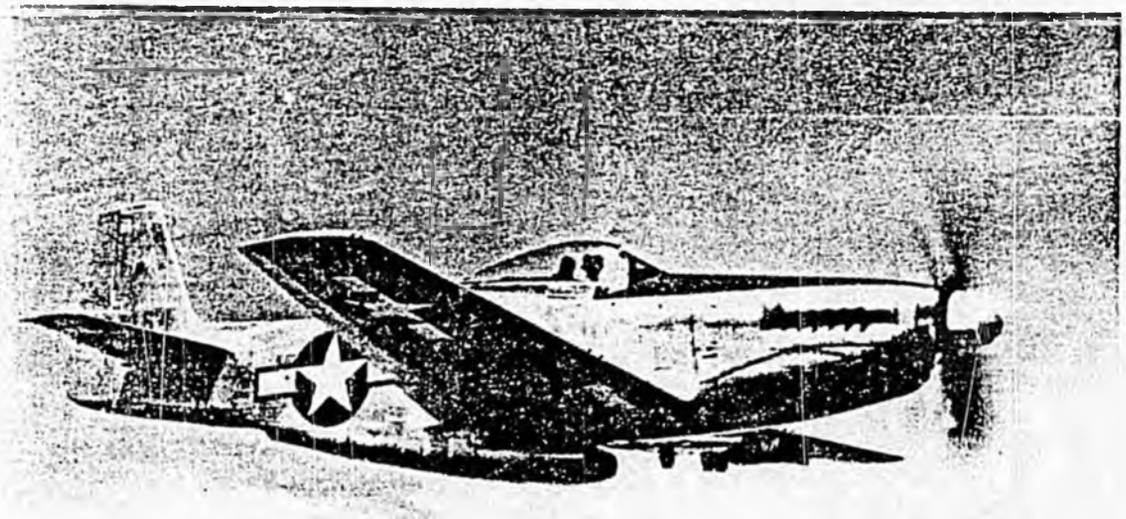
Flying in races and demonstrations for trophies and prize money has taken its toll on the vintage military aircraft.

The Committee feels that if it can adhere to those goals, Alaska will have one of the finest aviation museums in the U.S., preserving that part of Alaskan history.

The United States Historical Aircraft Preservation Museum is currently conducting negotiations for several planes of significant historical value, as well as parts and planes to be retrieved from bush areas.

Access to battlefields in the Aleutians is difficult because of the expense and weather conditions involved, but the area promises to be a fertile area to search.

If the museum has had a difficult time collecting actual aircraft for its displays, there has been no shortage of donations of other treasures. Photographs, blue prints from the Bell Factory which



These fighters, P-51's Mustang, were used toward the end of WW II in Alaska. They did not see combat in the Aleutian Campaign. Three downed P-51's were located.

AAHS

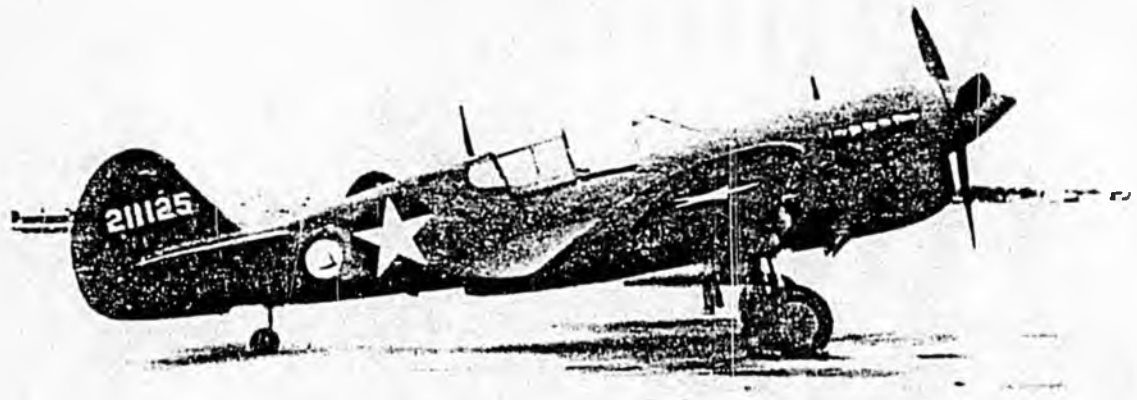
The P-82 Twin Mustang was based in Alaska after WW II. One was located that bellied in and is intact in the Interior.

USAF



Curtiss P-40 was used by the USAF during the Aleutian Campaign. Eight P-40's were located: Five of them were abandoned, two were downed, and one is in the bottom of a fresh water lake. Also several brand new P-40's were buried in crates in the Aleutians.

RWT



Approximately 48 Lend Lease P-40's came through Alaska on their way to Siberia. At present Moscow is the only place in the world that has one of the Lend Lease P-40's. Two more were located in the Interior.

GFP





This is a Curtiss P-40 called the "Aleutian Tiger." It was used in combat by the United States during the Aleutian Campaign. Four of them were located.

USAF

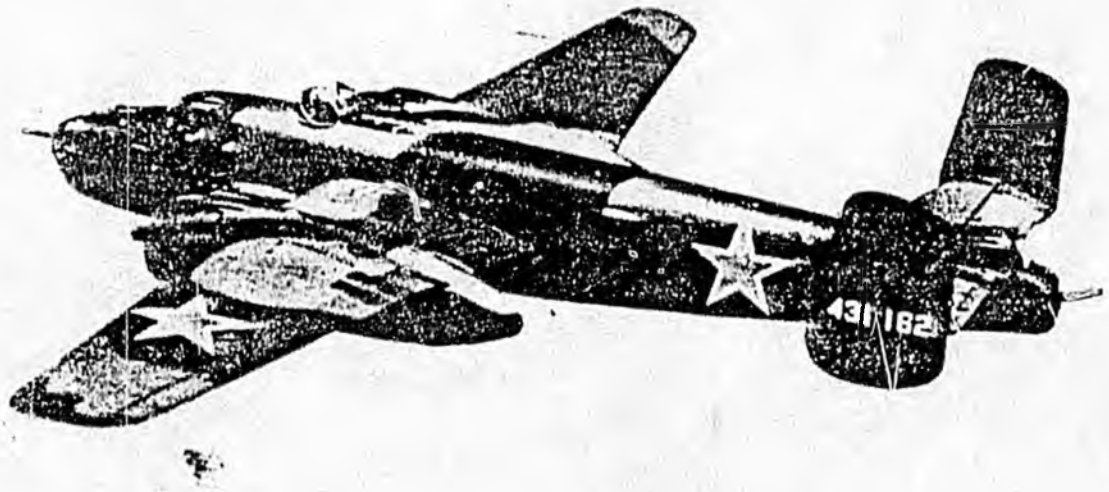


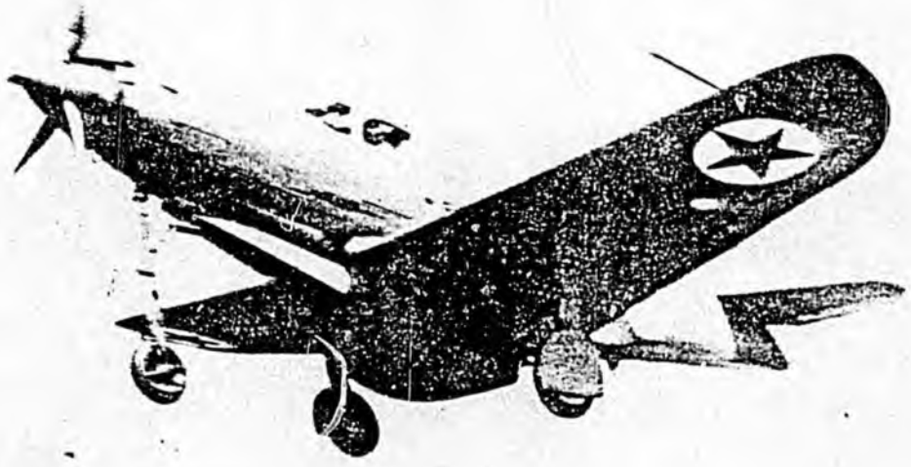
Two of these B-25 Medium Bombers went down in the Aleutians during the Aleutian Campaign.

USAF

Approximately 732 of these Lend Lease B-25 Mitchell Bombers were ferried from Great Falls, Montana, Whitehorse to Fairbanks to Siberia, Russia to be used against the Germans during WW II. Three of these aircraft went down in the Interior Alaska.

NAA





Approximately 2,618 P-39 Airacobra came through Alaska on their way to Siberia under the Lend Lease Program. Eleven of the P-39's went down in the Interior, and six of these are in fresh water lakes.

USAF



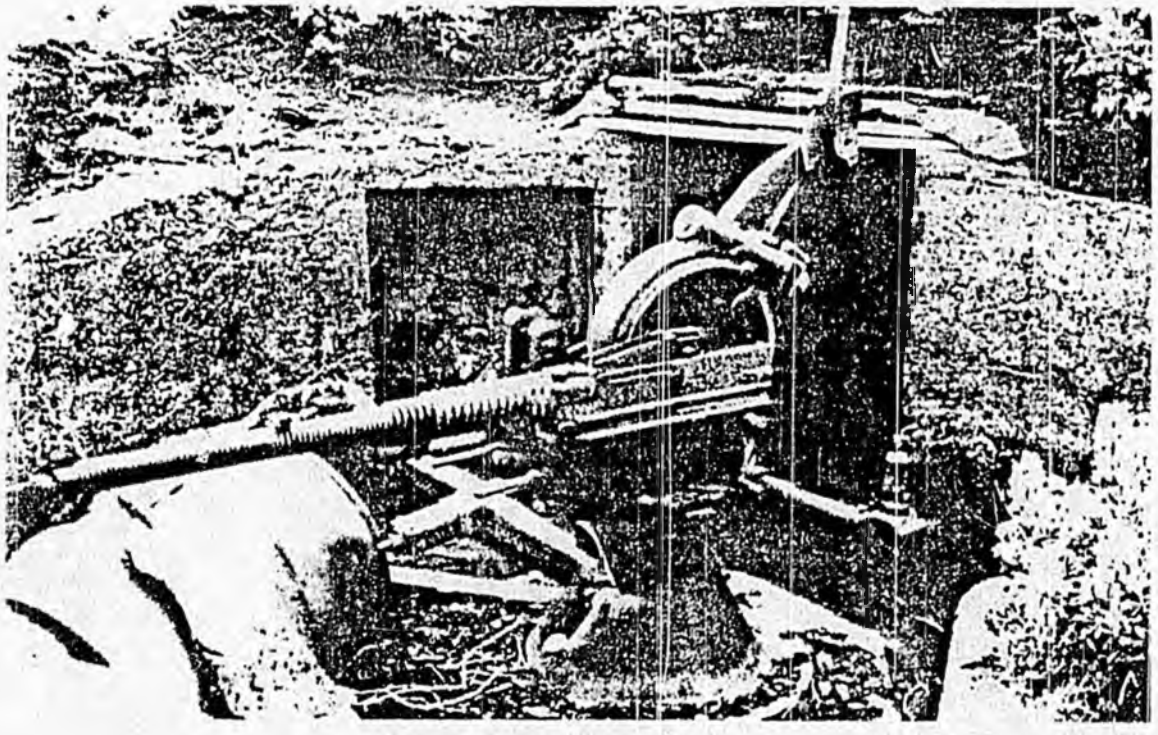


Japanese Model 96 (1936), Type 2, 25 mm Anti-aircraft Gun and Mount. This gun is very rare and was not extensively used by the Japanese.

COE

Japanese Model 93 Heavy Machine Gun, 13.3 mm on an Anti-Aircraft Mount.

USFWS



CAVPAC, P.O. Box 8-901

Anchorage, Alaska 99508

POLITICAL ACTION COMMITTEE

HJR66 and HB678 BACKUP INFORMATION

The Alaska Historical and Transportation Museum and other interested non-government organizations are focusing on long range planning, development, and preservation of pioneer, transportation and military history throughout the State and especially on the Aleutian Island Chain.

The projects of the organizing committees are to: (1) Survey and inventory significant relics, artifacts, and related historical material pertaining to transportation (surface, maritime, and with major emphasis on aviation); (2) Develop plans for the historic preservation and interpretation of these artifacts; (3) Recommend an appropriate museum site(s); (4) Coordinate with other public and private sector museums to insure that all groups interested in aircraft recovery can participate in recovery and restoration of aircraft, and that the restored aircraft will remain in Alaska; and (5) Prepare a presentation for submittal to the Governor and the Legislature in 1985 on a statewide program of cultural and historical preservation, including programs on pioneer, transportation, military, and the historically related areas, which are either not currently included in existing museum services or are inadequate in scope.

These projects and assessments will supplement the existing Statewide Museum Plan and will include recommendations for future museum development in the State of Alaska.

There has been no comprehensive statewide assessment or inventory of Alaska's historical artifacts that are constantly being removed from the State. Although many agencies have worked with each other on various aspects of preservation, an overall coordinated appraisal of the most critical needs in this area has never been possible.

Alaska's military history covers a wide range of topics: the Alaska Purchase to World War II era, aviation, maritime, World War II Aleutian campaign, DEW Line, and post-WW II history, etc. A number of agencies have shown an interest and have done limited statewide planning to locate historical Alaskan artifacts, but have discovered that big money in the lower 48 is stealing many of our WW II aircraft from federal and state land without any interference and are selling them to museums and making a fortune. It's big business. Many of these U.S. and Japanese aircraft have been salvaged almost intact.

It is hoped that HJR66 and HB678 will assist, when implemented, to retain valuable artifacts in Alaska and in 1985 some funds can be made available to improve our historical museums. The Army, Air Force, and National Guard have already assisted in salvaging and restoring some of these artifacts.

CAV Needs You And You Need CAV
for
VETERAN POWER

Army Navy Air Force Marines Coast Guard National Guard Reserves

Paid for by CAVPAC, P O Box 8 901, Anchorage Alaska 99508

The historically significant relics, artifacts and other materials are part of Alaska's history and should be preserved before it is too late. Many WWII aircraft, both friendly and enemy, have been literally stolen from the Aleutian Chain and are now in museums in the States of Ohio, Tennessee, Washington and California that we know of. They are a part of Alaska's wartime history and should remain here. They will also be of tourist interest.

Draft prepared by B. B. Talley
with contribution by
Col. Evan J. Griffith, USAF

BACKGROUND MATERIAL IN SUPPORT OF HB _____
APPROPRIATING FUNDS FOR A COMPREHENSIVE DOCUMENTARY FILM
OF WWII IN ALASKA

There exist several books and papers, some official, which purport to document the history of WWII in Alaska. In addition, the military services have extensive motion pictures of their operations in Alaska. In recent years there has been a rebirth of interest on the part of individuals and organizations, particularly veterans organizations, in this part of Alaska's history. These individuals and groups have many important visual records which can be obtained for a comprehensive documentary film of WWII in Alaska.

In 1980, on the 40th anniversary of its arrival in Alaska, the veterans of the 11th USAAF held a reunion in Alaska. It included a visit to the Aleutians as far out as Shemya. Weather prohibited their going to Attu. Extensive motion pictures and video tapes were made of this celebration, including interviews and oral history from many of the veterans present.

In 1982 extensive motion pictures and video tapes were made by individuals, organizations and by TV stations of the ceremony in dedication of a memorial on Unalaska Island to all those who lost their lives in the Aleutians during WWII. This included the Armed Forces of the United States and Canada, the Aleuts, and the Japanese Armed Forces. The two Japanese officers, now retired, who led the first and second waves of bombers in the attack on Dutch Harbor on 4 June 1942 participated in this dedication. The dedication was preceded by a flight from Unalaska Island to the Umnak Air Base, and to the position of the Japanese carrier from which the attack was launched, thence following the course of the planes to the rendezvous point and returning to Dutch Harbor. The plane was piloted by the Japanese officer who led the attack, flying

in reverse the course flown in the attack. From the rendezvous point, the plane flew the course at the same altitude flown in the actual attack. In the plane were Admiral James S. Russell, USN-Ret. who commanded the US Navy Catalinas in Alaska during WWII, BG B. B. Talley, Corps of Engineers, retired, who was responsible for building the secret air base on Umnak Island from which the US AF P-40s broke up the Japanese aerial attack on Dutch Harbor, and Admiral Hiroichi Samejima, JMSDF (Ret.) who led the first wave of Japanese bombers, and Colonel Zenji Abe, JMSDF (Ret.) who led the second wave which consisted of dive bombers. (Then Lieutenant Commander Abe later transferred to the army, as the reconstituted Naval defense force did not have dive bombers.) Also in the plane were Mr. Ted Spencer who arranged the dedication ceremony and the aerial flight here described. There was also a motion picture camera crew aboard who recorded the flight on film.

In view of the advancing age of the still living participants in WWII in Alaska, delay in the production of this visual history might preclude their participation in this important chapter in Alaska's history.

Inasmuch as the State of Alaska would be the primary beneficiary, the State should be the primary sponsor of the project. Such a project is within the purview of the Alaska Historical Commission of the Department of Education.

The project would include, but not necessarily be limited to, bringing together into a single compilation the best of the existing film, editing it into a single comprehensive historical document. There should be included in this compilation such additional footage as may be appropriate, with commentary by selected veterans who took part in the action.

Upon being instructed to carry out this project and being provided with the necessary funds for its accomplishment, the Alaska Historical Commission formed by AS Title 44, Article 3,

would have power to prepare or to authorize and coordinate the preparation and production by others of a documentary film covering this important portion of Alaska's history. Such a history should include but not be limited to the stills and motion pictures already in existance, but should include additional visual components as may be appropriate. Such a project should be completed by June 30, 1986.

A conceptual organization structure for executing this project is shown in Figure 1.

C O N T E N T S

Part I. Facts of Aircraft and Aircraft Parts, Flyable and Non-Flyable, that Left the State of Alaska.

Page 1. Douglas O-38F Aircraft that left the state of Alaska in 1968.

Page 2. Flying Magazine add in June 1980 regarding the removal of two P-39 Airacobras from Alaska. Six years ago two P-39 Airacobras were located at Minchumina Lake. In 1982 approximately $10,000 were spent by a company to retrieve these aircraft. The group found out these were no longer there. We suspected that the aircraft mentioned in the Flying Magazine add are the same ones that were in Minchumina Lake.

Page 3. A letter to Mr. Aldrich in California who sells vintage airplane parts. He sent to the ASHAPM the original letter of Mr. Steve Matthews of Fairbanks who illegally removed airplane parts from state land and was attempting to sell them. The present whereabouts of the parts are unknown.

Page 4. Photographs of two P-39 Airacobras on state land near Fairbanks. For the past four years illegal salvagings had been done to these.

Page 5. Alaska Magazine Jan. 1981 two articles about a Stinson aircraft that was removed from the dump at Merrill Field, Anchorage and which is now on display at Seattle. The man who removed the aircraft, J. Berry, also removed in the early 1970's a P-40 aircraft from the Alaskan bush which was later transported to the Lower 48.

Page 6 and 7. An article from a vintage/WW II aircraft book regarding the removal of a P-40 from the Aleutians.

Page 8 thru 12. A Flying Magazine article regarding the removal of one P-40, four P-51 Mustangs, and three other P-50 Mustangs that were just removed for parts out of the state of Alaska.

Page 13. Photographs of the P-40 that was removed from the Aleutians.

Page 14. Oct. 1978 Alaska Magazine article on donation of a P-39 Airacobra's wing portion to the Lower 48.

Page 15. Air Classics Magazine 1979 article with photographs of mutilation of a Lend Lease Russian aircraft's wing which is now in Ohio.

Page 16. A letter from Dept. of Interior regarding the unlawful removal of aircraft parts from Amchitka Island. The two individuals who were involved in this unlawful act were fined $500 each.

Page 17 and 18. A letter from the Smithsonian Institution about the removal of a Navy OS2U Kingfisher from Afognak Island. The aircraft is now on loan from Smithsonian to Bradley Museum in Connecticut.

C O N T E N T S

Part I. Continued

Page 19. A Douglas SBD-5 Dauntless wing which was in the Aleutian but is now in California.

Page 20. Four photographs of helicopter parts and aircraft parts being shipped by Sealand from Anchorage to California.

Page 21. B-25 aircraft engines that were donated to an aviation group in Alaska and are now in California.

Page 22. A letter to Paul Caulkett regarding two B-25 aircraft that were to be used as static display within the state of Alaska.

Page 23 and 24. A letter from the Alaska Department of Transportation in Fairbanks showing that one of the B-25 aircraft (paragraph 4) was sold to Mr. John C. Morgan by one of the aviation societies in Anchorage.

Page 25. Two photographs of the B-25 that one of them was sold to Calif.

Page 26. Alaska Magazine Dec. 1980 article on a Stearman that was in Alaska and is now in the Lower 48. (If interested, a copy of the article can be provided.)"

Page 27. Three photographs of P-38 Lightning which was removed from Alaska and is now in California.

Page 28. A letter from State of Alaska, Dept. of Natural Resources regarding the attempts of Castle AFB in California to remove the remains of a P-38 from the Aleutians.

Page 29. Air Classics Magazine April 1981 article on A-26 Invader that was given to California as a donation.

Page 30. Two photos of the A-26 flyable aircraft that was donated to Calif.

Page 31. Top - photo of the three B-25's which two of them left the state of Alaska. Destination unknown. Bottom - another photo of the A-26 that was donated to California.

Page 32. Picture of a B-25 flyable aircraft that is now in California.

Page 33. A Lockheed Constellation that was donated to City of Kenai, later was sold for $30,000 and is now in Florida.

Part II. Aircraft and artifacts that had left the state of Alaska which cannot be stated as illegally been salvaged. Records at the Air Force Rescue Coordination Center at Elmendorf AFB show these WW II aircraft are no longer in their crash sites, there are no indication of their present whereabouts, or who retrieved them. Reports from bush pilots, who spotted the aircraft earlier, show that the same aircraft are no longer in their crash sites.

C O N T E N T S

Part II. Continued

1. Buldir Island in the Aleutians: The crashed P-38 Lightning's complete booms (two) and vertical stabilizer were removed two years ago. Can be verified thru Dept. of Fish and Wildlife.

2. A Lend Lease P-40, which crashed in 1944 in Nome area, was found in 1978. The aircraft was no longer there in 1982. Verified through bush pilots.

3. A Canadian P-40 that was located in 1968 was not there in 1976. The aircraft was completely removed. Only a few remaining parts are there. Verified through bush pilots.

4. P-51 Mustang, which crashed in 1944 at Broad Pass, was removed in early 1970's by an Anchorage resident couple and was shipped to the Lower 48. Also the husband removed P-40 parts of four aircraft that are on Unalaska in the Aleutians. This can be verified through U.S. Hist. Aircraft Preservation Museum.

5. WW II aircraft parts from Nome, Fairbanks and Northway that were removed three years ago and are now in Lower 48. Can be verified through USHAPM.

6. A vintage aircraft that crashed in Ketchikan: Its parts were removed for souvenier and are still in Alaska. Can be verified through USHAPM.

7. There are numerous stories told by state agencies, the local military, bush pilots and individuals that know, had seen, and have been involved in the removal of WW II aircraft, aircraft parts, and artifacts out of the state of Alaska.

   If at the present time there were laws protecting the WW II aircraft and artifacts, these individuals and groups of people in the state of Alaska can be checked out and their residences be searched to prove the statements. The USHAPM knows several of these people.

   It is difficult to prove that there is illegal salvaging of WW II aircraft, aircraft parts, and artifacts because the individuals who are involved are never caught. The only way we can prove that such a thing is happening is when these aircraft and aircraft parts come to surface in private hands and/or in the Lower 48 when the serial numbers and tail numbers can be verified that they came out of the state of Alaska. This takes time of hours and years. Alaska is slowly being stripped of its WW II aircraft, aircraft parts and materials that the average persons do not realize it till they are actually involved in the research of the WW II artifacts and materials in the state and in the Aleutians.

DRAFT

Preservation of Alaska's Historic Aircraft

Conference Summary

Introduction

Aviation has been essential to the development of Alaska. As a result, aviation is a fundamental and important part of Alaska's history.

Preservation of the state's aviation heritage is carried out by a number of organizations and agencies.

There are numerous non-profit organizations dedicated to preservation of aviation history, (see Attachment "A" for a list of participants and organizations). These organizations are active in recovery and/or restoration of historical aircraft, aviation history research and collection of aviation oral history and archival materials.

The Alaska State Museum in Juneau (Division of Libraries and Museums, Department of Education) and the Office of History and Archaeology (Alaska State Parks, Department of Natural Resources) are also involved in aviation history. The Alaska State Museum (ASM) has met with representatives of most historic aircraft preservation needs. The Office of History and Archaeology (OHA) has (1) listed a number of historic aircraft on the Alaska Heritage Resources Subrvey, (2) encouraged the nomination of historic aircraft to the National Register of Historic Places, and (3) provided protection under federal and state preservation acts for several downed historic aircraft.

expected to continue through the review process to the hoped-for legislative consideration and implementation.

The Conference

Individuals and members of organizations activly concerned with the issues of preservation, ownership and protection of historic aircraft were invited to participate in the two day conference. A total of 25 invitations were sent, with 17 acceptances being received. Fifteen individuals attended as participants and one person came as an observer. Many participants belonged to several historic aircraft organizations and nearly all of them knew each other. Also at the conference were representatives from the Office of the Governor, Division of State Libraries and Museums, the Alaska Department of Law, the National Park Service, and staff from the co-sponsoring agencies. (See attachment "A") for a list of participants and attendees.)

A proposed agenda had been sent with letters of invitation to the participants for comment. When the conference opened an agenda was ready as follows:

AGENDA

1. Welcoming remarks by Mr. Skip Harding, Deputy Director, Alaska State Parks.

2. General introduction of participants: state and federal officials, historic aircraft organization representatives, and facilitator.

Early discussions regarding the planning of the conference established the practicality of using the services of a professional conference mediator. Such a facilitator would (a) be neutral to issues on the agenda, (b) keep the group working together, and (c) keep discussion focused on the agenda. The facilitator's skills were also invaluable for implementing a proven evaluation and planning process which led to the Action Plan.

Because much of the work would be done in small work groups, facilitators for each group were selected from OHA and ASM staff and counseled beforehand by the facilitator. During the conference, group spokespersons would report the work of the small work groups to the entire gathering. These spokespersons would be selected from the participants of the small work groups, would change with each assignment, and would in no case be the work groups' facilitator.

Credit must be given for part of the success of this conference to Ms. Lisa O'Brien from the Growth Company for her unflagging enthusiasm and fine professional moderation of discussions over the two days.

Mr. Allen Blume, in addressing the group, spoke of the Governor's interest in historic aircraft and aviation history and his desire to work with historic aircraft groups. Blume also pointed out that declining state revenues are a reality that has to be taken into account during the coming years. He indicated that this was an opportunity for state and private interests to work cooperatively in the development of a new program which the Governor would be pleased to review.

Group "A":

1) Selecting historic aircraft for preservation.

   Ownership of historic aircraft on state, federal and private lands.

2) Liabilities attendant to restoring historic aircraft to an airworthy state.

Group "B":

1) Deteriorating historic aircraft: methods of on-site preservation.

2) Moving downed and endangered aircraft for conservation: resources and permits.

3) Conserving and displaying historic aircraft.

Ms. O'Brien led each group through a series of exercises directed at clarifying the shared interests and purposes of the entire group.

Because nearly a full day had been spent with introductions, discussions and preliminary exercises, the conference organizers decided that each work group would concentrate, in the time remaining, on one of the three issues selected for their attention. This would allow a realistic amount of time for the work groups to select and develop an action plan for an issue of their choice. Although the two work groups chose to begin by working on the first issue on their list, an action plan was, in fact, developed for five of the six issues.

DRAFT

Preservation of Alaska's Historic Aircraft

DRAFT ACTION PLAN

Anchorage, October 6-7, 1983

Issue: I. SELECTING HISTORIC AIRCRAFT FOR PRESERVATION

In order to have a central source of information about downed historic aircraft, it is recommended that an Ad Hoc Aviation Advisory Committee be established with membership consisting of representatives from legally established non-profit organizations. The membership, frequency of meetings, possible assessment of membership fees, and geographical and expertise determination for representation would be resolved at a later date. This committee (AHAAC) will be organized by the participants of this conference. The AHAAC will be mandated to fulfill four primary functions:

(a) It will establish evaluation criteria and selection guidelines for Alaskan historic aircraft.

(b) It will formulate priorities for preservation and interpretation of historic aircraft. Included in this category are downed and restored aircraft, as well as related artifacts.

Issue III. LIABILITIES ATTENDANT TO RESTORING HISTORIC AIRCRAFT TO AN AIRWORTHY STATE

There was not enough time to address this issue.

Issue IV. DETERIORATING HISTORIC AIRCRAFT: METHODS OF ON-SITE PRESERVATION

In order to effectively deal with this issue, recommendations are made for OHA and the AHAAC to develop and refine the data base showing all known downed Alaskan aircraft. This work should begin immediately. Upon completion, it will be possible to describe not only the nature of the resource but the scope of the problem as well.

A condition survey should be done as the list is generated. It is recommended that the AHAAC do this survey because it will have access to aircraft, expertise and the ability to reach remote locations.

Federal agencies are mandated to survey and nominate eligible, significant historic structures and objects to the National Register of Historic Places when these resources are on land managed by these agencies. The recommendation is made that federal and state employees doing fieldwork photograph downed aircraft when they are found in the course of their assigned duties. This may be accomplished through an interagency agreement between OHA, the Alaska Division of Geological and Geo-

Interior aviation. These variations were shaped by differences in equipment, flying conditions, pilots and the needs they served. Finally, the concept of regional museums furthers development of local history. Local facilities also provide attractions for tourists who wish to travel outside Anchorage.

This is not a new or an untried concept. The Gold Dome, in Fairbanks, is being developed as an aviation museum as this report is being written. Palmer has a museum with a strong aviation component. A museum dedicated to the bush pilots of McKinley has recently been opened and there is a proposal for an aviation museum in Anchorage.

Recommendations for an Anchorage Regional Museum

Application will be made to the state for donations of land at the southeast corner of the Anchorage International Airport. This location is recommended because it is already under state ownership, there is excellent access from a major urban setting, and existing municipal utilities are already in place. The airport facility had the added advantage of good security and a small lake for float plane exhibits. The southeast corner, moreover, is not scheduled for development.

A building will be needed for this facility. Possible funding sources for construction include state grants, donations and combinations thereof. The building should have adequate space for the following uses:

DRAFT

A new site in Palmer has been secured for the museum. Landscaping and site preparation are being considered. A program has been developed for the first phase of construction at the new site, to include both heated and unheated facilities. Plans are being made to move the museum's collections via volunteer and commercial means. Additional construction over the next six years will be done as needed.

The facility will incorporate heated exhibit areas, restoration shops, public areas, offices, a museum store, and unheated exhibit and public participation shelters. The open areas will be park-like in concept and designed around outdoor exhibits.

The museum has an active education program (to include public outreach involving exhibits), offers assistance to other historical groups, has an active recovery and restoration program, and a library and archive. The staff is striving to create a facility with maximum public function and benefit.

Continuing Work at Fairbanks

The Interior Alaska Arctic Aviation Foundation has secured the Gold Dome in Alaskaland for operation of a museum facility in Fairbanks. In addition, efforts are underway to obtain land and buildings at the Fairbanks International Airport.

ATTACHMENT "A"
PRESERVING ALASKA'S HISTORIC AIRCRAFT CONFERENCE
OCTOBER 6-7 - ANCHORAGE

List of Participants: The following individuals participated in the conference and made the recommendations in the Draft Action Plan.

Major Jim Ruotsala
Public Affairs Director
Civil Air Patrol
806 West 74th
Anchorage, Alaska 99502

Ms. Sherry Innes-Bennett
Denali Wilderness Air-
Bush Pilot Museum
P.O. Box 82
McKinley Park, Alaska 99755

Mr. Ted Spencer, President
Alaska Historical Aircraft Society
6610 Teshlar Drive
Anchorage, Alaska 99507

Mr. Jim Herrick
Airmen's Association
SRA 1506-H
Anchorage, Alaska 99507

Mr. Alfred Fleener
Private Citizen
6212 Collings Way
Anchorage, Alaska 99502

Mr. Everett Long
Interior and Arctic Alaska
Aeronautical Foundation
Ester, Alaska 99725

Mr. John Cooper, Director
The Alaska Historical
and Transportation Museum, Inc.
P.O. Box 820
Palmer, Alaska 99645

Mr. Randy Acord
Queit Birdmen's Fairbanks Hanger
Box 437
178-8th Avenue
Fairbanks, Alaska 99707

Mr. Russ Morrison
CMSGT (Ret.) USAF
Executive Director
Castle Air Museum Foundation, Inc.
P.O. Box 488
Atwater, California 95301

Mr. Syd Stealey
937 Eighth Avenue
Fairbanks, Alaska 99707

Mr. Chuck Diters
U.S. Fish & Wildlife Service
1011 E. Tudor
Anchorage, Alaska 99503

Mr. James W. Hostman
HQ AAC/DEEV
Elmendorf AFB
Anchorage, Alaska 99506

Mr. Bo Bennett
Denali Wilderness Air-Bush Pilot Museum
P.O. Box 82
McKinley Park, Alaska 99755

Mr. Fred Patterson
Castle Air Museum Foundation
P.O. Box 6-1001
Anchorage, Alaska 99502

Mr. R. E. "Bob" MacArthur
U.S.H.A.P.M.
302 Fireweed
Anchorage, Alaska 99504

Ms. Marion Acord
Festival 84
P.O. Box 437
178-8th Avenue
Fairbanks, Alaska 99707

Revised
December 1983

Distribution List

The Honorable Allen D. Blume
Special Assistant to the Governor
Office of the Governor
Pouch A
Juneau, Alaska 99811

Mr. Alan Munro
Alaska State Museum
Pouch FM
Juneau, Alaska 99811

Mr. Richard B. Engen, Engineer
Libraries and Museums
Department of Education
Pouch G
Juneau, Alaska 99811

Mr. Neil C. Johannsen
Director
Alaska Division of Parks
619 Warehouse Avenue, Suite 210
Anchorage, Alaska 99501

Mr. Skip Harding
Deputy Director
Alaska Division of Parks
619 Warehouse Avenue, Suite 210
Anchorage, Alaska 99501

Mr. Dan Monroe
Alaska State Museum
Pouch FM
Juneau, Alaska 99811

Mr. Joseph W. Geldholf
Assistant Attorney General
Alaska Department of Law
Pouch K
Juneau, Alaska 99811

Ms. Joaqlin Estus
National Park Service
2525 Gambell
Anchorage, Alaska 99503

Mr. Jim Herrick
Airmen's Association
SRA 1506-H
Anchorage, Alaska 99507

Major Jim Ruotsala
Public Affairs Director
Civil Air Patrol
806 West 74th
Anchorage, Alaska 99502

Mr. John Cooper, Director
The Alaska Historical and
Transportation Museum, Inc.
P.O. Box 820
Palmer, Alaska 99645

Mr. Everett Long
Interior and Arctic Alaska
Aeronautical Foundation
P.O. Box 1
Ester, Alaska 99725

Mr. Russ Morrison
CMSGT (Ret.) USAF
Executive Director
Castle Air Museum Foundation, Inc.
P.O. Box 488
Atwater, California 95301

Ms. Sherry Innes-Bennett
Denali Wilderness Air-
Bush Pilot Musem
P.O. Box 82
McKinley Park, Alaska 99755

Mr. Ted Spencer, President
Alaska Historical Aircraft Society
6610 Teshlar Drive
Anchorage, Alaska 99507

Mr. James W. Hostman
HQ AAC/DEEV
Elmendorf AFB
Anchorage, Alaska 99506

Mr. Alfred Fleener
6212 Collins Way
Anchorage, Alaska 99502

Mr. Bert Tarrant
Air Alaska Newspaper
3946 Lunar Drive
Anchorage, Alaska 99504

Mr. Fred Patterson
Castle Air Museum Foundation
P.O. Box 6-1001
Anchorage, Alaska 99502

Mr. R. E. "Bob" MacArthur
U.S.H.A.P.M.
302 Fairweed
Anchorage, Alaska 99504

Mr. Syd Stealey
937 Eighth Avenue
Fairbanks, Alaska 99707

Mr. Chuck Diters
U.S. Fish & Wildlife Service
1011 E. Tudor
Anchorage, Alaska 99503

Mr. Randy Acord
Quiet Birdmen's Fairbanks Hanger
Box 437
178-8th Avenue
Fairbanks, Alaska 99707

Ms. Marion Acord
Festival 84
Box 437
178-8th Avenue
Fairbanks, Alaska 99707

Mr. Bo Bennett
Denali Wilderness Air-
Bush Pilot Museum
P.O. Box 82
McKinley Park, Alaska 99755

Mr. Edwin C. Crittenden, F.A.I.A., Member
Historic Sites Advisory Committee
CCC Architects
431 W. 7th, Suite 100
Anchorage, Alaska 99501

Ms. Jane Galblum Haigh, Member
Historic Sites Advisory Committee
SR Box 50131
Fairbanks, Alaska 99701

Ms. Kathryn Harwood, Member
Historic Sites Advisory Committee
703 Fulton
Fairbanks, Alaska 99707

Ms. Renee Blahut, Member
Historic Sites Advisory Committee
Archives
University of Alaska
Fairbanks, Alaska 99701

(3) how it collects or compromises obligations under AS 41.30.020(3).

(b) The board of directors shall adopt substantive regulations implementing the conditions in AS 41.30.040 and 41.30.050. (§ 1 ch 83 SLA 1964)

Sec. 41.30.040. Loans. The board of directors may purchase evidence of indebtedness and make loans to aid in financing a project in a redevelopment area for industrial or commercial usage approved under federal law and qualifying for federal area redevelopment assistance. (§ 1 ch 83 SLA 1964)

Sec. 41.30.050. Limitations on loans. (a) The board of directors may not purchase evidences of indebtedness or make loans to assist establishments to relocate from one area of the state to another.

(b) The board of directors may purchase evidences of indebtedness and make loans only if

(1) redevelopment projects for which assistance is requested have been approved by the board of directors;

(2) the project for which assistance is sought is reasonably calculated to provide more than a temporary alleviation of unemployment or under-employment within the redevelopment area;

(3) the board of directors receives reasonable assurance of repayment.

(c) The board of directors shall not provide assistance in an amount that is more than 10 per cent of the aggregate cost, or more than $50,000, to the applicant for the particular project.

(d) The board of directors may not make loans at an interest rate of less than four per cent.

(e) Assistance extended by the state under this chapter shall in no event exceed the total aggregate of $2,000,000. (§ 1 ch 83 SLA 1964)

Sec. 41.30.055. Area redevelopment revolving fund. There is established an area redevelopment revolving fund which shall be administered by the board of directors exclusively for the purposes of this chapter. The fund is composed of money appropriated by the legislature to it and any other money made available for the purposes of this chapter. (§ 1 ch 83 SLA 1964)

Sec. 41.30.060. Accounts and deposit. The commissioner of revenue is ex officio the treasurer and custodian of the fund and shall administer it as directed by the board of directors. The commissioner of revenue may make prudent investments of money in the fund which the board of directors decides is not immediately needed for the purposes of this chapter. (§ 1 ch 83 SLA 1964)

year over amount ... er from any special fund shall be repaid to the general fund ... al fund until the loan is repaid in full. Repayments need not begin after the first five complete fiscal years after the fund is created. (§ 1 ch 83 SLA 1964)

Sec. 41.30.080. Transfer of funds upon discontinuance of federal program of area redevelopment assistance. If the federal program of area redevelopment assistance is discontinued for any reason, or if this chapter is repealed, the money within the area redevelopment revolving loan fund shall revert to any special fund from which money was made available, in the amount that was made available, and the remainder to the general fund. (§ 1 ch 83 SLA 1964)

Chapter 35. Alaska Historic Preservation Act.

Section
Declaration of policy
Title to historic, prehistoric and archeological resources; local display
Designation of monuments and historic sites
Administration and financial support of monuments and historic sites
Regulations
Power to acquire historic, prehistoric or archeological properties
Preservation of historic, prehistoric and archeological resources threatened by public construction
Permits
Notice required of private persons
Excavation and removal of historic, prehistoric or archeological remains on private land
110. Historic sites advisory committee
120. Composition of committee
130. Appointment of members
140. Term of membership
150. Compensation
160. Officers
170. Meetings and quorum
180. Duties of committee
190. Powers of chairman
200. Unlawful acts
210. Penalties
220. Enforcement authority
230. Definitions
240. Title of chapter

Collateral references. — 72 Am. Jur. States, Territories and Dependencies, § 47, 66.

A C.J.S., States, §§ 138, 145 — 148.

Validity and construction of statute or ordinance protecting historical landmarks, 18 ALR4th 990.

Sec. 41.35.010. Declaration of policy. It is the policy of the state to preserve and protect the historic, prehistoric and archeological resources of Alaska from loss, desecration and destruction so that the scientific, historic and cultural heritage embodied in these resources may pass undiminished to future generations. To this end, the legislature finds and declares that the historic, prehistoric and archeological

[illegible] and evaluated. (§ 1 ch 130 SLA 1971)

Sec. 41.35.020. Title to historic, prehistoric and archeological resources; local display. (a) The state reserves to itself title to all historic, prehistoric and archeological resources situated on land owned or controlled by the state, including tideland and submerged land, and reserves to itself the exclusive right of field archeology on state-owned or controlled land. However, nothing in this chapter diminishes the cultural rights and responsibilities of persons of aboriginal descent or infringes upon their right of possession and use of those resources which may be considered of historic, prehistoric or archeological value.

(b) Although title to historic, prehistoric and archeological resources is in the state, local cultural groups may obtain from the state, or retain, for study or display, artifacts and other items of these resources from their respective cultures or areas if the committee created in AS 41.35.110 finds that (1) the group has a durable building with weatherproof and fireproof construction and humidity control and other factors necessary to serve as a museum which will assure safe preservation of the items, (2) the item sought to be obtained is not one for which there is an undue risk of damage during transportation, and (3) the item sought to be obtained or retained is not one requiring special treatment or care beyond the ability or means of the group requesting it. A group retaining such an item or obtaining one from the state shall house it in the museum building and shall make every reasonable effort to assure its safe preservation. If the committee finds that a local cultural group is not properly taking care of an item the group shall return it to the department. (§ 1 ch 130 SLA 1971)

Sec. 41.35.030. Designation of monuments and historic sites. Upon the recommendation of the committee, the governor may declare by public order any particular historic, prehistoric or archeological structure, deposit, site or other object of scientific or historic interest that is situated on land owned or controlled by the state to be a state monument or historic site and the governor may designate as a part of the monument or site as much land as is considered necessary for the proper access, care and management of the object or site to be protected. When an object or site is situated on land held in private ownership it may be declared a state monument or historic site in the same manner, with the written consent of the owner. (§ 1 ch 130 SLA 1971)

Sec. 41.35.040. Administration and financial support of monuments and historic sites. State-owned monuments, sites and other historic, prehistoric or archeological properties owned or purchased by the state are under the control of the department and the

[illegible] they are kept accessible to the general public and application for support is made in conformity with regulations adopted by the commissioner. (§ 1 ch 130 SLA 1971)

Sec. 41.35.050. Regulations. The commissioner shall adopt regulations to carry out the purposes of this chapter. (§ 1 ch 130 SLA 1971)

Sec. 41.35.060. Power to acquire historic, prehistoric or archeological properties. (a) The department, with the recommendation of the committee, may acquire real and personal properties that have statewide historic, prehistoric or archeological significance by gift, purchase, devise or bequest. The department shall preserve and administer property so acquired. The department may acquire property adjacent to the property having historic, prehistoric or archeological significance when it is determined to be necessary for the proper use and administration of the significant property.

(b) If an historic, prehistoric or archeological property which has been found by the department, upon the recommendation of the committee, to be important for state ownership is in danger of being sold or used so that its historic, prehistoric or archeological value will be destroyed or seriously impaired, or is otherwise in danger of destruction or serious impairment, the department may establish the use of the property in a manner necessary to preserve its historic, prehistoric or archeological character or value. If the owner of the property does not wish to follow the restrictions of the department, the department may acquire the property by eminent domain under AS 09.55.240 — [illegible]460. (§ 1 ch 130 SLA 1971)

Sec. 41.35.070. Preservation of historic, prehistoric and archeological resources threatened by public construction. (a) The department shall locate, identify and preserve in suitable records information regarding historic, prehistoric and archeological sites, locations and remains. The information shall be submitted to the heads of the executive departments of the state.

(b) Before public construction or public improvement of any nature undertaken by the state, or by a governmental agency of the state or by a private person under contract with or licensed by the state or governmental agency of the state, the department may survey the affected area to determine if the area contains historic, prehistoric or archeological values.

(c) If the department determines that historic, prehistoric or archeological sites, locations or remains will be adversely affected by the public construction or improvement, the proposed public construction or improvement may not be commenced until the department has performed the necessary investigation, recording and salvage of

(d) If in the course of performing public construction or improvements, historic, prehistoric or archeological sites, locations, remains or objects are discovered, the department shall be notified and its concurrence shall be requested in continuing the construction or improvement. Upon receipt of this notice, the department shall survey the area to determine whether the area contains historic, prehistoric or archeological data which should be preserved in the public interest. The survey shall be conducted as expeditiously as possible. If, as a result of the survey, it is determined that (1) this data exists in the area, (2) the data has exceptional historic, prehistoric or archeological significance, and should be collected and preserved in the public interest, and (3) it is feasible to collect and preserve the data, the department shall perform the necessary work to collect and preserve the data. This work shall be performed as expeditiously as possible.

(e) If the concurrence of the department, required under (b) and (c) of this section, is not obtained after 90 days from the filing of a request for its concurrence to proceed with the project, the agency or person performing the construction or improvement may apply to the governor for permission to proceed without that concurrence and the governor may take the action the governor considers best in overruling or sustaining the department.

(f) The costs of investigation, recording and salvage of the site shall be reimbursed by the agency sponsoring the construction project.

(g) Notwithstanding (a) — (f) of this section, all actions to stop any project must first be approved in writing by the commissioner. (§ 1 ch 130 SLA 1971; am § 1 ch 112 SLA 1974)

Revisor's notes. — In ch. 130, SLA 1971, subsection (g) referred to "(a) and (f)." However, the floor amendment adding (g) read "(a) — (f)," and the text has been corrected here. (See 1971 House Journal p. 1251).

Sec. 41.35.080. Permits. The commissioner may issue a permit for the investigation, excavation, gathering or removal from the natural state, of any historic, prehistoric or archeological resources of the state. A permit may be issued only to persons or organizations qualified to make the investigations, excavations, gatherings or removals and only if the results of these authorized activities will be made available to the general public through institutions and museums interested in disseminating knowledge on the subjects involved. If the historic, prehistoric or archeological resource involved is one which is, or is located on a site which is, sacred, holy or of religious significance to a cultural group, the consent of that cultural group must be obtained before a permit may be issued under this section. (§ 1 ch 130 SLA 1971, am § 2 ch 112 SLA 1974)

[illegible] privately owned, officially designated state monument or historic [illegible] by any person, the person shall give the department three months notice of intention to construct on, alter or improve it. Before the expiration of the three-month notification period, the department shall either begin eminent domain proceedings under AS 41.35.060(b) or undertake or permit the recording and salvaging of any historic, prehistoric or archeological information considered necessary. (§ 1 ch 130 SLA 1971; am § 3 ch 112 SLA 1974)

Sec. 41.35.100. Excavation and removal of historic, prehistoric or archeological remains on private land. Before any historic, prehistoric or archeological remains are excavated or removed from private land by the department, the written approval of the owner shall first be secured. When the value of the private land is diminished by the excavation or removal, the owner of the land shall be compensated for the loss at a monetary sum mutually agreed on by the department and the owner or at a monetary sum set by the court. (§ 1 ch 130 SLA 1971; am § 4 ch 112 SLA 1974)

Sec. 41.35.110. Historic sites advisory committee. There is created in the Department of Natural Resources the Historic Sites Advisory Committee. (§ 1 ch 130 SLA 1971)

Sec. 41.35.120. Composition of committee. The committee consists of the following persons:

(1) the director of the Alaska State Museum;

(2) the state liaison officer appointed under 16 U.S.C. 470-470n (P.L. 89-665, National Historic Preservation Act of 1966);

(3) three persons with professionally relevant backgrounds appointed from each of the following fields: history, architecture and archeology; and

(4) two persons appointed to represent indigenous ethnic groups. (§ 1 ch 130 SLA 1971; am §§ 5, 6 ch 112 SLA 1974)

Sec. 41.35.130. Appointment of members. Members of the committee are appointed by the governor and confirmed by the legislature meeting in joint session. The members of the committee shall serve at the pleasure of the governor. (§ 1 ch 130 SLA 1971)

Sec. 41.35.140. Term of membership. The term of office for a member of the committee is three years, except for those who are members by virtue of their positions with the state. They serve for as long as they remain in the position by virtue of which they are members of the committee. A member appointed to fill a vacancy serves for the unexpired term of the member succeeded. Of those members listed under AS 41.35.120(3) and (4), upon initial appointment, one shall serve for one year, two for two years, and two for three years. (§ 1 ch 130 SLA 1971)

130 SLA 1971)

Cross references.— For transportation boards, commissions, etc., see AS and per diem expenses for members of 39.20.180.

Sec. 41.35.160. Officers. At the first meeting of each year, the committee shall elect a chairman from among its members.(§ 1 ch 130 SLA 1971)

Sec. 41.35.170. Meetings and quorum. The committee shall meet at least twice a year. Additional meetings may be called by the chairman or by petition of at least five members. Five members of the committee constitutes a quorum. (§ 1 ch 130 SLA 1971)

Sec. 41.35.180. Duties of committee. The committee shall

(1) develop criteria for the evaluation of state monuments and historic sites and all real and personal property which may be considered to be of historic, prehistoric or archeological significance as would justify their acquisition and ownership by the state;

(2) cooperate with the department in formulating and administering a statewide historic sites survey under 16 U.S.C. 470-470n (P.L. 89-665, National Historic Preservation Act of 1966);

(3) review those surveys and historic preservation plans that may be required, and approve properties for nomination to the National Register as provided for in 16 U.S.C. 470-470n (P.L. 89-665, National Historic Preservation Act of 1966);

(4) provide necessary assistance to the governor and the legislature for achieving balanced and coordinated state policies and programs for the preservation of the state's historic, prehistoric and archeological resources;

(5) consult with local historical district commissions regarding the establishment of historical districts under AS 29.48.108 and 29.48.110 and the approval of project alterations under AS 45.98.040; recommend, if appropriate, the formulation of additional criteria for the designation of historical districts under AS 29.48.110(b); approve plans for and evaluate the suitability of specific structures for purposes of loan eligibility and continuance under the historical district revolving loan fund (AS 45.98); and consult with the Department of Commerce and Economic Development relative to the adoption of regulations for historical district loans under AS 45.98. (§ 1 ch 30 SLA 1971; am § 7 ch 112 SLA 1974; am § 4 ch 139 SLA 1977)

Sec. 41.35.190. Powers of chairman. Subject to available appropriations the chairman may, with the concurrence of a majority of the committee, employ necessary personnel and may contract for the ser-

Sec. 41.35.200. Unlawful acts. (a) A person may not appropriate, excavate, remove, injure, or destroy, without a permit from the commissioner, any historic, prehistoric or archeological resources of the state.

(b) A person may not possess, sell, buy or transport within the state, or offer to sell, buy or transport within the state, historic, prehistoric or archeological resources taken or acquired in violation of this section or 16 U.S.C. 433.

(c) A person may not unlawfully destroy, mutilate, deface, injure, remove or excavate a gravesite or a tomb, monument, gravestone or other structure or object at a gravesite, even though the gravesite appears to be abandoned, lost or neglected.

(d) An historic, prehistoric or archeological resource which is taken in violation of this section shall be seized by any person designated in AS 41.35.220 wherever found and at any time. Objects seized may be disposed of as the commissioner determines by deposit in the proper public depository. (§ 1 ch 130 SLA 1971; am § 8 ch 112 SLA 1974)

Sec. 41.35.210. Penalties. A person who violates a provision of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of $1,000, or by imprisonment for not more than six months, or by both. (§ 1 ch 130 SLA 1971)

Sec. 41.35.220. Enforcement authority. The following persons are peace officers of the state and shall enforce this chapter:

(1) an employee of the department authorized by the commissioner;

(2) a peace officer in the state;

(3) any other person authorized by the commissioner. (§ 1 ch 130 SLA 1971)

Cross references. — For definition of "peace officer," see AS 01.10.060(6).

Sec. 41.35.230. Definitions. In this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of natural resources;

(2) "committee" means the Historic Sites Advisory Committee;

(3) "department" means the Department of Natural Resources;

(4) "historic, prehistoric and archeological resources" includes deposits, structures, ruins, sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information pertaining to the historical or prehistorical culture of people in the state as well as to the natural history of the state. (§ 1 ch 130 SLA 1971)

Chapter 37. Citizens' Advisory Commission on Federal Areas in Alaska.

Section		Section	
10.	Citizens' Advisory Commission on Federal Areas in Alaska	65.	Expenses and per diem
20.	Membership and officers	70.	Staff of the commission
30.	Qualifications of members	80.	Duties of the commission
40.	Term of members of the commission	90.	Advisory groups of the commission
50.	Removal of a member	100.	Suit
60.	No loss of compensation	110.	Agency cooperation
		150.	Definition

Chapter repealed effective June 30, 1988. — Section 3, ch. 81, SLA 1981, repeals this chapter, effective June 30, 1988.

Collateral references. — 72 Am. Jur. 2d, States, Territories and Dependencies §§ 16 — 18.

81A C.J.S., States, §§ 20 — 28.

Sec. 41.37.010. Citizens' Advisory Commission on Federal Areas in Alaska. (a) The Citizens' Advisory Commission on Federal Areas in Alaska is established.

(b) The commission is a temporary advisory agency of the executive branch of the state but is not allocated to a principal department of the executive branch. In the exercise of its responsibilities, the commission shall consider the views of the citizens of the state and officials of the state. (§ 1 ch 81 SLA 1981)

Sec. 41.37.020. Membership and officers. (a) The commission is composed of 16 members appointed in accordance with this section.

(b) The membership of the commission shall represent each judicial district in the state.

(c) The governor shall appoint eight members of the commission.

(d) The speaker of the house of representatives shall appoint two members of the commission from the membership of the state house of representatives and two members who are residents of the state.

(e) The president of the senate shall appoint two members of the commission from the membership of the state senate and two members who are residents of the state.

(f) The commission shall select a presiding officer of the commission from its membership. The commission may elect other officers. (§ 1 ch 81 SLA 1981)

Sec. 41.37.030. Qualifications of members. The members of the commission appointed by the governor under AS 41.37.020(c) and members appointed under AS 41.37.020(d) and (e) who are not mem-

Sec. 41.37.040. Term of members of the commission. (a) A member of the commission appointed by the governor serves for a term of four years and until a successor is appointed and qualifies.

(b) A member of the commission appointed from the legislature serves for the member's term of office as a legislator.

(c) A public member of the commission appointed by a member of the legislature serves for two years and until a successor is appointed and qualifies. (§ 1 ch 81 SLA 1981)

Cross references. — For terms of office of governor's initial appointees, see section 3, ch. 81, SLA 1981.

Sec. 41.37.050. Removal of a member. (a) A member of the commission may be removed by the appointing authority for cause after notice and hearing or after missing three consecutive meetings of the commission. The presiding officer of the commission shall inform the appointing authority if a member misses three consecutive meetings.

(b) After a member of the commission misses two consecutive meetings and before the third meeting, the secretary of the commission shall notify the member in writing that failure to attend the next meeting may result in the removal of the member. The failure of the secretary of the commission to notify a member under this subsection does not prevent the appointing authority from removing a member under (a) of this section. (§ 1 ch 81 SLA 1981)

Sec. 41.37.060. No loss of compensation. A member of the commission who is a legislator or a full-time employee of the state or of a municipality of the state shall suffer no loss of compensation from the state or a municipality of the state as a result of service to the commission. (§ 1 ch 81 SLA 1981)

Revisor's notes. — As enacted, this section contained a subsection (b) which was renumbered as AS 41.37.065 in 1981.

Sec. 41.37.065. Expenses and per diem. A member of the commission is entitled to travel expenses and per diem prescribed for state boards and commissions. (§ 1 ch 81 SLA 1981)

Revisor's notes. — Enacted as AS 41.37.060(b). Renumbered in 1981.

Sec. 41.37.070. Staff of the commission. The commission may employ staff and contract for services relating to matters within its

controlled substances;

(D) evasive tactics or actions used by the owner or person in control of the substance to avoid detection by law enforcement authorities;

(E) the storage, packaging, presentation, display of or reference to a controlled substance with, near, or in connection with the activity involving the imitation controlled substance.

(4) "manufacture" means the production, preparation, compounding, processing, encapsulating, packaging or repackaging, labeling or relabeling, of an imitation controlled substance. (§ 1 ch 41 SLA 1983)

Chapter 75. General Provisions.

[Repealed, § 21, ch. 166, SLA 1978. For present provisions on classification of offenses, see AS 11.81.250; for definitions, see AS 11.81.900; for sentencing, see AS 12.55.]

Chapter 76. Miscellaneous Offenses.

Section

110 Selling or giving tobacco to a minor
130 Interference with constitutional rights

Section

120. Opening or publishing contents of sealed letters

Sec. 11.76.100. Selling or giving tobacco to a minor. (a) A person being 19 years of age or older, commits the offense of selling or giving tobacco to a minor if the person knowingly sells, exchanges, or gives cigarettes, cigars, or tobacco to a person under 16 years of age.

(b) Selling or giving tobacco to a minor is a violation. (§ 9 ch 166 SLA 1978)

Sec. 11.76.110. Interference with constitutional rights. (a) A person commits the crime of interference with constitutional rights if

(1) the person injures, oppresses, threatens, or intimidates another person with intent to deprive that person of a right, privilege, or immunity in fact granted by the constitution or laws of this state;

(2) the person intentionally injures, oppresses, threatens, or intimidates another person because that person has exercised or enjoyed a right, privilege, or immunity in fact granted by the constitution or laws of this state; or

(3) under color of law, ordinance, or regulation of this state or a municipality or other political subdivision of this state, the person intentionally deprives another of a right, privilege, or immunity in fact granted by the constitution or laws of this state.

(b) In a prosecution under this section, whether the injury, oppression, threat, intimidation, or deprivation concerns a right, privilege, or immunity granted by the constitution or laws of this state is a question of law.

(c) Interference with constitutional rights is a class A misdemeanor. (§ 9 ch 166 SLA 1978)

Sec. 11.76.120. Opening or publishing contents of sealed letters. A person who wilfully opens or reads, or has opened and read, a sealed letter not addressed to the person, without authority to do so by the writer or by the person to whom it is addressed, or who wilfully, without the same authority, publishes a letter or portion of it, knowing it to have been opened without the authority of the writer or addressee, upon conviction, is punishable by imprisonment in jail not less than one month nor more than one year, or by a fine of not less than $50 nor more than $500. This section does not extend to or include an act made punishable by a law of the federal government. (§ 65-5-145 ACLA 1949; am § 22 ch 166 SLA 1978)

Revisor's notes. — Formerly AS 11.20.660. Renumbered in 1978.

Chapter 81. General Provisions.

Article
1. General Purposes (§ 11.81.100)
2. Applicability of Criminal Statutes (§§ 11.81.200 — 11.81.220)
3. Classification of Offenses (§ 11.81.250)
4. General Principles of Justification (§§ 11.81.300 — 11.81.450)
5. General Principles of Criminal Liability (§§ 11.81.600 — 11.81.640)
6. Definitions (§ 11.81.900)

Collateral references. — 21 Am. Jur. 2d, Criminal Law, §§ 19-128; 40 Am. Jur. 2d, Homicide, §§ 139-182. 22 C.J.S., Criminal Law, §§ 29-72; 40 C.J.S., Homicide, §§ 97-138.

Article 1. General Purposes.

Section
100. General purposes

Sec. 11.81.100. General purposes. The general purposes of this title are to

(1) proscribe conduct that unjustifiably and inexcusably causes or threatens substantial harm to individual or public interests;

ptive terms set out in this
ntended as appropriate
n most cases, without sig-
or downward adjustment.
. Ct. App. Op. No. 72 (File
P.2d 823 (1982), modified
ls and aff'd on rehearing,
. 259 (File No. 5606),

tion which is necessary
sent offense. — Subsec-
section, when read in con-
S 12.55.145(a)(1) and AS
kes no exception for cases
or conviction relied upon
presumptive sentencing
y element of the present
ute, Ct. App. Op. No. 197
655 P.2d 789 (1983).
does not purport to deal
o the applicability of
ncing under this section
clude the use of a prior
invoke presumptive
this section when that
a necessary element of
. Fry v. State, Ct. App.
No. 6810), 655 P.2d 789

or escape in the second
error to sentence appel-
felony offender and to
ive sentence on ground
s confinement on prior
used to prove an ele-
ge, i.e., that appellant,
was in "a correctional
er official detention."
p. Op. No. 216 (File No.
(1983).

must precede the
e plain terms of AS
12.55.185(6), (7), and
must precede the next
sentencing can apply.
Ct. App. Op. No. 228
P.2d (1983).
three separate crim-
d in close proximity
were entered after all
been committed, he
be a second felony
s section and AS
stopsoff, Ct. App. Op.
5295), P.2d
the holding in State
. No. 1383 (File Nos.
26 (1977) only to the
specifically required
offense to be entered
of the next offense
eparately considered
as prior convictions in any subsequent case.

Conviction being appealed. — A conviction with the attendant constitutional safeguards is sufficient for purposes of presumptive sentencing even though on appeal. Wright v. State, Ct. App. Op. No 204 (File No. 6569), 656 P.2d 1226 (1983).

Where total sentence received by first offender exceeds presumptive sentence for second offender but period of actual imprisonment is substantially less, such sentence meets requirement of Austin v. State, Ct. App. Op. No. 18 (File No. 5341), 627 P.2d 657 (1981), of a substantially more favorable sentence for first offender; where, however, actual period of imprisonment equals or exceeds presumptive term for second offender, aggravating factors or extraordinary circumstances are required to justify additional time even if it is suspended. Brezenoff v. State, Ct. App. Op. No. 226 (File No. 7117), 658 P.2d 1359 (1983).

In prosecution for burglary and attempted sexual assault, where defendant had long record of misdemeanor offenses consisting of approximately 32 convictions in the last nine years, including three convictions for assault, numerous convictions for disorderly conduct, and numerous theft-related offenses, the case was an exceptional one where a first felony offender could be given a sentence in excess of presumptive sentence for second offender, but did not justify imposition of consecutive sentences totalling in excess of 10 years. Hansen v. State, Ct. App. Op. No. 218 (File No. 6965), 657 P.2d 862 (1983).

Normally a first offender should receive a more favorable sentence than the presumptive sentence for a second offender. Austin v. State, Ct. App. Op. No. 18 (File No. 5341), 627 P.2d 657 (1981).

Sentence for first-time offender in excess of presumptive sentence for second offender. — Usually a sentence for a first felony offender which is in excess of the presumptive sentence for a second felony offender must be justified either by specific aggravating factors under the criminal code, or else by aggravating factors which would qualify as extraordinary circumstances under AS 12.55.165 and would justify a repeat offender receiving an enhanced sentence by a three judge panel. Neakok v. State, Ct. App. Op. No. 163 (File No. 6418), P.2d (1982).

Imposition of a sentence for first-time (Class A Felony)

presumptive sentence for second offenders is permissible only in exceptional circumstances, which may be determined by consideration of the aggravating factors specified in AS 12.55.155 or consideration of any additional, unspecified aggravating factors that would constitute extraordinary circumstances under AS 12.55.165. Peetook v. State, Ct. App. Op. No. 178 (File No. 6630), P.2d (1982).

If a suspended portion of a sentence for a first felony offender is later imposed, thus causing the period of incarceration to exceed the presumptive sentence for a second felony offender, the first offender would be entitled to bring a sentence appeal upon the imposition of the suspended portion of the sentence. Tazruk v. State, Ct. App. Op. No. 195 (File No. 6954), P.2d (1982).

In evaluating whether a partially suspended sentence for a first felony offender is in excess of the presumptive sentence which a second felony offender would receive, the reviewing court should consider only that portion of the sentence which imposes a period of incarceration. Tazruk v. State, Ct. App. Op. No. 195 (File No. 6954), P.2d (1982).

Deviation from presumptive sentences. — In sentencing proceedings involving allegations of aggravating and mitigating circumstances, the provisions of AS 12.55.155(f) require the party seeking to establish a factor to bear a dual burden of proving to the court by clear and convincing evidence the existence of the alleged factor, and, providing the court with sufficient reasons to justify a conclusion, by clear and convincing evidence, that the factor warrants deviation from the statutorily prescribed presumptive sentence. Juneby v. State, Ct. App. Op. No. 72 (File No. 5606), 641 P.2d 823 (1982), modified on other grounds and aff'd on rehearing, Ct. App. Op. No. 259 (File No. 5606), P.2d (1983).

Nature of crime charged is factor. — In order to determine the realistic impact that proof of an aggravating or mitigating circumstance should have on adjustment of a presumptive sentence in any given case, it is essential to consider not only the specific conduct constituting the aggravating or mitigating factor, but also the nature of the crime charged. Juneby v. State, Ct. App. Op. No. 72 (File No. 5606), 641 P.2d 823 (1982), modified on other grounds and aff'd on rehearing, Ct. App. Op. No. 259 (File No. 5606), P.2d (1983).

Finding required for consecutive sentence exceeding presumptive term for single count. — An affirmative finding by the sentencing court that confinement of the defendant for the aggregate period of a consecutive sentence is necessary to protect the public is required in all cases where imposition of consecutive presumptive terms would result in an aggregate sentence that exceeds the presumptive term for a single count. Lacquement v. State, Ct. App. Op. No. 85 (File No. 5741), 644 P.2d 856 (1982). See also Friedberg v. State, Ct. App. Op. No. 258 (File No. 7015), 663 P.2d 558 (1983).

Scope of review. — See notes under heading "Review of presumptively imposed sentences," AS 12.55.120, Juneby v. State, Ct. App. Op. No. 72 (File No. 5606), 641 P.2d 823 (1982), modified on other grounds and aff'd on rehearing, Ct. App. Op. No. 5606), P.2d (1983).

Where AS 12.55.145(a)(1) prohibited consideration of prior convictions for purposes of rendering defendant a second offender or third offender under this section, and where defendant was not otherwise subject to a presumptive sentence under this section, the prior criminal acts may nevertheless be considered as constituting an "exceptional case" justifying imposition of sentence in excess of the presumptive sentence for a second offender. Koganaluk v. State, Ct. App. Op. No. 176 (File No. 6531), P.2d (1982).

Failure to prove prior convictions. — When a party has had insufficient time to comply with the notice requirements relating to proof of prior convictions or aggravating and mitigating factors, the appropriate remedy should normally be a continuance of the sentencing proceedings; and failure to consider prior crimes for presumptive sentencing purposes can be condoned only in those cases where the state, after exercising due diligence, is unable to meet the statutory requirements for proof of a prior conviction. Kelly v. State, Ct. App. Op. No. 251 (File No. 6311), P.2d (1983).

Sec. 12.55.135. Sentences of imprisonment for misdemeanors. (a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than one year

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than 90 days unless otherwise specified in the provision of law defining the offense.

(c) A defendant convicted of assault in the fourth degree committed in violation of the provisions of an order issued under AS 25.35.010 or 25.35.020 shall be sentenced to a minimum term of imprisonment of 20 days.

(d) A defendant convicted of assault in the fourth degree upon a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the assault shall be sentenced to a minimum term of imprisonment of 30 days.

(e) The execution of a sentence under (c) or (d) of this section may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served. Imposition of a sentence under (c) or (d) of this section may not be suspended, except upon condition that the defendant be imprisoned for no less than the minimum term of imprisonment provided in (c) or (d) of this section, and the minimum sentence provided for in (c) or (d) of this section may not be otherwise reduced. (§ 12 ch 166 SLA 1978; am § 2 ch 139 SLA 1980; am § 22 ch 59 SLA 1982; am § 13 ch 61 S. A 1982, am § 31 ch 143 SLA 1982; am §§ 4, 5 ch 92 SLA 1983)

Revisor's notes.

Internal references in subsection (c) were revised in 1983.

Effect of amendments. — The first 1982 amendment substituted "fourth degree" for "third degree" in the first sentence of subsection (c).

The second 1982 amendment made the same change as the first 1982 amendment.

The third 1982 amendment, in subsection (c), substituted "fourth degree" for "third degree" and "20 days" for "10 days" in the first sentence and substituted "be imprisoned" for "by imprisoned" in the last sentence.

The 1983 amendment deleted the second and third sentences of subsection (c), concerning suspension of the execution or imposition of a sentence, and added subsections (d) and (e).

NOTES TO DECISIONS

Constitutionality of presumptive sentencing provisions. — See notes under same heading, AS 12.55.125, Nell v. State, Ct. App. Op. No. 77 (File No. 5565), 642 P.2d 1361 (1982).

Cited in Law v. State, Sup. Ct. Op. No. 2301 (File No. 4552), 624 P.2d 284 (1981), Kelly v. State, Ct. App. Op. No. 251 (File No. 6311), P.2d (1983).

Sec. 12.55.140. Sentences for violations. [Repealed, § 23 ch 59 SLA 1982.]

Sec. 12.55.145. Prior convictions. (a) For purposes of considering prior convictions in imposing sentence under AS 12.55.125(c), (d)(1),

(1) a prior conviction may not be considered if a period of 10 or more years has elapsed between the date of the defendant's unconditional discharge on the immediately preceding offense and commission of the present offense unless the prior conviction was for an unclassified or class A felony;

(2) a conviction in this or another jurisdiction of an offense having elements similar to those of a felony defined as such under Alaska law at the time the offense was committed is considered a prior felony conviction;

(3) two or more convictions arising out of a single, continuous criminal episode during which there was no substantial change in the nature of the criminal objective are considered a single conviction unless the defendant was sentenced to consecutive sentences for the crimes; offenses committed while attempting to escape or avoid detection or apprehension after the commission of another offense are not part of the same criminal episode or objective.

(b) When sentence is imposed under this chapter, prior convictions not expressly admitted by the defendant must be proved by authenticated copies of court records served on the defendant or the defendant's counsel at least 20 days before the date set for imposition of sentence.

(c) If the defendant denies the authenticity of a prior judgment of conviction, that the defendant is the person named in the judgment, that the elements of a prior offense committed in another jurisdiction are substantially identical to those of a felony defined as such under Alaska law, or that a prior conviction occurred within the period specified in (a)(1) of this section or if the defendant alleges that two or more purportedly separate prior convictions should be considered a single conviction under (a)(3) of this section, the defendant shall file with the court and serve on the prosecuting attorney notice of denial no later than 10 days before the date set for imposition of sentence. The notice of denial shall include a concise statement of the grounds relied upon and may be supported by affidavit or other documentary evidence.

(d) Matters alleged in a notice of denial shall be heard by the court sitting without a jury. If the defendant introduces substantial evidence that he is not the person named in a prior judgment of conviction, that the judgment is not authentic, that the conviction did not occur within the period specified in (a)(1) of this section, or that a conviction should not be considered a prior felony conviction under (a)(2) of this section, then the burden is on the state to prove the contrary beyond a reasonable doubt. The burden of proof that two or more convictions should be considered a single conviction under (a)(3) of this section is on the defendant by clear and convincing evidence.

(e) The authenticated judgments of courts of record of the United States, the District of Columbia, or of any state, territory, or political subdivision of the United States are prima facie evidence of conviction.

HCR

9

Arts Alaska, Inc.

619 Warehouse Avenue • Suite 220
Anchorage, Alaska 99501 • (907)279-1558

SERVICE CONTRACT

This contract, effective as of the 23rd day of December, 1976, between Arts Alaska, Inc. (hereinafter called the "Corporation"), and Robert Murry (hereinafter called the "Artist").

WITNESSETH THAT: Whereas the Corporation is entering into this contract for professional services; and Whereas, the Corporation has the authority to enter into this contract by the approval of the Board of Directors of Arts Alaska, Inc.;

NOW THEREFORE, the parties hereto agree as follows:

Article I. The Services to be Performed.

The Artist is hereby commissioned to undertake and complete a metal sculpture for the Juneau courthouse plaza per the design to be submitted to the Alaska State Council on the Arts and reviewed by the judging panel. The work of art will be delivered and installed at the site at the expense of the Artist.

All materials used shall be selected, applied and treated in order to be reasonably protected against damage. Full instructions will be provided for the continued maintenance of the work of art.

The Artist will view the site of the planned space for the work of art at his own expense, prior to beginning the project.

The artist will be invited to participate in the unveiling ceremony. All

costs for such participation will be the responsibility of the Artist should he choose to participate.

Article II. The Period of Performance.

The period of performance under this contract shall commence on January 1, 1977, and expire on September 1, 1978. Performance may be extended for additional periods by the mutual written agreement of the parties.

Article III. Consideration.

In full consideration of the Artist's performance hereunder, the Corporation shall pay the Artist a total amount for the completed and accepted Work of Art of FORTY THOUSAND AND NO/100 DOLLARS ($40,000), and not more.

From the above amount, the Artist shall arrange and pay, or otherwise provide for all services, supplies and equipment for services, labor, materials, travel, hotel and subsistence, transportation, storage, fees, rentals, insurances, taxes, and all other cost and expenses required to complete the Project to the satisfaction of the Corporation.

Payment on account of the Cost of the Project shall be made as follows:

$4,000 at the signing of the contract.

$16,000 when the proposal submitted by the Artist is approved by the selected panel.

$16,000 when notified that the piece is fabricated and ready for shipment.

$4,000 upon final installation and acceptance by the State of Alaska.

Article IV. Additional Contract Provisions.

Appendix A attached hereto and made a part hereof sets forth special

conditions for the project.

Appendix B attached hereto and made a part hereof sets forth additional general provisions of this contract.

Article V. Changes.

Appendix C attached hereto and made a part hereof, sets forth any changes or additions that were made in this contract prior to its execution. (If appendix C is not attached hereto, there have been no such changes or additions).

Article VI. Special and General Conditions for the Project.

All articles of the attached General Conditions for the project shall be part of this agreement as if written herein in full.

By signing, the Artist declares that he has read and is in accord with the agreement and the terms identified in the General Conditions. If countersigned, this contract shall serve as an instrument of agreement.

IN WITNESS WHEREOF, the parties have executed this contract.

ARTIST

By: Robert Murry

DATE: 18 Jan. 77

Permanent address of Artist
First floor
66 Grand St.
New York, N.Y. 10013

Social Security # 092-42-3051

ARTS ALASKA, INC.

By: [signature]
Executive Director

DATE: 12/23/76

APPENDIX A

Special Conditions for the Project

A. The Artist will visit the project site to survey and evaluate its visual, environmental and background characteristics.

B. After consideration of the desires, views and expectations of the selection committee a written outline description of the work-of-art as you envision it along with drawings and/or maquettes showing the intended form, shall be prepared and submitted with a site plan noting the proposed location of the sculpture.

C. Site preparation specifications will be provided at such time as the proposal is accepted by the committee.

D. The Selection Committee will review the proposal and recommend acceptance and/or modifications. Upon their acceptance the project will proceed as outlined. Should agreement not be accomplished this contract can be terminated by the Board of Directors of Arts Alaska, Inc. In such event the total compensation to the Artist will be the initial payment of $4,000.

E. The Artist is required to meet with the Selection Committee at the time of the review of the proposal. All expenses for travel and per diem related to this meeting will be paid by the Corporation or the Alaska State Court System.

F. The Artist will obtain and pay, or otherwise provide for the services of professional consultants to assist in the preparation and documentation of data related to stress, climatic and organic damage, and firm and secure mounting.

G. The Artist will provide all required facilities, equipment and labor to transport and to install the sculpture. After the installation all debris shall be removed from the site and all damage to the surrounding areas shall be repaired and rendered invisible.

APPENDIX B

General Conditions for the Project

A. In the performance of the Project, the Artist shall be obligated to observe and conform to all applicable codes, ordinances, regulations, statutes and laws. The Corporation will provide the artist with copies of any such restrictive codes, etc.

B. Portions of the Project may be sublet by the Artist at his expense, subject to prior written approval by the Corporation. Approval shall not be unreasonably withheld. All work shall be undertaken by the Artist personally or under his personal supervision.

C. The Work on the Project shall commence immediately after signing of the agreement by all parties concerned and shall be pursued with reasonable dispatch and without interruptions, except when caused by forces beyond the Artist's control. It shall be so organized as to assure completion of the Project on or before the date stated in the agreement.

D. All payments on account of the Project shall be subject to the receipt of a signed request for payment from the Artist, certifying that the work under this agreement is progressing as planned and in accordance with the agreement.

E. Final payment will be made only when the completed work of art has been accepted by the Corporation with the concurrence of the Project Selection Committee.

F. Actual payment process may take up to two weeks before transmittal of payment to the Artist.

G. The Corporation reserves the right to suspend at any time and for any reason for any given or indefinite time the services to be rendered under this agreement upon written notice to the Artist. The Corporation will be responsible for storage charges incurred during such delay.

H. The work under this agreement may be terminated by either party, subject to a written notice submitted fourteen (14) days before termination, provided that attempts to reconcile the reason for cancellation have been undertaken but have failed. Upon termination, payment on account of the Project shall be made in proportion to the work completed, ~~provided the Artist will submit to the Corporation all work performed up the effective date of cancellation in an orderly manner~~. and every effort will be considered for completing the work per the original design.

I. The Corporation shall not be liable for payment for any additional services, unless such services and the cost thereof have been previously approved in writing. Any term of this agreement may be amended by a written Amendment to the Agreement, signed by both parties, subject to the authorization of the Board of Directors where required.

J. All drawings, models or maquettes shall remain the Artist's property. The copyright in the Work of Art, however, belongs to the Corporation, and no more copies than are required in the Project may be made ~~or caused to be made by anyone without prior written approval from the Corporation~~.

K. All aspects of the Project shall be guaranteed by the Artist against faulty execution or defective or inferior materials, equipment or workmanship for one (1) calendar year after completion and acceptance of the Project by the Corporation, during which period the Work of Art shall be repaired, restored or replaced at the Artist's expense, with the exception of the painted surface.

L. It is understood that under the terms of the Contract, the Artist is an "Independent Contractor" who shall indemnify and save harmless the Corporation and the State of Alaska from and against any and all manner of actions, liabilities, and claims of any person arising out of or in connection with the performance of the services to be performed by the Artist under this Contract. Any work under this Agreement shall not be construed as employment with the State of Alaska or Arts Alaska, Inc. The Artist will be required to obtain and pay for his gross income license and be responsible for payment of income, social security, and other taxes.

M. The artist shall not assign or transfer any interest in this Agreement without the prior written consent of the Corporation; provided, however, that claims for money due or to become due from The Corporation under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Corporation.

N. In the event tht the Artist dies before the date fixed for completion or becomes permanently incapacitated and/or unable to complete the work on the Project, ~~the Corporation may within thirty (30) days after notice thereof, elect~~ in writing to pay a ~~proportionate~~ share of the agreed price for work ~~completed to~~ the satisfaction of the Corporation, and ~~acquire the~~ unfinished work. This Agreement shall ~~then be cancelled~~ and the Corporation be entitled to the return of ~~such part of~~ the price above the proportionate share, as the Artist ~~has already been paid~~. the heirs or executors will make every effort to complete the project per the original design.

O. A program of regular maintenance will be planned by the Corporation for the State of Alaska that is acceptable to the artist.

D.I.

WASHINGTON
DC 20506

A Federal agency advised by the
National Council on the Arts

October 10, 1978

John B. Chenoweth
Legislative Counsel
Legislative Affairs Agency
Pouch Y
Juneau, Alaska

Dear Mr. Chenoweth:

The controversy surrounding the Juneau Art in Public Places project entitled "Nimbus" has come to our attention.

As you may already be aware, there do not presently exist any restrictions or conditions in Endowment grant provisions relating to removal or relocation of commissioned works from their proposed sites. However, reference should be made to the copyright laws of the United States, which indicate that the creator of a work retains rights regarding the manner and location of public exhibition of his work. (See Title 17 §106(5) of the United States Code Annotated.)

In any event, the proposed disposition of the piece in question is of concern to us, since the project was made possible by a Federal grant program. Any action, especially destruction of the piece, which would undermine the purposes and intent behind the Federal Art in Public Places program could not be viewed with indifference by the Endowment.

Of course, we at the Endowment are sensitive to local concerns. We therefore hope an equitable resolution of this matter can be effected, hopefully one which takes into account the rights and interests of all involved parties, including the creator of the work.

Sincerely,

Robert Wade
General Counsel

cc: Roy Helms

D.I.

WASHINGTON
D.C. 20506

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Sincerely,

Robert Wade
General Counsel

cc: Roy Helms

I thought you might be interested in my effort in this regard. Maybe we could try re-selling it to some Eastern gallery. -J

Dear Governor Sheffield,

I was gratified to hear that you have accepted the resignations of the entire State Council for the Arts. As an individual Alaskan, I would like to make a suggestion to you which could correct two injustices, beautify Juneau and win the gratitude of the vast majority of Juneau-ites -- at no cost to the State.

As you may know, "Nimbus" -- the misshapen piece of bluish metal in our court building's plaza -- may have been the old Art Council's worst error of judgement. A big-name Eastern "sculptor" was (lavishly) commissioned, and the resulting "Nimbus" outrage filled the EMPIRE's "Letters to the Editor" section longer than anything else since. (My own letter read, "A piece of junk is a piece of junk is a ....") Maybe most galling was the stipulation that "Nimbus" had to be re-sold rather than simply scrapped if found to be unacceptable. There was even a petition against Nimbus -- ignored by the Arts Council, of course. Even now "a Nimbus" means a snob-appeal boondoggle.

A local resident, Ed Way, did the "Hard Rock Miners" bronze sculpture for the new Marine Park. It is a brilliant and moving tribute to those men whose honest sweat originally built this town. Ed is an acquaintance of mine, and his business sense has never kept pace with his artistic skill and vision. Forging the sculpture in California, Ed "went over" his original bid (by more than $20,000!), believing Juneau-ites would support (and expecting our Borough Assembly would compensate) his commitment.

When Ed petitioned the Assembly for compensation last week, Bill Overstreet led the (unpopular) vote against it. Bill's opposition was basically out of a sense of fiscal duty, not wanting to set a dangerous precedent for other contractors.

COULD YOU, AS ALASKA'S GOVERNOR, INTERCEDE IN THIS UNFORTUNATE SITUATION AND OFFER TO SELL "NIMBUS" SO THAT THE PROCEEDS COULD BE USED TO HELP FULLY RECOMPENSE ED WAY FOR HIS/OUR "HARD ROCK MINERS"? --ASSUMING SOMEONE MIGHT <u>BUY</u> SUCH SCRAP, OF COURSE.

I do not know the legal status of Nimbus, but such an action could be a beautiful and appreciated gesture appropriate to the new beginning you intend for Alaska.

Thank you for your time and for your consideration of my idea.

Respectfully,

ov. Sheffield,

I discussed this with Bill last night. He instead prefers a private fund-aising, wanting to leave government out of it. However, a private effort may ot raise much "after the fact", and a good excuse to get rid of Nimbus should e used. More importantly, this situation is a bronzen opportunity to re-emphasize hat Alaskan art <u>should</u> be.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

COPY

I. REQUEST
Bill/Resolution No. House Concurrent Resolution No. 9
Title Veteran's Memorial in place of "Nimbus".
Requested by House State Affairs Date 04 Jan 1983

II. FISCAL DETAIL
Agency Affected Military Affairs
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Life & Property Protection
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No apparent fiscal impact.

IV. DATE 04 Jan 1983 PREPARED BY Dick Rountree
AGENCY Military Affairs
PHONE 465-4601

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

33-001 (Rev. 12/82)

HCR

10

Introduced: 1/21/83
Referred: State Affairs,
Transportation & Finance

IN THE HOUSE

BY FRITZ, SZYMANSKI AND BARNES

HOUSE CONCURRENT RESOLUTION NO. 10

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to access to Whittier, Alaska.

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

WHEREAS there are a number of places along the railbed of the Alaska Railroad that are paved for temporary use by automobiles when snowslides cover the Seward Highway, making it impassable; and

WHEREAS a significant number of people seek access to Whittier, Alaska, and access is limited to service on the Alaska Railroad; and

WHEREAS the railroad service to and from Whittier is inadequate or inconvenient and a significant number of people would prefer to drive to and from Whittier;

BE IT RESOLVED by the Alaska State Legislature that the Governor is respectfully requested to direct the Department of Transportation and Public Facilities to study the paving of the Whittier railroad tunnel for vehicular traffic and to enter into negotiations with the Alaska Railroad for the acquisition of right-of-way privileges to permit use of the right-of-way for vehicular access to Whittier, Alaska.

A very important consideration is the ventilation + lighting of the one mile-long tunnel — DOT will speak to it. please bring that point up. Thanks

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HCR 10 Date on Bill: 1/21/83
Title: Relating to access to Whittier, Alaska
Sponsor: Fritz, Szymanski & Barnes
Requestor: House State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			0	* 250.0	0	0		
Operating								
Total			0	250.0	0	0		

b. Revenues:

Revenue			0	0	0	0		

2. Source of funds to offset fiscal impact of bill:

1400 boats
332 slips
343 waiting list

April 82

Barrett

3. Assumptions:

Cost of Preparing the existing tunnel for:

One Way Joint Use: $77,220,000 assuming 42 months design period and construction beginning in the summer of 1987.

Two Way Joint Use: $135,300,000 assuming 42 months design period and construction beginning in the summer of 1987.

* A new feasibility study to examine one way joint use, two way joint use, and (cont'd)

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Phone:
Division: Date:

Approved by Commissioner: J Bates Date: 3/4/83
Department: DOT+PF

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

Assumptions (cont'd)

a new automobile tunnel would cost approximately $250,000. Due to the lead time needed for design of this project, and the progress in transferring the Alaska Railroad to the State, it would be more appropriate to begin negotiations at a later stage of the design process.

HCR 10

MEMORANDUM State of Alaska

RECEIVED
MAR 9 1983

TO: Reed Gibby
Planning & Programming
Central Region

DATE: March 2, 1983

FILE NO: 2420-25

TELEPHONE NO: 266-1502

FROM: Donald Morfield DM
Design Engineer
Central Region

SUBJECT: Project A82711
Legislative Request
for Whittier Access
by Tunnel

We have reviewed your request to provide a cost estimate for a feasibility study of upgrading the Whittier Railroad Tunnel(s) to accept car traffic.

This study would consider:

1. One way, joint use tunnel
2. Two way, joint use tunnel
3. New tunnel

It is expected this work would include enough geotechnical study to arrive at design parameters for whatever option was finally picked. This type of work is usually very expensive.

With the above in mind I would expect a cost range of $200,000 - $300,000. Since we have no experience in tunnel consultant, I feel a cost of $250,000 is reasonable.

DM/cp

RECEIVED
DOT/PF
PLANNING & PROGRAMMING
MAR 03 1983
ANCHORAGE, ALASKA

each portal, grouting and lining to eliminate water leakage and ice buildup in winter months, and track reconstruction.

This alternative would have adequate theoretical capacity to accommodate the maximum potential demand. However, delays during peak demand periods could be excessive due to long queues waiting for opposing traffic to clear the tunnel. In addition, disabled vehicles in the tunnel could cause further delays since the tunnel width is inadequate to allow for automobiles to pass. The possibility of a vehicle fire presents safety problems, again due to the inability to clear the tunnel. There are also unresolved institutional issues in this option, particularly acceptance of risk or liability by the State or railroad.

Capital cost for this alternative, estimated at $36.7 million, is higher than the various rail options but lower than other direct access options. The ventilation requirement is a major item in cost for this alternative. Since the existing tunnel does not have adequate height to allow installation of the required ventilation plenum, the tunnel would have to be enlarged, resulting in extensive rock excavation. Maintenance and operating costs have been estimated at $390,000 per year. Direct access would eliminate the rail shuttle fares but the possibility of tunnel use tolls could offset these user savings.

Alternative No. 4 - Two-way Joint Use of Widened Existing Tunnel

This alternative would provide direct access to Whittier by widening the existing railroad tunnel to permit adequate highway width for two auto traffic lanes with the rail line confined to one lane. Other improvements to the tunnel would include the same features as in Alternative No. 3.

Operationally, this alternative is much simpler than the single lane tunnel but signals would still be required at each end to control traffic when a train is approaching or in the tunnel. Safety issues are also reduced but potential conflicts still exist as do the liability issues. This alternative has adequate capacity to meet the maximum demand but some potential for delays exist when train movement would close the tunnel to auto use.

Maintenance of rail facilities during the extensive tunnel expansion work would also be difficult. Capital costs for this alternative have been estimated at $64.3 million with annual operating and maintenance costs of $440,000.

Alternative No. 5 - New Two-way Highway Tunnel

In this alternative, a new two-lane highway tunnel would be constructed just south of the existing rail tunnel. The new tunnel would be approximately two and one-half miles long, provide lighting, ventilation and emergency phones. As with all highway options, the roadway into Bear Valley would be required but the rail terminal facilities would not be constructed.

Operationally, this alternative presents no rail/auto conflicts and would function simply as a highway. This alternative would provide the highest level of service and reliability of all options considered, would meet maximum demand, and also eliminate the institutional problems associated with joint tunnel use. It would also be the most expensive with capital cost estimated at $68.3 million and $440,000 annual operating and maintenance cost.

Alternative No. 6 - Portage Pass Highway

This alternative would provide a two-lane highway from the existing Portage Glacier Visitor's Center into Bear Valley and along the face of Maynard Mountain passing the end of Portage Glacier and over Portage Pass. Several locations in the section on Maynard Mountain may require either snow sheds or a short tunnel to reduce probable avalanche problems in areas of major snow chutes.

From an operational standpoint, this option would function much as other mountain highways and would have adequate capacity to meet maximum demand volumes. However, heavy winter snows, icing conditions and avalanche dangers would present severe road hazards in the winter months and high winds through Portage Pass would be a year round problem, particularly for campers and trailers. There are also steep grades (up to 9%) required between Portage Pass and Whittier which make the roadway more hazardous, particularly in winter months.

The Portage Pass Highway, Alternative No. 6, has all of the impacts associated with the other direct access options plus a much greater environmental consequence because of the cut along Maynard Mountain and the road through the Pass. While this route would offer excellent vistas of the glacier, it would also be visible from the visitor's center and would detract from that visually aesthetic experience.

Table S-4 presents a comparison matrix summarizing the various features of each alternative.

Cost Effectiveness

In addition to the evaluation factors summarized in Table S-4, an assessment of the relative cost effectiveness of each alternative was accomplished. This analysis was based on the assumption that the maximum demand levels would be reached at some point in time. Capital costs were annualized at various discount rates and then added to annual operating cost. Total annual costs were then divided by annual person trips to determine a cost per trip. Annual person trips were determined on the basis of maximum demand for the direct access alternatives and at system capacity for the rail systems. Tabel S-5 shows the result of this analysis.

It should be noted that this analysis tends to favor the direct access alternatives since they reflect accommodation of the number of trips under the maximum demand projections while the rail options reflect only the system capacity described in the report. However, as noted in the report, it would be possible to meet person trip demand by adding more passenger cars to the rail options even though auto access would still be limited and therefore user convenience would be lower. If maximum demand were met by the rail systems, direct cost per trip would be substantially lower than for the auto access options. Similarly, the rail options are lower in direct cost at any comparable demand level. This is particularly important since volumes lower than the maximum would undoubtedly prevail for at least a number of years.

Revenue estimates were also made for the rail systems to provide a comparison of potential net public costs since that could bear

TABLE S-4
COMPARISON MATRIX

	ALTERNATIVE							
	NULL	1	1-A	2	3	4	5	6
	No Change	Improved Auto/ Passenger Shuttle	Improved Portage Whittier Shuttle	Improved Rail Passenger Service	One-way Joint Use of Existing Tunnel	Widened Existing Tunnel, Two-way Joint Use	New Vehicle Tunnel	Portage Pass Highway
se Existing Tunnel	X	X	X	X	X			
nlarge Existing Tunnel						X		
w Highway Tunnel							X	
w Surface Highway								X
ear Valley Road		X		X	X	X	X	X
ear Valley Parking & Facilities		X		X	X			
ourism/Recreation	None	Low	Low	Low to Medium	Medium	Medium to High	High	High
mployment opportunities	None	Low	Low	Medium	Low	Medium	High	High
hittier Area Development	None	Low	Low	Medium	Low	Medium	High	High
nvironmental Impact	None	Low	Very Low	Low	Low	Medium	Medium	High
ervice Level/Capacity	Low	Medium	Medium	Medium	Medium	High	Very High	Very High
ummer Reliability	High	High	High	High	Medium	High	Very High	Very High
inter Reliability	Medium	High	High	High	Low	High	High	Very Low
ummer Availability	Medium	High	High	High	Medium	High	High	High
inter Availability	Very Low	Medium	Medium	Medium	Medium	High	High	Very Low
onvenience/Comfort	Very Low	Medium	Medium	Medium	Medium	High	Very High	Very High
afety	High	High	High	High	Medium	Medium	High	Medium
robability of Funding	N/A	Medium	Medium	Medium	Medium	Low	Low	Low
onstruction/Implementation Time	N/A	Short	Very Short	Short	Medium	Long	Long	Long
nnual Maintenance & Operating Costs (thousands)	N/A	$559 Initial $1041 Exp.	$504 Initial $546 Exp.	$793 Init. $1500 Exp.	$390	$440	$440	$270
onstruction/Capital Cost (millions)	N/A	$20.0 Init. $24.2 Exp.	$8.8	$21.9 Init. $26.0 Exp.	$36.7	$64.3	$68.3	$47.8

TABLE S-5

ESTIMATED COST EFFECTIVENESS

Assumed Discount Rates		Alt. 1		Alt. 1-A		Alt. 2		Alt. 3		Alt. 4		Alt. 5		Alt. 6	
		10%	15%	10%	15%	10%	15%	10%	15%	10%	15%	10%	15%	10%	15%
Annual Cap. Cost	($1000)	2,055	3,030	909	1,203	2,273	3,326	3,706	5,509	6,496	9,862	6,894	10,254	4,875	7,197
Annual O/M Cost	($1000)	559	559	504	504	793	793	390	390	440	440	440	440	270	270
TOTAL	($1000)	2,614	3,589	1,413	1,707	3,066	4,119	4,096	5,899	6,936	10,302	7,334	10,794	5,145	7,467
Cap or Demand	(1000)	756	756	432	432	576	576	2,727	2,727	2,727	2,727	2,727	2,727	2,727	2,727
Cost Per Trip		$3.46	$4.75	$3.27	$3.95	$5.32	$7.15	$1.50	$2.16	$.54	$3.78	$2.69	$3.96	$1.89	$2.74
Revenue/Trip[1]		$3.96	$3.96	$3.96	$3.96	$3.96	$3.96								
Net Cost/Trip		$+0.50	$0.79	$+.69	$+.01	$1.36	$3.19	$1.50	$2.16	$2.54	$3.78	$2.69	$3.96	$1.89	$2.74

[1] Revenue per trip based on passenger only revenue as generated in 1979.

on financing feasibility. Revenue per person trip was estimated based on average per passenger (excluding vehicle revenue) during 1979. As shown in the table, when potential revenue is applied, the public cost would be completely covered for both Alternatives 1 and 1-A while being reduced significantly for Alternative No. 2. It would be possible to impose tolls in the direct access options as well and thereby reduce the public costs. However, that would eliminate one of the most significant benefits of those systems.

Summary of Funding Opportunities

The last step in evaluating the various options was to look at potential funding sources. While funding sources and mechanisms are obviously a policy issue, it was considered appropriate to look at possible existing sources, both Federal and State.

At the Federal level, the most likely sources were considered to be the Urban Mass Transit Administration (UMTA), Federal Highways (FHWA) and Federal Railway Administration (FRA). Of these, the UMTA funds were considered highly unlikely since most are applicable to communities over 50,000 population. That would mean funding would have to come through the Municipality of Anchorage where other transit programs are also under consideration. The UMTA Section 18 funds for rural area transit are relatively small and would be inadequate to cover this program.

FHWA funds are allocated to the State in a formula basis. Funds for the direct access options, particularly the new tunnel and Portage Pass Highway would undoubtedly come from the Federal-Aid Primary (FAP) monies. While the allocation of those funds is a policy issue, it did not appear proper to count on such funds for a project of this magnitude given the other highway programs with possible higher immediate demand levels.

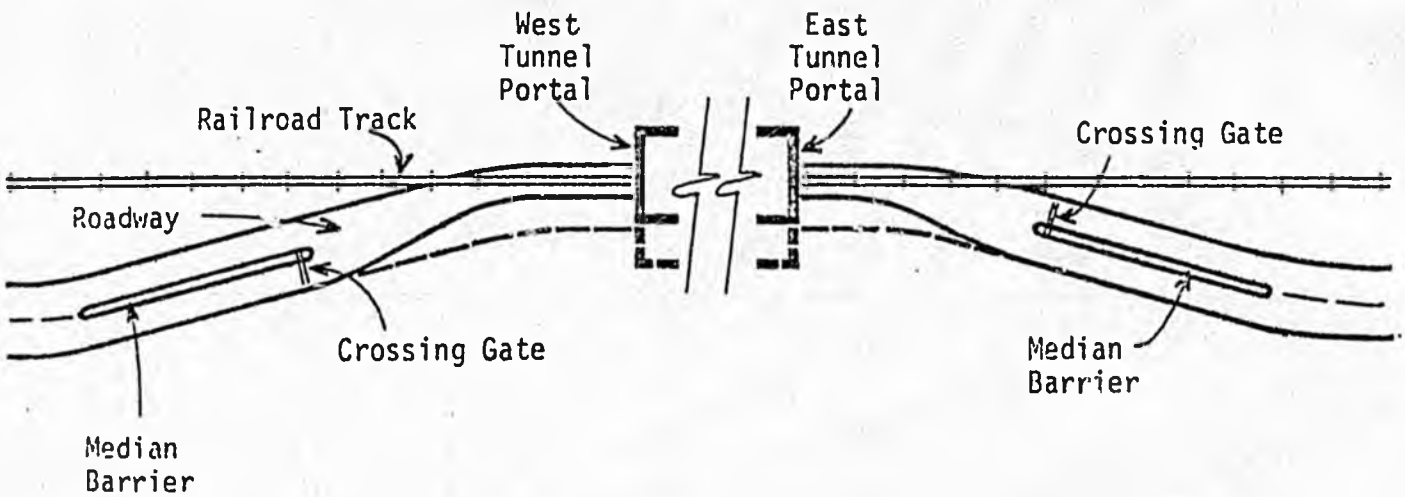
At the state level, a current support program is operational on the Whittier shuttle as part of the Marine Highway System. In addition, HR 11737 permits the State to divert up to 5% of its annual FAP funding for capital improvement and operating

train. At the Whittier end, the container could be used as a secured storage locker or placed on chassis to transport the shipped material to the final destination. The method of handling would depend upon the size and weight of the container or containers and the distance to be moved.

Alternative No. 3 - One-way Joint Use of Existing Tunnel

Operationally, this alternative is relatively simple from the user's standpoint. However, actual operation becomes quite complex because of the absolute measures which must be incorporated to prevent opposing traffic from entering the tunnel and to ensure priority for freight train operation. This control may range from manual operation of crossing gates to traffic actuated detectors to detect directional demands and a clear tunnel. In either event, the actual control could be similar and one method is shown in Exhibit M. In this approach, a crossing gate would be installed on the right hand roadway to stop traffic prior to entering the one-way segment leading to the tunnel portal. These gates would be lowered at alternating ends and remain lowered until the opposing traffic had cleared the tunnel.

Traffic would be channelized for some distance ahead of the gate by a median barrier to insure against by-passing the gate prior to a clear tunnel signal. During periods of high traffic volume, the system could operate with fixed cycle lengths allowing traffic in alternating directions for set periods



TRAFFIC CONTROL SYSTEM
JOINT TUNNEL USE ALTERNATIVES No. 3 & No. 4

EXHIBIT M

depending on the balance of directional volume. In low traffic periods, the system could be operated on demand and rest on the closed or stop position.

Because of the length of the tunnel, two full time "gate keepers" would be required together with a method of monitoring the tunnel. Closed circuit television monitoring could be used to insure a clear tunnel prior to opening the gate to opposing traffic and to spot any disabled vehicle in the tunnel. An alternative to closed circuit television could be directional loop detectors at each end of the tunnel with an accumulator in the signal controller which would "count" entering traffic and prevent opening the opposing gate until the same number had been counted out.

Emergency phones would have to be installed at intervals of about 1/4 to 1/2 mile in the tunnel to be used in the event of breakdowns in the tunnel. The signal system would also have to be interconnected with the rail system so that presence of a train in either direction would over-ride the signals and close both gates. Any failure of the control gates or detection of a vehicle in the tunnel would cause a red track signal, stopping the train until it could be determined that the track was clear.

Tow vehicles would be stationed at each end of the tunnel in the event of a breakdown and would be operated by the "gate keepers". Access from either end is necessary to insure that the tow vehicle can reach any disabled vehicle. In addition,

special fire protection equipment would be required at each end in the event of a vehicle fire in the tunnel. Fire fighting in this alternative presents a very difficult and potentially hazardous condition because of the restricted access for emergency equipment and the probability of toxic fumes from burning plastics and other materials.

The possibility of fires presents a serious problem in any tunnel, but in this single lane alternative, it would be particularly serious because any following vehicles would be trapped in the tunnel. The high probability of trailered vehicles would even preclude reversing the traffic in this confined space.

Fire is also a major consideration in the design of the ventilation system in addition to removal of carbon monoxide and other air pollutants. In this case, the overall height of the existing tunnel is inadequate to install the necessary plenum for ventilation and still provide adequate clearance for rail traffic. Therefore, considerable rock removal at the top of the tunnel would be necessary to create an adequate plenum space. Without adequate ventilation, the possibility would exist that carbon monoxide levels could build up to the point where the tunnel would require closure to all traffic, including rail, until the pollutants had dissipated.

Alternative No. 4 - Widened Existing Tunnel, Two-way Joint Use

In this alternative, the existing tunnel would be widened to permit two traffic lanes. The rail line would be placed in one traffic lane for joint use of the tunnel. Operationally, this alternative is much simpler than the one-way tunnel since the only traffic control requirements would be to stop motor vehicle traffic to permit passage of rail traffic.

In concept, the traffic control layout would be similar to that for the one-way alternative in that rail crossing gates would be required on each roadway ahead of the portal. Train detection would also be necessary to lower the crossing gates in advance so that adequate time is available to clear the tunnel before the train arrives. A tunnel monitoring system would also be necessary to insure a clear tunnel prior to train entry.

Monitoring could be by closed circuit television or a series of loop detectors in the roadways to detect the presence of any vehicle. Television monitoring will require surveillance, at least when a train is scheduled, so that a red track signal could be initiated in the event of a vehicle in the tunnel; loop detectors could be tied directly to the train signal system.

In this alternative, emergency vehicles such as fire trucks and tow equipment would not have to be continuously stationed at the tunnel portals since a stalled vehicle will not completely

block the tunnel. However, emergency vehicles would be necessary in Whittier or Bear Valley to respond to any emergency situation in the tunnel.

Alternative No. 5 - Vehicle Tunnel and Alternative No. 6 - Portage Pass Highway

In these alternatives, standard highway operations are all that is required since there are no physical conflicts between train and auto traffic. Emergency procedures in the tunnel would be similar to Alternative No. 4 in that emergency phones would be necessary together with the availability of emergency equipment, probably in Whittier.

With respect to the Portage Pass Highway, standard traffic advisories dealing with climatic conditions such as high winds, snow or avalanche danger would be necessary. Wind advisories could be extremely important since campers, boat trailers, etc. are likely to make up a significant percentage of the daily traffic. During winter months, snow removeal would be a major operational problem.

B. Capacity

In Phase II, a potential peak day demand volume was estimated based on potential holding capacity in the Whittier area. It was also stated that demand was unconstrained by access limitations and that no market analysis had been done to confirm or

this system can readily approach the total potential demand volume in terms of total person trips if and when the potential development in Whittier is reached. However, as in Alternative 1, vehicle capacity in the shuttle is limited and would require that Whittier residents and ferry demands be given priority treatment.

Capacity

Alternate No. 3. - One-Way Joint Use Existing Tunnel

This alternative relies solely on highway access. Shuttle operations would be discontinued. In that circumstance, the only capacity limit is the ability of the single lane tunnel to pass traffic in alternating directions plus any reductions due to rail freight operations. Under present conditions, rail freight volume is so light that it could be essentially disregarded. However, it is possible that rail traffic could increase at some point in the future to an extent that would adversely impact vehicle capacity. That possibility, given the present demand projections defined in Phase II, presents a degree of uncertainty and any attempt to quantify it would be conjecture at best. Therefore, for this analysis it will be disregarded.

In defining the capacity of the single lane tunnel some assumptions are necessary. Firstly, daily volume will be assumed 50% in each direction over the course of a day. In this case, it will be assumed that the direction merely reverses from morning to evening periods and capacity will be defined on a daily basis.

Secondly, even with a 50% split, considerable delay time will be experienced waiting for the last vehicle through one set of gates to clear the 2.5 mile tunnel. For estimating purposes, a uniform speed of 25 mph will be assumed for determining the clearance time.

Lastly, it will be assumed that the dispersion of traffic in Whittier will be such as to not cause a backup in the eastbound direction. Given the confined space in the Whittier area and the probable congestion levels if and when full development occurs, and the only access is via highway, this assumption may be optimistic.

In order to estimate a capacity for the tunnel operation, it is first necessary to determine the average daily volume at some level of service for a two-lane roadway. The peak hour volume of a two-lane highway at level service D (volume approaching unstable flow or capacity) is 1,800 vehicles per hour. Similarly, at the 30th highest hour, which is a normal design value for the rural highways, peak hour traffic represents about 15% of ADT. Therefore, translating these values to an average daily capacity at level service D produces capacity of about 12,000 vehicles per day, or 6,000 per lane. This assumes that each lane is available 100% of the time.

In terms of the one-way tunnel, this condition is not available since time must be shared by direction plus clearance.

clearance time, assuming a 25 mph average speed over the 2.5 mile length would require 6 minutes for each change of direction. Assuming two cycles per hour to allow equal time to each direction will result in 24 minutes total clearance time, or 40% of each hour, leaving 60% for travel or 30% in each direction. With one cycle per hour, clearance time is reduced to 12 minutes, or 20%, leaving 40% available in each direction. Thus with two cycles per hour, the practical capacity of the tunnel would be about 30% of 6,000 or about 1,800 cars per day each way. This would produce a wait time for the first vehicle in the queue of 15 minutes, assuming that vehicle was stopped by the change in direction.

With one cycle per hour, practical daily capacity would reach 2,400 vehicles but the waiting time for the first vehicle in line would be 30 minutes.

Thus, this alternative could meet the potential vehicular demand at full development if the operation averaged one cycle per hour. However, at these levels, there is likely to be a constant queue at each end of the tunnel even assuming random arrivals. Delays during peak demand periods are likely to be in excess of the one cycle (30 minutes) wait. Even at much lower daily volumes, queues are likely to develop during peak demand periods.

In addition, if a vehicle failure occurs, traffic backup in both directions even at low volumes is almost certain; and resulting delays could be excessive before normal operations are resumed.

Alternative No. 4 - Widened Existing Tunnel and Alternative No. 5 - New Highway - Tunnel

These alternatives can be expected to operate essentially as two-lane highways with average daily traffic capacities in the 12,000 vehicle range. Under these conditions, either could easily meet the potential demand for vehicle access. Even though occasional delays could occur due to train/vehicle conflicts in Alternative No. 5, adequate capacity should still exist unless freight volume grows tremendously.

Alternative No. 6 - Portage Pass Highway

During peak demand summer months, this alternative would have adequate capacity to easily meet the potential vehicular demand. Some delays should be expected due to high winds through the pass; and under extreme conditions, some periods of total closure could occur.

During winter months, however, closure due to snowfall, drifting snow and avalanches should be expected quite frequently. However, during this time, demand will be substantially lower;

and with the exception of emergencies, travel could be postponed for some days. Under certain conditions, such as a major avalanche, the possibility exists that long road closures would result. Assuming that local support services such as shopping, routine medical needs and the like would develop along with general community development, even long closures might be tolerable.

Table VI provides a comparison of the projected system capacities for each alternative with the current (1979) and potential future demands. As indicated, any of the alternatives provide substantial growth capacity compared to current observed demand.

C. Service and Convenience

In general, the highest level of convenient transportation in modern America is represented by the private automobile. The auto represents freedom of movement without being tied to a schedule, can carry passengers and incidental baggage, and can go essentially door to door. Under those conditions, it would seem clear that any alternative offering unrestricted use of private transportation should rank high. However, factors such as congestion, traffic delays, parking problems, and lately, gasoline shortages tend to reduce the convenience of the private auto.

TABLE VI

SYSTEM CAPACITY VS. CURRENT AND POTENTIAL DEMAND
(TWO-WAY PERSON TRIPS)

	ALTERNATIVE	CURRENT VOLUME[1]	POTENTIAL DEMAND[2]	SYSTEM CAPACITY INITIAL	SYSTEM CAPACITY EXPANDED
1.	WHIT./B.V. Shuttle	Summer[3] 673 Winter[4] 64	17,140	3360[5]	6240[5]
1-A.	WHIT./PORT. Shuttle			1920[5]	2880[5]
2.	Improved Rail			2560[5]	4800[5]
3.	Single Lane Joint Use			9600[6] Potential Demand	9600[6] Potential Demand
4.	Enlarged Tunnel Joint Use			Exceeds[7] Potential Demand	Exceeds[7] Potential Demand
5.	Highway Tunnel			Exceeds Potential Demand	Exceeds Potential Demand

1 Based on calendar 1979 demand - includes vehicle driver.
2 Reflects unconstrained average peak day demand at full development of Whittier and south side of passage canal (see Table II).
3 Average daily in peak month.
4 Seven month daily average (excludes May through Sept.).
5 Capacity based on 80% load factor at summer schedule and train consist described and shown in diagrams - passenger trip capacity on Alternatives 1 & 2 can be expanded to meet potential demand by adding passenger coaches to trains - vehicle capacity is limited by schedule (see text).
6 Assumes average of 2 persons/vehicle - see text for capacity discussion.
7 Two-lane highway capacity is about 12,000 veh./day - potential.

All of these factors are more or less present in the Whittier situation and also vary according to residence location and trip purpose. For a Whittier resident going into Anchorage to shop, visit friends, conduct business, etc. an auto becomes quite important.

However, for a non-resident visiting Whittier to use his boat or condominium, go fishing or hiking, or just to sightsee, an auto is much less important because the area is genereally of walking scale, providing that a convenient means is available to transport baggage and equipment. In addition, unrestricted auto access to Whittier, if much development actually occurs, would produce extreme traffic congestion and parking problems which by themselves would reduce the convenience and also the desirability of the area as a recreation area.

All of these factors and conditions should be kept in mind when considering service and convenience of the various alternatives. There is no doubt that the exsting system is inconvenient and does not provide a high level of service, particularly for Whittier residents who cannot leave and return the same day. All alternatives solve that problem and improve service frequencies. Other factors will be described for each alternative.

would occur prior to arrival of the shuttle train for the return trip.

Improved methods to transport gear and baggage could possibly be provided though use of wheeled lockers (much like a hand cart) which could be loaded onto the train and then wheeled to dock or condominium. Such improvements would make non-auto use by non-residents much more convenient than at present.

Also for Whittier residents, both permanent and seasonal, these alternatives will tend to reduce the number of vehicles in Whittier and therefore minimize traffic and parking problems in the confined area available.

Alternative No. 3 - One-way Joint Use Existing Tunnel

This alternative, while appearing to offer the advantages inherent in the use of private vehicles, actually has a high level of inconvenience built into it. As described in the preceding operations and capacity discussions, long delays would occur under all but the lightest volume conditions.

At the present level of use, particularly in winter months, these delays would undoubtedly be tolerable. However, as development and growth in Whittier occurs, this delay at either end would rapidly increase. In summer months even at present levels of use where some 600 persons and over 100 vehicles use the shuttle on an average day in the peak months, delays could

be expected during peak demand periods. At future development levels, a continuous queue of cars, campers, and buses should be expected and delays would be long.

In addition, this alternative produces the lowest safety potential of all alternatives. As described in the operations discussion, an accident or vehicle fire in the tunnel could be disasterous given the severe access limitations for emergency vehicles.

Alternatives No. 4 and No. 5 - Widened Existing Tunnel - Two-way Joint Use, and New Two-way Highway Tunnel

These alternatives are approximately equal in terms of convenience and service in that they both offer essentially unrestricted access for private vehicles. There are small differences in 4 and 5 because of the possibilty of delays associated with the rail freight operations. However, at present levels of rail freight service, this should not be a serious consideration. In the event of a major increase in rail traffic, such as might occur if Whittier were to become a major depot for bulk cargo such as coal, the joint tunnel would be seriously impacted. If that should occur, the single lane (Alternative No. 3) would become unworkable.

These highway alternatives, while offering essentially unrestricted access, can be expected to produce the greatest development pressures in Whittier. Therefore, they will also

produce the highest level of traffic congestion and parking problems in Whittier because there would be no real alternative to use of the private vehicle to travel into and out of Whittier for residents and visitors alike.

Alternative No. 6 - Portage Pass Highway

This alternative, while offering vehicle access, has some significant delay problems, particularly during winter months. In addition, this alternative presents some dangerous conditions due to the potential for high winds and the steep grades (up to 9%) necessary to drop into Whittier from the pass. These grades, coupled with sharp curves required by the topography would produce dangerous driving conditions, particularly during winter months.

In addition, this alternative shares the problems inherent in unlimited vehicle access to Whittier that would produce traffic and parking problems.

Overall, from a convenience and service standpoint and discounting the internal traffic and parking problems, Alternative No. 5 provides the highest levels of improvement, closely followed by No. 4. Alternatives 1 and 2 would rank next at about equal levels and Alternatives 3 and 6 would rank last due to excessive delays and potential winter closure.

D. Operating Costs

Comparison of these alternatives on the basis of operating cost poses some inconsistencies. In the rail shuttle and passenger alternatives, operating and maintenance costs are borne by an agency that must recover those costs in some manner, usually through fares and subsidy. In the highway alternatives, the major operation costs, i.e. vehicle operation, are borne by the private individual while facility maintenance is paid by the State. Thus the perception of operation and maintenance costs is different for the different modes.

Even though full operating and maintenance costs for an automobile are now in excess of 30 cents per mile, the average motorist perceives only his "out-of-pocket" costs for gas, oil, and parking. Public systems such as rail and bus systems, on the other hand, identify all costs. Therefore to be directly comparable, total vehicle miles by all modes under each alternative should be identified and costed out.

However, vehicle miles traveled by private vehicles are difficult to determine without full synthesis of the total system alternatives which was well beyond the scope of this study. Therefore, for the purposes of this comparison, all costs are identified for the rail systems since they will require funding from some source. For the highway systems, only the operating and maintenance costs associated with the facility itself, the public costs, are identified. However, this "incomparability"

of the operating and maintenance costs should be kept in mind when considering the alternatives.

Alternate No. 1. - Improved Auto/Passenger Shuttle

Two conditions are developed for this alternative: an initial cost and a cost for the future high level or expanded service day. All unit costs for labor, fuel, etc. are based on current conditions for the Alaska Railroad operations. Crew costs for the rail operations are based on current wage rates and operating agreements which set a standard day. For those operations based in Whittier, a premium of 20% has been applied. In addition, a four person crew has been assumed rather than the current five even though this will require changes in current work rules. It also assumes that the rail operation would continue under the Federal ownership and therefore be exempt from State minimum crew laws. Where one crew operates more than a standard day either in miles or hours worked, overtime (or mileage) rates were used. In estimating these operating costs, only direct operating and maintenance costs (including an allowance for track maintenance) are included. No depreciation or capital recovery factor has been applied. All costs are 1980 dollars.

Table VII shows the estimated operating and maintenance costs by component for the service schedules shown in Exhibit G and H in Section A of this Chapter.

Alternatives No. 3, 4, 5, & 6 (Highway Alternatives)

Table X summarizes maintenance costs for the highway (direct access) alternatives. As can be noted the first three Alternatives, 3, 4, & 5, have higher costs than Alternative No. 6, with the major difference being attributable to tunnel maintenance. The short tunnel included in the Alternative No. 6 scheme is not programmed to have lighting ventilation, or attendants; and therefore, does not require the typically high tunnel maintenance cost of the other three. However, snow removal costs in Alternative No. 6 are expected to be a major item and, therefore, costs for this alternative have been based on experience on Thompson Pass where snow conditions are similar.

E. Capital Costs

The approach used in the development and preparation of the capital cost estimates was based on current state of the art methods and procedures, directed toward establishing realistic costs for the various alternatives. Initially, estimates were prepared using data from similar projects in remote mountain locations. These data were then adjusted to accommodate the uniqueness of the project area based on input from key estimators/engineers from both Alaska DOT/PF and the Alaska Railroad.

TABLE X

ESTIMATED MAINTENANCE COSTS
ALTERNATIVES 3, 4, 5, & 6

ITEM	ANNUAL COST ALT. #3	ALT. #4	ALT #5	ALT #6
Tunnel Maint.				
Gen'l. Maint. & Power	$200,000	$250,000	$250,000	----
Attendants Salaries	150,000	150,000	150,000	----
Highway				
Portage Glacier Road	25,000	25,000	25,000	$25,000
Bear Valley Road	10,000	10,000	10,000	----
West Camp-Whittier Road	5,000	5,000	5,000	5,000
Portage Pass Road	----	----	----	240,000
Total	$390,000	$440,000	$440,000	$270,000

Even though considerable effort was put forth in developing the capital costs, it should be emphasized here that given the tight time constraints of this project coupled with the lack of detailed mapping and other data, the estimates should be considered as order-of-magnitude in nature.

Alternative Nos. 1, 1-A & 2

Capital costs for these two alternatives are comprised of two major components, construction costs and equipment costs. The various elements making up the construction costs are the rail/shuttle facilities ie., rail sidings, loading ramps, parking lot, vehicle staging area, depot (sheltered platform), etc. Also included are the Bear Valley Access road in Alternatives 1 &2, and improvements to the tunnel which entails grouting to eliminate water problems, rock excavation to remove tight spots, rock bolts plus shotcrete lining at strategic locations to arrest the rock spalling problem and replacement of the road bed with new rail, ties and ballast. Alternative 1-A has less extensive rail modifications and does not include the Bear Valley Road. Both alternatives 1 & 2 require all of the above listed facilities and therefore have the same construction costs.

Equipment requirements vary, however, as to the resulting costs. The equipment cost component is broken down into four elements based on equipment needs for both initial and expanded levels of service for each alternative. These elements and the

equipment required are: 1) Alternative No. 1 Initial Operation; two new passenger coaches. 2) Alternative No. 1 Expanded Operations; to the initial operation equipment, add two new train sets, each comprised of two passenger coaches and fourteen flat cars. 3) Alternative No. 2 Initial Operation; two new SPV 2000 passenger vehicles plus an allowance for spare parts. 4) Alternative No. 2 Expanded Operation; add two new train sets to the initial equipment. These are the same as the train sets listed above for Alternative No. 1 Expanded Operations. Alternative No. 1-A assumes only replacement of the existing passenger coaches with more modern and comfortable equipment. With respect to capital cost, the initial and expanded service levels in this alternative are equal. Table XI following with a summary of the capital costs for Alternative Nos. 1, 1-A and 2 for both the initial and expanded operations.

Alternative Nos. 3, 4, 5, & 6

Capital costs for these four alternatives are made up of the following six major cost elements: Earthwork, Road construction, Bridge construction, Tunnel construction, Camp operations and Mobilization. Also included are Engineering/Administration and Contingency costs.

The first three cost elements, earthwork, road, and bridge construction, are the same for Alternative Nos. 3, 4, and 5 since these elements relate only to the access road for these three alternatives. The other major cost element, tunnel construction, varies considerably between the three with the greatest difference being between Alternative No. 3 and either Alternative Nos. 4 or 5 which have the highest tunnel costs. Alternative No. 6 on the other hand, has the lowest tunnel costs and the highest costs for earthwork, road and bridge construction. Capital costs are summarized in Table No. XII.

F. Fares and Revenues

Estimating system revenue again requires a number of assumptions. First of all, there is no real solid basis for estimating real demand on the rail alternatives since the growth in Whittier; and general travel is based only on a holding capacity basis. It is reasonable to assume, however, that the significant increases in service levels will attract increased patronage.

Based on the telephone interviews conducted in Phase II, a significant number of Anchorage residents will increase the frequency of visits to Whittier. Also, Whittier residents indicated a large potential increase in travel with improved access. In addition, the marina is being expanded by some 200 slips which will in itself contribute added travel demand in the initial periods.

TABLE XII

ESTIMATED CAPITAL COST SUMMARY
ALTERNATIVES No. 3, 4, 5 & 6

COST ELEMENT	ALT. No. 3	ALT. No. 4	ALT. No. 5	ALT. No. 6
Earthwork	$ 2,351,000	$ 2,351,000	$2,351,000	$21,770,000
Road Construction	833,000	833,000	833,000	2,750,000
Bridge Construction	2,057,000	2,057,000	2,057,000	3,287,000
Tunnel Construction	20,000,000	39,496,000	42,199,000	4,713,000
Camp Oper/Maint	1,643,000	1,916,000	2,190,000	2,190,000
Mobilization	850,000	2,000,000	2,000,000	1,500,000
Sub-total	$27,734,000	$48,653,000	$51,630,000	$36,210,000
Engr/Admin + 15%	4,160,000	7,298,000	7,745,000	5,431,000
Sub-total	$31,894,000	$55,951,000	$59,375,000	41,641,000
Contingency + 15%	4,784,000	8,393,000	8,906,000	6,246,000
TOTAL	$36,678,000	$64,344,000	$68,281,000	$47,887,000

However, unless some joint fare policy were implemented such that the bus-shuttle transfer could be made on the basis of the Anchorage-Bear Valley bus ticket or vice-versa, the net cost for the complete trip would not be significantly different.

Ideally, such a joint fare should be initiated to encourage use of the public system for the entire trip. If that were done, a round trip bus/shuttle fare in the range of $7.50 to $8.00 might be appropriate. A round trip fare in Alternative No. 1 in that range would reduce total revenue for that system by about $100,000 per year. Even with that reduction, however, it would appear that a break-even condition could be realized with the other assumptions made.

G. Cost Effectiveness

One of the most effective measures used to compare alternatives is cost effectiveness which defines the cost per unit of usage. For example, total cost per person trip. This requires determining total annual cost for both operating and capital cost. While operating costs have been calculated on an annual basis, the capital cost has been presented as a total cost in-place for all facilities. To convert these costs to an annual equivalent cost, an amortization or capital recovery factor has been applied over the expected economic life of each item. Since recent interest rates have been fluctuating

rapidly, the conversion has been done on the basis of two rates, 10% and 15%, to illustrate a potential range of annual equivalent costs depending on future interest or discount rates.

One further simplification has been used. The total capital cost for construction items includes provision for mobilization, camp operations, engineering/administration, and contingencies. Rather than recalculate each item, the total cost has been apportioned to each item to be amortized on the basis of the percentage of total cost it represents, excluding the variable items. Also, no salvage or residual value has been assumed at the end of the life cycle.

Since the costs represent an annual equivalent, a useful life must be established for each item. For the purposes of this analysis, the following useful life periods have been used:

Highways	40 years
Bridges and Tunnels	50 years
Rail Improvements	50 years
Buildings and Appurtenances	30 years
Rolling stock	20 years

Applying these factors to the capital costs shown in Tables XI and XII produces the annual equivalent cost for each alternative shown in Table XVII. The annualized capital costs from Table XVII must be combined with annual O/M costs from Tables VII, VIII, IX and X to produce total annual cost; and then compared to the capacities of the various alternatives shown in Table VI, or maximum person trip demand to obtain a measurable unit.

Some additional discussion is pertinent here to put thes values in context. First, the initial service level costs and capacities are used since the length of time before the expanded service levels would be implemented is unknown. As indicated by the capacity available compared to current usage, it could be some time before the demand increased enough to justify the added expense.

The unit of measure usually used to define cost effectiveness is the total person trips, vehicles, vehicle miles or some similar unit projected to be actually carried by the alternative systems. In this case, however, no actual projection of usage for the highway oriented alternatives has been made since that value is so closely tied to development levels in Whittier. At the same time, use of the total available capacity as a measure could produce biased comparisons because the total capacity of alternatives 4, 5 and 6 is well beyond the

TABLE XVII
ANNUAL EQUIVALENT CAPITAL COSTS

ITEM	LIFE	TOTAL COST	ANNUAL COST AT 10%	ANNUAL COST AT 15%
ALT. #1				
Roads, Pkg, etc.	40	5,476,650	560,000	824,600
Bridge & Tunnel	50	10,764,450	1,085,700	1,616,200
Rail	50	2,266,200	228,600	340,200
Buildings, etc.	30	377,700	40,000	57,500
Equipment	20	1,200,000	141,000	191,700
ANNUAL COST			$2,055,300	$3,030,200
ALT. #1-A				
Roads, Pkg. etc.	40	151,980	15,500	22,900
Rail	50	151,980	15,300	22,800
Tunnel	50	6,991,080	705,100	919,100
Buildings, etc.	30	303,960	32,200	46,300
Equipment	20	1,200,000	141,000	191,700
ANNUAL COST			$909,100	$1,202,800
ALT. #2				
Roads, Pkg, etc.	40	5,476,650	560,000	824,600
Bridge & Tunnel	50	10,764,450	1,085,700	1,616,200
Rail	50	2,266,200	228,600	340,200
Buildings, etc.	20	3,050,000	358,300	487,300
ANNUAL COST			$2,278,600	$3,325,800
ALT. #3				
Roads, etc.	40	4,768,100	487,600	717,900
Bridge & Tunnel	50	31,909,900	3,218,400	4,790,900
ANNUAL COST			$3,706,000	$5,508,800
ALT. #4				
Roads, etc.	40	4,564,100	460,600	687,100
Bridge & Tunnel	50	59,839,900	6,035,400	8,984,300
ANNUAL COST			$6,496,000	$9,862,400
ALT. #5				
Roads, etc.	40	4,779,700	488,800	719,600
Bridge & Tunnel	50	63,501,300	6,404,700	9,534,000
ANNUAL COST			$6,893,500	$10,253,600
ALT. #6				
Roads, etc.	40	35,915,300	3,672,700	5,407,500
Bridge & Tunnel	50	11,917,700	1,202,000	1,789,300
ANNUAL COST			$4,874,700	$7,196,800

maximum projected demand at full Whittier development. Similarly, the initial rail alternatives do not have an adequate capacity to accommodate that demand level, should it actually occur.

Therefore, for the purposes of this analysis, the available capacity has been used for those alternatives which are capacity constrained, and maximum projected demand has been used for those with excess capacity. Thus, the comparison is made on the basis of the maximum number of person trips that could or are likely to be made on each alternative.

In that context, Alternative No. 3 is the only marginal Alternative. As shown in the discussion on capacity, this Alternative could accommodate up to about 4800 vehicles per day. Therefore, at about 3.6 persons per vehicle on the average, that Alternative could accommodate the projected maximum demand. While that value represents a high average, the projected maximum demand also represents the average peak day, and therefore, on most days of the year, this Alternative could accommodate the demand.

Estimating the annual demand based on the projected peak day is the last step in determining the cost effectiveness. To accomplish that estimate, the relationship between observed peak days and average annual traffic on the Seward Highway has been

used. Since Whittier demand is highly related to Anchorage, the count station at Potter Creek has been used to determine the appropriate relationship.

During 1978, the average of the ten highest traffic days was 229.4% of the annual average daily traffic. Assuming a uniform vehicle occupancy over the year, and applying that traffic relationship to the projected peak demand for person trips (17,140) produces an annual average daily person trip demand of 7,472 person trips or about 2,727,000 person trips per year. For the capacity limited systems, the comparable value is represented by the daily system capacity times the number of days operated. Since operating costs used are based on the three day winter schedule, a total of 225 days per year has been used to determine system capacity.

The estimated cost effectiveness of the various Alternatives expressed as cost per trip is shown in Table XVIII. As shown in that table, under the assumptions used, Alternative No. 3 with a per trip cost of from $1.50 to $2.16 is the least costly, while Alternative No. 2 at from $5.32 to $7.15 per trip is the highest.

That relationship is, however, somewhat misleading in that capacity of the rail based alternatives can be readily doubled by the simple addition of two more coaches per train. In addition, revenue generated by fares would offset much of the

cost. For example, if the rail Alternatives operated at capacity and generated the average per trip revenue for passengers only of $3.96 experienced in 1979, the per trip costs in Alternative 1-A would be completely offset even at the highest interest rate and Alternative 1 would produce a net cost of less than eighty (80¢) cents per trip at the high interest rate with all costs offset at the lower rate. There are no corresponding revenues to offset costs in the highway Alternatives.

~~in Whittier instead of Anchorage. This would add slightly to Whittier's economy directly, since crews would be based in the community.~~

Environmental

Alternative No. 3 - One-way Joint Use of Existing Tunnel

Alternatives 3 through 6 permit direct access by automobile to Whittier. Secondary impacts due to auto congestion in Whittier, including parking and safety problems, will be significant, particularly during peak summer weekend travel periods. The community will have to bolster its public safety force and city planning capabilities in order to successfully mitigate auto-related secondary impacts.

A major primary impact of Alternatives 3 through 5 concern air quality and safety problems within the tunnel itself. Alternatives 3 through 5 will require adequate ventilation systems, emergency telephones, and fail-safe mechanisms to ensure trains and autos are never in the tunnel simultaneously. A one-way tunnel presents serious fire dangers; particularly if traffic is stalled, and cannot pass or reserve direction in the event of fire. Long waiting times at each portal could cause air quality degradation.

Alternative No. 4 - Widened Tunnel - Two-way Joint Use

This option has most of the direct and secondary implications associated with Alternative No. 3. While construction costs

are the highest for any alternative except for an entirely new tunnel, this option avoids the need for waiting on either end for on-coming traffic.

Alternative No. 5 - New Highway Tunnel - Two-way

Alternatives 4 through 6 are major construction projects requiring two or more construction seasons to complete. Each of these alternatives will require a major environmental impact statement to be prepared and evaluated as part of the decision-making process. Environmental impacts incude the requirement for construction camps and staging areas, air and water quality problems due to siltation, dust, etc., and the need to dispose of massive quantities of rock and borrow material.

Alternative No. 6 - Portage Pass Highway

As stated previously, a decision to construct a Portage Pass highway can only be made following a lengthy environmental impact statement planning process. This option would be extremely controversial because: 1) it would involve constructing a road through a currently roadless area in the National Forest; 2) it is highly unlikely the road could be used regularly in winter; 3) it would alter the present landscape as seen from the Portage Glacier visitors center; and 4) several other alternatives are available which avoid these problems.

- The access period could be extended up to "round-the-clock" when demand justified.
- Because of shorter shuttle distances, fares may be reduced.
- The system will create a small number of permanent jobs
- It opens Bear Valley to recreational use and to more spectacular views of Portage Glacier.
- Its selection would not eliminate the future choice of another alternative.

The Disadvantages of alternative No. 2 are:

- It allows no direct automobile access
- It still requires auto shuttle, with their related facilities
- The operating costs are highest of all alternatives
- The excess operating costs must be subsidized
- User must adhere to schedule

Advantages & Disadvantages

Alternative No. 3 - One-way Joint Use of Existing Tunnel

This alternative would provide direct auto access through the existing tunnel between Whittier and Bear Valley. A ceiling would be constructed along with other surface improvements and a roadway would be paved that would allow both rail traffic and rubber wheeled traffic in one direction at a time, controlled by gates and signals. Because this alternative could cause disruption of rail service it would be less favorable than

other alternatives. The alternative, while allowing direct vehicle access, and eliminating the need for a vehicle shuttle, would save the user vehicle shuttle fees. The collection of tolls, however, could partially reduce this advantage for the user.

Access, however, would be governed by a fixed or variable schedule and wait time could be much greater during rush periods than with the improved shuttle alternatives.

The Advantages of Alternative No. 3 are:

- o It allows direct auto access to and from Whittier
- o It allows scheduled and conditional 24 hour, 7 day access
- o It eliminates dependency on rail shuttle
- o It is the least costly of the direct auto access alternatives
- o It opens Bear Valley to recreational use and Portage glacier to close up vantage points
- o Its selection would not eliminate the choice of another alternative at a future date
- o It is compatible with a passenger shuttle service

The Disadvantages of Alternate No. 3 are:

- o The construction of the necessary improvements must be coordinated with railroad schedules and clearances which will add time and cost over uninterrupted construction
- o The capital cost relative to improvement of access is high
- o Revenues for vehicle access would be reduced or eliminated if tolls are not collected
- o Joint use in the existing narrow tunnel presents a greater number of safety concerns than other alternatives
- o Access is limited by rail schedules and by one way traffic coordination
- o Waiting times at tunnel entrances will be prolonged during rush periods
- o Waiting times will be prolonged for unscheduled rail traffic
- o Daytime access could reach the point of saturation with the increase of rail freight

Alternative No. 4 - Two-way Joint Use of Widened Existing Tunnel

This alternative would provide direct two-way vehicle access with interruption of access for both passenger and freight rail service. This alternative as with No. 3 could disrupt existing rail service thus would be less favorable to the Alaska Rail-

road than other alternatives. The cost relative to the access improvement would be extremely high. The factors justifying this alternative are that the tunnel access minimizes susceptibility to adverse weather conditions, and that the tunnel conditions are known.

The Advantages of Alternative No. 4 are:

- o Allows direct two way auto access to and from Whittier
- o It allows conditional 24 hour, 7 day access
- o It eliminates dependency on rail shuttle
- o It is not as costly as the new tunnel alternatives
- o It opens Bear Valley to recreational use and Portage Glacier to close up vantage points
- o It is compatible with a passenger shuttle service
- o It would open the greater Whittier area to development as a major recreational area
- o It would open access to the Whittier port for industry and freight to a greater extent than all previous alternatives

The Disadvantages of Alternative No. 4 are:

- o The construction must be coordinated with railroad schedules and clearances which will add time and cost over uninterrupted construction
- o The capital cost relative to improvement of access is very high

- o Revenues for vehicle access would be reduced or eliminated if tolls are not collected
- o Joint use presents a number of safety concerns
- o Access would be interrupted by rail traffic
- o Daytime access could be seriously disrupted with future increase of rail freight

Alternative No. 5 - New Two-Way Highway Tunnel

This alternative presents the most convenient solution for direct auto access to Whittier. It also presents the highest capital cost, and would require a long construction period. It may be difficult to justify the large capital cost in light of other State transportation needs.

If cost and time were not a consideration, construction of a new tunnel would be advisable, however, the actual travel demand in terms of projected residents and tourists, does not justify this alternative. It should be recognized, however, that this alternative ranks first, from the standpoint of convenience, as a way to open up Whittier, a year round ice-free port, and Prince William Sound, a major recreation area, to half of the population of the State. It is possible that current demand figures may be artifically low due to the nature of current access. With unlimited year round access the possibility exists that uncontrolled development could result in land congestion and overburdening of existing public ways and

APPENDIX 2

TUNNEL DESIGN CONSIDERATIONS

APPENDIX 2

THE THREE TUNNEL ALTERNATES

General

This report recognized three viable 2 1/2 mile tunnel alternatives coupled with a surface road from Portage Lake through Maynard Mountain to the western edge of Whittier in lieu of a 5.85 mile surface route over Portage Pass. For ease of identification the three tunnel alternates are labeled as CASE I, II, and III and are applicable to Alternative Nos. 3, 4, and 5 respectively. In addition, Case I provides the basis for suggested tunnel improvements in Alternatives 1, 1-A and 2.

Description of Case I - Tunnel Alternate

Case I (Alternative 3) provides for the joint use of vehicular traffic and rail traffic through the existing 2 1/2 mile railroad tunnel by "decking" the rails so that the railroad can operate normally and rubber tired vehicles can also use the platform on a one-direction at a time basis. Turnouts would be constructed to assure some degree of continuous one-way vehicular traffic. Appropriate signals and barricades at both portals of the tunnel would be the means of preventing the simultaneous use of the tunnel. The implementation and on-going operation of the foregoing plan would require the

complete understanding and concurrence of all conditions to assure that a cooperative agreement between the railroad and the highway department could be achieved.

Description of Case II - Tunnel Alternate

Case II (Alternative 4) also comtemplates joint vehicular traffic use of the existing 2 1/2 mile railroad tunnel by the enlargement of the existing tunnel width through excavation to accommodate a new but separate automobile lane parallel to the rails. As with Case I, vehicular traffic through the tunnel would be excluded from the tunnel when a train was operating in the tunnel and this restriction would be controlled by appropriate signalling and barriers at both portals.

The expanded tunnel width would, however, permit two-way vehicular traffic through the tunnel when the trains were not in operation. One traffic lane would be much the same as Case I, i.e., the rails would be "decked" to permit the normal operation of train traffic as well as operation of rubber tired vehicles. The traffic lane created by extending the tunnel width would be similar to a normal highway traffic lane.

The implementation of this plan would require an even greater degree of understanding and cooperation between the ARR and AHD because of the greater interferences during the construction period.

Description of Case III - Tunnel Alternate

Case III (Alternative 5) contemplates the construction of an entirely new tunnel for two-way traffic for the exclusive use of vehicles. This new tunnel would approximately parallel the railroad tunnel for alignment and grade and the length would be approximately the same as the railroad tunnel. The horizontal separation would be sufficient to assure complete safety to the railroad tunnel during the period of construction for the new tunnel.

The control of traffic through the tunnel will be far less restrictive than Case I or II since the railroad imposes no restrictions and since the vehicular traffic is two-way. Controls and signalling are, however, contemplated to ensure safety to the travelling public.

Design and Construction Considerations of the Three Tunnel Alternates

Tunnel construction has a history of presenting surprises that might materially alter the original design and anticipated quantities which in turn all too often increase the originally anticipated cost of the tunnel. In this present era tunnel designers generally have the benefit of extensive geological investigations, the benefit of increasingly more "past experiences" and more meaningful geotechnical tools. Even so,

a tunnel is a construction effort demanding very costly units of work that must be projected into less than totally explored areas.

The original construction of the Whittier Railroad Tunnel has to a large extent performed this exploration into the unforeseen, and the existing structure reveals that the best imaginable insight into the conditions that could be encountered in the enlargement of the existing tunnel as in Case II. Since the proposed new tunnel in Case III is parallel and adjacent to the existing tunnel, the unknowns inherent in most underground construction have been greatly minimized.

The following description of requirements for construction of Cases I, II and III and the accompanying cost estimates are based entirely on what can be observed in the existing 2 1/2 mile railroad tunnel and published geologic information relating to the tunnel and adjacent areas. Final design for any one of the alternate plans would of course be supplemented by more detailed geologic and field measurements that are not possible at the level of this investigation. Further geotechnical investigations and measurements would principally refine the quantities of the work to be performed.

At this level of investigation any one of the three proposed alternates are judged to be reasonable and feasible from the standpoint of common construction methods.

Excavation

The rock excavation entailed in Case I Alternate is primarily the removal of minor thicknesses of rock (tights on the walls of the tunnel and at the springline of the arch to achieve the minimum requirements for railroad clearances designed by the AREA. Coupled with this operation would be the barring down and scaling of all obviously loose material that has developed over the years by exposure to weathering and especially freeze and thaw cycles. The amount of this class of excavation may exceed more than nominal thicknesses in those areas that are presently supported by timber and lagging. The foregoing procedures would also be applied to the wall and arch of the existing tunnel on the side that is not enlarged under the program called for under Case II Alternate.

The rock excavation of Case II and Case III would be accomplished by conventional drill and blast methods and the barring down and scaling of newly exposed faces of rock would be a part of the final effort of the major excavation procedures.

Temporary and permanent supports, excepting reaches immediately adjacent to the portal areas, would be accomplished by rock bolts or shotcrete and more likely a combination of both. Considerably more detailed investigation would be required to identify areas that would require steel sets or a formed concrete lining.

Tunnel excavation required by Case I and II will demand a premium unit price because of the conflict with the railroad operations.

Grout Curtain

A present-day examination, March 1980, of the existing 2 1/2 mile railroad tunnel shows relatively little water originating from the ribs and the back of the tunnel, none of which could be considered to be under pressure. Areas showing free water are quite limited and only one area that would be classed as a significant amount of water. There are areas in the tunnel that appear moist that quite likely in other seasons of the year might show free water. It is reported that the extent of drainage varies from season to season with the greatest amount being noted in the fall season of the year.

The problems of the formation of ice, because of the presence of water in the tunnel and the circulation of cold air through the tunnel, is a difficult and expensive problem to cope with, without question. The railroad controls, to the extent possible, the icing by use of the draft doors at either end of the tunnel and by rail mounted electric heaters that are plugged into a power cable at selected locations within the tunnel, and the heat from the heating units are directed to a particular problem area of ice formation. It is understood that even with the present corrective measures the formation of ice is still a problem and is an expensive operational problem.

From observation in the existing tunnel and from study of geolc[illegible] report information, it seems certain that the entrance o[illegible] to the existing tunnel, an expanded tunnel or a new tunn[illegible]d virtually be eliminated by pressure grouting. The wet areas would be drilled and stage grouted in a pattern to form a curtain of grout around the periphery of the rock opening. The grout curtain would form a barrier and in effect force the water outside of the tunnel opening and effectively "dry-up" the opening. It is assumed that ordinary Portland Cement grout would be effective. However, if the joint pattern is more demanding than can be sealed with cement, there are available numerous chemical grouts that could be substituted for Portland Cement.

The pressure grouting to control water would be employed in all areas of the tunnel that could be identified as potential water producers. The pressure grouting would be done prior to any placement of concrete lining, structural shotcrete or protective coatings of shotcrete. Concrete lining and pneumatically applied mortar could be an effective barrier to water; however, the extreme cold could cause freezing behind the applied concrete and after repeated cycles of freeze and thaw cause spalling and the eventual ice formation due to the escape of free water.

Pneumatically Applied Mortar

The conceptual design for the alternate tunnels, Case I, II and III contemplates the extensive use of shotcrete and gunnite to accomplish specific objectives.

Shotcrete, pneumatically applied cement-mortar containing a coarse aggregate, would be placed in those areas of the tunnel that require structural support in thicknesses consistent with the support necessary. Rock bolts and structural shapes used as bridges would also be used in conjunction with shotcrete, if appropriate, to gain structural support. The isolated zones of rock weakness, now supported by timber in the existing tunnel, would be expected to persist as a formation characteristic in the expanded tunnel or a new tunnel as proposed in Case II or Case III. It is proposed that those zones that require support such as can be seen in the existing tunnel, would be supported by shotcrete built up to the necessary support strength required.

Since the extensive use of steel sets is not apparent at this level of design, it is considered desirable o avoid steel sets if possible through the use of shotcrete. Steel sets are possible to use; however, their use introduces a break in the construction routine of essentially a nonsupported tunnel section. It is possible that a material supply problem could also be introduced by relying on steel sets.

The use of pneumatically applied mortar over welded wire mesh reinforcement for a surface treatment would be either a shotcrete mixture, with coarse aggregate, or a gunnite mixture with no coarse aggregate, depending on the characteristics of the rock surfaces and the results that are obtained in the field for the different gradations of the applied mortar.. The surface treatment mortar would be applied to all exposed rock surfaces in Cases I, II and III to minimize the continual ravelling and spalling of small rocks due to normal weathering and to prevent the loss of "keying" rock particles that support more significant block size rocks. Surface treatment would not be intended to be a ground support method and the purpose of the welded wire mesh would be to maintain only the integreity of the mortar. Surface treatment mortar also would minimize the lighting requirements for the tunnel and greatly improve the co-efficient of friction for the movement of ventilation air. Surface treatment further enhances visual appearance of the tunnel and very importantly provides a greater feeling of security and a "good feeling" about being in a tunnel to the travelling public.

Rock Bolts

The use of rock bolts to provide temporary ground support during construction and in conjunction with shotcrete and channel hardware as permanent supports is contemplated throughout the tunnel. The locations within the tunnel where

rock bolts would be used is not identified at this level of conceptual design. The bolts would be of varying length and would be specified as the epoxy anchored and goruted type as opposed to the mechanical anchored type with cement grout at a later date for corrosion protection.

Concrete Lining

A concrete lining of the tunnel will be necessary at each portal of the tunnel to insure structural integrity of the tunnel as it enters and passes through the weathered zone of rock at the portals. A small portion of concrete lining would be exterior to the tunnel for the purpose of creating a transition from the tunnel section to the portal structures.

The greatest amount of surface water and ground water occurs in this weathered zone and the concrete lining becomes a necessity to waterproof the most vulnerable area to freezing. Low pressure backfill grout would be introduced behind the concrete and between the rock to minimize water drainage and assure contact between the concrete lining and the excavated rock surface. The exposed section of concrete portal would be backfilled for insulation and aesthetic reasons.

Detailed geology and the actual field conditions encountered would delineate the length of the concrete lining at each portal of the three cases being considered.

Portal Structures

Reinforced concrete portal structures will be required at each end of the three tunnel alternates. The portal-structure would physically connect to the concrete lining of the tunnel and the structures would have common facilities such as draft doors to control ventilation and weather extremes, the housing of emergency equipment for rescue of stalled vehicles, communication and control equipment for vehicular traffic, tunnel ventillation controls and personnel quarters.

Each portal structure for the three Cases, I, II and III would vary considerably in physical details because of the three tunnel sizes and the necessity to provide for combined use of railroad and vehicular traffic for Case I and II and the single use of the new tunnel for vehicular traffic, Case III.

Roadway Platform

Each of the three tunnel alternates being considered have a different roadway platform and each platform presents a different quality of roadway for vehicular traffic.

Case I Platform must be designed for the use of vehicular traffic as well as for continued railroad operation. This platform has the distinct disadvantage of the "rail slot" that will tend to detract from the surface for rubber tired vehicles.

Case II Platform will have the same disadvantage in that the "rail slot" will tend to make the vehicular tires follow the "slot".

The driving experience for Case III Platform will be similar to a two-lane bridge.

The roadway platform for all three cases is constructed essentially the same way, to the extent that the sub-grade and base course would be free draining material with parallel lateral pipe drains to collect any free water. The roadway surface would be hot mix asphalt with concrete curbs to minimize contact with the walls of the tunnel and catch basins to collect and direct "imported" water from the vehicles to the sub-drains and on out of the tunnel.

The road tracks that remain as part of the permanent features in Case I and II will be reconstructed with precast concrete ties and cushioned with a sufficient depth of ballast and sub-base to minimize the ongoing maintenance of the rails. It is anticipated that the grade of the railroad would remain the same; however, it is to be expected that there will be a minor amount of additional rock excavation to permit the construction of a uniform thickness of sub-base and ballast. The construction of the roadway platform in Case I and II will require considerable cooperation with the railroad and will be a time-consuming operation since it must be done in short

segments such that the rail line is never out of operation for a longer period of time than would be permitted by their normal operating schedule.

Tunnel Lighting

Lighting is considered necessary for all three cases under consideration in the interest of public safety and for routine maintenance and inspection of the tunnel. The level of illumination at the portals would be in the order of 100-foot candles and gradually decreased in intensity to approximately 10-foot candles for the remaining 80% of the tunnel length. The variation of light intensity form the portal area to the tunnel proper permits a driver to become accustomed to the darkness of the tunnel from the bright conditions exterior from the tunnel.

The level of illumination will also be increased in the vicinity of the turnouts that are provided in Case I.

The surfacing of the tunnel back and walls with shotcrete, coupled with lighting also greatly disspells the uneasy feeling for some when underground.

Signalling and Monitoring Systems

The monitoring and control of traffic for Cases I and II would involve restrictions imposed by the joint use of railroad and

vehicular traffic. The monitoring and control of tunnel traffic for dual use is more complicated that that involving only vehicular traffic as with Case III. The monitoring of the status of the flow of traffic through the tunnel and the demand for the use of the tunnel at the portal would result in the controls that would optimize the safe use of the tunnel. Such conditions as an automobile fire, stalled vehicle and resulting pollution buildup all would result in control of traffic.

All of the above considerations would be incorporated into a supervisory control system that would indicate the conditions within the tunnel and exterior and react to those conditions to the extent possible. The tools of the system would be TV monitors, lighted signs, automatic barricades and air quality analyzers and temperature sensors.

The supervisory control system would be flexible so that the system could be changed from summer to winter mode, from present day to future traffic volumes and to some extent would be adjusted to accommodate different weather conditions.

Miscellaneous Items

Included, but not limited to, is the removal and reinstalling of the existing 7.5 KVA power cable and the existing railroad communication duct that is presently at the invert of the tunnel. These items of work are required only for Cases I and II.

Other minor items common to all three cases are the furnishing and installing fire extinguishers and emergency pull-box stations and telephone stations.

HCR

13

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 25, 1983

SUBJECT: Tax credit for political contributions (CSHB 89)

TO: Representative Mitchell E. Abood, Jr.
Chairman, House State Affairs Committee
Attn: Carol Horos

FROM: Thomas A. Sofo TAS
Legislative Counsel

At the request of the committee, I have changed the effective date of this bill to July 1, 1983. It is my understanding that the Department of Revenue requested that the effective date be changed from January 1, 1983, so that they may be able to process the applications of people taking the tax credit for the calendar year of 1982.

Since most tax laws are based on the calendar year, it is typically advisable to repeal them in full year increments. The goal of the Department of Revenue could be accomplished by a simple temporary law section which merely stated that the department shall process applications for tax credits for calendar year 1982 up to July 1, 1983. Instead, the committee has opened the door for people to claim tax credits for the first half of the calendar year 1983. There is nothing inherently wrong with this choice, but this memo has been prepared to point out that the mechanism which the committee has chosen unnecessarily extends the tax credits for an additional six months when we could address the problem another way.

I suspect the department has the inherent authority to wind up a program such as this without necessarily addressing the point by statute. However, if the committee feels that an explicit grant of authority is necessary, the method which was chosen seems unnecessarily broad.

TAS:ljb

Enclosure
9/012

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

AGENDA

DATE: 3/4

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY. AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

HCR 10 - RELATING TO ACCESS TO WHITTER, AK

HCR 13 - EXTEND THE LIFE OF THE BLUE RIBBON COMMISSION

HB 89 - (CS CAME IN FOR IT, DO FIRST, IT IS ON TOP OF YOUR FILE)
TAX CREDIT FOR POLITICAL CONTR.

HB 165 - ACT RE: TO REPORTS TO THE PUB OFFICES COMMISSION

OTHER NOTES OR REMINDERS:

_____

_____

_____

_____

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

JUNEAU, ALASKA

MEMORANDUM

February 7, 1983

TO: House State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: HCR 13 - Extending the Life of the Blue Ribbon Commission

The Alaska State Legislature created the Blue Ribbon Commission on the State Personnel Act in 1978 and directed it to review the personnel system and make recommendations to improve it. Since then, the commission has worked on the issues it has identified, sponsoring legislation, making recommendations to appropriate state agencies and reporting its progress to the legislature each year.

In its first year, the commission studied the temporary employee issue extensively and sponsored a bill creating the nonpermanent employee system. The bill intended to curb the administrative practice of using temporary state employees to evade departmental accountability and mask poor planning. The legislation became effective on January 1, 1980.

The commission continued to address personnel issues and also addressed issues in collective bargaining during its second year. It studied and made recommendations to the Division of Personnel concerning the state's application process, testing practices, and identified and began discussion of problems which it was not able to act on because of time constraints. In its third year, the commission sponsored a comprehensive revision of the State Personnel Act as well as several other pieces of legislation in the personnel and retirement areas. The revision of the State Personnel Act became effective in 1982.

The commission reviewed the state's practices on employment of women and minorities during its fourth year. It recommended that a local hiring preference system be implemented particularly for state government positions in rural Alaska. It identified administrative changes to address issues presented to it and made recommendations to the Governor and to the Department of Administration. The legislature extended the existence of the commission until June 30, 1983, so that it could continue to perform the assignments made to it.

During the past year, the commission has considered a variety of issues and topics which were identified in public testimony and inquiries. It has sponsored legislation this session addressing seven of these issues, including amending the nepotism statute to provide statutory authorization for the current Personnel Rule, proposing a system of legislative review of labor agreements between the state and employee unions and associations, addressing issues in the retirement statutes, creating and protecting the state's interests in the discoveries and inventions of its employees when they are job-related, and resolving issues in the personnel system.

The commission is composed of representatives from groups and persons most concerned about the state personnel system. In addition to legislators, the membership includes representatives from the unions and associations representing state employees, from the Department of Administration and the Division of Personnel, from the Ombudsman, other state agencies and the public. The breadth of expertise insures that a diversity of viewpoints is heard on the issues raised before the commission.

The commission has been unable to resolve all the questions it has considered. It therefore requests that the legislature authorize the Blue Ribbon Commission on the State Personnel Act to continue to perform the assignments delegated to it through June 30, 1984.

TBC:lmk

COPY

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE CONCURRENT RESOLUTION NO. 13
Title Extending the life of the Blue Ribbon Commission on the State
Requested by Senator Ray /Personnel ACt Date 2/14/83

II. FISCAL DETAIL
Agency Affected Legislative Affairs Agency
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Legislative Council
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	87.0	87.0				
200 TRAVEL	10.0	10.6				
300 CONTRACTUAL	2.0	2.1				
400 COMMODITIES	1.0	1.1				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	100.0	100.8				

FUNDING (Thousands of Dollars)

GENERAL FUND	100.0	100.8				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	2	2				
PART TIME						
TEMPORARY						

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

Continuation of present staff and activity:

One Administrative Assistant full-time and One Secretary full-time with benefits	$ 87,000
Travel - Staff & Commission Estimate 10 members per meeting at $530 travel and per diem per trip for two trips	$ 10,600
Contractual - phone, public notices, etc.	$ 2,100
Commodities - Office Supplies	$ 1,100
TOTAL	$100,800

IV. DATE 2/14/83 PREPARED BY Wally Harrison, Director, Admin. Svcs.
AGENCY Legislative Affairs Agency

SENATE
JOURNAL SUPPLEMENT

2/21/83 No. 6

I. REQUEST SCR 3
Bill/Resolution No. SENATE CONCURRENT RESOLUTION NO. 3
Title Extending the life of the Blue Ribbon Commission on the State Personnel Act
Requested by Senator Ray Date 2/4/83

II. FISCAL DETAIL
Agency Affected Legislative Affairs Agency
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Legislative Council
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	87.0	87.0				
200 TRAVEL	10.0	10.6				
300 CONTRACTUAL	2.0	2.1				
400 COMMODITIES	1.0	1.1				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	100.0	100.8				

FUNDING (Thousands of Dollars)

GENERAL FUND	100.0	100.8				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	2	2				
PART TIME						
TEMPORARY						

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

Continuation of present staff and activity:
One Administrative Assistant full-time and
One Secretary full-time with benefits $ 87,000

Travel - Staff & Commission
Estimate 10 members per meeting at $530
travel and per diem per trip for two trips $ 10,600

Contractual - phone, public notices, etc. $ 2,100

Commodities - Office Supplies $ 1,100

TOTAL ---------- $100,800

IV. DATE 2/7/83 PREPARED BY Wally Harrison, Director, Admin.
AGENCY Legislative Affairs Agency
PHONE 465-3850

HCR

17

THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCR - 17

Title An Act relating to the state medal for heriosm.

Requested by House HESS Date 2/18/83

II. FISCAL DETAIL

Agency Affected Department of Education

Program Category Affected Elementary and Secondary Education

BRU, Program, Or Subprogram(s) Affected State Libraries

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

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

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact on this department.

IV. DATE 2/18/83 PREPARED BY Steve Hole

AGENCY Education

PHONE 465-2865

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

DEPARTMENT OF EDUCATION
Alaska State Library
Pouch G
Juneau, Alaska 99811

MEMORANDUM

State of Alaska

JAN 20 '83

TO: Dr. Milo Fritz
House of Representatives
Alaska State Legislature

DATE: January 26, 1983

FILE NO:

TELEPHONE NO: 465-2926

FROM: Phyllis DeMuth PD
Head, Reader Services
Alaska State Library

SUBJECT: State Medal for Heroism

Enclosed is the information on the medal and its recipients that could be compiled from existing files in the library and Alaska State Archives. There was no established pattern for announcing or presenting the award, which was left to the descretion of each governor - letter, certificate or both. Issuance of the award was not always accompanied by a news release. The medals for heroism are kept in the governor's office.

The information that has been located at your request will be submitted to the compilers of ALASKA BLUE BOOK. This would seem to be a good place to maintain a record of those honored for heroism. It does seem to need more visibility. This may also bring to light any recipients that may have been left out.

It was nice to hear of your election and return to the legislature. The Report of the Subcommittee of Communications you chaired and placed here has been useful. Please let me know if I can be of further help, or if you would like to see the library after some years away.

MEMORANDUM State of Alaska

TO: Wes Coyner
Executive Assistant

DATE : January 20, 1971

FROM: Warren W. Wiley
Administrative Assistant

SUBJECT: Governor's Medals for Heroism

We have a backlog of information relating to the awarding of Governor's Medals for Heroism. Some of them are quite old. None appear to have been carried through to conclusion as to investigation and approval. I cannot find any written procedures to be followed, but have a general idea from what Herb Lehfeldt told me.

Do you have any thoughts or suggestions?

WWW:LL:lb

R. R. 3-4

STATE MEDAL FOR HEROISM

Alaska Statute. Sec. 44.09.090. State medal for heroism. (a) The governor is authorized to award a state medal for heroism directly or posthumously to any citizen of the state in recognition of a valorous and heroic deed performed by him in the saving of a life or for injury or death or threat of injury or death incurred by him in the service of the state or his community or on behalf of the health, welfare or safety of other persons. The medal shall be awarded by the governor with an appropriate ceremony.

(b) The governor shall make arrangements for the designing of the medal for heroism through a statewide design competition participated in by the school children of the state. (P 1 ch 12 SLA 1965)

History

On October 21, 1965, a news release from Governor William A. Egan extended an invitation to all Alaska school students (grades 1 - 12) to submit designs for a state heroism medal with a design deadline of December 1, 1965. The following individuals served on the committee to pick the winning design: Brig. General William S. Elmore, Rear Admiral J. D. Synon, Joseph Briones, Thomas Morgan, and Capt. George R. Boyce, Jr.

Kathy Shapley, a 16 year old Craig student, submitted the winning design of out-stretched hands to the aid of another. The gold medal includes the words, "State of Alaska Award for Bravery - Heroism for Lending a Hand to your Fellow Man." The medal is suspended from a blue ribbon with the Big Dipper and the North Star in gold.

(Juneau Alaska Empire, March 11, 1966)

Recipients of the Medal for Heroism

1968 (letter, October 22) Prinzing, Randy Blake (Soldotna)
1971 (December 8) Davis, Nancy (Seattle - Wien stewardess)
1972 (June 27 news-release) Stone, Jeffrey (Fairbanks)
1975 (certificate, September 5) Trooper Gilbert Pelowook and the village of Gambell
1978 (letter, January 17, 1978) George Jackinsky (Kasilof)
1980 (letter, March 7) Mike Hancock (Lima, Ohio)

GOVERNOR'S OFFICE NEWS RELEASE OCTOBER 27, 1965

Governor William A. Egan has extended an invitation to all Alaska school students to submit designs for a State heroism medal authorized by the last session of the Legislature.

Chapter 12 of the 1965 Alaska session laws directs the Governor to "make arrangements for the designing of the medal for heroism through a statewide design competition participated in by the school children of Alaska."

William T. Zaharadnicek, Alaska commissioner of education, is now sending to all school administrators a memorandum on this competition and design specifications. Deadline for submission of designs is December 1, 1965.

Judging of the designs and selection of the one to be used for the medal will be done by a committee composed of the following distinguished Juneau residents: Rear Admiral G. D. Symon, commandant, 17th Coast Guard District; Mrs. Rie Munoz, Alaska artist; Thomas A. Morgan, businessman; Joseph Enlows, American Legion service officer for Alaska; and Brigadier General William S. Elmore, Alaska adjutant general.

The heroism medal, according to the statute, is to be presented by the Governor "directly or posthumously to any citizen of the State in recognition of a valorous and heroic deed performed by him in the saving of a life or for injury or death or threat of injury or death incurred by him in the service of the State or his community or on behalf of the health, welfare or safety of other persons. The medal shall be awarded by the Governor with an appropriate ceremony."

* * * * *

028.2

January 6, 1968

Miss Kathy Shapley
P. O. Box 572
Powers, Oregon 97466

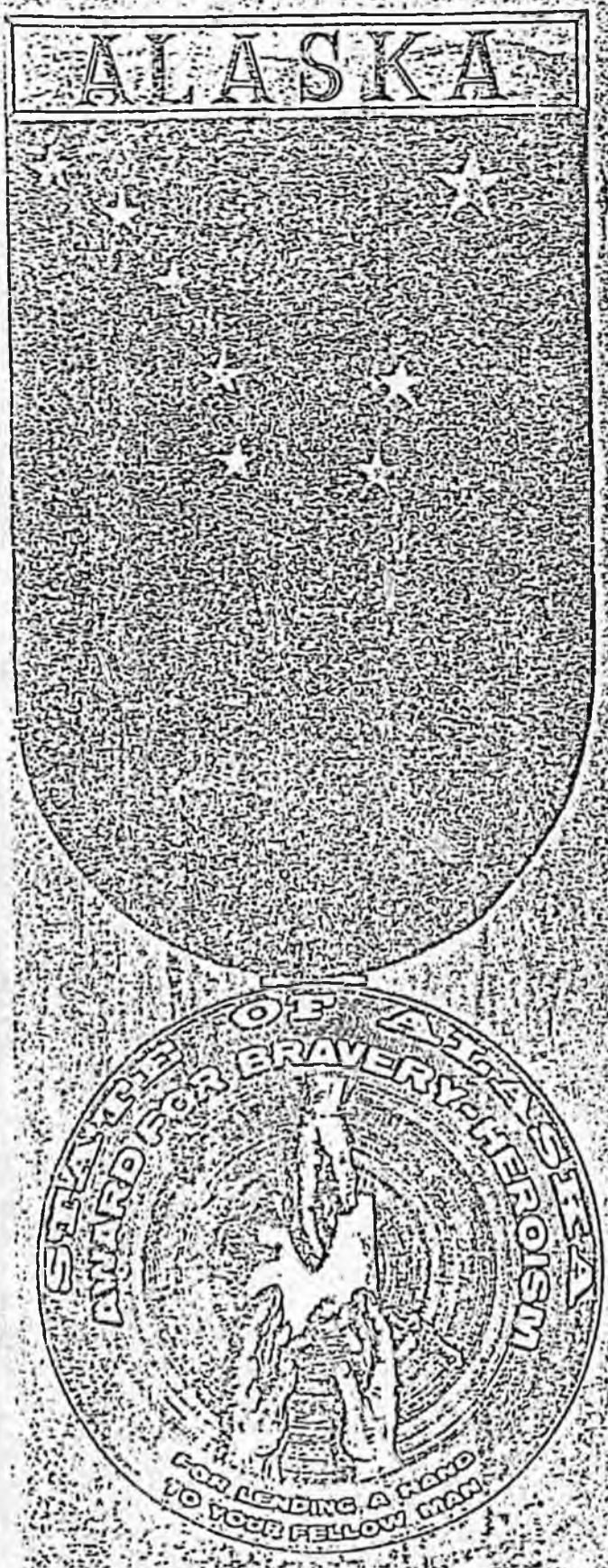
Dear Kathy:

When we were rearranging our offices recently, we found your original design for Alaska's Medal for Bravery and Heroism. We thought you would like to have it and are sending it to you under separate cover.

Sincerely yours,

(Mrs.) Virginia O'Reilly
Office of the Governor

VOR:fw



Winning Medal Design

Craig Girl, 16, Wins Medal Design Award

Sixteen-year-old Kathy Shapley, of Craig, Alaska, has made a contribution to the State of Alaska which will probably make her name as familiar to all of us as that of the designer of our flag—Benny Benson. Her design for the State Medal of Heroism has been chosen out of 429 entries.

The design competition was conducted in all the schools of Alaska, and was open to any student from the first through the 12th grade. Chapter 12 of the Session Laws of Alaska, 1965, which created the medal and directed the Governor to conduct the competition, authorizes the medal to be presented to an Alaskan "in recognition of a valorous and heroic deed performed by him in the saving of a life or for injury or death or threat of injury or death incurred by him in the service of the State or his community or on behalf of the health, welfare or safety of other persons."

Kathy's design was chosen by a committee composed of Brig. Gen. William S. Elmore, the state's adjutant general; Joseph Briones, American Legion service officer; Thomas Morgan, Juneau businessman; and Capt. George R. Boyce Jr., of the U. S. Coast Guard.

In a letter to the Craig ninth grader, Gov. William A. Egan said, "It is a truly outstanding design. Your use of the outstretched hands to depict one human being coming to the aid of another is very moving."

The gold medal will be suspended from a blue ribbon with the Big Dipper and the North Star in gold.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

October 26, 1965

Brigadier General William S. Elmore
Adjutant General
Department of Military Affairs
Box 2421
Juneau, Alaska

Dear General Elmore:

Governor Egan has expressed his pleasure over your acceptance of an invitation to serve on the committee to select a design for a State heroism medal.

The medal is authorized by Chapter 12, Session Laws of Alaska, 1965. This chapter reads as follows:

"The Governor is authorized to award a State medal for heroism directly or posthumously to any citizen of the State in recognition of a valorous and heroic deed performed by him in the saving of a life or for injury or death or threat of injury or death incurred by him in the service of the State or his community or on behalf of the health, welfare or safety of other persons. The medal shall be awarded by the Governor with an appropriate ceremony.

"The Governor shall make arrangements for the designing of the medal for heroism through a statewide design competition participated in by the school children of the State."

The Alaska Department of Education is now distributing information concerning the competition to schools throughout the State. It is anticipated the design selection committee will begin its work in about a month and be able to complete it in a relatively short time.

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

I am sure you are interested in knowing who will serve with you on the committee. The other members are

Rear Admiral G. D. Synon, commandant, 17th Coast Guard District, Juneau

Mr. Joseph Briones, American Legion service officer, Juneau

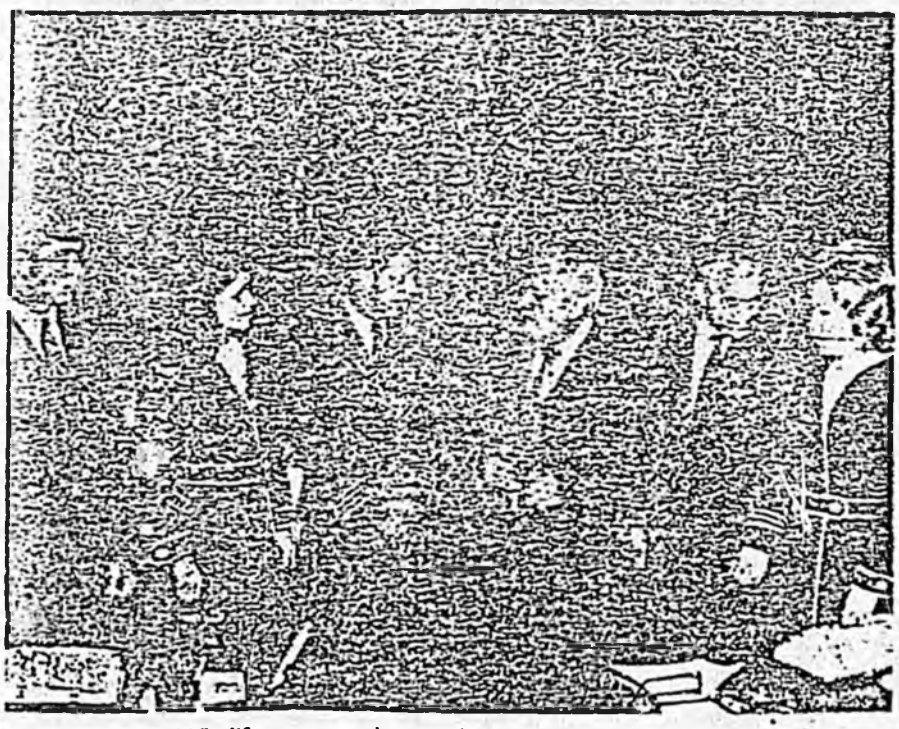
Mrs. Rie Munoz, Juneau artist

Mr. Tom Morgan, Juneau businessman

Sincerely,

Gerald E. Bowkett
Special Assistant

GEB:ao



HEROISM AWARD—Wien crew members receive heroism award and citations from Governor William A. Egan. (L to R) Keith Forsgren, flight engineer, Nancy Davis, Don Peterson, pilot, Governor Egan, Ray Miller, first officer, and Margie Hertz, stewardess.

Wien Stewardess Receives Heroism Award From Egan

Governor William A. Egan presented the state's award for heroism and bravery Wednesday to Miss Nancy Davis, Wien Consolidated Airlines stewardess who convinced a man charged with hijacking a Wien jetliner on Oct. 19 to surrender to authorities.

In a late afternoon ceremony witnessed by about 30 persons, including the 21-year-old stewardess' parents, Mr. and Mrs. Chuck Davis of Seattle, Governor Egan pinned the medal on Miss Davis and praised her cool composure in the Oct. 19 ordeal as "a great display of bravery performed not only in the interest of herself and her fellow crew members but of all Alaskans as well." An accompanying certificate of commendation cited Miss Davis for "her lonely courage, her mastery of fear" and "her hope and concern for her fellow man."

Afterward, Miss Davis called the award "the experience of a lifttime." As for the hijacking, she said: "No one would ever want to go through that kind of experience again. The crew was very fortunate."

Governor Egan also presented certificates of merit to the other crew members on the hijacked flight, Pilot Don Peterson, First Officer Ray Miller, Flight Engineer Keith Forsgren, and Stewardess Margie Hertz.

Those in Juneau for the ceremony included airline officials Sig Wien, board chairman, Ray Petersen, president, and Wyman R. Rice, vice president of operations; state Director of Aviation Victor Schmidt and Anchorage International Airport manager Jack Peck; and fellow Wien employees and family members.

They later were guests of Governor and Mrs. Egan at a dinner in honor of Miss Davis and the other crew members.

Southeast Alaska Empire
Dec 9, 1971

March 7, 1980

Mr. Mike Hancock
800 1/2 East Elm
Lima, Ohio 45804

Dear Mr. Hancock: [illegible] Lafferty from his crashed airplane [illegible] Alaska on the morning of August 19, 1977 was [illegible]

Enclosed is your citation and Alaska medal for bravery-heroism for your heroic act on August 19, 1977, in which you rescued Mr. Dick Lafferty from his crashed airplane. [illegible]

I had hoped that I would have the opportunity to personally make this presentation to you and regret that arrangements could not be made. Rather than delaying further the presentation of your award which is long overdue, I am mailing it to you. [illegible] courage, but respect for human life and compassion for your fellow man.

Congratulations on behalf of all Alaskans. You are most deserving and it is my pleasure to make this presentation. Your action was motivated by that highest [illegible] which contributes to a caring society.

With kind regards. Sincerely,

On behalf of all Alaskans, Governor of the State of Alaska, commends you for your heroic act.

Dated: _____

Jay S. Hammond
Governor

Enclosure

bcc: Jessie Dodson
Commissioner Nix, Department of Public Safety
Mr. Dick Lafferty

JSH:GR:rs

Jay S. Hammond
Governor

f.f. 5
3

AWARD FOR BRAVERY-HEROISM

MIKE HANCOCK

Your rescue of Mr. Richard Lafferty from his crashed airplane at Kenai, Alaska on the morning of August 19, 1977 was accomplished at great personal risk to your own life and safety. The crash, which occurred under conditions of patchy ground fog, brought down high voltage power lines which increased the danger of fire at the accident site and, additionally, carried the threat of electrocution of would-be rescuers.

You acted quickly to save an injured man's life, without regard for your own life. Your act required not only courage, but respect for human life and compassion for your fellow man.

Your action was motivated by the highest and best instincts of an individual which contributes to a caring society.

On behalf of all Alaskans, I, Jay S. Hammond, Governor of the State of Alaska, commend you for your heroic act.

Dated: _____

Jay S. Hammond
Governor

October 22, 1968

028.2

Mr. Randy Blake Prinzing
Box 392
Soldotna, Alaska 99669

Dear Randy:

Mr. Marvel Elkins has advised me of your heroism which saved the lives of Kathleen L. Robinson and your brother, Ricky, at Scout Lake on May 11, 1968.

It is my pleasure to commend your action performed without regard for your personal safety. It expressed the high respect and compassionate concern you have for human life. A quality of humanity often sought, but seldom found.

I am happy to inform you that because of your successful rescue efforts last May, you have been awarded the State Heroism Medal.

Please accept my very best wishes for future success in whatever you do.

Warm personal regards.

Sincerely yours,

Walter J. Hickel
Governor

Enclosure

RECEIVED
OCT 24 1968

Typed on Coach.

Jay S. Hammond December 12, 1977

January 17, 1978

Mr. George Jackinsky
Box 57
Kasilof, Alaska 99610

Dear Mr. Jackinsky:

I am pleased to inform you that after reviewing the information presented me concerning your rescue of two occupants of a burning aircraft last August, it is my intention to award you the state medal for heroism.

Alaska statutes say such an award may be presented by the Governor..."in recognition of a valorous and heroic deed performed..in the saving of a life..." The courage you displayed in pulling Raymond Wright and John Nepple from the burning wreckage of their plane certainly more than qualifies for this award.

If possible, I would like to present the award to you in Anchorage on February 10, as part of the annual awards banquet of the Department of Public Safety. Bill McConkey, Special Assistant in charge of my Anchorage Office, will be happy to assist you with the arrangements for getting you there. I'd appreciate it if you would please contact him as soon as possible to work out the details. His phone number is 272-1478. He is located at 338 Denali Street on the seventh floor of the MacKay building in downtown Anchorage.

My thanks to you on behalf of the people of Alaska for your unselfish display of heroism. I look forward to meeting you on February 10th.

Sincerely,

Jay S. Hammond
Governor

cc: Commissioner Burton
Jessie Dodson
Bill McConkey

bcc: Bill McConkey - if Mr. Jackinsky cannot afford to travel to Anchorage at his own expense, you are authorized to bring him to Anchorage at state expense. Please work out the details when he contacts you. - Jessie.

JSH:LH:vac

Lieutenant D. R. Lawrence
Commander
D Detachment

October 17, 1977

Sergeant M. S. Radisch
Supervisor
Soldotna Post

Jackinsky Recommendation

On August 5, 1977 at 10:00P.M. State Troopers responded to an aircraft accident near Kasilof Air Port. The plane, a Beach 18 #N28536, was bound for a Kasilof Cannery with a load of fish for Tyonek. There was a miscalculation upon approach to the airport and the pilot was unable to correct the situation, crashing into the trees as he was attempting to gain altitude.

Mr. George Jackinsky, a resident of the area, responded to the crash and with disregard to his own personal safety, entered the burning aircraft and pulled co-pilot Raymond Wright from the plane and dragged him to a location approx. 100 feet, in a wooded area. Then upon hearing the cries of a second person, Mr. Jackinsky reentered the plane to carry pilot John Nepple from the aircraft to the location of the first victim.

Had it not been for the actions of Mr. Jackinsky, there is no question that both Mr. Wright and Mr. Nepple would have perished in the aircraft as the aircraft was totally destroyed by the fire. My personal observations at the scene indicated the aircraft was in flames. Without one walking directly up to the remains of the plane it would be next to impossible to discern which was the cockpit area, let alone pull the victims from the aircraft. Mr. Jackinsky was observed at the scene and appeared near exhaustion.

I highly recommend that Mr. Jackinsky be duly commended for his bravery and disregard for his own life in pulling the victims from the aircraft. His actions should be called to the Governor's attention so that proper commendation might be made. Mr. Jackinsky resides at Box 57, Kasilof. He is 59 years of age.

MSR/mh

February 1, 1978

Mr. D. H. Deutschlander
Principal
Kenai High School
Kenai, Alaska 99611

Dear Mr. Deutschlander:

On Friday, February 10, 1978, Governor Hammond will be presenting the state's appreciation and commendations to Mr. George Jackinsky and his children, Jon and Lisa, for their act of heroism on rescuing two men from a crashed burning airplane.

At very special risks to their own lives, they pulled two men from the plane seconds before it exploded.

I would certainly hope that the school policy will allow an excused absence for Jon Jackinsky on Friday, February 10, 1978 for this awards ceremony.

Sincerely,

William C. McConkey
Special Assistant
to the Governor

BM:vac

bcc: Mr. George Jackinsky
Box 57
Kasilof, Alaska 99610

cc
3

February 1, 1978

Dean of Students
Seattle Pacific College
3307 Third Avenue, West
Seattle, Washington 98119

Dear Sir:

On Friday, February 10, 1978, Governor Hammond will be presenting the state's appreciation and commendations to Mr. George Jackinsky and his children, Jon and Lisa, for their act of heroism in rescuing two men from a crashed burning airplane.

At very real risks to their own lives, they pulled the two men from the plane seconds before it exploded.

I would certainly hope that University policy will allow an excused absence for Lisa Jackinsky on Friday, February 10, 1978, for this awards ceremony.

Sincerely,

William C. McConkey
Special Assistant
to the Governor

bcc: Mr. George Jackinsky
Box 57
Kasilof, Alaska 99610

WCM:vac

NORTON SOUND HEALTH CORPORATION

Delegate of Alaska Federation of Native

P. O. Box 966 Nome, Alaska 99762 443-226

September 11, 1975

Governor Jay Hammond
Pouch A
Juneau, Alaska 99811

SEP 1 . 1975

Dear Governor Hammond:

The Medical Staff of Maynard McDougall Memorial Hospital would like to take this opportunity to commend several State employees and their response during the Wien disaster on St. Lawrence Island. As part of the medical team responding I had the opportunity to observe two people perform with outstanding skill and heroism under extreme hardship and personal hazard.

Corrine Kerfoot, Itinerant Public Health Nurse in the Nome area had retired from the Public Health Service the night before and happened to be at Gambell. She was among the first group to reach the plane crash. Her timely first aid, splinting of the many fractures and sense of priorities probably saved three peoples lives. She maintained control of the accident site assigned priorities for evacuation which led to an orderly evacuation of the patients.

Gilbert Pelowook, the State Trooper at St. Lawrence Island was on board the aircraft when it crashed. He freed himself shook off his own injuries and moved every passenger who survived off the aircraft before it burned. If the fire could have held off longer than it did, he would have been able to save even more. Many of the accident victims first comments to me were " Thank Gil for me, he saved my life". It is my personal opinion that a lesser man could not have done a job that Gil did during the accident. A man of less will could not have shaken off his own injuries and moved an many people off the aircraft as he did without collapsing of sheer exhaustion, mental and physical. The National Guard detachment at Gambell while individually unknown to me, did a tremendous job in helping with the evacuation of the accident victims off the cliff and the five mile trip down to the school house where the aid station was set up. Finally the people of Gambell themselves, the entire village, responded giving of themselves, their blankets their bedding, their time and their energies helping in the evacuation and working with the people in the school house. Many lost blankets, bedding and clothing that they give to the victims to keep them warm during the evacuation.

Thank you for the opportunity to bring these thoughts to you.

Sincerely,

W.R. Bookhout, Physicians Assis
Norton Sound Health Corporation
Box 966
Nome, Alaska 99762

cc: Governor's Office - Nome
WRB:bbp

October 16, 1975

Ms. Corrine Kerfoot
c/o Mr. W. R. Bookhout
Norton Sound Health Corporation
Box 966
Nome, Alaska 99762

Dear Ms. Kerfoot:

Mr. Bookhout wrote me recently and told me of your admirable efforts in assisting the victims of the Wien air crash. He said you were among the first group to reach the crash site, and administered aid to those who were injured. I want you to know that your timely and invaluable assistance was deeply appreciated by those in need and by all the families involved. I want to commend you for a job well done.

Mr. Bookhout also informed me that you had just retired as the Itinerant Public Health Nurse; I wish you the very best in your future endeavors.

Sincerely,

Jay S. Hammond
Governor

bcc: Barbara Shaffer

JSH/mlp

P.K.
3-4.

September 4, 1975

Trooper Gilbert Pelowook
Alaska State Troopers
P.O. Box 112
Sovoonga, Alaska 99769

Dear Gil:

I am extremely proud of your heroic efforts in helping the accident victims in the August 30 plane crash on Saint Lawrence Island. Your efforts are a credit to the Department of Public Safety, Alaska State Troopers, to all of the citizens of Alaska, and to myself personally.

It speaks well of all Troopers when one member performs in such an exemplary manner. I am told through your individual efforts, many accident victims are today alive, who might otherwise have perished in the tragic accident.

For your outstanding efforts, I am pleased to present to you the STATE OF ALASKA AWARD FOR BRAVERY-HEROISM. You join a distinguished list of Alaskans who have shown their love for their fellow man through individual unselfish actions, often at their own great personal risk. For this, I commend you.

Sincerely,

Jay S. Hammond
Governor

SF:clm

P.P.F.
3-1

September 5, 1975

ALASKA AWARD FOR BRAVERY-HEROISM

We have many valuable resources in the State of Alaska, but by far the most prized is our people. Throughout our history, Alaska has had a number of severe disasters, including earthquakes, floods, wind storms, and fires. Some have affected whole sections of the State, some affected large cities, some affected individual towns. But regardless of the size of the disaster, or the number of people affected, Alaskans have traditionally pitched in to help.

At a time when citizens in some parts of the country seem more apathetic, Alaskans still are demonstrating a willingness to help each other and that is what makes the people of this State our greatest resource.

The residents of Gambell are the most recent example of this outstanding Alaskan quality of helping others when help is needed.

Following the tragic plane crash on Saint Lawrence Island on August 30, the residents of Gambell were instrumental in helping those who were injured. Through their efforts in aiding the accident victims by taking them from the crash site across difficult terrain to Gambell and caring for them until additional help arrived, the citizens of Gambell helped avert further injury or death.

Because of the high qualities of service to their fellow man exhibited by the citizens of Gambell during this tragic accident, I, Jay S. Hammond, Governor of the State of Alaska, am honored to present the

ALASKA AWARD FOR BRAVERY-HEROISM

to the residents of Gambell.

Governor

October 27, 1975

The Honorable Conrad Oozeva
Mayor of Gambell
P. O. Box 111
Gambell, Alaska 99742

Dear Mayor Oozeva:

As Governor of Alaska, I wish thank you and the residents of Gambell for the outstanding heroism demonstrated in helping persons involved in the airplane crash on August 30. With this letter, I am enclosing a State Heroism Award and the statement I made to honor the people of Gambell. I am sending them to you as Mayor of Gambell and hope you will personally extend my thanks to all who helped so bravely.

I wish I were able to come to Gambell to thank you all, individually. That, however, has not been possible as you are aware by now. I used the radio as a means to publicly thank the residents of Gambell.

Please also extend my thanks to Ray Oozevasuk who accepted for the people of Gambell while he was in Nome.

I am proud of all of the people of Gambell for their outstanding assistance in this tradegy. You demonstrated the highest qualities of service to your fellow man.

Sincerely,

Jay S. Hammond
Governor

Enclosures

SF:cjs


HCR
18

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

RECEIVED
MAR 1 1983

Bill No: House Concurrent Resolution #18 Date on Bill: February 16, 1983
Title: Relating to displaying the flags of the U.S. of American & the State of AK
Sponsor: Fritz, Russell and Liska
Requestor: House State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			-0-	-0-	-0-			
Operating			-0-	-0-	-0-			
Total			-0-	-0-	-0-			

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

There is no fiscal impact regarding HCR 18.

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Michael A. Nizich Phone: 465-3616
Division: Administrative Services/Executive Office Date: 2/25/83

Approved by Commissioner: Laura F. Herman Date: 2/28/83
Department: Office of the Governor

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

HCR 18

Presently, the Dept. of Transportation, Building and Maintenance section is responsible for raising and lowering the flags during normal business hours. ~~Although~~ HCR 18 specifies that a person be hired to fill a 24-hour shift to tend to the flags in front of the Court Building and Office Building, and that the flags be illuminated. (Please note: the only way that a flag can fly at night, is that it must be illuminated); The DOT also cares for the flags in front of the Governor's Mansion and the State Museum.

The Governor's Mansion or Museum are not mentioned in this bill.

[redacted]

Introduced: 2/16/83
Referred: State Affairs
and Finance

IN THE HOUSE BY FRITZ, BUSSELL AND LISKA

HOUSE CONCURRENT RESOLUTION NO. 18

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to displaying the flags of the United States of America and the State of Alaska.

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

WHEREAS the monotony of daily life in government tends to blunt the senses and sensibility; and

WHEREAS color and action tend to minimize this monotony; and

WHEREAS patriotism is or should be the prime mover of every elected official; and

WHEREAS the display of the national and state flags day and night during clement weather would do much to dispel monotony, initiate or augment patriotism and act as a stirring reminder to elected officials as to why they are here;

BE IT RESOLVED that the Alaska State Legislature respectfully requests the Governor to have the flag of the United States of America and the flag of the State of Alaska displayed day and night during clement weather on the existing stainless steel flag poles in the court yard of the Juneau court building and office buildings; and be it

FURTHER RESOLVED that a person on duty on each shift 24 hours a day, seven days a week, have the solemn duty to raise and lower the flags according to flag etiquette and maintain the flags, fittings, and halyards in pristine condition by respectful replacement maintenance and repair; and be it

FURTHER RESOLVED that proper photoelectrically activated spotlights be mounted on the Alaska State Capitol and Juneau Court and Office buildings

1 to illuminate the flags at night.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

RECEIVED
MAR 2 1983

Bill No: HCR 18 Date on Bill: 3/16/83
Title: Relating to displaying the flags of the United States of America and the State
Sponsor: of Alaska.
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating			0	0	0	0		
Total			0	15.0	0	0		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions: This includes flagpoles, photoelectric cells, 9 spotlights, and installation.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: [signature] Phone: 465-2200
Division: Deputy Commissioner of Administrative Management Date: March 2, 1983

Approved by Commissioner: [signature] for Date: March 2, 1983
Department: Department of Administration

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

IN THE HOUSE BY FRITZ, BUSSELL, AND LISKA

SPONSOR SUBSTITUTE FOR HOUSE CONCURRENT RESOLUTION NO. 18

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to displaying the flags of the United States of America and the State of Alaska.

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

~~WHEREAS the monotony of daily life in government often tends to blunt the senses and sensibility; and~~ must be displayed

~~WHEREAS color and action~~ tend to minimize this monotony; and

~~WHEREAS patriotism is~~ or should be the prime mover of every elected official and government employee; and flag of the United States and the Alaska

WHEREAS the display of the national and state flags according to flag etiquette would do much to ~~dispel monotony,~~ initiate or augment patriotism and act as a stirring reminder to elected officials and government employees as to why they are here;

BE IT RESOLVED that the Alaska State Legislature respectfully requests the Governor to have the flag of the United States of America and the flag of the State of Alaska displayed on the flag poles of all state office buildings and be it

FURTHER RESOLVED that a maintenance or security person on duty seven days a week, have the solemn duty to raise and lower the flags according to flag etiquette and maintain the flags, fittings, and halyards in pristine

condition by respectful replacement maintenance and repair; and be it

FINALLY RESOLVED that the flags be flown from 9:00 a.m. to 5:00 p.m. throughout Alaska because of the complete absence of sunrise and sunset in the Northern localities during portions of the winter months.

HCR

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150 boards, comm. & authorities

1300 people

~2000 on advisory committees

1% of state's population

"council does not work" L Carol Dougher

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H3

ADMINISTRATION OF JUSTICE, GOVERNOR'S COMMISSION ON THE
(AS 44.19.110) 13 members plus 2 required by Federal regulations; no term; serve at the pleasure of the Governor; members are subject to financial disclosure.

AGING, GOVERNOR'S ADVISORY COMMITTEE ON
Created by federal regulations. This advisory committee shall advise and assist the Governor, Commissioner of Health and Social Services and the Office of Aging on matters relating to the special needs of older Alaskans, age 60 and over. At least one-half of the membership shall consist of actual consumers of services under this program, including low income, and minority older persons, at least in proportion to the number of minority older persons in the state, with the remainder being broadly representative of the major public and private agencies and organizations in the state who are experienced in or have demonstrated particular interest in the special needs of the elderly. This committee shall meet preferably bi-monthly, but at least quarterly. Terms of the members run currently with the term of the governor.

AGRICULTURAL ACTION COUNCIL, ALASKA
(AS 44.33.400) There is established in the Department of Commerce and Economic Development the Alaska Agricultural Action Council; the council is composed of five (5) members appointed by the governor; the chairman of the council is to be designated by the governor from among the members; the term of a member is four (4) years; conflict of interest statement.

AGRICULTURAL REVOLVING LOAN FUND BOARD
(AS 03.10.050) - the board is composed of 5 members appointed by the governor and confirmed by the legislature in joint session. Three members shall be persons with background and experience in Alaska agriculture. Members of the board serve for overlapping three-year terms. Members of the board are not entitled to receive compensation for their services, but shall receive the same travel pay and per diem as provided by law for boards and commissions.

ALCOHOLIC BEVERAGE CONTROL BOARD
(AS 04.06.020) Director and 5 members appointed by the governor and confirmed by the Legislature; no member of the board may hold any other state or federal office either elective or appointive; 3-year term; serve at the pleasure of the governor; two members from industry, but not wholesalers, requires financial disclosure.

ALCOHOLISM, REVIEW BOARD ON
(AS 47.37.080) 9 members appointed by the governor; 4-year term; serve at the pleasure of the governor.

ARCHITECTS, ENGINEERS AND LAND SURVEYORS, STATE BOARD OF REGISTRATION FOR
(AS 08.48.011) 9 members appointed by the governor; 6-year term. The Board consists of two civil engineers, one land surveyor, one mining engineer, two engineers from other branches, and three architects. At least six members shall be registered engineers. Requires legislative confirmation.

AREA PLANNING BODY, REGION I
676.8
(a) Balance of State (BOS) prime sponsors, in coordination with units of general local government, shall make arrangements for appropriate area planning bodies

to assist in the effective planning and delivery of programs in the BOS (sec. 101[d]).
(b) The BOS shall appoint members of area planning bodies, considering nominations made by local elected officials. The membership shall be composed of groups and organizations which represent a broad cross section of the area to be served and should include the groups and organizations on the Prime Sponsor Planning Councils described in 676.7(b).
(c) The BOS shall convene the planning bodies at least quarterly to review plans and programs..
(d) Area planning bodies shall be given the opportunity to review and comment upon services to be provided in their area under the CETP.
(Federally funded.)

ARTS, ALASKA STATE COUNCIL ON THE
(AS 44.27.040) 11 members appointed by the governor; 3-year term; serve at the pleasure of the governor; subject to financial disclosure.

ASSESSMENT REVIEW BOARD, STATE
(AS 43.56.040) 5 members to serve at the pleasure of the governor; confirmation by the Legislature; members are subject to financial disclosure and there are no terms.

ATHLETIC COMMISSION
(AS 05.05.010) 4 members appointed by the governor; 1 from each of the 4 judicial districts, 2-year term overlapping; commissioner 5-year term; serve at the pleasure of the governor, requires legislative confirmation.

BARBERS AND HAIRDRESSERS, BOARD OF
(AS 08.13.010) 5 members; 2 barbers, 2 hairdressers and 1 public members. 3-year terms, members may not serve more than two consecutive terms. Legislative confirmation.

CATASTROPHIC ILLNESS COMMITTEE
(AS 47.25.255) no financial disclosure, no legislative confirmation, no term (3 members).

CHIROPRACTIC EXAMINERS, BOARD OF
(AS 08.20.002) 4 members shall be licensed chiropractic physicians who have practiced chiropractic in this state not less than 2 years. 1 public member with no direct financial interest in the health care industry. Serve without pay but are entitled to per diem and travel expenses. Four year terms. Legislative confirmation.

COASTAL POLICY COUNCIL, ALASKA
(AS 44.19.155) nine public members appointed by the governor from a list comprised of at least three names from each region, nominated by the municipalities of each region; nominees shall be the mayor or a member of the assembly or council of a municipality; one public member shall be appointed from each of the regions specified in the statute; 2-year terms, or to expire at a time when member is no longer an elected official, whichever comes sooner; financial disclosure.

CODE REVISION COMMISSION, ALASKA
(AS 24.20.075) the commission consists of two legislators, one public member, a designee of the chief justice of the supreme court; and a designee of the Alaska Bar Association. Legislative members serve at the pleasure of the presiding officer, and appointed members serve at the pleasure of the appointing authority. 1977 amended to add attorney employed by executive branch.

COLLECTION AGENCY BOARD
(AS 08.24.011) 5 members, 4 appointed by the governor, 1 designated by the commissioner of commerce from his staff; 3-year term; serve at the pleasure of the governor; requires legislative confirmation.

COMMERCIAL FISHING AND AGRICULTURE BANK - BOARD OF DIRECTORS
(AS 44.81.010) The bank is a public corporation and government instrumentality in the Department of Commerce and Economic Development but has a legal existence independent of and separate from the state. Except as otherwise provided in the chapter, the bank is subject to the provisions of AS 10.15.005 - 10.15.600. The bank shall be managed by a board of directors consisting of seven members. At least one member of the board shall be an Alaskan farmer with at least 10 years of Alaskan farm experience. Initial appointments to the board shall be made by the governor. Two of the initial appointments shall be made at the time of the first annual membership meeting of the bank. Thereafter, five board members shall be elected by the shareholders, with at least one of the elected board members being an Alaskan farmer with at least 10 years of Alaskan farm experience, and two board members shall be appointed by the governor until the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state. After repurchase is completed, all board members shall be elected by the shareholders. The board members shall annually elect a chairman from among themselves. The governor shall designate the two members whose position on the board will remain appointive for the period set out in (a) of this section. The members of the board shall serve for terms of three years and they may serve successive terms. Terms shall be staggered. Initial terms of the first five members appointed to the board shall be two members serving until the first annual membership meeting of the bank, two members serving until the second annual membership meeting of the bank, and one member serving until the third annual membership meeting of the bank. Initial terms of the two members appointed at the time of the first annual membership meeting of the bank shall be one member serving until the second annual meeting of the bank and one member serving until the third annual membership meeting of the bank.

COMMERCIAL FISHERIES ENTRY COMMISSION
(AS 16.43.020) 3 members; governor designates chairman for 2 years; 4-year terms; confirmed by the legislature; members are subject to financial disclosure.

CULTURAL FACILITIES, ADVISORY COUNCIL ON
(AS 44.33.400) There is in the Department of Commerce and Economic Development the Advisory Council on Cultural Facilities. The council consists of five (5) members, appointed by the governor from a list of candidates provided to him for that purpose by the State Council on the Arts. The members of the council are appointed for overlapping three-year terms.

DENTAL EXAMINERS, BOARD OF
(AS 08.36.010) 4 members shall be qualified resident dentists who have engaged in the practice of dentistry in the state for 5 years; one shall be a dental hygienist, and 2 public members. 4 year terms. A person who has served 2 successive complete terms may not be reappointed until 4 years from the expiration of the second term. Legislative confirmation.

DISPENSING OPTICIANS, BOARD OF
(AS 08.71.020) 4 opticians and on public member. Four year terms; a member who has served two consecutive terms may not be reappointed until four years from the expiration of the second term. Legislative Confirmation.

DRUG ABUSE, ADVISORY BOARD ON
(AS 44.29.100) 12 members appointed by the governor with 3-year overlapping terms; serve at the pleasure of the governor.

EDUCATION, BOARD OF
(AS 14.07.075) 7 members appointed by the governor and confirmed by the legislature; 5-year term; serve at the pleasure of the governor; the governor shall consider recommendations made by recognized educational associations in the state; subject to financial disclosure.

ELECTRICAL EXAMINERS, BOARD OF
(AS 08.40.010) 3 members, 2 members must be licensed electrical administrators and one of whom is a public member; 3-year terms, serve at the pleasure of the governor, a person may not be appointed to serve more than 2 consecutive terms on the board. Legislative confirmation.

EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL, STATE
(AS 18.08.020) council shall consist of 11 members appointed by the governor. Four members shall be consumers of emergency medical services, and one from each judicial district in the state. Members of the council shall be appointed for overlapping terms of 4-years.

EMPLOYMENT OF THE PHYSICALLY HANDICAPPED, GOVERNOR'S COMMITTEE ON
(AS 23.15.220) not more than 12 members; 3-year terms; serve at the pleasure of the governor.

EMPLOYMENT SECURITY ADVISORY COUNCIL
(AS 23.29.025) 5 members; 5-year term; serve at the pleasure of the governor; members are subject to financial disclosure. Under Alaska Employment Security Act - no legislative consultation.

EMPLOYMENT AND TRAINING COUNCIL, STATE
(White House Executive Order No. 11422) Serve at the pleasure of the Governor.

ENERGY CENTER, BOARD OF DIRECTORS, ALASKA
(AS 46.12.010) 9 members; seven appointed by the governor. 2 by the legislature jointly appointed by the president of the Senate and the speaker of the House at the beginning of each legislature. Governor's appointments serve 3-year terms with the original ones staggered at one, two and three years. 4 of Governor's appointments should be residents of the state and 3 of the board members shall have professional recognition. Members are compensated $350 per day of meetings. Financial Disclosure.

FIRE PREVENTION AND CONTROL, TASK FORCE
9 members appointed by the governor to be selected as follows: one member each selected from a list of nominees provided by the Alaska State Firefighters Association, International Association of Firefighters Chiefs Association, and from the Alaska Municipal League. Also on member representing insurance; a contractor or architect, a commissioner or executive officer of a regional native housing authority, educator from public schools and one public member. At least one member from each judicial district. Shall meet at least once every 3 months. Board terminates June 30, 1983.

FISHERIES, BOARD OF
(AS 16.05.221[a]) 7 members appointed by the governor. The Commissioner of Fish and Game is not a member of the board but shall be ex officio secretary. 3-year terms; legislative confirmation required.

FISHERIES COUNCIL, ALASKA
(Administrative Order #32) council shall be composed of no more than 20 members who are appointed by and serve at the pleasure of the governor.

FISHERMEN'S FUND ADVISORY AND APPEALS COUNCIL
(AS 23.35.010) Commissioner of Labor and 5 members appointed by the Governor for overlapping 5-year terms; members are subject to financial disclosure.

FORESTRY, BOARD OF
(AS 41.17.040) Consists of 14 members, 3-year staggered terms. Members of the board, except the state forester, do not serve at the pleasure of the governor. Governor makes initial appointment to the board in such a way that four appointments expire during the 1980, four expire during 1981, and three expire during 1982. State forester serves indefinite term, ex officio.

GAME, BOARD OF
(AS 16.05.221[b]) 7 members appointed by the governor. The Commissioner of Fish and Game is not a member of the board, but shall be ex officio secretary. 3-year terms. Legislative confirmation is required.

GEOGRAPHIC BOARD, STATE
(AS 44.19.056) 7 officials and 1 at-large; serve at the pleasure of the governor.

GROWTH POLICY COUNCIL, ALASKA
(Administrative Order No. 26) the council shall be composed of no more than 12 members who are appointed and serve at the pleasure of the governor. The council shall help develop a definition of critical problems affecting the development and growth of Alaska by: examining the implications of processes such as population growth, community change, rural development, economic maturation, national and internations influences, changing life styles, environmental quality and others; providing policy, program, and other recommendations to the governor; providing a stimulus to citizen, citizen-group, legislative, agency, or other input to the state government in the areas of council study; and producing at least one report annually detailing the findings, recommendations, and areas of study of the council. Staggered terms of three years each.

GUIDE LICENSING AND CONTROL BOARD
(AS 08.54.010) 7 members; no more than 3 with guide licenses; 3-year terms or until successor is appointed; serve at the pleasure of the governor; members are confirmed by the Legislature.

HANDICAPPED AND GIFTED, GOVERNOR'S COUNCIL FOR THE
(AS 47.08.030 contains no fewer than 18 and no more than 23 members appointed by the Governor in accordance with PL 91-517, PL 94-142, as amended and AS 14.3(?)) One-third of members shall be representatives of the principal state agencies concerned with services for handicapped or gifted persons, one-third shall be members who are developmentally disabled persons or parents or guardians of such persons, the remaining members shall be appointed to represent the public at large, local agencies, nongovernmental agencies, and groups concerned with services to handicapped or gifted persons. 3 year terms. Meet at a minimum of 3 times per year.

HISTORIC SITE ADVISORY COMMITTEE
(AS 41.35.110) 5 members appointed by the governor; with Museum Director and liaison officer; 3-year term; serve at the pleasure of the governor.

HISTORIC COMMISSION, ALASKA
(AS 44.19.461) 4 members; 2-year term; nominees submitted by Alaskan Historical Society.

HISTORICAL RECORDS ADVISORY BOARD, STATE
Board consists of a State Historical Records Coordinator (Chairman) appointed to a 4-year term, and at least 7 members including the Coordinator. Members serve a 3-year term, staggered so that one-third of the Board is newly-appointed or reappointed each year. A majority of the members must have recognized professional experience in administration of historical records or in a field of research that makes extensive use of such records. The Board should be as broadly representative as possible of the public and private archival and research institutions and organizations in the State. The State Archivist and the Executive Director of the Alaska Historical Commission are ex officio - members, one of whom must be appointed Coordinator.

HOUSING AUTHORITY, ALASKA STATE
(AS 18.55.020 and 39.05.060) commissioner of Commerce and four residents of the state, plus an executive director employed by the ASHA board, the members serve at the pleasure of the governor for 3-year staggered terms; members are subject to financial disclosure.

HOUSING FINANCE CORPORATION, ALASKA
(AS 18.56.030) Consists of the Commissioners of Revenue, and Commerce and Economic Development; 1 other Commissioner of a principal department, and 2 public members. 2 year terms, Financial Disclosure.

HUMAN RIGHTS, STATE COMMISSION FOR
(AS 18.80.010) 7 members appointed by the governor and confirmed by the legislature; 5-year staggered terms; executive director selected by commission and approved by the governor; subject to financial disclosure.

HUMANITIES FORUM, ALASKA
As set up by the National Endowment for the Humanities. Nominations sent to Alaska Humanities Forum, members appoint new members. Two appointments made by the Governor.

INDUSTRIAL DEVELOPMENT AUTHORITY, ALASKA
(AS 44.88.030) Consists of the Commissioners of Revenue and Commerce and Economic Development; one other Commissioner and 2 public members. 2 year terms.

INTERNATIONAL TRADE COMMI ION
(Administrative Order 57)

JUDICIAL COUNCIL
(Constitution, Article IV, Section 8) 7 members, 6-year terms; geographic distribution with three members elected by the Bar Association and 3 by the governor, members are subject to financial disclosure; the non-attorney members, and solely the non-attorney members are subject to legislative confirmation.

JUDICIAL QUALIFICATIONS, COMMISSION ON
(AS 22.30.010) 9 members; 7 members appointed by the courts and 2 members appointed by the governor and confirmed by legislature; 4-year terms; members are subject to financial disclosure. 7 members appointed by the court are on record with the Judicial Council.

JUVENILE JUSTICE ADVISORY COMMITTEE
(To Governor's Commission on Administration of Justice) (P.L. 93-415) Not less than 21 members and not more than 33. No term. At least 1/3 of the members shall be under the age of 24.

KING CRAB MARKETING AND QUALITY CONTROL BOARD, ALASKA
(AS 18.90.040) 6 members appointed by the governor from a list of persons recommended by the industry and confirmed by the legislature; 3-year terms.

LAW OF THE SEA, COMMISSION OF THE CONFERENCE OF THE
(AS 44.19.131) 4 public members appointed by the governor with a member of the House of Representatives, a member of the Senate, and an executive director; 6-year overlapping terms.

LIBRARIES, ADVISORY COUNCIL ON
(P.L. 91-600) 10 members appointed by the governor; 3-year staggered terms.

LITTER CONTROL ADVISORY COUNCIL
(AS 41.21.030) Council consists of seven members appointed by the Governor and serve at his pleasure.

LOCAL BOUNDARY COMMISSION
(AS 44.19.250) 5 members; 5-year overlapping terms; serve at the pleasure of the governor; one from each original senate district and chairman at-large; members are subject to financial disclosure.

MANPOWER PLANNING COUNCIL, GOVERNOR'S
(White House Executive Order No. 11422) Serve at the pleasure of the governor.

MARINE PILOTS, BOARD OF
(AS 08.62.010) 2 pilots, 2 agents or managers, and 2 public members. Not more than one pilot and one agent shall be from any one judicial district. 4-year terms, legislative confirmation.

MEDICAL BOARD, STATE
(AS 08.62.020) The governor shall appoint a board of medical examiners, consisting of five licensed physicians, residing in as many separate Alaska judicial districts as possible, and two persons with no direct financial interest in the health care industry; confirmation by the legislature; 4-year term.

MEDICAL FACILITIES AUTHORITY BOARD, ALASKA
(AS 18.26.010) 7 members on board of directors and 4 members appointed by the governor. Public members shall serve 4-year terms. Subject to financial disclosure.

MEDICAL INDEMNITY CORPORATION OF ALASKA
(AS 21.88.030) 9 members; 4 physicians licensed in the state with no more than 2 of the physicians living in a municipality having a population of more than 100,000, and administrator or chief executive officer employed by a hospital, 2 professional insurance representatives, and 2 persons who are not health care providers or representatives of the insurance industry. 3-year terms, serve at the pleasure of the governor.

MENTAL HEALTH SERVICES ADVISORY COUNCIL, STATE COMMUNITY
(AS 47.30.605) 12 members appointed by the governor who are interested and knowledgeable in mental health. No more than four members should be providers or direct mental health service; 3-year staggered terms.

MUNICIPAL BOND BANK BOARD
(AS 44.58.020) Commissioners of Revenue and Community and Regional Affairs serve as ex officio members with 3 members appointed by the governor; the 3 members serve at the pleasure of the governor for a 4-year term; subject to financial disclosure.

NURSING, BOARD OF
(AS 08.68.010) 5 members appointed by the governor from a list of qualified nurses prepared by the Alaska Nurses Association and 2 public members; 5-year term; Legislative confirmation.

NURSING HOME ADMINISTRATORS, BOARD OF
(AS 08.70.010) 5 members appointed by the governor; 4-year staggered terms; members consist of two nursing home administrators, one registered nurse, and two persons from the general public. Legislative confirmation required.

OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD
(AS 18.60.057) 3 members; one labor, one industry and one public appointed by the governor and confirmed by the legislature; 4-year term; members are subject to financial disclosure.

OIL AND GAS CONSERVATION COMMISSION, ALASKA
(AS 31.05.005) Composed of three commissioners appointed by the governor and confirmed by the legislature in joint session. The governor shall designate one member of the commission as chairman. This member shall serve as chairman for a term of 4 years, but may be appointed for successive terms. Term of each member is 6 years. Quasi-judicial. Financial disclosure. 1 licensed engineer w/educational and professional background in petroleum engineering; 1 geologist w/educational and professional background in petroleum geology; 1 w/no special requirements for such training. Legislative confirmation in joint session.

OPTOMETRY, BOARD OF EXAMINERS IN
(AS 08.72.010) 5 members; 4 shall be licensed optometrists who have been residents for at least three years, and one shall be a public member. A member cannot be reappointed after serving 2 full consecutive terms for one complete term. 4-year terms, legislative confirmation.

PACIFIC MARINE FISHERIES COMMISSION
(AS 16.45.020) 3 commissioners appointed by the governor; 4-year term; plus an advisory committee appointed by the commissioners.

PAROLE, STATE BOARD OF
(AS 33.15.010) 5 members appointed by the governor; 4-year term; members are subject to financial disclosure.

PERMANENT FUND CORPORATION, ALASKA
(AS 37.13.040) 6 members appointed by the Governor; 3 public members and 3 commissioner of principal departments, one of whom shall be the commissioner of revenue. 3-year terms, financial disclosure.

PERSONNEL BOARD
(AS 39.25.060) 3 members appointed by the governor and confirmed by the legislature; serve at the pleasure of the governor; members are subject to financial disclosure; 6-year term.

PHARMACY, BOARD OF
(AS 08.80.010) 7 members appointed by the governor and confirmed by the legislature; 5-year term.

PHYSICAL THERAPY BOARD, STATE
(AS 08.84.010) 5 members appointed by the governor; one physician, three physical therapists (or 2 physical therapists and a physical therapy assistant), and one lay person with no direct financial interest in health care industry. No member may serve more than 2 terms in succession. 4-year terms, legislative confirmation.

PIONEER'S HOME ADVISORY BOARD, ALASKA
(AS 44.21.100) 7 members appointed by the governor; serve at the pleasure of the governor.

PIPELINE COMMISSION, ALASKA
(AS 42.06.020) 3 members appointed by the governor and confirmed by the legislature; one 2-year term, one 4-year term, and one 6-year term; members are subject to financial disclosure.

POLICE STANDARDS COUNCIL, ALASKA
(AS 18.65.150-160) The APSC consists of nine members; four chief administrative officers or chiefs of police, four members of the public at large, and the commissioner of Public Safety. Members are appointed by the governor and serve four-year terms.

POSTSECONDARY EDUCATION, ALASKA COMMISSION ON
(AS 14.40.903) 13 members; 2 from Board of Regents, University of Alaska; 1 from private higher education, 1 from Department of Education, 5 from general public appointed by the governor, 1 from Advisory Council on Vocational Education, 1

from local community college advisory councils, 2 from legislative (1 from legislative council and 1 from legislative budget and audit committee); serve 4-year staggered terms; members appointed by bodies other than the governor serve at the pleasure of the appointing authority; members are subject to financial disclosure.

POWER AUTHORITY, ALASKA
(SLA 278; AS 44.83.010) 4 public members; financial disclosure; four-year terms.

PRIVATE INDUSTRY COUNCIL, ALASKA
Indefinite terms; no conflict of interest; no legislative confirmation.

PROFESSIONAL TEACHING PRACTICES COMMISSION
(AS 14.20.380-410) 9 members appointed by the governor and confirmed by the legislature; 3-year term. No more than two 3-year terms allowed.

PSYCHOLOGISTS AND PSYCHOLOGICAL ASSOCIATE EXAMINERS, BOARD OF
(AS 08.86.010) 5 members; 4 licensed psychologists and one person who has no direct financial interest in the health care industry. Four year terms; a person who has served two successive complete terms may not be reappointed until 4 years from the expiration of the second term. Legislative confirmation.

PUBLIC ACCOUNTANCY, ALASKA STATE BOARD OF
(AS 08.04.010) 7 members; 5 C.P.A's or public accountants and 2 public members, 3 year terms. Legislative Confirmation.

PUBLIC BROADCASTING COMMISSION, ALASKA
(AS 14.58.010) 9 members appointed by the governor; 5-year staggered terms; subject to financial disclosure.

PUBLIC OFFICES COMMISSION, ALASKA
(AS 15.13.020[b]) 5 members, 4 of which are submitted by list from central committee of respective political parties and remaining member chosen from committee itself; serve at the pleasure of the governor; members are subject to financial disclosure and legislative confirmation; 5-year terms.

PUBLIC UTILITIES COMMISSION, ALASKA
(AS 42.05.010) 5 members appointed by the governor and confirmed by the legislature; 6-year term; members are subject to financial disclosure.

REAL ESTATE COMMISSION
(AS 08.88.011) 7 members appointed by the governor from each judicial district and one at-large, but if none is available from the Second Judicial District, two shall be at-large and confirmed by the legislature; 4-year term.

REAPPORTIONMENT BOARD
(Section 8, Alaska Constitution); the Governor shall appoint a reapportionment board to act in an advisory capacity to him. It shall consist of five members, none of whom may be public employees or officials. At least one member each shall be appointed from the Southeastern, Southcentral, Central and Northwestern Senate Districts. Appointments shall be made without regard to political affiliation. Board members shall be compensated. The board shall select one of its members chairman.

REGENTS, UNIVERSITY OF ALASKA BOARD OF
(AS 14.40.120) 10 members with 1 student appointed by the governor and confirmed by the legislature; 8-year term with 1 student for 2-year term; members are subject to financial disclosure.

RENEWABLE RESOURCES CORPORATION BOARD OF TRUSTEES, ALASKA
(AS 37.12.010) 3 members appointed by governor. Board shall annually elect a chairman from among its members. A chairman may not succeed himself. 4-year, staggered terms. Members may be reappointed. Initial terms 2 years, 3 years, 4 years. Financial disclosure.

ROYALTY OIL AND GAS DEVELOPMENT ADVISORY BOARD
(AS 38.06.010) Commissioners of Natural Resources (chairman) and Revenue and 3 public members who are appointed by the governor; 3-year staggered terms; serve at the pleasure of the governor; financial disclosure.

RURAL DEVELOPMENT COUNCIL
13 members; 6 rural residents and a chairperson appointed by the governor, a member of each house of he legislature, commissioners of Transportation and Public Facilities, Commerce and Economic Development, Community and Regional Affairs, and the Director of the Division of Policy Development and Planning. Meet at least four times a year.

SCIENCE AND TECHNOLOGY, ALASKA COUNCIL ON
(AS 44.19.181) 7 members appointed by the governor upon the recommendations of state's scientific, engineering, and related communities and organizations. Overlapping 3-year terms. 2 members selected from different exec. departments of state government having significant research activities, 2 members shall be selected from Alaska academic community, 2 shall have significant activities or direct interests in research from the general public, and 1 shall be selected from the staff of the legislature.

SOIL CONSERVATION BOARD, ALASKA
(AS 41.10.040) 3 members appointed by the governor; 3-year term; serve at the pleasure of the governor.

STATEHOOD COMMISSION, ALASKA
(1980 Temporary and Special Acts, Chapter 161) 11 members; 5 appointed by the governor; 2 each by president of the Senate, speaker of the house and the legislative council. Board terminates beginning of thirteenth legislature in 1983.

STATEWIDE HEALTH COORDINATING COUNCIL
(AS 18.07.011) The council shall be organized in the manner described by paragraph 1524(b), P.L. 93-641, paragraph 237(a)(1)(A), P.L. 94-63 and AS 47.30.605(a). The council shall perform the functions listed in paragraph 1524(c), P.L. 93-641, paragraph 237(a)(1)(A), P.L. 94-63 and AS 47.30.605(b). (paragraph 2 ch 275 SLA 1976) 3 year terms.

STATUS OF WOMEN, GOVERNOR'S COMMISSION ON THE
(AS 44.19.165) 9 members; 3 with 1-year terms, 3 with 3-year term, and 3 with 5-year terms. (Commission terminates on June 30, 1983).

SURFACE MINING ADVISORY COMMITTEE

TEACHERS RETIREMENT BOARD, ALASKA
(AS 14.25.035) 5 members appointed by the governor; 3-year overlapping terms; members are subject to financial disclosure.

TOURISM ADVISORY BOARD
(AS 44.33.190) 11 members; 9 public members chosen by the governor with representatives from the House of Representatives and Senate; 3-year term; serve at the pleasure of the governor.

TRANSPORTATION COMMISSION, ALASKA
(AS 42.07.011) 3 members; 6-year terms; members are subject to financial disclosure and legislative confirmation.

TRANSPORTATION PLANNING COUNCIL
(Administrative Order No. 33) 9 members; serve at the pleasure of the governor; 3-year terms.

VETERINARY EXAMINERS, BOARD OF
(AS 08.98.010) 5 members appointed by the governor and confirmed by the legislature; 4-year term; serve at the pleasure of the governor.

VIOLENT CRIMES COMPENSATION BOARD
(AS 18.67.020) 3 members; 3-year terms; serve at the pleasure of the governor; legislative confirmation.

VOCATIONAL AND CAREER EDUCATION ADVISORY COUNCIL
(PL 94-482) 20 members; 3-year terms.

WATER RESOURCES BOARD
(AS 46.15.190) 7 members appointed by the governor; 4-year term.

WATER AND WASTEWATER WORKS ADVISORY BOARD
(AS 46.30.020) The board shall consist of Commissioner of Environmental Conservation; 8 members appointed by the governor and serve at the pleasure of the governor; 5-year terms.

WELDING EXAMINERS, BOARD OF
(AS 08.99.010-101) 7 members appointed by the governor from a list of persons prepared by the Alaska Chapter of the American Welding Society and the Alaska Society of Professional Engineers and submitted at least 30 days before the expiration of a term and not more than 60 days after a vacancy occurs in an unexpired term. The list shall contain not less than two recommended candidates for each appointment. The governor shall make appointments within 30 days after receiving list. Confirmed by the legislature; 5-year term.

WESTERN INTERSTATE COMMISSION FOR HIGH EDUCATION
(AS 14.40.690) 3 members appointed by the governor with the advice and consent of the legislature; 4-year term.

WOOD-TIKCHIK STATE PART MANAGEMENT COUNCIL
(AS 41.20.480) a seven-member Wood-Tikchik State Park Management Council is created and shall be appointed by the governor. The governor shall appoint one member of the council from three nominations submitted by him by each of the following:

(1) village council of Koliganek; (2) village council of New Stuyahok; (3) village council of Alegnagik; (4) the city council of Dillingham; (5) Bristol Bay Native Association, Inc.; (6) the commissioner of natural resources; (7) the commissioner of fish and game.

WORKER'S COMPENSATION BOARD, ALASKA
(AS 23.30.005) 7 members appointed by the governor, including a southern panel of three members sitting for the first judicial district, a northern panel of three members sitting for the second and fourth judicial districts, and a southcentral panel of three members sitting for the third judicial district. Each panel shall include the commissioner of labor or his designated representative, a representative of industry and a representative of labor. The latter two members of each panel shall be appointed by the governor. Confirmed by majority of the members of the legislature in joint session; commissioner of labor is chairman; 3-year terms; members are subject to financial disclosure.

I. REQUEST

Bill/Resolution No.: HCR No. 20

Title: Consl. & Elim. of Bds. and Comms.

Sponsor: Pestinger, Uehling & Bussell

Requestor: same

II. FISCAL DETAIL

Agency Affected: Office of the Governor

Program Category Affected: Executive Offic

BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		170.8				
200 TRAVEL		10.0				
300 CONTRACTUAL		17.3				
400 COMMODITIES		3.5				
500 EQUIPMENT		4.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	205.6	0	0		
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	205.6	0	0		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Source of funds unknown.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael Nizich, Director Phone: 465-3616

Division: Administrative Services Date: March 30, 1983

Approved by Commissioner: Laura A Ulman Date: March 30, 1983

Department: Office of the Governor

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

Copy to Department (for Governor introduced bills)

Copy to Sponsor

Copy to Requestor (if different from Sponsor)

3/8/83

Four positions will be required to achieve the consolidation and elimination of unnecessary boards and commissions.

		Salary	Benefit		
Legal Analyst	3,249 x 12	38,988 x .25	9,747	=	48,735
Budget Analyst	2,838 x 12	34,056 x .25	8,514	=	42,570
Research Analyst	2,463 x 12	29,556 x .25	7,389	=	36,945
Program Analyst	2,838 x 12	34,056 x .25	8,514	=	42,570

Travel Requirements	10.0
Display station and printer	6.0
Displaywriter and service	6.3
Data processing chargeback	5.0
General Commodities	3.5
Other Office Equipment	4.0
	$205,620

HCR

45

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HCR 45

Support

January 30, 1984

HCR - 45, Requesting a review of all terrain vehicle registrations.

The Department of Public Safety supports the intent of this resolution. The unique recreational and transportation opportunities in various areas of the state are well suited to the use of the three-wheeled ATVs and have contributed to their increased popularity. Many local governments and the state have recognized this popularity and have either established special use areas or established guidelines so that all recreational groups are served without infringing on the rights of others.

While these vehicles are popular and safe for recreational use, there are serious safety concerns regarding licensing them for general highway use. The manufacturer openly states that they are neither safe nor recommended for street use, and unfortunately this concern is validated by the growing number of injuries and fatalities caused by misuse of the ATVs. This has been the main factor in the Department's position not to register these ATVs for street use. However, this position should not exclude their recreational use on state or federal land where they would not conflict with other traffic.

The Department is in the process of reviewing other states' policies on ATVs and we will broaden this review to include the federal agencies having jurisdiction over lands in Alaska.

Robert J. Sundberg
Commissioner

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HCR 45
Title: Requesting review of all terrain vehicle regulations.
Sponsor: Grussendorf
Requestor: House State Affairs
Date of Request: 1-30-84

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Life and Property Protection
BRU, Program or Subprogram(s) Affected: Motor Vehicles

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No fiscal impact.

ANALYSIS: Attach a separate page for analysis

Prepared By: Charles R. Hosack CRH Phone: 269-5561
Division: Motor Vehicles Date: 1-30-84
Approved by Commissioner: Robert J. Sundberg Date: 1-31-84
Agency: Public Safety

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HJR

33

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

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Groh V. Egan-1974 Alaska Supreme Court case on reapportionment.(#3)

*[377 US 533]

*B. A. REYNOLDS, etc., et al., Appellants,

v

M. O. SIMS et al. (No. 23)

DAVID J. VANN and Robert S. Vance, Appellants,

v

AGNES BAGGETT, Secretary of State of Alabama, et al. (No. 27)

JOHN W. McCONNELL, JR., et al., Appellants,

v

AGNES BAGGETT, Secretary of State of Alabama, et al. (No. 41)

377 US 533, 12 L ed 2d 506, 84 S Ct 1362

[Nos. 23, 27 and 41]

Argued November 13, 1963. Decided June 15, 1964.

SUMMARY

Taxpayers and registered voters of two urban Alabama counties brought suit in the United States District Court for the Middle District of Alabama, challenging the validity of (1) the existing apportionment provisions for the Alabama legislature, which created a 35-member state senate elected from 35 districts varying in population from 15,417 to 634,864, and a 106-member state house of representatives with population-per-representative variances from 6,731 to 104,767; (2) a proposed state constitutional amendment creating a 67-member state senate with one senator per county, the counties varying in population from 10,726 to 634,864, and a 106-member state house of representatives with population-per-representative variances from 10,726 to 42,303; and (3) a "standby" statutory measure creating a 35-member state senate elected from 35 districts varying in population from 31,175 to 634,864, and a 106-member state house of representatives with population-per-representative variances from under 20,000 to over 52,000. The three-judge court held that, considered as a whole, all three apportionment schemes were unconstitutional, but in order to "break the strangle hold" of the rural counties on the legislature so that it could reapportion itself, the court ordered a temporary reapportionment following the proposed amendment's provisions with respect to the state house of representatives and the "standby" statutory measure's provisions with respect to the state senate. (208 F Supp 431.)

On direct appeals, the Supreme Court of the United States affirmed. In an opinion by WARREN, Ch. J., expressing the views of six members of the

Court, it was held that (1) as a basic constitutional requirement, the equal protection clause requires that the seats in both houses of a bicameral state legislature be apportioned on a population basis; (2) some deviations from the equal-population principle are constitutionally permissible with respect to either or both houses of a state legislature so long as such deviations are based on legitimate considerations incident to the effectuation of a rational state policy; (3) under these principles, the three plans in question were unconstitutional as a whole and in their separate parts relating to the respective houses of the legislature; and (4) the District Court acted properly in ordering temporary reapportionment.

CLARK, J., concurring in the affirmance, stated that the Court need only have ruled that each plan revealed invidious discrimination violative of the equal protection clause.

STEWART, J., expressed the view that the Alabama apportionment scheme violated the equal protection clause because it was irrational and arbitrary.

HARLAN, J., dissented on the ground that state legislative apportionments are wholly free of constitutional limitations except the guaranty to each state of a republican form of government, which cannot be the foundation for judicial relief.

SUBJECT OF ANNOTATION

Beginning on page 1282, infra

Inequalities in population of election districts or voting units as rendering apportionment unconstitutional

HEADNOTES

Classified to U. S. Supreme Court Digest, Annotated

Elections § 3 — right to vote — state and federal elections

1. The Constitution of the United States protects the right of all qualified citizens to vote, in state as well as in federal elections.

Elections §§ 15, 19 — altering ballots — stuffing ballot boxes

2. The constitutionally protected right of qualified citizens to vote and to have their votes counted cannot be denied outright, destroyed by alteration of ballots, or diluted by ballot-box stuffing.

Elections § 3 — right to vote

3. The Constitution of the United States secures the right of qualified voters within a state to cast their ballots and have them counted.

Elections § 3 — right to vote — nature

4. The right to vote is personal.

Elections § 15 — right to vote — infringement

5. Any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.

Pleading § 191 — constitutional claim — right to vote

6. A constitutional claim is asserted by an allegation that certain otherwise qualified voters were entirely pro-

ANNOTATION REFERENCES

1. Fourteenth Amendment as applied by federal courts to questions affecting nomination for, or election to, state offices. 88 L ed 509.

2. Inequalities in population of election districts or voting units as giving rise to a constitutional question. 93 L ed 11, 94 L ed 839.

3. Inequality of population or lack of compactness of territory as invalidating apportionment of representatives. 2 ALR 1337.

4. Race discrimination. 94 L ed 1121, 96 L ed 1291, 98 L ed 882, 100 L ed 488, 3 L ed 2d 1556, 6 L ed 2d 1302, 10 L ed 2d 1105.

hibited from voting for members of their state legislature.

Elections § 3 — weighting votes — constitutionality

7. A state law that in counting votes for legislators, the votes of citizens in one part of the state will be multiplied by two, five, or ten, while the votes of persons in another area will be counted only at face value, is not constitutionally sustainable.

[*See annotation reference* 1]

Constitutional Law § 316 — discrimination

8. The Federal Constitution forbids sophisticated as well as simple-minded modes of discrimination.

Citizenship § 2 — legislative bodies — participation

9. Each and every citizen has an inalienable right to full and effective participation in the political processes of his state's legislative bodies.

Elections § 3 — legislature — equality of votes

10. The Federal Constitution demands that each citizen have an equally effective voice in the election of members of his state legislature.

Elections § 1 — voters — relationship

11. With respect to the allocation of legislative representation, all voters, as citizens of a state, stand in the same relation, regardless of where they live.

Elections § 3 — legislative apportionment — discrimination

12. Any suggested criteria for the differentiation of citizens are insufficient to justify any discrimination, as to the weight of their votes, unless relevant to the permissible purposes of legislative apportionment.

[*See annotation reference* 1]

Constitutional Law § 334 — equal protection — right to vote.

13. The equal protection clause guarantees the opportunity for equal participation by all voters in the election of state legislators.

[*See annotation reference* 1]

Constitutional Law § 334 — weight of votes — place of residence

14. Diluting the weight of votes because of place of residence impairs basic constitutional rights under the Fourteenth Amendment just as much as invidious discriminations based upon factors such as race or economic status.

[*See annotation references* 1–4 *and annotation p.* 1282, *infra*]

Courts § 7; Supreme Court of the United States § 3 — constitutional rights — judicial protection

15. A denial of constitutionally protected rights demands judicial protection; the oath and office of Justice of the Supreme Court of the United States require no less of that court.

Courts § 92.3; States § 18 — state and federal power

16. When a state exercises power wholly within the domain of state interest, it is insulated from federal judicial review, but such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right.

Constitutional Law § 334 — malapportionment

17. However and whenever legislative malapportionment runs, it is constitutionally impermissible under the equal protection clause.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — legislative apportionment — population

18. Population is the starting point for consideration and the controlling criterion for judgment in legislative apportionment controversies.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Civil Rights § 5; Constitutional Law § 334 — legislative representation

19. The equal protection clause demands no less than substantially equal state legislative representation for all citizens, of all places as well as of all races.

[*See annotation references* 1–4 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — bicameral legislature — apportionment

20. As a basic constitutional requirement, the equal protection clause

requires that the seats in both houses of a bicameral state legislature be apportioned substantially on a population basis.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Elections § 3 — state legislators — diluting vote

21. An individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the state.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — apportionment — bicameral legislatures

22. The constitutional requirement that both houses of a bicameral state legislature must be apportioned on a population basis is not met by (1) currently effective provisions relating to the Alabama legislature, creating a 35-member state senate elected from 35 districts varying in population from 15,417 to 634,864, and a 106-member state house of representatives with population-per-representative variances from 6,731 to 104,767; or (2) a proposed state constitutional amendment creating a 67-member state senate with one senator per county, the counties varying in population from 10,726 to 634,864, and a 106-member state house of representatives with population-per-representative variances from 10,726 to 42,303; or (3) a "standby" statutory measure creating a 35-member state senate elected from 35 districts varying in population from 31,715 to 634,864, and a 106-member state house of representatives with population-per-representative variances from under 20,000 to over 52,000.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — apportionment — rationality

23. The constitutional requirement of rationality in legislative apportionment is not met by (1) currently effective provisions relating to the Alabama legislature, creating a 35-member state senate elected from 35 districts varying in population from 15,417 to 634,864, and a 106-member state house of representatives with population-per-representative variances from 6,731 to 104,767, or (2) a "standby" statutory measure creating a 35-member state senate elected from 35 districts varying in population from 31,715 to 634,864, and a 106-member state house of representatives with population-per-representative variances from under 20,000 to over 52,000.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — apportionment — lower house

24. While mathematical nicety is not a constitutional requisite, a state house of representatives is not apportioned sufficiently on a population basis to be sustainable under the equal protection clause where the population-per-representative disparities range from 10,726 to 42,303, and 43 percent of the state's population comprises districts which can elect a majority of the house.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Statutes § 25 — constitutionality — time of challenge

25. In a reapportionment case challenging the constitutionality of currently effective apportionment provisions relating to a state legislature, a federal district court properly considers the validity of two proposed apportionment plans even though neither is to become effective until a subsequent election and one of the plans is scheduled to be submitted to the state's voters, in a forthcoming election.

Constitutional Law § 334 — apportionment — federal analogy

26. In determining whether state legislative districting schemes are valid under the equal protection clause of the Federal Constitution, the analogy between the apportionment of seats in a state legislature and the apportionment of seats in the Congress of the United States is inapposite and irrelevant.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — apportionment— political subdivisions

27. A state legislative apportionment plan which grants equal representation in one legislative house to each political subdivision of the state is impermissible under the equal protection clause, since it results, in virtually every case, in submergence of the equal-population principle in at least one house of the state legislature.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — apportionment — degree of equality of population

28. The constitutional principle that both houses of a bicameral state legislature must be apportioned on a population basis requires that a state make an honest and good-faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable, even though it is a practical impossibility to arrange legislative districts so that each one has an identical number of residents, or citizens, or voters.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — apportionment — following political lines

29. In the apportionment of seats in a state legislature it is constitutionally permissible to follow political subdivision lines in establishing legislative districts so long as the resulting apportionment is one based substantially on population and the equal-population principle is not diluted in any significant way.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — apportionment — inequality of population

30. Some deviations from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral state legislature so long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational state policy.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — apportionment — equal population — disparity — justifications

31. Deviations from the equal-population principle in legislative apportionment are not justified by history alone, by economic or other sorts of group interests, or by considerations of area alone.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — apportionment — factors justifying unequal districts

32. As long as the basic standard of equality in population among legislative districts is maintained, claims that a state can rationally consider according political subdivisions some independent representation in at least one body of the state legislature are not insubstantial where much of the state legislature's activity involves the enactment of so-called local legislation, directed only to the concerns of particular political subdivisions, or it is desirable to construct districts along political subdivision lines to deter the possibilities of gerrymandering.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Legislature § 1 — size — state's discretion

33. Determining the size of its legislative bodies is a matter within the discretion of each individual state.

Constitutional Law § 334 — apportionment — one seat per county

34. The apportionment scheme of giving at least one seat to each political subdivision (for example, to each county) is constitutionally impermissible where it results in a total subversion of the equal-population principle in a legislative body, as in a state where the number of counties is large and many of them are sparsely populated, and the number of seats in the legislative body being apportioned does not significantly exceed the number of counties.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334 — legislative apportionment — political subdivisions

35. The right of a state's citizens to cast an effective and adequately weighted vote is unconstitutionally impaired where population is submerged as the controlling consideration in the apportionment of seats in the particular legislative body, even though this is a result of a clearly rational state policy of according some legislative representation to political subdivisions.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 334; States § 119 — apportionment plan — approval at time of admission to Union

36. Despite congressional approval of a state legislative apportionment plan at the time of the state's admission into the Union, the plan can later be held unconstitutional under the equal-population principle of the equal protection clause.

[*See annotation references* 1–3 *and annotation p.* 1282, *infra*]

Constitutional Law § 942 — apportionment — guaranty clause

37. A legislative apportionment scheme in which both houses are based on population satisfies Article 4, § 4, of the Federal Constitution, which guarantees to every state a republican form of government.

States § 119 — admission to Union — validity of state government

38. Congress presumably does not assume, in admitting states into the Union, to pass on all constitutional questions relating to the character of state governmental organization.

Legislature § 5 — apportionment — congressional approval

39. Congressional approval, however well-considered, does not validate an unconstitutional state legislative apportionment system.

[*See annotation p.* 1282, *infra*]

United States § 17 — congressional power — unconstitutional state acts

40. Congress lacks the constitutional power to insulate states from attack with respect to alleged deprivations of individual constitutional rights.

Legislature § 6 — apportionment — periodic revision

41. States may adopt some reasonable plan for periodic revision of their apportionment schemes.

Constitutional Law § 334 — legislative apportionment — frequency of revision

42. The equal protection clause does not require daily, monthly, annual, or biennial legislative apportionment so long as a state has a reasonably conceived plan for periodic adjustment of legislative representation.

[*See annotation references* 1–3]

Legislature § 6 — decennial reapportionment

43. Decennial reapportionment meets the minimal requirements for maintaining a reasonably current scheme of legislative representation.

[*See annotation references* 1–3]

Constitutional Law § 12 — state constitution — validity

44. State constitutional provisions should be deemed violative of the Federal Constitution only when validly asserted constitutional rights cannot otherwise be protected and effectuated.

Legislature § 6 — apportionment cases — relief

45. Insofar as possible, courts should attempt to accommodate the relief ordered in apportionment cases to the apportionment provisions of state constitutions.

[*See annotation references* 1–3]

Legislature § 5 — apportionment — state constitution

46. A state legislative apportionment scheme is no less violative of the Federal Constitution when it is based on state constitutional provisions which have been consistently complied with than when resulting from a noncompliance with state constitutional requirements.

[*See annotation references* 1–3]

Constitutional Law § 35 — supremacy clause — conflict between state and federal constitutions

47. When there is an unavoidable

conflict between the federal and a state constitution, the supremacy clause applies.

Legislature § 6 — misapportionment — withholding relief

48. Where an existing state legislative apportionment scheme is found invalid, a court is not usually justified in not taking appropriate action to insure that no further elections are conducted under the invalid plan, but equitable considerations may justify a court in withholding immediately effective relief, such as where an impending election is imminent and a state's election machinery is already in progress.

[*See annotation references* 1–3]

Legislature § 6 — apportionment cases — relief

49. In awarding or withholding immediate relief in an apportionment case, a court is entitled to and should consider the proximity of a forthcoming election and the mechanics and complexities of state election laws, and should act and rely on general equitable principles.

[*See annotation references* 1–3]

Legislature § 6 — apportionment cases — timing of relief

50. With respect to the timing of relief in an apportionment case, a court can reasonably endeavor to avoid a disruption of the election process which might result from requiring precipitate changes that could make unreasonable or embarrassing demands on a state in adjusting to the requirements of the court's decree.

[*See annotation references* 1–3]

Legislature § 6 — reapportionment — judicial relief

51. Legislative reapportionment is primarily a matter for legislative consideration and determination; judicial relief becomes appropriate only when a legislature fails to reapportion according to federal constitutional requirements in a timely fashion after having had an adequate opportunity to do so.

[*See annotation references* 1–3]

Legislature § 6 — apportionment cases — relief

52. In a legislative reapportionment case involving an invalid state apportionment scheme and two invalid proposed reapportionment plans, a federal district court acts properly in (1) declining to stay an impending primary election, (2) refraining from further action until the state legislature has been given an opportunity to remedy the existing scheme, (3) stating some of its views to provide guide lines for legislative action, (4) upon the legislature's failure to act effectively to remedy the existing scheme, ordering its own temporary reapportionment plan into effect by using the best parts of the two invalid proposed plans, and (5) retaining jurisdiction while deferring a hearing on the issuance of a final judgment, so as to give the provisionally reapportioned legislature an opportunity to act effectively.

[*See annotation references* 1–3]

APPEARANCES OF COUNSEL

W. McLean Pitts argued the cause for appellants in No. 23.

David J. Vann argued the cause for appellants in No. 27.

John W. McConnell, Jr., argued the cause for appellants in No. 41.

Charles Morgan, Jr., argued the cause for appellees in No. 23.

Richmond M. Flowers argued the cause for appellee, Richmond M. Flowers.

W. McLean Pitts argued the cause for appellees in Nos. 27 and 41.

Solicitor General Archibald Cox argued the cause for the United States, amicus curiae, by special leave of Court.

Briefs of Counsel, p 1279, infra.

OPINION OF THE COURT

*[377 US 536]
*Mr. Chief Justice Warren delivered the opinion of the Court.

Involved in these cases are an appeal and two cross-appeals from a decision of the Federal District Court for the Middle District of
*[377 US 537]
Alabama holding invalid, under *the Equal Protection Clause of the Federal Constitution, the existing and two legislatively proposed plans for the apportionment of seats in the two houses of the Alabama Legislature, and ordering into effect a temporary reapportionment plan comprised of parts of the proposed but judicially disapproved measures.[1]

I

On August 26, 1961, the original plaintiffs (appellees in No. 23), residents, taxpayers and voters of Jefferson County, Alabama, filed a complaint in the United States District Court for the Middle District of Alabama, in their own behalf and on behalf of all similarly situated Alabama voters, challenging the apportionment of the Alabama Legislature. Defendants below (appellants in No. 23), sued in their representative capacities, were various state and political party officials charged with the performance of certain duties in connection with state elections.[2] The complaint alleged a deprivation of rights under the Alabama Constitution and under the Equal Protection Clause of the Fourteenth Amendment, and asserted that the District Court had jurisdiction under provisions of the Civil Rights Act, 42 USC §§ 1983, 1988, as well as under 28 USC § 1343(3).

The complaint stated that the Alabama Legislature was composed of a Senate of 35 members and a House of Representatives of 106 members. It set out relevant portions of the 1901 Alabama Constitution, which prescribe the number of members of the two bodies of the
*[377 US 538]
*State Legislature and the method of apportioning the seats among the State's 67 counties, and provide as follows:

Art. IV, Sec. 50. "The legislature shall consist of not more than thirty-five senators, and not more than one hundred and five members of the house of representatives, to be apportioned among the several districts and counties, as prescribed in this Constitution; provided that in addition to the above number of representatives, each new county hereafter created shall be entitled to one representative."

Art. IX, Sec. 197. "The whole number of senators shall be not less than one-fourth or more than one-third of the whole number of representatives."

Art. IX, Sec. 198. "The house of representatives shall consist of not more than one hundred and five members, unless new counties shall be created, in which event each new county shall be entitled to one representative. The members of the

1. Sims v Frink, 208 F Supp 431 (DCMD Ala 1962). All decisions of the District Court in this litigation are reported sub nom Sims v Frink.

2. Included among the defendants were the Secretary of State and the Attorney General of Alabama, the Chairmen and Secretaries of the Alabama State Democratic Executive Committee and the State Republican Executive Committee, and three Judges of Probate of three counties, as representatives of all the probate judges of Alabama.

house of representatives shall be apportioned by the legislature among the several counties of the state, according to the number of inhabitants in them, respectively, as ascertained by the decennial census of the United States, which apportionment, when made, shall not be subject to alteration until the next session of the legislature after the next decennial census of the United States shall have been taken."

Art. IX, Sec. 199. "It shall be the duty of the legislature at its first session after the taking of the decennial census of the United States in the year nineteen hundred and ten, and after each subsequent decennial census, to fix by law the number of representatives and apportion them among the several counties of the state, according to the number of inhabitants in them,

*[377 US 539]

respectively; provided, that *each county shall be entitled to at least one representative."

Art. IX, Sec. 200. "It shall be the duty of the legislature at its first session after taking of the decennial census of the United States in the year nineteen hundred and ten, and after each subsequent decennial census, to fix by law the number of senators, and to divide the state into as many senatorial districts as there are senators, which districts shall be as nearly equal to each other in the number of inhabitants as may be, and each shall be entitled to one senator, and no more; and such districts, when formed, shall not be changed until the next apportioning session of the legislature, after the next decennial census of the United States shall have been taken; provided, that counties created after the next preceding apportioning session of the legislature may be attached to senatorial districts. No county shall be divided between two districts, and no district shall be made up of two or more counties not contiguous to each other."

Art. XVIII, Sec. 284. ". . . Representation in the legislature shall be based upon population, and such basis of representation shall not be changed by constitutional amendments."

The maximum size of the Alabama House was increased from 105 to 106 with the creation of a new county in 1903, pursuant to the constitutional provision which states that, in addition to the prescribed 105 House seats, each county thereafter created shall be entitled to one representative. Article IX, §§ 202 and 203, of the Alabama Constitution established precisely the boundaries of the State's senatorial and representative districts until the enactment of a new reapportionment plan by the legislature. These 1901 constitutional provisions, specifically describing the composition of the

*[377 US 540]

senatorial *districts and detailing the number of House seats allocated to each county, were periodically enacted as statutory measures by the Alabama Legislature, as modified only by the creation of an additional county in 1903, and provided the plan of legislative apportionment existing at the time this litigation was commenced.[3]

Plaintiffs below alleged that the last apportionment of the Alabama

3. Provisions virtually identical to those contained in Art IX, §§ 202 and 203, were enacted into the Alabama Codes of 1907 and 1923, and were most recently reenacted as statutory provisions in §§ 1 and 2 of Tit 32 of the 1940 Alabama Code (as recompiled in 1958).

Legislature was based on the 1900 federal census, despite the requirement of the State Constitution that the legislature be reapportioned decennially. They asserted that, since the population growth in the State from 1900 to 1960 had been uneven, Jefferson and other counties were now victims of serious discrimination with respect to the allocation of legislative representation. As a result of the failure of the legislature to reapportion itself, plaintiffs asserted, they were denied "equal suffrage in free and equal elections . . . and the equal protection of the laws" in violation of the Alabama Constitution and the Fourteenth Amendment to the Federal Constitution. The complaint asserted that plaintiffs had no other adequate remedy, and that they had exhausted all forms of relief other than that available through the federal courts. They alleged that the Alabama Legislature had established a pattern of prolonged inaction from 1911 to the present which "clearly demonstrates that no reapportionment . . . shall be effected"; that representation at any future constitutional convention would be established by the legislature, making it unlikely that the membership of any such convention would be fairly representative; and that, while the Alabama Supreme Court had found that the legislature had not complied with the State Constitution in failing to reappor-

*[377 US 541]

tion according *to population decennially,[4] that court had nevertheless indicated that it would not interfere with matters of legislative reapportionment.[5]

Plaintiffs requested that a three-judge District Court be convened.[6] With respect to relief, they sought a declaration that the existing constitutional and statutory provisions, establishing the present apportionment of seats in the Alabama Legislature, were unconstitutional under the Alabama and Federal Constitutions, and an injunction against the holding of future elections for legislators until the legislature reapportioned itself in accordance with the State Constitution. They further requested the issuance of a mandatory injunction, effective until such time as the legislature properly reapportioned, requiring the conducting of the 1962 election for legislators at large over the entire State, and any other relief which "may seem just, equitable and proper."

A three-judge District Court was convened, and three groups of voters, taxpayers and residents of Jefferson, Mobile, and Etowah Coun-

*[377 US 542]

ties were permitted to intervene *in the action as intervenor-plaintiffs. Two of the groups are cross-appel-

4. See Opinion of the Justices, 263 Ala 158, 164, 81 So 2d 881, 887 (1955), and Opinion of the Justices, 254 Ala 185, 187, 47 So 2d 714, 717 (1950), referred to by the District Court in its preliminary opinion, 205 F Supp 245, 247.

5. See Ex parte Rice, 273 Ala 712, 143 So 2d 848 (1962), where the Alabama Supreme Court, on May 9, 1962, subsequent to the District Court's preliminary order in the instant litigation as well as our decision in Baker v Carr, 369 US 186, 7 L ed 2d 663, 82 S Ct 691, refused to review a denial of injunctive relief sought against the conducting of the 1962 primary election until after reapportionment of the Alabama Legislature, stating that "this matter is a legislative function, and . . . the Court has no jurisdiction. . . ." And in Wald v Pool, 255 Ala 441, 51 So 2d 869 (1951), the Alabama Supreme Court, in a similar suit, had stated that the lower court had properly refused to grant injunctive relief because "appellants . . . are seeking interference by the judicial department of the state in respect to matters committed by the constitution to the legislative department." 255 Ala, at 442, 51 So 2d, at 870.

6. Under 28 USC §§ 2281 and 2284.

lants in Nos. 27 and 41. With minor exceptions, all of the intervenors adopted the allegations of and sought the same relief as the original plaintiffs.

On March 29, 1962, just three days after this Court had decided Baker v Carr, 369 US 186, 7 L ed 2d 663, 82 S Ct 691, plaintiffs moved for a preliminary injunction requiring defendants to conduct at large the May 1962 Democratic primary election and the November 1962 general election for members of the Alabama Legislature. The District Court set the motion for hearing in an order stating its tentative views that an injunction was not required before the May 1962 primary election to protect plaintiffs' constitutional rights, and that the Court should take no action which was not "absolutely essential" for the protection of the asserted constitutional rights before the Alabama Legislature had had a "further reasonable but prompt opportunity to comply with its duty" under the Alabama Constitution.

On April 14, 1962, the District Court, after reiterating the views expressed in its earlier order, reset the case for hearing on July 16, noting that the importance of the case, together with the necessity for effective action within a limited period of time, required an early announcement of its views. 205 F Supp 245. Relying on our decision in Baker v Carr, the Court found jurisdiction, justiciability and standing. It stated that it was taking judicial notice of the facts that there had been population changes in Alabama's counties since 1901, that the present representation in the State Legislature was not on a population basis, and that the legislature had never reapportioned its membership as required by the Alabama Constitution.[7] Continuing, the

*[377 US 543]

Court stated *that if the legislature complied with the Alabama constitutional provision requiring legislative representation to be based on population there could be no objection on federal constitutional grounds to such an apportionment. The Court further indicated that, if the legislature failed to act, or if its actions did not meet constitutional standards, it would be under a "clear duty" to take some action on the matter prior to the November 1962 general election. The District Court stated that its "present thinking" was to follow an approach suggested by Mr. Justice Clark in his concurring opinion in Baker v Carr[8]— awarding seats released by the consolidation or revamping of existing districts to counties suffering "the most egregious discrimination," thereby releasing the strangle hold on the legislature sufficiently so as to permit the newly elected body to enact a constitutionally valid and permanent reapportionment plan, and allowing eventual dismissal of the case. Subsequently, plaintiffs were permitted to amend their complaint by adding a further prayer for relief, which asked the District Court to reapportion the Alabama Legislature provisionally so that the rural strangle hold would be relaxed enough to permit it to reapportion itself.

On July 12, 1962, an extraordinary session of the Alabama Legis-

7. During the over 60 years since the last substantial reapportionment in Alabama, the State's population increased from 1,828,697 to 3,244,286. Virtually all of the population gain occurred in urban counties, and many of the rural counties incurred sizable losses in population.

8. See 369 US, at 260, 7 L ed 2d at 710 (Clark, J., concurring).

lature adopted two reapportionment plans to take effect for the 1966 elections. One was a proposed constitutional amendment, referred to as the "67-Senator Amendment."[9] It provided for a House of Representatives consisting of 106 mem-

*[377 US 544]

bers, apportioned by giving *one seat to each of Alabama's 67 counties and distributing the others according to population by the "equal proportions" method.[10] Using this formula, the constitutional amendment specified the number of representatives allotted to each county until a new apportionment could be made on the basis of the 1970 census. The Senate was to be composed of 67 members, one from each county. The legislation provided that the proposed amendment should be submitted to the voters for ratification at the November 1962 general election.

The other reapportionment plan was embodied in a statutory measure adopted by the legislature and signed into law by the Alabama Governor, and was referred to as the "Crawford-Webb Act."[11] It was enacted as standby legislation to take effect in 1966 if the proposed constitutional amendment should fail of passage by a majority of the State's voters, or should the federal courts refuse to accept the proposed amendment (though not rejected by the voters) as effective action in compliance with the requirements of the Fourteenth Amendment. The act provided for a Senate consisting of 35 members, representing 35 senatorial districts established along county lines, and altered only a few of the former districts. In apportioning the 106 seats in the Alabama House of Representatives, the statutory measure gave each county one seat, and apportioned the remaining 39 on a rough population basis, under a formula requiring increasingly more population for a county to be

*[377 US 545]

accorded *additional seats. The Crawford-Webb Act also provided that it would be effective "until the legislature is reapportioned according to law," but provided no standards for such a reapportionment. Future apportionments would presumably be based on the existing provisions of the Alabama Constitution which the statute, unlike the proposed constitutional amendment, would not affect.

The evidence adduced at trial before the three-judge panel consisted primarily of figures showing the population of each Alabama county and senatorial district according to the 1960 census, and the number of representatives allocated to each county under each of the three plans at issue in the litigation—the existing apportionment (under the 1901 constitutional provisions and the current statutory measures substantially reenacting the same plan), the proposed 67-Senator constitutional amendment, and the Crawford-Webb Act. Under all three plans, each senatorial district

9. Proposed Constitutional Amendment No. 1 of 1962, Alabama Senate Bill No. 29, Act No. 93, Acts of Alabama, Special Session, 1962, p. 124. The text of the proposed amendment is set out as Appendix B to the lower court's opinion. 208 F Supp, at 443–444.

10. For a discussion of this method of apportionment, used in distributing seats in the Federal House of Representatives among the States, and other commonly used apportionment methods, see Schmeckebier, The Method of Equal Proportions, 17 Law & Contemp Prob 302 (1952).

11. Alabama Reapportionment Act of 1962, Alabama House Bill No. 59, Act No. 91, Acts of Alabama, Special Session, 1962, p. 121. The text of the act is reproduced as Appendix C to the lower court's opinion. 208 F Supp, at 445–446.

would be represented by only one senator.

On July 21, 1962, the District Court held that the inequality of the existing representation in the Alabama Legislature violated the Equal Protection Clause of the Fourteenth Amendment, a finding which the Court noted had been "generally conceded" by the parties to the litigation, since population growth and shifts had converted the 1901 scheme, as perpetuated some 60 years later, into an invidiously discriminatory plan completely lacking in rationality. 208 F Supp 431. Under the existing provisions, applying 1960 census figures, only 25.1% of the State's total population resided in districts represented by a majority of the members of the Senate, and only 25.7% lived in counties which could elect a majority of the members of the House of Representatives. Population-variance ratios of up to about 41-to-1 existed in the Senate, and up to about 16-to-1 in the House. Bullock County, with a population of only 13,462, and Henry County, with a population of only 15,286, each were allocated two

*[377 US 546]

seats *in the Alabama House, whereas Mobile County, with a population of 314,301, was given only three seats, and Jefferson County, with 634,864 people, had only seven representatives.[12] With respect to senatorial apportionment, since the pertinent Alabama constitutional provisions had been consistently construed as prohibiting the giving of more than one Senate seat to any one county,[13] Jefferson County, with over 600,000 people, was given only one senator, as was Lowndes County, with a 1960 population of only 15,417, and Wilcox County, with only 18,739 people.[14]

The Court then considered both the proposed constitutional amendment and the Crawford-Webb Act to

*[377 US 547]

ascertain *whether the legislature had taken effective action to remedy the unconstitutional aspects of the existing apportionment. In initially summarizing the result which it had reached, the Court stated:

"This Court has reached the conclusion that neither the '67-Senator Amendment' nor the 'Crawford-Webb Act' meets the necessary constitutional requirements. We find that each of the legislative acts, when considered as a whole, is so

12. A comprehensive chart showing the representation by counties in the Alabama House of Representatives under the existing apportionment provisions is set out as Appendix D to the lower court's opinion. 208 F Supp, at 447–449. This chart includes the number of House seats given to each county, and the populations of the 67 Alabama counties under the 1900, 1950, and 1960 censuses.

13. Although cross-appellants in No. 27 assert that the Alabama Constitution forbids the division of a county, informing senatorial districts, only when one or both places will be joined with another county to form a multicounty district, this view appears to be contrary to the language of Art IX, § 200, of the Alabama Constitution and the practice under it. Cross-appellants contend that counties entitled by population to two or more senators can be split into the appropriate number of districts, and argue that prior to the adoption of the 1901 provisions the Alabama Constitution so provided and there is no reason to believe that the language of the present provision was intended to effect any change. However, the only apportionments under the 1901 Alabama Constitution—the 1901 provisions and the Crawford-Webb Act—gave no more than one seat to a county even though by population several counties would have been entitled to additional senatorial representation.

14. A chart showing the composition, by counties, of the 35 senatorial districts provided for under the existing apportionment, and the population of each according to the 1900, 1950, and 1960 censuses, is reproduced as Appendix E to the lower court's opinion. 208 F Supp, at 450.

obviously discriminatory, arbitrary and irrational that it becomes unnecessary to pursue a detailed development of each of the relevant factors of the [federal constitutional] test."[15]

The Court stated that the apportionment of one senator to each county, under the proposed constitutional amendment, would "make the discrimination in the Senate even more invidious than at present." Under the 67-Senator Amendment, as pointed out by the court below, "[t]he present control of the Senate by members representing 25.1% of the people of Alabama would be reduced to control by members representing 19.4% of the people of the State," the 34 smallest counties, with a total population of less than that of Jefferson County, would have a majority of the senatorial seats, and senators elected by only about 14% of the State's population could prevent the submission to the electorate of any future proposals to amend the State Constitution (since a vote of two-fifths of the members of one house can defeat a proposal to amend the Alabama Constitution). Noting that the "only conceivable rationalization" of the senatorial apportionment scheme is that it was based on equal representation of political subdivisions within the State and is thus analogous to the Federal Senate, the District Court rejected the analogy on

*[377 US 548]

the ground that Alabama *counties are merely involuntary political units of the State created by statute to aid in the administration of state government. In finding the so-called federal analogy irrelevant, the District Court stated:

"The analogy cannot survive the most superficial examination into the history of the requirement of the Federal Constitution and the diametrically opposing history of the requirement of the Alabama Constitution that representation shall be based on population. Nor can it survive a comparison of the different political natures of states and counties."[16]

The Court also noted that the senatorial apportionment proposal "may not have complied with the State Constitution," since not only is it explicitly provided that the population basis of legislative representation "shall not be changed by constitutional amendments,"[17] but the Alabama Supreme Court had previously indicated that that requirement could probably be altered only by constitutional convention.[18] The Court concluded, however, that the apportionment of seats in the Alabama House, under the proposed constitutional amendment, was "based upon reason, with a rational regard for known and accepted

15. 208 F Supp, at 437.

16. Id., at 438.

17. According to the District Court, in the interval between its preliminary order and its decision on the merits, the Alabama Legislature, despite adopting this constitutional amendment proposal, "refused to inquire of the Supreme Court of the State of Alabama whether this provision in the Constitution of the State of Alabama could be changed by constitutional amendment as the '67-Senator Amendment' proposes." 208 F Supp, at 437.

18. At least this is the reading of the District Court of two somewhat conflicting decisions by the Alabama Supreme Court, resulting in a "manifest uncertainty of the legality of the proposed constitutional amendment, as measured by State standards . . . . ." 208 F Supp, at 438. Compare Opinion of the Justices, 254 Ala 183, 184, 47 So 2d 713, 714 (1950), with Opinion of the Justices, 263 Ala 158, 164, 81 So 2d 881, 887 (1955).

*[377 US 549]

*standards of apportionment."[19] Under the proposed apportionment of representatives, each of the 67 counties was given one seat and the remaining 39 were allocated on a population basis. About 43% of the State's total population would live in counties which could elect a majority in that body. And, under the provisions of the 67-Senator Amendment, while the maximum population-variance ratio was increased to about 59-to-1 in the Senate, it was significantly reduced to about 4.7-to-1 in the House of Representatives. Jefferson County was given 17 House seats, an addition of 10, and Mobile County was allotted eight, an increase of five. The increased representation of the urban counties was achieved primarily by limiting the State's 55 least populous counties to one House seat each, and the net effect was to take 19 seats away from rural counties and allocate them to the more populous counties. Even so, serious disparities from a population-based standard remained. Montgomery County, with 169,210 people, was given only four seats, while Coosa County, with a population of only 10,726, and Cleburne County, with only 10,911, were each allocated one representative.

Turning next to the provisions of the Crawford-Webb Act, the District Court found that its apportionment of the 106 seats in the Alabama House of Representatives, by allocating one seat to each county and distributing the remaining 39 to the more populous counties in diminishing ratio to their populations, was "totally unacceptable."[20] Under this plan, about 37% of the

*[377 US 550]

State's total *population would reside in counties electing a majority of the members of the Alabama House, with a maximum population-variance ratio of about 5-to-1. Each representative from Jefferson and Mobile Counties would represent over 52,000 persons while representatives from eight rural counties would each represent less than 20,000 people. The Court regarded the senatorial apportionment provided in the Crawford-Webb Act as "a step in the right direction, but an extremely short step," and but a "slight improvement over the present system of representation."[21] The net effect of combining a few of the less populous counties into two-county districts and splitting up several of the larger districts into smaller ones would be merely to increase the minority which would be represented by a majority of the members of the Senate from 25.1% to only 27.6% of the State's population.[22] The Court pointed out that,

19. See the later discussion, infra, at 531, 532 and note 68, infra, where we reject the lower court's apparent conclusion that the apportionment of the Alabama House, under the 67-Senator Amendment, comported with the requirements of the Equal Protection Clause.

20. While no formula for the statute's apportionment of representatives is expressly stated, one can be extrapolated. Counties with less than 45,000 people are given one seat; those with 45,000 to 90,000 receive two seats; counties with 90,000 to 150,000, three seats; those with 150,000 to 300,000, four seats; counties with 300,000 to 600,000, six seats; and counties with over 600,000 are given 12 seats.

21. Appendix F to the lower court's opinion sets out a chart showing the populations of the 35 senatorial districts provided for under the Crawford-Webb Act and the composition, by counties, of the various districts. 208 F Supp, at 451.

22. Cross-appellants in No. 27 assert that the Crawford-Webb Act was a "minimum-change measure" which merely redrew new senatorial district lines around the nominees of the May 1962 Democratic primary so as to retain the seats of 34

under the Crawford-Webb Act, the vote of a person in the senatorial district consisting of Bibb and Perry Counties would be worth 20 times that of a citizen in Jefferson County, and that the vote of a citizen in the six smallest districts would be worth 15 or more times that of a Jefferson County voter. The Court concluded

*[377 US 551]

that the Crawford-*Webb Act was "totally unacceptable" as a "piece of permanent legislation" which, under the Alabama Constitution, would have remained in effect without alteration at least until after the next decennial census.

Under the detailed requirements of the various constitutional provisions relating to the apportionment of seats in the Alabama Senate and House of Representatives, the Court found, the membership of neither house can be apportioned solely on a population basis, despite the provision in Art. XVIII, § 284, which states that "[r]epresentation in the legislature shall be based upon population." In dealing with the conflicting and somewhat paradoxical requirements (under which the number of seats in the House is limited to 106 but each of the 67 counties is required to be given at least one representative, and the size of the Senate is limited to 35 but it is required to have at least one-fourth of the members of the House, although no county can be given more than one senator), the District Court stated its view that "the controlling or dominant provision of the Alabama Constitution on the subject of representation in the Legislature" is the previously referred to language of § 284. The Court stated that the detailed requirements of Art. IX, §§ 197–200, "make is obvious that in *neither* the House nor the Senate can representation be based strictly and entirely upon population. . . . The result may well be that representation according to population *to some extent* must be required in *both* Houses if invidious discrimination in the legislative systems as a whole is to be avoided. Indeed, . . . it is the policy and theme of the Alabama Constitution to require representation according to population in both Houses as nearly as may be, while still complying with more detailed provisions."[23]

*[377 US 552]

*The District Court then directed its concern to the providing of an effective remedy. It indicated that it was adopting and ordering into effect for the November 1962 election a provisional and temporary reapportionment plan composed of the provisions relating to the House of Representatives contained in the 67-Senator Amendment and the provisions of the Crawford-Webb Act relating to the Senate. The Court noted, however, that "[t]he proposed reapportionment of the Senate in the 'Crawford-Webb Act,' unacceptable as a piece of permanent legislation, may not even break the strangle hold." Stating that it was retaining jurisdiction and deferring any hearing on plaintiffs' motion for a permanent injunction "until the Legislature, as provisionally reapportioned . . . , has an opportunity to provide for a true reapportionment of both Houses of the Alabama Legislature," the Court emphasized that its "moderate" action was designed to break the strangle hold by the smaller counties on the Alabama Legislature and would not suffice as a permanent reapportionment. On

of the 35 nominees, and resulted, in practical effect, in the shift of only one Senate seat from an overrepresented district to another underpopulated, newly created district.

23. 208 F Supp, at 439.

July 25, 1962, the Court entered its decree in accordance with its previously stated determinations, concluding that "plaintiffs . . . are denied equal protection . . . by virtue of the debasement of their votes since the Legislature of the State of Alabama has failed and continues to fail to reapportion itself as required by law." It enjoined the defendant state officials from holding any future elections under any of the apportionment plans that it had found invalid, and stated that the 1962 election of Alabama legislators could validly be conducted only under the apportionment scheme specified in the Court's order.

After the District Court's decision, new primary elections were held pursuant to legislation enacted in 1962 at the same special session as the proposed constitutional amendment and the Crawford-Webb

*[377 US 553]

Act, to be effective *in the event the Court itself ordered a particular reapportionment plan into immediate effect. The November 1962 general election was likewise conducted on the basis of the District Court's ordered apportionment of legislative seats, as Mr. Justice Black refused to stay the District Court's order. Consequently, the present Alabama Legislature is apportioned in accordance with the temporary plan prescribed by the District Court's decree. All members of both houses of the Alabama Legislature serve four-year terms, so that the next regularly scheduled election of legislators will not be held until 1966. The 1963 regular session of the Alabama Legislature produced no legislation relating to legislative apportionment,[24] and the legislature, which meets biennially, will not hold another regular session until 1965.

No effective political remedy to obtain relief against the alleged malapportionment of the Alabama Legislature appears to have been available.[25] No initiative procedure exists under Alabama law. Amendment of the State Constitution can be achieved only after a proposal is adopted by three-fifths of the members of both houses of the legislature and is approved by a majority of the people,[26] or as a result of a constitutional convention convened

*[377 US 554]

*after approval by the people of a convention call initiated by a majority of both houses of the Alabama Legislature.[27]

Notices of appeal to this Court from the District Court's decision were timely filed by defendants below (appellants in No. 23) and by two groups of intervenor-plaintiffs (cross-appellants in Nos. 27 and 41). Appellants in No. 23 contend that the District Court erred in holding the existing and the two proposed plans for the apportionment of seats in the Alabama Legislature unconstitutional, and that a federal

24. Possibly this resulted from an understandable desire on the part of the Alabama Legislature to await a final determination by this Court in the instant litigation before proceeding to enact a permanent apportionment plan.

25. However, a proposed constitutional amendment, which would have made the Alabama House of Representatives somewhat more representative of population but the Senate substantially less so, was rejected by the people in a 1956 referendum, with the more populous counties accounting for the defeat.

See the discussion in Lucas v Forty-Fourth General Assembly of Colorado, 377 US 736, 737, 12 L ed 2d 647, 648, with respect to the lack of federal constitutional significance of the presence or absence of an available political remedy.

26. Ala Const, Art XVIII, § 284.

27. Ala Const, Art XVIII, § 286.

court lacks the power to affirmatively reapportion seats in a state legislature. Cross-appellants in No. 27 assert that the court below erred in failing to compel reapportionment of the Alabama Senate on a population basis as allegedly required by the Alabama Constitution and the Equal Protection Clause of the Federal Constitution. Cross-appellants in No. 41 contend that the District Court should have required and ordered into effect the apportionment of seats in both houses of the Alabama Legislature on a population basis. We noted probable jurisdiction on June 10, 1963. 374 US 802, 10 L ed 2d 1029, 83 S Ct 1692.

II

Undeniably the Constitution of the United States protects the right of all qualified citizens to vote, in state as well as in federal elections.

Headnote 1

A consistent line of decisions by this Court in cases involving attempts to deny or restrict the right of suffrage has made this indelibly clear. It has been repeatedly recognized that all qualified voters have a constitutionally protected right to vote, Ex parte Yarbrough, 110 US 651, 28 L ed 274, 4 S Ct 152, and to have their votes counted, United States v Mosley, 238 US 383, 59 L ed 1355, 35 S Ct 904. In Mosley the Court stated that it is "as equally unquestionable that the right to have one's vote counted is as open to protection . . . as the right to put a ballot

*[377 US 555]

in a box." 238 US, *at 386, 59 L ed at 1357.

Headnote 2

The right to vote can neither be denied outright, Guinn v United States, 238 US 347, 59 L ed 1340, 35 S Ct 926, LRA1916A 1124, Lane v Wilson, 307 US 268, 83 L ed 1281, 59 S Ct 872, nor destroyed by alteration of ballots, see United States v Classic, 313 US 299, 315, 85 L ed 1368, 1377, 61 S Ct 1031, nor diluted by ballot-box stuffing, Ex parte Siebold, 100 US 371, 25 L ed 717, United States v Saylor, 322 US 385, 88 L ed 1341, 64 S Ct 1101. As the Court stated in Classic, "Obviously included within the right to choose, secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted . . . ." 313 US, at 315, 85 L ed at 1377. Racially based gerrymandering, Gomillion v Lightfoot, 364 US 339, 5 L ed 2d 110, 81 S Ct 125, and the conducting of white primaries, Nixon v Herndon, 273 US 536, 71 L ed 759, 47 S Ct 446, Nixon v Condon, 286 US 73, 76 L ed 984, 52 S Ct 484, 88 ALR 458, Smith v Allwright, 321 US 649, 88 L ed 987, 64 S Ct 757, 151 ALR 1110, Terry v Adams, 345 US 461, 97 L ed 1152, 73 S Ct 809, both of which result in denying to some citizens their right to vote, have been held to be constitutionally impermissible. And history has seen a continuing expansion of the scope of the right of suffrage in this country.[28] The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. And the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by

Headnote 3

28. The Fifteenth, Seventeenth, Nineteenth, Twenty-third and Twenty-fourth Amendments to the Federal Constitution all involve expansions of the right of suffrage. Also relevant, in this regard, is the civil rights legislation enacted by Congress in 1957 and 1960.

wholly prohibiting the free exercise of the franchise.[29]

*[377 US 556]

*In Baker v Carr, 369 US 186, 7 L ed 2d 663, 82 S Ct 691, we held that a claim asserted under the Equal Protection Clause challenging the constitutionality of a State's apportionment of seats in its legislature, on the ground that the right to vote of certain citizens was effectively impaired since debased and diluted, in effect presented a justiciable controversy subject to adjudication by federal courts. The spate of similar cases filed and decided by lower courts since our decision in Baker amply shows that the problem of state legislative malapportionment is one that is perceived to exist in a large number of the States.[30] In Baker, a suit involving an attack on the apportionment of seats in the Tennessee Legislature, we remanded to the District Court, which had dismissed the action, for consideration on the merits. We intimated no view as to the proper constitutional standards for evaluating the validity of a state legislative apportionment scheme. Nor did we give any consideration to the question of appropriate remedies. Rather, we simply stated:

"Beyond noting that we have no cause at this stage to doubt the District Court will be able to fashion relief if violations of constitutional rights are found, it is improper now to consider what remedy would be most appropriate if appellants prevail at the trial."[31]

*[377 US 557]

*We indicated in Baker, however, that the Equal Protection Clause provides discoverable and manageable standards for use by lower courts in determining the constitutionality of a state legislative apportionment scheme, and we stated:

"Nor need the appellants, in order to succeed in this action, ask the Court to enter upon policy determinations for which judicially manageable standards are lacking. Judicial standards under the Equal Protection Clause are well developed and familiar, and it has been open to courts since the enactment of the Fourteenth Amendment to determine, if on the particular facts they must, that a discrimination reflects *no* policy, but simply arbitrary and capricious action."[32]

Subsequent to Baker, we remanded several cases to the courts below for reconsideration in light of that decision.[33]

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29. As stated by Mr. Justice Douglas, dissenting, in South v Peters, 339 US 276, 279, 94 L ed 834, 838, 70 S Ct 641:

"There is more to the right to vote than the right to mark a piece of paper and drop it in a box or the right to pull a lever in a voting booth. The right to vote includes the right to have the ballot counted. . . . It also includes the right to have the vote counted at full value without dilution or discount. . . . That federally protected right suffers substantial dilution . . . [where a] favored group [h]as full voting strength . . . [and] the groups not in favor have their votes discounted."

30. Litigation challenging the constitutionality of state legislative apportionment schemes had been instituted in at least 34 States prior to the end of 1962—within nine months of our decision in Baker v Carr. See McKay, Political Thickets and Crazy Guilts: Reapportionment and Equal Protection, 61 Mich L Rev 645, 706–710 (1963), which contains an appendix summarizing reapportionment litigation through the end of 1962. See also David and Eisenberg, Devaluation of the Urban and Suburban Vote (1961); Goldberg, The Statistics of Malapportionment, 72 Yale LJ 90 (1962).

31. 369 US, at 198, 7 L ed 2d at 674.

32. Id., at 226, 7 L ed 2d at 691.

33. Scholle v Hare, 369 US 429, 8 L ed 2d 1, 82 S Ct 910 (Michigan); WMCA, Inc. v Simon, 370 US 190, 8 L ed 2d 430, 82 S Ct 1234 (New York).

In Gray v Sanders, 372 US 368, 9 L ed 2d 821, 83 S Ct 801, we held that the Georgia county unit system, applicable in statewide primary elections, was unconstitutional since it resulted in a dilution of the weight of the votes of certain Georgia voters merely because of where they resided. After indicating that the Fifteenth and Nineteenth Amendments prohibit a State from overweighting or diluting votes on the basis of race or sex, we stated:

"How then can one person be given twice or ten times the voting power of another person in a statewide election merely because he lives in a rural area or because he lives in the smallest rural county? Once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote—whatever their race, whatever their sex, whatever their

*[377 US 558]

occupation, *whatever their income, and wherever their home may be in that geographical unit. This is required by the Equal Protection Clause of the Fourteenth Amendment. The concept of 'we the people' under the Constitution visualizes no preferred class of voters but equality among those who meet the basic qualifications. The idea that every voter is equal to every other voter in his State, when he casts his ballot in favor of one of several competing candidates, underlies many of our decisions."[34]

Continuing, we stated that "there is no indication in the Constitution that homesite or occupation affords a permissible basis for distinguishing between qualified voters within the State." And, finally, we concluded: "The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote."[35]

We stated in Gray, however, that that case, "unlike Baker v Carr, . . . does not involve a question of the degree to which the Equal Protection Clause of the Fourteenth Amendment limits the authority of a State Legislature in designing the geographical districts from which representatives are chosen either for the State Legislature or for the Federal House of Representatives. . . . Nor does it present the question, inherent in the bicameral form of our Federal Government, whether a State may have one house chosen without regard to population."[36]

*[377 US 559]

*Of course, in these cases we are faced with the problem not presented in Gray—that of determining the basic standards and stating the applicable guidelines for implementing our decision in Baker v Carr.

In Wesberry v Sanders, 376 US 1, 11 L ed 2d 481, 84 S Ct 526, we held that attacks on the constitutionality of congressional districting plans enacted by state legislatures do not present nonjusticiable questions and should not be dismissed generally for "want of equity." We determined that the constitutional test for the validity of congressional districting schemes was one of substantial equality of population among the

34. 372 US, at 379-380, 9 L ed 2d at 829, 830.

35. Id., at 381, 9 L ed 2d at 830.

36. Id., at 376, 9 L ed 2d at 827. Later in the opinion we again stated:

"Nor does the question here have anything to do with the composition of the state or federal legislature. And we intimate no opinion on the constitutional phases of that problem beyond what we said in Baker v Carr . . . ." Id., at 378, 9 L ed 2d at 829.

various districts established by a state legislature for the election of members of the Federal House of Representatives.

In that case we decided that an apportionment of congressional seats which "contracts the value of some votes and expands that of others" is unconstitutional, since "the Federal Constitution intends that when qualified voters elect members of Congress each vote be given as much weight as any other vote . . . ." We concluded that the constitutional prescription for election of members of the House of Representatives "by the People," construed in its historical context, means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's." We further stated:

"It would defeat the principle solemnly embodied in the Great Compromise—equal representation in the House for equal numbers of people—for us to hold that, within the States, legislatures may draw the lines of congressional districts in such a way as to give some voters a greater voice in choosing a Congressman than others."[37]

We found further, in Wesberry, that "our Constitution's plain objective" was that "of making equal rep-

*[377 US 560]

resentation *for equal numbers of people the fundamental goal . . . ." We concluded by stating:

"No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right."[38]

Gray and Wesberry are of course not dispositive of or directly controlling on our decision in these cases involving state legislative apportionment controversies. Admittedly, those decisions, in which we held that, in statewide and in congressional elections, one person's vote must be counted equally with those of all other voters in a State, were based on different constitutional considerations and were addressed to rather distinct problems. But neither are they wholly inapposite. Gray, though not determinative here since involving the weighting of votes in statewide elections, established the basic principle of equality among voters within a State, and held that voters cannot be classified, constitutionally, on the basis of where they live, at least with respect to voting in statewide elections. And our decision in Wesberry was of course grounded on that language of the Constitution which prescribes that members of the Federal House of Representatives are to be chosen "by the People," while attacks on state legislative apportionment schemes, such as that involved in the instant cases, are principally based on the Equal Protection Clause of the Fourteenth Amendment. Nevertheless, Wesberry clearly established that the fundamental principle of representative government in this country is

*[377 US 561]

one of equal *representation for equal numbers of people, without regard to race, sex, economic status, or place of residence within a State. Our problem, then, is to ascertain, in the instant cases, whether there are any constitutionally cognizable principles which would justify departures from the basic standard of

37. 376 US, at 14, 11 L ed 2d at 490.

38. Id., at 17–18, 11 L ed 2d at 492.

equality among voters in the apportionment of seats in state legislatures.

III

A predominant consideration in determining whether a State's legislative apportionment scheme constitutes an invidious discrimination violative of rights asserted under the Equal Protection Clause is that the rights allegedly impaired are individual and personal in nature. As stated by the Court in United States v Bathgate, 246 US 220, 227, 62 L ed 676, 680, 38 S Ct 269, "[t]he right to vote is personal . . . ."[39] While the result of a court decision in a state legislative apportionment controversy may be to require the restructuring of the geographical distribution of seats in a state legislature, the judicial focus must be concentrated upon ascertaining whether there has been any discrimination against certain of the State's citizens which constitutes an impermissible impairment of their constitutionally protected right to vote. Like Skinner v Oklahoma, 316 US 535, 86 L ed 1655, 62 S Ct 1110, such a case "touches a sensitive and important area of human rights," and "involves one of the basic civil rights of man," presenting questions of alleged "invidious discriminations . . . against groups or types of individuals in violation of the constitutional guaranty of just and equal laws." 316 US, at 536, 541, 86 L ed at 1657, 1660. Undoubtedly, the right of suffrage is a fundamental matter *in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized. Almost a century ago, in Yick Wo v Hopkins, 118 US 356, 30 L ed 220, the Court referred to "the political franchise of voting" as "a fundamental political right, because preservative of all rights." 118 US, at 370, 30 L ed at 226.

Headnote 4

Headnote 5

Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and directly representative of the people, the right to elect legislators in a free and unimpaired fashion is a bedrock of our political system. It could hardly be gainsaid that a constitutional claim had been asserted by an allegation that certain otherwise qualified voters had been entirely prohibited from voting for members of their state legislature. And, if a State should provide that the votes of citizens in one part of the State should be given two times, or five times, or 10 times the weight of votes of citizens in another part of the State, it could hardly be contended that the right to vote of those residing in the disfavored areas had not been effectively diluted. It would appear extraordinary to suggest that a State could be constitutionally permitted

Headnote 6

*[377 US 562]

39. As stated by Mr. Justice Douglas, the rights sought to be vindicated in a suit challenging an apportionment scheme are "personal and individual," South v Peters, 339 US, at 280, 94 L ed at 838, and are "important political rights of the people," MacDougall v Green, 335 US 281, 288, 93 L ed 3, 9, 69 S Ct 1 (Douglas, J., dissenting.)

to enact a law providing that certain of the State's voters could vote two, five, or 10 times for their legislative representatives, while voters living elsewhere could vote only once. And it is inconceivable that

Headnote 7

a state law to the effect that, in counting votes for legislators, the votes of citizens in one part of the State would be multiplied by two, five, or 10, while the votes of persons in another area would be counted only at face value, could be constitutionally sustainable.

*[377 US 563]

Of course, the effect of *state legislative districting schemes which give the same number of representatives to unequal numbers of constituents is identical.[40] Overweighting and overvaluation of the votes of those living here has the certain effect of dilution and undervaluation of the votes of those living there. The resulting discrimination against those individual voters living in disfavored areas is easily demonstrable mathematically. Their right to vote is simply not the same right to vote as that of those living in a favored part of the State. Ten, five, or 10 of them must vote before the effect of their voting is equivalent to that of their favored neighbor. Weighting the votes of citizens differently, by any method or means, merely because of where they happen to reside, hardly seems justifiable. One must be ever

Headnote 8

aware that the Constitution forbids "sophisticated as well as simple-minded modes of discrimination." Lane v Wilson, 307 US 268, 275, 83 L ed 1281, 1287, 59 S Ct 872; Gomillion v Lightfoot, 364 US 339, 342, 5 L ed 2d 110, 113, 81 S Ct 125. As we stated in Wesberry v Sanders, supra:

"We do not believe that the Framers of the Constitution intended to permit the same vote-diluting discrimination to be accomplished through the device of districts containing widely varied numbers of inhabitants. To say that

*[377 US 564]

a vote is worth *more in one district than in another would . . . run counter to our fundamental ideas of democratic government . . . ."[41]

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40. As stated by Mr. Justice Black, dissenting, in Colegrove v Green, 328 US 549, 569-571, 90 L ed 1432, 1445, 66 S Ct 1198:

"No one would deny that the equal protection clause would . . . prohibit a law that would expressly give certain citizens a half-vote and others a full vote. . . . [T]he constitutionally guaranteed right to vote and the right to have one's vote counted clearly imply the policy that state election systems, no matter what their form, should be designed to give approximately equal weight to each vote cast. . . . [A] state legislature cannot deny eligible voters the right to vote for Congressmen and the right to have their vote counted. It can no more destroy the effectiveness of their vote in part and no more accomplish this in the name of 'apportionment' than under any other name."

41. 376 US, at 8, 11 L ed 2d at 487. See also id, at 17, 11 L ed 2d at 492, quoting from James Wilson, a delegate to the Constitutional Convention and later an Associate Justice of this Court, who stated:

"[A]ll elections ought to be equal. Elections are equal, when a given number of citizens, in one part of the state, choose as many representatives, as are chosen by the same number of citizens, in any other part of the state. In this manner, the proportion of the representatives and of the constituents will remain invariably the same." 2 The Works of James Wilson (Andrews ed 1896) 15.

And, as stated by Mr. Justice Douglas in MacDougall v Green, 335 US, at 288, 290, 93 L ed at 9, 10.

"[A] regulation . . . [which] discriminates against the residents of the populous counties of the state in favor of rural sections . . . lacks the equality to which the exercise of political rights is entitled under the Fourteenth Amendment.

"Free and honest elections are the very foundation of our republican form of government . . . . Discrimination against

State legislatures are, historically, the fountainhead of representative government in this country. A number of them have their roots in colonial times, and substantially antedate the creation of our Nation and our Federal Government. In fact, the first formal stirrings of American political independence are to be found, in large part, in the views and actions of several of the colonial legislative bodies. With the birth of our National Government, and the adoption and ratification of

*[377 US 565]

the Federal *Constitution, state legislatures retained a most important place in our Nation's governmental structure. But representative government is in essence self-government through the medium of elected representatives of the people, and each and every citizen

Headnote 9

has an inalienable right to full and effective participation in the political processes of his State's legislative bodies. Most citizens can achieve this participation only as qualified voters through the election of legislators to represent them. Full and effective participation by all citi-

Headnote 10

zens in state government requires, therefore, that each citizen have an equally effective voice in the election of members of his state legislature. Modern and viable state government needs, and the Constitution demands, no less.

Logically, in a society ostensibly grounded on representative government, it would seem reasonable that a majority of the people of a State could elect a majority of that State's legislators. To conclude differently, and to sanction minority control of state legislative bodies, would appear to deny majority rights in a way that far surpasses any possible denial of minority rights that might otherwise be thought to result. Since legislatures are responsible for enacting laws by which all citizens are to be governed, they should be bodies which are collectively responsive to the popular will. And the concept of equal protection has been traditionally viewed as requiring the uniform treatment of persons standing in the same relation to the governmental action questioned or challenged. With respect to

Headnote 11 Headnote 12

the allocation of legislative representation, all voters, as citizens of a State, stand in the same relation regardless of where they live. Any suggested criteria for the differentiation of citizens are insufficient to justify any discrimination, as to the weight of their votes, unless relevant to the permissible purposes of legislative apportionment. Since the achieving of fair and effective rep-

*[377 US 566]

resentation for all citizens *is concededly the basic aim of legislative apportionment, we con-

Headnote 13 Headnote 14

clude that the Equal Protection Clause guarantees the opportunity for equal participation by all voters in the election of state legislators. Diluting the weight of votes because of place of residence impairs basic constitutional rights under the

any group or class of citizens in the exercise of these constitutionally protected rights of citizenship deprives the electoral process of integrity . . . .

"None would deny that a state law giving some citizens twice the vote of other citizens in either the primary or general election would lack that equality which the Fourteenth Amendment guarantees. . . . The theme of the Constitution is equality among citizens in the exercise of their political rights. The notion that one group can be granted greater voting strength than another is hostile to our standards for popular representative government." (Douglas, J., dissenting).

Fourteenth Amendment just as much as invidious discriminations based upon factors such as race, Brown v Board of Education, 347 US 483, 98 L ed 873, 74 S Ct 686, 38 ALR2d 1180, or economic status, Griffin v Illinois, 351 US 12, 100 L ed 891, 76 S Ct 585, 55 ALR2d 1055, Douglas v California, 372 US 353, 9 L ed 2d 811, 83 S Ct 814. Our constitutional system amply provides for the protection of minorities by means other than giving them majority control of state legislatures. And the democratic ideals of equality and majority rule, which have served this Nation so well in the past, are hardly of any less significance for the present and the future.

We are told that the matter of apportioning representation in a state legislature is a complex and many-faceted one. We are advised that States can rationally consider factors other than population in apportioning legislative representation. We are admonished not to restrict the power of the States to impose differing views as to political philosophy on their citizens. We are cautioned about the dangers of entering into political thickets and mathematical quagmires. Our answer is this: a denial of constitutionally protected rights demands judicial protection; our oath and our office require no less of us. As stated in Gomillion v Lightfoot, supra:

"When a State exercises power wholly within the domain of state interest, it is insulated from federal judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right."[42]

*[377 US 567]

*To the extent that a citizen's right to vote is debased, he is that much less a citizen. The fact that an individual lives here or there is not a legitimate reason for overweighting or diluting the efficacy of his vote. The complexions of societies and civilizations change, often with amazing rapidity. A nation once primarily rural in character becomes predominantly urban.[43] Representation schemes once fair and equitable become archaic and outdated. But the basic principle of representative government remains, and must remain, unchanged—the weight of a citizen's vote cannot be made to depend on where he lives. Population is, of necessity, the starting point for consideration and the controlling

Headnote 14 Headnote 15 Headnote 16 Headnote 18

42. 364 US, at 347, 5 L ed 2d at 117.

43. Although legislative apportionment controversies are generally viewed as involving urban-rural conflicts, much evidence indicates that presently it is the fast-growing suburban areas which are probably the most seriously underrepresented in many of our state legislatures. And, while currently the thrust of state legislative malapportionment results, in most States, in underrepresentation of urban and suburban areas, in earlier times cities were in fact overrepresented in a number of States. In the early 19th century, certain of the seaboard cities in some of the Eastern and Southern States possessed and struggled to retain legislative representation disproportionate to population, and bitterly opposed according additional representation to the growing inland areas. Conceivably, in some future time, urban areas might again be in a situation of attempting to acquire or retain legislative representation in excess of that to which, on a population basis, they are entitled. Malapportionment can, and has historically, run in various directions. However and whenever it does, it is constitutionally impermissible under the Equal Protection Clause.

Headnote 17

criterion for judgment in legislative
*[377 US 568]
apportionment controversies.[44] *A citizen, a qualified voter, is no more nor no less so because he lives in the city or on the farm.
Headnote 14 This is the clear and strong command of our Constitution's Equal Protection Clause. This is an essential part of the concept of a government of laws and not men. This is at the heart of Lincoln's vision of "government of the people, by
Headnote 19 the people, [and] for the people." The Equal Protection Clause demands no less than substantially equal state legislative representation for all citizens, of all places as well as of all races.

IV

We hold that, as a basic constitutional standard, the Equal Protection Clause requires that
Headnote 20 the seats in both houses
Headnote 21 of a bicameral state legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with
Headnote 22 votes of citizens living in other parts of the State. Since, under neither the existing apportionment provisions nor either of the proposed plans was either of the houses of the Alabama Legislature apportioned on a population basis, the District Court correctly held that all three of these schemes were constitu-
Headnote 23 tionally invalid. Furthermore, the existing apportionment, and also to a lesser extent the apportionment under the Crawford-Webb Act, presented little more than crazy quilts, completely lacking in rationality, and could be found invalid on that basis alone.[45]
*[377 US 569]
Although *the District Court presumably found the apportionment of the Alabama House of Representatives under the 67-Senator Amendment to be acceptable, we conclude that the deviations from a strict population basis are too egregious to permit us to find that that body, under this proposed plan, was apportioned sufficiently on a population basis so as to permit the arrangement to be constitutionally sustained. Although about 43% of the State's total population would be required to comprise districts which could elect a majority in that body, only 39 of the 106 House seats were actually to be distributed on a population basis, as each of Alabama's 67 counties was given at least one representative, and population-vari-

44. The British experience in eradicating "rotten boroughs" is interesting and enlightening. Parliamentary representation is now based on districts of substantially equal population, and periodic reapportionment is accomplished through independent Boundary Commissions. For a discussion of the experience and difficulties in Great Britain in achieving fair legislative representation, see Edwards, Theoretical and Comparative Aspects of Reapportionment and Redistricting: With Reference to Baker v Carr, 15 Vand L Rev 1265, 1275 (1962). See also the discussion in Baker v Carr, 369 US, at 302–307, 7 L ed 2d at 735–738 (Frankfurter, J., dissenting.)

45. Under the existing scheme, Marshall County, with a 1960 population of 48,018, Baldwin County, with 49,088, and Houston County, with 50,718, are each given only one seat in the Alabama House, while Bullock County, with only 13,462, Henry County, with 15,286, and Lowndes County, with 15,417, are allotted two representatives each. And in the Alabama Senate, under the existing apportionment, a district comprising Lauderdale and Limestone Counties had a 1960 population of 98,135, and another composed of Lee and Russell Counties had 96,105. Conversely, Lowndes County, with only 15,417, and Wilcox County, with 18,739, are nevertheless single-county senatorial districts given one Senate seat each.

ance ratios of close to 5-to-1 would have existed. While
Headnote 24 mathematical nicety is not a constitutional requisite, one could hardly conclude that the Alabama House, under the proposed constitutional amendment, had been apportioned sufficiently on a population basis to be sustainable under the requirements of the Equal Protection Clause. And none of the other apportionments of seats in either of the bodies of the Alabama Legislature, under the three plans considered by the District Court, came nearly as close to approaching the required constitutional standard as did that of the House of Representatives under the 67-Senator Amendment.

Legislative apportionment in Alabama is signally illustrative and symptomatic of the seriousness of this problem in a number of the States. At the time this litigation was commenced, there had been no
*[377 US 570]
reapportionment *of seats in the Alabama Legislature for over 60 years.[46] Legislative inaction, coupled with the unavailability of any political or judicial remedy,[47] had resulted, with the passage of years, in the perpetuated scheme becoming little more than an irrational anachronism. Consistent failure by the Alabama Legislature to comply with state constitutional requirements as to the frequency of reapportionment and the bases of legislative representation resulted in a minority strangle hold on the State Legislature. Inequality of representation in one house added to the inequality in the other. With the crazy-quilt existing apportionment virtually conceded to be invalid, the Alabama Legislature offered two proposed plans for consideration by the District Court, neither of which was to be effective until 1966 and neither of which provided for the apportionment of even one of the two houses on a population basis. We find that the court below did not err in holding that neither of these proposed reapportionment schemes, considered as a whole, "meets the necessary constitutional requirements."

And we conclude that
Headnote 25 the District Court acted properly in considering these two proposed plans, although neither was to become effective until the 1966 election and the proposed constitutional amendment was scheduled to be submitted to the State's voters in November 1962.[48]
*[377 US 571]
*Consideration by the court below of the two proposed plans was clearly necessary in determining whether the Alabama Legislature had acted effectively to correct the admittedly existing malapportionment, and in ascertaining what sort of judicial relief, if any, should be afforded.

V

Since neither of the houses of the Alabama Legislature, under any of the three plans considered by the District Court, was apportioned on a population basis, we would be jus-

46. An interesting pre-Baker discussion of the problem of legislative malapportionment in Alabama is provided in Comment, Alabama's Unrepresentative Legislature, 14 Ala L Rev 403 (1962).

47. See the cases cited and discussed in notes 4–5, supra, where the Alabama Supreme Court refused even to consider the granting of relief in suits challenging the validity of the apportionment of seats in the Alabama Legislature, although it stated that the legislature had failed to comply with the requirements of the State Constitution with respect to legislative reapportionment.

48. However, since the District Court found the proposed constitutional amendment prospectively invalid, it was never in fact voted upon by the State's electorate.

tified in proceeding no further. However, one of the proposed plans, that contained in the so-called 67-Senator Amendment, at least superficially resembles the scheme of legislative representation followed in the Federal Congress. Under this plan, each of Alabama's 67 counties is allotted one senator, and no counties are given more than one Senate seat. Arguably, this is analogous to the allocation of two Senate seats, in the Federal Congress, to each of the 50 States, regardless of population. Seats in the Alabama House, under the proposed constitutional amendment, are distributed by giving each of the 67 counties at least one, with the remaining 39 seats being allotted among the more populous counties on a population basis. This scheme, at least at first glance, appears to resemble that prescribed for the Federal House of Representatives, where the 435 seats are distributed among the States on a population basis, although each State, regardless of its population, is given at least one Congressman. Thus, although there are substantial differences in underlying rationale and result,[49] *the 67-Senator Amendment, as proposed by the Alabama Legislature, at least arguably presents for consideration a scheme analogous to that used for apportioning seats in Congress.

*[377 US 572]

Much has been written since our decision in Baker v Carr about the applicability of the so-called federal analogy to state legislative apportionment arrangements.[50] After considering the matter, the court below concluded that no conceivable analogy could be drawn between the federal scheme and the apportionment of seats in the Alabama Legislature under the proposed constitu-

*[377 US 573]

Headnote 26

tional *amendment.[51] We agree with the District Court, and find the federal analogy inapposite and irrelevant to

49. Resemblances between the system of representation in the Federal Congress and the apportionment scheme embodied in the 67-Senator Amendment appear to be more superficial than actual. Representation in the Federal House of Representatives is apportioned by the Constitution among the States in conformity with population. While each State is guaranteed at least one seat in the House, as a feature of our unique federal system, only four States have less than 1/435 of the country's total population, under the 1960 census. Thus, only four seats in the Federal House are distributed on a basis other than strict population. In Alabama, on the other hand, 40 of the 67 counties have less than 1/106 of the State's total population. Thus, under the proposed amendment, over ⅔ of the total number of seats in the Alabama House would be distributed on a basis other than strict population. States with almost 50% of the Nation's total population are required in order to elect a majority of the members of the Federal House, though unfair districting within some of the States presently reduces to about 42% the percentage of the country's population which reside in districts electing individuals comprising a majority in the Federal House. Cf. Wesberry v Sanders, supra, holding such congressional districting unconstitutional. Only about 43% of the population of Alabama would live in districts which could elect a majority in the Alabama House, under the proposed constitutional amendment. Thus, it could hardly be argued that the proposed apportionment of the Alabama House was based on population in a way comparable to the apportionment of seats in the Federal House among the States.

50. For a thorough statement of the arguments against holding the so-called federal analogy applicable to state legislative apportionment matters, see, e.g., McKay, Reapportionment and the Federal Analogy (National Municipal League pamphlet 1962); McKay, The Federal Analogy and State Apportionment Standards, 38 Notre Dame Lawy. 487 (1963). See also Merrill, Blazes for a Trail Through the Thicket of Reapportionment, 16 Okla L Rev 59, 67–70 (1963).

51. 208 F Supp, at 438. See the discussion of the District Court's holding as to

state legislative districting schemes. Attempted reliance on the federal analogy appears often to be little more than an after-the-fact rationalization offered in defense of maladjusted state apportionment arrangements. The original constitutions of 36 of our States provided that representation in both houses of the state legislatures would be based completely, or predominantly, on population.[52] And the Founding Fathers clearly had no intention of establishing a pattern or model for the apportionment of seats in state legislatures when the system of representation in the Federal Congress was adopted.[53] Demonstrative of this is the fact that the Northwest Ordinance, adopted in the same year, 1787, as the Federal Constitution, provided for the apportionment of seats in territorial legislatures solely on the basis of population.[54]

*[377 US 574]

*The system of representation in the two Houses of the Federal Congress is one ingrained in our Constitution, as part of the law of the land. It is one conceived out of compromise and concession indispensable to the establishment of our federal republic.[55] Arising from unique historical circumstances, it is based on the consideration that in establishing our type of federalism a group of formerly independent States bound themselves together under one national government. Admittedly, the original 13 States surrendered some of their sovereignty in agreeing to join together "to form a more perfect Union." But at the heart of our constitutional system remains the concept of separate and distinct governmental entities which have delegated some, but not all, of their formerly held powers to the single national government. The fact that almost three-fourths of our present States were never in fact independently sovereign does not detract from our view that the so-called federal analogy is inapplicable as a sustaining precedent for state legislative apportionments. The developing history and growth of our republic cannot cloud the fact that, at the time of the inception of the system of representation in the Federal Congress, a compromise between the larger and smaller States on this matter averted a deadlock in the Constitutional Convention which had threatened to abort the birth of our Nation. In rejecting an asserted analogy to the federal electoral college in Gray v Sanders, supra, we stated:

"We think the analogies to the

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the applicability of the federal analogy earlier in this opinion, supra, at 518, 519.

52. Report of Advisory Commission on Intergovernmental Relations, Apportionment of State Legislatures 10–11, 45, 69 (1962).

53. Thomas Jefferson repeatedly denounced the inequality of representation provided for under the 1776 Virginia Constitution and frequently proposed changing the State Constitution to provide that both houses be apportioned on the basis of population. In 1816 he wrote that "a government is republican in proportion as every member composing it has his equal voice in the direction of its concerns . . . by representatives chosen by himself . . . ." Letter to Samuel Kercheval, 10 Writings of Thomas Jefferson (Ford ed 1899) 38. And a few years later, in 1819, he stated: "Equal representation is so fundamental a principle in a true republic that no prejudice can justify its violation because the prejudices themselves cannot be justified." Letter to William King, Jefferson Papers, Library of Congress, Vol. 216, p. 38610

54. Article II, § 14, of the Northwest Ordinance of 1787 stated quite specifically: "The inhabitants of the said territory shall always be entitled to the benefits . . . of a proportionate representation of the people in the Legislature."

55. See the discussion in Wesberry v Sanders, 376 US, at 9–14, 11 L ed 2d 487–490.

electoral college, to districting and redistricting, and to other phases of the problems of representation in state or federal legislatures or conventions are inapposite. The inclusion of the electoral college in the Constitution, as the result of specific historical concerns, validated the collegiate principle despite its inherent numerical inequality, but im-

*[377 US 575]

plied nothing about the use of *an analogous system by a State in a statewide election. No such specific accommodation of the latter was ever undertaken, and therefore no validation of its numerical inequality ensued."[56]

Political subdivisions of States—counties, cities, or whatever—never were and never have been considered as sovereign entities. Rather, they have been traditionally regarded as subordinate governmental instrumentalities created by the State to assist in the carrying out of state governmental functions. As stated by the Court in Hunter v City of Pittsburgh, 207 US 161, 178, 52 L ed 151, 159, 28 S Ct 40, these governmental units are "created as convenient agencies for exercising such of the governmental powers of the State as may be entrusted to them," and the "number, nature and duration of the powers conferred upon [them] . . . and the territory over which they shall be exercised rests in the absolute discretion of the State." The relationship of the States to the Federal Government could hardly be less analogous.

Thus, we conclude that the plan contained in the 67-Senator Amendment for apportioning seats in the Alabama Legislature cannot be sustained by recourse to the so-called federal analogy. Nor can any other inequitable state legislative apportionment scheme be justified on such an asserted basis. This does not necessarily mean that such a plan is irrational or involves something other than a "republican

Headnote 23

form of government." We conclude simply that such a plan is impermissible for the States under the Equal Protection Clause, since perforce resulting, in virtually every case, in submergence of the equal-population principle in at least one house of a state legislature.

Since we find the so-called federal analogy inapposite to a consideration of the constitutional validity of

*[377 US 576]

Headnote 20

state *legislative apportionment schemes, we necessarily hold that the Equal Protection Clause requires both houses of a state legislature to be apportioned on a population basis. The right of a citizen to equal representation and to have his vote weighted equally with those of all other citizens in the electic m-bers of one house of a ral state legislature would a t to little if States could effectively submerge the equal-population principle in the apportionment of seats in the other house. If such a scheme were permissible, an individual citizen's ability to exercise an effective voice in the only instrument of state government directly representative of the people might be almost as effectively thwarted as if neither house were apportioned on a population basis. Deadlock between the two bodies might result in compromise and concession on some issues. But in all too many cases the more probable result would be frustration of the majority will through minority veto in the house not apportioned on a population basis,

56. 372 US, at 378, 9 L ed 2d at 829.

stemming directly from the failure to accord adequate overall legislative representation to all of the State's citizens on a nondiscriminatory basis. In summary, we can perceive no constitutional difference, with respect to the geographical distribution of state legislative representation, between the two houses of a bicameral state legislature.

We do not believe that the concept of bicameralism is rendered anachronistic and meaningless when the predominant basis of representation in the two state legislative bodies is required to be the same—population. A prime reason for bicameralism, modernly considered, is to insure mature and deliberate consideration of, and to prevent precipitate action on, proposed legislative measures. Simply because the controlling criterion for apportioning representation is required to be the same in both houses does not mean that there will be no differences in the composition and complexion of the two bodies. Different constit-

*[377 US 577]

uencies *can be represented in the two houses. One body could be composed of single-member districts while the other could have at least some multimember districts. The length of terms of the legislators in the separate bodies could differ. The numerical size of the two bodies could be made to differ, even significantly, and the geographical size of districts from which legislators are elected could also be made to differ. And apportionment in one house could be arranged so as to balance off minor inequities in the representation of certain areas in the other house. In summary, these and other factors could be, and are presently in many States, utilized to engender differing complexions and collective attitudes in the two bodies of a state legislature, although both are apportioned substantially on a population basis.

VI

Headnote 28

By holding that as a federal constitutional requisite both houses of a state legislature must be apportioned on a population basis, we mean that the Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable. We realize that it is a practical impossibility to arrange legislative districts so that each one has an identical number of residents, or citizens, or voters. Mathematical exactness or precision is hardly a workable constitutional requirement.[57]

In Wesberry v Sanders, supra, the Court stated that congressional representation must be based on population as nearly as is practicable. In implementing the basic constitutional principle of representative government as enunciated by the Court in Wesberry—equality of

*[377 US 578]

population *among districts—some distinctions may well be made between congressional and state legislative representation. Since, almost invariably, there is a significantly larger number of seats in state legislative bodies to be distributed within a State than congressional seats, it may be feasible to use political subdivision lines to a greater extent in establishing state legislative districts than in congressional districting while still affording ade-

57. As stated by the Court in Bain Peanut Co. v Pinson, 282 US 499, 501, 75 L ed 432, 491, 51 S Ct 228, "We must remember that the machinery of government would not work if it were not allowed a little play in its joints."

quate representation to all parts of the State. To do so
Headnote 29 would be constitutionally valid, so long as the resulting apportionment was one based substantially on population and the equal-population principle was not diluted in any significant way. Somewhat more flexibility may therefore be constitutionally permissible with respect to state legislative apportionment than in congressional districting. Lower courts can and assuredly will work out more concrete and specific standards for evaluating state legislative apportionment schemes in the context of actual litigation. For the present, we deem it expedient not to attempt to spell out any precise constitutional tests. What is marginally permissible in one State may be unsatisfactory in another, depending on the particular circumstances of the case. Developing a body of doctrine on a case-by-case basis appears to us to provide the most satisfactory means of arriving at detailed constitutional requirements in the area of state legislative apportionment. Cf. Slaughter-House Cases, 16 Wall 36, 78–79, 21 L ed 394, 409. Thus, we proceed to state here only a few rather general considerations which appear to us to be relevant.

A State may legitimately desire to maintain the integrity of various political subdivisions, insofar as possible, and provide for compact districts of contiguous territory in designing a legislative apportionment scheme. Valid considerations may underlie such aims. Indiscriminate districting, without any regard for political subdivision or
*[377 US 579]
*natural or historical boundary lines, may be little more than an open invitation to partisan gerrymandering. Single-member districts may be the rule in one State, while another State might desire to achieve some flexibility by creating multimember[58] or floterial districts.[59] Whatever the means of accomplishment, the overriding objective must be substantial equality of population among the various districts, so that the vote of any citizen is approximately equal in weight to that of any other citizen in the State.

History indicates, however, that many States have deviated, to a greater or lesser degree, from the equal-population principle in the apportionment of seats in at least one house of their legisla-
Headnote 30 tures.[60] So long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational state policy, some deviations from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral state legislature. But neither history
Headnote 31 alone,[61] nor economic or
*[377 US 580]
other sorts of *group interests, are permissible factors in attempting to

58. But cf. the discussion of some of the practical problems inherent in the use of multimember districts in Lucas v Forty-Fourth General Assembly of Colorado, 377 US 731–732, 12 L ed 2d 644, 645.

59. See the discussion of the concept of floterial districts in Davis v Mann, 377 US 686, 687 note 2, 12 L ed 2d 614, 615.

60. For a discussion of the formal apportionment formulae prescribed for the allocation of seats in state legislatures, see Dixon, Apportionment Standards and Judicial Power, 38 Notre Dame Law. 367, 398–400 (1963). See also The Book of the States 1962–1963, 58–62.

61. In rejecting a suggestion that the representation of the newer Western States in Congress should be limited so that it

justify disparities from population-based representation. Citizens, not history or economic interests, cast votes. Considerations of area alone provide an insufficient justification for deviations from the equal-population principle. Again, people, not land or trees or pastures, vote. Modern developments and improvements in transportation and communications make rather hollow, in the mid-1960's, most claims that deviations from population-based representation can validly be based solely on geographical considerations. Arguments for allowing such deviations in order to insure effective representation for sparsely settled areas and to prevent legislative districts from becoming so large that the availability of access of citizens to their representatives is impaired are today, for the most part, unconvincing.

A consideration that appears to be of more substance in justifying some deviations from population-based representation in state legislatures is that of insuring some voice to political subdivisions, as political subdivisions. Several factors make more than in-
Headnote 32 substantial claims that a State can rationally consider according political subdivisions some independent representation in at least one body of the state legislature, as long as the basic standard of equality of population among districts is maintained. Local governmental entities are frequently charged with various responsibilities incident to the operation of state government. In many States much of the legislature's activity involves the enactment of so-called
*[377 US 581]
local *legislation, directed only to the concerns of particular political subdivisions. And a State may legitimately desire to construct districts along political subdivision lines to deter the possibilities of gerrymandering. However, permitting deviations from population-based representation does not mean that each local governmental unit or political subdivision can be given separate representation, regardless of population. Carried too far, a scheme of giving at least one seat in one house to each political subdivision (for example, to each county) could easily result, in many States, in a total subversion of the equal-population principle in that legislative body.[62] This would be especially true in a State where the number of counties is large and many of them are sparsely populated, and the number of seats in the legislative body being apportioned does not significantly exceed the number of counties.[63] Such a
Headnote 34 result, we conclude, would be constitutionally impermissible. And careful judicial

would never exceed that of the original States, the Constitutional Convention plainly indicated its view that history alone provided an unsatisfactory basis for differentiations relating to legislative representation. See Wesberry v Sanders, 376 US, at 14, 11 L ed 2d at 490. Instead, the Northwest Ordinance of 1787, in explicitly providing for population-based representation of those living in the Northwest Territory in their territorial legislatures, clearly implied that, as early as the year of the birth of our federal system, the proper basis of the legislative representation was regarded as being population.

62. See McKay, Political Thickets and Crazy Quilts: Reapportionment and Equal Protection, 61 Mich L Rev 645, 698–699 (1963).

63. Determining the size of its legislative bodies is of course a matter within the discretion of each individ-
Headnote 33 ual State. Nothing in this opinion should be read as indicating that there are any federal constitutional maximums or minimums on the size of state legislative bodies.

scrutiny must of course be given, in evaluating state apportionment schemes, to the character as well as the degree of deviations from a strict population basis. But if, even as a result of a
Headnote 35 clearly rational state policy of according some legislative representation to political subdivisions, population is submerged as the controlling consideration in the apportionment of seats in the particular legislative body, then the right of all of the State's citizens to cast an effective and adequately weighted vote would be unconstitutionally impaired.

*[377 US 582]
*VII

One of the arguments frequently offered as a basis for upholding a State's legislative apportionment arrangement, despite substantial disparities from a population basis in either or both houses, is grounded on congressional approval, incident to admitting States into the Union, of state apportionment plans containing deviations from the equal-population principle. Proponents of this argument contend that congressional approval of such schemes, despite their disparities from population-based representation, indicates that such arrangements are plainly sufficient as establishing a "republican form of government." As we stated in Baker v Carr, some
Headnote 36 questions raised under
Headnote 37 the Guaranty Clause are
Headnote 38 nonjusticiable, where
Headnote 39 "political" in nature and
Headnote 40 where there is a clear absence of judicially manageable standards.[64] Nevertheless, it is not inconsistent with this view to hold that, despite congressional approval of state legislative apportionment plans at the time of admission into the Union, even though deviating from the equal-population principle here enunciated, the Equal Protection Clause can and does require more. And an apportionment scheme in which both houses are based on population can hardly be considered as failing to satisfy the Guaranty Clause requirement. Congress presumably does not assume, in admitting States into the Union, to pass on all constitutional questions relating to the character of state governmental organization. In any event, congressional approval, however well-considered, could hardly validate an unconstitutional state legislative apportionment. Congress simply lacks the constitutional power to insulate States from attack with respect to alleged deprivations of individual constitutional rights.

*[377 US 583]
*VIII

That the Equal Protection Clause requires that both houses of a state legislature be apportioned on a population
Headnote 41 basis does not mean that States cannot adopt some reasonable plan for periodic revision of their apportionment schemes. Decennial reapportionment appears to be a rational approach to readjustment of legislative representation in order to take into account population shifts and growth. Reallocation of legislative seats every 10 years coincides with the prescribed practice in 41 of the States,[65] often honored

64. See 369 US, at 217-232, 7 L ed 2d at 685-694, discussing the nonjusticiability of malapportionment claims asserted under the Guaranty Clause.

65. Report of Advisory Commission on Intergovernmental Relations, Apportionment of State Legislatures 56 (1962). Additionally, the constitutions of seven

more in the breach than the observance, however. Illustratively, the Alabama Constitution requires decennial reapportionment, yet the last reapportionment of the Alabama Legislature, when this suit was brought, was in 1901. Limitations on the frequency of reapportionment are justified by the need for stability and continuity in the organization of the legislative system, although undoubtedly reapportioning no more frequently than every 10 years leads to some imbalance in the population of districts toward the end of the decennial period and also to the development of resistance to change on the part of some incumbent legis-

Headnote 42 lators. In substance, we
Headnote 43 do not regard the Equal Protection Clause as requiring daily, monthly, annual or biennial reapportionment, so long as a State has a reasonably conceived plan for periodic readjustment of legislative representation. While we do not intend to indicate that decennial reapportionment is a constitutional requisite, compliance with such an approach would clear-

*[377 US 584]

ly meet the minimal *requirements for maintaining a reasonably current scheme of legislative representation. And we do not mean to intimate that more frequent reapportionment would not be constitutionally permissible or practicably desirable. But if reapportionment were accomplished with less frequency, it would assuredly be constitutionally suspect.

IX

Although general provisions of the Alabama Constitution provide that the apportionment of seats in both houses of the Alabama Legislature should be on a population basis, other more detailed provisions clearly make compliance with both sets of requirements impossible. With respect to the operation of the Equal Protection Clause, it makes no difference whether a State's apportionment scheme is embodied in its constitution or in statutory provisions. In those States where the alleged malapportionment has resulted from noncompliance with state constitutional provisions which, if complied with, would result in an apportionment valid under the Equal Protection Clause, the judicial task of providing effective re-

lief would appear to be
Headnote 44 rather simple. We agree
Headnote 45 with the view of the Dis-
Headnote 46 trict Court that state
Headnote 47 constitutional provisions should be deemed violative of the Federal Constitution only when validly asserted constitutional rights could not otherwise be protected and effectuated. Clearly, courts should attempt to accommodate the relief ordered to the apportionment provisions of state constitutions insofar as is possible. But it is also quite clear that a state legislative apportionment scheme is no less violative of the Federal Constitution when it is based on state constitutional provisions which have been consistently complied with than when resulting from a noncompliance with state constitutional requirements. When there is an unavoidable conflict between the Federal and a State Constitution, the Supremacy Clause of course controls.

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other States either require or permit reapportionment of legislative representation more frequently than every 10 years. See also The Book of the States 1962–1963, 58–62.

*[377 US 585]
*X

We do not consider here the difficult question of the proper remedial devices which federal courts should utilize in state legislative apportionment cases.[66] Remedial techniques in this new and developing area of the law will probably often differ with the circumstances of the challenged apportionment and a variety of local conditions. It is enough to say now that, once a

Headnote 48

State's legislative apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to insure that no further elections are conducted under the invalid plan. However, under certain circumstances, such as where an impending election is imminent and a State's election machinery is already in progress, equitable considerations might justify a court in withholding the granting of immediately effective relief in a legislative apportionment case, even though the existing apportionment scheme was found invalid. In awarding or withholding

Headnote 49

immediate relief, a court is entitled to and should consider the proximity of a forthcoming election and the mechanics and complexities of state election laws, and should act and rely upon general equitable principles. With respect to the timing of relief, a court can reasonably en-

Headnote 50

deavor to avoid a disruption of the election process which might result from requiring precipitate changes that could make unreasonable or embarrassing demands on a State in adjusting to the requirements of the court's decree. As stated by Mr. Justice Douglas, concurring in Baker v Carr, "any relief accorded can be fashioned in the light of well-known principles of equity."[67]

*[377 US 586]
*We feel that the District Court in this case acted in a most proper and commendable manner. It initially acted wisely in declining to stay the impending primary election in Alabama, and properly refrained from acting further until the Alabama Legislature had been given an opportunity to remedy the admitted discrepancies in the State's legislative apportionment scheme, while initially stating some of its views to provide guidelines for legislative action. And it correctly

Headnote 51

recognized that legislative reapportionment is primarily a matter for legislative consideration and determination, and that judicial relief becomes appropriate only when a legislature fails to reapportion according to federal constitutional requisites in a timely fashion after having had an adequate opportunity to do so. Additionally, the court below acted with proper judicial restraint, after the Alabama Legislature had failed to act effectively in remedying the constitutional deficiencies in the State's legislative apportionment scheme, in ordering its own temporary reapportionment plan into effect, at a time sufficiently early to permit the holding of elections pursuant to that plan without great difficulty, and in prescribing a plan admittedly provisional in purpose so as not to usurp the primary responsibility for reapportionment which rests with the legislature.

66. Cf. Baker v Carr, 369 US 186, 198, 7 L ed 2d 663, 674, 82 S Ct 691. See also 369 US, at 250-251, 7 L ed 2d at 705 (Douglas, J., concurring), and passages from Baker quoted in this opinion, ante, at 524, and infra.

67. 369 US, at 250, 7 L ed 2d at 705.

We find, therefore, that the action taken by the District Court in this case, in ordering into effect a reapportionment of both houses of the Alabama Legislature for purposes of the 1962 primary and general elections, by using the best parts of the two proposed plans which it had found, as a whole, to be invalid,[68] was an appropriate and

Headnote 52

*[377 US 537]

*well-considered exercise of judicial power. Admittedly, the lower court's ordered plan was intended only as a temporary and provisional measure and the District Court correctly indicated that the plan was invalid as a permanent apportionment. In retaining jurisdiction while deferring a hearing on the issuance of a final injunction in order to give the provisionally reapportioned legislature an opportunity to act effectively, the court below proceeded in a proper fashion. Since the District Court evinced its realization that its ordered reapportionment could not be sustained as the basis for conducting the 1966 election of Alabama legislators, and avowedly intends to take some further action should the reapportioned Alabama Legislature fail to enact a constitutionally valid, permanent apportionment scheme in the interim, we affirm the judgment below and remand the cases for further proceedings consistent with the views stated in this opinion.

It is so ordered.

SEPARATE OPINIONS

Mr. Justice Clark, concurring in the affirmance.

The Court goes much beyond the necessities of this case in laying down a new "equal population" principle for state legislative apportionment. This principle seems to be an offshoot of Gray v Sanders, 372 US 368, 581, 9 L ed 2d 821, 831, 83 S Ct 801 (1963), i. e., "one person, one vote," modified by the "nearly as is practicable" admonition of Wesberry v Sanders, 376 US 1, 8, 11 L ed 2d 481, 487, 84 S Ct 526 (1964).[1]

*[377 US 588]

Whether "nearly as is *practicable" means "one person, one vote" qualified by "approximately equal" or "some deviations" or by the impossibility of "mathematical nicety" is not clear from the majority's use of these vague and meaningless phrases. But whatever the standard, the Court applies it to each house of the State Legislature.

It seems to me that all that the Court need say in this case is that each plan considered by the trial court is "a crazy quilt," clearly revealing invidious discrimination in each house of the Legislature and therefore violative of the Equal Protection Clause. See my concurring opinion in Baker v Carr, 369 US 186, 253–258, 7 L ed 2d 663, 706–709, 82 S Ct 691 (1962).

I, therefore, do not reach the question of the so-called "federal an-

68. Although the District Court indicated that the apportionment of the Alabama House under the 67-Senator Amendment was valid and acceptable, we of course reject that determination, which we regard as merely precatory and advisory since the court below found the overall plan, under the proposed constitutional amendment, to be unconstitutional. See 208 F Supp, at 440–441. See the discussion earlier in this opinion, supra, 531, 532.

1. Incidentally, neither of these cases, upon which the Court bases its opinion, is apposite. Gray involved the use of Georgia's county unit rule in the election of United States Senators and Wesberry was a congressional apportionment case.

alogy." But in my view, if one house of the State Legislature meets the population standard, representation in the other house might include some departure from it so as to take into account, on a rational basis, other factors in order to afford some representation to the various elements of the State. See my dissenting opinion in Lucas v Forty-Fourth General Assembly of Colorado, 377 US 741, 12 L ed 2d 650, 84 S Ct 1472.

Mr. Justice Stewart.

All of the parties have agreed with the District Court's finding that legislative inaction for some 60 years in the face of growth and shifts in population has converted Alabama's legislative apportionment plan enacted in 1901 into one completely lacking in rationality. Accordingly, for the reasons stated in my dissenting opinion in Lucas v Forty-Fourth General Assembly of Colorado, infra, p. 581 [published in this edition as part of WMCA v Lomenzo] I would affirm the judgment of the District Court holding that this apportionment violated the Equal Protection Clause.

I also agree with the Court that it was proper for the District Court, in framing a remedy, to adhere as

*[377 US 589]

closely *as practicable to the apportionments approved by the representatives of the people of Alabama, and to afford the State of Alabama full opportunity, consistent with the requirements of the Federal Constitution, to devise its own system of legislative apportionment.

Mr. Justice Harlan, dissenting.†

In these cases the Court holds that seats in the legislatures of six States[1] are apportioned in ways that violate the Federal Constitution. Under the Court's ruling it is bound to follow that the legislatures in all but a few of the other 44 States will meet the same fate.[2] These decisions, with Wesberry v Sanders, 376 US 1, 11 L ed 2d 481, 84 S Ct 526, involving congressional districting by the States, and Gray v Sanders, 372 US 368, 9 L ed 2d 821, 83 S Ct 801, relating to elections for statewide office, have the effect of placing basic aspects of state political systems under the pervasive overlordship of the federal judiciary. Once again,[3] I must register my protest.

*[377 US 590]

*PRELIMINARY STATEMENT.

Today's holding is that the Equal Protection Clause of the Fourteenth Amendment requires every State to structure its legislature so that all

† [This opinion also applies to WMCA, Inc. v Lomenzo (No. 20), p. 568, infra; Maryland Committee for Fair Representation v Tawes (No. 29), p. 595, infra; Davis v Mann (No. 69), p. 609, infra; Roman v Sincock (No. 307), p. 620, infra; and Lucas v Forty-Fourth Genera. Assembly of the State of Colorado (No. 508), p. 632, infra.]

1. Alabama, Colorado, Delaware, Maryland, New York, Virginia.

2. In the Virginia case, Davis v Mann, 377 US 678, 12 L ed 2d 609, 84 S Ct 1453, the defendants introduced an exhibit prepared by the staff of the Bureau of Public Administration of the University of Virginia in which the Virginia Legislature, now held to be unconstitutionally apportioned, was ranked eighth among the 50 States in "representativeness," with population taken as the basis of representation. The Court notes that before the end of 1962, litigation attacking the apportionment of state legislatures had been instituted in at least 34 States. Ante, p. 524, note 30. See infra, p. 555.

3. See Baker v Carr, 369 US 186, 330, 7 L ed 2d 663, 750, 82 S Ct 691, and the dissenting opinion of Frankfurter, J., in which I joined, id., 369 US at 266, 7 L ed 2d at 714; Gray v Sanders, 372 US 368, 382, 9 L ed 2d 821, 831, 83 S Ct 801; Wesberry v Sanders, 376 US 1, 20, 11 L ed 2d 481, 494, 84 S Ct 526.

the members of each house represent substantially the same number of people; other factors may be given play only to the extent that they do not significantly encroach on this basic "population" principle. Whatever may be thought of this holding as a piece of political ideology—and even on that score the political history and practices of this country from its earliest beginnings leave wide room for debate (see the dissenting opinion of Frankfurter, J., in Baker v Carr, 369 US 186, 266, 301–323, 7 L ed 2d 663, 714, 734–746, 82 S Ct 691)—I think it demonstrable that the Fourteenth Amendment does not impose this political tenet on the States or authorize this Court to do so.

The Court's constitutional discussion, found in its opinion in the Alabama cases (Nos. 23, 27, 41, ante, p. 506) and more particularly at pages 527–531 thereof, is remarkable (as, indeed, is that found in the separate opinions of my Brothers Stewart and Clark, ante, pp. 543, 542) for its failure to address itself at all to the Fourteenth Amendment as a whole or to the legislative history of the Amendment pertinent to the matter at hand. Stripped of aphorisms, the Court's argument boils down to the assertion that appellees' right to vote has been invidiously "debased" or "diluted" by systems of apportionment which entitle them to vote for fewer legislators than other voters, an assertation which is tied to the Equal Protection Clause only by the constitutionally frail tautology that "equal" means "equal."

Had the Court paused to probe more deeply into the matter, it would have found that the Equal Protection Clause was never intended to

*[377 US 591]

inhibit the States in choosing *any democratic method they pleased for the apportionment of their legislatures. This is shown by the language of the Fourteenth Amendment taken as a whole, by the understanding of those who proposed and ratified it, and by the political practices of the States at the time the Amendment was adopted. It is confirmed by numerous state and congressional actions since the adoption of the Fourteenth Amendment, and by the common understanding of the Amendment as evidenced by subsequent constitutional amendments and decisions of this Court before Baker v Carr, supra, made an abrupt break with the past in 1962.

The failure of the Court to consider any of these matters cannot be excused or explained by any concept of "developing" constitutionalism. It is meaningless to speak of constitutional "development" when both the language and history of the controlling provisions of the Constitution are wholly ignored. Since it can, I think, be shown beyond doubt that state legislative apportionments, as such, are wholly free of constitutional limitations, save such as may be imposed by the Republican Form of Government Clause (Const, Art IV, § 4),[4] the Court's action now bringing them within the

4. That clause, which manifestly has no bearing on the claims made in these cases, see V Elliot's Debates on the Adoption of the Federal Constitution (1845), 332–333, could not in any event be the foundation for judicial relief. Luther v Borden, 7 How 1, 42–44, 12 L ed 2d 581, 599; Ohio ex rel. Bryant v Akron Metropolitan Park District, 281 US 74, 79–80, 74 L ed 710, 715, 50 S Ct 228, 66 ALR 1460; Highland Farms Dairy, Inc. v Agnew, 300 US 608, 612, 81 L ed 835, 839, 57 S Ct 549. In Baker v Carr, supra, 369 US at 227, 7 L ed 2d at 691, the Court stated that reliance on the Republican Form of Government Clause "would be futile."

purview of the Fourteenth Amendment amounts to nothing less than an exercise of the amending power by this Court.

So far as the Federal Constitution is concerned, the complaints in these cases should all have been dismissed below for failure to state a cause of

*[377 US 592]

action, because what *has been alleged or proved shows no violation of any constitutional right.

Before proceeding to my argument it should be observed that nothing done in Baker v Carr, supra, or in the two cases that followed in its wake, Gray v Sanders and Wesberry v Sanders, supra, from which the Court quotes at some length, forecloses the conclusion which I reach.

Baker decided only that claims such as those made here are within the competence of the federal courts to adjudicate. Although the Court stated as its conclusion that the allegations of a denial of equal protection presented "a justiciable constitutional cause of action," 369 US, at 237, 7 L ed 2d at 697, it is evident from the Court's opinion that it was concerned all but exclusively with *justiciability* and gave no serious attention to the question whether the Equal Protection Clause touches state legislative apportionments.[5] Neither the opinion of the Court nor any of the concurring opinions considered the relevant text of the Fourteenth Amendment or any of the historical materials bearing on that question. None of the materials was briefed or otherwise brought to the Court's attention.[6]

*[377 US 593]

*In the Gray case the Court expressly laid aside the applicability to state legislative apportionments of the "one person, one vote" theory there found to require the striking down of the Georgia county unit system. See 372 US, at 376, 9 L ed 2d at 827, and the concurring opinion of Stewart, J., joined by Clark, J., id., at 381–382, 9 L ed 2d at 831.

In Wesberry, involving congressional districting, the decision rested on Art I, § 2, of the Constitution. The Court expressly did not reach the arguments put forward concerning the Equal Protection Clause. See 376 US, at 8, note 10, 11 L ed 2d at 487.

Thus it seems abundantly clear that the Court is entirely free to deal with the cases presently before it in light of materials now called to its attention for the first time. To these I now turn.

I

A. *The Language of the Fourteenth Amendment.*

The Court relies exclusively on

5. It is fair to say that, beyond discussion of a large number of cases having no relevance to this question, the Court's views on this subject were fully stated in the compass of a single sentence: "Judicial standards under the Equal Protection Clause are well developed and familiar, and it has been open to courts since the enactment of the Fourteenth Amendment to determine, if on the particular facts they must, that a discrimination reflects *no* policy, but simply arbitrary and capricious action." 369 US, at 226, 7 L ed 2d at 691. Except perhaps for the "crazy quilt" doctrine of my Brother Clark, 369 US, at 251, 7 L ed 2d at 705, nothing is added to this by any of the concurring opinions, id., at 241, 265, 7 L ed 2d at 700, 713.

6. The cryptic remands in Scholle v Hare, 369 US 429, 8 L ed 2d 1, 82 S Ct 916, and WMCA, Inc., v Simon, 370 US 190, 8 L ed 2d 430, 82 S Ct 1234, on the authority of Baker, had nothing to say on the question now before the Court.

that portion of § 1 of the Fourteenth Amendment which provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws," and disregards entirely the significance of § 2, which reads:

"Representatives shall be apportioned among the several States according to their respective numbers counting the whole number of persons in each State, excluding Indians not taxed. *But when the right to vote at any election for* the choice of electors for President and Vice President of the United States, Representatives in Congress, *the executive and Judicial officers of a State, or the members of the Legislature thereof, is denied* to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, *or in any way abridged*, except for participation in

*[377 US 594]

rebellion, or *other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State." (Emphasis added.)

The Amendment is a single text. It was introduced and discussed as such in the Reconstruction Committee,[7] which reported it to the Congress. It was discussed as a unit in Congress and proposed as a unit to the States,[8] which ratified it as a unit. A proposal to split up the Amendment and submit each section to the States as a separate amendment was rejected by the Senate.[9] Whatever one might take to be the application to these cases of the Equal Protection Clause if it stood alone, I am unable to understand the Court's utter disregard of the second section which expressly recognizes the States' power to deny "or in any way" abridge the right of their inhabitants to vote for "the members of the [State] Legislature," and its express provision of a remedy for such denial or abridgment. The comprehensive scope of the second section and its particular reference to the state legislatures precluded the suggestion that the first section was intended to have the result reached by the Court today. If indeed the words of the Fourteenth Amendment speak for themselves, as the majority's disregard of history seems to imply, they speak as clearly as may be against the construction which the majority puts on them. But we are not limited to the language of the Amendment itself.

*[377 US 595]

*B. *Proposal and Ratification of the Amendment.*

The history of the adoption of the Fourteenth Amendment provides conclusive evidence that neither those who proposed nor those who ratified the Amendment believed that the Equal Protection Clause limited the power of the States to apportion their legislatures as they saw fit. Moreover, the history demonstrates that the intention to leave this power undisturbed was deliberate and was widely believed to be essential to the adoption of the Amendment.

(i) Proposal of the amendment in Congress.—A resolution proposing what became the Fourteenth

7. See the Journal of the Committee, reprinted in Kendrick, The Journal of the Joint Committee of Fifteen on Reconstruction (1914), 83–117.

8. See the debates in Congress, Cong Globe, 39th Cong, 1st Sess, 2459–3149, passim (1866) (hereafter Globe).

9. Globe 3040.

Amendment was reported to both houses of Congress by the Reconstruction Committee of Fifteen on April 30, 1866.[10] The first two sections of the proposed amendment read:

"SEC. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

"SEC. 2. Representatives shall be apportioned among the several States which may be included within this Union, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever, in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of

*[377 US 596]

such male citizens *shall bear to the whole number of male citizens not less than twenty-one years of age."[11]

In the House, Thaddeus Stevens introduced debate on the resolution on May 8. In his opening remarks, Stevens explained why he supported the resolution although it fell "far short" of his wishes:

"I believe it is all that can be obtained in the present state of public opinion. Not only Congress but the several States are to be consulted. Upon a careful survey of the whole ground, we did not believe that nineteen of the loyal States could be induced to ratify any proposition more stringent than this."[12]

In explanation of this belief, he asked the House to remember "that three months since, and more, the committee reported and the House adopted a proposed amendment fixing the basis of representation in such way as would surely have secured the enfranchisement of every citizen at no distant period," but that proposal had been rejected by the Senate.[13]

He then explained the impact of the first section of the proposed Amendment, particularly the Equal Protection Clause.

"This amendment . . . allows Congress to correct the unjust legislation of the States, so far that the

*[377 US 597]

*law which operates upon one man shall operate *equally* upon all. Whatever law punishes a white man for a crime shall punish the black man precisely in the same way and to the same degree. Whatever law protects the white man shall afford 'equal' protection to the black man. Whatever means of redress is afforded to one shall be afforded to all. Whatever law allows the white man to testify in court shall allow the

10. Globe 2265, 2286.

11. As reported in the House. Globe 2286. For prior versions of the Amendment in the Reconstruction Committee, see Kendrick, op cit, supra, note 7, 83–117. The work of the Reconstruction Committee is discussed in Kendrick, supra, and Flack, The Adoption of the Fourteenth Amendment (1908), 55–139, passim.

12. Globe 2459.

13. Ibid. Stevens was referring to a proposed amendment to the Constitution which provided that "whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation." Globe 535. It passed the House, id., at 538, but did not muster the necessary two-thirds vote in the Senate, id., at 1289.

man of color to do the same. These are great advantages over their present codes. Now different degrees of punishment are inflicted, not on account of the magnitude of the crime, but according to the color of the skin. Now color disqualifies a man from testifying in courts, or being tried in the same way as white men. I need not enumerate these partial and oppressive laws. Unless the Constitution should restrain them those States will all, I fear, keep up this discrimination, and crush to death the hated freedmen."[14]

He turned next to the second section, which he said he considered "the most important in the article."[15] Its effect, he said, was to fix "the basis of representation in Congress."[16] In unmistakable terms, he recognized the power of a State to withhold the right to vote:

"If any State shall exclude any of her adult male citizens from the elective franchise, or abridge that right, she shall forfeit her right to representation in the same proportion. The effect of this provision will be either to compel the States to grant universal suffrage or so to shear them of their power as to keep them forever in a hopeless minority in the national Government, both legislative and executive."[17]

*[377 US 598]

*Closing his discussion of the second section, he noted his dislike for the fact that it allowed "the States to discriminate [with respect to the right to vote] among the same class, and receive proportionate credit in representation."[18]

Toward the end of the debate three days later, Mr. Bingham, the author of the first section in the Reconstruction Committee and its leading proponent,[19] concluded his discussion of it with the following:

"Allow me, Mr. Speaker, in passing, to say that this amendment takes from no State any right that ever pertained to it. No State ever had the right, under the forms of law or otherwise, to deny to any freeman the equal protection of the laws or to abridge the privileges or immunities of any citizen of the Republic, although many of them have assumed and exercised the power, and that without remedy. *The amendment does not give, as the second section shows, the power to Congress of regulating suffrage in the several States.*"[20] (Emphasis added.)

He immediately continued:

"*The second section excludes the conclusion that by the first section suffrage is subjected to congressional law;* save, indeed, with this exception, that as the right in the people of each State to a republican government and to choose their Representatives in Congress is of the guarantees of the Constitution, by this amendment a remedy might be given directly for a case supposed by Madison, where treason might change a State government from a

*[377 US 599]

republican to a *despotic government, and thereby deny suffrage to the people."[21] (Emphasis added.)

14. Globe 2459.
15. Ibid.
16. Ibid.
17. Ibid.
18. Globe 2460.
19. Kendrick, op cit, supra, note 7, 87, 106; Flack, op cit, supra, note 11, 60-68, 71.
20. Globe 2542.
21. Ibid. It is evident from the context of the reference to a republican government that Bingham did not regard limitations on the right to vote or the denial of the vote to specified categories of individuals as violating the guarantee of a republican form of government.

He stated at another point in his remarks: . . . .

"To be sure we all agree, and the great body of the people of this country agree, and the committee thus far in reporting measures of reconstruction agree, that *the exercise of the elective franchise, though it be one of the privileges of a citizen of the Republic, is exclusively under the control of the States.*"[22] (Emphasis added.)

In the three days of debate which separate the opening and closing remarks, both made by members of the Reconstruction Committee, every speaker on the resolution, with a single doubtful exception,[23] assumed without question that, as Mr. Bingham said, supra, "the second section excludes the conclusion that by the first section suffrage is subjected to congressional law." The assumption was neither inadvertent nor silent. Much of the debate concerned the change in the basis of representation effected by the second section, and the speakers stated repeatedly, in express terms or by unmistakable implication, that the States retained the power to regulate suffrage within their borders. Attached as Appendix A hereto are some of those statements. The resolution was adopted by the House without change on May 10.[24]

*[377 US 600]

*Debate in the Senate began on May 23, and followed the same pattern. Speaking for the Senate Chairman of the Reconstruction Committee, who was ill, Senator Howard, also a member of the Committee, explained the meaning of the Equal Protection Clause as follows:

"The last two clauses of the first section of the amendment disable a State from depriving not merely a citizen of the United States, but any person, whoever he may be, of life, liberty, or property without due process of law, or from denying to him the equal protection of the laws of the State. This abolishes all class legislation in the States and does away with the injustice of subjecting one caste of persons to a code not applicable to another. It prohibits the hanging of a black man for a crime for which the white man is not to be hanged. It protects the black man in his fundamental rights as a citizen with the same shield which it throws over the white man. Is it not time, Mr. President, that we extend to the black man, I had almost called it the poor privilege of the equal protection of the law? . . . .

"*But, sir, the first section of the proposed amendment does not give to either of these classes the right of voting.* The right of suffrage is not, in law, one of the privileges or immunities thus secured by the Constitution. It is merely the creature of law. It has always been regarded in this country as the result of positive local law, not regarded as one of those fundamental rights lying at the basis of all society and without which a people cannot exist except as slaves, subject to a depotism [sic]."[25] (Emphasis added.)

Discussing the second section, he expressed his regret that it did "not

22. Ibid.

23. Representative Rogers, who voted against the resolution, Globe 2545, suggested that the right to vote might be covered by the Privileges and Immunities Clause. Globe 2538. But immediately thereafter he discussed the possibility that the Southern States might "refuse to allow the negroes to vote." Ibid.

24. Globe 2545.

25. Globe 2766.

recognize the authority of the United States over the question of
*[377 US 601]
suffrage in the several States *at all . . . ."[26] He justified the limited purpose of the Amendment in this regard as follows:

"But, sir, it is not the question here what will we do; it is not the question what you, or I, or half a dozen other members of the Senate may prefer in respect to colored suffrage; it is not entirely the question what measure we can pass through the two Houses; but the question really is, what will the Legislatures of the various States to whom these amendments are to be submitted do in the premises; what is it likely will meet the general approbation of the people who are to elect the Legislatures, three fourths of whom must ratify our propositions before they have the force of constitutional provisions?

. . . . . .

"The committee were of opinion that the States are not yet prepared to sanction so fundamental a change as would be the concession of the right of suffrage to the colored race. We may as well state it plainly and fairly, so that there shall be no misunderstanding on the subject. It was our opinion that three fourths of the States of this Union could not be induced to vote to grant the right of suffrage, even in any degree or under any restriction, to the colored race . . . .

"*The second section leaves the right to regulate the elective franchise still with the States, and does not meddle with that right.*"[27] (Emphasis added.)

There was not in the Senate, as there had been in the House, a closing speech in explanation of the Amendment. But because the Senate considered, and finally adopted, several changes in the first and second sections, even more attention was given to the problem of voting rights there than had been given in
*[377 US 602]
the House. In the *Senate, it was fully understood by everyone that neither the first nor the second section interfered with the right of the States to regulate the elective franchise. Attached as Appendix B hereto are representative statements from the debates to that effect. After having changed the proposed amendment to the form in which it was adopted, the Senate passed the resolution on June 8, 1866.[28] As changed, it passed in the House on June 13.[29]

(ii) Ratification by the "loyal" States.—Reports of the debates in the state legislatures on the ratification of the Fourteenth Amendment are not generally available.[30] There is, however, compelling indirect evidence. Of the 23 loyal States which ratified the Amendment before

26. Ibid.
27. Ibid.
28. Globe 3042.
29. Globe 3149.
30. Such evidence as there is, mostly committee reports and messages to the legislatures from Governors of the States, is to the same effect as the evidence from the debates in the Congress. See Ark House J 288 (1866–1867); Fla Sen J 8–10 (1866); Ind House J 47–48, 50–51 (1867); Mass Legis Doc, House Doc No. 149, 4–14, 16–17, 23, 24, 25–26 (1867); Mo Sen J 14 (1867); NJ Sen J 7 (Extra Sess 1866); NC Sen J 96–97, 98–99 (1866–1867); Tenn House J 12–15 (1865–1866); Tenn Sen J 8 (Extra Sess 1866); Va House J & Doc, Doc No. 1, 35 (1866–1867); Wis Sen J 33, 101–103 (1867). Contra: SC House J 34 (1866); Tex Sen J 422 (1866 App).

For an account of the proceedings in the state legislatures and citations to the proceedings, see Fairman, "Does the Fourteenth Amendment Incorporate the Bill of Rights?" 2 Stan L Rev 5, 81–126 (1949).

1870, five had constitutional provisions for apportionment of at least one house of their respective legislatures which wholly disregarded the

*[377 US 603]

spread of population.[31] *Ten more had constitutional provisions which gave primary emphasis to population, but which applied also other principles, such as partial ratios and recognition of political subdivisions, which were intended to favor sparsely settled areas.[32] Can it be seriously contended that the legislatures of these States, almost two-thirds of those concerned, would have ratified an amendment which might render their own States' constitutions unconstitutional?

Nor were these state constitutional provisions merely theoretical. In New Jersey, for example, Cape May County, with a population of 8,349, and Ocean County, with a population of 13,628, each elected one State Senator, as did Essex and Hudson Counties, with populations of 143,839 and 129,067, respectively.[33] In the House, each county was entitled to one representative, which left 39 seats to be apportioned according to population.[34] Since there were 12 counties besides the two already mentioned which had populations over 30,000,[35] it is evident that there were serious dispro-

*[377 US 604]

portions in the House also. In *New York, each of the 60 counties except Hamilton County was entitled to one of the 128 seats in the Assembly.[36] This left 69 seats to be distributed among counties the populations of which ranged from 15,420 to 942,292.[37] With seven more counties having populations over 100,000 and 13 others having populations over 50,000,[38] the disproportion in the Assembly was necessarily large. In Vermont, after each county had been allocated one Senator, there were 16 seats remaining to be distributed among the larger counties.[39] The smallest county had a population of 4,082; the largest had a population of 40,651 and there were 10 other counties with populations over 20,000.[40]

(iii) Ratification by the "reconstructed" States.—Each of the 10 "reconstructed" States was required

31. Conn Const, 1818, Art Third, § 3 (towns); NH Const, 1792, Part Second, § XXVI (direct taxes paid); NJ Const, 1844, Art IV, § II, cl 1 (counties); RI Const, 1842, Art VI, § 1 (towns and cities); Vt Const, 1793, c II, § 7 (towns).

In none of these States was the other House apportioned strictly according to population. Conn Const, 1818, Amend II; NH Const, 1792 Part Second, §§ IX–XI; NJ Const, 1844, Art IV, § III, cl 1; RI Const, 1842, Art V, § 1; Vt Const, 1793, Amend 23.

32. Iowa Const, 1857, Art III, § 35; Kan Const, 1859, Art 2, § 2, Art 10, § 1; Me Const, 1819, Art IV-Part First, § 3; Mich Const, 1850, Art IV, § 3; Mo Const, 1865, Art IV, § 2; NY Const, 1846, Art III, § 5; Ohio Const, 1851, Art XI, §§ 2–5; Pa Const, 1838, Art I, §§ 4, 6, 7, as amended; Tenn Const, 1834, Art II, § 5; W Va Const, 1861–1863, Art IV, § 9.

33. Ninth Census of the United States, Statistics of Population (1872) (hereafter Census), 49. The population figures, here and hereafter, are for the year 1870, which presumably best reflect the figures for the years 1866–1870. Only the figures for 1860 were available at that time, of course, and they would have been used by anyone interested in population statistics. See, e.g., Globe 3028 (remarks of Senator Johnson).

The method of apportionment is contained in NJ Const, 1844, Art IV, § II, cl 1.

34. NJ Const, 1844, Art IV, § III, cl 1. Census 49.

35. Ibid.

36. NY Const, 1846, Art III, §§ 2, 5. Census 50–51.

37. Ibid.

38. Ibid.

39. There were 14 counties, Census 67, each of which was entitled to at least one out of a total of 30 seats. Vt Const, 1793, Amend 23.

40. Census 67.

to ratify the Fourteenth Amendment before it was readmitted to the Union.[41] The Constitution of each was scrutinized in Congress.[42]

*[377 US 605]

Debates over readmission *were extensive.[43] In at least one instance, the problem of state legislative apportionment was expressly called to the attention of Congress. Objecting to the inclusion of Florida in the Act of June 25, 1868, Mr. Farnsworth stated on the floor of the House:

"I might refer to the apportionment of representatives. By this constitution representatives in the Legislature of Florida are apportioned in such a manner as to give to the sparsely-populated portions of the State the control of the Legislature. The sparsely-populated parts of the State are those where there are very few negroes, the parts inhabited by the white rebels, the men who, coming in from Georgia, Alabama, and other States, control the fortunes of their several counties. By this constitution every county in that State is entitled to a representative. There are in that State counties that have not thirty registered voters; yet, under this constitution, every one of those

*[377 US 606]

counties is entitled *to a representative in the Legislature; while the populous counties are entitled to only one representative each, with an additional representative for every thousand inhabitants."[44]

The response of Mr. Butler is particularly illuminating:

"All these arguments, all these statements, all the provisions of this constitution have been submitted to the Judiciary Committee of the Senate, and they have found the constitution republican and proper. This constitution has been submitted to the Senate, and they have

41. Act of Mar. 2, 1867, § 5, 14 Stat 429. See also Act of June 25, 1868, 15 Stat 73, declaring that the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, would be admitted to representation in Congress when their legislatures had ratified the Fourteenth Amendment. Other conditions were also imposed, including a requirement that Georgia nullify certain provisions of its Constitution. Ibid. Arkansas, which had already ratified the Fourteenth Amendment, was readmitted by Act of June 22, 1868, 15 Stat 72. Virginia was readmitted by Act of Jan. 26, 1870, 16 Stat 62; Mississippi by Act of Feb. 23, 1870, 16 Stat 67; and Texas by Act of Mar. 30, 1870, 16 Stat 80. Georgia was not finally readmitted until later, by Act of July 15, 1870, 16 Stat 365.

42. Discussing the bill which eventuated in the Act of June 25, 1868, see note 41, supra, Thaddeus Stevens said:

"Now, sir, what is the particular question we are considering? Five or six States have had submitted to them the question of forming constitutions for their own government. They have voluntarily formed such constitutions, under the direction of the Government of the United States. . . . They have sent us their constitutions. Those constitutions have been printed and laid before us. We have looked at them; we have pronounced them republican in form; and all we propose to require is that they shall remain so forever. Subject to this requirement, we are willing to admit them into the Union." Cong Globe, 40th Cong, 2d Sess, 2465 (1868). See also the remarks of Mr. Butler, supra and p. 553, infra.

The close attention given the various Constitutions is attested by the Act of June 25, 1868, which conditioned Georgia's readmission on the deletion of "the first and third subdivisions of section seventeen of the fifth article of the constitution of said State, except the proviso to the first subdivision . . . ." 15 Stat 73. The sections involved are printed in Sen Ex Doc No. 57, 40th Cong. 2d Sess, 14–15.

Compare United States v Florida, 363 US 121, 124–127, 4 L ed 2d 1096, 1098–1100, 80 S Ct 1026.

43. See, e.g., Cong Globe, 40th Cong, 2d Sess, 2412–2413, 2858–2860, 2861–2871, 2896–2900, 2901–2904, 2927–2935, 2963–2970, 2998–3022, 3023–3029 (1868).

44. Cong Globe, 40th Cong, 2d Sess, 3090–3091 (1868).

found it republican and proper. It has been submitted to your own Committee on Reconstruction, and they have found it republican and proper, and have reported it to this House."[45]

The Constitutions of six of the 10 States contained provisions departing substantially from the method of apportionment now held to be required by the Amendment.[46] And, as in the North, the departures were as real in fact as in theory. In North Carolina, 90 of the 120 representatives were apportioned among the counties without regard to population, leaving 30 seats to be distributed by numbers.[47] Since there were seven counties with populations under 5,000 and 26 counties with populations over 15,000, the disproportions must have been widespread and substantial.[48] In South Carolina, Charleston, with a population of 88,863, elected two Senators; each of the other counties, with populations ranging from 10,-

*[377 US 607]

269 to *42,486, elected one Senator.[49] In Florida, each of the 39 counties was entitled to elect one Representative; no county was entitled to more than four.[50] These principles applied to Dade County, with a population of 85, and to Alachua County and Leon County, with populations of 17,328 and 15,236, respectively.[51]

It is incredible that Congress would have exacted ratification of the Fourteenth Amendment as the price of readmission, would have studied the State Constitutions for compliance with the Amendment, and would then have disregarded violations of it.

The facts recited above show beyond any possible doubt:

(1) that Congress, with full awareness of and attention to the possibility that the States would not afford full equality in voting rights to all their citizens, nevertheless deliberately chose not to interfere with the States' plenary power in this regard when it proposed the Fourteenth Amendment;

(2) that Congress did not include in the Fourteenth Amendment restrictions on the States' power to control voting rights because it believed that if such restrictions were included, the Amendment would not be adopted; and

(3) that at least a substantial majority, if not all, of the States which ratified the Fourteenth Amendment did not consider that in so doing, they were accepting limitations on their freedom, never before questioned, to regulate voting rights as they chose.

Even if one were to accept the majority's belief that it is proper entirely to disregard the unmistak-

*[377 US 608]

able implications *of the second section of the Amendment in construing the first section, one is confounded by its disregard of all this history. There is here none of the difficulty which may attend the application of basic principles to situations not contemplated or understood when the principles were framed. The problems which con-

45. Id., at 3092.

46. Ala Const, 1867, Art VIII, § 1; Fla Const, 1868, Art XIV; Ga Const, 1868, Art III, § 3, ¶ 1; La Const, 1868, Tit II, Art 20; NC Const, 1868, Art II, § 6; SC Const, 1868, Art II, §§ 6, 8.

47. NC Const, 1868, Art II, § 6. There were 90 counties. Census 52–53.

48. Ibid.

49. SC Const, 1868, Art II, § 8; Census 60.

50. Fla Const, 1868, Art XIV.

51. Census 18–19.

cern the Court now were problems when the Amendment was adopted. By the deliberate choice of those responsible for the Amendment, it left those problems untouched.

C. *After 1868.*

The years following 1868, far from indicating a developing awareness of the applicability of the Fourteenth Amendment to problems of apportionment, demonstrate precisely the reverse: that the States retained and exercised the power independently to apportion their legislatures. In its Constitutions of 1875 and 1901, Alabama carried forward earlier provisions guaranteeing each county at least one representative and fixing an upper limit to the number of seats in the House.[52] Florida's Constitution of 1885 continued the guarantee of one representative for each county and reduced the maximum number of representatives per county from four to three.[53] Georgia, in 1877, continued to favor the smaller counties.[54] Louisiana, in 1879, guaranteed each parish at least one representative in the House.[55] In 1890, Mississippi guaranteed each county one representative, established a maximum number of representatives, and provided that specified groups of counties should each have approximately one-third of the seats

*[377 US 609]

in the House, whatever *the spread of population.[56] Missouri's Constitution of 1875 gave each county one representative and otherwise favored less populous areas.[57] Montana's original Constitution of 1889 apportioned the State Senate by counties.[58] In 1877, New Hampshire amended its Constitution's provisions for apportionment, but continued to favor sparsely settled areas in the House and to apportion seats in the Senate according to direct taxes paid;[59] the same was true of New Hampshire's Constitution of 1902.[60]

In 1894, New York adopted a Constitution the peculiar apportionment provisions of which were obviously intended to prevent representation according to population: no county was allowed to have more than one-third of all the Senators, no two counties which were adjoining or "separated only by public waters" could have more than one-half of all the Senators, and whenever any county became entitled to more than three Senators, the total number of Senators was increased, thus preserving to the small counties their original number of seats.[61] In addition, each county except Hamilton was guaranteed a seat in the Assembly.[62] The North Carolina Constitution of 1876 gave each county at least one representative and fixed a maximum number of representatives for the whole House.[63] Oklahoma's Constitution at the time of its admission to the union (1907) favored small counties by the use of partial ratios and a maximum number of seats in the House; in addition, no county was permitted to "take part" in the election of

*[377 US 610]

more than seven *representatives.[64]

52. Ala Const, 1875, Art IX, §§ 2, 3; Ala Const, 1901, Art IX, §§ 198, 199.
53. Fla Const, 1885, Art VII, § 3.
54. Ga Const, 1877, Art III, § III.
55. La Const, 1879, Art 16.
56. Miss Const, 1890, Art 13, § 256.
57. Mo Const, 1875, Art IV, § 2.
58. Mont Const, 1889, Art V, § 4, Art VI, § 4.
59. NH Const, 1792, Part Second, §§ IX, XI, XXVI, as amended.
60. NH Const, 1902, Part Second, Arts 9, 10, 25.
61. NY Const, 1894, Art III, § 4.
62. NY Const, 1894, Art III, § 5.
63. NC Const, 1876, Art II, § 5.
64. Okla Const, 1907, Art V, § 10.

Pennsylvania, in 1873, continued to guarantee each county one representative in the House.[65] The same was true of South Carolina's Constitution of 1895, which provided also that each county should elect one and only one Senator.[66] Utah's original Constitution of 1895 assured each county of one representative in the house.[67] Wyoming, when it entered the Union in 1889, guaranteed each county at least one Senator and one representative.[68]

D. *Today.*

Since the Court now invalidates the legislative apportionments in six States, and has so far upheld the apportionment in none, it is scarcely necessary to comment on the situation in the States today, which is, of course, as fully contrary to the Court's decision as is the record of every prior period in this Nation's history. As of 1961, the Constitutions of all but 11 States, roughly 20% of the total, recognized bases of apportionment other than geographic spread of population, and to some extent favored sparsely populated areas by a variety of devices, ranging from straight area representation or guaranteed minimum area representation to complicated schemes of the kind exemplified by the provisions of New York's Constitution of 1894, still in effect until struck down by the Court to-

*[377 US 611]

day in No. 20, post p. 568.[69] *Since Tennessee, which was the subject of Baker v Carr, and Virginia, scrutinized and disapproved today in No. 69, post, p. 609, are among the 11 States whose own Constitutions are sound from the standpoint of the Federal Constitution as construed today, it is evident that the actual practice of the States is even more uniformly than their theory opposed to the Court's view of what is constitutionally permissible.

E. *Other Factors.*

In this summary of what the majority ignores, note should be taken of the Fifteenth and Nineteenth Amendments. The former prohibited the States from denying or abridging the right to vote "on account of race, color, or previous condition of servitude." The latter, certified as part of the Constitution in 1920, added sex to the prohibited classifications. In Minor v Happersett, 21 Wall 162, 22 L ed 627, this Court considered the claim that the right of women to vote was protected by the Privileges and Immunities Clause of the Fourteenth Amendment. The Court's discussion there of the significance of the Fifteenth Amendment is fully applicable here with respect to the Nineteenth Amendment as well.

"And still again, after the adoption of the fourteenth amendment, it was deemed necessary to adopt a fifteenth, as follows: 'The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.' The fourteenth amendment had already provided that no State should

65. Pa Const, 1873, Art II, § 17.
66. SC Const, 1895, Art III, §§ 4, 6.
67. Utah Const, 1895, Art IX, § 4.
68. Wyo Const, 1889, Art III, § 3.
69. A tabular presentation of constitutional provisions for apportionment as of Nov. 1, 1961, appears in XIV Book of the States 1962-1963, 68-62. Using this table, but disregarding some deviations from a pure population base, the Advisory Commission on Intergovernmental Relations states that there are 15 States in which the legislatures are apportioned solely according to population. Apportionment of State Legislatures (1962), 12.

make or enforce any law which should abridge the privileges or immunities of citizens of the United States. If suffrage was one of these privileges or immunities, why amend the Constitution to prevent its being denied on account of race, &c.? Nothing is more evident than
*[377 US 612]
that the greater must "include the less, and if all were already protected why go through with the form of amending the Constitution to protect a part?" Id., at 175, 22 L ed at 630.

In the present case, we can go still further. If constitutional amendment was the only means by which all men and, later, women, could be guaranteed the right to vote at all, even for *federal* officers, how can it be that the far less obvious right to a particular kind of apportionment of *state* legislatures—a right to which is opposed a far more plausible conflicting interest of the State than the interest which opposes the general right to vote—can be conferred by judicial construction of the Fourteenth Amendment?[70] Yet, unless one takes the highly implausible view that the Fourteenth Amendment controls methods of apportionment but leaves the right to vote itself unprotected, the conclusion is inescapable that the Court has, for purposes of these cases, relegated the Fifteenth and Nineteenth Amendments to the same limbo of constitutional anachronisms to which the second section of the Fourteenth Amendment has been assigned.

Mention should be made finally of the decisions of this Court which are disregarded or, more accurately, silently overruled today. Minor v Happersett, supra, in which the Court held that the Fourteenth
*[377 US 613]
Amendment did *not* *confer the right to vote on anyone, has already been noted. Other cases are more directly in point. In Colegrove v Barrett, 330 US 804, 91 L ed 1262, 67 S Ct 973, this Court dismissed "for want of a substantial federal question" an appeal from the dismissal of a complaint alleging that the Illinois legislative apportionment resulted in "gross inequality in voting power" and "gross and arbitrary and atrocious discrimination in voting" which denied the plaintiffs equal protection of the laws.[71] In Remmey v Smith, 102 F Supp 708 (D. C. E. D. Pa), a three-judge District Court dismissed a complaint alleging that the apportionment of the Pennsylvania Legislature deprived the plaintiffs of "constitutional rights guaranteed to them by the Fourteenth Amendment." Id., at 709. The District Court stated that it was aware that the plaintiffs' allegations were "notoriously true" and that "the practical disenfranchisement of qualified electors in certain of the election districts in Phila-

70. Compare the Court's statement in Guinn v United States, 238 US 347, 362, 59 L ed 1340, 1347, 35 S Ct 926, LRA 1916A 1124.

". . . Beyond doubt the [Fifteenth] Amendment does not take away from the state governments in a general sense the powor over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of state and national authority under the Constitution and the organization of both governments rest would be without support and both the authority of the nation and the State would fall to the ground. In fact, the very command of the Amendment recognizes the possession of the general power by the State, since the Amendment seeks to regulate its exercise as to the particular subject with which it deals."

71. The quoted phrases are taken from the Jurisdictional Statement, pp. 13, 19.

delphia County is a matter of common knowledge." Id., at 710. This Court dismissed the appeal "for the want of a substantial federal question." 342 US 916, 96 L ed 685, 72 S Ct 368.

In Kidd v McCanless, 200 Tenn 273, 292 SW2d 40, the Supreme Court of Tennessee dismissed an action for a declaratory judgment that the Tennessee Apportionment Act of 1901 was unconstitutional. The complaint alleged that "a minority of approximately 37% of the voting population of the State now elects and controls 20 of the 33 members of the Senate; that a minority of 40% of the voting population of the State now controls 63 of the 99 members of the House of Representatives." Id., at 276, 292 SW2d, at 42. Without dissent, this Court granted the motion to dismiss the appeal. 352 US 920, 1 L ed 2d 157, 77 S Ct 223. In Radford v Gary, 145 F Supp 541 (D. C. W. D. Okla), a three-judge District Court was

*[377 US 614]

*convened to consider "the complaint of the plaintiff to the effect that the existing apportionment statutes of the State of Oklahoma violate the plain mandate of the Oklahoma Constitution and operate to deprive him of the equal protection of the laws guaranteed by the Fourteenth Amendment to the Constitution of the United States." Id., at 542. The plaintiff alleged that he was a resident and voter in the most populous county of the State, which had about 15% of the total population of the State but only about 2% of the seats in the State Senate and less than 4% of the seats in the House. The complaint recited the unwillingness or inability of the branches of the state government to provide relief and alleged that there was no state remedy available. The District Court granted a motion to dismiss. This Court affirmed without dissent. 352 US 991, 1 L ed 2d 540, 77 S Ct 559.

Each of these recent cases is distinguished on some ground or other in Baker v Carr. See 369 US, at 235–236, 7 L ed 2d at 696. Their summary dispositions prevent consideration whether these after-the-fact distinctions are real or imaginary. The fact remains, however, that between 1947 and 1957, four cases raising issues precisely the same as those decided today were presented to the Court. Three were dismissed because the issues presented were thought insubstantial and in the fourth the lower court's dismissal was affirmed.[72]

72. In two early cases dealing with party primaries in Texas, the Court indicated that the Equal Protection Clause did afford some protection of the right to vote. Nixon v Herndon, 273 US 536, 71 L ed 759, 47 S Ct 446; Nixon v Condon, 286 US 73, 76 L ed 984, 52 S Ct 484, 88 ALR 458. Before and after these cases, two cases dealing with the qualifications for electors in Oklahoma had gone off on the Fifteenth Amendment, Guinn v United States, 238 US 347, 59 L ed 1340, 35 S Ct 926, LRA 1916A 1124; Lane v Wilson, 307 US 268, 83 L ed 1281, 59 S Ct 872. The rationale of the Texas cases is almost certainly to be explained by the Court's reluctance to decide that party primaries were a part of the electoral process for purposes of the Fifteenth Amendment. See Newberry v United States, 256 US 232, 65 L ed 913, 41 S Ct 469. Once that question was laid to rest in United States v Classic, 313 US 299, 85 L ed 1368, 61 S Ct 1031, the Court decided subsequent cases involving Texas party primaries on the basis of the Fifteenth Amendment. Smith v Allwright, 321 US 649, 88 L ed 987, 64 S Ct 757, 151 ALR 1110; Terry v Adams, 345 US 461, 97 L ed 1152, 73 S Ct 809.

The recent decision in Gomillion v Lightfoot, 364 US 339, 5 L ed 2d 110, 81 S Ct 125, that a constitutional claim was stated by allegations that municipal lines had been redrawn with the intention of depriving Negroes of the right to vote in municipal elections was based on the Fifteenth Amendment. Only one Justice, in a concurring opinion, relied on the

I have tried to make the catalogue complete, yet to keep it within the manageable limits of a judicial opinion. In my judgment, today's deci-
*[377 US 615]
sions are refuted by *the language of the Amendment which they construe and by the inference fairly to be drawn from subsequently enacted Amendments. They are unequivocally refuted by history and by consistent theory and practice from the time of the adoption of the Fourteenth Amendment until today.

II

The Court's elaboration of its new "constitutional" doctrine indicates how far—and how unwisely—it has strayed from the appropriate bounds of its authority. The consequence of today's decision is that in all but the handful of States which may already satisfy the new requirements the local District Court or, it may be, the state courts, are given blanket authority and the constitutional duty to supervise apportionment of the State Legislatures. It is difficult to imagine a more intolerable and inappropriate interference by the judiciary with the independent legislatures of the States.

In the Alabama cases (Nos. 23, 27, 41), the District Court held invalid not only existing provisions of the State Constitution—which this Court lightly dismisses with a wave of the Supremacy Clause and the re-
*[377 US 616]
mark *that "it makes no difference whether a State's apportionment scheme is embodied in its constitution or in statutory provisions," ante, p. 540—but also a proposed amendment to the Alabama Constitution which had never been submitted to the voters of Alabama for ratification, and "standby" legislation which was not to become effective unless the amendment was rejected (or declared unconstitutional) and in no event before 1966. Sims v Frink, 208 F Supp 431. See ante, pp. 516–521. Both of these measures had been adopted only nine days before,[73] at an Extraordinary Session of the Alabama Legislature, convened pursuant to what was very nearly a directive of the District Court, see Sims v Frink, 205 F Supp 245, 248. The District Court formulated its own plan for the apportionment of the Alabama Legislature, by picking and choosing among the provisions of the legislative measures. 208 F Supp, at 441–442. See ante, p. 521. Beyond that, the court warned the legislature that there would be still further judicial reapportionment unless the legislature, like it or not, undertook the task for itself. 208 F Supp, at 442. This Court now states that the District Court acted in "a most proper and commendable manner," ante, p. 541, and approves the District Court's avowed intention of taking "some further action" unless the State Legislature acts by 1966, ante, p. 542.

In the Maryland case (No. 29, post, p. 595), the State Legislature was called into Special Session and enacted a temporary reapportionment of the House of Delegates, under pressure from the state
*[377 US 617]
courts.[74] Thereafter, the *Maryland

Equal Protection Clause of the Fourteenth Amendment. Id., at 349, 5 L ed 2d at 118.

73. The measures were adopted on July 12, 1962. The District Court handed down its opinion on July 21, 1962.

74. In reversing an initial order of the Circuit Court for Anne Arundel County dismissing the plaintiffs' complaint, the Maryland Court of Appeals directed the lower court to hear evidence on and determine the plaintiffs' constitutional claims, and, if it found provisions of the Maryland Constitution to be invalid, to "declare that

Court of Appeals held that the Maryland Senate was constitutionally apportioned. Maryland Committee for Fair Representation v Tawes, 229 Md 406, 184 A2d 715. This Court now holds that neither branch of the State Legislature meets constitutional requirements. Post, p. 606. The Court *presumes* that since "the Maryland constitutional provisions relating to legislative apportionment [are] hereby held unconstitutional, the Maryland Legislature . . . has the inherent power to enact at least temporary reapportionment legislation pending adoption of state constitutional provisions" which satisfy the Federal Constitution, id., at 607. On this premise, the Court concludes that the Maryland courts need not "feel obliged to take further affirmative action" now, but that "under no circumstances should the 1966 election of members of the Maryland Legislature be permitted to be conducted pursuant to the existing or any other unconstitutional plan." Id., at 608.

In the Virginia case (No. 69, post, p. 609), the State Legislature in 1962 complied with the state constitutional requirement of regular reapportionment.[75] Two days later, a complaint was filed in the District Court.[76] Eight months later, the

*[377 US 618]

legislative reapportionment was *declared unconstitutional. Mann v Davis, 213 F Supp 577. The District Court gave the State Legislature two months within which to reapportion itself in special session, under penalty of being reapportioned by the court.[77] Only a stay granted by a member of this Court slowed the process;[78] it is plain that no stay will be forthcoming in the future. The Virginia Legislature is to be given "an adequate opportunity to enact a valid plan"; but if it fails "to act promptly in remedying the constitutional defects in the State's legislative apportionment plan," the District Court is to "take further action." Post p. 618.

In Delaware (No. 307, post, p. 620), the District Court entered an order on July 25, 1962, which stayed proceedings until August 7, 1962, "in the hope and expectation" that the General Assembly would take "some appropriate action" in the intervening 13 days. Sincock v Terry, 207 F Supp 205, 207. By way of prodding, presumably, the court noted that if no legislative action were taken and the court sustained the plaintiffs' claim, "the present General Assembly and any subsequent General Assembly, the members of which were elected pursuant to Section 2 of Article 2 [the chal-

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the Legislature has the power, if called into Special Session by the Governor and such action be deemed appropriate by it, to enact a bill reapportioning its membership for purposes of the November, 1962, election." Maryland Committee for Fair Representation v Tawes, 228 Md 412, 438–439, 180 A2d 656, 670. On remand, the opinion of the Circuit Court included such a declaration. The opinion was filed on May 24, 1962. The Maryland Legislature, in Special Session, adopted the "emergency" measures now declared unconstitutional seven days later, on May 31, 1962.

75. The Virginia Constitution, Art IV, § 43, requires that a reapportionment be made every 10 years.

76. The 1962 reapportionment acts were approved on Apr. 7, 1962. The complaint was filed on Apr. 9, 1962.

77. The District Court handed down its opinion on June 28, 1962, and gave the Virginia General Assembly until Jan. 31, 1963, "to enact appropriate reapportionment laws." 213 F Supp, at 585–586. The court stated that failing such action or an appeal to this Court, the plaintiffs might apply to it "for such further orders as may be required." Id, at 586.

78. On Dec. 15, 1962, The Chief Justice granted a stay pending final disposition of the case in this Court.

lenged provisions of the Delaware Constitution], might be held not to be a de jure legislature and its legislative acts might be held invalid and unconstitutional." Id., at 205–206. Five days later, on July 30, 1962, the General Assembly approved a proposed amendment to the State Constitution. On August 7, 1962, the District Court entered an order de-

*[377 US 619]

nying the *defendants' motion to dismiss. The court said that it did not wish to substitute its judgment "for the collective wisdom of the General Assembly of Delaware," but that "in the light of all the circumstances," it had to proceed promptly. 210 F Supp 395, 396. On October 16, 1962, the court declined to enjoin the conduct of elections in November. 210 F Supp 396. The court went on to express its regret that the General Assembly had not adopted the court's suggestion, see 207 F Supp, at 206–207, that the Delaware Constitution be amended to make apportionment a statutory rather than a constitutional matter, so as to facilitate further changes in apportionment which might be required. 210 F Supp, at 401. In January 1963, the General Assembly again approved the proposed amendment of the apportionment provisions of the Delaware Constitution, which thereby became effective on January 17, 1963.[79] Three months later, on April 17, 1963, the District Court reached "the reluctant conclusion" that Art. II, § 2, of the Delaware Constitution was unconstitutional, with or without the 1963 amendment. Sincock v Duffy, 215 F Supp 169, 189. Observing that "the State of Delaware, the General Assembly, and this court all seem to be trapped in a kind of box of time," id., at 191, the court gave the General Assembly until October 1, 1963, to adopt acceptable provisions for apportionment. On May 20, 1963, the District Court enjoined the defendants from conducting any elections, including the general election scheduled for November 1964, pursuant to the old or the new constitutional provisions.[80] This Court now ap-

*[377 US 620]

proves all these *proceedings, noting particularly that in allowing the 1962 elections to go forward, "the District Court acted in a wise and temperate manner." Post p. 629.[81]

79. The Delaware Constitution, Art XVI, § 1, requires that amendments be approved by the necessary two-thirds vote in two successive General Assemblies.

80. The District Court thus nailed the lid on the "box of time" in which everyone seemed to it "to be trapped." The lid was temporarily opened a crack on June 27, 1963, when Mr. Justice Brennan granted a stay of the injunction until disposition of the case by this Court. Since the Court states that "the delay inherent in following the state constitutional prescription for approval of constitutional amendments by two successive General Assemblies cannot be allowed to result in an impermissible deprivation of appellees' right to an adequate voice in the election of legislators to represent them," post, p. 630, the lid has presumably been slammed shut again.

81. In New York and Colorado, this pattern of conduct has thus far been avoided. In the New York case (No. 20, post, p. 568), the District Court twice dismissed the complaint, once without reaching the merits, WMCA, Inc. v Simon, 202 F Supp 741, and once, after this Court's remand following Baker v Carr, supra, 370 US 190, 8 L ed 2d 430, 82 S Ct 1234, on the merits, 208 F Supp 368. In the Colorado case (No. 508, post, p. 632), the District Court first declined to interfere with a forthcoming election at which reapportionment measures were to be submitted to the voters, Lisco v McNichols, 208 F Supp 471, and, after the election, upheld the apportionment provisions which had been adopted, 219 F Supp 922.

In view of the action which this Court now takes in both of these cases, there is little doubt that the legislatures of these two States will now be subjected to the same kind of pressures from the federal judiciary as have the other States.

Records such as these in the cases decided today are sure to be duplicated in most of the other States if they have not been already. They present a jarring picture of courts threatening to take action in an area which they have no business entering, inevitably on the basis of political judgments which they are incompetent to make. They show legislatures of the States meeting in haste and deliberating and deciding in haste to avoid the threat of judicial interference. So far as I can tell, the Court's only response to this unseemly state of affairs is ponderous insistence that "a denial of constitutionally protected rights demands judicial protection," ante, p. 530. By thus refusing to recognize the bearing which a potential for

*[377 US 621]

*conflict of this kind may have on the question whether the claimed rights are in fact constitutionally entitled to judicial protection the Court assumes, rather than supports, its conclusion.

It should by now be obvious that these cases do not mark the end of reapportionment problems in the courts. Predictions once made that the courts would never have to face the problem of actually working out an apportionment have proved false. This Court, however, continues to avoid the consequences of its decisions, simply assuring us that the lower courts "can and . . . will work out more concrete and specific standards," ante, p. 537. Deeming it "expedient" not to spell out "precise constitutional tests," the Court contents itself with stating "only a few rather general considerations." Ibid.

Generalities cannot obscure the cold truth that cases of this type are not amenable to the development of judicial standards. No set of standards can guide a court which has to decide how many legislative districts a State shall have, or what the shape of the districts shall be, or where to draw a particular district line. No judicially manageable standard can determine whether a State should have single-member districts or multimember districts or some combination of both. No such standard can control the balance between keeping up with population shifts and having stable districts. In all these respects, the courts will be called upon to make particular decisions with respect to which a principle of equally populated districts will be of no assistance whatsoever. Quite obviously, there are limitless possibilities for districting consistent with such a principle. Nor can these problems be avoided by judicial reliance on legislative judgments so far as possible. Reshaping or combining one or two districts, or modifying just a few district lines, is no less a matter of choosing among many possi-

*[377 US 622]

ble *solutions, with varying political consequences, than reapportionment broadside.[82]

The Court ignores all this, saying only that "what is marginally permissible in one State may be unsatisfactory in another, depending on the particular circumstances of the case," ante, p. 537. It is well to remember that the product of today's decisions will not be readjustment of a few districts in a few States which most glaringly depart from the principle of equally populated

82. It is not mere fancy to suppose that in order to avoid problems of this sort, the Court may one day be tempted to hold that all state legislators must be elected in statewide elections.

districts. It will be a redetermination, extensive in many cases, of legislative districts in all but a few States.

Although the Court—necessarily, as I believe—provides only generalities in elaboration of its main thesis, its opinion nevertheless fully demonstrates how far removed these problems are from fields of judicial competence. Recognizing that "indiscriminate districting" is an invitation to "partisan gerrymandering," ante, p. 537, the Court nevertheless excludes virtually every basis for the formation of electoral districts other than "indiscriminate districting." In one or another of today's opinions, the Court declares it unconstitutional for a State to give effective consideration to any of the following in establishing legislative districts:

(1) history;[83]

(2) "economic or other sorts of group interests";[84]

(3) area;[85]

(4) geographical considerations;[86]

(5) a desire "to insure effective representation for sparsely settled areas";[87]

*[377 US 623]

*(6) "availability of access of citizens to their representatives";[88]

(7) theories of bicameralism (except those approved by the Court);[89]

(8) occupation;[90]

(9) "an attempt to balance urban and rural power."[91]

(10) the preference of a majority of voters in the State.[92]

So far as presently appears, the *only* factor which a State may consider, apart from numbers, is political subdivisions. But even "a clearly rational state policy" recognizing this factor is unconstitutional if "population is submerged as the controlling consideration . . . ."[93]

I know of no principle of logic or practical or theoretical politics, still less any constitutional principle, which establishes all or any of these exclusions. Certain it is that the Court's opinion does not establish them. So far as the Court says anything at all on this score, it says only that "legislators represent people, not trees or acres," ante, p. 527; that "citizens, not history or economic interests, cast votes," ante, p. 538; that "people, not land or trees or pastures, vote," ibid.[94] All this may be conceded. But it is surely equally obvious, and, in the context of elections, more meaningful to note that people are not ciphers and that legislators can represent their elec-

*[377 US 624]

tors only by speaking *for their interests—economic, social, political—many of which do reflect the place

83. Ante, p. 537.
84. Ante, pp. 537, 538.
85. Ante, p. 538.
86. Ibid.
87. Ibid.
88. Ibid.
89. Ante, pp. 535, 536.
90. Davis v Mann, 377 US 691, 12 L ed 2d 617.
91. Id., at 618.
92. Lucas v Forty-Fourth General Assembly, 377 US 736, 12 L ed 2d 647.
93. Ante, p. 539.
94. The Court does note that, in view of modern developments in transportation and communication, it finds "unconvincing" arguments based on a desire to insure representation of sparsely settled areas or to avoid districts so large that voters' access to their representatives is impaired. Ante, p. 538.

where the electors live. The Court does not establish, or indeed even attempt to make a case for the proposition that conflicting interests within a State can only be adjusted by disregarding them when voters are grouped for purposes of representation.

CONCLUSION

With these cases the Court approaches the end of the third round set in motion by the complaint filed in Baker v Carr. What is done today deepens my conviction that judicial entry into this realm is profoundly ill-advised and constitutionally impermissible. As I have said before, Wesberry v Sanders, supra, 376 US at 48, 11 L ed 2d at 509, I believe that the vitality of our political system, on which in the last analysis all else depends, is weakened by reliance on the judiciary for political reform; in time a complacent body politic may result.

These decisions also cut deeply into the fabric of our federalism. What must follow from them may eventually appear to be the product of state legislatures. Nevertheless, no thinking person can fail to recognize that the aftermath of these cases, however desirable it may be thought in itself, will have been achieved at the cost of a radical alteration in the relationship between the States and the Federal Government, more particularly the Federal Judiciary. Only one who has an overbearing impatience with the federal system and its political processes will believe that that cost was not too high or was inevitable.

Finally, these decisions give support to a current mistaken view of the Constitution and the constitutional function of this Court. This view, in a nutshell, is that every major social ill in this country can find its cure in some constitutional "principle," and that this Court should "take the lead" in promoting reform when other branches of government fail to act. The Constitu-

*[377 US 625]

tion is *not a panacea for every blot upon the public welfare, nor should this Court, ordained as a judicial body, be thought of as a general haven for reform movements. The Constitution is an instrument of government, fundamental to which is the premise that in a diffusion of governmental authority lies the greatest promise that this Nation will realize liberty for all its citizens. This Court, limited in function in accordance with that premise, does not serve its high purpose when it exceeds its authority, even to satisfy justified impatience with the slow workings of the political process. For when, in the name of constitutional interpretation, the Court *adds* something to the Constitution that was deliberately excluded from it, the Court in reality substitutes its view of what should be so for the amending process.

I dissent in each of these cases, believing that in none of them have the plaintiffs stated a cause of action. To the extent that Baker v Carr, expressly or by implication, went beyond a discussion of jurisdictional doctrines independent of the substantive issues involved here, it should be limited to what it in fact was: an experiment in venturesome constitutionalism. I would reverse the judgments of the District Courts in Nos. 23, 27, and 41 (Alabama), No. 69 (Virginia), and No. 307 (Delaware), and remand with directions to dismiss the complaints. I would affirm the judgments of the District Courts in No. 20 (New York), and No. 508 (Colorado), and of the Court of Appeals of Maryland in No. 29.

APPENDIX A TO OPINION OF MR. JUSTICE HARLAN, DISSENTING

Statements made in the House of Representatives during the debate on the resolution proposing the Fourteenth Amendment.[1]

*[377 US 626]

*"As the nearest approach to justice which we are likely to be able to make, I approve of the second section that bases representation upon voters." 2463 (Mr. Garfield).

"Would it not be a most unprecedented thing that when this [former slave] population are not permitted where they reside to enter into the basis of representation in their own State, we should receive it as an element of representation here; that when they will not count them in apportioning their own legislative districts, we are to count them as five fifths (no longer as three fifths, for that is out of the question) as soon as you make a new apportionment?" 2464–2465 (Mr. Thayer).

"The second section of the amendment is ostensibly intended to remedy a supposed inequality in the basis of representation. The real object is to reduce the number of southern representatives in Congress and in the Electoral College; and also to operate as a standing inducement to negro suffrage." 2467 (Mr. Boyer).

"Shall the pardoned rebels of the South include in the basis of representation four million people to whom they deny political rights, and to no one of whom is allowed a vote in the selection of a Representative?" 2468 (Mr. Kelley).

"I shall, Mr. Speaker, vote for this amendment; not because I approve it. Could I have controlled the report of the committee of fifteen, it would have proposed to give the right of suffrage to every loyal man in the country." 2469 (Mr. Kelley).

"But I will ask, why should not the representation of the States be limited as the States themselves limit suffrage? . . . If the ne-

*[377 US 627]

groes of the South are *not to be counted as a political element in the government of the South in the States, why should they be counted as a political element in the government of the country in the Union?" 2498 (Mr. Broomall).

"It is now proposed to base representation upon suffrage, upon the number of voters instead of upon the aggregate population in every State of the Union." 2502 (Mr. Raymond).

"We admit equality of representation based upon the exercise of the elective franchise by the people. The proposition in the matter of suffrage falls short of what I desire, but so far as it goes it tends to the equalization of the inequality at present existing; and while I demand and shall continue to demand the franchise for all loyal male citizens of this country—and I cannot but admit the possibility that ultimately those eleven States may be restored to representative power without the right of franchise being conferred upon the colored people—I should feel myself doubly humiliated and disgraced, and criminal even, if I hesitated to do what I can for a proposition which equalizes representation." 2508 (Mr. Boutwell).

"Now, conceding to each State the right to regulate the right of suffrage, they ought not to have a representation for male citizens not less than twenty-one years of age, whether white or black, who are deprived of the exercise of suffrage.

1. All page references are to Cong Globe, 39th Cong, 1st Sess (1866).

This amendment will settle the complication in regard to suffrage and representation, leaving each State to regulate that for itself, so that it will be for it to decide whether or not it shall have a representation for all its male citizens not less than twenty-one years of age." 2510 (Mr. Miller).

*[377 US 628]

*"Manifestly no State should have its basis of national representation enlarged by reason of a portion of citizens within its borders to which the elective franchise is denied. If political power shall be lost because of such denial, not imposed because of participation in rebellion or other crime, it is to be hoped that political interests may work in the line of justice, and that the end will be the impartial enfranchisement of all citizens not disqualified by crime. Whether that end shall be attained or not, this will be secured: that the measure of political power of any State shall be determined by that portion of its citizens which can speak and act at the polls, and shall not be enlarged because of the residence within the State of portions of its citizens denied the right of franchise. So much for the second section of the amendment. It is not all that I wish and would demand; but odious inequalities are removed by it and representation will be equalized, and the political rights of all citizens will under its operation be, as we believe, ultimately recognized and admitted." 2511 (Mr. Eliot).

"I have no doubt that the Government of the United States has full power to extend the elective franchise to the colored population of the insurgent States. I mean authority; I said power. I have no doubt that the Government of the United States has authority to do this under the Constitution; but I do not think they have the power. The distinction I make between authority and power is this: we have, in the nature of our Government, the right to do it; but the public opinion of the country is such at this precise moment as to make it impossible we should do it. It was therefore most wise on the part of the committee on reconstruction to waive this matter in deference to

*[377 US 629]

public opinion. The situation *of opinion in these States compels us to look to other means to protect the Government against the enemy." 2532 (Mr. Banks).

"If you deny to any portion of the loyal citizens of your State the right to vote for Representatives you shall not assume to represent them, and, as you have done for so long a time, misrepresent and oppress them. This is a step in the right direction; and although I should prefer to see incorporated into the Constitution a guarantee of universal suffrage, as we cannot get the required two thirds for that, I cordially support this proposition as the next best." 2539–2540 (Mr. Farnsworth).

APPENDIX B TO OPINION OF MR. JUSTICE HARLAN, DISSENTING

Statements made in the Senate during the debate on the resolution proposing the Fourteenth Amendment.[1]

"The second section of the constitutional amendment proposed by the committee can be justified upon no other theory than that the negroes ought to vote; and negro suffrage must be vindicated before the people in sustaining that section, for it does not exclude the non-voting population of the North, because it is admitted that there is no wrong in excluding from suffrage aliens, fe-

1. All page references are to Cong Globe, 39th Cong, 1st Sess (1866).

males, and minors. But we say, if the negro is excluded from suffrage he shall also be excluded from the basis of representation. Why this inequality? Why this injustice? For injustice it would be unless there be some good reason for this discrimination against the South in excluding her non-voting population
*[377 US 630]
from the basis *of representation. The only defense that we can make to this apparent injustice is that the South commits an outrage upon human rights when she denies the ballot to the blacks, and we will not allow her to take advantage of her own wrong, or profit by this outrage. Does any one suppose it possible to avoid this plain issue before the people? For if they will sustain you in reducing the representation of the South because she does not allow the negro to vote, they will do so because they think it is wrong to disfranchise him." 2800 (Senator Stewart).

"It [the second section of the proposed amendment] relieves him [the Negro] from misrepresentation in Congress by denying him any representation whatever." 2801 (Senator Stewart).

"But I will again venture the opinion that it [the second section] means as if it read thus: no State shall be allowed a representation on a colored population unless the right of voting is given to the negroes—presenting to the States the alternative of loss of representation or the enfranchisement of the negroes, and their political equality." 2939 (Senator Hendricks).

"I should . . much better satisfied if the right of suffrage had been given at once to the more intelligent of them [the Negroes] and such as had served in our Army. But it is believed by wiser ones than myself that this amendment will very soon produce some grant of suffrage to them, and that the craving for political power will ere long give them universal suffrage. . . . Believing that this amendment probably goes as far in favor of suffrage to the negro as is practicable to accom-
*[377 US 631]
plish now, and hoping it may in *the end accomplish all I desire in this respect, I shall vote for its adoption, although I should be glad to go further." 2963–2964 (Senator Poland).

"What is to be the operation of this amendment? Just this: your whip is held over Pennsylvania, and you say to her that she must either allow her negroes to vote or have one member of Congress less." 2987 (Senator Cowan).

"Now, sir, in all the States—certainly in mine, and no doubt in all —there are local as contradistinguished from State elections. There are city elections, county elections, and district or borough elections, and those city and county and district elections are held under some law of the State in which the city or county or district or borough may be; and in those elections, according to the laws of the States, certain qualifications are prescribed, residence within the limits of the locality and a property qualification in some. Now, is it proposed to say that if every man in a State is not at liberty to vote at a city or a country or a borough election that is to affect the basis of representation?" 2991 (Senator Johnson).

"Again, Mr. President, the measure upon the table, like the first proposition submitted to the Senate from the committee of fifteen, concedes to the States . . . not only the right, but the exclusive right, to regulate the franchise. . . . It

says that each of the southern States, and, of course, each other State in the Union, has a right to regulate for itself the franchise, and that consequently, as far as the Government of the United States is concerned, if the black man is not permitted the right to the franchise, it will be a wrong (if a wrong)
*[377 US 632]
which the Government *of the United States will be impotent to redress." 3027 (Senator Johnson).

"The amendment fixes representation upon numbers, precisely as the Constitution now does, but when a State denies or abridges the elective franchise to any of its male inhabitants who are citizens of the United States and not less than twenty-one years of age, except for participation in rebellion or other crime, then such State will lose its representation in Congress in the proportion which the male citizens so excluded bears to the whole number of male citizens not less than twenty-one years of age in the State." 3033 (Senator Henderson).

EDITOR'S NOTE

An annotation on "Inequalities in population of election districts or voting units as rendering apportionment unconstitutional" appears p. 1282, infra.

REAPPORTIONMENT:

New Election Districts in 1981



State Reapportionment Board
Pouch A
Juneau, Alaska 99811

Prepared: September 1980

I. WHAT IS REAPPORTIONMENT?

Reapportionment is the process of dividing the population of an area into election districts of equal numbers of persons for purposes of fair and effective representation in an elective body. Redistricting is drawing boundary lines for election districts of equal population.

Article VI of Alaska's constitution requires that reapportionment of election districts take place following each decennial census. The Governor is responsible for reapportionment with the assistance of a five-member advisory board.

The Board must submit its plan for reapportionment and redistricting to the Governor within 90 days following receipt of the official census data. The Governor, in turn, has 90 days to approve the plan and issue a proclamation of reapportionment and redistricting. Any changes from the Board's plan must be outlined in the Governor's proclamation.

II. COMPOSITION OF THE REAPPORTIONMENT BOARD

Article VI, Section 8 of Alaska's constitution provides for appointment of a five-member reapportionment board to act in an advisory capacity to the Governor. None of the members are to be public employees or officials. Appointments are to be made without regard to political affiliation. One member each is to be appointed from the Southeastern, Southcentral, Central, and Northwestern Senate Districts; the original geographic districts at the time of statehood.

The members of the Board are:

Kent Dawson, Juneau;

Cliff Groh, Anchorage;

Av Gross, Juneau;

John Holm, Fairbanks; and

John Schaeffer, Kotzebue.

III. HISTORY OF REAPPORTIONMENT IN ALASKA

The Organic Act of 1912 provided for a bicameral legislature. Two senators and four representatives were elected from each of the four judicial divisions. In 1942, the senate was enlarged to 16 members (four from each division) and the house was increased to 24 members to be apportioned among the four divisions based on population.

With statehood, Janauary 3, 1959, the four geographic districts were retained and 40 house members were apportioned into 24 election districts based on population. There were 16 senate districts with 20 members.

Following the 1960 census, reapportionment took place on December 7, 1961 and reduced the number of election districts from 24 to 19. The senate districts remained unchanged.

The U.S. Supreme Court decision in Reynolds v. Sims, 1964, established the one-man, one-vote doctrine. On September 3, 1965, the senate was reapportioned based on population and 11 senate districts were created, combining single and multi-member senate districts.

Reapportionment was again conducted following the 1970 census on December 30, 1971. That plan was successfully challenged by 13 members of the legislature because of failure to achieve the degree of equal population proportions which was practicable. The Alaska Supreme Court appointed two masters to prepare an interim apportionment plan for the 1972 elections.

After the 1972 elections, the Superior Court requested the Governor to prepare a permanent apportionment plan. On December 11, 1973 a new plan was issued and subsequently challenged. On June 6, 1974, the Alaska Supreme Court approved all aspects of the plan with the exception of specific districts that exceeded permissible population variances without adequate justification. The Governor amended the plan to comply with the findings of the court.

On June 26, 1974 the reapportionment plan was accepted. This plan represents the current election districts in Alaska. A copy of the election district map and a description of the boundaries is attached.

IV. CONSIDERATIONS FOR REAPPORTIONMENT

1980 Census Data -- Alaska's constitution requires that reapportionment be based on the official reporting of the U.S. Census. Receipt of the official census data for reapportionment purposes is not expected until April 1, 1981.

Time-frame -- The Reapportionment Board has only 90 days to prepare its plan following receipt of the official census data. Therefore, it is necessary for the Board to determine, prior to receipt of census data, where potential problem areas are and what the public perceives to be a fair and effective reapportionment plan.

One-person; one-vote doctrine -- the U.S. Supreme Court mandates that election districts be based on the principle of one person; one vote, or districts of equal population. In the majority opinion issued in Reynolds v. Sims, Chief Justice Earl Warren said, "Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests." Justice Warren's statement has become a leading slogan in reapportionment reform.

Alaska's constitution prescribes that districts be composed of compact, contiguous territory containing as nearly as practicable a relatively integrated socio-economic area. Although some population deviation in a newly created district may be justified based on the constitutional guidelines, the foremost consideration is that of equal population.

Single-member v. Multi-member Election Districts -- The current reapportionment plan for Alaska has 22 election (house) districts and 16

senate districts. Ten of the 22 election districts are multi-member; having two or more representatives in one district. Three of the 16 senate districts are multi-member.

The Reapportionment Board has adopted a policy to create 40 single-member house districts in developing the 1981 reapportionment plan. However, the Board realizes there may be areas where a single-member house district may not be practicable and will take that into consideration in developing the final plan.

The courts have not indicated a preference for single or multi-member districts, or a combination of both. The Reapportionment Board believes that single-member house districts will result in greater accountability of legislators to their constituents; will shorten the length of the ballot, allowing voters to obtain more information regarding fewer candidates; will encourage voter participation in the electoral process; and will increase competition and selection between candidates.

Military Servicemembers -- Alaskan and U.S. court cases have determined that persons who are not residents of the State may be excluded from the population for reapportionment purposes. In Alaska, the military population, including servicemembers, spouses, and dependents, may contain significant numbers of non-residents. The Board is undertaking a survey through the University of Alaska, Institute of Social and Economic Research, to determine the number of non-residents to be excluded from the population for reapportionment purposes. The Institute will also develop a methodology for subtracting the numbers of non-residents from the appropriate census enumeration districts.

V. SUMMARY

Reapportionment is one of the most critical events that will take place in the 1980's. Creation of new election district boundaries will have an effect on every Alaskan and their representation in the state legislature.

The Reapportionment Board is dedicated to developing a plan that will provide fair and effective representation for all Alaskans. By following the guidelines established in the State Constitution and by various court decisions, the Board will construct, as nearly as practicable, districts of equal population based on the 1980 U.S. Census, composed of contiguous, compact territory, encompassing a relatively integrated socio-economic area, and excluding persons who do not consider themselves to be residents of Alaska from the population base for reapportionment purposes.

If you have additional suggestions following the hearing, please feel free to contact the Board at:

Reapportionment Board
Pouch A
Juneau, Alaska 99811.

Thanks for your help!

Hugh J. WADE, Secretary of State, State of Alaska, Appellant,

v.

James NOLAN et al., Appellees.

No. 731.

Supreme Court of Alaska.

May 20, 1966.

Proceeding involving question whether Governor of Alaska was authorized by Alaska constitution to reapportion Senate on interim basis after United States Supreme Court decisions had declared invalid "frozen" area apportionment plans such as that provided by constitution. The Superior Court, First Judicial District, James A. von der Heydt, J., entered judgment and appeal was taken. The Supreme Court, Nesbett, C. J., held that Governor and reapportionment board had implied power to reapportion Senate on an interim basis.

Judgment that Alaska Senate was unconstitutionally apportioned, affirmed and remainder of judgment set aside and ordered that new judgment in accordance with views of opinion be entered.

1. States ⇐27

Governor, with assistance of reapportionment board, must reapportion representation in house of representatives on method of equal proportions, every ten years. Const. art. 6, §§ 5, 6, 8-11.

2. States ⇐27

Governor must explain any deviation from reapportionment plan submitted to him by reapportionment board in connection with reapportioning representation in house of representatives. Const. art. 6, §§ 5, 6, 8–11.

3. States ⇐27

Any qualified voter can invoke power of courts to compel governor to reapportion or to correct any error made by him in reapportioning or redistricting. Const. art. 6, §§ 5, 6, 8–11.

4. States ⇐27

Reapportionment is not exclusively a law making function. Const. art. 6, §§ 3, 4, 10.

5. States ⇐27

Governor and reapportionment board are merely delegated the duty of determining a plan for application of constitutional formula for apportionment and once valid plan has been established and proclaimed it becomes law, or effective, by force of the Constitution. Const. art. 6, §§ 3, 4, 10.

6. Constitutional Law ⇐12

Often, what is implied is as much a part of Constitution as what is expressed.

7. States ⇐27

Governor and reapportionment board have implied power to reapportion Senate on an interim basis. Const. art. 6, § 1 et seq.; U.S.C.A.Const. Amend. 14.

8. Constitutional Law ⇐225(1)
States ⇐27

Alaska Senate which under constitutional apportionment then existing was apportioned so that 30.7 per cent of voters resided in districts which could elect a majority in Senate was unconstitutionally apportioned. Const. art. 6, § 1 et seq.; art. 14, § 2; U.S.C.A.Const. Amend. 14.

9. States ⇐27

Section of Alaska Constitution establishing "frozen" Senate districts based on area is invalid. Const. art. 6, § 1 et seq.; art. 14, § 2; U.S.C.A.Const. Amend. 14.

Warren C. Colver, Atty. Gen., Michael M. Holmes, Deputy Atty. Gen., Theodore E. Fleischer, Asst. Atty. Gen., Juneau, for appellant.

Avrum M. Gross, Faulkner, Banfield, Boochever & Doogan, Juneau, for appellees.

Before NESBETT C. J., and DIMOND and RABINOWITZ, JJ.

NESBETT, Chief Justice.

The principal question presented by this appeal is whether the Governor of Alaska was authorized by the Alaska Constitution to reapportion the Alaska Senate on an interim basis after United States Supreme Court decisions had declared invalid "frozen" area apportionment plans such as that provided by Section 2, Article XIV of the Alaska Constitution.

In the historic decision of Baker v. Carr,[1] decided by the Supreme Court of the United States on March 26, 1962 it was held that the apportionment of a state legislature was subject to review by the courts for a violation of the equal protection clause of the Fourteenth Amendment[2] for effecting a gross disproportion of representation to voting population.

In Reynolds v. Sims,[3] decided two years later on June 15, 1964, the United States Supreme Court held that the equal protection clause requires that the seats in both houses of a bicameral state legislature be apportioned on a population basis. In accordance with the foregoing, the court held that the three reapportionment plans for Alabama which were being considered were unconstitutional and that upon the legislature's failure to act effectively to revise the invalid plans, the United States District Court acted properly in ordering its own temporary reapportionment plan into effect so that a reapportioned legislature could act effectively to adopt a permanent valid plan.

The decision in Reynolds v. Sims immediately posed the question of whether the Alaska State Senate was constitutionally apportioned on a population basis since Section 2, Article VI of the Alaska Constitution provides that members of the Senate shall be elected by the voters of the senate districts as set forth in Section 2 of Article XIV,[4] which latter section establishes senate districts based on area, defined by combining various house districts established by Section 1 of Article XIV, and prescribes the number of senators to be elected from each senate district.[5] Further, Section 7 of Article VI provides that the senate districts can be modified to reflect changes in house election districts, but that a senate district shall nevertheless retain its total number of senators and its approximate perimeter.[6]

Section 3 of Article VI provides that the Governor shall reapportion the House of Representatives immediately following each decennial United States census upon the basis of civilian population in each house election district as reported by the census.[7]

1. 369 U.S. 186, 82 S.Ct. 691, 7 L.Ed.2d 663 (1962).

2. Sec. 1, Art. XIV of the United States Constitution in pertinent part states:
No State shall make or enforce any law which * * *; nor deny to any person within its jurisdiction the equal protection of the laws.

3. 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964).

4. Sec. 2, Art. VI states:
Section 2. Senate Districts. Members of the senate shall be elected by the qualified voters of the respective senate districts. Senate districts shall be as set forth in Section 2 of Article XIV, subject to changes authorized in this article.

5. See note 5 on page 691.

6. Sec. 7, Art. VI states:
Section 7. Modification of Senate Districts. The senate districts, described in Section 2 of Article XIV, may be modified to reflect changes in election districts. A district, although modified, shall retain its total number of senators and its approximate perimeter.

7. Sec. 3, Art. VI states:
Section 3. Reapportionment of House. The governor shall reapportion the house of representatives immediately following the official reporting of each decennial census of the United States. Reapportionment shall be based upon civilian population within each election district as reported by the census.

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Section 4 of Article VI provides basically that reapportionment should be by the method of equal proportions.[8]

Sections 5 and 5, Article VI provide that the Governor, in carrying out his reapportionment duties, can change the size and area of house election districts within prescribed limits, and prescribes other criteria for reapportioning to maintain representation by equal proportions.

Section 8, Article VI requires the Governor to appoint a five member, non-political, area representative, Reapportionment Board to act in an advisory capacity to him.[9]

Sections 9 and 10, Article VI provides some basic organization and procedure for the Board and require it, acting on its own initiative, to submit to the Governor a plan for redistricting and reapportionment with-

5. Sec. 2, Art. XIV states:

Section 2. Senate Districts. Members of the senate shall be elected from the senate districts and in the number shown below:

Name of District	Composed of Election Districts	Number of Senators
A. Southeastern	1, 2, 3, 4, 5, and 6	2
B. Ketchikan-Prince of Wales	1 and 2	1
C. Wrangell-Petersburg-Sitka	3 and 4	1
D. Juneau-Yakutat	5 and 6	1
E. Southcentral	7, 8, 9, 10, 11 12, 13, and 14	2
F. Cordova-Valdez	7 and 8	1
G. Anchorage-Palmer	9 and 10	1
H. Seward-Kenai	11 and 12	1
I. Kodiak-Aleutians	13 and 14	1
J. Central	15, 16, 17, 18, 19, and 20	2
K. Bristol Bay-Bethel	15 and 16	1
L. Yukon-Kuskokwim	17 and 18	1
M. Fairbanks-Fort Yukon	19 and 20	1
N. Northwestern	21, 22, 23, and 24	2
O. Barrow-Kobuk	21 and 22	1
P. Nome-Wade Hampton	23 and 24	1

Note: The Governor's Reapportionment Proclamation of December 7, 1961, reapportioning the House, caused minor changes to be made in the allocation of election districts from that shown above. See AS Vol. 1, pp. 208-209.

8. Sec. 4, Art. VI states:

Section 4. Method. Reapportionment shall be by the method of equal proportions, except that each election district having the major fraction of the quotient obtained by dividing total civilian population by forty shall have one representative.

9. Sec. 8, Art. VI states:

Section 8. Reapportionment Board. The governor shall appoint a reapportionment board to act in an advisory capacity to him. It shall consist of five members, none of whom may be public employees or officials. At least one member each shall be appointed from the Southeastern, Southcentral, Central, and Northwestern Senate Districts. Appointments shall be made without regard to political affiliation. Board members shall be compensated.

in ninety days following each decennial census. Within ninety days after receipt of the plan the Governor is required to issue a proclamation of reapportionment and redistricting, explaining his reasons for changing any part of the Board's plan.[10]

Section 11, Article VI permits any qualified voter to apply to the superior court to compel the Governor to perform his reapportionment duties or to correct any error in reapportionment or redistricting.

[1–3] It is clear from the foregoing provisions that the Governor, with the assistance of the Reapportionment Board, must reapportion representation in the House of Representatives on a method of equal proportions, every ten years; that he must explain any deviation from the reapportionment plan submitted to him by the Board and that any qualified voter can invoke the power of the courts to compel him to reapportion or to correct any error made by him in reapportioning or redistricting.

No specific provision is made for reapportioning the Senate. In carrying out his reapportionment of the House, the Governor is empowered to modify senate districts to reflect changes made in house election districts, but each senate district must retain its total number of senators and its approximate perimeters.[11] It is clear therefore, that representation in the Senate is determined by area rather than population, with no specific provision made for changing this plan.

Approximately two months after Reynolds v. Sims and on August 17, 1964, the Attorney General of Alaska, in response to a request from the Governor, issued an opinion advising that in his opinion the Governor had authority to reapportion the Alaska Senate. On August 18, 1964 the Governor issued a "Proclamation Concerning Reapportionment and Redistricting" which called the advisory board on reapportionment established by the Alaska Constitution into session. After holding publicized hearings throughout the state, the Reapportionment Board submitted a plan to the Governor on December 10, 1964. On March 6, 1965 the Governor issued a second proclamation which reconvened the Reapportionment Board for another publicized ninety days of hearings and study for the purpose of reconsidering its Senate reapportionment plan in the light of recent United States Supreme Court decisions. On June 8, 1965 the Reapportionment Board submitted a second plan to the Governor, who, on September 3, 1965, issued the Proclamation of Reapportionment and Redistricting which was intended to be applicable to the 1966 primary and general elections and which is the subject of this suit.

On the 21st day of February 1966, appellees applied to the Superior Court for the First Judicial District in Juneau for a permanent injunction to prohibit the appellant Secretary of State from conducting any election pursuant to the Governor's Proclamation of Reapportionment and Redistricting on the ground that he did not have the authority to declare the apportionment of the Alaska Senate in conflict with the Constitution of the United States and to direct the appellant to ignore the existing Alaska Constitution Senate ap-

10. Sec. 9, Art. VI states:

Section 9. Organization. The board shall elect one of its members chairman and may employ temporary assistants. Concurrence of three members is required for a ruling or determination, but a lesser number may conduct hearings or otherwise act for the board.

Sec. 10, Art. VI states:

Section 10. Reapportionment Plan and Proclamation. Within ninety days following the official reporting of each decennial census, the board shall submit to the governor a plan for reapportionment and redistricting as provided in this article. Within ninety days after receipt of the plan, the governor shall issue a proclamation of reapportionment and redistricting. An accompanying statement shall explain any change from the plan of the board. The reapportionment and redistricting shall be effective for the election of members of the legislature until after the official reporting of the next decennial census.

11. Supra, note 6.

portionment formula in holding statewide elections. Appellees alleged that if the appellart Secretary of State is permitted to conduct the 1966 primary and general elections for the Alaska Senate, as directed by the Governor's proclamation, the election will be invalid and deprive them of their rights of suffrage under Article V of the Alaska Constitution.

Both sides eventually moved for summary judgment and on April 12, 1966 the superior court entered a judgment decreeing that Section 2, Article XIV of the Alaska Constitution, which establishes the present apportionment of the Alaska Senate, is in conflict with and invalid under the Fourteenth Amendment to the United States Constitution; that the Governor's Proclamation of Reapportionment and Redistricting of September 3, 1965 was null and void and that appellant Secretary of State could not follow the terms of the proclamation in the conduct of the 1966 primary and general elections. The superior court retained jurisdiction, providing that if a valid constitutional amendment modifying the apportionment of the Alaska Senate was not adopted by December 1, 1967 the court would issue the necessary orders to insure that the 1968 primary and general elections would be held under an apportionment plan consistent with the Fourteenth Amendment to the United States Constitution.

Appellees argue that the Alaska Constitution "limits" the Governor's reapportionment authority to the House and "prohibits" him from reapportioning the Senate. Appellees mean to argue, no doubt, that the claimed limitation and prohibition result from the fact that the constitution only explicitly grants the Governor the power to reapportion the House and makes no provision whatever for reapportioning the Senate under any circumstance or contingency. They also argue that the present necessity to reapportion does not affect his authority to do so and that while the Constitutional Convention did not foresee present developments, it nevertheless clearly intended that any reapportionment of the Senate be by constitutional amendment.

Appellant argues that Article VI of the Alaska Constitution makes reapportionment an executive function; that those provisions of the constitution which "freeze" the Alaska Senate and exempt it from periodic reapportionment have been invalidated by the United States Supreme Court's reapportionment decisions and that the task of reapportioning Alaska's Senate thus fell to the Governor as a part of his reapportionment function. Appellant points out that in states where reapportionment is a legislative function, the courts have permitted and required legislatures to enact laws reapportioning "frozen" houses, even though the legislature may have no specific authority under the state constitution to reapportion a "frozen" house. In Alaska, where the constitution makes reapportionment an executive function, appellant argues the Governor has authority to reapportion a "frozen" house.

Appellees' argument that the Governor's reapportionment authority was limited to the House and that the constitution "prohibits" him from reapportioning the Senate are not logical conclusions to be drawn from that document. Neither conclusion can be logically inferred from the written provisions. The fact that the constitution places upon the Governor the affirmative duty to reapportion the House at stated periods while in the same article it freezes the Senate and makes no provision for the Governor or any other official or branch to reapportion it, is no basis for the conclusion that the Governor was prohibited from reapportioning the Senate, or, that the Constitutional Convention "clearly opposed" a reapportionment system for the Senate similar to the one they provided for the House, as appellees argue.

The fact is that the Convention drafted the constitution some seven years before Baker v. Carr was decided. At the time of its drafting and providing for a "frozen" Senate, that is, a body whose representation was permanently based on area rather

than according to population, the Convention was following the pattern established by the United States Constitution and later followed by many of the states of the Union with respect to one or the other of their legislative bodies. The Convention obviously did not want the Senate apportioned on a population basis; it had practical reasons for not doing so and had no reason to anticipate that it would ever be necessary to reapportion the Senate on a population or on any other basis, hence no specific provision was made for its reapportionment.

The question which is squarely presented is whether the acts of the Governor and his advisory Reapportionment Board in reapportioning the Senate were authorized by the Alaska Constitution.

Before attempting to discuss this question it is well to explain the origin of a unique feature of the reapportionment provisions of the Alaska Constitution. Whereas, traditionally, reapportionment had been made the responsibility of state legislatures, the Alaska Constitutional Convention purposely avoided placing any authority or responsibility for reapportionment in the legislature. The Convention was aware of the notorious and frequent failure or downright refusal of state legislatures to comply with their constitutional or statutory duty to reapportion. The Alaska Convention's reason for placing reapportionment responsibility in the Governor was well stated by its Chairman of the Committee on Suffrage, Elections and Apportionment, John S. Hellenthal, as follows:

> HELLENTHAL: * * * Now on the method of the composition of the reapportionment and redistricting board, because redistricting, as we have explained would be necessary, the Committee recommends that the stress be placed on the executive in determining which of these election districts and where redistricting shall take place, or reapportionment, and it recommends the creation of a five-man advisory board to advise the governor with regard to the redistricting and reapportionment. * * * The reason that this plan was adopted is that the students and writers seem generally in accord that reapportionment, for some reason or other, I don't know why, but it has been neglected where it has been left to the legislators. Maybe it's that human element I spoke of earlier, but anyway the experience of the nation shows that the thing is delayed—procrastination; that in the State of Washington they waited for years and years and years, and finally, only by resorting to the courts and the initiative were they able to reapportion Washington. It was costly, the people suffered. And based on that experience and the recommendations, and it's almost universal of the advisors, and by advisors I don't mean the men that were here necessarily—but the writers throughout the country, the executive board was chosen, an advisory board. (Minutes of the Alaska Constitutional Convention, January 11, 1956, at 1839).
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> Now there are other plans. There is no end of variations of plans that can be devised for the reapportionment with the mandamus feature, and you could have variance where a board can be picked—three from the legislature, three nominated by the judicial council, if you want, three of them nominated by some other group of civilians, some appointed by the governor, and get a good cross-section, and they could have the authority themselves to make the redistricting and reapportionment. There is no end to it, but the best thought seemed to indicate that the people would be best helped if it [reapportionment] were an executive function. * * * But it is the inaction of the legislature, as testified to by the universal history of the 48 states, that we're trying to overcome. [Id. at 1859.]
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In its "Report to the People of Alaska" issued in February of 1956 the Constitutional Convention stated:

> Representation [in the legislature] will be kept up to date every ten years by an automatic reapportionment carried out by the governor on the advice of a board representing each of the four major districts and subject to review by the courts. Thus, the constitution guards against what has become a great evil in many states: a legislature that becomes more and more unrepresentative and loses public confidence because it refuses to reapportion itself. Alaska Legislative Council, Legislative Apportionment in Alaska, 1912–1961, p. 4 (1962).

A reading of the Convention minutes in relation to the reapportionment provisions makes it abundantly clear that it was the specific intent of the Convention to grant no authority to and to place no responsibility in the legislature with respect to reapportionment. In a clear and clean-cut departure from tradition, all of the authority and responsibility for reapportionment granted or assigned was placed in the Governor, assisted by a Reapportionment Board, including the authority to make minor changes in Senate districts. In an effort to make the reapportionment provisions as nearly self executing as possible, the Convention provided that the Reapportionment Board should automatically commence to function after the decennial census, without any direction from the Governor; that it must submit its plan within ninety days and that the Governor must proclaim a plan within ninety days of receipt from the Board, explaining any deviation from the Board's plan. Any qualified voter was empowered to resort to the courts to force the Governor to perform his reapportionment duties or to correct any error in redistricting or reapportionment.

Baker v. Carr and Reynolds v. Sims resulted in court declarations in many states that one or both of the legislative bodies was malapportioned. In almost every instance the state constitution had made no provision for reapportioning the "frozen" body on an interim basis until the constitution could be amended. Because of the wide variations in factual situations, most of the court decisions dealing with the question of where the authority lay to reapportion a frozen legislative body on an interim basis are not of great assistance.

It is significant, however, that in some states where reapportionment was a legislative responsibility, the courts have approved reapportionment by those state legislatures on an interim basis even though the respective state constitutions gave no specific authority to reapportion the particular frozen legislative body. Illustrative is Buckley v. Hoff[12] decided by the United States District Court in Vermont. In a previous decision, that court had declared both the House and the Senate malapportioned. The constitution required the legislature to reapportion the Senate after each United States census, but the House was frozen to provide one representative for each inhabited town, forever. The General Assembly, consisting of the members of the Senate and House, was only empowered by the constitution to regulate the mode of filling vacancies in House seats. Without any specific constitutional authority, the General Assembly provided reapportionment plans for the Senate and the House which were approved by the court. The authority of the General Assembly to reapportion was not questioned.[13]

12. 243 F.Supp. 873 (D.Vt.1964).

13. See: Robert B. McKay, Reapportionment: The Law and Politics of Equal Representation where reapportionment of "frozen" legislative bodies by the legislatures of New Jersey, Connecticut and North Dakota, was accomplished even though the constitutions gave no such specific authority. Pages 205–207, 374–375 and 304–306.

In some states where the constitutions placed reapportionment authority and responsibility in boards or commissions, the courts have recognized the authority of a board or commission to reapportion a "frozen" legislative body on an interim basis, although not specifically granted such power by the constitution.

A Board of Apportionment consisting of the Governor, Attorney General and Secretary of State was given authority by the Arkansas Constitution to reapportion the House and the Senate. The constitution was amended to "freeze" the Senate and remove the Board's power to reapportion it. This constitutional amendment was held invalid by a United States District Court, for having created a malapportioned Senate. The Supreme Court of Arkansas then, in Faubus v. Kinney,[14] held as a matter of state law that the Board of Apportionment was the proper authority to reapportion the Senate, even though it no longer had specific written constitutional authority to do so. The court held that invalidation of the unconstitutional amendment brought the original provision into force. Also, that the intent of the people, expressed in the constitution, that the Board of Apportionment accomplish reapportionment, made the Board the proper authority to undertake interim reapportionment.

In Michigan a constitutionally created Commission on Legislative Apportionment was given authority to reapportion. In In re Apportionment of Michigan Legislature[15] the court, in a decision in which most of the justices participated, seems to have held that the Commission had authority to reapportion, apparently to the exclusion of the legislature.[16]

[4] Appellees argue that reapportionment is a lawmaking function in which the Governor's only part is to recommend laws which he thinks wise and to veto laws he thinks bad, citing Youngstown Sheet & Tube Co. et al. v. Sawyer.[17] This argument and the authority cited do not fit the facts of the case before us. In the first place, there is no substance to the conclusion that reapportionment is exclusively a lawmaking function. Many states now make it the exclusive responsibility of boards or commissions. Reapportionment under the Alaska Constitution, for example, might more properly be defined to be the determination of a plan for the application of a representation formula, which plan once established and proclaimed, becomes law by the operation of our constitution. For example: Sec. 4, Art. VI states that "Reapportionment shall be by the method of equal proportions * * *". This establishes the formula. Sec. 3, Art. VI states "The Governor shall reapportion * * *", definitely placing in the executive the full authority and responsibility. Sec. 10, Art. VI provides that after receipt of the "plan" from the Reapportionment Board, the Governor shall issue his proclamation which "* * * shall be effective for the election of members of the legislature * * *".

[5] Thus, it is apparent that the Governor and the Reapportionment Board are merely delegated the duty of determining a plan for application of the constitutional

14. 239 Ark. 443, 389 S.W.2d 887, 892 (1965).

15. 370 Mich. 410, 137 N.W.2d 495, 507, 512 (1965),

16. Note the remarks of Justice Black at 137 N.W.2d at 510:

> * * * I do not believe that a voting majority of the electors would have voted for the proposed constitution had it not included section 6 or some separate-from-the-legislature counterpart thereof. Surely my Brother forgets that the people of Michigan learned, over a long period of years, one thing the hard way, that is, they could not trust any legislature to district and apportion itself according to any validly imposed constitutional principle or plan which might collide with self-perpetuation in office.

17. 343 U.S. 579, 72 S.Ct. 863, 96 L.Ed. 1153 (1952).

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formula for apportionment. Once a valid plan has been established and proclaimed it becomes law, or "effective" by the force of the constitution. Even if it can be argued that indirectly this is lawmaking, it is nevertheless the unquestioned, unequivocal intent of the constitution that the function be performed only by the Governor with the assistance of the Reapportionment Board.

Youngstown Sheet & Tube, cited by appellees, is not in point. There the President had directed the Secretary of Commerce to seize and operate most of the nation's steel mills because of a labor dispute, in order to avoid a national catastrophe and in the interest of national defense. There was no statutory authority and the Supreme Court held there was no constitutional authority to seize private property under the circumstances, even though an emergency was alleged to have existed.

We are urged in effect to imply that since the constitution has not, in so many words, given the Governor the power to reapportion the frozen Senate, that it intended to "specifically deny" or "prohibit" him from exercising this power even on an interim basis.

The observation of Justice Miller in Ex parte Yarbrough[18] is appropriate to be considered in relation to the problem of constitutional construction before us. The question before the court was whether an act of Congress punishing conspiracies to intimidate any citizen in the free exercise of his vote was constitutional. The opinion states at 110 U.S. 658, 4 S.Ct. 155, 28 L.Ed. 276:

> The proposition that it has no such power is supported by the old argument often heard, often repeated, and in this court never assented to, that when a question of the power of congress arises the advocate of the power must be able to place his finger on words which expressly grant it. The brief of counsel before us, though directed to the authority of that body to pass criminal laws, uses the same language. Because there is no *express* power to provide for preventing violence exercised on the voter as a means of controlling his vote, no such law can be enacted. It destroys at one blow, in construing the constitution of the United States, the doctrine universally applied to all instruments of writing, that what is implied is as much a part of the instrument as what is expressed. (Justice Miller's emphasis)

Appellant aptly quotes the famous observation of Justice Holmes in Bain Peanut Co. v. Pinson[19] that:

> The interpretation of constitutional principles must not be too literal. We must remember that the machinery of government would not work if it were not allowed a little play in its joints.

In M'Culloch v. Maryland[20] the Supreme Court of the United States held that there was nothing in the Constitution of the United States which excluded incidental or implied powers. Chief Justice Marshall stated:

> Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.

The court held that Congress had the implied power to incorporate the Bank of the United States, establish branches in the states and that the states could not tax them.

In Gibbons v. Ogden[21] the Supreme Court of the United States held that the specific constitutional grant to Congress

18. 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274 (1884).

19. 282 U.S. 499, 501, 51 S.Ct. 228, 229, 75 L.Ed. 482, 491 (1930).

20. 4 Wheat. 316, 421, 4 L.Ed. 579, 605 (1819).

21. 9 Wheat. 1, 189, 6 L.Ed. 23, 68 (1824).

of the power "* * * to regulate commerce * * *" implied the exclusive power to regulate navigation.

The foregoing historic decisions have greatly influenced the affairs of our nation and demonstrate the wisdom of Justice Holmes' admonition that the interpretation of constitutional principles must not be too literal. The court, in M'Culloch v. Maryland could have held that since the constitution did not specifically so authorize, Congress could not incorporate a bank or establish branches. If the court in Gibbons v. Ogden had applied a literal construction to the grant of power to Congress "* * * to regulate commerce * * *" and held that since navigation was not specifically mentioned it was not to be logically implied as an included power, it would have gone unregulated to the extent that it is today, to the detriment of our national welfare.

Appellant has appropriately referred us to the observation of Justice Stone in United States v. Classic:[22]

> We may assume that the framers of the Constitution in adopting that section, did not have specifically in mind the selection and elimination of candidates for Congress by the direct primary any more than they contemplated the application of the commerce clause to interstate telephone, telegraph and wireless communication which are concededly within it. But in determining whether a provision of the Constitution applies to a new subject matter, it is of little significance that it is one with which the framers were not familiar. For in setting up an enduring framework of government they undertook to carry out for the indefinite future and in all the vicissitudes of the changing affairs of men, those fundamental purposes which the instrument itself discloses. Hence we read its words, not as we read legislative codes which are subject to continuous revision with the changing course of events, but as the revelation of the great purposes which were intended to be achieved by the Constitution as a continuing instrument of government.

[6] The facts before us were not anticipated by the Convention. It is appropriate, therefore, that we attempt to determine from Article VI as a whole and appropriate Convention Minutes, what was the pervading purpose and intent of the Convention. We must then determine whether a fair interpretation of the various provisions of Article VI will support a construction which permits accomplishment of this purpose, bearing in mind that often "* * * what is implied is as much a part of the instrument as what is expressed."

Using this approach, we have concluded that it is more reasonable and logical to imply that had the Convention been able to anticipate the need to reapportion the Senate on an interim or any other basis, it would have specifically given the Governor the same power to reapportion the Senate as it gave him to reapportion the House. The Convention obviously believed that orderly and representative government required that some authority, other than the legislature, should periodically reapportion the House, rather than depend upon constitutional amendment or a constitutional convention to do this. We find no basis for inferring that had it known that the Senate would in the future require periodic reapportionment, that it would not have placed this responsibility in the Governor also, rather than leave it to the cumbersome, expensive, and demonstrably ineffective remedy of constitutional amendment which must be initiated by the legislature.

The Convention gave the Governor the power to alter Senate districts within limits. Since it justifiably felt in 1956, that the Senate could remain permanently frozen, there was no reason to grant the power to do any other thing with respect to representation in the Senate. What is significant is that, to the extent that any power was given with respect to the Senate, it was given to

22. 313 U.S. 299, 316, 61 S.Ct. 1031, 1038, 85 L.Ed. 1368, 1378 (1940).

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The Convention's reason for placing reapportionment authority and responsibility in the Governor was because over the years it had been forcefully demonstrated on a nationwide scale that state legislatures would not reapportion themselves. The more malapportioned they became with the passage of time, the less likely it became that the representatives would reapportion themselves out of office. Knowing that the Convention was aware of and attempting to avoid this national evil, it is only reasonable to imply that it would have required the Governor to periodically reapportion the Senate had it known that its frozen formula would be declared invalid.

Appellees argue that the Convention intended that the Senate be reapportioned only by constitutional amendment or by constitutional convention. Section 1, Article XIII of the Alaska Constitution provides that amendments to the constitution may be proposed by a two-thirds vote of each house of the legislature.[23] This may have been their intent when they believed that a "frozen" Senate could remain "frozen" forever. On the other hand, if they could have anticipated that the "frozen" Senate would become illegal and would require periodic reapportionment, it is almost a certainty that they would not have left reapportionment to be performed by constitutional amendment. A malapportioned Senate is no more likely to propose a constitutional amendment to reapportion itself than it would be to perform reapportionment on itself. Section 2, Article XIII states that "The legislature may call constitutional conventions at any time." But there would be no more reason to expect that a malapportioned Senate would join in calling a constitutional convention to reapportion many of its seats than it would be to voluntarily reapportion itself. We know the Convention was aware of these facts. The most logical assumption, therefore, is that had it been able to anticipate Baker v. Carr, the Convention would undoubtedly have rescued the people from the same evil that it had saved them from as to the House and have given the Governor the power and duty to reapportion the Senate.[24]

Appellees quote and rely upon an exchange between Delegate McNealy, Chairman Hellenthal and Delegate Nolan, reported in Minutes of Alaska Constitutional Convention pages 1884–87 as evidencing a Convention intent relevant to the construction question before us. Delegate McNealy's question, in substance, was to inquire of Chairman Hellenthal whether, under the proposed frozen Senate apportionment based on area, if the population of the Fourth Judicial District increased to twice

23. Sec. 1, Art. XIII states:

> Amendments to this constitution may be proposed by a two-thirds vote of each house of the legislature. The secretary of state shall prepare a ballot title and proposition summarizing each proposed amendment, and shall place them on the ballot for the next statewide election. If a majority of the votes cast on the proposition favor the amendment, it shall be adopted. Unless otherwise provided in the amendment, it becomes effective thirty days after the certification of the election returns by the secretary of state.

24. That amendment by constitutional convention can be uncertain, cumbersome and expensive is evident. The malapportioned Senate must first voluntarily join in calling a constitutional convention for the purpose of reapportioning itself. There must then be a statewide election of delegates to the Constitutional Convention, the Convention itself and finally, ratification by the people. In the case before us the earliest that the legislature could call a constitutional convention would be January of 1967, unless a special session were called. It is unlikely therefore, that a convention could remedy Senate malapportionment before late 1967 or early 1968. The legislature can propose amendments to the constitution. In the case before us two-thirds of the members of the malapportioned Senate must agree to a proposed amendment to reapportion the Senate. The Secretary of State would then place the proposal on a ballot which would not be voted on by the people until the next statewide election. See: Sec. 1, Art. XIII Alaska Const.

that of the rest of Alaska and even though it was as large in area as all the rest of Alaska, would the Senatorial districts nevertheless remain the same? The following then transpired:

HELLENTHAL: That is correct.

McNEALY: And there would be a great possibility that they would never change?

HELLENTHAL: I would not attempt to say that.

McNEALY: I guess that is a political matter.

* * * * * *

NOLAN: The third question is, I think it was answered in response to a question by Mr. McNealy, that the senatorial districts are fixed permanently without a constitutional amendment?

HELLENTHAL: That is correct, subject to the minor modification that we discussed last night and this morning, and which will be handed to you on this slip sheet this morning in a few minutes.

The most that can be said for the intent expressed by Delegate Nolan and Chairman Hellenthal in 1956 is that it had a definite relevance to Convention proceedings and compromises as of that time. It was entirely consistent with the existing national concept of fairness which permitted apportioning one body of a bicameral legislature based on area and freezing that apportionment. But the intent expressed then is not relevant to an analysis of the present problem. The delegates were conscientious, dedicated people. If they could have anticipated that their apportionment of the Senate would later be declared unfair and invalid, we do not believe they would have left the people of Alaska in the position of having to depend upon a malapportioned Senate to voluntarily propose a constitutional amendment or join in a call for a constitutional convention in order to correct what had been declared to be an unfairness.

We are convinced that the Alaska Constitutional Convention intended that reapportionment, to the extent provided for, be regularly performed, that the full authority and responsibility for carrying out this duty be placed on the Governor who could be forced to perform his duty by the courts at the instance of any qualified voter and who was to be assisted by the Reapportionment Board. No part of the authority or responsibility was intended to be entrusted to the legislature. It was not intended by the Convention that the frozen Senate ever be reapportioned because the delegates had finally agreed upon the "frozen", area apportionment plan of representation, only after long negotiation and compromise.[25]

Unanticipated changes in the law of the land have invalidated the Senate apportionment and now require that the Senate be expeditiously reapportioned on a population basis. Four years have elapsed since Baker v. Carr and two years since Reynolds v. Sims during which time the Alaska legislature has not called a constitutional convention or proposed a constitutional amendment to reapportion the Senate. The Governor and the Reapportionment Board have reapportioned the Senate in the same manner that the constitution requires them to reapportion the House.

[7] An enlightened construction of Article VI which permits realization of its fundamental purpose, that reapportionment not be dependent in any manner on legislative initiative and that effective means of enforcement be readily available to any voter, is that its remaining constitutional provisions provide the implied power in the Governor and the Reapportionment Board to reapportion the Senate on an interim basis and we so hold.

Since the appellees do not question the validity of the reapportionment plan proclaimed by the Governor on September 3, 1965 with respect to the requirements of the equal protection clause of the Fourteenth Amendment, it is declared to be effective for the 1966 primary and general elections and thereafter until the Alaska Constitution

25. Minutes of Alaska Constitutional Convention p. 1881.

has been amended to provide a valid, permanent reapportionment plan for the Senate.

[3, 9] Since the evidence clearly established that under the existing constitutional apportionment of the Senate 30.7 per cent of the voters reside in districts which could elect a majority in the Senate, we affirm the superior court's judgment that the Alaska Senate is unconstitutionally apportioned and that Section 2, Article XIV of the Alaska Constitution is unconstitutional.

The remainder of the judgment below is set aside and it is ordered that a new judgment in accordance with the views expressed in this opinion be entered.

The foregoing decision makes it unnecessary to pass upon any of the other points briefed and argued by the parties.

RABINOWITZ, J., concurs in the result.

RABINOWITZ, Justice (concurring in the result).

Although I agree with the result reached by the majority, I differ with the majority's reasons for its conclusion. A search for the probable intent of the framers of Alaska's Constitution had they anticipated *Baker* and *Reynolds* involves considerable speculation. If speculation is apposite here, then it is just as logical to conclude that the framers would have vested reapportionment in the legislature had they anticipated that effective judicial relief from a malapportioned legislature would be available to any citizen by virtue of the reapportionment decisions of the United States Supreme Court. For the reasons stated hereafter, I would have avoided any attempt to determine the intent of the Alaska Constitutional Convention in this situation.

Subsequent to Alaska's admission to statehood on January 3, 1959, the United States Supreme Court in Baker v. Carr [1] held that the apportionment of state legislatures was subject to review by courts on equal protection grounds. Two years after this landmark decision, the United States Supreme Court concluded that both houses of a bicameral legislature must, under the Equal Protection Clause of the fourteenth amendment, be apportioned substantially on an equal population basis. The Supreme Court further held that it was immaterial whether or not the electorate had the remedy of the initiative or had in fact adopted a malapportioned legislature by majority vote. Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964); WMCA, Inc. v. Lomenzo, 377 U.S. 633, 84 S.Ct. 1418, 12 L.Ed.2d 568 (1964); Maryland Comm. for Fair Representation v. Tawes, 377 U.S. 656, 84 S.Ct. 1429, 12 L.Ed.2d 595 (1964); Davis v. Mann, 377 U.S. 678, 84 S.Ct. 1441, 12 L.Ed.2d 609 (1964); Roman v. Sincock, 377 U.S. 695, 84 S.Ct. 1449, 12 L.Ed.2d 620 (1964); Lucas v. Forty-Fourth Gen. Assembly, 377 U.S. 713, 84 S.Ct. 1459, 12 L.Ed.2d 632 (1964). These decisions of the Supreme Court have been characterized "as one of the most far-reaching series of decisions in the history of American constitutionalism." [2] In requiring equal population districts for both houses of a bicameral legislature, the Supreme Court articulated the constitutional standard in terms of "substantial equality of population among the various districts" [3] and "as nearly of equal population as is practicable." [4]

1. 369 U.S. 186, 82 S.Ct. 691, 7 L.Ed.2d 663 (1962).
2. Dixon, Reapportionment in the Supreme Court and Congress: Constitutional Struggle for Fair Representation, 63 Mich.L.Rev. 209 (1964).
3. Reynolds v. Sims, supra, at 579, 84 S.Ct. at 1390, 12 L.Ed.2d at 537.
4. Id. at 577, 84 S.Ct. at 1390, 12 L.Ed.2d at 536. Note: The Supreme Court added another test, namely a prohibition on "crazy quilts, completely lacking in rationality." Reynolds v. Sims, at 568, 84 S.Ct. at 1385, 12 L.Ed.2d at 531. Compare this latter test with the superior court's judgment where it is stated "that it dilutes their right to representation in the Alaska State Legislature on irrational bases."

Subsequent to the Supreme Court's historic decisions in the reapportionment cases, the Attorney General of the State of Alaska issued an opinion on August 17, 1964, advising the Governor that in his opinion the Governor had authority to reapportion the Senate. On August 18, 1964, the Governor issued a "Proclamation Concerning Reapportionment and Redistricting" which called the Advisory Reapportionment Board created by Alaska Constitution, article VI, section 8 into session. After holding publicized hearings throughout the state the Board submitted a report to the Governor on December 10, 1964. Thereafter, on March 6, 1965, the Governor issued a second "Proclamation Concerning Reapportionment and Redistricting" which reconvened the Advisory Board for another publicized ninety days of hearings and study. On June 8, 1965, the Board submitted a second report to the Governor. Then on September 3, 1965, the Governor issued the now questioned "Proclamation of Reapportionment and Redistricting" which was intended to govern the 1966 primary and general elections.

Review of the proposed reapportionment of the Senate under the Governor's September 3, 1965, "Proclamation of Reapportionment and Redistricting" demonstrates that the Senate would thereby be apportioned on the basis of substantially equal population districts in accordance with the Equal Protection Clause. Under the Governor's plan the maximum population-variance ratio is 1.47 to 1 contrasted to existing gross malapportionment ratio of 18.7 to 1. The theoretical minimum percentage of Alaska's population that could elect a majority of the Senate under the Governor's plan is 50.3 per cent of the voters. Under the existing constitutional provisions pertaining to apportionment of Alaska's Senate, 30.7 per cent of the voters reside in districts which theoretically may elect a majority in the Senate.

It is established that both federal and state courts may pass on the constitutionality of an apportionment scheme. In Maryland Comm. for Fair Representation v. Tawes,[5] the Supreme Court of the United States stated "We applaud the willingness of state courts to assume jurisdiction and render decision in cases involving challenges to state legislative apportionment schemes."[6] The issues pertaining to apportionment of Alaska's Senate raised below and now raised on appeal are properly before this court for adjudication.

I am of the opinion that the superior court correctly held that the Alaska Senate is unconstitutionally apportioned under the Equal Protection Clause standards articulated by the United States Supreme Court in *Reynolds* and its companion reapportionment decisions. Whether the maximum population-variance ratio[7] or the theoretical minimum percentage of population which

5. Supra page 701, 377 U.S. at 674, 84 S.Ct. at 1430, 12 L.Ed.2d at 607.

6. See also Scott v. Germano, 381 U.S. 407, 85 S.Ct. 1525, 1527, 14 L.Ed.2d 477, 478 (1965), where in a per curiam opinion the Supreme Court said:

> We believe that the District Court should have stayed its hand. The power of the judiciary of a State to require valid reapportionment or to formulate a valid redistricting plan has not only been recognized by this Court but appropriate action by the States in such cases has been specifically encouraged.

Note: Subsequent to the superior court's entry of judgment in this case an action was filed in the United States District Court for the District of Alaska. Plaintiffs in this federal action seek in part a declaration as to the unconstitutionality of the Alaska Const. art. XIV, § 2; an injunction against the superior court's ordering of elections to be held pursuant to art. XIV, § 2; and request the District Court to adopt a provisional plan of apportionment for the Senate for purposes of the forthcoming 1966 primary and general elections.

7. This ratio is obtained by comparing the largest to the smallest population per member of the legislative body in question.

could elect a majority of the Alaska Senate [8] is used as the measure of representativeness, the conclusion is the same. The "frozen" apportionment of the Alaska Senate under our constitution has resulted in a grossly malapportioned Senate. The existing apportionment of the Alaska Senate provided for under our constitution fails to meet the Equal Protection Clause's standards of "substantial equality of population among the various districts" or that of Senate election districts composed of "as nearly of equal population as is practicable." In short, the right to vote of appellees, and all other persons similarly situated, for state senators is unconstitutionally impaired and diluted under the existing apportionment of the Alaska Senate. Therefore, article XIV, section 2 of the Alaska Constitution is unconstitutional.

The right to vote in question in this case is an individual and personal right protected by the Equal Protection Clause. This was made clear in *Reynolds*,[9] where the Supreme Court said:

> A predominant consideration in determining whether a State's legislative apportionment scheme constitutes an invidious discrimination violative of rights asserted under the Equal Protection Clause is that the rights allegedly impaired are individual and personal in nature. As stated by the Court in United States v. Bathgate, 246 U.S. 220, 227, 38 S.Ct. 269, 271, 62 L.Ed. 676 [680], '[t]he right to vote is personal * * *.' While the result of a court decision in a state legislative apportionment controversy may be to require the restructuring of the geographical distribution of seats in a state legislature, the judicial focus must be concentrated upon ascertaining whether there has been any discrimination against certain of the State's citizens which constitutes an impermissible impairment of their constitutionally protected right to vote.

Under the reapportionment decisions of the United States Supreme Court to which I have previously alluded, it is the function of this court to assure adherence to the Equal Protection Clause. My view of the manner in which this personal constitutional right of the electorate in the State of Alaska is to be vindicated differs from that held by the court below. Crucial to my conception of an apposite remedial vindication of this constitutionally protected right is that portion of *Reynolds* [10] where, in regard to the timing of an appropriate remedy, the Supreme Court stated:

> Remedial techniques in this new and developing area of the law will probably often differ with the circumstances of the challenged apportionment and a variety of local conditions. *It is enough to say now that, once a State's legislative apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to insure that no further elections are conducted under the invalid plan. However, under certain circumstances, such as where an impending election is imminent and a State's election machinery is already in progress, equitable considerations might justify a court in withholding the granting of immediately effective relief in a legislative apportionment case, even though the existing apportionment scheme was found invalid.* In awarding or withholding immediate relief, a court is entitled to and should consider the

8. This theoretical minimum percentage is obtained by ranking the various Senate election districts from the smallest population per member to the largest and then accumulating from the smallest district upwards until the point is reached where a given percentage of the population has the power to elect a majority of the Senate.

Other measurement tests, such as percentage deviation from the ideal district, also demonstrate that the Alaska Senate is grossly malapportioned.

9. Id. 377 U.S. at 561, 84 S.Ct. at 1381, 12 L.Ed.2d at 527.

10. Id. 377 U.S. at 585, 84 S.Ct. at 1393, 12 L.Ed.2d at 541.

proximity of a forthcoming election and the mechanics and complexities of state election laws, and should act and rely upon general equitable principles. With respect to the timing of relief, a court can reasonably endeavor to avoid a disruption of the election process which might result from requiring precipitate changes that could make unreasonable or embarrassing demands on a State in adjusting to the requirements of the court's decree. (Emphasis furnished.) [11]

Inherent in the decision of this case is an element which had been aptly characterized by counsel for appellees as that of "balancing"—that is, the weighing of the necessity for vindication of the individual's constitutionally protected right to vote for a constitutionally apportioned legislature against the interest of affording the "proper political agencies" of the State the opportunity to reapportion the Alaska Senate prior to the adoption by the courts of any interim reapportionment plan. In appellees' view, the proper political agencies are either a constitutional convention or legislatively initiated amendment to Alaska's Constitution providing for reapportionment of the Senate. In view of the total circumstances of this case and under my interpretation of *Reynolds*, I am of the opinion that the superior court erred in not adopting an interim reapportionment plan once the court found article XIV, section 2 unconstitutional. On the balance, I conclude that considerations compelling the taking of appropriate action to effectuate the right to vote involved here and "to insure that no further elections are conducted under the invalid" provisions of article XIV, section 2 of the Alaska Constitution are paramount.

I reach this conclusion for the following reasons. First: I find lacking the "unusual case" which would justify the superior court's refraining from undertaking appropriate action to insure that no further elections were conducted under article XIV, section 2's unconstitutional apportionment plan. Admittedly when this case was before the superior court, the impending primary election was imminent.[12] Yet the then existing circumstances in regard to the impending primary are perhaps unique in the history of apportionment litigation since *Reynolds*. This element of uniqueness is derived from the fact that subsequent to the issuance by the Governor of his September 3, 1965 "Proclamation of Reapportionment and Redistricting" appellant had taken steps to carry out the Governor's reapportionment plan and candidates had filed under this reapportionment plan. Whatever dislocation or interference in the State's election machinery that has occurred is attributable to the superior court's judgment which, on April 12, 1966 (for the first time in regard to the 1966 primary and general elections), brought into play the invalid apportionment scheme called for by article XIV, section 2 of the Alaska Constitution. In light of these circumstances, what I find lacking are relevant equitable principles which would justify departure from the implementation mandate of *Reynolds* in regard to the formulation of an appropriate judicial remedy.[13]

11. In 70 Harv.L.Rev. 1228, 1266 (1966), it is stated:

> A court must decide two questions when it fashions a remedy: (1) *whether the next election is so imminent that the court should not interfere in the election process at all*, and (2) if it does decide to act, either before the election or after it, what remedy is then most appropriate. (Emphasis furnished.)

12. The filing deadline for the primary election is June 1, 1966.

13. In reaching this conclusion I reject appellant's contention that the reapportionment decisions of the Supreme Court of the United States have established the year 1966 as the mandatory national deadline for reapportionment of a malapportioned state legislature. I do not interpret the cases cited by appellant as establishing such a deadline but do construe Reynolds and the other cited authorities as requiring a more accelerated compliance than was imposed under the "with all deliberate speed" formula in the public school segregation cases.

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Secondly: On June 15, 1964, the United States Supreme Court rendered its decision in *Reynolds* and five companion cases. Since that time no action has been initiated by the Alaska legislature to reapportion the Senate by amendment to our constitution.[14] In contrast, as I previously noted, the Governor of Alaska commenced steps on August 18, 1964, to reapportion the Senate. After statewide meetings and hearings, the Advisory Reapportionment Board furnished the Governor with two separate reports, all of which culminated in the presently contested September 3, 1965, "Proclamation of Reapportionment and Redistricting."

In light of these circumstances, any "balancing task" becomes less difficult. I do not find it unreasonable to give preference to the individual's constitutionally protected right of equality to vote in light of the fact that the Governor with the Advisory Board has already had the opportunity to study the political implications of Senate reapportionment. The amended decree which I would fashion today still leaves available to appellees an effective right under article XIII to have the apportionment articles of the Alaska Constitution amended by either legislative initiative or constitutional convention. I cannot discern how this right to obtain constitutional amendment is made any less effective, or becomes diluted in any way, by the presence of a constitutionally apportioned legislature elected pursuant to an interim plan embodying the Governor's reapportionment pla

Thirdly: The co[illegible] I reach is based on the following additional considerations. As indicated earlier, it is now established by virtue of Scott v. Germano [15] and Maryland Comm. for Fair Representation v. Tawes [16] that state courts have authority to formulate remedial interim reapportionment and redistricting plans. It has also been held in states where boards or commissions are vested with reapportionment authority that the courts will defer to such boards or commissions instead of to the legislature for the establishment of reapportionment plans.[17] In states where the legislature is not vested with the function of reapportionment (i. e. where reapportionment of a "frozen house" [18] can be accomplished only through constitutional amendment) courts, when necessary, have allowed such legislatures to enact reapportionment plans.[19]

My construction of Reynolds and subsequent Supreme Court decisions differs from that of appellees' as to the timing of appropriate remedial techniques. Appellees argue that courts are permitted to fashion judicial remedies in malapportioned cases only in the instance where there is "sufficient time prior to the [next] election for the properly authorized political agencies to act so as to produce a valid plan, and those agencies fail to act." I interpret Reynolds as imposing upon the courts the duty to fashion an appropriate judicial remedy, once malapportionment has been found, unless due to the imminency of the next election equitable considerations militate against judicial intervention.

14. That is either by an amendment proposed by two-thirds of the legislature or by the calling of a constitutional convention. During the same period the legislature has taken no steps to attempt to reapportion the Senate on an interim basis.

15. Supra note 6.

16. Supra page 701.

17. Yancey v. Faubus, 238 F.Supp. 290 (E. D.Ark.1965); In re Apportionment of Michigan State Legislature, 373 Mich. 250, 128 N.W.2d 722 (1964).

18. As used in this opinion the term "frozen house" signifies a legislative body whose election districts are constitutionally prescribed and there is no requirement, or body vested with the authority, to reapportion periodically.

19. Maryland Comm. for Fair Representation v. Tawes, supra page 701, at 377 U.S. at 675-676, 84 S.Ct. at 1439, 12 L. Ed.2d at 607; Buckley v. Hoff, 243 F. Supp. 573 (D.Vt.1965); Buckley v. Hoff, 234 F.Supp. 191 (D.Vt.1964), modified, Parsons v. Buckley, 379 U.S. 350, 85 S.Ct. 503, 13 L.Ed.2d 352 (1965); Butterworth v. Dempsey, 229 F.Supp. 754 (D.Conn.), aff'd sub nom. Pinney v. Butterworth, 378 U.S. 564, 84 S.Ct. 1918, 12 L.Ed.2d 1037 (1964).

These factors, in addition to those previously mentioned, have led me to conclude that an apposite judicial remedy in view of the unconstitutionality of article XIV, section 2 is the adoption by this court of the Governor's reapportionment plan on interim basis. In my view it is unnecessary to decide the issue of whether the Governor possesses the power to reapportion the Alaska Senate on an interim basis. I would limit this court's holding to the grounds that under the circumstances of this case the superior court should have, in formulating an appropriate remedy, adopted an interim reapportionment plan.

Despite any reservations I may entertain as to whether the goal of "fair and effective representation for all citizens"[20] will be realized through the standards articulated by the United States Supreme Court in its reapportionment decisions, this court is bound to insure compliance with the Equal Protection Clause.

For the foregoing reasons I would affirm paragraph number one of the superior court's judgment which declared unconstitutional article XIV, section 2 of the Alaska Constitution. I would also affirm paragraph number three of the superior court's judgment under which the superior court retained jurisdiction of the case to insure that "a valid constitutional amendment modifying the apportionment of the Alaska State Senate" is enacted and adopted by December 1, 1967.[21] Further, I would set aside in its entirety paragraph number two of the superior court's judgment and would amend paragraph number two to read as follows:

> The court adopts as an interim plan of apportionment for the Alaska Senate the reapportionment plan provided for in the Governor's September 3, 1965, "Proclamation of Reapportionment and Redistricting." The Secretary of State is to conduct the 1966 primary and general elections for the State Legislature pursuant to the interim reapportionment plan adopted herein.

20. Reynolds v. Sims, supra page 701, at 377 U.S. 565–566, 84 S.Ct. at 1383, 12 L.Ed.2d at 520.

21. In the event such an amendment is not adopted by December 1, 1967, the superior court has retained jurisdiction to "enter such orders as are necessary to insure that the 1968 primary and general elections will proceed only under an apportionment plan which is consistent with the fourteenth amendment to the federal constitution."

HYUNDAI CONSTRUCTION CO., LTD., and National Surety Corporation, Appellants,

v.

KALMBACH, INC., Appellee.

No. 1604.

Supreme Court of Alaska.

Nov. 10, 1972.

Appeal from Superior Court, Third Judicial District; Edward V. Davis, Judge.

Richard B. Collins and Daiil Park, Anchorage, for appellants.

Kenneth D. Jensen, of Jensen & Harris, Anchorage, for appellee.

OPINION

Before RABINOWITZ, C. J., and CONNOR and BOOCHEVER, JJ.

PER CURIAM.

This appeal arises out of a contract awarded by the State of Alaska in December 1969 to Hyundai for construction of the Hurricane Gulch Bridge near Cantwell, Alaska. Hyundai, together with National Surety Corporation, furnished the State of Alaska with payment and performance bonds as required for public works construction by AS 36.25.010. Thereafter Hyundai subcontracted with Kalmbach for certain aspects of the bridge construction. Several months later Hyundai found Kalmbach's performance unsatisfactory and terminated its subcontract with Kalmbach.

Pursuant to AS 36.25.020[1] Kalmbach filed suit against Hyundai and National Surety under the contractor's payment bond for the amount unpaid on the subcontract at the time of termination. Kalmbach also sued for damages for breach of the subcontract and for rentals of equipment which Hyundai was alleged to have rented after its termination of the subcontract. Hyundai counterclaimed asserting it was damaged by Kalmbach's breach of the subcontract. After trial by jury Kalmbach was awarded $141,020.96 for labor and materials supplied and $100 for Hyundai's breach of contract. Additionally, the jury returned a verdict in Hyundai's favor in the amount of $5,528 on its counterclaim.

In this appeal appellants have attempted to assert numerous specifications of errors. Our study of appellants' brief and the record in the case at bar has left us with the conclusion that appellants' assertions of error are without substance. In short we hold that the judgment entered below should be affirmed.

Affirmed.

EVANS, J., not participating.

1. Alaska's statute is substantially similar to 40 U.S.C. § 270a et seq., the "Miller Act." The state version provides that persons supplying labor and material for a contractor on a public works project may proceed against the payment bond in the name of the state.



William A. EGAN, Governor of Alaska, et al., Petitioners,

v.

Jay S. HAMMOND et al., Respondents.

No. 1711.

Supreme Court of Alaska.

July 21, 1972.

Opinion Sept. 29, 1972.

Review from the Superior Court, Third Judicial District, Anchorage, Edward V. Davis, J., in reapportionment case. On objections to interim reapportionment plan, the Supreme Court, Rabinowitz, J., held that it is constitutionally impermissible to discriminate against class of individuals in legislative reapportionment plan merely because of nature of their employment. The Court, in later opinion of Boochever, J., held that legislative re-

apportionment plan was invalid, where there was no adequate justification for variances which ranged from plus 23.35 to minus 45.93% in house districts and from plus 26.14 to minus 7.2% in senate districts, but that some military personnel might be excluded as permissible device for limiting impact of transients and nonresidents on legislative districting.

Objections overruled.

Decision of Superior Court affirmed in part and reversed in part and the case remanded with directions.

Boochever, J., dissented and filed opinion as to objections to interim plan.

1. States ⇐27

It is constitutionally impermissible to discriminate against a class of individuals in legislative reapportionment plan merely because of nature of their employment. Const. art. 6, § 3; U.S.C.A.Const. Amend. 14.

2. States ⇐27

Census data was required to be employed in determining total population base for purposes of formulating an interim reapportionment plan for legislative elections. Const. art. 6, § 3; U.S.C.A. Const. Amend. 14.

3. States ⇐27

In fashioning interim apportionment plan for legislative elections, military personnel or civilians who were living in Alaska and enumerated in most recent census but who did not at time possess intent of making Alaska their home would not be excluded from total population. Const. art. 6, § 3; U.S.C.A.Const. Amend. 14.

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4. Constitutional Law ⇐225(1)

The equal protection clause requires that the states make an honest and good-faith effort to construct districts, in both houses of its legislature, as nearly of equal population as practicable. U.S.C.A.Const. Amend. 14.

5. States ⇐27

Two separate justifications for deviation from ideal population figures in the apportionment of state legislatures are: variance occurring because of uncontrollable factors, despite a good-faith effort to achieve mathematical precision, and factors incident to effectuation of a rational state policy, but the latter justification is greatly limited. U.S.C.A.Const. Amend. 14.

6. States ⇐27

Only after good-faith effort has been made to achieve precise mathematical equality in reapportionment of state legislatures may variances be permitted and then state has burden of justifying in detail each such variance. U.S.C.A.Const. Amend. 14.

7. States ⇐27

Need for numerical adjustment is very focus of mandate to reapportion state legislatures. U.S.C.A.Const. Amend. 14.

8. States ⇐27

Legislative reapportionment plan was invalid, where there was no adequate justification for variances which ranged from plus 23.35 to minus 45.93% in house districts and from plus 26.14 to minus 7.2% in senate districts. U.S.C.A.Const. Amend. 14.

9. Elections ⇐18
States ⇐27

Military personnel as a class cannot be deprived of right to vote and cannot be arbitrarily eliminated in population base used to design legislative apportionment scheme. U.S.C.A.Const. Amend. 14.

10. Constitutional Law ⇐225(1)
States ⇐27

Alaska constitutional provision specifying that reapportionment shall be based upon civilian population within each election district violated Federal Constitution insofar as it sought to exclude military as a class. Const. art. 6, § 3; U.S.C.A.Const. Amend. 14.

11. States ⇐27

Although it is unconstitutional to exclude military as a class in reapportioning state legislature upon basis of popula-

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tion, some military personnel may be excluded as permissible device for limiting impact of transients and nonresidents on legislative districting. Const. art. 6, § 3; U.S.C.A.Const. Amend. 14.

12. States ⇐27

If even one person is disenfranchised on any irrational ground, legislative districting scheme rendering that result is invalid. U.S.C.A.Const. Amend. 14.

13. States ⇐27

With respect to legislative districting, attempt must be made to arrive at best approximation of population without losing sight of fact that right of equal representation is also an individual and personal right. U.S.C.A.Const. Amend. 14.

14. Constitutional Law ⇐225(1)
States ⇐27

Upon adequate notice and opportunity to register before use of master voter registration list for legislative reapportionment purposes, plan based upon current voter registration would be permissible under Federal Constitution in attempt to give accurate assessment of military population present in state with intent to make Alaska their home and also plans based on accurate data of state citizenship or state residency could meet standards of federal equal protection clause. U.S.C.A.Const. Amend. 14.

15. Constitutional Law ⇐49

Unconstitutional provisions of Alaska Constitution requiring that reapportionment be based upon civilian population within each election district as reported by the census is not severable; thus the entire provision is invalid. Const. art. 6, § 3; U.S.C.A.Const. Amend. 14.

16. Action ⇐6

Inasmuch as the apportionment plan was unconstitutional, question as to political affiliation of members composing advisory reapportionment board was moot and, since appointments to board were made many months before final plan was promulgated by governor and interested parties had ample time to appeal from moment appointments were made, judgment on the issue as to composition of board was not required. Const. art. 6, § 8.

17. States ⇐27

Inasmuch as governor in creating legislative reapportionment plan was not acting from political considerations and performed his function in good faith, any error in composition of advisory reapportionment board with respect to political affiliation of its members was rendered harmless error. Const. art. 6, § 8.

18. States ⇐27

Purpose of constitutional provision that appointment to advisory reapportionment board shall be made without regard to political affiliation is to prevent appointment of board whose efforts might result in politically motivated reapportionment plan. Const. art. 6, § 8.

19. States ⇐27

Constitutional requirement that appointments to advisory reapportionment board be made without regard to political affiliation was not equivalent of requiring a bipartisan board but, in reviewing validity of appointment, germane considerations include: the political affiliation of members of board, nature of their activities in partisan politics, particularly if from one political party only, and the expertise and general qualifications which members bring to the board. Const. art. 6, § 8.

20. States ⇐27

Creation of single-member legislative districts from multimember districts was within powers available to governor under constitutional provision authorizing him to redistrict by changing size and area of election districts. Const. art. 6, § 6.

21. States ⇐27

Governor's general power to reapportion legislature includes right to utilize tool of designated seats within multimember districts. Const. art. 6, § 6.

22. States ⇐27

A need to truncate terms of incumbents may arise when reapportionment results in permanent change in district lines which

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either exclude substantial numbers of constituents previously represented by incumbent or include numerous other voters who did not have voice in selection of that incumbent. Const. art. 6, § 6.

23. States ⇐27

Governor has power to terminate state senate terms as incidental to his general reapportionment powers. Const. art. 6, § 6.

24. States ⇐27

Under Alaska Constitution, governor, with assistance of reapportionment board, has implied power to reapportion senate on interim basis. Const. art. 6, § 6.

John E. Havelock, Atty. Gen., Richard W. Garnett, III, Asst. Atty. Gen., Juneau, for petitioners.

Clifford J. Groh, of Groh, Benkert, Greene & Walter, Anchorage, for respondents.

OPINION IN RE OBJECTIONS TO INTERIM REAPPORTIONMENT PLAN

Before BONEY, C. J., and RABINOWITZ, CONNOR, ERWIN and BOOCHEVER, JJ.

RABINOWITZ, Justice.

In our Decision and Order of May 26, 1972,[1] this court declared the reapportionment plan embodied in the December 30, 1971, Proclamation of Reapportionment and Redistricting unconstitutional under the equal protection and supremacy clauses of the Constitution of the United States of America. We reached this conclusion for the reason that the proposed plan in its overall reapportionment of the Senate and House of Representatives would have established election districts which failed to encompass "as nearly equal population proportions as is practicable." To insure compliance with the equal protection requirements of Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964), and its progeny, it was further determined that an interim reapportionment and redistricting plan, designed to meet the imminent 1972 elections, required formulation. In furtherance of this task, two Masters were appointed to assist the court in fashioning an appropriate interim reapportionment plan.

On May 26, 1972, the appointed Masters were given the following instructions in pertinent part:[2]

> 1. By use of the official Census of 1970, you should establish a population base for the State of Alaska. This population base should include military personnel who were enumerated in the 1970 Census.
>
> 2. You should make an inquiry to determine whether or not the number of nonresident military personnel included in the 1970 Census can be determined. If a determination can be made, then you should subtract the number from the total which you have arrived at in paragraph 1 above. You should also state the methods in detail by which you arrived at this determination.

After receipt of the Masters' Report,[3] an "Order Establishing an Interim Reapportionment Plan for 1972 Legislative Elections" was entered on June 14, 1972.[4] In its relevant part this order stated:

> By use of the Official Census of 1970, the Court determines that the total population base for the State of Alaska shall

1. This document is attached hereto as part of an appendix to this opinion. Also included in the appendix are the Reference to Masters, Masters' Report, Order Establishing an Interim Reapportionment Plan, and Order Denying Objections to Interim Reapportionment Plan.

2. The complete letter of instructions to the masters is attached hereto as part of the appendix.

3. The Report is included in the appendix attached hereto.

4. This document is included in the appendix attached hereto.

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be 302,361. This figure includes the military population residing in the State of Alaska at the time of the Official Census of April, 1970. In the time available to the Court for the preparation of the interim plan, the Court could find no feasible method of excluding some or all of the military personnel from the total population base. Moreover, computations revealed that changes in representation under the interim plan due to the inclusion of military personnel were minimal.

[1-3] Subsequent to the entry of this court's order establishing an interim reapportionment plan, petitioners filed objections thereto on the stated grounds:

> The Court erred in instructing the masters that the population base should include all military personnel who were enumerated in the 1970 census and in allowing nonresident military personnel enumerated by the census to be counted for the purpose of determining the population size and shape of particular districts. . . .

Petitioners contended that the effect of the inclusion of all enumerated military personnel was to give greater political power to those communities which adjoin major military installations In arguing for preservation of the civilian population concept,[5] petitioners state that Alaska's legislature established a presumption against residency of military personnel except on affirmation of intent by the person involved that he chooses to be an Alaska resident.[6] In overruling petitioners' objection to the inclusion in the interim plan's population base of all military personnel who were enumerated in the 1970 Census, in our order of June 20, 1972,[7] we said in part:

> [We] could find no feasible basis for the exclusion of part or all of the military population from the population base required for interim reapportionment. Under the Alaska Constitution this base must include all residents of the State of Alaska as enumerated in the decennial census. The base is not limited to voter population. Neither the 1971 reapportionment plan nor the materials relied upon by the petitioners provide a legal basis for identifying nonresident military personnel in order to eliminate them from the population base.
>
> In the absence of reliable data, the elimination of the military from the population base as a class of persons would be a denial of equal protection of the law, prohibited by the Fourteenth Amendment to the United States Constitution. (Footnotes omitted.)

Davis v. Mann, 377 U.S. 678, 84 S.Ct. 1441, 12 L.Ed.2d 609, 617 (1964), instructs that it is constitutionally impermissible to discriminate against a class of individuals merely because of the nature of their employment. Given Davis v. Mann, this court is nevertheless under the duty, pursuant to article VI, section 3 of the Alaska constitution, to employ census data in determining the total population base for purposes of formulating an interim reapportionment plan.[8] The census practice of enumeration is as follows:

> In accordance with census practice dating back to 1790, each person enumerated in the 1970 census was counted as an in-

5. Alaska Const. art. VI, § 3 provides in part: "Reapportionment shall be based upon civilian population within each election district as reported by the census."

6. In support of this argument, petitioners cite AS 15.05.020. The 1971 Reapportionment Plan includes Const Guard Personnel, 3,752 resident aliens, and all military dependents. These persons cannot be classified as citizens of the State of Alaska under the test urged by petitioners.

7. This order is included in the appendix attached hereto.

8. *See* note 1, *supra*. In reaching the conclusion that census data must be employed, we do no more than hold that for purposes of fashioning an interim reapportionment plan the unconstitutional limitation in art. VI, § 3 of the Alaska constitution is severable.

habitant of his usual place of residence, which is generally construed to mean the place where he lives and sleeps most of the time. This place is not necessarily the same as his legal residence, voting residence or domicile.[9]

In light of the unconstitutionality of the civilian-military distinction made in article VI, section 3 of the constitution of Alaska for purposes of determining the requisite population base and this provision's further requirement that Alaska's population base be computed from census data, we concluded that in fashioning an interim reapportionment plan no lawful requirement or reliable basis existed for isolation and exclusion from the total population base of those military or civilians who were living in Alaska and enumerated in the 1970 census but did not at the time possess the intent of making Alaska their home. Alaska's constitution requires that the requisite population total be arrived at by use of the census data. It does not mandate a population base composed exclusively of registered voters, citizens who have previously voted in Alaska, or only those people living in Alaska with the intention of making Alaska their home.[10]

It is for these reasons that this court decided that petitioners' objections to the inclusion of all military personnel, who were enumerated in the 1970 census in the total population base for purposes of determining an interim reapportionment plan should be overruled.[11]

BOOCHEVER, Justice (dissenting).

I dissent from so much of the court's order as overrules petitioners' objection to inclusion, under the court's interim reapportionment plan, of all military personnel who were enumerated in the 1970 Census for the purpose of determining the population size and shape of particular districts.

I agree with the majority that it is impermissible to discriminate against a class of individuals because of the nature of their employment without more being shown, Davis v. Mann, 377 U.S. 678, 691, 84 S.Ct. 1441, 12 L.Ed.2d 609, 617 (1964), just as it is unconstitutional to deprive members of a class such as the military of their right to vote, Carrington v. Rash, 380 U.S. 89, 85 S.Ct. 775, 13 L.Ed.2d 675 (1965).

The United States Supreme Court, however, has recognized the problems created by including in population counts proportionately large numbers of military personnel (and other transients) having few ties with the state in which they are physically present. In Burns v. Richardson, 384 U.S. 73, 86 S.Ct. 1286, 16 L.Ed.2d 376 (1966), the Court affirmed the use of a registered voter base for Hawaii knowing that this system eliminated a much higher proportion of military than civilian persons. The Court indicated its approval of state citizen population as a permissible population base. *Id.* at 92–95, 86 S.Ct. at 1296–1298, 16 L.Ed. 2d at 391–92.

The use in Alaska of the April 1970 Census figures for civilians in effect established a state citizen population base for

9. Census Report PC(1)–C3, Alaska, Appendix A, at App–1.

10. *See* note 6, *supra*.

11. The relative effect of eliminating all military personnel, of eliminating only military personnel housed in group quarters, or of including all military personnel in this court's interim reapportionment plan, would be to produce only a slight change in the base population figure and to necessitate some minor redrawing of district lines; it would not change the number of legislators in any given district. On the other hand, elimination of military personnel housed in group quarters would result in substantially increased population variances among the election districts in comparison with the minimal variations present in the interim reapportionment plan as it now stands. For example, the variation in the Juneau district would shift from the present +4.6 to +10.2; in the Matanuska-Susitna district from +1.5 to +7.4; in the Aleutian district from +3.4 to −37.3; in the Yukon-Koyukuk-Kuskokwim district from +1.0 to −0.5; and in the Fairbanks district from +0.1 to −7.1. Excluding military personnel living in group quarters would correct the Ketchikan discrepancy from −22.5 to −18.0.

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other than military. The April date effectively eliminated the large number of summer tourists and transient construction and fishing employees, leaving to be counted with minimal exceptions those voluntarily living in the state with the intention of making Alaska their home.[1]

While voting statistics are not synonymous with records of state citizenship, they do furnish a significant indication of a relatively definable military group's nexus with the state. Of the 9,818 census population of military personnel and civilian employees 18 years of age and over residing on the Elmendorf and Ft. Richardson bases, only 102 persons or approximately 1 percent voted as Alaskans in the November 3, 1970 election. At Eielsen and Ft. Wainwright, 172 of 9,997 or 1.7 percent so voted. Slightly higher figures of 8.8 percent and 4 percent voted at Adak and Kodiak, while none of Shemya's 1,131 voted. Civilians were also present on most of the bases so that the percentage of military personnel voting on the bases was in all probability even more minuscule.[2] Approximately 52 percent of the remaining Alaskan population over 18 years of age residing off the bases voted in the same election. (Masters' Report, Table 9) Moreover, according to the files of the Alaska Command, there are only 190 Alaskan "residents of record" among Army and Air Force personnel stationed in Alaska.

In my opinion, some adjustment with reference to counting military personnel is necessary in order to accomplish the substantive purpose of establishing equal population districting "as nearly as practicable."[3] If those physically in Alaska were to be counted in the middle of the summer when tourists and transient workers are present in vast numbers, a distorted population base would result. The counting of all military personnel regardless of their actual state residency results in a similar distortion.

As indicated in footnote 2 above, of Adak's population of 4,995 officers, enlisted men and dependents, and 450 civilians (a total of 5,445) only 165 could be induced to register as Alaskan voters, even after an extensive registration campaign. Under the court's interim reapportionment plan the ideal number of people to be represented by one legislator was fixed at 7,559. In areas such as the district embodying Adak, a relatively small number of voters would be represented by one legislator. The inequity of counting all military personnel is further illustrated by the fact that a decision to place the Ft. Richardson total population of 10,751 in a new district including Eklutna, Birchwood, Eagle River and Chugiak, as opposed to the Anchorage Northeast District, would change the representation of each by one legislator while involving a shift of less than 102 voters based on the 1970 elections.[4]

Even for an interim plan I feel that a more equitable solution is both feasible and constitutional.

I would deduct from the population base to be used for apportionment those members of the military, unaccompanied by dependents, living in military barracks, on ships, etc. These constitute 51.9 percent of the total number of military personnel enumerated in the census. (Masters' Report, p. 886) The location of such military personnel is readily ascertainable and is set forth

1. A small number of aliens who would not be eligible for state citizenship are included in the census count. Military personnel also include some aliens.

2. In a memorandum submitted to the court the Lieutenant-Governor of Alaska stated that the military population of Adak consisted of 4,995 officers, enlisted men and dependents, and 450 civilians. Despite an intensive voter registration effort only 165 were registered to vote as of June 1972.

3. Kirkpatrick v. Preisler, 394 U.S. 526, 528, 89 S.Ct. 1225, 22 L.Ed.2d 519, 523 (1969). Wesberry v. Sanders, 376 U.S. 1, 84 S.Ct. 526, 11 L.Ed.2d 481 (1964).

4. The court was petitioned to make such a change. The proposed change was not, however, adopted.

in Table 7 of the Masters' Report submitted to this court.[5]

Admittedly, there is no completely accurate means at our disposal for determining the number of both civilian and military persons enumerated in the census who are not Alaskan citizens. It is readily apparent, however, that the proportion of military who are not Alaskan citizens so far exceeds the proportion of nonresident civilians who may have been included in the April 1970 enumerations, that no discrimination to the military as a class will result from eliminating the military personnel unaccompanied by dependents who reside in barracks, on ships, etc. That portion of the military personnel who reside neither in their own homes nor in rented private quarters obviously have the fewest ties with the state. There are doubtlessly many other non-Alaskan citizens among the remaining off-base military personnel and their dependents so that the elimination of only the 51.9 percent constituting the personnel uaccompanied by dependents residing in barracks, on ships, etc. will actually result in the inclusion of a substantially higher number of military personnel than in all likelihood are Alaskan citizens.

The Alaska Constitution dictates that, to the extent permitted by the United States Constitution, military personnel should not be included in the population base. There can be no other reason for stating "[r]eapportionment shall be based upon *civilian* population within each election district as reported by the census." (Emphasis mine.)[6]

While I agree with the majority that all military personnel may not be excluded from the population base, the interim plan should follow as closely as feasible the intent indicated by the Alaska Constitution. For that reason the portion of the military in group quarters should be excluded as representing the minimum number of military who are not Alaskan citizens. As stated in Burns v. Richardson, "The difference between exclusion of all military and military-related personnel, and exclusion of those not meeting, [sic] a State's residence requirements is a difference between an arbitrary and a constitutionally permissible classification." 384 U.S. at 92, 86 S.Ct. at 1297, 16 L.Ed.2d at 391 n. 21. I am convinced that this pointed statement by the United States Supreme Court provides a method for us to more closely follow our own Alaska Constitution without drifting from the course of the equal protection clause of the United States Constitution. Thus, I respectfully dissent from the decision to include all of the military in the population base.

OPINION SEPT. 29, 1972

Before RABINOWITZ, C. J., and CONNOR, ERWIN and BOOCHEVER, JJ.

BOOCHEVER, Justice.

This case arises out of the 1971 reapportionment of the Alaska legislature pur-

5. If my colleagues had agreed to such a deduction, some slight changes would have had to be made in the districts as previously established in the interim plan. With the assistance of the Masters such alterations would not have been unduly difficult to accomplish and in my opinion would have resulted in further decreasing the population variances present in the interim reapportionment plan, especially with reference to the only substantial population variance, that of the Ketchikan District.

6. Alaska Const. art. VI, § 3. Since both the court's interim plan of reapportionment and the 1971 plan utilized census figures, I do not here reach the question of whether some other basis for determining population for reapportionment purposes, may now be used in view of the unconstitutionality of a portion of the provision. I do not necessarily agree with the court's apparent conclusion that the elimination of the "civilian" requirement may be severed from the requirement of using the census as a basis for population. It may well be that the two provisions are not separable. Champlin Ref. Co. v. Corporation Comm'n, 286 U.S. 210, 234, 52 S.Ct. 559, 76 L.Ed. 1062, 1078 (1932); Dorchy v. Kansas, 264 U.S. 286, 289–290, 44 S.Ct. 323, 68 L.Ed. 686, 689–690 (1924).

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suant to the mandate of article VI of the Alaska Constitution. The constitution provides for decennial reapportionment of the House of Representatives.[1] The authority to reapportion the House is vested in the Governor of the state, with the advice of a reapportionment board.[2] Since the adoption of the Alaska Constitution in 1956 the United States Supreme Court has ruled that both houses of a state legislature must be apportioned according to population.[3]

Because the Alaska Constitution made no provision for reapportionment of the Senate, we held in Wade v. Nolan[4] that on an interim basis until amendment of the Alaska Constitution the Governor had the power to reapportion the Senate in the same manner as specified by the constitution for the reapportionment of the House.

In 1971, following the 1970 decennial census, no amendment having been made to the Alaska Constitution, the Governor reapportioned both houses of the Alaska legislature. Thirteen members of the Alaska legislature then challenged the validity of the 1971 plan.[5] They urged that the percentage variations from the population norms for legislative districting violated the equal protection clauses of both the United States and the Alaska Constitutions; that the exclusion of the military from the population base was a denial of equal protection; that the Advisory Reapportionment Board was not constituted in the manner required by the Alaska Constitution; that the Governor lacked power to subdivide existing multi-member districts; that the Governor lacked power to create "designated seats" within multi-member districts; that the Governor was without authority to require incumbent Senators to stand for mid-term elections; and that the Governor exceeded his constitutional power by reapportioning the Senate.

The superior court held for the plaintiffs that the variances from population norms were so great as to render the plan invalid; that the Governor lacked the power to subdivide existing multi-member districts and to designate seats within such districts; and that the Governor could not prematurely terminate the terms of senators elected for four years.

The superior court held for the defendants that the military were properly excluded from the population base; that the Advisory Reapportionment Board was properly constituted; and that the Governor did possess the power to reapportion the Senate. The trial court directed that the matter of reapportionment of the Alaska State Legislature be sent back to the Governor and the Advisory Reapportionment Board for further consideration in accordance with the decision. Both the plaintiffs and the defendants below filed petitions for review from the superior court holdings adverse to their respective positions.

This court was mindful of the need for a speedy decision to enable election officials to prepare registration lists and ballots, to disseminate information and to afford time for election campaigns in the impending primary elections.[6] The petitions for review were filed on April 26, 1972. The time for filing briefs was accelerated and oral arguments were heard on May 23, 1972. During the course of those oral arguments, counsel were requested to recommend to this court procedures to be followed in the event that the 1971 plan was found to be constitutionally defective. It was suggested that the court fashion its own interim plan, and the Attorney General further recommended that Masters be appointed by the court.

1. Alaska Const. art. VI, § 3.
2. Alaska Const. art. VI, § 8.
3. Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964).
4. 414 P.2d 689 (Alaska 1966).
5. Alaska Const. art. VI, § 11.
6. The date of filing for candidacies was May 31, 1972. It was extended by this court in accordance with its powers over reapportionment matters first to June 13, 1972 and then to June 30, 1972. Connor v. Johnson, 402 U.S. 690, 91 S.Ct. 1760, 29 L.Ed.2d 268 (1971).

Having found in our Decision and Order of May 24, 1972,[7] that the 1971 plan contained variances from population norms which could not meet the criteria set forth by the United States Supreme Court, we reluctantly concurred with the suggestion of counsel that the court fashion an interim plan of reapportionment for the forthcoming 1972 primary and general elections. The court appointed Masters to assist in the formulation of such a plan.

The Masters presented a written report and conferred with the court on June 13, 1972. The report was modified in accordance with determinations made by the court. After objections filed by the parties were considered by the court, an Order Establishing an Interim Reapportionment Plan for the 1972 Legislative Elections was issued on June 14 with the modified report of the Masters appended thereto.[8] Because that plan is merely an interim plan, it is necessary to discuss and rule on each of the issues raised on appeal so that the Governor and his Advisory Reapportionment Board will have sufficient guidelines to devise a constitutionally acceptable permanent plan.

I. POPULATION VARIANCES

At the outset we recognize the difficulty of creating districts of equal population while also conforming to the Alaska constitutional mandate that the districts "be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area."[9] When Alaska's geographical, climatical, ethnic, cultural and socio-economic differences are contemplated the task assumes Herculean proportions commensurate with Alaska's enormous land area. The problems are multiplied by Alaska's sparse and widely scattered population and the relative inaccessibility of portions of the state. Surprisingly small changes in district boundaries create large percentage variances from the ideal population.[10]

Despite the possibility of belaboring this opinion we feel obliged to set forth a few of the facts which make it difficult to fit Alaska's reapportionment plan into standards established for the 48 contiguous states which preceded it into the Union. Alaska has a total land area of 586,400 square miles—as large as the entire Louisiana Purchase, and one-fifth the total area of the continental United States. Its boundaries embrace four time zones. The state contains the highest mountain on the North American continent, glaciers that exceed the size of the State of Rhode Island, and a coastline longer than the total coastline along the remainder of the continental United States. Mountain ranges which equal or exceed the length and height of the Rockies divide Alaska into five relatively isolated regions which in turn are subdivided by river systems and other geographic factors such as broad expanses of frozen tundra challenging the most advanced roadway engineering.

The 1970 Census reveals a population of 302,361 persons including members of the Armed Forces.[11] There is less population in the State of Alaska than in the cities of Omaha, Nebraska or Toledo, Ohio. The contrasting ethnic backgrounds, cultural interests and economic activities of this Alaska population are detailed in the Report of the Masters.[12]

When confronted with conditions so different from those of any other single state

7. The Order for an interim plan of reapportionment and the Report of the Masters are attached to this opinion as Appendix I.

8. Appendix I.

9. Alaska Const. art. VI, § 6.

10. Based on 1970 census figures, the population norm per representative is 7,559 so that a change of boundaries involving only 76 people would result in a one percent variation in the population ratio. (Masters' Report, Table A, p. 880)

11. Census Report PC(1)-C3, Alaska.

12. Appendix I, pp. 880-891.

in the continental United States, it is readily apparent that it becomes well nigh impossible to achieve the mathematical precision of equal proportions which is feasible in those other states. The situation is more analogous to that of the State of Hawaii, whose unusual difficulties[13] were recognized as potentially requiring special remedies by the United States Supreme Court in Burns v. Richardson.[14]

[4] Nevertheless, the initial standard to which a state legislative apportionment plan must be held is that set forth by the Supreme Court in Reynolds v. Sims:[15]

> [T]he Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable.[16]

Although the 1971 plan represents a substantial improvement in the [illegible] apportionment,[17] the new plan does still conflict with the guidelines established by the United States Supreme Court. We are, therefore, compelled to hold that the plan violates the United States constitutional guarantee of equal protection.

In the earlier reapportionment cases, the United States Supreme Court refused to articulate a strict test for what was required by the equal protection clause. In Reynolds v. Sims[18] the Court noted that "[w]hat is marginally permissible in one State may be unsatisfactory in another, depending on the particular circumstances of the case." Hence the present guidelines for reapportionment evolved on a case-by-case basis. In Swann v. Adams,[19] percentage variances in

13. The unique circumstances surrounding reapportionment in Hawaii are ably described in the opinion of Judge Pence in Burns v. Gill, 316 F.Supp. 1285 (D. Hawaii 1970).

14. 384 U.S. 73, 90-96, 86 S.Ct. 1286, 16 L.Ed.2d 376, 390-93 (1966).

15. 377 U.S. 533, 577, 84 S.Ct. 1362, 1390, 12 L.Ed.2d 506, 530 (1964).

16. The procedure followed by Hawaii in reapportioning its legislature in 1968 is illustrative of such "honest and good faith effort". A committee of three Senators and eight Representatives held 30 hearings before submitting its recommendations to the entire Constitutional Convention. After 15 hours of debating over a three-day period the apportionment provisions were adopted. The committee heard testimony from over 53 witnesses —political scientists, statisticians, attorneys and others—reviewed judicial decisions, analyzed apportionment and districting provisions of other state constitutions and reviewed numerous publications on the subject. Then, utilizing all those resources, the Committee formulated and adopted districting criteria. The Committee engaged an independent team of computer programmers, a statistician, and appropriate staff members, and turned over to that team the primary work of formulating and analyzing districting plans. That team, using a computer upon data gleaned from the 1966 registered voter figures for election precincts, as well as corresponding census tracts, prepared various districting plans and maps according to the Committee's criteria. No member of the Committee or any other delegate was involved in any preparation of the various plans. That team developed 30 house districting plans covering the several islands

> . . . . .
>
> The foremost criterion, of course, was that the average number of registered voters per legislator shall be as nearly equal as possible. Burns v. Gill, 316 F.Supp. 1285, 1289 (D.Hawaii 1970) (Footnotes omitted.)

17. The Alaska legislature was first reapportioned in 1965. The Governor's power to reapportion the Senate was challenged in the case of Wade v. Nolan, 414 P.2d 689 (Alaska 1966). In that case, however, the plaintiffs did not question the validity of the numerical variations among districts. By the time of the Governor's proposed plan six years later, the 1965 plan engendered population variances ranging from +104.57 to —65.49 percent in the House of Representatives and from +26.19 to —23.72 percent in the Senate. In the 1971 plan, population variations were reduced to a range of +23.75 to —45.93 percent in the House, and to a range of +26.14 to —17.22 percent in the Senate.

18. 377 U.S. 533, 577-578, 84 S.Ct. 1362, 1390, 12 L.Ed.2d 506, 537 (1964).

19. 385 U.S. 440, 443-444, 87 S.Ct. 569, 17 L.Ed.2d 501, 504 (1967).

the Florida Senate from +15.09 to −10.56 and in the Florida House of Representatives from +18.28 to −15.27 were held to be impermissible "for the failure of the State to present or the District Court to articulate acceptable reasons for the variations among the population of the various legislative districts . . . ." The degree of rigidity in the requirement of equality reached its zenith in Kirkpatrick v. Preisler[20] where population variances from +3.13 to −2.84 percent were held to be invalid. The Missouri Assembly had rejected a plan with smaller variances. The Court stated:

> We reject Missouri's argument that there is a fixed numerical or percentage population variance small enough to be considered de minimis and to satisfy without question the "as nearly as practicable" standard. The whole thrust of the "as nearly as practicable" approach is inconsistent with adoption of fixed numerical standards which excuse population variances without regard to the circumstances of each particular case . . . . [T]he "as nearly as practicable" standard requires that the State make a good-faith effort to achieve precise mathematical equality. . . . Unless population variances among congressional districts are shown to have resulted despite such effort, the State must justify each variance, no matter how small.[21]

[5] Thus the present standard for reapportionment allows two separate justifications for deviation from the ideal population figures. The first is that variance occurring because of uncontrollable factors, despite a good faith effort to achieve mathematical precision. The second acceptable deviation is that which "the State must justify"—the implication being that while it was a controllable deviation, other factors "incident to the effectuation of a rational state policy"[22] can be advanced in justification. However, as the Supreme Court cautioned at an early date in Reynolds v. Sims, acceptable state policies are greatly limited.

> [N]either history alone, nor economic or other sorts of group interests, are permissible factors in attempting to justify disparities from population-based representation . . . . Modern developments and improvements in transportation and communications make rather hollow, in the mid-1960's, most claims that deviations from population-based representation can validly be based solely on geographical considerations. Arguments for allowing such deviations in order to insure effective representation for sparsely settled areas and to prevent legislative districts from becoming so large that the availability of access of citizens to their representatives is impaired are today, for the most part, unconvincing.
>
> A consideration that appears to be of more substance in justifying some deviations from population-based representation in state legislatures is that of insuring some voice to political subdivisions, as political subdivisions.[23]

[6] Only after a good-faith effort has been made to achieve precise mathematical equality may variances be permitted; and then the state has the burden of justifying in detail each such variance.[24]

The Report of the Governor's Advisory Reapportionment Board offers some of the reasons which justify greater percentage variations in Alaska districts "in terms of

20. 394 U.S. 526, 89 S.Ct. 1225, 22 L.Ed.2d 519 (1969).

21. 394 U.S. at 530–531, 89 S.Ct. at 1228, 1229, 22 L.Ed.2d at 524–525 (citation omitted).

22. Reynolds v. Sims, 377 U.S. 533, 579, 84 S.Ct. 1362, 12 L.Ed.2d 506, 537 (1964).

23. *Id.* at 579–580, 84 S.Ct. at 1391, 12 L.Ed.2d at 537–538.

24. Kirkpatrick v. Preisler, 394 U.S. 526, 532, 89 S.Ct. 1225, 22 L.Ed.2d 519, 526 (1969); Kilgarlin v. Hill, 386 U.S. 120, 122, 87 S.Ct. 820, 17 L.Ed.2d 771, 774 (1967); Swann v. Adams, 385 U.S. 440, 443–446, 87 S.Ct. 569, 17 L.Ed.2d 501, 504–506 (1967).

rational state policy forwarded as factors unique to Alaska." The report notes for example that in some isolated areas a local population would necessarily be divided between contiguous districts, achieving numerical precision at the grave expense of depriving that community of any political power or attention from campaigning candidates.

[7] For other districts, however, the Advisory Reapportionment Board offers little or no explanation for the percentage deviations which were created. For example, no explanations are given for the variations in the Yukon-Kuskokwim House District 15, the Nome House District 19, and the Yukon-Kuskokwim Senate District K which respectively were −9.2 percent, −16.7 percent and −17.29 percent from the population norm. Such disparities as exist in the Wade Hampton District 20 of −28.4 percent, and in the Bethel House District 21 of +4.9 percent cannot be justified simply because a combination of pre-existing districts or a readjustment of district lines does not produce any other "benefits" than a numerical adjustment. The need for numerical adjustment is the very focus of the mandate to reapportion. In too many districts we are forced to conclude that the disparities are without adequate justification in terms of rational state policies to meet the stringent standards established by the United States Supreme Court.

[8] It is significant to note that in no case coming before the Supreme Court have population variances approaching those of the 1971 plan been upheld, while less substantial variances have been repeatedly rejected as unconstitutional.[25] Judged by the standards set out above, we are compelled to hold that the 1971 plan is invalid since there is no adequate justification offered for the variances which range from +23.35 to −45.93 percent in the House districts, and from +26.14 to −7.2 percent in the Senate districts.[26]

II. MILITARY PERSONNEL

The Alaska Constitution specifies that "[r]eapportionment shall be based upon civilian population within each election district as reported by the census."[27] The validity of this provision was not questioned by the parties in Wade v. Nolan,[28] although the 1965 plan eliminated military personnel from the population base. The 1971 reapportionment plan similarly limited the population base to civilians.[29] The plaintiffs below have chailenged the validity of this constitutional provision, contending that the

25. *E. g.*, Kirkpatrick v. Preisler, 394 U.S. 526, 89 S.Ct. 1225, 22 L.Ed.2d 519 (1969) (variations from +3.13 to −2.84 percent held unconstitutional); Kilgarlin v. Hill, 386 U.S. 120, 87 S.Ct. 820, 17 L.Ed.2d 771 (1967) (variations from +14.84 to −11.64 percent held unconstitutional); Swann v. Adams, 385 U.S. 440, 87 S.Ct. 569, 17 L.Ed.2d 501 (1967) (variations from +15.01 to −10.56 percent held unconstitutional). *Cf.* Abate v. Mundt, 403 U.S. 182, 91 S.Ct. 1904, 29 L.Ed.2d 399 (1971) (variations from −4.8 to −7.1 percent upheld).

26. With the single exception of the Ketchikan district, the range of variations in this court's interim plan is from +4.3 to −2.7 percent in the House, and from +4.3 to −2.3 percent in the Senate. The Ketchikan variation in both House and Senate is −22.5 percent. The reasons for the Ketchikan variance are explained in the Report of the Masters at p. 892. Due to the pressure of time in adopting interim plans, the United States Supreme Court has been much more liberal in condemnancing variations which might not otherwise be acceptable. *E. g.*, Kilgarlin v. Hill, 386 U.S. 120, 121, 87 S.Ct. 820, 17 L.Ed.2d 771, 774 (1967). *See also* Burns v. Gill, 316 F.Supp. 1285, 1288 (D. Hawaii 1970) saying, "[N]o one particular area of deviation or variance from the ideal of absolute equality of voting power, per se, invalidates an apportionment plan."

27. Alaska Const. art. VI, § 3.

28. 414 P.2d 689 (Alaska 1966).

29. With the exception of members of the United States Coast Guard, uniformed military personnel were eliminated. Military dependents were counted as part of the civilian base. Coast Guard personnel were counted as civilians because they operate under the control of the Department of Transportation.

elimination of military personnel as a class violated the equal protection clauses of the United States and Alaska Constitutions.

In Davis v. Mann, 377 U.S. 678, 84 S.Ct. 1441, 12 L.Ed.2d 609 (1964), underrepresentation of certain districts was attempted to be justified by the state noting that a substantial number of military personnel resided in the deficient districts. In rejecting this argument, the Court stated:

> Discrimination against a class of individuals, merely because of the nature of their employment, without more being shown, is constitutionally impermissible.[30]

In Carrington v. Rash, 380 U.S. 89, 85 S. Ct. 775, 13 L.Ed.2d 675 (1965), a Texas attempt to deprive military personnel of the right to vote in a state election simply because of their military status was held unconstitutional.

[9–11] These cases make clear that military personnel as a class cannot be deprived of the right to vote, and that they cannot be arbitrarily eliminated in a population base used to design an apportionment scheme. But while the clause of the Alaska Constitution seeking to exclude military as a class is unconstitutional, that is not to say that some military cannot be excluded as a permissible device for limiting the impact of transients and nonresidents on legislative districting.

[12, 13] It is also necessary to distinguish the degree of precision required in dealing with representational rights as against the strict right to vote. Carrington v. Rash indicates that if even one person is disenfranchised on any irrational ground, the scheme rendering that result must be declared invalid. On the other hand, fixing equal population counts for each legislative district is a more ephemeral and elusive goal when the mathematical precision achieved one day is destroyed the next by Alaskan society's chronic mobility. Given the fact that dilution of a voter's influence is not completely avoidable, the challenge is to arrive at the best approximation of the population to be counted without losing sight of the fact that the right of equal representation is also an individual and personal right.[31]

In light of these considerations, it becomes important to evaluate the accuracy and recency of the information relied on by the Governor's Advisory Reapportionment Board. Their report to the Governor merely stated that

> [u]niformed military personnel who are residents of Alaska and therefore, arguably not excludable under the United States Constitution were so few in number as to be negligible.

The only support for this statement offered in evidence at the trial below was a letter received from an officer of the Alaska Command at the time of the 1965 reapportionment, indicating that among the military stationed in Alaska there were only 111 "residents". There is no indication in the letter of the accuracy of the source for this information. The officer warned in his letter "that this cannot be considered an absolutely accurate figure, as military personnel records do not contain an entry showing what can be called a 'legal residence' for voting purposes. The record shows only the place the person prefers to consider as his permanent home."[32] Without inquiring to up-date the 1965 figure, or obtaining other information on the military from any source, the Board excluded all military personnel from the population base. Hence we were forced to conclude in our Order Denying Objections to the Interim Reapportionment Plan, filed June 20, 1972, that

30. 377 U.S. 678, 691, 84 S.Ct. 1441, 1448, 12 L.Ed.2d 609, 617 (1964).

31. Reynolds v. Sims, 377 U.S. 533, 561, 84 S.Ct. 1362, 12 L.Ed.2d 506, 527 (1964).

32. In the 1970 general elections there were 632 votes cast in precincts located solely on military installations. (Masters' Report, Table 9) There are no available statistics as to what proportion of those, if any, were civilians.

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> [i]n the absence of reliable data, the elimination of the military from the population base as a class of persons would be a denial of equal protection of the law, prohibited by the Fourteenth Amendment to the United States Constitution.

In the short time available for devising an interim reapportionment plan, a majority of this court decided that it was not possible to compile sufficiently accurate data to provide a reasonable basis for excluding any number of military from the population base.[33] Thus we included all military personnel with an eye to the fact that our plan would only apply to this year's election, and that a more accurate assessment of the military vote can be achieved in the process of devising a permanent decennial apportionment scheme.[34]

We recognize that the substantial military population present in the state because of military orders and without intention to make Alaska their home can easily give an unbalanced representation to areas abutting their bases. But we are also mindful of the need for a permanent plan which achieves a level of accuracy of their voting participation which is closer than either including or excluding all military as a class. Thus it is incumbent upon us to discuss alternative plans which may be available to handle the problem.[35]

The United States Supreme Court in Burns v. Richardson, 384 U.S. 73, 86 S.Ct. 1286, 16 L.Ed.2d 376 (1966), permitted the use of a registered voter base for Hawaii, knowing that this system eliminated a much higher proportion of military than civilian persons. Further, the Court indicated its approval of state citizen enumeration as a permissible population base.[36]

[14] Alaska has a master voter registration list[37] and the court takes judicial notice that active efforts have been made to register all eligible voters. Upon adequate notice and opportunity to register before use of such a registration list for reapportionment purposes, it would appear that an apportionment plan based on current voter registration would be permissible under the federal constitution. Likewise plans based on accurate data of state citizenship or state residency could meet the standards of the federal equal protection clause.[38]

Another problem, however, would be involved in the use of any but a census population base. As noted above the Alaska Constitution specifies that: "Reapportionment shall be based upon civilian population within each election district as reported by the *census*." (Emphasis added.) Since we have held that the provision is invalid insofar as it is based on "civilian population", a question is presented as to whether the balance of the provision is separable so as to continue to be effective, or in the alternative whether the entire provision should be stricken leaving some flexibility of choosing a population base for a new, permanent apportionment plan.

Similar problems have frequently arisen with reference to legislation. In Dorchy v. Kansas, 264 U.S. 286, 289–290, 44 S.Ct. 323, 324, 68 L.Ed. 686, 689–690 (1924), Justice Brandeis set forth the following

33. *But see* dissenting opinion of Justice Boochever in Egan v. Hammond, Opn. No. 815 (Alaska, July 21, 1972).

34. This court's opinion in Egan v. Hammond, *supra* n. 33, discusses in greater detail the reasons for the inclusion of all military personnel in the court's interim plan of reapportionment.

35. The alternatives here discussed are not intended to be an all inclusive list, but are illustrative of constitutional means of treating the problem.

36. 384 U.S. at 91, 86 S.Ct. 1286, 16 L.Ed. 2d at 390.

37. AS 15.07.120.

38. In the *Burns* case the Court noted that:
> The difference between exclusion of all military and military-related personnel, and exclusion of those not meeting, [sic] a State's residence requirements is a difference between an arbitrary and a constitutionally permissible classification.

384 U.S. at 92, 86 S.Ct. at 1297 fn. 21, 16 L.Ed.2d at 391, n. 21.

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criteria for determining the effect on the remainder of a statute when part is found unconstitutional:

> A statute bad in part is not necessarily void in its entirety. Provisions within the legislative power may stand if separable from the bad . . . . But a provision, inherently unobjectionable, cannot be deemed separable unless it appears both that, standing alone, legal effect can be given to it and that the legislature intended the provision to stand, in case others included in the act and held bad should fall.

In Champlin Refining Co. v. Corporation Comm'n, 286 U.S. 210, 234, 52 S.Ct. 559, 565, 76 L.Ed. 1062, 1078 (1932) the standard was phrased as follows:

> The unconstitutionality of a part of an act does not necessarily defeat or affect the validity of its remaining provisions. Unless it is evident that the Legislature would not have enacted those provisions which are within its power, independently of that which is not, the invalid part may be dropped if what is left is fully operative as a law.

These criteria would appear to apply equally to a state constitutional provision as to an act of the legislature. To enforce the balance of the section in question requiring exclusive use of the census, the court should be able to find that the constitutional provision would have been enacted independently of the void reference to "civilian population".[39]

The members of the Constitutional Convention must have considered the fact that many military personnel present in Alaska do not regard this state as their home and do not actively participate in its affairs. Yet the large number of such personnel concentrated in small areas of the state is capable of distorting the representational base. Although the minutes of the Constitutional Convention are silent on the subject, it appears highly likely that this was the reason that the convention limited the reapportionment base to civilian population.

[15] If the requirement to use census figures were to be retained after striking the provision which limited the base to civilian population, this apparent intent might be frustrated. Only skeletal information of location and mobility characteristics of the military can be extrapolated from census data. Because the equal protection clause of the United States Constitution requires more specific factual justification for eliminating portions of the military from the population base, we conclude that the Board and the Governor should be permitted to use alternates to the census base.[40] We thus hold that the provisions of that portion of article VI, section 3, requiring that "reapportionment shall be based upon civilian population within each election district as reported by the census" is not severable. While we so hold, we remain hopeful that before a permanent plan is created, the legislature will initiate procedures to up-date the reapportionment provisions of the Alaska Constitution by an appropriate constitutional amendment.[41]

39. Springfield Gas & Elec. Co. v. Springfield, 292 Ill. 236, 126 N.E. 739 (Ill. 1920), aff'd 257 U.S. 66, 42 S.Ct. 24, 66 L.Ed. 131 (1921); New Jersey Chapter, American Institute of Planners v. New Jersey State Bd. of Professional Planners, 48 N.J. 581, 227 A.2d 313 (N.J.1967).

40. In reaching this conclusion we are mindful of the great danger that statistical data from different sources can inadvertently be corrupted or misconstrued in the process of assimilation. We trust that the Board and the Governor will also be mindful of this possibility, and will include in the reapportionment process the statistical expertise which is necessary to ensure that such errors will not occur.

41. Suggested in Wade v. Nolan, 414 P.2d 689, 700–701 and by Justice Rabinowitz, concurring at 700. Counsel for plaintiffs stated in their briefs that a resolution initiating such an amendment would be enacted at the 1972 legislative session, but no such resolution was passed.

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III. COMPOSITION OF THE ADVISORY REAPPORTIONMENT BOARD

[16] Plaintiffs have contended that the reapportionment board was not constituted as required by article VI, section 8, of the Alaska Constitution, which specifies in part: "Appointments shall be made without regard to political affiliation." There were no Republican members appointed to the reapportionment board. Since we have found that the 1971 reapportionment plan is unconstitutional, the question as to the composition of the board has become moot and we therefore do not reach that issue at this time.[42]

[17, 18] We also note that the parties stipulated that the Governor in creating the reapportionment plan was not acting from political considerations and that he did perform his function in good faith. Thus if there was error in the composition of the board such error was rendered harmless, as the obvious purpose of the constitutional provision was to prevent the appointment of a board whose efforts might result in a politically motivated reapportionment plan.

[19] Under our decision it will be necessary to refer this matter to a reapportionment board for formulation of a permanent plan. Thus, although it is not necessary for us to rule at this time on the question of whether the 1971 reapportionment board was validly constituted, it is incumbent upon us to set forth some criteria which we determine applicable in deciding whether a board has been appointed "without regard to political affiliation", so as to withstand challenge.[43] At the outset, we recognize that this phrase is not the equivalent of requiring a "bi-partisan" board.[44] Nevertheless, in reviewing the validity of the appointment, some (although not necessarily all) of the following considerations would appear to be germane: The political affiliation of members of the board; the nature of their activities in partisan politics, particularly if from one political party only; and the expertise and general qualifications which members bring to the board.

42. *Cf.* Doe v. State, 487 P.2d 47, 53 (Alaska 1971). In that case we stated the general proposition that "we will refrain from deciding questions where the facts have rendered the legal issues moot" except: "where the matter is one of grave public concern and is recurrent but is capable of evading review . . . . ." We do not feel that the issue presently before us evinces the same elusiveness which would require our judgment at this time. Appointments to the Advisory Reapportionment Board are made many months before a final plan is promulgated by the Governor, and interested parties have ample time to appeal from the moment the appointments are made.

43. The defendants quite properly point out that the reapportionment board was convened on May 20, 1971, and that it conducted widely publicized hearings throughout the state during the summer of 1971. Hence the doctrine of laches might well further bar questioning the composition of the board after awaiting the outcome of its work involving the expenditure of substantial funds and the devotion of much time and effort. There was ample opportunity to bring a suit long before the completion of the board's functions. McCrocklin v. Fowler, 285 F. Supp. 41, 45 (E.D.Wis.1968) (alternate holding). *Accord*, Gersten v. United States, 364 F.2d 850, 852, 176 Ct.Cl. 633 (1966); Nelson v. Lord, 4 Alaska 174, 182–83 (1910).

44. At the Alaska Constitutional Convention, in the discussion of the original draft of section 8 which used the word "nonpartisan" the following explanation was given:

> HELLENTHAL: The word was chosen deliberately. Now an alternative and perhaps the one that the delegate has in mind would be "chosen from each of the major parties." *That alternative was specifically rejected* because [the committee] felt it placed emphasis upon political considerations on this board which as has been pointed out, it is hoped to keep as objective as possible. Now it is true and the Committee realized that "*nonpartisan*" *doesn't mean that you cannot belong to a political party* . . . . [On] the contrary to use the political language, would emphasize politics, and *it is the whole purpose of this article to de-emphasize politics.* (Emphasis added.)

Convention Minutes, p. 1958.

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IV. CREATING SINGLE-MEMBER DISTRICTS FROM MULTI-MEMBER DISTRICTS

The Alaska Constitution specifically authorizes the Governor to redistrict "by changing the size and area of election districts . . . ."[45] subject to certain restrictions set forth in the constitution. It is thus clear that the Governor is authorized to redistrict by changing boundaries and areas. The creation of single-member districts from multi-member districts would appear to be a concomitant power under the authorization to redistrict. Furthermore, this authority is inherent in the general power to reapportion the legislature. Redistricting is inseparable from reapportionment and the Governor should be able to authorize any constitutional device to accomplish the task. The Oregon Supreme Court in its recent review of that state's reapportionment set forth the applicable principles as follows:

> Apportionment is accomplished by changing legislative district lines and an integral part of apportionment is making a choice between fixing legislative district lines along a single-member district plan or a multi-member district plan. This is a decision that the legislature would have had to make if it had done the reapportioning. It must be made by the Secretary of State or whatever body makes the apportionment.[46]

[20] Where the method or motive of districting rather than the mathematical precision of the apportionment is being challenged, the Supreme Court of the United States has consistently required that the challenger bear the burden of proving unconstitutionality.[47] The plaintiffs below failed to meet this burden of proof and we hold that the creation of single-member districts from multi-member districts was within the powers available to the Governor.

V. DESIGNATION OF SEATS WITHIN MULTI-MEMBER DISTRICTS

The 1971 plan provided that each seat within the multi-member districts of Anchorage and Fairbanks should be designated alphabetically, and that each candidate for office within that district should indicate at the time of filing the particular lettered seat for which he seeks election. The plaintiffs challenged the authority of the Governor to designate seats within multi-member districts.

[21] The Governor's general power to reapportion includes the right to utilize the tool of designated seats. The reasoning set forth in Hovet v. Myers,[48] gives support to this position. An identical problem arose in the case of Moss v. Burkhart,[49] wherein the court in redistricting the Oklahoma legislature authorized designated seats. If a court has such power under its general authority to reapportion, a Governor authorized specifically by a state constitution to reapportion should be held to have similar power.

VI. TERMINATING LEGISLATORS' TERMS

[22, 23] The 1971 Reapportionment Plan provided for termination of all Senators' terms, with the exception of two Senators whose districts were not altered. Under the 1971 plan the areas to be represented by the remaining Senators were changed, and particularly the Anchorage senatorial districts had drastic changes in that the Senators no longer were to run at large. A need to truncate the terms of incumbents may arise when reapportionment

45. Alaska Const. art. VI, § 6.

46. Hovet v. Myers, 489 P.2d 664, 669 (Or.1971).

47. *E. g.*, Whitcomb v. Chavis, 403 U.S. 124, 144, 91 S.Ct. 1858, 29 L.Ed.2d 363, 376 (1971). *Cf.* Kilgarlin v. Hill, 386 U.S. 120, 121, 87 S.Ct. 820, 17 L.Ed.2d 771, 774 (1967).

48. 489 P.2d 65, 669 (Or.1971).

49. 220 F.Supp. 150, 158 (W.D.Okl.1963), aff'd sub nom., Williams v. Moss, 378 U.S. 558, 84 S.Ct. 1907, 12 L.Ed.2d 1026 (1964).

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results in a permanent change in district lines which either excludes substantial numbers of constituents previously represented by the incumbent or includes numerous other voters who did not have a voice in the selection of that incumbent. The discretionary authority to require mid-term elections when necessary is well established.[50] We accordingly hold that the Governor had the power to terminate Senate terms as incidental to his general reapportionment powers.[51]

VII. GOVERNOR'S AUTHORITY TO REAPPORTION

[24] The Governor's authority to reapportion the Senate was also challenged by the plaintiffs below. In Wade v. Nolan this question was discussed in detail, and we concluded that under the Alaska Constitution the Governor with the assistance of the reapportionment board had the implied power to reapportion the Senate on an interim basis.[52] Since there has been no amendment to the constitution, our decision on that point remains unaltered.

Plaintiffs below indicated that the legislature was prepared to initiate a constitutional amendment pertaining to reapportionment. Since the constitution does not specifically provide for Senate reapportionment and impermissibly limits the reapportionment base to civilian population, we strongly urge that an appropriate amendment to the constitution be prepared and presented to the electorate.

The decision of the superior court is affirmed in part and reversed in part in accordance with the provisions of this opinion. The case is remanded to the superior court for the purpose of referring the matter of a permanent reapportionment plan to the Governor with the assistance of an advisory board to be appointed by him in accordance with the provisions of the Alaska Constitution.

APPENDIX I

1. Decision and Order of May 26, 1972.
2. Reference to Masters, May 26, 1972.
3. Masters' Report.
4. Order Establishing an Interim Reapportionment Plan.
5. Order Denying Objections to Interim Reapportionment Plan.

DECISION AND ORDER

This matter was heard by the court on May 24, 1972, upon petition for review and cross-petition for review. The court recognizes the extreme difficulty of the task confronted by the Governor and the Reapportionment Board in reapportioning the

50. Mann v. Davis, 238 F.Supp. 458 (E.D. Va.1964), aff'd, 379 U.S. 694, 85 S.Ct. 713, 13 L.Ed.2d 698 (1965); Moss v. Burkhart, 220 F.Supp. 149, 157 (W.D. Okl.1963), aff'd sub nom., Williams v. Moss, 378 U.S. 558, 84 S.Ct. 1907, 12 L.Ed.2d 1026 (1964); Sims v. Amos, 336 F.Supp. 924, 940 (M.D.Ala.1972); Butcher v. Bloom, 420 Pa. 305, 216 A.2d 457, 459 (1966).

51. In the interim plan promulgated by this court, Senate terms of incumbent Senators were not terminated. The interim plan did not contain the drastic reapportionment of the Anchorage Senatorial districts. We felt that it was preferable not to shorten the terms of Senators, particularly as this may become a necessity upon the formulation of a permanent plan. The additions or substitutions of geographical areas under the interim plan have not so materially changed the population base which elected each of the Senators as to prevent him from adequately representing his designated district. There is ample authority for permitting Senators to serve out their terms *under an interim plan* even when the boundaries of their districts have been changed. Mann v. Davis, 238 F.Supp. 458 (E.D.Va.1964), aff'd, 379 U.S. 694, 85 S.Ct. 713, 13 L.Ed.2d 698 (1965); Moss v. Burkhart, 220 F.Supp. 149, 158 (W.D. Okl.1963), aff'd sub nom., Williams v. Moss, 378 U.S. 558, 84 S.Ct. 1907, 12 L.Ed.2d 1026 (1964); Sims v. Amos, 336 F.Supp. 924, 940 (M.D.Ala.1972); Butcher v. Bloom, 420 Pa. 305, 216 A.2d 457, 459 (1966).

52. 414 P.2d 689, 700 (Alaska 1966).

ALASKA COURT SYSTEM LIBRARY

State of Alaska because of its differing climates, topography, ethnic composition, socio-economic interests and distribution of its relatively sparce population. However, under the mandate of various decisions of the United States Supreme Court, we make the following determinations and order:

1. The reapportionment plan proposed by the Governor of Alaska in his Proclamation of Reapportionment and Redistricting of December 30, 1971, is unconstitutional in that its overall reapportionment of the Senate and House of Representatives results in proposed election districts that do not contain as nearly equal population proportions as is practicable. Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed. 2d [illegible] (1964); Wade v. Nolan, 414 P.2d 689 (Alaska 1966). Under the Equal Protect[illegible] and Supremacy Clause of the Constitution of the United States of America, the constitutional right to vote of every citizen of Alaska is protected against impermissible dilutions and impairments flowing from malapportionment of either the House of Representatives or the Senate. In order to effectuate this constitutionally protected right to vote, we are obliged to declare the reapportionment plan of December 30, 1971, invalid under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

2. To insure compliance with the Equal Protection Clause in regard to the forthcoming 1972 primary and general elections for the State Legislature this court must formulate an interim reapportionment and redistricting plan. Scott v. Germano, 381 U.S. 407, 85 S.Ct. 1525, 14 L.Ed.2d 477 (1965); Maryland Comm. for Fair Representation v. Tawes, 377 U.S. 656, 675–676, 84 S.Ct. 1429, 12 L.Ed.2d 595, 607 (1964). The Lieutenant Governor is to conduct the 1972 primary and general elections for the State Legislature pursuant to the interim reapportionment and redistricting plan which this court will adopt.

3. In order to fashion an interim plan this court will appoint one or more masters to assist it.

4. Upon receipt of the report of the master or masters, this court will consider the manner in which the House and Senate districts shall be reapportioned. This court will then proceed to adopt an interim plan of reapportionment which, as nearly as practicable, considering the allotted time, reflects the standards which have been made binding upon the states by the United States Supreme Court. Ely v. Klahr, 403 U.S. 108, 91 S.Ct. 1803, 29 L.Ed.2d 352 (1971); Reynolds v. Sims, 377 U.S. 533, 586, 84 S.Ct. 1362, 12 L.Ed.2d 506 541 (1964).

5. In the event this court determines that the exigencies of the situation preclude the fashioning of an interim constitutional reapportionment plan by June 15, 1972, this court will enter a further order specifying the plan under which the Lieutenant Governor shall conduct the 1972 primary and general elections for the State Legislature, together with the dates that such elections will be held. Connor v. Johnson, 402 U.S. 690, 91 S.Ct. 1760, 29 L.Ed.2d 268 (1971).

6. A full opinion discussing and determining the issues which were raised in the petition and cross-petition will be filed in due course.

Dated at Juneau, Alaska, this 26th day of May, 1972.

George F. Boney
Chief Justice

Jay A. Rabinowitz
Associate Justice

Roger G. Connor
Associate Justice

Robert C. Erwin
Associate Justice

Robert Boochever
Associate Justice

SUPERIOR COURT

Clifford J. GROH et al., Appellants,

v.

William A. EGAN, Governor of Alaska, et al., Appellees.

No. 2233.

Supreme Court of Alaska.

Sept. 13, 1974.

Action was brought challenging validity of plan for reapportionment of the Alaska legislature. The Superior Court, Third Judicial District, Anchorage District, James K. Singleton, J., dismissed and appeal was taken. The Supreme Court, Boochever, J., held that use of 1970 census data as basis for reapportionment plan adopted in 1973 was not unreasonable; that formula used to exclude transient military personnel from data base did not discriminate against military personnel; that State failed to demonstrate that individual variances from the mean in certain districts were based on legitimate considerations incident to the implementation of a rational state policy; that division of Greater Anchorage area into six election districts was not improper; and that it was within governor's discretionary authority to require mid-term elections in Greater Anchorage area following adoption of the plan, Fitzgerald, J., concurred in part, dissented in part and filed opinion.

Affirmed in part and reversed in part.

Erwin, J., dissented and filed opinion.

1. States ⇐27(3)

Supreme Court does not have constitutional authority to decide what is preferable between alternative rational plans for legislative reapportionment. Const. art. 6, §§ 3, 8, 11.

2. States ⇐27(2)

Constitutional authority to reapportion the legislature resides in the executive, not the courts. Const. art. 6, §§ 3, 8, 11.

3. States ⇐27(10)

Supreme Court views a legislative reapportionment plan promulgated under the constitutional authority of the governor in the same light as it would a regulation adopted under a delegation of authority from the legislature to an administrative agency to formulate policy and promulgate regulations. Const. art. 6, §§ 3, 8, 11.

4. Administrative Law and Procedure ⇐760

Supreme Court has authority to review constitutionality of administrative action but may not substitute its judgment as to the sagacity of a regulation for that of the administrative agency; wisdom of a given regulation is not a subject for review.

5. States ⇐27(10)

On appeal from dismissal of action challenging validity of legislative reapportionment plan, Supreme Court would consider matter de novo upon record developed in the superior court. Const. art. 6, §§ 3, 8, 11.

6. States ⇐27(3)

Governor may select from among different available statistical compilations in preparing a legislative reapportionment plan. Const. art. 6, § 3.

7. States ⇐27(10)

Supreme Court's review of governor's use of 1970 census data for purposes of adopting legislative reapportionment plan in 1973 was restricted to determining whether governor's authority to choose census data as population base was exercised in a rational as opposed to an arbitrary manner. Const. art. 6, §§ 3, 8, 11.

8. States ⇐27(5)

Governor's use of 1970 census data for purposes of adopting legislative reapportionment plan in 1973 was not improper, despite contention that there were more accurate and current data available. Const. art. 6, § 3.

9. States ⇐27(5)

Elimination of portion of military personnel within the state from population base for purpose of legislative reapportionment plan did not constitute an unconstitu-

tional employment classification on theory that civilian transients were not treated equally, as civilian transients were not present in significant numbers at time census data were obtained, civilian transients were not included in census population though military were so included and special nature of military transients created reasonable basis to distinguish between military and civilian transients. U.S.C.A.Const. Amend. 14.

10. States ⇐27(5)

Formula for exclusion of transient military personnel from population base used for legislative reapportionment purposes whereby statewide ratio of those registered to vote in November 1970 election and number counted in April 1970 census was applied to those registered to vote in locations populated exclusively by the military and their dependents to determine nonresidency factor did not discriminate against the military as class or improperly exclude military personnel based on the nature of their employment. U.S.C.A.Const. Amend. 14.

11. States ⇐27(5)

In absence of showing that manner of reapportioning state legislature is improperly motivated or has an impermissible effect, deviations between legislative districts of up to 10% require no showing of justification; however, state has burden of showing that deviations in excess of 10% are based on legitimate considerations incident to the effectuation of a rational state policy. U.S.C.A.Const. Amend. 14.

12. Constitutional Law ⇐225(1)
States ⇐27(5)

State authorities failed to demonstrate that individual variances from the mean in certain legislative districts which were malapportioned in excess of a 10% maximum comparative variance were based on legitimate considerations incident to the implementation of a rational state policy and, therefore, such variance denied residents of underrepresented districts equal protection. U.S.C.A.Const. Amend. 14.

13. States ⇐27(5)

Underrepresentation of certain legislative districts created by legislative reapportionment plan could not be justified on theory that variance was caused by desire to preserve boundaries of regional corporations established under the Alaska Native Claims Settlement Act and to establish homogeneous groupings of native peoples where none of the districts had the boundaries of a native corporation and makeup of population to the north and east of one area alleged to have unique native composition did not vary significantly from that of adjoining villages within the district. Alaska Native Claims Settlement Act, §§ 2 et seq., 3(b), 7, 43 U.S.C.A. §§ 1601 et seq., 1602(b), 1606.

14. States ⇐27(7)

Patterns of housing, income levels and minority residency within Greater Anchorage Borough lacked necessary significance to justify underrepresentation of three legislative districts in the Borough by 5.9, 6.5 and 8.6%.

15. States ⇐27(7)

Underrepresentation of Juneau legislative district by 14%, overrepresentation of Wrangell-Petersburg district by 9.3% and overrepresentation of Aleutian Chain district by 6.5%, which disparities would result from adoption of legislative reapportionment plan, were justified by valid historical and geographic considerations.

16. States ⇐27(7)

Constitutional requirement that legislative districts be formed from contiguous, compact, and relatively integrated socioeconomic areas does not prohibit smaller districts within such areas. Const. art. 6, § 6.

17. States ⇐27(7)

Division of Greater Anchorage area into six election districts was not improper, despite contention that area constituted a single integrated socioeconomic area which should not have been fragmented. Const. art. 6, § 6.

18. States ⇐

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here legislative reapportionment substantially altered senatorial dis- .s in Greater Anchorage area so that .tricts from which four "hold-over" sentors had been elected no longer existed and new districts had vastly changed boundaries, it was within governor's discretionary authority to require mid-term elections, thus truncating terms of four incumbents.

Kenneth P. Eggers, Clifford J. Groh, Groh, Benkert & Walter, Anchorage, for appellants.

James N. Reeves, Asst. Atty. Gen., Anchorage, Norman C. Gorsuch, Atty. Gen., Juneau, for appellees.

Ben T. Delahay, Borough Atty., Soldotna, as amicus curiae for Kenai Peninsula Borough.

Before RABINOWITZ, Chief Justice, and CONNOR, ERWIN, BOOCHEVER and FITZGERALD, Justices.

OPINION

BOOCHEVER, Justice.

For the third time, we are confronted with a challenge to the reapportionment of the Alaska legislature.[1] In Egan v. Hammond, we held that the 1971 reapportionment of the Alaska legislature, which was promulgated pursuant to the mandate of Art. VI of the Alaska Constitution, was unconstitutional under the equal protection and supremacy clauses of the United States Constitution. Due to the imminence of the 1972 elections we adopted an interim plan of reapportionment for the 1972 legislative elections. The case was thereafter remanded to the superior court which on January 13, 1973 issued an order, pursuant to our mandate, requesting the governor of the State of Alaska, with the assistance of an advisory board appointed by him, to develop a permanent reapportionment plan for the Alaska legislature. The governor appointed an advisory board which, after conducting numerous public hearings, submitted a report and proposed plan of reapportionment[2] which was adopted by the governor on December 11, 1973.

Suit was commenced in the superior court challenging the validity of the plan. After trial of the case, Judge Singleton entered a judgment on May 14, 1974 dismissing the action on the merits. Appellants raise the following issues on appeal:

1. Population variance between districts was excessive.
2. The division of the Greater Anchorage area into six districts violated the Alaska constitutional requirement that districts be formed of contiguous and compact territories containing as nearly as practicable a relatively integrated socio-economic area.
3. There was no need to truncate the terms of four senators, and termination of their terms constituted a denial of equal protection.
4. The use of a formula establishing the number of military personnel to be included in the population base violates the due process and equal protection clauses of the United States and Alaska constitutions.
5. Failure to base the plan on the latest population data resulted in malapportionment.

Because of the imminence of the 1974 elections, we expedited briefing and heard arguments on June 4, 1974. On June 6, we entered an order approving all aspects of the plan except the composition of specified house and senate districts, which we found exceeded permissible constitutional

1. *See* Egan v. Hammond, 502 P.2d 856 (Alaska 1972) and Wade v. Nolan, 414 P.2d 689 (Alaska 1966).

2. The report was unanimously approved by the five-member board, with the exception of the districting of the Anchorage area, to which portion of the report two members dissented.

limits regarding population variances without adequate justification.[3]

The case was remanded to enable the governor of the State of Alaska, if he desired, to resubmit the plan to the Advisory Reapportionment Board for the purpose of revising it and bringing the districts specified within constitutional standards.[4] We stated in our order that a full opinion would follow.

I

STANDARD OF REVIEW

Besides determining whether the reapportionment plan meets constitutional requirements, we must settle upon an appropriate standard of review applicable in Alaska reapportionment cases. Article VI of the Alaska Constitution provides for reapportionment of the House of Representatives by the governor after each decennial census. Although no comparable provision governs reapportionment of the senate, we have held that the Senate, too, must be similarly reapportioned in order to conform to constitutional requirements imposed by the United States Supreme Court.[5] Section 11 of Article VI confers original jurisdiction on the superior court to hear challenges to the reapportionment plan, and provides that "On appeal, the cause shall be reviewed by the supreme court upon the law and the facts."

[1,2] Appellants argue that this constitutional authority confers upon the supreme court the power to decide what is preferable between alternative rational plans. We do not so construe our authority, for if that were the case, there would be little reason to provide for the governor to promulgate the reapportionment plan after receiving the recommendations of the Advisory Reapportionment Board.[6] The constitutional authority to reapportion resides in the executive, not the courts. Jurisdiction is conferred on the courts only when an application is made to compel the governor, "[T]o perform his reapportionment duties or to correct any error in redistricting or reapportionment."[7] It cannot be said that what we may deem to be an unwise choice of any particular provision of a reapportionment plan from among several reasonable and constitutional alternatives constitutes "error" which would invoke the jurisdiction of the courts.

[3,4] We view a plan promulgated under the constitutional authorization of the governor to reapportion the legislature in the same light as we would a regulation adopted under a delegation of authority from the legislature to an administrative agency to formulate policy and promulgate regulations. We have stated that we shall review such regulations first to insure that the agency has not exceeded the power delegated to it, and second to determine whether the regulation is reasonable and not arbitrary. Of course, additionally, we always have authority to review the constitutionality of the action taken, but we have stated that a court may not substitute its judgment as to the sagacity of a regulation

3. A copy of the order of remand is appended hereto as Exhibit A.

4. The governor did resubmit the plan to the Board, which recommended changes in the various districts, and the governor has submitted the revised plan to this court.

5. *See* Egan v. Hammond, 502 P.2d 850, 874 (Alaska 1972); Wade v. Nolan, 414 P.2d 689, 700 (Alaska 1966).

6. Art. VI, §§ 3 and 8, Alaska Constitution.

7. Art. VI, § 11 of the Alaska Constitution provides:

> Any qualified voter may apply to the superior court to compel the governor, by mandamus or otherwise, to perform his reapportionment duties or to correct any error in redistricting or reapportionment. Application to compel the governor to perform his reapportionment duties must be filed within thirty days of the expiration of either of the two ninety-day periods specified in this article. Application to compel correction of any error in redistricting or reapportionment must be filed within thirty days following the proclamation. Original jurisdiction in these matters is hereby vested in the superior court. On appeal, the cause shall be reviewed by the supreme court upon the law and the facts.

for that of the administrative agency, and that the wisdom of a given regulation is not a subject for review.[8] The superior court indicated that it applied these criteria to its review of the reapportionment plan, and we shall apply like standards in our review of the law and facts raised by this appeal.

[5] One other aspect of our review function pertains to the weight to be given to the decision of the superior court. When the reapportionment article was first proposed at the constitutional convention, original jurisdiction for review was vested in the supreme court. After discussion, it was deemed more practical to have original jurisdiction in the superior court, but the delegates indicated a preference for the application by the supreme court of a standard other than the familiar "abuse of discretion" test in reviewing the decision of the superior court. The draft was amended to specify that "[o]n appeal, the cause shall be reviewed by the supreme court upon the law and the facts."[9] The minutes of the Constitutional Convention indicate that the drafters of this provision intended that appellate review be in the nature of a de novo proceeding, but without additional evidence being presented.[10] Accordingly, in reviewing the reapportionment plan we shall consider the matter de novo upon the record developed in the superior court.

II

USE OF THE 1970 CENSUS DATA

In determining the population base to be used for reapportionment, the Advisory Board relied upon the 1970 decennial census. Appellants contend that there were more accurate and current data available, and that it was improper not to utilize them.

Article VI, Section 3 of the Alaska Constitution provides that, "[R]eapportionment shall be based upon civilian population within each election district as reported by the census." In Egan v. Hammond, we held that the elimination of military personnel as a class was unconstitutional, and that the "civilian population" clause could not be severed from the requirement that

8. *See* Kingery v. Chapple, 504 P.2d 831, 834–835 (Alaska 1972); Kelly v. Zamarello, 486 P.2d 906, 911 (Alaska 1971).

9. Alaska Constitution art. VI, § 11.

10. The intent was best articulated by Delegate McLaughlin:

> I believe, Mr. Johnson, in answer to you, there was one addition that Mr. Taylor desired. He desired not only a review on the law, but he wanted to make sure that the supreme court could review all the facts as presented in the superior court. He wanted in substance a trial de novo without any other evidence than the evidence presented in the superior court. That's why he insisted that the law and facts appear there.

Minutes, Constitution Convention 1947. Previously, the following exchange had taken place between Delegates Taylor and Hellenthal:

> Taylor: . . . Why in this proposed article, did you confer upon the supreme court of the State of Alaska original jurisdiction to try disputes as to reapportioning?
>
> Hellenthal: That language came identically from the language of the Hawaii Constitution which was recently adopted, and we felt that the matter of such supreme importance as this should be conferred on the supreme court and that they should be given original jurisdiction. There might be a better court.
>
> Taylor: Do you not believe that the superior court could be more available to any disgruntled voter . . . an' allow the supreme court of Alaska to be the appellate court . . . ?
>
> Hellenthal: Of course their review would be confined to review of legal matters and not facts. Perhaps it was thought that the supreme court was a bit more detached than a superior court.
>
> Taylor: But if the district courts abuse their discretion, you can always raise that in the appellate court.
>
> Hellenthal: But as you know and I know as lawyers, to raise the question of abusive [sic] discretion you have got to be awfully right.
>
> Taylor: Could you not in your proposal put it that the superior court should have original jurisdiction and that the supreme court would be the appellate court and also could find as to the facts? (Minutes, pp. 1850–60).

reapportionment be based exclusively upon census data. We concluded that alternatives to the census base could be utilized.[11] Thus, there is no longer a specific constitutional mandate as to the population base to be utilized by the governor. On the other hand, it has never been held that the due process or equal protection clauses of the United States or Alaska constitutions dictate reapportionment upon some population base other than that of decennial census.[12] In fact, in Reynolds v. Sims, the United States Supreme Court stated:

> In substance, we do not regard the Equal Protection Clause as requiring daily, monthly, annual or biennial reapportionment, so long as a State has a reasonably conceived plan for periodic readjustment of legislative representation. While we do not intend to indicate that decennial reapportionment is a constitutional requisite, compliance with such an approach would clearly meet the minimal requirements for maintaining a reasonably current scheme of legislative representation.[13]

[6] While *Reynolds* indicates that it is not necessary to reapportion more frequently than decennially, it does not really address itself to the question of what population data may be used. There can be little question but that the general principle of equalizing votes per persons can best be achieved by use of the most current accurate data reasonably available. We indicated in Egan v. Hammond, that in the absence of a constitutional amendment reestablishing specific guidelines, the governor has the power to select alternative bases for reapportionment purposes. We referred to the permissibility of a registered voter, state citizenship or state residency base.[14] Similarly, the governor may select from among different available statistical compilations.

[7,8] Since the governor's authority to choose census data as a population base is not limited by either the state or the federal constitution, our review is restricted to whether that authority has been exercised in a rational as opposed to an arbitrary manner. The report of the Reapportionment Advisory Board evidences thorough and exemplary exploration of the possibility of using more current statistics. Only after alternatives were carefully examined was the determination made to use the 1970 census data. As to the rationality of that decision, we agree with the findings of the superior court:

> The Advisory Reapportionment Board examined the feasibility of such an update. Its statistical technician (who is otherwise the employee of the Research and Analysis Section who is responsible for preparing that office's annual estimates) and its counsel sought the advice of Dr. George Rogers on this matter and were informed that it would be impossible to update the 1970 data in a statistically meaningful way with the geographical specificity required for reapportionment. The Board also took this question up with Ronald Evans, federal census coordinator at the University of Alaska's Institute for Social, Economic and Government Research, who advised that updated population data was not available and that it would be possible to contract with the Census Bureau to obtain a special census for reapportionment purposes at a cost of about $250,000. For these reasons, and in addition because the Annual Estimates represent population in July rather than in April and cannot effectively be extrapolated with geographic

11. 502 P.2d at 870–871.

12. Justice Brennan in his dissent in White v. Regester, 412 U.S. 755, 93 S.Ct. 2332, 37 L.Ed.2d 314, 334 (1972), asserted that a reapportionment plan must be "grounded on the most accurate available data", and that unreliability of data may necessitate invalidation of a plan. No holding of the United States Supreme Court, however, implies that decennial census data is not constitutionally appropriate, and Justice Brennan did not address himself to the question of how current reapportionment data must be.

13. 377 U.S. 533, 583, 84 S.Ct. 1362, 1393, 12 L.Ed.2d 506, 540 (1964).

14. 502 P.2d at 870.

specificity, it was not unreasonable for the Board to conclude that it could not effectively update 1970 census data.

The use of the 1970 census data under those circumstances did not constitute error.

III

MILITARY PERSONNEL

The Advisory Board sought to eliminate from the data base, to the extent that reliable information could be developed on which to do so, all nonresidents who could be statistically identified. The Board found that approximately 26 percent of the census population consisted of military personnel and their dependents, substantial numbers of whom were not residents of the state.[15] A complicated formula was established whereby 28,581 of the approximately 78,998 military and military dependents,[16] were eliminated from the population base. Appellants contend that the elimination of a portion of the military personnel from the population base constitutes an unconstitutional employment classification violative of due process and equal protection.[17]

In Egan v. Hammond, we wrestled with the thorny problem of accounting for military personnel in the Alaska population base. Since many of the considerations there discussed are still controlling on this issue, we shall summarize the basic rationale of that case.[18] We held invalid the constitutional requirement that reapportionment shall be based upon civilian population within each election district as reported by the census for the reason that military personnel as a class could not be eliminated arbitrarily. We pointed out, however, that by holding such elimination unconstitutional we were not saying "that some military cannot be excluded as a permissible device for limiting the impact of transients and nonresidents on legislative districting." Reference was made to the possibility of using a registered voter base, which has been approved in Burns v. Richardson,[19] or employing a state citizen or state residency basis. We expressed what has now proved to be a vain hope that the legislature would update the reapportionment provision of the Alaska Constitution with an appropriate constitutional amendment.

15. The masters we appointed collected the following data regarding participation of military personnel in the 1970 general election: Elmendorf and Fort Richardson, 102 voters of 9,445 population over age 18; Eielson and Fort Wainwright, 172 voters of 10,270 population over age 18; Shemya Station, no voters among 1,085 population over age 18; Kodiak Station, 78 voters of 1,717 population over age 18. In these six enumeration districts populated by military personnel and their dependents, there were thus only 352 voters from an adult population of 22,523 or less than 1.6 percent. Approximately 52 percent of non-military adults voted in the same election. Egan v. Hammond, 502 P.2d at 969, *see* 502 P.2d at 862 (Boochever, J., dissenting). If voting can be taken, as we believe, to be an indication of a person's desire to make a state his home, the desires of Alaska-based military personnel have been clearly expressed in the negative. Of all the military personnel in Alaska, only 190 claimed to be residents of record according to the Alaska Command at the time of Egan v. Hammond, *id.* at 862, and nothing in the record indicates that this figure has changed significantly.

16. In April 1970, the census indicated that there were 32,113 uniformed military personnel in the state. Figures provided by the Alaska Command and other sources indicated approximately 1.46 military dependents for each uniformed military personnel in July 1973. Assuming the same ratio in 1970, there were 46,885 military dependents and personnel in 1970. Thus, military personnel and their dependents accounted for 78,998 of the state's 1970 population of 302,361. Although the Board originally sought to eliminate nonresident military and nonresident dependents, the exclusionary formula was finally applied only to uniformed personnel.

17. *See* Davis v. Mann, 377 U.S. 678, 691, 84 S.Ct. 1441, 1448, 12 L.Ed.2d 609, 617 (1964). "Discrimination against a class of individuals merely because of the nature of their employment, without more being shown, is constitutionally impermissible."

18. *See* 502 P.2d at 868–871.

19. 384 U.S. 73, 86 S.Ct. 1286, 16 L.Ed.2d 376 (1966).

[9] In the absence of any constitutionally mandated population base, the Advisory Board sought information regarding Alaska's transient population. Military personnel were found to be the most prominent component, and on the basis of its data the Board found a certain proportion of the military to be excludable from the population base. The dissent finds error in the decision to exclude military transients from the apportionment population base primarily because the Board failed to treat civilian transients equally. For three reasons we find the Board's decision reasonable: (1) it was reasonable for the Board to conclude that civilian transients are not present in significant numbers in April, when the census data was obtained; (2) even if transients were present, they were not included in the Alaska census population, although all military stationed in Alaska were so included; (3) the special nature of military transience creates a reasonable basis to distinguish between military and civilian transients.

Initially we believe the Board was justified in concluding that civilian transients were not included in the 1970 Alaska census figures. The 1970 census data, upon which the exclusion was based, was obtained in April. The seasonality of tourism in Alaska is well known; although published data on tourist presence is not readily available, the absence of tourists in the state during school months and before the spring thaw is common knowledge. The likelihood that any number of tourists could have been included in Alaska's census population is, therefore, minute. The seasonality of much of Alaska's employment market has been authoritatively documented over several decades.[20] Specific data bearing out the general trend in recent years, and the 1970 census year in particular, is available through the Alaska Workforce Estimates prepared on a monthly basis by the Research and Analysis Section of the Employment Security Division of the Alaska Department of Labor. A review of those documents for 1970 shows the presence in April 1970 of a total statewide labor pool of 109,972 employable civilians.[21] That figure is but 7,000 more than the January ebb and over 17,000 less than the 127,144 peak in July.[22] The actual number of persons employed showed a similar pattern of increase and decline: for instance, in the food processing industry, which is inextricably tied to the highly seasonal fishing industry,[23] total employment doubled from 6,700 in April to 13,600 in July.[24]

Even if non-military transients were contacted by census takers in Alaska, it does not follow that they were included in Alaska's population. The census enumerates a person according to his "usual place of residence".[25] That clause is "generally

20. *See* Rogers, G. W. and Cooley, R. A., Alaska's Population and Economy, 127–30 (1962); Rogers, G. W., The Future of Alaska, 106–07 (1962); Rogers, G. W., Alaska, The Economy and the Labor Force, 78 Monthly Labor Rev. 1375 (1955); *cf.* Rogers, G. W., Alaska Regional Population and Employment, University of Alaska S.E.G. Report No. 15 at 30, 94 (1967). *See generally* Research and Analysis Section, Empl. Security Div., Alaska Dept. of Labor, Alaska Workforce Estimates by Industry and Area, 1965–72. The workforce estimates are prepared under mandate of the United States Department of Labor to the state to make available to the public, "accurate and timely area manpower and job market information for decision-making purposes." III United States Department of Labor, Employment Security Manual § 8020, *implementing* 20 C.F.R. § 602.6, *implementing* 29 U.S.C. § 301 *et seq.* We harbor no reluctance to take notice of such authoritative sources documenting a well known aspect of the Alaska economy. Civil Rule 43(a)(2)[c] and 43(a)(2)[d].

21. Research and Analysis Section, Empl. Security Div., Alaska Dept of Labor, Revised 1970 Alaska Workforce Estimate (1972).

22. *Id.*

23. *See generally* authorities cited at note 20, *supra*.

24. Research and Analysis Section, Empl. Security Div., Alaska Dept. of Labor, Revised 1970 Alaska Workforce Estimate (1972).

25. Bureau of the Census, Social and Economic Statistics Administration, United States Department of Commerce, Characteristics of the Population, Part A at v. (1971).

construed to mean the place where [a person] lives and sleeps most of the time." [26] Transient individuals in Alaska in April 1970 were not necessarily counted as Alaska residents. For example, the residence of tourists was attributed to their state of origin.[27] The same was true where a short-term worker was encountered in Alaska.[28] Those persons who were counted as residents of Alaska lived and slept here "most of the time", and it would be difficult to find a basis for excluding them from the population base.

Servicemen were treated very differently from civilians by the census, however:

> Members of the Armed Forces living on military installations were counted, as in every previous census, as residents of the area in which the installation was located. Similarly, members of the Armed Forces not living on a military installation were counted as residents of the area in which they were living. Crews of U.S. Navy vessels were counted as residents of the home port to which the particular vessel was assigned. . . . [29]

Thus the census fails to cull out the nonresident from the military census population, although it does so with respect to the civilian population.[30] In that distinction alone lies justification for the Board's excluding of nonresident military persons without also attempting to eliminate civilian nonresidents.

Finally, in concluding that the exclusion of the military cannot be reconciled with "the board's tolerance toward civilian transients" and comparing the exclusion of military personnel to a durational residency requirement, the dissent in our opinion ignores the fundamental reason for the exclusion of some military personnel—their want of any contact with the state beyond mere presence. Although some may volunteer for such duty, military personnel are ordered to report to the Alaska Command. Recognizing the involuntary nature of military assignment, common law courts, including the territorial district court,[31] have long stated that a person who enters the military retains the residence and domicil he established before entering the

26. *Id.*

27. *Id.* at vi.

28. *Id.* The rules followed by enumerators to decide residence questions further support the understanding that civilian transients were not included in Alaska's census population in a significant number. Persons who maintained a permanent residence elsewhere than Alaska but were encountered in Alaska because of seasonal employment would have been classified as "Person who has more than one home and divides time between them", and the assigned residence would have been "Place where he spends largest part of calendar year." Bureau of the Census, United States Department of Commerce, Enumerator's Handbook Pub. D-507 [Rule 11] at 76. (The rules may also be found in other versions of the handbook, Publications D-500, D-520 and D-526.) Thus, the census included as Alaska residents only those transients who spent a majority of the year in Alaska. For the Board to seek to determine who among them actually considered themselves to be state citizens would be a Herculean task, if it could be accomplished at all. Persons who were in Alaska as seasonal laborers when their families were enumerated in other states would also have been referred back as residents of the locale of the family household. *Id.* [Rule 1] at 75. Only homeless migrants could have been included as Alaska residents, had such persons been present in the state. The relevant rule assigns "Persons in places which have shifting populations composed mainly of persons with no fixed residence, such as convict camps, highway and other construction camps, and camps for migratory agricultural workers," a residence in the camp where they are found. *Id.* [Rule 16] at 77. The thought that any significant number of people could have been encountered in agricultural or construction camps in Alaska on April 1, 1970 defies experience.

29. Bureau of the Census, *supra* note 25 at v.

30. The census does place college students where they attend school. The Board made an effort to determine the percentage of college students who were nonresidents. The number was found to be statistically insignificant.

31. Wilson v. Wilson, 10 Alaska 616, 621 (D.C.Anch.1945). The legislature in enacting AS 09.55.160 rendered nugatory the portion of *Wilson* which held that a serviceman may not sue for divorce within the state of assignment. *See* Lauterbach v. Lauterbach, 392 P.2d 24 (Alaska 1964).

military.[32] Most of these courts accept the principle that those in the military may acquire a domicil of choice where they are billeted, but the first Restatement of Conflict of Laws denied even that opportunity to some,[33] and the Second Restatement considers a new domicil "difficult to establish."[34] The principle that a military person retains his entrance domicil and residence has been embodied in a federal statute which exempts servicemen from virtually every form of taxation on income or personal property in the state where they are stationed unless they are domiciled there.[35]

As a result of the common and statutory law and the economics of military life, the serviceman and his family may remain completely aloof from the state of assignment, neither utilizing its services nor contributing to its treasury or public life.

We hold that it was reasonable for the Board to exclude some proportion of military personnel not merely because of their transience, but because a significant number of Alaska-based military personnel exercise an option to be non-Alaskans, despite their physical presence here. This phenomenon is well demonstrated by the minuscule voter registration on military

32. *See* Stifel v. Hopkins, 477 F.2d 1116, 1122 (6th Cir. 1973); Ellis v. Southeast Constr. Co., 260 F.2d 280, 281–282 (8th Cir. 1958); Prudential Ins. Co. of America v. Lewis, 306 F.Supp. 1177, 1184 (N.D.Ala.1969); Kopasz v. Kopasz, 107 Cal.App.2d 308, 237 P.2d 284, 285–286 (1951); Means v. Means, 145 Neb. 441, 17 N.W.2d 1, 3 (1945); Israel v. Israel, 255 N.C. 391, 121 S.E.2d 713, 715–716 (1961); Wiseman v. Wiseman, 216 Tenn. 702, 393 S.W.2d 892, 895 (1965).

33. Restatement of Conflict of Laws, § 21 comment *c*. (1934).

34. Restatement (Second) of Conflict of Laws, § 17 comment *d*. (1971):

> A soldier or sailor, if he is ordered to a station to which he must go and live in quarters assigned to him, will probably not acquire a domicil there though he lives in the assigned quarters with his family. He must obey orders and cannot choose to go elsewhere. On the other hand, if he is allowed to live with his family where he pleases provided it is near enough to his post to enable him to perform his duties, he retains some power of choice over the place of his abode and may acquire a domicil. To do so, however, he must regard the place where he lives as his home. Such an attitude on his part may be difficult to establish in view of the nomadic character of military life and particularly if he intends, upon the termination of his service, to move to some other place.

We recognize, of course, that durational requirements for establishment of residence or domicil often suffer constitutional defects. State v. Adams, 522 P.2d 1125 (Alaska 1974); State v. Van Dort, 502 P.2d 453 (Alaska 1972). We deal here not with a durational requirement, but with the question of whether an individual may be considered a resident for purposes of apportionment.

35. 50 U.S.C.A. App. § 574 provides:

> (1) For the purposes of taxation in respect of any person, or of his personal property, income, or gross income, by any State, Territory, possession, or political subdivision of any of the foregoing, or by the District of Columbia, such person shall not be deemed to have lost a residence or domicile in any State, Territory, possession, or political subdivision of any of the foregoing, or in the District of Columbia, solely by reason of being absent therefrom in compliance with military or naval orders, or to have acquired a residence or domicile, in, or to have become resident in or a resident of, any other State, Territory, posession, or political subdivision of any of the foregoing, or the District of Columbia, while, and solely by reason of being, so absent. For the purposes of taxation in respect of the personal property, income or gross income of any such person by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, of which such person is not a resident or in which he is not domiciled, compensation for military or naval service shall not be deemed income for services performed within, or from sources within, such State, Territory, possession, political subdivision, or District, and personal property shall not be deemed to be located or present in or to have a situs for taxation in such State, Territory, possession, or political subdivision, or district. Where the owner of personal property is absent from his residence or domicile solely by reason of compliance with military or naval orders, this section applies with respect to personal property, or the use thereof, within any tax jurisdiction other than such place of residence or domicile, regardless of where the owner may be serving in compliance with such orders . . .

enclaves. It is thus not offensive to notions of equal protection to exclude from the population base even military personnel who have lived in Alaska for substantial periods of time, so long as those people have exercised their option to remain residents and domiciliaries of other states.

We turn, then, to the specific exclusion effected by the Board. The Board requested the military authorities in Alaska to compile and furnish data on Alaska's military and military-related population, and to furnish comments and suggestions concerning methods of identifying state residents among them. The Alaska Command reported that as of July 1, 1973, of the 18,581 uniformed military persons at the five major installations in Anchorage and Fairbanks, only 200, or 1.07 percent, are reflected as Alaska residents in personnel records. Since such figures probably are not promptly changed when personnel decide on a change of residence, they are of somewhat dubious value. They do show, however, that a substantial portion of the military population do not regard themselves as residents of Alaska.

The Board finally adopted a modification of a plan employed by the State of Washington in its recent reapportionment. The Washington plan was based on the premise that in any group of citizens approximately the same number will register to vote.[36] Therefore, the number of citizens could be extrapolated from the number of registered voters if the number of registered voters was known, but the number of residents was not. The statewide ratio of citizens to registered voters was 2.2:1. This ratio was then applied to the number of registered voters in the Fort Lewis-McCord Field military complex and in other military establishments occupying complete census enumerating districts. The number of military state residents (2.2 times the number of registered voters) was then subtracted from the total number of military persons present in the state, and the difference was deemed to represent the number of transient military personnel. The computation resulted in the exclusion of 58,507 persons—estimated to be nonresidents—of the total of 60,143 military personnel. A corresponding downward adjustment was effected in the districts in which they had been counted (only 1,636 were included in the population base). A three-judge federal court adopted the reapportionment plan containing this formula which had been the result of a stipulation of some of the parties to the case. Two intervenors who were not parties to the stipulation appealed to the United States Supreme Court alleging in part that the method used unconstitutionally failed to include all of the military personnel. On appeal, the United States Supreme Court without opinion affirmed the order adopting the statistical reapportionment method.[37]

36. We do not find the dissent's suspicion of voter registration as an index of state citizenship of military personnel tenable. First, there is no contention that military personnel are subjected to some invidious discrimination in voter registration. In fact, there is evidence in the record that special efforts have been made to convince military personnel to register to vote, and that those efforts have failed. Nor do we consider the low percentage of registration or voting in bush areas to have any bearing upon the fairness of a voter-registration-based statistic, since the travel, communication, language, and cultural barriers of residents of those areas are not experienced by the vast majority of Alaska's military personnel. In any event, any statistical skew produced by low registration or voting in bush areas would lead, in the Board's exclusion formula discussed *infra*, to a result more favorable to military personnel as a class than that which would obtain if larger numbers of civilians registered and voted. There is every reason to believe that military personnel who desire to be Alaska residents and domiciliaries will register to vote because voter registration is a prime index of intention to become a resident or domiciliary. For like reason, we think that those who do no want to become Alaskans demonstrate that intention by refusing to register to vote. *See* Egan v. Hammond, 502 P.2d at 862 n. 2 for an example of the dismal results of efforts to register military persons as Alaska voters. Similar examples appear in the record of this case.

37. Washington State Labor Council AFL-CIO v. Prince, 409 U.S. 808, 93 S.Ct. 63.

526 P.2d—55½a

The Alaska Advisory Board ascertained that the ratio between those registered to vote in the November 1970 Alaska election and the number counted in the April 1970 census was 1 to 2.717. This ratio was applied to those registered to vote in six locations populated exclusively by the military and their dependents.[38] A total of 1,049 persons were registered to vote in those military areas, thereby indicating 2,850 state residents (1,049 x 2.717). The census population within the sample area was 41,659, of whom 25,234 were estimated to be adults. Utilizing only the adults in the sample area, the Board found that approximately 11 percent were estimated to be residents (2,850/25,234), and accordingly 89 percent were nonresidents. Applying the 89 percent nonresidency factor to each place in which military personnel were counted resulted in a deduction of 28,581 from the total uniformed military population and corresponding deductions in each census district.

[10] There are obviously certain assumptions which had to be made in evolving the formula used, and admittedly there are inexactitudes. Any error, however, is bound to have resulted in more military and their dependents being counted than are actually residents of the state. For instance the exclusionary formula was applied only to uniformed military personnel and not their dependents. Dependents of military persons may be assumed, for the most part, to have the same residential characteristics as the uniformed personnel upon whom they are dependent. There was an approximate total of 78,998 military and dependents counted in the 1970 census. Since but 28,581 were deducted, the actual percentage counted as residents was approximately 65 percent. Based on all statistical information available, this percentage is in all likelihood much higher than the actual percentage of military and military dependents who are residents of the state.[39] While an exclusion of a larger percentage of military personnel and dependents may be justified, we have not been presented with an issue as to overrepresentation of the military. We conclude that there was no discrimination against all military as a class and no improper exclusion of military personnel based on the nature of their employment.

IV

POPULATION VARIANCES

The 1973 reapportionment plan contains a maximum deviation in the House of Representatives of 29 percent, the Juneau district being underrepresented by 14 percent and the Nome district overrepresented by 15 percent. In the Senate, the maximum deviation is 22.4 percent.[40] Of 40 house seats, 22 derive from districts where representation deviates by five percent or more from the mean, and of 20 senate seats, 11 are situated in districts characterized by similar deviations. Since the deviations in both the house and the senate were, of course, both below and above the mean, the total deviations between several pairs of districts were in excess of ten percent. Appellants contend that such variances in population dilute and impair the right to vote of Alaskans in the underrepresented districts, in violation of the equal protec-

34 L.Ed.2d 68 (1972). *See also* In re Opinion of Justices, 111 N.H. 146, 276 A.2d 825 (1971), wherein the New Hampshire Supreme Court decided in an advisory opinion that excluding from the population base military personnel who have not met reasonable residence requirements was constitutionally permissible.

38. Approximately 60 percent of Alaska's military live in these six locations.

39. The largest claim to representation was detailed in our masters' report, where it was reported that 25 to 30 percent of military personnel and dependents in Alaska answered affirmatively to a census question whether their residence was the same in 1970 as it was in 1965. Assuming that pure duration creates voting residency, the 65 percent inclusion is more than double the allowance which could be argued for. *See* Egan v. Hammond, 502 P.2d at 886.

40 The Juneau senate district is underrepresented by 14 percent, and the Bethel district overrepresented by 8% percent.

tion clauses of the United States and Alaska constitutions.

In Egan v. Hammond, we discussed the then-applicable constitutional criteria, first delineating the unique problems involved in attempting to secure equal population districts in Alaska:

> When Alaska's geographical, climatical, ethnic, cultural and socio-economic differences are contemplated the task assumes Herculean proportions commensurate with Alaska's enormous land area. The problems are multiplied by Alaska's sparse and widely scattered population and the relative inaccessibility of portions of the state. Surprisingly small changes in district boundaries create large percentage variances from the ideal population.[41]

We concluded:

> Thus the present standard for reapportionment allows two separate justifications for deviation from the ideal population figures. The first is . . . variance occurring because of uncontrollable factors, despite a good faith effort to achieve mathematical precision. The second acceptable deviation is that which "the State must justify"—the implication being that while it was a controllable deviation, other factors "incident to the effectuation of a rational state policy" can be advanced in justification. However, as the Supreme Court cautioned at an early date in Reynolds v. Sims, acceptable state policies are greatly limited.[42]

Since our opinion in Egan v. Hammond, there have been three United States Supreme Court opinions somewhat ameliorating the rigid standards previously applied. In the first of this trilogy, Mahan v. Howell,[43] a Virginia reapportionment plan involving a maximum variation of 16.4 percent[44] (one district was overrepresented by 6.8 percent and another underrepresented by 9.6 percent) was held to be justified by the state policy of following political subdivision boundary lines. The court recognized that the states had been accorded more latitude with respect to state legislative reapportionment than with respect to congressional redistricting.[45] While reaffirming the holding of Reynolds v. Sims that:

> [T]he Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable.[46]

the court in *Mahan* emphasized that:

> So long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational state policy, some deviations from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral state legislature.[47]

In Gaffney v. Cummings,[48] the Supreme Court upheld a reapportionment plan for the Connecticut General Assembly involving a maximum deviation of 7.83 percent although a proposed plan had been submitted involving a much smaller deviation. In establishing the reapportionment plan, the apportionment board had followed a policy

41. 502 P.2d at 865 (footnote omitted).

42. *Id.* at 867 (footnote omitted). *See* Reynolds v. Sims, 377 U.S. at 579–580, 84 S.Ct. at 1390–1391, 12 L.Ed.2d at 537–538.

43. 410 U.S. 315, 93 S.Ct. 979, 35 L.Ed.2d 320 (1973), modified, 411 U.S. 922, 93 S.Ct. 1475, 36 L.Ed.2d 316 (1973).

44. *But see* opinion of Brennan, J., dissenting, indicating that the maximum variation might well have been 23.6 percent. 410 U.S. at 336, 93 S.Ct. at 991, 35 L.Ed.2d at 337.

45. 410 U.S. at 322, 93 S.Ct. at 984, 35 L.Ed.2d at 329.

46. 410 U.S. at 324–325, 93 S.Ct. at 985, 35 L.Ed.2d at 330, *quoting from* Reynolds v. Sims, 377 U.S. at 577, 84 S.Ct. at 1390, 12 L.Ed.2d at 536.

47. *Id.*, *quoting from* Reynolds v. Sims, 377 U.S. at 579, 84 S.Ct. at 1391, 12 L.Ed.2d at 537.

48. 412 U.S. 735, 93 S.Ct. 2321, 37 L.Ed.2d 298 (1973).

of "political fairness" aimed at establishing "a rough scheme of proportional representation of the two major political parties." [49]

The Supreme Court concluded:

> We think that appellees' showing of numerical deviations from population equality among the Senate and House districts in this case failed to make out a prima facie violation of the Equal Protection Clause of the Fourteenth Amendment, whether those deviations are considered alone or in combination with the additional fact that another plan could be conceived with lower deviations among the State's legislative districts. Put another way, the allegations and proof of population deviations among the districts fail in size and quality to amount to an invidious discrimination under the Fourteenth Amendment which would entitle appellees to relief absent some countervailing showing by the State.[50]

Although the Court found in its previous decisions the principle that, "[T]he larger variations from substantial equality are too great to be justified by any state interest so far suggested", nevertheless it also held that, "[M]inor deviations from mathematical equality among state legislative districts are insufficient to make out a prima facie case of invidious discrimination. . . ." [51] The Court recognized that state reapportionment is the task of the organ of state government selected to perform it,[52] and that even though a slightly better plan could be created, that fact did not establish an invidious discrimination under the fourteenth amendment.

[11] Finally, in White v. Regester,[53] a Texas reapportionment plan was upheld although it contained a maximum population variance between the largest and smallest district of 9.9 percent. No acceptable state policy was advanced to support the deviations. However, only 23 districts were over or underrepresented by more than three percent, and only three of those districts by more than five percent. The Court held that it did not consider relatively minor population deviations among state districts to so dilute the franchise in underrepresented districts so that individuals in those districts were deprived of fair and effective representation:

> Very likely, larger differences between districts would not be tolerable without justification "based on legitimate considerations incident to the effectuation of a rational state policy," Reynolds v. Sims, 377 U.S. at 579, 84 S.Ct., at 1391, 12 L.Ed.2d 506; Mahan v. Howell, supra, 410 U.S. 315, 93 S.Ct. 979, 35 L.Ed.2d 320, but here we are confident that appellees failed to carry their burden of proof insofar as they sought to establish a violation of the Equal Protection Clause from population variations alone.[54]

According to Justice Brennan, *White* established a rigid demarcation line:

> [T]he Court today . . . reason[s] . . . that a showing of as much as 9.9% total deviation still does not establish a prima facie case under the Equal Protection Clause of the Fourteenth Amendment. Since the Court expresses no misgivings about our recent decision in Abate v. Mundt, 403 U.S. 182, 91 S.Ct. 1904, 29 L.Ed.2d 399 (1971), where we held that a total deviation of 11.9% must be justified by the State, one can reasonably surmise that a line has been

49. *Id.* at 738, 93 S.Ct. at 2324, 37 L.Ed.2d at 303.

50. *Id.* at 740, 93 S.Ct. at 2325, 37 L.Ed.2d at 304–305.

51. *Id.* at 745, 93 S.Ct. at 2327, 37 L.Ed.2d at 307.

52. *Id.* at 751, 93 S.Ct. at 2330, 37 L.Ed.2d at 311. The Court pointed out that constitutional violations could occur even though districts were equal or substantially equal in population as, for example, when multi-member districts are so established as to invidiously minimize the voting strength of racial or political groups.

53. 412 U.S. 755, 93 S.Ct. 2332, 37 L.Ed.2d 314.

54. *Id.* at 764, 93 S.Ct. at 2338, 37 L.Ed.2d at 323.

drawn at 10%—deviations in excess of that amount are apparently acceptable only on a showing of justification by the State; deviations less than that amount require no justification whatsoever.[55]

We conclude that in the absence of a showing that the manner of reapportioning a state was improperly motivated or had an impermissible effect, deviations of up to ten percent require no showing of justification.[56] The state, however, has the burden of showing that deviations in excess of ten percent are "based on legitimate considerations incident to the effectuation of a rational state policy".

[12] We thus must ascertain whether the state has met its burden of justification here. As indicated in our order of June 6, 1974, we find that House districts No. 22 (Nome), No. 16 (Bristol Bay), No. 12 (Anchorage West), No. 20 (Fairbanks), No. 11 (Anchorage South), No. 9 (Anchorage Spenard), and No. 17 (Bethel), and Senate districts J (Anchorage West), M (Bristol Bay-Bethel), O (Fairbanks), G (Anchorage Spenard) and I (Anchorage South) are malapportioned in excess of a 10 percent maximum comparative variance, and that the appellees failed to demonstrate that the individual variances from the mean in those districts were based on legitimate considerations incident to the implementation of a rational state policy.[57]

[13] We find it necessary to discuss briefly the reasons advanced by the Advisory Board in attempting to justify the disparities in each of the districts referred to above. We are convinced that the Board made a good faith effort, but unfortunately we find that the reasons advanced by the Board do not withstand close scrutiny under the standards enunciated by the United States Supreme Court. In many instances, one of the principal reasons advanced by the Board was the preservation of the boundaries of regional corporations established under the Alaska Native Claims Settlement Act. Under that Act, the state was divided into 12 regions, and separate corporations were established for each region. By the division it was sought to establish homogeneous groupings of Native[58] peoples having a common heritage and sharing common interests.[59] The use of such corporate boundaries in districting might constitute justification for some population deviation. Following corporate boundaries was stated as a reason for the composition of House districts 22 (Nome), which was 15 percent overrepresented, 16 (Bristol Bay), which was 10.9 percent overrepresented, and 17 (Bethel), which was 6.3 percent overrepresented. We find, however, that none of those districts has the boundaries of a Native corporation. Each included substantial portions of more than one corporate region.

Additionally, it was suggested that the Nome area had a unique Native composition. But the makeup of the population both to the north and east does not vary significantly from that of the adjoining villages within the Nome boundaries. The mining potential in the area and the need for a "common port facility" do not constitute considerations incident to the implementation of a rational state policy so as to justify a disparity of 15 percent overrepresentation.

55. *Id.* at 776, 93 S.Ct. at 2345, 37 L.Ed.2d at 331 (Brennan, J., dissenting).

56. The challengers' briefs are silent on the issue of whether the governor's plan had the purpose or effect of discriminating impermissibly against any racial, ethnic or political group. At oral argument, counsel for the challengers, who is also a state senator from Anchorage, conceded that the record did not demonstrate any such discrimination.

57. The attempted justifications are to be found in the report and proposed plan of the Governor's Advisory Reapportionment Board. The testimony at the trial of this case produced little if any evidence to supplement the justifications set forth in the report.

58. "Native" is basically defined in the Act as a citizen of the United States who is ¼th degree or more Alaska Indian, Eskimo or Aleut, or combination thereof. 43 U.S.C.A. § 1602(b).

59. 43 U.S.C.A. § 1606.

No valid reasons were advanced for the 10.9 percent overrepresentation with reference to House District 16 (Bristol Bay). We can agree with the Board's decision not to combine the Bristol Bay area with the Aleutian Chain because of conflicts between the residents of the two areas, but that does not explain why other areas could not have been added to the district so as to create less of a variance.

District 20 (Fairbanks) is a multi-member district electing six house members. It is 7.4 percent overrepresented, and no valid reasons were set forth as to why additional areas could not be included so as to reduce the variance.

The explanation advanced for District 17 (Bethel) having 6.3 percent overrepresentation was the inclusion of a portion of the Calista Native Corporation Region and utilization of one of the boundaries of that region. In view of the fractionation of Calista revealed by reference to the maps, the reason advanced cannot justify the discrepancy under the Supreme Court guidelines.

Finally, Anchorage districts 9, 11 and 12 were underrepresented respectively by 5.9, 6.5 and 8.6 percent. Having made the policy decision to divide Anchorage into six districts, the Advisory Board endeavored to identify like socio-economic areas, based on the cost of housing, the concentration of minorities, income levels, the need for transit systems and growth and development plans. It is clear from the testimony, however, that there are few if any homogeneous areas within the Anchorage Borough; the patterns of housing, income levels and minority residency criss-cross extensively.

The Board's apparent effort was directed at compliance with the Alaska constitutional mandate that districts contain "as nearly as practicable a relatively integrated socio-economic area."[60] Some guidance as to the meaning of the term "socio-economic area" may be garnered from the minutes of the Constitutional Convention.

It appears that Delegate Hellenthal advocated the use of the term, describing it as follows:

> [w]here people live together and work together and earn their living together, where people do that, they should be logically grouped that way.[61]
>
> . . . . . .
>
> It cannot be defined with mathematical precision, but it is a definite term, and is susceptible of a definite interpretation. What it means is an economic unit inhabited by people. In other words, the stress is placed on the canton idea, a group of people living within a geographic unit, socio-economic, following if possible, similar economic pursuits. It has, as I say, no mathematically precise definition, but it has a definite meaning.
>
> . . . . . .
>
> It is in common use among political scientists.
>
> . . . . . .
>
> I think it is a political and economic term rather than a legal term.[62]

It would appear from that discussion that a community such as the Greater Anchorage Borough might be considered as a socio-economic area, but that it becomes extremely difficult to fragment the area with geographic nicety according to the patterns endeavored to be followed by the Board. As was stated in The Report of the Masters, appended to the decision in Egan v. Hammond: "Close scrutiny of population characteristics in Anchorage do [sic] not reveal clearly delineated ethnic ghettos."[63] And at least as far as the election of legislators is concerned, Alaska does not seem to be afflicted with the racial miasma adversely affecting other sections of the United States.[64]

60. Art. VI, § 6 Alaska Const.

61. Minutes, Constitutional Convention 1830.

62. *Id.* at 1873.

63. 502 P.2d at 804.

64. Many Alaska Natives have been elected to the legislature, and two have been elevated

[14] The testimony in the court below indicated that there are few if any homogeneous socio-economic areas within the Greater Anchorage Area Borough, and that patterns of housing, income levels and minority residency are difficult to delineate. While such patterns may form a basis for districting, they lack the necessary significance to justify the substantial disparities of 5.9, 6.5 and 8.6 percent. In an urban area such as Anchorage, more mathematical exactness can be achieved than in the sparsely settled portions of the state where pockets of culturally and economically divergent populations may be separated by geographic barriers. We hold that appellees have failed to meet the constitutional burden of justifying the discrepancies found in Districts 9, 11 and 12.

[15] On the other hand, we do find that the burden was met with reference to House districts 2 (Wrangell-Petersburg), 4 (Juneau), 14 (Kodiak), and 15 (Aleutian Chain). With reference to the Juneau and Wrangell-Petersburg areas, the Board was confronted with the difficult problem of juggling the more contiguous, compact, relatively integrated socio-economic areas of Southeast Alaska without extending a substantial distance into an unrelated area separated by immense natural barriers. Yakutat, the northwestern-most settlement in Southeast Alaska, which is itself separated by great distance from the other communities in the region, is 225 air miles from the nearest population center in the Southcentral region, Cordova. There are valid considerations both historically and geographically for not endeavoring to span that gap. Within the Southeast area, Juneau is substantially underrepresented, exceeding the norm for a two-member district by 14 percent. The Board, however, presented a rational basis for not severing Skagway and Haines from the district, the only logical alternative which would reduce the underrepresentation. There are close transportation ties between Juneau, Haines and Skagway by daily scheduled air flights and frequent ferry service; a Juneau-Haines highway connection has been planned. The district is quite distinct from the rest of the Southeast region by virtue of the nature of its development and the fact that it is almost entirely composed of portions of the mainland, rather than the islands of the archipelago; historically the three communities have always been closely linked, with Juneau serving as an economic hub for Haines and Skagway.

District 2 (Wrangell-Petersburg) is the other Southeastern district with a substantial deviation—9.3 percent overrepresentation. The Board stated valid considerations for this variation, which necessarily implemented the rational state policy, expressed in the Alaska Constitution, of achieving, as nearly as practicable, contiguous, compact territory containing a relatively integrated socio-economic area.[65]

We likewise find adequate justification for the 6.5 percent overrepresentation in the vast and remote Aleutian Chain District. The district includes all of the area of the Aleut League Corporation. There appears to be no feasible means of adding additional areas of population to this district without worsening the imbalance al-

to the position of President of the Senate. Appellants point out that a black was elected to the House from a district with an insignificant minority population. [Hedland Dep. 34]

65. As the Board explained:

> The orientation of this entire district is fishing, fish processing, forest products, and tourism, and nearly all of its communities partake of all of these activities. They are integrated by the Southeast System of the Alaska Marine Highway and by numerous air taxi operators and a scheduled commercial airlines. The population is a mixture of natives and non-native [sic]. The only option for reducing the slight overrepresentation which the district may enjoy would be to reach into the Juneau district from the south or west, taking part of Douglas, Juneau, or Haines. Such a course would either effectively disenfranchise that part of Douglas or Juneau engrafted to the district or would require a bisection of the Haines Borough, further submerging its institutional voice in the legislature. Extending into Prince of Wales Island or the Sitka district would only magnify the slight numerical advantage already inevitable for those districts.

ready present in District 14 (Kodiak). By the same token, Kodiak, which is overrepresented by 5.7 percent, does not readily present an alternative, as it is surrounded by the Aleutian Chain District.

Since the senate districts combined house districts and utilized the same boundaries, the identical reasons for approving or disapproving the disparities are applicable. We thus find it necessary to hold that Senate Districts G (Anchorage Spenard), I (Anchorage South), J (Anchorage West), M (Bristol Bay-Bethel), and O (Fairbanks) exceed permissible constitutional limits as to population variances, and that appellees have failed to demonstrate that such variances are based on legitimate considerations incident to the implementation of a rational state policy.

V

DISTRICTING OF THE GREATER ANCHORAGE AREA

Appellants complain of the division of Anchorage into six election districts, contending that the area constitutes one integrated socio-economic area which should not be fragmented.

[16] We have previously upheld the authority of the governor to create single-member districts from multi-member districts.[66] The power to create such single-member districts applies to integrated soci-economic areas as well as to other areas. We do not construe the Alaska constitutional requirement that districts be formed from contiguous, compact, relatively integrated socio-economic areas to prohibit smaller districts within such areas. The smaller districts would still conform to the constitutional standard. It is conceivable, for example, that the population of Anchorage could vastly increase. It surely could not have been contemplated by the framers of the Constitution that a compact, contiguous, and socio-economically integrated metropolis of perhaps 500,000 persons could not be districted.

[17] The Advisory Board was confronted with competing policy considerations with reference to the desirability of keeping the ballot simple, encouraging qualified candidates to run for public office, and ensuring maximum voter participation, as opposed to avoiding undue fragmentation of the community. The majority of the Board found that:

> At-large representation would produce an unwieldly primary ballot with well over 100 candidates. Two districts—each to elect eight representatives and four senators—would still produce a cumbersome total of candidates and would be a more complicated ballot than is presented to voters in any part of Alaska.

The governor adopted the plan advocated by a majority of the Board, whereby the city was divided into six districts. While substantial arguments have been advanced both for and in opposition to the Board's decision, we cannot say that it is not based on rational as opposed to arbitrary considerations. Therefore, under the standard of review which we have adopted, the decision of the Board must be upheld.

Arguments have also been advanced as to the manner of delineating the districts, aside from the population imbalances discussed previously. We do not find that the boundaries lack a rational basis. Since we are not free to impose our judgment as to the wisdom of the particular partitions, we cannot entertain the argument that Anchorage could have been divided more prudently.

The superior court did not err in upholding this portion of the reapportionment plan.

VI

THE TERMINATION OF SENATORIAL TERMS

Because the reapportionment plan substantially altered the senatorial districts in the Greater Anchorage area, the governor

66. Egan v. Hammond, 502 P.2d at 873.

ordered that new elections must be held in 1974 for all senate seats in these districts. Formerly, the area constituted one senatorial district from which eight senators were elected, four being selected to four-year terms at each biennial election. The four incumbents whose terms would otherwise have extended to 1976 thus had the balance of their terms of office truncated.

Appellants contend that there was no need to terminate senatorial terms. The principal argument advanced, however, is not directed to the authority of the governor to terminate the terms of incumbents under the Anchorage reapportionment plan establishing six new districts, but to the appellants' preference that members of the senate should represent "larger, broader, socio-economic constituencies and should be elected area wide." Reference is made to a Senate Resolution expressing similar sentiments.[67]

[18] While the governor might have favorably considered the policies of having senators from Anchorage elected at large, there were valid reasons for him to exercise his discretion by dividing the area into six districts. In the previous section of this opinion, we stated our reasons for upholding the governor's decision to redistrict the Anchorage area. Once this portion of the reapportionment plan has been approved, appellants' principal argument evaporates. Since the district from which the four holdover senators were elected no longer exists and the new districts have vastly changed boundaries, it was within the governor's discretionary authority to require mid-term elections. When confronted with the same question in Egan v. Hammond, we stated:

> A need to truncate the terms of incumbents may arise when reapportionment results in a permanent change in district lines which either excludes substantial numbers of constituents previously represented by the incumbent or includes numerous other voters who did not have a voice in the selection of that incumbent. The discretionary authority to require mid-term elections when necessary is well established.[68]

Counsel refers to the decision of the Supreme Court of California in Legislature v. Reinecke.[69] There a masters-recommended reapportionment plan which provided for hold-over senators to continue to serve for the balance of their terms was upheld as having a rational basis. The court considered the desirability of continuing the orderly operation of the four-year staggered term system whereby half of the senators would hold over at each session. Although it recognized a "resulting inequality among electors", the court found that the mere two-year duration of such inequality was not sufficiently egregious to require truncation of terms.[70]

If we had the original decision to make, we might well be persuaded by similar reasons to have the four senators continue to serve the balance of their terms. We conclude, however, that valid reasons were presented for truncating the terms and, accordingly, we affirm the trial court's decision upholding that portion of the reapportionment plan.

Affirmed in part and reversed in part.

ERWIN, J., with whom CONNOR, J., joins, dissenting.

ORDER

This case is before the Supreme Court of Alaska on appeal from a judgment entered by Superior Court Judge James K. Singleton in favor of appellees. Appellants below have raised a number of objections to the proclamation of reapportionment and redistricting issued by Governor William A. Egan on December 11, 1973, adopting a plan submitted by the Gover-

67. S.Res. 1, 8th Legis.2d Sess. (1974).

68. 502 P.2d at 873-874 (footnote omitted).

69. 10 Cal.3d 396, 110 Cal.Rptr. 718, 516 P.2d 6 (1973).

70. *Id.* 110 Cal.Rptr. at 723-724, 516 P.2d at 11-12.

nor's Advisory Reapportionment Board. After considering the briefs of the parties and hearing oral argument, a majority of the Supreme Court affirms the decision of Judge Singleton on the following issues:

1. The use of the 1970 census data.
2. The use of the formula establishing the number of military personnel and dependents to be included in the population base.
3. The authority of the Governor to establish multiple senatorial districts within the greater Anchorage area.
4. The authority of the Governor to truncate senatorial terms when the districts from which the senators were elected have been substantially changed.

We hold, however, that the superior court's conclusion that all House and Senate districts have been properly apportioned is erroneous. Specifically, House districts No. 22 Nome, No. 16 Bristol Bay, No. 12 Anchorage—West, No. 20 Fairbanks, No. 11 Anchorage—South, No. 9 Anchorage—Spenard, and No. 17 Bethel and Senate districts J Anchorage—West, M Bristol Bay—Bethel, O Fairbanks, G Anchorage—Spenard, and I Anchorage—South exceed permissible constitutional limits as to population variances as delineated by decisions of the United States Supreme Court.[1] Appellees have failed to demonstrate that such variances in the plan are based on legitimate considerations incident to implementation of a rational state policy.

The case is remanded so as to enable the Governor of the State of Alaska, if he so desires, to re-submit the plan to the Advisory Reapportionment Board for the purpose of revising it to bring the districts specified above within constitutional standards.

In revising the proposed plan the Board may alter any district to correct population imbalances. Every effort shall be made to insure that maximum variances in the districts set out above shall not exceed ten (10) per cent. There shall not be a spread exceeding ten (10) per cent in the population of any over-represented district and any under-represented district, excluding the districts of Southeast Alaska, District 14 Kodiak, and District 15 Aleutian Chain, unless such variance is based on legitimate considerations incident to a rational state policy with specific reasons in justification being stated. In assessing permissible population variances the Board may disregard deviations in districts located in Southeast Alaska, District 14 Kodiak, and District 15 Aleutian Chain because variances in those districts are based upon legitimate considerations incident to implementation of a rational state policy. Changes may be made in other districts as may be found necessary.

Unless a revised plan is returned to the court on or before June 20, 1974, the interim plan promulgated by this court by Order Establishing An Interim Reapportionment Plan For 1972 Legislative Elections, dated June 14, 1972,[2] shall be effective for the 1974 legislative elections. Objections to the June 20, 1974, deadline shall be filed on or before three (3) days from the date of this order, setting forth reasons why some date other than June 20, 1974, would be more appropriate. In the event an alternative plan is submitted by the Governor to this court, the court will receive written comments or objections from appellants if filed by 12:00 noon on June 24, 1974. In the event an alternative plan is submitted by the deadline, the court will

1. White v. Regester, 412 U.S. 755, 93 S.Ct. 2332, 37 L.Ed.2d 314 (1973); Gaffney v. Cummings, 412 U.S. 735, 93 S.Ct. 2321, 37 L.Ed.2d 298 (1973); Mahan v. Howell, 410 U.S. 315, 93 S.Ct. 979, 35 L.Ed.2d 320 (1973).

2. Egan v. Hammond, 502 P.2d 856, 927–929 (Alaska 1972).

review it and take whatever action is appropriate.

A full opinion shall follow including dissents of individual justices on different points raised by this appeal.

Dated this 6th day of June, 1974.

ERWIN, Justice, with whom CONNOR, Justice, joins (dissenting).

I dissent from the majority opinion on the ground that the exclusion of all but a small percentage of the military from the reapportionment plan's population base violates the equal protection clauses of the United States and Alaska Constitutions.[1]

In Egan v. Hammond,[2] this court recognized that military personnel as a class cannot be denied the right to vote in a state election or be arbitrarily eliminated from the population base in a reapportionment plan solely because of their military status, although some military may be excluded as a permissible device for limiting the impact of transients and non-residents. One plan suggested in *Egan* for achieving this goal was to limit the population base to state citizens by adopting a registered voter base, even though such a base inherently eliminates a much higher proportion of the military than civilians. But, as we were careful to point out, the equal protection clause of the United States Constitution, and presumably the Alaska Constitution, require specific factual justification for eliminating any portion of the military from the population base. When a particular class of the state's population—namely the military—is singled out in a reapportionment plan for exclusion on the basis of the nature of their employment alone, the burden is squarely upon the proponents of the plan to demonstrate the reasonableness of that course of action, because such an exclusion is prima facie invalid. In the absence of sufficient justification, the military must receive the same treatment as their civilian counterparts.[3]

My examination of the record reveals that appellees clearly failed to justify application of any version of the Washington formula in Alaska. I thus cannot agree with the majority's assumption that the basic principle of the formula is as applicable to Alaska as it was to Washington. On the contrary, I find the majority's acceptance of the formula without sufficient proof of its validity in Alaska to be remarkable in itself, for in upholding many other aspects of the proposed reapportionment plan the majority has repeatedly emphasized Alaska's uniqueness.[4]

I also cannot accept the Board's tolerance of civilian transients while at the same time excluding apparent military transients from the population base. As we indicated in Egan v. Hammond, population bases grounded upon state citizenship are acceptable only when supported by accurate and statistically reliable data for discriminating between citizens and transients.[5] In this case, the Board's assumption that military but not civilian transients would distort the population base is without foundation or justification in

1. I harbor further misgivings about whether some of the election districts in the reapportionment plan are "relatively integrated socio-economic areas," as required by article VI, section 6 of the Alaska Constitution. However, since a number of these districts have been found to have population deviations in excess of those allowed under federal constitutional standards and have been remanded to the Board for modification, I reserve judgment on this issue until I have had an opportunity to study the modified plan.

2. 502 P.2d 856, 869-870 (Alaska 1972).

3. *See* Mahan v. Howell, 410 U.S. 315, 330-332, 93 S.Ct. 979, 988-989, 35 L.Ed.2d 320, 333-334 (1973); Burns v. Richardson, 384 U.S. 73, 92 n. 21, 86 S.Ct. 1286, 1296 n. 21, 16 L.Ed.2d 376, 391 n. 21 (1966); Carrington v. Rash, 380 U.S. 89, 95-96, 85 S.Ct. 775, 779-780, 13 L.Ed.2d 675, 679-680 (1965); Davis v. Mann, 377 U.S. 678, 691, 84 S.Ct. 1441, 1448, 12 L.Ed.2d 609, 617 (1964); Egan v. Hammond, 502 P.2d 856, 869, 869 (Alaska 1972).

4. See the discussion in Egan v. Hammond, 502 P.2d 856, 865 (Alaska 1972), emphasizing Alaska's uniqueness.

5. 502 P.2d at 870-871.

the record. And the majority's effort to justify the Board's tolerance toward civilian transients with documentation on Alaska's employment patterns which is not part of the record is patently inconsistent with their earlier conclusion that the duty of this court is to exercise *de novo* jurisdiction based "upon the record developed in the superior court." [6]

In fact, the record is almost completely devoid of data on civilian transients. For example, there is little, if any, support for the majority's observation that at the time of year when the census was taken—April—most of the civilian transient elements were absent from the population base. Without concrete data it cannot be merely assumed that migrants and seasonal employees are not present in the state in significant numbers during the month of April, for it is common knowledge that an increasing number of transients are present in Alaska during the winter months. It also cannot be assumed that because the census counts a person at the place "he lives and sleeps most of the time" most of the civilian transients are necessarily excluded from Alaska's population base. As the majority itself points out, the census enumerates not only those migrants who claim ties to no other state but also those individuals who maintain a permanent residence elsewhere and spend a majority of their time in Alaska. Yet the record reveals that the Board made no effort to determine the impact of these transient groups upon the population base. Surely these transients have no greater contacts with the state than military residents who live here on a year-around basis and whose children attend local schools.[7]

The majority attempts to justify the inclusion of these transient groups in the population base by concluding that it would be a "herculean task" to determine who among them actually consider themselves citizens of Alaska. Again the record fails to support the majority. The record reveals that Robert Sharp, City Manager of Anchorage, testified before the Board that it cost the City only $40,000 in 1968 to conduct a door-to-door canvass of the entire Anchorage area, which has approximately 65 per cent of Alaska's population.[8] Assuming this to be a fair measure of the cost of surveying the incidence of state citizenship among civilians, it becomes apparent that such a survey would hardly be a "herculean task." Even if it were, however, the greater difficulty of determining the incidence of state citizenship among the civilian population is a weak excuse for singling out the military for discriminatory treatment.[9]

The majority goes on to assert that the dissent "ignores the fundamental reason for the exclusion of military personnel—their want of any contact with the state." In support of this cold assertion they cite to a body of law which, in short, indicates only that the involuntary nature of military assignments points toward retention of the domicile established prior to entering the service. They also cite to a federal statute exempting servicemen from various forms of state taxation and then sum-

6. The majority has attempted to bring this material within the reviewable record by judicial notice under Civil Rule 43(a)(2) [c] and [d]. Since this material is reasonably subject to dispute and its accuracy cannot be determined by resort to sources of indisputable accuracy, I do not believe it to be an appropriate subject of judicial notice.

7. Even the state's 3,752 aliens who were enumerated in the 1970 census and consequently included in the population base, were not, like the military, subjected to a state citizenship test. Egan v. Hammond, 502 P.2d 856, 920 n. 2 (Alaska 1972).

8. Transcript of the June 29, 1973, hearing in Anchorage, at 24.

9. The Board did consider the effect of the state's transient college students. But even there, in deciding that their number was statistically insignificant, the Board rested its conclusion upon admittedly inconclusive data based upon durational residency requirements which have been specifically disapproved as criteria for determining voter eligibility. *See* State v. Van Dort, 502 P.2d 453 (Alaska 1972).

marily conclude that as a result of this law and the "economics of military life, a serviceman and his family may remain completely aloof from the state of his assignment . . . ."

This argument is unpersuasive for three basic reasons. One, it ignores the location of the burden of proof; two, it indicates a fundamental misunderstanding of the economic facts of military life; and three, it ignores the fact that the same argument can be made with regard to other classes of federal public servants who serve in Alaska for limited terms but were not excluded from the population base.

First, it is not disputed that a serviceman has an option to remain economically aloof from the state of his assignment, neither contributing to its treasury nor utilizing its services. But the burden nevertheless remains squarely upon the state to establish that each and every military person excluded from the population base in a reapportionment plan has in fact exercised this option. By silently condoning the state's failure to meet this burden, the majority is overruling our holding in Egan v. Hammond respecting the burden of proof on the military exclusion issue.

Second, no doubt the "economics of military life"—which presumably refers to the tax exempt status of servicemen and the bonuses offered nondomiciliaries stationed in Alaska—are largely responsible for the failure of many military personnel stationed in Alaska to publicly admit domicile by registering to vote. But what the majority fails to discern is that an unwillingness to register to vote is not conclusive of a serviceman's intentions or desire to become a state citizen. All that it demonstrates is a perfectly expectable reluctance, even on the part of bona fide military residents, to risk losing significant economic advantages by registering to vote. The "economics of military life" indicate not that the military lack "any contact with the state beyond mere presence" but rather only that the military, both resident and nonresident, are subjected to unique economic pressures to which civilians are not exposed. Forcing military residents to withstand these pressures at the cost of surrendering their fundamental right to be included within the population base effectively penalizes them for exercising constitutional rights.[10]

Third, the same argument regarding minimum contacts with the state that the majority makes with respect to the military also applies to a body of federal public servants who serve for limited terms in Alaska and enjoy many of the same trappings and benefits as the military. Yet the majority ignores the fact that no attempt was made to exclude them from the population base. Certain employees of the federal Public Health Service and the Coast and Geodetic Survey, who enjoy military rank similar to Coast Guard rank, are assigned to Alaska for limited terms of duty, as are certain employees of the Federal Aviation Administration and the Army Corps of Engineers. Certainly these groups should be treated on a par with the military if the military are to be subjected to a state citizenship test.

The majority goes on to point out that the "largest claim" to representation of the military in the population base lies in the 25–30 per cent of military personnel and their dependents who at the time of the 1970 census had lived in the state for more than five years. They then note that the

10. Another disturbing aspect of "military economics" which is ignored by the majority is that, despite the fact that all military personnel are counted for the purpose of obtaining federal revenue sharing, they are now effectively denied representation in the legislative body which sets the priorities controlling the expenditure of this revenue. Basic fairness would appear to require that a state which accepts federal funds for the purpose of providing local services to military personnel should be required to assure an effective voice to the military in determining how these funds are to be spent. Counting a mere 11 per cent of the military in the population base falls far short of achieving this goal.

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present plan includes a far larger percentage—65 per cent—of the military and their dependents than the 25–30 per cent that would be included if a 5-year residency were taken to be conclusive of state citizenship. The majority then observes that the opponents of the military exclusion formula have failed to argue for a higher inclusion figure than 25–30 per cent and imply that the formula is valid because, while it does not provide statistical certainty, it is more than generous to the military.[11]

Again the majority has lost focus of the location of the burden of proof. The burden is not upon the opponents of the plan to argue for a higher inclusion figure but upon the proponents to justify exclusion of any military. Even if it were to the contrary, however, the conclusion that the formula is valid because it resolves doubts in favor of increased military representation does not justify adoption of a formula which discriminates between military and civilian transients. The fact remains that the formula does not accurately reflect residency among the military. It is thus contrary to all notions of fairness and equal protection to utilize it in the reapportionment plan.

I also cannot accept the majority's assumption that voter registration can be taken as an indication of a person's state citizenship in Alaska. In the Hawaii reapportionment plan litigated in Burns v. Richardson,[12] the state's registered voters were accepted as a permissible population base only because this base purportedly produced a distribution of legislators not unlike that which would have resulted from the use of a more conventional population base such as state citizenship or total population. This correlation was undoubtedly due in part to the fact that Hawaii exerted a monumental reapportionment and voter registration effort.[13] The Court in *Burns* was quick to point out, however, that, even though it was accepting a voter registration base in Hawaii, it considered such a population base generally suspect:

> Such a basis depends not only upon criteria such as govern state citizenship, but also upon the extent of political activity of those eligible to register and vote. Each is thus susceptible to improper influences by which those in political power might be able to perpetuate underrepresentation of groups constitutionally entitled to participate in the electoral process . . .[14]

Thus, at the very least, a voter registration base must be shown to correlate with state citizenship, total population, or some other permissible reapportionment base.

The record amply demonstrates that no such showing has been made in this case. On the contrary, there is substantial evidence that voter registration does not correlate with state citizenship or total population. For example, Alaska alone among the northern states was singled out by the 1965 federal Voting Rights Act[15] as a state that possibly abridges the rights of its citizens to vote because of the low percentage of votes cast by its eligible voters.[16] Although Alaska has since rid itself of that dubious status by a declaratory judgment, that judgment remains reviewable.[17]

11. Note 20 of the majority opinion *supra*.

12. 384 U.S. 73, 92–93, 86 S.Ct. 1286, 1296–1297, 16 L.Ed.2d 376, 391 (1966).

13. See the discussion of this effort in Burns v. Gill, 316 F.Supp. 1285, 128 (D.Hawaii 1970), *quoted in* Egan v. Hammond, 502 P.2d 856, 866 n. 16 (Alaska 1972).

14. 384 U.S. at 92–93, 86 S.Ct. at 1297, 16 L.Ed.2d at 391.

15. 42 U.S.C. § 1973 et seq. (1970).

16. 1965 U.S.Code Cong. and Admin.News, p. 2445.

17. On August 17, 1966, Alaska was granted a declaratory judgment by the District Court for the District of Columbia in Civil No. 101-66 removing it from coverage under the Voting Rights Act. When portions of the state were again included under a 1970 amendment to the Act, Alaska again secured a declaratory judgment from the same court in Civil No. 21-22-71 removing those portions of the state from coverage under the Act. This latter judgment remains reviewable for a period of five years following its entry. 42 U.S.C. § 1973a (1973).

Also, it is not uncommon for a particular segment of Alaska's citizens to exhibit a reluctance to register to vote. For example, statistics compiled from the 1970 census and the 1972 official primary and general election returns reveal that a very low percentage of Alaska's large aboriginal population registers to vote, although they are undeniably state citizens.[18] Without a showing that the military do not exhibit a similar reluctance to register, even though they are citizens, voter registration behavior alone cannot be used to estimate the number of state citizens among the military.

Further, Burns v. Richardson,[19] which recognized that if voter registration is indicative of state citizenship, it may be used as a reapportionment base, was decided before the United States Supreme Court and this court began to move toward de-emphasizing the role of state citizenship in the election process. The recent decisions of Dunn v. Blumstein[20] and State v. Van Dort,[21] which disapprove of durational residency requirements conditioning the right of franchise, severely restrict the use of objective state citizenship tests in determining voter eligibility. And State v. Adams[22] goes even further to suggest that no objective test for state citizenship which inherently infringes upon a fundamental right—*e. g.*, franchise—should be permitted to condition the exercise of that right. Even more importantly, however, these cases squarely place the burden upon the proponent of such a test to demonstrate a compelling justification for it. While I am not persuaded that the compelling state interest standard should be applied to reapportionment, I believe that these cases nevertheless place a heavy burden of persuasion upon the proponents of any reapportionment plan based upon a state citizenship test to demonstrate that the test in fact excludes only non-citizens from exercising their fundamental right of franchise. In this case the proponents have quite clearly failed to meet this burden for they have established no reliable correlation between voter registration and state citizenship. I would thus hold that voter registration has not been demonstrated to be a sufficiently reliable population base for a reapportionment plan in Alaska and remand the case to the Board to change the population base.

Both this case and Egan v. Hammond pointedly illustrate the perils of expedited litigation. Twice within the space of two years this court has been called upon at the eleventh hour to review reapportionment plans under the pressures of an imminent election. And twice these pressures have forced us to make decisions on the basis of records which, in my opinion, have been inadequate. I, for one, hesitate to reach a decision on an issue as far-reaching and important as reapportionment without an adequate record. Were it not for the fact that small numerical variations in the apportionment of people between the election districts are greatly magnified by Alaska's comparatively small population, I would not be so insistent that the record provide adequate justification for each attempt by the Board to depart from the constitutionally mandated goal of mathematical equality. But since a variation of only 68 people causes a one per cent variation in the population of each election district in Alaska, great care must be taken to assure that the exclusion of each and every person from the population base is constitutionally permitted. If any reapportionment case reaches us in the future with an inadequate record like the present one, I will vote to remand the case for further findings.

18. For example, in the 1972 general election only about 19 per cent of the total populations in the predominantly aboriginal communities of Barrow and Bethel voted. Approximately 33 per cent of Alaska's total population voted in the same election.

19. 384 U.S. 73, 86 S.Ct. 1286, 16 L.Ed.2d 376 (1966).

20. 405 U.S. 330, 92 S.Ct. 995, 31 L.Ed.2d 274 (1972).

21. 502 P.2d 453 (Alaska 1972).

22. 522 P.2d 1125 (Alaska 1974).

OPINION

ON OBJECTION TO THE REVISED REDISTRICTING PLAN PROCLAIMED ON JUNE 14, 1974

BOOCHEVER, Justice.

On June 6, 1974, we remanded this case to enable the governor of the State of Alaska to resubmit the reapportionment plan to the Advisory Reapportionment Board for the purpose of revising it to bring the population of districts specified in our order within federal constitutional standards. In the event a revised plan was submitted on or before June 20, 1974, written comments or objections were to be filed by 12:00 noon on June 24, 1974. The Advisory Reapportionment Board submitted to the governor of the State of Alaska its Proposed Revised Plan of Reapportionment and Redistricting which the governor adopted by proclamation on June 14, 1974. Objections were filed by the appellants. In addition, a notice of objection and a motion for leave to intervene as a party or to file an amicus curiae brief was also filed by the Kenai Peninsula Borough. After denying the Kenai Peninsula Borough motion to intervene but granting the Borough the right to file a memorandum as amicus curiae, the court, upon request for oral argument on the objections, specially heard such arguments on June 26. Counsel for the Borough was permitted to participate in the oral arguments.

The objections filed by the appellants pertained to the redistricting of the Anchorage area, the termination of Anchorage senate terms and the exclusion of some military personnel from the population base. None of these objections was addressed to the revisions set forth in the revised plan proclaimed by the governor on June 14, 1974.[1] The objections reiterated and amplified arguments previously advanced against the original reapportionment plan of December 11, 1973. We have again carefully considered those objections and find no reason to alter our opinion with reference to the issues raised.

The Kenai Peninsula Borough objected to the portion of the revised plan which severed the southern end of the Kenai Peninsula from the Borough, the peninsula and House District No. 13 (Kenai-Cook Inlet) and joined it to House District No. 16 (Bristol Bay) in order to achieve a less-than-five-percent deviation in House District No. 16. The area transferred to District No. 16 comprised about 680 residents or slightly more than ten percent of the entire population of District No. 16, most of which is located across sea and mountains from the Kenai Peninsula area. The Borough points out that the residents of the Kenai area so transferred had interests similar to those of other residents of the Kenai-Cook Inlet District No. 13 and little in common with the residents of House District No. 16 (Bristol Bay). The Borough argues that the residents of the severed portion of House District No. 13 would be disenfranchised because their influence would not be of sufficient weight to receive attention from Bristol Bay District Legislators.

We found in our order of June 6, 1974 that District No. 16 exceeded constitutionally permissible population variances as delineated by decisions of the United States Supreme Court, and that the state had failed to demonstrate that the variance was based on ligitimate considerations incident to the implementation or rational state poli-

1. The Anchorage districts were somewhat altered in the revised plan, but appellants' objections again touched general concepts of dividing Anchorage into multiple senatorial districts, and the aggregate underrepresentation of the Anchorage area. No federal constitutional question regarding the propriety of the district lines in Anchorage was raised, and we disposed of the state constitutional issues in our prior opinion. Appellants' counsel admitted at oral argument that the Anchorage area taken as a whole would be properly represented within federal constitutional standards by a 16-representative, 8-senator district. We need not further consider whether the current plan, which has the same numerical effect, unfairly represents the Anchorage area.

cy. We stated in out opinion partially rejecting the original plan:

> No valid reasons were advanced for the 10.9 percent overrepresentation with reference to House District 16 (Bristol Bay). We can agree with the Board's decision not to combine the Bristol Bay area with the Aleutian Chain because of conflicts between the residents of the two areas, but that does not explain why other areas could not have been added to the district so as to create less of a variance.

The Reapportionment Board has made a good faith effort to correct the overrepresentation of House District No. 16 by adding to the district the southern end of the Kenai Peninsula. Considerations incident to the implementation of rational state policy have now been advanced to us justifying the original overrepresentation of District No. 16 (Bristol Bay). It is now apparent that the only alternative to the Board's original districting of that area is to disregard an impassible mountain range, the natural barrier formed by Cook Inlet, the lack of direct transportation or communication links, the corporate boundaries of the Kenai Peninsula Borough, the cohesiveness of interests of residents of that Borough and the disparate interests of the population of the Bristol Bay area. We now find that legitimate considerations incident to the implementation of rational state policy justify the overrepresentation of House District No. 16 (Bristol Bay) as originally designated and override mathematical requirements.[2] We accordingly have ordered that the severed portion of the Kenai Peninsula Borough, specifically the southern end thereof where the communities of Seldovia, Port Graham, English Bay, Portlock and Jakaiof Bay are located, shall remain in House District No. 13 (Kenai-Cook Inlet) rather than in House District No. 16 (Bristol Bay).

We realize that reasonable arguments can be advanced to show that certain communities might be better represented by different districting. Our previous opinion in this case points out that it is not our function to develop apportionment schemes for the State of Alaska. We are limited in review to determining whether a plan adopted by the governor suffers state or federal constitutional defects alleged by the parties in the litigation before us. In our previous opinion we found no violation of those standards set forth in Art. VI of the Alaska Constitution which have not been made obsolete by decisions of the United States Supreme Court. Particularly where specific objections have not been presented to us, we do not believe it appropriate to substitute out judgment for that of the constitutionally empowered authority regarding the wisdom of delicate adjustments to be made in political boundaries. It is our duty to assure that the reapportionment plan complies with the requirement of substantial mathematical equality established by the United States Supreme Court, with the state carrying the burden to demonstrate that additional deviations are based upon legitimate considerations incident to implementation of a rational state policy. Where that burden was not met, we were compelled to require revision of the plan to conform to what has been described as "the tyranny of numbers". The Board having complied with out request, we accordingly have denied the objections to the revised plan, except where the revision demonstrated to us that the original district was properly formed in implementation of a rational state policy.

ERWIN, J., dissents.

2. Under the revised plan as amended by our order, the Bristol Bay district is slightly smaller than in the original plan, due to the Board's inclusion of Nelson Lagoon in the revised House District No. 17 (Bethel) where it more properly belongs. Granting the Kenai Peninsula Borough's objection reverses our prior order; in effect, it grants a rehearing based upon newly-discovered evidence, the evidence being the lack of reasonable alternatives to the initial plan. In granting the objection, we do not suggest that we will engage in wholesale redrafting upon request.

FITZGERALD, J., concurs in part and dissents in part.

ERWIN, Justice (dissenting).

While I agree that the revised reapportionment plan meets federal constitutional standards, I am unable to agree with the majority's conclusion that it meets the requirements of Alaska's Constitution. In my opinion, the revised plan includes districts which do not comply with the mandate of article VI, section 6, of the Alaska Constitution.

Whatever the merits of the retreat from precise mathematical equality evident in recent reapportionment decisions of the United States Supreme Court, we should not lose sight of the fundamental principle involved in reapportionment—truly representative government where the interests of the people are reflected in their elected legislators. Inherent in the concept of geographical legislative districts is a recognition that areas of a state differ economically, socially and culturally and that a truly representative government exists only when those areas of the state which share significant common interests are able to elect legislators representing those interests. Thus, the goal of reapportionment should not only be to achieve numerical equality but also to assure representation of those areas of the state having common interests.

If we were constrained solely by numbers, Alaska could obviously be divided into any given number of equally populated districts without regard to other considerations. Such a result would satisfy all federal constitutional requirements but would hardly be consistent with traditional notions of representative government, for it would inevitably lead to absurd combinations of historical, social, economic and geographical boundaries within the state. Fortunately, Alaska's Constitution commands that:

> Each new district so created shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area.[1] Thus, it only is within this framework that equally populated election districts may be constructed. If the search for equal representation is not undertaken within the limits of this constraint, then the underlying rationale for geographical election districts is destroyed.

In my view, the revised plan includes a number of house districts with respect to which the command of article VI, section 6, of the Alaska Constitution was sacrificed in the interest of numerical equality. For example, Fort Greely was included within the Fairbanks District, although it lies over 100 road miles from metropolitan Fairbanks and is located outside of the North Star Borough. Even more objectionable, however, is the fact that Big Delta and Delta Junction, which are five and ten miles respectively closer to Fairbanks along the only highway linking the two areas, were excluded. Many of the dependents of Fort Greely military personnel live, work, and attend school in these communities. If the Big Delta-Delta Junction-Fort Greely community is not a "relatively integrated socio-economic area," it is hard to imagine what is.

There is a similar problem with the addition to the Nome district of the communities of Selawik and Kiana, which are both located near Kotzebue. It is abundantly clear that the Board took this action solely to achieve equality of numbers,[2] for there are no ethnic or commercial ties between these communities and the Nome area and they are separated from Nome by mountains and Kotzebue Sound. In addition, both communities have transportation, economic, and ethnic ties with Kotzebue, not Nome; and, while Kotzebue is part of the same native corporation, Nome is not. In view of all these factors—which lie at the

1. Alaska Const. art. VI, § 6.

2. The state conceded at oral argument that all the changes made in the revised plan were made solely to meet numerical requirements of the United States Constitution.

very heart of the concept of socio-economic integration—I fail to discern how such a combination could possibly satisfy article VI, section 6, of the Alaska Constitution.[3]

Yet another example of this failure to comply with the mandate of the Alaska Constitution lies in the Anchorage area. The Anchorage-West district comprising portions of the downtown area, Inlet View, the South Addition, Turnagain, International Airport, Sand Lake, and Jewell Lake, includes a diversity of area residents which range from the most urban in Anchorage to the most rural.[4] Further, the district includes no less than four separate service areas—the City of Anchorage, the Spenard Public Utility District, the Sand Lake Service Area, and the Greater Anchorage Area Borough. In my mind, such a district, which includes as many diverse elements as could conceivably be combined within the Anchorage area, is not a "relatively integrated socio-economic area."

These major miscombinations, along with the short-lived Seldovia-Bristol Bay marriage disapproved by the majority, demonstrate the real tyranny of numbers, for they are products of an effort to achieve mathematical equality by shifting about population centers without regard to socio-economic considerations. By making small numerical adjustments to satisfy federal constitutional standards, the board dismembered important socio-economic communities in violation of Alaska constitutional standards.

In my view, major readjustments on a statewide basis are required if the plan is to meet minumum state and federal constitutional standards. The revised plan demonstrates all too clearly that such adjustments cannot be made in a matter of days under pressure of preparations for an imminent election, for a hastily conceived change correcting a minor deficiency in one district often causes major deficiencies in other districts. As a result, rather than improving the plan, such changes only serve to make it less likely to assure truly representative government.

I sympathize with the majority's desire to end this court's unsatisfactory and controversal intrusions into the political thicket of reapportionment. However, regardless of how reluctant we may be to confront this problem, it nevertheless remains our constitutional duty to the people of Alaska to assure a truly representative government. In my opinion, this goal cannot be achieved by making minor adjustments in the present plan. Because the interim plan had far smaller variances in population and unquestionably respected geographical and socio-economic considerations, I would have continued it in effect for the 1974 elections and remanded the revised plan back to the Board to comply with the mandate of the Alaska Constitution. It is better to err on the side of caution than to perpetuate mistakes for the balance of this decade.

FITZGERALD, Justice (concurring in part and dissenting in part). I would accept the governor's revised apportionment plan as submitted. I disagree with the majority that the southern end of the Kenai Peninsula should be separated from proposed House District 16 (Bristol Bay) and incorporated in House District 13 (Kenai-Cook Inlet). My disagreement with the majority is based on the procedural aspects of the Kenai separation issue.

Kenai Peninsula Borough was not a party to the reapportionment action, nor have we decided its standing to become a party. The Borough appeared before this court

3. Separation by mountains and an expanse of water, lack of direct transportation and communication links, and borough boundaries were all factors which the majority cited as justifying severance of the Seldovia area from the Bristol Bay district. I cannot understand why the presence of the same factors dividing the Selawik-Kiana area from the Nome area does not compel a similar conclusion.

4. The board made a point of its desire to avoid diluting the rural vote with the urban vote in the Fairbanks area. No rational reason has been shown for not following a similar course of action in the Anchorage area.

only amicus curiae. The court accepted the Borough's memorandum two days before final argument without providing an opportunity for the litigants to respond. Moreover, the Borough was then given leave to appear before the court at oral argument. As the majority opinion states, reasonable arguments could be advanced on behalf of other communities that different districting would better represent their interests.[1] To accede to the Kenai Borough's objections to the proposed plan may lead to questions of the right for other communities to raise similar arguments. In light of these circumstances I would accept the governor's revised reapportionment plan without the southern Kenai exclusion despite any reservations I may have about the merits of the particular district boundaries.

1. Supra, p. 5.

HJR

39

Berrier
1/17/84

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IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 39 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

Proposing amendments to the Constitution of the State of Alaska creating an appropriation reserve fund and limiting increases in appropriations.

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

* Section 1. Article IX, sec. 16, Constitution of the State of Alaska, is repealed and reenacted to read:

SECTION 16. APPROPRIATION LIMITATIONS. Except for appropriations to the Alaska permanent fund and appropriations required to pay the principal and interest on general obligation bonds, appropriations from the treasury during a fiscal year may not exceed the lesser of 95 percent of the unrestricted revenue of the state for the previous calendar year or the amount appropriated in the year this section takes effect adjusted for the cumulative inflation and population growth or decline as defined by law. An appropriation in excess of this limit may not be made unless a state of emergency is declared by the governor as provided by law.

* Sec. 2. Article IX, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 17. APPROPRIATION RESERVE FUND. An appropriation reserve fund is established. Appropriations may not be made from the appropriation reserve fund except for the purpose of repelling invasion, suppressing insurrection, defending the state in war, meeting natural disasters, or ~~redeeming indebtedness of the state outstanding at the time this section becomes effective.~~ appropriations required to pay the principal & interest on G.O. bonds After June 30 of the year

in which the balance of the appropriation reserve fund exceeds the total unrestricted revenue of the state for the preceding 18 months, the balance of the appropriation reserve fund shall lapse into the treasury. The balance of the appropriation reserve fund shall be invested at competitive national market rates. All earning of the fund shall become part of the principal of the fund.

* Sec. 3. Article XV, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 29. APPROPRIATION RESERVE FUND. Beginning July 31, 1985, and continuing until June 30 of the year in which the balance of the appropriation reserve fund exceeds the total unrestricted revenues of the state for the preceding 18 months, an amount equal to 8.8 percent of the unrestricted revenue for each month, as determined in accordance with this section, shall be transferred from the treasury to the appropriation reserve fund. Any balance transferred to the appropriation reserve fund under section 30 of article XV shall reduce by the balance transferred the amount required to be transferred in a year by the provisions of this section but no excess amount transferred may be carried forward to reduce the amount required to be transferred in another fiscal year.

* Sec. 4. Article XV, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 30. APPROPRIATION LIMITATIONS. After June 30, 1986, and until June 30 of the year in which the balance of the appropriation reserve fund exceeds the total unrestricted revenue of the state for the preceding 18 months, except for appropriations to the Alaska permanent fund and appropriations required to pay the principal and interest on general obligation bonds, appropriations from the treasury during a fiscal year may not exceed the amount appropriated in the

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prior fiscal year by more than the cumulative inflation and population growth or decline as prescribed by law. An appropriation in excess of this limit may not be made unless a state of emergency is declared by the governor as provided by law. No less than 25 percent of that portion of the unrestricted revenue of the state which has not been appropriated as allowed by this section shall be transferred from the general fund to the appropriation reserve fund. [illegible]

* Sec. 5. Section 1 of this amendment takes effect on July 1 of the year in which the balance in the appropriation reserve fund established in sec. 2 of this amendment exceeds the total of the unrestricted revenue of the state for the preceding 18 months.

* Sec. 6. The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

AMENDMENT

Offered in the HOUSE By Abood

TO: HJR 39

Page 1, lines 25 and 26:

Delete: "the legislature shall annually appropriate"

Insert: "there shall be transferred"

4/18/83

SUGGESTED AMENDMENTS TO HJR 39 FOR HOUSE STATE AFFAIRS COMMITTEE, 2/8/84

1. PAGE 1, LINE 16, LANGUAGE SHOULD READ, FOR CLARIFICATION, "LESSER OF THE AMOUNT APPROPRIATED IN THE YEAR THIS SECTION TAKES EFFECT ADJUSTED FOR THE CUMULATIVE INFLATION AND POPULATION GROWTH AS DEFINED BY LAW OR 95 PERCENT OF THE UNRESTRICTED REVENUE OF THE STATE FOR THE PREVIOUS CALENDAR YEAR."

2. PAGE 1, LINE 28, LANGUAGE SHOULD READ, TO PREVENT A RUN ON THE RESERVE FOR THE PURPOSE OF RETIRING ALL OUTSTANDING INDEBTEDNESS, "NATURAL DISASTERS, OR AS REQUIRED FOR REDEEMING INDEBTEDNESS OF THE STATE OUTSTANDING"

3. PAGE 2, LINE 1, SHOULD READ, TO OBVIATE THE POSSIBLE EFFECT OF A WIDE SWING IN REVENUES IN ANY ONE YEAR, "IN WHICH THE BALANCE OF THE APPROPRIATION RESERVE FUND EQUALS 1.5 TIMES THE APPROPRIATIONS OF ~~GENERAL FUND~~ UNRESTRICTED REVENUES FOR THE PRECEDING FI[illegible] YEAR." THIS CHANGE SHOULD ALSO BE REFLECTED IN PAGE 2; LINE 11: PAGE 2; LINE 24: PAGE 3; LINE 10.

4. PAGE 3, LINE 1, IN ORDER TO OBVIATE THE EFFECTS OF A LOW REVENUE YEAR DURING THE REVENUE PERIOD, SHOULD READ, "YEAR IN WHICH THIS SECTION BECOMES EFFECTIVE BY MORE THAN THE CUMULATIVE POPULATION AND INFLATION"

5. PAGE 3, LINE 7, SENTENCE SHOULD CONTINUE "ON THE FIRST DAY OF EACH FISCAL YEAR", SINCE NO TIME FOR DEPOSIT IS SPECIFIED IN PRESENT LANGUAGE.

6. PAGE 2, LINE 15, LANGUAGE SHOULD READ "TO THE APPROPRIATION RESERVE FUND AT THE BEGINNING OF EACH MONTH." THIS CLARIFIES LANGUAGE WHICH MIGHT OTHERWISE ALLOW TREASURY TO MAKE DEPOSITS ANNUALLY.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 7, 1984

MEMORANDUM

TO: Neil Phelps-Munson
Professional Assistant

FROM: Alexander Hoke
David Teal
Legislative Analysts

RE: Comments on CS HJR 39

As you requested, we have reviewed the House State Affairs Committee work draft of CS HJR 39. We offer the following comments:

Page 1; Line 16. As discussed on an earlier occasion, limiting appropriations to "95 percent of the unrestricted revenue of the state for the previous calendar year...." leaves a residual of 5 percent in the general fund each year. While the interest earnings on this 5 percent residual can be appropriated in future years, the principal will remain in the general fund. This means that the general fund will grow perpetually, potentially raising the general fund balance to $20 billion by the year 2010.

Also, the wording in this section is somewhat ambiguous in that the 95 percent limitation seems to apply to both limiting mechanisms. This ambiguity can be cleared up by reversing the order of the two limiting mechanisms in this paragraph.

Page 1; Line 28. During the period when contributions are being made to the CBB reserve fund, provisions in this section prohibit appropriations from the fund except for the purpose of "redeeming indebtedness of the state outstanding at the time this section becomes effective." Our concern is that with this language, the CBB reserve could conceivably be raided to pay off the State's total indebtedness outstanding which is currently estimated to be about $518 million.

Page 2; Line 2. After carefully considering the mechanism for triggering the automatic start-up of cash-based budgeting, two suggestions come to mind. First, instead of setting the CBB reserve target equal to "total unrestricted revenue of the state for the preceeding 18 months," it might prove useful to set the target equal to "1.5 times

the appropriations of general fund unrestricted revenue for the preceeding fiscal year." This procedure ties future appropriation levels to past appropriation levels regardless of what total revenues may have been for the prior year.

Secondly, since the effective level of appropriations (during the years when contributions to the CBB reserve are being made) is diminished by the amount of annual contributions to the reserve fund, the CBB reserve target might be tied to the effective level of appropriation also. This can be achieved with the following language:

"After June 30 of the year in which the balance of the appropriation reserve fund exceeds 1.5 times the appropriations of general fund unrestricted revenue for the preceeding fiscal year less any appropriations to the appropriation reserve fund,..."

The trigger mechanism described above would lower the target amount needed to start cash-based budgeting by the amount of the final year contributions to the CBB reserve. As a consequence, cash-based budgeting could begin one year earlier, or the annual contribution percentages could be lowered as described later.

Any changes to the definition of the automatic CBB start-up mechanism should also be made in the following locations:

Page 2; Line 11
Page 2; Line 24
Page 3; Line 10

Page 2; Line 12. The percentage for contributions of general fund unrestricted revenue is set at 8.8 percent in the work draft. With the new automatic start-up language stated above, other percentages may be in order. A 10.3 percent monthly contribution of general fund unrestricted revenues would be sufficient to trigger an automatic start of cash-based budgeting in FY 94 according to a 30th percentile revenue forecast. In order to begin cash-based budgeting by FY 93, the monthly general fund contribution percentage should be set at 11 percent, and a front-end contribution of $325 million would have to be made during the current session.

Page 2; Line 29 - Page 3; Line 2. Section 30 sets an appropriation limitation that will be effective during the period of time when contributions are being made to the CBB reserve fund. This provision limits annual appropriations to the previous year's appropriations adjusted for changes in population and inflation. This limitation mechanism may present a problem if there is a single unexpectedly low revenue year during the CBB reserve contribution period. With a single low

year, the appropriation limit for all subsequent years would be tied to the lowest level in the period, whether or not revenues rebound to higher levels.

An alternative is to limit annual appropriations to the amount of the appropriations in the year that this section becomes effective, with adjustments for inflation and population change (as was done in Section 16; Page 1; Line 17).

Page 3; Lines 4-7. There is no provision in this section which sets the timing of contributions from the year-end unappropriated general fund balance. We suggest that language be added to the end of this section which states that this contribution occurs once each year, preferably at the start of the year.

AH/DT

Introduced: 3/18/83
Referred: State Affairs and Finance

BY HAYES, ABOOD, BARNES, BETTISWORTH, COWDERY, FLOOD, LISKA, MARTIN, RINGSTAD, UEHLING, WARD, LINDAUER AND BUSSELL

IN THE HOUSE

HOUSE JOINT RESOLUTION NO. 39

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

Proposing amendments to the Constitution of the State of Alaska creating an appropriation reserve fund.

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

* Section 1. Article IX, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 17. APPROPRIATION RESERVE FUND. An appropriation reserve fund is established. After July 1, 1992, no money in excess of the balance of the appropriation reserve fund at the close of the preceding fiscal year shall be withdrawn from the treasury except for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this section becomes effective. After July 1, 1992, all revenue of the State shall be placed in the appropriation reserve fund and the balance of the appropriation reserve fund shall lapse into the treasury at the close of each succeeding fiscal year.

* Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 26. APPROPRIATION RESERVE FUND. Beginning with the First Session of the Fourteenth Legislature and continuing through the First Session of the Seventeenth Legislature, the legislature shall annually appropriate from the general fund to the appropriation reserve fund an amount equal to 15 percent of the average gross receipts of the general fund, as determined in accordance with this section. For the purposes of this section, "average gross receipts of the

general fund" is determined by dividing the total amount of money deposited in the general fund and in special accounts within the general fund (other than the appropriation reserve fund) from all sources during the four fiscal years immediately preceding the current fiscal year by four.

* Sec. 3. The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

Introduced: 3/18/83
Referred: State Affairs and Finance

BY HAYES, ABOOD, BARNES, BETTISWORTH, COWDERY, FLOOD, LISKA, MARTIN, RINGSTAD, UEHLING, WARD, LINDAUER AND BUSSELL

IN THE HOUSE

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* Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 26. APPROPRIATION RESERVE FUND. Beginning with the First Session of the Fourteenth Legislature and continuing through the First Session of the Seventeenth Legislature, ~~the legislature shall annually appropriate~~ there shall be deposited from the general fund to the appropriation reserve fund an amount equal to 15 percent of the average gross receipts of the general fund, as determined in accordance with this section. For the purposes of this section, "average gross receipts of the

general fund" is determined by dividing the total amount of money deposited in the general fund and in special accounts within the general fund (other than the appropriation reserve fund) from all sources during the four fiscal years immediately preceding the current fiscal year by four.

* Sec. 3. The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No: HJR 39
Title: Amendments to Constitution to Create Appropriation Reserve Fund
Sponsor: Hayes
Requestor: State Affairs Committee

II. FISCAL DETAIL

Agency Affected: Revenue
Program Category Affected:

BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 8
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	
200 TRAVEL	-	-	-	-	-	
300 CONTRACTUAL	-	-	-	-	-	
400 COMMODITIES	-	-	-	-	-	
500 EQUIPMENT	-	-	-	-	-	
600 LANDS & STRUCTURES	-	-	-	-	-	
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	
TOTAL OPERATING	-	-	-	-	-	
CAPITAL	-	-	-	-	-	
REVENUE	-	-	-	-	-	

FUNDING: (Thousands of Dollars) (433,200)

GENERAL FUND	-	-	-	(545,900)	(475,800)	(433,
FEDERAL FUNDS	-	-	-	-	-	
OTHER (Specify Source)	-	-	-	-	-	
Appropriation Reserve Fund	-	-	-	524,900	488,150	475,3

POSITIONS: 475,350

FULL-TIME	-	-	-	-	-	
PART-TIME	-	-	-	-	-	
TEMPORARY	-	-	-	-	-	
	-	-	-	-	-	

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Vincent D. Wright 4/13
Division: Revenue - Research
Phone: 465-2173
Date: 4/13/83

Approved by Commissioner: Robert Dobbs
Department: Revenue
Date: 4/18/83

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

IV. Analysis of HJR 39

The effect of these proposed constitutional amendments is to create an appropriation reserve fund (ARF). For each fiscal year from 1986 through 1992 the Legislature would be required to appropriate from the general fund (GF) to the ARF an amount equal to 15 percent of the average gross receipts of the GF excluding the appropriation to the ARF for the four preceding fiscal years. Thus the appropriation to the ARF in fiscal year 1986 would be 15 percent of the total gross receipts of the GF for fiscal years 1982 through 1985 divided by four and so on. Beginning with fiscal year 1993 the entire receipts of the state would be placed in the ARF and only the balance in the ARF at the close of the preceding fiscal year would be put in the GF and made available for appropriations. Thus the amount accumulated in the ARF from fiscal years 1986 through 1992 could be spent in fiscal year 1993 and the receipts from fiscal year 1993 could be spent in fiscal year 1994 and so on.

The amounts shown on the accompanying fiscal note as a reduction in GF revenues represent both the estimated appropriation to the ARF and the resulting reduction in GF investment earnings for the respective fiscal years. The amounts shown as an increase in ARF revenues represent both the estimated appropriation to the ARF for the respective fiscal year and the estimated earnings on the ARF balance from the preceding fiscal year.

Tax Exempt Home Mortgage Bonds (supporting legislation)

HOUSE JOINT RESOLUTION NO. 37, by Reps. Uehling, Barnes, Bussell, Cowdery, Furnace, Lindauer, Liska, Martin, Pestinger, and Ward. Supports passage of H.R. 1176 and S. 137 in the U.S. Congress, amending the Internal Revenue Code to allow certain home mortgage bonds to continue to be tax-exempt. States that the tax-exempt mortgage revenue bond program under 26 U.S.C.103A (P.L. 96-499 Mortgage Subsidy Bond Act of 1980) ends on December 31, 1983, and states that its termination would work a hardship on consumers who are eligible for loans under the Alaska Housing Finance Corporation tax-exempt bond program and similar programs in other states. Resolves that the Alaska Legislature supports passage of H.R. 1176 and S. 137 in Congress to allow continuation of the tax-exempt mortgage revenue bond program. (Identical to SJR 20, page 310.)

Introduced March 16 and referred to the House Special Committee on State Loans, Finance.

Natural Gas (transporting & marketing)

HOUSE JOINT RESOLUTION NO. 38, by Reps. Cowdery, Abood, Barnes, Bettisworth, Bussell, Cato, Glood, Fritz, Fuller, Furnace, Grussendorf, Hurlbert, Koponen, Lacher, Larson, Lindauer, Liska, Martin, M.W. Miller, Pestinger, Phillips, Ringstad, Shultz, Tischer, Uehling, Ward, Wendte and Hayes. Resolves that the state of Alaska fully supports the efforts of all owners of the gas and other parties to secure sales commitments for North Slope gas in any market, including within the state. States that citizens of Japan, Korea, and other trading partners of Alaska, are strongly urged to consider and take advantage of the secure, long-term trading relationship with Alaska and the U.S. that purchase of Alaska's North Slope gas would offer. States that the Legislature calls upon the other owners of the gas, Alaska's delegation in Congress and all other parties with an interest in the gas to explore every means to privately finance and construct a transportation system for the gas.

Resolves that the State of Alaska immeadiately enter into negotiations for the sale of its royalty interest in North Slope gas to in-state users in order that they and the state serve as a catalyst for the construction of a transportation system for Alaska's natural gas. Resolves that the federal government is urged to explore the prospect of making development of gas transportation facilities a National Interst Project of nations on both sides of the Pacific for its long term benefits to this nation and its potential trading partners.

Introduced March 18 and referred to Resources.

Appropriation Reserve Fund (creation of)

HOUSE JOINT RESOLUTION NO. 39, by Reps. Hayes, Abood, Barnes, Bettisworth, Cowdery, Flood, Liska, Martin, Ringstad, Uehling, Ward, Lindauer, and Bussell. Proposes amendment to the state constitution creating an appropriation reserve fund. Amends article 9 (Finance and Taxation) to provide that after July 1, 1992, no money in excess of the balance of the appropriation reserve fund at the close of the preceding fiscal year shall be withdrawn from the treasury except for wars, natural disasters, or redeeming indebtedness outstanding at the time section becomes

HJR 39 (cont'd)

effective. After July 1, 1992 all state revenue shall be placed in the fund and the balance of the fund shall lapse into the treasury at the close of each succeeding fiscal year.

Amends article 15 (Schedule of Transitional Measures) to provide that beginning with the first session of the 14th Legislature and continuing through the first session of the 17th Legislature, the legislature shall annually appropriate from the general fund to the appropriation reserve fund an amount equal to 15% of the average gross receipts of the general fund. The average gross receipts are determined by dividing the total amount of money deposited in the general fund and in special accounts within the general fund from all sources during the four fiscal years immediately preceding the current fiscal year by four.

Provides amendments proposed by resolution be placed before the voters at the next general election.

Introduced March 18 and referred to State Affairs, Finance.

Public School Foundation Program (est. Joint Committee on)

HOUSE CONCURRENT RESOLUTION NO. 23, by Reps. Koponen, Clocksin, Davis, Duncan, Goll, Larson, McBride, M. M. Miller, Szymanski, Vaska, Wendte, Zharoff and Malone. Would establish a Joint Committee on the public school foundation program. Provides the President of the Senate appoint three members and the Speaker of the House appoint three members and the President and Speaker jointly appoint one chairperson to study and make recommendations for improving the public school foundation program.

The committee is to report the scope of its intended research to the legislature no later than May 31, 1983 and make a final report by February 1, 1984. The committee shall have the power to call witnesses, hold hearings, and hire staff. The committee is encouraged to hear witnesses from the Alaska School Board Association, the Office of Management and Budget, the Department of Education, the State Board of Education, the Alaska Council of School Administrators, and other concerned groups. The committee terminates February 1, 1984.

Introduced March 14 and referred to Health, Education & Social Services, Finance.

Public School Foundation Program (state funding)

HOUSE CONCURRENT RESOLUTION NO. 24, by Reps. Koponen, Clocksin, Davis, Duncan, Goll, Larson, McBride, M. M. Miller, Vaska, Wendte, Zharoff and Malone. States that school districts in the state are required by law to prepare local school district budgets by April 1, 1983 and preparation of these budgets requires calculation of the amount to be contributed by the state under the public school foundation program. Resolves that the Alaska State Legislature pledges to appropriate 100 percent of its share of funding under the program so that local districts may have a firm figure on which to base their budget estimates.

Introduced March 14 and referred to Health, Education and Social

CASH-BASED BUDGETING:
A Response To Revenue Uncertainty

EXECUTIVE SUMMARY

House Research Agency
Alaska State Legislature
January 1984

House Research Agency Report 83-A

CASH BASED BUDGETING: A RESPONSE TO REVENUE UNCERTAINTY

EXECUTIVE SUMMARY

Cash-based budgeting (CBB) has been proposed as a means of eliminating the budgeting problems created by uncertain and fluctuating State revenues. Cash-based budgeting (also known as "forward funding") would reduce or eliminate uncertainty by tying the State budget for a given year to the amount of revenues already received and deposited in the treasury during a prior year. Before enacting or signing the budget, the legislature and governor would know exactly how much money was actually available to spend.

Conventional budgeting practices in most states (including Alaska) involve forecasting revenues for the coming fiscal year. Appropriations included in the budget are limited to the anticipated revenues for that year. With approximately 85 percent of Alaska's total revenues dependent on oil taxes and royalties, an error in projecting the price of oil or production level for the coming year can result in substantial miscalculations of total available revenues.

In response to the risk associated with any forecast of future revenues for the State of Alaska, the Department of Revenue began issuing a "risk adjusted" forecast for the FY 84 budget year. The so called "30th percentile" forecast implies that actual revenues are likely to fall short of the projected amount only 30 percent of the time. This means that there is a 70 percent probability that actual revenues will equal or exceed the forecast for that year.

"Revenue Uncertainty" And The Design Of A CBB Program

Given that the objective of the cash-based budgeting proposal is to resolve the "revenue uncertainty" problem, it is important that the concept of revenue uncertainty be fully understood.[1] Revenue certainty relates to the likelihood that incoming revenues will be sufficient to cover budgeted appropriations. If "reasonable certainty" is sufficient for budgeting purposes, one might choose to limit appropriations to the 30th percentile revenue projection (which gives a 70 percent assurance that actual revenues will equal or exceed budgeted appropriations).

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[1] It is important to recognize that the "revenue uncertainty" addressed by cash-based budgeting relates to a 12 or 18-month time period. The revenue uncertainty associated with a projected long-term revenue decline is not the specific target of cash-based budgeting.

Only when a 100 percent probability exists that revenues will be sufficient to offset budgeted appropriations for the next fiscal year can one say that "revenue uncertainty" has been eliminated. This means that the legislature and governor must know that there is "cash in the bank" sufficient to meet expenditures budgeted for the next year.

The major requirement of a cash-based budgeting program is the creation of a cash reserve from which appropriations can be made.[2] A cash reserve equal to 18-months of expenditures is required if the legislature wishes to begin each session with absolute certainty that there is sufficient cash to meet expenditures budgeted for the next fiscal year. For absolute certainty on July 1 (the start of the budget year), only 12-months of revenues are required in the reserve. Funding of the CBB reserve fund can be structured in two basic ways:

- a single very large deposit would allow for a near-term implementation of cash-based budgeting, or
- smaller annual deposits over a period of years would provide for a delayed start of this budgeting system.

Based on the assumption that the current State government expenditure policy of appropriating total projected revenues applies for the year in which cash-based budgeting begins, an 18-month CBB reserve must contain $4.836 billion to start cash-based budgeting in FY 86, or $5.173 billion for a delayed start in FY 94.

Deferred Implementation of Cash-Based Budgeting

During the current session, legislative attention on cash-based budgeting has focused on a long-term payment plan (CS HJR 39) for developing the CBB reserve fund. There are essentially three sources of funding the CBB reserve for deferred implementation of cash-based budgeting: the General Fund, Permanent Fund earnings, and new or higher taxes. Over a period of years, contributions to the CBB reserve would come from one or a combination of these sources (CS HJR 39 targets general fund unrestricted revenues). A significant feature of CS HJR 39 (and the computer model used in this report) is the automatic start-up of cash-based budgeting once the reserve fund exceeds the total expenditures in the preceding 18 months.

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[2] A Constitutional amendment is the generally preferred means of creating the reserve fund and defining its use for budgetary purposes. The Constitution would serve to insulate the cash-based budgeting reserve fund from the political process much as is the case with the Permanent Fund.

The General Fund. In this report, General Fund unrestricted revenues identified as potentially available for contribution to a CBB reserve fund are those revenues "in excess" of the projected operating costs of government. For this purpose, no real growth in the Operating Budget above the FY 84 level ($2.057 billion) is assumed.

Three mechanisms for obtaining contributions to the CBB reserve fund are considered in this report:

- A percentage of unrestricted revenues deposited into the CBB reserve fund monthly;
- A "grubstake" contribution to the CBB reserve fund appropriated in the 1984 legislative session to become effective contingent on voter approval of the CBB program during the 1984 general election.
- A percentage of the balance of unobligated (unappropriated) revenues remaining in the General Fund at the end of each year.

Assuming that actual revenues match the 30th percentile revenue forecast, annual contributions of 11.6 percent of total unrestricted revenues would enable the CBB reserve fund to attain the 18-month reserve requirement of $5.173 billion by FY 94. An FY 94 cash-based budgeting start-up could also be achieved with an annual General Fund contribution of 10 percent if a front-end (grubstake) contribution of $325 million were made during the current session. Under these options, annual contributions to the CBB reserve fund would range between $325 million and $472 million. General Fund "excess revenues" would be sufficient to meet CBB contribution requirements in every year except FY 92 and FY 93.

Permanent Fund Earnings. Permanent Fund earnings are another potential source of funds for a CBB reserve account. This report assumes the Permanent Fund is restructured to allow annual contributions to the CBB reserve fund. In addition, the Undistributed Income Account balance of the Permanent Fund (estimated at $535.6 million for FY 85) is assumed to be deposited into the CBB reserve fund as a grubstake contribution.

Under this set of assumptions, Permanent Fund earnings contributed to the CBB reserve fund are projected to increase from $208 million in FY 86 to $457 million in FY 93. Given the earnings potential of the CBB reserve fund, cash-based budgeting could be started in FY 95 with Permanent Fund earnings as a source of contributions.

New or Higher Taxes. A third alternative for funding cash-based budgeting is through new or higher taxes. However, this approach is less promising than the General Fund or Permanent Fund earnings options for the following reasons:

- The political feasibility of raising petroleum taxes is a matter of considerable conjecture, especially in light of the Congressional debate over the need to limit the ability of petroleum producing states to increase oil production taxes.

- Given the January, 1984 estimate of all nonpetroleum tax revenue of $131 million, tax rates would have to be three to four times higher than existing rates in order to meet CBB reserve contribution requirements of between $300 to $450 million per year.

- A reinstituted Alaska individual income tax could potentially raise revenues of around $225 million per year. This potential source of funds for cash-based budgeting is of a sufficient magnitude to fund a CBB reserve by the late 1990s, but may also be useful as a supplementary source of funds under other implementation options.

Near-Term Implementation of Cash-Based Budgeting

Two methods by which cash-based budgeting could conceivably be implemented soon after voter approval in 1984 are by a loan from the Permanent Fund and by bonding. Both options would require adoption of a constitutional amendment allowing the State to incur debt for purposes other than for capital construction projects. Assuming cash-based budgeting could begin in FY 86, both the permanent fund loan and bonding methods would involve a lump sum deposit into the CBB reserve fund of $4.836 billion.

Permanent Fund Loan. The plan for repayment of the Permanent Fund loan depends on the interest rate and repayment period assumed. Given a 7-year repayment period and an annual interest rate of ten percent, $479 million per year (in addition to interest earnings on the balance) would be diverted from the General Fund to repay the loan.

The Permanent Fund loan approach to funding the CBB reserve presents difficulties for the following reasons:

- The loan repayment plan stated above assumes perfect liquidity of Permanent Fund investments. In actuality, some Permanent Fund investments are not readily retrievable for contribution into the CBB reserve fund. Consequently, the start-up date for cash-based budgeting may be delayed from 2 to 3 years, and the annual repayment amounts would be increased since the CBB reserve fund target grows in proportion to revenue projections through FY 90.

- A serious drawback of the Permanent Fund loan concept is the precedent that such a use of the permanent fund principal would set.

- A Permanent Fund loan would likely be viewed by the bond market as no different than any other general obligation debt of the State. Consequently, this very large outstanding debt might cause the State's AA bond rating to drop to A or A-, making further bond sales for any State agency more expensive while the loan was being repaid. Furthermore, a debt of the magnitude of $4.8 billion would eliminate any further debt capacity for the State until this loan is repaid.

Bonding. An alternative near-term cash-based budgeting funding source is bonded debt. If $4.836 billion in bonds could be sold by the State, cash-based budgeting could be started in the near term with a repayment schedule much like that which would occur under the Permanent Fund loan option. The following potential problems are associated with the bonding alternative:

- According to a recent report of State debt capacity, an additional $1.2 billion in debt could potentially be incurred by the State through FY 90 only by doubling its current debt service to revenue ratio. This report recommends against such an increase in the debt service/revenue ratio since the State's AA bond rating would be in jeopardy.[3]

- The Internal Revenue Service (IRS) forbids financial arbritrage with regard to revenues raised by sale of tax exempt bonds. This means the State would be prohibited from investing revenues raised by bond sales at interest rates higher than those pertaining to the sale of the bonds. This factor would effectively raise the overall cost of the bonding alternative for funding cash-based budgeting by the amount of foregone interest earnings of CBB reserve fund investments.

The Fiscal Benefits and Limitations of Cash-Based Budgeting

The intent of legislation proposing cash-based budgeting is to create a budgeting system which will allow legislators to know precisely how much money can be appropriated in the budgets that they will prepare. However, cash-based budgeting is more than simply a mechanism for making revenues more certain.

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[3] A Review of Debt Capacity and Debt Management for the State of Alaska; August 1983, prepared by Government Finance Research Center-Municipal Finance Officers Association, Washington D.C.

Fiscal Restraint. The implementation of cash-based budgeting would provide for a constitutional prohibition against deficit spending by requiring that appropriations for a given fiscal year may not exceed total revenues already in hand from the prior calendar year. In addition, about $400 million per year would be diverted from the revenue stream to the CBB reserve fund during the period of reserve fund growth. In those years, less revenues would be available for appropriation for other purposes.

Bringing Certainty To The Budgeting Process. Knowing exactly how much money is available for appropriation each year is different from the task of allocating available funds. Even though the size of the pie will be known under cash-based budgeting, the problems of dividing up the pie will still require difficult political decisions. For local governments and school districts, who rely on State appropriations to finalize their budgets, uncertainty over revenues would remain until the legislative allocation process is complete. This source of revenue uncertainty will become an increasing problem for local jurisdictions during a period of declining revenues as a consequence of increasingly intense competition among contenders for a piece of the budget pie.

In addition, cash-based budgeting resolves the "revenue uncertainty" problem for budgeting purposes on a year-to-year basis, it does not eliminate the considerable uncertainty concerning how the State will budget "within its means" during a period of projected declining revenues.

Revenue Stability - Smoothing. With the start of cash-based budgeting, an element of revenue stability would be introduced to the extent that revenues needed to cover future appropriations will be "in the bank." However, cash-based budgeting would do nothing to smoooth out an eratic revenue stream (including both sharp increases and dramatic drops) since revenues would presumably be appropriated at the same level at which they were received 18-months earlier.

Cash-Based Budgeting As An Expenditure Limitation. As a limit on expenditures, cash-based budgeting differs from conventional expenditure limitations which are tied to growth in demand for governmental services (population growth) and changes in the costs of goods and services. Instead, cash-based budgeting is simply bound to increases or declines in total State revenues which are predominately determined by changes in the price and production level of petroleum.

Flow Charts Showing the Implementation of Cash-Based Budgeting

Figures 1 and 2 illustrate the transition to cash-based budgeting under the deferred implementation option. Figure 1 shows the timing of the flow of funds and Figure 2 shows the anticipated impact of CBB on State expenditures. Information provided by the graphs is summarized below.

Figure 1 shows that:

- the current practice of preparing the annual budget during the preceding fiscal year is retained under CBB;
- the current practice of spending revenues during the period in which they are collected continues during the transition period (1986 through 1993);
- a portion of annual revenues is diverted to the CBB Reserve Fund during the transition period;
- the CBB Reserve Fund is transferred to the General Fund in 1994 and is the source of money spent during FY 94;
- revenues collected during the first half of FY 94 are held for expenditure in FY 95;
- the CBB Reserve Fund is the source of the remainder of the money spent during FY 95; and
- beginning in 1996, expenditures during the fiscal year are limited to the amount of revenue collected in the preceding calendar year.

Figure 2 shows that:

- contributions to the CBB Reserve Fund begin in 1986 and continue through 1993;
- annual contributions to the CBB Reserve Fund reduce the level of expenditure because they divert revenue which would otherwise go to the General Fund;[4]

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[4]This conclusion is based on the assumption that expenditures will equal revenues in each year. If the amount budgeted without cash-based budgeting is less than revenues, the reduction in spending under cash-based budgeting would be less than shown in the graph.

- the CBB Reserve Fund grows to over $5 billion in 8 years, including $1.8 billion in interest earnings;

- contributions stop when the balance of the CBB Reserve Fund exceeds total revenues for the preceding 18 months;

- when the balance of the CBB Reserve Fund is transferred to the General Fund in 1994, expenditures can exceed the level of expenditure that could have occurred without CBB;

- future interest earnings from the large General Fund balance permit higher annual levels of expenditures than could occur without those interest earnings;

- although CBB permits a higher level of future expenditures, the level of expenditures follows the same trend as expenditures without CBB; and

- CBB does not reduce annual fluctuations in the permissible level of expenditures.

Figure 1

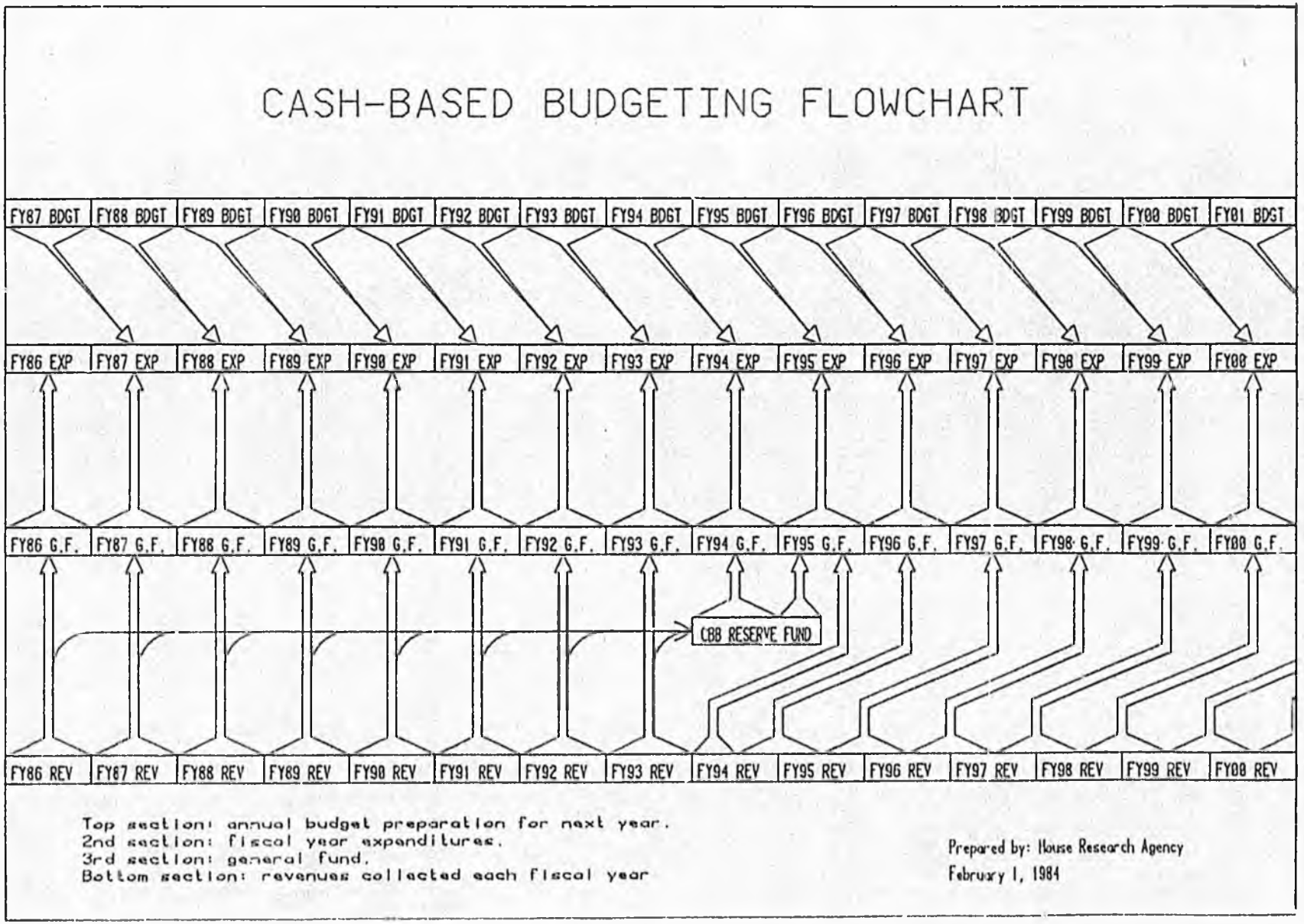
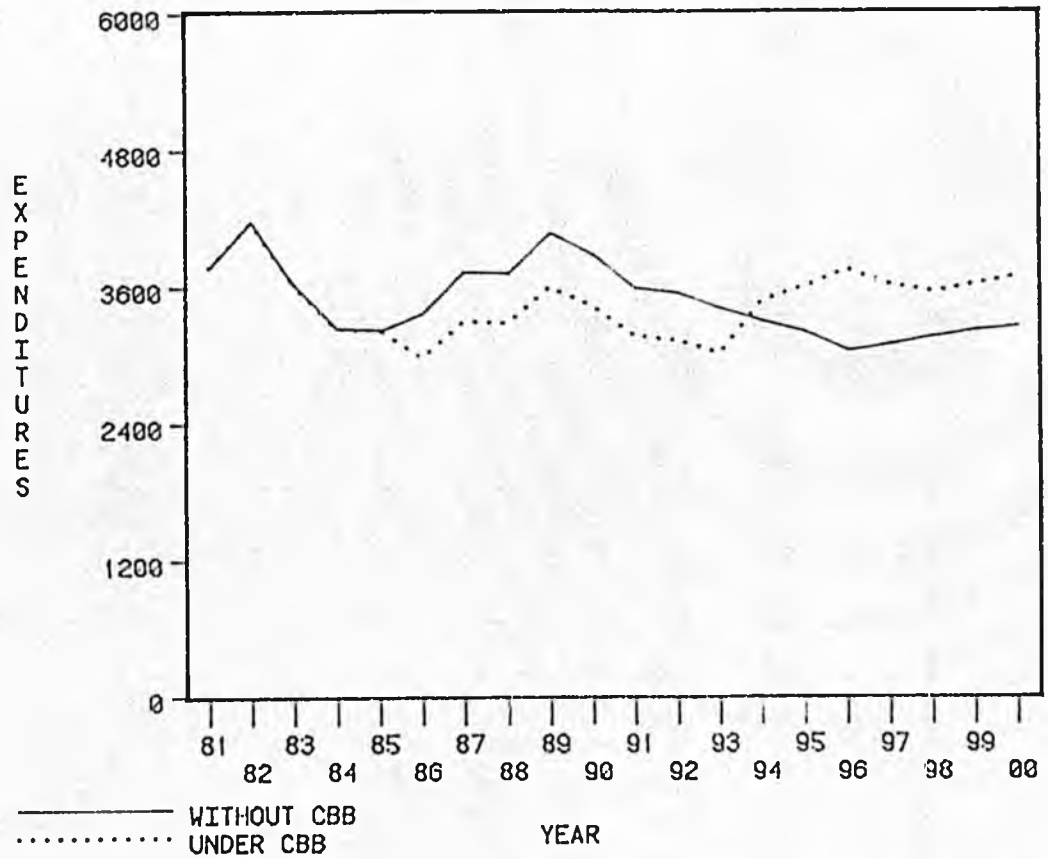
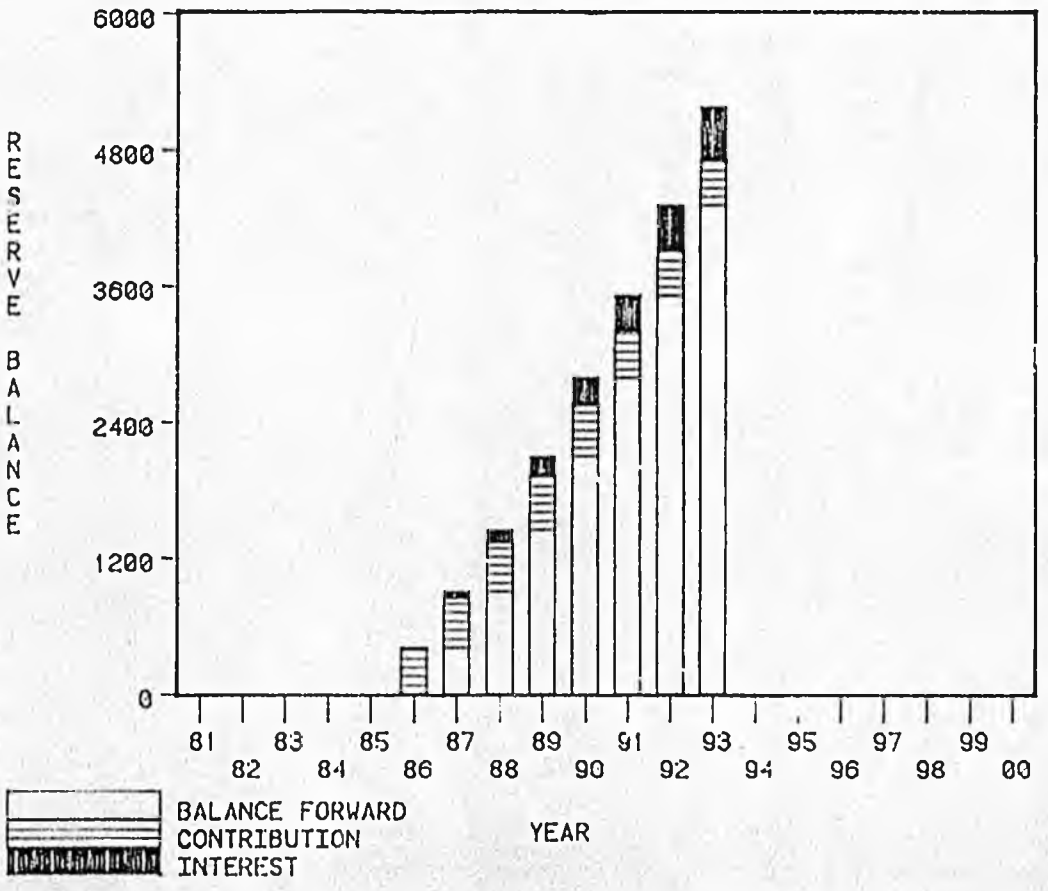

CASH-BASED BUDGETING FLOWCHART
FY87 BDGT
FY88 BDGT
FY89 BDGT
FY90 BDGT
FY91 BDGT
FY92 BDGT
FY93 BDGT
FY94 BDGT
FY95 BDGT
FY96 BDGT
FY97 BDGT
FY98 BDGT
FY99 BDGT
FY00 BDGT
FY01 BDGT
FY86 EXP
FY87 EXP
FY88 EXP
FY89 EXP
FY90 EXP
FY91 EXP
FY92 EXP
FY93 EXP
FY94 EXP
FY95 EXP
FY96 EXP
FY97 EXP
FY98 EXP
FY99 EXP
FY00 EXP
FY86 G.F.
FY87 G.F.
FY88 G.F.
FY89 G.F.
FY90 G.F.
FY91 G.F.
FY92 G.F.
FY93 G.F.
FY94 G.F.
FY95 G.F.
FY96 G.F.
FY97 G.F.
FY98 G.F.
FY99 G.F.
FY00 G.F.
CBB RESERVE FUND
FY86 REV
FY87 REV
FY88 REV
FY89 REV
FY90 REV
FY91 REV
FY92 REV
FY93 REV
FY94 REV
FY95 REV
FY96 REV
FY97 REV
FY98 REV
FY99 REV
FY00 REV
Top section: annual budget preparation for next year.
2nd section: fiscal year expenditures.
3rd section: general fund.
Bottom section: revenues collected each fiscal year
Prepared by: House Research Agency
February 1, 1984

Figure 2

EXPENDITURES AND RESERVES UNDER CASH BASED BUDGETING
(IN MILLIONS OF $)





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State Budget Policy Under Uncertain Revenue Forecasts

Options for Legislative Action

House Research Agency
Alaska State Legislature
January 1983

House Research Agency Report 82-B

THE PURPOSE OF THIS LEGISLATION, ORIGINALLY INTRODUCED IN A SLIGHTLY DIFFERENT FORM IN APRIL OF 1979 WITH A BI-PARTISAN LIST OF 24 SPONSORS, IS TO STABILIZE BUDGETING IN ALASKA. AT THE PRESENT ALASKA, LIKE EVERY OTHER STATE, BUDGETS MONEY "ON THE COME", THAT IS, WE MAKE OUR VERY BEST EFFORTS TO CALCULATE PROBABLE INCOME FOR THE NEXT FISCAL YEAR, AND THEN ATTEMPT TO BUDGET UP TO THAT FIGURE, HOPING THAT WE HAVE NEITHER OVERSPENT AND CAUSED LEGAL PROBLEMS, OR LEFT TOO MUCH ON THE TABLE AND CONSEQUENTLY DISAPPOINTED LARGE NUMBERS OF VOTERS.

BY THE SIMPLE EXPEDIENT OF SETTING ASIDE, IN A CONSTITUTIONALLY-PROTECTED ACCOUNT, 15 PERCENT OF AN AVERAGE YEAR'S INCOME FOR A PERIOD OF SEVEN YEARS, WE WILL HAVE A TOTAL OF 105 PERCENT OF AN AVERAGE YEAR'S INCOME IN THE ACCOUNT. BEGINNING IN THE EIGHTH YEAR, ALL BUDGETING WOULD BE DONE FROM THAT FUND OF KNOWN CASH RESERVES, AND ALL INCOME FROM THAT TIME ON WOULD GO INTO THE RESERVE FUND.

A POTENTIAL EXISTS OF LEGAL CHALLENGE AS TO WHETHER APPROPRIATIONS TO THE FUND WOULD RUN AFOUL OF THE SPENDING LIMITATION WHICH WAS APPROVED BY THE VOTERS LAST FALL. A TOP-OF-THE HEAD OPINION FROM THE LEGAL DIVISION IS THAT IT WOULD NOT, BUT WE ARE HAVING IT RESEARCHED IN MORE DEPTH, AND MIGHT HAVE TO INTRODUCE AMENDMENTS ACCORDINGLY.

THE MAIN THRUST OF THE AMENDMENT IS THAT IT WOULD:

1. PLACE THE ENTIRE BUDGETING PROCESS ON THE BASIS OF KNOWN FISCAL RESERVES.
2. SHORTEN LEGISLATIVE SESSIONS BY ELIMINATING THE NECESSITY OF JUGGLING INCOME PROJECTIONS.
3. ENABLE INTERIM BODIES AND INDIVIDUALS TO WORK ON THE BUDGETARY PROCESS THROUGHOUT THE YEAR.
4. ELIMINATE THE DANGEROUS PROBABILITY OF OVER-BUDGETING.
5. SIMPLIFY ANSWERING CONSTITUENT DEMANDS FOR FUNDING OF MANY PROJECTS AND PROGRAMS.
6. ENSURE FULL FUNDING OF PROJECTS AND PROGRAMS APPROVED BY THE LEGISLATURE.

OBJECTIONS WILL BE THAT WE CANNOT AFFORD THE SETASIDE AND THAT WE WOULD BE IDLING LARGE AMOUNTS OF MONEY FOR AN ENTIRE YEAR. TO THE FIRST OF THOSE WE ANSWER THAT WE PROBABLY CANNOT AFFORD, GIVEN THE RADICAL CHANGES IN INCOME WHICH WE EXPERIENCE, NOT TO INSTALL SOME SORT OF STABILIZING DEVICE. TO THE SECOND THAT THE MONEY WILL BE AT WORK, EARNING INCOME, FOR THE ENTIRE PERIOD DURING WHICH IT IS IN THE LIMBO OF THE RESERVE ACCOUNT AND EVEN AFTER IT IS BUDGETED WILL CONTINUE TO BE AT WORK UNTIL ACTUALLY EXPENDED.

HJR

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Summary of U.S.State Dept. 1982 report to Senate & House Foreign Relations Committees on Human Rights Practices in Taiwan

Political history since 1949 - the political power and most positions of power in the government remain with the Nationalist Party, the Kuomintang, who were elected on mainland China before 1945. Native Taiwanese - about 85% of population - do not have significant power, and are structurally prevented from gaining it.

What is referred to in the report as the "taiwanese independence movement" is a loose movement to return control of the government to elected Taiwanese. This movement is considered sedition.

Martial Law - Martial law was imposed in 1949 and operated ever since. It is the means by which the Nationalist Party retains control and is the crucial fact for human rights in Taiwan. Martial law means that political crimes and other major crimes can and are tried in military, rather than civilian, courts. Cases in these categories are then reviewable only by the Ministry of Defense.

These are the observations on human rights conditions as listed in the State Dept. report:

Political murders - murders of a mother and twin daughters of an opposition figure and of a U.S. born Taiwanese professor in 1980 and 1981 "are believed to have beer politically motivated".

Torture - Just last May, five policemen were tried and convicted for illegal arrest and causing bodily harm to a taxi driver beaten and then drowned while under arrest. "Physical violence...(is) a practice many believe police resort to frequently."

Arrest and warrants - Arrest is without warrant in many cases. Individuals may be held up to seven months and possibly more at prosecutor's request. Recently, attorneys were allowed to be present for interrogation of their clients, but that may only mean sitting behind a soundproof window - watching, but not hearing. There is no protection against self-incrimination.

For many minor crimes police not only arrest, but also prosecute and punish. Police are now trying to get the power to put certain of those detained in military prisons for "educational punishment" for crimes against "social peace" - all without trial.

"Monitoring of telephone calls(is)widely believed to exist", and in a recent case there was evidence of monitoring of international calls.

Political prisoners - There are, by government admission and the count of international organizations, approximately 100 political prisoners in Taiwan. 20 of them have been imprisoned over 30 years.

Sedition, which is defined as any opposition to basic government policy, especially the contention that the present government represents all of mainland China, is punishable in military courts under martial law. Native Taiwanese who say that their island should be self-governing are committing sedition and are commonly and frequently tried as such. Political candidates are known to be routinely monitored for such sentiments.

International security surveillance- Although authorities deny it, it is widely accepted that activities of students in the U.S. and other countries' universities who are Taiwanese are followed by the security service.

Censorship - Police may legally seize, ban and/or suspend publication licenses of publishers of printed material they think "confuses public opinion and affects the morale of the public and armed forces." This practice is very common. Major U.S. magazines such as Newsweek have been banned in recent past. Foreign correspondents' credentials have been revoked for reporting the wrong things.

Public assembly - Public assembly for political purposes is banned, except in recent years 15 day election periods have been created in which rallies are allowed but closely monitored.

Religious freedom - Churches have been warned against involvement in opposition political groups or groups which discuss Taiwanese independence. Authorities have made it clear that they intend to take control of religious educational institutions. In 1980 a confrontation with the Presbyterian church came to a head with the conviction of the church's general secretary and others in the church for their harboring a sedition defendant who sought help.

Travel freedom - Permission to leave the country for a trip or to study may be delayed or witheld for security reasons or because the person has criticized the political establishment. 20,000 people (about 2% of applicants) were denied travel permits in 1980 - over 300 for security reasons alone.

TAIWAN

More than thirty years of dynamic economic development contrasts sharply with the pace of political development in Taiwan, where the ruling authorities have emphasized stability rather than change. Nonetheless, the authorities have created an array of democratic institutions from village to province level, with candidates inside and outside the dominant Nationalist Party. Actual power, however, remains in the hands of the small leadership group elected in mainland China before 1945, which came to Taiwan after World War II and controls the Nationalist Party (Kuomintang), the military, and the executive bureaucracy. A high degree of political control is exercised through the security apparatus, which operates under martial law provisions enacted in 1949 and which the authorities justify by the threat of military action or subversion from mainland China.

The enhancement of human rights is publicly endorsed by the authorities but remains incompletely realized in Taiwan. Although individuals may run for elective office, coordinated opposition activity is greatly restricted. The publication of opposition political views is closely controlled and the activities of outspoken oppositionists are monitored, both at home and, apparently, abroad. Native Taiwanese, descendants of Chinese who migrated from the mainland mostly in the eighteenth century and who now constitute 85 percent of the population, dominate the economy but are under-represented within the ruling elite. Recent evidence suggests that torture and other forms of physical intimidation are still occasionally used by police, but probably are not officially condoned.

Nineteen eighty-two saw the continuation of a slow trend toward improvement in the human rights situation in Taiwan. Publication and public expression of oppositionist sentiment have become gradually freer, although there are still strict limits to what is acceptable. The authorities continue to recruit qualified Taiwanese to fill important economic and political, military, and security posts, a process which will contribute to an increased share of political power by the Taiwanese. With the rise of a prosperous middle class, popular concern about human rights is increasing. Despite Taiwan's diplomatic isolation and concern about the island's future after the passing of the current President, Chiang Ching-kuo, the outlook for continued improvement in human rights appears favorable.

1. Respect for the Integrity of the Person, Including Freedom from:

   a. Killing

No killings for political reasons have been substantiated in Taiwan in 1982, or indeed in recent years. However, the murder in February 1980 of the mother and twin daughters of jailed oppositionist Lin Yi-hsiung and the suspected murder in July 1981 of a Taiwan-born US resident, Professor Chen Wen-cheng, are widely believed to have been politically motivated.

   b. Disappearance

In recent years, there have been no credible reports of persons being abducted or secretly arrested by the security services. There are no known terrorist organizations operating on the island.

Code 382

Country Reports on Human Rights Practices for 1982 for Senate & House For. Rels. Committees by State Department

c. Torture

Taiwan law specifically prohibits the use of torture. The Code of Criminal Procedure states that an accused shall be "frankly" examined, but that no violence, threat, inducement, fraud, or other improper means shall be used. This language is repeated in the Military Trial Law.

The death in police custody of a Taipei taxi driver, Wang Ying-hsien, in May 1982 focused public attention on the use of physical violence by police in interrogating criminal suspects, a practice many believe police resort to frequently. Wang was picked up on suspicion of robbing a bank and died while in police custody. The actual robber was captured a few hours later and Wang's daughter challenged the police account of Wang's death. The autopsy report, released on August 20, confirmed that Wang was beaten but ruled that his death was caused by drowning in the Hsintien River. Although his death was officially declared a suicide, five policemen were tried and convicted for illegally arresting Wang and causing him bodily harm.

d. Cruel, Inhuman, or Degrading Treatment or Punishment

Imprisonment is the usual form of punishment for both political and nonpolitical offenders. According to the authorities, nine executions were carried out in 1981, seven of convicted murderers, and two of persons convicted of robbery.

Taiwan's civilian prisons are severely overcrowded. In April 1982 the press reported that civilian prisons, built to accommodate 11,261 prisoners, were then holding 17,162 or 5,901 over capacity. Prisoners are forced to share cramped living quarters and have fewer opportunities for work, exercise, and family visits. Overcrowding was partially responsible for severe rioting which broke out in the juvenile section of Hsinchu Prison in March 1982.

Conditions in the military prisons administered by the security police, where political prisoners are confined, are reportedly less crowded. Prisoners receive the same food as soldiers and have work and recreation opportunities. Although conditions for the Kaohsiung-incident prisoners have reportedly improved since their arrest in 1980, six non-Nationalist Party legislators charged in July 1982 that these prisoners continue to be denied access to regular work programs and recreational activities, are prohibited certain amenities accorded other prisoners, and are subject to special rules which keep them separate from one another. A few of the Kaohsiung-incident prisoners are alleged to still suffer from the effects of pretrial mistreatment.

There is no known discrimination in the treatment of prisoners because of class, race, sex, or religion.

e. Arbitrary Arrest and Imprisonment

Taiwan's law of habeas corpus requires that, following an individual's arrest, the arresting authorities notify in writing the individual and his designated relative or friend within 24 hours of the reason for his arrest or detention. The Code of Criminal Procedure specifies that the authorities may detain an accused for up to two months during investigation prior to the filing of the formal indictment, and for up to three months during trial. During the investigation phase,

however, the prosecuting officer may apply to the court for one extension of two months. The period of detention may also be extended during the time the accused is on trial. In recent cases, including the Kaohsiung incident, the authorities generally have followed the requirements of the above provisions, with exceptions occurring more frequently in the military system.

Major changes in the Code of Criminal Procedure, affecting the rights of criminal suspects, were enacted by the Legislative Yuan in July 1982. Suspects were granted the right to legal counsel during the investigation phase, including the right to have a lawyer present during interrogation by police. This was viewed by legal experts as a positive step in the protection of arrestees' rights. However, despite the opposition of the legal establishment, the press, and many legislators, the authorities also forced passage of changes which allow police to arrest without a warrant anyone they suspect of committing a crime for which the punishment would be five years or more in prison. Police power was further augmented to allow police to call in suspects or witnesses for questioning without a formal summons. The authorities justified the new police powers by insisting that the revisions would only legalize long-standing police practices.

The authorities deny holding political prisoners. They have stated that at the end of 1975 there were 254 persons in prison on sedition charges. Some persons have been released and others arrested since that time, but this is the most recent figure made public by the authorities. In December 1982 the authorities disclosed that 92 prisoners convicted of sedition and related offenses are currently being held in the Green Island military prison, compared with 115 reported to be there by Amnesty International in February 1980. Nearly 20 of these, originally arrested for communist activities, have been imprisoned for more than 30 years and were excluded from a general amnesty in 1975. Many of these prisoners, all in their fifties and sixties, are reported to be in poor health.

Many minor crimes in Taiwan are handled under a statute which empowers the police not only to arrest but also to prosecute and punish offenders. This law sometimes has been used against political activists. A substitute law, long sought by legal reformers, was put forward by the authorities in October 1981 but quickly withdrawn after being publicly criticized by lawyers and legislators. Critics complained that the law was even harsher than the one it was meant to replace, particularly provisions for "educational punishment" in military prisons for those accused by police of disturbing "social peace." In March 1982 the authorities reintroduced the "educational punishment" provisions as a separate "hoodlums" law. Although they withdrew it again in the face of heavy criticism, the authorities have indicated that they still intend to enact a police powers law incorporating "educational punishment."

f. Denial of Fair Public Trial

Taiwan's legal system is based on European and Japanese models which do not incorporate trial by jury. Under a 1980 judicial reorganization, district and high courts were shifted from the control of the Executive Yuan to the Judicial Yuan, for the first time formally separating the courts from the prosecution function. It is generally held in Taiwan legal circles that the change has given the judiciary greater independence of action.

Under martial law, which has been in effect in Taiwan since 1949, civilians who commit certain offenses, including sedition, may be tried in military court. Opposition to basic policy (such as expressing views contrary to the authorities' claim to represent all of China, or supporting an independent legal status for Taiwan) is considered seditious and thus punishable under martial law.

The authorities occasionally transfer "important" civilian cases (involving such crimes as homicide, kidnapping, and armed robbery) to the military courts. The authorities state that the military courts' swifter and generally more severe justice acts as a deterrent to potential criminals. Sentences are reviewed only within the Ministry of National Defense. In May 1982, the case of Li Shih-ko, who confessed to carrying out Taiwan's first armed bank robbery and murdering a policeman, was referred to the military courts for action. Li's trial on May 18 lasted less than two hours and the sentence, death, was carried out eight days later.

Neither civil nor martial law provides the defendant with protection from self-incrimination. Following the July 1982 revision of the criminal procedures code, suspects may for the first time have a lawyer present during interrogation. However, the authorities have indicated that the lawyer's role is to protect his client from mistreatment, rather than to provide legal counsel during questioning. In some cases, windows have been installed in police station interrogation rooms in order that lawyers (or family members) may see the suspect without hearing the questioning.

g. Invasion of the Home

Physical invasion of the home without a warrant is not a common practice in Taiwan, but does occur on occasion. The Code of Criminal Procedure requires that searches be authorized by warrants, signed by a prosecutor or, during a trial, by a judge. However, exceptions to this rule, previously few in number, were substantially increased by the revision of the code in July 1982. When making warrantless arrests, police may also make necessary searches of person or property without prior authority. Other types of violations of the home, such as monitoring telephone calls, are widely believed to exist.

2. Respect for Civil and Political Rights, Including:

a. Freedom of Speech and Press

The Constitution guarantees freedom of speech and the press. These rights are limited, however, by the enforcement of martial law restrictions. Individuals are not free publicly to question the regime's basic political policy of anti-communism and claim to sovereignty over all of China. Persons who speak favorably of communism or the People's Republic of China, or persons (usually native Taiwanese) who question the legitimacy of Taiwan's mainlander authorities by suggesting support for Taiwan independence or self-determination, can expect to be charged with sedition and tried in a military court.

Information brought to light during the investigation of the death of Professor Chen Wen-cheng in 1981 suggests that the security authorities closely monitor political expression, both at home and overseas. During questioning by the security

olice immediately prior to his death, Chen was reportedly confronted with recordings of an international telephone call between himself in the US and an opposition figure in Taiwan who was later jailed in connection with the Kaohsiung incident, and of a speech he gave in Pittsburgh supporting the Kaohsiung incident defendants. Although the Taiwan authorities later denied the existence of the Pittsburgh recording, the disclosures sparked a resurgence of allegations that Taiwan agents carry out a systematic program of surveillance and intimidation of Taiwanese students on American university campuses who are suspected of advocating Taiwan independence or self-determination. Indeed, Taiwan newspaper articles have noted the role of Taiwan security service units in the United States and Japan in monitoring dissident Taiwanese political activities. Although there have been reports of such surveillance from several US universities, the Taiwan authorities deny that they carry out surveillance on American campuses.

Censorship of publications occurs frequently. It is carried out through provisions of the publications law which empower the security police to seize or ban printed material that "confuses public opinion and affects the morale of the public and the armed forces." In 1982, the authorities allowed a rise in the number of domestic political opinion magazines, the more popular of which support non-Kuomintang politicians and criticize the party. One or more issues of several of these were banned during the year. Nominally the bans are in reaction to articles critical of the policies of the authorities or which discuss sensitive subjects, but they are widely viewed as tactics of intimidation. The limits of acceptable political criticism are not clear-cut. Even periodicals which are cautious in their selection of articles for publication have been banned from time to time. The ban of a single issue of a magazine may be followed by suspension of the publication's license for one year. In 1982, three magazines received this punishment.

Books are also occasionally banned by the security police. Control over the daily newspapers is exercised indirectly, through guidance from the central authorities' information office and the Kuomintang, and restrictions on the number of newspapers. Nevertheless, newspapers have expanded their coverage in areas previously forbidden, such as news from mainland China. Competition among the island's three television stations has also led to an expansion of their coverage of mainland and other sensitive international news, despite the fact that all three are partially or wholly owned by the authorities. Mounting criticism (Kuomintang as well as non-Kuomintang) of security police censorship, as well as of other elements of martial law administration, has compelled the authorities to defend their control apparatus. In June 1982 the Executive Yuan justified regular "selective postal checks" as necessary to intercept parcel bombs and illegal correspondence with mainland China. It was denied, however, that the authorities monitor telephone conversations.

Foreign publications are available, but are also subject to censorship by the security police and sometimes pages carrying articles offensive to the authorities are removed or blacked out before they are distributed. Some foreign publications are available through subscriptions only and are not allowed to be sold on newsstands. Occasionally, the credentials of foreign correspondents are suspended for articles which challenge important official views or positions.

Freedom of Peaceful Assembly and Association

m of Assembly is guaranteed by the Constitution. While ly for nonpolitical purposes is generally permitted, assembly for political purposes, except during elec- is often prevented under martial law provisions. During uthorized 15-day campaign periods which preceded island- elections on November 14, 1981 and January 16, 1982, all dates, including oppositionists, were allowed to hold ee. Those rallies, however, were closely monitored by the rities under the Elections and Recall Law of 1980, which candidates liable for prosecution for "seditious" ments.

to the authorized campaign periods, some oppositionists rallies characterized as "private parties." The authori- response was moderate but firm and such "parties" were efully broken up. The same tactic, used by Kuomintang idates, usually drew no response from the authorities. ined revisions of the election law announced by the authori- will outlaw the use of "private parties" in future ctions.

re is no tradition of trade unionism in Taiwan, and labor ons do not exercise significant influence either in the nomic or political sphere. While labor unions are permitted organize, walkouts and strikes are prohibited under martial . Collective bargaining, although provided for by legisla- n, does not exist.

c. Freedom of Religion

edom to practice religion is guaranteed by the Constitu- on. Most Taiwan inhabitants adhere to Confucianism, Taoism, ddhism, animism, or a combination of beliefs. Other reli- ons include Christianity and Islam. Some pseudo-Buddhist cts and Sun Myong Moon's Unification Church have been banned, e to parents' complaints that these groups were a corrupting fluence on Taiwan youth. The groups were accused of leading outh to engage in "abnormal behavior" that involved turning heir backs on their families, shifting their allegiance from tate to church, and actively proselytizing for further con- erts. Action was taken on the basis of the police offenses aw, a catch-all statute which allows the police to punish inor offenders without referral to the courts.

While generally respecting the right to practice religion, the authorities have brought pressure to bear against religious organizations they consider to be involved in unacceptable political activity. In 1977 the Presbyterian Church in Taiwan (179,000 members), long suspect for its advocacy of Taiwanese rights, issued a "Declaration on Human Rights" to which the church leadership has since repeatedly reaffirmed its commitment. By calling for Taiwan's transformation into a "new and independent country," the declaration has placed Taiwan's Presbyterian leaders (almost all native Taiwanese) in a clear position of questioning Taiwan's mainlander-controlled political institutions.

Friction between the Presbyterian Church and the authorities came to a head in 1980 when the church's general secretary, Reverend Kao Chun- ng, and several other Presbyterians were convicted in military court of harboring sedition defendant Shih Ming-te. While admitting he had assisted Shih, Rev. Kao denied seditious intent; he declared his religious vocation

precluded his betraying someone who had sought help and permitted him only to advise Shih to give himself up. Although relations between the church and the authorities have relaxed somewhat recently, the authorities continue to monitor church activities closely. The authorities have warned church members to avoid involvement in oppositionist political efforts or Taiwan independence activity.

In 1982 the authorities established a religious council, made up of representatives of the island's major religious bodies, to advise them on church matters. There are fears that the council may be used to justify unpopular official policies. Similar concerns have been expressed about legislation proposed in 1981 to regulate church activities. The proposed legislation is opposed by the island's major religious organizations as a threat to freedom of religion, although the authorities argue that the law is necessary to "define the scope of religion" and to "protect freedom of religion." An additional proposed measure would for the first time place religious educational institutions under the control of the Ministry of Education. The authorities argue that this would improve the quality of instruction and provide accreditation for the diplomas granted by these schools. Critics point out that it would also empower the Ministry of Education to control curricula and to place a military training officer in each school. Although action on these measures has so far been withheld, the authorities have not renounced their intention to enact them.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the freedom to change residence. There is general freedom of internal travel in Taiwan, except to military and other restricted areas. Emigration and private travel abroad have become freer since 1979. After the last calendar day of the year in which they turn fifteen, males may not leave Taiwan until completion of their military service. Since 1980, businessmen have been permitted to travel to and do business directly with certain Eastern European countries. Moreover, it is widely believed that the authorities are willing to overlook some personal travel to mainland China if handled discreetly.

Permission to leave Taiwan may be delayed or withheld for security reasons or because the persons involved have criticized the political establishment. Statistics released by the authorities indicate that in 1980, the last year for which we have figures, 949,306 persons applied for exit permission. Of that number, over 20,000 are reported to have been refused, 327 for security reasons and the rest for unspecified causes.

In general, the authorities recognize the right of repatriation of those Chinese holding Taiwan passports who normally reside in Taiwan. Those issued "overseas Chinese" passports do not automatically have the right to travel to Taiwan for permanent residence. In principle, Taiwan will not authorize the entry of Chinese, even those who have long held Taiwan passports, if they have lived in communist-controlled areas within the preceding five years.

Under its program of assistance to Indochinese refugees, Taiwan, through June 1982, has granted permanent resettlement to more than 4,700 such refugees, nearly all of them ethnic Chinese. It has also provided temporary asylum to nearly 2,000

Vietnamese "boat people" (refugees escaping by boat) awaiting acceptance by other countries.

e. Freedom to Participate in the Political Process

Reflecting their claim to be the Government of all of China, the Taiwan authorities possess an array of political bodies over and above those which pertain solely to the island of Taiwan. The locus of power on Taiwan is the presidency and the central executive branch. While representation of native Taiwanese in local and central legislative bodies has been increasing, Taiwanese are seriously under-represented in the powerful executive branch, in which persons who arrived from the mainland after 1945 hold the most powerful positions. There have been recent increases in the number of Taiwanese holding executive branch positions, however. The Vice President, about one-third of the cabinet (including the Vice Premier, the Minister of the Interior, the Minister of Communications, and three Ministers without Portfolio), and the Governor of Taiwan, among others, are Taiwanese. Nevertheless, critics point out that their power and influence both individually and collectively are limited.

The most important elective bodies at the central level are the National Assembly, which elects the President and Vice President, and the Legislative Yuan, which is the Central Legislature. There have been no general elections to these two bodies since 1948, the authorities taking the position that such elections cannot be held until they re-establish control over the mainland. In October 1982 the Minister of the Interior explained that if overall elections were held the winners could not represent all of China, but only Taiwan province. Beginning in 1969, "supplementary elections" for these central bodies have been held to choose additional representatives from Taiwan and the adjacent islands. The advanced age and incapacity of many of the members of the Legislative Yuan elected on the mainland in 1948 forced the authorities in 1982 to lower the number of legislators required for a quorum. Supplemental legislators elected on Taiwan now constitute the most active group in the Legislative Yuan.

Since 1950, democratic institutions have been in operation at the provincial and local levels. Universal suffrage exists for all citizens twenty years of age and over. Elections have been held regularly for provincial, county and municipal offices, with Kuomintang candidates competing with independents and oppositionists. The Taiwan provincial governor and the mayors of Taipei and Kaohsiung, however, are appointed by the central authorities.

Despite the existence of two small, nominal opposition parties, Taiwan is dominated by one party. The Nationalist Party has ruled Taiwan since 1945 and is a "revolutionary" party whose structure and control mechanisms are based on early Soviet models. Party organs exist at all levels of the ruling structure, as well as in the military, schools, and other public institutions. New opposition parties are forbidden under martial law and candidates who oppose the Kuomintang in elections run as independents or "non-party" candidates. Even though the large majority of candidates elected are from the Kuomintang, independent candidates, nearly all Taiwanese, have increasingly been successful in the recent past. In the

provincial elections in November 1981, a loose coalition of "mainstream non-Kuomintang" candidates won about 30 percent of the votes cast, with non-aligned independents and members of the legal opposition parties winning an additional 10 percent. Independents won a similar share of votes in the previous provincial elections in 1977.

Independents face several disadvantages in the election process. The election law enacted in 1980 generally favors Kuomintang candidates, because its provisions, many of which are ambiguous, are interpreted by the central election committee which is controlled by the Kuomintang. The law forbids the participation of students, formerly a prime source of campaign workers for independent candidates, and allows only officially sponsored rallies in which all candidates participate together in the last few days before an election. Independent candidates are further disadvantaged by press self-censorship. The daily press tends to give little publicity to the views of the independents. Periodicals which publicize the views of independent candidates are subject to frequent censorship by the security police. However, such periodicals were not silenced during the provincial elections in November 1981, as they were during previous elections, and they have since been allowed to increase in number.

Women constitute 48 percent of Taiwan's population. The few laws which discriminate against them relate mostly to divorce issues and inheritance. Nearly 500 women were elected to city and town councils in June 1982, taking about 13 percent of the total seats up for election, while in the December 1980 "national" elections women candidates were the top two vote-getters. Regulations governing elections make some provision for guaranteed minimal representation of women in local and central legislative institutions. Enrollment of women in institutions of higher learning has increased 97 percent since 1952, to 411,000 in 1982. The number of women employed in ministries and other official agencies has increased by 40 percent since 1973. A fledgling women's rights movement is slowly growing.

Taiwan's only non-Chinese minority group is made up of descendants of Malayo-Polynesian immigrants who were already established in Taiwan when the first Chinese settlers arrived. Many of these aboriginal "mountain people," who comprise about one per cent of Taiwan's total population, live on restricted-access reservations, but most must compete with the Chinese majority for educational and job opportunities. There is no official policy of discrimination against the aborigines, and the authorities have instituted educational incentives and other social programs to ease their transition into Chinese society. The barriers created by de-facto cultural and economic discrimination, however, are frequently insurmountable. "Mountain people" are often relegated to low-paying, menial jobs by Chinese employers and many are forced to seek long-term employment overseas as fishermen or laborers. The rapid disintegration of tribal culture and the difficulty of "making it" in Chinese society have produced a general malaise within many aboriginal communities, which is the source of the widespread alcoholism and "laziness" sometimes caricatured by unsympathetic Chinese. Special designated seats in both central and provincial legislative bodies are reserved for aborigine representatives.

3. Authorities' Attitude Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights

The Taiwan authorities on occasion have permitted representatives of international human rights organizations, as well as private individuals interested in human rights issues, to visit Taiwan and meet with appropriate officials.

Taiwan's martial law was the subject of hearings before the Subcommittee on Asian and Pacific Affairs of the House Foreign Affairs Committee in May 1982. Prior to this, four members of Congress issued an appeal to the Taiwan authorities calling for an end to the 33-year-old martial law.

The Chinese Human Rights Association, which in the past has focused its attention primarily on human rights questions in mainland China, has recently devoted more of its efforts to human rights in Taiwan. In 1982, the Association sponsored tours for law-makers and legal experts to examine Taiwan's crowded prisons and established a legal aid service for Taipei residents. The association has also put together a human rights report on Taiwan, which was to be released in late 1982. Freedom House, in its 1982 report, rates Taiwan as "Partly Free."

4. Economic, Social, and Cultural Situation

Taiwan has established an excellent record of providing for the social and economic needs of its people. In general, the opportunity to participate in economic benefits is available to the population as a whole without discrimination. The per capita gross national product (GNP) in 1981 was over $2,500. Unemployment in the first half of 1982 averaged 1.62 percent. The authorities' fiscal 1983 budget allocated more than 30 percent of the total budget to education, science, culture, and social programs.

Although economic growth has recently fallen short of the spectacular rates achieved earlier (GNP grew at a rate of 3.91 percent in the first half of 1982, compared with the 1969-1979 average rate of 10 percent), the economy remains healthy. The prospects for continuing economic well-being are favorable as the authorities attempt to shift the focus of their export-based economy to high-technology industries.

Taiwan has developed an effective public health program and a system of health stations throughout the island - a total of more than 11,000 medical care facilities. In 1980, Taiwan had more than 7.5 physicians, 6.6 nurses, and 22 hospital beds for every 10,000 persons. Health promotion programs include maternal and child disease control and environmental sanitation. Major epidemic disease has been reduced, although limited outbreaks, such as a surge in polio cases in August 1982, still occur. Because of these public health programs and a generally good diet (per capita daily caloric intake exceeds 2,800), life expectancy has increased to 70 years for men and nearly 75 years for women. Taiwan's birth control efforts have been successful in bringing the birth rate in 1981 down to 1.77. This has been crucial in alleviating population tensions on the island, where the population density per square mile of cultivable land exceeds 5,000.

Education is one of the main concerns of the authorities and the population in general. Statistics show that 90.2 percent of the population over age six are literate. Of school-age children, 99.8 percent are currently in school and free compulsory education is available through junior high school. About 60 percent of junior high school graduates pass examina-

tions and enter three-year senior high and vocational school programs. Entry into Taiwan's extensive system of higher education is also based on competitive exams, and departures from a strict merit system are almost nonexistent. In 1982, more than 20 percent of college-age youth were enrolled as undergraduate or graduate students.

HJR

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Director
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Authority

California Legislature

ROOM 300
1100 J STREET
SACRAMENTO, CA 95814
TELEPHONE (916) 445-1351

R. BLAIR SPRINGER
Principal Consultant

ROBERT B. GERBER III
Associate Consultant

JERRY M. HALEVA
Executive Assistant
to the Chairman

SUE MAXIMOTO
Secretary

Joint Committee on Fire, Police, Emergency and Disaster Services

SENATOR WILLIAM CAMPBELL
CHAIRMAN

March 7, 1983

Assemblyman Joe Hayes
Speaker of the House
State Capitol Building
Juneau, AK 99811

Dear Speaker Hayes:

As Minority Leader of the California State Senate, I have developed an increasing interest in the field of emergency preparedness and response. The effectiveness of state and local public safety agencies in responding to emergency incidents depends in large part upon their communication capabilities. A reliable, comprehensive system is of paramount importance to ensure a coordinated emergency response. Unfortunately, in many areas of our nation emergency communication systems are unable to meet expanding needs. Many areas must cope with fragmented, costly, inefficient systems that are unsuitable for modern emergency response efforts.

To address this problem, the Los Angeles County Sheriff's Department has petitioned the Federal Communications Commission to allocate additional radio frequencies for public safety land mobile use. This Petition, RM 3975 (please see attachment A), requests that the FCC set aside a contiguous band of radio frequencies, preferably UHF TV Channels 14-20, for land mobile services with two channels dedicated soley for public safety use. Such an allocation would accommodate the increase in public safety radio traffic and, also,

would enhance their operational capability for inter-agency co-operation over multi-jurisdictional boundaries.

This Petition was submitted on behalf of all public safety agencies. It has received the support of 18 national and state professional organizations, as well as, public safety agencies in 28 states (please see attachment B). RM 3975 has also received the support of approximately 100 federal elected representatives and over 300 emergency service professionals. However, to date the FCC has not acted on this Petition.

As Chairman of the Joint Committee on Fire, Police, Emergency and Disaster Services, I introduced a measure, Senate Joint Resolution 60, to have the California State Legislature memorialize the Federal Communications Commission to support Petition RM 3975. This measure was successfully passed by both the Senate and the Assembly. Additionally, my Joint Committee conducted public hearings on the issue of emergency communications in order to obtain as comprehensive of a review of this topic as possible.

Since the FCC had disregarded the Sheriff's Petition and is in the process of assigning all remaining radio frequencies, I would like to ask the support of you and your colleagues to join the California State Legislature in support of Petition RM 3975. I have enclosed a copy of SJR 60 for your information. I encourage you to meet with public safety officials in your state who may be familiar with the Petition submitted by the Los Angeles County Sheriff's Department to discuss this issue. Further, based on your state's needs, I hope that you would consider passing a similar resolution to be forwarded to the FCC and your congressional delegation.

Additionally, if your legislature does not already have one, I would like you to consider the possibility of establishing a research committee similar to the Joint Committee on Fire, Police, Emergency and Disaster Services. We have found this committee to be of considerable value in bringing to the forefront those issues of vital importance to our public safety policy decision-making process. I have also enclosed for your review a copy of the Resolution creating the Joint Committee in the California State Legislature.

Thank you for your cooperation in this matter. If you have any questions or if I can be of any assistance, please contact me at your convenience.

Sincerely,

WILLIAM CAMPBELL
Chairman

WC:ssm
Attachments/Enclosures

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

POUCH N
JUNEAU, ALASKA 99811
PHONE:

APR 4 1983

March 31, 1983

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

Dear Representative Hayes:

I have researched petition RM 3975 Radio Frequencies as requested. In fact, the Department of Public Safety had previously responded in support of RM 3975.

Here in Alaska we also have similar problems, although not as great as the problems in the larger urban areas. The Troopers transmit on eight basic frequencies. Four are simplex channels and four have repeater capabilities.

We share 151.25 with many City Police Departments and Emergency Services personnel. This has virtually eliminated our use of this frequency. We lack a control and command frequency and during emergencies all units not involved must transfer to a simplex channel. This hinders or eliminates communication with many mobile units due to distance between the base station and mobile units (VHF is line of sight communication).

In a disaster, we must bring portable radios from City Police Departments, Fire Departments, National Guard and other Military Units, into our command center. It becomes very confusing attempting to coordinate all these units activities.

Aircraft to mobile communication, during Search and Rescue and on special operations, create problems by tieing up primary frequencies. Finally, it is difficult to conduct training exercises due to the lack of a free frequency.

12-L2LH

I would urge the House of Representatives to support RM 3975 for the benefit of all public safety agencies within the United States. It is important to obtain a favorable ruling from the F.C.C. or these frequencies will be assigned to other users.

Sincerely,

Robert J. Sundberg
Commissioner

Frank H. Murkowski	T.R. Anderson, Alaska State Troopers
Joseph D. Early	L.P. Benedetto, Franklin P.D.
Ernst F. Hollings	W.D. Sirginson, York P.D.
	J.M. Brown, Greenville Co. Sheriff
	G.E. Tittle, Jr., Folly Beach P.D.
	Richard P. Ruoniala, Goose Creek P.D.
Strom Thurmond	G.E. Tittle, Jr., Folly Beach P.D.
Thomas F. Hartnett	G.E. Tittle, Jr., Folly Beach P.D.
Bill Frenzel	
Ronnie G. Flippo	San Jose (CA) Fire Dept.
Wayne Dowdy	Hinds Co. (MI) Sheriff's Dept.
dowell Heflin	Heflin (AL) Police Dept.
Norman E. D'Amours	Laconia (NH) P.D.
Charles McC Mathias, Jr.	Baltimore (MD) P.D.
Bob Shamansky	Columbus (OH) P.D.
Ted Stevens	Alaska Department of Public Safety
Bob Packwood	W/H. Berlin, Polk Co. Sheriff
John C. Danforth	R.G. Gillespie, Fulton P.D.
John C. Stennis	B. Baldwin, Hinds Co. Sheriff
Clement J. Zablocki	M.R. Ratkowski, Greendale P.D.
Harold S. Sawyer	L.E. Henline, Wyoming P.D.
William J. Hughes	J.C. Hartmann, Brant Beach P.D.
Russell Long	H.M. Morris, New Orleans P.D.
Larry Winn, Jr.	D. Hornbaker, Kansas H.P.
	J.S. Cox, Leawood P.D.
Steven D. Symms	
Thomas F. Eagleton	J.R. Hayes, St. Joseph P.D.
Richard A. Gephardt	K.A. Krueger, Ladue P.D.
Thomas F. Eagleton ***	K.A. Krueger, Ladue P.D.
Walter D. Huddleston	M.D. Campbell, Kentucky
	Commissioner of State Police
Lindy Boggs	Henry M. Morris, New Orleans
	Superintendant of Police
Nancy L. Kassebaum	J.S. Cox, Leawood P.D.
	R.A. Kistner, Liberal P.D.
Thomas S. Foley	R.D. Panther, Spokane P.D.
Bill Bradley	J.C. Hartmann, Brant Beach P.D.
Howell Heflin ***	E.R. Miller, Miami Beach P.D.
Edward Zorinsky	R.A. Roth, Douglas Co. Sheriff
James M. Collins	J.M. Wright, Friendswood P.D.
	J. Corley, Montgomery Co Sheriff
	V. Campbell, Carrollton P.D.
	R.S. Sullivan, Addison P.D.
Allen E. Ertel	D.H. Schatz, St. Mary's P.D.
	D.L. Heiter, Lewisburg P.D.
	A.R. Shaw, Jr.
Bob Livingston	H.M. Morris, New Orleans P.D.
Olympia J. Snowe	
Charles E. Grassley	
George Hansen	Gail W. Peterson, Moscow P.D.
Robert A. Roe	H.L. Runyon, Passaic P.D.
Frank R. Wolf	S. Stover, Arlington P.D.
Daniel A. Mica	R.P Wille, Palm Beach Co Sheriff
Henry M. Jackson	A.F. Clifford, Kirkland P.D.

Eldon Rudd	J. Wortham., Maricopa Co.
Judd Gregg	B.G. Cheney, Laconia P.D.
	P.F. O'Leary, N.H. State Police
Robert A. Roe ***	J.M. Fox, Morris Co. Sheriff's Office
Parren J. Mitchell	F.J. Battaglia, Baltimore P.D.
Robert C. Byrd	H.D. Silverman, Charleston P.D.
Lawton Chiles	W C. Heinrich, Hillsborough Co.
	R.A. Butterworth, Broward Co.
	R.P. Wille, Palm Beach Co.
	J.J. Warford, Kissimee P.D.
	S.F. Lynn, St. Petersburg P.D.
	E.R. Miller, Miami Beach
	L.F. Callahan, Fort Lauderdale P.D.
George M. O'Brien	Fred Hayes, Romeoville P.D.
Rudy Boschwitz	J.F. Mossey, Crystal P.D.
Nick Joe Rahall II	H.D. Silverman, Charleston P.D.
Charles E. Bennett	Bob Graham, Florida's Governor
Al Swift	
Donald W. Riegle, Jr.	
Gary Hart	C.E. Camp, Northglenn P.D.
Bruce F. Vento	
Robin L. Beard	G. Roberts, Commissioner, Tennessee Dept. of Public Safety
James H. Quillen	ditto
Jim Dunn	J.A. Hildebrand, Pontiac P.D.
Arlen Specter—	E.J. Sieminski, Penn. State Rep. for A.R. Shaw, Jr., Hellertown Borough P.D.
John Tower	J. Corley, Montgomery Co. Sheriff
James A. McClure	G.W. Peterson, Moscow P.D.
George J. Mitchell	T.J. Lander, Maine Chiefs of Police Assoc.
Ed Jones	G. Roberts, Comm. of Tennessee Dept of Public Safety
Sam B. Hall, Jr.	W.P. Clements, Jr., Governor of Texas
W.L. Armstrong	C.E. Camp, Northglenn P.D.

*** second inquiry

REPLY COMMENTS IN OPPOSITION TO RM-3975

Association of Maximum Service Telecasters.

* Letter to Chairman Fowler
** Letter to President Reagan

Congressional Correspondence

Joseph G. Minish	for Martin J. Dugan
Bill Lowery	for Laurence R. Marshall, Oceanside P.D.
Duncan Hunter	for G.W. Boyd, Coronado P.D.
Marvyn M. Dymally	
Alan Cranston	for Craig L. Meacham, Pres., L.A. Co. Chiefs of Police
Charles Pashayan, Jr.	for Sheriff of Tulare County
Robert Lagomarsino	for J.D. Smith, Lompoc P.D.
Tony Coelho	for Mayor Martin Howard
Bill Lowery ***	for William J. Winters, Chula Vista Director of Public Safety
Norman Y. Mineta	for Bruce O. Jordan
Wayne Grisham	
Robert E. Badham	
Don Edwards	for Fremont P.D.
Vic Fazio	
Julian C.Dixon	
David Dreier	for Roger M. Moulton, Montclair P. D.
William M. Thomas	
Bobbi Fiedler	
F. James Sensenbrenner, Jr.	for Jon D. Schorle, San Francisco State Univ., Dir. of Public Safety
Don Edwards ***	for Fremont P.D.
Joe Skeen	for R.S. Swenor, Ruidoso P.D.
Dante D. Fascell	for Emmett R. Miller, Miami Beach P.D.
John J. Rhodes	for Ronald J. Danielson, Chandler (AZ) P.D.
Harold L. Volkmer	for Richard Gillespie, Fulton (MO) P.D.
J. James Exon	for J.L.Friend, P.S. Director for Omaha
F. James Sensenbrenner, Jr. ***	for Donald E. Rosenbauer, P.S. Director for Brown Deer
Harrison Schmitt	for R.S. Swenor, Ruidoso P.D.
Hank Brown	for Craig E. Camp, Northglenn (CO) P.D.
G. William Whitehurst	
Ernest F. Hollings	for York; Goose Creek; Greenville; Folly Beach
Howard Baker	for Sidney R. Mathews, Athens P.D.
Claude Pepper	for Emmett R. Miller, Miami Beach P.D.
Augustus F. Hawkins	for California Emergency Council (Resolution)
Lloyd Bentsen	for Doyne Bailey, Travis Co. Sheriff

Ottawa County (MI) Sheriff's Department
Socorro County (NM) Sheriff
County of Riverside (CA) Fire Chiefs (Resolution)
Orange County (CA) Fire Chiefs' Association (Resolution)
Mesquite Public Safety Communications Division
San Bernardino Co. (CA) Law Enforcement Administrative Officers' Assoc.
Lewisburg Borough (PA) Council (Resolution)

Other

National Association of Business and Educational Radio, Inc.
Robert E. Browning

COMMENTS IN OPPOSITION TO PETITION RM-3975

Association of Maximum Service Telecasters
National Association of Public Television Stations
National Association of Broadcasters
California State University and Colleges for San Diego State University

REPLY COMMENTS IN SUPPORT OF RM-3975

Los Angeles County Chiefs of Police Association (Resolution)
Los Angeles (CA) Communications Division
Los Angeles Police Department
California Peace Officers' Association
Peace Officers Association of Los Angeles County
Adelanto (CA) Police Department
Marysville (CA) Police Department
Coronado (CA) Police Department
Gilroy (CA) Police Department
Walnut Creek (CA) Police Department
Sheriff-Coroner of Sutter County (CA)
Missouri Chapter of the Associated Public-Safety Communications Officers, Inc.
City of Coronado (CA) Police Department
City of Marysville Chief of Police *
Calipatria (CA) Police Department
Redlands (CA) Police Department
Montclair (CA) Police Department
Livermore (CA) Police Department
South Lake Tahoe (CA) Chief of Police *
Tulare County (CA) Sheriff's Department
Chula Vista, California, Department of Public Safety
Glendale (CA) Police Department
Pinole (CA) Police Department
Turlock (CA) Police Department
Woodland (CA) Police Department

Martinez (CA) Police Department
Long Beach (CA) Police Department
Firebaugh (CA) Police and Fire Department
Mountain View (CA) Police Department
San Jose (CA) Police Department
Escondido (CA) Police Department
Sonoma County (CA) Sheriff's Department
St. Helena (CA) Police Department
Fremont (CA) Police Department
Newport Beach (CA) Police Department
Sacramento (CA) Police Department
Contra Costa County (CA) Police Chiefs Association
South Bay (CA) Regional Public Communications Authority
L.A. County District Attorney's Office
County of Orange (CA)
Culver City (CA) Police Department
Ventura County (CA) Sheriff's Department
San Joaquin County (CA) Sheriff's Department
Clayton (CA) Police Department
Department of Justice (CA)
Concord (CA) Police Department
City of Simi Valley (CA) Police Department *
Baldwin Park (CA) Chief of Police *
Sanger Police Department
Carpinteria (CA) City Council (Resolution)
Buena Park (CA) Police Department
Hercules (CA) Department of Public Safety Services
San Francisco State University Department of Public Safety
Orange County Chiefs of Police and Sheriff's Association
Orange (CA) Police Department
Pleasant Hill Police Department
International Association of Fire Chiefs, Inc. (IAFC)
San Jose (CA) Fire Department
Campbell (CA) Police Department
California Fire Chiefs Association
Daniel E. Boatwright, California State Senator
Sacramento County (CA) Sheriff's Department
San Buenaventura (Ventura) (CA) Police and Fire Departments
San Buenaventura ("Ventura", CA) Police and Fire Departments
Culver City (CA) Council resolution **
Lawrence (MA) Police Department
Milwaukee (WI) Department of Police
Columbus City Council (Resolution)
Moscow (ID) P.D. (transmitted by the Governor's office)
Nassau Co (NY) P.D. *
Florida Governor's Office *

New York State Association of Chiefs of Police, Inc.
Sheriff, Jefferson County (AL)
Ponca City (OK) Chief of Police
Long Beach (NJ) Police Department
City of Seward (AK) Chief of Police
Rittman (OH) Police Department
Hamilton (OH) Director of Public Safety
Mound (MN) Police Department
Luzerne County (PA) Police Emergency Radio Network
Douglas (AZ) Police Department
Columbus (OH) Division of Communications
Paris (TN) Police Department
North Kansas City (MO) Police Department
Hagerstown (MD) Department of Police
Carlsbad (NM) Police Department
Sterling Heights (MI) Police Department
Trumbull County (OH) Sheriff's Department
Cleveland (OH) State University Police Department
Barry County (MI) Sheriff's Department
Mono County (CA) Sheriff-Coroner
Marlborough (NY) Police Department
Cheektowaga (NY) Police Department
Glendora (CA) Police Department
Massillon (OH) Police Department
Clute (TX) Police Department
Bloomfield (CT) Chief of Police
West Bloomfield (MI) Police Department
Lapeer County (MI) Sheriff's Office
Oklahoma City (OK) Police Department
Boise Police Department and Ada County Sheriff's Department (ID)
Anchorage (AK) Police Department
Richardson (TX) Department of Police
Grandview Heights (OH) Division of Police
Chautauqua County (NY) Sheriff's Department
Clay County (MO) Sheriff
Greene County (MO) Sheriff
Sapulpa (OK) Police Department
Howard County (MD) Department of Police
Beaumont (TX) Police Department
Appleton (MN) Police Department
San Angelo (TX) Police Department
St. Louis County (MO) Police Department
Oregon State Police
Ypsilanti (MI) Police Department
Carmel (CA) Chief of Police
Cuyahoga Falls (OH) Police Department
Blue Mountain (PA) Control Centre
Egg Harbor (NJ) Communications Department
Woodway (TX) Public Safety Department
St. Mary's County (MD) Sheriff
Milwaukie (OR) Police Department
Dallas (OR) Chief of Police
Huntington (WV) Police Department
Tuscola County (MI) Sheriff's Department

Jackson County Sheriff's Department
Portsmouth (NH) Police Department
Summit County (OH) Sheriff
Wallingford (CT) Department of Police Service
Bridgewater (NJ) Police Department
Mohave County (AZ) Office of the Sheriff
Newark (OH) Department of Public Safety
Bay Village (OH) Division of Police
Lubbock (TX) Police Department
Glastonbury (CT) Chief of Police
County of Riverside
New Jersey State Police
Downriver Mutual Aid Task Force
New York City Police Department
New York State Police
Inver Grove Heights (MN) Police Department
Siskiyou County (CA) Sheriff's Office
Connecticut State Police
Palo Alto (CA) Police Department
Preston County (WV) Communications Center
Chagrin Falls Police Department
Celina (OH) Police Department
Ogdensburg (NY) Police Department
Oakland (CA) Police Department
Town of Greece (NY) Police Department
Stow (OH) Department of Police
Perry Township Police Department
Mansfield (OH) Division of Police
Salt Lake City (UT) Police Department
Norman (OK) Police Department
Oakridge (OR) Police Department
Royal Oak (MI) Superintendent of Communications
Bedford Town (NY) Police Department
Nassau County (NY) Police Department
Department of California Highway Patrol
Nitro (WV) Police Department
Tennessee Bureau of Investigation
Youngstown (OH) Police Department
Southfield (MI) Chief of Police
Prince George's County (MD) Chief of Police
Rolla (MO) Department of Police
Baltimore County (MD) Police Department
Michigan Public Safety Frequency Advisory Committee (APCO)
Northern California Chapter of APCO
City Council of the City of Chula Vista (CA) (Resolution)
Los Angeles (CA) Communications Division
Department of Justice, State of California
San Francisco (CA) Police Department
San Jose (CA) Police Department
City of Hayward (CA) Police Department
State of Alaska's Department of Public Safety
Brooklyn Center (MI) Police Department
California Public-Safety Radio Association
Ottawa County (MI) Sheriff's Department

A P P E N D I X

COMMENTS IN SUPPORT OF PETITION RM-3975

Sales and Service Businesses

Seattle Pacific Communications, Inc. (Kirkland, WA)
Dennis Two-Way Radio, Inc. (Abilene, TX)
American Communications, Inc. (Fort Worth, TX)
Scorpio Communications (Fort Worth, TX)
TEAM Electronics (Grand Forks, ND)
Licciardi Radio Communications, Inc. (Rochester, NY)
Rassbach Communications Service, Inc. (Eau Claire, WI)
Leflore Communications, Inc. (Greenwood, MS)
WLAK Electronics Service, Inc. (Lakeland, FL)
Hill Radio (Bloomington, IL)
Johnson Communications Corporation (Winter Park, FL)
Wentz Electronics (Snoqualmie, WA)
Warner Communications Corp. (St. Louis, MO)
Southwest Communications Service (Oklahoma City, OK)
Marshall Communications (Whiteland, IN)
Communications Engineering, Inc. (Las Vegas, NV)
Warner Communications Co., Inc. (Upper Montclair, NJ)
Cook Communications Co. (Mt. Pleasant, MI)
Northwest Marine Center (Portland, OR)
Yuma Electronics, Inc. (Yuma, CO)

Local Government & Public Safety Organizations

California Police Chief's Association
Associated Public-Safety Communications Officers, Inc. (APCO)
Sacramento, California Department of Police
El Cajon, California City Council
West Valley City Police Department
State of Minnesota
Florida Division of Communications
Grants New Mexico Police Department
Farmington (NM) Police Department
Tuscarawas County (OH) Sheriff
Hillside (NJ) Department of Police
Culver City (CA) Fire Department
City of Pearland (TX)
City of Oceanside (CA)
American Public Works Association
Nassau County (NY) Sheriff's Department
Mesa (AZ) Police Department
Geauga County (OH) Sheriff's Department
Birmingham (MI) Police Department
Montana Highway Patrol
Beverly Hills (CA) Fire Department

Kalamazoo (MI) Chief of Police
Maplewood (MN) Police Department
Anoka (MN) Police Department
Georgia Bureau of Investigation
Sacramento County (CA) Fire Chiefs Association
St. Lawrence County (NY) Sheriff's Office
Eagan (MN) Police Department
Nebraska State Patrol
Kittson County (MN) Sheriff Department
Phoenix (AZ) Police Chief
Painesville (OH) Division of Police
Mineral County (NV) Sheriff
Oakland County (MI) Sheriff's Department
Rowlett (TX) Police Department
Provo (UT) Chief of Police
Jefferson County (TX) Sheriff's Office
San Bernardino (CA) Communications Department
University of Arizona Police Department
Town of Barrington (RI) Police Department
Township of Old Bridge (NJ) Police Department
Xenia (OH) Division of Police
Ingham County (MI) Sheriff
Buckeye State (OH) Sheriffs' Association
Montgomery County (OH) Sheriff's Office
Ohio Chapter of APCO
Deschutes County (OR) Sheriff
Douglas County Sheriff's Office
Town of Windsor (CT) Chief of Police
City of Bartlesville (OK) Police Department
City of Azusa (CA) Police Department
Cottage Grove (MN) Police Department
Brigham City (UT) Police Department
Lorain County (OH) Sheriff
Addison (TX) Chief of Police
Orange County (TX) Sheriff's Department
San Joaquin County (CA) Sheriff-Coroner's Office
Brookfield (OH) Police Department
Tonawanda (NY) Chief of Police
Garden City, Wayne, Westland and Inkster (MI) Police Departments
Storey County (NV) Sheriff
Bend (OR) Police Department
Lake Havasu City (AZ) Police Department
Georgia Department of Human Resources
City of Troutdale (OR) Chief of Police
Beverly Hills (CA) Department of Police
Sherburne County (MN) Sheriff
Michigan State Office of Criminal Justice
Lake Oswego (OR) Police Department
International Association of Chiefs of Police, Inc. (IACP)
Henry County (MO) Sheriff
Pima County (AZ) Department of Communications
Woodbury (MN) Police Department
Corvallis (OR) Police Department
Sheriff of Benton County (OR)

that the area between 25 and 470 MHz was generally considered best for the mobile environment, Land Mobile held only 40 MHz of spectrum or about 4.2% of the 975 MHz amenable to mobile operations.

1.5. The result of these practices was to fragment Police and Fire operations over three bands (LO-VHF, HI-VHF & UHF). In actual practice these three bands, due to equipment limitations, were divided into five operational bands (33 to 41 MHz, 42 to 50 MHz, 153 to 158 MHz, 166 to 170 MHz and 453 to 458 MHz). With the recent additions of the 470 to 512 MHz and 800 MHz bands, these organizations now operate on seven to eight different bands (equipment band width limitations) with little capability of coordinating tactical operations.

1.6. It does little good to say that agencies could coordinate by mutual agreements and crossbanding with scanners or additional radio equipment. The simple fact is that the issue has become too complex in most areas for this to be effective. Proper Command and Control techniques mandate a more uniform approach.

1.7. While Public Safety communications spectrum has become fragmented, there has been a steady increase in demands for service by the public. This has resulted in higher utilization rates for Public Safety systems with the result of congestion on most radio channels. This is painfully true in such metropolitan areas as Los Angeles, New York and Chicago. With rising crime

rates and the availability of tactical data bases for inquiry, channel utilization on police frequencies has increased to the point where 20 to 25 radio field units in a moderately busy area can fully load a radio channel. This assumes that a normal waiting time for a police frequency at average peak periods is approximately five seconds.

1.8. Conditions of frequency congestion on many police frequencies are such that normal Command and Control activities cannot be mantained during busy periods. Emergent operations such as pursuits or other life urgent activities consume available air time to the detriment of other less urgent traffic. In many areas, operational and financial restraints necessarily require that certain types of services, though potentially hazardous to officers or the public, must be relegated to low priority and handled off the air or not at all. This issue was documented by federal task forces almost a decade ago and it continued to be aggravated without relief from the FCC.

1.9. Another item identified by these task forces was the almost universal inability of Public Safety communications centers to cope with major disasters or disturbances. The Mount Saint Helens Volcano disaster most graphically demonstrated this issue. The lack of coordinating frequencies, common equipment and the size of the area all combined to make communications extremely difficult and slow.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of	)
Amendment of Part 90 and Part 73 of the Commissions Rules and Regulation to Allocate Additional Channels in the 470 MHz to 512 MHz Band for Public Safety and other Land Mobile operations.	)

Petition of the Sheriff of Los Angeles County

1.1. The Los Angeles County Sheriff's Department, in compliance with Section 1.401 of the Commission's Rules, hereby petitions the Commission to change the Rules under Part 90 and Part 73 to provide additional allocated frequencies to the Land Mobile Service for Public Safety Agencies from that part of the spectrum located within the UHF-TV Band between 470 MHz to 512 MHz (Channels 14 through 20) as set forth in this document.

1.2. More specifically, the Sheriff's Department proposes that the commission provide that all of the channels within this Band be provided for Land Mobile services with block allocations for each service. Block allocation for Public Safety emergency operations should be provided with sufficient quantities of frequencies as to provide for growth needs through the next two decades. To achieve this, we suggest that two contiguous UHF-TV Channels within this spectrum be specifically allocated to Public Safety in the major metropolitan areas such as Los Angeles, Chicago and New York. Further, we suggest that a block of

contiguous frequencies within this Band, propotional to the local population, also be allocated for those less populated urban and rural areas. These Public Safety Channels should be reserved for Police and Fire operations; for as with the military, they have a constant requirement for tactical communication and coordination.

1.3. Since 1949, there has been little change in spectrum allocation for land mobile. The growth of service within this band has been the burden of the users. Improvements in technology has been a continuing process for the Land Mobile community with service continually being compressed within the allocated spectrum; thereby allowing the Commission to largely ignore the increasing needs of this service. Inherent within this process was the "block" allocation which placed similar services together within a specific block.

1.4. While the process of block allocation provided benefits to the various servers at that time, it was not to the best advantage of Police or Fire operations as they have been [illegible] across the spectrum with the rest of the Land Mobile community. In the spectrum between 25 to 1000 MHz, that area generally considered adequate for land mobile use, there is 975 MHz of spectrum. Approximately 16% (156 MHz) of this was allocated to land mobile. In actuality, when one considers that approximately 115 MHz of the Land Mobile allocation is generally unusable and

RESOLUTION CHAPTER 27

Senate Concurrent Resolution No. 15—Relative to the Joint Committee on Fire, Police, Emergency, and Disaster Services.

[Filed with Secretary of State May 11, 1981.]

LEGISLATIVE COUNSEL'S DIGEST

SCR 15, Campbell. Joint Committee on Fire, Police, Emergency, and Disaster Services.

This measure would create the Joint Committee on Fire, Police, Emergency, and Disaster Services, and provide for the membership, authority, and duties of the committee.

WHEREAS, Fire, police, emergency medical services, and disaster services are generally regarded as the most crucial life-safety services a governmental entity can provide its residents, and while these services are locally controlled and determined, the state government also provides, regulates, and coordinates these services, and has an impact on the level and quality of fire, police, emergency medical services, and disaster services; and

WHEREAS, In California, the state has a number of departments, agencies, and offices that assist, influence, and regulate these locally administered services, such as the Department of Forestry, the Department of Justice, the State Fire Marshal's Office, the California Highway Patrol, the Health and Welfare Agency, the Office of Emergency Services, the California Conservation Corps, the California National Guard, the Department of Transportation, and the Community College System, which are but a few of the state's resources which directly affect the level and quality of fire, police, emergency medical services, and disaster services provided by local entities; and

WHEREAS, The demand for fire and police services is rapidly escalating, and professionals in these fields must interact with each other to provide disaster services, and they must be well-trained, well-equipped, and capable of cooperating in adverse situations in order to protect and assist the public; and

WHEREAS, Fire, police, and emergency services must respond to the needs of individuals and property threatened by natural or manmade occurrences, such as fire, flooding, drought, wind, war, or accident; and

WHEREAS, There is a need for greater analysis and depth of understanding of the need for disaster services involving fire, police, and other agencies in response to a natural or manmade calamity, including an objective analysis of the inherent problems of providing disaster services, and the degree to which life-safety services are

interrelated and supported; and

WHEREAS, There is a need for a coordinated effort in addressing these issues and there has never been an identified agency to which the life-safety professionals could go to explain their problems, concerns, and needs in providing disaster services; and

WHEREAS, A broad approach to the problem of providing these services is needed, which would involve a more realistic, uniform, all-encompassing approach to the disaster problem, considering the groups and the points they share in common; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Fire, Police, Emergency, and Disaster Services is hereby created, and authorized and directed to ascertain, study, and analyze facts relating to fire, police, emergency medical services, and disaster services, including the following:

1. Identify the extent of available disaster services, considering such factors as cost, personnel, and training.
2. Identify the need for disaster services.
3. Identify the local capabilities to provide disaster services, such as the level and quality variations among various entities.
4. Identify the state's impact on these services.
5. Identify problems encountered in providing these services, such as personnel, states-of-the-art, funding, regulations, and coordination.
6. Provide a forum for discussion of these services, and encourage the professionals, labor, management, and scholars to express their views and opinions.
7. Increase public awareness of life-safety and disaster services, and approach these services on their common, complementary aspects.
8. Recommend how state resources, such as fiscal, legislative, and technical, can be most effectively applied to enhance the life-safety and well-being of California's residents.
9. Recommend how these services should be funded; and be it further

Resolved, That the committee shall consist of five Members of the Senate appointed by the Committee on Rules thereof, and five Members of the Assembly, appointed by the Speaker thereof; and be it further

Resolved, That the committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members; and be it further

Resolved, That the committee has the following additional powers and duties:

1. To cooperate with and secure the cooperation of the federal government, the state, and any county, city, city and county, and other local fire, law enforcement, emergency medical service agency, and disaster service agency in investigating any matter within the scope of this resolution.

2. To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the committee shall terminate on November 30, 1982.

O

Senate Joint Resolution No. 60

RESOLUTION CHAPTER 152

Senate Joint Resolution No. 60—Relative to radio telecommunications.

[Filed with Secretary of State August 30, 1982.]

LEGISLATIVE COUNSEL'S DIGEST

SJR 60, Campbell. Radio telecommunications.

This measure would memorialize the Federal Communications Commission to allocate additional radio spectrum frequencies to Land Mobile Service for Public Safety Agencies in major metropolitan and urban areas of the United States pursuant to the principles set forth in a petition submitted to the Federal Communications Commission by the Los Angeles County Sheriff.

WHEREAS, The Los Angeles County Sheriff's Department has petitioned the Federal Communications Commission in compliance with S.1.401 of the Commission's rules, to provide, in sufficient quantities, additional allocated frequencies to Land Mobile Service for Public Safety Agencies in the major metropolitan areas like Los Angeles, Chicago, and New York; and

WHEREAS, The Los Angeles County Sheriff's Department, in the petition, further suggested that a block of contiguous frequencies proportionate to the local population also be allocated for those less populated urban and rural areas; and

WHEREAS, Radio telecommunication is the principal medium of command and control communications for those agencies which are charged with the maintenance of the public safety; and

WHEREAS, There are insufficient radio spectrum frequencies allocated in the Land Mobile public service; and

WHEREAS, The California Emergency Council, in cooperation with the California Peace Officers Association, has resolved to support in principle the petition submitted to the Federal Communications Commission by the Sheriff of Los Angeles County, in the interest of all public safety organizations in the United States; and

WHEREAS, The California Emergency Council seeks the allocation of additional radio spectrum frequencies as proposed in the petition; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Federal Communications Commission to adopt the principles in the petition submitted by the Sheriff of Los Angeles County; and be it further

Resolved, That the Secretary of the Senate transmit copies of this

resolution to the Federal Communications Commission.

o

HJR

52

HJR 52

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 17, 1984

MEMORANDUM

TO: Representative Bob Bettisworth
Attention: Ralph Bennett

FROM: O. Alexander Hoke
Legislative Analyst

RE: Impact of Biennial Budgeting on Cash-Based Budgeting
Research Request 84-040

As you requested, this memorandum addresses the impact of legislation which initiates biennial budgeting (HJR 52 and HB 485) on the proposal to institute cash-based budgeting in the state (CS HJR 39).

Multiple Interpretations of Biennial Budgeting

The implications of having both biennial budgeting and cash-based budgeting approved by the voters in the upcoming general election depends substantially on the ultimate legislative interpretation of these budgeting concepts. As discussed in David Teal's November 25, 1983 memorandum to you, biennial budgeting has different meanings in the states in which it is practiced. Nine states have both biennial sessions with biennial budgets and special provisions for amending the budget on an annual basis. Twelve states have annual sessions with biennial budget cycles, and provide for full legislative review of the budget each year. Of the 21 states with a biennial budget, all but four make separate appropriations for each year of the biennium. Biennial budgeting practices among the states range from systems almost indistinguishable from annual budgeting to true two-year budgets with allowances for only minor (or emergency) amendments.

Biennial budgeting under HJR 52 and HB 485 seems to qualify as a true two-year budget and appropriation cycle. Biennial budgeting in HJR 52 calls upon the governor to submit "a budget for the next two fiscal years setting forth all proposed expenditures and anticipated income ...with a general appropriation bill to authorize the proposed expenditures..." The companion bill (HB 485) states that "the biennial budget shall contain appropriations for the succeeding two fiscal years and state agencies shall prepare their budgets on this basis."

The Intent of Cash-Based Budgeting

The intent of cash-based budgeting (as defined by HJR 39) is to eliminate "revenue uncertainty" by restricting appropriations for a given fiscal year to the level of total General Fund unrestricted revenues for the preceding calendar year. HJR 39 provides for a cash reserve equal to 1.5 times the appropriations of the fiscal year preceding the start of cash-based budgeting. With this cash reserve, the legislature can be certain that funds are available to cover expenditures through the balance of the current fiscal year (6 months) and the coming fiscal year (12 months).[1]

Revenue Certainty Under A Biennial Budget

An 18-month revenue reserve is needed when cash-based budgeting applies to a 12-month budgeting period. If the State adopted a two-year (24-month) budget period through biennial budgeting, cash-based budgeting would require a 30-month cash reserve in order to provide full certainty that available funds are sufficient to offset expenditures over the budget period. With a 30-month reserve, the legislature would know at the beginning of the session that funds were available to cover expenditures through the remainder of the current budget period (6 months) as well as the coming budget period (24 months).

Table 1 shows the fiscal impact of combining the concepts of biennial budgeting and cash-based budgeting (as defined by HJR 39) for a 30th percentile revenue projection. The fiscal impact of these two proposals is the requirement of annual contributions (column 7) of general funds of between $267 and $358 million for a 12-year period, totaling $3.686 billion. The underlying assumption of this calculation is that the legislature intends to prepare a two-year budget and wants to be certain that funds will be available to cover the total appropriation for the two-year budget.

In comparison with a two-year budget cycle, the cost of cash-based budgeting as defined in CS HJR 39 is $2.866 billion (sum of contributions shown in Table 2), or $820 million less than the cost of cash-based budgeting under a true biennial budget cycle.

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[1] See House Research Agency report 83-A; Cash-Based Budgeting: A Response to Revenue Uncertainty.

Table 1

THE GENERAL FUND AS A REVENUE SOURCE FOR CASH-BASED BUDGETING
Based on a 30th Percentile Revenue Projection
(millions of dollars)

Fiscal Year	DOR Revenue Forecast	Revenue Under CBB	Potential Expenditure Level	General Fund Earnings	General Fund Balance	....Cash-Based Budgeting Reserve Fund.... Contributions	Earnings	Balance
1981	3,769		3,769	201	2,010			
1982	4,174		4,174	254	2,540			
1983	3,624		3,624	266	2,660			
1984	3,233		3,233	300	3,000			
1985	3,219		3,219	250	2,500			
1986	3,365	3,069	3,069	259	2,590	296.1	14	310
1987	3,729	3,401	3,401	288	2,880	328.2	48	686
1988	3,711	3,384	3,384	288	2,880	326.6	87	1,100
1989	4,068	3,710	3,710	318	3,180	358.0	132	1,590
1990	3,880	3,539	3,539	301	3,010	341.4	183	2,114
1991	3,582	3,267	3,267	275	2,750	315.2	236	2,665
1992	3,536	3,225	3,225	270	2,700	311.2	294	3,270
1993	3,405	3,105	3,105	258	2,580	299.6	357	3,927
1994	3,290	3,000	3,000	247	2,470	289.5	425	4,641
1995	3,195	2,914	2,914	236	2,360	281.2	499	5,421
1996	3,033	2,766	2,766	222	2,220	266.9	580	6,269
1997	3,092	2,820	2,820	225	2,250	272.1	669	7,210
1998	3,159	3,890	3,063	960	10,327			
1999	3,213	3,989	3,491	1,007	10,845			
2000	3,245	4,029	3,939	1,017	10,945			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

col.

2 Department of Revenue January, 1984 revenue projection.

3 Revenues after effects of cash-based budgeting program. During the CBB reserve contribution period, revenues (column 3) are equal to DOR projections minus annual CBB contributions. Starting with the first cash-based budgeting year, revenues (column 3) are equal to DOR projections plus additional earnings which accrue to the general fund as a result of transferring the CBB reserve fund balance to the general fund.

4 Expenditure levels are presently limited to projected revenues (ignoring the Constitutional appropriation limit). Beginning with the first cash-based budgeting year, expenditures will be limited to the revenues collected in the previous calendar year.

5 General fund earnings are DOR projections up to the start of cash-based budgeting, at which point the general fund earnings will be augmented due to the increased earnings capacity of the general fund from that point on into the future.

6 Beginning with the first cash-based budgeting year, the general fund balance is substantially increased by the transfer of the CBB reserve fund.

8 Reserve fund earnings are calculated at a 10 percent annual interest rate compounded monthly.

9 The earnings rate of the CBB reserve fund is compounded monthly using a 10% annual interest rate.

This projection is based on a general fund unrestricted revenue contribution of 8.8 percent.

Table 2

THE GENERAL FUND AS A REVENUE SOURCE FOR CASH-BASED BUDGETING
Based on a 30th Percentile Revenue Projection
(millions of dollars)

Fiscal Year	DOR Revenue Forecast	Revenue Under CBB	Potential Expenditure Level	General Fund Earnings	General Fund Balance	....Cash-Based Budgeting Reserve Fund.... Contributions	Earnings	Balance
1981	3,769		3,769	201	2,010			
1982	4,174		4,174	254	2,540			
1983	3,624		3,624	266	2,660			
1984	3,233		3,233	300	3,000			
1985	3,219		3,219	250	2,500			
1986	3,365	3,069	3,069	259	2,590	296.1	14	310
1987	3,729	3,401	3,401	288	2,880	328.2	48	686
1988	3,711	3,384	3,384	288	2,880	326.6	87	1,100
1989	4,068	3,710	3,710	318	3,180	358.0	132	1,590
1990	3,880	3,539	3,539	301	3,010	341.4	183	2,114
1991	3,582	3,267	3,267	275	2,750	315.2	236	2,665
1992	3,536	3,225	3,225	270	2,700	311.2	294	3,270
1993	3,405	3,105	3,105	258	2,580	299.6	357	3,927
1994	3,290	3,000	3,000	247	2,470	289.5	425	4,641
1995	3,195	3,644	3,348	685	7,297			
1996	3,033	3,483	3,467	672	7,174			
1997	3,092	3,540	3,564	673	7,180			
1998	3,159	3,617	3,512	687	7,325			
1999	3,213	3,680	3,578	698	7,447			
2000	3,245	3,718	3,648	705	7,527			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

col.

2 Department of Revenue January, 1984 revenue projection.

3 Revenues after effects of cash-based budgeting program. During the CBB reserve contribution period, revenues (column 3) are equal to DOR projections minus annual CBB contributions. Starting with the first cash-based budgeting year, revenues (column 3) are equal to DOR projections plus additional earnings which accrue to the general fund as a result of transferring the CBB reserve fund balance to the general fund.

4 Expenditure levels are presently limited to projected revenues (ignoring the Constitutional appropriation limit). Beginning with the first cash-based budgeting year, expenditures will be limited to the revenues collected in the previous calendar year.

5 General fund earnings are DOR projections up to the start of cash-based budgeting, at which point the general fund earnings will be augmented due to the increased earnings capacity of the general fund from that point on into the future.

6 Beginning with the first cash-based budgeting year, the general fund balance is substantially increased by the transfer of the CBB reserve fund.

8 Reserve fund earnings are calculated at a 10 percent annual interest rate compounded monthly.

9 The earnings rate of the CBB reserve fund is compounded monthly using a 10% annual interest rate.

This projection is based on a general fund unrestricted revenue contribution of 8.8 percent.

Biennial Budgeting With Annual Review

If the State of Alaska budgeted biennially but with full legislative review annually, the effect would be little different from annual budgeting. Consequently, the impact of this type of biennial budgeting on cash-based budgeting would be negligible.

We hope that this information is helpful in your deliberations on biennial budgeting. If you have further questions regarding the relationship of biennial budgeting to cash-based budgeting, please give the agency a call.

OAH

Alaska State Legislature

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

POUCH V
JUNEAU, ALASKA 99811

211 CUSHMAN STREET
FAIRBANKS, ALASKA 99701

February 16, 1984

M E M O R A N D U M

To: Representative Mitch Abood, Chairman, House State Affairs Committee

From: Representative Bob Bettisworth RHB

Subject: HJR52--Proposing an amendment to the Constitution of the State of Alaska to provide for a biennial budget.

It has become increasingly apparent to me since becoming a legislator, that the time consumed each session for budget related activities seems to be expanding each year. The experiences of other states that have adopted biennial budget cycles seem to indicate that the administrative agency budget preparation workload is reduced, program evaluation is enhanced by the increased time frames available for reviews, and long range planning opportunities are improved as well. Most observors of the budget process seem to agree, regardless of perspective, that improved planning mechanisms are essential and this is especially so in Alaska.

Some states now utilizing biennial budget cycles have found that legislative control over spending may be diminished. I don't think this problem is inherent in the system chosen but rather constitutes a lack of clear direction to the executive branch. Another criticism that jurisdictions have for biennial budget systems centers on the inaccuracy of revenue forecasts but this problem is already a major factor in Alaska and would not appear to be exacerbated by moving to a two year budget cycle.

Research indicates that the length of the budget cycle does not appear to have much effect on the level of state spending.

Variations on biennial budget systems are extensive among the states and it is likely that annual budget revisions--especially in operating budgets regardless of format--are a virtual certainty. Major time savings are likely to result by avoiding the current practice of complete annual budget preparation and legislative review. This is especially true for the operating budget and some savings would accrue in the capital budget area as well. Under most biennial budget scenarios, the comprehensive and time consuming operating budget review process could be significantly curtailed in off years and only essential program funding changes would have to be addressed.

HJR 52

STATE OF ALASKA
THE LEGISLATURE



POUCH V - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM August 15, 1983

SUBJECT: Biennial state budget
(Work Order No. 13-1508)

TO: Representative Robert H. Bettisworth

FROM: Keith B. Levy KBL
Legislative Counsel

In drafting your bill request establishing a biennial state budget, I neglected to point out to you that Article IX, Section 12 of the Constitution of the State of Alaska requires an annual budget:

> The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

Thus, your bill is technically in violation of this constitutional provision since it requires the governor to submit a budget every two years rather than annually.

This problem can be resolved in one of two ways. The first would be to amend Article IX, Section 12 of the constitution to provide for a biennial budget rather than an annual one. A more simple solution would be to redraft your bill to provide for a biennial budget, but require the governor to submit an amended budget every other year covering the second fiscal year of the biennial budget. In that way, the constitutional requirement would be met since the governor would be submitting a budget annually, but the bulk of the budget process would be completed biennially.

If you have any questions or if you would like a redraft of your bill, please feel free to contact me.

KBL:lmb
L2/049

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

November 25, 1983

MEMORANDUM

TO: Representative Bob Bettisworth

FROM: David Teal
Legislative Analyst

RE: Biennial Budgeting
Research Request 83-239

This memorandum responds to your request for information on states that have a budget cycle longer than one year. The Council of State Governments (CSG) and the National Conference of State Legislatures (NCSL) provided much of the information required to fulfill your request. Because the information received from these sources is concise and limited to the question at hand, only the highlights are reviewed in this memorandum. Material provided by the CSG and NCSL are attached.

In the early 1940s, only four states had annual legislative sessions. There are now only nine states with legislatures that do not convene annually. The budget process is the primary reason that many states have converted to annual sessions.

Attachment A classifies states according to the length of their budget cycle and the time between legislative sessions. As noted above, nine states have biennial sessions and operate under a two-year budget cycle. Of the 41 states with annual legislative sessions, 29 have a one-year budget cycle. The remaining 12 states are on a two-year budget cycle. No state has a budget cycle longer than two years. The 12 states that have annual sessions and biennial budgets have the potential for full legislative review of the budget each year. All of the nine states with biennial sessions have some procedure for amending the budget during the biennium. Procedures for amending the budget include special legislative action, delegation of authority to a legislative committee or emergency board, and executive branch transfers between agencies or programs.

The Council of State Governments and the Public Affairs Research Council of Louisiana surveyed states to obtain their views on annual versus biennial budgeting. Highlights from those surveys are listed below and the published survey results are attached to this memorandum.

- Biennial budgeting reduces the budgetary workload (particularly for the executive branch), increases the time available for program evaluation, and may encourage long-range planning.

- Biennial budgeting may reduce legislative control over spending, provide less flexibility to meet requirements for receipt of federal funds or other purposes, and cause legislators to work with less accurate forecasts of revenue.

- Most states are satisfied with the system currently used in their own state.

- Most respondents felt that the length of a budget cycle had no significant effect on the level of state spending.

The conclusion of the Louisiana survey was that the success of a budget cycle seems to depend on the commitment of state officials to good implementation rather than on the method of budgeting. The Louisiana report also stated that the arguments used to support the systems are unproven; neither an annual nor biennial cycle is clearly superior to the other.

Budget Amendments Under Biennial Budgeting

Ken Kirkland, program director of the fiscal affairs section of NCSL, said that most states on a two-year budget cycle are unable to avoid substantial annual revision of their biennial budget. He added that some states on a biennial budget cycle avoid annual budget amendments by "overfunding" operating costs and relying on the executive branch to act in a fiscally conservative manner.

In those states where the budget process includes an annual review of a biennial budget, the budget process in the "review year" is often streamlined. State agencies are generally required to submit budget documents only for changes from the approved amounts instead of preparing a complete justification package. Maine, Iowa and other states that use this process claim that it combines the best features of both the annual and biennial budget cycles.

The analysis of budget cycles is not as straightforward as one might expect. Biennial budgets do not necessarily mean that appropriations are made for a two-year period. The 1982-83 Book of the States (Attachment D) shows that 17 of the 21 states on a biennial budget cycle make separate appropriations for each year of the biennium (see footnote a of Attachment D). In addition, extensive annual budget review and revision can make biennial budgeting virtually indistinguishable from annual budgeting.

Another factor complicating the analysis is that one cannot simply look at the constitution or statutes of the states to determine what actually occurs. For example, the Minnesota constitution specifies biennial legislative sessions and a biennial budget cycle. In practice, the Minnesota legislature meets annually and only a few appropriations are made for the biennium. In Vermont, an annual or biennial budget cycle is at the discretion of the governor. These complicating factors and the resultant difficulty in classifying certain states accounts for the inconsistent presentation of data in Attachments A, B and D.

I have attached applicable statutes from Florida, Montana, North Dakota and Oregon. According to the Book of the States, these are the four states with a biennial budget cycle that do not make separate appropriations for each year of the biennium.[1] The statutes specify information required by the legislature. Sections 291.322-336 of the Oregon statutes discuss that state's method of amending the budget during the biennium.

* * *

I hope you find this information useful and informative. If you would like additional information on a particular state or particular system of budgeting, please contact the agency.

DT

Atachments
A) Biennial and Annual Budgeting (NCSL)
B) Results of PAR survey on Annual vs. Biennial State
C) Annual or Biennial Budgets? (CSG)
D) 1982-83 Book of the States (pages 276-279)
E) State Statutes
Florida: Chapter 216, 1982 Supplement
Montana: Chapter 666, 1983 Session Laws
North Dakota: Chapter 54-44
Oregon: Chapter 291.208-385

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[1]Texas is classified by the NCSL (in Attachment A) as making appropriations for the biennium. Texas statutes on the budget process are lengthy and are not attached to this memorandum.

ATTACHMENT A

BIENNIAL AND ANNUAL BUDGETING

Prepared by Fiscal Affairs Program
NATIONAL CONFERENCE OF STATE LEGISLATURES
1125 17TH Street Suite 1500 Denver, CO 80202
303/292-6600

Since 1969, ten states have changed their budgeting cycle. Hawaii, Vermont and, most recently, Florida, have all changed from annual to biennial budgets. In that same time, Connecticut, Idaho, Illinois, Missouri and Nebraska have all gone from biennial to annual budgets. Indiana experimented with annual operating budgets in fiscal years 1975-76 and 1976-77, but operated with a biennial capital and highway budget. It returned to full biennial budgeting in 1977.

Currently, 29 states have annual budgets and, of course, annual legislative sessions. Another nine states have biennial budgets with biennial sessions, and thus lack any opportunity for annual changes or revisions. (The exception is Oregon, whose joint Ways and Means committees meet during the interim as the Emergency Board, a constitutional board with authority over supplemental appropriations, federal funds, and transfers.) The remaining twelve states have biennial budgets, but meet annually. This last group has some review of the budget annually, but it varies from full reviews to occasional amendments. Only North Carolina, North Dakota, Oregon, Texas, Washington and Wyoming actually make appropriations for the full biennium rather than by fiscal year, and North Carolina, Washington and Wyoming review the budget for possible changes annually.

ANNUAL LEGISLATIVE SESSIONS AND ANNUAL BUDGETS

Alabama	Delaware	Maryland	New Jersey	South Carolina
Alaska	Georgia	Massachusetts	New Mexico	South Dakota
Arizona	Idaho	Michigan	New York	Tennessee[1]
California	Illinois	Mississippi	Oklahoma	Utah
Colorado	Kansas	Missouri	Pennsylvania	West Virginia
Connecticut	Louisiana	Nebraska	Rhode Island	

BIENNIAL LEGISLATIVE SESSIONS AND BIENNIAL BUDGETS

Arkansas	Nevada	North Dakota[3]
Kentucky	New Hampshire	Oregon[3]
Montana	North Carolina[2]	Texas[3]

ANNUAL LEGISLATIVE SESSIONS AND BIENNIAL BUDGETS

Florida	Maine	Virginia
Hawaii	Minnesota[1]	Washington[2]
Indiana	Ohio	Wisconsin
Iowa	Vermont[1]	Wyoming[2]

All state fiscal years begin on July 1 except for Alabama (October 1), Michigan (October 1), New York (April 1) and Texas (September 1).

Footnotes

[1]Technically a biennial session, but in practice meets annually.

[2]Appropriations are made for the biennium, but reviewed annually.

[3]Appropriations are made for the biennium.

NOTE: Unless otherwise noted, biennial budget states make appropriations for each

ATTACHMENT B

PUBLIC AFFAIRS RESEARCH COUNCIL OF LOUISIANA, INC.

300 Louisiana Avenue • P.O. Box 3118 • Baton Rouge, Louisiana 70821 • Phone (504) 343-9204

April 22, 1982

MEMO TO: Respondents of PAR Survey

FROM: Brian Davie, Research Analyst

RE: Results of PAR Survey on Annual vs. Biennial State Budgeting

Research Council of Louisiana, Inc. (PAR) is a nonpartisan, nonprofit organization which conducts research on state and local government issues in Louisiana. PAR surveyed all states (excluding Louisiana) in early 1982 to obtain the most current information available on the experience and views concerning the issue of annual vs. biennial state budgets. This paper is a tabulation of the results of that survey.

Louisiana Policy

Louisiana's state government has annual legislative sessions (limited to 60 legislative days during an 85 calendar day period) and an annual budget. New or increased tax levies are not permitted during regular legislative sessions in odd-numbered years. The state has not changed its annual budget cycle and is not considering a change at this time.

Response Rate from Other 49 States

PAR sent the enclosed questionnaire to state budget officers and legislative chairmen of the budget committees in each house. One follow-up letter was sent and at least one response was received from all 49 states. The maximum number of responses (3) was received from 23 states (47%), two responses were received from 18 states (37%), and one response was received from 8 states (16%). Budget officers or their representatives responded from 45 states (92%) and legislative chairmen responded from 44 states (90%). The overall response rate was 77%. Following are results of the survey.

Budget Cycles

Table 1 shows the number of states which use the types of legislative sessions and budgets indicated.

TABLE 1. State Legislative Sessions and Budget Cycles[a]

Type Legislative Session	Budget Cycle	Number of States
Annual, unlimited	Annual	25[b]
Annual, unlimited	Biennial	3
Annual, unlimited	Biennial but amended annually	5
Annual, with fiscal session in off-year	Annual	5
Annual, with fiscal session in off-year	Biennial but amended annually	4
Biennial	Biennial	8

[a]Includes Louisiana.

[b]One state has annual sessions and budgets by current practice, although the constitution specifies biennial sessions.

Recent Changes

Most states (36) have not changed their budget cycle since 1970. Of the 13 states that changed, eight went from a biennial to an annual budget cycle while two changed from annual to biennial budgets. The remaining three states changed twice. Two states experimented with annual budgets and reverted back to biennial while one state did the opposite.

Only four states reported they are considering seriously a change between annual and biennial budgets. Three of those states now have annual budgets (two changed recently) and the other state has a biennial budget. A budget officer or legislative chairman in 14 states mentioned some change is being considered but those responses were evenly divided between states with annual or biennial budgets.

Time to Plan & Evaluate

Most respondents from both annual and biennial budget states indicated satisfaction with the time available for planning and evaluating state programs, but many added comments to qualify or explain their response. Among respondents from annual budget states, 80% thought an annual cycle allowed adequate time. From the biennial budget states, 98% of the respondents thought the cycle allowed adequate time. Every state with a biennial budget has some procedure for changing budgeted amounts during the biennium; the methods vary from limited authority of the governor or a special interim committee to annual review and/or special sessions of the legislature.

States That Have Changed

The remaining survey questions concerned only the 13 states that changed their budget cycles since 1970; results were inconclusive. For the states that changed twice since 1970, the primary reason appeared to be political -- depending on which party controlled the legislature or which cycle the governor strongly advocated and enforced.

PAR classified responses on effects of the change (Question #8) according to whether the comments were positive, negative or indicated no difference. Respondents from the eight states that changed to annual budgets were almost equally divided between the positive and negative effects of the change and several stated there was no difference. The positive effects most often cited for changing to annual budgets were increased evaluation, legislative scrutiny and more accurate revenue estimates; however, an almost equal number of respondents cited the same factors as having a negative effect, mainly because of the compressed time schedule for reviewing an annual budget.

Respondents from the two states that changed to biennial budgets cited no negative effects, but two of the six respondents in those states said there was no difference. The positive effects mentioned included opportunities for increased planning, evaluation and legislative scrutiny.

It is difficult, if not impossible, to determine what effect a change in budget cycles has on increased state spending (Question #9) since so many other factors intervene such as inflation and major policy changes in state programs. Most respondents acknowledged this and qualified their response. The change had no effect on the rate of increased state spending according to 55% of the respondents. The remaining responses were equally divided between those who thought the change did increase state spending and those who did not know.

Similarly, respondents were almost evenly divided about whether the change affected the accuracy of revenue estimates and accumulation of surplus funds (Question #10).

Which Type Favored by Respondents?

The final survey question provided an opportunity for respondents to comment in general on the issue of annual vs. biennial budgets. Table 2 shows the results of classifying the comments according to which type budget the respondent appeared to favor; again responses were almost equally divided.

TABLE 2. Preferences of Respondents

Preference	Budget Officers	Legislative Leaders	Total
Favor annual budget	5	5	10
Favor biennial budget	6	5	11
Neutral	2	7	9

Conclusion

The Council of State Governments published a detailed state survey analysis on the issue of annual vs. biennial budgets in 1972. PAR's questionnaire was an attempt to update that survey, but it appears little has changed. While more states changed to annual budgeting during the 1970s than in the 1960s, the arguments used to justify and refute both annual and biennial budgets remain essentially unchanged -- and unproven. The inconclusive and generally split results on controversial survey questions indicate that both budgeting methods and modifications of them may work effectively in different situations. The success of a budget cycle seems to depend on the commitment of state officials to good implementation rather than the method itself.

Thank you for your interest and participation in PAR's questionnaire. If you would like any further information on the results, please do not hesitate to call or write.

ATTACHMENT C

Annual

or

Biennial

Budgets?

The Council of State Governments

ANNUAL OR BIENNIAL BUDGETS?

August 1972
RM-491
Price: $2.00

The Council of State Governments
Iron Works Pike
Lexington, Kentucky 40505

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FOREWORD

Recent changes in budget procedures in some States have brought renewed attention to the question of whether the process should be an annual or biennial one. The Research Committee of the National Association of State Budget Officers, therefore requested the Council of State Governments to ascertain the reaction of state officials to these changes.

The survey was conducted by means of a questionnaire to ten key executive and legislative officials in each of eleven States. The Council is most grateful to the responding officials for their cooperation and assistance. The report was prepared by Paul Hibberd, Research Associate, under the direction of George A. Bell, Director of Research.

Brevard Crihfield
Executive Director
The Council of State
Governments
Iron Work Pike
Lexington, Kentucky 40505

Introduction

The increasing complexity and mounting problems of state government have triggered many changes in state operations, among these being the shift of legislative sessions to an annual basis rather than biennial. There are now (1972) 33 annual session states plus 3 more whose unlimited biennial sessions extend into the second year, compared with 18 States ten years ago, 10 States twenty years ago, and only 4 States in the early 1940's.

One reason advanced in support of annual sessions has been that state financial and budgetary policies must be reviewed more often than once every two years. This was a predominant factor leading toward annual sessions, as shown by the fact that 9 of the 13 States having annual sessions in 1962 restricted one session every two years primarily to fiscal matters. However, there has been a reversal in this trend, and now a much lower proportion of States - 5 of 33 annual session States, place such limits on sessions.

The felt need for making fiscal decisions annually is still strongly apparent, since most States which have adopted annual sessions have also shifted to annual budgets. However, a few States with annual sessions have not shifted to annual budgets. A further surprising development in view of the trend was the action of Hawaii, which in 1971 shifted to a biennial budget while retaining annual sessions, after having had annual budgets throughout its statehood.

The Hawaii move is one event that has triggered interest among state officials everywhere concerning the advantages and disadvantages of annual versus biennial budgeting, leading to this survey of States which have

made recent shifts. The following questions were asked:

1. What effect has changing from a biennial to an annual budget in your State had on the following:
   (a) Workload of the budget agency:
      1. Has there been a change in the duties or type of work performed by budget staff?
      2. Has there been a commensurate change in size of budget staff?
   (b) Workload of other executive agencies (operating agencies; Governor's Office, etc.)
   (c) Workload of the legislative staff:
      1. Has there been a change in the duties or type of work performed by legislative staff?
      2. Has there been a commensurate change in size of legislative staff?
   (d) Ability or willingness to undertake planning beyond the budget period:
   (e) Accuracy of revenue estimates:
   (f) Ability to meet matching requirements for federal grants in aid:
   (g) Ability to fully finance programs to carry out the program level the appropriation was designed to meet?
   (h) On the rate of annual increase in state expenditures

2. When you were on a biennial budget, what procedures (such as use of transfers, emergency appropriation, allotment adjustments, etc.) existed for taking care of changing financial requirements for programs or agencies?

3. What are you able to do under annual budgeting in providing for year to year changes that you could not do under biennial budgets?

4. If the opportunity arose to switch back to biennial budgets, would you favor doing so? Please state reasons.

5. If the switch to biennial budgeting were to be made, what recommendations would you make to assure that legislative and executive controls over program plans and expenditure are not weakened?

The survey covers most States which have recently switched from biennial to annual budgets and have had at least one full biennium under the annual budget system - Florida, Idaho, Illinois, Missouri, Oklahoma, Tennessee, Utah and Vermont. Other States moving to annual budgets such as Connecticut, Nebraska [illegible] had not experienced the annual cycle at the time the questionnaire was mailed (fall, 1971.)

Iowa and Georgia have instituted annual legislative sessions while retaining a type of biennial budget and were also surveyed. Indiana's similar shift has occurred too recently for coverage. Hawaii was surveyed

for its shift from annual to biennial budgets. Wisconsin was subsequently added; that State now has annual sessions, and in 1972 completed its first formal off-year budget review process in lieu of an annual budget.

In each of the eight States surveyed which switched from a biennial to an annual budget (above), a questionnaire was sent to ten officials - the Governor, President of the Senate, Speaker of the House, administration/finance officials, budget officers, legislative research directors, legislative fiscal review officers, planning officials, and the chairmen of the appropriations committees. There was, therefore, a possibility for 80 responses. The number of actual responses received was 35, with at least two from each State: two from Tennessee, two from Utah, five from Illinois, six from Idaho, three from Florida, five from Missouri, six from Vermont, and six from Oklahoma. In terms of responding officials the breakdown of answers was: Governors, one; Presidents of Senates, four; Speakers of Houses, four; legislative fiscal review officials, four; chairmen of appropriations committees, six; planning officials, six; administration/finance officials, one; budget officers, six; legislative research directors, three. For purposes of narrating the reported opinions the sole responding administration/finance official was included among the budget officers, and the responses of the Presidents of the Senate and the Speakers of the House were combined and treated as the opinions of legislative leaders.

The questionnaire was also sent to the identical officials in Georgia and Iowa, which changed to annual legislative sessions while retaining biennial budget approaches. These officials were requested to provide their opinions on advantages and disadvantages of not switching to an annual budget cycle.

Finally, the questionnaire was also sent to the same officials in Hawaii, which switched from annual to biennial budgeting. These officials were requested to provide their comments and opinions on the effects of the reverse change from an annual to a biennial cycle. Limiting the usefulness of the original Hawaii responses, according to several officials of the State, was the fact that a full biennium had not yet passed under the new procedure. A followup request to the Hawaiian respondents was sent in June, 1972 to seek further reactions after experience with the new approach during the 1972 session.

In view of the delay in analyzing the responses, the questionnaire was also sent to Wisconsin officials in June, 1972 to ascertain reactions to the budget review process first used in the 1972 session.

Opinions in States Recently Switching to Annual Budgets

The responses of officials in the States which have recently changed from biennial to annual budgets are analyzed in this section. The responses are organized in accordance with the questions asked.

Effect on Workload and Size of the Budget Staff

Budget officers should be in the best position to know whether there has been a change in staff size. According to the seven budget officials who responded, the budget staff was increased in size in three States and remained the same in four. The perception of other officials did not always fit these facts, for in four of the seven States one or more other officials thought the staff had increased when the budget official said it had not (two States) or thought it has not increased when the budget

chief said it had (two States). (See table 1 for summary tabulation).

1. Effect on the size of the Budget Agency:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	1		6		1	8
Legislative Fiscal Review	1		3			4
Chairmen Appropriations Committees	3		2		1	6
Planners	1		1	4		6
Budget Department	3		4			7
Legislative Research	2			1		3
	11		17	5	2	35

In at least one State reporting an increase in staff size, this change was due only in part to annual sessions. Annual sessions were begun at the same time that a major change in budget procedures occurred, including establishment of an analytical staff in the Governor's office and development of program analysis procedures.

With the above indications of a different opinion concerning a factual situation, a difference of opinion is to be expected on the less factual questions which follow.

Legislative leaders expressed doubt whether the workload of the budget agency had increased significantly and whether additional staff was necessary. However, chairmen of the various appropriations committees believed that there was a significant increase in the duties of the budget agency, but not to the point that staff members need be added. One suggestion was that the "off-year" was often not very productive and that the solution to the increased workload was a more concentrated effort each

year. In addition to the above positions, several legislative officials contended that there were insufficient funds to employ additional budget staff members.

Although several executive officials expressed the opinion that there was no change in the duties of the budget agencies, a few budget administrators expounded the adverse effects of the change. Their primary contention was that the switch to an annual budget had left little time to perform various studies for the improvement of organization and operations. For example, one budget director remarked, "the increased workload in terms of budget preparation has left less time to explore substantive issues, and has necessitated restrictions on all other activities." When commenting upon the increased workload of his agency and the inability to add new staff members, another budget official remarked, "instead of additions to staff, such activities as analysis, studies, management services, etc., have been drastically reduced if not altogether eliminated."

2. Effect on the workload of the Budget Agency:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		2	1		4
Chairmen Appropriations Committees	4		1		1	6
Planners	1		1	4		6
Budget Department	4		3			7
Legislative Research	3					3
	16		12	5	2	35

Effect on the Workload of other Executive Agencies

An overwhelming majority of officials responding were of the opinion that the change to an annual budget significantly increased the workload of other executive agencies. In a few instances it was noted that budget operations in all the executive agencies were operating throughout most of the year. One budget official reported that with demands on the individual agencies for program information that was not previously requested, "budgeting has become a full time activity and the days when part time budgeting was possible are gone."

Recognition of this increased workload was not limited to executive officials. Three out of every four legislative officials reported an increased burden on the executive agencies in submitting a budget for their programs annually. One legislative council director remarked that, "probably the most significant aspect of the change (to an annual budget) is an awareness that budgeting is a continuous process the year round, and not just something that takes place at session time."

3. Effect on the workload of other Executive Agencies:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	5		2		1	8
Legislative Fiscal Review	2		1			4
Chairmen Appropriations Committees	5		1			6
Planners	1		2	3		6
Budget Department	6		1			7
Legislative Research	3					3
	22		8	4	1	35

Effect on the Workload and Size of the Legislative Staff

The majority of legislative officials felt that the change to an annual budget had no significant effect upon the size or workload of legislative budget staffs already in operation. In two States the statement of the legislative fiscal staff director, who should know, concerning increase in staff was not unanimously supported in the opinions of others. In some States the legislative budget staffs were virtually non-existent under a biennial budget. For example, Vermont had no legislative budget staff until 1970, when an analyst was hired to serve the appropriations committees. Other States in which legislative budget analysis agencies were created at the time of the change to an annual budget cycle attributed those creations directly to other sources, naming the budget change as only an indirect cause.

Most executive officials asserted that they were in no position to express an opinion on the effect of the change to an annual budget upon legislative staffs. Among those who did express an opinion, two out of every three felt that the change had no significant effect upon the size or workload of the staffs.

4. Effect on the Size of the Legislative Staff:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		3			4
Chairmen Appropriations Committees	2		3	1		6
Planners			6			6
Budget Department	2		3	2		7
Legislative Research	2		1			3
	10		21	3	1	35

Effect on Ability or Willingness to Undertake Planning beyond the Budget Period

The opinions expressed on this issue were widely varied among both legislative and executive officials. Two out of every three budget officials took the position that an annual budget cycle had an adverse effect upon the willingness to undertake planning beyond the budget period. Other respondents noted that agencies and departments were reluctant to engage in advance planning to begin with, but that the switch to an annual budget left less incentive to plan beyond the budget period. Some legislative leaders said that legislative desire for long range planning was not shared by executive agencies. One executive official, explaining the slowness of agencies to plan ahead, noted that program planning is an activity "which must be fostered by the Chief Executive as a basic management tool for a reasonable length of time before agencies are even interested in performing the activity."

5. **Effect on the workload of the Legislative Staff:**

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		3			4
Chairman Appropriations Committees	3		2	1		6
Planners				6		6
Budget Department	2		3	2		7
Legislative Research	1		2			3
	10		15	9	1	35

A few officials expressed the opinion that longer range planning was one advantage of annual budgeting, but failed to explain the reasoning behind this statement. Some other officials noted that longer range planning was being instituted under planning programming budgeting systems (PPBS) independently of the effect of annual versus biennial cycles.

Also, in two States the answers revealed differences of opinion among officials. For instance, in one State the Speaker, the legislative fiscal officer and the planning official felt that there was an increase in willingness to undertake planning beyond the budget period, while the budget officer thought there was a decrease in that willingness and both the President of the Senate and a committee chairman reported no change, attributing any difference to a recent emphasis on program planning.

6. Effect on the ability or willingness to undertake planning beyond the budget period:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	2	1	3	1	1	8
Legislative Fiscal Review	2		2			4
Chairmen Appropriations Committees	2	1	3			6
Planners	2		1	3		6
Budget Department	3	4				7
Legislative Research	1		1	1		3
	12	7	10	5	1	35

Effect on Accuracy of Revenue Estimates

A majority of the officials felt that a change to an annual budget cycle should, or did, increase the accuracy of revenue estimates. This opinion was held by 16 reporting officials, compared to 4 who thought that accuracy decreased and 10 who felt that there was no change.

Accuracy was presumed to increase because of increased frequency of compiling estimates, and the shorter time interval between making the estimate and realizing the revenue.

7. Effect on the accuracy of Revenue Estimates:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	1	1	2			4
Chairmen Appropriations Committees	6					6
Planners			3	3		6
Budget Department	3	1	2	1		7
Legislative Research	1		2			3
	16	4	10	4	1	35

Effect on Ability to meet Matching Requirements for Federal Grants in Aid

A majority of the state officials took the position that the change to an annual budget increased the ability to meet matching requirements for federal grants in aid. The chief reason for this opinion was the time factor, especially when the federal government is often tardy in appropriating and allocating grants. An annual budget is thought to allow considerably more flexibility if the federal government should significantly alter the amount of money available. One budget director noted that the construction of an annual budget helps avoid the possibility of a special session of the legislature which, when called for fiscal matters, often generates "political stress."

8. Effect on the ability to meet matching requirements for federal grants in aid:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	4					4
Chairmen Appropriations Committees	3		3			6
Planners			3	3		6
Budget Department	5	1	1			7
Legislative Research	1				2	3
	18	3	8	3	3	35

Effect on Ability to Fully Finance Programs to Carry Out the Program Level the Appropriation was Designed to Meet

The majority opinion was that the ability to fully finance programs had been increased by the change to an annual budget. An annual budget, as stated before, appears to be more accurate in predicting revenues. The increased accuracy of estimates increased the ability to fully finance programs, thereby carrying out the program level the appropriations were designed to meet.

Some officials felt that the ability to fully finance programs was not necessarily related to annual or biennial budgets. Their position, as one budget director noted, was that the ability to fully finance programs "speaks to the quality of program projection and revenue estimating and not necessarily for the period during which these events occur."

Some officials recognized the disadvantage of predicting program finance and revenue two years in advance, as opposed to one, but felt that biennial budgeting had other overriding advantages. They suggested

that any problems encountered in fully financing programs during the second year of the biennium could be mitigated by annual sessions where emergency appropriations, transfers, etc., could be enacted.

9. Effect on the ability to fully finance programs to carry out the program level the appropriation was designed to meet:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor	1					1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	3		1			4
Chairmen Appropriations Committees	3		2	1		6
Planners	2		1	3		6
Budget Department	4		2	1		7
Legislative Research	1		1	1		3
	19	1	8	6	1	35

Effect on the Rate of Annual Increase in State Expenditures

There is no evident consensus on what effect, if any, the change to an annual budget might have had on the rate of annual increase in expenditures: 16 thought it would result in greater increases than biennial budgets while 12 indicated there would be no change.

One budget director who believed increases would result observed, "biennial budgeting tends to lock the second year in close proximity to the level of the first fiscal year. Annual budgeting permits the entire lobby and pressure effort of the various special interests to come into play." Some indicated that as inflation, program alterations, salary adjustments, etc., are considered annually, the rate of increase must necessarily be greater. One budget director introduced a formula: "the rate of annual increase in state expenditures is inversely proportional to the length of the budgetary period."

Those officials who took the position that the change to an annual budget had no effect on the rate of annual increase in expenditures felt that the rate of increase is dependent upon revenue. They noted that if revenue should increase beyond expectations in the second year of the biennium, alterations in appropriations could be made at that session of the legislature. These increases in appropriations would essentially be equal with any changes that might have been made if there were a new budget in the process of formulation under an annual cycle.

10. Effect on the rate of annual increase in state expenditures:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor	1					1
President Senate/Speaker House	4		3		1	8
Legislative Fiscal Review	3		1			4
Chairmen Appropriations Committees	2		3	1		6
Planners			3	3		6
Budget Department	4		2	1		7
Legislative Research	1			2		3
	15		12	7	1	35

Procedures under Biennial Budgets for Fiscal Adjustments

Operations under biennial budgets had not prevented most States from changing their fiscal plans where necessary. In some cases this was done through legislative action in special session or otherwise, such as emergency, deficiency or supplemental appropriations.

An additional method which was often mentioned as a means of combatting unforeseen conditions was the transfer of appropriations from one agency, unit or program to another. Five States reported the utilization

of intra-agency transfer, with three of them additionally inter-agency transfers.

Finally, three States noted the existence of an emergency board which had the power to appropriate from a special account in cases when the legislature was not accessible.

A Switch back from Annual to Biennial Budgets?

Among those States which changed to an annual budget, 75 percent of the legislative officials and 70 percent of the executive officials, (but only 50 percent of the budget officers are included in this majority) were satisfied with the new system, while the remainder in each group favored a return to the biennial budget.

Some of the following reasons were cited by legislative officials for remaining with the new system:

(1) fewer emergency appropriations;

(2) "annual budgets tend to strengthen the legislator's role in setting the policy of the state."

Two other reasons, cited by some executive officials, are:

(1) annual budgeting permits the Governor a more frequent review of agency programs and requires state agencies to develop tighter administrative controls over the spending of public funds,

(2) "in biennial budgeting immediate correction of the State's budget is not possible, and waiting until the legislature meets 'next time' is the only alternative. When corrections are eventually made the legislature in its alarm may accuse the Governor of mismanagement and the Governor in turn accuse the legislature of irresponsibility."

One legislative official who favored returning to a biennial budget system noted that with annual budgeting there was a tendency to focus legislative attention on the details, which should be the concern of the executive.

Among the executive officials who were dissatisfied with the annual budget cycle some of the reasons cited were the following:

(1) an annual budget system results in a narrow viewpoint, short time spans for accomplishment, and a vast increase in staff work;

(2) a biennial budget provides more time for program planning activities;

(3) "with annual budgets, the top talent of the executive branch is tied up preparing, defending and implementing budgets. This creates a continuous and overlapping cycle which requires preparations for next year's budget to start before information on the operation of the current year's budget can be collected and evaluated."

Expenditure Controls under Biennial Budgets

Since a switch to biennial budgeting would allow the various state agencies to operate for two years without their programs being subjected to fiscal change, respondents were asked what measures should be introduced to assure that legislative and executive controls were not weakened. Among those suggested by legislative officials were these:

(1) a strong post-audit division for the evaluation of programs,

(2) the existence of an interim committee or emergency board to act upon requests to cover deficiencies or emergencies.

Executive officials, especially budget officials, made other suggestions for assuring control, including the following:

(1) legislative willingness to attend special sessions if a significant imbalance in the budget should arise,

(2) a requirement that each fiscal year in the biennium should stand alone, and no appropriations be carried forward from one year to the next,

(3) "greater emphasis be placed upon program evaluation and review in terms of definition or objectives, method of operation and intended results,"

(4) rather than becoming concerned with details, the legislative fiscal staff "should develop information for policy decisions and directions so that the legislators can decide what services the State should render and determine whether the service is worth the dollars that are required....the legislative branch should give the necessary attention to establishing the goals and policies that will set the directions and shape the future of the government."

Annual Session States with Biennial Budgets

Officials from both Iowa and Georgia pointed out that neither State operates on a strict biennial budget. Rather, the systems in those States might be described as 'modified annual' or 'modified biennial' budgets.

The Georgia constitution provides that a General Appropriations Act shall be passed the first year of the legislative term to cover the next two fiscal years. Any excess funds not expended during the first fiscal year shall lapse and revert to the fund from which they were appropriated. In practice, however, the money provided for the second year of the biennium by the appropriations act is merely a 'dummy appropriation' since it duplicates the first year. At the legislative session in the second year of the term amendments are made to the General Appropriations Act to authorize realistic appropriations for the second fiscal year. Since the executive departments are nevertheless required to present their requests on a two-year basis and the Governor must make his recommendations on a two-year basis, the General Assembly has access to the information to make a reasonable prediction of what funds will be necessary in the second fiscal year.

Prior to 1971, Iowa operated on almost a strictly biennial budget. During those years appropriation bills were drawn which authorized an

identical amount for each year of the biennium. Any departmental appropriations which were not expended during the first fiscal year of the biennium could be carried over and expended during the second fiscal year.

In 1971 a new procedure was put into effect through adoption of a law providing that if the appropriated funds of an agency were not expended during the first fiscal year, the balance would 'revert to the state treasury and to the credit of the fund from which appropriated.' If an agency felt that the funds which would normally have reverted to the state treasury were essential to that agency, an application could be made to the appropriations committees for a hearing.

One legislative official expressed the opinion that the most significant factor in preventing Iowa from changing to an annual budget was the added burden of repeating the entire budget process each year. Although several bills had been introduced in the State which would provide for an annual budget, this time factor seems to have been the foremost cause of defeat.

Questionnaire responses from the two States totalled six, but only three were susceptible to tabulation for any one question. Thus, the following discussion is based on limited responses.

Among both Georgia and Iowa officials there were differing opinions whether a change to an annual budget cycle would have any effect on the workload or size of executive budget agencies. One budget officer noted that the only alteration might be less emphasis on analysis work and more on projection. It was suggested that the workload of other executive agencies would increase as budget preparation became a 'full-time' project.

Additionally, officials from both these States expressed the opinion that the workload of legislative fiscal staffs would be affected by a change to an annual budget. They felt that such a change would require greater detail, greater analysis of budget requests, and overall greater control being exercised by the general assembly. There was a difference of opinion, however, concerning whether the altered workload would necessitate a larger staff.

Regarding the State's willingness to undertake planning beyond the budget period when operating on an annual cycle, Georgia and Iowa respondents indicated that the proclivity to look beyond one year would either be reduced or unaffected. While they felt that annual budgets would lead to more accuracy of revenue estimates, they indicated that inaccuracies resulting from biennial budgets could be remedied in the annual legislative sessions. Georgia and Iowa officials contended that the rate of increase in budgets is more controllable in a biennial cycle. The primary argument in Iowa was that the pressure for increase is reduced during the second session when additional appropriations will be made only in the case of emergencies or unforeseeable changes. One Iowa official summarized as follows: "It seems to us that really we have the 'best of both worlds' 1) less time consumed in preparation/hearings, yet 2) the ability to review and make changes in the second session."

The Switch from Annual to Biennial Budgets – Hawaii

Hawaii abandoned an annual system in favor of a biennial one, effective July 1, 1971. Since this change was so recent, few definite results or effects were available for analysis at the time the questionnaire was sent out. In addition to the change to biennial budgeting, the

was in the process of implementing a planning-programming-budget system. The combination of these changes resulted in a change of focus from more detailed management control to an emphasis on planning and analysis. This new approach was intended to allow the state legislature to devote more attention during the second year of the biennium to an examination of the progress and effectiveness of various programs. In fact, under the new budget act annual reports to the legislature are required "reflecting the deviations of actual from planned levels of program effectiveness, program size, and program expenditures."

As far as could be determined, the change to a biennial budget had alleviated the burden of the executive budget staff and freed the staff members for more analytical assignment on the PPBS implementation project. In addition, it was predicted that the budget workload of other executive agencies and the legislative fiscal staff would be reduced substantially.

Although Hawaiian officials admitted that revenue estimates for the biennium period would probably be less accurate than on an annual cycle, they apparently felt that the difference would not cause significant problems. The officials also recognized that additional problems could arise in projecting matching requirements for federal grants and aid, but were hopeful that the legislature would be amenable to supplemental budget requests for this purpose during the second year of the biennium. Some hoped also that the rate of annual increase in state expenditures would be less under the biennial system.

Responses to the followup request reiterated the difficulty involved in determining the effect of the switch to biennial budgeting, because that switch was made coincidentally with a change to a planning-programming

budget. One official, commenting on the budget agency workload, pointed out that a change to a biennial budget might have substantially decreased the time spent in budget preparation, yet the amount of time allotted to this function actually increased due to the demands of the planning-programming budget.

One legislator noted that the change afforded committees the opportunity to scrutinize more closely various program accomplishments and problems, "the point being that there was 'extra' time to review programmatic matters and accomplishments because the committee was not straddled with the urgency or necessity of passing an annual budget."

A legislator also noted that the 1971-73 budget could have been legislatively reduced to realign expenditures with anticipated revenues. However, he added that such action deserves careful scrutiny when the effect would impose a restrictive ceiling for expenditures while the possibility of an upturn in revenues remains.

Despite the fact that the second legislative session under Hawaii's biennial budget is now history, the general feeling is that the State has not as yet experienced the full impact of the switch from an annual to a biennial budget.

Annual Budget Review – Wisconsin

Responses concerning the Wisconsin annual review process for the second year of the biennium were received from six officials — two executive, three legislators and one legislative staff. According to a 1971 joint resolution the Governor was to submit to the Legislature by January 18, 1972 any budget changes he deemed desirable for the second year of the biennium. An executive respondent estimated that the amount of work this

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entailed for the central budget office was approximately one-third of that associated with full budget preparation. This additional work was absorbed by existing staff, at the expense of fewer daily agency contacts and policy development and management improvement work. On the legislative side, one respondent hailed the process as allowing legislative review of selected programs without waiting for a full budget cycle to elapse. The budget change also altered the duties of administrative agencies which respond only to specific questions raised by the budget staff rather than being required to submit new budgets.

In discussing any change in ability to meet matching requirements for federal grants in aid, one respondent noted that most agencies more than adequately budgeted to cover any such requirements. However, he cited one instance where the annual review remedied a situation of underestimation and was subsequently the cause of critical comment from some legislators because the review allowed agencies to be "bailed out" of their errors. The respondent also predicted that the annual review process would accelerate the rate of increase in state expenditures. This position was contradicted, however, by another respondent, who reported that the rate of increase was substantially lower in 1971-73 than in the previous three biennia.

Five of the six responding Wisconsin officials expressed satisfaction with the annual review process, because it possessed the advantages of both the annual and biennial budget. The only dissatisfied official expressed the fear that the second year budget bill would consistently become "a grab-bag for everyone's pet project with considerable logrolling."

One factor preventing a full trial of the annual review process was that the 1972 budget was not adopted until November 1971, over [illegible] the

after the beginning of the fiscal year. Thus there was little time under the first year's budget before recommendations had to be made on the second. Partly for this reason most respondents felt that it is too soon for a full evaluation of the annual review process.

Conclusion: Which way to go?

It is not surprising that most respondents from States which have shifted from biennial to annual budgets support the change. This support among most categories of officials is strong, ranging from 75 percent for legislators to 100 percent for executive officials outside of the budget office. Only budget officers made a contest of the issue - three favored retention of annual budgets and three favored returning to biennial budgets. In no case were all respondents from a State unanimous in favoring a return to biennial budgeting.

The difference in point of view can occur because of differences in conception of the budget process and differences in experience undergone by each participant in the budget process in each State. In reality, a State can develop a good system of executive and legislative fiscal and program planning and controls under either an annual or biennial budget. The system would work differently with the alternate time-spans, but could be effective under either approach.

To illustrate the contention just stated, let us examine the major selling points of both annual and biennial budgets.

Annual budgets permit more frequent and probably more accurate estimating of revenues and financial requirements of state programs. Corrections on both the expenditure and revenue sides of the balance sheet can more readily be made. Adjustments because of sudden availability or loss of federal funds can be made sooner.

Annual budgeting assures that action will be taken which reflects the above occurrences. Yet action can be taken under biennial budgeting too, if the Legislature meets annually. The Wisconsin budget review process was established for this purpose, and there appears to be nothing in the Wisconsin procedure that could not be adapted to the needs of any other State.

A fundamental reason why most responding legislators favor annual budgeting is that legislative control over spending is more easily attained; the Legislature can more frequently review the spending programs it previously authorized and ascertain whether legislative intent is being carried out.

This review is a basic function of the legislature, and any system should contain built-in procedures to accomplish it. It can be done with biennial budgets as well as annual. Of course, certain conditions must be met. If the legislature meets annually, if the legislature and its committees are continuing bodies throughout the biennium, if legislators are adequately paid and staffed so that they can devote time to the task and make productive use of their time, then the task of review can be carried out effectively, and corrective actions can be taken.

Now let us look at reasons in support of biennial budgeting. Biennial budgets force a longer range planning than annual budgets simply because appropriations must be made for a longer time span; they provide more time for long range planning; and they save the time of agencies, Governor, budget staff, legislature and legislative staff in compiling, presenting, explaining and defending the myriad details that go into the making of a budget. This would allow more time for program review and evaluation.

But these activities are not excluded under annual budgeting. Most budget procedures as established by budget offices require submission and analysis of much detail, but a number of States have been struggling with ways to reduce this burden. Many details, such as replacement of equipment, are better handled through concentration on good management as part of budget execution rather than as items to be spelled out in budgets. Detailed budget items imply a specific knowledge of needs that cannot be that accurately estimated months in advance of expenditure. Concentration on management analysis and program evaluation would be more productive in the long run, and can be fitted in with annual budgets as well as biennial.

Nor, simply because appropriations must be made annually, must legislatures necessarily examine the fine print in every budget every year. Legislatures can find time for program evaluation if they adjust their procedures accordingly, such as concentrating on major issues and unusual changes along with a periodic careful review of all other programs. This is a variation of a suggestion made by one respondent that major programs such as education and welfare be budgeted annually, while lesser and more routine ones such as civil defense and licensing boards be budgeted biennially.

Good decision-making encompasses, among other things, defining state program needs, determining the most effective method of accomplishing the program, providing the resources to get the job done, and evaluating the operation of the program to see whether its aims were accomplished. The budget process is but one aspect, although a most crucial one, of this larger process.

Both executive and legislative officials in many States are seeking ways to accomplish this decision-making task more effectively. The job can be done with either an annual or biennial budget. Which way a State goes depends on its existing system of budget decision-making and a realistic assessment of what can be done soon to fashion the budget process to better serve its purpose. If institutions such as the budget cycle get in the way, then a decision must be made on whether to change the institution, find a way around it, or adjust it to better accomplish the job to be done.

ATTACHMENT D

Table 1
STATE BUDGETARY PRACTICES

State or other jurisdiction	Budget-making authority	Official or agency preparing budget	Date estimates must be submitted by dept. or agencies	Date submitted to legislature	Power of legislature to change budget*	Power of item veto by governor	Fiscal year begins	Frequency of budget
Alabama	Governor	Div. of the Budget, Dept. of Finance	Oct. 15 for Jan. session; Nov. 15 for Feb. session	By the 5th day regular business session	Unlimited	Yes	Oct. 1	Annual
Alaska	Governor	Div. of Budget & Management, Office of the Governor	Oct. 1	3rd legislative day of session	Unlimited	Yes	July 1	Annual
Arizona	Governor	Finance Div., Dept. of Administration	Sept. 1 each year	By the 5th day of regular session	Unlimited	Yes	July 1	Annual
Arkansas	Governor	Office of Budget, Dept. of Finance & Administration	Sept. 1 in even years	Date of convening session	Unlimited	Yes	July 1	Biennial, odd yr.(a)
California	Governor	Dept. of Finance	Specific date for each agency set by Dept. of Finance	Jan 10	Unlimited	Yes	July 1	Annual
Colorado	Governor	Executive Director, Office of State Planning & Budgeting	Aug. 1-15	Dept. budgets submitted Nov. 1; governor's full recommendation submitted within first 10 days of legislative session	Unlimited	Yes	July 1	Annual
Connecticut	Governor	Div. of Budget & Financial Management, Office of Policy & Management	Sept. 1	1st session day after third of Feb. in odd years, except if change in governor; then 1st session day after Feb. 14. In even years, on the Wed. following the 1st Mon. in Feb.	Unlimited	Yes	July 1	Annual
Delaware	Governor	Office of Budget Director, Office of the Governor	Sept. 15; schools, Oct. 15	By Feb. 1	Unlimited	Yes	July 1	Annual
Florida	Governor	Office of Planning & Budget, Office of the Governor	Nov. 1 each year	45 days prior to regular	Unlimited	Yes	July1	Biennial
Georgia	Governor	Office of Planning & Budget	Sept. 1	By 5th day of session or sooner	Unlimited	Yes	July 1	Annual
Hawaii	Governor(b)	Budget, Planning & Management Div., Dept. of Budget & Finance	Aug. 31	20 days prior to convening of session on 3rd Wed. in Jan.	Unlimited	Yes	July 1	Biennial, odd yr.(a,c)
Idaho	Governor	Office of the Governor	Sept. 1 before Jan. session	Not later than 5th day of session	Unlimited	Yes	July 1	Annual
Illinois	Governor	Bureau of the Budget, Office of the Governor	Specific date for each agency set by Bureau of the Budget	First Wed. in March	Unlimited	Yes	July 1	Annual
Indiana	Governor	Budget Agency(d)	Sept. 1 in even years, flexible policy	Within the 1st two weeks after the session convenes(e)	Unlimited	No	July 1	Biennial, odd yr.(a)
Iowa	Governor	Comptroller	Sept. 1	Feb. 1 or before	Unlimited	Yes	July 1	Biennial, odd yr.(a)
Kansas	Governor	Div. of the Budget, Dept. of Administration	Not later than Oct. 1	Within 3 weeks after convening of session in odd years and within 2 days after convening of session in even years	Unlimited	Yes	July 1	Annual
Kentucky	Governor	Office for Policy & Management, Dept. of Finance	Specific date set by administrative action but may not be	As governor desires	Unlimited	Yes	July 1	Biennial, even yr.(a)

Louisiana	Governor	State Executive Budget Director, Div. of Administration	Dec. 15	Not later than 1st day of each regular session	Unlimited	Yes	July 1	Annual
Maine	Governor	Bureau of the Budget, Dept. of Finance & Administration	Sept. 1 in even years	Not later than the Fri. following the first Mon. in Jan. of the 1st regular legislative session. Governor-elect to 1st term, not later than Fri. following 1st Mon. in Feb. of 1st regular legislative session	Unlimited	No	July 1	Biennial, odd yr.(a)
Maryland	Governor	Secretary, Dept. of Budget & Fiscal Planning	Sept. 1	3rd Wed. of Jan. annually	Limited: legislature may decrease but not increase, except appropriations for legislature and judiciary	No	July 1	Annual
Massachusetts	Governor	Budget Director, Div. of Fiscal Affairs, Executive Office for Administration & Finance	Set by administrative action	Within 3 weeks after convening of the legislature	Unlimited	Yes	July 1	Annual
Michigan	Governor	Office of the Budget, Dept. of Management & Budget	Set by administrative action	10th day of session	Unlimited	Yes	Oct. 1	Annual
Minnesota	Governor	Budget Div., Dept. of Finance	Oct. 1 preceding convening of legislature	Within 3 weeks after the 1st Mon. in Jan. in each odd year	Unlimited	Yes	July 1	Biennial, odd yr.(a)
Mississippi	Commission of Budget & Accounting(f)	Commission of Budget & Accounting	Aug. 1 preceding convening of legislature	Dec. 15	Unlimited	Yes	July 1	Annual
Missouri	Governor	Div. of Budget & Planning, Office of Administration	Oct. 1	By the 30th day	Unlimited	Yes	July 1	Annual
Montana	Governor	Director, Office of Budget & Program Planning, Governor's Office	Sept. 1 of year before each session	1st day of session	Unlimited	Yes	July 1	Biennial, odd yr.
Nebraska	Governor	Budget Div., Dept. of Administrative Services	Not later than Sept. 15	Jan. 15	Limited: three-fifths vote required to increase governor's recommendations; majority vote required to reject or decrease such items	Yes	July 1	Annual
Nevada	Governor	Budget Director, Budget Div., Dept. of Administration	Sept. 1	10th day of session or before	Unlimited	No	July 1	Biennial, odd yr.(a)
New Hampshire	Governor	Comptroller, Dept. of Administration & Control	Oct. 1 in even years	Feb. 15 in odd years	Unlimited	No	July 1	Biennial, odd yr.(a)
New Jersey	Governor	Director, Div. of Budget & Accounting, Dept. of the Treasury	Oct. 1	Third Tues. after opening of session	Unlimited	Yes	July 1	Annual
New Mexico	Governor	Budget Div. Dept. of Finance & Administration	Sept. 1	On or before 25th day of regular session	Unlimited	Yes	July 1	Annual
New York	Governor	Div. of Budget, Executive Dept.	Early in Sept.	Second Tuesday following the first day of the annual session, except on or before Feb. 1 in years following gubernatorial election	Limited: may strike out items, reduce items, or add separate items of expenditure	Yes	April 1	Annual

State or other jurisdiction	Budget-making authority	Official or agency preparing budget	Date estimates must be submitted by dept. or agencies	Date submitted to legislature	Power of legislature to change budget*	Power of item veto by governor	Fiscal year begins	Frequency of budget
North Carolina	Governor	Office of State Budget	Sept. 1 preceding session	1st week of session	Unlimited	No	July 1	Biennial, odd yr.(a)
North Dakota	Governor	Office of Management & Budget	July 15 in even years; may extend 45 days	Dec. 1, prior to biennial session	Unlimited	Yes	July 1	Biennial, odd yr.
Ohio	Governor	Office of Budget & Management	Nov. 1; Dec. 1 when new governor is elected	Within four weeks of convening in odd years unless change in governor; then March 15	Unlimited	Yes	July 1	Biennial, odd yr.(a)
Oklahoma	Governor	Director of State Finance, Div. of Budget	Sept. 1	Immediately after convening of regular legislative session; an incoming governor, following inaugural	Unlimited	Yes	July 1	Annual
Oregon	Governor	Budget & Management Div., Executive Dept.	Sept. 1 in even year preceding legislative year	Dec. 1 in even year preceding legislative year	Unlimited	Yes	July 1	Biennial, odd yr.
Pennsylvania	Governor	Secretary of Budget & Administration, Governor's Office of Budget & Administration	Nov. 1 each year	As soon as possible after organization of legislature, but no later than 1st full week in Feb. Governor-elect to 1st term, no later than 1st week in March	Unlimited	Yes	July 1	Annual
Rhode Island	Governor	Div. of Budget, Dept. of Administration	Oct. 1	24th day of session	Unlimited	No	July 1	Annual
South Carolina	State Budget & Control Board(g)	Finance Div., State Budget & Control Board	Sept. 15 or discretion of board	2nd Tues. in Jan.	Unlimited	Yes	July 1	Annual
South Dakota	Governor	Commissioner, Bureau of Finance & Management, Dept. of Executive Management	Sept. 1	1st Tues. after 1st Mon. in Dec.	Unlimited	Yes	July 1	Annual
Tennessee	Governor	Budget Div., Dept. of Finance & Administration	Oct. 1	Prior to Feb. 1, except prior to March 1 in first year of governor's term	Unlimited	Yes	July 1	Annual
Texas	Governor, Legislative Budget Board	Budget & Planning Office, Office of Governor; Legislative Budget Board	Date set by budget director and legislative board	7th day of session or before	Unlimited	Yes	Sept. 1	Biennial, odd yr.(a)
Utah	Governor	State Budget Office	Sept. 1-30(h)	After convening of legislature, 3 days regular session; 1 day budget session	Unlimited	Yes	July 1	Annual
Vermont	Governor	Commissioner, Dept. of Budget & Management; Agency for Administration	Sept. 1	3rd Tues. in Jan.	Unlimited	No	July 1	(i)
Virginia	Governor	Director, Dept. of Planning & Budget, Office of Administration & Finance	Feb.-Sept. in odd years	Within 5 days after convening of regular session on 2nd Wed. in Jan. in even years	Unlimited	Yes	July 1	Biennial, even yr.(a)
Washington	Governor	Director, Office of Financial Management	Date set by governor	20th day of Dec. prior to session	Unlimited	Yes	July 1	Biennial, odd yr.(a)

West Virginia	Governor	Planning Div. & Div. of Budget, Dept. of Finance & Administration	Aug. 15	1st day of session except for 1st year of new gov. when it may be submitted 1 month after convening of session	Limited: may not increase items of budget bill except appropriations for legislature and judiciary	Yes	July 1	Annual
Wisconsin	Governor	Div. of State Executive Budget & Planning, Dept. of Administration	Dates as set by secretary, Department of Administration	On or before the last Tues. in Jan. in odd-numbered years	Unlimited	Yes	July 1	Biennial, odd yr.(a)
Wyoming	Governor	Budget Div., Dept. of Administration & Fiscal Control	Sept. 15 preceding session in Feb.	Jan. 1	Unlimited	Yes	July 1	Biennial, even yr.(a)
Dist. of Col.	Mayor	Office of Budget & Management Systems	Date set by mayor	(j)	Unlimited	Yes	Oct. 1	Annual
American Samoa(k)	Governor	Planning & Budget Office	July 1	Augu.t	Unlimited (local funds)	Yes	Oct. 1	Annual
Guam	Governor	Bureau of Budget & Management Research	Date set by director, Bureau of Budget & Management Research. Usually not later than Feb. 15	By April 30	Unlimited	Yes	Oct. 1	Annual
Puerto Rico	Governor	Bureau of the Budget, Office of the Governor	Oct. 15	2nd Mon. in Jan.; opening day of regular session	Unlimited	Yes	July 1	Annual
Virgin Islands	Governor	Director of the Budget, Office of the Governor	Dec. 30	Upon convening	Unlimited	Yes	Oct. 1	Annual

*Limitations listed in this column relate to legislative power to increase or decrease budget items generally. Specific limitations, such as constitutionally earmarked funds or requirement to enact revenue measures to cover new expenditure items, are not included.

(a) Budget is adopted biennially, but appropriations are made for each year of the biennium separately. Maine—budget is reviewed annually, Minnesota and Wisconsin—a few appropriations are made for the biennium. Virginia—amendments to current budget can be made in any year, but there is no formal provision for annual review of the entire biennial appropriation. North Carolina, Washington and Wyoming—biennial appropriations with annual review. Wisconsin—statutes authorize an annual budget review, and the governor may in even years recommend changes.

(b) Governor has budget-making authority for executive branch only. Judiciary and legislative branch budgets are the responsibility of the respective branches, and the governor may only veto the budget bills as a whole, not by item.

(c) Increases or decreases may be made in even-year sessions.

(d) Budget Committee serves in advisory capacity.

(e) Convenes on first Thursday after first Monday in January in odd years.

(f) Composition of commission: governor as ex officio chairman, lieutenant governor, chairman House Ways and Means Committee, chairman House Appropriations Committee, chairman Senate Finance Committee, president pro tem of senate, chairman Senate Appropriations Committee, one member of senate appointed by lieutenant governor, speaker of house, two house members appointed by the speaker.

(g) Composition of board: governor as chairman, treasurer, comptroller general, chairman Senate Finance committee, chairman House Ways and Means Committee.

(h) Thirty days prior to each department or agency hearing before the governor.

(i) 1981 legislature authorized annual or biennial budget at governor's discretion. Submission of annual budget began with fiscal 1982.

(j) Budget submitted to both council and Congress. Council sets date of submission for its review; the Office of Management and Budget, Executive Office of the President, sets the date for submission to Congress.

(k) Information from 1980-81 *Book of the States*.

electronic or other medium approved for such purpose by the governing board or officer having jurisdiction or control of such public funds.

(5) PROCEDURES FOR WIRE TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the governing board or officer of any local government who has the authority to deposit or withdraw funds is authorized to transfer funds from one depository to another or within a depository or to another institution, and may transfer funds wherein the transfer does not represent an expenditure, advance, or reduction of cash assets. Such transfer may be made by electronic, telephonic, or other medium; and each transfer shall be confirmed in writing and signed by the designee of the governing board or officer of the local government.

(6) INVESTMENT OF PUBLIC FUNDS.—Notwithstanding any other provision of law, the governing board or officer of any local government who has the authority to invest funds is authorized to transfer funds by electronic or other medium for purposes of investment to any depository authorized by law to receive funds or in the Local Government Surplus Funds Trust Fund. A written record shall be kept of all transfers made pursuant to this section.

History.—ss. 1, 2, 3, 4, 5, ch. 70-406; s. 3, ch. 82-104.

215.96 Coordinating council.—[Repealed effective October 1, 1989, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

CHAPTER 216

PLANNING AND BUDGETING

216.031 Budgets for operational expenditures.

216.031 Budgets for operational expenditures.—The legislative budget requests submitted by the head of each state agency, showing the amounts requested for operational expenditures during the next biennium, shall contain the following:

(1) For each budget entity, a summary exhibit showing, for each appropriation category, for each fund, 2 prior years' appropriations for general revenue, 1 prior year's actual and 1 current year's estimated expenditures, and the requested expenditures for each year of the next biennium. The total number of positions for the budget entity shall be shown for each fiscal year of data for which positions are authorized, fixed, or requested. However, the agency budget request for the State University System shall be expressed in terms of the amounts for the various programs as prescribed in s. 240.271 and in terms of the specified appropriation categories, including the special units' budgets, prescribed in the prior appropriations act.

(2) For each program component within the budget entity, an exhibit showing, for each appropriation category, the summary explanation of expenditures for each detail issue describing the amounts and positions for each year of the next biennium to continue current programs, for improved programs, and for new programs, with a summary showing totals by fund for each year of the biennium.

(3) For each trust fund within the budget entity, a schedule showing the trust funds available, providing the source of receipts, detail of nonoperating disbursements, operating disbursements, fixed capital outlay, and unencumbered cash balances, for 2 prior years' actual, the current year's estimated, and the request for each year of the biennium.

(4) For each budget entity, a schedule showing detail of positions, providing for each class of positions within discrete organizational activities, by the collective bargaining unit and program component for each year of the next biennium, the number of full-time equivalent positions, the estimated rate of salary, the number of months to be employed, the amounts requested for new positions, and the number of new positions requested.

'(5) Detailed information for each year of the biennium necessary for the Legislature and the Governor to evaluate:

(a) The effectiveness of current programs, including justification for those programs.

(b) The justification for increasing costs to continue the operations of current programs.

(c) The justification for proposed improvements in existing programs.

(d) The justification for proposed new programs.

(6) Additional information providing a detailed description of the agency's request and the corresponding calculations needed to support the request.

(7) A schedule and other such detailed information as may be necessary to identify the federal grants-in-aid portion of the agency's legislative budget request, as may be prescribed by the Executive Office of the Governor, in consultation with the appropriations committees of the Legislature.

(8) Workload and other performance indicators, as prescribed by the Executive Office of the Governor pursuant to s. 216.023.

(9) The sum of money actually expended for contractual services, as defined in s. 287.012, by the agency for the previous year.

(10) A schedule listing each committee, however created; council; coordinating council; commission; and board of trustees that is adjunct to the executive agency. The schedule shall show the name, number of meetings held in the past fiscal year, number of members, and expenses of each committee, council, coordinating council, commission, or board of trustees. The schedule shall further state the purpose of each committee, council, coordinating council, commission, or board of trustees and the statutory basis for each one's creation.

The legislative appropriations committees and the Executive Office of the Governor may require the agency to address major issues for inclusion in the agency's requests. The issues shall be submitted to the agency no later than August 30 of each even-numbered year and shall be displayed in the agency's requests as provided in the budget instructions.

History.—s. 41, ch. 69-106; s. 7, ch. 71-354; s. 1, ch. 77-452; s. 40, ch. [illegible]; s. 1, ch. 80-45; s. 3, ch. 82-46; s. 11, ch. 82-186.

'Note.—As amended by s. 3, ch. 80-45, paragraph (e) is added to subsection (5) effective July 1, 1983, to read:

(e) The projected cost of the requested pr[illegible] budget cycle.

CHAPTER [illegible]

FINANCIAL MATTERS P[illegible] POLITICAL SUBD[illegible]

PART II REVENUE SH[illegible] OF 1972

PART III LOCAL FI[illegible] MANAGEMENT AND [illegible]

PART IV INVESTMEN[illegible] GOVERNMENT SURP[illegible]

PART VI PARTICIPATION[illegible] SALES TAX PRO[illegible]

PART II

REVENUE SHARING [illegible]

218.23 Revenue sharing with [illegible] ment.

218.23 Revenue sharing [illegible] government.—

(1) To be eligible to particip[illegible] ing beyond the minimum entit[illegible] year, a unit of local government

(a) Reported its finances f[illegible] completed fiscal year to the Dep[illegible] and Finance, pursuant to s. 218.[illegible]

(b) Made provisions for ann[illegible] financial accounts in accordanc[illegible] law.

(c) Levied, as shown on its n[illegible] report pursuant to s. 218.32, ad [illegible] sive of taxes levied for debt ser[illegible] millages authorized by the voters[illegible] enue equivalent to a millage ra[illegible] dollar based on the 1973 taxabl[illegible] by the property appraiser pursu[illegible] or, in order to produce revenue[illegible] which would otherwise be produc[illegible] valorem tax, to have received a [illegible] county pursuant to s. 125.01(6)(a[illegible] pational license tax or a utility t[illegible] orem tax, or received revenue fr[illegible] of these four sources. If a new m[illegible] porated, the provisions of this pa[illegible] to the taxable values for the year[illegible] certified by the property apprai[illegible] requires only a minimum amou[illegible] raised from the ad valorem tax, [illegible] cense tax, and the utility tax. It[illegible] minimum millage rate.

(d) Certified that persons in i[illegible] forcement officers, as defined in[illegible] the qualifications for employmen[illegible] the 'Police Standards and Trainin[illegible] its salary structure and salary pl[illegible]

CHAPTER NO. 666

AN ACT TO CLARIFY THE INFORMATION REQUIRED TO BE SUBMITTED TO THE BUDGET DIRECTOR AND THE LEGISLATIVE FISCAL ANALYST FOR THE PREPARATION OF AGENCY BUDGET ESTIMATES; PROVIDING A DATE BY WHICH THE BUDGET OFFICE WILL PREPARE AN AGENCY REQUEST; AND SPECIFICALLY INCLUDING THE UNIVERSITY SYSTEM UNDER THE BUDGET REQUIREMENTS; AMENDING SECTIONS 17-7-111 AND 17-7-112, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-111, MCA, is amended to read:

"17-7-111. Agency program budgets — form distribution and contents. *(1)* In the preparation of a state budget, the budget director shall, not later than July 1 in the year preceding the convening of the legislature, distribute to all state offices and departments, including the judicial branch and the legislative branch, the proper *forms* necessary for the preparation of budget estimates. These *forms* shall be prescribed by the budget director to procure *the* information *required by subsection (2).*

(2) The agency budget requests, when completed by the budget office, must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary for current level expenditures and for each modification request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget in such manner as to show a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress. The consolidated budget summary must be supported by schedules classifying receipts and disbursements contained therein by fund and, where applicable, organizational unit.

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each accounting entity within each fund for the current and subsequent biennium;

(c) a detailed schedule of receipts, by accounting entity within each fund, indicating classification and source of funds;

(d) an agency schedule summarizing past and proposed spending plans and the means of financing the proposed plan. Information presented shall include the following:

(i) a statement of agency goals and objectives and a statement of goals and objectives for each program of the agency;

(ii) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program; and

(iii) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and agency's recommendations for the ensuing biennium, by disbursement category;

(e) any other information the budget director feels is necessary for the preparation of a budget.

(3) The budget director must also prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

(a) detailed recommendations for the state long-range building program. Each recommendation shall be presented by department, institution, agency, or branch by funding source, with a description of each proposed project; and

(b) the proposed pay plan schedule for all executive branch employees with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401."

Section 2. Section 17-7-112, MCA, is amended to read:

"**17-7-112. Submission deadline.** (1) It shall be the duty of each department, agency, and office, *including the Montana university system,* to submit *the* information *required under 17-7-111 to* the budget director on or before September 1 in the even year preceding the convening of the legislature.

(2) Between August 15 and September 30 in the year preceding the convening of the legislature, the director must submit each state agency's budget request required under 17-7-111(2) to the legislative fiscal analyst. The transfer of budget information shall be done on a schedule mutually agreed to by the budget director and the legislative fiscal analyst in a manner that facilitates an even transfer of budget information during the month of September and which allows each office to maintain a reasonable staff workflow.

(3) If any department, institution, *university unit,* or agency shall fail to present such information within the time herein specified, the budget director shall note that fact in the budget submitted to the governor and the budget director shall prepare *and submit to the legislative fiscal analyst and the governor by October 30* a budget request on behalf of such department, institution, *university unit,* or agency, based upon his studies of the operations, plans, and needs thereof.

(4) The proposed pay plan schedule required by 17-7-111(3) must be submitted to the legislative fiscal analyst no later than November 15 in the year preceding the convening of the legislature."

Approved April 28, 1983.

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AN ACT TO COUPLE
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SECTIONS 15-31-201
15-31-205 THROUGH
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Be it enacted by the Le

Section 1. Section 1

"15-31-201. Defin
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Section 2. Section 1

"15-31-202. Electi
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(5) Every electing co
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54-42-07. Transfer of records and other materials. The North Dakota merit system council as created by agreement of the social service board of North Dakota, the North Dakota unemployment compensation division, the North Dakota state employment service, and North Dakota state department of health shall transfer all records and other material to the possession of the North Dakota merit system council as created by this chapter.

Source: S.L. 1957, ch. 332, § 7; R.C. 1943, 1957 Supp., § 54-4207.

Cross-References.

Records of council transferred to central personnel division, see § 54-44.3-27.

54-42-08. Transfer of employees under merit system. All employed personnel having status under the merit system as created by agreement of the social service board of North Dakota, the North Dakota unemployment compensation division, the North Dakota state employment service, the North Dakota merit system council, and the North Dakota state department of health, shall have like status and pay under the North Dakota merit system council as created by this chapter.

Source: S.L. 1957, ch. 332, § 8; R.C. 1943, 1957 Supp., § 54-4208.

CHAPTER 54-43

THEODORE ROOSEVELT CENTENNIAL COMMISSION

[Omitted as a statute not of a general and permanent nature]

Note.

Not repealed but omitted as a chapter not of a general and permanent nature. For the provisions of this chapter, see S.L. 1957, ch. 333, §§ 1, 2.

CHAPTER 54-44

OFFICE OF MANAGEMENT AND BUDGET

Section

54-44-01. Responsibility of the office of management and budget.
54-44-02. State office of management and budget.
54-44-03. Director of the office of management a
54-44-04. Powers and duties of the director of the o ment and budget.
54-44-04.1. The director of the office of management a ll have authority to withhold or deduct certain amounts from emplo ensation.
54-44-04.2. Unemployment compensation assessments to dep nts and institutions.
54-44-04.3. Appropriation of unemployment compensation assessments.
54-44-04.4. Payment of unemployment compensation claims.
54-44-04.5. Federal surplus property — Office of management and budget responsible for distribution — Powers and duties of director.
54-44-04.6. State surplus property — Department heads to inform director — Disposition of property — Proceeds — Exchange of property.
54-44-04.7. Responsibility to administer unassigned statutory functions of state government.
54-44-05. Warrants — Numbered — Show funds on which drawn — Not drawn unless authorized.
54-44-06. Duties as to school fund.
54-44-07. Office to set up account against person who fails to render account.
54-44-08. Director to institute suits in name of state.

54-44-09. Supplies for institutions under con
54-44-10. Legislative inspection of books of o
54-44-11. Office's operating funds creation.
54-44-12. Deposit and disbursement of fun Appropriation.
54-44-13. Failure of political subdivisions to of management and budget auth

54-44-01. Responsibility of the o office of management and budget is the control and supervision of the branch of the government, and is dir office of the state auditor has the p true independent post audit of all th The responsibility of collecting addit in the office of the state tax commissio

This chapter shall be liberally con ment this section.

Source: S.L. 1959, ch. 372, § 1; 1981, ch. 534, § 5.

Note.

Section 1, chapter 534, S.L. 1981, provides: "Wherever the terms department of accounts and purchases, director of the department of accounts and purchases, director of the state department of accounts and purchases, director of accounts and purchases, and department when referring to the department of accounts and purchases, appear in this code, the term office of management and budget, director of the office of management and budget, director of the state office of management and budget, or office, as the case may be, shall be substituted therefor. The director of the

54-44-02. State office of manage office of management and budget vest sibilities necessary to supervise and the various state departments, agenci

Source: S.L. 1959, ch. 372, § 1.

54-44-03. Director of the office shall be a director of the office of appointed by and serve at the will of shall be set by the governor within for salaries by the legislative assemb ees of the office shall be reimbursed the duties of their office at the same state officials. The director shall be e ent with law or rules established by of the office of management and bud

54-44-09. Supplies for institutions under control of the office of management and budget.
54-44-10. Legislative inspection of books of office of management and budget.
54-44-11. Office's operating funds creation.
54-44-12. Deposit and disbursement of funds of occupational and professional boards — Appropriation.
54-44-13. Failure of political subdivisions to repay natural disaster overpayments — Office of management and budget authorized to withhold funds.

54-44-01. Responsibility of the office of management and budget. The office of management and budget is to be a central authority, vested with the control and supervision of the fiscal administration of the executive branch of the government, and is directly responsible to the governor. The office of the state auditor has the primary responsibility of conducting a true independent post audit of all the executive departments and agencies. The responsibility of collecting additional taxes is consolidated and vested in the office of the state tax commissioner.

This chapter shall be liberally construed in a manner which will implement this section.

Source: S.L. 1959, ch. 372, § 1; 1981, ch. 534, § 5.

Note.

Section 1, chapter 534, S.L. 1981, provides: "Wherever the terms department of accounts and purchases, director of the department of accounts and purchases, director of the state department of accounts and purchases, director of accounts and purchases, and department when referring to the department of accounts and purchases, appear in this code, the term office of management and budget, director of the office of management and budget, director of the state office of management and budget, or office, as the case may be, shall be substituted therefor. The director of the office of management and budget is to be substituted for, and take any action previously to be taken by, and shall perform any duties previously to be performed by the director of the department of accounts and purchases".

Cross-References.

Federal aid coordinator office created in office of management and budget, see § 54-27.1-01.

Collateral References.

States ⇐ 85, 121, 122, 136.

72 Am. Jur. 2d, States, Territories, and Dependencies, §§ 75-77.

81A C. J. S. States, §§ 145, 146, 223 to 229, 242.

54-44-02. State office of management and budget. There shall be an office of management and budget vested with the duties, powers, and responsibilities necessary to supervise and administer the fiscal transactions of the various state departments, agencies, boards, and commissions.

Source: S.L. 1959, ch. 372, § 1.

54-44-03. Director of the office of management and budget. There shall be a director of the office of management and budget who shall be appointed by and serve at the will of the governor. The salary of the director shall be set by the governor within the limits of the amount appropriated for salaries by the legislative assembly, and the director and other employees of the office shall be reimbursed for expenses incurred in carrying out the duties of their office at the same rate and in the same manner as other state officials. The director shall be empowered to adopt rules, not inconsistent with law or rules established by the governor, for the administration of the office of management and budget, the conduct of its employees, the

distribution and performance of its business, and the custody, use, and preservation of the records, documents, and property pertaining thereto. He shall be empowered to set up such divisions or other internal organization within the office that he shall deem necessary in order to efficiently carry out the duties, powers, and responsibilities of the office.

The director of the office of management and budget shall execute an official bond in the sum of one hundred thousand dollars.

Source: S.L. 1959, ch. 372, § 1; 1981, ch. 535, § 16.

54-44-04. Powers and duties of the director of the office of management and budget. The director of the office of management and budget, or such subordinate officer as he shall designate:

1 to 4. Repealed by S.L. 1965, ch. 358, § 20.

5. Shall examine the budget affecting the legislative and judicial branches of the state government, but only for the purpose of determining the sufficiency of funds to meet the contemplated expenditures of these branches of state government or their officers or agencies.

6 and 7. Repealed by S.L. 1965, ch. 358, § 20.

8. Shall keep the general accounts, reflecting for each fund the resources and balance, together with current revenues and expenditures, and shall provide for an accrual accounting system.

9. Shall, acting as director of the office of the budget, process all claims for submittal to the office of management and budget, which may conduct the preaudit of all claims from the executive branch of the government before payment and the director shall conduct the current audit of all revenues, which shall include the supervision of the collection of all moneys due the state.

10. Repealed by S.L. 1979, ch. 541, § 2.

11. Except as otherwise provided by law, shall prepare warrants for payment of all claims from the executive branch of government, when approved by the office of the budget, and for payment of all claims from the judicial and legislative branches.

12. Shall be vested with the duties, powers, and responsibilities involved in the development and installation of financial records and procedures for all state departments and agencies.

12.1. Shall coordinate the development of accounting and financial related systems.

12.2. Shall create an accounting manual and provide sufficient training of current and potential users concerning the functions and use of a statewide accounting and reporting system.

13. Shall conduct such interval audits of accounts in the several departments of the state as he shall deem necessary.

14. Shall issue current reports to administrative officials concerning the status of revenue, expenditures, and appropriation accounts, and shall make periodic financial reports to the governor, administrative officials, the legislative assembly, and the public.

14.1. Shall prepare on an annual basis comprehensive financial statements of the state of North Dakota.

15. Shall submit a bie
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activities of all the
ments established
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and public expendit

16. Shall accompany hi
the amount of each
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19. Shall keep an accou
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to the state, and wit
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21. Shall be vested witl
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22.1. Shall distribute fe
tions 54-44-04.5 and

23. Shall establish and
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24. Shall perform such c

Source: S.L. 1959, ch. 372, 346, § 67; 1965, ch. 358, § 20; 196 1973, ch. 403, § 51; 1975, ch. 466, 541, §§ 1, 2; 1979, ch. 560, § 1; § 10; 1981, ch. 1, §§ 9, 10; 1981, ch.

Cross-References.

Communications advisory com bership of director, see § 54-23.1-

Departmental payrolls ex requirements of subdivisio § 54-14-04.2.

Director of office of managem get ex officio director of the § 54-44.1-02.

15. Shall submit a biennial report as prescribed by section 54-06-04 to the governor and the office of management and budget covering the activities of all the divisions of the office. In addition to any requirements established pursuant to section 54-06-04, the report shall include a statement of the funds of the state, the revenues of the state, and public expenditures during the two preceding fiscal years.
16. Shall accompany his biennial report with tabular statements showing the amount of each appropriation for the two preceding fiscal years, the amount expended, and the balance, if any, and also the amount of revenue chargeable to each county for such years, the amount paid, and the amount unpaid or due therefrom.
17. Shall, when requested, give information in writing to either house of the legislative assembly relating to the fiscal affairs of the state or to the administration of his office.
18. Shall submit to the governor at the close of each business day, or at such times as the governor may request, a report showing the current condition of each fund and appropriation.
19. Shall keep an account with each organized county of the state in which each county shall be charged with the amount of delinquent taxes due to the state, and with all sums levied in such county for state purposes, and shall be credited with all sums paid into the state treasury on account of such taxes.
20. Shall keep an account between the state and state treasurer, and charge the state treasurer therein with the balance in the treasury when he came into office, and with all moneys received by the state treasurer, and credit him with all warrants drawn on and paid by him.
21. Shall be vested with the duties, powers, and responsibilities involved in the operation of a centralized purchasing service.
22. Shall maintain and operate such supply rooms as may be found desirable to supply the several departments with office supplies and other commonly used commodities; however, this subsection shall not be construed as authorizing the establishment of a warehousing system.
22.1. Shall distribute federal and state surplus property pursuant to sections 54-44-04.5 and 54-44-04.6.
23. Shall establish and operate a central duplicating service and central mechanical or electronic data processing facilities.
24. Shall perform such other duties as are or may be prescribed by law.

Source: S.L. 1959, ch. 372, § 1; 1963, ch. 346, § 67; 1965, ch. 358, § 20; 1969, ch. 452, § 1; 1973, ch. 403, § 51; 1975, ch. 466, § 54; 1979, ch. 541, §§ 1, 2; 1979, ch. 560, § 1; 1979, ch. 568, § 10; 1981, ch. 1, §§ 9, 10; 1981, ch. 537, § 1.

Cross-References.

Communications advisory committee membership of director, see § 54-23.1-03.

Departmental payrolls exempt from requirements of subdivision 11, see § 54-14-04.2.

Director of office of management and budget ex officio director of the budget, see § 54-44.1-02.

State purchasing practices, see ch. 54-44.4.

Institutions under Board of Administration.

This chapter did not relieve the board of administration (predecessor to director of institutions) of all responsibility for overseeing accounts and purchases of institutions under its control; rather, the department of accounts and purchases (predecessor to office of management and budget) is to work through the board of administration with respect to such institutions. State ex rel. Joos v. Guy (1963) 125 NW 2d 468.

54-44-04.1. The director of the office of management and budget shall have authority to withhold or deduct certain amounts from employees' compensation. The director of the office of management and budget, in addition to other deductions or withholdings authorized or permitted by law, shall be authorized to withhold or deduct from the employees' monetary compensation such amounts as may be determined by the employer and employees to participate in tax-favored or tax-sheltered annuity programs which are authorized by the federal Internal Revenue Code.

Source: S.L. 1969, ch. 453, § 1.

54-44-04.2. Unemployment compensation assessments to departments and institutions. Beginning July 1, 1979, all departments and institutions of the state of North Dakota shall pay to the office of management and budget one percent of the first six thousand dollars of each employee's earnings. Such assessments shall be paid to the office of management and budget in accordance with guidelines established by the office of the budget, from the general fund and special funds appropriated for salaries and wages to the individual departments and institutions. The moneys received from such assessments shall be deposited by the office of management and budget into a fund for the purpose of paying unemployment compensation claims. The director of the office of management and budget may decrease or suspend the assessments provided for in this section upon determination that the funds deposited pursuant to this section are sufficient to offset anticipated obligations.

Source: S.L. 1979, ch. 582, § 2; N.D.C.C., § 54-44-04.3.

54-44-04.3. Appropriation of unemployment compensation assessments. All assessments received by the office of management and budget and deposited into the fund for unemployment compensation claims are hereby appropriated.

Source: S.L. 1979, ch. 58, § 3; N.D.C.C., § 54-44-04.4; S.L. 1981, ch. 536, § 1.

54-44-04.4. Payment of unemployment compensation claims. The office of management and budget from the appropriations made in section 54-44-04.3 shall quarterly reimburse the job service North Dakota for the amount of actual claims paid by the job service North Dakota to eligible recipients previously employed by state departments and institutions. It shall be the responsibility of each department and institution to verify and certify the validity of each unemployment claim prior to the reimbursement of funds to the job service North Dakota.

Source: S.L. 1979, ch. 58, § 4; N.D.C.C., § 54-44-04.5.

54-44-04.5. Federal surplus property — Office of management and budget responsible for distribution — Powers and duties of director.

1. The office of manager equitable distribution erty transferred to th and Administrative S 40 U.S.C. 484 (j)], here
2. The director of the off nate officer as the dire
   a. May receive, inves tions for federal su
   b. May acquire any f under the federal A
   c. May distribute any Act to:
      (1) Any public ag the residents o purposes; or
      (2) Nonprofit educ or organizatior 501 of the fede cation or publi
   d. May store the feder
   e. Shall develop, subn distribution of fede eral Act and rules the director may c by the department
   f. May cooperate and erty agencies and property and excha
   g. May provide inform plus property to ent
   h. May assess and col ents to cover direct tion. The service cha in a surplus propert Act. The state treas if the director requ the fund.
   i. Adopt rules and tal surplus property pu

Source: S.L. 1981, ch. 537, § 2.

54-44-04.6. State surplu director — Disposition of erty.

1. The person in charge o state shall inform the d whenever that departn property, whether origi

1. The office of management and budget is responsible for the fair and equitable distribution, through donation, of all federal surplus property transferred to the state in accordance with the Federal Property and Administrative Services Act of 1949, as amended [63 Stat. 378; 40 U.S.C. 484 (j)], hereinafter referred to as the federal Act.
2. The director of the office of management and budget, or such subordinate officer as the director shall designate:
   a. May receive, investigate, and make recommendations on applications for federal surplus property available under the federal Act.
   b. May acquire any federal surplus property transferred to the state under the federal Act.
   c. May distribute any federal surplus property pursuant to the federal Act to:
      (1) Any public agency for use in carrying out or promoting for the residents of a given political subdivision one or more public purposes; or
      (2) Nonprofit educational institutions, public health institutions, or organizations which are exempt from taxation under section 501 of the federal Internal Revenue Code, for purposes of education or public health or research for those purposes.
   d. May store the federal surplus property.
   e. Shall develop, submit, and implement a state plan of operation for distribution of federal surplus property and comply with the federal Act and rules and regulations adopted thereunder. Provided, the director may continue the state plan of operation developed by the department of public instruction.
   f. May cooperate and enter into agreements with other surplus property agencies and federal agencies to screen and acquire surplus property and exchange property, facilities, personnel, and services.
   g. May provide information and assistance for acquiring federal surplus property to entities listed in subdivision c.
   h. May assess and collect service charges from participating recipients to cover direct and reasonable cost of services under this section. The service charges shall be deposited with the state treasurer in a surplus property special fund and used pursuant to the federal Act. The state treasurer shall credit all interest earned to the fund if the director requests the state treasurer to invest portions of the fund.
   i. Adopt rules and take other action necessary to distribute federal surplus property pursuant to the federal Act.

Source: S.L. 1981, ch. 537, § 2.

54-44-04.6. State surplus property — Department heads to inform director — Disposition of property — Proceeds — Exchange of property.

1. The person in charge of any department, agency, or institution of the state shall inform the director of the office of management and budget whenever that department, agency, or institution possesses surplus property, whether originally obtained with state or federal funds, and

the person in charge believes that the state surplus property may be used by any other department, agency, institution, or political subdivision of the state.

2. The director of the office of management and budget shall dispose of the state surplus property in the following manner:
   a. By transferring it to other state departments, institutions, or agencies without cost other than transportation expenses which shall be paid by the receiving agency. Provided, when the state surplus property was originally purchased pursuant to an appropriation other than from the general fund of the state, the agency receiving that state surplus property shall pay an amount equal to the fair market value of the property. Moneys received pursuant to this subdivision shall be deposited in the fund from which the original purchases were made.
   b. If not disposed of under subdivision a, then by sale on sealed bids or at public auction to the highest and best bid for property valued at more than three thousand dollars, with no money deposit required prior to sale, or by sealed bids, public auction, or negotiation at fair value for property valued at less than three thousand dollars.
   c. If not disposed of under subdivision a or b, title to the property shall be transferred to political subdivisions without cost, except transportation expenses.
3. All proceeds of property sold under this section, less sales costs, shall be deposited in the general fund except as provided in subdivision a of subsection 2.
4. No department, agency, or institution may exchange items as part of a purchase price of new items until a detailed statement of the value of the items to be exchanged and request for approval have been submitted to the director of the office of management and budget. The director shall approve the exchange only if the director has determined that the item has been valued at fair value.

Source: S.L. 1981, ch. 537, § 3.

54-44-04.7. Responsibility to administer unassigned statutory functions of state government. The office of management and budget shall administer all statutory functions assigned to the executive branch of state government but not statutorily placed with any specific state entity.

Source: S.L. 1981, ch. 534, § 6.

54-44-05. Warrants — Numbered — Show funds on which drawn — Not drawn unless authorized. Warrants drawn by the office of management and budget and signed by the state auditor on the state treasurer shall be numbered consecutively in the order in which they are drawn. Every warrant shall be drawn upon the fund out of which it is payable. A warrant shall not be drawn by the office of management and budget and signed by the state auditor unless authorized by law, and unless there are funds in the treasury applicable to the payment thereof to meet the same. In case of an emergency, and in anticipation of taxes already levied and

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s, with no money deposit
, public auction, or negotia-
it less than three thousand

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in the process of collection, the office of management and budget may prepare warrants to be signed by the state auditor in payment of duly authorized vouchers even though funds at such time do not exist to honor the warrants. Warrants so issued shall be payable by the state treasurer out of any funds in his hands other than sinking funds, or funds dedicated by the Constitution of North Dakota for other purposes.

Source: S.L. 1959, ch. 372, § 1; 1965, ch. 345, § 2.

54-44-06. Duties as to school fund. The office of management and budget shall keep a separate account of the school fund and of the interest and income thereof, together with such moneys as may be raised by special tax or otherwise for school purposes. The office shall perform such duties with reference to the apportionment of such fund as are described in title 15.

Source: S.L. 1959, ch. 372, § 1.

54-44-07. Office to set up account against person who fails to render account. Whenever any person has received moneys or has moneys or other personal property which belongs to the state by escheat or otherwise, or has been entrusted with the collection, management, or disbursement of any moneys, bonds, or interest accruing therefrom, belonging to or held in trust by the state, and fails to render an account thereof to and make settlement with the office of management and budget within the time prescribed by law, or when no particular time is specified, fails to render such account and make such settlement, or fails, within twenty days after request by the office of management and budget to pay into the state treasury any money belonging to the state, the office of management and budget must state an account with such person, charging interest at the rate of twelve percent per annum from the time of the failure. A copy of such account shall be prima facie evidence in any suit of the things therein stated. If the office of management and budget, for want of information, cannot state an account, that fact may be alleged and the amount of money or other property which is due or which belongs to the state may be stated generally.

Source: S.L. 1959, ch. 372, § 1.

54-44-08. Director to institute suits in name of state. The director of the office of management and budget shall institute suit in the name of the state against:

1. Officials for all official delinquencies in relation to the assessment, collection, and payment of the revenue.
2. Persons who by any means have become possessed of public moneys or property and who fail or neglect to pay for or deliver the same.
3. All persons indebted to the state.

Source: S.L. 1959, ch. 372, § 1.

54-44-09. Supplies for institutions under control of the office of management and budget. The office of management and budget shall make

all purchases of goods and materials on behalf of the various state institutions, departments, and agencies in accordance with the standards and specifications of the United States bureau of standards.

Source: S.L. 1959, ch. 372 § 1.

54-44-10. Legislative inspection of books of office of management and budget. Whenever required the office of management and budget shall submit its books, accounts, and vouchers to the inspection of the legislative assembly, or any committee thereof authorized to request such documents.

Source: S.L. 1959, ch. 372, § 1.

54-44-11. Office's operating funds creation.

1. The office of management and budget shall establish a state purchasing operating fund to be used for the procurement and maintenance of an inventory of equipment and supplies for the state departments and agencies. Any surplus in this fund in excess of one hundred thousand dollars on June thirtieth of each year shall be transferred to the state general fund.
2. The office of management and budget shall establish a state printing operating fund to be used for the procurement and maintenance of an inventory of printing equipment and supplies for the state departments and agencies.
3. The office of management and budget shall establish a state central data processing operating fund to be used for the procurement and maintenance of data processing equipment and supplies and for providing data processing services to state departments and agencies.
4. Each office, agency, or institution provided with purchasing, printing, or data processing services, unless exempted by law, shall pay to the office of management and budget a proportionate share of the cost of such service as determined by the director of the office of management and budget, based on actual costs and actual usage. The amounts paid to the office of management and budget by the various offices, agencies, and institutions shall be deposited in the appropriate operating fund and shall be expended in accordance with legislative appropriations.

Source: S.L. 1959, ch. 214, § 2; 1967, ch. 392, § 1; 1959, ch. 454, § 7; 1975, ch. 486, § 1; 1979, ch. 561, § 1; 1981, ch. 534, § 7; 1981, ch. 538, § 1.

Note.

Section 54-44-11 was amended twice by the 1981 Legislative Assembly. Section 7 of chapter 534, S.L. 1981, changed the name of the department of accounts and purchases to the office of management and budget in subsection 1. Section 1 of chapter 538, S.L. 1981, deleted language concerning transfer of surplus funds in subsections 2 and 3. Pursuant to section 1-02-09.1, the section is printed above to harmonize and give effect to the changes made by both acts.

54-44-12. Deposit and disbursement of funds of occupational and professional boards — Appropriation. All occupational and professional boards, associations, and commissions created by law shall deposit all fees and other moneys received in any bank selected by the majority vote of the governing body of the board, association, or commission. Checks may

be drawn against the b
the authorized expendit
signature or signatures
the governing body. All
are hereby appropriate
board, association, or co

Source: S.L. 1971, ch. 510.

**54-44-13. Failure of
overpayments — Office
hold funds.** Whenever a
sion under the Disaster
and all acts amendator
following July first, the

1. Upon certification
that a political su
ment, withhold all
moneys due the sul
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2. Cease to withhold
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Source: S.L. 1971, ch. 511,

Note.

The Disaster Relief Act of 1

Section
54-44.1-01. Definition.
54-44.1-02. Office of the budge
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54-44.1-05. Federal aid budge
54-44.1-06. Preparation of the
54-44.1-07. Presentation of bu
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wise requires, the term
board, commission, agen
or distinct appropriation

Source: S.L. 1965, ch. 356, §

Collateral References.

States ⇐ 121.

be drawn against the bank account, opened pursuant to this section, for the authorized expenditures of the board, association, or commission on the signature or signatures of the person or persons authorized to so act by the governing body. All moneys in accounts opened pursuant to this section are hereby appropriated for the use of the occupational or professional board, association, or commission opening the account.

Source: S.L. 1971, ch. 510, § 14.

54-44-13. Failure of political subdivisions to repay natural disaster overpayments — Office of management and budget authorized to withhold funds. Whenever an overpayment made to any state political subdivision under the Disaster Relief Act of 1970 [Pub. L. 91-606; 84 Stat. 1744], and all acts amendatory and supplemental thereto, is not repaid by the following July first, the state office of management and budget shall:

1. Upon certification from the governor's natural disaster representative that a political subdivision is delinquent in repaying such overpayment, withhold all funds, grants-in-aid, tax shares, and other similar moneys due the subdivision from the state until the subdivision repays either the federal or state government.
2. Cease to withhold funds when the governor's natural disaster representative certifies that the subdivision has repaid the overpayment.

Source: S.L. 1971, ch. 511, § 1.

Note.

The Disaster Relief Act of 1974 (P.L. 93-288, 88 Stat. 143, 42 U.S.C. § 5121 et seq.) substantially repealed the Disaster Relief Act of 1970 referred to in this section.

CHAPTER 54-44.1

OFFICE OF THE BUDGET

Section

54-44.1-01. Definition.
54-44.1-02. Office of the budget — Director — Employees — Powers.
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54-44.1-04. Budget estimates of budget units filed with the office of the budget — Deadline.
54-44.1-05. Federal aid budget requests — Filed with the office of the budget.
54-44.1-06. Preparation of the budget data — Contents.
54-44.1-07. Presentation of budget data — How presented to the legislative assembly.
54-44.1-08. Budget report — Contents — When submitted to legislative assembly.
54-44.1-09. All expenditures must be appropriated.
54-44.1-10. Payments made pursuant to law only.
54-44.1-11. Office of management and budget to cancel unexpended appropriations — When they may continue.
54-44.1-12. Control over rate of expenditures.
54-44.1-13. Budget requests for legislative and judicial branches.
54-44.1-14. Biennial report to legislative assembly.

54-44.1-01. Definition. As used in this chapter, unless the context otherwise requires, the term "budget unit" means a department, institution, board, commission, agency, or other unit of government for which separate or distinct appropriations are made.

Source: S.L. 1965, ch. 358, § 1.

Collateral References.

States ⇐ 121.

72 Am. Jur. 2d, States, Territories, and Dependencies, § 75.

81A C. J. S. States, § 203.

54-44.1-02. Office of the budget — Director — Employees — Powers. The office of the budget is hereby established in the office of management and budget, for the purpose of promoting economy and efficiency in the fiscal management of the state government. The director of the office of management and budget shall be ex officio director of the budget.

The director of the budget shall appoint a budget analyst who shall hold a baccalaureate degree from a recognized institution of higher learning and such appointment shall be based upon the qualifications of eligible persons, without reference to partisan politics. Special consideration shall be given to persons who hold a degree in law, political science, business administration, or a combination thereof and who are experienced in governmental processes. The budget analyst shall serve at the pleasure of the director of the budget. The budget director shall employ such other professional, technical, and clerical personnel as he may deem necessary to carry out the duties prescribed in this chapter and shall fix the salary of all employees within the office of the budget and within the limits of the legislative appropriations. All personnel within the office of the budget shall be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

Source: S.L. 1965, ch. 358, § 2.

Cross-References.

Claims against state, budget office to assume functions of auditing board, see § 54-14-01.1.

54-44.1-03. Powers and duties of the director of the budget. The director of the budget, or such subordinate officer as he shall designate shall:

1. Be vested with the duties, powers, and responsibilities involved in securing budget estimates and work programs from the several departments and agencies of the state government.
2. Be vested with the duties, powers, and responsibilities involved in the preparation of revenue and fixed expense estimates.
3. Develop financial policies and plans as the basis for budget recommendations to the legislative assembly, and prepare detailed documents in accordance with such financial policies and plans for presentation to the legislative assembly.
4. Coordinate the fiscal affairs and procedures of the state to assure the carrying out of the financial plans and policies approved by the legislative assembly.
5. Exercise continual control over the execution of the budget affecting the departments, institutions, and agencies of the executive branch of the state government involving approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and control of the rate of expenditures through a system of semiannual, quarterly, or monthly allotments.
6. Investigate, examine, and make exhaustive studies:
   a. Of the structure and operation of the entire executive branch of government and of every office, institution, and agency thereof.
   b. Of all the functions, duties, and services of all executive branch offices, departments, institutions, industries, boards, bureaus, and commissions.
   c. Of all the books, or agency of th whether their po sound, necessary,
7. Develop a long-term by the legislative ass
8. Have the authority agencies, and emplo the preparation and
9. Provide such assista be available to assis information or mate ble at all times to t designees.
10. Perform all other ne chapter and of chapte

Source: S.L. 1965, ch. 358, 110, § 10.

54-44.1-04. Budget est the budget — Deadline. fifteenth of each year next shall submit to the office o of his budget unit for the manner prescribed by the as is required by the offic head of the budget unit wi bear the approval of the bo a board or commission is c cretion may extend the fi is some circumstance whic sion. If a budget unit has ments by the required da director of the budget, the unit's estimate of financia exceed ninety percent of su The director of the budget shall examine the estimate reasonable opportunity f requested, shall grant to th shall be open to the public.

Source: S.L. 1965, ch. 358, § 539, § 1.

Cross-References.

Budget of North Dakota firemen tion, see § 18-03-05.

Budget of state highway depar § 24-02-09.

54-44.1-05. Federal aid the budget. Every agency

c. Of all the books, records, and methods of accounting of each office or agency of the executive branch to ascertain and determine whether their policies, practices, and systems of accounting are sound, necessary, practical, and efficient.

7. Develop a long-term capital improvements budget for consideration by the legislative assembly.
8. Have the authority to procure from the various officers, departments, agencies, and employees such information as may be necessary for the preparation and execution of the budget.
9. Provide such assistance as the legislative assembly may request and be available to assist its appropriations committees with any needed information or material and make its records and information available at all times to the legislative assembly and its committees and designees.
10. Perform all other necessary duties to carry out the provisions of this chapter and of chapter 54-14.

Source: S.L. 1965, ch. 358, § 3; 1973, ch. 110, § 10.

54-44.1-04. Budget estimates of budget units filed with the office of the budget — Deadline. The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget, estimates of financial requirements of his budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The estimates so submitted shall bear the approval of the board or commission of each budget unit for which a board or commission is constituted. The director of the budget in his discretion may extend the filing date for any budget unit if he finds there is some circumstance which makes it advantageous to authorize the extension. If a budget unit has not submitted its estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the budget shall prepare such budget unit's estimate of financial requirements except such estimate shall not exceed ninety percent of such budget unit's previous biennial appropriation. The director of the budget or such subordinate officer as he shall designate shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which shall be open to the public.

Source: S.L. 1965, ch. 358, § 4; 1981, ch. 539, § 1.

Cross-References.

Budget of North Dakota firemen's association, see § 18-03-05.

Budget of state highway department, see § 24-02-09.

Decisions under Prior Law.

Heads of state hail insurance fund, state bonding fund, state fire and tornado fund, and workmen's compensation fund had duty of filing statements of funds needed as prescribed by former section 54-15-05. Langer v. State (1939) 69 ND 129, 284 NW 238.

54-44.1-05. Federal aid budget requests — Filed with the office of the budget. Every agency of the state government when making requests

for budgets to be submitted to the federal government for funds, equipment, material, or services shall have such request or budget filed in the office of the budget before submitting it to the proper federal authority. When such federal authority has approved the request or budget, in whole or in part, the agency of the state government shall resubmit it to the office of the budget for recording before any allotment or encumbrance of the federal funds can be made.

Source: S.L. 1965, ch. 358, § 5.

from treasurer of agricultural college, see § 15-12-06.1.

Cross-References.

Budget director to receive quarterly reports

54-44.1-06. Preparation of the budget data — Contents. The director of the budget, through the office of the budget, shall prepare budget data which shall contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by such detailed schedules of assets and liabilities as the director of the budget deems desirable, which shall include, but not be limited to, the following:
   a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
   b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

   Summary statements may include, but not be limited to, a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.
2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statements of revenue and estimated revenue shall be classified by sources and by budget unit collecting them. Existing sources of revenue shall be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue shall be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the

prescribed classificatio
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explanation of the fun
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ommended, with such
data as to work done,
sidered necessary or d
ing construction proje
there shall be shown
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expended in each ensu
Capital outlay needs
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5. A detailed statement s
be raised or appropria
debt of the state and
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tion and payment of th
6. A summary statement
to be available at the
mated revenue of the
ommended amounts o
for the next biennium
tures exceeds the tota
as to how the deficien
additional revenue.
7. Drafts of a proposed ge
tions acts embodying
governor for appropria
revenues and other act
effect the proposed fina
ation for each budget
the general appropriati
8. Such other information
or as is required by law

Source: S.L. 1965, ch. 358, § 6; 562, § 1.

54-44.1-07. Presentation
islative assembly. The direc
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the budget and revenue prop
available sufficient copies th
council. The budget data sha
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prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there shall be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with such descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there shall be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.

5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of a proposed general appropriations act and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium, and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit shall be specified in a separate section of the general appropriations act.
8. Such other information as the director of the budget deems desirable or as is required by law.

Source: S.L. 1965, ch. 358, § 6; 1979, ch. 562, § 1.

54-44.1-07. Presentation of budget data — How presented to the legislative assembly. The director of the budget or his designated subordinate shall present the budget data information in section 54-44.1-06, including the budget and revenue proposals recommended by the governor, and make available sufficient copies thereof to the budget section of the legislative council. The budget data shall be completed and made available to the budget section of the legislative council, or its designee, in such form as may be acceptable to it by December first of each year next preceding the session of the legislative assembly, or at such later date as may be set by the budget

section chairman. The chairman of the budget section shall set the time and place at which such budget data is to be presented.

Source: S.L. 1965, ch. 358, § 7; 1969, ch. 448, § 26; 1981, ch. 540, § 1.

Decisions under Prior Law.

The budget of appropriations prepared by the auditor was an official record, of which the courts would take judicial notice. State ex rel. Wallace v. Jorgenson (1916) 34 ND 527, 159 NW 35.

54-44.1-08. Budget report — Contents — When submitted to legislative assembly. The official budget report shall be transmitted by the governor to all holdover legislators and legislators-elect not later than three days after the commencement of the session of the legislative assembly. Such report is not a third-class item under section 46-02-05. The budget director shall provide for the duplication or other satisfactory reproduction or printing of the official budget report, so as to ensure delivery of same as provided in this section. Such reports shall contain the budget and revenue proposals recommended by the governor and the information required in subsections 1, 2, 3, 5, and 6 of section 54-44.1-06 and all other data and information as the governor shall decide. The budget director shall make available any and all information regarding budget data to the governor, the legislative assembly and its designees, legislators, and to the governor-elect as may be requested. The governor may present any additional budget information in any manner to the legislative assembly as he may desire.

Source: S.L. 1965, ch. 358, § 8; 1967, ch. 393, § 1; 1973, ch. 430, § 1.

54-44.1-09. All expenditures must be appropriated. All expenditures of the state and of its budget units of moneys drawn from the state treasury shall be made under authority of biennial appropriations acts, which shall be based upon a budget as provided by law, and no money shall be drawn from the treasury, except by appropriation made by law as required by section 12 of article X of the Constitution of North Dakota.

Source: S.L. 1965, ch. 358, § 9.

54-44.1-10. Payments made pursuant to law only. No payment shall be made and no obligation shall be incurred against any appropriation unless such payment or obligation has been authorized as provided by law. Every official authorizing payments in violation of this chapter shall be subject to the penalties and provisions of chapter 12.1-23.

Source: S.L. 1965, ch. 358, § 10; 1977, ch. 496, § 1.

54-44.1-11. Office of management and budget to cancel unexpended appropriations — When they may continue. The office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations, which shall have remained undrawn after the expiration of the biennial period during which they became available under the law. The chairman of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations

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2. Major repair or improve
3. Purchases of new equip
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4. The purchase of land by
where the total purchase

Source: S.L. 1965, ch. 358, § 11; 563, § 1.

54-44.1-12. Control over
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appropriated.

Source: S.L. 1965, ch. 358, § 12; 394, § 1.

54-44.1-13. Budget requ
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Source: S.L. 1965, ch. 358, § 13.

54-44.1-14. Biennial repo
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or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase where the total purchase price is within the authorized appropriation.

Source: S.L. 1965, ch. 358, § 11; 1979, ch. 563, § 1.

54-44.1-12. Control over rate of expenditures. The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of the executive branch of the state government. Execution shall mean the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of semiannual, quarterly, or monthly allotments. Before an allotment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director must find one or more of the following circumstances to exist:

1. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.
2. The payment or the obligation incurred is not authorized by law.
3. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, documents, or other reliable evidence available.
4. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of the purpose of the appropriation at a lesser amount than that appropriated.

Source: S.L. 1965, ch. 358, § 12; 1967, ch. 394, § 1.

54-44.1-13. Budget requests for legislative and judicial branches. The budget requests and expenditures for the legislative and judicial branches of this state shall not be subject to the provisions of this chapter and such budget requests shall be submitted directly to the legislative assembly with informational copies of such budgets provided to the director of the budget not later than November fifteenth in each year preceding a session of the legislative assembly.

Source: S.L. 1965, ch. 358, § 13.

54-44.1-14. Biennial report to legislative assembly. The director of the budget or such member of that office as he shall designate may prepare

and transmit to the governor and upon approval by him may transmit to the members of the legislative assembly at least sixty days prior to the commencement of an ensuing legislative session a report which shall contain definite and specific proposals and recommendations to accomplish the following purposes:

1. To simplify the governmental structure of the state so as to render it more economical and efficient.
2. To eliminate all obsolete and unnecessary offices, departments, institutions, boards, bureaus, and commissions of the state.
3. To consolidate the functions, services, and activities of state offices and agencies thereof so as to eliminate duplication of service and expense wherever it exists.
4. To correlate the functions and services of the several offices and agencies of the state government.
5. To eliminate obsolete methods, unnecessary functions and services carried on by the state government and to render those functions and services which are determined to be absolutely essential and more economical and efficient.

Source: S.L. 1965, ch. 358, § 14.

CHAPTER 54-44.2

OFFICE OF CENTRAL DATA PROCESSING

Section
54-44.2-00.1. Definitions.
54-44.2-01. Office of central data processing — Creation.
54-44.2-02. Office of central data processing — Powers and duties.
54-44.2-03. Acquisition of data processing equipment.
54-44.2-04. Appointment of data processing coordinators.
54-44.2-05. Repealed by S.L. 1979, ch. 565, § 1.
54-44.2-06. Secrecy provision.

54-44.2-00.1. Definitions. As used in this chapter:

1. "Data processing" or "electronic data processing" means the systematic sequencing of operations performed by data processing equipment or programs, or both, upon data stored or entered in alphabetic, numeric, or alphanumeric format.
2. "Data processing equipment" means an electronic device or associated devices, except calculators and stand-alone noncommunicating word processors, which perform logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all compiling and related input, output, and storage, equipment, programs and procedures, and data processing communications facilities.
3. "Word processing" means the textual formatting, correcting, editing, and rearranging of language elements, designed to convey full messages in English syntax, through manipulation of electronic or magnetic impulses. "Word processors" are devices on which word processing can be carried out.

Source: S.L. 1981, ch. 539, § 2.

54-44.2-01. Office of of central data processing and budget. The director appoint a director of cen processing shall supervise of all of the executive bra boards, except the job se general. The office of cen data processing center wh by all executive branch st the institutions under the service North Dakota, an central data processing sh tive and judicial branches cessing is unable to fulf judicial branch of governi tive or judicial branch wit

The director of central of education, experience, administration, without the pleasure of the direc director of central data technical, and clerical pe the duties prescribed in legislative appropriation, of central data processin processing shall be allow the same rate as for other

Source S.L. 1969, ch. 454, 539, § 3.

54-44.2-02. Office of The office of central data p

1. Provide systems des vices.
2. Design, plan, justif within and between office of central data
3. Have the authority or replace, including be necessary to carry branch department, under the control o North Dakota, and t director of central d written request for processing applicatio cations to existing to increase the cost

condition and results of operation of the State of Oregon in accordance with current, generally accepted accounting principles and such other financial and statistical information as may be necessary to completely and accurately disclose the financial condition and financial operations of the state and its various agencies. The financial statements shall include, but not be limited to, such information as may be found in a balance sheet, a statement of changes in fund balances, statement comparing budgeted and actual revenues and expenditures, statement of changes in financial position and a statement of operations. The financial statements shall compare the current fiscal year and, if it is the second year of the biennium, the first year thereof, and each fiscal year of the preceding biennium.

(2) As used in subsection (1) of this section, generally accepted accounting principles shall mean those accounting principles sanctioned by recognized authoritative bodies such as the National Council on Governmental Accounting, the American Institute of Certified Public Accountants, the Financial Accounting Standards Board or their successor

(3) The first financial report required by subsection (1) of this section shall be prepared for the biennium ending June 30, 1979. [1977 c.897 §1]

Note: 291.040 and 291.042 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

291.042 Use of data processing programs, information and materials; approval by legislature. (1) Subject to the approval of the Joint Legislative Committee on Data Processing, the Data Systems Division of the Executive Department:

(a) May obtain copyrights and patents on copyrightable or patentable data processing programs, information or materials developed, published or produced by state agency staff.

(b) May cause to have sold, leased, or otherwise made available such data processing programs, information or materials to any agency or legislative body of any state or the Federal Government under such terms and conditions as may be agreed to by the committee and the agencies.

(2) Moneys collected under this section shall be credited to the General Fund and are available for general governmental purposes. [1979 c.740 §3]

Note: See note under 291.040.

STATE BUDGET; BUDGET REPORT

291.202 Budget report of Governor; department to assist Governor in preparation. Except as otherwise provided in ORS 291.222, the Governor shall prepare in each even-numbered year a budget report for the biennium beginning July 1 of the following year. The Executive Department shall advise and assist the Governor in the preparation of his budget report and shall perform such duties in connection therewith as the Governor requires. [Amended by 1969 c.464 §2]

291.204 Prescribing forms for submitting budget estimates and requests for appropriations; furnishing budget forms to agencies. The department, by July 1 of each even-numbered year, shall furnish every state agency with a sufficient number of forms for its use in preparing for submission to the Governor the information required by the Governor in the preparation of his budget report. The Governor shall prescribe the forms to be used by the agencies in submitting their budget estimates and requests for appropriations as required by ORS 291.208.

291.206 Guidance of agencies in completing budget forms. (1) The Governor shall prescribe such rules and regulations as he deems necessary for the guidance of agencies in the preparation of the budget estimates and requests. The Governor, with the approval of the Secretary of State, shall prepare and prescribe classifications of expenditures and revenue for the purpose of budget-making and accounting.

(2) In so far as practicable, agency budget estimates and requests and appropriation measures shall be prepared in a manner that reflects state governmental organization and state agency duties, functions and powers under the law in effect on January 1 of the following year. The Executive Department shall maintain agency budget estimates and requests in the form in which they are submitted. [Amended by 1969 c.173 §1]

291.208 Filing budget forms with department; preparing requests for agencies failing to file. Each state agency shall file with the department, before September 1 in each even-numbered year, on the form and in the manner required, its budget forms

containing the information required. The department shall prepare budget estimates and requests for appropriations for all agencies that fail to file requests.

291.210 Preparing tentative budget plan. The department, in connection with its direct studies of the operations, plans and needs of state agencies and of the existing and prospective sources of income, shall prepare a tentative budget plan for the two fiscal years for which a budget report is required to be prepared.

291.212 Revising budget plan; transmitting budget forms and tentative budget report to Governor. Upon receipt of the budget forms, the department shall check the agencies' estimates in the light of the tentative budget plan and shall make such further inquiries and investigations as the Governor requires and revise its tentative budget plan accordingly. The department then shall transmit to the Governor the budget forms filed with it by the state agencies and the revised tentative budget report.

291.214 Governor to examine budget forms and revise tentative budget report. The Governor, during the preparation of the budget report and before its submission to the Legislative Assembly, shall examine the budget forms filed by the various agencies. He may make or cause to be made such further investigations by the department, with such hearings before him or any state agency, as he deems advisable, and may make such changes or revisions in policy and program and in specific details of the tentative budget report as he finds warranted.

291.216 Governor's budget report. (1) Not later than November 10 of each even-numbered year the Governor shall cause the budget report to be compiled and prepared for printing.

(2) The budget report shall include a budget message prepared by the Governor, including his recommendations with reference to the fiscal policy of the state government for the coming biennium, describing the important features of the budget plan, embracing a general budget summary setting forth the aggregate figures of the budget report so as to show a balanced relation between the total proposed expenditures and the total anticipated income, with the basis and factors on which the estimates are made, the amount to be borrowed, and other means of financing the estimated expenditures for the ensuing biennium, compared with the corresponding figures for at least the last completed biennium and the current biennium.

(3) The budget plan shall be supported by explanatory schedules or statements, classifying the expenditures reported therein, both past and proposed, by organization units, objects and funds, and the income by organization units, sources and funds, and the proposed amount of new borrowing as well as proposed new tax or revenue sources.

(4) The budget plan shall be submitted for all dedicated funds, as well as the state General Fund, and shall include the estimated amounts of federal and other aids or grants to state agencies or activities provided for any purpose whatever, together with estimated expenditures therefrom.

(5) The budget report shall embrace the detailed estimates of expenditures and revenues. It shall include statements of the bonded indebtedness of the state government, showing the actual amount of the debt service for at least the past biennium, and the estimated amount for the current biennium and the ensuing biennium, the debt authorized and unissued, the condition of the sinking funds and the borrowing capacity. It shall also contain any statements relative to the financial plan which the Governor may deem desirable or which may be required by the legislature.

291.218 Printing budget report; transmitting to members of legislature; distribution. Except when the Governor under whose supervision the budget report has been prepared will be succeeded in office in January next following:

(1) The department shall have as many copies of the approved budget report printed as the Governor directs.

(2) Not later than December 1 of each even-numbered year, the Governor shall transmit a copy thereof to each member of the legislature who is to serve during the next session.

(3) Upon request, the Governor shall distribute copies free of charge, under such regulations as he may establish, to public libraries, schools and state officials. He shall make copies available to the general public at a reasonable charge for each copy. [Amended by 1959 c.140 §1; 1967 c.302 §1]

291.220 Furnishing information and assistance to legislature. The Governor, upon request, shall furnish the Legislative Assembly any further information required concerning the budget report. The department, upon request, shall furnish a representative to assist the Legislative Assembly, its Joint Committee on Ways and Means, appointed under ORS 171.555, and the Legislative Revenue Officer in the consideration of the budget report and any accompanying measures. [Amended by 1969 c.173 §2; 1975 c.789 §8]

291.222 Furnishing information and assistance to Governor-elect; revision of budget report. If the Governor under whose supervision the budget report has been prepared will be succeeded in office in January next following:

(1) The department shall make available to the Governor-elect so much as he requests of the information upon which the tentative budget report is based, and upon completion of the tentative budget report shall supply him with a copy thereof but shall not cause the tentative budget report to be printed and distributed. The department shall also make available to him all facilities of the department reasonably necessary to permit him to review and familiarize himself with the tentative budget report.

(2) After a review of the tentative budget the Governor-elect may prepare revisions and additions thereto. The department shall assist, upon request, in the preparation of such revisions or additions.

(3) The department shall have as many copies of the revised budget report printed as the Governor-elect requests.

(4) Not later than the convening of the next Legislative Assembly the department shall transmit a copy of a summary of the revised budget report containing the revenue and expenditure recommendations of the Governor-elect and not later than February 1 shall transmit a copy of the revised budget report to each member of the Legislative Assembly.

(5) Upon request, the department shall distribute copies of the revised budget report free of charge, under such regulations as it may establish, to public libraries, schools and state officials. It shall make copies of the revised budget report available to the general public at a reasonable charge for each copy. [Amended by 1967 c.302 §2; 1969 c.464 §3]

291.223 Furnishing agency budget estimates to Legislative Fiscal Officer and Legislative Revenue Officer; confidentiality of estimates. (1) Not later than November 10 of each even-numbered year the Governor shall cause the agency budget estimates and requests as described in ORS 291.206 to be made available to the Legislative Fiscal Officer and to the Legislative Revenue Officer.

(2) Before December 1 of the year in which they were made available under subsection (1) of this section, the Legislative Fiscal Officer or his staff and the Legislative Revenue Officer or his staff shall not reveal to any other person the contents or nature of the budget reports and other materials, except with the written consent of the Governor. [1969 c.173 §4; 1975 c.789 §9]

291.224 Capital construction program to be included in budget report; recommendation of Capitol Planning Commission. (1) A capital construction program containing estimated capital construction needs, irrespective of how financed, shall be included with the budget report required by ORS 291.216. The capital construction program shall contain the estimated physical construction requirements for each biennium of a period to be determined by the Governor, which period shall not be less than six years. The department shall assist the Governor in the preparation of the capital construction program.

(2) Except as otherwise provided in subsection (3) of this section and in accordance with regulations prescribed by the department, state agencies shall submit to the department their anticipated capital construction requirements for the period specified by the Governor. The department shall prescribe the basic assumptions relating to population changes, economic trends and other factors which might generally affect capital construction requirements and these basic assumptions shall be used by the state agencies in preparing their anticipated capital construction requirements. Each state agency is responsible for the basic assumptions which affect only its own program. The department shall prepare estimated capital construction requirements for any necessary capital construction not covered by the capital construction requirements submitted by the state agencies under this section.

(3) Each state agency, including the department, required under subsection (2) of

this section to submit or prepare anticipated or estimated capital construction requirements, shall submit a copy of such requirements that relate to construction or improvements within the areas described in ORS 276.028 to the Capitol Planning Commission at a time specified by the Capitol Planning Commission, but not later than August 1 of each even-numbered year. The Capitol Planning Commission shall review capital construction requirements submitted as required by this subsection and, not later than November 1 of each even-numbered year, make recommendations to the department with respect to such capital construction proposals.

(4) In accordance with regulations prescribed by the department, each state agency shall separately submit its estimated office space requirements for the period specified by the Governor; and the department shall consolidate those needs and make an estimate for all state office buildings to be included in the capital construction program.

(5) The Governor shall consolidate the estimates, review all of them and make such revisions as he finds warranted.

(6) The budget report shall include the proposed expenditures for the capital construction program for the ensuing biennium and the proposed expenditures for preliminary planning of the construction projects included in the capital construction program for the biennium following the ensuing biennium. The budget report shall also include dollar estimates of the cost of the capital construction projects included in the capital construction program for the succeeding years of the period determined by the Governor under subsection (1) of this section and the recommendations submitted to the department pursuant to subsection (3) of this section.

(7) As used in this section, "capital construction program" does not include the acquisition, repair, improvement, enlargement, construction or maintenance of highways and highway bridges, or park improvements, by the Department of Transportation. [1959 c.500 §1; 1973 c.129 §5]

291.226 Budget item to replace lost and unrecovered public funds or property. When there has been a failure to recover a loss of public funds or property pursuant to ORS 297.120, the state agency sustaining the loss shall include the amount of the loss in its budget estimate and request for the following biennium clearly marked as to purpose, and the Governor shall include such item in his budget report for the consideration of the Legislative Assembly. [1963 c.617 §3]

ALLOTMENTS

291.232 Declaration of policy. It is declared to be the policy and intent of the Legislative Assembly that the total appropriations made by it, or the total of any budget approved by it, for any state agency, shall be deemed to be the maximum amount necessary to meet the requirements of such agency for the biennium, excepting as may otherwise be provided by law, and that the Governor and the Executive Department are given the powers granted by ORS 291.202 to 291.222 and 291.232 to 291.260 in order that savings may be effected by careful supervision throughout each biennium, with due regard to changing conditions, and by promoting more economic and efficient management of state agencies.

291.234 Department to make allotments to state officers and agencies of appropriations and funds; allotment period. (1) The department shall make allotments to state officers and agencies of appropriations and funds pursuant to the allotment system provided for in ORS 291.234 to 291.260.

(2) For the purposes of the allotment system, each fiscal year shall be divided into four quarterly allotment periods, beginning, respectively, on the first days of July, October, January and April. However, in any case where the quarterly allotment period is impracticable, the department may prescribe a different period suited to the circumstances, not exceeding six months nor extending beyond the end of the biennium.

291.236 Allotment system applicable to all appropriations; controlling expenditures and encumbering of emergency, contingent, revolving and trust funds. (1) The provisions of ORS 291.234 to 291.260 relating to the allotment system shall apply to all appropriations for state officers and agencies. For this purpose "appropriation" includes standing, continuing and annual appropriations, and dedicated funds. In those cases where periodical allotments are impracticable, the department may dispense therewith and prescribe such regulations as will insure proper application and encumbering of funds.

(2) Subject to ORS 291.238, emergency or contingent funds, revolving funds and trust funds shall be subject to such regulations as

the department may prescribe for controlling the expenditures and encumbering of such funds.

291.238 Expenditures without allotment prohibited; expenditures from dedicated, revolving and trust funds. (1) Except as expressly authorized in this section or ORS 291.236, no person shall incur, or order or vote to incur, any obligation against the state in excess of, or make or order or vote to make any expenditure not authorized by, an allotment. Any such obligation so incurred shall not be binding against the state, but where the obligation violates this section only for having been made in excess of an allotment, the department may authorize payment thereof from unallotted funds.

(2) Excepting as to administrative expenditures from dedicated, revolving and trust funds and to revolving funds established to provide services rendered by any state agency to other state agencies or to any body politic of the State of Oregon, expenditures from dedicated funds, revolving funds and trust funds may be made by any state agency without appropriation or allotment.

(3) No person shall make or order or vote to make any expenditure from or chargeable to a revolving fund or trust fund in excess of the amount standing to the credit of such fund or for any purpose for which such fund may not lawfully be expended.

291.240 [Repealed by 1953 c.168 §4]

291.242 Allotment required before expenditure of appropriation; submitting estimates. No appropriation to which the allotment system is applicable shall become available to any state agency for expenditure thereby during any allotment period until:

(1) The agency submits to the department an estimate, in such form as the department prescribes, for such allotment period, of the amount required for each activity to be carried on during that period; and

(2) The estimate is approved, increased or decreased by the department and funds allotted therefor.

291.244 Department action on estimates. The department shall act promptly upon all estimates required by ORS 291.242. If the estimate is within the terms of the appropriation as to amount and purposes, having due regard for the probable further needs of the agency for the remainder of the term for which the appropriation was made, and if the department determines that there is a need for the estimated amount for the allotment period, the department shall approve the estimate and allot the estimated amount for expenditures. Otherwise the department shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the agency, and shall reduce the amount allotted accordingly.

291.246 Allotments to be made for purpose or classification of expenditure prescribed in appropriation measure. Allotments shall be made according to purpose and classification of expenditures prescribed in the appropriation measure as enacted by the Legislative Assembly; provided, however, that the department may make allotments for agencies by purposes or by other classification of expenditures of amounts appropriated or authorized to be expended in appropriation measures enacted by the Legislative Assembly, whether or not such measures establish classification of expenditures. In making allotments, the department shall not authorize the expenditure of moneys for any purpose not authorized by the Act appropriating the money or authorizing it to be expended, and the funds allotted for each purpose or classification of expenditure shall be used for no other purpose or classification of expenditure. [Amended by 1963 c.432 §7]

291.248 Notice of allotment. Upon the granting of any allotment, the department shall transmit a notice of the allotment to the agency concerned.

291.250 Claims and encumbrances limited by amount and purpose of allotment. The agency shall not create any claim or encumbrance for the future disbursement of appropriated moneys unless the proposed expenditure as estimated, together with expenses theretofore paid from or encumbered against such allotment, is within the total amount and for the purposes specified in the notice of allotment transmitted to such agency.

291.252 Modifying allotment previously made. The department may at any time modify or amend any allotment previously made by it, upon application of, or upon notice to, the agency concerned, but no such modification or amendment shall reduce an allotment below the amount required to meet

valid obligations or commitments previously incurred against the allotted funds.

291.254 Reducing allotment to prevent deficit. If the department determines at any time that the probable receipts from taxes or any other sources for any appropriation will be less than was anticipated, and that consequently the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor, the department shall, with the approval of the Governor, and after notice to the agency or agencies concerned, reduce the amount allotted or to be allotted so as to prevent a deficit.

291.256 [Repealed by 1959 c.608 §1]

291.258 Approval of department required for establishment of new personnel position or classification. A new personnel position or classification, not provided in the budget of an agency upon which appropriations have been based, shall not be established without prior approval of the department.

291.260 Approving, modifying or disapproving requests and budgets to be submitted to the Federal Government. Every state agency, when making requests or preparing budgets to be submitted to the Federal Government for funds, equipment, materials or services, other than for highway purposes, and purposes for which the state was legally committed on August 2, 1951, shall, upon completion of such request or budget, first submit it to the department. The department shall have authority to approve, disapprove, modify or amend any such request or budget before it is submitted to the proper federal authority.

291.262 [1963 c.182 §6; 1965 c.111 §1; repealed by 1969 c.488 §3]

ALLOCATION OF GOVERNMENTAL SERVICE EXPENSES

291.272 Definitions for ORS 291.272 to 291.280. As used in ORS 291.272 to 291.280, unless the context requires otherwise:

(1) "Administrative expenses" has the meaning defined by ORS 291.305.

(2) "Department" means the Executive Department.

(3) "Governmental service expenses" means the expenses of state government that are attributable to the operation, maintenance, administration and support of state government generally, and includes the following:

(a) Expenditures of the State Treasurer supported out of the General Fund incurred in the administration of the duties of his office, but not including the Inheritance and Gift Tax Divisions.

(b) Expenditures of the Department of Justice incurred in the administration of its duties, other than those of the Support Enforcement Division.

(c) Administrative expenses of the Executive Department supported out of the General Fund.

(d) One-half of the expenditures of the Legislative Assembly out of moneys appropriated from the General Fund, and all of the expenditures incurred in the administration of the duties of the Emergency Board.

(e) One-half of the expenditures incurred in the administration of the duties of the Joint Committee on Ways and Means and the Emergency Board.

(f) One-half of the expenditures incurred out of moneys appropriated from the General Fund in the administration of the duties of the Legislative Counsel Committee.

(g) Expenditures of the Secretary of State in the administration of the office of the State Archivist.

(4) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, and includes the Legislative Assembly, the courts and their officers and committees. [1967 c.637 §2; 1973 c.439 §9]

291.274 Determination of funds and appropriations to be assessed. The department shall determine and may at any time redetermine which state funds or appropriations shall be assessed a reasonable share of governmental service expenses. In determining or redetermining the funds that shall be so assessed:

(1) A fund consisting of moneys the use of which is restricted by the Oregon Constitution shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes set forth in the Oregon Constitution.

(2) Trust funds shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes for which the trust fund was established. [1967 c.637 §3]

291.276 Department to allocate governmental service expenses among state agencies. (1) With respect to each biennium beginning on July 1 of an odd-numbered year, commencing July 1, 1971, the department shall allocate among all state agencies the governmental service expenses, as determined by the department in accordance with ORS 291.272, for the biennium ending two years prior to the beginning of the biennium for which the allocation is made.

(2) The department, in accordance with the procedures and methods prescribed under subsection (3) of this section, shall determine and may at any time redetermine the reasonable share of governmental service expenses to be assessed against any fund or appropriation. Such expenses shall be a charge against any fund so designated and be considered an administrative expense of the agency administering the fund or appropriation.

(3) The department, with the approval of the Governor, shall prepare and prescribe the procedures and methods used in determining and redetermining the reasonable share of governmental service expenses assessed against any fund or appropriation.

(4) The department, with the approval of the Governor, may make rules necessary or proper to carry out the duties imposed upon it by ORS 291.272 to 291.280.

(5) The computation required by subsection (1) of this section shall be made by the department in advance of the biennium with respect to which the allocation is to be made. [1967 c.637 §4; 1969 c.105 §1]

291.278 Transfer of allocated amounts to General Fund. (1) Upon completion of the determination by the department under ORS 291.274 and 291.276, the department shall transfer to the General Fund, with appropriate notice to the State Treasurer, out of moneys appropriated to each state agency, the amount of governmental service expenses so certified for the agency.

(2) In the case of a state agency that collects or receives moneys for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes, moneys available to such state agency are not sufficient to permit the transfer under subsection (1) of this section, the department shall notify the state agency of the amount certified with respect to the state agency under ORS 291.274 and 291.276, less any amount transferred out of moneys appropriated to such state agency under subsection (1) of this section. Thereafter, until such balance has been paid into the General Fund, 10 percent of all moneys collected or received by the state agency for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes shall be:

(a) Transferred by the department to and made a part of the General Fund available for general governmental purposes if such moneys are paid to the State Treasurer by the state agency; or

(b) Paid to the State Treasurer by the state agency receiving such moneys at the time when they are received by the state agency if such moneys are authorized by law to be kept and disbursed other than by and through the State Treasurer, and be credited by the State Treasurer to and made a part of the General Fund available for general governmental purposes.

(3) The transfer and payment to the General Fund required by this section shall be made notwithstanding any law that appropriates such moneys or any of them to any other purposes, and such portion so paid and transferred is not subject to any special uses thereby provided. [1967 c.637 §5]

291.280 Receipts by State Treasurer for transferred moneys. In receipting for moneys paid and transferred under ORS 291.278 (2), the State Treasurer shall make his receipt in duplicate, showing the amount credited to the General Fund available for general governmental purposes as well as the amount credited to any special fund or account. He shall file one of the duplicate receipts with the department. [1967 c.637 §6]

291.302 Repealed by 1953 c.386 §9]

291.304 Repealed by 1953 c.386 §9]

ACTS APPROPRIATING MONEY OR LIMITING EXPENDITURES

291.305 Meaning of "administrative expenses" in law appropriating money or limiting expenditures; limitation not ap-

propriation of money otherwise unavailable to agency. (1) As used in the laws enacted by the Legislative Assembly appropriating money or limiting expenditures, the term "administrative expenses" means, unless the context requires otherwise, those expenditures that are included under the classifications of expenditures, except debt service and special payments expenditure categories, which are prepared and prescribed, pursuant to ORS 291.206, for the purpose of budget-making and accounting during the biennium for which such laws appropriating money or limiting expenditures are enacted.

(2) In the laws enacted by the Legislative Assembly, the establishment of maximum limits for expenditures from, or for the payment of administrative expenses from, fees, moneys or other revenues collected or received by any agency is not intended as an appropriation of moneys not otherwise available to such agency. [1963 c.182 §§1, 3]

291.306 [Repealed by 1953 c.386 §9]

291.307 Appropriation from General Fund to constitute a credit only. An appropriation of any sum of money from the General Fund by any law shall not be considered as segregating or setting aside the amount of such appropriation from the moneys constituting the General Fund, but shall be considered and construed as constituting a credit in favor of the appropriation for the amount stated in the law making the appropriation, subject to allotment as provided in ORS 291.232 to 291.260. [Formerly 291.376]

291.308 [Repealed by 1953 c.386 §9]

291.310 [Repealed by 1953 c.386 §9]

EMERGENCY EXPENDITURES; EMERGENCY BOARD

291.322 Definitions for ORS 291.322 to 291.334. As used in ORS 291.322 to 291.334:

(1) "Emergency" means any catastrophe, disaster or unforeseen or unanticipated condition or circumstance, or abnormal change of conditions or circumstances, affecting the functions of a state agency and the expenditure requirements for the performance of these functions.

(2) "State agency" means any elected or appointed officer, board, commission, department, institution, branch or other agency of the state government. [1953 c.386 §1]

291.324 Emergency Board created. There hereby is created a joint committee composed of members of both houses of the Legislative Assembly, to be known as the Emergency Board. [1953 c.386 §2]

291.326 Powers of board concerning expenditures by state agencies. (1) The Emergency Board, during the interim between sessions of the Legislative Assembly, may exercise the following powers:

(a) Where an emergency exists, to allocate to any state agency, out of any emergency fund that may be appropriated to the Emergency Board for that purpose, additional funds beyond the amount appropriated to the agency by the Legislative Assembly, or funds to carry on an activity required by law for which an appropriation was not made.

(b) Where an emergency exists, to authorize any state agency to expend, from funds dedicated or continuously appropriated for the uses and purposes of the agency, sums in excess of the amount of the budget of the agency as approved in accordance with law.

(c) In the case of a new activity coming into existence at such a time as to preclude the possibility of submitting a budget to the Legislative Assembly for approval, to approve, or revise and approve, a budget of the money appropriated for such new activity.

(d) Where an emergency exists, to revise or amend the budgets of state agencies to the extent of authorizing transfers between expenditure classifications within the budget of an agency.

(2) No allocation, authorization or approval under paragraph (a), (b) or (c) of subsection (1) of this section shall be effective unless made at a meeting at which 10 members of the board were present.

(3) The laws enacted by the Legislative Assembly making appropriations and limiting expenditures, or either, are not intended to limit the powers of the Emergency Board. [1953 c.386 §3; subsection (3) enacted as 1963 c.182 §2; 1973 c.201 §2]

291.328 Board may require presentation of evidence to support requests for action; board to report its action to agencies concerned. Before the Emergency Board makes any allocation, grants any authorization or approves any budget under ORS 291.326, it may require the state agency in question to submit written evidence to justify the allocation, authorization or approval and

may require the head of the agency to appear before it in support thereof. The Emergency Board may also require the Director of the Executive Department to submit a written report as to the need and justification for the allocation, authorization or approval. Upon making an allocation, granting an authorization or approving a budget, the Emergency Board shall file with the department, the Secretary of State and the state agency in question a copy of the order of allocation, grant of authorization or approved budget. [1953 c.386 §4]

291.330 Members of board; confirmation. The Emergency Board shall be composed of the President of the Senate, the Speaker of the House of Representatives, the chairmen of the Senate and House Ways and Means Committees, six members of the Senate, at least three of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the President of the Senate and confirmed by a majority of all the members elected to the Senate, and seven members of the House, at least four of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the Speaker and confirmed by a majority of all the members elected to the House. [1953 c.386 §5; 1973 c.201 §1; 1979 c.324 §1]

291.332 Meetings of board; terms of members; filling vacancies on board. (1) The Emergency Board shall meet immediately upon adjournment of each Legislative Assembly and elect a chairman from their number. The board shall meet thereafter at such times as it may determine.

(2) The term of members of the board shall run from the adjournment of one regular session to the organization of the next regular session.

(3) If a vacancy occurs in the board, either the Speaker, if the legislator previously filling the position was a member of the House, or the President, if the legislator previously filling the position was a member of the Senate, shall fill such vacancy by an appointment for the unexpired term. However, such appointment, before becoming effective, shall be confirmed by the remaining members of the board, sitting as such board. [1953 c.386 §6]

291.334 Board authorized to secure assistance; payment of board expenses. (1) The Director of the Executive Department, upon request of the board, shall furnish necessary assistance to the board, or the board may employ such assistance as they may deem necessary.

(2) The expenses of the board, the cost of employed assistance, and other necessary expenses of the board shall be paid out of funds appropriated to the board specially for such purpose or, if no such appropriation is made, out of any emergency fund that may be appropriated to the board. All claims for those expenses and cost shall be approved by the chairman or other person authorized to approve claims, and warrants shall be drawn on the State Treasurer for the payment thereof in the same manner as other expenses are paid. [1953 c.386 §7; 1967 c.454 §96; 1975 c.530 §7]

291.336 Appropriation bills requiring approval of board before project commenced or contract let; how requirement met. (1) As used in this section, "appropriation bill" means a legislative Act which appropriates money or authorizes the expenditure of dedicated or continuously appropriated moneys or otherwise makes moneys available for expenditure.

(2) In all cases where an appropriation bill heretofore or hereafter passed provides that a state agency shall not commence any project or allow any contract to be let for any project without having the approval of the Emergency Board, such requirement may be met:

(a) During any period when the Legislative Assembly is in session, by the adoption of a resolution by each house approving the proposed action; or

(b) During any period when the Legislative Assembly is not in session, either by approval of the Emergency Board as provided in the appropriation bill, or by the elapse of 45 days without adverse action of the Emergency Board after notice of the proposed action has been given to each member of the Emergency Board at his last-known address. [1957 c.382 §1]

ESTIMATES OF STATE REVENUES

291.342 Annual estimation of state revenues; apportionment among counties of any state property tax levy necessary to make up deficiency; quarterly estimates. (1) By August 15 of each year, but not earlier than 90 days from the end of the regular session, if any, of the Legislative Assembly held in that calendar year, the Executive

Department, with the assistance of the Department of Revenue, shall:

(a) Ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year; and

(b) Apportion the state tax levy on property, if any, among the several counties in the manner provided in ORS 291.344.

(2) In addition to the requirement in subsection (1) of this section, the Executive Department with the assistance of the Department of Revenue shall for each calendar quarter of the year ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year, as well as the amount of revenue received quarterly, cumulated throughout the biennium, and report its estimate to the Legislative Revenue Officer and to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee on Ways and Means.

(3) In carrying out its duties under subsection (2) of this section, the Executive Department shall issue quarterly a statement setting forth the methodology and assumptions used in making the revenue estimate. Nothing in this subsection requires the statement to set forth procedures used or methods used to determine either the methodology or the assumptions. [Formerly 309.510; 1971 s.s. c.5 §3; 1975 c.789 §10; 1980 c.11 §1]

291.344 Procedure for computation, levy, offset and apportionment of state property tax levy. (1) The department shall proceed as prescribed in this section.

(2) The department shall prepare a statement, summarizing:

(a) All the items of expense or deficiency, including interest on unpaid warrants left over from the previous year, to which the state will be subject under existing laws for the fiscal year next after that year or period for which the last preceding levy of state revenues was computed and declared; and

(b) When the levy is made on the assessment of an even year, the estimated expense of one biennial session of the Legislative Assembly.

(3) There shall be segregated from the total of the items tabulated in accordance with subsection (2) of this section the amount necessary for the payment of bonded indebtedness and interest thereon, and this amount shall constitute the state tax levy on property.

(4) From the total of the items summarized in accordance with subsection (2) of this section, after the amounts segregated pursuant to subsection (3) of this section have been deducted, there shall be deducted, in the order listed in subsection (5) of this section, all miscellaneous receipts, including any surplus remaining in the State Treasury from all funds, however derived, excepting only the following:

(a) Funds whose use is restricted to particular purposes by the Constitution of Oregon.

(b) Funds whose use is restricted to particular purposes by federal law.

(c) All trust funds, as defined in ORS 291.002.

(5) (a) The department shall deduct first those miscellaneous receipts not excluded by paragraphs (a), (b) and (c) of subsection (4) of this section and not includable in the definitions of dedicated or revolving funds in ORS 291.002.

(b) If necessary, in order to provide revenue for all of the items summarized in subsection (2) of this section, the department shall then deduct as much as is necessary or available from any fund remaining in the State Treasury and not excluded by subsection (4) of this section. The department shall list these deductions in its records.

(6) The state tax levy on property segregated and levied pursuant to subsection (3) of this section shall be offset first by the application of miscellaneous receipts to the extent that they are not applied in accordance with subsection (4) of this section. Subject to the limitations of ORS 311.660, the amount of the state tax levy on property not offset by the foregoing application shall be apportioned among and charged to the several counties in that proportion which the total assessed value of all the taxable property in each county bears to the total assessed value of all the taxable property of the state as equalized.

(7) Immediately after the department has completed the computation, levy, offset and apportionment of the state tax levy on property in accordance with this section, a certificate thereof, signed by the director of the department, shall be filed in the office of the department. [Formerly 309.520; 1967 c.454 §97; 1981 c.804 §83]

291.348 Biennial estimate of General Fund revenues; certification to Secretary of State. (1) The department, with the assis-

tance of the Secretary of State, as soon as possible after June 30, 1966, and each even-numbered year thereafter, shall ascertain the total of General Fund revenues obtained from all sources during the preceding fiscal year, so far as is practicable.

(2) The Director of the Executive Department shall certify to the total of General Fund revenues during the preceding fiscal year as determined under subsection (1) of this section.

(3) As used in this section, "General Fund revenues" means all payments of money credited to the State Treasury that are placed or to be placed by the State Treasurer to the credit of the General Fund of the State of Oregon for general governmental purposes. [1965 c.615 §12; 1967 c.454 §98]

291.349 Revenue estimate; effect of revenue in excess of estimate. (1) As soon as practicable after adjournment sine die of the regular session of the Legislative Assembly, the Executive Department shall report to the Emergency Board the estimate as of July 1 of the first year of the biennium of General Fund revenues that will be received by the state during that biennium. The Executive Department shall base its estimate on the last forecast given to the Legislative Assembly before adjournment sine die of the regular session on which the printed, adopted budget prepared in the Executive Department is based, adjusted only in so far as necessary to reflect changes in laws adopted at that session. The report shall contain the estimated revenues from corporate income and excise taxes separately from the estimated revenues from other General Fund sources. The Executive Department may revise the estimate if necessary following adjournment sine die of any special or emergency session of the Legislative Assembly but any revision does not affect the basis of the computation described in subsection (3) or (4) of this section.

(2) As soon as practicable after the end of the biennium, the Executive Department shall report to the Emergency Board, or the Legislative Assembly if it is in session, the amount of General Fund revenues collected as of the last June 30 of the preceding biennium. The report shall contain the collections from corporate income and excise taxes separately from collections from other sources.

(3) If the revenues received from the corporate income and excise taxes during the biennium exceed the amounts estimated to be received from such taxes for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, the total amount of that excess shall be credited to corporate income and excise taxpayers in a percentage amount of corporate excise and income tax liability as determined under subsection (5) of this section. However, no credit shall be allowed against tax liability imposed by ORS 317.090.

(4) If the revenues received from General Fund revenue sources, exclusive of those described in subsection (3) of this section, during the biennium exceed the amounts estimated to be received from such sources for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, the total amount of that excess shall be credited in a percentage amount of income tax liability as determined under subsection (5) of this section.

(5) If there is an excess to be credited under either subsection (3) or (4) of this section, or both, on or before October 1, following the end of each biennium, the Executive Department shall determine and certify to the Department of Revenue the percentage amount of credit for purposes of subsection (3) or (4) of this section. The percentage amount determined shall be a percentage amount to the nearest one-tenth of a percent that will distribute the excess to be credited to either the corporate excise and income taxpayers or personal income taxpayers for taxable years beginning in the calendar year during which such excess is determined. The credit shall be computed after the allowance of any credit allowed or allowable under ORS chapter 316, 317 or 318, whichever may be applicable, and before the application of estimated tax payments, withholding or other advance tax payments. [1979 c.241 §30; 1981 c.885 §1]

Note: 291.349 and 291.355 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the preface to Oregon Revised Statutes for further explanation.

291.350 [1965 c.615 §13; repealed by 1971 c.544 §7]

291.352 [Renumbered 293.105]

291.354 [Amended by 1959 c.273 §7; 1961 c.280 §3; 1961 c.308 §2; renumbered 293.110]

RATE OF GROWTH OF APPROPRIATIONS

291.355 Rate of growth of appropriations for general governmental purposes. (1) Each biennium, growth of state governmental appropriations for general governmental purposes shall be no greater than the rate of growth of personal income in Oregon in the two preceding calendar years. The rate of growth shall be computed based on the U.S. Department of Commerce reports for the two preceding calendar years.

(2) For the 1979-1981 biennium, the base to which the rate of growth applies shall equal state governmental appropriations for general governmental purposes in the 1977-1979 biennium plus expenditures from non-General Fund sources that are to be funded in 1979-1981 out of the General Fund and less any General Fund expenditures in 1977-1979 that are to be funded in 1979-1981 from non-General Fund sources.

(3) In bienniums subsequent to the 1979-1981 biennium, the base shall be adjusted as necessary to reflect transfer of funding sources between General Fund sources and non-General Fund sources in order to maintain a base used for general governmental purposes.

(4) Debt service and tax relief other than that provided under ORS 310.630 to 310.690 shall not be considered appropriations for general governmental purposes. [1979 c.241 §29]

Note: See note under 291.349.

291.356 [Amended by 1963 c.333 §2; renumbered 293.115]

291.358 [Renumbered 293.120]

291.360 [Renumbered 293.125]

291.362 [Renumbered 293.130]

291.364 [Renumbered 293.135]

291.366 [Renumbered 293.140]

291.368 [Renumbered 293.145]

291.370 [Renumbered 293.150]

FISCAL MATTERS; LEGISLATIVE REVIEW

291.371 Approval of salary plan changes and unbudgeted new positions by legislative review agency required. (1) As used in this section, "legislative review agency" means the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session and the Emergency Board during the interim period between sessions.

(2) Prior to making any changes in a salary plan, establishing any new positions specifically not provided for in the budget of the affected agency or reclassifying any positions specifically provided for in the budget of the affected agency, the Executive Department shall submit the proposed changes to the legislative review agency. The proposed change shall only be approved and take effect if the legislative review agency finds that the affected agency can finance the proposed change within the limits of its biennial budget and that the proposed change conforms to legislatively approved salary policies. The effective date of the change shall be the date prescribed by the Personnel Division. [1973 c.49 §1]

291.372 [Renumbered 293.155]

291.374 [Amended by 1955 c.133 §1; 1955 c.672 §1; 1957 c.460 §1; 1959 c.686 §39; 1961 c.268 §13; 1961 c.485 §27; renumbered 293.160]

291.375 Legislative review of applications for federal financial assistance; submission, approval required; exemptions. (1) Prior to the submission of any application for financial assistance or grants from the United States or any agency thereof by or on behalf of any agency of this state, the application must be submitted for legislative review in the following manner:

(a) If the application is to be submitted to the Federal Government when the Legislative Assembly is in session, the application shall be submitted to the Joint Committee on Ways and Means for review.

(b) If the application is to be submitted to the Federal Government when the Legislative Assembly is not in session, the application shall be submitted to the Emergency Board for review.

(2) If the legislative agency authorized under subsection (1) of this section to review applications described therein approves the application, it may be submitted to the appropriate federal agency. If the legislative agency disapproves of the application, it shall not be submitted to any federal agency unless it is or can be modified to meet the objections of the legislative agency.

(3) Notwithstanding subsection (1) of this section, the Joint Committee on Ways and

Means and the Emergency Board may exempt any state agency from the requirements of this section. Project grants for departmental research, organized activities related to instruction, sponsored research or other sponsored programs carried on within the Department of Higher Education, for which no biennial expenditure limitations have been established. are exempt from the requirements of this section.

(4) The review required by this section is in addition to and not in lieu of the requirements of ORS 293.550. [1973 c.44 §1]

291.376 [Renumbered 291.307]

291.378 [Amended by 1961 c.590 §1; renumbered 293.165]

291.380 [Amended by 1961 c.590 §2; renumbered 293.170]

291.385 Use of certain federal moneys for employment; legislative approval. Expenditures of moneys available to this state or any agency thereof under the Comprehensive Employment and Training Act (Public Law 93-203, 87 Stat. 839) and (Public Law 95-524, 92 Stat. 1909), the Emergency Job and Unemployment Assistance Act of 1974 (Public Law 93-567), and the Emergency Jobs Program Extension Act of 1976 (Public Law 94-444), as amended, are not limited by fixed sum appropriations or expenditure limitations imposed for the biennium beginning July 1, 1977, if authorized by the Joint Committee on Ways and Means after March 1, 1979. However, positions added under the provisions of the federal enabling legislation are subject to approval of the Emergency Board during the interim between sessions of the Legislative Assembly and by the Joint Committee on Ways and Means during a session of the Legislative Assembly. [1977 c.85 §1; 1979 c.93 §1]

Note: 291.385 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

COMMISSION ON OREGON STATE MANAGEMENT AND ORGANIZATION

Note: Sections 1 to 8, 10 and 12 of chapter 795, Oregon Laws 1979, provide:

Sec. 1. It is the purpose of this Act to improve the responsiveness and manage the growth of Oregon state government.

Sec. 2. (1) There is created a Commission on Oregon State Management and Organization consisting of nine members and four ex officio members.

(2) The Governor shall appoint four members of the commission; the President of the Senate and the Speaker of the House of Representatives shall each appoint two members of the commission; the Chief Justice of the Supreme Court shall appoint one member of the commission.

(3) The Governor, President of the Senate, Speaker of the House and Chief Justice of the Supreme Court shall serve as ex officio, nonvoting members of the commission.

(4) No person shall be eligible for appointment to the commission who is an elected or appointed official, or who has not been seven years a resident of the State of Oregon, nor shall any person be eligible for appointment to the commission who has not demonstrated excellent leadership or managerial ability prior to the person' appointment.

(5) Each member shall be appointed to serve for a term of two years and may be reappointed for one additional term.

(6) In case of a vacancy for any cause, the Governor, President of the Senate, Speaker of the House or Chief Justice of the Supreme Court, according to the position vacated, shall make an appointment to become effective immediately for the unexpired term.

Sec. 3. (1) The purpose of the Commission on Oregon State Management and Organization shall be to provide the greatest effectiveness of state government at the lowest possible cost.

(2) The commission shall advise and assist within the limits of its resources the legislative and executive branches of state government, including state agencies, to improve the responsiveness and manage the growth of Oregon state government through proposals for legislation or changes in administrative rules or policy.

(3) The commission shall select one or more comprehensive tasks to undertake each year from priority lists submitted to the commission by the Governor, President of the Senate, Speaker of the House and Chief Justice of the Supreme Court on or before July 1 of each year.

(4) In performing its duties, the commission within the limits of available funds may:

(a) Conduct hearings and conferences to ascertain facts, to comprehend state programs and activities and to obtain qualified opinions;

(b) Appoint subcommittees consisting of members of the commission and public members, if desired, and pay the reasonable and actual expenses thereof as provided in section 4 of this Act;

(c) Obtain from any state agency necessary assistance and data; and

(d) Perform all other necessary functions to carry out the purposes of the commission and this Act.

Sec. 4. A member of the Commission on Oregon State Management and Organization shall receive no

House Research Agency
Pouch Y
Juneau, Alaska 99811
465-3991

KEY WORD:_____

Research Request Number:_____

RESEARCH EVALUATION

TO:

FROM: Susan Brody, Director

RE: Evaluation of Research Products

To assist us in improving the quality of our research services, we would appreciate your response to the following questions.

- Was the information unbiased?

- Did it provide answers to (or, at least, useful information on) all the questions you posed?

- Was the research completed and delivered to you in a timely manner?

- Was it clearly written?

- May we release this information to the public?

  |___| I approve the release of this information.

  |___| I approve the release of this information, but please remove my name.

  |___| I do not approve the release of this information; maintain confidentiality.

_____ _____

Date Signature

Please be assured that we will take your comments seriously in performing future research for you.

Please return to House Research Agency, Mail Stop 3100.

Thank you.


HJR
53

M E M O R A N D U M January 26, 1984

SUBJECT: Reapportionment of the legislature (HJR 53)

TO: Representative Mitch Abood
Chairman, House State Affairs Committee

FROM: Richard A. Bradley
Legislative Counsel

You have requested a sectional analysis of the above described resolution.

As a preliminary matter, I must advise you that a sectional analysis or summary of a resolution should not be considered an authoritative interpretation of the resolution and the resolution itself is the best statement of its contents. If you would like an interpretation of the resolution as it may apply to a particular set of circumstances, please address a specific request to this office.

To some extent, the amendments proposed in this resolution are unusual to the extent that the changes contained in the resolution may confirm existing understandings of the constitutionally required framework for the reapportionment of the Alaska legislature; the Alaska Supreme Court has been obliged to rewrite these provisions under the mandates received from the U.S. Supreme Court in a series of reapportionment decisions delivered by the Supreme Court. See, among other decisions, Baker v. Carr, 369 U.S. 186 and Reynolds v. Sims, 377 U.S. 533. To that extent, the language does not so much indicate a change in what may be expected after ratification of the proposed amendments but rather an affirmative confirmation of existing legal and constitutional reality. The Alaska Supreme Court has invited the legislature to propose conforming amendments several times in its reapportionment decisions. See Wade v. Nolan, 414 P.2d 689 (Alaska 1966), Egan v. Hammond, 502 P.2d 856 (Alaska 1972), Groh v. Egan, 526 P.2d 863 (Alaska 1974), and Carpenter v.Hammond, 667 P.2d 1204 (Alaska 1983).

In a few instances, the sponsor of the resolution has sought to adopt improvements in the constitutional framework.

I will indicate in these comments the nature of the changes proposed.

Section 1 of the resolution proposes an amendment to art. VI, section 1 of the Alaska Constitution.

The section provides that members of the house are elected from the districts established in the most recent reapportionment of the house. The material from the last sentence that is deleted has been obsolete since the first reapportionment of the House of Representatives in 1960; the material added to the end of the first sentence replaces that language.

The second full sentence of the section that is added by this resolution represents a policy choice by the sponsor; as you will recognize, a number of the members of the house are now elected from designated seats in multi- member districts. It is generally agreed that the gubernatorial power to reapportion in Alaska grants the governor the authority to establish single member districts; the governors have rearranged districts probably from the first reapportionment and the governors have reduced the number of candidates elected from a single district from the high of 14 in Anchorage after the 1960 reapportionment to the present formulation.

The proposed amendment mandates single member house districts in all cases.

Section 2 of the resolution amends art. VI, section 2 of the Alaska Constitution.

The section provides that members of the senate are elected from districts that are established under the most recent reapportionment of the senate. The material from the last sentence that is deleted has been obsolete since the first reapportionment of the Senate in 1964; the material added at the end of the first sentence replaces that language.

Just as each house member will be elected under the revised Section 1 to a single member district, each senator will be elected from a senate district that is composed of two house districts. This material represents a policy goal requested

by the sponsor of the resolution. To a some extent, I believe that this formulation represents the existing reality; the language mandates that result.

Section 3 of the resolution amends art. VI, section 3 of the Alaska Constitution.

The amendments to the first sentence of the section conform the language of the section to the understanding of the intent of the constitutional convention. The Alaska Supreme Court concluded after Governor Egan reapportioned the senate in 1964 that if the drafters of the Alaska Constitution had understood that the senate also must represent people and not geographic areas that they would have given the governor the authority to reapportion the senate. Wade v. Nolan, 414 P.2d 689 (Alaska 1966).

The change from "based upon civilian population" to "based upon the best available evidence of the resident population" results from Egan v. Hammond, 502 P.2d 856 (Alaska 1972) and Groh v. Egan, 526 P.2d 863 (Alaska 1974); the Alaska Supreme Court held that exclusion of the military from the population base without consideration whether the individual member of the military was a resident of the state was irrational.

My understanding of the reason for the deletion of the reference to the census was simply that the sponsor wanted the reapportionment board able to use the "best available evidence", whether that was the census reports or something else. As suggested, that represents a policy goal sought by the sponsor.

Note that sections 4 and 5 of art. VI are proposed for repeal. See resolution section 7.

Section 4 established an obsolete concept of reapportionment based on "equal proportions." Section 5 permitted the combining of house districts in certain instances. Both concepts have been obsolete since the original U. S. Supreme Court decisions mandating "one person, one vote."

Section 4 of the resolution amends art. VI, section 6 of the Alaska Constitution.

The amendment makes clear in the first sentence that it applies to senate as well as house reapportionment.

The third sentence is deleted from the section but note that its content is carried into the new subsec. (b) in Section 5 of the resolution.

Section 5 of the resolution amends art. VI, section 6 of the Alaska Constitution by adding a new subsection.

It provides that each "election district" for the election of house members and each senate district shall each contain "a population as nearly equal as possible." The last two sentences state a mathematical requirement for deviations from the ideal district population.

Note that section 7 of art. VI has been repealed. See resolution section 7.

Section 7 dealt with limitations on the modification of senate district boundaries. It has been obsolete since 1964.

Section 6 of the resolution amends art. VI, section 8 of the Alaska Constitution.

The amendment recognizes that that there have not been regional senate districts since the 1964 reapportionment.

As noted above, secs. 4, 5, and 7 of art. VI are proposed for repeal in section 7 of the resolution.

Also proposed for repeal in section 7 is art. XIV of the Alaska Constitution. Art. XIV establishes a reapportionment schedule: the listing of the various house and senate districts and their boundaries.

It should be understood that the material contained within art. XIV will continue to be necessary but since it is not truly constitutional, it will become a footnote to the provisions of art. VI, presumably secs. 1 and 2.

It is not constitutional in the sense that its provisions will necessarily receive amendment in each reapportionment but will take effect because of the reapportionment proclamation of the governor and not because they have been adopted in a constitutional amendment proposed by the legislature and ratified by the qualified voters of the state.

Section 8 of the resolution is standard language directing the election officers to put the resolution before the qualified voters of the state at the next general election in conformity with the constitution and election laws.

The amendments would become a part of the constitution 30 days after the certification of the election results by the lieutenant governor. See art. XIII, sec. 1. The implementation of the provisions would not be called for until after the reporting of the next decennial census, after 1990.

If I may be of further assistance, please advise.

RAB:ojb
J2/080



Superior Court
State of Alaska

THIRD JUDICIAL DISTRICT
303 K STREET
ANCHORAGE, ALASKA
99501

CHAMBERS OF
MILTON M. SOUTER, JUDGE

November 14, 1983

Honorable Terry Martin
Chairman, Labor and Commerce Committee
3960 Reka Drive-B6
Anchorage, Alaska 99504

Dear Representative Martin:

This morning you delivered to my office a three page letter together with enclosures, pertaining to the on-going reapportionment proceedings. It appears to me that you are perhaps laboring under a misconception of those proceedings at present, so I feel it appropriate to take this opportunity to present a brief explanation.

A newly constituted reapportionment board is presently handling the reapportionment proceedings. Accordingly, nothing is occurring in court with respect to those proceedings at this time. Further, it is unlikely that anything further will occur in court until the reapportionment board has made its recommendations to Governor Sheffield and he has issued an amended reapportionment order. Therefore, it would have been better for your purposes if you had delivered your letter and enclosures to the reapportionment board, rather than to me.

Because you are not a party to the reapportionment court case, you do not have the right to file with the court any written arguments, suggestions or comments regarding the

case. This is the rule pertaining to non-parties in all court cases. Accordingly, I am returning to you the letter and enclosures which you delivered to me, since it is not proper for me to consider items from a non-party. It might be possible for you to become a party to the case or to submit argument, etc., as an "amicus curiae", but you should consult with a lawyer to determine whether and how to do this.

Despite the formal tone of this letter, I wish to assure you that I appreciate the interest which you have shown in this matter, and I am sure that the active participants in the reapportionment proceedings will wish to consider your views. I have therefore instructed my secretary to send a xerox copy of your letter and enclosures to the formal parties in the reapportionment court case.

Sincerely yours,

Milton M. Souter

MMS/pb

cc: Holli Ploog w/enclosures
701 West 58th Ave., Suite F
Anchorage, AK 99503

Timothy A. McKeever w/enclosures
2550 Denali Street, Suite 700
Anchorage, AK 99503

Jonathan B. Rubini
Assistant Attorney General
Pouch K
Juneau, AK 99811

Court file

Alaska State Legislature

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

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

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

November 11, 1983

Judge Milton Souter
Superior Court, Third District
303 "K" Street
Anchorage, Alaska 99501

Dear Judge Souter:

Alaska's history of apportionment and reapportionment has been one of much concern by all citizens, for this state of just twenty-five years belonging as an equal partner in the United States. Our youth as a state has its benefits, in that we have learned by the mistakes of other states and took advantage of major U.S. Supreme Courts decisions pertaining to the equality of each citizen in equal representation. This is verified in Article IV Sections 4 and 6. Both of these sections are based on the decennial census of the United States [Art. IV. Sec. 3]

Sec.4. Reapportionment shall be by the methods of equal proportion, except that each election district having major fraction of the quotient obtained by dividing total civilian population by forty shall have one representative.

Sec. 6. The governor may further redistrict by changing the size and area of election districts, subject to the limitations of this article. Each new district so created shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area. Each shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty. Consideration may be given to local government boundaries. Drainage and other features shall be used in describing boundaries whenever possible.

As you are aware the "forty" formula was most distorted in the 1972 and 1974 reapportionments. In the 1980 reapportionment, the committee achieved a much more desirable equal apportionment, but even this missed the mark with some representative districts being as much as 5.8% above the quotient or 4.18% below the quotient, thus a difference of almost 10% inequality of representation, from an average population of 9,228 per house member of the 1980 census of 400,481 people. This excludes transient military population. [See attached "State Government News" - Oct. 1981]

Since the Federal Census of 1980, every state has gone through the traumatic reapportionment mandated. It can be concluded that most states tried to adhere to the U.S. Supreme Court's requirements for "one person, one vote." Many have less than 1% difference. In some states the governors took this criterion so serious that they vetoed badly drawn plans of their legislature - even against their own party. In one case, Colorado, the governor vetoed the new reapportionment plan although the largest and smallest districts had a population difference of only 41 people. In Texas, Supreme Court ruled the House plan split counties unnecessarily in violation of the state constitution. Some states use the Federal Census as their base, some use less of that figure and others do not use the decennial census at all.

In Alaska, it is clearly the intent of the Constitution [Art. VI. Sec. 3] to use the decennial census of the United States. While the intent of this was good - since in the territory era we had no better way of counting people nor the ability to pay for such an undertaking - this method is extremely limiting today. The Constitution, as I interpret it, does not limit the state to outdated statistics when reapportioning between decennial periods. If this is not true, then we are severly limited in complying to the "one person, one vote" equality concept and the current exercise of the Reapportionment Board is diminished in value. Another approach should be considered that is much more reliable and annually takes into consideration the annual fluctuation of population, also. The true military resident count should be added to the Constitution.

I would like to bring to your attention the potential use of statistics completed by the Department of Revenues for recipients of the Permanent Fund dividends. If we are going to reapportion it seems only logical and certainly within the constitution concept of "one person, one vote" equality to use the best census available. While the Federal census of 1980 shows 400,000 plus residents, the Permanent Fund dividends of 1982 has verified 474,000 plus residents. Thus, in the current scheme of reapportionment, almost twenty percent of the population will not be considered for the quotient obtained divided by forty. Alaska can be quite unique in its abilities of combining this new program and using its statistic to allow other departments, commissions, and legislature to share the information of exactly where the people are.

Combining the total recipients of 1982 Permanent Fund checks with the U.S. Post Office zip code numbers makes it easy for any reapportionment committee to combine an equal number for each political districts. [See attached letter and stats - Nov 3, 1983] This obviously is a far superior method of census counting than any yet devised. We know these citizens have been checked for residency and volunteer the information of each household with no additional cost to the state. A most unique aspect in this program is the pre-counting of persons. It allows a pregnant woman of six month pre-birth to count the child to be and receive a dividend check.

The 1983 P.F. statistics can be readily obtained if you approve of the concept for Governor Sheffield's Reapportionment Board. This applied to the latest zip codes of each city, municipality and village will help decrease conflicting reports from various state agencies and local governments as to how many people live where.

Judge Souter, I appeal to you to ask the present Board appointed by Governor Sheffield to reapportion the whole State of Alaska and to use the very latest and factual statistics available - namely the 1983 Permanent Fund Dividend recipients.

If you would like to explore this concept with me personally or need additional information, I will make myself available at your convenience.

Thank you very much for your consideration of my request. I look forward to hearing from you soon.

Most sincerely,

Terry Martin

Representative Terry Martin

TM:jl

Enclosures:

P.S. Currently I am having the Legislative legal service research for legislation to be introduced in January 1984 to allow for the above to be voted on in the 1984 November election and to include a clause to specifically count military residents for purposes of political reapportionment.

cc: Governor William Sheffield
Attorney General's Office
Senate President Jay Kerttula
Speaker Joe Hayes
Supreme Court Chief Justice Edward Burke

STATE OF ALASKA

OFFICE OF THE GOVERNOR
JUNEAU

BILL SHEFFIELD
GOVERNOR

NEWS RELEASE

FOR INFORMATION CONTACT:
Pete Spivey
Press Secretary

John Greely
Deputy Press Secretary
Office of the Governor
Pouch A, Juneau, AK 99811

Bus. Phone: (907) 465-3500

SHEFFIELD APPOINTS FIVE MEMBER STATE REAPPORTIONMENT BOARD
OCTOBER 20, 1983
NO. 83-172

FOR IMMEDIATE RELEASE

ANCHORAGE -- Governor Bill Sheffield today announced the appointment of a five-member State Reapportionment Board, in compliance with an order issued by Superior Court Judge Milton Souter on October 12.

Appointed were: Joseph H. McKinnon, an Anchorage lawyer and former member of the Legislature; Felix Toner, a Juneau engineer with previous Reapportionment Board experience who also served on the Juneau Assembly; Mary Nordale, a Fairbanks lawyer; Richard Borer, a Cordova hotel owner and former member of the Legislature; and Willie Hensley of Anchorage, a former Legislator who now is President of NANA Development Corporation and Chairman of United Bank Alaska.

Toner, McKinnon, Nordale and Hensley are Democrats. Borer is a Republican.

The board is charged with presenting the Governor with a proposal to amend a final Proclamation of Reapportionment approved by former Governor Hammond. The Alaska Supreme Court ordered the plan revised last July 23 and returned the case to the Superior Court. In his order last week, Judge Souter ordered the reapportionment plan amended so that the city of Cordova is "placed in a contiguous, compact and relatively integrated socio-economic election district...."

-MORE-

Cordova lies in House District 2, the so-called "Iceworm District." The district currently stretches from Prince William Sound to the state's southernmost border, excluding the largest towns and cities of Southeast Alaska.

The board members will convene in Juneau October 26, and will meet with Department of Law representatives to review their authority and discuss administrative matters before beginning their deliberations.

The proposed amended plan is to be delivered to Sheffield by January 3. The Governor is to then issue the revised final plan by February 3.

-30-

Alaska State Legislature

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

3960 REKA DRIVE—86
ANCHORAGE, AK 99504
PHONE 333-6990

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

November 11, 1983

Judge Milton Souter
Superior Court, Third District
303 "K" Street
Anchorage, Alaska 99501

Dear Judge Souter:

Alaska's history of apportionment and reapportionment has been one of much concern by all citizens, for this state of just twenty-five years belonging as an equal partner in the United States. Our youth as a state has its benefits, in that we have learned by the mistakes of other states and took advantage of major U.S. Supreme Courts decisions pertaining to the equality of each citizen in equal representation. This is verified in Article IV Sections 4 and 6. Both of these sections are based on the decennial census of the United States [Art. IV. Sec. 3]

Sec.4. Reapportionment shall be by the methods of equal proportion, except that each election district having major fraction of the quotient obtained by dividing total civilian population by forty shall have one representative.

Sec. 6. The governor may further redistrict by changing the size and area of election districts, subject to the limitations of this article. Each new district so created shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area. Each shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty. Consideration may be given to local government boundaries. Drainage and other features shall be used in describing boundaries whenever possible.

As you are aware the "forty" formula was most distorted in the 1972 and 1974 reapportionments. In the 1980 reapportionment, the committee achieved a much more desirable equal apportionment, but even this missed the mark with some representative districts being as much as 5.8% above the quotient or 4.18% below the quotient, thus a difference of almost 10% inequality of representation, from an average population of 9.228 per house member of the 1980 census of 400,481 people. This excludes transient military population. [See attached "State Government News" - Oct. 1981]

Since the Federal Census of 1980, every state has gone through the traumatic reapportionment mandated. It can be concluded that most states tried to adhere to the U.S. Supreme Court's requirements for "one person, one vote." Many have less than 1% difference. In some states the governors took this criterion so serious that they vetoed badly drawn plans of their legislature - even against their own party. In one case, Colorado, the governor vetoed the new reapportionment plan although the largest and smallest districts had a population difference of only 41 people. In Texas, Supreme Court ruled the House plan split counties unnecessarily in violation of the state constitution. Some states use the Federal Census as their base, some use less of that figure and others do not use the decennial census at all.

In Alaska, it is clearly the intent of the Constitution [Art. VI. Sec. 3] to use the decennial census of the United States. While the intent of this was good - since in the territory era we had no better way of counting people nor the ability to pay for such an undertaking - this method is extremely limiting today. The Constitution, as I interpret it, does not limit the state to outdated statistics when reapportioning between decennial periods. If this is not true, then we are severly limited in complying to the "one person, one vote" equality concept and the current exercise of the Reapportionment Board is diminished in value. Another approach should be considered that is much more reliable and annually takes into consideration the annual fluctuation of population, also. The true military resident count should be added to the Constitution.

I would like to bring to your attention the potential use of statistics completed by the Department of Revenues for recipients of the Permanent Fund dividends. If we are going to reapportion it seems only logical and certainly within the constitution concept of "one person, one vote" equality to use the best census available. While the Federal census of 1980 shows 400,000 plus residents, the Permanent Fund dividends of 1982 has verified 474,000 plus residents. Thus, in the current scheme of reapportionment, almost twenty percent of the population will not be considered for the quotient obtained divided by forty. Alaska can be quite unique in its abilities of combining this new program and using its statistic to allow other departments, commissions, and legislature to share the information of exactly where the people are.

Combining the total recipients of 1982 Permanent Fund checks with the U.S. Post Office zip code numbers makes it easy for any reapportionment committee to combine an equal number for each political districts. [See attached letter and stats - Nov 3, 1983] This obviously is a far superior method of census counting than any yet devised. We know these citizens have been checked for residency and volunteer the information of each household with no additional cost to the state. A most unique aspect in this program is the pre-counting of persons. It allows a pregnant woman of six month pre-birth to count the child to be and receive a dividend check.

The 1983 P.F. statistics can be readily obtained if you approve of the concept for Governor Sheffield's Reapportionment Board. This applied to the latest zip codes of each city, municipality and village will help decrease conflicting reports from various state agencies and local governments as to how many people live where.

Judge Souter, I appeal to you to ask the present Board appointed by Governor Sheffield to reapportion the whole State of Alaska and to use the very latest and factual statistics available - namely the 1983 Permanent Fund Dividend recipients.

If you would like to explore this concept with me personally or need additional information, I will make myself available at your convenience.

Thank you very much for your consideration of my request. I look forward to hearing from you soon.

Most sincerely,

Terry Martin

Representative Terry Martin

TM:jl

Enclosures:

P.S. Currently I am having the Legislative legal service research for legislation to be introduced in January 1984 to allow for the above to be voted on in the 1984 November election and to include a clause to specifically count military residents for purposes of political reapportionment.

cc: Governor William Sheffield
Attorney General's Office
Senate President Jay Kerttula
Speaker Joe Hayes
Supreme Court Chief Justice Edward Burke

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

November 14, 1983

FOR IMMEDIATE RELEASE
CONTACT: Rep. Terry Martin
333-6990

REP. TERRY MARTIN SAYS PERMANENT FUND STATISTICS SHOULD BE USED FOR REAPPORTIONMENT

ANCHORAGE - Rep. Terry Martin is asking the Superior Court to have the Sheffield administration use population statistics compiled from the Permanent Fund Dividend program as a basis for reapportioning the state's election districts.

In a letter sent to Superior Court Judge Milton Souter on Monday, Martin said the Permanent Fund Dividend program's statistics were the most current and accurate population figures available for reapportionment. Martin also asked that the entire state be reapportioned using these statistics.

"While the federal census of 1980 shows 400,000 plus residents, the Permanent Fund dividends of 1982 has verified 474,000 plus residents," Martin said. "Thus, in the current scheme of reapportionment, almost 20 percent of the population will not be considered" in the pending reapportionment process.

Martin, R-Anchorage, said because the Permanent Fund Dividend applications have already been thoroughly checked for accuracy, the program offers a unique and inexpensive means of determining a current population count.

"This obviously is a far superior method of census counting than any yet devised," Martin said. "We know these citizens have been checked for residency and volunteer the information of each household with no additional cost to the state."

Martin added, "A most unique aspect in this program is the pre-counting of persons. It allows a pregnant woman of six month pre-birth to count the child to be and receive a dividend check."

Martin said equitable election districts could be designed by using the program statistics and postal zip codes.

"Judge Souter, I appeal to you to ask the present (reapportionment) board appointed by Gov. Sheffield to reapportion the whole State of Alaska and to use the very latest and factual statistics available - namely the 1983 Permanent Fund Dividend recipients," Martin concluded in the letter.

Martin said he is also having the Legislative legal service conduct research on his behalf for legislation which would allow Martin's recommendation to be voted on in the 1984 general election, and also include a clause which would specifically count military residents for political reapportionment. Martin intends to introduce the legislation at the beginning of the upcoming session in January 1984.

# # # # # #

BILL SHEFFIELD
GOVERNOR

for 1:30 meeting:
get there early &
let Willie Hensley
know you're there —
he'll get you on early.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

~~Hensley will be back~~ Shill try to get back to me today or first thing tomorrow

Terry - afternoon ~~morning~~ ~~or evening meeting~~
Class at 3:00, so before that.

November 18, 1983

Dear Legislator:

William Hensley, Chairman of the Reapportionment Board, requested that I provide all incumbent legislators with the various proposed plans adopted by the 1983 Reapportionment Board. As you know, the Alaska Supreme Court ruled that the 1981 Plan improperly included the Cordova area within House District 2. With the advise of the Reapportionment Board, Governor Sheffield must therefore formulate amendments to the 1981 Plan which relocates the Cordova area and which satisfies the constitutional guarantee of equal representation.

The Reapportionment Board recently concluded a series of meetings in Juneau, during which the Board drafted two proposed plans for amending the 1981 Plan. Included in the packet is a news release which fully explains the proposed changes. The Board has not as yet had an opportunity to address whether changes in either Senate districts or Senate terms is advisable.

The news release also describes the public hearings scheduled by the Board. You are, of course, invited to attend any of the scheduled public hearings. If you would like to offer comments to the Board, but are unable to attend a scheduled public hearing, you may submit written testimony. All written testimony should be mailed by December 5, 1983, to:

Reapportionment Board
Pouch A
Juneau, AK 99811

If you need any additional information please feel free to contact the Reapportionment staff at 465-3538.

Sincerely,

Dana LaTour for the [illegible]

Dana LaTour
Staff Assistant

Enclosures

Alaska State Legislature

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



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

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

December 29, 1983

Mr. Willie Hensley
c/o Reapportionment Board
Pouch A
Juneau, AK 99811

Attention: Karen Rehfeld

Dear Mr. Hensley:

A copy of the Board's most recent reapportionment plan (Dec.19) was most appreciated and I take this opportunity to express my concerns.

Because of past actions of the 1981 Reapportionment Board, Judge Souter's very restrictive directions, Governor Sheffield's concerns that all persons be counted, outdated constitution wording and fast growing, population, your Board faces an impossible task and is severely hampered in doing a responsible and constitutionally sound job of reapportionment. The previous Board's action seriously discriminated against the majority of Alaska's true population. All plans thus far proposed by your Board only exasperate the problem of meeting the superior requirement of one person equals one vote.

In order to save excessive court costs in the immediate future, I believe it imperative that the Board request Gov. Sheffield to ask Judge Souter and/or the Alaska Supreme Court to lift the current restrictions imposed and allow a statewide reapportionment that will properly use Federal census figures of 1980 (if we must be limited to this) and insure equal and fair representation for all Alaskans.

Admittedly this may delay reapportionment taking place until after the 1984 election but in the long run, without broader direction for the Board and considering the court's previous recommended changes in Alaska's constitution, all your current efforts seem futile.

Please also consider the following points of views on the past and present reapportionment plans.

Yours very truly,

Terry Martin

Rep. Terry Martin

cc: Board Members
Executive Director
Gov. Wm. Sheffield
Speaker of House
Senate President
Media
Attorney General's Office

In the wake of the Carpenter v. Hammond decision it seems that the current Board has strayed from the controlling consideration in reapportionment - one man, one vote. The 1980 Board strove to keep combined variances between any two districts below ten per cent. This ten per cent total population variance (from highest to lowest) seems to be the rule of thumb. In Carpenter v. Hammond, Judge Moore required the adjustment of district boundaries in Southwest Alaska to reduce the combined population variance between Districts 25 and 26 (11.5%).

The current Board appointed by Governor Sheffield, seems to weigh the socio-economic guideline (brought out in the Carpenter Case) equal to if not more important than equally populated districts. In the original reapportionment plan (June 10, 1981) there was only one variance between districts greater than ten per cent and Judge Moore required adjustment of those districts. In the plan adopted by the current Board on Dec. 19, 1983 (Plan 2) there are 28 cases where combined variances between districts exceed ten per cent. (TABLE X) Granted, there may be uncontrollable factors involved, but to leap from 1 to 28 seems excessive.

In examining past Supreme Court decisions the basis for apportionment is clearly stated. The opinion of the U.S. Supreme Court in Wesberry v. Sanders 376 U.S. 1 at 180 was: "While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution's plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives." And although the previous quote refers specifically to Federal Representatives, the same applies to state legislatures as noted in the opinion of the Alaska Supreme Court in Egan v. Hammond, Alaska 502P2d 856 at 875: "Under the Equal Protection & Supremacy Clause of the Constitution of the United States of America, the constitutional right to vote of every citizen of Alaska is protected against impermissible dilutions and impairments flowring from malapportionment of either the House of Representatives or the Senate."

Some would argue that the Alaska State Constitution provides guidelines other than population alone to be used for reapportionment. While continuity, compactness, and socio-economic integration can be considered, they are not to be the controlling factors. This point is in the U.S. Supreme Courts opinion in Reynolds v. Sims 377 U.S. 533 at 579-580: "But neither history alone, nor economic or other sorts of group interests, are permissible factors in attempting to justify disparities from population - based representation." In the same opinion on page 581 the Justices noted, "But if, even as a result of a clearly rational state policy of according some legislative representation to political subdivisions, population is submerged as the controlling consideration in the apportionment of seats in the particular legislative body, then the right of all the State's citizens to cast an effective and adequately weighted vote would be unconstitutionally impaired."

In utilizing the variance concept to achieve equitable representation, there must be an underlying assumption of randomness in those variances. If one region is biased with non-random variations then the cumulative effect of those variations can be substantial. Southeast Alaska is a good example of these non-random variances and their effect. With 5 of 6 S.E. districts having significant negative variations, the average negative variation for all 6 seats is 3.5%.

While statistics are useful aids for comparison, they can also be quite misleading. In Reapportionment Plan 2 (Dec 19,1983) the average population variance in Southeast from the ideal House seat size is -3.5%. The variance for the 17 Anchorage seats from the ideal is +1.8%. (TABLE I)

Neither variance sounds excessive, but when actual numbers from Southeast and Anchorage are compared, the problem becomes apparent. The total population for six Southeast House seats is 53308 or 8885 per seat. Likewise, Anchorage's population is 159,466 for 17 seats or 9380 per seat. Direct comparison shows a difference of 495 people per average seat size. (TABLE I)

While individual variances may seem reasonable, the cumulative effect is not. Essentially, Anchorage is under represented by 495 people per seat. For 17 Anchorage seats that works out to 8415 people, which is a significant number when compared with the Southeast seat size of 8885 and the ideal seat size of 9211. Anchorage is under represented by one seat. (TABLE II)

When comparing the rest of Alaska (excluding Anchorage) with Southeast similar problems occur. There is a 271 person per seat difference between Southeast and the rest of Alaska. This works out to a cumulative inequity of 4607 people between the two regions. The total overpopulation for the whole state vs. Southeast is 8415 (Anchorage) + 4607 (Remaining Alaska) or 13022. This emphasizes that not only is most of Alaska under represented, but that Southeast Alaska is over represented when compared with the rest of the state. (TABLE III)

As noted in the order of the Alaska Supreme Court in Egan vs. Hammond, Alaska, 502P2d 856 at 875: "Under the Equal Protection and Supremacy Clause of the Constitution of the United States of America, the constitutional right to vote of every citizen of Alaska is protected against impermissible dilutions and impairments flowing from malapportionment of either the House of Representatives or the Senate."

While there have been instances where Courts have upheld reapportionment plans with variances greater than ten per cent, there are usually specific reasons for this. In Abate v. Mundt, 403 U.S. 182, the U.S. Supreme Court upheld an 11.9% total variance due to historical considerations and the fact that there were no built in bases which favored a certain area or interest. Just the opposite is true in Alaska. The variances in the reapportionment plan are strongly biased in favor of Southeast Alaska and against the Anchorage area.

In Kilgarlin v. Hill, 386 U.S. 120, the U.S. Supreme Court set a precedent in allowing a combined variance of 26.48%. They reasoned that the under populated area had a high growth rate and would soon have the population to eliminate the variance. In examining Alaska's reapportionment under this growth principle, inequities surface once again. Those areas growing fastest, which would soon justify more representation are the regions with the highest variances above the average. North Kenai - South Anchorage (+4.0%), Campbell-Hillside (+4.4%), Turnagain-Sandlake (+4.0%), Kenai-Cook Inlet (+4.2%) are all rapidly expanding, yet they all have large positive variances. It seems the Board could at least consider growth areas and rather than becoming more under represented, a region could grow into fair representation.

The major problem with all the reapportionment plans is the unequal representation afforded certain regions of the state. The 1981 Board made some mistakes which when coupled with mandates from the Carpenter v Hammond case further exacerbate the problem.

Throughout the reapportionment process the Anchorage area has been allocated more people and the Southeast region has been allocated less. This is specifically due to three things; the movement of Cordova out of Southeast, the alternative treatment of the military, and the 1980 census revisions. All of these further the inequity of representation between the two regions.

The 1981 Board received its official census data on March 12, 1981. The first Draft of the reapportionment plan, issued May 5, 1981, did not include an April Census revision which added 1414 people to Eagle River, 50 to the Mat Su Borough and subtracted 94 from the S.E. Fairbanks area. The Board still did not consider the corrections when it made revisions and issued its final plan on May 22, 1981.

Reasons for not using the updated census data are unknown. Fortunately, the current board appointed by Gov. Sheffield has utilized these corrections in at least one of its reapportionment plans (2). The reasons for still considering Plan I, which doesn't use corrected data, are unclear. The 1414 people in Eagle River need to be represented. They can't be just overlooked.

The 1981 Board utilized a plan to consider a certain proportion of military personnel as residents for reapportionment purposes. In the original reapportionment plan (June 10,1981, resident military personnel were determined at only 7 major military installations (Elmendorf, Eilson, Ft. Wainwright, Ft. Richardson, Ft. Greeley, Adak Naval Base, and the Kodiak Coast Guard Station). This resulted in 31,363.8 non-resident military personnel. Since all military were included in Alaska's population during the 1980 Federal census, these 31,363.8 were subtracted from the census figures to arrive at Alaska's resident population for reapportionment (400,481-31,353,7 = 369.117.2).

Problems arise in the application of the plan. Why did the 1981 Board only consider the seven major military installations? They didn't include approximately 2491 other military personnel throughout the state. Of the 2491 only 424 were considered residents. Therefore 2067 more people should be subtracted from the total state population to arrive at the base figure for reapportionment.

Fortunately, the current Board has considered these additional personnel in formulating both of their reapportionment plans (Plan 1 and Plan 2). The only criticism to be levied upon the current Board is their lack of public disclosure. No where do they explain this exclusion of the additional 2067 non-resident military personnel in the current plans (Plan 1 & 2). The population figures change in many districts without any explanations or indications of change.

In the Carpenter v Hammond case the Alaska Supreme Court decided that Cordova was not similar enough in socio-economic terms to be included in the Iceworm District. Their mandate was to take Cordova out of the Southeast district and move it elsewhere. This shift reduced Southeast's population base by 2241.

Also, in Carpenter v Hammond, Judge Souter,, who has jurisdiction in the case, ordered that the reapportionment be done consistent with federal and state constitutional requirements of equal representation, but with the fewest possible changes to the original plan (June 10,1981). All of these guidelines make the current Boards reapportionment job extremely difficult.

To tie in all three problem areas it must be noted again that throughout the reapportionment process, Anchorage has been gaining people and S.E. has been losing them, resulting in an unacceptable imbalance of representation.Due to the census correction, Anchorage area gained 1414 people. As a result of considering additional non-resident military, rural Alaska lost 2067 people, and specifically Southeast lost 484. Most significant of all is moving Cordova, thus reducing Southeast's population by another 2241 people. So, as a result of the reapportionment the disparity between Anchorage and Southeast has grown by 4139 people (1414 + 2241 + 484).

Since the Carpenter v. Hammond case which required removal of Cordova from the Iceworm District, the current Board seems to be picking and choosing when to apply the socio-economic test and when not to. In Plan 2 (Dec. 19,1983) Port Graham and English Bay were reincluded in District 5 because of the feeling from public testimony that their ties were with Seldovia and Homer. This move increased the variances of both Districts 5 and 6, but the Board made the move because of the economic ties and they felt it was reaching a long way from Prince William Sound just to include these two communities.

The same socio-economic and distance arguments can be made for Metlakatla in Southeast, yet no changes were made. The people of Metlakatla have strongly voiced their desire to be politically attached to Ketchikan only a few miles away and not be forced to vote for a representative that lives four or five hundred miles away. All of their ties are with Ketchikan - social, economic, transportation, communication, yet Metlakatla is included with Yakutat, Haines and Skagway who are far away and have few if any direct ties. It seems the Board is reaching as far in this Southeast District as it did with Port Graham and English Bay, yet no changes have been made.

Including Nikishki (North Kenai) in one district with South Anchorage seems as bad as the above cases. People from North Keani and South Anchorage have expressed their displeasure at being combined into one district. All of Nikishki's ties are with Kenai. Travel must be through Kenai to get to Anchorage. Nikishki belongs to the Kenai school district not Anchorage. Again, despite few ties between two areas and public opposition the Board has placed them in the same district.

Why are a few blocks from Muldoon plased in District 15 which is primarily Eagle River-Chugiak? Why is Tyonek, an area in the Kenai School District and with all its ties to Anchorage or Kenai, the only coastal village in a huge district stretching far into the Interior? It seems that the current Board lacks a consistent set of guidelines to apply during the reapportionment process.

One guideline which would improve representation would be to fashion all single member House and Senate seats. The history of Alaska since the Statehood convention of 1955-56 has shown a continuous effort to move toward single member elected House and Senate seats. Catering to this principle that insures and enhances one person one vote will readily decrease the problems of equal representation and drawing of election boundary lines.

Single member seats would guarantee that your representative would live in your District. One strong block of voters, such as Eagle River or downtown wouldn't be able to elect both representatives for the whole election area.

Single seat districts further guarantee representation for neighborhoods in large urban areas. In the future Fairview and Mountain View will always be sure of a Representative that truly lives in their area. Chugiak-Eagle River can easily support its own single Senate seat and two House seats. Under the current districts (1981) there are no Senators living in District 13. If Plan 2 (Dec. 19,1983) were adopted and the current Senators were re-elected, Districts 13 and 14 (all of east Anchorage) would lack senators living in their district.

Multi-member districts also discriminate against the political candidates in them. It costs a lot more to run a campaign focused at 18,500 people (multi-member district size) than one for 9250 people. Single member districts make it more feasible (less money) for the average person to run for office. And once in office it costs less for mailouts to smaller districts. Fewer people to represent would hopefully result in better representation. In large districts (area wise) single seats cut down the distance a representative must travel to physically meet constituents.

It must be noted again that many of the problems mentioned in this report are unsurmountable when working within the constraints given the current Board. The Boards current plans (1 and 2) which discriminate against a large number of people and many regions of the state, will no doubt face expensive and time consuming litigation. Rather than end up with a patch-work reapportionment that must be lived with until 1990, why not take the necessary time and use specific guidelines to fashion a fair and equitable state reapportionment plan.

TABLE I

Anchorage vs Southeast

Plan 2
Dec. 19, 1983

Southeast 6 House Seats

District	Population	Variance
D1	16602	-9.9
D2	8924	-3.1
D3	8449	-8.3
D4	19333	+4.9
	6/ 53308 =	8885/seat

Ave. S.E. variance) 3.5%

Anchorage

District	Population	Variance
D7	9580	+4.0
D8	19231	+4.4
D9	19156	+4.0
D10	18184	-1.3
D11	18804	+2.1
D12	18678	+1.4
D13	19173	+4.1
D14	18265	- .1
	17/159466 =	9380/seat

Ave. Anchorage Variance +1.8%

State Total 368,420 ÷ 40 = 9210.5

Difference per average seat Anchorage vs S.E. 9380 - 8885 = 495

Total people not represented in Anchorage 495 x 17 = 8415

TABLE II

Southeast vs Anchorage

Plan 2
Dec 19, 1983

Total Population 53308 + 159466 = 212774
Southeast Anchorage

Ave Juneau Seat Size 8885 212774 ÷ 8885 = 23.95

23.95 - 6 = 17.95

Should be 6 seats in Juneau and 18 in Anchorage

S.E.

6/ 53308 = 8885/seat

Ave S.E. variance - 3.5%

Anchorage

17/ 159466 = 9380/seat

Ave Anch variance + 1.8%

9380 - 8885 = 495/seat

495 x 6 = 2970

495 x 17 = 8415

TABLE III

Remaining AK (excluding Anch) vs Southeast

Plan 2
Dec. 19, 1983

Remaining Alaska (excluding Anch)

District	Population	Variance
D5	19190	+4.2
D6	8598	-6.7
D16	17692	-3.9
D17	8918	-3.2
D18	9300	+ .9
D19	8934	-3.0
D20	18320	- .5
D21	9247	+ .4
D22	8999	-2.3
D23	9339	+1.4
D24	8936	-3.0
D25	9432	+2.4
D26	9158	- .6
D27	9592	+4.1

17/ 155655 = 9156/seat

9210
-9156
54

54
9210 = -0.6%

Southeast 6 seats

District	Population
D1	16602
D2	8924
D3	8449
D4	19333

6/ 53308 = 8885/seat

9210
-8885
325

325
9210 = 3.5%

9156
-8885
271/
seat

271
x17
4607

Anchorage vs Remain Alaska (excluding S.E.)

Plan 2
Dec. 19, 1983

Anch	17 seats	159466	9380	+1.8%
Alaska	17 seats	-155656	9156	-0.6%
		3820	224/seat	

Anchorage vs Rest of Alaska (including S.E.)

Anch	17 seats	159466	9380/seat	+1.8%
Alaska	23 seats	208954	9085/seat	-1.4%
			295/seat	

295
x17
5015

Plan 1

S.E. 6 seats

District	Population
D1	16602
D2	8924
D3	8449
D4	19333
6/	53308 = 8885/seat

Ave S.E. Variance = -3.2%
Ave S.E. Seat size - 8885

Anchorage 17 seats

District	Population
D7	9110
D8	18269
D9	18005
D10	19083
D11	18960
D12	18170
D13	18908
D14	19032
D15	18561
17/	158053 = 9297/seat

Ave Anch Variance = +1.3%
Ave Anch Seat size = 9297

9297 - 8885 = 412/seat

6 S.E. seats vs 6 Ave Anch seats 53308 - 55782 = 2474

6 S.E. seats vs 6 most populated Anch seats 57030 - 53308 = 3722

Total Anch under represented vs. S.E. = 17 x 412 - 7004

Total Alaska under represented vs. S.E. = 7004 + 4641 = 11645

TABLE X

Districts With Combined Variances
Greater Than Ten Percent

Districts	Variances
1 v. 4	9.9 + 4.9 = 14.8
1 v. 5	9.9 + 4.2 = 14.1
1 v. 7	9.9 + 4.0 = 13.9
1 v. 8	9.9 + 4.4 = 14.3
1 v. 9	9.9 + 4.0 = 13.9
1 v. 11	9.9 + 2.1 = 12.0
1 v. 12	9.9 + 1.4 = 11.3
1 v. 13	9.9 + 4.1 = 14.0
1 v. 18	9.9 + 0.9 = 10.8
1 v. 21	9.9 + 0.4 - 10.3
1 v. 23	9.9 + 1.4 = 11.3
1 v. 25	9.9 + 2.4 = 12.3
1 v. 27	9.9 + 4.1 = 14.0

Districts	Variances
3 v. 4	8.3 + 4.9 = 13.2
3 v. 5	8.3 + 4.2 = 12.5
3 v. 7	8.3 + 4.0 = 12.3
3 v. 8	8.3 + 4.4 = 12.7
3 v. 9	8.3 + 4 0 = 12.3
3 v. 11	8.3 + 2 1 = 10.4
3 v. 13	8.3 + 4.1 = 12.4
3 v. 25	8.3 + 2.4 = 10.7
3 v. 27	8.3 + 4.1 = 12.4
6 v. 4	6.7 + 4.9 = 11.6
6 v. 5	6.7 + 4.2 = 10.9
6 v. 8	6.7 + 4.4 = 11.1
6 v. 9	6.7 + 4.0 = 10.7
6 v. 13	6.7 + 4.1 = 10.8
6 v. 27	6.7 + 4.1 = 10.8

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 6, 1984

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

Dear Mr. Martin:

Thank you for your recent letter expressing your concerns with the 1981 Reapportionment Plan, the restrictions placed on this Board by the Court, and our current proposals to amend the plan. We appreciate your time in preparing the extensive background information that accompanied your letter.

First, let me say that it is unlikely that this Board would encourage Governor Sheffield to seek authority from the Court to undertake a comprehensive redistricting of the state. Although we understand and appreciate your contention that there may have been serious problems with the work of the previous board, it appears the courts have already made their decision on the validity of that plan.

Secondly, we have been subjected to criticism from those who believe we have already gone too far in making our revisions. Those criticisms center around the use by this Board of official corrections made by the U.S. Bureau of the Census to the 1980 census counts for Alaska. These corrections were not available to the 1981 Board. As you know, our state constitution requires that reapportionment utilizes federal census data. We feel that this implies use of the most accurate census data available.

Finally, we realize that some people will be unhappy with our recommendations. Reapportionment is a very difficult task and one that is surrounded by controversy. Given the history of reapportionment litigation in our state, it is

likely that this plan will face legal challenge. Please be assured that this Board has made every effort to follow the constitutional and court-mandated guidelines in developing our proposal.

Thank you again for your letter.

Sincerely,

William Hensley/dgr

William Hensley
Chairman
Reapportionment Board

cc: Governor Sheffield
Senator Jalmar Kerttula
Representative Joe Hayes
Attorney General Gorsuch
Press

Alaska State Legislature

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

January 9, 1984

FOR IMMEDIATE RELEASE
CONTACT: REP. TERRY MARTIN
465-3783 or 465-3784

REP. MARTIN SEEKS CONSTITUTIONAL AMENDMENT ON REAPPORTIONMENT PROCESS

JUNEAU - Rep. Terry Martin today introduced a House Joint Resolution which would place a constitutional amendment to alter the state's reapportionment process on the 1984 general election ballot.

Martin said the constitutional amendment is needed to "correct the potential for party politics of being the major consideration for reapportionment."

As proposed in HJR 53:

- The entire state would be reapportioned into single-member House and Senate election districts;

- Only a two percent disparity in population will be allowed statewide and no more than five percent disparity per district;

- All military personnel and their families must be counted equally throughout the state.

"This resolution calls for the necessary changes in the state constitution pertaining to equality of representation for all Alaskans," said Martin, R-Anchorage.

"A major feature of this is to correct a problem that discriminates against military residents," Martin said. "As it is now, most military residents are treated like second-class citizens."

Currently, most military residents living in the southeast and southwest portions of the state are counted as "100 percent" residents. But in Anchorage and Fairbanks, Martin said, the military residents count as only "15 percent" residents. This inequitable formula, Martin said, inflates the population statistics for the southern parts of the state while "robbing Anchorage and Fairbanks of equal representation."

"The disparity from district to district is appalling," Martin said. "Some areas, primarily Anchorage, are under represented."

Martin said his resolution would allow only a five percent disparity in population in each district "with some justification for socio-economic factors."

"But in the last reapportionment (1980) and the current reapportionment negotiations, the boards have put socio-economic factors ahead of equal representation."

Martin said he is confident the resolution would be approved by the voters, "If this does pass both houses I'll be surprised," Martin said. "It won't allow them to play as many games."

But Martin said he felt the public, if given the opportunity, would support his measure.

"It's fair, it's equal and I just hope the other members of the legislature put aside party politics and vote for something that allows the state equal representation for all residents.

"This is really getting down to the fundamentals of pure democracy," Martin concluded. "The goal is to get this on the ballot and let the people see the value of it and vote accordingly."

# # # # # #

lan would redistrict entire city

dy Ryan
:neau Bureau

ıeau — All nine of Anchor- legislative election dis- would have their bounda- :hanged under one of two ıinary plans developed Wednesday by the state's eapportionment board.

:econd plan put forward by ınel would make what at glance appears to be only changes in five of the nine election districts.

: reapportionment board, appointed Oct. 20 by Gov. Bill Sheffield, is scheduled to present Sheffield with a final plan for redrawing the state's election lines by Jan. 3. The governor then has until Feb. 4 to adopt a plan of his own, employing the board's recommendations as he sees fit.

Last month, Judge Milton Souter ordered that a new reapportionment board be created.

Souter's action was in response to a July ruling by the state supreme court, which held that a 1981 reapportionment board erred when it included Cordova in the so-called "Iceworm" election district" — a 700-mile-long corridor extending from Prince William Sound to the southern tip of the Alaska Panhandle.

In ordering the new board, Souter directed that it shift a minimum of existing election district boundaries. He also ordered that the board only use census data available at the time the 1981 reapportionment was challenged.

Jon Rubini, an assistant state attorney general serving as the board's lawyer, said the panel developed two plans because, due to a clerical error, the 1980 U.S. Census failed to count 1,039 people in the Eagle River area.

If those people are included in a redistricting plan, he said, it will be necessary to draw new boundaries for all of Anchorage's election districts.

Rubini said, Souter's instructions were "do not use adjust-

See GOPs, page A-10

:OPs blast plan

tinued from page A-1

ts to the census data which : not adjusted prior to (the lenge of the 1981 reapportion- t).

Technically, these adjust- ts were released by the Cen- Bureau prior to (that chal- e). We certainly recognize it's not within the spirit of udge's order."

ut to ignore the new census res for Eagle River, Rubini , could render a new reap- ionment plan subject to legal lenges.

It's not right that if we know : was a clerical error in the nitude of 1,000 people, it's air to the people of that side ıe state that their apportion- t would be based on errone- ıumbers."

nchorage Republicans, how- , said today that the idea of ıting the new Eagle River us data is a ruse by the Dem- tic-controlled board to ger- ander Anchorage's political ic:s.

n initial look at the options would shift the lines the : dramatically indicates they d force some incumbent Re- icans from Anchorage out of).

One option would put Reps. Charlie Bussell, John Lindauer, Terry Martin and John Cowdery in the same two-seat district; and Reps. Ramona Barnes, Walt Furnace and Jerry Ward in another two-seat district.

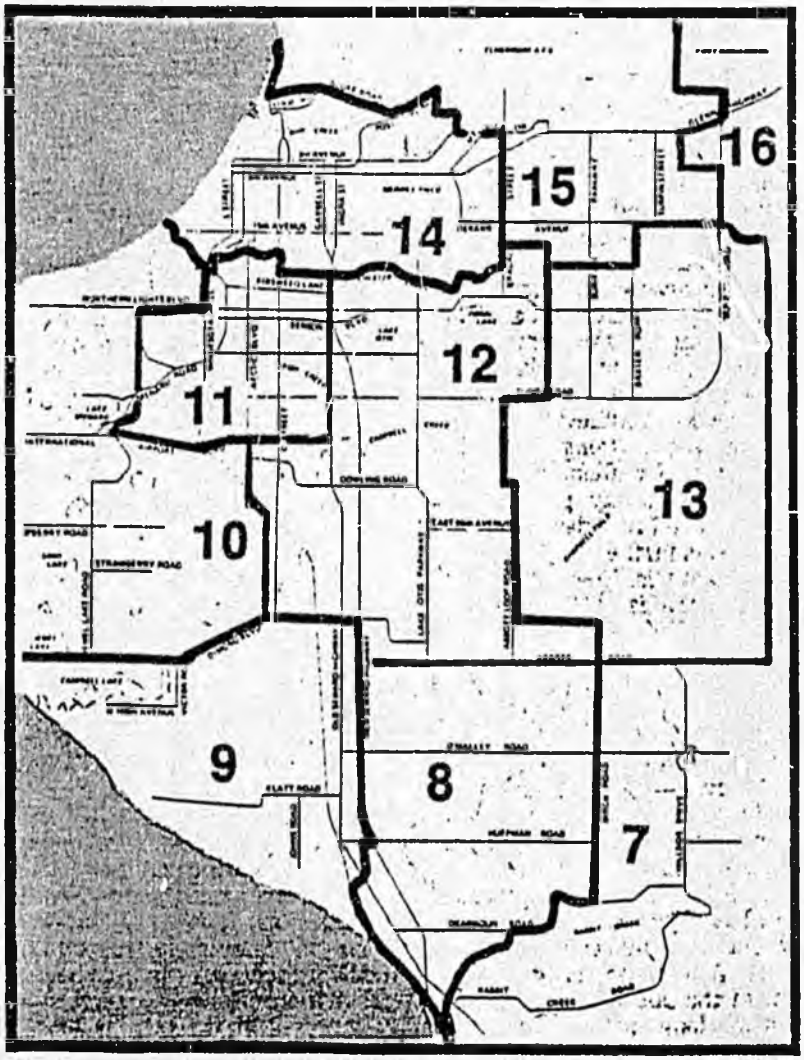
The other option would put Barnes, Ward, Lindauer and Furnace in a two-seat district.

"The key to this whole reorganization is whether they're going to count increased population out in Eagle River-Chugiak. If they can do that, they're going to use that as an excuse to rewrite the entire Anchorage area," said Sen. Tim Kelly, R-Anchorage.

Another Anchorage Republican, Sen. Arliss Sturgulewski, said that even if the new Eagle River numbers are counted, wholesale redistricting in Anchorage will not be necessary.

Jeff Day, a spokesman for House Speaker Joe Hayes, R-Anchorage, said, "There appear to be substantial changes in most of the districts, and you'd have to question whether those changes are really necessary."

Willie Hensley, chairman of the reapportionment board, couldn't be reached for comment this morning on the Republicans' statements.



Charles Atkins for The Times

A reapportionment option that would take care of Eagle River undercount

ARTICLE VI

LEGISLATIVE APPORTIONMENT

Election Districts

SECTION 1. Members of the house of representatives shall be elected by the qualified voters of the respective election districts. Until reapportionment, election districts and the number of representatives to be elected from each district shall be as set forth in Section 1 of Article XIV.

Senate Districts

SECTION 2. Members of the senate shall be elected by the qualified voters of the respective senate districts. Senate districts shall be as set forth in Section 2 of Article XIV, subject to changes authorized in this article.

Reapportionment of House

SECTION 3. The governor shall reapportion the house of representatives immediately following the official reporting of each decennial census of the United States. Reapportionment shall be based upon civilian population within each election district as reported by the census.

Method

SECTION 4. Reapportionment shall be by the methods of equal proportions, except that each election district having the major fraction of the quotient obtained by dividing total civilian population by forty shall have one representative.

Combining Districts

SECTION 5. Should the total civilian population within any election district fall below one-half of the quotient, the district shall be attached to an election district within its senate district, and the reapportionment for the new district shall be determined as provided in Section 4 of this article.

Redistricting

SECTION 6. The governor may further redistrict by changing the size and area of election districts, subject to the limitations of this article. Each new district so created shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area.

Each shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.

Modification of Senate Districts

SECTION 7. The senate districts, described in Section 2 of Article XIV, may be modified to reflect changes in election districts. A district, although modified, shall retain its total number of senators and its approximate perimeter.

Reapportionment Board

SECTION 8. The governor shall appoint a reapportionment board to act in an advisory capacity to him. It shall consist of five members, none of whom may be public employees or officials. At least one member each shall be appointed from the Southeastern, Southcentral, Central and Northwestern Senate Districts. Appointments shall be made without regard to political affiliation. Board members shall be compensated.

Organization

SECTION 9. The board shall elect one of its members chairman and may employ temporary assistants. Concurrence of three members is required for a ruling or determination, but a lesser number may conduct hearings or otherwise act for the board.

Reapportionment Plan and Proclamation

SECTION 10. Within ninety days following the official reporting of each decennial census, the board shall submit to the governor a plan for reapportionment and redistricting as provided in this article. Within ninety days after receipt of the plan, the governor shall issue a proclamation of reapportionment and redistricting. An accompanying statement shall explain any change from the plan of the board. The reapportionment and redistricting shall be effective for the election of members of the legislature until after the official reporting of the next decennial census.

Enforcement

SECTION 11. Any qualified voter may apply to the superior court to compel the governor, by mandamus or otherwise, to perform his reapportionment duties or to correct any error in redistricting or reapportionment. Application to compel the governor to perform his reapportionment duties must be filed within thirty days of the expiration of either of the two ninety-day periods specified in this article. Application to compel correction of any error in redistricting or reapportionment must be filed within thirty days following the proclamation. Original jurisdiction in these matters is hereby vested in the superior court. On appeal, the cause shall be reviewed by the supreme court upon the law and the facts.

ARTICLE VII

HEALTH, EDUCATION, AND WELFARE

Public Education

SECTION 1. The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

State University

SECTION 2. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

Board of Regents

SECTION 3. The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

Public Health

SECTION 4. The legislature shall provide for the promotion and protection of public health.

Public Welfare

SECTION 5. The legislature shall provide for public welfare.

ARTICLE VIII

NATURAL RESOURCES

Statement of Policy

SECTION 1. It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

General Authority

SECTION 2. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

Common Use

SECTION 3. Wherever occurring in the natural state, fish, wildlife, and waters are reserved to the people for common use.

Sustained Yield

SECTION 4. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

Facilities and Improvements

SECTION 5. The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

State Public Domain

SECTION 6. Lands and interests therein, including submerged and tidal lands, possessed or

Note Copy

MEMORANDUM State of Alaska

TO: William Hensley, Chairman
Reapportionment Board

DATE: January 10, 1984

FILE NO:

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Legal review of proposed reapportionment plan

By: Jonathan B. Rubini
Assistant Attorney General

Following the Reapportionment Board's (Board) tentative adoption on December 16, 1983 of proposed amendments to the 1981 Reapportionment Plan (Plan,, the Department of Law requested an opportunity to review certain legal concerns which had been raised during the course of the Board's deliberations. Our legal review of several probable areas of concern are set forth in this memorandum. We caution, however, that the law relating to reapportionment is, in many respects, quite unsettled and that, as a consequence, our legal analysis is intended more as an indication of probable judicial analysis than as a statement of legal validity. 1/

I. Southeast Alaska

The proposed configuration of districts in Southeast Alaska retains the conceptual approach embodied in the 1981 Plan. Cordova, of course, has been removed from District 2. To retain the concept of a predominantly rural, "island chain" district, the communities of Metlakatla and Hoonah were removed from Districts 1 and 3 respectively, and relocated into District 2. In other respects, the 1981 Plan is unchanged. The comparative variation of this proposed plan is 14.8 percent, with District 4 (Juneau) the most overpopulated district, and District 1 (Ketchikan) the most underpopulated.

1/ To assist in this review, the Department of Law engaged the law firm of Sanosky, Chambers, Sachse & Guido, a firm located in Washington, D.C. with substantial expertise in the areas of reapportionment law. The views of the Sanosky firm are included within this memorandum.

To evaluate the proposed configuration, we assess the proposed Plan as opposed to Southeast Option No. 5, an alternative option considered by the Board which rejects the concept of District 2, and instead divides the region in a more horizontal fashion. Under this plan, District 1 would be a two-member district which includes Ketchikan, Metlakatla, Wrangell, and Prince of Wales. District 2 would include Petersburg, Hoonah, Gustavus, Haines, Skagway, and Yakutat. The comparative variation in this plan is 15.5 percent.

A. Population Variances

We first address whether the proposed comparative variance of 14.8 percent raises a substantial legal problem under the Equal Protection Clause of the United States and Alaska Constitutions.

In Reynolds v. Sims, 377 U.S. 533 (1964), the Supreme Court enunciated the basic test for judging the population distribution in a state legislative redistricting plan, with the Equal Protaction Clause:

> [T]he Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable.

377 U.S. at 577. The Court recognized that "legitimate considerations incident to the effectuation of a rational state policy," 377 U.S. at 579, such as a desire to respect subdivision lines or to provide for compact districts of contiguous territory, justify some deviations from the principle of equal population. But it cautioned that the "overriding objective" of state redistricting plans "must be substantial equality of population among the districts, so that the vote of any citizen is approximately equal in weight to that of any other citizen." Id. 2/

2/ In Reynolds, the Court struck down population variance ratios of 41 to 1 in the Alabama Senate and 16 to 1 in the Alabama House. 377 U.S. at 546. On the same day Reynolds was decided, continued

In the cases subsequent to Reynolds and its companion cases, the Court refined its analysis of permissible population variances in state legislative redistricting plans. Although the Court has acknowledged that such districts are to be judged by more flexible standards than congressional districts, see e.g., Wesberry v. Sanders, 376 U.S. 1 (1964); Kirkpatrick v. Roeisler, 394 U.S. 526 (1969); Gaffney v. Cummings, 412 U.S. 735, 742 (1973), the apparent "rule" is that state legislative districts should not exceed a maximum deviation of 10 percent, and may not exceed a maximum deviation of 16.5 percent. This rule has been applied -- virtually without exception -- since the early 1970's by both the Supreme Court and the lower federal courts.

In Swann v. Adams, 385 U.S. 440 (1967), for instance, the Supreme Court disapproved of maximum variance of 25.65 percent in the Florida legislature. Similarly, it disapproved a maximum deviation of 26.48 percent in Kilgarin v. Hill, 386 U.S. 120 (1967), and deviations of 24.78 percent and 28.20 percent in Whitcomb v. Chairs, 403 U.S. 124 (1971). On the other hand, the Court permitted a maximum deviation of 7.83 percent in Gaffney v. Cummings, 412 U.S. 735 (1973), and, with justification by the state, a deviation of 11.9 percent in Abate v. Mundt, 403 U.S. 182 (1971).

In White v. Regester, 412 U.S. 755 (1973), the Court held that a maximum deviation of 9.9 percent in a state redistricting plan did not, in itself, establish a prima facie case of invidious discrimination under the Equal Protection Clause. 412 U.S. at 764. Thus, the state bore no burden to justify any deviation up to that degree. Id. The Court did recognize, however, that "larger differences between districts would not be tolerable without justification" based on the effectuation of a rational state policy. Id.

2/ continued
the Court also struck down redistricting plans with a variance ratio of 1.7 to 1 in the House and 3.6 to 1 in the Senate in Colorado, Lucas v. Colorado General Assembly, 377 U.S. 713 (1964); a variance of 32 to 1 in the Senate and 6 to 1 in the House in Maryland, Maryland Committee v. Tawes, 377 U.S. 656 (1964), a variance of 2.65 to 1 in the Senate and 4.36 to 1 in the House in Virginia, Davis v. Mann, 377 U.S. 678 (1964), and a variance of 15 to 1 in the Senate and 35 to 1 in the House in Delaware, Roman v. Sincock, 377 U.S. 695 (1964). In each instance, the Court found that such wide population disparities among legislative districts violated the Equal Protection Clause.

In a prior case, Mahan v. Howell, 410 U.S. 315 (1973), the Court permitted Virginia to adopt a plan with a maximum deviation of 16.4 percent -- but only after making a strong demonstration that the deviation was justified by the state policy of respecting subdivision boundaries. 410 U.S. at 328. The Court expressly noted that the 16.4 percent deviation approved in Mahan "may well approach tolerable limits ..." 410 U.S. at 329.

16.4%

The Court has adopted a three part test. Maximum deviations below 10 percent are treated by the Court as "minor deviations from mathematical equality" which are "insufficient to make out a prima facie case of invidious discrimination ... so as to require justification by the State." Gaffney v. Cummings, 412 U.S. at 745. Deviation greater than 10 percent but less than the 16.5 percent in Mahan "may be sufficiently large to require justification but nonetheless justifiable and legally sustainable." Id. Finally, deviations larger than the 16.4 percent approved in Mahan would likely exceed the tolerable limits in state redistricting plans. 3/

Virtually all court rulings from the early 1970's to the present support these distinctions. Maximum deviations below 10 percent are approved with little or no further scrutiny, and those below 16.5 percent approved if justified by a rational state policy. See, e.g., Farnum v. Burns, 561 F. Supp. 83 (D. R.I. 1983) (deviation of 2.5 percent); Bover v. Gardner, 540 F. Supp. 624 (D. N.H. 1982) (deviation of 13.74 percent); Winter v. Dockering, 373 F. Supp. 308 (D. Kansas 1974) (deviation of 11.6

3/ A 1983 case, Brown v. Thomson, _____ U.S. _____, 77 L.Ed.2d 214 (1983) appears as an exception to this rule but is, we believe, of virtually no precedential value. There, the Court approved an extraordinary maximum deviation of 89 percent in the Wyoming House of Representatives on the grounds that the state redistricting plan furthered the state policy of preserving county boundaries. 77 L.Ed.2d at 272. The Court found the population variances to be "entirely the result of the consistent and nondiscriminatory application of a legitimate state policy." Id. at 223. However, the Court explicitly addressed only the marginal deviation that resulted from the overrepresentation of a particular county. Indeed, six members of the Court, including two justices from the majority, noted the limited question at issue, and as a consequence, Brown will likely have little, if any, precedential effect.

percent); Gaines v. Herskell, 362 F. Supp. 313 (S.D. W.Va. 1973) (deviation of 16.1 percent); Kelly v. Bumpers, 340 F. Supp. 468 (B.D. Ark. 1972) (deviations of 3.5 percent and 9.5 percent); Dunn v. State of Oklahoma, 343 F. Supp. 320 (W.D. Okla. 1972) (deviation of 2.2 percent); In re Senate Bill No. 220, 225 Kan. 628, 593 P.2d 1 (Kansas 1979) (deviation of 6.5 percent); In re Senate Bill 177, 318 A.2d 157 (Vt. 1974) (deviation of 16.6 percent); Franklin v. Krause, 367 N.Y.S.2d 998 (N.Y. 1975) (deviation of 8.6 percent) (county commissioners); Schneider v. Rockefeller, 31 N.Y.2d 420, 293 N.E.2d 67 (N.Y. 1972) (deviations of 1.82 percent and 3.38 percent); Davenport v. Apportionment Commission, 65 J.J. 125, 319 A.2d 718 (N.J. 1974) (deviation of 4.2 percent); In re Apportionment Law, 263 So.2d 797 (Fla. 1972) (deviations of .3 percent and 1.15 percent).

On the other hand, maximum deviations exceeding 16.5 percent are, virtually without exception, stuck down as a violation of equal protection. As one federal court noted in a recent decision:

> In fact, as far as we can ascertain from independent research, it appears that no court since Mahan has upheld a legislative reapportionment scheme which includes a maximum deviation of 16.5% or more. Apparently most courts have read the Supreme Court's caveat in Mahan as implicitly setting this figure as the outermost limit allowed by the Constitution.

Travis v. King, 552 F. Supp. 554, 562 (D. Hawaii 1982). A review of the court decisions confirms the view that a 16.5 percent maximum deviation is the limit permissible, and that deviations between 10 percent and 16.5 percent will be approved only if justified by the state. See, e.g., Farnum v. Burns, 548 F. Supp. 769 (D. R.I. 1982) (disapproved deviation of 88 percent); Travis v. King, 552 F. Supp. 554 (D. Hawaii 1982) (disapproved deviations of 15.02 percent and 43.2 percent); Sanchez v. King, 550 F. Supp. 13 (D. N.M. 1982) (disapproved deviations of 94 percent and 83 percent); Cosner v. Dalton, 572 F. Supp. 350 (E.D. Va. 1981) (disapproved deviations of 26.63 percent and 72.12 percent); Mader v. Crowell, 498 F. Supp. 726 (M.D. Tenn. 1980) (disapproved deviation of 18.03 percent); Sullivan v. Crowell, 444 F. Supp. 606 (W.D. Tenn. 1978) (disapproved deviations of 21.8 percent and 35.6 percent); Chapman v. Meier, 407 F. Supp. 649 (D. N.D. 1975) (disapproved deviation of 20.17 percent); Cohen v. Maloney, 410 F. Supp. 1147 (D. Del. 1976) (disapproved deviation of 18.3 percent) (city council); Winter v. Docking, 356 F. Supp. 88 (D. Kansas 1973) (disapproved deviation of 12.41

percent); Sims v. Amos, 336 F. Supp. 924 (M.D. Ala.) aff'd 409 U.S. 942 (1972) (disapproved deviations of 28.65 percent and 24.28 percent); Stufy v. Anderson, 93 [illegible].2d 546, 611 P.2d 764 (Wash. 1980) (disapproved deviation [illegible]8.6 percent) (county commissioner); In re Senate Bill 177, [illegible] A.2d 657 (Ver. 1972) (deviation of 25.33 percent disapproved); Franklin v. Krause, 367 N.Y.S. 998 (N.Y. 1975) (deviation of 2[illegible] percent disapproved) (county commissioner); Scrimminger v. Sherwin, 60 N.J. 483, 291 A.2d 134 (N.J. 1972) (deviations of 28.83 percent and 26.20 percent disapproved); Opinion of the Justices, 307 A.2d 198 (Me. 1973) (deviation of 94.02 percent disapproved).

Thus, any state redistricting plan with a maximum deviation less than 10 percent will likely be found per se not to violate the Equal Protection Clause. A plan with a deviation between 10 percent and 16.5 percent may be upheld if the state meets its burden of rebutting a prima facie violation of equal protection by demonstrating both that the state made a good faith effort to minimize the population deviation and that the deviation is necessary to effectuate a legitimate state policy, such as compact, contiguous districts that preserve subdivision lines. Finally, the case law indicates that maximum deviations in excess of 16.5 percent will likely be held to violate the equal protection clause, no matter what justification is offered by the state. Accordingly, deviations in excess of 16.5 percent would raise substantial legal uncertainty and should thus be avoided.

It is our view that the projected deviation in Southeast Alaska does not violate the Equal Protection Clause. The projected variance directly results from the Board's decision to retain a two-member district within the boundaries of the City and Borough of Juneau, a district which is 4.8 percent overpopulated. Simply put, a population deviation of less than 10 percent could not be obtained unless a segment of the Juneau population was included within another southeast district. Importantly, the projected deviations under the proposed plan are less than 16.5 percent, threshhold recognized as the tolerable limit to permissible population deviations. Historically, of course, the boundaries of the Juneau area have been preserved in the redistricting process. Preservation of political subdivision boundaries has been repeatedly recognized as a legitimate state objective. E.g. Mahan v. Howell, 410 U.S. at 328. More importantly, the long-standing state policy to establish districts which are socio-economically integrated, as required under article 6, section 6 of the Alaska Constitution, may well preclude the promulgation of a reapportionment plan which severs the Juneau community. See Groh v. Egan, 526 P.2d at 879, n.65.

why split up Anchorage w/ Nikiski?

B. Voting Rights Act Considerations

Any consideration of the two identified alternative districting options in Southeast Alaska must revolve around a comparative assessment under the Voting Rights Act of 1965 (Act), as amended, 42 U.S.C. § 1973C. The inquiry as to compliance with the Act focuses on the impact on minority voting prerogatives. House District 2, as established in the 1981 Plan, contained a 27.5 percent Native population. The proposed District 2 would contain a 41.9 percent Native population, while under the alternative approach, 28.9 percent of the district would be Native.

Analysis

The Act was adopted to insure the protection of rights guaranteed by the Fifteenth Amendment and "to rid the country of racial discrimination in voting." South Carolina v. Katzenbach, 383 U.S. 301 (1966). Section 5 requires that no jurisdiction subject to "preclearance" procedures, such as Alaska, may implement any change in "any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting" unless such change has been approved by the United States Attorney General or the District Court for the District of Columbia. 42 U.S.C. § 1973C. The standard on review is to ensure that such change "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." Id. This standard was intended to guarantee that gains in minority political participation "would not be emasculated or destroyed through new discriminatory procedures and techniques." Mississippi v. United States, 490 F. Supp. 569, 581 (D.D.C. 1979) (three-judge court).

The Supreme Court has held that section 5 applies to state legislative redistricting plans. See Georgia v. United States, 511 U.S. 526 (1973); Beer v. United States, 425 U.S. 130 (1976); Allen v. State Board of Elections, 393 U.S. 544 (1969). The burden of proof lies with the state in demonstrating the legality of its plan under section 5. Georgia v. United States, supra; South Carolina v. Katzenbach, supra.

In Beer, supra, the Supreme Court stated the test for a section 5 analysis in terms of "retrogression":

> [T]he purpose of § 5 has always been to insure that no voting-procedure changes would be made that would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.

425 U.S. at 141. The central issue is whether a proposed change would "dilute the effectiveness" of the vote of a racial minority as compared to the situation prior to change. City of Rome v. United States, 446 U.S. 156, 183 (1980). Minority voting strength is impermissibly diluted when a redistricting scheme would operate "to minimize or cancel out the voting strength of racial elements of the voting population." Fortsen v. Dorsey, 379 U.S. 433, 439 (1965); Burns v. Richardson, 384 U.S. 73, 88 (1966).

In applying this test, lower federal courts have held that a redistricting plan dilutes minority votes when minority population concentrations are "unnecessarily fragmented and dispersed." Mississippi v. United States, 490 F. Supp at 582. In Kirksey v. Board of Supervisors, 554 F.2d 139 (5th Cir. 1977), for instance, the Fifth Circuit held that a reapportionment plan for a unit of local government would "tend to dilute the voting strength of the minority" because it fragmented members of the minority bloc between two districts. 554 F.2d at 144. See also Robinson v. Commissioners Court, 505 F.2d 674, 679 (5th Cir. 1974).

If viewed solely as a question of the percentage of Native voters in District 2, it would appear that neither of the two alternatives reflect a dimunition in minority voting strength. While the proposed District 2 would substantially enlarge the percentage of Native residents in District 2, the state is under no affirmative obligation to maximize the percentage of Native residents in the district.

We caution, though, that the probative consideration is whether a proposed redistricting would "delete the effectiveness" of the minority vote. Were the concept of a chain of rural, island communities rejected, it is arguable that the inclusion of rural Native communities with more urbanized population centers in Southeast may, as a practical matter, dilute the effectiveness of the minority vote. 4/ And, if the alternative districting

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4/ In preliminary research, we have not discovered any authority which directly addresses this matter.

proposal in southeast is viewed as a retrogressive plan, the fact that the alternative plan would extend, not reduce, the comparative population deviation in southeast would be material.

In sum, while we believe that either alternative would ultimately obtain Justice Department approval, we cannot unequivocally advise that the alternative approach to House District 2 would not prove violative of the Voting Rights Act. Our review of the available case law suggests that absent compelling facts to establish a dimunition in the effectiveness of minority voting prerogatives, a numerical inquiry is the traditional mode of analysis. Yet, it bears noting that while either version may well be acceptable under the Voting Rights Act, the likelihood of expeditious review and approval is undoubtedly furthered under the proposed District 2, a proposal which substantially increases the percentage of Native residents in the district.

C. Article VI, Section 6 Considerations

Article VI, section 6 provides that all districts "shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic areas." As initially adopted at the constitutional convention, the substantive restrictions set forth in section 6 were principally intended to inhibit, if not prevent, the instances of impermissible political gerrymandering. 3 Alaska Legislative Council, Alaska Constitutional Convention 1846 (1965); see Carpenter v. Hammond, 667 P.2d 1204, ____ (Alaska 1983). The Carpenter decision illustrates, though, that the section 6 standard operates independent of any evidence of gerrymandering. Importantly, though, while the recent Carpenter ruling has spawned a broader public sensitivity to section 6 considerations, the substantive restrictions established in section 6 are subsidiary to the concern for equal population distribution, the "overriding objective" under a federal constitutional inquiry.

1. Compactness

Section 6 mandates that districts shall be compact. The compactness requirement, however, is clearly not an absolute standard which demands that any configuration less than the most compact is impermissible. The Alaska Supreme Court has unambiguously recognized the governor's authority under article

VI to select between single-member or multi-member districts. Cf. Groh v. Egan, 526 P.2d at 880; Egan v. Hammond, 501 P.2d at 873. Since a multi-member district is necessarily less compact than a single-member district, it is apparent that compactness is a relative concept.

While the alternative southeast configuration may well be more compact than the proposed configuration of District 2, I believe that either alternative satisfies the constitutional mandate. Importantly, the proposed configuration of District 2 is more compact than the district at issue in Carpenter, a district which a majority of the court did not find impermissibly noncompact. 5/

2. Socio-Economic Integration

The more difficult inquiry concerns the mandate to establish districts which "contain as nearly as practicable a relatively integrated socio-economic area." The most extensive discussion of the constitutional provision is included in Carpenter v. Hammond, 667 P.2d 1204. In Carpenter, the Alaska Supreme Court concluded that the record presented to the court did not establish the requisite degree of social and economic interaction between Cordova and the communities in District 2 to support the inclusion of Cordova within the district.

The Carpenter decision, however, raises far more questions with respect to the parameters of the relative socio-economic intergration standard than it provides answers. Several general comments are warranted. First, Carpenter clearly rejects the assertion that socio-economic homogeneity is itself sufficient to satisfy the constitutional prerequisite. 667 P.2d at _____. Second, the preferred interpretation of Carpenter is that at least a majority of the court apparently rejects the interpretation that section 6 demands that proposed districts are permissible only if socio-economic integration is maximized. The court noted that the state conceded that Cordova was more integrated with other Prince William Sound communities than with the communities in District 2. Notwithstanding the concession, the court recognized that the question was "extremely close," and concluded that "the record is simply devoid of evidence of

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5/ Justice Mathews concluded otherwise in a concurring opinion.

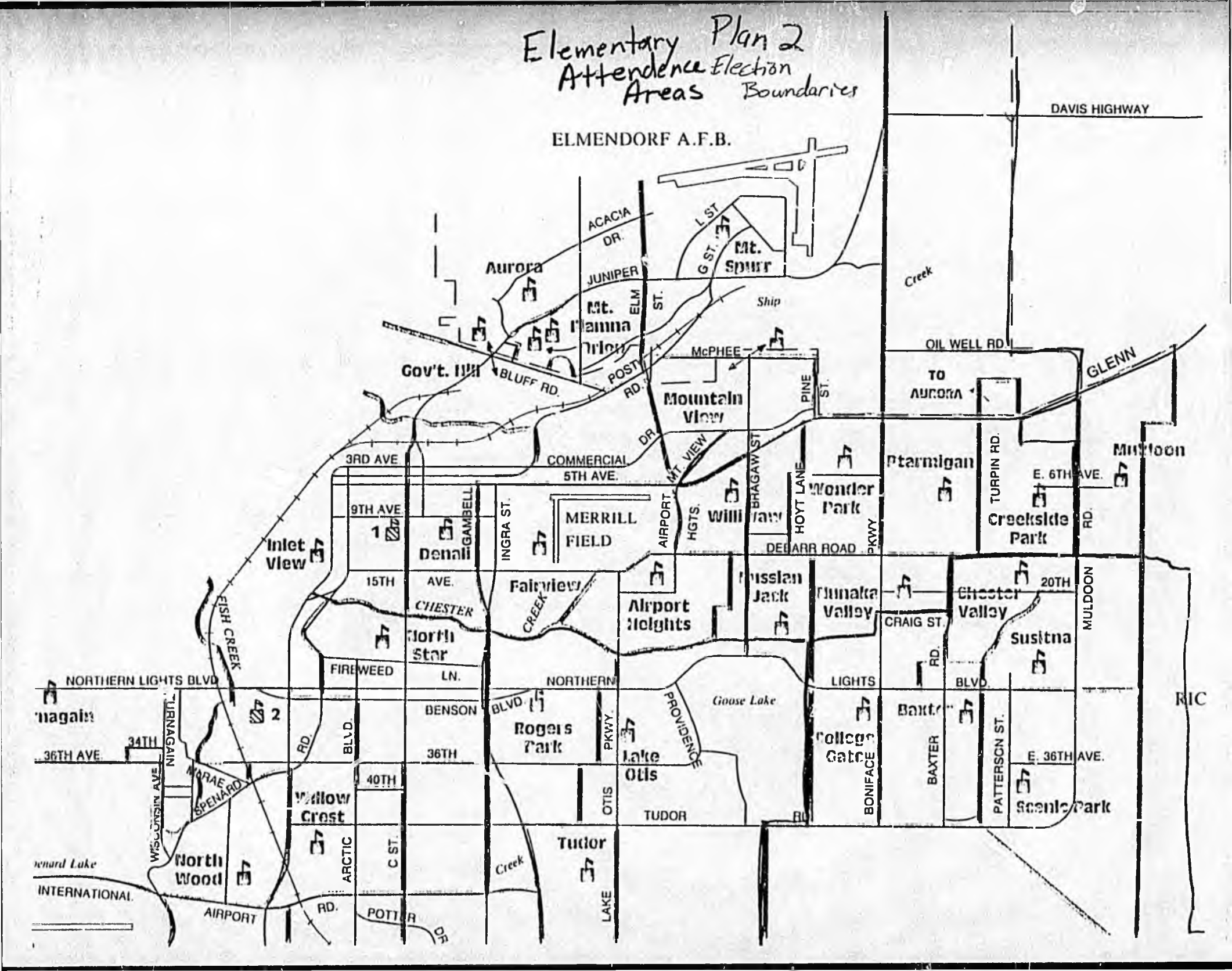
significant social and economic integration...." Id. at _____. Implicitly, then, evidence of "significant" socio-economic integration would be sufficient to meet the requirements of section 6. Unfortunately, the court did not articulate what quantum of social and economic integration is sufficient, nor did the court address the relationship between the socio-economic integration standard and other applicable constitutional standards.

Under the proposed configuration of District 2, the inclusion of Metlakatla within the district poses the most substantial integration question. Historically, Metlakatla has been united with Ketchikan for purposes of legislative apportionment, an area with which they share an obvious economic and social linkage. Again, though, we do not believe that the appropriate inquiry is whether Metlakatla is more integrated with the communities in District 1 than with the communities in District 2. Indeed, the inquiry is whether a significant degree of social and economic integration exists between Metlakatla and the other communities in the proposed district. While the question is quite close and depends to a large extent on the court's ultimate explication of the rule enunciated in Carpenter, we think it certainly arguable that the inclusion of Metlakatla in District 2 is consistent with the section 6 standard. Clearly, the degree of homogeneity is stronger in this instance than in the Cordova context. And, intervisitation between the rural communities in southeast is demonstrably more extensive than was the case between Cordova and the other communities within District 2.

We note, though, that the alternative southeast districting proposal does not, in our preliminary assessment, appear to pose as close a question under section 6. The significant aspect of the alternative configuration is the communities of Wrangell and Petersburg would not be included within the same distri That the two communities share an obvious and historic li age does not necessarily preclude the existence of sufficient ties to communities in Districts 1 and 2 respectively to support a districting proposal which places the communities in different legislative districts.

JBR:cyb

Elementary Plan 2 Attendence Areas Election Boundaries



Judge Moore

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MARILYN CARPENTER, Plaintiff, vs. JAY S. HAMMOND, Governor of Alaska, Defendant.	No. 3AN-81-5839 Civ.

NOTICE OF COMPLIANCE WITH FINAL JUDGMENT

The Governor of the State of Alaska, Jay S. Hammond, by and through his attorney, hereby gives notice of his compliance with the court's directions in its final judgment in this action dated March 26, 1982. The court required adjustment of district boundaries in Southwest Alaska to reduce the combined population variation between Districts 25 and 26 (11.5%).

The court suggested but did not require the transfer of Platinum and Goodnews Bay from District 25 to District 26. Such a transfer would be inadvisable since those two communities are socially and economically tied to the Bethel region and are geographically isolated from the District 26 communities by coastal mountains; the only transportation ties with Platinum and Goodnews Bay are via Bethel. These problems were expressly addressed by the Reapportionment Board. See Plaintiff's Exhibit 2, p. 16. In addition, the two communities are in the Calista Corporation region whereas their placement in District 26 would situate them in a district comprised of the Bristol Bay Native Corporation and Aleut Corporation regions. See Plaintiff's Exhibit 13.

Instead, the Governor will accomplish the required adjustment by means of the movement of Tuluksak from District 25 to District 24 and the movement of the Lake Iliamna/Lake Clark region (Igiugig, Iliamna, Kokhanok, Newhalen, Nondalton, Pedro Bay) from District 24 into District 26. The Lake Iliamna/Lake Clark region was originally included in District 24 to avoid the excessive overpopulation that would be caused in District 26.

ATTORNEY GENERAL STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU ALASKA 99811
PHONE 465-3600

Socially and economically, however, the communities are tied to Bristol Bay, sharing the same fish stocks, communication links and transportation networks. The residents of the region were the most vociferous of all in their objection to their placement in District 24; there were numerous phone calls, letters, telegrams and petitions demanding their inclusion in District 26 rather than District 24.

The adjustment will be accomplished as follows:

A. The population of District 25 will be reduced by placing Tuluksak in District 24. The relevant enumeration districts (ED) and populations are ED 0292 (Tuluksak, pop. 236) and ED 0344 (Tuluksak area, pop. 0). The population of District 25 will become 9,449 with a variance of +2.96%.

B. The population of District 24 will be changed by the inclusion of Tuluksak (236) and the movement of the Lake Iliamna/Lake Clark region into District 26. The relevant enumeration districts in the Lake Iliamna/Lake Clark region are EDs 0475, 0476, 0478, 0479, 0480, 0481, 0482, 0515, 0516B, 0522A, 0522B, 0522C and 0523; they have a total population of 530. The population of District 24 will become 8,920 with a variance of -2.79%.

C. The population of District 26 will be increased, by the inclusion of the Lake Iliamna/Lake Clark region, by 530. The population will become 9,157.61 with a variance of -.2%.

With this adjustment, the maximum combined variance for the state will be as follows:

District 4 (Juneau)	+ 5.34%
District 16 (Matanuska-Susitna)	- 3.87%
	9.21%

This notice has been reviewed by all the members of the Reapportionment Board. The board members expressed their unani-

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ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU ALASKA 99811
PHONE 465 3600

8. In addition, by use of address lists provided by the military branches, Dr. Kruse was able to determine, with precision, how many non-resident servicemembers and dependents live in each off-base enumeration district. The following numbers of non-resident servicemembers and dependents were deducted from off-base enumeration district populations in the listed areas:

Anchorage	4,678.5
Fairbanks	382.1
Matanuska-Susitna	41.4
Delta Junction	229.9

See Exhibit 2, Table II.

E. Military Bases Treated by the Governor

1. The Governor deducted from the reapportionment population base those numbers of non-resident military personnel and dependents who resided at or near the seven largest military installations in Alaska: Elmendorf Air Force Base, Ft. Richardson, Eielson Air Force Base, Ft. Wainwright, Ft. Greeley, Kodiak Coast Guard Station and Adak Naval Station.

2. There were approximately 2,067 non-resident military personnel at smaller installatinos on the Aleutians, in Bristol Bay, in interior Alaska and in Southeast Alaska. The largest numbers of non-residents were at Shemya and King Salmon in District 26 (851), Galena in District 24 (259), Juneau (195), Sitka (137), Ketchikan (133) and Clear in District 17 (100).

3. Had all these numbers of non-resident military, and those at other locations not listed in the preceeding paragraph, been deducted from the population base, that population base would have become 367,050 and the ideal district size would have become 9,176. See Appendix I, attached hereto.

4. Under this scheme, the most overpopulated district would be district 25 with 9,684 persons (+5.53%); the most underpopulated district would be district 26 with 8,628 persons

discretion cannot be disturbed unless it lacks any rational basis.

2. It was reasonable and not arbitrary to exclude identifiable non-resident military personnel and dependents from the reapportionment population base while including non-identifiable members of other groups. The rights of military personnel and dependents to due process and equal protection were not violated. Groh v. Egan at 870-871.

3. It was reasonable and not arbitrary for the Governor to forego study of military at smaller, remote installations in view of the demonstrably small impact their potential non-residency would have on the reapportionment populations of the individual districts.

4. It was reasonable and not arbitrary to exclude non-resident military dependents based upon answers to survey questions put to their parents or spouses. Such a procedure did not violate the dependents' rights to due process and equal protection.

5. The survey utilized by the Governor to determine the proportion of non-residents among military personnel and dependents was a reasonable and constitutional device which accurately identified that proportion of military personnel and dependents who neither intend to make Alaska their domicil nor register to vote in Alaska, the two key criteria identified by the Alaska Supreme Court. Groh v. Egan at 873, text and n. 36.

6. Since military personnel and dependents are in Alaska under legal compulsion, it was reasonable and constitutional to inquire in the survey about their intent to make a home in Alaska at a time when they had the freedom to choose where they would live, i.e. at the time of retirement or discharge. See RESTATEMENT (SECOND) OF CONFLICT OF LAWS, Section 12, Illustration 3 and Comment i; Section 17, Comment d and Illustrations 1, 2, 7 and 8; Section 18, Comment b (cont.); Section 19, Illustrations 1 and 2. See also Groh v. Egan at 871-872, n. 34.

7. Alaska Constitution article VI, section 6 requires that election districts be "compact". It does not require that the districts be the most compact that could possibly be devised; considerations of population equality, socio-economic integration, geographic barriers and municipal boundaries may militate against the most compact configuration. The goal to be achieved by the compactness requirement is effective legislative representation, which occurs when persons and communities with substantially like backgrounds and interests, usually but not always in a single region, are joined in a political unit to elect the person of their choice. Effective transportation and communication systems may make a far-flung district functionally compact, especially when the residents of the district have common interests and take advantage of the transportation and communications systems to develop their policy positions and make their views known to their legislator.

8. District 2 does not violate the requirement of compactness.

9. Alaska Constitution article VI, section 6 requires that a district "contain as nearly as practicable a relatively integrated socio-economic area." The concept embodies a number of interrelated components, including economic base, ethnic composition, governmental boundaries, community size, transportation and communication links, and lifestyle. The reapportionment process requires a balancing of these components; one may be deemed predominant while another may be subordinated. As well, the socio-economic factors may be subordinated to the consideration of population equality with another district. The balance is to be struck by the Governor and will be sustained unless it lacks any rational basis. Groh v. Egan at 866.

10. Socio-economic integration does not require that regular social and economic interactions or transactions occur between the communities of a district, although such occurrences

are indicia of socio-economic integration. Integration of social or economic interests, as distinguished from integration of social or economic systems, is all that is required. Integration of interests alone has been the basis of many districts formed at and since the Alaska Constitutional Convention. See e.g., the discussion of the placement of the community of Livengood in Minutes, Alaska Constitutional Convention at 1933-1939, 1941. See, also, the comments of Delegate Hellenthal in Minutes, Alaska Constitutional Convention at 1872. Integration of interests was the basis of the North Slope - Kotzebue and Yukon River districts drawn by the Alaska Supreme Court in Egan v. Hammond, 502 P.2d 586 (Alaska 1972); there was, in those districts, no integration of social or economic systems across those vast areas.

11. The inclusion of Cordova in a district with small Inside Passage communities with identity or similarity of interests in fishing, forest management, ferry service, air service and other issues does not violate the constitutional requirement of socio-economic integration.

The Governor shall submit a form of judgment in conformity with these findings and conclusions.

DATED at Anchorage, Alaska this _____ day of March, 1982.

Daniel A. Moore, Jr.
Superior Court Judge

APPENDIX I

ADDITIONAL EXCLUSIONS ASSUMING PLAINTIFF'S FIGURES FROM EXHIBIT 4

CENSUS DIVISION	DISTRICT	MILITARY POPULATION	NON-RESIDENT FACTOR	ADDITIONAL NUMBER TO EXCLUDE
Aleutians & Bristol Bay	26	See attached sheet*	.91	851.39
Angoon	2	3 (CG)	.71	2.13
Barrow	22	17 (NV)	.91	15.47
Bethel	25	15 (U.S.A.F.)	.91	13.65
Cordova	2	54 (CG)	.71	38.34
Juneau	4	275 (CG)	.71	195.25
Kenai-Cook Inlet	5	55 (CG)	.71	39.05
Ketchikan	1	188 (CG)	.71	133.48
Kobuk	22	17 (U.S.A.F.)	.91	15.47
Kuskokwim	24	55 (U.S.A.F.)	.91	50.05
Mat-Su	16	105.6 (Army) (See attached sheet**)	.78	82.37
Nome	23	41 (U.S.A.F.)	.91	37.31
Seward	6	15 (CG)	.71	10.65
Sitka	3	193 (CG)	.71	137.03
Skagway-Yakutat	2	12 (CG)	.71	8.52
Upper Yukon	24	28 (U.S.A.F.)	.91	25.48
Valdez-Chitina Whittier	6	42 (CG)	.71	29.82
Wade Hampton	23	13 (U.S.A.F.)	.91	11.83
Wrangell-Petersburg	1	14 (CG)	.71	9.94
Yukon-Koyukuk (Part)	17	127 (Clear-U.S.A.F.)	.79	100.33
Yukon-Koyakuk (Part)	24	285 (U.S.A.F.)	.91	259.35
		Tot Additional Exclusion		2,066.91

31,363.8 - military already excluded
\+ 2,066.91 - additional exclusion
33,430.71

400,481 - 1980 statewide population
\- 33,430.71 - non-resident military and dependents
367,050.29 ÷ 40 = 9,176.2 Ideal district size.

ATTACHMENT TO APPENDIX I

ADDITIONAL EXCLUSION FOR ALEUTIAN ISLANDS-
BRISTOL BAY CENSUS DIVISIONS
Assuming Plaintiff's Figures (Exhibit 4)

2175	Aleutian Islands Census Division - Exhibit 4
x.91	non-resident factor - Exhibit 1, Table 9
1979.25	non-resident active duty
3315	total military & dependents at Adak - 1980 Census
-1610	military at Adak - Exhibit 1, Table 9
1705	dependents at Adak
1705	dependents at Adak
x.87	non-resident factor, dependents at Adak-Exhibit 1, Table 9
1483.35	non-resident dependents at Adak
1483.35	non-resident dependents on Aleutians & Bristol Bay
+1979.25	non-resident military on Aleutians
3462.6	
369	military - Bristol Bay Census Division - Exhibit 4
x.91	non-resident factor - Exhibit 1, Table 9
335.79	non-resident military Bristol Bay
3798.39	total non-resident military & dependents on Aleutians & Bristol Bay
3798.39	number that should have been excluded
-2947.00	number actually excluded - Exhibit 2, Table II
851.39	additional number required to be excluded

** Of the 147 persons reported in Alaska Population Overview (Exhibit 4) to reside in the Matanuska-Susitna Census Division, 41.4 were previously deducted by the Governor. See Exhibit 2, Table [illegible].

APPENDIX II

HOUSE DISTRICT VARIANCE
Assuming Plaintiff's Figures (Exhibit 4)

(Ideal District Size 9,176.2)

District	Population	Additional Exclusion	New Population	Variance
1.	17,940	143.42	17,796.58 (8,898.29)	-3.03%
2.	9,301	48.99	9,252.01	+ .8%
3.	9,266	137.03	9,128.97	- .5%
4.	19,528	195.25	19,332.75 (9,666.375)	+5.34%
5.	19,068	39.05	19,028.95 (9,514.475)	+3.66%
6.	9,267	40.47	9,226.53	+ .5%
7.	8,853.2			-3.51%
8.	18,202.1 (9,101.05)			- .8%
9.	18,004.7 (9,002.35)			-1.9%
10.	17,685.7 (8,842.85)			-3.63%
11.	17,957.8 (8,978.9)			-2.15%
12.	18,170 (9,085)			-1.0%
13.	18.907.5 (9,453.75)			+3.02%
14.	19,031.5 (9,515.75)			+3.7%
15.	18,560.7 (9,280.35)			+1.13%
16.	17,724.6	82.37	17,642.23 (8,821.115)	-3.87%
17.	9,111.9	100.33	9,011.57	-1.79%
18.	9,300			+1.35%
19.	8,934.3			-2.63%
20.	18,319.7 (9,159.85)			- .18%
21.	9,247.1			+ .77%
22.	9,030	30.94	8,999.06	-1.93%
23.	9,388	49.14	9,338.86	+1.77%
24.	9,549	334.88	9,214.12	+ .4%
25.	9,698	13.65	9,684.35	+5.53%
26.	9,479	851.39	8,627.61	-5.97%
27.	9,592.4			+4.53%

Most overpopulated - Dist. 25 - Bethel	9,684.35	+5.53%
Most underpopulated - Dist 26 - Bristol Bay Aleutians	8,627.61	-5.97%
Total Combined Variance		11.50%

Judge Souter

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

FILED in the Trial Courts
State of Alaska, Third District
OCT 12 1983
CLERK OF TRIAL COURTS
By: Deputy Clerk

MARILYN CARPENTER,

Plaintiff,

vs.

JAY S. HAMMOND,

Defendant.

Case No. 3AN-81-5839 CI

ORDER

Having reviewed the opinion of the Alaska Supreme Court in this case, together with the applicable constitutional provisions and the arguments presented by the parties:

IT IS HEREBY ORDERED that:

1. This case is remanded to the Governor of the State of Alaska, who, after being advised by the Reapportionment Board, shall issue, no later than February 3, 1984, a revised final Proclamation of Reapportionment in conformity with the opinion of the Alaska Supreme Court which was issued in this case on July 22, 1983.

2. The revised final Proclamation of Reapportionment shall, in a manner consistent with the federal and state constitutional requirements of equal representation, but with the fewest possible changes in the final Reapportionment Plan as approved by the Alaska Supreme Court in this case, cause Cordova to be placed in a contiguous, compact and relatively integrated socio-economic election district and cause House District 2 to be transformed into such an election district.

3. The revised final Proclamation of Reapportionment shall utilize the "indefinite intention" test in determining the residency of military members in any election

districts whose boundaries must be changed in order to accomplish the necessary changes regarding Cordova and District 2, and it shall not utilize any amendments to the most recent federal decennial census which were issued after the initial final decision which was entered by the Superior Court in this case on March 26, 1982.

4. The Reapportionment Board shall meet as soon as practicable, hold such public hearings as it deems appropriate and present the Governor with a proposed amended final Proclamation of Reapportionment no later than January 3, 1984, unless otherwise ordered by the Governor. The Reapportionment Board which provided the recommendations which formed the basis for Governor Hammond's Proclamation of Reapportionment on July 24, 1981 remains in existence and may be used by Governor Sheffield. However, Governor Sheffield may, in his discretion, appoint a new Reapportionment Board to serve in the place and stead of the existing one.

5. This court shall retain continuing jurisdiction in this case for the purpose of resolving such disputes as might hereafter be properly submitted to it regarding the reapportionment proceedings at issue, it being this court's intention not to entertain any but the most extraordinary of motions in this case until the revised final Proclamation of Reapportionment has been issued.

ENTERED this 12th day of October, 1983.

Milton A. Souter
MILTON A. SOUTER
SUPERIOR COURT JUDGE

I certify that on 10/12/83 at 4:00 p.m., I personally delivered a copy of said Order to the following:

Holli Ploog
Jonathan B. Rubini

Priscilla Brown
Secretary to Judge Souter

I Certify that on 10-13-83 [illegible] Timothy A. McKeever

Priscilla Brown
[illegible]

ORDER ESTABLISHING AN INTERIM REAPPORTIONMENT PLAN FOR 1972 LEGISLATIVE ELECTIONS

This Court declared the Reapportionment and Redistricting Proclamation dated December 30, 1971, unconstitutional by its Decision and Order entered May 26, 1972. Pursuant to that Decision and Order, the Court appointed Dr. George W. Rogers and William H. Scott Masters to assist it in fashioning an interim reapportionment plan for the 1972 Alaska Legislative Elections.[1]

The Court, on May 26, 1972 gave the Masters the following written instructions:

1. By use of the official census of 1970, you should establish a population base for the State of Alaska. This population base should include military personnel who were enumerated in the 1970 Census.

2. You should make an inquiry to determine whether or not the number of nonresident military personnel included in the 1970 Census can be determined. If a determination can be made, then you should subtract the number from the total which you have arrived at in paragraph 1 above. You should also state the methods in detail by which you arrived at this determination.

3. Once you have determined the population base, you should divide the same by 40. This will give you the ideal number of persons to be included in a single member House district. You should then divide the population base by 20 which will represent the ideal population for a single member Senate district.

4. You should then establish House and Senate election districts containing a number of persons as close to the formula as feasible.

5. In establishing House and Senate districts, an effort should be made to make the districts correspond, where feasible, with the approximate boundaries set out in the 1971 reapportionment plan. No designated seats will be established within a multi-member district if multi-member districts are established. In establishing House and Senate districts you should, wherever feasible, create a district of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area.

6. If there are any substantial deviations from the population norms, express, specific reasons should be set forth.

The Masters submitted a report on June 12, 1972. Thereafter, the Masters met with the Court on June 13, 1972, at which time the report was amended to reflect determinations made by the Court concerning the reapportionment plan.

The Court, now being fully advised in the premises, hereby makes and orders the following interim reapportionment plan for the 1972 legislative elections:

(1) By use of the Official Census of 1970, the Court determines that the total population base for the State of Alaska shall be 302,361. This figure includes the military population residing in the State of Alaska at the time of the Official Census of April, 1970. In the time available to the Court for the preparation of the interim plan, the Court could find no feasible method of excluding some or all of the military personnel from the total population base. Moreover, computations revealed that changes in representation under the interim plan due to the inclusion of military personnel were minimal.

1. We commend George W. Rogers, Professor of Economics at the University of Alaska, and Mr. William H. Scott, C.P.A., their legal assistant R. E. Hicks, and Mr. Richard Listowski, cartographic and statistical assistant, for the excellence of their performance in executing the Court's instructions.



1970 Census of
itan's, Alaska,
n: USGPO, 1970),

State of Alaska because of its differing climates, topography, ethnic composition, socio-economic interests and distribution of its relatively sparce population. However, under the mandate of various decisions of the United States Supreme Court, we make the following determinations and order:

1. The reapportionment plan proposed by the Governor of Alaska in his Proclamation of Reapportionment and Redistricting of December 30, 1971, is unconstitutional in that its overall reapportionment of the Senate and House of Representatives results in proposed election districts that do not contain as nearly equal population proportions as is practicable. Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964); Wade v. Nolan, 414 P.2d 689 (Alaska 1966). Under the Equal Protection and Supremacy Clause of the Constitution of the United States of America, the constitutional right to vote of every citizen of Alaska is protected against impermissible dilutions and impairments flowing from malapportionment of either the House of Representatives or the Senate. In order to effectuate this constitutionally protected right to vote, we are obliged to declare the reapportionment plan of December 30, 1971, invalid under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

2. To insure compliance with the Equal Protection Clause in regard to the forthcoming 1972 primary and general elections for the State Legislature this court must formulate an interim reapportionment and redistricting plan. Scott v. Germano, 381 U.S. 407, 85 S.Ct. 1525, 14 L.Ed.2d 477 (1965); Maryland Comm. for Fair Representation v. Tawes, 377 U.S. 656, 675–676, 84 S.Ct. 1429, 12 L.Ed.2d 595, 607 (1964). The Lieutenant Governor is to conduct the 1972 primary and general elections for the State Legislature pursuant to the interim reapportionment and redistricting plan which this court will adopt.

3. In order to fashion an interim plan this court will appoint one or more masters to assist it.

4. Upon receipt of the report of the master or masters, this court will consider the manner in which the House and Senate districts shall be reapportioned. This court will then proceed to adopt an interim plan of reapportionment which, as nearly as practicable, considering the allotted time, reflects the standards which have been made binding upon the states by the United States Supreme Court. Ely v. Klahr, 403 U.S. 108, 91 S.Ct. 1803, 29 L.Ed.2d 352 (1971); Reynolds v. Sims, 377 U.S. 533, 586, 84 S.Ct. 1362, 12 L.Ed.2d 506, 541 (1964).

5. In the event this court determines that the exigencies of the situation preclude the fashioning of an interim constitutional reapportionment plan by June 15, 1972, this court will enter a further order specifying the plan under which the Lieutenant Governor shall conduct the 1972 primary and general elections for the State Legislature, together with the dates that such elections will be held. Connor v. Johnson, 402 U.S. 690, 91 S.Ct. 1760, 29 L.Ed.2d 268 (1971).

6. A full opinion discussing and determining the issues which were raised in the petition and cross-petition will be filed in due course.

Dated at Juneau, Alaska, this 26th day of May, 1972.

George F. Boney
Chief Justice

Jay A. Rabinowitz
Associate Justice

Roger G. Connor
Associate Justice

Robert [illegible] Erwin
Associate Justice

Robert Boochever
Associate Justice

litigation of reapportionment plans in Alaska, would be an issue in the inevitable legal challenge to the amended Plan.

With the foregoing considerations in mind, the Proposed Order articulates three broad areas which may necessitate amendment to the Reapportionment Plan. First, the Carpenter decision specifically explicated the constitutional mandate that each district contain "as nearly as practicable a relatively integrated socio-economic area." Alaska Constitution, article VI, section 6. To implement the Carpenter decision, it is at least necessary to remove the Cordova area from District No. 2 and to include the area within another appropriate district. And, if the configurations of other districts must be modified to implement the Carpenter decision, all "new" districts must also conform to the recently articulated standards for social and economic integration. 3/

Second, relocation of the Cordova area will, in turn, harbor substantial implications with respect to the constitutional mandate to assure relatively equal population distribution among districts. See Groh v. Egan, 526 P.2d 863 (1974); White v. Regester, 412 U.S 758 (1973); cf. Kentopp v. Municipality of Anchorage, 652 P.2d 453 (Alaska 1982). The Cordova area contains approximately 2,250 residents, a number which constitutes more than 20% of the average district population. Removal of the Cordova area from District No. 2 will thus result in a substantial relative underpopulation (overrepresentation) for House District No. 2. Conversely, relocation of the Cordova area into House District No. 6 will result in the substantial underrepresentation of that district. See Affidavit of Rehfeld. To place Cordova within a

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
1031 W. FOURTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

3/ Indeed, if the socpe of the necessary amendment to the Reapportionment Plan is substantial, it is arguable that any qualified voter would have standing under article VI, section 11 to challenge the relative degree of social and economic integration of any district.

this right. In urging the people to adopt the Constitution, Madison said in No. 57 of *The Federalist:*

> "Who are to be the electors of the Fœderal Representatives? Not the rich more than the poor; not the learned more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States. . . ." [47]

Readers surely could have fairly taken this to mean, "one person, one vote." Cf. *Gray* v. *Sanders*, 372 U. S. 368, 381. While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution's plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives. That is the high standard of justice and common sense which the Founders set for us.

Reversed and remanded.

MR. JUSTICE CLARK, concurring in part and dissenting in part.

Unfortunately I can join neither the opinion of the Court nor the dissent of my Brother HARLAN. It is true that the opening sentence of Art. I, § 2, of the Constitution provides that Representatives are to be chosen "by the People of the several States . . . ." However, in my view, Brother HARLAN has clearly demonstrated that both the historical background and language preclude a finding that Art. I, § 2, lays down the *ipse dixit* "one person, one vote" in congressional elections.

On the other hand, I agree with the majority that congressional districting is subject to judicial scrutiny. This

[47] The Federalist, No. 57 (Cooke ed. 1961), at 385.

376 U.S. 1 (1964)

Court has so held ever since *Smiley* v. *Holm*, 285 U. S. 355 (1932), which is buttressed by two companion cases, *Koenig* v. *Flynn*, 285 U. S. 375 (1932), and *Carroll* v. *Becker*, 285 U. S. 380 (1932). A majority of the Court in *Colegrove* v. *Green* felt, upon the authority of *Smiley*, that the complaint presented a justiciable controversy not reserved exclusively to Congress. *Colegrove* v. *Green*, 328 U. S. 549, 564, and 568, n. 3 (1946). Again, in *Baker* v. *Carr*, 369 U. S. 186, 232 (1962), the opinion of the Court recognized that *Smiley* "settled the issue in favor of justiciability of questions of congressional redistricting." I therefore cannot agree with Brother HARLAN that the supervisory power granted to Congress under Art. I, § 4, is the exclusive remedy.

I would examine the Georgia congressional districts against the requirements of the Equal Protection Clause of the Fourteenth Amendment. As my Brother BLACK said in his dissent in *Colegrove* v. *Green*, *supra*, the "equal protection clause of the Fourteenth Amendment forbids . . . discrimination. It does not permit the States to pick out certain qualified citizens or groups of citizens and deny them the right to vote at all. . . . No one would deny that the equal protection clause would also prohibit a law that would expressly give certain citizens a half-vote and others a full vote. . . . Such discriminatory legislation seems to me exactly the kind that the equal protection clause was intended to prohibit." At 569.

The trial court, however, did not pass upon the merits of the case, although it does appear that it did make a finding that the Fifth District of Georgia was "grossly out of balance" with other congressional districts of the State. Instead of proceeding on the merits, the court dismissed the case for lack of equity. I believe that the court erred in so doing. In my view we should therefore vacate this judgment and remand the case for a hearing

group interests, are permissible factors in attempting to justify disparities from population-based representation. Citizens, not history or economic interests, cast votes. Considerations of area alone provide an insufficient justification for deviations from the equal-population principle. Again, people, not land or trees or pastures, vote. Modern developments and improvements in transportation and communications make rather hollow, in the mid-1960's, most claims that deviations from population-based representation can validly be based solely on geographical considerations. Arguments for allowing such deviations in order to insure effective representation for sparsely settled areas and to prevent legislative districts from becoming so large that the availability of access of citizens to their representatives is impaired are today, for the most part, unconvincing.

A consideration that appears to be of more substance in justifying some deviations from population-based representation in state legislatures is that of insuring some voice to political subdivisions, as political subdivisions. Several factors make more than insubstantial claims that a State can rationally consider according political subdivisions some independent representation in at least one body of the state legislature, as long as the basic standard of equality of population among districts is maintained. Local governmental entities are frequently charged with various responsibilities incident to the operation of state government. In many States much of the legislature's activity involves the enactment of so-called local

Ordinance of 1787, in explicitly providing for population-based representation of those living in the Northwest Territory in their territorial legislatures, clearly implied that, as early as the year of the birth of our federal system, the proper basis of legislative representation was regarded as being population.

legislation, directed only to the concerns of particular political subdivisions. And a State may legitimately desire to construct districts along political subdivision lines to deter the possibilities of gerrymandering. However, permitting deviations from population-based representation does not mean that each local governmental unit or political subdivision can be given separate representation, regardless of population. Carried too far, a scheme of giving at least one seat in one house to each political subdivision (for example, to each county) could easily result, in many States, in a total subversion of the equal-population principle in that legislative body.[62] This would be especially true in a State where the number of counties is large and many of them are sparsely populated, and the number of seats in the legislative body being apportioned does not significantly exceed the number of counties.[63] Such a result, we conclude, would be constitutionally impermissible. And careful judicial scrutiny must of course be given, in evaluating state apportionment schemes, to the character as well as the degree of deviations from a strict population basis. But, if, even as a result of a clearly rational state policy of according some legislative representation to political subdivisions, population is submerged as the controlling consideration in the apportionment of seats in the particular legislative body, then the right of all of the State's citizens to cast an effective and adequately weighted vote would be unconstitutionally impaired.

[62] See McKay, Political Thickets and Crazy Quilts: Reapportionment and Equal Protection, 61 Mich. L. Rev. 645, 698-699 (1963).

[63] Determining the size of its legislative bodies is of course a matter within the discretion of each individual State. Nothing in this opinion should be read as indicating that there are any federal constitutional maximums or minimums on the size of state legislative bodies.

ter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized. Almost a century ago, in *Yick Wo* v. *Hopkins*, 118 U. S. 356, the Court referred to "the political franchise of voting" as "a fundamental political right, because preservative of all rights." 118 U. S., at 370.

Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and directly representative of the people, the right to elect legislators in a free and unimpaired fashion is a bedrock of our political system. It could hardly be gainsaid that a constitutional claim had been asserted by an allegation that certain otherwise qualified voters had been entirely prohibited from voting for members of their state legislature. And, if a State should provide that the votes of citizens in one part of the State should be given two times, or five times, or 10 times the weight of votes of citizens in another part of the State, it could hardly be contended that the right to vote of those residing in the disfavored areas had not been effectively diluted. It would appear extraordinary to suggest that a State could be constitutionally permitted to enact a law providing that certain of the State's voters could vote two, five, or 10 times for their legislative representatives, while voters living elsewhere could vote only once. And it is inconceivable that a state law to the effect that, in counting votes for legislators, the votes of citizens in one part of the State would be multiplied by two, five, or 10, while the votes of persons in another area would be counted only at face value, could be constitutionally sustainable. Of course, the effect of

state legislative districting schemes which give the same number of representatives to unequal numbers of constituents is identical.[60] Overweighting and overvaluation of the votes of those living here has the certain effect of dilution and undervaluation of the votes of those living there. The resulting discrimination against those individual voters living in disfavored areas is easily demonstrable mathematically. Their right to vote is simply not the same right to vote as that of those living in a favored part of the State. Two, five, or 10 of them must vote before the effect of their voting is equivalent to that of their favored neighbor. Weighting the votes of citizens differently, by any method or means, merely because of where they happen to reside, hardly seems justifiable. One must be ever aware that the Constitution forbids "sophisticated as well as simple-minded modes of discrimination." *Lane* v. *Wilson*, 307 U. S. 268, 275; *Gomillion* v. *Lightfoot*, 364 U. S. 339, 342. As we stated in *Wesberry* v. *Sanders*, *supra*:

> "We do not believe that the Framers of the Constitution intended to permit the same vote-diluting discrimination to be accomplished through the device of districts containing widely varied numbers of inhabitants. To say that a vote is worth

[60] As stated by MR. JUSTICE BLACK, dissenting, in *Colegrove* v. *Green*, 328 U. S. 549, 569-571:

"No one would deny that the equal protection clause would . . . prohibit a law that would expressly give certain citizens a half-vote and others a full vote. . . . [T]he constitutionally guaranteed right to vote and the right to have one's vote counted clearly imply the policy that state election systems, no matter what their form, should be designed to give approximately equal weight to each vote cast. . . . [A] state legislature cannot deny eligible voters the right to vote for Congressmen and the right to have their vote counted. It can no more destroy the effectiveness of their vote in part and no more accomplish this in the name of 'apportionment' than under any other name."

more in one district than in another would . . . run counter to our fundamental ideas of democratic government . . . ."[41]

State legislatures are, historically, the fountainhead of representative government in this country. A number of them have their roots in colonial times, and substantially antedate the creation of our Nation and our Federal Government. In fact, the first formal stirrings of American political independence are to be found, in large part, in the views and actions of several of the colonial legislative bodies. With the birth of our National Government, and the adoption and ratification of the Federal

[41] 376 U. S., at 8. See also *id.*, at 17, quoting from James Wilson, a delegate to the Constitutional Convention and later an Associate Justice of this Court, who stated:

"[A]ll elections ought to be equal. Elections are equal, when a given number of citizens, in one part of the state, choose as many representatives, as are chosen by the same number of citizens, in any other part of the state. In this manner, the proportion of the representatives and of the constituents will remain invariably the same." 2 The Works of James Wilson (Andrews ed. 1896) 15.

And, as stated by MR. JUSTICE DOUGLAS, dissenting, in *MacDougall v. Green*, 335 U. S., at 288, 290:

"[A] regulation . . . [which] discriminates against the residents of the populous counties of the state in favor of rural sections . . . lacks the equality to which the exercise of political rights is entitled under the Fourteenth Amendment.

"Free and honest elections are the very foundation of our republican form of government. . . . Discrimination against any group or class of citizens in the exercise of these constitutionally protected rights of citizenship deprives the electoral process of integrity. . . .

"None would deny that a state law giving some citizens twice the vote of other citizens in either the primary or general election would lack that equality which the Fourteenth Amendment guarantees. . . . The theme of the Constitution is equality among citizens in the exercise of their political rights. 'The notion that one group can be granted greater voting strength than another is hostile to our standards for popular representative government.'

Constitution, state legislatures retained a most important place in our Nation's governmental structure. But representative government is in essence self-government through the medium of elected representatives of the people, and each and every citizen has an inalienable right to full and effective participation in the political processes of his State's legislative bodies. Most citizens can achieve this participation only as qualified voters through the election of legislators to represent them. Full and effective participation by all citizens in state government requires, therefore, that each citizen have an equally effective voice in the election of members of his state legislature. Modern and viable state government needs, and the Constitution demands, no less.

Logically, in a society ostensibly grounded on representative government, it would seem reasonable that a majority of the people of a State could elect a majority of that State's legislators. To conclude differently, and to sanction minority control of state legislative bodies, would appear to deny majority rights in a way that far surpasses any possible denial of minority rights that might otherwise be thought to result. Since legislatures are responsible for enacting laws by which all citizens are to be governed, they should be bodies which are collectively responsive to the popular will. And the concept of equal protection has been traditionally viewed as requiring the uniform treatment of persons standing in the same relation to the governmental action questioned or challenged. With respect to the allocation of legislative representation, all voters, as citizens of a State, stand in the same relation regardless of where they live. Any suggested criteria for the differentiation of citizens are insufficient to justify any discrimination, as to the weight of their votes, unless relevant to the permissible purposes of legislative apportionment. Since the achieving of fair and effective representation for all citi-

Kenai Clarion Jan 11, 1984

Districting options unpopular

Governor's board hears views on reapportionment

By JOHN MARRS
Editor

If the rest of Southcentral and Southeastern Alaska were as easy to please as English Bay and Port Graham, the governor's special reapportionment board would have few problems.

Testimony during a teleconference conducted over the state's conference network Wednesday evening indicated no consensus in English Bay or Port Graham for or against whether the two southern peninsula villages were put in one voting district or another.

The rest of the 30 people who spoke told

See BOARD, Page 14

...Board hearing

Continued from Page 1

the board they didn't like the pending reapportionment plans.

Half of those who spoke urged the board to revive a once-proposed but abandoned plan to create one large Senate district encircling Anchorage with Nikiski, Seward, Valdez, Cordova, Whittier and the Matanuska Valley. The area — not counting Nikiski — is roughly the same as the pre-1981 Senate district represented by Sen. Jay Kerttula, D-Palmer.

The possibility of switching English Bay and Port Graham from a House District for Prince William Sound to one for the Kenai Peninsula was the only change actually mentioned as a possibility by the board.

The change is contemplated in the board's last public report, and Chairman Willie Hensley and board member Mary Nordale mentioned it Tuesday in discussions with citizens who were testifying. The change, if made when the board meets today, would move the Chitna and McCarthy areas into House District 6 (Valdez-Seward-Cordova) and put English Bay and Port Graham back in House District 5, the peninsula's main voting district.

Walter Maganik Sr., president of the Port Graham Village Council, urged the board to "leave us alone," but he also said a village vote came out 21 in favor of moving to the new Prince William Sound District to 29 in favor of staying put.

Rep. Milo Fritz, R-Anchor Point, speaking from Juneau, said he spoke earlier Tuesday with Vince Kvasnikoff, an English Bay village leader, and was told that the people there couldn't make up their minds whether they would be better off one way than the other. He also asked that a board representative visit the village to talk about it.

Assemblywoman Karen McGahan of Nikiski, Dorothy Westphal of Sterling and Lois Irvin of Homer all protested the board's plan to put Nikiski with South Anchorage in a new House District 7.

Westphal also read a letter by Sharon Overman of Soldotna, president of the Central Peninsula Republican Women's Club, objecting to a plan that would cut the peninsula's representation in the Senate.

Two peninsula residents, Jack Warner and Louis Bernacardino of Seward, joined people from Whittier, Valdez, Cordova and the Mat-Su Borough in recommending that proposed House Districts 6, 7 and 16 be combined to form a Senate district with two seats. Similar to Kerttula's former district, the plan has been called the "Doughnut District" because of its shape.

The reapportionment board dropped the plan, originally raised by Kerttula, without comment at its last meetings in December. Tuesday night, Hensley said the idea had not found any support on the board.

The board has until Feb. 3 to report to the governor, who this week got a court extension to Feb. 17 for his report to Superior Court Judge Milton Souter.

Reapportionment Board Meets
Jan. 10th & 11th 9 A.M. Rm 123 Ak. office Bldg.

Teleconference
Jan 10th. 4:30-6:30 p.m.
Southcentral & S.E.

NEWS RELEASE

REAPPORTIONMENT BOARD ADOPTS HOUSE AND SENATE PLANS
December 19, 1983

FOR IMMEDIATE RELEASE

JUNEAU -- In order to make court-mandated revisions to the 1981 Reapportionment Plan, the newly appointed Reapportionment Board has tentatively adopted two redistricting plans for submission to the Governor. The Board, appointed by Governor Sheffield in October, is charged with presenting recommendations to him which shift the Cordova area from House District 2 in Southeast Alaska to a Southcentral district.

PLAN 1 - House Districts

Plan 1 utilizes the same data used by the 1981 Reapportionment Board in formulating their recommendations to former Governor Hammond. The Southeast revisions include separating Metlakatla and Annette Island from District 1 and Hoonah from District 3, to replace the Cordova area in District 2.

The Cordova area in Plan 1 is placed in a Prince William Sound district, District 6, which includes the communities of Tatitlek, Valdez, Seward, Hope, Cooper Landing and Moose Pass, Port Graham and English Bay are shifted back into House District 5, a two-member district that remains virtually the same with the exception of the inclusion of the Sterling area from proposed District 7.

The Nikishka area, formerly in House District 6, has been placed with South Anchorage into House District 7. This district includes the area from Klatt Road south along the New Seward Highway to Potter Creek, and all remaining area south of Potter Creek in the Municipality of Anchorage with the Nikishka area.

Modifications to District 8 in Plan 1 include extension of the southern boundary from DeArmoun Road to Potter Creek, and rather than following the New Seward Highway to Tudor Road, the boundary turns east at Dowling Road to Lake Otis Parkway and then north to Tudor Road.

District 9's boundaries remain unchanged. District 10's western boundary is revised to follow Arctic Boulevard from International Airport Road to Fireweed Lane, then west to Spenard Road and north to Chester Creek. This also becomes the new eastern boundary of District 11.

The remaining districts in Plan 1 are the same with the exception of a minor boundary change between House Districts 12 and 13 to shift a small trailer court into District 13. This change was made as a result of testimony received by the Board.

PLAN 1 - Senate Districts

In keeping with the Superior Court order to make as few changes as possible, the Board determined that the senate districts would remain unchanged in Plan 1.

PLAN 2 - House Districts

During the course of their deliberations, the Board identified several instances where the data used for the 1981 Plan contained

a reporting error. The principal error occurred in the reporting of the census data for the Eagle River area, where 1,414 persons were indavertantly excluded. In order to address the problem with the initial census data, Governor Sheffield asked that the Board provide him with a plan which uses the most accurate census data available. Under Plan 2, which utilizes the adjusted census data, the ideal population per house seat is increased from 9,176.2 in Plan 1 to 9,210.5 in Plan 2.

The proposal for revisions to House Districts 1, 2, 3, and 4 in Southeast Alaska, and House Districts 5 and 6 for the Prince William Sound and the Kenai Peninsula are the same in Plan 1 and Plan 2. The population variances change slightly because of the increase in the ideal population per seat.

Anchorage House District 7 in Plan 2 has been revised to address some concerns expressed to the Board during the past week. District 7 previously placed the Upper Hillside area with Nikishka in a single-member district. The revised District 7 places the area south of Klatt Road to the New Seward Highway, south along the New Seward Highway to Huffman Road, west along Huffman Road to the Old Seward Highway then south along the Old Seward Highway to DeArmound Road and east along DeArmoun Road to Rabbit Creek, with Nikishka. House District 8 is a two-member district including the Campbell Lake and Hillside areas. With only minor modifications the remainder of Plan 2 is the same as originally proposed.

PLAN 2 - Senate Districts

The Board has recommended that House District 5, a two-member district on the Kenai Peninsula, become a single-member

senate district. House Districts 6 and 7 will also become a single-member senate district. In an effort to make as few changes as possible the Board decided to retain the two-member senate districts in Anchorage as utilized in the 1981 Plan. House Districts 8 and 10 will be combined into a two-member senate district as will House Districts 9 and 11, House Districts 12 and 13, and House Districts 14 and 15.

The Board's staff will be completing a legal analysis of these proposals and other alternatives in preparation of submitting their recommendations to Governor Sheffield by mid-January. The Governor has given the Board an extension from January 3 to January 16 to present their recommendations to him.

Attached to this release is a statistical summary for House Districts in Plan 1 and Plan 2. Maps of the revised districts are also included as well as a map of the 1981 election districts in Anchorage.

Copies of this material may be obtained by contacting the Reapportionment Office in Juneau at 465-3538, the Regional Governor's Offices, and Legislative Information Offices.

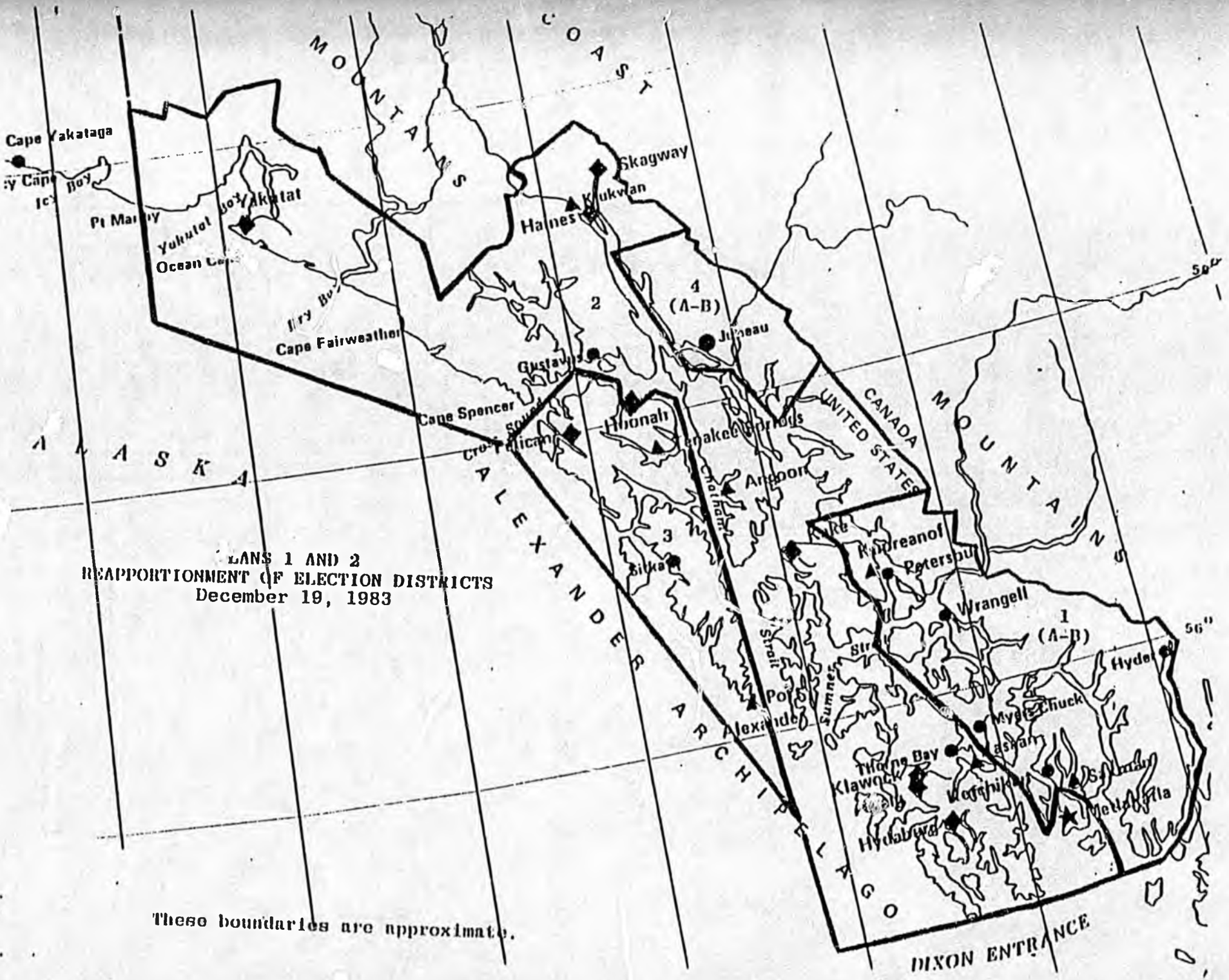
PLAN 1
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
December 19, 1983

	House District	Name	Population	Population Variance
* 1.	Seat A (2) Seat B	Ketchikan-Wrangell-Petersburg	16,601.58 (8,300.79/seat)	-9.5%
* 2.	(1)	Inside Passage	8,924.35	-2.7%
* 3.	(1)	Baranof-Chichagof	8,448.97	-7.9%
4.	Seat A (2) Seat B	Juneau	19,332.75 (9,666.375/seat)	+5.34%
* 5.	Seat A (2) Seat B	Kenai-Cook Inlet	19,189.95 (9,594.975/seat)	+4.5%
* 6.	(1)	Prince William Sound	8,589.19	-6.4%
* 7.	(1)	North Kenai-South Anchorage	9,109.9	- .7%
* 8.	Seat A (2) Seat B	Hillside	18,269.4 (9,134.7/seat)	- .4%
9.	Seat A (2) Seat B	Sand Lake	18,004.7 (9,002.35/seat)	-1.9%
	Seat A (2) Seat B	Mid-town	19,038.1 (9,519.05/seat)	+3.7%
*11.	Seat A (2) Seat B	Westside	18,960.4 (9,480.2/seat)	+3.3%
12.	Seat A (2) Seat B	Downtown	18,170.0 (9,085/seat)	-1.0%
13.	Seat A (2) Seat B	Mountain View-University	18,907.5 (9,453.75/seat)	+3.02%
14.	Seat A (2) Seat B	Muldoon	19,031.5 (9,515.75/seat)	+3.7%
15.	Seat A (2) Seat B	Chugiak-Eagle River-Bases	18,560.7 (9,280.35/seat)	+1.13%
16.	Seat A (2) Seat B	Matanuska-Susitna	17,642.23 (8,821.115/seat)	-3.87%

House District		Name	Population	Population Variance
17.	(1)	Interior Highways	9,011.57	-1.8%
18.	(1)	Southeast North Star Borough	9,300.0	+1.3%
19.	(1)	Outer Fairbanks	8,934.3	-2.6%
20.	Seat A (2) Seat B	Fairbanks City	18,319.7 (9,159.8/seat)	- .2%
21.	(1)	West Fairbanks	9,247.1	+ .3%
22.	(1)	North Slope-Kotzebue	8,999.06	-1.9%
23.	(1)	Norton Sound	9,338.86	+1.8%
24.	(1)	Interior Rivers	8,936.12	-2.6%
25.	(1)	Lower Kuskokwim	9,432.35	+2.8%
26.	(1)	Bristol Bay-Aleutian Islands	9,157.61	- .2%
27.	(1)	Kodiak-East Alaska Peninsula	9,592.40	+4.53%
		TOTAL POPULATION	367,050.29	
		(Less Non-Resident Military and Dependents)		

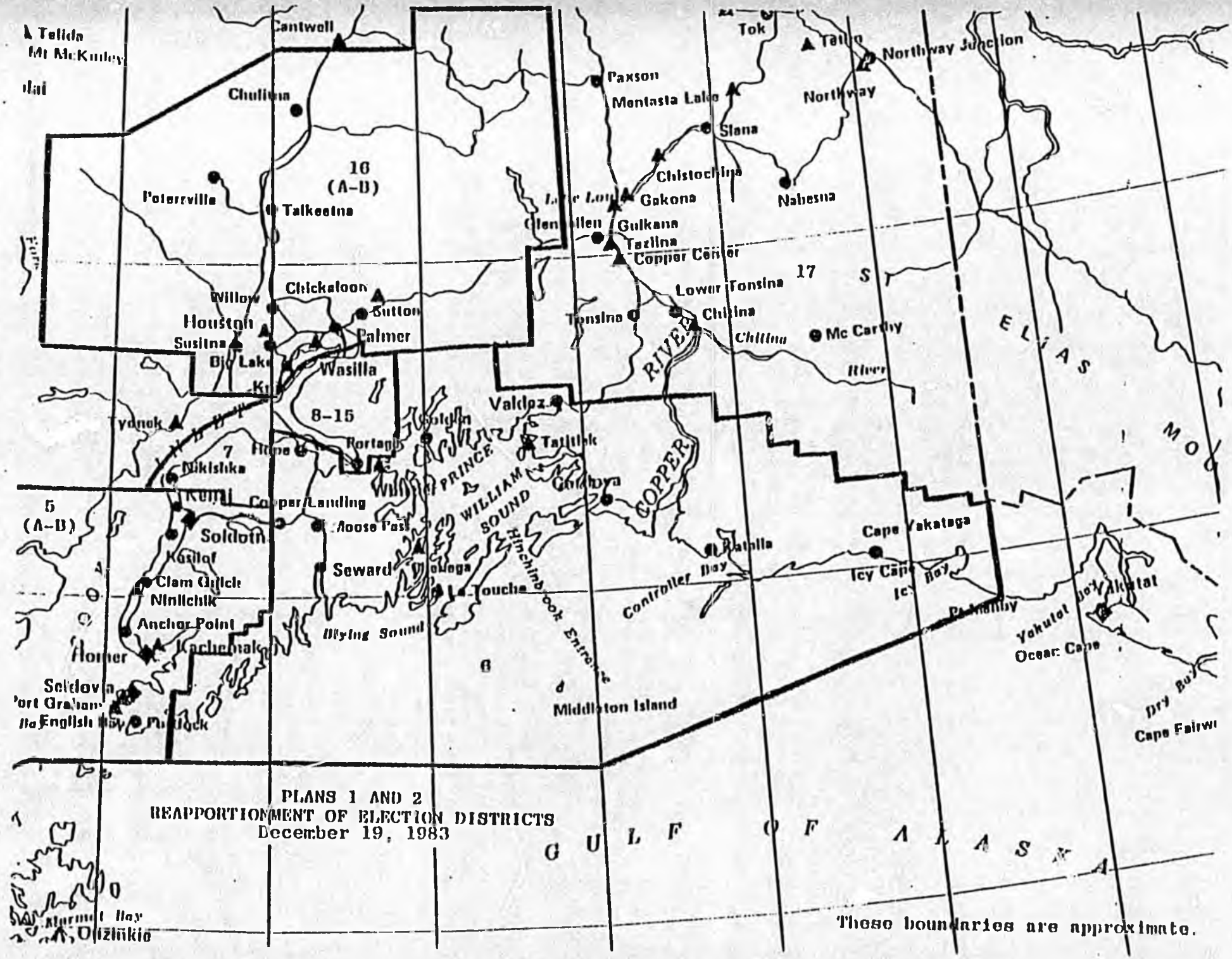
Southeast Alaska	Maximum Overpopulation	+5.34%	District 4
	Maximum Underpopulation	-9.5 %	District 1
	Total Combined Variance	14.84%	
Other Districts	Maximum Overpopulation	+4.53%	District 27
	Maximum Underpopulation	-6.4 %	District 6
	Total Combined Variance	10.93%	

*These districts were revised in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983.



PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
December 19, 1983

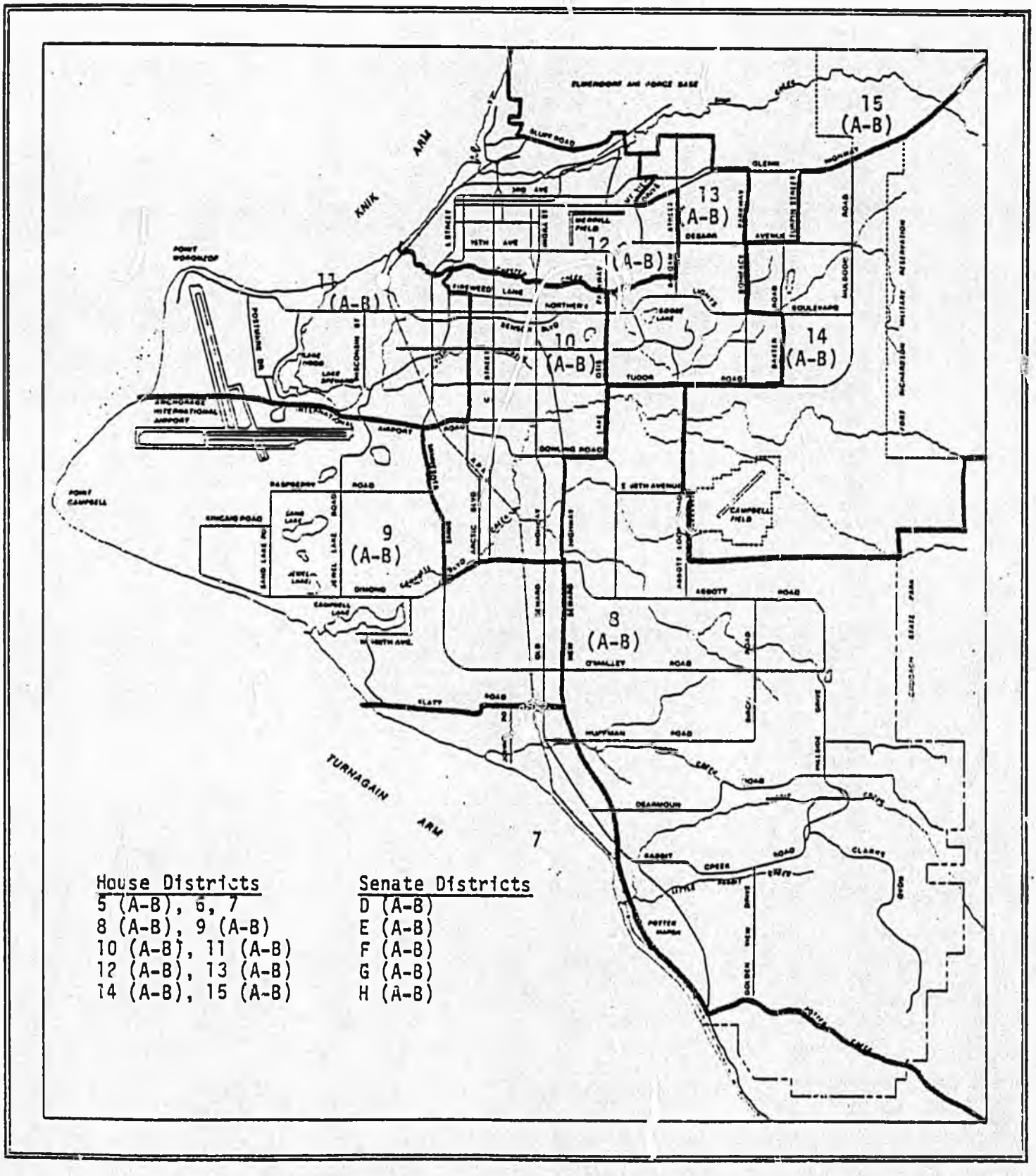
These boundaries are approximate.



PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
December 19, 1983

These boundaries are approximate.

PLAN 1
ANCHORAGE ELECTION DISTRICTS
December 19, 1983



House Districts	Senate Districts
5 (A-B), 6, 7	D (A-B)
8 (A-B), 9 (A-B)	E (A-B)
10 (A-B), 11 (A-B)	F (A-B)
12 (A-B), 13 (A-B)	G (A-B)
14 (A-B), 15 (A-B)	H (A-B)

These boundaries are approximate.

PLAN 2
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
December 19, 1983

House District		Name	Population	Population Variance
* 1.	Seat A (2) Seat B	Ketchikan-Wrangell-Petersburg	16,601.58 (8,300.79/seat)	-9.9%
* 2.	(1)	Inside Passage	8,924.35	-3.1%
* 3.	(1)	Baranof-Chichagof	8,448.97	-8.3%
4.	Seat A (2) Seat B	Juneau	19,332.75 (9,666.375/seat)	+4.9%
* 5.	Seat A (2) Seat B	Kenai-Cook Inlet	19,189.95 (9,594.975/seat)	+4.2%
* 6.	(1)	Prince William Sound	8,598.19	-6.7%
* 7.	(1)	North Kenai-South Anchorage	9,580.1	+4.0%
* 8.	Seat A (2) Seat B	Campbell-Hillside	19,230.7 (9,615.35/seat)	+4.4%
* 9.	Seat A (2) Seat B	Turnagain-Sand Lake	19,155.9 (9,577.95/seat)	+4.0%
*10.	Seat A (2) Seat B	Mid-town	18,183.5 (9,091.75/seat)	-1.3%
*11.	Seat A (2) Seat B	Spenard	18,804.1 (9,402.05/seat)	+2.1%
*12.	Seat A (2) Seat B	Downtown	18,678.4 (9,339.2/seat)	+1.4%
*13.	Seat A (2) Seat B	Elmendorf AFB-Mountain View	19,173.1 (9,586.55/seat)	+4.[illegible]%
*14.	Seat A (2) Seat B	South Muldoon	18,265.4 (9,132.7/seat)	- .8%
*15.	Seat A (2) Seat B	Chugiak-Eagle River-Ft. Richardson	18,395 (9,197.5/seat)	- .1%

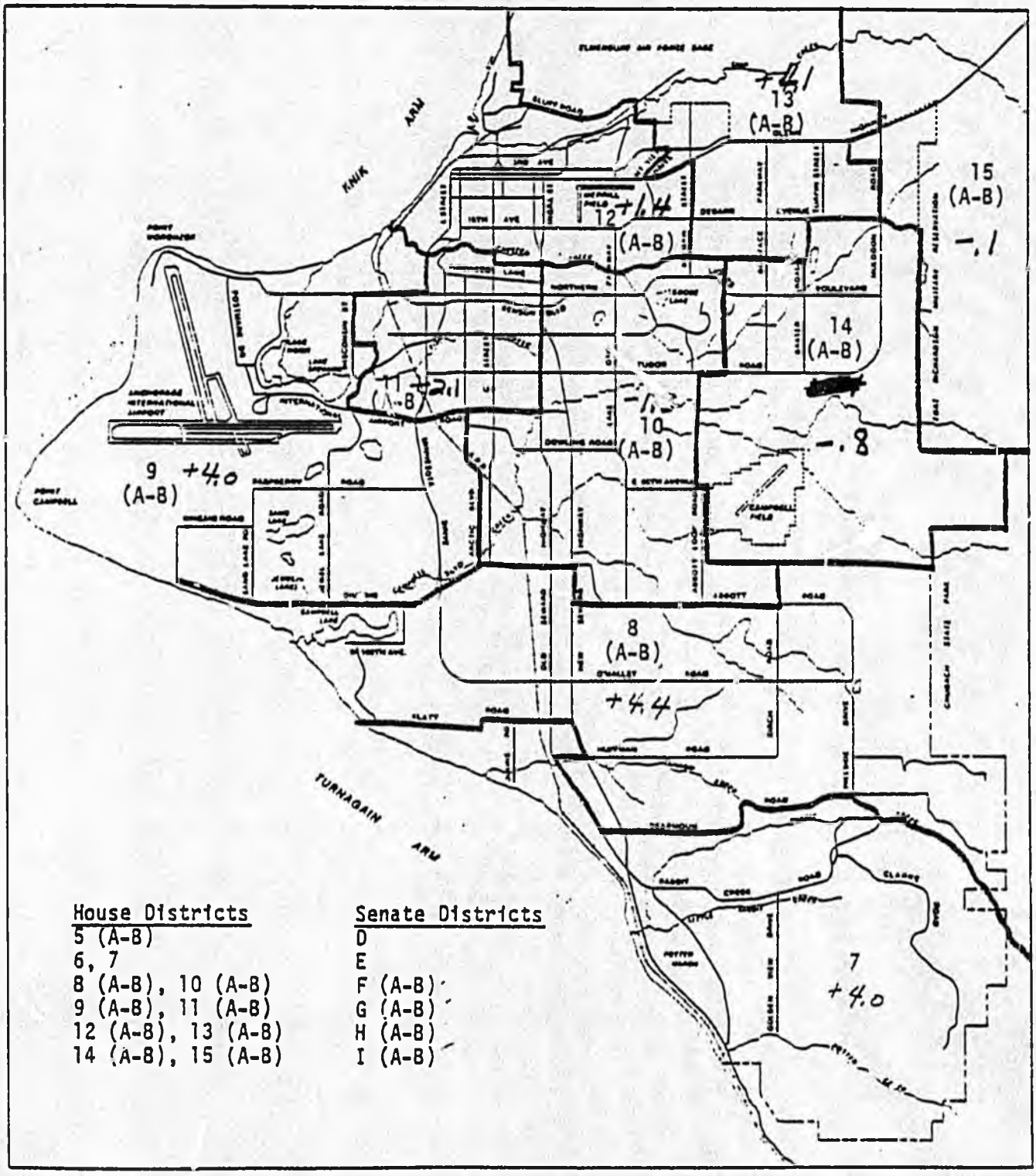
Rest of Alaska
155646 Ave = -0.6

House District		Name	Population	Population Variance
16.	Seat A (2) Seat B	Matanuska-Susitna	17,692.23 (8,846.115/seat)	-3.9%
17.	(1)	Interior Highways	8,917.57	-3.2% (-4.9)
18.	(1)	Southeast North Star Borough	9,300.0	+ .9%
19.	(1)	Outer Fairbanks	8,934.3	-3.0%
20.	Seat A (2) Seat B	Fairbanks City	18,319.7 (9,159.8/seat)	- .5%
21.	(1)	West Fairbanks	9,247.1	+ .4%
22.	(1)	North Slope-Kotzebue	8,999.06	-2.3%
23.	(1)	Norton Sound	9,338.86	+1.4%
24.	(1)	Interior Rivers	8,936.12	-3.0%
25.	(1)	Lower Kuskokwim	9,432.35	+2.4%
26.	(1)	Bristol Bay-Aleutian Islands	9,157.61	- .6%
27.	(1)	Kodiak-East Alaska Peninsula	9,592.40	+4.1%
		TOTAL ADJUSTED POPULATION	368,420.29	
		(Less Non-Resident Military and Dependents)		

Southeast Alaska	Maximum Overpopulation	+4.9%	District 4
	Maximum Underpopulation	-9.9%	District 1
	Total Combined Variance	14.8%	
Other Districts	Maximum Overpopulation	+4.4%	District 8
	Maximum Underpopulation	-6.7%	District 6
	Total Combined Variance	11.1%	

*Revisions were made in these districts in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983, and includes technical corrections made to the 1980 census data.

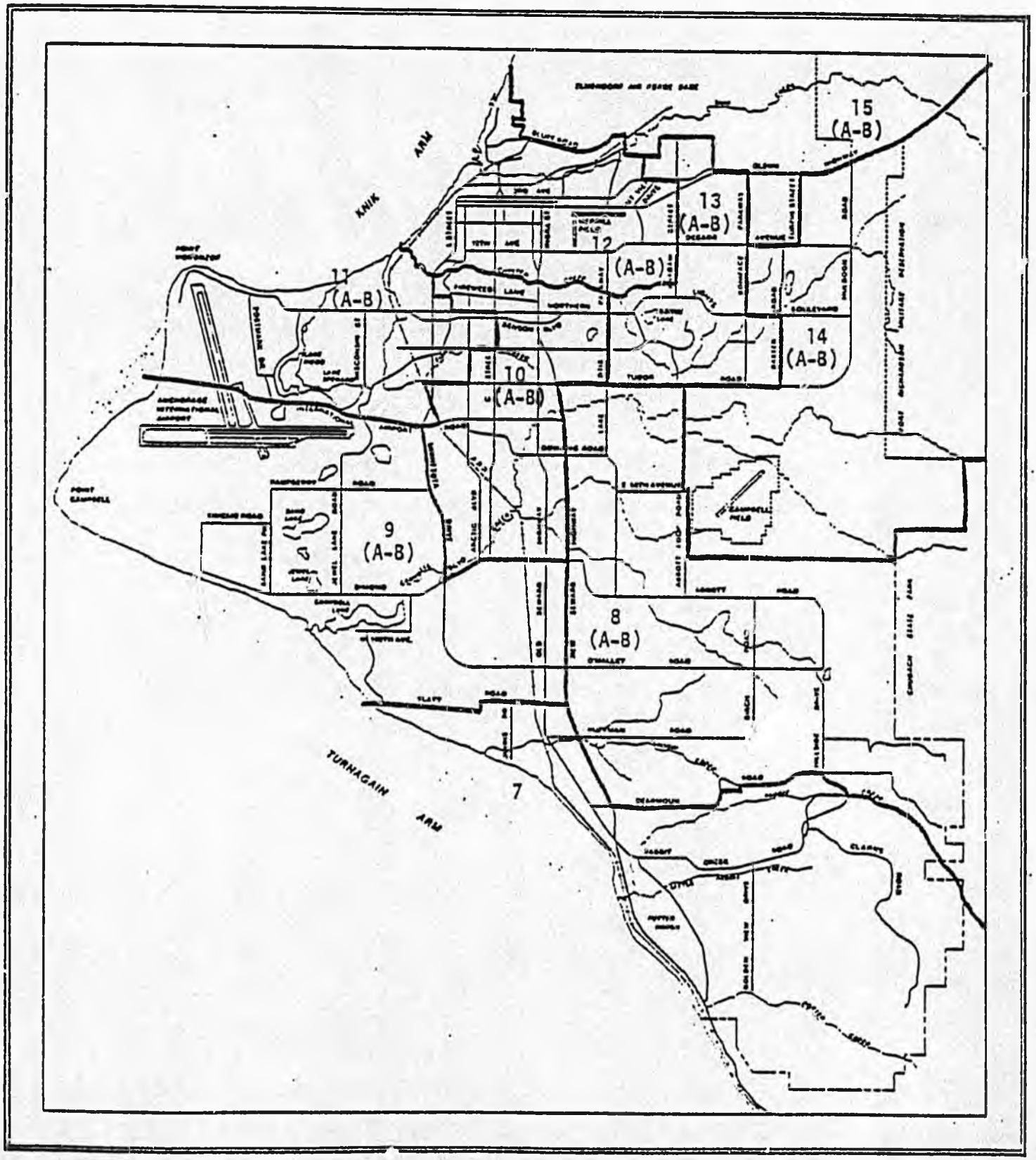
PLAN 2
ANCHORAGE ELECTION DISTRICTS
December 19, 1983



House Districts	Senate Districts
5 (A-B)	D
6, 7	E
8 (A-B), 10 (A-B)	F (A-B)
9 (A-B), 11 (A-B)	G (A-B)
12 (A-B), 13 (A-B)	H (A-B)
14 (A-B), 15 (A-B)	I (A-B)

These boundaries are approximate.

1981 ANCHORAGE ELECTION DISTRICTS



These boundaries are approximate.

AGENDA

REAPPORTIONMENT ADVISORY BOARD

December 14 - 15, 1983 Meeting
1024 W. 6th
Legislative Information Office
Anchorage, Alaska

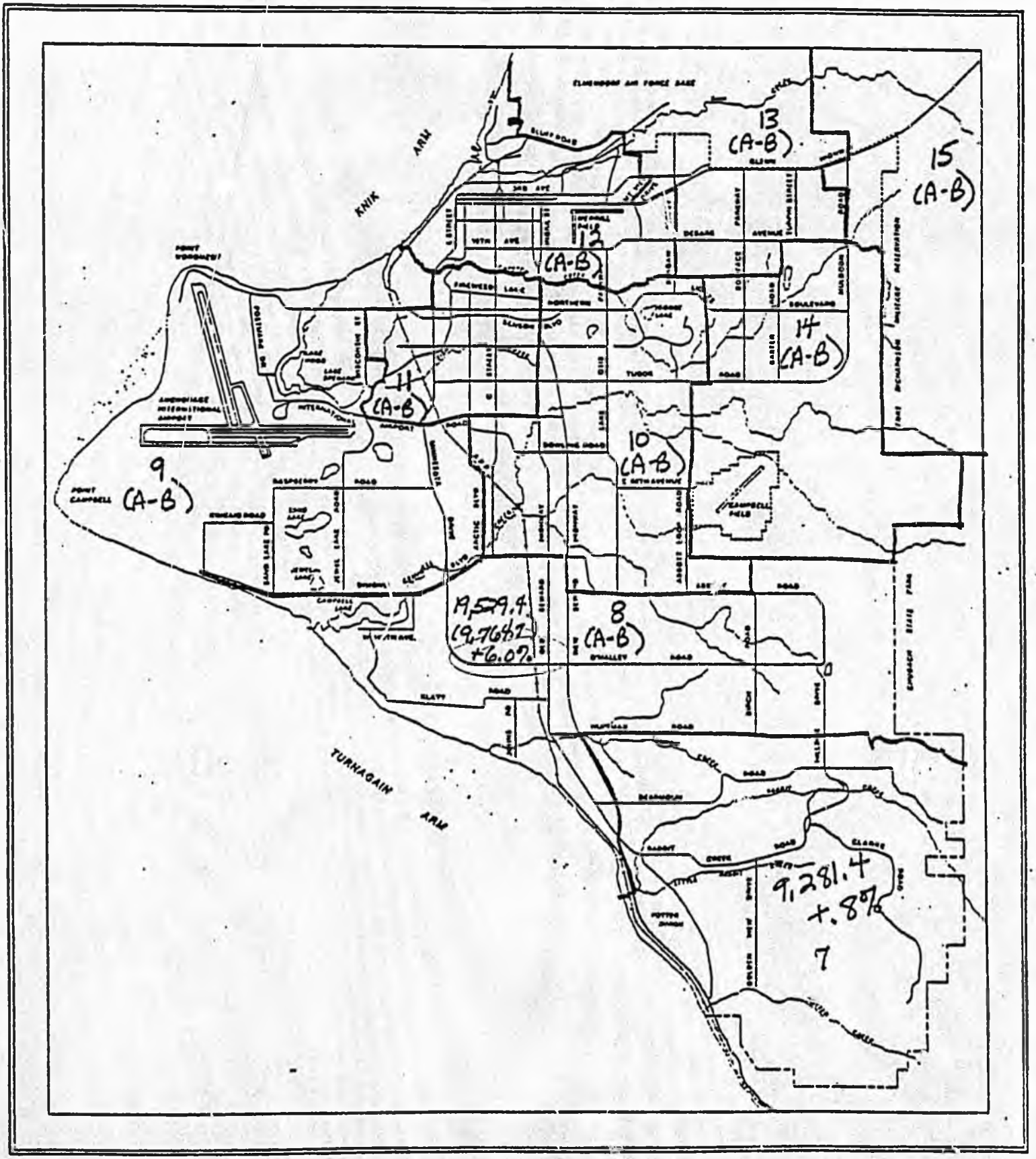
1. Call to Order
2. Discussion of Plan 2c
3. Discussion of Guidelines for Senate Terms
4. Other Business
5. Adjournment

Revised Plan 2C-1

ANCHORAGE ELECTION DISTRICTS

December 12, 1983

Numbers don't work

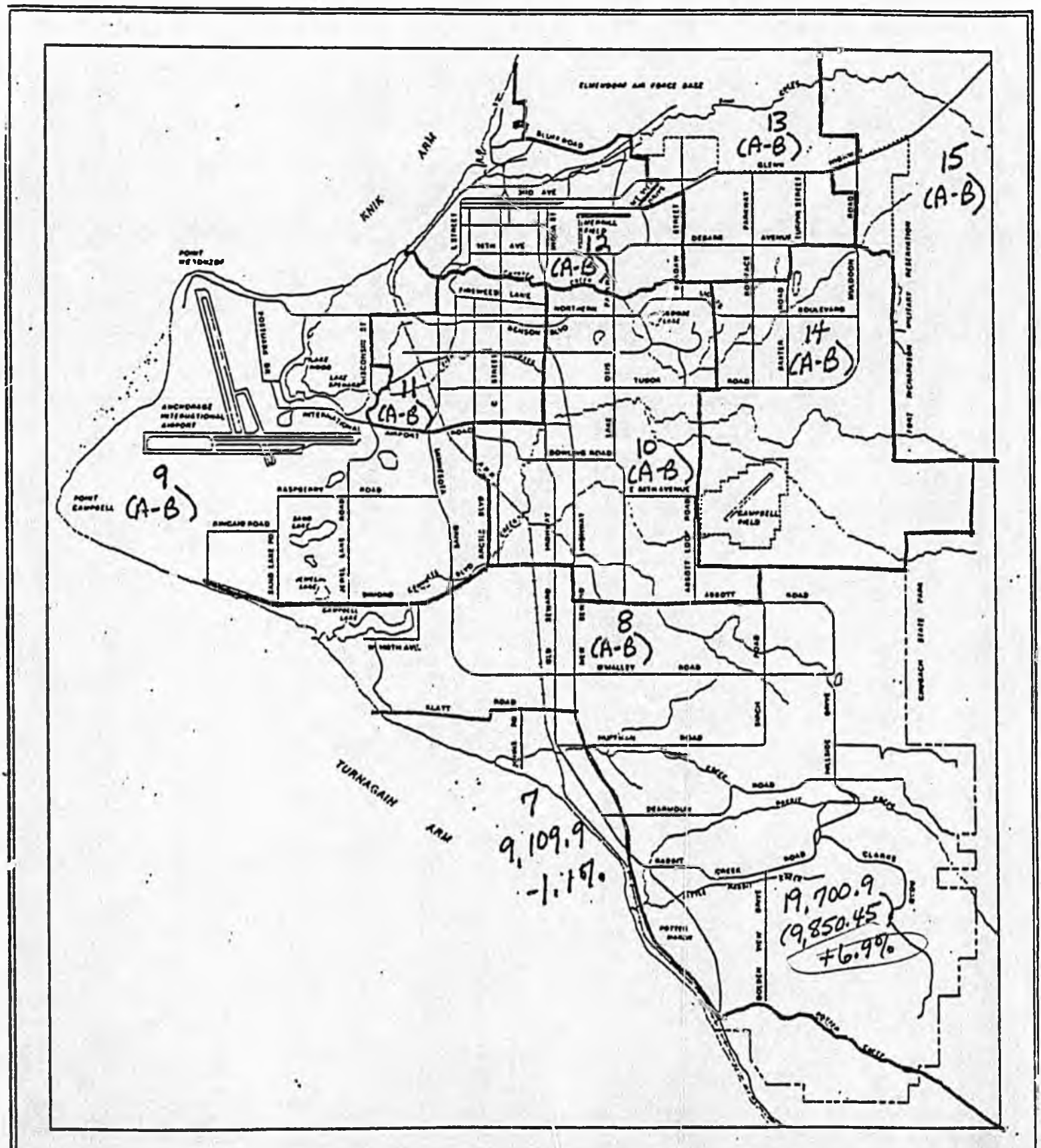


Revised Plan 2C-2

ANCHORAGE ELECTION DISTRICTS

December 12, 1983

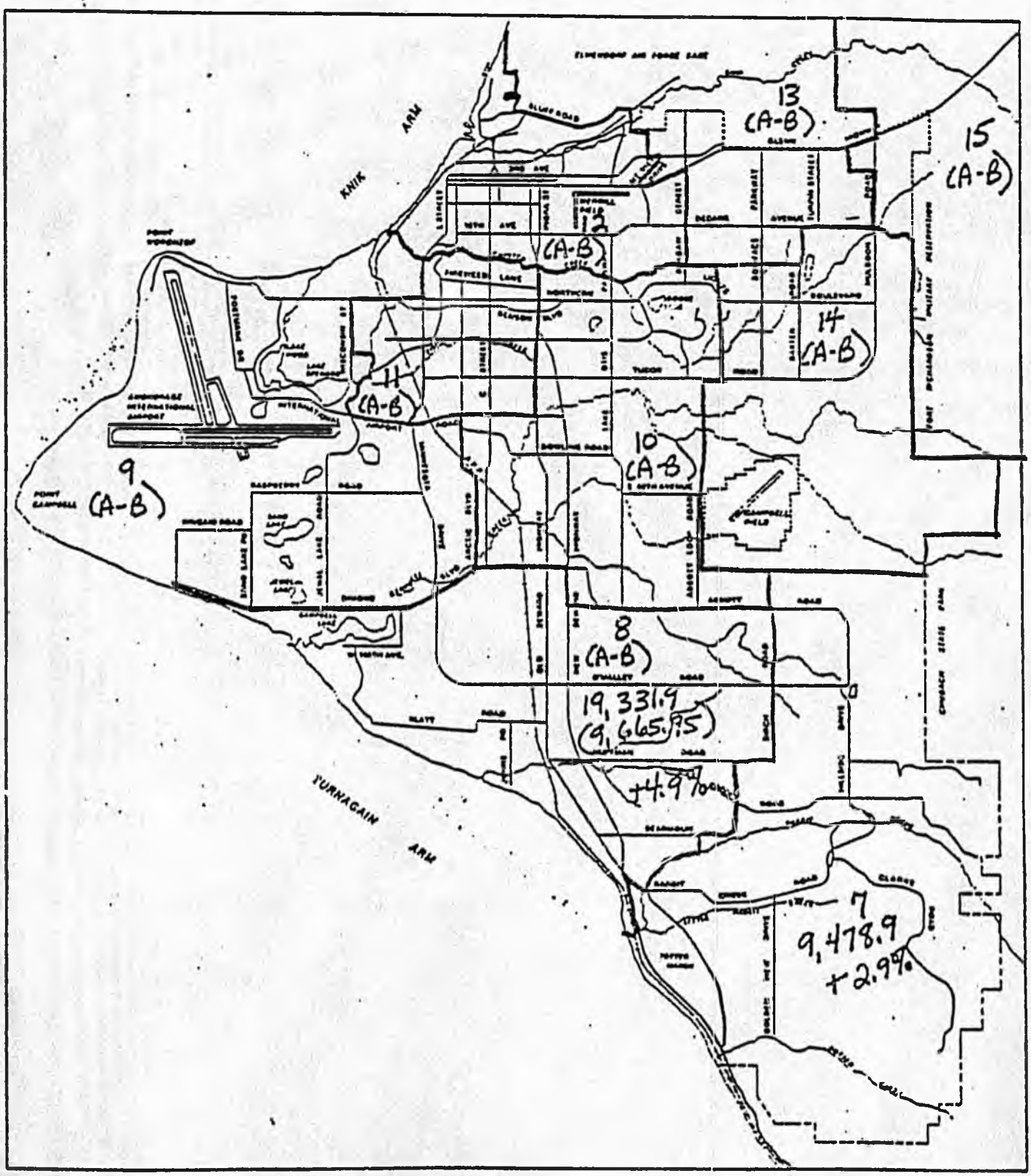
Numbers Don't Work



Revised Plan 2C-3

ANCHORAGE ELECTION DISTRICTS

December 12, 1983

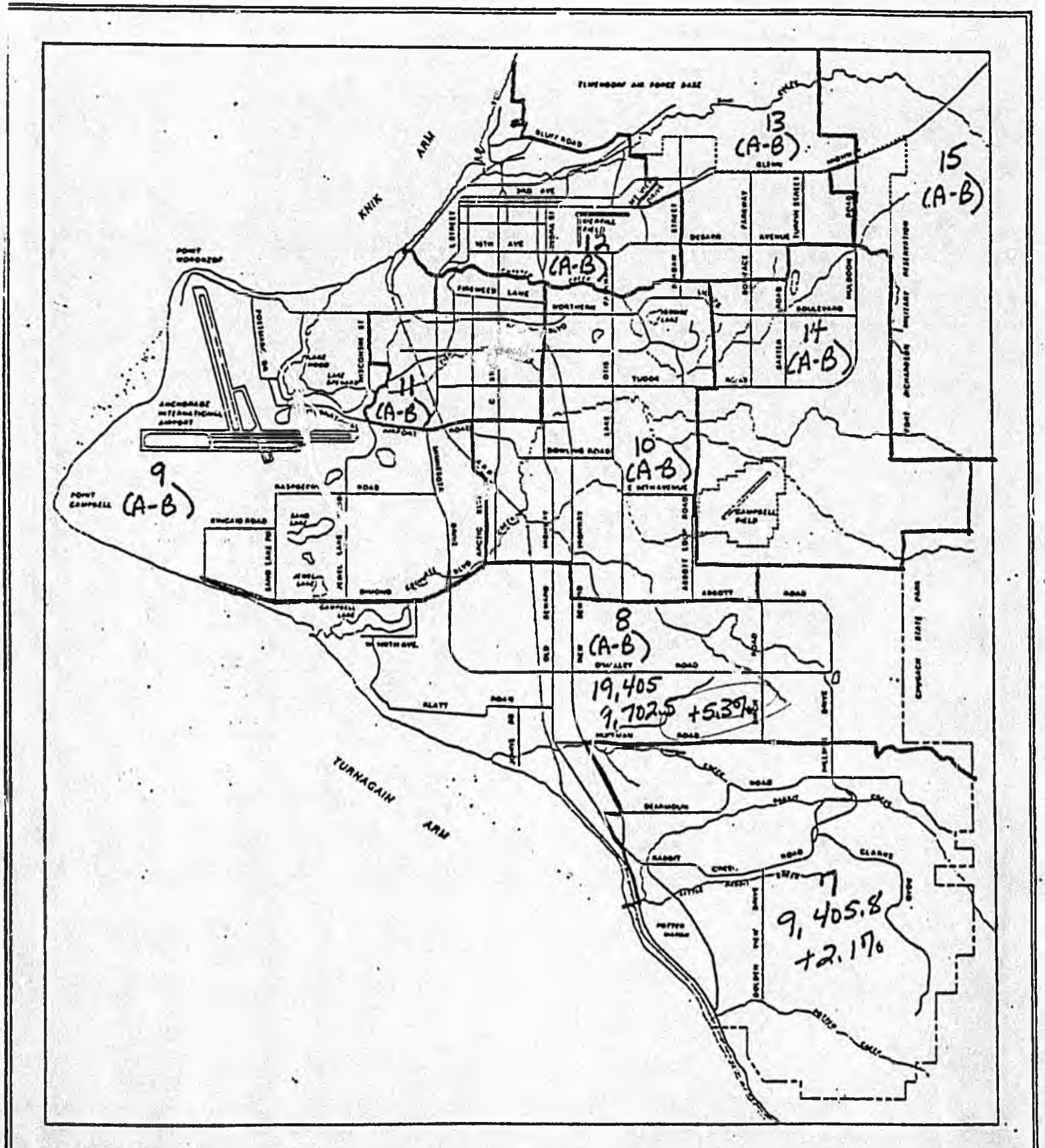


Revised Plan 2C-T

ANCHORAGE ELECTION DISTRICTS

December 12, 1983

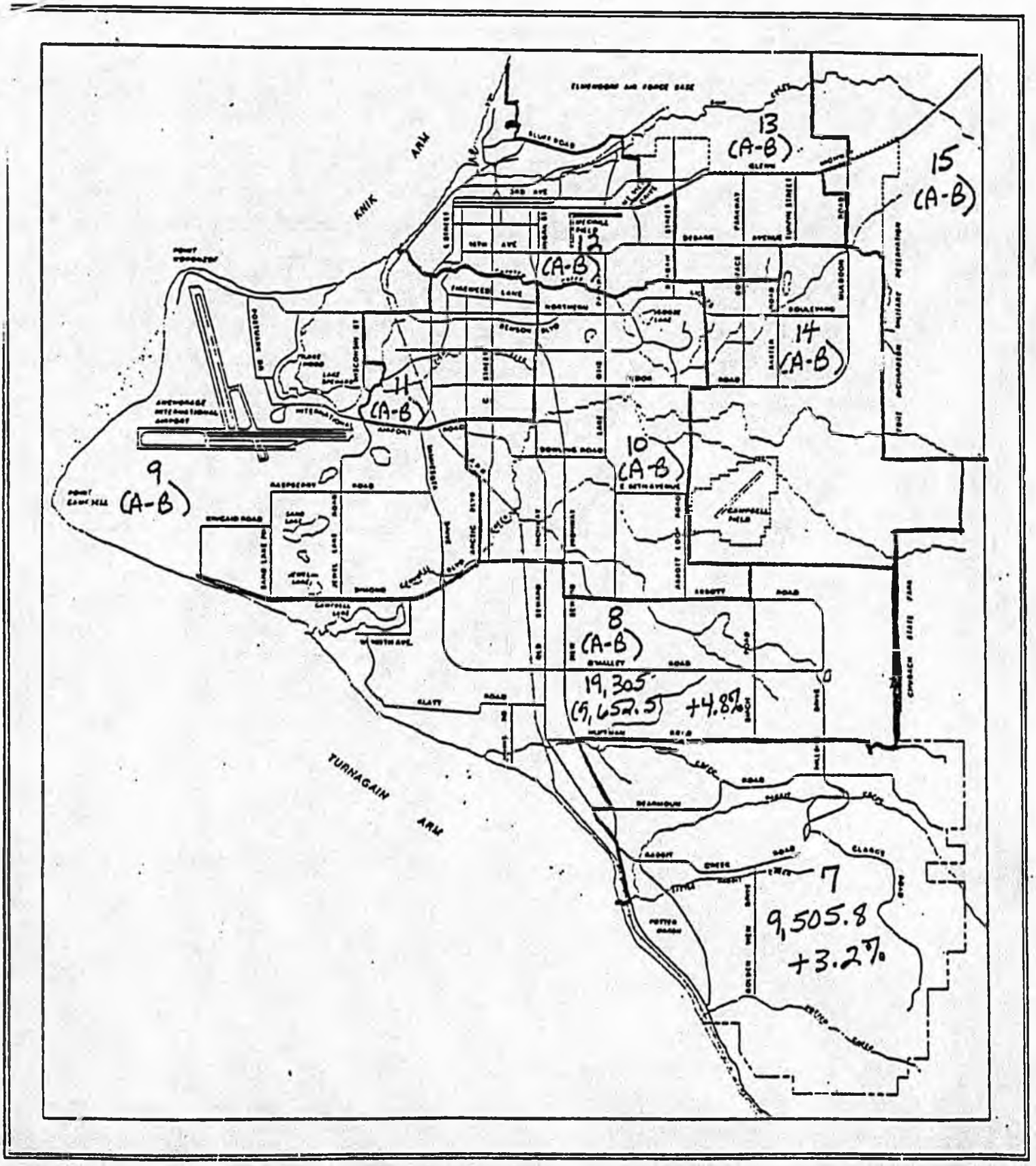
Numbers Don't Work



Revised Plan 2C-5

ANCHORAGE ELECTION DISTRICTS

December 12, 1983



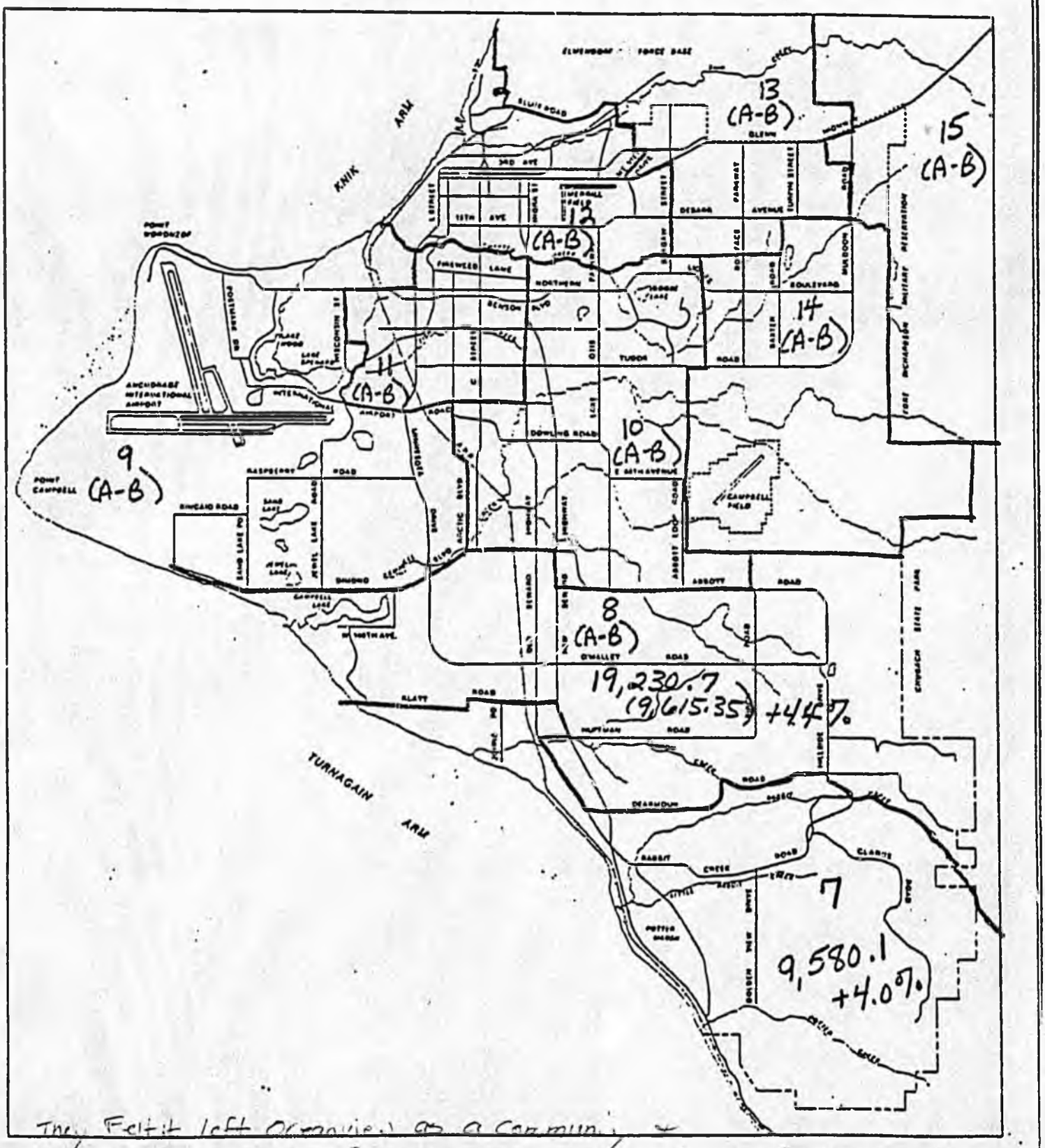
Revised Plan 2c-6

ANCHORAGE ELECTION DISTRICTS

December 12, 1983

Board Chose This Plan

ok



They Felt it left Organized as a Community

NEWS RELEASE

REAPPORTIONMENT BOARD PROPOSES HOUSE AND SENATE PLANS
December 9, 1983

FOR IMMEDIATE RELEASE

JUNEAU -- The Reapportionment Board will be holding a series of teleconferences and hearings concerning two proposals they have adopted for house and senate districts. The five-member Board, including Willie Hensley of Kotzebue, Mary Nordale of Fairbanks, Joe McKinnon of Anchorage, Richard Borer of Cordova, and Felix Toner of Juneau, scheduled the hearings and teleconferences to gain public comment on the proposals. Board Chairman Willie Hensley said, "We are operating under severe time constraints and realize that it would be desirable to give everyone more time. However, we are trying to meet a January 3 deadline for submission of our recommendations to Governor Sheffield." The Governor is required to issue a reapportionment proclamation by February 4.

The meeting and public hearing/teleconference schedule for the Reapportionment Board is as follows:

Wed., Dec. 14 - Anchorage	9:00 AM - 4:00 PM Board Meeting 1024 W. 6th Legislative Information Office
	6:00 PM - 9:00 PM Teleconference with the Kenai Matanuska-Susitna Borough, and Prince William Sound areas
Thurs., Dec. 15 - Anchorage	9:00 AM - 3:00 PM Board Meeting 1024 W. 6th Legislative Information Office

Thurs., Dec. 15 - Anchorage

4:00 PM - 6:00 PM
Teleconference with Hoonah
and Metlakatla
1024 W. 6th
Legislative Information Office

7:30 PM - 10:00 PM
Public Hearing
1049 W. 5th
APUC Hearing Room, 1st Floor
Mutual of New York Bldg.

Fri., Dec. 16 - Anchorage

~~10~~:00 - ~~12:00~~ Noon
Board Meeting
1024 W. 6th
Legislative Information Office

The Reapportionment Board was appointed in October to make revisions to the 1981 Reapportionment Plan as ordered by Superior Court Judge Milton Souter. In mid-November the Board released several redistricting options, Plan 1, and Plan 2a, 2b, and 2c for public comment. After extensive meetings and hearings during the last few weeks, the Board adopted Plan 1 and Plan 2c with some revisions.

Plan 1 - House Districts

Plan 1 utilized the same data used by the 1981 Reapportionment Board in formulating their recommendations to former Governor Hammond. The Southeast revisions include separating Metlakatla and Annette Island from District 1 and Hoonah from District 3, to replace the Cordova area in District 2. This proposal for Southeast has a total combined variance between the most over-populated and the most underpopulated district of 14.84 percent.

The Cordova area in Plan 1 is placed in a Prince William Sound district, District 6, which includes the communities of Tatitlek, Valdez, Seward, Hope, Cooper Landing, Moose Pass, Port Graham, and English Bay. House District 5, a two-member

district, remains virtually the same with the exception of Port Graham and English Bay, and with the inclusion of the Sterling area from proposed District 7.

The Nikishka area and North Kenai Peninsula that was formerly in House District 6 has been placed with South Anchorage into House District 7. This district includes the area from Klatt Road south along the New Seward Highway to Potter Creek, all remaining area south of Potter Creek in the Municipality of Anchorage, and the Nikishka area.

Modifications to District S in Plan 1 include extension of the southern boundary from DeArmoun Road to Potter Creek and rather than following the New Seward Highway to Tudor Road, the boundary turns east at Dowling Road to Lake Otis Parkway and then north to Tudor Road.

District 9's boundaries remain unchanged. District 10's western boundary is revised to follow Arctic Boulevard from International Airport Road tc Fireweed Lane, then west to Spenard Road and north tc Chester Creek. This also becomes the new eastern boundary of District 11.

Plan 1 - Senate Districts

In keeping with the Superior Court order to make as few changes as possible, the Board determined that the senate districts would remain unchanged in Plan 1.

Plan 2c - House Districts

During the course of their deliberations, the Board identified several instances where the data used for the 1981 Plan contained a reporting error. The principal error occurred in the reporting

of the census data for the Eagle River area, where 1,414 persons were inadvertantly excluded. In order to address the problem with the initial census data, Governor Sheffield asked that the Board provide him with a plan which uses the most accurate census data available. Under Plan 2c, which utilizes the adjusted census data, the ideal population per house seat is increased from 9,176.2 in Plan 1 to 9,210.5 in Plan 2c.

The proposal for revisions to House Districts 1, 2, 3, and 4 in Southeast Alaska, and House Districts 5 and 6 for the Prince William Sound and the Kenai Peninsula are the same in Plan 1 and 2c. The population variances change slightly because of the increase in the ideal population per seat.

Plan 2c has been revised from the original version released in mid-November to address some concerns expressed to the Board during the last several weeks. District 7 previously placed the Upper Hillside area with Nikishka in a single-member district. The revised Plan 2c for District 7 places the area from Furrow Creek, south along the old Seward Highway to DeArmoun Road, then south of DeArmoun Road and Huffman Road from Bainbridge Road east to Glen Alps, with Nikishka. House Districts 8 and 9 are combined into a two-member district including the Campbell Lake, Klatt Road, and the Hillside areas. With only minor modifications the remainder of 2c is the same as orginally proposed. Because of the combination of the two single-member districts in South Anchorage in the revised Plan 2c, it is necessary to renumber all the Anchorage house districts. Please refer to the map included in this release for district numbering.

Plan 2c - Senate Districts

The Board has proposed three options for senate districts under Plan 2c for the Prince William Sound and Kenai Peninsula area.

1. One proposal would be to combine House District 5, a two-member house district, with single-member House Districts 6 and 7 into a two-member senate district.
2. The second proposal would have House District 5 become a single-member senate district, and combine House Districts 6 and 7 into a single-member senate district.
3. Because of testimony received by the Board concerning composition of a senate district that would include the Matanuska-Susitna Borough, the Prince William Sound, and part of the Kenai Peninsula, the third proposal would combine House Districts 6 and 7 with House District 16, a two-member house district for the Matanuska-Susitna area, into a two-member senate district. House District 5 would be a single-member district.

Three proposals were also developed for senate district combinations in the Anchorage area under Plan 2c.

1. The first proposal would be to create single-member senate districts in House Districts 8 - 15 which are all two-member house districts.
2. The second proposal would combine House Districts 8 and 10, House Districts 9 and 11, House Districts 12

Used 3 1/3% changes in 1981 - Board

All are w/in 20%. of same people in old Senate Districts

To change w. most old people in district

and 13, and House Districts 14 and 15, into two-member senate districts.

3. Finally, the third proposal would combine House Districts 8 and 9, House Districts 10 and 11, House Districts 12 and 13, and House Districts 14 and 15 into two-member senate districts.

The Reapportionment Board is very interested in receiving public comment on these proposals and would like to encourage anyone concerned with this process to participate in the teleconferences and meetings scheduled for December 14 through 16.

Attached to the press release is a statistical summary for house districts in Plan 1 and Plan 2c. Maps of the revised districts are also included as well as a map of the 1981 election districts in Anchorage.

Copies of this material may be obtained by contacting the Reapportionment Office in Juneau at 465-3538, the Regional Governor's Offices, and Legislative Information Offices.

PLAN 1
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
December 9, 1983

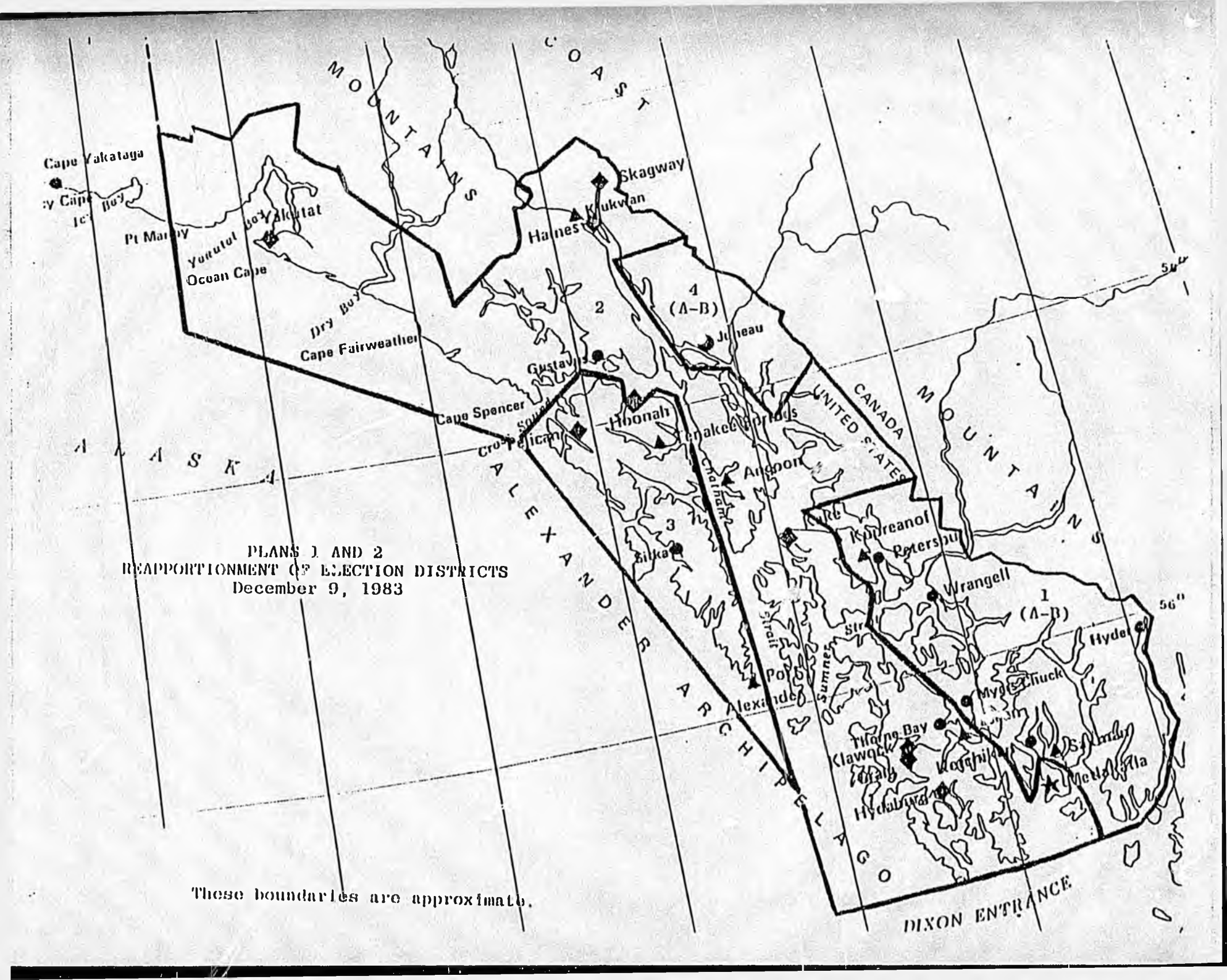
	House District	Name	Population	Population Variance
* 1.	Seat A (2) Seat B	Ketchikan-Wrangell-Petersburg	16,601.58 (8,300.79/seat)	-9.5%
* 2.	(1)	Inside Passage	8,924.35	-2.7%
* 3.	(1)	Baranof-Chichagof	8,448.97	-7.9%
4.	Seat A (2) Seat B	Juneau	19,332.75 (9,666.375/seat)	+5.34%
* 5.	Seat A (2) Seat B	Kenai-Cook Inlet	18,872.95 (9,436.475/seat)	+2.8% change +161
* 6.	(1)	Prince William Sound	8,906.19	[redacted]
* 7.	(1)	North Kenai-South Anchorage	9,109.9	- .7% change -161
* 8.	Seat A (2) Seat B	Hillside	18,269.4 (9,134.7/seat)	- .4%
9.	Seat A (2) Seat B	Sand Lake	18,004.7 (9,002.35/seat)	-1.9%
*10.	Seat A (2) Seat B	Mid-town	19,038.1 (9,519.05/seat)	+3.7%
*11.	Seat A (2) Seat B	Westside	18,960.4 (9,480.2/seat)	+3.3%
12.	Seat A (2) Seat B	Downtown	18,170.0 (9,085/seat)	-1.0%
13.	Seat A (2) Seat B	Mountain View-University	18,907.5 (9,453.75/seat)	+3.02%
14.	Seat A (2) Seat B	Muldoon	19,031.5 (9,515.75/seat)	+3.7%
15.	Seat A (2) Seat B	Chugiak-Eagle River-Bases	18,560.7 (9,280.35/seat)	+1.13%
16.	Seat A (2) Seat B	Matanuska-Susitna	17,642.23 (8,821.115/seat)	-3.37%

House District		Name	Population	Population Variance
17.	(1)	Interior Highways	9,011.57	-1.8%
18.	(1)	Southeast North Star Borough	9,300.0	+1.3%
19.	(1)	Outer Fairbanks	8,934.3	-2.6%
20.	Seat A (2) Seat B	Fairbanks City	18,319.7 (9,159.8/seat)	- .2%
21.	(1)	West Fairbanks	9,247.1	+ .8%
22.	(1)	North Slope-Kotzebue	8,999.06	-1.9%
23.	(1)	Norton Sound	9,338.86	+1.8%
24.	(1)	Interior Rivers	8,936.12	-2.6%
25.	(1)	Lower Kuskokwim	9,432.35	+2.8%
26.	(1)	Bristol Bay-Aleutian Islands	9,157.61	- .2%
27.	(1)	Kodiak-East Alaska Peninsula	9,592.40	+4.53%
		TOTAL POPULATION	367,050.29	
		(Less Non-Resident Military and Dependents)		

Southeast Alaska	Maximum Overpopulation	+5.34%	District 4
	Maximum Underpopulation	-9.5 %	District 1
	Total Combined Variance	14.84%	
Other Districts	Maximum Overpopulation	+4.53%	District 27
	Maximum Underpopulation	-3.87%	District 16
	Total Combined Variance	8.4 %	

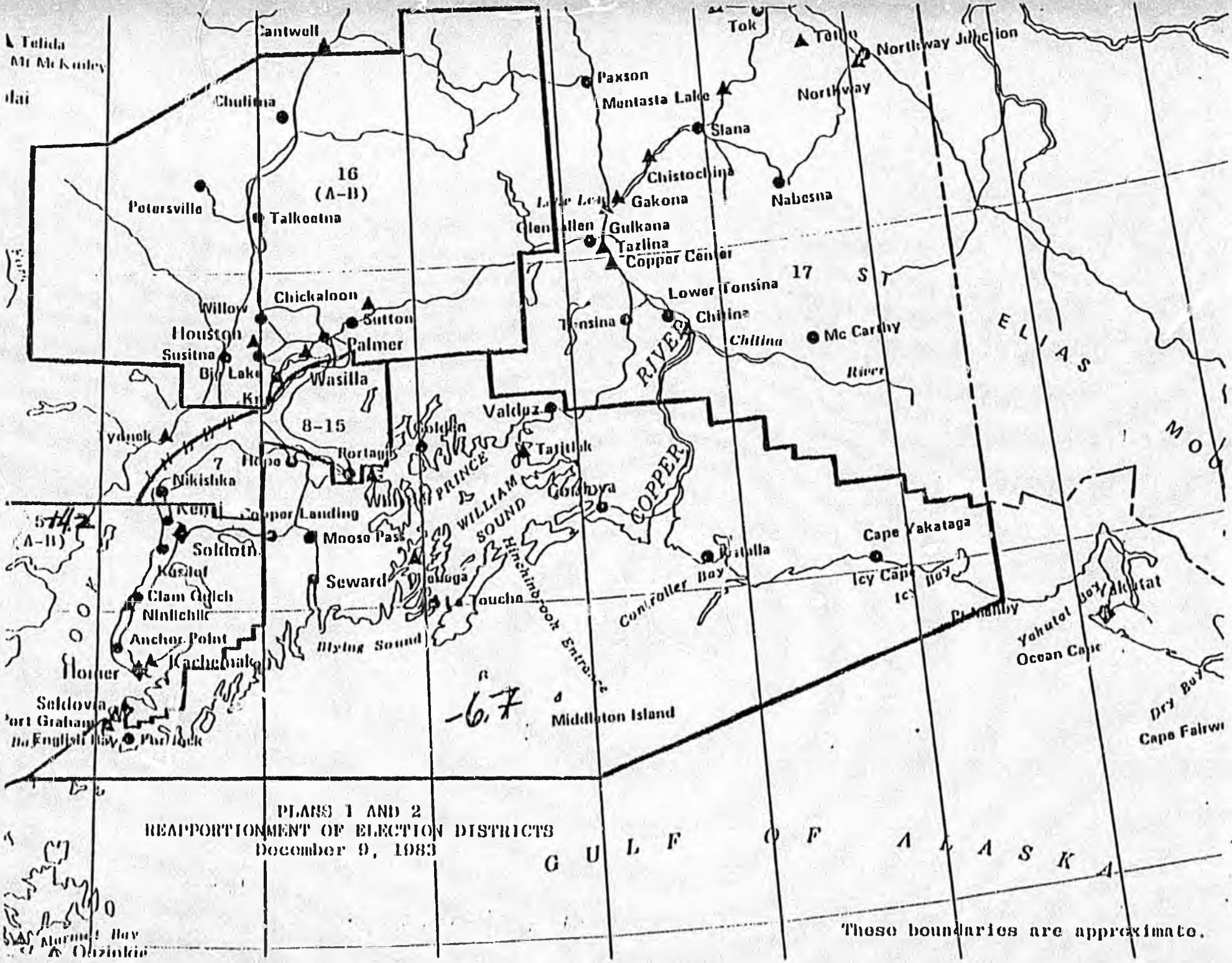
*These districts were revised in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983.

No mention of changes between



PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
December 9, 1983

These boundaries are approximate.



PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
December 9, 1983

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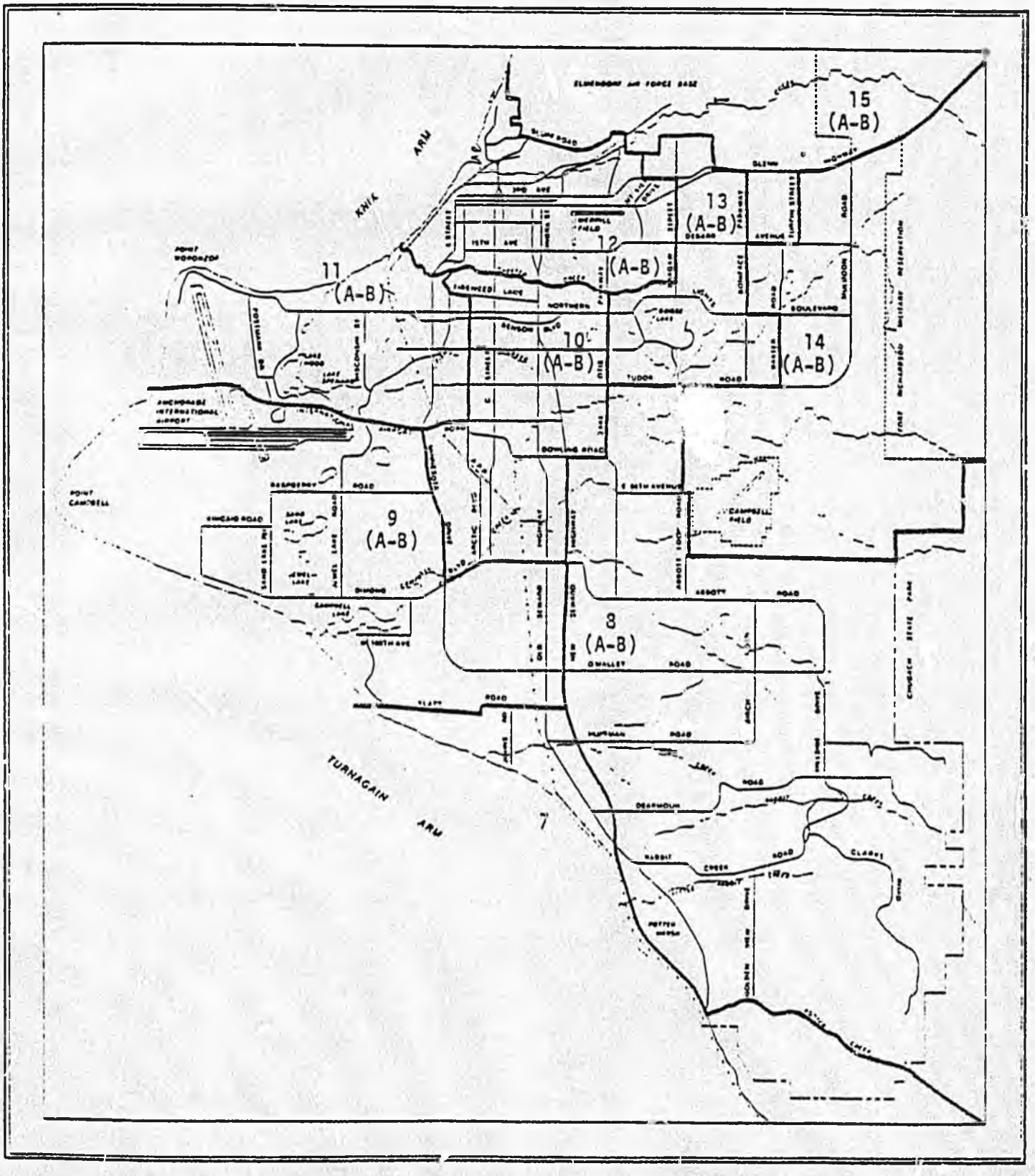
These boundaries are approximate.

PLAN 1
ANCHORAGE ELECTION DISTRICTS
December 9, 1983



These boundaries are approximate.

PLAN 2c
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
December 9, 1983

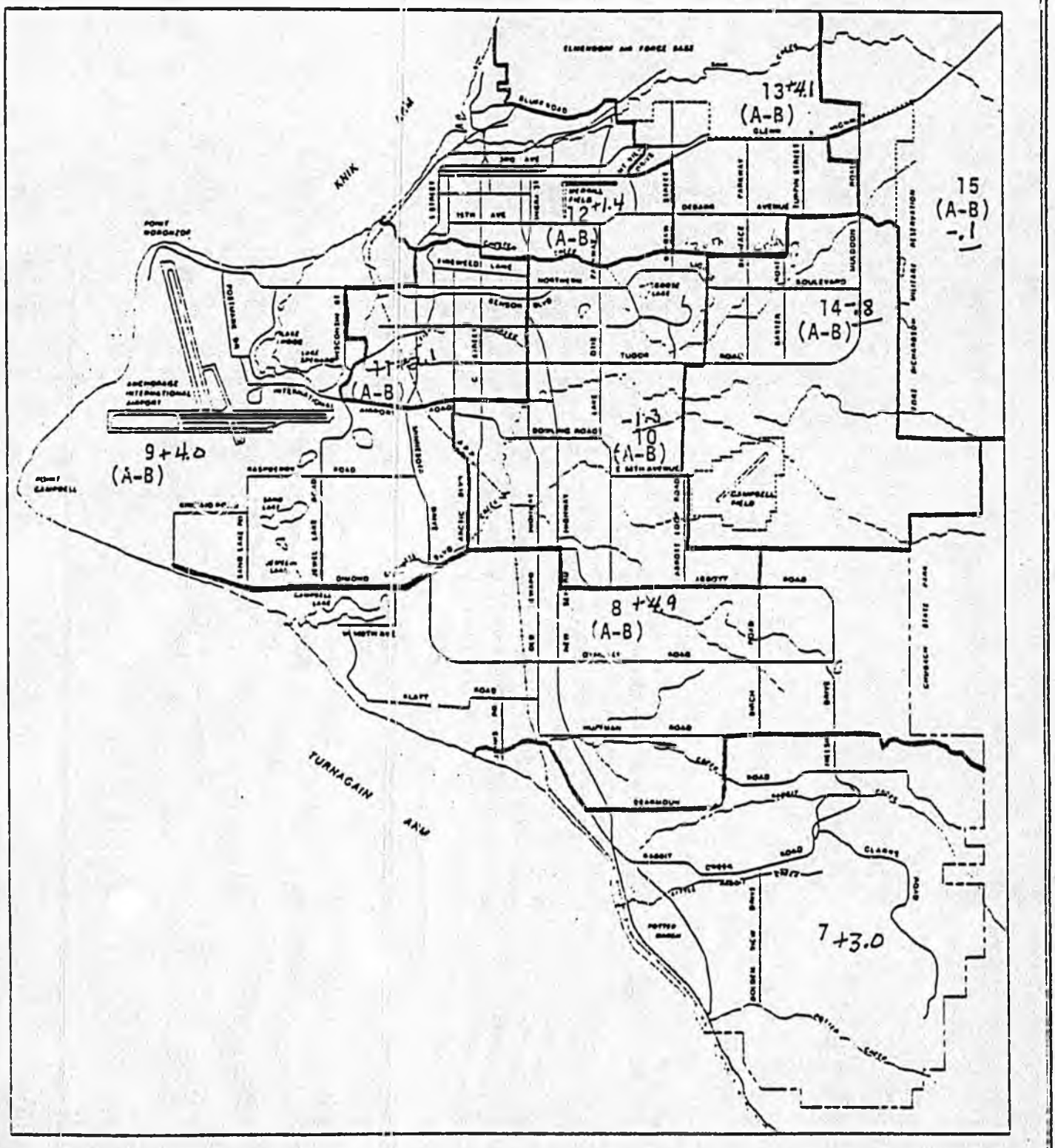
	House District	Name	Population	Population Variance
* 1.	Seat A (2) Seat B	Ketchikan-Wrangell-Petersburg	16,601.58 (8,300.79/seat)	-9.9%
* 2.	(1)	Inside Passage	8,924.35	-3.1%
* 3.	(1)	Baranof-Chichagof	8,448.97	-8.3%
4.	Seat A (2) Seat B	Juneau	19,332.75 (9,666.375/seat)	+4.9%
* 5.	Seat A (2) Seat B	Kenai-Cook Inlet	18,872.95 (9,436.475/seat)	~~-2.4%~~ +4.2
* 6.	(1)	Prince William Sound	8,906.19	~~-3.6%~~ -6.7%
* 7.	(1)	North Kenai-South Anchorage	9,485	+3.0%
* 8.	Seat A (2) Seat B	Campbell-Hillside	19,325.8 (9,662.9/seat)	+4.9%
* 9.	Seat A (2) Seat B	Turnagain-Sand Lake	19,155.9 (9,577.95/seat)	+4.0%
*10.	Seat A (2) Seat B	Mid-town	18,183.5 (9,091.75/seat)	-1.3%
*11.	Seat A (2) Seat B	Spenard	18,804.1 (9,402.05/seat)	+2.1%
*12.	Seat A (2) Seat B	Downtown	18,678.4 (9,339.2/seat)	+1.4%
*13.	Seat A (2) Seat B	Elmendorf AFB-Mountain View	19,173.1 (9,586.55/seat)	+4.1%
*14.	Seat A (2) Seat B	South Muldoon	18,265.4 (9,132.7/seat)	- .8%
*15.	Seat A (2) Seat B	Chugiak-Eagle River-Ft. Richardson	18,395 (9,197.5/seat)	- .1%

House District		Name	Population	Population Variance
16.	Seat A (2) Seat B	Matanuska-Susitna	17,692.23 (8,846.115/seat)	-3.9%
17.	(1)	Interior Highways	8,917.57	-3.2%
18.	(1)	Southeast North Star Borough	9,300.0	+ .9%
19.	(1)	Outer Fairbanks	8,934.3	-3.0%
20.	Seat A (2) Seat B	Fairbanks City	18,319.7 (9,159.8/seat)	- .5%
21.	(1)	West Fairbanks	9,247.1	+ .4%
22.	(1)	North Slope-Kotzebue	8,999.06	-2.3%
23.	(1)	Norton Sound	9,338.86	+1.4%
24.	(1)	Interior Rivers	8,936.12	-3.0%
25.	(1)	Lower Kuskokwim	9,432.35	+2.4%
26.	(1)	Bristol Bay-Aleutian Islands	9,157.61	- .6%
27.	(1)	Kodiak-East Alaska Peninsula	9,592.40	+4.1%
		TOTAL ADJUSTED POPULATION (Less Non-Resident Military and Dependents)	368,420.29	

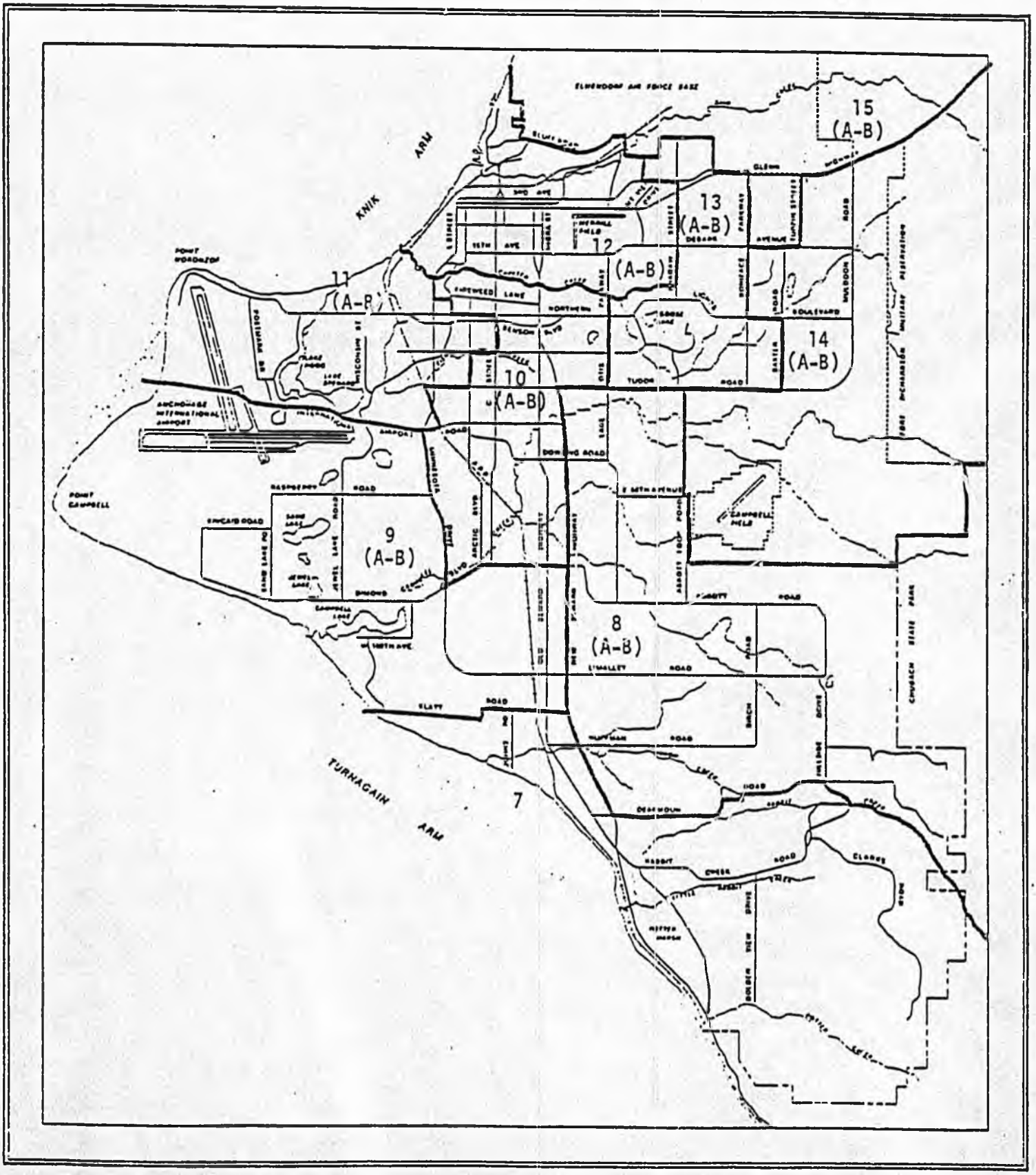
Southeast Alaska	Maximum Overpopulation	+4.9%	District 4
	Maximum Underpopulation	-9.9%	District 1
	Total Combined Variance	14.8%	
Other Districts	Maximum Overpopulation	+4.9%	District 8
	Maximum Underpopulation	-3.9%	District 17
	Total Combined Variance	8.8%	

*Revisions were made in these districts in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983, and includes technical corrections made to the 1980 census data.

PLAN 2c - REVISED
ANCHORAGE ELECTION DISTRICTS
December 9, 1983



1981 ANCHORAGE ELECTION DISTRICTS



These boundaries are approximate.

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NEWS RELEASE

REAPPORTIONMENT BOARD PROPOSES REVISIONS TO 1981 PLAN
November 18, 1983

FOR IMMEDIATE RELEASE

JUNEAU--Following extensive meetings in Juneau during the last several weeks, the newly-appointed Reapportionment Board has proposed two plans for the court-mandated revisions to the 1981 Reapportionment Plan. Chairman Willie Hensley says the Board is moving as quickly as possible in order to have their recommendations to Governor Sheffield by January 3. "We would like to have the public review these proposals and provide us with their comments. The Board will be holding several public hearings in the next two weeks and we invite anyone concerned with this process to participate in the hearings," said Hensley. The Public Hearing Schedule is as follows:

Mon., Nov. 21 - Ketchikan	7:30 p.m. School District Board Room Masonic Temple Building Grant Street
Tues., Nov. 22 - Juneau	7:30 p.m. Court Room A Alaska Court Building
Tues., Nov. 29 - Fairbanks	7:30 p.m. Borough Assembly Chambers 520 Fifth Avenue
Wed., Nov. 30 - Anchorage	Two Sessions: 1:30 - 5:00 p.m. 7:30 - 10:00 p.m. Court Room G, Room 401 Alaska Court Building 303 K Street
Thurs., Dec. 1 - Kenai	1:30 - 4:00 p.m. City Council Chambers 210 Fidalgo

The 5-member panel, including Hensley of Kotzebue, Mary Nordale of Fairbanks, Joe McKinnon of Anchorage, Richard Borer of Cordova and Felix Toner of Juneau, is charged with presenting recommendations to Governor Sheffield which revise the 1981 Reapportionment Plan by shifting the Cordova area from House District 2 in Southeast to a Southcentral district.

PLAN 1

Plan 1 utilizes the same data used by the 1981 Reapportionment Board in formulating their recommendations to former Governor Hammond. The Southeast revisions include separating Metlakatla and Annette Island from District 1 and Hoonah from District 3, to replace the Cordova area in District 2. Although Southeast Alaska as a region is only slightly underpopulated, -3.2 percent for six house seats, the allocation of the population is difficult because of the overpopulation in the Juneau area. After considerable thought, the Board concluded that it would be ill-advised to sever a portion of the Juneau area. Their proposal for Southeast, which is the same in Plans 1 and 2, has a total combined variance between the most overpopulated and the most underpopulated district of 14.84 percent.

The Cordova area in Plan 1 is placed in a Prince William Sound district, District 6, which includes the communities of Tatitlek, Valdez, Seward, Hope, Cooper Landing, Moose Pass, Port Graham, and English Bay. House District 5, a two-member district, remains virtually the same with the exception of Port Graham and English Bay.

The Nikishka area and North Kenai Peninsula that was formerly in House District 6 has been moved into South Anchorage in both Plans 1 and 2. The revised District 7 includes the area from Klatt Road south along the New Seward Highway to Potter Creek, all remaining area south of Potter Creek in the Municipality of Anchorage, and the Nikishka area.

Modifications to District 8 in Plan 1 include extension of the southern boundary from DeArmoun Road to Potter Creek and rather than following the New Seward Highway to Tudor Road, the boundary turns east at Dowling Road to Lake Otis Parkway and then north to Tudor Road. Why no mention of pop. decrease in S.W.AK. - military -

District 9's boundaries remain unchanged. District 10's western boundary is revised to follow Arctic Boulevard from International Airport Road to Fireweed Lane, then west to Spenard Road and north to Chester Creek. This also becomes the new eastern boundary of District 11.

PLAN 2

During the course of the Board's deliberation, the Board identified several instances where the data used for the 1981 Plan contained a reporting error. The principal error occurred in the reporting of the census data for the Eagle River area, where 1,414 persons were inadvertantly excluded. In order to address the problem with the initial census data, Governor Sheffield asked that asked the Board provide him with a plan which uses the most accurate census data available. Under Plan 2, which utilizes the adjusted census data, the ideal population per house seat is increased from 9,176.2 in Plan 1 to 9,210.5 in Plan 2.

The proposal for revisions to districts in Southeast Alaska and on the Kenai Peninsula are the same in both Plans 1 and 2. The population variances change slightly because of the increase in the ideal population per seat.

In Anchorage, Plan 2 offers three proposals for redistricting. Because of a major correction in 1980 census data in the Eagle River area of an additional 1,414 persons, shifts in the boundaries are necessary to correct the excessive population variance.

Plan 2-A utilizes the same redistricting plan for House Districts 7 through 11 as in Plan 1. District 12 includes the Downtown area and North Mountain View. Elmendorf Air Force Base and the North Muldoon area are in District 13, South Muldoon and University in District 14, and part of Muldoon, east of Muldoon Road is included with Fort Richardson, Chugiak, and Eagle River in District 15.

Plan 2-B includes the same revision for District 7 and makes major revisions to District 8 which includes part of the Hillside area and Campbell Lake. Abbott Loop, Rogers Park, Tudor, and part of the Spenard and Taku-Campbell areas are in District 9. District 10 includes Sand Lake and Turnagain and District 11 encompasses most of the Spenard area. District 12 is the Downtown area and District 13 includes Elmendorf AFB, Mountain View and North Muldoon area. The University and South Muldoon areas are in District 14 and residents east of Muldoon Road are in District 15 with Fort Richardson, Chugiak and Eagle River.

Plan 2-C changes the other proposals for District 7 from the Klatt Road area to include the Upper Hillside. District 8 becomes a single-member district in the Lower Hillside area and District 9 is also a single-member district including the Campbell Lake and Klatt Road area. The University, Rogers Park and Tudor areas are combined with Abbott Loop and Taku-Campbell in District 10. District 11 includes most of Sand Lake and Turnagain and District 12 encompasses the Spenard area. The Downtown area becomes District 13, with Elmendorf AFB, Mountain View, and North Muldoon in District 14. South Muldoon becomes District 15 and Fort Richardson, Chugiak, Eagle River, and part of Muldoon become District 16. Because of the creation of two additional single-member districts in South Anchorage in Plan 2-C, it is necessary to renumber District 16, the Matanuska-Susitna Borough, to District 17, and all remaining districts through District 28. Only the numbers change. There have been no changes in election district boundaries beyond Anchorage.

Attached to the press release is a detailed discussion of adjustments to the 1980 census data, a statistical summary for house districts in Plan 1 and Plan 2-A, 2-B, and 2-C. Maps of the revised districts are also included as well as a map of the 1981 election districts in Anchorage.

Copies of this material may be obtained by contacting the Reapportionment Office in Juneau at 465-3538, the Regional Governor's Offices, and Legislative Information Offices.

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attn: Karen Redfield
Pocock-A

REAPPORTIONMENT OF ELECTION DISTRICTS
ADJUSTMENTS TO 1980 CENSUS DATA
November 18, 1983

In September of 1981, the U.S. Bureau of the Census issued revised 1980 census counts for three census areas in the State of Alaska; Anchorage, Matanuska-Susitna, and Southeast Fairbanks. A detailed listing of these revised counts by census tract, blocks, and enumeration districts was compiled in November, 1981. The November listing also included a correction in the Prince of Wales census sub-area that did not change the population for the sub-area, but reallocated the population previously reported to the correct enumeration district.

Three additional corrections to the 1980 census data for Alaska were issued in June of 1982; in Saxman, Selawik, and Barrow. These corrections represented a reallocation of population within the specific census area and did not change the population in those census areas.

The 1981 corrections to the 1980 census counts for Alaska are as follows:

Anchorage Census Area	
Tract 0002 - Eagle River	+1,414
Matanuska-Susitna Census Area	
ED 1168 Wasilla Area	+50
Southeast Fairbanks Census Area	
ED 0833	-94

The 1980 population for the State of Alaska utilized by the 1981 Reapportionment Board was 367,050.29 (that number excluded 33,430.7 non-resident military and dependents from the original statewide total of 400,481).

The adjusted 1980 population for the State of Alaska, incorporating the 1981 revisions, is 368,420.29.

	367,050.29	- 1980 population
	+ 1,414	- Eagle River
	+ 50	- Matanuska-Susitna
	- 94	- Southeast Fairbanks
TOTAL	368,420.29	- Adjusted 1981 population

The ideal house district population is also adjusted from 9,176.2 to 9,210.5; the quotient of dividing the adjusted population by the 40 house seats to be apportioned.

PLAN 1

REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
November 18, 1983

	House District	Name	Population	Population Variance
* 1.	Seat A (2) Seat B	Ketchikan-Wrangell-Petersburg	16,601.58 (8,300.79/seat)	-9.5%
* 2.	(1)	Inside Passage	8,924.35	-2.7%
* 3.	(1)	Baranof-Chichagof	8,448.97	-7.9%
4.	Seat A (2) Seat B	Juneau	19,332.75 (9,666.375/seat)	+5.34%
* 5.	Seat A (2) Seat B	Kenai-Cook Inlet	18,711.95 (9,355.975/seat)	+1.9%
* 6.	(1)	Prince William Sound	8,906.19	-2.9%
* 7.	(1)	North Kenai-South Anchorage	9,270.9	+1.03%
* 8.	Seat A (2) Seat B	Hillside	18,269.4 (9,134.7/seat)	- .4%
9.	Seat A (2) Seat B	Sand Lake	18,004.7 (9,002.35/seat)	-1.9%
*10.	Seat A (2) Seat B	Mid-town	19,038.1 (9,519.05/seat)	+3.7%
*11.	Seat A (2) Seat B	Westside	18,960.4 (9,480.2/seat)	+3.3%
12.	Seat A (2) Seat B	Downtown	18,170.0 (9,085/seat)	-1.0%
13.	Seat A (2) Seat B	Mountain View-University	18,907.5 (9,453.75/seat)	+3.02%
14.	Seat A (2) Seat B	Muldoon	19,031.5 (9,515.75/seat)	+3.7%
15.	Seat A (2) Seat B	Chugiak-Eagle River-Bases 5330 + 1528 + ??	18,560.7 (9,280.35/seat)	+1.13%
16.	Seat A (2) Seat B	Matanuska-Susitna	17,642.23 (8,821.115/seat)	-3.87%

:6

:17

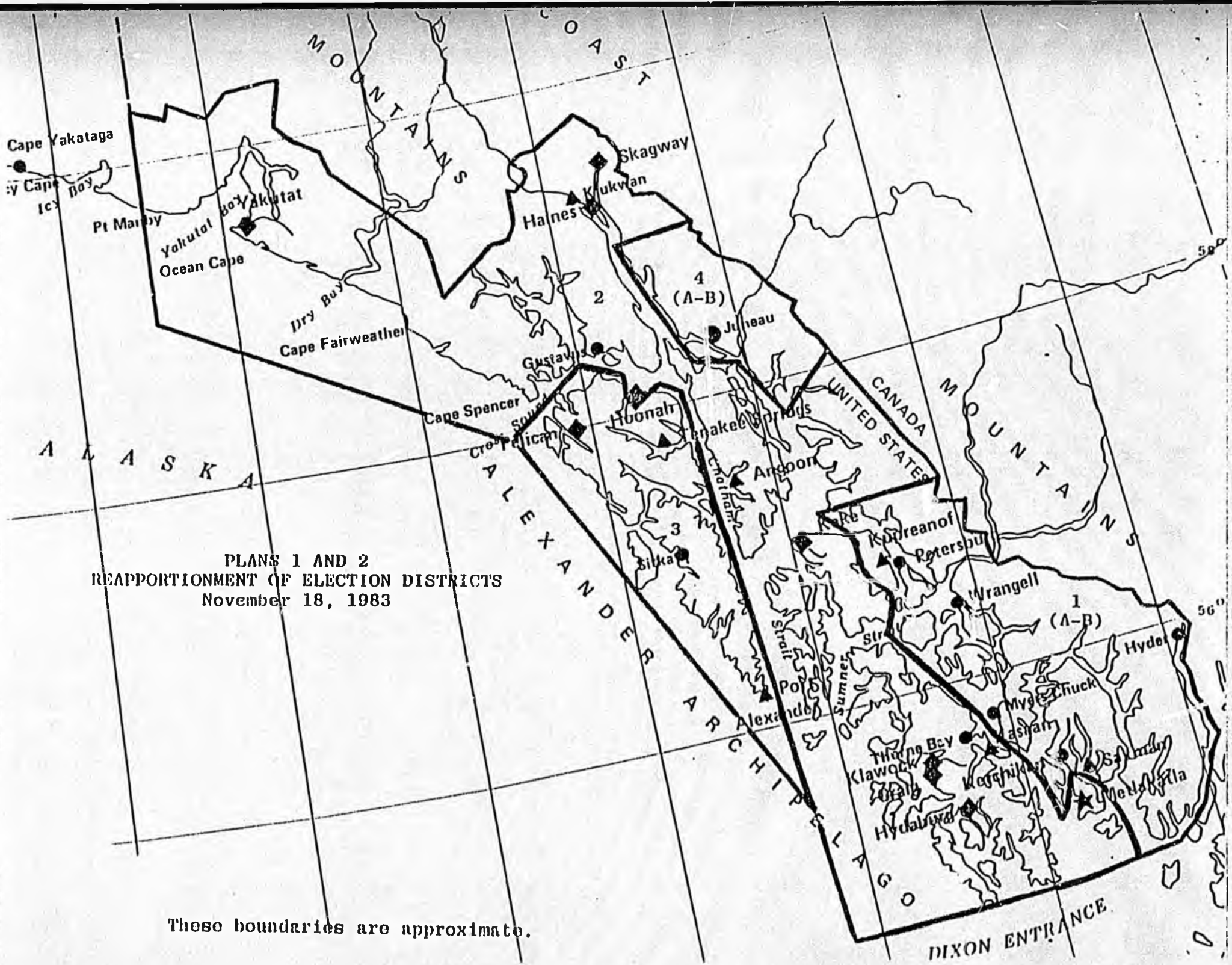
Up to 29% allowed Military as Civilian

Total Population Anchorage U.S. 1980 Census Population
How many Military Figured in if at all
How Are Militar. Counted? Doubt counted if live off base?

House District		Name	Population	Population Variance
17.	(1)	Interior Highways	9,011.57	-1.8%
18.	(1)	Southeast North Star Borough	9,300.0	+1.3%
19.	(1)	Outer Fairbanks	8,934.3	-2.6%
20.	Seat A (2) Seat B	Fairbanks City	18,319.7 (9,159.8/seat)	- .2%
21.	(1)	West Fairbanks	9,247.1	+ .8%
22.	(1)	North Slope-Kotzebue	8,999.06	-1.9%
23.	(1)	Norton Sound	9,338.86	+1.8%
24.	(1)	Interior Rivers	8,936.12	-2.6%
25.	(1)	Lower Kuskokwim	9,432.35	+2.8%
26.	(1)	Bristol Bay-Aleutian Islands	9,157.61	- .2%
27.	(1)	Kodiak-East Alaska Peninsula	9,592.40	+4.53%
		TOTAL POPULATION	367,050.29	
		(Less Non-Resident Military and Dependents)		

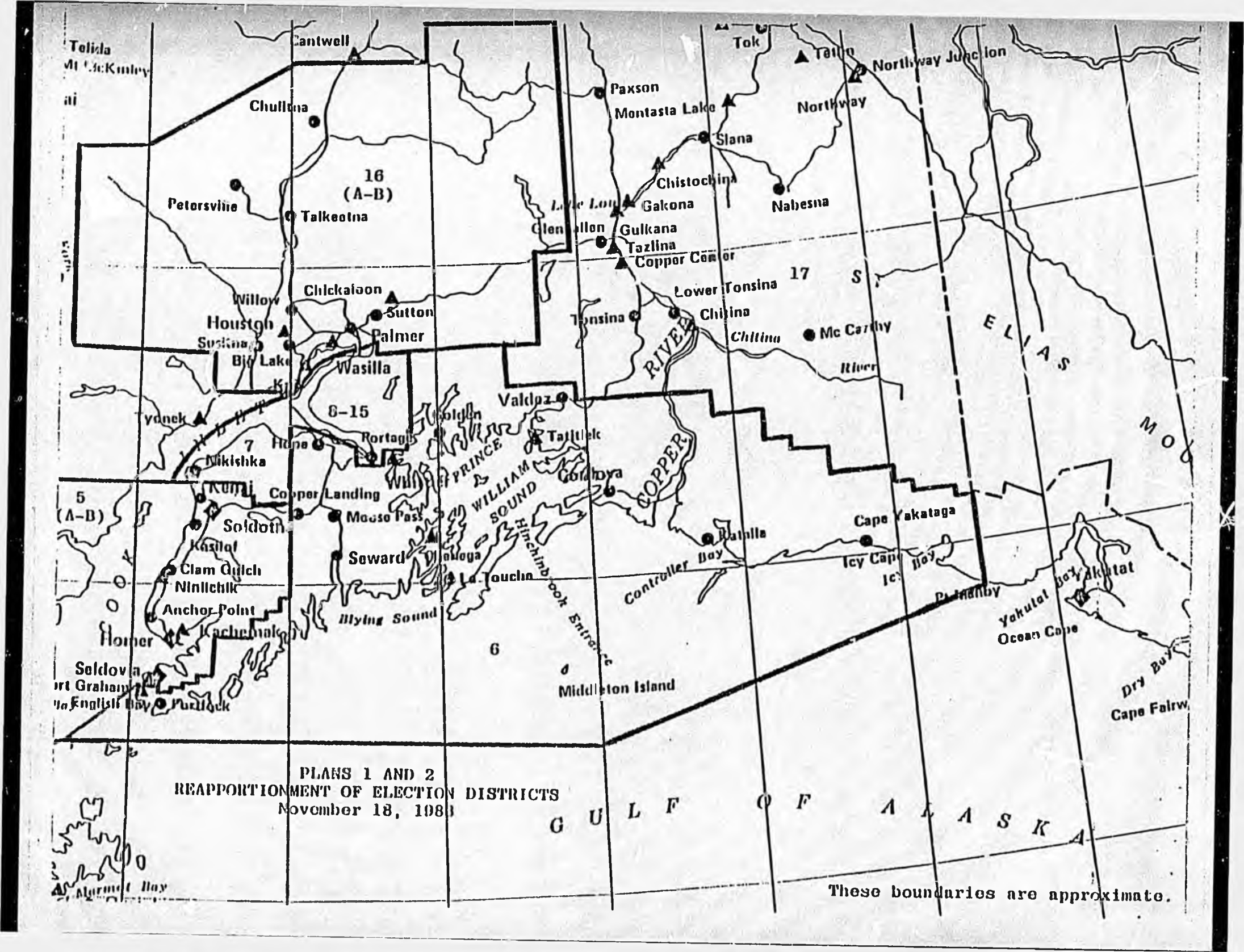
Southeast Alaska	Maximum Overpopulation	+5.34%	District 4
	Maximum Underpopulation	-9.5 %	District 1
	Total Combined Variance	14.84%	
Other Districts	Maximum Overpopulation	+4.53%	District 27
	Maximum Underpopulation	-3.87%	District 16
	Total Combined Variance	8.4 %	

*These districts were revised in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983.



PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
November 18, 1983

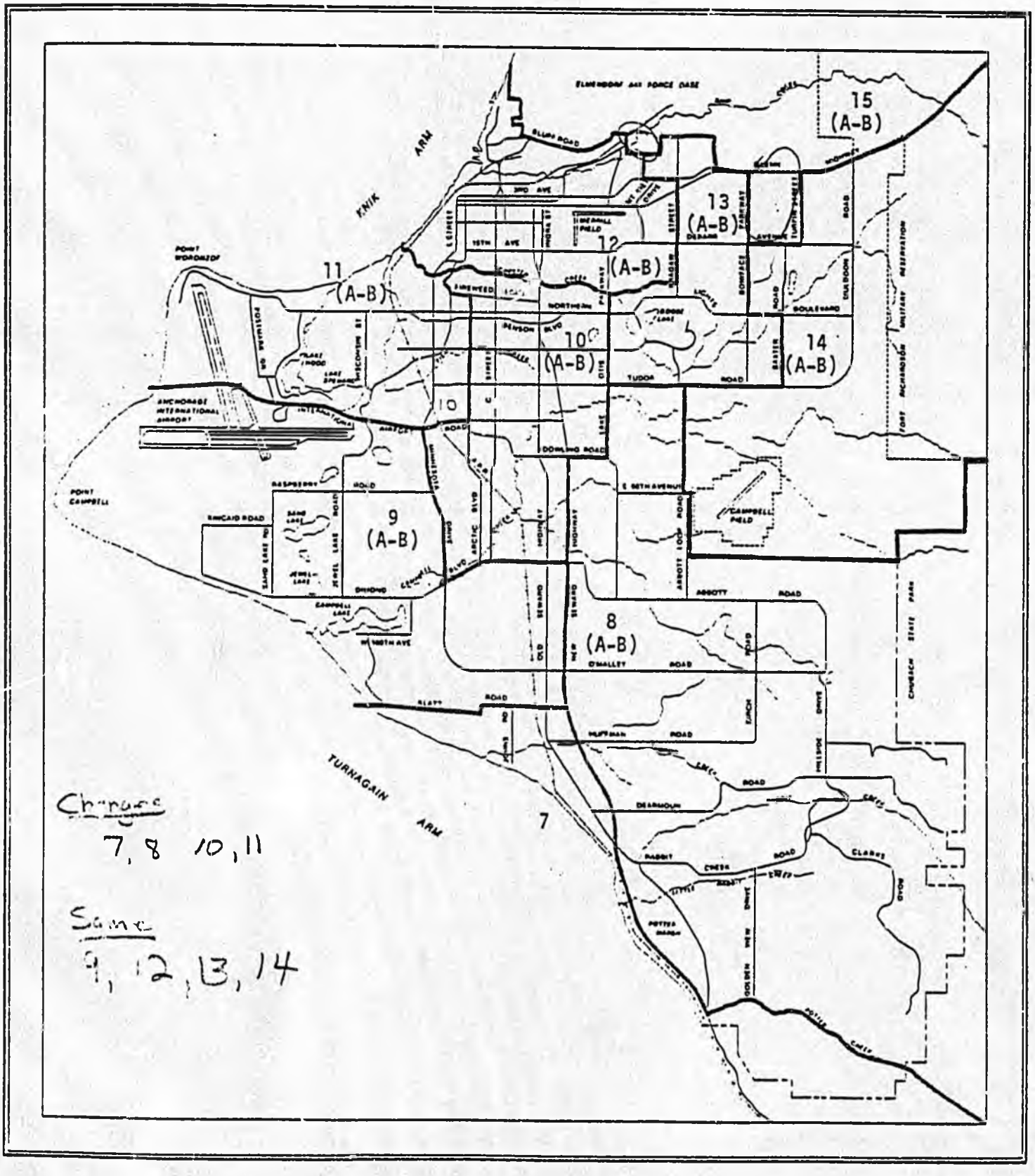
These boundaries are approximate.



PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
November 18, 1983

These boundaries are approximate.

PLAN 1
ANCHORAGE ELECTION DISTRICTS
November 18, 1983



These boundaries are approximate.

PLAN 2 - A
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
November 18, 1983

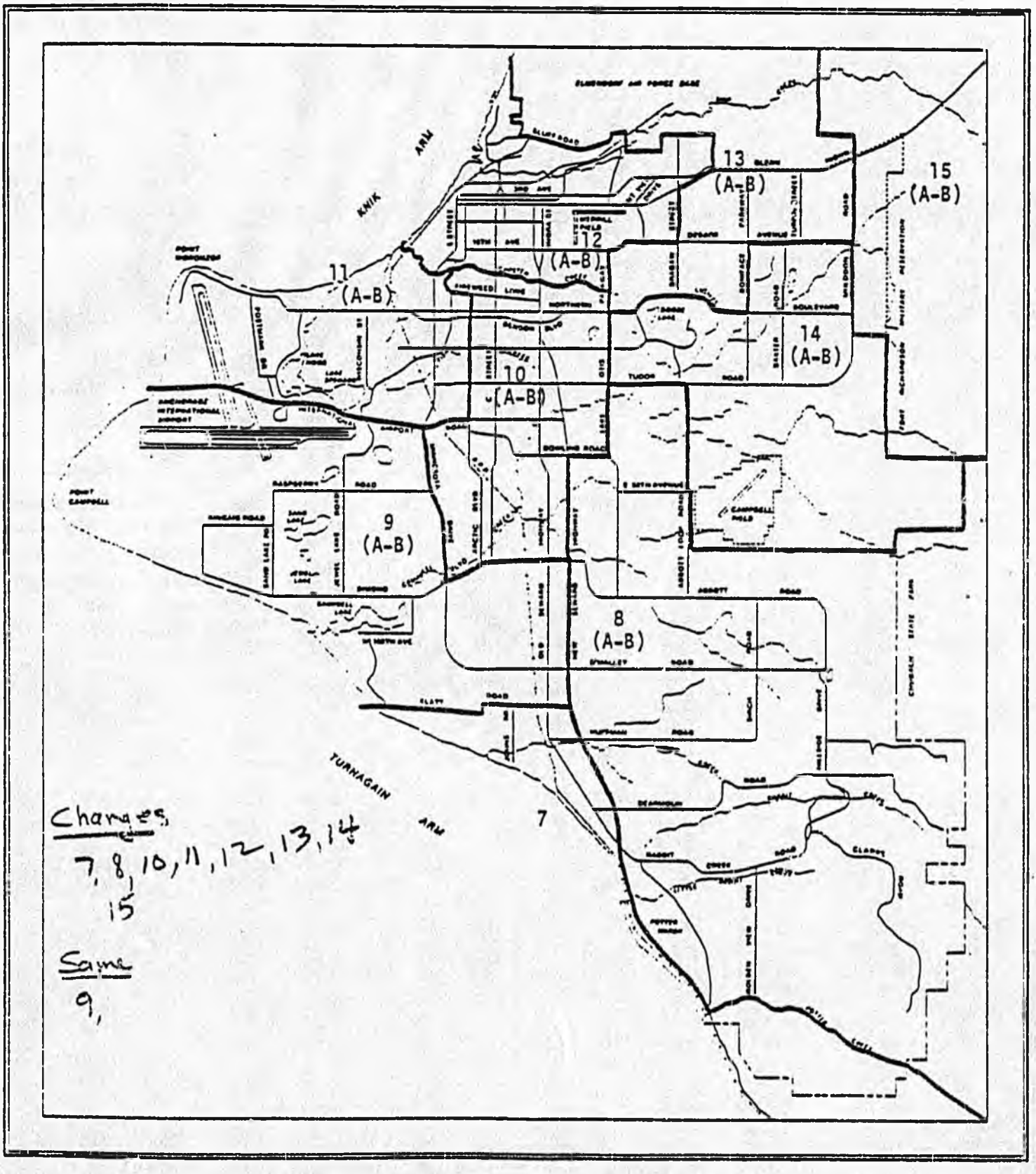
House District		Name	Population	Population Variance
* 1.	Seat A (2) Seat B	Ketchikan-Wrangell-Petersburg	16,601.58 (8,300.79/seat)	-9.9%
* 2.	(1)	Inside Passage	8,924.35	-3.1%
* 3.	(1)	Baranof-Chichagof	8,448.97	-8.3%
4.	Seat A (2) Seat B	Juneau	19,332.75 (9,666.375/seat)	+4.9%
* 5.	Seat A (2) Seat B	Kenai-Cook Inlet	18,711.95 (9,355.975/seat)	+1.6%
* 6.	(1)	Prince William Sound	8,906.19	-3.3%
* 7.	(1)	North Kenai-South Anchorage	9,270.9	+ .6%
* 8.	Seat A (2) Seat B	Hillside	18,269.4 (9,134.7/seat)	- .8%
9.	Seat A (2) Seat B	Sand Lake	18,004.7 (9,002.35/seat)	-2.2%
*10.	Seat A (2) Seat B	Mid-town	19,038.1 (9,519.05/seat)	+3.3%
*11.	Seat A (2) Seat B	Westside	18,960.4 (9,480.2/seat)	+2.9%
*12.	Seat A (2) Seat B	Downtown-North Mountain View	19,268.4 (9,634.2/seat)	+4.6%
*13.	Seat A (2) Seat B	Elmendorf AFB-Mountain View	18,891 (9,445.5/seat)	+2.5%
*14.	Seat A (2) Seat B	University-Muldoon	19,023.1 (9,511.55/seat)	+3.3%
*15.	Seat A (2) Seat B	Chugiak-Eagle River-Ft. Richardson	18,901.2 (9,450.6/seat)	+2.6%
*16.	Seat A (2) Seat B	Matanuska-Susitna	17,692.23 (8,846.115/seat)	-3.9%

House District		Name	Population	Population Variance
*17.	(1)	Interior Highways	8,917.57	-3.2%
18.	(1)	Southeast North Star Borough	9,300.0	+ .9%
19.	(1)	Outer Fairbanks	8,934.3	-3.0%
20.	Seat A (2) Seat B	Fairbanks City	18,319.7 (9,159.8/seat)	- .5%
21.	(1)	West Fairbanks	9,247.1	+ .4%
22.	(1)	North Slope-Kotzebue	8,999.06	-2.3%
23.	(1)	Norton Sound	9,338.86	+1.4%
24.	(1)	Interior Rivers	8,936.12	-3.0%
25.	(1)	Lower Kuskokwim	9,432.35	+2.4%
26.	(1)	Bristol Bay-Aleutian Islands	9,157.61	- .6%
27.	(1)	Kodiak-East Alaska Peninsula	9,592.40	+4.1%
		TOTAL ADJUSTED POPULATION	368,420.29	
		(Less Non-Resident Military and Dependents)		

Southeast Alaska	Maximum Overpopulation	+4.9%	District 4
	Maximum Underpopulation	-9.9%	District 1
	Total Combined Variance	14.8%	
Other Districts	Maximum Overpopulation	+4.6%	District 12
	Maximum Underpopulation	-3.9%	District 16
	Total Combined Variance	8.5%	

*Revisions were made in these districts in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983, and includes technical corrections made to the 1980 census data.

PLAN 2 - A
ANCHORAGE ELECTION DISTRICTS
November 18, 1983



These boundaries are approximate.

PLAN 2 - B
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
November 18, 1983

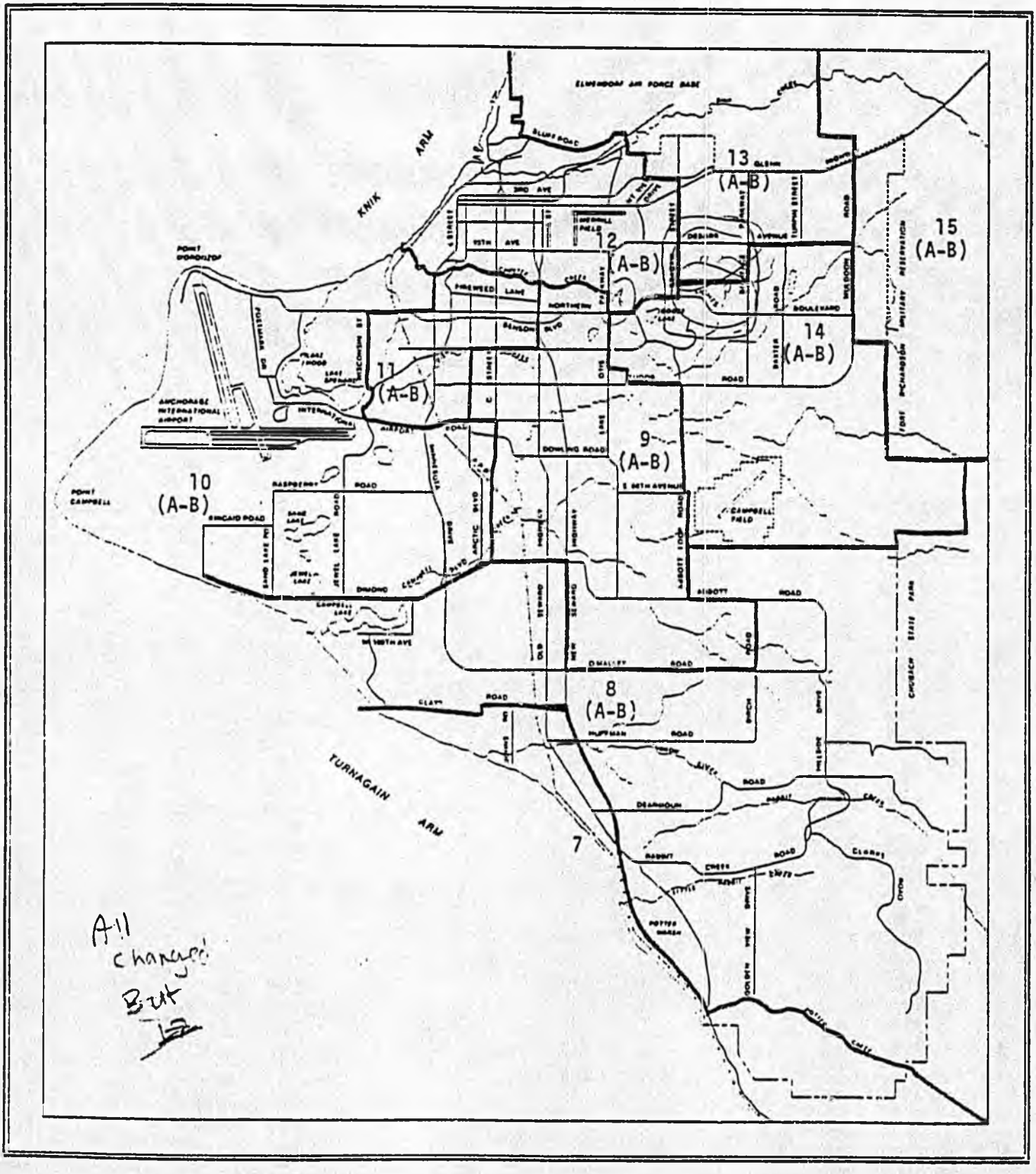
	House District	Name	Population	Population Variance
* 1.	Seat A (2) Seat B	Ketchikan-Wrangell-Petersburg	16,601.58 (8,300.79/seat)	-9.9%
* 2.	(1)	Inside Passage	8,924.35	-3.1%
* 3.	(1)	Baranof-Chichagof	8,448.97	-8.3%
4.	Seat A (2) Seat B	Juneau	19,332.75 (9,666.375/seat)	+4.9%
* 5.	Seat A (2) Seat B	Kenai-Cook Inlet	18,711.95 (9,355.975/seat)	+1.6%
* 6.	(1)	Prince William Sound	8,906.19	-3.3%
* 7.	(1)	North Kenai-South Anchorage	9,270.9	+ .6%
* 8.	Seat A (2) Seat B	Hillside-Campbell Lake	18,351.2 (9,175.6/seat)	- .4%
* 9.	Seat A (2) Seat B	Mid-town	18,983.8 (9,491.9/seat)	+3.05%
*10.	Seat A (2) Seat B	Sand Lake-Turnagain	18,551.7 (9,275.85/seat)	+ .7%
*11.	Seat A (2) Seat B	Spenard	18,846.5 (9,423.25/seat)	+2.3%
*12.	Seat A (2) Seat B	Downtown	18,540.6 (9,270.15/seat)	+ .6%
*13.	Seat A (2) Seat B	Mountain View-Elmendorf AFB	18,879.4 (9,439.7/seat)	+2.5%
*14.	Seat A (2) Seat B	Muldoon-University	19,301.9 (9,650.95/seat)	+4.8%
*15.	Seat A (2) Seat B	Chugiak-Eagle River-Ft. Richardson	18,901.2 (9,450.6/seat)	+2.6%
*16.	Seat A (2) Seat B	Matanuska-Susitna	17,692.23 (8,846.115/seat)	-3.9%

	House District	Name	Population	Population Variance
*17.	(1)	Interior Highways	8,917.57	-3.2%
18.	(1)	Southeast North Star Borough	9,300.0	+ .9%
19.	(1)	Outer Fairbanks	8,934.3	-3.0%
20.	Seat A (2) Seat B	Fairbanks City	18,319.7 (9,159.8/seat)	- .5%
21.	(1)	West Fairbanks	9,247.1	+ .4%
22.	(1)	North Slope-Kotzebue	8,999.06	-2.3%
23.	(1)	Norton Sound	9,338.86	+1.4%
24.	(1)	Interior Rivers	8,936.12	-3.0%
25.	(1)	Lower Kuskokwim	9,432.35	+2.4%
26.	(1)	Bristol Bay-Aleutian Islands	9,157.61	- .6%
27.	(1)	Kodiak-East Alaska Peninsula	9,592.40	+4.1%
		TOTAL ADJUSTED POPULATION	368,420.29	
		(Less Non-Resident Military and Dependents)		

Southeast Alaska	Maximum Overpopulation	+4.9%	District 4
	Maximum Underpopulation	-9.9%	District 1
	Total Combined Variance	14.8%	
Other Districts	Maximum Overpopulation	+4.8%	District 14
	Maximum Underpopulation	-3.9%	District 16
	Total Combined Variance	8.7%	

*Revisions were made in these districts in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983, and includes technical corrections made to the 1980 census data.

PLAN 2 - B
ANCHORAGE ELECTION DISTRICTS
November 18, 1983



These boundaries are approximate.

PLAN 2 - C
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
November 18, 1983

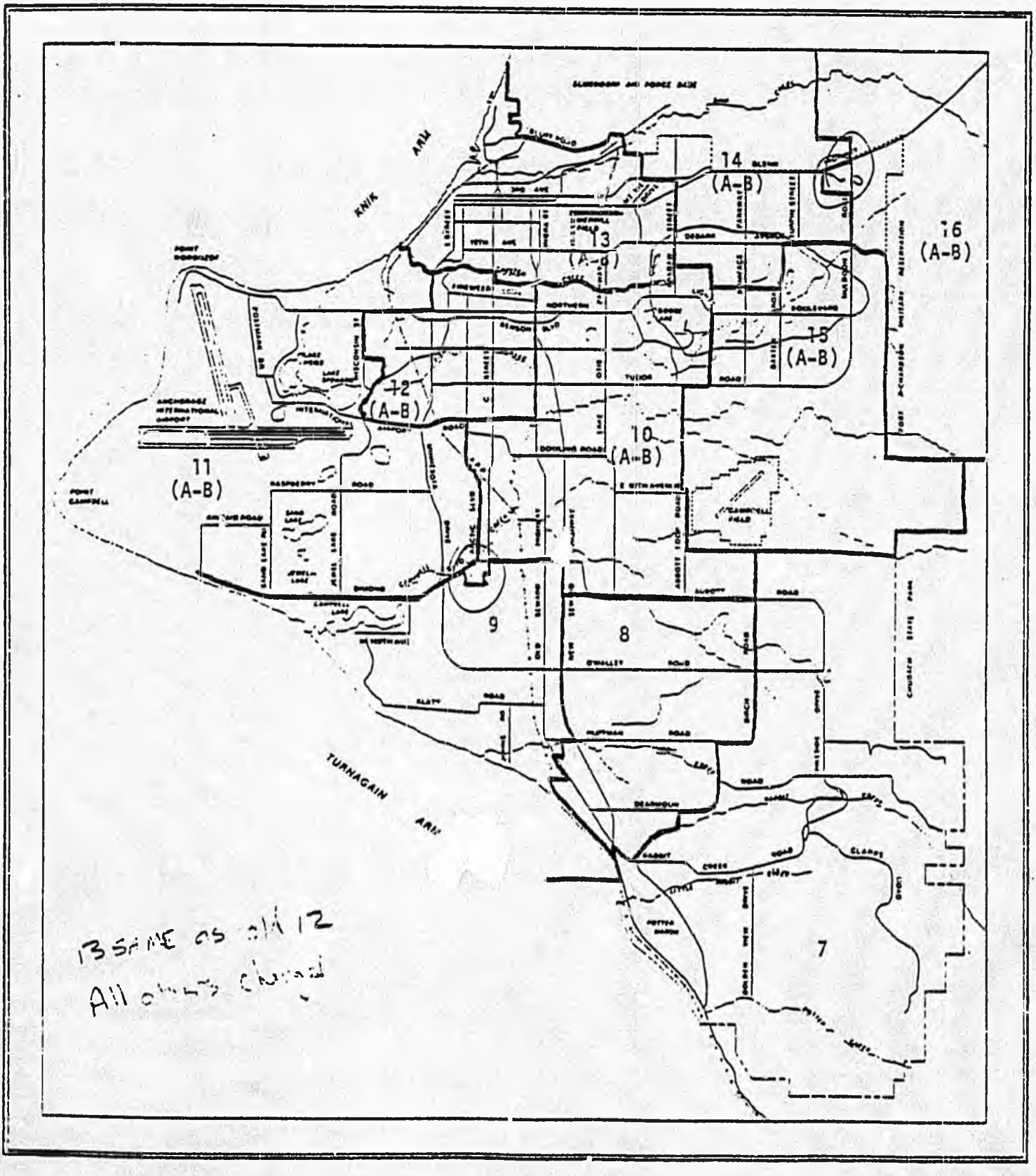
	House District	Name	Population	Population Variance
* 1.	Seat A (2) Seat B	Ketchikan-Wrangell-Petersburg	16,601.58 (8,300.79/seat)	-9.9%
* 2.	(1)	Inside Passage	8,924.35	-3.1%
* 3.	(1)	Baranof-Chichagof	8,448.97	-8.3%
4.	Seat A (2) Seat B	Juneau	19,332.75 (9,666.375/seat)	+4.9%
* 5.	Seat A (2) Seat B	Kenai-Cook Inlet	18,711.95 (9,355.975/seat)	+1.6%
* 6.	(1)	Prince William Sound	8,906.19	-3.3%
* 7.	(1)	North Kenai-South Anchorage-Upper Hillside	9,639.9	+1.6%
* 8.	(1)	Lower Hillside	9,560	+3.8%
* 9.	(1)	Campbell Lake-Oceanview	9,576.6	+3.9%
*10.	Seat A (2) Seat B	Mid-town	19,087.2 (9,543.6/seat)	+3.6%
*11.	Seat A (2) Seat B	Turnagain-Sand Lake	19,155.9 (9,577.95/seat)	+4.0%
*12.	Seat A (2) Seat B	Spenard	18,804.1 (9,402.05/seat)	+2.1%
*13.	Seat A (2) Seat B	Downtown	18,678.4 (9,339.2/seat)	+1.4%
*14.	Seat A (2) Seat B	Elmendorf AFB-Mountain View	18,464.7 (9,232.35/seat)	+ .2%
*15.	Seat A (2) Seat B	South Muldoon	18,265.4 (9,132.7/seat)	- .8%
*16.	Seat A (2) Seat B	Chugiak-Eagle River-Ft. Richardson	18,395 (9,197.5/seat)	- .1%

House District		Name	Population	Population Variance
*17.	Seat A (2) Seat B	Matanuska-Susitna	17,692.23 (8,846.115/seat)	-3.9%
18.	(1)	Interior Highways	8,917.57	-3.2%
19.	(1)	Southeast North Star Borough	9,300.0	+ .9%
20.	(1)	Outer Fairbanks	8,934.3	-3.0%
21.	Seat A (2) Seat B	Fairbanks City	18,319.7 (9,159.8/seat)	- .5%
22.	(1)	West Fairbanks	9,247.1	+ .4%
23.	(1)	North Slope-Kotzebue	8,999.06	-2.3%
24.	(1)	Norton Sound	9,338.86	+1.4%
25.	(1)	Interior Rivers	8,936.12	-3.0%
26.	(1)	Lower Kuskokwim	9,432.35	+2.4%
27.	(1)	Bristol Bay-Aleutian Islands	9,157.61	- .6%
28.	(1)	Kodiak-East Alaska Peninsula	9,592.40	+4.1%
		TOTAL ADJUSTED POPULATION	368,420.29	
		(Less Non-Resident Military and Dependents)		

Southeast Alaska	Maximum Overpopulation	+4.9%	District 4
	Maximum Underpopulation	-9.9%	District 1
	Total Combined Variance	14.8%	
Other Districts	Maximum Overpopulation	+4.6%	District 7
	Maximum Underpopulation	-3.9%	District 17
	Total Combined Variance	8.5%	

*Revisions were made in these districts in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983, and includes technical corrections made to the 1980 census data. House Districts 16 through 27 have been renumbered as Districts 17 through 28.

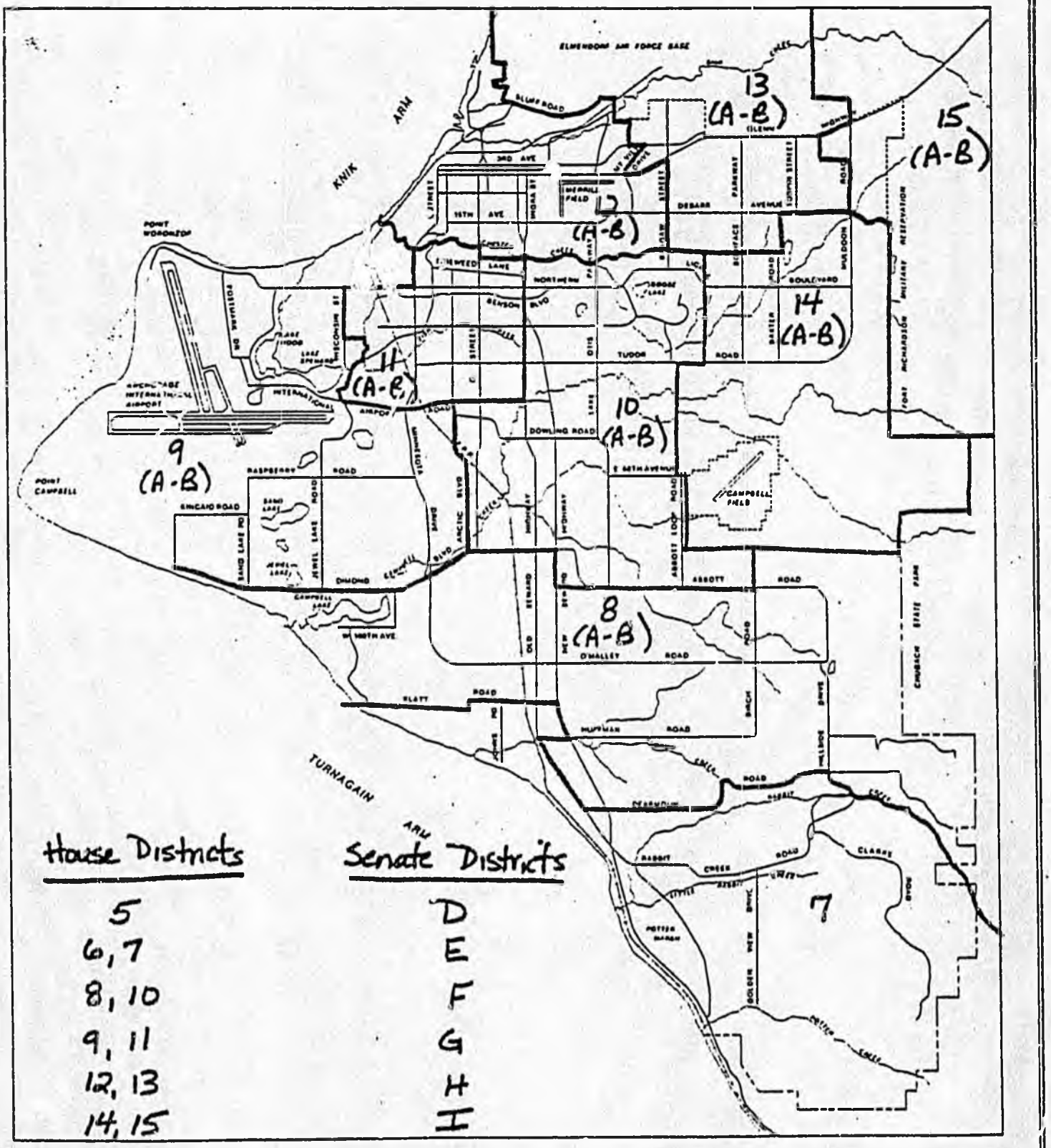
PLAN 2 - C
ANCHORAGE ELECTION DISTRICTS
November 18, 1983



These boundaries are approximate.

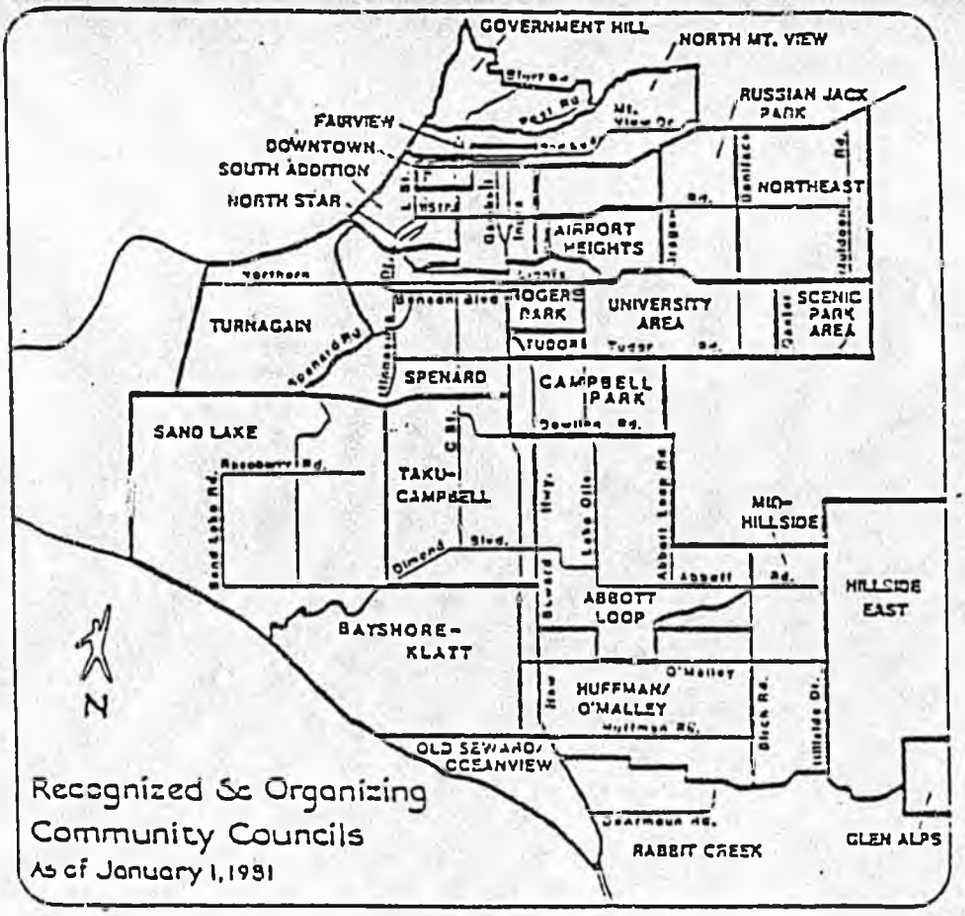
PLAN 2C - REVISED
ANCHORAGE ELECTION DISTRICTS
December 16, 1983

Next Reapportionment Board Meeting Jan 10, 11 in Juneau
Legal Consel will present Board w/ Nikishk arguments by Jan 6th

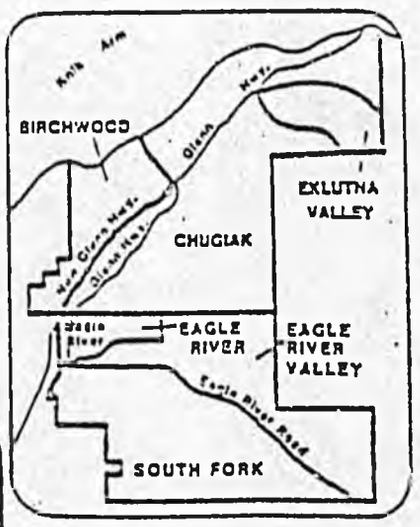


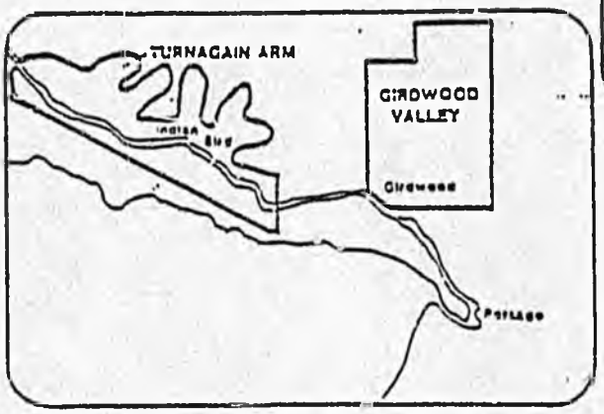
House Districts	Senate Districts
5	D
6, 7	E
8, 10	F
9, 11	G
12, 13	H
14, 15	I

These boundaries are approximate.

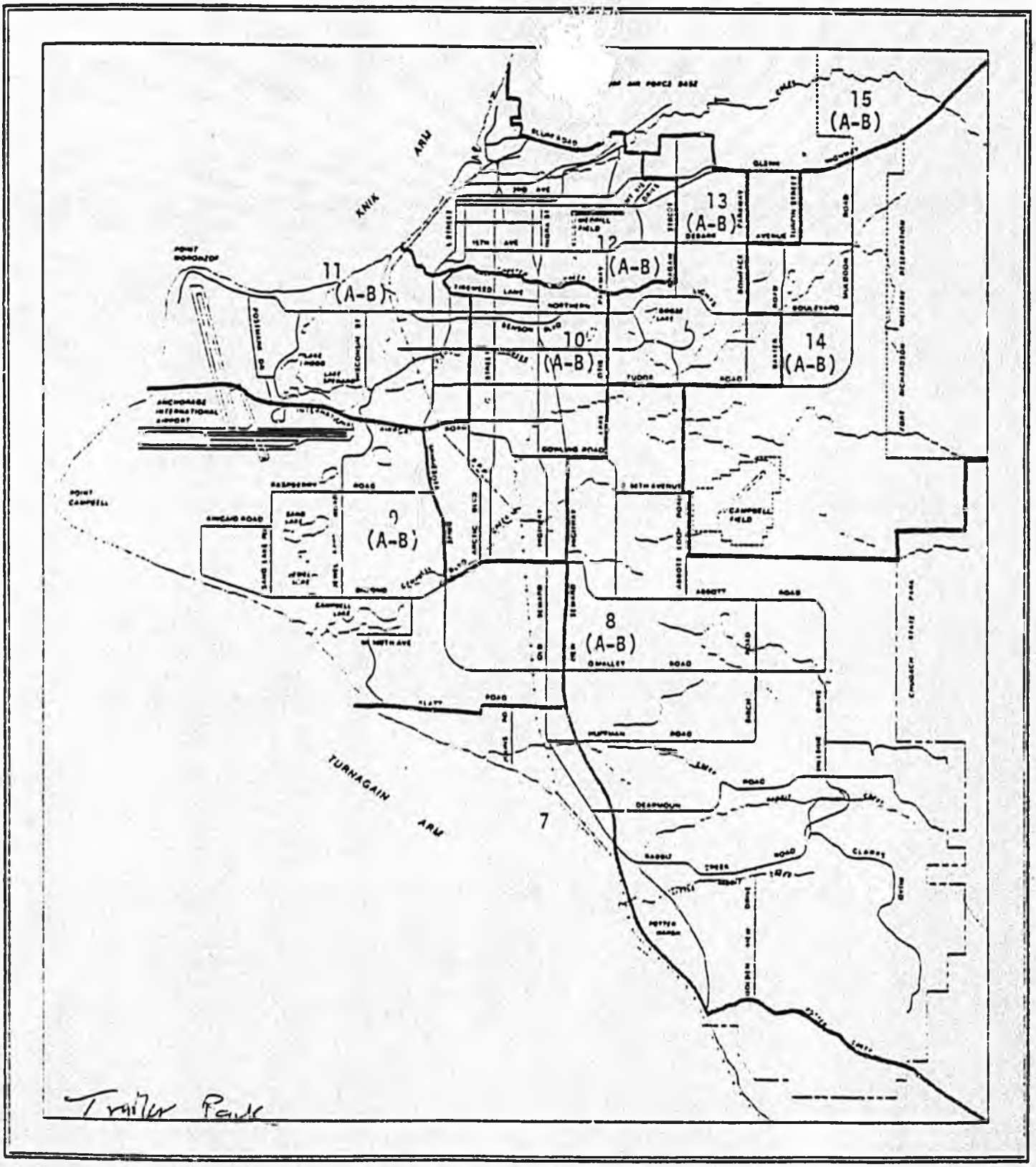


COMMUNITY COUNCIL	NEIGHBORHOOD CODE	COMMUNITY COUNCIL	NEIGHBORHOOD CODE
ABBOTT LOOP	001	MID-HILLSIDE	016
AIRPORT HEIGHTS	002	NORTHEAST	017
BIRCHWOOD	003	NORTH MT. VIEW	018
CAMPBELL PARK	004	NORTH STAR	019
CHUGIAK	005	OLD SEWARD-OCEANVIEW	020
DOWNTOWN	006	RABBIT CREEK	021
EAGLE RIVER	007	ROGERS PARK	022
EAGLE RIVER VALLEY AND SOUTH FORK	008	RUSSIAN JACK PARK	023
BAYSHORE-KLATT	010	SAND LAKE	024
FAIRVIEW	011	SCENIC PARK AREA	025
GIRDWOOD VALLEY	012	SOUTH ADDITION	026
GOVERNMENT HILL	013	SPENARD	027
HILLSIDE EAST AND GLEN ALPS	014	TAKU-CAMPBELL	028
HUFFMAN-O'MALLEY	015	TUDOR AREA	029
		TURNAGAIN	030
		UNIVERSITY AREA	031





PLAN 1
ANCHORAGE ELECTION DISTRICTS
December 9, 1983



These boundaries are approximate.

1983 Blue Book

Sitka	281	304	336	352	350	379	375	367
Wrangell-Petersburg	189	289	293	277	345	476	420	414 a
Other Areas	600	1,027	2,605	3,343	3,608	4,888	5,387	5,655 a
TOTAL	8,076	11,594	14,176	15,825	17,203	19,778	21,640	21,074

n = Revised * Excludes Active Duty Military Personnel

a 1980 figures are the average of January to June. 1980 is latest data available at Blue Book deadline.
Source: Alaska Department of Labor.

POPULATION

Alaska's Population by Region

Year	Total Alaska	Southeast	Southcentral	Southwest	Interior	Northwest
1880	33,426	7,748	4,352	13,914	2,568	4,644
1890	32,052	8,038	6,112	12,071	2,333	3,498
1900	63,592	14,350	10,000	13,000	5,600	20,642
1910	64,356	15,216	12,900	12,049	13,064	11,127
1920	55,036	17,402	11,173	11,641	7,964	6,956
1930	59,278	19,304	11,880	12,118	8,246	7,730
1940	72,524	25,241	14,881	12,846	10,345	9,211
1950	128,643	28,203	50,093	17,715	23,008	9,624
1960	226,167	35,403	108,851	21,001	49,126	11,784
1970	300,382	42,565	162,001	26,491	56,479	12,846
1974	351,159	50,232	194,569	28,165	63,151	15,042
1975	404,634	50,438	229,492	28,428	78,614	17,662
1976	413,289	51,172	244,056	28,488	68,572	21,041
1977	411,211	53,162	252,836	26,512	58,208	20,493
1980	400,331	53,613	235,465	28,659	67,154	15,440
1981	435,300	NA	NA	NA	NA	NA
1982	460,037	NA	NA	NA	NA	NA

Note: Revised totals and estimates have been made for 1970 forward but are not available by region. They include: 1970 (302,580); 1971 (311,200); 1972 (320,000); 1973 (330,000); 1974 (344,000); 1975 (383,100); 1976 (410,700); 1977 (413,100); 1978 (403,100); 1979 (400,600); 1980 (401,850). These figures and the 1981 and 1982 totals were taken from "Preliminary State Intercensal Estimates," released 24 June 1981 by the Chief, Local Area Population Estimates, U.S. Bureau of the Census. Note that the date of estimation for each year 1971-1979 and 1981, 1982 is July 1st; for 1970 and 1980, the final census figures (rounded to the nearest 1,000) are as of April 1st.

(Source: Alaska Department of Labor)

Distribution of Total Population by Size of Place

Size of Place	1980 Number of Places	1980 Population	1980 Percent of Total Population	1970 Number of Places	1970 Population	1970 Percent of Total Population	1982 Number of Places	1982 Population	1982 Percent of Total Population
Places of less than 1,000	—	118,448	51.5	—	117,017	39.0	—	139,766	30.3
1,000-1,500	10	12,444	5.5	13	15,170	5.1	3	3,337	.7
1,500-2,000	4	7,032	3.1	4	6,918	2.3	4	7,406	1.6
2,000-2,500	2	4,478	2.0	7	15,765	5.2	4	9,493	2.1
2,500-5,000	3	5,865	2.6	6	21,355	7.1	6	25,200	5.5
5,000-10,000	3	22,354	9.9	6	43,268	14.4	4	27,135	5.9
10,000-25,000	1	13,311	5.8	2	22,000	10.9	1	22,030	4.8
25,000 or more	1	44,237	19.6	1	40,020	18.0	2	220,470	49.1

Note: The population listed for "places of less than 1,000" includes people living near to but not within the boundaries of larger communities as well as those living in small towns or small gatherings. (Source: Department of Labor)

Dept. Labor
3301 Eagle
Room 309

Off Benson
Rt on Denali
left on 3rd

Estimated components of Net Change in Alaska's Population

Year	Total Population	Net Change	Net Civilian Migration	Natural Increase	Net Military Migration
1950	138,000	—	—	—	—
1955	221,000	83,000	34,900	24,100	24,000
1960	226,000	5,000	11,100	31,900	(15,800)
1965	265,000	39,000	4,000	34,500	500
1970	300,382	37,382	14,972	25,410	(3,000)
1975*	383,100	80,520	57,830	28,190	(5,500)
1980*	401,850	18,750	(13,380)	33,640	(1,510)

Source: Estimate from Alaska Regional Population and Employment, G.W. Rogers.
Source Note: Unless otherwise noted, all population statistics for 1980 and prior years are from G.W. Rogers and R.A. Cooley, Alaska's Population and Economy and Alaska Department of Labor.

*Revised by Alaska Department of Labor

Major Components of Alaska's Population Growth

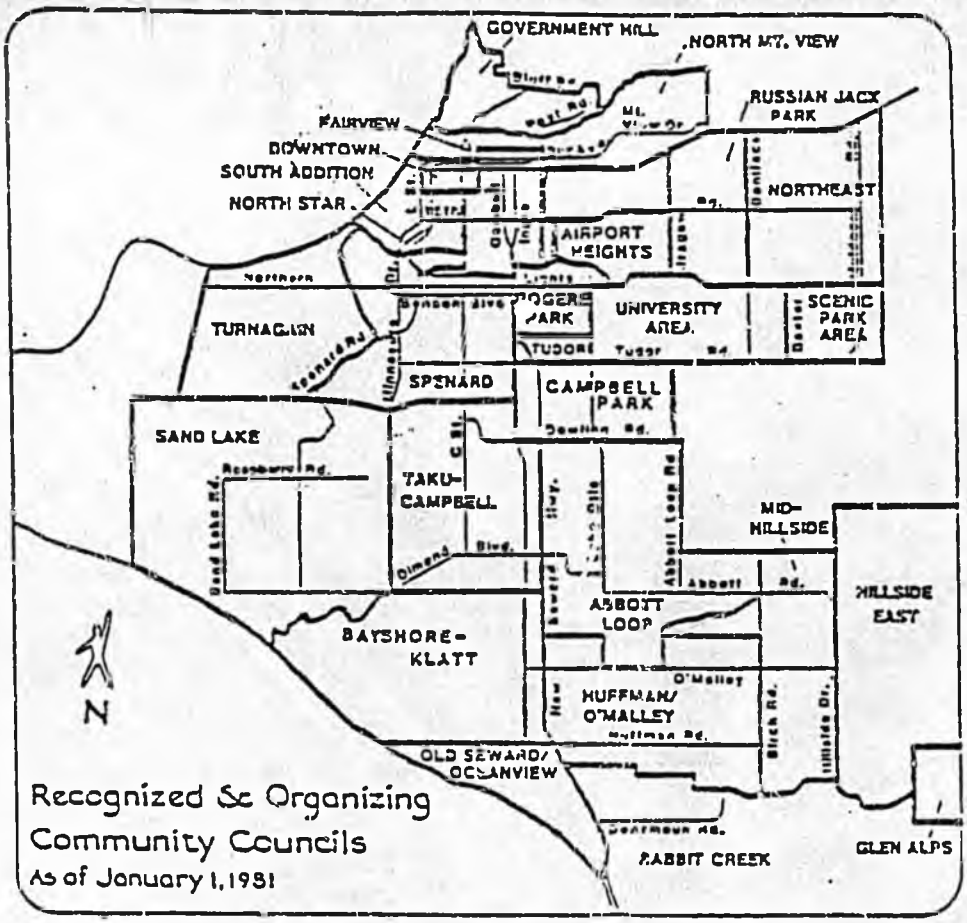
Year	Alaska	Native	Non-Native	Military
1880	33,426	32,996	430	—
1890	32,052	25,354	4,298	—
1900	63,592	29,542	30,450	—
1910	64,356	25,331	36,400	—
1920	55,036	26,558	28,228	250
1930	59,278	29,983	29,045	250
1940	72,524	32,458	39,566	500
1950	128,643	33,863	74,373	20,407
1960	226,167	43,081	150,394	32,692
1970	300,382	50,554	219,828	30,000
1980	401,851	63,867	315,981	22,003

(Source 1980 population figures: Alaska Department of Labor)

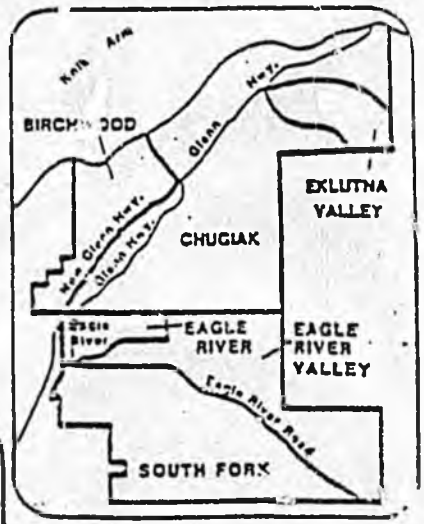
Persons by Sex, Race, and Age

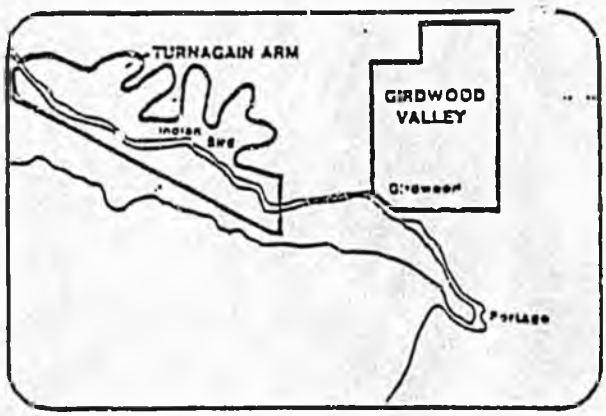
	ALL RACES			WHITE			BLACK			OTHER RACES		
	BOTH SEXES	MALE	FEMALE	BOTH SEXES	MALE	FEMALE	BOTH SEXES	MALE	FEMALE	BOTH SEXES	MALE	FEMALE
TOTAL	400481	212321	188160	308455	164918	143539	13819	7663	5958	78407	39740	38665
Under 5 Years Old	38777	19944	18833	28043	14413	13602	1587	891	696	9147	4702	4445
5 to 9 Years Old	34917	17897	17020	25366	13018	12348	1377	816	561	8174	4211	4113
10 to 14 Years Old	34166	17624	16542	23758	12201	11557	1003	499	504	8405	4424	4181
15 to 19 Years Old	36560	18743	17237	26321	13716	12107	1190	656	534	9049	4373	4596
20 to 24 Years Old	45013	24153	20905	34130	18283	15847	2483	1505	978	8575	4365	4160
25 to 29 Years Old	48542	25579	23013	34899	20504	14395	2148	1268	878	7497	3757	3740
30 to 34 Years Old	41918	22561	19355	34644	18954	15790	1178	729	450	5096	2878	3116
35 to 39 Years Old	31182	17001	14181	25864	14279	11585	742	423	319	4576	2299	2277
40 to 44 Years Old	22570	12416	10160	19149	10237	8912	593	335	258	3828	1838	1990
45 to 49 Years Old	18355	9956	8399	[illegible]	8179	6611	457	252	205	3150	1525	1583
50 to 54 Years Old	15401	8484	7117	12867	7218	5649	347	187	160	2487	1279	1208
55 to 59 Years Old	12597	6769	5828	10211	5577	4634	264	137	129	2111	1155	1036
60 to 64 Years Old	8095	4297	3798	6636	3504	2932	166	86	80	1493	707	786
65 to 69 Years Old	5151	2731	2420	3762	2000	1762	100	56	44	1329	675	654
70 to 74 Years Old	3109	1541	1568	2186	1060	1126	63	22	33	858	418	407
75 to 79 Years Old	1843	884	959	1279	575	664	33	18	15	571	291	280
80 to 84 Years Old	769	350	419	515	235	280	7	1	6	237	114	123
85 to 89 Years Old	618	247	371	409	145	264	8	2	6	201	100	101
Under 15 Years Old	107860	55465	52395	77467	40152	37315	3947	1976	1971	26446	13337	13109
15 to 64 Years Old	281091	151103	129988	222465	120749	101716	9486	5578	3908	49137	24776	24361
65 Years or Older	11530	5753	5777	8173	4015	4158	213	109	104	3154	1629	1525

* Figures are based upon preliminary totals. The revised total population for Alaska is 401,851.



COMMUNITY COUNCIL	NEIGHBORHOOD CODE	COMMUNITY COUNCIL	NEIGHBORHOOD CODE
ABBOTT LOOP	001	MID-HILLSIDE	016
AIRPORT HEIGHTS	002	NORTHEAST	017
BIRCHWOOD	003	NORTH MT. VIEW	018
CAMPBELL PARK	004	NORTH STAR	019
CHUGIAK	005	OLD SEWARD-OCEANVIEW	020
EKLUTNA	006	RABBIT CREEK	021
EAGLE RIVER	007	ROGERS PARK	022
EAGLE RIVER VALLEY AND SOUTH FORK	008	RUSSIAN JACK PARK	023
BAYSHORE-KLATT	010	SAND LAKE	024
FAIRVIEW	011	SCENIC PARK AREA	025
GIRDWOOD VALLEY	012	SOUTH ADDITION	026
GOVERNMENT HILL	013	SPENARD	027
HILLSIDE EAST AND GLEN ALPS	014	TAKU-CAMPBELL	028
HUFFMAN-O'MALLEY	015	TUDOR AREA	029
		TURNAGAIN	030
		UNIVERSITY AREA	031





REDISTRICTING AND FINAL TAB DIFFERENCE OF 1370 FOR STATE 02 - ALASKA DATE 111781 PAGE 1

COUNTY R	NAME EEEES	ANCHORAGE CTY	MCD	REDISTRICTING FILE PLACE	TRACT	BLK	POP	FINAL TAB FILE BLK	POP	EEEES	CTY	MCD	PLACE	TRACT	PARENT ED
	3008B	020	025	0140	0002	TOT	1248	TOT	2662	3008B	020	025	0140	0002	3008B
						101	485	101	1325	3008B	020				
						102	0	102	0	3008B	020				
						103	0	103	0	3008B	020				
						104	9	104	46	3008B	020				
						105	0	105	10	3008B	020				
						116	4	116	16	3008B	020				
						117	0	117	0	3008B	020				
						118	34	118	34	3008B	020				
						141	26	141	26	3008B	020				
						142	3	142	3	3008B	020				
						154	0	154	0	3008B	020				
						155	99	155	99	3008B	020				
						156	28	156	28	3008B	020				
						157	0	157	29	3008B	020				
						158	121	158	121	3008B	020				
						159	0	159	0	3008B	020				
						160	17	160	17	3008B	020				
						161	79	161	79	3008B	020				
						162	118	162	118	3008B	020				
						163	5	163	24	3008B	020				
						164	9	164	46	3008B	020				
						188	5	188	5	3008B	020				
						189	0	189	0	3008B	020				
						190	4	190	16	3008B	020				
						191	9	191	67	3008B	020				
						192	21	192	65	3008B	020				
						193	89	193	89	3008B	020				
						194	3	194	48	3008B	020				
						195	4	195	29	3008B	020				
						196	6	196	22	3008B	020				
						197	0	197	12	3008B	020				
						198	70	198	268	3008B	020				

Corp limits
add 1,414

A letter w/ this information was sent to Lt. Gov. Terry Miller + Karen Ward (Rehfeld) on Sept. 15, 1981

REDISTRICTING AND FINAL TAB DIFFERENCE OF 1370 FOR STATE 02 - ALASKA DATE 111781 PAGE 2

COUNTY NAME MATANUSKA-SU REDISTRICTING FILE --->								<---------- FINAL TAB FILE ---------->							
R	EEEES	CTY	MCD	PLACE	TRACT	BLK	POP	BLK	POP	EEEES	CTY	MCD	PLACE	TRACT	PARENT ED
	1168	170	025	9999	999999	TOT	4134	TOT	4184	1168	170	025	9999	999999	

Mat-Su

add 50

COUNTY NAME PRINCE OF WA REDISTRICTING FILE ---><---------- FINAL TAB FILE ---------->

R	EEEES	CTY	MCD	PLACE	TRACT	BLK	POP	BLK	POP	EEEES	CTY	MCD	PLACE	TRACT	PARENT ED
	1015	201	050	9999	999999	TOT	0	TOT	320	1015	201	050	9999	999999	1025
	1025	201	050	9999	999999	TOT	403	TOT	83	1025	201	050	9999	999999	1025

reallocation of population for Thorne Bay

COUNTY NAME	SOUTHEAST FA REDISTRICTING FILE --->							FINAL TAB FILE ----------						
R	EEEES	CTY	MCD	PLACE	TRACT	BLK	POP	BLK	POP	EEEES	CTY	MCD	PLACE	TRACT	PARENT ED
	0833	240	025	9999	999999	TOT	94	TOT	0	0833	240	025	9999	999999	

END OF LISTING

DIST 17

subtract 94

Anchorage Daily News

359, 252 PAGES ANCHORAGE, ALASKA SUNDAY, DECEMBER 25, 1983 PRI

Booming economy makes Alaska the fastest-growing state

By RONNIE CHAPPELL
Daily News correspondent

The largest influx of people in Alaska history pushed the state's population past 500,000 in 1983 and confirmed Alaska as the fastest growing state in the nation.

The Alaska Department of Labor last year estimated the state's population at 460,037. This year, the five largest cities and boroughs in the state have reported combined population increases of 49,799 — which alone would push Alaska over the 500,000 mark. The state will not release an official estimate until February.

"If growth continues at the same rate (as in 1982) we're going to be over 500,000 in 1983," said Jo Van Patten, an economist in the state Department of Labor.

The population boom between the 1980-to-1983 period exceeds the leaps of the Gold Rush, World War II and the pipeline era.

"In sheer numbers this would be the greatest influx," said John Whitehead, associate professor of history at the University of Alaska, Fairbanks. "In the past, it has taken at least a decade to add 100,000 people to the state's population.

Based on figures provided by the Alaska Department of Labor and local governments throughout the state, The Daily News estimates the state's population at 505,000, an increase of more than 100,000 since the 1980 U.S. Census.

The Department of Labor does not base its population estimates solely on figures supplied by Alaska communities. The figures are suspect because communities receive state revenue-sharing money on the basis of population. They have an incentive to report the highest possible populations, Van Patten said.

For that reason, Van Patten checks the figures against a formula based on elementary school enrollments, housing starts and deaths.

In addition, the burgeoning population has expanded by more than 40,000 jobs since 1980.

Those new jobs are a byproduct of subsidized home loans, permanent fund dividends, an increasing state payroll and massive government construction.

See Page A-8, GROWTH

Growth

Continued from Page A-1

struction budgets, according to a new report by the labor department.

Experts agree that $14 billion in state spending — about 1½ times the amount spent on the trans-Alaska pipeline — is the underlying cause of the boom.

Despite recent population gains, Alaska remains the smallest state, trailing Vermont, which had 518,000 people in July 1982.

But Alaska, with a population increase of more than 10 percent between 1980 and 1982, is the fastest growing. In the same period, Vermont's population grew 1.3 percent.

If the Alaska economy continues its present pace for one more year, Vermont could be the smallest state in the nation by the end of 1984.

In Alaska, the Matanuska-Susitna Borough is the fastest growing area in the nation's fastest-growing state. Its population is up 71 percent since 1980 from 17,316 to 30,568.

During the same period, Anchorage added 56,415 people, an increase of 32 percent, for a total of 230,846.

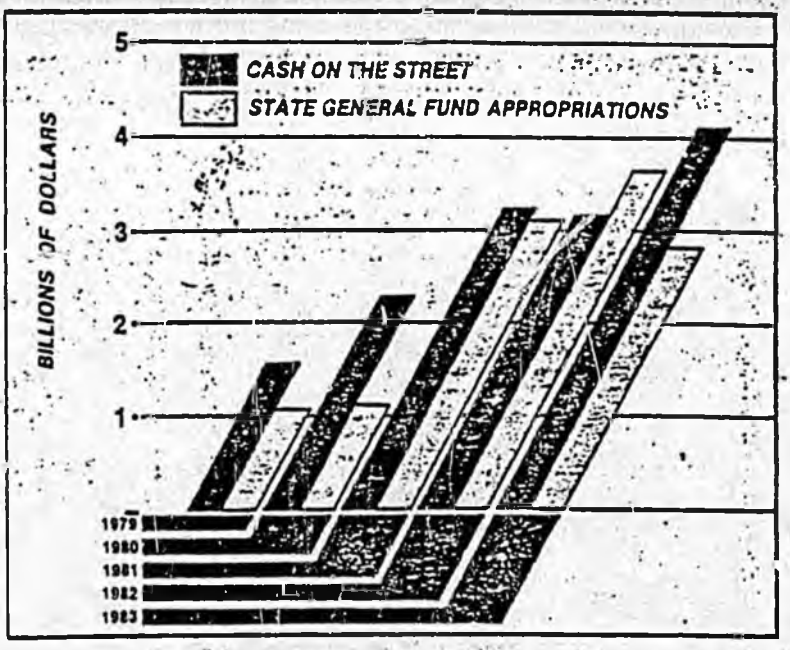
The population of the Kenai Peninsula is up 38 percent, Fairbanks is up 20 percent and Juneau is up 40 percent.

Rural Alaska is growing too, but at more moderate rates.

Rapid growth in the 1980s has not hit Alaska with the sudden, sledgehammer force of the pipeline years. Because it has come independent of a single mammoth project that focuses public attention, the growth has been felt area by area without being noted as a major statewide phenomenon.

In Anchorage, commuters are spending more time driving to and from work. School enrollment in Palmer is growing so fast that after the holidays some children will return to classes in a National Guard Armory. Vacancy signs are disappearing in Fairbanks and developers are building apartments again.

In Soldotna, the spruce trees behind Ellington's Hardware have been replaced by a McDonald's, a pizza restaurant, a Safeway and a 21-store mall.



"It was kind of scary at first," said store owner Joan Ellington. But "after doing some reading about other places this has happened, we realized it could double our business."

Still, the changes amaze Ellington.

"It makes you wonder what's down here to bring all these people," she said.

The answer to her question is simple.

Work.

One clerk at Ellington's Hardware has been in the state 16 months. She came with her husband and four children. The other clerk arrived four years ago with five other family members.

Thousands of people are coming to Alaska to escape a bitter recession that has produced bread lines and soup kitchens in other parts of the country. They are leaving old jobs to find better ones.

"Economic opportunity is the No. 1 reason they're coming," said Neal Fried, an economist for the Alaska Department of Labor. "People have heard about wages. They've heard about the pipeline. Many have relatives here who tell them to come."

For many, the move has been a good one.

"There is a lot of opportunity for people here," Fried said. "But it is not a job market with a shortage of people. Unemployment hasn't come down."

In fact, despite the addition of 40,000 jobs to the economy, the unemployment rate actually increased from 9.3 percent to 10.1 percent during the last two years. Nearly 4,000 more people are looking for work in Alaska today than in 1981.

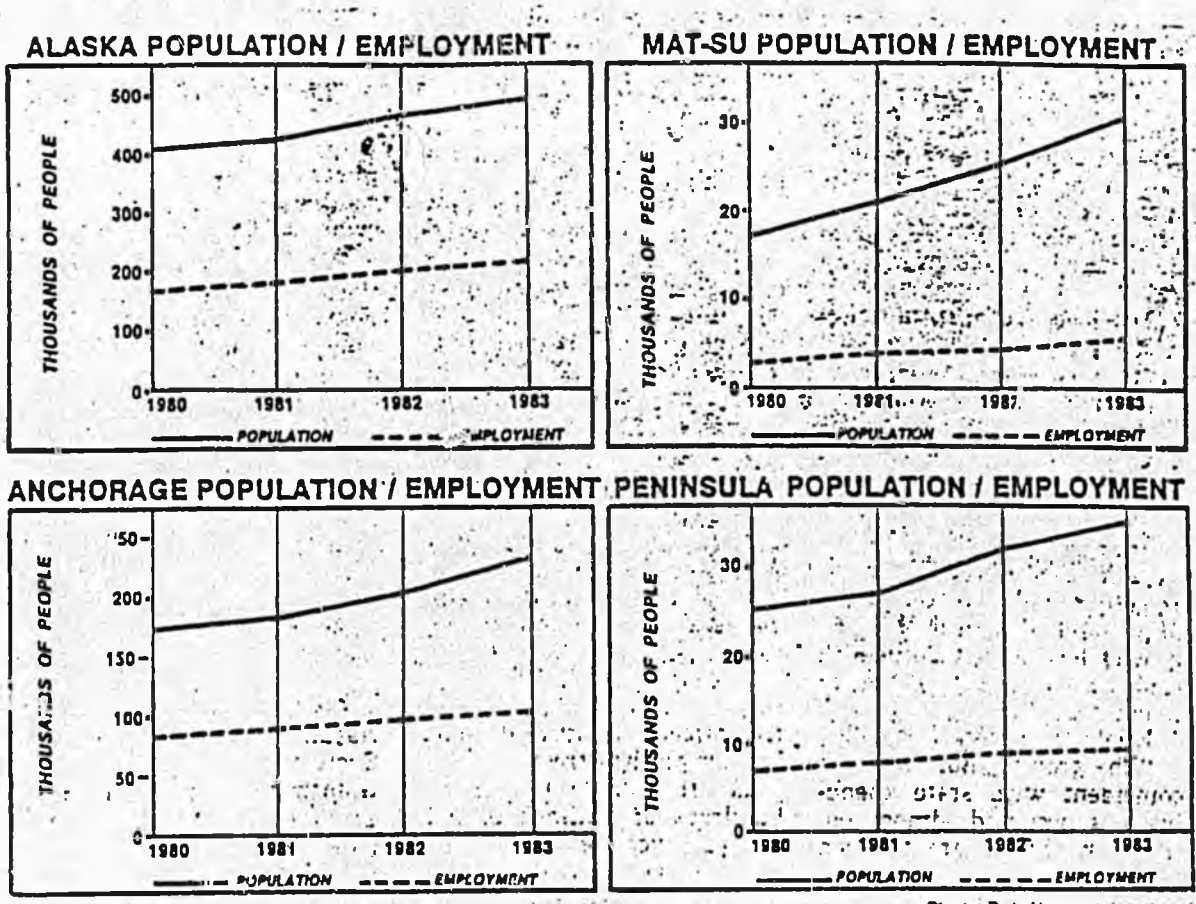
Still, it is better to be unemployed in Alaska than in the idle factory towns of Michigan or logging communities of northern Idaho. The chances of finding work in an expanding economy are better than in a stagnant one, Fried said.

Huge numbers of new Alaskans are not finding jobs in the oil, fishing and timber industries. Instead, they are working as carpenters, roofers, electricians, store managers, clerks, waitresses, cooks, gas station attendants, lawyers, engineers, surveyors, real estate agents, reporters, teachers. Some have started new businesses.

Two thousand jobs have been created on the Kenai Peninsula despite the lack of significant growth in the oil and fishing industries.

People are working in new shopping centers, in new restaurants, gift shops, nurseries, computer stores and sporting goods outlets. Oldtimers are starting to complain that downtown Soldotna looks like Northern Lights Boulevard in Anchorage.

Residential and commercial construction reached all-time highs in 1983. Homer Electric Association added 1,500 new



Charts: Daily News art department

customers.

Sales tax revenues generated on retail sales in Kenai and Soldotna are up 40 percent over 1982.

"What's happening here is being evidenced everywhere else in Alaska," said Frank McIlhargey of the borough resource development office. "We're in the midst of a government-dollar-generated boom."

Assessing the effect of massive government spending on the economy is difficult. It was made easier in 1982 when economists Gregg Erickson and Tom Singer developed a way to track the money pumped into the economy by state government.

The result is a series of multi-billion dollar totals — based on checks actually issued by the treasury — that Erickson and Singer call Cash-on-the-Street.

Cash-on-the-Street includes loans by the Alaska Housing Finance Corp. and other state agencies, permanent fund dividends, the salaries paid state employees, operation and maintenance costs, general fund and bond financed capital projects.

the permanent fund.

In four of the last five years, Cash-on-the-Street exceeded state general fund appropriations — the figure most often referred to as a measure of state spending.

In a September 1983 report, the state Department of Labor observed that "Alaska employment is closely correlated with Cash-on-the-Street. In a statistical sense, 95 percent of the growth in employment from 1978 through the first half of 1983 is explained by growth in Cash-on-the-Street."

According to Erickson and Singer, "statistical evidence suggests that state spending now accounts for 44 percent of Alaska personal income."

Cash-on-the-Street has increased steadily from $1.5 billion in fiscal year 1979 to $4 billion in 1983. It peaked during a three-month period in the summer of 1982 when the state paid $1.3 billion to people and businesses in Alaska.

Cash-on-the-Street does not affect employment and population immediately, the economists said. There is a six-month to one-year lag, which means this year's boom is the

It is unlikely that Cash-on-the-Street will again reach the record levels of 1982, according to the Labor department report. Oil revenues have declined since 1980 and state spending is down. North Slope production will fall off sharply after 1990. One-third of the known reserves in Prudhoe Bay have already been pumped through the pipeline.

The looming question now is what happens to the state's economy when the state can no longer afford subsidized loans, permanent fund dividends and huge expenditures on capital projects.

"Nobody really knows what's going to happen," said Scott Goldsmith, an enonomist with the Institute of Economic and Social Research at the University of Alaska.

"I've got to believe some of the small new businesses are operating right at the margin now. When Cash-on-the-Street tails off, those marginal businesses are going to start hurting and go under."

But Goldsmith says he doesn't see a bust in the future.

The economic contraction that follows a decline in state

Alaska becomes nation's fastest-growing state

Continued from Page A-8

spending won't be "as immediate and dramatic as the growth has been," Goldsmith said. "Businesses will try to tough it out."

Erickson agrees.

"The growth that has been coincident with state spending has occurred almost entirely in service areas" such as retail trade, communications and transportation, Erickson said.

"There is some reason to think that won't be lost. It depends on where and how fast declines in state spending occur and it depends on how much faith people have in Alaska."

The service sector of the economy is population sensitive. If people remain in Alaska despite a decrease in their standard of living, if they are willing to make do with less disposable income, then chances are good the economy can be weaned from state spending without too much social dislocation, Erickson said.

He also pointed out that:

• Much of the recent growth was needed. Compared to similar markets in other parts of the nation, the service economy in Alaska was underdeveloped.

• Alaska's basic industrial base will not be affected by contraction of state spending. Oil field employment may actually increase as production declines.

• Even today, construction is not a big part of the state economy. Construction employment is the same today — in terms of percentage of total labor force — as it was in 1963.

• There has been no five-year period since 1950 in which the service sector didn't add more jobs to the state economy than the industrial sector.

If policy makers better understood the relationship between state spending and the economy, Erickson believes, they could mitigate the negative effects of future declines in Cash-on-the-Street.

Is it wise to spend hundreds of millions of dollars each year on new capital projects? On permanent fund dividends? On subsidized loans? Should the state spend money to keep down local property taxes? What is best for the economy? Which appropriations have the biggest effect, per dollar expended, on employment?

Without answers to questions like these, Erickson said, state leaders can't hope to soften the effects of future state spending cuts on the economy.

Right now, no one is seriously trying to find the answers. "There's been no institutional support for this kind of research," Erickson said.

Big spending cuts are inevitable because oil income is rapidly declining. That fact becomes apparent when state revenue projections are adjusted for inflation.

According to Matt Berman of the Institute for Social and Economic Research, oil revenues will decline 50 percent — in terms of 1982 dollars — by the early 1990s.

Nothing on the horizon is capable of replacing the revenue now provided by oil. Even royalty income generated by the proposed Alaska Natural Gas Transportation System will not be sufficient, Goldsmith said. Offshore oil exploration is taking place on federal leases.

By the mid-1990s, interest income generated by the permanent fund will be the state's second largest revenue source. How big a revenue source it becomes depends on how much money is set aside today.

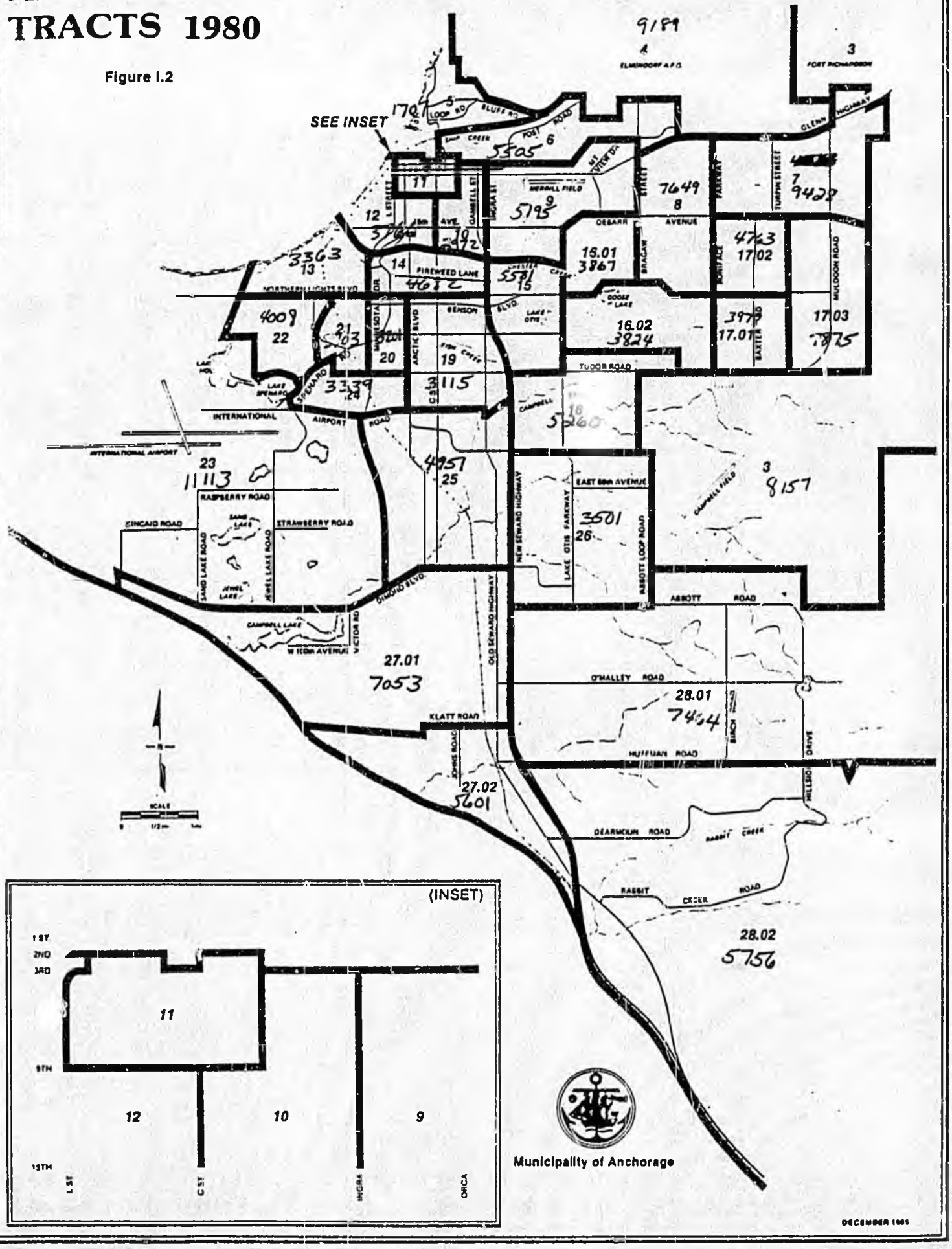
"Alaska has already enjoyed five years of Prudhoe Bay production. In six to eight years, production will decline significantly.

The choices facing lawmakers now are difficult. Should they maintain the state's thriving economy over the next few years by continuing to pump huge amounts of money into the marketplace? Or should they cut state spending today to keep the cost of basic government services affordable after 1990? Is there any way to accomodate these seemingly incompatible goals?

"There are no easy answers," Goldsmith said.

ANCHORAGE CENSUS TRACTS 1980

Figure I.2

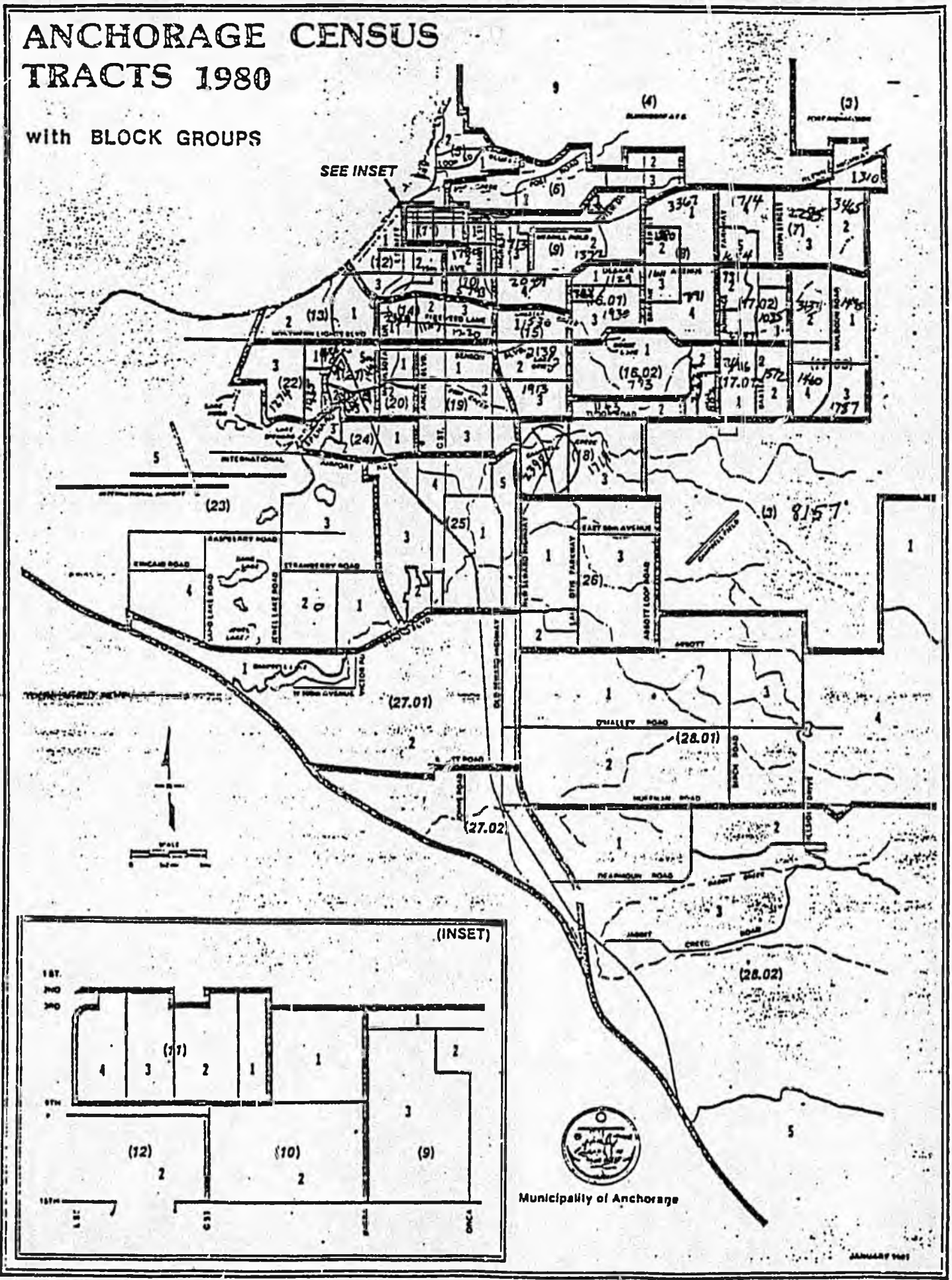


Municipality of Anchorage

DECEMBER 1981

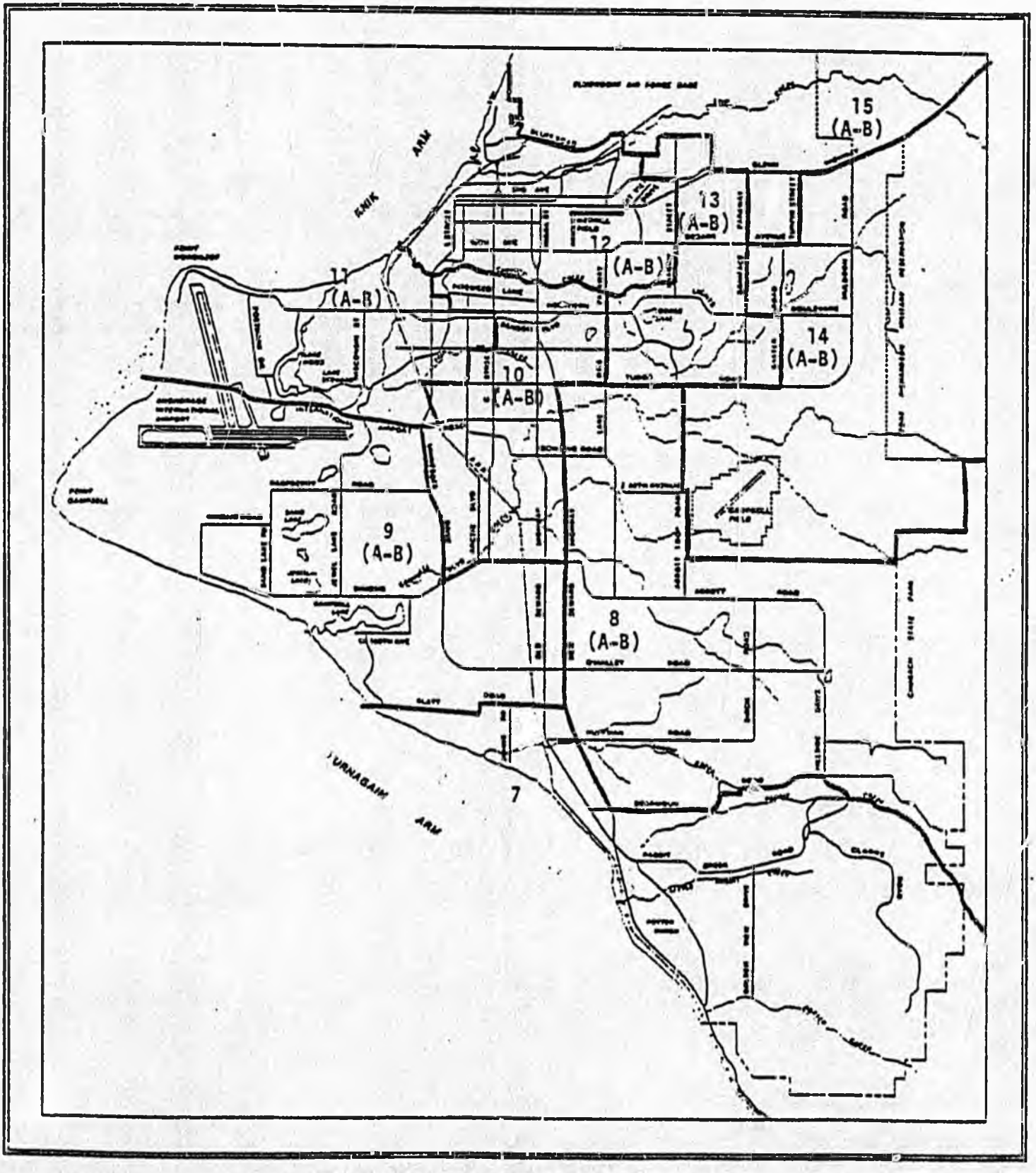
ANCHORAGE CENSUS TRACTS 1980

with BLOCK GROUPS



4/21/81

1981 ANCHORAGE ELECTION DISTRICTS



These boundaries are approximate.

POPULATION BY 1980 CENSUS TRACTS
1970, 1980, 1981, 1982, 1983

Tract		Population[1] 1970	Population[1] 1980	Population[2] 1981	Population[2] 1982	Population[2] 1983
1.00	Chugiak	2,851	5,330	5,538	5,871	8,208
2.00	Eagle River	2,981	7,528	8,787	9,106	13,741
3.00	Fort Richardson	10,751	8,157	8,821	8,672	7,855
4.00	Elmendorf AFB	13,280	9,189	9,080	8,956	9,451
5.00		3,378	1,707	2,071	2,371	2,695
6.00		5,522	5,505	6,178	6,108	7,125
7.00		7,060	9,428	10,172	11,331	11,664
8.00		5,153	7,649	8,950	10,335	9,946
9.00		3,845	5,195	5,613	5,759	6,859
10.00		3,369	2,972	3,272	3,825	4,315
11.00		2,118	1,131	1,202	1,275	1,595
12.00		4,248	3,766	3,968	4,594	4,958
13.00		3,183	3,363	3,555	3,927	3,585
14.00		5,021	4,682	5,400	5,773	5,880
15.00		4,696	5,581	5,473	5,945	5,824
16.01		3,559	3,867	3,943	4,045	4,247
16.02		1,482	3,824	4,189	4,438	4,164
17.01		975	3,978	4,055	4,981	4,858
17.02		3,864	4,763	5,104	5,281	5,716
17.03		3,123	7,875	8,576	9,107	10,162
18.00		3,054	5,260	6,067	5,174	7,093
19.00		1,776	3,115	3,725	4,010	4,150
20.00		4,322	3,201	3,592	3,904	3,981
21.00		4,481	3,703	3,796	3,729	4,586
22.00		2,741	4,003	4,309	5,810	6,407
23.00		4,199	11,113	11,705	13,014	14,865
24.00		3,366	3,339	3,747	3,398	3,562
25.00		3,079	4,951	5,394	7,618	8,258
26.00		1,876	3,501	3,717	4,325	7,200
27.01		1,044	7,053	7,527	7,198	8,823
27.02		1,461	5,601	5,085	6,777	8,027
28.01		2,321	7,464	7,245	9,339	10,832
28.02		1,889	5,756	6,966	7,241	9,379
29.00	Turnagain Arm	310	876	937	979	1,445
			156,209			
Anchorage Bowl		96,212	143,351	172,499	188,260	207,452
Military		24,031	17,346	17,901	17,628	16,574
Eagle River/Chugiak		5,832	12,858	14,325	14,977	21,949
Municipality of Anchorage		126,385	174,431	187,761	204,216	230,846

[1] Source: U.S. Bureau of the Census
[2] Source: Municipality of Anchorage, Community Planning Department

Municipality of Anchorage
Department of Community Planning
Research Section
4/27/83

avd4/mpctl

UNITED STATES DEPARTMENT OF COMMERCE
Bureau of the Census
Washington, D.C. 20233

OFFICE OF THE DIRECTOR

Honorable Terry Martin
Alaska House of Representatives
Anchorage, Alaska 99501

Dear Mr. Martin:

This is in response to your telephone request concerning corrections to the April 1, 1980 census population counts for Anchorage, Alaska made subsequent to the release of the Public Law 94-171 data. These corrections, which changed the 1980 population count of Census Tract 0002 from 6,114 to 7,528 and the count for the city and borough of Anchorage from 173,017 to 174,431, are reflected in final 1980 census tabulations and publications.

We are enclosing excerpts from the Block Statistics report (Census Tract 0002) for the Anchorage Standard Metropolitan Statistical Area, as well as a listing of the individual blocks affected by the changes. Map sheets containing Census Tract 0002 also are enclosed.

If you need additional information, please contact Mr. Joel Miller, Population Division, Bureau of the Census, Washington, D.C. 20233, (301) 763-7955.

Sincerely,

C. L. KINCANNON
Deputy Director
Bureau of the Census

Enclosures

* Letter was sent to Lt. Gov. Miller + Karen Ward (Rehfeld) on Sept 15, 1981 Advising them of the Eagle River Census Correction. The Nov. 1981 Publication also has the Updated Figures.

Copies of Block Maps were included (on shelf)

1980 Census of Population and Housing

Block Statistics

ANCHORAGE, ALASKA
STANDARD METROPOLITAN STATISTICAL AREA

PHC80-1-68

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An index to 1980 census maps, which includes an SMSA map index to block numbered areas and an index listing identifying each blocked geographic area and its map sheet number(s), accompanies the maps.

INDEX

An index to the location of data by geographic area on each fiche appears in frame G14.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

U.S. Department of Commerce
Malcolm Baldrige, Secretary
Joseph R. Wright, Jr., Deputy Secretary
Robert G. Dederick, Assistant Secretary
for Economic Affairs

BUREAU OF THE CENSUS
Bruce Chapman, Director
Daniel B. Levine, Deputy Director

POPULATION DIVISION
Roger A. Herriot, Chief

HOUSING DIVISION
Arthur F. Young, Chief

Acknowledgments

Many persons participated in the diverse activities of the 1980 census. Those acknowledgments generally reflect staff during the census-taking phases. The Bureau was guided by then Director, Vincent P. Barabba, and Deputy Director Daniel B. Levine. Primary direction of the census program was performed by George E. Hall, then Associate Director for Demographic Fields, assisted by Earle J. Garcia, then Assistant Director for Demographic Censuses, in conjunction with Barbara A. Bailar, Associate Director for Statistical Standards and Methodology, Howard H. Hamilton, Assistant Director for Computer Services, Sidney Kaitz, Associate Director for Economic Fields, James D. Lincoln, Associate Director for Administration, Ben L. Perlin, Associate Director for Field Operations, and W. Bruce Ramsey, Associate Director for Information Technology. The director's staff was assisted by Peter A. Bounpane and Sherry L. Courtland.

Responsibility for developing the population portion of the 1980 census questionnaire content and designing the tabulations cast in the Population Division, under the supervision of Meyer Zitter, then Chief, Paula J. Schneider, Staff Assistant for Census Programs, Roger A. Herriot, Thomas D. McKenney, and Arthur J. Norton, Assistant Chiefs.

Responsibility for developing the housing portion of the 1980 census questionnaire content, designing the tabulations, and preparing this report was in the Housing Division, under the supervision of Arthur F. Young, Chief. This report was planned and written by William A. Dennis, Chief, Decennial Planning and Data Services Branch, assisted by Carol A. Gendreau and Robert G. Kaupp.

Responsibility for the overall planning, coordinating, and processing of the 1980 census was in the Decennial Census Division under the direction of Gerald J. Perl, then Acting Chief, assisted by Maria G. Argote, Rachel P. Brown, Donald R. Dalzell, Leonard Goldberg, Earle G. Knapp, Jr., and Roger G. Lepage.

Data base and generalized system support was developed and provided by Systems Development Division, Jacky M. Shelton, Chief, under the direction of John Jerry Gott, Assistant Chief.

Computer processing was performed in the Computer Operations Division, C. Thomas Dahlman, then Chief, and John S. Matthews, Assistant Chief.

The Statistical Methods Division was mainly responsible for developing new procedures to obtain a more accurate count of the population. This work was supervised by Charles D. Jones, Chief, David W. Bateman, James M. Withers, and Robert T. O'Reagan, Assistant Chiefs.

Geographic programs and plans were developed in the Geography Division under the direction of Gerald P. Cavallaro, then Assistant Chief, Robert W. Marx and Billie G. Tarrant, Assistant Chiefs, and Donald L. Hinkebein, Special Assistant. Joseph J. Kocis coordinated geographic operational plans.

Data collection activities were supervised in the Field Division by Richard C. Hart, then Chief, under the direction of Lawrence T. Love and Stanley D. Matchett, then Assistant Chiefs, with the assistance of the division and assistant directors of the Bureau's regional offices.

The coordination and acquisition of automatic data processing equipment were the responsibility of the Automatic Data Processing Planning Staff, James R. Popal, Chief, under the direction of Richard L. Peaty, Deputy Chief.

The system design, technical specifications, construction, and installation of the FOSDIC and Automated Camera Technology System were the responsibility of Technical Services Division, Merlee Anderson, Chief, assisted by Robert Z. Joseph, Assistant Chief.

Questionnaire processing procedures were developed in the Decennial Processing Staff, James E. Worsley then Chief, under the direction of Henry F. O'Hearn, Assistant Chief. The manual processing and microfilming of the questionnaires were performed at three decennial processing locations as follows: Data Preparation Division, Dee L. Adams, Chief; Jeffersonville Processing Office, Robert L. Strickland, then Processing Manager; New Orleans Processing Office, Robert L. Allen, Chief; and Laguna Niguel Processing Office, Robert N. Schaller, Chief.

Administrative support was provided by the Administrative Services Division, G. Bryant Bristow, then Acting Chief.

Publications editing, printing, and composition were performed in the Publications Services Division, Raymond J. Keahl, Chief, under the direction of William E. Anderson, Arlene C. Dandrea, and Gerald A. Hiers.

User services were provided by the Data User Services Division under the supervision of Mildred G. Garland, Chief, and Marshall L. Turner, Assistant Chief.

Many other persons participated in the various activities of the 1980 census. For a list of key personnel, refer to the *History of the 1980 Census of Population and Housing*, PHC80-R2).

Library of Congress Cataloging in Publication Data

1980 census of population and housing. Block statistics.

PHC80-1-
Issued November 1981–
1. United States—Census, 20th, 1980.
2. United States—Population—Statistics.
3. United States—Housing—Statistics.
I. United States. Bureau of the Census.
HA218.A1A3 312'.0873 81-607698
AACR2

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Table 2. Characteristics of Population and Housing Units, by Blocks: 1990—Con. Anchorage Borough, Alaska

BLOCK STATISTICS

Table 2. Characteristics of Population and Housing Units, by Blocks: 1980—Con.

Anchorage Borough, Alaska

[For a listing of symbols, see introduction. For definitions of terms, see appendices A and B]

Blocks Within Census Tracts or Block Numbering Areas (BNA's)	Persons: Total	Persons: Black	Persons: Asian and Pacific Islander	Persons: Spanish origin	Persons: Under 18 years	Persons: 65 years and over	Year-round housing units: Total	Year-round housing units: One unit of address	Year-round housing units: 10 or more units of address	Year-round housing units: Mobile homes	Occupied housing units: Owner: Total	Occupied housing units: Owner: Mean value of dwelling (dollars)	Occupied housing units: Renter: Total	Occupied housing units: Renter: 1.01 or more persons per room	Occupied housing units: Renter: Lacking complete plumbing for exclusive use	Occupied housing units: Renter: Mean contract rent (dollars)	Occupied housing units: 1.01 or more persons per room	Occupied housing units: Lacking complete plumbing for exclusive use	Occupied housing units: Persons per room	Occupied housing units: Owner-occupied housing units	Occupied housing units: Renter-occupied housing units
Anchorage area—Con.																					
198	266	-	8	4	196	3	90	83	-	6.5	69	107400	6	...	...	...	4	1	1.7	2	3
201*	91	9	2	1	4	-	6	2	-	4.0	...	...	...	...	...	...	...	...	...	...	...
202	11	-	-	-	...	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...
203	11	-	-	-	...	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...
204	11	-	-	-	...	...	13	10	-	4.8	4	...	1	...	...	...	-	-	2.8	1	-
205	2	-	-	-	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tract 0007*	8117	1646	230	138	2903	12	1720	361	19	5.4	10	86700	1710	150	29	323	153	31	3.8	23	44
101*	8117	1646	230	138	2903	12	1720	361	19	5.4	10	86700	1710	150	29	323	153	31	3.8	23	44
Tract 0010*	9180	918	257	414	3436	15	2300	540	400	5.6	6	82500	2053	116	47	374	116	47	3.7	133	64
101*	9180	918	257	414	3436	15	2300	540	400	5.6	6	82500	2053	116	47	374	116	47	3.7	133	64
Tract 0101	1301	100	90	80	421	21	1000	197	479	4.1	162	83400	114	76	1	300	30	5	2.4	213	51
101	149	23	8	5	41	15	140	15	45	3.7	10	83900	72	4	1	300	4	1	2.2	40	4
102	213	30	11	13	47	4	176	2	115	4.1	-	-	49	10	-	311	10	-	2.1	28	10
103	133	28	10	17	43	-	90	-	30	3.9	-	-	52	-	-	345	1	-	2.3	17	13
104	300	30	10	27	19	10	230	-	156	3.2	1	...	130	...	...	361	5	-	2.3	54	6
105	21	3	-	3	4	1	9	9	-	1.4	6	66700	2	...	...	...	-	-	2.6	-	-
106	40	-	8	2	14	1	13	10	-	1.6	8	77300	4	...	...	...	-	-	3.8	1	-
107	40	2	4	2	15	-	14	5	-	3.1	5	73600	9	-	-	332	-	-	3.5	-	-
108	14	-	3	-	...	...	4	...	...	...	...	...	...	...	...	...	...	...	...	...	...
111	33	-	-	-	11	-	12	9	-	3.7	5	79300	6	-	-	400	-	-	3.0	1	-
113	68	12	1	-	10	6	25	8	-	3.2	10	75000	12	-	-	300	-	-	2.9	4	1
114	5	-	-	-	...	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...
117	61	-	7	-	4	1	45	7	34	3.3	5	106900	25	-	1	312	-	1	1.5	27	-
205	25	-	-	-	3	2	17	14	-	3.6	11	87900	4	...	...	...	-	-	2.3	1	-
206	49	1	-	7	14	-	17	7	-	3.0	4	58000	11	-	-	409	-	-	2.9	2	2
207	88	10	-	-	19	7	41	30	-	4.0	22	77900	10	-	-	315	-	-	2.7	13	-
208	15	-	-	-	3	3	6	4	-	3.5	4	...	2	...	...	...	-	-	2.1	-	-
209	56	-	-	-	5	3	7	4	-	3.6	5	77900	2	...	...	...	-	-	2.1	-	-
210	22	2	-	-	2	2	10	3	-	4.2	7	91900	3	...	...	...	-	-	2.1	2	-
211	44	2	-	2	10	-	16	10	-	4.5	4	...	11	...	...	340	-	-	2.1	1	-
212	40	-	1	2	16	1	17	8	-	3.6	5	79400	9	1	-	347	1	-	1.2	1	1
213	31	-	-	-	6	-	12	8	-	3.2	7	76300	5	-	-	300	1	-	1.8	1	-
214	46	-	3	-	8	2	20	14	-	3.7	15	73600	6	-	-	354	-	-	2.4	4	-
215	42	6	5	5	13	-	11	7	-	3.5	9	75000	2	...	...	...	2	-	2.8	-	-
216	14	4	5	-	10	-	30	7	-	3.3	6	79300	14	2	-	434	2	-	3.1	1	-
217	18	11	-	-	2	2	34	1	31	3.8	2	...	29	...	...	730	3	-	1.6	16	-
220	28	-	-	2	6	1	7	3	-	4.6	6	...	2	...	...	...	-	-	3.3	1	-
Tract 0006 99*	66	2	5	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
100*	66	2	5	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tract 0010*	3300	404	113	290	1404	195	2704	477	442	3.9	316	58000	1600	148	10	317	182	23	2.6	530	2
101	1	-	-	-	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
102	8	-	-	1	...	...	25	1	22	4.1	...	...	...	...	...	...	...	...	...	...	...
103	76	3	-	5	7	2	23	10	19	4.0	10	39900	30	-	-	407	2	-	1.9	21	-
111	5	-	-	-	...	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...
112	3	-	-	-	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
113	3	-	-	-	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
114	1	-	-	-	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
115	1	-	-	-	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
116	1	-	-	-	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
117	1	-	-	-	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
118	1	-	-	-	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
122	417	38	11	37	139	10	306	7	1	4.0	-	-	164	-	-	256	6	-	2.5	44	42
201	113	11	4	2	41	-	30	17	-	4.4	7	56000	30	2	-	340	2	-	3.1	7	3
202	81	19	3	2	37	2	32	11	-	4.4	8	59000	19	2	1	330	2	-	3.0	5	4
203	87	4	3	2	31	1	47	10	8	4.4	11	60000	21	1	1	340	2	-	2.6	8	4
204	137	27	-	2	40	2	18	22	6	4.5	8	66300	33	4	-	372	2	-	3.1	7	5
205	113	16	13	1	43	3	20	9	-	4.2	15	67300	24	2	-	340	4	-	3.0	10	5
206	128	17	3	1	42	3	43	19	-	4.3	10	59900	21	1	1	325	4	-	3.1	4	5
207	100	21	-	6	33	4	47	14	1	3.7	20	64900	21	1	-	300	4	-	2.6	10	6
208	123	6	7	1	34	4	48	13	-	4.3	15	58000	30	4	-	319	4	-	2.7	9	6
209	80	13	3	1	33	7	33	12	-	4.3	10	74000	19	1	-	357	4	-	3.5	2	5
210	48	23	-	2	32	-	48	10	-	3.7	4	...	32	...	...	364	4	-	2.4	11	9
211	40	1	6	-	3	1	36	4	26	3.1	2	...	21	...	...	271	1	-	2.4	8	-
212	13	-	-	1	...	...	8	-	-	3.3	1	...	1	...	...	487	-	-	1.6	5	1
213	100	15	3	2	27	12	46	10	-	4.2	10	63600	23	1	-	273	1	-	2.4	12	1
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215	79	19	2	12	22	2	61	12	9	3.6	11	60000	23	2	1	333	2	-	2.3	11	4
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217	118	21	6	-	42	-	48	12	1	4.4	7	73000	22	2	-	309	2	-	2.9	7	9
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219	130	11	3	2	46	5	28	10	9	3.5	6	66000	44	7	-	317	7	-	2.5	12	12
220	122	22	-	2	44	6	47	17	-	4.1	12	46600	31	4	-	330	5	-	2.8	9	8
221	127	15	-	16	51	7	57	12	16	3.6	11	48000	36	3	-	330	6	-	2.7	13	14
222	102	9	2	13	22	-	44	17	9	3.7	12	63000	34	3	-	254	5	-	2.8	7	4
223	130	10	1	10	40	3	44	14	-	3.8	11	54000	29	3	-	300	7	-	3.0	5	9
224	100	-	1	1	34	3	61	22	1	3.9	12	61100	31	3	-	302	7	-	2.5	10	3
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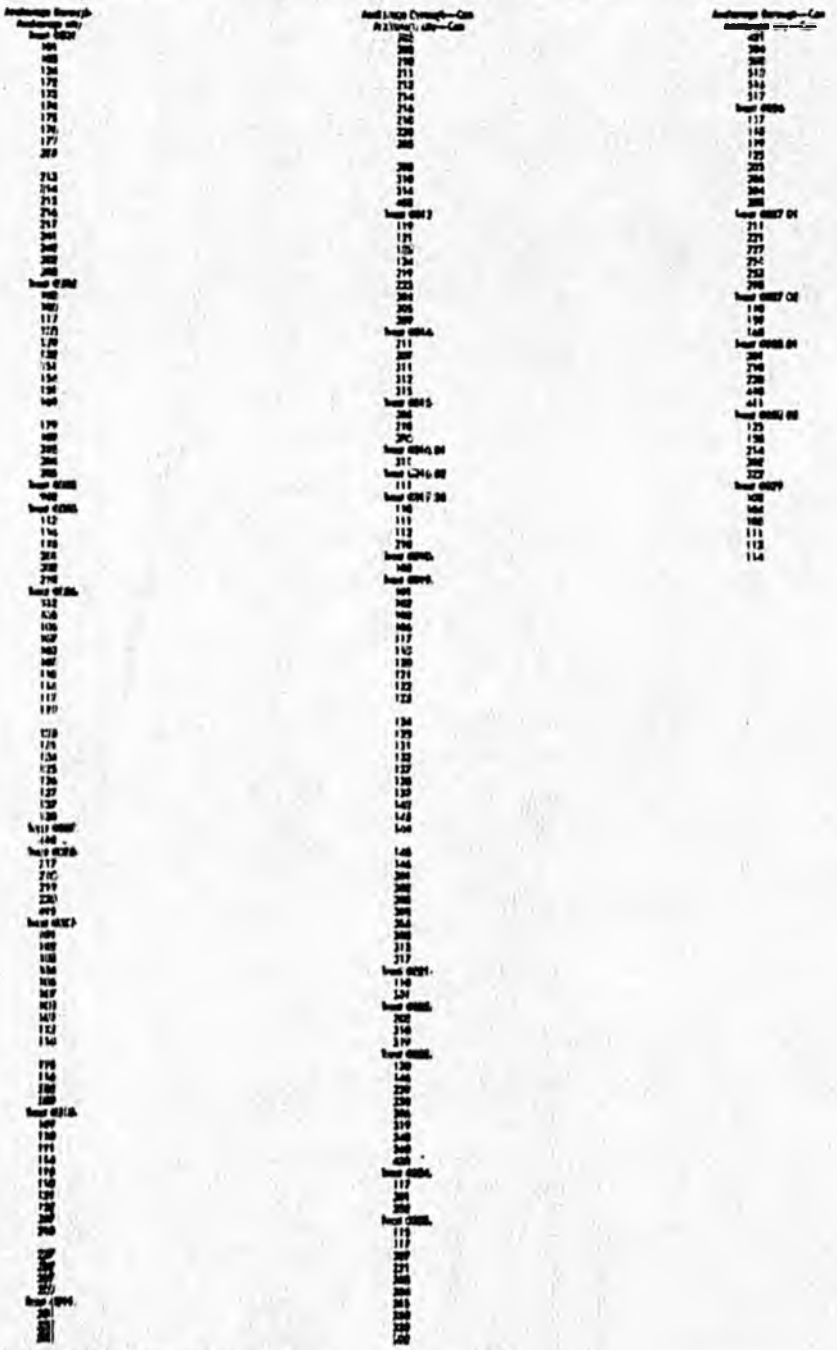
230	86	10	1	1	20	1	37	11	-	3.7	9	59000	24	2	-	354	4	-	2.6	11	5
231	30	-	-	9	15	2	31	10	-	4.3	11	61300	6	-	-	321	1	-	2.9	1	2
232	100	26	1	1	30	1	39	12	25	3.6	8	64000	34	4	-	315	5	-	2.5	8	8
233	136	12	3	29	40	1	39	9	33	4.1	4	...	41	...	...	330	4	-	3.0	9	5
234	72	3	6	1	22	1	23	5	17	4.0	19	67500	3	...	...	...	-	-	3.3	2	2
235	120	25	3	20	44	2	50	13	13	4.2	6	66300	30	3	-	325	5	-	2.9	6	4
236	112	15	-	1	30	1	61	12	-	3.9	10	66400	33	3	-	320	3	-	2.6	9	8

Table 1. Blocks With Zero Population and/or Zero Total Housing Units: 1980

Alaska



CONGRESSIONAL REDISTRICTING

A Public Information Monograph

AMERICAN BAR ASSOCIATION
Special Committee on Election Law and Voter Participation

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CONGRESSIONAL REDISTRICTING

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DIVISION OF PUBLIC SERVICE ACTIVITIES
AMERICAN BAR ASSOCIATION
WASHINGTON, D.C. **JUNE 1981**

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Library of Congress Catalog Card No. 80-69481
Special Committee on Election Law and Voter Participation
Congressional Redistricting
Washington, D.C.

Acknowledgements

Appreciation is hereby expressed to Elena Cohen, former Research Assistant, and to Daniel L. Skoler, former Director of the Public Service Activities Division, for their principal authorship of this monograph. Elissa C. Lichtenstein, Staff Director of the Committee, provided invaluable assistance in editing, organization and publication, and Administrative Assistant Prudence B. Kestner in manuscript preparation. The Committee is also grateful to its Legislative Assistant and advisor, Craig Baab, and to Bruce Adams and Bernard Grofman, non-Committee authorities on congressional redistricting, for valuable review, critique and advice on manuscript drafts and content.

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PREFACE

The American Bar Association Special Committee on Election Law and Voter Participation is now entering its second decade of service as one of the Association's major public service undertakings. Its work has been marked by a dual tradition of policy leadership and guidance to the ABA and of education for the bar and public on contemporary issues in election system improvement. The former is reflected in a number of formal ABA policy positions (popular election of the president, vice-presidential selection, voter registration by mail, amendment of the Federal Communications Act's "equal time" provisions, campaign financing reform, an independent federal election commission, and a presidential study commission on declining voter participation) by which the bar has contributed to the national dialogue and endorsed specific proposals for election law reform. The latter has borne fruit in a variety of conferences, symposia, and publications on current electoral system problems.

This monograph is a new addition to our public education tradition. It explores the important issues of congressional reapportionment theory and practice which still face the nation notwithstanding the "one person, one vote" giant step of the early 1960s. The message is particularly timely with our federal system on the brink of the major redistricting initiative that comes with each decennial census, and will be an important determinant of the fairness and equity accorded in the decade ahead of all citizens and all segments of society in their representation within the Congress of the United States.

The monograph was designed with a non-technical approach in mind. Despite its character as a "primer," informational appendices and literature references will be found to direct readers to relevant case and statutory law, analytical studies, and historic evolution and thereby permit more intensive study of the problem.

Fair redistricting is not just a priority of our Special Committee. It is a commitment of the entire American Bar Association. In 1979, the Association's governing body, its House of Delegates, in considering a variety of voter participation initiatives, formally supported the enactment of legislation that "provides for fair redistricting pursuant to the 1980 census without regard to partisan advantage." While no specific method of reapportionment was endorsed at the time, the concept itself was engraved in formal Association policy. Specific measures were weighed and explored at a conference cosponsored by the Committee in June 1980 with the National Science Foundation and a distinguished group of academics and practitioners at San Diego, California.*

*See conference volume, *Representation and Redistricting in the 1980s*, Grofman, Lijphart, McKay, Scarrow, eds. (1981, forthcoming)

The Committee would, therefore, welcome views, reactions, and suggestions from all readers of this handbook, whether or not Association members, on how best to ensure implementation of the "fair redistricting" concept. If the pamphlet stimulates and informs this kind of dialogue—in bar, civic, and other forums of concerned citizen activity—it will have well served its purpose and the cause of good government.

Washington, D.C.
June 1981

John D. Feerick
Steven J. Uhlfelder

Charles G. Armstrong
Judith Arees
Marvin S. Arrington
Joel L. Fleishman
Scott M. Matheson
Abelardo I. Perez
Dale W. Read, Jr.

I. Introduction

Fair and equal representation, a cornerstone of the American political system, depends largely on the fairness of the process for selecting representatives. One of the most important factors in this process is the drawing of congressional districts from which members of the United States House of Representatives are chosen.* State legislatures traditionally have been responsible for establishing district lines.

Alterations in congressional district lines after the 1980 census promise to be extensive. According to its 1980 figures, the Census Bureau estimates that population movement among states will cause about 14 states to gain or lose seats in the House of Representatives. This shift, combined with population movement within states, may force virtually all of the 435 existing district lines to be redrawn. Even though redistricting inequities have been reduced in the past two decades, under the 'one person, one vote' mandate, many citizens are dissatisfied with current methods of reapportionment.

How Congressional Seats are Now Allocated

No matter how small its population, each state must have at least one representative in the House of Representatives. The remaining 385 seats are to be allotted so that each representative speaks for approximately the same number of people, thus attempting to provide each person with an equal share of representation in the nation's lawmaking processes.**

The population figures used are those provided by the decennial U.S. census. The President transmits these figures to Congress during the first week of the first regular congressional session after the census. Within fifteen days after receiving these figures, the Clerk of the House sends the chief executive of each state a certification of the number of representatives to which the state is entitled. Each state, according to rules in its state constitution or statutes, then creates the same number of districts as the number of representatives to which it is entitled. While states are required to redistrict every ten years, no formal time limit exists for the completion of the redistricting plan.

A Brief History of Redistricting***

While state legislatures traditionally have been the main bodies responsible for redistricting, the Congress and the courts have played varying roles in the line-

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* The drawing of *legislative* districts (those from which representatives to a State House or Senate are chosen) is also central to fair representation, yet entails certain issues separate from those involved in congressional redistricting. For a more detailed discussion of legislative redistricting, see *Toward a System of Fair and Effective Representation*, Common Cause (Washington, D.C., 1977). Unless otherwise indicated, "redistricting" will refer only to congressional linedrawing.

** U.S. Constitution, Article I, Section 2, clause 3; 2 U.S.C. § 2a.

*** "Reapportionment" refers specifically to distributing seats in established units of government, while "redistricting" signifies line-drawing to establish districts within these units. States receive an apportionment of congressional seats, after which districts are drawn. Both terms will be used interchangeably throughout this monograph to discuss how congressional seats are distributed within each state.

drawing process. Congress was silent on the issue before 1841. However, since that time, it has enacted several pieces of legislation to alter the congressional reapportionment system, with congressional involvement peaking in the early twentieth century. The current congressional redistricting law was passed in 1929. It contains very few directives but does mandate that representatives be apportioned every ten years according to the then most recent U.S. decennial census, based on the principle of equal representation (see Appendix A). Except for an act passed in 1976 which banned at-large elections *(i.e.,* those where the entire state votes for all seats to which the state is entitled), Congress has not recently imposed any redistricting rules on the state legislatures.*

Until 1962, in the landmark case of *Baker v. Carr,* 369 U.S. 186, the courts trailed far behind state legislatures and Congress in their involvement with reapportionment.** Indeed, in the 1946 case, *Colegrove v. Green,* 328 U.S. 549, the Supreme Court asserted that it had neither a judicial responsibility nor a right to address the redistricting question, on the grounds that it was a political issue. *Baker v. Carr,* however, offered a dramatic departure from the previous stance of judicial "laissez-faire," in ruling that federal courts do have authority to judge whether districts are apportioned fairly. Some controversy, however, still exists concerning the appropriate roles of Congress and the courts in this area.

*2 U.S.C. § 2c.

**See Appendix A for summaries of major cases affecting redistricting.

II. The Current Redistricting System

Gross Population Inequality: Past Injuries Healed

Despite the requirement that congressional districts be redrawn every ten years so that each district has approximately the same population size, many states have had congressional districts whose populations varied dramatically. A study by the Brookings Institution revealed that in 1962 half of the states with more than one congressional district (21 states out of 42) had constituencies in which the smallest district contained less than fifty per cent of the population of the largest district.*

In the 1964 case of *Wesberry v. Sanders,* 376 U.S. 1, the Supreme Court condemned this gross inequity. It voided Georgia's redistricting plan, deciding that the population disparities among congressional districts violated the spirit of Article I, Section 2 of the Constitution. Articulating what is frequently referred to as the "one person, one vote" or "as nearly as practicable" standard, the Court wrote that "as nearly as practicable, one [person's] vote in a congressional election is to be worth as much as another's." Following the 1970 redistricting, most districts adjusted to this mandate: 402 of the 435 congressional districts were within 1 per cent of the district population average for their state.

Current Redistricting Problems: The Gerrymander

Even though major inequities in the area of population disparity have been greatly reduced, redistricting reformers contend that substantial and avoidable injustices remain. These defects result largely from the practice of "gerrymandering."

What is "Gerrymandering?" In 1812, the Massachusetts state legislature created a dragonlike district to benefit the Democratic party over which then Governor Elbridge Gerry had tremendous influence (see *Figure 1*). Drawing a head, claws and wings on a picture of the district, painter Gilbert Stuart exclaimed that it looked like a salamander. Editor Benjamin Russell, however, noted that "gerrymander" would be a more appropriate name, in "honor" of the governor. Since then, the term has generally referred to the drawing of district boundary lines for the purpose of giving some individual or group a political advantage. It is important to note that gerrymandering is detectable in terms of its *impact,* not necessarily by the *shape* of the district.**

Gerrymandering typically involves the use of one of two techniques to dilute the influence of "minorities" in the electoral process.*** It may concentrate minority

*A. Hacker, *Congressional Districting: The Issue of Equal Representation,* (Brookings Institution: Washington, D.C. 1964).

**A strangely shaped district may, for example, merely be following natural topographical features. *See* B. Grofman and H. Scarrow, "Representation and Redistricting in the 1980s", *Policy Studies Journal* (1983, forthcoming).

***In this discussion, "minority" refers generally to any group whose influence the line-drawers are attempting to reduce. Thus, it can include racial and ethnic minorities, challengers, members of minority factions within the party that is in control of the state legislature, and minority parties.

Figure 1
The Original Gerrymander



Reprinted from *Congressional Districts in the 1970s* (2nd Ed.) with permission of *Congressional Quarterly*.

strength in a few districts, thus wasting minority votes. To illustrate, a state with ten districts and a minority comprising 30 per cent of the state's population distributed as shown in *Figure 2* could draw district lines in at least two ways. One of these would be less beneficial for minorities. For example, instead of the minority comprising 75 per cent of the constituency in four districts (as in *Figure 3*), gerrymandered districts might be drawn so that minorities would constitute 100 per cent of the population in three districts (as in *Figure 4*), thus reducing the changes of a minority candidate being elected in other districts. It should be noted, however, that the courts have rarely concluded that this minority-concentrating technique violates minorities' constitutional rights.

Figure 2



Figure 3



Figure 4



Note: ▨ denotes minority

A second technique is the conscious dilution of minority strength. By this strategy, a minority group that is concentrated in one geographic area (and which thus would comprise a majority if that area were a congressional district) would be split among many districts, losing a majority voice in any.

Why Gerrymandering Harms. Many individuals denounce any type of gerrymandering. Indeed, a former director of the National Municipal League's legislative redistricting information service contends that the evils which are meant to be alleviated by requiring population equality are simply accomplished through gerrymandering:

> It was inevitable that this gerrymandering problem would become worse, not better, as a direct result of the Supreme Court's rulings regarding population equity during the '60s and '70s. The incentive for resort to the gerrymander is much less when the legislature could easily accomplish the same thing by simply making districts of wildly different populations.*

In addition to general condemnation, however, the following specific charges have been leveled at gerrymandering practices:

It reduces the opportunity for ethnic minorities to be elected: the previously described techniques have often contributed to minority underrepresentation in Congress. While blacks comprise approximately 11 per cent of the nation's population, less than 3 per cent of congressional representatives were black at the beginning of the 1980s. Hispanics constitute approximately 9 per cent of the population, but make up only 1 per cent of the House of Representatives.

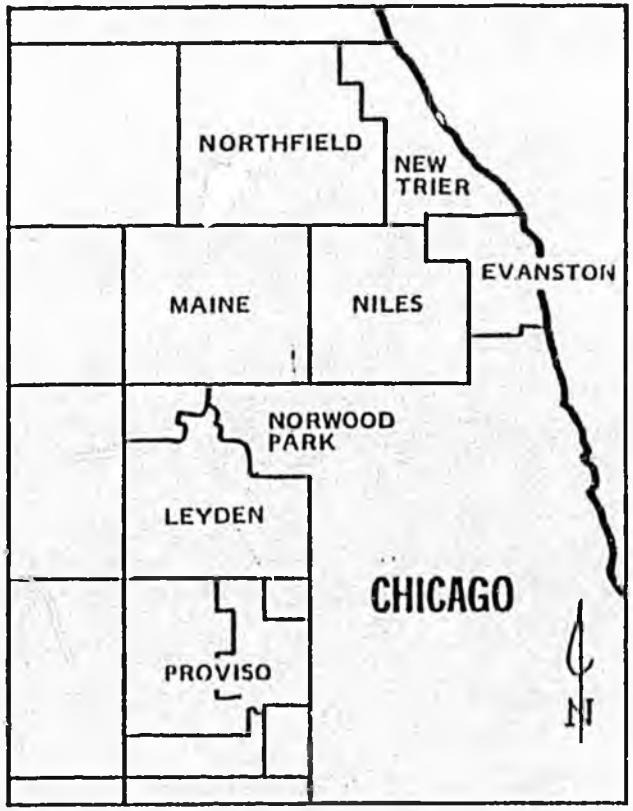
It reduces the opportunity for political minorities to be elected: members of parties not controlling the state legislatures, or members of the majority party who break with prevailing party views, also have fallen victim to the gerrymandering sword. Florida's 1972 reapportionment plan, for example, resulted in Democrats winning 75 per cent of the 15 congressional seats, while receiving only 53 per cent of the statewide vote.** And at least two recent political mavericks have been the target of their own party's gerrymandering initiatives. In 1975, Chicago's Democratic boss, the late Mayor Richard Daley, proposed an odd-shaped district plan, remarkably similar to the original Massachusetts gerrymander, which was narrowly rejected by the Democratic-controlled state legislature, and which many observers felt was designed to weaken an outspoken Daley opponent (Democrat Abner Mikva) who went on to win the contested congressional seat (see *Figure 5*). The 1972 California reapportionment apparently was designed, among other reasons, to protect incumbents of both parties. Yet, it was not designed to benefit a minority among incumbents, a liberal, anti-war Republican (Paul McCloskey) who nevertheless was reelected.

It unduly protects incumbent seats: this reduces competition and enables parties to field weak candidates. If potential candidates perceive that incumbents are drawing district lines to ensure their own reelection, challengers may be less likely to enter the race. In 1978, 11 per cent of the winners in congressional races ran unopposed. Moreover, even new-

Congressional Anti-Gerrymandering Act of 1979, Hearings on S.596 Before the Senate Committee on Governmental Affairs, 96th Congress, 1st Sess. 286 (1979) (statement of William Boyd) (hereinafter cited as 1979 Hearings).

**1979 Hearings at 50 (statement of David Cohen, President, Common Cause).

Figure 5
Reapportionment Plan
(Illinois Tenth Congressional District)



comers who enter may confront additional barriers where lines have been consciously rearranged in an incumbent-protecting fashion. Plans designed to protect incumbent seats usually achieve their goals. In 1978, over 95 per cent of congressional incumbents seeking reelection were reelected.*

It discourages voter participation: redistricting reformers argue that gerrymandering disenfranchises voters not only directly, by discouraging challengers from entering congressional races, but also indirectly, by discouraging other campaign involvement. For example, odd-shaped districts covering broad geographical areas increase the difficulty for both candidates and canvassers of undertaking neighborhood and door-to-door campaigning. Perhaps more importantly, gerrymandering may be contributing to the unfortunate decline in voter

*This is not to imply that preservation of existing district lines is necessarily undesirable or harmful. From the *incumbent* legislator's perspective, a familiar constituency may be valuable if he or she is to represent constituents' views accurately.

participation.* While voter turnout in House of Representatives races was about 44% in 1970, it fell to approximately 35% in 1978. Voters may reason that since gerrymandering has predetermined election results, their individual ballots hardly count. Furthermore, voters may become confused when they reside in a "strategic location" which is relocated for each major election, depending on the line-drawer's goals. A former Congressman from New York complained:

> I was redistricted in the sort of ongoing flow that occurred sufficiently often that I found that I ran for Congress three times from the same house but each time I was in a different congressional district. And the third time it was impossible for me to get from my house to the rest of my district without paying a toll.**

In addition, once candidates are elected, they might show more responsiveness to the needs of the line-drawers who created districts favoring their candidacies than to those of the citizens who elected them.

An Overview of Reform Proposals

While there exist defenders of the current system,*** advocates for improving reapportionment cite the significant injustices just discussed and demand a more equitable system. The call for reform is bipartisan and nationwide.

Various groups and opinion-leaders in the nation are demanding that the redistricting system be improved. The *Washington Post*, the *Wall Street Journal*, and the *Boston Globe* all have run strong editorial messages stressing the need for change in reapportionment procedures. Some states have adopted modifications on their own in recent years. California, Colorado, Hawaii, Iowa, and Oregon have adopted strict redistricting standards, and Colorado, Hawaii and Montana have established redistricting commissions. Organizations expressing support for redistricting reform include the American Bar Association, the National Association for the Advancement of Colored People (NAACP), the Mexican American Legal Defense and Educational Fund (MALDEF), and the National Municipal League. The League of Women Voters has mounted a public education campaign on reapportionment issues and options and has left its individual state leagues free to consider and support corrective options that best meet local needs. An estimated ten to fifteen state leagues have endorsed reapportionment commissions. A Common Cause questionnaire sent to congressional candidates in the 1978 elections showed that 271 representatives favored federal redistricting standards, with only 41 opposed.

*See ABA Special Committee on Election Reform, *The Disappearance of the American Voter* (Washington, D.C., 1979).

**1979 Hearings at 312 (statement of the late Allard Lowenstein, Representative from New York's 5th Congressional District, 1968-70).

***E.g., the National Conference of State Legislatures, (NCSL) a national organization of approximately 7000 state legislators and their staffs.

Examples of the major national initiatives are:

The Common Cause Proposal—A Model for State Self-Improvement. This public interest group, a grass-roots "good government" organization with more than 225,000 individual members and offices in over 45 states, has developed a model amendment to state constitutions with an accompanying act which states can choose to adopt. The two enactments (constitutional amendment and statute) apply to both legislative and congressional districts and are designed to balance stability with flexibility. The Common Cause plan proposes among other things:

- a commission to draw district lines. Commissioners (five in number) must meet certain qualifications for "impartiality;" Four are appointed by specific members of the state legislature, and the four select a fifth to serve as Chair;
- redistricting standards. These are rules which the initial apportioning authority must follow in its plans. It is suggested that districts embrace approximately the same size population, respect political subdivisions, be composed of contiguous territory, be compact, be drawn so as to avoid giving any group or individual political advantage, and be drawn so as to avoid diluting minority voting strength;*
- accountability provisions. In addition to requiring public hearings on redistricting proposals, the plan provides the opportunity for qualified voters to challenge the plans, and for federal courts to adjudicate these claims.

Federal Guidelines with Redistricting Commission Requirement. Senate Bill 596 and its House companion H.R. 2653 (96th Congress, 1st Session) embody this approach. Although the bills differ slightly from each other, both support the tripartite Common Cause approach: commission-standards-accountability. The primary difference lies in the Common Cause models' presumption of state action which gives the individual states a choice on implementation, unlike the congressional bills, which, once enacted, require states to adhere to their provisions. On the other hand, because the Common Cause Act is meant to be a state statute, it contains many specific provisions which the congressional options omit. The congressional bills afford states the opportunity to decide individually on a number of "specifics" in the way in which they will adhere to the more general federal mandates.

Federal Guidelines without Commission Requirement. H.R. 1516 and its companion in the Senate, Amendment 237 (96th Congress, 1st Session) offer another reform approach. Although the two bills vary slightly, both are based on suggestions from the House Wednesday Group.** The major differences between these bills and the previously mentioned congressional proposals is that H.R. 1516 and S. Amendment 237 do not recommend the establishment of commissions, as the sponsors feel that the choice of approach in ensuring equitable application of federal standards should be left to the states.

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Rather than address the totality of strengths and weaknesses of each major proposal, it may be more valuable to review individually major components or concepts. As might be expected, many proposals share some provisions and differ on others. The following discussion, therefore, takes up the key remedial options and touches on the significant arguments from various perspectives in an attempt both to foster a better understanding of the issues and to facilitate informed decisionmaking. The discussion treats two major issues: who should make the decisions, and what role might standards play in this process. Our intent is to illuminate rather than to advocate particular stances on specific provisions.

*For further discussion of standards, see Part III.

**Comprised of thirty-two moderate to liberal Republican members of the U.S. House of Representatives.

III. The Issues: Are Standards Needed?

In examining the redistricting process, several basic issues must be addressed. One fundamental set of questions revolves around the need for and character of standards to guide and order the development of reapportionment plans.

To What Extent Should Standards be Articulated?

Some groups claim that the most important aspect of redistricting reform is the establishment of specific rules which must be followed when drawing congressional district boundaries. Indeed, if fair redistricting standards are made so explicit that line-drawers cannot abuse their discretion in interpreting them, the matter of who has the responsibility for applying the standards may well become less important. Yet, even those endorsing clear standards may disagree about the extent to which certain standards should be defined by the law. The narrower the definition, the less flexibility is available to accommodate factors affecting the fairness and soundness of plans which are not yet in existence when the definition is formulated. Moreover, as might be expected, some electoral experts are opposed to explicit standards, particularly federal ones.

In Defense of Standards. A 1979 editorial in the *Washington Post* stressing the need for standards (particularly to provide courts with reviewing guidelines) emphasized one of the common rationales for this approach: "Since the federal courts are already deeply into this 'political thicket,' [of judging the fairness of redistricting plans] it might be useful to them—as well as to the cause of ending the more indefensible forms of the gerrymander—for Congress to spell out how it believes congressional district lines should be drawn."* Indeed, many have viewed standards as perhaps the most important agenda items in the fair redistricting "portfolio." As a former AFL-CIO advisor on reapportionment matters and the plaintiff in *Wells v. Rockefeller* has stated:

> The most effective way to prevent gerrymandering is not to . . . vest special power in some judicial umpire or even in a nonpartisan authority. Rather it is to make sure that whoever draws the district lines cannot do so in a manner calculated to bestow special advantages on any . . . group . . . And the best way to do this is to establish firm, explicit . . . ground rules.**

*Washington Post, June 21, 1979.

**Wells, *'Affirmative Gerrymandering' Compounds Districting Problems,* National Civic Review (January 1978) at 17.

Equity, uniformity, visibility and accountability—at first blush, all appear to make the case for articulate standards. Few seem to quarrel with the idea, at least in principle. Yet, there is a significant measure of opposition.

In Opposition to Standards—Encroachment on States' Rights. The National Conference of State Legislatures has expressed concern that if Congress mandates that commissions draw plans according to specific federal standards, the state legislatures will be accorded little voice in the redistricting process. The standard response to this objection is that state legislatures would retain a significant influence in appointing commission members. Of course, this influence would be limited by reform proposal restrictions on who could be appointed.

Absence of Standards throughout the Nation's History. It is true that federal redistricting standards have not been employed throughout most of U.S. history and that many states have set no standards for either legislative or congressional redistricting. Standards supporters, however, assert that (i) perhaps the federal standards which were renewed and embellished from 1842 to 1911 ultimately expired simply because they were not judicially enforced, and not because they were unnecessary or because Congress did not have the authority to impose them, and (ii) states are now increasingly adopting standards. These observations cast doubt on the argument that the relative absence of standards in the past implies that they are unnecessary to fair and effective operation of our redistricting apparatus.

Effect on Volume of Litigation. Some have expressed wariness of standards without commissions, suggesting that such a combination may "open the floodgates to litigation" and entail lengthy bureaucratic red tape. An underlying premise is that many plans will be unable to satisfy fully the variety of standards being proposed, and dissatisfied parties may be encouraged to find some inconsistency worthy of court contest. Yet others have speculated that the articulation of standards could reduce frivolous litigation, since challengers would use standards as guidelines to determine the types of deficiencies the courts will recognize and would assess their prospects with greater care.

Standards: Conflicts or Priorities. Focusing on the dilemmas of definition and differing social and political values that underlie many of the standards proposals, some authorities suggest that the task of reconciling and ordering meaningful standards may be unmanageable. For example, drawing districts with the same size population in order to fulfill the "population equality" standard may require odd-shaped districts which fail to meet the frequently asserted "compactness" requirement. NCSL has complained, in this vein, that many congressional bills "impose a litany of substantive and inconsistent standards to govern redistricting plans."*

Proponents of standards generally respond to such assertions not by disagreeing that standards may conflict, but by arranging them according to priorities which can operate to mitigate the problem: the less important standards need only be met to the extent that the plan they affect is also faithful to the more important standards. Indeed, several experts suggest that priorities should be made explicit in any reform proposals which espouse redistricting standards. The Supreme Court seemed to advocate this priority approach at least with respect to legislative districts, in *Reynolds v. Sims,* 377 U.S. 533 (1964) where the Court wrote that although the state must attempt to construct districts in both houses of its state legislature as nearly equal in population as practicable, some population deviations were permissible if "based on legitimate considerations incident to the effectuation of rational state policy" such as a desire to respect political boundaries. It should be noted that placing standards in order of importance does not eliminate all difficulties. Additional questions which need to be answered include what the precise order should be among any given set of standards, whether there should be a range within which some standards can be modified to accommodate others and, if so, what these ranges might be.

*1979 Hearings at 400 (statement on behalf of NCSL of State Senators S.H. Runyan, Arizona, Ross Doyen, Kansas, and Charles Vickery, North Carolina).

Examination of Specific Standards

Against this backdrop, it is appropriate now to examine individual standards which have been proposed, where on the priority scale each might be placed, how clearly these can and should be defined in law, and how much a given standard should be modified to accommodate other standards.

Population Equality. Past congressional statutes, Supreme Court decisions, and virtually all major reform proposals agree that congressional districts should strive for equal population size. According to the Congressional Quarterly, 385 of the existing 435 congressional districts are within 1 per cent of the average district population within their states, thus confirming the efforts of states to adhere to this requirement.* Nevertheless, many issues with regard to this standard remain unresolved and a good number turn on definitions of "population equality." Most definitions set forth a percentage of population deviation allowable from a state's average population in a congressional district. Various advantages and disadvantages are claimed for this approach. The "deviation range" concept is meant to eradicate gross population since any deviation outside the stipulated range would be impermissible. This approach seems to offer a better solution than precise mathematical equality since it allows other relevant considerations to be taken into account in a way that mathematical equality may not. Thus, districts would be presumed to be within constitutional tolerances if the maximum deviation were within the permitted range. Yet this presumption might be overcome by showing that a given plan, nevertheless, "operated unreasonably to minimize the voting population," see *Kirkpatrick v. Preisler,* 394 U.S. 526, at 531 (1969).

Among those standards defining "population equality" according to range, there exist alternatives concerning the amount of deviation allowed. One 1979 Senate proposal, for example, (S. 596**) allows the largest district to be 4 per cent greater than the smaller district (*i.e.* permits deviations from the average district of up to 2 per cent). Advocates defending the broader ranges assert that they provide a greater opportunity to accommodate other relevant standards and, that in any event, small ranges may require census figures to be more accurate than is now the case. Indeed, the Census Bureau admits to a margin of error of

*Congressional Quarterly, "Congressional Districts in the 1970s" (2d ed. 1974) at *.
**96th Congress, 1st Session.

approximately 2 per cent in its estimates, and a census authority testified in mid-1979 before a House subcommittee that many state representatives had encountered problems using census figures to draw redistricting lines.*

Thus, although debate continues concerning the precise definition of "population equality," there seems to be a consensus that some standard of this kind is a necessary (albeit not alone sufficient) requirement for fair redistricting. It appears that a range of standards would pass constitutional muster although Supreme Court decisions are not fully clear on the extent to which states must at least strive for strict mathematical equality.

Political Subdivisions. Over 200 counties are split up among congressional districts more than is required by their state's population average. Many of those concerned with improving the redistricting process feel that the boundaries of political subdivisions (counties, municipalities, and other units of local government) should be respected in the line-drawing processes, although not all of them agree on whether the term "political subdivision" should be defined in the federal law or left up to the states to define. They propose that political subdivisions remain undivided whenever possible not only because unnecessary fragmentation undermines the ability of constituencies to organize effectively, but also because it increases the likelihood of voter confusion regarding other elections based on political subdivision geographies. Furthermore, preserving political subdivisions tends to foster a sense of community.

Still not settled, however, is the priority this standard should be assigned. While it is generally agreed that boundaries should only be respected to the extent that they are consistent with the "equal population" standard, the issue becomes more controversial when this standard conflicts with the "compactness" standard which discourages odd-shaped districts. Many political subdivisions are odd-shaped; if the compactness standard is given a high priority, the political subdivisions should only be respected when both "population equality" and the "compactness" requirement are fulfilled. Most groups place preservation of political subdivisions second only in importance to "population equality."

Other criticisms of the high priority accorded preservation of political subdivisions boundaries cut more deeply than those just mentioned. It is charged that honoring subdivisions preserves the "status quo," a change in which may sometimes be needed in order to eliminate undue incumbent power in fair districting situations. Representatives from MALDEF, for example, have expressed concern that this standard may jeopardize minority voters: "[T]he standard which requires maintaining the boundaries of political subdivisions is unwarranted. In order to maximize the voting strength and enhance the opportunity for minorities to be elected, it is often necessary to split cities or counties which have large concentrations of minority citizens."**

Contiguous Territory. Rarely has it been suggested that congressional districts not be composed of contiguous territory. Generally, a district is considered contiguous if none of the territory included within it is entirely separated from the remainder of the district by intervening territory assigned to another district. Indeed, even though not required by the Constitution or by federal law, contiguity is almost always observed in congressional districts.* Perhaps this practice is common because, like compactness, it seems inherent to the system of representation upon which the U.S. House of Representatives system is based. Although there has been questioning of the incorporation of contiguity into federal legislative standards because of difficulty of definition, the almost self-evident character of the concept suggests that a detailed definition may not be needed.

There are, nevertheless, problematic situations for assessing contiguity. For example, the question might be raised whether districts are necessarily contiguous if they are comprised of territories joining only at one point or connected only by bridges or tunnels, or separated by unconnected waterways. Some plans, therefore, propose "convenient contiguous" territory, a concept that is designed to permit searching scrutiny of these marginal situations and to afford some recognition to travel and communication barriers.

Compactness. The "compactness" requirement is designed to prevent gerrymandering districts into odd shapes. One measure of compactness is to determine the smallest circle in which the district can be circumscribed and to compare the ratio of the area of the district inside the circle to the area of the circle itself, with the closer to 1-1 the better. Like contiguity, compactness is required neither by the Constitution nor by federal law, but scholars and politicians alike have acknowledged its value and many states have established compactness provisions.

Defenders of the compactness requirement maintain that it is central to the theory of geographical representation upon which U.S. House of Representatives selection is based. Geographically compact districts also tend to reduce electoral costs in time and money, since candidates and campaign workers can more readily cover smaller districts. Nevertheless, a compactness standard which would be logical for one district might be quite inapplicable to another. Thus, general language requiring the aggregate lengths of district boundaries in the state to be as short as possible might be more appropriate in federal standards than more detailed or narrow definitions. States, however, could choose to define the term more narrowly in their own constitutions or codes. This level of generality is seen as preventing the arbitrary shifting of lines for political advantage while permitting minor departures from compactness to accommodate important companion standards. Virtually all proposals suggesting this standard place it below the three previously mentioned in terms of priority.

"Antigerrymandering" Standards. Some endorsers of standards believe that even if the previously mentioned requirements are carefully articulated and enforced, there should also be explicit "antigerrymandering" standards. These generally prohibit the drawing of lines for the purpose of gaining political advantage, and currently exist under the laws of Colorado, Delaware, Hawaii, and Oregon. Such requirements serve as an added safeguard against line-drawers who, while devising a means of fulfilling the previous requirements, still intentionally manage to structure district lines which establish an undue political advantage.**

*Remarks by Marshall L. Turner, Jr., U.S. Bureau of the Census, testifying before the House Subcommittee on Census and Population, May 4, 1979.

**Letter dated September 27, 1972, Abelardo Perez, then Associate Counsel for MALDEF, to Senator Danforth (R-Illinois) sponsor of S. 596.

*In fact, a federal court, in *Kopald v. Carr*, 343 F. Supp. 51 (M.D. Tenn. 1972) imposed a requirement of contiguity where that requirement was not mandated by state statutes. In addition, redistricting expert Bruce Adams has noted that, ". . . two state statutes and twenty seven constitutions require contiguity." ("A Model Reapportionment Process: The Continuing Quest for 'Fair and Effective Representation'," 14 *Harvard J. on Legislation*, June 1977 at 874).

**See Backstrom, Robins and Eller, "Issues in Gerrymandering: An Exploratory Measure of Partisan Gerrymandering Applied to Minnesota," 62 *Minn. L. Rev.* No. 6, July 1978, which points out that

The "political advantage" type of standard has encountered some opposition. It is seen by some as an attempt to make the line-drawing process politically neutral, an impossibility since every district line favors some political party, person or group. Proponents respond, however, that the standard is not meant to void a plan merely because it favors some group or individual. The Common Cause model, for example, does not void a plan merely because it *results* in favoritism. Rather, it requires that challengers demonstrate that districts were drawn for the *purpose* of favoring some person or group.*

In addition, problems may arise under an antigerrymandering standard with regard to determining which entities should explicitly be prohibited from gaining political advantage. Among those suggested by various proposals are: political parties, incumbents, economic groups, certain racial minorities, certain language groups, and specific individuals. While it seems laudable to attempt to eliminate the possibility of any entity gaining political advantage, an effective standard may be so difficult to articulate that the resulting attempt could create more problems than it would solve. Indeed, Common Cause redistricting expert Bruce Adams has advanced this criticism with respect to the protection of certain socio-economic communities (as has been attempted in Alaska, Colorado, Hawaii, and Oklahoma). In a 1977 article, he wrote:

> The notion of "socio-economic communities of interest" is so broad that a reapportionment authority could knowingly demark geographically overlapping communities. As a result, the reapportionment authority would have to favor some communities of interest over others. It is possible, therefore, that under the broad provisions those communities of interest that have been the traditional victims of discrimination will gain no additional protection.**

Another frequent criticism of the antigerrymandering standard is that it weakens the theory of geographical representation. If a "fair system" is defined as one which guarantees that groups receiving a certain percentage of the total vote are awarded a similar percentage of seats in Congress, the United States would have to adopt a mechanism for proportional rather than geographical representation.*** Many political scientists assert that the U.S. electoral system could not readily make this change because it would entail political conditions (*e.g.*, the growth of a multi-party system) which are foreign to the nation's political system and traditions. Yet, it is possible to focus only on geographic information in the *initial* formulation of redistricting plans and then to apply a "political influence" concept in checking a plan to ensure that it does not unduly benefit some specific group or individual. An antigerrymandering standard might decree that such a check is desirable although the type of data to be used in making this test and its manner of application would have to be carefully worked out.

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one can measure the extent of gerrymandering by looking at any proposed districting in terms of statistical calculations on how likely the expected seats-votes relationship it would give rise to could have occurred by chance.

*Common Cause, "Toward a System of 'Fair and Effective Representation'," (Washington, D.C., 1977) at 55.

**Adams, "A Model Reapportionment Process" *supra*, at 879.

***See Backstrom, "Issues in Gerrymandering," *supra*. As measured in Backstrom's terms, fair representation is *not* proportional representation.

Some groups oppose any express prohibition of political gerrymandering, arguing that the Supreme Court has never found it unconstitutional to take certain considerations into account when drawing initial redistricting plans.* However, advocates of this standard, in addition to questioning the validity of case precedent here, suggest that it is precisely for the reason that constitutional strictures may permit some accommodation of political considerations that federal standards must be articulated in this area in order to prevent abuse.

Other Considerations: "Affirmative Gerrymandering" Practices

Most authorities and organizations advocating antigerrymandering standards disapprove of the use of statistics about a district's racial or linguistic composition to dilute the voting strength of certain racial or language minorities. Indeed, both Supreme Court decisions (*e.g. Gomillion v. Lightfoot*) and federal legislation (the Voting Rights Act of 1965) prohibit such practices.**

A more controversial question, however, is whether such information should be taken into account to afford minorities an advantage so as to compensate for past redistricting injustices (hence the name "affirmative gerrymandering"). In this vein, an expert on the effect of redistricting on black voters has suggested the following language for inclusion in redistricting proposals:

> There shall be an affirmative duty on the part of the [initial reapportionment authority] to insure that there is no discrimination on the basis of race or color in the drawing of congressional district lines.***

This approach seems to be supported by Supreme Court pronouncements [*United Jewish Organizations v. Carey*, 430 U.S. 144, (1977)]; the NAACP has also gone on record in support of "affirmative gerrymandering":

> Whereas, courts, including the Supreme Court, have recognized that it is sometimes necessary to take race into consideration in the shaping of voting districts to correct violations of the Constitution and of the Voting Rights Act; . . .[T]he NAACP opposes any law that would restrict legislatures or other entities in their efforts to correct the underrepresentation of blacks in Congress.****

Some minority interests (*e.g.* MALDEF) suggest that a diluting effect in a redistricting proposal (with or without proven intent) should be sufficient proof of discrimination to invalidate it or, at least, to create a presumption of defectiveness in any state and not merely in those jurisdictions with a history of discrimination. The rationale, drawing on experience with respect to efforts to establish discriminatory intent in matters of minority employment and education, is that proving such intent is difficult if not impossible.

In *City of Mobile v. Bolden* the U.S. Supreme Court dealt with the intent issue in the context of a redistricting challenge based on Section 2 of the Voting Rights

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*NCSL; *See Gaffney v. Cummings*, 412 U.S. 735 (1973) and *White v. Regester*, 412 U.S. 755 (1973) in support of Supreme Court neutrality in this area.

**42 U.S.C. §§ 1971, 1973 *et seq.*

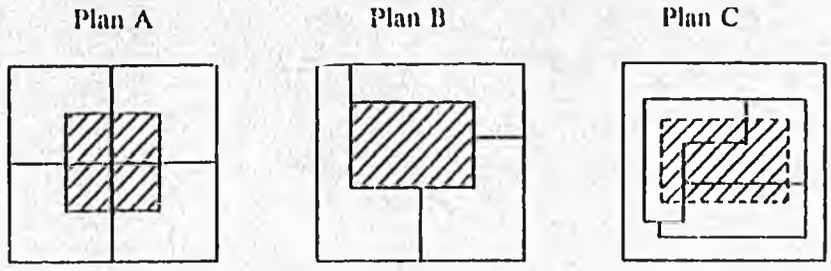
***1979 Hearings at 342 (statement of George Bundy Smith).

****Althea Simmons, Director, Washington bureau, NAACP, quoting statement of the Association enunciated during NAACP's 70th annual convention.

Act.* Mobile's at-large system of elections was alleged to cause discrimination against minority groups. The Supreme Court ruled against plaintiffs, finding that the intent to discriminate had not been proved as required in a Section 2 challenge.** This particular election system had been established in 1911, before the date of applicability of Section 5 of the Voting Rights Act. Had Section 5 applied, the system when proposed might not have passed muster during the statutorily mandated preclearance procedure which requires that a covered jurisdiction must prove that a proposed change has neither the intent *nor* the effect of discriminating against minority groups. Thus, a paradox exists with respect to the relationship between the Voting Rights Act and electoral systems. While Section 5 jurisdictions generally may not establish at-large systems, such existing systems and systems adopted by non-Section 5 jurisdictions may be imposed and perpetuated regardless of their effect on voting strength.

While a requirement which prohibits dilution of minority voting strength would lean toward Plan B instead of Plan A in an illustrative four-district urban area such as graphically portrayed in *Figure 6*, the "affirmative gerrymandering" approach might favor Plan C (at the cost, it is noted, of some geographic gerrymandering).

*Figure 6****



Note: ▨ denotes minority

These points of view have been criticized on several grounds. First, there has been questioning of one assumption upon which affirmative gerrymandering rests, namely, that minorities make up an essentially unified voting block that will rally behind a minority candidate. It can be argued, of course, that even though minority constituencies will not necessarily elect minority representatives, the larger the percentage of a minority population in a district, the more likely it is that the district will elect a minority candidate. More intensive studies of minority voting behavior may shed light on this issue. However, regardless of

*42 U.S.C. 1973, Section 2: "No voting qualifications or prerequisite to voting, or standard or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color, or in the contravention of the guarantees set forth in Section 1973b(f)2 of this title." Section 2 is interpreted as a restatement of the Fifteenth Amendment which requires a showing of purposeful discrimination.

**64 L. Ed. 2d 119 (1980).

***Each box represents a state; divisions denote districts. Equal population distribution is assumed.

the practical impact of such "affirmative gerrymandering," some political analysts seriously question its theoretical foundation, maintaining that while redistricting should not contribute to discrimination, neither should it carry the burden of compensating for past discriminatory practices. In the words of one expert:

> [A] racial quota [affirmative gerrymandering] could easily be superimposed on a legislative body which is elected by a system of proportional representation. It could simply be required that a particular group's proportion of the total population be reflected in the membership of the legislative body. But to attempt to apply a quota to a legislative body which is geographically based (as are the U.S. Congress and every one of the state legislatures) is to mix two fundamentally incompatible concepts.*

Time Provisions. Throughout the redistricting process, there exist steps which may become obstacles to timely action if time limits are not imposed. These include:

- completion of a proposed redistricting plan;
- voter challenge;
- initial court review;
- formulation of an acceptable plan if the initial plan is rejected;
- final judicial decision on acceptance of the plan.

Some improvement advocates believe that there should be few, if any, specifications of time limits since they may be unenforceable if emergencies arise which preclude attention to redistricting matters. These individuals endorse the "as soon as practicable" approach. Others believe that a maximum time limit should be set for some, if not all, major steps. This would help avoid the problem of ultimate plan acceptance after census figures have become outdated or after crucial elections have passed.

Perhaps the most crucial time problems arise in connection with drafting of initial and final plans. Some experts suggest that a time limit be set only for the final product. Interim time limits are unnecessary, they assert, if the final plan is accepted before political interests can predominate. The voter challenge time period is also a subject of controversy. Some proposals allow voters to challenge plans up to 60 days after they have been made public, while others allow up to nine months after establishment of the last district after a decennial census (*e.g.*, S. 596 and Amendment 237 plans, respectively). The shorter period attempts to ensure that litigation will conclude before the next major congressional election takes place. The longer time provision, on the other hand, offers citizens a greater opportunity to participate in the apportionment process and to hold line-drawers accountable. Generally speaking, some articulated time limits, perhaps more as a target than as a rigid goal, would seem desirable in reapportionment standard-setting.

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*Wells, "'Affirmative Gerrymandering' Compounds District Problems," *National Civic Review* (Jan. 1978) at 16.

This discussion has explored the major options under consideration with respect to standards for congressional redistricting. While the options remain open to debate, it appears that virtually all reform interests view mandated redistricting standards as an important element for improving the electoral process.

IV. The Issues: Who Should Make the Redistricting Decisions?

In addition to a determination of the need for and character of standards, the reapportionment "rulemakers" must be identified, *i.e.*, the body or governmental entity which determines where responsibilities lie for making subsequent decisions. This body possesses the authority to determine whether commissions, state legislatures, or other governmental officials draw district boundaries. If the rulemakers decide that specific processes and specific protections should be included in initial plans, such reviewing responsibility must be allocated. The main candidates for these key duties in the reapportionment process will be discussed separately.

Who Should be the Redistricting Rulemakers?

The ultimate authority to decide how subsequent redistricting decisions should be made lies with either Congress or the state legislatures.

Contentions as to Congressional Authority. It can be readily argued that the Constitution grants Congress this ultimate authority. Article I, Sections 4 and 8 are cited in support of this view. Article I, Section 4 declares that Congress "may at any time by law make or alter" [regulations about the] "times, places and manner of holding . . . [congressional] elections" and Section 8 grants Congress the power "To make all laws which shall be necessary and proper . . ." for carrying out its constitutional powers. This basic authority as well as subsequent judicial interpretations suggest that regulation of redistricting is within Congress' constitutional prerogatives. Indeed, the Supreme Court, on several occasions, has interpreted the Constitution as giving Congress authority over rules affecting congressional elections.* Another argument supporting this view is the pragmatic contention that Congress has exercised such authority in the past on several occasions without encountering serious objections.

Contentions as to State Legislative Authority. The National Conference of State Legislatures (NCSL) is perhaps the leading advocate of preeminent authority in state legislatures over reapportionment, and has officially opposed any federally mandated procedures, structures, or substantive standards on redistricting. Those, like NCSL, who favor the current system (which accords state legislatures an essentially free hand, subject, of course, to Supreme Court constitutional interpretations) advance several arguments. First, they maintain that the framers of the Constitution intended that state legislatures have ultimate control, noting that Article I, Section 4, provides that "the times, places and manner of holding Congressional elections shall be prescribed in each State by the Legislature thereof." Testifying before the Senate in 1979, NCSL spokespersons contended that congressional power in Article I, Section 4 to "make or alter" such rules is misinterpreted when applied beyond the most compelling emergency situations:

> Congressional authority to oversee national elections was controversial and was accepted only as an extraordinary device to be used in extraordinary circumstances. It was not intended to grant the national legislature plenary power over elections or to permit that body to interpose its notion of political fairness.*

Although Congress has legislated some standards, state legislatures historically have been responsible for making redistricting decisions. This relative congressional inactivity on redistricting stems largely from a history of lack of enforcement of congressional mandates rather than from any irrelevancy of the rules to improving the process or from an absence of congressional authority to make the rules in the first place.**

The debate about "ultimate rulemaking" authority is of greatest moment where the U.S. Congress and state legislatures would assign subsequent responsibilities in a different manner. Perhaps, then, the most crucial question to be answered is who should have responsibility for drawing district boundaries.

Who Should be the Initial Apportioning Authority?

This is perhaps the most controversial issue in the reapportionment debate, for it affects a power exercised by state legislatures since the inception of our republic. The two major candidates for the responsibility are commissions and state legislatures. The "commission" concept has generally attracted the "reform" label, yet even some "reformers" hesitate to support it.

Advocates of the "commission" approach feel it has appeal because the "legislated" system allows a great degree of self-interest to operate in the redistricting process. A former Illinois Congressman testified in 1979 that taking redistricting out of legislative hands "greatly reduces the inherent conflict of interest which now exists when the same people who draw a new map and vote on it also have a personal stake in its outcome."*** State politicians have occasionally admitted to this self-interested motivation; many legislators dislike the redistricting responsibility, but use it in "self-defense," with knowledge that if they do not succumb to the temptation of drawing lines favorable to their political interests, their opponents will certainly seek to do so.

Those groups skeptical about commissions suggest that commissioners might be just as subject to political pressures from congresspersons as are state legislators. If the commissioners are political appointees, they may even be more vul-

*See Appendix A, *Baker v. Carr, Ex Parte Siebold, Oregon v. Mitchell.*

*1979 Hearings at 404 (statement on behalf of NSCL of State Senators S. H. Ruayan, Arizona, Ross Doyen, Kansas, and Charles Vickery, North Carolina).

**E.g., see discussion of Standards, at page 10.

***1979 Hearings at 302 (statement of Abner Mikva, formerly 10th Congressional District, Illinois, presently a member of the Circuit Court of Appeals for the District of Columbia).

nerable to political pressures than a legislature elected by the public. Commission supporters respond by endorsing the introduction of safeguards into the appointment process to eliminate "special interest" commission members. In a 1977 article, one redistricting expert pointed to the Arkansas legislative commission (composed mostly of legislative leaders) as a biased body that could not "exercise the independence sought by the advocates of reapportionment reform." He strongly commended, therefore, the "impartiality" restrictions incorporated in the Common Cause proposal.*

Critics of the commission approach also assert that creating commissions unrealistically attempts to remove politics from an inherently political process. It is impossible, the argument holds, to apportion political power by a non-political process. Further, the fact that citizens can vote directly for legislators but not for commissioners may cause voters to feel disenfranchised and removed from the electoral process. Pro-commission authorities concede the importance of a sensitivity to the danger of removing the redistricting process too far from the legislature. They typically stress, however, that the reform is designed not to deny the legislature its interest in reapportionment, but rather to buffer the process from conflict of interest.**

Some experts contend that entrusting redistricting to a commission may bring the process closer to the voter, as many plans implemented in the recent past were drawn by the courts, a body over which voters have even less control than over commissioners. However, proponents of the current system assert that commissions boast no better "track record" than do legislatures in terms of producing plans acceptable to the courts. While there exist few statistics relating to commissions drawing congressional lines, the information about state legislative commissions and reapportionment commissions in other countries may shed light on the issue. According to NCSL, only a "handful" of states have seen their congressional plans redrawn by the courts, and one recent study of redistricting practices suggests that the overall record of some bipartisan commissions has thus far been shown to benefit the party controlling the state legislature more than have the other methods.*** Furthermore, according to 1974 data, about a third of the plans initially proposed by both state legislatures and the courts were rejected initially by appellate courts.

While these statistics offer meager support, if any, for the commission concept, commission proponents point to other data that tend to corroborate the improved commission track record. First, many reformers take issue with the "handful of states" estimate. In fact, most estimates are that between 25 percent and 35 percent of current house district lines were drawn by the courts. A 1973 study by the Council of State Governments concluded, moreover, that commissions seemed to establish better track records than state legislatures.**** Other analysts point to commissions in other countries (*e.g.*, Australia, Canada, and

*Adams, "A Model Reapportionment Process: The Continuing Quest for 'Fair and Effective Representation,'" *supra* at 868. Adams is a principal architect of the Common Cause models.

**It is worth noting that the most direct conflict of interest concerns legislative districts. While state representatives may run for congressional seats (and thus benefit directly from congressional lines), they more often run for reelection in their state house and senate.

***1979 Hearings at 424 (statement of Eric Uslaner).

****Council of State Governments, *Reapportionment in the Seventies* 11 (1973).

Great Britain), suggesting that their record of electoral equity is better than that of those in the United States. Although the controversy about actual performance may be resolvable only with further study, it does seem clear that more than a "handful" of congressional redistricting plans initially drawn by state legislatures have been found unacceptable in the courts.

A collateral consideration in assessing performances is economy, *i.e.*, whether commissions can save time and money. Because commissions would be created for the specific purpose of efficiently and equitably preparing redistricting plans, their entire organization could be shaped toward that end. Such specialization is, of course, extremely difficult in a state legislature with numerous and diverse responsibilities. Unfortunately, reliable estimates of the comparative costs of commission versus state legislature formulation of plans are not readily available. Yet, there are some figures which provide an initial framework. From 1971 to 1973, the California legislature invested approximately $1 million developing a redistricting plan (which was ultimately replaced by a court-appointed Special Masters' Committee plan) and in 1971 there were over 26 full-time legislative staff members working on the California redistricting. Hawaii's reapportionment commission spent about $200,000; Montana's spent approximately $20,000.* These figures suggest that the dollar dimension of the debate, even if not an overriding consideration, merits some study.

In addition to criticism of the "commission" approach, advocates of state legislature line-drawing advance several positive claims. It is commonly asserted that state legislatures have not abused their discretionary powers. It is argued that since forty-two states have a population deviation of less than 1 per cent *(i.e.*, in these states, the population of the greatest district does not exceed by more than 1 per cent that of the smallest district),** this demonstrates that legislatures have made a concerted effort to draw fair districts. Thus, since the only constitutional requirement of fairness articulated by the Supreme Court is population equality, and since the legislatures are adhering to that rule, they have made a "good faith" (and largely successful) effort to establish fair district lines. As noted earlier, reformers caution that although population equality is necessary for fair redistricting, it is not alone sufficient.

Even if the commission concept is accepted, controversies can arise concerning both the method of selecting commission members and their number. The greater the number, the more likely it is that the commission will take into account minority views. However, a large membership may increase financial costs while reducing the likelihood of a consensus. An equally troublesome question is, who should mandate the commissions—Congress or the states? Those supporting the congressional approach maintain that it will ensure that all states establish commissions whose members are selected in the most impartial and uniform way possible. Critics, however, question both the political and constitutional advisability of federally mandated commissions. They voice the view that the redistricting mechanism should be left in state hands, where it can be held accountable to the citizens. They also express concern that members of a federally mandated com-

*Adams, "A Model Reapportionment Process: The Continuing Quest for 'Fair and Effective Representation'," *supra* at 856, n. 115.

**1979 Hearings at 401 (statement of North Carolina State Senator Charles Vickery, citing *Congressional Quarterly*).

mission may view themselves as ultimately accountable to the federal government, to the detriment of viable state government.

Constitutional questions also have been raised in this area, especially with respect to congressional authority to specify the method of commissioner selection. Plans requiring certain state legislators to appoint commission members, for example, might violate the "appointments clause" of the Constitution which requires that certain "Officers of the United States" be nominated by the President and confirmed by the Senate.*

Three congressmen advanced this argument in 1979 before a House Subcommittee, pointing out that it was their understanding that (i) commission proposals do not specifically define whether a commission would be a state or federal agency, (ii) if a federal agency has more than investigatory and informatory powers, its members must be selected in conformity with the "appointments clause," and (iii) since the commissions would be responsible for making reapportionment decisions (clearly more than investigatory and informatory powers), the constitutionality of their selection by party members in the state legislatures would clearly be put into question.** They also suggested that congressional specifications as to commission selection and membership might violate states' rights under the Tenth Amendment, by requiring rather than authorizing state officials to perform federal duties. These views are questioned by legal experts for groups espousing redistricting commissions who see no "appointments clause" issue where purely legislative functions are involved (as in preparing district plans) and discern in the broad federal authority recognized by the courts over congressional elections the legitimate power to specify redistricting procedures such as commission mechanisms.*** Thus, it appears that the issue of congressionally mandated reapportionment commissions must await judicial interpretation for final constitutional validation (although little constitutional question exists that the states may proceed with this technique on their own initiative).

A further line of thinking in this vein merely dismisses commissions as lacking relevancy and meaning with respect to the problems of fair apportionment. On the one hand, it is claimed that if there are fair and clearly defined redistricting standards and if there are "accountability" provisions serving as a check on the redistricting authority, it makes little difference what body holds the redistricting responsibility. Thus, each individual state should choose whatever method of

*Article II, Section 2, cl. 2: "He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of the law, or in the heads of departments."

**1979 Hearings at 35-36 (statements of Representatives James Leach, Robert Kastenmeier, and William Frenzel relying on *Buckley v. Valeo*, 424 U.S. 1 (1976), interpreting the case as holding in part that if a federal agency has more than investigatory and informatory powers, member selection must conform to the "appointments clause.").

***See, e.g., 1979 Hearings at 67-75 (statement of Common Cause General Counsel K. Gmdo, *The Constitutionality of the Antigerrymandering Act of 1979*, relying on *Ex Parte Seibold* (1880), *Smiley v. Holm* (1932), and *Oregon v. Mitchell* (1970), as establishing Congress's clear power to divest states of all control over redistricting and, therefore, also to exercise more limited prerogatives of specifying procedural rules and methods for that function.).

reapportionment would, in its political context, be consistent with fulfilling these other major requirements. On the other hand, there are those who remain skeptical about articulating any reform measures, feeling that those who wish to exploit the redistricting process for reasons of political self-interest will find a way to circumvent even the most clearly defined rules.

Accountability Provisions: Who Should Judge the Plan?

Even if the initial reapportioning authority has built-in fairness safeguards in terms of character, independence, representativeness, and procedural standards, it must be recognized that unforeseen injustices may still result. Thus, the major reform proposals all incorporate some accountability provisions. These include:

- providing for open hearings when the line-drawers are considering redistricting options;
- requiring public notice of redistricting hearings;
- making the record of any hearings publicly available (perhaps by publication in legislative journals);
- affording the opportunity to qualified voters to challenge a proposed plan within a reasonable period (affording sufficient time to become acquainted with the line-drawing proposals and to prepare necessary information for the challenge, but not so long as to delay unduly final determinations) and, possibly, with waiver or reimbursement of attorney's fees for successful challenges;
- placing authority in federal courts for expeditious review of plans, either through challenge initiatives or automatically; and
- allocating responsibility for replacing inadequate or objectionable plans—with redrawing to be accomplished by initial redistricting body, a new group, or the courts.

With respect to judicial review measures, questions arise concerning what specific time provisions should be included in the authorizing bills, and whether there should be automatic judicial review as opposed to review only of those cases which are challenged. Automatic review now occurs for legislative reapportionment plans in Colorado, Florida and Kansas. It offers the advantage of a routine and more thorough check on initial plans, as courts may catch improprieties which public scrutiny misses. However, automatic review also raises questions. In particular, it is interpreted as permitting the courts too great a role in the redistricting process.* The underlying argument stresses that the legislative and not the judicial branch of government should possess the primary authority over redistricting; the courts should not operate as the ultimate arbiter and approver of electoral system arrangements of this kind. An additional problem identified with respect to automatic judicial review is that the courts must make a judgment without the benefit of the adversarial process, a role for which they are not optimally suited.

*See, e.g., *White v. Weiser*, 412 U.S. 783 (1973) where the Court rejected a Texas redistricting plan on the basis of "avoidable" deviations. Four justices dissented, asserting that the ruling in effect established a *de minimus* role for state legislatures where the state was not even required to justify population variances.

The problem of revision or redrafting where initial plans are rejected has also generated some differences of approach. One option dictates that courts redraw plans themselves or appoint other apportioning authorities if they reject the first plan proposed. Others follow this course only when the initial apportioning authority fails twice; such a "second-try" approach is usually defended for plans which call for redistricting commissions. An underlying rationale reflects the concern that members of a nonpartisan commission, knowing that a court of their political persuasion will take over the reapportionment process should the commission fail to act, might be inclined to force a deadlock. Moreover, the commission would likely have at its disposal staff, resources, and experience not readily available to the court, which it could employ in formulating a new plan.

Although many of the accountability provisions remain subject to debate, particularly in their detailed content, most redistricting reformers agree that this is a crucial component for improvement. Similarly, while influential groups may differ as to who should make redistricting decisions and how critical these decisional bodies are, most seem to join forces in recognizing the importance of accountability factors to an equitable reapportionment process.

V. Concluding Observations

This monograph has attempted to identify problems associated with the current congressional redistricting system and to review the various proposals for improvement along with major arguments which have been advanced in favor of and against them. It is hoped that this analysis will enhance understanding of the important issues involved, and that it will motivate groups and individuals both within and outside the legal profession to formulate their own views, consider remedial action and resist deterrence to change by traditional obstacles in this field.

The improvement proposals under consideration and debate fall into two broad categories—structural change (largely focused on the use of special commissions for developing reapportionment plans) and promulgation of standards to help ensure fairness and equity in line-drawing (based on a handful of principles running from population equality through encouragement of minority influence). Concurrently, two levels of legislative initiative for such reforms are under consideration and debate—federal and state.

It is not the intent or function of this pamphlet to advocate specific reform positions. However, redistricting equity remains a problem for the nation and optimal solutions and conditions do not yet appear to have been devised, no less incorporated in existing processes. Thus, a measure of experimentation with the new reform concepts seems desirable; the American Bar Association has formally endorsed such a posture in relation to the 1980 census redistricting process.*

The nation's experience with redistricting commissions has not been sufficiently widespread or intensively evaluated to draw final conclusions as to universal value or the most desirable subfeatures and characteristics. Thus, it would seem that those who call for state initiatives in jurisdictions so inclined, rather than for a mandate that all states establish commissions, would offer the most promise and the best opportunity to evolve optimal structures for reapportionment.

*See Appendix B.

Federal rules governing redistricting standards, rather than governing methods to apply these standards, however, may be beneficial, although existing uncertainties as to the best "mix" and order of priority among the most commonly cited standards (*e.g.*, population equality, compactness, contiguity, avoidance of intentional political preference) suggest that such formulations might do well to leave some room for state flexibility and experimentation in detailed definition and ordering of any standards articulated.

Whatever the case, carefully studied and soundly conceived redistricting reform promises to aid many sectors of society:

- voters in general whose voice will be heard more clearly when election results are not predetermined by gerrymandering, when competition for congressional seats is maximized, and when representatives must focus their responsiveness on voters rather than on line-drawers;
- racial and ethnic minorities whose interests have often been subordinated in past redistricting practices;
- congressional candidates from minority parties and challenger groups who no longer need hurdle undue barriers of self-protection constructed by incumbent politicians;
- state legislators who will be liberated from political pressures which may influence them to manipulate the line-drawing process;
- courts which will have clearer guidelines concerning the acceptability of redistricting plans; and
- rural and suburban communities (when gerrymandering has been used to strengthen unduly the urban voice) and urban residents (when line-drawers have attempted to increase unduly rural representation).

Indeed, virtually all sectors of society can benefit from congressional redistricting improvement which aids the American electoral machinery in functioning according to our highest ideals of representative government. The time is right—for thought, for decision, and for new levels of achievement.

APPENDIX A

IMPORTANT DATES IN REDISTRICTING HISTORY

DATE	ACTOR	EVENT	DESCRIPTION	STATE LEGISLATIVE/ CONGRESSIONAL
1842	U.S. Congress	5 Stat. 491	First federal statute requiring states to establish congressional districts. First congressional attempt to impose standards in congressional redistricting: compactness, contiguity, single-member districts.	C
1872	U.S. Congress	17 Stat. 28	Reiterated 1842 standards; set forth population equality standard. Reiterated in 1882, 1891, 1901.	C
1880	U.S. Supreme Court	*Ex Parte Siebold*	Congress has supreme authority over congressional election rules.	C
1911	U.S. Congress	1,2,37 Stat. 13,14	Reiterated 1872 requirements. Fixed number of U.S. House members at 435.	C
1929	U.S. Congress	46 Stat. 21	Required automatic reapportionment on basis of population after each decennial census.	C
1932	U.S. Supreme Court	*Ex. Rel. Smiley v. Holm* (Minnesota)	Congress has "authority to provide a complete code for congressional elections."	C
1946	U.S. Supreme Court	*Colegrove v. Green* (Illinois)	Courts lack authority to judge fairness of a political matter such as redistricting plans.	C
1960	U.S. Supreme Court	*Gomillion v. Lightfoot* (Alabama)	Gerrymandering of city boundaries with a clearly defined racial motive is unconstitutional.	L
1962	U.S. Supreme Court	*Baker v. Carr* (Tennessee)	Federal courts have authority to judge fairness of legislative redistricting plans	L
1964	U.S. Supreme Court	*Wesberry v. Sanders* (Georgia)	"One man, one vote" ("as nearly as practicable") standard: strict numerical equality among populations in congressional distr[illegible]	C

DATE	ACTOR	EVENT	DESCRIPTION	LEGISLATIVE/ CONGRESSIONAL
1964	U.S. Supreme Court	*Reynolds v. Sims* (Alabama)	Both houses in state legislature must meet the "as nearly as practicable" standard; some deviation is allowed to accommodate other relevant considerations. (*e.g.*, preserving political subdivisions).	L
1964	U.S. Supreme Court	*Wright v. Rockefeller* (New York)	To prove gerrymandering unconstitutional on grounds of discrimination, challenger must show evidence of discriminatory effect and purpose.	C
1965	U.S. Congress	Voting Rights Act, 42 U.S.C., 1971, 1973 et seq.	States with past history of discrimination must submit electoral changes to Department of Justice for preclearance. State plan may be rejected if either intent or effect is to dilute minority power. Protected language minorities include Alaskan natives, American Indians, Asian Americans, persons of Spanish heritage.	C,L
1966	U.S. Supreme Court	*Burns v. Richardson* (Hawaii)	Redistricting plans are not necessarily unconstitutional if merely designed to reduce competition among incumbent legislators.	L
1967	U.S. Congress	2 U.S.C. § 2c	Banned at-large congressional elections.	C
1967	U.S. Supreme Court	*Swann v. Adams* (Florida)	Although rejecting legislative apportionment plan, the court recognized that *de minimus* numerical deviations are unavoidable in state legislative apportionment.	L
1969	U.S. Supreme Court	*Kirkpatrick v. Preisler* (Missouri)	States must make "good faith effort" to achieve "precise mathematical equality" and must justify all population deviations.	C
1969	U.S. Supreme Court	*Wells v. Rockefeller* (New York)	Strict mathematical equality is required. Invalidated plan which set up a New York congressional district with maximum deviation of 6.6%.	C
1970	U.S. Supreme Court	*Oregon v. Mitchell* (Oregon)	Reiterated Congress's ultimate authority over congressional elections.	C

DATE	ACTOR	EVENT	DESCRIPTION	LEGISLATIVE/ CONGRESSIONAL
1971	U.S. Supreme Court	*Whitcomb v. Chavis* (Indiana)	Multimember state legislative districts are not unconstitutional *per se*; challengers must prove unconstitutional dilution of voting strength.	L
1971	U.S. Supreme Court	*Connor v. Johnson* (Mississippi)	Where a federal court fashions a redistricting plan, single-member districts are preferable to multimember districts.	L
1973	U.S. Supreme Court	*White v. Regester* (Texas)	Certain population deviations are permissible in legislative redistricting plans if effected to accommodate rational state policies (e.g., preserving political subdivisions). Multi-member districting is unconstitutional if it dilutes the votes of a racial minority.	L
1973	U.S. Supreme Court	*White v. Weiser* (Texas)	Deviations of 2.43% above average and 1.7% below average in Texas congressional districting plan deemed unacceptable, since districts were not as mathematically equal as practicable.	C
1973	U.S. Supreme Court	*Gaffney v. Cummings* (Connecticut)	States not required to justify minor population deviation in legislative districts; a legislative district plan may constitutionally be drawn with intent to reflect political make-up of state.	L
1973	U.S. Supreme Court	*Mahan v. Powell* (Virginia)	Upheld a Virginia legislative plan which produced a maximum population deviation of 16.4%, deeming the plan a rational means to preserve political subdivisions.	L
1977	U.S. Supreme Court	*United Jewish Organizations v. Carey* New York	Racial criteria may be used in drawing legislative district lines if designed to comply with Voting Rights Act.	L
1980	U.S. Supreme Court	*City of Mobile v. Bolden* (Alabama)	Public officials may be elected at-large even though preclusion of election of minorities may thereby result, where plaintiffs in non-Voting Rights Act jurisdiction fail to show intent to discriminate in the election mechanism or procedure.	L

APPENDIX B

AMERICAN BAR ASSOCIATION RESOLUTION ON FAIR REDISTRICTING

(House of Delegates: February 1979)

Note: The following resolution relates to voter participation initiatives extending well beyond legislative reapportionment. While the complete resolution is set forth, only that commentary from the underlying report which relates to redistricting has been excerpted.

RECOMMENDATIONS

BE IT RESOLVED, that the American Bar Association urges the President of the United States to appoint a commission of distinguished persons from various walks of life to study the decline in voter participation in the electoral process and to make appropriate recommendations, such study to culminate in a White House conference on the subject of declining voter participation; and

BE IT FURTHER RESOLVED, that the American Bar Association supports the enactment of legislation that encourages voter participation, eliminates mechanical barriers to voting and provides for fair redistricting pursuant to the 1980 census without regard to partisan advantage; and

BE IT FURTHER RESOLVED, that the state and local bar associations be urged to support and join with the American Bar Association in this program to improve and enhance voter participation.

REPORT (Excerpts)

3. *Redistricting Pursuant to the 1980 Census*

Many of the participants in the Palo Alto conference* stated that persons frequently do not vote because politically motivated manipulation of the borders of legislative districts has prevented citizens from developing a sense of community identity with the area in which they vote. Also, such districting practices actively skew the voting power that does exist, such as when cohesive communities are broken into several legislative districts. Such gerrymandering was said to have resulted to a large extent from the judicial prescription of "one man, one vote." The sense of the conferees was that legislative districts can comply with that principle and still represent cohesive communities. Accordingly, they suggested that, at the next chance for redistricting, the ABA take an active role in supporting fair and representative legislative districts, drawn without regard to partisan advantage.

Among our recommendations for action is that the Association support the concept of fair redistricting pursuant to the 1980 census. We believe that there

*Symposium on Citizen Participation in Government, sponsored by the Special Committee on Election Law and Voter Participation, June 1978. See proceedings published in *The Disappearance of the American Voter* (1979).

should be a statement of principle at this time because of the proximity of the census, following which virtually every state will be required to redraw the boundaries of congressional and state legislative districts. We believe that well in advance of the required redistricting the Association should be on record in support of the goal of fair representation for all citizens without regard to partisan advantage. In this regard, we should note that one of the recurrent themes at the Palo Alto conference was that one of the side effects of gerrymandering was a lack of competition in electoral politics, thereby decreasing the level of participation. Our redistricting recommendation does not endorse any specific method of reapportionment. Toward that end we plan to sponsor a future conference on the subject of redistricting.*

*Held in San Diego, California, June 1980. Attended by approximately forty election law experts, state legislators, attorneys, citizen groups and mathematicians, the three day session has been transcribed for publication. See *Representation and Redistricting in the 1980s*, ed. by Grofman, Lijphart, McKay, and Scarrow (Lexington Books, 1981, forthcoming).

APPENDIX C

ABA SPECIAL COMMITTEE REPORT ON REDISTRICTING

(Excerpts, August 1980)

Since its last report to the House of Delegates in February 1980, the Special Committee has focused its attention on three major areas of election law: redistricting, absentee voting, and campaign finance.

REDISTRICTING: Introduction

In February 1979 the House of Delegates of the American Bar Association adopted, on the recommendation of our Committee, a series of resolutions on the subject of voter participation, among which was a resolution calling for "fair redistricting pursuant to the 1980 census without regard to partisan advantage." In launching a program to encourage voter participation, the Association authorized our Committee to co-sponsor, with the National Science Foundation, a conference on representation and apportionment issues in the 1980s.

This conference was held in San Diego, California, June 11-15, 1980. It was attended by distinguished political scientists, mathematicians, reapportionment and election law experts, representatives of congressional and state legislative committee staffs, lawyers, and representatives of various public interest groups including the League of Women Voters, Common Cause and the Mexican American Legal Defense and Educational Fund. The conference discussions focused on such districting subjects as the use of single-member districts, the legal criteria for determining the fairness of single-member districts, electoral mechanisms other than single-member districts, the policy consequences of reapportionment, representation within the political party system, and theories of representation. A number of scholarly papers were prepared for the conference, which, along with commentaries on the proceedings, will be published in a separate volume.* We believe this volume will be an invaluable aid to members of legislative bodies, lawyers and judges, as they grapple with the important representation and apportionment issues of the 1980s. How these issues are handled will be of critical importance to our nation and to the integrity, vitality and effectiveness of our electoral system and government for the next ten years.

For that reason, we believe it of great importance that a national dialogue be opened at this time on the mixed legal and political issues of redistricting and apportionment. Although our examination of these issues will continue into 1981, we felt it valuable to set forth in this informational report some of the preliminary conclusions we have reached as a result of our study of this area.

General Observations

We feel that the entire problem of reapportionment and redistricting is exceedingly complex, and quite possibly does not permit a national solution that is either appropriate or realistic in all fifty states. Of fundamental concern is the fact that reapportionment and redistricting are important aspects of deciding the allocation of political power within an electorate.

Because the districting process amounts to an allocation of political power and because of the obvious conflicts in having the legislatures control the process, various proposals have been submitted, some of which would create independent commissions to do the actual job of redrawing district lines. While these commission proposals may have merit (a proposition on which we now express no opinion, pro or con), it is probably utopian to expect that many legislatures are now prepared to adopt such proposals.

We do feel, however, that the time is ripe for each state to consider the standards it will apply in its actual redistricting process. Adopting standards before beginning the actual districting process has at least three advantages. First, it would make more open and public the bases upon which political power would be reallocated. Second, it would establish a framework for accomplishing the redistricting itself. And third, it would establish the benchmark against which the eventual districting plan could be evaluated by the public, the press, and (in the event of judicial appeal) the courts.

An underlying assumption is that the redistricting process—both the adoption of standards and the drawing of district lines—should be open and public. It is certainly apparent that the conflicts of interest inherent in the process are reduced by public and media scrutiny.

The Districting Standards

The next, and most fundamental, question is, specifically, what should these standards be? While one scholar has identified at least sixteen standards, not all possible standards will be relevant or appropriate in each state.* Nonetheless, there are certain basic standards which deserve consideration in every state.

The most obvious standard is population equality. Ever since the "apportionment" decisions of the U.S. Supreme Court, very close population equality has been constitutionally required. Many states have set their own standards in this regard, and it is worth noting that some states allow even less population variance from district to district than do the federal court decisions.

Other standards include the extent to which electoral districts should be compact and/or contiguous; follow local political boundaries; and be drawn to concentrate identifiable groups (whether political, ethnic, or economic) in the district.

Two other standards, which have not received the in-depth judicial scrutiny that population equality has, pertain to the functioning of a democratic form of government. The first of these is the principle that the party or faction receiving a state-wide majority of votes should also receive a majority of the seats in the legislature, so that it is able to carry out its mandate to govern. Another standard involves an application of the principle of competitiveness so as to ensure voter interest in district elections.

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*One paper presented at the conference, by Professor Michel Balinski, raised questions about the formula that should apply in allocating congressional seats among the states. Another paper, by Professor Steven Brams, suggested the introduction of a new voting system called "approval voting."

*The San Diego conference volume will contain an extremely useful section on the criteria for redistricting and reapportionment.

Standards: Conclusions

In considering the adoption of standards, each state will be faced with some very hard choices. This is because, by adopting and following one standard, a state may in certain cases make it impossible to follow another. Therefore, the adoption of standards likely will require their prioritization. The critical point is that because the process is a difficult one, now is the time for the states to begin dealing with the complexities of redistricting before the process is upon us.

Single-Member Districts as a Norm

As a result of its consideration of the consequences of using different types of districting, our Committee believes that a single-member districting system generally is the best and most effective form of district representation.

Single-member districts allow voters in a district to choose one representative, *i.e.*, one legislator or one county commissioner. Multi-member districting permits a citizen to select more than one representative. The geographical area and population of multi-member districts are usually much larger than those of a single-member district. Some states and localities use a combination of single and multi-member districts, including at-large elections, where all voters in a political subdivision vote for several representatives. The impact of districting is fundamentally the same no matter what type of governmental entity (city, county, state) is involved.

In favoring the use of single-member districts, we note that such a districting system has worked well for congressional elections. Authorities who have studied the subject point to a number of advantages to the single-member districting system:* a single-member district is smaller than an at-large or multi-member district, which permits closer contact between the single representative and his or her constituency. The smaller district also provides greater accountability to the electorate, who will be better informed of the activities and voting record of the sole representative. In addition, political and racial minority groups who at times have had their voting power and strength diluted by larger multi-member districts will have greater impact on the elections and a better opportunity for election to office from within the district. Finally, election campaigns would also be affected by the choice of single-member districting. It is likely that campaign costs would be decreased as a result of reducing the size of the area and population of a district and limiting the election to one representative. The nature of campaigning might also change, by reducing the impact and necessity of extensive media advertising. More effort could then be expended on neighborhood and local campaigning, which should allow the electorate to become better acquainted with the candidates. Significantly, by reducing the cost of campaigns, it is likely that more individuals would be able to run for office, thereby making the process more competitive.

While single-member districting is by no means the panacea to representation problems, we believe it would go a long way toward ensuring more effective representation and a greater opportunity to participate in government and the electoral process

The foregoing discussion outlines the intricate nature of the redistricting question. In view of the complex issues which require resolution before "fair districting without regard to partisan advantage" can take place, our Committee urges that legislators, lawyers and all reapportionment experts take up the question at this time.

*The San Diego conference volume will contain an extensive section on this subject.

Respectfully submitted,

John D. Feerick, Chairman

August 1980

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Reapportionment—Dividing the Power

BY CAROLYN KENTON, CSG, Lexington

The decennial struggle for controlling political power and influence is in full swing. The process of recarving the political pie, which is called redistricting, was triggered by the 1980 census on the congressional and the state legislative levels.

Congressional Redistricting

The political composition of Congress will be altered by the redistribution of seats among the states due to population shifts. In addition, it appears as though most states will have redrawn congressional district lines prior to the 1982 elections. Six states will have only one congressman and require no districting —Alaska, Delaware, North Dakota, South Dakota, Vermont and Wyoming. Another 14 states—Alabama, Arkansas, Idaho, Indiana, Iowa, Mississippi, Nebraska, Nevada, North Carolina, Oklahoma, Oregon, Tennessee, Texas and Virginia—have redrawn congressional district lines to conform to the 1980 census figures. Of the remaining 30 states, eight are expected to address the issue before the first of the year.

The standard for drawing congressional districts is simple and straightforward. The districts must be as nearly equal in population as possible. So far, the U.S. Supreme Court has not been willing to interject any other criterion except that imposed by the Voting Rights Act and the equal protection provisions of the 14th and 15th Amendments to the U.S. Constitution.

The new congressional districts appear to be satisfying the court's requirements for "one man, one vote." Eight of the 14 new congressional plans have an overall population difference between the largest and smallest district of less than 1 percent. The remaining six have a population difference of 2-3 percent or less.

Gerrymandering Charged

The reliance on population equality gives redistricting cartographers leeway in drawing lines and leaves the door open to gerrymandering.

Partisan battles in the states have been intense. In states controlled by a single party—governor and legislature—the party out of power and some political observers have accused the controlling party of gerrymandering. Republican Gov. John Spellman of Washington considered the Republican-drawn plan so badly gerrymandered that he vetoed it. In Indiana, the legislature and governor apparently tried to change the congressional delegation from the present 6-5 Democratic edge to a 7-3 Republican edge (Indiana lost one congressman). To accomplish this, two existing Democratic districts were divided into four new ones and three Democratic congressmen were placed into one district.

States with divided political control—one or more houses of the legislature controlled by the opposition party—have also suffered problems. Democratic Gov. Richard Lamm of Colorado has vetoed two congressional plans drawn by the Republican legislature although the largest and smallest districts had a population difference of only 41 people in one plan.

The governors of Idaho, Oregon and Tennessee allowed the opposing legislative party's congressional plans to become law without their signatures.

Three states—Illinois, Minnesota and Missouri—have suits pending which would declare the existing congressional districts invalid, therefore requiring that they be redrawn before new elections could be held. These suits were filed after an apparent political impasse on the enactment of a plan developed by the parties in the legislature and/or the governor.

The majority of congressional districts will be redrawn through the normal legislative process. The exceptions are Hawaii and Montana, where commissions are responsible, and Connecticut, where a commission will be appointed to draw them because the legislature was unable to meet an Aug. 1 deadline. Plans will be prepared in Iowa by the Legislative Service Bureau and in Maryland by the governor, but the legislatures must still act on them. Generally speaking, however, congressional districts are much easier for state legislators to redraw than are legislative districts.

Legislative Redistricting

State legislatures have doggedly plunged ahead with their own redistricting. Redistricting is expected to be completed before the next legislative election in all states except Kansas, Kentucky, Maine, Massachusetts, Montana and New York. To date, 22 states have adopted a plan for one or both legislative houses.

The Texas and Virginia house plans have been ruled unconstitutional. The Texas Supreme Court ruled the house plan split counties unnecessarily in violation of the state constitution. The Texas plan will now be drawn by the Legislative Redistricting Board which will also draw the senate districts. In Virginia, a three-judge federal district court ruled the house plan invalid because of the large disparity—over 26 percent—between the largest and smallest districts. The court allowed the election for delegates to the house to proceed on schedule this fall, but shortened their terms to one year and required the legislature to redraw the house plan before Feb. 1982.

State Legislative Criteria Differs

The rules governing legislative redistricting as set out by the U.S. Su-

(continued)



STATISTICAL MEASURES OF POPULATION EQUALITY

Ideal District Population	equals	the Total State Population divided by the Number of Districts.

FOR INDIVIDUAL DISTRICTS

Absolute Deviation	equals	the District Population minus the Ideal Population.
Relative Deviation	equals	the District Population divided by the Ideal Population (usually expressed as a percent).

FOR ALL DISTRICTS COLLECTIVELY

Range

Absolute Range	is	the largest District Population and the smallest District Population.
Relative Range	is	the largest district Relative Deviation and the smallest district Relative Deviation.
Overall Range	equals	the largest district (Absolute, Relative) Deviation plus the smallest district (Absolute, Relative) Deviation (ignoring + and - signs).
Absolute Mean Deviation	equals	the sum of all the districts' Absolute Deviations divided by the Number of Districts (ignoring + and - signs).
Relative Mean Deviation	equals	the sum of all the districts' Relative Deviations divided by the Number of Districts (ignoring + and - signs).
Standard Deviation	equals	the square root of the sum of all the squares of all the districts' Deviations divided by the Number of Districts.

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REAPPORTIONMENT INFORMATION SERVICE

The Council of State Governments

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Iron Works Pike, Lexington, Kentucky 40578

Printed in the United States of America

RM - 695

Price: $10.00

FOREWORD

This Bibliography is the second in a series of resource materials to be released by the Reapportionment Information Service of The Council of State Governments. The first document released in December 1980, was a Directory of people and organizations actively involved in reapportionment.

The Bibliography includes published and unpublished materials on reapportionment, legislative districts, elections and representation. It covers the years from the early 1970's to the present comprehensively. Citations to earlier documents reflect their long term relevance to the understanding of the current reapportionment process.

The Bibliography is organized into two parts. The first part is a numbered, alphabetical listing of all entries. The second part is a brief index dividing entries into broad subject areas.

For additional information on the 1981 Reapportionment process, interested persons should contact Carolyn L. Kenton, Director, Reapportionment Information Service, The Council of State Governments, P. O. Box 11910, Lexington, Kentucky, 40578 (606) 252-2291.

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LEGISLATURES
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Reapportionment Information Update

Vol. 2, No. 2 July 28, 1983

COUNCIL OF STATE GOVERNMENTS
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U.S. SUPREME COURT DECIDES NEW JERSEY AND PENNSYLVANIA REDISTRICTING CASES

In a landmark decision, the U.S. Supreme Court has tightened the "one-person, one-vote" criterion for assessing congressional redistricting being challenged in the courts. While the High Court found the New Jersey congressional redistricting plan unconstitutional on the issue of population deviation, it upheld the Pennsylvania congressional districts without comment.

On June 22, the U.S. Supreme Court struck down the New Jersey congressional redistricting plan finding that an overall population range just under .70 percent does not conform to the constitutional requirement for equal representation. In a five-to-four vote, the court ruled in Karcher, et al. v. Daggett, et al. (No. 81-2057 and formerly Forsythe, et al. v. Kean, et al.) that there are no de minimis population variations that can stand constitutional muster, and the states must adhere as closely as possible to the "one-person, one-vote" standard of reapportionment. In challenging congressional redistricting plans, the plaintiffs must prove that population differences among districts can be reduced or eliminated in a conscientious effort to design districts of equal population. If the plaintiff's arguments are satisfactory to the court, the states have the burden of proving that deviations from equality are necessary to achieve a legitimate state goal.

In defense of the New Jersey redistricting plan, the legislature argued that the deviation of the plan was justified to protect black urban neighborhoods from being divided into different districts. In addition, the legislature contended that the deviation was less than the predictable undercount in the census figures. In answer to the first assertion, the plaintiffs failed to convince the Court that the population differences were essential to preserve minority voting strength in the congressional plan. The Court further identified legislative policies which, when applied in a nondiscriminatory manner, might have been successfully used in defense of the New Jersey congressional plan, including: compactness, respect for municipal boundaries, preserving the core of prior districts, and avoiding contests between incumbents.

A Joint Publication of:

The Council of State Governments
Iron Works Pike, P.O. Box 11910
Lexington, Kentucky 40578
(606) 252-2291
Frank H. Bailey, Executive Director

National Conference of State Legislatures
Headquarters Office • 1125 Seventeenth St.
Suite 1500, Denver, Colorado 80202
(303) 623-6600
Earl S. Mackey, Executive Director

With regard to the margin of error in the census data, the Court held that the census count "provides the only reliable--albeit less than perfect--indication of the districts' 'real' relative population levels, and furnishes the only basis for good faith attempts to achieve population equality." In the Court's opinion, Justice Brennan wrote: "Adopting any standard other than population equality, using the best census data available would subtly erode the Constitution's ideal of equal representation."

In a dissenting opinion, Justice White objected to the Court's rule of absolute equality on the basis that such a strict standard may be used to justify gerrymandered congressional districts. In addition, Justice White argued that the lack of a de minimis rule encourages the intrusion of federal courts into state legislative affairs. Other dissenters argued that even a miniscule population deviation is now vulnerable to constitutional attack.

Eleven states currently have congressional district maps with an overall population range greater than that of New Jersey: Alabama (2.45%), Arkansas (0.78%), Georgia (2.00%), Indiana (2.96%), Kentucky (1.39%), Massachusetts (1.09%), New Mexico (0.87%), New York (1.64%), North Carolina (1.76%), Tennessee (2.40%),and Virginia (1.81%). Although the Court's decision has no effect on the validity of these 11 plans, one state is currently involved in litigation to resolve the constitutionality of population deviation. In Ohio, a three-judge federal panel has been awaiting a decision on the New Jersey case before making a final decision in Flanagan, et al. v. Gillmor, et al..

On July 5, just two weeks after the New Jersey decision, the Pennsylvania congressional redistricting case, In Re: Pennsylvania Congressional Districts Reapportionment Cases, was decided by the U.S. Supreme Court. In a six-to-three vote, the Supreme Court affirmed the three-judge federal panel which had upheld the congressional plan drawn by the Pennsylvania legislature last year. The plaintiffs challenged the plan's overall population range of .24 percent.

WYOMING LEGISLATIVE REAPPORTIONMENT PLAN UPHELD BY U.S. SUPREME COURT

The U.S. Supreme Court has always held the states to less stringent standards of population equality in legislative reapportionment than congressional redistricting. The decisions made by the U.S. Supreme Court on June 22 prove to be no exception. On the same day the New Jersey congressional case was decided, the High Court ruled in Brown v. Thomson that the Wyoming legislative reapportionment plan, with an overall population range of 89 percent, was constitutional in light of the state's policy of allowing every county its own representation. Under the state constitution, Wyoming's 23 counties are required to have a senator and a representative in each district "apportioned among the counties as nearly as may be according to the number of their inhabitants." The plan included one small county with a population less than one-half the state's ideal district size.

The ultimate question before the Court was the state policy of granting a representative to each county. The Court held that the policy was rational and even "well-suited to the special needs" of the sparsely populated state. Justice O'Connor, in a concurring opinion, emphasized that ensuring equal representation is not simply a mathematical problem. The Court's decision rested on the narrow appeal which was brought before it. If the entire legislative plan had been challenged, rather than the representation of one county, the Court's decision might have been very different.

STATE NOTES

In ALABAMA, new state legislative elections will be held this fall as a result of the April 11th federal court decision in Burton, et al. v. Hobbie, et al. On June 21, a suit was filed petitioning the federal court for an order to require the governor to call the primary election. The Alabama Democratic Party Executive Committee will nominate all 140 state legislative candidates if the governor does not call for a primary. The plaintiffs in the suit, Bogard, et al. v. Hobbie, et al. (C.A. 83-I-604-N), claim that the executive committee is malapportioned by population and by race. They also question whether Section 5 preclearance provisions under the Voting Rights Act apply to the special elections as mandated by the Burton decision.

CALIFORNIA Governor Deukmejian has called a special election for December 13 on an initiative which recently qualified for the ballot and which would repeal the existing reapportionment and redistricting plans in favor of one drawn by an independent contractor for Assemblyman Sebastiani. Controversy over this proposal reportedly crosses party lines. However, if adopted, the Sebastiani plans could change dramatically the political makeup of both the congressional delegation and the California legislature.

In addition, the California legislature has intervened in the Vadham v. Eu case which was filed in federal court this spring. The suit contests the congressional plan signed into law on January 2, by Governor Jerry Brown, on the basis that it violates constitutional requirements of one-person, one-vote. A dispute has arisen over the authority of the secretary of state to make technical adjustments to the plan to compensate for an 8,000-person census correction. California and several states have reapportionment statutes which allow the secretary of state to make necessary corrections as a result of final population figures provided by the U.S. Bureau of the Census or as a result of minor local election district problems. The plaintiffs contend that the secretary of state does not have the constitutional authority to make these corrections and that the congressional plan must be judged as originally drawn by the legislature. The legislature argues that under state law the plan must be judged as corrected. The Ninth Circuit Court of Appeals has remanded the case back to district court for a trial on its merits. The legislature has been asked to respond.

The HAWAII congressional redistricting and legislative reapportionment plans were reviewed by the federal court on June 17. At the request of the League of Women Voters, the court, which maintained jurisdiction over the plans under the case Travis, et al. v. King, et al., reviewed the master plan and

decided that the districting plans were merely interim. Consequently, the state now has the responsibility to devise a new plan. The same commission has been reformulated with many of the same staff people available to assist. New plans should be complete by December of this year.

On June 7, the IDAHO State Supreme Court remanded Hellar, et al. v. Cenarrusa, et al. back to state district court for trial on the issue of county boundary splits. Last year the case was appealed to the state supreme court after the district court upheld the legislature's reapportionment plan as an interim plan for the 1982 elections. The plaintiffs filed the case based on the fact that the state constitution forbids county boundary lines from being split in reapportionment. Defendants argue that the splits were necessary to comply with federal constitutional requirements. The trial is scheduled to begin July 26, but a delay in the proceedings is expected. An election this year under a new legislative reapportionment plan is highly unlikely.

The LOUISIANA case of Major v Treen is still undecided. On March 7, the three-judge federal panel heard the case which challenges the plan on the issue of minority representation.

In MONTANA, a hearing is scheduled for August 10 and 11 in the case of McBride, et al. v. Waltermire (Docket No. CZ-83-25-BU) filed in the U.S. District Court of Montana, Butte Division. The case challenges the state's legislative reapportionment plan on the issues of population equality and violation by the reapportionment commission of its own criteria including: communities of interest, county boundary splits, compactness, and contiguity. The Manning v. Montana Districting and Apportionment Commission has been dismissed. The suit was originally brought to prevent filing of the redistricting and reapportionment plans with the secretary of state. Since the plans have been filed, the federal court dismissed the case as moot.

In SOUTH CAROLINA, the new Senate redistricting plan has been in conference committee for the last several weeks. The legislature is expected to end its session sine die on July 27 and a resolution will be required for a special session to continue work on the Senate plan. The overall population range of the plan is 9.8 percent.

The TEXAS legislature has redrawn the congressional and legislative reapportionment plans. The overall population range for the congressional plan is .28 percent. The population deviation in the House plan is 9.95 percent and in the Senate is 1.81 percent. All three plans are pending approval from the Department of Justice and from the federal court under the case of Terrazas v. Clements. During this session, the Senate passed a resolution authorizing the attorney general to make changes in the Senate plan if the Department of Justice does not drop its objections. The Senate basically accepted the interim Senate plan ordered by the federal court after initial department objections coincided with court action.

WISCONSIN Governor Anthony Earl signed the new legislative redistricting plan into law on July 15, after having vetoed a similar plan passed with the Wisconsin budget bill just two weeks earlier. The overall population range of the Assembly is 1.73 percent, and the population deviation for the Senate

is 1.05 percent. There are rumors of possible court challenges to this latest reapportionment plan, but nothing has been filed to date.

Material for this edition prepared by Candace L. Romig, NCSL

SUMMARY OF STATE LITIGATION ON
CONGRESSIONAL REDISTRICTING AND LEGISLATIVE REAPPORTIONMENT

State	Court Case	Issues	Status
Alabama	Burton v. Hobbie Federal Court (L - 11/5/81)	• Malapportionment • Population equality • Dilution of minority voting strength	U.S. Supreme Court affirmed plan drawn by legislature. (83)
	Boozard v. Hobbie Federal Court (L - 6/21/83)	• Petition to require governor to call primary • Determine if election subject to Sec. 5 preclearance of Voting Rights Act	Pending trial
Alaska	None		
Arizona	Hamilton v. Babbitt Federal Court (C, L - 12/13/81)	• Gerrymandering • Violation of due process • Dilution of minority voting strength	Federal court approved corrected legislative plan per settlement agreement. (4/12/82)
Arkansas	Doulin v. White Federal Court (C)	• Population equality and deviation	Federal court orders court plan. (2/25/82)
	Bizzell v. White Wells v. White State Supreme Court (L - 10/5/81)	• Gerrymandering	State Supreme Court dismissed. (11/2/81)
California	Brown v. Deukmejian State Supreme Court (C, L - 10/25/81)	• Challenges 3 initiatives to prevent plans from going into effect	State Supreme Court upholds all 3 initiatives. (1/28/82)
	Vadham v. Eu Federal Court (C - 2/83)	• Population deviation • Authority of Secretary of State to make technical corrections to plan	Court of Appeals orders federal court to proceed on the merits of the case. (7/11/83)
	Richardson v. Eu Federal Court (L - 2/82)	• Numbering of Senate districts with regard to staggered terms	Federal Court dismissed case. (10/18/82)
	Chavez v. Eu Federal Court (L)	• Numbering of Senate districts with regard to staggered terms	Federal Court dismissed case. (5/82)
	Mallowell v. Eu Federal Court (L - 2/82)	• Malapportionment	Pending trial
Colorado	Carstens v. Lamm Federal Court (C - 10/8/81)	• Proposed to break stalemate through judicial intervention	Federal Court orders court plan. (1/25/82)
	Kallenburger v. Buchanan State District Court (L - 6/82)	• Vacancy election • Deferred vote of electorate	State Supreme Court orders election to be held using 1982 senatorial boundary. (9/82)

State	Court Case	Issues	Status
Connecticut	Logan v. O'Neill State Superior Court (C, L - 10/81)	• Municipal boundary splits • Constitutionality of backup commission • Method of devising districts	State Supreme Court upheld plans. (8/3/82)
Delaware	None		
Florida	Bucniconti v. Firestone Federal Court (C)	• To stop Secretary of State from conducting elections • Sought redistricting deadline of 3/29, after which court to enact plan	Federal Court dismissed case. (6/28/82)
	Clem v. Haben Federal Court (C - 6/23/82)	• County and municipal boundary splits	Federal Court upheld plan. (9/3/82)
	In re Apportionment Law (SJR 1E) 414 So. 2d 1040 (1982) (L)		State Supreme Court reviewed plan as provided by law.
Georgia	Busbee v. Smith Federal Court (C)	• Contested objection by Department of Justice	Federal Court upheld Justice objection (7/22/82); approves plan (8/24/82).
Hawaii	Travis v. King Federal Court (C, L)	• Malapportionment • Gerrymandering • Registered voter population base used as formula	Federal Court approved masters' plan [illegible]; state directed to draw new plan (6/17/82).
Idaho	Budge v. Cenarrusa Federal Court (L - 3/82)	• Proposed to break stalemate through judicial intervention	Federal Court dismissed after legislature and governor agreed on plan.
	Miller v. Cenarrusa State District Court (L - 5/82)	• County boundary splits • Request to enjoin general election	Supreme Court remands case to district court to try case on merits. (6/7/83)
Illinois	In Re Illinois Congressional Districts Reapportionment Cases Federal Court (C - 7/1/81)	• Congressional redistricting not complete	U.S. Supreme Court affirmed court plan (1/11/82)
	Schrage and Wolf v. State Board of Elections State Supreme Court (L - 10/19/81)	• Violation of compactness criteria of state constitution • Petition court to approve plan	State Supreme Court upheld map with changes to conform to compactness criteria
	Rybicki v. State Board of Elections State Supreme Court (L - 10/27/81)	• Dilution of minority voting strength • Municipal and county boundary splits	State Supreme Court approves commission plan as amended with regard to population variance (1/12/82); amended to conform to 1982 amendments to Voting Rights Act (1/21/83).
Indiana	Orr v. Baldridge Federal Court (C - 5/6/81)	• Challenges census procedures resulting in the loss of one congressional seat	Pending decision

State	Court Case	Issues	Status
Indiana	Sandemer v. Davis Federal Court (L - 1/12/82)	• Political gerrymandering • Request injunction to prevent plan from going into effect • Dilution of minority voting strength in multimember districts • Incongruent legislative and congressional districts • Districts inconsistent with communities of interest	Pending trial
	Garton v. O'Bannon Federal Court (L)		Federal Court dismissed case. (8/24/81)
Iowa	None		
Kansas	O'Sullivan v. Brier Federal Court (C - 4/23/82)	• Requests court to draw plan	Federal Court ordered court plan.
Kentucky	None		
Louisiana	Major v. Treen Federal Court (C, L - 3/25/82)	• Dilution of minority voting strength	Pending decision
Maine	None		
Maryland	Wiser v. Hughes State Court of Appeals (L - 3/3/82)	• Communities of interest • Natural boundaries • Political boundaries • Compactness • Dilution of minority voting strength • Partisan gerrymandering	State Court of Appeals upheld enacted plan (6/4/82) U.S. Supreme Court refused to hear case for want of substantial federal question.
Massachusetts	None		
Michigan	Apperstrand v. Austin Federal Court (C)	• Violation of one-person, one-vote because new districts not drawn	Federal Court ordered court plan. (5/24/82)
	In Re Apportionment of State Legislatures State Supreme Court (L - 1/82)	• Requests court to assume jurisdiction for reapportionment	State Supreme Court declared reapportionment statutes unconstitutional (3/25/82); interim plan approved as drawn by special master (5/21/82); U.S. Supreme Court refuses to hear case (10/12/82).
Minnesota	Orwoll v. Lacomb and Growe U.S. Supreme Court (C)	• Challenge to court plan on basis lower court exceeded its authority in drawing plans ignoring overriding state policy	U.S. Supreme Court affirms court plan (5/13/82)
	Lacomb v. Growe Federal Court (C, L - 3/25/81	• Requests deadlines for redistricting and reapportionment	Federal Court ordered court plans. (3/11/82)
Mississippi	Mississippi v. Smith Federal Court (C - 4/7/82)	• Contested objection by Department of Justice	Federal Court upheld department's objection. (8/28/82)

State	Court Case	Issues	Status
Mississippi	Brooks v. Winter Federal Court (C)	• Requests judicial intervention in redistricting • Delay of primary election • Dilution of minority voting strength	Federal Court ordered court plan (6/8/82); U.S. Supreme Court remanded case to federal court for reconsideration under Sec. 2 of the Voting Rights Act (5/16/83).
Missouri	Schatzle v. Kirkpatrick Federal Court (C)	• Requests court to assume jurisdiction over redistricting process	U.S. Supreme Court affirmed court plan (6/17/82)
Montana	Manning v. Montana Districting and Apportionment Commission State Supreme Court (C, L - 12/22/82)	• Requests injunction on commission plan • Challenges the constitutionality of the commission: reapportionment should be done by legislators	State Supreme Court dismissed case as moot. (4/7/83)
	McBride v. Waltermire Federal Court (L - 3/11/83)	• Population deviation • Violation by commission of its own criteria, i.e. maintenance of communities of interest, county boundaries, compactness, contiguity	Pending trial August 10, 1983
Nebraska	None		
Nevada	None		
New Hampshire	Gover v. Gardner Federal Court (L - 5/17/82)	• Challenge to House plan	Federal Court upheld enacted House plan and appeal dismissed. (8/27/82)
New Jersey	Karcher v. Daggett Federal Court (C)	• Population deviation • Legislative procedure	U.S. Supreme Court declares plan unconstitutional. (6/22/83)
New Mexico	Sanchez v. King Federal Court (L - 1/82)	• Dilution of minority voting strength • Compactness • Contiguity • Court to assume jurisdiction	Federal panel declares eligible voter population case unconstitutional and postpones primary (4/2/82); U.S. Supreme Court reinstates primary for nonlegislative candidates (4/23/82) Pending hearing by federal panel on unresolved issues.
	Apodaca v. King State Supreme Court (L - 7/6/82)	• One senator's term regarding 1982 elections	State Supreme Court ruled senator didn't have to run. (8/82)
New York	Flateau v. Anderson Federal Court (C, L - 2/82)	• Population deviation • Dilution of minority voting strength • Violation of the Voting Rights Act	Federal Court approves plans accepted by the legislature. (7/8/82)
	Bay Ridge Community Council v. Carey State Supreme Court (L - 8/25/82)	• Violation of state constitution on basis of compactness, contiguity, and convenience. • Request to enjoin state from holding elections	State Supreme Court declares plan unconstitutional (8/31/82); case appealed to the Court of Appeals:

State	Court Case	Issues	Status
New York	Bay Ridge (cont.)	• County boundary splits • Dilution of minority voting strength • Violation of communities of interest • Political gerrymandering	case transferred to the Appellate Division (1/13/83).
	Montano v. Carey Federal Court (L - 6/17/82)	• Incorporated allegations set out in Plateau • Improper interference with election schedule • Violation of the Voting Rights Act	Federal Court upheld plan (7/7/82); U.S. Supreme Court denied stay of order (7/23/82); Federal Court ordered action discontinued because moot (1/13/83).
	Mirrione v. Anderson Federal Court (L - 11/12/82)	• Dilution of minority voting strength • Violation of Voting Rights Act • Alleged that legislators acted contrary to their responsibility to constituents costing taxpayers under expense • Protection of communities of interest	Federal Court dismissed case (12/3/82); pending decision of U.S. Court of Appeals (4/27/83).
North Carolina	Gingles v. Edmisten Federal Court (C, L)	• Population deviation • Dilution of minority voting strength • County boundary splits • Single-member districts	Federal Court cross congressional charges (5/82); pending trial in summer of 1983.
North Dakota	None		
Ohio	Flanagan v. Gillmor Federal Court (C)	• Requests court to assume jurisdiction for redistricting • Population deviation • Dilution of minority voting strength • Political gerrymandering	Federal panel: all charges dismissed except population deviation pending decision in New Jersey case (8/25/82); case still pending.
	Laurence v. Rhodes Federal Court (L - 9/10/81)	• Requests injunction for plan because it gerrymandered against Republicans	Federal Court: suit dropped.
Oklahoma	None		
Oregon	Caroo v. Paulus State Supreme Court (L - 10/80)	• All senators to be elected in 1982 • Municipal boundary splits • Authority of Secretary of State to assign senators to specific districts challenged	State Supreme Court declares plan unconstitutional (9/23/81); court upholds Secretary of State's plan (10/27/81).
Pennsylvania	In Re: Pennsylvania Congressional Districts Reapportionment Cases Federal Court (C - 2/15/82)	• Alleges congressional plan is unconstitutional • Requests court to delay primary • Population deviation • Requests court to assume jurisdiction	U.S. Supreme Court affirms 3-judge federal panel which affirmed plan drawn by legislature. (7/6/83)
	Hispanic Coalition on Reapportionment v. Legislative Reapportionment Commission Federal Court (L - 1/28/82)	• Dilution of minority voting strength	U.S. Supreme Court upheld commission plan. (2/24/82)

State	Court Case	Issues	Status
Rhode Island	Licht v. State of Rhode Island and Providence Plantations State Superior Court (L - 4/82)	• Challenges validity of Senate plan	State Superior Court ordered legislature to redraw plan. (6/3/82)
	Holmes v. State of Rhode Island State Superior Court (L - 4/82)	• Challenges validity of House plan	State Superior Court upheld House plan. (10/29/82)
	Farnum v. State of Rhode Island Federal Court (L - 8/7/82)	• Challenges 1974 Senate District lines imposed for 1982 elections by legislature	Federal Court declares 1974 Senate districts invalid. (1/10/83)
South Carolina	NAACP v. Riley Federal Court (C - 10/14/81)	• Denial of equal protection under the law • Dilution of minority voting strength • Violation of Voting Rights Act • Population deviation • Failure of legislature to complete redistricting	Federal court ordered plan proposed by the House implemented with minor [illegible] (3/8/82); U.S. Supreme Court upheld the court plan (11/23/82).
South Dakota	O'Connor v. Kundert Federal Court (L - 7/2/81)	• Multi-member districts	Federal Court dismissed case as moot due to adoption of single-member district plan. (1/7/82)
	Twinnereim v. Kundert State Supreme Court (L - 7/29/81)	• County boundary splits	State Supreme Court refused to hear the case. (8/14/81)
Tennessee	Lockert v. Crowell State District Court (L)	• County boundary splits in Senate plan	State Supreme Court overturned lower court decision and upheld Senate plan. (3/30/82)
Texas	Seamon v. Clements Federal Court (C)	• Dilution of minority voting strength	Federal Court ordered an interim plan for 1982 elections. (2/27/82)
	Terrazas v. Clements Federal Court (L)	• Dilution of minority voting strength • Population deviation • Disruption of the election process • Violation of Voting Rights Act	Federal Court redrew legislative plan for 1982 elections. (3/5/82)
Utah	Dmitrich v. Monson State Supreme Court (L - 1/29/82)	• Representation in districts with holdover senators	State Supreme Court rejected motion.
	Rawson and Wiese v. State of Utah State District Court (L)	• Provisions regarding holdover senators	District court granted summary judgment and dismissed case. (4/82)
Vermont	Petition for Review of Apportionment Bill State Supreme Court (L)	• County and municipal boundary splits	State Supreme Court dismissed cases. (5/17/82)

State	Court Case	Issues	Status
Virginia	Cosner v. Dalton Federal Court (L)	• Contest House plan in nine cases • Dilution of minority voting strength • County boundary splits • Population deviation	Federal Court declared House plan unconstitutional, orders elections to be held 1981, 1982, 1983 (8/28/81); court upheld House plan as redrawn (8/21/82).
	Cline v. Robb Federal Court (L)	• Suit brought on behalf of counties who objected to being split into single-member districts in the House	Federal Court upheld House plan. (9/10/82)
Washington	Doch v. Munro Federal Court (C)	• Population deviation • Violation of criterion of communities of interest	Federal Court declared plan unconstitutional because of population deviation. (11/82)
	Republican State Committee and Dunn v. Munro Federal Court (C, L - 6/18/81)	• Plaintiffs asked for advisory opinion issuing a declaratory judgment upholding the constitutionality of the legislative plan	Case settled out of court. (1/82)
West Virginia	Brookover v. Manchin Federal Court (C)	• Requests court to compel legislature to complete redistricting	Federal Court approved plan drawn by legislature. (2/22/82)
	Moses v. Rockefeller Federal Court (L - 2/4/82)	• Requested court to require legislature to draw plan • Violation of population equality requirements	Federal Court accepted enacted plan. (3/25/82)
Wisconsin	AFL-CIO v. State Elections Board Federal Court (C, L)	• Present apportionment is unconstitutional • Request that court enjoin elections until valid plans are in effect	Federal Court ordered a court plan with minor corrections until valid constitutional plan enacted by law. (6/17/82) Congressional plan challenge dismissed April 2, 1982.
Wyoming	Brown v. Thomson Federal Court (L - 10/2/81)	• Dilution of voter strength • Population deviation	U.S. Supreme Court upheld legislative plan. (6/22/83)

C - Challenge to congressional plan.
L - Challenge to legislative plan.

Dates in parentheses with challenge designation signifies when case was initially filed.

Prepared by the National Conference of State Legislatures, July 22, 1983.

ALASKA LEGISLATIVE COUNCIL

LEGISLATIVE AFFAIRS AGENCY

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LEGISLATIVE APPORTIONMENT

IN ALASKA

Historical and Future Considerations

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NOVEMBER 1966

LEGISLATIVE APPORTIONMENT

IN ALASKA

Historical and Future Considerations

Prepared by the

LEGISLATIVE AFFAIRS AGENCY

Fifth State Legislature

November 1966

Alaska Legislative Council
Legislative Affairs Agency

Pouch Y, State Capitol
Juneau, Alaska

FOREWORD

Senate Concurrent Resolution No. 39 was passed by the last legislature because the Superior Court, on April 11, 1966, in Nolan et al v. Wade,/1 directed that a constitutional convention be held or constitutional amendments be proposed by the legislature and ratified by the people before December 1, 1967, the amendment to provide for a valid reapportionment of the state Senate in conformity with the rulings of the U.S. Supreme Court. The resolution directed the Legislative Council to gather "information on all facets of the matter of legislative reapportionment to the end that the 1967 session of the legislature may have all the necessary data and alternatives on hand for consideration when preparing amendments to the state constitution regarding legislative apportionment" in conformity with the opinion in Nolan et al v. Wade.

Nolan et al v. Wade was appealed to the state Supreme Court and, as will be discussed in detail in this study, the Supreme Court almost entirely overturned the decision of the Superior Court. The Supreme Court declared the Governor's Proclamation of Reapportionment and Redistricting valid and the 1966 elections have been held under that proclamation. Therefore, the stated purpose for SCR 39 no longer exists since there is no need for a constitutional amendment by December 1, 1967. As a consequence, it was questionable whether the staff should proceed with this study. It was concluded that reapportionment will conti to be of interest to the legislature since the constitut will eventually have to be amended to conform to the fede and state decisions even though it need not be done in 19t

This study will cover the history of legislative apportionment in Alaska from the Organic Act of 1912 through the November 1966 elections, the federal and state cases on reapportionment, and possibilities for future action on this subject.

John C. Doyle
Executive Director

Juneau, Alaska
November 1967

/1 Memorandum Opinion, Civil Action No. 66-30 Superior Court for the State of Alaska, First Judicial District

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APPENDICES

I. HISTORY OF LEGISLATIVE APPORTIONMENT IN ALASKA/1

The Territory of Alaska was first given legislative authority of its own in 1912 in the Organic Act of 1912 (37 Stat. 513). This Act provided for a bicameral legislature consisting of a House of Representatives of sixteen members and a Senate of eight members. For thirty-two years two senators and four representatives were elected at-large from the four judicial divisions into which the territory was divided, and the remaining seats were divided equally among the four divisions. By a 1942 amendment to the Organic Act (56 Stat. 1016), effective for the election of 1944, the Senate was increased to a membership of sixteen and the house to a membership of 24, the latter apportioned on the basis of estimated civilian population. The 1942 Act also provided for reapportionment of seats by the United States Director of the Census after the 1950 decennial census, and the territorial legislature was authorized to provide for legislative districting within the judicial divisions.

In 1951 the director of the census reapportioned the House seats on the basis of the civilian population reported in the 1950 census, with the following results:

Judicial Division	Apportionment 1944 - 1951	Apportionment 1952 - 1958
First	8	6
Second	4	3
Third	7	10
Fourth	5	5
	24	24

The apportionment and districting for the election of fifty-five delegates to the constitutional convention of 1955-1956 anticipated the provisions of the Alaska constitution on that point. The twenty-two election districts were of three types:

(1) The seventeen one-member districts were based on existing districts or combinations of those districts.

(2) Each of the four judicial divisions constituted a multimember district, as follows: First Division 7; Second Division 4; Third Division 12; and Fourth Division 8.

/1 "Reapportionment" by Robert B. McKay, 1965

(3) The territory as a whole constituted one district from which seven delegates-at-large were elected.

Alaska was admitted to statehood by proclamation dated January 3, 1959, on the basis of the constitution drafted in the 1955 constitutional convention. Under the constitution the Alaska legislature was divided into a House of Representatives of forty members and a senate of twenty. /2 Reapportionment is an executive function to be performed by the governor immediately following each United States decennial census. /3 The governor can appoint a reapportionment board of five members to act in an advisory capacity, which must include one member from each of the four senate districts. /4 The board must submit a report to the governor within ninety days following the official reporting of each census, and the governor must, by proclamation, reapportion or redistrict within ninety days thereafter. /5 Any qualified voter may apply to the Superior Court to compel the governor "by mandamus or otherwise" to perform his reapportionment duties. /6

Under the constitution, apportionment of the House is primarily by population. "Reapportionment shall be by the method of equal proportions." /7 Originally the state was divided into twenty-four election districts. /8 Then the total civilian population was divided by forty and "each election district having the major fraction of the quotient obtained" was allotted one representative. /9 If "the total civilian population of any election district falls below one-half of the quotient," provision is made for attaching the district to another election district "within its senate district, and the reapportionment for the new district shall be determined as provided in Section 4 of this article." /10 After publication of the 1960 census results, the governor accepted the recommendations of his advisory board on apportionment and reduced the number of districts to nineteen, thereby meeting more nearly the population standard fixed in Article VI, Section 4.

Apportionment of the Senate is a combination of area and population, with the emphasis on area. The state was

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/2 Alaska Constitution, Art. II, Sec. 1
/3 Ibid., Art. VI, Sec. 3
/4 Ibid., Art. VI, Sec. 8
/5 Ibid., Art. VI, Sec. 10
/6 Ibid., Art. VI, Sec. 11
/7 Ibid., Art. VI, Sec. 4
/8 Ibid., Art. XIV, Sec. 1
/9 Ibid., Art. VI, Sec. 4
/10 Ibid., Art. VI, Sec. 5

originally divided into sixteen senate districts, /11 which were continued in the 1961 reapportionment.

The governor is allowed to change the size and area of election districts, but each district must "be formed of contiguous and compact territory containing as nearly as practical a relatively integrated socio-economic area. Each shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible." /12 Senate districts may be modified to reflect changes in election districts. /13

The report of the commitee on suffrage, elections, and apportionment to the Alaska Constitutional Convention stated in a letter of December 17, 1955, to the president of the convention that "These (election) districts are economic units of the Territory and may be compared in a sense to Swiss cantons. Their boundaries are watersheds wherever possible; waterways and steamship routes are not used as boundaries, but are considered as highways piercing valleys."

In view of the 1964 U.S. Supreme Court decisions discussed later in this study, it was obvious that Alaska must reapportion its state Senate. There was a population disparity of nineteen to one in the Senate and 2.5 to one in the House. In August 1964 the state attorney general advised the governor that he had authority to reapportion the state Senate. The governor then called the Advisory Reapportionment Board into session. That board submitted its report to the governor in September 1964. In March 1965 the governor reconvened the board for additional study and it submitted its second report to the governor on June 4, 1965. /14 On September 3, 1965, the governor issued a "Proclamation of Reapportionment and Redistricting" /15 which reapportioned the state Senate, to be effective for the 1966 election. The new reapportionment plan was designed to satisfy the equal-population principle. Each of the eleven senate districts (composed of one to two election districts) was given one senator except Anchorage (seven) and Fairbanks (four). No change was made in the house districts as promulgated in 1961. On February 21, 1966, fifteen state senators applied to the

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/11 Ibid., Art. XIV, Sec. 2
/12 Ibid., Art. VI, Sec. 6
/13 Ibid., Art. VI, Sec. 7
/14 Appendix "A"
/15 Appendix "B"

Superior Court for the First Judicial District in Juneau for a permanent injunction to prohibit the secretary of state from conducting an election under the governor's proclamation. Both sides eventually moved for a summary judgment and they agreed that Section 2, Article XIV of the Alaska Constitution was invalid under the equal protection clause of the Fourteenth Amendment of the Constitution of the United States. The basic issue was the validity of the governor's Proclamation of Reapportionment and Redistricting.

On April 18, 1966, the Superior Court declared the governor's proclamation null and void. The court retained jurisdiction, providing that if a valid constitutional amendment modifying the state Senate apportionment was not adopted by December 1, 1967, the court would issue the necessary orders to insure that the 1968 election would be held under an apportionment plan consistent with the decisions of the U.S. Supreme Court.

The case was appealed to the Alaska Supreme Court which held that the governor and the reapportionment board had implied power under the constitution to reapportion the Senate on an interim basis. The validity of the reapportionment plan set out in the proclamation was not questioned with respect to the requirements of the equal protection clause of the Fourteenth Amendment so the court did not discuss that matter. The court delcared the governor's reapportionment plan effective for the 1966 elections and "thereafter until the Alaska Constitution has been amended to provide a valid, permanent reapportionment plan for the Senate."

The 1966 elections have been held under the governor's proclamation as decreed by the state Supreme Court. The legislature may now wish to prepare consitutional amendments relating to reapportionment of the legislature or have a constitutional convention consider this problem. Scheduling factors in proposing and adopting constitutional changes are discussed in part VI of this study.

II. IMPORTANT APPORTIONMENT CASES IN THE U. S. SUPREME COURT

BAKER v. CARR, 369 U.S. 186 (1962)

> "This civil action was brought under 42 U.S.C. secs. 1983 and 1988 to redress the alleged deprivation of federal constitutional rights. The complaint, alleging that by means of a 1901 statute of Tennessee apportioning the members of the General Assembly among the State's 95 counties, 'these plaintiffs and others similarly situated, are denied the equal protection of the laws accorded them by the Fourteenth Amendment to the Constitution of the United States by virtue of the debasement of their votes' was dismissed by a three-judge court convened under 28 U.S.C. sec. 2281 in the Middle District of Tennessee. The court held it lacked jurisdiction of the subject matter and also that no claim was stated upon which relief could be granted. 179 F.Supp. 824. We noted probable jurisdiction of the appeal. 364 U.S. 898. We hold that the dismissal was error, and remand the cause to the District Court for trial and further proceedings consistent with this opinion." 369 U.S. at 187.

The court held only "(a) that the court possessed jurisdiction of the subject matter; (b) that a justiciable cause of action is stated upon which appellants would be entitled to appropriate relief; and (c) because appellees raise the issue before this court, that the appellants have standing to challenge the Tennessee apportionment statutes."

The court goes on to discuss at considerable length the factors which went into the determination of these three matters. In discussing the "justiciability" of the question presented, the court said:

> "We understand the District Court to have read the cited cases as compelling the conclusion that since the appellants sought to have a legislative apportionment held unconstitutional, their suit presented a 'political question' and was therefore nonjusticiable. We hold that this challenge to an apportionment presents no nonjusticiable 'political question.' The cited cases do not hold the contrary."

WESBERRY v. SANDERS, 376 U.S. 1 (1964)

This case, while dealing with state establishment of districts for the election of representatives to the federal Congress, contains a worthwhile discussion of the history of the Great Compromise, by which agreement was reached on having the population represented in one house and the states represented in the other. This matter is important because of the argument which the Supreme Court subsequently makes that the "Federal analogy" is false as applied to state legislatures.

REYNOLDS v. SIMS, 377 U.S. 533 (1964)

> "On August 26, 1961, the original plaintiffs...filed a complaint in their own behalf and on behalf of all similarly situated Alabama voters, challenging the apportionment of the Alabama legislature.... The complaint alleged a deprivation of rights under the Alabama Constitution and under the Equal Protection Clause of the Fourteenth Amendment, and asserted that the District Court had jurisdiction under provisions of the Civil Rights Act, 42 U.S.C. secs. 1983, 1988, as well as under 28 U.S.C. sec. 1343(3)." 32 LW at 4535.
>
> "Plaintiffs below alleged that the last apportionment of the Alabama Legislature was based on the 1900 federal census, despite the requirement of the State Constitution that the legislature be reapportioned decennially. They asserted that, since the population growth in the State from 1900 to 1960 had been uneven, Jefferson and other counties were now victims of serious discrimination with respect to the allocation of legislative representation. As a result of the failure of the legislature to reapportion itself, plaintiffs asserted, they were denied 'equal suffrage in free and equal elections...and the equal protection of the laws' in violation of the Alabama Constitution and the Fourteenth Amendment to the Federal Constitution." 32 LW at 4536.

They showed that the history of the situation clearly demonstrated that there was no relief available to them except through the District Court. Plaintiffs sought a declaration of the unconstitutionality of the existing apportionment, an injunction against the holding of further elections without reapportionment, and a mandatory injunction requiring that the 1962 elections be held at large.

The District Court initially declined to stay the impending primary election in Alabama, and refrained from acting until the Alabama legislature has been given an opportunity to remedy the admitted discrepancies in the state's legislative apportionment scheme. After the Alabama legislature had failed to act effectively, the court ordered into effect a reapportionment using the best parts of two proposed plans. The District Court recognized that its own plan was only provisional, and would not be acceptable as a permanent apportionment. The District Court then retained jurisdiction while deferring a hearing in the issuance of a final injunction in order to give the provisionally reapportioned legislature an opportunity to act effectively.

Upon review, the Supreme Court approved the actions of the District Court, holding that:

> "...as a basic constitutional standard, the Equal Protection Clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the State."

It also found that the "federal analogy" [see Wesberry v. Sanders, supra] was inapplicable, since there has never been a question of subordinate units of state government surrendering, as did the original 13 States, a portion of their sovereignty in order "to form a more perfect Union."

The court qualified its remarks by stating that "mathematical exactness" was not required, but that a state would have to make "an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable." The court also felt that a reasonable plan for periodic reapportionment is acceptable, and specifically approved the decennial reapportionment prescribed in forty-one states.

Finally, the court remarked:

> "...legislative reapportionment is primarily a matter for legislative consideration and determination, and that judicial relief becomes appropriate only when a legislature fails to reapportion according to federal constitutional requisites in a timely fashion after having had an adequate opportunity to do so."

WMCA, INC. v. LOMENZO, 377 U.S. 633 (1964)

This action was similar in nature to that in Reynolds v. Sims, supra, and challenged the constitutional validity under the Fourteenth Amendment to the federal constitution of the apportionment of seats in the New York legislature. The District Court had initially found "want of justiciability," and dismissed the complaint. Baker v. Carr, supra, having been decided during the pendency of appeal from dismissal, the Supreme Court remanded the case for reconsideration by the District Court in the light of that opinion. The District Court subsequently dismissed the complaint on the merits, finding that the plaintiffs had not shown any invidious discrimination, that the New York Constitution's apportionment provisions were rational, that they were of historical origin and contained no improper geographical discrimination, and that the provisions could be amended by an electoral majority of the citizens of New York.

The Supreme Court, after a detailed examination of the New York scheme of apportionment, found that there was in fact an invidious discrimination against the voters in the more populous districts, as to both houses, and that there was no political remedy and remanded the case to the District Court to determine what relief was available, and when it should be made available to the plaintiffs. /16

LUCAS v. FORTY-FOURTH GENERAL ASSEMBLY OF COLORADO, 377 U.S. 713 (1964)

This case arose on appeal from a District Court decision upholding the validity of the apportionment of seats in the Colorado legislature pursuant to a constitutional amendment approved by the Colorado electorate in 1962.

The Supreme Court noted several features which rendered this case different from the other cases decided on the same date. First, at least one house of the Colorado legislature is at least arguably apportioned according to a population basis. Second, the scheme of apportionment question in the case is one which was adopted by a majority vote of the Colorado electorate at a recent date. Third, in Colorado there is an initiative to propose a constitutional amendment, which requires a percentage of the electorate to sign a petition without regard for the geographical distribution of the petitioners.

/16 For current status of legislative reapportionment in any state, see Appendix "C".

The court found the second and third features unpersuasive as arguments for the constitutionality of the scheme. It said:

> "Except as an interim remedial procedure justifying a court in staying its hand temporarily, we find no significance in the fact that a nonjudicial, political remedy may be available for the effectuation of asserted rights to equal representation in a state legislature. Courts sit to adjudicate controversies involving alleged denials of constitutional rights. While a court sitting as a court of equity might be justified in temporarily refraining from the issuance of injunctive relief in an apportionment case in order to allow for resort to an available political remedy, such as initiative and referendum, individual constitutional rights cannot be deprived, or denied judicial effectuation, because of the existence of a nonjudicial remedy through which relief against the alleged malapportionment, which the individual voters seek, might be achieved. An individual's constitutionally protected right to cast an equally weighted vote cannot be denied even by a vote of a majority of State's electorate, if the apportionment scheme adopted by the voters fails to measure up to the requirements of the Equal Protection Clause."

The case was remanded to the District Court to determine whether the imminence of the 1964 primary and general elections required the use of one of the schemes attacked, or whether appellants' rights to cast adequately weighted votes could be effectuated in 1964. /17

MARYLAND COMMITTEE FOR FAIR REPRESENTATION v. TAWES, 377 U.S. 656 (1964)

This case arose under circumstances similar to Reynolds, supra. It adds to case law insofar as it describes the principle that the Supreme Court must of necessity consider the entire apportionment scheme of a legislature, and cannot be restricted, regardless of scope of consideration in inferior courts, to examining the apportionment in one house only. The Supreme Court further makes it clear that while it highly approves of state court attempts to deal with apportionment problems, these courts must apply federal constitutional standards.

/17 For current status of legislative reapportionment in any state, see Appendix "C".

The court remanded the case to the Maryland Court of Appeals with instructions to ensure that election of members to the Maryland legislature in 1966 was conducted in accordance with a constitutional apportionment scheme, noting that there appeared to be adequate time for the legislature to reapportion itself. /18

DAVIS v. MANN, 377 U.S. 678 (1964)

This case arose in much the same way as Reynolds, supra. The District Court found for the plaintiffs, and declared that the challenged 1962 apportionment scheme violated the Equal Protection Clause and accordingly was void and of no effect. Defendants were enjoined from proceeding under the 1962 plan, but operation of the injunction was stayed until the general assembly could act or appeal could be taken to the Supreme Court. After a characteristic examination of the facts surrounding the particular plan of apportionment, the court found that it was violative of the federal constitution and that no adequate political remedy for the malapportionment existed. While noting that the situation in Virginia is different from that in Alabama, since the Virginia legislature has consistently reapportioned itself every ten years as required by the Virginia constitution, the court found that significant uncorrected malapportionment existed, and affirmed the decision of the District Court with the understanding that the District Court would provide plaintiffs with suitable equitable relief should the Virginia legislature itself fail to act to correct the constitutional defects before the 1965 elections. /18

ROMAN v. SINCOCK, 377 U.S. 695 (1964)

Again similar in nature to the suit in Reynolds, supra. Plaintiffs here asked the District Court for relief from malapportionment in the Delaware legislature. Relief sought included a declaration that the apportionment section of the Delaware constitution was unconstitutional, an injunction to prevent further elections from being held under it, and, alternatively, a reapportionment by the court or a direction that the November 1962 elections be held on an at-large basis.

The District Court refused to interfere with the November 1962 elections, and the legislature elected approved, in January 1963, a constitutional amendment to the legislative

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/18 For current status of legislative reapportionment in any state, see Appendix "C".

apportionment provisions of the constitution. After trial of the suit, the District Court found that the apportionment both before and after the 1963 amendment resulted in the debasement of certain votes, and gave the general assembly until October 1, 1963, to reapportion itself in accordance with the Fourteenth Amendment. The District Court, having evidence of an apparent intention on the part of state officials not to comply with its instructions, enjoined the holding of any elections under the existing plans. This injunction was stayed by a Supreme Court justice pending outcome of the appeal.

The Supreme Court reviewed the facts of the Delaware situation and found the plan in force in Delaware to be unconstitutional. It affirmed the District Court's decision, and left it up to the District Court to determine.

> "...whether it would be advisable, so as to avoid a possible disruption of state election processes and permit additional time for the Delaware Legislature to adopt a constitutionally valid apportionment scheme, to allow the 1964 election of Delaware legislators to be conducted pursuant to the provisions of the 1963 constitutional amendments, or whether those factors are insufficient to justify any further delay in the effectuation of appellants' constitutional rights." 32 LW 4588. [N.B. It appears that "appellants" in the preceding quote should read "appellees."]

The court approved the manner in which the District Court gave the Delaware legislature an opportunity to act, and its deferral of decision until after the November 1962 elections "because of the imminence of that election and the disruptive effect which its decision might have had." Taking exception to the attempt of the District Court to establish a mathematical figure by which constitutionality could be judged, the court said:

> "Rather, the proper judicial approach is to ascertain whether, under the particular circumstances existing in the individual State whose legislative apportionment is at issue, there has been a faithful adherence to a plan of population-based representation, with such minor deviations only as may occur in recognizing certain factors that are free from any taint of arbitrariness or discrimination." /19

/19 For current status of legislative reapportionment in any state, see Appendix "C".

BURNS v. RICHARDSON, __ U.S. __, 16 L ed 2d 376 (1966)

In proceedings challenging the constitutionality of Hawaii's legislative apportionment, the District Court for the District of Hawaii held that provisions of the Hawaii Constitution apportioning the state senate were unconstitutional under the Fourteenth Amendment to the federal constitution, and ordered the legislature to give the electorate an immediate opportunity, in a special election, to authorize a convention for the purpose of amending the state constitution, the court retaining jurisdiction so that it could reapportion the senate if the electorate failed to authorize the convention or if a suitable reapportionment amendment was not adopted by the convention and approved by the electorate. (238 F Supp 468) The court subsequently suspended its order that a special election be held, and ordered the legislature to enact a statute providing, on the basis of the number of registered voters, an interim plan of apportionment of the senate until the next general election. After the legislature enacted an interim senate reapportionment plan, the court disapproved it and ordered immediate resort to a convention, its disapproval of the plan being based upon the failure of the legislature to create single-member senatorial districts instead of using multimember districts. (240 F Supp 724)

On appeal, the U. S. Supreme Court vacated the District Court's orders and remanded the case for further proceedings. In an opinion by Justice Brennan, expressing the view of six members of the court, it was held that the legislature's freedom of choice to devise a reapportionment plan should not have been restricted by the District Court beyond the clear commands of the equal protection clause of the Fourteenth Amendment; that the legislature's use of multimember districts in its interim reapportionment plan was not shown to have constituted invidious discrimination in violation of the constitution; that the use of the number of registered voters as a basis for the interim plan was not shown to have produced a distribution of legislators substantially different from that which would have resulted from the use of a permissible population basis and was not unconstitutional; and that the District Court should adopt the legislature's interim plan, but should retain jurisdiction pending the effectuation of a permanent plan of legislative reapportionment.

Justice Harlan concurred in the result but expressed the view that an earlier Supreme Court decision involving legislative apportionment was constitutionally wrong, and that even under that decision an apportionment plan based on the number of registered voters should be considered permissible regardless of whether it approximates some other kind of a population apportionment.

III. APPORTIONMENT CASES IN ALASKA

NOLAN ET AL v. WADE, Civil Action No. 66-30, Superior Court, First Judicial District, Juneau. Memorandum opinion filed April 11, 1966.

For the first time, in either state or federal courts, the question of whether or not the Alaska State Senate was validly apportioned was raised in the above case. In addition, there was also raised the question of whether or not the governor's Proclamation of Reapportionment and Redistricting issued on September 3, 1965, was a valid exercise of executive authority and if not whether the 1966 elections could be held under the existing constitutional apportionment.

The parties conceded and the court found that the state Senate was invalidly apportioned under the equal protection clause of the Fourteenth Amendment of the U. S. Constitution.

The court held that the governor's proclamation was issued solely under the authority vested in him by Art. VI of the State Constitution, "Legislative Apportionment", and that the State Constitution gives no power to the governor to apportion the Senate. The court then directed that the 1966 elections be held under the existing provisions of the constitution and fixed December 1, 1967, as a reasonable date for enactment and adoption of a valid apportionment of the state Senate by constitutional amendment. The court retained jurisdiction of the case so that if a valid apportionment plan for the state Senate was not timely adopted, it could enter whatever order it considered necessary to permit a valid plan of apportionment to be used in the 1968 elections.

WADE v. NOLAN ET AL, 414 P2d 689 (1966)

The decision of the Superior Court was appealed to the Alaska Supreme Court. The Supreme Court agreed with the Superior Court that the state Senate was unconstitutionally apportioned because under the constitutional apportionment 30.7 per cent of the voters resided in districts which could elect a majority in the Senate.

However, the Supreme Court disagreed with the Superior Court which had held that the governor's reapportionment was invalid. The Supreme Court looked at Article VI of the constitution in detail. The court found that under Article VI reapportionment is an executive function in Alaska. The court looked at decisions from other states in which the question was where the authority lay to reapportion a frozen legislative body

on an interim basis. /20 It concluded that in such cases the courts recognized that the agency having the power of reapportionment could reapportion a "frozen" legislative body on an interim basis although not specifically granted that power by the constitution.

The court said that Article VI of the constitution as a whole and the appropriate convention minutes indicate the pervading purpose and intent of the convention was that reapportionment authority and responsibility be in the governor and the reapportionment board; "it is only reasonable to imply that it would have required the governor to periodically reapportion the Senate had it known that its frozen formula would be declared invalid." The court then held that the governor and the board had the implied power to reapportion the Senate on an interim basis.

/20 Buckley v. Hoff, 243 F Supp 191(D. Vt. 1964); Faubus v. Kinney, 389 S.W.2d 887 (1965); In re Apportionment of Michigan Legislature, 137 N.W.2d 495 (1965)

IV. POSSIBLE DEVIATIONS FROM SUPREME COURT RULE "ONE MAN, ONE VOTE"

It is clear that the principle which must underlie apportionment is "one-man, one-vote" in both houses. It presently appears that the only factor which a state may consider, apart from numbers, is political subdivisions./21 The Supreme Court does not feel that there can be a mathematical standard for testing the constitutionality of apportionment with respect to the permissable variation from the one-man, one-vote standard, but that the state must "make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable." /22 The deviation may be "such minor deviations only as may occur in recognizing certain factors that are free from any taint of arbitrariness or discrimination." /23 It is clear that a state cannot give consideration to geographical considerations or have a variation to insure effective representation for sparsely settled areas as was done in the Alaska Constitution.

One probably minor aspect of determination of equality presented by the language of the Alaska Constitution is the provision of Article VI, Section 3, which provideds that the governor's decennial reapportionment shall be based upon the civilian population. This provision is not without precedent, as approximately the same limitation occurs in Washington. A number of other states have various limitations on the portions of the electorate to be used in apportioning legislative seats. The civilian limitation presents problems in that (1) there are military personnel who are residents of the state and entitled to vote in the state; (2) there is a great disparity in the distribution of military personnel throughout the state; and (3) the ratio of military to civilian personnel in the state is extremely high. In view of the fact that most military personnel stationed in Alaska do not vote here, it is probable that a deletion of the provision would give rise to much greater inequality, but it might be necessary to modify the provision somewhat to include resident military personnel in the apportionment figure. The Supreme Court has said in connection with military personnel, that "discrimination

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/21 Dissent to Reynolds v. Sims by Justice Harlan
/22 Reynolds v. Sims, 377 U.S. 533 (1964)
/23 Roman v. Sincock, 377 U.S. 695 (1964)

against a class of individuals, merely because of the nature of their employment, without more being shown, is constitutionally impermissible." /24

In order to convey some idea of how the Supreme Court in Reynolds v. Sims, supra, and companion cases, and in the cases summarily decided on June 22, 1964, and the U.S. District Courts in cases decided after June 15, 1964, have been handling the situation, the following is a list of the pertinent cases together with the numerical figures describing the disparities alleged to result in invidious discrimination, and the action on the case:

Reynolds v. Sims, Alabama

Constitutional plan in effect since 1901: population-variance ratios of up to 41 - 1 in the Senate, 16 - 1 in the House.

Proposed constitutional amendment: population-variance ratios of up to 59 - 1 in the Senate and 4.7 - 1 in the House.

Crawford-Webb Act (standby legislation to take effect in 1966 if constitutional amendment should fail) population-variance ratios of up to 20 - 1 in the Senate and 5 - 1 in the House.

All rejected: A provisional plan put into effect using parts of the proposed constitutional amendment and part of the Crawford-Webb Act, with an opportunity given to the provisionally reapportioned legislature to adopt a valid permanent scheme.

WMCA v. Lomenzo, New York

1894 Constitution, 1960 census apportionment: maximum population-variance ratio in Senate 3.9 - 1 and in the House 21 - 1.

Case remanded to District Court to determine whether to conduct the election under the old provisions or whether conditions permit redress of the constitutional inequities before the 1964 elections. The state Court of Appeals appointed a five-man bipartisan commission to draw up a valid reapportionment plan by March 14, 1966, after the legislature failed to agree on a plan.

/24 Davis v. Mann, 377 U.S. 678 (1964)

Lucas v. Forty-fourth General Assembly of Colorado

Colorado Constitution as amended in 1962: maximum population-variance ratio is 3.9 - 1 in the Senate and 1.7 - 1 in the House.

Apportionment of the legislature as a whole was rejected, with the court specifically declining to comment upon the population-variance ratio in the House alone. Case remanded to the District Court to determine whether the 1964 elections would have to be conducted under the old scheme or whether appellants' right to cast adequately weighted votes could be effectuated in 1964.

Maryland Committee for Fair Representation v. Tawes

Maryland Constitution: maximum population-variance ratio is 32 - 1 in the Senate and 12 - 1 in the House.

Stopgap legislation in 1962 reapportioned the House so that a maximum population-variance ratio of 6 - 1 continued to exist.

Case remanded to Maryland court with instructions to act only if the legislature should fail to reapportion itself constitutionally.

Davis v. Mann, Virginia

Virginia Code: maximum population-variance ratio is 2.65 - 1 in the Senate and 4.36 - 1 in the House.

Case remanded to the District Court with instructions to exercise its equitable powers only should the Virginia legislature not act to create a constitutionally acceptable plan of apportionment before 1965, the next date of election of Virginia legislators.

Roman v. Sincock, Delaware

Delaware Constitution prior to 1963 constitutional amendment: maximum population-variance ratio of 15 - 1 in the Senate, and 35 - 1 in the House.

After 1963 amendment if effectuated: maximum population-variance ratio in Senate remains the same, reduced in House to 12 - 1.

Case remanded to District Court to determine whether 1964 elections should be held under the terms of the 1963 amendment or whether relief should be granted earlier.

In those cases summarily decided on June 22, 1964, the Supreme Court:

Affirmed Meyers v. Thigpen, 211 F. Supp. 826 (1963) in which it was held that equal protection was not denied by Washington's congressional districting in which the maximum population-variance ratio was 1.5 - 1 and that the District Court has jurisdiction of a legislative apportionment case in which invidious discrimination is alleged, even though Washington voters in 1962 rejected an initiative proposal to reapportion on the basis of population.

Reversed Nolan v. Rhodes, 31 LW 2641 (1963) in which it was held that the provisions of the Ohio Constitution which guarantees each county at least one representative in the lower house does not invidiously discriminate against urban voters proportionally represented in the upper house. (Ohio's maximum population-variance ratio in the lower house is approximately 14 - 1.)

Affirmed Williams v. Moss, 32 LW 2077 (1963) and Oklahoma Farm Bureau v. Moss (same citation) in which judicial reapportionment was held to be available where 1963 legislature had failed to correct malapportionment declared unconstitutional in 1962, even though a constitutional amendment had been proposed which would be placed before the voters in 1964 and would, if approved by the voters, become effective in 1965.

Affirmed Lucas v. Adams (USDC MFla May 22, 1963) in which it was held that no claim was stated on which relief could be granted by a complaint seeking to enjoin enforcement of the 1963 apportionment act on the grounds that the Act invidiously discriminates against residents of more populous counties by giving residents of smaller counties, regardless of population, the right to elect at least one lower house member, while failing to secure to somewhat similar numbers of citizens living in more populous counties the right to elect at least one house member.

Reversed Germano v. Kerner, 220 F. Supp. 230 (1963) which held that Illinois' apportionment of the upper house on a geographical basis did not violate the Fourteenth Amendment so long as the lower house was

apportioned on a population basis. (The maximum population-variance ratio in the Illinois Senate is 10 - 1.)

Reversed Marshall v. Hare (USDC EMich, March 16, 1964) which held that the Fourteenth Amendment was not violated by a provision of the Michigan Constitution which permitted a maximum population-variance of 4 - 1 in the upper house, even though this representation was said to be necessary to assure representation to certain counties.

Reversed Hearne v. Smylie, 225 F. Supp. 355 (1963) which held that (a) the District Court was obliged to dismiss as beyond its capabilities a declaratory judgment suit alleging Idaho's legislative apportionment to be irrational and unconstitutional and (b) owing to its inability to devise an effective remedy for injustices claimed by voters to result from malapportionment of the legislature, the District Court was required to dismiss, for want of equity, a voters' suit to enjoin further elections under Idaho's apportionment statute.

Affirmed Pinney v. Butterworth (USDC Conn. March 26, 1964) in which it was held that voters in larger towns were discriminated against by a limitation in the Connecticut Constitution that every town should have at least one and not more than two representatives in the lower house. (The maximum population-variance ratio in the lower house is 425 - 1.)

Affirmed Hill v. Davis (USDC SIowa, January 14, 1964) in which it was held that Iowa's constitutional provision that each county should have one representative in the upper house and at least one in the lower house was unconstitutional.

William B. Saxbe in "Criteria Established by Court Decisions" /25 concludes:

(1) Each legislator must represent approximately the same number of people. As a rule of thumb, a plan under which districts deviate from the population of the perfect district by no more than fifteen per cent will be

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/25 Reapportioning Legislatures, Chapter 4, Howard D. Hamilton, Editor, 1966.

constitutional, and a plan having districts that exceed this fifteen per cent limit will probably be unconstitutional. /26

(2) An apportionment plan cannot be used for purposes of racial discrimination. Any plan which results in the power of minority groups being split between several districts, or overwhelmed in a multiple member district by a monolithic majority, is likely to be held invalid.

(3) As a strictly legal proposition, it is unclear whether political gerrymandering raises a judicial question, but the interests of good government obviously make gerrymandering an unacceptable practice.

(4) Multiple-member districts are not unconstitutional per se. However, if used for purposes of racial discrimination, they will be unconstitutional. Additionally, if huge blocks of votes are seen in one district it is not likely to meet court approval.

(5) Sitting legislators have no constitutional right to their office. If an attempt to protect such legislators results in an apportionment plan that violates the other guidelines or which would continue in office legislators who were elected under an invalid system, then that plan is unconstitutional.

/26 See chart on the following pages. And see Appendix "E" for 1966 electoral percentages in all states.

CHARTS

SHOWING POPULATION FIGURES

PER HOUSE AND SENATE DISTRICT

and

APPORTIONMENT FORMULA

House District Number	House District Name	1960 Civilian Population	Number of Rep's	Population / Rep's	Senate District	Number of Senators	Population / Senators
1	Ketchikan	11,537	2	5,768	A	1	11,537
2	Wrangell-Petersburg	4,181	1	4,181	B	1	10,786
3	Sitka	6,605	1	6,605			
4	Juneau	9,545	2	4,773	C	1	12,471
5	Lynn Canal	2,926	1	2,926			
6	Cordova-Valdez	3,936	1	3,936	D	1	9,197
7	Palmer-Wasilla	5,261	1	5,261			
8	Anchorage	68,456	14	4,890	E	7	9,780
9	Seward	2,956	1	2,956	F	1	8,646
10	Kenai	5,690	1	5,690			
11	Kodiak	5,367	1	5,367	G	1	8,961
12	Aleutian Islands	3,594	1	3,594			
13	Bristol Bay	3,485	1	3,485	H	1	8,958
15	Yukon-Kuskokwim	5,473	1	5,473			
16	Fairbanks	34,958	7	4,994	I	4	8,740
17	Barrow-Kobuk	5,449	1	5,449	J	1	11,036
18	Nome	5,587	1	5,587			
14 /29	Bethel	5,412	1	5,412	K	1	8,469
19	Wade-Hampton	3,057	1	3,057			
		193,475	40			20	

/29 Bethel is out of numerical order since it is part of Senate District K

FORMULA FOR OBTAINING POPULATION FIGURE REPRESENTED BY EACH LEGISLATIVE SEAT /27

House	Senate
4,837 people should be represented by one legislator (40/ 193,475)	9,674 people should be represented by one legislator (20/ 193,475)
15% variance over 4,837 - 5,563	15% variance over 9,674 - 11,125
15% variance under 4,837 - 4,111	15% variance under 9,674 - 8,223
4,719 (41/ 193,475)	9,213 (21/ 193,475)
15% variance over 4,719 - 5,427	15% variance over 9,213 - 10,595
15% variance under 4,719 - 4,011	15% variance under 9,213 - 7,831

The above figures indicate that although each member of the House should represent 4,837 people, that in fact the representative from House District No. 5 represents only 2,926, while the representative from House District No. 3 represents 6,605.

/27 1960 civilian population of Alaska (193,475) divided by membership of the house.

V. CONSIDERATIONS FOR CONSTITUTIONAL CHANGES

A. Alaska Constitution

Article II

Section 3. An election has been held under the new apportionment scheme, and with the new plan in effect, this section is again appropriate. It is questionable whether any change should be made.

Article VI

Section 3. The Senate as well as the House should be covered by this section. A change may be indicated here in connection with basing the apportionment upon the civilian population. A possible change to bring the section in line with the Supreme Court's expressed view in Davis v. Mann, supra, would be to insert after "civilian" the words "and resident military". This change, if adopted, must also be made in other sections of this article where the phrase appears.

Sections 4 - 7. These sections embody provisions which now will permit the governor to redistrict the House within the requirements of the equal protection clause. It appears, however, that the limitation of section 7 would prohibit him from doing the same for the Senate within the present framework. A number of possible alterations are therefore possible in these sections. Such provisions as prevent the governor from complying with the mandate of the United States Constitution could merely be removed, or alternatively, a section or sections could be substituted for the present sections 4 - 7 which would specifically enunciate the principle of equal representation as a basis for the apportionment of both houses of the legislature.

Section 10. This section provides only for a decennial reapportionment, not for a reapportionment of the kind which has taken place in the 1966 election. Therefore, while the section is sound as a permanent part of the article, it was ignored in order to carry out the present reapportionment. The legislature may want to consider whether any change in the wording is indicated to take care of a similar situation in the future.

Article XIV

Sections 1 and 3. These sections set up the original apportionment schedule for the House and were in effect superseded by the action of the Reapportionment Board and the governor culminating in the reapportionment proclamation of September 3, 1965.

Section 2 is the description of the senatorial districts which will disappear with Senate reapportionment and redistricting.

It appears that Article XIV should be deleted in its entirety since it has served its purpose for the initial apportionment of seats in the first state legislature and no longer rules.

It should be mentioned that there seems to be a procedural question in preparing and voting on this series of amendments. The changes necessary to bring the constitution into conformity with the federal constitution may be several in number, affecting different sections and even articles of the constitution, yet closely related to one another. It would be problematical to regard each change in wording as an independent "amendment" since the integrated plan could be rendered meaningless if one part failed. It is suggested, therefore, that the situation might be simplified by the use of a kind of "one-subject" rule, by which changes proposed would be separated to the extent possible, but changes in different sections which formed part of a plan and would be meaningless independently would be considered a single "amendment" for purposes of proposal and placement on the ballot, and would stand or fall together upon referral to the people.

B. Other Considerations

(1) The number of members in each house. When considering constitutional amendments, it might be well to change the present constitutional provisions for even-numbered membership in each house to an odd number, e.g., a Senate of 19 or 21 members and a House of 39 or 41 members to avoid tied votes.

(2) Use of civilian population as an apportionment basis. Thus far there has been no judicial determination of record as to the constitutionality of using strictly civilian population as a basis for determining apportionment of legislative seats. Most states use total population but variations include using the total population excluding aliens, regular military, and non-tax paying Indians, the number of registered voters,

the number of persons voting in the preceding general election for a certain office (e.g., the governor), and, in Indiana, the male population over 21 years of age. See the discussion in the June 1, 1965, opinion of the state attorney general. /28

(3) Multi-member districts. The Advisory Reapportionment Board recommended that District 8 (Anchorage) be divided into four House Districts and four Senate Districts. The governor, in his proclamation, did not make any changes in the House Districts, and House District 8 remained a multi-member district. The governor designated House District 8 as Senate District E, with the seven senators running at large. The governor gave two reasons for his decision that House District 8 and Senate District E would be multi-member districts. First, Anchorage has traditionally been a multi-member district and secondly, it would be unfair to divide Anchorage into more than one legislative district on the basis of the 1960 census figures because they became obsolete after the 1964 earthquake which resulted in a radical population dislocation. See the discussion in the June 1, 1965, opinion of the state attorney general. /29

(4) Unicameral Legislature. There is evidence of increasing interest in the unicameral legislature idea (Nebraska) since the new requirement for apportionment of both houses on a strict apportionment basis removes the original purpose of a bicameral -- a balance of having one house based mainly on population and the other emphasizing area representation. However, there are many factors to be considered in discussing the relative merits of a bicameral versus a unicameral legislature that go beyond the differences in the basis of apportionment for a bicameral legislature.

/28 Appendix "D"
/29 Idem.

VI. SCHEDULE FACTORS IN PROPOSING AND ADOPTING CONSTITUTIONAL CHANGES IN LEGISLATIVE APPORTIONMENT

1967 — If the 1967 legislature proposed amendments, the proposition would not go on the ballot until August 1968 unless a special election is called for and financed for late 1967 or very early 1968.

1968 — If a regular election schedule is followed, amendments approved by the voters in 1968 would be effective for the 1970 filings and elections.

1970 — Elections could be held under a new apportionment-districting plan. The federal decennial census is reported late in the year. If the census is still the basis, the advisory board or other authority would undoubtedly take into 1971 to come up with a new plan effective for 1972. If no constitutional convention is held in the meantime, the proposition asking for voter opinion on a constitutional convention would go on the November general election ballot. A constitutional convention would devise a plan, subject to ratification, which would become effective for the election year 1972.

Without any legislative action in 1967 - 1968, the normal course of events would bring about decennial reapportionment/redistricting effective for the 1972 filings and election. If the decennial census basis is kept and the legislature proposes a constitutional amendment during 1967 - 1968 and the amendment is approved in 1967 - 1968 by the people, it would be operative for only two years. A convention held during the same period would have the same two-year effect.

A P P E N D I C E S

APPENDIX A

REAPPORTIONMENT ADVISORY BOARD

STATE OF ALASKA

June 4, 1965

The Honorable William A. Egan
Governor of Alaska
Juneau, Alaska

Dear Sir:

The Reapportionment Advisory Board reconvened as a result of your official Proclamation, dated March 6, 1965. The Board has held public hearings on the matter of reapportionment in all of the major regions of the State of Alaska. The schedule of those public hearings was as follows:

Fairbanks	May 10th
Nome	May 11th
Anchorage	May 12th
Juneau	May 13th

In addition the following meetings were held by the Board as part of its program for developing a plan of Reapportionment for submittal to you:

Anchorage	March 22nd and 23rd
Fairbanks	April 9th and 10th
Juneau	May 13th and 14th
Anchorage	June 4th

In developing its program for reapportioning the State Legislature the Board has given due consideration to all the data presently available to it. This consists of the report submitted by the Board on December 10, 1964; the more recent opinions of the Attorney General and their relation to the decisions of the Federal Supreme Court which have become available subsequent to the December report; the hearings held; the personal contacts and observations of the Board Members; and all other relevant matter which has been presented in person, by letter, or other form to the Board for its consideration. On the basis of full and complete discussion of the relevant data and material, the Board unanimously recommends the following plan for Reapportionment and Redistricting of the Alaska State Legislature:

a. All existing House Districts except District No. 8 shall remain as presently constituted and retain their present number of House seats.

b. District No. 8 shall be subdivided into four districts. They shall be titled: Anchorage City, Anchorage North, Anchorage Southeast and Anchorage Southwest. The subdivision shall be in accord with the attached descriptions of the four new districts.

c. Anchorage City District shall have eight House seats and four Senate seats assigned to it with the candidates for these seats running at-large from the Anchorage City District.

Anchorage North District shall have two House seats and one Senate seat with the candidates for these seats running at-large from the Anchorage North District.

Anchorage Southeast District shall have two House seats and one Senate seat assigned to it with the candidates for these seats running at-large from the Anchorage Southeast District.

Anchorage Southwest District shall have two House seats and one Senate seat assigned to it with the candidates for these seats running at-large from the Anchorage Southwest District.

d. The House election Districts shall be renumbered from 1 to 22 and named in accord with the attached Schedule of House Apportionment.

e. The Senate Districts shall be fourteen in number and shall be designated by the letters "A" thru "N" and formed of the House Districts listed on the attached schedule of Senate Apportionment.

f. The terms of office for the Senators from the various Senate Districts shall be as set forth in the attached schedule of Senate Apportionment. In Senate Districts "E" and "L", one half of the Senate seats shall be designated as position "A" and one half designated as position "B" for the purpose of the initial election under this schedule of apportionment to insure that one half of the Senate is elected in each biennial election following the initial election.

The Board again wishes to repeat its recommendation that any future Federal Census be taken with more regard to the requirements of the Alaska State Constitution in the matter of redistricting and reapportioning the State Legislature. The use of enumeration districts encompassing more than 1/400th of the population of the State as well as enumeration districts totally surrounding other enumeration districts creates situations which make redistricting and reapportioning the State extremely difficult.

For your information and review the Board is attaching to this report minutes of the Board Meetings and Public Hearings, copies of correspondence received and marked up maps of the Anchorage area indicating the recommended redistricting of existing Election District No. 8.

Respectfully submitted,

Victor D. Toner, Chairman

Irene Ryan

Edward M. Cox

Florence Lancashire

Doris Wilke

ANCHORAGE - CITY AREA

Being that area used in the 1960 Census as the Anchorage City Area and more particularly described as follows:

Beginning at a point on the southerly boundary line of Section 22, T13NR4W, S.M., approximately 1800' west of the easterly boundary line of Section 22; thence east along the southerly boundary line of Section 22 and the centerline of Northern Lights Boulevard to the centerline of Minnesota Drive; thence south along the centerline of Minnesota Drive to the southerly boundary of the Martin Manor Subdivision; thence east along the southerly boundary of the Martin Manor Subdivision to the centerline of Spenard Road; thence north along the centerline of Spenard Road to the centerline of Northern Lights Boulevard; thence east along the centerline of Northern Lights Boulevard to the centerline of Arctic Boulevard; thence north along the centerline of Arctic Boulevard to the centerline of Fireweed Lane; thence east along the centerline of Fireweed Lane to the centerline of the Seward Highway; thence south along the centerline of Seward Highway to the east-west centerline of Section 29, T13NR3W, S.M.; thence east along the east-west centerline of Section 29 to the centerline of Lake Otis Parkway; thence south along the centerline of Lake Otis Parkway to the southerly east-west sixteenth line of Section 28, T13NR3W, S.M.; thence east along the southerly sixteenth line of Section 28 and 27, T13NR3W, S.M., to the north-south centerline of Section 27; thence north along the north-south centerline of Section 27 and Section 22 to the east-west centerline of Section 22, T13NR3W, S.M.; thence east along the east-west centerline of Section 22 to the centerline of Boniface Parkway; thence north along the centerline of Boniface Parkway to the east-west centerline of Section 15, T13NR3W, S.M.; thence west along the east-west centerline of Section 15 to the north-south centerline of Section 15; thence north along the north-south centerline of Section 15 and the centerline of Pine Street to the east-west centerline of Section 10, T13NR3W, S.M., identical with the centerline

of McPhee Avenue; thence west along the centerline of McPhee Avenue to the centerline of Taylor Street, projected; thence south along the centerline of Taylor Street to the centerline of Thompson Avenue; thence west along the centerline of Thompson Avenue, projected, to the intersection with the westerly sixteenth line of Section 9, T13NR3W, S.M.; thence north along the westerly sixteenth line of Section 9 to the centerline of Bluff Road; thence southwesterly along the centerline of Bluff Road to the centerline of Plum Street; thence north along the centerline of Plum Street and its projection to the east-west centerline of Section 5, T13NR3W, S.M.; thence west to the centerline of Knik Arm; thence southwesterly along the centerline of Knik Arm to a point due north of the point of beginning; thence due south to the place of beginning.

ANCHORAGE NORTH

All of that area drained by streams flowing into the Knik Arm from the east from and including the Old Knik River Bridge on the north to a southerly boundary line more particularly described as follows:

Beginning at a point on the centerline of Knik Arm where it intersects the westerly projection of the east-west centerline of Section 6, T13NR3W, S.M.; thence east along the projected east-west centerline of Section 6 & 5, T13NR3W, S.M. to the north-south centerline of Section 5, T13NR3W, S.M.; thence south along the north-south centerline of Section 5 and the centerline of Plum Street to the centerline of Bluff Road; thence northeasterly along the centerline of Bluff Road to its intersection with the westerly sixteenth line of Section 9, T13NR3W, S.M.; thence south along the westerly sixteenth line of Section 9 to the westerly projection of the centerline of Thompson Ave.; thence east along the westerly projection of the centerline of Thompson Ave. and the centerline of Thompson Ave. to the centerline of Pine Street; thence south along the centerline of Pine Street to the south boundary of Section 10, T13NR3W, S.M.; thence east to the intersection with the Knik Arm Drainage Divide.

ANCHORAGE SOUTHEAST

All of that area drained by streams flowing into Turnagain Arm from and including Placer River on the south; and bounded on the west by a line more particularly described as follows:

Beginning at the intersection of the centerline of Seward Highway with the east-west centerline of Section 29, T13NR3W, S.M.; thence south along the centerline of the Seward Highway and the easterly boundary of Section 30, T12NR3Wm S.M. to the centerline of Turnagain Arm.;

and bounded on the north by a line more particularly described as follows:

Beginning at the intersection of the centerline of the Seward Highway with the east-west centerline of Section 29, T13NR3W, S.M.; thence east along the east-west centerline of Sectioh 29 to the centerline of the Lake Otis Parkway; thence south along the centerline of Lake Otis Parkway to the southerly east-west sixteenth line of Section 28, T13NR3W, S.M.; thence east along the southerly east-west sixteenth line of Sections 28 and 27m T13NR3W, S.M. to the north-south centerline of Section 27, thence North along the north-south centerline of Sections 27 and 22, T13NR3W, S.M. to the east-west centerline of Section 22; thence east along the east-west centerline of Section 22, T13NR3W, S.M. to the centerline of Boniface Parkway; thence north along the centerline of Boniface Parkway tothe east-west centerline of Section 15, T13NR3W, S.M.; thence West along the east-west centerline of Section 15 to the north-south centerline of Section 15, T13NR3W, S.M.; thence north along the north-south centerline of Section 15 to the north boundary of Section 15, T13NR3W, S.M.; thence east to the Knik River Drainage Divide,

ANCHORAGE SOUTHWEST

Beginning at a point on the southerly boundary line of Section 22, T13NR4W, S.M. approximately 1,800' west of the easterly boundary line of Section 22; thence east along the southerly boundary line of Section 22 and the centerline of Northern Lights Boulevard to the centerline of Minnesota Drive; thence south along the centerline of Minnesota Drive to the southerly boundary line of the Martin Manor Subdivision; thence east along the southerly boundary of the Martin Manor Subdivision to the centerline of the Spenard Road; thence north along the centerline of Spenard Road to the centerline of Northern Lights Boulevard; thence east along the centerline of Northern Lights Boulevard to the centerline of the Seward Highway; thence south along the centerline of the Seward Highway and the easterly boundary of Section 30, T12NR3W, S.M., to the centerline of Turnagain Arm; thence northwesterly following the centerline of Turnagain Arm and northeasterly following the centerline of Knik Arm to a point due north of the point of beginning; thence due south to the place of beginning; and also including all of Fire Island within its limits.

SCHEDULE OF HOUSE APPORTIONMENT

House District No.	Name of District	No. of Representatives
1	Ketchikan	2
2	Wrangell-Petersburg	1
3	Sitka	1
4	Juneau	2
5	Lynn Canal	1
6	Cordova-Valdez	1
7	Palmer-Wasilla	1
8	Anchorage City	8
9	Anchorage North	2
10	Anchorage Southeast	2
11	Anchorage Southwest	2
12	Seward	1
13	Kenai	1
14	Kodiak	1
15	Aleutian Islands	1
16	Bristol Bay	1
17	Yukon-Kuskokwim	1
18	Fairbanks	7
19	Barrow-Kobuk	1
20	Nome	1
21	Wade-Hampton	1
22	Bethel	1
		40

Ratio Calculations:

Lowest District — Population 2,926 (Lynn Canal)

Highest District — Population 6,605 (Sitka)

Ratio - - - - - - 2.25 to 1

Percentage of Population required to elect majority of House 47.1%

SCHEDULE OF SENATE APPORTIONMENT

Senate District	Name of District	No. of Senators	Initial Term of Senator
A.	Ketchikan	1	4 years
B.	Wrangell-Petersburg & Sitka	1	2 years
C.	Juneau & Lynn Canal	1	4 years
D.	Cordova-Valdez & Palmer-Wasilla	1	2 years
E.	Anchorage City	4	(see note)
F.	Anchorage North	1	4 years
G.	Anchorage Southeast	1	2 years
H.	Anchorage Southwest	1	4 years
I.	Seward & Kenai	1	2 years
J.	Kodiak & Aleutian Islands	1	4 years
K.	Bristol Bay & Yukon-Kuskokwim	1	2 years
L.	Fairbanks	4	(see note)
M.	Barrow-Kobuk & Nome	1	4 years
N.	Bethel & Wade-Hampton	1	2 years
		20	

Note: In both Senate District E and Senate District L, it will be necessary to designate half the Senate seats as position "A" and half the seats as position "B" for the purpose of the initial election under this schedule of apportionment to insure that one half of the Senate is elected in each biennial election following the initial election.

Ratio Calculations:

Lowest District Population 8,159 (Anchorage Southeast)

Highest District Population 12,471 (Juneau-Lynn Canal)

Ratio - - - - - - 1,526 to 1

Percentage of Populations required to elect majority of Senate 53.1%

POPULATION TABULATION TO ACCOMPANY HOUSE and SENATE APPORTIONMENT SCHEDULES

House District No.	House Dist. Name	1960 Civilian Pop.	No. of Repr.	Pop/Repr.	Senate District	No. of Senators	Pop/Senator
1	Ketchikan	11,537	2	5,768	A	1	11,537
2	Wrangell-Petersburg	4,181	1	4,181)			
3	Sitka	6,605	1	6,605)	B	1	10,786
4	Juneau	9,545	2	4,773)			
5	Lynn Canal	2,926	1	2,926)	C	1	12,471
6	Cordova-Valdez	3,936	1	3,936)			
7	Palmer-Wasilla	5,261	1	5,261)	D	1	9,197
8	Anchorage City	39,018	8	4,970	E	4	9,954
9	Anchorage North	9,546	2	4,773	F	1	9,546
10	Anchorage Southeast	8,158	2	4,079	G	1	8,158
11	Anchorage Southwest	10,934	2	5,467	H	1	10,934
12	Seward	2,956	1	2,956)			
13	Kenai	5,690	1	5,690)	I	1	8,646
14	Kodiak	5,367	1	5,367)			
15	Aleutian Islands	3,594	1	3,594)	J	1	8,961
16	Bristol Bay	3,485	1	3,485)			
17	Yukon-Kuskokwim	5,473	1	5,473)	K	1	8,958
18	Fairbanks	34,958	7	4,994	L	4	8,740
19	Barrow-Kobuk	5,449	1	5,449)			
20	Nome	5,587	1	5,587)	M	1	11,036
21	Bethel	5,412	1	5,412)			
22	Wade-Hampton	3,057	1	3,057)	N	1	8,469
		193,479	40			20	

PROCLAMATION OF REAPPORTIONMENT AND REDISTRICTING

WHEREAS, the United States Supreme Court in the case of Reynolds v. Sims, and in other companion cases decided in June of 1964, held that under the Equal Protection Clause of the United States Constitution both houses of a state legislature must be apportioned on a population basis and that a state is required to make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable;

WHEREAS, it does not appear that the Alaska State Senate is apportioned on a population basis within the meaning of the Supreme Court decisions;

WHEREAS, the Constitution of the State of Alaska (Article VI) and the minutes of the Alaska Constitutional Convention clearly contemplate that the Governor shall have the sole responsibility for legislative reapportionment;

WHEREAS, the mandate of the United States Supreme Court can be carried out in a manner consistent with the manifest intent of the Constitution of the State of Alaska only by reapportionment by the Governor with the advice of the Advisory Reapportionment Board;

WHEREAS, I, William A. Egan, Governor of the State of Alaska, pursuant to Article VI of the Constitution of the State of Alaska, issued a Proclamation on March 6, 1965, directing the Advisory Reapportionment Board to submit a plan that would meet the requirements of the Supreme Court decisions and those provisions of the Constitution of the State of Alaska that are not in conflict with those decisions;

WHEREAS, the Advisory Reapportionment Board convened pursuant to my order and on June 8, 1965, submitted to me a plan for reapportionment and redistricting;

WHEREAS, the Governor is required by law to issue a proclamation of reapportionment and redistricting within 90 days after receipt of the recommendations of the Advisory Reapportionment Board;

NOW, THEREFORE, I, WILLIAM A. EGAN, Governor of the State of Alaska, do proclaim the following plan of reapportionment and redistricting:

First: The election districts for the House of Representatives shall remain as designated by the Proclamation of Reapportionment and Redistricting of December 7, 1961.

Second: Members of the Senate shall be elected from the Senate Districts and in the number shown below:

Senate District	Name of District	Composed of Election Districts	Number of Senators
A.	Ketchikan	1	1
B.	Wrangell-Petersburg & Sitka	2 & 3	1
C.	Juneau & Lynn Canal	4 & 5	1
D.	Cordova-Valdez & Palmer-Wasilla	6 & 7	1
E.	Anchorage	8	7
F.	Seward & Kenai	9 & 10	1
G.	Kodiak & Aleutian Islands	11 & 12	1
H.	Bristol Bay & Yukon-Kuskokwim	13 & 15	1
I.	Fairbanks	16	4
J.	Barrow-Kobuk & Nome	17 & 18	1
K.	Bethel & Wade-Hampton	14 & 19	1
			20

Third: This reapportionment and redistricting shall be effective for elections of members of the Legislature until the next decennial census.

Fourth: This reapportionment and redistricting shall be implemented for the 1966 primary and general elections. The terms of all members of the Fourth State Legislature shall terminate on the fourth Monday in January, 1967. In the 1966 general election 40 members shall be elected to the House of Representatives and 20 members to the Senate.

Fifth: Members of the State Senate elected at the 1966 general election shall serve the term indicated as follows:

Senate District	Name of District	Initial Term of Senator
A.	Ketchikan	4 years
B.	Wrangell-Petersburg and Sitka	2 years
C.	Juneau-Lynn Canal	4 years
D.	Cordova-Valdez and Palmer-Wasilla	2 years
E.	Anchorage A	4 years
	Anchorage B	2 years

Senate District	Name of District	Initial Term of Senator
	Anchorage A	4 years
	Anchorage B	2 years
	Anchorage A	4 years
	Anchorage B	2 years
	Anchorage A	4 years
F.	Seward & Kenai	2 years
G.	Kodiak & Aleutian Islands	4 years
H.	Bristol Bay & Yukon-Kuskokwim	2 years
I.	Fairbanks A	4 years
	Fairbanks B	2 years
	Fairbanks A	4 years
	Fairbanks B	2 years
J.	Barrow-Kobuk & Nome	4 years
K.	Bethel & Wade-Hampton	2 years

Sixth: State legislators elected at the 1966 general election shall hold office for a term beginning with the fourth Monday of the January following election. Their term shall be two years, except that senators elected for four-year terms shall serve an additional two years thereafter.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State to be affixed, this third day of September in the year of our Lord nineteen hundred and sixty five.



William R. Egan
Governor

ATTEST:

Secretary of State

STATEMENT ACCOMPANYING PROCLAMATION
OF
REAPPORTIONMENT AND REDISTRICTING

I have adopted the excellent and well-considered recommendations of the Advisory Reapportionment Board with two exceptions, neither of which increases or decreases the numerical representation allotted by the Board to any area.

Under the Board's recommendation District 8 would be divided into four House Districts. Under my Proclamation all House Districts, including District 8, remain exactly as they were designated in the Proclamation and Redistricting of December 7, 1961.

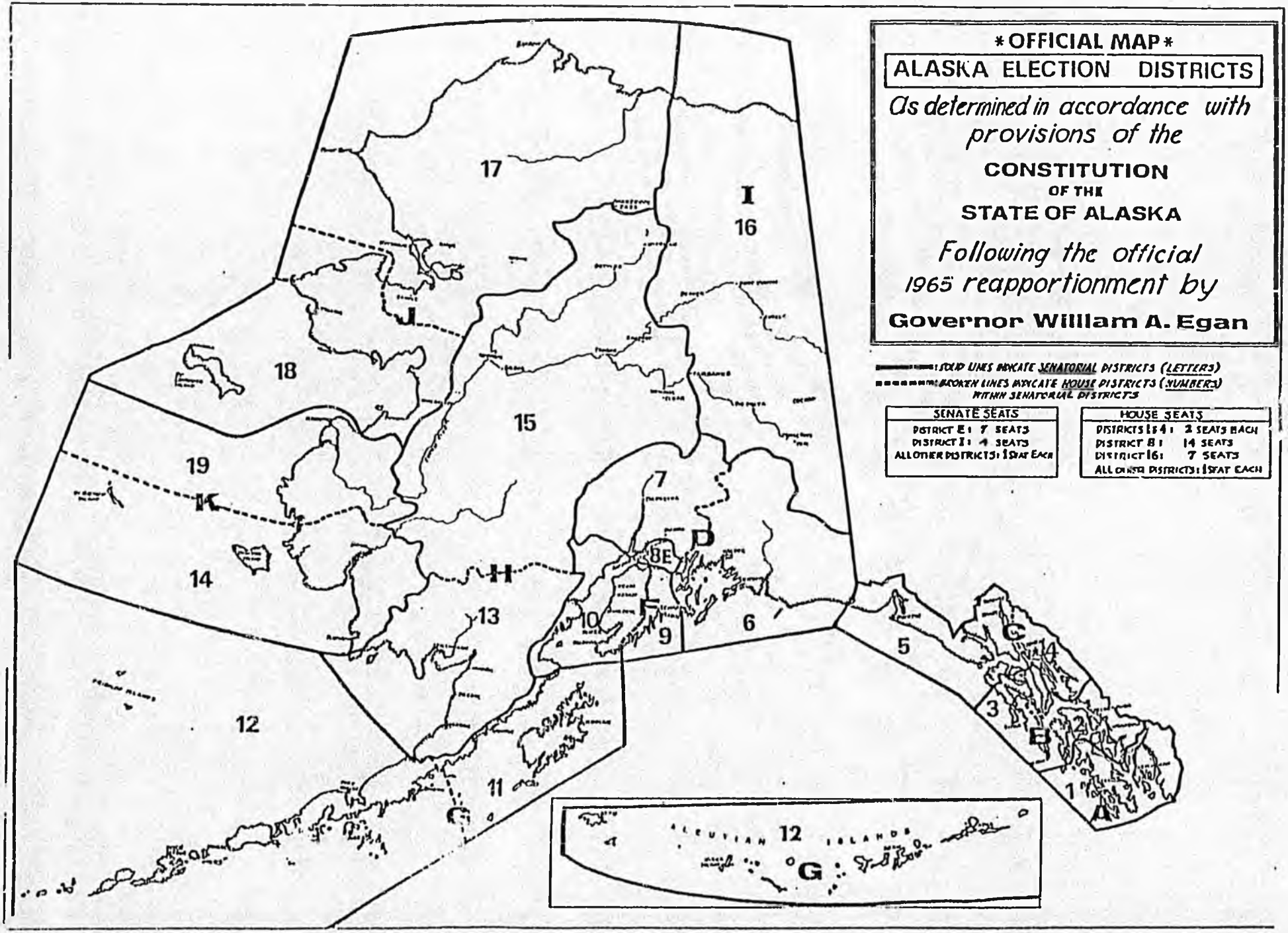
Under the Board's recommendation District 8 would also be divided into four Senate Districts (E, F, G and H), with a total of 7 senators assigned to the four districts. I have changed the Board's recommendation so that the 7 senators assigned to District 8 will all run at large in that district which will be designated Senate District E. This will eliminate Senate Districts F, G and H from the Board's proposal, and all other Senate Districts have been re-lettered accordingly in the Proclamation.

It would be unwise and unfair to attempt to divide District 8 into more than one legislative district on the basis of the 1960 census figures. These figures became obsolete with the March 27, 1964, earthquake which devastated large, heavily populated areas in and around Anchorage and resulted in radical population dislocation and movement of unknown proportions. Therefore, any reapportionment plan based on the 1960 census which would split District 8 into several legislative districts could result in over-representation of districts which have lost a considerable part of their population and under-representation of districts which gained substantially in population as a result of the earthquake and subsequent dislocation.

Furthermore, Anchorage has traditionally been a multi-member district with all of its candidates for the Legislature running at large. This system has proved workable and fair in the past, and is the most equitable one which can be devised under existing circumstances.

Dated September 3, 1965.

William A. Egan
Governor


OFFICIAL MAP
ALASKA ELECTION DISTRICTS
As determined in accordance with provisions of the
CONSTITUTION
OF THE
STATE OF ALASKA
Following the official 1965 reapportionment by
Governor William A. Egan
SOLID LINES INDICATE SENATORIAL DISTRICTS (LETTERS)
BROKEN LINES INDICATE HOUSE DISTRICTS (NUMBERS) WITHIN SENATORIAL DISTRICTS
SENATE SEATS
DISTRICT E: 7 SEATS
DISTRICT I: 4 SEATS
ALL OTHER DISTRICTS: 1 SEAT EACH
HOUSE SEATS
DISTRICTS 1 & 4: 2 SEATS EACH
DISTRICT 8: 14 SEATS
DISTRICT 16: 7 SEATS
ALL OTHER DISTRICTS: 1 SEAT EACH
ALEUTIAN ISLANDS
12
G
17
16
I
J
18
15
19
K
7
D
8E
14
H
13
10
F
9
6
5
G
4
3
B
2
1
A
12
11
G

LEGISLATIVE REAPPORTIONMENT IN THE STATES /1

(November, 1965 - May, 1966)

The following checklist shows that 33 states have now been reapportioned. In four additional states one house has been so apportioned: in one of these a plan for the other house is being challenged in the courts; and in three more, a temporary plan has been implemented. In five states reapportionment schemes for both houses await court approval, while eight states are operating with temporary plans.

PLAN ADOPTED AND NO CURRENT LITIGATION

Alabama
Alaska (house only)
Arizona
Arkansas
California
Colorado
Connecticut
Idaho
Illinois
Indiana
Kansas (house only)
Kentucky
Louisiana (house only)
Maine
Maryland
Massachusetts
Missouri
Nebraska
Nevada
New Hampshire
New Mexico
New York
North Carolina
North Dakota
Oklahoma
Oregon /2
Rhode Island
South Carolina (house only)
South Dakota
Tennessee[1]
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming

PLAN ADOPTED BUT LITIGATION OR COURT APPROVAL PENDING

Delaware
Florida
Louisiana (senate only)
Minnesota
Mississippi
Pennsylvania

TEMPORARY LEGISLATIVE OR COURT PLAN

Alaska (senate only)
Georgia
Hawaii
Iowa
Kansas (senate only)
Michigan
Montana
New Jersey
Ohio
South Carolina (senate only)
Texas

/1 Published by the Council of State Governments.
/2 Some litigation is yet pending; nevertheless, the basic plans have received court approval.

STATES IN WHICH THERE HAS BEEN NO CHANGE IN LEGISLATIVE REAPPORTIONMENT SINCE NOVEMBER 1965 ARE FOUND IN THE BACK OF THIS APPENDIX.

ALASKA

On April 11 the Alaska superior court issued a memorandum opinion that (1) the governor had exceeded his constitutional authority in reapportioning the senate (2) the 1966 elections be held under the existing plan, and (3) a constitutional amendment for a valid reapportionment of the senate be adopted no later than December 1, 1967. The state supreme court reversed, in part, the superior court ruling and adopted the governor's plan of September 3, 1965, declaring it effective for the 1966 elections and thereafter until the constitution is amended to provide a permanent reapportionment plan for the senate (Wade v. Nolan, et al, decided May 20). A separate appeal from the April 11 ruling is pending with the federal court.

ARIZONA

The federal court on February 2 reapportioned both houses of the Arizona legislature, reducing the house from 80 to 60 members, increasing the senate from 28 to 30 members, and providing for at-large elections except in Maricopa and Pima counties (Klahr v. Goddard). On March 14 the court issued a supplemental decree approving subdistricting plans for the two counties.

ARKANSAS

On November 4 the federal court issued a memorandum opinion approving a reapportionment scheme for the general assembly, as submitted by the state board of apportionment (Yancey v. Faubus). The plan calls for 44 districts for the house and 25 for the senate. Intervenors' appeal to the U. S. supreme court that the 1965 plan failed to meet the "one-man, one-vote" requirements was denied February 28 (Crawford County Bar Association v. Faubus; Alexander v. Faubus).

CALIFORNIA

The state supreme court on January 11 upheld the reapportionment of the California legislature, as adopted October 21 during the second 1965 special session. In doing so, the court overruled objections that the senate plan included two multi-member districts for San Francisco and the populous part of Alameda county and did not have such multi-member districts for other sections of the state (Silver v. Brown; Adams v. Brown).

CONNECTICUT

On December 14 voters approved a new state constitution with provisions conforming with the 1965 reapportionment act. The senate consists of 30 to 50 members, the house from 125 to 225 members. Responsibility for future reapportionment, following each decennial federal census, is placed with the legislature or, should it fail, an eight-member legislative commission or, should it fail, a board comprised of two judges from the state superior court and one elector.

DELAWARE

Sincock v. Gately is still pending in the federal court. The contested reapportionment plan, enacted by the Delaware legislature in 1964, is based wholly on straight population and provides single-member districts for both houses.

FLORIDA

The federal court on December 23 declared the 1965 legislative reapportionment act (HB 19-XX) unconstitutional but allowed it to stand as an interim plan until 60 days following adjournment of the 1967 regular session (Sobel v. Adams; Swann v. Adams). On February 25 the U. S. supreme court ruled that the district court erred in approving the plan on an interim basis (Swann v. Adams). The legislature subsequently adopted another reapportionment scheme, HB 17-X (66), which was then approved by the federal court on March 19 (Swann v. Adams). Appeal has been lodged with the U. S. supreme court.

GEORGIA

On March 25 the federal court rejected arguments that the Florida case Swann v. Adams required an immediate reapportionment of the Georgia legislature. (NOTE The court had previously accepted the 1965 house reapportionment plan as an interim measure but had ordered both houses reapportioned no later than the end of the 1968 regular session or May 1, 1968, whichever arrived first.) But the court did advance to May 1, 1967, the date by which further reapportionment must be accomplished (Toombs v. Fortson).

HAWAII

On April 25 the U. S. supreme court reversed its lower court and accepted the interim scheme (HB 987) passed during the 1965 regular session to reapportion the senate and the existing house apportionment as temporary plans for use in the 1966 general elections and to continue until such time as a permanent plan is adopted (Burns v. Richardson, et al; Cravalho, et al v. Richardson, et al; Abe, et al v. Richardson, et al).

IDAHO

The federal court on December 20 declared the Idaho reapportionment plan, enacted during a March, 1965 special session, unconstitutional and ordered at-large elections for both houses until constitutionally apportioned (Hearne v. Smylie). The legislature then enacted a new reapportionment plan during the third 1966 extraordinary session. The defendants from Hearne petitioned the federal court to dissolve the December 20 injunction which required at-large elections. When plaintiffs failed to respond to the petition, the court on April 1 granted the petition which, in effect, approved the new reapportionment plan.

ILLINOIS

On December 8 a special bipartisan commission appointed by the governor filed its plan for new house districts with the office of the secretary of state. It became immediately effective for the 1966 elections, providing for three representatives elected at-large from each of 59 multi-member districts. There is no court action pending.

INDIANA

On November 18 the federal court approved one of four alternate plans for the house and one of four alternates for the senate as adopted by the legislature in 1965 (Stout v. Bottorff; Grills v. Branigin).

IOWA

In Davis v. Cameron the federal court deferred to the state district court which, in turn, on November 5 gave temporary approval to the interim apportionment scheme for both houses, enacted during the Iowa 1965 regular session. On April 15 the state supreme court declared the 1965 temporary plan sufficient to serve as an interim plan of apportionment until 1968. But the court also ruled that a combination of multi- and single-member districts could not be used for the same chamber (Kruidenier v. McCulloch). Defendants are expected to file a writ of certiorari with the federal court.

KANSAS

On December 28 the senate apportionment was declared unconstitutional, although the federal court delayed the effective date of its ruling until April 1 (Long v. Avery). The court followed on February 24 with a decree that the legislature adopt a new senate plan no later than April 1, 1968 or, failing to do so, the court would order into effect its own plan or at-large elections. The state supreme court on March 23 approved the reapportionment plan (HB 504) for the lower house, adopted during a 1966 special session (Harris v. Anderson).

MAINE

During the 1966 special session the legislature approved a proposed constitutional amendment providing for not less than 30 nor more than 40 senators. In the event the legislature failed to reapportion, the state supreme court would be entrusted with the duty. If the amendment is approved by the voters in November, the legislature in its 1967 session will have to establish lines for the districts which would take effect in the 1968 elections.

MARYLAND

The lower state court on December 22 accepted a 1965 special session act (SB 5) to reapportion both houses of the Maryland legislature (Maryland Committee for Fair Representation, et al v. Tawes). The court also found another act of the 1965 special session (SB 8) violative of the equal protection clause of the 14th Amendment. The ruling was reaffirmed by the state court of appeals on January 11.

MICHIGAN

The plan presented by the commission in 1964 was never explicitly ruled unconstitutional. But the state supreme court indicated its shortcomings insofar as compliance with the state constitution was concerned by instructing the commission on November 2 to prepare new plans within 60 days. However, the commission deadlocked. The court itself stalemated regarding the validity of the 1964 plan and, thus, issued seven separate opinions on March 9 (In Re Apportionment).

MINNESOTA

On November 26 the state supreme court reversed its lower court and declared that the veto power existed with respect to apportionment legislation. Thus the governor's veto of the 1965 reapportionment act was upheld. But the court also noted that its decision was not intended to be an evaluation of the act (Duxberry, et al v. Donovan). On January 14, plaintiffs from Honsey v. Donovan petitioned the federal court to go ahead with preliminary plans for establishing new legislative districts for the 1966 elections. The judges denied the petition, noting that sufficient time existed for the legislature to reapportion.

The Minnesota legislature on May 9 enacted a reapportionment bill (SF 2) in special session providing 67 and 135 members, respectively, for the senate and house. On May 11 the governor vetoed the bill, charging population inequities and gerrymandering. But the legislature followed one week later with a new plan which was signed by the governor on May 20.

MISSISSIPPI

On January 21 the federal court received briefs in Conner, et al v. Johnson. (This suit was filed October 19, 1965 challenging the 1963 reapportionment.)

MISSOURI

During a special session in the fall of 1965, the legislature approved a proposed constitutional amendment to create a commission for reapportioning the house periodically. The amendment was approved by referendum January 14. New house districts were announced by the commission in March. (The senate had been reapportioned by a commission in the fall of 1965.)

NEBRASKA

On January 25 the Nebraska supreme court upheld a 1965 reapportionment act (LB 925) which provided for crossing of county lines in forming districts (Carpenter v. State). Consequently the state withdrew its appeal to the U. S. supreme court on LB 628, a previously invalidated reapportionment act. The federal court followed on February 10 by dismissing litigation regarding the constitutionality of LB 925 in League of Nebraska Municipalities v. Marsh.

NEVADA

On November 13 the legislature in special session passed a reapportionment bill which provided for a 20-member senate and 40-member house. The federal court approved the plan on March 21 (Dungan v. Sawyer).

NEW HAMPSHIRE

Since the legislature had reapportioned both houses during its 1965 regular session, the federal court on December 2 dismissed Levitt v. Stark, et al, which had attacked the 1961 apportionment.

NEW JERSEY

A constitutional convention began work on March 21 to draft new constitutional provisions for apportioning the legislature. It is to report in June, 1966.

NEW MEXICO

The federal court on March 17 ruled that the senate reapportionment act, adopted in a 1966 special session, fell short of the "one-man, one-vote" requirements and issued its own plan establishing 39 senatorial districts (Beauchamp v. Campbell). The court increased the number of districts to 42 in an amended order dated March 31.

NEW YORK

A commission appointed by the legislature reported a reapportionment plan in December, but the legislature failed to act on the issue by the court deadline. On February 23 the New York court of appeals assumed jurisdiction and appointed a five-member commission to prepare apportionment plans for both houses. One month later the court adopted the commission's report providing for a 57-member and 150-member senate and house, respectively.

NORTH CAROLINA

The North Carolina legislature was ordered by the federal court to reapportion no later than January 31, 1966. The court warned that if the legislature failed the court would hand down its own plan in time for the 1966 primaries and elections (Drum, et al v. Seawell, et al, November 30). On January 14 the legislature adjourned a five-day special session after enacting bills to reapportion both houses. The federal district court accepted the plan on February 18 (Drum, et al v. Seawell, et al). And the U. S. supreme court on April 4 reaffirmed the decision.

OHIO

On December 20 arguments were heard before the state court of appeals (10th district) re: King v. Rhodes. Plaintiffs contended that the members of the state apportionment board exceeded their power in reapportioning the Ohio legislature. The U. S. supreme court issued a per curiam opinion February 21 reaffirming its lower court ruling which had adopted the board's reapportionment plan and ordered it into effect on a temporary basis for the 1966 general elections (Nolan v. Rhodes, October, 1965).

OREGON

An original mandamus proceeding commenced in the state supreme court December 9 as plaintiffs petitioned for a redistribution of the representatives from the subdistricts of Multnomah county (Portland). However the court refused granting relief until the legislature had had an opportunity to act (Cook, et al v. McCall, January 26).

PENNSYLVANIA

On February 4 the Pennsylvania state court reapportioned the legislature, reducing the house from 209 to 203 members and leaving the senate at 50 members (Butcher v. Bloom). The federal court has subsequently been asked to review the state supreme court decision. Briefs were filed during April.

RHODE ISLAND

After receiving two extensions to the original January 15 deadline, the 15-member legislative commission on March 28 filed its report. The legislature subsequently enacted separate bills providing for the reapportionment of each chamber. Both bills were vetoed by the governor. However, in each instance, the legislature overruled the vetoes. A general constitutional convention is now at work that will consider a permanent apportionment plan.

SOUTH CAROLINA

The federal court on February 18 upheld the 1961 apportionment of the house, and approved the 1966 reapportionment plan for the senate as an interim measure for purposes of the next election only, and for a limited term of two years (O'Shields v. McNair, et al; Mungo v. McNair).

TENNESSEE

On November 15 a three-judge federal court upheld the 1965 Tennessee legislative reapportionment act (Baker v. Carr). However, the chancery court at Nashville held unconstitutional that portion of the 1965 act which divided four urban counties into senatorial subdistricts (Williams v. Carr, March 7). An appeal is now pending with the state supreme court.

TEXAS

Hainsworth v. Martin was vacated as moot by the court of civil appeals on November 15 in view of the enactment of the 1965 Texas apportionment act. On February 2 the federal court upheld the 1965 act (HB 195) as a valid interim plan of apportionment for the 1966 elections, but ordered the eleven flotorial districts revised no later than August 1, 1967 (Kilgarlin v. Martin).

VERMONT

On November 18 the Vermont supreme court denied appeals aimed at blocking the November 23, 1965, special legislative election and at having the 1965 reapportionment acts declared null and void.

WYOMING

On February 28 the U. S. Supreme court reaffirmed a federal court ruling that subdistricting of multi-member districts was not required (Harrison v. Schaefer).

LEGISLATIVE REAPPORTIONMENT

IN THE STATES /1

(November 1965) /2

ALABAMA

In summer, 1962, the federal court, after declaring the existing Alabama legislative apportionment unconstitutional, issued its own temporary plan (Sims v. Frink). On appeal the lower court was sustained by the supreme court in the now famous Reynolds v. Sims.

During 1965 regular session, the house approved a proposal which would have reapportioned the senate. This bill died on the senate calendar. The federal court later made it clear that the bill would have been insufficient inasmuch as it applied only to the upper chamber.

On September 23, the legislature reapportioned both houses during special session. The court on October 2 held the reapportionment of the senate constitutional but substituted its own scheme for the lower house to correct certain population discrepancies of the legislative version.

COLORADO

Lucas v. Forty-Fourth General Assembly (1964) struck down a "little federal" plan that had been approved by the voters in preference to a straight population proposal. Meeting in 1964 special session, the legislature then enacted a plan using a population basis. This statute was challenged because of its provision for subdistricts in multi-member counties. After the state supreme court found for the plaintiffs, the 1965 general assembly passed a new apportionment act eliminating subdistricts and, shortly thereafter, the state supreme court dismissed all litigation.

KENTUCKY

The Kentucky legislature successfully reapportioned itself in 1963 special session. No litigation is pending.

/1 Published by the Council of State Governments.

/2 There has been no change in legislative reapportionment since November 1965 in the states in this listing.

LOUISIANA

Meeting in special session, the legislature reapportioned the house in 1963 after the federal court declared that the existing apportionment violated the 14th Amendment (Daniel v. Davis).

Litigation has been pending since 1963 (Bannister v. Davis) to reapportion the senate; however, plaintiffs have not yet moved to bring the matter to a hearing on merits.

MASSACHUSETTS

After the state supreme court declared existing house apportionment unconstitutional (Fishman v. White), the legislature realigned house districts in October, 1963. But reapportionment will be required again in 1966 following the new state census.

MONTANA

Suit challenging apportionment of the Montana legislature was decided January, 1965 (Herweg v. Thirty-Nineth Legislative Assembly) when the federal court held both houses malapportioned.

However, the court stayed remedial action pending outcome of the 1965 regular session. When the legislature failed to report a new apportionment scheme, the court on August 6 announced its own plan for use in the 1966 elections and declared that its plan would remain in force until the legislature was properly apportioned.

NORTH DAKOTA

As a result of longstanding litigation (Lien v. Sathre and Paulson v. Meier), the legislature reapportioned itself in the 1965 regular session. The act was declared unconstitutional by the federal court which on August 13 ordered into effect its own plan, to become effective with the 1966 elections (Paulson v. Meier).

The court plan is a slight modification of a proposal to the legislature by the Legislative Research Committee.

OKLAHOMA

In Moss v. Burkhart, the federal court ruled the state legislature malapportioned and warned that if a new plan was not devised by March, 1963, the court would implement its own scheme. New measures were adopted by the legislature in 1963, but these also were invalidated by both the federal and state supreme courts. Extensive litigation finally was climaxed on July 31, 1964, when the federal court reapportioned both houses on a population basis.

SOUTH DAKOTA

Both houses of the legislature were reapportioned on a population basis in 1961.

UTAH

A federal court ordered the reapportionment of the state legislature in Petuskev v. Clyde. After the legislature enacted new plans during its 1965 regular session, the attorney general filed motion to dismiss all suits pending.

The plan, providing for 28 senators and 69 representatives, was approved by the federal court, excepting one section designed to allow senators elected in 1964 to complete their full terms.

VIRGINIA

The reapportionment undertaken by the 1962 state legislature was declared unconstitutional by a federal court in Mann v. Davis. During a March, 1964 special session, the legislature enacted a new plan which a federal special three-judge court found acceptable, except that two of the house districts, each having one delegate, were ordered combined into a single district with two delegates.

Henrico County appealed to the U.S. supreme court asserting that the effect of being placed in a single district with the City of Richmond, rather than being made an independent district, was to give Richmond a voting power greater than Henrico and deprived the county of representation by its own citizens. On October 26, the High Court upheld the ruling of the special court.

WASHINGTON

In Meyers v. Thigpen the U. S. supreme court affirmed a federal court decision that declared existing apportionment unconstitutional and enjoined further elections thereunder. On February 26, 1965, the legislature reapportioned itself and the federal court dismissed pending litigation.

WEST VIRGINIA

After Robertson v. Hatcher declared existing apportionment unconstitutional, the legislature successfully reapportioned itself during 1964 extraordinary session.

WISCONSIN

Following gubernatorial veto of three separate legislative apportionment acts and legislative failure to conform with an order to reapportion, the state supreme court issued its own scheme on May 14, 1964.

Upon resuming the 1965 regular session on October 4, the legislature considered several bills that would give statutory standing to the court plan. However, none of the proposals advanced to final passage and after one month the legislature adjourned until May 2, 1966.

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL / BOX 2170 — JUNEAU 99801

June 1, 1965

Mr. Felix Toner, Chairman
Advisory Reapportionment Board
Juneau, Alaska

Dear Mr. Toner:

You have asked the following questions:

1. May the Board create a multi-member legislative district in the Northwest?

2. May the Board include military personnel in population for apportionment purposes?

I will answer these questions in order.

1. Some residents of the Northwest have proposed that the Board establish a single legislative district in the Northwest, stretching from the Kuskokwim River in the south to Point Barrow in the north. Under the proposed plan a huge multi-member district would replace the single-member districts now used in the Northwest. All candidates for both the House and Senate would be required to run at large.

You have indicated that the Board is considering retaining multi-member districts in Anchorage and Fairbanks. The Board has decided that it would be practically impossible to divide these urban areas into single-member districts. The 1960 census gives population figures for enumeration districts which have no relationship in size or shape to apportionment of the area into single-member districts of approximately equal population. Also, it is obvious that last year's earthquake displaced large numbers of people from the major population centers of Anchorage. Since the Board must use 1960 census figures, it would only compound the inequities resulting from use of census figures rendered obsolete by the earthquake to attempt to establish single-member districts in Anchorage. We understand that for these reasons, the Board intends to retain multi-member districts in Anchorage and Fairbanks.

With the census data available it is possible, however, for the Board to establish single-member districts elsewhere in the State. Although the United States Supreme Court, in Forston v. Dorsey, 379 U.S. 433 (1965), upheld use of some multi-member districts in Georgia, the Court warned:

> "It might well be that, designedly or otherwise, a multi-member constituency apportionment scheme, under the circumstances of a particular case, would operate to minimize or cancel out the voting strength of racial or political elements of the voting population. When this is demonstrated, it will be time enough to consider whether the system still passes constitutional muster."

If the Board determines that a vast multi-member district in the Northwest would "minimize or cancel out the voting strength of racial or political elements of the voting population," it would be unconstitutional for the Board to create such a district.

A multi-member district in the Northwest might minimize or cancel out voting strength in several ways. For example, in a vast, sparsely-settled Northwest legislative district voters in several population centers might be able to elect most, if not all, of the entire Northwest's legislators. These voters would minimize or cancel out the voting strength of entire areas containing small, widely-scattered villages which could elect their own representatives if the Northwest were divided into single-member districts. In addition, voters in population centers located in one part of the district, which would stretch almost 800 air miles from the Kuskokwim to Point Barrow, might combine to prevent voters in other parts of the district from electing their unanimous choice. If voting strength of a minority of voters were minimized or cancelled out, vast areas of the Northwest would be without any effective representation in the legislature. It would be unconstitutional for the Board to create a multi-member district in the Northwest which would give rise to this type of discrimination.

In retaining multi-member districts in Anchorage and Fairbanks, the Board runs a risk that political or racial minorities in these areas will argue that use of multi-member districts minimizes or cancels out their voting strength. It is clear, however, that the Board plans to retain multi-member

districts in these urban areas only because of the practical impossibility of dividing the cities into single-member districts and, in the case of Anchorage, because of the inequities that would result from following pre-earthquake census figures. Since the Board has no reason to believe that use of multi-member districts in these two relatively compact urban areas would submerge political or racial minorities, it is improbable that use of these multi-member districts would be held unconstitutional.

2. Your second question is whether the Board may include military personnel in population for apportionment purposes. The Alaska Constitution, in Article VI, Section 3, states:

> "Reapportionment shall be based upon civilian population within each election district as reported by the census."

This clearly provides that military personnel are not to be included in population for apportionment purposes. Unless the United States Supreme Court declares this provision unconstitutional, it must be followed by the Board.

The United States Supreme Court has not held that military personnel must be included as part of the population base for apportionment purposes. It has not yet been asked to settle this specific issue. In Davis v. Mann, 377 U.S. 678 (1964), the Court discounted Virginia's argument that certain areas were not in fact under-represented because these areas contained large numbers of military personnel who were not domiciled in Virginia and did not vote there. The Court purported to answer this argument by stating that "discrimination against a class of individuals, merely because of the nature of their employment, without more being shown, is constitutionally impermissible." Whatever this statement means, it does not invalidate Alaska's constitutional provision excluding military personnel from the population base for apportionment purposes. Until the Supreme Court decides in explicit terms that such a provision is unconstitutional, the Board must follow Alaska's Constitution.

This was the approach taken by a federal district court in Holt v. Richardson, 33 U.S. Law Week 2443 (Feb. 17, 1965). Under Hawaii's Constitution, apportionment is based on the number of registered voters in the last general election. Since many military personnel are not Hawaii residents and do not vote there,

they are not counted for apportionment purposes. Plaintiffs argued that apportionment must be based on total population, including military personnel. The federal district court refused to invalidate the apportionment of Hawaii's House of Representatives because registered voters, and not total population, were used as a basis for apportionment. The Court stated its reason for holding that registered voters were a valid basis for representation:

> "Hawaii has become the United States' military bastion for the entire Pacific and military population in the State fluctuates violently as the Asiatic spots of trouble arise and disappear. If total population were to be the only acceptable criteria upon which legislative representation could be based, in Hawaii, grossly absurd and disastrous results would flow from a blind adherence to the 'elusive "one-person-one-vote"aphorism.' (Mr. Justice Harlan in Forston v. Tombs, 33 U.S. Law Week 4172)"

Military personnel accounted for about 10 percent of Hawaii's total population in 1960. Military personnel account for about 15 percent of Alaska's population. Alaska can point to the same inequities as does Hawaii if military personnel are included in population for apportionment purposes.

Even if the Board were to include military personnel who are Alaska residents in the population base, this would not affect representation under any possible apportionment plan. The military has informed us that just over 100 military personnel stationed in Alaska consider themselves Alaska residents. There is no method of determining how many military personnel vote in Alaska. However, since voting is one factor in determining residence, it is likely that military personnel who claim residence in states other than Alaska do not vote in Alaska. Most vote by absentee ballot in the state where they claim residence and for that reason, in many cases, they will be counted for apportionment purposes.

Until the United States Supreme Court holds that a constitutional provision excluding military personnel from

population for apportionment purposes is invalid, the Board must follow Alaska's provision and reapportion on the basis of civilian population only.

Very truly yours,

WARREN C. COLVER
ATTORNEY GENERAL

WCC/grg

HEADQUARTERS, ALASKAN COMMAND
APO SEATTLE 98742

To PA

16 April 1965

Mr. Felix J. Toner, Chairman
Reapportionment Advisory Board
P.O. Box 2534
Juneau, Alaska

Dear Mr. Toner:

Reference is made to my letter of April 1st and your letter of March 29th concerning the matter of military residents in Alaska.

A survey of military personnel records indicates that there are 111 Alaskan residents in the military forces stationed in Alaska. I must point out, however, that this cannot be considered an absolutely accurate figure, as military personnel records do not contain an entry showing what can be called a "legal residence" for voting purposes. The record shows only the place the person prefers to consider as his permanent home.

The Alaska resident personnel are scattered in several places with the greater number in the Anchorage area. It appears, however, the total is so small that it would have no effect on reapportionment action.

Sincerely,

HARRY A. WAKEFIELD
Lt Col, USAF
Chief, Public Affairs

STATE REAPPORTIONMENT, ELECTORAL PERCENTAGES, 1966 ELECTIONS

STATE	DATE LATEST REAPPORTIONMENT		ELECTORAL PERCENTAGE*				REAPPORTIONING BODY**	PARTY STRENGTHS				196[illegible]TION
			HOUSE		SENATE			UPPER HOUSE		LOWER HOUSE		
	HOUSE	SENATE	Old	New	Old	New		Dem.	Rep.	Dem.	Rep.	
Alabama	1965	1965	43.0	47.7	27.6	47.8	Court, Legislature	35	0	103	3	Entire Legislature
Alaska	1961	1965	n.a.	47.8	35.4	51.0	Commission	17	3	30	10	One-half Upper House Entire Lower House
Arizona	1966	1966	45.8	49.1	12.8	49.1	Court	26	2	45	35	Entire Legislature
Arkansas	1965	1965	33.3	49.4	43.8	49.2	Commission	35 1 Vacancy	0	100 3 Vacancies	1	Entire Legislature
California	1965	1965	44.7	48.3	10.7	48.9	Legislature	25 2 Vacancies	13	49	31	Entire Legislature
Colorado	1965	1965	45.3	46.8	46.9	47.5	Legislature	15	20	42	23	One-half Upper House Entire Lower House
Connecticut	1965	1965	11.9	43.8	31.9	47.9	Legislature	23	13	111	189	Entire Legislature
Delaware	1964	1964	18.5	n.a.	22.0	n.a.	Legislature	13	3	30	3	One-half Upper House Entire Lower House
Florida	1966	1966	26.9	47.8	15.2	48.4	Legislature	41	2	105	7	Entire State Legislature
Georgia	1965	1962	22.5	42.3	21.4	48.2	Legislature	41	9	198	7	Entire Legislature
Hawaii	1959	1965	n.a.	38.4	18.1	n.a.	Legislature	16	9	40	11	Entire Legislature
Idaho	1966	1966	32.7	n.a.	16.6	n.a.	Legislature	19	25	37	41	Entire Legislature
Illinois	1965	1965	28.7	49.1	39.9	50.4	Commission, court	23 2 Vacancies	33	118 3 Vacancies	59	Entire Legislature
Indiana	1965	1965	34.8	48.7	40.4	49.5	Legislature	35	13	75 3 Vacancies	22	Entire Legislature
Iowa	1965	1965	26.9	44.8	35.2	45.1	Legislature					
Kansas	1966	1964	19.4	47.7	26.8	50.1	Legislature	34	25	101	23	One-half Upper House Entire Lower House
Kentucky	1963	1963	34.1	44.8	47.0	46.6	Legislature	13	27	44	81	Entire Lower House
Louisiana	1963	1921	n.a.	33.1	n.a.	33.0	Legislature	25	13	64	36	None
Maine	1961	1961	30.7	40.0	n.a.	40.8	Legislature	39	0	103	2	None
Maryland	1965	1963	35.6	50.3	14.1	47.6	Legislature	29	5	81	70	Entire Legislature
Massachusetts	1965	1961	n.a.	43.3	n.a.	50.4	Legislature	22	7	117	23	Entire State Legislature
								27	13	167 1 Ind. 3 Vacancies	69	Entire Legislature
Michigan	1964	1964	44.0	52.0	29.0	52.0	Court	23	13	73	37	Entire Legislature
Minnesota	1966	1966	34.3	47.2	40.1	48.1	Legislature	24 Technically--a non-partisan Legislature	43	53	79	Entire Legislature
Mississippi	1965	1965	29.1	41.2	34.6	37.4	Legislature	51	1	120	2	None
Missouri	1966	1965	20.3	49.8	47.7	52.0	Commission	22	12	123	40	One-half Upper House Entire Lower House
Montana	1965	1965	30.6	49.0	16.1	46.9	Court	32	24	56	38	Entire Legislature
Nebraska[1]	1965		44.0	49.3			Legislature	Unicameral Legislature 40 Non-Partisan Seats				Entire Legislature
Nevada	1965	1965	20.4	46.8	8.0	49.7	Legislature	8 1 Other	8	25	12	Entire Legislature
New Hampshire	1965	1965	44.0	45.2	49.8	52.3	Legislature	10	14	176	224	Entire Legislature

APPENDIX E

STATE	DATE LATEST REAPPORTIONMENT		ELECTORAL PERCENTAGE*				REAPPORTIONING BODY**	PARTY STRENGTHS				1966 ELECTION
			HOUSE		SENATE			UPPER HOUSE		LOWER HOUSE		
	HOUSE	SENATE	Old	New	Old	New		Dem.	Rep.	Dem.	Rep.	
New Jersey	1964	1965	n.a.	46.5	19.0	47.0	Legislature	19	10	41	19	None
New Mexico	1965	1966	27.9	47.4	11.0	45.8	Legislature, court	28	4	59	10	15 Seats Upper House Entire Lower House
New York	1966	1966	49.3	49.2	49.4	49.1	Commission (court)	20	36 1 Vacancy	90	75	Entire Legislature
North Carolina	1966	1966	27.1	47.3	47.1	48.8	Legislature	49	1	106	14	Entire Legislature
North Dakota	1965	1965	40.9	48.7	31.9	48.7	Court	20	29	65	44	Entire Legislature
Ohio	1965	1965	30.3	47.3	44.7	49.6	Commission	16	16	62	75	Entire Legislature
Oklahoma	1965	1965	29.4	48.7	24.5	49.2	Legislature (court)	41	7	78	21	One-half Upper House Entire Lower House
Oregon	1961	1951	n.a.	48.1	n.a.	47.8	Secretary of State	19	11	28	32	One-half Upper House Entire Lower House
Pennsylvania	1966	1966	42.7	47.0	43.4	50.1	Court	21	27 1 Vacancy	116	93	One-half of Senate Entire Lower House
Rhode Island	1966	1966	40.5	n.a.	18.1	n.a.	Legislature	30	15 1 Rep.-Ind.	76	24	Entire Legislature
South Carolina	1961	1966	n.a.	46.2	23.3	48.0	Legislature	46	0	124	1	One-half Upper House Entire Lower House
South Dakota	1965	1965	38.5	46.7	38.3	47.1	Legislature	16	29	30	45	Entire Legislature
Tennessee	1965	1965	44.5	48.4	39.7	49.1	Legislature	24	9 2 Vacancies	74	24 1 Ind.	Entire Legislature
Texas	1965	1965	38.7	47.0	30.3	49.4	Legislature	31	0	149	1	Entire Legislature
Utah	1963	1965	37.7	47.6	25.3	44.5	Legislature	15	12	39	30	One-half Upper House Entire Lower House
Vermont	1965	1965	11.6	48.7	47.0	48.8	Legislature	6	24	35	115	Entire Legislature
Virginia	1961	1961	40.5	47.7	41.1	49.0	Legislature	37	3	89	11	None
Washington	1965	1965	28.0	46.7	35.6	47.6	Legislature	32	17	60	39	One-half Upper House Entire Lower House
West Virginia	1961	1964	40.0	46.2	46.7	46.7	Legislature	27	7	91	9	One-half Upper House Entire Lower House
Wisconsin	1964	1964	40.0	45.4	42.5	48.4	Court	13	20	52	46	One-half Upper House Entire Lower House
Wyoming	1963	1965	35.8	46.5	24.1	47.4	Legislature, court	12	13	34	27	Entire Legislature

The electoral percentage is the percentage of each state's population which is theoretically able to elect a majority of each chamber of the state legislature.

**Where two bodies are listed, the first reapportioned the House and the second reapportioned the Senate.*

†Unicameral legislature.

n.a. Not available.

SOURCES: National Municipal League, Legislature Reference Service, Chamber of Commerce of the U.S., Congressional Quarterly.

A LEGAL VIEW OF REAPPORTIONMENT
A Cronology of Supreme Court Reapportionment and Voting Rights Decisions

CITY OF ROME vs. UNITED STATES, 64 L Ed 2nd 119, 100 S Ct. 1548 (1980) (GA - Local)

Voting Rights Act

Sec. 5 of the Voting Rights Act was not unconstitutional as exceeding Congress' power under the Fifteenth Amendment by prohibiting voting changes that have only a discriminatory effect; the Act, instead, being an appropriate means for carrying out Congress' power, under Sec. 2 of the Fifteenth Amendment to enforce the Amendment's Command that the right of United States citizens to vote shall not be denied or abridged on account of race, and the Act being consonant with all provisions of the Constitution.

CITY OF MOBILE vs. BOLDEN, 64 L Ed 2nd 47, 100 S. Ct. 1491 (1980) (AL - Local).

The city's at-large electoral system for city commissioners did not violate 14th and 15th Amendments and did not warrant replacing with a mayor council government.

Voting Rights Act

1. Since Negroes in the city registered and voted without hinderance, the court erred in holding that the 15th Amendment was violated by the at-large voting practice, since the 15th Amendment does not entail the right to have Negro candidates elected, but prohibits only purposefully discriminatory denial or abridgement by the government of the freedom to vote on account of race, color, or previous condition of servitude.

2. The courts below had erred in ruling that the 14th Amendment was violated by the at-large voting practice, since there can be no violation of the 14th Amendment's equal protection clause in regard to racial discrimination in voting if there is no purposeful discrimination in voting, and the evidence in the case at bar fell short of showing that the at-large voting practice was a purposeful device to further racial discrimination.

MISSISSIPPI vs. UNITED STATES, 444 U.S. 1050 62 L Ed 2nd 739 (1980) (MS - Leg)

Voting Rights Act

The statutory plan enacted in 1978 had the impermissible effect of diluting black voting strength.

NEVETT vs. SIDES, 571 F 2nd 209 (1979) (5th Cir. 1979) (AL - Local)

U.S. Court of Appeals At-Large Elections.

CLARK vs. MARENGO COUNTY, 469 F Supp. 1150 (1979) (AL - Local)

At-Large Districts

At-large scheme for elections of members of County Commission and County Board of Education cannot be held to be per se unconstitutional.

CONNOR vs. FINCH, 469 F Supp. 693 (1979) (MS - Leg)

Legislative reapportionment promulgated. Districts were drawn using federal census population, percent variance, percent black population, percent black voting age population.

DOUGHERTY COUNTY BOARD OF EDUCATION vs. WHITE, 439 U.S. 32 (1978) (GA - Leg)

Employee required to take a leave of absence to run for state Legislature.

Voting Rights Act

Sec. 5 of the Voting Rights Act must be given the broadest possible scope, encompassing the subtle as well as the obvious forms of discrimination.

WISE vs. LIPSCOMB, 437 U.S. 535 (1978) (TX - Local).

1. When the District Court invalidated the provisions of the Dallas city charter mandating Council elections, the city had the duty to devise a substitute plan rather than to leave the matter to the District Court.

2. No reason existed why the District Court was not entitled to consider the City Council's substitute plan under the principles applicable to legislatively adopted reapportionment plans.

3. The Council's ordinance should not be regarded as a court-ordered plan subject to a level of scrutiny more stringent than required by the Constitution.

Additional Opinion - Renquist, Burger, Stewart, Powell

The case at bar did not present, and the court did not decide, the question whether the use of multimember districts for city governments was unconstitutional as diluting the voting strength of racial groups.

UNITED STATES vs. BOARD OF COMMISSIONERS OF SHEFFIELD, 435 U.S. 110 (1978) (AL - Vote)

Voting Rights Act

Sec. 5 applied to all entities having power over any aspect of the electoral process within covered jurisdictions, not only to counties or to whatever units of state government performed the function as registering voters and, therefore, Sec. 5 required the city to obtain preclearance of a voting change even though it had never conducted voter registration.

UNITED JEWISH ORGANIZATIONS OF WILLIAMSBURG, INC. vs. CAREY, 430 U.S. 144 (1977) (NY - Leg)

Voting Rights Act

The Hasidic Jewish community sued, alleging that the state's use of racial criteria and quotas in developing a redistricting plan acceptable to the U.S. Justice Department, (65% non-white population majority) violated their rights. The U.S. Supreme court upheld a dismissal of their suit.

MORRIS vs. GRESSETTE, 432 U.S. 491 (1977) (SC - Leg - Senate)

Voting Rights Act

Is the USAG's decision not to object to a covered state's proposed change in its laws, submitted for his consideration under Sec. 5, subject to judicial review?

1. When the Attorney General failed to interpose a timely objection, a federal District Court did not have jurisdiction to review the Attorney Generals' action under Sec. 5.

2. Compliance with Sec. 5 is measured solely by the absence of a timely objection by the Attorney General.

BRISCOE vs. BELL (1977), 432 US 404 (TX - Vote)

Voting Rights Act

1. Under Sec. 4(b) of the Act, judicial review of coverage determinations by the Attorney General and the director of the census was absolutely barred, the only procedure available to Texas being a "bailout" suit under Sec. 4(a) to seek termination coverage.

2. In enacting Sec. 4(b), Congress acted within its "power to enforce the fourteenth and fifteenth amendments by appropriate legislation."

CONNOR vs. FINCH (1977), 431 US 407 (MS - Leg).

Population Variance

1. The District Court's reapportionment plan under which there were maximum population deviations of 16.5% in the Senate districts and 19.3% in the House districts were unconstitutional, and such a departure from constitutional requirements was not justified as reflecting deference to the state's historic respect for the integrity of county boundaries especially where

(a) the court had failed to identify any unique features of the state political structure to support the plan's more than de minimus variations,

(b) the court had been presented with a more statistically acceptable plan which fragmented fewer county boundaries.

Voting Dilution

2. With respect to challenges of the plan impermissibly diluting Negro voting strength, the court should either draw legislative districts that would be reasonably contiguous and compact, so as to eliminate suspicions that Negro voting strength was being impermissibly diluted or explain precisely why in a particular instance such a goal could not be accomplished.

KIRKSEY vs. BOARD OF SUPERVISORS OF HINDS COUNTY, MS (1977), 54 F 2nd 139 (Court of Appeals) (MS - Local).

Redistricting plan is constitutionally impermissible as racially discriminatory if it is racially motivated gerrymander or if it perpetuates existant denial of access by racial minority to political process. The court ordered a plan of voting districts for election of county officials by single member districts.

BEER vs. UNITED STATES, 425 U.S. 130 (1976) (LA - Local)

Multimember districts

Since the two at-large city councilmanic seats, having existed since 1954, could not be reviewed in a proceeding to obtain approval for the reapportionment plan under Sec. 5 of the Voting Rights Act, the plan could not be rejected solely because it did not eliminate the two at-large seats.

Voting Rights Act

The plan did not have the effect of denying or abridging the right to vote on account of race or color under Sec. 5 since under a prior plan, none of the five councilmanic districts had a clear Negro majority of registered voters and no Negro had been elected to the City Council but, under the plan for which approval had been sought, Negroes would constitute a majority of the

CONNOR vs. WALLER, 421 U.S. 656 (1975) (MS - Leg)

Voting Rights Act

Three judge panel, sitting for the U.S. District Court for the Southern District of Mississippi, erred in ruling the Mississippi statutes reapportioning the state legislature were not legislative enactments subject to federal approval pursuant to Sec. 5 of the Voting Rights Act.

CHAPMAN vs. MEIER, 420 U.S. 1 (1975) (ND - Leg - Sen)

Population Variance

A population variance of 20.14% between the largest and smallest Senate district could not be justified on the grounds of absence of electorally victimized minorities, the state's sparse population, the division of the state by a river or the goal of observing geographical and political boundaries, since none of such factors had been explicitly shown to necessitate the substantial population deviation ...

Multimember Districts

Absent persuasive justification, a federal court's reapportionment plan for a state legislature should avoid use of multimember districts, and should ordinarily achieve the goal of population equality with little more than de minimis variation.

TAYLOR vs. MCKEITHEN, 499 F 2nd 893 (1974) (LA - Leg)

Long history and continuing vitality of wards in voting districts in New Orleans entitled ward boundaries to respect in drawing district lines.

Constitution extends equal protection of the laws to people, not to interests.

WHITE vs. REGISTER, 412 U.S. 755 (1973) (TX - Leg - House)

Population Variance

House districts of 71,597 to 78,943 or 9.9% overall deviation plan upheld.

Multimember Districts

The court invalidated the use of two large multimember districts in two metropolitan counties because the Black and Chicano communities had been "effectively excluded from participation in the Democratic primary selection process".

population in two of the five districts and a clear majority of the registered voters in one of them, making it predictable that at least one and perhaps two Negroes could be elected to City Council. An impermissible effect is created whenever a reapportionment plan has the effect of diluting existing black voting strength.

EAST CARROLL PARISH SCHOOL BOARD vs. MARSHALL, 424 U.S. 636 (1976) (LA - Local)

Multimember districts

The Supreme Court's preference for single-member districts in court ordered apportionment plans is extended to districts in a local jurisdiction. The preclearance procedures of Sec. 5 of the Voting Rights Act were not applicable when a District Court adopted a reapportionment plan submitted to it by a local legislative body that was covered by the Act.

McGILL vs. GADSDEN COUNTY COMMISSION, 535 F 2nd 277 (1976) (FL - Local) (Court of Appeals)

At Large Districts

Plaintiff failed to establish that at-large voting scheme used to elect members of County Commission diluted black voting strength.

WHITE vs. REGISTER, 422 U.S. 935 (1975) (TX - Leg). (Follow-on case to White v. Weiser.)

The Texas Legislature adopted a single member redistricting plan for the multimember districts at question subsequent to WHITE vs. REGISTER. On direct appeal, the U.S. Supreme Court vacated the District Court judgment and remanded the case for further consideration.

CITY OF RICHMOND, VIRGINIA vs. UNITED STATES, 422 U.S. 358 (1975) (VA - Local)

Voting Rights Act

The effect of annexation did not deny or abridge the Negroes' right to vote in the postannexation community, since the fairly designed ward plan afforded them representation reasonably equivalent to their political strength in the enlarged community.

Multimember Districts, Racial Discrimination

In order to sustain a claim that multimember legislative districts are being used individiously to cancel out or minimize the voting strength of racial groups, it is not enough to show that the racial group allegedly discriminated against has not had legislative seats in proportion to its voting potential. Evidence must be produced to support findings that the political processes leading to nomination and election were not equally open to participation by the group in question - that its members had less opportunity than did other residents in the district to participate in the political processes and to elect legislators of their choice.

GAFFNEY vs. CUMMINGS, 412 U.S. 735 (1973) (CT - Leg)

Population Variance

Senate 83,441 to 84,973; total 1.81%

House 19,297 to 20,870; or 7.83%.

Plan upheld.

Partisan Gerrymandering

The plan was based on a "political fairness" principle, which was designed to reflect the relative strength of the major political parties, by creating a certain number "safe" of "safe" districts for each party and a certain number of "swing" districts.

Court Holdings

Minor deviations from mathematical equality among state legislative districts are insufficient to make out a prima facie case of invidious discrimination under the Equal Protection Clause.

The population variations in this case are so minor the state need not justify them.

The principle of "political fairness" is not invidiously discriminatory.

Congressional districts are to be judged by stricter deminimus standards than are state legislative districts.

GEORGIA vs. UNITED STATES, 411 U.S. 526 (1973) (GA - Leg)

Voting Rights Act

State reapportionment plans are specifically included in Sec. 5 preclearance requirements. Despite the lack of any affirmative finding by the Attorney

General to the effect that the reapportionment plan had a racially discriminatory purpose or effect, the Attorney General had properly promulgated and applied a regulation stating that the burden of proof was on the submitting party, and that the Attorney General would refrain from objecting only if his review of the material submitted satisfied him that the proposal change did not have a racially discriminatory purpose or effect.

MAHAN vs. HOWELL, 410 U.S. 315 (1973) (VA - Leg)

Population Variance

Legislative redistricting plans are not to be judged by the more stringent standards applicable to Congressional reapportionment, but judged against Equal Protection Clause.

Some divergences from a strict population standard are constitutionally permissible with respect to the apportionment of seats in either or both houses of a bicameral state legislature, where such divergences are based on legitimate considerations incident to the effectuation of a rational state policy.

Maintenance of political subdivision lines in the apportionment of legislative seats is not an irrational state policy; though such a policy, however rational, cannot be permitted to emasculate the goal of substantial equality of representation.

Tested by such standards, the population disparities among the House districts created by the Virginia General Assembly (+6.8% to -9.6% or 16.4% overall), though approaching tolerable constitutional limits, do not exceed them.

WHITE vs. WEISER, 412 U.S. 783 (1973) (TX - Cong)

Population Variance

458,581 to 477,856 for a spread of 4.1% is unconstitutional (2.43% & 1.70% average deviation among districts; .745% or 3,421 persons).

Although the percentage deviation in the legislative plan are smaller than those in Kirkpatrick & Wells, they were not "unavoidable" and the districts were not as mathematically equal as reasonably possible.

Avoidable variations must, if possible, be avoided.

Partisan Gerrymandering

The drawing of district boundaries, in a way that minimizes the number of contests between present incumbents, does not of itself establish invidiousness.

GOINES vs. HEISKELL, 362 F Supp. 313 (1973) (WV Leg - House) (U.S. District Court)

Population Deviation

16.179 maximum percentage population variance among the delegate districts was tolerable and acceptable, and did not violate "one man - one vote".

Multimember Districts

Statute apportioning membership in House of Delegates of the West Virginia Legislature did not arbitrarily discriminate against some voters and favor others in creating multimember districts.

67TH MINNESOTA STATE SENATE vs. BEENS, 406 U.S. 187 (1972) (MN - Leg)

Federal Court Intervention:

Insofar as possible, a federal court in reapportioning a state legislature should accommodate the relief ordered to the appropriate provisions of state constitutions and state statutes relating to the legislature's size.

In a federal district court action for reapportionment of a state's legislature, a court-imposed minor variation from the state's prescribed figures as to the proper size of the legislature, is permissible when the change is shown to be necessary to meet constitutional requirements; but cutting a state Senate's size almost in half and the House size by nearly 1/4 is more than a mere minor variation.

CONNOR vs. WILLIAMS, 404 U.S. 449 (1972) (MS - Leg)

Multimember Districts

The Supreme Court affirmed its preference for an emphasis upon single-member districts in court-ordered reapportionment plans.

ABATE vs. MUNDT, 403 U.S. 182 (1971) (NY - Local)

Population Variance

Population variances of 11,577 to 13,020 or +4.8% to -7.1%, or total of 11.9%, are constitutionally permissible in light of the absence of a built-in bias tending to favor any particular area or interest and the longstanding local governmental structures in which the towns and the county worked in close cooperation to provide overlapping public services.

WHITCOMB vs. CHAVIS, 403 U.S. 124 (1971) (IN - Leg)

Population Variance

Multimember districts

The use of multimember state legislative districts is not per se unconstitutional under the Equal Protection Clause, but is subject to challenge where circumstances of a particular case may operate to minimize or cancel out the voting strength of racial or political elements of the voting population.

Racial Discrimination

Minorities are not ipso facto and per se, entitled to representation in proportion to number or to relief even in multimember districts, based only on the fact of their racial or political minority.

ELY vs. KLAHR, 403 U.S. 108 (1971) (AZ - Leg)

Population Base

The use of voter registration as a basis is allowable only if it produces a "distribution of legislators not substantially different from that which would have resulted from the use of a permissible population basis".

Partisan Gerrymandering

Plan tried to insure inter alia, that no incumbent would run for re-election against another incumbent. Court held that "the incumbency factor has no place in any reapportionment or redistricting", and found "inapposite" the consideration of party strengths as a factor.

CONNOR vs. JOHNSON, 402 U.S. 690 (1971) (MS - Leg)

Multimember Districts

When U.S. District Courts are forced to fashion state legislative apportionment plans, "single-member districts are, as a general matter, preferable to large multimember districts".

PERKINS vs. MATTHEWS, 400 U.S. 379 (1971) (MS - Local)

Voting Rights Act

Definitional refinement of Sec. 5.

Any change in election procedure, no matter how small, is subject to Sec. 5 scrutiny.

The local district courts do not have jurisdiction to review Sec. 5 cases; only the U.S. Attorney General and the U.S. District Court for the District of Columbia may review these cases.

OREGON vs. MITCHELL, 400 U.S. 112 (1970) (OR - Elections)

Federally imposed voting eligibility requirements:

Congress has the right to establish national standards for voting eligibility in federal elections.

The provision lowering the minimum voting age from 21 to 18 was valid as applied to federal elections.

Congress could not lower the voting age from 21 to 18 in state and local elections.

The provision suspending the use of literacy tests for both federal elections and state and local elections is valid.

Provisions pertaining to residency requirements and absentee registration and voting in a presidential and vice presidential election are valid.

HADLEY vs. JUNIOR COLLEGE DISTRICT, 397 U.S. 50 (1970) (MO - Local)

Population Variance

Population equality is necessary in a consolidated junior college district from which trustees are elected.

GASTON COUNTY vs. UNITED STATES, 395 U.S. 285 (1969) (NC - Local)

Voting Rights Act

The District Court could properly consider the county's practice of educational discrimination in determining whether its literacy test had the effect of discriminatorily denying the franchise.

It was not clearly erroneous for the District Court to conclude that the county had not met the burden of proving that the education it provided had no such discriminatory effect.

Adult Negroes who had received inferior education were discriminatorily affected by the use of this literacy test, despite impartial administration of

the voting registration law and recent progress toward equalizing and integrating the county's school system. Educational levels can have some effect on the voting regulations under Sec. 5.

MOORE vs. OGILVIE, 394 U.S. 814 (1969) (IL - Elections)

Election Nomination Procedures

A state statute providing that the 25,000 or more signatures of qualified voters prescribed for nominating petitions of independent candidates for offices to be filled by voters at large must include the signatures of 200 qualified voters from each of at least 50 of the 102 counties in the state; notwithstanding that it was designed to require a statewide support for launching a new political party rather than support from a few localities, violates the equal protection clause of the 14th Amendment in that it applies a rigid, arbitrary formula to sparsely settled counties and populous counties alike, contrary to the constitutional theme of equality among citizens in the exercise of their political rights, discriminates against the residents of the populous counties in favor of rural sections ...

WELLS vs. ROCKEFELLER, 394 U.S. 542 (1969) (NY - Cong)

Population Variance

A difference of +435,000 to -390,000 is unconstitutional.

Community of Interest

To accept population variances, large or small, in order to create Congressional election district with specific interest orientations, is antithetical to the basic premise of the constitutional command to provide equal representation for equal numbers of people.

KIRKPATRICK vs. PREISLER, 394 U.S. 526 (1969) (MO - Cong)

Population Variance

Districts varying in population from 420,000 to 445,000 were unconstitutional. "Limited population variances among Congressional districts are constitutionally permissable only if they are unavoidable despite a good-faith effort to achieve absolute equality or if justification for them is shown".

There is no de minimus standard for congressional districting.

Acceptable reasons must justify each variance, no matter how small.

Unacceptable justifications include:

- o avoided fragmenting areas with distinct economic and social interests;
- o a reasonable legislative compromise resolving practical political problems;
- o adjustments made on eligible voter population done on a haphazard basis;
- o projected population shifts not applied systematically geographic compactness.

ALLEN vs. STATE BOARD OF ELECTIONS, 393 U.S. 544 (1969)
(MS,VA - Local)

Voting Rights Act

Approval requirements of Sec. 5 were applicable to:

- o changes from district voting to at-large voting for county supervisors;
- o changes making the office of county superintendent of education from an elective to an appointive one in certain counties;
- o increasing the requirements for an independent candidate to gain position on a general election ballot; and
- o a bulletin issued by the State Board of Elections outlining new procedures for casting write-in votes.

AVERY vs. MIDLAND COUNTY TEXAS, 390 U.S. 474 (1968) (TX - Local)

County Precincts, Population Variance

One-man, one-vote appliesd to local units of government.

LUCAS vs. RHODES, 389 U.S. 212 (1967) (OH - Cong)

Population Variance

Unofficial population popul[illegible]on statistics are insufficient to justify the disparity among districts because they are too unreliable and not available for all areas. However, seven years after the initial census count such figures may be used.

KILGARLIN vs. HILL, 386 U.S. 120 (1967) (TX - Leg - House)

Population Variance

54,384 to 71,301, or +14.84% to -11.64%.

The Supreme Court accepted the ruling of the District Court sustaining the allocation of a representative to a smaller but more rapidly growing district.

Multimember Districts

The use of multimember and/or flaterial districts in state legislative reapportionment plans is not unconstitutional per se.

DUDDLESTON vs. GRILLS, 385 U.S. 455 (1967) (IN - Leg)

Case remanded to District Court in light of: SWANN vs. ADAMS, WESTBERRY vs. SANDERS, and REYNOLDS vs. SIMS

SWANN vs. ADAMS, 385 U.S. 440 (1967) (FL - Leg)

Population Variance Senate: +15.09; -10.56; House: +18.28; -15.27. Deviations are unconstitutional.

KATZENBACH vs. MORGAN, 384 U.S. 641 (1966) (NY - Elections)

Voting Rights Act

Sec. 4 (e) - barring English language proficiency and literacy tests as a condition of voting is constitutional.

BURNS vs. RICHARDSON, 384 U.S. 73 (1966) (HI - Leg)

Population Base

Hawaii's use of a registered voter base is upheld only because on this record it produced a distribution of legislators not substantially different from that which would have resulted from the use of a state citizen population base or another permissible population base.

Multimember Districts

The equal protection clause does not require that at least one house of a bicameral state legislature consist of single-member legislative districts.

Partisan Gerrymandering

Drawing district boundaries "in such way that minimizes the number of election contests between present incumbents does not in and of itself establish invidious discrimination".

of the state's population would elect a majority.

House: 21,825 to 95,064 + 40.5% of the state's population would elect a majority.

MARYLAND COMMITTEE FOR FAIR REPRESENTATION vs. TAWES, 377 U.S. 656 (1964) (MD - Leg)

Population Variance

Neither house, even after the reapportionment, was apportioned sufficiently on a population basis to be constitutionally sustainable. House: 6,541 to 37,879 and 35.6% of the state's population would elect a majority. Senate: 15,481 to 492,428 and 14.1% of the state's population would elect a majority.

WMCA, INC. vs. LOMENZO, 377 U.S. 633 (1964) (NY - Leg)

Population base

Case upheld New York's use of a citizen population base which excluded resident aliens.

Population Variance

Apportionment based on 1960 figures. State Assemblymen representing 37.5% of the state's citizens, and Senators representing 38.1% of the state's citizens, would constitute a majority in each chamber. Population in Assembly districts would vary from 14,974 to 190,343. Population in Senate districts would vary from 162,840 to 425,000. Population variance unconstitutional.

REYNOLDS vs. SIMS, 377 U.S. 533 (1964) (AL - Leg)

The equal protection clause requires that the seats in both houses of a bicameral state legislature be apportioned on a population basis.

Some deviations from the equal-population principle are constitutionally permissible, with respect to either or both houses of a state legislature, so long as such deviations are based on legitimate considerations incident to the effectuation of a rational state policy.

WESBURY vs. SANDERS, 376 U.S. 1 (1964) (GA - Cong)

Population Variance

The federal Constitution requires that Congressmen be chosen by "the people of

GERMANO vs. KERNER, 378 U.S. 560 (1964) (IL - Leg)

Population variance unconstitutional.

NOLAN vs. RHODES, 378 U.S. 556 (1964) (OH - Leg)

Population variance unconstitutional.

WILLIAMS vs. MOSS, 378 U.S. 558 (1964) (OK - Leg)

Population variance unconstitutional.

MEYERS vs. THIGPEN, 378 U.S. 554 (1964) (WA - Leg)

Population variance unconstitutional.

LUCAS vs. FORTY-FOURTH GENERAL ASSEMBLY OF THE STATE OF COLORADO, 377 U.S. 713 (1964) (CO - Leg)

Population Variance

Population variance in the state Senate was unconstitutional. 19,983 to 71,871 +33.2% with the maximum population.

Variance ratio in House 1.7:1 & 45.1% to elect a majority.

ROMAN vs. SINCOCK, 377 U.S. 695 (1964) (DE - Leg)

Population Variance

Population variance in both reapportionments were unconstitutional.

Senate: 4,177 to 64,820 + 22%; 4,177 to 64,820 + 21%

House: 1,643 to 58,228 + 18.5%; 1,643 to 20,040 + 28.0%

DAVIS vs. MANN, 377 U.S. 678 (1964) (VA - Leg)

Population Variance

Population variance was unconstitutional. Senate: 61,730 to 163,401 + 41.1%

SOUTH CAROLINA vs. KATZENBACH, 383 U.S. 301 (1966) (SC - Elections)

Voting Rights Act

The Voting Rights Act is upheld as constitutional.

WMCA INC. vs. LOMENZO, 382 U.S. 4 (1965), 238 F. Supp. 916 (NY - Leg)

Population Base

Apportionment on citizen population does not violate the federal Constitution. Partisan "gerrymandering" may (not) be subject to federal constitutional attack under the Fourteenth Amendment.

FORTSON vs. DORSEY, 379 U.S. 433 (1965) (GA - Leg)

Multimember Districts

Absent any contention that there was not substantial equality of population among the districts, or evidence to support the assertion that the scheme was intended to minimize or cancel out the voting strength of racial or political elements of the voting population, a statute creating multimember districts is constitutional.

HILL vs. DAVIS, 378 U.S. 565 (1964) (IA - Leg)

Population variance unconstitutional.

PINNEY vs. BATTERWORTH, 378 U.S. 564 (1964) (CT - Leg)

Population variance unconstitutional.

HEARN vs. SMYLIE, 378 U.S. 563 (1964) (ID - Leg)

Population variance unconstitutional.

MARSHALL vs. HARE, 378 U.S. 561 (1964) (MI - Leg)

Population variance unconstitutional.

the several states" which requires that, as nearly as practicable, one man's vote in a Congressional election must be worth as much as another's. Near mathematical precision in Congressional redistricting is necessary under the Equal Protection Clause of the Fourteenth Amendment.

GRAY vs. SANDERS, 372 U.S. 368 (1963) (GA - Elections)

County unit system in counting votes in Democratic primary for nomination of U.S. Senator violated the Equal Protection Clause of the Fourteenth Amendment.

County unit system cannot be equated to states in conducting elections and, therefore, the Equal Protection Clause requires that every voter is equal to every other voter in the state when he casts his ballot in a statewide election.

BAKER vs. CARR, 369 U.S. 186 (1962) (TN - Leg)

Federal Courts have jurisdiction in such political questions as legislative malapportionment, which violates the Equal Protection Clause of the Fourteenth Amendment.

GOMILLION vs. LIGHTFOOT, 364 U.S. 399 (1960) (AL - Local)

Prescribed racial gerrymandering under the Fifteenth Amendment; held Fourteenth Amendment to be inapplicable.

COLGROVE vs. GREEN, 328 U.S. 549 (1946)

Congressional districting held to be a non-justiciable political issue

State Profiles



The Council of State Governments

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ALASKA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article VI, Sections 1-11

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Reapportionment Board

Chairman
John Schaeffer

Established in 1959
5 members appointed by the Governor without regard to political affiliation. Members cannot be public officials or employees.

CONGRESSIONAL DISTRICTS: One Congressman

STAFF CONTACT

Karen J. Ward
Executive Director
Reapportionment Board
Pouch A
Juneau, AK 99811
(907) 465-3520

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - Within 90 days following release of census count the Reapportionment Board must submit its plan to the Governor who then has 90 days to issue a proclamation about the plan. (Preliminary plan was released on May 5, 1981. Final plan to be released June 10, 1981).

POPULATION. Federal census

POPULATION GROUPS EXCLUDED Non-resident military personnel and dependents

SMALLEST UNIT OF POPULATION: Enumeration districts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Socio-economic areas, local government boundaries, contiguity, compactness

DEVIATION: Maximum combined deviation - 10 %

TYPE OF DISTRICT: Single member and multimember; candidates in two-member districts should run in designated seats

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes

ALASKA

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators may be required to run for reelection if the new district boundaries substantially change the constituency in the district

VOTING RIGHTS STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

None used in 1981

COURT WITH ORIGINAL JURISDICTION

State Superior Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

ARIZONA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

No constitutional provision

STATUTORY PROVISIONS

Arizona Revised Statutes (ARS) Sections 16-1101 through 16-1103

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Joint Select Committee on Reapportionment and Redistricting

Chairman
Sen. John C. Pritzlaff, Jr. (R)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Richard R. Greenfield
Deputy Director
Arizona Legislative Council
Capitol
Legislative Services Wing
Suite 100
Phoenix, AZ 85007
(602) 255-4236

Richard Collins
Research Director
House of Representatives
State Capitol
Phoenix, AZ 85007
(602) 255-5544

Greg Fahey
Staff Director
Senate
State Capitol
Phoenix, AZ 85007
(602) 255-4471

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: In advance of the 1982 general election. Special legislative session on reapportionment anticipated in fall 1981.

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Not required under current state law

OTHER CRITERIA FOR DRAWING DISTRICTS: Race or ethnic characteristics; geographic factors; other factors yet to be determined by the joint committee

DEVIATION: General consensus: less than 2.0% if possible

TYPE OF DISTRICT: 30 legislative districts, one senator and two house members from each district

ARIZONA

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

COMPUTER ASSISTANCE FOR APPORTIONMENT

Datapol
3118 West Thomas Road
Phoenix, AZ 85017

COMPUTER CONSULTANT

Mr. C. Howard Wilson
Room 443, Legislative
Services Wing
State Capitol
Phoenix, AZ 85007

COURT WITH ORIGINAL JURISDICTION

Federal District Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Klahr v. Williams, 388 F. Supp. 1007 1974)

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

Currently in preparation

ARKANSAS

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Amendment 23, Amendment 45

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Board of Apportionment

Governor | Secretary of State | Attorney General

CONGRESSIONAL DISTRICTS: Legislature

Senate State Agencies and Governmental Affairs Committee

Senate Chairman
Sen. Morrell Gathright (D)

House State Agencies and Governmental Affairs Committee

House Chairman
Rep. Charles W. Stewart (D)

STAFF CONTACT

Janet Reddin
Office of the Secretary of State
256 State Capitol
Little Rock, AR 72201
(501) 370-5070

William Beathea
Legislative Aide
Office of the Governor
State Capitol
Little Rock, AR 72201
(501) 371-2345

Ms. Donna Davis
Arkansas Legislative Council
315 State Capitol Building
Little Rock, AR 72201
(501) 371-1937

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: On or before February 1, immediately following each Federal census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Unknown

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes

OTHER CRITERIA FOR DRAWING DISTRICTS: Unknown

DEVIATION: Unknown

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection

ARKANSAS

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

University of Arkansas - Industrial Research and Extension Center

COURT WITH ORIGINAL JURISDICTION

No one court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

CONGRESSIONAL REDISTRICTING

Act 965 (1981)
Creates 4 congressional districts -
Ideal district: 571,378
Largest district: 575,485 or +.72%
Smallest district: 564-818 or -.01%

CALIFORNIA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article IV, Section 6

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Elections and Reapportionment Committee

Senate Chairman
Sen. Daniel E. Boatwright (D)

Assembly Elections and Reapportionment Committee

Assembly Chairman
Asmb. Richard Alatorre (D)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Alan Rosin
Staff Director
Senate Elections and Reapportionment Committee
State Capitol
Sacramento, CA 95814
(916) 445-9018
445-3375

Stephen March
Senior Consultant
Senate Elections and Reapportionment Committee
State Capitol
Sacramento, CA 95814

Dr. Bruce Cain
Consultant
Assembly Elections and Reapportionment Committee
Room 4001, State Capitol
Sacramento, CA 95814
(916) 445-7644

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981-82. The first session following each decennial Federal census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Census tracts and block groups

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Not generally

OTHER CRITERIA FOR DRAWING DISTRICTS: Party registration; compactness, race and ethnic characteristics, geographical factors; election information

DEVIATION: Less than 1.0%

TYPE OF DISTRICTS: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

CALIFORNIA

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: Yes - Kings; Merced; Monterey, Yule counties

NEW OR REVISED DISTRICTS BEFORE 1990: Can be done but will probably not be done

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes

COURT WITH ORIGINAL JURISDICTION

State Supreme Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME CASE NUMBER

DISTRICT MAPS

COLORADO

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article V, Sections 44-48

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Colorado Reapportionment Commission

Established in 1974
11 members: 1 each by speaker, majority leader in Senate, minority leader in each House; 3 by governor, 4 by chief justice of Supreme Court; limit 4 legislators; limit 6 same political party; limit 4 same congressional district; 1 must reside West of Continental Divide

CONGRESSIONAL DISTRICTS: Legislature

Senate State Affairs Committee

Senate Chairman
Sen. Ted L. Strickland (R)

House State Affairs Committee

House Chairman
Rep. Frank De Filippo (R)

STAFF CONTACT

Lyle C. Kyle
Director
Colorado Legislative Council
Room 46, State Capitol Building
Denver CO 80203
(303) 839-3521

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: About January 30, 1982 or 180 days after the convening of the Reapportionment Commission. Final plan must be approved by the State Supreme Court by March 15, 1982

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, race and ethnic characteristics, geography, "community of interest"

DEVIATION: 5% from most populous to least populous

TYPE OF DISTRICT: Single member

COLORADO

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out term

VOTING RIGHTS STATE: Yes - El Paso County only

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

State Computer System

COURT WITH ORIGINAL JURISDICTION

Colorado Supreme Court must automatically review plan

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Title 2, Article 2, Part 1 and 2 Colorado Revised Statutes 1973 parts 1 and 2

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

CONNECTICUT

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article XII of the Amendments to the Constitution

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Committee on Reapportionment

Chairman:
Not yet selected

By August 1, 1981, a 2/3 vote in each chamber is required to approve a redistricting plan. If the legislature cannot complete the plan by the deadline, a Commission of 9 members is appointed: 2 each by the Senate President Pro Tem, House Speaker and the Minority Leaders of each party, all from the two major political parties and a 9th member selected by the eight within 30 days. The Commission by at least a 5 to 6 vote must submit its plan by October 30, 1981. If no plan is submitted, by petition of a registered voter, the state Supreme Court must file a plan by January 15, 1982 or rule on the petition submitted to it.

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Mr. Jan Majewski
Coordinator
Special Joint Committee
on Reapportionment
Vault 4, State Capitol
Hartford, CT 06115
(203) 566-8308

Mr. Harry Hutton
Coordinator
Special Joint Committee
on Reapportionment
Vault 6, State Capitol
Hartford, CT 06115
(203) 566-7429

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - 1982

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Census blocks and Ed's

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes

OTHER CRITERIA FOR DRAWING DISTRICTS: Contiguous and single member districts

DEVIATION: Unknown

TYPE OF DISTRICT: Single member

CONNECTICUT

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Some

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes - Groton, Mansfield, Southbury Towns

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

COMPUTER ASSISTANCE FOR APPORTIONMENT

Market Opinion Research
Detroit, Michigan

COURT WITH ORIGINAL JURISDICTION

State Supreme Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

FLORIDA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article III, Sections 1, 15, 16

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature/State Supreme Court

Senate Rules and Calendar Committee

Senate Chairman
Sen. Dempsey J. Barron (D)

House Select Committee on Reapportionment

House Chairman
Rep. Lee Moffitt (D)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Terri Jo Kennedy
Staff Director
Senate Rules and Calendar Committee
Suite 409, State Capitol
Tallahassee, FL 32304
(904) 488-5810

Mark Herron
Staff Director
House Select Committee on Reapportionment
Room 223, State Capitol
Tallahassee, FL 32304
(904) 488-9622

PROPOSED CRITERIA FOR LEGISLATIVE APPORTIONMENT

DATE: End of 1982 Legislative session; no plan, Governor must convene a special session; no plan, state Supreme Court has 60 days to formulate a plan

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Voting precincts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: State geographical factors, political boundaries

DEVIATION: No decision

TYPE OF DISTRICT: Single member and multimember districts

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection

FLORIDA

VOTING RIGHTS STATE: Yes - Collier, Hardee, Hendry, Hillsborough Monroe Counties

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Legislative Data Processing Center

COURT WITH ORIGINAL JURISDICTION

State Supreme Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME CASE NUMBER

None

DISTRICT MAPS

GEORGIA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article III, Section II, paragraph 1, Section II, paragraph 1

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Reapportionment Committee	House Legislative and Congressional Reapportionment Committee
Senate Chairman Sen. Perry J. Hudson (D)	House Chairman Rep. Joe Jack Wilson (D)

STAFF CONTACT

Linda Meggers
Legislative Reapportionment Associate
Institute of Government
State Capitol
Atlanta, GA 30334
(404) 656-5063

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: No specific date - 1981

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, race or ethnic characteristics, geographic factors, political boundaries

DEVIATION: 5.0% to 9.9%

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHT STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

GEORGIA

COMPUTER ASSISTANCE FOR APPORTIONMENT

Institute of Government - University of Georgia

COURT WITH ORIGINAL JURISDICTION

Superior Court of each county

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

IDAHO

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 3, Sections 2, 4

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislative

Senate State Affairs Committee	House State Affairs Committee
Senate Chairman Sen. Leon H. Swenson (R)	House Chairman Rep. George G. Danielson (R)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Susan Bennion
Legislative Council
Room 334
State Capitol Building
Boise, ID 83720
(208) 334-2475

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: No specific date - 1981 or 1982; Governor will call special legislative session on reapportionment to convene July 7

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: Unknown

SMALLEST UNIT OF POPULATION: Voting precincts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes for some counties

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography

DEVIATION: 10.0% to 14.9%

TYPE OF DISTRICT: Senate - single member; House - multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Legislative districts elect one senator and two representatives

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes - Elmore County only

IDAHO

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

COMPUTER ASSISTANCE FOR APPORTIONMENT

No

COURT WITH ORIGINAL JURISDICTION

State District Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

ILLINOIS

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article IV, Section 2, 3

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature/Legislative Redistricting Commission

Legislature must redistrict by June 30, 1981. If they do not, an 8 member Legislative Redistricting Commission is appointed by July 10, 1981: 2 each by the Senate President and Minority Leader, the House Speaker and Minority Leader. The members are to include 2 Senators, 2 Representatives and 4 citizens. The Commission must file a report with the Secretary of State by August 10, 1981. If the Commission does not adopt a plan by that date, the State Supreme Court selects 2 people by September 1, 1981, one of whom is chosen at random to be the commission tie-breaker. The 9 member commission must file its report by October 5, 1981.

CONGRESSIONAL DISTRICTS: Legislature

STAFF CONTACT

Ms. Karen A. Fahrion
Research Associate
Legislative Council
Room 107, Stratton Building
Springfield, IL 62706
(217) 782-6851

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: June 30, 1981; October 5, 1981

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Party registration, compactness, geographical factors

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Single member

ILLINOIS

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Senate districts

SENATORS ELECTED IN STAGGERED TERMS: Yes - all terms end in 1983; all Senators elected in 1982

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - House Republicans - Rose Institute
Claremont, California

COURT WITH ORIGINAL JURISDICTION

State Supreme Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

INDIANA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 4, Section 4
Article 4, Section 5 (ruled invalid by court)

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Legislative Apportionment and Elections Committee	House Elections and Apportionment Committee
Senate Chairman Sen. Charles Bosma (R)	House Chairman Rep. Dick Mangus (R)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Robert Schembs; Beth Wood
Staff Attorney
Legislative Services
Room 302, State House
Indianapolis, IN 46204
(317) 269-3731

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: State Legislative plan adopted April 1981

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Census areas and election precincts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Some - All precinct boundaries are now required to be drawn along discernable geographic lines

OTHER CRITERIA FOR DRAWING DISTRICTS: Party registration, compactness, geographic factors

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

INDIANA

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Not prohibited, but unlikely

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - open

COURT WITH ORIGINAL JURISDICTION

No one court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Senate enrolled act 80 (Senate districts)
Senate enrolled act 85 (U.S. Congressional districts; some modification of Senate districts)
House enrolled act 1475 (House districts)

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

Available from State Election Board, 100A State Office Building, Indianapolis, IN 46204 (317) 232-3939

KANSAS

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 10

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Legislative, and Congressional Apportionment Committee

Senate Chairman
Sen. Dan Thiessen (R)

House Legislative, Judicial and Congressional Apportionment Committee

House Chairman
Rep. Robert G. Frey (R)

CONGRESSIONAL DISTRICTS: Same

Congressional districts will be drawn from federal census figures.

STAFF CONTACT

Russell Mills
Principal Analyst
Legislative Research Department
Room 545-N, State House
Topeka, KS 66612
(913) 296-3181

M. Torrence
Revisor of Statutes
State House
Topeka, KS 66612
(913) 296-2321

CRITERIA USED FOR STATE LEGISLATIVE APPORTIONMENT

DATE: At regular session in 1979 and every ten years thereafter

POPULATION: 1978 annual state census; used for 1979 reapportionment, in future, federal census will be used

POPULATION GROUPS EXCLUDED: Military and students

SMALLEST UNIT OF POPULATION: Voting precincts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography, county boundaries and projected population growth

DEVIATION: 5.0% to 9.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: No

KANSAS

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1989: Yes

COMPUTER ASSISTANCE FOR APPORTIONMENT

No

COURT WITH ORIGINAL JURISDICTION

Kansas Supreme Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Senate - K.S.A. 1980 Supp. 4-4, 101 through 4-4, 142
House - K.S.A. 1980 Supp. 4-3, 201 through 4-3, 327

CURRENT LITIGATION

CASE NAME	CASE NUMBER
In re Senate Bill No. 22)	Senate 225 Kan 628, 593 P2d 1 (1979)
In re House Bill No. 2620	House 225 Kan 827, 595 P2d 334 (1979)

DISTRICT MAPS

Available - The Council of State Governments

KENTUCKY

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Section 33

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Interim Joint Committee on State Government

Senate Co-Chairman	House Co-Chairman
Sen. Pat M. McCuiston (D)	Rep. Mark O'Brien (D)

Subcommittee on Redistricting

Senate Co-Chairman	House Co-Chairman
Sen. Helen Garrett (D)	Rep. Lloyd E. Clapp (D)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Joyce Honaker
Committee Staff Administrator
Legislative Research Commission
State Capitol
Frankfort, KY 40601
(502) 564-8100

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: No specific date - redistricting anticipated in 1982 regular session

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Voting precincts and smallest census units

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Contiguity

DEVIATION: No decision

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

KENTUCKY

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

COMPUTER ASSISTANCE FOR APPORTIONMENT

State Data Processing

COURT WITH ORIGINAL JURISDICTION

State Circuit Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

K.R.S. 6.011 to 6.041

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

MAINE

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 4, Part 3, Section 1-A

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Advisory Commission/Legislature

Advisory Commission established in 1975 by Constitutional amendment. Members will be appointed in 1983 and every 10 years after that. 15 members: 3 by House Speaker, 2 by Senate President, 5 by Floor leaders, 5 by others. 6 majority and minority party members. 3 public members. The commission prepares a plan and submits it to the legislature which may adopt the commission's plan or one of its own. If the legislature cannot agree on a plan, the Supreme Judicial Court must redistrict.

CONGRESSIONAL DISTRICTS: Legislature

STAFF CONTACT

Erland B. Hardy
Legislative Attorney
Legislative Research Office
State House
Augusta, ME 04333
(207) 289-2101

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1983 - Submission of plan within 90 days after convening of Legislature

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: Non-U.S. Citizens

SMALLEST UNIT OF POPULATION: Unknown

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Unknown

OTHER CRITERIA FOR DRAWING DISTRICTS: Contiguous, compactness

DEVIATION: Unknown

TYPE OF DISTRICT: Senate - single member; House - single member multimember. Expect all House districts to be single after 1980

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

MAINE

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Unknown

COMPUTER ASSISTANCE FOR APPORTIONMENT

Unknown

COURT WITH ORIGINAL JURISDICTION

State Supreme Judicial Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

MARYLAND

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article III, Sections 4, 5

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Governor/Legislature

Senate Constitutional and Public Law Committee	House Constitutional and Administrative Law Committee
Senate Chairman Sen. Edward T. Conroy (D)	House Chairman Del. Helen L. Koss (D)

The Governor drafts a plan which he submits to the Legislature. It has 45 days to amend that plan or adopt one of its own. If it cannot act, the Governor's plan automatically becomes law.

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

John O'Brien Executive Assistant Governor's Office State House Annapolis, MD 21401 (301) 269-2606	Donovan Peeters Legislative Analyst Senate Constitutional and Public Law Committee Room 400, James Office Building Annapolis, MD 21401 (301) 841-3582	William G. Somerville Legislative Analyst House Constitutional and Administrative Law Committee Room 141, House Office Building Annapolis, MD 21401 (301) 841-3502

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1982; 45th day of the Legislative session in the second year following the census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Unknown

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, natural and political boundaries

Maryland

DEVIATION: Unknown

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - State General Assembly Data Processing; Department of State Planning; University of Maryland

COURT WITH ORIGINAL JURISDICTION

State Court of Appeals

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

MISSISSIPPI

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 13, Section 254

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature/Reapportionment Commission

Standing Joint Legislative Committee on Reapportionment

Vice-Chairman	Chairman
Sen. William Thomas Harpole (D)	Rep. Thomas H. Campbell, III (D)

Reapportionment Commission

5 member commission consisting of the Chief Justice of the Supreme Court, Chairman; Attorney General; Secretary of State; Speaker of House of Representatives; President Pro Tempore of the Senate.

CONGRESSIONAL DISTRICTS: Legislature

STAFF CONTACT

Larry Richardson
Director
Legislative Reference Bureau
P. O. Box 1040
Jackson, MS 39205
(601) 354-6165

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1982 - Adjournment date of the regular session of the Legislature in the second year following the 1980 census.

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, race, county boundaries

DATE TO BE USED: Demographic, cartographic data

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

MISSISSIPPI

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

COMPUTER ASSISTANCE FOR APPORTIONMENT

Unknown

CONSULTANT

Jerris Leonard and Associates
1700 Pennsylvania Avenue
Suite 550
Washington, D.C. 20006
(202) 872-1095

COURT WITH ORIGINAL JURISDICTION

No one court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

MISSOURI

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article III, Sections 2, 7, 45

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Senate Reapportionment Commission; House Reapportionment Commission

Established in 1966
House Commission: 20 members, Senate Commission 10 members. All appointed by Governor. House members must be a resident of the Congressional district from which nominated. No more than one shall come from a single legislative district. Should the members of the commission not agree, a panel of 6 judges drawn from the Court of Appeals shall be selected to draw reapportionment plans.

CONGRESSIONAL DISTRICTS: Legislative

Senate Committee on Apportionment

Senate Chairman
Sen. Clarence H. Heflin (D)

Committee on Congressional Reapportionment

House Chairman
Rep. Anthony D. Ribaudo (D)

STAFF CONTACT

Frank Masters
Director
Committee on Legislative Research
Room 117A, State Capitol Building
Jefferson City, MO 65101
(314) 751-4223

Mark Reading
Project Director, Reapportionment
Office of Administration
Division of Budget and Planning
Room 129, Capitol Building
Jefferson City, MO 65101
(314) 751-2073

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - Commission names submitted within 60 days after certification of census. Governor must appoint within 30 days after submission of names. Report 6 months after appointment of commission.

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Commission may use any information available

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography

DEVIATION: Unknown

MISSOURI

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Only if invalidated by a court

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - open

COURT WITH ORIGINAL JURISDICTION

State Chancery Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

NEBRASKA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article III, Sections 5, 7

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Miscellaneous Subjects Committee
Chairman
Sen. Elroy Hefner
Room 2021
State Capitol
Lincoln, NE 68509

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Ron Bowmaster
Deputy Director of Research
Legislative Council
7th Floor, State Capitol
Lincoln, NE 68509
(402) 471-2440

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: No specific date

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: Aliens

SMALLEST UNIT OF POPULATION: Blocks; ED's

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness - will attempt to follow political boundaries. Separate and distinct districts, compact and contiguous, nearly as equal as may be, county lines are to be followed wherever practicable

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Unicameral legislature

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

NEBRASKA

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - State Central Data Processing

COURT WITH ORIGINAL JURISDICTION

Supreme Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Legislative: §5 - 104.07
Congressional: §5 - 101.01

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

NEVADA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 15, Section 13; Article 4, Section 5

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Government Affairs Committee	Assembly Elections Committee
Senate Chairman	House Chairman
Sen. James I. Gibson (D)	Rep. Alan Glover (D)

CONGRESSIONAL DISTRICTS: One Congressman

STAFF CONTACT

Andrew P. Grose
Research Director
Legislative Counsel Bureau
Legislative Building
Carson City, NV 89710
(702) 885-5637

CRITERIA FOR EXISTING STATE LEGISLATIVE APPORTIONMENT

DATE: 1981

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks; ED's

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness; geographic, county boundaries

DEVIATION: -5% to +5%. Maximum deviation spread 10%

TYPE OF DISTRICT: Senate - single member or two member; House - single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: No

NEVADA

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - State Central Data Processing

COURT WITH ORIGINAL JURISDICTION

No one court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

N.R.S. 218.010 to 218.084 (1971, amended in 1973)

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

NEW HAMPSHIRE

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Part 2, Articles 9, 9A, 11, 11A, 26, 26A

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

House Reapportionment Committee

Chairman
Rep. Russell C. Chase (R)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Donald S. Jennings
Legislative Services
Room 110, State House
Concord, NH 03301
(603) 271-3435

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - First legislative session following the decennial census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: Students, military personnel

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Town and city ward boundaries

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes - Antrim Town; Benton Town; Millfield Township; Newington Town; Pinkhams Grant; Rindge Town; Stewartstown; Stratford Town; Unity Town

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

NEW HAMPSHIRE

COMPUTER ASSISTANCE FOR APPORTIONMENT

No

COURT WITH ORIGINAL JURISDICTION

State Superior Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

NEW JERSEY

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article IV, Sections II, III

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Apportionment Commission

Established in 1966
10 members: 5 by Chairman, Democrat State Committee; 5 by Chairman, Republican State Committee
1 tie breaker if deadlock: Chief Justice, State Supreme Court

CONGRESSIONAL DISTRICTS: Legislature

STAFF CONTACT

Samuel A. Alito
Executive Director
Office of Legislative Services
Suite 232, State House
Trenton, NJ 08625
(609) 292-4661
292-8014

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: Within one month of the receipt by the Governor of the census, or on or before February 1, 1981, whichever date is later (new state legislative plan certified April 13, 1981)

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Election districts (voting precincts)

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, contiguity, political subdivisions (municipalities but not counties)

DEVIATION: 1981 - 7.7% overall range (+5.13% and -2.57%)

TYPE OF DISTRICT: Senate - single member; House - multimember (2 per Senate district)

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Senate is basis of district

NEW JERSEY

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

None used

COURT WITH ORIGINAL JURISDICTION

State Superior Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
Apportionment Commission v. U.S. Department of Commerce	Civil Action No. 81-309

The suit was filed in Federal District Court to force the Census Bureau to deliver population data to the state in order to do state legislative districting.

Apportionment Commission v. Dennan	Docket No. L28848-80

The suit was filed in State Superior Court to allow certification of a state legislative plan that did not use final census figures for Essex County and did not comply with state constitutional language about the preservation of counties.

Welch v. Apportionment Commission	Docket No. C2911-80

The suit was filed in State Superior Court to overturn the 1981 state legislative districting plan because of excessive population deviations, political unfairness, and undue constitution of the Apportionment Commission. The plan was upheld.

DISTRICT MAPS

Available from The Council of State Governments or the Office of Legislative Services, Division of Legislative Information and Research.

NEW MEXICO

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 4, Section 3

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Mercedes G. Romero
Senior Research Assistant
New Mexico Legislative Council Service
334 State Capitol
Santa Fe, NM 87503
(505) 827-3141

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - Once every 10 years following the availability of census counts

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Voting precincts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - may change with reapportionment

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICT LINES BEFORE 1990: Unknown

NEW MEXICO

COMPUTER ASSISTANCE FOR APPORTIONMENT

New Mexico Republican Party - Rose Institute
Claremont, California

COURT WITH ORIGINAL JURISDICTION

No one court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

NORTH CAROLINA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article II, Sections 3, 5

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Redistricting Committee	House Legislative Redistricting Committee
Senate Chairman Sen. Marshall A. Ranch (D)	House Co-Chairman Rep. Robert A. Jones (D) Rep. Daniel T. Lilley (D)

CONGRESSIONAL DISTRICTS: Legislature

Senate Congressional Redistricting Committee	House Congressional Redistricting Committee
Senate Chairman Sen. Helen R. Marvin (D)	House Chairman Rep. J. P. Huskins (D)

STAFF CONTACT

John L. Allen, Jr.
Legislative Services Officer
Legislative Services Office
2129 State Legislative Building
Raleigh, NC 27611
(919) 733-7044

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - First regular session following release of census counts

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Counties

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness; contiguity of counties

DEVIATION: Unknown

TYPE OF DISTRICT: Single member/multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

NORTH CAROLINA

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes: Anson, Beaufort, Bertie, Bladen, Camden Caswell, Chowan, Cleveland, Craven, Cumberland, Edgecombe, Franklin, Gaston, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Jackson, Lee, Lenoir, Martin, Nash, Northampton, Onslow, Pasquotank, Perquimans, Person, Pitts, Robeson, Rockingham, Scotland, Union, Vance, Washington, Wayne, Wilson Counties

NEW OR REVISED REDISTRICTING BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Open

COURT WITH ORIGINAL JURISDICTION

Superior Court Division of the General Court of Justice

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

NORTH DAKOTA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article II, Section 29, 35
(Section 29, 35 ruled invalid in Paulson v. Meier, 232 F. Supp 183)

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Joint Legislative Rule 305 - creates a joint standing committee on reapportionment. Membership of the committee has not yet been established.

CONGRESSIONAL DISTRICTS: One Congressman

STAFF CONTACT

John A. Graham
Director
Legislative Council
State Capitol
Bismarck, ND 58505
(701) 224-2916

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - no specific deadline

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography

DEVIATION: North Dakota CC § 54-03-01.5: "The total population variance of all districts and subdistricts if created from the average district population may not exceed recognized constitutional limitations."

TYPE OF DISTRICT: Senate - single member, multimember
House - multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Senate

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection if district boundaries change

NORTH DAKOTA

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEOFRE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Bureau of Governmental Affairs, University of North Dakota
Lloyd B. Omdahl, Director

COURT WITH ORIGINAL JURISDICTION

North Dakota Supreme Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

OHIO

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article XI, Sections 1-15

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Ohio Apportionment Board

Established in 1967
5 members; Governor, Secretary of State, Auditor of State, one person chosen jointly by the Speaker of the House and the head of his political party in the Senate, and one person chosen jointly by the leader of the other major political party in the House and Senate.

CONGRESSIONAL DISTRICTS: Legislature

Senate Elections, Financial Institutions and Insurance Committee

Senate Chairman
Sen. Paul R. Matia (R)

House Elections Committee

House Chairman
Rep. Terry M. Tranter (D)

STAFF CONTACT

Edith S. Woodward
Library Administrator
Ohio Legislative Service Commission
State House
Columbus, OH 43215
(614) 466-5312

Jack L. Noragon
Senior Research Associate
Ohio Legislative Service Commission
State House
Columbus, OH 43215
(614) 466-4389

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: October 5, 1981

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Census blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Equal population, compactness, contiguity of political subdivisions, boundaries

DEVIATION: 10%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - 3 house districts per senate district

OHIO

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - State Computer available; Republicans have employed Market Opinion Research, Inc., Detroit, Michigan. Democrats have employed Decision Research Corp., Cleveland, Ohio.

COURT WITH ORIGINAL JURISDICTION

Ohio Supreme Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

None: law merely requires that the plan of the Apportionment Board be published.

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

PENNSYLVANIA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 2, Section 17

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislative Reapportionment Commission

Established in 1968
5 members: House majority and minority leaders or appointed deputies; Senate majority or minority leaders or appointed deputies. The four members select the fifth member, a citizen of the commonwealth other than a local, state or federal official holding an office to which compensation is attached.

CONGRESSIONAL DISTRICTS: Legislature

STAFF CONTACT

Vincent W. Raba
Assistant Director
Joint State Government Commission
Room 108, Finance Building
Harrisburg, PA 17120
(717) 787-6617

Dr. James O. Freedman
Chairman
Legislative Reapportionment Commission
Room 217, Finance Building
Harrisburg, PA 17120
(717) 783-1222

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - 90 days after the commission is certified or census population is available

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography, political boundaries, voter registration

DEVIATION: 1.0% to 4.9%; Senate - 5.0% to 9.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: No

PENNSYLVANIA

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

State Legislative Data Processing Center/Richard E. Campbell, Director
State Legislative Data Processing Center
Main Capitol, Room 47C
Harrisburg, PA 17120
(717) 787-7358

COURT WITH ORIGINAL JURISDICTION

Pennsylvania Supreme Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME CASE NUMBER

The Commission asked the State Supreme Court to determine when the 90 day deadline began. The Court held "... from the date the Commission receives the population data of the Commonwealth as determined by the Federal decennial census, in usuable form, (breakdown of data by precinct and ward) for the Commissions performance of its constitutional duties."

DISTRICT MAPS

SOUTH DAKOTA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article III, Section 5

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature/Reapportionment Group

Senate State Affairs Committee	House State Affairs Committee
Senate Chairman	House Chairman
Sen. G. Homer Harding (R)	Rep. JOseph H. Barnett (R)

If the legislature is unable to redistrict, before adjourning the task falls to the Governor, Superintendent of Public Instruction, Presiding Judge of the Supreme Court, Attorney General and the Secretary of State who have 30 days to promulgate a plan.

CONGRESSIONAL DISTRICTS: One Congressman

STAFF CONTACT

Wes Tschetter
Director
Legislative Research Council
Pierre, SD 57501
(605) 773-3251

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: April 1981 - Regular legislative session of year ending in "1". (State legislative districting plan adopted April 13, 1981).

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Townships and cities

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Population equality, county boundaries, protection of minority voting rights, compactness, preservation of historical districting patterns, equalization as geographical size, socioeconomic considerations

DEVIATION: Unknown

TYPE OF DISTRICT: Single member, multimember

SOUTH DAKOTA

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Senate is primary district

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes - Shannon and Todd counties only

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

No

COURT WITH ORIGINAL JURISDICTION

State Supreme Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

TEXAS

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 3, Sections 25, 26, 26A, 28

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature/Legislative Redistricting Board of Texas

Committee of the Whole Senate
Redistricting Subcommittee

Senate Chairman
Sen. H. Tati Santiesteban (D)

House Regions, Compacts, and Districts Committee

House Chairman
Rep. Tim Von Dohlen (D)

Established in 1948
5 members: Lt. Governor, House Speaker, Attorney General, Comptroller and the Commissioner of the General Land Office. The Board is to assemble 90 days after legislative adjournment and must promulgate a plan within 60 days.

CONGRESSIONAL DISTRICTS: Legislature

STAFF CONTACT

Robert I. Kelly
Director
Texas Legislative Council
Box 12128
Capitol
Austin, TX 78711
(512) 475-2736

Mr. Lynn Moak
Staff Director
Committee of the Whole Senate
Redistricting
Office of the Lieutenant Governor
P. O. Box 12068
Austin, TX 78711
(512) 475-3106

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - The first regular session after publication of the U.S. Decennial census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, race, geography

DEVIATION: Senate: 1.0% to 4.9%
House: 5.0% to 9.9%

TEXAS

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection

VOTING RIGHTS STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Synercom Technology, Inc.

COURT WITH ORIGINAL JURISDICTION

No one court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

UTAH

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article IX

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Joint Legislative Reapportionment Committee

Senate Chairman	House Chairman
Sen. Fred W. Finlinson (R)	Rep. Merrill W. Harward (R)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Richard Strong
Research Analyst
Office of Legislative Research
Room 436, State Capitol
Salt Lake City, UT 84114
(801) 533-5481

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - First Legislative session following the decennial census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Block

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Party registration, compactness, race, geography, registered voters, number of legislative districts

DEVIATION: 5.0% to 9.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

UTAH

COMPUTER ASSISTANCE FOR APPORTIONMENT

State Systems Planning; Wang Laboratories, Inc.

COURT WITH ORIGINAL JURISDICTION

No one court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

VERMONT

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Statutory Provisions: 17 V.S.A. Chapters 33, 34, 34A; Vermont Constitution Chapter 2, Section 13, 18, 73

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislative Apportionment Board/Legislature

Senate Government Operations Committee

Senate Chairman
Sen. William T. Doyle (R)

House Government Operations Committee

House Chairman
Rep. Cola H. Hudson (R)

CONGRESSIONAL DISTRICTS: One Congressman

STAFF CONTACT

Janet Ancel
Draftsman
Legislative Council
State House
Montpelier, VT 05602
(802) 828-2231

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - Advisory Board must report to Legislature by 2/1/81. House and Senate plans reported by Board to Legislature in February. Final legislative action due in 1982.

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Townships

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, contiguity, geography, town and county lines, patterns of social interaction and trade, common interests

DEVIATION: Undetermined

TYPE OF DISTRICT: Single member; multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: No

VERMONT

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - open

COURT WITH ORIGINAL JURISDICTION

No one court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

VIRGINIA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article II, Section 6

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Privileges and Elections Committee

Senate Chairman
Sen. Hunter B. Andrews (D)

House Privileges and Elections Committee

House Chairman
Del. John D. Gray (D)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Jack Austin
Legislative Research Associate
Division of Legislative Services
P. O. Box 3-AG
Richmond, VA 23208
(804) 786-3591

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - First Legislative session following the decennial census (State legislative plan adopted April, 1981).

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Cities and parts of counties

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes with a few exceptions

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, political boundaries

DEVIATION: Senate: +4.35% and -6.3%; House: +14.67% and -14.16%

TYPE OF DISTRICT: Senate: Single member; House: Single member, multimember, flotorial

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: No

VIRGINIA

VOTING RIGHTS STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

No

COURT WITH ORIGINAL JURISDICTION

No one court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Code of Virginia §24.1-12.2 - House of Delagates
Code of Virginia §24.1-14.2 - Senate

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

WASHINGTON

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 2, Section 3, 6

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate State Government Committee

Senate Chairman
Sen. Jack Metcalf (R)

House Select Committee on Redistricting

House Chairman
Rep. Bob Eberle (R)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Leslie Goldstein
Assistant Code Revisor
Office of the Code Revisor
Legislative Building
Olympia, WA 98504
(206) 753-6804

Jerry Shaw
Research Analyst
Legislative Bldg
Olympia, WA 98504
(206) 753-1826

Loren Busch
Leslie McAllister
Research Analyst
House Select Committee on Reapportionment
House Office Building
Olympia, WA 98504
(206) 753-3158

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 session - no specific date
(State legislative plan adopted April, 1981).

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: Transient military personnel

SMALLEST UNIT OF POPULATION: Census tract

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Party registration, compactness race, geography, voting

DEVIATION: 10.0% to 14.9%

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Senate

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their terms

WASHINGTON

VOTING RIGHST STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Rose Institute software - University of Washington for hardware

COURT WITH ORIGINAL JURISDICTION

State Superior Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

WEST VIRGINIA

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 6, Sections 6, 7, 10

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Select Committee on Redistricting

Senate Chairman
Sen. Ralph D. Williams (D)

House Select Committee on Redistricting

House Chairman
Del. Charles H. Damron (D)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Mark W. Stotler
Legislative Analyst
Legislative Services
Room E-132, State Capitol
Charleston, WV 25305
(304) 348-2040

William M. Walls
Attorney
Legislative Services
Room E-132, State Capitol
Charleston, WV 25305
(304) 348-2040

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1982 - no specific date

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Census tract

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography

DEVIATION: Unknown

TYPE OF DISTRICT: Senate - multimember; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their terms

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

WEST VIRGINIA

COMPUTER ASSISTANCE FOR APPORTIONMENT

No

COURT WITH ORIGINAL JURISDICTION

State Supreme Court of Appeals

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

West Virginia Code § 1-2-2 (Senate)
§ 1-2-2 (House)
§ 1-2-3 (Congress)

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

WISCONSIN

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article IV, Sections 3-5

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Assembly Elections Committee

Chairperson
Rep. William B. Broydrick

Senate Special Reapportionment Committee

Chairperson
Sen. William A. Bablitch (D)

Assembly Reapportionment Committee

Co-Chairperson
Rep. William B. Broydrick (D)

Co-Chairperson
Rep. Thomas A. Hauke (D)

CONGRESSIONAL DISTRICTS: Same

STAFF CONTACT

Dr. H. Rupert Theobald
Chief
Legislative Reference Bureau
201 North, State Capitol
Madison, WI 53702
(608) 266-3561/0344

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1982 - The first session after each federal enumeration (The session extends into 1982)

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Wards (precincts), blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes in urban areas

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography, political boundaries

DEVIATION: Less than 1%

TYPE OF DISTRICT: Single member

WISCONSIN

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - House

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Interstate Cooperation Commission Staff

COURT WITH ORIGINAL JURISDICTION

Wisconsin Supreme Court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Ch. 3, statutes - Congressional districts
Ch. 4, statutes - Assembly and Senate districts

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

WYOMING

REAPPORTIONMENT PROFILE

CONSTITUTIONAL PROVISIONS

Article 3, Sections 3, 47, 48, 49; Section 3 (part) ruled invalid

REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Corporations, Elections and Political Subdivisions Committee

Senate Chairman
Sen. Neal Stafford

House Corporations, Elections and Political Subdivisions Committee

House Chairman
Rep. Alan Stauffer

CONGRESSIONAL DISTRICTS: One Congressman

STAFF CONTACT

Gerald W. Fox
Senior Research Associate
Legislative Service Office
213 Capitol Building
Cheyenne, WY 82002
(307) 777-7881

CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: At the Legislative session next following the Federal census. (State Legislative plan adopted February, 1981).

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Counties

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography, county boundaries

DEVIATION: Senate: +39.5% and -24.4%
House: +29% and -60.3%

TYPE OF DISTRICT: Single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Some - House

WYOMING

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection

VOTING RIGHTS STATE: Yes - Campbell County (only)

NEW OR REVISED DISTRICTS BEFORE 1990: No

COMPUTER ASSISTANCE FOR APPORTIONMENT

No

COURT WITH ORIGINAL JURISDICTION

No one court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Chapter 76 Session Laws of 1981

CURRENT LITIGATION

CASE NAME	CASE NUMBER
None	

DISTRICT MAPS

TABLE 1

CONSTITUTIONAL PROVISIONS ON LEGISLATIVE AND CONGRESSIONAL REAPPORTIONMENT

State	Constitutional Provision
Alabama	Section 197-203, Constitution of 1901
Alaska	Article VI, Sections 1-11
Arizona	No constitutional provision
Arkansas	Amendment 23, Amendment 45
California	Article IV, Section 6
Colorado	Article V, Sections 44-48
Connecticut	Article III, Section 6
Delaware	No constitutional provision
Florida	Article III, Sections 1, 15, 16
Georgia	Article III, Section II, Paragraph 1, Section II, Paragraph 1
Hawaii	Article IV
Idaho	Article 3, Sections 2, 4
Illinois	Article IV, Sections 2, 3
Indiana	Article 4, Sections 4, 5
Iowa	Article III, Section 6, 34-37, 39
Kansas	Article 10
Kentucky	Section 33
Louisiana	Article III, Section 6
Maine	Article 4, Part 3, Section 1-A
Maryland	Article III, Sections 4, 5
Massachusetts	Amendment XCII
Michigan	Article 4, Sections 2-6
Minnesota	Article IV, Section 2-3
Mississippi	Article 13, Section 254
Missouri	Article III, Sections 2, 7, 45
Montana	Article 5, Section 14
Nebraska	Article III, Sections 5, 7
Nevada	Article 15, Section 13; Article 4, Section 5 (ruled invalid)
New Hampshire	Part 2, Articles 9, 9A, 11, 11-A, 26, 26-A
New Jersey	Article IV, Sections II, III
New Mexico	Article 4, Section 3
New York	Article III, Sections 2-5
North Carolina	Article II, Sections 3, 5
North Dakota	Article II, Section 29, 35 (ruled invalid by Paulson V. Meier)
Ohio	Article XI, Sections 1-15
Oklahoma	Article V, Section 11A-11E
Oregon	Article IV, Sections 6-7, Article 18, Section 5
Pennsylvania	Article 2, Section 17
Rhode Island	Article V, Section 1, Amendment Article XIII, XIX
South Carolina	Article III, Sections 3-6
South Dakota	Article III, Section 5
Tennessee	Article 2, Sections 4-6
Texas	Article 3, Sections 25, 26, 26A, 28
Utah	Article IX
Vermont	Chapter 2, Section 13, Section 18
Virginia	Article II, Section 6
Washington	Article 2, Sections 3, 6
West Virginia	Article 6, Sections 6, 7, 10
Wisconsin	Article IV, Sections 3-5
Wyoming	Article 3, Sections 3, 47, 48, 49, Section 3 (part and section 48 ruled invalid

TABLE 2a

AGENCY RESPONSIBLE FOR STATE LEGISLATIVE REAPPORTIONMENT

State	Initial Reapportionment Agency	Secondary Reapportionment Agency
Alabama	Legislature	...
Alaska	Reapportionment Board	...
Arizona	Legislature	...
Arkansas	Board of Apportionment	...
California	Legislature	...
Colorado	Colorado Reapportionment Commission	...
Connecticut	Legislature	Reapportionment Commission
Delaware	Legislature	...
Florida	Legislature	State Supreme Court
Georgia	Legislature	...
Hawaii	Reapportionment Commission	...
Idaho	Legislature	...
Illinois	Legislature	Legislative Redistricting Commission
Indiana	Legislature	...
Iowa	Legislature	Iowa Supreme Court
Kansas	Legislature	...
Kentucky	Legislature	...
Louisiana	Legislature	Louisiana Supreme Court
Maine	Advisory Commission/Legislature	Supreme Judicial Court
Maryland	Governor/Legislature	...
Massachusetts	Joint Special Committee Established to Study New Division	...
Michigan	Commission on Legislative Apportionment	...
Minnesota	Legislature	...
Mississippi	Legislature	Reapportionment Commission
Missouri	House and Senate Reapportionment Commissions	...
Montana	Montana Districting and Apportionment Commission	...
Nebraska	Legislature	...
Nevada	Legislature	...
New Hampshire	Legislature	...
New Jersey	Apportionment Commission	...
New Mexico	Legislature	...
New York	Legislature	...
North Carolina	Legislature	...
North Dakota	Legislature	...
Ohio	Ohio Apportionment Board	...
Oklahoma	Legislature	Apportionment Commission
Oregon	Legislature	Secretary of State
Pennsylvania	Legislative Reapportionment Commission	...
Rhode Island	Commission to Reapportion the General Assembly/ Legislature	...
South Carolina	Legislature	...
South Dakota	Legislature	Apportionment Group
Tennessee	Legislature	...
Texas	Legislature	Legislative Redistricting Board
Utah	Legislature	...
Vermont	Legislative Apportionment Board (Advisory)/Legislature	...
Virginia	Legislature	...
Washington	Legislature	...
West Virginia	Legislature	...
Wisconsin	Legislature	...
Wyoming	Legislature	...

TABLE 2b

AGENCY RESPONSIBLE FOR CONGRESSIONAL REAPPORTIONMENT

State	One Congressman	Legislature	Special Board
Alabama	...	*	...
Alaska	*	...	...
Arizona	...	*	...
Arkansas	...	*	...
California	...	*	...
Colorado	...	*	...
Connecticut	...	*	...
Deleware	*	...	...
Florica	...	*	...
Georgia	...	*	...
Hawaii	...	...	*
Idaho	...	*	...
Illinois	...	*	...
Indiana	...	*	...
Iowa	...	*	...
Kansas	...	*	...
Kentucky	...	*	...
Louisiana	...	*	...
Maine	...	*	...
Maryland	...	*	...
Massachusetts	...	*	...
Michigan	...	*	...
Minnesota	...	*	...
Mississippi	...	*	...
Missouri	...	*	...
Montana	...	...	*
Nebraska	...	*	...
Nevada	*	...	...
New Hampshire	...	*	...
New Jersey	...	*	...
New Mexico	...	*	...
New York	...	*	...
North Carolina	...	*	...
North Dakota	*	...	...
Ohio	...	*	...
Oklahoma	...	*	...
Oregon	...	*	...
Pennsylvania	...	*	...
Rhode Island	...	*	...
South Carolina	...	*	...
South Dakota	*	...	...
Tennessee	...	*	...
Texas	...	*	...
Utah	...	*	...
Vermont	*	...	...
Virginia	...	*	...
Washington	...	*	...
West Virginia	...	*	...
Wisconsin	...	*	...
Wyoming	*	...	...

TABLE 3a

DEADLINE DATES FOR REAPPORTIONMENT BY INITIAL APPORTIONMENT AGENCY

Date	State	Initial Reapportionment Agency	Date Is Permissive	Date Is Mandatory
1981				
February 1	Arkansas	B/C	...	*
	New Jersey	B/C	...	*
	Vermont-Senate	B/L	...	*
Late February/Early March	Hawaii	B/C	...	*(a)
	Utah	L	...	*(b)
	Virginia	L	...	*(b)
April 1	Alaska	B/C	...	*(c)
	Pennsylvania	B/C	...	*(c)
April 6	Oklahoma	L	...	*(b)
	Washington	L	*(b)	...
End of April	Alabama	L	...	*(b)
	Indiana	L	...	*(b)
	Nevada	L	...	*(b)
	North Dakota	L	*(b)	...
	South Dakota	L	*(b)	...
	Vermont-House	B/L	*(b)	*
End of May	Texas	L	...	*(b)
June 30	Delaware	L	...	*(b)
	Illinois	L	...	*
July 1	Oregon	L	...	*
	New Hampshire	L	...	*(b)
	North Carolina	L	...	*(b)
	South Carolina	L	*(b)	...
August 1	Connecticut	L	...	*
September 1	Iowa	L	...	*
	Michigan	B/C	...	*
September 15	California	L	*(b)	...
October 1	Missouri	B/C	...	*(a)
October 5	Ohio	B/C	...	*
December 31	Louisiana	L	...	*

TABLE 3a

(Continued)

Date	State	Initial Reapportionment Agency	Date Is Permissive	Date Is Mandatory
1982				
January 30	Colorado	B/C	...	*(a,c)
February	New Mexico	L	*(b)	...
	Wyoming	L	...	*(b)
March	Georgia	L	*(b)	...
	Idaho	L	*(b)	...
	Maryland	G/L	...	*(a)
	Minnesota	L	*(b)	...
	West Virginia	L	*(b)	...
	Mississippi	L	...	*(b)
April	Nebraska	L	*(b)	...
	Tennessee	L	*(b)	...
May	Rhode Island	L	...	*(b)
June	Arizona	L	*(b)	...
	Florida	L	*(b)	...
	Wisconsin	L	*(b)	...
1983				
January	Montana	B/C	...	*
April	Kentucky	L	*(b)	...
	Maine	B/L	...	*
1986				
	Massachusetts	B/C	*	...
	New York	L	*	...
1989				
	Kansas	L	...	*

Key

L	Legislature
B/C	Board or Commission
G/L	Governor and Legislature
B/L	Board and Legislature
(a)	Estimated date of mandatory deadline
(b)	Estimated or actual date of legislative adjournment
(c)	Date is contigent on receipt of census data

TABLE 3b

ANTICIPATED CRITERIA USED FOR STATE LEGISLATIVE REAPPORTIONMENT

State	Census Federal	Census Other	Populations Excluded None	Populations Excluded Student	Populations Excluded Military	Populations Excluded Other	Smallest Unit of Population	Census and Precinct Boundaries Coterminous
Alabama	*	...	*	...	...	...	N.A.	No
Alaska	*	...	...	...	*	...	ED's	No
Arizona	*	..	*	...	...	...	Blocks	No
Arkansas	*	...	*	...	...	...	N.A.	Yes
California	*	...	*	...	...	...	CCD's & BG	No
Colorado	*	...	*	...	...	...	N.A.	Yes
Connecticut	*	...	*	...	...	...	N.A.	Yes
Delaware	*	...	N.A.	N.A.	N.A.	N.A.	Blocks, ED's	Mostly
Florida	*	...	*	...	...	...	Voting Precinct	No
Georgia	*	...	*	...	...	...	Blocks	No
Hawaii	...	(a)	...	...	...	(b,c)	Voting Precinct	No
Idaho	*	...	N.A.	N.A.	N.A.	N.A.	Voting Precinct	Yes
Illinois	*	...	*	...	...	...	Blocks	No
Indiana	*	...	*	...	...	...	Blocks	Some
Iowa	*	...	*	...	...	...	Voting Precinct	Mostly
Kansas	...	(c)	*	...	...	...	Voting Precinct	No
Kentucky	*	...	No	...	...	...	Voting Precinct	No
Louisiana	*	...	*	...	...	...	Voting Precinct	No
Maine	*	...	...	...	...	(b)	N.A.	N.A.
Maryland	*	...	*	...	...	...	N.A.	No
Massachusetts	...	(d)	...	*	*	...	Voting Precinct	No
Michigan	*	...	*	...	...	...	Political Boundary	Yes
Minnesota	*	...	*	...	...	...	Blocks, ED's, Prec.	Yes
Mississippi	*	...	*	...	...	...	Blocks	No
Missouri	*	...	*	...	...	...	N.A.	Yes
Montana	*	...	*	...	...	...	Blocks	Yes
Nebraska	*	..	*	...	...	...	Blocks, ED's	Yes
Nevada	*	...	*	...	...	...	Blocks, ED's	No
New Hampshire	*	..	...	*	*	...	Blocks	No
New Jersey	*	...	*	...	...	...	Precincts	No
New Mexico	*	...	*	...	...	...	Precincts	No
New York	*	...	*	...	...	...	Blocks	No
North Carolina	*	...	*	...	...	...	Counties	No
North Dakota	*	...	*	...	...	...	Blocks	No
Ohio	*	...	*	...	...	...	Blocks	No
Oklahoma	*	...	*	...	...	...	Blocks	No
Oregon	*	...	*	...	...	...	Blocks	Unknown
Pennsylvania	*	...	*	...	...	...	Blocks	No
Rhode Island	*	...	*	...	...	...	Blocks	Mostly
South Carolina	*	...	*	...	...	...	Blocks	Mostly
South Dakota	*	...	*	...	...	...	ED's	No
Tennessee	*	...	*	...	...	...	Voting Precinct	No
Texas	*	...	*	...	...	...	Blocks	No
Utah	*	...	*	...	...	...	Blocks	No
Vermont	*	(e)	N.A.	N.A.	N.A.	N.A.	Townships	No
Virginia	*	...	*	...	...	...	Blocks	Mostly
Washington	*	...	...	...	*	...	Census Tracts	No
West Virginia	*	...	*	...	...	...	Census Tracts	No
Wisconsin	*	...	*	...	...	...	Precincts (Wards)	Yes
Wyoming	*	...	*	...	...	...	ED's	No

Key: N.A. - Not available or not yet determined
(a) Number of voters registered in the last preceding general election
(b) Non-U.S. citizen
(c) Non-registered voters
(d) State census
(e) The House of Representatives is apportioned on number "legal voters"

TABLE 3c

ANTICIPATED CRITERIA USED FOR STATE LEGISLATIVE REAPPORTIONMENT

State	Party Registration	Compact & Contiguous Districts	Race or Ethnic Characteristics	Geography	Voting Age	Other
Alabama	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Alaska	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Arizona	...	*	*	*	...	...
Arkansas	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
California	*	*	*	*	...	...
Colorado	...	*	*	*	...	Political Boundaries
Connecticut	N.A.	N.A.	N.A.	N.A.	N.A.	Community of Interest N.A.
Delaware	...	*	...	*	...	...
Florida	...	...	...	*	...	Political Boundaries
Georgia	...	*	*	*	...	Political Boundaries
Hawaii	...	*	...	*	.	Socio Economic Factors
Idaho	...	*	...	*	...	...
Illinois	*	*	...	*	...	...
Indiana	*	*	...	*	...	...
Iowa	...	*	...	...	...	Political Boundaries
Kansas	...	*	...	*	...	...
Kentucky	...	*	...	...	...	...
Louisiana	...	*	*	*	...	...
Maine	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Maryland	...	*	...	*	...	Political & Natural Boundaries
Massachusetts	...	*	*	*	...	...
Michigan	...	*	...	*	...	Political Boundaries
Minnesota	...	*	...	...	...	...
Mississippi	...	*	*	...	...	County Boundariss
Missouri	...	*	...	*	...	...
Montana	...	*	*	*	...	Political Boundaries
Nebraska	...	*	...	...	...	Political Boundaries
Nevada	...	*	...	*	...	County Boundaries
New Hampshire	...	...	...	...	...	Town & City Ward Boundaries
New Jersey	...	*	..	...	...	Political Suodivisions
New Mexico	...	*	...	...	...	...
New York	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
North Carolina	...	*	...	...	...	County Boundaries
North Dakota	...	*	...	*	...	...
Ohio	...	*	...	*	...	Political Boundaries
Oklahoma	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Oregon	...	*	*	*	...	Community of Interest
Pennsylvania	*	*	...	*	...	Political Boundaries
Rhode Island	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
South Carolina	...	*	*	*	*	...
South Dakota	...	*	...	...	...	County Boundaries
Tennessee	...	...	...	*	...	Political Boundaries
Texas	...	*	*	*	...	...
Utah	*	*	*	*	*	...
Vermont	...	*	...	*	*	County Lines
Virginia	...	*	...	...	...	...
Washington	*	*	*	*	*	...
West Virginia	...	*	...	*	...	...
Wisconsin	...	*	...	*	...	Political Boundaries
Wyoming	...	*	...	*	...	County Boundaries

Key:

N.A. - not available or not yet determined

TABLE 3d

PERCENT OF ANTICIPATED DEVIATION TO BE USED FOR DISTRICTS

Less than 1.0%	1.0% to 4.9%	5.0% to 9.9%	10.0% to 14.9%	15.0% or more	Undetermined
Arizona	Colorado	Georgia	Idaho	Wyoming	Alabama
California	Illinois	Kansas*	Massachusetts - House		Alaska
Florida	Indiana	Kentucky	Washington		Arkansas
Michigan	Iowa	Louisiana	West Virginia		Connecticut
Oklahoma	Massachusetts - Senate	Nevada			Delaware
	Mississippi	North Carolina			Hawaii
	Nebraska	North Dakota			Maine
	New Hampshire	Pennsylvania - Senate			Maryland
	New Mexico	South Carolina			Minnesota
	Ohio	Texas - House			Missouri
	Pennsylvania	Utah			Montana
	South Dakota	Wisconsin			New Jersey
	Tennessee				New York
	Texas - Senate				Oregon
					Rhode Island
					Vermont
					Virginia

* Next reapportionment to be held in 1989

TABLE 3e

TYPES OF DISTRICTS

	SENATE				HOUSE				
State	Number of Seats	Number of Districts	Number of Multi-Member Districts	Largest Number of Seats in District	Number of Seats	Number of Districts	Number of Multi-Member Districts	Largest Number of Seats in District	House and Senate District Boundaries Coterminous
Alabama	35	35	0	1	105	105	0	1	Yes
Alaska	20	16	3	3	40	22	10	6	N.A.
Arizona	30	30	0	1	60	30	30	2	Yes
Arkansas	35	35	0	1	100	84	10	3	No
California	40	40	0	1	80	80	0	1	No
Colorado	35	35	0	1	65	65	0	1	No
Connecticut ...	36	36	0	1	151	151	0	1	N.A.
Delaware	21	21	0	1	41	41	0	1	No
Florida	40	19	14	3	120	45	21	6	No
Georgia	56	56	0	1	180	154	17	4	No
Hawaii.....	25	9	7	4	51	27	22	3	No
Idaho	35	35	0	1	70	35	35	2	Yes
Illinois	59	59	0	1	118	59	59	2	Yes
Indiana	50	50	0	1	100	73	20	3	No
Iowa	50	50	0	1	100	100	0	1	Yes
Kansas	40	40	0	1	125	125	0	1	No
Kentucky	38	38	0	1	100	100	0	1	No
Louisiana	39	39	0	1	105	105	0	1	No
Maine	33	33	0	1	151	119	11	10	No
Maryland	47	47	0	1	141	47	47	3	Yes
Massachusetts .	40	40	0	1	160	160	0	1	No
Michigan	38	38	0	1	110	110	0	1	Yes
Minnesota	67	67	0	1	134	134	0	1	Yes
Mississippi....	52	52	0	1	122	122	0	1	No
Missouri	34	34	0	1	163	163	0	1	No
Montana	50	50	0	1	100	100	0	1	Yes
Nebraska	49	49	0	1	Unicameral				
Nevada	20	10	3	7	40	40	0	1	No
New Hampshire .	24	24	0	1	400	161	127	11	No
New Jersey	40	40	0	1	80	40	40	2	Yes
New Mexico	42	42	0	1	70	70	0	1	No
New York	60	60	0	1	150	150	0	1	No
North Carolina.	50	27	18	4	120	45	35	8	No
North Dakota ..	50	49	1	2	100	49	49	4	Yes
Ohio	33	33	0	1	99	99	0	1	Yes
Oklahoma	48	48	0	1	101	101	0	1	No
Oregon	30	30	0	1	60	60	0	1	Yes
Pennsylvania ..	50	50	0	1	203	203	0	1	No
Rhode Island ..	50	50	0	1	100	100	0	1	No
South Carolina.	46	16	13	5	124	124	0	1	No
South Dakota ..	35	28	3	5	70	28	23	10	Yes
Tennessee	33	33	0	1	99	99	0	1	No
Texas	31	31	0	1	150	150	0	1	No
Utah	29	29	0	1	75	75	0	1	No
Vermont	30	13	11	6	150	72	39	15	No
Virginia	40	38	1	3	100	52	28	7	No
Washington	49	49	0	1	98	49	49	2	Yes
West Virginia.	34	17	17	2	100	36	25	13	No
Wisconsin	33	33	0	1	99	99	0	1	Yes
Wyoming	30	16	9	5	62	23	12	11	No

TABLE 3f

STATES WITH MULTIMEMBER DISTRICTS

Senate	Legislators Must Run From Enumerated Seats	House	Legislators Must Run From Enumerated Seats
Alaska	No	Alaska	No
...		Arizona (x2)	No
...		Arkansas	Yes
Florida	Yes	Florida	Yes
...		Georgia	Yes
Hawaii	No	Hawaii	No
...		Idaho (x2)	Yes
...		Indiana	No
...		Maine	Yes
...		Maryland	No
Nevada	No	...	
...		New Hampshire	No
...		New Jersey (x2)	No
North Carolina	No	North Carolina	No
South Carolina	Yes	...	
South Dakota	No	South Dakota	No
Vermont	No	Vermont	No
Virginia	No	Virginia	No
...		Washington (x2)	Yes
West Virginia	No	West Virginia	No
Wyoming	No	Wyoming	No

TABLE 3g

EFFECT OF REAPPORTIONMENT ON TERMS OF SENATORS

State	All Senators Elected at Same Time	Senators Elected in Staggered Terms	Senators Will be Required to Run for Reelection	Senators Will be Allowed to Serve Out Term
Alabama	*	...	...	...
Alaska	...	*	*	...
Arizona	*	...	...	...
Arkansas	...	*	*	...
California	...	*	...	*
Colorado	...	*	...	*
Connecticut	*	...	...	...
Delaware	...	*	*	...
Florida	...	*	*	...
Georgia	*	...	...	...
Hawaii	...	*	...	*
Idaho	*	...	...	...
Illinois	...	*(a)	...	...
Indiana	...	*	...	N.A.
Iowa	...	*	...	*(b)
Kansas	*	...	...	...
Kentucky	...	*	...	*
Louisiana	*	...	...	...
Maine	*	...	...	...
Maryland	*	...	...	...
Massachusetts	*	...	...	...
Michigan	*	...	...	...
Minnesota	*	...	...	...
Mississippi	*	...	...	...
Missouri	...	*	...	*
Montana	...	*(c)	*	...
Nebraska	...	*	...	*
Nevada	...	*	*	...
New Hampshire	*	...	...	...
New Jersey	*	...	...	...
New Mexico	...	*	*	...
New York	*	...	...	...
North Carolina	*	...	...	...
North Dakota	...	*	*	...
Ohio	...	*	...	*
Oklahoma	...	*	...	*
Oregon	...	*	...	*
Pennsylvania	...	*	...	*
Rhode Island	*	...	...	...
South Carolina	*	...	...	...
South Dakota	*	...	...	...
Tennessee	...	*	...	*
Texas	...	*	*	...
Utah	...	*	*	...
Vermont	*	...	...	...
Virginia	*	...	...	...
Washington	...	*	...	*
West Virginia	...	*	...	*
Wisconsin	...	*	...	*
Wyoming	...	*	*	...

Key: N.A. - not available or not yet determined
(a) - all terms end in 1983
(b) - unless 2 or more incumbents are placed in same district
(c) - after each reapportionment, lots will be drawn for ⅓ the senators to serve an initial 2-year term. Subsequent elections will be for 4-year terms.

TABLE 3h

JURISDICTIONS COVERED UNDER SECTION 5 OF THE VOTING RIGHTS ACT

State	Coverage	Date Covered
Alabama.....	Statewide	November 1, 1964
Alaska.....	Statewide	November 1, 1972
Arizona.....	Statewide	November 1, 1972
California.....	Kings County	November 1, 1972
	Merced County	November 1, 1972
	Monterey County	November 1, 1968
	Yuba County	November 1, 1968
Colorado.....	El Paso County	November 1, 1972
Connecticut ...	Groton Town	November 1, 1968
	Mansfield Town	November 1, 1968
	Southbury Town	November 1, 1968
Florida.....	Collier County	November 1, 1972
	Hardee County	November 1, 1972
	Hendry County	November 1, 1972
	Hillsborough County	November 1, 1972
	Monroe County	November 1, 1972
Georgia.....	Statewide	November 1, 1964
Hawaii.....	Honolulu County	November 1, 1964
Idaho.....	Elmore County	November 1, 1968
Louisiana.....	Statewide	November 1, 1964
Massachusetts..	Amherst Town	November 1, 1968
	Ayer Town	November 1, 1968
	Belchertown	November 1, 1968
	Bourne Town	November 1, 1968
	Harvard Town	November 1, 1968
	Sandwich Town	November 1, 1968
	Shirley Town	November 1, 1968
	Sunderland Town	November 1, 1968
	Wrentham Town	November 1, 1968
Michigan.....	Buena Vista Township	November 1, 1972
	Clyde Township	November 1, 1972
Mississippi....	Statewide	November 1, 1964
New Hampshire..	Antrim Town	November 1, 1968
	Benton Town	November 1, 1968
	Millsfield Township	November 1, 1968
	Newington Town	November 1, 1968
	Pinkhams Grant	November 1, 1968
	Ringe Town	November 1, 1968
	Stewartstown	November 1, 1968
	Stratford Town	November 1, 1968
	Unity Town	November 1, 1968
New York.....	Bronx County	November 1, 1968
	Kings County	November 1, 1968
	New York County	November 1, 1968
North Carolina..	Anson County	November 1, 1964
	Beaufort County	November 1, 1964
	Bertie County	November 1, 1964
	Bladen County	November 1, 1964
	Camden County	November 1, 1964
	Caswell County	November 1, 1964
	Chowan County	November 1, 1964
	Cleveland County	November 1, 1964
	Craven County	November 1, 1964
	Cumberland County	November 1, 1964
	Edgecombe County	November 1, 1964
	Franklin County	November 1, 1964
	Gaston County	November 1, 1964
	Gates County	November 1, 1964
	Granville County	November 1, 1964
	Greene County	November 1, 1964
	Guilford County	November 1, 1964
	Halifax County	November 1, 1964
	Harnett County	November 1, 1964
	Hertford County	November 1, 1964
	Hoke County	November 1, 1964
	Jackson County	November 1, 1964
	Lee County	November 1, 1964
	Lenoir County	November 1, 1964
	Martin County	November 1, 1964
	Nash County	November 1, 1964
	Northampton County	November 1, 1964
	Onslow County	November 1, 1964
	Pasquotank County	November 1, 1964
	Perquimans County	November 1, 1964
	Person County	November 1, 1964
	Pitt County	November 1, 1964
	Robeson County	November 1, 1964
	Rockingham County	November 1, 1964
	Scotland County	November 1, 1964
	Union County	November 1, 1964
	Vance County	November 1, 1964
	Washington County	November 1, 1964
	Wayne County	November 1, 1964
	Wilson County	November 1, 1964
South Carolina..	Statewide	November 1, 1964
South Dakota....	Shannon County	November 1, 1972
	Todd County	November 1, 1972
Texas.....	Statewide	November 1, 1964
Virginia.....	Statewide	November 1, 1964
Wyoming	Campbell County	November 1, 1968

TABLE 4

LEGISLATIVE REAPPORTIONMENT DATA PROCESSING ASSISTANCE

State	Data Processing Assistance	Computer Graphics
Alabama	Yes - University of Alabama	...
Alaska	Yes - Open	...
Arizona	Yes - Datapol, Phoenix, Ariz.	...
Arkansas	Yes - University of Arkansas, Industrial Research & Extension Center	*
California	Yes - Open	...
Colorado	Yes - State Computer System	...
Connecticut	Yes - Market Opinion Research	...
Delaware	Yes - Unknown	...
Florida	Yes - Legislative Data Processing Center	*
Georgia	Yes - Institute of Government, University of Georgia	...
Hawaii	Unknown	...
Idaho	No	...
Illinois	Yes - Open	...
Indiana	Yes - Open	*
Iowa	Yes - Prof. John Lilitschwager, University of Iowa	...
Kansas	No	...
Kentucky	Yes - State Data Processing	...
Louisiana	Yes - State Planning Office	...
Maine	Unknown	...
Maryland	Yes - Open	...
Massachusetts	No	...
Michigan	Yes - Open	...
Minnesota	Yes - APT	...
Mississippi	Unknown	...
Missouri	Yes - Open	...
Montana	Unknown	*
Nebraska	Yes - State Central Data Processing	...
Nevada	Yes - State Central Data Processing	*
New Hampshire	No	...
New Jersey	Yes - Open	...
New Mexico	No	...
New York	Yes - Legislative Advisory Task Force on Reapportionment	*
North Carolina	Yes - Open	...
North Dakota	Yes - Open	...
Ohio	Yes - Open	...
Oklahoma	Yes - State Data Processing	...
Oregon	Yes - State Data Processing	*
Pennsylvania	Yes - State Legislative Data Processing Center	...
Rhode Island	Unknown	...
South Carolina	Yes - State Data Processing	...
South Dakota	No	...
Tennessee	No	...
Texas	Yes - Synercom Technology, Inc.	...
Utah	Yes - State Systems Planning; Wang Laboratories, Inc.	*
Vermont	Yes - Open	...
Virginia	No	...
Washington	Yes - Open	...
West Virginia	No	...
Wisconsin	No	...
Wyoming	No	...

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.

TITLE PAGE ONLY HAS BEEN FILMED.

REAPPORTIONMENT AND REDISTRICTING PLAN FOR THE ALASKA STATE LEGISLATURE



Prepared by: The Reapportionment Board

June 10, 1981

common cause
2030 M STREET, N.W., WASHINGTON, D. C. 20036 (202) 833-1200

Archibald Cox
Chairman

David Cohen
President

John W. Gardner
Founding Chairman

Revised September 1980

Model Reapportionment Amendment to State Constitution

Section ___. Legislative and Congressional Reapportionment.

(a) Reapportionment Mandate. In each year ending in one, the state shall be divided into as many congressional districts as there are United States Representatives apportioned to the state, as many representative districts as the number of members of the state house of representatives as provided by law, and as many senate districts as the number of members of the state senate as provided by law. [All legislative districts shall be single-member districts.]

(b) Reapportionment Commission. In each year ending in zero and at any other time of court ordered reapportionment, a commission shall be established to prepare a reapportionment plan for state legislative and congressional districts. The commission shall consist of five members, none of whom may be public officials. The president of the senate, the speaker of the house, the minority leader of the senate, and the minority leader of the house shall each select one member. The four members so selected shall select, by a vote of at least three members, a fifth member who shall serve as chair. Failure to select the

fifth member within the time prescribed by law shall constitute an impasse which shall automatically discharge the commission, and a new commission shall be appointed in the same manner as the original commission. The legislature shall establish by law qualifications of commissioners and procedures for their selection and filling of vacancies. The legislature shall establish by law the duties and powers of the commission and shall appropriate funds to enable the commission to carry out its duties.

[ALTERNATIVE SECTION/(b) Reapportionment Commission. In each year year ending in zero and at any other time of court ordered reapportionment, a commission shall be established to prepare a reapportionment plan for state legislative and congressional districts. The commission shall consist of seven members, none of whom may be public officials. The president of the senate, the speaker of the house, the minority leader of the senate, the minority leader of the house, and the chair of the political party that received the second highest vote in the previous gubernatorial election shall each submit to the governor and make public a list of not less than three persons. The governor shall appoint six members of the commission who are broadly representative of the people of the state including one person from each list and one additional person. The six members shall select, by a vote of at least four members, a seventh member who shall serve as the chair. Failure to select the seventh member within the time prescribed by law shall constitute an impasse which shall automatically discharge the commission, and a new commission shall be appointed in the same manner as the original commission. The legislature shall establish by law qualifications of commissioners and procedures for their selection

and the filling of vacancies. The legislature shall establish by law the duties and powers of the commission and shall appropriate funds to enable the commission to carry out its duties.]

(c) Reapportionment Standards.

(1) State legislative districts in each house shall have population as nearly equal as is practicable based on the population reported in the federal census taken in each year ending in zero. In no case shall the absolute value of the total percentage deviations of all districts of a house divided by the number of districts exceed two percent. In no case shall a district have a population which varies from the average population of all districts, unless a population variance is necessary to comply with one of the other standards set forth in this section. In no case shall a single district have a population which varies by more than five percent from the average population of all districts. When a petition challenging a plan adopted by the commission is filed with the supreme court, the commission shall have the burden of justifying any variance between the population of a district and the average population of all districts.

(2) Congressional districts shall have population as nearly equal as is practicable based on the population reported in the federal census taken in each year ending in zero. No district for election of members to the United States House of Representatives shall have a population which varies by more than one percent from the average population of all congressional districts in the state. When a petition challenging a plan adopted by the commission is filed with the supreme court, the commission shall have the burden of justifying any variance between the population of a district and the average population of all districts.

(3) To the extent consistent with subsections (1) and (2), district lines shall be drawn to coincide with the boundaries of local political subdivisions.

(4) Districts shall be composed of convenient contiguous territory.

(5) Districts shall be compact in form. The aggregate length of all district boundaries shall be as short as practicable consistent with the standards contained in subsections (1), (2), (3), and (4).

(6) The commission shall exercise its powers to provide fair and effective representation for all citizens, and, consistent with the criteria contained in subsections (1), (2), (3), (4), and (5), shall encourage electoral competition. No plan shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group. In preparing a plan, the commission shall not take into account the addresses of incumbent legislators. The commission shall not use the political affiliations of registered voters, previous election results, or demographic information other than population head counts for the purpose of designing a plan that favors any political party, incumbent legislator, or other person or group.

(7) No district shall be drawn for the purpose of diluting the voting strength of any language or racial minority group.

(8) The legislature may define by law any of the standards enumerated in this subsection and may establish by law additional standards, not in conflict with the Constitution of the United States or this constitution, designed to guarantee fair and

Enclosure #3

common cause
2030 M STREET, N.W., WASHINGTON, D. C. 20036 (202)

Archibald Cox
Chairman

David Cohen
President

John W. Gard
Founding Chairman

September 1980

MEMORANDUM

To: State Chairs, State Offices

From: Bruce Adams, Director, Issue Development
Ted Stein, Research Associate

Re: Revisions to the Common Cause Reapportionment Model

Since its publication in 1977, the Common Cause reapportionment model has helped focus the debate over reapportionment reform in the states, and on the federal level. Some version of our model proposal has been introduced in more than twenty states. Reapportionment reform measures have been enacted or await voter approval in five states--Arkansas, California, Iowa, Minnesota, and Oregon. The Common Cause model has held up well under the intense spotlight of legislative debate. We have always recognized that our model offers a basic framework for reapportionment reform--not the final word. Based on discussions over the past three years with legislators, legislative staff, political scientists, and others, we believe that certain improvements can and should be made.

We have indicated the revisions on the attached copy of the Common Cause model constitutional amendment. A clean copy of the revised model amendment also in enclosed. Additional copies are available from Field Central. Keep in mind that if you decide to use the CC model statute, it will have to be modified to be

consistent with the revised amendment. A revised CC model statute is being prepared.

The revisions are as follows:

(1) Commission structure: The model should offer as an alternative the commission structure proposed in 1978 by the Florida Constitution Revision Commission (see page 2 of attachment, "Revisions to Reapportionment Model Constitutional Amendment"). This plan called for a seven-member commission. Six members would be appointed by the governor. The governor would select one and one each from lists supplied by the four legislative leaders and the chair of the opposite political party. The six members then would have selected a seventh member or tiebreaker. The potential advantage of this proposal over the original model is twofold. First, it allows the governor to provide for racial, ethnic, and geographic balance and diverse expertise in making appointments. This is aided by the size of the commission, which is larger than the five-member panel proposed by the CC model, and the fact that a single person makes the final choices. Second, the alternative places some distance between the legislature and commission appointments.

In addition, either commission structure (i.e., the CC model or the Florida alternative) should require that the commission be discharged if a deadlock develops over selection of the tiebreaker. (pages 1 and 2). Such a deadlock is a real possibility. In Montana, one of the three states with a commission system that meets our test, commissions have deadlocked twice over the selection of a tiebreaker--in 1973 and again in 1979. This same situation

occurred in Pennsylvania in 1971. In each case, the state's supreme court selected the tiebreaker. A discharge mechanism would provide a powerful incentive to select the tiebreaker. It also would avoid the possibility--raised by court participation--of a partisan tiebreaker in states where supreme courts are dominated by one party.

(2) Compactness: According to computer experts, our original compactness definition, which requires a plan's aggregate boundary length to be within five percent of the shortest possible aggregate length, raises serious practical problems. Finding the shortest possible aggregate length, these experts say, would greatly increase the necessary data base with a commensurate cost increase. We have deleted the five percent requirement (page 4). The revised standard still requires that the aggregate length of all district boundaries be as short as practicable. This establishes a standard beyond the mere requirement of compactness while avoiding the political and technical problems inherent in a complex mathematical formula.

(3) Fair representation: A reapportionment commission has an affirmative obligation to provide fair and effective representation for all citizens of the state. The need for "fair and effective representation" was eloquently stated in the Supreme Court's famous "one person, one vote" rulings of the mid-1960s. Within the constraints of the Common Cause standards, there are various ways that lines can be drawn to ensure or to undermine fair representation in the state legislature and in Congress. While the goal of fair and effective representation has always been Common Cause's guiding principle, the original model did

not directly state it. The revised CC model clearly states the objective as part of the sixth standard (page 4).

(4) Competition: In the past, reapportionment has been used to undermine electoral competition. Attempts to produce a bias in favor of incumbents or majority parties robs our political system of its vitality. Legislators who never face close re-election races are less responsive to their constituents. Reapportionment reform is designed to encourage competition, not discourage it. To guard against a bipartisan gerrymander by the bipartisan commission, we have added competition as a standard (page 4). It is important to note that the competition standard is to be used only after application of the more fundamental standards of population equality, respect for political subdivision, and compactness. Otherwise, the standard could lead to bizarre-shaped districts that did not respect city and county lines.

(5) Population deviation: To prevent line drawers from using population deviations to gerrymander, the model requires all population deviations to average one percent or less. This denies the majority party, for example, the opportunity to gain an advantage by making majority party districts underpopulated and minority party districts overpopulated. The revised model changes this standard in two ways (see page 3). First, the standard has been increased from one to two percent to insure that this test is not overly rigid. Second, it adds the word "percentage" to clarify that the average of all percentage deviations must be one percent or less.

(6) Anti-gerrymandering provisions: In the revised model, no reapportionment plan shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group. The change in this standard involves the substitution of "plan" for "district" (page 4). This revision recognizes that to achieve fairness it may be necessary to benefit a certain political or ethnic group in one district and a second group in another. The key is that the overall plan does not purposefully favor or disadvantage any person or group. To be consistent, the use of political or demographic data to design a plan that favors any person or group is prohibited (page 5).

One additional point, not addressed in the attached revised model, involves the relationship of our proposal to the federal Voting Rights Act. Some legislators have incorrectly charged that the Common Cause model violates the Voting Rights Act. Among its provisions, the federal Act requires the Justice Department to invalidate any reapportionment plan or voting change that has a racially discriminatory effect--in certain states. Obviously, the federal Voting Rights Act would prevail over any state provision in the event that a conflict should arise between our model and the Act. This establishes a two-track system. First, states covered by the Voting Rights Act*--states with histories of discrimination

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*The Voting Rights Act of 1965, as amended in 1970 and 1975, requires Justice Department review of voting changes in nine states: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia. Some jurisdictions in another thirteen states are also covered: California, Colorado, Connecticut, Florida, Hawaii, Idaho, Massachusetts, Michigan, New Hampshire, New York, North Carolina, South Dakota, and Wyoming. In some of these thirteen states coverage is quite limited (e.g., four counties in California, five counties in Florida, two townships in Michigan). The Act will be in effect through most of the reapportionment of the 1980s--until August 1982 when it will be up for review by Congress.

against minority voters--would be subject to an effect test. Second, states not covered by the Act would be subject to the model's purpose test.

Attachment: Revisions to Reapportionment Model Constitutional Amendment

Enclosure: Model Reapportionment Amendment to State Constitution (Revised September 1980)

APPENDIX III: REAPPORTIONMENT: A BETTER WAY

Common Cause first proposed a model reapportionment process in 1977 for adoption at the state level. The model proposal relies heavily on the Colorado, Hawaii, and Montana reapportionment procedures.* The Hawaii and Montana processes were recommendations of constitutional conventions that received voter approval in 1968 and 1972, respectively, (Hawaii and Montana commissions draw congressional as well as state legislative boundaries.) The Colorado process was the result of a citizen initiative approved by the voters in November of 1974 by a vote ratio of three to two.

The Common Cause model proposes a reapportionment process designed to produce districts that are fairly drawn as well as districts of substantial population equality. Unlike district lines produced by political gerrymandering, fair district lines are not drawn to pre-determine election results. The model proposes a system of reapportionment that is equitable in its treatment of incumbent legislators, political parties, and others. This replaces the present system where people with political power are able to manipulate district lines for personal and partisan advantage.

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* A description of reapportionment commission activities in Colorado and Hawaii is found on page 26. Montana will not complete redistricting until 1983.

The Common Cause model has three main elements -- strict anti-gerrymandering standards; an independent, nonpartisan reapportionment commission; and prompt judicial review. All three elements of the model are crucial. They are designed to reinforce each other and to produce fairly drawn district lines. The reapportionment standards are designed to produce fair district lines by limiting the discretion of the commission to gerrymander for political or partisan purposes. The nonpartisan reapportionment commission replaces the legislature, providing much needed independence. Fair district lines are more likely if district lines are drawn by persons not directly affected by them. Judicial review provides finality and acts as the final safeguard of the public's interest in fair and effective representation.

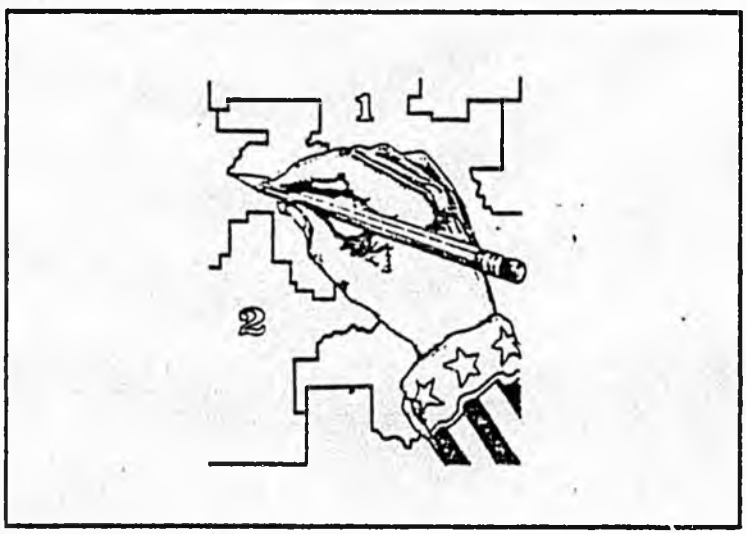
Four states have enacted legislation in the last three years that strengthens the standards that legislators must use in drawing congressional and state legislative districts -- California (1980), Iowa (1980), Oregon (1979), and Washington (1982). In addition, proposals to establish a redistricting commission will appear on November 1982 ballots in California and Missouri.

Common Cause will continue to lobby for reapportionment reform in the states. To obtain a copy of Common Cause's report on state and congressional reapportionment, Toward a System of Fair and Effective Representation, and the Common

Cause model reapportionment amendment to a state constitution, please call or write to the Common Cause Redistricting Clearinghouse, 2030 M Street, N.W. Washington, D.C. 20036 (202) 833-1200.

Common Cause Report on Congressional and State Redistricting

June 1982 — Number Two



This is the second report
prepared by the Common Cause
Redistricting Clearinghouse

common cause

COMMON CAUSE REPORT ON CONGRESSIONAL AND STATE REDISTRICTING

This is the second report to be prepared by the Common Cause Redistricting Clearinghouse. This report focuses on state efforts to establish new congressional and legislative districts based on the 1980 census.

This study was researched and written by Marcy Stephens of the Issue Development Staff with the assistance of Joseph Zwerdling. Staff members Janet Kaufmann, Vicky Kim, and Phyllis Sickels also provided assistance.

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For further information, contact:

Marcy Stephens
Common Cause Redistricting Clearinghouse
2030 M Street, N.W.
Washington, D.C. 20036
(202) 833-1200

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INTRODUCTION

Every ten years citizens in many states observe their elected officials fighting to draw new election districts to accommodate population changes reflected in the latest U.S. census. Redistricting as a result of the 1980 census changes has been characterized by heavy litigation activity and skyrocketing costs. Once again, in this highly partisan process, Democrats and Republicans alike have proven that they can manipulate and "gerrymander" district lines with great skill and verve.*

A number of states are taking action to counter gerrymandering practices. Voters in California and Missouri, for example, will have a chance to vote on reapportionment reform measures on the November 1982 ballot. In both states the move to change the present system of redistricting -- requiring legislators to design their own districts -- was triggered by a sense of frustration over the 1980 redistricting events. In California, new congressional districts were likened to jigsaw puzzle pieces, while in Missouri the House and Senate deadlocked over redistricting congressional seats. A three-judge federal district panel ultimately drew up the final plan.

Except for Kansas and two states -- Maine and Montana -- that will act in 1983, congressional redistricting plans

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* The term "gerrymandering" is not new; it was inspired by the efforts of Governor Elbridge Gerry of Massachusetts in 1812. An attempt to gerrymander generally means an attempt at one of four things: (1) to protect an incumbent; (2) to gain partisan advantage; (3) to eliminate a political maverick; or (4) to exclude a racial minority.

based on the 1980 census are now drawn. Seven states must still complete redistricting for their own legislatures. However, court challenges or Justice Department rejection of plans under Section 5 of the Voting Rights Act has prolonged the process in many states. In some cases, primary election dates have been postponed until litigation has been resolved.

The purpose of this report is to examine the redistricting process, court activity, and the outcome of redistricting itself. A state-by-state status report for congressional redistricting is provided and a survey of interesting state legislative redistricting activity in 20 states follows.

Redistricting and the Courts

Article 1, Section 2 of the Constitution specifically provides that representatives be apportioned among the states according to population every ten years.* Despite this mandate, up until the 1960's many states failed to redistrict to adjust for population changes and the courts declined to get involved. The U.S. Supreme Court decisions of the mid-1960's established certain one-person, one-vote standards, requiring states to eliminate gross population inequalities in redistricting. Beyond that, however, the Supreme Court did not spell out specific substantive standards for redistricting. Few state constitutions describe in much detail either the procedure for preparation of reapportionment

* Technically, reapportionment is the distribution of seats among units of government and redistricting is the drawing of lines.

plans or the standards to be used in drawing congressional and legislative districts.

The absence of clear criteria for redistricting leaves map makers with wide discretion in drawing up plans. The results are often controversial. Consequently, lawsuits challenging redistricting plans have been brought by aggrieved political parties, citizens' groups, and individual citizens on a variety of issues. In this round of redistricting, most of the action has been at the federal district court level, although the Supreme Court has been involved in a number of actions concerning congressional plans as follows:

- On March 22, 1982 the U.S. Supreme Court rejected an appeal by California's Republican Party to overturn the State Supreme Court's decision to allow 1982 elections to be held in districts drawn by the Democratic legislature in September 1981.

- In Illinois, a Democratically-oriented map adopted November 23, 1981 in a ruling by a federal panel in Chicago was upheld by the U.S. Supreme Court.

- Republicans in Missouri and Minnesota appealed District Court decisions on redistricting to the U.S. Supreme Court. In both cases motions to expedite were denied. However, in summary dispositions on May 17, 1982 the high court affirmed plans for both states.

- On March 29, 1982, the U.S. Supreme Court refused to overturn a stay of a decision on New Jersey's congressional map granted by Associate Justice William Brennan. A federal panel had earlier declared the Democratic-styled plan unconstitutional.

- In April 1982, a number of New Mexico candidates asked the U.S. Supreme Court to stay a decision by a federal panel to delay the primary, because it found the plan for the state legislature to be unconstitutional. The U.S. Supreme Court approved the scheduled primary for all but legislative races.

- On May 3, 1982 the U.S. Supreme Court rejected an appeal to defer reapportionment of New York's state legislature until 1983. The appeal was made by state Senate Republicans.

- A Texas congressional map was drawn by the legislature in August 1981. A three judge federal panel, in February 1982, ordered changes in six districts. The U.S. Supreme Court subsequently ruled that the federal panel acted improperly in readjusting boundaries. However, the high court left it up to the federal panel to decide what plan will go into effect for the May 1 primary. The District Court opted to have its own version in place for the election.

In states where the legislature has responsibility for drawing redistricting maps and legislators have failed to produce a plan because the House and Senate could not agree or where the legislature passed a plan which was then vetoed by the governor, the federal courts have stepped in with maps of their own:

- In Arkansas, a three-judge panel overturned a commission drawn plan and absent any corrective action by the legislature, adopted its own map on February 25, 1982.

- In Colorado, the Governor vetoed three successive plans passed by the legislature. A federal panel in Denver finally approved its own plan on January 28, 1982.

- On May 24, 1982 a federal panel issued a decision adopting a congressional plan for Michigan. An appeal has been filed with the U.S. Supreme Court.

- A U.S. District Court in Minnesota adopted a congressional plan after the legislature failed to come up with a redistricting bill.

- In Missouri, on January 7, 1982, a federal court issued a map. The state Senate had adjourned without approving redistricting legislation.

- A three-judge federal panel in Columbia, South Carolina adopted its own congressional plan on March 8, 1982, when the legislature failed to adopt a plan by the court-imposed deadline.

Federal courts have found the respective congressional redistricting maps in Arkansas, Hawaii and New Jersey to be unconstitutional. (Details of congressional redistricting are provided in the state-by-state survey beginning on page 9.)

A number of state legislative maps have met with a similar fate. State legislative plans in Hawaii, Michigan, New Mexico, Oregon, Tennessee, Texas, and Virginia have been overturned in the courts. In Michigan, the court overturned the process by which state legislative redistricting is accomplished.

Court involvement in reapportionment is not a new phenomenon. According to a 1973 survey by the Massachusetts Legislative Research Council, courts determined districts for one or both houses in at least twenty-one states between 1962 and 1972 because the state reapportionment procedure failed to produce acceptable results.

Justice Department Approval of Redistricting Plans

States that are subject to the preclearance provisions of Section 5 of the Voting Rights Act because of evidence of past voting discrimination must submit their redistricting plans to either the Justice Department or the U.S. District Court in the District of Columbia for approval within 60 days (see Appendix II for a listing of states covered by the Voting Rights Act and the status of plans submitted to the Justice Department).

The Justice Department has issued objections to a number of plans where statewide preclearance is required. For example, congressional plans for Georgia, Mississippi and Texas were rejected by the Justice Department and must be resubmitted. Action on a number of other plans is still pending.

The Time and Money Factor

Apart from inciting cynicism by voters and legislators themselves over this highly partisan process, there are other visible drawbacks to the way this round of reapportionment has been conducted -- the time and the cost. This aspect of reapportionment is especially striking at a time when state governments -- which often meet in only two or three month sessions -- are facing grave financial difficulties.

The Los Angeles Times (March 13, 1982) reported that the "Democratic-controlled legislature ... has spent $2.7 million in public funds drawing new political districts." The L.A. Times compared California's expenses with the amount spent by the New York Legislature so far, cited as "about $2.5 million."

In Virginia in early April 1981, legislators made an inauspicious start at redistricting when they came up with a House of Delegates plan that created 101 districts; that is one more than is mandated in the Constitution. Since then two House plans were vetoed by former Governor John Dalton (R), one was declared unconstitutional in federal court, and

two plans were rejected by the Justice Department under Section 5 of the Voting Rights Act. The Washington Post (April 15, 1982) reported that "[t]he entire process, including 14 special sessions and bills paid to a Richmond law firm to defend the state in court, have been estimated to cost taxpayers $1 million."

Opting for Reform

Despite the inherent conflict of interest in having legislators design their own districts, efforts at reapportionment reform have not come easily. Legislators resist giving up the responsibility and generally turn a deaf ear to groups or individuals who are seeking a more equitable process.

This could, however, change in the 1980's. Large-scale reform efforts have been launched in a number of states:

° California - San Francisco's Field Institute published the results of a February poll that found greater than 4 to 1 disapproval among both Democrats and Republicans for the present system of redistricting. Citing redistricting abuses following the 1980 census and before, Republicans and Common Cause members teamed up to conduct a petition drive for a state constitutional amendment initiative to establish a nonpartisan commission. The proposed 10-member commission would be required to draw lines according to standards designed to promote fair and effective representation for all citizens of the state. If the amendment is approved by the voters in November, the commission will draw new lines for state Senate, House, and congressional districts in 1984.

° Missouri and Washington State, after struggling with reapportionment following the 1980 census, opted to establish commissions to remove direct control for drawing lines from the legislature. Missouri already has a commission structure for state legislative redistricting; the new commission, if approved by voters on the November ballot, will be responsible for drawing congressional lines. Washington legislators, after great pressure from Common Cause and other public interest groups, established a commission to conduct state legislative and congressional redistricting, following certain apportionment standards.

° Florida, Virginia, and South Dakota - Other reform efforts have been specifically focused on standards for redistricting. Common Cause/Florida lobbied successfully for state legislative plans that included single member rather than multi-member election districts and a congressional plan that creates compact districts of convenient contiguous territory. Virginia adopted a House of Delegates plan (approved by the U.S. Justice Department) that is comprised of only single member districts. In the past Virginia had traditionally elected delegates from citywide, at-large districts. Both states hope to see improved minority access under their new single member plans. In South Dakota, the Farmers Union, AFL-CIO, League of Women Voters, We the People, ACORN, and Common Cause are conducting a petition drive to initiate a constitutional amendment to create certain single-member Senate districts to replace current multi-member districts in three urban areas.

Overview of Congressional Redistricting

The political parties have proven that they will gerrymander if they have the opportunity to do so. For example, an initial victory by Republicans in Indiana -- where the GOP turned a 6-5 Democratic edge to a projected 7-3 Republican majority of congressional seats -- was revenged by Democratic map makers in California, where the Republicans could lose five seats.

1980 census changes resulted in a 17-seat shift of congressional seats, mainly frostbelt to sunbelt. Republicans, who launched an expensive and sophisticated congressional reapportionment campaign, anticipated a gain of 10 to 12 congressional seats. But Democrats hold both houses of state legislatures in 28 states, and they proved to be tough opponents. The Baron Report (March 1, 1982) summed up the action this way: "The result, with some plans in major states still uncertain, is that reapportionment, per se, will be a 'wash' for the two parties."

Maine and Montana will not redistrict until 1983; otherwise, only Kansas must finish drawing up a congressional district plan. The Kansas legislature adopted two plans -- each subsequently vetoed by the Governor.

Georgia, Mississippi, and Texas are struggling to win Justice Department approval of their congressional redistricting plans. In other states, litigation surrounding new maps threatens to prolong reapportionment action to the end of 1982, or beyond.

The following is a summary of the action on congressional redistricting:

ALABAMA - The Democratic legislature passed a redistricting plan which was signed into law by Governor Forrest James (D) on August 18, 1981. The current congressional makeup -- four Democrats and three Republicans -- is not likely to change. The American Political Report (August 28, 1981) notes that the plan by the state legislature "makes only minor adverse changes in GOP'er Albert Lee Smith's sixth district." The state's other six districts are essentially unchanged. The Justice Department precleared the legislature's plan on February 26, 1982.

ACTION: Complete

ALASKA - One congressional district

ARIZONA - On December 7, 1981 Arizona legislators voted to override Democratic Governor Bruce Babbitt's veto of a congressional plan. Within minutes of the override, the Democratic party filed a suit in federal district court, attacking the constitutionality of both the congressional and state legislative plans and charging Voting Rights violations (Art Hamilton v. Babbitt). There is also a petition drive to put the map on the referendum ballot on November 2, 1982. Congressional Quarterly (January 30, 1982) terms the new Arizona districts "a quandary for Udall." Democratic Rep. Morris K. Udall's Tuscon base was split in the creation of a fifth congressional seat.

On April 2, 1982 a Phoenix Federal District Court issued a settlement plan redrawing both the state legislative and congressional plans to eliminate the splitting of San Carlos Apache Reservation. The settlement plan requires Justice Department approval. Justice had previously rejected the plan because of dilution on the San Carlos Apache Reservation.

ACTION: Complete

ARKANSAS - In March 1981 Arkansas became the first state to draw new congressional district lines based on the 1980 census. Residents and state representatives of Garland County (Hot Springs) filed a lawsuit in district court (Doulin v. White) charging that the legislature could have adopted a plan that has a lower population deviation and more compact districts.

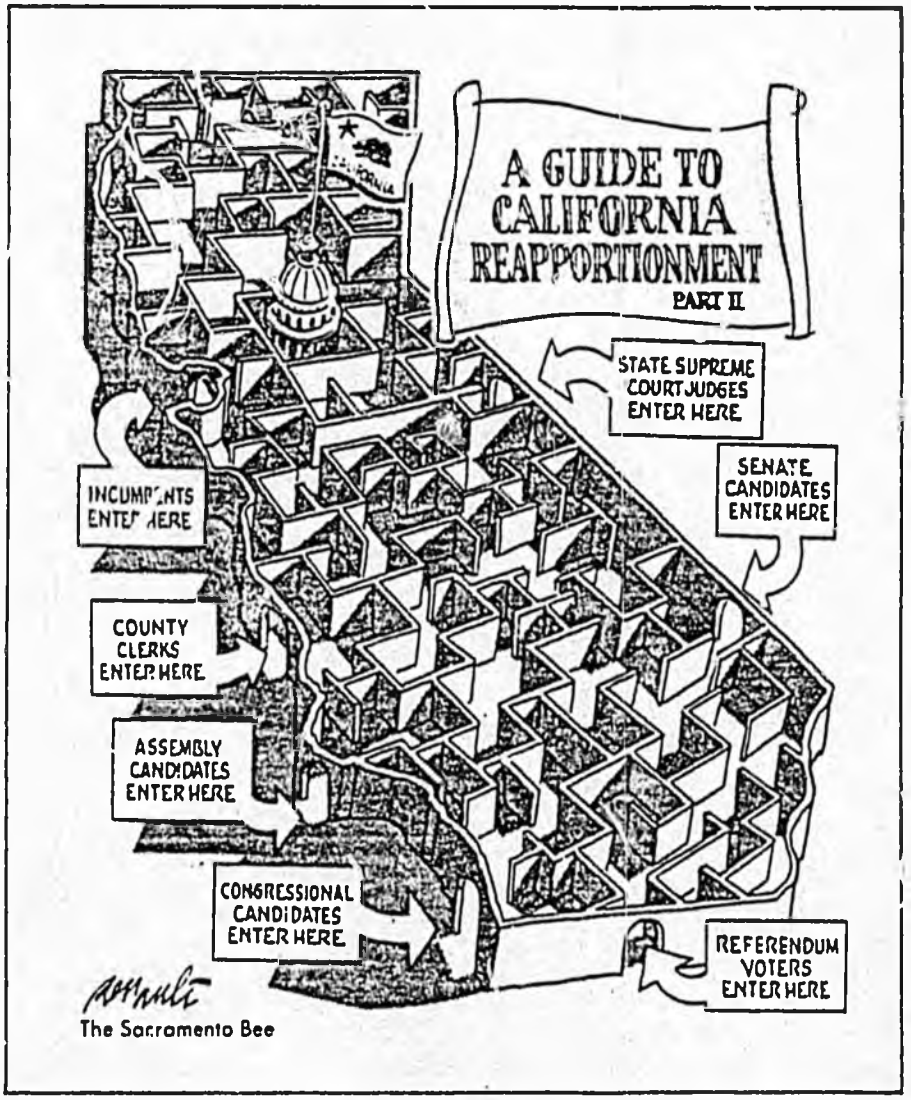
On January 6, 1982 a three-judge federal panel held that the plan was unconstitutional. On February 25 the Court, in the absence of any corrective action by the legislature, issued an opinion adopting its own redistricting plan for the 1982 elections, reflecting a .78% population deviation. On March 8 the Court denied the plaintiffs' motion to reconsider. The deadline for filing an appeal to

the Supreme Court is 60 days from that date, and it is not expected that an appeal will be filed.

According to Congressional Quarterly (March 6, 1982), the Court's plan "will have little effect on the re-election efforts of the state's incumbent House members." (Two Republicans and two Democrats.)

ACTION: Complete

CALIFORNIA - The Los Angeles Times (September 18, 1982) reported that on September 16, 1981 Democratic Governor Edmund Brown, Jr. signed a redistricting package: "All three Democratic-oriented bills were designed to perpetuate the political party now in power ..." Observers say that under the new plan -- drafted by Representative Phillip Burton (D) -- the Republicans could lose at least five congressional seats.



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On November 18, 1981 the California Republican Party submitted enough petition signatures to election officials to require a referendum on the June 1982 primary ballot regarding the three redistricting bills. The State Supreme Court was forced to come to a decision about which districts the candidates will run in this year. The Court decided to allow the Democratic plan to go into effect for one year only, allowing the referendum to take place. If the bills are rejected in June, the legislature will be required to redistrict again next year. In March 1982, the U.S. Supreme Court rejected an appeal by the California Republican Party to overturn the State Supreme court's decision.

Meanwhile, the State Republican Committee and Common Cause launched an initiative to establish a ten-member independent redistricting commission. The initiative drive, begun in January 1982, is targeting the November election.

ACTION: Complete -- referendum and initiative pending

COLORADO - Colorado gains a sixth congressional seat (there are now three Democrats and two Republicans). In December 1981, "[t]hree federal judges began trying to do what the Colorado Legislature and governor couldn't -- redraw congressional district boundaries" (Denver Post, December 4, 1981). This action followed a series of three vetoes by Republican Governor Richard Lamm of three redistricting bills.

On January 28, 1982, a three judge panel in Denver issued a court drawn plan which protects the current officeholders and puts the new sixth district in Republican Denver suburbs.

ACTION: Complete

CONNECTICUT - A General Assembly Committee failed to draw congressional districts so a nine-member commission took over the task. The commission, on October 28, 1981, adopted a "Democratic plan that made minimal changes in the 6th District ... less Republican in makeup than it would have been under the GOP plan. Other incumbents appear strengthened" (Washington Post, February 14, 1982). Connecticut retains six congressional seats.

ACTION: Complete

DELAWARE - One congressional district

FLORIDA - Florida picked up four congressional seats, the largest increase of any state. The House and Senate resisted compromise over a new map, prompting two lawsuits (Kiser v. Firestone and Buoniconti v. Firestone). The suits were consolidated in U.S. District Court in Tallanassee. However, the legislature arrived at a plan on May 21, 1982. Governor D. Robert Graham signed the plan two days later; however, Rep. Curtis Kiser (R), whose lawsuit asks the federal court

to draw a plan, "declined to withdraw a lawsuit on the matter until his lawyer returns next week," according to the Washington Post (May 25, 1982).

ACTION: Complete -- litigation pending

GEORGIA - Georgia's congressional map was signed by Governor George Busbee on September 22, 1981 and submitted to the Justice Department for Voting Rights clearance on October 1. In February 1982 the Justice Department objected to the congressional (and state House and Senate) plans. The Washington Post reported (February 12, 1982) that Justice objected to the 'division between two congressional districts of a 'cohesive black community' in Fulton and Dekalb counties in the Atlanta metropolitan area."

The U.S. District Court in the District of Columbia will hear a suit by the state of Georgia, appealing the Justice Department decision (Busbee v. Smith, et al.)

ACTION: Justice Department rejected plan -- litigation pending

HAWAII - A nine-member reapportionment commission that is responsible for conducting redistricting approved new congressional districts on September 28, 1981.

On March 23, 1982 a three-judge federal panel heard two redistricting challenges; however, only one of these suits (Craig Travis, et al. v. Jean King, et al.) concerns congressional redistricting. Plaintiffs challenged the use of voter registration, instead of census data, as a reapportionment base and charged malapportionment and gerrymandering in the congressional and legislative plans.

On March 25, the federal panel determined that the State legislative and congressional maps were unconstitutional based on the voter base issue and unacceptable population deviations. The federal court appointed special masters to supervise redrawing of the three maps. New maps were submitted to the Court on April 28, and approved in early May.

ACTION: Complete

IDAHO - Idaho keeps the same number of congressional seats (it has two, both Republican). Democratic Governor John Evans signed the congressional redistricting plan on July 29. The major action in the July special session concerned a shift of voters from the first to the second congressional district. Steve Ahrens of the Idaho Statesman (August 17, 1981) commented: "Not since 1964 have the Democrats elected a Congressman in the first district. The loss of 21,000 votes doesn't help their chances in 1982.

ACTION: Complete

ILLINOIS - Legislators -- who had the task of remapping a drop from 24 to 22 representatives -- could not come up with a plan. A three-judge federal panel charged with the responsibility subsequently considered Democratic, Republican, and bipartisan plans respectively, and "approved a Democratic-sponsored congressional redistricting proposal that would eliminate the seats of two Republicans and preserve the seats of two Democrats," according to the New York Times (November 24, 1981).

Republican legislators, including state House Speaker George H. Ryan, appealed the decision of the federal panel. In the first reapportionment case based on the 1980 census to reach the Supreme Court, the high court issued a one-line order upholding the congressional map. The Chicago Sun Times (November 24, 1981) reported that House Democratic Leader Michael J. Madigan, of Chicago, said the map "gives Democrats a strong edge in 10 districts, gives Republicans an edge in 11 districts and produces one swing district in central Illinois now represented by Republican Representative Paul Findley."

ACTION: Complete

INDIANA - The Indiana congressional plan was signed by Republican Governor Robert Orr on May 5, 1981. Indiana Republicans, who have sizable majorities in both legislative houses, used the most sophisticated computer technology available to draw up their plans. Pollster Robert Teeter's Market Opinion Research provided mapmakers with 92 separate items of information on the state's subdivisions according to The Washington Post (May 11, 1981). The Indiana Republican leadership has been candid about its reapportionment effort. Bruce Melchert, Indiana Republican chairman, told ABC news on July 22 that "there are three or four incumbent Democrats that we would like to see defeated." That would mean a transformation of the present 6-5 Democratic edge to a Republican 7-3 majority (Indiana lost one seat).

As Congressional Quarterly (May 2, 1981) describes the plan: "Its lines weave in and out of counties, concentrating Democratic voting strength into three districts and creating seven others in which the GOP believes it can win." The major victims of this design were Watergate Democrats Philip Sharp, David Evans and Floyd Fithian, whose districts were balkanized. Fithian's and Evans' districts were dispersed into four new congressional districts. Evans, Sharp, and Democratic Representative Lee Hamilton now live in the same district. The Republicans, in an attempt to try the case before a friendly judge, quickly requested a ruling on the constitutionality of their plan from the Marion Circuit Court. In an attempt to move the case to a more friendly court, the Democrats removed to federal court and filed a motion to dismiss, arguing that there was no case or controversy. The federal district court agreed and dismissed the

suit, because, at the time, no defendants said they were prepared to argue that the plan was unconstitutional.

ACTION: Complete

IOWA - Legislators rejected an initial plan that the legislature's nonpartisan research bureau produced, putting GOP Representatives Tom Tauke and Jim Leach in the same district. (Iowa's six-man delegation is currently split, three Republicans and three Democrats, and the Governor and the Legislature are Republican). American Political Report on July 3, 1981 reported that the Legislature rejected the second plan because "incumbent GOP Representative Tom Tauke got a shaky district." A third plan was finally passed on August 14. It puts Democratic Representatives Neal Smith and Tom Harkin in the same district, but Harkin is apparently expected to move elsewhere in his state to seek re-election. The Des Moines Register (August 14, 1981) stated that the approved redistricting plan will end up "preserving the balance between parties."

ACTION: Complete

KANSAS - Governor John Carlin (D) vetoed a congressional plan (SB 664) on February 18, 1982. The Kansas City Times (February 19, 1982) stated that Governor Carlin accused Republican lawmakers of "drawing a map without hearing from Democrats," and of splitting "the state's two metropolitan areas, Kansas City and Wichita, among congressional districts." Governor Carlin vetoed a second version as well. This action prompted two court challenges, which have been consolidated by a federal district court. Democrats are asking the court to take over responsibility for redistricting (O'Sullivan v. Brier). Republicans are seeking court approval of the plan passed by the legislature (Carson v. Carlin).

ACTION: Congressional plan vetoed

KENTUCKY - A congressional map was signed by Governor John Y. Brown, Jr. (D) on March 10, 1982 (HB 235). Kentucky has seven congressional seats (no losses or gains). American Political Report (February 26, 1982) noted that "Democrats think that redistricting gives them a better shot at defeating GOP Rep. Gene Snyder."

ACTION: Complete

LOUISIANA - Louisiana Governor David Treen (R) signed the state's congressional plan on November 19, 1981. The Morning Advocate observed that the "new congressional districts will look much like the present ones -- to the benefit of Louisiana's eight present members of Congress."

A lawsuit asking the Court to allow candidates to run in the old congressional districts was filed in district court (Robert E. Couhig v. James L. Brown). A second lawsuit -- charging one person, one vote violations and minority voting dilution in congressional and state house redistricting -- was also filed in district court (Barbara Major v. David Tree and James Brown).

ACTION: Complete - litigation pending

MARYLAND - The General Assembly needed to approve eight congressional districts (no change in the number of districts). Legislators completed their task on April 9, 1982.

ACTION: Complete

MASSACHUSETTS - The Boston Globe (December 10, 1981) reported that, "[the] Special Commission on Redistricting adopted a plan ... which carves 11 new districts out of the present 12 and merges the districts of Frank and Heckler." The plan was approved by Governor Edward J. King (D) on December 16, 1981.

ACTION: Complete

MICHIGAN - also loses one congressional seat, leaving the state with 18 districts. On April 8, 1982 the House adopted a plan, giving it immediate effect. On April 8, the Senate adopted a bill, but did not give it immediate effect. Governor William G. Milliken (R) vetoed the plan on April 27. A three-judge federal panel held hearings on May 7 on proposed plans submitted by the parties (Acerstrand v. Austin), and on May 24 the court issued a decision adopting a plan. The Republican party filed an appeal with the U.S. Supreme Court.

ACTION: Plan vetoed -- litigation pending

MINNESOTA - On March 11, 1982 a three-judge panel issued a plan for Minnesota's eight congressional districts. The Court took over responsibility for adopting a plan following its ruling of September 30, 1981, in which it required the state's legislature to submit both congressional and legislative maps to the court by January 29 (Lacomb v. Joan Growel). The court acted when the legislature failed to meet the deadline. American Political Report (March 12, 1982) stated that the new court-drawn map "essentially mirrors the Democratic plan. GOP Rep. Tom Hagedorn's seat was wiped out, throwing him in a new district with freshman GOPer Vin Weber ..."

The Republican congressional delegation appealed the decision to the U.S. Supreme Court. The St. Paul Pioneer Press (March 25, 1982) reported that Independent-Republican

party attorneys "argued that the panel exceeded its constitutional authority by departing dramatically from existing congressional district lines and carving out a new district within the Twin Cities metropolitan area." The U.S. Supreme Court denied a motion to expedite on April 5, 1982. On May 17, 1982 the U.S. Supreme Court upheld the plan.

ACTION: Complete

MISSISSIPPI - Governor William Winter (D) signed the congressional redistricting plan on August 28 -- the conclusion of a special summer session. The Jackson Clarion-Ledger (August 28, 1981) reported that the plan shifted six counties and parts of four other counties between districts and has been termed the "least change plan." The plan maintains five white majority districts. The overall population variance was low (.0336 percent) but the state split county lines for the first time.

Justice Department approval is required. On January 11, 1982 Justice requested additional information on the redistricting plans. On March 30, Justice rejected the congressional remap because of the minority makeup of the Delta area. The state of Mississippi is appealing the Justice Department rejection in U.S. District Court in the District of Columbia.

Two lawsuits have been filed challenging the new congressional remap for one person, one vote and Voting Rights Act violations. The suits (David Jordon v. William Winters & Owen H. Brooks v. William Winters) have been consolidated in U.S. District Court.

ACTION: Justice Department rejected plan

MISSOURI - The Missouri state House approved a congressional map, but the state Senate could not come to an agreement on nine new congressional seats (Missouri lost one district). A U.S. District Court three-judge panel filed its own plan on January 7, 1982, making it "the second time in the last two decades a federal panel has had to come up with a congressional map because of lawmakers' inability to reach agreement." Kansas City Times (Dec. 29, 1981). The court drew up its new map by essentially eliminating the rural central Missouri district of Republican representative Wendell Bailey. The three Democratic congressional seats in St. Louis, however, appear to be safe.

An appeal of the District Court decision was filed with the U.S. Supreme Court by officials of the local Farm Bureau and others (Schatzle, et al. v. Kirkpatrick). On March 29, 1982, a motion to expedite was denied by the Supreme Court. On May 17, the U.S. Supreme Court affirmed the lower court's plan.

ACTION: Complete

NEBRASKA - enacted a plan which was signed by Governor Charles Thone (R) on May 29, 1981. As the Baron Report (June 22, 1981) puts it, "GOP governor ... Nonpartisan GOP legislature ... Three GOP districts ... Little population shifts ... Add up to no change."

ACTION: Complete

NEVADA - now has two congressional seats instead of one. Questions about where to put the second congressional district culminated in a plan which creates one Las Vegas district and one district spreading across the rest of the state. (There had been talk of an east-west split.) The American Political Report (June 19, 1981) figures that the southern seat (Las Vegas) is sure to be Democratic (as it is now) and that the northern district "could go either way but probably leans to the GOP."

ACTION: Complete

NEW HAMPSHIRE - maintains its two congressional seats (one Democrat, one Republican). Democratic Governor Hugh Gallen signed the new congressional remap on March 4, 1982.

ACTION: Complete

NEW JERSEY - In a final action before leaving office, Democratic Governor Brendan Byrne signed a congressional remap developed by the Democratic legislature. New Jersey had the task of cutting back from 15 to 14 districts. Congressional Quarterly (March 6, 1982) noted that "The map had joined the districts of two Republican incumbents, created a new Democratic-leaning constituency and presented several Democratic incumbents with safe seats."

New Jersey Republicans challenged the plan based on its population deviation (0.69 percent), and on March 3, 1982 a three-judge federal panel, in a 2-to-1 vote, declared the plan unconstitutional because it violated the one person, one vote requirement.

On March 11, 1982, Democrats filed a request for a stay with Supreme Court Justice William J. Brennan, Jr., which was granted pending an appeal to the Supreme Court. New Jersey Republicans requested an expedited hearing; however, on March 29 the court rejected a request by New Jersey Republicans to vacate the stay. Subsequently, Republicans filed another lawsuit in an attempt to have the plan voided on the grounds that the redistricting process was not done in accordance with the state constitution.

ACTION: Litigation pending

NEW MEXICO - added one seat to give it three congressional districts. A new map was signed by Governor Bruce King (D) on January 19, 1982. Congressional Quarterly (January 23, 1982) noted that the plan "places New Mexico's new congressional district in the Albuquerque area and divides the rest of the state roughly between a district in the north and one in the south."

In April 1982, a federal court held that the plan was constitutionally impermissible based on the use of a votes-cast formula to estimate precinct populations and sent the plan back to the legislature. However, the U.S. Supreme Court allowed a June 1 primary for all but state legislative races, staying the federal court order that could have delayed the election.

ACTION: Complete

NEW YORK - New York's congressional delegation had to be reduced from 39 to 34 seats. As expected, the Senate and Assembly deadlocked over a plan. Senate Republicans appealed to the U.S. Supreme Court to stay a lower court order to complete a plan by May 10 (Flateau, et al. v. Anderson, et al.). The U.S. Supreme Court rejected the appeal.

The legislature enacted a congressional redistricting bill on May 11, amended May 17, and signed by the Governor on May 20. In spite of this, the court-appointed master in the pending U.S. District Court suit is reported to be proceeding to draw up his own proposed map. It is not clear what course this court proceeding will take.

American Political Report (May 21, 1982) stated: "If the congressional remap put through by the legislature holds up, the major face-offs necessitated in the new districts -- New York lost 5 seats -- will be Rep. Ben Gilman (R) vs. Rep. Peter Peyser (D), Rep. Guy Molinari (R) vs. Rep. Leo Zeferetti (D), Rep. Ted Weiss (D) vs. Rep. Jonathan Bingham (D), Rep. John Le Boutillier (R) vs. Rep. Greg Garman (R), unless Garman decides not to seek re-election. If the remap is accepted by the governor, courts and the Justice Department, Democrats would wind up bearing most of the burden..."

ACTION: Complete -- litigation pending

NORTH CAROLINA - On August 4, 1981, The Southern Political Report stated that, "the North Carolina legislature completed action on a redistricting plan that helps incumbent Congressmen and encourages a continuation of the 7 Democrats - 4 Republicans ratio on the Tarheel delegation." Under the plan, Representative L.H. Fountain's new district was nicknamed "Fountain's Fishhook" because of the way it wound around Durham county, a black-dominated area that had been proposed for inclusion in the conservative Fountain's district.

As required by the Voting Rights Act, the Justice Department reviewed the plan and failed to preclear the congressional map. The congressional map was rejected on the grounds that it diluted black voting strength.

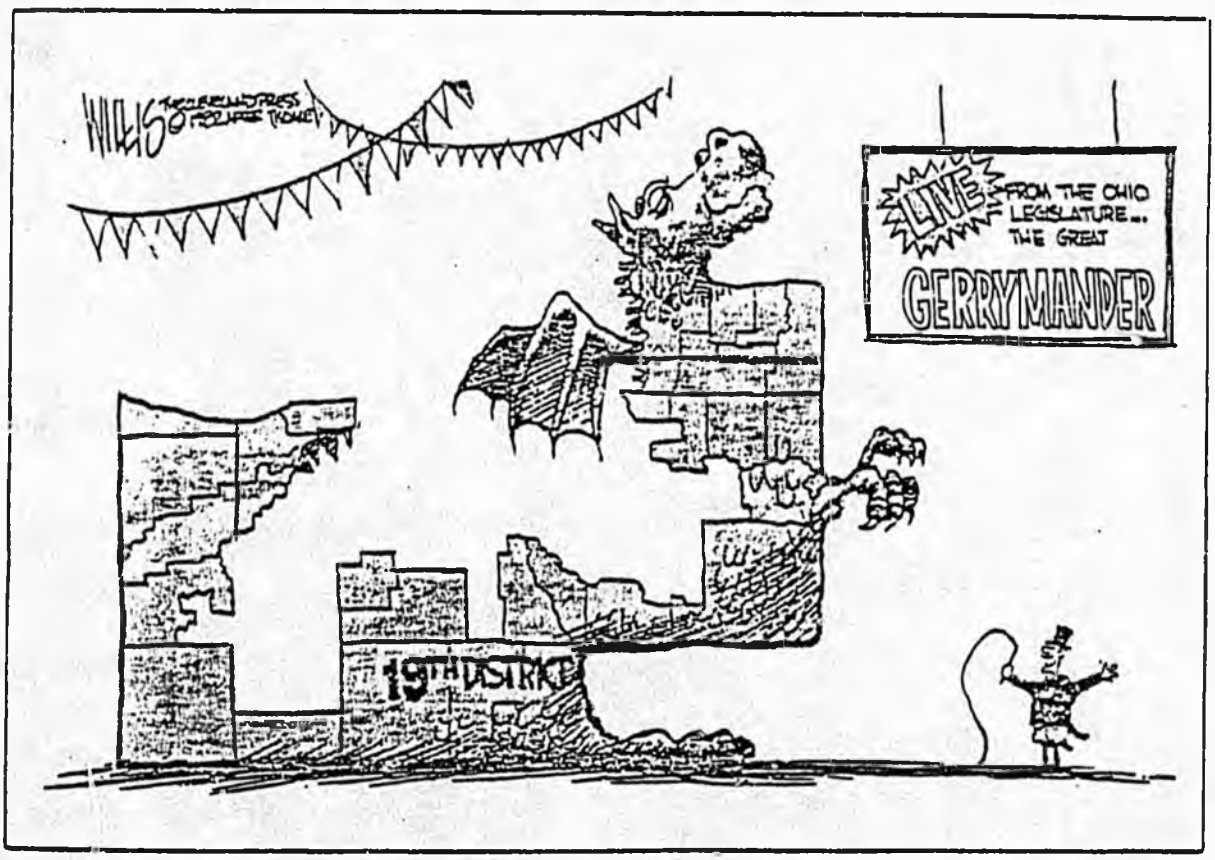
In February 1982 the North Carolina General Assembly passed a new plan that includes Durham County in Representative Fountain's 2nd district. In March the Justice Department precleared the plan.

Meanwhile, the NAACP Legal Defense and Education Fund had challenged the congressional base based on the racial dilution issue (Gingles v. Edmisten).

ACTION: Complete -- pending litigation

NORTH DAKOTA - One congressional district

OHIO - Redistricting means a loss from 23 to 21 seats (the current delegation is now 10-D, 13-R). A bill was finally signed by Governor James Rhodes (R) on March 25, 1982. According to the Columbus Citizen-Journal (March 25, 1982): "The final version basically protects most incumbent congressmen but knocks out the 17th District now held by Republican Rep. John M. Ashbrook of Johnstown, a candidate for the U.S. Senate. It also consolidates the districts of Democratic Reps. Eckart and Ronald M. Mottle of Parma, forcing them to run against each other this year." The



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district in which they have been placed (District 19) has been called the Pac-Man district because its shape is similar to a route in the electronic game (see cartoon on page 20).

Ohio Democrats have intervened in a pending U.S. District Court suit (Patrick Flanagan v. Gillmor) to challenge the constitutionality of the plan.

ACTION: Complete -- litigation pending

OKLAHOMA's congressional district plan was signed by Democratic Governor George Nigh on July 22, 1981. The state has six seats (currently five Democrats and one Republican) and American Political Report (July 31, 1981) has noted that the new lines "solidify most of the state's Congressmen."

The Oklahoma Republican Party obtained the 92,000 signatures needed to validate an initiative petition asking voters to repeal the redistricting plan and enact a substitute plan. Initiative News Report (March 22, 1982) noted that "the State Supreme Court ruled in late February hearing to allow initiative opponents to re-check petition signatures ... until the end of April. Then, the Court must rule on 5/26/82 on ballot placement." Regardless of the pending initiative, however, congressional candidates in the November, 1982 election will run on the basis of the redistricting plan already enacted.

ACTION: Complete -- pending litigation and initiative

OREGON - The Democrats control the legislature and have a 3-1 edge in Congress. The state picks up a new district. According to Congressional Quarterly (August 8, 1981), "the redistricting bill gives Republicans a good chance to win the state's new 5th district and assures GOP control in the 2nd district." Democrats should retain control of their three congressional seats under the new plan. Governor Victor Atiyeh (R), voicing objections to diluted GOP voting strength in a Portland suburb, allowed the bill to become law without his signature.

ACTION: Complete

PENNSYLVANIA - must drop two of its 25 seats. The current delegation is 13 Republicans and 12 Democrats, following Representative Eugene V. Atkinson's switch from the Democratic to the Republican party in October 1981. On March 2, 1982 -- after many months' effort and in the face of potential federal court action and a March 9 primary filing date -- the Legislature approved a plan. Republican Governor Richard Thornburgh signed the plan on March 3.

Congressional Quarterly (March 6, 1982) noted that under the new plan, "[t]wo pairs of incumbent Democrats -- John P. Murtha and Don Bailey in the western part of the state, and Thomas M. Foglietta and Joseph F. Smith of

Philadelphia -- will have to run against each other for renomination. Democrat Doug Walgren's Pittsburgh-area district becomes more difficult for him to win, and Republican convert Eugene V. Atkinson is given territory in which he has a good chance to hold on." Lawsuits challenging the plan were filed by Democratic officials and a number of other groups. The consolidated suits were the subject of a hearing before a three-judge federal panel in March 1982. (In Re: Pennsylvania Congressional Districts Reapportionment Cases.)

ACTION: Complete -- litigation pending

RHODE ISLAND - has two congressional seats (no gains or losses). On April 2, 1982 the legislature completed action on a Congressional plan. The plan became law without the governor's signature.

ACTION: Complete

SOUTH CAROLINA - A legislative conference committee was unable to reach a compromise on South Carolina's six seats (2 Democratic, 4 Republican), so a three-judge panel U.S. District Court took over the task and adopted its own congressional redistricting plan on March 8, 1982. There is discussion of an appeal by the NAACP.

ACTION: Complete -- litigation possible

SOUTH DAKOTA - One congressional district

TENNESSEE - The legislature enacted a congressional redistricting plan in 1981. Currently Democrats have a 5-3 edge and control the legislature. Reportedly they were shooting for a 7-2 margin in Congress (the state picks up a seat). Observers say the newly-created 4th district, which has no incumbent, looks like a salamander because of the way it winds halfway across the state -- apparently made up of leftover counties from other districts. On August 25, 1981 the Tennessee Journal commented that "the makeup of the district leans slightly Democratic but a strong Republican candidate could have a good chance of winning." Democrats also targeted the new 7th district, but in the end the shift of precincts won't affect the number of Democrats and Republicans voting in the district. Republican Governor Lamar Alexander allowed the plan to become law without his signature.

ACTION: Complete

TEXAS - picks up three new seats (the current delegation is 19 to 5 Democratic). Last summer Republicans and conservative Democrats joined forces to give Republican Governor William Clements "precisely what he demanded -- a

Dallas -- Fort Worth minority district and improved Republican prospects statewide," according to the Dallas Morning News (August 11, 1981).

A lawsuit, charging racial discrimination (Seamon v. Clements) was filed in U.S. District Court. On January 29, the Justice Department filed objections concerning two southern districts, noting dilution of Hispanic voting strength.

On February 27, a three-judge federal panel ordered a redrawing of six congressional districts. According to the New York Times (February 29, 1982), "The plan adopted by the Federal judges would eliminate any distinctly black district for Dallas County. The court plan would also create a new district that appears likely to be won by a Republican."

Republicans appealed to the U.S. Supreme Court, which indicated that the lower court drew a congressional plan when the legislature's plan was not found to be unconstitutional or to violate the Voting Rights Act. The Supreme Court noted that the three-judge panel could make the redistricting change before or after the May 1 primary, as long as the legislature's map is in place for the next election. The federal court, on April 5, ordered the May 1 primary to be held under the federal court's plan.

ACTION: Plan must be redrawn by court order

UTAH - has two Republican seats and picked up a seat. The legislature adopted a congressional redistricting plan on October 30, 1981. As Congressional Quarterly (January 2, 1982) puts it: "the GOP dominated Legislature saw to it that Republicans have a strong chance of winning all three districts in 1982."

ACTION: Complete

VERMONT - One congressional district

VIRGINIA - The Democratic Virginia General Assembly adopted a redistricting plan on May 1 that "fails to loosen the Republican party's stranglehold on the state's 10-member U.S. House delegation," according to The Washington Post (May 2, 1981). Republican Prince William County was moved out of Representative Stanford Parris' (R) 8th district; observers feel that it may make him more vulnerable to a challenge. The plan was approved in a special session and precleared by the Justice Department as required by the Voting Rights Act.

ACTION: Complete

WASHINGTON - In the 1981 legislative session Republican Governor John Spellman vetoed the legislature's congressional plan, which must reflect an increase from seven to eight seats. This year the Republican legislature had better

luck; Governor Spellman signed the congressional remap on February 17. (Legislators also approved a redistricting commission to take over reapportionment after 1990.)

ACTION: Complete

WEST VIRGINIA - has four congressional districts (two Republican and two Democratic). A congressional map was signed by Democratic Governor John D. Rockefeller IV on February 11, 1982. The Washington Post (February 14, 1982) noted that "after considering more drastic changes, the Democratic legislature passed a plan making only minor adjustments in four districts, now equally divided between the parties." The legislature was pressured to act because of a lawsuit (Brookover v. Manchin). A U.S. District Court issued an order on February 23, 1982 affirming the validity of the enacted plan.

ACTION: Complete

WISCONSIN - retains nine congressional seats. A new map was enacted on March 24, 1982. Legislators were pressured by a lawsuit asking a federal court to takeover redrawing both congressional and state legislative plans (AFL-CIO v. State Elections Board). Enactment of a congressional plan effectively excluded congressional redistricting from the court challenge.

ACTION: Complete

WYOMING - One congressional district

Overview of State Legislative Redistricting

With the exception of just seven states (Maine, Massachusetts, Montana, New Hampshire, New Mexico, South Carolina and Wisconsin), legislative redistricting based on the 1980 census is completed.

Litigation brought by groups or individual citizens concerning legislative plans has been resolved in at least a dozen states, but court challenges continue to protract the process in other states. Moreover, the Justice Department, under Section 5 of the Voting Rights Act, has current objections to Alabama's state Senate plan and Texas' state Senate and House plans.

Democrats have control of state legislatures in 28 states and have total control -- the legislature and the governorship -- in 17 states. Despite this advantage, political forecasters pointed to potential Republican gains in Illinois, Pennsylvania and other states that were subject to population movement from major urban and industrial areas to outlying suburban regions.

This theory, for example, held true in Pennsylvania, where Republicans have majorities in both houses. However, in Illinois, Democrats were able to control the process and ensure enactment of a Democratic-leaning plan. The following survey looks at 20 states in which the redistricting process has been particularly noteworthy.

Highlights of Legislative Redistricting

ALABAMA - On May 6, 1982 the state House and Senate plans were rejected by the Justice Department under Section 5 of the Voting Rights Act. The Justice Department objected to a number of districts where black voting strength was decreased through redistricting decisions.

ARKANSAS - A commission composed of the Governor, a Republican, and the Attorney General and Secretary of State, both Democrats, adopted a plan for both legislative houses in June, 1981. Two lawsuits were subsequently filed. Siloam Springs residents charged that the Senate plan discriminated against voters in their area. The Senate plan was upheld by the Arkansas Supreme Court. A second challenge to the plan was dismissed.

COLORADO - A 1974 constitutional amendment proposed by the League of Women Voters established a reapportionment commission to conduct state legislative redistricting. The 11-member commission included four members appointed by House and Senate party leaders, three appointed by the Governor, and four appointed by the Chief Justice of the Colorado Supreme Court.

A plan was unanimously approved by the Commission in December 1981 and submitted to the state Supreme court for review. The court approved the commission-drawn plan but ordered revision of the sequencing of two Senate districts so that no district would be without representation from 1982 to 1984. The commission filed an amended plan that completely redrew the two Senate districts. The court rejected the changes and ordered the Commission to simply make the election date adjustments. The final plan was complete by the March 15 deadline.

FLORIDA - On April 7, 1982 the Florida legislature adopted a legislative plan, which was sent to the state Supreme Court for review. The Justice Department must also approve the plan under provisions of the Voting Rights Act. The new plan creates only single-member legislative districts.

HAWAII - The League of Women Voters, Republicans, and Democrats challenged the legislative plan prepared by Hawaii's nine-member bipartisan reapportionment commission on an issue that is unique to Hawaii -- the reapportionment base. The commission based its 1981 map on the number of registered voters rather than on census data. A [illegible] District Court panel invalidated the state Senate and House plans and ordered the appointment of a special master to make a comparison of voter registration and census figures to determine if the deviation is great enough to violate the one person, one vote doctrine. The new plan created the first multicounty, single-member districts in Hawaii's history.

IDAHO - Governor John Evans (D) vetoed the Republican legislature's first and second attempts at redrawing state legislative districts, prompting Republican legislators to file a suit in district court (Budge v. Cenarrusa). By March 24, however, the legislature and the Governor approved a plan so the case -- along with a second suit charging improper splitting of political subdivisions -- was dismissed. A separate state District Court suit challenging the splitting of Sandpoint (Bonner County) Indian Reservation is pending.

ILLINOIS - The Legislative Redistricting Commission on Oct. 2, 1981 adopted a final legislative reapportionment plan that is expected to give "Democrats control of both houses of the legislature, and greatly enhance Chicago's ebbing influence there ... the new map was drawn in such a way as to carve up Republican districts ... to leave some Republican incumbents outside their districts, or to put them in districts where they would face strong challenges by other incumbents." (New York Times, October 8, 1981)

The validity of the plan was challenged in U.S. District Court (Rybicki v. State Board of Elections). In a decision issued January 12, 1982 the Court generally upheld the plan, with the exception of modifications to a few Chicago districts, to eliminate the concentration of minority voters into an unreasonably small number of districts.

INDIANA - Court action is pending concerning legislative plans which were signed by Governor Orr on February 25. Two lawsuits (Bandemer v. Davis and NAACP State Conference v. Orr) are in the U.S. District Court in Indianapolis. The Court rejected a motion to dismiss the cases, which charge minority dilution and other issues.

LOUISIANA - faces a lawsuit challenging the State House and congressional plan (Barbara Major v. David Treen and James Brown). Plaintiffs contend that the plan violates one person, one vote principles and dilutes the minority vote.

MICHIGAN'S Supreme Court issued a decision on redistricting on March 26, 1982, after reviewing a plan adopted and submitted by the Legislative Reapportionment Commission. The court held the plan unconstitutional, determining that it is unconstitutional for redistricting responsibility to be vested in the Legislative Reapportionment Commission instead of the legislature. Subsequently, in the absence of legislative action by the Court's May 4 deadline the Court appointed a special master to draw a plan in compliance with its guidelines. The master filed a revised plan on May 13, and the Court on May 21 adopted that plan with some revisions. The Democrats are appealing to the U.S. Supreme Court, and in the meantime have asked the Supreme Court to stay the effective date of the plan.

MINNESOTA - The St. Paul Pioneer Press noted that "the suburbs are the big winners and central cities the losers in a new federal court-drawn legislative redistricting plan ..." The court took responsibility for adopting a plan after the legislature failed to meet its March 12 deadline (LaComb, et al. v. Growel, et al.). The U.S. District Court's March 11 decision was appealed to the Supreme Court, which turned down the appeal.

NEW HAMPSHIPE - Governor Hugh Gallen (D) vetoed a Senate reapportionment plan passed by a Republican legislature. The Hartford Valley News (May 15, 1982) reported that Senate President Robert Monier (R) filed a suit in state Supreme Court on May 14, 1982 asking "the justices to take jurisdiction over reapportionment, declare the present district boundaries unconstitutional and accept and adopt a vetoed Senate redistricting plan."

NEW MEXICO - New Mexico has a Democratic legislature and a Democratic governor. A state legislative plan was adopted but was subsequently determined to be unconstitutional by a federal district court. The court objected to the votes-cast formula that was used to estimate precinct populations, and thereby upheld the claims of a number of plaintiffs who charged that the use of the formula resulted in minority underrepresentation.

The legislature is considering preparation of a new plan. In the meantime the June 1 primary date for members of the legislature has been delayed by court action.

NEW YORK - The state legislature, pressed by a federal court threat to appoint a special master, approved state legislative maps on May 11, 1982, with amendments May 17. Assembly Democrats who have a majority decided on the Assembly map. In the Senate, Republicans who are in control drew up the Senate map. The New York Times (May 9, 1982) commented: "Not surprisingly, the plan strengthens each party's hand in its own house." The bills were signed by Governor Hugh Carey (D) on May 20.

NORTH CAROLINA - Legislators struggled to win Justice Department approval for their state legislative districts, adopted in bills enacted in February 1982. The Raleigh News and Observer (April 28, 1982) noted that when legislators met to approve a plan, "the special session was the third to deal solely with the prickly redistricting issue since October."

Meanwhile two lawsuits were consolidated and will be taken up by a federal District Court (Gingles v. Edminsten and Pugh v. Hunt). Plaintiffs are charging Voting Rights Act violations, racial dilution, and other issues.

PENNSYLVANIA - The Reapportionment Commission adopted its final General Assembly reapportionment plan on October 13, 1981. It is expected that the plan will accelerate the shift of power in the legislature from Democratic urban areas to usually Republican suburban and rural area.

Common Cause filed suit in the Pennsylvania Supreme Court challenging the constitutionality of the plan, on the ground that it unnecessarily divided a very large number of counties, municipalities and wards into more than one district and created districts which were not compact, diluting the voting strength of racial and ethnic minorities. The Court on December 29, 1981 upheld the constitutionality of the plan, characterizing equality of population as the overriding constitutional goal.

A second challenge to the validity of the plan was raised in a suit filed in the U.S. District Court -- Hispanic Coalition on Reapportionment v. Legislative Reapportionment Commission. This suit focused on one district in Philadelphia and attacked validity of the plan on grounds it diluted Hispanic minority voting strength. In a decision issued April 6, 1982 the court rejected the challenge and dismissed the case, on the ground that the final plan increased the concentration of Hispanic votes over what it had been prior to reapportionment.

SOUTH DAKOTA - The state legislative reapportionment plan, adopted March 13, 1981 was challenged in U.S. District Court (Sioux Falls) in O'Connor v. Kundert. It was argued that the use of multi-member districts was unconstitutional. On February 12, 1982 the Court issued a decision rejecting these arguments and holding that the plan was constitutional. The case was dismissed.

However, the petition drive by Common Cause, League of Women Voters and certain other groups for an initiative constitutional amendment that would abolish multi-member state Senate districts in three urban areas was successful, and as a result the proposed constitutional amendment will be on the November, 1982 ballot.

TENNESSEE - A Nashville Chancery Court on February 18, 1982 issued a summary judgment holding the state Senate plan invalid because it divided counties in forming districts. On March 31, the state Supreme Court issued a decision holding the summary judgment improper. The legislature subsequently adopted a modified Senate plan. However, a court date was set for September 13 (the primary is scheduled for August 5) to determine the validity of both the House and Senate plans for future elections (Lockert v. Crowell).

TEXAS - Ignoring Justice Department objections to certain districts, a three-judge federal panel adopted the Legislative Redistricting Board's plans with only a few modifications, in order to hold the May 1 primary on

schedule. The court made its ruling in a lawsuit brought principally by Republicans (Terrazas v. Clements). The legislative districts were adopted only for the 1982 election. The legislature will have to redraw the districts in 1983.

VIRGINIA - After 14 special sessions, the General Assembly was finally successful in completing a House of Delegates plan and a Senate plan. An earlier plan approved by the legislature was overturned in federal court on the basis of excessively high population variance (Cosner, et al. v. Dalton, et al.). Earlier plans were also objected to by the Justice Department, but their validity is subject to review in Cosner v. Dalton. The Washington Post (April 2, 1982) stated: "The central issue throughout the debate was the demand ... for the abolition of citywide at-large districts that have protected senior white Democratic incumbents and, according to the critics, diluted black voting strength." Civil rights groups and Republicans have praised the new maps. However a number of localities have intervened in the litigation, with complaints on the issues of compactness plus the manner in which counties have been split up. Hearings are scheduled for mid-June.

APPENDIX I. CONGRESSIONAL REDISTRICTING FACTS

May 1982

	Current House Seats	1982 House Seats	1980 Seat Changes	Redistricting done by:	Completed:	Action
Alabama	7 (4D, 3R)	7	0	Leg.	Yes	completed †
Alaska	1 (1R)	1	0	•••	•••	—
Arizona	4 (2D, 2R)	5	+1	Leg.	Yes	completed †
Arkansas	4 (2D, 2R)	4	0	Leg.	Yes	completed
California	43 (22D,21R)	45	+2	Leg.	Yes	repeal referendum †
Colorado	5 (3D, 2R)	6	+1	Leg.	Yes	completed
Connecticut	6 (4D, 2R)	6	0	Leg.	Yes	completed †
Delaware	1 (1R)	1	0	•••	•••	—
Florida	15 (11D, 4R)	19	+4	Leg.	Yes	litigation pending
Georgia	10 (9D, 1R)	10	0	Leg.	Yes	litigation pending
Hawaii	2 (2D)	2	0	Comm.	Yes	completed
Idaho	2 (2R)	2	0	Leg.	Yes	completed
Illinois	24 (10D,14R)	22	−2	Leg.	Yes	completed
Indiana	11 (6D, 5R)	10	−1	Leg.	Yes	completed
Iowa	6 (3D, 3R)	6	0	Leg.Serv.Bur./Leg.	Yes	completed
Kansas	5 (1D, 4R)	5	0	Leg.	No	Gov. vetoed plan
Kentucky	7 (4D, 3R)	7	0	Leg.	Yes	completed
Louisiana	8 (6D, 2R)	8	0	Leg.	Yes	litigation pending
Maine	2 (2R)	2	0	Leg.	No	1983
Maryland	8 (7D, 1R)	8	0	Gov/Leg.	Yes	completed
Massachusetts	12 (10D, 2R)	11	−1	Leg.	Yes	completed
Michigan	19 (12D, 7R)	18	−1	Leg.	Yes	litigation pending
Minnesota	8 (3D, 5R)	8	0	Leg.	Yes	completed
Mississippi	5 (4D, 1R)	5	0	Leg.	Yes	litigation pending
Missouri	10 (6D, 4R)	9	−1	Leg.	Yes	completed
Montana	2 (1D, 1R)	2	0	Comm.	No	1983
Nebraska	3 (3R)	3	0	Leg.	Yes	completed
Nevada	1 (1D,)	2	+1	Leg.	Yes	completed
New Hampshire	2 (1D, 1R)	2	0	Leg.	Yes	completed
New Jersey	15 (8D, 7R)	14	−1	Leg.	Yes	litigation pending
New Mexico	2 (2R)	3	+1	Leg.	Yes	completed
New York	39 (22D,17R)	34	−5	Leg.	Yes	litigation pending
North Carolina	11 (7D, 4R)	11	0	Leg.	Yes	litigation pending
North Dakota	1 (1D)	1	0	•••	•••	—
Ohio	23 (10D,13R)	21	−2	Leg.	Yes	litigation pending
Oklahoma	6 (5D, 1R)	6	0	Leg.	Yes	repeal referendum
Oregon	4 (3D, 1R)	5	+1	Leg.	Yes	completed
Pennsylvania	25 (13D,12R)	23	−2	Leg.	Yes	litigation pending
Rhode Island	2 (1D, 1R)	2	0	Leg.	Yes	completed
South Carolina	6 (2D, 4R)	6	0	Leg.	Yes	completed
South Dakota	2 (1D, 1R)	1	−1	•••	•••	—
Tennessee	8 (5D, 3R)	9	+1	Leg.	Yes	completed
Texas	24 (19D, 5R)	27	+3	Leg.	Yes	completed for May primary
Utah	2 (2R)	3	+1	Leg.	Yes	completed
Vermont	1 (1R)	1	0	•••	•••	—
Virginia	10 (1D, 9R)	10	0	Leg.	Yes	completed †
Washington	7 (5D, 2R)	8	+1	Leg.	Yes	completed
West Virginia	4 (2D, 2R)	4	0	Leg.	Yes	completed
Wisconsin	9 (5D, 4R)	9	0	Leg.	Yes	completed
Wyoming	1 (1R)	1	0	•••	•••	—

••• Indicates a single Congressional district

† Plan precleared by Justice Dept. under Voting Rights Act

APPENDIX II. STATE LEGISLATIVE REDISTRICTING FACTS

May 1982

State	Political party in control Gov.	Leg.	Redistricting done by	Covered by Voting Rights Act	Redistricting completed	Action
Alabama	D	D	Leg.	statewide	Yes	rejected by Justice Dept.
Alaska	R	Sen. 10 D, 10 R; House 22 D, 16 R; 2 L	Board is advisory to governor	statewide	Yes	completed
Arizona	D	R	Leg.	statewide	Yes	completed
Arkansas	R	D	Board	no	Yes	completed
California	D	D	Leg.	4 counties	Yes	repeal referendum
Colorado	D	R	Board	1 county	Yes	completed
Connecticut	D	D	Leg.-(Board if Leg. fails to act)	3 towns	Yes	litigation pending
Delaware	R	Sen. 12 D, 9 R; House 25 R, 16 D	Leg.	no	Yes	completed
Florida	D	D	Leg.—(Court if Leg. fails to act)	5 counties	Yes	Justice Dept. approval pending
Georgia	D	D	Leg.	statewide	Yes	Justice Dept. approval pending
Hawaii	D	D	Board	1 county	Yes	Justice Dept. approval pending
Idaho	D	R	Leg.	1 county	Yes	litigation pending
Illinois	R	Sen. 29 R, 30 D; House 91 R, 86 D	Leg.—(Board if Leg. fails to act)	no	Yes	completed
Indiana	R	R	Leg.	no	Yes	litigation pending
Iowa	R	R	Leg. Serv. Bureau is advisory to Leg.	no	Yes	completed
Kansas	D	R	Leg.	no	Yes	completed
Kentucky	D	D	Leg.	no	Yes	completed
Louisiana	R	D	Leg.—(Court if Leg. fails to act)	statewide	Yes	litigation pending
Maine	D	Sen. 17 R, 16 D; House 83 D, 68 R	(Board is advisory to Leg. If Board fails to act, Court takes over)	no	No	1983
Maryland	D	D	Governor submits plan to Leg.	no	Yes	litigation pending
Massachusetts	D	D	Leg.	9 towns	No	1985
Michigan	R	D	Boards (Court if Board fails to act)	2 townships	Yes	litigation pending
Minnesota	R	D	Leg.	no	Yes	completed
Mississippi	D	D	Leg.	statewide	Yes	completed
Missouri	R	D	Board—(Court if Board fails to act)	no	Yes	completed

State	Political party in control: Gov.	Political party in control: Leg.	Redistricting done by	Covered by Voting Rights Act	Redistricting completed	Action
Montana	D	R	Board	no	No	1985
Nebraska	R	unicameral	Leg.	no	Yes	completed
Nevada	R	D	Leg.	no	Yes	completed
New Hampshire	D	R	Leg.	9 political subdivisions	No	plan vetoed by Gov.
New Jersey	D	D	Board	no	Yes	completed
New Mexico	D	D	Leg.	no	No	special session in June or July 1982
New York	D	Sen. 35 R, 25 D; House 86 D, 64 R	Leg.	3 New York City boroughs	Yes	litigation pending
North Carolina	D	D	Leg.	40 counties	Yes	litigation pending
North Dakota	R	R	Leg.	no	Yes	completed
Ohio	R	Sen. 18 R, 15 D; House 56 D, 43 R	Board	no	Yes	completed
Oklahoma	D	D	Leg.—(Board if Leg. fails to act)	no	Yes	completed
Oregon	R	D	Leg.—(Sec. of State if Leg. fails to act)	no	Yes	completed
Pennsylvania	R	R	Board	no	Yes	completed
Rhode Island	D	D	Leg.	no	Yes	litigation pending
South Carolina	D	D	Leg.	statewide	House-Yes Senate-No	completed
South Dakota	R	R	Leg.—(Board if Leg. fails to act)	2 counties	Yes	const. amendment on 11/82 ballot
Tennessee	R	D	Leg.	no	Yes (for 8/5 primary)	litigation pending
Texas	R	D	Leg.—(Board if Leg. fails to act)	statewide	Yes (for May 1 primary)	Districts must be redrawn
Utah	D	R	Leg.	no	Yes	completed
Vermont	R	R	Board is advisory to Leg.—(Court if Leg. fails to act)	no	Yes	completed
Virginia	R	D	Leg.	statewide	Yes	completed
Washington	R	R	Leg.	no	Yes	completed
West Virginia	D	D	Leg.	no	Yes	completed
Wisconsin	R	D	Leg.	no	No	Gov. vetoed bill on 5/23/82
Wyoming	D	R	Leg.	1 county	Yes	completed

APPENDIX III: REAPPORTIONMENT: A BETTER WAY

Common Cause first proposed a model reapportionment process in 1977 for adoption at the state level. The model proposal relies heavily on the Colorado, Hawaii, and Montana reapportionment procedures.* The Hawaii and Montana processes were recommendations of constitutional conventions that received voter approval in 1968 and 1972, respectively, (Hawaii and Montana commissions draw congressional as well as state legislative boundaries.) The Colorado process was the result of a citizen initiative approved by the voters in November of 1974 by a vote ratio of three to two.

The Common Cause model proposes a reapportionment process designed to produce districts that are fairly drawn as well as districts of substantial population equality. Unlike district lines produced by political gerrymandering, fair district lines are not drawn to pre-determine election results. The model proposes a system of reapportionment that is equitable in its treatment of incumbent legislators, political parties, and others. This replaces the present system where people with political power are able to manipulate district lines for personal and partisan advantage.

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* A description of reapportionment commission activities in Colorado and Hawaii is found on page 26. Montana will not complete redistricting until 1983.

The Common Cause model has three main elements -- strict anti-gerrymandering standards; an independent, nonpartisan reapportionment commission; and prompt judicial review. All three elements of the model are crucial. They are designed to reinforce each other and to produce fairly drawn district lines. The reapportionment standards are designed to produce fair district lines by limiting the discretion of the commission to gerrymander for political or partisan purposes. The nonpartisan reapportionment commission replaces the legislature, providing much needed independence. Fair district lines are more likely if district lines are drawn by persons not directly affected by them. Judicial review provides finality and acts as the final safeguard of the public's interest in fair and effective representation.

Four states have enacted legislation in the last three years that strengthens the standards that legislators must use in drawing congressional and state legislative districts -- California (1980), Iowa (1980), Oregon (1979), and Washington (1982). In addition, proposals to establish a redistricting commission will appear on November 1982 ballots in California and Missouri.

Common Cause will continue to lobby for reapportionment reform in the states. To obtain a copy of Common Cause's report on state and congressional reapportionment, Toward a System of Fair and Effective Representation, and the Common

Cause model reapportionment amendment to a state constitution, please call or write to the Common Cause Redistricting Clearinghouse, 2030 M Street, N.W. Washington, D.C. 20036 (202) 833-1200.

Other Investigative Studies From Common Cause

WHO'S MINDING THE STORE? A Common Cause Guide to Top Officials at the Department of the Interior (December 1981) ($4.00)

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These investigative studies are available by writing: Issue Mail, Common Cause, 2030 M Street, N.W., Washington, D.C. 20036.

REAPPORTIONMENT: A BETTER WAY

a common cause proposal

> "I don't think they play at all fairly, and they all quarrel so dreadfully one can't hear one self speak—and they don't seem to have any rules in particular: at least, if there are, nobody attends to them—and you've no idea how confusing it is . . ."
>
> —Alice
> *Alice's Adventures in Wonderland*

Alice would have felt quite at home watching a typical state legislature attempt to reapportion itself during the 1960's and early 1970's. In many states, reapportionment*—the decennial division of states into legislative districts for voting purposes—has been a series of secret deals based largely on personal and partisan motivations. Few rules have existed to safeguard the public's interest in an open and competitive political system. The guiding principle for most incumbent legislators has been self-protection.

The method by which state legislative and congressional district lines are drawn is fundamental to our system of representative democracy. The Supreme Court decisions of the mid-1960's requiring periodic reapportionment on the basis of "one person, one vote" eliminated the gross population inequalities among legislative districts that existed in the 1950's and 1960's. These decisions took us a large step toward the goal of achieving "fair and effective representation for all citizens" articulated by the Court in the 1964 *Reynolds* case. Unfortunately, we have not com-

*As a technical matter, "reapportionment" is "a distribution of legislative seats" to already established units of government (for example, states, counties). "Redistricting" is "the drawing of lines" to establish legislative districts within already established units of government. Thus, congressional seats are apportioned to the states and then districts drawn within each state. As a matter of practice, however, the terms "reapportionment" and "redistricting" have been used interchangeably. In this report, "reapportionment" is used to refer to the act of drawing legislative district lines as well as apportioning legislative seats among units of government.

pleted the journey toward that worthy goal because the Court has not dealt with the equally debilitating problems of racial and political gerrymandering. The reapportionment revolution remains unfinished.

The Court's decisions leave reapportionment in the hands of the state legislatures, presenting an inherent conflict of interest. With few standards other than substantial population equality to guide them, the state legislatures have been free to draw districts of bizarre configurations designed to serve personal and partisan ends. Professors Keefe and Ogul, authors of *The American Legislative Process*, have examined our nation's experience with reapportionment and concluded that "everything about reapportionment, whether legislative or congressional, suggests the triumph of self-interest."

Political and racial gerrymandering have resulted. They have reduced electoral competition and undermined our system of representative democracy in significant ways. Political gerrymandering dilutes the value of political participation, undermines legislative responsiveness to constituent views, and weakens political parties. Gerrymandering has been used to deny representation to minority groups.

The present process works extremely well for incumbent legislators and other political insiders. It does not serve the public well. An Illinois legislator once explained this insider's game in blunt terms:

> Outsiders shouldn't stick their noses in and tell this committee how to reapportion the state . . . . Any man in this legislature who doesn't fight for his own district is a particular damn fool. I'm not for too many sitting members running against each other if we can work it out.

In the early 1980's virtually all state legislative and congressional district lines will be redrawn based on the 1980 federal census. Common Cause believes that it is well past time for citizens to "stick their noses" in this important political process and insist that it be cleaned up and opened to public participation before the reapportionment of the early 1980's takes place. Common Cause has proposed a model reapportionment process designed to establish the legal framework necessary to achieve the Supreme Court's goal of "fair and effective representation." The Common Cause model is summarized on pages 24-25. It proposes the establishment of rigorous anti-gerrymandering reapportionment standards and the creation of an independent, nonpartisan commission to draw the state legislative and congressional district lines. Unless citizens demand a better way than what we have had, the unseemly spectacles of the 1960's and 1970's will be repeated in state after state.



"If no one else has a question, we'll proceed with the democratic process."

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Background

The quest for fair and effective representation runs deep in Anglo-American political thought. In 1690, John Locke despaired of England's rotten boroughs and argued that it was in the interest of the public "to have a fair and equal representative." Apportionment was a fundamental issue for the Constitutional Convention meeting in Philadelphia in 1787. The Connecticut compromise provided for equal representation of the states in the U.S. Senate and for representation based on population in the House. Article I, Section 2 of the Constitution specifically provides that Representatives be apportioned among the states according to population every ten years.

Despite federal and state constitutional requirements to reapportion periodically, many states failed to do so. As the nation's population shifted from rural areas to the cities and suburbs, the population inequality among state legislative districts as well as congressional districts increased substantially. In 1946, the U.S. Supreme Court failed to halt this trend when it denied relief in the *Colegrove* case challenging an Illinois congressional district plan that had one district with nine times as many people as another. Justice Frankfurter argued: "Courts ought not to enter this political thicket." State courts also declined to become involved. Rural dominance was maintained in some states by simply doing nothing.

Absent a court mandate, nearly one-half of the states did not reapportion their legislatures after the 1950 census according to Professors Keefe and Ogul. By 1962, ten states had at least one house which had not been reapportioned since 1930. Vermont had not reapportioned since 1793; nor had Delaware since 1897. The resulting malapportionment was extraordinary. The Brookings Institution has pointed out that twenty-one of the forty-two states with more than one congressional district in 1962 had constituencies in which the smallest district had less than one-half of the population of the largest district. In 1961, according to Professors Jewell and Patterson, authors of *The Legislative Process in the U.S.*, there were fourteen states in which a majority of members of at least one house could be elected by as few as twenty percent of the electorate from rural areas. In the Vermont House, the 38 citizens of Stratton had the same representation as the 35,531 citizens of Burlington. The five largest cities in Connecticut had one-fourth of the state's population but elected only ten of the 294 house members. The six million citizens of Los Angeles County comprised forty percent of the population of California but had only one of the forty seats in the state Senate.

> But things not always changing equally, and private interest often keeping up customs and privileges when the reasons of them are ceased, it often comes to pass that in governments where part of the legislative consists of representatives chosen by the people, that in tract of time this representation becomes very unequal and disproportionate to the reasons it was first established upon . . . . This strangers stand amazed at, and every one must confess needs a remedy; . . . . And therefore the people, when the legislative is once constituted, having in such a government as we have been speaking of no power to act as long as the government stands, this inconvenience is thought incapable of a remedy . . . . For it being the interest as well as intention of the people, to have a *fair and equal representative*, whoever brings it nearest to that is an undoubted friend to and establisher of the government, and cannot miss the consent and approbation of the community. [emphasis added]
>
> —John Locke
> *Second Treatise of Civil Government* (1690)

The Supreme Court in the "Political Thicket"

In 1962, in the famous *Baker v. Carr* case, the U.S. Supreme Court decided to enter the "political thicket" of reapportionment. The Court held that federal courts have jurisdiction over complaints against malapportioned legislatures. The *Baker* case involved the Tennessee General Assembly which had not reapportioned itself since 1901 despite a state constitutional mandate to do so every ten years and a dramatic growth and shift of population. The Court declined to specify a remedy in Baker but did establish guidelines in a series of decisions over the next several years.

Early in 1964, in *Wesberry v. Sanders*, the Court voided Georgia's congressional district plan and held that:

> . . . the command of Art. I, Sec. 2, that Representatives be chosen "by the People of the several States" means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's.

Perhaps the most important decision came in *Reynolds v. Sims* in June of 1964. In *Reynolds*, the Court voided Alabama's state legislative district plan and held that:

> The Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, *as nearly of equal population as is practicable.* [emphasis added]

The response to *Baker, Wesberry,* and *Reynolds* was predictable. Suits were filed in federal or state courts of 48 of the fifty states between 1962 and 1972 alleging violations of the equal protection clause with respect to the apportionment of one or both legislative houses.

Over the years, the Court has refined the "one person, one vote" standard. The Court has made a distinction between state legislative and congressional districts, allowing larger population deviations among districts in state legislative plans. The Court has defined the "as nearly of equal population as is practicable" standard of *Reynolds* under the equal protection clause to allow maximum population deviations among state legislative districts of up to ten percent. The Court has allowed somewhat greater deviations if justified by rational state policy, such as the desire to respect the boundaries of political subdivisions. The Court has defined the "as nearly as is practicable" standard of *Wesberry* under Article I, Section 2 of the Constitution to require as close to mathematical equality as is reasonably possible for congressional districts.

While the Supreme Court has secured substantial population equality among legislative districts, it has been unreceptive to reapportionment challenges based on charges of political or racial gerrymandering. Districts of bizarre configurations admittedly designed to serve personal or partisan ends have been upheld if they meet the population test. The Court has indicated that it will scrutinize carefully charges of racial gerrymandering. But in *Whitcomb v. Chavis* in 1971, the most important racial gerrymandering case to date, the Court held that the use of multi-member rather than single-member state legislative districts in Indiana did not result in invidious discrimination against the black voters of Indianapolis.

SUMMARY OF MAJOR U.S. SUPREME COURT DECISIONS

Colegrove v. Green, 328 U.S. 549 (1946): The Court, by a four to three vote, denied relief in a case challenging an Illinois congressional district plan that had one district with nine times as many people as another. Justice Frankfurter argued that: "Courts ought not to enter this political thicket. The remedy for unfairness in districting is to secure state legislatures that will apportion properly, or to invoke the ample powers of Congress."

Baker v. Carr, 369 U.S. 186 (1962): In a case involving the Tennessee General Assembly, the Court held that federal courts have jurisdiction over complaints against malapportioned legislatures. The legislature had not reapportioned since 1901 despite a state constitutional mandate to do so every ten years and a dramatic growth and shift of population. The Court declined to consider what remedy would be appropriate and remanded the case to the lower court.

Wesberry v. Sanders, 376 U.S. 1 (1964): The Court voided Georgia's congressional district plan. The Court held that Article I, Section 2 of the Constitution required that "as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's."

Reynolds v. Sims, 377 U.S. 533 (1964): In a case involving the Alabama Legislature, the Court rejected the analogy to the U.S. Congress and held that both houses of a state legislature must be apportioned on a population basis. The Court held that: "The Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable." The Court said that some deviations from the equal population principle are constitutionally permissible if "based on legitimate considerations incident to the effectuation of a rational state policy," such as a desire to respect the boundaries of political subdivisions.

Swann v. Adams, 385 U.S. 440 (1967): The Court rejected Florida's 1966 state legislative reapportionment plan because it contained senate districts ranging from 15.09 percent above the average district and 10.56 percent below and house districts ranging from 18.28 percent above to 15.27 percent below.

Kirkpatrick v. Preisler, 394 U.S. 526 (1969): The Court rejected Missouri's 1967 congressional Redistricting Act because the most populous district was 3.13 percent greater than the average district and the least populous was 2.84 percent below and the state failed to satisfactorily justify the deviations. The Court held that "the 'as nearly equal as practicable' standard requires that the State make a good-faith effort to achieve precise mathematical equality. Unless population variances among congressional districts are shown to have resulted despite such effort, the State must justify each variance, no matter how small."

Continued on page 6

U.S. SUPREME COURT DECISIONS continued from page 5

Whitcomb v. Chavis, 403 U.S. 124 (1971): The Court held that the use of multi-member districts in state legislative reapportionment in Indiana did not result in invidious discrimination against the black voters of Indianapolis. The Court "insisted that the challengers carry the burden of proving that multi-member districts unconstitutionally operate to dilute or cancel the voting strength of racial or political elements." The Court found that the challengers had not demonstrated discrimination.

Mahan v. Howell, 410 U.S. 315 (1973): The Court upheld a 1971 Virginia state legislative reapportionment plan despite the fact that it had a maximum population deviation from the largest to the smallest district of 16.4 percent. The Court held that the legislative plan "may reasonably be said to advance the rational state policy of respecting the boundaries of political subdivisions," but noted that "this percentage may well approach tolerable limits."

Gaffney v. Cummings, 412 U.S. 735 (1973): The Court upheld a 1971 state legislative reapportionment plan for Connecticut with maximum population deviations between house districts of 7.83 percent. The Court held that "minor deviations from mathematical equality among state legislative districts are insufficient to make out a prima facie case of invidious discrimination under the Fourteenth Amendment so as to require justification by the State." In addition, the Court held that the plan was not constitutionally vulnerable just because it attempted to reflect the relative strength of the major political parties.

White v. Weiser, 412 U.S. 783 (1973): The Court rejected a congressional district plan for Texas because its maximum deviations of 2.43 percent above and 1.7 percent below the average "were not 'unavoidable', and the districts were not as mathematically equal as reasonably possible."

Chapman v. Meier, 420 U.S. 1 (1975): The Court overturned a federal court ordered reapportionment of the North Dakota Legislative Assembly. The Court held that "unless there are persuasive justifications, a court-ordered reapportionment plan of a state legislature must avoid use of multi-member districts." The Court noted that it was exercising its supervisory powers with regard to federal courts; it was not holding that multi-member districts are unconstitutional *per se*.

United Jewish Organizations v. Carey, 97 Sup. Ct. 996 (1977): The Court upheld a legislative modification of New York's state legislative reapportionment plan that was designed to bring the plan into compliance with the Voting Rights Act. In order to establish several substantially non-white districts in Kings County, the legislature divided a community of Hasidic Jews. The Court held that the use of racial criteria in an attempt to comply with the Voting Rights Act did not violate either the Fourteenth or Fifteenth amendments.

Existing State Policies

Virtually all substantive law regarding apportionment procedure is found in the constitutions of the states. With the exception of some of the newest provisions, few describe in much detail either the procedure for preparation of reapportionment plans or the standards to be used. Only the constitutional provisions in Colorado, Hawaii, and Montana meet the anti-gerrymandering test advocated by Common Cause. Table I below provides an overview of existing state provisions for state legislative apportionment. A typical state constitutional provision requires the legislature to reapportion on the basis of population after each federal decennial census. One state statute and twenty-one state constitutions explicitly require that districts be compact; two state statutes and twenty-seven constitutions explicitly provide that districts be formed of contiguous territory. Many state constitutions require the apportioning authority to respect political subdivision boundaries. But even where standards exist, they are generally stated in terms too vague to be enforced in court.

In thirty-seven states, the legislature is given the initial responsibility for preparing the apportionment plan. Nine of these states provide for an apportionment authority to prepare a plan if the legislature does not do so—in five states a board is established as the backup, in three the supreme court is responsible, and in Oregon the secretary of state prepares a plan. Nine other states give responsibility to a board or commission; in two of these states the supreme court is to prepare a plan if the

TABLE I:

EXISTING STATE PROVISIONS FOR
STATE LEGISLATIVE APPORTIONMENT

State	Apportioning Authority	Compactness	Contiguity	St. Sup. Court Original Jur.	State	Apportioning Authority	Compactness	Contiguity	St. Sup. Court Original Jur.
Alabama	L		X		Montana	B	X	X	
Alaska	B/G	X	X		Nebraska	L	X	X	
Arizona	L				Nevada	L			
Arkansas	B			X	New Hampshire	L			
California	L		X		New Jersey	B	X	X	
Colorado	B	X	X	X	New Mexico	L	X	X	
Connecticut	L(B)		X	X	New York	L	X	X	
Delaware	L		X		North Carolina	L		X	
Florida	L(C)			X	North Dakota	L			
Georgia	L				Ohio	B	X	X	X
Hawaii	B	X	X	X	Oklahoma	L(B)	X	X	X
Idaho	L				Oregon	L(St.)			X
Illinois	L(B)	X	X	X	Pennsylvania	B	X	X	X
Indiana	L				Rhode Island	L	X		
Iowa	L(C)	X	X	X	South Carolina	L			
Kansas	L			X	South Dakota	L(B)			
Kentucky	L				Tennessee	L			
Louisiana	L(C)				Texas	L(B)		X	
Maine	B/L(C)	X	X	X	Utah	L			
Maryland	G/L	X	X	X	Vermont	B/L(C)	X	X	X
Massachusetts	L		X	X	Virginia	L	X	X	
Michigan	B(C)	X	X	X	Washington	L			
Minnesota	L		X		West Virginia	L	X	X	
Mississippi	L				Wisconsin	L	X	X	
Missouri	Bds.(C)	X	X		Wyoming	L			

KEY: B—Board or Commission, C—Court, G—Governor, L—Legislature, St.—Secretary of State, B/G—Board is advisory to Governor, L(C)—if Legislature fails to act, the Court is the backup authority.

board does not. In two additional states—Maine and Vermont—boards are established to advise the legislature; the supreme courts backup the legislature. In Alaska, the governor is responsible for preparing a plan with the assistance of an advisory board. In Maryland, the governor presents a plan to the legislature; if the legislature does not enact a substitute, the governor's plan goes into effect. Table II on page 9 provides an overview of the makeup and responsibilities of the eighteen boards and commissions that are assigned state legislative apportionment responsibilities. Many are dominated by legislators or other public officials and lack the necessary independence. Seventeen state constitutions establish prompt court review by providing for original jurisdiction in the state's highest court.

The apportionment authorities designated by the state constitutions—especially the state legislatures—have often failed to produce acceptable plans. According to a 1973 survey by the Massachusetts Legislative Research Council, courts promulgated districts for one or both houses in at least twenty-one states between 1962 and 1972. In other states, the courts rejected reapportionment plans and ordered reapportionment authorities to prepare acceptable plans. According to Tables III and IV on pages 10-11, prepared by the Council of State Governments, sixteen existing state house apportionment plans and seventeen senate plans were court ordered.

STATE CONSTITUTIONAL AND STATUTORY REAPPORTIONMENT PROVISIONS

Alabama: Const. art. 9, secs. 197-201.
Alaska: Const. art. VI, secs. 1-11.
Arizona: Const. art. 4, pt. 2, sec. 1; and Ariz. Rev. Stat. secs. 16-1401 to 16-1403.
Arkansas: Const. amendment no. 45.
California: Const. art. 4, secs. 6 and 27.
Colorado: Const. art. V, secs. 46-48.
Connecticut: Const. art. 3, secs. 3-6.
Delaware: Code tit. 29, secs. 801-808.
Florida: Const. art. III, sec. 16.
Georgia: Const. art. 3, secs. 2-3.
Hawaii: Const. art. III, sec. 4; and Haw. Rev. Stat. secs. 25-1 to 25-8.
Idaho: Const. art. 3, secs. 4-5.
Illinois: Const. art. 4, sec. 3.
Indiana: Const. art. 4, secs. 5-6.
Iowa: Const. art. 3, secs. 34-39.
Kansas: Const. art. 10, sec. 1.
Kentucky: Const. sec. 33.
Louisiana: Const. art. III, sec. 6.
Maine: Const. art. IV, pt. 1, secs. 2-3; pt. 2, sec. 2; and pt. 3, sec. 1-A.
Maryland: Const. art. III, secs. 2-5.
Massachusetts: Const. art. CI, secs. 1-3.
Michigan: Const. art. IV, secs. 2-6; and Mich. Stat. Ann. secs. 2-28 (1)-(9).
Minnesota: Const. art. 4, secs. 2-3.
Mississippi: Const. art. 13, secs. 254-255.
Missouri: Const. art. III, secs. 2, 7, 10, and 45.
Montana: Const. art. V, sec. 14; and Mont. Rev. Codes Ann. secs. 43-108 to 43-118.
Nebraska: Const. art. III, sec. 5.
Nevada: Const. art. 4, sec. 5.
New Hampshire: Const. pt. 2, arts. 9, 9a, and 26.
New Jersey: Const. art. IV, secs. II-III.
New Mexico: Const. art. IV, sec. 3; and N.M. Stat. Ann. secs. 2-7-122, 2-9-124.
New York: Const. art. 3, secs. 4-5.
North Carolina: Const. art. II, secs. 3 and 5.
North Dakota: Const. art. II, sec. 35.
Ohio: Const. art. XI, secs. 1-15.
Oklahoma: Const. art. 5, secs. 9A, 10A, and 11A-E.
Oregon: Const. art. IV, sec. 6.
Pennsylvania: Const. art. 2, secs. 16-17.
Rhode Island: Const. amendments XIII and XIX.
South Carolina: Const. art. 3, secs. 3-6.
South Dakota: Const. art. III, sec. 5.
Tennessee: Const. art. II, secs. 4-6.
Texas: Const. art. III, secs. 25-28.
Utah: Const. art. IX, secs. 1-4.
Vermont: Const. ch. II, secs. 13, 18, and 74; and Vt. Stat. Ann. tit. 17, secs. 1901-1911.
Virginia: Const. art. II, sec. 6.
Washington: Const. art. 2, sec. 3.
West Virginia: Const. art. VI, secs. 4-10.
Wisconsin: Const. art. IV, secs. 3-5.
Wyoming: Const art. 3, sec. 3.

TABLE II:

STATE REAPPORTIONMENT COMMISSIONS

State	No. Comm.	How Commissioners Chosen	Authority
Alaska	5	by the Governor	advisory to the Governor
Arkansas	3	board is composed of the Governor, Secretary of State, and Attorney General.	promulgate a plan
Colorado	11	four by the legislative department, three by executive, and four by judicial (no more than four may be legislators)	promulgate a plan
Connecticut	9	by the Governor from names designated by legislative leaders; the eight select a ninth	backup if legislature fails to adopt plan
Hawaii	9	legislative leaders select eight who select a ninth	promulgate a plan
Illinois	8	four legislative leaders each select one legislator and one non-legislator	backup if legislature fails to adopt a plan
Maine	13	ten legislators are chosen by legislative leaders and the legislators select three members of the public	advisory to the legislature
Michigan	8	two major political parties each select four	promulgate a plan
Missouri House	20	by Governor, one from each list of two submitted by congressional district committees of two major parties	promulgate a plan
Missouri Senate	10	by Governor, five from each list of ten submitted by two major political parties	promulgate a plan
Montana	5	four legislative leaders each select one and four commissioners select fifth	promulgate a plan
New Jersey	10 (11)	five from each of two major parties; Chief Justice appoints eleventh if deadlock	promulgate a plan
Ohio	5	board is composed of Governor, Auditor, Secretary of State, and two selected by legislative leaders	promulgate a plan
Oklahoma	3	board is composed of Attorney General, Superintendent of Public Instruction, and Treasurer	backup if legislature fails to adopt a plan
Pennsylvania	5	board composed of four legislative leaders or deputies and fifth selected by the four	promulgate a plan
South Dakota	5	board composed of Governor, Superintendent of Public Instruction, presiding judge of Supreme Court, Attorney General, and Secretary of State	backup if legislature fails to adopt a plan
Texas	5	board composed of Lt. Governor, House Speaker, Attorney General, Comptroller, and Commissioner of General Land Office	backup if legislature fails to adopt a plan
Vermont	5	Governor appoints one from each major party; each major party appoints one; Chief Justice of Supreme Court appoints one	advisory to legislature

TABLE III:

APPORTIONMENT OF LEGISLATURES: SENATE

State or other jurisdiction	Initial reapportioning agency	Present apportionment by	Year of most recent apportionment	Number of seats	Number of districts	Number of multi-member districts	Largest number of seats in district	Percent deviation in actual v. average population per seat: Greatest +	Greatest −	Average population each seat (a)
Alabama	L	FC	1972	35	35	0	1	0.67	0.72	98,406
Alaska	G,B	SC	1974	20	16	3	3	14.0	8.4	15,118
Arizona	L	L	1972(b)	30	30	0	1	0.4	0.4	59,083
Arkansas	B	B	1971	35	35	0	1	2.0	1.49	54,923
California	L	SC	1973	40	40	0	1	1.92	1.02	499,322
Colorado	L	L	1972	35	35	0	1	2.48	0.67	63,129
Connecticut	L(c)	B	1971	36	36	0	1	3.9	3.9	84,228
Delaware	L	L	1971	21	21	0	1	1.4	0.9	26,100
Florida	L(c)	L	1972	40	19	14	3	0.62	0.53	169,773
Georgia	L	L	1972	56	56	0	1	2.3	2.0	81,955
Hawaii	B	B	1973	25	8	7	4	16.2	13.8	13,513(d)
Idaho	L	L	1974	35	35	0	1	5.15	5.03	20,371
Illinois	L(c)	L	1973	59	59	0	1	0.8	0.6	188,372
Indiana	L	L	1972	50	50	0	1	1.7	1.6	101,872
Iowa	L(c)	SC	1972	50	50	0	1	0.0	0.0	56,507
Kansas	L	FC	1972	40	40	0	1	2.56	2.02	56,231
Kentucky	L	L	1972	38	38	0	1	3.07	3.02	81,791
Louisiana	L	FC, L	1972	39	39	0	1	5.6	8.8	91,415
Maine	L(c)	SC	1972	33	33	0	1	1.52	1.54	30,111
Maryland	G	SC	1974	47	47	0	1	5.3	4.7	84,455
Massachusetts	L	L	1973	40	40	0	1	3.53	3.67	138,473(e)
Michigan	B	SC	1972	38	38	0	1	0.0	0.0	233,753
Minnesota	L	FC	1972	67	67	0	1	1.88	1.83	56,820
Mississippi	L	FC	1975	52	39	12	3	1.12	0.92	42,000
Missouri	B	B	1971	34	34	0	1	4.9	4.9	137,571
Montana	B	B	1974	50	50	0	1	6.33	6.75	13,999
Nebraska	L	L	1971	49	49	0	1	1.4	1.1	30,290
Nevada	L	L	1973	20	10	3	7	7.7	9.6	21,137
New Hampshire	L	L	1972	24	24	0	1	3.35	4.0	30,151(f)
New Jersey	B	B, SC	1973	40	40	0	1	2.85	1.49	179,278
New Mexico	L	L, SC	1972	42	42	0	1	4.85	4.48	24,190
New York	L	L	1971	60	60	0	1	0.9	0.9	303,021
North Carolina	L	L	1971	50	27	18	4	6.10	6.89	101,641
North Dakota	L	FC	1975	50	49	1	2	3.16	3.1	12,355
Ohio	B	B	1971	33	33	0	1	1.05	0.95	322,788
Oklahoma	L(c)	L	1971	48	48	0	1	0.5	0.5	53,317
Oregon	L(c)	S, SC	1971	30	30	0	1	1.2	0.7	69,713
Pennsylvania	B	B	1971	50	50	0	1	2.29	0.03	235,949
Rhode Island	L	L	1974	50	50	0	1	15.0	0.0	17,800
South Carolina	L	L	1972	46	16	13	5	3.18	6.75	56,316
South Dakota	L(c)	L	1971	35	28	3	5	2.4	3.3	19,015
Tennessee	L	L	1973	33	33	0	1	7.1	7.4	118,914
Texas	L(c)	B	1971	31	31	0	1	2.3	2.2	361,185
Utah	L	L	1972	29	29	0	1	4.64	6.38	36,527
Vermont	L(c)	L	1973	30	13	11	6	8.17	8.48	14,824
Virginia	L	FC	1971	40	38	1	3	5.2	4.5	116,212
Washington	L	FC	1972	49	49	0	1	0.91	0.7	68,428(f)
West Virginia	L	L	1973	34	17	17	2	11.1	11.1	57,302
Wisconsin	L	L	1972	33	33	0	1	0.71	0.55	131,877
Wyoming	L	L	1971	30	16	9	5	27.9	21.6	11,080
Virgin Islands	L	L	1972	15	3	2	7	N.A.	N.A.	4,461

Source: The Book of the States, 1976–77, p. 42, with updated information.

Abbreviations: B—Board or Commission; FC—Federal Court; SC—State Court; G—Governor; L—Legislature; S—Secretary of State; N.A.—Not available.

(a) Population figures in most instances are based on the 1970 federal census. West Virginia: population figures valid at time of last legislative apportionment.

(b) Effective 1976 election.

(c) Constitution or statutes provide for another agent or agency to reapportion if the Legislature is unable to do so.

(d) Average number of registered voters per seat.

(e) Based on 1971 special State Decennial Census of state citizens.

(f) Based on civilian or nonstudent population.

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Note: As a result of a law enacted since this Table was prepared, the Massachusetts Senate has percentage population deviations of +2.86% and -3.36%. The average population for each seat is 144,737.

TABLE IV:

APPORTIONMENT OF LEGISLATURES: HOUSE

State or other jurisdiction	Initial reapportioning agency	Present apportionment by	Year of most recent apportionment	Number of seats	Number of districts	Number of multi-member districts	Largest number of seats in district	Percent deviation in actual v. average population per seat: Greatest +	Greatest −	Average population each seat (a)
Alabama	L	FC	1972	105	105	0	1	1.08	1.15	32,802
Alaska	G, B	SC	1974	40	22	10	6	14.0	15.0	7,559
Arizona	L	L	1972(b)	60	30	30	2	0.4	0.4	29,541
Arkansas	B	B	1971	100	84	10	3	6.3	3.1	19,233
California	L	SC	1973	80	80	0	1	1.94	1.90	249,661
Colorado	L	L	1972	65	65	0	1	0.97	1.09	33,993
Connecticut	L(c)	B	1971	151	151	0	1	1.0	1.0	20,081
Delaware	L	L	1971	41	41	0	1	2.6	2.3	13,368
Florida	L(c)	L	1972	120	45	24	6	0.2	0.1	56,591
Georgia	L	L	1974	180	154	17	4	4.87	4.79	25,502
Hawaii	B	B	1973	51	27	22	3	8.2	21.0	6,624(d)
Idaho	L	L	1971	70	35	35	2	5.45	5.03	10,186
Illinois	L(c)	L	1973	177	59	59	3	0.8	0.6	62,791
Indiana	L	L	1972	100	73	20	3	1.0	1.0	51,946
Iowa	L(c)	SC	1972	100	100	0	1	0.0	0.0	28,253
Kansas	L	L	1973	125	125	0	1	6.5	4.8	18,223
Kentucky	L	L	1972	100	100	0	1	3.1	3.9	32,193
Louisiana	L	FC, L	1972	105	105	0	1	4.6	4.6	34,697
Maine	L(c)	SC	1974	151	119	11	10	5.0(e)	5.0(e)	6,581
Maryland	G	SC	1974	141	47	47	3	5.3	4.7	27,818
Massachusetts	L	L	1973	240	240	0	1	9.94	9.06(f)	23,232(g)
Michigan	B	SC	1972	110	110	0	1	0.0	0.0	80,751
Minnesota	L	FC	1972	134	134	0	1	1.99	1.97	28,404
Mississippi	L	FC	1975	122	84	27	4	1.06	0.93	18,171
Missouri	B	SC	1971	163	163	0	1	1.2	1.3	28,696
Montana	B	B	1974	100	100	0	1	7.83	7.65	6,944
Nebraska	Unicameral Legislature			...	...	...	...	...	...	...
Nevada	L	L	1973	40	40	0	1	10.9	12.1	12,218
New Hampshire	L	L	1971	400	159	109	11	25.3	19.3	1,813(h)
New Jersey	B	B, SC	1973	80	40	40	2	2.85	1.39	89,639
New Mexico	L	L, SC	1972	70	70	0	1	4.92	4.95	14,514
New York	L	L	1971	150	150	0	1	1.8	1.6	121,608
North Carolina	L	L	1971	120	45	35	8	8.2	10.2	42,350
North Dakota	L	FC	1975	100	49	49	4	3.16	3.1	6,178
Ohio	B	B	1971	99	99	0	1	1.05	0.95	107,596
Oklahoma	L(c)	L	1971	101	101	0	1	1.0	1.2	25,338
Oregon	L(c)	S, SC	1971	60	60	0	1	1.33	0.88	31,856
Pennsylvania	B	B	1971	203	203	0	1	2.98	0.04	58,115
Rhode Island	L	L	1974	100	100	0	1	17.0	0.0	8,900
South Carolina	L	L	1974	124	124	0	1	4.98	4.97	20,819
South Dakota	L(c)	L	1971	70	28	28	10	2.4	3.3	9,518
Tennessee	L	L	1973	99	99	0	1	2.0	1.6	39,638
Texas	L(c)	L	1975	150	150	0	1	5.8	4.7	74,045
Utah	L	L	1972	75	75	0	1	6.72	5.95	14,124
Vermont	L(c)	L	1974	150	72	39	15	10.58	9.36	1,820(d)
Virginia	L	L	1972	100	52	28	7	9.6	6.8	46,485
Washington	L	FC	1972	98	49	49	2	0.91	0.7	31,214(h)
West Virginia	L	L	1973	100	36	25	13	8.17	8.01	17,432
Wisconsin	L	L	1972	99	99	0	1	0.96	0.93	44,626
Wyoming	L	L	1971	62	23	12	11	41.16	45.47	5,362
Virgin Islands	Unicameral Legislature			...	...	...	...	...	...	...

Source: The Book of the States, 1976-77, p. 43, with updated information.

Abbreviations: B—Board or Commission; FC—Federal Court; SC—State Court; G—Governor; L—Legislature; S—Secretary of State.

(a) Population figures in most instances are based on the 1970 federal census.

(b) Effective 1976 election.

(c) Constitution or statutes provide for another agent or agency to reapportion if the Legislature is unable to do so.

(d) Average number of registered voters per seat.

(e) Approximate. No exact figures were available.

(f) This figure excludes two geographical island districts whose deviations are −7.15 and −81.77.

(g) Based on 1971 special State Decennial Census of state citizens.

(h) Based on civilian or nonstudent population.

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Note: As a result of a recent constitutional amendment and a reapportionment law enacted since this Table was prepared, the Massachusetts House has 160 single-member districts with an average population for each seat of 36,164. The percentage population deviations range from +9.5% to -10.24%.

TABLE V:

CONGRESSIONAL DISTRICTS

State	Initial Redistricting by	Present Redistricting by	Year of Most Recent Districting	Number of Districts	Maximum Percent Deviations from Average Population	Average Population Per District
Alabama	L	L	1972	7	+.32% -.46%	492,024
Alaska	(One Member elected at-large)					
Arizona	L	L	1971	4	+.1% -.12%	443,121
Arkansas	L	L	1971	4	+.07% -.19%	480,824
California	L	SC	1973	43	+.55% -.39%	464,442
Colorado	L	L	1972	5	+.17% -.47%	411,452
Connecticut	L	FC	1972	6	+.02% -.02%	505,370
Delaware	(One Member elected at-large)					
Florida	L	L	1972	15	+.09% -.19%	452,630
Georgia	L	L	1972	10	+.41% -.69%	458,956
Hawaii	L	L	1969	2	+5.9% -5.9%	384,957
Idaho	L	L	1971	2	+.10% -.10%	356,504
Illinois	L	FC	1971	24	+.63% -.69%	463,082
Indiana	L	L	1971	11	+.11% -.12%	472,152
Iowa	L	L	1971	6	+.23% -.42%	470,840
Kansas	L	L	1971	5	+.94% -.62%	449,814
Kentucky*	L	L	1972	7	+.11% -.09%	460,102
Louisiana**	L	L	1972	8	+.39% -.14%	455,398
Maine	L	L	1961	2	+.23% -.23%	496,832
Maryland	L	L	1971	8	+1.01% -1.55%	490,300
Massachusetts	L	L	1971	12	+.62% -.98%	474,098
Michigan	L	FC	1972	19	+.11% -.44%	467,110
Minnesota***	L	L	1971	8	+.77% -.63%	475,634
Mississippi	L	L	1972	5	+1.94% -2.16%	443,39[illegible]
Missouri	L	FC	1972	10	+.41% -.22%	4[illegible],740
Montana	L	L	1971	2	+.07% -.07%	347,206
Nebraska	L	L	1971	3	+.10% -.06%	494,597
Nevada	(One Member elected at-large)					
New Hampshire	L	L	1972	2	+.48% -.48%	368,841
New Jersey	L	FC	1972	15	+.44% -.64%	477,878
New Mexico	L	L	1968	2	+.62% -.62%	508,000
New York	L	L	1974	39	+1.60% -1.22%	467,725
North Carolina	L	L	1971	11	+2.12% -1.67%	462,005
North Dakota	(One Member elected at-large)					
Ohio	L	L	1972	23	+.31% -.19%	463,131
Oklahoma	L	L	1972	6	+.21% -.22%	426,542
Oregon	L	L	1971	4	+.11% -.11%	522,846
Pennsylvania	L	L	1972	25	+1.39% -.84%	471,756
Rhode Island	L	L	1972	2	+.12% -.12%	474,862
South Carolina	L	L	1971	6	+3.36% -4.81%	431,753
South Dakota	L	L	1971	2	+.01% -.01%	333,129
Tennessee	L	L	1972	8	+4.58% -3.71%	490,521
Texas	L	L	1975	24	+.09% -.06%	466,330
Utah	L	L	1971	2	+.01% -.01%	529,637
Vermont	(One Member elected at-large)					
Virginia	L	L	1972	10	+.24% -.44%	464,849
Washington	L	FC	1972	7	+6.77 -1.78%	487,024
West Virginia	L	L	1971	4	+.35% -.43%	436,059
Wisconsin	L	L	1971	9	+.03% -.04%	490,881
Wyoming	(One Member elected at-large)					

KEY: L – Legislature, FC – Federal Court, SC – State Court.

*Information provided by the Kentucky Legislative Research Commission.

**The Louisiana Department of Justice reports maximum deviations different from those reported by CQ (+.19% and -.13%)

***The Minnesota Secretary of State reports maximum deviations different from those reported by CQ (+.90% and -.57%)

This table was prepared by Common Cause from information in *Congressional Districts in the 1970's* (2nd Ed., 1974) (published by *Congressional Quarterly*).

Political Gerrymandering

The U.S. Supreme Court has taken us a substantial way toward its aim of "fair and effective representation for all citizens." The Court's "one person, one vote" standard has done away with the gross malapportionment of the pre-*Baker* years. But the substantial population equality required by the Court is not a total answer to the representation question. The Court has not guaranteed fair district lines. According to William J.D. Boyd of the National Municipal League:

> The reapportionment revolution has certainly come a long way, and very effectively eliminated the evil of malapportionment. As with most revolutions, it remains incomplete so long as the political gerrymander remains to effectively dilute the basic principles of a representative democracy.

The problem of political gerrymandering has replaced population inequality as the major obstacle to "fair and effective representation." Gerrymandering has been defined by Professor Robert Dixon, one of the nation's foremost experts on reapportionment, as "discriminatory districting which operates to inflate unduly the political strength of one group and deflate that of another." It is usually, but not exclusively, manifested in the manipulation of the shape of legislative districts. Political gerrymandering is a political tool that has a long history in American politics. The gerrymander was named after Elbridge Gerry, Governor of Massachusetts in 1812 when the legislature created a peculiar salamander-shaped district to benefit Gerry's Democratic Party (see "The Original Gerrymander" on page 16). It lives on today. In 1971, University of California Professor Gordon E. Baker surveyed the reapportionment plans drawn for California and concluded:

> While population variances among districts were negligible, several resulting configurations appear to be prime candidates for the Elbridge Gerry Memorial Award for Creative Cartography. Indeed, comparatively speaking, the early Massachusetts governor was a rank amateur and his famed salamander-like district a model of compactness.

Political gerrymandering is generally an attempt by incumbent legislators and majority parties in legislatures to draw district lines that perpetuate their positions of power within the status quo. It often results from the conflict of interest of having district lines drawn by state legislators. Few issues are of as intense interest to legislators as reapportionment. The drawing of district lines can make or break the political careers of the incumbent legislators who are charged with drawing the lines in most states. All too often, incumbents give in to the pressure to manipulate district lines for personal or partisan benefit. As the Majority Leader of the Maryland Senate has quipped: "There are two things that excite the Senate, reapportionment and horse racing."

Political gerrymandering is usually done by the majority party in the legislature working with statistics of past voting behavior, party registration, and demographic information. The intent is to create districts designed to produce the greatest number of legislative victories for the majority party by wasting minority party votes. As a New York politico discussing an upcoming reapportionment once said: "Now it's just a question of slicing the salami, and the salami happens to be in our hands."

One gerrymandering technique is to concentrate minority party strength in as few districts as possible, conceding these districts to the minority by wide margins in order to prevent the minority party from competing in other districts. For example, the majority party would concede one district to the minority in order to win three others. Another technique is to diffuse minority party strength in order to make it difficult for the minority party to win the number of seats representative of its popular support. In Illinois in 1973, for example, the General Assembly crossed the city line of Chicago nine times in drawing state legislative lines. The purpose and effect of this gerrymandering were to waste suburban Republican votes and to increase the number of city Democrats in the state legislature. In a 1972 study published by the American Enterprise Institute, Terry B. O'Rourke compared the ratio of votes won to seats won in the 1966-70 Congressional elections by parties with and

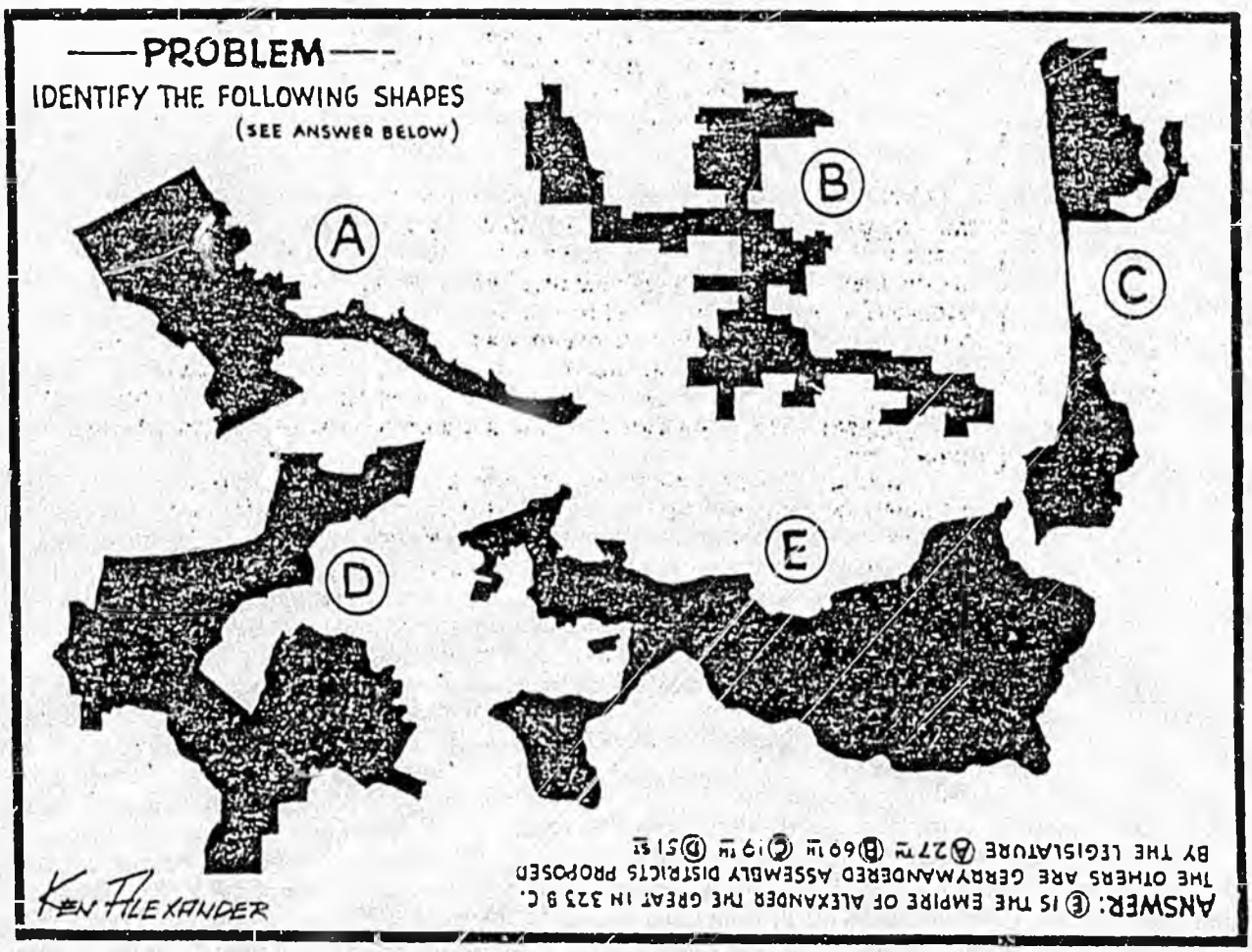
without the power to draw district lines. O'Rourke found that "parties with reapportionment power used it to enormous advantage."

The majority party in the legislature does not always undertake affirmative action to undermine the representation of the minority party. Sometimes the majority party will cut a deal with the minority to protect incumbents of both parties. Bipartisan gerrymandering seeks to increase the strength of the incumbent or the majority party in each district. Yale Professor Edward R. Tufte has found that:

> . . . a major element in the job security of incumbents is their ability to exert significant control over the drawing of district boundaries; indeed, some recent redistricting laws have been described as the Incumbent Survival Acts of 1972. It is hardly surprising that legislators, like businessmen, collaborate with their nominal adversaries to eliminate dangerous competition.

Thus, even where apportionment plans are drawn by bipartisan legislatures, gerrymandering can be used to preserve the domination of incumbents and undermine competition.

Political gerrymandering is often a weapon in intra-party disputes. Legislative leaders have used their authority over reapportionment to win support for their legislative proposals and to punish their political opponents. In the 1971 session of the Texas legislature, Texas House Speaker Gus Mutscher's absolute control of the House was threatened by a group of maverick representatives who came to be known as the Dirty Thirty. Mutscher used the redistricting plan as his vehicle for revenge. According to one observer:



Reprinted from the June 17, 1973 *San Francisco Chronicle & Examiner* with the permission of Ken Alexander.

> On May 28, 1971, three days before the end of the sixty-second session, Mutscher and his henchman Delwin Jones of Lubbock unveiled their House redistricting plan and placed it on a little easel near the front of the House chamber. One by one, the members gathered round. First came the gasps of horror, then the laughter, and finally the shaking of heads and little smiles. More than half of the Dirty Thirty had been placed in districts with each other and most of the others wound up in districts composed of voters clearly antagonistic to their political philosophies . . . [Mutscher went to great pains to put two young liberals in the same district.] The result resembles a fat chicken with Denton's house at the end of the beak and Moore's at the tip of the tail.
>
> (from Katz, *Shadow on the Alamo*)

When Chicago Mayor Richard Daley proposed a congressional districting plan designed to increase his already firm control over the Illinois delegation and remove a maverick Democrat from Congress, the *Chicago Daily News* saw the proposal as an assertion that "raw power can roll over the public interest by buying off the necessary votes in the Legislature with cynical political trades."

On the state level, political gerrymandering is often achieved by the establishment of multi-member rather than single-member legislative districts. The inevitable result of establishing multi-member districts—from which more than one legislator is elected—is to submerge the voting strength of ethnic or political party minorities. The U.S. Supreme Court has criticized multi-member districts but has not found them to be unconstitutional. In 1971, the Court rejected an argument that the use of multi-member districts in Indianapolis to limit black representation was unconstitutional.

The Effects of Political Gerrymandering

Political gerrymandering—whether by the majority party or by both parties, whether the result of intra- or inter-party disputes—attempts to pre-determine electoral results. Competition is minimized. This undermines the system of competitive elections on which our representative democracy is based.

A Common Cause survey of state and congressional election results shows a shocking lack of competition in American electoral politics. We examined the proportion of incumbents in Congress and fourteen state legislatures who ran for renomination or re-election from 1968-1976 and won. The figures in Tables VI and VII on pages 17 and 18 show that incumbents who ran for re-election were re-elected at rates frequently in excess of ninety percent. Of the 69 state legislative elections reported in Table VII, the incumbent re-election rate dropped below eighty percent in only six. Four of these six came in the four elections held in Hawaii and Montana since the adoption of reapportionment plans through processes that meet the anti-gerrymandering test advocated by Common Cause.

As public opinion polls have demonstrated, this high rate of incumbent re-election can hardly be traced to public satisfaction with the performance of government. Rather, a lack of meaningful competition is the major factor. Clearly, the existing system of reapportionment—where incumbent legislators establish the electoral ground rules and stack them in their favor—is one of the reasons for this lack of competition. The present system of financing elections and the many perquisites of public office are others.

The lack of electoral competition that results from political gerrymandering undermines our system of representative democracy in several significant ways.

First, political gerrymandering dilutes the value of political participation. Where election results are largely pre-determined through political gerrymandering, the chance that a voter can influence an election through volunteer campaign activity or voting is diminished. Without competition, political issues need not be debated. Voters receive little meaningful information and have few real choices regarding candidates' positions on major issues.

Second, political gerrymandering makes legislators less responsive to the political interests of their entire constituency. Safe districts remove the incentive to grant political concessions to constituent interests within the district or to create electoral coalitions and ensure representation of diverse points of view.

Third, political gerrymandering weakens political parties by allowing them to field weak candidates. With safe districts, political parties have little incentive to find strong candidates. Their talents are not essential to victory. Instead, the majority party in each district may use the safe seat as a political reward for a party loyalist.

Racial minority groups have been special victims of gerrymandering. An eighteen month study of the operation of the Voting Rights Act by the United States Civil Rights Commission in 1969 concluded that gerrymandering was a prime weapon for discriminating against black voters. There is no doubt that political gerrymandering in general and the use of multi-member rather than single-member districts in particular has had and can continue to have the effect of denying representation to

The Original Gerrymander . . .

The practice of "gerrymandering"—the excessive manipulation of the shape of a legislative district to benefit a certain incumbent or party—is probably as old as the Republic, but the name originated in 1812.

In that year, the Massachusetts Legislature carved out of Essex County a district which historian John Fiske said had a "dragonlike contour." When the painter Gilbert Stuart saw the misshapen district, he pencilled in a head, wings and claws and exclaimed: "That will do for a salamander!"—to which editor Benjamin Russell replied: "Better say a Gerrymander"—after Elbridge Gerry, then Governor of Massachusetts.



Reprinted from *Congressional Districts in the 1970s* (2nd Ed.) with the permission of *Congressional Quarterly*.

. . . and the Daley Plan

The white portion of the map below was the 10th congressional district proposed by Chicago Mayor Richard J. Daley in 1975 in order to unseat the district's maverick incumbent, U.S. Representative Abner Mikva. Mikva commented: "That's not a map, that's a spaghetti." Notice that the Daley plan is quite similar to the original Gerrymander (at left).

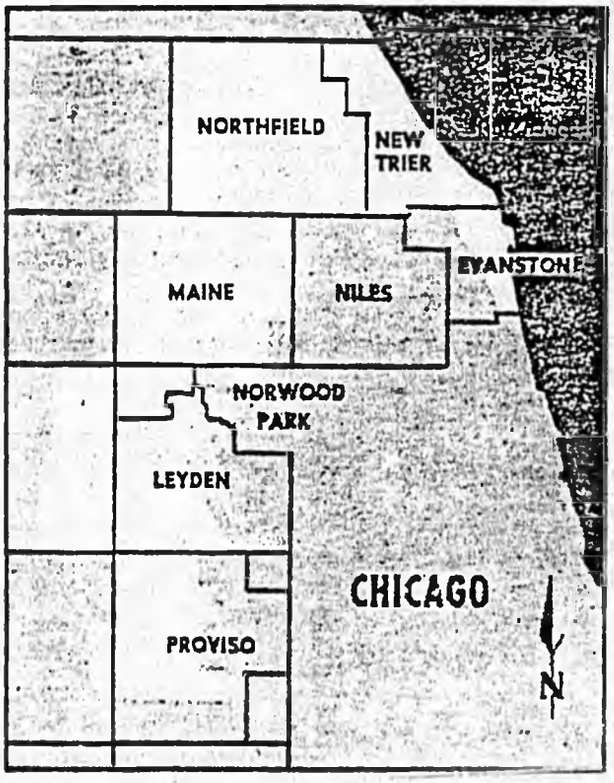


TABLE VI:

RATE OF INCUMBENTS WHO RAN FOR RE-ELECTION AND WON IN 1968-76 FOR U.S. HOUSE OF REPRESENTATIVES

State	1968	1970	1972	1974	1976
Alabama	100%	100%	100%	100%	100%
Alaska	100	—	100	100	100
Arizona	100	100	100	100	100
Arkansas	100	100	100	100	100
California	100	97	95	92	98
Colorado	100	75	50	80	100
Connecticut	82	100	83	100	100
Delaware	100	—	100	100	—
Florida	100	100	100	100	100
Georgia	100	100	89	80	100
Hawaii	100	100	100	100	—
Idaho	100	100	100	50	100
Illinois	100	100	95	90	96
Indiana	90	90	91	55	80
Iowa	100	100	71	50	83
Kansas	100	80	100	100	80
Kentucky	100	86	100	100	100
Louisiana	88	100	100	100	86
Maine	100	100	100	50	100
Maryland	85	66	100	100	100
Massachusetts	100	90	90	90	100
Michigan	100	100	95	94	93
Minnesota	100	86	100	100	100
Mississippi	100	100	100	100	100
Missouri	100	100	100	100	100
Montana	100	50	100	50	100
Nebraska	100	50	100	100	100
Nevada	100	100	0	0	100
New Hampshire	100	100	100	100	100
New Jersey	100	100	100	71	93
New Mexico	0	50	100	100	100
New York	94	87	94	88	100
North Carolina	100	100	100	82	100
North Dakota	100	100	100	100	100
Ohio	100	90	100	95	95
Oklahoma	100	100	100	80	100
Oregon	100	100	100	100	100
Pennsylvania	100	100	100	91	89
Rhode Island	100	100	100	100	100
South Carolina	100	83	83	75	100
South Dakota	100	—	100	50	100
Tennessee	100	100	88	75	100
Texas	100	100	86	97	96
Utah	100	100	50	100	50
Vermont	100	100	100	—	100
Virginia	100	100	100	80	100
Washington	100	86	100	100	100
West Virginia	100	100	100	100	75
Wisconsin	100	90	89	67	100
Wyoming	0	—	100	100	100
TOTALS	97%	95%	95%	89%	96%

The information in this table represents the percentage of incumbent Members of the U.S. House of Representatives who ran for renomination or re-election and who won re-election. The table was prepared by Common Cause from information in *Congressional Quarterly*.

TABLE VII:

RATE OF INCUMBENTS WHO RAN FOR RE-ELECTION AND WON IN LEGISLATIVE ELECTIONS IN FOURTEEN STATES FOR 1968-76

State	1968	1970	1972	1974	1976
Arizona	90%	83%	92%	86%	84%
California	96	94	95	90	94
Delaware	94	93	95	94	100
Florida	92	82	85	87	93
Hawaii*	94	91	91	77	78
Idaho	89	92	86	93	93
Illinois	—	97	93	89	94
Michigan	93	94	83	88	94
Missouri	89	88	77	86	89
Montana**	85	86	85	79	78
Pennsylvania	92	93	93	88	91
South Dakota	85	81	84	93	79
Wisconsin	92	92	93	89	95
Wyoming	83	91	83	92	88

*In 1973, Hawaii was reapportioned by a Legislative Reapportionment Commission pursuant to a new constitutional provision that established strict reapportionment standards.

**In 1974, Montana was reapportioned by a commission established pursuant to the 1972 Constitution.

The information in this table represents the percentage of incumbent legislators (House and Senate) who ran for renomination or re-election and who won re-election in fourteen states where election information and volunteer researchers were available. Assistant Professor Jerry W. Calvert of Montana State University provided the data for Idaho, Montana, South Dakota, and Wyoming. The Wisconsin Legislative Reference Bureau supplied the information for that state. The data for the other states were compiled by Common Cause volunteers from state election records.

minority groups. While blacks comprised 11.2 percent of the population in the 1970 census, only 287 of the approximately 7,500 state legislators—less than four percent—are black (see Table VIII). Only seventeen of 535 Members of Congress—just over three percent—are black.

The Goals of Reapportionment Reform

In the 1960's, the goal of reapportionment reform was to establish legislative districts of substantially equal population. The goal now is to finish the reapportionment revolution by ridding the system of political gerrymandering in order to establish electoral fairness and increase electoral competition.

By minimizing electoral competition, unfair districting undermines the political process and weakens the political parties. Our political process needs competition in order to function as envisioned. Competition forces the political process to be responsive to new ideas and new people. Without competition, the parties lack the incentive to recruit or put forward their best candidates. Electoral competition is an essential factor in giving citizens a chance to have their ideas given serious consideration in legislative forums.

The purpose of political gerrymandering is to shut people out of the political process. Reapportionment reform is designed to benefit the public by broadening political participation and increasing electoral competition. Reapportionment reform is designed to strengthen the political process by providing an incentive for political parties to bring new ideas and new people into the process. By reforming the reapportionment process and improving state legislatures, states may increase public respect for state government and strengthen the role of state government in our federal system.

The Common Cause Model Proposal

The Common Cause model proposes a reapportionment process designed to produce districts that are fairly drawn as well as districts of substantial population equality. Unlike district lines produced by political gerrymandering, fair district lines are not drawn to pre-determine election results. The model proposes a system of reapportionment that is equitable in its treatment of incumbent legislators, political parties, and others. This replaces the present system where people with political power are able to manipulate district lines for personal and partisan advantage.

The Common Cause model has three main elements—strict anti-gerrymandering standards; an independent, nonpartisan reapportionment commission; and prompt judicial review. All three elements of the model are crucial. They are designed to reinforce each other and to produce fairly drawn district lines. The reapportionment standards are designed to produce fair district lines by limiting the discretion of the commission to gerrymander for political or partisan purposes. The nonpartisan reapportionment commission replaces the legislature, providing much needed inde-

TABLE VIII:

BLACK STATE LEGISLATORS (1977)

State	Number of Black Legislators	Percent of Total Legislators	Blacks as percent of State Population	State	Number of Black Legislators	Percent of Total Legislators	Blacks as percent of State Population
Alabama	15	10.7	26.4	Montana	1	0.7	0.3
Alaska	0	0	3.0	Nebraska	1	2.0	2.7
Arizona	2	2	3.0	Nevada	3	5	5.7
Arkansas	4	2.9	18.6	New Hampshire	1	0.2	0.3
California	8	6.6	7.0	New Jersey	6	5	10.7
Colorado	3	3	3.0	New Mexico	1	0.9	1.9
Connecticut	5	2.6	6.0	New York	14	6.7	11.9
Delaware	3	4.8	14.3	North Carolina	6	3.5	22.4
Florida	3	1.9	15.5	North Dakota	0	0	0.4
Georgia	23	9.7	25.9	Ohio	11	8.3	9.1
Hawaii	0	0	1.0	Oklahoma	4	2.7	7.0
Idaho	0	0	0.3	Oregon	1	1.1	1.3
Illinois	20	8.4	12.8	Pennsylvania	13	5.1	8.6
Indiana	6	4	6.9	Rhode Island	2	1.3	2.7
Iowa	2	1.3	1.2	South Carolina	13	7.6	30.5
Kansas	6	3.6	4.8	South Dakota	0	0	0.2
Kentucky	3	2.1	7.5	Tennessee	11	8.3	16.1
Louisiana	10	6.9	29.9	Texas	13	7.2	12.7
Maine	1	0.5	0.3	Utah	0	0	0.6
Maryland	19	10.1	17.9	Vermont	0	0	0.2
Massachusetts	8	2.8	3.1	Virginia	2	1.4	18.6
Michigan	17	11.5	11.2	Washington	2	1.4	2.1
Minnesota	2	1.0	0.9	West Virginia	1	0.7	4.2
Mississippi	4	2.3	36.8	Wisconsin	3	2.3	2.9
Missouri	14	7.1	10.3	Wyoming	0	0	0.8
				TOTALS	287	3.8	11.2

The number of black state legislators is from statistics compiled by the Joint Center for Political Studies in Washington, D.C. The percentage of blacks in each state population is taken from the 1970 federal census.

pendence. Fair district lines are more likely if district lines are drawn by persons not directly affected by them. Judicial review provides finality and acts as the final safeguard of the public's interest in fair and effective representation. A discussion of the three major elements of the model follows.

I. REAPPORTIONMENT STANDARDS

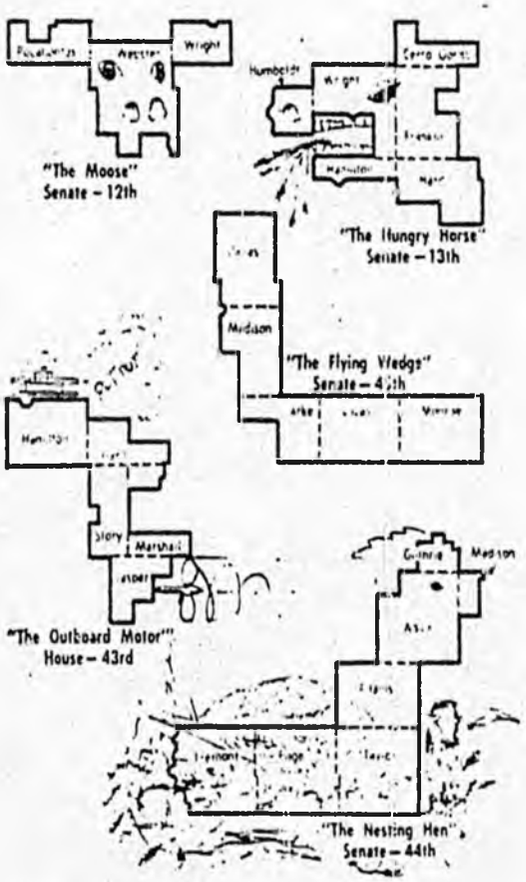
The most important element of reapportionment reform is the establishment of strict anti-gerrymandering standards. While an independent commission is more likely to produce fair district lines than a state legislature, strict reapportionment standards can virtually eliminate the potential to manipulate district lines for political or partisan advantage.

It is the absence of objective, judicially enforceable standards that has allowed the political gerrymandering that undermines our system of representative government. According to University of California reapportionment scholar Gordon E. Baker:

> If more specific guidelines to minimize gerrymandering are not forthcoming, then a great democratic principle—one man, one vote—will have degenerated into a simplistic arithmetical facade for discriminatory cartography on an extensive scale.

The model seeks to provide more specific definitions of reapportionment standards than are found in most state constitutions. This is done by providing population and compactness standards against which to judge reapportionment plans. A strong anti-gerrymandering provision is the centerpiece of the model proposal.

In *Reynolds*, the Supreme Court established the general rule that districts in each house have population "as nearly equal as is practicable." While the Court has discussed this requirement on numerous occasions, no precise definition has evolved. The model proposal attempts to establish specific population parameters



Wild and Wonderful Iowa Gerrymanders

DRAWING BY REGISTER STAFF ARTIST DAVID SILK

Reprinted from the January 25, 1972 *Des Moines Register and Tribune* with the permission of David Silk.

more rigorous than those allowed by the Court in some cases, while maintaining flexibility necessary to allow the commission to apply other reapportionment standards as well.

In addition to establishing specific population standards, the Common Cause model's reapportionment standards are designed to produce fair districts by minimizing the opportunity for political gerrymandering. Single-member districts—favored by the National Municipal League, Legis 50, and other reform minded organizations—are required. The model requires the commission to respect local political subdivision boundaries (for example, towns and counties) where consistent with the population standards. By respecting these boundaries, the model minimizes voter confusion, enables constituencies to organize for political action in an effective manner, and limits the ability to gerrymander. Compactness and contiguity are required and are defined in order to establish a basis for enforcement. A strong anti-gerrymandering provision adapted from the Hawaii Constitution is included. It provides that: "No district shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group." To help enforce this provision, the commission is not allowed to take into account the addresses of incumbent legislators. The commission may not use the political affiliations of registered voters, previous election results, or demographic information other than population headcounts for the purpose of favoring any political party, incumbent legislator, or other person or group. This is precisely the information that has been used by partisans in the past to gerrymander. The model provides that no district may be drawn for the purpose of diluting the voting strength of any language or racial minority group.

II. REAPPORTIONMENT COMMISSION

The National Municipal League has described the reapportionment process in most states as an "illogical system in which legislators are the judges and juries in a matter of highest importance to themselves." The conflict of interest of having state legislators draw state legislative district lines is obvious. As the Illinois legislator quoted above pointed out: "Any man who doesn't fight for his own district is a particular damn fool." A state legislator can also have a conflict of interest in preparing a congressional district plan. In addition to the fact that some legislators might want to run for Congress, a candidate for re-election to the state legislature can benefit from an unbeatable congressional candidate at the top of the party ticket.

Independence and accountability are key aspects of reform. It is essential that the responsibility for drawing legislative districts be taken from those most directly affected. The model proposes establishment of an independent, nonpartisan commission to prepare reapportionment plans. The model is drawn largely from the successful commission established in the Montana Constitution of 1972. As in the Montana Constitution, the model is not designed to deny the legislature any interest in reapportionment but rather to buffer the process from the most direct and personal conflicts of interest. Four of the five members of the commission are appointed by the legislative leaders of the major parties. The fifth is chosen by the other four. Reapportionment scholars Gordon E. Baker and Robert G. Dixon recommend similar bipartisan commissions with tie breakers. As in the Michigan, Montana, and Vermont Constitutions, the model prohibits public officials from serving on the commission. State commissions made up entirely of public officials as in Arkansas or dominated by legislative leaders or their deputies as in Pennsylvania do not meet the standard of independence sought by advocates of reapportionment reform. As in Hawaii, Michigan, and Missouri, the model prohibits commissioners from running for legislative office for a period after service on the commission in order to avoid self-dealing. The model contains numerous accountability provisions designed to ensure that the apportionment process is done by the commission in the open with a full public record and opportunity for public participation.

Few states used commissions before the reapportionment revolution of the 1960's, but they have become increasingly popular in recent years. As noted above, seventeen states now provide for boards or commissions to play a role in the reapportionment process—either as the apportioning authority, as a backup to the legislature, or in an advisory role. There is no federal obstacle to shifting the function of drawing congressional districts from the legislature to a reapportionment commission.

Establishment of a reapportionment commission is designed primarily to remove the conflict of interest inherent in having legislators draw their own districts and to

eliminate the abuses that have resulted from this system. It also should save valuable legislative time and reduce reliance on the courts. The California Legislature, for example, dealt with apportionment in 1971, 1972, and again in 1973 at an estimated cost of over $1 million. In 1971, the Legislature had 26 full-time staff members working on apportionment. Ultimately, court-appointed special masters prepared the plan. In Montana in 1974, a commission prepared a plan at a cost of only $20,000. Extended and special sessions are frequently required when state legislatures try to reapportion. With most state legislatures still understaffed and restricted by state constitutional limitations on session time, the task of legislative reapportionment takes away from time that could be spent more profitably on substantive legislative matters.

The present method of reapportionment also ties up considerable court time. As noted above, sixteen existing state house apportionment plans and seventeen senate plans were court ordered. In virtually every state, apportionment plans have been challenged in court. Under the model, litigation should be less frequent because of the strong presumption of fairness that a plan developed by a nonpartisan commission would have. After evaluating the reapportionment experience of the 1970's, the Council of State Governments concluded that commissions "appear to have a better track record than Legislatures."

MONTANA'S REAPPORTIONMENT COMMISSION

Our bipartisan reapportionment commission has become something of a model for other states. It did its work promptly and efficiently, for a total cost of less than $20,000. That is less than what it costs us to run this place for one day. And we have heard few voices raised to say the commission's districts were poorly drawn or unfair.

The real world alternative to our commission is not one of legislators surrendering the interests of their constituents to those with greater claim, every ten years.

The alternative to our commission is return either to judge-made reapportionment, or to the 1971 pattern of costly special sessions to handle this awkward problem.

To take this task back upon ourselves would not only be costly in time and money. It probably just wouldn't work. It would fail for the same reason it has failed elsewhere. Each of us considers himself elected to press the advantage of our own constituents, whatever that may mean for someone else's constituents. Why, in the crunch, should we as individual legislators be expected to do anything else? This is why legislative reapportionment of legislatures breaks down into push-and-shove and seldom manages the job to constitutional standards of fair representation.

Let's keep our reapportionment commission to do this awkward task promptly and inexpensively; let's save our costly and numbered days here for the kinds of things we manage to do passably well.

—Montana House Majority Leader
Peter M. Meloy, successfully arguing against
a proposal to repeal Montana's excellent
reapportionment commission, March of 1977

III. JUDICIAL REVIEW

No matter how well the reapportionment process works, legal challenges are inevitable in a matter as politically significant as reapportionment. Prompt judicial review is an essential element of a reformed reapportionment process. It is extremely important that all challenges to reapportionment plans be resolved and plans finalized well in advance of state legislative and congressional elections.

Finality in reapportionment is a matter of such importance and sensitivity that it warrants the prompt attention of the highest court in each state. The model grants these courts original jurisdiction over reapportionment matters. Challenges must be filed soon after a plan is prepared and the courts are required to issue decisions within a time certain.

Time To Act

While reapportionment will not take place until 1981, it is now time for the states to reform their reapportionment procedures so that the legal framework for the development of fair reapportionment plans is in place by 1981. In virtually every state, this will require voter approval of the model constitutional amendment—either proposed by the legislature or petitioned to the ballot by citizen initiative—by 1980.

Legislative resistance to the Common Cause model will be strong because it strikes at the heart of the incumbency protection system. But public support can be expected. Proponents of reform should have little trouble convincing the public of the merit of a proposal designed to strip the legislature of its ability to gerrymander for self-serving purposes. The Special Masters appointed by the California Supreme Court in 1973 to prepare a reapportionment plan found "widespread public cynicism" about the traditional method of having the state legislature redistrict itself.

The model proposal relies heavily on the Colorado, Hawaii, and Montana reapportionment procedures. The Hawaii and Montana processes were recommendations of constitutional conventions that received voter approval in 1968 and 1972, respectively. The Colorado process was the result of a citizen initiative approved by the voters in November of 1974 by a vote ratio of three to two.

By working with problem solving legislators or using the citizen initiative process where necessary and available, citizens can establish reapportionment procedures designed to ensure fair and effective representation for all citizens in the 1980's. This can complete the reapportionment revolution of the 1960's. No longer will incumbent legislators and majority parties be able to perpetuate their power by pre-determining election results through reapportionment. Establishment of fair district lines through an equitable reapportionment process will help to restore competition—the lifeblood of a democratic society—to our electoral process.

SUMMARY OF COMMON CAUSE MODEL STATE REAPPORTIONMENT PROPOSAL

The Common Cause model state reapportionment proposal is in two parts—a model constitutional amendment and model act. Virtually all substantive law regarding state apportionment procedure is found in the constitutions of the states. In almost every state, a significant change in reapportionment procedures will require a constitutional amendment. The Common Cause model state constitutional amendment establishes the essential elements of reapportionment reform—strict anti-gerrymandering reapportionment standards, an independent commission to draw the lines, and prompt judicial review. The amendment is as brief as possible in keeping with the belief that a constitution should be flexible and should not be unduly burdened with detail. The model act implements the constitutional amendment, giving definition to some of the reapportionment standards and establishing the duties, powers, and method of appointment of the commission. The model act should be adopted contemporaneously with the constitutional amendment and made contingent upon voter approval of the amendment. Obviously, each state will need to adapt the model to take into account the particular circumstances of the state.

CONSTITUTIONAL AMENDMENT

The model constitutional amendment provides for reapportionment of state legislative and congressional districts in 1981 and every tenth year after. Single-member districts are required.

The model constitutional amendment provides for the establishment of a five member reapportionment commission in 1980 and every tenth year after and at any other time of court ordered reapportionment. Four members of the commission are appointed by the legislative leaders—one each by the President of the Senate, the Speaker of the House, the Minority Leader of the Senate, and the Minority Leader of the House. The four members select a fifth member who serves as chair. None of the five members may be a public official. The model requires the legislature to provide by law for the qualifications, duties, and powers of commissioners, procedures for the selection of commissioners and filling of vacancies, and adequate funding for the commission.

The model provides that districts in each house shall have "population as nearly equal as is practicable" based on the federal census. Specific population parameters are established to give definition to the requirement of substantial population equality. For state legislative districts, the model provides that the average percentage deviation of all the districts of a house from the average population of all districts in that house shall not exceed one percent. No district shall have a population which varies from the average population of all districts unless necessary to comply with one of the other reapportionment standards. In no case shall a district have a deviation from the average of more than five percent. Thus, the maximum allowable deviation from the highest to the lowest populated district is ten percent. In the event of a court challenge, the commission has the burden of justifying any deviation.

For congressional districts, the model provides that the same standards shall be used as for state legislative districts except that no district shall have a population deviation of more than one percent from the average population of all districts.

The model constitutional amendment provides that district lines be drawn to coincide with the boundaries of political subdivisions (for example, towns and counties) to the extent consistent with the requirement of substantial population equality.

The model constitutional amendment requires districts to be "compact in form and composed of convenient contiguous territory." The amendment provides that the aggregate length of all district boundaries shall be as short as practicable consistent with the constitutional requirements of substantial population equality and maintenance of political subdivision boundaries. The model establishes a judicially enforceable compactness requirement by providing that in no case shall the aggregate length of the boundaries of all districts exceed by more than five percent the shortest possible aggregate length of all the districts under any other plan consistent with the population and political subdivision standards. The same compactness standard applies to district lines within local political subdivisions that have two or more complete districts.

The proposed amendment provides that: "No district shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group." The model prohibits the commission from taking into account the addresses of incumbent legislators. The commission may not use the political affiliations of registered voters, previous election results, or demographic information other than

population headcounts for the purpose of favoring any political party, incumbent legislator, or other person or group. The model further provides that no district shall be drawn for the purpose of diluting the voting strength of any racial or language minority group.

In addition, the model authorizes the legislature to define by law these standards and to establish other standards not in conflict with the Constitution of the United States or of the state and designed to guarantee "fair and effective representation for all citizens."

The constitutional amendment provides that the state supreme court has original jurisdiction over apportionment matters. The model authorizes any registered voter to file a petition to challenge a reapportionment plan or to compel the commission or any person to perform duties required by the model. Challenges to an apportionment plan must be filed within forty-five days of adoption of a plan. The court must give apportionment matters precedence over all other matters and must render a decision within sixty days after a petition is filed. The court may declare a plan invalid in whole or in part and must order the commission to prepare a new plan.

The model constitutional amendment provides that reapportionment plans remain in effect for ten years unless invalidated or modified pursuant to court order. A plan shall not be subject to amendment, approval, or repeal by initiative, referendum, or act of the legislature.

MODEL ACT

The model act provides for the timing of the selection of commissioners. By May 1, 1980 (and every tenth year after), notice must be given of the establishment of the commission. Not earlier than June 1 but not later than July 1, the four legislative leaders must select four commissioners. By August 1, the four commissioners must select a fifth commissioner to serve as chair. Vacancies are filled by the initial selecting authority.

The model act provides that commissioners must be registered voters of the state who may not: hold or have held public office within two years prior to selection; be a relative or an employee of a state legislator or U.S. Representative; or be or have been a registered lobbyist within two years prior to selection. Members and employees of the commission may not: hold or campaign for public or political party office; participate in or contribute to a state or federal campaign; hold a seat in the state legislature or U.S. House of Representatives for four years after the effective date of the plan; or lobby the state legislature or U.S. Congress for compensation for one year after the effective date of the plan.

The model act provides for a staff and budget for the commission and authorizes the commission to hire consultants, reimburse witnesses for their expenses, and borrow staff and other resources from other state agencies. The act prescribes the duties of the commission: promulgate rules and regulations; preserve information and make it available to the public; give notice of meetings; open meetings of three or more commissioners to the public; log contacts with persons outside the commission; and prepare a detailed report explaining each preliminary and final reapportionment plan. The act authorizes the commission to subpoena persons and materials and to administer oaths.

The model act provides for the timing of the development of the reapportionment plan. By May 1, 1981 (and every tenth year after), the commission must propose one or two preliminary plans for public comment. The chair may also propose a plan. By July 1, the commission must complete public hearings around the state on the preliminary plans. By August 1, the commission must adopt a final plan by vote of at least three members. The act provides for an extension of these time deadlines if the necessary census tabulations are not available by February 1. The commission is required to prepare a financial statement and compile and preserve an official record of its activities. The commission expires as soon as all legal challenges to its plan have been resolved, but the supreme court may reconstitute it to comply with a court order.

The model act repeats the standards established in the model constitutional amendment. The act defines the constitutional requirement that districts be of contiguous territory. It also establishes procedures for dividing political subdivisions where required. The model act provides for alignment of state legislative and congressional district boundaries where practicable.

The model act repeats the model constitutional amendment's provision for judicial review and authorizes the state supreme court to order the state to pay petitioners reasonable attorney fees and court costs where the court finds that a petition was filed with reasonable cause.

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Common Cause has prepared a report on state and congressional reapportionment that includes an annotated version of the model proposal and a detailed state-by-state survey of apportionment practices and recent activities. A copy of the full report—*Toward a System of 'Fair and Effective Representation': A Common Cause Report on State and Congressional Reapportionment*—is available at cost ($2) by writing:

Issue Mail
Common Cause
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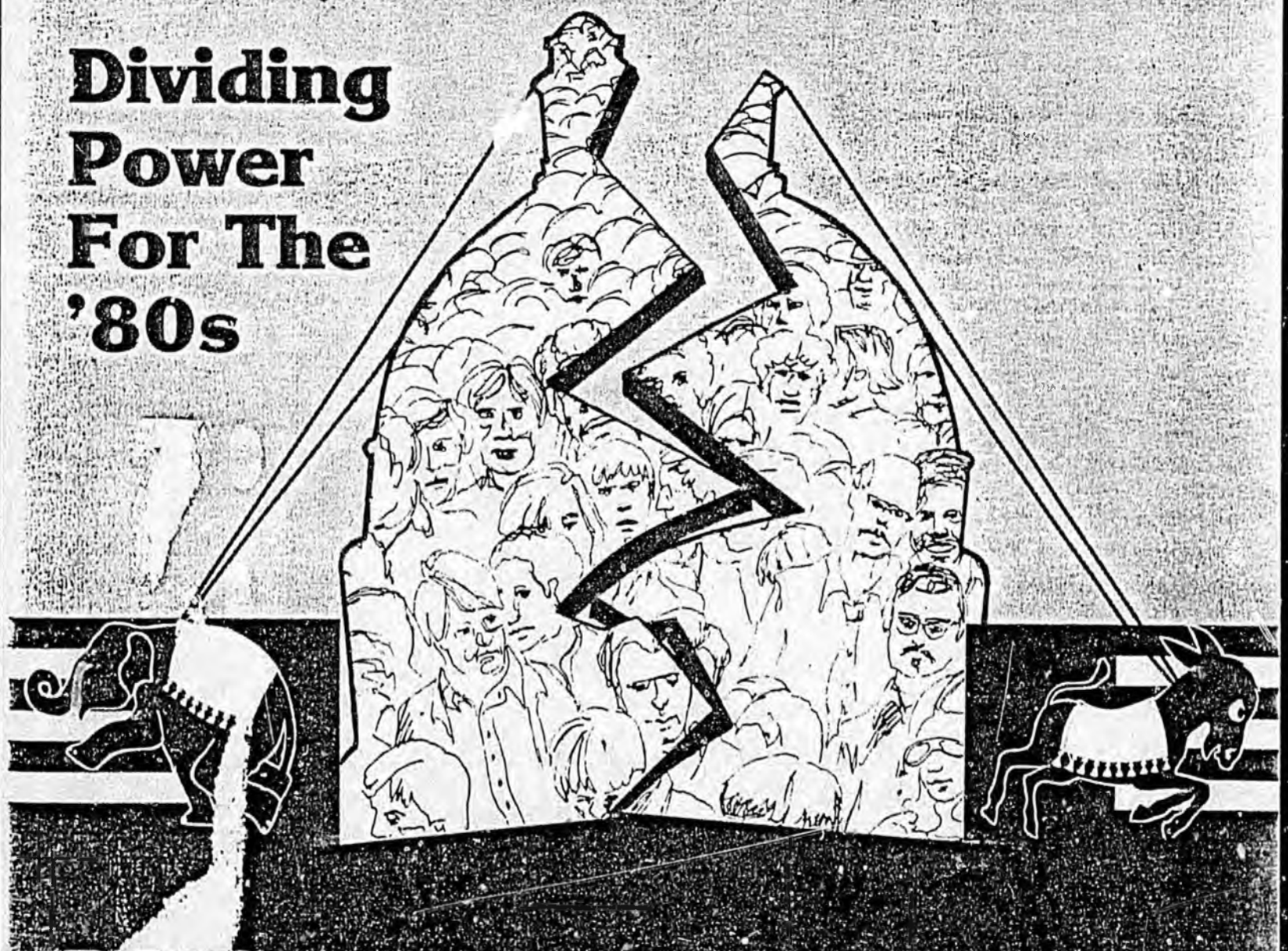
State Government News

The Council of State Governments

October 1981

REAPPORTIONMENT:

Dividing Power For The '80s



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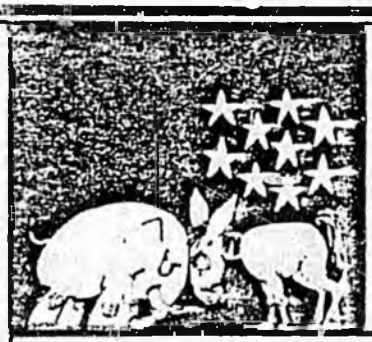
State Government News

Vol. 24 No. 10 October 1981



CSG ANNUAL REPORT



EDITORIAL STAFF

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Jack Gardner
Editor:
Elaine S. Knapp
Assistant Editor:
Jennifer Stoffel
Editorial Assistant:
Susan Morrisette
Compositor:
Linda Bowman

STATE GOVERNMENT NEWS—Published monthly by The Council of State Governments, P.O. Box 11910, Lexington, Kentucky 40578. Considered the prime source of information on current activities by all branches of state government. Articles cover new state laws, federal-state relations, and state legislative trends, as well as court decisions and administrative actions. Writers include headquarters and regional staff professionals. Opinions expressed in this magazine do not necessarily reflect the policy of the editorial staff or the Council of State Governments. Readers' comments welcome.

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Subscription rates—
In the U.S., $15 per year. Elsewhere, $20 per year. Single issues $1.50 per copy from the Circulation Department at the offices of *State Government News*. Change of address: Please send old and new addresses.

Circulation—
Elizabeth Williams, Supervisor, Data Systems.

Advertising—
Patricia Dowling, Media Management, Inc., 10 Beech St., Berea, Ohio 44017, (216) 243-8250.

Copyright 1981 by the Council of State Governments. Publication number: ISSN 0039-0119. Second-class postage paid at Lexington, Kentucky, with an additional entry at Louisville, Ky. Postmaster: Send address changes to State Government News, *P.O. Box 11910, Lexington, Kentucky 40578.*

FEATURE

Reapportionment—Dividing the Power 3
Congressional district lines have been redrawn by 14 states so far, with another eight expected to act this year, while legislative redistricting plans have been adopted by 22 states. The politics and problems of the decennial process are explored by a CSG staff expert.

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SPECIAL FEATURE

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State participation in CSG activities and services CSG provides states through its headquarters, regional and Washington offices are reviewed for the past year.

Council of State Governments Offices

HEADQUARTERS: P.O. Box 11910, Iron Works Pike, Lexington, Ky. 40578; (606) 252-2291
EASTERN: 1500 Broadway, 18th Floor, New York, N.Y. 10036; (212) 221-3630
MIDWESTERN: 203 North Wabash Ave., Chicago, Ill. 60601; (312) 236-4011
SOUTHERN: 3384 Peachtree Rd. N.E., Atlanta, Ga. 30326; (404) 266-1271
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Reapportionment—Dividing the Power

BY CAROLYN KENTON, CSG, Lexington

The decennial struggle for controlling political power and influence is in full swing. The process of recarving the political pie, which is called redistricting, was triggered by the 1980 census on the congressional and the state legislative levels.

Congressional Redistricting

The political composition of Congress will be altered by the redistribution of seats among the states due to population shifts. In addition, it appears as though most states will have redrawn congressional district lines prior to the 1982 elections. Six states will have only one congressman and require no districting —Alaska, Delaware, North Dakota, South Dakota, Vermont and Wyoming. Another 14 states—Alabama, Arkansas, Idaho, Indiana, Iowa, Mississippi, Nebraska, Nevada, North Carolina, Oklahoma, Oregon, Tennessee, Texas and Virginia—have redrawn congressional district lines to conform to the 1980 census figures. Of the remaining 30 states, eight are expected to address the issue before the first of the year.

The standard for drawing congressional districts is simple and straightforward. The districts must be as nearly equal in population as possible. So far, the U.S. Supreme Court has not been willing to interject any other criterion except that imposed by the Voting Rights Act and the equal protection provisions of the 14th and 15th Amendments to the U.S. Constitution.

The new congressional districts appear to be satisfying the court's requirements for "one man, one vote." Eight of the 14 new congressional plans have an overall population difference between the largest and smallest district of less than 1 percent. The remaining six have a population difference of 2-3 percent or less.

Gerrymandering Charged

The reliance on population equality gives redistricting cartographers leeway in drawing lines and leaves the door open to gerrymandering.

Partisan battles in the states have been intense. In states controlled by a single party—governor and legislature—the party out of power and some political observers have accused the controlling party of gerrymandering. Republican Gov. John Spellman of Washington considered the Republican-drawn plan so badly gerrymandered that he vetoed it. In Indiana, the legislature and governor apparently tried to change the congressional delegation from the present 6-5 Democratic edge to a 7-3 Republican edge (Indiana lost one congressman). To accomplish this, two existing Democratic districts were divided into four new ones and three Democratic congressmen were placed into one district.

States with divided political control—one or more houses of the legislature controlled by the opposition party—have also suffered problems. Democratic Gov. Richard Lamm of Colorado has vetoed two congressional plans drawn by the Republican legislature although the largest and smallest districts had a population difference of only 41 people in one plan.

The governors of Idaho, Oregon and Tennessee allowed the opposing legislative party's congressional plans to become law without their signatures.

Three states—Illinois, Minnesota and Missouri—have suits pending which would declare the existing congressional districts invalid, therefore requiring that they be redrawn before new elections could be held. These suits were filed after an apparent political impasse on the enactment of a plan developed by the parties in the legislature and/or the governor.

The majority of congressional districts will be redrawn through the normal legislative process. The exceptions are Hawaii and Montana, where commissions are responsible, and Connecticut, where a commission will be appointed to draw them because the legislature was unable to meet an Aug. 1 deadline. Plans will be prepared in Iowa by the Legislative Service Bureau and in Maryland by the governor, but the legislatures must still act on them. Generally speaking, however, congressional districts are much easier for state legislators to redraw than are legislative districts.

Legislative Redistricting

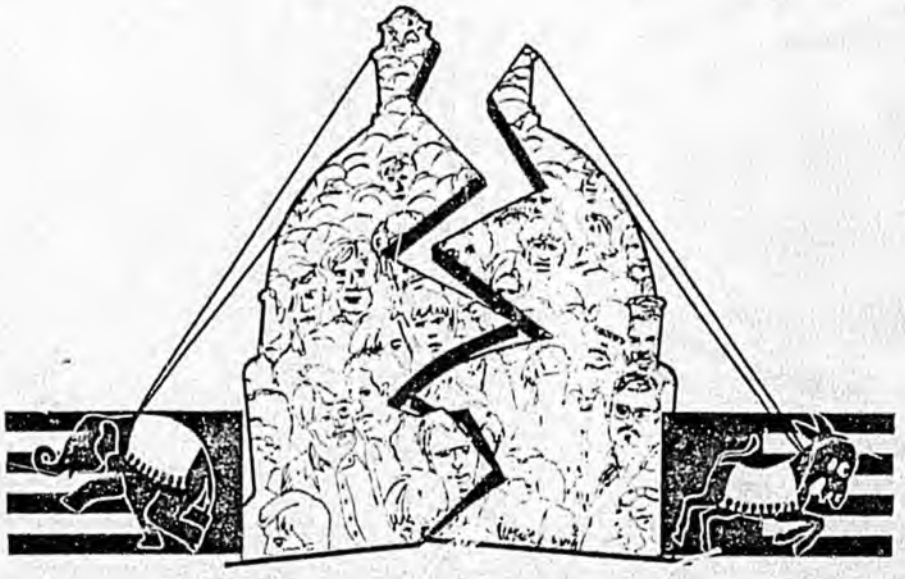
State legislatures have doggedly plunged ahead with their own redistricting. Redistricting is expected to be completed before the next legislative election in all states except Kansas, Kentucky, Maine, Massachusetts, Montana and New York. To date, 22 states have adopted a plan for one or both legislative houses.

The Texas and Virginia house plans have been ruled unconstitutional. The Texas Supreme Court ruled the house plan split counties unnecessarily in violation of the state constitution. The Texas plan will now be drawn by the Legislative Redistricting Board which will also draw the senate districts. In Virginia, a three-judge federal district court ruled the house plan invalid because of the large disparity—over 26 percent—between the largest and smallest districts. The court allowed the election for delegates to the house to proceed on schedule this fall, but shortened their terms to one year and required the legislature to redraw the house plan before Feb. 1982.

State Legislative Criteria Differs

The rules governing legislative redistricting as set out by the U.S. Su-

(continued)



preme Court are more complex than those for congressional redistricting, and so are the redistricting mechanisms used by the states. Population equality, although important, is not the only consideration the states can use in drawing districts, and single-member districts are not required.

In addition, the states may choose to use less than the total U.S. census figures or not use the federal census figures at all. Kansas and Massachusetts use a state census as the basis for their redistricting, although Kansas plans to switch to the federal census in 1990. Hawaii uses registered voters, and Alaska has exempted transient military personnel from its population base.

States may choose other criteria such as maintaining political jurisdictional lines if they apply the policy uniformly and have a rational and justifiable reason, and if it does not violate the provisions of the Voting Rights Act.

Of the 39 new chamber redistricting plans—including Kansas and excluding the voided Texas and Virginia house plans—the overall population range between the largest and smallest district in 12 chambers is less than 5 percent. In another 19, the overall range is between 5 and 10 percent. One chamber has a range of 10 to 15 percent, and seven chamber plans have an overall range of over 15 percent between the largest and smallest district. The plans were drawn by the legislature in 17 states and by boards in the remaining four states.

The use of a board or commission to redistrict state legislatures has grown. Spurred by the efforts of such organizations as Common Cause, 15 states have a formal agency or advisory mechanism for redistricting. Another 11 states designate an agency to redistrict if the legislature fails to perform in a specified period of time. So far, this backup mechanism has been used by Connecticut for congressional districting and Illinois and Texas for legislative districting. In addition, petitions are circulating in South Dakota and Ohio for this fall's ballot to alter the apportionment process. The proposed constitutional

1981 REAPPORTIONMENT PLANS, MAXIMUM POPULATION DEVIATIONS

(CSG Reapportionment Service, September 1981)

State or other jurisdiction	Senate: Percent deviation in actual vs. average population per seat — Greatest +	Senate: Greatest −	Senate: Average population each seat(a)	House: Percent deviation in actual vs. average population per seat — Greatest +	House: Greatest −	House: Average population each seat(a)	Congress: Percent deviation in actual vs. average population per seat — Greatest +	Congress: Greatest −	Congress: Average population each seat(a)
Alabama	...	...	...	...	...	...	1.33	1.12	555,723
Alaska	5.80	3.97	18,456(b)	5.81	4.18	9,228(b)	One Congressman		400,481
Arkansas	4.78	4.37	65,300	4.98	4.17	22,855	0.72	0.[illegible]	571,378
Connecticut	2.40	1.52	86,322	4.42	3.92	20,580	...	...	...
Delaware	+/- 9.80		28,344	+/- 3.80		14,518	One Congressman		595,225
Georgia	4.99	5.00	97,576	4.95	4.97	30,357	...	...	...
Idaho	...	...	...	...	...	...	0.02	0.02	471,968
Indiana	2.07	1.97	109,803	5.30	14.63	54,901	0.99	0.91	549,010
Iowa	0.32	0.39	58,268	0.99	0.79	29,134	0.03	0.02	485,564
Kansas	3.10	3.40	53,982(c)	5.00	4.90	18,874(c)	...	...	...
Mississippi	...	...	...	...	...	...	0.02	0.02	509,128
Nebraska	4.76	4.67	32,041	Unicameral			0.08	0.15	523,33[illegible]
Nevada	4.16	4.02	38,056	4.73	4.97	19,028	> +/- 1.0		399,592
New Jersey	5.13	2.57	184,104	5.13	2.57	184,104(d)	...	...	...
North Carolina	12.67	10.02	117,489	12.94	10.68	48,954	1.31	1.40	534,039
North Dakota	...	...	...	...	...	...	One Congressman		652,695
Oklahoma	2.94	2.66	63,026	5.07	5.91	29,953	0.33	0.25	504,211(e)
Oregon	2.62	1.11	87,700(f)	2.75	2.59	43,600	0.08	0.03	526,533
Pennsylvania	1.04	0.95	237,334(g)	1.27	1.13	58,456(g)	...	...	...
South Carolina	...	...	...	4.95	4.86	25,155	...	...	...
South Dakota	5.99	6.50	19,663(e)	5.90	6.50	9,832(d,e,f)	One Congressman		690,178
Tennessee	0.73	0.93	139,114	1.42	1.72	46,371	1.29	1.14	510,083
Texas	...	...	458,908	4.82	4.60	94,856(h)	0.16	0.12	526,977
Vermont	...	...	...	...	...	...	One Congressman		511,456
Virginia	4.35	6.30	133,657	12.47	14.16	66,[illegible]43(h)	0.79	1.02	534,628
Washington	2.40	2.10	84,289(f)	2.40	2.10	84,289(f)	...	...	(f)
Wyoming	39.50	24.20	15,694	29.10	60.30	7,357	One Congressman		470,816

(a) Population figures in most instances are based on the 1980 federal census.

(b) Excludes transient military population.

(c) Legislative redistricting was based on state conducted census.

(d) More than one legislator runs for office from a senate district.

(e) A constitutional referendum petition is being circulated to invalidate the current plan. South Dakota: The referendum would create single-member senate districts with one senator and two house members elected from each district.

(f) Court suit filed challenging validity of existing or new plan.

(g) Preliminary plan. Pennsylvania: Challenges to the plan have been filed. Hearings were scheduled for September 24-25.

(h) This plan was declared unconstitutional.

Reapportionment
(continued)

amendment in South Dakota would establish single-member senate districts and other criteria for redistricting.

Republicans are threatening to circulate legislative referendum petitions to repeal redistricting laws which they believe are unfair in Oklahoma (congressional) and California (legislative and congressional).

The state political stories of legislative and congressional redistricting will continue to unfold for at least the coming year. So far the courts have barely been involved, but they will undoubtedly make a contribution before the process is over.

CSG will continue to follow and report on state activities. More detailed information on individual plans or current activities can be obtained by contacting the Council's Reapportionment Information Service.

Redistricting Snag Delays New York City Primary Election

The New York City primary was delayed in September when a federal court ruled the city had failed to comply with the federal Voting Rights Act in redrawing council district lines.

The court's action, which was upheld by the U.S. Supreme Court, held that the city had failed to obtain the necessary pre-clearance from the U.S. Justice Department for any changes in voting procedure. It did not go so far as to uphold the plaintiff's contention that the new district lines discriminated against minorities.

The city reached an agreement with the Justice Department to allow all but city council elections to be held Sept. 22.

Suit Filed over Kentucky Education Budget Cuts

The Kentucky Education Association has filed suit asking that education spending cuts ordered by Gov. John Y. Brown Jr. be declared unconstitutional. The suit in circuit court charges that the legislature should decide on cuts and that the reductions are "inequitable, discriminatory, and arbitrary."

Gov. Brown ordered the cuts, rather than calling the legislature into special session. Recent reductions affecting education amount to more than $70 million.

Stated Briefly

Louisiana Transfers Local Prisoners

Louisiana Gov. David C. Treen has announced that eligible prisoners have been transferred from parish jails to the Department of Corrections as of Sept. 1. Reassessment of the state prisons resulted in room to house 1,348 more prisoners, an 18 percent increase, in fiscal 1981-82.

Accounting Manual Offered by Iowa

The Iowa Department of Substance Abuse (IDSA) has developed a Project Level Accounting Manual which tells how to establish and maintain a basic bookkeeping system that meets audit requirements and how to provide separate accounting for various funding sources. It also provides management information. The manual is used by substance abuse programs within and outside of Iowa. Copies can be obtained for $12 from the IDSA, Suite 202, 505 Fifth Ave., Des Moines, Iowa 50319, or call Allen Vander Linden, (515) 281-3641.

College Tuition Rates Rise

Average tuition rates at public four-year colleges and universities shot up 16 percent the past year, according to a survey by the College Board. The rise is the largest in a decade and does not reflect increases announced since May. Many schools have raised rates since then due to lower than anticipated appropriations from state legislatures. Average tuition rates are up 13 percent at private colleges.

Costs to Be Shared in Three Mile Island Cleanup

Pennsylvania Gov. Dick Thornburgh's cost-sharing proposal for cleanup of the disabled Three Mile Island nuclear power plant won support recently. The Edison Electric Institute, an electric utilities' trade association, pledged its members to paying $192 million over six years.

The owners of the plant, General Public Utilities, have agreed to pay $335 million. The U.S. General Accounting Office in August recommended a national cost-sharing approach to Congress, but no federal action has been taken.

Wisconsin Budget Increases Transit Aid

Wisconsin's 1981-83 budget, signed by Gov. Lee S. Dreyfus July 29, includes $58.6 million for urban mass transportation programs and ridesharing (S. 85-24). Beginning in 1982, state aid will be available to cover up to 30 percent of the total operating costs of the state's urban transit systems.

Two States and U.S. Reach Desegregation Agreement for Colleges

Missouri and Louisiana have reached agreement with the U.S. Justice Department on plans to desegregate public colleges. A consent decree filed in federal court in New Orleans, if approved by the court, would end a lawsuit filed by the department in 1974.

Legislators Hold Off on Funding Decision for Higher Education

A special session of the Texas Legislature has adjourned without resolving the controversy over the future of state construction funds for public higher education.

The lawmakers will watch for the results of a pending lawsuit to restore a state property tax of 10 cents per $100 valuation. The tax had provided funds for 17 colleges and universities. The House did pass a proposal to repeal the tax; the Senate voted for a new rate of 3 cents per $100.

States' Tax Base Reflects Shifting Wealth

Alaska has the largest tax base per capita of the states—more than twice (213 percent) the nation's average.

The top five states in per capita tax wealth are Alaska, Wyoming (190 percent), Nevada (164 percent), Texas (121 percent) and California (116 percent), according to the Advisory Commission on Intergovernmental Relations' (ACIR) preliminary estimates of 1979 tax capacity. The estimates account for tax bases available to states including property, income, sales, motor fuels and the value of extracted natural resources.

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Iron Works Pike
Lexington, Kentucky 40578

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New York, New York 10036

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203 North Wabash Avenue
Chicago, Illinois 60601

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3384 Peachtree Road, N.E.
Atlanta, Georgia 30326

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(202) 624-5450
Hall of the States
444 North Capitol Street
Washington, D.C. 20001

Affiliated and Cooperating Organizations

The Articles of Organization of the Council of State Governments recognize two forms of association with the Council by groups of state officials—affiliated and cooperating. The Council presently recognizes 33 such groups—seven affiliated and 26 cooperating.

For organizations affiliated with the Council, the state services agency is authorized to provide financial assistance and secretariat and other staff services.

The seven affiliated organizations of the Council are the:

- National Conference of State Legislatures,
- Conference of Chief Justices,
- National Association of Attorneys General,
- National Conference of Lieutenant Governors,
- National Association of State Purchasing Officials,
- Conference of State Court Administrators, and
- National Association of State Auditors, Comptrollers and Treasurers.

The Council's Articles of Organization also permit its executive committee to recognize other groups and associations of state officials as cooperating organizations and maintain continuing cooperative arrangements with such organizations.

The cooperating organizations include the:

- National Conference of Commissioners on Uniform State Laws,
- Parole and Probation Compact Administrators' Association,
- Association of Juvenile Compact Administrators,
- Interstate Conference on Water Problems,
- National Association of State Mental Health Program Directors,
- Adjutants General Association of the United States,
- National Conference on Uniform Reciprocal Enforcement of Support,
- Association of State and Interstate Water Poilution Control Administrators,
- National Association of State Boating Law Administrators,
- National Association of State Civil Defense Directors,
- Association of State Correctional Administrators,
- National Association of State Units on Aging,
- National Association of Extradition Officials,
- National Association of State Juvenile Delinquency Program Administrators,
- State Personnel Administrators Association,
- Council of State Administrators of Vocational Rehabilitation,
- National Association for State Information Systems,
- National Association of Regulatory Utility Commissioners,
- Coastal States Organization,
- Federation of Tax Administrators,
- National Association of Tax Administrators,
- Conference of State Sanitary Engineers,
- National Conference of States on Building Codes and Standards,
- National Association of State Departments of Agriculture,
- National Conference of State Criminal Justice Planning Administrators, and
- National Conference of State General Services Officers.

California Reapportionment Proposal

ET

OFFICE OF THE GOVERNOR
Sacramento, Calif. 95814
Larry Thomas, Press Secretary
916-445-4571 11-14-83

RELEASE: Immediate

#583

COUNCIL OF STATE GOVERNMENTS

A proposed legislative constitutional amendment to place the responsibility for reapportionment with a nonpartisan commission of eight state Court of Appeal justices was submitted today to the legislative counsel on behalf of Governor George Deukmejian.

The proposal will be introduced in the legislature in January and fulfills the governor's pledge to recommend a fair and nonpartisan mechanism for redrawing the state's congressional, state Senate, Assembly and Board of Equalization districts.

If approved, California would join 10 states where reapportionment is accomplished by commissions and not by legislative bodies directly affected by it. Jurists are utilized in several states in a backup role to break deadlocks.

If the legislature places the measure on the ballot and it is approved by California voters, the proposal calls for the independent commission---with the assistance of professional staff---to redraw district lines for the 1986 California elections.

Subsequent commissions would be impanelled each ten years to reapportion the state following the decennial federal census.

The constitutional amendment mandates the drawing of districts which provide fair representation for all Californians, including racial, ethnic and language minorities, and which promote meaningful political competition.

The commission would be compelled by the Constitution to create districts which are geographically compact, which minimize the division of cities and ~~counties~~ municipalities, boroughs, local neighborhoods, villages and which do not favor political parties or legislative incumbents.

The amendment calls for each state Senate district to be composed of two adjacent ~~Assembly~~ representative districts, ~~and for each Board of Equalization district to be composed of 10 state Senate districts~~. The districts are to be as equal in population as possible.

"In my judgment, the public is frustrated by a reapportionment process which has been motivated by ~~legislative~~ political party self-interest instead of by the demonstrated public desire for fair and competitive districts," the ~~governor~~ Martin said in a statement.

"The public legitimately expects the goal of reapportionment is not to assure that current political parties and office holders have safe seats for a decade," he said. "By taking redistricting out of the hands of the ~~legislature~~ State System and by asking it be accomplished by respected senior appellate justices, we will have assured the public that the process will be fair, nonpartisan, and as objective as possible."

Later today, the proposed constitutional amendment also will be submitted as a proposed initiative to the attorney general for preparation of title and summary.

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The governor said he would prefer that the process be changed by action of the legislature, but in the event the legislature is not responsive an initiative campaign would be undertaken to permit a vote on putting in place the commission before the 1986 elections.

This is how it would work:

Twenty days following voter ratification of the amendment, the Judicial Council will provide to the Secretary of State the names of present state Court of Appeal justices with no previous legislative experience and who have served on the court for more than five years.

The names will be divided into two groups: those appointed by Democratic governors and those appointed by Republican governors.

The amendment directs the president of the University of California or his representative---under the supervision of the Secretary of State---to draw by lot four justices from each group. Additionally, one non-voting member each will be selected by the governor and by the highest ranking constitutional officer of the opposing party. The commission will have professional staff to assist in accomplishing its task in a timely manner.

The commission budget will not exceed one half of the amount spent by the legislature to draft the present legislative districts.

If any vacancy occurs among the voting members, the president of the University of California will be directed to draw a replacement justice by employing the same procedure.

The proposal calls for the commission to hold its initial meeting 20 days later and to select a chairman and vice chairman who were appointed to the judiciary by governors of opposing parties.

After completing an extensive public hearing process, the commission will utilize computers to redraw legislative districts that meet the criteria of the amendment.

Once approved by the commission, the redistricting program could not be amended or invalidated by the legislature. It would be subject to the referendum process and exclusive judicial review by the California Supreme Court.

However, if an impasse exists among the commissioners, the commission will draw by lot to disqualify one voting member in order to break the deadlock. If the impasse continues, another commissioner will be disqualified by lot two days later.

Commission members will receive no salary but will be compensated for necessary expenses.

GOVERNMENT PUBLICATIONS
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"It is my hope that the legislature will respond positively to the will of the people who are irritated by the present process which too often rewards incumbency at the expense of fair representation and meaningful political competition," Deukmejian said.

# # # # # #

HJR

64

February 22, 1984

The following materials were used to determine HJR 64:

1. 98th Congress House of Representatives Report 98-592

2. H.R. 1961, An Act to amend title 38, U.S. Code to provide disability and death allowances to veterans and survivors of veterans who served in Southeast Asia during the Vietnam era and those who participated in atomic tests or the occupation of Hiroshima and Nagasaki

3. Veterans Administration Federal Benefits for Veterans and Dependents (January 1983, pages 5-6 dealing with Agent Orange benefits)

4. Three newspaper clippings entitled: "Way cleared for Agent Orange trial", Anchorage Daily News 2/15/84; "Agent Orange study ongoing", Fairbanks Daily News-Miner 2/15/84; and "Twins sought for Vietnam study", The Anchorage Times 2/12/84.

5. Other comments attached.

98TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
98-592

AGENT ORANGE AND ATOMIC VETERANS RELIEF ACT

JANUARY 25, 1984.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 1961]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to which was referred the bill (H.R. 1961) to amend title 38, United States Code, to provide a presumption of service connection for the occurrence of certain diseases related to exposure to herbicides or other environmental hazards or conditions in veterans who served in Southeast Asia during the Vietnam era, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Agent Orange and Atomic Veterans Relief Act".

SEC. 2. The purpose of this act is to provide certain benefits—

(1) to veterans and the survivors of veterans who served in Southeast Asia during the Vietnam era and suffer from diseases that may be attributable to exposure to Agent Orange; and

(2) to veterans and the survivors of veterans who participated in atomic tests or the occupation of Hiroshima and Nagasaki and suffer from diseases that may be attributable to ionizing radiation,

notwithstanding that there is insufficient medical evidence to conclude that such diseases are service connected.

SEC. 3. (a) Title 38, United States Code, is amended by inserting after chapter 13 the following new chapter:

"CHAPTER 14—DISABILITY AND DEATH ALLOWANCES FOR CERTAIN VETERANS AND SURVIVORS

"Sec.
"451. Agent Orange veterans and survivors.
"452. Atomic veterans and survivors.
"453. Rates of disability and death allowances.
"454. Other benefits.
"455. Termination of chapter.

"§ 451. Agent Orange veterans and survivors

"(a) In the case of a veteran who served on active duty in Southeast Asia during the Vietnam era and who [illegible] suffers from a disease described in subsection (b) of this section, the Administrator shall pay a disability allowance to the veteran and, if the veteran dies from such disease, a death allowance to the survivors of the veteran. Such allowances shall be paid at the rates prescribed in section 453 of this title.

"(b) The diseases referred to in subsection (a) of this section are the following:

"(1) Soft-tissue sarcoma becoming manifest within 20 years from the date of the veteran's departure from southeast Asia.

"(2) Porphyria cutanea tarda becoming manifest within one year from the date of the veteran's departure from Southeast Asia.

"(3) Chloracne becoming manifest within one year from the date of the veteran's departure from Southeast Asia.

"(c) Benefits may not be paid under this section with respect to a veteran—

"(1) where there is affirmative evidence that the disease described in subsection (b) of this section was not incurred by the veteran during service in Southeast Asia during the Vietnam era; or

"(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases described in subsection (b) of this section has been suffered between the date of the veteran's separation from service and the onset of such disease.

"§ 452. Atomic veterans and survivors

"(a) In the case of a veteran who while on active duty participated in the testing of an atomic bomb or device, or who while on active duty participated in the occupation of Hiroshima or Nagasaki during World War II, and who within 20 years from the date of the veteran's participation in the test or occupation suffers from a disease described in subsection (b) of this section, the Administrator shall pay a disability allowance to the veteran and, if the veteran dies from such disease, a death allowance to the survivors of the veteran. Such allowances shall be paid at the rates prescribed in section 453 of this title.

"(b) The diseases referred to in subsection (a) of this section are the following:

"(1) Leukemia.

"(2) Polycythemia vera.

"(3) Carcinoma of the thyroid.

"(c) Benefits may not be paid under this section with respect to a veteran—

"(1) where there is affirmative evidence that the disease described in subsection (b) of this section was not incurred by the veteran during service described in the first sentence of subsection (a) of this subsection; or

"(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases described in subsection (b) of this section has been suffered between the date of the veteran's separation from service and the onset of such disease.

"§ 453. Rates of disability and death allowances

"A disability allowance payable to a veteran under this chapter shall be paid at the rates provided in chapter 11 of this title, based upon the degree of disability of the veteran attributable to the disease establishing eligibility for such allowance. A death allowance payable under this section to the survivors of a veteran shall be paid to such survivors based upon the eligibility requirements and rates applicable to payments under chapter 13 of this title.

"§ 454. Other benefits

"A disease establishing eligibility for a disability allowance under this chapter shall be treated for purposes of all other laws of the United States (other than chapters 11 and 13 of this title) as if such disease were service connected, and receipt of a disability allowance under this chapter shall be treated for purposes of all other laws of the United States as if such allowance were service-connected compensation

under chapter 11 of this title. Receipt of a death allowance under this chapter shall be treated for purposes of all other laws of the United States as if such allowance were dependency and indemnity compensation under chapter 13 of this title.

"§ 455. Termination of chapter

"This chapter shall terminate on the first day of the first month beginning after the end of the one-year period beginning on the date the Administrator submits to the appropriate committees of Congress the first report required by section 307(b)(2) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151).".

(b) The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, are amended by inserting after the item relating to chapter 13 the following new item:

"14. Disability and Death Allowances for Certain Veterans and Survivors ..... 451".

SEC. 4. This Act shall take effect on October 1, 1983. No benefit may be paid for any period before such date by reason of the enactment of this Act.

Amend the title so as to read:

A bill to amend title 38, United States Code, to provide disability and death allowances to veterans and the survivors of veterans who served in Southeast Asia during the Vietnam era and suffer from diseases that may be attributable to exposure to the herbicide known as "Agent Orange" and to veterans and the survivors of veterans who participated in atomic tests or the occupation of Hiroshima and Nagasaki and suffer from diseases that may be attributable to ionizing radiation.

INTRODUCTION

On April 26 and 27 and July 12, 1983, the Subcommittee on Compensation, Pension and Insurance conducted hearings on the bill, H.R. 1961, introduced on March 8, 1983, by the Honorable Tom Daschle, to authorize temporary monetary benefits, pending the results and receipt of the epidemiological study mandated by Public Law 96-151, for Vietnam veterans who suffer from soft-tissue sarcoma, porphyria cutanea tarda (PCT) and chloracne. The bill, as introduced, would provide a statutory presumption of service-connection for any veteran who served in Southeast Asia during the Vietnam era and who later is shown to have one of the conditions identified in the bill. There would be no time limit for the initial manifestation of the disabilities under the original bill.

Two major veterans' organizations in testimony before the Committee strongly opposed the bill on the basis that there was not sufficient credible scientific evidence to warrant a presumption of service-connection. Other service organizations supported the bill as introduced.

The Subcommittee received testimony from a number of Members of Congress, representatives of the Veterans' Administration, the Department of the Air Force, the Centers for Disease Control (CDC) of the Department of Health and Human Services, the Armed Forces Institute of Pathology, a number of veterans' organizations and from members of the scientific community and other interested individuals.

On July 28, 1983, the Subcommittee adopted an amendment in the nature of a substitute offered by the Chairman of the Subcommittee, the Honorable Douglas Applegate, and recommended the bill, as amended, to the full Committee.

On November 3, 1983, the full Committee adopted an amendment offered by the Honorable John Paul Hammerschmidt, to include benefits for certain veterans who participated in the testing

of nuclear devices or who served in the occupation forces in Hiroshima or Nagasaki immediately after World War II and, by a vote of 30 to 0, ordered the bill, as amended, to be reported to the House.

BACKGROUND

AGENT ORANGE

During the 9-year period from 1961 through 1969, the herbicide Agent Orange was used in South Vietnam primarily for the purpose of denying the enemy the cover of dense jungle foliage. Two phenoxy herbicides, 2,4-D and 2,4,5-T were used to formulate Agent Orange. Each of these components has been used extensively in agriculture since the mid-1940's. During this 9-year period, approximately 78 million pounds of 2,4,5-T were used domestically in the United States; while between 1961 and 1971, approximately 52 million pounds of 2,4,5-T were disseminated in South Vietnam. The 2,4,5-T contained the contaminant dioxin, a compound formed during the production processes and highly toxic to certain animal species. The amount of dioxin disseminated in the United States during the 9-year period between 1961 and 1969 was probably at least four times the amount disseminated in South Vietnam, according to an Air Force witness before the Committee.

The Committee recognizes the use of Agent Orange in Vietnam has caused much apprehension and concern among some Vietnam veterans and their families, giving rise to controversy. Much publicity has been given to the alleged ill-health effects among some Vietnam veterans which they attribute to exposure to the dioxin in Agent Orange.

Since 1978 the Committee on Veterans' Affairs has held the following hearings on this issue:

October 11, 1978, Subcommittee on Medical Facilities and Benefits.

February 25, 1980, Subcommittee on Medical Facilities and Benefits.

July 22, 1980, Subcommittee on Medical Facilities and Benefits.

September 16, 1980, Subcommittee on Medical Facilities and Benefits.

May 6, 1981, Subcommittee on Oversight and Investigations.

September 15, 1982, Subcommittee on Oversight and Investigations.

April 26, 27 and July 12, 1983, Subcommittee on Compensation, Pension and Insurance.

May 3, 1983, Subcommittee on Oversight and Investigations.

Dozens of witnesses have testified with widely divergent views on the issue. The question of toxicity of dioxin is not in doubt—dioxin is one of the most highly toxic substances known to the scientific community although its toxicity for humans is unknown. What is less clear is how much exposure to the dioxin was experienced by Vietnam veterans, how much exposure can be expected to produce long-term health effects, and at what rate, or frequency, if any, are

these effects being experienced by veterans who served in Southeast Asia.

While a number of professionals in the scientific community have stated that some Vietnam veterans are suffering a high rate of cancers, skin and liver conditions, as well as a multiplicity of other conditions, there are no data or studies which substantiate this. There is no concensus of opinion in the scientific community that exposure to dioxin causes any identifiable disability other than chloracne.

Because of the concern and apprehension in the veteran community, the Congress mandated in Public Law 96-151 an epidemiological study on the effects of exposure to Agent Orange. At the suggestion of the Chairman and Ranking Minority Member of the Committee and other Members of the Congress, responsibility for conducting the study was transferred from the Veterans' Administration to the CDC in 1982. The study is expected to cost between $70 million and $100 million when it is completed. The sum of $2.3 million was allocated to the CDC by the Veterans' Administration in fiscal year 1983, and $53,974,000 is contained in Public Law 96-181 for the conduct of the study. Additional amounts will probably be necessary in future appropriations acts. Spokesmen for the CDC have projected the completion date of the study to be between 1987 and 1989.

There are numerous scientific human studies currently underway related to Agent Orange, dioxins and the Vietnam experience as a whole. The costs for the more than 67 projects involving the Veterans' Administration, the Environmental Protection Agency, and the Departments of Health and Human Services, Defense and Agriculture are quoted as $150 million from fiscal years 1980 to 1985 and beyond. One of the more significant efforts now underway is an epidemiological study (known as the *Ranch Hand* Study) of Air Force personnel assigned to do the actual spraying of the herbicides. Approximately 1,300 servicemen were assigned to this unit from 1962 to 1971 and were the individuals who loaded the chemical on aircraft and flew the spraying missions. This group probably received more exposure, and on a repeated basis, than any other unit in Vietnam, although it is the position of many that ground troops may have experienced a higher level of exposure than those personnel involved in the air-spraying operations.

The first phase of the *Ranch Hand* Study on mortality was released in August 1983. Because of the small number of deaths the data contained no significant findings. No unusual grouping of causes of death was shown. The next phase of the study on morbidity is expected to be released in February or March 1984 and is expected to reflect the current health status of this group.

Veterans who believe they have been exposed to Agent Orange have complained of a variety of illnesses for which they seek medical treatment and disability compensation. These illnesses include, among others, skin conditions, cancers, nervousness, numbness in extremities, vision and/or hearing impairments, birth defects in their offspring, and reduced libido. Veterans have also complained about the paucity of scientific information available on the health effects of Agent Orange and the perceived delays in the VA's response.

The VA maintains that it has responded to veterans' concerns from the outset by initiating health programs to identify veterans who may have been exposed and by implementing research projects on health effects and prompt implementation of Public Law 97-72 that authorizes the VA to treat Vietnam veterans for conditions that *may* be attributable to Agent Orange. Since 1978 the VA has provided physical examinations for Vietnam veterans who thought they were exposed to Agent Orange.

Current law requires the Veterans' Administration to provide inpatient and out-patient care and treatment to veterans who may have been exposed to Agent Orange while serving in Vietnam for any disability that may have resulted from such exposure, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with exposure to Agent Orange.

The VA maintains a registry of all veterans who come to VA hospitals and health care facilities for Agent Orange examinations. The registry also contains information collected during the examination. As of October 1, 1983, 125,649 veterans had received the initial examination and about 75 percent of the key information had been entered into a computer.

As of October 1, 1983, veterans had filed 18,518 disability claims with the VA for disorders they attribute to Agent Orange exposure. Only half of these claimants had any disability at all. The other half either claimed no disability or had none diagnosed on physical examination. Of the 9,170 who had a diagnosed disability, 7,709 were denied because the evidence failed to show the condition had its inception in service.

The VA acknowledges that the skin disorder, chloracne, is causally related to Agent Orange exposure. Ninety-five percent of the remainder of 1,461 (16 percent) claims which were granted service connection were for skin conditions and the remaining 5 percent were for cancer, psychiatric, and neurological conditions, among others.

The VA denied 7,709 claims after there was a confirmed diagnosis of the condition for which the veteran had filed a claim. The denied claims fall into the following categories: 4,959 for various skin conditions other than chloracne; 2,484 for nervousness and headache or fatigue; 926 for paralysis or numbness; 841 for gastro-intestinal or genito-urinary conditions; 567 for malignancies which include leukemia, lymphoma, melanoma, and Hodgkin's disease; 393 for impaired sexual activity; 472 for eye, ear, nose and throat pathology, 299 for lung conditions; 263 for cardiovascular conditions, and 152 claims denied for miscellaneous conditions.

Under current VA policy the resolution of disability claims for conditions that are now defined as non-service connected (and therefore denied) will depend on the results of scientific studies which are now either pending or underway. Since it is expected that these studies will take years to complete a spokesman for the VA has testified before the committee that "it may well be that the Congress cannot wait for scientific answers in the short term, in which case it may well be that the sociopolitical aspect of this problem will have to be addressed."

Members of the Committee have demonstrated their strong desire to respond to the apprehension and concern among some Vietnam veterans and their families about the possible long-term health effects that may have been caused by their exposure to the herbicide Agent Orange while serving in South Vietnam. Extensive hearings have been held, and it is generally agreed that there is insufficient credible scientific evidence that this group of veterans has demonstrated they are experiencing any higher incidence or frequency of medical problems related to their possible exposure to dioxin while in service as to warrant a statutory presumption that such medical problems are related to military service. Notwithstanding this fact, the Committee is proposing the temporary payment of benefits for certain disabilities until the Agent Orange Epidemiological Study has been completed and the results of such study are submitted to the Congress.

ATOMIC VETERANS

Beginning in 1945 and continuing until 1963, the U.S. Government exploded approximately 235 nuclear devices in the atmosphere over the American Southwest and Pacific Ocean. The Department of Defense estimates that approximately 220,000 military personnel participated in those tests. Additional personnel may have been exposed while in the occupation forces in Japan after the atomic bombings of Hiroshima and Nagasaki in 1945. Many of these troops were exposed to low-level ionizing radiation which may or may not have been accurately documented with proper exposure devices or methodologies. To compound the problem, there is limited scientific understanding of the relationship between exposure to low doses of ionizing radiation and subsequent health problems.

Public concern about the health effects of low-level ionizing radiation has been heightened in recent years by the results of several studies. Since 1902, when cancer was first attributed to overexposure to X-rays, the U.S. Government has spent close to $2 billion (approximately $80 million per year in recent years) for research on the health effects of exposure to low-level ionizing radiation. At least 80,000 scientific papers on the subject have been published worldwide. While much has been learned about the carcinogenic effects of high doses of radiation exposure, scientists still are uncertain how low-level ionizing radiation exposure causes cancer, and how to predict the effects of exposure to low doses of ionizing radiation.

The Subcommittee on Oversight and Investigations held a hearing on May 24, 1983, to review Federal studies on health effects of low-level radiation exposure and implementation of Public Law 97-72. Included among the witnesses were spokespersons from the VA, the Center for Environmental Health (which is part of the CDC of the Department of Health and Human Services), the Defense Nuclear Agency, the National Academy of Sciences, Members of Congress, and representatives of a number of veterans' organizations.

The CDC conducted a study of the participants in the atmospheric nuclear test *Smoky*. There were 3,217 persons confirmed as present during the detonation of *Smoky* on August 31, 1957. The

CDC could not locate or determine the vital status of only 145 participants. Of the remaining 3,072 (95.5 percent of the total), CDC reviewed the death certificates of the 146 who are deceased and contacted the remaining 2,926 participants or their next of kin. Only 20 of those contacted refused to be included in the study.

According to United States mortality statistics, 365 deaths from all causes would have been expected in this population to date. In fact, there have been 320 deaths in *Smoky* participants.

CDC also calculated the expected number of cancer deaths for this population to be 64.3. In fact, they found 64. Of deaths from leukemia, 9 were found compared to 3.1 expected. This difference is statistically significant.

One other disease, polycythemia vera, was also found to have occurred at a higher than expected frequency in the nuclear test participants. CDC expected no more than 1 case but found 4. This disease, which is characterized by an inappropriate increase in the number and production of red blood cells, has not been previously shown to be caused by ionizing radiation.

In summary, the study of *Smoky* participants by the CDC found an increased frequency of the occurrence of leukemia and polycythemia vera. The study did not find evidence of increased frequency of cancer or death from cancer, but did observe less than the number of total deaths expected. Seymour Jablon of the National Academy of Sciences testified concerning his studies into the mortality among 52,000 veterans who had participated in five atmospheric tests, including the test series of which *Smoky* was a part (code-name PLUMBBOB). In contrast to the CDC findings concerning only *Smoky* participants, which Jablon's work verified, preliminary results show no excess mortality from leukemia, nor from other forms of cancer or other illnesses, among this much larger study cohort. He also testified that, given the timing of the introduction of the Hiroshima/Nagasaki occupation forces, none could have received radiation doses exceeding one-tenth rad.

There is an extensive body of information, mostly from follow-up studies of the health histories of the Japanese who were exposed at Hiroshima and Nagasaki, about the health effects of radiation exposure caused by nuclear detonation. However, there is very little information specifically related to veterans who were exposed during the weapons test program.

Public Law 98-160, signed by the President on November 21, 1983, requires the Administrator of Veterans' Affairs to consider the feasibility of conducting an epidemiological study of the effects of low-level ionizing radiation on veterans who participated in the testing of nuclear devices or who were in the occupation forces at Hiroshima and Nagasaki immediately after World War II. If such a study is conducted it would be by an outside entity—not the Veterans' Administration.

It is expected that this study, if conducted, will be completed and submitted to the Congress well before the results of the Agent Orange epidemiological study are available. In the event the radiation study is received by the Congress prior to receipt of the Agent Orange epidemiological study, and should it contain clear evidence as to the health effects of radiation exposure suffered by

veterans, the Committee will at that time exercise its right to consider and recommend such legislation as it deems appropriate.

Veterans exposed to ionizing radiation while participating in nuclear tests, or the occupation of Hiroshima or Nagasaki, have a slightly stronger basis for consideration. Studies have shown a slightly higher incidence of leukemia and polycythemia vera among participants of the *Smoky* test. Similar data reflecting increased health problems among veterans who served in Vietnam and who may have been exposed to Agent Orange are lacking. Although current evidence indicates that some veterans exposed to ionizing radiation are experiencing serious medical problems, available data falls far short of meeting the test that the exercise of sound medical judgment reflects that these disabilities are related to military service.

According to information furnished by the Defense Nuclear Agency, the duration of the military occupation of Hiroshima and Nagasaki was relatively short. The first U.S. units to occupy Hiroshima arrived October 6, 1945. U.S. Forces in Hiroshima were relieved by an Australian unit on March 6, 1946, and U.S. occupation in the vicinity came to an end at that time. The first advance party of the U.S. occupation force (about 12 personnel) arrived in Nagasaki on September 16, 1945. The last units departed Nagasaki in June 1946. The occupation of these two sites was completely within the World War II period as defined in title 38, United States Code.

Some Members of the Committee feel it would be better to wait for the results of the Agent Orange Epidemiological Study being conducted by the CDC before granting benefits for disabilities contained in the bill. Some feel that Congress should abide by its longstanding tradition that benefits should be paid only where substantive evidence is *clearly* available to establish that the disabling conditions existed while on active duty or are clearly related to such period of service. It was apparent, however, that this option did not reflect the view of all Members of the Committee and the reported bill represents a compromise on the highly emotional issues.

Summary of the Reported Bill

The reported bill, H.R. 1961, would provide that effective October 1, 1989, a temporary disability (or death) allowance would be payable to veterans who served in Southeast Asia during the Vietnam era and who later suffer from one of three conditions: soft-tissue sarcoma, porphyria cutanea tarda (a liver condition known as PCT), or chloracne (a skin condition). The soft-tissue sarcoma must be shown to exist within 20 years from date of departure from Southeast Asia and the other two disabilities, porphyria cutanea tarda (PCT) and chloracne must be manifested within 1 year from such departure. Monetary benefits would be paid at the rates prescribed in chapter 11 and chapter 13 of title 38, United States Code. Derivative benefits which flow from chapters 11 and 13 would also be available to persons eligible under the new chapter 14. Benefits would terminate under the sunset clause 3 years after the epidemiological study authorized by Public Law 98-151 is submitted to the Congress.

The reported bill would also provide that effective October 1, 1983, a temporary disability (or death) allowance would be payable to veterans who, while in service participated in the testing of a nuclear device or who served in the occupation forces at Hiroshima or Nagasaki after the bombing in 1945 and who, within 20 years after such participation, suffers from cancer of the thyroid, polycythemia vera (a bone marrow disease) or leukemia. These benefits would be available under the same eligibility criteria and procedures as provided for veterans exposed to Agent Orange. Veterans eligible for benefits under the reported bill must have been physically present at or near the test site at the time of detonation or shortly thereafter and not simply involved in the planning of the test.

The Committee intends that receipt of this new benefit be treated as if it were receipt of disability compensation or DIC for purposes of all Federal laws other than chapters 11 and 13 of title 38.

Section-by-Section Analysis

Section 1 provides that this act may be cited as the Agent Orange and Atomic Veterans Relief Act.

Section 2 declares the act's purposes—to provide benefits to veterans who served in Southeast Asia during the Vietnam era, and their survivors, if the veteran suffers or dies from a disease that may be attributable to Agent Orange exposure, and to veterans who participated in atomic tests or the occupation of Hiroshima or Nagasaki and their survivors, if the veteran suffers or dies from a disease that may be attributable to ionizing radiation, notwithstanding the lack of medical evidence sufficient to conclude that the disease is service connected.

Section 3 provides the statutory language for the new chapter 14.

Subsection (a) of section 3 would amend title 38, United States Code, by adding a new chapter 14 titled "Disability and Death Allowances for Certain Veterans and Survivors," consisting of new sections 451 through 455.

New section 451, relating to Agent Orange veterans and survivors, would consist of subsections (a) through (c).

Subsection (a) of new section 451 would require the VA to pay, at rates established under new section 452, a "disability allowance" to any veteran who served on active duty in Southeast Asia during the Vietnam era and after such service suffers from a disease described in subsection (b) of this new section, and a "death allowance" to any such veteran's survivors, if the veteran died from the disease.

Subsection (b) of new section 451 would establish as diseases referred to in subsection (a), the following three: soft-tissue sarcoma appearing within 20 years of the veteran's departure from Southeast Asia; porphyria cutanea tarda appearing within 1 year of the veteran's departure from Southeast Asia, and chloracne appearing within 1 year of the veteran's departure from Southeast Asia.

Subsection (c) of new section 451 would bar the payment of benefits under this section if there is affirmative evidence that the veteran's disease was not incurred during his or her Southeast Asian

service or is a result of an intercurrent injury or another disease sustained post-service.

New section 452, relating to atomic veterans and survivors, would consist of subsections (a) through (c).

Subsection (a) of new section 452 would require the VA to pay, at rates established under new section 453, a disability allowance to any veteran who participated during the veteran's military service by being present at the detonation of an atomic bomb or device, or the occupation of Hiroshima or Nagasaki by the United States forces during World War II, and who, within 20 years after such participation, suffers from a disease described in subsection (b) of this new section, and a death allowance to any such veteran's survivors, if the veteran died from the disease.

Subsection (b) of new section 452 would establish, as diseases referred to in subsection (a), the following three: leukemia, polycythemia vera, and carcinoma of the thyroid.

Subsection (c) of new section 452 would bar the payment of benefits under this section if there is affirmative evidence that the veteran's disease was not incurred as a result of his or her participation in the testing of an atomic bomb or device, or military occupation of Hiroshima or Nagasaki, or is the result of an intercurrent injury or another disease sustained postservice.

New section 453, relating to rates payable as section 451 or 452 disability and death allowances, would key veterans' rates to compensation rates payable to veterans under chapter 11 of title 38, United States Code, according to the degree of disability, and survivors' rates and eligibility criteria to dependency and indemnity compensation rates and criteria under chapter 13 of title 38.

New section 454, relating to other benefits, would provide that a disease that established a veteran's or survivor's eligibility for section 451 benefits shall be considered as if it were service connected for purposes of all Federal laws (except chapters 11 and 13 of title 38), shall be treated as if the benefit were compensation or dependency and indemnity compensation, as appropriate, for purposes of Federal law.

New section 455, relating to termination, would provide for the termination of new chapter 14 authority to grant benefits 1 year after the VA's submission to Congress of the first report required by section 307(b)(2) of Public Law 96-151, the statute mandating a comprehensive epidemiological study of the effects of Agent Orange exposure on veterans' health.

Subsection (b) of section 3 would amend the chapter tables at the beginning of title 38 and the beginning of part II of such title to reflect the insertion of the new chapter 14.

Section 4 would provide for an effective date of October 1, 1983, and rule out payment of section 451 benefits for any period prior to that date.

Oversight Findings

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

BUDGET STATEMENT

As required by the Rules of the House, the following letter was received from the Congressional Budget Office concerning the cost of H.R. 1961, as amended.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., November 8, 1983.

Hon. G. V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate of H.R. 1961, the Agent Orange and Atomic Veterans Relief Act, as ordered reported by the House Committee on Veterans' Affairs, November 3, 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RUDOLPH G. PENNER, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1961.
2. Bill title: Agent Orange and Atomic Veterans Relief Act.
3. Bill status: As ordered reported by the House Committee on Veterans' Affairs, November 3, 1983.
4. Bill purpose: This bill would provide a new category of benefits identical in dollar amounts to those provided under veterans' disability compensation and dependency and indemnity compensation (DIC). Eligibility for these benefits would be limited to:
   - —veterans who served in Southeast Asia during the Vietnam era and who suffer from soft-tissue sarcoma, porphyria cutanea tarda, or chloracne.
   - —the survivors of veterans who served in Southeast Asia during the Vietnam era and who died of soft-tissue sarcoma, porphyria cutanea tarda, or chloracne.
   - —veterans who participated in atomic tests or the occupation of Hiroshima or Nagasaki and who suffer from leukemia, polycythemia vera, or carcinoma of the thyroid.
   - —the survivors of veterans who participated in atomic tests or the occupation of Hiroshima or Nagasaki and who died from leukemia, polycythemia vera, or carcinoma of the thyroid.

The stated effective date of the bill is October 1, 1983. Claims for benefits approved within 1 year of the enactment date, therefore, would be paid retroactively to October 1, 1983.

5. Estimated cost to the Federal Government:

(By fiscal year, in millions of dollars)

	1984	1985	1986	1987	1988
Required budget authority	4.7	4.9	5.2	5.3	5.4
Estimated outlays	4.7	4.9	5.2	5.3	5.4

The cost of this bill would fall in budget function 700.

This bill would result in additional future Federal liabilities through an extension of an existing entitlement and would require subsequent appropriation action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the estimated obligations that would result from enactment of H.R. 1961.

Basis of Estimate:

AGENT ORANGE EXPOSURE

Soft-tissue sarcomas.—There is no commonly accepted medical definition of which types of malignancies fall into the category of soft-tissue sarcomas. For the purpose of this estimate, the definition used by the National Cancer Institute (NCI) was employed. Under NCI's definition, malignancies of the hematic and lymphatic systems are not included as soft-tissue sarcomas. If a broader definition were applied by the Veterans' Administration (VA) in implementing this provision, the cost could be substantially higher than that included in the estimate above.

According to information from the NCI, the normal incidence of soft-tissue sarcoma among males aged 25 to 40 years is approximately 13 new cases per year per million. Since about 2.4 million veterans served in the Republic of Vietnam, at least 31 such veterans would be expected to develop soft-tissue sarcomas each year, independent of any effects of Agent Orange. At this time, there is insufficient data available to prove or disapprove any connection between Agent Orange exposure and the development of soft-tissue sarcomas. This estimate, therefore, is based on the normal incidence of the disease. If a causal relationship should exist, however, resulting in a higher than normal incidence of the disease among veterans with service in Southeast Asia, the cost of this proposal would be greater than shown.

It is estimated that between 600-650 Vietnam era veterans with Southeast Asian service have developed soft-tissue sarcomas between the time of their discharge and October 1, 1983. It was assumed that aproximately 85 percent of these veterans have died of the disease. Thus, it is estimated that enactment of this provision would result in approximately 100 veteran cases and 500 survivor cases in 1984. The level of affected cases would be expected to grow to 150 and 560, respectively, by 1988. All veteran cases were assumed to receive benefits at the 100 percent disability level, and survivors were assumed to receive benefits equal to the average DIC benefit.

Porphyria cutanea tarda.—Porphyria cutanea tarda (PCT) is a condition of the liver that can occur in certain individuals with a genetic predisposition, after a substantial chemical insult to the body. According to information from the VA's medical staff, the genetic predisposition to this condition is found in about 6 percent of the population. It would, thus, be expected that nearly 150,000 veterans with Vietnam service have the potential for developing PCT.

Heavy exposure to Agent Orange could cause this condition in a genetically predisposed individual; however, the onset of the condi-

tion would be expected to occur fairly soon after exposure. It is, therefore, assumed that the vast majority of veterans suffering from Agent Orange-related PCT experienced the onset of the condition prior to discharge or soon enough after discharge to have established service-connection for disability compensation benefits under current law. The few veteran or survivor cases likely to result from this provision are not anticipated to have a significant budgetary impact.

Active and residual chloracne.—Under current law and regulation, the VA presumes service-connection in the case of chloracne among veterans with Vietnam service. It is, therefore, expected that all veterans suffering from chloracne will be eligible for disability compensation benefits under current law and would not apply for benefits under this provision.

RADIATION EXPOSURE

According to the staff of the House Veterans' Affairs Committee (HVAC), approximately 230,000 service members may have been exposed to ionizing radiation while in military service as a result of their participation in either atomic weapons testing or the post-World War II occupation of Hiroshima or Nagasaki. Since 1967 the VA has kept track of the claims filed for benefits under disability compensation and DIC that are based on exposure to radiation. Less than 3,700 such claims have been filed during this period of nearly 17 years.

H.R. 1961 limits eligibility in this category to veterans or the survivors of veterans who contracted one of the covered diseases within 20 years of their in-service exposure to radiation. This 20-year time limit was reached by 1970 for veterans participating in the occupation of Hiroshima and Nagasaki and by 1982 for veterans participating in atomic weapons testing.

Leukemia.—The VA approves under current law the majority of claims from veterans and the survivors of veterans in these categories who suffer from or die of leukemia. It is unlikely that any veterans of the occupation of Nagasaki or Hiroshima who contracted leukemia prior to 1970 would still be alive today. The number of denied claims from survivors of such veterans in which the veteran died of leukemia has been nominal.

The VA has denied 110 claims since 1967 from veterans suffering from leukemia who participated in atomic weapons testing. The above estimate assumes that these 110 denied claims would result in approximately 20 veteran and 50 survivior claims for benefits under this provision. Veterans were assumed to receive benefits at the 100 percent disability level and survivors at the average benefit level for DIC cases.

Polycythemia vera.—This is a very rare disease of the bone marrow, which is not necessarily fatal nor extremely disabling. The average disability rating for veterans receiving disability compensation for polycythemia vera is 30 percent. Because of the rarity of this disease and its relatively low disability rating, it was assumed that claims for benefits under this provision would not result in a significant cost.

Carcinoma of the thyroid.—Of the 3,700 claims for compensation and DIC benefits based on radiation exposure, none have been denied in which the veteran suffered from or died of cancer of the thyroid. For this reason, the cost of providing benefits for such cases under this provision was assumed to be insignificant.

6. Estimated cost to State and local governments: The Congressional Budget Office has determined that the budgets of State and local governments would not be directly affected by the enactment of this bill.

7. Estimate comparsion: None.

8. Previous CBO estimate: On April 5, 1983, CBO submitted an estimate of H.R. 1961, as introduced. This version of the bill, which only covered benefits to veterans with service in Southeast Asia during the Vietnam era, was estimated to result in the following cost:

(By fiscal year, in millions of dollars)

	1984	1985	1986	1987	1988
Required budget authority	4.1	4.4	4.7	4.9	5.1
Estimated outlays	4.1	4.4	4.7	4.9	5.1

9. Estimate prepared by: K. W. Shepherd.

10. Estimate approved by: C. G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Cost

The Committee concurs with the CBO cost estimate.

Inflationary Impact Statement

The enactment of the reported bill would have no inflationary impact.

Agency Report

The Committee received the following letter from the Veterans' Administration on H.R. 1961, as introduced:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., April 25, 1983

Hon. G. V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to present the views of the Veterans' Administration on H.R. 1961, 98th Congress, the proposed "Vietnam Veterans Agent Orange Relief Act." I share with you and other Members of Congress the desire for a meaningful Federal response to the fears of veterans who served in Vietnam that their exposure to Agent Orange may have long-term adverse effects on their health. However, we consider the approach taken

in H.R. 1961 inadvisable given the present state of scientific knowledge.

The controversies arising from the Government's use of Agent Orange in Vietnam are not yet resolved. Before turning to the Veterans' Administration's observations concerning the several issues raised by H.R. 1961, I would like to emphasize that the potential cost of paying compensation based on any Agent-Orange-caused disabilities played no part in our deliberations on this measure. The Federal Government, since its beginning, has fulfilled its sacred obligation to veterans disabled in the line of duty and will continue to do so.

The devastating wars of this century, and the need to maintain peacetime forces in order to assure the defense of our Nation, have been accompanied by legislative and programmatic developments intended to assure that no veteran's reasonable claim to compensation is denied. This is true whether the disability results from a combat wound, service-incurred disease, in-service accident, psychological trauma resulting from combat or other conditions of military service, or exposure to a substance known or later discovered to have adverse health effects.

We are immensely proud of our agency's record of achievement. It can safely be maintained that our compensation program is the finest in the world, both in terms of the number of veterans we serve and in the amount of benefits paid. Moreover, the American people—who fund this program with their taxes—have given it overwhelming support, as has the Congress of the United States.

The preservation and integrity of the compensation program are among the highest priorities of the Veterans' Administration.

There are certainly many veterans suffering from illnesses they ascribe to exposure to that herbicide, especially its contaminant dioxin. Although scientific evidence is lacking, there are persons in the medical and scientific communities who contend that exposure may lead to a host of disorders that appear long after the exposure has ceased. There are also organizations and individuals who believe very sincerely that the Veterans' Administration has not responded adequately to the issues involved.

As guardians of the public trust, Congress and the Administration share, I believe, a commonality of aims respecting these issues. The compensation program must be attuned to justifiable conclusions about the connection between Agent Orange exposure and disorders possibly arising from that exposure. At the same time we must do our best to avoid taking steps that have the potential for undermining the program's credibility and legitimacy because of inconclusive scientific evidence. I know that you and other Members will give careful and thorough consideration to the bill, keeping in mind the commonality of aims to which I have previously alluded.

H.R. 1961 is intended to assist veterans who served in Southeast Asia during the Vietnam era establish entitlement to service-connected disability compensation if they are currently suffering from one of the disorders specified in the bill. It would do this by amending section 312 of title 38, United States Code, in order to provide for a special presumption of service connection applicable only to these veterans.

The bill is based on the premise that each of the specified disorders, no matter how long after military service symptoms appear, can be attributed to exposure to a phenoxy herbicide in service. During the period 1962 to 1971, phenoxy herbicides, including Agent Orange, were used in Vietnam. As I have noted, H.R. 1961 is an effort to respond to the widespread concern that exposure to Agent Orange, especially its contaminant dioxin, may have long-term adverse effects on veterans' health

Authority to award compensation on the basis of the presumption provided for in the bill would terminate 1 year after submission to Congress of the comprehensive epidemiological study mandated by Public Law 96-151. This "sunset" provision is analogous to the sunset provision applicable to VA health care for certain disorders possibly associated with phenoxy herbicide exposure, authorized by Public Law 97-72. Both sunset provisions recognize the current uncertainties as to the long-term effects of exposure.

The Agent Orange controversy, as it relates to individual veterans' compensation claims, involves two basic questions: (1) whether the veteran was exposed, and (2) whether the veteran's disability results from the exposure. H.R. 1961, it should be noted, does not require any evidence of exposure; it would afford the presumption to any veteran who served in Southeast Asia during the Vietnam era (1964-1975). We have previously made public our decision to resolve the issue of exposure in a manner favorable to veterans; unless there is affirmative evidence to the contrary, we are prepared to presume exposure if a veteran served in Vietnam during the relevant period. This policy, prompted by the lack of a definitive method for identifying exposed individuals, is consistent with our longstanding policy of giving veterans the benefit of the doubt.

There may be, however, some cases in which affirmative evidence refutes even the possibility of exposure, and, therefore, our policy is necessarily qualified. The lack of any similar qualification in H.R. 1961, in our view, is unjustifiable. We observe also that affording the presumption to veterans who served in Southeast Asia—a far broader region than Vietnam, embracing areas where no phenoxy herbicides were used—inappropriately expands the category of veterans intended to be benefited.

Our principal concerns, however, relate to the concept of an open-ended presumption that would be established by the bill and to the conclusions it embodies as to the specific disorders chloracne, porphyria cutanea tarda (PCT), and the several malignancies grouped as soft-tissue sarcoma. (The bill would also authorize presumptive service connection for additional disorders, provided for by regulation, that "medical research" has shown "may be" attributable to chemical exposure or environmental hazards or conditions. This requirement is vague—rules creating such presumptions should be based only on well-accepted, scientifically valid findings—and also unnecessary in view of the Administrator's current authority to issue regulations.)

The post-service presumption periods provided for in section 312(a) of title 38 are appropriate for chronic diseases whose inception in service may not be recorded because the development of pathology is gradual and insidious. They are justifiable when reason-

ably supported by medical knowledge as to the pathological courses of the particular diseases.

Congress has wisely set time limits on these presumptive provisions; unless symptoms of the disease appear within a specified period of time after service, the presumption is not available. The section 312(a) presumption, together with the time limits, assures that no veteran's reasonable claim is overlooked but also does not dictate grants of service connection when there is no evidence of service incurrence and it is not reasonable to infer service origin.

Reputable studies have concluded that dioxin exposure may result, within a relatively short period, in chloracne. PCT resulting from exposure also appears within a few weeks. On the other hand, no studies have shown that exposure results in the initial appearance of these disorders after lengthy delays. Our current authorities are adequate, without the need of a presumption, to award service connection and compensation, if appropriate, in cases of chloracne or PCT appearing within expected time limits after the exposure. Requiring us to award service connection for initial occurrence of these disorders long after the exposure incidents is, we believe, unjustifiable in the absence of any evidence indicating they are latent effects of exposure.

As I have noted, individuals in whom these relatively rare disorders appear begin to suffer symptoms soon after exposure, ordinarily within days or weeks. Chloracne is a skin disorder caused by exposure to certain chlorine-containing chemicals, including dioxin. In its more serious manifestations, it causes discomfort and disfigurement. Most cases clear up within a year or two after the exposure ceases, but in a few, the disorder persists. The Veterans' Administration acknowledges that chloracne can result from exposure to Agent Orange during service in Vietnam and has established procedures to assure careful and liberal consideration of all claims based on this disorder.

Since 1978, we have awarded service connection in 1,225 skin disorder cases involving veterans who served in Vietnam. We have scrutinized more than 3,000 claims for service-connected benefits to determine whether there are indications of chloracne. Those cases in which it was believed this diagnosis was at least possible were further reviewed by a VA dermatologist, and 13 have been examined in person by dermatologists at prestigious private clinics.

Although all of these cases involve skin disorders of various types and all involve veterans who served in Vietnam, only one case of possible chloracne has been identified. We will, of course, continue our investigations of this issue.

H.R. 1961 would also extend presumption of service connection for "chloracneform lesions." This is a term not found in medical or scientific literature, but can be taken to mean "lesions resembling chloracne." As certain common skin disorders may resemble chloracne, this term is overly broad and would, we believe, cause unnecessary confusion.

PCT, an uncommon liver disorder, can be triggered by exposure to various chemicals including alcohol. There is no evidence that PCT is a latent effect of exposure. Each attack ordinarily subsidies in about a year after contact with the chemical ceases, but prolonged exposure, as in chronic alcoholism, may cause permanent

damage to the liver. An attack of PCT induced by Agent Orange or exposure to any other chemical during service in Vietnam years ago would not be expected to impair a veteran's health today. As is the case with chloracne, we regard our current authorities as fully adequate to assure proper consideration of PCT claims based on exposures during military service. As a technical matter, the proper application of section 313 of title 38, United States Code, making section 312 presumptions rebuttable if there is evidence of an intercurrent cause, would reduce the likelihood of awards of service connection based on the PCT presumption, if enacted.

The issue as to whether the malignancies grouped as "soft-tissue sarcomas" result from phenoxy herbicide exposure presents a problem of far greater complexity. There is considerable uncertainty in the scientific community on this issue. Advocates of the belief that exposure "causes" soft-tissue sarcoma generally cite studies involving cancer victims believed to have been exposed to phenoxy herbicides whose first symptoms appeared long after the exposure. Because it is well established that exposure to radiation and other agents like asbestos and benzene may result in the latent development of malignancy, these advocates reason by analogy that phenoxy herbicide exposure "causes" soft-tissue sarcoma. The vital question is, therefore, the weight that should be given to the studies they cite.

"Soft tissue sarcomas" are a group of malignant tumors, or cancers. Any sarcoma arises in a body cell that does not cover a body surface, form glandular tissue, or line certain body cavities. "Soft tissue" excludes sarcomas in "hard tissues" such as bone or cartilage. Hence, soft tissue sarcomas arise from such body tissues as muscles, tendons, blood vessels, fat, and connective tissues.

Certain cancers share some characteristics of soft-tissue sarcomas but are not placed in that group. These include most brain tumors and the so-called blood cancers, chiefly the leukemias. Some authorities include tumors of the lymph nodes—the lymphomas—with the soft-tissue sarcomas. The World Health Organization "International Classification of Tumors, No. 3, Histological Typing of Soft Tissue Tumors," however, excludes lymphomas and appears to be adequate for purposes of defining the malignancies in this category.

There is no evidence that all soft-tissue sarcomas have a common etiology or cause. These malignancies differ from one another as to how rapidly they grow and spread, how they are treated, and the results that treatment achieves. However, all are considered lethal if not successfully treated.

These malignancies are rare. According to the National Cancer Institute, they comprise 2.76 percent of all cancer cases in men aged 25 to 29 and 0.58 percent of all cancer cases in men aged 55 to 59; the percentage declines because other types of cancers become increasingly common with age. Lymphomas, sometimes included with soft-tissue sarcomas, contribute another 5.21 percent at ages 25 to 29 and 2.40 percent at ages 55 to 59.

Although there is no evidence establishing a common cause for these sarcomas, some malignancies in the group are known to be associated with exposure to environmental hazards. For example,

malignant mesothelioma is known to be caused by asbestos exposure, and angiosarcoma of the liver by exposure to vinyl chloride.

Because these malignancies are rare, it is difficult to devise adequate techniques to investigate their causes. A series of studies in Sweden using the "case/control" method grouped the soft-tissue sarcomas together in order to investigate whether Swedish foresters and farmers exposed to herbicides and a chemical known as chlorophenol in their work, suffered latent malignancies of this type. These studies have been carefully reviewed by Richard D. Remington, Dean of the School of Public Health, University of Michigan, at the request of the Office of Technology Assessment and determined to have been carefully conducted and well reported with results that *suggest* a relationship between herbicide exposure and soft-tissue sarcomas. Significantly, Dr. Remington pointed out the limitations of the case/control methodology and found the Swedish studies inadequate to permit definite conclusions.

Investigations in the United States based on studies of industrial workers have also suggested a phenoxy-compound connection with soft-tissue sarcomas. In addition, an East German investigation of malignant neoplasms among pesticide sprayers and agricultural technicians tends to support the Swedish studies by finding a single case of soft-tissue "malignancy," which probably was a soft-tissue sarcoma.

Other studies, in Finland, New Zealand, Great Britain, the Netherlands, and Italy have not confirmed the Swedish studies. In addition, a separate investigation of Swedish forestry workers casts some doubt on the Swedish studies.

We do not disagree with Dr. Remington's conclusions as to the credibility and limitations of the Swedish studies. They lay a predicate for further investigation and do not rule out the possibility of a causal link. They do not, however, provide a reasonable basis upon which to favorably decide VA compensation claims.

We recognize the importance of careful scientific analysis in matters of this kind, and have appended to this report detailed background papers concerning these diseases.

The comprehensive epidemiological study mandated by Public Law No. 96-151, together with other ongoing studies including some devoted specifically to the soft-tissue sarcoma issue, may resolve many of the controversial questions raised by the use of Agent Orange in Vietnam. As I stated at the outset of this report, we must work toward the dual objectives of fair compensation for any Agent-Orange-caused disabilities and avoidance of steps that would compromise the integrity of the program. At this point, there is no evidence that either chloracne or PCT is a delayed effect of exposure, and we believe the provisions of H.R. 1961 respecting these disorders are not justified. We do not believe it has been satisfactorily demonstrated that exposure can cause soft-tissue sarcoma.

Accordingly, we oppose the enactment of H.R. 1961. In view of the current state of scientific findings, enactment would compromise the integrity of the compensation program and engender unfounded fears among Vietnam veterans that lethal illnesses may yet befall them as a result of having answered duty's call. Our biding moral obligation to veterans who have given so much de-

mands that we act responsibly in all matters affecting the compensation program.

If the soft-tissue sarcoma presumption in H.R. 1961 were to be enacted, we estimate compensation benefit costs in fiscal year 1984 ranging from $2 million to $11 million, with the range for DIC benefits $3.5 million to $18.7 million. Benefit costs for future fiscal years would be comparable. A range of estimates is necessary because of uncertainty as to which malignancies are to be covered. Administrative costs would be sizable in the first fiscal year and are anticipated to be $6.2 million, but would level off during subsequent fiscal years to less than $600,000 in fiscal year 1988.

Costs relating to chloracne are estimated as insignificant. We can only speculate with regard to costs resulting from the inclusion of "chloracneform lesions."

As PCT is a relatively uncommon disorder, we would not anticipate benefit costs exceeding $1 million in any fiscal year from the PCT presumption.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

HARRY N. WALTERS,
Administrator.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

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PART II. GENERAL BENEFITS

CHAPTER	Sec.
11. Compensation for Service-Connected Disability or Death	301
13. Dependency and Indemnity Compensation for Service-Connected Deaths	401
14. Disability and Death Allowances for Certain Veterans and Survivors	*451*

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CHAPTER 14. DISABILITY AND DEATH ALLOWANCES FOR CERTAIN VETERANS AND SURVIVORS

Sec.
451. Agent Orange veterans and survivors.
452. Atomic veterans and survivors.
453. Rates of disability and death allowances.
454. Other benefits.
455. Termination of chapter.

§ 451. Agent Orange veterans and survivors

(a) In the case of a veteran who served on active duty in Southeast Asia during the Vietnam era and who after such service suffers from a disease described in subsection (b) of this section, the Administrator shall pay a disability allowance to the veteran and, if the veteran dies from such disease, a death allowance to the survivors of the veteran. Such allowances shall be paid at the rates prescribed in section 453 of this title.

(b) The diseases referred to in subsection (a) of this section are the following:

(1) Soft-tissue sarcoma becoming manifest within 20 years from the date of the veteran's departure from Southeast Asia.

(2) Porphyria cutanea tarda becoming manifest within one year from the date of the veteran's departure from Southeast Asia.

(3) Chloracne becoming manifest within one year from the date of the veteran's departure from Southeast Asia.

(c) Benefits may not be paid under this section with respect to a veteran—

(1) where there is affirmative evidence that the disease described in subsection (b) of this section was not incurred by the veteran during service in Southeast Asia during the Vietnam era; or

(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases described in subsection (b) of this section has been suffered between the date of the veteran's separation from service and the onset of such disease.

§ 452. Atomic veterans and survivors

(a) In the case of a veteran who while on active duty participated in the testing of an atomic bomb or device, or who while on active duty participated in the occupation of Hiroshima or Nagasaki during World War II, and who within 20 years from the date of the veteran's participation in the test or occupation suffers from a disease described in subsection (b) of this section, the Administrator shall pay a disability allowance to the veteran and, if the veteran dies from such disease, a death allowance to the survivors of the veteran. Such allowances shall be paid at the rates prescribed in section 453 of this title.

(b) The diseases referred to in subsection (a) of this section are the following:

(1) Leukemia.

(2) Polycythemia vera.

(3) Carcinoma of the thyroid.

(c) Benefits may not be paid under this section with respect to a veteran—

(1) where there is affirmative evidence that the disease described in subsection (b) of this section was not incurred by the veteran during service described in the first sentence of subsection (a) of this section; or

(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases described in subsection (b) of this section has been suffered between the date of the veteran's separation from service and the onset of such disease.

§ 453. Rates of disability and death allowances

A disability allowance payable to a veteran under this chapter shall be paid at the rates provided in chapter 11 of this title, based upon the degree of disability of the veteran attributable to the disease establishing eligibility for such allowance. A death allowance payable under this section to the survivors of a veteran shall be paid to such survivors based upon the eligibility requirements and rates applicable to payments under chapter 13 of this title.

§ 454. Other benefits

A disease establishing eligibility for a disability allowance under this chapter shall be treated for purposes of all other laws of the United States (other than chapters 11 and 13 of this title) as if such disease were service connected and receipt of a disability allowance under this chapter shall be treated for purposes of all other laws of the United States as if such allowance were service-connected compensation under chapter 11 of this title. Receipt of a death allowance under this chapter shall be treated for purposes of all other laws of the United States as if such allowance were dependency and indemnity compensation under chapter 13 of this title.

§ 455. Termination of chapter

This chapter shall terminate on the first day of the first month beginning after the end of the one-year period beginning on the date the Administrator submits to the appropriate committees of Congress the first report required by section 307(b)(2) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151).

* * * * * * *

ADDITIONAL VIEWS

The Veterans' Affairs Committee took an important first step in reporting an amended version of H.R. 1961. However, even with the passage of this legislation, questions relating to Agent Orange compensation will be considered for some time. Many veterans will continue to be frustrated by the inability of this legislation to meet their legitimate needs.

Two steps in our view would greatly address these concerns. One is the creation of an independent advisory committee to objectively analyze all new and existing scientific evidence pertaining to dioxin exposure. The second would create an open, public procedure by which the VA can clarify how much and what kind of proof is still necessary before additional Agent Orange claims can be approved. These proposals were offered in the form of an amendment to H.R. 1961 during Committee consideration of the bill. They were rejected on a 17–13 vote of the Committee.

Results from several scientific studies are expected in the months ahead which should reveal a great deal more about Agent Orange and its effects on humans. Yet, in the words of the Congressional Research Service the impact of these studies will be unclear, as "the VA has not established any formal criteria for how their policies might be altered by scientific findings." Therefore, the discovery of illness in a medical or scientific study could easily go ignored. The proposal offered in the Committee would have ensured that as these new studies are published there will be a certain and orderly process to determine study conclusions and their relevancy to veterans' compensation claims.

There is also a great deal of concern about the decision making process within the Veterans' Administration with respect to Agent Orange compensation. There are no standards or guidelines available by which the agency justifies its position that no illness, except chloracne, results from Agent Orange exposure. The Daschle/Smith amendment would have established a procedure by which the agency would provide justification for their decision with regard to compensation for various disease categories. Other Federal agencies such as the Environmental Protection Agency and Occupational Safety and Health Administration involved in assessing toxic chemical risk follow clear and established guidelines for making such determinations. It is a matter of sound public policy and we see no reason why the Veterans' Administration should be exempt from such a requirement.

After several days of hearings on H.R. 1961 it became abundantly clear that an Advisory Committee was necessary simply to sort out the conflicting viewpoints on the many scientific studies and their relationship to Agent Orange claims. Independent analysis of this information would ensure that viewpoints contrary to agency positions receive fair and expeditious consideration.

There are also distinct advantages in this approach for the Veterans' Administration. The VA Administrator ultimately selects Advisory Committee members, determines when they meet and whether or not compensation is even warranted. Agency decisions on compensation could be corroborated by Advisory Committee recommendations.

It is therefore our belief that as additional scientific studies are released, the Advisory Committee would have ensured fair and expeditious analysis of information directly relevant to Agent Orange claims. It is our hope that the Committee will renew consideration of these proposals during the second session of the 98th Congress.

TOM DASCHLE.
CHRISTOPHER SMITH.
ROBERT EDGAR.
MARCY KAPTUR.
MATTHEW MARTINEZ.
HARLEY STAGGERS, Jr.
JIM SLATTERY.
BILL RICHARDSON.
JOHN BRYANT.
FRANK HARRISON.
TIM PENNY.
LANE EVANS.

O

National

Twins sought for Vietnam study

Associated Press

Washington — The government is about to undertake a nationwide search for 30,000 veterans who are twins so it can compare the health of men who served in the Vietnam war with their brothers who did not.

The purpose: to see if anything in the Vietnam experience was damaging to servicemen's physical or emotional health or had a long-term effect on their re-adjustment as civilians.

All 15,000 pairs of fraternal and identical twins will be surveyed by mail. From the results, researchers will select for interviews, physical exams and close scrutiny 360 pairs of identical twins who split up during the war — one twin going to the war zone and one posted elsewhere.

Researchers hope the investigation will shed light on whether Agent Orange has damaged the health of men exposed to it, as thousands of veterans claim. Twelve million gallons of the plant killer, and its dangerous contaminant, dioxin, were sprayed during the war to reveal communist troops' hiding places and to destroy crops.

The study will also provide information on Post Traumatic Stress Disorder. It is a psychiatric syndrome similar to what older veterans called "battle fatigue" or "shell shock," but is said to be an even more serious problem for Vietnam veterans because of the hostile reception many encountered when they came home.

In addition, broader findings — into the entire relationship "between service in Vietnam and long-term health and socio-economic status" — are expected, according to the Veterans Administration.

"We believe that this study will provide the most sensitive means for detecting subtle effects of Vietnam service and will therefore justify the necessary considerable expenditure," Dr. Donald Custis, the VA's medical director, told a congressional subcommittee last year in outlining preliminary plans.

Since identical twins share the same genetic and environmental influences in their developing years, they provide an ideal group for comparison. Whatever health differences show up can likely be ascribed to the Vietnam experience.

The search for the twins will get under way April 1 and will probably take 2½ years and cost $480,000, the VA estimated in papers submitted to the Office of Management and Budget.

Under a paperwork-reduction law, OMB's approval is necessary before any government agency adds to the public's paperwork burden.

"Although the first use of this register will be to assess the effects of Vietnam service, the twin register will be an important national resource for future studies of the influence of inheritance and environmental factors on human disease," the VA told OMB.

The VA contracted with the National Academy of Sciences to conduct the research and the academy farmed out the survey work to the National Opinion Research Center at the University of Chicago.

Feasibility studies suggested it will not be hard to find enough twins.

The analysis showed there may be as many as 17,000 pairs in the American population in which one brother served in the war zone while his twin did not.

All told, it was found that there are 400,000 pairs of twins among the 25 million males born between 1939 and 1953 and that half of the twins are veterans.

Way cleared for Agent Orange trial

The Anchorage Daily News 2/15/84

The Associated Press

WASHINGTON — A Supreme Court justice refused Tuesday to interfere with a massive class action lawsuit against manufacturers of Agent Orange and other herbicides used by the U.S. military during the Vietnam War.

Justice Thurgood Marshall rejected an emergency request by the manufacturers that would have frozen certain pretrial proceedings and may have postponed the trial's scheduled May 7 starting date.

The trial is to be presided over by U.S. District Judge Jack Weinstein in New York City.

Potentially included in the class of plaintiffs are millions of individuals, including veterans of the U.S., Australian and New Zealand armed forces who served in Vietnam from 1961 to 1972, as well as their spouses, parents and children.

The suit charges that exposure to the dioxin contained in Agent Orange caused cancer, birth defects and numerous other maladies. Still pending before the full Supreme Court is an appeal by the chemical companies named as defendants.

Agent Orange study ongoing

ATLANTA (AP)—The Centers for Disease Control expects no findings from its year-old assignment to study Agent Orange until 1987, and even then the $75 million project might not show whether the herbicide harmed Americans in Vietnam, a researcher warns.

"It needs to be pointed out that at the end of a long and arduous and expensive investigation we may not come up with the answers we hope to come up with," said Robert Diefenbach, a public health adviser with the project.

An estimated 12 million gallons of the poison were sprayed in Vietnam to destroy jungle growth. The Veterans Administration, which has received more than 19,000 Agent Orange compensation claims from Vietnam vets, says there is no proof that exposure was harmful.

Veterans' groups maintain that exposure to Agent Orange causes cancer, liver disease and skin ailments and causes birth defects in the children of servicemen exposed to it.

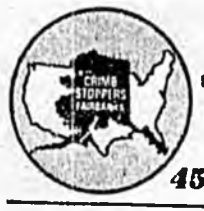
In January 1983, the VA turned over its investigation to the CDC.

The "research protocol"—the investigation's formal, detailed outline—is nearing final approval. But Diefenbach said there will be "no findings before 1987," and the study could take even longer.

"Our mandate is to find out what long-term health results there were," he said.

The CDC's study is in three phases: One on men exposed to the herbicide during the heavy spraying years of 1967 and 1968; a second into the long-term health effects of "simply having been in Vietnam" at the peak of American involvement in the war, between 1966 and 1971, and a third assessing the rates at which Vietnam vets are contracting "certain cancers," Diefenbach said.

For the first two parts of the investigation, the government will locate and study 30,000 subjects, split into five equal groups: Troops very likely to have been exposed to Agent Orange, men in the same time and place but probably not exposed, men serving in other areas of Vietnam during the spraying years, men serving in Vietnam during other times and men serving in the Army in the late 1960s but stationed in other countries.



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Daily-news Miner 2/17/84

98TH CONGRESS
2D SESSION

H. R. 1961

IN THE SENATE OF THE UNITED STATES

JANUARY 31 (legislative day, JANUARY 30), 1984
Received; and held at the desk pending further disposition pursuant to the order of January 30, 1984

AN ACT

To amend title 38, United States Code, to provide disability and death allowances to veterans and the survivors of veterans who served in Southeast Asia during the Vietnam era and suffer from diseases that may be attributable to exposure to the herbicide known as "Agent Orange" and to veterans and the survivors of veterans who participated in atomic tests or the occupation of Hiroshima and Nagasaki and suffer from diseases that may be attributable to ionizing radiation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vietnam Veterans Agent Orange Relief Act".

SEC. 2. The purpose of this Act is to provide certain benefits—

(1) to veterans and the survivors of veterans who served in Southeast Asia during the Vietnam era and suffer from diseases that may be attributable to exposure to Agent Orange; and

(2) to veterans and the survivors of veterans who participated in atomic tests or the occupation of Hiroshima and Nagasaki and suffer from diseases that may be attributable to ionizing radiation,

notwithstanding that there is insufficient medical evidence to conclude that such diseases are service connected.

SEC. 3. (a) Title 38, United States Code, is amended by inserting after chapter 13 the following new chapter:

"CHAPTER 14—DISABILITY AND DEATH ALLOWANCES FOR CERTAIN VETERANS AND SURVIVORS

"Sec.
"451. Agent Orange veterans and survivors.
"452. Atomic veterans and survivors.
"453. Rates of disability and death allowances.
"454. Other benefits.
"455. Termination of chapter.

"§ 451. Agent Orange veterans and survivors

"(a) In the case of a veteran who served on active duty in Southeast Asia during the Vietnam era and who after such service suffers from a disease described in subsection (b) of this section, the Administrator shall pay a disability allow-

ance to the veteran and, if the veteran dies from such disease, a death allowance to the survivors of the veteran. Such allowances shall be paid at the rates prescribed in section 453 of this title.

"(b) The diseases referred to in subsection (a) of this section are the following.

"(1) Soft-tissue sarcoma becoming manifest within twenty years from the date of the veteran's departure from Southeast Asia.

"(2) Porphyria cutanea tarda becoming manifest within one year from the date of the veteran's departure from Southeast Asia.

"(3) Chloracne becoming manifest within one year from the date of the veteran's departure from Southeast Asia.

"(c) Benefits may not be paid under this section with respect to a veteran—

"(1) where there is affirmative evidence that the disease described in subsection (b) of this section was not incurred by the veteran during service in Southeast Asia during the Vietnam era; or

"(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases described in subsection (b) of this section has been suffered between

the date of the veteran's separation from service and the onset of such disease.

"§ 452. Atomic veterans and survivors

"(a) In the case of a veteran who while on active duty participated in the testing of an atomic bomb or device, or who while on active duty participated in the occupation of Hiroshima or Nagasaki during World War II, and who within twenty years from the date of the veteran's participation in the test or occupation suffers from a disease described in subsection (b) of this section, the Administrator shall pay a disability allowance to the veteran and, if the veteran dies from such disease, a death allowance to the survivors of the veteran. Such allowances shall be paid at the rates prescribed in section 453 of this title.

"(b) The diseases referred to in subsection (a) of this section are the following:

"(1) Leukemia.

"(2) Polycythemia vera.

"(3) Carcinoma of the thyroid.

"(c) Benefits may not be paid under this section with respect to a veteran—

"(1) where there is affirmative evidence that the disease described in subsection (b) of this section was not incurred by the veteran during service described in the first sentence of subsection (a) of this section; or

"(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases described in subsection (b) of this section has been suffered between the date of the veteran's separation from service and the onset of such disease.

"§ 453. Rates of disability and death allowances

"A disability allowance payable to a veteran under this chapter shall be paid at the rates provided in chapter 11 of this title, based upon the degree of disability of the veteran attributable to the disease establishing eligibility for such allowance. A death allowance payable under this section to the survivors of a veteran shall be paid to such survivors based upon the eligibility requirements and rates applicable to payments under chapter 13 of this title.

"§ 454. Other benefits

"A disease establishing eligibility for a disability allowance under this chapter shall be treated for purposes of all other laws of the United States (other than chapters 11 and 13 of this title) as if such disease were service connected, and receipt of a disability allowance under this chapter shall be treated for purposes of all other laws of the United States as if such allowance were service-connected compensation under chapter 11 of this title. Receipt of a death allowance under this chapter shall be treated for purposes of all other laws of

the United States as if such allowance were dependency and indemnity compensation under chapter 13 of this title.

"§ 455. Termination of chapter

"This chapter shall terminate on the first day of the first month beginning after the end of the one-year period beginning on the date the Administrator submits to the appropriate committees of Congress the first report required by section 307(b)(2) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96–151).".

(b) The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, are amended by inserting after the item relating to chapter 13 the following new item:

"14. Disability and Death Allowances for Certain Veterans and Survivors ..... 451".

SEC. 4. This Act shall take effect on October 1, 1983. No benefit may be paid for any period before such date by reason of the enactment of this Act.

Passed the House of Representatives January 30, 1984.

Attest: BENJAMIN J. GUTHRIE,

Clerk.

AGENT ORANGE

50 percent 2,4-D (2,4-dichlorophenoxyacetic acid)
50 percent 2,4,5-T (2,4,5-trichlorophenoxyacetic acid)

From 1962 to 1971, approximately 18.85 million gallons of herbicide compounds were applied over more than five million acres of Vietnam. Agent Orange accounted for more than 11.22

The phenoxy herbicides, 2,4-D and 2,4,5-T, are contaminated with dioxins, unavoidable by-products formed during the manufacturing process.

The contaminant of 2,4-D, HCDD (hexachlorodibenzo-p-dioxin), has been found to be teratogenic (causing birth defects) and fetotoxic (causing fetal deaths) in laboratory animals at the parts per million and billion levels.

The contaminant of 2,4,5-T, TCDD (2,3,7,8-tetrachlorodibenzo-p-dioxin), is not only a more powerful teratogen and fetotoxin, but has caused death, damage to liver, kidney and heart, deterioration of bone marrow and lymphoid tissue, thymic atrophy, cellular alterations, genetic damage, and cancer in laboratory animals at the parts per billion and trillion levels.

Over 40 million pounds of phenoxy herbicides are applied annually over millions of acres across the United States for killing weeds and unwanted vegetation on rangeland, pastureland, forestland, rights-of-way, crops, and home gardens. 2,4-D and 2,4,5-T are the most widely used.

Workers exposed to dioxin in trichlorophenol and other chlorophenol plants have suffered from a skin disease known as chloracne since the mid-1930's. The severity of chloracne ranges from acne-like boils to disfiguring, burn-like lesions. Other symptoms of dioxin poisoning suffered by these workers include damage to liver and other internal organs, nervous disorders, memory and concentration disturbances, loss of sight and hearing, numbness in the extremities, fatigue, headaches, dizziness, insomnia, loss of sex drive, extreme weight loss, depression, serious psychological disturbances, and cancer.

In the United States, commercial applications of 2,4,5-T have caused skin rashes, intestinal disorders, damage to internal organs, nervous disorders, memory and concentration disturbances, numbness in the extremities, headaches, dizziness, fatigue, chronic illnesses, miscarriages, spontaneous abortions, birth deformities, and cancer in humans living in sprayed areas.

Application of Agent Orange in Vietnam was approximately 13 times more concentrated than commercial application levels in the United States. The level of dioxin contamination in in 2,4,5-T used in the United States averages 0.03 ppm; in Vietnam, contamination levels ranged from 1.0 ppm to 50.0 ppm. The concentration of dioxin, as applied in Vietnam, was approximately 500 times more concentrated than commercial applications used in the United States. More than 360 pounds of TCDD were deposited over Vietnam.

Since the mid-1960's, Vietnam has experienced an alarming increase in the rate of stillbirths, miscarriages, spontaneous abortions, birth abnormalities, birth deformities, and various cancers. Liver cancer, almost unheard of before the war, is now the second-leading form of cancer there.

TCDD is one million times more fetus-deforming than thalidomide, its level of toxicity is such that one ounce can kill 800,000 people.

An estimated 2.8 million veterans served in Vietnam, as well as thousands of civilian personnel. Thus far, thousands are known to be suffering from a variety of symptoms, including skin rashes, damage to liver, kidney, heart, and other internal organs, lymphatic diseases, nervous disorders, memory and concentration disturbances, loss of sight and hearing, numbness in the extremities, fatigue, chronic illnesses, headaches, dizziness, insomnia, loss of sex drive, extreme weight loss, severe depression, serious psychological disturbances, and various cancers. The women who served and the wives of those who served have suffered an unusual rate of miscarriages and spontaneous abortions. Their children have been affected by an unusual number of birth defects.

References:

"Agent Orange: Vietnam's Deadly Fog", WBBM-TV (CBS) Chicago, March 23, 1978

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Courtney, C.D. and J.A. Moore, 1971. Teratology studies with 2,4,5-trichlorophenoxyacetic acid and 2,4,7,8-tetrachlorodibenzo-p-dioxin. Toxicol. Appl. Pharm., 20(3):396-403.

Evaluation of Carcinogenic, Teratogenic and Mutagenic Activities of Selected Pesticides and Industrial Chemicals. Prepared by Bionetics Research Labs under contract with the National Cancer Institute, 1968.

Gupta, B.N., et al, 1973. Pathologic effects of 2,3,7,8-tetrachlorodibenzo-p-dioxin in laboratory animals. Environmental Health Perspectives, 5:124-140.

"Health Effects of Exposure to Herbicide Orange in South Vietnam Should Be Resolved", Report by the Comptroller General of the United States, General Accounting Office, April 6, 1979.

"The Politics of Poison", KRON-TV San Francisco, April 25, 1979.

Whiteside, T., "The Pendulum and the Toxic Cloud", The New Yorker, July 25, 1977.

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Agent Orange Veterans'
Advisory Committee
944 Market, Suite 500
San Francisco, CA 94102

February 29, 1984

TO: Representative Mitch Abood

Chairman, House State Affairs Committee

FROM: Representative John Ringstad

Co-Chairman, House Resources Committee

RE: HJR 64

I feel that the veterans mentioned in H.R. 1961 should receive the disability and death benefits which would be accorded to them in compliance with Title 38, Chapters 11 and 13.

This bill states that veterans who served in Southeast Asia during the Vietnam "era" would be eligible effective October 1, 1983, for a temporary disability (or death) allowance if they later suffered from one of three conditions: soft-tissue sarcoma, PCT (a liver condition), and/or chloracne (a skin condition). Monetary benefits would be paid at the rates prescribed in Chapters 11 and 13 of Title 38 of the U.S. Code.

Benefits would terminate one year after Congress receives the epidemiological study, now being conducted by the Centers for Disease Control in Atlanta, Ga. Experts say that will occur in late 1987 or 1988.

As of October 1, 1983, 18,518 claims had been filed with the VA for disorders veterans attributed to Agent Orange. Of these half had disabilities.

Under current VA policy, disability claims not presently covered by that agency will depend on the studies now underway or pending. A spokesman for the VA has told Congress that it may well be that "the Congress cannot wait for scientific answers in the short term..."

The scientific experts agree that there is no question of the toxicity of dioxin. It is one of the most highly toxic substances known to the scientific community, but its toxicity for humans is unknown.

In deciding to back this Joint Resolution, I have reviewed statements by Dr. Luke G. Tedeschi, forensic scientist and Director of Laboratories at Framingham Union Hospital in Framingham, Mass.; and Major Alvin Young, Ph.D., plant physiologist and special assistant for Environmental Sciences, Agent Orange Projects Office of the Veterans Administration. These two men are believed by the scientific community to be the foremost authorities in the U.S. on Agent Orange.

The immediate or acute affects of dioxin (the contaminant) in Agent Orange are well-known and involve chloracne, liver ailments and neurological disorders. It is the long-term or chronic effects of dioxin which are not known.

Should our Vietnam veterans and the veterans of the World War II era have to wait and suffer for years until something is done?

There are specific ailments which this bill covers:
For Vietnam veterans disability and death allowances are constrained to chloracne, soft-tissue sarcoma and PCT- a liver disease.
For those veterans who participated in atomic tests or the occupation of Hiroshima and Nagasaki allowances are limited to leukemia, polycythemia vera, a rare disease of the bone marrow and to carcinoma of the thyroid.

The survivors of these veterans are then entitled to benefits according to Title 38, Chapters 11 and 13.

What concerns many veterans even more than their own conditions is the thought that Agent Orange (dioxin) could be teratogenic. There is no proof presently that dioxin is or is not teratogenic.

The scientists of our time have not yet disentangled the Agent Orange chain. Evidence that something is not right is the list of accidents and exposures of people to dioxin.

More than 70 workers at the Midland, Mich. plant of Dow Co. in 1964 suffered chloracne (the hallmark of dioxin exposure), fatigue, lassitude, depression, skin eruptions and weight loss.

On June 10, 1976, in Seveso, Italy, an explosion showered those in several adjacent communities with a cloud of dioxin.

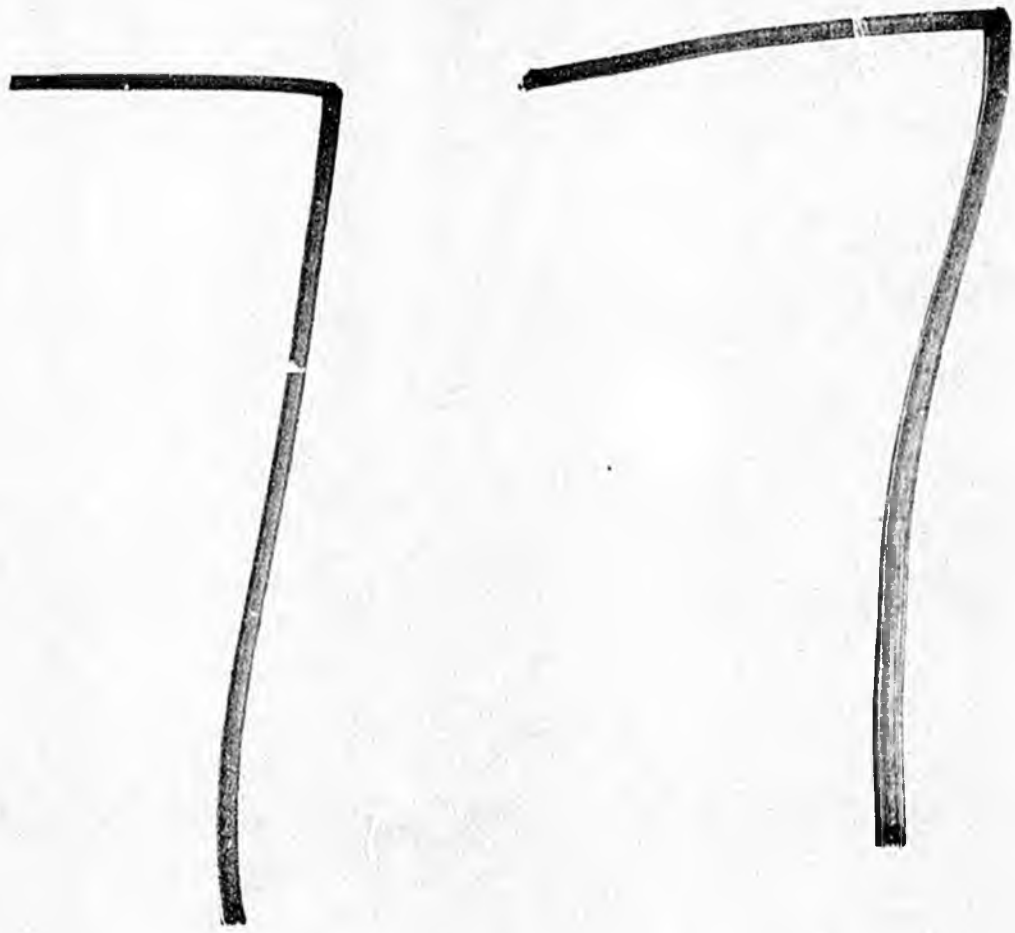
IN 1949, an explosion at a Monsanto Co. plant in Nitro, W.V. involved 228 workers. According to Tedaschi, the workers complained of the same symptoms as those that the Vietnam veterans would complain of several decades later. They included chloracne, shortness of breath, intolerance to cold, tender liver, loss of sensation, fatigue, nervousness, depression, irritability, insomnia and vertigo.

There have been other incidents. The veterans wonder why Times Beach, Mo., and not Vietnam? They are referring to the buy-out of Times Beach

by the federal government and the refusal of the federal government to acknowledge their exposure to dioxin.

I feel by backing House Joint Resolution 64, the Alaska State Legislature can send a message to our veterans that we care. Incidentally, Alaska has the most Vietnam veterans per capita in the U.S.


HJR



STATE OF ALASKA

HUMAN RIGHTS COMMISSION

BILL SHEFFIELD, GOVERNOR

431 WEST 7TH AVENUE
SUITE 105
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-7474

August 24, 1983

Representative Jerry Ward
P.O. Box 2716
Anchorage, AK 99510

Dear Representative Ward:

This is in reply to your request for information from our agency on March 10, 1983. Mark Ertischek, the Hearing Advocate and Acting Executive Director at the time of your request, assigned this response to a staff member who left the Commission in April. Quite frankly, Mr. Ward, it appears that your information request was lost in the transition between staff members. Please accept my apology for this oversight. I will attempt to answer your questions at this time as best I can.

1. You asked about the average time delay between the time a complaint is filed and the time an investigator is assigned. In general, at the time a complaint is filed, it is reviewed by the Regional Director of the investigative unit and where appropriate a resolution conference is scheduled and an investigator assigned to the case. Therefore, there should be approximately two weeks between the complaint filing and the scheduling of the conference on most cases. Due to limited staffing, there is however a delay of one to two months between the filing of the complaint and the date of the resolution.

2. You asked about the average length of time before an investigation is completed. I cannot give you an average time on all open cases before the Commission at this time; however, the Equal Employment Opportunity Commission (EEOC) keeps records on the Alaska Commission's average processing time of EEOC case resolutions in federal FY 83. The average processing time recorded by EEOC in June, 1983 was 295 days.

3. In general cases are assigned on a first come, first serve basis. This means that an early resolution of cases is attempted soon after filing (unless the case is inappropriate for a resolution conference). Your question whether priority is given to cases where complainant shows "irreparable harm" as in the instance of a case of firing in retaliation for filing a complaint. In some respects, irreparable harm exists whenever a person is discriminated

against. Under our statutes, the Alaska Commission cannot award compensation for suffering the humiliation of discrimination. However, the Commission is able to award "make whole" relief which in a discharge case would include backpay from the date of discrimination to the time when the agreement is signed or even in some instances frontpay until the complainant is awarded a job of equal value either by the discrimination or other employers. In all cases in which jobs are lost or denied, the complainant has an obligation to mitigate damages by seeking other jobs for which they are qualified.

To respond to your question directly, we do not give priority to cases of irreparable harm such as you have described.

4. These year end statistics are compiled from our annual report for the years 1975-1982 inclusive:

Calendar Year	Complaints Filed	Complaints Closed	Complaints Unassigned for Investigation
1975	646	434	322
1976	777	589	488
1977	603	638	422
1978	406	534	241
1979	305	417	104
1980	278	377	123
1981	233	261	97
1982	292	319	128

I am also including for your information the latest case processing statistics from our quarterly meeting in Kodiak on July 28 and 29th. I feel certain that if you look carefully at the report you will note the growing number of cases over 180 days in process. I previously communicated to you our concern about the age of our cases and expressed to you in that letter our goal of completing most cases within 180 days. It seems likely that under the present staffing pattern we will be unable to reach that goal.

The Human Rights Commission has experienced underfunding in personal services over the last five years and in fact, in FY 83, was forced to leave one position vacant during the entire fiscal year. In FY 84, our staff has been reduced to 25 employees. The forecast for FY 85 is even more gloomy since our programs is personal services intensive and a decrease in funding is being predicted. Our FY 85 Budget Submission will include proposals to eliminate 1 - 3½ positions at the 95% - 85% service levels. When faced with decreased funding, we have no alternative but to cut positions.

I hope that this reply is responsive to your inquiry. I would be pleased to schedule a time to discuss your concerns in person at your convenience.

Sincerely,

Janet L. Bradley
Executive Director

JLB:lv
Enclosure

HJR 77 Allows:

Continued operations of the Federal Surplus Property Program under P.L. 94-519.

The program is administered by the Department of Administration, Division of General Services & Supply, under authority of AS 44.71.020-.040, and is 100% self sustaining as required by law.

During the past two fiscal years (FY 82 and FY 83), this program provided:

equipment and supplies with original values exceeding 4.5 million dollars at a total client cost of approximately 360,000, or less than 8% of original costs.

Of the 4.5 million, approximately 3.65 were received by State and other public agencies, 78,000 by non-profit health and 774,000 to public non-profit education.

The program provides the only avenue by which state and other public agencies may obtain surplus Federal equipment and supplies, frequently being the determining factor in whether or not a recognized public need can be addressed.

Failure to pass this resolution and adopt this permanent plan will result in immediate suspension of the program by the Federal government, loss of program benefits to the residents of Alaska, termination of at least six self-sustaining half-time jobs and loss of an unknown number of projects sustained by the program.

5/11D1/0508-01

MEMORANDUM State of Alaska

TO: Arthur H. Peterson
Assistant Attorney General
Office of the Attorney General

DATE: April 24, 1984

FILE NO:

TELEPHONE NO: 465-2167

FROM: Robert W. Head, Sr.
Property Manager
State and Federal Property
Division of General Services & Supply
Department of Administration

SUBJECT: Resolution on Federal Surplus and AG File 377-142-84

THRU: Rebecca Burch
Special Assistant
to the Commissioner
Department of Administration

I have reviewed the attached draft of the resolution addressing the Federal Surplus Property program with Mr. W. W. Gunn of GSA's Region 10 office.

We find nothing that would seem to require revision, and Mr. Gunn is conducting research to address your concerns regarding authorship and legitimacy of the June 30, 1984 deadline declaration, by GSA.

Additional information should be available within a day or two.

RWH/cjk
Attachment
20/11D2/0424-02

MEMORANDUM State of Alaska

TO: Robert W. Head, Sr.
Property Manager, State & Federal Property
Division of General Services & Supply
Department of Administration

DATE: April 20, 1984

FILE NO: 377-142-84

TELEPHONE NO: 465-3600

SUBJECT: Attached draft resolution, etc., re federal surplus property

FROM: Norman C. Gorsuch
Attorney General

By: Arthur H. Peterson
Assistant Attorney General

Attached are copies of the drafts of the resolution, the cover memo to the governor, and the transmittal letter to the legislature. Please review these items, phone the feds if you think it appropriate or advisable, and return your comments to me soon so that the package can be put in final form and delivered to the governor within a few days.

AHP/jb

Attachments

02-001A(Rev. 10/79)

MEMORANDUM State of Alaska

TO: A.M. "Bud" Saylors
Deputy Director
Department of Administration
Division of General Services & Supply

DATE: April 16, 1984

FILE NO:

TELEPHONE NO: 465-2283

FROM: Robert W. Heak, Sr.
Property Manager, State
& Federal Property
Department of Administration
Division of General Services & Supply

SUBJECT: Status of PL 94-519

Telephone conversation with B. Losche, G.S.A., Auburn, Washington, indicates there has been no action that might supercede Public Law 94-519.

RWH/dn

MEMORANDUM State of Alaska

TO Ben Harding, Special Assistant
Office of the Governor

DATE: September 15, 1983

FILE NO: 657

TELEPHONE NO: 465-3562

FROM Jay A. Hogan, Associate Director
Office of Management and Budget
Division of Governmental
Coordination

SUBJECT: CTS 3251559

This memorandum is in response to the letter from the Federal General Services Administration (GSA) that you forwarded to this office.

The Division of General Services and Supply, Department of Administration, is aware of the Federal requirement to develop and achieve legislative approval for a permanent plan of operation for the transfer of surplus Federal property to the State of Alaska. The Division, with the approval of Commissioner Rudd and the Office of the Governor, intends to introduce a bill to the 1984 legislative session in order to meet the Federal requirements.

The Division of General Services and Supply has well-established channels of communication with the GSA. A copy of GSA's letter has been forwarded to the Director of the Division, Mr. Bob Link. The Division will prepare a reply to the GSA letter.

sa

cc/attachment: Bob Link, Director, Division of General Services and Supply, Department of Administration
Rebecca Burch, Special Assistant to the Commissioner, Department of Administration

Bob

02-001A(Rev.10/79)

General Services Administration
Federal Supply and Services
Washington, DC 20406

CTS# 325155-1

RECEIVED
SEP 07 1983
GOVERNOR'S OFFICE

AUG 30 1983

Honorable William Sheffield
Governor of Alaska
State Capitol
Juneau, Alaska 99801

Dear Governor Sheffield:

The Federal Property and Administrative Services Act of 1949, as amended, which governs the transfer for donation of Federal surplus personal property to the States, requires that each State submit a permanent plan of operation for its State Agency for Surplus Property (SASP). The Director of your State agency was advised on January 5, 1982, (copy enclosed) that the deadline for submission of permanent plans is June 30, 1984. We are bringing this matter to your attention at this time as failure to submit the required plan could necessitate our deferring further allocations of property to your State.

Your review of this matter and a reply by November 15, 1983, assuring us that we will receive the permanent plan prior to June 30, 1984, will be appreciated.

Sincerely,

J. A. MITCHELL
Assistant Administrator

Enclosure

OFFICE OF
MANAGEMENT & BUDGET
SEP 09 1983
GOVERNMENTAL
COORDINATION

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF GENERAL SERVICES AND SUPPLY

Bill Sheffield, Governor

POUCH C (MS-0210)
JUNEAU, ALASKA 99811
(907) 465-2167

September 14, 1983

Mr. W. W. Gunn
General Services Administration
Personal Property Management Branch
Code 10FB-P
Auburn, WA 98002

Dear Mr. Gunn:

Enclosed you will find the "finished" State plan, revised to reflect the suggestions/recommendations you so generously offered.

Unless you find reasons for additional revision, we will plan on submitting this version to the Legislature shortly after they convene.

If you do find areas that need further revising/refining, please feel free to express your thoughts for consideration.

The assistance and cooperation you have extended in this project is genuinely appreciated.

Sincerely,

Robert W. Head, Sr.
State Property Manager

RWH/sn
N/11D1/0912-02
Enclosure

TELECOPIER NUMBER 465-2189

State of Alaska
Permanent Plan of Operations

1. AUTHORITY

The Department of Administration, State of Alaska, is authorized by Sections 44.71.020 - 44.71.040 of the Alaska Statutes to acquire, warehouse, and distribute surplus property to all eligible donees in the State, to enter into cooperative agreements pursuant to the provisions of Federal Property Management Regulations (FPMR) 101-44.026, and to undertake actions and provide additional assurances as set forth in the plan.

Sixty (60) calendar days prior to submission of this plan to the Administrator of General Services (GSA), general public notice of the proposed plan was published and interested parties were given a period of thirty (30) calendar days in which to submit comments. These comments, together with a delineation of the relative needs and resources of all public agencies and other eligible donees were taken into consideration in the development of this plan.

2. DESIGNATION OF THE STATE AGENCY

The plan shall be administered by the State and Federal Property Management Section, Division of General Services and Supply, Department of Administration. The Section, hereinafter called the State agency, has complete responsibility and authority to carry out the requirements of acquiring, warehousing, and distributing Federal surplus property in the State of Alaska, pursuant to the provisions of Federal Property and Administrative Services Act of 1949, as amended (the Act). The Section is administered by the Property Manager, State and Federal Property, and supervised by the Section Supervisor. Staffing structure is shown in Attachment A, physical facilities are described in Attachment B.

3. INVENTORY CONTROLS AND ACCOUNTING SYSTEMS

A. Inventory Controls

(1) Immediately upon arrival at the warehouse, property will be moved into the receiving area for check-in. If personnel are not immediately available, the property will be held in a protected area until it can be checked in. Shipping documents, and the applicable SF 123 and its attachments, will be used to check and identify property. Overage and shortage reports and SF 123's will be prepared in accordance with the requirements of the Federal Property Management Regulation (FPMR) 101-44.115 and mailed to the GSA regional office. Upon verification of the description, condition, and quantity of the property, a warehouse property tag will be prepared and attached to the item, or the item will be otherwise physically marked or binned, to identify it as follows:

(a) Application number
(b) Item number
(c) Description, including serial number, if known.
(d) Unit of issue
(e) Unit service and handling charge

(2) Following verification of received information, stock records will be prepared on all items having an individual acquisition cost of $10.00 or more. All action, including receipt, issue and inventory status, will be recorded on this card. The stock record card will be retained in file for three years after the property has been issued.

(3) A complete physical inventory of all material in possession of the State agency will be taken annually. Shortages and overages will be listed on the annual inventory report. This report will be used to record inventory adjustments and must be approved by the supervisor before posting to stock cards. Adjustments will be made only when all reasonable efforts have been exhausted to determine the reason for variance. A letter to this effect, signed by the supervisor, will be attached to the completed inventory documents.

B. Accounting Systems

A State approved double entry accounting system will be used. It will include a chart of accounts, a general ledger with accounts for all assets, liabilities, income and expense and journals for all original record of transactions. It will identify and separately account for funds accumulated from service charges. Monthly and fiscal year-end reports will be provided for management visibility and program control.

4. RETURN OF DONATED PROPERTY

A. When a determination has been made that property has not been put in use by a donee within one year from the date of receipt of the property, or when the donee has not used the property for one year thereafter under the terms and conditions of the Application Certification and Agreement Form signed by the Administrative Officer or other authorized representative of the donee as a condition of eligibility and repeated on the reverse side of each Issue Document, the donee, if property is still usable as determined by the State agency must:

(1) Return the property at its own expense to the State agency warehouse, (or)

(2) Retransfer the property to another eligible donee as directed by the State agency, (or)

(3) Make such other disposal of the property as the State agency may direct.

B. The State agency will periodically emphasize this requirement when corresponding and meeting with donees and when surveying the utilization of donated property at donee facilities. Property returned by a donee will be received into inventory stock control for reissuance to other donees.

5. FINANCING AND SERVICE CHARGES

A. A revolving fund, established by legislative action, finances the acquisition and distribution of surplus federal property. This fund is maintained by the collection of service and handling charges and is designed to pay the actual expenses of current operations, to purchase necessary equipment, and to maintain a working capital reserve.

B. Service charges will be based on the prorated preceding fiscal year expenses incurred by the agency, including but not limited to the following major cost areas: personnel, transportation, utilities, fuels, telephone, warehousing and storage, compliance, insurance, printing, supplies and travel. Service charges will be assessed at a rate designed to cover all costs involved in the acquisition and distribution of surplus property.

The service charges will be fair and equitable in relation to the service performed. Emphasis will be placed on keeping the service charge to a minimum but at the same time providing the necessary service and to operate the agency on a sound financial basis. Other factors considered in determining service charges include original acquisition cost, present value, screening cost, quantity, condition, desirability of property, transportation cost, loading and unloading cost, packing and crating, administrative cost, repair and

rehabilitation, utilization and compliance audits, and delivery to donees when required.

As a general guide based on the above listed factors and following exceptions, the following schedule is to be used in determining service charges:

Percent	Original Acquisition Cost
0 - 40	$ 0 - 200
0 - 20	$ 201 - 4,000
0 - 15	$ 4,001 - 15,000
0 - 10	$15,001 - upward

(not to exceed $10,000 per any one item)

Exceptions - special or extraordinary cost may be added to the service charge if not calculated as part of the above. Any such costs which are anticipated will be discussed with the donee prior to issue and/or shipment. Consideration may be given to:

(1) Rehabilitated property - direct costs for rehabilitating property.

(2) Overseas property - additional direct costs for returning the property to the United States.

(3) Long-haul property - charges for major items with unusual loading, unloading, or hauling costs.

(4) Special handling - for dismantling, packing, crating, shipping, delivery, and other extraordinary handling charges.

(5) Screening - extraordinary costs incurred in screening.

C. If the working capital reserve should reflect an excessive amount, service charges will be adjusted downward until an even balance is realized. In the event the program is terminated, assets will be converted to cash and will be divided among the participating donees of the preceding twelve months, based on a proration of the amount of service charges paid by each donee during that period.

D. Minimum service charges may be assessed in cases where the State agency provides minimum services and no direct costs are involved. These charges reflect the basic costs of document processing as well as the administrative costs of the State agency.

When the self-service donee screens and picks up his own property, the optional minimum charges will be not less than $50.00, plus $2.00 for each line-item beyond one. If the donee is notified of the availability of property by a special notice issued by the Agency, there shall be an additional charge of $5.00.

When the donee picks up property at the holding agency, the normal service charge may be reduced to reflect the savings realized by the Alaska Surplus Property Management Section by not having to transport the property.

When an item issued to a self-service donee is subject to Federal restrictions and mandatory compliance inspections, there shall be added to the minimum charge the estimated cost of such inspections. Subject to Federal regulations, compliance reviews may be made by having the donee submit a written report stating that the property is in use and what it is being used for, thus eliminating mandatory on-site visits. In this event, here shall be an additional charge of only $10.00 multiplied by the number of such reports required.

When services of special screening or consultation are requested by the self-service donee and performed by the Agency, the charge for such services shall be $20.00 per hour for each employee assigned to provide such special service, calculated to the nearest half-hour increment, with a minimum of one half-hour per person assigned. Travel, per diem and other direct costs may be added to the charge.

E. Service charge funds remitted by donees will be used for the operation of the Agency and the benefit of the participating donees, and for no other purpose. All service charges will be used only to fund the cost of State Agency operations and, subject to State law, to improve or acquire office and warehousing facilities, purchase necessary equipment and supplies, and to repair and rehabilitate equipment, including purchase of replacement parts.

6. TERMS AND CONDITIONS ON DONABLE PROPERTY

A. (1) The State agency will require each eligible donee, as a condition of eligibility, to file with the agency an Application Certification and Agreement Form outlining the certifications and agreements, and the terms, conditions, reservations and restrictions under which all Federal surplus personnel property will be donated. Each form must be signed by the Chief Executive Officer of the donee agreeing to these requirements prior to the donation of any surplus property. The certifications and agreements, and the terms, conditions, reservations and restrictions will be printed on the reverse side of each State agency issue document. The issue documents are included in part 14, "Forms", of this plan.

(2) The following periods of restriction are established by the State Agency on all items of property with a unit acquisition cost of $3,000 or more, and on all passenger motor vehicles.

(a) All passenger motor vehicles: 18 months from the date the property is placed in use.

(b) Items with a unit acquisition cost of $3,000 or more: 18 months from the date the property is placed in use.

(c) Aircraft (except combat type) and Vessels 50 feet or more in length, with a unit acquisition cost of $3,000 or more: 60 months from the date the property is placed in use. Such donations shall be subject to the requirements of the Conditional Transfer Document, Enclosures 14.3 and 14.4.

(d) Aircraft, combat type: restricted in perpetuity. Donation of combat type aircraft shall be subject to the requirements of a Conditional Transfer Document, Enclosure 14.2.

(3) The State agency may reduce the period of restriction on items of property falling within the provisions of Paragraph 6a (2), (b) and (c) at the time of donation for good and sufficient reason such as the condition of the property, or the proposed use (secondary, cannibalization, etc.), but in no case shall the period of restriction be less than the 12 months from the date the property is put into use.

(4) The State agency, at its discretion and when considered appropriate, may impose such terms, conditions, reservations and restrictions as it deems reasonable on the use of donable property other than passenger motor vehicles and items with a unit acquisition cost of over $3,000 or more.

B. (1) The State agency may amend, modify, or grant release of any term, condition, reservation, or restriction it has imposed on donated items of personal property in accordance with prescribed standards provided that the conditions pertinent to each situation have been affirmatively demonstrated to the prior satisfaction of the State agency and made a matter of public record.

(2) The State agency will impose on the donation of any surplus item of property, regardless of unit acquisition cost, such conditions involving special handling or use limitations as the General Services Administration may determine necessary because of the characteristics of the property.

(3) The State agency will impose on all donees the statutory requirement that all items donated must be placed into use within one year of donation and be used for one year after being placed in use, or returned to the State agency, while the property is still usable, or otherwise handled in accordance with the provisions of Part 4 of the plan.

7. NONUTILIZED DONABLE PROPERTY

A. (1) All property in the possession of the State agency for 18 months, which cannot be utilized by eligible donees shall be reported to the General Services Administration for disposal authorization in accordance with FPMR 101-44.205. In accordance with this regulation the State agency shall:

(a) Transfer the property to another State or Federal agency, OR

(b) List the property for public sale by (or with approval of) the GSA, OR

(c) Abandon or destroy the property (on receipt of GSA approval).

(2) In the event of disposal by transfer to another agency or by public sale, the State agency may seek such reimbursement as is authorized in accordance with FPMR 101-44.205.

8. FAIR AND EQUITABLE DISTRIBUTION

The State agency will make property available to the eligible donees in the State on a fair and equitable basis. When eligible donees indicate an interest in property it will be distributed on a fair and equitable basis, considering their need, resources and ability to utilize the property.

A. Advisory bodies and public and private groups may submit information to assist the Alaska Surplus State agency in determining the relative needs and resources of donees, utilization of property by donees, and distribution of property to fill existing needs.

This information may be communicated in writing or orally at any time by the bodies or groups. Once the State agency knows of these bodies or groups and their areas of interest, the Agency will contact the appropriate bodies or groups, either in writing or orally, when deemed necessary to carry out the intent of the program.

Such bodies and groups will be invited to submit expressions of need and interest to the Agency, which will in turn forward such submissions to GSA.

Factors considered in determining relative needs, resources and ability to utilize the property will include:

(1) Relative needs

In considering the request of potential recipients, the criteria for determining the relative needs will include:

(a) Size and type of program conducted.
(b) Contemplated use and frequency of use.
(c) Economic condition of agency, activity or institution.
(d) Critical or urgent need.
(e) Geographical location (urban, suburban or rural).
(f) Interest and expression of need on the part of the donee in the property available.

(2) Relative resources

In considering the request of potential recipients, the criteria for determining relative resources will include:

(a) Funding source and availability (grants, donations, taxes, etc.).

(b) Feasibility of acquisition from other source(s).

(3) Ability to utilize.

In considering request of potential recipients, the criteria for evaluating ability to utilize property will include:

(a) urgency of the need
(b) When item can be put in use.
(c) Length of time in contemplated usage.
(d) Availability of funds to repair or maintain property in use.
(e) Ability of the donee to select and remove property from the distribution center or Federal activity on a timely basis.

(f) Type and quantity of property received by the donee to date, and proper utilization of such prior acquisition(s).

B. (1) The State agency operates a distribution center to serve the eligible donees in the distribution of available property. To insure that eligible donees located a greater distance from the distribution center will receive equity in the distribution of desirable items, all donees are invited to submit a listing of major items needed such as, vehicles, construction equipment, materials handling equipment, machine tools, generators, air compressors, business machines, boats, aircraft, large electronic and scientific type items, etc. The agency employees will be guided by these requests in their research and selection of property. This equipment (major items) will be distributed on the basis of need, resources, and ability to utilize the property as outlined in Section A. above. The distribution center is open for donees to visit seven and one half hours per day, five days a week, excluding recognized State holidays.

(2) Small miscellaneous items will be available on a supermarket plan, with quantity limits to any one donee depending upon the total quantity on hand.

(3) Periodically, special notices will be mailed to donees listing property available for distribution.

a) Frequency of such notices will be determined by agency workload and accumulations of available inventory.

C. The State agency will recommend to General Services Administration the certification of donee screeners determined to be qualified and needed in accordance with FPMR 101-44.116. The State agency will, insofar as practical, economical, and considering equitable distribution among its donees, select that property requested by the donees, and agency will arrange for direct pickup or shipment of the property to the donee if requested to do so.

D. Donees that experience a local disaster or loss of property due to fire, flood, tornado, etc. will temporarily be given priority for all requested items of property. Special efforts will be made to locate and distribute needed property to them.

E. Where competing requests are received for property items, the State agency will make a determination as to the recipient based on the evaluation of the criteria in paragraph A. above.

9. ELIGIBILITY

A. (1) The State agency will attempt to contact and instruct all known potential donees in the State on the procedures to follow to establish their eligibility for participation in the Federal surplus property program. In establishing a listing of the potential donees, the State agency will use the following standards and guidelines set forth in FPMR 101-44.207 as well as the following guides:

(a) Public agencies

1. Listing of cities, towns, and villages.

2. Listing of boroughs, judiciary, State departments, divisions, councils, commission, institutions, etc.

3. Listings of local departments, divisions, commissions, councils, etc.

(b) Non-profit, tax-exempt units.

1. State departments and others for listings of all local units approved or licensed by them.

2. Existing listing of entities now eligible to participate in the Federal surplus property program.

3. Inquiries, letters, telephone calls, etc., received relative to eligibility.

(2) Contacts will be made by letter, telephone, informational bulletins supplemented when necessary by news releases, and attendance at general meetings and conferences with above groups to discuss the surplus property program.

(3) In order to establish eligibility, each entity will be required to file with the State agency:

(a) An Application Certification and Agreement Form signed by the chief executive officer accepting the terms and conditions under which property will be transferred.

(b) A written authorization signed by the chief administrator or executive head of the donee activity, or a resolution of the Governing Board designating one or more representatives to act for the applicant, obligate any necessary funds, and execute issue documents.

(c) Assurance of Compliance with GSA Regulations under Title VI of the Civil Rights Act of 1964, Section 606 of Title VI of the Federal Property and Administrative Services Act of 1949, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended, and Section 303 of the Age Discrimination Act of 1975.

(d) The full legal name of applicant (donee), address and telephone number and their status as a public agency or non-profit tax-exempt educational or public health unit.

(e) Details and scope of their program including their different activities and functions.

(f) Financial information, if necessary, to help in evaluation of their relative needs and resources.

(g) Proof of donee's tax-exemption under Section 501 of the Internal Revenue Code of 1954 (for non-profit units only).

(h) Proof that the applicant is approved, accredited or licensed (when applicable) in accordance with FPMR 101-44.207.

(i) In addition to the above requirements, the agency will request listing as to the types and kinds of equipment, vehicles, machines or other items they need.

(4) All approvals of eligibility will be up-dated as follows:

(a) In sequence with expiration of any license required by donee (possible annual, semi-annual, etc.).

(b) Every three years, if there is no license required or if license expiration period exceeds three years.

10. COMPLIANCE AND UTILIZATION

All items having an acquisition cost of $3,000 or more and passenger motor vehicles will be marked or coded in the stock records file in a manner that provides obvious identification. Separate warehouse issues will be prepared for each item with an acquisition cost of $3,000 or more, and passenger motor vehicles; an additional statement, pointing out utilization requirements will be typed on the face of the issue document advising the donee that this item must be placed in use within one year and used for a period of 18 months thereafter.

All passenger motor vehicles, and any other motor vehicle requiring licensing by the Department of Motor Vehicles will be licensed, with the State agency shown as lien holder. When the vehicle has been utilized in accordance with all instructions and restrictions, and the period of restriction has expired, the State agency will release the cleared title to the donee.

At least once during the period of restriction, State agency personnel will review all issues of items with an acquisition cost of $3,000 or more and all passenger motor vehicles, to determine whether or not these items are being utilized in accordance with the purposes for which they were acquired. At the same time, a review will be made of other items issued to make certain that Federal surplus property items are being used as indicated on the applicable issue document(s).

Also, during the review the State agency representative will insure that the donee is complying with any special handling conditions or use limitations imposed by GSA on items of Federal surplus property in accordance with FPMR 101-44.108. The review will include a survey of the donee's compliance with the statutory requirement that all items of Federal surplus property acquired by the donee be placed into use within one year of acquisition and used for one year thereafter. Written reports on utilization and compliance reviews will be made a part of the applicable donee file. Whenever there is any indication of misuse, noncompliance, or alleged fraud, the proper steps will be taken to correct the discrepancy, including a report to the F.B.I. if appropriate. GSA will be notified of all findings/indications of noncompliance, or apparent misuse/fraud. The State agency may take action to prosecute cases of fraud or misuse and will assist GSA and other Federal and State agencies in investigating such cases.

While on-site compliance review is planned for performance by personnel of the State agency, compliance letters/forms may be used to satisfy this requirement except for items with an acquisition cost of $3,000 or more and/or for passenger motor vehicles. Exceptions to on-site compliance reviews may be made by GSA if the State Agency can show that such reviews are physically or economically unfeasible to perform.

11. AUDIT

A. Internal

An internal fiscal audit of the State agency will be conducted every two years with a full report of findings, recommendations, and corrective actions taken, submitted to the Commissioner of the Department of Administration and a copy to GSA.

B. External

An external audit, with primary emphasis on program operations and fiscal accounting will be conducted by the Legislative Budget and Audit Committee every two years, on the year(s) alternate to the internal audit schedule.

This (external) audit will examine the State agency's conformance to the State Plan of Operations, applicable State statutes and Regulations, and requirements of Public Law 94.519 and 41.CFR 101.44.

Audit results will be submitted to the Commissioner, Department of Administration, as will response(s) to recommendations and corrective action taken. A copy of the external audit report, recommendations, corrective actions and other correspondence pertinent to the audit, will be forwarded to GSA.

GSA representatives may review State agency operations periodically and may, for appropriate reasons, conduct its own audit of the State agency following due notice to the Governor of the reasons for such audit. Financial records and all other books and records of the State agency shall be made available to all authorized Federal agencies/representatives.

12. COOPERATIVE AGREEMENTS

The Department of Administration is authorized under Alaska Statute 44.71.020 (d) to enter into cooperative agreements with any Federal agency authorized by law, for the utilization by such Federal agency, with or without payment or reimbursement, of the property, facilities, personnel and services of the State Agency in carrying out any such program, and for making available to the State Agency with or without reimbursement, property, facilities, personnel or services of such Federal agency in connection with such utilization.

13. LIQUIDATION

If and when a determination is made to liquidate the State agency, advance notice will be given to GSA in accordance with the specific requirements of FPMR 101-44.202(c) (14) with the reason for liquidation; schedule of time to effect the closure; and report to GSA of the property on hand for retransfer, destruction, or sale. At liquidation, physical assets will be converted to cash, and the proceeds will be used first to satisfy all liabilities. Any remaining funds will be distributed to donees on a pro-rata basis as determined by donee participation during the previous twelve month period. Records and accounting information will be retained for two years after closure.

14. FORMS

Enclosure 14.1, copy of Terms, conditions, reservations and restrictions on reverse of warehouse Issue/Invoice.

Enclosure 14.2, Conditional Transfer Document - Combat Type Aircraft.

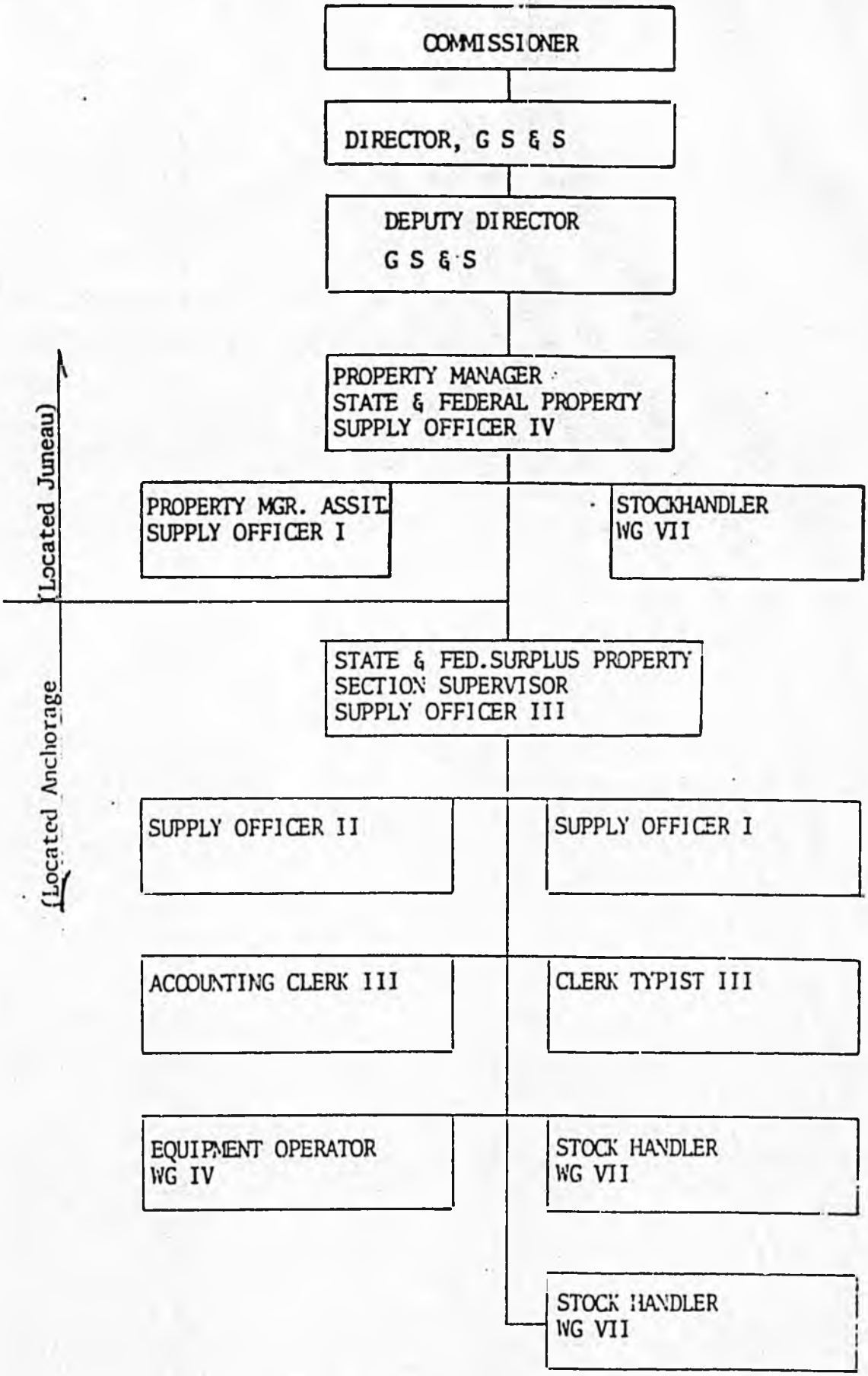
Enclosure 14.3, Conditional Transfer Document - Noncombat Type Aircraft.

Enclosure 14.4, Conditional Transfer Document - Vessel.

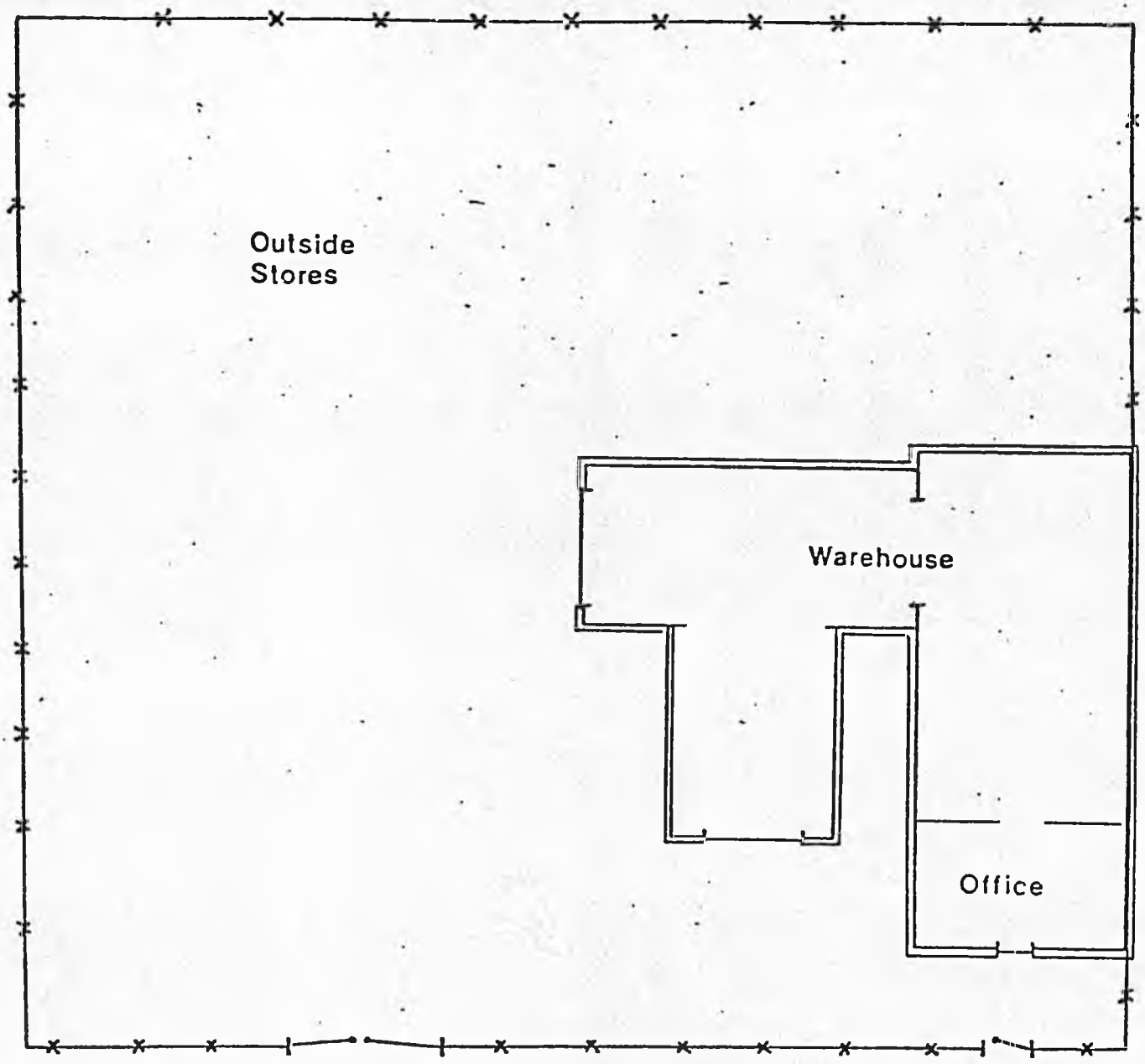
15. RECORDS

Copies of Form 123 allocations, warehouse issue sheets, invoice documents, log books, and all other official records of the agency will be maintained for three years. Documents concerning items subject to restriction will be maintained for three years, or for one year beyond the expiration of the restriction period whichever is longer. Records for property in compliance status will be maintained for one year after the case is closed.

STATE AND FEDERAL PROPERTY
ORGANIZATIONAL CHART EFFECTIVE JULY 1, 1983



Attachment A



- Buildings & Grounds owned by State of Alaska
- Inside Storage - - 9,000 sq ft
- Outside Storage - - 50,000 sq ft

ATTACHMENT B

(a) THE DONEE CERTIFIES THAT:

(1) It is a public agency; or a nonprofit educational or public health institution or organization, exempt from taxation under Section 501 of the Internal Revenue Code of 1954, within the meaning of Section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, and the regulations of the Administrator of General Services.

(2) If a public agency; the property is needed and will be used by the recipient for carrying out or promoting for the residents of a given political area one or more public purposes, or, if a nonprofit tax-exempt institution or organization, the property is needed for and will be used by the recipient for educational or public health purposes, and including research for such purpose. The property is not being acquired for any other use or purpose, or for sale or other distribution; or for permanent use outside the State, except with prior approval of the State agency.

(3) Funds are available to pay all costs and charges incident to donation.

(4) This transaction shall be subject to the nondiscrimination regulations governing the donation of surplus personal property issued under Title VI of the Civil Rights Act of 1964, section 606 of Title VI of the Federal Property and Administrative Services Act of 1949, as amended, section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments of 1972, as amended, and section 303 of the Age Discrimination Act of 1975.

(b) THE DONEE AGREES TO THE FOLLOWING FEDERAL CONDITIONS:

(1) All items of property shall be placed in use for the purpose(s) for which acquired within one year of receipt and shall be continued in use for such purpose(s) for one year from the date the property was placed in use. In the event the property is not so placed in use, or continued in use, the donee shall immediately notify the State agency, and at the donee's expense, return such property to the State agency, or otherwise make the property available for transfer or other disposal by the State agency, provided the property is still usable as determined by the State agency.

(2) Such special handling or use limitations as are imposed by General Services Administration (GSA) on any item(s) of property listed hereon.

(3) In the event the property is not so used or handled as required by (b) (1) and (2), title and right to the possession of such property shall at the option of GSA revert to the United States of America and upon demand the donee shall release such property to such person as GSA or its designee shall direct.

(c) THE DONEE AGREES TO THE FOLLOWING CONDITIONS IMPOSED BY THE STATE AGENCY, APPLICABLE TO ITEMS WITH A UNIT ACQUISITION COST OF $3,000 OR MORE AND PASSENGER MOTOR VEHICLES, REGARDLESS OF ACQUISITION COST, EXCEPT VESSELS 50 FEET OR MORE IN LENGTH AND AIRCRAFT.

(1) The property shall be used only for the purpose(s) for which acquired and for no other purpose(s).

(2) There shall be a period of restriction which will expire after such property has been used for the purpose(s) for which acquired for a period of 18 months from the date the property is placed in use, except for such items of major equipment, listed hereon, on which the State agency designates a further period of restriction.

(3) In the event the property is not so used as required by (c) (1) and (2) and Federal restrictions (b) (1) and (2) have expired then title and right to the possession of such property shall at the option of the State agency revert to the State of Alaska and the donee shall release such property to such person as the State agency shall direct.

(d) THE DONEE AGREES TO THE FOLLOWING TERMS, RESERVATIONS AND RESTRICTIONS

(1) From the date it receives the property listed hereon and through the period(s) of time the conditions imposed by (b) and (c) above remain in effect, the donee shall not sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of such property, or remove it permanently, for use outside the State, without the prior approval of GSA under (b) or the State agency under (c). The proceeds from any sale, trade, lease, loan, bailment, encumbrance or other disposal of the property, when such action is authorized by GSA or by the State agency, shall be remitted promptly by the donee to GSA or the State agency, as the case may be.

(2) In the event any of the property listed hereon is sold, traded, leased, loaned, bailed, cannibalized, encumbered, or otherwise disposed of by the donee from the date it receives the property through the period(s) of time the conditions imposed by (b) and (c) remain in effect, without the prior approval of GSA or the State agency, the donee, at the option of GSA or the State agency shall pay to GSA or the State agency, as the case may be, the proceeds of the disposal or the fair market value or the fair rental value of the property at the time of such disposal, as determined by GSA or the State agency.

(3) If at any time, from the date it receives the property through the period(s) of time the conditions imposed by (b) and (c) remain in effect, any of the property listed hereon is no longer suitable, usable, or further needed by the donee for the purpose(s) for which acquired, the donee shall promptly notify the State agency, and shall, as directed by the State agency, return the property to the State agency, release the property to another donee or another State agency, a department or agency of the United States, sell or otherwise dispose of the property. The proceeds from any sale shall be remitted promptly by the donee or the State agency.

(4) The donee shall make reports to the State agency on the use, condition, and location of the property listed hereon, and on other pertinent matters as may be required from time to time by the State agency.

(5) At the option of the State agency, the donee may abrogate the conditions set forth in (c) and the terms, reservations and restrictions pertinent thereto in (d) by payment of an amount as determined by the State agency.

(e) THE DONEE AGREES TO THE FOLLOWING CONDITIONS. APPLICABLE TO ALL ITEMS OF PROPERTY LISTED HEREON.

(1) The property acquired by the donee is on an "as is," "where is" basis, without warranty of any kind.

(2) Where a donee carries insurance against damages to or loss of property due to fire or other hazards and where loss of or damage to donated property with unexpired terms, conditions, reservations or restrictions, occurs, the State agency will be entitled to reimbursement from the donee out of the insurance proceeds, of an amount equal to the unamortized portion of the fair value of the damaged or destroyed donated items.

(f) TERMS AND CONDITIONS APPLICABLE TO THE DONATION OF AIRCRAFT AND VESSELS (50 FEET OR MORE IN LENGTH) HAVING AN ACQUISITION COST OF $3,000 OR MORE, REGARDLESS OF THE PURPOSE FOR WHICH ACQUIRED:

The donation shall be subject to the terms, conditions, reservation and restrictions set forth in the Conditional Transfer Document executed by the authorized donee representatives.

(g) THE DONEE AGREES TO THE FOLLOWING TERMS AND CONDITIONS IMPOSED BY THE STATE AGENCY APPLICABLE TO ITEMS WITH A UNIT ACQUISITION COST OF UNDER $3,000. NONE.

COMBAT-TYPE AIRCRAFT CONDITIONAL TRANSFER DOCUMENT

KNOW ALL MEN BY THESE PRESENTS: That the United State of America acting by and through the State of _____, State Agency for Surplus Property or State Agency for Federal Property Assistance (hereinafter called the Donor) pursuant to the powers and authority contained in the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, for and in consideration of and in reliance upon the representations of _____ _____ whose address is _____ _____ (hereinafter called the Donee) that the property hereinafter described is required in the furtherance of the Donee's program and that such property will be used solely in connection with such programs and more specifically for all the following purposes:

in accordance with the proposed program and plan as set forth in the Donee's "Letter of Intent" dated _____, as amended _____, which Expression of Interest is hereby incorporated herein and made a part hereof, and for no other purpose, does hereby deliver, sell, assign, and transfer all rights, title, and interest in and to the following described combat-type aircraft, aircraft engines, and propellers,

together with all engines, appurtenances, and accessories attached thereto or installed therein (all of which are hereinafter referred to as the Property), which has been determined to have a fair value of $_____, unto the Donee to have and to hold the Property, all singular forever, this donation being made on an "as is, where is" basis without warranty of any kind, and delivery made at the present location of the Property regardless of where the same may be situated or the condition thereof; Subject, however, to the following conditions:

1. The Donee agrees that the aircraft Property shall not be used for flight purposes.

2. The Property shall be placed in use by the Donee for the purpose stated above no later than 12 months after acquisition thereof and shall be used thereafter for such purpose in perpetuity.

3. In the event the aircraft Property is not placed in use by the Donee within 12 months of receipt and used thereafter in the perpetuity, the Donee, within 30 days after the Property has ceased to be used, shall provide notice thereof, in writing to the Donor, or otherwise make the Property available for transfer, provided the Property is still usable as determined by the Donor, or otherwise dispose of the Property as the Donor may direct.

4. In the event the Property is not so used or handled as required by (1), (2), and (3), above, title and right to the possession of the Property shall at the option of the Donor revert to the United States of America. Upon demand the Donee shall, as directed by the Donor, or its designee, release the property to such person or agency as may be designated, sell the Property, or otherwise dispose of the Property. Any sale shall be for the benefit and account of the United States of America.

5. The Donee shall make reports to the Donor on the use, condition, and location of the Property and on other pertinent matters as may be required from time to time by the Donor.

6. The Donee shall not sell, trade, lease, lend, bail, encumber, cannibalize, or dismantle for parts, or otherwise dispose of the aircraft Property or any parts thereof, without prior written approval of the Donor. Any sale, trade, lease, loan, bailment, encumbrance, cannibalization, or other disposal of the Property, when such action is authorized in writing by the Donor, shall be for the benefit and account of the United States of America.

7. In the event the aircraft Property is no longer suitable, usable, or further needed by the Donee for the purpose for which acquired, the Donee shall promptly notify the Donor and shall as directed by the Donor:

(a) Release the Property to another Donee or State agency;

(b) Release the Property to a department or agency of the United States;

(c) Release the Property to such other institution or agency as may be determined to have need therefor;

(d) Sell the Property for the benefit and account of the United State of America;

(e) Render the Property completely unfit and useless for any purpose except for the recovery of its basic material content, the same to be performed in a manner satisfactory to the Donor and the material content to be disposed of in accordance with instructions of the Donor, as appropriate, or its designee; or

(f) Otherwise dispose of the aircraft Property.

8. In the vent the aircraft Property is disposed of without prior written approval, or is used for a purpose other than the purpose stated, the Donee, at the option of the Donor, shall be liable to the United States of America for the proceeds of the disposal, the fair market value, or the fair rental value of the aircraft Property at the time of such unauthorized transaction or use, as determined by the Donor.

9. In the event of a breach by the Donee, or its successor in function, of any of the above conditions, whether caused by the legal inability of the said Donee or its successor in function, interest in and to the said aircraft Property shall, at the option of the Donor, forthwith revert to and become the property of the United States of America, and the Donee, or its successors or assigns, shall forfeit all of its or their rights, title, and interest in and to the said aircraft Property.

10. The Donor shall not grant waivers, amendments, releases, or terminate any of the terms and conditions enumerated in (1) through (9), above, concerning the use or disposal of the aircraft Property, or issue disposal instructions to the Donee for the aircraft without the prior written concurrence of the General Services Administration or its successor in function.

11. The Donor, with the prior written concurrence of the General Services Administration or its successor in function, may terminate such of the above conditions as it determines to be appropriate.

IN WITNESS WHEREOF, the Donor has duly executed this instrument this _____ day of _____, 19____.

United States of America, Acting by and
through the _____
State Agency for Surplus Property or
State Agency for Federal Property Assistance

By: _____

Title: _____

DONEE:

By: _____

Title: _____

Institute or Organization: _____

_____

CITY of _____)
COUNTY of _____)
STATE of _____)

On this _____ day of _____, 19____, before me appeared _____ _____, to me personally known, who, being by me duly sworn, says that he is the person who executed the foregoing instrument and that such

instrument was executed under duly delegated authority on behalf of the _____ State Agency for Surplus Property or State Agency for Federal Property Assistance, and acknowledged the foregoing instrument to be the free act and deed of the State of _____.

Given under my hand and official seal the day and year above written.

_____
Notary Public in and for the
City of _____
County of _____
State of _____

(SEAL)

My Commission Expires: _____

CITY of _____)
COUNTY of _____)
STATE of _____)

On this _____ day of _____, 19___, before me appeared _____ _____, to me personally known, who, being by me duly sworn, says that he is the person who executed the foregoing instrument on behalf of said _____ _____ _____, and acknowledges to me that he was authorized to execute the foregoing instrument and that he executed the same as a free act and deed of said _____ _____.

Given under my hand and official seal the day and year above written.

_____
Notary Public in and for the
City of _____
County of _____
State of _____

(SEAL)

My Commission Expires: _____

NON-COMBAT-TYPE AIRCRAFT CONDITIONAL TRANSFER DOCUMENT

KNOW ALL MEN BY THESE PRESENTS: That the United States of America acting by and through the State of _____, State Agency for Surplus Property (hereinafter called the Donor) pursuant to the powers and authority contained in the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended for and in consideration of and in reliance upon the representations of _____ whose address is _____ _____ _____ (hereinafter called the Donee) that the Property hereinafter described is required in the furtherance of the Donee's program and that such property will be used solely in connection with such programs and more specifically for all the following purposes:

in accordance with the proposed program and plan as set forth in the Donee's "Letter of Intent" dated _____, as amended _____, which Expression of Interest is hereby incorporated herein and made a part hereof, and for no other purpose, does hereby deliver, sell, assign, and transfer all of its rights, title, and interest in and to the following described noncombat-type aircraft, aircraft engines, and propellers,

together with all engines, appurtenances, and accessories attached thereto or installed therein, (all of which are hereinafter referred to as the Property), which has been determined to have a fair value of $_____, unto the Donee to have and to hold the Property, all singular forever, this donation being made on an "as is," "where is" basis without warranty of any kind, and delivery made at the present location of the Property regardless of where the same may be situated or the condition thereof; Subject, However, to the following conditions:

1. The Donee agrees to apply to the Federal Aviation Administration for registration of the Property which is intended for flight purposes within 30 days of the receipt of a fully executed copy of this instrument. The Donee's application for registration shall include a fully executed copy of this instrument.

2. The Property shall be placed in use for the purpose stated above no later than 12 months after acquisition thereof, and used for a 12 month period thereafter.

3. In the event the Donee does not apply to the Federal Aviation Administration for registration of the Property which is intended for flight operations, (or other uses unless registration is waived by the Donor) or in the event the aircraft Property is not placed in use within 12 months of receipt, and used for a 12 month period thereafter, the Donee, within 30 days after the Property has ceased to be used, provide notice thereof, in writing to the Donor, and at the Donee's expense, available for transfer, provided the property is still usable as determined by the Donor, or otherwise dispose of the Property as the Donor may direct.

4. In the event the Property is not so used or handled as required by (1), (2), and (3) above, title and right to the possession of the Property shall at the option of the Donor revert to the United States of America. Upon demand the Donee shall, as directed by the Donor, or its designee, release the Property to such person or agency as may be designated, sell the Property, or otherwise dispose of the Property. Any sale shall be for the benefit and account of the United States of America.

5. There shall be a further period of restriction beginning on the date the Property has been used for the period prescribed in (2) above. This period will expire after the Property has been used for the purpose stated for a period of 48 months.

6. During the period of restriction prescribed in (5) above, the Property shall be used only for the purpose stated.

7. During the periods of restriction prescribed in (2) and (5) above, the Donee shall make reports to the Donor on the use, condition, and location of the Property and on other pertinent matters as may be required from time to time by such Donor.

8. At the expiration of the period of restriction, prescribed in (5) above, a release document shall be executed by the Donor and be forwarded to the Donee.

9. During the periods of restriction prescribed in (2) and (5) above, the Donee shall not sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of the Property, or remove it permanently for use outside the State, without the prior written approval of the Donor under (2), or under (5) above. The proceeds from any sale, trade, lease, loan, bailment, encumbrance, or other disposal of the Property during the period of restriction set forth in (2) above, when such action is authorized by the Donor shall be for the benefit and account of the United States of America, or for the benefit and account of the State of _____ during the period of restriction set forth in (5) above.

10. In the event, during the periods of restriction prescribed in (2) and (5) above, the Property is sold, traded, leased, loaned, bailed, encumbered, or otherwise disposed of without prior written approval, the Donee, at the option of the Donor shall be liable for the proceeds of the disposal, the fair market value, or the fair rental value of the Property at the time of such unauthorized transaction or use, as determined by the Donor.

11. If at any time, from the date the Donee receives the Property through the periods of restriction prescribed in (2) and (5) above, the Property is no

longer suitable, usable, or further needed by the Donee for the purpose for which acquired, the Donee shall promptly notify the Donor and shall as directed by the Donor:

(a) Release the Property to another Donee or State agency; or

(b) Release the Property to a Department or Agency of the United States; or

(c) Release the Property to such other institution or agency as may be determined to have need therefore; or

(d) Sell the Property with the proceeds remitted promptly from the Donee to the Donor; or

(e) Render the Property completely unfit and useless for any purpose except for the recovery of its basic material content, the same to be performed in a manner satisfactory to the Donor and the material content to be disposed of in accordance with instructions of the Donor; or

(f) Otherwise dispose of the Property.

12. At the option of the Donor, the Donee may obtain abrogation of the terms and conditions set forth in (5) through (11) above by payment of an amount determined by the Donor.

13. The Donor, may waive any, or may terminate all of the terms and conditions set forth in (5) through (11) above, and give unrestricted title to the Property in favor of the Donee whenever such action is determined to be appropriate.

IN WITNESS WHEREOF, the Donor has duly executed this instrument this _____ day of _____, 19___.

United States of America, Acting by and through the _____
State Agency for Surplus Property

By: _____

Title: _____

DONEE:

By: _____

Title: _____

Institute or Organization: _____

_____

CITY of _____)
COUNTY of _____)
STATE of _____)

On this _____ day of _____, 19____, before me appeared _____ _____, to me personally known, who, being by me duly sworn, says that he is the person who executed the foregoing instrument and that such instrument was executed under duly delegated authority on behalf of the _____ State Agency for Surplus Property or State Agency for Federal Property Assistance, and acknowledged the foregoing instrument to be the free act and deed of the State of _____.

Given under my hand and official seal the day and year above written.

_____
Notary Public in and for the
City of _____
County of _____
State of _____

(SEAL)

My Commission Expires: _____

CITY of _____)
COUNTY of _____)
STATE of _____)

On this _____ day of _____, 19____, before me appeared _____ _____, to me personally known, who, being by me duly sworn, says that he is the person who executed the foregoing instrument on behalf of said _____ _____, and acknowledges to me that he was authorized to execute the foregoing instrument and that he executed the same as a free act and deed of said _____ _____.

Given under my hand and official seal the day and year above written.

_____
Notary Public in and for the
City of _____
County of _____
State of _____

(SEAL)

My Commission Expires: _____

VESSEL CONDITIONAL TRANSFER DOCUMENT

KNOW ALL MEN BY THESE PRESENTS: That the United States of America acting by and through the State of _____, State Agency for Surplus Property (hereinafter called the Donor) pursuant to the powers and authority contained in the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended for and in consideration of and in reliance upon the representations of _____ whose address is _____ (hereinafter called the Donee) that the Property hereinafter described is required in the furtherance of the Donee's program and that such property will be used solely in connection with such programs and more specifically for all the following purposes:

in accordance with the proposed program and plan as set forth in the Donee's "Letter of Intent" dated _____, as amended _____ _____, which expression of interest is hereby incorporated herein and made a part hereof, and for no other purpose, does hereby deliver, sell, assign, and transfer all rights, title, and interest in and to the following described vessel:

together with all engines, appurtenances, and accessories attached thereto or installed therein (all of which are hereinafter referred to as the Property), which has been determined to have a fair value of $_____, unto the Donee to have and to hold the said Property, all and singular forever, this donation being made on an "as is," "where is" basis without warranty of any kind and delivery is made at the present location of the Property regardless of where the same may be situated or the condition thereof:

SUBJECT, HOWEVER, to the following conditions:

1. The Donee agrees to obtain documentation of the vessel under the applicable laws of the United States and regulations promulgated thereunder and the applicable laws of the several States governing the documentation of said Property and at all times to maintain such documentation. Under written request and sufficient evidence to justify such action, the Donor, may waive the requirement for documentation in the case of donated vessels which are to be permanently moored on land and never to be used again on the waterways.

2. The Donee agrees to record this Vessel Conditional Transfer Document with the Coast Guard Documentation Officer at the port of documentation of the Property within sixty days after the receipt of the fully executed Vessel Conditional Transfer Document. If documentation is waived under (1) above, the requirement for registration may also be waived.

3. The Property shall be placed in use for the purpose stated above no later than 12 months after acquisition thereof and used for a 12-month period thereafter.

4. In the event the Donee does not record this Vessel Conditional Transfer Document with the Coast Guard Documentation Officer at the port of documentation of the Property within 60 days after the date of receipt of the fully executed Vessel Conditional Transfer Document, or in the event the Property is not placed in use within 12 months of receipt and used for a 12-month period thereafter, the Donee shall within 30 days after the date on which the instrument should have been recorded, or within 30 days after the Property has ceased to be used, provide notice thereof, in writing to the Donor, and at the Donee's expense, return such Property to the Donor, or otherwise make the Property available for transfer, provided the property is still usable as determined by the Donor or otherwise dispose of the Property as the Donor may direct.

5. In the event the Property is not so used or handled as required by (1), (2), (3), and (4), above, title and right to the possession of the Property shall, at the option of the Donor, revert to the United States of America. Upon demand the Donee shall, as directed by the Donor, or its designee, release the Property to such person or agency as may be designated, sell the Property, or otherwise dispose of the Property. Any sale shall be for the benefit and account of the United States of America.

6. There shall be a further period of restriction beginning on the date the Property has been used for the period prescribed in (3) above. This period will expire after the Property has been used for the purpose stated for a period of 48 months.

7. During the period of restriction prescribed in (6) above, the Property shall be used only for the purpose stated above.

8. During the periods of restriction prescribed in (3) and (6) above, the Donee shall make reports to the Donor on the use, condition, and location of the Property and on other pertinent matters as may be required from time to time by such Donor.

9. During the periods of restriction prescribed in (3) and (6) above, the Donee shall not sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of the Property, or remove it permanently for use outside the State, without the prior written approval of the Donor under (3), or (4) above. The proceeds from any sale, trade, lease, loan, bailment, encumbrance or other disposal of the property, during the period of restriction set forth in (3) above when such action is authorized by the Donor shall be for the account of the United States of America, or for the benefit and account of the State of _____ during the period of restriction set forth in (6) above.

10. In the event, during the periods of restriction prescribed in (3) and (6) above, the Property is sold, traded, leased, loaned, bailed, cannibalized, encumbered, or otherwise disposed of without prior written approval, or is used for a purpose other than the purposes stated, the Donee, at the option of the Donor, shall be liable for the proceeds of the disposal, the fair market

value, or the fair rental value of the Property at the time of such unauthorized transaction or use, as determined by the Donor.

11. If at any time, from the date the Donee receives the Property through the periods of restriction prescribed in (3) and (6) above, the Property is no longer suitable, usable, or required by the Donee for the purpose for which acquired, the Donee shall promptly notify the Donor, and shall, as directed by the Donor, return the Property to the Donor, retransfer the Property to another Donee or another State agency, or to a Department or Agency of the United States, sell the Property, or otherwise dispose of the Property as directed.

12. At the option of the Donor, the Donee may obtain abrogation of the terms and conditions set forth in (6) through (11) above by payment of an amount determined by the Donor.

13. The Donor, may waive any, or may terminate all of the terms and conditions set forth in (6) through (11) above, and give unrestricted title to the Property in favor of the Donee whenever such action is determined to be appropriate.

IN WITNESS WHEREOF, the Donor has duly executed this instrument this _____ day of _____, 19___.

United States of America, Acting by and through the _____ State Agency for Surplus Property

By: _____

Title: _____

DONEE:

By: _____

Title: _____

Institute or Organization: _____

_____

CITY of _____)
COUNTY of _____)
STATE of _____)

On this _____ day of _____, 19___, before me appeared _____, to me personally known, who, being by me duly sworn, says that he is the person who executed the foregoing instrument and that such instrument was executed under duly delegated authority on behalf of the _____ State Agency for Surplus Property or State Agency for Federal Property Assistance, and acknowledged the foregoing instrument to be the free act and deed of the State of _____.

Given under my hand and official seal the day and year above written.

_____

Notary Public in and for th
City of _____
County of _____
State of _____

(SEAL)

My Commission Expires: _____

CITY of _____)
COUNTY of _____)
STATE of _____)

On this _____ day of _____, 19____, before me appeared _____ _____, to me personally known, who, being by me duly sworn, says that he is the person who executed the foregoing instrument on behalf of said _____, and acknowledges to me that he was authorized to execute the foregoing instrument and that he executed the same as a free act and deed of said _____ _____.

Given under my hand and official seal the day and year above written.

_____

Notary Public in and for the
City of _____
County of _____
State of _____

(SEAL)

My Commissio. Expires: _____

General Services Administration | Office of Federal Supply and Services | Washington, DC 20406

Date : AUG 30 1983

Reply to Attn of : FMD

Subject: Comptroller General's Second Biennial Report to the Congress of the United States on the Federal Donation Program

To : Regional Administrators
WA 1A 2A 3A 4A 5A 6A 7A 8A 9A 10A
Directors of State Agencies for Surplus Property

1984 APR 20 A 10:39
DIVISION OF GENERAL SERVICES & SUPPLY

Enclosed is a copy of the Comptroller General's (GAO) Second Biennial Report to the Congress of the United States on the Federal Donation Program.

The discussion of the donation program in the GAO report includes three recommendations that will require action by the regions and State Agencies for Surplus Property (SASP). The recommendations and required actions are as follows:

Recommendations

To improve the effectiveness of the Donation Program, we recommend that the Administrator of General Services:

"Continue emphasizing to the State agencies that participation in the Donation Program is dependent on their compliance with the act's requirement for submitting permanent State plans of operation, having external audits performed, and establishing adequate accountability systems." If all of the State agencies do not submit permanent State plans of operation by GSA's established deadline (June 30, 1984), we recommend that the Administrator report to the appropriate congressional committees on actions that will be taken in cases of noncompliance.

Actions

a. Permanent plans

We will be writing to the Governor of each State where the SASP has not submitted a permanent State plan to apprise them of the requirement and that failure to submit the plan by the deadline could necessitate deferring further allocations of property to the State.

Effective with this memorandum, I am establishing a progress reporting requirement for the regions on each State that has not submitted a permanent plan. Progress reports are to be submitted to my personal attention by October 15, 1983, January 15, 1984, and by the 15th of each month thereafter until all plans have been submitted.

To date the following State plans have been accepted as permanent: Arizona, California, Michigan, Oklahoma, South Carolina, South Dakota, Tennessee, and Wisconsin. In addition to these plans, Florida, Georgia and Texas have submitted their plans for review and acceptance.

b. External audits

Since it has been established as a mandatory requirement that external audits be scheduled and conducted, no additional action is required at this time. I would, however, remind the regions and States again that it is a mandatory requirement to have an external audit conducted every 2 years. The status of this requirement shall continue to be reported to the Central Office (FM) on a quarterly basis by the regions.

c. Accountability systems

To ensure that the States are complying with the accountability system requirement, you are requested to immediately implement the practice of reviewing this area in all reviews of and visits to State agencies. Your findings should be documented in each instance and whenever an accountability system is determined inadequate by the region, Central Office (FM) shall be so advised and a noncompliance case established.

L. L. MITCHELL
Assistant Administrator

Enclosure

cc:
Associate Administrator for Operations (AR)
Assistant Regional Administrators
WF 1F 2F 3F 4F 5F 6F 7F 8F 9F 10F

General Services Administration | Federal Supply Service | Washington

ROUTE: CC: DATE: 9/1/83 AT
ROBERTS 10F WALTON 10FB
CASTEEL 10F BULGER 10FS
KNUDSON 10F COREY 10FC
BOLLINGER 10FF Retain

Date : AUG 2 2 1983
Reply to Attn of : FMD

Subject: Legislative State plan of operations

Duplicate File 10FB-P

To : Assistant Regional Administrators
WF 1F 2F 3F 4F 5F 6F 7F 8F 9F 10F
Directors of State Agencies for Surplus Property

Numbered memorandum DPD-4-82 cites the requirement for legislatively developed State plans of operation and outlines various alternative methods for developing them. One of these methods, which appears to be the most convenient, is for the State legislature to pass a resolution adopting the temporary plan as a permanent plan of operation.

However, this method presents a serious pitfall. In their present form, many temporary plans are outdated and incomplete. If such a plan is adopted by resolution before it is updated, it may require additional legislative effort before the plan can be accepted by the Administrator of General Services. To preclude the possible need for repeat legislative action, State agency directors should carefully review and update their temporary plan of operation before action is taken to adopt it as a legislative plan. Particular attention should be given to the aircraft and vessel conditional transfer document formats, all nondiscrimination clauses, the content of the cooperative agreement between the State and GSA, any statements pertaining to the placement of the agency within the State government and the statement of requirements for external audits of the agency.

You are again reminded that legislatively developed plans of operation for all States must be certified by the chief executive officer of the State and submitted to the Central Office for review and acceptance by the Administrator of General Services no later than June 30, 1984.

WILLIAM B. FOOTE
Director of Property Management
Office of Federal Supply and Services

cc:
Associate Administrator for Operations (AR)
Regional Administrators
WA 1A 2A 3A 4A 5A 6A 7A 8A 9A 10A

RECEIVED APR 20 A 10:39
DIVISION OF FEDERAL SERVICES & SUPPLY

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF ADMINISTRATION

DIVISION OF GENERAL SERVICES AND SUPPLY

POUCH C (MS 0210)
JUNEAU, ALASKA 99811
(907) 465-2283

March 31, 1983

RECEIVED 9YSU-W
APR 4 1983
9YSU-W1 [illegible] 4/7
File

Mr. W. W. Gunn
General Services Administration
Personal Property Management Branch
Code 10FB-P
Auburn, WA 98002

Dear Pete:

Per our telephone conversation today, enclosed is the tentative - Permanent Plan of Operations for the State of Alaska.

As indicated during our conversation, I had "your" copy double spaced for easy editing, revising, etc., that you might need to "plug in" to ensure total acceptability on "formal" submittal.

I am looking forward to your comments, and to the day when we have a full-fledged permanent plan in place.

Sincerely,

Robert W. Head, Sr.
Property Manager
State and Federal Property

RWH/afl
Enclosure
3/0330-01/3GSS2

TELECOPIER NUMBER 465-2189

02-B7LH

General Services Administration | Federal Supply Service | Washington, DC 20406

Date

Reply to Attn of: FMD

Subject: Permanent Plan of Operation - Alaska State Agency for Surplus Property (SASP)

To: 10FBP

This is in response to your memorandum dated September 29, 1983, requesting our preliminary review and advice on the conversion of the Alaska State Agency for Surplus Property Plan of Operation from temporary to permanent status. Also, this confirms receipt of a letter addressed to Mr. L. L. Mitchell from the Governor's office dated September 21, 1983, (copy enclosed) advising that their proposed permanent plan will be presented to the next legislature.

Our review of the proposed permanent plan and subsequent telephone conversations with Danny Walton (10FB-P) indicates several areas of the plan which need to be revised and/or updated before it can be accepted by the Administrator of General Services as required by the FPMR 101-44.202(d). The required changes are outlined below:

1. All references to "temporary plan of operation" should be changed to "permanent plan of operation."

2. Paragraph 5(b) - Financing and Service Charges - We have no objection to the limit "(not to exceed $10,000 per any one item)" appearing in the schedule.

3. Paragraph 5(d) - Financing and Service Charges - In the first paragraph, page 9, change line 4 to "Subject to Federal regulations compliance reviews may be made by having the donee submit a written report stating that the property is in use and what it is being used for..."

4. Paragraph 8c - Fair and Equitable Distribution - In line 2 change "appearing to be qualified" to "determined to be qualified."

5. Paragraph 10 - Compliance and Utilization - Change the last paragraph to "While on-site compliance review is planned for performance by personnel of the State agency, compliance letters/forms may be used to satisfy this requirement except for items with an acquisition cost of $3,000 or more and/or for passenger motor vehicles. Exceptions to on-site compliance reviews may be made by GSA if the State Agency can show that such reviews are physically or economically unfeasible to perform."

6. Attachment A - Organization Chart - Add attachment which appeared in temporary plan and use updated information if necessary.

7. Paragraph 14 - Forms

-- Enclosure 14-1 - Update the donee certification as follows:

Paragraph (a)(4) revise nondiscrimination clause to include section 303 of the Age Discrimination Act of 1975 and Title IX of the Education Amendments of 1972 as amended.

Done -- Enclosure 14-2 - Combat-Type Aircraft Conditional Transfer Document - Update to conform to Figure 2-9.4 (July 16, 1980) of the Donation Handbook.

Done -- Enclosure 14-5 - Civil Rights Assurance - Add enclosure which appeared in temporary plan and use updated civil rights assurance clause to conform to Figure 2-8 of the Donation Handbook.

Three copies of a revised plan of operation, including exhibits, certified by the Governor of Alaska should be submitted to the Administrator of General Services, through Region 10, for acceptance as a legislative permanent plan per instruction contained in Donation Program Memorandum No. DPD-4-82, dated January 5, 1982.

GEORGE W. KINNEY
Director, Donation Division
Office of Property Management

Enclosure

cc:
Associate Administrator for Operations (AR)

1983 NOV 21 P 1:08
DIVISION OF
GENERAL SERVICES & SUPPLY

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF GENERAL SERVICES AND SUPPLY

BILL SHEFFIELD, GOVERNOR

POUCH C
JUNEAU, ALASKA 99811

(907) 465-2250

September 21, 1983

Mr. L. L. Mitchell
General Services Administration
Office of Federal Supply and Services
Washington, D.C. 20406

Dear Mr. Mitchell:

Governor Sheffield's office requested that I respond to your letter of August 30, 1983, regarding the Permanent Plan of Operations for Alaska's State Surplus Property program.

The Permanent Plan has been sent, in final draft, to the General Services Administration office in Auburn for review, prior to being presented to our Legislature.

My staff assures me our Plan will be presented to the next Legislature, then submitted to General Services Administration before the deadline.

I appreciate your timely reminder and concern for our state.

Sincerely,

Robert J. Link
Director

RJL/kw
J/1101/0920-07
cc: Ben Harding
Special Assistant
Office of the Governor

Rebecca Burch
Special Assistant
Administrative Hearings
Department of Administration

Jay H. Hogan
Associate Director
Office of Management and Budget
Office of the Governor

1983 NOV 21 P 1:08
DIVISION OF GENERAL SERVICES & SUPPLY

TELECOPIER NUMBER 465 2184

General Services Administration | Federal Property Resources Service | Washington, DC 20406

FPRS DONATION PROGRAM
MEMORANDUM NO. DPD- 4-82

Date : JAN 5 1982

From : DPDA

Subject: Legislative State Plans of Operation

To : 1A 2A WA 4A 5A 6A 7A 8A 9A 10A
Directors of State Agencies for Surplus Property

RECEIVED 10DPU
2/16
FEB 16 1982

1. Purpose. To inform all regional offices and Directors of State Agencies for Surplus Property of the need to replace temporary plans of operation with legislative State plans of operation.

2. Applicability. The information contained in this memorandum applies to all regional offices and State Agencies for Surplus Property.

3. Background. The Federal Property and Administrative Services Act of 1949, as amended, Section 203(j)(4)(A), provides that the legislature of each State must develop a plan of operation for its State Agency for Surplus Property before the State can participate in the donation program. These plans were to be approved by the chief executive officer of the State and filed with the Administrator of General Services for acceptance no later than 270 calendar days after October 17, 1976. The act further provides that a temporary State plan of operation could be filed with the Administrator, as an interim enabling device, in cases where a State found it impractical to prepare and submit a legislatively developed plan within the 270 day period. At this time, all but five State agencies (Oklahoma, South Carolina, South Dakota, Tennessee, and Wisconsin) are continuing to operate with temporary plans. It has been brought to our attention by the General Accounting Office that these temporary plans should be replaced with legislatively developed plans as soon as possible.

During recent congressional hearings on the implementation of Public Law 94-519, the General Services Administration proposed that the Federal Property Act be amended to provide for executive development and approval of permanent State plans, eliminating the need for legislative development. It was believed that this change would simplify and expedite completion of the required permanent plans. Congressional members attending the hearings indicated that they do not favor such a change as they believe consideration of the relative needs of all public agencies and other eligible institutions will only occur if the plans are legislatively developed.

4. Procedures. Regional offices will take immediate action to ensure that all States within their area of responsibility, that have not already done so, proceed with the development of legislative plans of operation.

a. If the State has enacted a Uniform Administrative Procedure Act, it is suggested that the State's Attorney General determine whether or not the temporary State plan of operation, which is currently used as the authority to operate the State agency, may be considered as having been promulgated and approved by the legislature as an act of the legislature. If this is the case, a letter from the Attorney General stating that fact should be submitted through the regional office to the Central Office for final acceptance.

1982 APR 20 A 10:3
DIVISION OF FEDERAL SERVICES & SUPPL

b. In the event the above opinion cannot be obtained, we suggest the legislature pass a resolution adopting the present plan under which the State agency is operating. A certified copy of the resolution as enacted by the legislature should be submitted through the regional office to the Central Office for final acceptance. For your information, copies of the resolutions prepared and passed by the legislatures of the States of Tennessee and South Dakota adopting their temporary plans of operation as legislative plans are included with this memorandum as Enclosures 1 and 2.

c. If a State determines that it cannot use either of the methods outlined in paragraphs a and b above to convert its temporary plan, it will be necessary for the State's legislature to develop a new plan in accordance with the procedures set forth in Section 203(j)(4) of the Federal Property Act.

5. Required Completion Date. Legislatively developed plans of operation for all States must be received at the Central Office for review and acceptance by the Administrator of General Services no later than June 30, 1984.

6. Codification. This memorandum will not be incorporated into the Donation Handbook, PRM P 4025.1.

7. Cancellation. This memorandum will be canceled effective October 1, 1984.

8. Coordination. Questions pertaining to the instructions contained in this memorandum should be directed to Mr. Don Crouch, Donation Division, (703) 557-0756.

FRANCIS B. ROCHE
Assistant Commissioner
Office of Personal Property

Enclosures

cc: AR

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

October 6, 1977

Mr. George I. Perryman
Assistant Commissioner
Office of Personal Property Disposal
General Services Administration
Federal Supply Service
Washington, D. C. 20406

Dear Mr. Perryman:

Enclosed is Alaska's temporary State Plan for the new Federal Surplus Property Utilization Program under Public Law 94-519.

Public notice of this plan was publicly announced on August 4, 1977 and interested persons have had more than thirty days in which to submit comments.

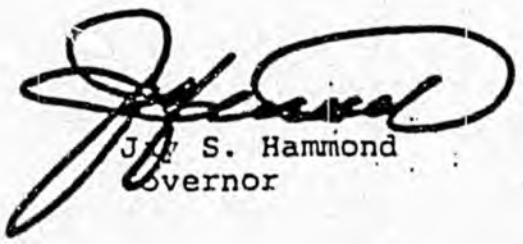
I look forward to this improved program being very beneficial to all Alaskans.

Sincerely,

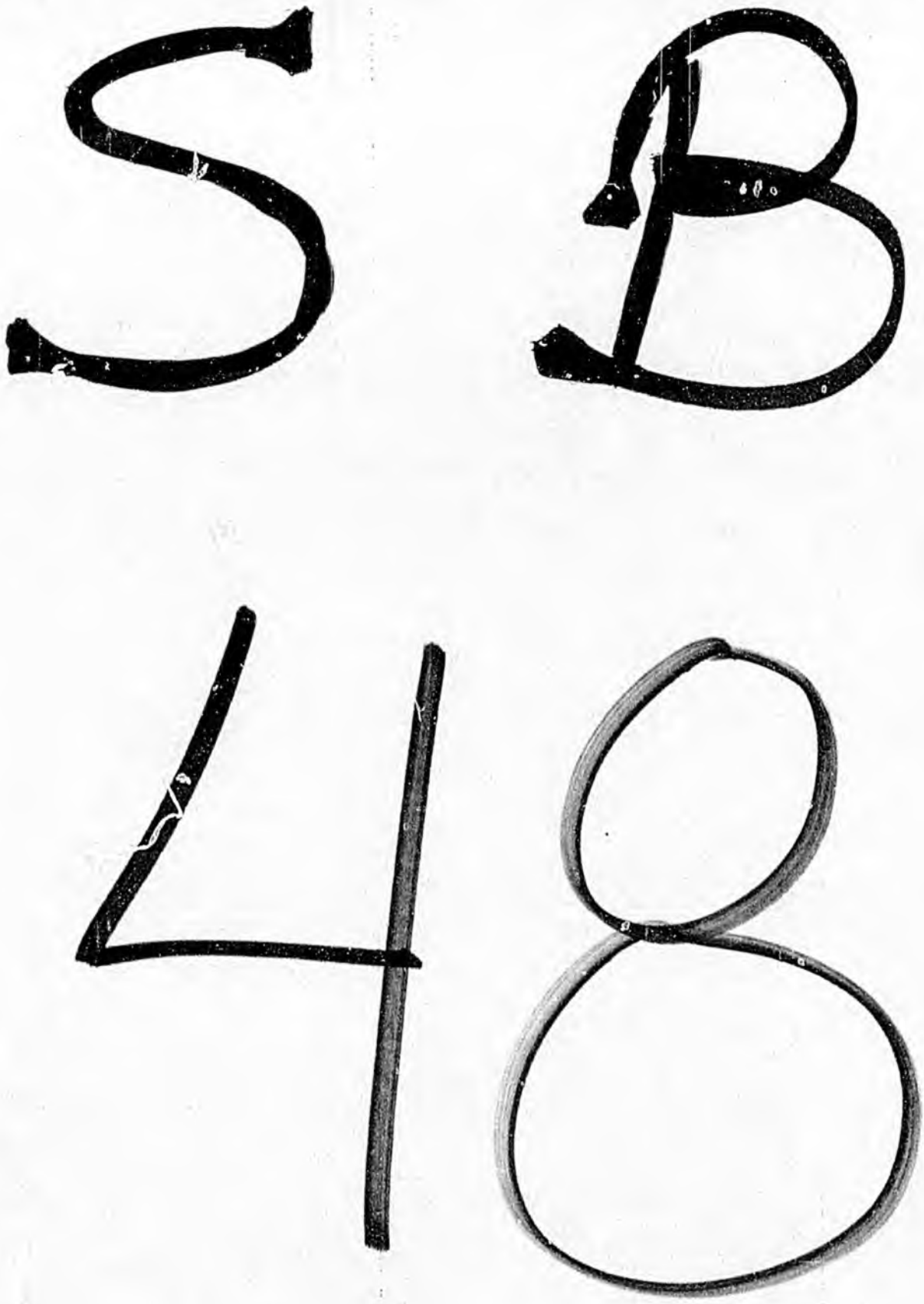
Jay S. Hammond
Governor

Administrtion/JSH/RCB/mjc
bcc: Department of Administration

I certify that this is the Temporary State Plan of the State of Alaska for the Federal Surplus Property Utilization and that it is in accordance with Public Law 94-519.



Jay S. Hammond
Governor


SB
48

POSITION PAPER

SB 48

The Division of Retirement and Benefits is complying or is in the process of complying with most of the provisions of the bill. PERS Regulation 82-5 imposes substantially the same requirements as the bill and a similar regulation is proposed for the TRS. The Division is in the process of revising all of the existing regulations to conform with the style and format requirements of the AAC preparatory to having them published voluntarily in the Alaska Administrative Register and Code. There are no objections to the procedures the division is following or plans to follow being incorporated into the law; however, it appears unnecessary.

The Department is opposed to the bill in its present form as it makes no provisions for adopting emergency regulations to take effect without waiting 30 days after adoption in instances where it is warranted.

J.K. Humphreys

J.K. Humphreys, Director, Division of Retirement & Benefits

Esa Rudd

3/15/80

Esa Rudd, Commissioner of Administration

FILE WITH SB 48

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill 48 Date on Bill: 1-18-83
Title: An Act Relating to the Adoption of Regulations for State Retirement Systems
Sponsor: Senator Ray
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				-				
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: J.K. Humphreys J.K. Humphreys, Director Phone: 465-4460
Division: Retirement & Benefits Date: 2-23-83

Approved by Commissioner: [signature] Date: 2/24/83
Department: Administration

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

SB 48 Bill History

State Retirement Systems (adoption of regulations)

1/18

SENATE BILL NO. 48, by Senator Ray. Relates to notice requirements and procedure for adoption of regulations for the Teachers', Judicial, and Public Employees' Retirement Systems. (Would also apply to regulations adopted under former AS 39.37, Public Officers Retirement System, which was rejected at referendum.) Adoption of regulations governing the retirement systems are not subject to the Administrative Procedure Act (AS 44.62) since they relate to the internal management of state agencies. The bill establishes notice requirements as follows:

--regulations governing the retirement systems must be published in the Alaska Administrative Register and Code for informational purposes;

--at least 30 days before the adoption, amendment or repeal of a regulation, the retirement board (or Commissioner of Administration for Judicial Retirement) must provide notice of the action being considered; notices must be posted in public buildings throughout the state, must be published in one or more newspapers of general circulation; must be mailed to each person or group that has filed a request for notice of proposed action, and must be furnished to each Legislator and to the Legislative Affairs Agency.

SB 48 (cont'd)

--allows board or commissioner to hold a public hearing on a proposed regulation;

--all regulations would take effect 30 days after adoption by the board.

--any regulation that relates to a state retirement system that is in effect on the effective date of the bill must be published in the Alaska Administrative Register and Code within six months after the effective date.

Does not provide for effective date (90 days after Governor's signature).

Introduced January 18 and referred to State Affairs and Judiciary.

State Retirement Systems (adoption of regulations)

4/19

SENATE BILL NO. 48, (see page 16). Reported back to the Senate on April 19 by State Affairs with the committee recommending it be replaced with State Affairs Committee Substitute and that it do pass. Concurring: Vic Fischer (Chmn.), Kelly, Sturgulewski, Ray and Rodey. To Judiciary.

The State Affairs CS adds provision for adoption of emergency regulations by the Alaska Teachers' Retirement Board, the Commissioner of Administration (for Judicial Retirement and the Public Officers Retirement System), and the Public Employees Retirement Board. Adoption of an emergency regulation would require a unanimous vote of a quorum of the governing board. The proper board (or the Commissioner) must give the required notice within 10 days of adopting an emergency regulation. The regulation could not remain in effect past the date of the next regulation board meeting (90 days for emergency regulations issued by the Commissioner of Administration) unless the board or Commissioner complies with the new procedures and adopts the regulation as a permanent regulation.

State Retirement System (adoption of regulations)

4/26

page 627

SENATE BILL NO. 48, (see pages 16;565). Reported back to the Senate April 26 by Judiciary recommending it be replaced with a Judiciary substitute and that it do pass. Concurring: Ray, Chairman, Ziegler, Josephson and Eliason. Not concurring: Pettyjohn had no recommendation. To Rules.

The Judiciary substitute states that notice of adoption, amendment or repeal of a regulation shall be published at least 30 days before the action in one or more newspapers of general circulation in each judicial district of the state (underlined language added by Judiciary)

State Retirement Systems (adoption of regulations)

page 690

5/5

CS FOR SENATE BILL NO. 48 (JUDICIARY), (see pages 16;565; 627). May 5 the Judiciary CS was adopted and the bill passed the Senate, 18-1-1. Nays: Pettyjohn. Excused: Eliason.

5/6

SENATE BILLS RECEIVED IN THE HOUSE

State Retirement System (adoption of regulations)

CS FOR SENATE BILL NO. 48 (JUDICIARY), (see pages 16;565; 627;690). Received in the House May 6 and referred to State Affairs.

SB

554

League of Women Voters of Alaska

March 3, 1983

Representative Mitch Abood
House State Affairs Committee
Juneau, Alaska 99811

Re: SB 54

Dear Representative Abood:

Due to a work commitment, I will not be able to personally appear and represent the League of Women Voters at your committee hearing on March 7th. However, I hope this letter will serve to explain why the League favors the passage of Senate Bill 54.

The state election pamphlet serves a valuable purpose by informing Alaskan voters about candidates and issues. It is the League's observation that this pamphlet has become better and better each year the Division of Elections has published it.

We were distressed, however, to find quite a flaw in the 1982 pamphlet. This flaw, I hasten to point out, was not the fault of the Division. They were only following the advice set forth in an Attorney General's opinion which indicated that Ballot Measure No. 1 (the constitutional convention question) should receive different treatment than the other measures printed in the pamphlet. "Different treatment" meant voters received no neutral summary or pro or con statement on this issue, simply because ballot questions such as this had not been listed in the statute establishing the election pamphlet.

As it happened, the League wanted to submit a statement opposing the constitutional convention. Even if we had no position on the issue, though, it is our firm belief that voters are just as entitled to information on a ballot "question" as on any other ballot measure. In addition, citizens who wish to express an opinion on a ballot "question" should have the opportunity to do so.

For these reasons, the League of Women Voters supports SB 54.

Thank you.

Sincerely,

Paula Ziegler

Paula Ziegler
President
127 N Franklin Street #909
Juneau, Alaska 99801
586-9439 or 2660

SB 54

AN ACT RELATING TO THE CONTENTS OF THE ELECTION PAMPHLET

THIS BILL WAS INTRODUCED AT THE REQUEST OF THE LEAGUE OF WOMEN VOTERS. THE LEAGUE FEELS THAT ALL BALLOT MEASURES XHOULD BE TREATED IN EXACTLY THE SAME WAY, AND THAT ALL MEASURES SHOULD BE ENTITLED TO HAVE NEUTRAL SUMMARIES AND "PRO" AND "CON" STATEMENTS RELATING TO THE QUESTION.. THE LEAGUE ALSO FEELS THAT IT IS UNFAIR TO THOSE CITIZENS WHO WISH TO EXPRESS THEMSELVES, EITHER FOR OR AGAINST ANY BALLOT MEASURE TO BE PRECLUDED FROM DOING SO IN THE CASE OF A CONSTITUTIONAL CONVENTION.

THE ATTORNEY GENERAL ISSUED AN OPINION ON MAY 6, 1982, STATING THAT IT WAS HIS OPINION THAT THE ELECTIONS DIVISION LACKED THE STATUTORY AUTHORITY TO INCLUDE IN THE ELECTION PAMPHLET A NEUTRAL SUMMARY OF, OR STATEMENTS FOR AND AGAINST A QUESTION REGARDING THE CALLING OF A CONSTITUTIONAL CONVENTION.....

THEREFORE, THIS BILL WAS INTRODUCED TO INSERT LANGUAGE IN THE PROPER STATUTE WHICH WOULD ALLOW THE DIVISION OF ELECTIONS TO INCLUDE SUMMARIES, AND "PRO" AND CON" STATEMENTS IN THE CASE OF A QUESTION RELATING TO THE CALLING OF A CONSTITUTIONAL CONVENTION.

SINCE THE QUESTION OF WHETHER OR NOT TO CALL A CONSTITUTIONAL CONVENTION MUST COME BEFORE THE PEOPLE,. AT LEAST, EVERY TEN YEARS, THIS CLEAN-UP LEGISLATION SHOULD BE APPROVED.....

MEMORANDUM
LEAGUE OF WOMEN VOTERS OF ALASKA

TO: Senator Ziegler DATE: January 4, 1983

FROM: League of Women Voters of Alaska

SUBJECT: Possible amendment to AS 15.58.020

Attached please find an attorney general's opinion which indicates that no neutral summary, pro or con statement may appear in the state election pamphlet for ballot issues referred to specifically as "questions." Also attached are pages from the 1982 pamphlet which illustrate the different treatment Ballot Measure No. 1 received, as opposed to any of the other seven measures, as a result of the aforesaid opinion.

The League of Women Voters of Alaska feels that all ballot measures should be treated in exactly the same way and that all should be entitled to have neutral summaries and pro and con statements written about them. We feel it is confusing and misleading to the voters to have one measure set apart on the basis of what we feel is only a technicality.

In addition, it is unfair to those citizens who wish to express themselves, either for or against, such a ballot measure. They are deprived of so doing. It would be remiss of the League not to point out here that we did wish to submit a statement opposing Ballot Measure No. 1. It was when we were advised no statements could appear in thepamphlet regarding this measure that we became aware of what we feel is an inequity that could easily be corrected.

If you agree with the League, we would be most appreciative of your sponsoring remedial legislation on the subject. It may well be that the Division of Elections has this in mind as well; that could be easily ascertained.

Thank you for your consideration.

enc.

MEMORANDUM State of Alaska

TO: Patty Ann Polley, Director
Division of Elections

Attn: Marcy Rahfeld
Research Analyst

DATE: May 6, 1982

FILE NO: J66-588-82

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON
ATTORNEY GENERAL

By: Laura Davis
Assistant Attorney General

SUBJECT: Election pamphlet discussion of constitutional convention question

In response to your memorandum of April 1, 1982, it is our opinion that you lack statutory authority to include in the election pamphlet a neutral summary of or statements for and against a question regarding the calling of a constitutional convention. Our opinion is based upon the following reasoning.

AS 15.58.020 lists in some detail what the election pamphlet "shall contain." It must contain certain specific information "for each ballot proposition submitted to the voters by initiative or referendum petition or by the legislature." AS 15.58.020(8). The question of whether to have a constitutional convention is neither an initiative nor a referendum. It is not submitted by the legislature, but rather is constitutionally required to be on the ballot at least once every 10 years. Alaska Const., art. XIII, § 3. */

The constitutional convention issue is excluded from the definition of "proposition" and included in the definition of a "question." Title 15 defines "proposition" to mean "an initiative, referendum, or constitutional amendment submitted at an election to the public for vote." AS 15.60.010(23)(emphasis added). "Question" is defined to include "whether a constitutional convention shall be called." AS 15.60.010(26).

There is no reference in the section describing the contents of the election pamphlet to the ballot question regarding the calling of a constitutional convention. AS 15.58.020 does describe the information which shall be published as to ballot questions regarding the issuance of bonds, and retention of judges. AS 15.58.020 requires that the election pamphlet contain "additional information on voting procedures that the lieutenant governor considers necessary." There is no general provision regarding the inclusion of information regarding

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*/ This constitutional section is entitled "Call by Referendum." The question has been referred to as a "referendum" in Boucher v. Bomhoff, 495 P.2d 77, 78 (Alaska 1972). However, it is not a "referendum" in the meaning of AS 15.58.020.

ballot measures.

The statute is clearly written and specific as to the required contents of the election pamphlet. According to the common rules of statutory construction, a statute which lists several specific items impliedly excludes any items not specifically included. Sands, SUTHERLAND STATUTORY CONSTRUCTION (1973) § 47-23. The statute simply omits any reference to a ballot question regarding the calling of a constitutional convention. The reason for this omission is not apparent, and no relevant legislative history has been discovered.

The statute regarding the contents of the pamphlet was amended by the election code revision, 1980 Alaska Sess. L., ch. 100, § 206. However, there is no pertinent administrative interpretation of the former law on this issue since it was enacted after the last election in which the question of a constitutional convention appeared on the ballot. AS 15.57.-010, adopted by 1974 Alaska Sess. L., ch. 76, § 2.

It could be argued that the statute should be interpreted according to its purpose, to ensure that the voters are informed as to the contents of the ballot, including the significance of the calling of a constitutional convention. If there were any doubt as to the statute's meaning, this rule of interpretation would apply. However, we see no doubt as to the statute's meaning.

If the election pamphlet did include information not strictly required by AS 15.58.020, and litigation resulted, we doubt that the Alaska Supreme Court would find any malconduct. The court has stated that election "irregularities containing no element of bias, even if they amount to significant deviations from prescribed norms, do not necessarily constitute malconduct." Hammond v. Hickel, 588 P.2d 256 (Alaska 1975). In determining whether irregularities constitute malconduct, the court considers whether the irregularities show "knowing noncompliance with the law or a reckless indifference to norms established by law." Hammond v. Hickel at 259.

The inclusion of material regarding the constitutional convention question probably would not constitute malconduct, if it occurred inadvertently or was based on a reasonable interpretation of your statutory authority. However, we cannot advise you that the statutes permit you to include this material. We suggest that you recommend a legislative amendment to AS 15.58.020 to permit the inclusion of this and other information which you think would be helpful to the voters. We hope that this answers your questions.

LLD/pjg

BALLOT MEASURE NO. 1

Question

CONSTITUTIONAL CONVENTION

The Alaska State Constitution states that during any ten-year period, if a constitutional convention has not been held, the lieutenant governor shall place on the ballot for the next general election the question:

"Shall there be a Constitutional Convention?"

BALLOT FORM:

YES ☐
NO ☐

vote 82

MAKE YOUR OPINION COUNT— VOTE ON TUESDAY, NOVEMBER 2

BALLOT MEASURE NO. 2

Constitutional Amendment

VETERANS' HOUSING BONDING AUTHORITY

(Committee Substitute for House Joint Resolution No. 71 State Affairs)

SUMMARY

(As it will appear on the November 2, 1982 General Election Ballot)

This amendment to article IX, section 8, of the Alaska Constitution would expand the state's authority to incur indebtedness by allowing the State to issue general obligation bonds for veterans' housing loans. The constitution currently permits the State to issue bonds secured by the general obligation of the State only for capital improvements.

BALLOT FORM:

A vote "FOR" adopts the amendment.
A vote "AGAINST" rejects the amendment.

FOR ☐
AGAINST ☐

VOTE CAST BY MEMBERS OF 12TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas 18	Nays 1	Absent or Not Voting 1
House	(40 members):	Yeas 33	Nays 3	Absent or Not Voting 4

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

This proposal for a constitutional amendment would allow general obligation state debt to be contracted to provide housing loans for veterans. Currently general obligation state debt may be contracted only for capital improvements, for certain emergency purposes, or for redemption of indebtedness that was outstanding at the time the Constitution of the State of Alaska became effective.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

(Underlining indicates material to be added.)

SECTION 8. STATE DEBT. No state debt shall be contracted unless authorized by law for capital improvements or unless authorized by law for housing loans for veterans, and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective.

STATEMENT IN FAVOR OF BALLOT MEASURE NO. 2

The Mortgage Subsidy Tax Act of 1980 removed the ability of states or public corporations (AHFC) to sell housing bonds in the tax-exempt market. As a consequence, AHFC must now raise most of its capital in the more expensive taxable bond market. However, the Act did provide an exception for General Obligation Bonds for veterans' housing loans. Alaska's Constitution currently allows for the sale of General Obligation Bonds only for capital improvements. This constitutional amendment is necessary for Alaska to take advantage of the exception.

This amendment deserves support because of the positive benefits that will accrue to veterans and other housing loan recipients.

1. The State will save millions of dollars
   - By selling General Obligation Bonds, the State can access a tax free market with lower interest rates resulting in less state subsidy.
2. Other home loan programs will also benefit
   - Ensures stability in the existing programs by decreasing the mortgage subsidy needed to operate these programs, relieving the subsidy demand.
3. Ensure funding for veterans' programs
   - Current Federal law does not restrict the sale of tax-exempt debt for veterans' loans.
4. Gives recognition to veterans in Alaska's Constitution.
5. The bond and credit rating of the State of Alaska will not be jeopardized because each sale of Veterans' Housing Bonds must have the approval of the State Bond Committee.
6. Voter approval is required for passage of the constitutional amendment and any General Obligation Bond sale.

In light of the benefits which all citizens of the State will enjoy, your support of this constitutional amendment and bond authorization is respectfully requested.

—Sam Cotten, Representative
Alaska State Legislature

STATEMENT AGAINST BALLOT MEASURE NO. 2

It is not necessary to borrow money to help the veterans. I oppose this as totally unnecessary. While veterans deserve recognition for their sacrifices, we can accomplish this by providing them directly with low interest rate home loans from the treasury. We can also give them free land. We have the cash. We have the land. We don't need to borrow more money. And every exception made to the Constitution in this way weakens it. This is a political gimmick. Vote no.

—Mike Beirne, Representative
Alaska State Legislature

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

BALLOT MEASURE NO. 3

Constitutional Amendment

CHANGES IN COMMISSION ON JUDICIAL QUALIFICATIONS

(Committee Substitute for House Joint Resolution No. 32 Judiciary Committee Amended Senate)

SUMMARY

(As it will appear on the November 2, 1982 General Election Ballot)

The amendment to article IV, section 10, of the Alaska Constitution re-names the Commission on Judicial Qualifications and changes the makeup of the body. Membership of the new Commission on Judicial Conduct would include: three justices or judges of state courts (instead of the present requirement of five from specified courts); three (instead of two) lawyers; and three (instead of two) persons who are neither members of the state bar nor judges. Judicial members would be elected by all justices and judges, rather than their respective courts, and lawyer members would be appointed by the governor from state bar association nominees and subject to legislative confirmation, rather than appointed directly by the bar.

BALLOT FORM:

A vote "FOR" adopts the amendment.

A vote "AGAINST" rejects the amendment.

FOR ☐

AGAINST ☐

VOTE CAST BY MEMBERS OF 12TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas 19	Nays 0	Absent or Not Voting 1
House	(40 members):	Yeas 35	Nays 0	Absent or Not Voting 5

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

This proposal for a constitutional amendment would change the name of the Commission on Judicial Qualifications to the Commission on Judicial Conduct. The proposal would also realign the membership of the commission:

(1) At this time, there are five justices or judges who are elected from the judiciary, one from the supreme court, three from the superior court, and one from the district court. Under the proposal, there would be three justices or judges elected by the members of the judiciary.

(2) At this time, there are two attorneys appointed by the governing body of the organized bar. Under the proposal, there would be three attorneys nominated by the governing body of the organized bar, appointed by the governor, and subject to confirmation by the legislature.

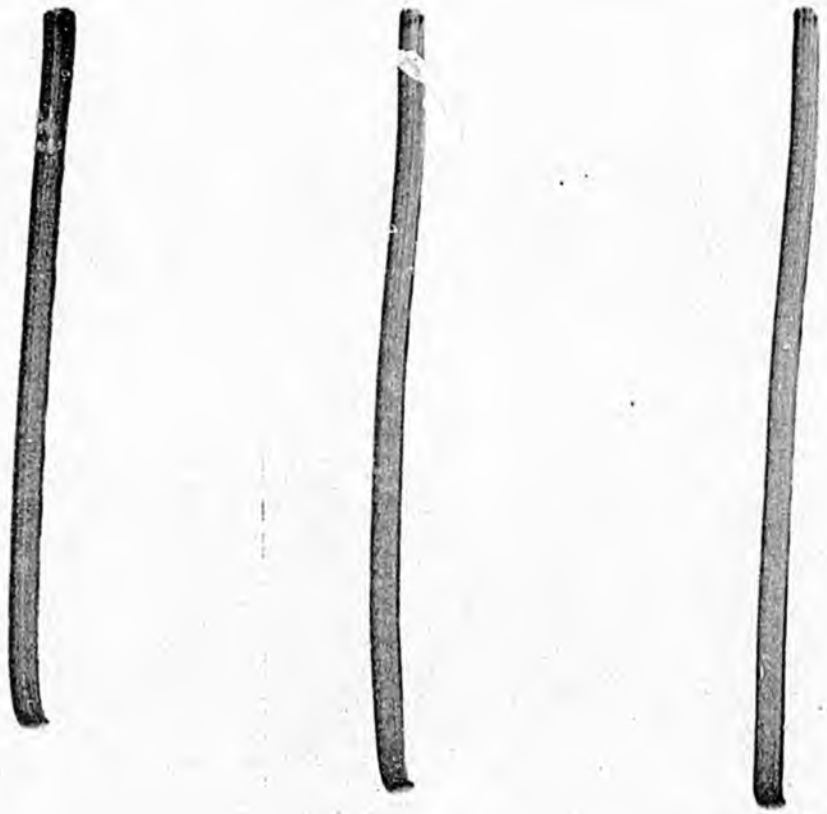
(3) At this time, there are two persons appointed by the governor and subject to confirmation by the legislature who are required not to be judges, retired judges, or members of the state bar. Under the proposal, there would be three persons appointed to the commission by the governor and confirmed by the legislature who are required not to be judges, retired judges or members of the state bar.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

(Underlining indicates material to be added. Brackets indicate material to be deleted.)

SECTION 10. COMMISSION ON JUDICIAL CONDUCT [QUALIFICATIONS]. The Commission on Judicial Conduct [QUALIFICATIONS] shall consist of nine members, as follows; three persons who are justices or judges of state courts [ONE JUSTICE OF THE SUPREME COURT], elected by the justices and judges of state courts [OF THE SUPREME COURT; THREE JUDGES OF THE SUPERIOR COURT, ELECTED BY THE JUDGES OF THE SUPERIOR COURT; ONE JUDGE OF THE DISTRICT COURT, ELECTED BY THE JUDGES OF THE DISTRICT COURT]; three [TWO] members who have practiced law in this state for ten years, appointed by the governor from nominations made by the governing body of the organized bar and subject to confirmation by a majority of the members of the legislature in joint session; and three [TWO] persons who are not judges, retired judges, or members of the state bar, appointed by the governor and subject to confirmation by a majority of the members of the legislature in joint session. In addition to being subject to impeachment under Section 12 of this article, a justice or judge may be disqualified from acting as such and may be suspended, removed from office, retired, or censured by the supreme court upon the recommendation of the commission. The powers and duties of the commission and the bases for judicial disqualification shall be established by law.


S B



THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSSB 111
Title: An Act relating to public meetings under the Administrative Procedure Act.
Requested by House State Affairs Date April 29, 1983

II. FISCAL DETAIL
Agency Affected Legislative Affairs Agency
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Public Services - Teleconferencing
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME	None						
PART TIME	"						
TEMPORARY	"						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
It is estimated that this bill will not create additional fiscal impact. However, depending on the extent to which teleconferencing is used in lieu of actual meetings, there could be an inestimable negative fiscal impact due to diminished travel costs.

IV. DATE May 3, 1983 PREPARED BY Wally Harrison, Director
AGENCY Administrative Services, LAA
PHONE 465-3850

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

33-001 (Rev. 12/82)

CSSB 111

AS 44.62.210

State Government.
CHAPTER 62.
Administrative Procedure Act.
ARTICLE 4.
Procedure for Adopting Regulations.
Sec. 44.62.210.

PUBLIC PROCEEDINGS.

(a) On the date and at the time and place designated in the notice the agency shall give each interested person or his authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, with or without opportunity to present them orally. The state agency shall consider all relevant matter presented to it before adopting, amending or repealing a regulation.

(b) At a hearing under this section the agency or its authorized representative may administer oaths or affirmations, and may continue or postpone the hearing to the time and place which it determines.

HISTORY (Sec. 7 art IV (ch 1) ch 143 SLA 1959)

AS 44.62.310

State Government.
CHAPTER 62.
Administrative Procedure Act.
ARTICLE 6.
Agency Meetings Public.
Sec. 44.62.310.

AGENCY MEETINGS PUBLIC.

(a) All meetings of a legislative body, of a board of regents, or of an administrative body, board, commission, committee, subcommittee, authority, council, agency, or other organization, including subordinate units of the above groups, of the state or any of its political subdivisions, including but not limited to municipalities, boroughs, school boards, and all other boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions or organizations, advisory or otherwise, of the state or local government supported in whole or in part by public money or authorized to spend public money, are open to the public except as otherwise provided by this section. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. This section does not apply to any votes required to be taken to organize the afore-mentioned bodies.

(b) If excepted subjects are to be discussed at a meeting, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that come within the exceptions contained in (c) of this section shall be determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at the executive session.

(c) The following excepted subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;

(2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;

(3) matters which by law, municipal charter, or ordinance are required to be confidential.

(d) This section does not apply to

(1) judicial or quasi-judicial bodies when holding a meeting solely to make a decision in an adjudicatory proceeding;

(2) juries;

(3) parole or pardon boards;

(4) meetings of a hospital medical staff; or

(5) meetings of the governing body or any committee of

Agency Meetings Public.

CITATION Sec. 44.62.312.

CATCH LINE

STATE POLICY REGARDING MEETINGS.

TEXT (a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies which serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created.

(b) AS 44.62.310(c)(1) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and avoid unnecessary executive sessions.

HISTORY (Sec. 3 ch 98 SLA 1972)

a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline.

(e) Reasonable public notice shall be given for all meetings required to be open under this section.

(f) Action taken contrary to this section is void.

HISTORY (Sec. 1 art VI (ch 1) ch 143 SLA 1959; am sec. 1 ch 48 SLA 1966; am sec. 1 ch 78 SLA 1968; am sec. 1 ch 7 SLA 1969; am secs. 1, 2 ch 98 SLA 1972; am sec. 2 ch 100 SLA 1972; am sec. 1 ch 189 SLA 1976)

AS 44.62.312

State Government.
CHAPTER 62.
Administrative Procedure Act.
ARTICLE 6.

CHAPTER 62.
Administrative Procedure Act.
ARTICLE 8.
Administrative Adjudication.

CITATION Sec. 44.62.410.

CATCH LINE
TIME AND PLACE OF HEARING.

TEXT The agency shall determine the time and place of hearing. The hearing shall be held in Juneau or Ketchikan, whichever is closer to the place where the transaction occurred or where the respondent resides, if the transaction occurred in or the respondent resides in the Southeastern Senate District; in Anchorage if the transaction occurred or the respondent resides within the South Central Senate District; in Fairbanks or Nome, whichever is closer to the place where the transaction occurred or where the respondent resides, if the transaction occurred in or the respondent resides in the Central or Northwestern Senate Districts. The agency may, if the transaction occurred in a senate district other than that of respondent's residence, select the place of hearing appropriate for either district. The agency may select a different place nearer the place where the transaction occurred or where the respondent resides, or the parties by agreement may select any place in the state.

HISTORY (Sec. 9 (ch 2) ch 143 SLA 1959)

2/14

February 14, 1983

INTRODUCTION OF BILLS (Senate)

Telecon-ferencing (use of in public meetings)

SENATE BILL NO. 111, by the Rules Committee by request of the Governor. Amends portions of the state Administrative Procedure Act to explicitly allow participation in public meetings by teleconferencing. Defines "teleconferencing" as "information exchange by audio, video, or computerized electronic media." States that intent is to "allow state agencies and the public to employ advances in teleconferencing technology that can increase the efficiency and convenience of transacting business with or by a state agency." Does not provide for an effective date.

Introduced February 7 and referred to State Affairs and Judiciary.

In his message transmitting the bill to the Senate for consideration, Governor Sheffield stated:

> Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the use of teleconferencing for meetings and hearings held under the Administrative Procedure Act (AS 44.62). The bill confirms and clarifies that teleconferencing is a legally permissible means for increasing efficient public access and input to government bodies. Provisions to safeguard the constitutional and statutory rights of the public relating to hearings and public meetings are included in the bill.
>
> This bill was derived from the last legislature's CSHB 703(L & C). I urge your prompt action on this important measure.

3/16

Telecon-ferencing (use of in public meetings)

SENATE BILL NO. 111, (see page 135). Reported back to the Senate on March 16 by State Affairs with a majority of the committee recommending it be replaced with State Affairs Committee Substitute and that it do pass. Concurring: Vic Fischer (Chmn.), Kelly, Sturgulewski and Rodey. To Judiciary.

The State Affairs CS makes several relatively minor changes in wording to various portions of the statutes being amended. Major change is in proposed new language added to the public meeting law. The CS adds the underlined material: "All participants must be afforded the opportunity to hear and, if video transmission is available, see everything transpiring at the meeting . . . ."

4/12

Telecon-
ferencing
(use of in
public
meetings)

SENATE BILL NO. 111, (see pages 135; 315). Reported back to the Senate on April 12 by Judiciary with the committee recommending it be replaced with Judiciary Committee Substitute with new title and that it do pass. Concurring: Ray, (Chmn.), Ziegler, Josephson, Pettyjohn and Eliason. To Rules.

page 508

COMMITTEE REPORTS (Senate)(cont'd)

SB 111 (cont'd)

The Judiciary CS makes the following changes:

--Specifically includes the University of Alaska in list of government agencies that are subject to the public meeting law (AS 44.62.310).

--New language to public meeting law would read: "Attendance and participation at meetings by the public or members of the body, except sessions, including joint session, of the senate or house, may be by teleconferencing according to reasonable rules established by the body conducting the meeting. The rules shall provide that agency materials that are to be considered at the meeting are available at teleconference locations at which voting participants attend. The rules are not considered regulations and need not be adopted under AS 44.62.040 - 44.62.290."

The State Affairs version did not specifically except legislative sessions and referred to "ground rules" rather than "rules." Deletes provision that required rules to include guidelines for suspending or rescheduling a teleconference meeting if a teleconferencing system failure occurs during the meeting. Deletes: "All participants must be afforded the opportunity to hear and, if video transmission is available, see everything transpiring at the meeting and to speak on any issue upon which oral testimony is accepted."

--Deletes from new AS 44.62.635, "TELECONFERENCING": "If teleconferencing is used for consideration of an issue during a meeting or hearing, then it must be used for the entire time that that issue is being considered."

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CSSB 111
Title: "An Act relating to public meetings*
Sponsor: Senate Rules (request of Governor)
Requestor: House State Affairs
*under the Administrative Procedures Act"

II. FISCAL DETAIL

Agency Affected: Potentially all
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Sioux Plummer, Director Sioux Plummer Phone: 465-2041
Division: Telecommunications Services Date: 4/28/83

Approved by Commissioner: Commissioner Lisa Rudd Date: 5/2/83
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

The proposed legislation, which passed the Senate on 4-27-83 and was referred to the House, is intended to clarify and legally authorize the use of "teleconferencing technologies" to increase the efficiency and convenience of transacting business with or by State agencies. The bill essentially clarifies past and present ambiguities relating to the legal use of teleconferencing at public meetings.

Historically, the proposed legislation was derived from CSHB 703 (Labor and Commerce) which died last year in the House Finance Committee. At the request of the Governor, the bill was reintroduced this year by the Senate in the Rules Committee. The Rules Committee referred the bill, unamended, to the State Affairs Committee which amended the bill. The State Affairs Committee referred the bill to the Judiciary Committee which also amended it. This amended version passed the Senate on April 27, 1983.

The Judiciary Committee made several amendments to the bill. Primary changes include: 1) the bill title was changed; 2) the Committee added that "sessions, including joint sessions, of the senate and house" be excluded from attendance and participation by the public or members of a body by teleconferencing (section 3, lines 7-11); 3) the Committee deleted "All participants must be afforded the opportunity to hear and, if video transmission is available, see everything transpiring at the meeting and to speak on any issue upon which oral testimony is accepted" (previously section 3, lines 17-20); and, 4) the Committee deleted "if teleconferencing is used for consideration of an issue during a meeting or hearing, then it must be used for the entire time that that issue is being considered" (previously section 8-b, lines 27-29).

Items 3 and 4 above were originally added to the legislation as safeguards preventing agencies from excluding the public from segments of a meeting or hearing. Though the Department preferred non-removal of these two items, the Department does support the amended Judiciary Committee version of CSSB III.

CSSB III

POSITION PAPER

The Division of Telecommunications Services, Department of Administration, supports the passage of CSSB III (An Act relating to public meetings under the Administrative Procedures Act) because it will clarify past and present ambiguities relating to the use of teleconferencing at public meetings. Specifically, it will clarify the legality regarding voting and establishing quorums by teleconference.

Teleconferencing has proven to be an effective communications medium when used to disseminate or gather information. It is only when teleconferencing has been used for voting that questions regarding quorums and other legal considerations for meetings have arisen.

The intent to legally clarify teleconferencing has no direct fiscal impact on State agencies. However, it is noted that if this legislation becomes law, there are potential fiscal considerations for all teleconference users. It is assumed that by clearing up legal questions, teleconferenced meetings will become more popular and occur more frequently. This has the potential to reduce travel costs and to increase equipment and long distance telephone costs. Equipment costs could be for the purchase of teleconference terminal equipment and apparatus. In the final analysis, by clearing up legal considerations, ~~resulting in~~ increased teleconferencing activities and reduced travel would save money for the State. It is more cost effective to teleconference than it is to travel.

Sioux Plummer — 4-28-83

Sioux Plummer, Director
Division of Telecommunications Services
Department of Administration

Date

Julianna Guy — 4-29-83

Julianna Guy, Deputy Commissioner
for Telecommunications
Department of Administration

Date

Lisa S Rudd — 5/2/83

Commissioner Lisa Rudd
Department of Administration

Date

MEMORANDUM

To: John
From: Brent
Date: May 5, 1983

RE: CS SB 111 TELECONFERENCING, USE IN PUBLIC MEETINGS

WHAT THIS BILL DOES:

Amends portions of the state Administrative Procedure Act to allow participation in public meetings by teleconferencing. By "public meetings", this includes floor sessions for both the house and the senate.

Allows for "a member of an agency" to vote by teleconference, when "normal, in person voting is not reasonably possible."

This bill passed the senate 18 to 1

ADDITIONAL COMMENTS:

Staff is of the opinion that this bill, if passed, would have a detrimental effect the quality of the legislature. By allowing voting by teleconference, many problems would appear.

(1). How would you totally verify or prove the identity of the member voting away from the body?
(2). Art. I Sec. 4 of the U.S. Constitution states that a voting body be located in one location.
(3) If voting was allowed by teleconference, how would a quorum be established? How about a call on the House? How would attendance be taken?

QUESTIONS:

Line 7-19, Page 2. Does this mean that sessions and joint sessions cannot be conducted by the aid of the teleconference network? If so, what about "special sessions"? Why is not this included?

Line 21, Page 2. What is "Reasonable public notice?" Exactly?

Line7-8, Page 3. VOTING PROCEDURE. What is meant by "reasonably possible?" Does that mean out of Juneau, out of the capital, or perhaps out of the state? (Maybe you could vote from the shores of sunny Hawaii)

Line 20, Page 3. How do you waive a constitutional right?

CSSB 111

This bill originated from the Governor's office and comes highly endorsed by him and the Dept. of Administration. It would allow state agencies, boards & commissions to vote at teleconferenced meetings.

Originally, when the bill was written it also applied (mistakenly) to teleconferenced floor sessions. This has been corrected in the CS but they left out one thing.

Amendment # 1 page 2, line 9, after "joint" insert "and special"

Question: Why has the provision for rescheduling a meeting due to teleconferencing system failure been deleted from the Judiciary version? (It appears on both the original SB and the CS (State Affairs) on page 2 lines 12-14.

Question: Page 2, line 21. What is "reasonable public notice"?

Amendment # 2 Page 3, lines 7-8, delete " When normal, in-person voting is not reasonably possible, a " insert "A"

This sentence serves no useful purpose except confusion. Legal Services agrees that it is badly drafted.

Amendment # 3 Page 3, line 8, delete "an", insert "a state"

This section allows state agencies to vote either by mail or by teleconference. Voting by mail does not apply to the legislature an is not included in the definition of "state agency" in this chapter.

Amendment # 4 Page 3, line 20, delete "either waived or adequat ly"

This is an odd one. One page 1, lines 12-14 the bill discusses constitutional and statutory rights and yet on page 3, it talks about waiving those rights. Who would ever choose to waive a constitutional right? Why would they be in a position to have to waive any rights?

SB

132

CSSB 132

This bill was before the committee on Monday. When the committee substitute was being drawn up, Art Peterson (who offered 2 amendments which the committee accepted) realized that he had misunderstood some information contained in his amendment.

We have corrected the amendments and a work draft had been prepared for the committee's review.

The changes are:

page 1, line 26-28, after "(8)" insert, "references to the state computer data base that contains a summary of the text of formal opinions and memoranda of advice of the attorney general."

Also on page 2, line 28, the repeal date has been changed to July 1, 1985.

On page 2, line 29 the effective date has been changed to July 1, 1983.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K -- STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 24, 1983

RECEIVED
MAY 24 1983

The Honorable Mitch Abood, Chairman
House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: CSSB 132 (SA) -- Alaska Administrative Journal

Dear Representative Abood:

When I testified before the House State Affairs Committee yesterday I mistakenly said that the attorney general's opinions are being put into the legislative data processing system. That is not correct. They are being put into the Department of Administration's data processing system. I had misunderstood the information I had received.

However, the point is the same. The Department of Administration data is accessible from legislative terminals and duplication would only be wasteful.

Also, it appears that the data base will include summaries, not the entire text, of the attorney general's opinions. That should satisfy the intent behind this bill, as indicated by its "the text or a summary" language.

Thus, I would like to suggest a change in the wording of the amendment on page 1, line 26:

> After the "(8)" and before the "the," insert: "a cross reference to the state's data processing system data base that contains" and delete "the text or."

It was also my understanding that there was a consensus on the committee to adopt the compromise July 1, 1983 effective date, along with extending the 18-month pilot project to 24 months. However, I did not hear the committee's final vote on

this issue.

Thank you for your consideration.

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Art Peterson

Arthur H. Peterson
Assistant Attorney General

AHP:jb

cc: Hon. Bettye Fahrenkamp
Alaska State Senate

Emil Notti
Legislative Assistant
Governor's Office

CSSB 132 (State Affairs)

TESTIMONY OF SENATOR BETTYE FAHRENKAMP
Before the House State Affairs Committee
May 23, 1983

Mr. Chairman:

Thank you for the opportunity to speak in support of SB 132, a bill establishing the Administrative Journal.

As you know, I've been working on this idea now for several years. The original purpose was to create a one-stop-shopping type of approach to government information. Take all of the public notices; proposed regulatory changes, adopted regulatory changes, Attorney General opinions, Executive Orders, open meetings and hearings, notices of competitive bid solicitations, agency requests for proposals, proposed mineral and timber sales and any other tidbit of information which is daily being churned out of our state government agencies, and make it available in one publication.

The idea, while I'd like to suggest its novelty, is not new. The federal government prints a daily federal register of its public information and 36 of the 50 United States have a journal or register wherein they publish the text and in some cases the summaries of their executive and administrative actions.

Mr. Chairman, word of mouth government simply does not work in a state literally on the cutting edge of development and growth. It discourages public participation, trust and faith in the entire mission of government: which is to serve.

One of the bill's previous failings was that the fiscal impact had been too large to warrant the effort. I've fought large fiscal notes because I'm convinced that we can accomplish the goal without incurring large costs. There are, however, some unknowns which add to the uncertainty of costs. Some of these include: How many people or organizations might be interested in such a journal; how much would they be willing to pay for it; how can we coordinate state agency effort to gather and transmit the information, and several others.

As a result, the Lieutenant Governor and I have come up with an idea which will affect the basic thrust of SB 132 and at the same time assuage the uncertainty.

The bill before the Committee today will affect an 18 month trial run of the journal. Rather than an actual publication, each issuer or agency would be required to provide a compatible magnetic tape format of their actions to a coordinator in the Lieutenant Governor's office, who will process the material for acceptance by the Legislative Affairs Agency.

The idea is simple. Provide the information we require to Legislative Affairs Data Processing. They are geared-up with the equipment and personnel to almost instantaneously translate the information onto the Legislative Computer Network which operates in 18 Legislative Information Offices throughout the state as well as individual legislators' offices in many cities. Any interested person can access the "journal" index and call up those portions which are of interest and can copy those pages and information. As part of the trial run, we would ask users of this information to answer basic data gathering questions which will establish the track record from which we can make educated decisions on the publication of a hard copy Administrative Journal.

While this may sound far fetched, it is no novelty either. Other states which currently have hard copy journals are putting this data on state computers for quicker reference and access. Not only do we beat the high costs of publication and distribution, but we continue to move into the 21st century and what we know will be an almost total reliance on word processing and data gathering computerized systems. Alaska has for years been in the vanguard of high tech development and utilization in the communications field. It is my hope that the Committee will act favorably on the substitute language to SB 132 and I would be happy to answer any questions the Committee might have. Thank you, Mr. Chairman.

Sectional Analysis of CSSB 132 (State Affairs)

To establish the Alaska Administrative Journal.

Sec. 1 amends Sec. 44.62 (Administrative Procedure Act) by adding new section to Article 3 (Alaska Administrative Register and Code) establishing the Alaska Administrative Journal.

(a) Vests responsibility for publishing the Journal with the Lieutenant Governor, bi-weekly. Lists those notices which shall be included in Journal; they are:

(1) Proposed actions;
(2) State meetings;
(3) Notices of bid solicitations (competitive bids);
(4) Agency RFPs;
(5) Executive Orders;
(6) Executive (Departmental also) delegations of authority;
(7) Text of regulations, proposed or adopted, not exceeding 16 legal-sized pages--Commissioner allowed discretion to reduce this page limitation;
(8) Text or summaries of formal opinions and memoranda of advice of the Attorney General.

(b) Requires issuer of notices (as above) to send copies to the publisher of Journal in a computer-readable magnetic medium compatible with the legislative data processing system.

(c) Requires that the publisher shall organize and provide this readable text to the Legislative Affairs Agency.

(d) Provides that no one can maintain a legal action against the state for failure to publish in the Journal.

(e) Publications in the Journal do not replace legal requirement to publish in the newspaper;

(f) Defines "Journal" and "publish".

Sec. 2 Requires a report to the legislature not later than January 31, 1985. The report shall have the recommendations of the Lt. Governor as to:

(1) Need for continuing the Journal;
(2) Whether or not it should be made available in hard copy;
(3) Suggested cost;
(4) Other matters relevant to its publication.

Sec. 3 Sunsets Act 18 months from effective date.

Sec. 4 Effective date: immediately.

STATE OF ALASKA
FISCAL NOTE

Revision Date 3-29 , 1983

I. REQUEST

Bill/Resolution No.: CS SB 132(SA)
Title: Administrative Journal
Sponsor: Fahrenkamp, et al
Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Governor's Office
Program Category Affected: Lt. Governor
BRU, Program of Subprogram(s) Affected:
Office of the Lieutenant Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		71.2				
200 TRAVEL		- 0 -				
300 CONTRACTUAL		88.8				
400 COMMODITIES		.6				
500 EQUIPMENT		- 0 -				
600 LAND & STRUCTURES		- 0 -				
700 GRANTS, CLAIMS, ETC		- 0 -				
TOTAL OPERATING		160.6				
CAPITAL		- 0 -				
REVENUE		- 0 -				

FUNDING: (Thousands of Dollars)

GENERAL FUND		160.6				
FEDERAL FUNDS		- 0 -				
OTHER (Specify Source)		- 0 -				

POSITIONS:

FULL-TIME		2				
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

If continued to be published, the distribution of the Journal would be on a subscription basis at a cost to be determined by the Lt. Governor with the revenues coming back to the General Fund.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Sally L Hanson — Phone: 465-3520
Division: Office of the Lieutenant Governor — Date: 3/29/83

Approved by Commissioner: — Date: 3/29/83
Department: Lieutenant Governor

Publish Administrative Journal on a biweekly basis

100	**Personal Services**		
	Systems Analyst Range 16B @ $2556/mo		
	Salary/year 30.7		
	Benefits/year 7.7		
	38.4		
	Publication Tech. Range 12B @ $1946/mo		
	Salary/year 23.4		
	Benefits/year 5.9		
	29.3	67.7	
	Inflation @ 5.1%	3.5	71.2
200	**Travel**		
	- 0 -		
300	**Contractual Services**		
	Telephone, long distance	1.5	
	Postage & mailing (assume 500)- 500 to be picked up at info offices)	10.5	
	Advertising ($70/ad x 24)	1.7	
	Rental (Display Writer, Modem & line cost)	5.0	
	Printing & Binding 25 x $2.50 x .000 x 26 issues (estimate 25 sheets back to back)	65.0	
	Inflation @ 6%	5.1	88.8
400	**Commodities**		
	General office supplies	.6	.6
500	**Equipment**		
	- 0 -		
	TOTAL		$ 160.6



APR 27 1983

SB 132

Alaska Environmental Lobby, Inc.

419 6th Street, Suite 328 Juneau, Alaska 99801 907-586-2345

April 25, 1983

Senator Bettye M. Fahrenkamp
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Dear Senator Fahrenkamp:

The concept of establishing an administrative journal as outlined in CS SB 132 is an excellent one, and the Alaska Environmental Lobby strongly supports that legislation. We too realize the immediate importance of stepping beyond "word of mouth government" in this rapidly growing state. Alaska, by virtue of its geography and different cultures,offers enormous communication and information barriers. We are heartened by your efforts to clear this particular path between private citizens and state government.

Though the Lobby favors a hard copy version of the journal in addition to the magnetic tape system, we anticipate a productive trial period should CS SB 132 pass. Thank you for your past and continuing work on this legislation.

Ken Troyer
Volunteer, Fairbanks

Ken Troyer

Sincerely,

Jay Nelson

Jay Nelson
Executive Director

ALASKA BAR ASSOCIATION

P.O. BOX 279, ANCHORAGE, ALASKA 99510, (907) 272-7469

ADMINISTRATIVE LAW SECTION

MAR 18 1983

401 F. Street
Douglas, Alaska 99824

March 14, 1983

The Honorable Bettye Fahrenkamp
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

On behalf of the administrative law committee of the Alaska Bar Association, I wish to express our strong support for Senate Bill 132 which would establish the Alaska Administrative Journal to be published on the bi-weekly basis.

Should you require further detail about our position or desire oral testimony in support of the bill, please do not hesitate to contact me.

Sincerely yours,

Bruce M. Botelho
Chairperson

BMB/prm

1982 Survey of *Codes* and *Registers*

State: Federal Government

Director/Editor: John E. Byrne, Director

Agency: Office of the Federal Register
National Archives and Records
Service, General Services Admin.

Register: FEDERAL REGISTER

Staff: 20 Legal Publications Specialists

Budget:
- Printing Expenses: ~~paid per page by~~ agencies
- Salaries: $21,500 average per editor
- Subsidy Received: _____
- Subscriptions: $300 annually (to Govt. Printing Office)

Frequency of issue: every Federal working day

Circulation:
- Number Paid: 37,000
- Number Gratis: 12,000 (not gratis, Official copies for Fed. Agencies)
- Price per Issue: $1.50
- Price for Subscription: $300
- Sales Promotion: Superintendent of Documents, Government Printing Office
- Distribution: Superintendent of Documents, Government Printing Office

Volume:
- Pages per Year: ~~63,500 (1981)~~
- Pages per Issue: 250

Content:

☐ Text	☐ Notices Only		
☐ Emergency Rules	☑ Hearings	☐ Executive Items	☐ Other _____
☑ Proposed Rules	☑ Executive Orders	☐ Judicial Items	☐ Other _____
☑ Adopted Rules	☑ Proclamations	☐ Legislative Items	☐ Other _____
☑ Open Meetings	☐ State Contracts	☑ Index	☐ Other _____

Format: 3 column

Code: CODE OF FEDERAL REGULATIONS

Staff: 22 Legal Publications Specialists

Budget:
- Printing Expenses: ~~paid per page by~~ agencies
- Subsidy Received: _____
- Amount for Salaries: $21,500 average annual salary per editor
- Subscriptions: ~~varies per title;~~ $3,300 for whole set

Supplementation: annual

Circulation:
- Number Paid: 3,300 (whole set)
- Number Gratis: _____
- Price per volume: varies
- Total Price for Set: $615.00
- Sales Promotion: Government Printing Office
- Distribution: Government Printing Office

Volume: 180 volumes 105,000 pages

(Please explain answers in detail.)

Law:

☑ No ☐ Yes Correction of Nonsubstantive Errors.

No statutory provision

☑ No ☐ Yes Correction of Substantive Errors.

No statutory provisions

☐ No ☑ Yes Official Text

☐ No ☑ Yes Judicial Notice.

☐ No ☑ Yes Annotate.

☐ No ☑ Yes Edit. Edit for typos, spelling codification

☐ No ☑ Yes Emergency Regulations.

Special publication system

☐ No ☑ Yes Legislative Oversight. Applicable to only certain agencies

☐ No ☑ Yes Economic Impact Statement. Eo 12291 of February 17, 1981 requires major regulations to present a Regulatory Impact Analysis. A notice of availability of this Analysis is published. Also, Regulatory Flexibility Act requires statement of affect of regulation on small business.

Computer Composition:

☐ No ☑ Yes Computer Use.

Electronic photocomposition of Federal Register text by GPO; CFR updated on CRT's by editors pooducing a master magnetic tape.

☐ No ☑ Yes Searchable Data Base.

Limited. Available in CFR at Part level

☐ No ☐ Yes Cost-Savings.

☐ No ☑ Yes Microfilm/Microfiche. Federal Register : $175 (10/1/82)
Code of Federal Regulations: $250

Other Services.

☐ No ☑ Yes Editorial Standards Manual.

Document Drafting Handbook, Supt. of Docs. Government Printing Office $1.75

☐ No ☑ Yes Instruction in Regulations Drafting.

☑ Seminars ☑ Pre-Publication Review
☑ Consultations ☑ Liaison Representative Required
☑ Manual ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: ALABAMA

Director/Editor: Louis G. Greene Agency: Legislative Reference Serv.c

Alabama does not publish a Code of Administrative Procedures. The APA passed effective 10-1-82. (This information was obtained from the 1981 ACR Survey).

Register: _____

Staff:

Budget: Printing Expenses _____
Salaries _____
Subsidy Received _____
Subscriptions _____

Frequency of issue:

Circulation: Number Paid _____
Number Gratis _____
Price per Issue _____
Price for Subscription _____
Sales Promotion:

Distribution:

Volume: Pages per Year _____
Pages per Issue _____

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

Code: _____

Staff:

Budget: Printing Expenses _____
Subsidy Received _____
Amount for Salaries _____
Subscriptions _____

Supplementation:

Circulation: Number Paid _____
Number Gratis _____
Price per volume _____
Total Price for Set _____
Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☐ Yes — Correction of Nonsubstantive Errors.
- ☐ No ☐ Yes — Correction of Substantive Errors.
- ☐ No ☐ Yes — Official Text
- ☐ No ☐ Yes — Judicial Notice.
- ☐ No ☐ Yes — Annotate.
- ☐ No ☐ Yes — Edit.
- ☐ No ☐ Yes — Emergency Regulations.
- ☐ No ☐ Yes — Legislative Oversight.
- ☐ No ☐ Yes — Economic Impact Statement.

Computer Composition:

- ☐ No ☐ Yes — Computer Use.
- ☐ No ☐ Yes — Searchable Data Base.
- ☐ No ☐ Yes — Cost-Savings.
- ☐ No ☐ Yes — Microfilm/Microfiche.

Other Services.

- ☐ No ☐ Yes — Editorial Standards Manual.
- ☐ No ☐ Yes — Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: ALASKA

Director/Editor: Deborah B. Baley Agency: Lt. Governor's Office

Register: N/A

Staff:

Budget:
- Printing Expenses
- Salaries
- Subsidy Received
- Subscriptions

Frequency of issue:

Circulation:
- Number Paid
- Number Gratis
- Price per Issue
- Price for Subscription
- Sales Promotion:
- Distribution:

Volume:
- Pages per Year
- Pages per Issue

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format:

Code: Alaska Administrative Code

Staff: Deborah B. Baley and J. C. Bradshaw

Budget:
- Printing Expenses: FY82 $47,500 FY83 $64,600
- Subsidy Received: none
- Amount for Salaries:
- Subscriptions: handled by printer

Supplementation:

Circulation:
- Number Paid
- Number Gratis
- Price per volume: $250. for 4 volume set
- Total Price for Set: cost of quarterly supplements vary
- Sales Promotion:
- Distribution: by printer

Volume:

(Please explain answers in detail.)

SAME AS 1981 QUESTIONNAIRE

Law:

- ☐ No ☐ Yes — Correction of Nonsubstantive Errors.
- ☐ No ☐ Yes — Correction of Substantive Errors.
- ☐ No ☐ Yes — Official Text
- ☐ No ☐ Yes — Judicial Notice.
- ☐ No ☐ Yes — Annotate.
- ☐ No ☐ Yes — Edit.
- ☐ No ☐ Yes — Emergency Regulations.
- CORRECTION ----- ☐ No ☐ Yes — Legislative Oversight. The legislature may annual aregulation only by bill.
- CORRECTION ----- ☐ No ☐ Yes — Economic Impact Statement. A fiscal note is required only if the regulation is expected to require an increased appropration.

Computer Composition:

- ☒ No ☐ Yes — Computer Use.
- ☒ No ☐ Yes — Searchable Data Base.
- ☒ No ☐ Yes — Cost-Savings.
- ☒ No ☐ Yes — Microfilm/Microfiche.

Other Services.

- ☒ No ☐ Yes — Editorial Standards Manual.
- ☐ No ☐ Yes — Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Arizona

Director/Editor: Miriam J. McClennen Agency: Office of Secretary of State

Register: Administrative Digest

Staff: *(see Code below)

Budget:
- Printing Expenses: $ 10,000
- Salaries: Separate budget (not available)
- Subsidy Received: 100% (revenues returned to General Fund).
- Subscriptions: Into General Fund

Frequency of issue:

Circulation:
- Number Paid: 139
- Number Gratis: 204
- Price per Issue: $1.25
- Price for Subscription: $15.00 per year
- Sales Promotion: State Bar Newsletter
- Distribution: In house

Volume:
- Pages per Year: 260
- Pages per Issue: 14-16 (except January and July, 42-48)

Content: ☐ Text ☐ Notices Only

Summary only (☒ Emergency Rules ☐ Hearings ☐ Executive Items ☒ Other Summaries Attorney
(☒ Proposed Rules Text ☒ Executive Orders ☐ Judicial Items ☒ ~~Other~~ General
Listing/rule numbers ☒ Adopted Rules Text ☒ Proclamations ☐ Legislative Items ☒ ~~Other~~ Opinions.
☐ Open Meetings ☐ State Contracts Planning ☒ Index ☒ Other State Appointed Officials.
X State Boards & Commissions.

Format:

Code: Arizona Official Compilation, Administrative Rules and Regulations

Staff: *2½ (total staff of both publications)

Budget:
- Printing Expenses: $ 90,000
- Subsidy Received: 100% (revenues returned to General Fund)
- Amount for Salaries: Separate budget (not available)
- Subscriptions: Into General Fund

Supplementation:

Circulation:
- Number Paid: Complete Sets, 188; parts, 7354.
- Number Gratis: Complete Sets, 110; parts, 438.
- Price per volume: Varies with number of pages
- Total Price for Set: $325, plus $7.25 handling & postage, book rate.
- Sales Promotion: State Bar Newsletter, State Agency mailings.
- Distribution: In house

Volume: Pages per year 1,600,000.

(Please explain answers in detail.)

Law:

☐ No ☒ Yes Correction of Nonsubstantive Errors. No statutory provision.

☐ No ☒ Yes Correction of Substantive Errors. No statutory provision.

☐ No ☒ Yes Official Text

☐ No ☒ Yes Judicial Notice.

☐ No ☒ Yes Annotate.

☐ No ☒ Yes Edit. No statutory authority to edit - authority through rule promulgated by Secretary of State.

☐ No ☒ Yes Emergency Regulations. Pursuant to statute: "If agency finds that adoption is necessary for immediate preservation of public health and safety..." etc. It is approved and certified by Attorney General prior to filing with the Secretary of State and is valid for 90 days.

☐ No ☒ Yes Legislative Oversight.
Only State Parks Board.

☐ No ☒ Yes Economic Impact Statement. Required by Governor's Regulatory Review Council, which reviews all Notices of Proposed Action prior to filing with Secretary of State, except elected officials. This done by Executive Order. New law passed (eff. 7/24/82) requiring an "analysis of the impact of a rule on small businesses.

Computer Composition:

☐ No ☒ Yes Computer Use. 8" Hard Sector "floppy disk".

☒ No ☐ Yes Searchable Data Base.

☐ No ☐ Yes Cost-Savings.

☒ No ☐ Yes Microfilm/Microfiche.

Other Services.

☒ No ☐ Yes Editorial Standa Manual.

☐ No ☒ Yes Instruction in Regulations Drafting. - by Office of Attorney General.

- ☐ Seminars
- ☒ Pre-Publication Review
- ☒ Consultations
- ☐ Liaison Representative Required
- ☒ Manual
- ☐ Other (please explain)

Office of Secretary of State instructs on procedure and format through consultations, pre-publication review, liaison representative. seminars.

1982 Survey of *Codes* and *Registers*

State: ARKANSAS

Director/Editor: Debbie Sheffield Agency: Secretary of State

Register: The Arkansas Register

Staff:

Budget:
- Printing Expenses: 3,000
- Salaries: 30,000
- Subsidy Received: none
- Subscriptions: 365

Frequency of issue: Monthly

Circulation:
- Number Paid: 290
- Number Gratis: 75
- Price per Issue: 3.50
- Price for Subscription: 40.00
- Sales Promotion: Direct mail campaigns

Distribution: U. S. Mail

Volume:
- Pages per Year: approx. 600
- Pages per Issue: approx. 50

Content: ☐ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☒ Other A.G. Opin.
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other ions
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☒ Index	☐ Other

Format:

Code: N/A

Staff:

Budget:
- Printing Expenses
- Subsidy Received
- Amount for Salaries
- Subscriptions

Supplementation:

Circulation:
- Number Paid
- Number Gratis
- Price per volume
- Total Price for Set
- Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

☐ No ☐ Yes Correction of Nonsubstantive Errors. No statutory provision

☐ No ☐ Yes Correction of Substantive Errors. No statutory provision

☐ No ☒ Yes Official Text

☐ No ☒ Yes Judicial Notice.

☐ No ☒ Yes Annotate.

☐ No ☒ Yes Edit. typographical errors, spelling and grammer

☐ No ☒ Yes Emergency Regulations. If there is a need for an emergency regulation, it must be filed with Secretary of State's Office. Immediately upon filing, the regulation is effective for 120 days.

☐ No ☒ Yes Legislative Oversight. Reviews proposed regulations, but cannot prevent agency adoption.

☐ No ☒ Yes Economic Impact Statement. Required by statute.

Computer Composition:

☐ No ☐ Yes Computer Use. Comp-Set

☐ No ☐ Yes Searchable Data Base. N/A

☐ No ☐ Yes Cost-Savings.

☐ No ☒ Yes Microfilm/Microfiche. Available

Other Services.

☒ No ☐ Yes Editorial Standards Manual.

☐ No ☐ Yes Instruction in Regulations Drafting.

- ☐ Seminars
- ☐ Consultations
- ☐ Manual
- ☐ Pre-Publication Review
- ☐ Liaison Representative Required
- ☒ Other (please explain)

Instruction is given on an individual basis, as

1982 Survey of *Codes* and *Registers*

State: CALIFORNIA

Director/Editor: Agency:

Register: California Administrative Code Supplement

Staff:

Budget:
- Printing Expenses: _____
- Salaries: _____
- Subsidy Received: _____
- Subscriptions: 29,359

*This information was obtained from the 1981 ACR Survey.

Frequency of issue: weekly

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per Issue: _____
- Price for Subscription: $950.00/full-set of 25 Titles
- Sales Promotion: Brochure

Distribution: Sold through the Office of Procurement, Publications Section, P. O. Box 1015, North Highlands, CA 95660

Volume:
- Pages per Year: _____
- Pages per Issue: 150 (average)

Content:

☐ Text	☐ Notices Only		
☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

Code: The Administrative Code

Staff:

Budget:
- Printing Expenses: _____
- Subsidy Received: _____
- Amount for Salaries: _____
- Subscriptions: 29,359

Supplementation: See above

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per volume: _____
- Total Price for Set: $796.00/plus sales tax ($388.00/plus sales tax without binders)
- Sales Promotion: Brochure

Distribution: Same as above.

Volume:

(Please explain answers in detail.)

Law:

☐ No ☐ Yes Correction of Nonsubstantive Errors.

☐ No ☐ Yes Correction of Substantive Errors.

☒ No ☐ Yes Official Text

☐ No ☐ Yes Judicial Notice.

☐ No ☐ Yes Annotate.

☐ No ☐ Yes Edit.

☒ No ☐ Yes Emergency Regulations.

☒ No ☐ Yes Legislative Oversight.

☐ No ☐ Yes Economic Impact Statement.

Computer Composition:

☒ No ☐ Yes Computer Use.

☐ No ☒ Yes Searchable Data Base.

☐ No ☐ Yes Cost-Savings.

☐ No ☐ Yes Microfilm/Microfiche. - Index only

Other Services.

☐ No ☒ Yes Editorial Standards Manual.

☒ No ☐ Yes Instruction in Regulations Drafting.

- ☐ Seminars
- ☐ Consultations
- ☐ Manual
- ☐ Pre-Publication Review
- ☐ Liaison Representative Required
- ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: COLORADO

Director/Editor: Public Records Corp. Agency: Secretary of State

Register: Colorado Register

Staff: Printed/sold as a private enterprise pursuant to contract with the Secretary of State.

Budget: Printing Expenses _____
Salaries _____
Subsidy Received _____
Subscriptions _____

Frequency of issue: Monthly

Circulation: Number Paid All
Number Gratis ---
Price per Issue ---
Price for Subscription $296 complete, varying prices for various parts

Sales Promotion:

Distribution: Public Record Corporation
1666 Lafayette
Denver, Colorado 80218

Volume: Pages per Year 3,000 - 8,000
Pages per Issue Variable (100-500 pages)

Content: ☒ Text ☒ Notices Only - optional

☒ Emergency Rules	☐ Hearings	☐ Executive Items	☒ Other unofficial annotations
☒ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other (rules)
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☒ Index	☒ Other Attorney General rules and opinions

Format:

Code: Colorado Code of Regulations

Staff: (as above)

Budget: Printing Expenses _____
Subsidy Received _____
Amount for Salaries _____
Subscriptions _____

Supplementation: by Register

Circulation: Number Paid All
Number Gratis ---
Price per volume ---
Total Price for Set $525 with a year's Register subscription
Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- [X] No [ ] Yes — Correction of Nonsubstantive Errors.
- [X] No [ ] Yes — Correction of Substantive Errors.
- [ ] No [X] Yes — Official Text 24-4-103(11)(a) CRS 1973, as amended
- [X] No [ ] Yes — Judicial Notice.
- [ ] No [X] Yes — Annotate. Allowed, not mandated; not part of official text Mandated: Applicable court opinions & recommendatio: of the legal services committee of the general assembly-by reference only. (24-4-103(11)(a)CRS 1973 as amended.
- [X] No [ ] Yes — Edit.

(Only as above, through annotation)

- [ ] No [X] Yes — Emergency Regulations. 24-4-103(6)CRS 1973
- [ ] No [X] Yes — Legislative Oversight. 24-4-103(8)(c)(d)CRS 1973, as amended.
- [ ] No [X] Yes — Economic Impact Statement. 24-4-103(8)(d)CRS 1973, as amended; required for legislative oversight purposes but not for publication.

Computer Composition:

- [X] No [ ] Yes — Computer Use.
- [X] No [ ] Yes — Searchable Data Base.
- [X] No [ ] Yes — Cost-Savings.
- [X] No [ ] Yes — Microfilm/Microfiche.

Other Services.

- [X] No [ ] Yes — Editorial Standards Manual.
- [X] No [ ] Yes — Instruction in Regulations Drafting.
  - [ ] Seminars
  - [ ] Consultations
  - [ ] Manual
  - [ ] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: CONNECTICUT

Director/Editor: Ronald P. Guerrette

Agency: Commission on Official Legal Publications

Register: _____

Staff:

Budget:
- Printing Expenses _____
- Salaries _____
- Subsidy Received _____
- Subscriptions _____

Frequency of issue:

Circulation:
- Number Paid _____
- Number Gratis _____
- Price per Issue _____
- Price for Subscription _____

Sales Promotion:

Distribution:

Volume:
- Pages per Year _____
- Pages per Issue _____

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

Code: Regulations of Connecticut State Agencies

Staff:

Budget:
- Printing Expenses _____
- Subsidy Received _____
- Amount for Salaries _____
- Subscriptions _____

Supplementation:

Circulation:
- Number Paid 565
- Number Gratis 285
- Price per volume _____
- Total Price for Set $ 225.00

Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- [X] No / [ ] Yes — Correction of Nonsubstantive Errors.
- [X] No / [ ] Yes — Correction of Substantive Errors.
- [ ] No / [X] Yes — Official Text
- [X] No / [ ] Yes — Judicial Notice.
- [X] No / [ ] Yes — Annotate.
- [X] No / [ ] Yes — Edit.
- [X] No / [ ] Yes — Emergency Regulations.
- [ ] No / [X] Yes — Legislative Oversight.
- [X] No / [ ] Yes — Economic Impact Statement.

Computer Composition:

- [X] No / [ ] Yes — Computer Use.
- [X] No / [ ] Yes — Searchable Data Base.
- [ ] No / [ ] Yes — Cost-Savings.
- [X] No / [ ] Yes — Microfilm/Microfiche.

Other Services.

- [X] No / [ ] Yes — Editorial Standards Manual.
- [X] No / [ ] Yes — Instruction in Regulations Drafting.
  - [ ] Seminars
  - [ ] Consultations
  - [ ] Manual
  - [ ] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Delaware

Director/Editor:

Agency: Bureau of Archives and Records Management

Register: Delaware Documentation

Staff: 1 clerk, 1 microfilm operator

Budget:
- Printing Expenses: $ 1,300.00
- Salaries: $19,031.00
- Subsidy Received:
- Subscriptions:

Frequency of Issue: Quarterly

Circulation:
- Number Paid:
- Number Gratis: 600
- Price per Issue:
- Price for Subscription: gratis

Sales Promotion: none

Distribution: Checklist to all libraries and interested persons; selected fiche of publications to selected libraries.

Volume:
- Pages per Year: 60
- Pages per Issue: 15

Content: ☐ Text ☐ Notices Only Delaware Documentation is an index only of microfiched state publications material.

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format: Microfiche list of all state documents; full text not printed, but is issued on microfiche.

Code: Register of Regulations (last micropublished in 1979. Will be included as a part of Delaware Documentation in 1984.)

Staff:

Budget:
- Printing Expenses: 0
- Subsidy Received: 0
- Amount for Salaries: 0
- Subscriptions: 0

Supplementation:

Circulation:
- Number Paid: 0
- Number Gratis:
- Price per volume: 6.10
- Total Price for Set: 6.10

Sales Promotion: none

Distribution: All public libraries, law libraries, and clerks of courts of record and interested persons.

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☐ Yes — Correction of Nonsubstantive Errors. — Statutorily permitted.
- ☐ No ☐ Yes — Correction of Substantive Errors. — No statutory provision
- ☐ No ☒ Yes — Official Text — No statutory provision.
- ☐ No ☒ Yes — Judicial Notice.
- ☒ No ☐ Yes — Annotate.
- ☐ No ☐ Yes — Edit. — No statutory authority to edit; Delaware just films material as submitted.
- ☐ No ☐ Yes — Emergency Regulations. — Statutorily permitted.
- ☐ No ☐ Yes — Legislative Oversight. — None
- ☐ No ☐ Yes — Economic Impact Statement. — Not required.

Computer Composition:

- ☒ No ☐ Yes — Computer Use.
- ☒ No ☐ Yes — Searchable Data Base.
- ☐ No ☐ Yes — Cost-Savings.
- ☐ No ☒ Yes — Microfilm/Microfiche. — Code and regulations on microfiche only.

Other Services.

- ☒ No ☐ Yes — Editorial Standards Manual.
- ☐ No ☐ Yes — Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☒ Other (please explain) — Advise given upon request.

1982 Survey of *Codes* and *Registers*

State: District of Columbia

Director/Editor:

Agency: District of Columbia Office of Documents

*This information was obtained from the 1981 ACR Survey.

Register: District of Columbia Register

Staff:

Budget:
- Printing Expenses: $150,000 per year
- Salaries:
- Subsidy Received: $100,000 per year
- Subscriptions: 1200

Frequency of issue: Weekly

Circulation:
- Number Paid:
- Number Gratis:
- Price per Issue:
- Price for Subscription: $50 per year (no charge to D.C. Government agencies)
- Sales Promotion: None

Distribution: 2nd Class Mail

Volume:
- Pages per Year:
- Pages per Issue: 100–130 per issue

Content:

☒ Text	☐ Notices Only		
☒ Emergency Rules	☒ Hearings	☒ Executive Items	☐ Other
☒ Proposed Rules	☒ Executive Orders	☐ Judicial Items	☐ Other
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format: Perfect-bound, heavy paper cover

Code: District of Columbia Municipal Regulations

Staff:

Budget:
- Printing Expenses: $250,000
- Subsidy Received: 200,000
- Amount for Salaries:
- Subscriptions: None

Supplementation: Inserts and Reissuance

Circulation:
- Number Paid:
- Number Gratis:
- Price per volume: 500 (DCMR) 5,000 (DCRR)
- Total Price for Set: Varies with title
- Sales Promotion: Through D.C. Register, Washington Daily Law Reporter, local press

Distribution: Sales office, mail order

Volume:

(Please explain answers in detail.)

Law:

☐ No ☐ Yes Correction of Nonsubstantive Errors. - errata notice

☐ No ☐ Yes Correction of Substantive Errors. - reissuance

☐ No ☐ Yes Official Text- Text certified by Office of Documents and published in Register or D.C. Municipal Regulations (DCMR)

☐ No ☐ Yes Judicial Notice. - Required for Register and D.C. Municipal Regulations

☐ No ☐ Yes Annotate. - Office of Documents has authority, but no annotations done to date.

☐ No ☐ Yes Edit. - Office of Documents has authority to set editorial standards and requirements.

☐ No ☐ Yes Emergency Regulations. - 120-day emergency regs. may be adopted without 30-day notice; Notice of Emergency Rulemaking must indicate how rules are necessary for immediate preservation of public health, safety, welfare, or morals.

☐ No ☐ Yes Legislative Oversight. Legislature (Council) has authority to enact regulations in some areas, and reserves review period in a few areas.

☐ No ☐ Yes Economic Impact Statement. - None required.

Computer Composition:

☐ No ☐ Yes Computer Use. - Software programmable WP (MICOM 2000, 2001/w/plans to extend to 2002)

☐ No ☐ Yes Searchable Data Base. Disc only.

☐ No ☐ Yes Cost-Savings. - Reduced clerical staff ($40,000 per annum).

☒ No ☐ Yes Microfilm/Microfiche.

Other Services.

☐ No ☐ Yes Editorial Standards Manual. - Rules of the Office of Documents contain all editorial standards and other publications requirements.

☒ No ☐ Yes Instruction in Regulations Drafting.

- ☒ Seminars
- ☐ Consultations
- ☐ Manual
- ☒ Pre-Publication Review
- ☐ Liaison Representative Required
- ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: FLORIDA

Director/Editor: LIZ CLOUD Agency: SECRETARY OF STATE

Register: FLORIDA ADMINISTRATIVE WEEKLY

Staff: 7 positions

Budget:
- Printing Expenses: $221,525
- Salaries: 98,520
- Subsidy Received: 81,281 (OCO)
- Subscriptions: 85,206
- Line Charge: 105,894

Frequency of issue:

Circulation:
- Number Paid: 1800 aprox.
- Number Gratis: 240 "
- Price per Issue: $4.57
- Price for Subscription: $146.00
- Sales Promotion:

Distribution:

Volume:
- Pages per Year: 3785 (July 1, - May 21)
- Pages per Issue: 80 aprox.

Content: ☒ Text ☒ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☒ Other
☒ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☒ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format:

Code: Published by Harrison Company

Staff:

Budget:
- Printing Expenses:
- Subsidy Received:
- Amount for Salaries:
- Subscriptions:

Supplementation:

Circulation:
- Number Paid:
- Number Gratis:
- Price per volume:
- Total Price for Set:
- Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☒ Yes Correction of Nonsubstantive Errors.
- ☐ No ☐ Yes Correction of Substantive Errors.
- ☐ No ☐ Yes Official Text
- ☐ No ☐ Yes Judicial Notice.
- ☐ No ☐ Yes Annotate.
- ☐ No ☐ Yes Edit.
- ☐ No ☐ Yes Emergency Regulations.
- ☐ No ☐ Yes Legislative Oversight.
- ☐ No ☐ Yes Economic Impact Statement.

Computer Composition:

- ☐ No ☐ Yes Computer Use.
- ☐ No ☐ Yes Searchable Data Base.
- ☐ No ☐ Yes Cost-Savings.
- ☐ No ☐ Yes Microfilm/Microfiche.

Other Services.

- ☐ No ☐ Yes Editorial Standards Manual.
- ☐ No ☐ Yes Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☒ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: GEORGIA

Director/Editor:

Agency: Administrative Procedure Division, Office of Secretary of State.

Register: None.

Staff: 4

Budget: Printing Expenses _____
Salaries _____
Subsidy Received _____
Subscriptions _____

Salary Budge and Operating Expenses: $167,000

*This information was obtained from the 1981 ACR Survey.

Frequency of issue:

Circulation: Number Paid _____
Number Gratis _____
Price per Issue _____
Price for Subscription _____
Sales Promotion:

Distribution:

Volume: Pages per Year _____
Pages per Issue _____

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

Code: Official Compilation Rules and Regulations of the State of Georgia

Staff: 4

Budget: Printing Expenses _____
Subsidy Received None
Amount for Salaries _____
Subscriptions 1,000

As stated above.

Supplementation:

Circulation: Number Paid _____
Number Gratis _____
Price per volume _____
Total Price for Set $225/per set of 8 Volumes; supplements $10.00 per year.
Sales Promotion:

Distribution: As provided by law, plus paid subscribers.

Volume:

(Please explain answers in detail.)

Law:

☐ No ☐ Yes Correction of Nonsubstantive Errors. - Typographical only.

☐ No ☐ Yes Correction of Substantive Errors. - by readoption only.

☐ No ☒ Yes Official Text

☐ No ☒ Yes Judicial Notice.

☐ No ☐ Yes Annotate. - Administrative History following each Rule.

☐ No ☐ Yes Edit. - None.

☐ No ☐ Yes Emergency Regulations. - Immediate adoption; expires in 120 days.

☐ No ☒ Yes Legislative Oversight.

☐ No ☐ Yes Economic Impact Statement. - None.

Computer Composition:

☐ No ☐ Yes Computer Use. - None.

☐ No ☐ Yes Searchable Data Base.

☐ No ☐ Yes Cost-Savings.

☐ No ☐ Yes Microfilm/Microfiche. - None.

Other Services.

☐ No ☒ Yes Editorial Standards Manual.

☐ No ☒ Yes Instruction in Regulations Drafting. - one on one.

- ☒ Seminars
- ☐ Consultations
- ☐ Manual
- ☐ Pre-Publication Review
- ☐ Liaison Representative Required
- ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: HAWAII

Director/Editor: Ken Takayama

Agency: Legislative Reference Bureau

State Capitol, Room 007,
Honolulu, HI 96813

Register: None

Staff:

Budget: Printing Expenses _____
Salaries _____
Subsidy Received _____
Subscriptions _____

Frequency of issue:

Circulation: Number Paid _____
Number Gratis _____
Price per Issue _____
Price for Subscription _____
Sales Promotion:

Distribution:

Volume: Pages per Year _____
Pages per Issue _____

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

*This information was obtained from the 1981 ACR Survey.

Code: None.

Staff:

Budget: Printing Expenses _____
Subsidy Received _____
Amount for Salaries _____
Subscriptions _____

Supplementation:

Circulation: Number Paid _____
Number Gratis _____
Price per volume _____
Total Price for Set _____
Sales Promotion:

Distribution:

Volume:

Uniform format for agency rules issued in February, 1980. Approximate 33% of state agency rules expected to be converted to format by July1, 1981. Nearly all rules expected to be converted by end of 1981.

Index being prepared for rules convert to uniform format.

(Please explain answers in detail.)

Law:

- ☐ No ☐ Yes — Correction of Nonsubstantive Errors.
- ☐ No ☐ Yes — Correction of Substantive Errors.
- ☐ No ☐ Yes — Official Text
- ☐ No ☐ Yes — Judicial Notice.
- ☐ No ☐ Yes — Annotate.
- ☐ No ☐ Yes — Edit
- ☐ No ☐ Yes — Emergency Regulations.
- ☐ No ☐ Yes — Legislative Oversight.
- ☐ No ☐ Yes — Economic Impact Statement.

Computer Composition:

- ☐ No ☐ Yes — Computer Use.
- ☐ No ☐ Yes — Searchable Data Base.
- ☐ No ☐ Yes — Cost-Savings.
- ☐ No ☐ Yes — Microfilm/Microfiche.

Other Services.

- ☐ No ☐ Yes — Editorial Standards Manual.
- ☐ No ☐ Yes — Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: IDAHO

Director/Editor: Agency:

Register: _____

Staff:

Budget: Printing Expenses _____
Salaries _____
Subsidy Received _____
Subscriptions _____

Frequency of issue:

Circulation: Number Paid _____
Number Gratis _____
Price per Issue _____
Price for Subscription _____
Sales Promotion:

Distribution:

Volume: Pages per Year _____
Pages per Issue _____

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

No Central Code published.

Rules are filed centrally with the State Law Library.

Idaho State Law Library
Supreme Court Building
451 West State Street
Boise, Idaho 83720
Librarian - Laura M. Pershing
(208) 334-3316

Code: _____

Staff:

Budget: Printing Expenses _____
Subsidy Received _____
Amount for Salaries _____
Subscriptions _____

Supplementation:

Circulation: Number Paid _____
Number Gratis _____
Price per volume _____
Total Price for Set _____
Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☐ Yes Correction of Nonsubstantive Errors.
- ☐ No ☐ Yes Correction of Substantive Errors.
- ☐ No ☐ Yes Official Text
- ☐ No ☐ Yes Judicial Notice.
- ☐ No ☐ Yes Annotate.
- ☐ No ☐ Yes Edit.
- ☐ No ☐ Yes Emergency Regulations.
- ☐ No ☐ Yes Legislative Oversight.
- ☐ No ☐ Yes Economic Impact Statement.

Computer Composition:

- ☐ No ☐ Yes Computer Use.
- ☐ No ☐ Yes Searchable Data Base.
- ☐ No ☐ Yes Cost-Savings.
- ☐ No ☐ Yes Microfilm/Microfiche.

Other Services.

- ☐ No ☐ Yes Editorial Standards Manual.
- ☐ No ☐ Yes Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: ILLINOIS

Director/Editor: Agency:

Register: ILLINOIS

Staff: 5

Budget:
- Printing Expenses: $2800 weekly (approx.)
- Salaries: 72,912 annually
- Subsidy Received: None
- Subscriptions: 1,000

Frequency of issue:

Circulation:
- Number Paid: 600
- Number Gratis: 350
- Price per Issue: $5.00
- Price for Subscription: $52.00 annually
- Sales Promotion: None

Distribution: In-House

Volume:
- Pages per Year: 15,000
- Pages per Issue: 300

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☐ Other
☒ Proposed Rules	☒ Executive Orders	☐ Judicial Items	☐ Other
☒ Adopted Rules	☒ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☒ Index	☐ Other

Format:

Code: Planning Stages/to be complete by 1985

Staff:

Budget:
- Printing Expenses: _____
- Subsidy Received: _____
- Amount for Salaries: _____
- Subscriptions: _____

Supplementation:

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per volume: _____
- Total Price for Set: _____
- Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☒ Yes — Correction of Nonsubstantive Errors.
- ☒ No ☐ Yes — Correction of Substantive Errors.
- ☐ No ☒ Yes — Official Text
- ☒ No ☐ Yes — Judicial Notice.
- ☒ No ☐ Yes — Annotate.
- ☐ No ☒ Yes — Edit.
- ☐ No ☒ Yes — Emergency Regulations.
- ☐ No ☒ Yes — Legislative Oversight.
- ☐ No ☒ Yes — Economic Impact Statement.

Computer Composition:

- ☒ No ☐ Yes — Computer Use.
- ☐ No ☒ Yes — Searchable Data Base.
- ☐ No ☒ Yes — Cost-Savings.
- ☐ No ☒ Yes — Microfilm/Microfiche. : Illinois Register & rescinded rules.

Other Services.

- ☐ No ☒ Yes — Editorial Standards Manual.
- ☐ No ☒ Yes — Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☒ Consultations
  - ☒ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: INDIANA

Director/Editor: George T. Angelone Agency: Legislative Services

Register: Indiana Register

Staff: Four (4) employees handle Register and Code.

Budget:
- Printing Expenses: ~~$165,261.39~~
- Salaries: $54,600.00 (½ gross income)
- Subsidy Received:
- Subscriptions: $25,600.00

Frequency of issue: Monthly

Circulation:
- Number Paid: 256
- Number Gratis: 805
- Price per Issue: $ 9
- Price for Subscription: $100 annually
- Sales Promotion: None
- Distribution: Mail

Volume:
- Pages per Year: 3052
- Pages per Issue: 254

Content:
- ☒ Text ☐ Notices Only
- ☒ Emergency Rules
- ☐ Proposed Rules
- ☒ Adopted Rules
- ☐ Open Meetings
- ☒ Hearings (Rules only)
- ☒ Executive Orders
- ☐ Proclamations
- ☐ State Contracts
- ☐ Executive Items
- ☐ Judicial Items
- ☐ Legislative Items
- ☒ Index
- ☒ Other AG opinio
- ☒ Other ~~advisory~~
- ☐ Other ~~bulletins~~
- ☐ Other circulars from agencies

Format: Chronological order of filing

Code: Indiana Administrative Code

Staff: Four (4) employees handle Register and Code.

Budget:
- Printing Expenses:
- Subsidy Received:
- Amount for Salaries: (½ gross income)
- Subscriptions:

Supplementation: Annual, bound cumulative supplement

Circulation:
- Number Paid: 307
- Number Gratis: 805
- Price per volume: Do not break sets
- Total Price for Set: $ 200 plus $25 cumulative supplement
- Sales Promotion: None
- Distribution: Mail

Volume: 8000 pages

(Please explain answers in detail.)

Law:

- ☐ No ☒ Yes — Correction of Nonsubstantive Errors. (Typographical, clerical, or spelling errors at any stage; IC 4-22-2-7.1)
- ☐ No ☒ Yes — Correction of Substantive Errors. (Jacketing only)
- ☐ No ☒ Yes — Official Text (Prima facie; IC 4-22-2-11)
- ☐ No ☒ Yes — Judicial Notice. (IC 4-22-2-11)
- ☐ No ☒ Yes — Annotate. (Statutory cross references; rule-making history: publication, filing information)
- ☐ No ☒ Yes — Edit. (Nonsubstantive style, numbering, format)
- ☐ No ☒ Yes — Emergency Regulations. (By express exemption by legislature from rule-making statute on a case by case basis 6 or 7 agencies have this authority)
- ☐ No ☒ Yes — Legislative Oversight. (Joint executive, legislative review committee created by executive order and operates under the governor)
- ☐ No ☒ Yes — Economic Impact Statement.

Computer Composition:

- ☐ No ☒ Yes — Computer Use.
- ☐ No ☒ Yes — Searchable Data Base. Planned: January, 1984
- ☐ No ☐ Yes — Cost-Savings.
- ☐ No ☐ Yes — Microfilm/Microfiche.

Other Services.

- ☐ No ☒ Yes — Editorial Standards Manual. Planned: September, 1982
- ☐ No ☒ Yes — Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☒ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: IOWA

Director/Editor: Phyllis Barry, Deputy Code Editor

Agency: The Iowa Code Editor

*This information was obtained from the 1981 ACR Survey.

Register: Iowa Administrative Bulletin

Staff: 6

Budget:
- Printing Expenses: $200,000
- Salaries: _____
- Subsidy Received: 65%
- Subscriptions: 425

Salary Budget and Operating Expense: $450,000.00

Frequency of issue: Bi-weekly, every other Wednesday.

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per Issue: _____
- Price for Subscription: $87.55/yearly

Sales Promotion: Subscription information available in bulletin

Distribution: General Services, Printing Division

Volume:
- Pages per Year: 1700
- Pages per Issue: _____

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☒ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☒ Index	☐ Other _____

Format: Punched and stapled.

Code: Iowa Administrative Code

Staff: 6

Budget:
- Printing Expenses: $250,000
- Subsidy Received: 65%
- Amount for Salaries: _____
- Subscriptions: 425 650 gratis

Supplementation: Bi-Weekly

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per volume: $579.89/yearly IAC - $115.36/yearly - Supplement
- Total Price for Set: _____

Sales Promotion: Subscription information available in buletin

Distribution: General Services, Printing Division

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☐ Yes — Correction of Nonsubstantive Errors. – Statutorily permitted
- ☐ No ☐ Yes — Correction of Substantive Errors. – No authority.
- ☒ No ☐ Yes — Official Text
- ☒ No ☐ Yes — Judicial Notice.
- ☒ No ☐ Yes — Annotate.
- ☐ No ☐ Yes — Edit. – Typos, spelling, grammar, format
- ☐ No ☐ Yes — Emergency Regulations. – Effective immediately upon filing for indefinite period unless stipulated.
- ☐ No ☐ Yes — Legislative Oversight – Six-meneber Administrative Rules Review Committee meets at least once monthly to selectively review proposals as well as adopted rules.
- ☐ No ☐ Yes — Economic Impact Statement. – May be requested while rules are under notice.

Computer Composition:

- ☐ No ☐ Yes — Computer Use. – Not in use.
- ☒ No ☐ Yes — Searchable Data Base.
- ☐ No ☐ Yes — Cost-Savings. – Using photo type setting with floppy disc storage.
- ☒ No ☐ Yes — Microfilm/Microfiche.

Other Services.

- ☐ No ☐ Yes — Editorial Standards Manual. – General information include in Volume I of Iowa Administrative Code.
- ☐ No ☐ Yes — Instruction in Regulations Drafting. – General information included in Volume I of Iowa Administrative Code.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: KANSAS

Director/Editor: Agency:

*This information was obtained from the 1981 ACR Survey.

Register: NONE.

Staff:

Budget: Printing Expenses
Salaries
Subsidy Received
Subscriptions

Frequency of issue:

Circulation: Number Paid
Number Gratis
Price per Issue
Price for Subscription
Sales Promotion:

Distribution:

Volume: Pages per Year
Pages per Issue

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format:

Code: KANSAS ADMINISTRATIVE REGULATIONS

Staff:

Budget: Printing Expenses
Subsidy Received
Amount for Salaries
Subscriptions

Supplementation: Temporary regulations distributed to purchasers of last annual supplement. Annual softbound cumulative supplement.

Circulation: Number Paid
Number Gratis
Price per volume
Total Price for Set
Sales Promotion: None.

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☐ Yes Correction of Nonsubstantive Errors.
- ☐ No ☐ Yes Correction of Substantive Errors.
- ☐ No ☐ Yes Official Text
- ☐ No ☐ Yes Judicial Notice.
- ☐ No ☐ Yes Annotate.
- ☐ No ☐ Yes Edit.
- ☐ No ☐ Yes Emergency Regulations.
- ☐ No ☐ Yes Legislative Oversight.
- ☐ No ☐ Yes Economic Impact Statement.

Computer Composition:

- ☐ No ☐ Yes Computer Use.
- ☐ No ☐ Yes Searchable Data Base.
- ☐ No ☐ Yes Cost-Savings.
- ☐ No ☐ Yes Microfilm/Microfiche.

Other Services.

- ☐ No ☐ Yes Editorial Standards Manual.
- ☐ No ☐ Yes Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: KENTUCKY

Director/Editor: Susan C. Harding Agency: Legislative Research Commission

Register: Administrative Register of Kentucky

Staff: Regulations Compiler, Asst. Compiler, Secretary, Legal Counsel

Budget:
- Printing Expenses: _____
- Salaries: _____
- Subsidy Received: _____
- Subscriptions: _____

All budget monies are provided by subscriptions ($36 for 12 issues)

Frequency of issue: Monthly

Circulation:
- Number Paid: 700
- Number Gratis: 50 (LRC staff)
- Price per Issue: $3.00
- Price for Subscription: $36 annually
- Sales Promotion: None

Distribution: Subscription only.

Volume:
- Pages per Year: approx. 1000
- Pages per Issue: approx. 80 - 100

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☐ Other _____
☒ Proposed Rules	☒ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☒ Open Meetings	☐ State Contracts	☒ Index	☐ Other _____

Format:

Code: Kentucky Administrative Regulations Service

Staff: Same as Register

Budget:
- Printing Expenses: _____
- Subsidy Received: _____
- Amount for Salaries: _____
- Subscriptions: _____

Budget provided by subscription

Supplementation: Administrative Register

Circulation:
- Number Paid: 500
- Number Gratis: 50 (staff)
- Price per volume: $15.00
- Total Price for Set: $75.00
- Sales Promotion: None

Distribution: subscription only

Volume: ...

(Please explain answers in detail.)

Law:

- ☐ No ☒ Yes — Correction of Nonsubstantive Errors. Corrected by compiler's office after contact with agency.
- ☐ No ☒ Yes — Correction of Substantive Errors. Must be approved by legislative Research Commission
- ☐ No ☒ Yes — Official Text By proposed amendment only
- ☒ No ☐ Yes — Judicial Notice.
- ☐ No ☐ Yes — Annotate.
- ☐ No ☒ Yes — Edit.
- ☐ No ☒ Yes — Emergency Regulations. Effective upon receipt by Compiler's office Must be processed for permanency at same time.
- ☐ No ☒ Yes — Legislative Oversight. Approved by Legislative Research Commission; effective upon approval.
- ☐ No ☒ Yes — Economic Impact Statement. recently passed in 1982 session. effective July 15, 1982.

Computer Composition:

- ☐ No ☒ Yes — Computer Use. Compugraphic
- ☐ No ☐ Yes — Searchable Data Base.
- ☐ No ☐ Yes — Cost-Savings.
- ☐ No ☐ Yes — Microfilm/Microfiche.

Other Services.

- ☐ No ☒ Yes — Editorial Standards Manual.
- ☐ No ☒ Yes — Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☒ Manual
  - ☒ Pre-Publication Review
  - ☒ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: LOUISIANA

Director/Editor: Mai Abington/ Tom Aiken Agency: Dept. of the State Register

Register: Louisiana Register

Staff: 5 people

Budget:
- Printing Expenses: $57,000
- Salaries: 63,000
- Subsidy Received: 147,000
- Subscriptions: 29,000

Frequency of issue: Monthly

Circulation:
- Number Paid: 835
- Number Gratis: 225
- Price per Issue: $4.00
- Price for Subscription: $45.00/ $35.00 for state agencies
- Sales Promotion:

Distribution: By mail and messenger service

Volume:
- Pages per Year: 700-720
- Pages per Issue: 50-60

Content:
- ☒ Text ☐ Notices Only
- ☒ Emergency Rules
- ☒ Proposed Rules
- ☒ Adopted Rules
- ☒ Open Meetings
- ☒ Hearings
- ☒ Executive Orders
- ☐ Proclamations
- ☐ State Contracts
- ☐ Executive Items
- ☐ Judicial Items
- ☐ Legislative Items
- ☒ Index
- ☒ Other Legislative Oversight Committee Reports
- ☐ Other
- ☐ Other
- ☐ Other

Format:

Code: in planning s...

Staff:

Budget:
- Printing Expenses
- Subsidy Received
- Amount for Salaries
- Subscriptions

Supplementation:

Circulation:
- Number Paid
- Number Gratis
- Price per volume
- Total Price for Set
- Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

☐ No ☒ Yes — Correction of Nonsubstantive Errors.
No statutory provision but the Register contains an Errata section for typographical and omission errors.

☒ No ☐ Yes — Correction of Substantive Errors.
No statutory provision. Substantive errors must be corrected by the agency by submitting a correct Notice of Intent and beginning the process over.

☐ No ☒ Yes — Official Text
Yes, but original copy takes precedence

☒ No ☐ Yes — Judicial Notice.

☒ No ☐ Yes — Annotate.

☐ No ☒ Yes — Edit.
Edit for typos, spelling, grammar, and, after checking with the agency, meaning and clarity of content.

☐ No ☒ Yes — Emergency Regulations.
Effective for 120 days; 5 days notice to adopt

☐ No ☒ Yes — Legislative Oversight.
Committees can veto, but that veto can be countermanded by the Governor.
Committees sends veto to Governor who has 5 days to countermand. No action by Governor means Rule cannot be adopted until modified.

☐ No ☒ Yes — Economic Impact Statement.
Required with Notices of Intent.

Computer Composition:

☐ No ☒ Yes — Computer Use.
The print shop uses a computer in the process of printing the Register. The contents are stored on a floppy disk.

☒ No ☐ Yes — Searchable Data Base.

☒ No ☐ Yes — Cost Savings.

☒ No ☐ Yes — Microfilm/Microfiche.

Other Services.

☐ No ☒ Yes — Editorial Standards Manual.

☐ No ☒ Yes — Instruction in Regulations Drafting.

- ☐ Seminars
- ☒ Consultations
- ☒ Manual
- ☐ Pre-Publication Review
- ☐ Liaison Representative Required
- ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Maine

Director/Editor: James S. Henderson
Deputy Secretary of State
Lucille Weeks, Admin. Procedures Officer

Agency: Secretary of State

Register: None

Staff: 1

Budget:
- Printing Expenses _____
- Salaries _____
- Subsidy Received _____
- Subscriptions _____

Frequency of issue:

Circulation:
- Number Paid _____
- Number Gratis _____
- Price per Issue _____
- Price for Subscription _____
- Sales Promotion:

Distribution:

Volume:
- Pages per Year _____
- Pages per Issue _____

Content:
- ☐ Text ☐ Notices Only
- ☐ Emergency Rules ☐ Hearings ☐ Executive Items ☐ Other _____
- ☐ Proposed Rules ☐ Executive Orders ☐ Judicial Items ☐ Other _____
- ☐ Adopted Rules ☐ Proclamations ☐ Legislative Items ☐ Other _____
- ☐ Open Meetings ☐ State Contracts ☐ Index ☐ Other _____

Format:

Code: None

Staff:

Budget:
- Printing Expenses _____
- Subsidy Received _____
- Amount for Salaries _____
- Subscriptions _____

Supplementation:

Circulation:
- Number Paid _____
- Number Gratis _____
- Price per volume _____
- Total Price for Set _____
- Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☐ Yes — Correction of Unsubstantive Errors.
- ☐ No ☐ Yes — Correction of Substantive Errors.
- ☐ No ☐ Yes — Official Text.
- ☐ No ☐ Yes — Judicial Notice.
- ☐ No ☐ Yes — Annotate.
- ☐ No ☐ Yes — Edit.
- ☐ No ☐ Yes — Emergency Regulations.
- ☐ No ☐ Yes — Legislative Oversight.
- ☐ No ☐ Yes — Economic Impact Statement.

Computer Composition:

- ☐ No ☐ Yes — Computer Use.
- ☐ No ☐ Yes — Searchable Data Base.
- ☐ No ☐ Yes — Cost-Savings.
- ☐ No ☐ Yes — Microfilm/Microfiche.

Other Services.

- ☐ No ☐ Yes — Editorial Standards Manual.
- ☐ No ☐ Yes — Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: MARYLAND

Director/Editor: ROBERT J. COLBORN, JR. Agency: DIVISION OF STATE DOCUMENTS

Register: MARYLAND REGISTER

Staff: 3

Budget:
- Printing Expenses: $175,904
- Salaries: $ 41,243
- Subsidy Received: 25%
- Subscriptions: $128,480

Frequency of issue: Bi-weekly (every 2 weeks)

Circulation:
- Number Paid: 2,600
- Number Gratis: 400
- Price per Issue: $2
- Price for Subscription: $55

Sales Promotion: Direct mail using mailing lists of other agencies; State Bar Magazine; direct mail to State attorneys; "piggy-backing" on mailers of other State agencies.

Distribution: 1st Class Mail - in-house; Second Class - commercial

Volume:
- Pages per Year: approx. 2,600
- Pages per Issue: approx. 100

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☒ Executive Items	☒ Other AG opinions
☒ Proposed Rules	☒ Executive Orders	☒ Judicial Items	☐ Other (synopses of)
☒ Adopted Rules	☒ Proclamations	☒ Legislative Items	☐ Other
☒ Open Meetings	☒ State Contracts	☒ Index	☐ Other

Format:

Code: CODE OF MARYLAND REGULATIONS

Staff: 3

Budget:
- Printing Expenses: $ 85,760
- Subsidy Received: 0% per copy; difference between subscriptions & expenses is in stock & gratis copies
- Amount for Salaries: $ 42,688
- Subscriptions: $ 41,000

Supplementation:

Circulation:
- Number Paid: 150 full; 6,000 partial
- Number Gratis: 100
- Price per volume: Variable ($1 to $90) depending on size
- Total Price for Set: $ 460

Sales Promotion: Direct mail to State attorneys; State Bar Magazine; direct mail using other agencies' mailing lists.

Distribution: In-house

Volume: 12,000 pages total; approximately 3,600 pages/year

(Please explain answers in detail.)

Law:

- ☒ No ☐ Yes — Correction of Nonsubstantive Errors. By Errata
- ☐ No ☒ Yes — Correction of Substantive Errors. Agency must re-promulgate
- ☒ No ☐ Yes — Official Text
- ☒ No ☐ Yes — Judicial Notice.
- ☒ No ☐ Yes — Annotate. We have the anthority to annotate, but have not done so extensively
- ☒ No ☐ Yes — Edit.
- ☒ No ☐ Yes — Emergency Regulations.
- ☒ No ☐ Yes — Legislative Oversight. Legislative veto granted to Legislative Committee by agreement with the Governor
- ☒ No ☐ Yes — Economic Imoact Statement. Required with each proposed regulation

Computer Composition:

- ☒ No ☐ Yes — Computer Use. Computer is the property of the compositor. Data base is the property of the State
- ☐ No ☒ Yes — Searchable Data Base. Development has begun and a searchable data base should be operative within 18 months
- ☒ No ☐ Yes — Cost-Savings. There are savings in composing the Code using Register data file
- ☒ No ☐ Yes — Microfilm/Microfiche.

Other Services.

- ☒ No ☐ Yes — Editorial Standards Manual.
- ☒ No ☐ Yes — Instruction in Regulations Drafting.
  - ☒ Seminars
  - ☒ Consultations
  - ☒ Manual
  - ☐ Pre-Publication Review
  - ☒ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Massachusetts

Director/Editor: Kathryn K. Maillett Agency: Massachusetts Regulations Division/Secretary of State

Register: Massachusetts Register

Staff: 8

Budget:
- Printing Expenses: _____
- Salaries: not available
- Subsidy Received: 10% approx.
- Subscriptions: 320 paid - 34 grates

Frequency of issue: weekly

Circulation:
- Number Paid: 320
- Number Gratis: 34
- Price per Issue: _____
- Price for Subscription: $85/year
- Sales Promotion: Direct mail - Bar Association meetings

Distribution: In-house

Volume:
- Pages per Year: 8,000
- Pages per Issue: _____

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☐ Hearings	☒ Executive Items	☒ Other Op. A.G.
☒ Proposed Rules	☒ Executive Orders	☐ Judicial Items	☒ Other Public
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other interest
☒ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format: Full text published

Code: _____

Staff:

Budget:
- Printing Expenses: not available
- Subsidy Received: 10% approx.
- Amount for Salaries: _____
- Subscriptions: 233 paid - full code no longer available.

Supplementation:

Circulation:
- Number Paid: 233
- Number Gratis: _____
- Price per volume: $470 - $120/year for quarterly supplements
- Total Price for Set: $470
- Sales Promotion: Direct mail, advertisements in Lawyer's Weekly, Bar Association Meetings

Distribution: In house - code is available by title or chapter.

Volume:

(Please explain answers in detail.)

Law:

- [X] No [ ] Yes — Correction of Nonsubstantive Errors. No statutory provision.
- [X] No [ ] Yes — Correction of Substantive Errors. No statutory provision.
- [ ] No [X] Yes — Official Text
- [ ] No [X] Yes — Judicial Notice.
- [ ] No [X] Yes — Annotate.
- [X] No [ ] Yes — Edit. NO STATUTORY ATUHORITY.
- [ ] No [X] Yes — Emergency Regulations. Emergency regulations become effective upon filing with the Secretary. They remain in effect for 3 mos They become permanent if, during that 3 mos. the agency hol a public hearing, notifies the public and files notice of compliance with State Secretary.
- [ ] No [X] Yes — Legislative Oversight. Required for 5 agencies.
- [X] No [ ] Yes — Economic Impact Statement.

Computer Composition:

- [ ] No [X] Yes — Computer Use.
- [X] No [ ] Yes — Searchable Data Base.
- [ ] No [X] Yes — Cost-Savings. Regulations published in the Register are also filed in "machine-readable" form (CR or Mag Card) to be transferred to memory base and produce new Code pages. Estimated savings in proofing and re-keyboarding are about $30,000.
- [X] No [ ] Yes — Microfilm/Microfiche.

Other Services.

- [X] No [ ] Yes — Editorial Standards Manual.
- [X] No [ ] Yes — Instruction in Regulations Drafting.
  - [ ] Seminars
  - [ ] Consultations
  - [ ] Manual
  - [ ] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: MICHIGAN

Director/Editor:

Agency: Legislative Council
Legislative Service Bureau

*This information was obtained from the 1981 ACR Survey.

Register: N/A

Staff:

Budget:
- Printing Expenses
- Salaries
- Subsidy Received
- Subscriptions

Frequency of issue:

Circulation:
- Number Paid
- Number Gratis
- Price per Issue
- Price for Subscription

Sales Promotion:

Distribution:

Volume:
- Pages per Year
- Pages per Issue

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format:

Code: Michigan Administrative Code

Staff: Legal Editor, 2 attorneys, one secretary

Budget:
- Printing Expenses
- Subsidy Received: Approx. $250,000, which we are attempting to recover through sales to private sector.
- Amount for Salaries
- Subscriptions: To date, 650 private subscribers; 800 sets distributed free-of-charge to state agencies.

Supplementation:

Circulation:
- Number Paid: 5,238
- Number Gratis
- Price per volume
- Total Price for Set

Indexed by subject matter and by Department.

Sales Promotion: Advertising; telephone calls to law firm .

Distribution: By Department of Management & Budget.

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☒ Yes — Correction of Nonsubstantive Errors.
- ☐ No ☐ Yes — Correction of Substantive Errors. - By amendment.
- ☐ No ☐ Yes — Official Text - Filed with the Secretary of State.
- ☐ No ☒ Yes — Judicial Notice.
- ☐ No ☐ Yes — Annotate. - History notes; editor's notes; cross-reference.
- ☒ No ☐ Yes — Edit.
- ☐ No ☒ Yes — Emergency Regulations.
- ☐ No ☒ Yes — Legislative Oversight.
- ☐ No ☒ Yes — Economic Impact Statement.

Computer Composition:

- ☐ No ☒ Yes — Computer Use.
- ☐ No ☒ Yes — Searchable Data Base.
- ☐ No ☐ Yes — Cost-Savings. - To be determined.
- ☒ No ☐ Yes — Microfilm/Microfiche.

Other Services.

- ☐ No ☒ Yes — Editorial Standards Manual.
- ☐ No ☒ Yes — Instruction in Regulations Drafting.
  - ☒ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Minnesota

Director/Editor: Carol Porter Agency: Dept. of Administration

Register: Minnesota State Register

Staff: .5 FTE

Budget:
- Printing Expenses: 116,000
- Salaries: 12,500
- Subsidy Received: None
- Subscriptions: 850

Frequency of issue: Weekly

Circulation:
- Number Paid: 725
- Number Gratis: 125
- Price per Issue: $3.00
- Price for Subscription: $130.00

Sales Promotion: Direct mail, public service announcements, appearance at conventions.

Distribution: Distributed by printer through USPS.

Volume:
- Pages per Year: 2,340
- Pages per Issue: 45

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☒ Executive Items	☐ Other
☒ Proposed Rules	☒ Executive Orders	☒ Judicial Items	☐ Other
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☒ Open Meetings	☒ State Contracts	☒ Index	☐ Other

Format: Magazine

Code: The SRPD will no longer publish the Minnesota Rules after July 1, 1982.

Staff: This function will be assumed by the Minnesota Revisor of Statutes but won't be published until mid-1983.

Budget:
- Printing Expenses: ____
- Subsidy Received: ____
- Amount for Salaries: ____
- Subscriptions: ____

Supplementation:

Circulation:
- Number Paid: ____
- Number Gratis: ____
- Price per volume: ____
- Total Price for Set: ____

Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☐ Yes Correction of Nonsubstantive Errors.
- ☐ No ☐ Yes Correction of Substantive Errors.
- ☐ No ☐ Yes Official Text
- ☐ No ☐ Yes Judicial Notice.
- ☐ No ☐ Yes Annotate.
- ☐ No ☐ Yes Edit.
- ☐ No ☐ Yes Emergency Regulations.
- ☐ No ☐ Yes Legislative Oversight.
- ☐ No ☐ Yes Economic Impact Statement.

Computer Composition:

- ☐ No ☐ Yes Computer Use.
- ☐ No ☐ Yes Searchable Data Base.
- ☐ No ☐ Yes Cost-Savings.
- ☐ No ☐ Yes Microfilm/Microfiche.

Other Services.

- ☐ No ☒ Yes Editorial Standards Manual.
- ☐ No ☐ Yes Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Mississippi

Director/Editor:

Agency: Secretary of State

Register: Mississippi Register

Staff:

Budget:
- Printing Expenses: $3,125.00 includes postage
- Salaries: NA
- Subsidy Received: 0
- Subscriptions: 700

Frequency of issue: Monthly

Circulation:
- Number Paid: 0
- Number Gratis: 700
- Price per Issue: NA
- Price for Subscription: NA
- Sales Promotion:

Distribution: Per request

Volume:
- Pages per Year: Approx. 96
- Pages per Issue: 8

Content: ☐ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☒ Executive Items	☐ Other
☒ Proposed Rules	☒ Executive Orders	☒ Judicial Items	☐ Other
☒ Adopted Rules	☒ Proclamations	☐ Legislative Items	☐ Other
☒ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format: See enclosed issue

Code: None

Staff:

Budget:
- Printing Expenses
- Subsidy Received
- Amount for Salaries
- Subscriptions

Supplementation:

Circulation:
- Number Paid
- Number Gratis
- Price per volume
- Total Price for Set
- Sales Promotion:

Distribution:

(Please explain answers in detail.)

Law:

- [X] No [ ] Yes — Correction of Nonsubstantive Errors.
- [X] No [ ] Yes — Correction of Substantive Errors.
- [X] No [ ] Yes — Official Text
- [X] No [ ] Yes — Judicial Notice.
- [X] No [ ] Yes — Annotate.
- [X] No [ ] Yes — Edit.
- [X] No [ ] Yes — Emergency Regulations.
- [X] No [ ] Yes — Legislative Oversight.
- [X] No [ ] Yes — Economic Impact Statement.

Computer Composition:

- [X] No [ ] Yes — Computer Use.
- [X] No [ ] Yes — Searchable Data Base.
- [X] No [ ] Yes — Cost-Savings.
- [X] No [ ] Yes — Microfilm/Microfiche.

Other Services.

- [X] No [ ] Yes — Editorial Standards Manual.
- [X] No [ ] Yes — Instruction in Regulations Drafting.
  - [ ] Seminars
  - [ ] Consultations
  - [ ] Manual
  - [ ] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Missouri

Director/Editor: Carolan Underwood

Agency: Secretary of State, Administrative Rules

Register: Missouri Register

Staff: 4, 2 summer

Budget:
- Printing Expenses: $93,101.95
- Salaries: $30,495.42
- Subsidy Received: $0
- Subscriptions: $47,936.00

Frequency of issue: monthly (moving to bi-monthly)

Circulation:
- Number Paid: 856
- Number Gratis: 40
- Price per Issue: $5
- Price for Subscription: $56

Sales Promotion: direct mail, packet to graduating law classes, "blurbs" in other state agency publications, flyers upon request

Distribution: mailed 2nd class by printer

Volume:
- Pages per Year: 1500
- Pages per Issue: 130

Content:
- ☒ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☐ Other
☒ Proposed Rules	☐ Executive Orders	☒ Judicial Items	☐ Other
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☒ Open Meetings	☐ State Contracts	☒ Index	☐ Other

Format: full text published, bracketed deletions, bold faced insert material

Code: Code of State Regulations

Staff: 4, 2 summer

Budget:
- Printing Expenses: $78,572.87
- Subsidy Received: $0
- Amount for Salaries: $30,495.42
- Subscriptions: $22,830.00

Supplementation: semi-annual (moving to quarterly)

Circulation:
- Number Paid: 761
- Number Gratis: 40
- Price per volume: not sold individually
- Total Price for Set: $235

Sales Promotion: direct mail, packet to graduating law classes, "blurbs" in other state agency publications, flyers upon request, sale on Code for $100

Distribution: in-house, UPS

Volume:

(Please explain answers in detail.)

Law:

☒ No ☐ Yes — Correction of Nonsubstantive Errors. Spelling & typographical errors may be corrected

☒ No ☐ Yes — Correction of Substantive Errors. No statutory provision; amendment process only method to correct grave errors

☒ No ☐ Yes — Official Text

☒ No ☐ Yes — Judicial Notice. Code only.

☒ No ☐ Yes — Annotate.

☐ No ☒ Yes — Edit. No statutory authority; re-phrasing is a common practice; typos, spelling & grammar are edited

☐ No ☒ Yes — Emergency Regulations. Emergency filings effective 10 days post filing in our office, 120-day effective period; non-renewable, must be accompanied by a statement detailing rationale for emergency, constitutional amendment on ballet in Nov. to give the legislature greater K.O. powers.

☐ No ☒ Yes — Legislative Oversight. Joint committee on Administrative Rules can give agencies flack concerning rulemaking & currently have been given legislative power to suspend portio of a rule & even that agency's future rights to promulgate.

☐ No ☒ Yes — Economic Impact Statement. Fiscal notes & statements are required if the rulemaking cost to the state or private entities is more than $500.

Computer Composition:

☒ No ☐ Yes — Computer Use. Currently placing all of current Code into magnetic tape. Agency users will key copy into terminals, our division will edit and transmit thru a black box to a photo-typesetter, camera-ready copy will be sent to state print shop and sheltered workshop will mail.

☐ No ☒ Yes — Searchable Data Base. We hope to be able to index by rule number, subject matter and cross-referenced statutes. Rules will also be located historically.

☐ No ☒ Yes — Cost-Savings. We estimate more than $100,000 will be saved by in-house compostion and utilization of the state print shop.

☐ No ☒ Yes — Microfilm/Microfiche. The magnetic film will be used to create fiche which will allow us to sell protions of the Code; historical copies are alread on microfilm.

Other Services.

☐ No ☒ Yes — Editorial Standards Manual. Last edition December 1980, another is in process due to computerization

☐ No ☒ Yes — Instruction in Regulations Drafting.

- ☒ Seminars
- ☒ Consultations
- ☒ Manual
- ☒ Pre-Publication Review
- ☐ Liaison Representative Required
- ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: MONTANA

Director/Editor:

Agency: Office of the Secretary of State, Helena, Montana 59620

Register: _____

Staff:

Budget:
- Printing Expenses: Figures not available. Ligislation Pending on Budgeting
- Salaries: _____
- Subsidy Received: _____
- Subscriptions: 330

*This information was obtained from the 1981 Survey.

Frequency of issue: Twice monthly

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per Issue: $93.00 per year.
- Price for Subscription: _____
- Sales Promotion: Bar Association Journal

Distribution: U.S. Mail

Volume:
- Pages per Year: 3138 (1980) 1797 (1979) 1767 (1978)
- Pages per Issue: _____

Content: ☐ Text ☐ Notices Only

☒ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☒ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☒ Open Meetings	☐ State Contracts	☒ Index	☐ Other _____

Format: Set down by Secretary of State's Office.

cross reference index published twice a year.

Code: _____

Staff:

Budget:
- Printing Expenses: _____
- Subsidy Received: _____
- Amount for Salaries: _____
- Subscriptions: 330

Contents: Permanent rules

Supplementation: Updates furnished on a quarterly basis

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per volume: $190.00 + $67.00 per 1981 updates
- Total Price for Set: _____
- Sales Promotion: Bar Association journal

Distribution: U.S. Mail

Volume:

(Please explain answers in detail.)

Law:

☐ No ☐ Yes Correction of Nonsubstantive Errors. – Correct errors and inconsistencies.

☐ No ☐ Yes Correction of Substantive Errors. – No authority.

☐ No ☐ Yes Official Text – No authority.

☐ No ☐ Yes Judicial Notice.

☐ No ☐ Yes Annotate.

☐ No ☐ Yes Edit. – Correct errors and inconsistencies

☐ No ☐ Yes Emergency Regulations. – Effective 120 days upon filing with Secretary of State.

☐ No ☐ Yes Legislative Oversight. – Department of Revenue's rules are forwarded to Oversight committee.

☐ No ☐ Yes Economic Impact Statement. – Legislature pending.

Computer Composition:

☐ No ☐ Yes Computer Use.

☐ No ☐ Yes Searchable Data Base.

☐ No ☐ Yes Cost-Savings.

☐ No ☐ Yes Microfilm/Microfiche.

Other Services.

☐ No ☐ Yes Editorial Standards Manual.

☐ No ☐ Yes Instruction in Regulations Drafting. – Format manual published by the Office of the Secretary of State.

- ☐ Seminars
- ☐ Consultations
- ☐ Manual
- ☐ Pre-Publication Review
- ☐ Liaison Representative Required
- ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: NEBRASKA

Director/Editor: Agency:

Register: None

Staff:

Budget: Printing Expenses _____
Salaries _____
Subsidy Received _____
Subscriptions _____

Frequency of issue:

Circulation: Number Paid _____
Number Gratis _____
Price per Issue _____
Price for Subscription _____
Sales Promotion:

Distribution:

Volume: Pages per Year _____
Pages per Issue _____

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

Code: Nebraska Administrative Code

Staff:

Budget: Printing Expenses _____
Subsidy Received _____
Amount for Salaries _____
Subscriptions _____

This has not changed - just the name - which you may already have.

Supplementation:

Circulation: Number Paid _____
Number Gratis _____
Price per volume _____
Total Price for Se _____
Sales Promotion:

Distribution:

Volume

(Please explain answers in detail.)

Law:

- [X] No / [ ] Yes — Correction of Nonsubstantive Errors.
- [X] No / [ ] Yes — Correction of Substantive Errors.

NO CHANGE.

- [ ] No / [X] Yes — Official Text
- [ ] No / [X] Yes — Judicial Notice.
- [X] No / [ ] Yes — Annotate..
- [X] No / [ ] Yes — Edit.
- [X] No / [ ] Yes — Emergency Regulations. Same as before.
- [ ] No / [X] Yes — Legislative Oversight Same as before.
- [ ] No / [X] Yes — Economic Impact Statement. for Governor's approval only.

Computer Composition:

- [X] No / [ ] Yes — Computer Use.
- [X] No / [ ] Yes — Searchable Data Base.
- [X] No / [ ] Yes — Cost-Savings.
- [X] No / [ ] Yes — Microfilm/Microfiche.

Other Services.

- [ ] No / [X] Yes — Editorial Standards Manual.
- [ ] No / [X] Yes — Instruction in Regulations Drafting.
  - [ ] Seminars
  - [ ] Consultations
  - [X] Manual Federal Registers
  - [ ] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Nevada

Director/Editor: Legislative Counsel Agency: Legislative Counsel Bureau

Register: None

Staff:

Budget:
- Printing Expenses: _____
- Salaries: _____
- Subsidy Received: _____
- Subscriptions: _____

Frequency of issue:

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per Issue: _____
- Price for Subscription: _____
- Sales Promotion:

Distribution:

Volume:
- Pages per Year: _____
- Pages per Issue: _____

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

Code: Yes

Staff: Eight persons (part-time) until codification is completed; then probably three or four part-time.

Budget:
- Printing Expenses) _____
- Subsidy Received) _____
- Amount for Salaries) Not
- Subscriptions) segregated.

Supplementation: As new regulations are adopted, in batches.

Circulation:
- Number Paid: None yet
- Number Gratis: 5
- Price per volume: Not sold
- Total Price for Set: $150 (set 5/12/82)
- Sales Promotion: None

Distribution: Secretary of state, attorney general, supreme court law library; all county law libraries in fall 1982; any others ordered.

Volume:

(Please explain answers in detail.)

Law:

- [ ] No [x] Yes — Correction of Nonsubstantive Errors.
- [ ] No [x] Yes — Correction of Substantive Errors. Through adopting agency.
- [ ] No [x] Yes — Official Text
- [ ] No [ ] Yes — Judicial Notice. Will be recommended to legislature when code is complete.
- [x] No [ ] Yes — Annotate.
- [ ] No [x] Yes — Edit.
- [x] No [ ] Yes — Emergency Regulations.
- [ ] No [x] Yes — Legislative Oversight. By legislative commission; legislative counsel advises.
- [ ] No [ ] Yes — [illegible]omic Impact Statement. To legislative commission, not published.

Computer Composition:

- [x] No [ ] Yes — Computer Use.
- [x] No [ ] Yes — Searchable Data Base.
- [x] No [ ] Yes — Cost-Savings.
- [x] No [ ] Yes — Microfilm/Microfiche.

Other Services.

- [x] No [ ] Yes — Editorial Standards Manual. A short memorandum
- [x] No [ ] Yes — Instruction in Regulations Drafting.
  - [ ] Seminars
  - [x] Consultations
  - [ ] Manual
  - [x] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

May 1972

1982 Survey of *Codes* and *Registers*

State: New Hampshire

Director/Editor: Stephen C. Shaw

Agency: Division of Administrative Procedures

Register: New Hampshire Rulemaking Register

Staff: 2

Budget:
- Printing Expenses: _____
- Salaries: _____
- Subsidy Received: _____
- Subscriptions: _____

Register, in first year of operation, was self-sustaining. It is photo-off-set from copy submitted by agencies.

Frequency of issue: weekly

Circulation:
- Number Paid: 125
- Number Gratis: 100
- Price per Issue: _____
- Price for Subscription: $30 per year
- Sales Promotion:

Distribution:

Volume:
- Pages per Year: 400
- Pages per Issue: 8

Content: ☐ Text ☒ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☐ Other _____
☒ Proposed Rules	☒ Executive Orders	☐ Judicial Items	☐ Other _____
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format: see copy attached

Code: none

Staff:

Budget:
- Printing Expenses: _____
- Subsidy Received: _____
- Amount for Salaries: _____
- Subscriptions: _____

Supplementation:

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per volume: _____
- Total Price for Set: _____
- Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- [ ] No [X] Yes — Correction of Nonsubstantive Errors.
- [ ] No [X] Yes — Correction of Substantive Errors.
- [ ] No [ ] Yes — Official Text
- [ ] No [ ] Yes — Judicial Notice.
- [ ] No [ ] Yes — Annotate.
- [ ] No [ ] Yes — Edit.
- [X] No [ ] Yes — Emergency Regulations.
- [X] No [ ] Yes — Legislative Oversight.
- [X] No [ ] Yes — Economic Impact Statement.

Computer Composition:

- [X] No [ ] Yes — Computer Use.
- [ ] No [ ] Yes — Searchable Data Base.
- [ ] No [ ] Yes — Cost-Savings.
- [ ] No [ ] Yes — Microfilm/Microfiche.

Other Services.

- [X] No [ ] Yes — Editorial Standards Manual.
- [X] No [ ] Yes — Instruction in Regulations Drafting.
  - [ ] Seminars
  - [X] Consultations
  - [X] Manual
  - [ ] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: NEW JERSEY

Director/Editor: Janice T. Demarest

Agency: Administrative Publications
Office of Administrative Law

Register: Publications and Filings

Staff:

Budget:
- Printing Expenses: 160,812
- Salaries: 257,407
- Subsidy Received:
- Subscriptions:

Frequency of issue: 24 per year (since November, 1981)

Circulation:
- Number Paid: 1,700 approx.
- Number Gratis: 600
- Price per Issue: $3.50
- Price for Subscription: $40 year, controlled circulation
- Sales Promotion: $75 year first class

none at this time

Distribution:

Volume:
- Pages per Year: 952 in 1981; 1100 to date in 1982
- Pages per Issue: 60 generally

Content: ☐ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☐ Other
☒ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format:

Code: Publications

Staff:

Budget:
- Printing Expenses:
- Subsidy Received:
- Amount for Salaries: Included in Register budget
- Subscriptions: 900 full set subscribers
  3000 subscriptions to individual titles

Supplementation:

Circulation:
- Number Paid:
- Number Gratis: 21
- Price per volume: $35
- Total Price for Set: $500 (one year up-date included, as well as a complimentary copy of the Register).
- Sales Promotion: In our Register only at this time.

Distribution: New Jersey have a backlog on the code at this time. Some titles haven't been updated since 1980 and the rest 1981. Our goal is to up-date through June, 1982 by winter

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☒ Yes — Correction of Nonsubstantive Errors.
- ☐ No ☒ Yes — Correction of Substantive Errors.
- ☐ No ☒ Yes — Official Text
- ☒ No ☐ Yes — Judicial Notice.
- ☐ No ☒ Yes — Annotate.
- ☐ No ☒ Yes — Edit.
- ☐ No ☒ Yes — Emergency Regulations.
- ☐ No ☐ Yes — Legislative Oversight. Sent to legislation for review. However, they have no veto power.
- ☐ No ☒ Yes — Economic Impact Statement. Required.

Computer Composition:

- ☒ No ☐ Yes — Computer Use.
- ☐ No ☒ Yes — Searchable Data Base.
- ☐ No ☐ Yes — Cost-Savings.
- ☒ No ☐ Yes — Microfilm/Microfiche.

Other Services.

- ☐ No ☐ Yes — Editorial Standards Manual. Yes, we do use a manual, and we are in the process of prepairing something on the same rein to be used by our judges, but nothing for public on rules.
- ☐ No ☒ Yes — Instruction in Regulations Drafting.
  - ☒ Seminars
  - ☒ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☒ Liaison Representative Required
  - ☐ Other (please explain)

Our filings staff works closely with the APO officers in the State Agencies.

1982 Survey of *Codes* and *Registers*

State: NEW MEXICO

Director/Editor: James H. Purdy Agency: State Records Center

Register: Selected Documents Filed with The State Records Center

Staff:

Budget:
- Printing Expenses: ~~$ 200.00~~
- Salaries: $20,000.00
- Subsidy Received: none
- Subscriptions:

Frequency of issue: Periodically

Circulation:
- Number Paid: Varies
- Number Gratis: 50
- Price per Issue: Varies
- Price for Subscription: $ 10.00
- Sales Promotion: None
- Distribution: In-house

Volume:
- Pages per Year: 60-75
- Pages per Issue: 60-75

Content: ☐ Text ☐ Notices Only

☒ Emergency Rules	☐ Hearings	☐ Executive Items	☒ Other Final Rule
☐ Proposed Rules	☒ Executive Orders	☐ Judicial Items	☐ Other
☐ Adopted Rules	☒ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☐ Index	☒ Other ~~Agency~~ Name Index

Format: N/A

Code:

Staff:

Budget:
- Printing Expenses:
- Subsidy Received:
- Amount for Salaries:
- Subscriptions:

Supplementation:

Circulation:
- Number Paid:
- Number Gratis:
- Price per volume:
- Total Price for Set:
- Sales Promotion:
- Distribution:

Volume:

(Please explain answers in detail.)

Law:

- [X] No [ ] Yes — Correction of Nonsubstantive Errors.
- [X] No [ ] Yes — Correction of Substantive Errors.
- [X] No [ ] Yes — Official Text
- [X] No [ ] Yes — Judicial Notice.
- [X] No [ ] Yes — Annotate.
- [X] No [ ] Yes — Edit.
- [ ] No [X] Yes — Emergency Regulations.
- [X] No [ ] Yes — Legislative Oversight.
- [X] No [ ] Yes — Economic Impact Statement.

Computer Composition:

- [ ] No [X] Yes — Computer Use. Word Processing
- [X] No [ ] Yes — Searchable Data Base.
- [ ] No [X] Yes — Cost-Savings.
- [X] No [ ] Yes — Microfilm/Microfiche.

Other Services.

- [X] No [ ] Yes — Editorial Standards Manual.
- [ ] No [XX] Yes — Instruction in Regulations Drafting.
  - [ ] Seminars
  - [XX] Consultations
  - [ ] Manual
  - [X] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain) Style and Format Rule

1982 Survey of *Codes* and *Registers*

State: New York

Director/Editor: Richard Edwards Agency: Department of State

Register: N.Y.S. Register

Staff: 5

Budget:
- Printing Expenses: N/A
- Salaries: N/A
- Subsidy Received: N/A
- Subscriptions: 2,600

Frequency of issue: weekly

Circulation:
- Number Paid: 400
- Number Gratis: 2,200
- Price per Issue: $1.50
- Price for Subscription: $80 - 1st class mail; $40 - 2nd class mail
- Sales Promotion: none

Distribution: contractor

Volume:
- Pages per Year: 1,320
- Pages per Issue: 110

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☒ Other Op of AG
☒ Proposed Rules	☒ Executive Orders	☒ Judicial Items	☒ Other State fun
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☒ Open Meetings	☒ State Contracts	☒ Index	☐ Other

Format:

Code: Official Compilation of Codes, Rules & Regulations of the State of New York (NYCRR)

Staff: 6

Budget:
- Printing Expenses: N/A
- Subsidy Received: N/A
- Amount for Salaries: N/A
- Subscriptions: N/A

Supplementation: Monthly

Circulation:
- Number Paid: N/A
- Number Gratis: -0-
- Price per volume: $40
- Total Price for Set: $1,800
- Sales Promotion: Contractor

Distribution: Contractor

Volume: 45 volumes

(Please explain answers in detail.)

Law:

- [ ] No [x] Yes — Correction of Nonsubstantive Errors.
- [x] No [ ] Yes — Correction of Substantive Errors.
- [ ] No [x] Yes — Official Text
- [ ] No [x] Yes — Judicial Notice.
- [ ] No [x] Yes — Annotate.
- [ ] No [x] Yes — Edit.
- [ ] No [x] Yes — Emergency Regulations.
- [x] No [ ] Yes — Legislative Oversight.
- [ ] No [x] Yes — Economic Impact Statement.

Computer Composition:

- [ ] No [x] Yes — Computer Use.
- [x] No [ ] Yes — Searchable Data Base.
- [ ] No [x] Yes — Cost-Savings.
- [x] No [ ] Yes — Microfilm/Microfiche.

Other Services.

- [x] No [ ] Yes — Editorial Standards Manual.
- [ ] No [x] Yes — Instruction in Regulations Drafting.
  - [x] Seminars
  - [x] Consultations
  - [ ] Manual
  - [x] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

This information was obtained from the 1981 ACR surve

State: North Carolina

Director/Editor:

Agency: Administrative Procedures Section: ~~Office of Attny. Gen~~

Register: _____

Staff:

Budget:
- Printing Expenses _____
- Salaries _____
- Subsidy Received _____
- Subscriptions _____

Frequency of issue:

Circulation:
- Number Paid _____
- Number Gratis _____
- Price per Issue _____
- Price for Subscription _____
- Sales Promotion:

Distribution:

Volume:
- Pages per Year _____
- Pages per Issue _____

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

Code: North Carolina administrative code

Staff: 6

Budget:
- Printing Expenses _____
- Subsidy Received _____
- Amount for Salaries _____
- Subscriptions _____

Supplementation:

Circulation:
- Number Paid _____
- Number Gratis _____
- Price per volume _____
- Total Price for Set _____
- Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☒ Yes — Correction of Nonsubstantive Errors.
- ☒ No ☐ Yes — Correction of Substantive Errors.
- ☐ No ☒ Yes — Official Text
- ☐ No ☒ Yes — Judicial Notice.
- ☒ No ☐ Yes — Annotate.
- ☐ No ☐ Yes — Edit. for arrangement or form that in the opinion of the A. G. do not alter the substance of the rule.
- ☐ No ☒ Yes — Emergency Regulations. - effective for up to 120 days. Agency written finding of "imminent peril to public health, safety & welfare" with reasons for that finding required.
- ☐ No ☒ Yes — Legislative Oversight. Administrative Rules Review Committee reviews adopted rules for agency statutory authority. Objection notes in code. No sanction.
- ☒ No ☐ Yes — Economic Impact Statement.

Computer Composition:

- ☐ No ☒ Yes — Computer Use. Composition, editing, compilation of indices, and generation of microfiche.
- ☒ No ☐ Yes — Searchable Data Base. - But limited in scope.
- ☐ No ☐ Yes — Cost-Savings.
- ☐ No ☐ Yes — Microfilm/Microfiche. - Medium of published Code

Other Services.

- ☐ No ☐ Yes — Editorial Standards Manual. - Available.
- ☒ No ☐ Yes — Instruction in Regulations Drafting.
  - ☒ Seminars
  - ☒ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: NORTH DAKOTA

Director/Editor: Code Revisor Agency: Legislative Council

Register: None

Staff:

Budget:
- Printing Expenses: _____
- Salaries: _____
- Subsidy Received: _____
- Subscriptions: _____

Frequency of issue:

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per Issue: _____
- Price for Subscription: _____
- Sales Promotion:

Distribution:

Volume:
- Pages per Year: _____
- Pages per Issue: _____

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

Code: North Dakota Administrative Code

Staff: 1/3 actorney; 1/3 data processing cperator; 2/3 proofreader

Budget:
- Printing Expenses: 25,353 (1981)
- Subsidy Received: 80% of 300 sets (1981)
- Amount for Salaries: 27,296 (1981)
- Subscriptions: 199

Supplementation: loose-leaf monthly supplement

Circulation:
- Number Paid: 77
- Number Gratis: 122
- Price per volume: N/A
- Total Price for Set: $150 and $95 per year
- Sales Promotion: None

Distribution: Secretary of State distributes code and supplement

Volume: 2,600 pages

(Please explain answers in detail.)

Law:

☐ No ☒ Yes Correction of Nonsubstantive Errors. Spelling, grammar, punctuation

☐ No ☒ Yes Correction of Substantive Errors. Only through rejection of rules for publication; rules not effective until published.

☐ No ☒ Yes Official Text Published rule is official text

☐ No ☒ Yes Judicial Notice. not statutorily required but recognized in Court opinions.

☒ No ☐ Yes Annotate. Not required and not done.

☐ No ☒ Yes Edit. Format and style

☐ No ☒ Yes Emergency Regulations. Authorized

☐ No ☒ Yes Legislative Oversight. Advisory only, but objection puts burden of proof on agency in any Court challenge.

☒ No ☐ Yes Economic Impact Statement.

Computer Composition:

☐ No ☒ Yes Computer Use. Code and Code Supplement publication

☐ No ☒ Yes Searchable Data Base.

☐ No ☐ Yes Cost-Savings. Unknown

☒ No ☐ Yes Microfilm/Microfiche.

Other Services.

☐ No ☒ Yes Editorial Standards Manual. Format namual 43 pages

☐ No ☒ Yes Instruction in Regulations Drafting.

- ☐ Seminars
- ☐ Consultations
- ☒ Manual
- ☐ Pre-Publication Review
- ☐ Liaison Representative Required
- ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Ohio

Director/Editor: David A. Johnston/ Connie Cooksey-Eichenlaub

Agency: Legislative Service Commission/ Banks-Baldwin Law Publishing

Register: Ohio Monthly Record

Staff: Full-time Administrator, Part-time assistant

Budget:
- Printing Expenses _____
- Salaries _____
- Subsidy Received _____
- Subscriptions _____

Frequency of issue: Monthly

Circulation:
- Number Paid _____
- Number Gratis _____
- Price per Issue _____
- Price for Subscription _____
- Sales Promotion:

Distribution:

Volume:
- Pages per Year 1000
- Pages per Issue 80

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☒ Adopted Rules	☐ Proclamations	☒ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format: Monthly issue of proposed hearings, rules. Rules in numerical order within month filed.

Code: Ohio Administrative Code

Staff: Full-time administrator, part-time assistant

Budget:
- Printing Expenses _____
- Subsidy Received _____
- Amount for Salaries _____
- Subscriptions _____

Supplementation:

Circulation:
- Number Paid _____
- Number Gratis _____
- Price per volume _____
- Total Price for Set _____
- Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

☐ No ☒ Yes Correction of Nonsubstantive Errors.
By letter sent to agency to obtain their approval for correction.

☒ No ☐ Yes Correction of Substantive Errors.

☐ No ☒ Yes Official Text

☒ No ☐ Yes Judicial Notice.

☐ No ☒ Yes Annotate.
Annotations created by Banks-Baldwin staff.

☒ No ☐ Yes Edit.

☐ No ☒ Yes Emergency Regulations.

☐ No ☒ Yes Legislative Oversight.

☒ No ☐ Yes Economic Impact Statement.

Computer Composition:

☐ No ☒ Yes Computer Use.

☒ No ☐ Yes Searchable Data Base.

☐ No ☐ Yes Cost-Savings.

☒ No ☐ Yes Microfilm/Microfiche.
Banks-Baldwin found a lack of market for this service.

Other Services.

☒ No ☐ Yes Editorial Standards Manual.

☒ No ☐ Yes Instruction in Regulations Drafting.

- ☐ Seminars
- ☐ Consultations
- ☐ Manual
- ☐ Pre-Publication Review
- ☐ Liaison Representative Required
- ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Oklahoma

Director/Editor: Oliver Delaney

Agency: Department of Libraries
200 N.E. 18th Street
Oklahoma City, OK 73105
(405) 521-2502, Ext. 272

Register: The Oklahoma Gazette

Staff: 2

Budget:
- Printing Expenses: $20,049.45 (1981)
- Salaries: -0-
- Subsidy Received: 80%
- Subscriptions: $2,220

Frequency of issue: Bi-weekly

Circulation:
- Number Paid: 111
- Number Gratis: 425
- Price per Issue: $1.00
- Price for Subscription: $20.00
- Sales Promotion: None

Distribution: 600 (In-house)

Volume:
- Pages per Year: 2400 (approx.) (1981)
- Pages per Issue: 100 (approx.) (1981)

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other
☒ Proposed Rules	☒ Executive Orders	☐ Judicial Items	☐ Other
☒ Adopted Rules	☐ Proclamations	☒ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format:

Code: None

Staff:

Budget:
- Printing Expenses
- Subsidy Received
- Amount for Salaries
- Subscriptions

Supplementation:

Circulation:
- Number Paid
- Number Gratis
- Price per volume
- Total Price for Set
- Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- [ ] No [X] Yes — Correction of Nonsubstantive Errors.
  Decision of Legislature.
- [ ] No [X] Yes — Correction of Substantive Errors.
  Decision of Legislature.
- [ ] No [X] Yes — Official Text
- [ ] No [X] Yes — Judicial Notice.
  No statutory provision.
- [ ] No [X] Yes — Annotate.
  No statutory provision.
- [ ] No [X] Yes — Edit.
  Seldom (if ever) edit.
- [ ] No [X] Yes — Emergency Regulations.
  Effective up to 120 days.
- [ ] No [X] Yes — Legislative Oversight.
  Disapproval of rule(s) by either chamber.
- [ ] No [X] Yes — Economic Impact Statement.
  No statutory provision.

Computer Composition:

- [ ] No [X] Yes — Computer Use.
- [ ] No [X] Yes — Searchable Data Base.
- [ ] No [X] Yes — Cost-Savings.
- [ ] No [X] Yes — Microfilm/Microfiche.

Other Services.

- [ ] No [X] Yes — Editorial Standards Manual.
- [ ] No [X] Yes — Instruction in Regulations Drafting.
  - [ ] Seminars
  - [X] Consultations
  - [ ] Manual
  - [X] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: OREGON

Director/Editor: Raymond A. Phelps, Dir.
Janet Sullivan, Editor

Agency: Secretary of State

Register: Administrative Rules Bulletin

Staff: (4)

Budget:
- Printing Expenses: 21,400
- Salaries: 10,534
- Subsidy Received: 21,400
- Subscriptions: ~~$50~~

Frequency of issue:

Circulation:
- Number Paid: None
- Number Gratis: None
- Price per Issue: Free
- Price for Subscription: Free
- Sales Promotion: None

Distribution: Bulk Mailing Permit

Volume:
- Pages per Year: Approx. 700
- Pages per Issue: 22-25

Content: ☐ Text ☒ Notices Only

☒ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other
☒ Proposed Rules	☒ Executive Orders	☐ Judicial Items	☐ Other
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☐ Index	☒ Other Digest of AG Opinions

Format: Notices and Orders reduced, camera-ready copy reproduced.

Code: OAR Compilation

Staff: (4)

Budget:
- Printing Expenses: 78,086
- Subsidy Received: 78,086
- Amount for Salaries: 149,606
- Subscriptions: $200/year

Supplementation:

Circulation:
- Number Paid: 238
- Number Gratis: 60 - receive free update service. ~~sold~~
- Price per volume: Do not/individual volumes
- Total Price for Set: $300/set
- Sales Promotion: None

Distribution: Bulk Mailing Permit (Replacement Page Updates Only)

Volume: Approx. [illegible] P/year [illegible]

(Please explain answers in detail.)

Law:

☐ No ☒ Yes Correction of Nonsubstantive Errors.

May change capitalization for purpose of uniformity, and correct manifest clerical or typographical errors.

☒ No ☐ Yes Correction of Substantive Errors.

The Secretary of State shall not alter the sense, meaning, effect or substance of any rule.

☐ No ☒ Yes Official Text

The Secretary of State shall compile, index and publish all rules adopted by each agency.

☐ No ☒ Yes Judicial Notice.

Courts shall take judicial notice of rules filed with the Secretary of State

☐ No ☒ Yes Annotate.

The Secretary of State may insert editorial or publication notes.

☒ No ☐ Yes Edit.

The Secretary of State shall compile and index all rules.

☒ No ☐ Yes Emergency Regulations.

Emergency regulations are not printed in the Compilation, but reference is made to them.

☐ No ☐ Yes Legislative Oversight.

☒ No ☐ Yes Economic Impact Statement.

This statement must be filed with the notice of intended action along with a statment of the economic effect on business.

Computer Composition:

☒ No ☐ Yes Computer Use.

☒ No ☐ Yes Searchable Data Base.

☒ No ☐ Yes Cost-Savings.

☒ No ☐ Yes Microfilm/Microfiche.

Other Services.

☒ No ☐ Yes Editorial Standards Manual.

☒ No ☐ Yes Instruction in Regulations Drafting.

- ☒ Seminars
- ☐ Consultations
- ☒ Manual
- ☐ Pre-Publication Review
- ☐ Liaison Representative Required
- ☐ Other (please explain)

Seminars and manual prepared by Justice Department

1982 Survey of *Codes* and *Registers*

State: PENNSYLVANIA

Director/Editor: Gary Hoffman

Agency: Legislative Reference Bureau

Register: Pennsylvania Bulletin

Staff:

Budget:
- Printing Expenses: 600,000
- Salaries: 110,000
- Subsidy Received: 200,000
- Subscriptions: 15,000

Frequency of issue: weekly

Circulation:
- Number Paid: 15,000
- Number Gratis: ------
- Price per Issue: 1.25
- Price for Subscription: 45
- Sales Promotion: none

Distribution: U. S. Mail

Volume:
- Pages per Year: 5,200
- Pages per Issue: 100

Content: ☒ Text ☐ Notices Only

☐ Emergency Rules	☒ Hearings	☐ Executive Items	☐ Other
☒ Proposed Rules	☒ Executive Orders	☒ Judicial Items	☐ Other
☒ Adopted Rules	☐ Proclamations	☒ Legislative Items	☐ Other
☒ Open Meetings	☒ State Contracts	☒ Index	☐ Other

Format: 8 1/2" x 11 1/2", triple column

Code: Pennsylvania Code

Staff:

Budget:
- Printing Expenses: 600,000
- Subsidy Received: 300,000
- Amount for Salaries: same
- Subscriptions: 10,000

Supplementation: Pa.Code Reporter (monthly)

Circulation:
- Number Paid: 10,000
- Number Gratis: ----
- Price per volume: varies
- Total Price for Set: _____
- Sales Promotion: done by contractor

Distribution: U.S. MAIL

Volume: 22,000 pages

(Please explain answers in detail.)

Law:

- [ ] No [x] Yes — Correction of Nonsubstantive Errors.
- [ ] No [x] Yes — Correction of Substantive Errors.
- [ ] No [x] Yes — Official Text
- [ ] No [x] Yes — Judicial Notice.
- [ ] No [x] Yes — Annotate.
- [ ] No [x] Yes — Edit.
- [x] No [ ] Yes — Emergency Regulations.
- [x] No [ ] Yes — Legislative Oversight.
- [ ] No [x] Yes — Economic Impact Statement.

Computer Composition:

- [ ] No [x] Yes — Computer Use.
- [ ] No [x] Yes — Searchable Data Base.
- [x] No [ ] Yes — Cost-Savings.
- [ ] No [x] Yes — Microfilm/Microfiche.

Other Services.

- [ ] No [x] Yes — Editorial Standards Manual.
- [ ] No [x] Yes — Instruction in Regulations Drafting.
  - [x] Seminars
  - [x] Consultations
  - [ ] Manual
  - [x] Pre-Publication Review
  - [x] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: RHODE ISLAND

Director/Editor: Agency:

Register: _____

Staff:

Budget: Printing Expenses _____
Salaries _____
Subsidy Received _____
Subscriptions _____

Frequency of issue:

Circulation: Number Paid _____
Number Gratis _____
Price per Issue _____
Price for Subscription _____
Sales Promotion:

Distribution:

Volume: Pages per Year _____
Pages per Issue _____

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

Code: _____

Staff:

Budget: Printing Expenses _____
Subsidy Received _____
Amount for Salaries _____
Subscriptions _____

Supplementation:

Circulation: Number Paid _____
Number Gratis _____
Price per volume _____
Total Price for Set _____
Sales Promotion:

Distribution:

(Please explain answers in detail.)

Law:

- ☐ No ☐ Yes Correction of Non-Substantive Errors.
- ☐ No ☐ Yes Correction of Substantive Errors.
- ☐ No ☐ Yes Official Text
- ☐ No ☐ Yes Judicial Notice.
- ☐ No ☐ Yes Annotate.
- ☐ No ☐ Yes Edit.
- ☐ No ☐ Yes Emergency Regulations.
- ☐ No ☐ Yes Legislative Oversight.
- ☐ No ☐ Yes Economic Impact Statement.

Computer Composition:

- ☐ No ☐ Yes Computer Use.
- ☐ No ☐ Yes Searchable Data Base.
- ☐ No ☐ Yes Cost-Savings.
- ☐ No ☐ Yes Microfilm/Microfiche.

Other Services.

- ☐ No ☐ Yes Editorial Standards Manual.
- ☐ No ☐ Yes Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: South Carolina

Director/Editor: Lynn P. Bartlett Agency: Legislative Council

Register:

Staff: Associate Editor - Parttime Printer and Attorney

Budget:
- Printing Expenses: 28,900.00
- Salaries: 23,593.00
- Subsidy Received: 7% of buaget
- Subscriptions:

Frequency of issue: Regularly on fourth Friday of the month. Other times as necessary. Avg. 24 issues per yr.

Circulation:
- Number Paid: 166
- Number Gratis: 304
- Price per Issue: 2.00
- Price for Subscription: 50.00 per yr
- Sales Promotion: none
- Distribution: Subscribers, State Agencies and Officials, County Libraries and Clerks of Courts.

Volume:
- Pages per Year: 3100
- Pages per Issue: Approx. 125

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☐ Other
☒ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☒ Open Meetings	☐ State Contracts	☒ Index	☐ Other

Format: In house printing, double spaced, 8½ x 11, semihard cover

Code:

Staff:

Budget:
- Printing Expenses: Not separated from Code of Laws budget
- Subsidy Received: NA
- Amount for Salaries:
- Subscriptions: All persons who purchase Code of Laws

Supplementation:

Circulation:
- Number Paid:
- Number Gratis:
- Price per volume:
- Total Price for Set:
- Sales Promotion:

Distribution: All recipients of Code of Laws.

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☒ Yes — Correction of Nonsubstantive Errors. Authorized
- ☐ No ☒ Yes — Correction of Substantive Errors. Authorized only with permission of Agency concerned
- ☐ No ☐ Yes — Official Text. Text as filed with General Assembly if official; not as printed in Register or Code.
- ☐ No ☐ Yes — Judicial Notice. Regulations may be cited as printed in Register or Code
- ☐ No ☐ Yes — Annotate. By publisher in Code only
- ☐ No ☐ Yes — Edit. As to form only by Register and Code Staff except nonsubstantive error.
- ☐ No ☐ Yes — Emergency Regulations. Published in Register, valid for 90 days, renewable once when General Assembly not in session.
- ☐ No ☐ Yes — Legislative Oversight. Regulations become effective on passage of Joint Resolution approving them or 120 days after submission of regulations to G.A. with no action. G.A. may also disapprove some or all of a group of regulations by Joint Resolution
- ☐ No ☐ Yes — Economic Impact Statement. None required

Computer Composition:

- ☐ No ☐ Yes — Computer Use. Synopsis of regulations are entered in computer when regulations are submitted to G.A. for legislative review. Status of regulations as they proceed through legislative review process is monitored and entered in computer.
- ☐ No ☐ Yes — Searchable Data Base. No text base. Only synopsis and review status as described under "computer use".
- ☐ No ☐ Yes — Cost-Savings. None except time saving
- ☐ No ☐ Yes — Microfilm/Microfiche. none

Other Services.

- ☐ No ☒ Yes — Editorial Standards Manual. Published and furnished to all state agencies authorized to promulgate regulations.
- ☐ No ☐ Yes — Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☒ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

Assistance furnished by this office when requested.

1982 Survey of *Codes* and *Registers*

State: South Dakota

Director/Editor: Thomas R. Vickerman, Code Counsel Agency: Legislative Research Council

Register: South Dakota Register

Staff: Rosemary F. Quigley, Research Analyst

Budget:
- Printing Expenses: _____ Not broken down by function
- Salaries: _____
- Subsidy Received: _____
- Subscriptions: _____

Frequency of issue: Weekly

Circulation:
- Number Paid: 107
- Number Gratis: 186
- Price per Issue: ---
- Price for Subscription: $20/yr.
- Sales Promotion: State Bar Association newsletter
- Distribution: In-house

Volume:
- Pages per Year: 180
- Pages per Issue: 2 to 4

Content: ☐ Text ☒ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☒ Other Executive Appointments
☒ Proposed Rules	☒ Executive Orders	☐ Judicial Items	☒ Other Supreme Court Rules
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format: Full text not printed; notices synopsized in weekly newsletter

Code: Administrative Rules of South Dakota

Staff: Thomas R. Vickerman, Code Counsel; Rosemary Quigley, Research Analyst; Marre Pirnat, CRT Operator

Budget:
- Printing Expenses: _____ Not broken down by function
- Subsidy Received: _____
- Amount for Salaries: _____
- Subscriptions: _____

Supplementation: As amended, by article

Circulation:
- Number Paid: 85
- Number Gratis: 20
- Price per volume: two cents a page
- Total Price for Set: less than $100
- Sales Promotion: State Bar Association newsletter
- Distribution: In-house

4,265 pages in print

(Please explain answers in detail.)

Law:

☐ No ☒ Yes	Correction of Nonsubstantive Errors.	No statutory provision; Will correct typographical errors.
☒ No ☐ Yes	Correction of Substantive Errors.	No statutory provision.
☐ No ☒ Yes	Official Text	
☐ No ☒ Yes	Judicial Notice.	Not by statute.
☐ No ☒ Yes	Annotate.	
☐ No ☒ Yes	Edit.	We edit for form, style, and clarity of meaning.
☐ No ☒ Yes	Emergency Regulations.	Notice must be published in 3 newspapers 3 days before effective date.
☐ No ☒ Yes	Legislative Oversight.	Committee has authority under Constitution to suspend rules for fixed time pending action of Legislature.
☐ No ☒ Yes	Economic Impact Statement.	Required by statute.

Computer Composition:

☐ No ☒ Yes	Computer Use.	Computer used for both Register and Code. Makes updating easier and faster.
☐ No ☒ Yes	Searchable Data Base.	
☐ No ☒ Yes	Cost-Savings.	Substantial for both cost and time.
☐ No ☒ Yes	Microfilm/Microfiche.	Available for cost of duplication; annual update.

Other Services.

☒ No ☐ Yes Editorial Standards Manual.

☒ No ☐ Yes Instruction in Regulations Drafting.

- ☒ Seminars
- ☒ Consultations
- ☒ Manual
- ☐ Pre-Publication Review
- ☐ Liaison Representative Required
- ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: TENNESSEE

Director/Editor: William N. Bates

Agency: Department of State, Division of Administrative Procedures
Suite 500, James K. Polk Bldg.
Nashville (615) 741-7008

Register: Tennessee Administrative Register

Staff: 5

Budget:
- Printing Expenses: $119,437.48
- Salaries:
- Subsidy Received: 70%
- Subscriptions:

*This information was obtained from the 1981 ACR Survey.

Frequency of issue: Monthly

Circulation:
- Number Paid: 115
- Number Gratis: 43
- Price per Issue:
- Price for Subscription: $10.00/year
- Sales Promotion: None.

Distribution: In-house.

Volume:
- Pages per Year: 591
- Pages per Issue:

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☐ Hearings	☒ Executive Items	☐ Other
☒ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format: Perfect bound booklet, divided into chapters per aforementioned contents, published in summary and/or full text.

Code: Official Compilation - Rules and Regulations of the State of Tennessee.

Staff: 5

Budget:
- Printing Expenses: $85,553.64 (budget)
- Subsidy Received: 91%
- Amount for Salaries:
- Subscriptions: 186 paid, 259 gratis

Supplementation: Monthly

Circulation:
- Number Paid: 186
- Number Gratis: 259
- Price per volume: $170 - 9 volume set/$20 per year renewal
- Total Price for Set:
- Sales Promotion: None.

Distribution: In-house, full compilation only.

Volume:

(Please explain answers in detail.)

Law:

- [ ] No [ ] Yes Correction of Nonsubstantive Errors. - Clerical errors corrected.
- [ ] No [ ] Yes Correction of Substantive Errors. - Returned to agency.
- [X] No [ ] Yes Official Text
- [X] No [ ] Yes Judicial Notice.
- [X] No [ ] Yes Annotate.
- [ ] No [X] Yes Edit.
- [X] No [ ] Yes Emergency Regulations.
- [X] No [ ] Yes Legislative Oversight.
- [X] No [ ] Yes Economic Impact Statement.

Computer Composition:

- [ ] No [ ] Yes Computer Use. - None
- [ ] No [ ] Yes Searchable Data Base. - None
- [ ] No [ ] Yes Cost-Savings. - None
- [ ] No [ ] Yes Microfilm/Microfiche. - None

Other Services.

- [ ] No [X] Yes Editorial Standards Manual.
- [X] No [ ] Yes Instruction in Regulations Drafting.
  - [ ] Seminars
  - [ ] Consultations
  - [ ] Manual
  - [ ] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: TEXAS

Director/Editor: Charlotte Scroggins, Director
(512) 475-7886

Agency: Office of the Secretary of State, P. O. Box 13824
Austin, Texas 78711

Register: TEXAS REGISTER

Staff: 14

Budget:
- Printing Expenses: $160,000
- Salaries: 208,956
- Subsidy Received: 211,776
- Subscriptions: 272,000

Frequency of issue: twice weekly (100 times a year)

Circulation:
- Number Paid: 4,200
- Number Gratis: 420
- Price per Issue: 2.00
- Price for Subscription: $70./year - $50./six month
- Sales Promotion: Direct mail
- Distribution: Commercial

Volume:
- Pages per Year: 5,600
- Pages per Issue: 56

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☒ Executive Items	☒ Other Atty. Gen.
☒ Proposed Rules	☒ Executive Orders	☒ Judicial Items	☐ Other
☒ Adopted Rules	☒ Proclamations	☒ Legislative Items	☐ Other
☒ Open Meetings	☒ State Contracts	☒ Index	☐ Other

Format:

Code: Texas Administrative Code

Staff: 14

Budget:
- Printing Expenses: —
- Subsidy Received: —
- Amount for Salaries: —
- Subscriptions: —

Published by commercial publisher, Shepard's, Inc. at no expense to state.

Supplementation: None

Circulation:
- Number Paid: 300 full set, 1,200 individual titles (approx.)
- Number Gratis: —
- Price per volume: varies for individual titles
- Total Price for Set: $745.
- Sales Promotion: Direct mail; newspaper and magazine advertisements; conventions; sales representatives
- Distribution: Commercial

Volume:

(Please explain answers in detail.)

Law:

- [ ] No [X] Yes — Correction of Nonsubstantive Errors.
- [ ] No [X] Yes — Correction of Substantive Errors.
- [X] No [ ] Yes — Official Text
- [X] No [ ] Yes — Judicial Notice.
- [X] No [ ] Yes — Annotate.
- [X] No [ ] Yes — Edit. - Typos, spelling, grammar, and after consulting with issuing agency, for meaning and clarity.
- [X] No [ ] Yes — Emergency Regulations.
- [ ] No [X] Yes — Legislative Oversight.
- [X] No [ ] Yes — Economic Impact Statement.

Computer Composition:

- [X] No [ ] Yes — Computer Use. - Self-contained Compugraphic digitized typesetting system.
- [ ] No [X] Yes — Searchable Data Base.
- [X] No [ ] Yes — Cost-Savings.- Publishing twice-weekly does not allow for outside typesetter.
- [X] No [ ] Yes — Microfilm/Microfiche. - Available in complete volumes through Texas State Library.

Other Services.

- [X] No [ ] Yes — Editorial Standards Manual. - Texas Register Form and Style Manual
- [X] No [ ] Yes — Instruction in Regulations Drafting.
  - [X] Seminars
  - [X] Consultations
  - [X] Manual
  - [X] Pre-Publication Review
  - [X] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: UTAH

Director/Editor: Agency:

Register: State of Utah Bulletin

Staff:

Budget:
- Printing Expenses: 16,198.00
- Salaries: 78,014.00
- Subsidy Received: --------
- Subscriptions: 570 paper copies, microfiche

Frequency of issue:

Circulation:
- Number Paid: 315 paper - 2 fiche
- Number Gratis: 250 paper - 176 fiche
- Price per Issue: $2.00 paper - $0.50 fiche
- Price for Subscription: $48.00 paper - $12.00 fiche
- Sales Promotion: -----

Distribution.

Volume:
- Pages per Year: average 960
- Pages per Issue: average 80

Content: ☒ Text ☒ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☒ Other Special Notices
☒ Proposed Rules	☒ Executive Orders	☒ Judicial Items	☐ Other
☒ Adopted Rules	☒ Proclamations	☐ Legislative Items	☐ Other
☒ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format: Table of Contents

Code: Administrative Rules of Utah

Staff:

Budget:
- Printing Expenses: 2,886.00
- Subsidy Received: -------
- Amount for Salaries: see above
- Subscriptions: 45 x 20 for state agencies

Supplementation:

Circulation:
- Number Paid: 45
- Number Gratis: 20
- Price per volume: $44.40 whose set on fiche available only
- Total Price for Set: _____
- Sales Promotion: -------

Distribution:

(Please explain answers in detail.)

Law:

- [ ] No [X] Yes — Correction of Nonsubstantive Errors.
- [ ] No [X] Yes — Correction of Substantive Errors.
- [ ] No [X] Yes — Official Text
- [X] No [ ] Yes — Judicial Notice.
- [ ] No [X] Yes — Annotate.
- [ ] No [X] Yes — Edit.
- [ ] No [X] Yes — Emergency Regulations.
- [X] No [ ] Yes — Legislative Oversight.
- [X] No [ ] Yes — Economic Impact Statement.

Computer Composition:

- [ ] No [X] Yes — Computer Use., partically
- [ ] No [X] Yes — Searchable Data Base.
- [ ] No [X] Yes — Cost-Savings.
- [ ] No [X] Yes — Microfilm/Microfiche.

Other Services.

- [X] No [ ] Yes — Editorial Standards Manual.
- [X] No [ ] Yes — Instruction in Regulations Drafting.
  - [ ] Seminars
  - [ ] Consultations
  - [ ] Manual
  - [ ] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: VERMONT

Director/Editor: Paul S. Gillies Agency: Secretary of State

Register: _____

Staff: 2

Budget:
- Printing Expenses: _____
- Salaries: _____
- Subsidy Received: _____
- Subscriptions: 125

Frequency of issue:

Circulation:
- Number Paid: 95
- Number Gratis: 30
- Price per Issue: ---
- Price for Subscription: _____
- Sales Promotion: None.

Distribution: 125

Difficult to separate

NB: all this to change by September, 1982, when new approach (new compilation) to be released. More details later.

Volume:
- Pages per Year: approx. 150
- Pages per Issue: + 40

Content: ☒ Text ☐ Notices Only

☒ Emergency Rules	☒ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☒ Index	☐ Other _____

Format:

Code: _____

Staff:

Budget:
- Printing Expenses: _____
- Subsidy Received: _____
- Amount for Salaries: _____
- Subscriptions: _____

Supplementation:

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per volume: _____
- Total Price for Set: _____
- Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- ☐ No ☐ Yes Correction of Nonsubstantive Errors.
- ☐ No ☐ Yes Correction of Substantive Errors.
- ☐ No ☐ Yes Official Text
- ☐ No ☐ Yes Judicial Notice.
- ☐ No ☐ Yes Annotate.
- ☐ No ☐ Yes Edit.
- ☐ No ☐ Yes Emergency Regulations.
- ☐ No ☐ Yes Legislative Oversight.
- ☐ No ☐ Yes Economic Impact Statement.

Computer Composition:

- ☐ No ☐ Yes Computer Use.
- ☐ No ☐ Yes Searchable Data Base.
- ☐ No ☐ Yes Cost-Savings.
- ☐ No ☐ Yes Microfilm/Microfiche.

Other Services.

- ☐ No ☐ Yes Editorial Standards Manual.
- ☐ No ☐ Yes Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Virginia

Director/Editor:

Agency: Virginia Code Commission

Register: Register of Regulations

Staff: Joan W. Smith, Registrar of Regulations

Budget:
- Printing Expenses: covered in allocation for printing Code of Virginia
- Salaries: $33,400
- Subsidy Received: -0-
- Subscriptions: distributed with Code of Virginia

Frequency of issue:

Circulation:
- Number Paid: approx. 15,000
- Number Gratis: 0
- Price per Issue: $6.00) issued annually
- Price for Subscription: $6.00)
- Sales Promotion:

Distribution: distributed with annual supplement to the Code of Virginia

Volume:
- Pages per Year:
- Pages per Issue: 145

Content: ☐ Text ☒ Notices Only

☒ Emergency Rules	☐ Hearings	☒ Executive Items	☐ Other
☐ Proposed Rules	☒ Executive Orders	☐ Judicial Items	☐ Other
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other

Format:

Code: No administrative code in VA

Staff:

Budget:
- Printing Expenses:
- Subsidy Received:
- Amount for Salaries:
- Subscriptions:

Supplementation:

Circulation:
- Number Paid:
- Number Gratis:
- Price per volume:
- Total Price for Set:
- Sales Promotion:

Distribution:

Volume:

NOT APPLICABLE TO VIRGINIA REGISTER

(Please explain answers in detail.)

Law:

☐ No ☐ Yes Correction of Nonsubstantive Errors.

☐ No ☐ Yes Correction of Substantive Errors.

☐ No ☐ Yes Official Text

☐ No ☐ Yes Judicial Notice.

☐ No ☐ Yes Annotate.

☐ No ☐ Yes Edit.

☐ No ☐ Yes Emergency Regulations.

☐ No ☐ Yes Legislative Oversight.

☐ No ☐ Yes Economic Impact Statement.

Computer Composition:

(composition done by The Michie Company Law Publishers)

☐ No ☐ Yes Computer Use.

☒ No ☐ Yes Searchable Data Base.

☐ No ☐ Yes Cost-Savings.

☒ No ☐ Yes Microfilm/Microfiche.

Other Services.

☒ No ☐ Yes Editorial Standards Manual.

☒ No ☐ Yes Instruction in Regulation Drafting.

- ☐ Seminars
- ☐ Consultations
- ☐ Manual
- ☐ Pre-Publication Review
- ☐ Liaison Representative Required
- ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: WASHINGTON

Director/Editor: Gary Reid

Agency: Code Reviser's Office

Register: Washington State Register (WSR)

Staff: 2 editor-typists, 2 proofreaders, 1/4 attorney, 2 other typists, 1/5 subscription clerk.

Budget: 81/82 fiscal year

Printing Expenses	$ 76,505
Salaries	112,383
Subsidy Received	147,563
Subscriptions	41,325

Frequency of issue: 24/year

Circulation:

Number Paid	435
Number Gratis	99
Price per Issue	5.00
Price for Subscription	95.00

Sales Promotion: Direct mail, bar association journal announcements & advertisements, order form on back corner of all issues.

Distribution: 2nd class mailing permit. We supply labels to state printer, who stuffs envelopes & sends to P. O.

Volume: Pages per Year 5729 including tables & index; 4434 text only

cover Pages per Issue 239. 185

Content:

- ☒ Text
- ☐ Notices Only
- ☒ Emergency Rules
- ☒ Proposed Rules
- ☒ Adopted Rules
- ☒ Open Meetings
- ☐ Hearings
- ☒ Executive Orders
- ☐ Proclamations
- ☐ State Contracts
- ☐ Executive Items
- ☒ Judicial Items
- ☐ Legislative Items
- ☒ Index
- Summaries of Atty. General opinions: ☒ Other
- ☐ Other _____
- ☐ Other _____
- ☒ Other Table of WAC Sections affected

Format:

- Rules adopted by State Supreme Court.
- X Other - Juvenile disposition stancards by dept. o social & health services.

Code: Washington Administrative Code (WAC)

Staff: 1 editor, 1 typist 1/4 attorney

Budget: based on 3 yr. average - to include reprint & 2 supps.

Printing Expenses	20,285(Bi supp only)
Subsidy Received	19,792
Amount for Salaries	50,597
Subscriptions	102,409

Supplementation: 2 annual, cumulative, soft-bound supps, then reprint entire WAC every 3 years.

Circulation:

Number Paid	652
Number Gratis	215
Price per volume	not available by single volume
Total Price for Set	$295 for set, $43 for 1981 supp. est. $85 for 82 supp.

Sales Promotion: Direct mail, bar association journal announcemen and advertisements.

Distribution: in house

8600 pp in 1980 reprint (9 vols) 1419 pp in 1981 supp

(Please explain answers in detail.)

Law:

- [ ] No [X] Yes Correction of Nonsubstantive Errors. in WAC only - call attention to to them in Register
- [X] No [ ] Yes Correction of Substantive Errors.
- [ ] No [X] Yes Official Text see RCW 34.08.040
- [ ] No [X] Yes Judicial Notice. See RCW 34.04.050
- [X] No [ ] Yes Annotate.
- [ ] No [X] Yes Edit. See RCW 34.04.052. Code-edit for typos, grammer, misuse of amendatory style. Register - publish exactly what is filed by agency.
- [ ] No [X] Yes Emergency Regulations. Expire 90 days after filing with Code Revisor
- [ ] No [X] Yes Legislative Oversight. See RCW 34.04.210 through 34.04.260. Joint, bipartisam special committee & legislature reviews both proposed & adopted rules; can delay adoption process & use statement of objections to be published in Register and Code; cannot revent adoption or effect.
- [ ] No [X] Yes Economic Impact Statement. See chapter 19.8SRCW

Computer Composition:

- [ ] No [X] Yes Computer Use. Order typing service (OTS) is done by our office at no charg to agencies - about 50% of rules done this way. Other half are typed into our database upon filing & can be photocomposed, edited, etc. without further retyping.
- [ ] No [X] Yes Searchable Data Base. Full text.
- [ ] No [X] Yes Cost-Savings. Permits publication of Register, WAC and supplem without retyping. A.so possible for agencies to have state printer make photo-composed printing masters for agency publications.
- [ ] No [X] Yes Microfilm/Microfiche. University Microfilms produced microfiche WAC (1977) and attempted to update by fishing the Register. The gave up when our 1981 reprint came out.

Other Services.

- [ ] No [X] Yes Editorial Standards Manual. Chapter 1 - 12 WAC adopted by our office
- [ ] No [X] Yes Instruction in Regulations Drafting.
  - [X] Seminars
  - [X] Consultations
  - [ ] Manual
  - [ ] Pre-Publication Review
  - [X] Liaison Representative Required of each agency.
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: West Virginia

Director/Editor: Mary Jane Lopez

Agency: Secretary of State, Rules and Regulations Division, Main Unit, State Capitol, Charleston, West Virginia 25305
(304) 348-2112

Register: Rules and Regulations Division

Staff: 1

Budget:
- Printing Expenses: $12,500.00 (Budget)
- Salaries: _____
- Subsidy Received: none
- Subscriptions: _____

Frequency of issue: weekly

Circulation:
- Number Paid: 52
- Number Gratis: 0
- Price per Issue: _____
- Price for Subscription: $10/year
- Sales Promotion:

Distribution: In-house.

Volume:
- Pages per Year: 500
- Pages per Issue: _____

Content: ☐ Text ☐ Notices Only

☒ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☒ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☒ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format: Full text published.

Code: _____

Staff:

Budget:
- Printing Expenses: _____
- Subsidy Received: _____
- Amount for Salaries: _____
- Subscriptions: _____

Supplementation:

Circulation:
- Number Paid: _____
- Number Gratis: _____
- Price per volume: _____
- Total Price for Set: _____
- Sales Promotion:

Distribution:

Volume:

*This information was obtained from the 1981 ACR Survey.

Indes: In process of updating indexes. Will publish in the future.

(Please explain answers in detail.)

Law:

- ☐ No ☐ Yes — Correction of Nonsubstantive Errors. – No statutory provision.
- ☐ No ☐ Yes — Correction of Substantive Errors. – No statutory provision
- ☒ No ☐ Yes — Official Text
- ☒ No ☐ Yes — Judicial Notice.
- ☒ No ☐ Yes — Annotate.
- ☐ No ☐ Yes — Edit. – No authority to edit regulations, we are only a repository for agency rules. We do not publish.
- ☐ No ☐ Yes — Emergency Regulations. – If an emergency exists requiring temporary rules, the fact and circumstances constituting the emergency shall be filed in the State Register, making the rule effective immediately. An emergency rule shall not remain in effect longer than 90 days.
- ☐ No ☐ Yes — Legislative Oversight. Reviews proposed regulations, has veto power.
- ☒ No ☐ Yes — Economic Impact Statement.

Computer Composition:

- ☒ No ☐ Yes — Computer Use.
- ☐ No ☐ Yes — Searchable Data Base. – Not availab.e
- ☐ No ☐ Yes — Cost-Savings.
- ☐ No ☐ Yes — Microfilm/Microfiche. Not available

Other Services.

- ☒ No ☐ Yes — Editorial Standards Manual.
- ☒ No ☐ Yes — Instruction in Regulations Drafting.
  - ☐ Seminars
  - ☐ Consultations
  - ☐ Manual
  - ☐ Pre-Publication Review
  - ☐ Liaison Representative Required
  - ☐ Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Wisconsin

Director/Editor: Gary L. Poulson Agency: Revisor of Statutes

Register: Wisconsin Administrative Register

Staff:

Budget:
- Printing Expenses: _____
- Salaries: _____
- Subsidy Received: _____
- Subscriptions: _____

These figures are the same the ones reflected on the 1981 survey.

Frequency of issue: semi-monthly

Circulation:
- Number Paid: 843 + subscribers to the Administrative Code receive the Register when an item relating to their subscribed code or codes are published.
- Number Gratis: 300 (Code Sub.
- Price per Issue: annual sub.
- Price for Subscription: $12.00
- Sales Promotion: none

Distribution: U.P.S. or 2nd class U.S. mail

Volume:
- Pages per Year: 408
- Pages per Issue: 17

Content: ☒ Text or ☒ Notices Only

☒ Emergency Rules	☒ Hearings	☒ Executive Items *	☒ Other General Attorney
☒ Proposed Rules	☒ Executive Orders	☒ Judicial Items *	☐ Other Opinions *
☒ Adopted Rules	☐ Proclamations	☒ Legislative Items*	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

*related to rules or rule-making process

Format:

Code: Wisconsin Administrative Code

Staff:

Budget:
- Printing Expenses: _____
- Subsidy Received: _____
- Amount for Salaries: _____
- Subscriptions: _____

These figures are the same ones reflected on the 1982 survey.

Supplementation:

Circulation:
- Number Paid: 13.00 + subscribers to a portion of the 14 volume set. 1200 subscribers and the complete set.
- Number Gratis: 300
- Price per ~~volume~~ code from $2 to $20.00
- Total Price for Set: 120.00 + $120.00 annual up-keep
- Sales Promotion: none

Distribution: U.P.S. or 2nd class U.S.mail

Volume: 2400 pages per year.

(Please explain answers in detail.)

Law:

- [ ] No [x] Yes — Correction of Nonsubstantive Errors.
- [x] No [ ] Yes — Correction of Substantive Errors.
- [ ] No [x] Yes — Official Text
- [ ] No [x] Yes — Judicial Notice.
- [ ] No [x] Yes — Annotate.
- [ ] No [x] Yes — Edit.
- [ ] No [x] Yes — Emergency Regulations.
- [ ] No [x] Yes — Legislative Oversight.
- [ ] No [x] Yes — Economic Impact Statement.

Computer Composition:

- [ ] No [x] Yes — Computer Use.
- [x] No [ ] Yes — Searchable Data Base.
- [x] No/in time spent [x] Yes — Cost-Savings. in money.
- [x] No [ ] Yes — Microfilm/Microfiche.

Other Services.

- [x] No [ ] Yes — Editorial Standards Manual.
- [ ] No [x] Yes — Instruction in Regulations Drafting.
  - [ ] Seminars
  - [x] Consultations
  - [x] Manual
  - [x] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

1982 Survey of *Codes* and *Registers*

State: Wyoming

Director/Editor: Thyra Thomson, Secretary of State Agency: Secretary of State

Register: Not Published

Staff:

Budget: Printing Expenses _____
Salaries _____
Subsidy Received _____
Subscriptions _____

Frequency of issue:

Circulation: Number Paid _____
Number Gratis _____
Price per Issue _____
Price for Subscription _____
Sales Promotion:

Distribution:

Volume: Pages per Year _____
Pages per Issue _____

Content: ☐ Text ☐ Notices Only

☐ Emergency Rules	☐ Hearings	☐ Executive Items	☐ Other _____
☐ Proposed Rules	☐ Executive Orders	☐ Judicial Items	☐ Other _____
☐ Adopted Rules	☐ Proclamations	☐ Legislative Items	☐ Other _____
☐ Open Meetings	☐ State Contracts	☐ Index	☐ Other _____

Format:

Wyoming does not publish either an Administrative Code or Register.

The Secretary of State administers the Administrative Procedure Act and files all rules by state agencies.

The Rules are filed in 3-ring loose-leaf binders and copies of rules are available upon request at the duplicating cost of 50¢ per page.

FORMAT: Prescribed by Secretary of State (copy attached)

STAFF: One employee is responsible for filing rules, along with other office duties.

Code: Not Published

Staff:

Budget: Printing Expenses _____
Subsidy Received _____
Amount for Salaries _____
Subscriptions _____

Supplementation:

Circulation: Number Paid _____
Number Gratis _____
Price per volume _____
Total Price for Set _____
Sales Promotion:

Distribution:

Volume:

(Please explain answers in detail.)

Law:

- [ ] No [x] Yes — Correction of Nonsubstantive Errors. Law does not specify.
- [ ] No [x] Yes — Correction of Substantive Errors. Law does not specify.
- [ ] No [x] Yes — Official Text
- [x] No [ ] Yes — Judicial Notice. No judicial notice, but Administrative Procedure Act does require at least 20 days notice to all interested parties of proposed rules. Also, state agency must notify the Attorney General and Legislative Service Office of proposed rules.
- [ ] No [x] Yes — Annotate.
- [ ] No [x] Yes — Edit.
- [ ] No [x] Yes — Emergency Regulations.
- [x] No [ ] Yes — Legislative Oversight.
- [ ] No [x] Yes — Economic Impact Statement.

Computer Composition:

- [x] No [ ] Yes — Computer Use. Not at present; however, within this year, we will be computerizing the state agency rules.
- [ ] No [ ] Yes — Searchable Data Base.
- [ ] No [ ] Yes — Cost-Savings.
- [ ] No [ ] Yes — Microfilm/Microfiche.

Other Services.

- [x] No [ ] Yes — Editorial Standards Manual.
- [x] No [ ] Yes — Instruction in Regulations Drafting. However, do distribute "Rules on Rules" which specifies format for preparing Rules.
  - [ ] Seminars
  - [ ] Consultations
  - [ ] Manual
  - [ ] Pre-Publication Review
  - [ ] Liaison Representative Required
  - [ ] Other (please explain)

STATE OF ALASKA
FISCAL NOTE

Revision Date 3-29 , 1983

I. REQUEST

Bill/Resolution No.: CS SB 132(SA)
Title: Administrative Journal
Sponsor: Fahrenkamp, et al
Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Governor's Office
Program Category Affected: Lt. Governor
BRU, Program or Subprogram(s) Affected:
Office of the Lieutenant Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		71.2				
200 TRAVEL		- 0 -				
300 CONTRACTUAL		88.8				
400 COMMODITIES		.6				
500 EQUIPMENT		- 0 -				
600 LAND & STRUCTURES		- 0 -				
700 GRANTS, CLAIMS, ETC		- 0 -				
TOTAL OPERATING		160.6				
CAPITAL		- 0 -				
REVENUE		- 0 -				

FUNDING: (Thousands of Dollars)

GENERAL FUND		160.6				
FEDERAL FUNDS		- 0 -				
OTHER (Specify Source)		- 0 -				

POSITIONS:

FULL-TIME		2				
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

If continued to be published, the distribution of the Journal would be on a subscription basis at a cost to be determined by the Lt. Governor with the revenues coming back to the General Fund.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Sally L. Hanson
Division: Office of the Lieutenant Governor
Phone: 465-3520
Date: 3/29/83

Approved by Commissioner:
Department: Lieutenant Governor
Date: 3/29/83

Publish Administrative Journal on a biweekly basis

100	**Personal Services**			
	Systems Analyst	Range 16B @ $2556/mo		
	Salary/year	30.7		
	Benefits/year	7.7		
		38.4		
	Publication Tech.	Range 12B @ $1946/mo		
	Salary/year	23.4		
	Benefits/year	5.9		
		29.3	67.7	
	Inflation @ 5.1%		3.5	71.2
200	**Travel**			
	- 0 -			
300	**Contractual Services**			
	Telephone, long distance		1.5	
	Postage & mailing (assume 500)- 500 to be picked up at info offices)		10.5	
	Advertising ($70/ad x 24)		1.7	
	Rental (Display Writer, Modem & line cost)		5.0	
	Printing & Binding			
	25 x $2.50 x 1000 x 26 issues (estimate 25 sheets back to back)		65.0	
	Inflation @ 6%		5.1	88.8
400	**Commodities**			
	General office supplies		.6	.6
500	**Equipment**			
	- 0 -			
	TOTAL			$ 160.6

SB

137

FISCAL NOTE — REVISION DATE , 1983

I. REQUEST

Bill/Resolution No.: CSSB 137 (FIN) AM

Title: PUBLIC OFFICERS & EMP SUBJ. TO AS 24.45

Sponsor: FAIKS, KERTTULA & BENNETT

Requestor: HOUSE STATE AFFAIRS

II. FISCAL DETAIL

Agency Affected: ADMINISTRATION

Program Category Affected: IND. OPERATIO

BRU, Program or Subprogram(s) Affected: ALASKA PUBLIC OFFICES COMMISSION

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		15.7	16.9	18.2	19.4	21.4
200 TRAVEL		2.0	2.1	2.1	2.1	2.1
300 CONTRACTUAL		13.0	13.8	14.6	15.5	16.4
400 COMMODITIES		.6	.6	.7	.7	.8
500 EQUIPMENT		15.9	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC		0	0	0	0	0
TOTAL OPERATING		47.2	33.4	35.6	37.7	40.7
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND		47.2	33.4	35.6	37.7	40.7
FEDERAL FUNDS		0	0	0	0	0
OTHER (Specify Source)		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Vicki L. Rippie VICKI L. RIPPIE Phone: 276-5176

Division: ALASKA PUBLIC OFFICES COMMISSION Date: 6/15/83

Approved by Commissioner: LISA RUDD Date: 6/15/83

Department: ADMINISTRATION

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

Copy to Department (for Governor introduced bills)

Copy to Sponsor

Copy to Requestor (if different from Sponsor)

3/8/

SSSB 137 Fiscal Note ANALYSIS

Assumptions: All figures are in addition to the Governor's Request of $590.6 for FY 84 (7 F/T, 3 P/T positions). The personal services estimates for FY 85-FY 88 include an annual step increase, an annual 4% cost-of-living factor, and an employer charge of 32% of base salary to cover benefits, unemployment compensation, etc.

100 - Personal Services (FY 84)		$15.7
Reclassify Administrative Assistant II position (14A) to Regulations Specialist II position (16A) - $5.3		
Reclassify Clerk III position (8C, 8 months) to Secretary I position (10A, 12 months) - $10.4		
200 - Travel (FY 84)		2.0
Anticipate three trips to various municipalities to conduct workshops with officials and employees concerning requirements.		
Airfare estimated at $500 per trip:	1,500	
Two days per diem per trip:	480	
	$1,980	
300 - Contractual (FY 84)		13.0
Telephone	$1.2	
Postage	.6	
Printing (RSA Central Dup)	2.0	
Legal Services (RSA to Dept. of Law; 6 hours/month @ $100 per hour)	7.2	
Office Space (RSA to General Services & Sup)	2.0	
400 - Commodities (FY 84)		.6
500 - Equipment (one-time items) (FY 84)		15.9
Word Processor Terminal	$15.9	
FY 84 Total		47.2
FY 85: Delete one-time items; salary increase as noted above; inflation factor of 6%.		33.4
FY 86: Salary increase as noted above, inflation factor of 6%.		35.6
FY 87: Salary increase as noted above, inflation factor of 6%.		37.7
FY 88: Salary increase as noted above, inflation factor of 6%.		40.7

CSSB 137 (Fin) am - Position Paper

Currently, elected or appointed state or municipal officers and employees are exempt from the registration and reporting requirements of the Regulation of Lobbying Law (AS 24.45) if they are acting in their official capacity or within the scope of their employment. CSSB 137 (Fin) am would alter this situation by making the chapter applicable to an "officer or employee who is an employee of the executive, legislative, or judicial branch of government, the University of Alaska, a municipality or a school district if a substantial or regular portion of the activities for which the officer or employee was hired and receives compensation is for the direct purpose of influencing legislative action.

This language raises a number of questions which concern the Commission:

1) Why is the word officer included in lines 15 and 18 unless the intent is that executive, legislative, judicial, university, or municipal officers (in addition to employees) might be construed as being subject to AS 24.45 if they were "hired" and receive compensation to spend a substantial or regular portion of their time directly influencing legislative action;

2) Is an elected official a legislative officer who might be construed by the AG's Office or the courts as having been "hired" by the voters to influence legislative action;

3) On the other hand, does the language on lines 18 and 19 mean that an officer or employee's job description or contract would have to specify that a substantial or regular portion of his or her time is for the direct purpose of influencing legislative action before the reporting requirements are applicable; and

4) Were a person who qualifies as a lobbyist because he or she was hired to influence legislative action have to report legislative and administrative lobbying activities since line 16 says that the "chapter" applies.

It does appear that the proposed language leaves considerable room for interpretation and, hence, may not accomplish the authors' intent, but will certainly generate numerous inquiries to the administering agency. It does seem, though, that state and municipal employees hired as legislative liaisons, as well as legislative staff aides, would be among those who would be required to register and report as lobbyists.

The Commission does not feel that its current staff could effectively absorb the additional workload which would be generated by passage of this bill and, thus, attached is the fiscal note indicating increased agency costs.

Further, the bill's inherent ambiguity makes it impossible for the Commission to support its passage.

Department of Administration
Department

Commissioner — Date

Alaska Public Offices Commission
Division

Director — 6/15/83 Date

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS SB 137 (Fin)

Title Certain public off./empl. subject to AS 24.45

Requested by Senate Finance Date 5/16/83

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected

BRU, Program, or Subprogram(s) Affected Alaska Public Offices Commission

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	0	0				
200 TRAVEL	0	0				
300 CONTRACTUAL	0	0				
400 COMMODITIES	0	0				
500 EQUIPMENT	0	0				
600 LAND & STRUCTURES	0	0				
700 GRANTS, CLAIMS, ETC.	0	0				
TOTAL	0	0				

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 5/16/83 PREPARED BY John Sackett

AGENCY State Senate

PHONE 465-3753

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

Alaska State Legislature

OFFICIAL BUSINESS

CHAIRMAN
RULES COMMITTEE

JAN FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

June 13, 1983

TO: Representative Mitch Abood

FROM: Senator Jan Faiks

RE: CSSB 137 (FIN) AM

Attached is back-up material for Senate Bill 137. The reason that I introduced this piece of legislation is because I feel very strongly that public employees who are using state money to lobby for more state money should be required to register to lobby just as the private sector is required to do. There was concern by some members of the Senate about the inclusion of the legislative branch in the Finance Committee version. It was felt that lobbying is perhaps an inherent part of the job. Some states that require public officials to register do exempt members of the legislative branch. I have attached a copy of Colorado's sunshine law which does exactly that. Colorado requires that all state officials, other than employees of the legislative branch, who engage in lobbying, file monthly disclosure statements with the Secretary of State. I have also attached a copy of a legal opinion from Bill Berrier stating that in some instances legislative employees would be required to register. For these reasons, I would not be opposed to excluding the legislative branch being covered by this bill.

I would be very happy to discuss this with if you have any questions. Please let me know when you schedule the bill for a hearing, as I would like to testify before your committee. I very much appreciate your interest in this piece of legislation.

Sec. 39.50.050. Administration and inspection.

NOTES TO DECISIONS

Quoted in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 39.50.060. Penalty for wilful violation of disclosure requirements.

NOTES TO DECISIONS

Quoted in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 39.50.070. Failure to report by department, division, or deputy department heads.

NOTES TO DECISIONS

Cited in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 39.50.080. Failure to report by a commission or board chairman or member.

NOTES TO DECISIONS

Cited in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 39.50.110. Report of financial interests of judicial officers.

NOTES TO DECISIONS

Cited in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 39.50.200. Definitions. (a) In AS 39.50.010 — 39.50.200:

(1) "public official" means a judicial officer, a member of the legislature, the governor, the lieutenant-governor, a person hired or

appointed as the head or deputy head of, or director of a division within, a department in the [illegible] governor, [illegible] each appointed [illegible]

(2) "judicial officer" means a person appointed as a justice to the supreme court or as a judge to the court of appeals, superior court, district court, or magistrate court;

(3) "child" includes a biological child, an adoptive child, and a stepchild;

(4) "commission" means the Alaska Public Offices Commission created under AS 15.13.020(a);

(5) "instrumentality of the state" means a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the University of Alaska and the Alaska State Housing Authority;

(6) "municipal officer" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission within a home rule or general law city or borough, including but not limited to a unified municipality under AS 29.68.010 — 29.68.580;

(7) "mother or father" includes a biological parent, an adoptive parent, and a step-parent;

(8) "source of income" means the entity for which service is performed or which is otherwise the origin of payment; if the person whose income is being reported is employed by another, his employer is the source of his income; but if he is self-employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which he or his spouse or his children, or a combination of them, hold a controlling interest, the "source" is the client or customer of the proprietorship, partnership or corporation, but if the entity which is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source;

(9) "assistant to the governor" includes any executive, legislative, special, administrative or press assistant to the governor, and any person similarly employed.

(b) In AS 39.50.010 — 39.50.200 "state commission or board" means the

(1) Agricultural Loan Advisory Board (created administratively to assist in administration of AS 03.10.010 — 03.10.060);

(2) Alaska State Council on the Arts (AS 44.27.040);

(3) Alcoholic Beverage Control Board (AS 04.06.010);

(4) State Assessment Review Board (AS 43.56.040);

(5) Capital Selection Committee (AS 44.06.110);

(6) Board of Education (AS 14.07.075);

(4) "immediate family" means the spouse and dependent children of an individual;

(5) "individual" means a natural person;

(6) "influencing legislative or administrative action" means promoting, advocating, supporting, modifying, opposing or delaying or seeking to do the same with respect to any legislative or administrative action by means including but not limited to the provision or use of information, statistics, studies, analyses in written or oral form or format;

(7) "legislative action" means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, defeat or rejection of any bill, resolution, amendment, motion, report, nomination, appointment or other matter by the legislature, or by a standing, interim or special committee of the legislature, or by a member or employee of the legislature acting in his official capacity; it includes, but is not limited to, the action of the governor in approving or vetoing a bill or the action of the legislature in considering, overriding or sustaining that veto and the action of the legislature in considering, confirming or rejecting an executive appointment of the governor;

(8) "lobbyist" means

(A) a person who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through his agents with any public official for the purpose of influencing legislative or administrative action if a substantial or regular portion of the activities for which he receives consideration is for the purpose of influencing legislative or administrative action; or

(B) a person who represents himself as engaging in the influencing of legislative or administrative action as a business, occupation or profession;

(9) "payment" means the disbursement, distribution, transfer, loan, advance, deposit, gift or other rendering or tendering of money, property, goods or services or anything else of value;

(10) "payment to influence legislative or administrative action" means any of the following:

(A) a direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(B) a payment in support of or assistance to a lobbyist or his activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(C) a payment which directly benefits a public official or a member of the immediate family of that official;

Table 29
REGISTRATION OF LOBBYISTS

State of jurisdiction	Lobbyist registers with	Activity reports filed with	Activity reports frequency	Activity reports expenditures reported	Penalties for non-compliance
Alabama	Ethics Commission	Ethics Commission	Monthly(a,b)	•	Fine of not more than $10,000 or more than 10 years imprisonment, or both.
Alaska	Public Offices Commission	Public Offices Commission	Monthly(c)	•	Fine of not more than $1,000 or more than 1 year imprisonment, or both; civil penalty of $1 per day (after 30 days, $10 per day).
Arizona	Secretary of State	Secretary of State	Annually(d,e)	•	Prosecuted as a misdemeanor.
Arkansas	Clerk of House, Secy. of Sen	...	...	...	None specified.
California	Secretary of State	Secretary of State	Quarterly	•	Prosecuted as misdemeanors, subject to civil fines and 4-year prohibition from public office following conviction.
Colorado	Secretary of State	Secretary of State	Monthly(f)	•	Fine of not more than $5,000 or 1 year imprisonment, or both; registration may be revoked.
Connecticut	Ethics Commission	Ethics Commission	Quarterly(g)	•	Fine of not more than $1,000 or more than 1 year imprisonment, or both.
Delaware	Legislative Council	Legislative Council	Quarterly	•	(h)
Florida	Clerk of House, Secy. of Sen.	Clerk of House, Secy. of Sen.	Monthly(i); Semi-annually	•	Reprimand, censure or prohibit from lobbying(j)
Georgia	Secretary of State	...	...	...	Prosecuted as a misdemeanor.
Hawaii	Ethics Commission	Ethics Commission	Biannually	•	Prosecuted as a misdemeanor.
Idaho	Secretary of State	Secretary of State	Quarterly(c)	•	Prosecuted as a misdemeanor subject to civil fines and possible per diem penalty.
Illinois	Secretary of State	Secretary of State	Jan., April & July (during ses.)(k)	•	Prosecuted as a Class 3 felony (fine of not more than $10,000 or more than 5 years imprisonment, or both).
Indiana	Secretary of State	Secretary of State	Following session	•	Prosecuted as a felony.
Iowa	Clerk of House, Secy. of Sen	Clerk of House, Secy. of Sen.	Monthly	•	House: suspension from lobbying; Senate: cancellation of registration.
Kansas	Secretary of State	Secretary of State	Jan-April(l)	•	Prosecuted as a Class B misdemeanor.
Kentucky	Attorney General	Attorney General	Following session	•	Fine up to $5,000 or up to 5 years imprisonment, or both.
Louisiana	Clerk of House, Secy. of Sen	...	...	...	Fine of not more than $500 or more than 6 months imprisonment, or both.
Maine	Secretary of State	Secretary of State	Monthly following ses. & annually	•	Fine of not more than $1,000 or more than 11 months imprisonment, or both.
Maryland	Ethics Commission	Ethics Commission	Semiannually	•	Prosecuted as a misdemeanor.
Massachusetts	Secretary of State	Secretary of State	Semiannually	•	Fine of not less than $100 or more than $5,000.
Michigan	Secretary of State	Secretary of State(m)	...	...	Prosecuted as a felony.
Minnesota	Ethical Practices Board	Ethical Practices Board	Four times yearly	•	Fine of $5 per business day to maximum of $100 and prosecuted as a misdemeanor.
Mississippi	Secretary of State	Secretary of State	Following session	•	Fine of not more than $1,000 or 6 months in county jail for first offense, or both.
Missouri	Clerk of House, Secy. of Sen.	Clerk of House, Secy. of Sen.	Three times/session	•	Prosecuted as a misdemeanor.
Montana	Secy. of State	...	...	...	Prosecuted as a misdemeanor.
Nebraska	Clerk of Legislature	Clerk of Legislature	Monthly	•	Prosecuted as a misdemeanor.
Nevada	Legis. Counsel Bureau	Legis. Counsel Bureau	(n)	•	Prosecuted as a misdemeanor; perjury is a felony.
New Hampshire	Secretary of State	Secretary of State	Following session	•	Prosecuted as a misdemeanor.
New Jersey	Attorney General	Attorney General	Quarterly	•	Prosecuted as a crime of the fourth degree.
New Mexico	Secretary of State	Secretary of State	(p)	•	Prosecuted as a misdemeanor; revocation of registration and prohibited from lobbying.
New York	Secretary of State	Secretary of State	Following session	•	Prosecuted as a misdemeanor.

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[illegible]	Legr. Counsel Bureau	Legis. Counsel Bureau	(o)	a	Prosecuted as a misdemeanor; perjury is a felony.
New Hampshire	Secretary of State	Secretary of State	Following session	a	Prosecuted as a misdemeanor.
New Jersey	Attorney General	Attorney General	Quarterly	a	Prosecuted as a crime of the fourth degree.

New Mexico	Secretary of State	Secretary of State	(p)	a	Prosecuted as a misdemeanor; revocation of registration and prohibited from lobbying.
New York	N.Y. Temporary State Commission on Regulation of Lobbying	N.Y. Temporary State Commission on Regulation of Lobbying	Following session	a	Prosecuted as a misdemeanor.
North Carolina	Secretary of State	Secretary of State	Annually	a	Prosecuted as a misdemeanor.
North Dakota	Secretary of State	Secretary of State	Annually	a	Prosecuted as a Class B misdemeanor.
Ohio	Senate Clerk	Senate Clerk	Jan. & July(q)	a	Prosecuted as a first or fourth degree misdemeanor.
Oklahoma	Joint Legis. Ethics Cmte.	Joint Legis. Ethics Cmte.	Annually	a	Prosecuted as a misdemeanor.
Oregon	Ethics Commission	Ethics Commission	Quarterly	a	Civil penalty for individuals not to exceed $250, for other than individual, not to exceed $1,000 for each violation.
Pennsylvania	Clerk of House, Secy. of Sen.	Clerk of House, Secy. of Sen.	Biennially	a	Prosecuted as a third degree misdemeanor.
Rhode Island	Secretary of State	Secretary of State	Three times/session	a	Fine of not less than $100 or more than $1,000 for agent; fine of not less than $200 or more than $5,000 for corporation; disbarment from agent capacity for 3 years from date of conviction.
South Carolina	Secretary of State	Secretary of State	Annually	a	Prosecuted as a misdemeanor.
South Dakota	Secretary of State	Secretary of State	Annually(r)	a	Fine of not more than $1,000 or 1 year imprisonment, or both.
Tennessee	State Library & Archives	State Library & Archives	Following session	a	Prosecuted as a misdemeanor.
Texas	Secretary of State	Secretary of State	Monthly(d)	a	Prosecuted as a Class A misdemeanor and subject to additional fine, prosecuted as third degree felony if compensation contingent upon passage, defeat, approval or veto of a bill.
Utah	Lieutenant Governor	...	...	...	Prosecuted as a Class C misdemeanor.
Vermont	Secretary of State	Secretary of State	Annually(s)	a	Fine of not less than $100 or more than $500.
Virginia	Secy. of Commonwealth	Secy. of Commonwealth	Following session	a	Penalty of $50/day for late filing for lobbyist and employer individuals plus $50 for each day after tenth day late.
Washington	Pub. Disclosure Commission	Pub. Disclosure Commission	Monthly	a	Prosecuted as a civil offense. Fine of not more than $10,000. Registration can be revoked.
West Virginia	Clerk of House, Clerk of Sen.	Clerk of House, Clerk of Sen.	Following session	a	None specified.
Wisconsin	Secretary of State	Secretary of State	Semiannually	a	Fine of not more than $5,000 depending on offense.
Wyoming	Dir., Legis. Service Office	...	...	...	Prosecuted as a misdemeanor. Subject to fine of not more than $500.
Guam	Legislative Secretary	Legislative Secretary	Quarterly	a	Misdemeanor fine not more than $5,000 or imprisonment of not more than 12 months, or both; prohibited from lobbying for three years.

(a) Established by secretary of state.
(b) During session.
(c) In months when lobbying occurs.
(d) During session; quarterly during interim.
(e) Supplemental reports shall be filed monthly, on or before the 10th day of the following month, to list any expenditures in excess of $25 occurring during the month and which must be reported pursuant to this section.
(f) Plus cumulative statement yearly.
(g) Monthly during session, if lobbyist attempts to influence legislative action.
(h) Criminal penalty for a false financial report. Failure to report cancels the registration.
(i) For senate only.
(j) For house only.
(k) And within 20 days after special session.
(l) Quarterly basis thereafter; only when required expenses are made.
(m) Name and address of person retaining records (lobbyist, his employer, or agent).
(n) Information presented reflects current laws. The constitutionality of an initiative that would change the lobbying laws is presently being considered by the Supreme Court.
(o) Final report must be filed within 30 days after the close of the legislative session. In addition, each registrant who attempts to influence legislative action must file, between the first and the 10th day of the month subsequent to each month that the legislature is in session, a report concerning his lobbying activities during the previous month.
(p) Upon filing of registration statement and prior to the 60th day after the end of any regular or special session.
(q) Report of certain financial transactions must be filed within 30 days after the transaction.
(r) Following year of registration.
(s) And after two months of session.

Table 30
LOBBYISTS AS DEFINED IN STATE STATUTES

State or other jurisdiction	Anyone receiving compensation to influence legislative action	Anyone spending money to influence legislation	Anyone representing someone else's interest	Anyone attempting to influence legislation	Any executive branch employee attempting to influence legislation	Public officials acting in an official capacity	Persons who speak only before committees or boards	Any person with professional knowledge acting as a professional witness	Religious organizations	Members of the media	Attorneys representing clients on legal matters	Professional bill drafters	Others
Alabama	•	...	...	...	...	•	•	•	•	...	...	•	...
Alaska	•	...	...	...	...	•	•	...	...	...	...	...	...
Arizona	•	•	...	...	•	•	...	...	...	...	•	•	...
Arkansas	•	...	•	...	...	...	...	...	...	...	...	...	...
California	•	...	...	...	•	...	...	...	•	...	...	...	...
Colorado	•	...	...	...	...	•	•	...	...	...	•	...	A•,B•
Connecticut	•(d)	•(d)	...	...	...	•	•(c)	...	...	•	...	...	C•
Delaware	•	•	•(f)	...	...	•	•(f)	•	•	...	...	...	...
Florida	...	...	...	•	...	...	•	...	...	...	...	...	...
Georgia	•	...	•	•(c)	...	•	•	•	...	...	•	...	...
Hawaii	•	•(g)	•(g)	•(g)	•	•	...	•	...	•	...	•	...
Idaho	•	...	...	...	...	•	•	...	•	•	...	...	...
Illinois	•	...	•	...	...	•	•(h)	...	•	•	...	...	E•
Indiana	•	•	•	...	•	•	...	•(a)	...	•	...	...	E•
Iowa	•	•	•	•(a)	...	•	...	...	...	•	...	...	...
Kansas	•	•	•	...	...	•	...	...	...	...	...	...	F•
Kentucky	...	...	...	•(c)	...	•	...	...	...	...	...	...	C•
Louisiana	•(i)	...	...	...	...	•	•	...	...	•	...	...	...
Maine	•	...	...	...	...	•	•	...	...	•	...	...	...
Maryland	•	•	...	...	...	•	...	...	•	•	•	•	G•,C•,J•
Massachusetts	•	...	...	...	...	•	...	...	...	...	...	...	...
Michigan	...	...	...	...	...	...	...	...	...	...	...	...	...
Minnesota	•	•(b)	...	...	...	•	...	...	...	•	...	...	H•
Mississippi	•	...	...	...	...	•	...	...	...	•	...	•	...
Missouri	•	...	...	...	...	...	...	...	...	...	...	...	...
Montana	•	...	...	...	...	•	•	...	...	...	...	...	...
Nebraska	...	...	•	...	...	•	•	...	...	•	...	...	N•,O•,P•
Nevada	...	...	•	•	...	•	...	...	...	...	...	...	...
New Hampshire	•	...	...	...	...	...	...	...	...	...	...	...	E•
New Jersey	•	...	...	...	...	•	...	...	•	...	...	...	...
New Mexico	•	...	...	...	...	•	...	...	...	...	...	•	...
New York	•	...	...	...	...	•	...	...	...	...	...	•	...
North Carolina	•	...	...	...	...	•	...	...	...	•	...	...	...
North Dakota	...	...	...	•	...	•	...	...	...	...	...	...	...
Ohio	•	•	•	...	•	•(m)	•	•	•	•	•	•	E•,G•, J•,M•
Oklahoma	•(a)	...	•	...	...	•	...	...	...	...	...	...	...
Oregon	•	•	...	...	•	...	...	...	...	...	...	...	B•,K•
Pennsylvania	•	•	•	•	...	...	...	...	...	...	...	...	...
Rhode Island	•	•	...	•	...	•	...	...	...	...	...	...	U)
South Carolina	...	...	•	...	...	•	•	•	•	•	...	•	L•,M•
South Dakota	...	...	•	•(c)	•	•	...	...	...	•	...	...	...
Tennessee	...	•	...	...	•	•	...	...	...	•	•	...	...
Texas	•(k)	•(k)	...	...	...	•	•	...	...	•	...	...	...
Utah	•	•	...	...	•	•	•	•	•	•	•	...	E•
Vermont	•	...	...	...	...	•	•	...	...	•	...	...	...
Virginia	•	•	...	...	...	•	•	...	...	...	...	...	D•
Washington	...	...	...	•(l)	...	...	•	...	...	...	...	...	C•,O•(l)
West Virginia	...	...	...	...	...	...	...	...	...	•	...	...	...
Wisconsin	•	...	...	...	...	•	•	...	...	...	...	...	...
Wyoming	•	...	...	...	...	•	...	...	...	...	...	...	...
American Samoa	...	...	...	...	...	...	...	...	...	...	...	...	...
Guam	...	...	...	...	...	•	•	...	...	•	...	...	...
Puerto Rico	...	...	...	...	...	...	...	...	...	...	...	...	...
Virgin Islands	...	...	...	...	...	...	...	...	...	...	...	...	...

Any:
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•—Exempts
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D—Any un
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E—Political
F—Non-pro
G—Anyone
H—Any pa
I—Members
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J—Chamab
K—Persons
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L—Anyone
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M—Anyone
legislature.
N—Employ

Key

- Definitions of who is a lobbyist
- Exceptions to who is a lobbyist

C—Abbreviations used in last column

A—Communications made by a person in response to a statute, rule, regulation or order requiring such communication.

B—In Colorado, any legislative department employee performing department duties, in Oregon, any legislative official acting in an official capacity.

C—Any lobbyist not compensated and not making expenditures.

[illegible] uncompensated individual who expends or directs expenditure [illegible] $100 in a given session.

[illegible] parties.

F—[illegible] interstate organization.

G—A[illegible] spending money to influence executive action.

H—A[illegible] paid expert witness whose testimony is requested.

I—Members of associations engaged exclusively in lobbying for counties and local governments.

J—Charitable organizations.

K—Persons who do not spend more than 16 hours and $50 on lobbying in any calendar quarter.

L—Anyone employed, appointed or retained, with or without compensation, to influence an act or vote concerning any bill, resolution, amendment, report, claim, act or veto pending or to be introduced.

M—Anyone expressing a personal opinion to members of the legislature.

N—Employees of departments, divisions or agencies of the state government who appear before legislative committees only to explain the effect of legislation related to their departments, divisions or agencies.

O—Employees of the legislature, legislators, legislative agencies or legislative commissions.

P—Persons who contact the members of the legislature who are elected from the district in which they reside.

Q—State and local officials and employees if they spend public funds to influence legislation.

(a) For senate only.

(b) More than $250 or five hours in any month.

(c) Affecting private pecuniary interests.

(d) Compensation, reimbursement, expenditures or combination totaling at least $500 per calendar year.

(e) Under certain conditions.

(f) Must register if "committee" is of the General Assembly.

(g) More than $275 of own or any person's money in a six-month period or five hours in any month.

(h) At request of legislator.

(i) Or for any consideration.

(j) Anyone who accepts reimbursement of $100 or more within one year for the purpose of influencing legislation.

(k) Expenditure or compensation in excess of $200/quarter.

(l) Lobbyists are exempt from reporting if they lobby no more than four days in a three-month period during which time they spend less than $15.

(m) Except governor, lieutenant governor, attorney general, secretary of state, treasurer, auditor.

Other

A•,B•
C•
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E•
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E•
E•,G•,
J•,M•
B•,K•
(j)
L•,M•
E•
D•
C•,Q•(l)

Alaska State Legislature

Advisory Council Members
Senator Kerttula, Chairman
Senator Bennett
Senator Vic Fischer
Senator Fahrenkamp

Pouch V
State Capital
Juneau, Alaska 99811
Phone: (907)465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Senator Faiks
Alaska State Legislature

FROM: Pete Jeans
Senior Advisor
Senate Advisory Council

DATE: March 18, 1983

RE: Lobbying Regulations

In response to your request for information regarding lobbying by public officials and employees, attached are profiles of the lobbying laws from the eight states which specifically include public officials and governmental employees under their lobbying statutes.

I hope you will find this information useful, please call if you should have any questions.

PJ;lal
Attachments

ALABAMA

LOBBYING LAWS

(Code of Alabama, Title 36, Sections 36-25-1 through 36-25-30; House Rules 62-70; Senate Rules 78-86)

WHO is a "Lobbyist"

Any person employed or retained for compensation except for ordinary travel expenses or who on his own behalf, promotes or opposes legislation through direct communication with the Governor or a member of the Legislature. The Senate and House Rules also include in the term "lobbyist" any person representing any segment of government and a newsperson compensated by someone other than his news media employer.

Excludes:

(1) An individual appearing one day on an isolated basis to represent himself or his firm for no compensation other than reasonable travel expenses.
(2) Members of the State Legislature.
(3) Persons who provide professional services in drafting bills. (Section 36-25-1)

WHO Registers

(1) Principal - NO
(2) Lobbyist/Employee - YES

WHERE to Register and File Reports

State Ethics Commission
State Capitol
Montgomery, Alabama 36130
(205) 832-5871

Registration statements must also be filed with the House Clerk and Secretary of the Senate.

WHEN to Register

The lobbyist must register within five days of initiating lobbying activities. Any substantial change in information must be reported within ten days. Incomplete statements must be completed within fifteen days of notice of incompleteness. Notice of termination must be filed. (Sections 36-25-18, 36-25-19, 36-25-20)

The principal must certify to the Commission the names and addresses of the lobbyist he employs. Within fifteen days of the lobbyist's filing, the principal must verify the lobbyist's statement. The principal must also verify notice of termination.
(Sections 36-25-18, 36-25-19)

Registration Fee: None Required.

Contents of Registration Statement

(1) Lobbyist's full name and address.
(2) Lobbyist's normal business and business address.
(3) Name and address of principal.
(4) Subject matter on which lobbyist is interested.
(5) Statement by principal that he has read registration and authorizes lobbyist to act on his behalf. (Section 36-25-18)

WHO Files Reports

(1) Principal - YES
(2) Lobbyist/Employee - YES

WHEN to File Reports

Filed with the State Ethics Commission between the 1st and 15th day of the month following each month that the legislature was in regular session. (Section 36-25-19)

Lobbyist Disclosure Statement

The reports shall:

(1) Indicate expenditures or receipts as a) less than $1,000 b) $1,000 to $3,000, or c) more than $3,000, giving the name, address amount, and date (exclusive of personal living expenses or income).
(2) Give a detailed statement of any money loaned or promised to legislators or to anyone on their behalf.
(3) Give the name, address, and government position of any public official with whom he has a direct business association.
(4) List the legislation which he has supported or opposed. (Section 36-25-19)

HOW to Identify a Lobbyist

List of registered lobbyists' names and business addresses, principals' names and business addresses, legislative interests, and duration of agency shall be published by the Clerk of the House, the Secretary of the Senate and the State Ethics Commission. (House Rule 63, Senate Rule 79; Section 36-25-4)

Prohibited Practices

(1) No person shall knowingly or willfully make any false statement of fact to a legislator for the purpose of influencing legislation. (Section 36-25-26)
(2) No person shall offer or give to a public official or employee anything of value to influence official action. (House Rule 65, Senate Rule 81)

(3) No former House or Senate member has floor privileges in a lobbying capacity. (Section 36-25-23)
(4) No lobbyist shall be permitted on the floor of the Senate or House while it is in session. (House Rule 63, Senate Rule 79)

Penalties

An individual violating the lobbying regulations shall be fined a maximum of $10,000 or imprisoned for ten years, or both. (Section 36-25-27)

The House or Senate may prohibit a violator from lobbying for the duration of the session, and from appearing before any committee. (House Rule 68, Senate Rule 84)

FLORIDA

LOBBYING LAWS

(Florida Statutes, Sections 11.045 through 11.061)

WHO is a "Lobbyist"

Any person who seeks to encourage the passage, defeat or modification of any legislation in the House or Senate or any committee thereof. (Section 11.045(2))

Also any person employed by any executive, judicial or quasi-judicial department of the state for such purpose. (Section 11.061)

Excludes:

(1) Members of the legislature or their authorized aides.
(2) A person appearing before the legislature or a committee in his individual capacity for the purpose of self-representation, without compensation or reimbursement. (Section 11.045(2))

WHO Registers

(1) Principal - NO
(2) Lobbyist/Employee - YES

WHERE to Register and File Reports

Joint Legislative Office
Office of House Clerk
State Capitol, Room 427
Tallahassee, Florida 32304
(904) 488-1234

WHEN to Register

Prior to the time of lobbying. Separate registration required for each principal represented. (Section 11.045(2))

Registration Fee: None Required.

Contents of Registration Statement

(1) Name and business address of lobbyist.
(2) Business address of principal.
(3) General and specific areas of legislative interest.
(4) Any business association or partnership with any current member of the legislature. (Section 11.045(2))

WHO Files Reports

(1) Principal - NO
(2) Lobbyist/Employee - YES

WHEN to File Reports

January 15 and July 15 of each year. (Section 11.045(3))

Lobbyist Disclosure Statement

Statement of session expenditures, for the period January 1 through January 30, shall be filed by July 15 of each year. A statement of interim expenses shall be filed by January 15 including expenditures for any special sessions. Expenditures shall not include personal expenses for lodging, meals and travel. A statement shall be filed even if there have been no expenditures. (Section 11.045(3))

HOW to Identify a Lobbyist

All reports and registrations shall be open to the public. (Section 11.045(3))

Prohibited Practices: None

Penalties

Either the House or the Senate can prohibit a person from lobbying for violating their rules, in addition to any prosecution or penalties otherwise provided by law. (Sections 11.045(6),(7))

IOWA

LOBBYING LAWS

(Iowa Senate and House Rules Governing Lobbyists)

WHO is a "Lobbyist"

Section 688.10 of the Iowa Code requires each House to adopt rules concerning lobbying. In addition, certain state officials are required to adopt departmental rules concerning public disclosure of gifts.

A lobbyist is a person who:

(1) Is paid compensation to encourage the passage, defeat or modification of legislation.
(2) Expends money in an attempt to encourage the passage, defeat, or modification of legislation.
(3) Represents on a regular basis an organization which has as one of its main purposes the encouragement of the passage, defeat, or modification of legislation.
(4) Is a federal, state, or local government official or employee representing an official position of his department, board, or agency, and who attempts to encourage the passage or defeat or modification of legislation.

Excludes:

(1) Officials and employees of a political party, having more than two percent of the total votes cast in last gubernatorial election, representing that party.
(2) Newspersons.
(3) Federal, state, or local government employees or officials who submit proposed legislation, provide information, or appear before Senate committees, provided they do not actively encourage the passage, defeat, or modification of legislation.
(4) Elected officials.
(5) Constituents representing their own interests before their legislators. (Senate Rule 1, House Rule 1)

WHO Registers

(1) Principal - NO
(2) Lobbyist/Employee - YES

WHERE to Register and File Reports

Secretary of Senate or Chief House Clerk, depending on where the individual intends to lobby.

WHEN to Register

Before beginning lobbying activities. In addition:

Senate: Registration expires at the end of each General Assembly; Amendments are filed within 10 days of the change.

House: No other specific provisions. (Senate Rule 4, House Rule 2)

Registration Fee: None Required.

Contents of Registration Statement

(1) Names, addresses, phone numbers of all lobbyists and principals.
(2) General subjects of interest to lobbyist, number of bills and resolutions which will be lobbied and whether lobbyist will oppose each bill.

In addition, the Senate Rules require a detailed description of any contingent fee arrangement. (Senate Rule 4, House Rule 2)

WHO Files Reports

(1) Persons who have made gifts on any one occasion which have a value in excess of $15 to any legislator, legislative employee or any immediate family member of a legislator or legislative employee.
(2) Senators or Senate employees who themselves or through their families have received gifts valued over $15 on any one occasion.
(3) Persons who have made gifts to two or more members or employees of the General Assembly and their immediate families which cannot be precisely attributed to each recipient shall file reports averaging the cost among all recipients if the cost per recipient exceeds $15 (Senate Rule 19, House Rule 10)

WHEN to File Reports

The 15th day of a month, for gifts made or received during the preceding month. (Senate Rule 18, House Rule 10)

Lobbyist Disclosure Statement

The donor reports shall include:

(1) A list of donee legislators, employees or immediate family members receiving gifts valued in excess of $15 at any time, the donor, the date, the nature and amount of the gift.
(2) A monthly total of all gifts by persons and their principals to Senators, Senate employees and families, regardless of dollar value.
(3) The amount of an honorarium for speaking in excess of $15 paid to a Senator or employee, including reimbursement for or payment of actual expenses.
(4) If a legal entity other than a natural person makes a gift to a House member, the legal entity shall report the gift as a donor.

The reports by Senators and Senate employees shall include:

(1) The nature, amount, date and donor of a gift valued over $15 paid to them or to each immediate family member.
(2) All honoraria in excess of $15 paid to Senators for speaking. (Senate Rule 19, House Rule 10)

HOW to Identify a Lobbyist

All statements filed under these rules will be public records subject to public inspection. (Senate Rule 17, House Rule 3)

Prohibited Practices

No lobbyist shall:

(1) Supply a Senator with a charge account.
(2) Offer economic opportunity or promise employment for the purpose of exerting undue influence over a member of either House.
(3) Pay membership fees to clubs on behalf of Senators.
(4) Be permitted on the floor while the House or Senate is in session.
(5) Be paid a contingent fee or bonus for his services before the House.
(6) Lobby as a designated representative of a governmental office, without authorization from such office. (Senate Rules 5-11, House Rules 4-6)

Penalties

Penalties are prescribed by the Senate or House Ethics Committee. Violations may result in suspension if such action is directed by two-thirds vote of the House wherein the violation occurred.

MICHIGAN

LOBBYING LAWS

(Michigan Compiled Laws, Sections 4.401 through 4.410)

WHO is a "Lobbyist"

A person who is employed by a person, firm, association or corporation, or by any board, department or agency of the State of Michigan, or any political subdivision thereof, to engage in promoting, advocating, or opposing any matter pending before or which might legally come before the legislature or its committees. (Section 4.401)

Excludes:

(1) Any person who confines his lobbying activities to written communications or formal appearances before legislative committees and who in writing clearly identifies himself and each person, firm, association, corporation, and other interest he represents.
(2) Any person whose contact with the legislature is limited to furnishing information at the request of any legislator or legislative committee. (Section 4.403)

WHO Registers

(1) Principal - NO
(2) Lobbyist/Employee - YES

WHERE to Register and File Reports

Secretary of State
Department of State
1st Floor, Treasury Building
Lansing, Michigan 48918
(517) 373-2510

WHEN to Register

Before engaging in lobbying activities. Amendments are filed within one week of the change. Certificate expires December 31. (Sections 4.404, 405, 409)

Registration Fee: $5 (Section 4.409)

Contents of Registration Statement

(1) Name, residence, and place of business of lobbyist.
(2) Name of principal, position held, primary occupation of firm, firm's address.
(3) Name and address of person or firm who will keep required accounts and records. (Section 4.404)

WHO Files Reports

(1) Principal - NO
(2) Lobbyist/Employee - YES

WHEN to File Reports

A lobbyist shall file a statement within 5 days of a financial transaction with any member of the legislature. (Section 4.407)

Lobbyist Disclosure Statement

The lobbyist's statement shall set forth in detail the nature of the transaction and the name of the legislator. The lobbyist shall also file an address at which records of all expenses and compensation associated with lobbying will be maintained for six years from the year in which expended or received. (Sections 4.406, 407)

HOW to Identify a Lobbyist

The Secretary of State shall issue a certificate to each registered lobbyist and shall send each legislator a copy of the registration information he has received. All information filed is open to public inspection. (Section 4.405)

Prohibited Practices

No lobbyist shall accept employment with his fee contingent upon the outcome of legislation. (Section 4.408)

Penalties

Violation is a felony punishable by a fine of $200 to $1,000 or imprisonment of three months to one year. (Section 4.410)

NOTE

Michigan attempted to revise its lobbying law by enacting P.A. 1975, No. 227, but the Michigan Supreme Court in an advisory opinion, 240 NW 2d 193, declared P.A. 1975, No. 227, unconstitutional for embracing more than one subject in violation of the Constitution, Article 4, Section 24, and therefore void in its entirety.

Again the legislature acted, in 1978, when it passed SB 674 (Public Act 472) to be enacted only after rules to implement the law had been promulgated by the Secretary of State. In late 1980 these rules were finally drawn, but just before the law was to become effective in mid-1981, a suit was filed in circuit court seeking a temporary restraining order against implementing the law, which was claimed to be unconstitutionally vague. The order was granted and remains in effect in June, 1982.

MISSISSIPPI

LOBBYING LAWS

(Mississippi Code, Sections 5-7-1 through 5-7-15)

WHO is a "Lobbyist"

Any employee of a person, firm, corporation, government agency or association whether said employment be by fee, contractual arrangement, retainer agreement, or salary basis who is assigned, as a regular function of his employment, to influence in any manner, including the dissemination of information, the act or vote of any legislator or to advocate, oppose or amend any matter that is before or might come before the legislature or its committees, even though the individual may receive no additional or different compensation. (Section 5-7-1)

Excludes:

(1) An individual representing his own interest or his principal's interest where that is not the primary function of his employment.
(2) One who appears in response to an invitation.
(3) A professional who drafts bills or advises clients on the effect of proposed legislation.
(4) A person, not employed by a firm or association as described above who attempts to influence by argument or briefs the legislature or its committees.
(5) A newsperson.

WHO Registers

(1) Principal - YES
(2) Lobbyist/Employee - YES

WHERE to Register and File Reports

Secretary of State
414 North Street
P.O. Box 136
Jackson, Mississippi 39205
(601) 354-6541

WHEN to Register

Within fifteen days of employment, the lobbyist and principal shall furnish a signed statement of their names, business addresses, the nature of their business, and the legislation they seek to influence. Changes must be recorded by principal and lobbyist within five days of such change. (Section 5-7-1)

Registration Fee: $25.00. (Section 5-7-5)

Contents of Registration Statement

(1) If an individual: Name, residence, and business address.
(2) If a firm: Name and address of the firm, and the name and residence of each partner.
(3) If a corporation: Name and address of the corporation, and the name and residence of each officer.
(4) Nature of business.
(5) Name, address, occupation and duration of employment of each agent.
(6) Subject matter that might come before legislature or its committees. (Section 5-7-1)

WHO Files Reports

(1) Principal - YES
(2) Lobbyist/Employee - YES

WHEN to File Reports

(1) Every principal who has expended, promised to expend, or caused to be expended anything of value for the purpose of influencing legislation shall file an itemized statement on May 30 of each year.
(2) Every lobbyist who receives anything of value for the purpose of influencing legislation shall file an itemized statement on May 30 of each year. (Section 5-7-13)

Lobbyist Disclosure Statement

The principal's report shall contain in detail all expenses incurred during the preceding twelve months with the names of the payees and the amount paid each. The lobbyist's report shall contain all value received or expended by him and all liabilities directly or indirectly incurred by him with the complete names and addresses of the reporter, and the names and addresses of the recipients giving the place, date, and amount of each item.

Both the lobbyist's and principal's reports will list any legislator who received in excess of $25, giving the name and date. (Section 5-7-13)

HOW to Identify a Lobbyist

All information on file with the Secretary of State is open to public inspection for five years from date of receipt. (Section 5-7-1)

Prohibited Practices

No person or firm to be employed on a contingent basis. (Section 5-7-9)

Penalties

Individuals: First offense fined not more than $1,000 or imprisonment in county jail for six months or both. Second or subsequent offenses fined not more than $5,000 or imprisonment in a penitentiary for three years, or both.

Corporations: Fined not more than $5,000. (Section 5-7-15)

MISSOURI

LOBBYING LAWS

(Revised Statutes of Missouri, Section 105.470)

WHO is a "Lobbyist"

Any person, including a person employed by or representing federal or state agencies and all political subdivisions thereof, who acts in the course of his employment or who engages himself for pay or for any valuable consideration for the purpose of attempting to influence legislation or the promulgation of any rule or regulation; or any person who receives any direct or indirect benefits or expenses for lobbying activities, by grant or otherwise from any state, the federal government, or any private not-for-profit foundation.

Excludes members of the General Assembly or elected state officers.

WHO Registers

(1) Principal - NO
(2) Lobbyist/Employee - YES

WHERE to Register and File Reports

The Secretary of the Senate and the Chief Clerk of the House.

WHEN to Register

The lobbyist shall file not later than five days after beginning lobbying activities. Amendments shall be filed by the lobbyist within one week of any change.

Registration Fee: None Required.

Contents of Registration Statement

(1) Name and business address of lobbyist.
(2) Name and address of anyone employed by lobbyist.
(3) Name and address of principal.

WHO Files Reports

(1) Principal - NO
(2) Lobbyist/Employee - YES

WHEN to File Reports

The lobbyist shall file itemized expense reports with the Clerk of the House and the Secretary of the Senate within ten days after the convening of any regular session of the General Assembly, 45 days before the adjournment of any regular session and within 30 days

after each session in each year in which a lobbyist continues to engage in lobbying activities.

Lobbyist Disclosure Statement

The reports shall contain:

(1) The lobbyist's total expenditures on lobbying categorized as printing and publication expenses, media and other advertising expenses, travel, and entertainment.
(2) A list showing the name of the recipient and the amount of each honorarium, gift or loan including a service or anything of value exceeding $25 provided during a calendar month to a legislative official.
(3) Separate statements for each principal the lobbyist represented, describing the legislative action sought to be influenced.
(4) Reports shall cover the time period since the filing of the last report or since the lobbyist's representation began, whichever is more recent.

HOW to Identify a Lobbyist

All information filed with the Secretary of the Senate and the Clerk of the House is open to public inspection for two years from the date of filing.

Prohibited Practices: None.

Penalties

Maximum fine not to exceed $1,000 or one year imprisonment, or both. Lobbyist prohibited from registering for two years following conviction.

OREGON

LOBBYING LAWS

(Oregon Revised Statutes, Sections 171.725 through 171.992)

WHO is a "Lobbyist"

(1) Any person who is compensated, or receives a consideration of any kind, for influencing or attempting to influence legislative action.
(2) Any noncompensated person who expends, in addition to his personal travel, meals, and lodging expenses, $50 or more during any reporting period.
(3) Any noncompensated person who provides his personal services as a representative of a corporation, organization or other group for the purpose of lobbying.
(4) Any public official who lobbies on behalf of a public agency.

Excludes:

(1) Newspersons.
(2) Persons whose lobbying activities are limited to formal appearances at legislative or state agency public hearings, who receive no additional compensation for their appearances and who register their appearances in the committee or agency records.
(3) A legislative official acting in an official capacity.
(4) Any person who spends no more than sixteen hours during any calendar quarter lobbying, excluding personal travel time, and spends no more than $50 per calendar quarter, excluding the cost of personal travel, meals and lodging. (Sections 171.725, 171.735)

WHO Registers

(1) Principal - NO
(2) Lobbyist/Employee - YES

WHERE to Register and File Reports

Governmental Ethics Commission
102 Public Service Building
Salem, Oregon 97310
(503) 378-5105

WHEN to Register

A lobbyist must register within three working days of engaging in any activity by which he attempts to influence legislative action. If a lobbyist, within one of the exceptions, exceeds the limit of the exception (that is, he spends more than $50 or 16 hours outside of formal committee testimony), he should at the time he exceeds the limit register as a lobbyist. The principal signs an authorization for the lobbyist. Notice of termination is immediately filed by the

lobbyist when he ceases to engage in activities to influence legislation. (Sections 171.735, 171.740)

Registration Fee: None Required.

Contents of Registration Statement

(1) Name and address of the lobbyist.
(2) Name and address of each person or agency by whom lobbyist is employed or in whose interest he appears or works, a description of the business or area of endeavor of such principal, and a designation by each such principal that the lobbyist is authorized to lobby for that person or agency.
(3) The name of any member of the Legislative Assembly who is in any way employed by the lobbyist or the lobbyist's principal or is associated with a business with which the lobbyist is in any way associated.
(4) The general subject(s) of the lobbyist's legislative interest. (Section 171.740)

WHO Files Reports

(1) Principal - YES
(2) Lobbyist/Employee - YES

WHEN to File Reports

The lobbyist shall file a quarterly expense report by the last day of the succeeding month. During an interim, the lobbyist shall file a quarterly expense report by 5:00 PM on the last day of the succeeding month. The principal of a registered lobbyist shall file an annual expenditure report by 5:00 PM on January 31. (Sections 171.745, 171.750)

Lobbyist Disclosure Statement

The lobbyist's quarterly reports shall contain any expenditures for the purpose of influencing legislation, categorized as:

(1) Food, beverage, and entertainment.
(2) Printing, postage and telephone.
(3) Advertising, public relations, education, and research.
(4) Miscellaneous: a) Any single expenditure in excess of $36 shall be listed, giving date, name of payee, purpose, the amount, b) The name of any legislative or executive official to whom or for whose benefit an expenditure of $36 is made, giving the date, name of the payee, purpose, and amount.

Excludes:

(1) Lobbyist's compensation for personal travel, meals, and lodging expenses.
(2) Political contribution or expenditure if it is reported elsewhere.
(3) Office overhead if reported by the principal in his annual expenditure.

The principal's annual expenditure report shall contain all expenditures incurred for the purpose of influencing legislation. The principal's report need not be itemized. This includes:

(1) All payments for compensation, overhead support personnel, other personnel expenses.
(2) All expenditures reported by the principal's lobbyist in his monthly or quarterly reports.
(3) The name of any legislative or executive official to whom or for whose benefit an expenditure in excess of $25 is made by the principal, the date, name of payee, and the purpose and amount unless this information is previously reported in the lobbyist's reports.
(4) The portion of funds spent on a public affairs program that is related to lobbying.
(Sections 171.745, 171.750)

HOW to Identify a Lobbyist

All registration and other statements which are filed within the Government Ethics Commission are available for public inspection.

Prohibited Practices

No lobbyist shall:

(1) Instigate the introduction of legislative action for the purpose of later being employed to oppose it.
(2) Attempt to influence a legislator's vote by the promise of financial support for his candidacy or opposition to his candidacy in a future election.
(3) Accept a fee contingent upon the outcome of [illegible]gislation.
(4) Knowingly provide false information to a legi[illegible]tor.
(5) Promise or make a monetary payment, during a legislative session, in order to meet a legislator's campaign expenditures or deficits.

In addition, no person shall offer during any calendar year any gifts with an aggregate value in excess of $100 to any public official or candidate, or member of his household, if that person has a legislative or administrative interest in a governmental agency in which the official has any official position or over which the official exercises any authority; nor shall any such official or candidate accept such gifts from a single source who could reasonably be known to have a legislative or administrative interest.

"Legislative or administrative interest" means an economic interest, distinct from that of the general public, in one or more matters subject to the formal vote or official action of a public official. (Section 171.756)

Penalties

Violation results in a civil penalty of not more than $250 per violation for an individual. Violation by one other than an individual results in a maximum fine of $1,000 per violation. (Section 171.992)

(2) It is unlawful to use state-owned property for campaign advertising and unlawful to use public buildings or facilities unless reasonably equal access is provided to all sides. (Section 2-19-206)
(3) It is a misdemeanor to knowingly publish or distribute false campaign literature. (Section 2-19-142)

Penalties

Every executive officer, agent, or other representative of any corporation who shall knowingly consent to the use of corporate funds for the support or defeat of a candidate or proposition shall be fined between $500 and $2000 and shall be imprisoned between two and six months. (Section 2-19-133)

A corporation which violates the contribution restrictions shall forfeit its charter. (Section 2-19-140)

A candidate or campaign committee that fails to file a statement shall be fined up to $1000. Willful violation of the campaign disclosure statute by any person is a misdemeanor. (Section 2-10-110)

TENNESSEE

LOBBYING LAWS

(Tennessee Code, Sections 3-6-101 through 3-6-110)

WHO is a "Lobbyist"

Any person communicating directly or indirectly with any official in the Legislative or Executive Branch with the purpose of influencing any legislative or administrative action. Any person who makes an expenditure, excluding payment of membership dues in excess of $200 in any report period, to solicit others, either directly or by an advertising campaign, or to communicate with any official in the Legislative or Executive Branch with the purpose of influencing legislative or administrative action. Includes any official of the Executive or Judicial Branch, or any state educational institution who communicates directly or indirectly with any official in the Legislative Branch with the purpose of influencing legislative action.
(Section 3-6-102)

Excludes:

(1) Persons giving information at the request of a legislator.
(2) Persons testifying at an official hearing.
(3) Representatives of a bona fide religion.
(4) Public official performing the duties of his office.

(5) Any attorney representing his client's rights.
(6) Newspersons.
(7) An individual acting solely on his own behalf who does not spend in excess of $200 during any reporting period.
(8) A person whose sole means of soliciting is by means of an employee or an independent agent who is a registered lobbyist. (Sections 3-6-102, 3-6-104)

WHO Registers

(1) Principal - NO
(2) Lobbyist/Employee - YES

WHERE to Register and File Reports

State Librarian and Archivist
Division of Library and Archives
Department of Education
403 Seventh Avenue, North
Nashville, Tennessee 37219
(615) 741-2451

WHEN to Register

Within five days after becoming a lobbyist. Before lobbying shall file written proof of his authority to lobby. Supplemental registration forms are filed within fifteen days of any change in information filed. (Section 3-6-104)

Registration Fee:

$25 per year. Those lobbyists who are officials of the Executive or Judicial Branch or any state educational institution are exempt from the fee. (Section 3-6-104)

Contents of Registration Statement

(1) Registrant's full name and address.
(2) Full name and address of each client of the registrant.
(3) Full name and address of registrant's employees retained for the purpose of lobbying.
(4) A list of general categories on which the registrant lobbies.
(5) A statement by each principal that he has read the registration, knows its contents, and has authorized the registrant to be a lobbyist on his behalf. (Section 3-6-105)

WHO Files Reports

(1) Principal - NO
(2) Lobbyist/Employee - YES

WHEN To File Reports

Each lobbyist must file a sworn report concerning lobbying activities annually to cover the period from the last report through the day following the end of the regular annual session of the General Assembly. Such report shall be filed not later than thirty days after the end of such legislative sessions. (Section 3-6-106)

Lobbyist Disclosure Statement

(1) Details of any direct business arrangements or partnerships with any candidate for public office and any official in the Legislative and Executive Branch, provided, however, that this section shall not apply to arrangements or partnerships entered into prior to the effective date of the Act, July 1, 1975.
(2) An itemized list of each gift of $25 or more and each political contribution of $100 or more made by the registrant or anyone acting in his behalf to benefit a candidate for public office, an official of the Legislative or Executive Branch, a member of his staff or a candidate for public office or such official. (Section 3-6-106)

HOW to Identify a Lobbyist

Each lobbyist shall include with his registration a black and white glossy photograph. (Section 3-6-105)

State librarian shall make all information filed available for public inspection. (Section 3-6-103)

Prohibited Practices

(1) Offering anything of value to an official in the Executive or Legislative Branch or immediate family with the understanding that the official's action, vote or judgment will be influenced thereby.
(2) Making false statements or misrepresentations concerning lobbying matters to officials in the Legislative or Executive Branch.
(3) Making a loan of money to any candidate for public office, officials in the Executive or Legislative Branch, or to anyone on their behalf. (Section 3-6-108)

Penalties

Violation of prohibited activities is a misdemeanor. When one fails to file a required report on time, he shall have ten days after notice from the librarian to comply. Failure to file within that period shall result in suspension of the lobbyist's registration. (Section 3-6-110)

2 AAC 50.540. REPORTING COMPENSATION OR PAYMENTS BY THE EMPLOYER OF LOBBYIST. When reporting compensation to a lobbyist or payment to an employee, as required by AS 24.45.171(10)(A), (B), (D) and (E), the amount shown must include the gross wages paid or payable, and prorated as applicable, plus any benefits which are in place of wages, such as stock options or the purchase of annuities. Routine fringe benefits such as the employer's contribution to health plans, retirement plans, etc., which are made on behalf of all employees and the payment of employer's payroll taxes, are not payments to influence legislative or administrative action and are not reportable. (Eff. 12/29/77, Reg. 64)

Authority: AS 24.45.021(b)
AS 24.45.061(b)(3) and (6)
AS 24.45.171(10)(A),(B),(D) and (E)

2 AAC 50.542. GIFTS AND EXCHANGES. "Gifts" and "exchanges," as used in AS 24.45.051(3) and (4), and for the purposes of AS 24.45 and 2 AAC 50, are not reportable by the lobbyist under AS 24.45.051 if the gift or exchange of an item of value is between members of the immediate family of the lobbyist. (Eff. 7/22/78, Reg. 67)

Authority: AS 24.45.021(b)

2 AAC 50.545. DEFINITIONS FOR 2 AAC 50.505 – 2 AAC 50.545. (a) In 2 AAC 50.505 – 2 AAC 50.545

(1) "person," in addition to the terms set out in AS 01.10.060(7), includes a labor union;

(2) "public official" means a public official as defined in AS 39.50.200(1); however, it does not include a judicial officer or an elected or appointed municipal officer.

(b) "Administrative action," as defined in AS 24.45.171(1), does not include normal inquiries of administrative agencies, or routine actions made necessary by law, or the actions of a person who limits his lobbying activities to appearances before any public proceeding of a regulatory or administrative agency which conducts proceedings in open public hearing for which public notice is given and which creates a record of all proceedings and provides access to the public records or transcripts and to all material which is submitted as part of the record.

(c) "Communicate directly" as used in AS 24.45.171(8)(A), means to talk either in person or by telephone, with any public official or legislative employee; it does not include time spent in the research, drafting, preparation, or adaptation of documents for use by a lobbyist.

(d) "Legislative action," as defined in AS 24.45.171(7), includes the actions of an "employee of the legislature acting in his official capacity," and any attempt to influence legislative action includes not only the elected official, but an employee of the legislature as well; money and time spent on lobbying activities involving a legislative employee is reportable by the lobbyist as required by AS 24.45.051 and the employer of a lobbyist as required by AS 24.45.061(b) and by this chapter. "Legislative employee" means an employee of the legislature acting in his "official capacity," as that term is used in AS 24.45.171(7).

(e) "Payments in support of or assistance to a lobbyist or his activities," as used in AS 24.45.171(10)(B), includes direct costs and expenses incurred by the employer in the current research, drafting, preparation and adaptation of documents for use by the lobbyist for the purpose of influencing legislative or administrative action.

(f) "Substantial or regular," as used in AS 24.45.171(8)(A), means that a person who is not employed specifically for the purpose of influencing legislative or administrative action, or a person whose contractual services are not specifically for the purpose of influencing legislative or administrative action, is considered to be a lobbyist if, within a 30-day period, he spends in excess of four hours in direct communication with a public official or legislative employee in activities directed toward

ated by law out of the General Fund for payment of the expenses of the Legislative Assembly. [1969 c.236 §2]

171.660 [1969 c.236 §3, repealed by 1975 c.530 §9]

171.670 Authority for approval of disbursements during interim. Subject to any other grant of or limitation on authority to authorize the incurring of and approve disbursements for indebtedness or expenses of the Legislative Assembly to be paid from amounts appropriated by law out of the General Fund for that purpose, which may be adopted by joint resolution of both houses, such authority is vested as follows:

(1) For general expenses of the Legislative Assembly not specifically attributable to either house, in the Legislative Administration Committee.

(2) For expenses specifically attributable to either house, in the President of the Senate or the Speaker of the House of Representatives, as the case may be. [1975 c.530 §8]

171.705 [1953 s.s. c.1 §1; 1975 c.136 §1; 1979 c.593 §2, renumbered 183.710]

171.707 [1975 c.136 §3 (enacted in lieu of 171.710); 1977 c.344 §1; 1979 c.593 §2, renumbered 183.715]

171.709 [1975 c.136 §4 (enacted in lieu of 171.710); 1977 c.344 §3; 1979 c.593 §3, renumbered 183.720]

171.710 [1953 s.s. c.1 §2, repealed by 1975 c.136 §2 (171.707, 171.709, 171.713 enacted in lieu of 171.710)]

171.713 [1975 c.136 §5 (enacted in lieu of 171.710); 1977 c.344 §4, renumbered 183.725]

171.715 [1977 c.161 §3, repealed by 1979 c.593 §34]

LOBBYING REGULATION

171.725 Definitions for ORS 171.725 to 171.785. As used in ORS 171.725 to 171.785, unless the context requires otherwise:

(1) "Consideration" includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.

(2) "Executive agency" means a commission, board, agency or other body in the executive branch of state government that is not part of the legislative or judicial branch.

(3) "Executive official" means any member or member-elect of an executive agency, any member of the staff or an employe of a member of a state board or commission other than a member who is employed in the public service, shall not be considered an executive official for purposes of ORS 171.725 to 171.785.

(4) "Legislative action" means introduction, sponsorship, testimony, debate, voting or any other official action on any measure, resolution, amendment, nomination, appointment, or report, or any matter which may be the subject of action by either house of the Legislative Assembly, or any committee thereof or the approval or veto thereof by the Governor.

(5) "Legislative official" means any member or member-elect of the Legislative Assembly, any member of an agency, board or commission established by or responsible to the Legislative Assembly or either house thereof, and any staff person assistant or employe thereof.

(6) "Lobbying" means influencing, or attempting to influence, legislative action.

(7) "Lobbyist" means:

(a) Any person who agrees to provide his personal services for money or any other consideration for the purpose of lobbying.

(b) Any person not otherwise subject to paragraph (a) of this subsection who provides his personal services as a representative of a corporation, association, organization or other group, for the purpose of lobbying.

(c) Any public official who lobbies.

(8) "Public agency" means a commission, board, agency or other governmental body.

(9) "Public official" means any member or member-elect of any public agency and any member of the staff or an employe thereof. [1975 c.747 §2; 1977 c.588 §1]

171.730 Lobbying regulation purpose. The Legislative Assembly finds that to preserve and maintain the integrity of the legislative process, it is necessary that the identity, expenditures and activities of certain persons who engage in efforts to persuade members of the Legislative Assembly or the executive branch to take specific actions, either by direct communication to such officials or by solicitation of others to engage in such efforts, be publicly and regularly disclosed. [1973 c.802 §2]

171.735 Application of ORS 171.740 and 171.745 to certain persons. Provided such persons are not registered with the Oregon Government Ethics Commission, ORS 171.740 and 171.745 do not apply to the following persons:

(1) News media or their employes or agents, who in the ordinary course of business publish or broadcast news items, editorials or other comments or paid advertisements which directly or indirectly urge legislative action if such persons engage in no other activities in connection with such legislative action.

(2) Any legislative official acting in an official capacity.

(3) Any individual who receives no additional consideration for lobbying and who limits lobbying activities solely to formal appearances to give testimony before public sessions of committees of the Legislative Assembly, or public hearings of state agencies, and who, if the individual testifies, registers an appearance in the records of such committees or agencies.

(4) An individual who spends not more than 16 hours during any calendar quarter lobbying, excluding travel time, and who does not spend an amount in excess of $50 during any calendar quarter excluding the cost of personal travel, meals and lodging.

(5) The Governor, Executive Assistant to the Governor, Legal Counsel to the Governor, Secretary of State, Deputy Secretary of State appointed pursuant to ORS 177.040, State Treasurer, Chief Deputy State Treasurer appointed pursuant to ORS 178.060, Attorney General, Deputy Attorney General appointed pursuant to ORS 180.130, Superintendent of Public Instruction, Commissioner of the Bureau of Labor and Industries. [1973 c.802 §3; 1974 s.s. c.74; 1975 c.747 §2; 1977 c.588 §1a; 1979 c.666 §1; 1981 c.[illegible]]

171.740 Lobbyists required to register; contents of statement; fee. (1) Within three working days after engaging in lobbying, each lobbyist or public agency shall register with the Oregon Government Ethics Commission by filing with the commission a statement containing the following information:

(a) The name and address of the lobbyist.

(b) The name and address of each person or agency by whom the lobbyist is employed or in whose interest he appears or works, a description of the trade, business, profession or area of endeavor of that person or agency, and a designation by each such person or agency that the lobbyist is officially authorized to lobby for that person or agency.

(c) The name of any member of the Legislative Assembly who is in any way employed by the lobbyist employer designated in para-

375-5105
Pam Dixon
[illegible] spend 16 hours in calendar & $50 per
[illegible] - including meals/hotel + lodging

y individual who appears as counsel or

any individual who engages in lobbying
other thing of value consists of nothing
l and reasonable expenses incurred for
el, lodging, and parking, while engaged
incurred in informing the organization
mbers thereof of his lobbying.

1-62, § 1; C.R.S. 1963, § 3-37-301; L. 77,
38, § 37.

required. (1) Any person who by himself
other person in any manner, directly or
ves money or any other thing of value
to be used for lobbying by any person
the secretary of state in accordance with

ed to file disclosure statements pursuant
ut who makes expenditures for gifts or
efit of covered officials in the aggregate
calendar year, shall file disclosure state-
accordance with this section. Such disclo-
ual and reasonable expenses incurred for
l, lodging, and parking.
e filed within fifteen days after the end
any contribution is received or receivable
red for lobbying and shall be filed within
bsequent month during the calendar year.
for the entire calendar year shall be filed
year.
ment set out in section 24-6-301 (1.9) (b)
a cumulative disclosure statement for the
r shall not have to file monthly disclosure
becomes required to do so by virtue of

y to any political committee, volunteer
s own behalf, state official or employee
lected public official acting in his official

1-62, § 1; C.R.S. 1963, § 3-37-302; L. 77,

ssional lobbyist - filing of disclosure
n (1). Any professional lobbyist, before
with the secretary of state and file a writ-
l contain:

83 Colorado Sunshine Law 24-6-303.5

(b) The name, address, and telephone number of any person by whom he is employed;

(c) The name, address, and telephone number of any person for whom he will be lobbying; and

(d) The name, address, and telephone number of any person by whom he is paid or is to be paid for such lobbying.

(1.5) A professional lobbyist shall file an updated registration statement on or before January 15 of each year unless at that time he is no longer a professional lobbyist. Registration under this subsection (1.5) shall be effective until January 15 of the next year.

(2) A registered professional lobbyist shall file disclosure statements as required by section 24-6-302.

(3) All registration statements and disclosure statements of professional lobbyists shall be compiled by the secretary of state within thirty days after the end of the calendar month for which such information is filed and shall be organized alphabetically according to the names of the professional lobbyists.

(4) No individual shall act as a professional lobbyist unless he has received a certificate of registration as provided in section 24-6-305 (1).

(5) An individual shall not be considered a professional lobbyist solely because of his appearance as a witness in rule, standard, or rate-making proceedings.

(6) This section shall not apply to any political committee, volunteer lobbyist, citizen who lobbies on his own behalf, state official or employee acting in his official capacity, or elected public official acting in his official capacity.

Source: Initiated 1972; L. 73, p. 1663, § 1; C.R.S. 1963, § 3-37-303; L. 77, p. 1151, § 3; L. 79, pp. 853, 1638, § § 1, 2, 38.

Am. Jur. 2d. See 51 Am. Jur. 2d. Lobbying.

24-6-303.5. Lobbying by state officials and employees. (1) Any state official or employee, other than an employee of the legislative department, who engages in the type of lobbying defined in section 24-6-301 (3.5) (a) (I), (3.5) (a) (II), or (3.5) (a) (III) while acting in his official capacity shall file monthly disclosure statements with the secretary of state in accordance with this section. The secretary of state shall prescribe a form for such disclosure statements which shall include:

(a) The legislation on which the disclosing individual is lobbying;

(b) Any expenditures of public funds used for lobbying;

(c) An estimate of the time which the official or employee and any other employees of his agency have spent to prepare the lobbying presentation.

(2) The response of a state official or employee to an inquiry from a covered official shall not be considered lobbying within the meaning of this section.

Source: L. 77, p. 1152, § 4; L. 79, p. 1638, § 39.

(VIII) The total sum of all expenditures made by or on behalf of the disclosing person in connection with lobbying since the last disclosure statement and during the calendar year;

(IX) A statement, which shall only be given by a professional lobbyist, which contains the names of, and the amounts of any expenditures or contributions made to, any papers, periodicals, magazines, radio or television stations, or other media of mass communication to whom expenditures or contributions were made in which the professional lobbyist or his employer or agent has caused to be published any advertisements, articles, or editorials relating to lobbying; except that this information is not required for regular or routine publications sent primarily to the members of the professional lobbyist's organization, which publications contain information relating to his lobbying;

(X) The nature of the legislation, standards, rules, or rates for which the disclosing person is receiving contributions or making expenditures for lobbying and, where known, the specific legislation, standards, rules, or rates.

(b) The secretary of state shall prescribe a form for disclosure statements, which shall contain:

(I) A statement, which the disclosing person may adopt, if true, that no change has occurred since the prior month's disclosure statement, in which case the information required by paragraph (a) of this subsection (1.9) may be omitted;

(II) A statement, which the disclosing person may adopt, if true, that no unreported contributions for lobbying are receivable and that no unreported expenditures for lobbying will be made during the remainder of the calendar year.

(c) Whenever a person required to file a disclosure statement under this part 3 solicits, collects, or receives contributions which are used for lobbying as well as for other purposes, or makes an expenditure which is attributable to lobbying as well as to other purposes, such contributions and expenditures shall be allocated between lobbying and other purposes, and the disclosure statement shall contain that portion allocated to lobbying.

(2) "Expenditure" means a payment, distribution, loan, advance, deposit, or gift of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(3) Repealed, L. 77, p. 1154, § 12, effective July 1, 1977.

(3.5) (a) "Lobbying" means communicating directly, or soliciting others to communicate, with a covered official for the purpose of aiding in or influencing:

(I) The drafting, introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, or veto by any covered official on:

(A) Any bill, resolution, amendment, nomination, appointment, or report, whether or not in writing, pending or proposed for consideration by either house of the general assembly or committee thereof, whether or not the general assembly is in session;

(B) Any other matter pending or proposed in writing by any covered official for consideration by either house of the general assembly or a committee thereof, whether or not the general assembly is in session;

(III) The convening of a special session of the specification of business to be transacted at such

(IV) The drafting, consideration, amendment rule, standard, or rate of any state agency having

(b) Subject to the exclusions and provisions purpose of determining when contributions and on disclosure statements, "lobbying" includ the person engaging in lobbying and persons act lobbying which in fact ultimately occurs, pro

(II) No such reports shall be required for act preceding calendar year;

(III) Expenditures shall not be reported when by a person in the ordinary course of the person and are not made for lobbying. Such not include, but not be limited to, the keeping of bo collection of statistics and other data.

(c) (I) "Lobbying" does not include communic response to a statute, rule, regulation, or order

(II) (A) "Lobbying" does not include commun appearance before a committee of the general asse or commission solely as a result of an affirma record or commission issuing a mandatory orde that he appear and testify, or making such a proceeding whether or not he is reimbursed commission for his expenses incurred in making

(B) Subject to the provisions of subparagra "lobbying" includes such communications by more than three such appearances before any comm in a calendar year. "Appearance", for the pu means the testimony given before a committee single issue, rule, rate, or bill, regardless of th appearances necessary to present the testimony

(C) "Lobbying" does not include communicat law when such communications are made on be has been identified and when such communica of law subject to control by the judicial branch of

(D) "Lobbying" does not include duties per legislative department.

(4) "Person" means an individual, partners corporation or any other organization or group

(5) "Political committee" means any commit tion which accepts contributions or makes expe influencing or attempting to influence the presidential and vice presidential elections or any or subcommittee of a national, state, or local

(6) "Professional lobbyist" means any p is engaged by any other person for pay or

"Professional lobbyist" does not include

(III) The convening of a special session of the general assembly or the specification of business to be transacted at such special session;

(IV) The drafting, consideration, amendment, adoption, or defeat of any rule, standard, or rate of any state agency having rule-making authority.

(b) Subject to the exclusions and provisions of this paragraph (b), for the purpose of determining when contributions and expenditures become reportable in disclosure statements, "lobbying" includes activities undertaken by the person engaging in lobbying and persons acting at his request to prepare for lobbying which in fact ultimately occurs, provided:

(I) No such reports shall be required for activities occurring prior to the preceding calendar year;

(II) Expenditures shall not be reported when such expenditures are incurred by a person in the ordinary course of the business or affairs of such person and are not made for lobbying. Such nonreportable expenditures will include, but not be limited to, the keeping of books of account and the routine collection of statistics and other data.

(c) "Lobbying" does not include communications made by a person in response to a statute, rule, regulation, or order requiring such a communication.

(d) (I) "Lobbying" does not include communications by a person who appears before a committee of the general assembly or a rule-making board or commission solely as a result of an affirmative vote by the committee, board, or commission issuing a mandatory order or subpoena commanding that he appear and testify, or making such a person a respondent in such a proceeding whether or not he is reimbursed by the committee, board, or commission for his expenses incurred in making such appearance.

(II) Subject to the provisions of subparagraph (I) of this paragraph (d), "lobbying" includes such communications by any person who makes more than three such appearances before any committee, board, or commission in a calendar year. "Appearance", for the purpose of this paragraph (d), means the testimony given before a committee, board, or commission on a single issue, rule, rate, or bill, regardless of the actual number of physical appearances necessary to present the testimony.

(e) "Lobbying" does not include communications made by an attorney-at-law when such communications are made on behalf of a client whose name has been identified and when such communications constitute the practice of law subject to control by the judicial branch of the state of Colorado.

(f) "Lobbying" does not include duties performed by employees of the legislative department.

(4) "Person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(5) "Political committee" means any committee, association, or organization which accepts contributions or makes expenditures for the purpose of

LOBBYIST REPORT

RETURN TO:

ALASKA PUBLIC OFFICES COMMISSION
Pouch CO
Juneau, Alaska 99811-0222
(907) 465-4864 or 465-4865

ARRIVED
MAR 1 1982
APOC-ANCH

(PLEASE PRINT OR TYPE)

WHO SHOULD FILE THIS FORM: Any registered lobbist under AS 24.45, even if there are no reportable expenditures made or payments received for the period.

WHAT TO REPORT: See manual of instructions for detailed reporting requirements.

pa

WHEN TO FILE: Monthly reports are due during the calendar month following each calendar month for which a report is required. Quarterly reports are due during the calendar month following each calendar quarter. Administrative lobbyists report on quarterly basis; legislative lobbyist file monthly while Legislature is in session and quarterly thereafter. If both categories apply, report as legislative lobbyist.

1. Lobbyist's Name: Patrick M. Anderson / Hedland, Fleischer & Friedman

Telephone: 279-5528

Mailing Address: 1016 West Sixth Avenue, Suite 400, Anchorage, AK 99501

☐ Check if New Mailing Address

2. This Report Covers the Period of: (Check ONE Only)

☒ January ☐ February ☐ March ☐ April ☐ May ☐ June ☐ 1st Qtr. ☐ 2nd Qtr. ☐ 3rd Qtr. ☐ 4th Qtr. ☐ Amended 19____

3. Totals of all reportable expenditures made or incurred by the lobbyist or paid for by the employer on behalf of the lobbist in connection with lobbying activities.

Show total amount of unreimbursed expenditures.		Proportionate amount accrued, reimbursed or paid directly be each employer for the period. (Give registered name of Employer and use continuation sheet for additional employers).	
Category Expense	Total Amount	Employer No. 1 Name: Municipality of Anchorage	Employer No. 2 Name:
Salary, Fee, Retainer	$6,000.00	$6,000.00	
Food and Beverage	251.24	251.24	
Living Accommodations	328.60	328.60	
Travel	762.00	762.00	
Office Expense	.00	.00	
Telephone	17.16	17.16	
Secretarial	.00	.00	
Other Expenses (Explain below or reverse)	.00	.00	
Other Compensation (Explain below or reverse)	.00	.00	
TOTAL this period		$7,359.00	
CUMULATIVE from last report:			
CUMULATIVE TO DATE:		$7,359.00	

4. Report any gifts and exchanges of money, goods or services with a public official or with a member of the immediate family of a public official that exceeds $100. (See manual of instructions and AS 24.45.051 (4) for details.)

Date	Name and Official Position of Recipient	Nature of Gift or Exchange	Monetary Value

COMPLETE REVERSE SIDE

APOC Form 24-3 (Rev 12/81)

LOBBYIST REPORT

RETURN TO:

ALASKA PUBLIC OFFICES COMMISSION
Pouch CO
Juneau, Alaska 99811-0222
(907) 465-4864 or 465-4865

REVISED

4/28/82

(PLEASE PRINT OR TYPE)

WHO SHOULD FILE THIS FORM: Any registered lobbist under AS 24.45, even if there are no reportable expenditures made or payments received for the period.

WHAT TO REPORT: See manual of instructions for detailed reporting requirements.

WHEN TO FILE: Monthly reports are due during the calendar month following each calendar month for which a report is required. Quarterly reports are due during the calendar month following each calendar quarter. Administrative lobbyists report on quarterly basis; legislative lobbyist file monthly while Legislature is in session and quarterly thereafter. If both categories apply, report as legislative lobbyist.

Lobbyist's Name: Patrick M. Anderson

Telephone: 279-5528

Mailing Address: 1016 West Sixth Avenue, Suite 400, Anchorage, AK 99501

☐ Check If New Mailing Address

This Report Covers the Period of: (Check ONE Only)

☐ January ☒ February ☐ March ☐ April ☐ May ☐ June ☐ 1st Qtr. ☐ 2nd Qtr. ☐ 3rd Qtr. ☐ 4th Qtr. ☒ Amended 1982

Totals of all reportable expenditures made or incurred by the lobbyist or paid for by the employer on behalf of the lobbist in connection with lobbying activities.

Show total amount of unreimbursed expenditures.		Proportionate amount accrued, reimbursed or paid directly be each employer for the period. (Give registered name of Employer and use continuation sheet for additional employers).	
Category Expense	Total Amount	Employer No. 1 Name: Municipality of Anchorage	Employer No. 2 Name:
Salary, Fee, Retainer	$6,000	6,000	
Food and Beverage	549.00	549.00	
Living Accommodations	1,172.67	1,172.67	
Travel	852.00	852.00	
Office Expense	—	—	
Telephone	249.18	249.18	
Secretarial	—	—	
Other Expenses (Explain below or reverse)	4.12	4.12	
Other Compensation (Explain below or reverse)	—	—	
TOTAL this period		8,826.97	
CUMULATIVE from last report:		7,359.00	
CUMULATIVE TO DATE:		16,185.97	

. Report any gifts and exchanges of money, goods or services with a public official or with a member of the immediate family of a public official that exceeds $100. (See manual of instructions and AS 24.45.051 (4) for details.)

Date	Name and Official Position of Recipient	Nature of Gift or Exchange	Monetary Value

COMPLETE REVERSE SIDE

RETURN TO:
ALASKA PUBLIC OFFICES COMMISSION
Pouch CO
Juneau, Alaska 99811-0222
(907) 465-4864 or 465-4865

RECEIVED MAR - 1 1982 2/25 APOC - JNO

(PLEASE PRINT OR TYPE)

WHO SHOULD FILE THIS FORM: Any registered lobbist under AS 24.45, even if there are no reportable expenditures made or payments received for the period.

WHAT TO REPORT: See manual of instructions for detailed reporting requirements.

WHEN TO FILE: Monthly reports are due during the calendar month following each calendar month for which a report is required. Quarterly reports are due during the calendar month following each calendar quarter. Administrative lobbyists report on quarterly basis; legislative lobbyist file monthly while Legislature is in session and quarterly thereafter. If both categories apply, report as legislative lobbyist.

1. Lobbyist's Name: Dwight Perkins Jr.
Telephone: 5862874

Mailing Address: 245 Marine Wy. #7
☒ Check if New Mailing Address

2. This Report Covers the Period of: (Check ONE Only)
☒ January ☐ February ☐ March ☐ April ☐ May ☐ June ☐ 1st Qtr. ☐ 2nd Qtr. ☐ 3rd Qtr. ☐ 4th Qtr. ☐ Amended 19 82

3. Totals of all reportable expenditures made or incurred by the lobbyist or paid for by the employer on behalf of the lobbist in connection with lobbying activities.

Show total amount of unreimbursed expenditures.

Proportionate amount accrued, reimbursed or paid directly be each employer for the period. (Give registered name of Employer and use continuation sheet for additional employers).

Category Expense	Total Amount	Employer No. 1 Name: Numbers + Pipefitters Local	Employer No. 2 Name:
Salary, Fee, Retainer	$ ---0----		
Food and Beverage	---0----		
Living Accommodations	---0----		
Travel	---0----		
Office Expense	---0----		
Telephone	---0----		
Secretarial	---0----		
Other Expenses (Explain below or reverse)	0		
Other Compensation (Explain below or reverse)	---0----		
TOTAL this period		----------0----------	
CUMULATIVE from last report:		----------0----------	
CUMULATIVE TO DATE:		----------0----------	

4. Report any gifts and exchanges of money, goods or services with a public official or with a member of the immediate family of a public official that exceeds $100. (See manual of instructions and AS 24.45.051 (4) for details.)

Date	Name and Official Position of Recipient	Nature of Gift or Exchange	Monetary Value
	NONE		

COMPLETE REVERSE SIDE

APOC Form 24-3 (Rev. 12/81)

LOBBYIST REPORT

RETURN TO:
ALASKA PUBLIC OFFICES COMMISSION
Pouch CO
Juneau, Alaska 99811-0222
(907) 465-4864 or 465-4865

RECEIVED
MAR -1 1982
APOC P.M. 2/25 JNO H.C.

(PLEASE PRINT OR TYPE)

WHO SHOULD FILE THIS FORM: Any registered lobbist under AS 24.45, even if there are no reportable expenditures made or payments received for the period.

WHAT TO REPORT: See manual of instructions for detailed reporting requirements.

WHEN TO FILE: Monthly reports are due during the calendar month following each calendar month for which a report is required. Quarterly reports are due during the calendar month following each calendar quarter. Administrative lobbyists report on quarterly basis; legislative lobbyist file monthly while Legislature is in session and quarterly thereafter. If both categories apply, report as legislative lobbyist.

1. Lobbyist's Name: Dwight Perkins — Telephone: 586-2874

Mailing Address: 245 Marine Wy. # 7 Juneau, Ak. 99801 ☒ Check if New Mailing Address

2. This Report Covers the Period of: (Check ONE Only)

☐ January ☑ February ☐ March ☐ April ☐ May ☐ June ☐ 1st Qtr. ☐ 2nd Qtr. ☐ 3rd Qtr. ☐ 4th Qtr. ☐ Amended 19__

3. Totals of all reportable expenditures made or incurred by the lobbyist or paid for by the employer on behalf of the lobbist in connection with lobbying activities.

Show total amount of unreimbursed expenditures. Category Expense	Total Amount	Proportionate amount accrued, reimbursed or paid directly be each employer for the period. (Give registered name of Employer and use continuation sheet for additional employers). Employer No. 1 Name: Plumbers & Pipefitters Local	Employer No. 2 Name:
Salary, Fee, Retainer	$ ---0---		
Food and Beverage	---0---		
Living Accommodations	---0---		
Travel	0		
Office Expense	0		
Telephone	---0---		
Secretarial	---0---		
Other Expenses (Explain below or reverse)	---0---		
Other Compensation (Explain below or reverse)	---0---		
TOTAL this period	----------0----------		
CUMULATIVE from last report:	----------0----------		
CUMULATIVE TO DATE:	----------0----------		

4. Report any gifts and exchanges of money, goods or services with a public official or with a member of the immediate family of a public official that exceeds $100. (See manual of instructions and AS 24.45.051 (4) for details.)

Date	Name and Official Position of Recipient	Nature of Gift or Exchange	Monetary Value
	NONE		

COMPLETE REVERSE SIDE

APOC Form 24-3 (Rev. 12/81)

(c) A person, other than an individual, who knowingly violates any provision of this chapter, whether acting for himself, on behalf of an employer or in concert with other persons, or who knowingly causes, participates in, aids, abets, ratifies or confirms any violation of a provision of this chapter is, upon conviction, punishable by a fine of not more than $10,000 for each offense.

(d) A person who knowingly makes a false or misleading report or statement required under this chapter is, upon conviction, punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both. (§ 2 ch 167 SLA 1976)

Article 5. General Provisions.

Section
161. Exemptions
171. Definitions
181. Short title

Sec. 24.45.161. Exemptions. (a) This chapter does not apply to

(1) an individual

(A) who lobbies without payment of compensation or other consideration and makes no disbursement or expenditure for or on behalf of a public official to influence legislative or administrative action other than to pay his reasonable personal travel and living expenses; and

(B) who limits his lobbying activities to appearances before public sessions of the legislature, or its committees or subcommittees, or to public hearings or other public proceedings of state agencies;

(2) an elected or appointed state or municipal public officer or an employee of the state or a municipality acting in his official capacity or within the scope of his employment;

(3) any newspaper or other periodical of general circulation, book publisher, radio or television station (including an individual who owns, publishes or is employed by that newspaper or periodical, radio or television station) which publishes news items, editorials or other comments, or paid advertisements, which directly or indirectly urge legislative or administrative action if the newspaper, periodical, book publisher, radio or television station or individual engages in no further or other activities in connection with urging or advocating legislative or administrative action other than to appear before public sessions of the legislature, or its committees or subcommittees, or public hearings or other public proceedings of state agencies;

(4) a person who appears before the legislature or either house, or standing, special or interim committee, in response to an invitation issued under (c) of this section.

(b) Nothing in this chapter may be construed as prohibiting or affecting the rendering of professional services in drafting legislative measures or in advising clients and in rendering opinions as to the

construction or effect of proposed or pending legislative or administrative action when these professional services are not otherwise connected with influencing or attempting to influence legislative or administrative action. Nor does anything in this chapter prevent members of the legislature from discussing with constituents the advisability of passing legislation then pending before, or proposed to be presented to, the legislature.

(c) Either house of the legislature by resolution, or both houses of the legislature by concurrent resolution, may invite a person to appear to speak before the legislature or either house with reference to any pending matter. A standing, special or interim committee of either house of the legislature may, upon the concurrence of a majority of its members, extend an invitation to any person to appear before the committee to give information in regard to, or explain, any matter pending before the committee.

(d) An individual exempt from this chapter under (a)(1) of this section may, at his option, register and report under this chapter. (§ 2 ch 167 SLA 1976)

Sec. 24.45.171. Definitions. In this chapter

(1) "administrative action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by any state agency of any rule, regulation, order, decision, determination, or any other quasi-legislative or quasi-judicial action or proceeding whether or not governed by the Administrative Procedure Act (AS 44.62);

(2) "agency" means a state department, division, commission, board, office, bureau, institution, corporation, authority, organization, committee, council or board in the executive branch, or independent of the executive branch, of state government;

(3) "gift"

(A) means any payment to the extent that consideration of equal or greater value is not received;

(B) includes but is not limited to:

(i) a loan, loan guarantee, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment except when full and adequate consideration is received;

(ii) the purchase of tickets for travel or for entertainment events; and

(iii) the granting of discounts or rebates for goods or services not extended to the public generally;

(C) does not include:

(i) informational or promotional materials, including but not limited to books, reports, pamphlets, calendars or periodicals; however, payments for travel or reimbursement for expenses may not be considered "informational material";

(ii) food and beverages consumed in places of public accommodation;

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MOUCHY STATE CAPITOL
JUNEAU ALASKA 998
907 465 3811

MEMORANDUM June 2, 1983

SUBJECT: Applicability of CSSB 137 (Finance) am

TO: Senator Jan Faiks

FROM: Billy G. Berrier BGB
Director
Division of Legal Services

You have asked whether CSSB 137 (Finance) am would require the Governor, legislators, legislative staff and employees of the departments in the executive branch to register as lobbyists.

In my opinion the added requirement is not applicable to elected officers. While the term "employee" has broader meaning in some contexts, in this context I do not believe an elected official can be considered an "employee" who is "hired".

As to employees of the executive branch the application of the added requirement would depend on the specific situation. For the requirement to apply influencing legislative action must be an official part of the job of the employee. While I have no data on which to base a conclusion I would strongly suspect this would be a rare situation.

It could, and probably in may instances would, cover legislative employees. Influencing legislative action is broadly defined in AS 24.45.171(6) which provides:

> (6) "influencing legislative or administrative action" means promoting, advocating, supporting, modifying, opposing or delaying or seeking to do the same with respect to any legislative or administrative action by means including but not limited to the provision or use of information, statistics, studies, analyses in written or oral form or format;

For example, from my observation it would appear then in many instances this is a major part of the job that a professional assistant is hired to do. Again, however the application of the added requirement would depend on the specific situation of the employee.

BGB:ljb
23/003

SB

165

STATE OF ALASKA
FISCAL NOTE

I. REQUEST

Bill/Resolution No.: SS SB 165
Title: Racing on Public Highways
Sponsor: Fischer
Requestor:

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	*-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

*Fiscal impact to the Department is not quantifiable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Harry Keller Phone: 789-0841 Ext. 26
Division: Standards & Technical Services Division Date: 4/12/83

Approved by Commissioner: [signature] Date: 4/06/83
Department: DOT & PF

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

SS SB 165
Racing Events on Public Highways
Department Analysis

Presently AS 05.90.001 permits issuance by the Alaska Athletic Commission of permits to hold snow vehicle, automobile, and motorcycle racing events on State highways. Such a permit may be issued only with the concurrence of the Commissioners of Public Safety and Transportation and Public Facilities.

SS SB 165 proposes to amend AS 05.90.001 so as to allow issuance of such a permit for any racing event. While there is some evidence in SB 165 that the intent is to provide for bicycle racing, the language of SS SB 165 would allow for human foot races, animal races, "go-cart" races, and any other type of speed contest which could be staged upon a public right-of-way. The major impact of this proposal, if it were enacted, would be to increase the number of racing events allowable on the public ways. This increase in racing events would also increase the number of incidents wherein the traveling public would have less than full use of the public highway for normal transportation functions.

AS 19.05.030 sets forth the duties of the Department in terms of planning, programming, design, construction, maintenance and operation. The Alaska Supreme Court has further defined those duties as follows:

> "The duty to maintain a highway safe for travel includes ...a duty of warning the travelling public of any other condition which endangers travel...caused by...the act of third persons." (Racers)

17 AAC 20.020 permits the Department to close or restrict any highway for the protection of the public and requires traffic guidance and/or suitable detours be provided "...as soon as possible to minimize traffic delay."

The interaction of these requirements to provide a safe efficient public way for normal transportation operations is reasonable in light of the large public investment in highways and the need to maintain safe, efficient, transportation for the economic well being of the State.

Enactment of SS SB 165 would minimally increase the operations costs of the Department by increasing the number of times temporary warning and directional devices would be needed to safely and efficiently direct traffic through or around a section of highway where races were being held. The larger cost to the State is not readily quantifiable. These costs are those related to increased user cost associated with detours and

potential tort claims against the State in the event of damage or injury caused by restricting use of the section of highway.

As indicated previously, SS SB 165 increases the exposure by permitting more racing contests on State highways than are now permitted. The existing statutes already inhibit public use of the public ways for motor vehicle racing and further restriction of general public use of public ways does not appear to be in the best interest of the State. There are not too many organizations which are financially able to sponsor snow vehicle, automobile and/or motorcycle races so the demand for use of State highways for such racing is minimal. However, a number of organizations are capable of sponsoring human foot races, bicycle races, "go-cart" races, etc., which could lead to substantially increasing pressure to use State highways for racing participants and observers to the detriment of the traveling public.

We therefore recommend against enactment of SS SB 165. Further, considering the increasing demand being placed upon our transportation facilities we suggest that repeal of AS 05.90.001 may be appropriate.

CSSS SB 165 am
Racing Events on Public Highways
Department Analysis

Presently AS 05.90.001 allows issuance by the Alaska Athletic Commission of permits to hold snow vehicle, automobile, and motorcycle racing events on State highways. Such a permit may be issued only with the concurrence of the Commissioners of Public Safety and Transportation and Public Facilities.

CSSS SB 165 am proposes to amend AS 05.90.001 so as to allow issuance of such a permit by the Department of Public Safety for any racing event. While there is some evidence in the original SB 165 that the intent is to provide for bicycle racing, the language of CSSS SB 165 am would allow for human foot races, animal races, "go-cart" races, and any other type of speed contest which could be staged upon a public right-of-way. The major impact of this proposal, if it were enacted, might be to increase the number of racing events allowable on the public ways. This increase in racing events could also increase the number of incidents wherein the traveling public would have less than full use of the public highway for normal transportation functions.

AS 19.05.030 sets forth the duties of the Department in terms of planning, programming, design, construction, maintenance and operation. The Alaska Supreme Court has further defined those duties as follows:

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Enactment of CSSS SB 165 am could minimally increase the operation costs of the Department by increasing the number of times temporary warning and directional devices would be needed to safely and efficiently direct traffic through or around a section of highway where races were being held. Other potential costs to the State are not readily quantifiable. These costs are those related to increased user

cost associated with detours and potential tort claims against the State in the event of damage or injury caused by restricting use of the section of highway.

The committee may want to consider including a provision in the bill that alternate routing of traffic must be available before a racing event can be held.

The wording of the proposed legislation does require consistency with Federal laws and regulations. It should be noted that the code of Federal Regulations, Title 23, part 1.23 Rights-of-Way (copy attached) have certain restrictions on the use of Federally funded rights-of-way for other than exclusive highway purposes. The Department of Public Safety, which would grant permission of these racing events under this bill should be cognizant of these restrictions, since most highways in this State were Federally funded. Also, by Federal Highway Administration order, that organization must be notified whenever a Federal-aid highway is closed for more than six hours for any reason.

We feel that this bill could increase the State's exposure to tort claims if permission to use State highways for racing events is not granted judiciously.

The committee may want to consider requiring a bond of appropriate value from the requesting organization depending on whether restriction or closure of a State highway is required.

the services of well-qualified tably equipped engineering or- ons of the affected railroad ies for railway-highway cross- lects and of the affected utility ies for projects involving util- illations.

rivate engineering organiza- Private engineering organiza- ay be utilized on projects in ac- e with requirements prescribed Administrator.

esponsibility of the State high- partment. The State highway nent is not relieved of its re- ilities under Federal law and gulations in this part in the utilizes the services of any en- ng organization under para- (b), (c) or (d) of this section.

Rights-of-way.

iterest to be acquired. The State icquire rights-of-way of such and extent as are adequate for istruction, operation and main- e of a project.

se for highway purposes. Except vided under paragraph (c) of ction, all real property, includ- space, within the right-of-way ries of a project shall be devot- lusively to public highway pur- No project shall be accepted as ete until this requirement has atisfied. The State highway de- ent shall be responsible for pre- such right-of-way free of all and private installations, facili- r encroachments, except (1) approved under paragraph (c) of ction; (2) those which the Ad- rator approves as constituting a f a highway or as necessary for eration, use or maintenance for highway purposes and (3) infor- ial sites established and main- in accordance with § 1.35 of the tions in this part.

Other use or occupancy. Subject U.S.C. 111, the temporary or per- it occupancy or use of right-of- ncluding air space, for nonhigh- purposes and the reservation of rface mineral rights within the laries of the rights-of-way of al-aid highways, may be ap- d by the Administrator, if he de- es that such occupancy, use or reservation is in the public interest and will not impair the highway or interfere with the free and safe flow of traffic thereon.

§ 1.27 Maintenance.

The responsibility imposed upon the State highway department, pursuant to 23 U.S.C. 116, for the maintenance of projects shall be carried out in accordance with policies and procedures issued by the Administrator. The State highway department may provide for such maintenance by formal agreement with any adequately equipped county, municipality or other governmental instrumentality, but such an agreement shall not relieve the State highway department of its responsibility for such maintenance.

§ 1.28 Diversion of highway revenues.

(a) *Reduction in apportionment.* If the Secretary shall find that any State has diverted funds contrary to 23 U.S.C. 126, he shall take such action as he may deem necessary to comply with said provision of law by reducing the first Federal-aid apportionment of primary, secondary and urban funds made to the State after the date of such finding. In any such reduction, each of these funds shall be reduced in the same proportion.

(b) *Furnishing of information.* The Administrator may require any State to submit to him such information as he may deem necessary to assist the Secretary in carrying out the provisions of 23 U.S.C. 126 and paragraph (a) of this section.

§ 1.31 Payments.

States may submit requests for payments of Federal funds claimed to be due on account of a project. Such requests shall be in the form of vouchers as prescribed by the Administrator, and shall be certified and accompanied with such supporting data as the Administrator may require. Such vouchers may be submitted from time to time as the work progresses and shall be submitted promptly after completion of the project to which the voucher pertains.

§ 1.32 Issuance of directives

(a) The Administrator gate and require the o policies and procedures, a other action as he deems or necessary for carrying visions and purposes of I the policies of the Fede Administration, and the r this part.

(b) The Administrator gated representative, as ap authorized to issue the fo of directives:

(1) Federal Highway Ad Regulations are issued by istrator or his delegate, a to implement and carry ou sions of title 23, United S relating to the administrat eral aid for highways, dir programs and State and safety programs; and title States Code, relating to m safety; and other applicabl programs under his jurisdic

(2) Notices are temporar transmitting one-time or instructions or informatio expected to remain in effe than 90 days or for a pre period of time normally not one year.

(3) Orders are directives volume and contain perm longlasting policy, instruct procedures. FHWA Orders used primarily as interna directives.

(4) Joint Interagency Orde tices are used by FHWA an tional Highway Traffic Safe istration (NHTSA) to issue cies, procedures, and inform taining to the joint adminis the State and Community Safety Program. Where other joint directives may with other modal admin within the Department of Tr tion.

(5) Manuals are generally for use in issuing permanent lasting detailed policy and p Some of the major manuals r by the FHWA Directives follow:

(i) The Federal-Aid Highv gram Manual has been estab

The (agency's name) _____ will sponsor this race, and as sponsors will have liability insurance coverage in effect at the time of the event for all participants in the amount of $_____.

This event, to be known as _____ (name of race or contest) is scheduled to occur between _____, Alaska and _____, Alaska (route map attached) on the date of _____, 198____.

The sponsors will provide road guards, flagmen, signs, and barricades for any and all road crossings along the route of snowmachine travel.

All snowmachines will be properly registered in compliance with State statutes AS 05.30.020 through AS 05.30.080.

The crossings of all roads and bridges shall be at a maximum speed of 15 miles per hour.

All crossings will be so located as to provide adequate sight distance for motorists using the roadway.

At road crossings, all caution and safety signs intended to regulate traffic flow and insure maximum safety shall provide the follwoing information (BE PREPARED TO STOP, CW20-8, 36" by 36", located 1000 feet from each side of crossing point). Two flagmen with orange vests and stop-go paddles are provided, one for each direction of travel.

Sign stating flagman ahead, 500 feet, size CW20-7, 36" by 36", shall be located 500 feet each side of crossing point. These signs and placement shall conform to the Alaska Traffic Manual. If, at any time, either the Department of Transportation and Public Facilities or the Department of Public Safety feel that the race is endangering the traveling public, the race will be suspended.

No night (hours of darkness) crossings will be authorized.

No parking within 500 feet of any snowmachine crossing point.

The motor mushers will file a bond with the State for any necessary cleanup as a result of this race.

Other Special Requirements:

By signing below the applicant agrees to perform all the conditions of this permit and shall indemnify and save harmless the State, it's officers and employees from all liability, judgement, cost, expenses and claims growing out of damages or alleged damages, of any nature whatsoever to any person or property arising out of performance or nonperformance of the permit.

Authorized Representative	Director of Alaska State Troopers
Authorized Representative	Date

APPROVAL

Commissioner, Dept. of Transportation/Public Facilities	Date
Commissioner, Department of Public Safety	Date
Commissioner of Athletics	Date

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

AGENDA

DATE: 5/16/83

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY. AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

CSSB 165 AN ACT RELATING TO RACING EVENTS ON PUBLIC HWYS.

HB 374 AN ACT RELATING TO THE ESTABLISHMENT OF A MAXIMUM SECURITY PRISON FACILITY AT ANDERSON AND PALMER/SUTTON

HJR 39 PROPOSING AMENDMENTS TO THE CONST. OF THE STATE OF ALASKA CREATING AN APPROPRIATION RESERVE FUND

OTHER NOTES OR REMINDERS:

HEAR NEIL'S BILL HJR 39 LAST. HE HAS TO BE SOMEWHERE ELSE AT 1:00.

Senator Vic Fischer
Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

May 5, 1983

To: Representative Bette Cato, Chair
House Transportation Committee

From: Senator Vic Fischer

Re: SS SB 165

SS SB 165 is currently before the House Transportation Committee. Following is a brief history of the evolution of SB 165 along with other considerations addressed by this legislation.

* Current regulations (13 AAC 02.400 (h) forbid bicycle racing events on state highways unless they are permitted under AS 05.90.001.

* Apparently by oversite, AS 05.90.001, gives authority to issue permits for special racing events along state highways only to snow machines, automobiles, and motorcycles.

* SB 165 amended AS 05.90.001 to include bicycles.

* Prior to the first committee hearing on SB 165 it became apparent that simply including bicycles under AS 05.90.001 failed to address the inevitability that permits would be sought for racing events involving vehicles other than those authorized (foot races, bathtub races, roller skating races, etc.).

* SS SB 165 was introduced amending AS 05.90.001 so that permits can be issued for any special racing event of limited duration along state highways within limits set by provisions for public safety and compliance with federal laws.

* SS SB 165 was amended in the Rules committee and on the floor of the Senate to require the Department of Public Safety rather than the Athletic Commission to issue permits for special racing events. The Senate felt the troopers were a more appropriate agency to grant and administer permits. A requirement that permits only be issued with the concurrence of the Commissioner of DOTPF and provisions for hearings under the Administrative Procedures Act for persons denied permits were also deleted by floor amendment.

* The Senate clearly concurred that permits for special racing events along state highways should be made more available to the general public and that the process for obtaining those permits should be made easier.

Under current law, no state agency has clear authority to grant permission to conduct racing events along state highways except ones involving motorcycles, automobiles, and snowmachines.

In the absence of that authority, general statutes governing the use of highways apply. These statutes (AS 28.35.140) and regulations (13AAC 02.175(d)&(e)) specifically forbid pedestrians and others from obstructing traffic or being on or along a state highway. Without SB 165, footracers, cross-country skiers, dog-mushers, etc. cannot legally conduct racing events on or along state highways.

Particularly in Alaska, where transportation corridors are at a premium, the need for the public to occasionally use state highways for racing events is apparent. SB 165 is a vehicle for streamling the process of obtaining permits in a manner consistent with public safety.

/gb

SB 165 SENATE JOURNAL - PAGE 339- 4 3/ 8/83

SENATE BILL NO. 165 by Senator Vic Fischer, entitled:

"An Act relating to bicycle racing on public highways."

was read the first time and referred to the Transportation Committee.

SB 165 SENATE JOURNAL - PAGE 458- 1 3/22/83

(SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165) by Senator Vic Fischer, entitled:

"An Act relating to racing events on public highways."

was read the first time and referred to the Transportation Committee.

SB 165 SENATE JOURNAL - PAGE 495- 2 3/25/83

The Transportation Committee considered (SPONSOR SUBSTITUTE) (FOR SENATE BILL NO. 165) (racing events on public highways) and a majority of the committee recommended do pass. The report was signed by Senator Moss, Chairman and concurred in by Senators Faiks and Kerttula. Senator Gilman signed "no recommendation".

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 was referred to the Rules Committee.

SB 165 SENATE JOURNAL - PAGE 592- 1 4/ 6/83

The Rules Committee considered (SPONSOR SUBSTITUTE FOR SENATE) (BILL NO. 165) (racing events on public highways) and a majority of the committee recommended it be placed on the April 6 calendar. The report was signed by Senator Faiks, Chairman and concurred in by Senators Kelly and Ferguson.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 appears on today's calendar.

SB 165 SENATE JOURNAL - PAGE 339- 4 3/ 8/83

SENATE BILL NO. 165 by Senator Vic Fischer, entitled:

"An Act relating to bicycle racing on public highways."

was read the first time and referred to the Transportation Committee.

SB 165 SENATE JOURNAL - PAGE 458- 1 3/22/83

(SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165) by Senator Vic Fischer, entitled:

"An Act relating to racing events on public highways."

was read the first time and referred to the Transportation Committee.

SB 165 SENATE JOURNAL - PAGE 495- 2 3/25/83

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SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 was referred to the Rules Committee.

SB 165 SENATE JOURNAL - PAGE 592- 1 4/ 6/83

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SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 appears on today's calendar.

(SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165) (racing events on public highways) was read the second time.

Senator Ray moved and asked unanimous consent that SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 was read the third time.

The question being: "Shall SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 (racing events on public highways) pass the Senate?" The roll was taken with the following result:

SS SB 165 3RD

Yeas:	15	Bennett, Eliason, Fahrenkamp, Faiks, Ferguson, Fischer Paul, Fischer Vic, Josephson, Kerttula, Moss, Mulcahy, Ray, Sackett, Stutes, Zieglen
Nays:	5	Gilman, Halford, Kelly, Pettyjohn, Rodey

and so, SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 passed the Senate.

Senator Rodey gave notice of reconsideration on SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165.

Senator Rodey requested that the reconsideration of (SPONSOR) (SUBSTITUTE FOR SENATE BILL NO. 165) (racing events on public highways) be taken up at this time.

SENATE BILLS IN THIRD READING

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 was before the Senate on reconsideration.

Senator Rodey moved and asked unanimous consent that SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 be held one day. Without objection, it was so ordered.

Senator Vic Fischer moved and asked unanimous consent that (SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165) (racing events on public highways) be returned to the Rules Committee. Without objection, it was so ordered.

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-4954

TO: Senator Pappy Moss, Chair
Senate Transportation Committee

FROM: Senator Vic Fischer

DATE: March 12, 1983

RE: Explanation of SB 165

Senate Bill 165 amends AS 05.90.001 to include bicycles among vehicles authorized to seek permits for the athletic commission for racing events of limited duration on state highways.

AS 05.90.001 provides authority to grant special permits, consistent with federal law and regulations, for racing events on state highways involving snow vehicles, automobiles and motorcycles. AS 05.90.001 (b) specifically, authorizes the athletic commission to grant those permits and sets out application procedures and methods to appeal denial of a permit from the commission.

Recently, bicycle enthusiasts have sought permits to conduct races along state highways for community fundraising events and other public purposes. Because AS 05.90.001 does not mention bicycles, the athletic commission cannot grant permits which they have no authority to consider.

AS 05.90.001 clearly establishes the legislatures intent to provide special authorization for "unconventional" use of state highways involving specified vehicles. It appears bicycles were left out as an oversite, rather than any intention on the part of the legislature to exclude them.

In order to provide authorization for bicycle events this summer, it is necessary to pass SB 165 as soon as possible. Your earliest consideration on this bill would be much appreciated.

cc: Senator Jalmar Kerttula

3-17-1983

Representative Terry Martin
State Capitol Building
Pouch V
Juneau, Alaska 99811

Re: Legislative efforts to develop a permitting procedure for bicycle races.

Dear Mr. Martin:

I am working on behalf of the bicycle racing community to help modify certain Alaska Statutes so that we may be able to develop a permitting procedure for bicycle racing.

Within the past few years an addition has been made to Title 13 of the Alaska Administrative Code which reads as follows:

> " (h) No bicycle race may be conducted upon a roadway, except as provided under AS 05.35. (In effect before 7/28/59; am 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70) Authority: AS 28.05.011 "

However, Chapter 35 as referred to in the above quotation, through apparent oversight, neglects to mention " bicycles " within Sec. 05.35.010 and Sec. 05.35.020. In the most recent update of the Alaska Statutes AS 05.35 has been renumbered AS 05.90.001. A copy of the relevant part of Title 13 and the current wording of AS 05.90.001 is attached.

I have also included a letter I received from Senator Jay Kerttula, dated 2-23-1983, and a bill which Senator Vic Fisher introduced on our behalf, dated 3-8-1983. In the letter from Senator Kerttula he acknowledges that an oversight was made concerning bicycles when Title 13 was adopted. I had contacted Senator Kerttula in my initial request for legislative help. He forewarded our packet of information to the Senate State Affairs Committee, chaired by Senator Vic Fisher and to the Health, Education, and Social Services Committee, chaired by Senator Joe Josephson for their review. Within a matter of days Senator Vic Fisher had introduced the attached bill.

I have been in touch with aides of both Senators Vic Fischer and Joe Josephson. I have been told that if a similar bill were introduced on the House side, speedier legislative action might result. I am hoping you might be in a position to help us with this legislation. Our racing season gets underway in less than a month. Until the bill passes we have the support of law inforcement officials and the highway department as long as we do all we can to help expedite the legislative process. According to AS 05.90.001 we must obtain permission through a permitting procedure from the athletic commission with the concurrence of the commissioners of highways and public safety. I have contacted the latter two commissioners and their replies are attached. I have written a letter to commission chairman Bob Vogt of the athletic commission, but he will apparently be out of state until later this month. With regard to your efforts in working with Senator Joe Joesepnson to redefine the responsibilities of the athletic commission, we would certainly be in favor of any legislation which would help streamline our permitting process for bicycle racing.

Please contact me if you have any questions. I look foreward to hearing from you.

Sincerely,

Bjarne Holm

Bjarne Holm
P.O. Box 4-2442
Anchorage, Alaska
99509

(b) No person may violate the provisions of secs. 385—420 of this chapter. The parent or guardian of a child may not authorize or knowingly permit a child to violate a provision of this chapter.

(c) When signs are erected indicating that no right, left or U-turn is permitted, no person operating a bicycle may disobey the direction of the sign unless first pulling to the extreme right or shoulder of the road, dismounting and making the turn as a pedestrian. (In effect before 7/28/59; am 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

13 AAC 02.390. TRAFFIC LAWS AND REGULATIONS APPLY TO PERSON RIDING BICYCLE. Repealed 6/28/79.

13 AAC 02.395. RIDING ON BICYCLES AND CERTAIN NONMOTORIZED CONVEYANCES. (a) Repealed 6/28/79.

(b) No person operating a bicycle upon a highway may carry a person other than the operator, unless the bicycle is equipped with a seat for the passenger, except that an adult rider may carry a child securely attached to his person in a backpack or sling.

(c) No person operating a bicycle or other nonmotorized conveyance may attach, hold on by hand or otherwise secure the bicycle or conveyance or himself to another vehicle so as to be towed or pulled.

(d) A person operating a bicycle upon a highway shall maintain control of the bicycle and shall at all times keep at least one hand upon the handlebars of the bicycle.

(e) No person may operate a unicycle, coaster, roller skates, or a similar device on a roadway.

(f) This section does not apply upon a roadway closed to motorized vehicle traffic. (In effect before 7/28/59; am 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

13 AAC 02.400. RIDING BICYCLES ON ROADWAYS AND BICYCLE PATHS. (a) A person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, and shall give way to the right as far as practicable to a motor vehicle proceeding in the same direction when the driver of the motor vehicle gives audible signal.

(b) Persons riding bicycles on a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding bicycles two abreast may not impede traffic and, in a laned roadway, shall ride within the farthest right lane.

(c) When a shoulder of the highway is maintained in good condition, an operator of a bicycle shall use the shoulder of the roadway.

(d) A person operating a bicycle on a trail, path, sidewalk, or sidewalk area shall

(1) exercise care to avoid colliding with other persons or vehicles;

(2) give an audible signal before overtaking and passing a pedestrian; and

(3) yield the right-of-way to any pedestrian.

(e) Repealed 6/28/79.

(f) A person riding a bicycle intending to turn left shall, unless he dismounts and crosses as a pedestrian, comply with the provisions of sec. 200 of this chapter. The operator of a bicycle must give a signal by hand and arm continuously during the last 100 feet traveled unless the hand is needed in the control or operation of the bicycle. When stopped to await an opportunity to turn, a hand and arm signal must be given continuously by the operator.

(g) No person may ride a bicycle upon a sidewalk in a business district or where prohibited by an official traffic-control device.

(h) No bicycle race may be conducted upon a roadway, except as provided under AS 05.35. (In effect before 7/28/59; am 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

Sec. 05.30.100. Reporting of accidents. The operator of a snow vehicle involved in an accident resulting in injury to, or death of a person, or property damage other than to his snow vehicle the estimated amount of which is $100 or more, shall immediately, by the quickest means of communication, give notice of the accident to the nearest state trooper or city police officer. (§ 1 ch 182 SLA 1968)

Collateral references. — Accidents involving negligence in operation of snowmobile, skimobile, or similar vehicle. 42 ALR3d 1422.

Liability for injury or death allegedly caused by defect in snowmobile or other recreational-purpose vehicle. 81 ALR3d 394.

Sec. 05.30.110. Penalty. A person who violates a provision of this chapter or a regulation adopted under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $100 for each offense. (§ 1 ch 182 SLA 1968)

Revisor's notes. — The word "adopted" was substituted for "promulgated" by the revisor of statutes pursuant to AS 01.05.031(b).

Cross references. — As to sentences for misdemeanors, see AS 12.55.135.

Sec. 05.30.120. Definition. In this chapter "snow vehicle" means a vehicle propelled by mechanical power, supported in part by skis, belts, cleats, or low pressure tires, and primarily designed to travel over ice or snow. (§ 1 ch 182 SLA 1968)

Revisor's notes. — A former paragraph defining "cowling" was transferred and redesignated as AS 05.30.040(b) by the revisor of statutes pursuant to AS 01.05.031(b).

Chapter 90. Miscellaneous Provisions.

Section
01. Racing events

Sec. 05.90.001. Racing events. (a) To the extent that it is consistent with federal law and regulations, snow vehicles, automobiles and motorcycles may be operated on state highways for special racing event of limited duration which are conducted according to (b) of this section.

(b) The athletic commission may issue, and for cause cancel, a permit to conduct a snow vehicle, automobile or motorcycle racing events as provided in this section under terms and conditions and at times and places the commission may determine. If the commission refuses to grant a permit to an applicant, or cancels a permit, the applicant or holder of the cancelled permit may, upon application, have a hearing under the provisions of the Administrative Procedure Act (AS 44.62). No permit may be issued by the commission for the use of

a state highway without the concurrence of the commissioner of highways and the commissioner of public safety. (§ 2 ch 192 SLA 1970; AS 05.35.010, 05.35.020)

Revisor's notes. — This section derives from AS 05.35.010 and AS 05.35.020 and was renumbered by the revisor of statutes under AS 01.05.031.

In renumbering the provisions comprising this section, the revisor designated the provisions of former AS 05.35.010 as subsection (a) and the provisions of former AS 05.35.020 as subsection (b), substituted "(b) of this section" for "a prearranged schedule under permit as provided for in AS 05.35.020" in subsection (a), and substituted "this section" for a reference to former AS 05.35.010 — 05.35.020 in the first sentence of subsection (b).

Collateral references. — 4 Am. Jur. 2d Amusements and Exhibitions §§ 28, 29-34, 46, 78.

61A C.J.S. Motor Vehicles §§ 571-587.

Zoning regulation forbidding "racing" or a "race track." 83 ALR2d 877.

Liability of participant in unauthorized highway race for injury to [illegible] person directly caused by other race. 4 ALR3d 431.

Liability of public authority for injury arising out of automobile race conducted on street or highway. 80 ALR3d 1192.

Alaska State Legislature

Senate

Office of the President

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 28, 1983

Mr. Bjarne Holm
The Arctic Bicycle Club
P.O. Box 4-2442
Anchorage, AK. 99509

Dear Mr. Holm:

Thank you for your recent letter. It does appear that there has been an oversight made concerning bicycles when Title 13 of the Alaska Administrative Code was adopted. I have forwarded your letter and attached materials to the Senate State Affairs Committee, Chaired by Sen. Vic Fischer; and the Health, Education, and Social Services Committee, chaired by Sen. Joe Josephson for their review and possible action. You may also wish to contact them directly on this matter.

Thank you for contacting me. I hope this matter is corrected to your satisfaction, and your race is a success.

Sincerely,

Senator Jay Kerttula
Senate President

JK/ja/jdk

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

POUCH Z
JUNEAU, ALASKA 99811
(TELEX 45-328)

February 8, 1983

Mr. Bjarne Holm
Arctic Bicycle Club
P.O. Box 4-2442
Anchorage, AK 99509

Dear Mr. Holm:

In response to your letter of January 11, 1983 as stipulated in Alaska Statutes Supplement Section 05.35.010, the Athletic Commission has the authority for initial issuance of permits for racing events. If the event occurs on the State highway, the concurrence of the Commissioner, Department of Public Safety must be obtained.

Since the permitting authority rests with the Athletic Commission, the basic requirements should be established by them. However, any vehicle, i.e. bicycle, operated on a State highway must conform to all general and any specific traffic regulations pertaining to that vehicle. Any Department of Transportation and Public Facilities restrictions or requirements would be in keeping with these Alaska Statutes or Administrative Code governing such activities. If these procedures are followed, there should be no problem in obtaining Department concurrence.

Thank you for the opportunity to comment on this matter of mutual concern.

Sincerely,

Daniel A. Casey
Commissioner

LH

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

POUCH N
JUNEAU, ALASKA 99811
PHONE: 465-4322

January 21, 1983

Mr. Bjarne Holm
Arctic Bicycle Club
P.O. Box 4-2442
Anchorage, AK 99509

Dear Mr. Holm:

It sounds as if you and your organization are in the midst of planning for an exciting year. Your first priority should be to ensure that the amendment to the wording of AS 05.90.001, to include bicycles, is accomplished. This will allow you to proceed legally for the proper authorization for the event.

Any future correspondence with reference to the request for authorization to conduct these events should be directed to the following address:

Alaska State Troopers
P.O. Box 6188 Annex
Anchorage, AK 99502
Attn: Director's Office

Your correspondence should include the scheduled date, time, proposed route, insurance coverage, and any other pertinent data. The Director's office will provide the originator of the correspondence with a form listing all the requirements and will be responsible for forwarding the required documents to this office for authorization.

To provide an idea of what this involves, a copy of this particular type of document is attached for your review. This involves snow machine racing so yours would be somewhat different.

As you can see from the enclosed document, approval must be obtained from the Commissioners of Athletics, Transportation and Public Facilities, and Public Safety. I can expedite the application once it is received by my office. However, I would recommend that you allow at least thirty (30) days from the date of application until the final authorization.

2LH

I do hope that I have been able to assist you in this matter, and if you have any further questions, I will be happy to discuss them with you.

Sincerely,

Robert J. Sundberg
Commissioner

cc: Col. Michael Kolivosky, Director
Alaska State Troopers

Attachment: a/s

The (agency's name) _____ will sponsor this race, and as sponsors will have liability insurance coverage in effect at the time of the event for all participants in the amount of $_____.

This event, to be known as _____ (name of race or contest) is scheduled to occur between _____, Alaska and _____, Alaska (route map attached) on the date of _____, 198____.

The sponsors will provide road guards, flagmen, signs, and barricades for any and all road crossings along the route of snowmachine travel.

All snowmachines will be properly registered in compliance with State statutes AS 05.30.020 through AS 05.30.080.

The crossings of all roads and bridges shall be at a maximum speed of 15 miles per hour.

All crossings will be so located as to provide adequate sight distance for motorists using the roadway.

At road crossings, all caution and safety signs intended to regulate traffic flow and insure maximum safety shall provide the follwoing information (BE PREPARED TO STOP, CW20-8, 36" by 36", located 1000 feet from each side of crossing point). Two flagmen with orange vests and stop-go paddles are provided, one for each direction of travel.

Sign stating flagman ahead, 500 feet, size CW20-7, 36" by 36", shall be located 500 feet each side of crossing point. These signs and placement shall conform to the Alaska Traffic Manual. If, at any time, either the Department of Transportation and Public Facilities or the Department of Public Safety feel that the race is endangering the traveling public, the race will be suspended.

No night (hours of darkness) crossings will be authorized.

No parking within 500 feet of any snowmachine crossing point.

The motor mushers will file a bond with the State for any necessary cleanup as a result of this race.

Other Special Requirements:

By signing below the applicant agrees to perform all the conditions of this permit and shall indemnify and save harmless the State, it's officers and employees from all liability, judgement, cost, expenses and claims growing out of damages or alleged damages, of any nature whatsoever to any person or property arising out of performance or nonperformance of the permit.

Authorized Representative	Director of Alaska State Troopers
Authorized Representative	Date

APPROVAL

Commissioner, Dept. of Transportation/Public Facilities	Date
Commissioner, Department of Public Safety	Date
Commissioner of Athletics	Date

SB

1741

Bill No. Sponsor Substitute for Senate Bill 174

Date May 4, 1983

Title "An Act relating to employment preferences for state residents; and providing for an effective date."

Contact: Judy Knight
465-2700

Bob Baccias
465-4780

During the years when the Trans-Alaska Pipeline was being built, the department maintained an effective resident hire program, both within the construction of the pipeline and public construction contracts. A resident hire unit for enforcement of Title 36 was located within the Wage and Hour Administration, which was staffed with 12 employees, eight professional and four clerical support. Their activities were supportive of the activities of the three staff members assigned to public construction enforcement. Many newcomers finding it difficult to obtain oilfield work turned to traditional construction activities for employment. The resident requirements for "pipeline" employment were substantially more stringent than those for public construction. The result was that employers hiring for public construction and the Title 36 enforcement unit could rely on the activities of the "pipeline" enforcement unit for much of the legwork required to verify residency. It was a simple matter to check for the "resident card" required under Title 38.

In 1978 the Supreme Court in the matter of Hicklin v. Orbeck, overturned the residency aspect of Title 38. Subsequently, in the budget process all twelve "pipeline" positions were deleted and the entire staff was laid off. Consequently, since 1978 the department has not had any positions funded for enforcement of resident hire.

The Department recently completed a survey to determine the wages paid to non-residents that should have been paid to residents on public construction. Based on this survey we projected the figures for the entire fiscal year ending June 30, 1983. To arrive at the dollar value of wages lost by displaced residents we used a 40 hour work week and a base level wage, plus benefits, for the lowest paid job class subject to our wage surveys. Therefore, the actual dollar value of wages lost to residents in FY 83 would be more than the figure estimated from certified payrolls.

Number of displaced residents:	3767
Estimated value of lost wages:	$3,394,160.00

The Department supports this legislation which addresses resident preference in light of recent court decisions. This bill, coupled with the necessary staff resources to enforce resident preference, will do much to increase employment opportunities for Alaskan residents.

Approved:



Commissioner

POSITION PAPER/Department of Labor

FISCAL NOTE | Revision Date May 6, , 1983

I. REQUEST

Bill/Resolution No. SS for SB 174
Title: "...employment preference..."
Sponsor: Senator Josephson
Requestor: Senate Labor & Commerce

II. FISCAL DETAIL

Agency Affected: Labor
Program Category Affected: Worker Protectio
BRU, Program of Subprogram(s) Affected:
Labor Standards & Safety, Wage & Hour

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		72.3	76.6	81.2	86.1	91.3
200 TRAVEL		0				
300 CONTRACTUAL		21.0	22.3	23.6	25.0	26.5
400 COMMODITIES		1.0	1.1	1.2	1.3	1.4
500 EQUIPMENT		3.0	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		97.3	100.0	106.0	112.4	119.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		97.3	100.0	106.0	112.4	119.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Donald R. Wilson Phone: 465-4870
Division: Labor Standards and Safety Date: May 6, 1983

Approved by Commissioner: Jim Robison Date: May 6, 1983
Department: Labor

LEG:A:48

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

Under this bill the Department of Labor will be required to closely scrutinize certified payrolls to assure that residents of an area, which has been designated as an area impacted by economic disaster, are given first preference for employment, where they are available and qualified, so that the economic effects of alleviating the disaster will be maximized. If resident labor is not available, the contractor will inform the department of the number of additional workers needed, the positions to be filled, and the efforts made at recruitment in the area. The department will investigate, and if it is determined that a good faith effort has been made by the contractor, will authorize the recruitment of qualified and available workers from areas adjoining the area impacted by such economic disaster; then followed by residents of the region, and then by residents of the State at large. This expansion of auditing and investigative service will be significant and labor intensive.

Staffing would provide a technician for full-time resident audits, and a full-time investigator in the office to review audit results, make investigations of violations uncovered by the audits, and investigate complaints from sources outside the agency. The investigator would travel throughout the state to provide a quick reaction capability to remote job sites where a majority of the violations occur.

Additional workload results from the requirement that residency is based on worker hours on a craft-by-craft basis.

Assumptions:

Effective date of July 1, 1983
Inflation rate of 6% per annum
Equipment Costs of $9,000 is a one time item
Inclusion of additional funding ($251.8 in the Senate Budget) in the final appropriations bill.

The original fiscal note submitted for Sponsor Substitute for Senate Bill 174 requested $349.0 (6 positions). Of this amount, $251.8 (4 positions) has been included in the Senate Budget for the Department. This fiscal note is the difference between the original amount requested and the amount included in the Senate Budget 97.3 (2 positions).

LEG:A:48

1.	POSITION TITLE: Wage and Hour Technician I			RANGE/STEP: 12A	BARG. UNIT: GGU	FORM 12 PAGE/LINE	GOV.	APPROV. / DISAPP.
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER: SS for SB174	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT: 99	LEG.
3.	CONTINUATION LEVEL		ADDITION: XX					

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	23,688	
6.	Benefits	3,759	
7.	Supplemental Benefits	1,452	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES 01		31,779
10.	Travel 02		-0-
11.	Contractual 03		11,520
12.	Commodities 04		500
13.	Equipment 05		1,500
14.	Other		
15.	TOTAL COST		45,299

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.	100	General Funds 1004	45,299
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position will be required to audit certified payrolls to ascertain if contractors on public projects are employing local residents; if good faith efforts have been made to hire local residents; and further if labor from adjancent areas is being utilized when local skilled labor is not available.

Contractual service includes $3,120 for indirect support services, and $3,400 for rent. All other costs are normal operating expenses.

The $1,500 in the equipment line item is to purchase basic office equipment.

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

Revised Date

LEG:A:36

FY 84

01-1136 (7/82) - 13

1. POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
Wage and Hour Investigator I				16A	GGU				
2. TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
PFT	12	SS for SB174				99			

3. CONTINUATION LEVEL | | ADDITION | X

4. TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES		
5. Salary	30,888	
6. Benefits	4,902	
7. Supplemental Benefits	1,894	
8. Fixed Benefits	2,880	
9. TOTAL PERSONAL SERVICES 01		40,564
10. Travel 02		0
11. Contractual 03		9,468
12. Commodities 04		500
13. Equipment 05		1,500
14. Other		
15. TOTAL COST		52,032

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		C.F. Match 1003	
18.		General Funds 1004	52,032
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&H USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

This position would provide professional review of the audit trail for resident hire; make investigations of suspected non-compliance and enforce the required quotas of resident to non-resident. This position would also provide quick reaction response capability to remote areas to apprehend violators while the project is still in process and funds are available for retention by the contacting agency that would have been paid to displaced residents.

Contractual services include $4,068 for indirect support services and $3,400 for rent and $2,000 for basic operating cost.

The position will require $1,500 to purchase basic office equipment.

REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Public Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

Revised Date

FY 84

1136 (7/82) - 13

LEC:A:40

FISCAL NOTE | Revision Date: , 1983

I. REQUEST

Bill/Resolution No.: SSSB 174
Title: Employ. Preference, State Residents
Sponsor: Josephson, Kerttula, et al.
Requestor:

II. FISCAL DETAIL

Agency Affected: Department of Labor
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Guy Stringham Guy Stringham Phone: 465-4403
Division: Labor Relations Date: April 28, 1982

Approved by Commissioner: Lisa Rudd Date: 5/4/1983
Department: ADMINISTRATION

Distribution:
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3/8/83

7/0502-10-3/BDGSF1

STATE OF ALASKA
FISCAL NOTE

Revision Date Original, 1983

I. REQUEST

Bill/Resolution No.: SS for SB 174
Title: "An Act relating to employment..."
Sponsor: Senator Josephson
Requestor: Senate Labor & Commerce

II. FISCAL DETAIL

Agency Affected: Labor
Program Category Affected: Worker Protection
BRU, Program of Subprogram(s) Affected: Wage & Hour

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		217.0	230.0	243.8	258.4	273.9
200 TRAVEL		48.0	50.9	54.0	57.2	60.6
300 CONTRACTUAL		72.0	76.3	80.9	85.8	90.9
400 COMMODITIES		3.0	3.2	3.4	3.6	3.8
500 EQUIPMENT		9.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		349.0	360.4	382.1	405.0	429.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		349.0	360.4	382.1	405.0	429.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		6	6	6	6	6
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Don Wilson Phone 465-4870
Division: Labor Standards & Safety Date: 3/10/83

Approved by Commissioner: Jim Robison Date:
Department: Labor
LEG:A:47

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

1.	POSITION TITLE: Wage and Hour Technician I			RANGE/STEP: 12A	BARG. UNIT: GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER: SSforSB 174	PCN NUMBER:	BRU PRIORITY:	LOCATION: Anchorage	ELECTION DISTRICT: 99	LEG.		
3.	CONTINUATION LEVEL		ADDITION	XXX					

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	23,688	
6.	Benefits	3,759	
7.	Supplemental Benefits	1,452	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	31,779
10.	Travel	02	-0-
11.	Contractual	03	11,520
12.	Commodities	04	500
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		45,299

	RECEIPT CODE	FUNDING SOURCE		AMOUNT
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.	100	General Funds	1004	45,299
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position will be required to audit certified payrolls to ascertain if contractors on public projects are employing local residents; if good faith efforts have been made to hire local residents; and further if labor from adjacent areas is being utilized when local skilled labor is not available.

Contractual service includes $3,120 for indirect support services, and $3,400 for rent. All other costs are normal operating expences.

The $1,500 in the equipment line item is to purchase basic office equipment.

13 REQUEST FOR NEW POSITION

01-1136 (7/82) - 13

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

Revised Date

FY 84

LEG-A-35

1.	POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
	Wage and Hour Technician I				12A	GGU				
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	PFT	12	SSforSB 174			Fairbanks	99			

3.	CONTINUATION LEVEL		ADDITION	XX

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	23,688	
6.	Benefits	3,759	
7.	Supplemental Benefits	1,452	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES 01		31,779
10.	Travel 02		-0-
11.	Contractual 03		11,520
12.	Commodities 04		500
13.	Equipment 05		1,500
14.	Other		
15.	TOTAL COST		45,299

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.	100	General Funds 1004	45,299
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position will be required to audit certified payrolls to ascertain if contractors on public projects are employing local residents; if good faith efforts have been made to hire local residents; and further if labor from adjacent areas is being utilized when local skilled labor is not available.

Contractual service includes $3,120 for indirect support services, and $3,400 for rent. All other costs are normal operating expences.

The $1,500 in the equipment line item is to purchase basic office equipment.

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

Revised Date

FY 84

LEG:A:36

1.	POSITION TITLE: Wage and Hour Technician I			RANGE/STEP: 12A	BARG. UNIT: GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER: SSforSB 174	PCN NUMBER	BRU PRIORITY	LOCATION: Juneau	ELECTION DISTRICT: 99	LEG.		

3.	CONTINUATION LEVEL	ADDITION	XX

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	23,688	
6.	Benefits	3,759	
7.	Supplemental Benefits	1,452	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	31,779
10.	Travel	02	-0-
11.	Contractual	03	11,520
12.	Commodities	04	500
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		45,299

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.	100	General Funds	1004	45,299
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

This position will be required to audit certified payrolls to ascertain if contractors on public projects are employing local residents; if good faith efforts have been made to hire local residents; and further if labor from adjacent areas is being utilized when local skilled labor is not available.

Contractual service includes $3,120 for indirect support services, and $3,400 for rent. All other costs are normal operating expences.

The $1,500 in the equipment line item is to purchase basic office equipment.

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

Revised Date

FY 84

01-1136 (7/82) - 13

1.	POSITION TITLE: Wage and Hour Investigator I			RANGE/STEP: 16A	BARG. UNIT: GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER: SSforSB 174	PCN NUMBER	BRU PRIORITY	LOCATION: Juneau	ELECTION DISTRICT: 99	LEG.		
3.	CONTINUATION LEVEL		ADDITION						

4.	TYPE OF EXPENDITURE	2	AMOUNT 3
	1		
	PERSONAL SERVICES		
5.	Salary	30,888	
6.	Benefits	4,902	
7.	Supplemental Benefits	1,894	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES 01		40,564
10.	Travel 02		12,000
11.	Contractual 03		12,468
12.	Commodities 04		500
13.	Equipment 05		1,500
14.	Other		
15.	TOTAL COST		67,032

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	67,032
19.		I-A Receipts 1005	
20.		Program Receipts 1020	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER ___ - ___ - ___ - ___ - ___

JUSTIFICATION

This position would provide professional review of the audit trail for resident hire; make investigations of suspected non-compliance and enforce the required quotas of resident to non-resident. This position would also provide quick reaction response capability to remote areas to apprehend violators while the project is still in process and funds are available for retention by the contracting agency that would have been paid to displaced residents.

Contractual services includes $4,068 for indirect support services and $3,400 for rent and $5,000 for basic operating cost.

The position will require $1,500 to purchase basic office equipment.

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Public Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

Revised Date

FY 84

TION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
ge and Hour Investigator I				16A	GGU				
OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	EXEC.		
T	12	SSforSB 174			Fairbanks	99			
INUATION LEVEL		ADDITION							

TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES		
ry	30,888	
fits	4,902	
lemental Benefits	1,894	
d Benefits	2,880	
TAL PERSONAL SERVICES	01	40,564
el	02	18,000
ractual	03	12,468
odities	04	500
pment	05	1,500
r		
TAL COST		73,032

CEIPT CODE	FUNDING SOURCE	
	Federal Receipts 1002	
	G.F. Match 1003	
	General Funds 1004	73,032
	I-A Receipts 1005	
	Program Receipts 1028	
	Other	

USE ONLY
NUMBER __ __ - __ __ __ - __ __ - __ __

JUSTIFICATION

This position would provide professional review of the audit trail for resident hire; make investigations of suspected non-compliance and enforce the required quotas of resident to non-resident. This position would also provide quick reaction response capability to remote areas to apprehend violators while the project is still in process and funds are available for retention by the contracting agency that would have been paid to displaced residents.

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UEST FOR
POSITION

AGENCY Labor

PROGRAM Public Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

FY 84

Revised Date

POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
Wage and Hour Investigator I				16A	GGU				
TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
PFT	12	SSforSB 174			Anchorage	99			
CONTINUATION LEVEL		ADDITION							

TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES		
Salary	30,888	
Benefits	4,902	
Supplemental Benefits	1,894	
Fixed Benefits	2,880	
TOTAL PERSONAL SERVICES	01	40,564
Travel	02	18,000
Contractual	03	12,468
Commodities	04	500
Equipment	05	1,500
Other		
TOTAL COST		73,032

RECEIPT CODE	FUNDING SOURCE	
	Federal Receipts 1002	
	G.F. Match 1003	
	General Funds 1004	73,032
	I-A Receipts 1005	
	Program Receipts 1028	
	Other	

B&M USE ONLY
A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

This position would provide professional review of the audit trail for resident hire; make investigations of suspected non-compliance and enforce the required quotas of resident to non-resident. This position would also provide quick reaction response capability to remote areas to apprehend violators while the project is still in process and funds are available for retention by the contracting agency that would have been paid to displaced residents.

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REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Public Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour

Revised Date

FY 84

7/82) - 13

TO: Senator Josephson
FROM: H.M. Lancaster II
DATE: March 22, 1983

RE: Senate bill 174--Alaska Hire Preference Law

The current preferential hire law facially discriminates against non-residents in public works employment. Residency, as applied in AS 36.010.100, is based upon one's domicile which is defined in AS 36.95.010(5). Simple residency requirements are analyzed under the Privileges and Immunities Clause of the U.S. Constitution, Article IV, sec. 2.

Not all discrinination under the clause is invalid. Toomer v. Witsell, 334 U.S. 385, 396 (1948). However, the discrimination must be motivated by an independent and valid state purpose, and the clause "does not bar discrimination beyond the mere fact that they are citizens of other states." Id. To demonstrate a substantial relationship between a valid state purpose and the discrimination at issue, the state must show that the "noncitizens constitute a particular source of evil at which the statute is aimed." Toomer, at 398; Hicklin v. Orbeck, 437 U.S. 518, 526 (1978). The Privileges and Immunities Clause ensures that this retained sovereignty will not render an individual an alien within his own nation. Paul v. Virginia, 8 Wall 168, 180 (1869).

States, do however, routinely act in capacities other than as a sovereign. In Hughes v. Alexandria Scrap Corp., 426 U.S. 794 (1976) and in Reeves Inc. v. Stake, 447 U.S. 429 (1980), the Court held that, state and local governments, in the face of a Commerce Clause challenge, may participate in the market place and exercise the right to favor its own citizens over others.

The propriety of the principal of AS 36.010.100 has recently been tested in Labors Local Union No. 374 v. Felton Construction, 654 P2d. 67(Washington 1982). The Court decided the threshold inquiry of whether the interest of preferential hire subject to state legislation is a privilege or immunity within the meaning of the U.S. Constitution, Article IV, sec. 2. In the spring of 1980, the City of Aberdeen awarded a sanitary sewer project to the lowest bidder, the Felton Construction Company, a Montana corporation. The project was funded by 25 percent

state and local funds and 75 percent federal funds. Appellant sued Felton and the city alleging that Appellees ahd not employed the statutorily required percentage of Washington residents on the city sewer project.

The Washington court in its analysis stated the following rationale for discharging the state's preferential hire law:

> (1) no valid independent reason shown for discriminating against nonresidents
>
> (2) nothing was shown to indicate that noncitizens constituted a peculiar source of evil at which the statute was aimed.
>
> (3) no reasonable relationship between the danger represented by non citizens, as a class, and the discrimination praticed upon them.

The Court cited Baldwin v. Fish & Game Comm'n, 436 U.S. 371, 383 (1978) for the proposition that the extent to which the privileges and immunities clause protects a citizen's right to be placed on the same footing with citizens of other states so far as the advantages resulting from citizenship in the States are concerned, those rights are fundamental. The right to pursue a livelihood in a State other than one's own is a right that is protected by the Clause and points to those interests basic to the maintenance or wellbeing of the Union.

The Court analyzed the motive of the State and declared that" While the State's proprietary role would not exempt it from privileges and immunities scrutiny, it might justify an otherwise illegitimate legislative purpose of seeking to forster state economic welfare." Felton, at p. 70. The State failed to demonstrate a valid state interest. Secondly,"absent an indentified peculiar evil" stated the Court, " it is difficult to determine if the statute is closely related to eliminating the evil non-residents present."

The Court did not dispute the proprietary interest of the State. The project was a public works effort involving state tax dollars. However, the Court found that the statute was not limijted to the ownership rights of the State. It specifically placed linitations on private contractors and their subcontractors. And in doing so the Court found

inappropriate the the hardship created by the statute because it affected private employers who had no direct dealings with the state. Felton, at p. 71.

It is at this juncture where the current Alaska employment preference law is infirm. It applies to "... any other retention of services necessary to complete any given project,". That language carries with it the prohibition elicited in Hicklin,"that an attempt to force virtually business that benefits in some way from the economic ripple effect... biases their employment practices in favor of the State's residents." at p. 532. The current statute is probably too broad in its application.

The viability of SB 174 rests upon the White Case. The court did not reach the Privileges and Immunities question. (NOTE: see the March 9, 1983 memo from Billy Berrier). However, the Court does quote the prohibition of Hicklin as to the broadness of applicability, and hints that a more narrowly drawn means of hiring local workers with a statement of local economic need may pass the test. The state as a market participant may be affroded the privileges of other private enterprises in the execution of its policy with its own resources.

Detail Analysis Senate Bill 174

Under this bill, the Department of Labor will be required to closely scrutinize certified payrolls to assure that residents of an area, which has been designated as an area impacted by economic disaster, are given first preference for employment, where they are available and qualified, so that the economic effects of alleviating the disaster will be maximized. If resident labor is not available, the contractor will inform the department of the number of additional workers needed, the positions to be filled, and the efforts made at recruitment in the area. The department will investigate and, if it is determined that a good-faith effort has been made by the contractor, will authorize the recruitment of qualified and available workers from areas adjoining the area impacted by such economic disaster; then followed by residents of the region; and then by residents of the State at large. This expansion of auditing and investigative service will be significant and labor intensive.

Staffing would provide a technician in each regional office for full-time resident audits. The staffing would also provide a full-time investigator in each office to review audit results, make investigations of violations uncovered by the audits, and investigate complaints from sources outside the agency. The investigaters would have a travel budget which provides a quick reaction capability to remote job sites where a majority of the violations occur.

Assumptions:

Effective date of July 1, 1983
Inflation rate of 6 percent per annum
Equipment costs of $9,000 is a one-time item

Alaska State Legislature

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Senator J. Kerttula

FROM: Senator Joe Josephson

DATE: May 11, 1983

RE: SSSB 174 Preferential Hire

Dear Mr. President:

While support for the substance of SSSB 174 appears virtually unanimous among the public and the legislators, some concerns regarding the fiscal note have emerged.

The Department of Labor has asked for six (6) new employees to enforce the provisions of SSSB 174 should it become law. The Department of Labor has very conservatively estimated wage savings to Alaskans in excess of 3.4 million dollars from the level of enforcement this funding would permit. Given the very conservative nature of Department of Labor's estimates this equals a greater than ten to one return to the citizens of Alaska for each State dollar.

The Senate Finance Committee has already included funding for four of the positions requested by the SSSB 174 fiscal vote as a special Alaska Hire unit within the Department of Labor. I believe we can anticipate a more active enforcement of Alaska hire by the new administration. I believe this fact, combined with the craft by craft requirement of SSSB 174, justifies the addition of all the requested six employees.

I would request your guidance and assistance as to how to best formulate the fiscal note to clarify this situation, guarantee adequate funding of Alaska Hire enforcement, and promote the passage of this legislation.

Joe Josephson
Senator Joe Josephson

JPJ/dd/cme

cc: Senator Sackett
Commissioner Robinson
Peter McDowell, Director OMB

Alaska State Legislature

Official Business

Pouch
State Capitol
Juneau, Alaska 99811

TO: Senators Kerttula, Eliason, Mulcahy, Bennett, Sackett, and Rodey

FROM: Senator Josephson

DATE: May 5, 1983

RE: SS SB 174 Preferential Hire

Dear Colleague:

Over the past three weeks, I have received numerous letters, telephone calls and POM's concerning this legislation. You and I, and the people, want to strengthen the employment position of Alaskans in the face of outside employers using outside labor on local projects.

SB 174 was fashioned after an executive order approved in White v. Mass, Council of Constr. Emp., the United States Supreme court decision announced on February 28, 1983. The Court upheld a City of Boston executive order which required at least 50% bona fide resident hire on "any construction project funded in whole or in part by City funds, or funds which... the City expends or administers, and to which the city is signatory." The Court, in the face of a federal constitution Commerce Clause challenge, held that "the application of the mayor's executive order to the contracts in question did not violate the Commerce Clause...".

A recent Washington Supreme Court decision, has cast legal doubt about the validity of AS 36.10 as presently constituted. SB 174 takes advantage of the White decision and puts AS 36.10 in a form that should create a constitutionally permissible employment preference statute.

Subsection (a) addresses employment preference in municipalities only, thus falling well within the boundaries established in White, and avoiding the Commerce Clause challenge.

Subsection (b) addresses employment preference on construction projects partly or wholly funded by state money. This subsection requires that 95 per cent of all workers on such projects be Alaska residents. It also requires that each craft of workers be composed of 95% Alaskan residents. This craft by craft provision will insure that Alaskans will be offered jobs in all craft areas and prevent the importation of a particular craft of workers at the expense of Alaskan residents.

Joe Josephson

Senator Joe P. Josephson

Bill No. Sponsor Substitute for Senate Bill 174

Date May 4, 1983

Title "An Act relating to employment preferences for state residents; and providing for an effective date."

Contact: Judy Knight
465-2700

Bob Bacolas
465-4780

During the years when the Trans-Alaska Pipeline was being built, the department maintained an effective resident hire program, both within the construction of the pipeline and public construction contracts. A resident hire unit for enforcement of Title 36 was located within the Wage and Hour Administration, which was staffed with 12 employees, eight professional and four clerical support. Their activities were supportive of the activities of the three staff members assigned to public construction enforcement. Many newcomers finding it difficult to obtain oilfield work turned to traditional construction activities for employment. The resident requirements for "pipeline" employment were substantially more stringent than those for public construction. The result was that employers hiring for public construction and the Title 36 enforcement unit could rely on the activities of the "pipeline" enforcement unit for much of the legwork required to verify residency. It was a simple matter to check for the "resident card" required under Title 38.

In 1978 the Supreme Court in the matter of Hicklin v. Orbeck, overturned the residency aspect of Title 38. Subsequently, in the budget process all twelve "pipeline" positions were deleted and the entire staff was laid off. Consequently, since 1978 the department has not had any positions funded for enforcement of resident hire.

The Department recently completed a survey to determine the wages paid to nonresidents that should have been paid to residents on public construction. Based on this survey we projected the figures for the entire fiscal year ending June 30, 1983. To arrive at the dollar value of wages lost by displaced residents we used a 40 hour work week and a base level wage, plus benefits, for the lowest paid job class subject to our wage surveys. Therefore, the actual dollar value of wages lost to residents in FY 83 would be more than the figure estimated from certified payrolls.

Number of displaced residents:	3767
Estimated value of lost wages:	$3,394,160.00

The Department supports this legislation which addresses resident preference in light of recent court decisions. This bill, coupled with the necessary staff resources to enforce resident preference, will do much to increase employment opportunities for Alaskan residents.

Approved:

Tom Robinson
Commissioner

POSITION PAPER/Department of Labor


SB


175

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 175
Title: An Act relating to Non-Competitive Purchases
Sponsor: Bennett
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: General Services & Supply
BRU, Program or Subprogram(s) Affected: Purchasing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert J. Link Phone: 465-2250
Division: General Services & Supply Date: April 23, 1984

Approved by Commissioner: Lisa Rudd Date: 4/30/84
Agency: DEPARTMENT OF ADMINISTRATION

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

5/11D1/0423-03

Rev. 3-20-84
19/FORMS/FN

Sec. 37.05.230. Competitive bids. In the manner provided in this chapter and regulations established under it

(1) a contract for construction and repairs, or a purchase of and contract for supplies, materials, equipment, and contractual services must be based on competitive bids; an award shall be made to the lowest responsible bidder after advertising for bids, except that (A) a bid shall be awarded to an Alaska bidder if the bid is not more than five per cent higher than the lowest nonresident bidder's; and (B) competitive bids need not be required (i) for contractual services where no competition exists; (ii) for sales involving fair trade items; (iii) when, in the judgment of the purchasing agent, food, clothing, or medical supplies, or materials for use in laboratory and experimental studies may be purchased otherwise to the best advantage of the state; (iv) where rates are fixed by law or ordinance; (v) for items traded in on like items; or (vi) for professional services;

(2) if the amount of the contractual services, purchase, or sale is estimated to exceed $5,000, sealed bids shall be solicited, when practicable, by publication in a newspaper calculated to reach prospective bidders and by posting notices in public places within the area where the work is to be performed or material furnished and in addition the department may also designate a trade journal for publication; the department shall also solicit bids by sending notices by mail to all active prospective bidders known to it and all bids shall be sealed when received, and shall be opened in public at the hour stated in the notice; the department may limit the solicitation of bids or negotiate directly if it finds that it is in the best interests of the state;

(3) a contractual service, purchase or sale where the known requirements are estimated to be less than $5,000 may be made either upon competitive bids in accordance with (2) of this section or in the open market, in the discretion of the department; but, so far as practicable, shall be based on at least three competitive bids and recorded as provided in AS 37.05.240; small purchases of less than $500 in the discretion of the department may be made on the open market, and may be by cash payment from petty cash accounts set aside for that purpose; the department shall determine the amount of the petty cash accounts needed by each state agency, and inspect the petty cash accounts at least once each year to determine that the total plus amounts of receipts for unreplenished disbursements is equal to the fixed sum of cash set aside; shortages in petty cash accounts are a personal liability of the responsible head of the agency to whom the account is set aside; the department shall make all necessary regulations governing use and replenishment of petty cash funds;

(4) the provisions of this section relative to competitive bids do not apply to contracts for the operation of transportation systems for students to and from the schools within the state, as are authorized under AS 14.09.010; and these contracts may be awarded by bid or negotiation and, at the discretion of the Board of Education, may be awarded for periods of three years or less;

(5) an "Alaska bidder," for the purpose of bid awards under (1) (A) of this section, is a person who

(A) holds a current Alaska business license,

(B) submits a bid for goods or services under the name as appearing on the person's current Alaska business license,

(C) has maintained a place of business within the state for a period of six months immediately preceding the date of the bid;

(6) the competitive bid requirements of this section do not apply to air taxi services used by state employees when no formal contract is executed; the department affected shall pay the air taxi operator the tariff rates as published by the operator with the Air Transportation Commission for the type of aircraft required; the tariffs need not be uniform throughout the state and may reflect the diverse conditions of various areas of the state; the air taxi service used in each case shall be selected by the state employee who is to fly in the aircraft, or if more than one state employee is flying in the aircraft by the employee in charge; in all cases the air taxi operator shall have complied with AS 02.05 and other prequalifying regulations established by the department;

(7) the provisions of this section relative to an "Alaska bidder" do not apply to contracts estimated to exceed $5,000 of the Department of Transportation and Public Facilities which are authorized under AS 35.15 or AS 19.10;

(8) the provisions of this section relative to competitive bids do not apply to the purchase of products or services manufactured or provided by a sheltered workshop;

(9) the provisions of this section relative to competitive bids do not apply to the purchase of products or services provided by the correctional industries program established under AS 33.32;

(10) requests for and acceptance of bids or other proposals for professional services shall comply with AS 24.23 or AS 36.28. (§ 3 art IV ch 82 SLA 1955; am §§ 8 — 10, 23 ch 186 SLA 1957; am § 1 ch 77 SLA 1959; am § 1 ch 158 SLA 1962; am § 1 ch 82 SLA 1964; am §§ 1, 2 ch 92 SLA 1967; am § 1 ch 61 SLA 1970; am § 1 ch 92 SLA 1975; am §§ 1, 2 ch 194 SLA 1975; am Executive Order No. 39, § 11 (1977); am § 5 ch 53 SLA 1982; am §§ 6 — 8 ch 144 SLA 1982)

Revisor's notes. — In 1983, (1)(B) and (1)(C) of this section were renumbered as (1)(A) and (1)(B) respectively and reference to the repeal of former (1)(A) was deleted.

Cross references. — For preference for Alaska forest products, see AS 36.15.010; for preference for Alaska producers or dealers in making state purchases or awarding contracts for supplies, see AS 36.20.010.

Effect of amendments. — The first 1982 amendment added paragraph (9).

The second 1982 amendment in paragraph (2), substituted "$5,000" for "$2,500" near the beginning and inserted "limit the solicitation of bids or" near the end. The amendment also substituted "$5,000" for "$2,500" and "$500" for "$300" in paragraph (3) and added paragraph (10).

Legislative history reports. — For report on 1962 amendment, see 1962 House Journal, pages 591, 592.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

M E M O R A N D U M

May 14, 1984

SUBJECT: Sectional Analysis of SB 175

TO: Representative Mitch Abood
Chairman
House State Affairs Committee

FROM: Richard C. Folta
Legislative Counsel

The bill amends AS 37.05.230 by adding a new paragraph that the governor, assistants to the governor, lieutenant governor, legislators, judges in all courts, the head or deputy head of departments or divisions, chairman or members of commissions or boards, state employees, and elected or appointed municipal officers may not sell a product or provide a service to the state under the noncompetitive provisions of AS 37.05.230, i.e.

(1) contractual services where no competition exists

(2) sales including fair trade items

(3) certain professional services

(4) rates fixed by law or ordinance

(5) certain speciality items

(6) certain school bus contracts

(7) informal air taxi services

(8) certain Department of Transportation and Public Facilities industries services or products

RCF:ojb
J7/060

Position Paper

SB 175

The Department of Administration is opposed to this bill as written.

This bill would remove the exemption from competitive bidding for certain goods or services if the intended provider of those goods or services was a public official or a State employee. As written, it will probably result in the State avoiding doing business with affected firms.

The Department of Administration has no objections to the apparent intent of this bill. It is necessary to point out, however, that the bill may affect areas of AS 37.05.230 it was not intended to. These areas are subsection 3, concerning non-competitive purchases under $500, subsection 4, concerning school bus service, subsection 8, concerning sheltered workshops, and subsection 9, concerning Corrections industries.

There may also be potential conflict of interest situations arising from implementation of this legislation in that award of a competitive bid to a public official or certain State employees may be contrary to the common law we operate under.

It appears that the remedy as to which part of the statute is to be affected lies in changing the bill to read, *Section 1. AS 37.05.230, subsection 6, is amended . . .

The potential conflict of interest situations may be remedied by proposed ethics legislation.

Robert J. Link
Director
Division of General Services & Supply
Department of Administration

4-30-84
Date

Commissioner Lisa Rudd
Department of Administration

5/8/84
Date

5/11D1/0423-04/1

Sec. 37.05.230. Competitive bids. In the manner provided in this chapter and regulations established under it

(1) a contract for construction and repairs, or a purchase of and contract for supplies, materials, equipment, and contractual services must be based on competitive bids; an award shall be made to the lowest responsible bidder after advertising for bids, except that (A) a bid shall be awarded to an Alaska bidder if the bid is not more than five per cent higher than the lowest nonresident bidder's; and (B) competitive bids need not be required (i) for contractual services where no competition exists; (ii) for sales involving fair trade items; (iii) when, in the judgment of the purchasing agent, food, clothing, or medical supplies, or materials for use in laboratory and experimental studies may be purchased otherwise to the best advantage of the state; (iv) where rates are fixed by law or ordinance; (v) for items traded in on like items; or (vi) for professional services;

(2) if the amount of the contractual service, purchase, or sale is estimated to exceed $5,000, sealed bids shall be solicited, when practicable, by publication in a newspaper calculated to reach prospective bidders and by posting notices in public places within the area where the work is to be performed or material furnished and in addition the department may also designate a trade journal for publication; the department shall also solicit bids by sending notices by mail to all active prospective bidders known to it and all bids shall be sealed when received, and shall be opened in public at the hour stated in the notice; the department may limit the solicitation of bids or negotiate directly if it finds that it is in the best interests of the state;

(3) a contractual service, purchase or sale where the known requirements are estimated to be less than $5,000 may be made either upon competitive bids in accordance with (2) of this section or in the open market, in the discretion of the department; but, so far as practicable, shall be based on at least three competitive bids and recorded as provided in AS 37.05.240; small purchases of less than $500 in the discretion of the department may be made on the open market, and may be by cash payment from petty cash accounts set aside for that purpose; the department shall determine the amount of the petty cash accounts needed by each state agency, and inspect the petty cash accounts at least once each year to determine that the total plus amounts of receipts for unreplenished disbursements is equal to the fixed sum of cash set aside; shortages in petty cash accounts are a personal liability of the responsible head of the agency to whom the account is set aside; the department shall make all necessary regulations governing use and replenishment of petty cash funds;

(4) the provisions of this section relative to competitive bids do not apply to contracts for the operation of transportation systems for students to and from the schools within the state, as are authorized under AS 14.09.010; and these contracts may be awarded by bid or negotiation and, at the discretion of the Board of Education, may be awarded for periods of three years or less;

(5) an "Alaska bidder," for the purpose of bid awards under (1) (A) of this section, is a person who

(A) holds a current Alaska business license,

(B) submits a bid for goods or services under the name as appearing on the person's current Alaska business license,

(C) has maintained a place of business within the state for a period of six months immediately preceding the date of the bid;

(6) the competitive bid requirements of this section do not apply to air taxi services used by state employees when no formal contract is executed; the department affected shall pay the air taxi operator the tariff rates as published by the operator with the Air Transportation Commission for the type of aircraft required; the tariffs need not be uniform throughout the state and may reflect the diverse conditions of various areas of the state; the air taxi service used in each case shall be selected by the state employee who is to fly in the aircraft, or if more than one state employee is flying in the aircraft by the employee in charge; in all cases the air taxi operator shall have complied with AS 02.05 and other prequalifying regulations established by the department;

(7) the provisions of this section relative to an "Alaska bidder" do not apply to contracts estimated to exceed $5,000 of the Department of Transportation and Public Facilities which are authorized under AS 35.15 or AS 19.10;

(8) the provisions of this section relative to competitive bids do not apply to the purchase of products or services manufactured or provided by a sheltered workshop;

(9) the provisions of this section relative to competitive bids do not apply to the purchase of products or services provided by the correctional industries program established under AS 33.32;

(10) requests for and acceptance of bids or other proposals for professional services shall comply with AS 24.23 or AS 36.98. (§ 3 art IV ch 82 SLA 1955; am §§ 8 — 10, 23 ch 186 SLA 1957; am § 1 ch 77 SLA 1959; am § 1 ch 158 SLA 1962; am § 1 ch 82 SLA 1964; am §§ 1, 2 ch 92 SLA 1967; am § 1 ch 71 SLA 1970; am § 1 ch 92 SLA 1975; am §§ 1, 2 ch 194 SLA 1975; am Executive Order No. 39, § 11 (1977); am § 5 ch 53 SLA 1982; am §§ 6 — 8 ch 144 SLA 1982)

Revisor's notes. — In 1983, (1)(B) and (1)(C) of this section were renumbered as (1)(A) and (1)(B) respectively and reference to the repeal of former (1)(A) was deleted.

Cross references. — For preference for Alaska forest products, see AS 36.15.010; for preference for Alaska producers or dealers in making state purchases or awarding contracts for supplies, see AS 36.20.010.

Effect of amendments. — The first 1982 amendment added paragraph (9).

The second 1982 amendment in paragraph (2), substituted "$5,000" for "$2,500" near the beginning and inserted "limit the solicitation of bids or" near the end. The amendment also substituted "$5,000" for "$2,500" and "$500" for "$300" in paragraph (3) and added paragraph (10).

Legislative history reports. — For report on 1962 amendment, see 1962 House Journal, pages 591, 592.

upon which a common law rule against legislator contracts could be constructed. Any voter could bring an action to void such contracts 13/ and we would likely support that result in the absence of a compelling contrary justification. 14/

It is therefore our conclusion that a contract between a state agency, 15/ on the one hand, and a legislator, a business owned or operated by a legislator, or a business in which the legislator is an officer, manager, or large stockholder, on the other hand, would be illegal under the common law. 16/

* * * *

The second legislator conflict situation concerns legislators (and some state officers and employees) who apply to re-

---

13/ See AS 39.50.100.

14/ Were a legislator contractor the only possible source for particular goods or services, we might support an exception. Similarly, an exception might be justifiable if a legislator proposed to provide non-unique, "off-the-shelf" goods (e.g., office supplies, motor oil) where price would be virtually the only variable. Exceptions are not supportable where the transaction requires the exercise of judgment by an administrator or an extended period of performance by the legislator. See State v. Yoakum, quoted infra.

15/ A court might well go further and say that legislators may not, as private contractors, do business with any entities (state agencies, municipalities, nonprofit corporations) whose projects are financed with state funds.

16/ At this time, we offer no opinion on situations where the legislator is an employee of the contracting firm, or where a close relative of a legislator is an officer, manager, large stockholder or employee of the contracting firm.

SB 175 TITLE & SPONSOR SUMMARY 11:18 5/01/84 PAGE 1 OF 3

AMENDED TITLE:
AN ACT RELATING TO THE NONCOMPETITIVE PURCHASE OF A PRODUCT OR SERVICE FROM A PUBLIC OFFICIAL OR STATE EMPLOYEE

PRIME SPONSOR: BENNETT.
CO-SPONSORS:
CURRENT STATUS: 4/23/84 IN (H) STATE AFFAI

SB 175 SENATE ACTION 11:18 5/01/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/11/83	01	0373	FIRST READING -- COMMITTEE REPORTS
04/12/83	02	0668	JUD -- DP05
04/19/84	03	2771	RLS -- OTHER05
			TAKEN UP IMMEDIATELY
04/19/84	04	2773	SECOND READING
04/19/84	05	2773	ADVANCED TO 3RD READING BY UNAN CONSENT
04/19/84	06	2773	THIRD READING
04/19/84	07	2773	PASSED BY DIV 16-00-04
04/19/84	08	2774	NOTICE OF RECONSIDERATION GIVEN
04/23/84	09	2796	RECONSIDERATION NOT TAKEN UP
****	**	**	*** *** ***

SB 175 HOUSE ACTION 11:18 5/01/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/23/84	10	3420	FIRST READING -- COMMITTEE REPORTS
			STATE AFFAIRS
			RULES
****	**	**	*** *** ***

(3) compile statistics necessary for the budget and other statistics required by the governor. (§ 8 art III ch 82 SLA 1955; am § 5 ch 186 SLA 1957; am § 1 ch 11 SLA 1965)

Article 3. Uniform Purchasing.

Section
220. Purchasing agent
230. Competitive bids
231. Estimation of flying hours required
240. Award of contracts and purchases
250. Delegation of duties
260. Preference for Alaska products
270. Purchases through General Services Administration
280. Leases

Sec. 37.05.220. Purchasing agent. The Department of Administration is the purchasing agent for the state. The department shall

(1) purchase, rent, or otherwise provide for the furnishing of supplies, materials, equipment, or contractual services for all state agencies;

(2) have power to authorize an agency to purchase directly certain specified supplies, materials, equipment, or contractual services under conditions and procedures prescribed in AS 37.05.230;

(3) prescribe the manner in which supplies, materials, and equipment shall be purchased, delivered, stored, and distributed;

(4) prescribe the time, manner, authentication, and form of making requisitions for supplies, materials, equipment, and contractual services;

(5) fix standards of quality and quantity and develop standard specifications after consultation with the several state agencies, and approve or determine final specifications;

(6) have power to transfer to or between agencies or to sell or trade in supplies, materials, and equipment of agencies which are surplus, obsolete, or unused; and the department shall make proper adjustments in the accounts of the agencies concerned;

(7) prescribe the manner of inspecting deliveries of supplies, materials, and equipment and of making tests of samples submitted with bids and samples of deliveries to determine compliance with specifications;

(8) prescribe standard forms for bids and contracts for construction, purchases of supplies, and other purposes, which bids and contracts may contain provisions which the department considers necessary; but all contracts for construction shall require the filing of an acceptable performance bond and a penalty provision for failure to perform the contract according to its terms;

(9) provide for other matters which may be necessary to carry out the provisions of this chapter and the regulations adopted under it. (§ 1 art IV ch 82 SLA 1955; am §§ 6, 7 ch 186 SLA 1957; am § 1 ch 55 SLA 1960)

Sec. 37.05.230. Competitive bids. In the manner provided in this chapter and regulations established under it

(1) a contract for construction and repairs, or a purchase of and contract for supplies, materials, equipment, and contractual services must be based on competitive bids; an award shall be made to the lowest responsible bidder after advertising for bids, except that (A) a bid shall be awarded to an Alaska bidder if the bid is not more than five per cent higher than the lowest nonresident bidder's; and (B) competitive bids need not be required (i) for contractual services where no competition exists; (ii) for sales involving fair trade items; (iii) when, in the judgment of the purchasing agent, food, clothing, or medical supplies, or materials for use in laboratory and experimental studies may be purchased otherwise to the best advantage of the state; (iv) where rates are fixed by law or ordinance; (v) for items traded in on like items; or (vi) for professional services;

(2) if the amount of the contractual services, purchase, or sale is estimated to exceed $5,000, sealed bids shall be solicited, when practicable, by publication in a newspaper calculated to reach prospective bidders and by posting notices in public places within the area where the work is to be performed or material furnished and in addition the department may also designate a trade journal for publication; the department shall also solicit bids by sending notices by mail to all active prospective bidders known to it and all bids shall be sealed when received, and shall be opened in public at the hour stated in the notice; the department may limit the solicitation of bids or negotiate directly if it finds that it is in the best interests of the state;

(3) a contractual service, purchase or sale where the known requirements are estimated to be less than $5,000 may be made either upon competitive bids in accordance with (2) of this section or in the open market, in the discretion of the department; but, so far as practicable, shall be based on at least three competitive bids and recorded as provided in AS 37.05.240; small purchases of less than $500 in the discretion of the department may be made on the open market and may be by cash payment from petty cash accounts set aside for that purpose; the department shall determine the amount of the petty cash accounts needed by each state agency, and inspect the petty cash accounts at least once each year to determine that the total plus amounts of receipts for unreplenished disbursements is equal to the fixed sum of cash set aside; shortages in petty cash accounts are a personal liability of the responsible head of the agency to whom the account is set aside; the department shall make all necessary regulations governing use and replenishment of petty cash funds;

(4) the provisions of this section relative to competitive bids do not apply to contracts for the operation of transportation systems for students to and from the schools within the state, as are authorized under AS 14.09.010; and these contracts may be awarded by bid or negotiation and, at the discretion of the Board of Education, may be awarded for periods of three years or less;

(5) an "Alaska bidder," for the purpose of bid awards under (1)(A) of this section, is a person who

(A) holds a current Alaska business license,

(B) submits a bid for goods or services under the name as appearing on the person's current Alaska business license,

(C) has maintained a place of business within the state for a period of six months immediately preceding the date of the bid;

(6) the competitive bid requirements of this section do not apply to air taxi services used by state employees when no formal contract is executed; the department affected shall pay the air taxi operator the tariff rate as published by the operator with the Air Transportation Commission for the type of aircraft required; the tariffs need not be uniform throughout the state and may reflect the diverse conditions of various areas of the state; the air taxi service used in each case shall be selected by the state employee who is to fly in the aircraft, or if more than one state employee is flying in the aircraft by the employee in charge; in all cases the air taxi operator shall have complied with AS 02.05 and other prequalifying regulations established by the department;

(7) the provisions of this section relative to an "Alaska bidder" do not apply to contracts estimated to exceed $5,000 of the Department of Transportation and Public Facilities which are authorized under AS 35.15 or AS 19.10;

(8) the provisions of this section relative to competitive bids do not apply to the purchase of products or services manufactured or provided by a sheltered workshop;

(9) the provisions of this section relative to competitive bids do not apply to the purchase of products or services provided by the correctional industries program established under AS 33.32;

(10) requests for and acceptance of bids or other proposals for professional services shall comply with AS 24.23 or AS 36.98. (§ 3 art IV ch 82 SLA 1955; am §§ 8 — 10, 23 ch 186 SLA 1957; am § 1 ch 77 SLA 1959; am § 1 ch 158 SLA 1962; am § 1 ch 82 SLA 1964; am §§ 1, 2 ch 92 SLA 1967; am § 1 ch 61 SLA 1970; am § 1 ch 92 SLA 1975; am §§ 1, 2 ch 194 SLA 1975; am Executive Order No. 39, § 11 (1977); am § 5 ch 53 SLA 1982; am §§ 6 — 8 ch 144 SLA 1982)

Revisor's notes. — In 1983, (1)(B) and (1)(C) of this section were renumbered as (1)(A) and (1)(B) respectively and reference to the repeal of former (1)(A) was deleted.

Cross references. — For preference for Alaska forest products, see AS 36.15.010; for preference for Alaska producers or dealers in making state purchases or awarding contracts for supplies, see AS 36.20.010.

Effect of amendments. — The first 1982 amendment added paragraph (9).

The second 1982 amendment in paragraph (2), substituted "$5,000" for "$2,500" near the beginning and inserted "limit the solicitation of bids or" near the end. The amendment also substituted "$5,000" for "$2,500" and "$500" for "$300" in paragraph (3) and added paragraph (10).

Legislative history reports. — For report on 1962 amendment, see 1962 House Journal, pages 591, 592.

Opinions of Attorney General. — A policy of publishing regulations concerning bidding and letting of contracts in the Administrative Code is consistent with the Alaska Administrative Procedure Act, since these regulations are regulations in which an important portion of the public has a vital interest and since they are of great use to the portion of the public interested in dealing with contracting with the state. 1959 Op. Att'y Gen. No. 27.

The purpose of this chapter was not only to protect the state and the public purse from uneconomic contracts let because of failure to request competitive bids and because of possible favoritism, but was also to insure that contractors would be insured a certain amount of "fair play" in dealing with the state government and in competing with one another for state contracts. 1959 Op. Att'y Gen., No. 27.

As to the preparation and filing of regulations to be submitted to the secretary of state pertaining to the prequalification of contractors as a prerequisite for bidding on construction projects, see 1959 Op. Att'y Gen., No. 27.

The state cannot grant an exclusive lease or franchise without the necessity of calling for bids. 1962 Op. Att'y Gen., No. 4.

If an exclusive lease or franchise is in effect the state cannot extend the term thereof without calling for bids. 1962 Op. Att'y Gen., No. 4.

The commissioner of public works has the authority to grant a nonexclusive lease or franchise without calling for competitive bids. 1962 Op. Att'y Gen., No. 4.

NOTES TO DECISIONS

Notice requirements. — This section makes no requirement for notice by special delivery, registered or certified mail. State ex rel. Department of Admin. v. Bowers Office Prods., Inc., Sup. Ct. Op. No. 2244 (File No. 4792), 621 P.2d 11 (1980).

Amendments to bid invitations. — Using regular mail to send an amendment to an invitation for bids is a proper procedure for notifying known bidders. State ex rel. Department of Admin. v. Bowers Office Prods., Inc., Sup. Ct. Op. No. 2244 (File No. 4792), 621 P.2d 11 (1980).

Judicial review of agency actions of rejecting a bid for failing to return an amendment should extend only to whether there was a reasonable basis for the agency to decide that the bid in question was nonresponsive. State ex rel. Department of Admin. v. Bowers Office Prods., Inc., Sup. Ct. Op. No. 2244 (File No. 4792), 621 P.2d 11 (1980).

The department had a reasonable basis to determine that a defect in a bid was material and that the bid was nonresponsive when the bidder failed to acknowledge receipt of amendments. State ex rel. Department of Admin. v. Bowers Office Prods., Inc., Sup. Ct. Op. No. 2244 (File No. 4792), 621 P.2d 11 (1980).

Joint ventures. — A joint venture qualifies as an Alaska bidder under this section even though only one of its venturers would individually qualify as an Alaska bidder. Irby-Northface v. Commonwealth Elec. Co., Sup. Ct. Op. No. 2664 (File Nos. 7632, 7649), P.2d (1983).

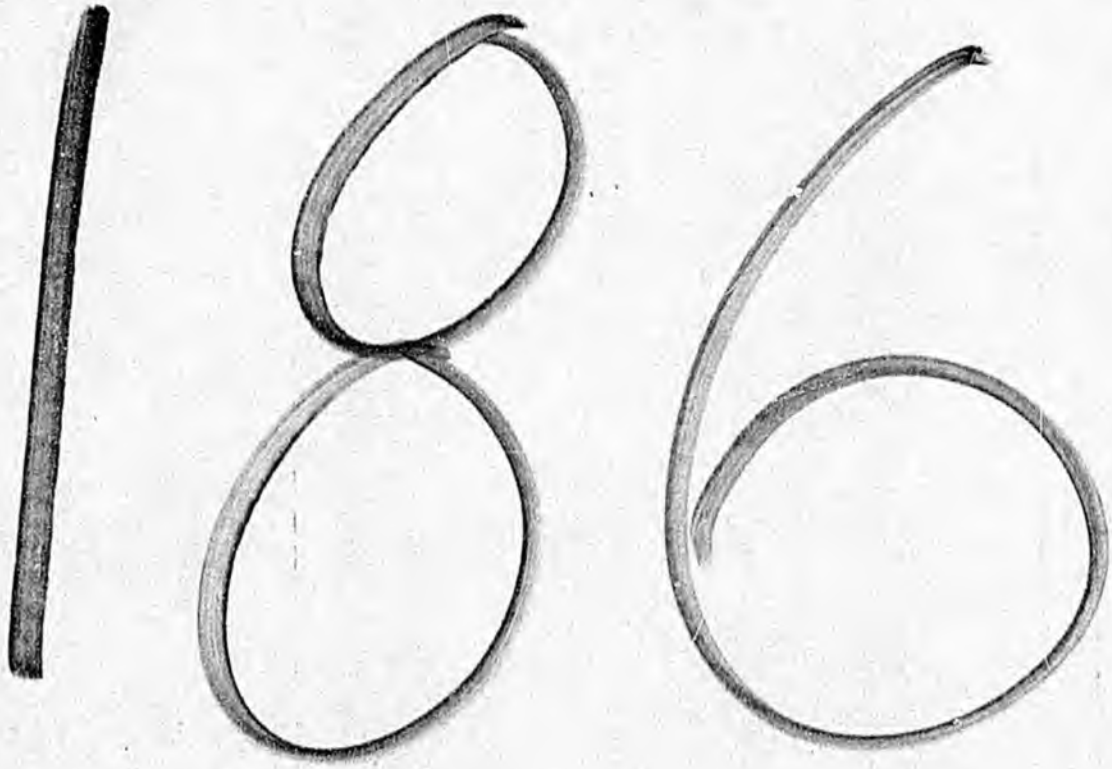
Collateral references. — Contract for personal services as within requirement of submission of bids as condition of public contract, 15 ALR3d 733.

Determination of amount involved in contract within statutory provision requiring public contracts involving sums exceeding specified amount to be let to lowest bidder, 53 ALR2d 496.

Requirement that public contract be awarded on competitive bidding as applicable to contract for public utility, 81 ALR3d 979.

Sec. 37.05.231. Estimation of flying hours required. The state, when soliciting bids for air charter service, shall make available in writing to prospective bidders upon request an estimate of the flying hours required by each individual agency of the state which will take advantage of these services. (§ 1 ch 17 SLA 1967)


SB


186

SB 186

THIS BILL WOULD REMOVE THE BIDDING REQUIREMENTS ON NAMED RECIPIENT GRANTS. ORIGINALLY, THE HAMMOND ADMINISTRATION INSISTED UPON THE BID REQUIREMENT. LAST YEAR, THE COURTS RULED IN THE LEGISLATURE VERSUS HAMMOND CASE FILE: IJU-80-1163-CIVIL THAT THE LEGISLATURE IS WELL WITHIN ITS AUTHORITY TO APPROPRIATE FUNDS DIRECTLY TO A NAMED RECIPIENT.

SB 186 WOULD REPEAL THE SECTION OF THE GRANTS LAW THAT LIMITS THE WILL OF THE LEGISLATURE TO APPROPRIATE DIRECTLY TO NAMED RECIPIENTS.

SB 186 WOULD ALLOW GRANTS TO NAMED RECIPIENTS TO BE TREATED THE SAME AS MUNICIPAL GRANTS. THE NAMED RECIPIENT GRANTEES ARE BOUND BY THE SAME ACCOUNTING, REPORTING AND AUDIT REQUIREMENTS AS MUNICIPALITIES. THIS WILL ENSURE THE GRANT FUNDS ARE EXPENDED ACCORDING TO THE LAW. EACH DEPARTMENT, WHO WILL ADMINISTER THE THE GRANTS, WILL PROVIDE CONTROL AS WELL AS THE DEPARTMENT OF ADMINISTRATION WHO IS RESPONSIBLE FOR ENSURING THE CONTRACTS ARE EXECUTED IN ACCORDANCE WITH THE LAW. THIS YEAR'S BUDGET CONTAINS TWO FIELD AUDITORS WITHIN THE DEPARTMENT OF ADMINISTRATION TO PROVIDE GREATER ACCOUNTABILITY. THIS SYSTEM SHOULD PROVIDE MORE THAN ADEQUATE CONTROLS ON THE NAMED RECIPIENT GRANTS.
THIS LEGISLATIONS WILL ALSO PROVIDE A DEGREE OF LOCAL

CONTROL BECAUSE MOST NAMED RECIPIENT GRANTS GO TO LOCALLY BASED ORGANIZATIONS WHO PROVIDE NEEDED SERVICES.
THERE IS NO FISCAL NOTE. THE ACT TAKES EFFECT IMMEDIATELY.

I HAVE AN AMENDMENT THAT WOULD RETAIN EXISTING LAW TO PROVIDE THAT THE DEPARTMENTS SHALL ENTER INTO A CONTRACT WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE APPROPRIATION OR ALLOCATION AND TO HAVE THIS APPLY TO RURAL ALASKA.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

☐ POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

☐ 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

May 22, 1984

POSITION PAPER

RE: SB 186 am
SPONSOR: Sackett & Ferguson

PROGRAM EFFECTS:

This bill would remove the bidding requirement on named recipient grants in rural areas.

COMMENTS:

Under this bill, grants to name recipients are bound by the same accounting, reporting and audit requirements as municipal grants.

While eliminating the solicitation requirement, adequate controls still exist to ensure the contracts are executed according to the law. Thus, the Department supports this legislation.

APPROVED: Emil Notti
Emil Notti, Commissioner

STATE OF ALASKA

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

March 25, 1983

POSITION PAPER

RE: Senate Bill 186

SPONSOR: Senator Sackett

Program Effects

This bill amends AS 37.05.316, deleting the option allowing a Department assigned to administer a grant to a named recipient to issue requests for proposals from qualified persons other than the named-recipient to carry out the intent and purpose of the grant.

Comments

This Department withholds comment on its position on this bill pending review by the Department of Law on separation of powers issues that were first raised by the previous Administration. On its face, this bill does appear to infringe the Executive branch's power to execute the implementation of projects, services, and programs by limiting how it selects persons to provide goods and services. The process by which public funding is awarded should be open and accountable. The request for proposal process is important to insure that all qualified persons are free to participate in the awarding of State grants. The RFP process also provides a check to provide some guarantee that projects are awarded on the basis of merit and that the best possible product is delivered to satisfy the intent of the Legislature and the good of the public.

Mark Lewis
Commissioner

SB 186 TITLE & SPONSOR SUMMARY 12:05 5/22/84 PAGE 1 OF 3
AMENDED TITLE: SB 186AM
AN ACT RELATING TO NAMED RECIPIENT GRANTS; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SACKETT.
CO-SPONSORS: FERGUSON.
CURRENT STATUS: 5/17/84 IN (H) STATE AFFAI

SB 186 SENATE ACTION 12:05 5/22/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/18/83	01	0434	FIRST READING -- COMMITTEE REPORTS
03/30/83	02	0536	C&RA -- DP02, NR01
05/03/84	03	2901	FIN -- DP05 NR01
05/15/84	04	3094	RLS -- OTHER04
			TAKEN UP IMMEDIATELY
05/15/84	05	3094	SECOND READING
05/15/84	06	3094	ADVANCED TO 3RD READING BY UNAN CONSENT
05/16/84	10	3115	AM01 ADOPTED BY UNAN CONSENT
05/16/84	11	3116	AM02 ADOPTED BY UNAN CONSENT
05/16/84	12	0000	ADVANCED TO 3RD READING BY UNAN CONSENT
05/15/84	07	3095	THIRD READING
05/15/84	08	3095	POSTPONED UNTIL 05/16/84 BY UNAN CONSENT
05/16/84	09	3115	RETURNED TO 2ND READING BY UNAN CONSENT
05/16/84	13	3118	PASSED BY DIV 14-06-00
05/16/84	14	3119	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** *** ***

SB 186 HOUSE ACTION 12:06 5/22/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/17/84	15	3889	FIRST READING -- COMMITTEE REPORTS
			STATE AFFAIRS
			RULES
****	**	**	*** *** ***

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

ALASKA STATE LEGISLATURE by and through the LEGISLATIVE BUDGET & AUDIT COMMITTEE of the ALASKA STATE LEGISLATURE; and REPRESENTATIVE JIM DUNCAN, CHAIRMAN; SENATOR GEORGE HOHMAN, VICE-CHAIRMAN; REPRESENTATIVE RUSS MEEKINS; SENATOR ARLIS STURGULEWSKI; REPRESENTATIVE PATRICK J. CARNEY and REPRESENTATIVE ROBERT BETTISWORTH,

Plaintiffs,

vs.

JAY S. HAMMOND, Governor of the State of Alaska, and WILLIAM R. HUDSON, Commissioner of the Department of Administration of the State of Alaska.

Defendants.

No. 1JU-80-1163 Civil

MEMORANDUM OF DECISION

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INTRODUCTION

Presently before the court is the 77 count counterclaim of defendant challenging, on constitutional and statutory grounds, scores of appropriations made by the Twelfth Alaska Legislature. The defendants (hereinafter, "the Governor") have advanced several reasons why the appropriations are unlawful and have moved for summary judgment, while abandoning in excess of 40 particular counts. Plaintiffs (hereinafter, "the Legislature") have also moved for summary judgment, while conceding that three of the appropriations were unconstitutional (though not for the reasons advanced by the Governor). Although the cross motions for summary judgment discussed each appropriation separately, the court established five principal categories of infirmities alleged by the Governor, and requested that the parties submit further briefing which addressed these categories. [1/] After that briefing was completed, oral argument was heard.

Although it is necessary to address many appropriations individually, and while there are certain exceptions to the following generalizations, this court generally finds as follows:

1) Those appropriations challenged by the Governor as violative of the separation of powers doctrine do not violate that doctrine and thus are not invalid for that reason; [2/]

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1. To avoid the possibility that it incorrectly interpreted the Governor's case, the court requested that both sides "independently review the Governor's motion for summary judgment and determine that the court has correctly interpreted the legal theories proposed by the Governor and correctly enumerated which appropriations are challenged under each theory." Order Continuing Hearing Date and Requiring Further Briefing 7. Neither side has indicated disagreement with the categories noted by the court or with the determination of which appropriations should be considered under each of the categories.

2. Many appropriations are challenged for more than one reason. Thus, that an appropriation survives a separation of powers attack does not ensure its legality; it may fall for some other reason.

2) Those appropriations challenged by the Governor for failure to state a public purpose do fail to state a public purpose and are thus invalid;

Most of those appropriations challenged by the Governor because they violated the confinement requirement of article II, section 13 of the Alaska Constitution do violate that section, while some do not;

4) Those appropriations challenged by the governor because they provided direct aid to private educational institutions did not provide direct aid to private educational institutions are thus are not invalid for that reason;

5) The "appropriation" [3/] challenged by the governor as an invalid delegation of legislative powers to the executive branch was such an invalid delegation and thus it was improper.

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3. Actually, the item in question was a directive in the appropriation act that $5,267,248 be reduced from the total personal services line items for operating expenditures in the act, which reduction was to be "equitably allocated among the state agencies by the division of budget and management." § 50, ch. 120 SLA 1980 at 12-13. It amounted to a one percent reduction in all personal service line items.

I. SEPARATION OF POWERS

A. General Discussion

In 24 of the appropriations challenged in this case, the Legislature specifically designated the recipient of the appropriation. This was accomplished by appropriating a specified sum from the general fund to a particular executive department "for payment as a grant" to a designated entity, usually a private non-profit corporation. The controversy between the parties is whether the Legislature may designate the particular recipient of the funds. The Governor contends that it may not, that at most it may appropriate sums from the general fund to a particular department and specify the purpose of the appropriation. Under the Governor's theory, it would then be the task of the department to determine which entity should receive the funds as a grant.

1) Burden of Proof

At the outset, and throughout discussion of these various challenges, it is critical to note and to remember that parts of the counterclaim seek to have declared unconstitutional acts of the Alaska Legislature. A party, even the Governor, who seeks a declaration that an act of the Legislature is unconstitutional bears a heavy burden. It is axiomatic that laws which have been validly enacted bear a presumption of constitutionality:

> The courts frequently reiterate that in the exercise of this authority [to determine whether legislative enactments are constitutional] they begin with a presumption in favor of validity, and that a court is not empowered to substitute its judgment for that of the legislature on matters of policy, nor to strike down a statute which is not manifestly unconstitutional even though the court may consider it unwise.

1 Sands, Sutherland Statutory Construction § 2.01, at 13 (4th ed.

1972) (emphasis added).

Several courts from other states, in decisions concerning the power of the governor versus that of the legislature, have stated that the burden upon a party challenging the constitutionality of a legislative enactment is the highest burden known in the law: proof beyond a reasonable doubt. In Litchfield Elementary School District v. Babbitt, 608 P.2d 792 (Ariz. App. 1980) the court noted:

> No task in the adjudication of civil controversies is more grave than passing upon the constitutionality of legislation. The legislature possesses plenary power to make the laws, subject only to the limitations of our state and federal constitutions. We face our task bearing in mind that there is a strong presumption supporting the constitutionality of a legisla. e enactment, and the party asserting its u constitutionality bears the burden of c rcoming the presumption. [Citation.] Unc nstitutionality must appear beyond a reasonable doubt. New Times, Inc. v. Arizona Board of Regents, 519 P.2d 169 (1974).

608 P.2d at 800 (emphasis added). In Board of Regents v. Judge, 543 P.2d 1323 (Mont. 1976), the court relied on settled law to the effect that

> the constitutionality of a legislative enactment is prima facie presumed, and every intendment in its favor will be made unless its unconstitutionality appears beyond a reasonable doubt.

543 P.2d at 1330, quoting State ex rel. Mills v. Dixon, 213 P. 227, 229 (Mont. 1923) (emphasis added).

Other courts have adopted this same high standard. In State ex rel. Hammerhill Paper Co. v. La Plante, 205 N.W.2d 784 (Wisc. 1973), the court stated:

> Unconstitutionality of the act must be demonstrated beyond a reasonable doubt. Every presumption must be indulged to sustain the law if at all possible and, wherever doubt exists as to a legislative

> enactment's constitutionality, it must be resolved in favor of constitutionality.

Id. at 792. See also Hopper v. City of Madison, 256 N.W.2d 139, 142-43 (Wis. 1977); Way v. Grand Lake Ass'n, Inc., 635 P.2d 1010, 1017 (Okla. 1981); State ex rel. Lucero v. Marron, 128 P. 485, 488 (N.M. 1912).

It is not clear whether the Alaska Supreme Court would adopt such an extreme presumption in favor of the constitutionality of validly enacted legislation. It has not done so to date, which suggests that it might not. [4/] Nonetheless, it has reiterated in several decisions that validly enacted statutes enjoy a presumption of constitutional validity. Bonjour v. Bonjour, [illegible] P.2d 1233, 1237 (Alaska 1979), Larson v. State, 564 P.2d 365, 372 (Alaska 1977). Thus, if a statute may reasonably be construed to avoid unconstiutionality, the court must do so. Hoffmar v. State, 404 P.2d 644, 646 (Alaska 1965). If a narrow construction will avoid the constitutional infirmity "without doing violence to the manifest legislative intent," such a construction should be given. Gottschalk v. State, 575 P.2d 289, 296 (Alaska 1978); State v. Martin, 532 P.2d 316, 321 (Alaska 1975).

Whatever the precise formulation of the Governor's burden in this case, unless he can demonstrate that the

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4. Unfortunately for predictive purposes, the Alaska Supreme Court has not had the occasion to set out or discuss the proper standard in cases involving a challenge by the executive to the legislature. The cases discussed in this section involve either disputes between individuals or between the state and an individual. Considering that in the present dispute the party attacking the legislation, the Governor, has substantial constitutional powers which an individual disputant does not enjoy, the Alaska Supreme Court might be inclined to adopt the more rigorous test adopted by its sister courts in Wisconsin, Arizona, Montana, New Mexico (and elsewhere) as noted above. On the other hand, it did not do so in cases such as Bradner v. Hammond, 553 P.2d 1 (1976), although the court discussed in that case its "duty to reconcile, whenever possible, challenged legislation with the constitution by rendering a [harmonizing] construction . . . ." Id. at 7 n.22.

challenged legislation is clearly unconstitutional, it must stand.

2) Nature of the Power To Designate Grant Recipients

The Alaska Constitution does not specifically answer the question whether the Legislature may designate grant recipients. Article II, section 1 states that "[t]he legislative power of the State is vested in a legislature consisting of a senate . . . and a house of representatives . . . ." Article III, section 1 states that "[t]he executive power of the state is vested in the governor."

Thus, the legislative power is vested in the Legislature and the executive power in the Governor. But is the designation of grant recipients an exercise of the legislative power or of the executive power? There is no doubt that the Legislature may appropriate sums to an executive department for a stated purpose and permit or require the department to designate the recipient. May it also designate the recipient itself?

The answer must be yes unless the Governor shows clearly that the Constitution forbids it. Because he has not done so, the separation of powers argument must fail.

The Governor argues that the separation of powers doctrine seeks "the avoidance of tyrranical aggrandizement of power by a single branch of government through the mechanism of diffusion of governmental powers," citing Bradner v. Hammond, 553 P.2d 1, 5 (Alaska 1976). That may be agreed. He then alleges that the power to name grant recipients is vested in the executive branch by the Constitution and that it is not a legislative power. Last, he argues that it cannot be shared by both branches. The Governor's analysis rests on an unproven assumption. He concludes that the naming of grant recipients is an executive function because he assumes that such grantees "enforce the laws" or "execute the laws". Because the assumption is

unproven (and is ultimately unpersuasive to this court), the Governor cannot sustain his heavy burden of showing that the appropriations in question are violative of the separation of powers doctrine.

The Governor argues at length that the Constitution of Alaska vested the power in question in the executive. He notes the framers' intent to create a strong executive (which is not disputed) and quotes from the Constitutional Convention Proceedings to the effect that the framers wished "to centralize authority and responsibility for the administration of government and the enforcement of laws in a single elected official." Alaska Constitutional Convention Proceedings, Dec. 16, 1955, Commentary on the Executive Branch Article, Committee Proposal No. 10, p. 1.

The critical question, however, is whether the designation of grant recipients is a part of the appropriation power or part of the power to enforce the law. No one disputes the Governor's authority to enforce or execute the law. By the same token, no one should question the Legislature's authority to spend. Is naming grant recipients a part of the spending power or is it the execution of the law?

The term "appropriation" is not defined in the Alaska Constitution, but there is a substantial body of case law regarding the term. In Thomas v. Rosen, 569 P.2d 793 (Alaska 1977), the Supreme Court quoted approvingly the following definition from the Wisconsin Supreme Court's decision in State ex rel. Finnegan v. Dammann, 264 N.W. 622, 624 (1936):

> An appropriation is the setting aside from the public revenue of a certain sum of money for a specified object, in such manner that the executive officers of the government are authorized to use that money, and no more, for that object, and no other.

569 P.2d at 796 (emphasis added). The emphasized language suggests that the legislature may properly designate a specific recipient.

Other definitions suggest the same conclusion. In Leonardson v. Moon, 451 P.2d 542 (Idaho 1969), the Idaho Supreme Court gleaned from several of its earlier cases the following definition:

> These cases define an appropriation as (1) authority from the legislature, (2) expressly given, (3) in legal form, (4) to proper officers, (5) to pay from public monies, (6) a specified sum, and no more, and (7) for a specified purpose, and no other.

Id. at 550 (emphasis added). Black's Law Dictionary defines an appropriation as follows:

> The act by which the legislative department of government designates a particular fund, or sets aside a specified portion of the public revenue or of the money in the public treasury, to be applied to some general object of governmental expenditure, or to some individual purchase or expense. [Citation] Authority given by Legislature to proper officers to apply distinctly specified sum from designated fund out of treasury in given year for specified object or demand against state.

Black's Law Dictionary 131 (4th ed. 1951) (emphasis added).

These authorities are certainly not dispositive,[5/] but they at least suggest that naming the grantee is a part of the appropriation power.

As noted above, the appropriation power is clearly

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5. It might be argued, for the Governor, that "object" connotes only the general objective, and not a specific recipient.

legislative. Art. II, § 13; Art. IX, § 12. As the Supreme Court of Mississippi held at the turn of the century, in an opinion widely quoted:

> Under all constitutional governments recognizing three distinct and independent magistracies, the control of the purse strings of government is a legislative function. Indeed, it is the supreme legislative prerogative, indispensable to the independence and integrity of the Legislature, and not to be surrendered or bridged, save by the Constitution itself, without disturbing the balance of this system and endangering the liberties of the people.

Colbert v. State, 39 So. 65, 66 (Miss. 1905). Colbert reaffirmed the right of the legislature to determine "the objects upon which [public revenue] shall be expended." Id.

It is true that the Alaska Constitution gives the governor some substantial control over the "purse strings", the term used in Colbert. Most significantly, he has an item veto power over appropriations bills. Art. II, § 15. The history of article II, section 15 "indicates a desire by the delegates to create a strong executive branch with 'a strong control on the purse strings' of the state." Thomas v. Rosen, supra, 569 P.2d at 795, quoting 3 Proceedings of the Alaska Constitutional Convention 1740. But this control is defined in this and other specific constitutional provisions, [6] as Colbert notes. The governor's role regarding appropriations is limited to those specific constitutional limitations on the otherwise plenary power of the legislature.

That the Governor has no more power to control appropriations than that given him specifically by the Constitution is a basic constitutional tenet:

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6. For example, art. IX, § 12 (governor to submit annual budget).

> According to conventional approaches in constitutional construction, since the states were antecedent political entities exercising general powers of government and the United States is a federation created by them to serve specific, defined purposes, the Congress of the United States is understood to have only such powers as are affirmatively granted to it, expressly or by implication, whereas state legislatures have residual law-making powers subject only to such limitations as are affirmatively imposed by the state or federal constitutions.

1 Sands, Sutherland Statutory Construction § 2.01, at 13 (4th ed. 1972) (emphasis added).

3) Alaska Constitutional History

The Alaska Constitution contains no specific affirmative limitation on the Legislature's power to appropriate to a designated recipient. In these circumstances, and considering the definitional authority cited above which suggests that naming a grantee is part of the appropriation power, it appears that the power is legislative because it is part of the spending power.

It is significant that the constitutional convention could have included a specific affirmative limitation on the Legislature's power to appropriate to a designated non-governmental recipient, but did not do so. Indeed, the delegates considered at least a partial ban on direct governmental grants to private institutions. Although the delegates did not directly discuss the issue of who might have had the authority to designate particular recipients, the context of their discussions suggest that they considered the question.

The matter came up in this way. The original version of what was to become article VII, section 1 of the constitution provided that "No money shall be paid from public funds for the direct benefit of any religious or other private institution." 6 Proceedings of the Constitutional Convention 68, Committee Proposal No. 7, § 1 lines 6-8. The convention received com-

munications from persons and agencies concerned that prohibiting the expenditure of public funds for the direct benefit of any private institution would change existing practice to the great detriment of the state. E.g., Memorandum of December 28, 1955, to the delegates from Lois M. Jund, Administrative Director, Alaska Dept. of Health (unpublished files of the Alaska Constitutional Convention, Legislative Affairs Agency Library, Juneau):

> The Alaska Department of Health is quite concerned regarding the proposed articles in the Alaska Constitution which prohibit direct grants of public funds beneficial to religious and other private institutions.
>
> . . . .
>
> The inclusion of articles such as are proposed . . . would probably result in the closing of many hospitals throughout Alaska . . . .
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> . . . .
>
> For the above reasons, the Alaska Department of Health strongly recommends that these sections or parts of sections be struck from the proposed State Constitution and that no clause be inserted in the constitution which would restrict the legislature from appropriating monies to private and denominational institutions, if a public purpose was served thereby.

See also Memorandum of December 27, 1955, to the delegates from Robert N. Druxman (unpublished files of the Alaska Constitutional Convention, Legislative Affairs Agency Library, Juneau). The committee having responsibility for this article recommended that the word "educational" be inserted after the word "private". A committee member, delegate R. Rolland Armstrong, speaking for the committee, emphasized its intention

> to take any doubt away on the part of this Convention of our motives, and we state that where there are welfare cases for children in homes and when there are indigents in hospitals that we do not wish to interfere with that practice of helping to serve people through those institutions.

2 Proceedings of the Alaska Constitutional Convention 1514-15 (emphasis added).

4) Pre-1955 Case Law

It is significant to this court that the "practice of helping to serve people through . . . institutions" as endorsed by the Alaska Constitutional Convention was historically well established in 1955, the time of that convention. 7/ There was by then a rich history in several states of direct legislative appropriations to specifically designated recipients. Presumably, the delegates were aware of that history in other states as well as in the Territory of Alaska. It is instructive to review that history.

In Hager v. Kentucky Children's Home Society, 83 S.W. 605 (Ky. 1904), the court upheld the constitutionality of a direct grant to the appellee, a private corporation organized for charitable purposes. The court noted that, while the care of indigent orphans was generally given over to counties and cities by the laws of the state, "the state is not precluded by these several provisions from exercising some part of the same power in some other proper way." Id. at 606. It then went on to consider whether the state could act "otherwise than through its own officers". It found that it could:

> When the Legislature is authorized to do a thing generally, and no particular method is prescribed, it may pursue its own course in the means adapted to the accomplishment of the purpose.

Id. at 607. The court then went on to review several cases,

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7. The Memorandum of December 28, 1955, of Lois Jund, cited above, showed there was a well-established history, by 1955, of direct grants to hospitals in the Territory of Alaska. Several hospitals, privately owned, had been the recipients over the years of millions of dollars. Id. And the practice of assisting private hospitals apparently continued into statehood. Cf. Lien v. City of Ketchikan, 383 P.2d 721 (Alaska 1963) (proceeds of municipal bond sale could aid in construction of private hospital).

from other states as well as Kentucky, upholding the power of a legislature to make direct grants to non-governmental entities so long as the grant was for a public purpose. It concluded

> These authorities clearly settle that the vital point in all such appropriations is whether the purpose is public; and that, if it is, it does not matter whether the agency through which it is dispensed is public or is not; that the appropriation is not made for the agency, but for the object which it serves; the test is in the end, not in the means.

Id. at 608 (emphasis added).

Literally scores of cases followed Hager or reached the same result in the first half of this century. Extensive discussion of these cases is not necessary here, although one such case, relied on by the Legislature, is instructive. In Finan v. Mayor of Cumberland, 141 A. 269 (Md. 1928), the court upheld the disbursal of funds from a public bond sale for the building and maintenance of a wing of a hospital run by a private nonprofit corporation. The court had no question that the state (and hence a municipality, id. at 271), could make such a disbursal to a private entity as long as it was for a public purpose and was done under "proper legislative authority" (presumably, the act authorizing the bond sale):

> Long before, it had been decided that public funds might under proper legislative authority be appropriated to aid private agencies performing services to the community which were public in nature. [Citations]. And from the beginning of state government it had been the policy and practice to accomplish public purposes indirectly by such means; and all Constitutions promulgated since the beginning had been performed unquestionably in full knowledge of this policy and practice, and in none was anything inserted or changed to interfere. . . .

Id. at 271. The court went on to point out that a governmental board existed to supervise such expenditures, and its report "lists over one hundred private agencies aided, including a

large number of hospitals".[9] Id. None of these appropriations or disbursals had been successfully challenged. See also People ex rel. State Board v. Brady, 115 N.E. 204 (Ill. 1917).

There were a substantial number of cases in the years immediately before the Alaska Constitutional Convention which upheld direct appropriations to or the issuance of bonds for the benefit of non-governmental agencies. In Legat v. Adorno, 83 A.2d 185, 192 (Conn. 1951), the court referred to "the very large number of decisions from other states" which generally indicated "an overwhelming weight of authority in accord with our own decisons to the effect that maintenance grants to charitable institutions for a public purpose are valid."

In Craig v. Mercy Hospital, 45 So. 2d 809, 819 (Miss 1950), the court quoted approvingly from 51 Am. Jur. § 390 at 381: "It is well settled that a private agency may be utilized as the pipeline through which a public expenditure is made, . . ."

In Johns Hopkins University v. Williams, 86 A.2d 892, 900 (Md. 1952), the court reviewed five decades of legislative appropriation to or authorization of bonds for private institutions which carried out public purposes. It declined to invalidate a procedure so firmly established.

It is true that the focus of most of these cases -- and the ones which follow in this section -- was on whether the appropriations were for a public purpose or whether they violated a constitutional prohibition against the giving or loaning of the credit of the state for any private corporation or

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9. It is not clear from the opinion whether the report referred to listed agencies aided for that year only, or over a longer period. In any event, the number of appropriations is impressive.

association. The Governor, in this section, raises a separation of powers claim, and not these issues. But the fact remains that the practice of appropriation of public funds to non-governmental entities was well-established in this country at the time of the Alaska Constitutional Convention, and these cases demonstrate that.

There is substantial case law following the constitutional convention which shows that the practice of appropriations to private entities continued, and that the courts continued to uphold it against constitutional challenges. E.g., United Community Services v. Omaha Nat'l Bank, 77 N.W.2d 576, 586-87 (Neb. 1956); Ezelle v. City of Paducah, 441 S.W.2d 162, 164 (Ky. 1969). Cf. Kentucky Region Eight Mehtal Health Board, Inc. v. Commonwealth, 507 S.W.2d 489, 490-91 (Ky. 1974) ("mere fact that corporations receive and administer grants of state funds does not mean that they are state agencies"); West v. Tennessee Housing Development Agency, 512 S.W.2d 275 (Tenn. 1974) (giving of state credit not prohibited if for public purpose); New Jersey Mortgage Finance Agency v. McCrane, 267 A.2d 24, 29 (N.J. 1970) (provisions against lending state's credit do not prohibit government from employing third person or private corporation to do any lawful act which government has the right to have done).

5) Conclusion

Against this backdrop, then, the failure of the delegates to the Alaska Constitutional Convention to adopt a specific limitation on the Legislature's power to appropriate to designated non-governmental recipients takes on added meaning. That they could have done so is clear. Indeed, they almost did approve language which would have had that effect, but specifically declined to do so. (See discussion above at 12.) Moreover, several other states do have constitutional

prohibitions against appropriations to non-governmental entities, Leg. Memo 19-22, and, as the Legislature argues, if the delegates wanted to prohibit the practice "they had several models from which to choose." Id. at 22.

Faced with substantial authority supporting direct grants to non-governmental agencies, the Governor concedes in his Reply Memorandum that "the legislature can make appropriations for charitable purposes." However, he attempts to limit, in a single sentence, the Legislature's authority by asserting that "in none of those cases was the court confronted with numerous appropriations, large sums of general fund money, and dubious enactment procedures." Gov. Reply 5. The attempt to distinguish is not persuasive.

First, it appears factually to be incorrect in several respects. As noted above, courts upholding these types of appropriations have relied, among other things, on scores of similar appropriations involving large sums of money.

Second, there is no claim here that any of the enactment procedures were "dubious", much less any showing of dubious or in any way irregular enactment procedures.

Finally, and most importantly, the Governor's legal analysis appears wrong; even if it be conceded that these appropriations were greater in number and dollar amount than those upheld in other cases: What constitutional principle permits a few appropriations to non-governmental entities but does not permit "numerous" such appropriations? What constitutional basis is there for upholding appropriations of small sums of public money while striking down appropriations of "large" sums? The Governor's concession -- without some principled way to draw the dividing line (and he suggests none) -- effectively concedes that the Legislature may do what it has attempted to do without violating the separation of

powers doctrine.

Under all of these circumstances, this court cannot conclude that the Alaska Constitution prohibits, as a matter of separation of powers, the appropriation of a specified sum from the general fund to a particular executive department for payment as a grant to a designated non-governmental entity.

B. The Challenged Appropriations

This court earlier grouped the appropriations challenged under the separation of powers doctrine into two categories: first, grants to specifically designated recipients who perform charitable or civic functions, and second, appropriations in which a specific agent has been designated to perform a governmental task, or, at least, appropriations in which the specifically designated recipient does not perform charitable or civic functions. While these categories are not absolute and their boundaries somewhat difficult to draw, they provide a framework for analyzing the challenged appropriations.

Under the principles set out above at pp. 3-18, all of the appropriations in the first category survive the separation of powers attack. Without examining them in detail, they involve aid for such purposes as prematernal medical care (FAAC 10; Prematernal Home Project in Bethel), emergency food for the indigent (FAAC 12; Bean's Cafe in Anchorage), social services and housing assistance for the elderly (FAAC ; Heritage House in Anchorage), aid to the victims of child abuse (FAAC 13; Anchorage Child Abuse Board), recreational counseling services to children (FAAC 11; Kyak Youth Services in Cordova), and housing improvement for the poor (FAAC 16; Tlingit-Haida Housing Improvement Program in Southeast Alaska). Several involve aid to the arts. (E.g., FAAC 3 [Institute for Alaska Native Arts]; FAAC 5 [Anchorage Civic Opera]; FAAC 77 [Alaska Repertory Theater].) Some involve assistance to minority groups to assist

in specific fields such as employment or education. (E.g., FAAC 9 [Upper Tanana Development Corp., for minority hire study]; FAAC 11 [Alaska Black Leadership Conference, for a summer tutorial program for children]; FAAC 32a [MBE Service Centers, Inc., to further minority business enterprises].) In all of these cases, this court has been unable to find constitutional authority for the Governor's position that the Legislature must defer to the Governor in the selection of the recipient of the public funds in question.[9] Indeed, these cases appear substantially similar to the cases mentioned above from other states where courts have upheld legislative appropriations to hospitals, educational institutions, community service organizations, etc. Under these circumstances, the appropriations cannot be said to violate the separation of powers doctrine.

The appropriations in the second category must be analyzed separately for they involve several different issues.

1) FAAC 18

The appropriation challenged in FAAC 18 reads as follows:

> The sum of $175,000 is appropriated from the general fund to the Legislative Council for a feasibility study of the Yukon Kuskokwim Crossing.

§ 225, ch. 50, SLA 1980 at p. 34.

The Governor argues, persuasively, that "the Legislature, by this appropriation, has involved itself in the routine execution of the law -- engineering studies on a public works project -- functions committed to" the Department of Transportation and Public Facilities. A review of the contract

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9. This court intends to express no opinion as to whether the naming of grant recipients is sound as a matter of good governmental practice or public policy. That determination is for the Legislature.

entered into by the Legislative Council pursuant to this appropriation shows that the Governor's argument is correct (see below at p. 48) and that the Legislature, in this instance, has involved itself in the execution of the laws, invading powers reserved to the executive.

2) FAAC 19

There is an unresolved factual dispute which precludes summary judgment disposition here. See discussion below at p. 50.

3) FAAC 25

The appropriation challenged in FAAC 25 reads as follows:

Fairbanks North Star Borough/ Association for The Education of Young Children	$20,000

§ 286, ch. 50, SLA 1980 at p. 53.

It appears now that this appropriation should have been grouped -- for purposes of the separation of powers argument -- in the first category. It involves a grant to a private non-profit organization for what might generally be termed a civic purpose. Apart from the question whether it offends the constitutional prohibition against direct aid to private educational institutions (see discussion below at p. 63), it appears to raise issues substantially similar to those considered in the first category, above. It does not offend the separation of powers doctrine.

4) FAAC 35

The appropriation challenged in FAAC 35 reads as follows:

Alternative Energy Technical Assistance Program	$85,500
The appropriation of $85,500 is to be paid as a grant to Alternative Energy Technical Assistance Program, Inc. for	

public education and technical assistance statewide.

§ 286, ch. 50, SLA 1980 at p. 66.

This appropriation involves a close question which is difficult to decide. On the one hand, if the cases upholding grants to non-governmental entities discussed at length above are read broadly to include not only charitable and civic agencies but also any entities which carry out a purpose which might properly be termed "public", then it would stand. If, on the other hand, they are read narrowly to include only the traditional types of agencies which have received such funds (e.g., hospitals, homes for the poor, etc.), then it might not.

The Governor argues that the provision of technical assistance and public education in the field of alternative energy has been committed in AS 44.33.040(13) and (14) to the executive. The Legislature responds that the Governor reads that statute too broadly and, even if the statute does allow the executive to carry out those functions, there is no constitutional or statutory prohibition against this type of grant. In addition, the Legislature contends that former AS 37.05.315(d) [10] is all the statutory authority which is necessary for the appropriation.

Both parties address former AS 37.05.315(d) in considerable detail. As enacted in 1980, it provided:

> When an amount is appropriated or allocated to a department as a grant for a named recipient which is not a municipality, the department to which the appropriation or allocation is made shall promptly notify the named recipient of the availability of the grant and request the named recipient to submit a proposal to provide the goods or services specified in the appropriation

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10. Now AS 37.05.316.

> act, or both, for which the appropriation or allocation is made. At the same time, the department may issue a request for proposals from other qualified persons to provide the same goods or services, or both, in the same area. The department shall contract with the named recipient unless the Office of the Governor, with due regard for any local expertise or experience among those making proposals, determines that an award of the contract to a different party would better serve the public interest. If the contract is awarded to another party than that named by the legislature, the basis of that action shall be stated in writing at the time the grant is issued and a copy of the written statement shall be sent to the Legislative Budget and Audit Committee. A contract shall be executed within 60 days after the effective date of the appropriation or allocation. The purchase of the goods or services, or both, shall be in accordance with AS 37.05.230(1)(C).

In accordance with the statute, a named grant recipient might not receive the grant. The department through which the grant is passed must request proposals from other qualified persons in the same area and may contract with one of these other qualified persons if it determines that this would better serve the public interest.

The Legislature argues that the existence of this statute "totally extinguishes [the Governor's] separation of powers complaint", since the Legislature is not selecting specific recipients but is merely "specifying the purpose and amount of an appropriation and making a recommendation to the executive agency regarding its preference for a grant recipient." The Legislature concludes that the final authority to select recipients rests with the Governor as a result of this delegation, and hence there is no violation of separation of

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powers. [11]

The Governor responds that the statute is unconstitutional. He argues that in giving a preference to the designated recipient over other equally qualified bidders, the Legislature "has denied other qualified persons equal opportunity under the law." Additionally, the Governor argues that the statute is unconstitutional because it violates the separation of powers doctrine.

The Governor's argument that the statute is unconstitutional is ultimately unpersuasive. Given the flexibility of the equal protection analysis mandated by the Alaska Supreme

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11. The Legislature, while taking this position, is not particularly enamored of AS 37.05.315(d). It recites the legislative history of the statute showing that the original bill consisted of a single sentence authorizing the commissioner of revenue to disburse appropriations for grants made by the Legislature. The Governor opposed the bill and "a political impasse" resulted. It was broken by a compromise allegedly drafted by the attorney general's office with the Governor's approval: The Legislature's naming of a recipient would be only a recommendation, and the executive would retain final authority to select a different recipient after a bid process and upon a statement of written reasons.

Thus, the Legislature argues that while the statute is constitutional, it is not good policy. The Legislature identifies two problems with it: (1) "it delegates to the Governor the power to re-make decisions of the Legislature with respect to appropriations for grants", and (2) it incorporates procedures traditionally used by the executive to select contractors to assist it in carrying out the law, which is presumably inappropriate in regard to grant recipients who, the Legislature consisently argues, execute no laws.

The Legislature concludes:

> Thus, this essential separation of powers issue need not be decided by reference to the language of AS 37.05.315(d). That statute confuses rather than clarifies, and, as a practical matter, a decision on the separation of powers issue will determine the . . fate of the statute. The validity of AS 37.05.315(d) is not the constitutional issue before this court, it is merely a symptom of the dispute.

Leg. Mem. Opp. 16 .

Court in State v. Erickson, 574 P.2d 1, 12 (Alaska 1978) and subsequent cases such as Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d 1255, 1264 (Alaska 1980) -- cases which are not even cited much less applied here by the Governor -- it cannot be concluded that this statute offends equal protection. The statute also does not offend the separation of powers doctrine. If, as found above, the power to name grant recipients is a part of the spending power, then it must follow that a statute by which the Legislature shares this power with the executive cannot encroach upon the Governor's powers. Considering too the heavy burden of showing the unconstitutionality of challenged legislation, this court concludes that former AS 37.05.315(d) must stand.

Returning to consideration of FAAC 35, the Governor's reading of AS 44.33.040(13) and (14) appears correct, to the extent that those sections appear to give to the executive the authority to provide technical assistance and public education in the field of alternative energy. But it also appears true that neither these sections nor any other statute -- nor constitutional provision -- prohibits the Legislature from making the type of grant in question. Further, given the presumption in favor of constitutionality of legislative acts, including appropriations, it seems proper to read broadly the cases cited above. Such a reading would uphold grants to non-governmental agencies as long as a public purpose were involved. Finally, to the extent that statutory authority is necessary, it is provided by AS 37.05.315(d).

This conclusion that this appropriation does not violate the separation of powers doctrine is reinforced by the fact that the Governor still wields considerable constitutional power with respect to such appropriations: He can veto them. Moreover, he can do so on an item basis. Thus, while the issue

is close, this resolution of it leaves each of the contesting parties with substantial powers in the area.

5) FAAC 37

The appropriation challenged in FAAC 37 reads as follows:

> Department of Natural Resources
>
> Kuskokwim Native Association -- Agriculture $200,0
>
> Koyokon Development Corporation -- Agriculture $200,000
>
> It is the intent of the Legislature that the appropriations to the Kuskokwim Native Association and Koyokon Development Corporation be used for the purchase of D-6 bulldozers or their equivalent, and for land clearing and other expense relating to agriculture.

§ 286, ch. 50, SLA 1980 at p. 67.

The issue presented here is similar to that presented in FAAC 35, and resolution again is difficult. It is true, as the Governor argues, that the Legislature has authorized the Department of Natural Resources "to direct experimental work to develop the agricultural industry in the state" pursuant to AS 03.05.010. However, there appears to be no statutory or constitutional impediment to a grant to a non-governmental entity, through the department which has authority in the area, to perform an act which has a public purpose. For this reason, and those additionally set out in the discussion of FAAC 35 above, this appropriation does not offend the separation of powers doctrine.

6) FAAC 42

The appropriation challenged in FAAC 42 reads as follows:

> Fairbanks
> Fairbanks Development Authority $500,000

§ 286, ch. 50, SLA 1980 at p. 77.

The Fairbanks Development Authority is a private non-profit corporation formed for the purpose of directing the urban redevelopment of Fairbanks. As the agreement between the Department of Administration and the City of Fairbanks provided, the grant "would provide a pool of money to leverage private dollars for major developments which would include malls, parking structures, civic or convention centers." Leg. Ex. 42b (p. 1 of Standard Agreement Form For Municipal Grants).

As with the two previous appropriations, the Governor argues that a statute (here AS 44.33.020) authorizes a particular executive department to carry out the functions which the Legislature has here assigned to a non-governmental entity through a grant to that entity. It is not clear that the statute cited actually gives to the Department of Commerce and Economic Development the authority which the Governor claims it does. But assuming, arguendo, that the claim is correct, there is no showing that the Legislature is prohibited, as a matter of separation of powers, from appropriating money to be paid as a grant to a non-governmental entity to carry out those functions.

7) FAAC 44

The appropriation challenged in FAAC 44 reads as follows:

> Victory/Eureka Electric Line $300,000
>
> The appropriation for the Victory/Eureka Electric Line is to be paid to the NEA Mat-Su Electrical Association.

§ 286, ch. 50, SLA 1980 at p. 79.

For the reasons set out in the discussion of the three preceding appropriations, this appropriation does not appear to offend the separation of powers doctrine, although, like the others, it presents a close question. However, the Governor raises another objection, namely, that the Legislature

has passed the grant in question "through a general law municipality which has not assumed the power to provide the services called for in the appropriations act." The Governor argues that, by doing this, the Legislature has "usurped" the power of the electorate residing in the municipality. Because the Mat-Su Borough has not assumed the power to provide light, power and heat under AS 29.48.030 in the area outside cities, and because to assume the power to provide electric service the procedure set out in AS 29.38.040 and .050 must be followed (which require voter approval before assumption of the power), the appropriation should not stand.

The Legislature does not respond to this argument. While it may well be correct, it is not clear that the Governor has standing to raise the argument that the appropriation usurps the powers of voters residing in the affected municipality. Moreover, the issue does not involve the separation of powers between the Governor and the Legislature, and thus need not be considered further here.

B) FAAC 58, 66 and 67

The Legislature concedes that the appropriations in FAAC 58, 66 and 67 are invalid. Leg. Supp. Mem. 41-42. The concession is based on a violation of the confinement requirement (that is, these appropriations effect changes in substantive law which can be accomplished only by amending existing statutes, not by an appropriation -- see Part III below) and not because they violate the separation of powers doctrine. Nonetheless, given this concession, it appears unnecessary further to consider these appropriations.

C. Conclusion

Virtually all of the appropriations challenged as violative of the separation of powers doctrine thus are upheld by this court. That result follows from several propositions

established above:

1) A party seeking to overturn a legislative enactment as unconstitutional bears a very heavy burden;

2) The legislative practice of making grants to named non-governmental recipients was well established in this country and in the Territory of Alaska before 1955;

3) The framers of the Alaska Constitution had the opportunity to prohibit grants by the Legislature to named non-governmental recipients, but chose not to do so; and

4) The power to name grant recipients is thus constitutionally a part of the spending power, and hence is legislative.

Thus, the Governor has not met his heavy burden and the legislation must stand.

The Legislature's argument, while broader and theoretically more appealing than this approach, has been difficult for this court to apply. The Legislature acknowledges that "there are many activities which, by their nature, must be performed under the sovereign power of the state and under the direct supervision of the Governor." Leg. Supp. Mem. 11. Thus, for example, it eschews the power to make grants to private entities to

> regulate utilities, license morticians, register motor vehicles, enforce fish and game laws, police the highways [and] collect taxes . . . .

Leg. Rep. Mem. 7. It would strictly limit these, however, to "inherently governmental functions." Id. Since the functions in question are not core governmental functions, they may be performed by the private grantees named by the Legislature.

While this dividing line is attractive, its application is difficult. Is large scale urban redevelopment a governmental function? What about the provision of electric

power in remote areas where the provision of power by private utilities has proven over years to be economically unfeasible? To some these might constitute "basic" services or governmental activities; to others, they might not. Thus, while this court reaches the result urged by the Legislature on the separation of powers issue, that result is reached more because the Governor has not overcome the presumption of constitutionality which attaches to legislation and less because of a complete acceptance of the "inherent governmental functions" theory of the Legislature. That theory is helpful, but it is not dispositive, especially in the close cases.

For somewhat similar reasons, this court has been unable to rely extensively on the analysis in Chadha v. Immigration and Naturalization Service, 634 F.2d 408 (9th Cir. 1980), and other cases cited by the parties. While the general discussion of the separation of powers doctrine which is found in Chadha is extremely helpful, see id. at 422-25, application of it to the several fact patterns presented by the 24 contested counterclaims here yields no certain answers. As with so many aspects of this case, the separation of powers issue appears to resist application of general principles. Perhaps the instant case is covered by Chadha's warning that

> Courts cannot, however, parse every allocation of power under the separation doctrine. We are not the ideal arbiters of efficient administration in many instances because we are not constituted to choose and to apply optimal theories of political and organizational science applicable to the routine operation of the Government.

Id. at 424. In these circumstances, basing the outcome on the determination that the Governor has not met his high burden of proof because of the history of the Constitutional Convention and the development of relevant case law seems much more

appropriate than relying on a general statement of the separation of powers doctrine.

II. FAILURE TO STATE PUBLIC PURPOSE

A. General Discussion

The Governor challenges four appropriations on the basis that the appropriations did not state a public purpose. This requirement is statutory and not constitutional. Although the Alaska Constitution provides that "[n]o tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose", Art. IX, § 6, these appropriations are not challenged as violative of this section. That is, it is conceded that the money was to be used (and was used) for public purposes. Rather, the appropriations are challenged as violative of AS 24.30.030. That statute provides:

> Bills for appropriations shall be confined to appropriations and shall include the amount involved and the purpose, method, manner and other related conditions of payment.

(emphasis added). The Legislature concedes that if there were no statement of purpose whatsoever, "the appropriation would constitute an invalid delegation of appropriation power to the Governor" and thus the appropriation would be invalid.

A review of the appropriations involved makes it clear that there is no statement of purpose set out for each appropriation. The Legislature attempts to remedy this failure by arguing that when an appropriation is to a recipient that performs a narrow range of services, this designation of the recipient may be a sufficient statement of purpose. For example, a grant to Alaska Semi-Supportive Homes, Inc. is obviously for the purpose of supporting the functions performed by this organization, which are quite limited. Thus, the Legislature reasons, naming the recipient may be a sufficient statement of the purpose if the recipient performs a specific and limited function.

This argument is not persuasive. If it were correct, the

specific statutory requirement found in AS 24.30.030 that the purpose of the appropriation be stated would in almost all instances be a nullity. In many, if not most, cases of appropriations, a reviewing court (or the executive) could postulate that the purpose of the appropriation to a governmental agency or to a particular non-governmental entity was to carry out the purpose for which that agency or entity was created; if the functions were sufficiently narrow, no public purpose would need to be included in the legislation. But this is not what the statute says. It says that the appropriation bill "shall include . . . the purpose . . . of the payment."

The Legislature makes several other arguments concerning this statutory requirement, none of which is persuasive. It notes that the Governor disbursed the funds in every case, arguing that he was able to ascertain "with precision" the purpose of the appropriation. First, that is bald speculation. Second, and more importantly, whether the Governor (or a court) could devine the Legislature's purpose or not, it remains that no purpose was stated. The Legislature questions the wisdom of abstract decisions in important constitutional areas. This argument is unpersuasive because a decision here is not constitutional at all, it is based on failure to comply with the statute. Moreover, it is not an abstract decision or one which seeks to set guidelines for future cases. It merely states that

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12. The Legislature attempts to make the argument turn on constitutional grounds, and then argues that the court should not render an abstract decision on a constitutional question. Its theory is that article IX, section 13 requires a statement of public purpose (separate and apart from the requirement of article IX, section 6 that public moneys be spent for a public purpose). It is unnecessary to reach this argument, for it is clear that the statute is violated and a court should not render a decision on constitutional grounds where a decision is possible on other grounds. Bonjour v. Bonjour, 592 P.2d 1233, 1237 (Alaska 1979); Gottschalk v. State, 575 P.2d 289, 296 (Alaska 1978).

absolute silence concerning the purpose of an appropriation does not meet the statutory requirement. The Legislature finds irony in the Governor's complaint here that legislation is not specific enough when the Governor complains (in his separation of powers argument) that the Legislature has been too specific (in naming particular recipients of grants). The argument is not well-taken: different issues are involved.

B. The Challenged Appropriations

1) FAAC 6

The appropriation challenged in FAAC 6 reads in its entirety:

> The sum of $14,500 is appropriated from the general fund to the Department of Health & Social Services, adult support services, for payment as a grant to Alaska Semi-Supportive Homes, Inc.

§ 73, ch. 50, SLA 1980 at pp. 10-11. No statement of purpose is included. It is possible to speculate, probably with a high degree of confidence, that the purpose of the appropriation is to support the activities of the grantee in carrying out its functions: providing "support services" to adults. But later judicial speculation is not tantamount to a specific legislative statement of purpose. The appropriation violates AS 24.30.030.

2) FAAC 12

The appropriation challenged in FAAC 12 reads in its entirety:

> The sum of $10,000 is appropriated from the general fund to the municipal grant account for payment as a grant to the Municipality of Anchorage for Beans Cafe.

§ 107, ch. 30, SLA 1980 at p. 15.

The analysis applied to FAAC 6, above, applies here also. Because no statement of purpose is included, the appropriation violates AS 24.30.030.

3) FAAC 32

The appropriations challenged in FAAC 32 read in their entirety:

MBE Service Centers, Inc.	$198,600
Bering Sea Fisherman's Association grant	$226,000

§ 286, ch. 50, SLA 1980 at p.65. Because these are separate appropriations, they will be discussed individually.

(a) MBE Service Centers, Inc.

There is no statement of the purpose of the appropriation to MBE Service Centers, Inc. This grantee appears to provide a wider range of services than the grantees in FAAC 6 and FAAC 12. (Compare Leg. Ex. 32B (Ex. A) with Leg. Ex. 12B (Art. III(a) and with Leg. Ex. 6A). Moreover, it is apparent that, at the time of the passage of the legislation, the purpose of the appropriation was not entirely clear. Gov. Ex. 32a, 32b. Even under the Legislature's theory that a grant to a grantee which performs only a narrow range of functions need not state a purpose because that purpose is obvious, (which theory has been rejected by this court), this appropriation would fail to pass muster.

(b) Bering Sea Fisherman's Association

The Bering Sea Fisherman's Association is apparently involved in fisheries development in western Alaska. Gov. Ex. 32h (Art. III). The grant was used to fund a program of providing up-to-date information and services to commercial fishermen in the region to encourage broader participation and economic development of the herring fishery. Gov. Exs. 32g and 32j. The appropriation does not specify that this is the purpose of the grant, and it is not at all apparent that this is the only type of function performed by the Bering Sea Fisherman's Association. Accordingly, it is not apparent that a grant to this organization must necessarily have been for that

purpose. Even under the Legislature's theory, there is an insufficient statement of the purpose of the appropriation. The appropriation violates AS 24.30.030.

4) FAAC 42

The appropriation challenged in FAAC 42 provided as follows:

Fairbanks/Fairbanks Development Authority	$500,000

§ 286, ch. 50 SLA 1980 at p. 77. The appropriation contains no statement of its purpose. On its face it violates AS 24.30.030.

Additionally, the grantee's purposes, as established by its articles of incorporation, are varied. See Gov. Ex. 42a (Art. II). As noted by the Governor, the specific purpose of the appropriation appears not to have been established until a municipal grant agreement was made between the Department of Administration and the City of Fairbanks. Gov. Ex. 42b. Even under the Legislature's theory, this appropriation would be invalid.

C. Judicial Remedy

While the Legislature argued in its supplemental memorandum that this case is an inappropriate one in which to determine what statement of purpose is sufficient, for the reason that all of the appropriations at issue were properly disbursed and the issue is thus moot, it retracted this position at oral argument. It remains to determine what judicial action, if any, is appropriate in these circumstances.

It does not appear that the Governor seeks a determination that the legislation is void, with a subsequent attempt by the executive to recover State funds from the grantees. It appears sufficient for the purposes of the parties to this litigation, to treat this opinion as a declaratory judgment insofar as the issue of the statement of public purpose is

concerned. AS 22.10.020(b).

It should be emphasized that this opinion contains no finding that any of the appropriations challenged are void because they were not for a public purpose. Thus, there is no claim that article IX, section 6 of the Constitution, set out above, was violated.[13] The only issue in this regard, on which this court finds in favor of the Governor, is that the challenged appropriations did not specify a public purpose as required by AS 24.30.030.

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13. Such a claim would be extremely difficult to sustain. Judicial deference to the legislature regarding the existence of a public purpose is extremely high. See DeArmond v. Alaska State Development Corp., 376 P.2d 717 (Alaska 1962) (legislature's determination that appropriation is for a public purose must be upheld "unless it clearly appears that such finding is arbitrary and without any reasonable basis in fact"). See also Wright v. City of Palmer, 468 P.2d 326 (Alaska 1970); Walker v. Alaska State Mortgage Ass'n, 416 P.2d 245 (Alaska 1966); Suber v. Alaska State Bond Committee, 414 P.2d 546 (Alaska 1966); and Lien v. City of Ketchikan, 383 P.2d 721 (Alaska 1963), all of which upheld legislative (state or local) enactments against attacks that claimed there was no public purpose for the enactments.

III. CONFINEMENT REQUIREMENT: CHANGES IN SUBSTANTIVE LAW

A. General Discussion

Eleven appropriations have been challenged by the Governor on the basis that they violated article II, section 13 of the Alaska Constitution, chiefly that they "impermissibly effected a change in the law", but also in other ways.

Article II, section 13 of the Alaska Constitution provides in relevant part:

> Every bill shall be confined to one subject when it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title.

As the Governor notes, the purpose in restricting appropriations bills to appropriations was to avoid the practice of "logrolling". Logrolling occurs when a measure which could not command majority legislative support on its own merits is combined with another measure or measures, and cumulatively they obtain passage. It is a particularly insidious practice when it occurs through an appropriations bill, because frequently the appropriations bill is the result of a free conference committee. As such, it must be voted on in its entirety by the membership and cannot be amended on the floor. Uniform Rules Alaska State Legislature R. 42b (1981).

Various courts have noted the evil inherent in the practice. Flanders v. Morris, 553 P.2d 769, 772 (Wash. 1977) ("It is obvious why a legislator would hesitate to hold up the funding of the entire state government in order to prevent the enactment of a certain provision, even though he would have voted against it if it had been presented as independent legislation"); Sellers v. [illegible] Miller, 24 P.2d 666, 669 (Ari[illegible]. 1933). As the Governor notes, these considerations motivated the framers of the Alaska Constitution. Alaska Constitutional

Convention, Commentary on Legislative Article at 7.

There are other purposes of the "confinement" requirement in appropriations bills. As the Governor argues, the requirement insures that a governor's item veto power will not be unfairly blunted by the inclusion, in an appropriation item, of material which actually is a "general law" measure:

> The legislature cannot by location of a bill give it immunity from executive veto. Nor can it circumvent the Governor's veto power of substantive legislation by artfully drafting general law measures so that they appear to be true conditions or limitations on an item of appropriation.

Henry v. Edwards, 346 So. 2d 153, 158 (La. 1977). This evil might constitute, as well, a violation of the separation of powers doctrine: to the extent that the objectionable material requires something which, in the absence of positive legislation, would be the executive's prerogative to determine, it would invade a governor's powers.

The Governor here claims that the challenged appropriations in this section are objectionable in one of two primary ways. First, some appropriations attach specific conditions which are in reality changes in or enactments of substantive law. The attempt to accomplish this in an appropriations bill violates the requirement that appropriations bills be confined to appropriations. Second, in directing a state agency to spend money (or to disburse money to another entity to spend) to perform a function which that state agency does not have the specific legal authority to perform, an appropriation in effect amends the law to give it that authority? This too, the Governor argues, violates the "confinement" requirement.

The Legislature generally responds that the constitutional provision in question must be interpreted liberally so as to give the legislature the flexibility it needs in making

appropriations, and that an appropriation may contain reasonable conditions, limitations and restrictions. The challenged appropriations, the Legislature concludes, contain nothing more than constitutionally permissible qualifying language.

While it is relatively simple to set out the outlines of the dispute, this court has encountered extreme difficulty in uncovering the proper test to determine when an appropriation goes beyond what is permitted by the constitution. [14/] It is

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14. A good example of how relatively easy it is to define the problem and how difficult it is to answer it may be seen from this excerpt from Henry v. Edwards, 346 So. 2d 153, 157-58 (La. 1977):

> Just as the Governor may not use his item-veto power to usurp constitutional powers conferred on the legislature, neither can the legislature deprive the Governor of the constitutional powers conferred on him as the chief executive officer of the state by including in a general appropriation bill matters more properly enacted in separate legislation. The Governor's constitutional power to veto bills of general legislation cannot be abridged by the careful placement of such measures in a general appropriation bill, thereby forcing the Governor to choose between approving unacceptable substantive legislation or vetoing "items" of expenditure essential to the operation of government. The legislature cannot by location of a bill give it immunity from executive veto. Nor can it circumvent the Governor's veto power over substantive legislation by artfully drafting general law measures so that they appear to be true conditions or limitations on an item of appropriation. Otherwise, the legislature would be permitted to impair the constitutional responsibilities and functions of a co-equal branch of government in contravention of the separation of powers doctrine . . . .
>
> We are no more willing to allow the legislature to use its appropriation power to infringe on the Governor's constitutional right to veto matters of substantive legislation than we were to allow the Governor to encroach on the constitutional powers
(footnote continued on page 41)

Footnote 14 continued

> of the legislature. In order to avoid this result, we hold that, when the legislature inserts inappropriate provisions in a general appropriation bill, such provisions must be treated as "items" for purposes of the Governor's item veto power over general appropriation bills.
>
> The distinction between what constitutes a condition or limitation properly included in a general appropriation bill and what amounts to a provision which is essentially a matter of general legislation more appropriately dealt with in a separate enactment appears, on first consideration, to be difficult to draw. However, this need not be the case if the legislative and executive branches of the government adhere to the spirit of the constitution, each exercising its respective powers with due deference for the constitutional prerogatives of the other. [The Louisiana Constitution] directs the legislature to pass an "itemized" appropriation bill, essentially a budgetary schedule of distinct fiscal units. The Governor's corollary power to veto the "items" of expenditure included therein casts further light on what was contemplated for insertion in the general appropriation bill. These provisions were never intended to hamstring the legislature in its legitimate efforts to control the purse strings of government. On the other hand, legislative control cannot be exercised in such a manner as to encumber the general appropriation bill with veto-proof "logrolling measures," special interest provisions which could not succeed if separately enacted, or "riders," substantive pieces of legislation incorporated in a bill to insure passage without veto. It is not enough that a provision be related to the institution or agency to which funds are appropriated. Conditions and limitations properly included in an appropriation bill must exhibit such a connexity with money items of appropriation that they logically belong in a schedule of expenditures. We conclude, as did the trial judge, that the ultimate test is one of appropriateness.

With all due respect to the Supreme Court of Louisiana, the test of "appropriateness" is hardly self-defining. Nor does the language "such a connexity with money items of appropriation that they logically belong in a schedule of expenditures" provide much guidance. That opinion goes on to uphold some appropriations (footnote continued on page 42)

probably of great significance that virtually eve court which has been faced with this issue has announced that it should be decided on a "case by case' basis. As the Supreme Court of Nebraska said in deciding a confinement case:

> All authorities are in agreement that it is impossible to fix exact limits in the area of constitutional separation of powers. All states approach the problem on a case-by-case basis.

State ex rel. Meyer v. State Board of Equalization and Assessment. 176 N.W.2d 920 (Neb. 1970). Unfortunately, the present dispute involves 11 instances of claimed unconstitutional appropriations in this section alone. Thus, Part III of this opinion alone may be said to be comprised of 11 separate "cases".

The Alaska Supreme Court has not yet decided a case raising a claim that particular legislation violates the constitutional requirement that bills for appropriations be confined to appropriations.[15/] There are cases construing the single subject rule, which is also found in article II, section 13, e.g., Short v. State, 600 P.2d 20 (Alaska 1979). However, because of the distinction between appropriation bills and other bills, the Alaska cases construing the single subject rule are

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Footnote 14 continued

and to strike down others for reasons which are not clear and in a pattern which does not seem to be required by the "test" quoted above. See id. at 159-65.

15. In his dissent in Thomas v. Rosen, 569 P.2d 793, 799 (Alaska, 1977), Chief Justice Boochever noted: "While art. II, sec. 13 generally requires that bills containing appropriations be confined to appropriations, I believe that the legislature has the power to include qualifications or restrictions in an appropriation bill." The majority did not find it necessary to reach that issue, however. Id.

of very little value in interpreting the confinement requirement. Thus, the Legislature's attempt to argue that the confinement requirement should be read to allow the Legislature great freedom, because that is how the Alaska Supreme Court has interpreted the single subject rule, [16] is not persuasive.

Appropriations bills may and almost always do include appropriations for a multitude of purposes. By definition they embrace several subjects. Thus, the cases interpreting the single subject rule are of little direct assistance in interpreting the confinement requirement. It seems likely that the Alaska Supreme Court would not automatically apply its single subject rule analysis to a confinement case, but would seek to fashion a rule appropriate to confinement cases.

The Governor does not suggest a particular test for confinement cases, instead citing to several authorities and arguing generally that the challenged appropriations are invalid. The Legislature does propose a particular test, that formulated in Biles v. Dept. of Public Welfare, 403 A.2d 1341 (Pa. Comm. 1979).

The Biles test contains three elements. It was stated by the court as follows:

> To be constitutional the language in an appropriation bill must be germane to the appropriations, must not conflict with existing law, and it must not extend beyond the life of the appropriations bill itself.

403 A.2d at 1343. While it is superficially attractive, the test does not go far enough. Under it, the Legislature (or

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16. In Gellert v. State, 522 P.2d 1120, 1122 (Alaska 1974), the court stated: "The constitutional provision should . . . be construed with considerable breadth. Otherwise statutes might be restricted unduly in scope and permissible subject matter, thereby multiplying and complicating the number of necessary enactments and their interrelationships." See also Short v. State, 600 P.2d 20, 23 (Alaska 1979) and cases cited at n.7 therein.

selected members of the Legislature -- the free conference committee) could enact general law through an appropriations bill, and do so session after session, and thereby vitiate completely the confinement requirement.

Certainly qualifying language must be "germane" to the appropriation (some courts use the slightly broader adjective, "appropriate"). Certainly the qualifying language or condition must not conflict with existing law. But what of the situation when there is no existing law in an area? May the Legislature (or worse, the few members of a free conference committee on an appropriations bill) enact new law in an appropriations bill and defend it under Biles simply because it does not conflict with any existing law? The answer must surely be no. Finally, certainly the qualifying language or condition must not remain in effect beyond the life of the appropriation. But that life may be extended, indeed. In the case of capital projects, "[a]n appropriation made for a capital project is valid for the life of the project . . . . " AS 37.25.020. Even in the case of operating expenses of government, the evil in the enactment of general law through an appropriations bill is hardly lessened by the fact that that evil will last only for a limited period of time. The Biles test, alone, draws no useful line.

The problem needs to be approached from the proper perspective. The constitution commands that "[b]ills for appropriations shall be confined to appropriations." The language is limiting, literally confining. It restricts the Legislature. The test to be used by the court must approach from the same perspective -- because appropriations bills must be limited to appropriations, the qualifying language must be the minimum necessary to explain the Legislature's intent regarding how the money appropriated is to be spent. It must not administer the

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program of expenditures.[17] It must not enact law or amend existing law.[18] It must not extend beyond the life of the appropriation.[19] Finally, the language must be germane,[20] that is, appropriate,[21] to an appropriations bill.

This court entertains no illusions that this test may easily or mechanistically be applied. Every instance where language is challenged in an appropriations bill is a new case which must be examined separately. Courts applying what appear to be similar tests to apparently similar facts reach opposite conclusions. Compare Welden v. Ray, 229 N.W.2d 706, 710 (Iowa 1975) with Henry v. Edwards, 346 So. 2d 153, 159-65 (La. 1977). This formulation is synthesized from several cases, and attempts to give fair meaning to the Alaska Constitution without unfairly restricting the Legislature's spending power.[22] It must now be applied to the challenged appropriations.

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17. State ex rel. Meyer v. State Board, supra, 176 N.W.2d at 926.

18. Biles v. Dept. of Public Welfare, supra, 403 A.2d at 1343 (as to amending law); Flanders v. Morris, supra, 558 P.2d at 772.

19. Biles, supra.

20. Id.

21. Henry v. Edwards, 346 So. 2d 153, 158 (La. 1977).

22 An analysis which is much more restrictive of the Legislature's power is offered by Levy, Constitutional Limitations on Appropriations, 11 UCLA-Alaska L. Rev. 189 (1982).

B. The Challenged Appropriations

1) FAAC 9

The appropriation challenged in FAAC 9 reads as follows:

> The sum of $20,000 is appropriated from the general fund to the Department of Health and Social Services for payment as a grant to the Upper Tanana Development Corporation as a minority hire study.

§ 96, ch. 50, SLA 1980 at p. 14.

As the Governor notes, the Department of Health and Social Services does not have the statutory authority to undertake minority hire studies. The powers of that department are set out in AS 44.29.020. Although they are broad, they do not either specifically or generally embrace that function. The Legislature undoubtedly could charge the department with that function, but it must do so through general law, by amending AS 44.29.020, and it may not accomplish such an amendment through an appropriation bill.

The Governor also correctly points out that the State Commission for Human Rights has been created by the Legislature, AS 18.80.010, and has been given the power to "study the problems of discrimination in all or specific fields of human relationships," AS 18.80.060(5). It would clearly have the power to conduct the minority hire study in question. It would also have the power, under the analysis of Part I, above, to receive an appropriation for a minority hire study and disburse it as a grant to the named grant recipient. It would have the power and the duty to administer the grant, to ensure that state law generally regarding the expenditures of public funds was complied with. But this court is unable to discern how the Department of Health and Social Services has any proper role in this field. Because the appropriation purports to confer on

program of expenditures.[17] It must not enact law or amend existing law.[18] It must not extend beyond the life of the appropriation.[19] Finally, the language must be germane,[20] that is, appropriate,[21] to an appropriations bill.

This court entertains no illusions that this test may easily or mechanistically be applied. Every instance where language is challenged in an appropriations bill is a new case which must be examined separately. Courts applying what appear to be similar tests to apparently similar facts reach opposite conclusions. Compare Welden v. Ray, 229 N.W.2d 706, 710 (Iowa 1975) with Henry v. Edwards, 346 So. 2d 153, 159-65 (La. 1977). This formulation is synthesized from several cases, and attempts to give fair meaning to the Alaska Constitution without unfairly restricting the Legislature's spending power.[22] It must now be applied to the challenged appropriations.

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17. State ex rel. Meyer v. State Board, supra, 176 N.W.2d at 926.

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19. Biles, supra.

20. Id.

21. Henry v. Edwards, 346 So. 2d 153, 158 (La. 1977).

22. An analysis which is much more restrictive of the Legislature's power is offered by Levy, Constitutional Limitations on Appropriations, 11 UCLA-Alaska L. Rev. 189 (1982).

that department a power which it has not been given, it attempts to amend existing law. For this reason, the appropriation is invalid.

2) FAAC 18

The appropriation challenged in FAAC 18 reads as follows:

> The sum of $175,000 is appropriated from the general fund to the Legislative Council for a feasibility study of the Yukon Kuskokwim Crossing.

§ 225, ch. 50, SLA 1980 at p. 34.

The powers of the Legislative Council are set out at AS 24.20.060. They do not include the power to undertake the kind of detailed engineering studies which would be required to determine the feasibility of a major construction project. Rather, that duty has been assigned by the Legislature to the Department of Transportation and Public Facilities. AS 35.05.010. Because the appropriation purports to confer on the Legislative Council a power which it has not been given, it attempts to amend existing law. For this reason, the appropriation is invalid.

The Legislature makes two primary arguments to uphold the validity of this appropriation. First, it argues that the Legislative Council provides "full-time technical assistance to the Legislature", and that the Legislature, through its interim committees, "has broad latitude to study alternatives for the future." The argument is based on AS 24.20.060(4)(A). That statute provides that the Legislative Council has the power to:

> Provide the technical staff assistance in research, reporting, drafting and counseling requested by standing, interim and special committees and spot research and drafting services for individual members in conformity with law and legislative rules.

The Legislature's reading of this statute appears overly broad. This matter does not involve a request by a committee for assistance in researching or drafting a bill. Nor does it involve a request from an individual legislator for "spot research". Rather, it involves a contract in the amount of $175,000 between the Legislative Affairs Agency and a joint venture to perform a highly detailed construction plan. Even a brief review of the contract which was executed shows how different this detailed feasibility study was from the type of function set out in AS 24.20.060(4)(A). Among other things, the contractor was to

> Obtain a permit to perform the necessary reconnaissance surveys on Native and public lands within the proposed Yukon-Kuskokwim Crossing corridor. Perform a reconnaissance survey of the route corridor on ground. Secure aerial mapping photography of the route corridor suitable for preparing a photogrammetric map of the route corridor. Perform a reconnaissance hydrographic survey from the main channel of the Kuskokwim River and from the main charnel of the Yukon River to the respective dock sites.
>
> Prepare a photogrammetric map of the route corridor at a scale of 1" equals 400' and a contour interval of 10'. Prepare an aerial photo strip mosaic of the route corridor at a scale of 1" equals 2,000'.
>
> Locate the proposed Portage Road, docks, pipelines, yards, staging areas and buildings on the photogrammetric map. Locate gravel sources and problem soils along the route by aerial photo-analysis with sufficient test pits to verify local photo-indicators of gravel sources and problem soils. Set permanent bench marks near the proposed dock location, refer hydrographic surveys to these bench marks, and extrapolate river stages from the nearest USGS river gaging stations and/or National Weather Service hydrologic stations on the Yukon and the Kuskokwim River.
>
> Provide a preliminary estimate of construction quantities and costs for

> the road, docks, pipelines, yards, staging areas, building and equipment. Propose basic construction methods and material sources. Prepare a preliminary environmental assessment of the proposed Yukon-Kuskokwim Crossing, with particular references to probable impacts on fish and game. Prepare a preliminary social assessment of the proposed Yukon-Kuskokwim Crossing, with particular references to the probable influences on social conditions in Upper Kalskag and other Kuskokwim and Yukon villages and towns.
>
> Propose a schedule of legislative and administrative action, hearings, surveys, design, right-of-way acquisition and construction for the proposed Yukon-Kuskokwim Crossing.

Gov. Ex. 18a. The members of the joint venture contractor with the Legislative Council are registered civil engineers. Gov. Ex. 18b. It is evident from the exhibits that the functions being undertaken by the Legislative Council in this instance go far beyond the powers established in that body by AS 24.20.060.

The Legislature's second argument is that, under AS 35.10.015, the Legislature reviews an annual report required to be submitted by the Department of Transportation and Public Facilities, including its "estimates and recommended priorities". Under AS 35.10.180, the Legislature must approve, reject, or modify the department's proposed plans and policies. Thus, the Legislature argues, its commission of this study was "incidental to the carrying out of its legislative functions, which include closely reviewing DOT/PF's proposed projects prior to appropriating funds for these projects." This argument is unpersuasive. There is no showing in the record that this detailed construction study was ordered to assist the Legislature in reviewing any proposed project of DOT/PF. There is no showing that the DOT/PF annual report even proposed such a project. Finally, if the Legislature desires to have such a feasibility study prepared, it certainly may require that it be done. However,

under the law as it presently exists, the Legislative Council has no authority to conduct such a study or to contract with others for it to be conducted.

3) FAAC 19

The appropriation challenged in FAAC 19 reads as follows:

> The sum of $250,000 is appropriated from the general fund to the Office of the Governor, special projects office, for the Northern Southeast Aquaculture Association.

§ 259, ch. 50, SLA 1980, p. 35.

There is an unresolved factual question concerning this appropriation which precludes disposition of it by summary judgment. The Legislature alleges in its Supplemental Memorandum in Opposition to Governor's Motion for Summary Judgment that this appropriation was requested by the Governor's office. Leg. Supp. Mem. 53. The Governor's response is unintelligible. He says first that the Legislature "provides no support for these assertions", then concedes that "this item was added by the legislature after the bill was introduced by the governor." The Governor then argues that "[a]n invalid appropriation is not made valid because the governor requested it." Gov. Reply 24. If it is the case that this appropriation was included in the appropriations bill at the request of the Governor, it would appear that the Governor is estopped from contesting its constitutionality. See Jamison v. Consolidated Utilities, Inc., 576 P.2d 97 (Alaska 1978). Because there is an unresolved issue of material fact, summary judgment appears inappropriate in regard to FAAC 19. Alaska Rule of Civil Procedure 56; Wickwire v. McFadden, 576 P.2d 986 (Alaska 1978).

4) FAAC 32

As noted above, there are two appropriations

which are challenged in FAAC 32. The first of these, an appropriation of $198,600 to MBE Service Centers, Inc., through the Department of Commerce and Economic Development, raises no confinement question. It is the second appropriation, $226,000 to the Bering Sea Fisherman's Association, through the Department of Commerce and Economic Development, which is challenged by the Governor on the grounds that it violates the confinement requirement.

The appropriation in question (FAAC 32(b)) reads as follows:

Department of Commerce and Economic Development

Bering Sea Fisherman's Association grant	$226,000

§ 286, ch. 50, SLA 1980, p. 65.

This appropriation is discussed above in Part II. B.3(b). Although the purpose of the grant was not set out in the appropriation, the exhibits submitted by the parties established that the grant was used to fund a program of providing up-to-date information and services to commercial fishermen in western Alaska to assist in the development of the herring fishery in that region.

The Governor argues that the Legislature has assigned to the Department of Fish and Game the authority to "collect, classify and disseminate statistics, data and information that tends to promote the purposes" of the fish and game laws of the State, including the enhancement of fisheries. The Governor also argues that the Department of Commerce and Economic Development is "not specifically charged with responsibility in this area" and thus concludes that the appropriation purports to enact substantive law by giving the Department of Commerce and Economic Development authority which it previously did not have.

A review of the enabling legislation for the Department of Commerce and Economic Development makes clear that the Governor's argument is incorrect. AS 44.33.020 establishes the duties of the department. Among them are the following. The department shall "cooperate with private, governmental and other public institutions and agencies in the execution of economic development programs." AS 44.33.020(17). The department shall "conduct studies, enter into contracts and agreements, and make surveys relating to the economic development of the state . . . ." Id., § 12. In addition to these specific duties, the department shall "perform all other duties and powers necessary or proper in relation to economic development and planning for the state." Id., § 20. Under these grants of powers, the Department of Commerce and Economic Development clearly has the power to enter into a contract with a regional association to assist in the development of the herring fishery. The Governor's argument that the appropriation somehow amended existing law is not correct. The appropriation is not in violation of the confinement requirement of the Alaska Constitution.

5) FAAC 37

The appropriation challenged in FAAC 37 reads as follows:

> Department of Natural Resources
>
> Kuskokwim Native Association $200,000
> Koyokon Development Corp. $200,000
>
> It is the intent of the Legislature that the appropriations to the Kuskokwim Native Association and Koyokon Development Corporation be used for the purchase of D-6 bulldozers or their equivalent, and for land clearing and other expense relating to agriculture.

§ 286, ch. 50, SLA 1980, p. 67.

The Governor agrees that the Department of Natural Resources has the power under AS 03.05.010 to direct experimental

work to promote and develop the agricultural industry in the State. He concedes that "[i]t is appropriate for the legislature to channel money through the department for this purpose." The Governor contends, however, that inclusion of intricate details such as the designation of the specific model bulldozer to be used in this project "constitutes the enactment of substantive law" and thus violates the confinement requirement.

The Legislature argues that the Governor's position would force it to enact a separate piece of specific legislation describing in detail the purposes of each appropriation or forego its right to specify such details. The Legislature finds the alternative of "enacting a separate piece of general legislation for hundreds of appropriations which require conditions or qualifications" to be an "unacceptable alternative both from a legal and practical standpoint." The Legislature points to past practice of providing "fine details" and argues:

> The alternative to this type of precise detailing of appropriations for specific uses and purposes is an incredible volume of separate pieces of general legislation. Since this is, in the real world, virtually impossible, the Legislature's power to control the use of state funds would effectively be handed over to the executive branch, a concept rejected by the drafters of the Alaska Constitution. Further, it is absurd for the legislature to enact a permanent stautory program when it desires only to authorize disbursement of public funds to specific recipients for specific items or purposes on a one-time basis.

Leg. Supp. Memo. 59.

The line in instances like this one is difficult to draw. In one respect the Legislature's argument is not persuasive. If, in a given appropriation, it seeks to do more than merely appropriate, it must enact separate, substantive

legislation. That is what the constitution requires. On the other hand, does the challenged language here do more than qualify and explain the appropriation? Does it offend any element of the test set out above?

While the issue is close, it appears to this court that the language does go beyond the minimum necessary to explain how the money is to be spent. It takes over a portion of the administration of the program of expenditures. It does so by directing that money appropriated for agricultural development be expended to purchase a particular type of equipment. That type of determination is one properly made by the entity which is administering or executing the law. It seems "inappropriate to a schedule of expenditures". It probably ought not to be in an appropriations bill.

However, given the authorities set out above which establish that legislation enjoys a presumption of constitutionality, this court is reluctant to conclude that a particular appropriation is unconstitutional in what appears to be a close case. For that reason, and even though the appropriation challenged in FAAC 37 appears to cross the line, no such declaration will be made and the appropriation is upheld.

6) FAAC 45, FAAC 47, FAAC 48 and FAAC 49

The appropriations challenged by the Governor in these four counts of his counterclaim are highly detailed appropriations to the Department of Transportation and Public Facilities for rural airport improvements in the scores of villages in Alaska. (The Governor says 33 rural airports are affected, and the legislature notes there are 38 airports affected. These figures are accurate as to one or the other of the specific improvements mandated, but they are inaccurate as to the total number of airports affected. For example, 77 village airports were to receive air-to-ground radios under the

appropriation. The total number of different village airports affected was probably well over 100.) Approximately $35,000,000 was appropriated for rural airport runway improvements; almost $5,000,000 was appropriated for rural airport lighting improvements; almost $3,000,000 for rural airport navigational aids; and approximately $2,000,000 was appropriated for rural airport terminal storage buildings. The appropriations are highly detailed, filling eight pages in the Session Laws of Alaska, § 286, ch. 50, SLA 1980, pp. 79-87, but, much more significantly, they refer to and incorporate by reference much longer and extremely detailed studies concerning rural airport improvement. In addition, the appropriations established minimum standards for runway size, directed the Department of Transportation and Public Facilities to identify villages where expansion of the runway would involve the acquisition of land from the village under the Alaska Native Land Claims Settlement Act and submit a list of these projects to the Legislative Budget and Audit Committee, established extremely detailed standards for improvement to airport lighting (by incorporating descriptions and standards found in DOT/PF documents and FAA documents), established the size and general lay-out of airport terminal storage buildings, et cetera.

The legislation in question goes far beyond what may be included in an appropriations bill. There is no question here that the challenged language amounts to full-scale, detailed administration of a massive rural airport improvement program. It effectively enacts law concerning the design of airports all over the state. The language is inappropriate for a schedule of expenditures. In virtually every respect, the appropriations in question offend the test for determining their validity.

The Legislature certainly could amend existing law (or create new law) establishing that airports built or

improved with state funds shall conform to certain standards. But such legislation must be separate from the appropriations bill, for all of the reasons discussed at the beginning of Part III. Or, the Legislature could appropriate the sums in question to the Department of Transportation and Public Facilities for rural airport runway improvements, rural airport lighting improvements, et cetera. It cannot, however, through the use of an appropriations bill, take over the detailed administration of carrying out a program design to improve rural airports in the state. The appropriations challenged in all of these counts of the counterclaim offend article II, section 13 of the Alaska Constitution.

7) FAAC 57

The appropriation challenged in FAAC 57 reads as follows:

> Department of Revenue
>
> Child Support Enforcement $2,432,900
>
> The Department of Revenue will establish a sliding scale collection fee schedule for the non AFDC caseload based upon an individuals [sic] economic ability to pay. The amount of this general fund appropriation is to be reduced by the amount of those non AFDC case collection fee receipts.

§ 51, ch. 20, SLA 1980, p. 25.

The Governor objects to the language requiring the Department of Revenue to establish a sliding scale collection fee schedule. He argues that such a requirement may not constitutionally be inserted into an appropriations bill. The Legislature points to AS 47.23.100 which, at the time of the appropriation, required the Department of Revenue to adopt regulations assessing costs for obligees financially able to pay for the services provided by the department. Thus, the Legislature argues, it neither added nor changed any stautory

requirements; it merely conditioned its appropriation to the agency on the agency complying with an existing statutory requirement.

The Legislature's argument is not persausive, for it mischaracterizes what the challenged language attempts to do. It not only requires that the department adopt regulations by which costs may be assessed against people who are able to pay, but it specifies that the regulation shall be of a specific type -- a sliding scale collection fee schedule. The Legislature has the power to require that such regulations be adopted, but it may not do so in an appropriations bill. The effect of that requirement clearly is to amend existing law. It is to require regulations of a particular type, where that type was not required before. The challenged language violates the confinement requirement.

8) FAAC 70

Supreme Court (35 positions) $1,832,500

No funds from this appropriation are to be used to move the clerk of the supreme court and the clerks [sic] office and staff from Juneau.

§ 51, ch. 120, SLA 1980, p. 50.

The Governor objects to the language prohibiting use of the appropriation to move the office of the clerk of the supreme court from Juneau on the grounds that it is "essentially substantive law" with its import that "the supreme court clerk shall remain in Juneau". The argument is not persuasive. Assuming that the Governor would even have standing to raise this issue, there is nothing in the challenged language which requires that the clerk's office remain in Juneau. It merely prohibits the use of funds from this appropriation for that use. It does not prohibit the use of other funds for that purpose. The challenged language simply does not do what the Governor

claims it does. There is no violation here of the confinement requirement.

C. Judicial Remedy

The Governor has not addressed, either in his original Memorandum in Support of Motion for Summary Judgment or in his Supplemental Memorandum in Reply, what judicial remedy might be proper given a finding that any of the appropriations violated the confinement requirement of article II, section 13 of the Alaska Constitution. From the extensive exhibits submitted by the parties, it appears likely that disbursement of most of the funds in question occurred even before the First Amended Answer and Counterclaim was filed, (see, e.g., Leg. Ex. 9B, Gov. Ex. 18a, Gov. Ex. 19b). Additionally, there are substantial policy reasons why this court should limit its decision to a declaration of the rights and legal relations of the parties. Under all of these circumstances, this decision, to the extent it holds any appropriation to be unconstitutional, should be treated as a declaratory judgment under AS 22.10.020(b), and no more. If any appriation declared invalid has not been disbursed, it shall lapse.

IV. PRIVATE EDUCATIONAL INSTITUTIONS

A. Standing

The Legislature contends that the Governor has no standing to challenge the two appropriations which he challenges on the grounds that they constitute aid to private educational institutions. The Legislature relies on its memorandum in support of motion to dismiss defendant's counterclaim, which was filed near the outset of this case when the case was before The Honorable Thomas B. Stewart. The Governor responded with an opposition memorandum advocating not only that he had standing, but that the Legislature did not have standing to raise the issue. The issue was fully briefed before Judge Stewart.

After consideration of the various briefs, Judge Stewart issued an order denying both the plaintiffs' and the defendants' motions to strike. In that order, he explicitly stated:

> The motions challenge the standing of the respective parties to sue the other, and assert additional grounds for dismissal. The motions have been heard and the court is fully advised thereon. It is hereby ORDERED that the motions to dismiss are denied.

Order Denying Motions to Dismiss, October 3, 1981. Because the issue of standing was fully briefed and considered by the predecessor court, and because the parties make no new arguments and allege no new facts concerning standing, this court will not reconsider Judge Stewart's earlier ruling. It is the law of this case, and ought not to be changed except upon a specific showing that it is erroneous. Stepanov v. Gavrilovich, 594 P.2d 30, 36 (Alaska 1979). While it is within this court's power to reconsider, the power "is not to be used lightly." Id. No showing has been made as to why it should be exercised here. Thus, the Governor has standing to challenge these appropriations.

B. General Discussion

Two appropriations have been challenged by the Governor on the basis that they provide direct aid for private education in violation of article VII, section 1 of the Alaska Constitution. That section provides:

> The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

The Governor's challenge is based upon the last sentence of the section. The critical inquiry regarding both appropriations is whether the grantee may be characterized as a "private educational institution."

No Alaska case has construed the meaning of the term "private educational institution", but it is not a particularly difficult term to define. It would certainly include schools, as well as societies, corporations, and organizations, which are other than public, and which are organized or established for the purpose of providing education. If there is any uncertainty in the application of this constitutional prohibition, it arises when a private organization which undertakes a number of functions, one of which may be characterized as educational, receives assistance directly from the State.

The history of the Alaska Constitutional Convention is helpful in this regard. Delegate Armstrong, speaking for the Committee on Health, Education and Welfare, which drafted the section in question, indicated a number of things about its intent. Significantly, while it was the intention of the framers "to provide and protect for the future of our public schools", the language was drafted so that it would "not prohibit the use

of funds in other educational matters." 2 Proceedings of the Alaska Constitutional Convention 1514. Delegate Armstrong then made reference to special cases where children in homes or hospitals or other private institutions would not be prohibited from receiving aid under the section. Id. at 1514-15. The thrust of these comments seems to be that aid to a private organization or institution is not prohibited, even if it carries out some educational assistance, as long as it is not primarily an educational institution.

It is also important to keep in mind, as noted above at 3-4, that a showing of unconstitutionality must be "manifest" to overcome the presumption of validity to which validly enacted statutes are entitled.

C. The Challenged Appropriations

1) FAAC 11

The appropriation challenged in FAAC 11 reads as follows:

> The sum of $100,000 is appropriated from the general fund to the municipal grant account for payment as a grant to the Municipality of Anchorage for a grant to the Alaska Black Leadership Conference for community-based education enrichment.

§ 106, ch. 50, SLA 1980 at p. 4. The grant was to finance a six week summer program for 200 minority students. Leg. Ex. 11 C.

The Alaska Black Leadership Conference is not properly described as an educational institution, as the constitution uses that phrase. While the organization undertakes some educational activities, the evidence submitted by the parties suggests that it may accurately be described as an umbrella organization for several groups which seeks the advancement, in several spheres, of Alaska's black citizens. Its purposes include "promoting and stimultating cohesiveness within the Black Community." Gov. Ex. 11a. Member organizations

include the Alaska Black Caucus, the Alaska Women's Civic and Social Club, the Black Coalition, the Ministerial Alliance, Mothers for Christian Fellowship, both the Anchorage and Fairbanks branches of the NAACP, the Greater Fairbanks Black Caucus, and diverse other groups. Leg. Ex. 11C. The purposes and powers of the Alaska Black Leadership Conference, as expressed in its articles of incorporation, embrace "charitable, educational, civic, literary and cultural" purposes. Gov. Ex. 11a (art. III). Under these circumstances, it would not appear appropriate to conclude that the Alaska Black Leadership Conference is a "private educational institution" within the meaning of the constitution.

In some instances, of course, it might be appropriate to look through a corporate structure, for example, if the organization undertook only educational functions, to determine if it really was no more than an educational institution. But that does not appear to be the case here. While the Governor hints in that direction, noting that the organization was incorporated in September, 1980, after the appropriation in question was passed, one of the exhibits submitted by the Governor shows that the organization was functioning at least since 1978. Gov. Ex. 11b. Neither party has raised a question of fact in this regard, and both parties seek resolution by summary judgment. In these circumstances, and without even the allegation of a genuine issue of material fact, this court is not inclined to look behind the exhibits presented to attempt to find a factual dispute concerning the organization's activities.

Because the Alaska Black Leadership Conference is not a "private educational institution", the appropriation of public money to it does not offend article VII, section 1 of the Alaska Constitution.

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2) FAAC 25

The appropriation challenged in FAAC 25 reads as follows:

> Fairbanks North Star Borough
> Association for Education
> of Young Children $20,000
> For child care equipment

§ 286, ch. 50, SLA 1980 at p. 53.

The Fairbanks Association for the Education of Young Children is a private non-profit organization comprised of nine day care and pre-school organizations in the Fairbanks area. Leg. Ex. 25C. Its goal is "to provide information and support for young children". Gov. Ex. 25a. It sought, and obtained in the challenged appropriation, $15,000 for play equipment and $5,000 for audio-visual equipment, to be used by its various member organizations. Leg. Ex. 25C.

As with the previous appropriation to the Alaska Black Leadership Conference, the issue is whether the Fairbanks Association for the Education of Young Children is a private educational institution. This question is substantially closer than that involving the Alaska Black Leadership Conference in the preceding appropriation.

Supporting the Governor is the fact that the name of the association suggests that it is organized primarily for educational purposes. Additionally, a letter to Representative Brian Rogers from the vice president of the organization, Gov. Ex. 25a, suggests that education is the primary purpose of the Fairbanks Association for the Education of Young Children. For example, it refers to the goal of development of "physical and cognitive skills" of children, refers to the "teacher/child ratio" in its day care centers, and refers to the fact that the day care centers provide care for both preschool and "young school age children".

The Legislature argues that the primary function of the Fairbanks Association for the Education of Young Children is to provide, through its member day care centers, child care to pre-school children. The Legislature contends that "FAEYC is a non-profit organization whose goal is to provide information and support for affiliate day care centers." Leg. Ex. 25A. The grant was used to purchase play equipment and audio-visual equipment for child care centers affiliated with FAEYC.

The Legislature seeks to distinguish day care centers or child care centers from "private educational institutions" in two ways. First, the former are regulated by the Department of Health and Social Services. See 7 AAC 50.120-775. Second, expenses for child care are tax deductible to parents, and, under the Internal Revenue Code, are considered employment related expenses, while private school tuition is not a deductible expense. Thus, the Legislature argues, day care may be distinguished from education. The Legislature also relies upon a lower court decision from Ohio which held that a day care center is not included within the term "educational use" in a zoning ordinance which provided that permitted uses in a residential district include "educational use, public library or museum." Staker v. Brown, 324 N.E.2d 793, 795 (Ohio Com. Pl. 1974). The Legislature concludes that "any educational benefits conferred on children in day care centers is secondary to their basic function which is to allow parents to participate in the work force."

A further argument advanced by the Legislature is based on the existence of AS 44.33.240-257, which authorizes the Department of Commerce and Economic Development to make loans which directly benefit child care facilities. If aid to private day care centers constitutes prohibited public benefit

to "private educational institutions", the Legislature argues, AS 44.33.240 et seq. must be unconstitutional also.

As noted above, this issue is closer than the one raised by the grant of the Alaska Black Leadership Conference. On balance, the arguments of the Legislature are more persuasive. As noted in the opinion of the Alaska Supreme Court in Sheldon Jackson College v. State, 599 P.2d 127 (Alaska 1979), the purpose of article VII, section 1 was "to support and protect a strong system of public schools." Id. at 129. It seems likely that these appropriations would not frustrate that purpose. The majority of the children to be benefited by the appropriation at issue here are not school age children, and those who are of school age are not diverted from the public schools by FAEYC. There is presumably no or little competition from the public school system for these dollars. Indeed, it might well be argued that expenditure of these funds enhances the public school system, in helping to insure that children who begin formal schooling will have had benefits provided to them during their pre-school years. Moreover, the statement by Delegate Armstrong, quoted above at 60, to the effect that the section was not intended to "prohibit the use of funds in other educational matters", 2 Proceedings of the Alaska Constitutional Convention 1514, suggests that the appropriation is valid.

Under all of these circumstances, and remembering the heavy burden that is faced by one who challenges the constitutionality of a validly enacted statute, this court concludes that the Fairbanks Association for the Education of Young Children was not a "private educational institution" as that term is used in the Alaska Constitution. For that reason, the appropriation is not prohibited by article VII, section 1 of that document.

////////////

V. UNCONSTITUTIONAL DELEGATION OF POWER

The Governor challenges one item in one of the appropriation acts in question on the theory that it is an unconstitutional delegation of power. In § 50, ch. 120, SLA 1980 at p. 65, the Legislature provided:

> The sum of $5,267,248 shall be reduced from the total of the personal services line items contained in the appropriations made by this Act for operating expenditures for the fiscal year beginning July 1, 1980, and ending June 30, 1981. The total reduction shall be from general fund appropriations and reductions shall be equitably allocated among the state agencies by the division of budget and management, Office of the Governor.

The Legislature's delegation of the power to decide how the reduction should specifically be allocated among state agencies is challenged by the Governor as an invalid delegation of legislative authority to the Governor. 23/

The Legislature argues that "[a] delegation of discretion to the executive branch of government is constitutional

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23. In his Memorandum in Support of Summary Judgment, at p. 64, the Governor states: "This item was vetoed by the governor. However, the court has ruled that this veto was improperly exercised. Mem. decision motion for partial judgment on pleadings, February 26, 1982." This court has reviewed the Memorandum of Decision of February 26, 1982, and can find no indication in the memorandum that the court ruled that the Governor's item veto power was improperly exercised regarding this item. That Memorandum of Decision was issued by The Honorable Thomas E. Schulz, to whom this case was assigned for a brief period following Judge Stewart's retirement. Therefore, this court also reviewed Judge Stewart's Memorandum of Decision of December 2, 1981, upon which Judge Schulz's Partial Judgment was based, and could not find any indication that Judge Stewart had ruled that the Governor's veto was improperly exercised in regard to this item in that document, either. Therefore, the Governor's statement that "the court has ruled that this veto was improperly exercised" appears to be incorrect.

Technically, the matter may be moot. However, under the "public interest" exception to the mootness doctrine, In Re G.M.B., 483 P.2d 1006, 1008, (Alaska, 1971), it is appropriate to resolve this matter. That is, this dispute is likely a recurring one, and its nature is such that the mootness doctrine, if applied, would effectively preclude review of the issue.

where the Legislature provides sufficient standards for the exercise of that discretion." The Legislature notes that the approach it took was an alternative to merely reducing all personal services line items by one percent, which it clearly had the power to do, and that the Governor was given "specific criteria sufficiently definite to pass constitutional muster," that is, the direction that the reductions be "equitably allocated" among the state agencies.

In DeArmond v. Alaska State Development Corp., 376 P.2d 717 (Alaska 1972), the Supreme Court cited with approval a treatise to the effect that "a legislature may delegate its non-legislative functions and confer discretion in the administration of the law, but may not delegate purely legislative powers in the absence of constitutional authorization." Id. at 723 n.16, citing 16 CJS Constitutional Law § 133 (1956). The Legislature has, in this case, argued often and persuasively that the spending power is a legislative power, and only a legislative power (with the Governor playing a limited constitutional role through the exercise of the veto). Thus, unless the Legislature can point to a specific constitutional authorization to delegate away part of that power, the item in question must be an invalid delegation.

The Legislature points to no such constitutional provision. It argues at length that this case is distinguishable from a case cited by the Governor, but that argument misses the mark. The case in question, State of New Mexico, ex rel. Holmes v. State Board of Finance, 367 P.2d 929 (N.M. 1961), held invalid a statute delegating discretion to an executive agency to apportion reductions in appropriations. The Legislature attempts to distinguish Holmes on the grounds that the reductions there were non-mandatory, non-specific, and there was no direction as to which type of appropriations should be reduced. This exercise of distinguishing Holmes overlooks the Governor's

central argument that the power in question here, the spending power, cannot be delegated at all -- even if standards for the exercise of the power are set out with great particularity by the legislature.

Even assuming that the Legislature could show that this power may be delegated, it is questionable whether the standards set out in the act in question are specifically definite. An almost identical provision in a general appropriation bill in 1963 was the subject of an attorney general opinion in this state. The provision in question read as follows:

> The total amount appropriated from the general fund by section 6 of this Act is reduced by the amount of $900,000. The apportionment of this reduction shall be made by the Governor from among the sums appropriated to the departments of the executive branch.

§ 7, CSHB 34 (1963). This provision specified exactly the amount to be reduced, directed the Governor to make the reduction, and said that the reduction should be apportioned among the executive departments. The only difference between it and the item in the instant case is that it did not decree an "equitable" allocation (though that might be inferred from the use of the word "apportionment"), and it was not restricted to personal services items. This almost identical provision was, in the opinion of the attorney general, unconstitutional, for the reason that it was an improper delegation of legislative power to the executive. The opinion relied to some extent on Holmes, supra, and noted that Holmes "was based on the more specific grounds, also applicable to CSHB No. 34, that there was a lack of sufficient standards to guide the [executive] in its determinations." 1963 Opn. Atty. Gen. No. 9, April 9, 1963, at 3. This court agrees that a second basis for striking down the item in question would be a lack of sufficient standards to

guide the executive, even assuming that the power could be delegated at all.

CONCLUSION

For the reasons set out above, the challenged appropriations are variously upheld or invalidated as noted above.

Plaintiffs shall prepare a judgment in conformity with the foregoing opinion.

DONE at Juneau, Alaska, this ___ day of May, 1983.

Walter L. Carpeneti
Superior Court Judge

CERTIFICATION

This is to certify that on the above date I provided a copy of the above Memorandum of Decision to:

Theodore E. Fleischer, Esq.
Gordon E. Evans, Esq.
James L. Baldwin, Esq.

Secretary to the Judge

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: SB 186
Title: Named Recipient Grants
Sponsor: Senator Sackett
Requestor: Senate C&RA

II. FISCAL DETAIL

Agency Affected: DCRA
Program Category Affected: Development
BRU, Program of Subprogram(s) Affected: LGAD

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard Rainery Phone: 465-4703
Division: Commissioner's Office Date: 3/25/83

Approved by Commissioner: Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/8

SB 469 cont'd

Senator Vic Fischer move[illegible] unanimous consent for the adoption of the State A[illegible]ttee Substitute offered on page 2539. Without objec[illegible]R SENATE BILL NO. 469 (SA) was adopted.

CS FOR SENATE BILL NO. 469 (SA) was read the second time.

Senator Ray moved and asked unanimous consent that CS FOR SENATE BILL NO. 469 (SA) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 469 (SA) was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 469 (SA) (credited service under the Public Employees' Retirement System; efd) pass the Senate?" The roll was taken with the following result:

CSSB 469 SA 3RD

Yeas: 20 Bennett, Eliason, Fahrenkamp, Faiks, Ferguson, Fischer Paul, Fischer Vic, Gilman, Halford, Josephson, Kelly, Kerttula, Moss, Mulcahy, Pettyjohn, Ray, Rodey, Sackett, Sturgulewski, Ziegler

Nays: 0

and so, CS FOR SENATE BILL NO. 469 (SA) passed the Senate.

Senator Ray moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 469 (SA) was engrossed, signed by the President and Secretary and transmitted to the House for consideration.

SENATE BILLS IN THIRD READING

SB 186

SENATE BILL NO. 186 (named recipient grants; efd) which was held from May 15 was before the Senate in third reading.

Senator Ferguson moved and asked unanimous consent that SENATE BILL NO. 186 be returned to second reading for the purpose of a specific amendment. Without objection, it was so ordered.

Senator Ferguson offered Amendment No. 1:

> Page 1, lines 27-29: Delete "A CONTRACT SHALL BE EXECUTED WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE APPROPRIATION OR ALLOCATION" and insert "A contract shall be executed within 60 days after the effective date of the appropriation or allocation"

Senator Ferguson moved and asked unanimous consent that Amendment No. 1 be adopted. Without objection, Amendment No. 1 was adopted.

SENATE BILL NO. 186 am was before the Senate in third reading.

Senator Ray moved that SENATE BILL NO. 186 am be placed at the bottom of the calendar. Without objection, it was so ordered.

SECOND READING OF HOUSE BILLS

HB 504

CS FOR HOUSE BILL NO. 504 (FIN) (establishing the teacher scholarship loan program; efd) was read the second time.

Senator Faiks moved and asked unanimous consent for the adoption of the Rules Senate Committee Substitute offered on page 3107. Senators Ray and Gilman objected.

SENATE BILLS IN THIRD READING

SB 186

SENATE BILL NO. 186 am (named recipient grants; efd) was before the Senate in third reading.

Senator Ferguson moved and asked unanimous consent that SENATE BILL NO. 186 am be returned to second reading for the purpose of a specific amendment. Without objection, it was so ordered.

Senator Ferguson offered Amendment No. 2:

Page 1, lines 17-29 through Page 2, line 1: restore existing language

Page 2, line 12: insert new subsection to read: "(f) The rural areas as defined by AS 44.47.560(5)(A) and (B) are exempt from the requirements in subsection (a)."

Senator Ferguson moved for the adoption of Amendment No. 2. Senator Ray asked unanimous consent. Without objection, Amendment No. 2 was adopted.

SENATE BILL NO. 186 am was before the Senate in third reading.

The question being: "Shall SENATE BILL NO. 186 am (named recipient grants; efd) pass the Senate?" The roll was taken with the following result:

SB 186 AM 3RD

Yeas:	14	Bennett, Eliason, Fahrenkamp, Faiks, Ferguson, Fischer Vic, Gilman, Josephson, Kerttula, Moss, Mulcahy, Ray, Sackett, Ziegler
Nays:	6	Fischer Paul, Halford, Kelly, Pettyjohn, Rodey, Sturgulewski

and so, SENATE BILL NO. 186 am passed the Senate.

SB 186 cont'd

Senator Ray moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

SENATE BILL NO. 186 am was engrossed, signed by the President and Secretary and transmitted to the House for consideration.

CITATIONS

Senator Ray moved and asked unanimous consent that the Rules be suspended and the publication requirement be waived on the Citation In Memoriam - Lynda Michelle Farris and be taken up as a special order of business. Without objection, it was so ordered.

Senator Ray moved that the following citations be approved:

Honoring - Session IV Close-up Students
by Senators Ray, Ferguson and Sturgulewski
Representatives Adams and Fuller

Honoring - Session V Close-up Students
by Senators Ray, Ferguson and Sturgulewski
Representatives Adams and Fuller

Honoring - Ruth Allman
by Representatives M.M. Miller, Duncan, Hayes, Vezka, Cato and Fritz
Senators Ray, Ziegler, Vic Fischer, Sturgulewski and Kerttula

In Memoriam - Lynda Michelle Farris
by Senators Paul Fischer and Gilman
Representatives Fritz and Malone

Without objection, the citations were approved and referred to the Secretary for transmittal.

UNFINISHED BUSINESS

SJR 32

Senator Fahrenkamp, Chairman, moved and asked unanimous consent that the Resources Committee referral be waived on SENATE JOINT RESOLUTION NO. 32 (proposing an amendment to the Constitution of the State of Alaska creating a fund to Finance the construction of capital projects). Without objection, it was so ordered.


SB


190

ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 190

Title Spec.approp. Sealaska Heritage Foundation, Wrangell Totem Poles

Requested by Senate Finance Committee Date 5/6/83

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected Grants

BRU, Program, or Subprogram(s) Affected

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	0	0				
200 TRAVEL	0	0				
300 CONTRACTUAL	0	0				
400 COMMODITIES	0	0				
500 EQUIPMENT	0	0				
600 LAND & STRUCTURES	0	0				
700 GRANTS, CLAIMS, ETC	0	0				
TOTAL	0	0				

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0	0				
PART TIME	0	0				
TEMPORARY	0	0				

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

IV. DATE May 6, 1983

PREPARED BY John Sackett

AGENCY John Sackett / Co-chairman

PHONE Senate Finance Committe 465-3753

Original: Legislative Finance

Wrangell Cultural Heritage Committee
P.O. Box 1050
Wrangell, Alaska

SB 190

May 17, 1983

RECEIVED
MAY 19 1983

Rep. Mitchell Abood
Pouch V
Juneau, Alaska 99811

Dear Rep. Abood,

Senate Bill 190 has passed the Senate and has been forwarded to the House Finance Committee and House State Affairs Committee. The Wrangell Totem Poles and Shakes Island Restoration Project proposal was submitted to every legislator the latter part of February 1983. We hope that you received a copy and have had time to review the project.

Subsequently, a revised budget was also sent to everyone in March noting that the project request had been cut to $178,000 from the original $327,500. After discussing the project with several of the legislators it became obvious that with declining revenue it would be best to cut the project down. We would initially lose out on the apprentice program which would have offered employment for at least a year but would at least be hopeful in having the basic project funded.

We urge you to schedule a hearing of Senate Bill 190 in the House State Affairs Committee as soon as possible. We would be most happy to furnish you with additional information on the project or answer any specific questions you may have. We also would urge you to give the proposal submitted by Sealaska Heritage Foundation due consideration. It is also an important project to the native people of Alaska.

Sincerely,

Pat

Ms. Pat Greene
Secretary-Treasurer

(907) 874-3770/874-3414

SB

215

Add a new section 12:

Section 12. Sections 3 and 8 of this Act are retroactive to July 1, 1982.

Renumber existing Section 12 to Section 13.

(3) "department" means the Department of Health and Social Services. (§ 1 ch 136 SLA 1970; am § 2 ch 210 SLA 1970; am § 55 ch 71 SLA 1972)

Legislative history report. — For report on ch. 71, SLA 1972 (HCSSB 353 am H), see 1972 House Journal, p. 898.

Chapter 45. Alaska Longevity Bonus.

Section
10. Persons who may qualify for longevity bonus
20. Continuous eligibility procedures
30. Absence from the state
40. Disqualification
50. Department hearing
60. Legal remedy
70. Unqualified persons
80. Accrual of bonuses
90. Alaska longevity bonus fund
100. Powers and duties of the administrator
110. Custody of funds
120. Exemption from taxation and process
130. Death or cessation of residency
140. Penalty for false statements
150. Definitions
160. Applicability of Administrative Procedure Act
170. Purpose

Editor's note. — Section 2, ch. 205, SLA 1972, provides: "AS 01.10.030 does not apply to this Act. If any provision of this Act, or the application of a provision of this Act to any person or circumstance is held invalid, this entire Act shall be considered invalid."

Legislative history report. — For report on ch. 205, SLA 1972 (FCCS HCS CSSB 211), see 1972 House Journal, p. 751.

Sec. 47.45.010. Persons who may qualify for longevity bonus. (a) A person who is 65 years of age or over, who was domiciled in the territory on or before January 3, 1959 and who has maintained a continuous domicile in the territory or state for 25 years may apply to the commissioner of administration for qualification to receive a monthly bonus of $150.

(b) When the commissioner of administration determines that an applicant qualifies under this chapter he shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in this chapter may continue to do so only as long as he continuously retains a domicile in the state. (§ 1 ch 205 SLA 1972; am § 1 ch 33 SLA 1976; am § 1 ch 89 SLA 1978)

Effect of amendments. — The 1976 amendment increased the monthly bonus in subsection (a) from $100.00 to $125.00.

The 1978 amendment increased the monthly bonus in subsection (a) from $125.00 to $150.00.

Legislative history report. — For report on ch. 33, SLA 1976 (SB 476 am), see 1976 Senate Journal, p. 160.

Sec. 47.45.020. Continuous eligibility procedures. After qualification, monthly applications for bonuses may be made in person to any office of the Department of Administration. Mailed monthly applications shall also be considered by the Department of Administration. In-person or mailed applications shall be made on forms provided by the Department of Administration and shall conform to the conditions as provided by regulation. The commissioner may make exceptions for those residents who are isolated in rural areas and cannot mail a monthly application; however, they shall mail an application at least once every six months. (§ 1 ch 205 SLA 1972)

Sec. 47.45.030. Absence from the state. A recipient shall notify the commissioner of administration when he expects to be absent from the state if the absence is for a continuous period that exceeds 30 days. After that notification, the recipient shall no longer receive bonuses from the Department of Administration after his last regularly approved monthly application. Upon his return to the state he may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after his return to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, he may not be disqualified, if he still otherwise qualifies upon his return to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification. (§ 1 ch 205 SLA 1972)

Sec. 47.45.040. Disqualification. Disqualification under this chapter shall rest solely with the commissioner of administration and shall be outlined in the regulations promulgated under AS 47.45.100(1). (§ 1 ch 205 SLA 1972)

Sec. 47.45.050. Department hearing. The Department of Administration may hold a departmental hearing upon the request of an applicant or recipient who has been disqualified. Previous to this hearing the department shall by certified mail notify an applicant or recipient in plain and comprehensive language the exact reason for his disqualification. Form letters using only referral to state statutes or department regulations, or otherwise vague in detail, shall not be considered compliance by the department with this section. (§ 1 ch 205 SLA 1972)

Sec. 47.45.060. Legal remedy. Legal remedy from disqualification may be sought by an applicant or recipient in any court of competent jurisdiction in the state. The burden of proof shall rest solely upon the applicant or recipient and any costs related to a disqualification verdict determined against the applicant or recipient may be recoverable by the attorney general from that person, or from any agency representing that person supported in whole, or in part, with state appropriations. (§ 1 ch 205 SLA 1972)

Sec. 47.45.110. Custody of funds. The commissioner of revenue is the treasurer of the system and has powers and duties for this purpose including but not limited to the following:

(1) to act as official custodian of the cash and securities belonging to the fund;

(2) to receive all items of cash belonging to the fund. (§ 1 ch 205 SLA 1972)

Sec. 47.45.120. Exemption from taxation and process. Bonuses received under this chapter are exempt from all state and political subdivision taxes except sales and use taxes and are not subject to execution, attachment, garnishment or other process. No bonus received under this chapter may be exempt from a federal tax requirement. (§ 1 ch 205 SLA 1972)

Sec. 47.45.130. Death or cessation of residency. The commissioner of administration shall establish procedures to stop a bonus when a recipient under this chapter no longer qualifies. When a recipient dies or discontinues his residency in the state his qualification for a bonus shall stop at the time of his last approved monthly application. (§ 1 ch 205 SLA 1972)

Sec. 47.45.140. Penalty for false statements. A person who wilfully or knowingly makes a false statement, or falsifies or permits to be falsified any record required by this chapter, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $500, or by imprisonment for not more than six months, or by both, forfeits all rights under this chapter, and shall make adequate restitution for any bonuses illegally received. (§ 1 ch 205 SLA 1972)

Sec. 47.45.150. Definitions. In this chapter

(1) "bonus" means a monthly Alaska longevity bonus payment made to a person or his beneficiary who qualifies under this chapter;

(2) "domicile" means the place with which a person has a settled connection for determination of his civil status or other legal purposes because it is actually or legally his permanent and principal home. (§ 1 ch 205 SLA 1972)

Sec. 47.45.160. Applicability of Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) does not apply to this chapter. (§ 1 ch 205 SLA 1972)

Sec. 47.45.170. Purpose. The sole purpose of this chapter is to offer and provide all law-abiding Alaskans capable of managing their own affairs who have maintained a domicile in the state for at least 25 years and have reached a retirement age of 65, an incentive to continue uninterrupted residency in the state. Under no circumstances shall this chapter be considered a form, type, or manner, of public relief. Bonuses made under this chapter are not predicated on need even though they

may appear to provide supplemental income to some qualified persons who would otherwise be forced to become responsibilities of the state. The legislature further finds and states that this legislation recognizes the economic hardships suffered by many elderly Alaskans. Alaskans who through their tenacity and perseverance molded Alaska as we know it through skillful application of their talents. These pioneers are the same Alaskans, who in the prime of their life were in effect treated as second-class citizens by the federal government and who paid much of their hard-earned income to a government in which they did not have the right to participate through the power of the ballot. The legislature also is aware of the fact that many of these pioneers have been forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationship with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans of the benefits of their wisdom and experience. This legislation hopefully will provide our pioneers with the economic means to remain in and continue to serve their state and to enjoy the opportunity of aiding the new Alaskan in making this state truly "The Great Land." (§ 1 ch 205 SLA 1972)

Chapter 50. Office of Child Advocacy.

Section
10. Office of Child Advocacy
20. Board of directors for the Office of Child Advocacy
30. Compensation and expenses
40. Powers and duties of board and director
50. Departments to assist Office of Child Advocacy

Editor's note. — For legislative findings, see § 1, ch. 189, SLA 1972, in the 1972 Temporary and Special Acts.

Sec. 47.50.010. Office of Child Advocacy. There is created in the Office of the Governor the Office of Child Advocacy to act as a coordinating body for services for children from prenatal to age 18. The Office of Child Advocacy is administered by a director appointed by the board of directors with the approval of the governor. Staff may be employed in accordance with appropriate budgets. (§ 2 ch 189 SLA 1972)

Sec. 47.50.020. Board of directors for the Office of Child Advocacy. There is created a board of directors for the Office of Child Advocacy. The board consists of the Alaska State Council on the Coordination of Community Child Care plus four members not more than 18 years of age appointed by the governor for a term of two years each, or until the youthful member attains the age of 19 years. (§ 2 ch 189 SLA 1972)

EQUAL RETIREMENT BENEFITS
CS SB 215 (2d Rules)

SECTION 1

Establishes the Longevity Bonus Account as a separate account within the Alaska permanent fund and also takes 12.5 percent of the income of the permanent fund earned during a fiscal year that is available for distribution and transfers it to the Longevity Bonus Account. Section 1 also states that the money shall be reinvested, and the Legislature may annually appropriate money in the Longevity Bonus Account to the Alaska Longevity Bonus Fund to pay monthly longevity bonuses.

SECTION 2

Changes percentage of Permanent Fund Earnings distributed to 37.5 percent (To coincide with Section 1).

SECTION 3

Establishes a 1 year residency and over 65 years of age as the qualifications for the Longevity Bonus.

SECTION 4

Establishes a $250 a month payment plus a 3 percent annual increase, unless the amount available is to small, then the amount available is divided by the number of qualified applicants.

SECTION 5

Deletes the words "He" and "His", adds the words "the recipient".

SECTION 6

Changes the language so that the Alaska Longevity Bonus Fund can receive funds from the Alaska permanent fund.

SECTION 7

Allows the Commissioner of Administration to have access to state records (other than personal income tax returns) if those records relate to the length of residency of a Longevity Bonus applicant. The information received is to be kept confidential.

SECTION 8

Definition of resident.

SECTION 9

Finding and purposes.

SECTION 10

Technical language for funding purposes.

SECTION 11

Repeals definition of bonus and domicile in Alaska statues.

SECTION 12

Effective date.

SB. 25

FISCAL YEAR 84

SOURCE	% OF ELDERLY	TOTAL DIV. DISTRIBUTED	25% OF	AMOUNT NEEDED	SIZE OF BONUS	SAVINGS ACCOUNT
Aetna	2.9	169	42.2	41.01	3,000	1.19
Travelers	2.9	169	42.2	41.01	3,000	1.19
Mercer Low	3.1	169	42.2	43.18	3,000	(.98)
Moderate	3.1	169	42.2	43.18	3,000	(.98)
High	3.1	169	42.2	43.18	3,000	(.98)

FISCAL YEAR 85

SOURCE	% OF ELDERLY	TOTAL DIV. DISTRIBUTED	25% OF	AMOUNT NEEDED	SIZE OF COLA	BONUS FLOOR	SAVINGS ACCOUNT
Aetna	2.9	121.6	30.4	44.49	3090	2110	(14.09)
Travelers	2.9	121.6	30.4	44.49	3090	2110	(14.09)
Mercer Low	3.1	121.6	30.4	46.43	3090	2023	(16.02)
Moderate	3.19	121.6	30.4	47.78	3090	1965	(17.38)
High	3.28	121.6	30.4	49.14	3090	1911	(18.74)

FISCAL YEAR 2000

SOURCE	% OF ELDERLY	TOTAL DIV. DISTRIBUTED	25% OF	AMOUNT NEEDED	SIZE OF COLA	BOXES FLOOR	SAVINGS ACCOUNT
Aetna	3.0	792.34	198.08	121.11	4814		76.97
Travelers	2.9	792.34	198.08	118.35	4814		79.23
Mercer							
Low	3.1	792.34	198.08	124.157	4814		73.92
Moderate	4.55	792.34	198.08	182.229	4814		15.86
High	6.0	792.34	198.08	240.305	4814	3698	(42.22)

SENATE AD HOC RESIDENCY COMMITTEE
REPORT ON CSSB 215

1. INTRODUCTION

The Senate Ad Hoc Residency Committee has passed, and has forwarded to the Senate Finance Committee, CSSB 215 (Residency). The bill would amend the existing Alaska longevity bonus ("ALB") program (AS 47.45.010 et. seq.) by creating an equal retirement benefits program funded by 12.5 percent of the state's permanent fund earnings.

Legislation amending the ALB program is necessary to cure severe constitutional problems with the existing law. Under current AS 47.45.010, a person is eligible for a $250/month longevity bonus if the person:

1. is 65 year of age or older;
2. was "domiciled in the territory" on or before January 3, 1959; and
3. has been continuously domiciled in the state for 25 years.

Following the U.S. Supreme Court's decision in Zobel vs. Williams, 72 L. Ed. 2d. 672 (1982), the residency requirements of the ALB program were challenged in Vest v. Schafer, 1JU-82-1103 Civil (1st Jud. Dst., 1982). On August 9, 1982, the Alaska Legislative Council, together with Mr. Vest and the Attorney General's office, entered into an agreement which stayed all proceedings in the case through adjournment of this legislative session. This session, the Alaska Legislative Council would use its "best efforts" to secure the passage of

legislation which would treat all elderly Alaskans with one-year's residency equally in the payment of longevity bonuses.

The settlement was entered into because of the non-severability clause of the original ALB legislation. Under § 2, Ch. 205, SLA 1972, if the residency provisions of the ALB program were invalidated, the result would be the termination of the program. Thus, it is vital that legislation amending the ALB program be enacted this session. If it is not, the Vest case will resume, with the inevitable result that the existing program will be declared unconstitutional, and all payments under the program stopped.

II. PROCEEDINGS BEFORE THE AD HOC RESIDENCY COMMITTEE

On March 8, 1983, the Senate Ad Hoc Residency Committee released a comprehensive report which analyzed some 10 options available to the legislature in amending the ALB program.[1] The committee explored each of the 10 options in light of (1) constitutional problems; (2) the fiscal impacts of the alternative; (3) tax consequences, and the option's impact upon the elderly's eligibility for other governmental services; and (4) the consistency of the option with the basic goals of the ALB program.

It was plain to the committee that there was no painless solution to the problems posed by the Zobel decision

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[1]"The Longevity Bonus Program: Options Under The Vest Settlement," Jon K. Tillinghast.

and the Vest case. Nonetheless, the committee believes that the ALB program, in some form, should continue. It was the intent of the original legislation, introduced in 1972 by Senators Ray and Butrovich, to establish a permanent program to provide supplemental payments to Alaska's elderly. This is apparent from the statement of purposes of the Act, which notes the high cost of retirement in Alaska, and that without the longevity bonus:

> "These pioneers would be forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationships with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans the benefit of their wisdom and experience. This legislation will hopefully provide our pioneers with the economic means to remain and to continue to serve their state..." § 1, Ch. 205, SLA 1972.

Of course, the high cost of retirement in Alaska is hardly a temporary problem. Moreover, even under the existing program, the number of recipients would not peak until the years 2010-2020, and the program would continue through about the year 2050.

Moreover, as the committee's March 8, 1983 report noted, between 1/2 and 2/3 of Alaska's elderly have income only marginally above the state poverty level of $546 a month. The ALB program has thus enabled many of Alaska's elderly to remain off

public assistance. This factor, as well, argued in favor of retention of a viable program.

Finally, while opening the program to all one-year residents, as is constitutionally required, would be viewed by some as providing unwarranted benefits to "newcomers," the committee's report demonstrated that even those Alaskan elderly who currently do not receive the bonus have lived in the state for several years. Indeed, only 10 percent of Alaska's elderly have resided in the state for 10 years or less.

Guided by a desire to retain a meaningful ALB program, the committee gave particular consideration to several of the 10 options analyzed in its report. Among the options considered and rejected were:

1. expanding the class of ALB recipients to all one-year residents in FY 1984. Thereafter the program would be terminated while providing "grandfather rights" to those eligible in 1984 to continue to receive bonuses for their lives. While the committee's counsel believed that this option was probably constitutional, the Department of Law has expressed serious conserns in this regard. Moreover, the committee believes that it is arbitrary to give a lifetime bonus to someone who has reached the age of 65 or achieved their one-year residency by June 30, 1984, while providing no assistance to those who reach the age of 65 thereafter;

2. expanding the class of eligible recipients to all one-year elderly residents, and funding the program from general revenues. This option was rejected primarily for fiscal reasons. There are currently some 9,425 Alaskans who receive bonuses totalling $28.28 million. When the class is expanded to all one-year residents, an additional 3,803 elderly will be eligible in FY 1984, which would raise the general fund burden to $40.28 million in FY 1984, and $41.98 million in FY 1988. As oil revenues continue to decline, the committee believes that the general fund would be unable to absorb an ever-increasing burden created by an expanded ALB program;

3. gradually phasing out the ALB program, while at the same time raising the income "ceiling" for state old age assistance. This is the Sheffield administration's preferred option, and was rejected by the committee for several reasons. First, it converts the ALB program into a welfare scheme -- an approach universally opposed by Alaska's elderly. Second, once the $250/mo. ALB payment has been translated into additional welfare entitlements, the maximum constitutional residency requirement drops from one year to 30 days. This is because, unlike the ALB, welfare is considered a "basic necessity of life," for which the courts generally tolerate no more than a one month durational residency provision. Finally, since an increased welfare ceiling would provide not only additional monetary benefits, but also substantially expanded eligibility for Medicaid -- which includes

free and unlimited nursing home coverage -- there is a substantial risk of in-migration created by this option; and

4. an annuity program. Under this option, each Alaskan, in lieu of receiving a cash permanent fund dividend, would receive a credit to a retirement account equal to the cash dividend. Over the years, those who continued to reside in the state would accumulate substantial annuity accounts. However, the option would require each Alaskan to forego the entirety of his or her permanent fund dividend. Moreover, for many years, and until individual annuity accounts reached some meaningful proportion, substantial general fund "supplements" would be required if the state were to provide a benefit of any size. For these reasons, this option was rejected by the committee.

III. THE EQUAL RETIREMENT BENEFITS PROGRAM OF CSSB 215

The Equal Retirement Benefits program which would be created by CSSB 215 provides both equality of treatment and permanence, while at the same time retaining some of the fiscal advantages of the annuity approach. Under Section 1 of the bill, 12.5 percent of the income from the permanent fund will be credited to a special account within the permanent fund. This longevity bonus account would be available for appropriation to fund the ALB program. At the same time, and under Section 2 of the bill, the amount of permanent fund earnings distributed as dividends would be reduced from 50 percent to 37.5 percent.

For FY 1984, the full 12.5 percent of permanent fund earnings will be necessary to fund the ALB program. This year, some $41 million will be required to provide a $250/mo. bonus to all one-year elderly residents. Conversely, the 12.5 percent credit to the longevity bonus account this year will equal $42.2 million. The $1.2 million surplus will remain credited to the ALB account, as will future earnings on that surplus. Section 1; Section 37.13.147(b). Of course, the money itself will remain in the permanent fund. The ALB account is, after all, only an "account." The committee believes that it was unwise to create a separate ALB "fund" -- both because of the redundant costs of administration, and the loss of leverage inherent in any smaller fund.

As the years go by, less than 12.5 percent of permanent fund earnings will be required to fund the ALB program. As a result, the ALB account will continue to build a substantial "savings account" which, in time, is intended to make the ALB account partially if not wholly self-sustaining.

In projecting the growth of the ALB "savings account," the committee relied upon elderly population projections and assumptions developed by the Alaska Department of Labor, the U.S. Social Security Administration, Aetna Insurance Company and Travelers Insurance Company.

Using these assumptions, the financial projections for the ALB savings account were encouraging. Between now and the year 2000, the percentage of permanent fund earnings required to

fund the ALB program will gradually decline, to the point where only 7.5 percent of earnings will be required by the year 2000. As attachment #1 to this report indicates, in that year, $198 million may be appropriated to the account, while only $118-$121 million will be necessary to fund the program -- resulting in a savings account deposit in that year alone of between $76-79 million. The aggregate "savings account" balance in the year 2000 should be approximately $704 million. By the year 2005, the ALB savings account may reach $1.7 billion. Since only $168 million would be required to fund the program that year, the ALB program may become entirely self-sustaining in that year.

Of course, the assumptions used to calculate these figures may be too liberal, or too conservative. The point is that under any reasonable assumptions, the ALB account will build a substantial savings account. This savings account is important for two reasons. As current oil revenues continue to decline, the time may come when a substantial portion of permanent fund earnings are needed for general government expenses. Second, commencing in the year 2010, the elderly population in Alaska should begin to experience significant growth, due to the aging of those born during the post-World War II baby boom. The savings account provides a hedge against both problems.

Under Section 4 of the bill, and commencing in FY 1985, the amount of the longevity bonus will increased by three percent

annually. Thus, the amount of the bonus increases from $3,000 per year in 1984 to $4,814 in the year 2000.

Section 4, however, also places a ceiling on the bonus. If the legislature, in any year, appropriates 12.5 percent of permanent fund earnings, and that amount is insufficient to pay the full amount of the bonus for that year, it is the committee's intent that the amount of the bonus should be reduced to avoid the need for a general fund supplement. Since, in essence, the ALB program will be preserved by the permanent fund, the committee believes that it is fair for Alaska's elderly to look only to a given percentage of the permanent fund to provide the bonus. Accordingly, in any year of shortfall, Section 4 provides that the bonus may be no greater than a per capita distribution among all eligible applicants of 12.5 percent of fund earnings.

There is at least one year in which this "ceiling" will materially reduce the size of the bonus. Through FY 84, permanent fund earnings have been based in part on undistributed earnings from prior years in which the state's former dividend plan was held up in court. In FY 1985, the permanent fund will finally stand on its own -- resulting in a reduction of permanent fund dividend distributions from $169 million in FY 84 to $121 million in FY 85. The consequences of this reduction on FY 85 bonuses are depicted in attachment #2. If there was no "ceiling," the legislature would be required to appropriate a general fund supplement of $14.09 million to award each eligible applicant their annual

bonus of $3,090 ($3,000 plus a 3% COLA). By virtue of the ceiling, each elderly Alaskan will receive an annual per capita distribution of some $2,110.

The qualifications for the bonus are set forth in Section 3 of the bill. In essence, the residency requirement is reduced to one year. However, the bill also improves upon the existing definition of "residency." Under Section 7 of the bill, a person satisfies the residency requirement only if he maintains his principal place of abode in the state for one year, and does not claim residency benefits in any other state.

Under existing 47.45.030, an eligible applicant is entitled to be absent from the state for up to six months during any year without jeopardizing his eligibility. Under Section 5 of the bill, § 030 is amended to make clear that this automatic six-month absence period only applies after initial qualification.

Finally, Section 10 of the bill would make the liberalized residency requirements of Sections 3 & 7 retroactive to July 1, 1982. This provision of the legislation is necessary under the Vest settlement, and will require a one-time appropriation of approximately $12 million from the general fund to pay retroactive bonuses to all elderly Alaskans who had resided in the state for one year as of July 1, 1982.

FISCAL YEAR 2000

SRCE.	% OF ELDERLY	TOTAL DIV. DIST.	25%	AMOUNT NEEDED	SIZE OF COLA	BONUS CEIL.	SVGS. ACCT.
Aetna	3.0	792.34	198.08	121.11	4814	NA	76.97
Trvlr	2.9	792.34	198.08	118.35	4814	NA	79.23

FISCAL YEAR 85

SRCE.	% OF ELDERLY	TOTAL DIV. DIST.	25%	AMOUNT NEEDED	SIZE OF COLA	BONUS CEIL.	SVGS. ACCT.
Aetna	2.9	121.6	30.4	44.49	3090	2110	(14.09)
Trvlr	2.9	121.6	30.4	44.49	3090	2110	(14.09)

FISCAL NOTE | Revision Date: May 20, 1983

I. REQUEST

Bill/Resolution No.: CSSB 215 (2d Rules)
Title: Longevity Bonus/Permanent Fund
Sponsor: Ray
Requestor:

II. FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Social Services
BRU, Program of Subprogram(s) Affected:
Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		85.1	53.5	53.5	53.5	53.5
200 TRAVEL						
300 CONTRACTUAL		87.0	88.0	89.0	90.0	91.0
400 COMMODITIES		2.0	1.5	1.6	1.7	1.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		28,629.5	(19,112.4)	(16,380.7)	(13,640.4)	(12,955.0)
TOTAL OPERATING		28,803.6	(18,969.4)	(16,236.6)	(13,495.2)	(12,808.7)
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		(11,071.4)	(34,345.0)	(37,547.9)	(40,750.8)	(43,953.7)
FEDERAL FUNDS						
OTHER (Specify Source)						
Permanent Fund		39,875.0	15,375.6	21,311.3	27,255.6	31,145.0

POSITIONS:

FULL-TIME		2.0	2.0	2.0	2.0	2.0
PART-TIME		3.0	-0-	-0-	-0-	-0-
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Alaska Permanent Fund Income

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: ~~George T. Mitchell~~ Michael
Division: Pioneers' Benefits
Phone: 465-4401
Date: 5/20/83

Approved by Commissioner: Lisa Rudd
Department: ADMINISTRATION
Date:

Distribution:
Original to Legislative Finance
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Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

0520-01-1/BDGSF1

IV. ANALYSIS:

C.S.S.B. 215 (2d Rules)

This is a revision of fiscal notes submitted on May 4 and 5, 1983. The current version of C.S.S.B. 215 (2d Rules) has allowed for the appropriation of $17,500,000 from the dividend fund for payment of longevity bonuses in FY84.

ASSUMPTIONS

a) Residence requirements for eligibility for the Longevity Bonus Program would change from 25 years to one year, and the requirement for domicile in Alaska on or before January 3, 1959, would be eliminated.

b) An estimated 6,072 additional persons would become eligible under the new regulations. Based on the number of people over age 65 who qualified for permanent fund dividends in 1982, we estimate payment of the longevity bonus to 16,500 people in FY84.

c) Retroactive benefits to July 1982 will be payable to the additional 6,072 persons plus 250 present recipients over age 65 who qualified for the Bonus in FY83 by completing 25 years of continuous Alaska domicile. Total cost of these retro payments is expected to be $18,966,000.

d) An increase in the Longevity Bonus staff will be needed to process the initial flood of applications, and continuing increased staff will be necessary to process the greater workload of the expanded program.

e) Annual growth of the program will be approximately 89 per month after the initial surge of applications. This figure is based on the number of applications received in addition to new inquiries in the past year. The current growth rate is 65 applicants per month.

f) The Act takes effect on July 1, 1983.

g) Operating expenses (exclusive of the amount of the monthly Bonus payment) and retroactive benefits will be funded from the General Fund.

Monthly Longevity Bonus payments are estimated to be:

FY84 - $201
FY85 - $ 73
FY86 - $ 95
FY87 - $115
FY88 - $125

Additional funds needed for FY84 are computed as follows:

	Annual Cost
Personal Services	$85,140
Clerk V, PFT (two positions) $53,460	
Clerk II, PPT (three positions, 6 mo.) $31,680	

IV. ANALYSIS: (continued)

Contractual Services	87,000
Added postage, bonus warrants, printing of new regulations and application forms, data processing charges, increased telephone tolls.	
Commodities	2,000
Office supplies and file cabinets for application and recipient files.	
Grants	
Additional funds needed for Bonus payments to estimated 6,072 additional persons who will be eligible due to one-year residence requirement.	9,663,500
Retroactive payments for those who would have been eligible on July 1, 1982 (est. 6,322 x 12 x $250)	18,966,000
Additional FY84 funds required	$28,803,640

For years beyond FY84, two additional PFT staff positions need to be retained, along with appropriate contractual and commodities costs, plus grants based on an estimated increase of 89 recipients per month.

The amount of grants funds available for payments from the dividend fund in FY84 will be $39,875,000, plus retroactive payments of $18,966,000.

This fiscal note assumes that all grants, except retroactive payments, which would normally have been funded from the State General Fund, will now be funded from the dividend fund for a net reduction of $11,071,400 in expense to the General Fund in FY84. Our assumption is that the Vest lawsuit requires retroactive payments. Department of Administration is using known Department of Revenue figures that show qualified people over 65 years of age who have applied for permanent fund dividends.

STATE OF ALASKA
FISCAL NOTE | Revision Date: May 20, 1983

I. REQUEST
Bill/Resolution No.: CSSB 215 (2d Rules)
Title: Longevity Bonus/Permanent Fund
Sponsor: Ray
Requestor:

II. FISCAL DETAIL
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Program Category Affected: Social Services
BRU, Program of Subprogram(s) Affected:
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700 GRANTS, CLAIMS, ETC		28,629.5	(19,112.4)	(16,380.7)	(13,640.4)	(12,955.0
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OTHER (Specify Source)						
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TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Alaska Permanent Fund Income

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: ~~George T. Michael~~ Michael Phone: 465-4401
Division: Pioneers' Benefits Date: 5/20/83

Approved by Commissioner: Lisa Rudd Date: 5/20/83
Department: ADMINISTRATION

stribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
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3/8/83

0520-01-1/BDGSF1

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RECEIVED
MAY 25 1983

Pioneers have received 160 A.K. Homesteads etc.

We would like to address the issue of "longevity ~~Bo~~ Bonus" payments, which is now before the "House".
We feel "New comers," or those who qualify with one year residency requirement are as worthy as the Alaskan Pioneers - and it is discrimination to deny us the Bonus.
Check our background and we have gone through the depression & hardships
We have the same day by day living expenses and Medical bills etc as the "Pioneers" (Alaskan).
The initial intent of the program to reward Pioneer Alaskans for reaching old age (Hayes quote). We qualify for old age.
It is causing stress & worry.
Think about it - some are so old & ill they will receive only a few checks - "The young may die, but the old must die"
Please think & consider the facts - you needed is last fall now we need you
Please vote - yes -
please over -

over

Florence Savage, Kenai 87
Grace T. Frazier " 80
C. A. & Mc Cullough - 81
Edna M. Clift 69
Evelyn W. Burtram 69
Eugene Kacpura
Norman V. Boling
[illegible] 74
Margaret Stimson 68
Henry J. Kuhn 70
Patricia A. Kuhn
Dona Matta 81
Rose Labarre 80
Jessie C. Ainsworth 87

Patricia Wheeler 72
Dorothy Gauthier 68
Eleanor Kiel 67
Alta Kallman
Valma Snell 74
Coretha Matthews
Albert J. Kirby
Helen P. Knight
Gladys Gaylor
Avice Jensen
Luane Lowry 68
Norma Mortensen 69
Casey Jme 70
Odman H Kooly 83
Philip Lira 70
Madeline Lira 67

These signatures from the above Senior at Kenai - live at the 2 " Complex apts - & from some at the Kenai Community Center.

SB 215

SB 215

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE

REQUEST
Bill/Resolution No. CS for SB 215 (Finance)
Title An Act amending the Alaska Longevity Bonus Program
Requested by _____ Date 5/3

FISCAL DETAIL
Agency Affected Department of Administration
Program Category Affected _____
BRU, Program, or Subprogram(s) Affected Alaska Longevity Bonus Program

EXPENDITURES (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88
PERSONAL SERVICES	26.7	26.7	26.7	26.7	26.7
TRAVEL					
CONTRACTUAL	26.0	26.5	27.0	27.5	28.0
COMMODITIES	1.0	1.0	1.0	1.0	1.0
EQUIPMENT					
LAND & STRUCTURES					
GRANTS, CLAIMS, ETC.	42250.0	30400.0	42130.0	58830.0	61430.0
TOTAL	42303.7	30454.2	42184.7	58885.2	61485.7

FUNDING (Thousands of Dollars)

GENERAL FUND	53.7	54.2	54.7	55.2	55.7
FEDERAL FUNDS					
OTHER (Specify Fund Source)					
Permanent Fund Earnings	42250.0	30400.0	42130.0	58830.0	61430.0

POSITIONS

FULL TIME	1.0	1.0	1.0	1.0	1.0
PART TIME					
TEMPORARY					

DATE 5/3/83
PREPARED BY John Sackett, CO-CHAIRMAN
AGENCY Senate Finance Committee
PHONE

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

THE LONGEVITY BONUS PROGRAM:
OPTIONS UNDER THE VEST SETTLEMENT

JON K. TILLINGHAST
Birch, Horton, Bittner, Pestinger & Anderson

March 8, 1983

SB 215

SENATE AD HOC RESIDENCY COMMITTEE
REPORT ON CSSB 215

1. INTRODUCTION

The Senate Ad Hoc Residency Committee has passed, and has forwarded to the Senate Finance Committee, CSSB 215 (Residency). The bill would amend the existing Alaska longevity bonus ("ALB") program (AS 47.45.010 et. seq.) by creating an equal retirement benefits program funded by 12.5 percent of the state's permanent fund earnings.

Legislation amending the ALB program is necessary to cure severe constitutional problems with the existing law. Under current AS 47.45.010, a person is eligible for a $250/month longevity bonus if the person:

1. is 65 year of age or older;
2. was "domiciled in the territory" on or before January 3, 1959; and
3. has been continuously domiciled in the state for 25 years.

Following the U.S. Supreme Court's decision in Zobel vs. Williams, 72 L. Ed. 2d. 672 (1982), the residency requirements of the ALB program were challenged in Vest v. Schafer, 1JU-82-1103 Civil (1st Jud. Dst., 1982). On August 9, 1982, the Alaska Legislative Council, together with Mr. Vest and the Attorney General's office, entered into an agreement which stayed all proceedings in the case through adjournment of this legislative session. This session, the Alaska Legislative Council would use its "best efforts" to secure the passage of

legislation which would treat all elderly Alaskans with one-year's residency equally in the payment of longevity bonuses.

The settlement was entered into because of the non-severability clause of the original ALB legislation. Under § 2, Ch. 205, SLA 1972, if the residency provisions of the ALB program were invalidated, the result would be the termination of the program. Thus, it is vital that legislation amending the ALB program be enacted this session. If it is not, the Vest case will resume, with the inevitable result that the existing program will be declared unconstitutional, and all payments under the program stopped.

II. PROCEEDINGS BEFORE THE AD HOC RESIDENCY COMMITTEE

On March 8, 1983, the Senate Ad Hoc Residency Committee released a comprehensive report which analyzed some 10 options available to the legislature in amending the ALB program.[1] The committee explored each of the 10 options in light of (1) constitutional problems; (2) the fiscal impacts of the alternative; (3) tax consequences, and the option's impact upon the elderly's eligibility for other governmental services; and (4) the consistency of the option with the basic goals of the ALB program.

It was plain to the committee that there was no painless solution to the problems posed by the Zobel decision

---

[1]"The Longevity Bonus Program: Options Under The Vest Settlement," Jon K. Tillinghast.

and the Vest case. Nonetheless, the committee believes that the ALB program, in some form, should continue. It was the intent of the original legislation, introduced in 1972 by Senators Ray and Butrovich, to establish a permanent program to provide supplemental payments to Alaska's elderly. This is apparent from the statement of purposes of the Act, which notes the high cost of retirement in Alaska, and that without the longevity bonus:

> "These pioneers would be forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationships with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans the benefit of their wisdom and experience. This legislation will hopefully provide our pioneers with the economic means to remain and to continue to serve their state..." § 1, Ch. 205, SLA 1972.

Of course, the high cost of retirement in Alaska is hardly a temporary problem. Moreover, even under the existing program, the number of recipients would not peak until the years 2010-2020, and the program would continue through about the year 2050.

Moreover, as the committee's March 8, 1983 report noted, between 1/2 and 2/3 of Alaska's elderly have income only marginally above the state poverty level of $546 a month. The ALB program has thus enabled many of Alaska's elderly to remain off

public assistance. This factor, as well, argued in favor of retention of a viable program.

Finally, while opening the program to all one-year residents, as is constitutionally required, would be viewed by some as providing unwarranted benefits to "newcomers," the committee's report demonstrated that even those Alaskan elderly who currently do not receive the bonus have lived in the state for several years. Indeed, only 10 percent of Alaska's elderly have resided in the state for 10 years or less.

Guided by a desire to retain a meaningful ALB program, the committee gave particular consideration to several of the 10 options analyzed in its report. Among the options considered and rejected were:

1. expanding the class of ALB recipients to all one-year residents in FY 1984. Thereafter the program would be terminated while providing "grandfather rights" to those eligible in 1984 to continue to receive bonuses for their lives. While the committee's counsel believed that this option was probably constitutional, the Department of Law has expressed serious conserns in this regard. Moreover, the committee believes that it is arbitrary to give a lifetime bonus to someone who has reached the age of 65 or achieved their one-year residency by June 30, 1984, while providing no assistance to those who reach the age of 65 thereafter;

2. expanding the class of eligible recipients to all one-year elderly residents, and funding the program from general revenues. This option was rejected primarily for fiscal reasons. There are currently some 9,425 Alaskans who receive bonuses totalling $28.28 million. When the class is expanded to all one-year residents, an additional 3,803 elderly will be eligible in FY 1984, which would raise the general fund burden to $40.28 million in FY 1984, and $41.98 million in FY 1988. As oil revenues continue to decline, the committee believes that the general fund would be unable to absorb an ever-increasing burden created by an expanded ALB program;

3. gradually phasing out the ALB program, while at the same time raising the income "ceiling" for state old age assistance. This is the Sheffield administration's preferred option, and was rejected by the committee for several reasons. First, it converts the ALB program into a welfare scheme -- an approach universally opposed by Alaska's elderly. Second, once the $250/mo. ALB payment has been translated into additional welfare entitlements, the maximum constitutional residency requirement drops from one year to 30 days. This is because, unlike the ALB, welfare is considered a "basic necessity of life," for which the courts generally tolerate no more than a one month durational residency provision. Finally, since an increased welfare ceiling would provide not only additional monetary benefits, but also substantially expanded eligibility for Medicaid -- which includes

free and unlimited nursing home coverage -- there is a substantial risk of in-migration created by this option; and

4. an annuity program. Under this option, each Alaskan, in lieu of receiving a cash permanent fund dividend, would receive a credit to a retirement account equal to the cash dividend. Over the years, those who continued to reside in the state would accumulate substantial annuity accounts. However, the option would require each Alaskan to forego the entirety of his or her permanent fund dividend. Moreover, for many years, and until individual annuity accounts reached some meaningful proportion, substantial general fund "supplements" would be required if the state were to provide a benefit of any size. For these reasons, this option was rejected by the committee.

III. THE EQUAL RETIREMENT BENEFITS PROGRAM OF CSSB 215

The Equal Retirement Benefits program which would be created by CSSB 21. provides both equality of treatment and permanence, while at the same time retaining some of the fiscal advantages of the annuity approach. Under Section 1 of the bill, 12.5 percent of the income from the permanent fund will be credited to a special account within the permanent fund. This longevity bonus account would be available for appropriation to fund the ALB program. At the same time, and under Section 2 of the bill, the amount of permanent fund earnings distributed as dividends would be reduced from 50 percent to 37.5 percent.

For FY 1984, the full 12.5 percent of permanent fund earnings will be necessary to fund the ALB program. This year, some $41 million will be required to provide a $250/mo. bonus to all one-year elderly residents. Conversely, the 12.5 percent credit to the longevity bonus account this year will equal $42.2 million. The $1.2 million surplus will remain credited to the ALB account, as will future earnings on that surplus. Section 1; Section 37.13.147(b). Of course, the money itself will remain in the permanent fund. The ALB account is, after all, only an "account." The committee believes that it was unwise to create a separate ALB "fund" -- both because of the redundant costs of administration, and the loss of leverage inherent in any smaller fund.

As the years go by, less than 12.5 percent of permanent fund earnings will be required to fund the ALB program. As a result, the ALB account will continue to build a substantial "savings account" which, in time, is intended to make the ALB account partially if not wholly self-sustaining.

In projecting the growth of the ALB "savings account," the committee relied upon elderly population projections and assumptions developed by the Alaska Department of Labor, the U.S. Social Security Administration, Aetna Insurance Company and Travelers Insurance Company.

Using these assumptions, the financial projections for the ALB savings account were encouraging. Between now and the year 2000, the percentage of permanent fund earnings required to

fund the ALB program will gradually decline, to the point where only 7.5 percent of earnings will be required by the year 2000. As attachment #1 to this report indicates, in that year, $198 million may be appropriated to the account, while only $118-$121 million will be necessary to fund the program -- resulting in a savings account deposit in that year alone of between $76-79 million. The aggregate "savings account" balance in the year 2000 should be approximately $704 million. By the year 2005, the ALB savings account may reach $1.7 billion. Since only $168 million would be required to fund the program that year, the ALB program may become entirely self-sustaining in that year.

Of course, the assumptions used to calculate these figures may be too liberal, or too conservative. The point is that under any reasonable assumptions, the ALB account will build a substantial savings account. This savings account is important for two reasons. As current oil revenues continue to decline, the time may come when a substantial portion of permanent fund earnings are needed for general government expenses. Second, commencing in the year 2010, the elderly population in Alaska should begin to experience significant growth, due to the aging of those born during the post-World War II baby boom. The savings account provides a hedge against both problems.

Under Section 4 of the bill, and commencing in FY 1985, the amount of the longevity bonus will increased by three percent

annually. Thus, the amount of the bonus increases from $3,000 per year in 1984 to $4,814 in the year 2000.

Section 4, however, also places a ceiling on the bonus. If the legislature, in any year, appropriates 12.5 percent of permanent fund earnings, and that amount is insufficient to pay the full amount of the bonus for that year, it is the committee's intent that the amount of the bonus should be reduced to avoid the need for a general fund supplement. Since, in essence, the ALB program will be preserved by the permanent fund, the committee believes that it is fair for Alaska's elderly to look only to a given percentage of the permanent fund to provide the bonus. Accordingly, in any year of shortfall, Section 4 provides that the bonus may be no greater than a per capita distribution among all eligible applicants of 12.5 percent of fund earnings.

There is at least one year in which this "ceiling" will materially reduce the size of the bonus. Through FY 84, permanent fund earnings have been based in part on undistributed earnings from prior years in which the state's former dividend plan was held up in court. In FY 1985, the permanent fund will finally stand on its own -- resulting in a reduction of permanent fund dividend distributions from $169 million in FY 84 to $121 million in FY 85. The consequences of this reduction on FY 85 bonuses are depicted in attachment #2. If there was no "ceiling," the legislature would be required to appropriate a general fund supplement of $14.09 million to award each eligible applicant their annual

bonus of $3,090 ($3,000 plus a 3% COLA). By virtue of the ceiling, each elderly Alaskan will receive an annual per capita distribution of some $2,110.

The qualifications for the bonus are set forth in Section 3 of the bill. In essence, the residency requirement is reduced to one year. However, the bill also improves upon the existing definition of "residency." Under Section 7 of the bill, a person satisfies the residency requirement only if he maintains his principal place of abode in the state for one year, and does not claim residency benefits in any other state.

Under existing 47.45.030, an eligible applicant is entitled to be absent from the state for up to six months during any year without jeopardizing his eligibility. Under Section 5 of the bill, § 030 is amended to make clear that this automatic six-month absence period only applies after initial qualification.

Finally, Section 10 of the bill would make the liberalized residency requirements of Sections 3 & 7 retroactive to July 1, 1982. This provision of the legislation is necessary under the Vest settlement, and will require a one-time appropriation of approximately $12 million from the general fund to pay retroactive bonuses to all elderly Alaskans who had resided in the state for one year as of July 1, 1982.

FISCAL YEAR 2000

SRCE.	% OF ELDERLY	TOTAL DIV. DIST.	25%	AMOUNT NEEDED	SIZE OF COLA	BONUS CEIL.	SVGS. ACCT.
Aetna	3.0	792.34	198.08	121.11	4814	NA	76.97
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Aetna	2.9	121.6	30.4	44.49	3090	2110	(14.09)
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Senator Vic Fischer
Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

May 16, 1983

TO: All Senators

FROM: Senator Vic Fischer

RE: SB 227--Alaska Council on Science and Technology

SB 227 continues the existence of the Alaska Council on Science and Technology but extensively modifies its purpose and functions. The main features of this bill are:

1) repeal of the council's grant making authority (sec 4);

2) repeal of the northern technology small grants program (sec 5);

3) elimination of the laundry list of purposes, powers and duties of the council (streamlining of functions);

4) gives the council a role in development and implementation of federal Arctic Science Policy;

5) moves the council to the Office of the Governor (OMB);

6) removes designated seats on the council and increases size to nine members; and,

7) continues the council through 1987.

I believe this bill meets most of the needs and concerns of the legislature, the governor's office, and the Alaska scientific community. It should assist Senator Murkowski in promoting the Arctic Research and Policy Act. It repeals the grants process which has generated concern among some legislators. It meets the Governor's need for scientific advice within the OMB. It allows for greater private sector involvement on the council.

SB 227 is the result of an extensive sunset hearing held jointly by the Senate and House State Affairs Committees. It has the support of the Governor as well as the council itself. The bill has a zero fiscal note because the council is a reduced continuation item in the Governor's budget (less than 50% of last year's budget).

FISCAL NOTE | Revision Date , 1983

I. REQUEST

Bill/Resolution No.: SB 227

Title: "An Act relating to the AK Council on Science&Tech. & providing for an effective date."

Sponsor: State Affairs

Requestor: Sen. V. Fischer

II. FISCAL DETAIL

Agency Affected: Office of the Governo

Program Category Affected: Exec. Operatio

BRU, Program of Subprogram(s) Affected: OMB

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		-0-	-0-	-0-		
200 TRAVEL		-0-	-0-	-0-		
300 CONTRACTUAL		-0-	-0-	-0-		
400 COMMODITIES		-0-	-0-	-0-		
500 EQUIPMENT		-0-	-0-	-0-		
600 LAND & STRUCTURES		-0-	-0-	-0-		
700 GRANTS, CLAIMS, ETC		-0-	-0-	-0-		
TOTAL OPERATING		-0-	-0-	-0-		
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

There is currently 100.0 for FY 84 for the Alaska Council on Science and Technology within the Office of Management and Budget/Division of Strategic Planning Budget.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael A. Nizich, Director Phone: 465-3616

Division: Administrative Services Date: 4/6/83

Approved by Commissioner: (Lawrence Uhlman) Date: 4/6/83

Department: Office of the Governor

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

Copy to Department (for Governor introduced bills)

Copy to Sponsor

Copy to Requestor (if different from Sponsor)

3/8/83

Editor's note. — Section 1, ch. 149, SLA 1977, provides: "The legislature finds that the substantial increase in the number of state agencies, boards and commissions, and the proliferation of rules and regulations which each has adopted have contributed to a public disenchantment with the operation of state government, and that there is need for an effective and regular system of scrutiny of the programs and activities of all agencies, boards and commissions. The legislature further finds that the establishment of a system for periodic review by the public and the executive and legislative branches of certain state agencies, boards and commissions will help the governor and the legislature to determine the need for the continued existence of each of the agencies, boards and commissions."

Sec. 44.66.010. Termination of state boards and commissions. (a) Boards and commissions listed in this subsection expire on the date set out after each:

(1) Alcoholic Beverage Control Board (AS 04.06.010) — June 30, 1981;

(2) Alaska Transportation Commission (AS 42.07.011) — June 30, 1983;

(3) State Board of Parole (AS 33.15.010) — June 30, 1980;

(4) Alaska Public Utilities Commission (AS 42.05.010) — June 30, 1985;

(5) Alaska Pipeline Commission (AS 42.06.010) — June 30, 1981;

(6) Alaska Council on Science and Technology (AS 44.19.181) — June 30, 1983;

(7) Alaska Renewable Resources Corporation (AS 37.12.010) — June 30, 1982;

(8) Alaska Code Revision Commission (AS 24.20.075) — June 30, 1982;

(9) Rural Development Council (AS 44.47.160 — 44.47.190) — June 30, 1987.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 3 ch 149 SLA 1977; am § 3 ch 101 SLA 1978; am § 10 ch 179 SLA 1978; am § 3 ch 44 SLA 1980; am § 1 ch 115 SLA 1980; am § 11 ch 131 SLA 1980; am § 11 ch 136 SLA 1980; am § 3 ch 172 SLA 1980)

Effect of amendments. — The first 1978 amendment added paragraph (6) of subsection (a).

The second 1978 amendment added paragraph (7) of subsection (a).

The first 1980 amendment substituted "(AS 04.06.010) — June 30, 1981" for "AS 04.05.010 — June 30, 1979" in paragraph (1) of subsection (a).

The second 1980 amendment substituted "1983" for "1979" at the end of the paragraph (2) of subsection (a).

The third 1980 amendment substituted "1985" for "1980" at the end of paragraph (4) of subsection (a).

The fourth 1980 amendment added paragraph (8) of subsection (a).

The fifth 1980 amendment added paragraph (9) of subsection (a).

Sec. 44.66.020. Agency programs. (a) Agency programs and activities listed in this subsection which are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;

(2) programs in the budget categories of education and the University of Alaska — January, 1981;

(3) programs in the budget categories of health and social services — January, 1982;

(4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44.66.030. (§ 3 ch 149 SLA 1977)

Sec. 44.66.030. Program identification. During the legislative session preceding each of the years set out in AS 44.66.020, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

Sec. 44.66.050. Legislative oversight. (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or AS 44.66.010, or of an agency program under AS 44.66.020 and 44.66.030, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider

any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

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(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing claims. This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

Editor's notes. — The Older Americans Act, P.L. 89-73, may be found in 42 U.S.C. § 3001 et seq.

Section 14 of ch. 79, SLA 1981, provides: "TRANSFER OF PROGRAM RESPONSIBILITIES. The following are transferred to the Older Alaskans Commission in the Department of Administration:

(1) the programs conducted under the Older Americans Act, P.L. 89-73, as amended, and the persons who administer those programs in the division of adult and aging services, Department of Health and Social Services;

(2) the programs conducted under AS 47.65.010 — 47.65.060, and the persons who administer those programs in the division of adult and aging services, Department of Health and Social Services; and

(3) the Governor's Advisory Committee on Aging."

Section 15 of ch. 79, SLA 1981, provides: "CONTINUING RESPONSIBILITY OF THE DEPARTMENT OF ADMINISTRATION. This Act does not affect the responsibility of the Department of Administration for the Alaska longevity bonus program (AS 47.45.010 — 47.45.170) or the Alaska Pioneers' Homes (AS 47.25.010 — 47.25.110)."

Sec. 44.21.240. Definitions. In AS 44.21.200 — 44.21.240, "commission" means the Older Alaskans Commission. (§ 2 ch 79 SLA 1981)

Article 5. Alaska Council on Science and Technology.

Section	Section
241. Council established	254. Definitions
242. Purpose, powers, and duties	255. Short title
253. Records, reports	

Editor's notes. — This article derived from AS 44.46.070 — 44.46.110.

Sec. 44.21.241. Council established. (a) There is established in the Department of Administration the Alaska Council on Science and Technology. The council consists of seven members who are appointed by the governor upon the recommendations of the state's scientific, engineering, and related communities and organizations. Members have overlapping three-year terms, except that, of the first members, two have terms of one year, two have terms of two years, and three have terms of three years. Two members shall be selected from different executive departments of state government having significant research activities, two members shall be selected from the Alaska academic community, two members must have significant activities or direct interests in research and shall be selected from the general public, and one member shall be selected from the staff of the legislature. The council shall elect one of its members as chairman. A chairman may be elected for successive terms as chairman and serves until his successor is designated. Four members constitute a quorum.

(b) Council members receive no compensation but are entitled to the travel and per diem provided by law for members of boards or commissions. (AS 44.21.200; Executive Order No. 48, § 4 (1981))

Editor's notes. — As enacted, this section was designated AS 44.21.200 and was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 44.21.242. Purpose, powers, and duties. (a) The purpose of the council is to review and recommend the scientific and technological research needs of state government, to issue research grants and contracts, to oversee the issued grants and contracts, to promote high standards of research for the priorities proposed by the council, and to address stated legislative or administrative requests for research.

(b) The council may

(1) apprise itself of local, state, federal, and private research programs, activities, and needs;

(2) convene committees, task forces, conferences, public hearings, and other meetings necessary to carry out the council's purposes;

(3) award research grants and contracts on a fair and competitive basis and administer those grants and contracts;

(4) enter into agreements creating one or more systems of information exchange with any appropriate research funding sources;

(5) at the request of any state agency, enter into and administer, but not perform, the research under research grants and contracts funded by that state agency;

(6) investigate the need for and when necessary establish advisory committees for reviewing its program;

(7) request and receive from any agency of the state government the assistance and data needed to carry out the requirements of this section;

(8) hire an executive director and staff that may be necessary to implement AS 44.21.241 — 44.21.255.

(c) The council shall

(1) develop methods of surveying research needs of the state, based on the present and future information needs of policy makers, state agencies, and the public at large;

(2) annually review the research needs and propose priorities for funding;

(3) annually submit to the governor and the legislature the findings of the council, including a listing, description, ranking, and justification of research needs, and a commentary on significant research activities of the preceding year funded by the state and including the relationship of that research to the state's needs and priorities;

(4) promote and enhance standards for research activities for which the council has administrative oversight;

(5) establish review procedures for research proposals;

(6) at the request of either the governor or the legislature, advise in a timely fashion on inquiries concerning scientific investigation or comment;

(7) evaluate and forward to appropriate agencies and persons products of research activities funded by the council; the council shall prepare comments to accompany research reports summarizing the applications, importance, or further research needs demonstrated by the findings of council-supported research;

(8) coordinate its data and information needs with other research organizations in order to avoid unnecessary duplication;

(9) not conduct any research itself other than that necessary to further the purpose of the council as provided in (a) of this section;

(10) supply to any person or agency requesting assistance the available information on past or present research activities for which the council has information, except that the council shall not release information which may endanger the acceptance of any research proposal which is at the time competing with other proposals for funding. (AS 44.21.210; Executive Order No. 48, § 4 (1981))

Revisor's notes. — A reference to AS 44.21.200 — 44.21.240 was changed to AS 44.21.241 — 44.21.255 in subsection (b)(8) by the revisor of statutes under AS 01.05.031 to conform to the renumbering of the chapter.

Editor's notes. — As enacted, this section was designated AS 44.21.210 and was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 44.21.253. Records, reports. (a) The council shall have its financial records audited by an independent certified public accountant. The internal auditor and legislative auditor shall jointly prescribe the form and content of the financial records of the council and shall be afforded access to these records at any time.

(b) Before January 15 of each year, the council shall submit to the governor and the legislature a comprehensive report describing operations and expenditures and the status of grants and contracts for the last preceding fiscal year.

(c) The provisions of AS 09.25.110 — 09.25.120 apply to the council. (AS 44.21.220; Executive Order No. 48, § 4 (1981))

Editor's notes. — As enacted, this section was designated AS 44.21.220 and was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 44.21.254. Definitions. In AS 44.21.241 — 44.21.255, "council" means the Alaska Council on Science and Technology established in AS 44.21.241. (AS 44.21.230; Executive Order No. 48, § 4 (1981))

Revisor's notes. — A reference to AS 44.21.200 — 44.21.240 was changed to AS 44.21.241 — 44.21.255 and a reference to AS 44.21.200 was changed to AS 44.21.241 by the revisor of statutes under AS 01.05.031 to conform to the renumbering of this article.

C

A PERFORMANCE REPORT ON THE DEPARTMENT OF ADMINISTRATION ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY

December 1, 1982

Commissioner, Department of Administration	Lisa Rudd
Deputy Commissioners, Department of Administration:	
Administrative Management	Anselm Staack
Personnel Management	Eleanor Andrews
Telecommunications	

Alaska Council on Science and Technology

Chairman	David Hickok
Member	T. Neil Davis
Member	Mim Dixon
Member	Richard R. Straty
Member	Robert D. Burkett
Member	Jay Hogan
Member	Charles Webber

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

January 6, 1983

Members of the
Legislative Budget and Audit Committee:

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, the attached report is submitted for your review.

A PERFORMANCE REPORT ON THE
DEPARTMENT OF ADMINISTRATION
ALASKA COUNCIL ON
SCIENCE AND TECHNOLOGY

December 1, 1982

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

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PURPOSE AND SCOPE OF THE REPORT

Purpose

In accordance with the intent of Titles 24 and 44 (sunset legislation) we conducted an examination of the Department of Administration, Alaska Council on Science and Technology to determine if the Council has been operating in an effective and efficient manner and if there is a public need for the program.

As required by legislative intent this report shall be considered during the legislative oversight function in determining whether the Alaska Council on Science and Technology should be reestablished. The law currently specifies that this program will terminate as of June 30, 1983.

Scope

Our review consisted of evaluating the efficiency and effectiveness of the Council in (1) coordinating and centralizing research information in the State in order to identify and reduce unnecessary duplication, (2) determining and prioritizing State research needs; and (3) awarding and administering research grants in priority areas. We reviewed the following sources of information:

1. Applicable statutes and legislative intent
2. Budget documents
3. Research needs reports
4. Minutes of Council meetings
5. Correspondence files
6. Surveys of academic, private and governmental institutions
7. Surveys of Council members
8. Tests of records and documents of the Council, and
9. Any complaints filed with the Office of the Ombudsman, State Equal Employment Opportunity Office, or Human Rights Commission.

ORGANIZATION AND FUNCTION

The Alaska Council on Science and Technology was established by the 1978 Session Laws of Alaska, Chapter 101. There are seven Council members: two members are from executive agencies having significant research activities, two members from the Alaska academic community, two members from the general public who have significant activities or direct interest in research, and one member from the staff of the Legislature. Members are appointed by the Governor for overlapping three year terms.

The Council is organized under the Department of Administration which provides financial support. The Council has no regulatory function.

The Council was established to provide research data coordination through information centralization and review and to provide the scientific and technological community with a mechanism to advise decision makers on scientific issues. The purposes of the Council are as follows:

1. Review and recommend the scientific and technological research needs of State government
2. To issue research grants and contracts
3. To oversee the issued grants and contracts
4. To promote high standards of research for the priorities proposed by the Council
5. To address stated legislative or administrative requests for research.

REPORT CONCLUSIONS

Policy Issues

This report contains policy issues raised as a result of our evaluation of various Council endeavors. The final policy decisions affecting these endeavors are not within the scope of this review but require legislative consideration. In debating these issues, the legislative oversight committees should consider the findings and alternatives presented in this report so that the potential impact of policy changes can be evaluated.

Report Conclusions

In our opinion the continuation of the Alaska Council on Science and Technology is not necessary (see Recommendation No. 1).

In the event the Council is reestablished by the Legislature, certain changes need to be made to enable the Council to effectively and efficiently perform the duties intended by the Legislature, and to serve the public interest. These changes are outlined below.

1. Legislation should be introduced requiring State agencies and the University of Alaska to report to the Council on all research funded or contracted out during the year (see Recommendation No. 2).

2. The Council should comply with AS 44.21.242(C)(2)and(3) which require comment on significant State research activities and annual review of research needs. Additionally, the Council should more effectively prioritize research needs (see Recommendation No. 3).

3. The legislature should consider eliminating the authority of the Council to award research grants (see Recommendation No. 4).

4. The Council should formally review its performance in accomplishing the goals and objectives of the program (see Recommendation No. 5).

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Council on Science and Technology should be allowed to terminate.

We have reviewed the activities of the Council in relation to the enabling legislation and the statutory duties and obligations set forth in the Session Laws of Alaska 1978, Chapter 101. The review was performed in order to analyze the efficiency and effectiveness of the Council in meeting the objectives of the Legislature. The primary legislative goals were to coordinate and centralize research information in order to (1) provide concise, relevant scientific information from which informed policy decisions could be made; (2) discover and eliminate unnecessary duplicative research funded by public monies; and (3) to identify areas where research gaps exist. Furthermore, the legislature only intended the Council's coordination function to be a passive collection, commentary on, and dissemination of research information. The Council was never given the authority to actively control research funded by the State. It is in this sense that we use the term "coordination" in the following findings.

In the performance of our review, we found that the Council has been ineffective in meeting the objectives of the Legislature and in some cases has failed to fulfill statutory duties. Due to the analysis presented below, we believe the Council on Science and Technology should be allowed to terminate.

A. The Council has been ineffective in coordinating statewide research information for the following reasons:

1. Research dollars are appropriated to other entities without requiring coordination with the Council. For example, the University of Alaska was appropriated $47.7 million for organized research in Fiscal Year 1982. None of this research was coordinated through the Council.

2. Other State agencies involved in research are not required to report to the Council about what research was funded or performed during the year. Council staff has suggested that some agencies do not consider that the Council's coordination function includes their research programs. Consequently, interaction with State agencies has been limited. Questionnaires received from agency personnel support the conclusion that the Council has had limited effect on State research programs. Some

State employees responding to our questionnaire were unaware of the existence of the Council. Due to this lack of interaction, substantial research monies are not coordinated by the council and any duplicative research has remained undiscovered.

3. Even though we realize that the Council has been limited in its ability to effectively coordinate research information because of the above problems, the Council has also been ineffective in gathering information on research available to them through departmental budget documents, session laws, and various reports required by the Legislature. The Council has limited itself to coordination of its own research budget which has totalled $3.3 million from Fiscal Year 1979 to 1983. When compared to the University of Alaska's research budget alone, it is clear that the Council has had little statewide effect on research coordination or on reduction of unnecessary duplication.

On two separate occasions we have met and discussed our findings with representatives of the Council. After initial confusion over our use of the term coordination, the Council agreed that they do have a coordination function, as defined earlier in this report. Furthermore, the Council maintains that they have indirectly coordinated statewide research information by means of research needs reports, seminars, conferences, and policy proposals. However, we do not agree that this fulfills the Council's coordination function as envisioned by the Legislature.

The Legislature wanted information not only on research that needed to be done but also on research that was already completed or in progress. Additionally, this process of data collection was seen as a method to discover the use of public monies to fund research that was unnecessarily duplicative. By this the Legislature meant projects authorized and funded by one agency for information that was already available had the agency known of its existence.

Therefore, in our review of the Council, we expected to find a data file and retrieval system at the offices of the Council that would enable legislators or State agencies to readily obtain information on research in Alaska. For example, if a legislator wanted information on hydroelectric power research, he or she would be able to contact the Council and obtain information on projects completed, in

progress or contemplated by any State agency or the University of Alaska and the costs associated with that research. Also, he or she would obtain some commentary by the Council on the results of the research performed including whether it was relevant or valid.

Since we were unable to find information of this type at the Council Office, we concluded that the Council has been ineffective in this regard.

B. The Council has not complied with the intent of AS 44-.21.242(c)(3) requiring comment on significant research activities funded by the State during the preceding year. This information is required to be in the Council's annual report to the Governor and the Legislature. The Council is hampered in fulfilling this requirement by its lack of knowledge of the types and cost of research funded by public monies. As stated in Section A., causes of this lack of knowledge are due in part to research monies being appropriated to other agencies without requiring coordination through the Council or without requiring agencies to report to the Council.

The Council maintains that they have complied with this requirement. We again reviewed the Council's annual report to determine if the intent of the legislation was fulfilled. The Council's annual report is, in our judgement, a general review of research topics of interest to the State. There is no report or commentary on significant research funded by the State during the preceding year as required by the statute. There is no accumulation of costs. We believe that this is due to a lack of detailed knowledge on the part of the Council as we saw no information of this type at the Council's Office.

C. The Council is required by AS 44.21.242(c)(2) to annually review the research needs of the State of Alaska, as determined by the Council, and to prioritize those needs for funding. The Council has produced ten research needs reports since its inception, seven reports were prepared in 1980 and three in 1981. None of the needs reports have been annually reviewed and only one of the 1980 reports was revised in 1982.

Within the research needs reports, the Council listed ninety areas needing research. Eighty-five of these needs were listed as priorities in the 1981 annual report to the Governor and Legislature. We believe it would be more effective to limit the number of research needs identified as priorities because it is unrealistic to expect the Legislature to fund eighty-five projects.

Concise, effective presentation of research priorities should result in necessary research being funded by the Legislature.

The Council, on the other hand, maintains that their function is to identify research needs, while priorities for funding can only be determined by the Legislature. We can only reiterate that the Council is obliged to prioritize research needs and in our opinion, concise presentation of priorities is a more effective means of obtaining necessary research funding.

D. According to AS 44.21.242(b)(3) the Council may award and administer research grants and contracts. We reviewed each research grant awared since FY'81. During our review, we found that 79% of the grants were being awarded to the University of Alaska. Included in each research grant was a budget detailing costs for performance of the research. Each budget included overhead charged by the University for performance of research. These overhead charges ranged from 25% to 62% of the grant awarded less any expenditures budgeted for research equipment. Total overhead charged amounted to $677,000 of the $2,700,000 awarded to the University during Fiscal Years 1981 and 1982. At this same time the Council expended at least $263,000 administering these same grants. We believe it is an inefficient use of public monies to unnecessarily increase research costs. Since the University of Alaska is receiving 79% of the grants and it is in the business of doing research it would be more efficient to directly appropriate the funds to the University thus saving the State, in this case, at least $263,000.

E. In addition to the above, we believe that the primary objectives of the Council are essentially duplicative of functions presently performed by the Arctic Environmental Information and Data Center (AEIDC), University of Alaska, Anchorage. AEIDC's Information Services section performs research data accumulation and centralization functions with the objectives of creating an awareness of research performed or being performed in Alaska, of identifying research needs or gaps, and to aid in avoiding unnecessary duplication of research. AEIDC publishes a yearly Current Research Profile from information accumulated in its data files. This profile outlines research performed in Alaska by subject, investigator, and funding source. This profile and the data files are the basic tools needed for coordination of research information. We believe that it would be more efficient to coordinate research through AEIDC because it is presently equipped with the necessary tools for statewide data collection and retrieval.

In discussions with the Council, they have maintained that AEIDC has no primary objectives in determining and prioritizing research needs or in advising State policy makers, obligations which are important Council functions. Furthermore, the Council states, AEIDC's functions are information storage and retrieval, data dissimination, and problem solving. However, in a publication put out by the Council titled "Scientific and Technological Research Needs in Alaska", a result of joint meetings of the Council and the Polar Research Board, the supervisor of AEIDC Information Services stated the objectives of AEIDC included identifying research needs or gaps and aiding in avoiding unnecessary duplication. Also, in a research grant proposal written by a researcher employed at AEIDC, there is the statement that AEIDC does answer requests for information from governmental entities or in effect, gives advice as to what information is available and what is unknown. Additionally, the Council has stated that it uses the resources of AEIDC to perform its functions of information dissemination.

This evidence supports our conclusion that AEIDC does perform similar functions also attributed to the Council. AEIDC serves as a data collection and retrieval center, identifies research needs or gaps, and on request advises governmental entities on research information. In our judgement, AEIDC is a practical, cost effective alternative to the Council on Science and Technology.

We base our recommendation for allowing the Council on Science and Technology to terminate on our perception of the evidence presented above. However, if the Legislature determines that continuation of the Council is in the best interest of the public, the following recommendations should be implemented.

Recommendation No. 2

Legislation should be introduced requiring all State agencies to report to the Council on all research contracted or performed during the year.

As addressed in section A, the Council has little tangible information and no control over almost all of the monies appropriated each year for research. Coordination in this type of situation is nearly impossible. Attempts to centralize information is made very difficult and time consuming when extensive researching of agency documents is required. Since it is unrealistic to expect all monies for research to be appropriated to the Council, a reasonable alternative is to require all agencies with research budgets to report to the Council on the ultimate allocations and

expenditures of those funds. This would result in a more efficient means of collection and analysis of research information.

Recommendation No. 3

The Council should fulfill its statutory obligations as stated in AS 44.21.242(c)(2) and (3).

A. As addressed in Section B. of the preceding analysis, the Council has not commented in its annual report on the significant research activities funded by the State during the preceding year. Since the Legislature requires this information, we recommend the Council comply with this requirement.

B. As addressed in Section C., the Council does not review or effectively prioritize its research needs. We recommend the Council comply with the requirement to annually review its research needs reports. We also recommend the Council rank its priorities by some criteria that would establish a direct relation to policy issues facing decision makers and limit the priorities to a realistic number.

Recommendation No. 4

The Legislature should consider eliminating the authority of the Council to award research grants.

As addressed in Section D. of the preceding analysis, the University of Alaska has received most of the research budget appropriated to the Council. By funnelling the money through the Council, unnecessary costs of at least $263,000 have been added to the cost of the research. Additionally, the Council has spent a large percentage of its time in reviewing, awarding and administering the grants to the detriment of its other duties. We do not believe that elimination of the authority to award research grants will adversely affect the ability of the Council to coordinate research information, if State agencies are required to report to the Council. Effective coordination can be accomplished by concise reports to the Legislature and Governor on projects funded that were unnecessarily duplicative, poorly done or invalid. Research needs can be effectively presented by analysis of information obtained from agency and University reports to the Council.

Recommendation No. 5

The Council should formally review its performance in accomplishing the goals and objectives of the program.

Periodic performance reviews are a valuable tool in measuring the effectiveness of management policies in achieving program goals. Areas needing improvement or redirection can be identified and procedures updated to more effectively meet management's requirements. These reviews should result in information beneficial to the Council and can be used to measure its success in meeting program objectives.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following evaluations of the Council's activities relate to the public need factors defined in the "sunset" law. These evaluations are not intended to be all inclusive, but address those areas we covered in our review.

I. The extent to which the board, commission or program has operated in the public interest.

A. The Council has promoted high standards in the research it has funded.

B. The Council has made an attempt to inform the public about new technologies and scientific advances through support of symposiums and conferences in Alaska.

C. The Council has been involved in developing an arctic research policy culminating in a bill before the United States Congress.

D. The Council has identified various research needs of Alaska and attempted to bring these needs before the public.

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personal matters.

A. The Council has been impeded in performing its statutory duties by the absence of any condition requiring State agencies and the University of Alaska to report to the Council concerning research funded or performed.

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

A. The Council has contributed to public discussions in an attempt to develop an Alaskan science policy which could lead to a more coordinated research program in Alaska.

B. The Council has assisted the Office of the Governor in development of an Alaskan position on the future of the Naval Arctic Research Laboratory. The fundamental Alaskan position was

to seek a federal/state partnership in both use and financing.

IV. The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effects of its regulations and decisions on the effectiveness of services, economy of services, and availability of services which it has provided.

A. The Council has developed a peer review committee of scientists and technicians who review and comment on research proposals submitted to the Council. This has promoted high research standards in the research funded by the Council.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

A. The Council has made extensive use of the public in determining the research needs of Alaska. Scientists and technicians in government, education, and private industry have participated in workshops to discuss research needs. Various research needs reports have evolved from these meetings.

B. The Council encourages public participation in its discussions by public announcement of its meetings.

C. The Council participates in the Alaska Science Conference held each year in Fairbanks. Questions and comments concerning the Council and its function are solicited from interested parties.

VI. The efficiency with which public inquires or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

A. We found no instances where the Council did not respond to public inquires.

B. We found three complaints handled by the Office of the Ombudsman. Each was resolved efficiently and to the satisfaction of the complainant. The Council implemented the recommendations of the Ombudsman.

VII. The extent to which the board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

A. The Council does not have a licensing function.

VIII. The extent to which State personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

A. We found no problems in this area.

IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Findings and Recommendations.

APPENDIXES

APPENDIX A

ALASKA COUNCIL ON
SCIENCE AND TECHNOLOGY FY'83
Summary of Questionnaires

Questionnaires were sent to 165 persons to obtain information about the Council from the public. All names were systematically chosen from a list of peer reviewers provided by the Council and from participants in the Council workshops on research needs. We received 70 responses to our questionnaires. All but eight responses were from the original persons contacted. Many of the responses included thoughtful written comments. Due to space limitations, comments had to be shortened, and many could not be included.

	Private Sector			Federal Government			Research Institutions			State Government			Total		
	Yes	No	Unknown	Yes	No	Unknown	Yes	No	Unknown	Yes	No	Unknown	Yes	No	Unknown
1. Have you had any contact with the Council on Science and Technology?	11	2	0	21	0	0	17	0	0	15	4	0	64 91%	6 9%	0 0%
If no, please make any comments you may have in the space provided at the end of this survey.															
2. The Council has the obligation to reduce duplicative research funded by the State. Do you feel the Council has been effective in meeting this goal?	6	1	1	12	0	5	10	3	3	7	5	3	35 63%	9 16%	12 21%

If yes, please explain.

1. Attempt to guarantee monies they allocate are wisely spent.
2. Meetings help researchers get acquainted with each others activities.
3. Research needs reports.
4. Has reduced duplication with their own funds but this is a small portion of State funded research.
5. The Council has reduced duplication through their peer review committee.
6. Council explains on avoidance of duplication.

If no, how could they become more effective?

1. More information to the public and to scientists.
2. [illegible] level centralization of all research.
3. [illegible] more time.
4. [illegible] more than lipservice from State research agencies.

(Continued on next page).

STATE OF ALASKA - 21 - DIVISION OF LEGISLATIVE AUDIT

	Private Sector			Federal Government			Research Institutions			State Government			Total		
	Yes	No	Unknown	Yes	No	Unknown	Yes	No	Unknown	Yes	No	Unknown	Yes	No	Unknown
5. Surveyed opinions on water resource needs but this survey was in itself duplicative of similar tasks by other agencies.															
6. Monitor all research for validity, quality.															
7. Need power to review and pass judgement on all funding.															
3. Are you aware of any instances where planned research was not funded because the Council advised that the information was already available?	1	10	0	3	14	1	4	12	0	0	15	1	8 13%	51 84%	2 3%
4. Do you believe the Council has been successful in bringing the scientific and technological community into closer contact with State policy makers?	9	1	1	13	1	14	1	1	1	9	4	1	45 78%	9 15%	4 7%
5. Are you aware of the research needs identified by the Council as priorities within Alaska?	8	3	0	18	3	0	14	1	1	8	9	0	48 74%	16 25%	1 1%
If yes, do you feel they are relevant to State needs?															
1. Not only are they relevant, but they should be used by the legislature and the agencies in the budget process.															
2. They have very successfully outlined State needs in seismic area.															
3. Yes, very much so, however, I also believe that scientific needs don't coincide with policies and doubt that needed work will be funded with out the usual political games.															
6. Do you feel the Council has influenced public policy on scientific issues facing the State?	4	3	3	7	5	8	9	4	4	3	6	3	23 38%	18 31%	18 31%
Please explain.															
1. Not in business long enough.															
2. Has brought research needs before policy makers.															
3. Has not received needed publicity.															
4. Arctic Research Policy.															
5. Council is a candle in the darkness.															
6. Threats to shut the Council's Offices have led to some instability, uncertainty and loss of confidence.															

(Continued on next page).

	Private Sector			Fe			Research Institutions			State Government			Total		
	Yes	No	Unknown	Yes			Yes	No	Unknown	Yes	No	Unknown	Yes	No	Unknown
7. Do you feel it is government's responsibility to promote scientific and technological inquiry?	13	0	0	21	0	0	16	0	0	14	2	0	64 94%	2 6%	0 0%
8. If this program were eliminated what effect, if any, would it have on your agency, institution, company, or the public interest?															
1. State funding would be lost. 2. The idea is good, should not be eliminated. 3. Would lose valuable vehicle for those in research to bring forward research topics, also raises the quality of research. 4. State government could lose its easy access to scientists. 5. Coordination of state and federal research would suffer resulting in more potential for duplication. 6. Loss of broad view of research needs. 7. Would lose peer review committee 8. ACST guided research to topics relevant to Alaska - if not continued research maybe less relevent. 9. Vested interests too often get funded for "research" that has no relevance. ACST should have greater advisory status. 10. Fourteen responses stated there would be little or no effect.															
9. Are there other organizations in the State performing the same duties?	2	5	1	1	18	2	2	12	1	7	5	3	12 20%	40 68%	7 12%
Please list if yes. 1. Appropriate Technology. 2. Nearly every agency, school has research functions and policy roles. 3. Department of Fish and Game. 4. Geological and Geophysical Survey. 5. Arctic Environment and Information Data Center. 6. University of Alaska direct department budget funding. 7. Many of the Council's tasks are duplicative of work done by other agencies. 8. Individual agencies: APA, APEC, APUC, Dept. of Admin., Division of Telecommunications.															

(Continued on next page).

	Private Sector			Federal Government			Research Institutions			State Government			Total		
	Yes	No	Unknown	Yes	No	Unknown	Yes	No	Unknown	Yes	No	Unknown	Yes	No	Unknown
10. Do you believe there is a public need for this program?	11	0	0	21	0	0	16	0	0	12	3	1	60 94%	3 5%	1 1%

Please explain.

1. ACST is a vehicle by which structured communication can flow back and forth between the technical and scientific community and the executive branch of government.
2. State needs to establish priorities.
3. Need a coherent program to define needs and priorities and to account publicly for them.
4. Make public aware of lack of information.
5. Need a statewide focal point for coordination of research efforts. I believe this role should be strengthened.
6. Reduce duplication [illegible] effective.
7. Provides a unique Alaska emphasis with more direct feed back to management agencies.
8. Need a coordinating mechanism for use of State funds.
9. Coordination provides more effective research.
10. The need is for an organization in state government to fund and promote research.
11. Needs tenure to be effective.

11. Any other comments?

Private Sector

1. Impressed by foresight in planning and implementation of the Council Connection to public policy is appropriately distant. If ties were too close the quality of science might greatly diminish.
2. New ideas from Northern Technology available to the public.
3. Very high level reviews of proposals were obtained by donation of time, knowledge and experience by scientists in Alaska - at very low cost.

(Continued on next page).

4. I am concerned about the tone of this questionnaire. It seems to have missed the point on most important issues. I don't think ACST has been useful so far but the idea needs to be encouraged and the Council upgraded and given authority to be creative and useful - good idea badly handled.
5. Provides unbiased research - perhaps need an Alaska Science Foundation.
6. More funds for more research.
7. Need more publicity.

Federal Government

1. More publicity.
2. I was quite puzzled over what ACST was receiving for the overhead charge of 50% from the University of Alaska. Would like an itemization of overhead charges. In my opinion the Council's policy of not doing so could lead to misuse of public funds.
3. Needs to be better funded.
4. Council is to be commended on the development of the peer review process.
5. Public needs someone to ensure that only relevant, broad-reaching research is funded.
6. ACST should institute a policy of not funding agencies outside the State if qualified and prepared agencies within the State are ready to do the work.

Research Institutions

1. As a very active researcher on policy issues in Alaska, I see a strong need for ACST.
2. More publicity
3. Needs more funding. It is a relatively low cost program which has great potential. Needs to mature in procedures and priorities.
4. Council provides a scientifically sophisticated mentor for Alaskan decision makers.
5. The State has shown considerable wisdom in setting up the Council.
6. Budget should be increased by $5,000,000 so they can effectively carry out the funding for Alaskan research problems.

(Continued on next page).

State Government

1. Should be similar to the National Science Foundation.
2. That be assured existence for seven years.
3. The existence of this body is important but must have a breath of knowledge about on-going research Statewide to make meaningful decisions.
4. Need a cleaning house activity to control and restrict duplicative research and to monitor overall quality of funded projects.
5. My impression is that ACST's advise was virtually ignored by the Legislature and Executive. Media reported on the grants program, otherwise it didn't seem to accomplish much.
6. Alaska could well profit from a carefully designed long range program of research and development in limited areas.
7. ACST has not had sufficient support to achieve its true potential as a policy guidance tool.
8. Can provide focus on research needs and a forum for exchange.
9. Publish a list of on-going projects and projects under consideration.

APPENDIX B

ALASKA COUNCIL ON
SCIENCE AND TECHNOLOGY
APPROPRIATIONS COMPARED
WITH EXPENDITURES
For the Fiscal Years 1982 and 1981
UNAUDITED

	1981-1982		1980-1981	
	Authorizations	Expenditures	Authorizations	Expenditures
Operating Programs				
General Government				
Alaska Council on Science and Technology (operations)	$ 603,000	$ 544,000	$479,200	$475,652
Capital Programs				
General Government				
Alaska Council on Science and Technology (grants)	2,500,000	972,000	300,000	28,845
	$3,103,000	$1,516,000	$779,200	$504,497

Expenditures include encumbrances and are reported on a budgetary basis.
Amounts are per books.

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ACST
THE ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY

February 2, 1983

RECEIVED
FEB 07 1983
LEGISLATIVE
AUDIT

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

This repsonds to your letter of January 17, 1983 enclosing a copy of "A Performance Report on the Department of Administration, Alaska Council on Science and Technology, December 1, 1982."

There are many errors and misconceptions in your report. These we discussed in our letter of November 30, 1982 and personally in your office on January 11, 1983.

The following summarizes our position on your report.

1. From the title of your report you imply that the Council is a line organization of the Department of Administration. This is not true; the legislative record is clear that the Council's affiliation with the Department of Administration is for administrative "housekeeping" purposes only.

2. The Council rejects your assertion that the legislative intent associated with its statutory establishment and duties was to coordinate and centralize research information. We believe a number of legislators and administrative personnel associated with the Council's establishment and operation can testify to this matter.

3. The Council asserts that it has functionally defined Alaska research needs. That these statements are currently valid and offer priorities by research function or field (i.e., Transportation, Minerals, Natural Hazards, Agriculture and Animal Husbandry, Health and Human Life, Communications, etc.). The Council rejects your assertion that it is charged with the prioritization of research across a spectrum of Alaskan societal concerns. Such prioritization can only be done by policy makers in the executive and legislative branches; and properly so.

Comments on many of the details of your report are contained in our letter of November 30, 1982. The Council reaffirms the content of that letter, rather than to repeat its substance here, since there are clearly

Christopher Noah, Executive Director - Pouch CV, Juneau, Alaska 99811 - (907) 465-3510

basic differences of opinion between your office and the Council on a number of matters. These differences we view as honest questions of interpretation and here express our appreciation for the professional and courteous manner in which your staff conducted its analysis of Council affairs.

Sincerely,

David M. Hickok
Chairman

DMH:pb

cc: L. Rudd, Commissioner, Department of Administration
C. Noah, Executive Director, ACST

Alaska State Legislature



RECEIVED
MAR 7 1983

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

March 7, 1983

TO: Rep. Mitch Abood
Chairman, State Affairs Committee

FROM: Joe L. Hayes
SPEAKER OF THE HOUSE

SUBJECT: Sunset Legislation: Alaska Council on Science and Technology

Attached is the audit report prepared by the Office of Legislative Budget and Audit for the Alaska Council on Science and Technology for review by your committee. Normal procedure is for the responsible committee to initiate legislation extending the life of the agency to a specified date, then if the Legislature elects to sunset it, the bill will either be defeated or allowed to die.

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

MAR 0 4 1983

March 3, 1983

TO: Honorable Joe L. Hayes
Speaker
House of Representatives

FROM: Representative Bob Bettisworth
Chairman
Legislative Budget and Audit Committee

SUBJECT: Forwarding of Sunset Audits

Enclosed are the remaining two sunset audit reports of Boards and Commissions that will terminate June 30, 1983. They include the Alaska Council on Science and Technology and the Alcoholic Beverage Control Board. I am forwarding these reports to you so that they may be distributed to the appropriate standing committees you will designate to perform the legislative oversight function.

SMOKE DETECTOR TESTING

IN

RURAL ALASKA

Alaska Council on Science and Technology
Fire Safety Task Force

Research Funded
by the
Alaska Department of Public Safety
and the Alaska Council on Science and Technology

May 1982

Dear Reader:

The Alaska Council on Science and Technology is pleased to offer this report, *Smoke Detector Testing in Rural Alaska*. It results from an inceptive effort in cooperative problem-solving research in Alaska. The Alaska Department of Public Safety, concerned over rural fire safety and early detection, wanted to implement a program of smoke detector installations in the homes of rural, village Alaska. The problem was to determine the type of smoke detector best suited to the rural situation. Mr. James Messick, special assistant to the Commission of Public Safety, approached the council for help in this determination. The council assembled a volunteer task force of fire safety specialists, scientists, engineers, and other knowledgeable individuals to evaluate research results and report on them.

This report represents the findings of the resulting one-year study of equipment and attitudes. It contains much valuable information and provided needed data for the Department of Public Safety. We hope that this work is instrumental in improving fire safety in rural Alaska.

The Office of the Vice Chancellor for Research and Advanced Study, University of Alaska, Fairbanks designed and administered the research program in cooperation with the Department of Public Safety through their Village Public Safety Offices Program.

David M. Hickok
Chairman

Abstract

Residential fires are an extreme hazard in Alaska, particularly in rural areas where fire protection services are minimal to nonexistent. To address this problem the Alaska Department of Public Safety contracted the Alaska Council on Science and Technology to research the feasibility of, and best procedures for, implementing effective use of smoke detectors in rural residences. No particular type of detector or manufacturer was a standout choice of the individuals participating in this study. This was due to individual attitudes, and it appears that attitude will govern the effectiveness of a widespread program to install smoke detectors in rural Alaska homes. The Fire Safety Task Force recommends that the smoke detector portion of the fire safety program emphasize education and instruction of villagers.

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INTRODUCTION

Residential fires cause more deaths (per capita) in Alaska than in any other state. The safety hazard is particularly acute in the rural villages, which experience five times more residential fires than do Alaska metropolitan areas. To address this problem the Alaska Department of Public Safety planned to purchase smoke detectors to provide an early warning device for village homes. No empirical data existed on the types of smoke detectors that would function best in small, often one-room, houses. Therefore, the department contracted the Alaska Council on Science and Technology (ACST) to research the feasibility of, and best procedures for, implementing effective use of smoke detectors in rural residences. The ACST appointed the Fire Safety Task Force to design and implement the research program. A list of the members and affiliations of the task force follows.

William Hao, Fire Inspector, City of Fairbanks Fire Department and Governor's Task Force on Fire Prevention and Control

David Mather, Director, Health Department, Tanana Chiefs Conference

James Messick (ex-officio), Alaska State Troopers

Gerald Romick, Professor of Geophysics, Geophysical Institute, University of Alaska

William Shechter, Fire Chief, University of Alaska

Nancy Smoyer, Project Coordinator, University of Alaska

The task force developed a program to test several different brands of two basic types of smoke detectors to determine the best unit. Laboratory tests on detector sensitivity were performed both before and after field installation.

Rural houses in Alaska are typically 400-to-600-sq ft structures of log or frame construction with one main living area. Small bedrooms are built off to the side and are often separated from the main room by only a drape. The houses are usually heated by wood- or oil-burning stoves located in the main room. Cooking often takes place in the main living area.

A preliminary background study (Appendix A) on smoke detectors indicated several problems to be investigated to find the best smoke detector for rural Alaska homes and lifestyles. Two main types of smoke detectors are manufactured for home use—ionization and photoelectric detectors. Ionization detectors were expected to respond more quickly to cooking fumes, thus resulting in frequent false alarms. Exposure of either type of detector to unusually high or low temperatures could cause excessive battery drain or the alarm to go off as the temperature changed. Other potential problems included blowing dust and dirt built up by cooking and heating fumes and smoke.

METHOD

The Fire Safety Task Force was a temporary group formed by the ACST to direct and conduct the detector research program. Members of the group included faculty of the University of Alaska and representatives of the University of Alaska and City of Fairbanks fire departments, Tanana Chiefs Conference, Governor's Task Force on Fire Prevention and Control, and Alaska State Troopers. During the course of the project the task force met approximately 16 times to

design, implement, and evaluate the program. The task force decided on a research program that included both laboratory calibration and field testing of smoke detectors.

A total of six villages in coastal and interior areas served as field test sites. Galena, Tanana, and Fort Yukon were chosen as the interior villages; Nome, Shishmaref, and Teller as the coastal villages. Five households in each village tested three smoke detectors for a total of 90 smoke detectors field tested. Models and quantities of the detectors tested are shown below.

Type	Manufacturer	Model No.	Number Tested
Photoelectric	BRK	2000	18
Photoelectric	Chloride Pyrotector	30-77A	21
Photoelectric	Electro Signal Labs	912	21
Ionization	BRK	79R	10
Ionization	General Electric	8201-401	15
Ionization	Guardion	FB-1A	5

For each installation three detectors were mounted approximately three inches apart on a board, and the boards were distributed so that every village had a reasonable number of samples of each kind of detector. Only detectors using 9-volt alkaline batteries were used because of the unreliability of electricity in most villages. The sensitivity of the detectors was tested in a smoke box prior to installation and retested on completion of the project. A device to silence false alarms for a 10-minute period was installed in the detectors (Appendix A). In three villages this device was activated at installation; in the other three villages the silencing devices were hooked up at the discretion of assistants living in the villages (village coordinators), depending on the attitude of the householder to the false alarms.

Additional funding of $5,000 to test the silencer adaptation was obtained from the ACST Northern Technology Small Grants Program after the task force determined that such a device was necessary to relieve the householders of the many anticipated false alarms. Another $5,000 grant was similarly obtained to test the reaction of the detectors to the extremely cold and changing temperatures which could cause problems peculiar to rural Alaska homes. This latter program is still in progress.

The testing period began in mid-April 1981 and was projected to last six months, with a possible two-month extension into the winter months. An interim visit to the field test sites was made by the project coordinator after three months to troubleshoot problems and to evaluate the progress of the project with the use of a questionnaire (Appendix B). One village dropped out of the project at the end of the initial six-month period, and four elected to continue for two more months. (One other village, Fort Yukon, dropped out in June.) In December the project coordinator collected the smoke detectors from the villages. At the same time, a final questionnaire (Appendix C) was used to evaluate the performance of the smoke detectors and the attitude of the householders toward each type.

The village coordinator functioned as the contact between the villagers and the Fire Safety Task Force in Fairbanks. The Tanana Chiefs conference assisted in choosing the coordinators for the three interior villages. Village public safety officers acted as village coordinators for the two coastal villages. The Alaska State Troopers in Nome provided extensive and effective logistical

and escort support. Instructions for the village coordinators (Appendix D) and householders (Appendix E) were drawn up, as were logs for the village coordinators and householders to complete and send back to Fairbanks monthly. The Householder's Log (Appendix F) provided a record of false alarms including the date, time, cause, and silencing method. The village coordinators' Monthly Visit Log (Appendix G) recorded the results of their monthly visits, e.g., the status of the smoke detectors and the attitude of the householders. The village coordinators and householders each received a monthly payment upon receipt of their reports.

The test houses varied but had several characteristics in common relative to fire protection. Almost without exception there were no bedroom doors; curtains were often hung in the doorways. There was little stuffed furniture (particularly on the coast) which would be susceptible to smoldering fires. Beds, however, were often used as furniture. Oil was the primary heating source on the coast. Wood burning stoves were available as back up in six of the 15 houses. Fourteen of the 15 houses in the Interior used wood-burning stoves as the primary heat source.

In Teller two new one-bedroom Alaska State Housing Authority (ASHA) homes and three old houses, one of which was a large two-story house, were used. Four houses with very small living areas (approximately 12 x 16 feet) were utilized in Nome. Two of these houses had bedrooms off the main room and numerous occupants (5 and 9) and visitors. The fifth house in Nome was a larger, new, frame house with a peaked roof.

In Shishmaref the detectors were tested in two one-bedroom houses. One of these was a very small (12 x 20 feet) one-room house, and the other somewhat larger with three rooms. One house was quite large (24 x 28 feet) and had three cooking and heating sources.

In the Interior three-quarters of the homes were log, unlike the coast where there was none of logs. In Fort Yukon the living areas of three houses was approximately 12 x 18 feet with one or two connecting bedrooms. (The other two householders in Fort Yukon dropped out of the program almost immediately.)

One of the houses in Galena was a large two-story combination frame and log house with two heat sources and six occupants. Also, two very small frame houses were used—one with one room and one occupant and the other with two rooms and two occupants. Both had wood and oil heating sources. The remaining two houses had log with wood-burning stoves as the only heat sources.

Two smoke detector boards were removed from houses in Tanana after a short period. One was never reinstalled, but the other was placed in a house with a small living area (12 x 20 feet) and five occupants. The remaining three houses were all medium size (approximately 18 x 20-foot living area with several bedrooms). All burned wood for heat, and all had numerous occupants (4, 6, and 7).

Approximately 75% of all the householders had prior knowledge of or experience with smoke detectors. One man, who was very fire conscious, had already installed several smoke detectors, including one he made himself. In the ASHA and federal-program housing on the coast, smoke detectors had been installed when built and almost without exception been disconnected, whether battery or electric.

DATA AND RESULTS

The results of this study can be divided into two categories: detector performance and people's attitudes. The performance data were compiled from householder monthly logs and from laboratory testing of the detectors. The attitudinal data were gathered from the three periodic questionnaires and from general observations made throughout the project and, more specifically, during the visits to the villages.

The monthly reports from the householders of incidences of false alarms produced mixed results. In spite of efforts to insure reliable reporting, the inherent problems of human fallability resulted in erratic or unreliable reporting from at least 10 householders, particularly near the end of the test period. Also, a problem with low battery signals, which became evident almost immediately after installation of the detectors, decreased the usefulness of some of the data from the first three months.

Faulty C-MOS chips used as a part of the silencer adaptation (Appendix H) were found unexpectedly to be drawing power from the battery, thus causing many of the detectors to emit the sound that the device emits to signal low batteries. The resulting confusion and annoyance among the householders and village coordinators caused three householders to have the detector boards removed and some of the others to lose confidence in the detectors. This battery drainage problem was resolved in early July by cutting the silencer wire on 30 of the detectors during the interim visits by the project coordinator. At least four of the detectors were accidentally deactivated during this process. Eight boards were brought back to Fairbanks to replace the chips with a different kind; but only three of these boards were returned to the villages. (Fort Yukon dropped out of the program completely at this time.) Although some of the householders continued to change batteries quite often after the silencer deactivation, the monthly logs and village coordinator comments indicated far fewer low-battery signal occurrences.

The responses of householders to the silencer adaptation were varied. In addition to the original 15 houses equipped with silencers, only one was hooked up later. Although many people liked the idea of the silencer in principle, very few seemed to use it, usually because they needed a longer silencing period than the 10 minutes the silencer provided. They usually found it easier to remove the battery during the smoke-producing periods rather than repeatedly pushing the silencer button. Of the 15 householders who had a silencer from the beginning of the program, five of the 10 families who wanted a detector at the end opted for a silencer. Two of the other five families who were told about the possibility of a silencer wanted one.

An phenomenon revealed in the monthly reports and investigated during visits by the project coordinator was short single beeps of unidentified origin. These beeps were reported by at least eight householders, primarily in interior villages during summer. The beeps seemed to abate in the latter months of the testing period and were no longer reported as a serious problem. Although several causes of these beeps were hypothesized, including bugs, dust, low or high humidity, a bad chip, cosmic rays, and static electricity, nothing could be proved. New unidentified beeps in the colder months were probably due to the change in temperature. At least four householders related the cooling off of their houses to these alarms.

The performance or operational data of each smoke detector was obtained from the householder logs, which were designed to incorporate enough information to determine the cause of an alarm. The data from the logs on the number of alarms for each month were summed onto another form and sorted by detector model and village.

The total number of alarms, regardless of cause, was plotted for each detector model over the eight-month period to try to detect any systematic differences between the detectors. Figure 1 shows this plot normalized to the number of detectors of each type producing the alarms. No significant differences between the three photoelectric models were evident. The ionization detectors scored higher overall incidence of alarms, and the GE unit alarmed consistently more than either the BRK or Guardion models.

Because of problems with the silencer circuits and some detectors themselves, it was necessary to determine whether the statistics were biased for or against some detectors because of the actual number in service. Figure 2a shows the number of detectors of each type in operation over the test period each month, and Figure 2b shows the fraction of each detector model in operation each month. Except for the silencer problem in June (the problem was eliminated in

July), the fraction of each type in operation was similar for all models; it decreased about 30 percent during the first six months. The dropping out of another village in addition to Fort Yukon after the initial six-month period is the cause of the scatter in the data for October and November.

Figures 3a and b show the number of alarms, both known and unknown, normalized by dividing the total number of alarms by the number of detectors of each model. There appear to be more known alarms for both the GE ionization and the BRK ionization detectors. The cause is due primarily to cooking. The apparent high incidence of unknown alarms from the BRK photoelectric detector in Figure 3b was caused by reports from three houses in April, May, and September and is probably not indicative of any problem with that model detector.

The impact of characteristics peculiar to each village, such as location, house type and life-style, on the number of alarms produced was investigated. Figure 4 is a plot of all alarms per village over the test period. Much of the scatter seen in the early months could be due to the silencer problem and consequent low battery alarms. No clear tendency for one village to consistently have more alarms than another village appears in the data after July. The number of alarms in certain villages was not due to the decrease in the number of detectors during the test period. The following list shows the percent of detectors in each village that operated during the entire test period.

Shishmaref	92.5%
Teller	79.2%
Galena	71.2%
Nome	69%
Tanana	65%
Fort Yukon	33%

Shishmaref had almost all of its detectors in operation for the entire test period of eight months. Fort Yukon had most of its detectors pulled out in June due to multiple problems with false alarms and the resulting high level of frustration of the householders and the village coordinator. The householders and village coordinator in Nome also opted to discontinue the program at the end of the initial six-month period. The remaining villages had similar percentages of operational detectors during the period. Thus, factors pertinent to individual village characteristics seem to play no major role in detector survivability.

The number and types of alarms with respect to various causes for houses characterized as <300 sq ft and >300 sq ft were examined (Figure 5). The square footage shown is of the main room in which the detector was located, which invariably included the kitchen. The greatest source of alarms (93%) in both room sizes was cooking activity. More cooking-related alarms occurred with ionization detectors than with photoelectric detectors. Of the remaining known alarms, approximately 40% was caused by wood-burning stoves and the others by miscellaneous factors, such as cigarette and Pic smoke. (Pic is a solid mosquito repellent that when lit repulses the pests.) There is an apparent greater incidence of alarms for both types of detectors due to heating with wood in smaller rooms compared to larger ones. However, false alarms of known cause occur more frequently in small rooms than in large ones, so room size may be the key factor. Also, there is a higher incidence of false alarms of unknown cause with photoelectric

detectors than with ionization detectors, regardless of room size. Of the total number of recorded alarms, both known and unknown, approximately 23% was unknown.

The detectors were tested for sensitivity in an adaptation of the standard UL smoke test box before distribution to the villages and after their return. Figure 6 illustrates the basic design and electrical circuit of the smoke box. A Pic coil was used to produce a uniform smoke of reproducible particle size and burning rate. The use of Pic provided another test, as many village homes use it liberally in the summer. It was important to determine how the detectors will react to this material.

Figures 7a and b give the results of the tests made on the detectors before they were installed and after their return approximately 11 months later. No cleaning or maintenance was performed on the detectors in the laboratory prior to retesting. Although there is some variation within each manufacturer's model of both types, all the detectors of a given model started out with generally the same percent obscuration per foot.* Within the scatter of the data Figure 7a shows that the average sensitivity of the photoelectric detectors changed very little if at all during this period, although the variation in sensitivity within each model increased. This increase may be due to effects of variable aging of the detector emitters (LED) or receivers as well as variation in cleanliness and collected dust. The changes of control detectors kept in the laboratory during the field test period were all within the observed standard deviation for that particular model. The sensitivity of these detectors varies from manufacturer to manufacturer (ESL 3.3%, BRK 2% and CP 1.3% obscuration per foot in this smoke box); however, all are within the 7% obscuration per foot UL limit.

Figure 7b illustrates the generally higher sensitivity of the ionization detectors (Guardion 0.3%, GE 0.5% and BRK 0.7% obscuration per foot) relative to the photoelectric detectors, at least to the smoke particles used for these tests. All of the ionization detectors had increased their sensitivity (Guardion 0.15%, GE 0.2% and BRK 0.24% obscuration per foot) by the end of the test period. Even the control detectors that were not used during the tests showed an increase in sensitivity of the same order in similar amount. Though it was not unexpected that ionization detectors increase in sensitivity due to dust accumulation, it is somewhat surprising that all makes and all detectors changed similarly. There are two possible reasons:

1. The number of small particles in the Pic used in the final tests may have been higher relative to larger particles than in the initial tests. Thus, the photoelectric detectors would experience no great change since they are primarily responsive to larger particles, whereas the ionization detectors would register more sensitivity than previously. The problem with this idea is that some ionization detectors were tested with the remains of the old batch of Pic, and they too indicate a similar higher sensitivity. Therefore, this seems an unlikely possibility.

2. Another possibility which is more alarming is that the conductivity in the reference side of the circuit due to the radioactive source is decreasing with time. This decrease in the radioactive source would act much like an increase in conductivity in the sample chamber and thus produce a higher background upon which only a small amount of smoke could trigger an alarm, thereby increasing the sensitivity of the detector.

*"Obscuration per foot" is the percent absorption of light per foot going through the atmosphere, which increases as the level of smoke increases.

DISCUSSION OF RESULTS

No clear-cut superiority of one type or model detector over another was found among those tested. Since cooking produced most of the alarms, however, any educational program should inform villagers that ionization-type detectors will sound off from cooking more often than photoelectric detectors. Although the photoelectric detectors produced more unknown alarms, this does not appear to be significant since the unknown alarms were only 23% of the total reported alarms. Also, many of these false alarms occurred in the early months and were probably due to low battery signals. The changes in sensitivity noted in our test of the two types of detectors over extended periods should be taken into consideration when determining the most reliable and effective detector for general village use. The increase in sensitivity of the ionization detectors may eventually produce a detector with such a high nuisance level that the homeowner disconnects it completely.

Perhaps the most interesting and potentially useful information gained from the study is the attitude of the householders to the smoke detectors. This seems to be the overriding factor in determining the acceptance and effectiveness of smoke detectors in village homes. The type or model of detector does not seem to be as important as the householder's feelings about fires, false alarms, and smoke detectors in general. At the end of the program three householders chose not to retain a detector; and 20 wished to keep one of the detectors. When asked which of the three detectors tested in their homes they would like to have and why, six chose the detector which had the most false alarms, seven the least, and five chose the detector with intermediate numbers of false alarms. Two chose the GE ionization detector because of the less offensive sound of the alarm it produced. Regarding the choice of detector by type, 10 people chose the ionization models (BRK-5, GE-5) and 10 the photoelectric (CP-7, BRK-3). However, within each of the four brands chosen, the reasons given were equally divided between which detectors gave the most, least, or moderate numbers of false alarms. The people who chose the detectors which sounded the most cited reasons such as, "You know it's working," "It doesn't just sit there," and "It's better to be too sensitive than not sensitive enough." Others found the sensitive alarms very annoying and preferred the less sensitive detectors. Several people chose on the basis of what they determined to be a reasonable smoke level to trigger the detector, saying, "It doesn't go off for no reason like the others" and "It went off when I opened the stove—the real thing."

In general the householders were willing to put up with a large number of genuine false alarms because of their belief in the life-saving value of the detectors. Almost all agreed that smoke detectors are good and useful. Families with children and people with prior experience with fire incidences expressed the strongest positive feelings. One woman with children said that she felt more secure with a smoke detector because it was like having "somebody else to watch for fire."

At least four people's appreciation of smoke detectors was heightened during the program because they had been warned of potential or actual fires by the test detectors. One woman in Galena was awakened by her detector alarming in response to burning cotton caulking in the stack of her wood-burning stove. Another woman in Fort Yukon was warned of a pan left on the stove while she was outside. During the first test month a man in Nome was alerted by his detectors when a relit, pot-type oil furnace flooded and overheated. A family in Galena found the false alarms so annoying that they asked that the detectors be removed at the end of the six-month period. Unfortunately, a few days later a stack fire occurred in their wood-burning stove, which persuaded them to buy a detector.

During the test period there were other unique motivational influences pertinent to the future success of a smoke detector distribution program. There were three motivational forces beyond those of the individual householders—the village coordinators, the monthly payments,

and the three visits by members of the task force. Numerous householders expressed the sentiment that they wouldn't have continued the program if it weren't for one or more of these factors.

The ambivalence of the householders to the silencer adaptation may be due to the initial problem of false alarms caused by low batteries over which the silencer had no control. As a result, some of the householders lost confidence in the effectiveness of the silencer saying, "It would be OK if it worked." It does not appear that the silencer would be worthwhile installing on a large scale. The task force recommends that a simpler solution to false alarms would be to install the detectors within reach so that the batteries could be removed during false alarm periods, thus requiring a wall-mounted model. Alternatively, a simple switch could be installed that disconnected the battery. However, neither of these suggestions would be UL approved.

Although the problem of low battery signals caused by the silencer draining the batteries was solved for the most part by cutting the wires to the silencers, the continued frequent changes of batteries could have been due to at least three factors. It is possible that the batteries were changed without provocation, as is indicated by the reduction with time of incidences of reported low battery signals. The village coordinators in at least two villages said that they changed some batteries monthly as a preventative maintenance measure even though there were no low battery alarms reported. It is also possible that the batteries were run down by frequent cooking false alarms, although, again, the number of battery changes did not necessarily seem to correlate with the frequency of false alarms. A third probable cause cited by several householders is that the lower temperatures in the homes at night reduced the battery voltage, thus producing false alarms. Therefore, the evidence indicates that battery changes in the rural homes will need to be more frequent than the one-year UL requirement. A parallel laboratory test of the effects of temperature on smoke detectors is being carried out using ACST small grant funds; the results will be reported separately.

The practicality of battery-operated detectors as compared to normal 110-v household electricity came into question because of the frequent battery changes even after the silencer wires were cut. Although electric detectors would resolve the problem of low battery signals, it is the collective opinion of the Fire Safety Task Force that battery-operated detectors are more effective for two reasons: First, installation of battery-operated detectors is much easier, particularly in existing houses, and would therefore make their distribution more widespread. Secondly, since it seems inevitable that there will be fairly frequent false alarms with any kind of detector in any kind of rural home, there must be a provision for silencing the alarm. The only quick means of disconnecting a wired-in electric detector is by destroying it (which had already happened frequently in homes where electric detectors were installed when built), whereas with a battery-operated detector the battery can simply be removed. Several of the householders seemed to find this method satisfactory, saying they removed the battery while baking or frying and then replaced it. In spite of the danger that the battery won't be replaced, the alternative of a destroyed detector is worse.

Observations and reactions by the householders and the task force to certain physical characteristics of specific models of detectors could prove useful in determining which model would be most effective. As previously stated, the reaction of the householders to the frequency of false alarms was so mixed for each model that no preference could be found. The ease with which a detector can be opened for removal of the battery during false alarms periods is crucial to detector acceptance. The detector which was easiest to open was the GE model. Its hinged cover stayed attached even while open. The two models with the pop-off tops (BRK and Guardion) were also relatively easy to operate. The ESL model which slides off its base was particularly difficult to remove because it was hard to remember whether the detector slides to the left or right, thus inviting banging it to move it. The Chloride Pyrotector model also was difficult to

open because it required aligning the detector to two runners on the base which is attached to the wall. Another problem with the CP model is that when the battery is removed the empty wires to which the battery attaches can get caught in the detector during replacement of the cover, making it nearly impossible to reopen.

The two methods of connecting the battery, a stationary terminal and a terminal attached to wires, affect the long-term effectiveness of the detectors. There is a potential for breaking the wires found in the GE, ESL, and CP models during removal and replacement of the battery. The disadvantage to the stationary terminals found in the BRK and Guardion models is that it is sometimes difficult to be sure that the battery is securely attached and will not slip out later.

CONCLUSIONS AND RECOMMENDATIONS

Although some decisions about the detectors can be made on the basis of laboratory tests and examination of householder reports, no particular type of detector or manufacturer was a standout choice of the individuals participating in this study. This lack of unanimity is due to the overpowering impact of individual attitudes. The detector that might respond only to a true fire could be unacceptable to householders because it did not go off enough for them to feel confident that it was working; others would be equally upset if the detector ever went off. Thus, it is attitude that will govern the effectiveness of a widespread program to install detectors, not the particular type or make of detector installed. The selection of one detector and its distribution will not in itself produce an effective early-warning device for the villagers.

The Fire Safety Task Force recommends that the smoke detector portion of the fire safety program emphasize education and instruction of villagers. Some specific findings of the project which would be useful to the villagers follow.

1. False alarms will almost certainly occur, perhaps frequently.

2. Ionization-type detectors will produce significantly more false alarms than photoelectric models with the indication that the number of false alarms will increase with age of the detectors.

3. Smaller rooms produce more false alarms, so the detector should be placed as far away from the cooking source as possible without losing its life-saving capability.

4. Although people's attitudes toward false alarms vary greatly, an appreciation of the life-saving value of smoke detectors can overcome objections to those alarms.

The awareness of fire danger and the life-saving value of smoke detectors was high among the householders in this study. Approximately 75% of the householders had prior experience with detectors. Other villagers may not have that interest. The village coordinators do not think that this project has had much effect in heightening the awareness of the general populace to the usefulness of smoke detectors.

The laboratory tests and householder logs led to certain conclusions about the detectors themselves, their installation and maintenance, and householder attitudes.

1. Field tests of 90 smoke detectors conducted during 1981 in six Interior and coastal Alaska villages indicate that the major problem with the use of smoke detectors in rural homes in Alaska is the occurrence of false alarms of known and unknown origin. These false alarms greatly affect the acceptance and usefulness of detectors in rural residences.

2. The attitude of the householders toward smoke detectors is more important than the choice of an ideal detector. Therefore, the education and instruction of the villagers about fires and smoke detectors is of primary importance.

3. There are no apparent village-to-village or regional differences that affect the technical operation of the smoke detectors.

4. The primary cause of known alarms is cooking (93%), and most cooking in village homes takes place in the main living area. Therefore, any detector should be located as far away from the cooking area as possible without losing its life-saving capability. To allow the householder to deactivate the detector by removing the battery during false alarm periods (which seems to be the most feasible solution):

   a. The detector should be wall-mountable to allow easy access.
   b. The detector should be easy to open in order to remove the battery without damage during false alarm periods. (Chloride Pyrotector and ESL detectors were particularly difficult to open.) The speed with which a householder can deactivate the alarm will determine whether the detector stays in use or not.

5. The installation of a silencer attachment to deactivate the detector for a 10-minute period, though potentially desirable, appears technically and economically unfeasible due to UL regulations. A more obvious solution to which most users resort (even those with a silencer) is to temporarily remove the battery from the detector during false alarm periods.

6. People prefer detectors which have the least irritating alarm signal. (Of the detectors tested, the chirping noise of the GE model was preferred.)

7. Persons with experience with fires are most likely to want smoke detectors in their homes.

8. A certain fraction of village householders is unlikely to retain smoke detectors in working order in their homes because of the problem of false alarms. Of those that will there is roughly equal division between those who prefer a detector which gives the least number, an intermediate number, and the highest number of false alarms.

9. Photoelectric detectors produce significantly fewer false alarms than ionization, particularly of the more frequent cooking-related alarms.

10. The sensitivity of the detectors changes over the course of the study period. Generally, ionization sensitivity increased and photoelectric sensitivity stayed constant. Increased sensitivity means more false alarms and a higher nuisance level with predictable irritation to the householders.

11. The detectors should be battery-operated rather than electric to encourage more widespread distribution and continued use.

12. Extreme temperature changes in the house may cause false alarms due to battery deterioration.

13. It will probably be necessary to change the batteries more frequently than the UL requirement of once a year.

14. Regular inspections of the detectors by the village public safety officer or other designated villager for encouragement and education of the householders will improve performance. However, the primary responsibility for the maintenance of the smoke detector should rest with the householder.

15. During the course of the test program there is no known instance of an actual incipient fire which was not warned against by any operating smoke detector. There were four or more instances of real fire warnings by detectors during the test period. Thus, on the basis of this test program and other input, the installation of smoke detectors in rural Alaska residences is a worthwhile endeavor likely to lead to reduced fire losses and fewer deaths.

With these considerations in mind the Fire Safety Task Force offers the following recommendations for the purchase and distribution of smoke detectors in rural Alaska.

1. If the Department of Public Safety wishes to pursue a fire safety program that incorporates smoke detector installations, it is imperative that major attention be given to education and instruction of the users. *The attitude of users toward the smoke detectors is more important than the choice of which detector is to be installed.* Two potential educational aides are pamphlets on smoke detectors to be prepared by a group such as the Literacy Council and public service announcements on television.

2. Regular visits by a fire safety person to inspect detectors and offer encouragement to the householders will increase the continued use of the detectors.

3. There are two categories of criteria for selection of a particular model of smoke detector—required and optional. Required characteristics include:

   a. Photoelectric detectors because they are less susceptible to the primary cause of false alarms (cooking activities) in small, essentially one-room rural residences and are therefore least likely to be rejected by householders.
   b. Battery-operated rather than electric.
   c. Wall-mountable for easy access during false alarm periods.

   Optional characteristics include:

   a. Less than 3% obscuration per foot level (ESL is the only model of those tested which does not meet this recommendation).
   b. Inoffensive alarm signal (such as the GE chirping sound).
   c. Battery replacement ease, e.g., a cover which is easily removable (preferably attached as with the GE model) and easily accessible battery clips or wires.

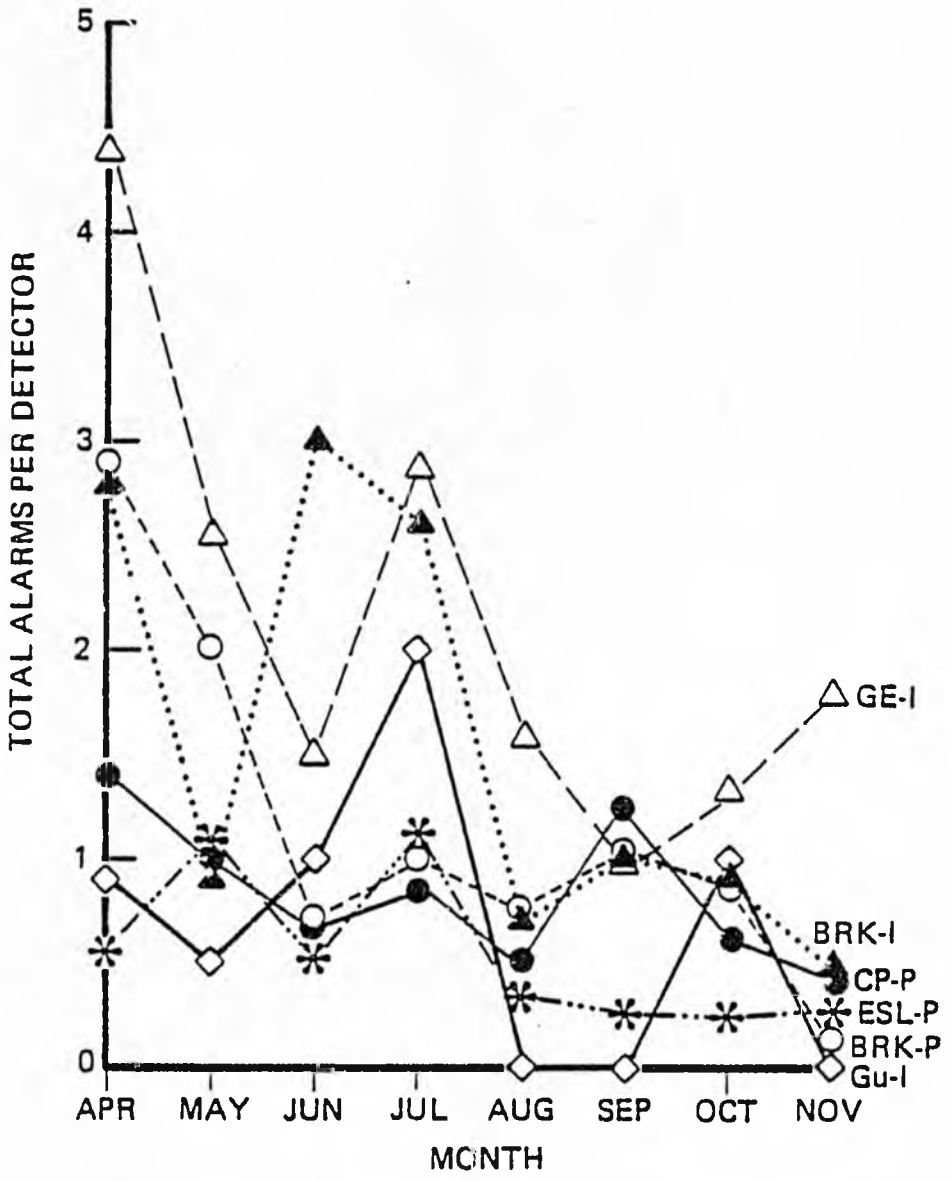


Figure 1. Total number of alarms per detector per month for the various brands over the test period.

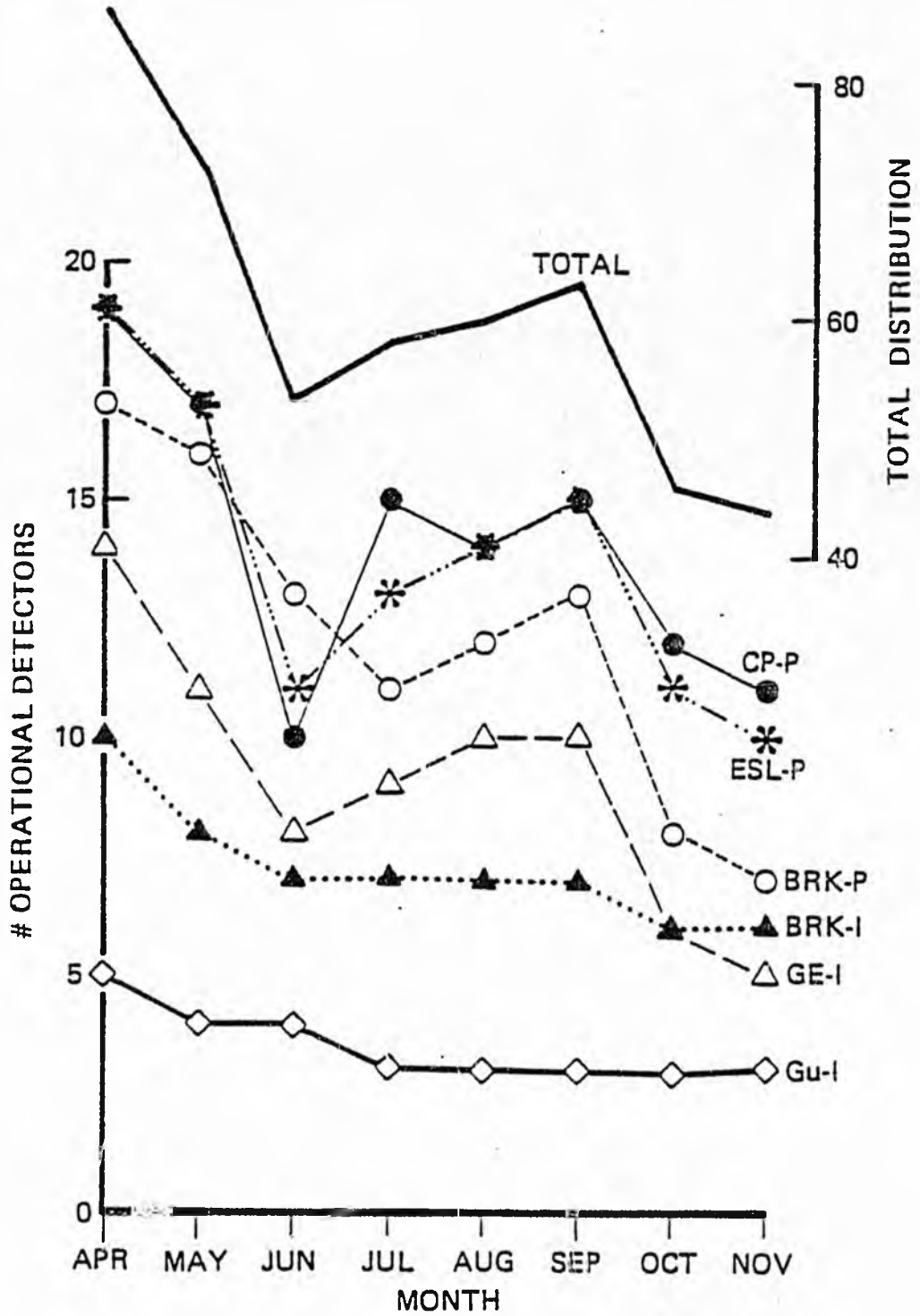


Figure 2a. Number of detectors of each brand group remaining operational each month during the test period. The total of all detectors in operation each month is indicated by the heavy solid line with numbers on the right.

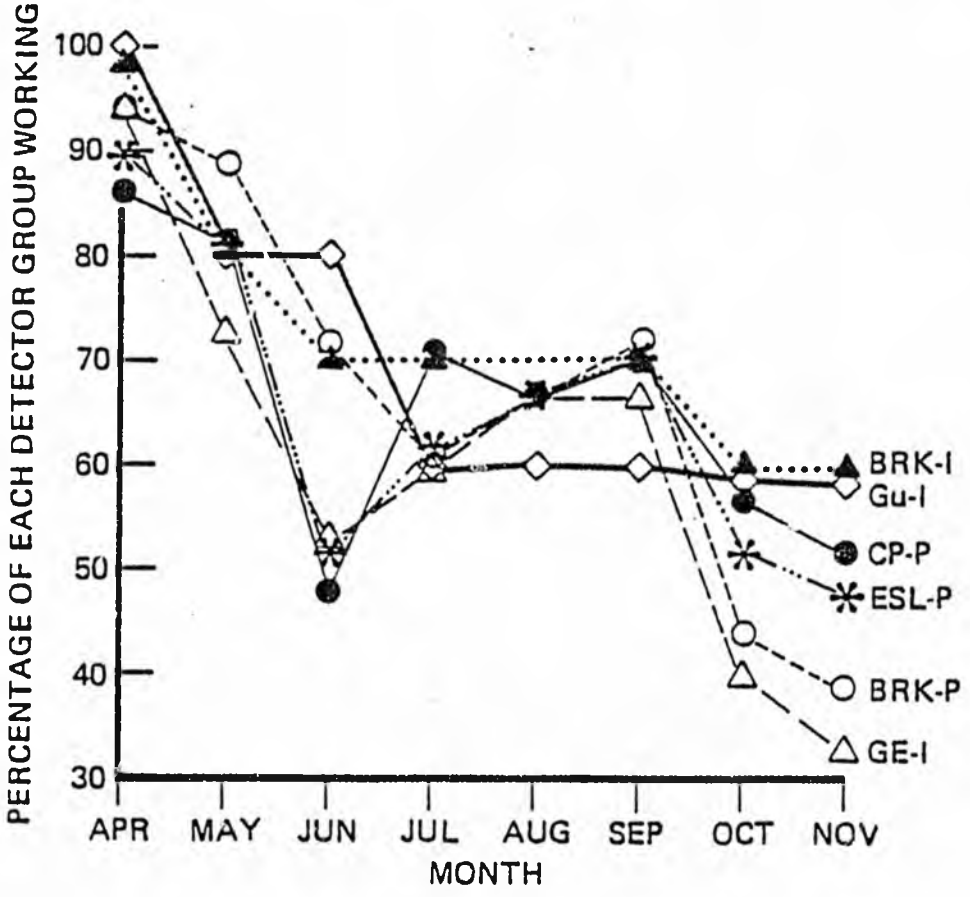


Figure 2b. Percentage of each detector brand group per month remaining in operation over the test period.

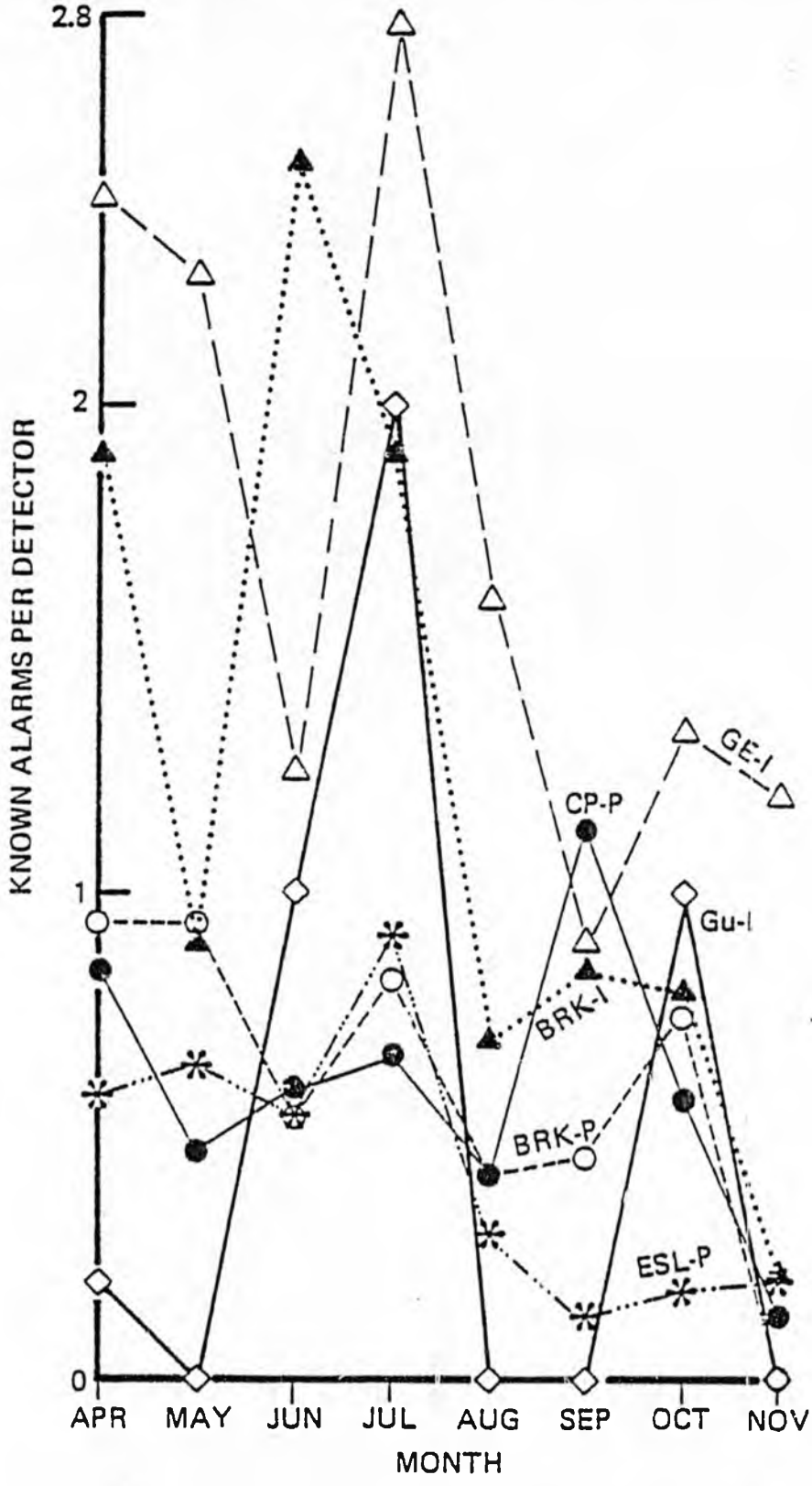


Figure 3a. Number of known alarms per detector per month for the various brands over the test period.

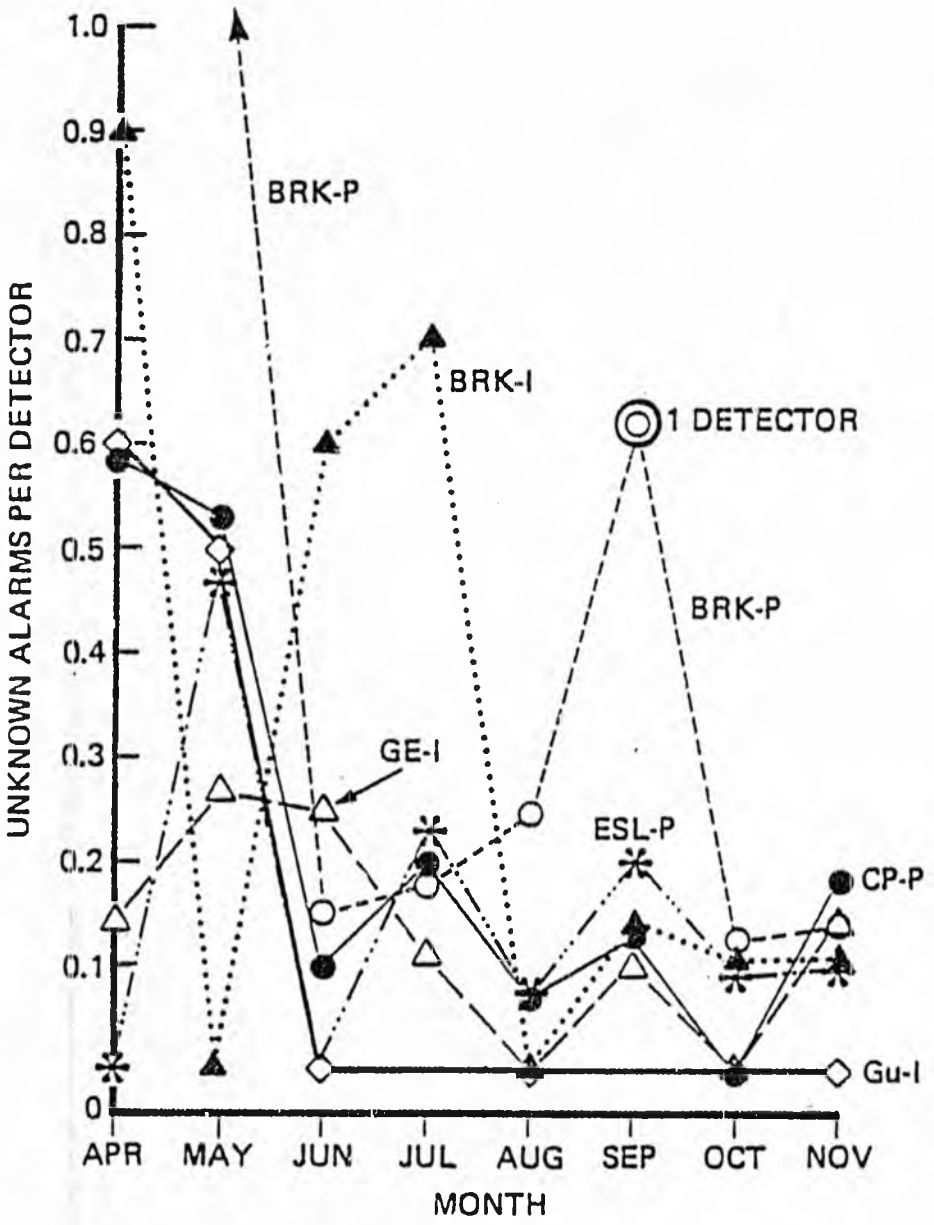


Figure 3b. Number of unknown alarms per detector per month for the various brands over the test period.

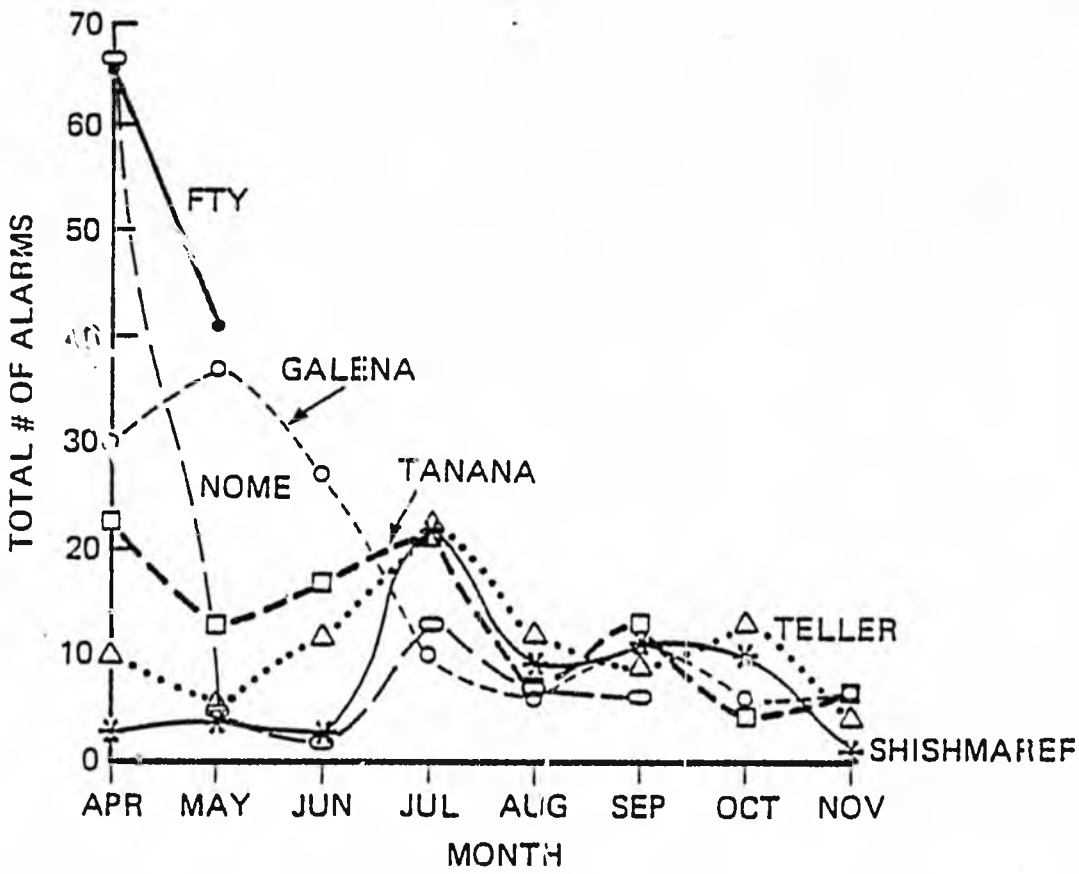
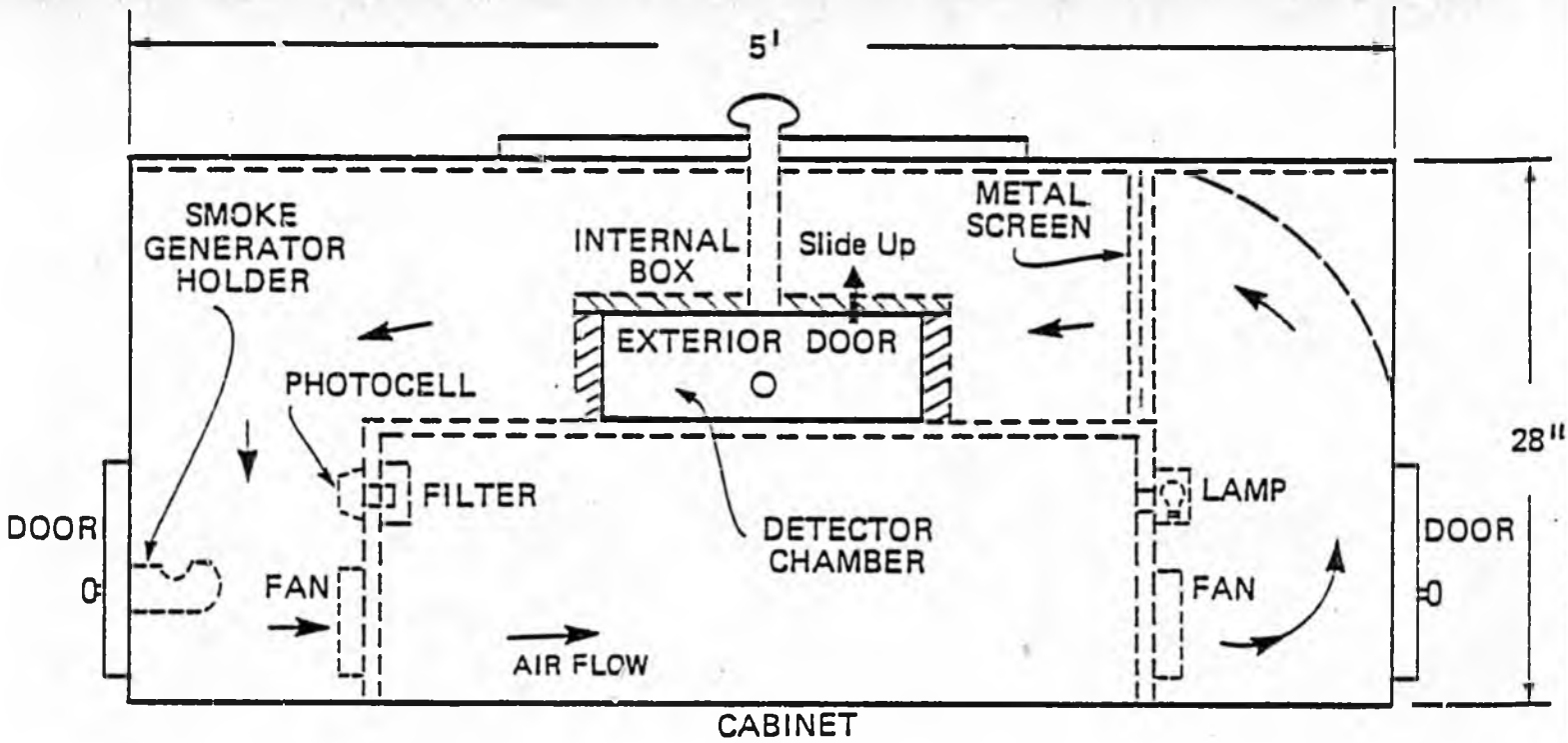


Figure 4. Total number of alarms per month at the different villages over the test period.

Figure 5. Types and Quantities of Alarms in Relation to Room Size

		ROOM SIZE												
		Small—<300 sq. ft.*						Large—>300 sq. ft.*						
		Ionization			Photoelectric			Ionization			Photoelectric			
CAUSE		GE	G	BRK	BRK	ESL	CP	GE	G	BRK	BRK	ESL	CP	TOTAL
Cooking		52	3	33	22	20	35	100	2	26	23	28	16	360
Heating	oil	1	-	-	-	-	-	-	-	-	-	-	-	1
	wood	8	1	3	4	-	7	3	-	-	3	1	1	31
	both	-	-	2	2	-	5	-	-	1	-	-	-	11
Other		1	-	-	3	1	12	2	-	5	5	3	3	38
Unknown		5	2	13	42	5	19	8	-	5	20	6	9	134

*The total number of houses was equally divided between these two measurements.



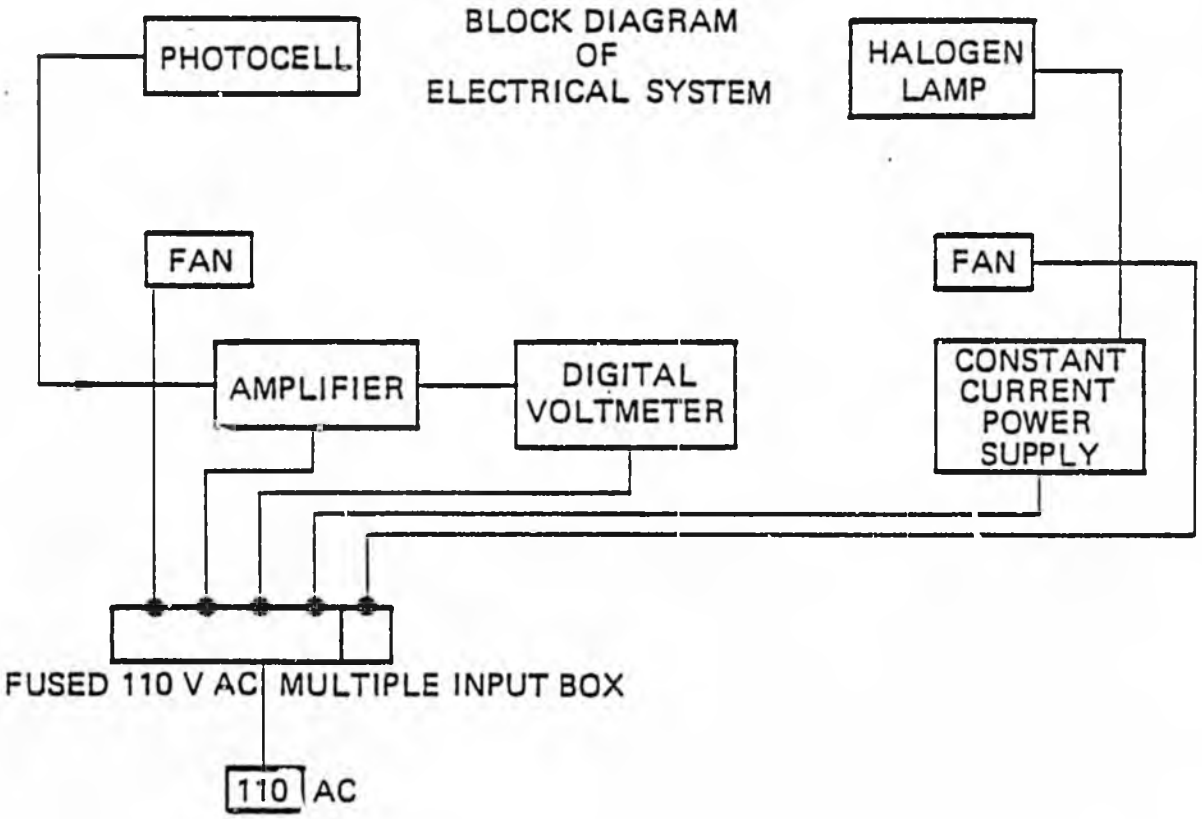


Figure 6. Basic diagram of the calibration smoke box and the electrical control circuit.

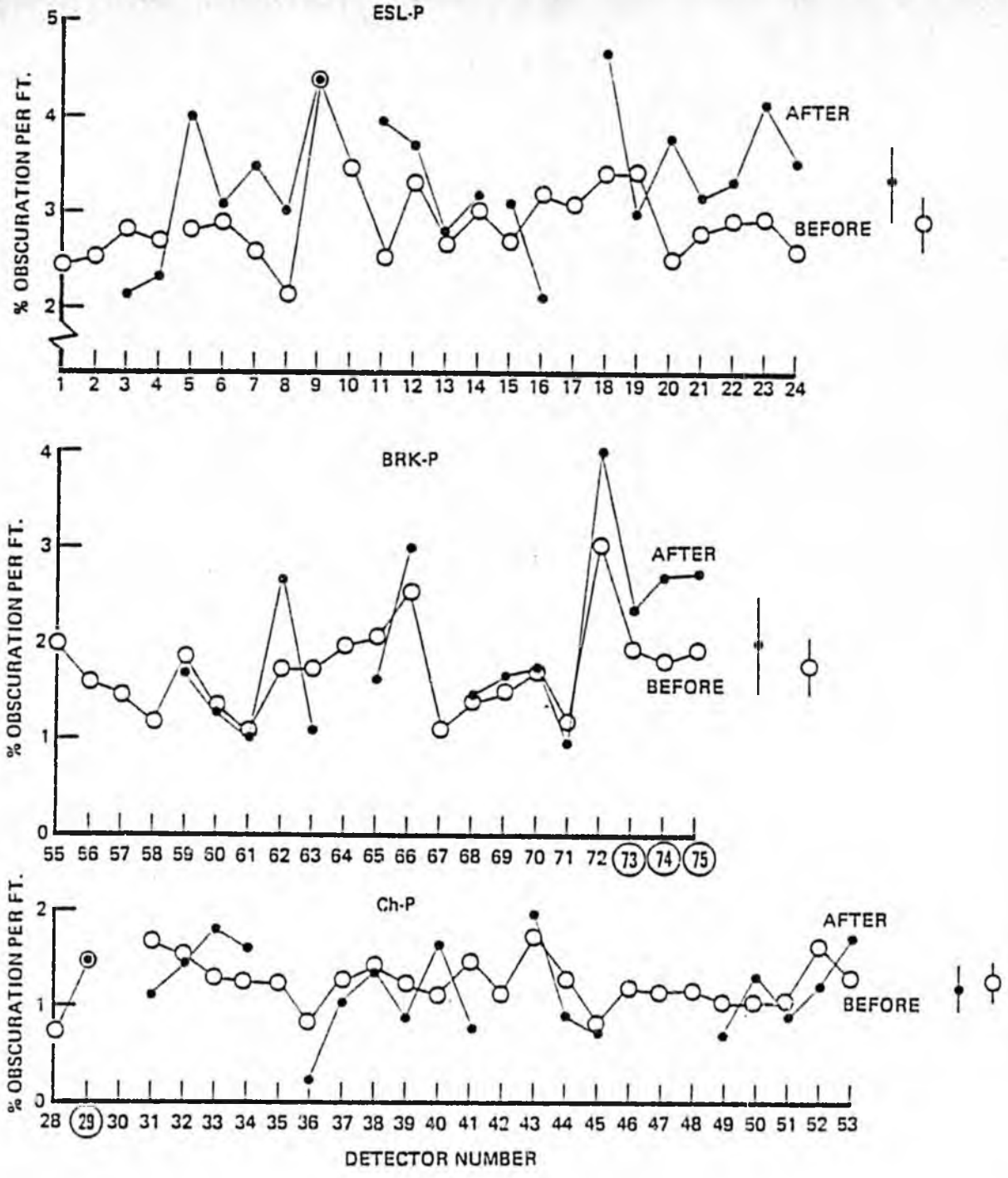


Figure 7a. Response of the photoelectric detectors to the level of smoke in the calibration smoke box before (0) installation in the villages and after (●) their return. The 0 and ● to the far right indicate the average response before and after for that group of detectors. The length of the vertical lines through these points represents the standard deviation of the group. The greater the percent obscuration per foot the greater the density of smoke in the box. The circled numbers are those detectors that remained in the lab as the control group.

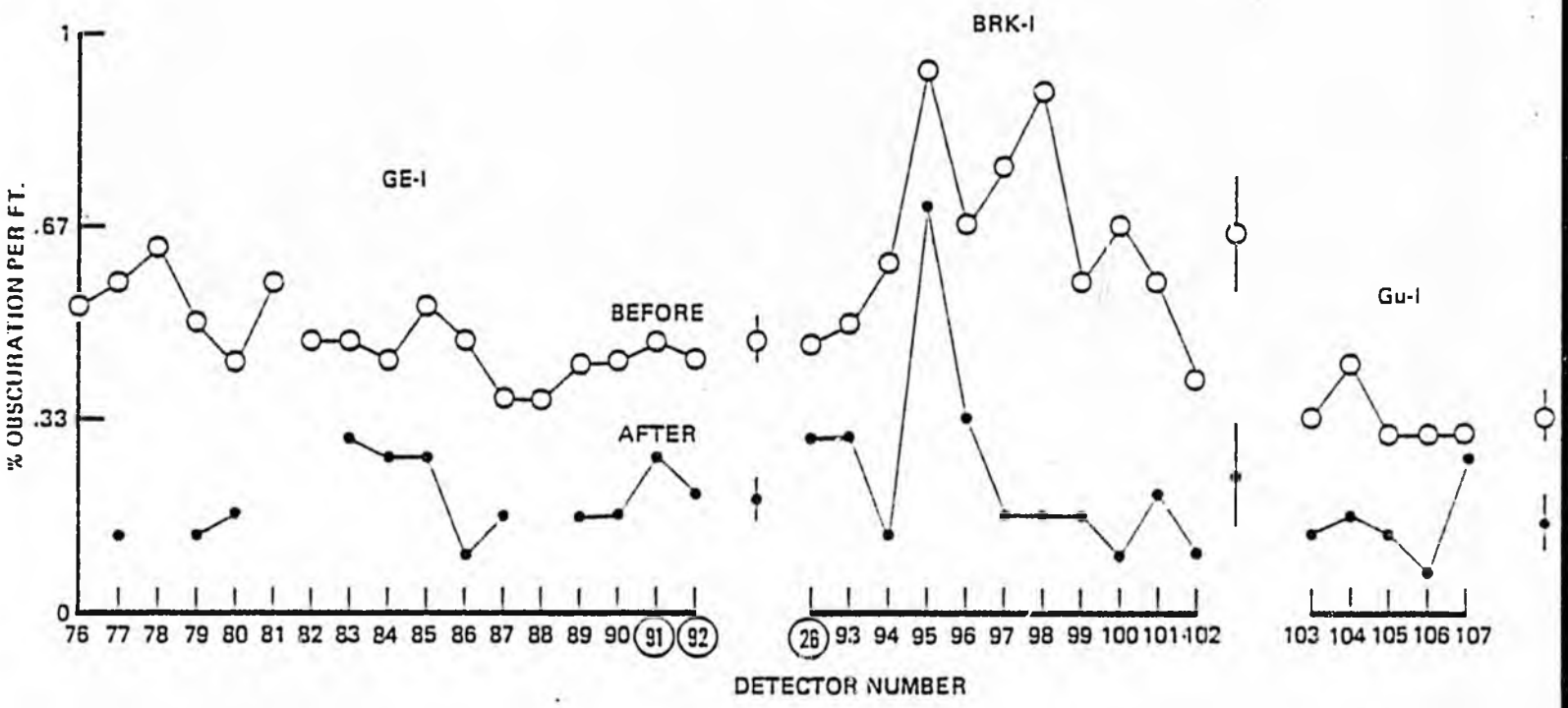


Figure 7b. Response of the ionization detectors to the level of smoke in the calibration smoke box before (0) installation in the villages and after (●) their return. The 0 and ● to the far right indicate the average response before and after for that group of detectors. The length of the vertical lines through these points represents the standard deviation of the group. The greater the percent obscuration per foot the greater the density of smoke in the box. The circled numbers are those detectors that remained in the lab as the control group.

BACKGROUND INFORMATION FOR A RESEARCH PROGRAM ON USE OF SMOKE DETECTORS IN RURAL ALASKA

(Available on request: Alaska Council on Science and Technology, Pouch CV, Juneau, AK 99811)

QUESTIONNAIRE

Village_____

Householder_____

Detector No._____

1. Number of alarms:

   No. single beeps _____ No. repeated beeps _____ No. continued buzzing _____

   No. beeps not recorded _____

2. Unknown alarms:

   Were they continuous or short beeps?

   Possible cause(s).

3. Battery replacement:

   No. changes _____

   Due to repeated beeps every few seconds? If no, why changed?

4. Wire cut:

   Yes or No _____ Why?

   Any noticeable difference since cut?

5. Has the detector been acting differently since last month's report? How?

6. Attitude:

   How do you feel about the usefulness of the detectors?

   Do the false alarms reduce the effectiveness of them?

   Would you want one in your house after the completion of the project?

   Does the silencer make the detector better?

7. Comments:

   Attitude:

   Log keeping:

   Dust:

FINAL QUESTIONNAIRE

Village _____

Householder _____

Detector No. _____

1. Have the detectors been acting differently since my (Nancy Smoyer) last visit, i.e., since the wires were cut/silencer chip replaced? How?

2. Have you had problems with:

   Low batteries:

   False alarms:

   Single beeps:

3. Do the false alarms reduce the effectiveness of the detectors?

4. Does the silencer make the detector better/worse/no difference?

5. Have the detectors been acting differently since the weather turned cold? How?

6. How do you feel about the usefulness of the detectors? Why are they good/useful?

7. Would you be willing to recommend/suggest one for your neighbors?

8. How much would you pay for one? What is the most?

9. Are there any specific incidences when the detectors have warned of a potential fire?

10. Have you thought about/discussed with your family what you would do if the detector went off in the middle of the night? What is your plan?

11. Have you told the children what to do? What is that?

12. Comments about attitude and log keeping.

13 Which detector would you like returned to you? With/without silencer? Why?

VILLAGE COORDINATORS' INSTRUCTIONS

INTRODUCTION

The death rate due to residential fires in rural areas in Alaska is approximately five times higher than in urban areas, and the overall rate for Alaska is twice that of the rest of the nation. With these statistics in mind the Department of Public Safety is investigating the possibility of supplying smoke detectors to home owners in Alaskan villages and has determined that research on technical and social aspects of smoke detector use is necessary. The Alaska Council on Science and Technology was contracted by the Department of Public Safety to administer the research which will provide the information necessary to determine the effectiveness of smoke detectors in the unique conditions of Alaskan village homes.

Smoke detectors have been found to be a very effective means of saving lives by providing an early warning of fires. Two different kinds are made, ionization and photoelectric, which sense the smoke in different ways. Independent testing has found that photoelectric detectors respond quicker to smoldering fires (which are the cause of most residential fires), whereas ionization respond quicker to flaming fires.

In this project, primarily photoelectric detectors are being used because they have been found to be less subject to false alarms. The problem of false alarms is one of the major concerns of this testing because it is anticipated that the unique rural homes and lifestyles will cause more false alarms than would occur in other houses. This is due to the fact that: 1) houses are often smaller with one central living area, and 2) unusual amounts of smoke may be produced by the cooking and heating (and perhaps other) sources. The results of this testing will determine not only which kind of smoke detector is most effective in village conditions, but also where the detector should be placed within the home. The attachment of a device called a silencer, which enables the householder to turn off a false alarm for a short period of time, is also being tested on one detector in each house. Other modifications or unexpected results which will make the smoke detector more effective and also more acceptable to the villagers may be found.

In order to carry out this research a total of six villages in two regions (interior and coastal) have been chosen as test sites. Within each of those villages five homes will be selected to provide a cross-section of house constructions and life-styles. Three or four smoke detectors will then be placed in these homes, and the occupants will be asked to provide information about the smoke detectors, particularly the incidence of false alarms, for a period of six months.

ROLE OF VILLAGE COORDINATOR

To assist in all aspects of the testing in the villages, a resident of each village has been chosen to act as village coordinator. His or her role is vital to the success of the research. His advice and assistance will be crucial from the beginning of the program through the final evaluation at the end. Also, the village coordinator's understanding and positive attitude toward the usefulness of smoke detectors and this research program will have an influence on the homeowners' cooperation and enthusiasm in the project.

Specifically, the assistance of the village coordinator will be needed in the following areas:

1. Selection of houses. The proper selection of the houses is determined not only by the house construction, but equally importantly, by the attitudes of the occupants.

2. Placement of smoke detectors within the homes. Although the village coordinator will not be asked to actually select the location of the smoke detector in the homes

(this will be done by someone with experience in fire prevention from Fairbanks), his introduction to the householder and his presence during the installation process will be important in providing the link between the villagers and the project personnel. In some cases, the village coordinator might do the actual installation after the location of the smoke detector has been chosen.

3. Monthly visits. The village coordinator will be asked to visit each home once a month to collect the information log sheet, test the smoke detectors, answer questions, and generally evaluate the attitude of the people.

4. Final evaluation. The overall success of the program with respect to the activity of the smoke detectors and the attitude of the participants will be evaluated after six months.

To assist the village coordinators in recording his visits to the homes, two kinds of information logs will be provided.

1. The first will be filled out when the home is selected for the program.

2. The second kind will be filled out monthly to provide the findings of each visit.

3. In addition, the village coordinator will collect the logs which the householder himself has filled out during the month.

When these logs are completed, they will either be sent directly to the central project office in Fairbanks or picked up by a representative of the central office. The procedure for filling out the forms will be discussed later.

PAYMENT

Both the homeowners and the village coordinators will be paid for their cooperation in this program. The village coordinator will be paid a total of $240 in six installments. $40 will be paid at the beginning of the program, and a $40 payment will be made each month after receipt of the logs by the central project office.

Each homeowner will be paid a total of $150. $50 will be paid when the smoke detectors are installed; payments of $10 will be made after each monthly log is picked up; another payment of $50 will be made at the end of six months. In addition, both the homeowners and the village coordinators will be given one of the smoke detectors to keep (after it has been given its final checkup).

LOGS

House Selection Characteristics

The form entitled House Selection Characteristics has been provided to record the choice of houses to be used in the testing. It is suggested that the village coordinator tentatively choose approximately 10 homes which he thinks meet the criteria for both house construction and homeowner attitude. At the time of the visit by the central project person, the five final houses can be determined together. The type of house being used in the testing is typically a log or frame one-room, low-ceiling building approximately 400-600 square feet with poor ventilation. Bedrooms are attached to the large living area, separated by a drape or a door. The cooking is done

on a gas, oil or wood range, and the heating systems are usually wood- or oil-burning stoves. Other types of houses can be used in the testing, but the emphasis should be on using houses which present conditions unique to rural Alaskan which would not be found elsewhere.

The items on the House Selection Characteristics form will be discussed in order to assist in the selection process.

1. Homeowner/address. Identification of house by owner and, if necessary, address.

2. Construction. In villages where there is a variety of construction, this mixture should be reflected in the choice of test houses. This could include log or frame houses or a combination of styles. However, some villages will have homes of only one basic type of construction, in which case a variety is neither possible nor desirable in choosing a representative sample.

3. Ceiling

   a. Flat or sloped. Since smoke travels differently across flat or sloped ceilings, both types of houses should be tested. If it is sloped, an estimation of the gradient should be made as: slight, gradual, steep.

      Beams are a special consideration for several reasons. Although we do not want to completely eliminate houses with beams, it is important to pay particular attention to homes which have them. If the beams extend more than about eight inches down from the ceiling, they could block the smoke from reaching the smoke detector. Also, if the beams are placed closer together than three feet, there will not be enough room to place the board with the smoke detectors. It might be possible to place the board either along the beam itself or across the beams if this seems to be the best location for a smoke detector under actual living conditions.

   b. Height. In the case of a sloped ceiling, the height at the lowest and highest points should be measured if possible.

6. Heat source.

   a. Oil. Because of the different forms of combustion used in gravity-fed or gun-fired oil furnaces, both kinds should be tested if possible.

   b. Again, if several forms of heating are used in the village, a representative sample is desirable.

7. Cooking source. A representative sample of cooking methods in the village is preferred.

8. Lighting source. If the source of light produces smoke, this could affect the detectors.

9. Smoke detector placement. The distance from which the smoke detector is placed in relation to these objects will help us determine the cause of false alarms.

10. Family

a. Number of occupants. The activities of different sized families and the amount of smoke produced may influence the occurrence of false alarms. Therefore, families of different sizes are required.

b. Ages. For the same reasons, families of different ages are necessary.

c. Scheduled absences. Absences of the family from the house are important to record for several reasons. If the family plans to be away for a large portion of the test period (more than six weeks), then the records may not be complete enough to be useful. On the other hand, shorter absences could be useful in the test since the life of the battery could be shortened if allowed to freeze, and false alarms might result. Therefore, it is necessary to know whether the house is heated during the absences. Both scheduled and unscheduled absences should be recorded during the monthly visits by the village coordinator.

d. Attitude. The attitude of the family is difficult to record objectively and scientifically because it is more a matter of sensing their feelings, rather than asking direct questions. However, a brief statement about their attitude on this initial form will allow for some comparisons in follow-up visits. If the interest of the householder is too low at the beginning or drops significantly during the testing period, it is possible that he will be taken out if the village coordinator thinks that his attitude is influencing the record-keeping.

The attitude of *all* the family members is important to evaluate if possible because each person could play a role in producing and recording false alarms. A negative attitude of an individual member would be more harmful to the testing than a lack of interest if it took the form of deliberately altering the results in any way.

Some of the specific aspects to look for in choosing a family and determining their attitude toward the testing would be to find out how they feel about: 1) having a 2-to 3-foot board placed on their ceiling for six months and a log sheet on their wall; 2) having people (both known and unknown) come into their home to install the smoke detectors and then check up on them; 3) keeping a careful log of false alarms; 4) the possible occurrence of frequent false alarms.

e. Education. The education level of the family members is important insofar as it relates to their understanding of this project. If there is little or no understanding of the purpose or procedures of the testing, the results cannot be considered to be reliable. As with evaluating their attitude, their education level would be determined not by direct questions, but rather by background knowledge of the village coordinator or general questions.

11. The main activity of the family in the room where the smoke detector is located will help determine the cause of false alarms as well as the probable frequency. An estimation of how much smoking is done in this room would be useful, too.

12. Floor plan. As accurate a floor plan as possible will help to determine the cause of false alarms as well as give a visual picture of the house and relative placement of the smoke detector.

Monthly Visit

The monthly visits which will be done by the village coordinator will have several purposes: 1) to collect the householder's log and leave another, 2) to test the smoke detector, 3) to evalaute the attitude of the family, 4) to provide on-going explanations and encouragement on the project. A log sheet will be used by the village coordinator to record his findings and will be sent monthly to the central project office.

This Monthly Visit log will provide the following information:

1. The house, date visited, and smoke detector numbers.

2. Testing results. The village coordinator will actually test the operation of each detector and record whether it is OK or Not OK. If some unusual action is necessary, it should be recorded and described with as much detail as possible as to the nature of the problem, cause, action taken, recommendations. If a detector alarm does not sound during testing, the battery should be replaced, and then the detector left in place whether it works or not.

3. Absences. It will be necessary to inquire about absences during the month in order to determine whether the battery of the smoke detector may have been frozen, and if so, for how long.

4. Attitude of family. General observations and particularly changes in the attitude of the family should be noted here. Other observations which can be indicated might include such things as: whether one family member is particularly enthusiastic or the opposite, whether all the members seem to be cooperating or only one or two; general observations and recommendations.

It is anticipated that some smoke detectors will be removed by the researchers for one reason or another. This could be due to factors such as the family moving or requesting the removal because of too many false alarms. However, sometimes the village coordinator himself will have to make the recommendation to remove the smoke detectors with the approval of the central project office. If the annoyance of false alarms becomes too great or the attitude of the family deteriorates for any reason to the point that the test results will be unfairly influenced, the smoke detectors should be removed. If the family does not seem to be cooperating within the first two months of the project, the smoke detectors will be removed and placed in another house. In the case of unwanted false alarms, it may be possible to remove the battery from the most annoying detector and continue the experiment with the others. In any case, the judgement of the village coordinator will be very important in detecting the changing attitudes as well as making recommendations.

It is also possible that the village coordinator will be unable to pick up the Householder's Log for one reason or another. If the family has lost their log or forgotten to fill it out, the village coordinator can question them about the activity of the smoke detectors during the past month to try to get as much information as possible. However, if good records cannot be obtained from the householder for two months in a row, the family may be removed from the project. It is possible that the family will be away at the time of the monthly visit in which case the village coordinator should fill out his regular report within one week indicating that they were not there. He will then get the Householder's Log as soon as possible and carry out his regular monthly test and interview at that time. No doubt other unforeseen situations will arise which will have to be dealt with by the village coordinator together with the central project office.

Householder's Log

The householder will be given a packet which will contain his logs with brief instructions and background information about this project and smoke detectors. The family should be able to fill out this form with no assistance from the village coordinator. This log is used primarily to record the frequency and cause of false alarms, as well as the action taken to stop the alarm. In addition, certain items have been included to help evaluate the interest of the family in the smoke detectors themselves. These items are: 1) the name of the person recording the information, and 2) how often the detector is tested. The family is also encouraged to write their comments about the detectors and the project on the log.

CONCLUSION

In conclusion, we would like to emphasize again the key role of the village coordinators in the overall success of this test project. The village coordinators' interest, enthusiasm and motivation are important not only in the work which they themselves do, but also in the influence which they will have on the participation of the families. The thoroughness and carefulness with which the coordinators complete the forms may also be reflected in the care taken by the families.

It is hoped that the village coordinators view the long-range goal of providing smoke detectors for all the homes in the villages as a valuable life-saving means, and in addition, that they understand the immediate benefits of making the people more aware of the danger of fire and its detection and prevention.

HOUSEHOLDER INSTRUCTIONS

INTRODUCTION

Loss of life and property by fires in homes is much higher in Alaskan villages than in the rest of the State. For that reason the Department of Public Safety will be offering smoke detectors at a low cost to village residents. Smoke detectors have been found to be essential in warning people of fires in their homes giving them time to escape. There are two kinds and many brands of smoke detectors made. Ionization detectors have been used in most homes in the past. However, a newer kind called photoelectric may be better suited for village conditions.

The houses and lifestyes of village residents are quite different than the rest of the United States. Some of these differences, such as small one-room houses and wood-burning stoves, can cause problems for smoke detectors. The detectors are made to "smell" or "see" smoke and then sound an alarm to warn the inhabitants. However, the smoke detectors do not know the difference between "friendly" smoke, such as from a wood-burning stove, and "unfriendly" smoke, such as from a smoldering mattress. Because there is likely to be more "friendly" smoke in village homes than others, false alarms could be a great problem. It is to test the frequency and cause of these false alarms that this research is being done.

You are one of several families in 6 villages in Alaska we have asked to put 3 smoke detectors in their homes. The smoke detectors will be left in your home for 6 months during which time you will record on a chart what the detectors do. A person in your village, the village coordinator, will collect these charts from you once a month to send to Fairbanks. You will be paid $50 at the beginning of the project and $10 more at the end of every month. At the end of the entire project you will be paid $50 more to total $150 in all.

HOUSEHOLDER'S LOG

This chart (or log) will be used for you to record what happens each time an alarm goes off. All of these answers will help determine which smoke detector is best to use in the villages. Therefore, *it is very important to record each alarm carefully and completely*. The chart is to be filled out each time an alarm goes off in the following way

1. Detector Number/Color. Each time an alarm goes off, write the number or color of the detector which is sounding.

2. Date. Write the day's date.

3. Time. Write the approximate time the alarm goes off.

4. Name. Write the name of the person recording the information.

5. FALSE ALARM CAUSE. False alarms can be caused by many things, so it may not always be possible for you to know exactly. Some of the possible causes could be smoke and fumes from the following sources:

   Cooking—fumes from cooking can cause false alarms whether you can see smoke or not.

   Heating—Wood-burning stoves: when the fire is started or the door is opened to add wood smoke may escape.

Oil-burning stoves: malfunction of controls may cause smoke.
Lighting—the smoke from oil- or kerosene-burning lamps.
Smoking—smoke from many cigarettes.
Unknown—If you don't know what caused the alarm, put an X here.
Other—If you know the cause and it is not one of the boxes on the chart, write in what you think caused the alarm.

6. ACTION TO STOP ALARM. Several actions can be taken to stop the alarm.

Nothing—Put an X here if the alarm stops without your doing anything.
Pushed Button—Put an X here if you push the silencer button. If the alarm comes on again, write down another false alarm.
Fanned Air—Sometimes fanning the smoke away from the detector will stop it.
Removed & Replaced Battery—The battery can be removed to stop the alarm, but it should be replaced as soon as possible. Do not remove the battery permanently without telling your village coordinator.

7. Tested. You may want to test your smoke detector by pushing the test button on the detector itself. This will tell you whether it is working or not. Write down when you do it.

8. Comments. If you have any comments about the smoke detectors or the program in general, write them down here.

PROBLEMS

Several problems could occur over the 6-month period. False alarms could become very bothersome. If you find that one or more of the detectors is particularly annoying, tell your village coordinator. He or she will then take some action. It is *very important* to record anything done by or to the smoke detectors so we can know how the detectors are acting. For instance, one of them may stop working. This could be due to several factors and your village coordinator will know what to do. A detector could start sounding at regular intervals for no obvious reason. This could be because the battery is low. Tell your village coordinator and he or she will replace the battery. Another problem could be misplacing the chart. If that happens, start another one but try to record all the false alarms you can remember from the lost chart. The village coordinator has extra charts and will bring you new ones every month. If you plan to be away from your home for more than 2 weeks, tell your village coordinator. If you have any questions or problems, talk to your village coordinator or call us collect at
479-7010.

As you can see, you are the most important person in this project. You are the one who hears the alarm. You are the one who writes down what happens every time. And you are also the one who may be bothered by false alarms. But with your cooperation, a smoke detector will be found which may save your life as well as your neighbors.

DEPARTMENT OF PUBLIC SAFETY SMOKE DETECTOR PROGRAM

HOUSEHOLDER'S LOG

Name _____

Village _____

Detector Number/ Color	Date	Time	Name	Type of Alarms			False Alarm Cause						Action to Stop Alarm				Tested
				Single Beeps	Repeated Beeps	Continued Buzzing	Cooking	Heating	Lighting	Cooking	Unknown	Other (describe)	Nothing	Pushed Button (times)	Fanned Air	Removed & Replaced Battery	

Comments:

APPENDIX F

Interviewer

MONTHLY VISIT

Homeowner:

Date:

1. Detector number/color:

   Test results: (OK, Not OK)

   Action taken:

2. Detector number/color:

   Test results: (OK, Not OK)

   Action taken:

3. Detector number/color:

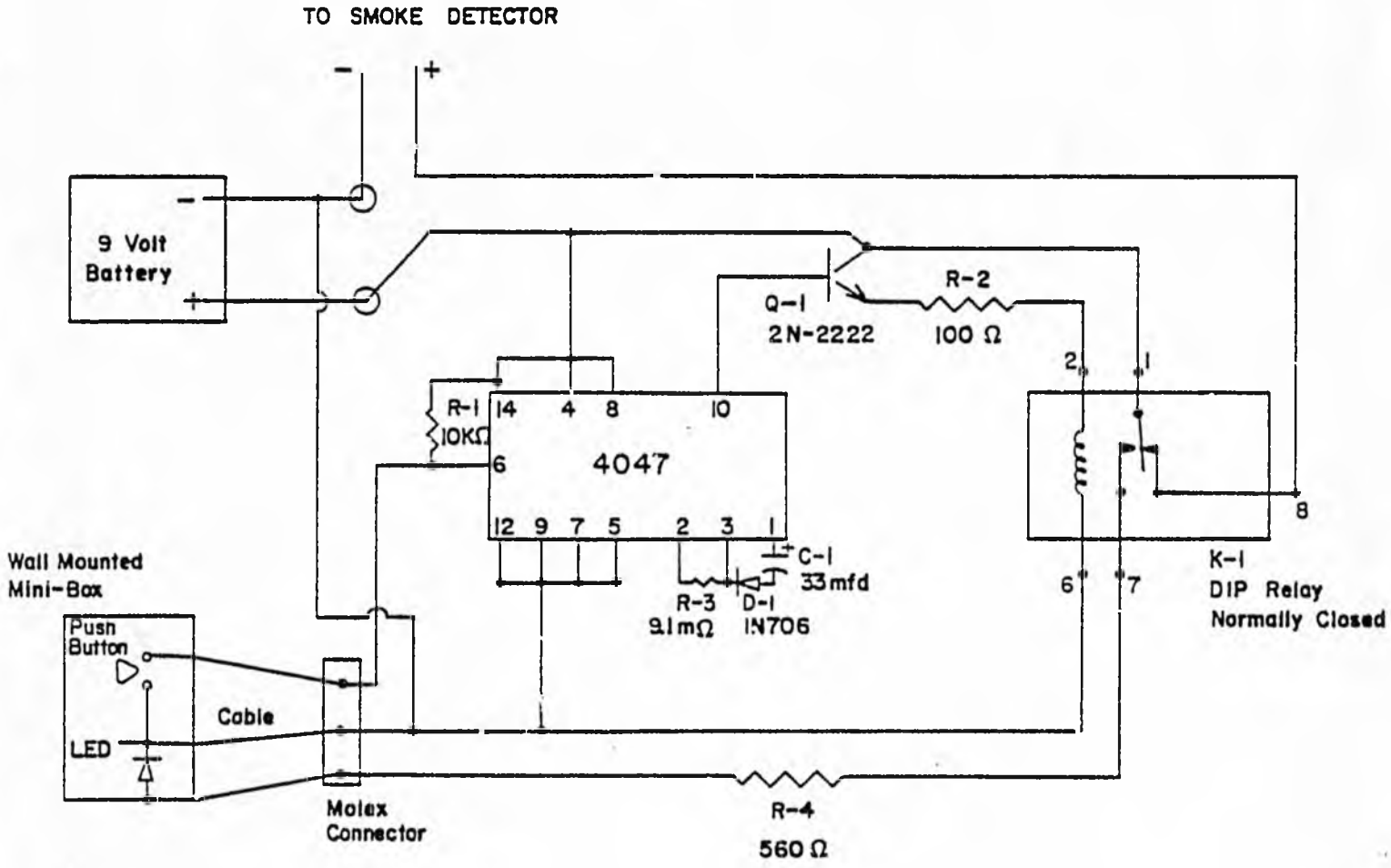
   Test results: (OK, Not OK)

   Action taken:

Absences:

Dates	Detectors Frozen (Yes, No, Don't Know)

Attitude of family:



Silencer circuit installed in the smoke detectors prior to their installation in the villages.

SYNOPSES OF GRANTS

For the Alaska Council on Science and Technology

Northern Technology Grants Program

1979 through 1982

April, 1982

Christopher Noah, Executive Director - Pouch CV, Juneau, Alaska 99811 - (907) 465-3510

Northern Technology Grants Program

The Northern Technology Grants Program began when the Alaska state government appropriated funds in July, 1979. These funds were to be awarded by ACST in grants up to $5000 to Alaskans with innovative ideas in northern technology.

The initial program was so successful that in 1980, 1981 and 1982 additional grant funds were awarded to ACST to conduct three more Northern Technology programs.

The program has awarded grants to projects that are low-cost alternatives for Alaskans in such areas as building design, food production, recycling, transportation, energy generation and waste disposal. The immediate benefit of the grant is to the person with the idea but the long-range benefit will be to all Alaskans. Grant recipients are required to provide a progress report to the ACST and in many cases, recipients conduct demonstration workshops on project results for community members or other interested Alaskans. Also, the Alaska Council on Science and Technology publishes "Technical Briefs" on the successful projects. These short "how to" reports are intended to show others in the state how grant recipients completed their projects while also describing pertinent results.

This is a list of all 113 Northern Technology awardees and synopses of the projects. For more information concerning the program contact: Alaska Council on Science and Technology; Pouch CV; Juneau, Alaska 99811 or telephone (907) 465-3510.



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REGENERATIVE FREEZER (0011)

Kevin McDougall
P. O. Box 503
Delta, Alaska 99737

Amount Funded: $3,100

Awardee will build a multi-family freezer which will store the winter's cold for summer use. It will maintain freezing temperatures for 3,000 pounds of meat or fish year-round without need of any power source whatsoever. The freezer will be a buried 14' x 14' room housing a 10 foot high, 10 foot diameter brine-filled tank. A fluid-filled convection loop will be installed in the tank and a project above ground. When the outside air is colder than the brine, the convection loop will continuously remove heat from the freezer and dissipate it above ground. The freezer will be insulated well enough to keep heat out during the summer.

JUICE BOTTLING PLANT (0107)

M. Michael Rowcroft
c/o St. Judes Center
3272 Hospital Drive
Juneau, Alaska 99801

Amount Funded: $3,250

Awardee will set up a juice processing, bottling and distributing center in Juneau. Overripe produce purchased from local markets and wholesale distributors will be processed, bottled in recycleable containers and sold to the public at reasonable cost. All processing will be performed according to the State Division of Public Health regulations -- Mr. Rowcroft is the Juneau District Sanitarian.

HYDRAULIC-POWERED AUTO (0146)

Bert Bingham
1650 Beaver Road
Fairbanks, AK 99701
(Ken Kunkel)
(Don Luterbach)
456-2491
452-2718 (message)

Amount Funded: $4,045

This grant will help finance the building of an automobile with a hydraulic propulsion system. A volkswagen chassis and running gear with a sleek fiberglass body will house the low-fuel/high-energy system. The system starts with a 16 h.p. Briggs and Stratton engine. This drives a hydraulic pump. The hydraulic pump supplies charge pressure to two 5000 psi accumulators, and drive pressure to a Sunstrand hydraulic motor. The small gas engine operates at full power until the accumulators are fully charged. At that point the engine drops back to idle and the accumulator takes over. The sequence repeats automatically when the accumulators are drained to a certain level. The propulsion system, which has been previously demonstrated elsewhere, is expected to develop 75 mpg while cruising at 55 mph to 75 mph.

BEE-OVERWINTERING BUILDING (0083)

David Stoops
Mile 2.8 Kalifonsky Loop
S.R. 2, Box 707
Kasilof, Alaska 99610
Phone: 262-4904 or 262-7212
262-4904 or
262-7212

Amount Funded: $3,775

The awardee will construct a building in which he will over-winter bees in a controlled environment. Presently, the state's 250 beekeepers have no alternative but to kill their bees each fall and face the difficulty and expense of shipping in new bees each spring.

WASTE-HEAT-CLAIMING GREENHOUSE (0029)

James Barger
Galena Regional Learning Ctr.
P. O. Box 181
Galena, Alaska 99741

Amount Funded: $2,570

GRLC is a rural extension of the University of Alaska involved in facilitating subsistence gardening programs in 17 villages along the Yukon and Koyukuk Rivers. The group will use grant money to build a 1,500 square foot greenhouse heated by waste heat from the local power plant. The Galena Air Force Site will provide access to the glycol solution in the plant's cooling system. The hot glycol will be piped to a unit heater inside the greenhouse as well as through the soil bed of a garden behind the power plant.

SOLAR HOT WATER HEATER (0089)

Julie Scott
Camp Property Committee
c/o Box 80435
College, Alaska 99708

Amount Funded: $1,200

Camp Bingle-Harding Lake Camp is a non-profit camp operating at Harding Lake, a recreational area 40 miles east of Fairbanks. The camp is used by various children's groups and its program is educational in nature. The staff will build a solar collector into the camp's hot water system to help offset operating expenses and incorporate energy awareness into the camp's educational program.

INSULATED SHUTTERS (0144)

Robert Walton
P. O. Box 1480
Fairbanks, Alaska 99701
Phone: 479-6838
479-6838

Amount Funded: $1,100

The awardee will design and construct insulating shutters that can be used to cover large window areas to reduce heat loss. The shutters will take advantage of garage door technology and photoelectric or temperature sensing switches to achieve ease of operation.

TIDAL/CURRENT HYDRAULIC SUCTION DREDGE (0162)

O. Alexander Hoke
P.O. Box 963
Juneau, AK 99802
Phone: 789-0065
789-0065

Amount Funded: $5,000

Awardee will design and develop a working model of a tidal/current hydraulic suction dredge. A tide or current powered low velocity hydraulic turbine will drive a centrifugal water pump after the high-torque, low-RPM turbine energy has been translated into low-torque, hihg-RPM energy by a water tight gear box. The high-velocity discharge of water will be injected through a reduction nozzle and create a vacuum at the suction head. This vacuum will lift sand and gravel through a flexible hose to a sediment stockpile on the bank. Mr. Hoke will also consider methods of achieving a regular, automatic sweep of a channel by the dredge.

SOLAR GREENHOUSE (0139)

Cyndie & Stephen Tack
S.R. Box 51113
Mile 24 Chena Hot Springs Road
Fairbanks, Alaska 99701
488-9632

Amount Funded: $5,000

The awardees will build a greenhouse which combines several of the better greenhouse construction and energy conservation principles now in use. The structure will be similar to a large cold frame with solar storage in the back wall and in the soil. Some of the features expected to make the greenhouse free of dependence on fuel heat from mid-April to lat September include:

a) Burying to north wall and parts of the other three walls to moderate the effect of very cold and very hot weather;

b) Using solar collectors and an underground array of pipes to heat the soil;

c) Using a massive north wall to store heaat during the day and radiate heat at night;

d) Glazing the greenhouse with a twin-wall stressed material;

e) Making an easily-used blanket to cover the glazed surfaces at night.

OIL FIRED CLOTHES DRYER (0145)

Mike Potter
P. O. Box 80293
Fairbanks, Alaska 99708

Amount Funded: $500

Awardee will convert a standard household dryer from electric to oil-fired hot water heat to take advantage of the oil-fired boiler which heats his house. Hot water will be piped to a radiator core whicch will be mounted on the rear of the dryer; air forced across the radiator will dry the clothes. The energy requirements and cost of drying clothes with an electric dryer will be measured before the conversion; when the oil-fired system is installed, its heat requirements will also be tested.

Mr. Potter says the high cost of electricity and gas, and the fact that a large number of Alaskan homes use hot water heat suggest significant potential savings.

METHYL-FUEL PLANT (0165)

Douglas Grimm
S.E. Applied Electronics
P. O. Box 324
Auke Bay, Alaska 99821
789-2542

Amount Funded: $5,000

The awardee will build a scale model of a system capable of accomodating the electrical and automotive energy needs of a typical urban or rural residence in southeast Alaska. The methyl-fuel plant will produce approximately one gallon of methylfuel for every 20 pounds of waste material. This project will make use of the large quantity of sawmill wood chips available in southeast Alaska. Experimentation will also be done with many other forms of "garbage." The fuel produced will then be applied to a modified 4 H.P. internal combustion engine driving an 1800 watt generator. This scale model should supply about 1/10 of the electrical energy requirement of a typical residence.

HYDROELECTRIC GENERATOR (0155)

Richard Ford
P. O. Box 158
Copper Center, Alaska 99573
344-6988 or 822-5847 (work)

Amount Funded: $2,500

Awardee will build a small-scale hydroelectric system to reduce his family's dependence on a diesel generator. The system will be mounted on a raft in the Copper River and provide enough electricity to the residence for 8 months of the year.

WOOD FURNACE (0136)

Donald Ruef
P. O. Box 1906
Palmer, Alaska 99645

Amount Funded: $2,150

The awardee will build, instrument and test a wood-coal furnace with a fluid-filled jacket. The fluid tube will store heat and be controlled to produce a low-pressure hot fluid and not vapor. Mr. Ruef expects the furnace to deliver 100,000 BTU/H, provide long-term even heat, require no electricity, and be marketable at less than $1,500 each.

ELECTRIC CAR (0098)

David Grove
214 Harwood Hall
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $5,000

Awardee will build and test an electric car for operation in cold climates. The plans for the vehicle will be purchased, but modifications will be incorporated, such as the use of light weight aircraft steel, an insulated battery compartment, and solid state devices for startup. Mr. Grove expects to demonstrate that the electric car is uniquely suited to Alaska for three reasons: first, gasoline is

generally priced higher here; second, because pollution, especially ice fog, is a serious problem; and finally, because much of Alaska's road system is disconnected, the auto's 60-mile range per charge will not be a serious limitation.

SOLAR GREENHOUSE (0074)

Jeremy & Linda Weld
P. O. Box 165
Mile 128 Ft. Richardson Highway
Gakona, Alaska 99586

Amount Funded: $5,000

The awardees will build an add-on solar greenhouse which will utilize a thick gravel pad to store heat from the greenhouse for later use in the greenhouse and in the attained cabin. The gravel pad will be insulated from the ground around it and a heat collector at the greenhouse ridge will pump warm air into it. In addition, a rain water collection system will be incorporated into the greenhouse such that the stored water will also bank heat.

AMBULANCE SPLINT (0027)

Steve Carney
Fire Department
University of Alaska
Fairbanks, Alaska 99701
479-7535

Amount Funded: $200

Awardee will build a modification of the long spine board used by ambulances which he expects to be an improvement. His patient stabilization system will utilize vacuum "bean bags" in conjunction with conventional straps. The vacuum bags would rely on the same principal as the vacuum splints, be adjustable, and would attach to the board with velcro.

HYDROELECTRIC GENERATOR (0129)

Ted Neville
313 Lakeview Trailer Court
Fairbanks, Alaska 99701
456-8108

Amount Funded: $350

The awardee will build a small-scale water-powered electric generator to be powered by a river. A paddle wheel's rotation will be translated by a 2:1 ratio gearbox, and then drive an electric motor. The electric motor, when driven, produces current. Mr. Neville hopes to produce enough current to run small power tools.

SOLAR HEATER (0065)

Chris Johansen
P. O. Box 81162
College, Alaska 99708
452-2153 (work) or 479-4563

Amount Funded: $600

Awardee will use grant money to build a simple solar air heater which could be placed in window openings. The heater would consist of a plastic panel which would admit fresh cold air from outside, allow the sun to heat it as it rises toward the window opening, and have a simple thermostatic device at the top to allow air to pass in

only when it is warmer than the ambient room temperature.

WASTE-OIL HEATER (0106)

Donald Pendergrast
S.R. Box 50342
Fairbanks, Alaska 99701
Phone: 456-3516 (home) or 356-1400, ext. 428 (work)

Amount Funded: $250

The awardee will build a stove that burns waste crankcase oil. The stove will provide a more complete use of a scarce resource and an efficient method of waste disposal. The design utilizes a discarded electric water heater, several frying pans, and generally available aand inexpensive hardware.

EXPERIMENTAL GREENHOUSES (0180)

Jim Donally & Norm Stoppenbrink
1014 East 11th, #4
Anchorage, Alaska 99501
Phone: 277-1794 or (message) 277-4050

Amount Funded: $1,000

Awardees will build three greenhouses to test the efficiency of a plastic product, called ACPS, as a greenhouse wall material. ACPS is commercially available in long sheets or on rolls. Its common purpose is as a packing stock for fragile merchandise. It is a clear plastic film with little bubbles in it which, Mr. Donally notes, when squeezed "give a satisfying little pop." But, the bubbles also seem ideally suited to provide insulating dead air space for greenhouse walls. The first greenhouse built will have only a 6-mill visqueen covering. The second greenhouse will have ACPS, and the third, ACPS plus an insulated north wall. Maximum-minimum thermometers will be installed in each greenhouse and daily readings taken to determine the length of frost-free season.

INDUCTION GENERATOR (0506-80D)

Alakanuk City Council
City of Alakanuk
P. O. Box 51
Alakanuk, AK 99554
238-3313

Amount Funded: $4000

The use of an Enertech 1500 wind powered generator will create an energy conservation project for remote villages, and supply power to these remote areas on an uninterrupted schedule.

SOLAR SPACE HEATER (0226-80)

Alaska Alternative Energy Resources Center
1069 W. 6th Avenue
Anchorage, AK 99501
274-3621

Amount Funded: $1500

To construct an easily adaptable solar space heater for retrofitting onto existing homes and to conduct a workshop in conjunction with the construction. The simplicity of the construction of the solar collector should be conducive to assembly by the average Alaskan homeowner. At the workshops, the retrofitting topic will be combined with a weatherization session.

FURNACE CONVERSION (0068-80)

Don Bailey
P. O. Box 70
Anchor Point, AK 99566
235-8485

Amount Funded: $400

A unique conversion - from oil to wood. The conversion of the forced air oil furnace heating system is simple and is a means of beating the high cost of oil. The existing wiring will not be touched so a circulation fan can activate at the correct temperature and continue to blow air.

TREATMENT UNIT (0312-80)

Norman Bair
Box 10043
Dillingham, AK 99576

Amount Funded: $1100

To help establish state regulations for the disposal of greywater. A 30 yard septic tank would be installed outside with a gravel filter installed downline in the basement of a home. The gravel filter would further purify waste material.

BATTERY OR FUEL CELL MADE FROM SCRAP METAL (0508-80D)

Thomas R. Berson
SR 937
Chugiak, AK 99567

Amount Funded: $800

To develop a cheap, long-life, high energy battery or mechanically charged fuel

cell to be made from common materials or scrap metal. This will provide an alternative power/storage supply which could replace or assist fossil fuel generators, in vehicles and in home heating systems.

WINDOW INSULATION (0036-80)

Jim Cunningham
5300 "A" Street
Anchorage, AK 99504
278-2819

Amount Funded: $200

With the use of styrofoam panels. Students at the Specialized Academic Vocational Education Center (S.A.V.E.) will participate and earn credits. Other schools will be invited to view the panels and share the resultant data to be recorded on comparative values of these and other types of window insulation.

DOG, WATER OR WIND POWERED WASHING MACHINE (0358-80 & 0359-80)

Bill Hall
SR 1438
Eagle River, AK 99577
694-2238 (message)

Amount Funded: $400

To be used in remote region of Skwentna. For dog power, an exercise wheel will be used to harness the dog or dogs for operating the washing machine. The method would be demonstrated at local dog mushing club meetings.

GREENHOUSE (0515-80D)

K. Quinn Hart
SR 196 H
Eagle River, AK 99577
862-5292

Amount Funded: $2200

An energy efficient greenhouse using soil thermal mass storage and waste heat recovery on a year-round basis. In the summer months, the excess solar heat collected is transferred and stored in the soil. In the winter, waste heat from the residential coal stove is recovered to maintain soil temperatures. Upon completion of construction, a workshop will be conducted.

WIND GENERATOR (0098-80)

Steve Hicks
Box 147
Glennallen, AK 99588
822-5872

Amount Funded: $1600

To build and demonstrate a 12 volt generator constructed from junk auto parts. The main component will be a shortened rear axle which will serve as the propeller shaft. A demonstration seminar will be conducted in Glennallen upon completion of the project.

WATERPROOFING FOR EARTH SHELTER HOUSE (0165-80)

Marnie & John Isaacs
2418 Forest Park Drive
Anchorage, AK 99503
279-8900

Amount Funded: $3300

To utilize and test existing material"Bituthene" for waterproofing house. Bituthene is used primarily in tunnels and subways. The Isaacs wish to demonstrate that this material will be more effective and less costly than other more commonly used products.

GREENHOUSE (0055-80)

Ed Knoebel
P. O. Box 84
Glennallen, AK 99588

Amount Funded: $4100

Knoebel has excess domestic warm water from his home heating system. He plans to recycle this water to a greenhouse as a heat method. Tests will be run for a one-year period on the practicality of growing vegetables under these greenhouse conditions.

TRAILER STEERING DEVICE (0081-80)

Alex Matheson
1817 W. 13th Avenue
Anchorage, AK 99501
388-4618

Amount Funded: $5000

To develop a remote control rear axle steering device for truck trailers. The problem with multi/trailer rigs is maneuverability. Three trailer rigs would be used more frequently if they were more maneuverable. In addition, a moveable rear axle will eliminate the problems of backing up a multi/trailer rig.

RECYCLING ALUMINUM SCRAP (0085-80)

John Phillips
4211 Cope, #3
Anchorage, AK 99503
272-7992

Amount Funded: $700

This is an alternate method of handling scrap aluminum cans and other aluminum scrap material. A small crucible furnace will transform the scrap into ingots. The ingots could be packed in a small area per unit weight for economy of shipping.

GENERATOR (0332-80)

Radio Communications Inc.
3350 Mountain View Drive
P. O. Box 98190
Anchorage, AK 99508

Amount Funded: $5000

To construct a hybrid solar panel/wind generator system supplemented by lead-acid battery plant, that would have the capacity to power a moderate 25 Watt 12 V.D.C.

load. The proposed system would be suitable for providing power to such equipment as microwave relays, VHF/UHF communications, repeaters, hydrologic telemetering instruments and low power television translators.

SOLAR HEAT HOUSE (0072-80)

Robert Reinhardt
General Delivery
Aniak, AK 99557

Amount Funded: $5000

Will also provide heat for hot water heating system. During winter months, additional heat will come from a modified multi-fuel stove boiler. The heat house could also be used as a fruit drying house, a greenhouse and a clothes drying area.

BOILER SYSTEM (0155-80)

Alfred Doner
SR 5620
Wasilla, AK 99687
376-5540

Amount Funded: $1800

Design and install heat storage tank with solar assist. This will demonstrate the feasibility of year-round wood burning boiler operation. This will also demonstrate the feasibility of adding a wood or coal burning boiler in series with any existing oil or gas-fired boiler.

SOLAR WOOD DRYING KILN (0116-80)

Bruce Forster
P. O. Box 1021
Homer, AK 99603
235-7286

Amount Funded: $3000

This is an air transfer solar kiln. Forster is a cabinet maker and would prefer using local woods which are of higher quality than imported woods. The kiln will hold up to 2000 board feet of lumber (1" thick) and is designed to dry a loan in approximately one month's time. The body is a two-layer sandwich of clear fibre glass supported by four insulated walls.

WIND GENERATOR (0540-80D)

William Hightower
P. O. Box 4 (Mile 24)
Moose Pass, AK 99631

Amount Funded: $2600

Using auto electrical parts for 12 volt wind generator to light outbuildings such as chicken house, etc. A Savenius rotor will be installed on a hill with three or four alternators attached to it. The current will be transmitted to storage batteries in the outbuilding area. When 110 volt current is needed, a power inverter will be employed.

DIGESTER (0045-80)

Edward Johnson
P. O. Box 1347
Soldotna, AK 99669
262-7941

Amount Funded: $5000

Methane gas producing digester which will generate energy as well as dispose of waste. Waste from the digester will be transformed into fertilizer. A reinforced 2000 gallon digester in four compartments will facilitate total digestion and keep the gas supply stable.

IMPROVED WILLOW RAKE (0374-80)

Cecil R. Jones
Star Route A, Box 49A
Homer, AK 99603

Amount Funded: $3000

Designed to speed up farm land development. It will remove willow and alder roots in the area with little disturbance to topsoil. Current methods remove excessive topsoil with removal of growth.

FRUIT AND NUT TREE CULTIVATION (0298-80)

Karen Leis
P. O. Box 923
Homer, AK 99603

Amount Funded: $1000

To grow various fruit and nut bearing trees in remote area. Orchard is planned on a remote plateau at the head of Kachemak Bay, east of Homer. Leis is a knowledgeable grower and believes Pecan trees and other varieties of fruits and nuts will do well on the site under proper controlled growing conditions.

PERMAFROST EXCAVATION (0232-80)

Charles Posciri
SR Box 9360
Palmer, AK 99645
745-3892

Amount Funded: $5000

A pre-facture method for excavating permafrost and rock formations. The method is designed to save on gas and oil and at the same time preserve the environment by eliminating the major portion of environmental damage normally suffered during excavation.

HYBRID ELECTRIC CAR (0281-80)

Ricardo Quiroz
P. O. Box 770
Valdez, AK 99686
835-4614 or 835-4322 Ext. 229 (work)

Amount Funded: $2300

To modify a conventionally powered gasoline engine in a 1970 Volvo station wagon. The Volvo presently gets 16 MPG and Quiroz hopes to bring that figure up to 75 MPG. This hybrid electric propulsion system is selfcontaining and self-generating. Emphasis will be geared to learning if additional modifications will be required

to produce a hybrid electric car compatible with Alaskan weather. A 16 gallon tank should yield about 1200 miles.

PLANT HYDRO FEED SYSTEM (0290-80)

Elizaveta Shadura
P. O. Box 181
Galena, AK 99741

Amount Funded: $5000

Using the nutrient film technique which is a streamlined version of hydroponics. A recirculating system allows a weak concentration of a complete nutrient solution to constantly run by the plant roots. This method supplies a constant flow of nutrients that can be taken up by the roots on a continuous basis.

PASSIVE SOLAR HOME PLANS (0159-80)

Steven B. Smiley
SRA Box 41-C
Homer, AK 99603

Amount Funded: $1700

To design standard superinsulated passive solar home plans that will meet FHA approvals. It is difficult to obtain FHA approval on a "custom" looking home, rather than a conventional design. These plans will combine energy-saving features in an FHA acceptable design.

SHUTTERS FOR GREENHOUSE (0327-80)

Ak. Federation for Community Self-Reliance
P. O. Box 73488
Fairbanks, AK 99707

Amount Funded: $1000

Insulated shutter demonstration project on site of Federations's community garden project. Roll-down quilt/type shutters in super insulated solar heated greenhouse. The system would have the advantages of light weight, low cost and esthetic appeal. Local artists will donate their time to decorate the shutters. The shutters can easily be modified for residential use.

SUBTERRANEAN OUTBUILDINGS (0130-80)

Phillip Albert
General Delivery
Ruby, AK 99768

Amount Funded: $4800

To build subterranean area for chickens, goats, etc. On the earth surface, a greenhous will be constructed on the top of the animal stock outbuilding. Produce for local consumption would be grown in the greenhouse. Eggs and milk would be available from the chickens and goats on a year-round basis.

SOLAR THAWING OF PERMAFROST (0044-80)

Joseph Balch
Mile 34 Salcha
Fairbanks, AK 99701

Amount Funded: $5000

Thermal tube method using heat jacket at base of tube. Could be used for specific

research programs. With the use of a wind pump and solar collector, could possibly supply water year-round in the remote regions.

EFFECTIVE U-VALUE MEASUREMENTS (0139-80)

Axel R. Carlson
SR Box 30183 Scenic Heights
Fairbanks, AK 99702
479-6434

Amount Funded: $5000

To develop a technique with instruments to measure the effect of thermal mass, solar orientation and color of exterior surfaces. Also to determine effective U-values (R-value) of floors, walls and roofs below grade for earth shelter homes. Will also determine the effective U-values of heavy timber and masonry of walls above grade. A computer program will be developed to convert and tabulate the data as U-values.

ARCTIC HOME CONSTRUCTION (0505-80D)

Bobby Cloyd
3750 Geist Road
Fairbanks, AK 99701

Amount Funded: $3400

Various techniques will be implemented by the vocational carpentry class at the Hutchinson Career Center. Results will be monitored and compared for effectiveness with other types of home construction.

SOLAR GREENHOUSE (0328-80)

Michael Crawford
Box 73560
Fairbanks, AK 99707
456-6843

Amount Funded: $4800

An air/hydronic solar collector system. An attached solar greenhouse to be constructed on the south wall of the Two Rivers Grange (Alaska #3). Labor to be donated by members. The greenhouse will be utilized by the community, including the 4H Club and other young people's organizations.

HOME ENERGY SYSTEM (0118-80)

John Dillon
Mary Moorman
P. O. Box 81123
College, AK 99708

Amount Funded: $5000

Plan to design, build and demonstrate hybrid solar, wood and coal energy system as conservation features in a home. There will be a solar-chimney attached greenhouse with energy storage in eutectic salts. Use will be made of locally available resources to avoid rising fuel costs.

METHANE GENERATOR (0362-80)

Chris Lamb
P. O. Box 602
Nome, AK 99762

Amount Funded: $400

Utilizing honeybuckets with a two-stage generator. The two stages allow for continuous gas production. Disposal of human waste is a major problem in northern areas. Fuel costs are high. Lamb hopes to alleviate both problems with the generator.

AUTOMATED THERMAL SHUTTERS (0309-80)

Ed McGrath
P. O. Box 80807
Fairbanks, AK 99708
452-6690

Amount Funded: $2400

Four motor operated retrofit automated shutters when combined with 2 panes of glass have an R value of 18 - substantially higher than most insulated shutters.

TECHNIQUE FOR SHALLOW SUBSURFACE EXPLORATION (0020-80)

Robert McHattie
Richard Jurick
1921 Capitol Avenue
Fairbanks, AK 99701

Amount Funded: $5000

To be developed with an electromagnetic solid conductivity instrument to delineate permafrost and ground ice conditions for building, map subsurface conditions and for small placer and hard rock mining operations.

GENERATING SYSTEM (0538-80D)

Carl Pelz
P. O. Box 93
Petersburg, AK 99833

Amount Funded: $5000

A hillside stream will be the energy source. A dam will be built 200 feet above the generating system. A pipe in the dam will guarantee a steady flow of water. A Pelton wheel will be used to transmit mechanical energy from the water to the generator.

DATA RECORDING INSTRUMENT (0205-80)

James Raymond
P. O. Box 81504
Fairbanks, AK 99708
456-3128

Amount Funded: $1100

Will build a multi-purpose instrument for recording environmental data in remote regions. The data would provide information that could help to improve the design of buildings and other projects for suitability of construction in the wilderness areas.

SOLAR ENERGY HEATING SYSTEM (0064-80)

Richard Seifert
Gary Newman
Box 80147
Fairbanks, AK 99708

Amount Funded: $5000

To purchase two identical thermal and flow monitoring systems, two differential thermostate controllers and temperature sensors and two recording and integrating pyranometers. Seifert and Newman will monitor the systems for the lifetime of the units. Seifert's system will be heating a basement using panel heating (pipes imbedded in a concrete pad) and Newman's system will be used to provide space heating and domestic hot water heating, with additional exchangers to be used for extended gardening ground warming at a later date.

SOLAR WOOD DRYING KILN (0248-80)

Charles Simmons
Box 81724
College, AK 99708

Amount Funded: $2000

To dry wood for use in woodworking and woodcarving. This would enable artist Simmons to utilize local rather than imported wood. The kiln will utilize fiberglass for insulation on a 2 x 4 construction, with control from thermostate operated fans.

WATER HEATING (0177-80)

Leslie A. Viereck
SR 20791
Fairbanks, AK 99701

Amount Funded: $2000

A method for heating domestic water by a combination of wood stove and solar panels. The solar panels will heat the water from March through October and assist in heating during late fall and early spring. The project is designed to demonstrate that domestic water need not be heated by oil or electricity in the interior of Alaska.

FISH DRYING PROCESS (0145-80)

Ole Wik
Savoonga, AK 99769

Amount Funded: $5000

A method of drying fish in a vacuum chamber, powered by existing wind electric system. The Danes use a similar process called pressfisk, where the fish is squeezed into blocks during the process.

STEAM PLANT FOR SMALL BOAT (0262-80)

Ronald Klein
P. O. Box 1587
Juneau, AK 99802
586-9492 or 465-2925/465-2944 (work)

Amount Funded: $5000

To install and modify a commercially made steam boiler and engine for a small launch hull. To demonstrate practical use of steam as a means of locomotion, especially in the southeastern area where wood is plentiful.

1 WATT TRANSLATOR (0166-80)

David Molvik
Narrows Broadcasting Corporation
Box 149
Petersburg, AK 99833
772-3770

Amount Funded: $5000

Translators are low power repeater stations. This would be erected on a mountain top for energy generation via solar voltaic cells for the operation of radio broadcast transmission equipment.

HOME ENERGY CONSERVATION SYSTEM (0234-80)

Jay Moor
9175 Skywood Lane
Juneau, AK 99801
789-9583

Amount Funded: $4800

A dual domestic system comprised of heaters, controls, and environmental stabilizers that can be coordinated by means of small computer, or operated manually when the electrical power supply fails. To demonstrate the system can be packaged in modules for easy adaption to professionally built housing in Alaska.

DEVELOPMENT OF CLAM HARVESTING TECHNIQUE (063-81)

Carl DeBoard
608 Kim Place
Anchorage, AK 99504
337-3191 or 344-9602

Amount Funded: $5000

A clam dredge that is an amphibious vehicle that will travel in 7 feet of water before it floats. It could harvest razor clams 8 months per year, for 8 hours a day. Awardee will experiment with a design modification of a clam digger he has developed. It is anticipated the clam dredge could harvest a swath 4 feet wide and have a forward speed, while harvesting of 5000 feet per hour. A beach area of 20,000 square feet per hour could be harvested.

DEVELOPMENT OF A CAM OPERATED ARCTIC DOOR DESIGN (061-81)

Phillip W. Sanders
P.O. Box 80982
Fairbanks, AK 99708
479-5920

Amount Funded: $1100

To design a door with beveled edges and a cam operated pin hinge to eliminate the problem of air infiltration of exterior doors. Awardee will convert standard metal door. The door would revolve around one central axis. As the door is opened, the cam lift mechanism raises the door and allows it to clear the threshold. As the door closes, the cam drops the door back down on the threshold for a tight seal.

TO GROW FRUIT TREES IN THE YUKON-TANANA UPLANDS (115-81)

Bonnie Friedman
P.O. Box 81110
College, AK 99708

Amount Funded: $1650

To coordinate the experience, research and expertise of those growing fruit trees in Alaska and to utilize those methods of growing fruit trees used in other arctic countries. To date, results are not recorded by individuals in a scientific manner and results are not passed along to other Alaskans. The grant will permit an investigation through experimentation into the response of fruit trees grown through a variety of techniques.

TO CONVERT A VW BUG TO A HYBRID-ELECTRIC VEHICLE (110-81)

W. Charles Newell
P.O. Box 80302
College, AK 99708
456-2800

Amount Funded: $2700

To attempt to demonstrate a viable transportation design which will eliminate wasteful warm-up periods, provide reliable car service and conserve fuel emissions. The prime movers in the system would be eight 12 VDC batteries in series connection and a 2000 watt motor generator set.

TO USE SPILL-OVER ENERGY FROM A HYDRAULIC WINDMILL (117-81)

Clark Corbridge
7420 Tikchik Circle
Anchorage, AK 99504
333-4587 or 279-0641

Amount Funded: $5000

To build a windmill incorporating a controllable-pitch, full-feathering propeller; hydraulic control of propeller pitch, a hydraulic pump, motor and 'lock.' If successful, the project will prove the viability of the theoretical ideas concerning the use of full-feathering, ground controllable propellers and hydraulic methods of power transportation for windmills. Alaskans could benefit from windpower systems, which are quieter and therefore, more environmentally acceptable. Because the hydraulic windmill should provide that all adjustments be made from the ground, it would be substantially safer than a conventional windmill.

EQUIPMENT FOR SENSITIVITY AND COLD TEMPERATURE TESTING OF SMOKE DETECTORS (131-81)

John Benevento
Geophys. Inst., U of A
Fairbanks, AK 99701
479-7560

Amount Funded: $4900

To be used for equipment in basic laboratory tests for smoke detectors to be used in the bush. Tests would be run that would be difficult to document and evaluate under field test conditions.

HEAT PUMP FOR FOUNDATION STABILIZATION (118-81)

R. Dale Guthrie
SR Box 20044-B
Fairbanks, AK 99701
479-6034 or 479-7142 (work)

Amount Funded: $5000

This would be a dual function heat pump; to stabilize a house foundation on permafrost with energy efficient interior heating. Building on permafrost in Alaska is expensive and sometimes unsatisfactory. It is difficult to remove subfoundation heat in an even and controlled manner without producing the undesired side effects of expansion and differential heaving of the slab and foundation. It may be possible to avoid these problems and at the same time, salvage building threatened by permafrost with a modification of a heat pump system already in existence. Instead of pumping heat into the basement from the soil surrounding the house, heat could be evenly extracted from beneath the existing slab.

TO INSTALL A HIGH-PRESSURE JET MODIFICATION TO A CLAM HARVESTER (066-81)

Ed Stultz
7020 E. 11th
Anchorage, AK 99504
333-4348

Amount Funded: $5000

A competent hand digger can harvest 200 to 300 pounds of clams per day. It is proposed that the suggested high-pressure digger could harvest 5000 pounds per hour, by using a water-pressure method.

DEVICE TO TEST SOIL STRENGTH (068-81)

Douglas Beaudoin
50 Valley Drive
Fairbanks, AK 99701
488-9228

Amount Funded: $2050

This would be a tri-dimensional stress-strain controlled field testing apparatus. It would predict settlement rates of foundation materials. It would also determine size, shape and type of foundations and footings for each type of soil condition. The objective would be to perform field tests throughout the Anchorage and Fairbanks areas where foundation failures occur and where cohesive soils exist.

TO DEVELOP A SUBMERSIBLE INVESTIGATING DRONE (069-81)

Randy and Larry Smith
P.O. Box L
Haines, AK 99827
766-2810

Amount Funded: $5000

For underwater research, mapping and salvage. The drone would also have application in pollution investigation, fisheries and halibut studies, harbor maintenance and light underwater salvage. It would be an unmanned, remote-controlled drone capable of being towed and/or maneuvered under its own power at ocean depths up to 35 fathoms. It would fit in a standard hold of any vessel over 50 feet in length and could be lowered into the water with a modes winch.

TO STUDY THE FEASIBILITY OF MIGRATORY BEE/HONEY OPERATION SYMPATHETIC TO DELTA BARLEY PROJECT (070-81)

Paul Carlson
Chilkat Valley Farm
P.O. Box B
Haines, AK 99827
766-2770

Amount Funded: $2350

Bees would be purchased and installed in the Delta area. Bees from Haines would be sent by truck to the Delta area where eight acres of rapeseed will be planted for bee pasture. The bees would then be transported back to Haines following the bloom period. The benefit would be increased honey production, a sounder agricultural program, utilizing honey bee pollination for seed set and fruit yields.

WIND POWERED HEAT PUMP AND LIGHTING SYSTEM (003-81)

Erick Olson
P.O. Box 393
Haines, AK 99827

Amount Funded: $5000

Project will demonstrate the feasibility of heating and lighting a house in southeast Alaska using wind power. The power will be generated by a 10 kilowatt "Elektro" wind generator and fed through battery banks to a six kilowatt modified sine wave inverter. The heat pump will optimize power that is produced by turning energy into heat in an energy conservative manner.

MARICULTURE OF SUBTIDAL RED SEAWEEDS (005-81)

Natasha Calvin
P.O. Box 112
Auke Bay, AK 99821

Amount Funded: $5000

The species of Alaskan seaweeds of the Rhodophyta, or red algae group, when used as natural herbs, applied topically, give significant relief from the symptoms of herpes infections. Awardee would dive in many places of the outer Chic.. of area which provide algae species.

TO CONSTRUCT A DUAL-LAYER GREENHOUSE ON ALASKAN PENINSULA (020-81)

Charles & Sara Hornberger
P.O. Box 69
Illiamna, AK 99606

Amount Funded: $3400

To demonstrate that it is possible to grow major portion of food needs on the Alaskan peninsula and enjoy a growing period of 8 months. The greenhouse would be geographically situated and constructed to utilize solar heat to the maximum efficiency.

TO REFINE INDOOR HYDROPONIC SYSTEM (022-81)

Ira Winograd
435 Kennedy St.
Juneau, AK 99801
465-3991 (day) 586-6417 (eve.)

Amount Funded: $1500

To create an indoor hydroponic system for home use producing vegetables at a price which is cost competitive with market produce. Compact in size, 3 feet by 8 feet, awardee plans to market the units in kit form.

TO DEVELOP A METHOD OF PRODUCING ETHANOL ALCOHOL (026-81)

Craig Delbridge
% Northland Maint. Co.
Pump Station #1
P.O. Box 73608
Fairbanks, AK 99707
479-3983

Amount Funded: $5000

Alcohol would be remove from fermentation as it is formed, by tying together the fermentation and distillation functions in a continuous loop. The efficient production of ethanol as a fuel could cut costs in marketing Alaskan grain and Alaskan wood products. Exportation to overseas markets is almost prohibitive at this time, due to high transportation costs.

HIGH TEMPERATURE SURFACE COMBUSTION TECHNIQUES (028-81)

Horace Simmons
Box 2464
Kodiak, AK 99615
486-4890

Amount Funded: $1500

Incomplete combustion in stoves and furnaces increases fuel consumption. Awardee will try to eliminate this problem by constructing two types of surface combustion units. One will be intended for use with natural-draft oil ranges and heaters and

TO CONSTRUCT A CHICKEN HOUSE AND SOLAR PIT GREENHOUSE (031-81)

with wood and coal heaters. Another type will be constructed for use in forced-draft furnaces and boilers.

Joy Orth
P.O. Box 1171
Wrangell, AK 99929

Amount Funded: $4200

To develop a system of food production which would provide a continuous supply of fresh vegetables, eggs and meat suitable to southeast Alaskan conditions.

COMPOSTING TECHNIQUES EXPERIMENTATION (033-81)

Eugene Gerow
P.O. Box 8265 NRB
Kenai, AK 99611
776-8996

Amount Funded: $4900

To develop a process of utilizing heat from decomposing brushwood and trimmings. Branches are chipped and stacked. Water is circulated through the stacks where it is heated by the exothermic reaction of the decomposing brushwood. This hot water is then used to heat buildings. Completion of the decomposition cycle results in a high quality compost that can be tested for use for agricultural purposes.

TO REUSE WASTE HEAT FROM LAUNDROMAT (038-81)

James Wilcox
1914 Churchill Ct.
Juneau, AK 99801
586-2637

Amount Funded: $4400

Rocks would collect heat while the dryers are in use. After dryers have run, tops of rocks should be warm anough to change temperature of water in pipes, which would lower cost of heating water. Rocks would be in a box above the dryer, with vents entering from the dryers. Heat recovery fans on top of the box would draw heat back from rocks and distribute heat to building.

TO CONSTRUCT A SOLAR SEMI-SUBTERRANEAN BARN/ROOT CELLAR (052-81)

Jack Detzel, Jr.
P.O. Box 278
2 Mile Tanana Loop Rd.
Delta Junction, AK 99737
895-4696 (work)

Amount Funded: $4000

To make use of the heat loss from poultry and passive solar collector in the barn and root cellar. The root cellar would provide necessary storage area for vegetables. The barn would provide shelter to laying chickens and turkeys. Vegetables, eggs and poultry could be provided to Delta residents all year around.

CONSTRUCTION OF ELECTRIC HYBRID CAR (057-81)

H. J. Coutts
Mile 348 Nenana Hwy.
Nenana, AK 99760
353-1106 (Mon. - Thurs.) 479-3645 (Fri.)

Amount Funded: $5000

Not only construct but demonstrate its use under cold climate conditions. The car will be assembled from off-the-shelf components. Fuel economy, which may approach 100 miles per gallon including electric power consumption will be measured and reported.

IMPROVED HYDRAULIC RAM FOR USE ON STREAMS IN INTERIOR ALASKA (056-81)

N. Meade Riche
1379 Alaska Hwy.
Delta Junction, AK 99737
895-4842 (message)

Amount Funded: $4900

A lighter, more compact and more efficient ram than used now. It will be fabricated from local materials and will be easy to install. The renewable hydro-power will be used in the nearby stream to pump water to gardens, greenhouses and animal barns, without using electric-powered or gasoline-driven engine pumps currently in use.

WOOD FUELED ELECTRICITY GENERATOR (059-81)

Richard Miller
P.O. Box 4005
Kenai, AK 99611
283-4426

Amount Funded: $5000

To build and demonstrate an efficient, technologically simple producer gas refactory to convert firewood into a flammable gas vapor to fuel a portable piston driven electic generator. This would provide a means for comparatively economical sources of electricity for many Alaskan areas where conventional means have proven too costly.

TO DEVELOP A MICRO HIGH HEAD HYDROELECTRIC SITE FOR REDUCTION OF FOSSIL FUELS (077-81)

Kenneth Cassell
568C Thane Rd.
Juneau, AK 99801
586-2394 or 586-3911 (work)

Amount Funded: $5000

Along the five mile length of Thane Road in Juneau, there are 27 streams; all having potential to produce electricity. The need for fossil fuel would be less by promoting the use of micro hydro. A community involvement program is planned in all facets of the project.

TO REUSE WASTE COMPUTER PAPER (079-81)

Nancy North
401 8th St., #108
Juneau, AK 99801

Amount Funded: $1000

To find a secondary use for waste computer paper which is thrown away in vast amounts in the State of Alaska offices.

EMERGENCY SOLAR POWER FOR SMALL BOATS (004-81)

George Olanna
Shishmaref, AK 99772
479-7987 or 452-6519 (home)

Amount Funded: $3000

To use the photovoltaic application of battery charging for boats. This could be used not only to start the motor, but operate CB radios. There is almost 24 hours of sun during the spring seal hunt and, as batteries very often go 'dead', this could be a method to possibly save the lives of hunters who are 75 miles out sea.

TO RECYCLE ALUMINUM CANS (013-81)

Daniel Moen
Kodiak Scrap Metals
P.O. Box 3074
Kodiak, AK 99615
486-3881

Amount Funded: $2400

To modify a log-splitter for the purpose of crushing cans. This method of decreasing volume of used cans would be especially beneficial to the bush country, where disposal methods are a problem.

RIVER-POWERED ELECTRICAL GENERATOR (021-81)

Pete Brown
General Delivery
Aniak, AK 99557

Amount Funded: $3000

Using the power of the river in a similar manner as the fish wheel. The 12 VDC generator would be designed to power lights, a freezer and power tools at a fish camp.

INSTALLATION OF SELF-TIMER SILENCERS ON SMOKE DETECTORS (130-81)

Nancy Smoyer
Geophys. Inst., U of A
Fairbanks, AK 99701
479-7125

Amount Funded: $5000

There is a high incidence of false alarms in smoke detectors now being used in Alaskan villages. A simple electronic circuit has been designed which will allow de-activation of smoke detectors for ten minutes, by pushing a remotely connected push button. The awardee will use the grant to construct approximately 100 of these devices for installation in six villages.

TO DIVE TO RECORD ABUNDANCE AND DISTRIBUTION OF SEAWEEDS (006-81)

Robert Ellis
P.O. Box 112
Auke Bay, AK 99821

Amount Funded: $5000

Awardee is an experienced research diver. Collect plants for microscopic inspection for possible use as medicine and food. At present, there is not a systematic, coordinated effort being expended in Alaska in this area.

WOOD UTILIZATION SURVEY IN THE FAIRBANKS NORTH STAR BOROUGH (N-82-01)

Steve Laroe
226 Glacier Avenue
Fairbanks, Alaska 99701
456-6094

Amount Funded: $2500

The Interior Woodcutters Association will conduct a survey to determine if adequate wood supplies are available for domestic and commercial use. Due to an increased demand for fuel wood in the area, there is a notable decrease in available areas for wood cutting. 1,200 questionnaires will be sent to Fairbanks residents to determine the actual demand for use of firewood in the area. The Association's goal is to educate Alaskans concerning the use of timber and to promote the proper use and management of this resource in interior Alaska on a sustained yield basis.

DEVELOPMENT OF AN AUTOMATIC AND MANUAL FUEL-SAVING FLOOR REGISTER (N-82-02)

Dane Wagner
919 Cherry Street
Anchorage, Alaska 99504
338-4555

Amount Funded: $4000

The register will direct the air in a heating system ductwork to the area of a room most in need of heat. Directional louvres will automatically direct initial cool air to the ceiling area. As air becomes warmer, it will be directed to floor area. A two-selector manual system will operate on the same principle. The plastic louvred register will be mounted over the outlet of a conventional forced air heating system.

FROZEN FOOD PROCESSING PLANT (N-82-14)

Max Stark
St. Rt. 10603
Fairbanks, Alaska 99701
479-2891

Amount Funded: $3750

The purpose of this project is to grow broccoli, cabbage and cauliflower and to explore methods of freezing these products on a large scale. Produce will be grown by the awardee, as well as 4-H members and other residents. Plans for a much larger food plant will be undertaken if the smaller plant is successful. Stark is a retired vocational agriculture teacher and is currently supervisor of the Alaska Experimental Farm.

DOCUMENTATION OF OFF-PEAK ELECTRIC HEATING SYSTEMS AND USAGE (N-82-23)

Albert Shaw
631 West 11th Street
Juneau, Alaska 99801
586-1602

Amount Funded: $500

The problem to be addressed is the apparent lack of information on electric off-peak heating systems. The grantee will collect and document the names of suppliers of these systems plus information on what utilities are doing to implement such systems. The information could be used by individuals and utilities to determine if off-peak electric power is adaptable to their particular needs.

DESIGN, DEVELOP AND TEST MANUAL, SEMI-AUTOMATIC AND AUTOMATIC CONTROLS FOR THERMAL SHUTTERS (N-82-26)

John Davies (Ph: 479-7424)
Richard Siegrist (Ph: 479-7131)
SR 20123-K
Fairbanks, Alaska 99701

Amount Funded: $4900

The grantees feel that energy-efficient thermal shutters will not be used by Alaskans to any degree until reliable, automatic controls are available at a reasonable cost. The four control designs will be: a single shutter manually cranked from the interior of the house; single or multiple shutters semi-automatically cranked by a switch-activated motor; multiple shutters automatically cranked in unison by a motor controlled by hard-wired electronics that monitor light, temperature and/or time of day, and multiple shutters automatically and individually cranked at arbitrary times by a motor controlled by software-based microcomputer electronics that monitor a large number of environmental conditions.

DESIGN AND CONSTRUCT WASTE OIL FURNACE (N-82-44)

Frank Abegg III
3762 Erickson Road
Fairbanks, Alaska 99701
479-6045

Amount Funded: $3450

The proper disposal of waste oil is an ongoing problem. The Environmental Protection Agency and the Alaska Department of Environmental Conservation encourage disposal through incineration. Although the cleanest method, it too can create pollution. The design for this prototype waste-oil fired hot air furnace will enable it to generate up to 100,000 BTU/Hour for space heating. The grantee has extensive experience in this area and has marketed many devices such as this. However, although there are many waste oil burners on the market there still is not one designed for Alaska's unique conditions that can burn more than a few gallons per day. The furnace will use a standard high pressure fuel oil burner modified to burn waste oil. The furnace will be capable of operating on a wide range of oils which could be stored underground in a heated tank.

TO DEVELOP A MICROPROCESSOR CONTROLLER TO OPTIMIZE HOT WATER HEATER USAGE (N-82-49)

Richard Jablonowski
Box 638
Juneau, Alaska 99802
586-3833

Amount Funded: $5000

The project will utilize a microcomputer to design the logic for and test the energy savings of an "intelligent" black box controller for domestic hot water heaters. The computer program will be able to direct the controls to turn a hot water heater on and off; sense thermostat "on" and "off" conditions; sense requests for hot water (flow or pressure changes); measure, and record and analyze operating characteristics for financial and energy analyses. The computer's data will be doublechecked by cumulative energy meters. The final outcome will be the development of "micro-chips" as the major component and memory of these proposed devices which will be installed, at a minimal cost, in hot water heaters.

BANDSAW POWER ALTERNATIVE FOR BUSH AREAS (N-82-51)

Matthew Kirchhoff
Box 8800
Port Alexander, Alaska 99801

Amount Funded: $500

The absence of electricity in many rural Alaskan communities prohibits the use of power tools. Using a commercial bandsaw kit, the grantee proposes to build a bandsaw and utilize a treadle in lieu of power. Components for the treadle design are readily available. A 50 pound automobile flywheel, pulleys, shaft, gears and foot sprocket will be used to activate the bandsaw. He estimates that the lowest gear setting will yield a blade speed of 340 feet per minute, and the highest gear setting will yield a blade speed of 4900 feet per minute. His ultimate goal is to produce the kits for use by other Alaskans in remote areas.

CROSS-TRANSMISSION OF COCCIDIOSIS BETWEEN WILD AND DOMESTIC ALASKAN SHEEP (N-82-72)

Carol Nielson
P. O. Box 81751
Fairbanks, Alaska 99708

Amount Funded: $5000

In central and northern Alaska, the further development of commercial sheep herds as a local source of meat through "fat lamb" production would probably involve summer pasture grazing and winter confinement feeding. While on pasture, it is very possible that domestic lambs and ewes could acquire coccidia, harbored by Alaskan Dall sheep. The grantee proposes to investigate the possibilities for cross-transmission of coccidiosis between Dall sheep and domestic sheep by determining if both kinds of sheep harbor similar species of Eimeria and if infective cocysts from wild sheep can cause coccidiosis in susceptible domestic lambs. Alaskans who are considering commercial sheep-raising, even on a small scale, need to know if the use of summer pastures will expose their animals to increased risk of coccidiosis.

STUDIO-SIZED, HYDRAULICALLY POWERED IMPACT MILL (N-82-77)

[illegible] Stannard
[illegible] 'Connor
[illegible]ks, Alaska 99701
[illegible]08

Amount Funded: $4100

To address the high cost of imported clay and the unavailability of local sources, the applicant plans to develop a mill to pulverize local ceramic raw materials. It will not only provide an example of one person's ability to subsist on local materials, but will also provide other potters in the Fairbanks area with practical experience so that they too can extend their ceramic endeavors without being completely dependent on outside suppliers.

SOIL HEATED FOOD PRODUCTION WITH SEEP IRRIGATION (N-82-87)

John Quirk
P. O. Box 29
Galena, Alaska 99741
656-1238

Amount Funded: $3750

Hot water plastic pipe will be placed two feet apart underground, and 18 inches deep to use the waste heat from the Ruby, Alaska powerplant water jacket heat to warm the soil from April through September. Seep irrigation will be used along all the rows and slitted row covers on two rows for early production. This should extend the growing season and increase the production of vegetable crops.

WINTER STORAGE FOR ROOT CROPS (N-82-103)

Stanford Gurtler
General Delivery
Ruby, Alaska 99768

Amount Funded: $4950

To build a 24' X 48' root cellar for winter storage of excess vegetables. This will be a village effort and will eventually be turned over to the local school as a students' project. The awardee is a native rural Alaskan trained in arctic agriculture by the local Learning Center.

DEVELOPMENT OF A LOW-COST, LIGHTWEIGHT, SOLAR SNOW MELTER FOR EXPEDITIONARY AND REMOTE SITE USE (N-82-107)

Matthew Sturm
Dan Solie
Geophysical Institute
University of Alaska
Fairbanks, Alaska 99701
479-7369

Amount Funded: $1300

To maximize the amount of solar energy collected in the snow melting device, maximize the efficiency of the heat transfer process to the snow and minimize the heat losses. An important part of the work will consist of experimenting with a variety of materials in a number of configurations in order to determine the best possible arrangement. Obtaining water is often a problem in cold climates.

Despite the limited availability of sunlight, it is possible to melt snow using only the sun's rays.

TO DEVELOP A HYDRO-POWER GENERATION SYSTEM (N-82-109)

Michael Loeffler
P. O. Box 595
Chugiak, Alaska 99567
694-3920

Amount Funded: $5000

To build a turbine test unit which will incorporate various impeller designs and test in several locations under different water conditions. The system will need little, if any, stream damming and components are off-the-shelf items that are readily available and inexpensive. The ultimate goal of the project is to produce inexpensive kits simple enough for Alaskans in remote areas to build.

MONITORING OF INTERIOR WINDOW INSULATIONS (N-82-80)

William McDonald
James Bershire
1551 East Tudor
Anchorage, Alaska 99507
274-2627

Amount Funded: $4650

Since determining the right type of thermal shutter in Alaska has yet to be undertaken, the awardees propose to gather and disseminate information on the performance of several different types of interior shutters, in actual application in southcentral Alaska. The approach to monitoring will be twofold; microprocessor measurements of heat loss through the windows with and without shutters in place, and visual observation with a log noting condensation problems that may exist. The period of testing will be one complete heating season.

INSTRUMENTATION FOR A SMALL HYDRO-POWER PROJECT (N-82-108)

Louis Butera
University of Alaska, Anchorage
274-9344

Amount Funded: $3750

The project will enable the collection of data to substantiate and make possible the compilation of an Alaskan Small Hydropower Guide. The instrumentation will be installed on a 5 KW hydroelectric project currently under construction on a local stream.

FISH MEAL AND OIL PRODUCING RAFT (N-82-119)

John Stam
Box 21
Galena, Alaska 99741

Amount Funded: $3800

The awardee is a subsistence fisherman who has an alternative for current fish camp methods of cutting and drying fish for use as dog food. He proposes to build a large raft, using oil drums for flotation. The whole fish would be boiled in large containers aboard the raft, the excess water drained off, and the remaining fish sludge laid out under the raft roof to dry. Using this method, fish dries in 2 to 4 days, as opposed to the 1 to 2 week period on racks at the fish camp and there is no waste of fish. When the fish is dried, it will be mixed with dog meal to provide a nutritious feed all winter.

HYDROGEN GAS GENERATION BY AND FOR BOATS (N-82-38)

Joseph Charles Black
Dawn Lee Black
Box 1912
Kodiak, Alaska 99615
486-4666 or 5516

Amount Funded: $5000

Although the testing is being conducted in Kodiak the proposal is based upon research conducted by Paul H. Lee, Research Physicist, University of California - Santa Barbara. Dr. Lee has offered to loan the awardees a 12 ft. buoy to investigate the possibility of producing hydrogen gas as fuel to power a boat. The buoy would be cabled to an electrolysis system in the boat that would produce hydrogen gas. The hydrogen gas would be stored in metal hydride flakes. In turn, heat would release the gas from the flakes.

Dr. Lee's approach is to use inertial coupling to design a generator for buoys. The generator has only one moving part. It is carried by the buoy for the purpose of recharging its batteries. The device is hermetically sealed from the ocean environment. The power it will produce from a 3-ft. wave, having periods ranging between 4 and 8 sec, is substantially that near 12 watts. For a 5-ft. wave, a maximum power of over 40 watts can be produced.

In conjunction with the project, the awardees will produce an educational film depicting step-by-step procedures. The film will be shown on public television statewide.

According to the awardees, the village of Old Harbor on Kodiak Island has been designated for a pilot program by the Alaska State Division of Energy for conversion to hydrogen gas with the use of wind power. The awardees think that the use of tidal/wave power to produce hydrogen gas as outlined in the proposal, will be timely.

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RESEARCH ACTIVITIES

FUNDED BY

THE ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY

SEPTEMBER 1982

Christopher Noah, Executive Director - Pouch CV, Juneau, Alaska 99811 - (907) 465-3510

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GEOTHERMAL ENERGY RESOURCES OF THE LOWER SUSITNA BASIN

Principal Investigators: Donald L. Turner
Eugene M. Westcott
Geophysical Institute
University of Alaska
Fairbanks, Alaska

Amount Funded: $149,664

This project proposes the continuation of geothermal exploration in the lower Susitna valley near communities along the Parks Highway. Very large areas in the Willow-Wasilla-Big Lake region show substantial geothermal resources exist, but there are gaps in the data base outlining this resource.

Proposed follow on work will focus on providing a much better definition of the nature and area and vertical distribution of the geothermal system and on providing specific recommendations for exploratory drilling. This is one of the few areas in Alaska where a sizeable future population could be located directly over a large geothermal resource that can be economically utilized.

EFFECTS OF COMMERCIAL TELEVISION ON RURAL ALASKAN CHILDREN

Prinicpal nvestigator: Norma Forbes
Center for Cross Cultural Studies
University of Alaska
Fairbanks, Alaska

Amount Funded: $77,714

The proposed research is the third phase of a study of effects of the introduction of television on rural Alaskan Native children.

Data will be collected in two Tlingit-Haida villages in Southeast Alaska and four Eskimo villages in the Kotzebue Basin. Villages in each area are paired such that one had television and one did not during an earlier phase of the study. All village sites now have television. A wide range of social, psychological, and educational data will be utilized, with most of the measures reflecting television's role as a change agent.

PERSISTENCE OF HERBICIDES IN AGRICULTURAL SOILS

Principal Investigators: C.W. Knight & J.S. Conn
Agricultural Experiment Station
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $132,973

Agricultural acreage in the Alaskan Interior is increasing at a dramatic pace. By 1990, approximately 500,000 acres are expected to be under cultivation. The majority of the acreage will be located in the interior. A complicating factor in this development is that it is occurring in the subarctic, where little research has been undertaken to determine the effect of cold soils, long photoperiod, and short growing season on the various agroecosystems. One such component is agricultural herbicides. Herbicides are used extensively in agriculture throughout the developed world and now in Alaska.

Since persistence of herbicides could result in damage to herbicide-susceptible rotational crops, or in longterm buildup of residues sufficient to damage even less susceptible crops, information on herbicide degradation is urgently needed.

This information would be directly useful to extension personnel and farmers for: selection between alternative herbicides; planning clearing practices that optimize soil pH and organic matter content for minimizing herbicide buildup; and in the planning of crop rotation sequences. The information would also benefit those evaluating the length of environmental impact that would be caused by herbicide contamination of non-agricultural lands.

SNOWPACK STRUCTURE AND REGIONAL AVALANCHE HAZARD FORECASTING

Principal Investigator: Edward R. LaChapelle
Professor of Atmospheric Sciences
and Geophysics
University of Washington
Seattle, Washington

Amount Funded: $28,503

Forecasting avalanches for widely varying mountainous terrain is a growing problem for many areas throughout the world. It is proposed that the role of snowpack structure analysis be formalized and included into regional avalanche forecasting.

A computer program will be applied to a large data base in order to isolate snowpack features that discriminate stable from unstable conditions. This information can then be synthesized with meteorological data into an operational guidance model for avalanche forecasting in Alaska.

FOREST ECOSYSTEM MANAGEMENT MODEL

Principal Investigator: John Fox
Institute of Arctic Biology
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $63,236

There will be increasing utlization of interior Alaska forests in the next several decades for saw logs, house logs and firewood. The effects of all management options cannot be evaluated by field studies alone because of the costs and time lags involved. The alternative, increasingly in use now in the eastern U.S., is development of forest growth and ecosystem computer simulation models. Such models aid in the selection of possible field experiments and in the refinement through field studies of the assumptions rationale of the models and consequently of predictive capabilities.

There is a current need for forest production-decomposition-nutrient exchange models capable of predicting effects of forest management practices and climatic changes for interior Alaska forests. A large data base now exists, suitable for building a first generation of such models fully comparable to, or even exceeding performances of the models currently used for eastern deciduous forests.

Such a modelling program would benefit and complement current management oriented research by the state and federal institutions in Alaska.

VOLCANO-GLACIER INTERACTIONS ON MT. WRANGELL

Principal Investigator: Carl S. Benson
Professor of Geophysics and Geology
Geophysical Institute
University of Alaska
Fairbanks, Alaska

Amount Funded: $154,500

A major goal of this proposed research will be to complete selected parts of research which deals with the behavior of glaciers on the flanks of Mt. Wrangell. (Mt. Wrangell is an explosive volcano similar to Mt. St. Helens. It is the northernmost and one of the largest active volcanoes on the Pacific Rim.)

The research will cover site selection for a deep ice core to be obtained in 1982 for analysis of climatic and volcanic history. The research will also continue detailed monitoring of volcanic activity. Monitoring is important because of the three-fold increase in heat from Mt. Wrangell since the Mt. St. Elias earthquake in 1979 and the increased activity currently reported by long-term residents of the Copper Valley.

ALASKAN EARTHQUAKE CATALOG

Principal Investigator: Niren N. Biswas
Geophysical Institute
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $128,334

It is proposed to establish and test a homogeneous catalog of Alaskan earthquakes with local magnitude greater than or equal to 4.0, for the period January 2, 1966 through December 31, 1980. Prior to the great Alaskan earthquake of 1964, there were only two seismographic stations in Alaska. In 1964, the National Weather Service began establishing a network of seismic and tide gauging stations along the south coast of Alaska. Shortly thereafter, in late 1965 and early 1966, the University of Alaska's new seismic laboratory began establishing a network of stations in central Alaska.

Now there are more than 200 short-period seismic stations in Alaska, divided into at least six major networks, and operated by five different groups for a variety of different purposes. A clear need exists to synthesize all of this data on Alaskan earthquakes into one list.

ENHANCED OIL RECOVERY

Principal Investigator: Christine Ehlig-Economides
Dept. of Petroleum Engineering
School of Mineral Industry
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $120,000

Alaska owes most of its present and much of its future prosperity to revenues from oil and gas production within the state. While exploration continues on the North Slope and offshore, the ongoing production from fully developed reservoirs in Alaska already provide the U.S. with nearly 20 percent of the total domestic production.

As primary production rates begin to decline and the secondary measures such as gas cap injection or water flooding reach the limits of effectiveness, the Alaskan reserves will be greatly extended through design of appropriate enhanced oil recovery processes.

To aid the design effort, the investigators propose a major, two part research project on enhanced oil recovery in Alaska. The first part will deal with the physical properties of the Alaskan crude oil. The second part, which is not a component of this proposal, will deal with the geological description of the formation properties of Alaskan reservoirs.

NEAR-SHORE BOTTOMFISH MANAGEMENT PROGRAM

Investigators: Lewis Haldorson
University of Alaska
Juneau, Alaska

Alaska Coastal Research, Inc.
Box 368
Langely, Washington 98260

Amount Funded: $72,710

With the recent trend to very short halibut openings in southeast Alaska, and reduced salmon troll seasons, increasing numbers of fishermen are turning to, or investigating the possibility of fishing previously underutilized resources. Near-shore bottomfish are the first alternative for most of these fishermen. It appears that these previously unexploited fish populations are beginning to be targeted by small boat fishermen who are seeking alternate resources.

Research underway since 1980 has gathered extensive baseline information on important species caught in these fisheries. However, the state in 1981 almost eliminated the bottomfish study program in Alaska. The data gathered remains of relatively little value to the state unless it can be used as the basis for developing effective management plans. The proposed research is designed to complement this research program by developing a monitoring procedure for the inshore aggregation of fishes.

EFFECT OF HYDROCARBONS ON FISH

Principal Investigator: John P. Harrington
Chemistry Department
University of Alaska
Anchorage, Alaska 99501

Amount Funded: $47,029

This project will help answer any questions on the long term effect that hydrocarbons, especially aromatic and polycyclic aromatic hydrocarbons, have on fish.

The rapid exploration and development of oil potential in Alaska may soon overlap all the richest fishing areas of the state. The investigator plans to obtain dissolved hydrocarbons and raw crude oil from Port Valdez ballast, fractionate it by solvent extraction and test the effects of these fractions on the mutation rate of bacteria and Alaskan fish.

One of the chief values of this project will be to raise the general awareness of interactions between industry and the environment.

STUDY OF WIND CHARACTERISTICS FOR APPLIED WIND POWER

Principal Investigator: Tunis Wentink, Jr.
Professor of Physics
Geophysical Institute
University of Alaska
Fairbanks, Alaska 99701

Amount Funded $149,408

The objective of the proposal is to provide information leading to the early implementation of wind powered systems as energy supplements for use by the people of Alaska. The work involves the analysis of existing wind data, acquisition of new wind data and transference of the information to the users of wind power.

The research will provide an improved service program for dissemination of wind power information, involving coordination with the University and other extension services and agencies. One improvement in particular will be in servicing specific information requests by private enterprise and state and local governments.

INFLUENCE OF CLIMATIC FLUCTUATION ON PERMAFROST

Principal Investigator: T.E. Osterkamp
Geophysical Institute
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $142,733

Permafrost is a common soil condition in Alaska, with about three-fourths of the land area underlain by permanently frozen ground. Long-term needs of understanding the basic permafrost properties and processes and the short-term needs of developing solutions to permafrost detection and engineering problems, require intensive study and a comprehensive approach.

The study will include the monitoring of the thermal regime of the permafrost in Alaska at 15-20 sites. Measurements will be made of the thickness of the active layer and any thawing that may occur at the permafrost table and base, and of the temperature profiles through the permafrost section.

Interpretation and modeling of the temperature profiles will then be carried out to determine the effects of past and present changes in surface temperatures on the permafrost and to predict future changes in the permafrost regime.

SOLAR RADIATION ASSESSMENT

Principal Investigator: Gerd Wendler
Geophysical Institute
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $165,964

Before an alternative energy source can be applied intelligently in Alaska, knowledge of how much energy is available from this specific source is essential. There is very little information concerning solar energy. Although a sophisticated system of solar radiation data acquisition is in use at the Geophysical Institute in Fairbanks, most of the data is only for the Fairbanks vicinity.

In order to obtain radiation data from each of the four major climatic regions in the state, substations were established in Kodiak, Anchorage and Barrow, using a limited number of sensors and antiquated data systems. The resultant data from these three stations are incomplete for proper evaluation of solar energy utilization.

The investigators propose to maintain operation of all four radiation stations in Alaska after the Deptartment of Energy support discontinues. The Fairbanks station will operate as it is at the present, but the other three stations will be upgraded by using additional sensors needed for the assessment of solar energy. All data will be reduced and presented in a form directly usable by individuals or agencies within Alaska. The data will be archived and disseminated by the investigators and the State Climatologist at the State Climate Center.

BIOGEOCHEMISTRY OF ARSENIC MINE DRAINAGE

Principal Investigator: Edward J. Brown
Institute of Water Resources
University of Alaska
Fairbanks, Alaska

Amount Funded: $83,500

The contribution of micro-organisms to the accelerated leaching of arsenic associated with gold mining to groundwater is unclear. The proposed research will study the biogeochemistry of arsenic in both placer and lode gold mining areas in Alaska where arsenic is prevalent.

This research could determine the specific causes for the increased levels of arsenic in streams and groundwater. The results of the study will be used to formulate solutions to water quality problems caused by placer and gold mining (if mining, in fact, is determined to be the cause).

STUDY OF AIRBORNE POLLEN AND SPORES FOR MEDICAL PURPOSES

Principal Investigator: James H. Anderson
Research Associate
Institute of Arctic Biology
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $81,341

Many Alaskans suffer with allergies induced by airborne pollen and spores. Alaska is practically unknown "aeropalynologically", and research is needed to help allergic patients and their physicians toward more effective prevention and treatment.

The objectives of this proposal will be to acquire detailed knowledge of the composition and seasonality of the atmospheric pollen and spore flora and to develop a method of predicting significant pollen inducing events.

This proposal is partly for funding to finish analysis of 1978 samples and to analyze the samples from three Durham samplers in 1981. The major portion of the funding is to upgrade, expand and intensify aeropalynological research more adequately to meet medical and scientific needs and criteria in the state.

FATE OF FERTILIZER NITROGEN IN AGRICULTURAL SOILS

Principal Investigator: Stephen Sparrow
Agricultural Experiment Station
University of Alaska
Fairbanks, Alaska 99701

Amount Funded $191,257

Very little is known about the behavior of nitrogen fertilizer in Alaskan soils. A better understanding of this behavior is needed to enable efficient utilization of applied nitrogen by crops and to minimize potential pollution problems.

The proposed research will study the various transformations and fates of nitrogen fertilizer in Alaskan soils. These include nitrification, immobilization and mineralization, leaching and gaseous loss of nitrogen. The results will be used to make recommendations to farmers and to policy planners on methods of management for best use of nitrogen fertilizer.

The study site will be located on University land at mile 1408, Fairbanks, within the Delta Agricultural Project. A leaching study will also be conducted at the University of Alaska Research Farm, at Fairbanks.

GROWTH RATES IN MUSKOX CALVES

Principal Investigator: Robert G. White
Institute of Arctic Biology
University of Alaska
Fairbanks, Alaska

Amount Funded: $52,059

Muskox herds reintroduced to Alaska are expanding rapidly and show extremely high population growth rates. This phenomena warrants further study as these muskox may compete for food with caribou, reindeer, and moose.

There are no data on the milk requirements and food conversion efficiency in muskox calves, which is needed to interpret the nutritional basis for differences in growth and reproductive performance of circumpolar muskox populations.

IMPACT OF COMMUNITY PARTICIPATION ON RURAL EDUCATION

Principal Investigator: Gerald A. McBeath
Department of Political Science
University of Alaska
Fairbanks, Alaska

Amount Funded: $146,332

Alaska lacks information on the extent and degree of community participation and involvement in its schools, as well as what effect such participation has had on students and parents.

This project will describe the range of variation in community activity in rural areas of the state. Field research is proposed in 20 sites with data collection using several methods. Case studies will be formed and compared, and the project will also provide information necessary for the formulation of strategies for effective community participation.

HUMPBACK WHALE SURVEY IN PRINCE WILLIAM SOUND

Principal Invesitgator: Olga von Ziegesar
North Gulf Oceanic Society
P.O. Box 156
Cordova, Alaska

Amount Funded: $17,987

The purpose of this research is to photo-document individual humpback whales and determine their number, movements, and activities in Prince William Sound, Alaska.

This information will be used to determine any critical habitats or critical time periods in humpback whale utilization of the area. In addition, data collected will provide a baseline against which future changes can be measured.

ARCTIC ALASKA SOILS DATA BASE

Principal Investigator: K.R. Everett
Ohio State University
Research Foundation
Columbus, Ohio

Amount Funded: $45,548

A large data pool exists for the characteristics of soils in arctic Alaska, and these data are being added to at an ever increasing rate. At present there is no single source from which to access the existing soils information.

It is the goal of this project to assemble and cross reference existing soils data for arctic Alaska while it is still in a manageable state.

EFFECTIVE TEACHERS IN RURAL ALASKA

Principal Investigator: Judith Kleinfeld
Professor of Psychology
The Institute of Social and Economic Research
University of Alaska
Fairbanks, Alaska 99701

Co-Principal Investigator: Bill McDiamond
Research Associate
The Center for Cross-Cultural Studies
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $145,118

The extremely high teacher turnover rate in rural Alaska disrupts the continuity of educational programs, contributing to academic deficiencies for many students. Often these problems are caused by the teachers themselves who cannot cope with a cross-cultural, multi-grade classroom in a different cultural situation, and the rigors of a rural Alaskan lifestyle. Despite the significance of the problem, very little research has been done on the characteristics of teachers who are successful in isolated cross-cultural situations, or with Eskimo and Indian students.

This proposal will examine the characteristics of teachers who are effective in rural native communities. The research will identify the criteria which rural communities use in evaluating the effectiveness of rural teachers. It will also identify the criteria which school administrators and other professional educators use in evaluating teachers in rural settings. Finally, it will describe the characteristics and adaptive strategies of rural teachers who have been considered effective by these groups.

The research target school districts will include some with a high teacher turnover rate. In the high rate districts are: Southwest Region, Northwest Arctic and Kuspuk school districts. The low rate districts are: Lower Yukon, Lake and Peninsula and Yukon Flats school districts.

GENETIC ANALYSIS OF BITING ALASKAN BLACK FLIES

Principal Investigator: Gerald F. Shields
Associate Professor of Zoology
Institute of Arctic Biology
University of Alaska
Fairbanks, Alaska 99501

Amount Funded: $39,216

An increase in agr cultural and livestock production is expected to continue in Alaska. Species of black flies, after emergence, extract blood from a variety of hosts, including man and cattle. In addition, little is known of the deleterious effects of black flies on subsistence resources such as reindeer and caribou. In areas outside of Alaska, these flies have severely reduced productivity through host harassment, and in extreme cases, death has resulted.

The more noxious biters are known as Gnu arcticum and the study will concentrate on this species. Preliminary analyses of the distribution of arcticum indicate that this species reproduces in abundance in the very areas of Alaska in which livestock increases are planned. This particular insect presents a potential threat to the success of the livestock industry in Alaska.

When the studies are completed, control agencies will be provided with information concerning the location and distribution of cattle biting flies in the areas proposed for livestock production, the relative abundance of these taxa in relation to non-biting types and the emergence time at these locations.

EVALUATION OF EMERGENCY TRAUMA TRAINING IN LOGGING CAMPS IN SOUTHEAST ALASKA

Principal Investigator: Laurel Anderson
Southeast Region EMS Council, Inc.
Sitka, Alaska

Amount Funded: $24,525

Logging is the most hazardous industry in Alaska. In 1978, accidents and injuries in logging camps were four times the rate of all private sector industries. In 1974, an advanced emergency care course was introduced to two logging camps in Southeast Alaska. Since that time, Emergency Trauma Training (ETT) has been conducted in nine other camps. Reports from independent sources indicate that the training reduces the severity of the injury and the incidence of accidents. This study will determine if these reports are related to the ETT. This will be done by examining Workers' Compensation claims of some logging camps from 1973-1979 and comparing camps that received ETT with camps that did not.

NORTHERN PLANTS DOCUMENTATION CENTER

Principal Investigator: David F. Murray
Institute of Arctic Biology
University of Alaska
Fairbanks, Alaska

Amount Funded: $39,541

This proposal is for funds to supplement federal and University of Alaska support of a computerized data bank of information on Alaskan plants. These data provide fundamental information required in environmental assessments, land use planning, vegetation maping, and impact evaluation.

Although the data have been available, their retrieval has not been practical until the development of appropriate computer programs. These project funds will be used to expand the master file.

STUDIES OF ALASKAN DULSE (Marine red algae)

Principal Investigators: John W. Chandler
Robert J. Ellis
Natasha I. Calvin
Marine Botanicals
Auke Bay, Alaska

Amount Funded: $75,000

Preliminary laboratory studies indicate that two species of seaweed found primarily in southeast Alaska are effective against herpes virus. Alaskan Dulse is the name given these two species by their discoverers.

Prior to determination of the abundance of seaweed in Alaska the medical effectiveness must be researched. This project will analyze the properties of the Dulse and explore the medical implications for treatment of herpes infection through topical application of Dulse.

ALASKAN TEPHROCHRONOLOGY PROJECT

Principal Investigator: Robert Thorson
Assistant Professor of Geology
Geology/Geophysics Department
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $121,365

Tephrochronology is the study of volcanic deposits or tephra (volcanic ash) which results from explosive eruptive events. Geologists in this discipline attempt to determine the characteristics, age, source and distribution of volcanic ash, so that volcanic hazards can be properly assessed. Compiling this information is critical for understanding the regional hazards associated with explosive volcanic events.

This proposal will fund the organization and completion of an Alaskan Tephrochronology Project at the University of Alaska Museum. The purpose of the project is to define and facilitate the study of tephra layers throughout the state. The objectives will be to establish a reference collection and data file on Alaskan tephra; to coordinate future tephrochronology research.

The end result of the two-year project will be the first comprehensive view of the entire volcanic ash sequence in Alaska. Such an overview will be vitally important in identifying volcanic hazards and enhancing the safety and well-being of the state's residents.

COASTAL FLOODING BY STORM SURGES & OBJECTIVE FORECASTING PROCEDURES

Principal Investigator: James L. Wise
Arctic Environmental Information
& Data Center
University of Alaska
707 "A" Street
Anchorage, Alaska 99501

Amount Funded: $57,500

Coastal flooding from storm surges is a real hazard to communities along the Bering, Chuckchi, and Beaufort Sea coasts. The project will gather storm surge occurrence data, then work with the National Weather Service and a storm surge modeling expert to:

1) prepare a climatology of storm surges;
2) develop manual objective forecast procedures; and
3) develop an automated objective forecast procedure.

YUKON-KUSKOKWIM COASTAL COMMUNITY HARVEST DISRUPTION STUDY

Principal Investigator: Ann Fienup-Riordan
325 East Manor Street
Anchorage, Alaska 99501

Amount Funded: $79,888.

The study will provide socioeconomic and sociocultural parameters that can be used to evaluate the nature and extent of potential resource conflicts on coastal Alaskan communities, should uplands or offshore oil and gas activities create an environmental disturbance.

Research will include the identification and assessment of the economic, social and cultural ramifications of possible renewable resource harvest disruption on residents of Scammon Bay, adjacent communities, and the region as a whole. Disruptions could include effects of offshore structures, tanker movements, noise, human disturbances, potential oil spills and other occurrences.

SIXTY SECONDS OF SCIENCE

A SERIES OF STATEWIDE MONTHLY RADIO PROGRAMS

Principal Investigator: Nan E. Elliott
Arctic Environmental Information and Data Center
University of Alaska
Anchorage, Alaska 99501

Amount Funded: $62,006

"Sixty Seconds of Science", a statewide monthly radio program, was developed by the Arctic Environmental Information and Data Center in 1980 through a grant from the National Science Foundation.

The goal of the project is to reach the nonscientific audience and inform it of science activity in Alaska. Ten 60-second programs will be produced each month. The programs are aired by 85 percent of the commercial and public radio stations in the state. In 1981, in its first year, "Sixty Seconds of Science" won a first-place award from the Alaska Press Club.

UNDER-ICE NAVIGATION BY SEALS

Principal Investigator: Robert Elsner
Institute of Marine Science
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $35,631

The objective of this study is an experimental examination of the under-ice orientation and navigation capabilities of the Bering Sea spotted seal. It will investigate the possible sensory disturbances arising from ambient noise levels and environmental disturbances which are anticipated to take place in connection with petroleum exploration in Alaskan waters seasonally covered with sea ice.

A series of experiments will be performed with captive spotted seals. The study will take place in a large, flooded industrial gravel pit during the winter to simulate under-ice low visibility conditions while maintaining control over the environment.

REMOVAL PROCESSES OF AIR POLLUTION PARTICLES BY ICE FOG CRYSTALS

Principal Investigator: Takeshi Ohtake
Geophysical Institute
University of Alaska
Fairbanks, Alaska 99701

Amount Funded: $118,816

Air pollution in Fairbanks during the winter months manifests itself primarily as ice fog. Researchers have cautioned that the city might experience dangerously high levels of air pollution with increasing population and industrial development.

However, a high possibility of removal of air pollution particulates by sedimentating ice fog crystals has been demonstrated. Chemical analyses of ice fog precipitation collected in the Fairbanks area suggest that the pollution particulates are scavanged by the ice fog crystals. If removal of air pollution by ice fog is verified, more ice fog might be preferable because the ice fog may be less harmful than air pollution.

This possible cleansing effect of air pollution particles will be studied in Fairbanks. The mechanism of the scavenging effect of ice fog crystals will be examined by use of electron microscope techniques. The research objectives of this study will be: to obtain current size and number distributions of ice fog crystals and aerosols in Fairbanks and its vicinity; to evaluate the degree of the cleansing effect by ice fog crystals in a subarctic polluted urban atmosphere; and to examine the mechanism of artificially enhancing such a possible scavenging effect by small ice fog crystals.

STUDY OF IMPLEMENTING ALASKA'S BILINGUAL EDUCATION POLICY

Principal Investigator: Ramona N. Suetopka-Duerre
University of Alaska
Arctic Environmental Information and Data Center
Anchorage, Alaska

Amount Funded: $23,710

The study will analyze the implementation of Alaska's bilingual education policy in the Lower Kuskokwim School District. The intent of the research will be to pinpoint problems, suggest reasons for the problems and offer suggestions for improvement in the district's bilingual education programs. The research will include examination of documents pertinent to the programs under study, observation, and interviews. It will also examine the reasons for the increased difficulty in determining the impact of education policies from one program to another and why a single policy produces varying results in various program locations.

ARCTIC RESEARCH SHIP DESIGN (Phase III)

Principal Investigator: Robert Elsner
Institute of Marine Science
Fairbanks, Alaska

Amount Funded: $161,933

Earlier design work for an arctic research ship established the requirements for national polar research vessel operations in terms of geographic regions, environmental conditions and scientific capabilities. The design envisages a ship having characteristics of 225' water line length, 2900 tons displacement, twin rudder and diesel propulsion.

This proposal is to continue the design effort to solve technical problems which remain and which require resolution before further development work can begin. These problems concern sea ice resistance and propulsion and include design improvements such as: modification of hull lines; diesel, reduction gear, nozzled, variable pitch propeller propulsion, and reduction of frictional resistance in ice by air-water lubrication.

A model will be constructed suitable for the installation of self-propulsion equipment and testing. Model tests in ice will be performed at various ice thicknesses to determine the resistance of the ship and to observe the flow of ice around the hull. Modification of hull lines and lubrication techniques will be studied for effectiveness in reducing ice compression, resistance, and ice flow under the hull.

ACST
THE ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY

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November 30, 1982

RECEIVED
DEC 01 1982
LEGISLATIVE
AUDIT

Jerry Wilkerson
Director
Legislative Budget & Audit
Alaska State Legislature
Juneau, Alaska 99811

RE: Interim Letter #1, Carol Carroll, Auditor

Dear Mr. Wilkerson:

The Alaska Council on Science and Technology (ACST) appreciates the receipt of your interim audit findings dated November 8, 1982. In our meeting of November 17-18 the Council reviewed your findings and offers the following comments for your consideration.

Generally speaking, we agree with some of your substantive conclusions but question the rationale from which they are derived. In other cases we believe either the legislative history or the actual statute governing ACST operations has been misconstrued, at least in part.

As a place of beginning it is of basic importance to examine your statements: a) "The primary legislative goals were to coordinate and centralize research information in order to -----" (page 1, last paragraph) and b) several statements implying that the Council is mandated to "coordinate" state funded research, per se. An examination of the statute indicates that the word "coordinate" or its derivatives is used only in the following statutory references:

1. In Section 1. LEGISLATIVE FINDINGS "(3) expenditures are not adequately coordinated in the state to achieve the highest and best use of research dollars" (emphasis added).

2. In Section 44.19.182 (c) "8. coordinate its data and information needs with other research organizations in order to avoid unnecessary duplication;" (emphasis added).

By way of additional comment on the "coordination" role, it is well to be aware that an early draft of the ACST bill drew particularly strong opposition from state agency and university leaders. The context of this draft was that "state money may not be spent for research projects, unless, before commencing the research, the agency or person responsible for conducting the research submits to the council for its review and comment a scope of work proposal----". Consequently, the legislature rejected early the idea that the Council should "coordinate" research through any measure of review or sanction.

Christopher Noah, Executive Director - Pouch CV, Juneau, Alaska 99811 - (907) 465-3510

Broadly speaking, the legislative background of the establishing statute led the Council to consider its general mandates as being to survey research needs, to recommend research priorities, to award research grants and to provide advice to the governor and legislature upon request. In these general mandates, the Council asserts that it has, in fact, derived its research needs statements and data and information needs in a "coordinated" fashion with other research organizations, state and federal agencies, and the private sector. The proof of this statement is twofold: a) the Council drew expert membership for all its research needs committees from those agencies having cognizance and from involved university and private sector research or management organizations. (By this means coordination of research needs assessment by the Council was definitely achieved.); b) informational needs of ACST have also involved a large interagency and interorganizational coordinative network including particular relationship with the information transfer expertise of the state, federal and university library systems, the Arctic Environmental Information and Data Center (AEIDC), and the federal-state interagency Committee on Natural Resource Information Management (CONRIM); and c) in addition to meeting the informational needs of the Council itself (the statutory mandate), ACST has also vigorously supported the information transfer and dissemination function through grants, publications, and the support of numerous conferences. All of these contacts and activities, we believe, belie your comment that, "interaction with state agencies has been limited".

Much of your interim report dwells on your interpretation that the Council has a mandate to coordinate statewide research. This assumption, as earlier pointed out, has no statutory basis. Nevertheless, further comment is still appropriate, particularly on your conclusion drawn from questionnaires, that "the Council has had little effect on State research programs". Through our research needs reports, activities concerned with U.S. Arctic and Alaska science policy and legislative committee contacts we have had direct impact on several state research programs, including the following examples:

* The seismology program of the Division of Geological and Geophysical Surveys of DNR;

* The development of programs within ADF&G for the economic appraisal of fish and wildlife resources;

* The establishment of the Alaska Climate Center within the Arctic Environmental Information and Data Center, University of Alaska.

* The establishment of the airport weather program in Alaska rural villages within the DOTPF;

* The resolution of the rural village smoke/fire safety program within the Department of Public Safety;

* The acceleration of mineral mapping programs within DGGS;

* The general research programs conducted by the University of Alaska notably in the biological, geological, agricultural, atmospheric sciences;

and other examples of longer term impact such as the very large influence on public health research, both state and national.

Letters or testimony on these examples can be made available.

The implication of state sponsored research duplication also requires comment. The ACST, after considerable investigation, is unaware of any specific cases of research duplication, nor does your audit report identify any. Moreover, in scientific inquiry duplication is not necessarily bad. Redundant research is practiced in all fields of scientific or engineering endeavors as a means of conclusion verification. It is not bad, per se. More to the point of duplication in state government may be the practice whereby more than one agency investigates or analizes a particular problem, e.g. the current studies of the so-called "All Alaska gas pipeline". Nevertheless, here again, there may be valid state purposes served by duplicative efforts.

Finally, your comment under A3, page 2, is, in our opinion, particularly lacking in comprehension. This commentary makes two points. They are:

1. That the Council has been "ineffective in gathering research available to them through departmental budget documents, session laws, and various reports required by the legislature."; and

2. That the Council has limited itself to coordination of its own research budget----. When compared with the University of Alaska research budget it is clear that the Council has had little statewide effect on research coordination or on reduction of unnecessary duplication".

On the first point: germane session laws and legislative reports are reviewed by Council members and staff. Departmental budget documents, based upon our experience, are worthless as sources of information on research. A much greater comprehension of research activity can be ascertained from other sources previously mentioned. On the second point: our position is that the size of current budgets available to any organization is unrelated to either "research coordination" or reduction of unnecessary duplication. In discussion with you, we would be pleased

to point out the general sources of approximately 200 million dollars of research expenditures in Alaska, but the issue of coordination is primarily related not to the totality or share of these expenditures, but rather to specific problems and the means whereby they may be solved. It is with regard to achieving coordinated mechanisms for solving research problems that the Council members have spent so much effort on the introduction and passage of S.1562, the Arctic Research and Policy Act, in the Congress and also on the introduction in the upcoming state legislature of an Alaska science policy resolution.

In summary, the Council believes your first interim finding that ACST "has been ineffective in coordinating statewide research information" is inappropriate on the grounds that you have misinterpreted the statute and legislative history and have not fully comprehended the "coordinating" mechanisms which, on the record, the Council has utilized to meet its statutory requirements and service to the State generally.

Your second interim finding B. (page 2) was that "the Council has not complied with the intent of AS44-.21.242 (c) 3 requiring comment on significant research activities funded by the state during the preceding year" (emphasis added). Your narrative with this finding makes three points: a) the implication that comment upon significant research was not included in our annual report; b) that the Council lacks the knowledge on the type and cost of research funded by state agencies; and c) that this alleged lack of our knowledge is due to the appropriation of research funds to agencies without requiring coordination through the Council or reports to the Council. The Council's response to this interim finding is as follows:

1. In our 1981 Annual Report (pages 8-14) the Council made specific comment on areas of state research, or the lack thereof, which in our view were most significant.

2. The Council absolutely rejects the notion that it is lacking in knowledge on the type of research pursued by state agencies, including the University of Alaska. Through its interdisciplinary membership, the involvement of state and university scientific personnel in Council affairs and reports and particularly close relationships with AEIDC and CONRIM, the Council as a body has a greater and broader understanding of state funded research as pertains to subject, type, and who is doing research than any other group of people in Alaska. We do, however, acknowledge that only partial information is available to the Council (or for that matter, anyone) on the costs of such research. On this point we agree that there is no requirement for state or university reporting on this subject. Thus, the only cost data available are furnished to the Current Research Profile (CRP) maintained by AEIDC through a voluntary response questionnaire system. A basic problem in this regard is that while cost information on particularly designated

projects sometimes appears in budgetary documents, it is often augmented with other funds from various agency sources. Furthermore, research funded from operational budgets is often undesignated, except in the CRP, after the fact, and again total costs from one or more sources may not be reported.

In summary, there is a dichotomy between knowledge of who is conducting research on what subjects and how much it may cost.

On page 3 of your interim report, under C., you raise the review of State research needs. It is the view of the Council that research needs in functional areas of activity (i.e., transportation, living resources, etc.) can be prioritized. This we have endeavored to do at minimum costs, a process largely involving the voluntary committee apparatus of cognizant experts. The Council is of the opinion that scientific or engineering expertise cannot, nor is it appropriate to, prioritize research needs between functional or subject areas because societal aspirations between, e.g. health needs research on one hand or natural hazard research on another, can only be prioritized in the political arena. Science and engineering expertise can properly indicate the gaps of knowledge needed for research attention to solve certain problems. The determination of society's priority to solve particular problems must be a reflection of the relative worth of the endeavor as determined by representatives of the people in the political process.

Point D (page 3) of your interim report is, we suggest, not wholly or directly related to the Council's administration of research grants. The administration of research grants by the Council began as a legislative response to our early research needs reports. Research funds were not initially requested by the Council for Council administration. Rather, it was perceived by the legislature that the Council could perform this task most effectively. A technique involving nationally accepted peer review processes was initiated and received national recognition in Science as a model of efficient and qualitative review of research proposals. As a deliberative body with scant staff the Council turned to the peer review process in order to evaluate the efficacy of scientific or engineering propositions advanced for research funding. Early on, during the receipt of proposals for research funding, several Council members went on the record over the problem of research advantage to University of Alaska proposers over the private or governmental sectors. As you are aware, University research organizations are only funded between 25 and 30 percent by direct state appropriation, although the total authorized appropriation by the legislature is 100 percent. Thus, when University research is authorized at about 48 million dollars by the legislature only about 14 million dollars represent direct state fiscal outlays of money. The remaining 34 million dollars authorized is expected to come from federal, state, and private grants and contracts. This situation forces University proposers to be highly experienced and capable competitors for research funds. Indeed by peer review standards their proposals to the

Council were generally superior to others received. This of course resulted in the high percentage of Council grant awards to University researchers.

The next part of your discussion on research grants involves University overhead charges. As you should realize, overhead charges in the University accounting procedure are real costs of performing research. They greatly transcend "administrative" costs. University overheads conform to audits conducted under federal regulations to all universities receiving federal dollars. Internal audits by the University and the state are cognizant of this fact, and those responsible in the University administration and the State Department of Administration are aware of this overhead audit procedure. There simply is no relationship between University "overhead" charges and the administrative costs of less than 10 percent experienced by the Council in the execution of research grant awards. The Council takes the position that a 10 percent cost for the processing of grant or contract awards will compare favorably with any similar state or federal activity.

Your point E (page 4) again, in our view, illustrates certain misconceptions. You state that "the primary objectives of the Council are duplicative of functions presently performed by AEIDC. This is not the case. As indicated earlier, the Council's primary functions are the ascertainment of research needs, the recommendation of research priorities, the awarding of research grant funds and the providing of scientific or technological advice to the executive or legislative branches upon request.

AEIDC's primary missions are scientific and technological information transfer and referral, information dissemination, and the execution of interdisciplinary problem solving research and investigations, primarily but not wholly in developing areas of new science and technology.

The Council has coordinated its informational needs with AEIDC and has cooperatively utilized their resources in information transfer and dissemination. AEIDC has no primary objectives in determining or prioritizing state research needs, commenting upon state policy in scientific or technological matters, or advising either the executive or legislative branches on state research programs. While AEIDC does have a major role in channeling research information to various public, governmental, and private sector users, AEIDC does not aspire to, nor is it equipped, as a University organization, to "coordinate" statewide research, per se.

From the foregoing comments the Council asserts that your interim report conclusions cannot be substantiated in logic, by the record, or by statutory reference. In summary, the Council has not coordinated State funded research on an a priori basis because it is not mandated to do so, nor was it ever conceived that it do so. Research grants of the Council, we believe, have been efficiently administered. The Council's primary functions are not duplicative of AEIDC.

Now, having, we believe, refuted most of your interim report analysis within this response, the Council nevertheless can agree with some of your conclusions and recommendations. We direct the following commentary towards your recommendations since we believe that the Alaska apparatus concerned with state science and technology policy and the administration of research grants can be improved.

Commentary on Recommendation No. 1

Leaving aside our rejection of your rationale on the Council's information base, the Council does believe it is a salutary recommendation that all research contracted or performed by state agencies be reported to a central informational entity. The Council could be this entity or the existing arrangements between the Council and AEIDC could be strengthened or any other appropriate unit of state government, including AEIDC, could be so designated.

Commentary on Recommendation No. 2

The Council believes it has, subject to the limitations imposed by staff resources, met its statutory obligations. In order to be effective the Council requires a much closer relationship to both the Executive and Legislative branches on policy issues of concern. The Council can respond in research priorities to specific policy issues. It cannot prioritize research needs across policy issues which are a reflection of societal aspirations.

Commentary on Recommendation No. 3

Again, setting aside the rationale for this recommendation, the Council agrees that the granting of research funds by a deliberative body may not be appropriate. Indeed, if you will go back into the legislative history of the Council you will find that the three rather disparate functions of the Council generally, i.e., policy advice, research funding, and technical subject problem analysis, were first proposed in three distinct bodies. These were: governmental policy assistance through a Council apparatus such as ACST; research funding through a line organization paralleling national and other state entities, in effect an Alaska Science Foundation; and technological subject expertise application through a private sector organizaton such as the newly formed Alaska Academy of Engineering and Sciences which could assemble expertise through Academy committees. The experience of the past four years reinforces the efficacy of this original conception.

Commentary on Recommendation No. 4

We agree and have endeavored to do so.

Other Recommendations to be Considered

The Council is in effect a voluntary organization. Members have devoted a great deal of their time to its deliberations. The staff is very small and is more administratively than scientifically oriented. An expansion of staff resources may be a consideration of merit. We should discuss this with you.

By way of conclusion to this response, the Council is attaching its own analysis of the questionnaire results it received from you. The analysis was done by Council member Neil Davis. We hope that this analysis may be useful to you.

Despite our disagreements with you on several points we have offered our comments in a constructive sense and hope we can share with you further dialogue eliminating our differences and which will be reflective of both the Council's strengths and weaknesses. Thank you for the opportunity to respond to your report.

Sincerely,

David M. Hickok

David M. Hickok
Chairman

DMH/pp

Enclosure

I

Legislature of the State of Alaska

Testimony of
Dr. Edward Wenk, Jr.

It is quite a privilege to testify on new legislation regarding the Alaska Council of Science and Technology. In my view, this proposition may be one of the most crucial to come before this session. By updating an important aid to state decision making, continuity of the ACST would represent a small investment today that should pay off handsomely tomorrow --- providing sharp and objective information on Alaska's opportunities and problems so as to foster development with the least disappointments or unwitting economic and social costs. I hope that these brief remarks may be helpful in your deliberations.

By way of introduction, a word or two about your witness. Over the last 24 years, I have been a participant in or analyst of advisory apparatus related to the making of technology-intensive policy. Although trained as an engineer and engaged as a practitioner for 18 years, I became the first science advisor to the U.S. Congress in 1959, then served on the science policy staffs of Presidents Kennedy, Johnson and Nixon. In 1970, I was appointed to the faculty at the University of Washington, where I have taught, conducted research, and continued in advisory capacities, especially to the Congress.

Over this last decade, I have periodically visited Alaska where I learned firsthand about its people, its economy, its challenges and its dilemmas. I soon understood why Alaska's future is a special case so that whatever steps are taken in science and technology policy must be carefully matched with the unique characteristics of geography, economy, history, hopes and dreams of its citizens.

As legislators, you have a powerful vantage point on Alaska's agenda so much of which depends on science and technology. These issues and corresponding initiatives, to name just a few, would:

- Increase efficiency, economy and productivity in state government by strengthening information resources, communication linkages and use of technological aids;

- Foster development of Alaska's natural resources, by understanding their distribution, richness and accessibility, by enhancing techniques of management in the public interest to assure a competitive position in world markets;

- Evaluate the future supply and demand of energy, state and global, considering indigenous sources of hydroelectricity and natural gas, their transportation and distribution;

- Provide new opportunities for employment through technological innovation, linking university R and D with industrial and state requirements, attracting diversified industry, facilitating capital formation, promoting long term investments and stimulating economic vitality in rural areas;

- Consider new rail networks that would improve interior transport, considering geology, climate and state of the art of hardware;

- Evaluate the impact of new technologies unfolding in the lower 48 to map dependencies and constraints that may influence the future of the state;

- Expand knowledge of high latitude phenomena, for example of electromagnetic effects that may impair pipelines, disrupt electrical power or radio transmissions, and of frozen soil that must be considered in construction or maintenance of highways, large buildings, railroads, and underground utilities;

- Strengthen meteorological reporting and forecasting as it affects agricultural development, stream flow, and hydroelectric capacity, glacial behavior, outdoor recreation, aviation and maritime safety, etc.;

- Extend capabilities for health maintenance and disease prevention so as to prolong and improve quality of life and to contain rising costs of medical care;

- Meet needs of a growing population for highways, water supply, sewerage, fire and police protection;

- Help manage state funding of research and development, which is a greater proportion of the total conducted in Alaska than in any other, to assure its focus on interests of the state, promote high standards in its conduct, and the effective utilization of products.

Although these examples cover a wide range of topics, they reveal significant common features:

- All these key decisions, consistent with Alaska's Constitution, are matters of public policy,

- Options depend critically on research results from natural and social sciences and engineering, and on alert inquiry as to future technological and social developments,

- Substantial public investments are involved,

- Issues are both technically and institutionally complex and require heightened initiative for public understanding and acceptance,

- Consequences of error are likely to be costly, politically difficult to correct, ecologically irreversible, or marked by shortfall in goal achievement,

- Implementation requires balanced partnership between public and private sectors,

- Public responsibilities for implementation, monitoring , or regulation cross agency boundaries so as to require an unusual degree of coordination,

- The past no longer provides a guide for the future, thus requiring new levels of foresight and impact analysis.

Put another way, these technology-laden issues involve high stakes for Alaska. Moreover, their satisfactory resolution depends on a base of sound information and analysis, and on keen public management. Because of Alaska's special situation, research conducted elsewhere may not suffice.

All of which adds up to the need for Alaska to equip itself with technical advisory apparatus that can provide essential facts and objective interpretations, focused on policy questions, prompt, free of advocacy, future oriented, drawing on a wide range of expertise, clearly and concisely presented. For only after the crucial data base is developed can options be examined and rational choices made that reflect economic, social, legal and political considerations that must be blended in democratic process.

In short, we find that both policies and policymaking that depend on science and technology are substantially different from others. So what do we do?

It is here that such steps may be easiest visualized with a nautical metaphor. Science advisory apparatus is like having a

navigator on a ship's bridge. It's function is an adjunct to that of the captain; it does not replace the crew in the engine room tasked with smooth operations. Navigation involves defining a course to reach a distant and future destination, with a careful watch for obstacles and hazards--early warning of storms, other vessels, reefs--utilizing all available charts, radio, radar and electronic location devices. Otherwise, if these functions are carried out by the ship operator, they are in competition for time and attention, may be terribly distracting -like running from wheel to radar scope- or they may be entirely neglected, with increased risk of collision, damage, delay or failure to achieve goals.

To strengthen the policy making capacity of the state, various instruments are available:

- Modify and strengthen the role for ACST,
- Expand roles of other governmental apparatus,
- reinforce functions in existing staff agencies,
- create a small specialized staff,
- appoint ad hoc advisory committes,
- use private consultants,
- develop systematic citizen consultation.

In considering relative merits of alternatives, and in recognizing that effective functioning may involve several in concert and not just one the following criteria should be considered. The unit should:

- facilitate role of governor as Chief Executive,
- demonstrate credibility and freedom from advocacy,
- assure access to diversity of expertise and of data banks,
- display low cost and structural simplicity,
- impart long range perspective and foresight capacity,
- respond with fast reaction time when needed,
- provide balanced representation of various disciplines and professions,
- demonstrate familiarity with policy process,
- foster interagency coordination and articulate with bodies

at other governmental levels,

- communicate effectively in and outside of government,

- be backed by legislative mandate.

As an aside, while the federal experience is not directly applicable, it may be instructive because exactly the same types of policy predicaments had to be met. Beginning in 1957, the incumbent President and his successors created and utilized four interrelated instruments:

- an advisory committee of outsiders,

- an advisory committee of insiders,

- a science advisor directly on the White House Staff,

- and a small specialized staff office.

With different administrations, these units have undergone major changes to strengthen or to divest tasks, depending upon wishes of the Chief Executive; but except for a 1973-76 hiatus, core functions have continued now for 25 years.

Congress, too, has acted. In 1958, it created a post of science advisor in the Legislative Reference Service, Later, they expanded it to a diversified staff of experts; then in 1972 created an entirely separate Office of Technology Assessment by legislation. Also about 1977, it authorized a science policy unit in the GAO.

States have also established analogous advisory apparatus. They are highly varied; they change in structure and style with new administrations; they range widely in mission and effectiveness. Most have a role in economic development, and these are being reexamined and revitalized as most states respond to the seduction of the hi-tech frontier. The National Governors Association has completed three studies in this area, treating prospects and comparative mechanisms.

To return to Alaska, as was said before, whatever is established here should be custom designed for the State's special needs and situation. As a first step, I strongly support new legislation in relation to the Alaska Council on Science and Technology.

Such a measure should focus more on a policy advisory role and less on managing grants; its mission should reflect:

- the need for acquiring and interpreting technical information in SandT policymaking,

- the potential of scientific and technological research in Alaska's future,

- the obligation to spend public research funds prudently and without unnecessary duplication,

- the benefit of effective information transfer,

- the requirement for central integration of research results,

- the capacity to look ahead and build a future orientation into the advisory function.

I also believe it essential to clarify the organizational arrangements by establishing the ACST in the Office of the Governor. This erases existing ambiguity as to structure, and best assures effective utilization and communication of this resource by linkage between advisor and advisee. Additionally, roles and missions of ACST should be spelled out to meet general criteria for functioning that I listed previously. And finally, the bill should contain an action-forcing provision through a requirement for a biannual report, dealing with the state of SandT, issues deserving research, recommendations for additional research and a summary of significant accomplishments.

In summary, this proposal is derived from what I perceive as needs of the state; it meets a test of soundness, using the criteria for such advisory apparatus. Finally, it would be built on an existing body that, while having a different scope and direction, has a track record of accomplishment that should reduce uncertainties as to performance if it were an entirely new entity. For the ACST has earned recognition and praise in a national scientific journal, almost unprecedented in activities of this kind.

What is important to your deliberations is that this proposal has a high prospect of success. It does mean that the members of the ACST will have a very demanding challenge ahead. But in my discussions with them, they appeared to share objectives and possible changes in legislative mandate that I have repeated here. This step might also correct what seemed to be substantial underutilization by the preceeding administration.

I do not believe that this is the last word on what the state may ultimately decide is necessary to fulfill its opportunities involving science and technology. But in my judgment, it is the best possible first step.

Testimony of Mr. David Hickok, Chairman, Alaska Council on Science and Technology before the joint Senate and House State Affairs Committee-Alaska State Legislature

Mr. Chairman, my name is David Hickok, the current chairman of ACST. With me is Chris Noah, Executive Director to the Council and Dr. Edward Wenk.

For four years we have been involved with an experiment unique to Alaska government experience. An experiment which has involved an extremely high level of volunteer participation and committment from individuals within the Alaskan engineering and science community. This volunteer effort has been made primarily to make available Alaskan expertise in the sciences and engineering to the legislature and the executive branch as they considered policies and programs requiring such advisory input. Additionally, the Council has prepared research needs reports on subjects applicable to state interests, disseminated science and engineering information on a variety of subjects and in a variety of media and administered grant funds for the support of technology and research grant programs established by the legislature and given to the Council for administration.

Like many experiments our experience has been only partly successful. But we have learned something of both the strengths and weaknesses of a science organization in and for Alaska. I, and the members of the Council welcome this hearing and a candid discussion of the Council's record together with an evaluation of its responsibilities and duties. Since inception we have been engaged in our own self analysis but particularly over the past 1-1/2 years have sought better approaches or ways to alleviate the deficiencies in the ACST structure which we have observed. We brought three distinguished men of science in Alaskan and ocean affairs--Drs. George Rogers, Joseph Fitzgerald and Edward Wenk in to assist us in this evaluation. Dr. Wenk is here today to offer some observations from his lengthy experience in federal science and other state organizations.

With that introduction aside I'd like to briefly summarize some salient points of our own self-analyses. Where we are weak, where we are strong and why.

1. The Councils' authorizing legislation provided for an organizational relationship to both the governor and the legislature. This dichotomy of responsibility to both branches is perhaps the reason why neither has used the broad expertise available through the Council - extant in hundreds of Alaskan scientists and engineers available to assist government in appropriate ways -- to the extent possible.

   Even so the legislature and the governor have called upon the Council for advice on numerous and various matters. The legislature has used the Council much more than the past executive branch with particular contacts involving several legislative committees: agriculture, telecommunications, natural resources and state affairs. As you will recall it was the Council who first furnished the legislature through this committee information on the impacts of federal budgetary cutbacks.

   The authorizing legislation for the Council called for its placement within the Office of the Governor. However, we were never really welcomed there in the past administration and were transferred first to DEC and later to Administration by executive order.

2. Patterned after the federal experience in science organizations the 1979 draft legislation originally called for three separate entities: an advisory body to the executive branch on policy matters involving science and technology; the chartering of an independent private sector organization - e.g. Alaska Academy of Engineering and Sciences;

and, a third organization to grant funds for the support of scientific and technological research applicable to solving state needs and problems.

During the legislative process all three of these above functions were combined in the ACST. Experience has shown that this was a mistake. A small (seven person) volunteer Council simply cannot perform in both the policy advisory function and the granting of support funds for science and technology.

3. Experience has shown that the membership (7) is too small to effectively represent the expertise necessary to consider the range of scientific and engineering issues brought before the Council. Even though we have a rapid response system at hand to involve hundreds of diverse experts we are hindered in the deliberative and voting process. At least two more members from the private sector would make for a more effective operation.

4. Particularly difficult and time consuming for the Council has been the granting of funds for Northern Technology and Applied Research. In part the criteria for these grants have been vague in the legislation, but more importantly it is extremely difficult for a deliberative body, representing different scientific or engineering disciplines and interests to vote on the propriety of a broad spectrum of research proposals -- even though well screened by reviewing experts prior to Council vote. Incidentally, this review process itself has been most effective scientifically and financially and has been applauded nationally in SCIENCE magazine.

Comments:
Take Away
Grant Authority

5. Despite some of these difficuties we have produced, in our view, with only volunteer help--a rather impressive record of research needs reports, support of meetings and conferences, and dissemination of information in a variety of media: publications, radio and T.V.

6. On the subject of research needs reports and their prioritization we have only made priorities within each subject or function. We have not felt it appropriate to prioritize between research needs in health vs agriculture or natural resources vs transportation, etc. Instead we have held that this prioritization between functions was a matter for elected representatives. Even so if asked our opinion we would have responded.

7. Similarly we have been criticized for not coordinating all science in Alaska. In response to this we have pointed out that the legislative history for the ACST specifically said not to do so, and in any event it would be a mistake to put the Council in a "big brother" role for all Alaska science. Instead, we have pursued the goal of improved coordination in research through indirect means of workshops, conferences and information exchange. In this way--ie communications and involvement--coordination of state interests on many subjects has been achieved.

8. Finally, I would like to point out that we believe it has been in the policy area that the Council has been particularly effective and in an important sense. We have sought the development of research partnerships between the federal government, the state government, universities and private industry. To this end we wrote the report

U.S. Arctic Science Policy, assisted Senator Murkowski in the drafting of his legislation, the Arctic Research and Policy Act, formulated the state's position on this legislation and influenced the national scientific community to support its enactment in the U.S. Congress.

At this point in time the future of this legislation is our greatest concern and highest priority. We feel most strongly that if state and national goals in resource development, human health, environmental protection and national defense are to be achieved in the U.S. Arctic--Alaska and adjacent waters, then the combined forces of science and engineering expertise from government, from academia and private industry must work cooperatively in the greatest partnership possible.

What you decide to be the fate of the ACST or a similar science body in Alaska will have a direct effect on this effort. Unless Alaska continues an interest in science policy and research planning the United States Congress is unlikely to do so.

Thank you for this opportunity to appear before you I'd be pleased to answer any questions.

SB

294

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

M E M O R A N D U M

TO: Members of the House State Affairs Committee

FROM: Representative Barbara Lacher

DATE: May 23, 1983

RE: Amendment to SB 294

The attached amendments are intended to permit legislators to provide an example to their constituents and to the citizens of this state as a whole. In a time of declining oil revenue it is necessary for us to make major cuts in many state and regional projects and programs. It is only fair that we, as Legislators, demonstrate our willingness to tighten our own belts, in light of the fact that we have asked the citizens of this state to do the same.

AMENDMENT NUMBER ONE
Amendment number one places Legislative pay raises in the public eye, where they belong, and not hidden behind the cloak of other state employee's pay raises. This amendment adds a new Section to SB 294 that amends AS 24.15.020 such that Legislator's pay raises are subject to separate legislation. The effect of this amendment would be to leave Legislator's salaries at the current level and require legislation should we collectively choose to give ourselves a raise. I urge you to adopt this amendment.

AMENDMENT NUMBER TWO
Amendment number two is an alternative, should this Committee find amendment number one unacceptable. This amendment defers the issue until next Session, at which time we can more openly address the issue in light of HB 310.

AMENDMENT # 1

Offered in the HOUSE By Lacher

TO: SB 294

Page 2, following line 25, insert a new section to read:

"* Sec. 4. AS 24.15.020 is amended to read:

Sec. 24.15.020. SALARY OF LEGISLATORS. The monthly salary for each member of the legislature is $1,673 [EQUAL TO STEP A, RANGE 10 OF THE SALARY SCHEDULE IN AS 39.27.011(a) FOR JUNEAU, ALASKA]. The president of the senate and the speaker of the house of representatives are each entitled to an additional $500 a year during tenure of office."

Renumber succeeding sections accordingly.

AMENDMENT #2

OFFERED IN THE HOUSE: BY: LACHER

To: _____ HOUSE BILL No. _____

SENATE BILL No. 294

PAGE: 2 LINE: 29

Following AS 01.10.070(c), Add new language to read:

however the salary increases for legislators made in sec. 1 of this Act through the operation of AS 24.15.020 take effect when the Fourteenth State Legislature takes office following the 1984 elections.

SB

347

Alaska State Legislature

REPRESENTATIVE
ADELHEID HERRMANN

P.O. BOX 63
NAKNEK, ALASKA 99633
(907) 246-4495

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4942, 465-4943

CHAIRMAN
SPECIAL COMMITTEE
ON FISHERIES

MEMBER
TRANSPORTATION
COMMITTEE

House of Representatives

DISTRICT 26

ADAK
AKUTAN
ALEKNAGIK
ATKA
BELKOFSKI
CLARK'S POINT
COLD BAY
DILLINGHAM
DUTCH HARBOR
EGEGIK
EKUK
EKWOK
FALSE PASS
IGIUGIG
ILIAMNA
KING COVE
KING SALMON
KOKHANOK
KOLIGANEK
LEVELOCK
MANOKOTAK
NAKNEK
NELSON LAGOON
NEWHALEN
NEW STUYAHOK
NIKOLSKI
NONDALTON
PEDRO BAY
PILOT POINT
PORT ALSWORTH
PORT HEIDEN
PORT MOLLER
PORTAGE CREEK
SAND POINT
SOUTH NAKNEK
SQUAW HARBOR
ST. GEORGE
ST. PAUL
TOGIAK
TWIN HILLS
UGASHIK
UNALASKA

MEMORANDUM

TO: All Representatives

FROM: Representative Adelheid Herrmann

DATE: April 9, 1984

SUBJECT: ASRAA Pin

Enclosed is a pin from the Association for Stranded Rural Alaskans in Anchorage (ASRAA). ASRAA provides services to rural Alaskans who have migrated to Anchorage unprepared for the dangers looming there, often becoming the victims of crime or abuse. A lieutenant from the Anchorage Police Department recently attributed ASRAA's services to a decline in the City's crime in certain neighborhoods.

AH/g/ml
Enclosure

FIRST READING AND REFERENCE OF SENATE RESOLUTIONS

SCR 45

SENATE CONCURRENT RESOLUTION NO. 45 by the Judiciary Committee:

> Suspending Uniform Rule 41(b) of the Alaska State Legislature concerning Senate Bill No. 347.

was read the first time and referred to the Finance Committee.

MITCH...

Wednesday, April 11, 84

CSSB 347 (Fin): "An Act authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; and providing for an effective date."

There is a Draft CS from State Affairs before the Committee. You may wish to comment on whether the subcommittee appointed for this has any input, or perhaps you just want to comment the draft was put together at your direction.

There is an updated Fiscal Note from Administration on this, Dated April 4, 1984. This fiscal note should apply to the proposed HOuse State Affairs Committee substitute drafted dated April 9, 84 by Lynn Asper, Legislative Counsel, but you might wish to ask Lou Keller to clarify this.

A copy of the Alaska Supreme Court decision of April 6,84 is on top.

Lynn Asper, the Legislative Counsel who drew up the bill and all subsequent revisions including the proposed CS from State Affairs, will be here to answer any questions. I also asked him to draw up a Sectional Analysis, which should be available to the Committee in time for the meeting. He just finished revising the bill to delete all references to the pending Alaska Supreme Court decision,so it's the draft copy dated 4/9/84.

Ron Lorensen, Deputy Attorney General, will be here to provide testimony and answer questions. He andLynn between them can can answer questions about various changes made to date in the proposed CS.

There is a Proposed Amendment to the proposed CS, which is in your backup on the top. This has been drafted by Lorensen, who will discuss it at length, but it is a change in the CS to allow the Alaska Supreme Court decision to be appealed to the U.S. Supreme Court. It is a policy question to be decided by Committee.

Also on top of the backup pile is a copy of the Senate Concurrent Resolution #45 which allows for a title change in the bill itself. This Resolution passed the Senate this morning 18-0 (2 absent), and was passed on and received by the Chief Clerk of the House at 11:24 this morning, April 11, 1984

Lou Keller, Director of Pioneer Benefits for the Dept. of Administration, will be here to answer questions, as the administrations authority on the longevity bonus program.

DRAFT

PROPOSED AMENDMENT

HOUSE CS FOR SENATE BILL NO. 347 (STATE AFFAIRS)

(SEE ATTACHED)

BASICALLY, THIS PAGE AMENDS THE LANGUAGE OF THE HOUSE CS TO MAKE ADJUSTMENTS AND REPEALS TO THIS ACT IF THE U.S. SUPREME COURT REVERSES THE DECISION OF THE ALASKA SUPREME COURT OF APRIL 6, 1984 REGARDING THE CASE OF SHAFER AND THE STATE OF ALASKA VS. VEST.

* Sec. 7. (a) A person who was qualified to receive a monthly longevity bonus under AS 47.45 on March 30, 1984 is presumed to be qualified to receive a monthly bonus under AS 47.45 as amended by this Act. Payments under AS 47.45 as amended by this Act may be made to that person as long as the person continues to qualify for payments under those provisions.

(b) A person who (1) is eligible to receive a monthly longevity bonus under AS 47.45 as amended by this Act for which that person was not eligible under AS 47.45 on March 30, 1984; and (2) whose application for a longevity bonus for a month beginning on or after May 1, 1984 is received by July 1, 1984 may be paid for each month for which that person is qualified and for which such an application was filed, notwithstanding any other provision of law to the contrary.

* Sec. 8. (a) The amendment to AS 47.45.010(a) made by sec. 1 of this Act, the adoption of AS 47.45.150(3) made by sec. 4 of this Act, the repeal of AS 47.45.150(2) and 47.45.170 made by sec. 5 of this Act, and the repeal of AS 47.45 made by sec. 6 of this Act are repealed if the United States Supreme Court reverses, in whole or in part, the decision of the Alaska Supreme Court in the case of Marian Schafer and State of Alaska v. Rodney Vest, Alaska Supreme Court No. S-289, on the constitutionality of the Alaska longevity bonus program (AS 47.45) as it read immediately before the effective date of this Act.

(b) In the event that the Alaska Supreme Court is reversed, in whole or in part, by the United States Supreme Court, the provisions repealed by (a) of this section are repealed on the day following the day on which the decision of the United States Supreme Court takes effect and, notwithstanding the provisions of AS 01.10.100(c), the provisions of AS 47.45.010(a) and 47.45.150, as they read immediately before the effective date of this Act are revived.

* Sec. 9. This Act applies only to longevity bonus payments for months of qualified residence beginning on or after May 1, 1984.

* Sec. 10. This Act takes effect immediately in accordance with AS 01.-10.070(c).

636 MR. CHAIRMAN, I REQUEST THAT SB 347 BE ALLOWED TO STAY IN SUBCOMMITTEE UNTIL TUESDAY'S MEETING WHEN A RECOMENDATION WILL COME FORWARD AT THAT TIME. THE SUBCOMMITTEE WILL CONTACT THE PRIME SPONSORS SEN. RAYE AND AL ADAMS AND THE GOV'S OFFICE AND THE GENTLEMAN FROM THE DEPT OF LAW. OBJECTION WAS MADE BY LARSON FOR THEPURPOS OF A QUESTION. MILLER MAINTAINED HIS OBJECTION

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M April 11, 1984

SUBJECT: Sectional analysis of HCS CSSB 347 (State Affairs) (4/9 Draft)

TO: Representative Mitch Abood
Chairman, House State Affairs Committee

FROM: Linn H. Asper
Legislative Counsel

You have asked for a sectional analysis of the latest version of a proposed State Affairs Committee substitute for SB 347.

You should note that the title of this bill is different than the title of the Senate-passed version. It is my understanding that efforts will be made to waive the provisions of legislative rule 41(b) regarding title changes in the other house. If this is not done the proposed committee substitute will be invalid because of the violation of Rule 41(b).

Section 1 amends the residence requirements for the longevity bonus program so that any one-year resident who is 65 or older may receive the bonus payments. This is the heart of the bill.

Section 2 makes technical changes in the provision of AS 47.45 relating to the effect of an absence from the state by a longevity bonus recipient.

Section 3 adds a new provision to allow the commissioner of administration access to state records under limited circumstances to obtain information needed to make eligibility determinations for the longevity bonus program.

Section 4 provides a definition of "resident" to supplement the changes made to the eligibility requirements by section 1.

Section 5 repeals the following sections:

AS 47.45.150(2); the definition of "domicile", a word no longer used in the chapter.

AS 47.45.170; the purpose and intent language from the original program.

Sec. 2, ch. 205, SLA 1972; the section from the original longevity bonus Act that would operate to invalidate the entire program if any part of it is held to be invalid.

Section 6 repeals the longevity bonus program on July 1, 2000.

Section 7 indicates that the eligibility of a person who is eligible for a longevity immediately before the effective date of the Act is not affected by the amendments made by the Act.

Section 8 restricts the operation of the Act to payments for May, 1984 and thereafter.

Section 9 provides for an immediate effective date.

LHA:lmb
L3/043

[April 6 Order of Supreme Court, as received by telephone]

State v. Vest

The judgment of the Superior Court, holding that Alaska's Longevity Bonus Program 1/ violates the Fourteenth Amendment of the Constitution of the United States is AFFIRMED. An opinion will follow.

IT IS SO ORDERED.

1/ AS 47.45.010-.170

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: April 4, 1984

REQUEST

Bill/Resolution No.: CSSB 347 (Fin)
Title: Permanent Fund/Longevity Bonus

Sponsor: Ray
Requestor: Mulcahy
Date of Request:

FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Social Services

BRU, Program or Subprogram(s) Affected:
Longevity Bonus Program

TABLE OF CONTENTS

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Costs of Program (By Year)	Page 5 of 6
Grants (Bonus) Budget Projections	Page 6 of 6

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: April 4, 1984

REQUEST
Bill/Resolution No.: CSSB 347(Fin)
Title: Permanent Fund/Longevity Bonus

Sponsor: Ray
Requestor: Mulcahy
Date of Request: February 24, 1984

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Social Services

BRU, Program or Subprogram(s) Affected:
Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	11.8	49.9	28.7	28.7	28.7	28.7
200 TRAVEL						
300 CONTRACTUAL	9.5	56.9	57.9	58.9	59.9	60.9
400 SUPPLIES	.5	1.5	1.0	1.0	1.0	1.0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	2,076.0	12,456.0	12,096.0	11,736.0	11,376.0	11,016.0
800 MISCELLANEOUS						
TOTAL OPERATING	2,097.8	12,564.3	12,183.6	11,824.6	11,465.6	11,106.6
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	2,097.8	(26,335.7)	(33,116.4)	(35,275.4)	(37,434.4)	(39,593.4)
FEDERAL FUNDS						
OTHER		38,900.0	45,300.0	47,100.0	48,900.0	50,700.0
TOTAL	2,097.8	12,564.3	12,183.6	11,824.6	11,465.6	11,106.6

POSITIONS:

FULL-TIME (FTE)	.2	1.0	1.0	1.0	1.0	1.0
PART-TIME (FTE)	.3	1.0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: In FY 85 there would be an expenditure of $38,900.0 in Permanent Fund Distributable Income and a reduction in the Longevity Bonus General Funds Budget of $26,335.7. In succeeding years Permanent Funds would increase and General Funds would decrease.

ANALYSIS: Attach a separate page for analysis

Prepared By: E. Louis Kottaras, Director
Division: Pioneers' Benefits
Phone: (907) 465-4400
Date: April 4, 1984

Approved by Commissioner: Lisa Rudd
Agency: DEPARTMENT OF ADMINISTRATION
Date: 4/5/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Rev. 3-20-84
19/FORMS/FN

CSSB 347 (Fin)
Fiscal Note Analysis
Prepared By Division of Pioneers' Benefits
Department of Administration
April 4, 1984

This bill would increase the number of persons eligible for the Longevity Bonus Program.

This fiscal note was requested to be prepared using the following assumptions:

a. All persons who are age 65 and older who have been residents of Alaska for at least one year would be eligible.

b. On February 22, 1984, the Senate Finance Committee received information from the Department of Revenue that there are 14,500 Alaskans over age 65, based on verified 1983 Permanent Fund applications.

There will be approximately 10,348 persons on the Longevity Bonus program by July 1, 1984. Therefore, it is assumed, as requested using the February 22 information, that an additional 4,152 persons will be enrolled on the program in FY 85 under the bill.

c. The amount of the bonus would be $250 per month. According to calculations of Permanent Fund Distributable Income issued by the Department of Revenue in January of 1984, only $38.9 million would be available for credit to the Longevity Bonus account in FY 85. This amount would fund only 12,967 persons, rather than 14,500. Therefore, the additional $4.6 million needed to fund 14,500 persons would have to be obtained from another source.

d. No retroactive payments would be paid.

e. There may be a much larger rate of growth in this program with new legislation. We do not know what the rate of growth will be, but we assume that there will be an increased cost for grants over the next six years. The FY 87 budget preparation will reflect the first full year of experience on which to base more specific figures.

f. All administrative expenses (program management and operating costs, exclusive of bonus payments) would be paid from the General Fund. Bonus payments would be paid from the Longevity Bonus Account established from earnings of the Permanent Fund, except for all expenses in FY 84 and the additional $4.6 million in grants needed in FY 85, which would be paid from the General Fund.

g. An increase in the Longevity Bonus staff would be needed to process the flood of new applications.

h. The Act would become effective on May 1, 1984.

CSSB 347 (Fin)
Fiscal Note Analysis
Prepared By Division of Pioneers' Benefits
Department of Administration
April 4, 1984

Additional funds needed for FY 84 are computed as follows:

		Annual Cost
Personal Services		$ 11,836
Clerk V, PFT (2 months)	$4,785	
Clerk II, PPT (2 positions, 2 months)	7,051	
Contractual Services		
Added postage, bonus warrants, printing of new regulations and application forms and increased telephone tolls		9,492
Commodities		
Office supplies		500
Grants		
Additional funds needed for Bonus payments to additional persons who will be eligible (4,152 x 2 x $250)		2,076,000
Total additional funds required for FY 84		$ 2,097,828

Additional funds needed for FY 85 are computed as follows:

Personal Services		$ 49,862
Clerk V, PFT	$28,710	
Clerk II, PPT (2 positions, 6 months)	21,152	
Contractual Services		
Added postage, bonus warrants, printing of new regulations and application forms and increased telephone tolls		56,950
Commodities		
Office supplies and file cabinets for application and recipient files		1,500
Grants		
Additional funds needed for Bonus payments to additional persons who will be eligible (4,152 x 12 x $250)		12,456,000
Total additional funds required for FY 85		$12,564,312

November 9, 1983

Permanent Funds Available for
Longevity Bonus Grants
CSSB 347 (Fin)

FY 85	-	$37,400,000	+	$1,500,000 (interest)	=	$38,900,000
FY 86	-	$48,900,000	+	$1,960,000 (interest)	=	$50,860,000
FY 87	-	$60,500,000	+	$2,420,000	=	$62,920,000
FY 88	-	$68,400,000	+	$2,740,000	=	$71,140,000
FY 89	-	$75,900,000	+	$3,040,000	=	$78,940,000
FY 90	-	$85,600,000	+	$3,420,000	=	$89,020,000
FY 91	-	$97,200,000	+	$3,888,000	=	$101,088,000
FY 92	-	$108,435,000	+	$4,337,400	=	$112,772,400
FY 93	-	$120,481,000	+	$4,819,250	=	$125,300,250
FY 94	-	$133,280,000	+	$5,331,200	=	$138,611,200

March 29, 1984

Total Longevity Bonus Program Costs

CSSB 347 (Fin)

FY 84	Administration	$ 248,000	GF
	Additional Administration	21,828	GF
	Grants (10,000 x 10 x $250)	25,000,000	GF
	(14,500 x 2 x $250)	7,250,000	GF
	Total	$32,519,828	
FY 85	Administration	$ 269,400	GF
	Additional Administration	108,312	GF
	Grants (14,500 x 12 x $250)	38,900,000	PF
		4,600,000	GF
	Total	$43,877,712	
FY 86	Administration	$ 269,400	GF
	Additional Administration	87,600	GF
	Grants (15,100 x 12 x $250)	45,300,000	PF
	Total	$45,657,000	
FY 87	Administration	$ 269,400	GF
	Additional Administration	88,600	GF
	Grants (15,700 x 12 x $250)	47,100,000	PF
	Total	$47,458,000	
FY 88	Administration	$ 269,400	GF
	Additional Administration	89,600	GF
	Grants (16,300 x 12 x $250)	48,900,000	PF
	Total	$49,259,000	
FY 89	Administration	$ 269,400	GF
	Additional Administration	90,600	GF
	Grants (16,900 x 12 x $250)	50,700,000	PF
	Total	$51,060,000	

Grants Budget
If Longevity Bonus Program Is Unchanged
(based on growth of 60 per month
over present enrollment)

FY 85	10,348 persons @ $250/mo.	=	$31,044.0
FY 86	11,068 persons @ $250/mo.	=	33,204.0
FY 87	11,788 persons @ $250/mo.	=	35,364.0
FY 88	12,508 persons @ $250/mo.	=	37,524.0
FY 89	13,228 persons @ $250/mo.	=	39,684.0
FY 90	13,948 persons @ $250/mo.	=	41,844.0
FY 91	14,668 persons @ $250/mo.	=	44,004.0
FY 92	15,388 persons @ $250/mo.	=	46,164.0
FY 93	16,108 persons @ $250/mo.	=	48,324.0
FY 94	16,828 persons @ $250/mo.	=	50,484.0

19/7R1/0404-04/7

	POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
1.	Clerk V				11B	G				
	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
2.	PFT	12			1	Juneau	4			

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary 1,914/mo.	22,968	
6.	Benefits	1,454	
7.	Supplemental Benefits	1,408	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	28,710
10.	Travel	02	
11.	Contractual	03	
12.	Commodities	04	
13.	Equipment	05	
14.	Other		
15.	TOTAL COST		28,710

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.	100	General Funds	1004	28,710
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

The program expects to receive applications from 4,152 persons who will meet the new eligibility requirements when the bill is effective. A Clerk V position is required to supervise two PPT Clerk II positions, who will be required to process the volume of applications. In addition, the Clerk V will be responsible for calculation of any retroactive benefits which may be due.

At the end of eight months, it is expected that the receipt of applications will level off and the Clerk V position will then be required to assist with actions necessary for continuing eligibility of increased number of recipients, and added volume of data input.

13 REQUEST FOR NEW POSITION

AGENCY Administration
PROGRAM Social and Economic Assistance for the Aged
BRU Longevity Bonus Program
COMPONENT

Page of
Revised Date

FY 85

01-1136 (7/82) - 15

1.	POSITION TITLE Clerk II			RANGE/STEP 7B	BARG. UNIT G	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 8	RP NUMBER	PCN NUMBER	BRU PRIORITY 2	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL		ADDITION						

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary 1,510/mo.	12,080	
6.	Benefits	2,022	
7.	Supplemental Benefits		
8.	Fixed Benefits		
9.	TOTAL PERSONAL SERVICES 01		14,102
10.	Travel 02		
11.	Contractual 03		
12.	Commodities 04		
13.	Equipment 05		
14.	Other		
15.	TOTAL COST		14,102

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.	100	General Funds	1004	14,102
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR BSM USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

The program expects to receive applications from 4,152 persons who will meet the new eligibility requirements when the bill is effective. Prior to approval, each application received must be date-stamped, registered, scrutinized for completeness, acknowledged and filed. In addition, documentation verifying applicant's completion of the requirements will be requested if not received with the application.

Two permanent part time Clerk II positions will be required to process the volume of applications in a timely manner. It is expected that the large volume of applications will level off at the end of eight months and the additional positions will no longer be required.

13 REQUEST FOR NEW POSITION

AGENCY Administration
PROGRAM Social and Economic Assistance for the Aged
BRU Longevity Bonus Program
COMPONENT

Page of
Revised Date

FY 85

1.	POSITION TITLE: Clerk II			RANGE/STEP: 7B	BARG. UNIT: G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION: PPT	STAFF MONTHS: 8	RP NUMBER	PCN NUMBER	BRU PRIORITY: 3	LOCATION: Juneau	ELECTION DISTRICT: 4	LEG.		
3.	CONTINUATION LEVEL		ADDITION						

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
	PERSONAL SERVICES			
5.	Salary 1,510/mo.		12,080	
6.	Benefits		2,022	
7.	Supplemental Benefits			
8.	Fixed Benefits			
9.	TOTAL PERSONAL SERVICES	01		14,102
10.	Travel	02		
11.	Contractual	03		
12.	Commodities	04		
13.	Equipment	05		
14.	Other			
15.	TOTAL COST			14,102

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.	100	General Funds	1004	14,102
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

The program expects to receive applications from 4,152 persons who will meet the new eligibility requirements when the bill is effective. Prior to approval, each application received must be date-stamped, registered, scrutinized for completeness, acknowledged and filed. In addition, documentation verifying applicant's completion of the requirements will be requested if not received with the application.

Two permanent part time Clerk II positions will be required to process the volume of applications in a timely manner. It is expected that the large volume of applications will level off at the end of eight months and the additional positions will no longer be required.

13 REQUEST FOR NEW POSITION

AGENCY Administration
PROGRAM Social and Economic Assistance for the Aged
BRU Longevity Bonus Program
COMPONENT

Page of
Revised Date

FY 85

Lawmakers try to fix bonus ills

by Dean Fosdick
Associated Press

Juneau — Legislators trying to cure constitutional problems with Alaska's Longevity Bonus Program were scrambling Friday to find compromises in two backup bills so the $250 a month checks could continue going out to the state's pioneer residents.

But it appears the House-passed "stair-stepping" approach for phasing out the plan is the biggest obstacle standing in the way of quick passage.

Moments after the Alaska Supreme Court upheld a lower court ruling that the payments were discriminatory and illegal because of residency requirements, legislative leaders reiterated their pledge to keep the cash flowing without interruption.

"The bottom line . . . is that the old-timers will get their checks this month," said Senate President Jay Kerttula, D-Palmer and a co-sponsor of the Senate measure. "We'll get the program in place well before the end of the month. If anything's a fact, that's a fact."

Under various rulings, the courts had effectively ended the payments with the checks issued at the end of March.

The program had been open to citizens 65 years of age or older who have lived in Alaska since before statehood and for 25 years.

The high court heard arguments Thursday from a lawyer representing Rodney Vest, 69, of Anchorage, who contends the residency requirement violates the constitutional rights of other Alaska senior citizens.

In a one-line decision Friday, the high court agreed. The court affirmed a December ruling by Superior Court Judge Walter Carpeneti of Juneau.

Few people in the Capitol were expressing any surprise at the decision — especially in light of advice to legislators from the Attorney General's office last spring that the program's residency requirement could not be defended.

"The attorney general had advised us earlier that we had about a 20 percent chance of winning," said House Speaker Joe Hayes, R-Anchorage.

At Thursday's high court hearing, the justices questioned arguments presented by Assistant Attorney General Deborah Vogt, and their queries showed skepticism similar to that exhibited by Carpeneti during Superior Court arguments last year.

Vogt argued that the payments to pioneer senior citizens recognized their hardships as territorial citizens and also made it affordable for them to remain in the state after the oil boom drove up the cost of living.

The program was as defensible as the benefits paid military veterans, she said.

But Mark Sandburg, an attorney representing Vest, contended the provision could not withstand court scrutiny.

On a social level, "There can be a sourdough aristocracy," Sandburg said. But legally, length of residency "cannot be a badge of worth."

Vest, who attended the hearing, said he was disgusted that the case has gone this far, saying state legislators "could have settled it amicably three years ago, but a few political hacks wanted to drag it through the courts."

Spurred by Friday's decision, legislators were predicting that a new program could be in place by the end of the month. Rep. Al Adams, D-Kotzebue, and Senate Floor Leader Bill Ray, D-Juneau, were already at work Friday, trying to refine compromises in the measures which passed their respective houses on March 6.

The Senate bill, sponsored by Kerttula and Ray, would establish a one-year residency requirement for people over age 65 and tap 12.5 percent of the earnings from the Alaska Permanent Fund. It would reduce fund dividend payments by 25 percent to support the $250 a month checks to the state's pioneers.

It would be effective 30 days after the court's decision and would end the program on the year 2000.

The House measure includes an automatic phase-out provision, would attach one-year residency minimums to Alaskans over age 65 and be paid out of the state's treasury.

The "stair-stepping" phase-out would begin in 1990. Under the bill's formula, the eligibility age for the program would be increased every year, or go from age 65 in 1990, to 66 in 1991, 67 in 1992 and so on.

Kerttula, however, has problems with that concept.

"In a few years, residents aged 64 will not be able to partipate," he said. "But a new resident aged 65 will be.

"We've given a lot from our original concept," Kerttula said. "We did not provide for stair-stepping. We did provide a cut-off. We've also provided for income from the general fund rather than the permanent fund."

"It's our intention to continue the program, but the way to do it is still undecided," Adams said.

"They would like to cut out the program in the year 2000," he said.

Supreme court upholds rule against longevity program

Associated Press 4/7

Juneau — It cost the state approximately $60,000 to defend the residency requirements in Alaska's unconstitutional Longevity Bonus Program — a case its attorney general had said from the onset it probably couldn't win.

The Alaska Supreme Court ruled Friday that Alaska's practice of rewarding the pioneers who have lived in the state since territorial days is discriminatory and illegal.

The panel based its decision on the 14th amendment to the Constitution.

The program had been open to residents 65 years or over who have lived in Alaska since before statehood and for 25 years.

But Rodney Vest, 69, of Anchorage, sued, contending the residency requirement was unfair. The action later was expanded to include all people 65 years of age or older who have lived in Alaska for at least a year, but who have not received the $250 monthly payments.

The outcome was almost a foregone conclusion from the beginning. Last spring, the attorney general's office advised legislators that the program's residency requirement could not be defended.

"The attorney general advised us earlier that we had about a 20 percent chance of winning," House Speaker Joe Hayes, R-Anchorage, said Friday.

Deborah Vogt, the assistant attorney general who argued the case, said the $60,000 was mostly for in-house costs, although $7,800 went for a legal consultant, a constitutional specialist who helped prepare the case.

"That includes litigation efforts, some of the legislative appearances, briefs before the Supreme Court . . . Superior Court, appeal papers and motions," she said. "It also includes some of our efforts from two years ago when we filed for 1,800 affadavits, plus some paralegal work."

Attorney General Norm Gorsuch said the case was "relatively inexpensive" because most of the work was handled in-house. And he acknowledged remarks about the state having thought it had a weak case.

"We have consistently addressed the legislature, particularly in hearings, that the matter is unconstitutional," said Gorsuch, who indicated he had rated the chances of winning the suit anywhere from 5 to 20 percent.

"But that doesn't mean you don't answer the case and continue to fight it, because you might win," he said.

COPY

ANCH. DAILY NEWS
April 1, 1987

Lawmakers hasten wor

By DEAN FOSDICK
The Associated Press

JUNEAU — Legislators trying to cure constitutional problems with Alaska's Longevity Bonus Program were scrambling Friday to find compromises in two backup bills so the $250-a-month checks could continue going out to the state's pioneer residents.

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State paid $60,000 to defend bonuses

ANCH. D.N. April 7, 87

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The Associated Press

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The panel based its decision on the 14th amendment to the U.S. Constitution, which extends equal protection to all citizens.

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See Back Page, STATE

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Continued from Page A-1

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But Rodney Vest, 69, of Anchorage, sued, contending the residency requirement was unfair. The action later was expanded to include all people 65 years of age or older who have lived in Alaska for at least a year, but who have not received the $250 monthly payments.

Longevity pay ruled illegal

ANCH DAILY NEWS April 7, 1984

By HAL SPENCER
The Associated Press

☐ The Supreme Court decision prompted Alaska lawmakers to work on a compromise to House and Senate versions of a new longevity bonus program. Story in Metro, Page B-1.

The Alaska Supreme Court on Friday said Alaska's practice of rewarding senior citizens who have lived here since territorial days is discriminatory and illegal.

The ruling means the Alaska Legislature must act to revise the Longevity Bonus Program if pioneer senior citizens are to continue receiving their $250-a-month payments.

Sen. Bill Ray, D-Juneau, said Thursday the legislature fully intends to revise the program, and vowed the checks will continue.

"Obviously the heat's on now for a solution. We'll be trying to work up something with the legislature. That'll be a top priority," said Pete Spivey, Gov. Bill Sheffield's press secretary.

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But the House and Senate failed to agree on an alternative plan. House Speaker Joe Hayes, R-Anchorage, insisted

See Back Page, LONGEVITY

Longevity bonus ruled illegal by Alaska Supreme Court

Continued from Page A-1

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At Thursday's high court hearing, the justices picked apart arguments presented by Assistant Attorney General Deborah Vogt and their questions contained the same measure of skepticism exhibited by Carpeneti during Superior Court arguments last year.

Vest, who attended the Thursday hearing, said he was disgusted that the case had gone this far, saying state legislators "could have had settled it amicably three years ago, but a few political hacks wanted to drag it through the courts."

One of his attorneys, Mark Sandburg, argued the program's residency requirement could not possibly survive legal scrutiny.

On a social level, "There can be a sourdough aristocracy," Sandburg said. But legally, length of residency "cannot be a badge of worth."

Sandburg represented Ron and Patricia Zobel in their 1980 battle against residency requirements in the Permanent Fund dividend distribution program. That program initially was designed to reward long-term residents with larger payments than newcomers.

The case went to the U.S. Supreme Court, which ruled unanimously that the approach was unconstitutional.

Mrs. Vogt argued that the payments to pioneer senior citizens recognized their hardships as territorial citizens and also made it affordable for them to remain in the state after the oil boom drove up the cost of living. She said the program was as defensible as the benefits paid to military veterans.

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The House version, which includes an automatic phase-out provision, would attach one-year residency minimums to Alaskans over age 65 and be paid out of the state's treasury.

It would use a "stairstepping" approach to begin phasing out the program in 1990.

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ANCH. D.N. April 7, 84

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Introduced: 4/11/84

IN THE SENATE BY THE JUDICIARY COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 45

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

Suspending Uniform Rule 41(b) of the Alaska State Legislature concerning Senate Bill No. 347.

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

That under Rule 54 of the Uniform Rules of the Alaska State Legislature the provisions of Rule 41(b) of the Uniform Rules are suspended in the consideration of Senate Bill No. 347.

PASSED Senate April 11, 1984
on an 18-0 vote.

Alaska State Legislature

Rule 24

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

April 10, 1984

Senator Bill Ray
Juneau, Alaska

Dear Senator Ray:

I commend your desire to resolve the longevity bonus question in an expedient matter. To follow through on that desire, it appears the Senate must take the next step. The House and Senate have passed bills to the other body. However, because of the technical nature of the Rules relating to bill titles, we are not able to use the Senate legislation to effect a compromise.

It's my understanding that you have proposed a compromise which, in part, eliminates payment of bonuses from the permanent fund. To expedite this proposal, it only makes sense to use a bill which has passed one body of the Legislature as the vehicle for embodying a compromise. The Senate version in possession by the House specifies use of the permanent fund in the bill title. The House version, now in the Senate, specifies the general fund and will allow a much broader latitude to address the issue of the longevity bonus program.

Because of the title amendment restrictions, our uniform rules will not allow us to use the Senate bill to affect a general fund payment proposal as you have suggested might be acceptable in a compromise. The House bill will allow this.

To move this process along, I urge you to use HB 655 and amend it in any way you desire consistent with the title so that we may place the bill in conference committee. This will expedite the process by at least a few days, and with the deadline for the end of bonus checks fast approaching, every day counts.

Sincerely,

Joe L. Hayes
SPEAKER OF THE HOUSE

Alaska State Legislature
State Senate

Committee on Judiciary

Senator Bill Ray
Chairman
Senate Floor Leader

Pouch V
State Capitol
Juneau, Alaska 99811

April 11, 1984

The Honorable Joe Hayes
Speaker of the House
Alaska House of Representatives
Room 206, Capitol Building
Juneau, Alaska 99811

Dear Speaker Hayes,

I received your letter of April 10, 1984. Thank you for your commendation of our desire to resolve the longevity bonus legislation. I, in turn, commend you on your desire to resolve the issue.

We in the Senate are well aware of the title problems with the bill. As you may recall, on March 20, 1984, I testified as did Senate President Jalmar Kerttula before the House State Affairs Committee. A proposed compromise of using general funds and deleting the "stairstep" approach was publicly made before the committee by Senator Kerttula and myself. (See attached minutes).

Before this meeting I had also met with Representative Mitch Abood to discuss a compromise, and a concurrent resolution that the Senate would introduce so that the House would be able to change the title of the Senate bill to accommodate the changes within the bill. Representative Abood was given a copy of the draft resolution on March 20, from which he testified.

Today, a Senate Concurrent Resolution relating to the title change of Senate Bill 347, will be introduced on the Senate floor. I believe that takes care of your problem. As Senate Bill 347 is scheduled for this afternoon in House State Affairs I urge your expedient concurrence on the compromise version of Senate Bill 347, as reached by House State Affairs Chairman Mitch Abood and myself.

Sincerely,

Bill Ray

Senator Bill Ray

Attachment

COMMENTS ON RAY/KERTTULA PROPOSED COMPROMISE

Elements of the Proposal*

1. Use General Fund as funding source
2. Open up program to everyone 65 and over with one year's residency
3. End the program in the year 2000. This does not mean grandfathering in recipients on that date. The program would terminate.

Things to Consider

1. This plan costs $415 million more than HB 655 (stair stepping beginning in 1990) between now and the year 2000.

2. This plan opens up the longevity bonus to more newcomers than HB 655. Morever, it offers no security to the people for whom the program was originally designed. By ending the program entirely in the year 2000, the recipients are left without bonus checks at the time they are most needed -- when the recipients are the oldest.

3. HB 655 closely tracks the state's revenue curve. This plan does not. Additionally, HB 655 is the best proposal for the current recipients, those for whom the program was originally designed. HB 655 allows them to receive checks for the rest of their lives; this plan does not.

4. If the underlying goal of the Ray/Kerttula plan is to buy time to put an alternative bonus plan into place, HB 655 can be used for the same purpose. Stairstepping does not begin until 1990. Morever, if no better alternative does develop, HB 655 provides a plan that is fair and affordable, now.

5. HB 655 is supported by the vast majority of Alaskan elders. Every senior citizens group that has taken a position on this issue has supported HB 655. No other plan has received any formal endorsements. The only opposition to HB 655 comes from a few 57, 58, and 59 year olds. This problem will exist with any plan, regardless of where you draw the line.

---

* This is based on information provided by the House State Affairs Committee. An actual draft of the proposal has never been presented to Representative Adams.

HOUSE STATE AFFAIRS
STANDING COMMITTEE
March 20, 1984
1:25 p.m.

Members Present: Rep. Abood, Chairman
Rep. Ward, Vice-Chair
Rep. Cowdery
Rep. Shultz
Rep. M.M. Miller
Rep. Lacher
Rep. Larson

Members Absent: None

COMMITTEE CALENDAR

CSSB 347 (Fin) "An Act authorizing the use of Alaska Permanent Fund Income to pay longevity bonuses; amending the Longevity Bonus Program and the Permanent Fund Dividend Distribution Program; and providing for an effective date."

WITNESS REGISTER

Ron Lorensen
Deputy Attorney General
Department of Law
Pouch K
Juneau, Alaska 99811
465-3600
Position Statement: Did not state a position; he was present to answer questions for the committee.

Joe Vogler
University Heights
Fairbanks, Alaska
479-2344
Position Statement: He wanted the longevity bonus to continue; he did not state a position on CSSB 347 (SA).

Sen. Ray
State Capital Building
Pouch V
Juneau, Alaska 99811
465-4922
Position Statement: He indicated to the committee that a compromise was in order between the House and Senate. He said that monies could be taken from the general fund rather than the

permanent fund.

Virginia Blanchard
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: She urged passage of CSSB 347 (Fin); felt the legislature should act quickly so that old timers could continue receiving their checks after April 18, 1984.

Sen. Kerttula
State Capital Building
Pouch V
Juneau, Alaska 99811
465-3771
Position Statement: He said that CSSB 347 (Fin) would stand on its own with the amendments.

David Bentley
923 W. 11th
Anchorage, Alaska 99501
Position Statement: He said he was opposed to using monies from the permanent fund for the Longevity Bonus Program, but favored using monies from the general fund.

Leo Land
Box 122
Haines, Alaska 99827
766-2466
Position Statement: He urged passage of CSSB 347 (Fin); he asked that the legislature, please get it through quickly.

Kirt Bell
General Delivery
Hooper Bay, Alaska 99604
Position Statement: He urged continuation of the Longevity Bonus Program; he was in favor of CSSB 347 (Fin) or anything that would work.

Everett Calhoun
Box 198
Sitka, Alaska 99835
Position Statement: He wanted the Longevity Bonus Program; but felt that the one year residency requirement was not enough.

Beulah Olson
P.O. Box 296
Delta Junction, Alaska 99737
Position Statement: She was fearful that the Longevity Bonus Program would be discontinued. She asked

the committee to please continue the program.

George Lewis
Box 183
Haines, Alaska
766-2164
Position Statement: He said that if the longevity bonus was withdrawn, he did not know what the old timers would do. He was afraid that it would be discontinued. He wanted something done to continue the program. From his testimony, he indicated his support for CSSB 347 (Fin).

Marvin Johnson
Pioneer's Auxiliary No. 8
161 8th
Fairbanks, Alaska 99701
Position Statement: He was speaking for 17 other members that wanted the longevity bonus continued; they favored CSSB 347 (Fin), but they did not concur with the one-year requirement.

Jerry McCutcheon
121 W. 11th
Anchorage, Alaska 99501
272-2679
Position Statement: He felt that monies from the longevity bonus were being taken from oil revenues and that we should call the Longevity Bonus Program just what it was, welfare.

Wally Kubley
Igloo 16
Juneau, Alaska
Position Statement: He was in favor of a compromise bill and the continuation of the Longevity Bonus Program.

Nancy Mendenhall
Auxiliary 8
SR 20014
Fairbanks, Alaska 99701
479-2786
Position Statement: She favored passage of CSSB 347 (Fin).

Kiki Strickland
Box 1859
Fairbanks, Alaska 99701
456-6035
Position Statement: She was in favor of CSSB 347 (Fin), without the one-year requirement.

Annetta Gillespie

Box 1225
Seward, Alaska
Position Statement: She felt that the monies for the Longevity Bonus Program should come from the permanent fund.

Mary McClure
Box 357
Palmer, Alaska
745-3723
Position Statement: She said it was too bad the program would be discontinued after 16 years.

Evelyn Davis
SR Box 6451
Wasilla, Alaska
376-5802
Position Statement: She like the idea of monies coming from the general fund rather than the permanent fund.

Dorothy Englund
North Star Council on Aging
P.O. Box 73888
452-1735
Position Statement: She said she would rather see CSSB 347 (Fin) pass than any other bill. She said she knew what the Longevity Bonus Program meant to older people; the difference between living and existing.

Jane Windsor
319 E. Bentley Drive
Fairbanks, Alaska 99701
452-1735
Position Statement: She was in support of CSSB 347 (Fin).

Lee Carman
712 Bentley Drive
Fairbanks, Alaska 99701
452-6296
Position Statement: He felt that the legislature could come up with a better bill, and that the Attorney General's Office could have put more attorneys on the case so we could have won with the Vest Suit. He favored continuation of the Longevity Bonus Program.

Leonard Larson
P.O. Box 17-5134
Big Lake, Alaska
Position Statement: He felt that the legislature was doing a good job and wanted CSSB 347 (Fin) passed out of committee.

Arnold Perry
P.O. Box 871643
Wasilla, Alaska
376-4854
Position Statement: CSSB 347 (Fin) looked good to him.

Evelyn Vantrase
3550 W. Diamond
Anchorage, Alaska 99606
248-0254
Position Statement: She urged immediate passage of CSSB 347 (Fin).

Lon Lackey
P.O. Box 870307
Wasilla, Alaska
Position Statement: He favored CSSB 347 (Fin).

Emma Gilliland
Box 326
Petersburg, Alaska
772-3263
Position Statement: She did not want the Longevity Bonus Program to be cut-off.

Lou Keller
Director
Division of Pioneer Benefits
Department of Administration
Pouch C
Juneau, Alaska 99811
465-4400
Position Statement: Observer.

W.F. Hall
Box 1916
Kodiak, Alaska 96615
486-6108
Position Statement: Observer.

Margaret Lippitt
2203 McKinley
Anchorage, Alaska
248-4770
Position Statement: Observer.

Harvey Stelling
Box 929
Valdez, Alaska
835-4664
Position Statement: Observer.

Max H. Wells
Box 890

Valdez, Alaska
835-4523
Position Statement: Observer.

Robert Emmert Gray
P.O. Box 1102
Homer, Alaska 99603
235-8614
Position Statement: Observer.

Robert Machado
Mile 1414 Alaska Hwy.
Delta Junction, Alaska 99737
895-4750
Position Statement: Observer.

Marvin Johnson
161 8th
Fairbanks, Alaska 99701
Position Statement: Observer.

Hazel M. Branscom
Box 882
Fairbanks, Alaska 99707
452-4273
Position Statement: Observer.

Cy Randell
Box 882
Fairbanks, Alaska 99707
452-4273
Position Statement: Observer.

Joseph Karosic
Box 81785
College, Alaska 99708
479-5769
Position Statement: Observer.

Helen Espe
Fairbanks Mental Health Center
209 40 Mile
Fairbanks, Alaska 99701
452-1575
Position Statement: Observer.

Merl Thomas
P.O. Box 980
Fairbanks, Alaska 99701
479-4757
Position Statement: Observer.

Ella Pierson
1214 Coppet

Fairbanks, Alaska 99701
452-4336
Position Statement: Observer.

Lena Phipps
407 11th Ave.
Fairbanks, Alaska 99701
Position Statement: Observer.

Johanna Fluegel
1831 Caribou Way
Fairbanks, Alaska
479-6796
Position Statement: Observer.

Leona Johnson
161 8th Ave.
Fairbanks, Alaska 99701
452-4920
Position Statement: Observer.

John W. Pierson
1214 Coppet St.
Fairbanks, Alaska
452-4336
Position Statement: Observer.

Lela M. King
407 11th Ave.
Fairbanks, Alaska 99701
Position Statement: Observer.

Doris Southall
2B7 Dixon Apt.
Fairbanks, Alaska 99701
456-6358
Position Statement: Observer.

Mary Stock
736 9th Ave.
Fairbanks, Alaska 99701
456-4543
Position Statement: Observer.

Olga Steger
665 9th Ave.
Fairbanks, Alaska 99701
456-2993
Position Statement: Observer.

Alaska Linck
666 10th
Fairbanks, Alaska 99701
456-5107

Position Statement: Observer.

Joe Baleh
SR 90550
Fairbanks, Alaska 99701
Position Statement: Observer.

Marie Baleh
SR 90550
Fairbanks, Alaska 99701
Position Statement: Observer.

Irma Lee Oates
P.O. Box 1612
Fairbanks, Alaska 99701
456-7872
Position Statement: Observer.

Myrtle Thomas
615 College Road
Fairbanks, Alaska 99701
456-8361
Position Statement: Observer.

Richard McMordie
730 Front St.
Fairbanks, Alaska 99701
Position Statement: Observer.

Helen Mount
906 Lathrop St.
Fairbanks, Alaska 99701
456-4046
Position Statement: Observer.

James L. Mount
906 Lathrop St.
Fairbanks, Alaska 99701
456-4046
Position Statement: Observer.

Harriet J. McRae
P.O. Box 771
Palmer, Alaska
745-4695
Position Statement: Observer.

Joe Rollins
RR A Box 6451
Palmer, Alaska
745-2643
Position Statement: Observer.

Faye E. Rose

SRA Box 6521
Wasilla, Alaska
745-5664
Position Statement: Observer.

Margaret Nelson
SR Box 5290
Wasilla, Alaska
Position Statement: Observer.

Paul Nelson
SR Box 5290
Wasilla, Alaska
Position Statement: Observer.

Margaret A. McCartney
SR Box 2131-Z
Wasilla, Alaska
Position Statement: Observer.

Niilo Kangas
P.O. Box 873593
Wasilla, Alaska
Position Statement: Observer.

Mary Edlund
P.O. Box 195
Palmer, Alaska
745-3569
Position Statement: Observer.

Kathleen Moore
P.O. Box 198
Palmer, Alaska
745-3669
Position Statement: Observer.

Gil Mort
SR Box 12650
Wasilla, Alaska
376-6037
Position Statement: Observer.

Katie Hurley
P.O. Box 870157
Wasilla, Alaska
Position Statement: Observer.

Kacel M. Sisk
SR Box 12727
Wasilla, Alaska
Position Statement: Observer.

Doris A. Sisk

SR Box 12727
Wasilla, Alaska
Position Statement: Observer.

E.E. Line
SR Box 5014
Wasilla, Alaska
Position Statement: Observer.

Kathryn Larson
P.O. Box 17-534
Big Lake, Alaska
Position Statement: Observer.

Teresa Ripley
409-4 Spruce Street
Sitka, Alaska 99835
Position Statement: Observer.

Gerald Hughes
1307 Halibut Point Road
Sitka, Alaska 99835
Position Statement: Observer.

Tarleton Smith
Box 1132
Sitka, Alaska 99835
747-8807
Position Statement: Observer.

Louis Spencer
Box 119
Haines, Alaska
766-2307
Position Statement: Observer.

Lena Farkus
Box 253
Yakutat, Alaska 99689
784-3238
Position Statement: Observer.

Richard Davis
Box 192
Cordova, Alaska 99574
424-3568
Position Statement: Observer.

Paula Fridgen
Box 41
Cordova, Alaska 99574
424-3686
Position Statement: Observer.

Helen Grindle
Box 314
Cordova, Alaska
424-3404
Position Statement: Observer.

Doris Anderson
Box 2
Cordova, Alaska
424-3669
Position Statement: Observer.

Helene Hennings
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Diane Neville
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Celia Wellington
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Mary Harvey
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Lu Ausman
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Esther Pinon
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Mildred Kirkpatrick
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Stan Laird
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Dante Lenduzzes
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

C. Higgins
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Margaret Hafemeister
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Lillian Johnson
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Harold Maxwell
923 W. 11th
Anchorage, Alaska 99501
276-3414
Position Statement: Observer.

Pauline Blatchford
Box 1530
Petersburg, Alaska
772-3447
Position Statement: Observer.

Beulah Haltiner
Box 1530
Petersburg, Alaska
772-4748
Position Statement: Observer.

Kristian H. Odegaard
Box 1530
Petersburg, Alaska
772-3191
Position Statement: Observer.

Larine Espeseth
Box 1530
Petersburg, Alaska
772-4435
Position Statement: Observer.

Julia Robison
Box 1530
Petersburg, Alaska
772-3263
Position Statement: Observer.

Frances Pease
SR Box 117
Copper Center, Alaska 99573
882-3883
Position Statement: Observer.

Maxwell Fancher
Box 72
Glennallen, Alaska 99588
882-3715
Position Statement: Observer.

Ed Knoebel
Box 84
Glennallen, Alaska 99588
882-3208
Position Statement: Observer.

Eddy Bell, Sr.
General Delivery
Hooper Bay, Alaska 99604
Position Statement: Observer

Joseph Night
General Delivery
Hooper Bay, Alaska 99604
Position Statement: Observer

Gladys Hale
General Delivery
Hooper Bay, Alaska 99604
Position Statement: Observer

Erma Tomaganak
General Delivery
Hooper Bay, Alaska 99604
Position Statement: Observer

Fred River, Sr.
General Delivery
Hooper Bay, Alaska 99604
Position Statement: Observer

Paul Nakusuk
General Delivery
Hooper Bay, Alaska 99604
Position Statement: Observer

Annetta Gillespie
Box 1225
Seward, Alaska
Position Statement: Observer.

Michael James
Box 405
Seward, Alaska
Position Statement: Observer.

Rachael Sperry
Box 1557
Seward, Alaska
Position Statement: Observer.

Judith Martin
Box 1584
Seward, Alaska
Position Statement: Observer.

Jolene King
Box 1305
Seward, Alaska
Position Statement: Observer.

Orville Wheat
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Ida Hollenbach
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Sim MacKinnon
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Frances Martin
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Ruth Sturmlauf
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Carley Turner
Box 193
Sitka, Alaska 99835
Position Statement: Observer.

Bernadette Knight
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Marjorie Tillotson
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Eugenie Williams
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Joe Paddock
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Lee Marty
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Berte Le Marte
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Smokey Morrison
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Helen Pearl
Box 198
Sitka, Alaska 99835
Position Statement: Observer.

Mary Gillespie
Box 391
Wrangell, Alaska 99929
874-3828
Position Statement: Observer.

Doris Prather
Box 541
Wrangell, Alaska 99929

874-3727
Position Statement: Observer.

Bob McCormick
Box 333
Wrangell, Alaska 99929
874-3870
Position Statement: Observer.

PREVIOUS ACTION

CSSB 347 (Fin)	1/11/84 - First Reading.
	Committee Referrals - Judiciary, Finance and Rules Committees.
	2/2/84 - Judic[illegible] Committee Report, page 1914 of Senate Journal.
	2/28/84 - Finance Committee Report, page 2192 of Senate Journal.
	3/1/84 - Rules Committee Report, page 2223 of Senate Journal.
	3/1/84 - See page 2223 and 2228 for Senate floor action.
	3/2/84 - See page 2241 of Senate Journal for floor action.
	3/6/84 - See pages 2267 through 2270 for Senate floor action.
	3/6/84 - See page 2270 for Senate floor action.
	3/7/84 - See page 2280 - 2281 for Senate floor action.
CSSB 347 (Fin)	3/8/84 - First Reading on House floor.
	Committee Referrals - State Affairs, Finance and Rules Committees.
	No previous action in State Affairs.
	See References: Alaska Supreme Court No. 1JU 82-1103 Civil

ACTION NARRATIVE

TAPE#1, Side A
Recording
Number 0010

Chairman Abood called the State Affairs Committee meeting to order at 1:25 p.m. All members of the committee were present. Chairman Abood announced the recent decision by the Alaska Supreme Court to lift the stay on stopping the distribution of the Longevity Bonus checks. He deferred to Ron Lorensen, the Deputy Attorney General for the Department of Law.

Number 0056

Rep. Ward takes over as Chairman.

Number 0081

Ron Lorensen explains and answers some questions on the March 1984 order handed down the Alaska Supreme Court No. 1JU 82-1103 Civil. He said that Vest Attorneys filed a motion with the courts in February requesting the appeal be reviewed as frivolous and to dissolve the stay. The request to dismiss the appeal was denied. It was decided to expedite the appeal, but the stay of the Superior Court was dissolved by the Supreme Court. The Supreme Court wants to clear this case and have a decision on it. No more checks will be issued to recipients after April 18 of 1984. He said that the state had filed their briefs and will present their arguments before the Supreme Court and will possibly announce their decision on or before April 18.

However, for practice purposes the next longevity bonus check to go out will be between April 26 - 30, 1984. So, that will be the first check actually effected by this court decision, unless either another court decision or a legislative decision altered the situation.

Number 0173

Discussion continues with Rep. Ward and Mr. Lorensen.

Number 0194

Joe Vogler of Fairbanks said he wasn't pleased with the way the Governor and the Attorney General had handled the Longevity Bonus Program. He said that Alaskans were part of a special treaty before statehood, that we are a self governed state, and that there should be something in Article 6, Paragraph 11 of the United Nations Charter that the Attorney General could look into.

He said old timers deserve some type of recognition.

Number 0254

Sen. Ray said that a compromise was in order between the House and the Senate, they could take the House version and use monies from the general fund instead of the permanent fund, and eliminate the stair-stepping approach.

Number 0283

Virginia Blanchard of Anchorage said that she wanted to see the legislature get busy and come to some decision so folks receive their checks after April. She favored the $250.00, that had been reduced to $200.00.

She agreed with amendments posed for CSSB 347 (Fin).

Sen. Kerttula said that CSSB 347 (Fin) would stand on its own with amendments. He and Virginia Blanchard exchanged comments on the bill.

Number 0417

David Bentley of Homer said he was opposed to using monies from the permanent fund for the Longevity Bonus Program.

Number 0436

Leo Land of Haines urged that CSSB 347 (Fin) be passed out of committee. He said, "get it through please, damned to go on welfare".

Number 0456

Kirt Bell of Hooper Bay said that he wanted the Longevity Bonus Program to continue. It would be a burden if it was not continued.

Number 0478

Everett Calhoun of Sitka said he was concerned about the one year residency requirement. He said that there would not be enough rooms in the Pioneer's Home if that went into effect and the only solution then would be to build more Pioneer Homes.

Number 0505

Beulah Olson of Delta said she was distressed that after April there would no longer be a check for the older folks. She was opposed to the federal government telling the state how to spend their money.

Number 0530

Ron Lorensen, Deputy Attorney General assured everyone that there was plenty of time left to consider and establish another program, and the elderly should not worry, they will continue receiving their bonus

checks.

Number 0538 — George Lewis of Haines said that old timers were depending on the Longevity Bonus Program. He said if it was withdrawn he didn't know what they would all do. Especially the native people who were a sizeable group among the senior citizens.

Number 0581 — Marvin Johnson of Fairbanks said he was speaking for 17 other people from Pioneer's Auxiliary No. 8. He said he was concerned with length of residency requirement. He said to be vested as a state employee you have to work for five years, and he was upset because elderly people living here for 30 - 40 years have right to benefits, not people who moved up here recently who are getting in on it.

Tape 1, Side B
Recording
Number 0007 — Jerry McCutcheon of Anchorage said that the Longevity Bonus Program was taking money from oil revenues that belong to everyone and giving it to a special class of people. He said, "if those people need welfare, let's call it what it is, I don't want my money going to the Rodney Vest's of the world".

Number 0039 — Wally Kubley, a member of Igloo 16, representing the Pioneers of Alaska said it was the third time he had testified on CSSB 347 (Fin). He said that out of the 14 bills pertaining to longevity bonus, he was enthused to hear that there was a compromise bill. He cautioned the committee to watch the effective date of the legislation to make sure it is before April 18.

Number 0095 — Lon L[illegible]y of Mat-Su, representing 20 people who support this bill. He felt it put people above welfare and kept their dignity.

Number 0158 — Nancy Mendenhall of Fairbanks said she favored CSSB 347 (Fin), but did not want the funds to come from the permanent fund. She like the concept of no sunset clause and would like to consider stretching the age limit over a period of time.

Rep. Lacher responded that the House passed a bill with the funds which came from the

general fund.

Nancy Mendenhall said she was glad to hear Sen. Ray and the House were willing to compromise on it. The problem was all senior citizens with one year residency have to come in, if the Supreme Court decision is to be upheld. She asked if the committee could see the proposed amendments.

Ed Knoebel from Glennallen testified, but his statements were unclear on the tape.

Joe Rollins of Mat-Su was against any reduction of the longevity bonus fund unless you were to reduce grants to churches at the same time. He felt the committee should be addressing the time element involved due to the Supreme Court decision, and not spend time talking about reducing the bonus.

Number 0291

Kiki Strickland said she did not want a sunset clause, because in 1990 the problems for the old people would be even more serious financially; she wanted funds to come from the general fund. She was concerned about the constitutional issues raised on this issue and the ineptitude of Av Gross and others. She felt all legislation on this problem was inadequate, but that this bill was better than the others. She felt that Alaskans are responsible for maintaining the equality of life in Alaska and that included support for its senior citizens.

Number 0334

Annetta Gillespie of Seward said she did not believe that monies for the longevity bonus should come from the permanent fund.

Number 0356

Chairman Abood said that the new proposed Committee Substitute makes the Longevity Bonus Program from general fund, all persons 65 and older, and one year residents, will be eligible for the Longevity Bonus Program. The program, however, will no longer exist after July 1, 2000.

The specific amendments are as follows:

Amendments to CSSB 347 (Fin):

Page 1, Line 12: Delete all Section 1

Page 1, Line 28: Delete all Section 2

Page 3, Line 10: Delete all Section 5

Page 4, Line 26: Delete all Section 8

The above amendments deletes all Permanent Fund references to the Longevity Bonus Program.

Add a new Section 10 to read:

"AS 47.45 is repealed July 1, 2000"

and renumber following sections.

The above amendment repeals the entire Longevity Bonus Program, July 1, 2000.

Amend the title of the bill to read:

"An Act relating to the Longevity Bonus Program; and providing for an effective date."

Further, in order for these amendments to be effective, the title of the bill would have to change, and this could only be done with a Concurrent Resolution to waive Rule 54 of the Uniform Rules.

Number 0403 Mary McClure of Mat-Su said that it was too bad it would be discontinued after 16 years.

Number 0425 Evelyn Davis of the Senior Citizen's Center in Palmer said she liked the idea of the monies coming from the general fund instead of the permanent fund and supported Sen. Ray's position.

Number 0446 Dorothy Englund of Fairbanks, from the North Star Council on Aging, said that she knows what the Longevity Bonus Program means to people. It was the difference between existing and living. She said that a survey shows that money was spent on;

1) food

2) medical expenses, and

3) home repairs.

She said, "nobody was saving money and

taking trips to Hawaii". She said she would rather see CSSB 347 (Fin) pass than any other bill. She would like to have a better bill by stopping year at which people got on it, rather than end it in year 2000. She preferred the money to come out of the general fund, and suggested establishing an annuity program of some kind.

Number 0501 — Jane Windsor of American Association of Retired Persons Commission, Fairbanks, said she favored CSSB 347 (Fin). It helped the elderly buy and pay for their own housing and not rent.

Number 0533 — Lee Carman of Fairbanks said he felt that we could have come up with a better bill.

Number 0562 — Leonard Larson of Wasilla said that he disagreed with Ms. Carman. He felt that the legislature was doing a good job. He wanted CSSB 347 (Fin) to pass out of committee, and wanted to see the longevity bonus continue. Why not give new arrivals $75.00 a month and take care of them that way?

Number 0589 — Arnold Perry of Mat-Su said that CSSB 347 (Fin) looks good to him.

Number 0603 — Discussion continues among committee members.

Tape 2, Side A
Recording
Number 0010 — Discussion continues among committee members on longevity bonus.

Number 0042 — Chairman Abood moved that CSSB 347 (Fin) be adopted in lieu of Judiciary.

Rep. Ward objected. He said that he felt a Committee Substitute should come from State Affairs here in committee and do it right. His objection was withdrawn.

Rep. M.M. Miller said that as he understood Mr. Lorensen, he was suggesting language changes and amendments to Section 10 of the bill as well, but he would move it to Finance to avoid delay and meet deadline.

Number 0106 — Chairman Abood withdrew his motion to move the bill.

Number 0115	Chairman Abood assigned a subcommittee of Representatives Lacher, Ward and Shultz to meet with Mr. Lorensen and get back to the committee by Thursday.
Number 0139	Evelyn Vantrase of Anchorage said she favored CSSB 347 (Fin) and added, "ask what your state can do for you, but what you can do for your state".
Number 0146	Emma Gilliland of Petersburg said that she did not want the Longevity Bonus Program to be cut-off.
Number 0148	Lon Lackey of Mat-Su favored CSSB 347 (Fin), and said why not favor Alaskan residents. Why not discriminate on longevity bonus? West Virginia has drinking age at 19 years for residents, 21 years for non-residents. We have to wait our turn in union hall lines for fishing, licenses, why not for longevity bonus?
Number 0303	Chairman Abood adjourned the meeting at 3:05 p.m.

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

MEMORANDUM

To: Representative Mitch Abood, Chairman
House State Affairs Committee

From: Roger L. Poppe, Committee Aide
House State Affairs Committee

Date: March 22, 1984

Subject: Transmittal times and dates for CSHB 655 (Fin) am and CSSB 347 (Fin)

In accordance with a request from the Committee, I talked with Nancy Quinto of the Senate Secretary's office and with Irene Cashen and Edith Carter of the Chief Clerk of the House's office to establish the dates and times of transmittal of CSHB 655 (Fin) am and CSSB 347 (Fin). I found out the following:

CSHB 655 (Fin) am "An Act relating to the longevity bonus program; requiring the payment of longevity bonuses from appropriations from the general fund; and providing for an effective date."

Sponsored by: Hayes, Adams, Szymanski, et al

Was officially engrossed and transmitted to the Senate with an adopted Letter of Intent on March 7, 1984, and was entered on page 2848 of the House Journal. The actual time of transmittal was 2:15 p.m., when Nancy Quinto, Assistant Senate Secretary of the Senate Secretary's office, signed the log book to accept the bill for the Senate.

CSSB 347 (Fin) "An Act authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; and providing for an effective date."

Sponsored by: Ray and Kerttula

Was officially engrossed and transmitted to the House on March 7, 1984, and was entered on page 2281 of the Senate Journal. The actual time of transmittal was 1:42 p.m., when Kris Gray, Assistant Engrosser of the Chief Clerk of the House's office, signed the log book to accept the bill for the House.

Therefore, according to the log books, the Senate version of the longevity bonus bill would take temporal precedence over the House bill on the order of some 33 minutes.

A telephone call to Billy Berrier, Director of Legal Services, established that the decision as to which bill would take precedence of treatment is strictly a political decision, and is not a legal one, as there is nothing in the Uniform Rules that covers this.

the new proposed CS
Make the longevity Bonus
program from general funds -

All 65 & older & 1 year
residents will be eligible
for the Longevity Bonus

The Program however will
no longer exist after
July 1, ~~1995~~ 2000,

MARIAN SCHAFER and
STATE OF ALASKA,

Appellants,

vs.

RODNEY VEST, on his behalf and on the behalf of all other persons similarly situated,

Appellee.

Supreme Court No. S-289

ORDER

RECEIVED
MAR 19 1984
CLERK OF APPELLATE COURTS
ANCHORAGE, ALASKA

Superior Court No. 1JU 82-1103 Civil

Before: Burke, Chief Justice, Rabinowitz, Matthews, Compton and Moore, Justices.

On consideration of the appellee's motion to dismiss appeal, dissolve stay and/or expedite appeal process, filed February 8, 1984 and the reply to the motion filed February 10, 1984,

IT IS ORDERED:

1. The request to dismiss the appeal is denied.

2. This appeal will be considered by the Alaska Supreme Court on an expedited basis.

3. The order of Judge Carpeneti to suspend injunction pending appeal entered on January 13, 1984 will be dissolved effective April 18, 1984.

Entered by direction of the court at Anchorage, Alaska on March 19, 1984.

CLERK OF THE SUPREME COURT

David A. Lampery
DAVID A. LAMPERY

ccs: Justices
Counsel - telephone
The Honorable Walter L. Carpeneti - telephone
Appeals Deputy, Juneau Trial Courts

COMMITTEE REPORT

SENATE

1

FURTHER:

2/2/84

Date 2/28/84

Mr. President

The Committee on FINANCE considered SB 347

authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; efd.

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

[ ] do pass

[ ] do pass with attached amendment(s)

[✓] replace with/~~or adopt~~ CS for SB 347 (Fin)
[ ] new title
[ ] ~~same title~~ and majority recommends Do Pass

[ ] and attached a "LETTER OF INTENT" [✓] NEW FISCAL NOTE

[ ] reports it back without recommendation

[ ] recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

Amendments to CSSB 347 (Finance)

Page 1 Line 12 Delete all SECTION 1

Page 1 Line 28 Delete all SECTION 2

Page 3 Line 10 Delete all SECTION 5

Page 4 Line 26 Delete all SECTION 8

The above amendments deletes all Permanent Fund references to the Longevity Bonus program.

Add a new SECTION 10 to read:

" A.S. 47.45 is repealed July 1, 2000."

and renumber following sections.

The above amendment repeals the entire Longevity Bonus Program July 1, 2000.

Amend the the title of the bill to read:

"An Act relating to the Longevity Bonus Program and providing for an effective date"

To my knowledge the Senate is drafting a Concurrent Resolution to allow the changing of this title according to Rule 54 of the Uniform Rules.

would obtain the information. She further stated that since active referral to the attorney general's office had only begun within the last 9 months, most cases are likely to be in early stages of action. Co-chairman Sackett requested that the bill be held in committee pending receipt of the requested information.

Senator Vic Fischer also requested expert testimony on Section 4 of the legislation, dealing with the types of land for which clearning loans may be made. Citing the description of qualifying lands as those having "agricultural potential," the Senator questioned the implication of such broad wording. Ms. Brown commented that the section would allow clearing of Class 4 lands for grazing. Under present law the program is restricted to Class 2 and 3 lands based on soil type and slope. A significant percentage of Class 4 land (designated for agriculture only) is, due to slope and topographic conditions--good grazing land. Under present statute the program has no latitude which would allow for clearing of such lands for grazing.

Co-chairman Bennett directed that the bill be held in committee pending receipt of requested information from the attorney general's office.

SB 347

Co-chairman Bennett moved that SB 347 (ACT AUTHORIZING THE USE OF ALASKA PERMANENT FUND INCOME TO PAY LONGEVITY BONUSES; AMENDING THE LONGEVITY BONUS PROGRAM AND THE PERMANENT FUND DIVIDEND DISTRIBUTION PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE) be brought on for discussion.

Senator Mulcahy explained that the legislature had a similar bill before it during the previous session. He then conducted the following sectional review:

Sec. 1 - Establishes a longevity bonus account within the permanent fund at 12.5% of the income stream. This money can be invested, and the legislature can add to the account through appropriation.

Sec. 2 - Changes percentage of disbursement to the permanent fund distribution fund from 50% to 37.5% as a result of the use of 12.5% for longevity bonuses.

Sec. 3 - Establishes one-year residency and 65-years of age as qualifications.

Sec. 4 - Establishes monthly payments of $200 with a 3% per annum increase if funding is available.

Sec. 5 - Technical change substituting "recipient" for "his."

Sec. 6 - Revises longevity bonus legislation in order that the account may receive funding from the permanent fund.

Sec. 7 - Allows Commissioner of Administration access to state records (driver and hunting or fishing licenses) to verify residency.

Sec. 8 - Defines "resident."

Sec. 9 - Defines purpose.

Sec. 10 - Repeals the current statutory definition of "residency."

Sec. 11 - Retroactive clause.

Sec. 12 - Contains backstop provisions.

Senator Mulcahy explained that the current bill differs from that of last year in that it reduces the monthly payment from $250 to $200. Further, current legislation contains retroactive provisions while that of last year did not. And Section 12 makes the program dependent upon the Supreme Court decision (if the state loses the Vest case, the bill becomes effective--if the state prevails, the bill will not be needed).

Senator Mulcahy advised of difficulties in tracking information presented on the fiscal note from the Dept. of Administration. Directing attention to the note dated 2/3/84, the Senator noted that funding shown in parenthesis represents deficit funding--general fund amounts which the Dept. of Administration would normally be requesting. However, because of the shift to the permanent fund for the flow of income, general funds will not be needed. The $42.5 million shown under permanent funds does not represent the income flow into the account; it represents the projected cost of the program. The difference between the deficit funding and projected costs is shown under revenue and expenditures.

Co-chairman Sackett noted that the fiscal note presents information in an incorrect manner and requested that it be redone. The Co-chairman also questioned the great difference in FY 85 general funds ($11 million to $30 million) between the department's first and second fiscal note.

Co-chairman Bennett directed that the bill be held in committee pending appearance before committee of a representative from the department and updated, clarified fiscal information.

A brief discussion followed concerning the retroactive clause in the bill. Senator Mulcahy stated that last year the committee decided that it would not include retroactive provisions.

Referring to Section 12, Senator Josephson advised of his understanding that the proposed bill would go into effect only if the Vest suit is lost. He added that he wished it made clear that the legislature does not prefer the proposed program over the current program. The proposed legislation represents only a backstop or contingency in the event the current program is lost.

Senator Vic Fischer voiced opposition to the bill at the $200 level and asked that a fiscal note be prepared showing costs under the bill if payments are $250 a month.

ADJOURNMENT

The meeting was adjourned at approximately 9:50 a.m.

SFC-84, #4, Side 1 (000-end)

Co-chairman Bennett moved that SB 323 (ACT RELATING TO INCOME OF ALASKA PIONEERS' HOME RESIDENTS) be brought on for discussion.

Senator V. Fischer presented a proposed CS for SB 323 (Finance) and an accompanying State Affairs' Committee memorandum explaining the bill:

Section 1 - Increases from $35 per month to $100 per month the amount of money an individual resident of a Pioneer Home may keep for personal use before charges for rent and other expenses are levied by the home.

Section 2 - Provides that residents who have no income receive a stipend of $100 rather than $35 per month.

Section 3 - Directs that the Dept. of Administration adopt regulations under which charges for Pioneer Home care will be established. This will prevent the Dept. from levying new rental charges without due process.

Sec. 4 - Provides for effects of individuals which are exempt from attachment by the state.

The Finance Committee Substitute also incorporates the provisions of SB 405 (Act relating to increases in charges for residence in the Alaska Pioneers' Home) which specifically requires that the Dept. of Administration provide sixty (60) days' notice to residents of Pioneer Homes before fee increases may be adopted.

Directing attention to Page 2, Line 15, Senator Fischer noted that the Finance Committee Substitute differs from that of State Affairs in that rather than listing goods and services for which the state may claim reimbursement against an estate, the Finance version allows for claims for "arrearages in fees for ancillary charges." Senator Fischer further directed attention to a new fiscal note (2/17/84) to be attached to the Finance Committee Substitute. He noted that it differs from prior fiscal information relating to the bill in that it does not provide for escalation of the $100 allowed for personal use in accordance with the cost of living.

Senator Fischer moved for adoption of CS for SB 323 (Finance) (AN ACT RELATING TO THE ALAKA PIONEERS' HOME). No objection having been raised, the committee substitute was adopted. Senator Fischer moved for passage of CS for SB 323 (Finance) with individual recommendations. No objection having been raised, the bill passed from Senate Finance with a unanimous "do pass" recommendation.

SB 347

Co-chairman Bennett moved that SB 347 (ACT AUTHORIZING THE USE OF ALASKA PERMANENT FUND INCOME TO PAY LONGEVITY BONUSES; AMENDING

THE LONGEVITY BONUS PROGRAM AND THE PERMANENT FUND DIVIDEND DISTRIBUTION PROGRAM) be brought on for consideration. Senator Mulcahy explained that during prior discussions of the bill, questions arose regarding retroactivity and information on the fiscal note. He advised that retroactivity is not part of the suit against the state. The legislature must then decide whether to include retroactive provisions within the bill or merely let the bill go forward based on its effective date.

Directing attention to the fiscal note dated February 3, 1984, Senator Mulcahy explained that the Dept. currently has $32.8 million in general funds budgeted for the longevity bonus program for FY 85. A retroactive clause will necessitate $18.5 million in funding. Reduction of longevity payments from $250 to $200 results in a savings of $6.7 million. Approximately $14.5 million will be required to bring additional (6,100) recipients into the program at $200 per month. Co-chairman Sackett noted that the above figures are predicated upon a total of 16,500 persons being involved in the program rather than the 14,500 actually involved. Based on the foregoing figures, the program will require $38.9 million in permanent fund moneys in addition to general funds of $26.4 for this year, resulting in a negative budget figure of $12.4 for the coming year.

Senator Mulcahy moved that the retroactive provision be deleted from the bill. A brief discussion followed regarding last year's consideration of the retroactive issue. Paula Scavera, aide to Senator Ray advised that the current thrust of the Vest lawsuit is to "make everybody equal" rather than to press for retroactive bonus payments. Senator Mulcahy restated his motion for deletion of Section 11, relating to retroactivity. No objection having been raised, the motion carried, and references to retroactivity were deleted from the bill.

Referring to population estimates for recipients under the program, Senator Mulcahy noted a range of 16.5 to 14.5. Max Gifford, aide to Co-chairman Sackett, appeared before committee and advised that 16.5 is based on permanent fund dividend applications for Alaskans 65 years and older. While that number of applications is filed, qualifying recipients number only 14.5. Senator Mulcahy moved for use of 14.5 as the population total for fiscal note purposes. No objection having been raised, the motion carried and the lower population total was adopted.

Senator V. Fischer moved to increase the monthly bonus payment under the bill to $250. Upon a show of hands the motion carried and the $250 figure was adopted.

Wally Kubley and Bill McIlroy briefly appeared before committee representing the Pioneers of Alaska. Mr. Kubley advised that the Pioneers endorse the concept of longevity bonus legislation. In rural areas approximately 67% of Alaska's elderly draw upon the program (only 3% receive social security). The majority are

proud people unwilling to take welfare. Most are aged and extremely concerned that they might lose their $250 bonus, and they will have no other income.

Due to time constraints, Co-chairman Bennett announced that the bill would be held over for further consideration at the next committee meeting.

ADJOURNMENT

The meeting was adjourned at approximately 10:00 a.m.

SFC-84, #4, Side 2 (000-end)
SFC-84, #6, Side 1 (000-583)

Senator Ferguson moved that CS for HB 516 (Fin.) pass from committee with individual recommendations. No objection having been raised, the bill passed from Senate Finance--Senators Bennett, Ferguson, V. Fischer, Josephson, and Mulcahy signing "do pass," Senators Faiks and Sackett signing "no recommendation."

SB 347

Co-chairman Bennett moved that SB 347 (ACT AUTHORIZING THE USE OF ALASKA PERMANENT FUND INCOME TO PAY LONGEVITY BONUSES; AMENDING THE LONGEVITY BONUS PROGRAM AND THE PERMANENT FUND DIVIDEND DISTRIBUTION PROGRAM) be brought on for discussion.

Senator Mulcahy directed attention to a new fiscal note and a proposed CS for SB 347 (Fin.). He noted that differences between the current CS and previous versions consist of elimination of the retroactive section, increase of monthly payments from $200 to $250, and elimination of the 3% annual escalation rate.

Referring to the fiscal note, Senator Mulcahy explained that the Dept. currently has $31.3 million in the operating budget for the program. The $26.3 shown as a deficit relates to these operating funds (the funds are no longer needed since funding will derive from permanent fund income). The difference of approximately $5 million when added to the permanent fund amount of $38.9 million produces the $43.0 million needed for the program. This funding is based on an eligible population of 14,500 rather than 16,000.

Senator President Kerttula advised that since the state takes 25% of its non-renewable resource funding and places it in the permanent fund, it represents "good philosophy" to take 25% of the direct proceeds distributed from the fund and place them in a retirement account.

Addressing his question to Senate President Kerttula, Senator Vic Fischer asked if he (Senator Kerttula) and Senator Ray had discussed the possiblity of funding the entire program from the general fund rather than using permanent fund income. Senator Kerttula responded that consideration had been given to such an approach, but problems were encountered in future availability of general funds. In using permanent fund income, the sponsors of the legislation hoped to establish a program with perpetuity.

Co-chairman Bennett called for comments from those in attendance wishing to testify concerning the bill. No one came forward.

Senator Mulcahy moved that CS for SB 347 (Finance) pass from committee with individual recommendations. No objection having been raised, the bill passed from Senate Finance--Senators Bennett, Ferguson, Sackett, Mulcahy, and Josephson signing "do pass," Senators Faiks and V. Fischer signing "no recommendation."

BILL ASSIGNMENTS

3

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811
PHONE:

March 16, 1984

House & Senate Finance Committees
Alaska State Legislature
Pouch V MS#3100
Juneau, AK 99811

This is to request that all fiscal notes for CSSB 347 Longevity Bonus prior to the revised version under date of February 27, 1984 as signed by Acting Commissioner Anselm Staack be withdrawn.

Thank you very much.

Sincerely,

Rebecca Burch

Rebecca Burch
Special Assistant
to Commissioner Rudd

RB/tc

attachment

cc: The Honorable Bill Ray
Alaska State Legislature

Senate State Affairs

House State Affairs

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: February 27, 1984

REQUEST
Bill/Resolution No.: CSSB 347
Title: Permanent Fund/Longevity Bonus
Sponsor: Ray
Requestor: Mulcahy
Date of Request: February 24, 1984

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Social Services
BRU, Program or Subprogram(s) Affected: Longevity Bonus Program

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STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: February 27, 1984

REQUEST
Bill/Resolution No.: CSSB 347
Title: Permanent Fund/Longevity Bonus

Sponsor: Ray
Requestor: Mulcahy
Date of Request: February 24, 1984

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Social Services

BRU, Program of Subprogram(s) Affected:
Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		49.9	28.7	28.7	28.7	28.7
200 TRAVEL						
300 CONTRACTUAL		56.9	57.9	58.9	59.9	60.9
400 SUPPLIES		1.5	1.0	1.0	1.0	1.0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		12,456.0	12,096.0	11,736.0	11,376.0	11,016.0
800 MISCELLANEOUS						
TOTAL OPERATING	0	12,564.3	12,183.6	11,824.6	11,465.6	11,106.6
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND		(26,335.7)	(33,116.4)	(35,275.4)	(37,434.4)	(39,593.4)
FEDERAL FUNDS						
OTHER (Permanent Fund)		38,900.0	45,300.0	47,100.0	48,900.0	50,700.0
TOTAL	0	12,564.3	12,183.6	11,824.6	11,465.6	11,106.6

POSITIONS.

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: In FY 85 there would be an expenditure of $38,900.0 in Permanent Fund Distributable Income and a reduction in the Longevity Bonus General Funds Budget of $26,335.7. In succeeding years Permanent Funds would increase and General Funds would decrease.

ANALYSIS: Attach a separate page for any Analysis.

Prepared by: E. Louis Keller, Director
Division: Pioneers' Benefits
Phone: (907) 465-4400
Date: February 27, 1984

Approved by Commissioner: Lisa Rudd
Agency: DEPARTMENT OF ADMINISTRATION
Date: 2-28-84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Budget Categories: (Longevity Bonus Program)	Existing proposed budget (Governor) as follows: Column 1) FY 85 as proposed based on August 1983 projections of 11,208 recipients. Column 2) Adjustment based on February 1984 projections of 10,348 recipients. Column 3) Revised FY 85 proposed budget.			Additional cost of Longevity Bonus Program under CSSB 347 and by funding source (as shown on the fiscal note, page 1):			Reconciliation: a. Total cost of program; b. Including existing proposed FY 85 adjusted budget; c. Additional cost under CSSB 347 and; d. By funding source.		
	1) Totals (all G.F.*)	2) Adjustment**	3) Revised Totals	G.F.	P.F.°	Total	G.F.	P.F.	Total
100 Personal Services	175.6		175.6	49.9		49.9	225.5		225.5
200 Travel	4.0		4.0				4.0		4.0
300 Contractual	85.6		85.6	56.9		56.9	142.5		142.5
400 Supplies	3.5		3.5	1.5		1.5	5.0		5.0
500 Equipment	.7		.7				.7		.7
700 Grants	32,551.5	(1,507.5)	31,044.0	(26,335.7)°°	12,456.0	12,456.0	4,600.0	38,900.0	43,500.0
Totals	32,820.9	(1,507.5)	31,313.4	108.3	12,456.0	12,564.3	4,977.7	38,900.0	43,877.7

* G.F. = General Fund.
** Based on revised estimate of 10,348 recipients in FY 85.
° P.F. = Permanent Fund.
°° $26,335.7 is a reduction in expenditures from the General Fund and is not carried into the totals of this column (for information only).
Total cost of Longevity Bonus Program should CSSB 347 become law (FY 85 only).

CSSB 347
Fiscal Note Analysis
Prepared By Division of Pioneers' Benefits
Department of Administration
February 27, 1984

This bill would increase the number of persons eligible for the Longevity Bonus Program.

This fiscal note was requested to be prepared using the following assumptions:

a. All persons who are age 65 and older who have been residents of Alaska for at least one year would be eligible.

b. On February 22, 1984, the Senate Finance Committee received information from the Department of Revenue that there are 14,500 Alaskans over age 65, based on verified 1983 Permanent Fund applications.

There will be approximately 10,348 persons on the Longevity Bonus program by July 1, 1984. Therefore, it is assumed, as requested using the February 22 information, that an additional 4,152 persons will be enrolled on the program in FY 85 under the bill.

c. The amount of the bonus would be $250 per month. According to calculations of Permanent Fund Distributable Income issued by the Department of Revenue in January of 1984, only $38.9 million would be available for credit to the Longevity Bonus account in FY 85. This amount would fund only 12,967 persons, rather than 14,500. Therefore, the additional $4.6 million needed to fund 14,500 persons would have to be obtained from another source.

d. No retroactive payments would be paid.

e. The program would continue to grow at the rate of approximately 50 per month, after the initial group of persons are enrolled who would be made eligible by the one-year residency requirement.

f. All administrative expenses (program management and operating costs, exclusive of bonus payments) would be paid from the General Fund. Bonus payments would be paid from the Longevity Bonus Account established from earnings of the Permanent Fund, except for the additional $4.6 million needed, which would be paid from the General Fund.

g. An increase in the Longevity Bonus staff would be needed to process the flood of new applications.

h. The Act would become effective on July 1, 1984.

CSSB 347
Fiscal Note Analysis
Prepared By Division of Pioneers' Benefits
Department of Administration
February 27, 1984

Additional funds needed for FY 85 are computed as follows:

		Annual Cost
Personal Services		$ 49,862
Clerk V, PFT	$28,710	
Clerk II, PPT (2 positions, 6 months)	21,152	
Contractual Services		
Added postage, bonus warrants, printing of new regulations and application forms and increased telephone tolls		56,950
Commodities		1,500
Office supplies and file cabinets for application and recipient files		
Grants		
Additional funds needed for Bonus payments to additional persons who will be eligible (4,152 x 12 x $250)		12,456,000
Total additional funds required for FY 85		$12,564,312

November 9, 1984

Permanent Funds Available for
Longevity Bonus Grants
(CSSB 347)

		Earnings		Interest		
FY 85	-	$37,400,000	+	$1,500,000	=	$38,900,000
FY 86	-	$48,900,000	+	$1,960,000	=	$50,860,000
FY 87	-	$60.500,000	+	$2,420,000	=	$62,920,000
FY 88	-	$68,400,000	+	$2,740,000	=	$71,140,000
FY 89	-	$75,900,000	+	$3,040,000	=	$78,940,000
FY 90	-	$85,600,000	+	$3,420,000	=	$89,020,000
FY 91	-	$97,200,000	+	$3,888,000	=	$101,088,000
FY 92	-	$108,435,000	+	$4,337,400	=	$112,772,400
FY 93	-	$120,481,000	+	$4,819,250	=	$125,300,250
FY 94	-	$133,280,000	+	$5,331,200	=	$138,611,200

February 24, 1984

Total Longevity Bonus Program Costs (Actual)

(CSSB 347)

FY 85	Administration (reg.)	$ 269,400	GF
	Additional Administration	108,312	GF
	Grants (14,500 x 12 x $250)	38,900,000	PF
		4,600,000	GF
	Total	$43,877,712	
FY 86	Administration	$ 269,400	GF
	Additional Administration	87,600	GF
	Grants (15,100 x 12 x $250)	45,300,000	PF
	Total	$45,657,000	
FY 87	Administration	$ 269,400	GF
	Additional Administration	88,600	GF
	Grants (15,700 x 12 x $250)	47,100,000	PF
	Total	$47,458,000	
FY 88	Administration	$ 269,400	GF
	Additional Administration	89,600	GF
	Grants (16,300 x 12 x $250)	48,900,000	PF
	Total	$49,259,000	
FY 89	Administration	$ 269,400	GF
	Additional Administration	90,600	GF
	Grants (16,900 x 12 x $250)	50,700,000	PF
	Total	$51,060,000	

Grants Budget
If Longevity Bonus Program Is Unchanged
(based on growth of 60 per month
over present enrollment)

FY 85	10,348 persons @ $250/mo.	=	$31,044.0
FY 86	11,068 persons @ $250/mo.	=	33,204.0
FY 87	11,788 persons @ $250/mo.	=	35,364.0
FY 88	12,508 persons @ $250/mo.	=	37,524.0
FY 89	13,228 persons @ $250/mo.	=	39,684.0
FY 90	13,948 persons @ $250/mo.	=	41,844.0
FY 91	14,668 persons @ $250/mo.	=	44,004.0
FY 92	15,388 persons @ $250/mo.	=	46,164.0
FY 93	16,108 persons @ $250/mo.	=	48,324.0
FY 94	16,828 persons @ $250/mo.	=	50,484.0

03-02-04-00-00 (02-22-3-07-00-00) STATE OF ALASKA -- COMPONENT_BUDGET_SUMMARY 07:57 1/03/84

AGENCY: DEPARTMENT OF ADMINISTRATION
CATEGORY: SOCIAL SERVICES

PROGRAM: LONGEVITY BONUS
SUB-PROGRAM: LONGEVITY BONUS

EXPENDITURES & FUNDING	83 AUTH	83 FINAL	83 ACT	84 AUTH	ADJ BASE	85 SL 1	85 SL 2	85 SL 3	85 SL 4	GOVERNOR		
01 PERS. SERV.	156.6	156.6	169.4	159.4	164.7	175.6	161.0	161.0	175.6	175.6		
02 TRAVEL	4.4	4.4	1.7	4.0	4.0	4.0	3.8	3.8	4.0	4.0		
03 CONTRACTUAL	106.0	106.0	84.6	81.1	81.1	81.1	77.0	77.0	85.6	85.6		
04 SUPPLIES	3.5	3.5	1.0	3.5	3.5	3.5	3.3	3.3	3.5	3.5		
05 EQUIPMENT			.4						.7	.7		
06 LANDS/BLDGS												
07 GRANTS, CLMS	27944.0	27944.0	27504.5	30211.5	30211.5	29749.5	26963.8	27468.1	32551.5	32551.5		
08 MISC.												
** TOTAL EXPEND	28214.5	28214.5	27761.6	30459.5	30464.8	30013.7	27208.9	27713.2	32820.9	32820.9		
09 I-A TRANSFER	26.1	26.1	26.1	2.1		24.7	23.4	23.4	26.2	26.2		
FED. RECEIPT												
**GF + MATCH	28214.5	28214.5	27761.6	30459.5	30464.8	30013.7	27208.9	27713.2	32820.9	32820.9		
G. F. MATCH												
GENERAL FUND	28214.5	28214.5	27761.6	30459.5	30464.8	30013.7	27208.9	27713.2	32820.9	32820.9		
PGM RECEIPTS												
I/A RECEIPTS												
OTHER FUNDS												
15 FULL-TIME	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0		
16 PART-TIME												
17 TEMPORARY												

000042A

Informational Only:
BASED ON $200 PER
MONTH LONGEVITY BONUS

CSSB 347
Fiscal Note Explanation Sheet (FY 85 only)
Prepared By Division of Pioneers' Benefits
Department of Administration
February 27, 1984

Budget Categories: (Longevity Bonus Program)	Adjusted proposed FY 85 budget			Additional cost of Longevity Bonus Program under CSSB 347 by funding source			Reconciliation: Total cost of Program		
Funding Sources:	Total (All G.F.)*	Adjustment**	Revised Total	G.F.	P.F.°	Total	G.F.	P.F.	Total
100 Personal Services	175.6		175.6	49.9		49.9	225.5		225.5
200 Travel	4.0		4.0				4.0		4.0
300 Contractual	85.6		85.6	56.9		56.9	142.5		142.5
400 Supplies	3.5		3.5	1.5		1.5	5.0		5.0
500 Equipment	.7		.7				.7		.7
700 Grants	32,551.5	(1,507.5)	31,044.0	(30,935.7)°°	3,756.0	3,756.0		34,800.0	34,800.0
Totals	32,820.9	(1,507.5)	31,313.4	108.3	3,756.0	3,864.3	377.7	34,800.0	35,177.7†

* G.F. = General Fund.
**Based on revised estimate of 10,348 recipients in FY 85.
° P.F. = Permanent Fund.
°°$30,935.7 is a reduction in expenditures from the General Fund and is not carried into the totals of this column (for information only).
† Total cost of Longevity Bonus Program should CSSB 347 become law (FY 85 only) based on payments of $200 per month.

CSSB 347
Fiscal Note Analysis
Prepared By Division of Pioneers' Benefits
Department of Administration
February 27, 1984

This bill would increase the number of persons eligible for the Longevity Bonus Program.

This fiscal note was requested to be prepared using the following assumptions:

a. All persons who are age 65 and older who have been residents of Alaska for at least one year would be eligible.

b. On February 22, 1984, the Senate Finance Committee received information from the Department of Revenue that there are 14,500 Alaskans over age 65, based on verified 1983 Permanent Fund applications.

There will be approximately 10,348 persons on the Longevity Bonus program by July 1, 1984. Therefore, it is assumed, as requested using the February 22 information, that an additional 4,152 persons will be enrolled on the program in FY 85 under the bill.

c. The amount of the bonus would be $200 per month. According to calculations of Permanent Fund Distributable Income issued by the Department of Revenue in January of 1984, $38.9 million would be available for credit to the Longevity Bonus account in FY 85. At $200 per month only $34.8 million would be required, leaving an unspent balance of $4.1 million in FY 85.

d. No retroactive payments would be paid.

e. The program would continue to grow at the rate of approximately 50 per month, after the initial group of persons are enrolled who would be made eligible by the one-year residency requirement.

f. All administrative expenses (program management and operating costs, exclusive of bonus payments) would be paid from the General Fund. Bonus payments would be paid from the Longevity Bonus Account established from earnings of the Permanent Fund.

g. An increase in the Longevity Bonus staff would be needed to process the flood of new applications.

h. The Act would become effective on July 1, 1984.

CSSB 347
Fiscal Note Analysis
Prepared By Division of Pioneers' Benefits
Department of Administration
February 27, 1984

Additional funds needed for FY 85 are computed as follows:

		Annual Cost
Personal services		$ 49,862
Clerk V, PFT	$28,710	
Clerk II, PPT (2 positions, 6 months)	21,152	
Contractual Services		
Added postage, bonus warrants, printing of new regulations and application forms and increased telephone tolls		56,950
Commodities		1,500
Office supplies and file cabinets for application and recipient files		
Grants		9,964,800
Additional funds needed for Bonus payments to additional persons who will be eligible (4,152 x 12 x $200		
Difference in cost per month for those already enrolled on July 1, 1984 ($50 x 12 x 10,348)		(6,208,800)
Total additional funds required for FY 85		$ 3,864,312

February 27, 1984

Total Longevity Bonus Program Costs (Actual)

(CSSB 347)

FY 85	Administration (reg.)	$ 269,400	GF
	Additional Administration	108,312	GF
	Grants (14,500 x 12 x $200)	34,800,000	PF
	Total	$35,177,712	
FY 86	Administration	$ 269,400	GF
	Additional Administration	87,600	GF
	Grants (15,100 x 12 x $200)	36,240,000	PF
	Total	$36,597,000	
FY 87	Administration	$ 269,400	GF
	Additional Administration	88,600	GF
	Grants (15,700 x 12 x $200)	37,680,000	PF
	Total	$38,038,000	
FY 88	Administration	$ 269,400	GF
	Additional Administration	89,600	GF
	Grants (16,300 x 12 x $200)	39,120,000	PF
	Total	$39,479,000	
FY 89	Administration	$ 269,400	GF
	Additional Administration	90,600	GF
	Grants (16,900 x 12 x $200)	40,560,000	PF
	Total	$40,920,000	

Opinion

Richard Morgan Publisher

Wayne Dunworth
General manager

John Marrs
Editor

Promising new idea

The latest bid to resolve the constitutionality problem with the Longevity Bonus Program looks like the best yet. The members of the Alaska House of Representatives must agree, because 31 cosponsors signed up for the bill.

That support and one Senate proponent, Sen. Pat Rodey, R-Anchorage, are good signs. The doubt may rest primarily with the Senate majority, possibly with the willingness of its two most prominent senators, President Jay Kerttula of Palmer and Sen. Bill Ray of Juneau, to give up their own plan.

The new plan would pay $250 a month to all Alaskans over 65 and would increase the eligibility age by one year every year after 1889. It would pay for the program from the general fund.

The Kerttula-Ray plan proposes paying $200 a month from the earnings of the Permanent Fund. It would make eligible all Alaskans over the age of 65 who have been residents of the state for a year or more.

Two key differences are immediately apparent:

- The House bill would limit the number of people who could become qualified while still recognizing Alaska's pioneers.
- The House bill would not dip into the Permanent Fund or its earnings.

The chief reserv[illegible] in this corner about the Kerttula-Ray plan h[illegible]n its open-ended proposal. It creates the possibil[illegible] of younger Alaskans subsidizing elder cheechakos just because the money was available, not because they contributed anything special to Alaska.

The Longevity Bonus Program was created to help true pioneers in their older years to live well and to remain in the land they pioneered.

The court declared it unconstitutional because it arbitrarily split senior Alaskans according to whether they happened to live in the state before statehood.

The new bill in the House promises a way to recognize the older Alaskans without drawing line so arbitrarily. It seems to leave a lot of room including many Alaskans of 65 or older who h been in the state for any appreciable time, while a graduating the qualifying age from a certain poin that the state does not wind up years from now s sidizing people who had nothing to do with devel ing the state.

Such a plan might be riskier than the other plan the event of a court challenge. But this is one of th matters in which the risk is worth taking.

The new longevity proposal deserves full co sideration in the Senate as well as in the House Representatives.

Quotables

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David Reisman, *Individualism Reconsidered*

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David Reisman, *Individualism Reco*

Current Statute 5.

(3) "department" means the Department of Health and Social Services. (§ 1 ch 136 SLA 1970; am § 2 ch 210 SLA 1970; am § 55 ch 71 SLA 1972)

Legislative history report. — For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

Chapter 45. Alaska Longevity Bonus.

Section

10. Persons who may qualify for longevity bonus
20. Continuous eligibility procedures
30. Absence from the state
40. Disqualification
50. Department hearing
60. Legal remedy
70. Unqualified persons
80. Accrual of bonuses
90. Alaska longevity bonus fund
100. Powers and duties of the administrator
110. Custody of funds
120. Exemption from taxation and process
130. Death or cessation of residency
140. Penalty for false statements
150. Definitions
160. Applicability of Administrative Procedure Act
170. Purpose

Editor's note. — Section 2, ch. 205, SLA 1972, provides: "AS 01.10.030 does not apply to this Act. If any provision of this Act, or the application of a provision of this Act to any person or circumstance is held invalid, this entire Act shall be considered invalid."

Legislative history report. — For report on ch. 205, SLA 1972 (FCCS HCS CSSB 211), see 1972 House Journal, p. 751.

Sec. 47.45.010. Persons who may qualify for longevity bonus. (a) A person who is 65 years of age or over, who was domiciled in the territory on or before January 3, 1959 and who has maintained a continuous domicile in the territory or state for 25 years may apply to the commissioner of administration for qualification to receive a monthly bonus of $150.

(b) When the commissioner of administration determines that an applicant qualifies under this chapter he shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in this chapter may continue to do so only as long as he continuously retains a domicile in the state. (§ 1 ch 205 SLA 1972; am § 1 ch 33 SLA 1976; am § 1 ch 89 SLA 1978)

Effect of amendments. — The 1976 amendment increased the monthly bonus in subsection (a) from $100.00 to $125.00.

The 1978 amendment increased the monthly bonus in subsection (a) from $125.00 to $150.00.

Legislative history report. — For report on ch. 33, SLA 1976 (SB 476 am), see 1976 Senate Journal, p. 160.

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Sec. 47.45.020. Continuous eligibility procedures. After qualification, monthly applications for bonuses may be made in person to any office of the Department of Administration. Mailed monthly applications shall also be considered by the Department of Administration. In-person or mailed applications shall be made on forms provided by the Department of Administration and shall conform to the conditions as provided by regulation. The commissioner may make exceptions for those residents who are isolated in rural areas and cannot mail a monthly application; however, they shall mail an application at least once every six months. (§ 1 ch 205 SLA 1972)

Sec. 47.45.030. Absence from the state. A recipient shall notify the commissioner of administration when he expects to be absent from the state if the absence is for a continuous period that exceeds 30 days. After that notification, the recipient shall no longer receive bonuses from the Department of Administration after his last regularly approved monthly application. Upon his return to the state he may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after his return to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, he may not be disqualified, if he still otherwise qualifies upon his return to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification. (§ 1 ch 205 SLA 1972)

Sec. 47.45.040. Disqualification. Disqualification under this chapter shall rest solely with the commissioner of administration and shall be outlined in the regulations promulgated under AS 47.45.100(1). (§ 1 ch 205 SLA 1972)

Sec. 47.45.050. Department hearing. The Department of Administration may hold a departmental hearing upon the request of an applicant or recipient who has been disqualified. Previous to this hearing the department shall by certified mail notify an applicant or recipient in plain and comprehensive language the exact reason for his disqualification. Form letters using only referral to state statutes or department regulations, or otherwise vague in detail, shall not be considered compliance by the department with this section. (§ 1 ch 205 SLA 1972)

Sec. 47.45.060. Legal remedy. Legal remedy from disqualification may be sought by an applicant or recipient in any court of competent jurisdiction in the state. The burden of proof shall rest solely upon the applicant or recipient and any costs related to a disqualification verdict determined against the applicant or recipient may be recoverable by the attorney general from that person, or from any agency representing that person supported in whole, or in part, with state appropriations. (§ 1 ch 205 SLA 1972)

Sec. 47.45.070. Unqualified persons. An unqualified person is one who

(1) does not meet the age or residence requirements as provided for under this chapter;

(2) meets the age and residence requirements of this chapter but is confined in a state or federal mental health institution or facility and is certified by the state as unable to manage his own affairs; however, if that person, at the time of his commitment, provided the principal support of a spouse, the commissioner of administration may determine to pay the confined person's bonus to his spouse until the spouse is qualified for a bonus;

(3) is otherwise qualified but confined in a penal or correctional institution or facility; upon completion of sentence or upon the conferral of a pardon, parole or probation, the person may make application; confinement outside the state shall be considered as residence in the state if a person was convicted and sentenced from a court in Alaska; revocation of parole or probation shall be cause for immediate disqualification until release from confinement is again effected;

(4) leaves the state of his own volition and remains absent from the state for a continuous period of more than 180 days. (§ 1 ch 205 SLA 1972)

Sec. 47.45.080. Accrual of bonuses. No recipient may, for any reason, receive an accrual of bonuses in excess of two monthly payments. No interest may be paid on accrued bonuses. Upon the death of a recipient the commissioner of administration shall pay to the beneficiary of the recipient any accrued bonuses not to exceed two monthly payments. (§ 1 ch 205 SLA 1972)

Sec. 47.45.090. Alaska longevity bonus fund. (a) There is the Alaska longevity bonus fund created for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of all money made available by appropriations of the state legislature, and from other appropriated funds, all contributions from whatever source, and income and interest derived from the investment of money.

(b) The commissioner of administration is the administrator of the fund. (§ 1 ch 205 SLA 1972)

Sec. 47.45.100. Powers and duties of the administrator. The commissioner of administration shall

(1) promulgate regulations necessary to carry out the provisions of this chapter;

(2) make expenditures from the fund necessary to administer this chapter;

(3) establish and maintain an adequate system of accounts for the fund;

(4) publish annually a report showing the financial condition of the fund. (§ 1 ch 205 SLA 1972)

Sec. 47.45.110. Custody of funds. The commissioner of revenue is the treasurer of the system and has powers and duties for this purpose including but not limited to the following:

(1) to act as official custodian of the cash and securities belonging to the fund;

(2) to receive all items of cash belonging to the fund. (§ 1 ch 205 SLA 1972)

Sec. 47.45.120. Exemption from taxation and process. Bonuses received under this chapter are exempt from all state and political subdivision taxes except sales and use taxes and are not subject to execution, attachment, garnishment or other process. No bonus received under this chapter may be exempt from a federal tax requirement. (§ 1 ch 205 SLA 1972)

Sec. 47.45.130. Death or cessation of residency. The commissioner of administration shall establish procedures to stop a bonus when a recipient under this chapter no longer qualifies. When a recipient dies or discontinues his residency in the state his qualification for a bonus shall stop at the time of his last approved monthly application. (§ 1 ch 205 SLA 1972)

Sec. 47.45.140. Penalty for false statements. A person who wilfully or knowingly makes a false statement, or falsifies or permits to be falsified any record required by this chapter, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $500, or by imprisonment for not more than six months, or by both, forfeits all rights under this chapter, and shall make adequate restitution for any bonuses illegally received. (§ 1 ch 205 SLA 1972)

Sec. 47.45.150. Definitions. In this chapter

(1) "bonus" means a monthly Alaska longevity bonus payment made to a person or his beneficiary who qualifies under this chapter;

(2) "domicile" means the place with which a person has a settled connection for determination of his civil status or other legal purposes because it is actually or legally his permanent and principal home. (§ 1 ch 205 SLA 1972)

Sec. 47.45.160. Applicability of Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) does not apply to this chapter. (§ 1 ch 205 SLA 1972)

Sec. 47.45.170. Purpose. The sole purpose of this chapter is to offer and provide all law-abiding Alaskans capable of managing their own affairs who have maintained a domicile in the state for at least 25 years and have reached a retirement age of 65, an incentive to continue uninterrupted residency in the state. Under no circumstances shall this chapter be considered a form, type, or manner, of public relief. Bonuses made under this chapter are not predicated on need even though they

may appear to provide supplemental income to some qualified persons who would otherwise be forced to become responsibilities of the state. The legislature further finds and states that this legislation recognizes the economic hardships suffered by many elderly Alaskans, Alaskans who through their tenacity and perseverance molded Alaska as we know it through skillful application of their talents. These pioneers are the same Alaskans, who in the prime of their life were in effect treated as second-class citizens by the federal government and who paid much of their hard-earned income to a government in which they did not have the right to participate through the power of the ballot. The legislature also is aware of the fact that many of these pioneers have been forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationship with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans of the benefits of their wisdom and experience. This legislation hopefully will provide our pioneers with the economic means to remain in and continue to serve their state and to enjoy the opportunity of aiding the new Alaskan in making this state truly "The Great Land." (§ 1 ch 205 SLA 1972)

Chapter 50. Office of Child Advocacy.

Section
10. Office of Child Advocacy
20. Board of directors for the Office of Child Advocacy
30. Compensation and expenses
40. Powers and duties of board and director
50. Departments to assist Office of Child Advocacy

Editor's note. — For legislative findings, see § 1, ch. 189, SLA 1972, in the 1972 Temporary and Special Acts.

Sec. 47.50.010. Office of Child Advocacy. There is created in the Office of the Governor the Office of Child Advocacy to act as a coordinating body for services for children from prenatal to age 18. The Office of Child Advocacy is administered by a director appointed by the board of directors with the approval of the governor. Staff may be employed in accordance with appropriate budgets. (§ 2 ch 189 SLA 1972)

Sec. 47.50.020. Board of directors for the Office of Child Advocacy. There is created a board of directors for the Office of Child Advocacy. The board consists of the Alaska State Council on the Coordination of Community Child Care plus four members not more than 18 years of age appointed by the governor for a term of two years each, or until the youthful member attains the age of 19 years. (§ 2 ch 189 SLA 1972)

6.

THE STATUS OF OLDER ALASKANS

1980 DATA BASE

Prepared for
The Older Alaskans Commission

Prepared by

The Institute of Social and Economic Research
University of Alaska

June 1983

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INTRODUCTION

The data base contained in this report was prepared by the Institute of Social and Economic Research (ISER) under a Request for Services Agreement (RSA) from the Older Alaskans Commission (OAC). The 1970 data were extracted from Census Tapes CNT-1, CNT-2, and CNT-5. The 1980 data were extracted from Census Tapes STF-1, STF-2, and STF-3A. To make intercensual year comparisons, the 1970 data were reformatted to conform to the 1980 census area boundary definitions before being merged into the data base.

The principal investigator for ISER was Professor Theodore Lane. ISER Research Associate Jim Kerr was responsible for programming and data management. The project manager for the OAC was its Executive Director, Jon Wolfe.

The data base contained in this report is the first part of an effort by the OAC to identify longer-term trends in the number of older Alaskans, their geographic distribution, status, and needs. It is anticipated that this effort will generate additional reports during 1983, expanding the data base and analyzing pertinent trends.

STATEWIDE DATA TABLES

TABLE 1. NUMBER OF PERSONS 55 YEARS AND OVER, BY AGE
STATE OF ALASKA
1970 AND 1980

	Total		% Distribution		55-59 Years		60-64 Years		65-74 Years		75 + Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
Alaska	20747	32260	100.0	100.0	8550	12617	5310	8096	4704	8312	2183	3235
Aleutian Islands	282	332	1.4	1.0	136	144	80	81	46		20	21
Anchorage Borough	6465	11945	31.4	37.0	3015	5355	1721	3070	1105	2623	544	897
Bethel Census Div.	599	967	2.9	3.0	227	283	133	253	149	314	90	117
Bristol Bay Borough	65	66	0.3	0.2	20	19	19	22	21	17	5	8
Dillingham Census Div.	323	405	1.6	1.3	114	140	92	96	87	116	30	53
Fairbanks North Star	2180	3751	10.6	11.6	1031	1406	576	909	397	914	176	362
Haines Borough	200	223	1.0	0.7	81	80	45	65	50	67	24	11
Juneau Borough	1510	1990	7.3	6.2	580	716	410	503	363	557	149	214
Kenai Peninsula Borough	1376	2365	6.7	7.3	557	885	349	653	339	633	131	194
Ketchikan Gateway Bor.	1239	1501	6.0	4.7	421	511	303	348	352	427	163	215
Kobuk Census Division	356	470	1.7	1.5	120	127	79	94	99	166	58	83
Kodiak Island Borough	604	743	2.9	2.3	243	291	151	197	148	179	62	76
Matanuska-Susitna Bor.	818	1793	4.0	5.6	299	621	211	442	223	519	85	211
Nome Census Division	569	689	2.8	2.1	217	212	127	138	165	249	60	90
North Slope Borough	242	331	1.2	1.0	87	112	60	71	63	114	32	34
Prince of Wales	382	376	1.9	1.2	144	130	109	95	89	98	40	53
Sitka Borough	748	789	3.6	2.4	239	265	149	163	202	200	158	161
Skagway-Yakutat	388	415	1.9	1.3	122	135	76	88	135	126	55	66
Southeast Fairbanks	101	363	0.5	1.1	52	139	25	82	18	95	6	47
Valdez-Cordova Census D.	504	807	2.8	2.5	230	319	165	193	129	212	60	83
Wade Hampton Census Div.	263	430	1.3	1.3	95	163	65	89	71	130	32	48
Wrangell-Petersburg	627	806	3.0	2.5	210	252	158	201	169	244	90	109
Yukon-Koyukuk Census D.	644	703	3.1	2.2	240	232	164	163	154	226	86	82
Total	20565	32260	100.0	100.0	8488	12617	5267	8096	4654	8312	2156	3235

Note: 1970 Census Division totals may not equal Alaska total due to reporting changes.

TABLE 2. PERCENT DISTRIBUTION OF PERSONS OVER 55 YEARS OF AGE
STATE OF ALASKA
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75 + Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
Alaska	20747	32260	41.2%	39.1%	25.6%	25.1%	22.7%	25.8%	10.5%	10.0%
Aleutian Islands	282	332	38.2	43.4	28.4	24.4	16.3	25.9	7.1	6.3
Anchorage Borough	6465	11945	46.6	44.8	26.6	25.7	18.3	22.0	8.4	7.5
Bethel Census Div.	599	967	37.9	29.3	22.2	26.2	24.9	32.5	15.0	12.1
Bristol Bay Borough	65	66	30.8	28.8	29.2	33.3	32.3	25.8	7.7	12.1
Dillingham Census Div.	323	405	35.3	34.6	28.5	23.7	26.9	28.6	9.3	13.1
Fairbanks North Star	2180	3751	47.3	39.6	26.4	26.4	18.2	24.4	8.1	9.7
Haines Borough	200	223	40.5	35.9	22.5	29.1	25.0	30.0	12.0	4.9
Juneau Borough	1510	1990	38.9	36.0	27.2	25.3	24.0	28.0	9.9	10.0
Kenai Peninsula Borough	1376	2365	40.5	37.4	25.4	27.6	24.6	26.8	9.5	8.2
Ketchikan Gateway Bor.	1239	1501	34.0	34.0	24.5	23.2	28.4	28.4	13.2	14.3
Kobuk Census Division	356	470	33.7	27.0	22.2	20.0	27.8	35.3	16.3	17.7
Kodiak Island Borough	604	743	40.2	39.2	25.0	26.5	24.5	24.1	10.3	10.2
Matanuska-Susitna Bor.	818	1793	36.6	34.6	25.8	24.7	27.3	28.9	10.4	11.8
Nome Census Division	569	689	38.1	30.8	22.3	20.0	29.0	36.1	10.5	13.1
North Slope Borough	242	331	36.0	33.8	24.8	21.5	26.0	34.4	13.2	10.3
Prince of Wales	382	376	37.7	34.6	28.5	25.3	23.3	26.1	10.5	14.1
Sitka Borough	748	709	32.0	33.6	19.9	20.7	27.0	25.3	21.1	20.4
Skagway-Yakutat	388	415	31.4	32.5	19.6	21.2	34.8	30.4	14.2	15.9
Southeast Fairbanks	101	363	51.5	38.3	24.8	22.6	17.8	26.2	5.9	12.9
Valdez-Cordova Census D.	504	807	39.4	39.5	28.3	23.9	22.1	26.3	10.3	10.3
Wade Hampton Census Div.	263	430	36.1	37.9	24.7	20.7	27.0	30.2	12.2	11.2
Wrangell-Petersburg	627	806	33.5	31.3	25.2	24.9	27.0	30.3	14.4	13.5
Yukon-Koyukuk Census D.	644	703	37.3	33.0	25.5	23.2	23.9	32.1	13.4	11.7

Figure 1

Distribution of Persons 55 Years and Older by Age

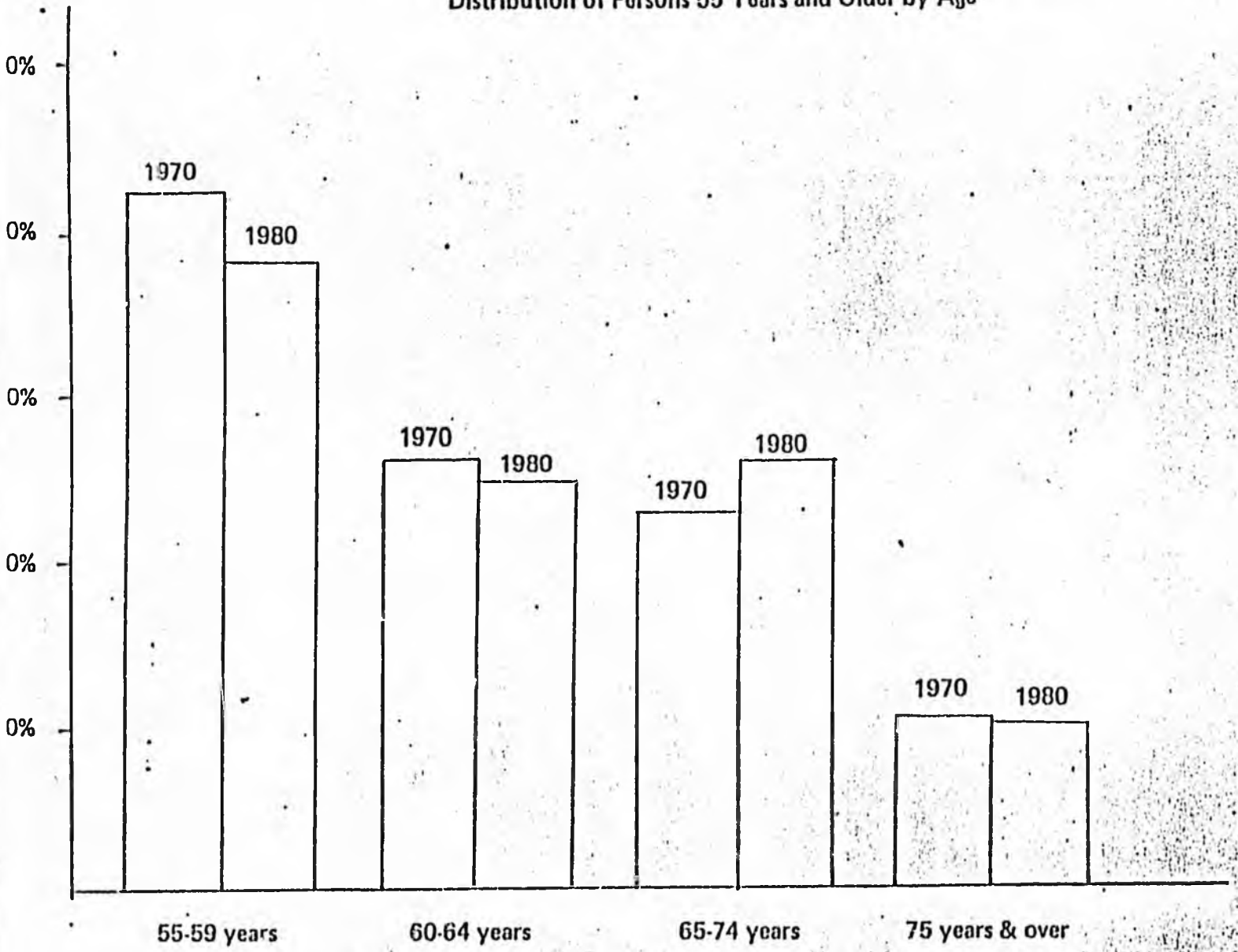

TABLE 3. NUMBER OF PERSONS 55 YEARS AND OLDER BY AGE AND SEX
STATE OF ALASKA
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75 + Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	11726	16039	4801	6777	2909	4303	2651	4278	1205	1401
Percent	100.0	100.0	41.6	40.2	25.5	25.6	22.6	25.4	10.3	8.8
FEMALE										
Number	9021	15421	3669	5840	2321	3793	2053	4034	978	1754
Percent	100.0	100.0	40.7	37.9	25.7	24.6	22.8	26.2	10.8	11.4
TOTAL										
Number	20747	32260	8550	12617	5310	8096	4704	8312	2183	3235
Percent	100.0	100.0	41.2	39.1	25.6	25.1	22.7	25.8	10.5	10.0

TABLE 4. NUMBER OF PERSONS 65 YEARS AND OLDER BY RACE
STATE OF ALASKA
1970 AND 1980

	Total		White		Black		Other*	
	1970	1980	1970	1980	1970	1980	1970	1980
Alaska	6887	11547	4653	8137	109	214	2125	3196
Aleutian Islands	66	107	16	12	1	0	49	95
Anchorage Borough	1729	3520	1455	3067	68	141	206	312
Bethel Census Div.	239	431	15	13	5	0	219	418
Bristol Bay Borough	26	25	20	12	0	0	6	13
Dillingham Census Div.	117	169	24	23	0	NA	93	146
Fairbanks North Star	573	1276	509	1074	20	57	44	145
Haines Borough	74	78	33	65	0	NA	41	13
Juneau Borough	512	771	411	636	4	2	97	133
Kenai Peninsula Borough	470	827	404	747	4	2	62	78
Ketchikan Gateway Bor.	515	642	426	523	3	1	86	118
Kobuk Census Division	157	249	10	15	0	NA	147	234
Kodiak Island Borough	210	255	114	141	3	5	93	109
Matanuska-Susitna Bor.	308	730	295	700	0	0	13	30
Nome Census Division	225	339	42	42	0	0	183	297
North Slope Borough	95	148	6	8	0	NA	89	140
Prince of Wales	129	151	43	51	0	NA	86	100
Sitka Borough	360	361	274	271	1	2	85	88
Skagway-Yakutat	190	192	106	93	0	NA	84	99
Southeast Fairbanks	24	142	22	86	0	2	2	54
Valdez-Cordova Census D.	189	295	133	208	0	1	56	86
Wade Hampton Census Div.	103	178	9	4	0	NA	94	174
Wrangell-Petersburg	259	353	194	272	0	NA	65	81
Yukon-Koyukuk Census D.	240	308	57	74	0	0	183	234
Total	6810	11547	4618	8137	109	213	2083	3197

*Includes Alaska Natives, Asians, and Pacific Islanders

Notes: (1) 1970 Census Division totals may not equal Alaska totals due to reporting changes.

(2) NA denotes "not available" due to census suppression to ensure confidentiality.

TABLE 5. PERCENT DISTRIBUTION OF PERSONS 65 YEARS AND OLDER BY RACE
STATE OF ALASKA
1970 AND 1980

	Total		White		Black		Other*	
	1970	1980	1970	1980	1970	1980	1970	1980
Alaska	6887	11547	67.6%	70.5%	1.6%	1.9%	30.9%	27.7%
Aleutian Islands	66	107	24.2	11.2	1.5	0.	74.2	88.8
Anchorage Borough	1729	3520	84.2	87.1	3.9	4.0	11.9	8.9
Bethel Census Division	239	431	6.3	3.0	2.1	0.	91.6	97.0
Briston Bay Borough	26	25	76.9	48.0	0.	0.	23.1	52.0
Dillingham Census Div.	117	169	20.5	13.6	0.	NA	79.5	86.4
Fairbanks North Star	573	1276	88.8	84.2	3.5	4.5	7.7	11.4
Haines Borough	74	78	44.6	83.3	0.	NA	55.4	16.7
Juneau Borough	512	771	80.3	82.5	0.8	0.3	18.9	17.3
Kenai Peninsula Borough	470	827	86.0	90.3	0.9	0.2	13.2	9.4
Ketchikan Gateway Bor.	515	642	82.7	81.5	0.6	0.2	16.7	18.4
Kobuk Census Division	157	249	6.4	6.0	0.	NA	93.6	94.0
Kodiak Island Borough	210	255	54.3	55.3	1.4	2.0	44.3	42.7
Matanuska-Susitna Bor.	308	730	95.8	95.9	0.	0.	4.2	4.1
Nome Census Borough	225	339	18.7	12.4	0.	0.	81.3	87.6
North Slope Borough	95	148	6.3	5.4	0.	NA	93.7	94.6
Prince of Wales	129	151	33.3	33.8	0.	NA	66.7	66.2
Sitka Borough	360	361	76.1	75.1	0.3	0.6	23.6	24.4
Skagway-Yakutat	190	192	55.8	48.4	0.	NA	44.2	51.6
Southeast Fairbanks	24	142	91.7	60.6	0.	1.4	8.3	38.0
Valdez-Cordova Census D.	189	295	70.4	70.5	0.	0.3	29.6	29.2
Wade Hampton Census Div.	103	178	8.7	2.2	0.	NA	91.3	97.8
Wrangell-Petersburg	259	353	74.9	77.1	0.	NA	25.1	22.9
Yukon-Koyukuk Census D.	240	308	23.8	24.0	0.	0.	76.3	76.0

*Includes Alaska Natives, Asians, and Pacific Islanders

Note: NA denotes "not available" due to census suppression to ensure confidentiality.

TABLE 6. NUMBER OF PERSONS 65 YEARS AND OVER
BY TYPE OF LIVING ARRANGEMENT
STATE OF ALASKA
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	2288	33.2	4243	36.7
Spouse	987	14.3	2116	18.3
Relative	1225	17.8	1200	10.4
Nonrelative	215	3.1	243	2.1
Total	4715	68.5	7802	67.6
LIVING ALONE				
Males	997	14.5	1250	10.8
Females	702	10.2	1716	14.9
Total	1699	24.7	2966	25.7
LIVING IN GROUP QUARTERS				
Inmate of Institution	340	4.9	706	6.1
Other	133	1.9	73	0.6
Total	473	6.9	779	6.7
GRAND TOTAL	6887	100.0	11547	100.0

Figure 2

Distribution of Persons 65 Years and Older
by Type of Living Arrangements

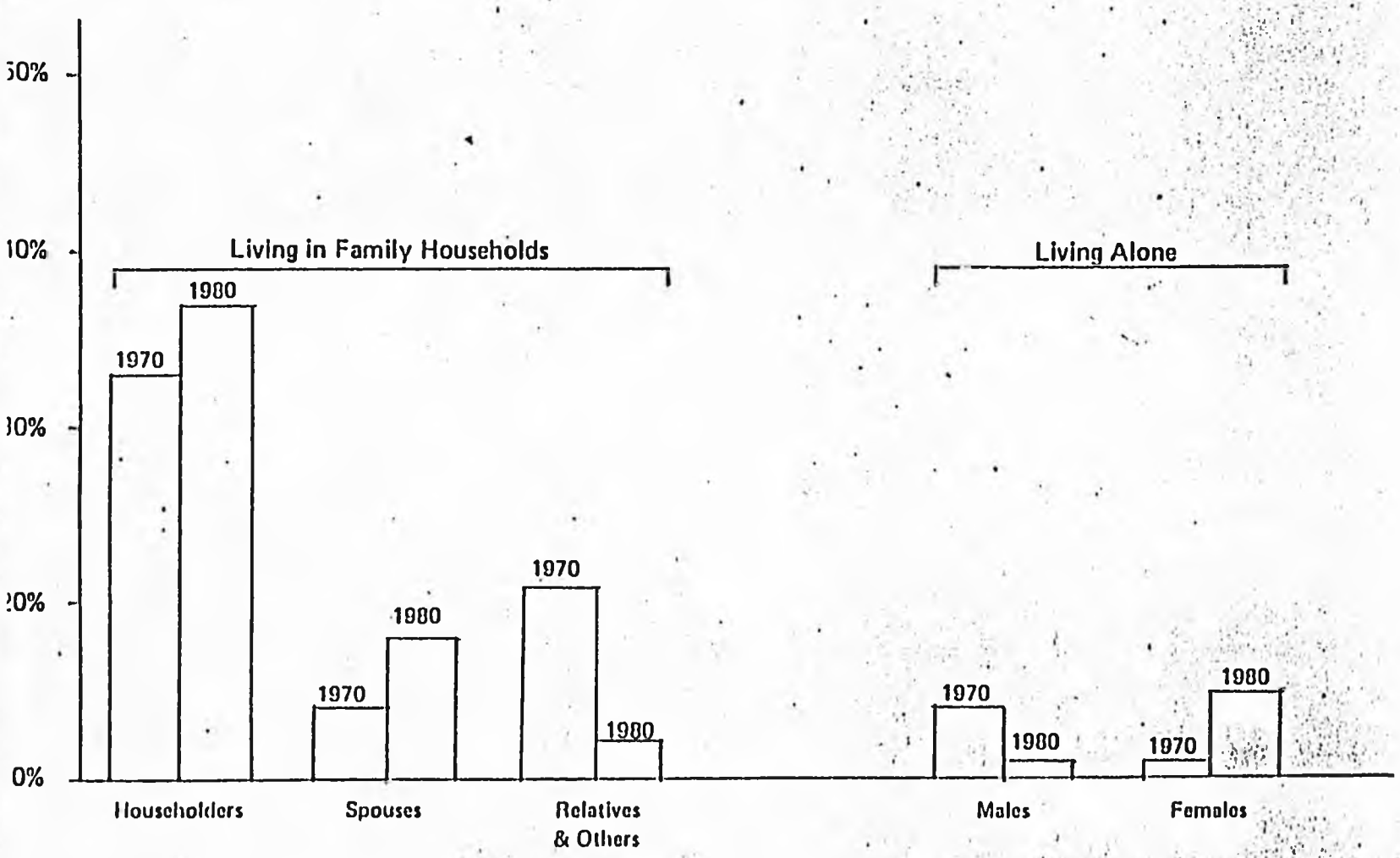

TABLE 7. HOUSEHOLDERS 65 YEARS AND OLDER
BY HOUSING TENURE STATUS
STATE OF ALASKA
1980

	Total	Percent	Homeowners		Renters	
			Number	Percent	Number	Percent
Alaska	9272	100.0	7209	77.8	2063	22.2
Aleutian Islands	73	100.0	66	90.4	7	9.6
Anchorage Borough	2789	100.0	2054	73.6	735	26.4
Bethel Census Division	337	100.0	294	87.2	43	12.8
Briston Bay Borough	24	100.0	19	79.2	5	20.8
Dillingham Census Div.	127	100.0	119	93.7	8	6.3
Fairbanks North Star	1049	100.0	764	72.8	285	27.2
Haines Borough	64	100.0	51	79.7	13	20.3
Juneau Borough	688	100.0	508	73.8	180	26.2
Kenai Peninsula Borough	680	100.0	547	80.4	133	19.6
Ketchikan Gateway Bor.	518	100.0	399	77.0	119	23.0
Kobuk Census Division	179	100.0	164	91.6	15	8.4
Kodiak Island Borough	226	100.0	169	74.8	57	25.2
Matanuska-Susitna Bor.	472	100.0	395	83.7	77	16.3
Nome Census Division	314	100.0	235	74.8	79	25.2
North Slope Borough	123	100.0	96	78.0	27	22.0
Prince of Wales	118	100.0	101	85.6	17	14.4
Sitka Borough	232	100.0	165	71.1	67	28.9
Skagway-Yakutat	159	100.0	131	82.4	28	17.6
Southeast Fairbanks	112	100.0	93	83.0	19	17.0
Valdez-Cordova Census D.	263	100.0	208	79.1	55	20.9
Wade Hampton Census Div.	138	100.0	134	97.1	4	2.9
Wrangell-Petersburg	309	100.0	254	82.2	55	17.8
Yukon-Koyukuk Census D.	278	100.0	243	87.4	35	12.6

TABLE 8. PERSONS 65 YEARS AND OVER BY POVERTY STATUS
STATE OF ALASKA
1969 AND 1979

	1969		1979		Above Poverty Status				Below Poverty Status			
					1969		1979		1969		1979	
	Total	Percent	Total	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Alaska	6172	100	10448	100	4179	78	8966	87	1453	22	1482	13
Aleutian Islands	16	100	103	100	3	19	67	65	13	71	36	35
Anchorage	1713	100	3200	100	1487	87	2932	92	226	13	268	8
Bethel Census Div.	253	100	423	100	37	34	302	71	166	66	121	29
Bristol Bay Borough	15	100	20	100	8	53	14	70	7	47	6	30
Dillingham Census Div.	125	100	164	100	69	53	91	55	56	45	73	45
Fairbanks North Star	534	100	1020	100	450	84	931	91	040	16	09	9
Haines Borough	47	100	75	100	27	6	65	87	29	94	10	13
Juneau Borough	485	100	730	100	417	86	670	92	68	14	60	8
Kenai Peninsula Borough	417	100	802	100	346	83	721	90	71	17	81	10
Ketchikan Gateway Bor.	505	100	546	100	379	75	462	85	126	25	84	15
Kobuk Census Division	148	100	244	100	104	70	173	71	44	30	71	29
Kodiak Island Borough	191	100	255	100	130	68	233	91	61	32	22	9
Matanuska-Susitna Bor.	302	100	633	100	219	72	556	88	83	28	77	12
Nome Census Division	225	100	318	100	144	64	207	65	81	36	111	35
North Slope Borough	151	100	150	100	101	67	119	79	50	33	31	21
Prince of Wales	80	100	151	100	73	91	129	85	7	9	22	15
Sitka Borough	199	100	245	100	146	73	219	89	53	27	26	11
Skagway-Yakutat	177	100	186	100	89	50	162	87	88	50	24	13
Southeast Fairbanks	59	100	110	100	50	85	92	84	9	15	18	16
Valdez-Cordova Census D.	77	100	262	100	59	77	196	75	18	23	66	25
Wade Hampton Census Div.	0	100	177	100	0	0	93	53	0	0	84	47
Wrangell-Petersburg	259	100	335	100	200	77	320	96	59	23	15	4
Yukon-Koyukuk Census D.	194	100	299	100	131	68	212	71	63	32	87	29

Figure 3

Distribution of Persons 65 Years and Older by Poverty Status

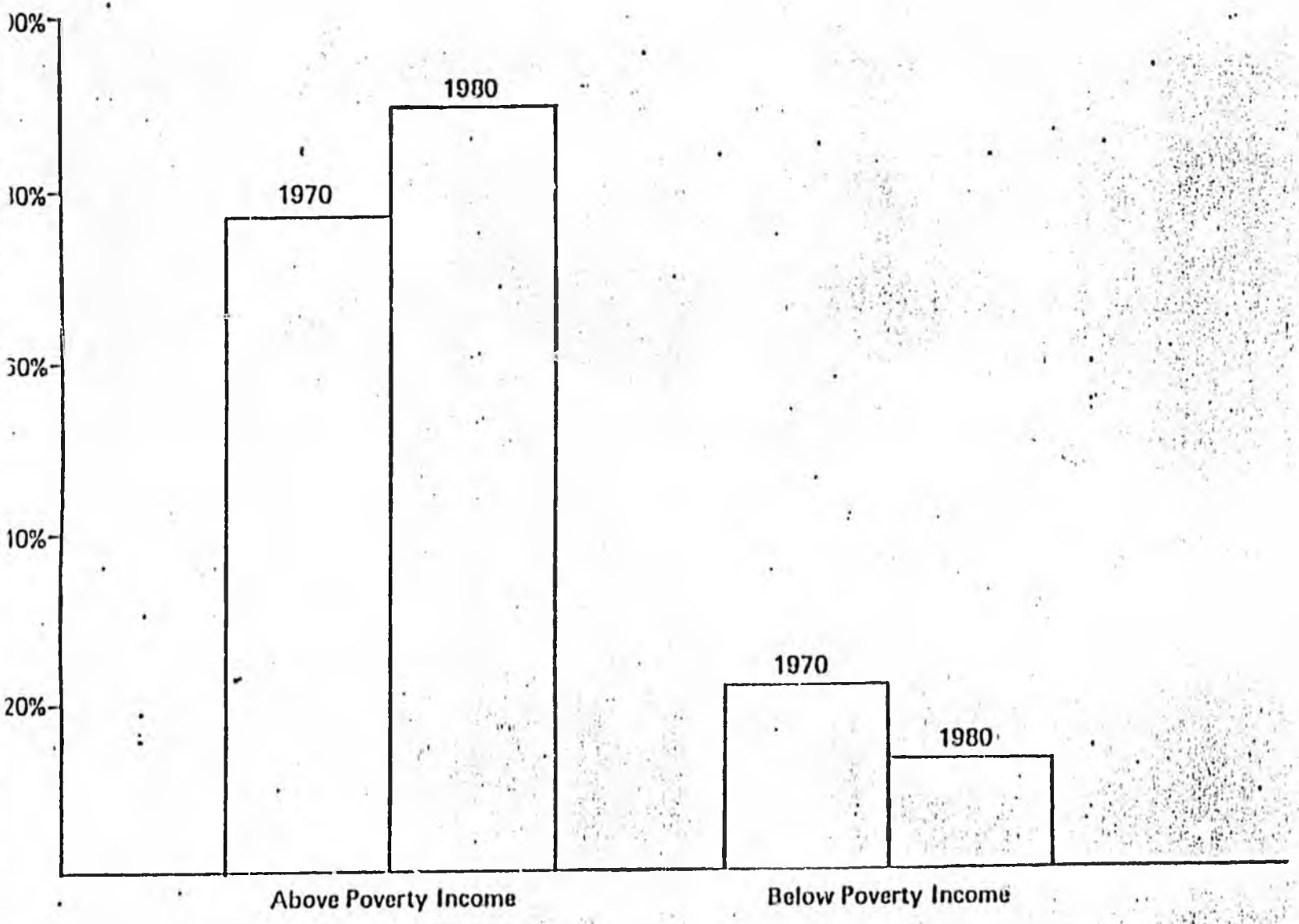

TABLE 10. NATIVE PERSONS 65 YEARS AND OLDER
BY CENSUS DIVISION
STATE OF ALASKA
1980

	Number	Percent
Alaska	2881	100.0
Aleutian Islands	92	3.2
Anchorage Borough	194	6.7
Bethel Census Division	418	14.5
Bristol Bay Borough	13	0.5
Dillingham Census Div.	145	5.0
Fairbanks North Star	117	4.1
Haines Borough	12	0.4
Juneau Borough	77	2.7
Kenai Peninsula Borough	67	2.3
Ketchikan Gateway Bor.	93	3.2
Kobuk Census Division	234	8.1
Kodiak Island Borough	87	3.0
Matanuska-Susitna Bor.	26	0.9
Nome Census Division	297	10.3
North Slope Borough	140	4.9
Prince of Wales	98	3.4
Sitka Borough	77	2.7
Skagway-Yakutat	94	3.3
Southeast Fairbanks	54	1.9
Valdez-Cordova Census D.	73	2.5
Wade Hampton Census Div.	174	6.0
Wrangell-Petersburg	70	2.4
Yukon-Koyukuk Census D.	229	7.9

CENSUS AREA DATA TABLES

TABLE 11. PERSONS 55 YEARS AND OVER BY AGE AND SEX
ALEUTIAN ISLANDS CENSUS AREA
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	190	200	93	97	50	48	36	43	11	12
Percent	100.0	100.0	48.9	48.5	26.3	24.0	18.9	21.5	5.8	6.0
FEMALE										
Number	92	132	43	47	30	33	10	43	9	9
Percent	100.0	100.0	46.7	35.6	32.6	25.0	10.9	32.6	9.8	6.8
TOTAL										
Number	282	332	136	144	80	81	46	86	20	21
Percent	100.0	100.0	48.2	43.4	28.4	24.4	16.3	25.9	7.1	6.3

TABLE 12. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
ALEUTIAN ISLANDS CENSUS AREA
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	23	34.8	49	45.8
Spouse	2	3.0	15	14.0
Relative	13	19.7	21	19.6
Nonrelative	1	1.5	1	0.9
Total	39	59.1	86	80.4
LIVING ALONE				
Males	12	18.2	8	7.5
Females	2	3.0	9	8.4
Total	14	21.2	17	15.9
LIVING IN GROUP QUARTERS				
Inmate of Institution	0	0	0	0
Other	13	19.7	4	3.7
Total	13	19.7	4	3.7
TOTAL	66	100.0	107	100.0

TABLE 13. PERSONS 55 YEARS AND OVER BY AGE AND SEX
ANCHORAGE BOROUGH
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	3453	5912	1662	2746	901	1623	607	1195	283	355
Percent	100.0	100.0	48.1	46.4	26.1	27.4	17.6	20.2	8.2	6.0
FEMALE										
Number	3012	6026	1353	2609	820	1447	578	1428	261	542
Percent	100.0	100.0	44.9	43.3	27.2	24.0	19.2	23.7	8.7	9.0
TOTAL										
Number	6465	11945	3015	5355	1721	3070	1185	2623	544	897
Percent	100.0	100.0	46.6	44.8	26.6	25.7	18.3	22.0	8.4	7.5

TABLE 14. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
ANCHORAGE BOROUGH
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	472	27.3	1057	30.0
Spouse	253	14.6	630	17.9
Relative	456	26.4	507	14.4
Nonrelative	78	4.5	79	2.2
Total	1259	72.8	2273	64.6
LIVING ALONE				
Males	187	10.8	326	9.3
Females	191	11.0	671	19.1
Total	378	21.9	997	28.3
LIVING IN GROUP QUARTERS				
Inmate of Institution	70	4.0	241	6.8
Other	22	1.3	9	0.3
Total	92	5.3	250	7.1
TOTAL	1729	100.0	3520	100.0

TABLE 15. PERSONS 55 YEARS AND OVER BY AGE AND SEX
BETHEL CENSUS DIVISION
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	347	540	134	169	68	136	83	173	62	62
Percent	100.0	100.0	38.6	31.3	19.6	25.2	23.9	32.0	17.9	11.5
FEMALE										
Number	252	427	93	114	65	117	66	141	28	55
Percent	100.0	100.0	36.9	26.7	25.8	27.4	26.2	33.0	11.1	12.9
TOTAL										
Number	599	967	227	283	133	253	149	314	90	117
Percent	100.0	100.0	37.9	29.3	22.2	26.2	24.9	32.5	15.0	12.1

TABLE 16. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
BETHEL CENSUS DIVISION
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	117	49.0	243	56.4
Spouse	22	9.2	75	17.4
Relative	67	28.0	58	13.5
Nonrelative	6	2.5	3	0.7
Total	212	88.7	379	87.9
LIVING ALONE				
Males	10	4.2	29	6.7
Females	16	6.7	22	5.1
Total	26	10.9	51	11.8
LIVING IN GROUP QUARTERS				
Inmate of Institution	0	0.0	0	0.0
Other	1	0.4	1	0.2
Total	1	0.4	1	0.2
TOTAL	239	100.0	431	100.0

TABLE 17. PERSONS 55 YEARS AND OVER BY AGE AND SEX
BRISTOL BAY BOROUGH
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	40	37	14	13	11	11	13	9	2	4
Percent	100.0	100.0	35.0	35.1	27.5	29.7	32.5	24.3	5.0	10.8
FEMALE										
Number	25	29	6	6	8	11	8	8	3	4
Percent	100.0	100.0	24.0	20.7	32.0	37.9	32.0	27.6	12.0	13.8
TOTAL										
Number	65	66	20	19	19	22	21	17	5	8
Percent	100.0	100.0	30.8	28.8	29.2	33.3	32.3	25.8	7.7	12.1

TABLE 18. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
BRISTOL BAY BOROUGH
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	9	34.6	13	52.0
Spouse	3	11.5	3	12.0
Relative	2	7.7	2	8.0
Nonrelative	2	7.7	1	4.0
Total	16	61.5	19	76.0
LIVING ALONE				
Males	7	26.9	3	12.0
Females	3	11.5	3	12.0
Total	10	38.5	6	24.0
LIVING IN GROUP QUARTERS				
Inmate of Institution	0	0.0	0	0.0
Other	0	0.0	0	0.0
Total	0	0.0	0	0.0
TOTAL	26	100.0	25	100.0

TABLE 19. PERSONS 55 YEARS AND OVER BY AGE AND SEX
DILLINGHAM CENSUS DIVISION
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	205	227	68	74	59	46	65	68	13	39
Percent	100.0	100.0	33.2	32.6	28.8	20.3	31.7	30.0	6.3	17.2
FEMALE										
Number	118	178	46	66	33	50	22	48	17	14
Percent	100.0	100.0	39.0	37.1	28.0	28.1	18.6	27.0	14.4	7.9
TOTAL										
Number	323	405	114	140	92	96	87	115	30	53
Percent	100.0	100.0	35.3	34.6	28.5	23.7	26.9	28.6	9.3	13.1

TABLE 20. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
DILLINGHAM CENSUS DIVISION
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	62	53.0	98	58.0
Spouse	13	11.1	31	18.3
Relative	12	10.3	17	10.1
Nonrelative	8	6.8	2	1.2
Total	95	81.2	148	87.6
LIVING ALONE				
Males	11	9.4	9	5.3
Females	10	8.5	12	7.1
Total	21	17.9	21	12.4
LIVING IN GROUP QUARTERS				
Inmate of Institution	0	0.0	0	0.0
Other	1	0.9	0	0.0
Total	1	0.9	0	0.0
TOTAL	117	100.0	169	100.0

TABLE 21. PERSONS 55 YEARS AND OVER BY AGE AND SEX
FAIRBANKS NORTH STAR BOROUGH
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	1248	2009	599	817	340	541	219	480	90	171
Percent	100.0	100.0	48.0	40.7	27.2	26.9	17.5	23.9	7.2	8.5
FEMALE										
Number	932	1742	432	869	236	448	178	434	86	191
Percent	100.0	100.0	46.4	38.4	25.3	25.7	19.1	24.9	9.2	11.0
TOTAL										
Number	2180	3751	1031	1486	576	989	397	914	176	362
Percent	100.0	100.0	47.3	39.6	26.4	25.4	18.2	24.4	8.1	9.7

TABLE 22. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
FAIRBANKS NORTH STAR BOROUGH
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	145	25.3	394	30.9
Spouse	74	12.9	211	16.5
Relative	109	19.0	122	9.6
Nonrelative	23	4.0	36	2.8
Total	351	61.3	763	59.8
LIVING ALONE				
Males	92	16.1	173	13.6
Females	53	9.2	197	15.4
Total	145	25.3	370	29.0
LIVING IN GROUP QUARTERS				
Inmate of Institution	54	9.4	140	11.0
Other	23	4.0	3	0.2
Total	77	13.4	143	11.2
TOTAL	573	100.0	1276	100.0

TABLE 23. PERSONS 55 YEARS AND OVER BY AGE AND SEX
HAINES BOROUGH
1970 AND 1980

	Total		55-59 Years		-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	108	120	54	42	24	35	24	38	6	5
Percent	100.0	100.0	50.0	35.0	22.2	29.2	22.2	31.7	5.6	4.2
FEMALE										
Number	92	103	27	38	21	30	26	29	18	6
Percent	100.0	100.0	29.3	36.9	22.8	29.1	28.3	28.2	19.6	5.8
TOTAL										
Number	200	223	81	80	45	65	50	67	24	11
Percent	100.0	100.0	40.5	35.9	22.5	29.1	25.0	30.0	12.0	4.9

TABLE 24. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
HAINES BOROUGH
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	20	27.0	36	46.2
Spouse	13	17.6	22	28.2
Relative	9	12.2	5	6.4
Nonrelative	2	2.7	0	0.0
Total	44	59.5	63	80.8
LIVING ALONE				
Males	9	12.2	5	6.4
Females	3	4.1	10	12.8
Total	12	16.2	15	19.2
LIVING IN GROUP QUARTERS				
Inmate of Institution	18	24.3	0	0.0
Other	0	0.0	0	0.0
Total	18	24.3	0	0.0
TOTAL	74	100.0	78	100.0

TABLE 25. PERSONS 55 YEARS AND OVER BY AGE AND SEX
JUNEAU BOROUGH
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	804	944	326	365	219	225	186	274	73	80
Percent	100.0	100.0	40.5	38.7	27.2	23.8	23.1	29.0	9.1	8.5
FEMALE										
Number	706	1046	262	351	191	278	177	283	76	134
Percent	100.0	100.0	37.1	33.6	27.1	26.6	25.1	27.1	10.8	12.8
TOTAL										
Number	1510	1990	588	716	410	503	363	557	149	214
Percent	100.0	100.0	38.9	36.0	27.2	25.3	24.0	28.0	9.9	10.8

TABLE 26. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
JUNEAU BOROUGH
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	165	32.2	268	34.8
Spouse	87	17.0	145	18.8
Relative	95	18.6	76	9.9
Nonrelative	8	1.6	22	2.9
Total	355	69.3	511	66.3
LIVING ALONE				
Males	73	14.3	69	8.9
Females	79	15.4	171	22.2
Total	152	29.7	240	31.1
LIVING IN GROUP QUARTERS				
Inmate of Institution	5	1.0	20	2.6
Other	0	0.0	0	0.0
Total	5	1.0	20	2.6
TOTAL	512	100.0	771	100.0

TABLE 27. PERSONS 55 YEARS AND OVER BY AGE AND SEX
KENAI PENINSULA BOROUGH
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	838	1297	345	486	209	355	198	375	86	81
Percent	100.0	100.0	41.2	37.5	24.9	27.4	23.6	28.9	10.3	6.2
FEMALE										
Number	538	1068	212	399	140	298	141	258	45	113
Percent	100.0	100.0	39.4	37.4	26.0	27.9	26.2	24.2	8.4	10.6
TOTAL										
Number	1376	2365	557	885	349	653	339	633	131	194
Percent	100.0	100.0	40.5	37.4	25.4	27.6	24.6	26.8	9.5	8.2

TABLE 28. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
KENAI PENINSULA BOROUGH
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	148	31.5	293	35.4
Spouse	65	13.8	167	20.2
Relative	84	17.9	69	8.3
Nonrelative	12	2.6	13	1.6
Total	309	65.7	542	65.5
LIVING ALONE				
Males	104	22.1	142	17.2
Females	40	8.5	112	13.5
Total	144	30.6	254	30.7
LIVING IN GROUP QUARTERS				
Inmate of Institution	13	2.8	31	3.7
Other	4	0.9	0	0.0
Total	17	3.6	31	3.7
TOTAL	470	100.0	827	100.0

TABLE 29. PERSONS 55 YEARS AND OVER BY AGE AND SEX
KETCHIKAN GATEWAY BOROUGH
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	670	764	226	275	168	175	193	229	83	85
Percent	100.0	100.0	33.7	36.0	25.1	22.9	28.8	30.0	12.4	11.1
FEMALE										
Number	569	737	195	236	135	173	159	198	80	130
Percent	100.0	100.0	34.3	32.0	23.7	23.5	27.9	26.9	14.1	17.6
TOTAL										
Number	1239	1501	421	511	303	348	352	427	163	215
Percent	100.0	100.0	34.0	34.0	24.5	23.2	28.4	28.4	13.2	14.3

TABLE 30. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
KETCHIKAN GATEWAY BOROUGH
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	169	32.8	221	34.4
Spouse	83	16.1	123	19.2
Relative	55	10.7	31	4.8
Nonrelative	13	2.5	6	0.9
Total	320	62.1	381	59.3
LIVING ALONE				
Males	80	15.5	73	11.4
Females	45	16.5	105	16.4
Total	165	32.0	178	27.7
LIVING IN GROUP QUARTERS				
Inmate of Institution	27	5.2	75	11.7
Other	3	0.6	8	1.2
Total	30	5.8	83	12.9
TOTAL	515	100.0	642	100.0

TABLE 31. PERSONS 55 YEARS AND OVER BY AGE AND SEX
KOBUK CENSUS DIVISION
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	181	242	65	63	38	52	54	87	24	40
Percent	100.0	100.0	35.9	26.0	21.0	21.5	29.8	36.0	13.3	16.5
FEMALE										
Number	175	228	55	64	41	42	45	78	34	43
Percent	100.0	100.0	31.4	28.1	23.4	18.4	25.7	34.6	19.4	18.9
TOTAL										
Number	356	470	120	127	79	94	99	166	58	83
Percent	100.0	100.0	33.7	27.0	22.2	20.0	27.8	35.3	16.3	17.7

TABLE 32. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
KOBUK CENSUS DIVISION
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	80	51.0	126	50.6
Spouse	23	14.6	50	20.1
Relative	31	19.7	25	10.0
Nonrelative	2	1.3	1	0.4
Total	136	86.6	202	81.1
LIVING ALONE				
Males	8	5.1	21	8.4
Females	10	6.4	17	6.8
Total	18	11.5	38	15.3
LIVING IN GROUP QUARTERS				
Inmate of Institution	0	0.0	0	0.0
Other	3	1.9	9	3.6
Total	3	1.9	9	3.6
TOTAL	157	100.0	249	100.0

TABLE 33. PERSONS 55 YEARS AND OVER BY AGE AND SEX
KODIAK ISLAND BOROUGH
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	367	432	143	185	91	113	93	95	40	39
Percent	100.0	100.0	39.0	42.8	24.8	26.2	25.3	22.0	10.9	9.0
FEMALE										
Number	237	311	100	106	60	84	55	84	22	37
Percent	100.0	100.0	42.2	34.1	25.3	27.0	23.2	27.0	9.3	11.9
TOTAL										
Number	604	743	243	291	151	197	148	179	62	76
Percent	100.0	100.0	40.2	39.2	25.0	26.5	24.5	24.1	10.3	10.2

TABLE 34. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
KODIAK ISLAND BOROUGH
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	72	34.3	88	34.5
Spouse	33	15.7	45	17.6
Relative	36	17.1	25	9.8
Nonrelative	6	2.9	9	3.5
Total	147	70.0	167	65.5
LIVING ALONE				
Males	38	18.1	40	15.7
Females	17	8.1	41	16.1
Total	55	26.2	81	31.8
LIVING IN GROUP QUARTERS				
Inmate of Institution	1	0.5	5	2.0
Other	7	3.3	2	0.8
Total	8	3.8	7	2.7
TOTAL	210	100.0	255	100.0

TABLE 35. PERSONS 55 YEARS AND OVER BY AGE AND SEX
MATANUSKA-SUSITNA BOROUGH
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	485	953	168	345	116	237	143	276	58	95
Percent	100.0	100.0	34.6	36.2	23.9	24.9	29.5	29.0	12.0	10.0
FEMALE										
Number	333	840	131	276	95	205	80	243	27	116
Percent	100.0	100.0	39.3	32.9	28.5	24.4	24.0	28.9	8.1	13.8
TOTAL										
Number	818	1793	299	621	211	442	223	519	85	211
Percent	100.0	100.0	36.6	34.6	25.8	24.7	27.3	28.9	10.4	11.8

TABLE 36. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
MATANUSKA-SUSITNA BOROUGH
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	91	29.5	246	33.7
Spouse	47	15.3	156	21.4
Relative	34	11.0	63	8.6
Nonrelative	11	3.6	15	2.1
Total	183	59.4	480	65.8
LIVING ALONE				
Males	71	23.1	68	9.3
Females	27	8.8	81	11.1
Total	98	31.8	149	20.4
LIVING IN GROUP QUARTERS				
Inmate of Institution	2	0.6	100	13.7
Other	25	8.1	1	0.1
Total	27	8.8	101	13.8
TOTAL	308	100.0	730	100.0

TABLE 37. PERSONS 55 YEARS AND OVER BY AGE AND SEX
NOME CENSUS DIVISION
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	310	375	117	125	68	73	92	130	33	47
Percent	100.0	100.0	37.7	33.3	21.9	19.5	29.7	34.7	10.6	12.5
FEMALE										
Number	259	314	100	87	59	65	73	119	27	43
Percent	100.0	100.0	38.6	27.7	22.8	20.7	28.2	37.9	10.4	13.7
TOTAL										
Number	569	689	217	212	127	138	165	249	60	90
Percent	100.0	100.0	38.1	30.8	22.3	20.0	29.0	36.1	10.5	13.1

TABLE 38. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
NOME CENSUS DIVISION
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	113	50.2	179	52.8
Spouse	22	9.8	64	18.9
Relative	40	17.8	33	9.7
Nonrelative	4	1.8	5	1.5
Total	179	79.6	281	82.9
LIVING ALONE				
Males	24	10.7	33	9.7
Females	12	5.3	23	6.8
Total	36	16.0	56	16.5
LIVING IN GROUP QUARTERS				
Inmate of Institution	0	0.0	0	0.0
Other	10	4.4	2	0.6
Total	10	4	2	0.6
TOTAL	225	100.0	339	100.0

TABLE 39. PERSONS 55 YEARS AND OVER BY AGE AND SEX
NORTH SLOPE BOROUGH
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	140	187	45	67	38	39	40	62	17	19
Percent	100.0	100.0	32.1	35.8	27.0	20.9	28.6	33.2	12.1	10.2
FEMALE										
Number	102	144	42	45	22	32	23	52	15	15
Percent	100.0	100.0	41.2	31.3	21.6	22.2	22.5	36.1	14.7	10.4
TOTAL										
Number	242	331	87	112	60	71	63	114	32	34
Percent	100.0	100.0	36.0	33.8	24.8	21.5	26.0	34.4	13.2	10.3

TABLE 40. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
NORTH SLOPE BOROUGH
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	52	54.7	84	56.8
Spouse	13	13.7	34	23.0
Relative	16	16.8	15	10.1
Nonrelative	0	0.0	1	0.7
Total	81	85.3	134	90.5
LIVING ALONE				
Males	3	3.2	5	3.4
Females	7	7.4	7	4.7
Total	10	10.5	12	8.1
LIVING IN GROUP QUARTERS				
Inmate of Institution	1	1.1	0	0.0
Other	3	3.2	2	1.4
Total	4	4.2	2	1.4
TOTAL	95	100.0	148	100.0

TABLE 41. PERSONS 55 YEARS AND OVER BY AGE AND SEX
PRINCE OF WALES-OUTER KETCHIKAN
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	240	214	97	77	71	54	48	55	24	28
Percent	100.0	100.0	40.4	36.0	29.6	25.2	20.0	25.7	10.0	13.1
FEMALE										
Number	142	162	47	53	38	41	41	43	16	25
Percent	100.0	100.0	33.1	32.7	26.8	25.3	28.9	26.5	11.3	15.4
TOTAL										
Number	382	376	144	130	109	95	89	98	40	53
Percent	100.0	100.0	37.7	34.6	28.5	25.3	22.3	26.1	10.5	14.1

TABLE 42. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
PRINCE OF WALES-OUTER KETCHIKAN
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	56	43.4	64	42.4
Spouse	26	20.2	31	20.5
Relative	23	17.8	13	8.6
Nonrelative	1	0.8	1	0.7
Total	106	82.2	109	72.2
LIVING ALONE				
Males	12	9.3	20	13.2
Females	10	7.8	17	11.3
Total	22	17.1	37	24.5
LIVING IN GROUP QUARTERS				
Inmate of Institution	0	0.0	5	3.3
Other	1	0.8	0	0.0
Total	1	0.8	5	3.3
TOTAL	129	100.0	151	100.0

TABLE 43. PERSONS 55 YEARS AND OVER BY AGE AND SEX
SITKA BOROUGH
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	404	405	120	137	83	91	108	97	93	80
Percent	100.0	100.0	29.7	33.8	20.5	22.5	26.7	24.0	23.0	19.8
FEMALE										
Number	344	384	119	128	66	72	94	103	65	81
Percent	100.0	100.0	34.6	33.3	19.2	18.8	27.3	26.8	18.9	21.1
TOTAL										
Number	748	789	239	265	149	163	202	200	158	161
Percent	100.0	100.0	32.0	33.6	19.9	20.7	27.0	25.3	21.1	20.4

TABLE 44. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
SITKA BOROUGH
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	79	21.9	100	27.7
Spouse	46	12.8	57	15.8
Relative	27	7.5	28	7.8
Nonrelative	9	2.5	24	6.6
Total	161	44.7	209	57.9
LIVING ALONE				
Males	27	7.5	20	5.5
Females	30	8.3	45	12.5
Total	57	15.8	65	18.0
LIVING IN GROUP QUARTERS				
Inmate of Institution	141	39.2	64	17.7
Other	1	0.3	23	6.4
Total	142	39.4	87	24.1
TOTAL	360	100.0	361	100.0

TABLE 45. PERSONS 55 YEARS AND OVER BY AGE AND SEX
SKAGWAY-YAKUTAT-ANGOON CENSUS DIVISION
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	240	218	72	73	50	44	84	64	34	37
Percent	100.0	100.0	30.0	33.5	20.8	20.2	35.0	29.4	14.2	17.0
FEMALE										
Number	148	197	50	62	26	44	51	62	21	29
Percent	100.0	100.0	33.8	31.5	17.6	22.3	34.5	31.5	14.2	14.7
TOTAL										
Number	388	415	122	135	76	88	135	126	55	66
Percent	100.0	100.0	31.4	32.5	19.6	21.2	34.8	30.4	14.2	15.9

TABLE 46. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
SKAGWAY-YAKUTAT-ANGOON CENSUS DIVISION
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	76	40.0	85	44.3
Spouse	34	17.9	45	23.4
Relative	17	8.9	12	6.3
Nonrelative	4	2.1	4	2.1
Total	131	68.9	146	76.0
LIVING ALONE				
Males	42	22.1	20	10.4
Females	16	8.4	26	13.5
Total	58	30.5	46	24.0
LIVING IN GROUP QUARTERS				
Inmate of Institution	0	0.0	0	0.0
Other	1	0.5	0	0.0
Total	1	0.5	0	0.0
TOTAL	190	100.0	192	100.0

TABLE 47. PERSONS 55 YEARS AND OVER BY AGE AND SEX
SOUTHEAST FAIRBANKS CENSUS DIVISION
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	63	201	37	77	11	49	11	50	4	25
Percent	100.0	100.0	58.7	38.3	17.5	24.4	17.5	24.9	6.3	12.4
FEMALE										
Number	38	162	15	62	14	33	7	45	2	22
Percent	100.0	100.0	39.5	38.3	36.8	20.4	18.4	27.8	5.3	13.6
TOTAL										
Number	101	363	52	139	25	82	18	95	6	47
Percent	100.0	100.0	51.5	38.3	24.8	22.6	17.8	26.2	5.9	12.9

TABLE 48. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
SOUTHEAST FAIRBANKS CENSUS DIVISION
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	14	58.3	69	48.6
Spouse	7	29.2	28	19.7
Relative	0	0.0	14	9.9
Nonrelative	0	0.0	5	3.5
Total	21	87.5	116	81.7
'NG ALONE				
	2	8.3	18	12.7
	1	4.2	6	4.2
	3	12.5	24	16.9
'UP QUARTERS				
.stitution	0	0.0	0	0.0
	0	0.0	2	1.4
.al	0	0.0	2	1.4
TOTAL	24	100.0	142	100.0

TABLE 49. PERSONS 55 YEARS AND OVER BY AGE AND SEX
VALDEZ-CORDOVA CENSUS DIVISION
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	373	458	142	174	107	113	86	123	38	48
Percent	100.0	100.0	38.1	38.0	28.7	24.7	23.1	26.9	10.2	10.5
FEMALE										
Number	211	349	88	145	58	80	43	89	22	35
Percent	100.0	100.0	41.7	41.5	27.5	22.9	20.4	25.5	10.4	10.0
TOTAL										
Number	584	807	230	319	165	193	129	212	60	83
Percent	100.0	100.0	39.4	39.5	28.3	23.9	22.1	26.3	10.3	10.3

TABLE 50. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
VALDEZ-CORDOVA CENSUS DIVISION
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	65	34.4	116	39.3
Spouse	22	11.6	45	15.3
Relative	10	5.3	25	8.5
Nonrelative	5	2.6	6	2.0
Total	102	54.0	192	65.1
LIVING ALONE				
Males	51	27.0	56	19.0
Females	24	12.7	36	12.2
Total	75	39.7	92	31.2
LIVING IN GROUP QUARTERS				
Inmate of Institution	8	4.2	6	2.0
Other	4	2.1	5	1.7
Total	12	6.3	11	3.7
TOTAL	189	100.0	295	100.0

TABLE 51. PERSONS 55 YEARS AND OVER BY AGE AND SEX
WADE HAMPTON CENSUS DIVISION
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	149	251	54	96	37	47	41	80	17	28
Percent	100.0	100.0	36.2	38.2	24.8	18.7	27.5	31.9	11.4	11.2
FEMALE										
Number	114	179	41	67	28	42	30	50	15	20
Percent	100.0	100.0	36.0	37.4	24.6	23.5	26.3	27.9	13.2	11.2
TOTAL										
Number	263	430	95	163	65	89	71	130	32	48
Percent	100.0	100.0	36.1	37.9	24.7	20.7	27.0	30.2	12.2	11.2

TABLE 52. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
WADE HAMPTON CENSUS DIVISION
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	50	48.5	118	66.3
Spouse	13	12.6	31	17.4
Relative	18	17.5	12	6.7
Nonrelative	1	1.0	1	0.6
Total	82	79.6	162	91.0
LIVING ALONE				
Males	10	9.7	7	3.9
Females	5	4.9	9	5.1
Total	15	14.6	16	9.0
LIVING IN GROUP QUARTERS				
Inmate of Institution	0	0.0	0	0.0
Other	6	5.8	0	0.0
Total	6	5.8	0	0.0
TOTAL	103	100.0	178	100.0

TABLE 53. PERSONS 55 YEARS AND OVER BY AGE AND SEX
WRANGELL-PETERSBURG CENSUS DIVISION
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	354	435	119	139	93	104	96	143	46	49
Percent	100.0	100.0	33.6	32.0	26.3	23.9	27.1	32.9	13.0	11.3
FEMALE										
Number	273	371	91	113	65	97	73	101	44	60
Percent	100.0	100.0	33.3	30.5	23.8	26.1	26.7	27.2	16.1	16.2
TOTAL										
Number	627	806	210	252	158	201	169	244	90	109
Percent	100.0	100.0	33.5	31.3	25.2	24.9	27.0	30.3	14.4	13.5

TABLE 54. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
WRANGELL-PETERSBURG CENSUS DIVISION
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	88	34.0	150	42.5
Spouse	46	17.8	65	18.4
Relative	28	10.8	10	2.8
Nonrelative	10	3.9	5	1.4
Total	172	66.4	230	65.2
LIVING ALONE				
Males	51	19.7	43	12.2
Females	35	13.5	61	17.3
Total	86	33.2	104	29.5
LIVING IN GROUP QUARTERS				
Inmate of Institution	0	0.0	19	5.4
Other	1	0.4	0	0.0
Total	1	0.4	19	5.4
TOTAL	259	100.0	353	100.0

TABLE 55. PERSONS 55 YEARS AND OVER BY AGE AND SEX
YUKON-KOYUKUK CENSUS DIVISION
1970 AND 1980

	Total		55-59 Years		60-64 Years		65-74 Years		75+ Years	
	1970	1980	1970	1980	1970	1980	1970	1980	1970	1980
MALE										
Number	406	411	148	135	107	92	103	132	48	52
Percent	100.0	100.0	36.5	32.8	26.4	22.4	25.4	32.1	11.8	12.7
FEMALE										
Number	238	292	92	97	57	71	51	94	38	30
Percent	100.0	100.0	38.7	33.2	23.9	24.3	21.4	32.2	16.0	10.3
TOTAL										
Number	644	703	240	232	164	163	154	226	86	82
Percent	100.0	100.0	37.3	33.0	25.5	23.2	23.9	32.1	13.4	11.7

TABLE 56. PERSONS OVER 65 YEARS BY TYPE OF LIVING ARRANGEMENT
YUKON-KOYUKUK CENSUS DIVISION
1970 AND 1980

	1970		1980	
	Number	Percent	Number	Percent
LIVING IN FAMILY HOUSEHOLD				
Householder	95	39.6	146	47.4
Spouse	24	10.0	43	14.0
Relative	37	15.4	17	5.5
Nonrelative	8	3.3	3	1.0
Total	164	68.3	209	67.9
LIVING ALONE				
Males	52	21.7	62	20.1
Females	22	9.2	35	11.4
Total	74	30.8	97	31.5
LIVING IN GROUP QUARTERS				
Inmate of Institution	0	0.0	0	0.0
Other	2	0.8	2	0.6
Total	2	0.8	2	0.6
TOTAL	240	100.0	308	100.0

exemption upon SSI

PATRICK M. RODEY
3271 MONTCLAIRE CT
ANCHORAGE, AK 99503

DURING SESSION:
POUCH V
JUNEAU, AK 99811
(907) 465-3717

1.

ALASKA STATE SENATE

M E M O R A N D U M

DATE: February 14, 1984

TO: U.S. Senator Ted Stevens

FROM: Senator Rodey and Representatives Hayes and Adams

RE: Federal Exemption for the Alaska Longevity Bonus Program

Title XVI of the Social Security Act, as amended, established a national program, effective January 1, 1974, called Supplemental Security Income for the Aged, Blind and Disabled (SSI). It is a welfare program which provides monthly cash payments to persons who are blind, disabled, or who have reached the age of 65 and have demonstrated financial need.

The amount of the monthly payments is based on the difference between the maximum income standards (presently $314 for an individual, and $472 for a couple) and the total monthly income as determined by 42 USC § 1382. For our purposes, we are only concerned with the SSI payments to the aged.

42 USC § 1382(b)(2)(B) is the federal exemption which requires the Social Security Administration, when calculating the amount of SSI benefits for which an individual or couple are eligible, to disregard the $250 per month income provided by the Alaska Longevity Bonus program.

It is this exemption which may be in jeopardy if and when our Longevity Bonus bill is enacted. We have already requested a formal opinion from the Social Security Administration, Region X on this matter, and are awaiting their response. (See attachment.)

If their opinion is that our proposed changes to the Alaska Longevity Bonus program make the present exemption null and void, we would request that you seek an amendment to the federal law which would continue the exemption for recipients of the revised bonus program.

The amendment we would suggest is as follows:

> 42 USC § 1382(b)(2)(B) monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 or older and duration of residence in such State by such individual.

Should it become necessary for you to seek this amendment to federal law, we offer the following information about the fiscal impact of the SSI program in Alaska.

According to the local office of the Social Security Administration:

1) the number of older Alaskans who received SSI benefits during the most recent reporting period for which figures are available (the 3rd Quarter of 1983) was 1,111.

2) the total federal dollars expended in Alaska in all of 1983 for SSI payments to older Alaskans was only $2,222,000.

As you can easily see when you compare these figures with the corresponding national totals - 1,548,471 older Americans received $225.6 million each month in SSI payments in 1983 - the fiscal impact of the Alaska program on the federal budget is extremely small. However to the estimated 700-300 older Alaskans who receive both the Alaska Longevity Bonus and SSI, the average monthly SSI payment of $178 is significant. It is on behalf of these people that we ask for your help.

PATRICK M. RODEY
3271 MONTCLAIRE CT.
ANCHORAGE, AK 99503

DURING SESSION:
POUCH V
JUNEAU, AK 99811
(907) 465-3717

ALASKA STATE SENATE

February 15, 1984

Honorable Ted Stevens
United States Senate
147 Russell Office Building
Washington, D.C. 20510

ATTN: Mark Barnes

Dear Ted:

This is to follow up on our meeting of yesterday regarding the Alaska Longevity Bonus. First, we would like to thank you for your prompt attention to our concern. We know how busy you must be, and we appreciate you taking the time to assist us on the question of the SSI federal exemption.

Second, we would like to request a brief letter from your office reiterating for the record what we discussed informally in the Speaker's office. We want to be sure that this small uncertainty about the federal exemption does not get in the way of solving the larger problem of the Longevity Bonus. A letter from your office expressing your confidence that the exemption can be continued will enable us to keep moving the bill through the committee process while we await final resolution of the exemption question.

Once again, thanks for your help.

With warm regards,

Patrick M. Rodey

Albert P. Adams

PATRICK M. RODEY
3271 MONTCLAIRE CT.
ANCHORAGE, AK 99503

DURING SESSION:
POUCH V
JUNEAU, AK 99811
(907) 465-3717

ALASKA STATE SENATE

February 13, 1984

John Henderson
Assistant Regional Commissioner, Programs
Social Security Administration, Region X
2901 3rd Avenue
Mail Stop 302
Seattle, Washington 98121

ATTN: Loren Gomez

Dear Mr. Henderson:

Pursuant to the telephone conversation last week between Loren Gomez of your office and Jim Kelly, my administrative assistant, this is to request a formal opinion on the effect the attached, proposed change to Alaska State law would have on the federal exemption contained in 42 USC § 1382(b)(2)(B).

This exemption (Attachment #1) requires the Social Security Administration, when calculating the amount of SSI benefits for which an individual or couple are eligible, to disregard the $250 per month provided by the Alaska Longevity Bonus program.

Attachment #2 is the present law governing the bonus program; attachment #3 is a copy of the bill which would change the present law. The section which may affect the federal exemption appears on page 2 of the bill, lines 13-16.

When this section goes into effect on July 1, 1990, and the age requirement for eligibility for a longevity bonus is increased to 66 years of age, will the federal exemption still be in force? Will the exemption remain in force in succeeding years as the age requirement continues to stair-step up one year, each year?

I have been in contact with U.S. Senator Ted Stevens' office, and his staff's preliminary opinion is that the language of the federal exemption is broad enough to accomodate the proposed change. If that is not the opinion of your office, however, Senator Stevens has indicated a willingness to pursue a change in federal law which would continue the exemption for recipients of the revised Alaska Longevity Bonus program.

Your timely response to this request is critical. The bill making the changes to the present Alaska Longevity Bonus program was introduced yesterday in both the State House and the State Senate, with a majority of legislators already signed on as co-sponsors. Thus, the prospects for early passage by the full Legislature are excellent.

I look forward to hearing from you on this very important matter. If you have any questions, or need further information, please contact Jim Kelly of my staff at (907)465-3754. Thank you.

With regards,

Patrick M. Rodey

Attachments

ATTACHMENT #1

furnished to such individual or such spouse without such institution receiving payment therefor (unless such institution has expressly undertaken an obligation to furnish full support and maintenance to such individual or spouse without any current or future payment therefor) or payment therefor is made by another nonprofit organization, and (iii) support and maintenance shall not be included and the provisions of clause (i) shall not be applicable in the case of any individual (and his eligible spouse, if any) for the period which begins with the month in which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in a residential facility (including a private household) maintained by anotner person and ends with the close of the month in which such individual (or such individual and his eligible spouse) ceases to receive support and maintenance while living in such a residential facility (or, if earlier, with the close of the seventeenth month following the month in which such period began), if, not more than 30 days prior to the date on which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in such a residential facility, (I) such individual (or such individual and his eligible spouse) were residing in a household maintained by such individual (or by such individual and others) as his or their own home, (II) there occurred within the area in which such household is located (and while such individual, or such individual and his spouse, were residing in the household referred to in subclause (I)) a catastrophe on account of which the President declared a major disaster to exist therein for purposes of the Disaster Relief Act of 1974 [42 U.S.C.A. § 5121 et seq.], and (III) such individual declares that he (or he and his eligible spouse) ceased to continue living in the household referred to in subclause (II) because of such catastrophe.

[See main volume for text of (B) to (F)]

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

[See main volume for text of (1)]

(2)(A) the first $240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual;

(B) monthly (or other periodic) payments received by any individual under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual;

(3)(A) the total unearned income of such individual (and such spouse, if any) in a month which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed $20 in such month and (B) the total earned income of such individual (and such spouse, if any) in a month which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $10 in such month;

[See main volume for text of (4)(A)]

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this subchapter (or aid under a State plan approved under section 1352 or 1382 of this title) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, (ii) such additional amounts of earned income of such individual (for purposes of determining the amount of his or her benefits under this subchapter and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility), if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or

Dept. of Law
Y-1-4

8.

LONGEVITY BONUS STATUS

1. Vest v. State at the Superior Court:

Vest originally sued in the summer of 1982. A three-way agreement was signed by our office, Vest and the Legislative Council staying the case through the 1983 legislative session, on the Council's agreement to use its best efforts to enact legislation which treated all senior Alaskans equally. No legislation was enacted, and Vest reactivated the suit shortly after the close of the session.

Vest filed a short summary judgment memorandum arguing that the residency requirements (25 years continuous residency, and residency in the territory prior to statehood) were invalid after the U.S. Supreme Court decision in Zobel. He also argued that the provisions violated the Citizenship Clause and the Alaska equal protection clause. Finally, he argued that the residency provisions should be striken from the act, and the program opened up to all residents.

The state argued that Zobel was not a per se bar to residency requirements, that the court should judge the program under the federal rational basis test, that states have broad leeway in deciding whom to benefit when distributing state resources, and that there were valid, rational reasons for favoring pre-statehood residents over those who came later. The state also argued that the residency requirements were not severable from the remainder of the act, and if they were invalid the court could not open up the program.

Judge Carpeneti ruled on December 17, 1983 in favor of Vest on all arguments except severability. He found that the act infringed the federally protected right-to-travel and applied the strict scrutiny test, noting that the program did not merely delay benefits, as in Sosna v. Iowa, 419 U.S. 393 (1975) (one year requirement for divorce not invalid), but rather denied newer arrivals entirely of the ability to participate in the program. He further read Zobel as implying that the U.S. Supreme Court would have applied strict scrutiny in that case if it had reached the issue. Once determining that strict scrutiny applied, the court held the residency requirements invalid since there was no compelling state interest to support them.

Judge Carpeneti enjoined the program, and stayed his own order for 30 days. The state filed its appeal, and then moved for an extended stay pending final disposition by the state supreme court. The state's motion was granted on January 13, 1984.

2. State v. Vest, Supreme Court:

On January 10, 1984, Judge Carpeneti reduced his order to a written judgment, thus preparing the way for appeal. The state's appeal papers were filed that day. The appellate rules provide that the superior court has 40 days to certify the record (about February 20, but since the record is relatively small, it may take less time), the state then has 30 days to file its appeal brief (about March 22), Vest has 30 days to answer (about April 22) and the state has 20 days to reply (about May 12). Vest's counsel have talked about moving for expedited treatment, but to date have not filed such a motion.

3. Other considerations:

The drafters of any legislation replacing the present program should consider the proposed program with an eye to the federal eligibility rules for Supplemental Social Security. Our adult public assistance program (blind, disabled and aged) is tied to those rules. The federal statute and regulations are attached, and provide for two relevant exemptions for "income."

One deals specifically with our program (although not by name) and exempts payments under a program enacted prior to July 1, 1973 if payments are not based on need and are based solely on the recipient's attainment of age 65 and duration of residence in the state. An amendment to the present act reducing the residency requirement to one year would come within this exemption.

The second exemption is for assistance which is based on need and furnished by a state or subdivision. The statute is silent on what constitutes "need," but the regulation states that "assistance is based on need when it is provided under a program which uses the amount of your income as one factor to determine your eligibility." Thus we believe that any program with an income cap would come within this exemption.

USL

chapter, which is to pay benefits only to the extent an individual's basic subsistence needs are not provided from other sources: use of a presumed value to allow the agency to avoid complex, individualized computations was not unreasonable, particularly in view of the fact that the presumption creates a maximum reduction in benefits and may be rebutted by a recipient. Wynn v. Harris, D.C.Tenn.1980, 494 F.Supp. 878.

As regarded regulation pursuant to which the recipients' supplemental security income benefits were reduced based on their alleged receipt of in-kind support and maintenance benefits amounting to the difference between the amount of rent they paid and the current retail value of their housing, the decision by the Secretary to utilize current market value was clearly reasonable, whether or not other methods might be equally reasonable or even superior: in addition, the absence of empirical data underlying the one-third presumptive reduction in benefits did not render the regulation arbitrary. Id.

Under regulations setting forth requirements for an approved state program of aid to the aged, blind and disabled under this chapter to effect that amount of property that could be reserved for each individual recipient should not be in excess of $2,000, requirement would be construed as applying to savings derived from any source, including savings from aid to the aged, blind and disabled benefits and, thus, in order to have had an "approved" plan, New York must have imposed a ceiling of no more than $2,000 on such savings. Yulling v. Califano, D.C.N.Y.1979, 474 F.Supp. 601.

New York program of aid to the aged, blind and disabled did impose limit on savings from resources and, thus, was an approved plan within meaning of the federal supplemental security income regulations. Id.

27. Incremental method

In regard to public households containing persons receiving benefits under old age, survivors and disability insurance program or under supplemental security income program, appropriate method of calculating public assistance for remaining eligible household members was "incremental" method, under which only eligible persons were counted in order to determine household's size before referring to schedules to find appropriate fixed allowance, rather than "proration" method, under which two-thirds of three person grant would be authorized for households containing one ineligible and two eligible persons. Leone v. Blum, 1980, 425 N.Y.S.2d 836, 73 A.D.2d 252, certification denied 431 N.Y.S.2d 814, 50 N.Y.2d 1042, 410 N.E.2d 747, affirmed 440 N.Y.S.2d 604, 53 N.Y.2d 105, 423 N.E.2d 27.

28. Lump-sum payment

Practice of Secretary in including a lump-sum social security payment for purposes of determining available resources of an applicant under regulation providing that in order to be eligible for supplemental security income payment a single individual may not have resources of more than $1,500 is consistent with the statutory scheme; therefore, applicant who was paid approximately $11,500 in a lump-sum supplemental security income payment was not entitled to receive monthly benefits. Beatty v. Schweiker, C.A.Pa.1982, 678 F.2d 359.

§ 1382a. Income: definition of earned and unearned income; exclusions from income

(a) For purposes of this subchapter, income means both earned income and unearned income; and—

(1) earned income means only—

(A) wages as determined under section 403(f)(5)(C) of this title;

(B) net earnings from self-employment, as defined in section 411 of this title (without the application of the second and third sentences following subsection (a)(11), and the last paragraph of subsection (a)), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c);

(C) any refund of Federal income taxes made by reason of section 43 of Title 26 (relating to earned income credit) and any payment made by an employer under section 3507 of Title 26 (relating to advance payment of earned income credit); and

(D) remuneration received for services performed in a sheltered workshop or work activities center; and

(2) unearned income means all other income, including—

(A) support and maintenance furnished in cash or kind; except that (i) in the case of any individual (and his eligible spouse, if any) liv[illegible] in another person's household and receiving support and maintenance [illegible] from such person, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1382 of this title shall be reduced by 33⅓ percent in lieu of including such support and maintenance in the unearned income of such individual (and spouse) as otherwise required by this subparagraph, (ii) in the case of any individual or his eligible spouse who resides in a nonprofit retirement home or similar nonprofit institution, support and maintenance shall not be included to the extent that it is

furnished to such individual
payment therefor (unless su
gation to furnish full suppor
without any current or fut
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the case of any individual
which begins with the month
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(3)(A) the total unearned inc
a month which, as determine
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irregularly to be included, if su
month;
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(B) if such individual (or such
attained age 65, or received benefit
approved under section 1352 or 13
which he attained age 65), (i) the
amounts for shorter periods) of
paragraphs of this subsection, (ii)
individual (for purposes of determi
subchapter and of determining his
months of eligibility after the init
disability is sufficiently severe to r
in order for him to work, as may b
attendant care services, medical de
services (not including routine drug

furnished to such individual or such spouse without such institution receiving payment therefor (unless such institution has expressly undertaken an obligation to furnish full support and maintenance to such individual or spouse without any current or future payment therefor) or payment therefor is made by another nonprofit organization, and (iii) support and maintenance shall not be included and the provisions of clause (i) shall not be applicable in the case of any individual (and his eligible spouse, if any) for the period which begins with the month in which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in a residential facility (including a private household) maintained by another person and ends with the close of the month in which such individual (or such individual and his eligible spouse) ceases to receive support and maintenance while living in such a residential facility (or, if earlier, with the close of the seventeenth month following the month in which such period began), if, not more than 30 days prior to the date on which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in such a residential facility, (I) such individual (or such individual and his eligible spouse) were residing in a household maintained by such individual (or by such individual and others) as his or their own home, (II) there occurred within the area in which such household is located (and while such individual, or such individual and his spouse, were residing in the household referred to in subclause (I)) a catastrophe on account of which the President declared a major disaster to exist therein for purposes of the Disaster Relief Act of 1974 [42 U.S.C.A. § 5121 et seq.], and (III) such individual declares that he (or he and his eligible spouse) ceased to continue living in the household referred to in subclause (II) because of such catastrophe;

[See main volume for text of (B) to (F)]

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

[See main volume for text of (1)]

(2)(A) the first $240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual;

(B) monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual;

(3)(A) the total unearned income of such individual (and such spouse, if any) in a month which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed $20 in such month and (B) the total earned income of such individual (and such spouse, if any) in a month which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $10 in such month;

[See main volume for text of (4)(A)]

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this subchapter (or aid under a State plan approved under section 1352 or 1382 of this title) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, (ii) such additional amounts of earned income of such individual (for purposes of determining the amount of his or her benefits under this subchapter and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility), if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or

services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe, (iii) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (iv) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

[See main volume for text of (C) and (5)]

(6) assistance, furnished to or on behalf of such individual (and spouse), which is based on need and furnished by any State or political subdivision of a State;

[See main volume for text of (7) and (8)]

(9) if such individual is a child one-third of any payment for his support received from an absent parent;

(10) any amounts received for the foster care of a child who is not an eligible individual but who is living in the same home as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(11) assistance received under the Disaster Relief Act of 1974 [42 U.S.C.A. § 5121 et seq.] or other assistance provided pursuant to a Federal statute on account of a catastrophe which is declared to be a major disaster by the President;

(12) interest income received on assistance funds referred to in paragraph (11) within the 9-month period beginning on the date such funds are received (or such longer periods as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and

(13) any assistance received to assist in meeting the costs of home energy, including both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) (A) is based on need for such assistance, and (B) is (i) assistance furnished in kind by a private nonprofit agency, or (ii) assistance furnished by a supplier of home heating oil or gas, by an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.

(As amended Oct. 26, 1974, Pub.L. 93–484, § 4, 88 Stat. 1460; Jan. 2, 1976, Pub.L. 94–202, § 9, 89 Stat. 1140; June 30, 1976, Pub.L. 94–331, §§ 2(a), 4(a), 90 Stat. 781, 782; Oct. 4, 1976, Pub.L. 94–455, Title XXI, § 2123, 90 Stat. 1920; Oct. 20, 1976, Pub.L. 94–566, Title V, § 505(b), 90 Stat. 2686; Nov. 12, 1977, Pub.L. 95–171, § 8(a), 91 Stat. 1355; Apr. 1, 1980, Pub.L. 96–222, Title I, § 101(a)(2)(B), 94 Stat. 195; June 9, 1980, Pub.L. 96–265, Title II, § 202(a), Title III, § 302(b), 94 Stat. 449, 451; Oct. 19, 1980, Pub.L. 96–473, § 6(g), 94 Stat. 2266; Aug. 13, 1981, Pub.L. 97–35, Title XXIII, § 2[illegible](b) 95 Stat. 865; Jan. 6, 1983, Pub.L. 97–424, Title V, § 545(a), 96 Stat. 2198.)

1 So in original. There is no closing parenthesis.

References in Text. The Disaster Relief Act of 1974, referred to in text, is Pub.L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (section 5121 et seq.) of this title. For distribution in the Code of such Act, see Short Title note set out under section 5121 of this title.

1981 Amendment. Subsec. (b)(3). Pub.L. 97–35 substituted "month" for "calendar quarter" wherever appearing, "such month" for "such quarter" wherever appearing, "$20" for "$60", and "$10" for "$30".

1980 Amendments. Subsec. (a)(1). Pub.L. 96–473, § 6(g)(1), (2), in subpar. (B) substituted "(ii)" for "(10)", and redesignated second subpar. (C) relating to remuneration received for services in a sheltered workshop, etc., as (D).

Subsec. (a)(1)(C). Pub.L. 96–265 § 202(a), added subsec. (a)(1)(C).

Subsec. (a)(1)(C). Pub.L. 96–222 added subsec. (a)(1)(C).

Subsec. (b)(2)(B). Pub.L. 96–473, § 6(g)(3) substituted "monthly" for "Monthly" and "individual;" for "individual.", which changes had been made editorially for purposes of codification, thereby requiring no further changes in text.

Subsec. (b)(4)(B). Pub.L. 96–265, § 302(b), added provisions relating to extraordinary work expenses due to severe disability.

1977 Amendment. Subsec. (b)(12). Pub.L. 95–171 added par. (12).

1976 Amendments. Subsec. (a)(2)(A). Pub.L. 94–331, § 4(a), added cl. (iii).

Subsec. (a)(2)(A)(iii). Pub.L. 94–455 substituted in parenthetical text "seventeenth month" for "fifth month".

Subsec. (b). Pub.L. 94–331, § 2(a), added par. (11).

Subsec. (b)(2). Pub.L. 94–202 designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b)(6). Pub.L. 94–566 substituted "assistance, furnished to or on behalf of such individual (and spouse), which" for "assistance described in section 1382(a) of this title which".

1974 Amendment. Subsec. (a)(2)(A). Pub.L. 93–484 designated existing provisions as cl. (i) and added cl. (ii).

Effective Date of 1981 Amendment. Amendment by Pub.L. 97–35 effective with respect to months after the first calendar quarter which ends more than five months after August, 1981, with provision for transitional payments, see section 2341(c) of Pub.L. 97–35, set out as a note under section 1382 of this title.

Effective Date of 1980 Amendments. Section 202(b) of Pub.L. 96–265 provided that: "The amendments made by subsection (a) [enacting subsec. (a)(1)(C) of this section] shall apply only with respect to remuneration received in months after September 1980."

Insertion in subsec. (b)(4)(B) of this section by section 302(b) of Pub.L. 96–265 of reference to extraordinary work expenses due to severe disability applicable with respect to expenses incurred on or after the first day of the sixth month which begins after June 9, 1980, see section 302(c) of Pub.L. 96–265, set out as a note under section 423 of this title.

Amendment by Pub.L. 96–222 applicable to payments for months beginning after Dec. 31, 1979, see section 101(b)(1)(B) of Pub.L. 96–222, set out as a note under section 602 of this title.

Effective Date of 1977 Amendment. Section 8(b) of Pub.L. 95–171 provided that: "The amendment made by this section [enacting subsec. (b)(12) of this section] shall be effective July 1, 1976, with respect to catastrophes which occurred on or after June 1, 1976, and before December 31, 1976. With respect to catastrophes which occurred on or after December 31, 1976, the amendment made by this section [enacting subsec. (b)(12) of this section] shall be effective the first day of the calendar quarter following enactment of this Act [Nov. 12, 1977]."

Effective Date of 1976 Amendments. Amendment by Pub.L. 94–566 effective Oct. 1, 1976, see section 505(e) of Pub.L. 94–566, set out as a note under section 1382 of this title.

Section 2(b) of Pub.L. 94–331, as amended by Pub.L. 95–171, § 6(a), Nov. 12, 1977, 91 Stat. 1355, effective the first day of calendar quarter following Nov. 12, 1977, provided that: "The Amendments made by this Act [amending subsec. (b)(11) of this section and sections 415, 3402, 6153, and 6154 of Title 26, and enacting provisions set out as notes under sections 415 and 3402 of Title 26] shall be applicable only in the case of catastrophes which occur on or after June 1, 1976."

Section 4(b) of Pub.L. 94–331, as amended by Pub.L. 95–171, § 7(a), Nov. 12, 1977, 91 Stat. 1355, effective the first day of calendar quarter following Nov. 12, 1977, provided that: "The

CFR

earned income received in that period. Rather than reducing your SSI payments in quarters prior to your receipt of a retroactive monthly social security benefit, we will reduce the retroactive social security benefits by an amount equal to the amount of SSI payments (including federally administered State supplementary payments) that we would not have paid to you if your social security benefits had been paid when regularly due rather than retroactively (see § 404.408b(b)). If a balance is due you from your retroactive social security benefits after this reduction, for SSI purposes we will not count the balance as unearned income in a subsequent quarter in which you receive it. This is because your social security benefits were used to determine the amount of the reduction. This exception to the unearned income counting rule does not apply to any monthly social security benefits for a period for which you did not receive SSI.

OMB CONTROL No.: 0960-0123 for § 416.1123(b).

[45 FR 65547, Oct. 3, 1980 as amended at 47 FR 4988, Feb. 3, 1982; 47 FR 13794, Apr. 1, 1982]

§ 416.1124 Unearned income we do not count.

(a) *General.* While we must know the source and amount of all of you unearned income for SSI, we do not count all of it to determine your eligibility and benefit amount. We first exclude income as authorized by other Federal laws (see paragraph (b) of this section). Then we apply the other exclusions in the order listed in paragraph (c) of this section to the rest of your unearned income in the calendar quarter. We never reduce your unearned income below zero or apply any unused unearned income exclusion to earned income except for the $60 general exclusion described in paragraph (c)(10) of this section.

(b) *Other Federal laws.* Some Federal laws other than the Social Security Act provide that we cannot count some of your unearned income for SSI purposes. We list the laws and the exclusions in the appendix to this subpart which we update periodically.

(c) *Other unearned income we do not count.* We do not count as unearned income—

(1) Any public agency's refund of taxes on real property or food;

(2) Assistance based on need which is wholly funded by a State or one of its political subdivisions. (For purposes of this rule, an Indian tribe is considered a political subdivision of a State.) Assistance is based on need when it is provided under a program which uses the amount of your income as one factor to determine your eligibility. Assistance based on need includes State supplementation of Federal SSI benefits as defined in Subpart T of this part but does not include payments under a Federal/State grant program such as Aid to Families with Dependent Children under title IV-A of the Social Security Act;

(3) Any portion of a grant, scholarship, or fellowship used for paying tuition, fees, or other necessary educational expenses. However, we do count any portion set aside or actually used for food, clothing, or shelter;

(4) Food which you or your spouse raise if it is consumed by you or your household;

(5) Assistance received under the Disaster Relief Act of 1974 and assistance provided under any Federal statute because of a catastrophe which the President of the United States declares to be a major disaster. See § 416.1150 for a more detailed discussion of this assistance, particularly the treatment of in-kind support and maintenance received as the result of a major disaster;

(6) Up to $60 of unearned income in a calendar quarter if you receive it infrequently or irregularly; that is, if you receive it only once during the quarter or if you cannot reasonably expect to receive it. If the total amount of infrequent or irregular unearned income you receive in a quarter exceeds $60, we cannot use this exclusion;

(7) Periodic payments made by a State under a program established before July 1, 1973, and based solely on your length of residence and attainment of age 65;

(8) Payments for providing foster care to an ineligible child who was

placed in your home by a public or private nonprofit child placement or child care agency;

(9) One-third of support payments made to or for you by an absent parent if you are a child;

(10) The first $60 (or proportionately less for less than a full quarter) of any unearned income in a calendar quarter other than income based on need. Income based on need is a benefit that uses the amount of your income as a factor to determine your eligibility. The $60 exclusion does not apply to a benefit based on need that is totally or partially funded by the Federal government or by a nongovernmental agency. (However, assistance which is based on need and funded wholly by a State or one of its political subdivisions is excluded totally from income as described in § 416.1124(c)(2).) If you receive less than $60 of unearned income in a quarter and you have earned income in that quarter, we will use the rest of the $60 exclusion to reduce the amount of your countable earned income; and

(11) Any unearned income you receive and use to fulfill an approved plan for achieving self-support, if you are blind or disabled. See §§ 416.1180 through 416.1182 for an explanation of plans to achieve self-support and for the rules on when this income exclusion applies.

(12) Any interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become a part of the separately identifiable burial fund. (See § 416.1231 for an explanation of the exclusion of burial assets.) This exclusion from income applies to interest earned on burial funds or appreciation in value of excluded burial arrangements which occur beginning November 1, 1982, or the date you first become eligible for SSI benefits, if later.

[45 FR 65547, Oct. 3, 1980, and 47 FR 55213, Dec. 8, 1982]

In-Kind Support and Maintenance

§ 416.1130 Introduction.

(a) *General.* Both earned income and unearned income include items received in kind (§ 416.1102). Generally we value in-kind items at their current market value and we apply the various exclusions for both earned and unearned income. However, we have special rules for valuing food, clothing, or shelter that is received as unearned income (in-kind support and maintenance). This section and the ones that follow discuss these rules.

(b) *How we define in-kind support and maintenance.* In-kind support and maintenance means any food, clothing, or shelter that is given to you or that you receive because someone else pays for it. Shelter includes room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services. You are not receiving in-kind support and maintenance in the form of room or rent if you are paying the amount charged under a business arrangement.

(c) *How we value in-kind support and maintenance.* Essentially, we have two rules for valuing the in-kind support and maintenance which we must count. The one-third reduction rule applies if you are living in the household of a person who provides you with both food and shelter (§§ 416.1131 through 416.1133). The presumed value rule applies in all other situations where you are receiving countable in-kind support and maintenance (§§ 416.1140 through 416.1145). In some living arrangements, if certain conditions exist, we do not count in-kind support and maintenance. These are discussed in §§ 416.1141 through 416.1145. Also, we apply special rules when members of a couple have different living arrangements (§ 416.1147).

§ 416.1131 The one-third reduction rule.

(a) *What the rule is.* Instead of determining the actual dollar value of in-kind support and maintenance, we reduce the Federal benefit rate by one-third if you (or you and your eligible spouse)—

Another way to pay longevity bonuses

Dear Editor:

Should the state allow everyone who has lived in Alaska 12 months and has had the good fortune to reach the age of 65 to be eligible for the longevity bonus regardless of whether they have contributed to, or paid anything to, the building of the state?

I have a plan I hope the legislators will seriously consider. I believe this plan is constitutional and one which would not be difficult to administer.

First, Alaska would replace the name of the Longevity Bonus Program with the School Tax Refund Annuity Plan (STRAP). Until a couple of years ago, anyone who ever drew a paycheck in Alaska had $10 deducted from his first one each year.

Second, instead of giving a bonus, Alaska would give an annuity.

Third, Alaska would change the criteria for recipients of the annuity. For each year the school tax was paid, that person would have a year vested in STRAP. That would be the sole requirement.

As an example, a person who started paying before statehood and continued to pay for 20 years would be 100 percent vested. Because the maximum amount would be fixed, this would be a defined benefit plan.

This is how the annuitant would be paid:

1. Any person who paid into the plan for 20 years would receive $250 a month because she would be 100 percent vested; e.g., Rodney Vest, who has brough suit against the state, has worked here for 20 years so he would receive the full $250.

2. Any person who paid the school tax for 15 years would receive 75 percent of $250 or $187.50.

3. Any person who paid the school tax for 10 years would receive 50 percent or $125.

4. Any person who paid the school tax only the year before it was discontinued would be fully vested in 5 percent of the amount so that upon reaching age 65 that person would receive $12.50 a month. Still not a bad return for a $10 investment.

As with any pension plan, the School Tax Refund Annuity Plan would not be complete until the last annuitant had received his last check and turned out the light.

In a plan like this, the state would use its actuarial tables to calculate its total unfunded liability in order to fund the plan until everyone is paid.

Is this plan oversimplified? Perhaps. Is this plan a fair one? Yes. It would meet all the requirements of the Employees Retirement Income Security Act of 1974 (ERISA); it would meet all the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA); it would even uphold the Norris Decision which requires equal benefits for men and women. There is no discrimination in age, sex, race or length of residency in this plan.

I wish this type of vesting had been used in the dividend program. We might have saved ourselves a lot of problems.

Roland Bloes, CLU
1500 Primrose St.

A

ISSUES IN LONGEVITY BONUS LEGISLATION

Background

Last year the U.S. Supreme Court struck down Alaska's original Permanent Fund dividend distribution program. The Court ruled in the Zobel case that the program's cumulative residency requirements violated the Equal Protection Clause of the U.S.Constitution.

Within a month of the Zobel decision, Anchorage-area resident Rodney Vest challenged the Alaska longevity bonus (ALB) program on equal protection grounds. The program pays $250 per month to all Alaska residents over 65 who: (a) resided in Alaska before Alaska achieved statehood on January 3, 1959; and (b) have resided in Alaska at least 25 years.

Vest is 68 years old and began his residence in Alaska three months after statehood. The court has certified his suit as a class action, which means that he represents all other individuals who might claim the longevity bonus program's residency requirements are unconstitutional.

Concerned that the lawsuit could force an immediate end to the program, the Legislative Council agreed last August with Vest to use its "best efforts" to obtain legislation addressing Vest's lawsuit in return for Vest's promise to stay the litigation until the end of the 1983 legislative session. Under the stay agreement, the Legislative Council promised to seek legislation which: (1) "treats equally" all one-year Alaska residents 65 or over; and (2) retroactively pays those individuals who have been denied bonuses in FY83.

If the legislation called for in the stay agreement is enacted during this regular session, the suit will be dismissed. If this legislation is not enacted, Vest's lawyers have announced their intention to continue the litigation and sue for retroactive payments for the class for back years -- perhaps back to 1972.

Issues

1. What are the chances the state will win in court?

The Legislative Council entered this agreement on the advice of the Department of Law and other counsel that the current law is unconstitutionally discriminatory. The

Department of Law has since described the program as indefensible. Virtually every attorney who has considered the subject believes the current law is unconstitutional and would be struck down by the courts.

The statute which created the program in 1972 is specifically non-severable; if any provision is struck down, the entire statute falls. If the court finds the program unconstitutional, the court will probably order all payments stopped.

2. What is the purpose of the longevity bonus program?

The 1972 legislation creating the program suggested four purposes:

(a) reward the past contributions of Alaska's pioneers;

(b) provide a financial incentive for Alaska's pioneers to remain in the state in the face of the state's high cost of living;

(c) retain the wisdom and experience of Alaska's pioneers; and

(d) compensate for past hardships -- such as the inability to vote in federal elections -- suffered by Alaska's pioneers.

The Zobel case and other recent constitutional decisions strongly imply that these purposes cannot legally sustain the program, either because the purposes are impermissible, or because the program's methods are not rationally related to these purposes. The program's supporters often offer two additional purposes which -- unlike the current law -- apply to a program which makes payments to all senior citizens, not just pioneers. These additional purposes are:

(e) diversify the age structure of Alaska's population by encouraging elderly people to live in the state; and

(f) provide income supplements and relief to Alaska's elderly, who have a lower average income than the rest of the adult population.

3. What are the options?

Numerous approaches have been suggested for this problem. They include:

(a) continue to litigate, making zero or minor changes in the current law;

(b) continue to litigate, but make the statute severable and amend the law to provide for a more likely constitutional

"back-stop" plan to be triggered by an injunction ag... program;

(c) open up the program to all one-year Alaska residents over 65, and then close it in FY84, giving all recipients a "grandfather" right to continue receiving benefits;

(d) open up the program to all one-year residents over 65 on an indefinite basis;

(e) phase out the longevity bonus program by reducing the monthly payments each year, either with or without simultaneous gradual increases in public assistance;

(f) open up the program -- with reduced benefits -- to all one-year residents over 65 on a temporary basis while the Legislature and administration investigate other options;

(g) phase out the longevity bonus program by increasing the age of eligibility each year;

(h) end the program;

(i) replace the longevity bonus program with an annuity program, either immediately or gradually;

(j) "buy out" all one-year Alaska residents over 65 as of the end of FY84 by paying them the amount of payments they would have received over their likely lifespans, and then end the program;

(k) replace the longevity bonus program with comprehensive health insurance for Alaska's elderly; and

(l) limit longevity bonus payments to those elderly individuals who can prove that the payments would help relieve especially heavy financial pressures to relocate out of the state.

The first six options -- fight the lawsuit, fight the lawsuit with a backstop trigger, grandfather one-year resident senior citizens, open the program indefinitely, phase out the program, and open up the program temporarily while considering the long-run options -- are receiving the most attention in the session's final days.

The fourth option -- open the program indefinitely -- is contained in HB36, SB200, and SB215. The first two bills would use General Fund monies to finance the opened-up program. SB215, which has passed the Senate, would use 12.5 percent of the Permanent Fund's annual income for this purpose.

Because current law earmarks one-half of the Fund's income to pay Permanent Fund dividends, passage of SB215 would reduce annual dividends by 25 percent. (The other half of the

interest earnings are re-invested in the Fund so as to protect it against inflation.) This year, the dividend would be cut from about $350 to about $250.

The administration has circulated a proposal to implement the fifth option, phase-out. This proposal would reduce longevity bonus payments by $25 a month each year for 10 years -- thus eliminating the program -- while simultaneously increasing old age assistance by the same amount.

4. Population issues.

Population estimates for Alaska's elderly vary widely, both as to the number of them today and their likely growth rate. Calculations made from estimates provided by the Department of Revenue and Dr. Scott Goldsmith of the University of Alaska indicate, however, that almost 20,000 Alaskans will be eligible for this program in FY86. This is double the 9,731 current recipients.

More controversial still is the impact of induced in-migration and reduced out-migration caused by an opened-up longevity bonus program itself. This is the "X factor" in the population equation, because no one can predict the long-run impact of paying $3,000 to each senior citizen ($6,000 per couple).

What is clear is that Alaska is a much different place in 1983 than it was in 1972. The state is also changing all the time in ways that make this a more attractive place for the elderly to live. The cost of living is lower, relative to costs in the Lower 48, than it used to be. The state also has more amenities such as improved medical facilities, improved transportation services (such as bus systems), and higher-quality television.

Elderly people are thus now more likely to stay in the state as they get older, and even more likely to come from the Lower 48 to live, particularly if they have family here. Senior citizens have doubled in number in the past decade, a rate of growth substantially greater than that of the rest of the population.

5. Impacts of alternatives.

(a) Impacts on future litigation.

The current law is clearly unconstitutional, so any strategy predicated on fighting the lawsuit will result in defeat. If the Legislature elects to litigate, attorneys familiar with the case predict that defeat will come in September when the Superior Court judge hearing the case rules the law unconstitutional.

Legal opinions are divided on the constitutionality of the "grandfather" option. Opening up the class of eligible recipients to include people over 65 who were one-year residents as of FY84 would resolve the Vest suit. The Department of Law thinks, however, that it may well bring another one -- which would probably be successful. Several private attorneys with a record of successful constitutional challenges have also said the grandfather plan would be vulnerable to attack on equal protection grounds. On the other hand, Legislative Counsel and private counsel retained by the Senate to research constitutional residency questions believe that while the question is certainly debatable, analogous precedents suggest the grandfather plan would be found constitutional.

(b) Impacts on recipients.

All but three of the plans outlined above will lead to immediately reduced benefits for existing recipients. The exceptions are the options of continuing to litigate, grandfathering, and indefinitely opening up the program at $250/month of General Fund monies. Continuing to litigate, however -- at least without making the statute severable or adding a backstop constitutional plan triggered by the first adverse court ruling -- will almost certainly lead to a sudden termination of the program. Most lawyers predict that the judge hearing the case will not only find the current law unconstitutional, but will also order payments stopped pending appeal.

SB215 does not contain an explicit reduction of benefits, but it will result in reduced longevity bonus payments by holding total payments to a total of 12.5 percent of Permanent Fund income. Calculations based on the Revenue-Goldsmith estimates indicate projected monthly payments over the next five years will be:

FY84	$204
FY85	$142
FY86	$184
FY87	$224
FY88	$243

The Department of Administration's projections track these estimates closely. SB215 co-sponsor Sen. Bill Ray, however, accepts neither these figures nor the Department's. The report on SB215 provided by the Senate Ad Hoc Committee on Residency predicts that under the legislation longevity bonus payments will fall below the current $250/month in at least one year, FY85.

Phasing out the longevity bonus program while increasing public assistance would leave a bad taste in the mouth of many recipients, who feel the bonus is not "welfare" but a reward for past contributions to Alaska. On the other hand, phasing out the bonus program without simultaneously increasing public

assistance would hurt many of Alaska's poorest people, some of whom depend on this monthly check. Other recipients are apparently among the wealthiest residents of the state.

Finally, SB215 would reduce the Permanent Fund dividends of Alaska's elderly by 25 percent, just as it would reduce the annual dividends of all Alaskans. Even though the elderly would receive Permanent Fund income through their longevity bonus payments, the link between dividends and Fund performance represented by the dividends might be diluted for them as well as for other Alaskans.

(c) Impacts on the state budget.

The uncertainty about the numbers of elderly Alaskans today and in the future makes estimates of long-run costs a risky enterprise. It is clear, however, that the price tag will be high. The following is a rough approximation of the total cost of each option over the next 10 years:

10-year phase-out of ALB without increases in public assistance	$230,000,000
Current program	$460,000,000
10-year phase-out of ALB with increases in public assistance	$540,000,000
SB215 (uses 12.5 percent of Permanent Fund income to open up ALB program indefinitely to all one-year residents over 65)	$675,000,000
Open up ALB program indefinitely to all one-year residents over 65 at $250/month	$775,000,000

(The cost of grandfathering at current payment levels has not been estimated, but it would be lower than opening up the program indefinitely and will decrease -- rather than increase -- each year after FY84.)

Choosing to fight the Vest lawsuit also endangers the public treasury. As stated above, Vest's attorneys have announced their intention to press for retroactive payments going back farther than FY83 if the Legislature does not abide by the stay agreement.

These retroactive payments could cover the entire decade the program has been in effect, and could amount to $40-80 million dollars. Enrolling those individuals owed retroactive payments for the past 10 years would also pose substantial problems in administration, as some could be in Arizona or Australia today.

(d) Impacts on state policy.

Opening up the program to all one-year residents 65 or over will increase Alaska's population above what it would be otherwise, although no one can say by how much. This increased population of elderly would have some beneficial effects; it would allow extended families to stay or come together, for example, thereby reducing the sense of isolation felt by many Alaskans today. There may, however, be significantly cheaper methods of increasing the numbers of senior citizens in Alaska than paying more than three quarters of a billion dollars in the next 10 years.

SB215 also carries more than the obvious cost of reducing every Alaskan's annual Permanent Fund dividend by 25 percent. The Senate bill would also increase Alaska's elderly population, although the "ceiling" represented by 12.5 percent of the Permanent Fund's income would reduce payments and thus not cause as much population growth as simply opening up the program at the current $250/month.

Critics raise three additional concerns about SB215:

--The taking of 12.5 percent of Permanent Fund income may create a precedent for other groups wanting their own share of the Fund's income.

--Taking 25 percent of everyone's Permanent Fund dividends to fund a program which makes payments to about three percent of Alaskans seems inequitable to some. Although SB215 supporters argue that all Alaskans will eventually receive longevity bonus payments, this is clearly untrue, because some will die before reaching 65.

--Using Permanent Fund income to finance the longevity bonus program does not, as SB215 supporters claim, "take Alaska's senior citizens out of the budget process," because the Legislature must still appropriate the payments each year.

6. A proposal

Two facts stand out from the current mass of confusion surrounding the longevity bonus program: (a) it will be found unconstitutional; and (b) almost everyone believes that some program meeting the special needs of some of Alaska's senior citizens should be retained, but there is little agreement on what that program should look like.

With these points in mind, the Legislature should consider a plan which would maintain the program's payments at $250/month in the short run, and search for a long-run solution.

During the next two years, the Legislature would study the program's public policy goals, the elderly's current population and future growth rates, and long-term fiscal feasibility of various options. A legislative committee should be charged with investigating policies for the elderly used in other states and nations, and take testimony from a broad cross-section of the Alaska public through statewide hearings.

(a) Advantages of proposal.

This plan has five major advantages:

--It would resolve the Vest lawsuit, thereby avoiding the possibility of a court finding the program unconstitutional and ordering its immediate termination.

--It would avoid steep reductions in payments, as it would be unfair to cut off current recipients without warning. This plan provides higher annual incomes for Alaska's senior citizens than does the Senate plan in each of the next two years. FY84 figures follow:

	House	Senate
Longevity bonus	$3000	$2448
Permanent Fund dividend	350	260
	$3350	$2708

--It steers clear of the special dedications of Permanent Fund income the Legislature has thus far avoided.

--It recognizes reality. The courts are forcing the Legislature to change the law. Alaska's elderly population is increasing significantly, and will increase faster in the years to come while oil revenues decline.

--It buys time for the Legislature, the administration, and the public to consider the long-run options for dealing with this complex problem without locking us into a "solution" we may soon regret.

(b) Disadvantages of proposal.

This plan's great disadvantage is also one of its greatest advantages. Delay can allow either reflection or inertia. The work needed to find a long-range solution to this problem might not get done.

Another significant disadvantage is immediate cost. FY84 costs could climb above the $30.2 million currently budgeted by as much as two-thirds.

Finally, there will be some administrative problems caused by the need to verify several thousand claims for FY83 retroactive payments. This administrative difficulty can be reduced by the Legislature's first acknowledging the state's liability for the payments, but delaying the appropriation until FY85. This will allow the Department of Administration time to enroll retroactive claimants and present an accurate budget to the Legislature at the beginning of the 1984 session.

(c) Where do we go from here?

Alaska is a special place, and that special quality comes less from its scenic beauty or natural resources than from the people who choose to live here.

The special quality of Alaskans is obvious in our spirit of innovation. That innovative spirit is demonstrated by three unique public institutions: the Permanent Fund, the Permanent Fund dividends, and the longevity bonus payments. All three are too important to have their fates decided in a rush.

B

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

August 31, 1983

MEMORANDUM

TO: Representative Hugh Malone

FROM: Gretchen Keiser
Legislative Analyst

RE: Basic Information on Alaska's Elderly Population
Research Request 83-203

Cliff Groh, on your behalf, requested that we answer a number of questions regarding Alaska's aged population. The information requested can be subdivided into the following four topics:

I. Alaska's Elderly Population: Present and Future
II. Elderly Public Assistance and Social Security Recipients
III. Longevity Bonus Program Recipients
IV. Life Expectancies of Alaska's Elderly

This memorandum presents the information we obtained regarding older Alaskans. We initially provide a summary of findings then present detailed information on each of the above topics in four separate sections. Specific questions you asked are reiterated at the beginning of each section.

SUMMARY OF FINDINGS

The number of older persons residing in Alaska cannot be definitely estimated because of the inherent biases and limitations of the population data available from two key sources: the Alaska Department of Labor and the Permanent Fund Dividend Program. We conclude that the elderly population (65 years and older) as of July 1, 1983 probably falls between approximately 14,600 and 15,900. Estimates in this range are higher than the 13,500 population figure used by Senate supporters of the proposed modification to the Longevity Bonus Program under CSSB 215 but lower than the 16,500 figure used by the Department of Administration in its preparation of fiscal notes for a modified Longevity Bonus Program earlier this year (pages 4 - 8).

On the basis of rather limited data, we suggest that approximately 96 to 98 percent of older Alaskans have resided in the state more than one year. The available data indicate that in recent years at least 2 to 4 percent of the elderly, on an annual basis, are new entrants with less than one year of residency. Therefore, assuming that 2 percent migrated to the state within the last year, we estimate that between 14,315 and 15,580 older Alaskans are residents of at least one year. If we assume a greater in-migration of 4 percent annually, between 14,020 and 15,265 elderly would be eligible for a longevity bonus under a one-year residency requirement (pages 5 and 6).

During the period 1970 - 1982, the elderly population growth rate (5.6 percent average annual growth) was considerably greater than that of the total population in Alaska (3.4 percent), mirroring a nationwide pattern. In 1982, the elderly represented approximately 3 percent of Alaska's population. The elderly population is expected to continue growing between 4 and 6 percent annually, while the total population growth rate is projected to slow to between 1 and 2 percent annually through the remainder of this century (pages 9 and 10).

We projected Alaska's elderly population in the year 2000 under a series of average annual growth rates. If we assume a 1983 population of 15,250 (midpoint of the 14,600 to 15,900 range previously discussed), the elderly population in the year 2000 would equal 30,100 (at 4.0 percent average annual growth), 32,170 (4.5 percent), 35,680 (5.0 percent), 38,845 (5.5 percent), and 42,290 (6.0 percent) in the year 2000. By the turn of the century, Alaska's elderly population will probably be between 2 to 3 times its present size. At 5 percent growth per year, the elderly would represent approximately 6 percent of the state's population in the year 2000, as projected by ISER's MAP model base case forecast (pages 10 - 13).

Available information on elderly interstate migration, historical patterns of older Alaskans' migration, socioeconomic characteristics, and lifestyle preferences of aged persons suggest that a dramatic increase in Alaska's elderly population solely on the basis of a monthly cash payment program is unlikely. Out-migration of Alaska's elderly may well be reduced somewhat. The aged most likely to migrate to the state as a result of a cash payment program would be those with relatives already in the state (pages 13 - 16).

The major sources of cash benefits to elderly public assistance recipients are federally funded Supplemental Security Income (SSI) and State-funded Old Age Assistance (OAA), which average $238 per month for 900 SSI recipients and $236 per month for 2,300 OAA recipients. Approximately 18 percent of elderly Alaskans were SSI and/or OAA recipients in October 1982. In comparison, approximately 9 percent of the total population receive monthly public assistance of all types (pages 17 - 19).

In 1982, 10,210 older Alaskans received Social Security payments under the retirees, survivors, and disability programs. Nationally in 1982, monthly payments averaged: $408 (retired worker), $700 (aged couple both receiving payments), and $378 (aged widow or widower) (page 17).

A total of 9,776 older Alaskans, representing approximately 61 to 67 percent of Alaska's elderly were qualified to receive longevity bonus payments in July 1983. On the average, 95 percent of the qualified recipients received bonus payments each month during FY83, with the remainder being ineligible due to absences of more than 30 days. The number of qualified recipients grew about 7 percent in the last year (pages 19 - 20).

Over two-thirds of the bonus recipients in January 1983 were 65 to 74 years old. Approximately one-quarter of the qualified recipients currently live in Southeast, roughly 42 percent live in the Anchorage/Southcentral area, 18 percent in the Interior, and the remaining 15 percent reside in Northern and Western Alaska. Ethnic data are not currently required of bonus applicants, but a 1976 survey indicates that 56 percent of the recipients were Native and 44 percent were non-Native at that time (pages 20 - 22).

Income data are also not required of current bonus recipients. In 1976, an overwhelming majority of recipients surveyed had monthly incomes (including their spouse's) under $1,000. A 1981 survey reported a marked regional difference in the dependency of older Alaskans (60 years and older) on the bonus payments as the major source of income. Only 3 percent of those surveyed in Southeast and Southcentral indicated that the bonus payments were their major source of income, while 41 and 66 percent of those surveyed in Southwest and Northwest Alaska indicated a primary dependency on the longevity bonus payments (page 22).

Rough estimates from the Department of Health and Social Services suggest that 50 to 70 percent of the aged currently receiving public assistance also participate in the longevity bonus program. Information from the 1976 survey indicates that 77 percent of the recipients of Old Age Assistance also received bonus payments, whereas about 28 percent of the bonus recipients also received OAA (page 23).

The life expectancies of older Alaskans are similar to those of the elderly nationwide. A 65-year old female Alaskan who qualified for the longevity bonus program might expect, on the average, to receive monthly payments for about 22 years, a qualified 65-year old male could enjoy cash payments for roughly 14 years (pages 23 and 24).

I. Alaska's Elderly Population: Present and Future

Questions: How many persons 65 or over are there in Alaska? How many have resided in the state one year or more? How fast is the elderly population growing relative to the entire state population? What are the most likely projections for the number of aged in Alaska in the next 20 years (with and without a reasonable adjustment for the effects of a program which makes cash payments to all elderly one-year residents)?

According to the Alaska Department of Labor (DOL), there were 13,921 Alaskans 65 years and older on July 1, 1982. This estimate is benchmarked to the 1980 Census, revised upward by DOL for estimated undercounting, and adjusted seasonally to a July 1st rather than April 1st date. Persons by age and sex were as follows:

AGE	MALE	FEMALE	TOTAL
65 - 69 years	3,113	3,197	6,310
70 - 74 years	1.818	2,003	3,821
75 years and over	1,652	2,138	3,790
TOTAL	6,583 (47.3%)	7,338 (52.7%)	13,921

In the absence of a DOL population estimate for July 1, 1983, we projected the number of senior citizens based on a review of the annual DOL population data for the period 1970 to 1982 (Attachment A). The older age group grew at an average annual rate of about 5.6 percent over the 12-year period. Looking at the past five years since completion of the TransAlaska Pipeline (1977-1982), the elderly population increased 4.8 percent annually, on the average. More recently between 1980 and 1982, the aged population grew on an average of 6.8 percent annually. On the basis of these recent historical growth rates, we projected the July 1, 1983 elderly population to be: 14,605 (4.8 percent annual growth), 14,725 (5.6 percent), or 14,900 (6.8 percent). We caution you that these are only rough projections based solely on recent annual growth rates.

The 1982 Permanent Fund Dividend (PFD) program provides another source of aged population figures which have been used by the Department of Administration in its review of the Senate's proposed legislative changes to the Alaska Longevity Bonus Program (CSSB 215). In May 1983, the Department of Revenue estimated that at least 16,500 applicants born in 1918 or earlier would ultimately be paid a PFD[1]. It

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1 A July 22, 1983 status report on 1982 PFD applicants born in 1918 or earlier does not dramatically change the earlier May estimate from the Department of Revenue.

is crucial to note that approximately 1,700 of these applicants were born in 1918 and were therefore 64 years old in 1982. Consequently, the successful PFD applicants 65 years and older in 1982 numbered approximately 14,800. This understates the total elderly population in 1982, however, because in-migrants after April 15, 1982 did not qualify for a PFD. We address this issue later in this section of the report.

In order to employ the successful 1982 PFD applicant total as a basis for estimating the 1983 elderly population, one must account for deaths among aged Alaskans. In 1981, 572 deaths were recorded among Alaskans 65 years and older, representing a death rate of 4.4 percent per year[2]. In addition, 29 deaths occurred among 64-year olds (1.7 percent annually). Therefore, of the 16,500 1982 PFD applicants, approximately 15,900 are now 65 years and older and still alive today. This is, at best, a rough estimate of the 1983 elderly population because it does not account for the out-migration of aged Alaskans since at least October 1982 (8 months) and the in-migration of elderly since April 1982 (14 months).

Usable information regarding the 1982-1983 migration patterns of older Alaskans simply does not exist. Historical trends between 1970 and 1980 and earlier indicate, however, that older age groups in Alaska undergo a net out-migration. In other words, more older persons left the state than migrated to the state during a given period of time. The pattern of elderly net out-migration, although lessening somewhat as the state matures and better services become more commonplace, will probably continue[3]. It appears reasonable to assume that more aged persons left Alaska than moved into the state between 1982 and 1983. Therefore, we suggest that the 15,900 PFD estimate be viewed as the high estimate of the total elderly population in 1983.

Residency

The overwhelming majority of older Alaskans have been residents for a considerable length of time. A statewide survey of 467 Alaskans 60 years and over conducted by the University of Alaska in 1981 indicates that approximately 90 percent had resided in Alaska for 11 years or

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[2]Alaska Vital Statistics, Annual Report 1981, Department of Health and Social Services, 1982.

[3]Mr. Dave Swanson, State Demographer, Alaska Department of Labor, Personal Communication, July 16, 1983.

more[4]. Similarly, about 90 percent of the 1979 PFD applicants (65 years and older) reported being residents for at least 11 years, with 75 percent indicating they had been residents for at least 21 years[5]. In a survey conducted by the U.S. Bureau of the Census in 1976, the average residency among civilian Alaskans 65 years and over was 33 years for non-Natives and 71 years for Natives.

Available information indicates that a small percentage of older Alaskans are recent in-migrants. Only 1.5 percent of the respondents to the 1981 University of Alaska survey (60 years and older) had lived in the State less than one year. This is probably a somewhat low estimate because elderly whites, who tend to be the more mobile persons among elderly Alaskans, were underrepresented in the University survey. The PFD program provides additional data on recent migration of older persons. Approximately 1 percent of the 1979 PFD applicants and over 3 percent of the 1980 PFD applicants 65 years and older were Alaska residents for less than one year. These estimates could also be conservative because some recent in-migrants in 1979 and 1980 might not have known of the program or have chosen not to file because they would receive only a fraction of the $50 per year dividend. Residency data from the 1982 PFD applications useful for determining recent in-migrant estimates of the elderly population are not available at this time. Furthermore, the 1980 Census data, once it becomes available, will only address 5-year interstate migration during the period 1976-1980.

On the basis of rather limited data, we suggest that at least 2 to 4 percent of the older Alaskan population in any given year are recent in-migrants with less than one year of residency. Conversely, 96 to 98 percent of the elderly appear to be longer term residents of Alaska.

Table 1 summarizes the total elderly population figures for 1982 and 1983 which we have discussed above. At this time, we conclude that the number of older persons residing in Alaska cannot be definitively estimated. Given the inherent biases and limitations of the available data, we prefer to identify the aged population as a range, encompassing what we believe to be reasonable low and high numbers. The 1983 total elderly population probably falls between 14,605 and 15,900. Assuming that 2 percent migrated to the state within the last year, we estimate that between 14,315 and 15,580 older Alaskans are residents of at least one year. Alternatively, if we assume a greater annual in-migration of elderly at 4 percent, between 14,020 and 15,265 elderly

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4 An Assessment of the Status and Needs of Alaska's Elderly, Charles Hines, Department of Sociology, University of Alaska, 1981.

5 1979 Permanent Fund Dividend Applicant Profile, Alaska Department of Revenue, 1981, Table 18.

would currently be eligible for longevity bonus payments under a one-year residency requirement.

The following factors may account for the differences between the high and low population estimates shown in Table 1:

1) Unlike the PFD program estimate, the Department of Labor 1982 estimate is benchmarked to the 1980 U.S. Census. Although Census numbers were revised upward by DOL, any residual undercounting would consistently lower annual estimates in later years, such as 1982. Similarly, the House Research Agency 1983 projections would incorporate the same undercounting biases.

2) For the purposes of the U.S. Census, individuals who live in Alaska only part of the year may have chosen to identify themselves as residents of another state. This could contribute to a lower Census count of older Alaskans, some of whom may spend a portion of the year elsewhere. On the other hand, the $1,000 cash payment of the 1982 PFD program provided a great incentive to individuals to identify themselves as Alaska residents. People had a much greater incentive to be "counted" in the 1982 PFD population than during the 1980 Census.

The population estimates in Table 1 fall between the estimates used earlier this year as the basis for proposed changes to the Alaska Longevity Bonus Program. The Senate's estimate of 13,500 eligible persons in FY 84 under CSSB 215 ranges from 4 to 15 percent lower than our estimates, depending upon the growth rate and in-migration assumptions one uses for the elderly. The Senate used a 1983 elderly population forecast made by DOL in 1981 which has been superceded by a higher DOL 1982 estimate. Estimates are more accurate than forecasts because they are based on more adequate population information. In addition, it appears that the Senate figure incorporates a relatively low estimation of annual in-migration by elderly (about 1.3 percent).

On the other hand, the Department of Revenue estimate of 16,500 1982 PFD successful applicants has been used by the Department of Administration as its estimate of eligible recipients for CSSB 215 fiscal calculations. This estimate overstates those eligible in 1983 because it fails to take into account approximately 600 deaths which probably occurred among elderly applicants since the October 15, 1982 deadline. In addition, available data suggest that out-migration among elderly probably offsets in-migration during the 1982-1983 period since filing of the 1982 PFD applications.

TABLE 1. ESTIMATES OF THE ELDERLY POPULATION OF ALASKA IN 1982 AND 1983

Year	Alaska Dept. of Labor[a]	Permanent Fund Dividend Program[b]	House Research Agency[c]
Total Elderly Population			
1982	13,920	14,800[d]	--
1983	NA	15,900	14,605 (4.8 % growth) 14,725 (5.6 % ") 14,900 (6.8 % ")
Elderly Population With At Least One-Year Residency			
Assumption: 2 percent annual in-migrants			
1982	13,645	14,650[e]	--
1983	NA	15,580	14,315 (4.8 % growth) 14,430 (5.6 % ") 14,600 (6.8 % ")
Assumption: 4 percent annual in-migrants			
1982	13,365	14,500[e]	--
1983	NA	15,265	14,020 (4.8 % growth) 14,135 (5.6 % ") 14,305 (6.8 % ")

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a Alaska Population Overview 1982. Alaska Department of Labor, 1983.

b Source: Alaska Department of Revenue, Research Section.

c The projections are based on a series of average annual growth rates computed from the Department of Labor's annual population data from 1970 - 1982. The average rates correspond with the following periods: 1977 - 1982 (5 percent), 1970-1982 (6 percent), and 1980-1982 (7 percent).

d This figure represents the estimated number of successful 1982 applicants who were 6-month residents as of October 15, 1982.

e These estimates assume that one-half of the annual in-migrants have been captured by the dividend program under the 6-month residency requirement.

Alaska's Elderly Population Growth Rate

In 1982, Alaskans 65 years and older represented 3.0 percent of the state's total population, an increase from 2.3 percent in 1970. There are relatively few older persons in Alaska compared with the elderly nationwide (11.3 percent of the U.S. population in 1980). While Alaska's total population increased by roughly 50 percent during the period 1970 - 1982, the elderly ranks almost doubled. The state's population grew at an average annual rate of 3.4 percent, whereas the elderly segment increased an average of 6.0 percent each year. Furthermore, the growth rate of Alaska's elderly population between 1970 and 1980 was more than double the nationwide rate for the elderly.

A number of factors probably contributed to the rather dramatic increase in Alaska's aged population over the past 12 years:

1) A relatively large group of persons 55 - 64 years old has aged over the past decade, swelling the elderly ranks. Many of these people probably migrated to Alaska in earlier decades when they were in their 20's, 30's and 40's.
2) Death rates among middle-aged and older Alaskans have decreased due, in part, to improved health services in the state.
3) The historical out-migration of older Alaskans, particularly whites, has decreased as the state matures and greater social and health care amenities become available in-state.
4) The in-migration of older persons may have increased during the period. Not surprisingly, the major motivating factor for interstate migration of persons 55 years and older nationwide is to be closer to relatives [6]. Common sense suggests that the most likely reason for an aged couple or individual to move north to Alaska would be in order to live near or with their children or siblings.

The elderly population in Alaska is expected to sustain its healthy growth rate of the past decade into the future. Projections vary between approximately 4 and 6 percent annual growth through the remainder of this century[7]. On the other hand, growth projections for Alaska's total population to the year 2000 suggest annual growth rates between 1 and 2 percent, much lower than the average of over 3 percent

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[6] Reasons for Interstate Migration. U.S. Department of Commerce, Bureau of the Census, Special Studies Series P-23, No. 81, March 1979.

[7] Mr. Dave Swanson, State Demographer, Alaska Department of Labor, Personal Communication, July 26, 1983 and Dr. Scott Goldsmith, Economist, Institute of Social and Economic Research, University of Alaska, Personal Communication, July 16, 1983.

during the period 1970 to 1982[8]. In light of the above projections, it is apparent that Alaska's elderly will probably represent at least 5 percent of the state's population by the year 2000. For instance, if annual growth rates of 5.0 percent (elderly population) and 1.5 percent (total population) are assumed, the elderly would represent 5.7 percent of Alaska's population in the year 2000, based on DOL's 1982 population estimates. The anticipated increase in Alaska's aged as a percentage of the total population mirrors national projections in which the elderly will increase to over 13 percent of the nation's population at the turn of the century.

Alaska's Elderly Population in the Future

Generating long-range population projections requires considerable understanding of Alaska's demographic and economic conditions which influence population levels. Underlying assumptions are crucial and often lead to quite different projections. Below we analyze some long-range projections of Alaska's population.

1. The U.S. Bureau of the Census presents a series of projections based on three patterns of age-specific migration: actual 1965-1975 migration, actual 1970-1975 migration, and hypothetical zero net migration[9]. The projections are based on Census data up to 1975; the 1980 Census data are not included[10]. The migration pattern of the elderly during the period 1965-1975 generates low growth in the elderly population, elderly migration during 1970-1975 produces moderate growth, and the zero net migration scenario shows high growth in the elderly

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[8] Mr. Tom Chester, Division of Strategic Planning, Office of Budget and Management, Personal Communication, August 3, 1983, and Man-in-the Arctic Program Economic Modelling System Technical Documentation Report, Inst. for Social and Economic Research, University of Alaska, June 1983.

[9] Hypothetical zero net migration implies that the number of persons who left the state equaled the number who moved to the state in a given period of time, resulting in zero change due to migration.

[10] Illustrative Projections of State Populations by Age, Race and Sex: 1975 to 2000, U.S. Bureau of the Census, Current Population Reports, Series p-25, No. 796, March 1979.

population. The U.S. Bureau of the Census projections for the year 2000 are as follows:

Elderly Growth Scenario	65 and Older Population	Elderly as a % of Total	Total Population
Low ('65-'75 migration)	20,500	4.3 %	474,200
Moderate ('70 - '75 migration)	25,300	4.7 %	544,086
High (zero net migration)	40,500	7.6 %	534,300

We consider the elderly population projections under the low and moderate growth scenarios to be low given the tendency for Census data to be conservative and the fact that elderly migration patterns in the late 1960s and early 1970s probably overstate current out-migration. On the other hand, the projection of 40,500 elderly in the year 2000 (high growth scenario) may be high; out-migration will proabably continue to exceed in-migration among older Alaskans.

2. The Department of Revenue developed projections of Alaska's population primarily to estimate the future number of Permanent Fund Dividend recipients over the short term (to FY85)[11]. Revenue's projections are based on the actual growth in the number of adult PFD applicants between 1978 and 1979 (4.5 percent growth) and general assumptions regarding the juvenile population under 18 at the time. The total population was projected to be approximately 832,000 in the year 2000, implying an average growth rate of about 3.1 percent annually. As mentioned earlier, the future growth in Alaska is projected to be much lower, between 1 and 2 percent per year until the turn of the century. Given the intended short-range purposes and the limited nature of the data base, we recommend that Revenue's population projections not be used for the purpose of estimating the number of Alaskans eligible for the Longevity Bonus Program.

Revenue's population projection has formed the basis of the elderly population figures under CSSB 215. The 832,000 population figure for the year 2000 was used and three growth scenarios were developed to forecast the number of elderly in the population at that time[12].

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11 Ms. Mary Ellen Frank, Research Section, Alaska Department of Revenue Personal Communication, August 1, 1983.

12 Mr. Bob Richardson, Actuary, Wm. Mercer, Inc. Personal Communication, July 29, 1983.

The following elderly population projections were generated for the year 2000:

Elderly Growth Scenario	Elderly as a % of Total	65 and Older Population	Total Population
Low	3.10 %	25,791	832,000
Moderate	4.55	37,854	832,000
High	6.00	49,918	832,000

Under the inflated total population projection, the Senate supporters of CSSB 215 chose to adopt the low growth scenario elderly population of 25,791 in the year 2000. In order for this projection to be accurate, the elderly growth rate would have to decline to about 3.4 percent annually from a current annual growth of approximately 6 percent and the total population would have to maintain a 3.1 percent annual growth rate, close to its recent 3.4 percent annual rate of growth. Both of these conditions would run counter to future projected growth. The elderly population, in fact, is projected to grow approximately 3 times faster than Alaska's overall population between now and the year 2000.

3. The Institute of Social and Economic Research (ISER) of the University of Alaska recently published a series of computer simulations forecasting the state's total population to the year 2010[13]. ISER's Man-in-the-Arctic (MAP) model forecasts are based on common underlying assumptions regarding future economic conditions in Alaska and differing assumptions regarding the levels of State petroleum revenues. Population forecasts range between approximately 578,000 and 688,000 in the year 2000. The base case simulation, which assumes a level of revenues consistent with the Department of Revenue's 50 percentile revenue projections for royalties and severance taxes, projects a population of 593,612 in the year 2000 (see Attachment B). This reflects an average annual growth rate of approximately 1.5 percent, which falls within the 1 to 2 percent range previously mentioned as the likely annual growth rate for the state's population until the turn of the century. Unfortunately, the ISER documentation does not provide age-specific population forecasts so there are no elderly population projections.

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[13]Man-in-the-Arctic (MAP) Economic Modeling System Technical Documentation Report, Appendix N, ISER, University of Alaska. Prepared for Harza-Ebasco Susitna Joint Venture. June 1983.

In conclusion, we project Alaska's elderly population in the year 2000 under a series of average annual growth rates. Elderly growth rates between 4 and 6 percent per year are assumed, based on conversations with Mr. Dave Swanson, State demographer, and Dr. Scott Goldsmith of ISER. We assume a 1983 elderly population of 15,250, which is the midpoint of the 14,600 - 15,900 range we estimated earlier. Calculations of the elderly as a percentage of the total population are based on ISER's MAP model base case forecast of the total population in the year 2000 as we believe that this is the most reasonable projection of those reviewed.

Average Annual Elderly Growth	65 and Older Population	MAP Model Total Population	Elderly as a % of Total
4.0	30,100	593,612	5.1 %
4.5	32,170	593,612	5.5
5.0	35,680	593,612	6.0
5.5	38,845	593,612	6.5
6.0	42,290	593,612	7.1

It appears that Alaska's elderly population in the year 2000 will probably be 2 to 3 times its present size. With 5 percent annual growth, the midpoint of elderly growth rate projections, older Alaskans will number approximately 35,680 at the turn of the century. Elderly would represent 6 percent of the state's projected population, whereas today they represent only 3 percent of the population.

Elderly Population Increase Under the Longevity Bonus Program

Projecting the aged population in Alaska if a program existed which provided monthly cash payments to all elderly residents of at least one year rests upon an understanding of the migration patterns among elderly persons. While some Census data exist on a national level, relatively little information is available specifically about recent elderly Alaskan emigrants and immigrants. We present a number of factors which should be considered in a discussion of possible population increases due to the influence of a monthly cash payment program.

1) The elderly, as a group, are nonmovers. Census data between March 1975 and March 1980 indicate that less than 1 percent of persons 65 years and over moved across interstate lines into western states[14].

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[14]Geographical Mobility: March 1975 to March 1980, U.S. Bureau of the Census. Current Population Reports, Series P-20, No. 368, 1981.

Similarly, less than 1 percent of persons, aged 55 - 64 years, moved to or among the western states. In fact, 79 percent of elderly (65 and over) did not move at all during this 5-year period; 75 percent of persons 55 - 64 years old also did not move.

2) Major reasons cited by persons 55 and older for interstate migration in another Census Bureau national study were:[15]

To be closer to relatives	22.2 percent
Retirement	19.8 "
Change of climate	12.1 "
Other family reasons	11.2 "
Job transfer	6.0 "
New job or looking for work	4.9 "

3) A national study reports that older migrants tend to be separated or divorced, of low income, less educated, renters, in better health, and have earlier histories of mobility[16]

4) Historically, middle-aged and elderly age groups in Alaska have shown a net out-migration. During the period 1965 - 1970, three times as many persons 65 years and older left the state as in-migrated[17]. Between 1970 and 1980, more whites 45 years and older left the state than entered[18]. Nonwhites of the same ages experienced a net in-migration, perhaps reflecting as has been suggested an increased pride of heritage among Alaska Natives and the settlement of the Alaska Native Claims which may have encouraged Natives to return to Alaska .

5) Despite existing incentives to encourage the elderly to remain in Alaska (e.g., Longevity Bonus Program, Property/Sales Tax Exemptions, and Pioneers' Home Program), many have continued to leave after retirement. Many probably seek places with a lower cost of living or a less severe climate. Others may chose to return to an area where they were born and may still have family.

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[15]Reasons for Interstate Migration. U.S. Bureau of the Census, Special Studies Series P-23, No.8, March 1979.

[16]Handbook of the Pyschology of Aging, J.E. Birren and K.W. Schaie, Eds, New York: Van Nostrand Reinhold Co, 1977.

[17]Interstate Migration in Alaska, Matthew Berman, ISER, University of Alaska. November 1982. Table 2.

[18]The Demand for the Juneau Pioneers' Home, Alaska Economics, Inc., December 1982.

6) As Alaska matures from a "frontier" area to a more established state, the migration patterns may change. The Alaska Department of Labor has developed a series of age-sex specific net migration patterns to be used when forecasting Alaska's future population. In general, the patterns suggest that a smaller net out-migration will occur among older age groups as the state continues to become more established. In other words, as more health services and social amenities become available in-state, more older Alaskans may chose to remain in Alaska after retirement.

7) According to a 1976 survey of Longevity Bonus and Old Age Assistance (OAA) recipients conducted by the Alaska Department of Health and Social Services, the bonus payment positively influenced some of the recipients' plans to remain in the state at that time[19]. Of those surveyed who received only the bonus, nearly one-third indicated that the bonus positively affected their decision to remain. About 5 percent of those surveyed who were dual recipients of the bonus and OAA stated that the bonus had a positive effect on their decision to stay. The Longevity Bonus had the greatest effect on those with a higher household income (at least $1,000 per month) because the bonus provided enough additional money to enable them to maintain their present standard of living without leaving the state.

8) The high cost of living and cost of relocation are considerable disincentives for in-migration of older persons to Alaska, particularly for those who are retired and living on a relatively low fixed income. Substantial costs could be incurred prior to establishing the one-year residency required under a modified longevity bonus program. Table 2 shows the U.S. Bureau of Labor Statistics (BLS) data for Autumn 1981 comparing annual expenditures for a retired couple under three standards of living: low, intermediate, and high budgets. The table shows budgets for Anchorage and a U.S. average.

TABLE 2. ANNUAL BUDGET FOR A RETIRED COUPLE (Autumn 1981)

	LOW	INTERMEDIATE	HIGH
Anchorage	$9,774	$12,900	$18,354
U.S. Average	$7,226	$10,226	$15,078
Difference (% of U.S. average)	$2,548 (35%)	$ 2,674 (26%)	$ 3,276 (22%)

Source: U.S. Department of Labor, Bureau of Labor Statistcs.

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[19] Alaska Longevity Bonus Impact Survey 1976, Alaska Department of Health and Social Services, Division of Public Assistance, 1976.

The annual budgets in Anchorage range from 22 to 35 percent above the U.S. averages, with the percentage difference highest for a low budget couple. BLS data are not available for other Alaska communities, but evidence from in-state cost differentials indicates that the gap between the U.S. averages and most other Alaska communities is even greater.

Census data for 1980 indicates that 36 percent of aged family units have household incomes below $9,999, which approximates the above BLS data for a retired couple on a low annual budget in Anchorage in 1981. Nearly 50 percent fall below $12,499, which roughly equals the BLS intermediate budget of $12,900 in Anchorage. Additional information from the U.S. Department of Labor indicates that a Lower Living Standard for one person in Anchorage was $8,260 in June 1982. Approximately 74 percent of elderly unrelated individuals reported an income below this figure in the 1980 Census. Therefore, it appears reasonable to assume that the cost of living in Alaska will, to some degree, act as a deterrent to many aged couples and individuals who might otherwise consider moving to Alaska in order to participate in a monthly cash payment program for the elderly.

In conclusion, we believe that the aged most likely to migrate to Alaska as a result of a cash payment program would be those with relatives already in the state. Living with relatives, either siblings or children, would certainly defray some of the initial and longer term costs involved. However, we do not foresee a dramatic influx of aged persons into established Alaska households under the stimulus of a cash payment program. In general, elderly prefer to live in their own households as long as possible and change their living arrangements primarily when their self-care capacity declines. Furthermore, aged persons may prefer to live with siblings or children closer to their familiar surroundings rather than uproot themselves to a, perhaps, quite foreign Alaskan environment.

A cash payment program widely available to elderly with one-year residency may very well reduce out-migration and may somewhat enhance in-migration of aged persons into Alaska. Available information on interstate migration, historical patterns of Alaska migration, socioeconomic characteristics, and living preferences of aged persons suggest, however, that <u>dramatic</u> population increases solely on the basis of a cash payment program are unlikely. A considerable degree of speculation will surround this issue until, at the very least, a survey of recent older Alaskan emigrants and immigrants is conducted. Survey questions specifically addressing the reasons for their recent move would provide valuable information on this issue.

II. ELDERLY PUBLIC ASSISTANCE AND SOCIAL SECURITY RECIPIENTS

Questions: How many persons 65 and over in Alaska receive public assistance or Social Security? On the average, how much in public assistance or Social Security do the elderly receive per person? How does the percentage of elderly receiving public assistance compare with the percentage of the entire population receiving public assistance?

There are a number of public assistance programs available to older Alaskans. Table 3 provides a summary of the different programs, number of elderly recipients, and average benefits. Supplemental Security Income (SSI) and Old Age Assistance (OAA) are the major sources of monthly cash benefits to those receiving public assistance. Approximately 900 receive federally funded SSI and 2300 receive State-funded OAA. Monthly benefits currently average $238 (SSI) and $236 (OAA). While SSI, with its lower income limits, provides a first source of public assistance to the truly needy, 700 aged SSI recipients also receive OAA benefits.

According to the Department of Health and Social Services, approximately two-thirds of the OAA recipients in October 1982 were rural residents and one-third lived in Anchorage, Fairbanks or Juneau. Approximately 64 percent of the OAA recipients were Native, 28 percent White, 2 percent Black, and 6 percent other or unknown.

In 1982, 10,210 Alaskans 65 years and older received Social Security payments under the retirees, survivors, and disability programs. Although current information regarding average benefits received by Alaskans is not available, monthly payments nationally in 1982 averaged: $408 (retired worker), $700 (aged couple both receiving payments), and $378 (aged widow or widower)[20].

The percentage of older Alaskans receiving public assistance cannot be determined exactly as the degree of overlap among aged recipients on all forms of public assistance is not readily identifiable. One approximate estimate is that the 2,500 recipients of SSI and/or OAA represent 18 percent of the 13,921 population estimate of the Department of Labor in 1982. In comparison, approximately 40,000 Alaskans (9 percent of Labor's 1982 total population estimate) receive monthly

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[20]Ms. Norma Eubanks, Service Rep, Social Security Administration, Juneau, Personal Communication, August 8, 1983.

TABLE 3. A SUMMARY OF PUBLIC ASSISTANCE PROGRAMS FOR ELDERLY RECIPIENTS IN ALASKA

Program Name	Program Description	Type of Benefit	Income Limit (Number of Persons) 1	2	3	4	Number of Elderly Alaskans	Average Benefit
Old Age Assistance	State payments to needy	monthly cash	$546	802	n/a	n/a	approx. 2,300	$236.70/mo.
Food Stamp	Federal funds designed to promote health & nutrition among low income homes	Food coupons	$490	650	810	970 (net monthly income)	1,700	$32/person (random sample of 10 elderly cases.)
Supplemental Security Income	federal funds to needy aged or disabled	Monthly cash	$304	436	n/a	n/a	approx. 900	$238/mo.
Energy Assistance	Federal block grant monies to low income households	Vendor home energy credit	$851	1113	1375	1637 (net monthly income)	approx. 1,400	$475
General Relief Medical	State funds for medical assistance, primarily drugs for Medicaid eligible elderly	Vendor payment	$300	400	n/a	n/a (or same as SSI or OAA)	2,750 eligibles, approx. 30% use benefits	$50/mo.
Medicaid-Nursing Home[1]	Cost of care payments for needy in nursing home 52% - state 48% - federal	Vendor payment	$852.9	n/a	n/a	n/a	approx. 300	$3,600/mo
Medicaid-Regular	Medical care payments for OAA recipients 52% - federal 48% - state	Vendor payment	$546	802	n/a	n/a	approx. 2,300 eligible, approx. 940 use benefits each month	$1,027/usage

[1] Excludes Alaska Psychiatric Institute and Harborview Developmental Center.

Source: Alaska Department of Health and Social Service, Division of Public Assistance. July 1983.

public assistance of all types[21]. The percentage of elderly Alaskans receiving OAA has declined since 1960 when 28.5 percent were recipients[22]. Nevertheless, the percentage of older Alaskans receiving public assistance is higher than the 10 percent aged nationwide who received public assistance in 1980[23].

III. LONGEVITY BONUS PROGRAM RECIPIENTS

Questions: What is the income distribution, ethnic composition, and geographic distribution of bonus recipients? What percentage are below the poverty line? What percentage of bonus recipients are receiving public assistance, and vice versa?

A total of 9,776 older Alaskans were qualified for longevity bonus payments in July 1983, with 96 percent actually receiving payments. As shown in Table 4, approximately 95 percent of the qualified recipients, on the average, received bonus payments each month in FY83. The percentage who receive payments varies seasonally, with the percentage dropping during the winter and early spring months--when some elderly spend time in warmer places--and peaking in the summer and fall.

The number of qualified recipients of the longevity bonus program grew about 7 percent in the past year. As Table 4 shows, the program witnessed an average net growth of 50 recipients per month last year. On the basis of reasonable 1983 population estimates considered in Section one of this report, somewhere between 61 percent (15,900 estimate) and 67 percent (14,605 estimate) of the aged Alaskans currently are qualified for bonus payments.

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[21]Mr. Gordon Landes, Division of Public Assistance, Alaska Department of Health and Social Services, Personal Communication, August 8, 1983.

[22]Old Age Assistance Study, Alaska Department of Health and Social Services, May 1966.

[23]"Relative Importance of Various Income Sources of the Aged, 1980", Melinda Upp, Social Security Bulletin 36(1), January 1983.

TABLE 4. LONGEVITY BONUS RECIPIENTS: JULY 1982 - JULY 1983

Month/Year	Qualified Recipients	Net Monthly Growth	Number Receiving Bonus	Percent of Total
7/82	9124	--	8930	97.9 %
8/82	9191	67 persons	8960	97.5
9/82	9247	56	9006	97.4
10/82	9317	70	9020	96.8
11/82	9372	55	8987	95.9
12/82	9425	53	8896	94.4
1/83	9481	56	8843	93.3
2/83	9486	5	8741	92.2
3/83	9528	42	8750	91.8
4/83	9577	49	8895	92.9
5/83	9659	82	9144	94.7
6/83	9731	72	9352	96.1
7/83	9776	45	9426	96.4
		Average Net Monthly Growth: 50 persons		FY83 Average: 95.1 %

Source: Longevity Bonus Program, Alaska Department of Administration

Unfortunately, current information about bonus recipients is rather limited. Applicants are required to provide their age and a mailing address; no data on income or race are collected. Table 5 presents an age distribution of bonus recipients in January 1983. Recipients range between 65 and 116 years old, with over two-thirds aged 65 - 74.

The geographic distribution of program recipients in June 1983 is summarized in Table 6. Approximately one-quarter of the qualified recipients live in Southeast, roughly 42 percent live in the Anchorage/Southcentral region, 18 percent in the Interior, and the remaining 15 percent reside in Northern and Western Alaska.

TABLE 5. AGE DISTRIBUTION OF LONGEVITY BONUS PROGRAM RECIPIENTS
(January 7, 1983)

Years	Number of Recipients	Percent of Total
65-69	3,606	40.1 %
70-74	2,570	28.6
75-79	1,597	17.7
80-84	786	8.7
85-89	293	3.3
90-94	111	1.2
95 and older	37	0.4

Source: Longevity Bonus Program, Alaska Department of Administration

TABLE 6. GEOGRAPHIC DISTRIBUTION OF LONGEVITY BONUS RECIPIENTS
(June 28, 1983)

Region	House Districts	Number of Qualified Recipients	Percent of Total
Southeast	1-4	2,395	24.5 %
Southcentral/ East Peninsula	5,6,16,27	1,559	15.9 %
Anchorage vinicity	7-15	2,540	26.0 %
Interior	11-21,24	1,781	18.2 %
Northern	22	380	3.9 %
Western	23,25,26	1,121	11.5 %
TOTAL		9,776	100.0 %

Source: Longevity Bonus Program, Alaska Department of Administration

Detailed summaries of longevity bonus program recipients by age and House District are presented in Attachment C.

The previously mentioned 1976 survey of recipients of the Longevity Bonus (LB) and Old Age Assistance (OAA) provides the only available information about the racial composition and income of bonus recipients[24]. The survey targeted three groups of recipients: OAA-only, dual OAA/LB, and LB-only. At that time, 56 percent of all bonus recipients surveyed were Native and 44 percent were non-Native. Nearly 76 percent of the dual OAA/LB recipients surveyed had incomes (including their spouse's) below $420 per month[25]. In addition, the overwhelming majority (83 percent) of the LB-only recipients surveyed had monthly incomes (including their spouse's) under $1,000. It appears that, at least in 1976, the incomes of the majority of bonus recipients were certainly not high.

An additional survey of bonus recipients conducted by the Department of Law in 1982 cannot be considered representative of all the program's recipients because the survey specifically targeted needy recipients. Furthermore, preliminary results of the survey with regard to income are confusing because some respondents included their spouse's income while others did not.

We were unable to accurately determine the percentage of current bonus recipients who are below the poverty line because of the lack of income data for program participants. The Census data provide a frame of reference, indicating that 13 percent of older Alaskans lived below the federal poverty level in 1980. However, there were considerable regional differences in elderly income within Alaska. Less than 11 percent of Alaskans (60 years and older) in Southeast, Interior and Anchorage lived below the poverty level, whereas approximately 28 and 34 percent had incomes below the poverty level in Northwest and Southwest Alaska, respectively[26]. In comparison, about 15 percent of the elderly nationally had incomes below the poverty level in 1980. One is cautioned, however, about making definite statements with respect to income as an absolute measure of poverty status in Alaska because of the reliance on a subsistence (non-cash) economy, to a considerable degree, in rural Alaska.

The previously mentioned 1981 University of Alaska survey of Alaskans 60 years and over provides a measure of the degree of importance the longevity bonus holds as an income source for the elderly. This survey

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[24] Alaska Longevity Bonus Impact Survey, Alaska Department of Health and Social Services, 1976

[25] The income limit for an aged couple receiving Old Age Assistance in 1975 was $420 per month.

[26] A New Beginning for Older Alaskans: A Comprehensive Statewide Plan and Management Information System, Segment One, Hall & Associates, Inc., 1982.

reports a marked regional difference in the dependency of older persons on the bonus payments as their major source of income. Three percent of those surveyed in Southeast and Southcentral relied on the bonus payment as their major income source. On the other hand, 41 and 66 percent of the persons surveyed in Southwest and Northwest respectively indicated a primary dependency on the monthly bonus payments. These percentages should be viewed as only rough approximations because the survey included individuals aged 60 to 64 years who are more likely to still be employed. Also, the survey sample overrepresented women and Natives; elders of these groups characteristically have lower incomes than either men or Whites.

Rough estimates by the Department of Health and Social Services suggest that between 50 and 70 percent of the aged currently receiving public assistance also receive longevity bonus payments[27]. Longevity bonus information is not consistently collected on Old Age Assistance applications because the bonus is not considered income for the purposes of OAA eligibility. Information from the 1976 longevity bonus impact survey indicates that about 77 percent of the OAA recipients received bonus payments at that time. Conversely, about 28 percent of the bonus recipients received OAA payments in 1976. The Longevity Bonus Program within the Department of Administration is not able to provide this sort of information about dual recipients because income data are not requested of applicants.

IV. LIFE EXPECTANCIES OF OLDER ALASKANS

Question: What are the life expectancies of Alaska's elderly?

Life expectancy data for older persons in Alaska are presented in Table 7. The life expectancies of older Alaskans are generally similar to those of the elderly nationwide. Aged females enjoy a longer life expectancy than aged males in Alaska and nationally. This difference in death rates between the sexes is expected to continue although it probably will not increase in the future.

Table 7 indicates that elderly Alaska males appear to have a lower life expectancy in all five-year age groups in 1980 when compared with 1970 data. The lower life expectancies shown for 1980 may, in part, be a result of larger numbers of elderly males remaining in Alaska or partially an artifact of the small population numbers. At this time,

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[27]Mr. Gordon Landes, Division of Public Assistance, Alaska Department of Health and Social Service, Personal Communication, July 8, 1983.

we do not believe that there is a significant trend toward lower life expectancy peculiar to older Alaska males.

TABLE 7. LIFE EXPECTANCY in YEARS of OLDER ALASKANS by AGE and SEX

Age	1970 Total	1970 Male	1970 Female	1980 Total	1980 Male	1980 Female
55-59	23.27	20.73	27.37	23.97	20.58	29.70
60-64	19.53	17.23	23.48	20.14	16.82	25.72
65-69	16.53	14.51	19.98	16.17	13.66	21.79
70-74	14.20	12.48	17.06	14.14	11.16	19.02
75 and over	11.49	10.13	13.77	11.35	8.41	16.08

Source: Alaska Population Overview 1982. Alaska Department of Labor, 1983.

Based on the life expectancy data for 1980 and the method of calculating life expectancies in five-year cycles, we estimated the approximate number of years that qualified individuals of certain ages might expect to receive longevity bonus payments. A 65-year old female might expect about 22 years of bonus payments, a 70-year old female 19 years of payments, and a 75 year old female, on the average, could expect payments for 16 more years. A male 65-years old might expect payments for about 14 years, a 70-year old man 11 years of payments, and a 75-year old man, on average, would enjoy 8 more years of longevity bonus payments.

In closing, we hope that this information will be useful. If we can provide any further assistance on this subject, please let us know. A separate Research Request (No. 83-204) will address the annual cost of various proposed modifications to the existing longevity bonus program.

GK

Attachments

ATTACHMENT A. ANNUAL ALASKA POPULATION DATA, 1970 - 1982

(Source: Alaska Population Overview 1982. Alaska Department of Labor)

Table II.1

PERSONS BY AGE AND SEX FOR
ALASKA, EACH YEAR: 1970 to 1982

Alaska

	July 1												
	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982
TOTAL PERSONS	308500	319600	329800	336400	348100	384100	409800	418000	411600	413700	419700	435200	460800
Under 5 years	32700	33570	34360	34720	35640	38800	41120	41600	40610	40510	40790	41980	44075
5 to 14 years	72290	72640	72690	71890	72160	76950	79570	78790	75330	73510	72390	72860	74830
15 to 64 years	196400	205890	214840	221540	231920	258700	278700	286650	284470	288050	294370	307420	327975
65 years & over	7110	7500	7910	8250	8730	9570	10410	10960	11190	11630	12150	12940	13920
FEMALES	139960	145540	150780	154340	160320	177520	190580	194640	192480	194190	197730	206030	219160
Under 5 years	15900	16370	16750	16910	17350	18930	20020	20260	19760	19710	19830	20430	21400
5 to 14 years	35330	35530	35520	35120	35210	37550	39280	38370	36660	35770	35210	35440	36400
15 to 64 years	85640	90310	94960	98540	103740	116530	126380	130720	130580	132920	136590	143510	154020
65 years & over	3090	3330	3550	3770	4020	4510	5000	5290	5480	5790	6100	6650	7340

ATTACHMENT B. MAN-IN-THE-ARCTIC (MAP) MODEL POPULATION PROJECTIONS TO THE YEAR 2010 UNDER A BASE CASE SCENARIO

(Institute of Social and Economic Research,
University of Alaska. June 1983)

TABLE N.8. SIMULATION CASE: DEPARTMENT OF REVENUE 50%
Part D
Population
(thousands)

	State	Railbelt	Greater Anchorage	Greater Fairbanks
1982	437.175	307.105	239.830	67.277
1983	457.836	319.767	251.057	68.711
1984	473.750	330.199	259.677	70.523
1985	486.327	339.204	267.539	71.666
1986	499.149	346.988	274.031	72.957
1987	508.054	352.021	277.833	74.190
1988	516.259	356.992	281.952	75.041
1989	523.255	363.345	287.469	75.877
1990	533.184	371.539	294.078	77.461
1991	535.306	372.958	295.108	77.850
1992	550.842	382.528	303.978	78.551
1993	557.199	385.835	306.233	79.602
1994	559.519	389.212	308.219	80.994
1995	563.529	391.838	310.628	81.210
1996	569.216	395.991	314.124	81.868
1997	575.498	401.438	318.628	82.810
1998	581.204	406.133	322.491	83.642
1999	587.213	411.184	326.660	84.524
2000	593.612	416.622	331.082	85.540
2001	599.998	422.232	335.608	86.625
2002	606.741	428.069	340.351	87.718
2003	614.511	434.441	345.608	88.834
2004	622.832	441.222	351.177	90.045
2005	631.699	448.422	357.087	91.336
2006	641.101	456.103	363.376	92.727
2007	651.071	464.117	369.933	94.184
2008	661.676	472.628	376.894	95.735
2009	672.544	481.306	383.955	97.352
2010	684.180	490.620	391.560	99.060

SOURCE: MAP MODEL OUTPUT FILES HE.9 AND HER.9
VARIABLES: POP, P.IR, P.AG, AND P.FG

ATTACHMENT C. ALASKA LONGEVITY BONUS PROGRAM RECIPIENTS
BY HOUSE DISTRICT AND AGE

(Alaska Department of Administration)

DATE 06/28/83

NAME OF HOUSE DISTRICT	HOUSE DIST NO.	TOTAL WARRANTS FOR MONTH NO.	QUALIFIED RECIPIENTS NO.	QUALIFIED RECIPIENTS %	BONUS PAYMENTS FOR THIS MONTH NO.	BONUS PAYMENTS FOR THIS MONTH %	QUALIFIED RECEIVING PAYMENTS %	BONUS PAYMENTS THIS FISCAL YEAR NO.	BONUS PAYMENTS THIS FISCAL YEAR AMOUNT	BONUS PAYMENTS THIS FISCAL YEAR %	BONUS PAYMENTS SINCE INCEPTION AMOUNT	BONUS PAYMENTS SINCE INCEPTION %
KETCH-NOANG-PETERS	01	901	939	9.61	891	9.45	94.89	2,027	225,250.00	9.34	2,524,350.00	2.8
INSIDE PASSAGE-CORDOVA	02	361	363	3.71	351	3.72	96.69	812	90,250.00	3.74	4,795,075.00	5.3
BARANOF-CHICHAGOF	03	378	383	3.92	372	3.95	97.13	850	94,500.00	3.92	5,567,750.00	6.2
JUNEAU	04	693	710	7.26	683	7.25	96.20	1,570	174,500.00	7.23	8,539,000.00	9.5
KENAI-COOK-INLET	05	487	496	5.07	482	5.11	97.18	1,095	121,750.00	5.05	5,446,325.00	6.0
NORTH KENAI-SOUTH COAST	06	224	226	2.31	216	2.29	95.58	504	56,000.00	2.32	2,817,750.00	3.1
ANCHORAGE-SOUTH	07	68	64	.65	62	.66	96.88	153	17,000.00	.70	792,300.00	.8
ANCHORAGE-HILLSIDE	08	139	140	1.43	139	1.47	99.29	312	34,750.00	1.44	1,433,650.00	1.6
ANCHORAGE-SAND LAKE	09	127	129	1.32	122	1.29	94.57	285	31,750.00	1.32	1,271,525.00	1.4
ANCHORAGE-MIDTOWN	10	315	319	3.26	310	3.29	97.18	708	78,750.00	3.26	3,525,025.00	3.9
ANCHORAGE-WEST SIDE	11	383	391	4.00	369	3.91	94.37	861	95,750.00	3.97	4,085,100.00	4.5
ANCHORAGE-DOWNTOWN	12	964	983	10.06	940	9.97	95.63	2,169	241,000.00	9.99	2,035,500.00	2.2
ANCHORAGE-MT.VIEW-UNIV.	13	241	236	2.41	232	2.46	98.31	542	60,250.00	2.50	2,509,585.00	2.8
MULDOON	14	134	139	1.42	130	1.38	93.53	301	33,500.00	1.39	1,228,330.00	1.3
CHUGIAK-EAGLE RIVER	15	135	139	1.42	131	1.39	94.24	303	33,750.00	1.40	1,406,450.00	1.5
MATANUSKA-SUSITNA	16	601	605	6.19	587	6.23	97.02	1,352	150,250.00	6.23	7,345,950.00	8.2
ANCHORAGE-INT.HIGHWAYS	17	271	270	2.76	264	2.80	97.78	609	67,750.00	2.81	3,304,650.00	3.6
SOUTHEAST NORTH STAR	18	27	28	.29	27	.29	96.43	60	6,750.00	.28	366,050.00	.4
OUTER FAIRBANKS	19	36	38	.39	36	.38	94.74	81	9,000.00	.37	595,325.00	.6
FAIRBANKS CITY	20	967	989	10.12	955	10.13	96.56	2,175	241,750.00	10.02	1,502,625.00	1.6
WEST FAIRBANKS	21	50	50	.51	50	.53	100.00	112	12,500.00	.52	579,325.00	.6
NORTH SLOPE-KOTZEBUE	22	379	380	3.89	375	3.98	98.68	852	94,750.00	3.93	5,282,700.00	5.9
NORTON SOUND	23	555	569	5.59	536	5.63	97.10	1,023	113,750.00	4.72	6,065,250.00	6.7
INTERIOR RIVERS	24	407	406	4.15	394	4.18	97.04	915	101,750.00	4.22	5,283,125.00	5.9
LOWER KUSKOKWIM	25	398	390	3.99	380	4.03	97.44	895	99,500.00	4.12	4,524,625.00	5.0
BRISTOL BAY-ALEUTIANS	26	277	282	2.88	269	2.85	95.74	623	69,250.00	2.87	3,658,475.00	4.0
KODIAK-EAST ALASKA	27	227	232	2.37	223	2.32	96.12	510	56,750.00	2.35	2,989,625.00	3.3
TOTAL		9,650	9,776	100.00	9,426	100.00	96.43	21,699	2,412,500.00	100.00	89,525,400.00	100.0

ALBS RECIPIENT AGE BREAK DOWN

AGES	NUMBER
65	682
66	732
67	771
68	736
69	685
70	596
71	566
72	538
73	460
74	410
75	389
76	342
77	350
78	291
79	225
80	220
81	187
82	168
83	104
84	107
85	76
86	68
87	53
88	56
89	40
90	46
91	26
92	19
93	16
94	4
95	7
96	6
97	6
98	4
99	6
100	2
101	1
102	2
103	1
104	0
105	0
106	0
107	0
108	0
109	0
110	0
111	0
112	1
113	0
114	0
115	0
116	1

THE LONGEVITY BONUS PROGRAM:
OPTIONS UNDER THE VEST SETTLEMENT

JON K. TILLINGHAST
Birch, Horton, Bittner, Pestinger & Anderson

March 8, 1983

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I. INTRODUCTION

On June 14, 1982, the United States Supreme Court ruled that the cumulative residency requirements of Alaska's permanent fund dividend distribution program violated the Equal Protection Clause of the United States Constitution.[1] Shortly thereafter, Alaska's Longevity Bonus ("ALB") Program was challenged on equal protection grounds.[2] On August 9, 1982, the Department of Law, with the approval of the Alaska Legislative Council, entered into a stipulation in the Vest case which stayed all proceedings pending adjournment of this legislative session, in order to afford the legislature an opportunity to address the constitutional problems with the existing program.

The purpose of this report is to analyze some 10 options available to the legislature in amending the Alaska Longevity Bonus Program. This report is a first step in a process which must be completed by the end of this session. As subparts (C) and (D) of this section discuss, the likely consequence of failing to enact remedial legislation this session is that the ALB program will be judicially terminated.

A. Description Of The Longevity Bonus Program

Predecessors of the existing ALB program can be traced to 1915. In that year, the Territorial Legislature authorized a monthly allowance of $12.50 for needy elderly Alaskans of 10 years

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[1]Zobel v. Williams, 72 L. Ed. 2nd 672 (1982)

[2]Vest v. Shafer, 1 JU-82-1103 Civ. (1st Jud. Dist., 1982)

residency who chose not to enter the newly-created Pioneers' Homes.[3] The current program was enacted in 1972[4] as a result of legislation introduced by Senators Butrovich and Ray.[5] Quite unlike the "need-based" focus of its predecessors, the 1972 legislation was to:

> "... provide all law-abiding Alaskans capable of managing their own affairs who have maintained a domicile in the state for at least 25 years and have reached a retirement age of 65, an incentive to continue uninterrupted residency in the state. Under no circumstances shall this chapter be considered a form, type, or manner, of public relief. The bonuses made under this chapter are not predicated on need even though they may appear to provide supplemental income to some qualified persons who would otherwise be forced to become responsibilities of the state. The Legislature further finds and states that this legislation recognizes the economic hardships suffered by many elderly Alaskans, Alaskans who through their tenacity and perseverance molded Alaska as we know it through skillful application of their talents. These pioneers are the same Alaskans who, in the prime of their life, were in effect treated as second class citizens by the federal government and who paid much of their hard earned income to a government in which they did not have the right to participate through the power of the ballot. The legislature also is aware of the fact that many of these pioneers have been forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationship with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans the benefit of their wisdom and experience. This legislation hopefully will provide our pioneers with the economic means to remain in and continue to serve their state and to enjoy the opportunity of aiding

[3]Chapter 64, SLA 1915.

[4]Chapter 205, SLA 1972; AS 47.45.010 et. seq.

[5]SB 211, 7th Leg., 2nd Sess.

the new Alaskan in making the state truly "The Great Land." §1, Ch. 205, SLA 1972.

The ALB program, then, has several purposes:

1. providing an incentive for a particular class of senior citizens to remain in the state;

2. compensating for the hardships faced by retirement in Alaska;

3. rewarding the past contributions of Alaska's elderly;

4. compensating for past hardships suffered by Alaska's pioneers; and

5. retaining the wisdom and experience of Alaska's pioneers.

Originally, the bonus was $100 per month. Over the years, the amount has gradually increased to its current $250 per month.[6] A person is eligible for a bonus if he or she:

1. is 65 years of age or older;
2. was "domiciled in the territory" on or before January 3, 1959; and
3. has been continuously domiciled in the state for 25 years.[7]

Additionally, if a person is absent from the state for more than 30 days, he will not receive another bonus until he returns. AS 47.45.030. If the person is absent for a continuous period in excess of 180 days, he is ineligible for a bonus for the next 12 calendar months following his return. Id.

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[6]Chapter 13, SLA 1981

[7]AS 47.45.010

Exceptions are made if the absence "is beyond the control of the recipient." Id.

The longevity bonus is taxable under the Internal Revenue Code. However, it is almost universally excluded in calculating income eligibility for state and federal assistance programs.[8]

B. The Individuals Covered By the Alaska Longevity Bonus Program.

There are currently some 9,425 Alaskans receiving some $28.4 million in longevity bonus payments. Sketching an accurate portrait of the state's ALB recipients is difficult, because the ALB application form requires little personal information. In 1976, the Alaska Department of Health and Social Services conducted a random survey of ALB recipients,[9] and, in conjunction with the Vest

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[8]Under 42 U.S.C. §1382(a)(b)(2)(B), which governs eligibility for federal Supplemental Security Income, and by reference also controls other federal programs such as Medicaid and energy assistance, the following is excluded from the definition of income:

> "monthly (or other periodic) payments received by any individual under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence is such state by such individual."

[9]"Alaska Longevity Bonus Impact Survey," Alaska Department of Health and Social Services (1976) (hereinafter "ALB Survey)

settlement, the Department of Law conducted a non-random survey of some 1,896 participants.

From those surveys, it is apparent that a large percentage of ALB recipients are Alaska Natives living in rural areas of the state.[10] Moreover, and in large part because of the ineligibility of many rural residents for social security, the longevity bonus is often the primary source of income for rural residents. For example, 41% of the elderly in Southwest Alaska, and 66% in Northwest Alaska, rely on the longevity bonus as their primary source of income.[11]

Available evidence suggests that a large percentage of ALB recipients have incomes only marginally above the current state welfare assistance level of $546 per month. The Department of Law's 1982 survey -- which was skewed toward the more needy recipients of the ALB -- found that 81.4% of the 1,896 recipients sampled had monthly incomes of $750 or less. The 1976 ALB survey found that half of the ALB recipients had a monthly income, "including that of their spouse," of under $500 per month.[12] Another

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[10] In 1976, 41% of the ALB recipients lived in rural areas of the state and 24.1% were Alaska Natives. ALB Survey at 14-15.

[11] "An Assessment of the Status and Needs of Alaska's Elderly," Department of Sociology, College of Arts & Sciences, University of Alaska (1981) (hereinafter "Assessment.")

[12] ALB Survey, op. cit n. 9 at 18-19.

44% had incomes of less than $1,000 per month. A 1981 University of Alaska survey indicated that roughly half of Alaska's elderly had monthly incomes of less than $800.00.[13]

The 1976 ALB survey suggests that, in light of the high percentage of bonus recipients in the 65-70 age group, the bonus has had a material effect in allowing older citizens to remain in the state after retirement.[14] The report also indicates that the ALB program has allowed a significant percentage of the elderly to remain off various public assistance programs -- including food stamps and state Old Age Assistance.[15]

One significant characteristic of Alaska's elderly in general warrants note -- one that will become quite significant in our analysis of alternatives. Only 10% of Alaska's elderly have resided in the state for 10 years or less.[16]

C. The Effects of Zobel And Vest On The ALB Program.

In reviewing the 1972 legislation creating the Longevity Bonus Program, the Department of Law concluded that "... the classification predicated upon being domiciled in the territory on or before January 3, 1959, bears little, if any, rational relationship to any legitimate legislative purpose which this bill is conceivably designed to serve and thus is in

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[13]Assessment, op. cit. n. 11 at 31.

[14]ALB Survey, op. cit. n. 9 at 12.

[15]Id. at 10, 18.

[16]Assessment, op. cit. n. 11 at 12.

all probability unconstitutional."[17]

Nonetheless, the ALB program remained unchallenged until 1982, following the U.S. Supreme Court's decision in Zobel v. Williams (hereafter "Zobel III").[18]

The law in issue in Zobel III (AS 43.23.010 et. seq.) provided for the distribution of a permanent fund dividend of $50.00 for each year of accumulated Alaska residency. The Court ruled, 8-1, that the cumulative residency requirement of the program was not rationally related to the goals of the statute -- a ruling which is discussed in more detail in section II(A), post.

The permanent dividend fund distribution program, in part, was intended to reward Alaskans for prior contributions to the state, a goal which: (1) three justices believed was constitutionally impermissible;[19] and (2) five justices believed was a permissible goal, but was not rationally furthered by a scheme

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[17]Memorandum, Havelock to Egan, Re: FCCS HCS CSSB 211 at 17 (June 29, 1972).

[18]In Williams v. Zobel, 619 P.2d 422 (Alaska 1980) ("Zobel I"), the Alaska Supreme Court invalidated the state's graduated personal income tax repeal. In Williams v. Zobel, 619 P.2d 448 (Alaska 1980) ("Zobel II"), the court upheld the cumulative residency requirement of Alaska's permanent fund dividend distribution plan -- a ruling reversed by the U.S. Supreme Court in Zobel III.

[19]Opinion of the Court, 72 L. Ed. 2nd at 679.

which awarded dividends solely on the basis of residency.[20]

Beyond the ruling of the case, the various opinions -- particularly those of the concurring justices -- are rich in forboding language suggesting that any durational residency requirement may receive "intensified scrutiny" by the Court, and will be justified only in "rare" circumstances.[21]

As is more fully discussed in Part II(A), post, the impact of the Zobel decision upon the ALB program was apparent. Two major goals of the existing ALB program are to reward elderly Alaskans for their prior contributions, and to compensate for past hardships and suffering -- ends which are implemented by a durational residency requirement more severe than that at issue in Zobel. A challenge to the ALB program was not long in coming. On July 6, 1982, one Rodney G. Vest challenged the ALB program in Superior Court in Juneau.[22] Mr. Vest is an elderly Alaskan whose residency in the state commenced three months after statehood. His complaint sought declaratory and injunctive relief striking the durational and statehood residency requirements of the act.

The State's response was colored by §2 of the legislation, which provided, inter alia, that:

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[20]See Brennan conc., 72 L. Ed.2nd at 684: O'Connor conc., 72 L. Ed. 2nd at 685.

[21]Brennan conc., 72 L. Ed. 2nd at 681, 684.

[22]See n. 2, ante.

> "if any provision of this act, or the application of a provision of this act to any person or circumstance is held invalid, this entire act shall be considered invalid."

As the Department of Law explained in reviewing the 1972 law:

> "It is clear that the intent of the Legislature expressed in Section 2 of the bill is to forestall the possibility that a partial declaration of unconstitutionality would result in broadening the coverage of the bill to included additional clauses. This would be the case, for example, if either the 25 year waiting period requirement or the January 3, 1959 cutoff date were declared invalid, and the bill was expressly or impliedly severable."[23]

Thus, invalidation of the Longevity Bonus Program would result not in expanding the number of ALB recipients, but rather in the abrupt termination of the entire program.

Facing that grim probability, the State, with the approval of the Alaska Legislative Council, entered into an agreement with Vest, a copy of which is attached as Appendix A. The essence of the agreement is as follows:

> 1. Proceedings in the Vest case are stayed through the conclusion of this legislative session. Because that case has been subsequently certified as a class action,[24] existing ALB recipients are not in jeopardy at least through adjournment of this session;
>
> 2. The Alaska Legislative Council promised to use its "best efforts" to secure the enactment of legislation which treated equally "all persons 65 years or older as of July 1, 1982, who have been bona fide Alaska residents for at least one year prior to that date";

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[23] op. cit. n. 17 at 5.

[24] Order Certifying Class and Directing Notice to Class Members, Oct. 1, 1982.

3. If legislation of this sort were enacted this session, the suit would be dismissed; and

4. Recognizing that the Council could not bind the legislature, if legislation is not enacted, Mr. Vest may pursue his case, with the probable result that the program will be terminated.

There are three aspects of the settlement which warrant note. First, obviously, are the severe time constraints under which the legislature is operating. Second, there is the settlement's intentionally broad litmus test of acceptable legislation. All the legislature need do is treat all elderly, one-year Alaskan residents "equally." The standard could be met by any number of options, including repeal of the program. Third, there is the inescapable financial impact of the settlement itself. In order to treat all elderly Alaskans who were one-year residents as of July 1, 1982 equally, it will be necessary to fund retroactive longevity bonus payments under the existing program to the some 3,800 elderly Alaskans who would have qualified. The necessary retroactive appropriation is approximately $11.4 million.

Of course, the legislature itself is not "bound" to pass any particular kind of legislation, or any legislation or appropriation at all. While a "best efforts" clause is enforceable, that obligation runs only to the Alaska Legislative Council, which has already demonstrated both good faith and diligence in attempting to meet the obligations of the order and settlement.

D. Scope And Intent Of This Report.

The purpose of this report is not to recommend particular amendments to the Alaska Longevity Bonus Program. As Section II, post makes plain, any "recommendation" is a function of the goals which the legislature seeks to achieve through this exercise.

Rather, the goal of this report is to assemble a comprehensive list of alternatives proposed by various interested parties, and to analyze the alternatives in light of:

1. constitutional constraints;
2. fiscal impacts;
3. practicability; and
4. the effect of any changes on the elderly's eligibility for other programs.[25]

In developing a list of alternatives, this report has included five options examined by the Sheffield Administration, and five alternatives developed by the authors of this report. The information presented with respect to each option is intended to be sufficient for a threshold determination of feasibility. The report attempts to anticipate the major problems and issues surrounding each option; however, it is not intended to exhaust the details of every proposal.

Rather, the report should be used as a basis for the Senate Judiciary Committee's preliminary indication of

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[25]See Section II.(C) post.

preference. We are recommending that the committee choose two or three primary options. We will then prepare implementing legislation and a detailed analysis of the primary options. Under this approach, the committee will not be required, at this early point, to make an "all or nothing" choice. It will also afford the committee flexibility in the event that, for some presently unforeseeable reason, one option becomes impracticable.

Draft implementing legislation and a detailed analysis of the committee's choices can be transmitted within two to three weeks, depending on the options chosen.

E. Alternatives Included In This Report.

The options included in this report, which are analyzed in turn in Section III, are:

1. expand the Alaska Longevity Bonus Program to include all elderly Alaskans with one-year's residency;

2. phase out the Alaska Longevity Bonus Program by gradually reducing benefits;

3. phase out the Alaska Longevity Bonus Program by gradually reducing benefits, while contemporaneously raising the eligibility limits for general state assistance;

4. providing a minimal base payment under the Alaska Longevity Bonus Program based solely on one-year's residency, with supplemental payments made on the basis of need;

5. phase out the Alaska Longevity Bonus Program by increasing the age eligibility each year;

6. create an annuity plan, with the annuity corpus consisting of permanent fund distributions. This option would necessitate a transition program for those persons 40 years and older;

7. fund the Alaska Longevity Bonus Program through a "pay as you go" social security system, funded by approximately 25% of the existing permanent fund dividend distributions;

8. replacing the Alaska Longevity Bonus Program with a comprehensive health insurance program for elderly Alaskans;

9. condition eligibility for a longevity bonus upon a demonstration of hardship which would be suffered by being unable to continue Alaska residency; and

10. open the Alaska Longevity Bonus Program to all one-year residents, and terminate the program -- giving FY 1984 recipients a grandfather right to continued bonuses.

II. CONSTRAINTS ON THE CHOICE OF OPTIONS

There are four basic considerations in choosing a package of amendments to the Alaska Longevity Bonus Program. The purpose of this section is to provide an overview of the constraints and policy choices which should play a role in this committee's decision.

A. Constitutional Constraints.

The obvious and primary constraint on any set of amendments to the Alaska Longevity Bonus Program lies in the equal protection clauses of the United States (Amendment 14) and Alaska (Art. 1, §1) constitutions. The existing Alaska Longevity Bonus Program discriminates between Alaska residents based on their duration of residency; moreover, all of the alternatives considered by this report involve some durational residency requirement.

Under both the federal and Alaska constitutions, a durational residency requirement which conditions or denies either a "fundamental right" or a "basic necessity of life" is valid only if the discrimination is necessary to further a compelling state interest. Zobel II, 619 P.2d at 448; Memorial Hospital v. Maricopa County, 415 U.S. 250, 259 (1974). "Fundamental rights" involve such things as voting,[26] while "basic necessities of life" include basic medical care[27] and welfare.[28]

The so called "right to travel" -- which any durational residency requirement arguable affects -- is not a fundamental right automatically triggering the compelling state interest test. Zobel II, 619 P.2d at 425-426, Zobel III, 72 L.Ed. 2nd at 677-678.[29]

We are confident in concluding that longevity bonus is not a "basic necessity of life." The program is not welfare -- it is not based on need. Basic indigent assistance -- including both income supplements and Medicaid -- are available to the

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[26]Dunn v. Blumstein, 405 U.S. 330 (1972).

[27]Memorial Hospital v. Maricopa County, 415 U.S. 450 (1974).

[28]Shapiro v. Thompson, 394 U.S. 618 (1969).

[29]One of the oddities of Justice Brennan's concurrence in Zobel III was his view that the "right to travel" is a "fundamental" right (id. at 682) -- although impairment of that right by a durational residency requirement should be tested under the deferential "rationally related" standard (see text, post) or at worst "intensified ... scrutiny." Id. at 681.

needy in this state.[30] The longevity bonus program seems more akin to the permanent fund dividend, which the Alaska Supreme Court held in Zobel II was not a "basic necessity of life." 619 P.2d at 445. As the Court of Appeals for the Ninth Circuit has observed:

> "Deprivations which are only uncomfortable are not enough, such as conditioning lower tuition at state institutions of higher education upon a one-year residency requirement." Fisher v. Reiser, 610 F.2d 629, 639 n. 5 (1979), cert. denied 447 US 930.

Under the federal constitution, then, any durational residency requirement imposed by amendments to the ALB program need only be "rationally related" to a legitimate governmental purpose. Zobel III, 72 L.Ed. 2nd at 678. As this section will discuss, however, that standard is occasionally more deferential in its terms than in its application.

Conversely, under the Alaska Constitution, a durational residency requirement will withstand scrutiny only if it is "fairly and substantially related" to a legitimate governmental purpose. Zobel I, 619 P.2d at 427. The more the balance tips in favor of the individual, the more necessary the discrimination must be in order to further the law's purpose. Id.

From these standards, the following ground rules can be extracted from applicable case law:

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[30] See Memorial Hospital v. Maricopa County, 415 U.S. at 261

1. Unquestionably, the "length of residence may be used to test the bona fides of citizenship." Zobel III, 72 L.Ed. 2d at 684 (Brennan conc.). In other words, the state may, by a durational residency requirement, "make virtually certain (that the recipients of the program are) bona fide residents of the state ..." Vlandis v. Kline, 412 U.S. 441, 453-454 (1973).

As a general rule, attorneys have assumed that in cases not involving the "compelling state interest" standard, a one-year durational residency requirement is permissible as a presumption of domiciliary. See, Starns v. Malkerson, F. Supp. 325, 234 (Minn. 1970), affd. mem. 401 U.S. 985 (1971). Moreover, the State of Alaska has taken the position that in cases involving either particularly attractive benefits, or particularly transient populations, a durational residency requirement in excess of one year is constitutionally permissible. See Motion For Summary Judgment, September 8, 1982, Andress v. Baxter, et al., No. A82-307 Civil, U.S. District Court, (D. Alaska 1982).

For the purposes of the Longevity Bonus Program, there are three reasons why it makes little sense to attempt a multi-year durational residency requirement as a presumption of domicilary. First, the attempt would lack substantial

precedential support. Second, it would be contrary to the August 9, 1982 settlement in the Vest case. Finally, and as noted previously, a durational residency requirement would not begin to exclude significant numbers of elderly Alaskans unless it was in excess of 10 years.

2. Durational residency requirements may be permissible for reasons other than presuming domiciliary, although at least four justices of the United States Supreme Court believe that those situations are "rare." Zobel III, 72 L.Ed. 2nd at 684.[31]

At the outset, a state cannot use a lengthly durational residency requirement to reward long time residents for their prior contributions to the state. To a majority of the court, while the purpose itself is permissible, a durational residency requirement is irrationally tailored to that goal -- a point bluntly made by Justice O'Connor in her concurrence:

> "A multitude of native Alaskans -- including children and paupers -- may have failed to contribute to the state in the past. Yet the state does not dock paupers for their prior failures to contribute, and it awards every person over the age of 18 dividends equal to the number of years that person has lived in the state." L.Ed.2d at 689.

The flip side of rewarding a person for prior contributions is compensating a person for prior hardships. That, as noted previously, is a second major goal of the

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[31]One "rare" example cited by the four concurring justices was qualification of public office. Id.

existing ALB program. If it is irrational to assume that all long time residents "contributed" to the state, it may be equally irrational to assume that all long time residents suffered substantial past hardship.

There is one universal hardship which equates with territorial residency -- the lack of franchise. It is conceivable that a Longevity Bonus Program intended to compensate for that lack of representation would be constitutionally permissible. However, that rationale would only justify the January 3, 1959 residency requirement -- not the 25-year continuous residency provision of the act.

A much closer question is posed by the program's goal of allowing elderly Alaskans to remain in the state who would suffer particularly severe hardship if they were financially required to relocate. Justices Dimond and Matthews of the Alaska Supreme Court believe this may be a constitutionally permissible goal substantially furthered by a durational residency requirement:

> "... a state Longevity Bonus ... require(s) lengthy residency. Both those programs, however, are apparently designed to help those individuals who would like to retire in the state but cannot afford to do so because of the high cost of living. The state might well want to limit the benefits to those that would suffer the most hardship by being forced to leave, and it seems reasonable to suppose that a long period of residency would be some indicia of close ties to Alaska and the disruption that leaving might cause." Zobel II, 619 P.2d at 469 n. 13 (Dimond dissenting).

The Department of Law, in fact, has concluded that the Pioneers' Home may be constitutionally defensible as a reasonable means of accomplishing precisely this goal.[32] Indeed, one option considered in this report would award longevity bonuses on the basis of hardship caused by relocation -- which in turn would be measured in part by length of residence. By making length of residency "some indicia" (619 P.2d at 469) of the hardship of relocation, the option would avoid the indictment of overbreadth which was fatal to the permanent dividend fund distribution program in Zobel III.

Finally, as to the ALB program's goal of providing an incentive for a specific subclass of Alaska's elderly to remain in the state, the courts in all likelihood would view that purpose as merely discrimination for its own sake. See Zobel III, 72 L.Ed. 2nd at 678-679. Presuming that only long-time residents have the requisite "wisdom and experience" to warrant subsidization is hardly likely to impress the U.S. Supreme Court.

B. Varying Goals of Several Longevity Bonus Options.

There is a substantial difference of opinion as to what an amended ALB program should accomplish. As noted previously, the legislature may wish to retain one of the major goals of the existing program -- allowing those elderly with the closest ties to Alaska to continue to live here.

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[32] 1982 Op. Atty. Gen. ____(November 26, 1982) at 25.

Alternatively, the fiscal consequences of the various alternatives may be the primary consideration. As previously discussed, if legislation in conformity with the Vest settlement is enacted, an additional $11 million must be appropriated as retroactive bonus payments to July 1, 1982. Several of the options which propose to phase out the program, or which propose a conversion to permanent fund earnings, are partially or primarily directed at this end.

The primary goal of the legislation may also be to protect those currently most dependent upon the bonus. The current Old Age Assistance income level is $546.00 per month and there are approximately 2,300 elderly Alaskans receiving state assistance. Since the longevity bonus is not included in the calculation of income for state assistance, the practical consequence of a phase out or termination of the program would be to materially reduce the available income of the poorest elderly Alaskans. Moreover, as noted in Section I(B), ante, there are a large number of elderly Alaskans who are currently only marginally above the existing state poverty level.

There are two options particularly sensitive to this goal -- the phase out of the ALB program in conjunction with a correlative rise in state assistance levels, and the option of compensating those who would suffer the most hardship by relocation.

With respect to this goal, however, it should be stressed that the existing ALB program has been purposefully structured so as to not be a "welfare program." Precisely for that reason, the program is administered by the Department of Administration, rather than the Department of Health and Social Services, and any conversion to a "need-based" program will undoubtedly offend the dignity of many elderly Alaskans.

Finally, there is the possible goal of providing a long term, stable bonus program which frees the general fund from increasing commitments. The annuity and state social security options are primarily directed at this goal.

C. Consequential Effects of Any Amendment To The Longevity Bonus Program.

Any change to the Longevity Bonus Program may have two consequences which must be considered: (1) the continued eligibility of ALB recipients for other state or federal assistance programs; and (2) tax consequences on participants.

As noted in Section I(A), ante, under federal law the ALB is excluded from the definition of "income" for many federal assistance purposes.[33] As long as any amendments to the ALB program continue to base eligibility "solely on attainment of age 65 and duration of residency," and remain sufficiently similar to the existing program so as to be fairly called "a program established prior to July 1, 1973," the exemption would be retained.

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[33]See n. 8, ante.

Obviously, any material changes in eligibility requirements or structure of the program raise the risk that the new benefit will be included as "income," and many elderly Alaskans will be terminated from the applicable federal program. The Department of Health and Social Services has estimated the impacts from a loss of the longevity bonus exclusion. Those estimates appear at Appendix B of this report.

Anticipating the same problem with permanent fund dividends, the legislature, in the 1982 Special Session, provided that the state would substitute lost benefits for a period of four months.[34] Obviously, and to the extent possible, any amendments to the ALB program should either be tailored to the existing exception, or fall within another separate statutory income exclusion such as a "need based" payment.[35]

The tax consequences of amendments to the existing ALB program become particularly important with respect to this report's annuity option -- which is treated in detail in Section III (F), post. At the outset, it is sufficient to note that:

> 1. The existing longevity bonus program is taxed under the Internal Revenue Code;
>
> 2. Any ALB program which is based on need, or could be characterized as a "social benefit program for the promotion of the general welfare," would in all likelihood not be taxed by the IRS; and[36]

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[34] AS 43.23.075.

[35] See 42 U.S.C. §1382(a)(b)(6).

[36] See IRS Revenue Rulings, 53-136, 1963-2 C.B. 19; 68-38, 1968-1 C.B. 446; 72-340, 1972-2 C.B. 31; 78-170, 1978-1 C.B. 24.

3. On February 27, 1981, the Internal Revenue Service ruled that dividends distributed under the state's prior permanent dividend fund legislation -- the statute invalidated in Zobel III -- were taxable under the Internal Revenue Code.[37] While the IRS has yet to rule on the existing dividend program, it is likely that taxation of the permanent fund dividend could be deferred if it is used to fund the annuity or social security options discussed in this report.

III. DISCUSSION OF ALTERNATIVES

A. Expanding The Class Of Alaska Longevity Bonus Recipients To Include All Elderly With One-year's Residency.

There are currently some 9,425 Alaskans who receive bonuses totally $28.28 million. This proposal would require additional appropriations for (1) bonuses for an additional 3,803 people; and (2) additional clerical support in the Department of Administration. The additional costs would total $12 million in FY 1984, increasing to $13.7 million in FY 1988.[38]

These appropriations are in addition to the $11.4 million retroactive award required under the Vest settlement.

The advantages of this option are two-fold. First, it is one of the constitutionally "safest" options. Second, since eligibility would remain dependent on "duration of residence" -- albeit only one-year -- in all likelihood it would fall within the existing ALB exclusion to federal assistance programs.

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[37]IRS Index Nos. 0061.40-00; 0451.20.00; 0102.00-00.

[38]Department of Administration draft fiscal note, January 11, 1983.

Additionally, while theoretically any "one-year" elderly Alaskan could take advantage of this program, the demographics of Alaska's elderly (see Section 1(B), ante) are such that the primary beneficiaries of this option would be those who have lived in the state from 10 to 25 years. Whether such a program would encourage in-migration is problematical.

In addition to obvious fiscal disadvantages, this alternative would dilute the dignity and recognition attendant the current bonus to the point of non-recognition.

B. Phase Out The Existing Longevity Bonus Program.

One of the options analyzed by the Sheffield administration would phase out the ALB Program by reducing benefits by $50.00 each year beginning with FY 1984. By paying $200.00 a month to 13,228 recipients rather than $250.00 to 9,425, the net increase to the program in FY 1984 would be $2.1 million. In fiscal year 1985, however, when the bonus is reduced to $150.00, there will be a net decrease of $8.7 million in program costs.

This option has been unfavorably viewed by the administration, and apparently was prepared only as a point of comparison. Despite its fiscal benefits, the proposal protects no one. The poorest of Alaska's elderly would suffer the most. Since, as discussed previously, Alaska longevity bonuses are not counted in existing state and federal assistance income limits, the needly elderly person in Alaska receives, currently, a

subsidized monthly income of $546 for Old Age Assistance, plus $250 from the ALB program. This option would thus materially reduce state assistance levels.

C. Phase Out The Existing Longevity Bonus Program With A Contemporaneous Increase In State Assistance Levels.

The apparent "preferred" option of many with the Sheffield administration is to gradually increase state Old Age Assistance levels while at the same time gradually decreasing the amount of the longevity bonus. The program would function in the following manner:

CHART 1.

YEAR	OLD AGE ASSISTANCE LEVEL	ALASKA LONGEVITY BONUS
FY 1983	$546	$250
FY 1984	$596	$200
FY 1985	$646	$150
FY 1986	$696	$100
FY 1987	$746	$ 50
FY 1988	$796	$ 0

In analyzing the fiscal impacts of this alternative, assumptions must be made about how many elderly Alaskans will become eligible for Old Age Assistance as the OAA income level increases, and how many of the newly eligible will be inclined to seek assistance as their longevity bonus gradually diminishes.

Regardless of which assumptions are used, the impacts upon the longevity bonus program, are, of course, identical to the "phase out" option. Those impacts would be as follows:

CHART 2.

ADDITIONAL COST (SAVINGS) TO THE ALB PROGRAM (in millions)

FY 1984	2.1
FY 1985	(8.7)
FY 1986	(19.2)
FY 1987	(30.9)
FY 1988	(44.1)

The fiscal impact upon the Department of Health and Social Services' OAA program is far more difficult to determine. The Department of Administration has used two alternative assumptions -- (1) that of the 13,228 elderly in Alaska, 5% will become eligible and apply for public assistance as the income level is increased to $796 in FY 1988; or (2) that 25% of the elderly will become eligible and apply for assistance during that period.

We believe that the 25% possibility may be closer to the truth. Approximately 30% of Alaska's elderly have monthly incomes marginally above existing assistance levels -- from $500-$800 per month.[39] If those figures are accurate, as many as 3,968 will become eligible for public assistance -- in addition to the 2,300 currently on the OAA program.

The second variable involves the size of the benefits which the new clientele will receive. The Department of Health and Social Services has assumed that each new recepient will receive the mean benefit currently given or projected for

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[39]Assessment, op. cit. n. 11 at 31.

existing receipients -- $295 in FY 1984.

In computing the fiscal impacts for this option, we have used the following three assumptions:

(1) Of the 3,968 elderly whom current data suggest could be eligible for the increased OAA program, 2500 will in fact apply. This figure arbitrarily discounts both those who will decline to apply for psychological reasons, and those who will not apply because the minimal benefits to them are simply not worth the bother;

(2) Because we have discounted those who will receive minimal benefits, we have retained the "mean benefit" assumption employed by the Department of Health and Social Services; and

(3) The new recipients will be evenly distributed over each of the five years -- so that in each year an additional 500 recipients will be added to the OAA program.

Additionally, persons who become eligible for Old Age Assistance will also become eligible for Medicaid. The State's Medicaid budget for FY 1983 is $65 million dollars. 48% of that figure -- or $31.2 million -- is paid by the State. Some 23% of that budget -- or $7.17 million dollars -- is attributable to those currently on Old Age Assistance. If the OAA population doubles over the next five years -- as our assumptions presume that it will -- there will be an additional cost of $7.17 million (not adjusted for inflation) to this option, chargeable in equal portions to each of the next five fiscal years.

With these assumptions, the following chart illustrates the possible net fiscal impact of this option:

CHART 3

Year	# Add. on OAA	Mean Benefit	--------IN MILLIONS-------- Added Medicaid Costs	Added ALB Costs (Savings)	Net
FY 1984	500	$295.02	1.4	2.1	5.27
FY 1985	1000	345.02	2.8	(8.7)	(1.76)
FY 1986	1500	395.02	4.2	(19.2)	(5.90)
FY 1987	2000	445.02	5.6	(30.9)	(14.60)
FY 1988	2500	495.02	7.0	(44.1)	(29.30)

Thus, even with fairly liberal assumptions regarding the number of additional OAA clients and Medicaid costs, this option will begin saving money in FY 1985.

Moreover, for those elderly in the $500 - 800 per month income range who pay some federal taxes, the option would have advantages, since increased need based assistance, unlike the longevity bonus, should not be taxed under the Internal Revenue Code.

One obvious disadvantage of this option is that it transforms the longevity bonus program into a welfare scheme. Persons who currently receive $796 or less per month -- including the bonus -- will indeed be "held harmless" under the option, but only at the expense of applying for assistance to the Department of Health and Social Services.

Moreover, those current elderly bonus recipients whose monthly incomes (excluding the bonus) exceed $796 per month will receive no protection under this option.

Finally, because welfare payments are generally viewed by the courts as involving "basic necessities of life" (see §II(A), ante), the durational residency requirement for increased old age assistance must be dropped from one year to 30 days.[40] The minimum national old age assistance level under the federal Supplemental Security Income system -- which OAA supplements -- is $284.30/mo.. A person with $600 a month income in a "minimum benefit" state is presumably ineligible for old age assistance (including Medicaid) in that state, but could become eligible under the Alaska system upon 30 days residency. While the mere prospect of an additional $196 per month (in FY 1988) is unlikely to induce people to retire in Alaska, the concommitant provision of Medicaid services -- including full nursing home coverage -- may have that effect. If a person can obtain free nursing home coverage -- valued at between $40 - $60,000 per year -- simply by spending the month of August in Anchorage, the State may face a rather remarkable in-migration problem indeed.

D. Retaining A Modest Longevity Bonus, While Providing A "Need Based" Supplement.

This option is largely a variant of option C, and has been discussed by the Sheffield Administration as a means of

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[40] Shapiro v. Thompson, 394 U.S. 618 (1969).

retaining some longevity bonus payment which could not be considered "welfare."

Under this option, the longevity bonus, as with Option C, would be gradually reduced to, say, $100.00 per month. As the fiscal information for alternatives B and C suggest, this alternative would result in a savings to the longevity bonus program of $19.2 million by FY 1986.

To compensate for the loss of $150.00/mo. to the needy, either State OAA limits could be increased by $150, or a separate "need based bonus supplement" could be established by the Department of Administration.

The advantage of the latter option is that although based on "need," applicants will not be dealing with the Department of Health and Social Services, and may view the supplement less as a form of welfare. Additionally, since the supplement will be provided under a program other than State OAA, its recipients would not be entitled to Medicaid (including nursing home coverage) unless they are otherwise eligible for OAA under existing limits.

Additionally, the "need" is not necessarily limited to financial need. As this report's discussion of Option I indicates, longevity bonuses may be apportioned according to the hardship which the elderly would face by being forced to retire outside Alaska.

The disadvantage of a separate "need based" program in the Department of Administration is, of course, the necessary creation of a parallel bureaucracy in state government.

The fiscal costs of this option have not been developed by the administration or this report because of the variables involved -- the size of the remaining "basic" longevity bonus, and the question of administration. Costs of administration aside, the net savings to the State should be substantially similar to the FY 1986 figures for Option C -- in which the declining longevity bonus payment would be $100.00 per month. The projected net savings of $5.9 million would certainly exceed the costs of even a parallel bureaucracy within the Department of Administration.

E. Gradual Increase In The Age Of Eligibility.

Another option explored by the Administration would reduce the durational residency requirement for a bonus to one year, but raise the eligibility age each fiscal year. For FY 1984, the age would be raised to 66; to 67 in FY 1985; and so on.

This option would have a substantial fiscal impact until fiscal year 1988, at which time mortality would have reduced the class of beneficiaries below existing levels. For FY 1984, the option would cost an additional $9.5 million dollars beyond existing funding levels, according to the Department of Administration.

This option has been quite unfavorably received. It has been facetiously but not unfairly referred to as the "newcomer's bonus program." A recent migrant born prior to June 30, 1918 would receive a longevity bonus for life, while a long-time Alaskan born subsequent to that date would receive nothing.

F. Self-Sustaining Annuities.

The prior five options were developed by members of the administration, although the administration has not formally "sponsored" any particular approach. Moreover, several of the options -- particularly the "graduated age" and "phase out" options -- were developed more as comparative conversation pieces than as actual proposals.

The following five options -- commencing with the self-sustaining annuity -- were prepared by the authors of this report.

Under the self-sustaining annuity option, individuals would no longer receive a permanent fund dividend under AS 43.23. Rather, those dividends would form the corpus of a self-sustaining annuity account from which the individual would receive an annuity commencing at the age of 65.

According to Department of Revenue projections, the permanent fund dividend payment for FY 1984 will be $365.00, rising gradually throughout the remainder of this century to $952 in the year 2000.

Given this level of contribution to the corpus, a self-sustaining annuity account will produce an annuity roughly equivalent to the existing longevity bonus (with a 3 percent annual cost of living adjustment) for those who are currently 40 years or younger, and who will be residents of Alaska each of the next 20 years. For various age groups, the annuity entitlements at age 65 as a percentage of the "target" annuity ($3000/yr. plus 3% per annum) would be roughly as follows:

Current age	Annuity as a % of target annuity
25	358%
35	161%
40	100%
45	66
55	21

Obviously, some transition measure is necessary for those who are simply incapable of accruing a sufficient corpus by the age of 65 to be entitled to the "target annuity". The general fund, simply put, will be required to make up the difference, although, over time, that "differential" will decrease as annuity accounts assume some significance.

Many of the options explored in this report could suffice as a 20-25 year shrinking general fund obligation. One option particularly tailored to the annuity approach would be to allow those who are at or near the age of 65 to continue to receive their permanent fund dividends in cash, with the PFD being subtracted from the longevity bonus amount. For those in

the 40-60 year age group, the general fund would simply fund the difference between their annuity and the "target" figure.

Under this "transitional measure", the general fund "residual" payment would be based on the amount necessary to supplement the annuity corpus assuming that an individual received a permanent fund dividend every year. There would seem, in this regard, no obligation on the part of the state to give a larger general fund supplement to someone with two PFD credits than to someone with 15.

Thus, in fiscal year 1994, when current 55-year olds first receive their annuity, they would receive a state supplemental of 79 percent of the target annuity -- regardless of the actual PFD credit any individual has accrued.

The remaining question, obviously, is what to do about the person who is currently 65. If that individual's supplement is the same in 1994 as a new annuitant -- 79% -- he will in fact receive less than the new annuitant since he will have only his permanent dividend, rather than a 21% annuity, to make up the difference. Conversely, if the grandfathered PFD recipient received a full target annuity in 1994, he would be at a substantial advantage over the new annuitant. The reason is this: while the new annuitant has earned a substantial portion of his target annuity by foregoing his cash dividend each year, the "grandfathered" recipient has both enjoyed the dividend, and its earning power, over that same period of time.

The question is largely one of equity for the legislature. Either approach is defensible. While the latter scenario would seem to discriminate in favor of the existing elderly, the Alaska Supreme Court has recognized the legitimacy of creating preferential grandfather rights for those who have come to depend upon an existing state program.[41]

In either case, the difficulty with this "transition" option is that the longevity bonus program continues to be a substantial drain on the general fund for 20-25 years to come. Under the transition option described above, the FY 1984 budget for the ALB program would be increased by $6 million dollars over existing funding levels.[42]

Through Aetna Insurance Co., we investigated the alternative of simply purchasing a lifetime annuity for all those currently 65 or older. Unfortunately, the cost of a lifetime annuity for all Alaskans 65 or older would be prohibitive -- in the neighborhood of $300 to $400 million.

Finally, the Legislature should consider using the administration's options C and/or D as a transition measure. The short term fiscal impacts of those options are superior to those of a simple general fund supplement.

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[41] Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d at 1259-61.

[42] Assuming that the ALB of the "grandfathered class" is reduced by the $365 permanent fund dividend, each of 13,228 persons will receive a payment of $2,635 this year -- totaling $34 million dollars.

For all of the short term problems of an annuity program, the long term advantages should receive equal time. First, in a period of 20-25 years, the general fund will no longer be encumbered with the longevity bonus program. Second, the eventual size of one's annuity payments would be a function of the number of permanent fund dividend contributions that have been credited to the annuitant's account. We seriously doubt that a successful durational residency claim could be made to this aspect of the program. An annuitant with three years contributions could no more claim that he is due an annuity based on 20 years contribution than could a 1996 resident claim not merely the $787 cash dividend available that year, but rather some $6,000 which his predecessors had amassed by being residents of Alaska since 1984.[43]

We believe that there is a strong case for distributing annuities only to persons who are residents of Alaska at the

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[43]Because future annuities are a direct function of actual past payments to the program, the program does not "reward" presumed contributions but simply returns actual investments. cf. Zobel I, 619 P.2d at 435 (Rabinowitz conc.) Nor is the option akin to a situation where prior tax contributors are excused from funding the present needs of government, as with the tax repeal scheme at issue in Zobel I. At any point in time, each Alaskan is treated quite equally -- being entitled to an annuity credit if he or she resided in the state for six months during the pertinent year.

time. Partially for reasons discussed below, no individual will have a "vested right" to an annuity in the future. A purpose of the annuity program will be to alleviate the particular financial hardships caused by retirement in Alaska -- a purpose which we believe is constitutional. This goal would be served only by confining actual annuity payments to Alaska residents. Second, and particularly if the program is properly viewed as conferring an economic benefit not upon the crediting of an annuity account, but rather upon annuity distribution, the state certainly possesses the right to prefer its own residents in the disposition of its resources.[44]

There are, of course, other issues surrounding the annuity option. Many Alaskans will undoubtedly wish to retain the existing cash benefits of the permanent fund distribution. Alaskans will not be, however, totally without recompense. An annuity account for younger Alaskans in particular -- at least for those planning to stay in the state -- will one day lead to substantial benefits.

Of course, the prospect of a lucrative retirement account is a product of the legislature's continued willingness and ability to devote 25% of permanent fund earnings to the

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[44]Reeves, Inc. v. State, 65 L.Ed. 2nd 244, (1981); see also White v. Massachusetts Council of Construction Employees, ___ U.S.___, No. 81-1003 (U.S.S.Ct., Feb. 28, 1983)(distinguishing Hicklin v. Orbeck, 437 U.S. 518 (1978).

annuity program. Unquestionably, at some point in time, a material percentage of the permanent fund's earnings will be necessary for general government expenses. The point at which that will require access to more than 75% of the fund's earnings is problematical.

The tax consequences of an annuity program warrant detailed discussion. As noted previously, the Internal Revenue Service may well rule that permanent fund cash distributions are taxable. Conversely, if credits to an annuity account equal to the permanent fund dividend are not tax exempt, the real economic value and perceived political worth of an annuity option is substantially lessened.

The annuity program envisioned by this report is not employer/employee related, and therefore would not qualify as an exempt plan under the Internal Revenue Code.[45] Nor was serious consideration given to qualifying the annuity option as an Individual Retirement Account -- because (1) the state is not a qualified financial institution to administer such an account; (2) the required terms of an IRA were not compatible with the option considered; and (3) any "state required" IRA -- even if possible -- would severly impinge on the tax planning flexibility of individual Alaskans.[46]

Nonetheless, it is our opinion that the annuity option should result in the deferral of both the permanent fund

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[45]cf. 26 U.S.C. §401-404

[46]See 26 U.S.C. §408.

dividend contributions and accrued interest under the Internal Revenue Code. The courts and the IRS have generally ruled that contributions to an unqualified "annuity," "retirement" or "deferred compensation" plan are nonetheless tax deferred if the individual is not in "constructive receipt" of the annuity contributions, and the contributions do not represent a present "economic benefit."[47]

Combining the standards of that doctrine with the attributes of the proposed annuity program, the program should be taxed deferred for the following reasons:

1. If the State were to purchase individual annuities with each permanent fund dividend, with each resident being the beneficiary, the resident would have a vested and secured interest in the contribution, and would thus have received a current "economic benefit." If, however, the State were to merely give the annuitant an unsecured promise of payment, purchasing an annuity account with itself as the beneficiary in order to provide a funding source for that promise, there would be no "current economic benefit" and taxation would be deferred.[48] This is one customary means by which employers obtain tax deferral of an unqualified plan;

2. A person is in "constructive receipt" of an annuity contribution if he has current access to the

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[47] U.S. v. Goldsmith, 586 F.2d 810 (Ct.Cl. 1978).

[48] Id.

contributions without substantial terms and limitations.[49] Under this report's option, under no circumstances would an annuitant be entitled to withdraw anything until annuities are actually distributed;

3. To underscore the contingent nature of the annuity -- such that the IRS could not reasonably conclude that it represents a "current economic benefit" -- the annuity will only be received if the person is an Alaska resident at the time of the pertinent distribution.

Our only hesitancy in this regard is the February 27, 1981 ruling of the IRS that even if an individual chooses to defer receipt of his permanent fund dividend, it is taxable in the year that it could have been received. The ruling, however, "may not be used or cited as precedent," and, even if of precedential value, is distinguishable from this situation. The ruling is consistent with the proposition that the individual cannot have unfettered discretion in choosing the year in which income will be taxed. While an individual does have unbridled choice in determining when to take a permanent fund dividend, he will have no choice as to the time of receipt of his annuities. Moreover, where a person would have an absolute right to a deferred dividend, he will have no right to annuity distribution unless he is an Alaska resident at the time.

For tax reasons, then, the annuity option must be carefully structured. The former permanent fund dividend must

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[49] Id.

be used by the State to purchase an annuity for its own account, with itself as the beneficiary. The annuity income received by the State will then be used as the funding source for the annuity payments -- although technically and necessarily the annuity income could be used for any fiscal purpose.

A far closer question arises with respect to the effect of this option on other public assistance programs. Generally, annuity income is included in the calculation of income for various assistance programs.[50] If, however, this option can be characterized as a continuation of the longevity bonus program, then the existing longevity bonus income exclusion[51] may persist. If -- consistent with tax considerations -- the only "annuity" is the one purchased by the State as a funding source, then the existing longevity bonus program can be retained in both name and substance, with the amount of the bonus still dependent upon residency history. After all, under the option, (1) a person must be a six month resident in order to obtain a single PFD, and must be eligible for the annuity at the time of distribution;[52] (2) the amount of annuity is dependent upon the number of PFD's credited to the individual's account; and (3) the "grandfathered" class of existing elderly would presumably be required to meet a one-year durational residency requirement.

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[50] See, 42 U.S.C. §1382(a)(a)(2)(E).

[51] See 42 U.S.C. §1382(a)(b)(2)(B).

[52] See n. 8, ante.

The above, of course, is an argument -- it is not necessarily the law, which in final measure will be largely determined by the federal officials involved. The exposure to existing assistance programs -- at least for those not within the grandfathered transition class -- must be considered a risk of this option.

Even if, however, annuity distributions are considered "income" to various assistance programs, the corpus of the annuity account will not be. A person may be disqualified from a federal assistance program not only if his income exceeds a certain level, but as well if he has alternative available resources which he can upon from at any time. However, in this instance, a true "annuity corpus" does not exist -- since the only annuity runs for the benefit of the State. Moreover, even if federal officials were to view the "corpus" as belonging to the individual, it cannot be withdrawn prior to actual distribution.

G. State Social Security System.

In large part because of the need for a lengthy transition period with a self-sustaining annuity plan, this report also considered the possibility of a state social security system funded by a portion of the permanent fund dividends distributed under AS 43.23.

Under this system, a sufficient portion of each resident's permanent fund dividend would be withheld each year

to fund a retirement program designed to pay each Alaska resident of 65 years or older with one-year's residency $250 per month, with a moderate cost of living adjustment each year.

In assessing the feasibility of this option, the most important variable was the projected growth in Alaska's elderly population. The difficulties facing the federal social security system are due in part to an increasingly large percentage of elderly in the population.

For fiscal year 1983, the Alaska Department of Labor projects that there will be some 13,672 elderly in Alaska -- approximately 3% of Alaska's population.[53] The Department has projected that that population, as a percentage of all Alaskans, will remain relatively static through the year 2000, when, out of a population of 831,000 people, there will be 25,158 elderly.[54]

We believe that those projections are overly conservative, and do not take into account the significant nationwide trend of increased elderly population. Nor do those projections include the retirement years of the post World War II "baby boom" generation -- which will begin about the year 2010.

Accordingly, in projecting the long term impact of this option on permanent dividend distribution, we have used the

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[53]Alaska Population Overview, Alaska Department of Labor, 1981

[54]Id.

national growth patterns projected by the federal Social Security Administration, which are as follows:

YEAR	% OF ELDERLY POPULATION
1950	8.1
2000	13.1
2025	19.5
2050	21.8

Using those assumptions, Travelers' Insurance Co., on our behalf, calculated the percentage of permanent fund dividends which would be required to fund a "pay as you go" system.

For fiscal year 1983, the calculations are relatively straight-forward. Given an aggregate distribution of some $169 million in permanent fund dividends this year, approximately 25% would be needed to fund a "pay as you go system."

However, even assuming a 3% cost of living adjustment in the payment each year, the percentage needed to fund the program decreases. This is because permanent fund earnings will increase at a rate substantially higher than inflation. From the year 1983 to 2000, the average funding required would be 15 to 19 percent of the distributions, while, in the years 2000 to 2025 (and assuming continued growth in permanent fund earnings) the funding amount would be 10-12 percent.

Thus, if the withholding remains static at 25% over the course of several years, the resultant excess would begin to build a savings account of substantial magnitude, which at some

point in the future would make the program partially, or perhaps totally self-sustaining.

One obvious advantage of this option is that it frees the general fund from ALB obligations immediately. Conversely, by materially reducing the annual permanent fund dividend, it obviously raises some political difficulties.

Additionally, the social security option could likewise be tied to contribution history -- although not in the precise manner of the annuity option. The federal social security system currently fully covers any individual who had "not less than one quarter of coverage ... for each calender elapsing after 1950 ... except that in no case shall an individual be a fully insured individual unless he has at least 6 quarters of coverage."[55] Because, in the future, some portion of the benefits will be paid by the "savings account" resulting from the static 25% contribution, we believe that a similar contribution history requirement could be established in the legislation.

Even more so than the annuity option, there would be no "current economic benefit" from the program. By reducing the permanent fund distribution by 25%, and funding a retirement program from which the individual may or may not ultimately benefit, we believe it extremely unlikely that the IRS would conclude that the reduced sum is in some manner taxable.

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[55] 42 U.S.C. §414(a)(1)

Morever, we believe there is a substantial likelihood that the existing ALB exemption in federal law could be retained. Indeed, stripped to its essense this option does little more than alter the funding source of the ALB program.

The primary risk of the program is all the more apparent in light of the current difficulties with the federal social security system. While option F would be funded by a currently purchased annuity, younger Alaskans would be contributing to this option on the mere hope that the requisite amount of permanent fund earnings would remain available for the program well into the 21st century. The "savings account" created by the static 25% withholding is intended to alleviate that problem; however, regardless of the rate of growth of that account there is plainly some risk in this option.[56]

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[56]For example, under our population projections, there will be 30,747 elderly in Alaska in the year 2000. The permanent fund distributions for that year under AS 43.23 are estimated by the Department of Revenue to be $792 million, of which, under our static 25% withholding, $198 million would be placed in the social security fund. In that year, with a 3% COLA, the maximum monthly bonus will be approximately $390. Even if every elderly Alaskan is eligible for full benefits under the law's contribution requirements, the maximum payments would be $120 million -- with a savings account deposit being made in that year alone of $70 million. Of course, many of these elderly may not be fully eligible, and some who are eligible may not be residing in Alaska during that year.

Finally, there is some advantage to the existing elderly in this system over the annuity option. The existing elderly would have a net loss of only 25% of their permanent fund dividend, rather than the entirety of the benefit under the annuity approach.

H. Health Insurance For The Elderly.

The state of health insurance for the elderly, and indeed for all Alaskans, has already been the subject of considerable study,[57] and legislative activity.[58] Because of the obvious critical importance of adequate health care coverage for Alaska's elderly, the option of providing comprehensive health insurance for Alaska's older citizens in lieu of the longevity bonus was included in this report as an option.

While the Department of Law report found that health expenses were a major use of the longevity bonus for only 5.5% of its sample, the 1976 longevity bonus study found that 29% of the bonus recipients used at least a portion of the ALB for medical care, while 11% used a portion of the bonus for "insurance of all kinds."[59]

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[57]Alaska Comprehensive Health Care Financing Study, Batelle Human Affair Research Center (1981)

[58]HB 641, 12th Leg. 1st Sess. (1981)

[59]ALB Survey, op. cit. n. 9 at 22

In fact, almost all of Alaska's elderly receive some kind of public or private health coverage assistance -- either through Medicare, Medicaid, public and private retirement programs, Veteran's benefits or the Indian Health Service/Public Health Service.

When assessing the health insurance option, the two obvious questions are: (1) how severe are the gaps in existing coverage; and (2) how much would it cost to fill those gaps?

The major source of health insurance coverage for the elderly in Alaska is obviously Medicare -- a federal insurance plan which provides hospitalization for those eligible for social security[60] and medical insurance for an additional fee of $12.20 per month.

Both the hospital and medical insurance contain substantial deductibles, i.e. the first $304 of the hospital bill -- and co-payment requirements (20% in the case of medical insurance.)

Nursing home coverage under Medicare is severely limited -- confined to post-hospital care in a "skilled nursing facility" for short periods of time.

It is difficult to determine how many resident Alaskan elderly are on Medicare -- available statistics are bloated by Medicare claims submitted by tourists. There are some 9,323

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[60]42 U.S.C.§§ 426,1395(c). A person ineligible for Social Security may obtain Medicare hospitalization insurance for $113 per month

retired persons in Alaska receiving social security -- and hence eligible for Medicare.[61]

The largest group of elderly Alaskans ineligible for Medicare are rural residents, primarily Natives, who do not have a sufficient wage earning history to qualify for social security. All Alaska Indians, Aleuts and Eskimos are eligible for IHS -- which provides a broad range of services depending upon available facilities. IHS is, however, primarily a direct provider of facilities -- it does not make cash payments for services such a custodial care in a nursing home. Moreover, it is currently facing severe cutbacks in areas such as reimbursement for health-related travel expenses[62].

The most comprehensive health coverage in Alaska is, of course, Medicaid. To be eligible for Medicaid, one must meet the State public assistance income limitations. As noted previously, there are currently some 2300 elderly Alaska citizens on Medicaid. Medicaid does cover virtually unlimited nursing home residency.

The most glaring deficiency in Alaska health care for the elderly is the lack of coverage for institutionalization in custodial environments such as nursing homes. Nursing home

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[61]Interview, Ms. P. Eubanks, Field Rep. Social Security Admin. (Feb. 24, 1983)

[62]Interview, Ms. P. Roberts IHS, (Feb. 23, 1983)

rates in Alaska run from $90 to $172 per day[63]. The costs are simply prohibitive for anyone not on Medicaid -- indeed, of the 467 elderly Alaskans currently residing in State nursing homes (other than the Pioneers Homes), all but 31 are there under Medicaid, or Alaska's General Relief Medical Assistance.

Conversely, nursing home rates in Washington, for example, have been estimated by the Department of Health & Social Services to vary from $50-$60 per day. It is not known how many elderly Alaskans are institutionalized in lower forty-eight custodial care facilities; however, it is apparent that unless one is eligible for Pioneer Home placement, a nursing home can be afforded if, at all, only by relocating to the lower forty-eight.

Three private organizations were asked to estimate the premium amount required to supplement Medicare and other coverage for Alaska's elderly to provide health insurance equivalent to the existing Public Employees' Retirement System's retiree coverage, and to include comprehensive nursing home coverage. Neither Travelers Insurance, nor Aetna Insurance felt capable of providing an estimate.

However, insurance consultants frequently used by the state for matters such as the public employees Supplemental Benefits System estimated that to provide supplemental coverage

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63Alaska Nursing Home Census, Alaska Department of Health & Social Service, 12/31/82

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586-2890
586-2559

for Medicare, insurance could be provided at a premium of approximately $70 per individual per month. This would include comprehensive nursing home coverage.

Medicare is currently a primary insurer -- that is, the State could provide for Supplemental coverage without endangering basic Medicare eligibility. Moreover, and in all likelihood, supplemental State coverage could properly provide otherwise uninsured Alaska Natives with those costs not covered by the Indian Health Service.

The major difficulty is Medicaid. Medicaid eligibility is very much contingent upon the unavailability of "resources".[64] Currently, the State only pays 48% of a Medicaid's patient bills. If a State health insurance policy was considered a "resource" the State could find itself footing the entirety of a Medicaid patient's bill.

Of course, the State would hardly need to "supplement" any Medicaid coverage -- Medicaid coverage itself being essentially inclusive. The statute, could simply exempt Medicaid recipients from the coverage of the policy. The issue posed by such an enactment is whether the State would be frustrating the Congressional goals behind Medicaid -- which is to provide a health coverage means of last resort -- thereby running afoul of the Supremecy Clause.[65].

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[64]42 U.S.C. §1382(a)(1)(B)

[65]Florida Lime & Avocado Growers v. Paul, 373 U.S. 132 (1963)

Assuming that the State could continue to merely supplement Medicare, IHS facilities and existing private and retiree coverages, and that the consultants' figures are accurate, there remain two difficulties with the health insurance option. First, it is of no benefit to Alaska's needy elderly -- who will merely continue with Medicaid coverage at the price of their longevity bonus.

Secondly, there is the potentially severe problem of in-migration. If a year's residency in Alaska[66] were all that were required for free and unlimited nursing home coverage, the potential of in-migration may be severe. There are two potentially justifable components of the program which could mitigate this potential:

1. If a purpose of the health insurance option is to allow Alaska residents to continue to reside in the state even if nursing home coverage is required, nursing home coverage could be limited to Alaska institutions, just as many states

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[66]It is possible, although we believe unlikely, that a court would rule that supplemental health insurance coverage would constitute a "basis necessity of life" -- dropping the maximum possible durational residency requirement to 30 days. The program would be supplemental to a host of existing assistance insurance programs, and would not be based on need. See Memorial Hospital v. Maricopa County, 415 U.S. at 261.

limit resident tuition discounts to in-state universities.[67] The difficulty, obviously, is that existing Alaskan nursing home capacity is limited. Whether unlimited nursing home coverage for all Alaskans would result in the expansion of existing facilities is debatable;

2. For the reasons cited with respect to the annuity and social security options, eligibility for health insurance coverage might properly be based upon contribution history if (a) a portion of the individual's permanent fund dividend is used to help fund the insurance program; and (b) the funding is in excess of current needs, in order to amass the same type of "savings account" envisioned with respect to the social security option.

I. LONGEVITY BONUS PREMISED ON INDIVIDUALIZED RELOCATION HARDSHIP.

As noted in Section II(A), ante, there is some judicial support for the view that it is permissible for Alaska to establish a program intended to benefit those who would suffer the most hardship by financially-coerced relocation from the state, and to measure that hardship in part by duration of residence.

This option relies upon that support, and involves three steps:

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[67]Starns v. Malkerson, 326 F.Supp. 234 (D. Minn. 1970), affa mem. 401 U.S. 985 (1971)

1. cataloging those criteria which would differentiate those Alaska elderly who would suffer relatively more hardship by being forced to retire outside the state, and who need financial assistance in order to remain in-state;

2. translation of those subjective criteria to a point system similar to that used by the Alaska Commercial Fisheries Entry Commission; and[68]

3. structuring of that point system such that (a) administrative costs are minimized; and (b) successful applicants are confined to a pool roughly equivalent in number to existing bonus recipients.

Indeed, the structure of this option is similar to the Alaska Limited Entry Act -- which translates certain very subjective criteria -- such as "economic dependence on the fishery" -- into an objective point system. It does so, of course, at a bureaucratic price -- approximately $2.5 million a year for a pool of applicants originally roughly equivalent to those which this option would affect. It also does so at other costs, which will be discussed below.

It is not difficult to catalog the criteria which would set our "relocation hardship" pool aside. Duration and continuity of residence would be one criteria, as would, perhaps:

1. income;

2. location of family;

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[68]See AS 16.43

3. location of property; and

4. ethnic, religious, and cultural ties.

Although income and duration of residency would play a role in determing eligibility, no one factor alone would be dispositive.

It would not be difficult to translate these factors into a point system; nor would it be particularly difficult to structure that point system to limit the class of successful applicants. The proposal, however, does suffer from the following disadvantages:

1. Since most Alaskan elderly have lived here more than 10 years most Alaska elderly will suffer some demonsterable hardship from relocating elsewhere -- although a certain percentage obviously do not require a longevity bonus to remain;

2. The alternative also involves the establishment and funding of a new bureacracy -- an intrisically unworthwhile undertaking, but one which nonetheless would cost far less than simply opening the class to all elderly Alaskans;

3. Perhaps the most obvious disadvantage is the burden that it would place upon elderly Alaskans themselves. There would presumably be a lengthy application form, together with evidentiary requirements, and in some cases, adjudicatory hearings. The Limited Entry Commission is currently involved in some 120 judicial appeals -- a number which is either at or below historic levels. According to the Commission's FY1984

budget presentation, there is a current backload of some 325 administrative adjudications.

Attorneys will be required -- regardless of what efforts are undertaken to make the process simple and informal. The difficulties facing the elderly applicant are thus rather apparent.

J. GRANDFATHERING

This report closes with one of the simpler alternatives -- opening the class of longevity bonus recipients to all elderly Alaskans with one year's residency, and terminating the program for the future. Persons eligible, or becoming eligible this year will be "grandfathered" and will receive a longevity bonus for life. The fiscal impacts of this alternative are, for FY1984, identical to option A, and will obviously decline in the future due to mortality and relocation.

The obvious advantage of this program is that it protects those currently on the longevity bonus program. Equally, it deprives those approaching the age of 65 with any expectation of receiving a bonus.

We believe that this option is constitutionally permissible. The Alaska Supreme Court shares the general view of the constitutionality of grandfathering laws -- as long as the grandfathered class itself is constitutionally defined.[69] Plainly, the state legislatures

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[69]Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d at 1259-61.

have the right to terminate social programs while protecting those who have come to rely on their benefits.

4. CONCLUSION

As noted at the outset, the purpose of this report is merely to provide a threshhold feasibility review of various options for amending the longevity bonus program. Through discussions with administration officials, legislative staff members, consultants and private industry, we have attempted to highlight the major issues surrounding each alternative, and provide at least rough information on each question raised. If, after the Judiciary Committee has identified two or three relatively attractive options, the effort expended over the past three weeks on 10 proposals can be condensed into the pursuit of three, proposed legislation and a more intricate analysis of the preferred options can be promptly transmitted.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT

RODNEY G. VEST,

Plaintiff,

v.

MARIAN SCHAFER and STATE OF ALASKA,

Defendants.

CONFIDENTIAL

Case No. 1JU-82-1103 Civ.

AGREEMENT AND ORDER OF SETTLEMENT

WHEREAS, in 1972 the Alaska Legislature enacted the Alaska Longevity Bonus Program (AS 47.45.010 et. seq.) which currently provides, inter alia, for the payment of $250 for each month of continued residency by bona fide Alaska residents over the age of 65 who were domiciled in Alaska on or before January 3, 1959 and who have maintained a continuous domicile in Alaska for 25 years;

WHEREAS, the purpose of the Alaska Longevity Bonus Program is among other things, to reward elderly Alaskans for their past contributions to the state and territory, and for past hardships suffered during territorial and early statehood days. AS 47.45.170;

WHEREAS, since 1972, the State of Alaska in good faith has administered the Longevity Bonus Program in the belief that

the rewarding of prior residency was a constitutionally permissible purpose;

WHEREAS, in upholding the State's prior Permanent Fund Dividend distribution program, the Alaska Supreme Court ruled that "reward[ing] those Alaska residents who have chosen to stay" is a constitutionally permissible purpose. Williams v. Zobel, 619 P.2d 448, 460 (Alaska 1980);

WHEREAS, Justices Dimond and Matthews, in dissenting in Williams v. Zobel, believed that the Longevity Bonus Program would withstand constitutional scrutiny (619 P.2d at 469, n.13);

WHEREAS, on June 14, 1982, the United States Supreme Court, in invalidating Alaska's prior Permanent Fund Distribution Program, ruled that a statutory purpose of rewarding prior residency was constitutionally impermissible. Zobel v. Williams, ____ U.S. _____, 80-1146;

WHEREAS, because of the U.S. Supreme Court's decision in Zobel v. Williams, it appears the Longevity Program may not be deemed constitutional;

WHEREAS, a serious and good faith disagreement has developed and the Alaska Legislative Council questions whether the appropriate remedy is to expand the class of recipiants of monthly longevity bonuses, or alternatively, to invalidate the entire program and cease payment of monthly bonuses to any person;

WHEREAS, this uncertainty regarding the appropriate remedy derives from § 2, Ch. 205, SLA 1972, which provides, with respect to the Longevity Bonus Program:

> If any provision of this Act, or the application of a provision of this Act to any person or circumstances is held invalid, this entire act shall be considered invalid.

WHEREAS, unless and until the question of appropriate remedy is resolved by this court, or a settlement of this controversy is achieved, it is reasonable and prudent that the State of Alaska continue to administer the Longevity Bonus Program in the manner provided by statute;

WHEREAS, on July 6, 1982, Plaintiff Rodney Vest filed the above-captioned action, seeking as relief his inclusion in the Longevity Bonus Program of "any . . . bona fide Alaska resident who is 65 years or older....". Complaint, Prayer for Relief, para. 2;

WHEREAS, ON July 23, 1982, Plaintiff Vest filed an amended complaint seeking to have this case certified as a class action under Alaska Rule of Civil Procedure 23 on behalf of all bona fide Alaskans of the age of 65 or older, and further seeking as alternative relief the invalidation of the Longevity Bonus Program, or the payment of retroactive bonuses "in amount equal to what they would have been entitled to obtain under the program had the unconstitutional criteria never been in place or

enforced." First Amended Complaint, Prayer for Relief, paras. 4-6.

WHEREAS, there are currently 9,124 recipients of monthly longevity bonuses, and many of these recipients are of modest means, and depend upon the monthly bonus for sustenance, and the termination of the longevity bonus payments to these individuals could cause great and irreparable harm;

WHEREAS, because of the uncertainty with respect to the appropriate remedy, the parties are desirous of settling this litigation in a manner which affords meaningful relief to Plaintiff Vest and others similarly situated, but which also ensures the continuation of monthly bonus payments to existing recipients;

WHEREAS, the parties are further desirous of achieving a settlement which will finalize and constitute a full and final accord of the rights and liabilities of the parties hereto;

WHEREAS, there may be as many as 4,000 persons who are similarly situated with Plaintiff Vest -- to wit, bona fide Alaskans of the age of 65 or over -- who are not currently receiving longevity bonus payments because of the residency requirements of the statute;

WHEREAS, the parties agree that, because of the nature of the rights of recipients involved in this litigation, a one-year residency requirement is reasonable, necessary and appropriate in order to demonstrate bona fide Alaskan residency;

WHEREAS, a full and final settlement of the parties' rights and liabilities hereto cannot be achieved until all persons similarly situated with Plaintiff Vest are certified as a class under Alaska Rule of Civil Procedure 23(c);

WHEREAS, the settlement envisioned by the parties includes the retroactive payment of longevity bonuses to plaintiff class commencing and including July 1, 1982;

WHEREAS, the payment of such retroactive bonuses to an expanded class of recipients would require the appropriation of sums above the amount currently appropriated for the longevity bonus program for fiscal year 1982-83. Moreover, and because of the Alaska Legislative Council's view of the non-severability clause, quoted above (effecting the expansion of the class of longevity bonus recipients), such payments may require the enactment of curative legislation;

WHEREAS, it is therefore necessary, in order to effectuate this settlement, for appropriate legislation to be enacted;

WHEREAS, the Alaska Legislature is a coordinate branch of government of the State of Alaska, and is represented in this action by the Attorney General;

WHEREAS, notwithstanding the above, the Attorney General cannot in any manner bind or compel the Alaska Legislature in the exercise of its legislative powers;

WHEREAS, on July 16, 1982, the Alaska Legislative Council moved to participate in the above-captioned action as amicus curiae, it is agreed that the Alaska Legislative Council may participate in all negotiations of any settlement, the filing of briefs and may participate in oral arguments; however, the Alaska Legislative Council agrees that it will not be involved in discovery proceedings in the event the case is ultimately litigated and will not become otherwise involved in accordance with the terms of this settlement agreement;

WHEREAS, and while the Alaska Legislative Council cannot bind the Alaska Legislature in the exercise of its legislative powers, the Alaska Legislative Council can and is willing to commit its best efforts to the enactment of appropriate legislation during the first regular session of the 13th Alaska Legislature;

WHEREAS, and subject to (1) the certification of plaintiff class, (2) the Superior Court's approval of a settlement proposal herein, and (3) the commitment of the Alaska Legislative Council to use its best efforts in the enactment of appropriate legislation, plaintiff class is agreed that such action will provide full and adequate consideration for the promise and agreement of plaintiff class not to seek relief in any form with respect to the Longevity Bonus Program through and including the adjournment of the first regular session of the

13th Alaska Legislature or June 30, 1983, whichever ever event comes first in time;

WHEREAS, nothing herein is to be construed as an admission by the State of Alaska as to the unconstitutionality of the Longevity Bonus Program;

WHEREAS, except with respect to the good faith of the State and its agents, nothing herein is to be construed as an admission by either party in the event the settlement agreed to here is not consummated;

NOW THEREFORE THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. All actions and proceedings in the above-captioned case, other than:

(a) the certification of plaintiffs class

(b) the approval by the Superior Court for the State of Alaska, First Judicial District of this proposed settlement agreement, and

(c) any further approval by the court necessary to consummate the settlement agreement after the certification of plaintiffs class,

are stayed through and including the date of adjournment of the first regular session of the 13th Alaska Legislature or June 30th, 1983, whichever event occurs first in time. Procedures for class certification shall be submitted to the Court for review no later than September 10, 1982, and the parties will request the

Court to render its order with respect to the notice procedures forthe said class no later than September 24th, 1982. Notice to the class shall be transmitted, along with the proposed settlement and the conditions necessary to affectuate the settlement, on or before October 11th, 1982. The State of Alaska will undertake reasonable efforts to assist Plaintiff to locate those persons 65 years or older as of July 1, 1982, who have been bona fide Alaska residents in the state of Alaska for one year immediately prior to that date. In the event this settlement agreement is not consummated for whatever reason, but the class certification has been certified by the court as set forth above, the Plaintiff shall not be precluded from seeking an enlargement of the class and a certification thereof so as to include other persons having a shorter residential duration within the State and may also seek a greater retroactive recovery.

2. The Alaska Legislative Council shall utilize its best efforts to secure the enactment, during the first regular session of the 13th Alaska Legislature, of the following legislation;

(a) Legislation which treats equally all bona fide Alaska residents of the age of 65 or older with respect to their residential qualifications to receive any "longevity bonus payments" or any substitute benefits from July 1, 1982 and thereafter for as long as the legislature may determine to continue such a program. Bona fide Alaska residents are those

who continuously resided in the state for one year immediately prior to the date of eligibility; and

(b) Any appropriation which might be required to fund the legislation described in paragraph (a), including the retroactive payment of bonuses.

3. If the Alaska Legislature passes legislation described in 2(a)-(b) above at any time during the first regular session of the 13th Alaska Legislature and the Governor signs the said legislation or otherwise allows 2(a)-(b) to become law so that 2(a)-(b) will be effective no later than Ninety days after enacted, the above action shall be dismissed with prejudice, subject only to the determination of attorney fees by the Court.

4. If the above-captioned action is dismissed under paragraph 3 above, all claims or rights of any class member (except those class members who exercise their right to opt out under Rule 23 of the Alaska Rules of Civil Procedure), with respect to the Longevity Bonus Program, shall be merged into the judgment of dismissal and extinguished;

5. If the Legislation described in 2(a)-(b) above is not enacted during the first regular session of the 13th Alaska Legislature or in any event no later than June 30, 1983, then this agreement shall be null and void, except that the Plaintiff and the class certified, together with any additional members, if there is an enlargement of the class, may prosecute this case as

if this agreement had not been entered into, it being the intent of the parties that certification of the plaintiff class, or the enlargement thereof, shall not be affected if this agreement becomes null and void;

6. The obligation of the Alaska Legislative Council under 2 herein is contingent upon certification of plaintiff class under Alaska Rule of Civil Procedure 23(c), which class shall include each and every individual of the age of 65 or older who, as of July 1, 1982, had continuously resided one year immediately preceding that date within the State of Alaska, and in the event that a class is certified which is less inclusive than as above described, the State of Alaska has reserved the right to waive the protections of this paragraph in whole or in part. Nothing in this paragraph is intended to modify or affect the certification of the class or the right of the Plaintiff to enlarge the class if this agreement becomes null and void.

DATED this __ day of _____, 1982.

DATED: August 9, 1982 Wilson L. Condon Thru Jfs
Attorney for Defendants
Marian Schaefer and
State of Alaska

WILSON L. CONDON
ATTORNEY GENERAL

DATED: August 6, 1982 Henry J. Camarot
Attorney for Plaintiff

Henry J. Camarot
Camarot, Sandberg & Hunter

DATED: 8/16/82

Attorney for Alaska
Legislative Council
Amicus Curiae

FOR William Ruddy
Robertson, Monagle,
Eastaugh & Bradley

O R D E R

IT IS SO ORDERED.

DATED: _____

Hon. Walter Carpeneti
Superior Court Judge

PROGRAM NAME	PROGRAM DESCRIPTION	TYPE OF BENEFITS	(Number of Persons) 1	2	3	4	ALB EXCLUDED	NUMBER OF ELDERLY ALASKANS	MEAN BENEFIT	NUMBER OF ELDERLY AT RISK
Medicaid - Nursing Home	Provides payments on behalf of needy persons in nursing homes for cost of care 40% federal 52% state funds	Vendor Payments	852.90	n/a	n/a	n/a	Yes	up to $450/mo.	$3600/mo.	app. 275* *includes app. 120 who are included in the 500 at risk for SSI
Medicaid - Regular	Provides payment for necessary medical care on behalf of recipients of Old Age Assistance federal, 52% state funds, 48%	Vendor Payment	546	802 (net)	n/a	n/a	Yes	app. 2300 eligible, of whom app. 943 use benefits each month	$1027/ useage	app. 1200* *includes 500 at risk in SSI progra

PROGRAM NAME	PROGRAM DESCRIPTION	TYPE OF BENEFITS	INCOME LIMIT (Number of Persons) 1	2	3	4	ALB EXCLUDED	NUMBER OF ELDERLY ALASKANS	MEAN BENEFIT	NUMBER OF ELDERLY AT RISK
Old Age Assistance	Payments to needy	Monthly Cash	546	802	n/a	n/a	Yes	app 2300	246.70/mo.	app 1200* *includes 500 at risk in SSI
Food Stamp Program	A federally funded program designed to promote the health of the nation's population by raising the levels of nutrition among low-income households	Food coupons that are used in place of money	490	650	810	970 This is net monthly income	No	1700	$[illegible].2 per person (random sampling of 10-elderly cases.)	-0-
Supplemental Security Income(SSI)	Federally funded & administered program providing assistance to needy persons who are aged or disabled 100% federal funds	Monthly Cash	284.30	426.40 (net)	n/a	n/a	Yes	app 900	app $228 mo.	500
Energy Assistance	Grants to low-income households to offset energy costs	Vendor home energy credit	$851	$1113 (net)	$1375	$1637	Yes	app. 1400	$475	300-400
General Relief (Medical)	100% state-funded, provides medical assistance on behalf of needy persons. For elderly, primarily provides drugs for Medicaid eligible persons on OAA and SSI	Vendor Payment	$300 or same as SSI and/or OAA (net)	$400			Yes, for elderly	2750 eligibles app. 30% of whom use benefits	$50/mo. usenge	app. 1475

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

D

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC ASSISTANCE

POUCH H-07
JUNEAU, ALASKA 99811
PHONE:
465-3347

August 3, 1983

Cliff Groh
Legislative Assistant
to Representative Malone
P.O. Box 9
Kenai, Alaska 99611

Dear Mr. Groh:

You had inquired about our response to several points made by Jon Tillinghast in his report to the Senate on alternatives to the Alaska Longevity Bonus. That report is remarkable in demonstrating how well Mr. Tillinghast absorbed the public assistance intricacies involved in the ALB issue. However, there are inaccuracies on the three points you cite:

(1) Page 5, paragraph 1:

It is true that the Longevity Bonus is excluded in determining income eligibility for the aged, blind, and disabled (Adult Public Assistance), for Federal Supplemental Security Income (SSI), for Medicaid based on Adult Public Assistance eligibility, and for Energy Assistance.

However, the bonus counts as income in the Food Stamp, General Relief, General Relief-Medical, Catastrophic Illness, and Aid to Families with Dependent Children programs.

In all our programs, determining who is "needy" involves measuring both income eligibility and resource eligibility. Even those programs that disregard the bonus as income count saved bonus payments against the program resource limit. For example, an aged recipient who accumulates bonus payments in his savings account will lose his Old Age Assistance, his SSI payment, and his Medicaid coverage when his savings account balance reaches over $1500.

(2) Page 30, paragraph 2, residence:

No public assistance program has a 30-day durational residency requirement. In Old Age Assistance, Medicaid, and SSI, all that is required is best summarized as "present, with intent to remain". If we were to attempt to put any durational requirement on Medicaid residency, we would be declared out of compliance with federal regulations (42CFR 435.403, copy attached). Such non-compliance would threaten all federal matching Medicaid funds.

06-F61LH

(3) Page 30, paragraph 2, nursing homes:

This is presently a serious mis-statement, which perhaps results from Mr. Tillinghast having to severely condense a mass of extremely complex eligibility information. If you were to read that paragraph as I do, you would see that the possibility of a "remarkable in-migration problem" is raised with respect to needy elderly who are over income for old age assistance in their home state, or who receive it there but find it insufficient, who would tend to come to Alaska if our qualifying limits and payments were raised substantially. If they get assistance here, they will also qualify for all Medicaid services, including expensive nursing home care.

We already have one of the highest old age assistance levels in the nation, and we do occasionally see applicants who have come here precisely for that reason. In-migration is clearly a factor which must be considered, even if it can't be accurately measured. And migration related Medicaid costs must be considered as well.

I believe Mr. Tillinghast is not suggesting that increasing Old Age Assistance will produce a "run" on Alaska nursing homes by Outsiders. To suggest such a prospect would be misleading:

(a) There is a nation-wide income eligibility "cap" for Medicaid institutionalized persons. This cap is set by Congress. If you have $917 or more of gross monthly income, you will be ineligible for Medicaid institutional care in Maine, Florida, California, Alaska, or Guam.

(b) Medicaid nursing home patients don't generally receive assistance payments. Almost all of their monthly income, including the Longevity Bonus, must be paid to the nursing home to be applied to their bill. They keep only up to $70 per month for incidental personal needs. There is, therefore, no personal financial advantage to moving to an Alaska nursing home.

(c) By federal regulation, most Medicaid nursing home patients must be so medically needy that most of them would be incapable of making such a decision to relocate, and/or they would be prevented from doing so by their physicians, even if they were so atypical as to actually want to go far away from their home environment, friends, and relatives.

(d) There wouldn't be any beds in Alaskan nursing homes for them to inhabit even if they did choose to move here. (We'd be happy to show you our monthly reports of nursing home vacant beds, if you're interested.)

I do not mean to suggest that Medicaid coverage by itself would not be a motive to relocate to Alaska. It might well be, especially for an ambulatory person with a chronic and expensive illness or handicap and

a bit too much retirement income to qualify for Medicaid Outside. However, if this were a big factor in in-migration, I would suspect we'd have seen it already in our caseloads. As far as we can tell, we haven't. If new applicants from out-of-state mention why they came were, it is almost always because Alaska is their former home, or they have family here, or, rarely, that they wanted more Old Age Assistance.

If you were interested in investigating the in-migration problem further, I'd suggest you might contact California old age assistance program authorities. Apparently, despite the second highest assistance level in the nation, excellent health facilities and medical coverage, and a very benign climate, California appears to be rapidly losing its elderly population, especially to Gulf Coast States. It's my understanding that their Legislative research staff now looking into the causes for this out-migration.

If you have any further questions, please don't hesitate to call me.

Sincerely,

Gordon G. Landes
Program Officer
Public Assistance

Approved: _____
Jerry Harris, Acting Director

ccs: As requested

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receiving an optional State supplement as specified in § 435.230 or individuals in categories specified by the agency under § 435.121.

§ 435.402 Citizenship and alienage.

The agency must provide Medicaid to otherwise eligible residents of the United States who are—

(a) Citizens; or

(b) Aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law, including any alien who is lawfully present in the United States under section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act.

§ 435.403 State residence.

(a) *Requirement.* The agency must provide Medicaid to otherwise eligible residents of the State.

(b) *Definition.* For purposes of this section, an individual is considered incapable of indicating intent if—

(1) His I.Q. is 49 or less or he has a mental age of 7 or less, based on tests acceptable to the mental retardation agency in the State;

(2) He is judged legally incompetent; or

(3) Medical documentation, or other documentation acceptable to the State, supports a finding that he is incapable of indicating intent.

(c) *Who is a State resident.* A resident of a State is any individual who:

(1) Meets the conditions in paragraphs (d) through (g) of this section; or

(2) Meets the criteria specified in an interstate agreement under paragraph (i) of this section.

(d) *Placement by States in an out-of-State institution.* If a State arranges for an individual to be placed in an institution located in another State, the State making the placement is the individual's State of residence, irrespective of the individual's indicated intent or ability to indicate intent.

(e) *Individuals receiving a State supplementary payment (SSP).* For any individual who is receiving an SSP, the State of residence is the State paying the SSP.

(f) *Non-institutionalized individuals.* (1) For any non-institutionalized individual under age 21 whose Medicaid eligibility is based on blindness or disability, the State of residence is the State in which he is living.

(2) For any other non-institutionalized individual under age 21, the State of residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the AFDC program.

(3) For any non-institutionalized individual over age 21, the State of residence is the State where he is—

(i) Living with the intention to remain there permanently or for an indefinite period (or if incapable of stating intent, where he is living); or

(ii) Living and which he entered with a job commitment or seeking employment (whether or not currently employed).

(g) *Institutionalized individuals.* (1) For any institutionalized individual who is under age 21 or who is age 21 or older and became incapable of indicating intent before age 21, the State of residence is—

(i) That of his parents, or his legal guardian if one has been appointed; or

(ii) That of the parent applying for Medicaid on the individual's behalf, if the parents reside in separate States and there is no appointed legal guardian.

(2) For any institutionalized individual who became incapable of indicating intent at or after age 21, the State of residence is the State in which the individual was living when he became incapable of indicating intent. If this cannot be determined, the State of residence is the State in which he was living when he was first determined to be incapable of indicating intent.

(3) Under both paragraphs (g) (1) and (2) of this section, the State where the institution is located is the individual's State of residence unless that State determines that the individual is a resident of another State, by applying the rules under paragraphs (g) (1) and (2).

(4) For any other institutionalized individual over age 21, the State of residence is the State where he is living with the intention to remain there permanently or for an indefinite period.

(h) *Specific prohibitions.* (1) The agency may not deny Medicaid eligibility because an individual has not resided in the State for a specified period.

(2) The agency may not deny Medicaid eligibility to an individual in an institution, who satisfies the residency rules set forth in this section, on the grounds that the individual did not establish residence in the State before entering the institution.

(3) The agency may not deny or terminate a resident's Medicaid eligibility because of that person's temporary absence from the State if the person intends to return when the purpose of the absence has been accomplished, unless another State has determined that the person is a resident there for purposes of Medicaid.

(i) *Interstate agreements.* A State may have a written agreement with another State setting forth rules and procedures resolving cases of disputed residency. These agreements may establish criteria other than those specified in paragraphs (b) through (f) of this section, but must not include criteria that result in loss of residency in both States or that are prohibited by paragraph (h) of this section. The agreements must contain a procedure for providing Medicaid to individuals pending resolution of the case.

(j) *Continued Medicaid for institutionalized recipients.* If, on the effective date of this section, an agency is providing Medicaid to an institutionalized recipient who, as a result of this section, would be considered a resident of a different State—

(1) The agency must continue to provide Medicaid to that recipient for two years unless it makes arrangements with another State of residence to provide Medicaid at an earlier date; and

(2) Those arrangements must not include provisions prohibited by paragraph (h) of this section.

[44 FR 41437, July 17, 1979]

§ 435.404 Applicant's choice of category.

The agency must allow an individual who would be eligible under more than one category to have his eligibility determined for the category he selects.

Subpart F—Categorical Requirements for Eligibility

§ 435.500 Scope.

This subpart prescribes categorical requirements for determining the eligibility of both categorically and medically needy individuals specified in Subparts B, C, and D of this part.

Dependency

§ 435.510 Determination of dependency.

For families with dependent children who are not receiving AFDC, the agency must use the definitions and procedures set forth under the State's AFDC plan to determine whether—

(a) An individual under age 21 is a dependent child because he is deprived of parental support or care; and

(b) An individual is an eligible member of a family with dependent children.

Age

§ 435.520 Age requirements for the aged and children.

(a) The agency must not impose—

(1) An age requirement of more than 65 years;

(2) An age requirement that excludes an individual under age 19 who meets the definition of dependent child under the State title IV-A plan; or

(3) A lower age requirement than that under the State's AFDC plan.

(b) In determining age, the agency must use the common-law method (under which an age is reached the day before the anniversary of birth), except—

(1) For families and children, the agency must use the popular usage method (under which an age is reached on the anniversary of birth), if this method is used under the State's AFDC plan; and

(2) For aged, blind, or disabled individuals, the agency may use the popular usage method, if the plan provides under § 435.121, for coverage of aged, blind, or disabled individuals who meet more restrictive eligibility requirements than those under SSI.

(c) The agency may use [illegible] date, such as July 1, for an individual's age if the [illegible] the month, of his birth i

[43 FR 45204, Sept. 29, 1978; 46 FR 47987, Sept. 30, 1981]

Blindness

§ 435.530 Definition of bli

(a) *Definition.* The a[illegible] the same definition [illegible] used under SSI, except

(1) In determining [illegible] individuals whose Me[illegible] is protected under §§ 435.134, the agency [illegible] nition of blindness [illegible] under the Medicaid p[illegible] 1973; and

(2) The agency ma[illegible] strictive definition to [illegible] bility under § 435.121 [illegible] is no more restrictiv[illegible] under the Medicaid p[illegible] 1972.

(b) *State plan* [illegible] State plan must con[illegible] of blindness, expres[illegible] measurements.

§ 435.531 Determinat[illegible]

(a) Except as [illegible] (b) of this sectio[illegible] blindness—

(1) A physician [illegible] cases of the eye [illegible] whichever the indi[illegible] examine him, unles[illegible] cant's eyes are miss[illegible]

(2) The examin[illegible] report of examinat[illegible] agency; and

(3) A physician [illegible] cases of the eye [illegible] thalmologist or a[illegible] throat specialist[illegible] report and determ[illegible] agency—

(i) Whether the [illegible] definition of blin[illegible]

(ii) Whether a [illegible] tions are necess[illegible] terminations of [illegible] under § 435.916 c[illegible]

(b) If an ager[illegible] to individuals [illegible] basis of blindn[illegible] not apply for th[illegible]

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M July 15, 1983

SUBJECT: "Needs-based" longevity bonus program (Work Order No. 13-1503)

TO: Representative Hugh Malone

FROM: Linn H. Asper
Legislative Counsel

You have asked two questions about the constitutionality of a proposed longevity bonus program that would guarantee a certain floor level of income for elderly residents of the state.

Your first question is what residency requirement would be constitutionally mandated by such a program. Assuming that the program is a constitutionally established public assistance program for elderly people with limited income, there can be no more than a nominal residence requirement. In Shapiro v. Thompson, 22 L.Ed.2d 600 (1969), the United State Supreme Court conclusively established that public assistance benefits may not be denied to an otherwise eligible applicant on the basis of a durational residence requirement. In that case a one-year residence requirement was struck down, but the holding makes it clear that any durational residence requirement, other than a minimal one to determine if the applicant intends to reside in the state, is prohibited. Applying Shapiro to a needs-based longevity bonus program would indicate that a 30-day residence requirement is the most that could be required of an applicant who is otherwise qualified for the program.

Your second question relates to a constitutionally acceptable standard for the determination of need for the new longevity bonus program. This question can only be answered in general terms.

Past court decisions make it clear that it is not a violation of the equal protection clause to discriminate between classes of people on the basis of economic need.

That is, public assistance programs that aid persons who fall below certain income guidelines are constitutional even though people who have income levels above the established limits do not receive assistance. However, there is a grey area in the situation you outline in that if the income limits are set at high levels persons whose income exceeds the limits can argue that the established limits do not restrict the program to needy persons and that if the program is not based on need it must be extended to all persons or terminated. Using federally established guidelines to make need determinations is a safe way to approach the question because such guidelines have the value of established precedent in determining who is needy and who is not. Using limits that exceed existing federal or state income guidelines for public assistance would increase the risk of a successful equal protection challenge. If income limits are set far in excess of federal or state guidelines a court would probably find that the new program is not really based on financial need and invalidate it.

LHA:ljb
26/011

F

ERICKSON & ASSOCIATES

Consultants in Economics and Public Policy
526 Main Street, Juneau, Alaska 99801
Telephone 907/586-3118

28 July 1983

The Hon. Lisa Rudd
Commissioner of Administration
Pouch C
Juneau, Alaska 99811

Dear Lisa:

One of the major concerns about transforming the longevity bonus program into a universal generational entitlement has been the potential such a new program would have for encouraging in-migration to Alaska among those over 65. There is some evidence that an increasing number of persons over or approaching 65 are already being attracted to the state, usually to join their children and grandchildren already here. Since the average disposable income of persons over 65 in the U.S. is less than $8,000, an annual generational entitlement of $3,000 might be expected to increase the rate at which these parents of Alaskans choose to become Alaskans themselves.

I wonder if we are really correct in assuming that this kind of migration would be a bad thing for Alaska. I do know that Alaska's rates of suicide, alcoholism, child abuse, divorce, crime and other indices of personal disintegration and social disaffiliation are among the nation's highest. I suspect that these high rates are associated with the abnormally skewed age structure of our population, and with the lack of extended families associated with the relatively small cohort of people over 65 in Alaska society. As the attached graph shows, only about three percent of Alaskans are over 65, compared to 11 percent of all Americans. Could it be that Alaska society would be better off if we were to encourage not only the preservation of the extended families we have, but also the extension of presently nuclear families through in-migration of absent parents?

I and virtually all my contemporaries in urban Alaska of the 1950s grew up without the benefit of grandparents living nearby. I am thankful that my children have not experienced the same deprivation, and thankful that in rearing them I have had the

support of my own parents. But urban Alaska, where most Alaskans now live, is still a very mobile society, and as the population profile suggests, many families do not have these advantages.

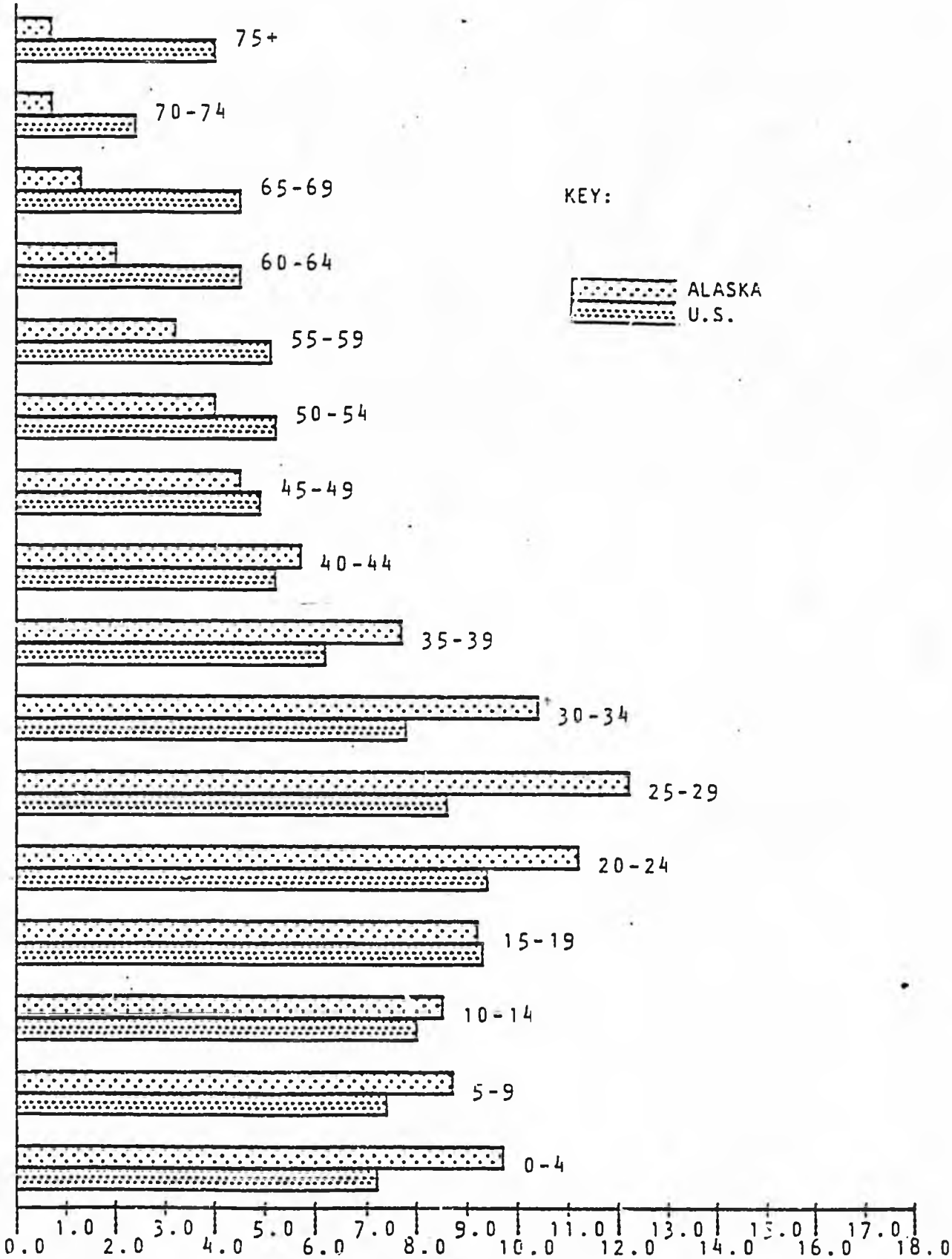
I wish I could give you hard research and statistics to support the theory that more extended families would reduce Alaska's many social problems. Or that I could confirm the hypothesis that in-migration and reduced out-migration stimulated by an Alaska generational entitlement would result in more extended families. If there is evidence for both of these notions, then it might provide a rational basis for replacing the current longevity bonus with a program providing for payments to all one year residents over 65, but gradually phasing out those payments as the percentage of Alaskans over 65 approached (say) half of the national average.

Sincerely,

Gregg K. Erickson

attachment

AGE STRUCTURE OF ALASKA AND US POPULATION, 1980



Prepared by ERICKSON & ASSOCIATES from U.S. Census data
(cohorts 65-69 and 70-74 estimated by Scott Goldsmith)

FIGG

G

LAW OFFICES

BIRCH, HORTON, BITTNER, PESTINGER AND ANDERSON

A PROFESSIONAL CORPORATION

130 SEWARD STREET, SUITE 411

JUNEAU, ALASKA 99801

TELEPHONE (907) 586-2890

TELECOPIER (907) 586-9814

1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 276-1550
TELEX 25-356

711 GAFFNEY ROAD
FAIRBANKS, ALASKA 99701
(907) 452-1666

1140 CONNECTICUT AVE., N.W.
SUITE 1100
WASHINGTON, D.C. 20036
(202) 659-5800

LLOYD V. ANDERSON
LUANN E. BAILEY
SUSAN P. BEHLKE
RONALD G. BIRCH
WILLIAM H. BITTNER
WILLIAM P. BRYSON
RODNEY B. CARMAN
JOSEPH M. CHOMSKI
JACK D. CLARK
LARRY S. COHN
PAUL L. DILLON
ERIC A. EISEN
JOSEPH W. EVANS
JOSEPH W. GELDHOF
PAUL H. GRANT
TIMOTHY M. HAAKE *
HAL R. HORTON
CAROL A. JOHNSON
MARC W. JUNE
STANLEY T. LEWIS
JEFFREY B. LOWENFELS
CATHARINE C. MACKAY-SMITH *
PATRICK M. OWEN
MICHAEL J. PARISE
SUZANNE C. PESTINGER
MICHAEL V. REUSING
ELISABETH H. ROSS
WILLIAM R. SATTERBERG
E. BUDD SIMPSON
DANIEL W. WESTERBURG

*NOT ADMITTED IN ALASKA

April 25, 1983

Senator Bill Ray
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: "GRANDFATHER OPTION": Sandberg, 4-12-83 Letter

Dear Senator Ray:

By letter of April 15, 1983, you asked for my views on Mark Sandberg's letter regarding the "grandfathering" option discussed in my March 8, 1983 report.

Under that option, the class of Longevity Bonus recipients would be expanded in FY 1984 to include all one-year Alaska residents. Then, the program would be terminated, with all FY 1984 recipients afforded a "grandfather right" to receive a longevity bonus for life. Mr. Sandberg, in an April 12, 1983 letter, expressed concerns about legislation "closing the class and funding an on-going program every year."

"Grandfather clauses" are rather common, and "have generally withstood equal protection challenges." Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d. 1255, 1267 (Alaska 1980). Frequently, individuals come to rely on a particular governmental program, and would suffer a peculiar hardship if that program were terminated. Nonetheless, and obviously, the legislature is under no obligation to continue any particular benefit program. The nearly universal judicial rule—shared by Alaska courts—is that the equal protection clause "does not forbid...statutory changes to have a beginning and thus to discriminate between the rights of an earlier and later time." Sperry & Hutchinson Company v. Rhodes, 220 U.S. 502, 505 (1911).

Usually, then, it would be reasonable for the legislature, in terminating a particular social program, to protect those who had come to rely upon the benefits accorded by the program. There are, however, two arguments which could be made that the general rule does not apply to this particular proposal.

First, the legislature would be "grandfathering" not only those who had come to rely upon the program for several years, but as well a substantial number of new recipients who had received the bonus for the first time in FY 1984. In discriminating between one-year residents who qualified before July 30, 1984, and those who reach 65 or moved to Alaska subsequent to that date, the "reliance" rationale may be difficult to support. Even under traditional equal protection analysis, which requires only a "rational basis" for any such distinction, an arbitrary dividing line under the guise of "grandfathering" is impermissible. State ex rel Bacich v. Huse, 59 P.2d. 1101 (Wash. 1936). Under state equal protection analysis, which requires a "fair and substantial relationship" between the goal of the statute and the discriminatory means chosen[1] the problem may be even more troublesome.

The short answer to this first issue is that the class which has come to rely upon the longevity bonuses is unconstitutionally defined. It would surprise me if the courts were to require a broadening of the class of eligible recipients and at the same time invalidate grandfathering legislation because the grandfathered class was overbroad. Plainly, constitutional constraints are a weighty consideration in determining whether a particular distinction is "fairly and substantially related" to the purposes of the enactment, and if the class grandfathered is "overbroad," it is certainly no broader than that constitutionally necessary.

The second potential issue is one raised both by Mr. Sandberg and the Department of Law. Both believe that there is some significance to the fact that the grandfathered class in this situation would continue to receive state benefits over a period of many years. Thus, for example, in FY 2000 the Department of Administration would continue to make payments to those who were elderly one-year residents as of June 30, 1984. This, they believe, may make the proposal akin to the existing longevity bonus, where one measure of eligibility is residency as of January 1, 1959.

---

[1] State v. Erickson, 574 P.2d. 1, 12 (Alaska 1978)

However, grandfather provisions invariably contemplate future government action based upon prior status. In the case of Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d. 1255, the Alaska Supreme Court upheld a grandfather provision under which 1980 eligibility for a limited entry permit was conditioned upon possession of a gear license prior to January 1, 1973.

Drawing distinctions based upon a person's status as of the date of a program amendment or termination has been accepted outside the licensing field. It has been upheld, for example, with respect to tax exemptions. United States v. Maryland Savings Share Insurance Corporation, 400 U.S. 4 (1970). More to the point, it was upheld with respect to social security benefits in Califano v. Webster, 430 U.S. 313, 320-321 (1977). That case involved certain benefit formula computations which benefited men more than women, and which were repealed in 1972. The 1972 amendments provided that men reaching the age of 62 in 1975 and thereafter would be unable to use the prior formula. The court upheld the grandfather clause of the 1972 law. [2].

Taken to its logical conclusion, Mr. Sandberg's concerns would lead to the result that states may not "grandfather" existing recipients of a residency-based benefits program, because future legislative funding would, in essence, be tantamount to conferring present benefits based upon past residency. This, presumably, would be contrary to the court's ruling Zobel v. Williams, 72 L. Ed. 2d. 672 (1982).

I disagree with that conclusion, and the applicability of Zobel. If current one-year elderly residents were "grandfathered," a legislative appropriation to that class in FY 2000 would not represent an attempt by that legislature to reward those who were present in Alaska in 1984. It was this "reward of past residency" which was fatal to the permanent fund dividend program in Zobel.

Rather, the purpose of the "grandfathering" proposal is to alleviate the hardship which recipients would suffer by losing their longevity bonus. This purpose is plainly permissible, and "fairly and substantially" furthered by a grandfather clause. The fact that future government action is necessary to fully accord existing recipients their grandfather rights seem inconsequential under applicable case law.

---

[2]The grandfather clause was tested under the equal protection component of the Fifth Amendment to the U.S. Constitution. The Equal Protection Clause of the Fourteenth Amendment, of course, applies only to the states. However, the Supreme Court has repeatedly held that equal protection analysis under the Fourteenth Amendment as to states, and under the Fifth Amendment as to the federal government, is identical. Weinberger v. Salfi, 422 U.S. 749, 770 (1975)

In sum, I personally do not believe that the "grandfather" option creates serious constitutional problems. Of course, the mere fact that schooled attorneys disagree obviously raises at least the possibility of litigation. This alone may set this option apart from the other nine alternatives considered in my report.

If I can be of further assistance, please do not hesitate to let me know.

BIRCH, HORTON, BITTNER,
PESTINGER AND ANDERSON

Jon K. Tillinghast

JKT:rdg

TABLE 1

SUMMARY OF PROJECTED LONGEVITY BONUS COSTS UNDER SELECTED OPTIONS
(Millions of Nominal Dollars)

Fiscal Year	INCOME LIMIT			ELIGIBILITY AGE INCREASE	
	$15,000 (Individual)	$20,000 (Individual)	$30,000 (Household)	Starting in FY 85	Starting in FY 89
1985	$33.5	$38.2	$36.2	$42.0	$47.2
1986	35.3	40.2	38.1	38.5	48.3
1987	37.1	42.2	40.0	35.3	49.9
1988	39.0	44.4	42.1	32.3	51.1
1989	41.0	46.7	44.3	29.5	46.9
1990	43.1	49.1	46.5	26.8	43.0
1991	45.3	51.6	48.9	24.4	39.4
1992	47.6	54.2	51.4	22.1	36.0
1993	50.1	57.0	54.1	19.9	32.9
1994	52.6	59.9	56.8	17.9	29.9
1995	55.3	63.0	59.8	16.1	27.1
1996	58.2	66.2	62.8	14.4	24.6
1997	61.2	69.6	66.0	12.8	22.2
1998	64.3	73.2	69.4	11.3	19.9
1999	67.6	77.0	73.0	9.9	17.8
2000	71.1	80.9	76.7	8.7	15.9
2001	74.7	85.1	80.7	7.5	14.1
2002	78.6	89.4	84.8	6.5	12.5
2003	82.6	94.0	89.2	5.6	11.0
2004	86.8	98.8	93.7	4.7	9.6
2005	91.3	103.9	98.5	3.9	8.3

House Research Agency
10/17/83

FILED
STATE OF ALASKA
FIRST DISTRICT

JUL 22 3 21 PM '83

BY
DEPUTY CLERK

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

RODNEY G. VEST,

Plaintiff,

vs.

MARIAN SCHAFER and STATE OF ALASKA,

Defendants.

No. 1JU-82-1103 CIV

DEFENDANTS STATE OF ALASKA AND MARIAN SCHAFER'S MEMORANDUM IN SUPPORT OF CROSS MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION AND SUMMARY

Alaska provides a special monthly benefit to a small portion of its people -- those over 65 years of age who are veterans of territorial Alaska. Enacted in 1972, and effective on January 1, 1973, the longevity bonus program provides $250 per month to those 65 and over who were resident in Alaska before it became a state on January 3, 1959. Some 9,000 Alaskans, about 3 percent of the state's population, presently benefit from the program. Although additional veterans of the territorial days will become beneficiaries as they turn 65, the great majority of Alaska citizens are not now and never will become eligible for this benefit.

The program serves important and legitimate state purposes. By providing this benefit to those who suffered the unique hardships of life in territorial Alaska, and who now face a particularly difficult time in a state with an exploding economy, the program makes it possible for those who are a unique repository of Alaska's cultural heritage to remain in the state.

The present lawsuit, brought by Rodney Vest on behalf of himself and others over 65 but ineligible for the benefit, challenges the program under the equal protection clause and related guarantees of the state and federal constitutions. Like the majority of the state's people, plaintiff Vest was not a

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

participant in territorial Alaska and thus is not eligible for this special program. A resident of Alaska since shortly after statehood was achieved, he stands just over the inevitable line the legislature was required to draw in determining who would be included within the program.

As the U.S. Supreme Court has repeatedly noted, "a legislature must necessarily engage in a process of line drawing." United States Retirement Board v. Fritz, 449 U.S. 166 (1980). "The 'task of classifying persons for ... benefits ... inevitably requires that some persons who have an almost equally strong claim to favored treatment be placed on different sides of the line' and the fact that the line might have been drawn differently at some points is a matter for legislative, rather than judicial, consideration." Id. at 176. Since the classification the legislature has made in this case neither impinges upon a suspect class nor burdens the exercise of a fundamental right, and since it is rationally related to the promotion of permissible state goals, it fully satisfies both the U.S. and Alaska Constitutions.

In more than a dozen major decisions of the past decade, the U.S. Supreme Court has reaffirmed its historic position that it will not second guess state legislative choices concerning the proper allocation of public benefits and governmental subsidies. The Court has sustained legislative choices granting subsidies to widows but not to widowers; to veterans but not to non-veterans; to small families but not to large ones; to those who have been pushcart vendors in New Orleans for more than eight years and not to those who have begun that trade more recently; to those with 25 years railroad employment and not to those with less. In 1980 the Court emphasized once again in sweeping language the proper standard to be applied in cases such as these: "In more recent years ... the Court in cases involving social and economic benefits has consistently refused to invalidate on equal protection grounds legislation which is simply unwise or inartfully drawn." United States Retirement Board v. Fritz, 449 U.S.

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

166 (1980). The same result applies under the Alaskan "sliding scale" equal protection test. Williams v. Zobel, 619 P.2d 448 (Alaska 1980); State v. Ostrosky, ___ P.2d ___, Op. No. 2702 (Alaska, July 19, 1983).

Notwithstanding the sweeping mandate of these cases, however, the plaintiff in this action contends that this court should undertake to impose its own view of the proper allocation of governmental subsidies in place of the judgment reached by the legislature. Such a result, the plaintiff suggests, is required by Zobel v. Williams, ___ U.S. ___, 72 L.Ed.2d 672 (1982)("Zobel III").

Zobel III is, however, a fundamentally different case from the one now before this court. Speaking with several voices, the Court in Zobel III invalidated Alaska's permanent fund dividend plan under which every resident of the state was granted $50 for each year of residency since statehood. For Chief Justice Burger, the Dividend Plan fell for the simple reason that the state failed to offer in its support any permissible legislative objective. Two of the suggested goals -- prudent management of the permanent fund and provision of a general incentive for remaining in the state -- had no connection to the statute's recognition and reward of residency acquired before the date of enactment of the statute. The third goal -- rewarding persons for their "contribution" to the state measured solely by how many incremental years a person had resided in Alaska -- was constitutionally impermissible. Thus, no reason at all remained to support the statutory classifications.

Other justices saw in the Permanent Fund Dividend Plan's "pervasive discriminations" a threat to the important constitutional interest in free interstate migration, often referred to as the right to travel. Each person choosing to come to Alaska would, under the plan, have been treated differently, and less well, than every person who came before. The recent arrival was to be treated as less worthy than the entire population of

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

existing residents. The resulting burden on the freedom of interstate movement was clearly unacceptable to the Court.

The longevity bonus plan is altogether different. Rather than benefitting all 'insiders' against each succeeding group of newcomers, the longevity bonus plan provides an important benefit to a carefully defined group of beneficiaries -- a group of senior citizens who suffered the particular hardships of territorial days and who could by remaining provide a critically important cultural memory. In contrast to the Zobel facts, one who comes now to Alaska is not treated differently from the bulk of Alaska's citizens. One who chooses now to migrate to Alaska does not qualify for a payment under this plan -- and neither do the great majority of those already in residence. This is emphatically not a case in which those lacking political power -- such as outsiders and recent arrivals -- are singled out for less favored treatment. Those who have been in the state for more than two decades and who hold dominant political power will never benefit from this program. They have nonetheless chosen to continue to grant to a smaller group of citizens a particular benefit for which most Alaskans, old and new, are and will remain ineligible.

The particular concerns implicated in Zobel v. Williams are thus not applicable here. Passed in 1972, the longevity bonus plan did not single out the recent arrival for disadvantageous treatment. The dominant majority of Alaskans who supported this program, even though they will not benefit from it, are not a "discrete and insular minority" deserving of the special judicial scrutiny accorded legislation involving suspect classes. Unlike the legislation struck down in Zobel III, the plan under attack here does not burden the exercise of any constitutional right. Since no suspect classification is involved and no fundamental interest burdened by this law, it is to be judged by the same deferential standard of review that the U.S. and Alaska Supreme Courts have afforded to numerous governmental programs that allocate public benefits.

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465 3600

II. THE PURPOSES OF THE LONGEVITY BONUS PROGRAM

The basic classification made by the Act is that it divides all Alaskans into two groups: those who were here in territorial days and those who were not. In order to receive a bonus, one must have resided in Alaska before January 3, 1959. Thus, no matter how long a person lives in Alaska, one year or fifty, that person will never qualify for the longevity bonus if he or she did not live in Alaska during territorial days. Rodney Vest, for example, is not precluded from participating in the bonus program because he has only resided in Alaska for 24 years, but rather is and always will be precluded because he did not arrive in Alaska until after Alaska became a state. Within the group of persons who resided in Alaska in territorial days, there are further classifications: a person must be 65 years old or older, and must have maintained continuous "domicile" for 25 years.

Alaska's rich and wonderful history is an important part of the fabric of Alaskan society today. Few who have come here recently or who come here now would be encouraged to remain if it were not for the strong link with the past which sets Alaska apart from anyplace else in the world. If living in Alaska were just like living in Los Angeles or Cleveland, few would put up with the climate and distance from the rest of the United States, and would instead live in Los Angeles or Cleveland. But most of us who arrive here are immediately taken with the sense of magic, the frontier spirit, the fierce independence and the uniqueness which are still evident reminders of a not too distant past. Every Alaskan, new or old, who is fortunate enough to make the acquaintance of some of the real old-timers is enriched by that experience. Whether that old-timer be a miner, trapper, or fisherman, or an Eskimo or Athapaskan old enough to remember the old days, the stories that person can tell will hold any audience of younger, newer Alaskans spellbound.

ATTORNEY GENERAL STATE OF ALASKA
STATE CAPITOL
POUCH K JUNEAU ALASKA 99811
PHONE 465-3600

While the rest of the United States traveled through the eighteenth and nineteenth centuries, and on into the twentieth, in a slow and more orderly procession, Alaska is catapulting through those years in record time. Indeed, some remote villages have raced from the stone age to the present in a few decades. Oil wealth has placed many aspects of present Alaskan life at the leading edge of modern development. Remote villages which a few years ago had no communication whatsoever with the rest of the world, save a weekly mail plane, now have modern telecommunication set-ups, telephones in every cabin, and more varied television than is available in most big cities. Whether the process is good or bad, it is undeniable that we are in the midst of the few short decades which mark the inevitable change from Alaska being thoroughly different from the rest of the nation to a time when the similarities are more common than the differences. But this process has been so rapid that there are still many old folks around today who hold in living memory the history of an era long departed from the rest of the nation.

This cultural memory bank is a valuable present state asset. Collectively, this memory knows how to build a fish wheel or sew a skin parka, can still speak Inupiat or Yupik or Athapaskan, remembers when Nordstrom's was the Northern Commercial Company, remembers the channels on the Nenana or the Yukon, remembers mining operations in Wiseman, Poorman, Fox, Iditarod, Douglas and Thane, remembers the first mail flight to Nome or the Aleutians, and remembers the hard battle fought and won to achieve statehood. Times were different then, and every present day Alaskan is vicariously proud of the heritage and history inherited from these old-timers who provide that link with the past. Just as most Alaskans think Alaska is a nicer place to live than the rest of the nation because it can still support a grizzly bear, an eagle or a wolf, modern Alaskans take pleasure in the presence in their midst of those who lived here when Alaska was truly a frontier. And just as the state will now devote

financial resources to the conservation of eagles, wolves and bears, or to the preservation of historic buildings, the more newly arrived Alaskans are willing to continue to subsidize the presence of this repository of cultural heritage.

Alaska's population has more than doubled since statehood, and many of those here in 1959 have left the state. Thus, the majority of present Alaskans cannot remember the days when Alaska was a territory. To the extent that one can pick out a date that signifies the entry of Alaska into the mainstream of American life, that date is the day Alaska became a state. It is the day that Alaskans became able to participate in the national government which had been affecting their lives for years. It is the day that Alaskans could choose a governor themselves, instead of accepting whomever Washington, D.C. sent. It is the day that Alaska took charge of its fish and game resources. Statehood closed the chapters of the past, and opened the chapter of the present.

By 1972, 13 short years later, the population had already grown to half again its strength at statehood. The state was gearing up for full involvement in the largest privately funded construction project the nation had ever seen -- the Trans-Alaska Pipeline. Already, miles of 48-inch pipe were stacked at Dietrich Pass. The massive Prudhoe Bay lease sale had taken place two years earlier. While the pipeline was eagerly anticipated by some and fought by others, it was clear Alaska was about to enter into development on a scale which would dwarf any past endeavors. The 1972 legislature was aware that the rich and unique past was slipping away, that the days of pioneering were over, and the twentieth century had truly begun.

The Alaska longevity bonus program was passed in 1972 with three important purposes. These goals emerge from the Act's statement of purpose. That section states as its "sole" purpose the objective of providing Alaskans of retirement age "an incentive to continue uninterrupted residency in the state." AS

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

47.45.170. The purpose of encouraging old-timers to remain is, however, threefold. First, it recognizes that due to the harsh climate and high cost of living, many older Alaskans "have been forced to live out their retirement years in areas far away from the land they loved and nurtured and [illegible] by also suffering, in many cases, the loss of familial relationship with their own kin, an experience that is sad and frustrating to them..." Id. Thus, this purpose is to prevent present hardship by providing old-timers with the economic means to remain in the state.

Second, the goal of encouraging these pioneers to remain in the state serves the present purpose of providing all Alaskans the opportunity to benefit from the wealth of experience and history residing in the memories of these pioneers; that if these old-timers leave the state, it "deprive[s] new generations of Alaskans of the benefits of their wisdom and experience..." Id.

Finally, the Act is intended to compensate a certain group of old-timers for the peculiar type of past hardship which only that group has suffered: the deprivation of full citizenship which resulted from Alaska's territorial status. "These pioneers are the same Alaskans, who in the prime of their life were in effect treated as second-class citizens by the federal government and who paid much of their hard-earned income to a government in which they did not have the right to participate through the power of the ballot." Id. This compensation for past hardship additionally "recognizes the economic hardships suffered by many elderly Alaskans, Alaskans who through their tenacity and perseverance molded Alaska as we know it through skillful application of their talents." Id.

III. THE EQUAL PROTECTION CLAUSES OF THE FEDERAL AND ALASKA CONSTITUTIONS GRANT TO THE STATE BROAD DISCRETION IN THE ALLOCATION OF PUBLIC BENEFITS

Both the Alaska and U.S. Constitutions provide to every citizen a fundamental guarantee of equal treatment before the

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law. In its Citizenship and Equal Protection Clauses the Fourteenth Amendment to the federal constitution mandates that "all persons ... are citizens of the United States and of the state wherein they reside. No state shall ... deny to any person within its jurisdiction the equal protection of the law." This same right is insured by article I, section 1 of the Alaska Constitution, which provides that "all persons are equal and are entitled to equal right...."

It is the very nature of legislation, however, to draw lines that determine who among all possible citizens is to be benefitted or burdened by a particular law. To satisfy the requirements of equal protection, a distinction drawn between some citizens and others "must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike." Isakson v. Rickey, 550 P.2d 359, 362 (Alaska 1976).

When the statute in question relates to the enjoyment of a fundamental constitutional interest (such as voting or freedom of expression) or where the statute operates to the disadvantage of a suspect class (such as aliens) the "fit" between the classification and the object of the legislation must be extremely close and the state must show a "compelling interest" to sustain the legislation. State v. Erickson, 574 P.2d 1, 11 (Alaska 1978). Aside from these particular circumstances, however, a state statute will generally be sustained as long as the object of the legislation is a legitimate state goal and a reasonably close relation between the classifications created and the legislative objective is shown to exist. Williams v. Zobel, 619 P.2d 448, 452-453 (Alaska 1980)("Zobel II"). State v. Ostrosky, ___ P.2d ___, Op. No. 2702 (Alaska, July 19, 1983).

Here, the classifications created do not infringe upon a fundamental right, a basic necessity of life, or deal with a suspect classification. Zobel II, 619 P.2d at 454-457. Nor is

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there any real question concerning the "fit" between the purposes of the legislation and the class created. The desire to compensate territorial residents for their "second class" citizenship would naturally require the date of statehood to identify that class. A lengthy Alaskan residency, in turn, is necessary in order to meet the purposes of identification with the state, attainment of "pioneer" status, and present hardship that would be suffered by forced retirement outside the state.

Rather, the problem presented by this case is whether the purposes identified in AS 47.45.170 are legitimate objects for state attention. In particular, Zobel v. Williams, ___ U.S. ___, 72 L.Ed. 672 (1982)(Zobel III) raises questions about whether the state may treat the territorial pioneers as a separate class from other citizens of this state.

As this brief will show, Zobel III should not be read to strike down this legislative allocation of public benefits. The U.S. Supreme Court has consistently reaffirmed the breath of legislative discretion in the granting of governmental subsidies. This approach is not changed by the application of the "sliding scale" equal protection test set out most recently in State v. Ostrosky, ___ P.2d ___, Op. No. 2702 (Alaska, July 19, 1983). The sole question, therefore, is whether in Zobel III the U.S. Supreme Court changed the general analysis so as to render the purposes of the longevity bonus program unconstitutional. Neither the text of Zobel III, nor the history of the expansion of equal protection, requires this result.

A. The Major U.S. Supreme Court Decisions of the Past Decade have Reaffirmed the Breath of Legislative Discretion in the Granting of Governmental Subsidies

In more than a dozen significant cases decided during the 1970s and 1980s, the U.S. Supreme Court has firmly adhered to the view that courts should not second guess legislative judgments concerning the expenditure of public funds. In Dandridge v. Williams, 397 U.S. 471 (1970), the Court, in sustaining

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Maryland's decision to grant more generous benefits to families with fewer children, stated that, "In the area of economics and social welfare, a State does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect." Id. at 485. This has, of course, been the proper standard in economic regulation cases. In New Orleans v. Dukes, 427 U.S. 297 (1976), for example, the Court without dissent upheld against equal protection attack a city ordinance barring all pushcart vendors from the French Quarter except for those who "have continually operated the same business within the Vieux Carre ... for eight years prior to January 1, 1972...." In sustaining this durational requirement the Court stated that "...the judiciary may not sit as a superlegislature to judge the wisdom or desirability of legislative policy determinations made in areas that neither affect fundamental rights nor proceed along suspect lines." In this sphere, "it is only the invidious discrimination, the wholly arbitrary act, which cannot stand consistently with the Fourteenth Amendment." Id. at 303-304.

This deferential standard is particularly appropriate where the issue involves the elusive legislative judgments inevitably involved in the allocation of public funds, as the Court has expressly recognized:

> The basic principle that must govern an assessment of constitutional challenge to a law providing for governmental payments or monetary benefits is well established. Governmental decisions to spend money to improve the general welfare in one way or another are 'not confided to the courts. The discretion belongs to [the legislature] unless the choice is clearly wrong, a display of arbitrary power, not an exercise of judgment.'"

Mathews v. DeCastro, 429 U.S. 181 (1976).

Such a standard of review is virtually required if courts are to avoid massive judicial tinkering with the innumerable legislative judgments involved in the allocation of public funds. In a wide variety of contexts, the Court has therefore deferred to legislative judgments. In Idaho Department of

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Employment v. Smith, 434 U.S. 100 (1977), the Court sustained Idaho's decision to provide unemployment benefits to those attending night school, but not to one attending early morning classes, and reiterated that "This Court has consistently deferred to legislative determinations concerning the desirability of statutory classifications affecting the regulation of economic activity and the distribution of economic benefits." Id. at 101.

Even where the basic subsistence needs of the poor are at stake, the Court has adhered in more recent years to the principle that allocation of public benefits is a matter largely of legislative discretion. In Dandridge v. Williams, 397 U.S. 471 (1970), the Court permitted the state to pay less than minimum subsistence to large families while continuing to provide full subsistence to small families. Two years later, the Court reaffirmed this hands-off approach in Jefferson v. Hackney, 406 U.S. 535 (1972). There the Court sustained, against equal protection challenge, a state's decision to pay families with dependent children (AFDC) less than subsistence benefits, while providing full benefits to other categorical assistance recipients, notwithstanding the fact that a disproportionate number of those whose benefits were lowered were Black or Mexican-American. The Court noted that "Since budgetary constraints do not allow the payment of the full standard of need" for everyone, the state may determine who is "least able ... to bear the hardships of an inadequate standard of living." Id. at 549. The Court concluded that "Whether or not one agrees with this state determination, there is nothing in the Constitution that forbids it." Id. In a similar case, the Court permitted Florida to grant a property tax exemption to widows but not to widowers, deferring to the state's judgment that the financial difficulties of surviving female spouses are likely to be greater than those of surviving male spouses. Kahn v. Shevin, 416 U.S. 351 (1974).

The lesson of these cases is that legislatures are entitled to make their own 'rough judgments' about which categories

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of citizens face relatively greater current hardships. From other cases we learn that the Court defers as well to legislative determinations of relative prior hardship suffered by different groups of citizens. In Johnson v. Robinson, 415 U.S. 361 (1974), for example, the Court sustained Congress' decision to grant education benefits to 'cold war (non-combat) veterans' but to exclude from those benefits conscientious objectors who performed comparable alternative service. The requirements of equal protection were satisfied, the Court held, because Congress was free to determine that the hardships and disruption of (even peacetime) military service were greater than those for alternative service. Id. at 377-379.

Less than a month ago, the U.S. Supreme Court reaffirmed the principle of the Johnson case. In Regan v. Taxation with Representation, 51 U.S.L.W. 4583 (May 23, 1983), the Court upheld a special tax break permitting only veterans' organizations to engage in lobbying while still retaining full tax exempt status under section 501(c)(3) of the Internal Revenue Code -- a benefit available to no other organization. Because of the hardships veterans might have encountered, the Court stated that "It is ... not irrational for Congress to decide that, even though it will not subsidize substantial lobbying by charities generally, it will subsidize lobbying by veterans' organizations."

Perhaps no case more accurately demonstrates the standard of review appropriate in this case than U.S. Railroad Retirement Board v. Fritz, 449 U.S. 166 (1980). The Railroad Retirement Act of 1974 permitted continued 'windfall benefits' (combined Social Security and Railroad Retirement benefits) only for those who had a connection with the railroad industry on December 31, 1974 or who had completed before that date 25 years of railroad service. The lower court held that the distinction was not rationally related to a permissible governmental objective and that the Act therefore denied equal protection to the plaintiff class: those who had left the railroads before December 31,

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1974 and had less than 25 years of rail service. The U.S. Supreme Court reversed, and sustained the statute, stating that the courts have "no power to impose upon the States their views of what constitutes wise economic or social policy." Id. at 175. "The problems of government," the Court noted, "are practical ones and may justify, if they do not require, rough accommodations -- illogical, it may be, and unscientific." Id.

The Court's determination to leave to each state legislature the judgment of how to expend public benefits is particularly striking in those cases in which the Court has sustained such legislative classifications in spite of an argued impact on a suspect class or a fundamental interest. In Maher v. Roe, 432 U.S. 464 (1977), the Court upheld a legislative choice to provide public health subsidies for childbirth while withholding them from women who choose the exercise their fundamental right to an abortion. In Personnel Administrator v. Feeney, 442 U.S. 256 (1979), the Court sustained a state hiring preference for veterans in spite of a clear disproportionate impact on women. In Jefferson v. Hackney, 406 U.S. 535 (1972), the legislature's choice to subsidize fully categories of recipients other than AFDC beneficiaries impacted disproportionately on Blacks and other minorities. The tax break for veterans' lobbying organizations sustained in Regan v. Taxation With Representation, constituted a differential subsidy that arguably affected the exercise of First Amendment rights.

Judged by the standard of all of these cases, Alaska's decision to provide a subsidy to a carefully defined group of senior citizens who experienced the particular hardships of life in the territory, face more difficult hardships now, and whose presence provides a benefit to all Alaskans, is clearly defensible.

B. The Standard of Review in this Case is not Markedly Changed by Use of Alaska's "Sliding Scale" Test

Use of the Alaska "sliding scale" equal protection test

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does not markedly change this approach. In State v. Ostrosky, ___ P.2d ___, Op. No. 2702 (Alaska, July 19, 1983) the Alaska Supreme Court made its definitive statement on the meaning and application of Alaska's equal protection test. Basically, the court stated that the relaxed scrutiny similar to the federal "rational basis" test would apply except in those instances where the legislation touched upon fundamental rights, suspect classes, or other important interests. As the impingement on those rights grows, the level of scrutiny increases. If, however, the impingement is minimal or does not touch a fundamental right, then the interest is not entitled to "an elevated position on the Erickson sliding scale." Slip Op. at 27.

> We have postulated a single sliding scale of review ranging from relaxed scrutiny to strict scrutiny. The applicable standard of review for a given case is to be determined by the importance of the individual rights asserted and by the degree of suspicion with which we view the resulting classification scheme. As legislation burdens more fundamental rights, such as rights to speak and travel freely, it is subjected to more rigorous scrutiny at a more elevated position on our sliding scale. Likewise, laws which embody classification scheme that are more constitutionally suspect, such as laws discriminating against racial or ethnic minorities, are more strictly scrutinized....
>
> Having selected a standard of review on the Erickson sliding scale, we then apply it to the challenged legislation. This is done by scrutinizing the importance of the governmental interests which it is asserted that the legislation is designed to serve and the closeness of the means-to-ends fit between the legislation and those interests. As the level of scrutiny selected is higher on the Erickson scale, we require that the asserted governmental interests be relatively more compelling and the legislation's means-to-ends fit be corresponding closer. On the other hand, if relaxed scrutiny is indicated, less important governmental objectives will suffice in a greater degree of over/or under inclusiveness in the means-to-ends fit will be tolerated. Compare Vogler v. Miller, 660 P.2d 1192 (Alaska 1983), with Rose v. Commercial Fisheries Entry Commission, 647 P.2d 154 (Alaska 1982). As a minimum, we require that the legislation be based on a legitimate public purpose and that the classification "be reasonable, not arbitrary, and ... rest upon some ground of difference having a fair and substantial relation to the object of the legislation." Isakson v. Rickey, 550 P.2d at 362 (quoting State v. Wylie, 516 P.2d 142, 145 (Alaska 1973)).

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Id. at 25-26.

For example, in Ostrosky, the plaintiff had challenged the limited entry system's transfer provision, arguing that the free marketability of the permits discriminated on the basis of wealth or privilege. The court rejected this claim, holding that

> Since the wealth and lineage classifications presented here are not different from those which pervade our system of private property, we do not place the interest asserted by the Ostroskys -- redistribution of entry permits based on a system free of these classifications -- in an elevated position on the Erickson sliding scale. It follows, of course, that the rational basis test is the appropriate standard for this federal constitutional claim.

Id. at 27 (emphasis added).

Exactly how individual interests are to be ranked is still not entirely clear. Although the court expressly is avoiding "outright categorization of fundamental and nonfundamental rights," (Id. at 24, quoting with approval from State v. Erickson, 574 P.2d at 1, 11-12 (Alaska 1978)), the replacement is not expressly set out. The court did, however, expressly refer to the "spectrum of standards" advocated by Justices Marshall and White in federal equal protection cases, (id. at 23, n.13), and particularly referred to the dissenting opinion of Justice Marshall in San Antonio Independent School v. Rodriguez, 411 U.S. 1, reh. denied 411 U.S. 959 (1973). In that opinion, Justice Marshall stated that the standard should be rooted in existing specific constitutional guarantees:

> The task in every case should be to determine the extent of to which constitutionally guaranteed right are dependent on interests not mentioned in the constitution. As the nexus between the specific constitutional guarantee and the non-constitutional interest draws closer, the non-constitutional interest becomes more fundamental and the degree of judicial scrutiny applied when the interest is infringed on a discriminatory basis must be adjusted accordingly.

San Antonio Independent School District v. Rodriguez, 411 U.S. at 102-103 (Marshall, J. dissenting). As a result, it is the degree of interference with the constitutional right, not the outright characterization of the right as being infringed or not infringed

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which controls the sliding scale.

An example of particular relevance to this case is the Alaska Supreme Court's approach to the level of scrutiny to be given the permanent fund dividend program in Williams v. Zobel, 619 P.2d 448 (Alaska 1980) (Zobel II). There, as here, the primary constitutional principle potentially infringed by the residency requirement is the right to travel or the right to migrate interstate. There the court stated that:

> Further, we will no longer regard all durational residency requirements as automatically triggering strict scrutiny and requiring a showing that such a classification is absolutely necessary to promote a compelling state interest. Instead, we will balance the nature and extent of the infringement on [the right to travel] caused by the classification against the state's purpose in enacting the statute and the fairness and substantiality of the relationship between that purpose and the classification. Id. at 453.

As in Zobel II, the primary constitutional value potentially infringed is the right to travel or interstate migration. Although Mr. Vest attempts to create a heightened right to equal treatment through the Citizenship Clause, that attempt is well beyond the accepted ambit of that provision. Simply, the Citizenship Clause guarantees that there will not be greater or lesser degrees of citizenship once a person become a citizen, or "bona fide resident" of a particular locale. 1/ Slaughter-House Cases, 83 U.S. 36, 80 (1873).

The primary entitlement is, of course, to equal protection of the law. Although a state may ultimately restrict many public benefits to citizens of that state, it may not divide those benefits in violation of the equal protection clause. Mr. Vest attempts to bootstrap his argument by arguing for a greater degree of scrutiny based on the Citizenship Clause. It is his

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1/ It does not, of course, guarantee automatic access to all state benefits. Mr. Vest and others may or may not qualify for veterans' loans, student loans, or a host of other state programs based on legitimate non-residency based distinctions.

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status as a citizen that allows him to raise his claim to equal protection, and not vice versa.

Although the use of a residency requirement must have a rational basis for its selection, its use in and of itself does not implicate the Citizenship Clause. An irrational or unsupportable use of residency as a basis for discrimination is, of course, repugnant -- but no more so than any irrational standard of measurement. Justice Brennan in his concurring opinion in Zobel III, on which Mr. Vest relies attacked the unsupportable use of residency as a deciding line, not the use of residence itself:

> But we have never suggested that duration of residence vel non provides a valid justification for discrimination. To the contrary, discrimination on the basis of residence must be supported by a valid state interest independent of the discrimination itself.

Zobel III, 72 L.Ed 2d at 684. Here, as set forth previously at length, there are independently valid state interests in identifying the veterans of the territorial days for special honor.

The only other constitutional value potentially infringed, as in the permanent fund dividend program, is the right to travel. The Alaska Supreme Court found that the dividend program had a de minimus impact on the right to travel. Zobel II, 619 P.2d at 458. As will be shown, the dividend program had a much more extensive and pervasive impact on the citizenry, and the individual citizen, than the longevity bonus program. See section III, below. This lesser impact by the longevity bonus program does not raise the level of scrutiny to any great degree, and is on par or below the interest in the right to a limited entry permit which the Alaska Supreme Court has determined to be "not of a high order." State v. Ostrosky, Slip Op. at 25. See also Rose v. Commercial Fisheries Entry Commission, 647 P.2d 154, 158-160 (Alaska 1982). And, as previously shown, there is a reasonably close fit between the purposes of the legislation and the January 3, 1959 dividing date. As a result, the longevity

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equal protection analysis.

III. SINCE THE LONGEVITY BONUS PROGRAM DOES NOT BURDEN THE RIGHT TO TRAVEL OR ANY OTHER FUNDAMENTAL INTEREST, DOES NOT REST UPON A SUSPECT CLASSIFICATION, AND CLEARLY ADVANCES LEGITIMATE STATE GOALS, IT IS NOT INVALID UNDER ZOBEL V. WILLIAMS

As the cases discussed above make clear, state legislatures are granted wide constitutional latitude in determining how to distribute subsidies. The special monthly benefit provided by Alaska to those of its senior citizens who are veterans of the territory easily passes the constitutional standard established by those decisions. Plaintiff contends, however, that one decision of U.S. Supreme Court -- Zobel III -- compels invalidation of the longevity bonus.

Zobel III is not controlling. As we shall show, Zobel III is an unusual case which invalidated a statute both constitutionally and fundamentally different from the bonus program at issue here. The permanent fund dividend struck down in Zobel III singled out the new arrival for discriminatory treatment. Each newcomer to the state was treated less well than every citizen who arrived ahead of him. This is clearly not the case under this program: One arriving in Alaska today is not in any different position with respect to the longevity bonus than the great and dominant majority of Alaskans.

Moreover, the Permanent Fund Dividend plan provided incrementally greater benefits measured solely by the mere length of residence in Alaska. Thus, it could have been sustained only if the Court were willing to accept the constitutionally impermissible conclusion that "the longer one stays, the worthier one is." Eligibility for the bonus program, in contrast, is not designed to reflect "past contribution" measured incrementally by mere length of residence. It is, as we demonstrate below, a wholly different program supported by different and constitutionally permissible goals.

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PHONE 465-3600

A. Unlike the Permanent Dividend Fund Plan [illegible] in Zobel III, the Longevity Bonus Does Not Advance an Illegitimate State Purpose

The Court's holding in Zobel III only established two propositions of law: (1) rewards for past contributions cannot be based solely on length of residence; and (2) recognizing residency accumulated before the date of enactment of a statute is not rationally related to the purpose of creating incentives to stay in the future.

Beyond those two holdings, the impact of Zobel III is in its strong implication that the United States Supreme Court will not tolerate a certain kind of discrimination between bona fide residents. This discrimination is the creation of "fixed, permanent distinctions between an ever-increasing number of permanent classes of concededly bona fide residents, based on how long they lived in the state." Zobel III, 72 L.Ed.2d at 677. See also id. at 680 (stating that it would be "clearly impermissible" to "divide citizens into expanding numbers of permanent classes"). Although the Court's opinion avoided ruling on the constitutionality of the "prospective" portion of the dividend distribution plan, the concurring opinions of Justices O'Connor and especially Brennan indicate that the plan as a whole would not have passed constitutional muster.

The Court's opinion in Zobel III restated the three purposes advanced in justification of the distinctions among residents made by the dividend plan. Those purposes were stated as

> (a) the creation of a financial incentive for individuals to establish and maintain residence in Alaska; (b) the encouragement of prudent management of the Permanent Fund; and (c) apportionment of benefits in recognition of "undefined 'contributions of various kinds, both tangible and intangible, which residents have made during their years of residency.'

Id. at 678.

The Court concluded that the distinctions among residents made under the plan did not satisfy the rational basis

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test. Under the plan, residents were to receive greater benefits for greater durations of residency. The plan was also to be applied retroactively so that residency before enactment of the plan would also be counted toward increased benefits. The Court's opinion focused on the retrospective aspect of the plan. The Court failed to see any rational relationship between this retrospective aspect of the plan and the first two purposes noted above. In that regard, the Court stated:

> Assuming arguendo that granting increased dividend benefits for each year of continued residence might give some residents an incentive to stay in the State in order to reap increased dividend benefits in the future, the State's interest is not in any way served by granting greater dividends to persons for their residency during the 21 years prior to the enactment.
>
> Nor does the State's purpose of furthering the prudent management of the Permanent Fund and the State's resources support retrospective application of its plan to the date of statehood.

Id. at 678-679.

Mr. Vest argues, in this respect, that Zobel III stands for the proposition that any recognition of past residency is unconstitutional. Zobel III, instead, is much more limited and traditional, namely, that only an irrational use of residency is unconstitutional. The "retrospective" portion struck down, i.e., residency before the date of enactment, was not invalidated in the abstract, but rather because it was not connected to the asserted purposes. Here that connection exists.

The third, and only remaining goal asserted in Zobel III, did relate to the distinctions made by the Dividend Plan. That goal was to reward citizens for "past contributions" to the state, a "past contribution" measured solely and exclusively by the incremental length of residence. But as Shapiro v. Thompson, 394 U.S. 618 (1969), had made clear, such a goal was constitutionally impermissible. Sustaining such a goal "would permit the State to apportion all benefits and services according to the past tax [or intangible] contributions of its citizens." Id. at

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632-633. The permanent fund dividend rested on the premise that any citizen who had resided in Alaska for ten years was exactly five times worthier than one who had resided in the state for two years. As the Court had held in Shapiro, "The Equal Protection Clause prohibits such an apportionment of state services." Id., quoted and emphasis added in Zobel III, 72 L.Ed 2d at 679.

Thus, since two of the goals offered by the state in Zobel were irrelevant, and the third impermissible, the statute fell for lack of any reason to support the distinctions it drew. The distinction drawn by the longevity bonus program, however, is supported by three legitimate purposes. Therefore it is constitutional under the standard established by Zobel III.

Zobel III was not the opinion of a unified Court. The Court as a whole concluded that the distinctions were invalid under the Equal Protection Clause at least insofar as they were applied retroactively to provide greater benefits based on length of residence before enactment of the dividend plan. In a concurring opinion written by Justice Brennan for himself and three other members of the Court, it was emphasized that

> The Court today reaffirms the important principle that, at least with respect to durational-residency discrimination, a State's desire "to reward citizens for past contributions" is "clearly not a legitimate state purpose."

72 L.Ed 2d at 683. Beyond that, however, Justice Brennan's opinion indicates that a least four of the justices considered the constitutional concerns raised by the dividend plan to be such as "might well preclude even the prospective operation of Alaska's scheme." Id. at 681.

But Zobel III did not rule that all discriminations between bona fide residents based on length of residency were unconstitutional per se. Again, even Justice Brennan, whose opinion is the harshest of the attacks on the plan, would only automatically overturn residency discrimination having no independent valid state interest:

> It is, of course, elementary that the Constitution

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> does not bar the States from making reasoned distinctions between citizens. Insofar as those distinctions are rationally related to the legitimate ends of the State they present no constitutional difficulty, as our equal protection jurisprudence attests. But we have never suggested that duration of residence vel non provides a valid justification for discrimination. To the contrary, discrimination on the basis of residence must be supported by a valid state interest independent of the discrimination itself.

Id. at 684 (emphasis added).

It is noteworthy that the Court as a whole declined to take an additional step and invalidate the prospective component of the unlimited and ever-expanding dividend distribution plan. Although five justices signed on to the concurring opinions of Justices Brennan and O'Connor, and even though under the reasoning of the concurring opinions the entire program would have been expressly overturned, the Court refused to make that holding. Zobel III, therefore, also stands for the proposition that the residency provisions of the dividend plan represent "the water's edge"; i.e., that distinctions such as those made by the dividend program mark the boundary into unconstitutional territory. Distinctions between residents that are not unlimited and "ever-expanding" are not automatically invalid, and must be analyzed on a case-by-case basis.

Nothing in Zobel III suggests that it is impermissible for a state to provide a special benefit to persons who suffered a particular past hardship, who may now suffer relatively greater hardship than others, and who, if forced by hardship to leave, would deprive the state of a unique repository of its cultural heritage. As we demonstrate below, these legitimate goals, none of which were involved in the Permanent Fund Dividend Program overturned in Zobel III, provide ample justification for the longevity bonus program.

The purposes expressed in the longevity bonus statute are different from the purposes struck down in Zobel III. First, the purpose of using length of residence as a means of measuring present hardship is a different objective than rewarding for past

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contributions. In fact, Justices Dimond and Matthews, in their ultimately correct dissent to the Alaska Supreme Court's upholding of the dividend program, would have expressly upheld the longevity bonus program on this rationale. After stating that "I can understand why in some circumstances the state might desire to reduce turnover within a particular group of the population," Justice Dimond in a footnote stated

> For example, free admission to pioneer homes, AS 47.25.020 - 47.25.030, and a state longevity bonus, AS 47.45.010, both require lengthy residency periods. Both those programs, however, are apparently designed to help those individuals who would like to retire in the state but cannot do so because of the high cost of living. The state might well want to limit these benefits to those that would suffer the most hardship by being forced to leave, and it seems reasonable to suppose that a long period of residency would be some indicia of close ties to Alaska and the disruption that leaving might cause.

Zobel II, 619 P.2d at 469, n.13 (J. Dimond dissenting).

Nothing in Zobel III indicates that it is an impermissible goal for a state to provide a special benefit to a group which the state believes suffers relatively greater present hardship than others. And, again, the United States Supreme Court has repeatedly held this to be a valid legislative determination. 2/

Second, another primary purpose of the longevity bonus program is to allow persons who were here in territorial days and have continuing ties with the state to remain so as to continue to enrich our culture and provide present contributions to the

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2/ See, for example, Kahn v. Shevin, 416 U.S. 351 (1974)(state may conclude that widows face greater hardships than widowers); Dandridge v. Williams, 397 U.S. 471 (1970)(state may conclude that smaller families face greater hardship than large families); and Jefferson v. Hackney, 406 U.S. 535 (1972)(state may conclude that disability aid recipients face greater hardships than AFDC recipients). Indeed, the goal of providing relief to a broad category of persons thought to suffer greater present hardship is so well established that the cases above would not likely have been brought in the first place had it not been for the arguably disproportionate impact the programs had on persons defined by race or gender.

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present Alaska society. In other words, the program is not a benefit to the pioneers as much as it is a benefit to those non-pioneers who came to the state after 1959. It is the desire of that later arriving group to not be deprived "of the benefits of [the territorial pioneers] wisdom and experience," AS 47.45.170. The continued presence of these persons is a source of common cultural strength that is shared by all, new and old residents alike. Nothing in Zobel III indicates that this purpose is unconstitutional.

These purposes in and of themselves would justify the longevity bonus program. But even the remaining purpose set out in AS 47.45.170 was not struck down in Zobel III. Zobel III struck down the rationale that persons could be rewarded for past services to the state based on graduated lengths of residency. It struck down the idea that a person who has been in the state ten years has contributed five times as much to the state's welfare as a person who has been here two years. The longevity bonus program, on the other hand, is primarily motivated as a means of compensating a certain class of Alaska citizens for past hardship suffered in common:

> Legislature further finds and states that this legislation recognizes the economic hardship suffered by many elderly Alaskans.... These pioneers are the same Alaskans, who in the prime of their life were in effect treated as second-class citizens by the federal government and who paid much of their hard-earned income to a government in which they did not have the right to participate through the power of the ballot.

AS 47.45.170.

Nothing in Zobel III indicates that it is impermissible for a state to have as a goal the compensation of a group of its citizens who have in the past suffered a particular hardship. Indeed, the veterans' benefit cases clearly establish that this is a fully legitimate governmental purpose. See, for example, Johnson v. Robinson, 415 U.S. 361 (1974), and Regan v. Taxation with Representation, 51 U.S.L.W. 4583 (May 23, 1983). Like programs retroactively compensating a group of veterans for their

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hardship suffered through wartime service, the longevity bonus program is intended to compensate those citizens who before 1959 endured a status not shared by persons arriving after that date.

Therefore, the purposes of the longevity bonus program as set out in AS 47.45.170 have not been struck down by either the Zobel III decision or any other decisions of the Alaska or U.S. Supreme Courts.

B. Equal Protection Analysis Generally does not Particularly Concern Itself with the Type of Distinction Made by the Bonus Program

The question before this court, then, is whether the principles of the existing cases can be expanded so as to render illegitimate the purpose of honoring a state's past by singling out a certain minority group who represent that past for all Alaskans; persons "who in the prime of their life were in effect treated as second-class citizens by the federal government and who paid much of their hard-earned income to a government in which they did not have the right to participate through the power of the ballot"; persons who in many instances had been "forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationship with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans of the benefits of their wisdom and experience." AS 47.45.170. Neither the underlying purpose nor the established principles of the Equal Protection and Citizenship Clauses require an extension of previous holdings to the longevity bonus program.

Although the Equal Protection Clause has been extended in recent decades to many new areas, the history of that expansion follows a clearly defined course. Certain basic principles have underlain that expansion. As the following discussion will show, neither the history of that development nor those principles imply an expansion to the type of situation before this court. Although the expansion of equal protection is certain to

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continue down its path, that path bypasses nullifying the longevity bonus program.

This program is a benefit given by the overwhelming political majority, persons who arrived in this state after 1959, to a political minority without regard to race or creed. Such a program and intent is not the type of activity that the Equal Protection or Citizenship Clauses were enacted or interpreted to include.

It is safe to say that until the past few decades an attack of this sort on the longevity bonus program would have been dismissed almost out of hand. At first, the U.S. Supreme Court took an extremely narrow view of these clauses' ambit:

> We doubt very much whether any action of a state not directed by way of discrimination against the Negroes as a class, or on account of their race, will ever come within the purview of this provision. It is so clearly a provision for that race ... that a strong case would be necessary for its application to any other.

The Slaughter House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394, 410 (1873). This extremely narrow interpretation was quickly recognized as being erroneous, and was soon extended to all racial classifications. Yick Wo v. Hopkins, 118 U.S. 356, 369 (1886). For a number of years the standard use of the clause followed fairly closely to its original intent, namely that

> [A]ll men, without regard to race or color, should have the same rights to acquire real and personal property and to enter in to business enterprises; criminal and civil law, in procedures or penalties, should make no distinctions whatsoever because of race or color; there should be no segregation of individuals on the basis of race or color as to the right to own or use land; there should be no segregation of individuals on the basis of race or color in the use of utilities, such as transportation or hotel; with reservations, for here there is substantial divergence, there should be no segregation in the schools. It was generally understood that Congress could legislate to secure these ends, without regard to whether the particular objective was frustrated by state action or by state inaction. On the other hand, the clause was meant to have no bearing on the right to vote; the evidence of its contemplated effect on state anti-miscegenation laws is unclear; and it was generally understood to have no bearing on segregation of a purely private sort in

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> situations fairly independent of the law; as in churches, cemeteries, or private clubs.

John P. Frank and Robert F. Munro, "The Original Understanding of "Equal Protection of the Law," 50 Colum. L. Rev. 131, 167-168 (1950). See also Alexander M. Bickel, "The Original Understanding and the Segregation Decision," 69 Harv. L. Rev. 1 (1955).

But the expansion of the Equal Protection Clause beyond the relatively narrow bounds of racial concerns was impeded by the pre-eminence of the Due Process Clause as the vehicle for the U.S. Supreme Court's constitutional defense of the sanctity of contract and property rights. 3/ In addition to using a different provision to defend constitutional rights, there was also a marked difference in concern about the rights to be defended.

The difference in the ranking of constitutional values and the relative unimportance of the Equal Protection Clause was highlighted in the opinion of Justice Holmes in Buck v. Bell, 274 U.S. 200 (1927). In rejecting an attack based upon the Equal Protection Clause against compulsive sterilization of the mentally retarded, Justice Holmes stated

> But, it is said, however it might be if this reasoning were applied generally, it fails when it is confined to the small number who are in the institutions named and is not applied to the multitudes outside. It is the usual last resort of constitutional arguments to point out shortcomings of this sort.

Id. at 207-208 (emphasis added). This famous characterization of equal protection arguments as the "usual last resort" began to change when cases like Nebbia v. New York, 291 U.S. 502 (1934), and West Coast Hotel v. Parrish, 300 U.S. 379 (1937), heralded the demise of substantive due process.

United States v. Carolene Products, 304 U.S. 144 (1938), set out what was to become the other great theme of equal

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3/ E.g., Mugler v. Kansas, 123 U.S. 623, 661 (1887); Allseyer v. Louisiana, 165 U.S. 578 (1897); Lochner v. New York, 198 U.S. 45 (1905).

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protection: the safeguarding of the political process and the protection of the individual against the power of the majority. Justice Harlan Fiske Stone's "footnote four" expressed the theme that would underlie the expansion of equal protection beyond the borders of race-based discrimination:

> It is unnecessary to consider now whether legislation which restricts those political processes which can ordinarily be expected to bring about repeal of undesirable legislation, is to be subjected to more exacting judicial scrutiny under the general prohibitions of the Fourteenth Amendment than are most other types of legislation....
>
> Nor need we enquire whether similar considerations enter into the review of statutes directed at particular religious, or national, or racial minorities: whether prejudice against discreet and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities, and which may call for a correspondingly more searching judicial inquiry.

Id. at 152-153, n.4 (citations omitted). 4/

The concern with the unresponsiveness of the political process to all persons rather than simply racial minorities was also a central theme of the Warren Court. 5/ This underlying concern is central to the great expansion of the Equal Protection Clause beyond concerns about race -- to concerns about protecting specific constitutional rights like freedom of religion 6/; to implied constitutional rights such as the right to travel 7/; to the rights of non-racial groups who are often subject to discrimination such as aliens 8/; women 9/, illegitimate

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4/ Cf. South Carolina State Highway Dep't v. Barnwell Bros., 303 U.S. 177, 184, n.2 (1938) (similar concerns under the Commerce Clause for protecting those who do not have a political voice).

5/ E.g., Ely, "The Chief," 88 Harv. L. Rev. 11 (1974).

6/ Wisconsin v. Yodi, 406 U.S. 205 (1975).

7/ Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974).

8/ Graham v. Richardson, 403 U.S. 365 (1971).

9/ Schleginger v. Ballard, 419 U.S. 498, 508 (1975).

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POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

children 10/, and the poor 11/; and to directly clearing the political process itself. 12/

Generally, this area of expansion shows a twin concern with: (1) clearing the channels of the political process (for example, reapportionment, "one man-one vote," and voter qualifications); and (2) equal treatment for those whom the majority in the political process may mistreat as a class. 13/

This concern is evident in the use of equal protection to protect the right to travel. Durational residency, or residency based discrimination, is often illegitimate because of the infringement of residency requirements upon the constitutional right to travel freely from state to state. As the U.S. Supreme Court noted in Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974), the primary concern was protecting newcomers from the prejudices of the established majority:

> Not unlike the admonishion of the Bible that, "Ye shall have one manner of law, as well for the stranger, as for one of your own country,"

10/ Trimble v. Garden, 97 S.Ct. 1459, 1463 (1977)

11/ Bounds v. Smith, 97 S.Ct. 1491, 1498 (1977).

12/ Gray v. Saunders, 372 U.S. 368 (1963)(voting rights); Bullock v. Carter, 405 U.S. 134 (1972)(filing fees); Reynolds v. Sims, 377 U.S. 553 (1964) ("one man-one vote").

13/ E.g., John Hart Ely, Democracy and Distrust: A Theory of Judicial Review (Harvard University Press 1980). See also Archibald Cox's Review of Democracy and Distrust, 94 Harv. L. Rev. 714 (1981); Ball, "Judicial Protection of Powerless Minorities," 59 Iowa L. Rev. 1059 (1974); Black "The Unfinished Business of the Warren Court," 46 Wash. L. Rev. 3, 8-9 (1970); Brest, "The Supreme Court, 1975 Term -- Forward: In Defense of the Anti-discrimination Principle," 90 Harv. L. Rev. 1, 6-12 (1976); Karst, "The Supreme Court, 1976 Term -- Forward: Equal Citizenship Under the Fourteenth Amendment," 91 Harv. L. Rev. 1, 8-10, 24-26 (1977); Tribe, "Structural Due Process," 10 Yale C.R.-C.L. L. Rev. 269 (1975). Some of these authors, particularly Ely, attempt to expand this notion beyond the Equal Protection and Citizenship Clauses to all constitutional interpretations. This expansion beyond the Fourteenth Amendment has been criticized as ignoring the many substantive values found in the text of the constitution, such as the right to free speech and the right to freedom of religion. E.g., Cox, supra; Tribe, "The Puzzling Persistence of Process-based Constitutional Theories", 89 Yale L. Journal 1063 (1980).

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POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

> Leviticus 24:22 (King James version), the right of interstate travel must be seen as insuring new residents the same rights to vital government benefits and privileges in the States to which they migrate as are enjoyed by other residents.

Id. at 261.

The Court's decision in Zobel III is also based upon this theme. Although not directly grounded in the right to travel, the court as a whole was primarily concerned about the principle of a political majority of citizens apportioning benefits and burdens based solely upon their more senior status over newcomers. It was on this basis that the Court rejected the rationale of "reward for past contribution" -- that society would degenerate into a social and political ranking based solely upon various degrees of residency:

> If the states can make the amount of a cash dividend depend on length of residence, what would preclude varying university tuition on a sliding scale based on years of residence -- or even limiting access to public facilities, eligibility for student loans, for civil service jobs, or for government contracts by length of domicile? Could States impose different taxes based on length of residence? Alaska's reasoning could open the door to state apportionment of other rights, benefits and services according to length of residency. It would permit the states to divide citizens into expanding numbers of permanent classes. Such a result would be clearly impermissible.

Zobel III, 72 L.Ed.2d at 680.

Justice Brennan in his concurrence, although basing his concerns in the Citizenship Clause as well as the Equal Protection Clause, expressed the same basic notion -- that the measuring of each citizen against another based solely upon seniority in the state is antithetical to our notions of a unified society.

> In effect, then, the past-contribution rationale is so far-reaching in its potential application, and the relationship between residents and contribution to the state so vague and insupportable, that it amounts to little more than a restatement of the criterion for discrimination that it purports to justify. But while duration of residence has minimal utility as a measure of things that are, in fact, constitutionally relevant, resort to duration of residence as the basis for distribution of state largesse does closely track the constitutionally untenable position that the longer ones residence, the worthier one is of the state's

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STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

> favor. In my view, it is difficult to escape from the recognition that underlying any scheme of classification on the basis of duration of residence, we shall almost invariably find the unstated premise that internal "some citizens are more equal than others." We rejected that premise and, I believe, implicitly rejected most forms of discrimination based upon length of residence, when we adopted the Equal Protection Clause.

Id., 72 L.Ed.2d at 685.

The concern was not with recognizing past residence where that trait is of importance (Id. at 684); instead, the concern is with the unfounded and indiscriminate advantage given length of residence in and of itself -- the favoring of a three-year resident over a two-year resident as well as favoring a 50-year resident over a 25-year resident. The Court's decision in Zobel rejects the concept of the newcomer "as stranger," and is concerned with the effect on the political fabric of our society by allowing discrimination against relative newcomers imposed by those in power. It is, in this regard, an extension and application of the underlying goals and principles that were part and parcel of the expansion of the equal protection doctrine in the past few decades.

But to apply those principles to the longevity bonus program would be to detour sharply from the evolving trend. It would be an extension of the equal protection rationale outside of the existing channel.

The longevity bonus program is not a case where the political majority is dividing benefits or assigning burdens to the detriment of a smaller class. It is not a case where there is an indication that newcomers or more recent arrivals are looked upon with disfavor or disrespect. Twenty-year residents and one-month residents are treated exactly the same.

Treating a smaller group of "pioneers" with respect and honor does not mean that "non-pioneers" are dishonored. It is, in fact, the non-pioneers -- those that arrived after 1959 -- who initiated the program and wish to continue the distribution of that program's benefits.

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PHONE 465-3600

This court, therefore, should not extend the holding of Zobel III and other equal protection cases to this new area. It is not an illegitimate purpose for a political majority to honor a non-racially or non-insular and distinct minority for valid and socially laudatory reasons. All Alaskans gain and take pride in the "pioneers" and the tradition they represent. The honoring of that minority strengthens Alaska society as a whole. Each citizen, whether a one-month resident or a twenty-year resident, shares in the tradition and cultural richness that comes from the continued presence of the pioneer minority. Compensating that minority for the pre-statehood hardships, the second class citizenship, and the present hardships that would be faced by that group if retirement Outside became necessary, cannot be termed illegitimate or be condemned as socially unworthy. Nor is this a situation, like that perceived to exist in Zobel, where length of residence threatens or forebodes an extension of a divisive principle to the entire social structure -- where all citizens will be judged by the length of their residence as many have been judged by the color of their skin.

Nor, like the past contribution analysis in the permanent fund dividend program, are the residence standards tenuously related to the goals in mind. Statehood marked a new era for Alaska. Although not precise, it is as good a dividing line as any to determine who to honor in the name of Alaska's past.

Consequently, this court should not attempt to read existing equal protection cases as including the purposes expressed for the longevity bonus program within their prohibition. Such a reading is not required by the language of the decisions, nor is it required by the underlying principles those decisions.

IV. SEVERABILITY

Plaintiff Vest argues that if this court should find the residency provisions of the longevity bonus act unconstitutional, it should read those provisions out of the act and then

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PHONE 465-3600

ignore or sever, the non-severability clause enacted as a part of the act. (The non-severability section appears at Sec. 2, ch. 205, SLA 1972). The remainder of the provisions of the act, he argues, should be applied to all bona fide residents over the age of 65.

Alaska's statutes include a general severability statute, or saving clause, which provides that every law should be construed as though it contained a clause indicating that if parts of the act are held invalid, the rest should stand. AS 01.10.030. The Alaska Supreme Court, in Lynden Transport, Inc. v. State, 532 P.2d 700 (Alaska 1975), interpreted a general clause such as Alaska's as setting up a very weak presumption for severability. In the absence of a specific severability clause within an act, general clauses are regarded as "mere codifications of a canon of statutory construction." Id. at 712. In the light of this canon, the test for severability set out in Lynden was announced:

> The test for determining the severability of a statute is twofold. A provision will not be deemed severable 'unless it appears both that, standing alone, legal effect can be given to it and that the legislature intended the provision to stand, in case others included in the act and held bad should fall.

Id. at 713 (emphasis added). Thus, even if the non-severability clause in the bonus act were read out of the act, as Vest suggests is appropriate, we must apply the test set out in Lynden. The longevity bonus act fails that test.

There is no complete law left to apply if the residency requirements are read out of the act. Vest agrees that a "bonafide" residency requirement is permissible; in order to rewrite the bonus act, the legislature must determine whether that requirement should be 30 days or six months or one year or two years or some other period. AS 47.45.010 cannot be purged of the allegedly offensive language without substituting some other language, and the legislature must make that substitution. AS

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PHONE 465-3600

47.45.030 (permitting absences from the state of up to six months) would likely be rewritten by the legislature if a shorter residency requirement were inserted in the act. The entire purposes section, AS 45.47.170, would have to be mutilated beyond recognition to remove the references to the statehood date and the 25 year requirement. Particularly with reference to the purposes section, there would simply be no law left to apply.

The bonus act also fails the second prong of the Lynden test. A reading of the act as a whole indicates that it was intended to benefit those pioneers who were in Alaska prior to statehood and who had maintained continuous domicile for 25 years. The purposes section on its face leaves no doubt as to this legislative intent. Vest does not argue that the purposes section should be read any other way. In arriving at the test set out in Lynden Transport, supra, the supreme court quoted from Sutherland's treatise on Statutes and Statutory Construction:

> If the valid parts are dependent or not severable from the invalid parts, all must fall. The valid parts must be enforceable as a separate law. If the remaining valid portions would not be passed by the legislature without the invalid, the statute must fail in its entirety. When the most important features or the paramount intent is invalid, the entire act must fall.

532 P.2d at 712 (emphasis added). The residency features, as amplified in the purposes section, are the paramount intent of the legislature. This is apparent from the face of the act as a whole. As such, even without the non-severability section which appears in the act, they cannot be severed from the remainder of the act.

In addition the bonus act does contain a non-severability section which specifically states that the general savings clause in AS 01.10.030 does not apply to the act, and that "if any provision of this Act...is held invalid, this entire Act

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PHONE 465-3600

shall be considered invalid." 14/ Vest argues that this section should be ignored because, he alleges, it was passed with a bad motive. He states, without citation or support, that one of the purposes of the non-severability section is to "blackmail prospective litigants by the threat that a suit can avail them nothing." Vest Memorandum at 7. Vest recognizes that the clause may have had other, valid purposes. The obvious, legitimate purpose which is apparent from the face of the act is that the legislature intended that if the act could not validly be applied only to the limited class specified in the act, it should not be broadened to include a larger class but rather should fail in its entirety.

A motive to discourage potential plaintiffs from litigating may not be lofty, but it is not unconstitutional. See, e.g., the Alaska Native Claims Settlement Act, wherein the following clause appears:

> In the event that the State initiates litigation or voluntarily becomes a party to litigation to contest the authority of the United States to legislate on the subject matter or the legality of this Act, all rights of land selection granted to the State by the Alaska Statehood Act shall be suspended as to any public lands . . .

43 U.S.C.A. 1609(b) (Supp. 1982).

But even if the "blackmail" purpose could be shown to exist, and even if it were unconstitutional, Vest's reading of the cases dealing with legislative motivation is misplaced. The general rule is that a court will not inquire into the underlying motivations of legislators.

In Palmer v. Thompson, 403 U.S. 217 (1970), plaintiffs

14/ If Vest were to pursuade this court that the residency provisions should be severed from the act, the court would then need to address the question of whether the non-severability clause could be severed. The state submits that although the clause would probably pass the first prong of the Lynden test, it would fail the second. It is doubtful that the legislature would have passed the act as a whole without the non-severability section.

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POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

argued that the decision of the city of Jackson, Mississippi to close its previously segregated public swimming pools was racially motivated. The city closed the pools after a judgment invalidating enforced segregation was affirmed by the Court of Appeals. The city argued that it could not economically operate integrated schools. The Court held:

> But no case in this Court has held that a legislative act may violate equal protection solely because of the motivations of the men who voted for it. The pitfalls of such analysis were set forth clearly in the landmark opinion of Mr. Chief Justice Marshall in Fletcher v. Peck, 6 Cranch 87, 130 (1810), where the Court declined to set aside the Georgia Legislature's sale of lands on the theory that its members were corruptly motivated in passing the bill.
>
> A similar contention that illicit motivation should lead to a finding of unconstitutionality was advanced in United States v. O'Brien, 391 U.S. 367, 383 (1968), where this Court rejected the argument that a defendant could not be punished for burning his draft card because Congress had allegedly passed the statute to stifle dissent. That opinion explained well the hazards of declaring a law unconstitutional because of the motivations of its sponsors. First, it is extremely difficult for a court to ascertain the motivation, or collection of different motivations, that lie behind a legislative enactment....It is difficult or impossible for any court to determine the 'sole' or 'dominant' motivation behind the choices of a group of legislators. Furthermore, there is an element of futility in a judicial attempt to invalidate a law because of the bad motives of its supporters. If the law is struck down for this reason, rather than because of its facial content or effect, it would presumably be valid as soon as the legislature or relevant governing body repassed it for different reasons.

403 U.S. at 224, 225. The court went on to distinguish the cases relied on by Vest, Griffin v. County School Board, 377 U.S. 218 (1964) and Gomillion v. Lightfoot, 364 U.S. 339 (1960), holding that "The focus in those cases was on the actual effect of the enactments, not upon the motivation which led the States to behave as they did." Id. at 225.

In U.S. v. O'Brien, 391 U.S. 367 (1969) the court acknowledged that it would occasionally look to statements of legislators as an aid in interpreting a statute.

> It is entirely a different matter when we are asked to void a statute that is, under well-

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POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

> settled criteria, constitutional on its face, on the basis of what fewer than a handful of Congressmen said about it. What motivates one legislator to make a speech about a statute is not necessarily what motivates scores of others to enact it, and the stakes are sufficiently high for us to eschew guesswork.

391 U.S. at 384. The Court again distinguished cases such as Gomillion which stand "not for the proposition that legislative motive is a proper basis for declaring a statute unconstitutional, but that the inevitable effect of a statute on its face may render it unconstitutional." Id. Vest admits that a non-severability clause is constitutional on its face. Proof of an illicit motive, even if available, would not render the section void.

V. REMEDIES

Plaintiff Vest has moved this court for partial summary judgment in his favor, reserving for a later determination the question of what remedies, if any, might be appropriate. The state joins this request that the court reserve judgment on the question of remedies. In the event that this court should find that the act unconstitutional, the state requests the opportunity to submit additional briefing or be heard again by this court prior to any judgment being entered which would affect present recipients of the bonus. Many of the people who presently receive the bonus depend upon it for their daily subsistence, and would be greatly harmed by a sudden disruption in payments. The state asks the opportunity to present evidence showing this hard-

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ATTORNEY GENERAL STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

ship in order to assist the court in fashioning an appropriate remedy.

DATED: July 22, 1983

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: _____
Robert M. Maynard
Assistant Attorney General

By: _____
Deborah Vogt
Assistant Attorney General

By: _____
Walter Dellinger
of Counsel

ATTORNEY GENERAL STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

HB 952 J

Dept. of Law
Y-1-4

LONGEVITY BONUS STATUS

1. Vest v. State at the Superior Court:

Vest originally sued in the summer of 1982. A three-way agreement was signed by our office, Vest and the Legislative Council staying the case through the 1983 legislative session, on the Council's agreement to use its best efforts to enact legislation which treated all senior Alaskans equally. No legislation was enacted, and Vest reactivated the suit shortly after the close of the session.

Vest filed a short summary judgment memorandum arguing that the residency requirements (25 years continuous residency, and residency in the territory prior to statehood) were invalid after the U.S. Supreme Court decision in Zobel. He also argued that the provisions violated the Citizenship Clause and the Alaska equal protection clause. Finally, he argued that the residency provisions should be striken from the act, and the program opened up to all residents.

The state argued that Zobel was not a per se bar to residency requirements, that the court should judge the program under the federal rational basis test, that states have broad leeway in deciding whom to benefit when distributing state resources, and that there were valid, rational reasons for favoring pre-statehood residents over those who came later. The state also argued that the residency requirements were not severable from the remainder of the act, and if they were invalid the court could not open up the program.

Judge Carpeneti ruled on December 17, 1983 in favor of Vest on all arguments except severability. He found that the act infringed the federally protected right-to-travel and applied the strict scrutiny test, noting that the program did not merely delay benefits, as in Sosna v. Iowa, 419 U.S. 393 (1975) (one year requirement for divorce not invalid), but rath denied newer arrivals entirely of the ability to participate in the program. He further read Zobel as implying that the U.S. Supreme Court would have applied strict scrutiny in that case if it had reached the issue. Once determining that strict scrutiny applied, the court held the residency requirements invalid since there was no compelling state interest to support them.

Judge Carpeneti enjoined the program, and stayed his own order for 30 days. The state filed its appeal, and then moved for an extended stay pending final disposition by the state supreme court. The state's motion was granted on January 13, 1984.

2. State v. Vest, Supreme Court:

On January 10, 1984, Judge Carpeneti reduced his order to a written judgment, thus preparing the way for appeal. The state's appeal papers were filed that day. The appellate rules provide that the superior court has 40 days to certify the record (about February 20, but since the record is relatively small, it may take less time), the state then has 30 days to file its appeal brief (about March 22), Vest has 30 days to answer (about April 22) and the state has 20 days to reply (about May 12). Vest's counsel have talked about moving for expedited treatment, but to date have not filed such a motion.

3. Other considerations:

The drafters of any legislation replacing the present program should consider the proposed program with an eye to the federal eligibility rules for Supplemental Social Security. Our adult public assistance program (blind, disabled and aged) is tied to those rules. The federal statute and regulations are attached, and provide for two relevant exemptions for "income."

One deals specifically with our program (although not by name) and exempts payments under a program enacted prior to July 1, 1973 if payments are not based on need and are based solely on the recipient's attainment of age 65 and duration of residence in the state. An amendment to the present act reducing the residency requirement to one year would come within this exemption.

The second exemption is for assistance which is based on need and furnished by a state or subdivision. The statute is silent on what constitutes "need," but the regulation states that "assistance is based on need when it is provided under a program which uses the amount of your income as one factor to determine your eligibility." Thus we believe that any program with an income cap would come within this exemption.

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

MEMORANDUM

TO: House State Affairs Committee Members

FROM: Roger Poppe, Committee Aide

DATE: March 20, 1934

SUBJECT: Miscellaneous Information on CSSB 347 (Fin)

In conversation with Gretchen Keiser, who drafted and researched the Memo from the House Research Agency to Representative Al Adams (February 24, 1984, revised February 28, 1984), I asked her how the recent changes in CSSB 347 (Fin) as amended by Senate Finance affected the comparative study done in her memo. She told me that there are two basic changes:

1) The Senate Finance Committee amended the amount in CSSB 347 (Fin) to be $250/month instead of $200/month.

2) The projections made by Senate Finance were based on a population of elderly that was estimated at 14,500 as of July 1, 1984. This amount is also the amount used in the Fiscal Note issued by the Dept. of Administration dated February 27, 1984. The House Research Agency study was based on a common base projection of 15,500 elderly as of July 1, 1984.

10.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 24, 1984
revised 2/28/84

MEMORANDUM

TO: Representative Al Adams

FROM: Gretchen Keiser and David Teal, Legislative Analysts

RE: Number of Recipients and Annual Costs of the Longevity Bonus Program under Several Alternatives. Research Request No. 84-032

Louann Cutler, of your staff, requested that we prepare tables which would present the projected number of recipients and annual costs of the Longevity Bonus Program between FY 1985 and FY 2000 under the following alternatives:

(1) the current program (25-year senior residents age 65 and over; $250/month);

(2) House Bill 507 (one-year senior residents with less than $15,000 annual income; $250/month);

(3) House Bill 521 (all one-year senior residents; $250/month);

(4) CS Senate Bill 347 (all one-year senior residents; $200 +3% annual adjustment/month or a percent of the longevity bonus account, whichever is less);

(5) Senate Bill 465 (all one-year senior residents; annuity payment of variable amount depending upon annuity shares owned; gradual phase-out of longevity bonus); and

(6) House Bill 655/Senate Bill 474 (all one-year senior residents through FY 90, thereafter increase eligibility age to 66 in FY 91, 67 in FY 92, etc.; $250/month).

In addition, Louann requested that we project the FY 85 costs of the retroactive payments to one-year senior residents who would have been eligible in FY 83 and/or FY 84, as proposed in the CSSB 347, SB 465, and HB 655/SB 474 alternatives.

Table 1 presents the projected number of recipients under the alternatives identified above. In all cases, the numbers represent the projected recipients at the midpoint of each fiscal year. These recipient projections form the basis for computing projected annual costs

presented in Table 2. Because of the uncertainties regarding the future mortality, migration, income, age distribution of the senior population of Alaska, and participation of the entire population in an annuity replacement program we believe that these projections should be viewed as rough approximations.

A computer analysis of the House Bill 655/Senate Bill 474 stair-stepping alternative was conducted in order to estimate the projected number of recipients and cumulative costs under different assumptions with respect to: (1) the future migration of elderly in and out of Alaska, (2) the year stair-stepping would begin, (3) the year interval between subsequent stair-stepping, and (4) the qualified elderly population and projected annual growth rate. Table 3 summarizes the projected number of recipients and the cumulative costs of the stair-stepping concept through FY 2000 under several assumptions.

As indicated in Table 3, each set of assumptions generates different projections of the number of recipients and costs, but clearly the greatest differences occur when the year in which stair-stepping commences is altered and/or when stair-stepping is changed from one to two-year intervals. Stair-stepping every two years, in effect, allows most older persons to eventually qualify until, of course, the eligibility age gets quite high (e.g. 73 years in FY 2005 if two-year stair-stepping commences in FY 91). Under a program which increases the eligibility age every two years, the annual costs remain considerably higher than under a program which stair-steps every year. The annual number of recipients and costs under each of these cases are presented in detail in Attachment A.

The assumptions employed in projecting the number of recipients and costs for the various alternatives are consistent to the maximum extent possible. Each table includes footnotes which document the source of pertinent assumptions. In addition, a summary of each longevity bonus program alternative and its attendant assumptions is included in Attachment B.

We hope that this information will be useful to you. Please contact us if we can be of further assistance.

GK:DT

Attachments

TABLE 1. PROJECTED NUMBER OF LONGEVITY BONUS RECIPIENTS UNDER THE CURRENT PROGRAM AND PROPOSED ALTERNATIVES

Fiscal Year[1]	Projected Recipients[2] Under Current Program (25-Year Residents)	Projected Recipients[3] (All One-Year Residents)	Projected Recipients[4] One-Year Residents With < $15,000 Annual Income	Projected Recipients[5] One-Year Residents With Stair-stepping Beginning FY 91
1985	10,672	15,950	11,458	15,950
1986	11,320	16,768	11,875	16,768
1987	11,968	17,627	12,244	17,627
1988	12,616	18,531	12,549	18,531
1989	13,264	19,481	12,865	19,481
1990	13,912	20,480	13,191	20,480
1991	14,560	21,530	13,495	18,887
1992	15,208	22,634	13,738	17,454
1993	15,856	23,795	13,994	16,142
1994	16,504	25,015	14,244	14,923
1995	17,152	26,297	14,506	13,781
1996	17,800	27,645	14,791	12,703
1997	18,448	29,063	15,137	11,685
1998	19,096	30,553	15,500	10,724
1999	19,744	32,119	15,864	9,814
2000	20,392	33,766	15,830	8,951

Prepared By: House Research Agency, February 1984.

TABLE 1 (Continued)

Footnotes

[1]All figures represent the mid-fiscal year projection which forms the basis for computing the annual costs.

[2]Net monthly recipient growth is projected to be 54/month, which is the average of the current longevity bonus program's net monthly growth between FY 79 and FY 83 (actual) and FY 84 (estimated).

[3]Assumes 5 percent annual growth rate in elderly population. Five percent is the midpoint of the range of 4 - 6 percent projected annual elderly growth rates obtained during August 1983 conversations with Mr. Dave Swanson, then State Demographer of the Alaska Department of Labor and Dr. Scott Goldsmith, Economist of the Institute of Social and Economic Research, University of Alaska.

It is important to note that this 5 percent represents a continuous growth rate which is commonly used in demography and yields an effective growth rate of 5.127 percent annually. An analogous situation would be a money market account with a particular interest rate compounded daily yielding a higher effective annual rate.

It is also assumed that 97 percent of the elderly have at least one year of residency, based on information obtained from a 1981 University of Alaska survey of older Alaskans and the 1979 and 1980 Permanent Fund Dividend applications.

[4]Based on a 1980 Census income survey of elderly Alaskans, adjusted for inflation to 1983 income dollars.

[5]Based on a 5 percent annual growth rate in the elderly population through FY 90. The death rate and age distribution applied to the recipients beginning in FY 91 are based on 1980 Census data. The most recent migration data available are based on the 1970 Census and indicate a 4 percent net out-migration among elderly between 1965-1970. It is assumed that elderly out-migration has decreased somewhat as the state has matured and more health and social services for the elderly have become available. A three percent net out-migration is applied to the elderly population after FY 90.

TABLE 2. PROJECTED ANNUAL COSTS[1] OF THE LONGEVITY BONUS PROGRAM UNDER THE CURRENT PROGRAM AND PROPOSED ALTERNATIVES
(In Millions of Dollars)

Fiscal Year	Current Program (25-Year Residents)	One-Year Residents (HB 521)	One-Year Residents with < $15,000 Annual Income (HB 507)	One-Year Residents 12.5% Permanent Fund Earnings (CSSB 347)[2]	One-Year Residents Annuity Replacement (SB 465)[3]	One-Year Residents With Stair-Stepping Beginning in FY 91 (HB 655/SB 474)
1985	$32.3	$48.3	$34.7	$37.7	$48.3	$48.3
1986	34.2	50.7	35.9	41.8	47.4	50.7
1987	36.2	53.3	37.0	45.3	46.3	53.3
1988	38.2	56.0	38.0	49.0	45.0	56.0
1989	40.1	58.9	38.9	53.0	43.4	58.9
1990	42.1	61.9	39.9	57.5	41.5	61.9
1991	44.0	65.1	40.8	62.2	39.3	57.1
1992	46.0	68.5	41.6	67.3	36.8	52.8
1993	48.0	72.0	42.3	72.9	34.0	48.8
1994	49.9	75.7	43.1	78.9	30.7	45.1
1995	51.9	79.5	43.9	85.5	27.0	41.7
1996	53.8	83.6	44.7	92.6	22.9	38.4
1997	55.8	87.9	45.8	100.3	18.2	35.3
1998	57.8	92.4	46.9	108.6	13.1	32.4
1999	59.7	97.1	48.0	117.6	7.4	29.7
2000	61.7	102.1	47.9	127.3	1.0	27.1
TOTAL	$751.7	$1,153.0	$669.3	$1,197.5	$502.3	$737.7
RETROACTIVE PAYMENTS[4] in FY 85		--	--	$15.6	$30.5	$30.5

Prepared By: House Research Agency, February 1984.

Footnotes

[1]Costs include annual bonus payments plus expenses for administering the Longevity Bonus Program by the Department of Administration. The annual bonus payments were computed by multiplying the projected mid-fiscal year number of recipients times the annual bonus under each alternative.

An alternate method of cost calculation, which is based on the total of 12 monthly bonus cost computations (i.e., projected number of recipients each month times monthly bonus) yields very similar cost estimates. For example, if an initial population of 1,000 recipients were growing 5 percent annually (5.127 percent effective rate), the costs of a program which paid a $250 monthly bonus under both methods would be:

A: $1{,}026\ \text{recipients}_{\text{mid-fiscal yr}} \times \$3{,}000\ \text{annual bonus} = \$3.078\ \text{million}$

B: [monthly recipients (i.e., 1,004 in July, 1,008 in August, etc.) x $250] totaled over 12 months = $3.080 million

And: $\$3.078/\$3.080 = 0.9994$

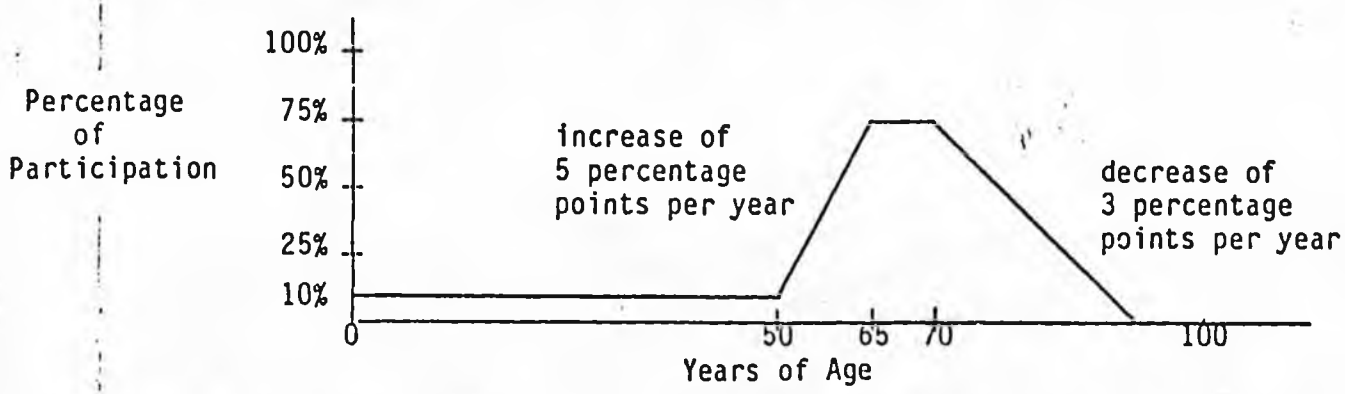
The administrative cost is estimated to be 0.89 percent of the annual bonus payments in FY 85, which reflects an increase due to the addition of several thousand recipients and is based on an average of the additional expenses identified by the Department of Administration in recent fiscal notes for the proposed longevity bonus alternatives. Beginning in FY 86, the administrative cost drops to 0.82 percent, as determined from the Department of Administration's FY 84 (Authorized) and FY 85 (Governor's) longevity bonus program budgets. The annual costs of managing the investments of funds created by CSSB 347 and SB 465 are not included.

[2]Annual costs under CSSB 347 include only that portion of the longevity bonus account actually distributed to qualified recipients plus administrative costs. With the exception of FY 85, there is projected to be a annual surplus in the longevity bonus account which would receive contributions equal to 12.5 percent of the distributable income of the Alaska Permanent Fund. On the basis of the Department of Revenue's January 1984 Permanent Fund forecast, the following annual surplus (excluding income) is projected between FY 86 and FY 2000:

FY 1986	$ 7.1 million	1995	$61.2 million
87	15.2	96	68.1
88	19.4	97	75.0
89	22.9	98	82.1
1990	28.1	99	89.2
91	35.0	2000	96.5
92	41.1		
93	47.6	TOTAL	$742.9 million
94	54.4		

[3]Annual costs under SB 465 include only the annual bonus payments and administrative costs. Under the assumptions employed, the annuity program would be self-sustaining and therefore incur no cost to the State. The participation

rate by all Alaskans in the purchase of annuity shares, payable beginning at age 65, is a key assumption and is assumed to be as follows:



[4]The retroactive payments to one-year elderly residents who would have been eligible in FY 83 and FY 84 are estimated as follows:

•FY 83 retroactive payments: the total elderly population was estimated to be 14,506 as of July 1, 1982; 97 percent, or 14,071, were residents of at least one year. Applying an annual (continuous) growth rate of 5 percent, the eligible senior citizens are estimated to have totaled 14,432 as of January 1, 1983.

Therefore:	14,432	eligible 1/1/83
	- 9,481	qualified recipients 1/1/83
	4,951	new recipients eligible for FY83 retroactive payments

And: 4,951 x $250 x 12 = $14,853,000 or $14.9 million

•FY 84 retroactive payments: the total elderly population was estimated to be 15,250 as of July 1, 1983; 97percent, or 14,793, were residents of at least one year. Applying an annual (continuous) growth rate of 5 percent, the eligible senior citizens are estimated to have totaled 15,172 as of January 1, 1984.

Therefore:	15,172	eligible 1/1/84
	- 9,965	qualified recipients 1/1/84
	5,207	new recipients eligible for FY84 retroactive payments

And: 5,207 x $250 x 12 = $15,621,000 or $15.6 million

In summary, the retroactive payments proposed under CSSB 347, SB 465, and HB 655/SB 474 are as follows:

CSSB 347	$15.9 million (FY 84 only)
SB 465	30.5 million (FY 83 and FY 84)
HB 655/SB 474	30.5 million (FY 83 and FY 84)

TABLE 3.

PROJECTED NUMBER OF RECIPIENTS AND CUMULATIVE COSTS THROUGH FY 2000 OF THE HOUSE BILL 655/SENATE BILL 474 LONGEVITY BONUS PROGRAM PROPOSAL UNDER DIFFERENT ASSUMPTIONS AND YEAR OF COMMENCEMENT OF STAIR-STEPPING

Case	Number of Recipients in FY 2000	Cumulative Cost Through FY 2000 (in millions)[1]	Percent Difference in Cumulative Cost From Base Case
Base case: FY 85 pop. = 15,950; 5 percent annual pop. growth through FY 90; stair-stepping in FY 91; 3 percent net out-migration after FY 90	8,951	$ 737.7	-----
Case A: same as base case except 4 percent out-migration after FY 90	8,126	$ 719.2	- 2.5 %
Case B: same as base case except stair-stepping begins in FY 90	7,732	$ 679.3	- 7.9 %
Case C: same as base case except stair-stepping begins in FY 89	6,654	$ 620.4	- 15.9 %
Case D: same as base case except stair-stepping begins in FY 86 and occurs every other year	11,341	$ 646.6	- 12.4 %
Case E: same as base case except stair-stepping begins in FY 89 and occurs every other year	14,771	$ 779.1	+ 5.6 %
Case F: same as base case except stair-stepping begins in FY 91 and occurs every other year	16,634	$ 864.0	+ 17.1 %
Case G: same as base case except DOA pop. of 16,860 in FY 85; DOA annual pop. growth of 4.27 percent (60/month) through FY 90;	9,082	$ 755.1	+ 2.4 %

[1]In all cases, the longevity bonus is assumed to remain at $250/month. Retroactive payments to senior citizens who would have been eligible in FY 83 and/or FY 84, estimated to add $30.5 million to the FY 85 cost, are not included.

Prepared by the House Research Agency, February 1984.

ATTACHMENT A

PROJECTED NUMBER OF RECIPIENTS AND COSTS OF THE HOUSE BILL 655/
SENATE BILL 474 LONGEVITY BONUS PROGRAM PROPOSAL
UNDER DIFFERENT ASSUMPTIONS

BASE CASE

LONGEVITY BONUS COST ANALYSIS

HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	$48,275,870	$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	65	19,481	58,923,120	267,280,200
1990	65	20,480	61,944,110	329,224,300
1991	66	18,887	57,124,790	386,349,100
1992	67	17,454	52,791,650	439,140,700
1993	68	16,142	48,821,710	487,962,400
1994	69	14,923	45,134,910	533,097,300
1995	70	13,781	41,681,430	574,778,800
1996	71	12,703	38,420,460	613,199,300
1997	72	11,685	35,342,150	648,541,400
1998	73	10,724	32,436,200	680,977,600
1999	74	9,814	29,683,580	710,661,200
2000	75	8,951	27,072,690	737,733,900
2001	76	8,128	24,583,920	762,317,800
2002	77	7,353	22,241,310	784,559,100
2003	78	6,626	20,042,250	804,601,400
2004	79	5,942	17,972,280	822,573,600
2005	80	5,298	16,023,700	838,597,300

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:
1985 POPULATION, AGE 65 AND OVER: 15,950
ANNUAL POPULATION GROWTH: 5.127 % through 1990
ANNUAL NET OUT-MIGRATION: 3.000 % after 1990
BONUS AMOUNT IS $250 PER MONTH
START STAIRSTEP IN 1991
ANNUAL ADMINISTRATIVE COSTS OF $168 PER RECIPIENT ARE INCLUDED
AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE APPLIED TO POPULATION PROJECTIONS FOR 1991

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE A

LONGEVITY BONUS COST ANALYSIS

HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	$48,275,870	$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	65	19,481	58,923,120	267,280,200
1990	65	20,480	61,944,110	329,224,300
1991	66	18,705	56,575,510	385,799,800
1992	67	17,120	51,781,310	437,581,100
1993	68	15,680	47,426,890	485,008,000
1994	69	14,357	43,423,830	528,431,900
1995	70	13,131	39,715,690	568,147,500
1996	71	11,987	36,256,510	604,404,100
1997	72	10,921	33,030,880	637,434,900
1998	73	9,926	30,023,490	667,458,400
1999	74	8,997	27,211,420	694,669,800
2000	75	8,126	24,579,340	719,249,100
2001	76	7,308	22,105,170	741,354,300
2002	77	6,548	19,806,460	761,160,700
2003	78	5,844	17,676,530	778,837,300
2004	79	5,190	15,698,480	794,535,800
2005	80	4,583	13,861,850	808,397,600

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:
1985 POPULATION, AGE 65 AND OVER: 15,950
ANNUAL POPULATION GROWTH: 5.127 % through 1990
ANNUAL NET OUT-MIGRATION: 4.000 % after 1990
BONUS AMOUNT IS $250 PER MONTH
START STAIRSTEP IN 1991
ANNUAL ADMINISTRATIVE COSTS OF $168 PER RECIPIENT ARE INCLUDED
AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE APPLIED TO POPULATION PROJECTIONS FOR 1991

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE B

LONGEVITY BONUS COST ANALYSIS

HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	$48,275,870	$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	65	19,481	58,923,120	267,280,200
1990	66	17,966	54,338,830	321,619,000
1991	67	16,603	50,217,030	371,836,000
1992	68	15,354	46,440,700	418,276,700
1993	69	14,195	42,933,700	461,210,500
1994	70	13,109	39,648,650	500,859,100
1995	71	12,083	36,546,710	537,405,800
1996	72	11,115	33,618,530	571,024,300
1997	73	10,201	30,854,290	601,878,500
1998	74	9,335	28,235,920	630,114,500
1999	75	8,514	25,752,360	655,866,800
2000	76	7,732	23,384,980	679,251,800
2001	77	6,995	21,156,600	700,408,400
2002	78	6,303	19,064,800	719,473,100
2003	79	5,652	17,095,780	736,569,000
2004	80	5,039	15,242,230	751,811,200
2005	81	4,459	13,487,840	765,299,000

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:
1985 POPULATION, AGE 65 AND OVER: 15,950
ANNUAL POPULATION GROWTH: 5.127 % through 1989
ANNUAL NET OUT-MIGRATION: 3.000 % after 1989
BONUS AMOUNT IS $250 PER MONTH
START STAIRSTEP IN 1990
ANNUAL ADMINISTRATIVE COSTS OF $168 PER RECIPIENT ARE INCLUDED
AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE APPLIED TO POPULATION PROJECTIONS FOR 1990

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE C

LONGEVITY BONUS COST ANALYSIS

HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	$48,275,870	$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	66	17,089	51,688,750	260,045,800
1990	67	15,793	47,767,960	307,813,800
1991	68	14,606	44,175,800	351,989,600
1992	69	13,503	40,839,850	392,829,400
1993	70	12,469	37,715,000	430,544,400
1994	71	11,494	34,764,350	465,308,800
1995	72	10,573	31,978,970	497,287,800
1996	73	9,704	29,349,550	526,637,300
1997	74	8,880	26,858,870	553,496,100
1998	75	8,099	24,496,430	577,992,600
1999	76	7,355	22,244,500	600,237,100
2000	77	6,654	20,124,800	620,361,900
2001	78	5,996	18,135,010	638,496,900
2002	79	5,377	16,262,030	654,759,000
2003	80	4,794	14,498,870	669,257,800
2004	81	4,242	12,830,040	682,087,800
2005	82	3,732	11,287,700	693,375,500

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:
1985 POPULATION, AGE 65 AND OVER: 15,950
ANNUAL POPULATION GROWTH: 5.127 % through 1988
ANNUAL NET OUT-MIGRATION: 3.000 % after 1988
BONUS AMOUNT IS $250 PER MONTH
START STAIRSTEP IN 1989
ANNUAL ADMINISTRATIVE COSTS OF $168 PER RECIPIENT ARE INCLUDED
AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE APPLIED TO POPULATION PROJECTIONS FOR 1989

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE D

LONGEVITY BONUS COST ANALYSIS

HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	$48,275,870	$ 48,275,870
1986	66	14,709	44,489,070	92,764,920
1987	66	15,167	45,875,440	138,640,400
1988	67	14,051	42,499,340	181,139,700
1989	67	14,467	43,755,840	224,895,600
1990	68	13,408	40,552,470	265,448,000
1991	68	13,996	42,332,850	307,780,900
1992	69	12,955	39,182,570	346,963,400
1993	69	13,467	40,732,760	387,696,200
1994	70	12,441	37,630,490	425,326,700
1995	70	13,033	39,418,110	464,744,800
1996	71	12,010	36,326,940	501,071,800
1997	71	12,714	38,454,420	539,526,100
1998	72	11,692	35,364,950	574,891,100
1999	72	12,361	37,385,770	612,276,900
2000	73	11,341	34,300,870	646,577,800
2001	73	11,946	36,131,830	682,709,600
2002	74	10,926	33,045,450	715,755,000
2003	74	11,535	34,888,140	750,643,100
2004	75	10,516	31,805,520	782,448,600
2005	75	11,094	33,553,500	816,002,100

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:
1985 POPULATION, AGE 65 AND OVER: 15,950
ANNUAL POPULATION GROWTH: 5.127 % through 1985
ANNUAL NET OUT-MIGRATION: 3.000 % after 1985
BONUS AMOUNT IS $250 PER MONTH
START STAIRSTEP IN 1986
ANNUAL ADMINISTRATIVE COSTS OF $168 PER RECIPIENT ARE INCLUDED
AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE APPLIED TO POPULATION PROJECTIONS FOR 1986

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE E

LONGEVITY BONUS COST ANALYSIS

HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	$48,275,870	$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	66	17,089	51,688,750	260,045,800
1990	66	17,622	53,299,490	313,345,300
1991	67	16,325	49,377,030	362,722,300
1992	67	16,808	50,836,870	413,559,200
1993	68	15,577	47,115,110	460,674,300
1994	68	16,261	49,183,600	509,857,900
1995	69	15,051	45,523,530	555,381,500
1996	69	15,647	47,324,570	602,706,000
1997	70	14,455	43,720,250	646,426,300
1998	70	15,142	45,797,170	692,223,500
1999	71	13,954	42,205,750	734,429,200
2000	71	14,771	44,677,510	779,106,700
2001	72	13,585	41,088,070	820,194,800
2002	72	14,361	43,435,940	863,630,800
2003	73	13,176	39,851,800	903,482,500
2004	73	13,879	41,979,070	945,461,600
2005	74	12,674	38,393,200	983,854,800

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:
1985 POPULATION, AGE 65 AND OVER: 15,950
ANNUAL POPULATION GROWTH: 5.127 % through 1988
ANNUAL NET OUT-MIGRATION: 3.000 % after 1988
BONUS AMOUNT IS $250 PER MONTH
START STAIRSTEP IN 1989
ANNUAL ADMINISTRATIVE COSTS OF $168 PER RECIPIENT ARE INCLUDED
AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE APPLIED TO POPULATION PROJECTIONS FOR 1989

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE F

LONGEVITY BONUS COST ANALYSIS

HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	$48,275,870	$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	65	19,481	58,923,120	267,280,200
1990	65	20,480	61,944,110	329,224,300
1991	66	18,887	57,124,790	386,349,100
1992	66	19,475	58,904,930	445,254,000
1993	67	18,042	54,569,950	499,824,000
1994	67	18,575	56,183,320	556,007,300
1995	68	17,216	52,070,130	608,077,400
1996	68	17,971	54,356,180	662,433,600
1997	69	16,634	50,311,170	712,744,700
1998	69	17,292	52,301,640	765,046,300
1999	70	15,975	48,318,250	813,364,600
2000	70	16,734	50,613,580	863,978,200
2001	71	15,422	46,644,470	910,622,600
2002	71	16,325	49,376,170	959,998,900
2003	72	15,013	45,409,230	1,005,408,000
2004	72	15,871	48,004,030	1,053,412,000
2005	73	14,562	44,042,960	1,097,455,000

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:
1985 POPULATION, AGE 65 AND OVER: 15,950
ANNUAL POPULATION GROWTH: 5.127 % through 1990
ANNUAL NET OUT-MIGRATION: 3.000 % after 1990
BONUS AMOUNT IS $250 PER MONTH
START STAIRSTEP IN 1991
ANNUAL ADMINISTRATIVE COSTS OF $168 PER RECIPIENT ARE INCLUDED
AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE APPLIED TO POPULATION PROJECTIONS FOR 1991

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE G

LONGEVITY BONUS COST ANALYSIS

HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	16,860	$51,030,170	$ 51,030,170
1986	65	17,580	53,172,240	104,202,400
1987	65	18,331	55,442,700	159,645,100
1988	65	19,113	57,810,100	217,455,200
1989	65	19,929	60,278,600	277,733,800
1990	65	20,780	62,852,490	340,586,300
1991	66	19,164	57,962,490	398,548,800
1992	67	17,710	53,565,810	452,114,600
1993	68	16,378	49,537,650	501,652,200
1994	69	15,141	45,796,790	547,449,000
1995	70	13,983	42,292,660	589,741,600
1996	71	12,889	38,983,870	628,725,500
1997	72	11,856	35,860,420	664,586,000
1998	73	10,881	32,911,850	697,497,800
1999	74	9,958	30,118,870	727,616,600
2000	75	9,082	27,469,690	755,086,300
2001	76	8,247	24,944,430	780,030,800
2002	77	7,461	22,567,460	802,598,300
2003	78	6,724	20,336,160	822,934,400
2004	79	6,029	18,235,830	841,170,200
2005	80	5,375	16,258,680	857,428,900

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:
1985 POPULATION, AGE 65 AND OVER: 16,860
ANNUAL POPULATION GROWTH: 4.270 % through 1990
ANNUAL NET OUT-MIGRATION: 3.000 % after 1990
BONUS AMOUNT IS $250 PER MONTH
START STAIRSTEP IN 1991
ANNUAL ADMINISTRATIVE COSTS OF $168 PER RECIPIENT ARE INCLUDED
AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE APPLIED TO POPULATION PROJECTIONS FOR 1991

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

ATTACHMENT B

ASSUMPTIONS ACCOMPANYING THE PROJECTED NUMBER OF RECIPIENTS AND ANNUAL COSTS UNDER THE CURRENT LONGEVITY BONUS PROGRAM AND PROPOSED ALTERNATIVES

I. CURRENT PROGRAM: Provides monthly payments of $250 to elderly who are 65 years or older, have 25 years of residency and have been residents since statehood.

Projected Recipients: Initial number of recipients is estimated by the Department of Administration to be 10,348 as of July 1, 1984. The future net growth in recipients is projected to be 54/month, which is an average of the program's net monthly growth between FY 79 and FY 84. Figures represent mid-fiscal year projections (i.e., the number of recipients as of January 1).

Annual Cost: equals annual bonus payments plus administrative costs.

- annual bonus payments = mid-fiscal year recipients x $250 x 12
- administrative costs are estimated to equal 0.82 percent of the annual bonus payments, as determined from the Department of Administration's FY 84 (authorized) and FY 85 (requested) longevity bonus program budgets.

II. HOUSE BILL 521: Opens program to all elderly with at least one year of residency as of July 1, 1984 and provides monthly payments of $250.

Elderly Population: Total senior population is estimated to be 16,032 on July 1, 1984. Projections are based on a 5 percent continuous annual growth rate in elderly population, which yields a 5.127 percent effective growth rate.

Projected Recipients: It is assumed that 97 percent of the elderly are residents of at least one year, or 15,550 as of July 1, 1984. The assumption that three percent of the elderly have less than one year of residency is based on a 1981 University of Alaska survey of older Alaskans and information from the 1979 and 1980 Permanent Fund Dividend applications. Figures represent the mid-fiscal year population of eligible elderly (i.e., the number of recipients as of January 1).

House Bill 521 (continued)

Annual Cost: equals annual bonus payments plus administrative costs:

- annual bonus payments = mid-fiscal year recipients x $250 x 12
- administrative costs are estimated to equal 0.89 percent of the annual bonus payments in FY 85, reflecting an increase due to the addition of several thousand recipients. Beginning in FY 86, the administrative costs drop back to 0.82 percent of the annual bonus payments, as determined from Department of Administration's FY 84 (authorized) and FY 85 (requested) longevity bonus program budgets.

III. HOUSE BILL 507: Opens program to elderly with at least one year of residency and an annual income of less than $15,000. Provides monthly payments of $250.

Elderly Population: Total elderly population is estimated to be 16,032 as of July 1, 1984. Projections are based on 5 percent annual growth rate.

Elderly Income: The elderly income distribution, which indicates the percentage of the elderly who fall within specific income categories, is based on the 1980 Census income survey of elderly Alaskans. The distribution has been adjusted for inflation to 1983 income dollars. Future inflation is assumed to be 5 percent annually through FY 2000.

Projected Recipients: It is estimated that 71.8 percent of the elderly had a 1983 annual income below $15,000 and have lived in Alaska at least one year; 11,458 would be eligible for monthly payments. Since the $15,000 income ceiling is not adjusted upward to account for inflation in subsequent years, the percentage of elderly eligible would gradually decrease:

FY 85	71.8 %
FY 90	64.4 %
FY 95	55.2 %
FY 2000	46.9 %

Annual Cost: equals annual bonus payments plus administrative costs

- annual bonus payments = mid-fiscal year recipients x $250 x 12
- administrative costs = 0.89 percent of the annual bonus payments in FY 85 and drop to 0.82 percent in subsequent fiscal years.

Computer Analysis: The attached Tables 1a and 1b present the projected number of recipients and annual costs of the income ceiling alternative under different assumptions regarding annual inflation.

PROJECTED NUMBER OF RECIPIENTS AND COSTS OF THE LONGEVITY BONUS PROGRAM UNDER AN ANNUAL INCOME CEILING OF $15,000

TABLE 1a. Assumptions: 5 percent annual inflation; 5 percent annual growth rate in elderly population.

FISCAL YEAR	ONE YEAR RESIDENTS	RECIPIENTS	INCOME CEILING#	ANNUAL COST##	CUMULATIVE COST
1985	15,950	11,458	15,000	34,680,810	34,680,810
1986	16,768	11,875	14,286	35,918,260	70,599,060
1987	17,627	12,244	13,605	37,032,900	107,632,000
1988	18,531	12,549	12,958	37,955,800	145,587,800
1989	19,481	12,865	12,341	38,910,290	184,498,100
1990	20,480	13,191	11,753	39,898,310	224,396,400
1991	21,530	13,495	11,193	40,815,670	265,212,000
1992	22,634	13,738	10,660	41,552,890	306,764,900
1993	23,794	13,994	10,153	42,326,270	349,091,200
1994	25,014	14,244	9,669	43,083,440	392,174,600
1995	26,297	14,506	9,209	43,874,110	436,048,700
1996	27,645	14,791	8,770	44,738,070	480,786,800
1997	29,062	15,137	8,353	45,784,220	526,571,000
1998	30,552	15,500	7,955	46,882,500	573,453,500
1999	32,119	15,864	7,576	47,981,070	621,434,500
2000	33,766	15,830	7,215	47,878,610	669,313,100

Income ceiling is discounted by 5 percent annually.
##Cost equals annual bonus payments plus administrative costs (0.89 percent in FY 85 and 0.82 percent thereafter).

TABLE 1b. Assumptions: 6 percent annual inflation; 5 percent annual growth rate in elderly population.

FISCAL YEAR	ONE YEAR RESIDENTS	RECIPIENTS	INCOME CEILING#	ANNUAL COST##	CUMULATIVE COST
1985	15,950	11,458	15,000	34,680,810	34,680,810
1986	16,768	11,372	14,151	35,821,020	70,501,830
1987	17,627	12,123	13,350	36,666,860	107,168,700
1988	18,531	12,367	12,594	37,406,070	144,574,800
1989	19,481	12,617	11,881	38,161,950	182,736,700
1990	20,480	12,848	11,209	38,861,110	221,597,800
1991	21,530	13,000	10,574	39,318,800	260,916,600
1992	22,634	13,158	9,976	39,796,750	300,713,400
1993	23,794	13,312	9,411	40,263,360	340,976,700
1994	25,014	13,478	8,878	40,766,860	381,743,600
1995	26,297	13,718	8,376	41,490,510	423,234,100
1996	27,645	13,976	7,902	42,270,500	465,504,600
1997	29,062	14,108	7,455	42,672,490	508,177,000
1998	30,552	13,935	7,033	42,148,440	550,325,500
1999	32,119	13,760	6,635	41,619,850	591,945,300
2000	33,766	13,532	6,259	40,928,260	632,873,600

Income ceiling is discounted by 6 percent annually.
##Cost equals annual bonus payments plus administrative costs (0.89 percent in FY 85 and 0.82 percent therafter).

Prepared By: House Research Agency, February 1984.

IV. CS SENATE BILL 347: Opens program to all elderly with at least one year residency. Provides monthly payments, beginning with either $200 in FY 85 (with 3 percent annual adjustments thereafter) or a portion of the longevity bonus account, whichever is less. Also provides retroactive payments to elderly who would be qualified in FY 84.

Elderly Population: Total elderly population is estimated to be 16,032 as of July 1, 1984. Projections are based on a 5 percent annual growth rate.

Projected Recipients: It is assumed that 97 percent of the elderly are residents of at least one year, or 15,550 as of July 1, 1984. Figures represent the mid-fiscal year population of eligible elderly (i.e., the number of recipients as of January 1).

Annual Cost: includes only that portion of the longevity bonus account actually distributed to qualified recipients plus administrative costs. With the exception of FY 85, there is projected to be an annual surplus in the longevity bonus account, which would receive annual contributions of 12.5 percent of the distributable income of the Alaska Permanent Fund. On the basis of the Department of Revenue's January 1984 Permanent Fund forecast, there is projected to be a surplus of $742.9 million (excluding income) in the longevity bonus account by FY 2000. The sponsors estimate that by FY 2005, the program will be self-sustaining and require no further contributions from the Alaska Permanent Fund earnings. House Research Agency did not investigate this aspect of the proposal.

Retroactive Payment: The total elderly population was estimated to be 15,250 as of July 1, 1983; 97 percent, or 14,793, were residents of at least one year. Applying an annual growth rate of 5 percent, we estimate a population of 15,172 eligible senior citizens as of January 1, 1984.

Therefore:

15,172 eligible 1/1/84
- 9,965 current recipients 1/1/84
5,207 new recipients eligible for FY84 retroactive payments

5,207 x $250 x 12 = $15,621,000 or $15.6 million

V. SENATE BILL 465: Opens the longevity bonus program to all elderly with at least one year residency. The bonus payment is gradually reduced and replaced, over 15 years, with annuity payments. Persons of any age can elect to participate in the annuity program through the annual purchase of one share (up to a maximum of 15 shares) by foregoing their Permanent Fund Dividend. For the first five years after enactment, persons 65 and older may annually purchase an annuity share for a $100 reduction in their Permanent Fund Dividend. Provides monthly payments of $16.50/annuity share for annuitants 65 years and older.

Senate Bill 465 (continued)

Elderly Population: Total elderly population is estimated to be 16,032 as of July 1, 1984. Projections are based on a 5 percent annual growth rate.

Projected Bonus and Annuity Recipients: It is assumed that 97 percent of the elderly are residents of at least one year, or 15,550 as of July 1, 1984. Projections are presented for the mid-fiscal year population of eligible elderly (i.e., the number of recipients as of January 1) in order to estimate annual costs.

Annual Longevity Bonus Cost: equals annual bonus payments plus administrative costs. Under SB 465, the bonus payment is reduced $16.50 each year. Therefore, the annual bonus payments gradually decrease over 15 years until the bonus equals $0 after FY 2000.

- annual bonus payments = mid-fiscal yr recipients$_{FY\ 85}$ x bonus$_{FY\ 85}$ x 12 and so forth in each fiscal year as the recipients increase and the bonus decreases.

- administrative costs are estimated to be 0.89 percent of the annual bonus payments in FY 85, reflecting an increase due to the addition of several thousand recipients. Beginning in FY 86, the administrative cost drops to 0.82 percent of the annual bonus payments, as determined from the Department of Administration's FY 84 (Authorized) and FY 85 (Governor's) longevity bonus program budgets.

Total Population: is estimated to be 490,000 as of July 1, 1983, based on a preliminary estimate by the Alaska Department of Labor. The total population is projected to grow at a 2.5 percent annual rate through the year 2000. This projected growth is based on the assumption that the state's population will grow at a lower rate than the 3.4 percent growth rate recorded by the Alaska Department of Labor during the period 1970-82.

Annuity Program Participation Rate: is assumed to be as follows:

Ages 0-50:	10%
Ages 51-64:	increases 5%/year of age from 10% to 75%
Ages 65-70:	75%
Ages 71 and over:	decreases 3%/year of age from 75% to 0%

Annual Annuity Deposit: equals the new annuity shares purchased in a given year times the foregone Permanent Fund Dividend for that year minus the refunds paid to individuals who leave the state. The estimate of new annuity shares each year is based on the participation rate times the projected population for that year. The projected Permanent Fund Dividends foregone are based on the Department of Revenue's January 1, 1984 forecasts through FY 2000. The refunds are based on: (1) an assumption of 3 percent annual out-migration in the state's total population, and (2) a calculation of the amount of the refunds which equal the participation rate times the previous Permanent Fund Dividends foregone times the number of years the program has been in effect.

Payable Annuity Shares: equals the total annuity shares held by the elderly 65 years and older minus the number of shares eliminated from the program through death or out-migration. Death rates are based on 1980 data from the Alaska Department of Labor's 1982 Population Overview. The elderly out-migration is assumed to equal 3 percent annually, which is slightly lower that the 4 percent rate available from the 1970 Census because as the state has matured and more health and social services for the elderly have become available.

Annual Annuity Payments: equals the number of payable annuity shares x $16.50/annuity share x 12 months plus administrative costs (i.e. 0.89 percent of the payments in FY 85 and 0.82 percent in FY 85 and thereafter).

Annuity Balance: cumulative surplus of annual annuity deposit minus annual annuity payment. Includes an 8 percent rate of return on annuity fund investments, which is the same rate of return used by the Division of Retirement and Benefits in its annual actuarial valuation of the State's retirement systems.

Computer Analysis: the attached table presents a summary of the above calculations for fiscal years 1985 through 2000. Assumptions may be changed and additional computer simulations prepared upon request.

VI. HOUSE BILL 655/SENATE BILL 474: Opens the program to all elderly with at least one year of residency through FY 90. Beginning in FY 91, the age requirement for eligibility increases to 66 and the age requirement increases one year at the beginning of each succeeding fiscal year. Provides a monthly payment of $250. Also provides retroactive payments to elderly who would have qualified in FY 83 and FY 84.

Elderly Population: Total elderly population is estimated to be 16,032 as of July 1, 1984. Projections are based on 5 percent annual growth rate in elderly population.

Projected Recipients through FY 90: It is assumed that 97 percent of the elderly are residents of at least one year, or 15,550 as of July 1, 1984. Figures represent the mid-fiscal year population of eligible elderly (i.e., the number of recipients as of January 1).

Projected Recipients beginning in FY 91: Stair-stepping essentially caps the eligible population at the FY 90 level, with the exception of minor in-migration of older persons who exceed the increasing age requirement in succeeding years. The number of recipients decreases annually as a function of attrition through death and migration out of Alaska. The age-specific death rates and age distribution data are based on the 1980 Census. The most recent elderly migration data are based on the 1970 Census and estimated to be 4 percent annual net out-migration.

LONGEVITY BONUS COST ANALYSIS

SB 465

(in millions of dollars)

	LONGEVITY BONUS PROGRAM			ANNUITY PROGRAM			
FISCAL YEAR	RECIP-IENTS	ANNUAL COST	CUMUL COST	ANNUAL DEPOSIT	PAYABLE SHARES	ANNUAL PAYMENTS	FUND BALANCE
1985	15,950	$48.28	$ 48.28	$ 26.03	15,950	$ 3.19	$ 24.67
1986	16,768	47.37	95.64	30.02	31,496	6.29	52.27
1987	17,627	46.28	141.92	32.86	46,624	9.31	81.90
1988	18,531	44.95	186.87	35.30	61,278	12.23	113.36
1989	19,481	43.37	230.24	38.56	75,373	15.05	147.82
1990	20,480	41.50	271.74	50.51	81,221	16.21	196.69
1991	21,530	39.33	311.08	55.35	89,651	17.90	252.88
1992	22,634	36.83	347.91	60.41	97,629	19.49	317.31
1993	23,794	33.97	381.88	65.56	105,094	20.98	390.84
1994	25,014	30.72	412.59	70.72	111,972	22.35	474.35
1995	26,297	27.04	439.64	75.92	118,149	23.59	568.82
1996	27,645	22.91	462.55	81.14	123,526	24.66	675.33
1997	29,062	18.28	480.83	86.26	128,025	25.56	794.91
1998	30,552	13.12	493.95	91.45	131,514	26.25	928.92
1999	32,119	7.38	501.34	96.75	133,865	26.72	1,078.86
2000	33,766	1.02	502.36	102.19	134,932	26.94	1,246.45

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:
1985 POPULATION, AGE 65 AND OVER: 15,950
ANNUAL POPULATION GROWTH: 2.500 %
ANNUAL OUT-MIGRATION: 3.000 %
BONUS AMOUNT IS $250 PER MONTH IN 1985 AND IS REDUCED BY $16.50 EACH YEAR
ANNUITY PAYMENT IS $16.50 PER SHARE PER MONTH
ANNUITY BALANCE INCLUDES INTEREST AT 8.00% PER YEAR
ANNUITY PROGRAM PARTICIPATION RATES:
- AGES 0-50: 10%
- AGES 51-64: INCREASES STEADILY FROM 10% TO 75%
- AGES 65-70: 75%
- AGES 71 AND OVER: DECREASES STEADILY FROM 75% TO 0%

ANNUAL ADMINISTRATIVE COSTS OF $160 PER RECIPIENT ARE INCLUDED
AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE APPLIED TO POPULATION PROJECTIONS

PREPARED BY THE HOUSE RESEARCH AGENCY 02-28-1984

Annual Cost: equals annual bonus payments plus administrative costs.

- annual bonus payments = mid-fiscal year recipients x $250 x 12 months

- administrative costs are estimated to be 0.89 percent of the annual bonus payments in FY 85, reflecting an increase due to the addition of several thousand recipients. Beginning in FY 86, the administrative cost drops to 0.82 percent of the annual bonus payments, as determined from the Department of Administration's FY 84 (Authorized) and FY 85 (Governor's) longevity bonus program budgets.

FY 83 Retroactive Payments: The total elderly population was estimated to be 14,506 as of July 1, 1982: 97 percent, or 14,071, were residents of at least one year. Applying an annual growth rate of 5 percent, we estimate a population of 14,432 eligible senior citizens as of January 1, 1983.

Therefore: 14,432 eligible 1/1/83
- 9,481 current recipients 1/1/83
4,951 new recipients eligible for FY83 retroactive payments

Therefore: 4,951 x $250 x 12 = $14,853,000 or $14.9 million

FY 84 Retroactive Payments: The eligible senior citizens as of January 1, 1984 is similarly estimated to be 15,172.

Therefore: 15,172 eligible 1/1/84
- 9,965 current recipients 1/1/84
5,207 new recipients eligible for FY84 retroactive payments

Therefore: 5,207 x $250 x 12 = $15,621,000 or $15.6 million

Combined total FY 83 and FY 84 retroactive payments:

$ 14,853,000 FY83
+ 15,621,000 FY84
$ 30,474,000 or $30.5 million

Prepared By: House Research Agency, February 1984.

SB

350

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: February 28, 1984

REQUEST
Bill/Resolution No.: SSSB 350
Title: An act creating the Alaska-US Olympic Trust Fund
Sponsor: Ferguson, Fahrenkamp, Bennett & Faiks
Requestor: Finance
Date of Request:

FISCAL DETAIL
Agency Affected: Administration/Office of Gov.
Program Category Affected: General Government
Centralized Administrative Services/Finance
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		15.0	0	0	0	0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		1,108.0	0	0	0	0
800 MISCELLANEOUS						
TOTAL OPERATING		1,123.0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		1,123.0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Kenneth E. Bischoff KEB
Division: Finance
Phone: 465-2240
Date: February 28, 1984

Approved by Commissioner: Lisa Rudd
Agency: DEPARTMENT OF ADMINISTRATION
Date: 3-2-84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

8/3D2/0224-01/1

Sponsor Substitute for Senate Bill 350
Fiscal Note Analysis
Prepared by Division of Finance
Department of Administration
February 28, 1984

We have assumed that the State will match the full $1,000,000 private donations.

The State employee match of $108,000 is based on the assumption that 50% of the 18,000 State employees (as of December 31, 1983) will not opt out of this program. We sense that many employees will not view with favor, monies withheld without their prior approval and will exercise their option to withdraw.

The estimated cost of producing the payroll deduction authorization forms and administering the program is $15,000.

Private donations (Office of the Governor)	$1,000,000	
State employee match (Office of the Governor)	108,000	A
Administrative cost (DOA)	15,000	
Total	$1,123,000	

A: 50% x 18,000 x $1.00 x 12 months = $108,000

Position Paper

SSSB 350

The Department of Administration is seriously concerned with the intent of Section 3 of Sponsor Substitute Senate Bill 350. As written, one dollar a month will be deducted from the salary of each State employee. The employee must take an action to avoid making a contribution.

Currently, before a contribution type deduction is made from an employee's salary, a deduction authorization form is signed by the employee and presented to the Division of Finance. Without expressed written approval the Division does not consider that authority has been granted to make a deduction of this nature from an employee's wages.

There is also a question as to whether or not section 3 of SSSB 350 violates Article I of the Alaska Constitution. The Attorney General's office has indicated that it is a possibility and they will be looking into that aspect at such time as the bill is passed by the legislature.

The mechanics of SSSB 350 would not pose a major accounting difficulty, although considerable effort will be required to set up a payroll deduction for all State employees, except those that opt out of the program. Contributions deducted from employee salaries would be accumulated in a miscellaneous deduction account and transferred to an agency trust account established for the Office of the Governor. Private donations would be deposited directly to the trust account. The Office of the Governor would periodically draw a warrant on the trust account, payable to the United States Olympic Committee in Alaska.

Although the payroll system has the ability to automatically deduct authorized contributions from employees' salaries it does have a limit as to the number of deductions that can be made for an employee. When the limit is exceeded for an employee the Payroll Section is required to manually intervene in order to properly apply the deductions.

Currently few employees have reached the deduction limit of the system. SSSB 350 will not severely increase the manual payroll effort required at this time. Caution must be used when considering additional legislation of this nature in order to assure that the automated deduction limits of the payroll system are not exceeded and the Payroll Section is not forced to a largely manual effort to properly account for and distribute the payroll deductions.

Based on our reading of this bill, its provisions are effective for FY 85 only and will cease June 30, 1985.

Kenneth E Bischoff A

Kenneth E. Bischoff
Director
Division of Finance
Department of Administration

2/28/84
Date

Bruce Ludwig for

Bruce I. Ludwig
Acting Director
Division of Labor Relations
Department of Administration

2/29/84
Date

A. Blasch for

Commissioner Lisa Rudd
Department of Administration

3-2-84
Date

Position Paper

SB 350

The Department of Administration supports the bill in its intent, however, caution is advised concerning the open-ended appropriation to match all contributions. The salary deduction contribution from State employees, assuming a 20% participation, is estimated at $45,000. The real concern, however, is that the potential amount of private donations is unlimited. Large donations from multi-national corporations could conceivably require the State to match millions of dollars. For this reason it is recommended that a "not-to-exceed" amount be inserted in Section 2(c).

The intent of Senate Bill 350 would not pose a major accounting difficulty. Contributions deducted from employee salaries would be accumulated in a miscellaneous deduction account and transferred to an agency trust account established for the Office of the Governor. Private donations would be deposited directly to the trust account. The Office of the Governor would periodically draw a warrant on the trust account, payable to the United States Olympic Committee in Alaska.

Although the payroll system has the ability to automatically deduct authorized contributions from employees' salaries it does have a limit as to the number of deductions that can be made for an employee. When the limit is exceeded for an employee the Payroll Section is required to manually intervene in order to properly apply the deductions.

Currently few employees have reached the deduction limit of the system. Senate Bill 350 will not severely increase the manual payroll effort required at this time. Caution must be used when considering additional legislation of this nature in order to assure that the automated deduction limits of the payroll system are not exceeded and the Payroll Section is not forced to a largely manual effort to properly account for and distribute the payroll deductions.

Based on our reading of this bill, its provisions are effective for FY 85 only and will cease June 30, 1985.

Kenneth E Bischoff — 2/15/84

Kenneth E. Bischoff
Division of Finance

Date

Lisa S Rudd — 2/16/84

Commissioner Lisa Rudd
Department of Administration

Date

5/3D1/0215-07

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: , 1984

REQUEST
Bill/Resolution No.: SB 350
Title: An act creating the Alaska-US Olympic Trust Fund
Sponsor: Ferguson
Requestor: Finance
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: General Government
Centralized Administrative Services/Finance
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	0	10.0	0	0	0	0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
800 MISCELLANEOUS						
TOTAL OPERATING	0	10.0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	10.0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Kenneth E. Bischoff KEB
Division: Finance
Phone: 465-2240
Date: February 15, 1984

Approved by Commissioner: Lisa Rudd
Agency: DEPARTMENT OF ADMINISTRATION
Date: 2/16/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

SB 350
Fiscal Note Analysis
Prepared by Division of Finance
Department of Administration
February 15, 1984

This analysis does not attempt to address the cost of matching private donations or contribution of State employees.

The estimated cost of producing the payroll deduction authorization forms and administering the program is $10,000.

5/3D1/0215-08

M E M O R A N D U M

TO: Senator Frank R. Ferguson
Alaska State Senate

DATE: 20 January 1984

FROM: Ed Merdes
Co-Chairman
Alaska Olympic Committee

SUBJ: Back-up Re: Creation of Alaska-United States Olympic Trust Fund

Under the rules of the Alaska-United States Olympic Committee, only donations from the private sector can be received and utilized in support of the U.S. Olympic athletes and their expenses for training. No direct government appropriation of any level can be received and utilized by the Olympic Committee of the United States of America. However, the U.S. Olympic Committee-Alaska is authorized and enabled to utilize private and public funds to further the Olympic cause within the boundaries of the State of Alaska.

Under the above legislation, all contributions received from State employees and officers will be utilized by the U.S. Olympic Committee-Alaska in support of the nation's Olympic programs. More specifically, for expenses for training of athletes at the various U.S. Olympic training centers throughout the United States, and particularly at the official U.S.A. Training Center at Colorado Springs, Colorado.

Appropriations from the state treasury which match state employee contributions under the above bills will be utilized solely by the U.S. Olympic Committee-Alaska within the state of Alaska to promote and expand official exports for secondary students in Alaska's high schools and grade schools.

The concept evolved by the state Olympic Committee will be to work with the various school administrators in selecting "pilot projects" Olympic sports that would not otherwise be set up in said schools. The state Olympic Committee, under formal agreement, will "seed" the programs that the school and the State Olympic Committee would agree upon. The State Olympic Committee has access to instructors and talent at the Olympic Headquarters in Colorado Springs which would then be made available to introduce new or expanded public sports into the school system. May I also add here, much of

this talent is also available in the state, and we would look for it here. If the program succeeds, presumably the school districts will continue the same with local support and the gradual build-up of Olympic sports in our school systems would start.

In addition to the above type of pilot programs, the State portion of the funds will be utilized to promote the Junior Olympic movement in Alaska. Talented athletes with Olympic potential throughout Alaska will be recruited and sought out for future development and training. Under these scenarios, it would be expected Alaska would then even excel beyond its current high participation in adding Olympic sports. Emphasis would be placed in Olympic-type sports that are not currently popular in American schools. Under these programs, incentives would be provided to smaller staturary athletes, both male and female, as hope that Alaska would become a 'hotbed" of Olympic athletic talent known throughout the United States and the world.

Here is a sample of the Olympic type sports that will be discussed for implementation:

Archery
Shooting (and Air Pistol)
Cycling
Equestria
Table Tennis
Biathalon
Team Hand Ball
Hockey (Men and Women)
Canoe-Kayak
Cross Country Skiing

Also, if possible to be involved in the purchase of snow-making equipment for the making of trails in various areas throughout the state to become a national training center for Olympic athletes.

Under the current provisions of the bills where State employees and officers have to take the initiative confirmatively and affirmatively authorize a one dollar per month for a twelve month donation, it is estimated that only twenty percent of the estimated 15,000 State employees will be involved to participate. This is caused by inertia and red tape. A rough calculation would therefore produce these gross revenues for the state and U.S. Olympic cause.

15,000 people x 20% = 3,000

3,000 x $12 = $36,000 From the Private Sector

With a state dollar-for-dollar matching formula, the net of the Olympic cause would be $72,000, $36,000 being sent to

the Olympic Committee in Colorado Springs, and $36,000 remaining in Alaska for implementation of the above programs to encourage Olympic sports in our schools.

If, on the other hand, the Legislature, with the cooperation of APEA, would reverse the procedure in the legislation, and by legislative amendment authorize the deduction of $12 a year for the Olympic cause for the Olympic year 1984 only from the pay of each employee (with the right of any employee to opt out on ten days notice--it is estimated that virtually 99% of the sum of state employees would not exercise their obligation of objection of a $1 per month Olympic donation for 1984. Under this scenario, the revenues would be $180,000 in private donations from the state employees and a $180,000 dollar-for-dollar matching appropriation which would be used for the State of Alaska.

The State Olympic Committee consists of these persons:

Ed Merdes, Co-Chairman

Chuck Sasara, Co-Chairman

Other members of the official state Olympic Committee are: Lou Williams, owner of the Ketchikan Daily News; Glen Olds, President of Alaska Pacific University in Anchorage; Lauren Lounsberry, Anchorage, and Charity Kadow of the Legislative Affairs Agency Office.

The State Olympic Committee has been active and will continue to be active in continuing to accept private sector donations from all over the state to augment the Olympic programs in Alaska.

FEB 23 1984

BOYS' CLUBS OF FAIRBANKS, INC.

P.O. BOX 1154
FAIRBANKS, ALASKA 99707

DON DENNIS
Executive Director

BOB HARDIN
President

ELMER "CHUCK" SMITH
Vice President

CARROLL BARBER
Secretary-Treasurer

February 23, 1984

Hon. Bob Bettisworth
Vice Chairman, House Finance Committee
and Chairman, Budget & Audit Committee
Pouch V
Juneau, Ak. 99811

Re: Alaska-United States Olympic Trust Fur

Dear Bob:

This will confirm and constitute a follow-through to Steve Frank's Feb. 21st call to me re: the above. Steve requested me as State Olympic Chairman to provide back-up information for the legislature re: passage of HB488 and SB350. As you know the original form of these bills were identical. Basically they provide the opportunity for state officers and employees to contribute $1 a month for FY '84-'85 only from their salaries to further the Olympic cause both nationally and in-state. When legislation passes and the governor signs the same Alaska and the state employees will get national recognition from all persons who respect and support the Olympic cause. The bill provides that each dollar of contribution by state employees and those from the private sector will be matched dollar-for-dollar by the state legislature.

Since last contacting you Sen. Ferguson called me and advised that Sponsor Substitute for Senate Bill 350 cleared the Senate Finance Committee unanimously. Frank advised me that he feels the bill will pass the Senate shortly. Please note that in SB350, as revised, a copy of which is enclosed, the Senate changed it to an "opt-out" rather than keeping the "opt-in" language that was in the original bill. As you know HB488 is an "opt-out" bill. Bob, it would seem to me, having some legislative experience myself, that since the Senate version will pass first and be sent over to the House in the "opt-out" form that it would be adviseable for the House to take action on SB350 rather than acting on HB488 and duplicating legislative work.

During our phone conversation Steve advised me that Mitch Abood's State Affairs Committee wanted basic back-up information on the anticipated manner in which the revenues in the fund will be expended to further the Olympic cause in Alaska. As you know all private donations the committee raises--state employee contributions under the bill are in this category--are sent to the USOC Training Center in Colorado Springs for the direct support to our Olympic athletes.

CHARLES CLUTTS
Coordinator of Officials

DON KLEPPER
Legion Baseball Liaison

BOB HINMAN
Babe Ruth Baseball Liaison

KEN RANKIN
Little League Baseball Liaison

DICK ENGEBRETSON
Youth Football Liaison

JIM WILLIAMS
Little Dribblers Liaison

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The legislative matching contributions on the other hand are "public funds". Under USOC rules these can remain in the state of origin for promoting the Olympic cause in that state. It is these matching funds and their proposed use for Olympic purposes in Alaska which will be discussed hereafter.

Since the Olympic Trust Fund concept is a creative approach to encouraging participation in the Olympic sports by Alaskans and the first time it has been used in any state, it is apparent that the committee's projected use of the same must be flexible enough to meet the reality of Alaska's arctic and coastal conditions in the promotion of Olympic sports. In that context and spirit here is our initial plan to utilize the revenues in the Trust Fund.

1. To encourage local cross-country skiing enthusiasts and groups to build new and up-grade existing cross-country skiing trails in communities, both rural and urban, throughout the state. Trust Fund monies will be used as "seed" money to encourage such groups and communities to undertake the expansion and awareness of the sport at the earliest possible age for Alaskan youth. Working with such groups and individuals our goal is to have Alaska excel in excellence and over-all public participation in this sport even beyond that experienced in the Scandavian countries.....20%

2. The same encouragement and upgrading for alpine skiing..20%

3. Encourage local community groups both within and without the public and private school systems to start new Olympic sports in their communities, which they locally select. We have in mind here such official Olympic sports as: archery; air pistol shooting; biathlon; fencing; handball, and similar Olympic sports. The Trust Fund will provide "seed" money to start such programs and thereby encourage local groups to provide "sweat equity" and in-kind donations.....50%

4. The remaining 10% will be preserved in the fund as a contingency for unexpected occurrences and to encourage other Olympic programs. The committee has no intention of hiring any full-time staff. Everything will be volunteer. Private donations of the in-kind variety will be used in the state in furtherance of the above programs.

Finally, Steve asked who appointed the state Olympic chairman. It is a US Olympic Committee in Colorado Springs who appoints the 50 state chairman for indefinite terms. The state chairman then appoints his own committee.

Sincerely yours,

Edward A. Merdes, USOC State Chairman

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SB 347 (cont'd)

residence of an applicant for, or a recipient of, a monthly bonus ...." If Commissioner receives confidential information, he could only use it to confirm or rebut an applicant's declaration of length of residence. If a person discloses information obtained under the new provision for a purpose other than determining residency for the Longevity Bonus Program, that person would be subject to the penalty that applies to unauthorized disclosure of that information by the agency or person that has primary custody and control.

Repeals sec. 2, ch. 205, SLA 1972: AS 01.10.030 does not apply to this Act [establishing the Longevity Bonus Program]. If any provisions of this Act, or the application of a provision of this Act to any person or circumstance is held invalid, this entire Act shall be considered invalid."

Effective July 1, 1984.

Introduced January 11 and referred to Judiciary and Finance.

Appropriation (supplemental) (operation of Legislature)

SENATE BILL NO. 348, by Senator Kerttula. Makes a supplemental appropriation in the amount of $250,000 to the Legislative Affairs Agency for operation of the Thirteenth Legislature, Second Session. Lapses June 30, 1984. Effective immediately.

Introduced January 11 and referred to Finance.

Recreational Activities in State Parks

SENATE BILL NO. 349, by Senators Faiks, Kerttula, Bennett, Halford and Pettyjohn. Amends law on the administration of state parks and recreational facilities. AS 41.21.020(a)(6) directs the Dept. of Natural Resources to adopt regulations "governing the use and designating incompatible uses within the boundaries of state park and recreational areas to protect property and to preserve the peace." The bill would add: "In adopting regulations under (a)(6) ..., the department shall consider whether the use of dogs, horses, and other animals for packing gear, pulling sleds, or for other recreational use is compatible within a state park or recreational area."

Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced January 12 and referred to Resources.

AK-US Olympic Trust Fund

SENATE BILL NO. 350, by Senators Ferguson & Faiks. Would create the "Alaska-United States Olympic Trust Fund" in the Office of the Governor, consisting of money obtained from salary deduction contributions of officers and employees of the state, from private donations, and from state matching contributions. The fund would be made available to the official U.S. Olympic Committee in Alaska.

During fiscal year 1984-1985, one dollar a month would be deducted

SB 350 (cont'd)

from the salary of each state employee who requests involvement in the program. The state would match these salary deductions as well as all private donations received.

Effective June 30, 1984 and repealed June 30, 1985. Identical to HB 488.

Introduced January 12 and referred to Finance.

Art Works in Public Buildings

SENATE BILL NO. 351, by Senator Ferguson. Eliminates requirement that works of art be included in all public buildings or facilities constructed, remodeled or renovated after June 30, 1975: "A building or facility constructed after June 30, 1975, or remodeled or renovated after June 30, 1975, may [SHALL] include works of art, including but not limited to sculptures, paintings, murals or objects relating to Native art." (Underlined material added, bracketed material deleted.)

Changes law that requires 1% of construction cost on public buildings (.5% for rural school facilities) be reserved for works of art. Changes wording to make it optional: "At least one percent ... may [WILL] be reserved ...." Does not provide for an effective date (effective 90 days after Governor's signature.)

Introduced January 13 and referred to State Affairs.

Alaska Railroad Corp. (establishing)

SENATE BILL NO. 352, by Senators Kerttula, Faiks & Halford. Establishes the Alaska Railroad Corporation as a public corporation with a separate legal existence from the state. The corporation will operate and manage the Alaska Railroad after its eventual transfer to the state. Legislative "Findings & Purpose" state that it is in the best interests of the state to accept the railroad under the terms and conditions offered by the U.S. government. Cites Alaska's vast natural resource potential and the possibility of extending the Railroad into natural resource areas, thereby lowering freight costs and stimulating long-term economic growth.

Declares that it is in the best interests of Alaskans for the corporation to be created in such a way that "(A) [it] ... will be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad; (B) the corporation, and not the state, will constitute a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission; (C) [it] ... will have the ability to raise capital by issuing obligations exempt from federal and state taxation; (D) [it] ... may carry out its responsibilities on a self-sustaining basis; (E) the best possible combination of types and levels of safe, efficient, and economical transportation can be provided that is necessary to meet the overall needs of the state, supported when necessary by state investment; (F) the railroad may be operated prudently and according to sound business management practices; and (G) borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity."

BOYS' CLUBS OF FAIRBANKS, INC.
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Vice President

CARROLL BARBER
Secretary-Treasurer

February 23, 1984

Hon. Bob Bettisworth
Vice Chairman, House Finance Committee
and Chairman, Budget & Audit Committee
Pouch V
Juneau, Ak. 99811

Re: Alaska-United States Olympic Trust Fund HB488 & SB350

Dear Bob:

This will confirm and constitute a follow-through to Steve Frank's Feb. 21st call to me re: the above. Steve requested me as State Olympic Chairman to provide back-up information for the legislature re: passage of HB488 and SB350. As you know the original form of these bills were identical. Basically they provide the opportunity for state officers and employees to contribute $1 a month for FY '84-'85 only from their salaries to further the Olympic cause both nationally and in-state. When legislation passes and the governor signs the same Alaska and the state employees will get national recognition from all persons who respect and support the Olympic cause. The bill provides that each dollar of contribution by state employees and those from the private sector will be matched dollar-for-dollar by the state legislature.

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During our phone conversation Steve advised me that Mitch Abood's State Affairs Committee wanted basic back-up information on the anticipated manner in which the revenues in the fund will be expended to further the Olympic cause in Alaska. As you know all private donations the committee raises--state employee contributions under the bill are in this category--are sent to the USOC Training Center in Colorado Springs for the direct support to our Olympic athletes.

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Finally, Steve asked who appointed the state Olympic chairman. It is a US Olympic Committee in Colorado Springs who appoints the 50 state chairman for indefinite terms. The state chairman then appoints his own committee.

Sincerely yours,

Edward A. Merdes, USOC State Chairman

SB

387

STATE OF ALASKA 1984 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date: January 10, 1984

REQUEST

Bill/Resolution No.: SB 387

Title: An act relating to state employment.

Sponsor: Rules by request of the Governor

Requestor: Senate State Affairs

Date of Request: January 9, 1984

FISCAL DETAIL

Agency Affected: All

Program Category Affected: All

BRU, Program of Subprogram(s) Affected: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Personal Services appropriation in existing budgets.

ANALYSIS: Attach a separate page for any analysis

Prepared By: Frank Raye Phone: 465-4430

Division: Personnel Date: 2/10/84

Approved by Commissioner: Lisa Rudd Date: 2-10-84

Department: ADMINISTRATION

4/BDGSF2/0111-09/FISCAL NOTE

Distribution:
- Legislative Finance
- Legislative Sponsor
- Register
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Senate Bill 387
Revised Fiscal Note Analysis
Prepared by Division of Personnel
Department of Administration

Date: January 10, 1984

Section 3 of this bill would extend the payment for unused banked medical leave upon death to employees not covered by collective bargaining. Only employees employed continuously since July 1, 1978 and not covered by a collective bargaining agreement, or employees who changed from collective bargaining coverage to coverage of this statute will be eligible. At present, there are only 264 employees to whom this change in statute would apply. The number is likely to decrease over time.

Data from the Division of Retirement and Benefits indicates a death rate among state employees of 1.4 per thousand per year. Therefore for the potentially eligible employees, the annual death rate is less than .4 employees per year. For purposes of calculation, one death per year is used.

The average hours of banked medical leave for potentially eligible employees is 207 hours. The average pay range is range 23.

The estimated annual costs are:

1 employee X 207 hours X $25.66 per hour = $5,312.

The actual costs will be borne from existing budgets in a similar manner as payments for sick or terminal leave.

Section 2 of this bill has the potential of shifting the expense associated with use of personal leave to an earlier period. For example, an employee who might separate in FY86 and be paid for unused personal leave may donate leave to another employee who uses it in FY85. There is no net effect in the present value cost to the state for such transfers.

4/BDGSF2/0111-09/2

FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 387
Title: An act relating to state employment.

Sponsor: Rules by request of the Governor
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: All
Program Category Affected: All

BRU, Program of Subprogram(s) Affected:
All

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	5.3	5.3	5.3	5.3	5.3	5.3
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	5.3	5.3	5.3	5.3	5.3	5.3
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	5.3	5.3	5.3	5.3	5.3	5.3
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	5.3	5.3	5.3	5.3	5.3	5.3

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Personal Services appropriation in existing budgets.

ANALYSIS: Attach a separate page for any analysis

Prepared By: Frank Raye Phone: 465-4430
Division: Personnel Date: 1/16/84

Approved by Commissioner: Lisa Rudd Date: 1/17/84
Department: ADMINISTRATION

4/BDFSF2/0111-09/FISCAL NOTE
Distribution:
Legislative Finance
Legislative Sponsor
Registor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Senate Bill 387
Fiscal Note Analysis
Prepared by Division of Personnel
Department of Administration

Date:

Section 3 of this bill would extend the payment for unused banked medical leave upon death to employees not covered by collective bargaining. Only employees employed continuously since July 1, 1978 and not covered by a collective bargaining agreement, or employees who change from collective bargaining coverage to coverage of this statute will be eligible. At present, there are only 264 employees to whom this change in statute would apply. The number is likely to decrease over time.

Data from the Division of Retirement and Benefits indicates a death rate among state employees of 1.4 per thousand per year. Therefore for the potentially eligible employees, the annual death rate is less than .4 employees per year. For purposes of calculation, one death per year is used.

The average hours of banked medical leave for potentially eligible employees is 207 hours. The average pay range is range 23.

The estimated annual costs are:

1 employee X 207 hours X $25.66 per hour = $5,312.

While this fiscal note shows the $5.3 thousand annual expense, the actual costs will be borne from existing budgets in a similar manner as payments for sick or terminal leave.

Section 2 of this bill has the potential of shifting the expense associated with use of personal leave to an earlier period. For example, an employee who might separate in FY86 and be paid for unused personal leave may donate leave to another employee who uses it in FY85. There is no net effect in the present value cost to the state for such transfers.

4/BDGSF2/0111-09/2

Senate Bill 387
Position Paper
Prepared by Division of Personnel
Department of Administration
February 7, 1984

SB 387 makes four changes to the Compensation and Allowances (AS 39.20) and State Personnel Act (AS 39.25). Section 1 relieves part-time officers and employees from the requirement to take five days of personal leave each year. Section 2 extends to all officers and employees covered by the statute the ability to donate accrued personal leave to another officer or employee for use for medical reasons. This ability is currently limited to employees of the legislature; however, most collective bargaining agreements contain such a provision. Section 3 provides for the payment of banked medical leave to the beneficiary upon an employee's death. Most employees are covered by this provision through collective bargaining agreements. Section 4 provides for publicatio in the Alaska Administrative Code of positions placed in the partially exempt service by the Personnel Board. There is no current means of notifying the public of such actions.

This bill was submitted by the Governor on the recommendation of this Department.

The Department of Administration supports this bill.

Frank Raye — 2/8/84

Frank Raye
Director
Division of Personnel
Department of Administration

Date

for Commissioner Lisa Rudd — 2/8/84

Commissioner Lisa Rudd
Department of Administration

Date

16/4D2/0207-01-1

BILL NO. SB-387 ASSIGNED TO: Josephson

Sponsor: Rules/Governor

SUBJECT: Relating to State Employment

Sec. 1 Mandates that all state employees except part-time, shall take at least 5 days leave time each calendar year unless department or agency head certifies that such leave was denied.

Sec. 2 Accrued leave may be donated to another person ONLY FOR MEDICAL REASONS. Time accrued by donor is converted into cash and then reconverted into leave time based on donee's rate of pay.

Sec. 3 At time of employees separation from state service banked medical leave is cancelled UNLESS separation is caused by employee's death -- then medical leave shall be treated as unpaid compensation.

Sec. 4 Commissioner (DOA) to submit list of partially exempt service positions for publication in Alaska Administrative Journal

FISCAL NOTE: DOA Ø

ALASKA STATE SENATE

JOE P. JOSEPHSON
DISTRICT G - ANCHORAGE
1526 F STREET
ANCHORAGE, ALASKA 99501
(907) 277-4419

COMMITTEES
HEALTH, EDUCATION & SOCIAL SERVICES (CHAIR)
JUDICIARY (VICE-CHAIR)
FINANCE
MAJORITY CAUCUS (CHAIR)

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4907
(907) 465-4525

MEMORANDUM

TO: Senate Finance Committee

From: Senator Josephson

Re: SB 387 Leave Time for State Employees

Date: March 13, 1984

Sectional Analysis

Section 1: Exempts part-time officers and employees from taking the mandatory five days of personal leave a year. Personal leave allows full time employees with a rest period so they can then return to work refreshed. Part-time employees do not need to take leave as often as full time employees and this section allows them to save up time to take when they need it.

Section 2: Extends to all employees under A.S. 39.20 the ability to donate accrued personal leave to another employee for medical reasons. Currently the law applies only to legislative employees, and state employees covered by a collective bargaining agreement are allowed to donate leave. This section would allow all employees to donate leave.

Section 3: Provides for the payment of banked medical leave to the beneficiary upon an employee's death for employee's not covered under collective bargaining. Currently, unused, banked sick leave is cancelled upon the separation from service of a state worker, regardless of the cause. Currently, state employees covered by a collective bargaining agreement are provided this benefit.

Section 4: Requires that positions placed by the personnel board in partially exempt service be published in the Alaska Administrative Code. No official, comprehensive list is currently published to inform the public of these positions.

Fiscal Information

The original fiscal note of 5.3 has been replaced with a zero fiscal note. Costs are borne by existing budgets.

State Affairs Committee Action

State Affairs Committee passed the bill out of committee on 2/9/84 with a zero fiscal note. Senators V. Fischer, Kelly, Sturgulewski, Rodey and Ray all signed "do pass."

Back up Materials Enclosed

A position paper and fiscal note from the Department of Administration, the Governor's letter of transmittal, State Affairs Committee report form, and copies of appropriate Alaska Statute pages.

(2) two and one-quarter days for each full monthly pay period in the case of officers and employees with two but less than five years of service;

(3) two and one-half days for each full monthly pay period in the case of officers and employees with five but less than 10 years of service;

(4) three days for each full monthly pay period in the case of officers and employees with 10 years or more service. (§ 11-5-6 a ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 10 ch 148 SLA 1976; am § 1 ch 136 SLA 1978)

Effect of amendments. — The 1976 amendment rewrote this section.

The 1978 amendment rewrote this section.

Cited in State v. Worden, 7 Alas. L.J. No. 9, p. 641 (Sept., 1969).

Am. Jur. 2d reference. — 63 Am. Jur. 2d, Public Officers and Employees, §§ 158, 403.

Sec. 39.20.210. Determining years of service. In determining years of service for the purpose of computing personal leave, all service with the Territory and State of Alaska is included. A change in the rate of accrual of personal leave by an officer or employee takes effect upon the beginning of the monthly pay period following the monthly pay period in which the officer or employee completes the prescribed period of service. (§ 11-5-6 b ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 2 ch 136 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "personal leave" for "annual leave" in the first and second sentences.

Sec. 39.20.220. Requirement that employment be continuous. Notwithstanding AS 39.20.200, an officer or employee is entitled to personal leave only after having been employed currently for a continuous period of 30 days under one or more appointments without break in service. When an officer or employee completes a period of continuous employment of 30 days, an amount of personal leave is credited to him equal to the amount which, but for this section, would have accrued under AS 39.20.200 during the period. (§ 11-5-6 c ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 3 ch 136 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "personal leave" for "annual leave" and "30 days" for "90 days" in the first and second sentences.

Sec. 39.20.225. Use of personal leave. (a) An officer or employee may take personal leave at any time business permits upon permission by the head of the department or agency for which he works.

(b) An officer or employee may take personal leave for medical reasons, regardless of whether business permits, upon permission by the head of the department or agency for which he works. A

department or agency head shall grant personal leave for medical reasons if he is satisfied that the officer or employee is absent for medical reasons. The taking of personal leave for medical reasons shall be reduced by the amount of wage continuation payments made under the Alaska Workers' Compensation Act (AS 23.30). The following constitute "medical reasons" and are subject to the conditions noted.

(1) Medical disability of an officer or employee is a medical reason for taking personal leave. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(2) Medical disability of a member of an officer's or employee's immediate family is a medical reason for taking personal leave if the disability is such that the attendance of the officer or employee is required. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(3) A medical condition of an officer or employee which makes his presence at work a danger to the health of his fellow employees is a medical reason for taking personal leave. A department or agency head may require a doctor's certificate showing the condition if the absence exceeds three consecutive working days.

(4) Pregnancy and childbirth is a medical reason for a female officer or employee to take personal leave. A female officer or employee, otherwise qualified for a leave of absence, is entitled to take a maximum of nine weeks leave immediately preceding and following childbirth. If the officer's or employee's accrued personal leave is insufficient for this purpose, she is entitled to take leave without pay for the balance of the nine-week period.

(5) Death of a member of an officer's or employee's immediate family is a medical reason for taking personal leave. No more than five days of personal leave may be taken for this purpose.

(c) Each officer and employee shall, during each 12-month period, take at least five days of personal leave. If the officer or employee does not take at least five days of personal leave during a 12-month period, the difference between five days and the amount of personal leave he did take shall be cancelled without pay unless his department or agency head certifies in writing that he was denied the opportunity to take five days of personal leave during the 12-month period. (§ 4 ch 136 SLA 1978; am § 60 ch 94 SLA 1980)

Effect of amendment. — The 1980 amendment substituted "Workers' Compensation Act" for "Workmen's Compensation Act" in the introductory paragraph of subsection (b).

Sec. 39.20.230. When annual leave may be taken.
Repealed by § 15 ch 136 SLA 1978.

Sec. 39.05.110. Definitions. In AS 39.05.010 — 39.05.110

(1) "confirmation" means confirmation or approval by the legislature of a name submitted for appointment to a position or membership;

(2) "position or membership" means an executive position or membership on a state board, commission, authority, council, or committee which by law requires appointment by the governor and confirmation by the legislature. (§ 2 ch 64 SLA 1955; am §§ 73, 74 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment deleted "or either house of the legislature" following "by the legislature" in paragraphs (1) and (2), and, deleted "or other appointing authority" following "appointment by the governor" in paragraph (2).

Editor's notes. — AS 39.05.010, referred to in the introductory language, was repealed by § 29, ch. 208, SLA 1975.

Chapter 20. Compensation and Allowances.

Article
1. Salaries (§ 39.20.100)
3. Leaves of Absence (§§ 39.20.245, 39.20.310, 39.20.320, 39.20.340)

Article 1. Salaries.

Section
100. [Repealed]

Sec. 39.20.100. Fees, mileage or compensation.

Repealed by § 75 ch 59 SLA 1982.

Editor's notes. — The repealed section derived from § 11-3-9 ACLA 1949.

Article 3. Leaves of Absence.

Section
245. Donation of personal leave
310. Exceptions
320. Adoption of regulations
340. Leave of absence for reserve or auxiliary members of armed forces

Sec. 39.20.245. Donation of personal leave. (a) An officer or employee may donate one or more days of personal leave a year to the memorial scholarship revolving loan fund, or to a scholarship account in the fund, under AS 14.43.250 — 14.43.325. The commissioner of administration shall pay to the account of the memorial scholarship revolving loan fund, or to a scholarship account in the fund, an amount equal to the value of the day or days of personal leave contributed by the officer or employee.

(b) An employee of the legislature or of a legislative agency with the approval of the person authorizing the employment may donate accrued personal leave to another employee of the legislature or of a

mentation of this chapter. (§ 2 ch 61 SLA 1982)

Sec. 47.90.050. State employment assistance. Contractors operating programs under AS 47.90.010 shall, to the maximum extent possible, provide displaced homemakers with assistance in qualifying on state employment registers under regulations of the commissioner. (§ 2 ch 61 SLA 1982)

Sec. 47.90.060. Regulations. The commissioner may adopt regulations to implement this chapter. (§ 2 ch 61 SLA 1982)

Sec. 47.90.070. Definitions. In this chapter

(1) "commissioner" means the commissioner of community and regional affairs;

(2) "displaced homemaker" means a person who

(A) has worked as a homemaker providing unsalaried services for the family for a period of at least seven years;

(B) faces a significant reduction in family income or support through divorce, death, separation, desertion, or disability; and

(C) has encountered difficulty in finding employment. (§ 2 ch 61 SLA 1932)

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40-5-14(a)
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1949
c. 59, § 2 .
c. 59, § 5 .

c. 59, § 6 .

1953
c. 86, § 1 .

1955
c. 32, art. I,
c. 82, art. I,
c. 112, § 1

c. 112, § 2

c. 140, § 1

pay, time or efficiency rating on all days during which he or she is ordered to training duty, as distinguished from active duty, with troops or at field exercises, or for instruction, or when under direct military control in the performance of a search and rescue mission. The leave of absence may not exceed 16½ working days in any 12-month period. (§ 1 ch 49 SLA 1976)

Revisor's note. — Chapter 49, SLA 1976 changed "12-month period" back to "calendar year" in the last sentence of subsection (a). As this change was the result of drafting error, "12-month period" has been retained.

Effect of amendment. — The 1976 amendment, in subsection (a), inserted "or auxiliary" following "member of a reserve" and "or she" following "during which he" near the middle of the first sentence and added "or when under direct military control in the performance of a search and rescue mission" to the end of that sentence.

Sec. 39.20.350. Restoration of reserve members to former positions. A member of a reserve component of the United States Armed Forces employed by the state, or a political subdivision or a municipal corporation with the approval of the city council who is ordered to duty by proper authority, shall, when relieved from duty, be restored to the position held by him when ordered to duty. (§ 2 ch 20 SLA 1951)

Article 4. Payments Due to Deceased State Employees.

Section
360. Order of payment
370. Inapplicability of provisions to certain benefits, funds, or interest
380. Change or revocation of designation
390. Employees to be informed
400. Definitions

Sec. 39.20.360. Order of payment. All unpaid compensation due to a deceased employee of the state at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order of precedence, and the payment is a bar to recovery by any other person of amounts so paid:

(1) to the beneficiary or beneficiaries designated by the employee in writing to receive the compensation filed with Department of Administration at the time of his death; if he designates more than one beneficiary, each shall share equally unless he specifies a different allocation or preference;

(2) if there is no beneficiary designated, to his surviving spouse;

(3) if there is no beneficiary or surviving spouse, to his child or children and descendants of deceased children by representation;

(4) if none of the above, to his parents, or the survivor of them;

(5) if none of the above, to the legal representative of his estate, or if there is none, to the person determined to be entitled under the laws of his domicile. (§ 1 ch 72 SLA 1964)

Sec. 39.25.130. Extension of partially exempt and classified services. (a) After June 30, 1961, the personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position which was in the classified service on April 19, 1960, which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

(b) No positions may be included in the partially exempt service under this section if the inclusion is inconsistent with federal requirements for state agencies supported in whole or in part by federal funds.

(c) After June 30, 1961, the personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position which was in the partially exempt service on April 19, 1960. (§ 7 ch 144 SLA 1960)

Cited in Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Article 3. Personnel Rules.

Section

140. Amendment of personnel rules
150. Scope of rules
153. Personnel rules for certain departments
155. Vocational substitution program

Sec. 39.25.140. Amendment of personnel rules. (a) The director of personnel shall prepare and submit to the commissioner of administration any proposed amendments to the personnel rules for all positions and employees subject to this chapter.

(b) The commissioner of administration shall review the amendments and submit them to the personnel board.

(c) At the time he submits the amendments to the personnel board, the commissioner of administration shall, by posting in public buildings throughout the state, give notice that the personnel board has the amendments under consideration. The amendments have the effect of law 30 days after they are submitted to the personnel board if not disapproved by the personnel board. The personnel board, if requested, may hold public hearings on the amendments.

(d) The rules may provide for exemptions and modifications which are necessary to assure the continuity of federal grants to agencies supported in whole or in part by federal contributions.

SB3

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 27, 1984

The Honorable Jalmar Kerttula
President of the Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to state employment. The bill would also amend the state's leave statutes in three respects, affecting state officers and employees who are not covered by a collective bargaining agreement (see the current AS 39 20.310(9) which is not being amended by this bill).

Section 1 of the bill addresses the requirement that nearly all state officers and employees take at least five days of personal leave per year. See AS 39.20.225(c). The amendment would exempt part-time employees from that requirement.

Section 2 amends state law concerning the donation of sick leave by one state worker for use by another. Currently, the law speaks only to legislative employees. See AS 39.-20.245(b). The amendment would allow the same charitable act to be accomplished by executive and judicial branch workers. State employees covered by a collective bargaining agreement are already allowed to donate sick leave in this same manner.

Section 3 allows the beneficiary of a state worker who dies to collect the monetary equivalent of the decedent's unused, banked sick leave. Currently, unused, banked sick leave is cancelled upon the separation from service of a state worker, regardless of the cause. See AS 39.20.-256(f). Currently, state employees covered by a collective bargaining agreement are provided this benefit.

BILL SHEFFIELD
GOVERNOR

SB387

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 27, 1984

The Honorable Jalmar Kerttula
President of the Senate
Pouch V
Juneau, AK 99811

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Section 3 allows the beneficiary of a state worker who dies to collect the monetary equivalent of the decedent's unused, banked sick leave. Currently, unused, banked sick leave is cancelled upon the separation from service of a state worker, regardless of the cause. See AS 39.20.-256(f). Currently, state employees covered by a collective bargaining agreement are provided this benefit.

Section 4 requires the commissioner of administration to submit to the lieutenant governor for publication in the Alaska Administrative Code a list of all positions to which the partially exempt service has been extended by the personnel board under AS 39.25.130. No official, comprehensive list is currently published to inform the public of which positions are included in the partially exempt service.

Sincerely,

Bill Sheffield
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB
Title: An act relating to state employment.

Sponsor: Rules by request of the Governor
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: All
Program Category Affected: All

BRU, Program or Subprogram(s) Affected:
All

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	5.3	5.3	5.3	5.3	5.3	5.3
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	5.3	5.3	5.3	5.3	5.3	5.3
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	5.3	5.3	5.3	5.3	5.3	5.3
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	5.3	5.3	5.3	5.3	5.3	5.3

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Personal Services appropriation in existing budgets.

ANALYSIS: Attach a separate page for any analysis

Prepared By: Frank Rave
Division: Personnel
Phone: 465-4430
Date: 1/16/84

Approved by Commissioner: Lisa Rudd
Department: ADMINISTRATION
Date: 1/17/84

4/BDFSF2/0111-09/FISCAL NOTE
Distribution:
Legislative Finance
Legislative Sponsor
Registor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Senate Bill
Fiscal Note Analysis
Prepared by Division of Personnel
Department of Administration

Date:

Section 3 of this bill would extend the payment for unused banked medical leave upon death to employees not covered by collective bargaining. Only employees employed continuously since July 1, 1978 and not covered by a collective bargaining agreement, or employees who change from collective bargaining coverage to coverage of this statute will be eligible. At present, there are only 264 employees to whom this change in statute would apply. The number is likely to decrease over time.

Data from the Division of Retirement and Benefits indicates a death rate among state employees of 1.4 per thousand per year. Therefore for the potentially eligible employees, the annual death rate is less than .4 employees per year. For purposes of calculation, one death per year is used.

The average hours of banked medical leave for potentially eligible employees is 207 hours. The average pay range is range 23.

The estimated annual costs are:

1 employee X 207 hours X $25.66 per hour = $5,312.

While this fiscal note shows the $5.3 thousand annual expense, the actual costs will be borne from existing budgets in a similar manner as payments for sick or terminal leave.

Section 2 of this bill has the potential of shifting the expense associated with use of personal leave to an earlier period. For example, an employee who might separate in FY86 and be paid for unused personal leave may donate leave to another employee who uses it in FY85. There is no net effect in the present value cost to the state for such transfers.

4/BDGSF?/0111-09/2

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: January 10, 1984

REQUEST
Bill/Resolution No.: SB 387
Title: An act relating to state employment.

Sponsor: Rules by request of the Governor
Requestor: Senate State Affairs
Date of Request: January 9, 1984

FISCAL DETAIL
Agency Affected: All
Program Category Affected: All

BRU, Program of Subprogram(s) Affected:
All

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Personal Services appropriation in existing budgets.

ANALYSIS: Attach a separate page for any analysis

Prepared By: Frank Rave
Division: Personnel
Phone: 465-4430
Date: 2/10/84

Approved by Commissioner: Lic Rudd
Department: ADMINISTRATION
Date: 2/10/84

4/BDGSF2/0111-09/FISCAL NOTE
Distribution:
Legislative Finance
Legislative Sponsor
Registor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Senate Bill 387
Revised Fiscal Note Analysis
Prepared by Division of Personnel
Department of Administration

Date: January 10, 1984

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4/BDGSF?/0111-09/2

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

1/27/84

Date: 2/9/84

Mr. President:

The Committee on STATE AFFAIRS has had SB 387

relating to state employment.

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

[✓] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Tim Kelly

Arlin Stuckenberg Jr.

Pete Rodney

Bill Ray

MEMBERS HAVING OTHER RECOMMENDATIONS:

fiscal note

CHAIRMAN

SB

415

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB 415 (State Affairs)
Title: "An act relating to PERS"

Sponsor: Ray
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: All State Agencies
Program Category Affected: PERS

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts		392.6	424.0	457.9	494.6	534.1
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
800 TRS Match		379.3	409.6	442.4	477.8	516.0
TOTAL OPERATING	-0-	771.9	833.6	900.3	972.4	1050.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund		734.2	792.9	856.3	924.9	998.8
Federal Funds		18.1	19.5	21.1	22.8	24.6
Other		19.6	21.2	22.9	24.7	26.7
Total	-0-	771.9	833.6	900.3	972.4	1050.1

POSITIONS: NONE

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

Prepared based on 2/27/84 draft CSSB 415 (State Affairs) passed out 2/27/84.

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director J.K. Humphreys Phone: 465-4460
Division: Retirement & Benefits Date: 3-1-84

Approved by Commissioner: Lisa Rudd Date: 3-1-84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CSSB 415 (State Affairs)
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

March 1, 1984

IV Analysis: Passage of this bill would allow retirees in the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS) to be reemployed with a participating employer and use the highest salaries over their entire period of service under the PERS or the TRS respectively for calculating their additional benefit. We have estimated that approximately 2½% of all retirees would exercise this option and that it would result in an average increase of 20% in their benefit.

This is estimated to result in a .07% increase in the PERS employer contribution rate and a .1% increase in the TRS employer contribution rate. The PERS state salaries for FY 85 are estimated to be $469,878,512.00 and the TRS state salaries for FY 85 are estimated to be $63,713,497.00. The FY 85 TRS State Match salaries are estimated to be $379,349,180.00.

This would result in an increase in Political Subdivision contributions of the following.

FY 85	FY 86	FY 87	FY 88	FY 89
$549.6	$593.6	$641.1	$692.3	$747.7

The present value of the cost of this bill in PERS is $2,880,000.00 resulting in a .29% decrease in the funding ratio. The present value of the cost of this bill in TRS is $1,900,000.00 resulting in a .20% decrease in the funding ratio.

Position Paper

CSSB 415 (State Affairs)

The Department of Administration supports this legislation. Passage of this bill would allow retirees in the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS) to be reemployed with a participating employer and use the highest salaries over their entire period of service under the PERS or the TRS respectively in calculating their benefit upon subsequent retirement. It also provides for an equitable actuarial adjustment of benefits in certain cases involving reemployed early retirees or those who chose a level income option.

Passage of this bill would be consistent with the statutory purpose of both retirement systems which is to attract and retain qualified employees. Retired employees who are still ready, willing and able to work are a valuable resource to employers and this bill would remove an impediment to their rehire.

Prepared based on 2/27/84 draft CSSB 415 (State Affairs) passed out 2/27/84

J.K. Humphreys 3/1/84

J.K. Humphreys, Director, Division of Retirement & Benefits Date

A. Rudd for 3/1/84

Lisa Rudd, Commissioner, Department of Administration Date

SB 415

The State Affairs Committee considered SENATE BILL NO. 415 (employee benefits under the Alaska Employees' Retirement System) and recommended it be replaced with

CS FOR SENATE BILL NO. 415 (SA), entitled:

"An Act relating to employee benefits under the Public Employees' Retirement System and the Teachers' Retirement System; and providing for an effective date."

with a majority do pass. The report was signed by Senator Vic Fischer, Chairman and concurred in by Senators Sturgulewski and Ray.

Fiscal note appears in Senate Supplement No. 60.

SENATE BILL NO. 415 was referred to the Finance Committee.

SB 439

The Labor and Commerce Committee considered SENATE BILL NO. 439 (extending the termination date of the Board of Chiropractic Examiners) and a majority of the committee recommended do pass. The report was signed by Senator Eliason, Chairman and concurred in by Senators Pettyjohn and Mulcahy.

SENATE BILL NO. 439 was referred to the Rules Committee.

HB 31

The Finance Committee submitted a fiscal note for CS FOR HOUSE BILL NO. 31 (C&RA) am (certain tax benefits for disabled veterans and senior residents) which appears in Senate Supplement No. 59.

HB 426

The Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 426 (L&C) (group life insurance) and a majority of the committee recommended do pass. The report was signed by Senator Eliason, Chairman and concurred in by Senators Pettyjohn and Mulcahy.

CS FOR HOUSE BILL NO. 426 (L&C) was referred to the Rules Committee.

SJR 42

The Rules Committee considered SENATE JOINT RESOLUTION NO. 42 (Environmental Protection Agency regional office in Alaska) and a majority of the committee recommended calendar March 2. The report was signed by Senator Faiks, Chairman and concurred in by Senators Bennett, Ferguson and Kelly.

SENATE JOINT RESOLUTION NO. 42 appears on the calendar.

SB 320

The Rules Committee considered SENATE BILL NO. 320 (dissolution of marriage) and recommended calendar March 2 and the Judiciary Committee Substitute be adopted. The report was signed by Senator Faiks, Chairman and concurred in by Senators Ray, Bennett, Kelly and Ferguson.

SENATE BILL NO. 320 appears on the calendar.

SB 397

The Rules Committee considered SENATE BILL NO. 397 (extending the termination date of the Alcoholic Beverage Control Board) and recommended calendar March 2. The report was signed by Senator Faiks, Chairman and concurred in by Senators Kelly, Ray, Bennett and Ferguson.

SENATE BILL NO. 397 appears on the calendar.

CONSIDERATION OF THE CALENDAR

SECOND READING OF SENATE BILLS

SB 320

SENATE BILL NO. 320 (dissolution of marriage) was read the second time.

SB 407

The Resources Committee considered SENATE BILL NO. 407 (prevention and abatement of water pollution) and recommended it be replaced with

CS FOR SENATE BILL NO. 407 (RES)

with a majority do pass. The report was signed by Senator Fahrenkamp, Chairman and concurred in by Senators Sturgulewski, Ziegler and Paul Fischer. Senator Mulcahy signed "no recommendation".

Letter of Intent

CS FOR SENATE BILL NO. 407 (RES)

It is the intent of the legislature that the Department of Environmental Conservation make a conscientious and diligent effort to implement Section 5 of this bill. The Department should utilize all available information on past and present uses, existing water quality and in-stream data in determining which streams are suitable for a placer mining classification.

/s/ Bettye Fahrenkamp
Bettye Fahrenkamp, Chairman

SENATE BILL NO. 407 was referred to the Rules Committee.

SB 415

The Finance Committee considered SENATE BILL NO. 415 (employee benefits under the Alaska Employees' Retirement System; efd) and recommended the State Affairs Committee Substitute be adopted. The report was signed by Senator Bennett, Co-Chairman and concurred in by Senators Vic Fischer and Sackett. Senators Josephson, Mulcahy, Ferguson and Faiks signed "no recommendation".

SENATE BILL NO. 415 was referred to the Rules Committee.

SB 417

The Finance Committee considered SENATE BILL NO. 417 (establishing the Kenai River Special Management Area; efd) and a majority of the committee recommended the Resources Committee Substitute and Letter of Intent be adopted.

SB 417 cont'd

Senator Bennett, Co-Chairman and Senators Faiks and Ferguson signed "no recommendation". Senators Mulcahy, Josephson, Vic Fischer and Sackett signed "do pass".

Fiscal note is the same as fiscal note dated 2/3/84 in Senate Supplement No. 49 with the exception that the Resources Committee Substitute fiscal note deletes "**0" in "CAPITAL", "**Note: $160.0 for the Kenai River Comprehensive Plan is in the Governor's FY 85 Capital budget"

SENATE BILL NO. 417 was referred to the Rules Committee.

SB 424

The Finance Committee considered SENATE BILL NO. 424 (recovery of medical assistance expenses; efd) and a majority of the committee recommended do pass. The report was signed by Senator Bennett, Co-Chairman and concurred in by Senators Mulcahy, Josephson, Ferguson, Faiks and Vic Fischer.

SENATE BILL NO. 424 was referred to the Rules Committee.

SB 533

The Finance Committee considered SENATE BILL NO. 533 (supplemental appropriation to the Department of Health and Social Services for residential care facilities for children; efd) and a majority of the committee recommended do pass. The report was signed by Senator Bennett, Co-Chairman and concurred in by Senators Mulcahy, Josephson, Ferguson, Faiks and Vic Fischer.

SENATE BILL NO. 533 was referred to the Rules Committee.

HB 510

The Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 510 (FIN) (accidents involving state or municipal aircraft; efd) and a majority of the committee recommended do pass. The report was signed by Senator Eliason, Chairman and concurred in by Senators Rodey and Pettyjohn. Senator Mulcahy signed "no recommendation".

CS FOR HOUSE BILL NO. 510 (FIN) was referred to the Judiciary Committee.

HB 258 cont'd

CONFERENCE CSHB 258

Yeas: 14 Bennett, Fahrenkamp, Faiks, Ferguson, Fischer Paul, Gilman, Halford, Kelly, Moss, Mulcahy, Pettyjohn, Rodey, Sturgulewski, Ziegler

Nays: 6 Eliason, Fischer Vic, Josephson, Kerttula, Ray, Sackett

and so, CONFERENCE CS FOR HOUSE BILL NO. 258 passed the Senate.

Senator Ray moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

The Secretary was requested to notify the House.

INTRODUCTION AND REFERENCE OF SENATE BILLS

SB 551

SENATE BILL NO. 551 by the Finance Committee, entitled:

"An Act authorizing the expenditure of more than $1,000,000 from the disaster relief fund for water and sewer system failures; and providing for an effective date."

was read the first time and referred to the Finance Committee.

CONSIDERATION OF THE CALENDAR

SECOND READING OF SENATE BILLS

SB 415

SENATE BILL NO. 415 (employee benefits under the Public Employees' Retirement System; efd) was read the second time.

SB 415 cont'd

Senator Vic Fischer moved and asked unanimous consent for the adoption of the State Affairs Committee Substitute and title change offered on page 2238. Without objection, CS FOR SENATE BILL NO. 415 (SA) (employee benefits under the Public Employees' Retirement System and the Teachers' Retirement System; efd) was adopted.

CS FOR SENATE BILL NO. 415 (SA) was read the second time.

Senator Ray moved and asked unanimous consent that CS FOR SENATE BILL NO. 415 (SA) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 415 (SA) was read the third time.

Senator Fahrenkamp moved and asked unanimous consent that she be allowed to abstain from voting because of a conflict of interest. Senator Kelly objected.

Senator Vic Fischer moved and asked unanimous consent that he be allowed to abstain from voting because of a conflict of interest. Senator Halford objected.

The question being: "Shall CS FOR SENATE BILL NO. 415 (SA) (employee benefits under the Public Employees' Retirement System and the Teachers' Retirement System; efd) pass the Senate?" The roll was taken with the following result:

CSSB 415 SA 3RD

Yeas: 16 Bennett, Fahrenkamp, Faiks, Ferguson, Fischer Paul, Fischer Vic, Halford, Josephson, Kerttula, Moss, Mulcahy, Ray, Rodey, Sackett, Sturgulewski, Ziegler

Nays: 4 Eliason, Gilman, Kelly, Pettyjohn

and so, CS FOR SENATE BILL NO. 415 (SA) passed the Senate.

SB 415 cont'd

Senator Ray moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

Senator Gilman gave notice of reconsideration on CS FOR SENATE BILL NO. 415 (SA).

SB 445

SENATE BILL NO. 445 (child abuse) was read the second time.

Senator Ray moved and asked unanimous consent that SENATE BILL NO. 445 be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

SENATE BILL NO. 445 was read the third time.

Senator Ray moved that SENATE BILL NO. 445 be held until Thursday's calendar. Without objection, it was so ordered and the bill will appear on the May 10 calendar in third reading.

SB 472

SENATE BILL NO. 472 (preliminary examinations in prosecutions for sexual assault and sexual abuse of a minor) was read the second time.

Senator Josephson moved and asked unanimous consent for the adoption of the Health, Education and Social Services Committee Substitute offered on page 2620. Without objection, CS FOR SENATE BILL NO. 472 (HESS) (admissibility of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal Procedure) was adopted.

CS FOR SENATE BILL NO. 472 (HESS) was read the second time.

SB 472 cont'd

Senator Ray noted the title change.

Senator Ray moved and asked unanimous consent that CS FOR SENATE BILL NO. 472 (HESS) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 472 (HESS) was read the third time.

Senator Kelly moved and asked unanimous consent that CS FOR SENATE BILL NO. 472 (HESS) be returned to second reading for the purpose of a specific amendment. Without objection, it was so ordered.

Senator Kelly offered Amendment No. 1:

> Page 1, line 15: After "child" insert "younger than" and after "age" delete "or younger"

Senator Kelly moved Amendment No. 1. Senator Ziegler asked unanimous consent. Senator Josephson objected, then withdrew his objection. There being no further objection, Amendment No. 1 was adopted.

CS FOR SENATE BILL NO. 472 (HESS) am was before the Senate in third reading.

The question being: "Shall CS FOR SENATE BILL NO. 472 (HESS) am (admissibility of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal Procedure) pass the Senate?" The roll was taken with the following result:

SB

447

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

AGENDA

DATE: April 30, 1984

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY. AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

CSSB 447 (am) SA:

Training Program on Abuse of Miners

OTHER NOTES OR REMINDERS:

Copy of HB 568 (Wacher's bill) for $50K also inserted in files. Apparently, an appropriation for different needs

Offered: 2/27/84
Referred: Finance

Original sponsors: Kerttula and V.Fischer

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

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 447 (State Affairs) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a training program on the prevention, investigation, and treatment of sexual and physical abuse of minors; and providing for an effective date."

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

* Section 1. The sum of [$200,000] $250,000 is appropriated from the general fund to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a program to train teams of community professionals and others on the prevention, investigation, and treatment of sexual and physical abuse of minors.

* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1985.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature

Senate

Office of the President

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Rep. Mitch Abood, Chair
House State Affairs Committee

FROM: Senator Jay Kerttula

DATE: April 18, 1984

SUBJECT: SB 447, "An act making a special appropriation to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a training program on the prevention, investigation and treatment of sexual and physical abuse of minors; and providing for an effective date."

Senate Bill 447 is intended to create sexual assault prevention teams across the state, by bringing groups of professionals from a single geographic area of Alaska to a central training facility. Troopers, district attorneys, judges, social workers and public health nurses can be trained as a team, with cross-training by team experts from Alaska and Outside.

Currently, the identification, prosecution and treatment of sexual assault and abuse cases may be hindered when there is no unified approach among the professionals who deal with abuse of children.

Examples: a district attorney who is reluctant to prosecute incest cases,

a social worker who doesn't like a trooper's approach to a victim,

a women's center worker who discourages reporting of the crime ...

In addition to the state employees who would receive sexual assault prevention training, teams would be encouraged to recruit doctors, teachers and women's/children's center workers to participate in the team training.

This team approach has been used successfully in Fairbanks and the Matanuska-Susitna Valley.

Alaska State Legislature

Advisory Council Members
Senator Kerttula, Chairman
Senator Bennett
Senator Fahrenkamp
Senator Vic Fischer

1024 W. 6th Avenue, Suite 203
Anchorage, Alaska 99501
Phone: (907) 274-1426

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: SENATOR JALMAR KERTTULA

FROM: ELIZABETH J. HICKERSON

RE: SB 447, an act making a special appropriation to the Department of Public Safety, for a training center for the prevention of sexual abuse of minors and providing for an effective date.

DATE: FEBRUARY 20, 1984

The intent of SB 447 is to fund a child sexual abuse training program at the Alaska State Troopers' training academy in Sitka. With the recent increased reporting of child sexual assault and abuse in Alaska, it is critical that professionals who work with children be properly trained in the recognition, identification and referral of abused children.

The National Center on Child Abuse and Neglect (U. S.Department of Health, Education and Welfare) advocates a multidisciplinary training and response approach. Coordinated community training and planning in this area is efficient, cost effective and avoids duplication of effort which operate to the advantage of the families it is designed to serve. The Center recommends that teams include representatives from child protective services, health, mental health, law enforcement and education agencies.

In Alaska the team approach is being utilized in Fairbanks and the Mat-Su Valley. Both are relatively new, but appear to be working.

Mat-Su Valley

The following professionals have developed a cooperative team approach in the identification, investigation, prosecution and treatment of sexual assault and abuse of minors:

District Attorney's Office,
Alaska State Troopers,
Division of Family and Youth Services,
Private Physicians and
Valley Women's Resource Center.

According to Sergeant Rollie Port, the advantages of the team approach include: nonduplication of legal processes involving the child, better follow through on individual cases and a better quality of services delivered to the victim. Also the team approach creates an accountability among the professionals involved by establishing a communication network that is utilized from identification of sexual abuse or assault to prosecution of the offender and treatment of the victim.

Fairbanks

The Interagency Child Sexual Abuse Task Force was created to respond to this problem in Fairbanks. The Task Force has been in operation since June, 1981. The following professionals work together in addressing child sexual assault:

District Attorney's Office,
Alaska State Troopers,
Division of Family and Youth Services,
Women in Crisis-Counseling and Assistance (WIC-CA),
Resource Center for Parents and Children,
Fairbanks Community Mental Health,
Family Focus,
Youth Corrections,
Juvenile Intake,
Public Defender's Agency,
Attorney General Office and
Fairbanks Police Department.

The Task Force member were trained at Haborview in Seattle, Washington and Santa Fe, New Mexico. Funding for this training was provided by the Division of Family and Youth Services. Ms. Ruth Lister, Director of WIC-CA, advocates multidisciplinary training with a strong treatment component at regional centers: Fairbanks, Anchorage and Juneau. This would enhance the opportunity for rural participation.

MEMORANDUM State of Alaska

TO: Captain John Lucking
Commander, B Detachment

DATE: 2/17/84

FILE NO:

thru: Lt. J. McConnaughey
Deputy Commander, B Detachment

TELEPHONE NO:

FROM: Sgt. Rollie A. Port, #10
G.I.U., Palmer
Alaska State Troopers

SUBJECT: Sexual Assault Team

In 1980 As a result of numerous sexual assaults in the Matanuska Valley, the Alaska State Troopers and Dr. Carolyn Brown, Chief of Staff at Valley Hospital, met to formulate a Sexual Assault Protocol in reference to hospital procedures. This meeting was held at the hospital with nurses, administration and doctors attending. At that time is was agreed that the Alaska State Troopers would provide sexual assault physical evidence kits and an instamatic camera and film. The procedure for the collection of physical evidence, i.e. clothing and sexual assault kit was discussed and incorporated into the hospital's Sexual Assault Protocol.

Later, that same year, a working relationship with D.F.Y.S. was initiated through Jenny Durkin and Charm Mastriano, case workers and supervisor, Mary Savage. The relationship set up was that if a D.F.Y.S. case worker suspicioned the sexual abuse of a minor child, contact was made with AST and the situation evaluated. If it was not deemed a criminal matter, D.F.Y.S. continued along their Departmental guidelines. If it was determine that the information provided by D.F.Y.S. personnel could lead to criminal prosecution, an investigation from G.I.U. (General Investigations Unit) jointly, with a D.F.Y.S case worker would interview the minor child.

The interview could be conducted along the guidelines of strengthening the relationship between the investigator and the child with general conversation and questions. After that period, if it appears the information provided to D.F.Y.S. was not born out, the interview is stopped and the parents are contacted and advised of why their child was interviewed. In most cases, the parents are understandable and the investigation is over.

In the event the general interview leads us to believe there is a possibility of criminal abuse, the interview switches to a more direct type of questioning to establish who, what, where, when and how. If the child stated that a parent is the offending party, AST would immediately contact the parent for interview purposes. The D.F.Y.S. person, if appropriate, would take the victim to the hospital where the sexual assault protocol would be followed. From this point on, AST, D.F.Y.S. and a Valley Hospital doctor would coordinate all the information.

5

In 1980 a representative from the Valley Women's Resource Center, Susan Lombardi, was added to the team. AST has given numerous classes in the investigative procedures for troopers working sexual assault cases in the Valley. The Women's Resource Center has provided quality assistance to adult victims of sexual assault during the course of many investigative cases.

The last member of the team is Mike White, Palmer District Attorney. Mike has attended sexaul assault seminars in the past and is very knowledgeable. Mike White had assisted the other team members greatly in our effort to identify, investigate, substantiate and convict sexual assault offenders.

The Mat_Su Valley Sexual Assault Response Team is informal, with no one person as it's head. WE are all professional people whom share our individual knowledge and expertise in our chosen field with each other for the betterment of the victim and for the successful prosecution of the defendant.

RAP

TO: Advisory Council
Anchorage

DATE: February 17, 1984

Attn: Elizabeth Hickerson

FOR: Debra Heidecker 274-1426

SUBJECT: Senate Bill #447

I wish to state my support for Senate Bill #447 as a person actively involved in the investigation of child sexual assault cases in the Fairbanks area. I feel this type of training is imperative to insure the least amount of trauma to the child victims of sexual abuse. This is a very serious problem throughout the State of Alaska. The concept of bringing together District Attorneys, Intake Social Workers, Assistant Attorney Generals and State Troopers, along with other educators, is necessary.

In order to effectively deal with this topic, we have to insure that all aspects of the State agencies involved with these type crimes be trained with the same information.

Paul E. Bartlett
P.O. Box 60
Eater, Alaska 99725
479-3870

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION/THIRD JUDICIAL DISTRICT

OFFICE OF THE DISTRICT ATTORNEY

BILL SHEFFIELD, GOVERNOR

REPLY TO:

☐ *1031 WEST 4th AVENUE, SUITE 520*
ANCHORAGE, ALASKA 99501
PHONE: (907) 277-1622

☐ *DRAWER 1180*
KENAI, ALASKA 99611
PHONE: (907) 283-3131

☐ *326 CENTER AVE, 2ND FLOOR*
KODIAK, ALASKA 99615
PHONE: (907) 486-5744

☐ *P.O. BOX 1070*
PALMER, ALASKA 99645
PHONE: (907) 745-5027

☐ *P.O. BOX 671*
VALDEZ, ALASKA 99686
PHONE: (907) 835-2462

February 23, 1984

The Honorable Jalmar Kerttula
Pouch V
Juneau, Ak 99811

Subject: SB 447

Dear Senator Kerttula:

For a number of years now, I have advocated the creation of a training center for the prevention of sexual abuse of minors, and your efforts to do so in Senate Bill No. 447 are to be commended.

Attacking the problem of child sexual abuse will require intensive and ongoing interdisciplinary training and cooperation. Developing expertise in law, medicine and social sciences, is essential.

It needs to be recognized that the legal system cannot, by itself, effectively combat this scourge. Only a tiny percentage of child abuse is reported to authorities and only a fraction of that percentage is realistically prosecutable.

A comprehensive, coherent system needs to be developed that provides an umbrella of safety for actual and potential victims. Child protection laws (Title 47) need to be addressed; effective medical, psychiatric, and counselling treatment modes need to be developed.

I do not know whether that comprehensive approach is envisioned in the bill, but if it is, I suggest that a child sexual assault training and research center might be more aptly centrally located in Anchorage as an adjunct to a major hospital, along the lines of the Harborview Sexual Assault Center in Seattle.

Wherever such a center is located, however, it will provide a much needed public service.

Very truly yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

Victor C. Krumm
District Attorney

VCK/pjb

ALASKA NETWORK ON DOMESTIC
VIOLENCE AND SEXUAL ASSAULT
110 SEWARD #13 JUNEAU ALASKA 99801
(907)586-3650

POSITION PAPER

SB 447: An Act making a special appropriation to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a training center for the prevention of sexual abuse of minors.

The Alaska Network on Domestic Violence and Sexual Assault, representing 20 programs statewide that provide services to victims of domestic violence and sexual assault, supports SB 447 to establish and provide funding for a training center for the prevention of sexual abuse of minors.

Fifteen of the Network's 20 programs are currently addressing the issue of child sexual assault by providing direct services to child victims and non-offending parents; conducting education and prevention programs in communities; developing and presenting curricula dealing with sexual assault to school districts; coordinating service provision with other helping agencies; and developing protocols for inter-agency use in cases of child sexual assault.

Reporting of cases of child sexual assault, both assault by strangers and assault by family members and friends, has increased dramatically. The increase in the reporting rate is due to the success of community education and awareness efforts by domestic violence and sexual assault programs, and presentations on sexual assault prevention to children in school settings. While it is critical that these efforts continue, it must be realized that they will result in disclosures of incidences of sexual assault, and individuals and agencies involved in dealing with child victims must be trained to respond.

Child victims often disclose incidences of sexual assault to the non-offending parent. Parents must know how to talk to their children about this issue, to believe them and assure them that they will be safe. Because disclosure, especially in cases of incest, is also severely traumatic for the non-offending parent, helping agencies must be trained to recognize that parent's need for counseling and the need to strengthen the bond between that parent and the child.

Children will also disclose to teachers and day care providers. Educators and care givers must be trained to recognize behavioral and other symptoms and patterns of a child suffering abuse, and how to sensitively handle a disclosure. They must also be aware of legal reporting requirements of such cases to the Division of Family and Youth Services.

Division of Family and Youth Services' case workers are required to take action after such a report, either to prevent further harm

to the child or to insure the child's proper care and protection, and so brings them into immediate contact with the child victim. Consequently, case workers require training in dealing sensitively with the child in the interviewing process.

Because child sexual assault is a felony crime, the Division of Family and Youth Services is required to report such cases to law enforcement agencies. Training needs to be provided to peace officers in conducting interviews with child victims.

In order to avoid additional trauma to the child and to insure that the child is protected from further abuse, all these agencies and individuals need to work cooperatively, comprehensively, and efficiently in developing a sensitive and effective approach to handling cases of child sexual assault. The provision of training to all professionals who are likely to come into contact with a child victim is a necessary and logical step. The Network feels that the establishment of a Training Center, utilizing a training team composed of service providers from all disciplines who provide training in the dynamics of child sexual assault; prevention strategies; investigation techniques; and development of inter-agency protocols is crucial to impacting the high incidence of child sexual assault in our State.

T FEB. 21-23
COUNCIL MEETING

Deborah

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

DRAFT

SB 447

"An Act making a special appropriation to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a training center for the prevention of sexual abuse of minors."

The Council on Domestic Violence and Sexual Assault supports SB 447 to establish and fund a training center for the prevention of child sexual assault. This legislation would enable the state to develop core child sexual assault response teams in different communities.

Cases of child sexual assault are very complicated because of the need to balance protection of the victim, and the emotional needs of victim and her/his family with society's and the criminal justice system's need to prosecute the offender. Most professionals, including peace officers, are required by law, to report to the Division of Family and Youth Services if they believe a "child has suffered harm as a result of abuse. Family and Youth Services is required to take action to prevent further harm to the child or to insure the proper care and protection of the child. Since child sexual assault is a felony, Family and Youth Services is required to report the alleged abuse to the police. The district attorney's office needs to be informed also, for purposes of criminal investigation. There is then potential for all three agencies to carry out investigations which will require interviewing the victim.

Since the topic is so sensitive and young children need to be treated in a different way then adults, investigations must be done very carefully and must

be coordinated. It is crucial that representatives from these agencies are trained specifically in child sexual assault investigations and more importantly how to be sensitive in working with the victim. The training center could be used to develop child sexual assault teams in each community with representatives from the above mentioned agencies serving as core members. Other members of a team of agency personnel could represent: schools, domestic violence/sexual assault programs, mental health programs and other child protective agencies.

It is important that school personnel also be trained because children often disclose to their teachers that they are victims. School personnel should be knowledgeable about legal reporting requirements, physical and behavioral symptoms of child sexual abuse and how to respond to children that disclose child sexual abuse. The Council on Domestic Violence and Sexual Assault funds nineteen programs. Fourteen Council funded programs work with child sexual assault victims directly, conduct prevention/education programs in the schools and communities and/or are involved in child sexual assault coordination efforts. These domestic violence/sexual assault programs as well as child abuse programs funded by the Division of Family and Youth Services and mental health programs would be appropriate representatives on the team.

Child sexual assault has been receiving a great deal of notice by the public as more victims disclose sexual abuse. The best source of data about the increased reporting of child sexual assault is from the Division of Family and Youth Services which had 142 suspected cases of child sexual assault in FY 80 and 529 in FY 83. These data do not reflect actual incidences because victims continue to fear disclosure, but the increasing trend experienced in the past years is

significant. The Alaska State Troopers also report dramatic increases in sex offenses against juveniles. In 1980, there were 48 reported incidents, 109 in 1981 and 177 in 1982. Data from 1983 is still being compiled.

There is every indication that reporting will continue to increase. Communities that have implemented child sexual assault programs in the schools have already experienced dramatic increases in disclosures. As community awareness increases, more reportings will occur. A sensitive, effective approach to child sexual assault needs to be developed. This legislation could sponsor a community based group of professionals who could work with victims and provide expertise to other professionals in their community.

Some suggestions for training are: to have a one week training session possibly four times per year (or as much as funds allow) for four or five community teams. Training, at a minimum, should include dynamics of child sexual assault including information about victims, non offending parents and perpetrators; child sexual assault prevention efforts; investigation techniques and team building.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
SENATE BILL 447

"An Act making a special appropriation to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a training center for the prevention of sexual abuse of minors; and providing for an effective date."

This Bill makes a special appropriation to the Department of Public Safety, Council on Domestic Violence and Sexual Assault for a training center for the prevention of sexual abuse of minors.

The Department of Health and Social Services supports efforts to address this serious problem. The Division of Family and Youth Services has experienced a significant increase in the number of reports of sexual abuse. In FY 83 the Division served 619 children who were suspected or actual victims of sexual abuse. By comparison, 185 children were served in FY 80. This increase of 434 child sexual abuse cases represents a 235% increase in four years.

The Department supports the appropriation of training funds to the Council on Domestic Violence and Sexual Assault. In the Department's view, however, it would be more advantageous to have such training occur in various communities throughout the State rather than having trainees flown to another location. If training is conducted in this manner, it can be tailored to meet the needs of trainees in each community and would permit more people to be trained. It would be, therefore, less costly. With the turnover rate in human service agencies, it would be advantageous to train as many people as possible.

Should this Bill pass, the Department of Health and Social Services will be available to coordinate with the Council on Domestic Violence and Sexual Assault in planning and conducting the training.

RECOMMENDED BY: Michael L Price
Michael L. Price, Director
Division of Family and
Youth Services

DATE: 3/9/84

APPROVED BY: Robert London Smith
Robert London Smith, Ph. D.
Commissioner
Department of Health and
Social Services

DATE: 3/19/84

PROPOSED BUDGET FOR CSSB 447

"Training Program on the prevention, investigation and treatment of sexual and physical abuse of minors."

The focus of the training will be to develop community based teams that can appropriately respond to child sexual assault in their communities. At a minimum, the teams will include local police and state troopers, prosecutors, social workers and educators. Depending on the community and its resources, teams would also include sexual assault program people, mental health and alcoholism program personnel, medical people, including health aides, and day care personnel.

The training shall focus on the prevention, investigation and treatment of sexual and physical abuse of minors. Specific topics to be included are: dynamics of sexual and physical abuse of minors including information about victims, non-offending parents and perpetrators; the laws in Alaska relating to sexual and physical abuse of minors; methods for meeting the child's emotional needs during investigation and prosecution; families' roles in investigation and prosecution; investigation techniques including knowledge about child development and team building.

In order to assure continuation of the training effort, an ongoing system must be developed within the Departments of Law, Public Safety, Health and Social Services and Education. This will require coordination with these agencies as well as the development of training materials that can be used in future years.

PROPOSED BUDGET:

(1) Coordinate and plan the training in conjunction with involved state agencies and community based sexual assault programs; develop training materials that can be used for the training and in the future, determine training locations and schedules; identify participants and set up training.

$45,000

(2) Funds for the Departments of Law, Health and Social Services, Public Safety and Education, police acad2mies in Anchorage and Fairbanks for expenses in coordinating and implementing training system.

$50,000

(3) Hire trainers and pay consultant fees and travel and per diem for five training sessions.

$55,000

(4) Miscellaneous costs (facility, advertising, printing, office supplies, etc.)

$5,000

(5) Travel for participants to attend five training sessions. Approximately 125 people.

$45,000

TOTAL $200,000

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE

P.O. BOX 143
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

TO: Senator Vic Fischer, Chair
Senate State Affairs Committee

FROM: Senator Dick Eliason

DATE: February 17, 1984

RE: SB 447

This memo is to express my full support for SB 447 - a bill which funds a training center for the prevention of sexual abuse of minors at the State Trooper's Academy in Sitka. I certainly am in favor of reducing and preventing this appalling type of abuse of children.

MSG 84-00015096 PRTY 1 02/17/84 17:03:26 ORIG: LFC0 IN= 0005 OUT= 01

FROM: TRACIE/FBX TO: JUN INFO

TARGET: LJHK SUBJ: POM

17

TO: SEN KERTTULA
SEN STURGULEWSKI
SEN V. FISCHER
INT. DELAGATION: REPS DAVIS, BETTISWORTH, KOPONEN, RINGSTAD, M.W. MILLER
SENS BENNETT, FAHRENKAMP, MOSS
SEN FINANCE COMTE: SENS SACKETT, FERGUSON, MULLANY, FAIKS, JOSEPHSON

FEB

FROM: PATTY KASTELIC, 4920 ANDERSON RD., FKS, 99701 H-479-5744 W 474-6330

RE: SEXUAL ASSAULT AND ABUSE & D.V. SCR 37, SB 447

MSG: I COMMEND AND HIGHLY ENDORSE THE RECENTLY INTRODUCED SCR 37 AND SB 44 I ALSO ASK YOUR SUPPORT FOR A 20% INCREASE IN THE DOMESTIC VIOLENCE AND SEXUAL ASSAULT BUDGET IN ORDER TO INCREASE SERVICES AND DO. ADEQUITE EDUCATI PREVENTION AND OUTREACH. THESE PROGRAMS ARE A MORE PRODUCTIVE USE OF OUR FUNDS THAN THE SUBSEQUENT COSTS INCURRED IN THE DEPT OF CORRECTING.

----------EOM

Patty Kastelic

March 20, 1984

Senator Jay Kertulla
Pouch V
Juneau, AK 99811

Dear Senator Kertulla:

I wanted to write and tell you your efforts are appreciated, at least by me in your support of children's issues.

I was recently informed that you were the prime Senate sponsor of SCR 37, SB 445, SB 446, and SB 447. Believe me, our state needs to be aware of our child abuse problem. With particular reference to expanding curriculum and teacher in-service within our school system, I want to commend your efforts. Hopefully, someday soon the community will realize that children don't learn because of problems within their personal life; be it child abuse, domestic violence, alcholic/addicted parents, or their chemical dependency. Although I cannot speak for the educators, ones who have come to know me are ecstatic about your involvement and support of their betterment as the "direct line" to our children.

Thank you again and keep up the good work! If I can be of assistance, feel free to contact me.

Sincerely,

Marguerite

Marguerite T. Luporl
2917 W. 34th. #2
Anchorage, AK 99503

SHEFFIELD
GOVERNOR

PHONE
(907) 561-3227

STATE OF ALASKA

OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION
3601 C STREET - SUITE 742
ANCHORAGE, ALASKA 99503

March 21, 1984

Senator J. M. Kerttula
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Kerttula:

The Alaska Women's Commission is committed to supporting all efforts made at preventing and aiding the victims of domestic violence, sexual assault and child abuse. We wish to take this opportunity to thank you for sponsoring the following bills this session that address these issues:

SCR 37, SB 477, SB 472, SB 446 and SB 445

We appreciate your continued concern for the welfare of Alaska's women and children. If the Women's Commission can be of any assistance in supporting your efforts, please don't hesitate to contact us.

Sincerely,

Kathy Marshall

Kathy Marshall
Executive Director

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 447
Title: An Act making a special appropriation to the Dept. of Public Safety.
Sponsor: Kerttula & V. Fischer
Requestor: State Affairs & Finance
Date of Request:

FISCAL DETAIL
Agency Affected:
Program Category Affected:
BRU, Program or Subprogram(s) Affected:
~~NOT APPLICABLE DHSS~~

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

X Prepared By: Michael L. Price [signature] Phone: 465-3170
Division: Family & Youth Services Date:

Approved by Commissioner: Robert London Smith, M.D. Date: 3/19/84
Agency: Department of Health & Social Services

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

SB

4466

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 466
Title: An Act Relating to Leases by the State
Sponsor: Bennett, Sackett, et al
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Division of General Services & Supply
BRU, Program or Subprogram(s) Affected: Leasing & Facilities

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0- *
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

*NOTE: Although indicated fiscal impact is -0-, there may be some increase in costs due to Lessor's increased exposure to risk.

ANALYSIS: Attach a separate page for analysis

Prepared By: Anselm Staack A. Staack Phone: 465-2200
Division: General Services & Supply Date: 3-36-84

Approved by Commissioner: Lisa Rudd Date: 3/27/84
Agency: Administration

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Fiscal Note / Admin 3/27/84

SB 466 SENATE JOURNAL - PAGE 2042- 1 2/13/84

SENATE BILL NO. 466 by Senators Bennett, Sackett, Kerttula, Eliason, Faiks, Moss, Mulcahy, Sturgulewski, Pettyjohn and Halford, entitled:

"An Act relating to leases by the state; and providing for an effective date."

was read the first time and referred to the State Affairs Committee and the Finance Committee.

SB 466 SENATE JOURNAL - PAGE 2632- 2 4/ 4/84

The State Affairs Committee considered SENATE BILL NO. 466 (leases by the state; efd) and recommended it be replaced with

CS FOR SENATE BILL NO. 466 (SA)

with a majority do pass. The report was signed by Senator Vic Fischer, Chairman and concurred in by Senators Kelly, Sturgulewski and Rodey.

Department of Administration fiscal note prepared by Anselm Staack, dated March 26, is zero with note "Although indicated fiscal impact is -0-, there may be some increase in costs due to Lessor's increased exposure to risk."

SENATE BILL NO. 466 was referred to the Finance Committee.

SB 466 SENATE JOURNAL - PAGE 2763- 2 4/18/84

Senator Bennett, Co-Chairman, moved and asked unanimous consent that the Finance Committee referral be waived on SENATE BILL NO. 466 (leases by the state; efd). Without objection, it was so ordered.

SENATE BILL NO. 466 was referred to the Rules Committee.

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

TO: House State Affairs Committee Members

FROM: Roger Poppe, Committee Aide

DATE: May 14, 1984

SUBJECT: CSSB 466 (am)

There is a companion bill for this Senate Bill: HB 686, sponsored by Adams, et alli, passed through House State Affairs Committee and is currently in House Finance.

The original Senate version, SB 466, has gone through numerous changes. The legislative approval for all leases over $12,000 annually was thought to be much too low, as it would involve annual approval of over 400 leases. With a limit of $250,000, this would be reduced to 18 leases. With a limit of $1,000,000 there are only 4 leases. Even these 4 would be "grandfathered" in under line 28, page 1 of CSSB 466 (SA) am. Additionally, the Anchorage Complex is a lease-purchase agreement that would be exempted under lines 2-4, page 2 of the bill.

Apparently, the state is doing lease-purchase agreements currently with items like its computer equipment, for example. However, this legislation would, if passed, be first-time legislation for the state with lease-purchase involving land.

There are other proposals in the hopper this session dealing with lease-purchase of land. The Anchorage Court Building leasing would not fall under this bill, as it is also being exempted under a separate authorization through CSHB 653 (Fin) by Hayes, et alli. The various bills dealing witha proposed Legislative Hall are also lease-purchase agreements that have been proposed, and would fall under CSSB 466 (am).

Under lease-purchase agreements, the state would lease land to a private developer to build a facility on the land, and then the state would lease the facility from the developer with an option to buy. As an alternative to this and other bills, the Governor's Office has proposed SB 547, which would in effect authorize ASHA to do this instead of a private developer.

This bill attempts to be much more comprehensive in its approach and philosophy than the other bills mentioned above; it would require all lease-purchases by the state in excess of $1,000,000 to be re-approved annually by the legislature (unless exempted specifically). It has a zero fiscal note and State Affairs Committee is the only referral besides Rules.

Courts want $60 million from ASHA bonds

by David Postman
Times Writer

Alaska Court System officials are taking a new approach in their attempt to fund a $60 million expansion project for Anchorage's courthouse.

Art Snowden, court administrator, said a bill introduced by Gov. Bill Sheffield would authorize the Alaska State Housing Authority to issue bonds for construction of the courthouse annex on Fourth Avenue between H and I streets. After construction the state would lease the building from the housing authority.

Sheffield's proposal would fund 12 projects, including a $110 million office building in Anchorage, a $75 million Capitol building in Juneau and a $30 million mental health facility in Fairbanks. The plan has come under fire from lawmakers who maintain using the bonds would be too expensive and perhaps unconstitutional.

If legislators do not like the lease arrangement, "they can go find me $60 million" cash for the project, Snowden said. The 25,000-square-foot expansion is "desperately needed," he said. The state has been trying to secure funding for the project for almost five years.

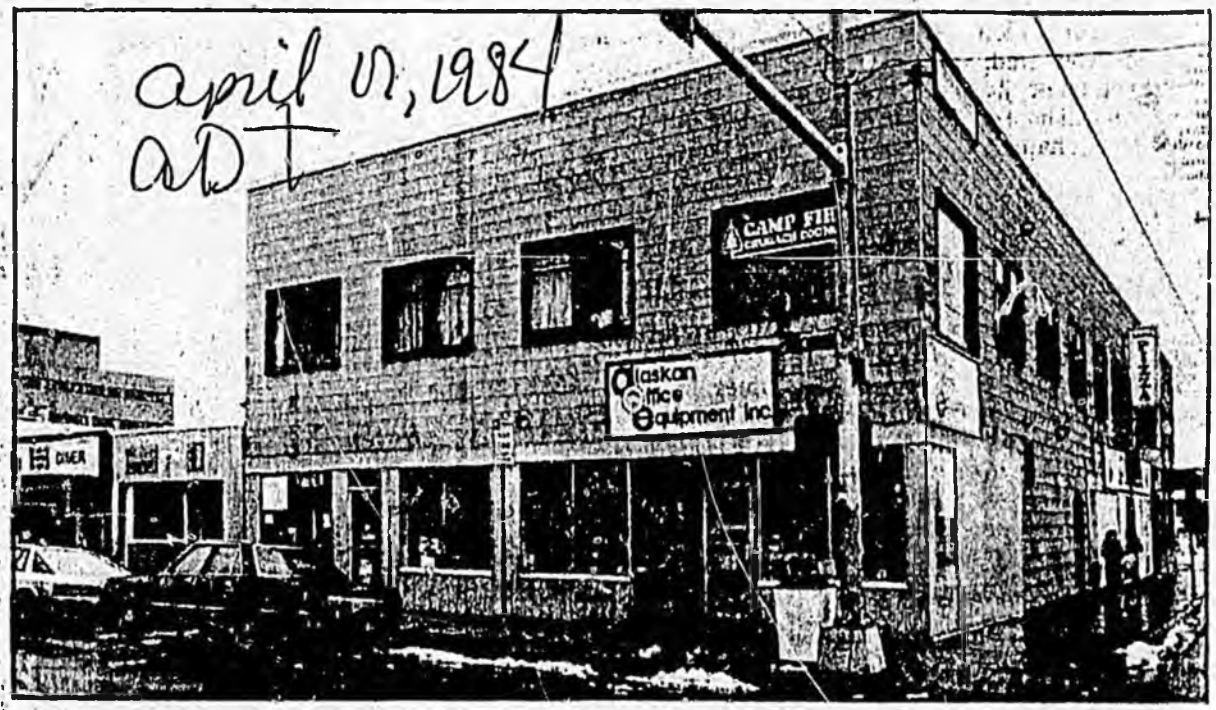
If the bonding plan is approved this year, Snowden said the project could be completed as early as spring of 1985.

Businesses on the block — including Legal Pizza, the Fourth Avenue Diner and several gift shops — will be torn down to make way for the project. The businesses lease the sites from the state on a monthly basis.

The state battled historic preservationists over whether to demolish the Lathrop Building, one of Anchorage's earliest commercial buildings, at the corner of Fourth Avenue and H Street. A recent decision by the Anchorage Assembly cleared the way for the state to tear down the building. The court system was directed to provide retail space along Fourth Avenue in the expansion project.

Supporters of restoring the Lathrop Building at its present site maintain the building is historically significant and rehabilitation is commercially feasible. The Anchorage Historic Landmarks Preservation Commission has estimated restoration of the 67-year-old building would cost $2 million.

Snowden said the court system would donate the building to any group that wants to restore it at another site. But Ty L. Dilliplane, state Historic Preservation officer, wrote last year, "I strongly recommend that every possible consideration be given to retaining the structure at its present and original location. Moving the building to a new site could damage it and would, in all probability, place it in an urban context having no historical connection to the building itself."



The Lathrop Building, one of the city's oldest buildings, is on the spot where the court system hopes to build

Dorie Clark, a local real estate broker, approached the state about acquiring the Lathrop Building to restore it at its present site. Clark heads a partnership that is moving and restoring the historic Club 25 this summer. Club 25 will be moved, restored and opened for commercial use without any municipal financial assistance.

Clark said the Lathrop Building has more commercial potential than Club 25. "It will be a real loss to the community" if the Lathrop Building is torn down, she said, adding people do not realize the building has historic significance because the original wooden tongue and groove siding has been covered up with asbestos shingles.

The building is on the National Register of Historic Places. But Mike Carberry, an historian with the city planning department, said the register does not protect the building from being demolished or moved.

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

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JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

MEMORANDUM

TO: State Affairs Committee Members

FROM: Roger Poppe, Committee Aide

DATE: May 6, 1984

SUBJECT: CSSB 466 (am); leases in effect on state buildings

Attached is a copy of a computer print-out dated 2/07/84, which is a 7-page list of all current state of Alaska building and property leases with an annual cost of $250,000.00 or more. There are 18 such leases in all.

We do have available as back-up for the Committee a second list of some 132 pages, which lists some 414 leases which range in cost from 0 to $250,000.00 a year. It's length kept us from printing it in it's entirety for the Committee.

Also attached is a list of state of Alaska leases with an annual cost of $1,000,000.00 or more (which is also contained in the 7-page list above).

EXPLANATION OF COLUMN HEADINGS LEASING REPORT

LEASE NO. — First 4 digits are lease #. A letter following the 4 digits indicates a subsidiary lease.

LESSOR'S NAME AND ADDRESS — Lines 1 and 2 are Lessor's Name.
Lines 3 and 4 are Lessor's mailing address.
Line 5 is Zip Code; Line 6 is telephone #.
Lines 7 thru 10 are location of lease property.

SVC — Type of service included in cost of lease:

H = Heat	C = Clearance of snow
E = Electricity	S = Sewer
W = Water	P = Parking
J = Janitorial	T = Trash

DATES
Expire: Expiration date
Review: Review date for renewal
Adjust: Lease cost adjustment due date

MON — Not applicable @ this time.

TAX I.D. — Tax identification # for federal tax reporting.

PUR. AGENT — Initials of purchasing agent for state.

RENEW OPTIONS
1st # is # of renewal options available
2nd # is length of options (in years)

TYP SPC — Type of space paid for in lease

O = Office	I = Inside storage	T = Trailer pad
C = Clinic	S = Storage, Other	G = Ground (land)
L = Lab	P = Parking	E = All else
M - Maintenance	H = Housing, employee	

FEET/ACRES — # of square feet or acres leased

COST/SQ. FT. — Cost per square foot (in dollars)

MONTHLY COST — Monthly cost of space

LEASE NO.	LESSOR'S NAME AND ADDRESS	SVC	DATES	MON	TAX I.D.	PUR. AGENT	RENEW OPT'N	TYP SPC	FEET/ ACRES	COST/ SQ.FT.	MONTHLY COST
1106	ROBERT BANNON	H	EXPIRE: 12 27 86	N		ADP	5/01	0		.000	.00
	INVESTMENT BROKERS OF AK	E								.000	.00
	3080 N. STREET	W	REVIEW: 86							.000	.00
	SUITE 111	J								.000	.00
	ANCHORAGE AK 99501		ADJUST: 7 84							.000	.00
	000-0000	S								.000	.00
			PUBLIC SAFETY							.000	.00
		T	ANCHORAGE							.000	.00
	DOWLING									.000	.00
	SUB.									.000	.00
	ANCHORAGE AK 00000									.000	.00
					*LEASE TOTAL				154,000		24,435.27
1188	CHARLES BLOMFIELD	H	EXPIRE: 12 31 84	N	04215700331	AWB		0	25,415	1.206	30,650.49
	CHAS. BLOMFIELD & ASSOC.	E								.000	.00
	528 N. ST	W	REVIEW: 8 84							.000	.00
		J								.000	.00
	ANCHORAGE AK 99501	C	ADJUST: 1 84							.000	.00
	279-7416	S								.000	.00
		P	REVENUE							.000	.00
		T	ANCHORAGE							.000	.00
	201 EAST									.000	.00
	9TH AVE									.000	.00
	ANCHORAGE AK 00000									.000	.00
					*LEASE TOTAL				25,415		30,651.23
1201	BLOMFIELD & ASSOCIATES	H	EXPIRE: 10 14 84	N	920048640	AWB	3/01	0	25,404	1.297	32,948.99
	BLOMFIELD & ASSOCIATES	E								.000	.00
	528 N ST.	W	REVIEW: 84							.000	.00
		J								.000	.00
	ANCHORAGE AK 99501	C	ADJUST: 10 84							.000	.00
	279-7416	S								.000	.00
		P	HEALTH AND SOCIAL SERVICES							.000	.00
		T	ANCHORAGE							.000	.00
	GAMBLE &									.000	.00
	4TH AVE.									.000	.00
	ANCHORAGE AK 00000									.000	.00
					*LEASE TOTAL				25,404		32,949.22

LEASE NO.	LESSOR'S NAME AND ADDRESS	SVC	DATES	MON	TAX I.D.	PUR. AGENT	RENEW OPT'N	TYP SPC	FEET/ ACRES	COST/ SQ.FT.	MONTHLY COST
1444	CAPITAL OFFICE PARK	H	EXPIRE: 6 30 87	N	911142838	JMD	2/05	0	35,500	2.300	81,650.00
	CAPITAL OFFICE PARK	E								.000	.00
	157 YESLER WAY	W	REVIEW: 87							.000	.00
	SUITE 609									.000	.00
	SEATTLE WA 98104		ADJUST: 7 84							.000	.00
	206-624-0351	S								.000	.00
		P	FISH AND GAME					P		.000	.00
	F&G HEADQTRS.		JUNEAU							.000	.00
	WEST 8TH									.000	.00
	STREET									.000	.00
	JUNEAU AK 99801									.000	.00
					*LEASE TOTAL				35,500		85,078.39
1445A	THE BLOMFIELD CO.	H	EXPIRE: 10 14 90	N		AWB	5/02	0	47,920	1.125	53,910.00
	BLOMFIELD COMPANY, THE	E								.000	.00
	528 N STREET	W	REVIEW: 6 90							.000	.00
		J								.000	.00
	ANCHORAGE AK 99501	C	ADJUST:							.000	.00
	279-7416	S								.000	.00
			LABOR							.000	.00
		T	ANCHORAGE							.000	.00
	3301 EAGLE									.000	.00
										.000	.00
	ANCHORAGE AK 00000									.000	.00
					*LEASE TOTAL				47,920		53,918.65
1504	CBS REAL ESTATE CO. INC	H	EXPIRE: 8 31 84	N		ADP	5/01	0	39,151	1.948	76,266.15
	CBS REAL ESTATE CO. INC.	E								.000	.00
	3351 ARCTIC	W	REVIEW: 4 84							.000	.00
	BOULEVARD	J								.000	.00
	ANCHORAGE AK 99503		ADJUST: 7 84							.000	.00
	337-1548	S								.000	.00
		P	NATURAL RESOURCES							.000	.00
		T	ANCHORAGE							.000	.00
	555 COR-									.000	.00
	DOVA ST.									.000	.00
	ANCHORAGE AK 00000									.000	.00
					*LEASE TOTAL				39,151		76,261.45

LEASE NO.	LESSOR'S NAME AND ADDRESS	SVC	DATES	MON	TAX I.D.	PUR. AGENT	RENEW OPT'N	TYP SPC	FEET/ ACRES	COST/ SQ.FT.	MONTHLY COST
1509	ALASKA NAT BANK OF NORTH	H	EXPIRE: 10 31 84	N		AWB	2/01	O	12,000	1.950	24,375.00
	AK NAT'L BANK OF NORTH	E								.000	.00
	P.O. BOX 60730	W	REVIEW: 84							.000	.00
	HARRY REIMER	J								.000	.00
	FAIRBANKS AK 99706		ADJUST: 10 83							.000	.00
	000-0000	S								.000	.00
		P	NATURAL RESOURCES					P		.000	.00
	AK BANK OF THE	T	FAIRBANKS							.000	.00
	NORTH									.000	.00
	794 UNIVER									.000	.00
	FAIRBANKS AK 00000									.000	.00
						*LEASE TOTAL			10,000		24,375.00
1511	RICHARD W. FISCHER	H	EXPIRE: 7 31 90	N		AJB	1/05	O	52,416	1.147	60,121.15
	FISCHER STRAND INVEST.	E								.000	.00
	C/O P.O. BOX	W	REVIEW: 3 90							.000	.00
	24407									.000	.00
	SEATTLE WA 98124	C	ADJUST: 7 84							.000	.00
	272-6422	S						S	9,450	.000	.00
		P	FISH AND GAME					P		.000	.00
	FISCHER BLDG.	T	ANCHORAGE							.000	.00
	RASPBERRY									.000	.00
	INDUST.PAR									.000	.00
	ANCHORAGE AK 00000									.000	.00
						*LEASE TOTAL			61,866		60,134.12 S
1516	THE BLOMFIELD CO.	H	EXPIRE: 12 31 91	N		AJB		O	14,550	1.463	21,286.65
	BLOMFIELD COMPANY, THE	E								.000	.00
	2518 E TUDOR	W	REVIEW: 91							.000	.00
	SUITE 110	J								.000	.00
	ANCHORAGE AK 00000	C	ADJUST: 7 84							.000	.00
	272-1920	S								.000	.00
			ADMINISTRATION							.000	.00
		T	ANCHORAGE							.000	.00
	LOT 3B									.000	.00
	BLOCK 3									.000	.00
	ANCHORAGE AK 00000									.000	.00
						*LEASE TOTAL			14,550		21,282.68

LEASE NO.	LESSOR'S NAME AND ADDRESS	SVC	DATES	MON	TAX I.D.	PUR. AGENT	RENEW OPT'N	TYP SPC	FEET/ ACRES	COST/ SQ.FT.	MONTHLY COST
1532	RESOLUTION TOWERS	H	EXPIRE: 9 24 87	N		AWB	5/01	O	31,345	2.140	67,078.30
	RESOLUTION TOWERS	E								.000	.00
	1341 FAIRBANKS	W	REVIEW: 5 87							.000	.00
	STREET	J								.000	.00
	ANCHORAGE AK 99501	C	ADJUST: 7 84							.000	.00
	276-4470	S								.000	.00
		P	LAW					P		.000	.00
	RESOLUTION TWR	T	ANCHORAGE							.000	.00
	1031 WEST									.000	.00
	4TH AVENUE									.000	.00
	ANCHORAGE AK 99501							E		.000	.00
					*LEASE TOTAL				31,345		44,450.70 Q
1535A			EXPIRE: 9 30 85	N		AWB	4/01	O	30,719	2.257	69,332.78
	FRONTIER BUILDING, THE									.000	.00
	12400 SE 38TH		REVIEW: 7 84					L		2.257	.00
	STREET									.000	.00
	BELLEVUE WA 99501		ADJUST: 7 84							.000	.00
	206-643-1010									.000	.00
			HEALTH AND SOCIAL SERVICES					P		.000	.00
	FRONTIER BLDG.		ANCHORAGE							.000	.00
	3601"C"ST.									.000	.00
										.000	.00
	ANCHORAGE AK 99503									.000	.00
					*LEASE TOTAL				30,719		69,333.00
1535D			EXPIRE: 9 30 85	N		AWB	4/01	O	19,213	2.257	43,363.74
	FRONTIER BUILDING, THE									.000	.00
	12400 SE 38TH		REVIEW: 7 84							.000	.00
										.000	.00
	BELLEVUE WA 98006		ADJUST: 7 84							.000	.00
	206-643-1010									.000	.00
			MILITARY AFFAIRS							.000	.00
	FRONTIER BLDG.		ANCHORAGE							.000	.00
	3601"C"ST.									.000	.00
										.000	.00
	ANCHORAGE AK 99503									.000	.00
					*LEASE TOTAL				19,213		43,364.38

LEASE NO.	LESSOR'S NAME AND ADDRESS	SVC	DATES	MON	TAX I.D.	PUR. AGENT	RENEW OPT'N	TYP SPC	FEET/ ACRES	COST/ SQ.FT.	MONTHLY COST
1535F			EXPIRE: 9 30 85	N		AWB	4/01	0	16,664	2.257	37,610.65
	FRONTIER BUILDING, THE									.000	.00
	12400 38TH ST.		REVIEW: 7 84							.000	.00
										.000	.00
	BELLEVUE WA 98006		ADJUST: 7 84							.000	.00
	206-643-1010									.000	.00
			COMMERCE							.000	.00
	FRONTIER BLDG.		ANCHORAGE							.000	.00
	3601"C"ST.									.000	.00
										.000	.00
	ANCHORAGE AK 99503									.000	.00
					*LEASE TOTAL				16,664		37,611.21
1535G			EXPIRE: 9 30 85	N		AWB	4/01	0	54,239	2.257	122,417.42
	FRONTIER BUILDING, THE									.000	.00
	12400 38TH ST.		REVIEW: 7 84							.000	.00
										.000	.00
	BELLEVUE WA 98006		ADJUST: 7 84							.000	.00
	206-643-1010									.000	.00
			NATURAL RESOURCES							.000	.00
	FRONTIER BLDG.		ANCHORAGE							.000	.00
	3601"C"ST.									.000	.00
										.000	.00
	ANCHORAGE AK 99503									.000	.00
					*LEASE TOTAL				54,239		122,419.22
1607	THE BLOMFIELD CO.	H	EXPIRE: 6 13 87	N		SAS	2/01	0	59,463	1.970	117,142.11
	BLOMFIELD COMPANY, THE	E								.000	.00
	528 N STREET	W	REVIEW: 87							.000	.00
		J								.000	.00
	ANCHORAGE AK 99501	C	ADJUST: 6 84							.000	.00
	279-7416	S								.000	.00
		P	LABOR					P		.000	.00
	BLOMFIELD BLDG	T	JUNEAU							.000	.00
	1107 W 8TH									.000	.00
	STREET									.000	.00
	JUNEAU AK 99801									.000	.00
					*LEASE TOTAL				59,463		117,118.33

LEASE NO.	LESSOR'S NAME AND ADDRESS	SVC	DATES	MON	TAX I.D.	PUR. AGENT	RENEW OPT'N	TYP SPC	FEET/ ACRES	COST/ SQ.FT.	MONTHLY COST	
1627	GOLDBELT ENTERPRISE MGT	H	EXPIRE: 6 30 87	N		FAB	1/05	O	40,889	2.200	89,955.80	
	GOLDBELT ENTERPRISE MGT.	E								.000	.00	
	1000 HARBOR	W	REVIEW: 85							.000	.00	
	WAY	J								.000	.00	
	JUNEAU AK 99801	C	ADJUST: 7 85							.000	.00	
	586-6244	S								.000	.00	
		P	EDUCATION					P		.000	.00	
	GOLDBELT PLACE	T	JUNEAU							.000	.00	
	WEST 10TH									.000	.00	
	GLACIER									.000	.00	
	JUNEAU AK 99801									.000	.00	
					*LEASE TOTAL				40,889		89,955.80	A
1801	KENAI NATIVE ASSOC.		EXPIRE: 6 30 86	N		AWB	17/01	O		.000	.00	
	KENAI NATIVE ASSOC.									.000	.00	
	P.O. BOX 1210		REVIEW: 86							.000	.00	
										.000	.00	
	KENAI AK 99611		ADJUST:							.000	.00	
	000-0000							S		.000	.00	
			HEALTH AND SOCIAL SERVICES							.000	.00	
			KENAI					H		.000	.00	
	NE1/2 SEC									.000	.00	
	25 TNSHP 6									.000	.00	
	KENAI AK 00000							E		.000	.00	
					*LEASE TOTAL				108,572		32,571.60	
1814	AK PACIFIC UNIVERSITY	H	EXPIRE: 12 31 86	N		AWB	5/01	O	17,850	1.740	31,059.00	
	ALASKA PACIFIC UNIVERSIT	E								.000	.00	
	C/O SCHWAMM	W	REVIEW: 8 86							.000	.00	
	540 L ST #205	J								.000	.00	
	ANCHORAGE AK 99501	C	ADJUST: 7 85							.000	.00	
	276-1007	S						S	1,400	.550	770.00	
			COMMUNITY AND REGIONAL AFFAIRS							.000	.00	
	4TH FLOOR OF	T	ANCHORAGE							.000	.00	
	ALASCOM									.000	.00	
	949 E 36TH									.000	.00	
	ANCHORAGE AK 99503									.000	.00	
					*LEASE TOTAL				19,250		31,829.00	

LEASE NO.	LESSOR'S NAME AND ADDRESS	SVC	DATES	MON	TAX I.D.	PUR. AGENT	RENEW OPT'N	TYP SPC	FEET/ ACRES	COST/ SQ.FT.	MONTHLY COST
							***GRAND TOTAL		794,160		997,740.05

18 LEASES

STATE OF ALASKA LEASES WITH AN ANNUAL COST OF $1,000,000.00 OR MORE

LEASE #	LESSOR NAME	LEASE ADDRESS	SQ. FT.	ANNUAL COST
1444	CAPITAL OFFICE PARK (TAKU Twin Bldg)	WEST 8TH STREET JUNEAU, AK.	35,500	$ 1,020,940.71
1535	FRONTIER BUILDING	3601 C STREET ANCHORAGE, AK.	135,019	$ 3,628,318.80
1607	BLOMFIELD CO.	1107 W. 8TH STREET JUNEAU, AK.	59,463	$ 1,405,419.96
1627	GOLDBELT ENTERPRISE MGT.	WEST 10TH STREET JUNEAU, AK	40,889	$ 1,079,469.60

FEB 03 1984

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM February 3, 1984

SUBJECT: Legislative approval of lease agreements

TO: Senator John Sackett
Chairman, Senate Finance Committee

FROM: Billy G. Berrier BGB
Director
Division of Legal Services

You have asked whether there is a requirement that the legislature approve lease agreements entered into by the state and a municipality whereby the municipality finances an improvement by revenue bonds and the state enters into a long term lease adequate to retire the bonds.

Approval is required by AS 37.05.280 when the lease requires annual payments in excess of $12,000. That statute reads:

> Sec. 37.05.280.
>
> Leases.
>
> The department shall lease necessary space, and contract for the lease of space for the use of the state or an agency of the state, wherever it is necessary and feasible, subject to compliance with the requirements of AS 37.05.220 - 37.05.280. No lease or contract for a lease may provide for a period of occupancy greater than 40 years. An agency of the state requiring office, warehouse or other space shall lease the space through the department. No contract or lease executed after January 1, 1966, which provides for a payment or payments by the state in excess of $12,000 annually is valid unless the use of the space to be provided for by such contract or lease has been expressly approved by the legislature by concurrent resolution.

However on the basis of State v. A.L.I.V.E. Voluntary 606 P.2d 769, which invalidated annulment of regulations by concurrent resolution, and on the prohibition of special and local legislation contained in Sec. 19, Article II of the Constitution of the State of Alaska the Superior Court for the First Judicial District in Juneau in 1981 held this statute unconstitutional. (Marine View Tenants Association V. A.S.H.A. Court case no. 1JU-80-1037 Civ)

The case was not appealed so there is no definitive Supreme Court decision on the point. Nevertheless this decision casts grave doubts on the constitutionality of the statute.

BGB:ojb
J3/045

MEMORANDUM State of Alaska

TO: Gordon S. Harrison
Associate Director
Office of Management and Budget
Division of Strategic Planning

DATE: March 21, 1984

FILE NO: 84B-11

TELEPHONE NO: 465-3568

FROM: Richard Emerman RE
Manager

SUBJECT: Leasing, Bonds, and Cash

Various leasing arrangements are being considered to finance the construction of certain State facilities; for example, the proposed maximum security prison and the proposed Anchorage State Office Building. A number of questions have been raised as a result:

- What are these financing mechanisms and how do they work?
- In what way and to what extent do they resemble G.O. debt?
- Do these mechanisms result in more or less cost to the State than G.O. bond financing or cash acquisition?

These questions are explored in the discussion below. A general description and comparison of the major types of leasing arrangements is followed by a brief discussion of their similarity to debt. The question of relative cost to the State is then addressed beginning with a brief discussion of cash acquisition versus G.O. bond financing, followed by a cost comparison among leasing and bonding alternatives for two specific cases: the proposed maximum security jail and the proposed Anchorage State Office Building.

Lease-Purchase Agreements and Lease Revenue Bonds

In the world of government finance, a lease-purchase agreement is also referred to as a "tax-exempt lease," and is essentially equivalent to an installment purchase of a capital good. At the end of the schedule of lease payments, the lessee can acquire the good for a nominal price, e.g., one dollar. Like all installment purchases, the sum of the installments is greater than the "cash up front" price, since the payment schedule incorporates an interest rate. The interest component of the "lease payments" is identified in the original lease-purchase agreement, and is considered tax-exempt income to the lease payment recipients. This is because the IRS considers the "installments" or "lease payments" analogous to debt service on municipal bonds, the interest component of which is exempt from Federal income taxes.

A lease-purchase agreement used to finance large capital structures can be broken into shares called "certificates of participation." Typically, a financial intermediary such as a bank sells the certificates of participation (CPs) to private investors, and the proceeds of the sale are used to finance project construction. The certificates are rated securities, and entitle the holders to receive specified portions of the lease payments over the term of the agreement. The interest component of the lease payments constitutes tax-exempt income to the CP holders.

The lessor in a lease-purchase agreement can be a private developer. In that event, the developer would not secure debt at taxable interest rates in order to finance construction, but would instead be likely to sell the lease-purchase agreement to one or more investors seeking tax-exempt income. The developer would use the proceeds from the sale to finance construction, and assign receipt of the ensuing lease payments to the investors.

Since lease-purchase agreements are essentially equivalent to installment sales, the "lessee" is considered the owner of the property for Federal tax purposes at the inception of the lease and throughout its term. Since the lessee in our case would be the State, and since the State pays no Federal income tax, there is no way under this arrangement to capture any benefit from the use of depreciation or applicable investment tax credits. These benefits are relevant only through the mechanism of a "true lease," discussed later in this memo.

A tax-exempt revenue bond secured by a State lease is sometimes called a "lease revenue bond." In concept, these are analogous to lease-purchase agreements. In either case, financing for a capital project is obtained at tax-exempt interest rates, with repayment to creditor(s) secured by a long-term lease that is contingent on annual appropriations by the Legislature. The interest rates required by investors are comparable for either instrument, and are somewhat higher than G.O. bond rates due to the added risk implied by the "contingent on appropriation" clause. Underwriting spread is also comparable for lease-purchase and revenue bond financing, and in either case is more costly to the State than it is for G.O. bond financing.

There are various reasons why states might consider using these alternatives instead of G.O. bonds. Revenue bonds are often used as a way to ensure that project beneficiaries pay for the capital cost of a facility through user fees that are pledged to the payment of debt service. However, that purpose is not relevant when the bonds are secured by a State lease that will be paid with the State's unrestricted revenue. Some governments operate under the restriction of legal limits on G.O. debt,

which can be avoided (for better or worse) by resort to these financing techniques. The State of Alaska, however, does not have such a limit on the books. The State does have a limited debt capacity -- if too much debt is issued, the State's bond rating will fall and higher interest rates will result. However, the rating agencies consider lease revenue bonds and lease-purchase agreements in determining the State's remaining debt capacity (see Attachment A: letter to Milt Barker from Standard and Poor's Corporation). The State does not conserve its debt capacity by using these financial instruments.

The effective interest rates for G.O. bonds will always be lower than comparable revenue bond rates. However, revenue bonds can result in certain compensating cost savings, such as avoidance of referendum cost (i.e., the cost of placing a bond proposition before the voters) and possibly some portion of construction cost if the revenue bond mechanism results in time savings (i.e., if there is real inflation in construction costs, and construction can begin sooner by not having to wait for the next general election). In addition, reserve fund requirements applicable to lease revenue bonds may result in the realization of arbitrage income (by investing the reserve fund at taxable interest rates), thus lowering the net cost of debt service. It is commonly assumed, however, that G.O. bond financing will be less costly to the issuer than lease revenue bond financing, an assumption that will be examined in more detail later in this memo.

Why else would the State consider using lease revenue bonds instead of G.O. bonds? There appear to be two basic reasons:

1. There is an unwillingness to accept the risk of rejection of a G.O. bond proposition by the Legislature or by the voters.

2. There is an emergency situation that requires faster response than the G.O. bond process allows.

Since lease-purchase agreements (or tax-exempt leases) are so closely analogous to lease revenue bonds, the reasons for preferring one to the other are not clear. There might be technical considerations in any specific case (such as the availability of an appropriate intermediary) that would tend to favor one option over the other.

<u>True Leases</u>

In a true lease, the lessor maintains ownership of the property throughout the lease and may take advantage of depreciation and

applicable investment tax credit benefits. These benefits can be passed along to the lessee.

If these benefits are to be realized then the lessor must be a tax-paying entity, which would typically rely on taxable debt for its own financing (unless industrial development bonds can be obtained for a particular project). As a result, the required lease payments under a true lease usually must be high enough to cover the lessor's taxable debt service with its higher interest rates. Although such interest is tax deductible to the private lessor, this is offset by the fact that the lease payments constitute fully taxable income to the lessor (i.e., there is no "tax-exempt interest component" of a lease payment made under a true lease).

In addition, the IRS will not permit the lessor to take advantage of depreciation and investment tax credits during the term of the lease and then sell the property to the lessee for a nominal price at the end of the lease. Such sale at a nominal price would indicate that the "lease" was equivalent to an installment purchase all along. A consequence of true leasing is that the lessee cannot acquire the property for less than its market value at the end of the lease. If the property were an office building which the State planned to occupy indefinitely, a true lease arrangement would require either that the State purchase it at market value after the initial lease term, or continue leasing the space after its initial construction cost had been paid off.

In general, the following considerations are important in evaluating the merits of true lease financing:

1. What is the current spread between the interest rates payable on tax-exempt and taxable debt? This differential changes over time in response to various factors, including tax laws and the supply and demand for each type of debt instrument. In addition, interest rates on taxable debt are particularly subject to variation depending on the type of project being financed and the relative ease of finding alternate users should the State pull out of the lease. One would expect that the spread between taxable and tax-exempt rates would be greater for a prison than for an office building in downtown Anchorage. True lease financing becomes more attractive as the size of the spread decreases.

2. Can the private developer obtain financing through tax-exempt industrial development bonds (IDBs)? Presently, Federal regulations allow issuance of IDBs in excess of $10 million for various specific types of structures, including sports arenas, convention centers, airports,

docks, and several others. However, neither prisons nor office buildings appears on the list. The use of IDBs has come under increasing scrutiny by Congress, particularly as it contemplates ways to reduce the Federal budget deficit. Legislation has been proposed that would severely curtail the issuance of IDBs.

3. Can the private developer make full use of depreciation tax deductions? If the developer does not make a profit in a particular year, those benefits cannot be realized for that year. Will Federal law continue to allow the developer to use accelerated depreciation, or will another method such as straight-line depreciation over a greater number of years be required in the future as has been recently proposed in Congress?

4. Can the investment tax credit (ITC) be used to significant advantage for the project under consideration? The ITC is most significant when the project involves the rehabilitation of an historic structure. Public entities owning such structures have sometimes entered into sale-leaseback arrangements with private firms in order to benefit from the ITC. For new construction, however, the ITC is calculated only on equipment purchases and is generally of only marginal benefit.

5. Will a private developer be able to build a particular structure for less cost than the public sector would incur for building the same structure, perhaps due to the operation of efficiency incentives? If so, some of the cost savings might be passed through to the public lessee.

6. Private property owners are subject to payment of local real estate taxes while public owners are not. The added cost of such taxes constitutes a financial penalty under the true lease alternative. However, if a public owner (e.g., the State) were to make payments to a municipality in lieu of property taxes (e.g., higher revenue sharing), this financial advantage of public ownership would be lost.

7. Under a true lease, the lessee cannot acquire the property at the end of the lease for less than its fair market value. If the State were to plan indefinite occupancy of a facility, it would have to plan either acquisition at such price or indefinite extension of a lease arrangement. There are obviously some problems in estimating the future "market value" of a facility such as a maximum security jail. In general, however, such an estimate is essential to the financial evaluation of a true lease proposal.

8. The interest paid by a private developer can be deducted from the developer's taxable income. However, the rental income received by a private developer under a true lease is fully taxable. These two factors tend to offset each other, but must be explicitly recognized in true lease evaluations.

9. In contrast to lease-purchase agreements or lease revenue bonds, true lease financing does have the advantage of conserving the State's remaining debt capacity. The rating agencies are not likely to consider lease payments made under true leases to be equivalent to debt service obligations. True lease financing can therefore help the State preserve a higher bond rating, though the amount of savings that can be attributed to a specific true lease as a result depends on how important it was in preserving the rating and how much bonding the State undertakes in the future.

Leasing and Debt

Much discussion has taken place on the extent to which leasing resembles debt. Although approval by the Legislature and the voters is necessary before G.O. debt can be incurred, the Executive branch can unilaterally enter into a lease that calls for annual payments over a long term. Such leases always carry the qualification that payment is contingent on annual legislative appropriations, and it is this provision that mainly distinguishes leases from debt. However, for this to be a meaningful distinction, the Legislature must actually be presented with a meaningful annual choice.

To illustrate, assume that a bank sells certificates of participation in a lease to be paid by the State of Alaska, and that the CPs receive an "A" rating by one or more of the rating agencies. The State's name appears on the face of the security. Assume further that the lease is for a facility that would not be used by any other entity; for example, a prison. Even though the certificates state that payment is contingent on annual legislative appropriations, the effect of not appropriating the funds could be severe. Essentially, the investors holding the CPs would now be holding worthless paper with Alaska's name on it. It seems likely that such an event would have a negative impact on the State's credit rating, though there seems to be little consensus as to how serious it would be. If the result were a substantial decline of the State's bond rating along with a jump in the interest rates faced by the State and its subdivisions, the result would be serious indeed. This prospect could force the Legislature to "choose" to appropriate funds for payment of the lease. On the other hand, perhaps the impact of

non-appropriation would be much more tolerable. It is a subject which should be more closely examined.

If the State entered into a true lease with a private developer who obtained private financing at taxable interest rates, then non-payment of the lease would not be likely to affect the State's credit or the credit of any other public entities in Alaska. A key point seems to be: does the name of the State or any of its subdivisions appear on the face of a rated security, and if so, will non-appropriation of a "lease payment" result in the holders of such securities losing their investment? If the answer to these questions is yes, and if the State's credit is seriously affected as a result, then the similarity of leasing and debt for that particular case is striking.

Cash versus G.O. Bonds

The evaluation of cash financing compared, for example, with G.O. bond financing is conceptually difficult. One argument is that Alaska would be financially better off by bonding for capital projects while depositing cash revenues in the Permanent Fund. In so doing, the State would realize earnings at taxable rates of interest while borrowing funds at lower, tax-exempt rates of interest. Ignoring the effect of Permanent Fund dividends (i.e., assuming that the government retained all Permanent Fund earnings), the resulting "arbitrage income" would leave the State financially better off than if cash had simply been paid out to finance capital construction.

However, increases in bonding would probably not, in reality, be accompanied by increases in Permanent Fund deposits or any other type of government saving. It is therefore misleading, one may argue, to assume that earnings at taxable rates of interest constitute an opportunity cost of cash expenditure for capital projects. The available cash will be spent in any event -- bonding for capital projects will simply enable the State to spend more than it otherwise would, increasing future financial obligations in the process.

It does appear that bonding can be said to be "cheaper" than cash only if the cash that is freed up by bonding is invested at a higher rate of return. If the cash that is freed up is simply expended on something else, then it is difficult to see how bonding can serve to improve the State's financial position.

Comparison of Financing Mechanisms -- Maximum Security Jail

Financial advisors to the State from Foster & Marshall/American Express, Inc. (F&M) have provided data that enable rough comparison of certain financing alternatives for the proposed maximum security jail. In the opinion of F&M, the cash flow conse-

quences to the State of the lease revenue bond and lease-purchase alternatives are so nearly the same that they may be considered identical for purposes of rough financial analysis. Thus, one set of figures below reflects the expected costs of either lease revenue bond or lease-purchase financing. The other set of figures displays expected costs for G.O. bond financing. At the bottom of each column are shown the present values of each stream of payments calculated at selected discount rates.

This example incorporates the following assumptions:

1. Construction cost is estimated at $65 million.

2. G.O. bonds would be rated "AA" while revenue bonds or certificates of participation would be rated "A." G.O. bonds receive the higher rating since, unlike the alternatives, they are formally secured by the State's "full faith and credit." In order for the revenue bonds or CPs to receive an "A" rating, the project evaluators must be reasonably certain either that the Legislature will in fact appropriate the necessary funds throughout the term of the lease, or that alternative users of the facility can readily be found with the capacity to assume the lease payments.

3. As a result of these ratings, the interest rate projected for G.O. bonds is estimated to be 75 basis points (.75%) below the rate for revenue bonds or CPs.

4. For each alternative, general fund outlays for debt service (or "lease payments") are scheduled to occur over a ten year period. The ten year schedule is typical of recent G.O. bond offerings by the State of Alaska. Ten years was selected for revenue bonds and CPs simply for comparison purposes, although shorter repayment periods result in significant reduction of the present value of State cost.

5. The analysis assumes that funds are obtained and construction begins in the summer of 1984, with completion of the facility scheduled for the summer of 1986. The revenue bond/lease-purchase alternative assumes that interest would be capitalized for the construction period, with lease payments beginning only after the facility is completed. (This accounts for the zero net debt service shown in the example during the first two years in the lease revenue bond/lease-purchase column.) The present value of State cost is relatively insensitive in this example to whether or not interest is capitalized for the construction period.

6. Repayment of G.O. bonds assumes level principal payments throughout the term, consistent with the State's current practice.

7. Many other assumptions go into and affect the analysis, including estimated rates of return on investment of fund balances. For example, a debt service reserve fund equal to one year's debt service is typically required for the revenue bond or CP alternatives. This reserve fund is maintained by a trustee until the final year of the repayment schedule, and is typically invested at taxable rates of interest in relatively long-term securities. As a result, a certain amount of arbitrage income is earned by the reserve fund, offsetting the State's annual debt service to some extent. (On the negative side, however, the need to borrow more in order to establish a reserve fund uses up more of the State's remaining debt capacity.) Assumptions made on investment of the reserve fund affect the financial attractiveness of the revenue bond/CP alternatives. No reserve fund is required or established for G.O. bonds.

Maximum Security Jail
State Cash Flow Comparison--Net Debt Service [1]
($ Thousands)

Period Ending	Lease-Revenue Bonds or Lease Purchase Agreement	G.O. Bonds
7-1-85	0	7,127
7-1-86	0	9,654
7-1-87	11,180	10,562
7-1-88	11,180	10,122
7-1-89	11,176	9,650
7-1-90	11,179	9,161
7-1-91	11,179	8,659
7-1-92	11,176	8,143
7-1-93	11,177	7,615
7-1-94	11,179	7,074
7-1-95	11,178	
7-1-96	9,890	
Net Present Value:		
8% discount rate	63,795	59,579
9% discount rate	59,923	57,043
12% discount rate	50,021	50,356

[1] Net debt service means debt service (or "lease payments") after allowance for payout of capitalized interest, and after allowance for earnings on fund balances (including capitalized interest fund, debt service reserve fund, and construction fund). In other words, it refers to net general fund expenditure.

For this example, the present value of State cost is about $4.2 million less with G.O. bonds than with the revenue bond/CP alternatives, given an 8% discount rate. The 8% rate is suggested by F&M as perhaps the most meaningful rate, since it roughly approximates the State's cost of funds for G.O. debt. The comparison is sensitive to the selection of a discount rate, however. At 9%, the G.O. bond advantage declines to $2.9 million. Though a 12% discount rate is uncommonly high for public sector evaluation, the present value of State cost discounted at 12% is slightly higher for G.O. bonds than for the revenue bond/CP alternatives. The reason for displaying a 12% discount rate here is simply to point out that not only the magnitude of the result but the result itself can be changed by altering the discount rate.

The result can be changed by modifying other assumptions as well. For example, the effective interest rate payable by the State is reduced as the repayment term is shortened. Theoretically, at 8% and 9% discount rates, the present value of State cost would be less for lease revenue bond or lease-purchase financing than for G.O. bonds if the former were paid off over an accelerated, three-year term while the latter were paid off over a standard, ten-year term. Further, it should be noted that any benefit from time savings obtainable by using lease revenue bond or lease-purchase financing has not been quantified for this comparison.

This leads to the unsatisfying conclusion that generalizations should be avoided. It does appear in this example that, at generally accepted public sector discount rates and standard repayment terms, G.O. bond financing is less costly to the State than the lease revenue bond/lease-purchase alternatives. But these alternatives can be competitive if favorably structured, and therefore should not be rejected for any specific case on financial grounds before the details and possibilities have been checked out.

F&M rejected the true lease alternative for the maximum security jail without doing any detailed cash flow analysis. The primary reasons for rejecting the true lease alternative in this case appear to be as follows:

1. A private developer would not be able to secure tax-exempt industrial development bonds for the project. Since the jail facility would not be readily adaptable to alternative uses if the State pulled out of the lease, the developer would face a higher risk of non-occupancy than would be faced for a general purpose facility. Thus, the developer might have difficulty obtaining financing in the

taxable market, and would probably have to pay an interest rate premium and/or demand higher rentals from the State that reflected the higher risk.

2. The F&M representative placed considerable weight on the standard disadvantage of true leasing that requires either:

   a. the State to pay fair market value for the facility at the expiration of the lease in order to acquire ownership; or

   b. the State to continue leasing the facility indefinitely, long after the initial construction cost has been paid off.

3. There is a question whether the IRS would allow the facility to qualify for true lease tax treatment. If it were classified as limited or special use property that could only be used by the lessee (i.e., the State), then the IRS might consider the arrangement to be essentially a conditional sale and not a true lease.

Comparison of Financing Mechanisms -- Anchorage State Office Building

In early 1983, a financial review of the proposed Anchorage State Office Building was performed by Arthur Young & Company (AY) for the Department of Administration. One purpose of the review was to compare the cost to the State of private (true lease) financing and public (G.O. bond) financing. Arthur Young's conclusion at the time was that G.O. bond financing would be somewhat less costly to the State than private development/true leasing, but that changes in any of several assumptions could tip the balance the other way (see Attachment B: excerpt from AY study). One such assumption was the spread between taxable and tax-exempt interest rates. Another was the probability of construction cost overruns, which would be borne entirely by the State under public financing but by the private developer under private development/financing.

The Department of Administration presently believes that AY's original assumptions should be modified. For example, if the most plausible public financing alternative is revenue bonds issued, perhaps, by ASHA, then the interest rate obtainable for public financing would be somewhat higher than the G.O. bond rate used by Arthur Young. This reduces the spread between the likely public and private interest rates, and makes true leasing more attractive. Overall, the Department believes that current conditions and information warrant the conclusion that State

cost under public or private financing would be roughly the same. In the Department's view, the major reason why private financing is competitive for Anchorage office space but not competitive for a jail facility is that the higher risk of the latter project results in too high a spread between obtainable tax-exempt and taxable interest rates.

There is, however, one other element that has been left out of the Anchorage office building analysis that might be significant. The AY analysis goes out for thirty years and stops without accounting for the cost of continued leasing or acquisition at fair market value. It may be that the present value of such cost thirty years out is too small to affect the analysis. However, it is plausible that the building would be in good condition at that time and constitute a very valuable asset. After the original construction cost had been paid off in thirty years, the true lease alternative would require that the State essentially pay for it again. This aspect of the alternative should be explicitly accounted for in any further comparison of public and private financing of the structure.

Conclusions

1. Lease revenue bond and lease-purchase financing are closely analogous mechanisms with highly similar financial consequences.

2. Typically, G.O. bonds will be less costly to the State than lease revenue bonds or lease-purchase agreements. However, these alternatives might be competitive in specific cases if favorably structured.

3. True leasing is unlikely to be competitive for financing special purpose facilities. It might be competitive for financing general purpose facilities, but does require that continued usage after construction costs have been paid off is possible only through continued leasing or acquisition at fair market value.

4. Bonding or leasing could be considered "cheaper" than cash acquisition only if the cash that would be freed up is invested by the State at higher rates of return.

mm

25 Broadway, New York, New York 10004

ATTACHMENT A

December 29, 1993

RECEIVED
JAN 03 1994
ALASKA DEPARTMENT OF REVENUE
TREASURY DIVISION
JUNEAU

Mr. Milt Barker
Deputy Commissioner
Department of Revenue
11th Floor State Office Bldg.
Pouch, SB
Juneau, Alaska 99811

Dear Mr. Barker:

I would like to respond to your letter of December 13, regarding our views on lease obligations.

Lease Payments are viewed in essentially the same light as debt service on general obligation bonds, regardless of whether the obligation is cancellable due to non-appropriation. In fact, debt obligations secured by lease payments are included in our computations for overall debt burden.

Many states do not consider lease rental debt under debt limitation laws, primarily because legal interpretations view the obligations to pay rent as an annual budget item, and not a long term debt with a continuing appropriation. The fact remains, however, that the debt is still outstanding, and payable for as long as the property is being used by the lessee. While many leases permit non-payment of rent and cancellation of lease obligations, Standard & Poor's would be very concerned about an issuer's general obligation rating, in those cases where leases were cancelled as a ploy to avoid paying debt obligations.

I've enclosed some information regarding our approach to rating lease-rental debt obligations. If you have any further questions, feel free to contact Vladimir Stadnyk or myself at (212) 201-1767.

Very Truly Yours,

Richard P. Larkin
Managing Vice President
Municipal Finance Department

cc: V. Stadnyk
T. Arthur

ATTACHMENT B

(Excerpt from: "Financial Review: Proposed Anchorage State Office Building." Arthur Young & Co., February 1983, pp. 14 - 15.)

C. FINANCING

A question has been raised as to the appropriate approach for financing a proposed new building. Public financing would have generally lower interest rates (approximately 8% based on the most recent State financing versus an assumed 12%, plus 25% of rental increases, for private financing). However, under public ownership and financing, the State would be responsible for paying operating expenses (excluding real estate taxes), would not receive ground rental income, and would not have rental payment obligations.

Discounting appropriate Alternative III revenue, cost and debt service payments to comparative present values at the State's current 8% cost of capital results in the following comparison.

ANCHORAGE STATE OFFICE BUILDING
COMPARISON OF FINANCING COSTS
PUBLIC VS. PRIVATE FINANCING

	(000's) PUBLIC	PRIVATE
Rental	$ -	$295,810
Operating cost, net of RET	86,902	-
Ground lease revenue 1/	-	(34,184)
Debt service cost	144,150	-
Net cost	$231,052	$261,626

1/ Including investment in interior furnishing and equipment.

Private sector funding would thus likely result in higher cost at the currently proposed rental rates. This difference would be affected by:

1. Achieving the $3.25 economic 1986 rental rate. If economic rate is achieved, the present value cost of private sector financing/ownership would be reduced by some $25 million. The two financing alternatives would then have roughly equivalent costs.

2. A change in the relationship of public vs. private sector interest rates. The recent dramatic decrease in State interest costs, used in this analysis, has reduced this expense to less than two-thirds the assumed private sector cost. There is no way readily to determine whether this spread will continue. If it narrows, private sector financing would become less costly.

3. The obtaining of a rental rate for existing space below the indicated $2.25 (or $2.00, if the State's site investment cannot be recovered) in 1983. If this occurs, private sector ownership/financing would become more desireable.

4. A decision by the State to make payments in lieu of real estate taxes. Should this occur, up to $30 million could be added to the cost of public financing.

5. An increase in project construction costs. Because the rental rate under private ownership/financing would presumably be fixed, increased construction costs above estimated levels would adversely affect only the costs of public financing. Should these costs be more than approximately 15% over current estimates, the two financing alternatives would have equal costs.

(3) compile statistics necessary for the budget and other statistics required by the governor. (§ 8 art III ch 82 SLA 1955; am § 5 ch 186 SLA 1957; am § 1 ch 11 SLA 1965)

Article 3. Uniform Purchasing.

Section
220. Purchasing agent
230. Competitive bids
231. Estimation of flying hours required
240. Award of contracts and purchases
250. Delegation of duties
260. Preference for Alaska products
270. Purchases through General Services Administration
280. Leases

Sec. 37.05.220. Purchasing agent. The Department of Administration is the purchasing agent for the state. The department shall

(1) purchase, rent, or otherwise provide for the furnishing of supplies, materials, equipment, or contractual services for all state agencies;

(2) have power to authorize an agency to purchase directly certain specified supplies, materials, equipment, or contractual services under conditions and procedures prescribed in AS 37.05.230;

(3) prescribe the manner in which supplies, materials, and equipment shall be purchased, delivered, stored, and distributed;

(4) prescribe the time, manner, authentication, and form of making requisitions for supplies, materials, equipment, and contractual services;

(5) fix standards of quality and quantity and develop standard specifications after consultation with the several state agencies, and approve or determine final specifications;

(6) have power to transfer to or between agencies or to sell or trade in supplies, materials, and equipment of agencies which are surplus, obsolete, or unused; and the department shall make proper adjustments in the accounts of the agencies concerned;

(7) prescribe the manner of inspecting deliveries of supplies, materials, and equipment and of making tests of samples submitted with bids and samples of deliveries to determine compliance with specifications;

(8) prescribe standard forms for bids and contracts for construction, purchases of supplies, and other purposes, which bids and contracts may contain provisions which the department considers necessary; but all contracts for construction shall require the filing of an acceptable performance bond and a penalty provision for failure to perform the contract according to its terms;

(9) provide for other matters which may be necessary to carry out the provisions of this chapter and the regulations adopted under it. (§ 1 art IV ch 82 SLA 1955; am §§ 6, 7 ch 186 SLA 1957; am § 1 ch 55 SLA 1960)

Sec. 37.05.250. Delegation of duties. The department may delegate the duties imposed by this chapter to an employee of the state normally stationed in a town or location distant from the state capital. Agents so designated shall perform the duties as the department requires and in accordance with regulations established by the department. (§ 5 art IV ch 82 SLA 1955)

Sec. 37.05.260. Preference for Alaska products. This chapter does not modify, amend, or alter AS 36.15.010 and 36.15.020 regarding preference for Alaska forest products, or AS 36.20.010 regarding preference to producers or dealers in Alaska except as provided in AS 37.05.230(1). (§ 6 art IV ch 82 SLA 1955)

Sec. 37.05.270. Purchases through General Services Administration. This chapter does not prevent the department from purchasing through the General Services Administration as provided by law. (§ 7 art IV ch 82 SLA 1955; added by § 11 ch 186 SLA 1957)

Sec. 37.05.280. Leases. The department shall lease necessary space, and contract for the lease of space for the use of the state or an agency of the state, wherever it is necessary and feasible, subject to compliance with the requirements of AS 37.05.220 — 37.05.280. No lease or contract for a lease may provide for a period of occupancy greater than 40 years. An agency of the state requiring office, warehouse or other space shall lease the space through the department. No contract or lease executed after January 1, 1966, which provides for a payment or payments by the state in excess of $12,000 annually is valid unless the use of the space to be provided for by such contract or lease has been expressly approved by the legislature by concurrent resolution. (§ 8 art IV ch 82 SLA 1955; added by § 1 ch 81 SLA 1959; am § 1 ch 94 SLA 1961; am § 16 ch 99 SLA 1965)

Article 4. General Provisions.

Section
290. Purpose
300. Interpretation of chapter
305. Applicability to University of Alaska
310. Fiscal year
315. Grants to municipalities
316. Grants to named recipients
317. Grants to unincorporated communities
318. Further regulations prohibited
325. Definitions for AS 37.05.315 — 37.05.317
400. Definitions for chapter
410. Short title

Sec. 37.05.290. Purpose. The purpose of this chapter is to provide uniform financial procedures for all state agencies with respect to accounting, purchasing, post auditing, and related financial procedures; and to revise financial procedures to obtain economy, efficiency, and integrity in handling public money. (§ 2 art I ch 82 SLA 1955; am § 2 ch 188 SLA 1970)

Alaska State Legislature

Senate Committee on State Affairs
Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

Official Business

LETTER OF INTENT SB 466 (state affairs)

SENATE STATE AFFAIRS COMMITTEE

The legislature has already appropriated over $11,800,000 toward the acquisition of land and other costs associated with the state office complex in Anchorage. The site of the complex has been cleared and condemned, and the state is on the verge of asking for bids for the new facility. In view of past legislative action in appropriating funds, and in view of the progress already made toward the completion of a state office complex in Anchorage, it is the intent of the legislature that the progress on Anchorage office complex is advanced beyond the stage where the additional approval by law or special appropriation as outlined in CSSB 466 (state affairs) is necessary.

Anchorage Office Complex

General Information

The Anchorage Office Complex Developed around four main guidelines. Consolidate Anchorage office space at a location selected by the State, in a building designed to meet the State's requirements while utilizing private financing.

We determined that the best way to accomplish this was for the state to procure the building site, prepare performance specifications, and then bid for developers to design, build, and then lease the required structure to the State. The State would lease the building site to the developer. At the end of the 40 year ground lease the building would revert to State ownership. I've attached brief outlines of the commercial and ground leases.

Dot/Pf has been involved since the beginning. They selected the consultant who prepared the performance requirements, and have reviewed all work to date.

The bid evaluation was divided into two segments. Our consultant would review the bid documents to assure all the basic requirements were met. All bidders meeting the requirements would be evaluated. Forty percent of the evaluation would be based on aesthetic values of the building. A breakdown of the weighting factors is provided in schedule A of the bidding criteria. The evaluation would be performed by a 5 member panel.

After the aesthetic portion was scored the financial sixty percent of the evaluation would be done. This portion would be based on lowest life-cycle cost with that cost being based on rental rates, operating costs and escalation factors provided by the bidders.

The scores for aesthetic and financial segments would be combined, the bid would be awarded, and contracts would be signed.

The structure would include approximately 350,000 net square feet of office space, 60,000 square feet of commercial space, a 1000 car parking garage and enough systems furniture to furnish the office space. The furniture was included for two primary reasons. The space requirements were based on the utilization of systems furniture so if if it were not used we anticipated the need for substantial additional space. Secondly we realized there was little liklihood of securing a capital appropriation for the $12-$14 million necessary to buy the furniture.

At present we are completing the bid package in case there is a determination to return to this approach to procuring the structure. The only revision remaining involves clarifying the calculation of operating costs for the purposes of bid evaluation and completing the lease.

The consultant's "good ball-park" estimate of the cost required to construct a building which meets our performance requirements is $100,000,000 unfurnished, $114,000,000 furnished.

To convert our package from its present private financing to an ASHA financed approach would take approximately thirty working days if all policy decisions could be handled in a timely manner. Neither lease would be required in their present forms. The bid evaluation would be revised to eliminate life-cycle cost calculations as we would expect ASHA to require some form of "triple net lease". Any revisions could be accomplished under our existing contract with our consultant-William J. King and Assoc.

February 1, 1984

ANCHORAGE OFFICE COMPLEX
DATA SHEET

- The Department of Administration currently manages approximately 903,000 sq. ft. of leased and warehouse office space in Anchorage.
- This space is spread among 71 different locations in Anchorage.
- The Anchorage Office Complex will consolidate 37 of those leases into a new facility of approximately 350,000 square feet of usable office space.
- Only offices which are compatible with location in a general office building are to be located in the AOC.
- Specialized functions such as public health labs, animal carcass incinerators, scientific laboratories, computer centers and so forth are not included in the AOC.
- * AOC will be built on state owned land which was jointly selected by the Municipality of Anchorage and the State of Alaska, located between "A" and Cordova and between 5th and 6th Avenue in downtown Anchorage.
- AOC will be built by a private developer using private financing and then leased to the State.
- AOC project documents will permit the developer to include a limited amount of retail space in order to enhance the mixed use potential of the project.
- Approximately 1,000 spaces of on-site parking are required in the project.
- The State anticipates shared use of the parking spaces to support after-hours meetings and cultural events held in the nearby vicinity.

* The site has been condemned and cleared. Not all purchases have been settled

8/RECV/DW.420

December 27, 1983

ABSTRACT OF GROUND LEASE

(State leases its real property to
a developer for purpose of having a
building built upon it for the States use)

- 40 year term, no renewal option
- States's Option: A. Improvements revert to State at termination of lease at no cost; or

  B. State can require removal of improvements from our property at no cost.
- Rental rate for land set by State based on current value (rate unsettled yet)
- To be determined by bid - intent is that States land rental rate is escalated same way as commercial lease
- Land rent owed to State is offset against commercial rent owed to developer
- Developer pays all taxes to appropriate taxing authority
- Requires developer to build the AOC or be in default on the ground lease
- $100 million performance bond
- Liquidated damages set at 1% of annual rent for each day of delayed occupancy
- Developer will maintain the premises
- Major maintenance, repairs, alterations require States approval
- Developer will insure the premises to State requirements
- Lease may be assigned to others with an equal or better financial standing than that of the developer
- Assignment or sublease requires approval of State

8/RECV/DW.3601

December 27, 1983

ABSTRACT OF COMMERCIAL LEASE

(State leases the commercial
office space from the developer)

- 40 year term, no option to renew
- Rental rate for building set by bid process
- Rental rate escalation set by bid process
- Operating cost pass thru set by bid process
- Developer to provide all maintenance, utilities, and services
- State can assign and sublease to others at its discretion
- Developer will keep premises insured to State requirements
- Developer will share proceeds of condemnation
- Developer will periodically renovate premises
- If developer sells or transfers premises to another, the lease shall remain in effect for the new owner

8/RECV/DW.3601

RECD DEC 27 A 9:18
DIVISION OF
GENERAL SERVICES & SUPPLY

Leases in Excess of $1,000,000. — (Rounded)

Jnu (1) Lease #1444 Capitol Office Park Fish & Game

Neg. START: Dec 1, 1981 $1,020,941. = year

B.W.

Firm Through 6/30/82 C.P.I. Annually

Jnu (2) Lease #1607 Blomfield/Holden Labor

Bid #8867 START: July 1, 1982 $1,405,420. year

firm through 6/30/84 C.P.I. Annually

Anch (3) Lease #535 Frontier Bldg. Various

Neg START: Oct. 1, 1982 $3,628,319. year

firm through 6/30/53 Neg. Adj. Annually

Jnu (4) Lease #1627 Goldbelt Entr. Education

Neg. START: Oct. 1, 1982 $1,079,470. — year

firm Through 6/30/85 C.P.I. Annually

Alaska State Legislature
House of Representatives

P.O. BOX 2716
ANCHORAGE, ALASKA 99510
(907) 276-4506

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4939

REPRESENTATIVE JERRY WARD
DISTRICT 13

MEMBER FINANCE COMMITTEE
CHAIRMAN OF SUBCOMMITTEE ON
COMMERCE & ECONOMIC DEVELOPMENT
CHAIRMAN OF SUBCOMMITTEE ON LABOR
MEMBER OF SUBCOMMITTEE ON STATE LOANS

MEMORANDUM

DATE: March 8, 1984

TO: Senator Jan Faiks
Coordinator, Senate Anchorage Caucus

Representative Mae Tischer
Coordinator, House Anchorage Caucus

FROM: Representative Jerry Ward JW

RE: Position Paper and Resolution No. 2

Last week the Anchorage Caucus passed a resolution to ask the Governor to cease and desist building of the Legislative Hall in Juneau without the express permission of the the Legislature and that we wanted the Governor to know he did not have authorization and has not received it. A delegation of Representatives Bussell, Liska and myself were appointed to deliver the resolution to the Governor. We are still waiting for 3 appointees from the Senate side.

In light of the recent appointed Attorney General's opinion of March 2, we would hope to deliver the resolution by the end of the day so that the Governor will know the Anchorage Caucus's position.

3/8/84 Position Paper & Resolution #2 / From Rep. Jerry Ward

FINAL

ANCHORAGE CAUCUS
POSITION PAPER AND RESOLUTION NO. 2

WHEREAS, the Anchorage Caucus of the Alaska Legislature is made up of 10 members of the Senate and 17 members of the House of Representatives elected from Anchorage Area Districts.

WHEREAS, there are from time-to-time matters of special concern to members of the Anchorage Caucus as to which the Caucus wishes to take a collective position and have that position communicated to those most concerned; and

WHEREAS, one such matter is the construction of a legislative hall in Juneau being proposed by the borough of Juneau and the Governor of the State of Alaska without legislative approval; and

WHEREAS, by an overwhelming vote the House of Representatives has expressed its own disapproval of previously announced plans for construction of a legislative hall in Juneau, and consideration of the subject is scheduled in the Senate State Affairs Committee.

NOW, THEREFORE, BE IT RESOLVED that it is the sense of the Anchorage Caucus that the Governor and officials of the City and Borough of Juneau be, and they hereby are, respectfully requested to cease and desist from previously announced plans for the construction of a new legislative hall in Juneau or at any other location within the State without prior consultation with and express direction from the Legislature.

DRAFT

ANCHORAGE CAUCUS
POSITION PAPER AND RESOLUTION NO. 2

WHEREAS, the Anchorage Caucus of the Alaska Legislature is made up of 10 members of the Senate and 17 members of the House of Representatives elected from Anchorage Area Districts.

WHEREAS, there are from time-to-time matters of special concern to members of the Anchorage Caucus as to which the Caucus wishes to take a collective position and have that position communicated to those most concerned; and

WHEREAS, one such matter is the construction of a legislative hall in Juneau being proposed by the borough of Juneau and the Governor of the State of Alaska without legislative approval; and

WHEREAS, Article IX, Section 9, of our Alaska constitution provides at pertinent part:

> "No debt shall be contracted by any political subdivision of the state, unless . . . ratified by a majority vote of those qualified to vote and voting on the question."

and,

WHEREAS, it has come to the attention of the Anchorage Caucus that the borough of Juneau does not intend to conduct a vote permitting its voters to ratify its debt for the construction of the legislative hall within the borough of Juneau; and

WHEREAS, Article IX, Section 8, of the Alaska constitution also states at pertinent part:

> "No state debt shall be contracted unless authorized by law and ratified by a majority of the qualified voters of the state."

and,

WHEREAS, the Anchorage Caucus reasonably concludes that the long-term lease/purchase being entered into between the borough of Juneau and the Governor's office, wherein the borough of Juneau is the Seller/Landlord and the Governor's office or State of Alaska is the Purchaser/Tenant, is a debt within the meaning of Article IX, Section 8 of the Alaska constitution; and

WHEREAS, the Anchorage Caucus reasons that the title of the transaction is not controlling, but that all the parameters of the

transaction must be evaluated in determining that the transaction is in fact a debt within the meaning of our constitution. Such factors include, but are not limited to:

> Proposed construction of the legislative hall on land owned by the State of Alaska, and the intention of the parties to have the State of Alaska own the land at the expiration of the lease/purchase period.

WHEREAS, the Anchorage Caucus has been advised that the Governor's office does not intend to conduct an election pursuant to Article IX, Section 8 of the constitution, and therefore intends to deny the people of the State of Alaska the opportunity to vote for or against the aforedescribed debt; and

WHEREAS, plans are now underway by the city and borough of Juneau to finance and construct a legislative hall to house the legislature of the State of Alaska; and

WHEREAS, it appears to be the intention of the city and borough of Juneau to enter into a long-term lease of the legislative hall with the state; and

WHEREAS, the legislature has not in any manner given its approval to these plans; and

WHEREAS, Article III, Section 22, of the constitution of the State of Alaska provides:

> "All executive and administrative . . . functions, powers, and duties shall be allocated by law among and within the principle departments . . ."

and,

WHEREAS, an executive branch which determines the seat of the legislature, without approval of the legislature, disregards the Alaska constitution as aforedescribed, the doctrine of powers, and violates the spirit of comity between the branches of government;

IT IS THE SENSE OF the Anchorage Caucus of the Alaska legislature, that the Honorable Bill Sheffield, as well as the city and borough of Juneau, cease and desist from any plan for the construction of a new legislative hall in Juneau or at any other location within the state, without having received the express direction of the legislature of the State of Alaska.

Alaska State Legislature
House of Representatives

P.O. BOX 2716
ANCHORAGE, ALASKA 99510
(907) 276-4506

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4939

REPRESENTATIVE JERRY WARD
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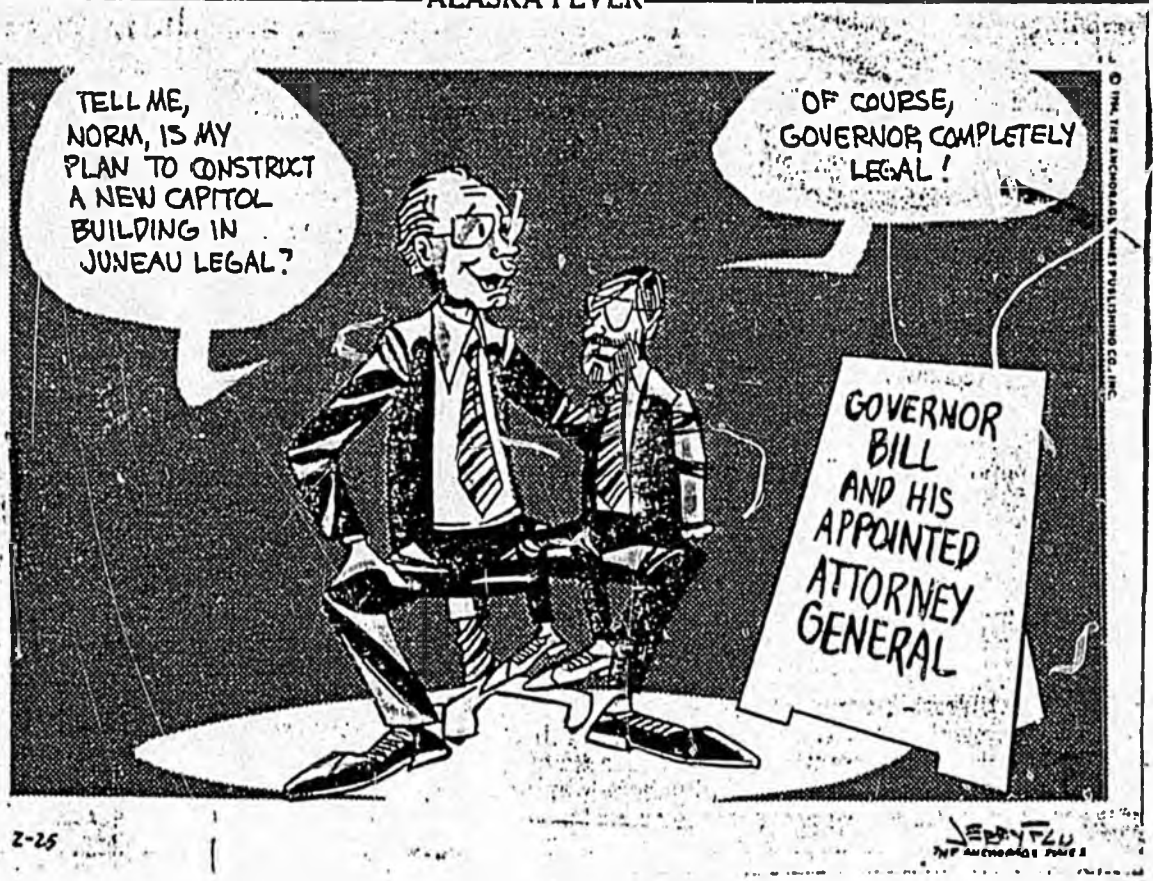
COMMERCE & ECONOMIC DEVELOPMENT
CHAIRMAN OF SUBCOMMITTEE ON LABOR
MEMBER OF SUBCOMMITTEE ON STATE LOANS

ALASKA FEVER — TIMES 2/25/84



OVER

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

☐ 1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

☐ 1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

☒ POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3500

March 2,1984

The Honorable Mike Szymanski
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

Re: Questions concerning Alaska Legislative Hall Facility Design (project R-10181).
Our file no.: 366-442-84

Dear Representative Szymanski:

This letter responds to your letter of February 9, 1984, in which you asked seven questions concerning the Alaska Legislative Hall. In answering your questions we will set out first your questions, then our responses.

1. By what authority can the Department of Transportation, or the Administration, expend funds to design and construct a facility to be occupied or used by the legislature?

In our opinion of October 14, 1983, (Inf. Op. Att'y Gen.; 366-101-84), we explained that under AS 35.10.010 the Department of Transportation and Public Facilities may construct public buildings of the state. A copy of the opinion is attached. Under AS 35.25.020(5) the term "public building" means: "a building owned or controlled by and held by the state for government or public use."

In section 95, ch. 106, SLA 1983, the legislature enacted an appropriation for the purpose of acquiring land in Juneau for state facilities. That appropriation was supported by a standard form 35a which provides evidence that the purpose of the appropriation was to acquire the site of a legislative hall. These measures taken together provide sufficient authority for DOT/PF to proceed with the design phase of the project.

2. What explicit legislative authorization exists for a "legislative hall?"

See the answer to question (1).

3. Do you feel the Administration can make a commitment to lease or purchase a legislative facility or "legislative hall" without explicit approval by the legislature?

Yes. Ad hoc legislative approval of state leases violates the doctrine of separation of powers. The lease of facilities for public use is not a legitimate part of the law making power.

4. Under AS 37.05.280, can the Administration legally execute a lease for space which is in excess of $12,000 annually, without legislative approval? In assessing this question, would you please address both administrative and legislative space.

Yes. Under existing law there is no basis for distinguishing between office space occupied by the legislature or the executive.

5. Is the lease purchase arrangement contemplated for this project considered bond indebtedness of the State of Alaska?

No. Lease payments are subject to annual appropriation by the legislature.

6. Will the full good faith and credit of the state be standing behind the anticipated project bonding on this project? If so, how can this be committed without legislative or voter approval?

No.

We hope this letter answers your questions. Please call if you need further assistance.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: James L. Baldwin
James L. Baldwin
Assistant Attorney General

JLB:cyb
Attachment

MEMORANDUM State of Alaska

TO: Hon. Daniel A. Casey, Commissioner
Department of Transportation &
Public Facilities
AND
Hon. Lisa Rudd, Commissioner
Department of Administration

DATE: October 14, 1983

FILE NO: 366-101-84

TELEPHONE NO: 465-3600

SUBJECT: Construction financing of a public facility by lease agreement

FROM:
Norman C. Gorsuch
Attorney General

By: William F. Cummings
Assistant Attorney General
Transportation Section-Juneau

James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

The Department of Administration (DOA) and Department of Transportation and Public Facilities (DOT/PF) have requested our advice whether there is sufficient authority granted by law to permit a state agency to finance the construction of a public facility on state land under a lease agreement with a developer and owner of the facility other than the state. Briefly, the lease agreement consists of a conveyance of a leasehold interest in state land to a developer who constructs a facility on the land and which is leased back to the state. Upon expiration of the lease agreement, the facility either reverts to the state or the state has an option to purchase it.

Using this financing technique, DOA proposes to centralize state offices in Anchorage and DOT/PF proposes to construct a legislative hall in Juneau. Under both proposals, facilities owned by others would be located on state land. 1/ The answers to your questions involve consideration of the issues set out below.

1. Does financing a public facility through a lease agreement violate provisions of the Alaska Constitution governing the creation of state debt?

We believe that the financing of construction by lease is valid only if terms and conditions are imposed which provide sufficient evidence that future legislatures are not bound to ap-

1/ We believe that other public facilities are being studied for financing by lease agreement including facilities for the Alaska Vocational Technical Training Center in Seward and a maximum security prison.

propriate money for the rental. 2/ Article IX, section 8 of the Alaska Constitution prohibits the creation of public debt except for capital improvements and then only after authorization by the legislature and a vote of the people. The lease transactions proposed are a means to finance the construction of public facilities without directly appropriating from the general fund for the cost of construction or authorizing the creation of debt by selling general obligation bonds. This makes it imperative that the state's right to possess and use the facility is contingent on annual appropriations from revenue anticipated for the fiscal year in which the lease obligation is incurred. Traditionally, appropriations for lease payments are considered operating appropriations which lapse on June 30 of the fiscal year. A lease agreement which provides for termination of the leasehold if sufficient appropriations to pay rent are not enacted will negate the conclusion that a debt is created. A one-year lease with automatic annual renewal for a maximum number of years upon enactment of an appropriation to finance the annual rent has been approved as a term which negates any possibility that a debt is created. Gude v. City of Lakewood, 636 P.2d 691 (Colo. 1981). See also Glennon Heights, Inc. v. Central Bank and Trust, 658 P.2d 872 (Colo. 1983).

2. Does existing law prevent a state agency from entering into a lease agreement for the construction of a public facility?

The lease of state office space is governed by AS 37.05.220 -- 37.05.280. These statutes require a competitive bidding process with award of the contract by DOA to the lowest responsible bidder for the lease. However, the statutes provide one further requirement for office space leases which is lacking in other state contracts for the purchase of goods or services. AS 37.05.280 provides in relevant part that "no contract or lease executed after January 1, 1966, which provides for a payment or payments by the state in excess of $12,000 annually is valid unless the use of the space to be provided for by such contract or lease has been expressly approved by the legislature by concurrent resolution." This provision requires legislative approval of virtually all leases which the state executes to procure office and other space. However, we believe that this part of the

2/ The advice given in this memorandum is consistent with the majority of state courts which have considered the question. E.g., Bulman v. McCrane, 312 A.2d 857 (N.J. 1973); State ex rel. Thomson v. Gisel, 72 N.W.2d 577 (Wisc. 1958); but see Opinion of the Justices, 79 A.2d 753 (Me. 1951).

statute is invalid for two reasons.

Article II of the Alaska Constitution requires that the legislature exercise the law-making power by the passage of a bill not by the adoption of a concurrent resolution. State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980). Furthermore, the requirement for legislative approval of a lease is a violation of the doctrine of the separation of powers. Governmental power is allocated among the three branches of government by the Alaska Constitution. Some powers are logically allocated to the executive and others to the legislature. The power to execute the law on behalf of the state is one which falls to the executive. Alaska Const. art. III, § 16. It is the role of the legislature to enact laws which establish the conditions under which the executive may enter into leases. Alaska Const. art. II, § 1. However, it is not appropriate for the legislature to reserve a veto power over the enforcement decisions made by the executive. The legislature may amend or repeal the leasing authority for DOA. However, the legislature may not usurp the executive function to lease facilities without destroying the system of checks and balances inherent in our tripartite system of government. 3/ Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

DOT/PF has limited authority to dispose of land acquired for public works other than highways. 4/ DOT/PF may "vacate land or part of it, or rights in land acquired for public work purposes" by executing and filing a deed in the appropriate recording district upon vacating. AS 35.20.070. "Title reverts to the persons, heirs, successors, or assigns in whom it was vested at the time of the taking." Id. All other disposals of land acquired for public works are conducted by the Department of Natural Resources (DNR).

Before DNR may lease state land, the public must be informed of the nature and terms of the conveyance. Alaska Const. art. VIII, § 10; AS 38.05.035(a)(14), 38.05.345. DNR, acting in

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3/ The cited portion of AS 37.05.280 was held invalid on the basis of separation of powers and improper exercise of the law making power by the superior court in Marine View Tenants' Association v. ASHA, No. 1JU-80-1037 CIV (Nov. 1, 1981). That case was not appealed. However, this decision has limited precedential value until a final decision is rendered by the Alaska Supreme Court.

4/ AS 19.05.070 grants broader discretion to dispose of land acquired for highway purposes.

concert with DOA, must prescribe a disposal procedure for state land which provides the safeguards required by law and permits the construction of a facility which the state will lease from the developer. That procedure may include the grant of a lease under AS 38.05.315 to the state agency responsible for the facility. The lease granted by DNR will allow the lessee agency to sublease the land for development of a leased public facility under specified terms which will include prior DNR review and selection of the sublessee according to AS 37.05.230. The sublease of the land will continue in effect long enough to secure financing for the facility. The payment of rent under the lease to the state agency for the facility would be contingent on the enactment of annual appropriations. If the lease is terminated by the failure to appropriate, the lessor would be the successor to the state agency's right to possess the building until reversion or exercise of the option to purchase.

3. Does existing law prevent a state agency from obtaining financing from a municipality to design and construct a state-occupied facility on state-owned property and then enter into an agreement with the municipality for payback without competitive bidding?

DOT/PF is proposing to finance the construction of the legislative hall by lease agreement. The City and Borough of Juneau (city) would sell tax exempt municipal revenue bonds, secured by the lease payments to be paid by the state. The state would then supervise the design and construction of the facilities and be the contracting authority.

As a general proposition, DOT/PF has the authority to make contracts with municipalities for public works. AS 35.05.-040(7). The purpose of this form of contract is further defined by AS 35.15.080(c), which provides in relevant part, "[a] municipality may request joint assumption of responsibilities with the department relating to the planning, design, and construction of a public works project." The term "public works" is very broad and includes public buildings. A public building is one which is "owned or controlled and held by the state for government or public use." AS 35.25.020(5) and (6).

We believe that DOT/PF may contract with the city for the planning, design and construction of the legislative hall. We reach this conclusion because under the provisions of the lease agreement, the state will have control over the building which it will hold for government or public use. Additionally, the state will have significant ownership interests in the facility because it holds fee title to the land upon which the build-

ing will be constructed and at the expiration of the lease agreement, will own the building free of the interest of the city. However, a contract may not alter the city's responsibility for repaying the long term debt established to finance the cost of construction of the facility.

Our memorandum of May 9, 1983 indicated that AS 37.05.-230 generally required competitive bidding to award a lease agreement which provides for the construction of a public facility. However, competitive bidding is not required in all instances of public contracting. McKinnon v. Alpetco, 633 P.2d 281 (Alaska 1981). The lease transaction under consideration may present an instance where it is in the best interests of the state to negotiate directly with a municipality rather than offer the contract to the lowest bidder. See AS 37.05.230(2). A decision to negotiate directly requires a detailed finding of fact in writing by DOA. In the finding of fact, the commissioner must justify the conclusion that negotiation is in the best interests of the state. A municipality enjoys a preferred status when dealing with the state. Intergovernmental contracts are not governed by the same considerations applicable to the state when it is participating in the open market place. It is probable that a facility can be financed cheaper with municipal revenue bonds than by private means. It may be futile to obtain any advantage from the competitive bid process. If DOA sets out ultimate facts in the finding which supports the conclusion that negotiation furthers the public's interest, then competitive bidding is not required. Libby v. City of Dillingham, 612 P.2d 33, 45 (Alaska 1980)(Rabinowitz, J. concurring). However, the award without competitive bidding would be subject to judicial review to determine whether the decision was arbitrary, capricious or an abuse of discretion. McKinnon, 633 P.2d at 287; Hertz Drive-Ur-Self Systems, Inc. v. Tucson Airport Authority, 299 P.2d 1071 (Ariz. 1956); Volume Services Division of Interstate United Corp. v. Canteen Corp., 369 So. 2d 391 (Fla. App. 1979).

4. Does the appropriation to finance the site acquisition and planning for a legislative hall contain defects which prevent DOT/PF from proceeding with the project?

Section 95, ch. 106, SLA 1983 appropriates $4,500,000 to DOT/PF plus other money received for land acquisition and facilities planning in Juneau. The land acquisition, planning, and preliminary design efforts for the legislative hall will be paid from this appropriation.

This section makes an appropriation from two sources: $4,500,000 from the general fund and an unspecified amount from

an unspecified source. 5/ This appropriation is for land acquisition and facility planning in Juneau.

The appropriation contains a unambiguous statement of purpose that DOT/PF is appropriated at least $4,500,000 for land acquisition and facilities planning in Juneau. There is no specification of the public facility upon which the appropriation may be expended. The use of the $4,500,000 appropriated for site acquisition, planning, and preliminary design for the legislative hall is within the purpose set out in the appropriation. However, the appropriation of money which may be received from other sources presents a serious legal issue. Because no amount is stated for the appropriation, sufficient authorization may not exist to expend the money beyond the $4,500,000. 6/ Nonetheless, the unspecified source of the appropriation is presumably severable from the general fund part of the appropriation which is stated with specificity in the amount of $4,500,000. AS 01.10.-030. Consequently, until you begin receiving amounts from "other sources," whatever they may be, the expenditure of general fund money authorized by the appropriation is not a problem.

CONCLUSION

We believe there is sufficient authority under existing law to finance the construction of a public facility by lease. However, because this financing technique is not specifically authorized by law, we cannot with absolute certainty advise you that a court would agree with our opinion. You should make allowance for this risk when you plan further development of each project to be financed by the lease purchase method.

WFC:ebc:prm/JLB:pjg

cc: Hon. Harold J. Raynolds, Jr.
Commissioner
Department of Education

5/ We presume "the other money received" was intended to include money to be provided under a lease agreement with the city as discussed in section 3, supra.

6/ Each appropriation must state an amount. AS 24.30.030. It is not necessary for the appropriation Act to set out the amount in dollars and cents if the appropriation contains provisions which make the amount capable of mathematical calculation. Orbison v. Welsh, 179 N.E.2d 727 (Ind. 1962).

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

Official Business

MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senate State Affairs Committee Staff

RE: SB 466 Leases by the state

DATE: April 3, 1984

PROPOSED COMMITTEE SUBSTITUTE (version 5)

The proposed CSSB 466 (state affairs) requires approval for the procurement of space by law or specific appropriation before execution of a contract or lease may take place. Leases and contracts affected by this legislation either exceed a cost of either $1,000,000 annually, or exceed a total consideration of $1,000,000 where any part of the consideration may be used toward acquisition of the property.

This version of the bill also contains a provision (beginning page 1, line 28) exempting leases executed before the effective date, or leases executed after the effective date where the site has been acquired and the bid document has been prepared.

ORIGINAL VERSION OF THE BILL

The original version of SB 466 requires contracts or leases that fall under either of the two examples below be subject to specific appropriation:

--the annual rental payment is in excess of $150,000 and the term of the lease exceeds 3 years;

--if any of the consideration for the lease or contract may be applied toward acquisition of the property, and the total acquisition exceeds $150,000 (in this case, the bill requires that the appropriation be for the total rental payment and all costs of the acquisition).

Fiscal information

The bill has a zero fiscal note

Back-up information

Fiscal note from the Department of Administration

List of state leases exceeding $1,000,000 a year

Alaska State Legislature

Senate Committee on State Affairs
Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

Official Business

MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senate State Affairs Committee Staff

RE: SB 466 Leases by the state

DATE: March 29, 1984

PROPOSED COMMITTEE SUBSTITUTE

The proposed CSSB 466 (state affairs) requires approval for the procurement of space by law or specific appropriation before execution of a contract or lease may take place. Leases and contracts affected by this legislation either exceed a cost of either $1,000,000 annually, or exceed a total consideration of $1,000,000 where any part of the consideration may be used toward acquisition of the property.

ORIGINAL VERSION OF THE BILL

The original version of SB 466 requires contracts or leases that fall under either of the two examples below be subject to specific appropriation:

--the annual rental payment is in excess of $150,000 and the term of the lease exceeds 3 years;

--if any of the consideration for the lease or contract may be applied toward acquisition of the property, and the total acquisition exceeds $150,000 (in this case, the bill requires that the appropriation be for the total rental payment and all costs of the acquisition).

Fiscal information

The bill has a zero fiscal note

Back-up information

Fiscal note from the Department of Administration

List of state leases exceeding $1,000,000 a year

Alaska State Legislature

Senate Committee on State Affairs
Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

Official Business

MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senate State Affairs Committee Staff

RE: SB 466 Leases by the state

DATE: March 26, 1984

PROPOSED COMMITTEE SUBSTITUTE

The proposed CSSB 466 (state affairs) would require approval by law for execution of contracts or leases that either exceed $1,000,000 annually, or where the total consideration is over $1,000,000 and any part of the consideration may be used toward acquisition of the property.

ORIGINAL VERSION OF THE BILL

The original version of SB 466 requires contracts or leases that fall under either of the two examples below be subject to specific appropriation:

--the annual rental payment is in excess of $150,000 and the term of the lease exceeds 3 years;

--if any of the consideration for the lease or contract may be applied toward acquisition of the property, and the total acquisition exceeds $150,000 (in this case, the bill requires that the appropriation be for the total rental payment and all costs of the acquisition).

Fiscal information

The bill has a zero fiscal note.

Back-up information

fiscal note from the Department of Administration.
list of state leases exceeding $1,000,000 a year.

SB

469

MITCH...

Wednesday, May 23, 84

SB 186 am "An Act relating to named recipient grants; and providing for an effective date."

Sponsor: Sackett. (Actually, it was pushed more by Ferguson, and it will be his staff aide Mike Scott who will be here to explain the pros and cons and answer questions).

This bill passed the Senate on a 14-6 vote on May 16,84-- after SEnator Ferguson had made an amendment from the floor that deleted from the original bill lines 17-29 on page 1 and added line 12 on page 2. Basically, this amendment is precisely the one that Mae Tischer objects to.

Apparenlty, the original unamended version of the bill exempted both urban and rural non-profit organizations; and it was urban Anchorage that said they had some problems with it and did not want to be excluded. Mike Scott should be able to explain this.

There will be no one here from Community and REgional Affairs to testify. The fiscal note is zero. The Department under Mark Lewis was neutral on the subject, except for possible constitutional concerns (which are answered by the enclosed Memorandum of decision between the legislature and Jay Hammond). The most updated positon paper of the department mildly ~~opposes~~// supports the amended bill, (see Notti Position paper dated May 22).

CSSB 469 (SA) "An Act relating to credited service under the Public Employee's Retirement System, and providing for an effective date." R//

Sponsor: Sackett. He will not be here, but his aide Richard Hacker will answer questions. The bill passed the Senate 20-0.

Ken Humphries, Director of Retirement and Benefits from the Dept. of Administration, will be here to answer questions. The Department has a Position Paper supporting this bill. The fiscal note has been reduced twice; from the original SB 469 of $2,490,500.00 in FY 85 to CSSB 469 (StateAffairs) which originally was $704,800. and now is $141,000. You might want to ask him or Richard Hacker why the various reductions. (Or look at Vic Fischers memo dated May 2).

Cheri Shelley of APEA should be here to testify.

NDED TITLE: CSSB 469(S.A.)
ACT RELATING TO CREDITED SERVICE UNDER THE PUBLIC EMPLOYEES'
TIREMENT SYSTEM;
) PROVIDING FOR AN EFFECTIVE DATE

GENERAL DOLLARS: $127,500 (F. NOTE)

IME SPONSOR: SACKETT.

OTHER DOLLARS: $13,500

-SPONSORS: FERGUSON.
RRENT STATUS: 5/17/84 IN (H) STATE AFFAI REFERRAL: FINANCE

DATE	SEQ	PAGE	LEGISLATIVE ACTION
2/13/84	01	2042	FIRST READING -- COMMITTEE REPORTS
3/30/84	02	2539	S.A. -- CS03
3/30/84	03	2539	S.A. F/NOTE SEN SUPPL #68
5/03/84	04	2905	FIN -- S.A. CS04, NR01
5/16/84	05	3109	RLS -- S.A. CS04, OTHER04
			TAKEN UP IMMEDIATELY
5/16/84	06	3113	SECOND READING
5/16/84	07	3113	S.A. CS ADOPTED BY UNAN CONSENT
5/16/84	08	3113	ADVANCED TO 3RD READING BY UNAN CONSENT
5/16/84	09	3113	THIRD READING
5/16/84	10	3113	PASSED BY DIV 20-00-00
5/16/84	11	3113	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** *** ***

DATE	SEQ	PAGE	LEGISLATIVE ACTION
5/17/84	12	3890	FIRST READING -- COMMITTEE REPORTS
			STATE AFFAIRS
			FINANCE
			RULES
****	**	**	*** *** ***

Alaska State Legislature

SENATOR
John C. Sackett
CO-CHAIRMAN
SENATE FINANCE COMMITTEE
MEMBER
COMMUNITY & REGIONAL AFFAIRS COMMITTEE
LABOR & COMMERCE COMMITTEE
BUDGET & AUDIT COMMITTEE
REGULATION REVIEW COMMITTEE

Senate

HOME ADDRESS
P.O. BOX 11
RUBY, ALASKA 99768

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 465-3753

Wednesday, May 16, 1984

M E M O R A N D U M

TO: All Members of the Senate

FROM: Senator John Sackett JCS

Re: CSSB-469 (State Affairs) an Act relating to credited service under the Public Employees' Retirement System; and providing for an effective date.

Attached are:

1) bill analysis
2) DOA/Retirement and Benefits Position Paper Supporting CSSB-469 (St. Affairs)
3) Memo from Sen. Sackett to Sen. Rules with brief explanation of bill
4) CSSE-469(SA) FISCAL NOTE and department analysis
5) copy of AS 39.35.360, Public Officers and Employees, Earlier Service (SB-469 adds new subsections (i) and (j) to statutes
6) memo from Sen. Vic Fischer to members of Sen. Finance explaining State Affairs CS for SB-469, and detailing NEW FISCAL NOTE of $141.0

In short, this bill permits BIA non-certificated employees who transfer into the PERS program, as a result of the BIA school transfers into the public school system, to credit their BIA service after three years under PERS if they are not eligible for civil service retirement.

SB-469

BILL ANALYSIS

CSSB 469 (State Affairs), BIA credited service under PERS.

Original Sponsor: Senators Sackett and Ferguson

Fiscal Note: $141,000 (of which $127,500 are from the general fund)

(The total cost to all PERS political subdivision employees is estimated at $100,300 per year)

Former BIA teachers who transfer to state employment when the schools transfer are already provided for. This bill addresses the non-teachers who are not eligible for a Civil Service Retirement. If they are not eligible for federal retirement and have paid into PERS for 3 years they can have their BIA years credited to PERS under the formula of 6% times the most recent 12 months times the number of BIA years of service. If such an employee is closer to normal retirement than 3 years, he does not have to meet the 3 year test.

Bill Analysis

Position Paper

CSSB 469

The department supports this bill. This bill would provide relief for those noncertificated BIA school employees who have "fallen through the cracks" regarding retirement benefits as a result of the federal government transfer of the BIA schools to the State. This bill would allow those covered members who satisfy a membership requirement to establish an indebtedness to the system for federal BIA school service if they do not qualify for a federal benefit.

J.K. Humphreys Etux 5/7/84

J.K. Humphreys, Director, Division of Retirement & Benefits Date

5-11-84

Lisa Rudd, Commissioner, Department of Administration Date

Alaska State Legislature

SENATOR
John C. Sackett
CO-CHAIRMAN
SENATE FINANCE COMMITTEE
MEMBER
COMMUNITY & REGIONAL AFFAIRS COMMITTEE
LABOR & COMMERCE COMMITTEE
BUDGET & AUDIT COMMITTEE
REGULATION REVIEW COMMITTEE

Senate

HOME ADDRESS
P.O. BOX 11
RUBY, ALASKA 99768
WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 465-3753

May 15, 1984

MEMORANDUM

TO: Senator Jan Faiks
Senate Rules Committee Chair

FROM: Senator John Sackett

RE: CSSB 469 (State Affairs) credited PERS Service for BIA employees

I request that you schedule CSSB 469 (State Affairs) for the Senate Calendar. As you may recall from our consideration of the bill in the Finance Committee, it addresses non-teaching BIA employees who transfer from federal to state employment when the BIA schools do transfer. BIA teachers in this situation already have their retirement provided for.

As a result of this bill BIA non-teachers who are not eligible for a federal Civil Service Retirement would be eligible to have their BIA years credited to the state PERS if they have paid into PERS for 3 years or if the employee is closer to normal retirement than 3 years. The bill also establishes a formula by which to calculate the indebtedness on these transferred years of credit.

The bill was reworked several times to get it to this version in order to reduce the fiscal note as much as possible while still meeting the retirement needs of former BIA employees who may have been otherwise harmed by the transfer of these schools to state operation. I hope your committee will look favorably on this bill and calendar it as soon as possible. My staff will be happy to provide any further information that you may desire.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB 469
Title: "An Act allowing BIA service in PERS"
Sponsor: Sackett
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: All State Agencies
Program Category Affected: PERS
BRU, Program or Subprogram Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	141.0	141.0	141.0	141.0	141.0
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	141.0	141.0	141.0	141.0	141.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund		127.5	127.5	127.5	127.5	127.5
Federal Funds		6.5	6.5	6.5	6.5	6.5
Other		7.0	7.0	7.0	7.0	7.0
Total		141.0	141.0	141.0	141.0	141.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J. K. Humphreys, Director
Division: Retirement & Benefits
Phone: 465-4460
Date: 3-27-84

Approved by Commissioner: Lisa Rudd
Date: 3/28/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Fiscal Note

CSSB 469
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

March 27, 1984

Analysis: This bill would allow all PERS members who complete 3 years of credited service to claim credit for service rendered as an uncertified employee of BIA schools provided they have never had sufficient service credit in the Federal Civil Service Retirement System to be eligible to receive a benefit in that system. Eligible BIA school employees who were within 3 years of normal retirement in the federal system could claim federal service with less than 3 years of credited service.

The cost of this bill will be borne by all PERS employers, Political Subdivisions as well as the State. The individual employer contribution will increase on an average of .03%. The total cost to the Political Subdivision employers is estimated be as follows:

FY 85	FY 86	FY 87	FY 88	FY 89
100.3	100.3	100.3	100.3	100.3

The total present value of the costs of this bill to all employers is $2.5 million.

This bill would reduce the PERS funding ratio by .3%.

(h) The combined period of military service claimed under this section and under AS 14.25 may not exceed five years. (§ 15 ch 143 SLA 1960; am § 1 ch 123 SLA 1976; am § 29 ch 128 SLA 1977; am § 6 ch 174 SLA 1978; am §§ 31 — 36 ch 13 SLA 1980; am § 46 ch 137 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "benefits under AS 39.35.420(b), 39.35.430, or 39.35.440" for "a surviving spouse's pension under AS 39.35.440" in the first sentence of subsection (g).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 39.35.350. Reinstatement of credited service. (a) An employee who receives a refund of contributions in accordance with AS 39.35.200 forfeits corresponding credited service under this chapter.

(b) An employee may reinstate credited service associated with a refund by repaying the total amount of the refund. Interest will accrue from the date of the refund until repayment of the refund or retirement, whichever occurs first. Payments will apply first to accrued interest and then to principal.

(c) Any outstanding indebtedness that exists at the time an employee is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based on service reinstated under this section. (§ 16 ch 143 SLA 1960; am § 3 ch 235 SLA 1963; am § 2 ch 81 SLA 1976; am § 30 ch 128 SLA 1977; am § 84 ch 59 SLA 1982; am § 47 ch 137 SLA 1982)

Effect of amendments. — The first 1982 amendment inserted "credited" in subsection (a).

The second 1982 amendment substituted the present provisions of subsection (c) for the provisions set out in the main pamphlet.

Sec. 39.35.360. Earlier service. (a) An employee employed before January 1, 1980, who completes three years of credited service with the state after January 1, 1961, for which the employee makes contributions required by this chapter is entitled to credited service for service rendered (1) before January 1, 1961, as an employee of the state and former Territory of Alaska; (2) before January 1, 1961, as an employee of the United States government in Alaska, excluding service in the armed forces of the United States; or (3) after January 1, 1961, as a peace officer, correctional officer, or fireman of a participating political subdivision of the state if the employee is vested and is an active peace officer, correctional officer, or fireman in the system as of July 1, 1980. The retirement benefits payable to an employee under this section shall be reduced by the amount of the retirement pension benefits paid to the employer by the United States government for the same period of service.

(b) An employee who, under (a) of this section, is entitled to credited service for employment before January 1, 1961, is not required to make retroactive contributions under this chapter.

(c) Repealed by § 41 ch 146 SLA 1980.

(d) Repealed by § 2 ch 26 SLA 1974.

(e) An employee of a detention facility provided by a local government unit to the territorial or state government under AS 33.30.060, who continues in state employment upon transfer of the facility to the state, is entitled to credited service for his prior service with the facility if the employee remains in continuous employment with the state until July 1, 1976. To obtain credited service the employee is required to make retroactive contributions for the period of service between January 1, 1961 and the effective date of the transfer of the facility to the state.

(f) A surviving spouse receiving or entitled to receive a surviving spouse's pension under AS 39.35.440 or benefits under a joint and survivor option filed under AS 39.35.450 is eligible for increased benefits for any service credit authorized under (a) of this section, but not claimed or authorized by law before the employee's death.

(g) An employee is eligible to receive up to 10 years of credited service for service rendered before July 1, 1979, as a temporary employee of the legislature of the state or territory during legislative sessions. To receive retroactive credited service under this subsection, an employee must claim the service before July 1, 1980. When the employee claims the service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate these contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on this indebtedness beginning July 1, 1980. Any outstanding indebtedness which exists at the time the employee retires will require an actuarial adjustment to the benefits which are based upon retroactive credited service under this subsection.

(h) An employee of the state is eligible to receive credited service as provided under AS 39.35.300(b) for service rendered as a permanent part-time employee before January 1, 1976. To receive retroactive credited service under this subsection, the employee must claim the service before July 1, 1981. When the employee claims retroactive credited service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate the contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on the indebtedness beginning July 1, 1981. Any outstanding indebtedness which exists at the time the

employee retires will require an actuarial adjustment to the benefits which are based on retroactive credited service under this subsection. (§ 17 ch 143 SLA 1960; am § 4 ch 80 SLA 1964; am §§ 5, 6 ch 155 SLA 1966; am § 4 ch 235 SLA 1968; am § 1 ch 55 SLA 1973; am §§ 1, 2 ch 26 SLA 1974; am §§ 1, 2 ch 245 SLA 1976; am §§ 31 — 33 ch 128 SLA 1977; am §§ 1, 7 ch 174 SLA 1978; am § 3 ch 81 SLA 1979; am § 10 ch 82 SLA 1979; am §§ 31, 32, 41 ch 146 SLA 1980; am §§ 48, 49 ch 137 SLA 1982)

NEW SECTIONS (i) & (I) per CSSB-469(S.A.)

Effect of amendments. — The 1982 amendment, in the first sentence of item (3) of subsection (a), deleted "or" preceding "correctional officer" and inserted "or fireman" preceding "of a participating political subdivision" and "correctional officer, or fireman" preceding "in the system." In subsection (b), the amendment inserted "under (a) of this section."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Article 6. Benefits.

Section		Section	
385.	Conditional service retirement benefits	500.	Safeguard of employee funds held by the system
410.	Occupational disability pensions	505.	Exemption of employee funds and benefits
420.	Nonoccupational death benefits	522.	Waiver of adjustments
430.	Occupational death benefit	527.	Election to terminate coverage as a peace officer or fireman
440.	Death after occupational disability	530.	Limit on pension
460.	Level income option	535.	Medical benefits
470.	[Repealed]	540.	[Repealed]
475.	Post-retirement pension adjustment	541.	Actuarial reduction of benefit
485.	Minimum benefit		
490.	Designation of beneficiary		

NOTES TO DECISIONS

Vested benefits. — Benefits under Public Employees' Retirement System are in the nature of deferred compensation and the right to such benefits vests immediately upon an employee's enrollment in that system. Hammond v. Hoffbeck, Sup. Ct. Op. No. 2345 (File No. 4742), 627 P.2d 1052 (1981).

The vested benefits protected by Alaska Const., art. XII, § 7, necessarily include not only the dollar amount of the benefits payable, but the requirements for eligibility as well. Hammond v. Hoffbeck, Sup. Ct. Op. No. 2345 (File No. 4742), 627 P.2d 1052 (1981).

The fact that rights in Public Employees' Retirement System vest on employment does not preclude modifications of the system; that fact does, however, require that any changes in the system that operate to a given employee's disadvantage must be offset by comparable new advantages to that employee. Hammond v. Hoffbeck, Sup. Ct. Op. No. 2345 (File No. 4742), 627 P.2d 1052 (1981).

Sec. 39.35.385. Conditional service retirement benefits. (a) An employee is eligible for a normal retirement benefit at age 55 with at least two years of credited service if the employee also is eligible for a

Senator Vic Fischer (907) 465-4954
Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

MEMORANDUM

TO: Members, Senate Finance Committee

FROM: Senator Vic Fischer

RE: CSSB 469 Credited PERS service for BIA employees

DATE: May 2, 1984

SB 469 allows BIA school employees who are not teachers to obtain credited service under the Public Employees Retirement Service when BIA schools are transfered to the state. Only BIA employees who are not eligible for federal retirement benefits will be made eligible for benefits under PERS. (Teachers in the BIA schools will be covered under TRS when the schools are transfered.)

BIA employees would also be able to receive higher PERS retirement benefits by making contributions to the system for their past years of BIA employment. The bill outlines the rate of employees' indebtedness to PERS based on the amount an employee would have paid into PERS had the employee been contributing for the total number of years of BIA employment. In the event that the Federal Government transfers the money in the Civil Service Retirement Account to the State, the amount of the employees' indebtedness will be substantially decreased, and the indebtedness will then not be calculated by the formula outlined in the bill.

The State Affairs CS also provides that those noncertified BIA employees within 3 years of retirement at the time of the transfer will not have to fulfill the three year vesting period and will be eligible for retirement at the normal reitrement age.

Fiscal information

SB 469	FY '85	$2,490.5 thousand
CSSB 469 (State Affairs)	FY '85	~~704.8 thousand~~ $141.0 THOUSAND (3/28/84)

The difference in cost is due to (1) clarifying language in the CS which defines the scope of those eligible for the bill as BIA employees who work for the school and who are not teachers, and (2) restricting the eligibility of retirement benefits to those employees who will not be eligible for benefits under the federal system.

[illegible] • Anchorage, Alaska 99501 • (907) 279-2654

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

Official Business

MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senate State Affairs Committee Staff

RE: CSSB 469 (state affairs) BIA retirement

DATE: March 26, 1984

Attached is a copy of CSSB 469 (state affairs) reflecting the changes agreed upon during last Thursday's committee meeting.

The first change was to delete the following sentence, "If the federal government transfers the money in the employee's Civil Service Retirement System account to the system an indebtedness of the employee to the system is not established under this subsection."

The second change was to add language narrowing the scope of those eligible for the PERS service to those BIA employees who would be severely hurt by the transfer of the school. This language is found on page 2, lines 3-5, "Service may not be claimed under this subsection if the employee has, at any point in time, enough service credit in the Civil Service Retirement System to be eligible for a retirement benefit under that system."

Fiscal information

FY '85 $141.0 thousand

Back-up

Fiscal note/Department of Administration dated 3/27/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB 469
Title: "An Act allowing BIA service in PERS"
Sponsor: Sackett
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: All State Agencies
Program Category Affected: PERS
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	141.0	141.0	141.0	141.0	141.0
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	141.0	141.0	141.0	141.0	141.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund		127.5	127.5	127.5	127.5	127.5
Federal Funds		6.5	6.5	6.5	6.5	6.5
Other		7.0	7.0	7.0	7.0	7.0
Total		141.0	141.0	141.0	141.0	141.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

DRAFT

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director
Phone: 465-4460
Division: Retirement & Benefits
Date: 3-27-84

DRAFT

Approved by Commissioner: Lisa Rudd
Date:
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

DRAFT

CSSB 469
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

March 27, 1984

IV Analysis: This bill would allow all PERS members who complete 3 years of credited service to claim credit for service rendered as an uncertified employee of BIA schools provided they have never had sufficient service credit in the Federal Civil Service Retirement System to be eligible to receive a benefit in that system. Eligible BIA school employees who were within 3 years of normal retirement in the federal system could claim federal service with less than 3 years of credited service.

The cost of this bill will be borne by all PERS employers, Political Subdivisions as well as the State. The individual employer contribution will increase on an average of .03%. The total cost to the Political Subdivision employers is estimated be as follows:

FY 85	FY 86	FY 87	FY 88	FY 89
100.3	100.3	100.3	100.3	100.3

The total present value of the costs of this bill to all employers is $2.5 million.

This bill would reduce the PERS funding ratio by .3%.

DRAFT

Senator Vic Fischer (907) 465-4954
Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

MEMORANDUM

TO: Members, Senate Finance Committee

FROM: Senator Vic Fischer

RE: CSSB 469 Credited PERS service for BIA employees

DATE: May 2, 1984

SB 469 allows BIA school employees who are not teachers to obtain credited service under the Public Employees Retirement Service when BIA schools are transfered to the state. Only BIA employees who are not eligible for federal retirement benefits will be made eligible for benefits under PERS. (Teachers in the BIA schools will be covered under TRS when the schools are transfered.)

BIA employees would also be able to receive higher PERS retirement benefits by making contributions to the system for their past years of BIA employment. The bill outlines the rate of employees' indebtedness to PERS based on the amount an employee would have paid into PERS had the employee been contributing for the total number of years of BIA employment. In the event that the Federal Government transfers the money in the Civil Service Retirement Account to the State, the amount of the employees' indebtedness will be substantially decreased, and the indebtedness will then not be calculated by the formula outlined in the bill.

The State Affairs CS also provides that those noncertified BIA employees within 3 years of retirement at the time of the transfer will not have to fulfill the three year vesting period and will be eligible for retirement at the normal reitrement age.

Fiscal information

SB 469	FY '85	$2,490.5 thousand
CSSB 469 (State Affairs)	FY '85	~~704.8 thousand~~ $141.0 THOUSAND (3/28/84)

The difference in cost is due to (1) clarifying language in the CS which defines the scope of those eligible for the bill as BIA employees who work for the school and who are not teachers, and (2) restricting the eligibility of retirement benefits to those employees who will not be eligible for benefits under the federal system.

Denali Legal • 1024 W. 6th Avenue, Suite 204C • Anchorage, Alaska 99501 • (907) 278-3654

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB 469
Title: "An Act allowing BIA service in PERS"
Sponsor: Sackett
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: All State Agencies
Program Category Affected: PERS
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	704.8	704.8	704.8	704.8	704.8
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	704.8	704.8	704.8	704.8	704.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund		637.1	637.1	637.1	637.1	637.1
Federal Funds		32.4	32.4	32.4	32.4	32.4
Other		35.3	35.3	35.3	35.3	35.3
Total	-0-	704.8	704.8	704.8	704.8	704.8

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: D.K. Humphreys, Director D.K. Humphreys Phone: 465-4460
Division: Retirement & Benefits Date: 3-21-84

Approved by Commissioner: Lisa Rudd Date: 3/22/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CSSB 469
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

March 21, 1984

IV Analysis: This bill would allow all PERS members who complete 3 years of credited service to claim credit for service rendered as an uncertified employee of BIA schools. BIA school employees who were within 3 years of normal retirement in the federal system could claim federal service with less than 3 years of credited service.

The cost of this bill will be borne by all PERS employers, Political Subdivisions as well as the State. The individual employer contribution will increase on an average of .15%. The total cost to the Political Subdivision employers is estimated be as follows:

FY 85	FY 86	FY 87	FY 88	FY 89
501.3	501.3	501.3	501.3	501.3

The total present value of the costs of this bill to all employers is $12.4 million.

This bill would reduce the PERS funding ratio by 1.3%.

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

Official Business

MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senate State Affairs Committee Staff

RE: Retroactive credited service for BIA employees

DATE: February 28, 1984

SB 469 would entitle noncertified BIA employees to credited service under the PERS. An employee would also be able to claim retroactive service under the system for which they would incur a debt to the state for the amount they would have contributed had they been eligible for the system.

The benefits paid to the BIA employee after retirement would be reduced to compensate for an indebtedness to the state, and for benefits they received from the US government for the same period of employment.

BIA employees have requested this legislation and do support it.

Fiscal information

2,[illegible].5 thousand FY '85

back-up information

Fiscal note from the Department of Administration

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 469
Title: "An act allowing BIA service in PERS "
Sponsor: Sackett
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: All State Agencies
Program Category Affected: PERS
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	2,490.5	2,490.5	2,490.5	2,490.5	2,490.5
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	2,490.5	2,490.5	2,490.5	2,490.5	2,490.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund		2,251.4	2,251.4	2,251.4	2,251.4	2,251.4
Federal Funds		114.6	114.6	114.6	114.6	114.6
Other		124.5	124.5	124.5	124.5	124.5
Total	-0-	2,490.5	2,490.5	2,490.5	2,490.5	2,490.5

POSITIONS: NONE

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director J.K. Humphreys Phone: 465-4460
Division: Retirement & Benefits Date: 2-27-84

Approved by Commissioner: Lisa Rudd Date: 2-28-84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Senate Bill 469
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

February 27, 1984

IV Analysis: This bill would allow all PERS members who complete 3 years of credited service to claim credit for service rendered as an uncertified BIA employee.

The cost of this bill will be borne by all PERS employers, Political Subdivisions as well as the State. The individual employer contribution will increase on an average of .53%. The total cost to the Political Subdivision employers will be as follows:

FY 85	FY 86	FY 87	FY 88	FY 89
1,771.3	1,771.3	1,771.3	1,771.3	1,771.3

The total present value of the costs of this bill to all employers is $44.4 million.

This bill would reduce the PERS funding ratio by 4.3%.

ST

MARK O. HATFIELD, OREG., CHAIRMAN

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United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, D.C. 20510

March 12, 1984

The Honorable Vic Fischer
Chairman
Senate State Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Vic:

Enclosed is a copy of a letter received from the Iditarod Area School District about the integration of former BIA classified employees into the State retirement system as a result of the State's assumption of the operation of the BIA day schools. I have enclosed a copy of my response to Mr. Chase, as I thought you would want to know what my understanding is of the best solution for resolving this situation.

With best wishes,

Cordially,

TED STEVENS

Enclosure

MARK O. HATFIELD, OREG., CHAIRMAN

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United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

March 5, 1984

Terry A. Chase
Acting Superintendent
Iditarod Area School District
P.O. Box 105
McGrath, Alaska 99627

Dear Terry:

Thanks for sending me a copy of your letter to Senator Murkowski about the pension situation of former BIA classified employees in schools transferred to the State. I apologize for the delay in responding to you, but my staff on the Post Office, Civil Service subcommittee has been researching the issues you raise.

There are two options for resolving the issue of transferring BIA employees' retirement to the State. The first option is that the State could pass legislation to credit the former BIA employees' time to the State retirement system. This would be the simplest way. The State could require that these employees apply for a refund from the Federal system and then transfer these contributions to the State pension system.

The second option would be to pass legislation in Congress requiring that 1) the former BIA employees be maintained in the Federal System if the State makes the employer contributions; or 2) authorize the Federal System to transfer the Federal contributions to the State and the State grant credit to the employees under its system. As all of these options would require that the State pass some sort of legislation, I would urge that the first option be used as it requires no Federal legislation -- which could be difficult to obtain in a timely manner.

Hope this information is helpful to you.

With best wishes,

Cordially,

Ted Stevens

TED STEVENS

ITARAD
Area School District

POST OFFICE BOX 105 • McGRATH, ALASKA 99627 • (907) 524-3597

January 19, 1984

The Honorable Frank Murkowski
Unites States Senate
Washington, D.C. 20510

Dear Senator Murkowski:

I would like to bring to your attention an apparent inequity in the way different classes of employees in BIA Schools which are being transferred to the State of Alaska are being handled.

All BIA School employees will be terminated when the schools are transferred. It is my understanding that the standard Reduction in Force procedures will be followed and they will receive severance pay if they qualify.

In our district we plan to offer most, if not all, these employees their same or similar jobs to fill the new positions which will be created when we assume the operation of the schools.

At this point former BIA teachers who are hired by the State system become members of the Teachers Retirement System (TRS) and have the option of buying in up to 10 years of previous BIA teaching experience. If they have worked for the BIA or other federal employment for a minimum of 5 years, they can vest their money in the federal retirement system and receive benefits when they are eligible or they can draw out all of the contributions they made to the system and apply this to their TRS indebtedness.

Former BIA classified employees (maintenance men, aides, and school cooks) become members of the State Public Employees Retirement System (PERS) if they work 15 or more hours per week for Iditarod Area School District. These employees do not have the option of bringing in previous work experience with the BIA. If they have 5 or more years of full time employment with the Federal Government they can vest this time and receive retirement benefits based on their years of service when they reach retirement age. If they have less than 5 years of full time work they can withdraw their own contributions to the Federal Government retirement program but they cannot use the money to buy in an equivalent amount of time into PERS.

As I stated earlier, this seems to be unequal treatment between the two classes of employees. It is also being viewed by some people as being discriminatory since all or nearly all teachers are Caucasian and all or nearly all classified employees in the BIA schools are Alaska Natives.

It is my understanding that the transfer of employees and their retirement benefits was written into the legislation which authorized the sale of the Alaska Railroad to the State. This was apparently not a consideration when the law was written to transfer all of the BIA schools over to the State.

I believe it may take legislation on the part of both the Federal and State legislative bodies to resolve this situation. I would be very pleased to know that you will be working on a solution. Gerald Reichlin, a former IASD teacher and member of your Washington, D.C. staff has already been extremely helpful.

Sincerely

Terry A. Chase
Acting Superintendent

TC:bjm

cc: Senator Ted Stevens
Representative Don E. Young
Governor Bill Sheffield
State Senator Sackett
State Representative Vern Hurlbert
Mike Wallerie, Tanana Chiefs Conference
Roger Neunsinger, Superintendent, Yukon Flats School District
Spike Jorgensen, Superintendent, Alaska Gateway School District
Edwin Gonion, Superintendent, Bering Straits School District
Sue Hare, Superintendent, Lower Kuskokwim School District
Commissioner Harold Reynolds Jr., Alaska Department of Education
Dick Wiegand, Fairbanks BIA Agency Superintendent
J. K. Humphreys, Director, Division of Retirement and Benefits

SB

549

Alaska State Legislature

House Committee on State Affairs

Representative Mitch Abood
CHAIRMAN

PLEASE SIGN-IN AS A WITNESS OR AN OBSERVER. YOUR ADDRESS AND PHONE NUMBER MUST BE INCLUDED IN THE DESIGNATED BLOCK.

HEARING DATE: 5/26 MTWTF

BILLS TO BE HEARD: _____

NAME (PRINT PLEASE)	ADDRESS, CITY, STATE, ZIP	REPRESENTING	PHONE	ARE YOU A WITNESS OR AN OBSERVER? IF YOU ARE TESTIFYING, WHICH BILL?
McKie Campbell	Pouch V, Juneau, Ak. 99801	Admin Reg Review Committee	465-4793	Witness SB519
Don Bullock	Pouch S Juneau AK-99811	Revenue	465-2300	Witness SB549
Gloria Okesen	Box 86 Palmer AK 99645	self	745-3091	Observer
Emil Larson	Pouch V	self.		

5/27/84

do not use

PROPOSED BY REP. LINDAUER

Amendment to CSSB 255 (Rules)

AS 05.15.210 (15)

change "five" to "three"

AS 05.15.210 (21)

before "political party" add the words "candidate or"

These amendments to the bill will allow for Republicans to also be part of a raffle, democrats as well. Currently, only Libertarians can be in a raffle.

(18) "veterans organization" means a civic, service or charitable organization in the state, or a branch or lodge or chapter of a national or state organization in the state, not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has been in existence for five years before applying for a license under this chapter;

(19) "labor organization" means an organization, not for pecuniary profit, constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees;

(20) "rain classic" means a game of chance in which a prize is awarded for the closest guess of the amount of precipitation which is recorded at a certain location during a certain length of time;

(21) "political organization" means an organization or club organized under or formally affiliated with a political party as defined in AS 15.60.010. (§ 1 ch 27 SLA 1960; am §§ 4, 5 ch 66 SLA 1976)

Revisor's notes. — A semicolon was substituted for a comma and the word "and" following "license" in paragraph (15) by the revisor of statutes pursuant to AS 01.05.031(b).

Opinions of attorney general. — Under AS 05.15.210 a permit may be issued which gives a qualified organization the privilege of conducting any of the designated activities. AS 05.15.040 limits the activities that may be conducted to these activities specified in the permit. Under AS 05.15.060 the commissioner has authority to further limit the number of activities which may be conducted pursuant to any permit. Therefore, absent any regulation to the contrary, a permit could be issued for more than one activity to a qualified organization. 1960 Op. Att'y Gen., No. 8.

Item (16) of this section authorizes certain raffles and lotteries, but limits the raffle or lottery to that type conducted by a drawing for prizes. 1960 Op. Att'y Gen., No. 8.

That the term "lottery" as used in item (16) of this section does not include an ice pool is indicated by the express provisions of item (12). 1960 Op. Att'y Gen., No. 8.

While the conduct of an ice pool might come within the definition of a lottery, by the language in item (16) of this section the legislature has limited a lottery to a game conducted by a drawing for prizes. 1960 Op. Att'y Gen., No. 8.

If the term lottery in item (16) of this section was meant to include an ice classic then item (12) would be meaningless. 1960 Op. Att'y Gen., No. 8.

While there may have been other ice pools conducted prior to the date of this section, the language of item (12) shows that the legislature intended to authorize only two pools, the Nenana and Chena and none other. 1960 Op. Att'y Gen., No. 8.

NOTES TO DECISIONS

Cited in State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

9) "fish derby" means a contest in which prizes are awarded for ching fish;

10) "fraternal organization" means a civic, service or charitable anization in the state, except a college and high school fraternity, for pecuniary profit, which is a branch or lodge or chapter, of a ional or state organization and exists for the common business, therhood, or other interest of its members and which has so existed five years before applying for a license;

11) "gross receipts" means receipts from the sale of shares, tickets rights connected with participation in any activity permitted under s chapter or the right to participate, including admission, fee or rge, sale of equipment or supplies, and all other miscellaneous eipts;

12) "ice classic" means a game of chance in which a prize of money awarded for the closest guess of the time the ice moves in a body of ter or watercourse in the state and is limited to the Nenana and ena Ice Pools in the same manner as they were conducted in 1959 d previous years;

13) "net proceeds" means the gross receipts less expenses, prizes, ties, or charges, fees, and deductions which are specifically autho-ed under this chapter;

14) "police or fire department and company" means a civic, service charitable organization in the state, not for pecuniary profit, estab-hed by the state or a political subdivision of the state which has been existence for five years before applying for a license under this apter;

15) "qualified organization" means a bona fide civic or service orga-ation or a bona fide religious, charitable, fraternal, labor, political, educational organization, police or fire department company, dog shers' association, or fishing-derby association in the state, which erates without profits to its members and which has been in exis-ence continually for a period of five years immediately before applying a license; the organization may be a firm, corporation, company, sociation or partnership;

16) "raffle and lottery" means the selling of rights to participate d the awarding of prizes, in the specified kind of game of chance metimes known as a raffle or lottery, conducted by the drawing for izes by chance;

(17) "religious organization" means an organization, church, body of mmunicants, or group, not for pecuniary profit, gathered in common embership for mutual support and edification in piety, worship and ligious observances, or a society, not for pecuniary profit, of individ-ls united for religious purposes at a definite place and which has en so gathered or united for five years before applying for a license id is recognized as a religious organization under the federal income x laws and the selective service law;

Senator Ferguson's Office
5/24/84

CS for SB549 (Rules)

Bingo and other games of chance and skill are expected to gross over 35 million dollars this year for various Alaskan charitable and civic organizations. This activity is currently monitored by one accounting clerk in the Department of Revenue. Unfortunately, illegal and improper practices have become commonplace in recent years, due to the difficulty of enforcing existing laws.

Due to the severe cutbacks in federal aid, many social organizations are increasingly dependent upon the funds generated by Bingo and associated games to finance their programs. With this increasing dependence, some of these organizations have become aware of the urgent need for reform in the existing laws and practices.

This legislation does not liberalize or increase the amount of charitable gambling in Alaska. It does not put any undue hardship on the small bingo games run by churches or by the neighborhood American Legion.

What it does do is bring the law up to date. It provides for adequate enforcement and auditing and a means to repay the state for that activity. It guarantees a proper portion of the gross receipts will wind up as proceeds to the programs of the permittee. It requires bingo operators to publically list what organization a game is being run for and it requires some simple bookkeeping measures to help ensure the honesty of the games.

This bill has had extensive hearings in the Finance Committee and an additional hearing in the Rules Committee. During these hearings the testimony has been unanimous in favor of passage of this legislation. CSSB 549(Rules) passed the Senate 15 to 3. The bill in its current version is supported by the administration and by the organizations which first asked for reform of the existing laws.

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature

Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

AGENDA

DATE: 5/27/84 Saturday

TIME: 1:00 P.M., ROOM 102

I. CALL THE MEETING TO ORDER

A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.

B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY. AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.

II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

CSSB 549 (rules) An act relating to games of chance and contests of skill; and providing for an effective date.

OTHER NOTES OR REMINDERS:

_____

_____

_____

_____

RULES

CSSB 549 (~~Finance~~)

Summary of Changes To Present Law

Section 1 would repeal and reenact AS 05.15.020.

Present Law: -Annual permit required for activities

-$20 application fee

-Additional fee of 1% of net proceeds paid by permit holder

-No provisions for an operator's permit

Proposed Changes: -Annual permit required for activities

-$50 application fee for permit

-$200 application fee for operator's permit

-Posting of bond or other security by operator

-Additional fee of 1.5% of gross receipts to be paid by permittee operating own games or by operator

Section 2 adds a new section, AS 05.15.025.

Present Law: -No provision for a license fee by local governments

Proposed Changes: -Boroughs and organized cities outside of boroughs could impose a fee of up to 1/2% of the gross receipts

-Department would collect the fee

Section 3 repeals and reenacts AS 05.15.030.

Present Law: -Notification of local governments required

-Local governments can protest only on the basis of the applicant's lack of qualifications

Proposed Changes: -Local government would have to approve the operation of bingo, pull-tabs and special-draw raffles before commissioner could issue initial permit

-Adds that a local government may protest any renewal application and an original application for which approval is not necessary based on the best interests of the community

-Commissioner could restrict locations of games

Section 4 repeals and reenacts AS 05.15.060.

No substantive changes between current and proposed law. Repeal and reenactment is proposed only to simplify the language.

Section 5 deletes a portion of AS 05.15.070.

Present Law: -Commissioner may charge permittees cost of the examination

Proposed Changes: -Deletes the power to charge for examination

Section 6 repeals and reenacts AS 05.15.080.

Present Law: -Annual report by January 31 to city or borough clerk nearest to location of activity

-Reports income, authorized expenses and disbursements of net proceeds

Proposed Changes: -Monthly reports to the state on activities conducted by organizations

-Annual report to State by January 31 of summary of prior year's activities

-Fee to be paid with annual report

Section 7 adds two new sections, AS 05.15.085 and AS 05.15.086.

Present law contains no provisions for games conducted by operators.

Proposed Changes: AS 05.15.085

-This is a new section for reports on games conducted by operators

-Monthly reports to State required on activities conducted for other organizations

-Operators to file annual reconciliation by January 31 of the succeeding year and pay the gross receipts fee

-Organizations using operators must file an annual report by January 31 of the succeeding year

AS 05.15.086

-All applications and reports to be file under penalty of perjury

-Reports must be signed by a bona fide member in good standing of the permittee or operator

-Commissioner may grant filing extensions but not extensions for the payment of fees

-Automatic suspension of activities if a report or fee is delinquent

-Delinquent fees bear interest a the rate provided for delinquent taxes

Section 8 amends AS 05.15.160.

Present Law: -Payments to employees of operators are not authorized expenses

-Payments to consultants cannot be related to the receipts of the authorized activity

Proposed Changes: -Payments to employees of qualified operators would be authorized expenses

-Consultants could be paid out of the receipts of an activity

Section 9 adds two new subsections to AS 05.15.160.

Present Law: -Current regulations limit Bingo prizes to $1,000 per game not to exceed $5,000 per session

-Current regulations limit annual prizes for raffles and lotteries to $200,000

-Present law sets no limit on the amount of authorized expenses which may be incurred and no minimum amount of net proceeds which should be generated

Proposed Changes: -Limit annual authorized expenses to 25% of gross receipts

-Annual net proceeds may not be less than 25% of the gross receipts

Section 10 adds a new section, AS 05.15.165.

Present law contains no provisions for games conducted by operators.

Proposed Changes: -Qualified operators may operate for only one authorizing permittee in any 24 hour period

-The authorizing permittee must be paid its net proceeds within 15 days of the activity

-The operator must pay to the authorizing permittee the gross receipts reduced by the amount of the gross receipts fee, authorized expenses and prizes

-Authorizing permittee must designate a representative which would have access to the operator's books for its activities

-Department may order an operator to provide its books to an authorizing permittee

-The Department shall order an operator to pay to the authorizing permittee the amounts of unauthorized expenses incurred or the difference between the net proceeds paid and 25% of the gross receipts, whichever is greater

-Interest shall be added to the payments made to an authorizing permittee under order from the Department at the rate of 1.5% per month for each month or fraction of a month during which the money is not paid

-Under the proposed amendment, an operator would be required to list the authorizing permittees in all advertising and would post its own permit and a copy of the permit of the authorizing permittee

Section 11 adds a new subsection to AS 05.15.200.

Present Law: -Only penalty for the non-payment of license fees is a suspension or revocation of the permit

Proposed Change: -A penalty may be assessed by the commissioner which is similar to the failure to pay penalty for taxes (5% for each 30 day period or fraction thereof) during which the fee is delinquent

Section 12 repeals and reenacts AS 05.15.210(15).

Present Law: -"Net proceeds" is defined as the gross receipts less expenses, charges, fees, and deductions which are specifically authorized under the chapter

Proposed Change: -"Net proceeds" is defined simply to be gross receipts reduced by the license fee based on the gross receipts, authorized expenses defined in AS 05.15.160(a) and the prizes awarded at the activity

Section 13 adds 5 new subsections to AS 05.15.210.

Present Law: -There are no definitions for "authorizing permittee", "commissioner", "department", "permittee" or "qualified operator"

Proposed Changes: -The above terms would be defined

Section 14 provides that organizations conducting bingo games, pull-tabs and special-draw raffles before the effective date of the Act would not be required to have local government approval.

Section 15 would make the act effective July 1, 1984.

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 549

① McKie Campell
is from C & RA and did
work on this for the committee LET HIM
GO FIRST.

② DON BULLOCK - REVENUE

SENATE
JOURNAL SUPPLEMENT

5/18/84 No. 87

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

CSSB 549 (FIN)

REQUEST
Bill/Resolution No: CSSB549 (Finance)
Title: An Act Relating to Games of Chance & Skill & Provide for effective date
Sponsor: Community & Regional Affairs
Requestor: Senate Finance
Date of Request: 5/3/84

FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: Revenue Collection & Management
BRU, Program or Subprogram(s) Aff: Public Services Division BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING					
100 PERSONAL SERVICES	290.3	303.8	320.1	336.1	352.9
200 TRAVEL	48.0	40.0	42.0	44.1	46.3
300 CONTRACTUAL	1[illegible].1	60.9	60.9	60.9	60.9
400 SUPPLIES	0	4.2	4.4	4.6	4.8
500 EQUIPMENT	.8	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-
TOTAL OPERATING	463.2	409.9	427.4	445.7	464.9
CAPITAL	-	-	-	-	-
REVENUE	550.3	597.8	654.2	715.9	783.4

FUNDING: (Thousands of Dollars)

GENERAL FUND	463.2	409.9	427.4	445.7	464.9
FEDERAL FUNDS	-	-	-	-	-
OTHER	-	-	-	-	-
TOTAL	-	-	-	-	-

POSITIONS:

FULL-TIME	8	8	8	8	8
PART-TIME	-	-	-	-	-
TEMPORARY	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

See revenue figures above.

ANALYSIS: See attached page.

Prepared by: Melvin J. Richard Phone: 465-2392
Division: Public Services Date: 5/3/84

Approved by Commissioner: Bruce M. Botelho Date: 5/14/84
Agency: Department of Revenue

CSSB
549
(FIN)

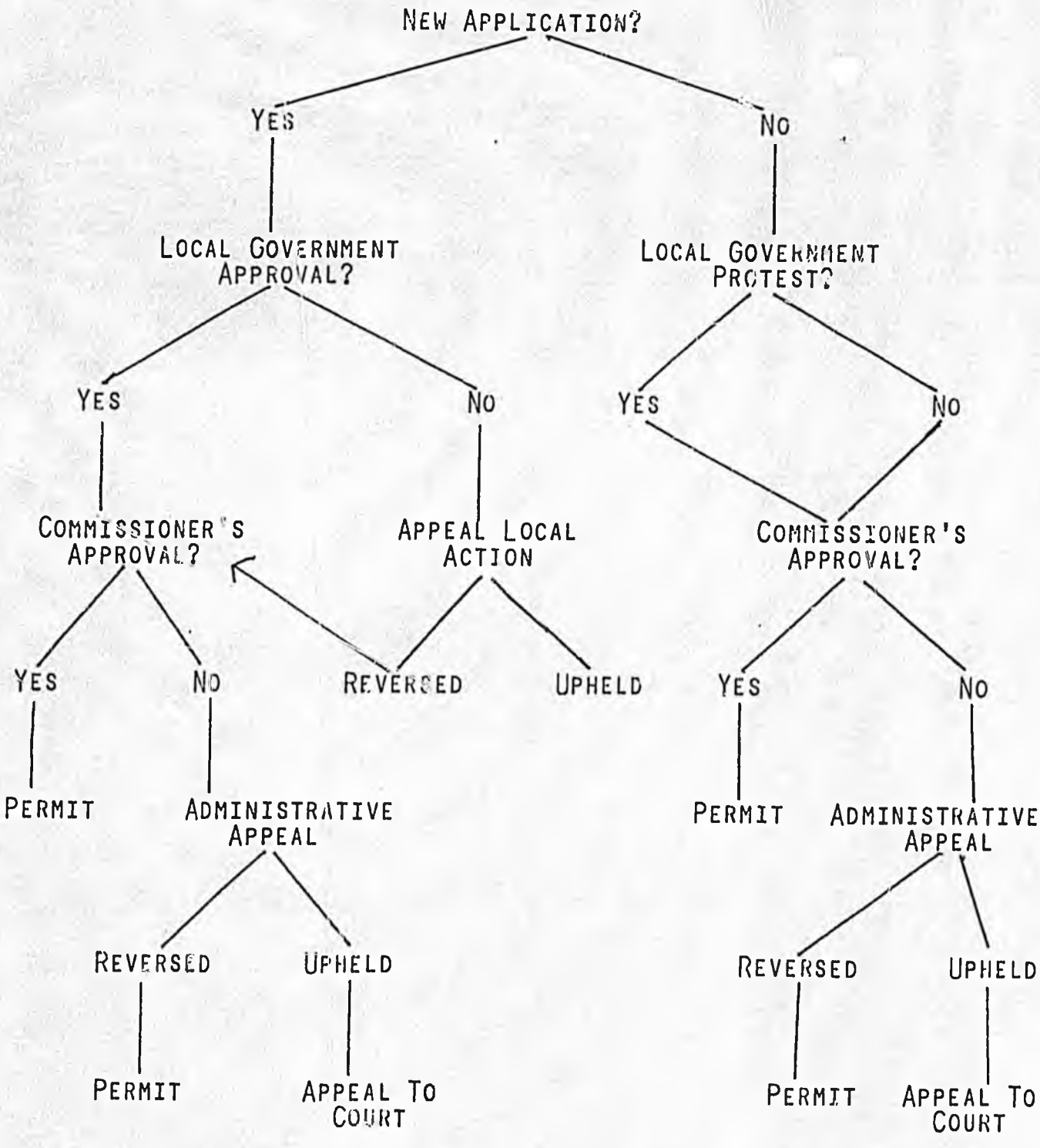
ANALYSIS:

Administration of Games of Chance and Contests of Skill (AS 05.15) rests with the Public Services Division. Essentially, no field enforcement has been employed in past years. Gambling in Alaska has grown substantially in recent years with an even more accelerating growth expected. There is a definite need to provide for some control before it reaches a level that would prohibit any control.

The change in fee structure provided for in this legislation would allow funds for an educational enforcement program. The field investigators would review gaming operations holding permits to ensure proper operation. The tax examiners will be used to issue permits and review financial statements, ensuring proper use of funds derived from gaming.

APPLICATION PROCESS

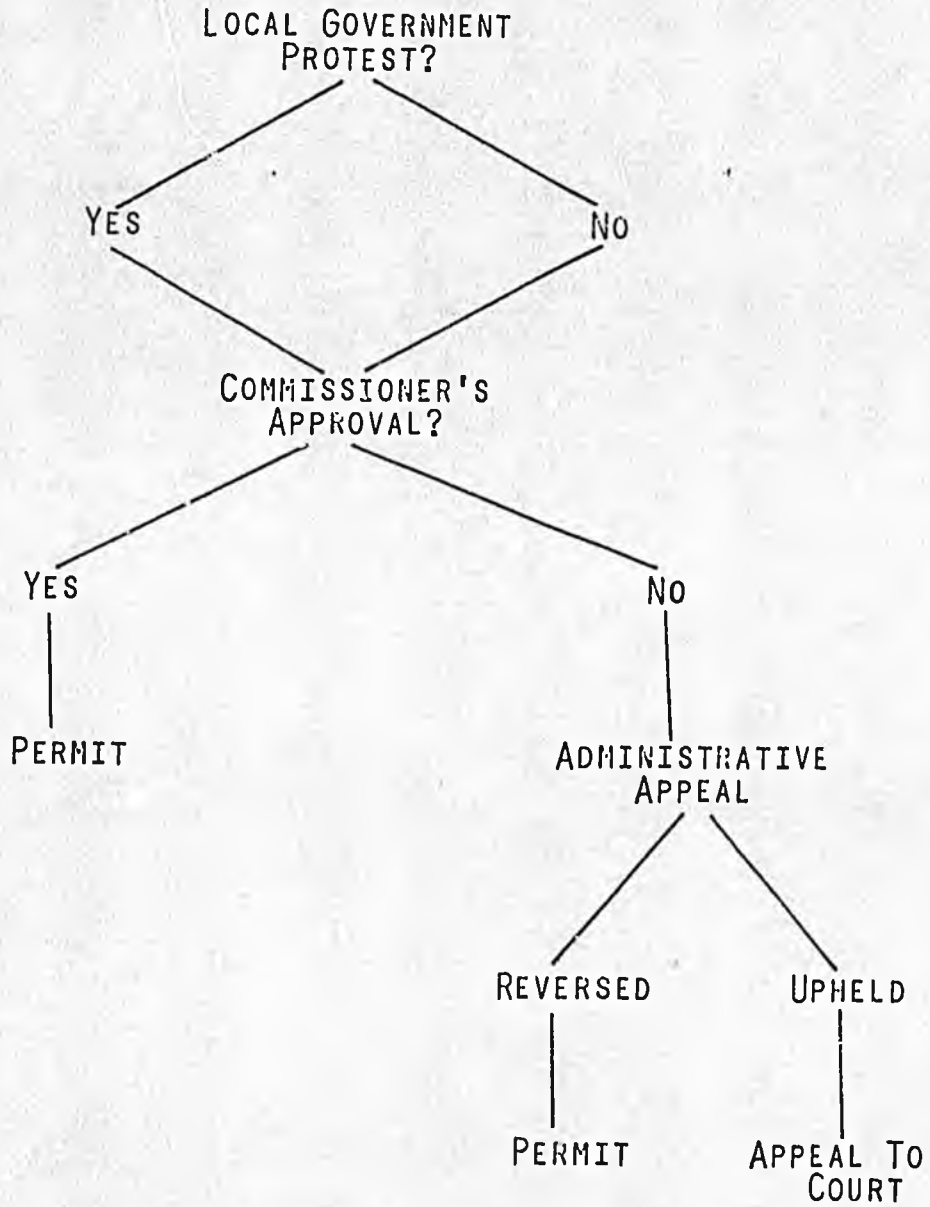
BINGO, PULL-TABS, SPECIAL-DRAW RAFFLES



APPLICATION PROCESS

GAMES OTHER THAN BINGO, PULL-TABS, SPECIAL-DRAW RAFFLES

NEW APPLICATION AND RENEWALS



Chapter 12. Arctic Winter Games.

Section
10. Arctic Winter Games

Sec. 05.12.010. Arctic Winter Games. (a) No person may use, display or publish the symbol of the Arctic Winter Games, consisting of the triple circle symbol and ulu combination, for commercial purposes or private gain without the written authorization of the Arctic Winter Games Incorporated.

(b) No person may use, display or publish any name, title or device that tends to indicate that he is affiliated with or supported by the Arctic Winter Games without the written authorization of the Arctic Winter Games Incorporated.

(c) A person who violates a provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $100. Each day of unauthorized use, display or publication is a separate offense. (§ 1 ch 131 SLA 1972; AS 11.70.050; am § 22 ch 166 SLA 1978)

Editor's notes. — This section derives from AS 11.70.050 and was transferred by the revisor of statutes pursuant to § 22, ch. 136, SLA 1978 (revision of criminal code).

Chapter 15. Games of Chance and Contests of Skill.

Article
1. Administration (§§ 05.15.010 — 05.15.090)
2. Licenses and Permits (§§ 05.15.100 — 05.15.180)
3. General Provisions (§§ 05.15.190 — 05.15.210)

Cross references. — As to gambling offenses, see AS 11.66.200 — 11.66.280.

Article 1. Administration.

Section
10. Department of Revenue to administer chapter
20. Annual permit and fee
30. Notification of local governments and protests
40. Issuance and effect and term of permit
50. Surrender of permit upon suspension or revocation
60. Regulations
70. Commissioner of revenue may examine permittees
80. Reports by permittees
90. Reports to the legislature

Sec. 05.15.010. Department of Revenue to administer chapter. The Department of Revenue shall administer this chapter. (§ 3 ch 27 SLA 1960)

Opinions of attorney general. — AS 05.15.010 — 05.15.210 does not create any new categories of prohibited gambling activities. 1962 Op. Att'y Gen., No. 22.

Collateral references. — 38 Am. Jur. 2d Gambling §§ 1-9, 10-14, 17-19, 41, 42, 49, 57-61, 67, 74, 190, 264-268.

38 C.J.S. Gaming §§ 1, 2, 80-132; 54 C.J.S. Lotteries § 1 et seq.

38 C.J.S. Gaming §§ 80 to 132; 54 C.J.S. Lotteries § 1 et seq.

What transactions are within the purview of statutes or ordinances in relation to gifts or prizes or gift enterprises, 39 ALR 1035.

Constitutionality of statute which affirmatively permits certain forms of betting or gambling. 85 ALR 622.

Construction and application of statutes permitting specified forms of betting. 117 ALR 828.

Lottery as game of chance. 135 ALR 168.

What are games of chance, games of skill, and mixed games of chance or skill. 139 ALR 101.

Validity and construction of statute exempting gambling operations carried on by religious, charitable, or other nonprofit organizations from general prohibitions against gambling. 42 ALR3d 663.

Sec. 05.15.020. Annual permit and fee. An activity permitted under this chapter may not be conducted unless an annual permit issued by the department is first obtained and a fee of $20 is paid to the department. An additional fee of one per cent of the net proceeds shall be paid by each permittee annually. This fee is due and payable at the same time as the annual financial statement. (§ 3 ch 27 SLA 1960; am § 1 ch 182 SLA 1976)

Revisor's notes. — In the first sentence, the word "An" was substituted for "No" at the beginning of the sentence and the word "not" was inserted preceding "be conducted" by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 05.15.030. Notification of local governments and protests. At the time of filing application the applicant shall notify the city or borough nearest to the location of the proposed activity of the application. A local government unit may protest the conduct of the activity in its jurisdiction by resolution stating the reasons for the protest filed with the department; protests are limited to the lack of qualifications prescribed by this chapter. This resolution is only a recommendation by the city which may be considered by the commissioner in his determination to issue or refuse to issue a permit. (§ 3 ch 27 SLA 1960; am § 2 ch 94 SLA 1980)

Revisor's notes. — Pursuant to AS 01.05.031, the revisor of statutes deleted former subsection designations (a) and (b), combined the former second and third sentences by substituting a semicolon for a period following "department," and added the provisions of former subsection (b) as the present third sentence.

Effect of amendments. — The 1980 amendment substituted "A" for "During the 15-day period a" at the beginning of the second sentence of former subsection (a).

Sec. 05.15.040. Issuance and effect and term of permit. After the fee is paid, a permit issued, and during the effective period of the permit, the organization may conduct the activity specified in the permit. If a permit is revoked, the permittee is not eligible for another permit until the expiration of one year from the date of revocation. A

permit expires at the end of the period for which it is issued. A permit is not transferable. (§ 3 ch 27 SLA 1960)

Opinions of attorney general. — Under AS 05.15.210 a permit may be issued which gives a qualified organization the privilege of conducting any of the designated activities. AS 05.15.040 limits the activities that may be conducted to those activities specified in the permit. Under AS 05.15.060 the commissioner has authority to further limit the number of activities which may be conducted pursuant to any permit. Therefore, absent any regulation to the contrary, a permit could be issued for more than one activity to a qualified organization. 1960 Op. Att'y Gen., No. 8.

Sec. 05.15.050. Surrender of permit upon suspension or revocation. When a permit is suspended or revoked, the permittee shall surrender the permit to the department on or before the effective date of the suspension or revocation. A permit is not valid beyond the effective date of the suspension or revocation, whether surrendered or not. (§ 3 ch 27 SLA 1960)

Sec. 05.15.060. Regulations. In accordance with the Administrative Procedure Act (AS 44.62), the commissioner of revenue shall adopt, no later than September 7, 1960, regulations necessary to carry out this chapter covering, but not limited to

(1) the issuance, renewal, and revocation of permits;

(2) a method of ascertaining net proceeds, the determination of items of expense which may be incurred or paid and the limitation of the amount of the items of expense to prevent the proceeds from the activity permitted from being diverted to noncharitable, noneducational, nonreligious, or profit-making organizations, individuals or groups;

(3) the immediate revocation of permits if this chapter or regulations issued under it are violated;

(4) the requiring of detailed, sworn, financial reports of operations from permittees including detailed statements of receipts and payments;

(5) the investigation of permittees and their employees, including the fingerprinting of those permittees and employees whom he considers it advisable to fingerprint;

(6) exclusion from participation as a permittee or employee of a permittee of any person convicted of a felony, a crime involving moral turpitude, or violation of a municipal, state, or federal gambling law;

(7) the method and manner of conducting activity and awarding of prizes or awards, and the equipment which may be used;

(8) the number of activities which may be held, operated, or conducted under a permit during a specified period;

(9) a method of accounting for receipts and disbursements including the keeping of records and requirements for the separate banking of all receipts, and payments by check only;

(10) the disposition of funds in possession of a permittee at the time a permit is surrendered, revoked or invalidated;

(11) other matters which the commissioner considers necessary to carry out this chapter or protect the best interest of the public. (§ 4 ch 27 SLA 1960)

Revisor's notes. — The words "rules and" were deleted preceding "regulations necessary" in the introductory language by the revisor of statutes pursuant to AS 01.05.031(b).

Opinions of attorney general. — Under AS 05.15.210 a permit may be issued which gives a qualified organization the privilege of conducting any of the designated activities. AS 05.15.040 limits the activities that may be conducted to those activities specified in the permit. Under AS 05.15.060 the commissioner has authority to further limit the number of activities which may be conducted pursuant to any permit. Therefore, absent any regulation to the contrary, a permit could be issued for more than one activity to a qualified organization. 1960 Op. Att'y Gen., No. 8.

NOTES TO DECISIONS

Annulment of regulations by legislature. — The legislature acting under AS 44.62.320(a) could not constitutionally annul by concurrent resolution a regulation prohibiting lottery owners from giving prizes exceeding certain personal and real property limits. State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Sec. 05.15.070. Commissioner of revenue may examine permittees. The commissioner may examine or have examined the books and records of a permittee. The commissioner may require the permittee to pay the reasonable cost of the examination. The commissioner may issue subpoenas for the attendance of witnesses and the production of books, records, and other documents. (§ 6 ch 27 SLA 1960)

Sec. 05.15.080. Reports by permittees. The permittee shall, by January 31 of the following year file for public inspection with the city or borough clerk nearest to the location of the activity licensed and with the commissioner of revenue, an itemized statement showing all income, authorized expense and disbursements of net proceeds in connection with the activity. (§ 6 ch 27 SLA 1960; am § 2 ch 182 SLA 1976)

Sec. 05.15.090. Reports to the legislature. Before March 2 of each year the commissioner of revenue shall submit a detailed report containing a summary of all reports required of permittees and recommending a permit fee scale that will cover costs of administration and enforcement. The attorney general and the commissioner of public safety shall, within 10 days after the convening of the legislature each year, submit a jointly prepared, detailed report outlining the effect, if any, of the operation of this chapter on the legal and law-enforcement activities of the state. (§ 9 ch 27 SLA 1960; am § 3 ch 182 SLA 1976)

Article 2. Licenses and Permits.

Section	Section
100. Commissioner of revenue may issue permits	140. Proof necessary to qualify for permit
110. Authorized activities a privilege	150. Limitation on use of proceeds
120. Eligibility for permit	160. Authorized expenses
130. Commissioner may impose additional requirements for eligibility.	170. Suspension of permit
	180. Limitations on authorized activity

Sec. 05.15.100. Commissioner of revenue may issue permits. The commissioner of revenue may issue a permit to a qualified organization. The permit gives the organization the privilege of conducting bingo, raffles and lotteries, ice classics, rain classics, dog mushers' contests, fish derbies and contests of skill. (§ 1 a ch 27 SLA 1960; am § 1 ch 66 SLA 1976)

NOTES TO DECISIONS

Quoted in State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Collateral references. — 38 Am. Jur. 2d Gambling §§ 10-19.

38 C.J.S. Gaming §§ 2, 50, 80-83; 54 C.J.S. Lotteries §§ 11-17.

Sec. 05.15.110. Authorized activities a privilege. The activities specified in AS 05.15.100 may be permitted as a privilege and do not confer a right upon any person to conduct the activities. (§ 1 b ch 27 SLA 1960)

Sec. 05.15.120. Eligibility for permit. An applicant shall be a qualified organization to be eligible for a permit. (§ 1 c ch 27 SLA 1960)

NOTES TO DECISIONS

Cited in State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Sec. 05.15.130. Commissioner may impose additional requirements for eligibility. The commissioner of revenue may supplement the definitions of qualified organizations and activities by rules and regulations adopted under this chapter adding to the definitions additional requirements which the commissioner considers necessary for the best interests of the public or for the proper administration of this chapter. (§ 1 d ch 27 SLA 1960)

Sec. 05.15.140. Proof necessary to qualify for permit. The commissioner of revenue may not issue or renew a permit except upon proof, satisfactory to him, that the applicant is a qualified organization,

the activity may be permitted under this chapter, and the issuance of a permit is not detrimental to the best interests of the public. Upon request of the commissioner of revenue, the applicant shall prove conclusively each of these requirements before a permit may be issued or renewed. (§ 1 d ch 27 SLA 1960)

Sec. 05.15.150. Limitation on use of proceeds. (a) The authority to conduct the activity authorized by this chapter is contingent upon the dedication of the net proceeds of the raffles or contests to the awarding of prizes to contestants or participants and to political, educational, civic, public, charitable, patriotic or religious uses in the state. "Political, educational, civic, public, charitable, patriotic, or religious uses" mean uses benefiting persons either by bringing them under the influence of education or religion or relieving them from disease, suffering, or constraint, or by assisting them in establishing themselves in life or by providing for the promotion of the welfare and well-being of the membership of the organization within their own community, or through aiding candidates for public office or groups which support candidates for public office, or by erecting or maintaining public buildings or works, or lessening the burden on government but do not include the erection, acquisition, improvement, maintenance, or repair of real, personal or mixed property unless it is used exclusively for one or more of the uses stated.

(b) The net proceeds derived from the activity must be devoted within one year to one or more of the uses stated. An organization desiring to hold the net proceeds for a period longer than one year must apply to the commissioner of revenue for special permission and upon good cause shown the commissioner may grant the request. (§ 1 e ch 27 SLA 1960; am § 2 ch 66 SLA 1976)

NOTES TO DECISIONS

Quoted in State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Sec. 05.15.160. Authorized expenses. No item of expense may be incurred or paid in connection with the holding, operating or conducting of an activity, held, operated or conducted under a license issued under this chapter, except bona fide expenses in reasonable amount for goods, wares, and merchandise furnished or services rendered, reasonably necessary for the holding, operating or conducting of the activity. (§ 1 e ch 27 SLA 1960)

Sec. 05.15.170. Suspension of permit. The commissioner of revenue may suspend a permit pending investigation or hearing. The suspension is effective upon the giving of notice to the permittee. The

notice may be given by the delivery or handling of written notice to the permittee or a person conducting an activity under the permittee's permit or the mailing of notice to the permittee at the address shown on the permit. A permit may be suspended under this section for a period of 90 days or until the end of a hearing or other proceeding begun during suspension. The authority of the commissioner to suspend a permit is not subject to the Administrative Procedure Act (AS 44.62). (§ 5 ch 27 SLA 1960)

Sec. 05.15.180. Limitations on authorized activity. (a) This chapter does not authorize the use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended primarily for gaming or gambling or any other method or implement not expressly authorized by the commissioner.

(b) With the exception of raffles, lotteries and rain classics, no activity may be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959. (§ 2 ch 27 SLA 1960; am § 3 ch 66 SLA 1976)

NOTES TO DECISIONS

Quoted in Pin-Ball Mach. Serial No. 2334 v. State, Sup. Ct. Op. No. 86 (File No. 162), 371 P.2d 805 (1962).

Article 3. General Provisions.

Section

190. Interpretation and construction
200. Penalty
210. Definitions

Sec. 05.15.190. Interpretation and construction. If any provision of this chapter, or regulation made under this chapter, is determined to be unlawful, then all permits issued in connection with the licensed activity to which the unlawful provision or regulation related shall be cancelled. (§ 8 ch 27 SLA 1960)

Collateral references. — 38 Am. Jur. 2d Gambling § 18.
54 C.J.S. Lotteries §§ 18, 19.

Sec. 05.15.200. Penalty. Every permittee and every officer, agent, or employee of the permittee and every other person or corporation who wilfully violates or who procures, aids, or abets in the wilful violation of this chapter is guilty of a misdemeanor. (§ 7 ch 27 SLA 1960)

Cross references. — As to sentences for misdemeanors, see AS 12.55.135.

Sec. 05.15.210. Definitions. In this chapter

(1) "bingo" means a game of chance of, and restricted to, the selling of rights to participate, and the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, five or more in one line, the holder covering numbers when objects similarly numbered are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on the card;

(2) "charitable organization" means an organization, not for pecuniary profit, which is operated for the relief of poverty, distress, or other condition of public concern in the state, and which has been so engaged for five years before applying for a permit under this chapter;

(3) "civic or service organization" means any branch or lodge or chapter of a national or state organization which is a civic or service organization, not for pecuniary profit, and authorized by its written constitution, charter, or articles of incorporation, or bylaws to engage in a fraternal, civic or service purpose in the state and which has been so engaged for five years before applying for a license under this chapter;

(4) "contest of skill" means a contest or game in which prizes are awarded for the demonstration of human skills in marksmanship, races, and other athletic events;

(5) "dog mushers' association" means a civic, service or charitable organization in the state, not for pecuniary profit, formed exclusively to promote interest in the breeding and training of dog teams for work or recreational and racing purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(6) "dog mushers' contest" means a contest in which prizes are awarded for the correct guess of the racing time of a dog team or of team position in the race, including prizes to the race contestants;

(7) "educational organization" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction and which has been in existence for five years before applying for a license under this chapter;

(8) "fishing-derby association" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

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(9) "fish derby" means a contest in which prizes are awarded for catching fish;

(10) "fraternal organization" means a civic, service or charitable organization in the state, except a college and high school fraternity, not for pecuniary profit, which is a branch or lodge or chapter, of a national or state organization and exists for the common business, brotherhood, or other interest of its members and which has so existed for five years before applying for a license;

(11) "gross receipts" means receipts from the sale of shares, tickets or rights connected with participation in any activity permitted under this chapter or the right to participate, including admission, fee or charge, sale of equipment or supplies, and all other miscellaneous receipts;

(12) "ice classic" means a game of chance in which a prize of money is awarded for the closest guess of the time the ice moves in a body of water or watercourse in the state and is limited to the Nenana and Chena Ice Pools in the same manner as they were conducted in 1959 and previous years;

(13) "net proceeds" means the gross receipts less expenses, prizes, duties, or charges, fees, and deductions which are specifically authorized under this chapter;

(14) "police or fire department and company" means a civic, service or charitable organization in the state, not for pecuniary profit, established by the state or a political subdivision of the state which has been in existence for five years before applying for a license under this chapter;

(15) "qualified organization" means a bona fide civic or service organization or a bona fide religious, charitable, fraternal, labor, political, or educational organization, police or fire department company, dog mushers' association, or fishing-derby association in the state, which operates without profits to its members and which has been in existence continually for a period of five years immediately before applying for a license; the organization may be a firm, corporation, company, association or partnership;

(16) "raffle and lottery" means the selling of rights to participate and the awarding of prizes, in the specified kind of game of chance sometimes known as a raffle or lottery, conducted by the drawing for prizes by chance;

(17) "religious organization" means an organization, church, body of communicants, or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society, not for pecuniary profit, of individuals united for religious purposes at a definite place and which has been so gathered or united for five years before applying for a license and is recognized as a religious organization under the federal income tax laws and the selective service law;

(18) "veterans organization" means a civic, service or charitable organization in the state, or a branch or lodge or chapter of a national or state organization in the state, not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has been in existence for five years before applying for a license under this chapter;

(19) "labor organization" means an organization, not for pecuniary profit, constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees;

(20) "rain classic" means a game of chance in which a prize is awarded for the closest guess of the amount of precipitation which is recorded at a certain location during a certain length of time;

(21) "political organization" means an organization or club organized under or formally affiliated with a political party as defined in AS 15.60.010. (§ 1 ch 27 SLA 1960; am §§ 4, 5 ch 66 SLA 1976)

Revisor's notes. — A semicolon was substituted for a comma and the word "and" following "license" in paragraph (15) by the revisor of statutes pursuant to AS 01.05.031(b).

Opinions of attorney general. — Under AS 05.15.210 a permit may be issued which gives a qualified organization the privilege of conducting any of the designated activities. AS 05.15.040 limits the activities that may be conducted to those activities specified in the permit. Under AS 05.15.060 the commissioner has authority to further limit the number of activities which may be conducted pursuant to any permit. Therefore, absent any regulation to the contrary, a permit could be issued for more than one activity to a qualified organization. 1960 Op. Att'y Gen., No. 8.

Item (16) of this section authorizes certain raffles and lotteries, but limits the raffle or lottery to that type conducted by a drawing for prizes. 1960 Op. Att'y Gen., No. 8.

That the term "lottery" as used in item (16) of this section does not include an ice pool is indicated by the express provisions of item (12). 1960 Op. Att'y Gen., No. 8.

While the conduct of an ice pool might come within the definition of a lottery, by the language in item (16) of this section, the legislature has limited a lottery to a game conducted by a drawing for prizes. 1960 Op. Att'y Gen., No. 8.

If the term lottery in item (16) of this section was meant to include an ice classic, then item (12) would be meaningless. 1960 Op. Att'y Gen., No. 8.

While there may have been other ice pools conducted prior to the date of this section, the language of item (12) shows that the legislature intended to authorize only two pools, the Nenana and Chena, and none other. 1960 Op. Att'y Gen., No. 8.

NOTES TO DECISIONS

Cited in State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

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Only $4.00 for the first 16 words and 25 cents for each additional word, (Mail or Walk-in's only). Only $5.00 for the first 16 words and 25 cents for each additional word, (Phone in's only). You may place your ad in one of 3 ways:

1. Bring it by your nearest Thrifty Nickel office.
2. Use the handy coupon in this paper, or write your ad on your own piece of paper. Send ad WITH PAYMENT to your nearest Thrifty Nickel office.
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CANCELLATIONS 12 NOON

Pickups/Trucks/Vans

1974 FORD VAN, 8 cylinder, 278-1813 anytime, daytime, $1200 OBO. 5t¹/¹¹

1978 CHEVY Super Custom Van, perfect condition, 34,800 miles, many extras. $9500. Call 563-7339. 5t¹/¹¹

1979 4WD DODGE Maxi Van, too many extras to list, will consider trade. $13,500 OBO. 694-4876. 12t¹/¹¹

DATSUN 1974 PU, 4 speed, excellent condition, low mileage, AM-FM 8-track. 278-1037, $1800. 12t¹/¹¹

1979 4x4 CHEVY LUV, best offer over $3000. Mack K. days 376-5329, eves 376-8747. 12t¹/¹¹

1976 DODGE Club Cab, ¾ ton, 4x4, with camper shell, $2900. 337-8993. 12t¹/¹¹

Miscellaneous

HAVE A part in the Annual Fall Show, join the Anchorage Sourdough Chapter Sweet Adelines. Come and see on Tuesday, May 15, 7:30pm, East High Choral Room. Singing, refreshments, and lots of fun. Info, Sue 272-4245 or Vernie 337-1193. 5m¹/¹¹

BECK'S WORLD
limited edition plates and wooden frames. See me every weekend at the new Flea Market on the Old Seward Hwy. or call 333-4498 after noon. 5m¹/¹¹

MAHOGANY Dresser, 12x12, new carpet, car seat, 10 speed, antique book case and oak dresser, office chair. 349-3491. 5m¹/¹¹

ONE-WAY ticket to LaGdle, NYO. Must be male, open ticket, asking $350. Come visit at 340 No. price Apt. B. 5m¹/¹¹

Motorcycles

LIKE NEW
1983 YAMAHA MX 100
$500
563-3819 work, 694-9823 home 5n¹/¹¹

1983 HARLEY DAVIDSON Tour Glide, custom painted, excellent condition, low miles, still under warranty. 337-3385. 12n¹/¹¹

1979 HOND 750 Super Sport, Kerker headers, new tires and chain. $1500 OBO. 7:30-4:30 552-2313 after 5pm 277-2926 ask for Ken. 12n¹/¹¹

1983 HONDA CB 1100F, sport fairing, adjustable suspension and handlebars, superior handling, very fun commutor. $2995 OBO. 688-3891. 12n¹/¹¹

AMERICAN MADE
3 wheelers & 2 wheelers kits by Heald. Authorized dealer. 248-3119. 13n¹/¹¹

Aircraft/Boats

17' FIBERGLASS BOAT, trailer, full cover, VHF, CB, sleeper seats, 50 HP electric Merc, everything included. $5000. 345-1327. 5a¹/¹¹

TAYLORCRAFT BCS-65, 30 SMOH geconite, Scott tail, 8:50x6 tires, Cleveland wheels and brakes. $8500. 376-6291. 12a¹/¹¹

14' BOAT, completely redone 20 HP Mercury outboard, rebuilt with trailer. $1700. Days 344-8131, after 5pm 344-4137. 5a¹/¹¹

16' FIBERGLASS Boat with full canvas, tilt trailer, real nice boat, $3500. 344-1295 anytime. 12a¹/¹¹

CHEROKEE 180, $12,000. Airboat, 140 HP Lyc, $7000 OBO. 333-1144 12a¹/¹¹

Aircraft/Boats

URGENT ! Must Sell!! 16' Gregoor riverboat, E-Z Load trailer, 55 HP Evinrude, jet unit and prop, lots of extras. 243-6866. 12a¹/¹¹

1982 18' ALUMAWELD Guide Model riverboat, 140 HP Evinrude & 7½ HP Mercury, excellent condition, many extras. $10,500. 694-4234. 12a¹/¹¹

LEARN TO FLY
$1880
20 hrs. solo, 20 hrs. dual.
SPECIAL THIS MONTH
FREE grnd school w/1880 pkg.
ALASKA AVIATION
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REBUILT Impellers, 3 each. Standard 7" for Hamilton or Turbo drive, 30 hours used, $350. 338-0975. 5a¹/¹¹

BEAUTIFUL 1965 Mariner Ketch - fully equipped for cruising - $57,500. Call 808-941-3897 or write: P.O. Box 8594, Honolulu, Hawaii 96815. 5a¹/¹¹

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Repairs, Maintenance
Your Airstrip, Mobile Shop
McCUE AVIATION SERVICES
Wasilla, 376-2874
12a¹/¹¹

19' BEACRAFT Whaler with Johnson 115 HP outboard motor, new canvas, E-Z Load trailer. Licensed for 1984 commercial halibut season, including halibut gear. $5850. 277-2759 or 337-1335. 12a¹/¹¹

Automobiles

1981 TOYOTA SR5 Liftback, 5 speed, low miles, excellent condition, power steering, sun roof. $5750. 333-8355, 276-6513. 12c¹/¹¹

1978 MARK V, 44,000 miles, sharpest in town. 333-8355, 276-6513. All options, luxury at it's best. $8350 OBO. 12c¹/¹¹

1979 4x4 SUBARU, brown station wagon style, very good condition, clean, 4 snow tires. 337-3342. 12c¹/¹¹

1982 PLYMOUTH Horizon, AT, AM radio, 17,000 miles, good condition. $5000. 337-4706. 12c¹/¹¹

1976 PINTO SW, good condition, PS, PB, AC, AM-FM CB, new tires. Phone 277-7284, $2500 OBO. 5c¹/¹¹

1972 CADILLAC Coupe, good condition, left fender dented. Phone 277-7284. $1500 OBO. 5c¹/¹¹

FOUND: Prescription glasses, rose tinted, frameless, faceted edges. Lost in vicinity of South Park probably during winter. Still in perfect condition. Call 276-6555. 5c¹/¹¹

1981 CITATION, V8, 4 door, auto, tilt wheel, AM, CB radio, 2 mounted snow tires, 27,000 miles. $4200 OBO. 243-8004. 12c¹/¹¹

1977 GRAN PRIX 400 engine, auto trans., air cond., tilt wheel, AM-FM cassette, much more. $2500 OBO 7:30-4:30 552-2313, after 5pm 277-2926 ask for Ken. 12c¹/¹¹


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TO GO
EVERY NIGHT
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Guaranteed Coverall
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PRIZE DRAWINGS
May 13th
Mother's Day
1-$250
1-$150
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Total $500
Look for June
Cash Drawing
Must be present to win
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Large X
TO GO Every Night
$3-$300
TO GO
EVERY NIGHT
Bonus Bingo
Early Bird
Up To
$1000
with $500
Minimum Guaranteed
$250 FREE BINGO
Starts at 6:50 pm
Receive Extra FREE Bingo
Book for Every 5
Hard Cards Purchased
HardCards
$100.00
$1.00 per card
Bingo Package
$29.00
Set of Paper Games and
8 Hard Cards